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WEDNESDAY, NOVEMBER 22, 1978

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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CSA	CSC		CSA	CSC
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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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Commodity Credit Corporation—
Tobacco Loan Program (2 documents); comments by 11-27-78 ..... 44542-6; 9-28-78

Farmers Home Administration—
Planning and performing development work; thermal insulation standards; comments by 12-1-78 ..... 52496; 11-13-78

Food Safety and Quality Service—
Gladiolus Corms (Bulbs) U.S. grade standards; comments by 11-30-78 ..... 19857 5-9-78

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Definition of other severely handicapped; comments by 11-29-78 ..... 45413; 10-2-78

CIVIL SERVICE COMMISSION

Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal assistance; comments by 11-27-78 ..... 43465; 9-26-78

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—
U.S. fishery conservation zone; foreign fishing; comments by 11-27-78 ..... 51053; 11-2-78

COMMODITY FUTURES TRADING COMMISSION

Delegation of authority to deny registration; comments by 12-1-78 ..... 53450; 11-16-78

Records subject to inspection and copies thereof; furnishing to Commission; comments by 11-30-78 ..... 50699; 10-31-78

CONSUMER PRODUCT SAFETY COMMISSION

Unvented gas-fired space heaters; comments extended to 11-29-78 ..... 37713; 8-24-78
[Originally published at 43 FR 6235, Feb. 14, 1978]

ENERGY DEPARTMENT

Bonneville Power Administration—
Proposed 1979 wholesale rate increase; availability of draft environmental impact statement; comments by 11-30-78. 38356; 8-25-78

Proposed wholesale power rates and opportunities for public review; comments by 11-30-78 ..... 38256; 8-25-78

ENVIRONMENTAL PROTECTION AGENCY

Alabama navigable waters; water quality standards; comments by 11-27-78. 43741; 9-27-78

Approval of administrative order permitting delay in compliance with state implementation plan requirements; comments by 11-27-78 ..... 50002; 10-26-78

Ohio; approval and promulgation of implementation plans for sulfur dioxide; comments by 11-27-78 ..... 43729; 9-27-78

State solid waste management plans; guidelines for development and implementation; comments by 11-27-78 ..... 38534; 8-28-78

FEDERAL COMMUNICATIONS COMMISSION

Administration of telegraphy examinations to handicapped applicants for operator licenses; inquiry; comments by 11-30-78. 37729; 8-24-78

Aeronautical radionavigation band, establishment of joint tactical information distribution system; reply comments by 11-27-78 ..... 51649; 11-6-78

Aeronautical advisory frequencies; authorization of use; reply comments by 11-27-78 ..... 49331; 10-23-78

Authorization of use of aeronautical advisory frequencies by aeronautical utility mobile stations at certain landing areas without control towers or FAA flight service stations; comments by 11-27-78 ..... 49017; 10-20-78.

Fee refunds and future FCC fees, order extending time for filing comments; comments by 12-1-78 ..... 53474; 11-16-78

FM broadcast stations; table of assignments: Hayward, Wis.; comments by 11-27-78. 46873; 10-11-78

Inquiry into commercial television network practices; reply comments by 12-1-78. 50126; 10-26-78
[Originally published at 42 FR 4992, January 26, 1977]

Limited coast stations; deletion of provisions which provide for use of telegraphy; comments by 11-29-78 ..... 51047; 11-2-78

Multiple ownership of AM, FM and television stations and CATV systems; comments extended to 11-27-78 .. 47222; 10-13-78
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Pollution prevention, to broaden permissible communications aboard vessel involved in large oil transfer operations; reply comments by 11-27-78 ..... 47578; 10-16-78

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Utilization of aeronautical advisory frequencies by certain ground vehicles at certain landing areas; reply comments by 11-27-78 ..... 46871; 10-11-78

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FEDERAL TRADE COMMISSION

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HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
Certification of all 80-unit insulin products; comments by 11-27-78 ..... 32821; 7-28-78

Cheeses and Related Cheese products; comments by 11-27-78 ..... 42127; 9-19-78

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Current good manufacturing practice for drug products; exemptions for certain OTC drug products; comments by 11-28-78 ..... 45088; 9-29-78

Dissolution test for human and animal drugs; comments by 11-26-78.. 43468; 9-26-78

Medical devices; procedures for development of standards; comments by 11-30-78 ..... 50700; 10-31-78
[Originally published at 43 FR 32264, 7-25-78]

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Office of the Secretary—
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National Health Service Corps Scholarship Program; interim regulations; comments by 11-27-78 ..... 43713; 9-27-78

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Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection—
Revision of Real Estate Settlement Procedures Act rules; comments by 12-1-78 ..... 39701; 9-6-78

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Indian Affairs Bureau—
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Certain exchanges involving a foreign corporation; requirements; comments by 12-1-78 ..... 46859; 10-11-78

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National Grasslands Grazing Fee Review, Cheyenne, Wyo. (open), 11-29-78. 53481; 11-16-78

National Grasslands Grazing Fee Review, Decatur, Tex. (open), 11-29-78. 53481; 11-16-78

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National Grasslands Grazing Fee Review, Madras, Ore. (open), 11-27-78.. 53481; 11-16-78

National Grasslands Grazing Fee Review, Malad, Idaho (open), 11-27-78.. 53481; 11-16-78

National Grasslands Grazing Fee Review, Rapid City, S. Dak. (open), 11-28-78 ..... 53481; 11-16-78

Office of the Secretary—
Advisory Committee on Export Sales Reporting, Portland, Ore. (open), 11-30-78 ..... 53050; 11-15-78

CIVIL RIGHTS COMMISSION

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Central States Region Advisory Committees, Kansas City, Mo. (open), 11-30 and 12-1-78 ..... 46826; 10-25-78

Florida Advisory Committee, Miami, Fla. (open), 12-2-78 ..... 47765; 10-17-78

Massachusetts Advisory Committee, Cambridge, Mass. (open), 12-1-78 ..... 51824; 11-7-78

Mid-Atlantic Regional Meeting, Philadelphia, Pa. (open), 11-30 and 12-1-78..... 51124; 11-2-78

Nevada Advisory Committee, Las Vegas, Nev. (open), 12-1-78 ..... 51824; 11-7-78

North Dakota Advisory Committee, Bismarck, N. Dak. (open), 11-30-78 ..... 51825; 11-7-78

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National Telecommunications and Information Service—
Frequency Management Advisory Council, Washington, D.C. (open), 12-1-78. 52758; 11-14-78

Office of the Secretary—
Advisory Committee on Federal Policy on Industrial Innovation Advisory Subcommittee on Patents and Information, Washington, D.C. (open), 11-30-78. 50011; 10-26-78

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DEFENSE DEPARTMENT

Air Force Department—
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Army Department—
Army Science Board, Edgewood Arsenal, Md. (partially open), 11-27 and 11-28-78 ..... 52512; 11-13-78

Navy Department—
Secretary of the Navy's Advisory Board on Education and Training, Academic Advisory Board to the Superintendent, U.S. Naval Academy, Annapolis, Md,. 11-27-78 ..... 51700; 11-6-78

Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, Calif. (open), 11-30 and 12-1-78. 45630; 10-3-78

Office of the Secretary—
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Food Industry Advisory Committee, Subcommittee on Transportation and Distribution, Washington, D.C. (open), 11-29-78 ..... 52052; 11-8-78

Economic Regulatory Administration—
Gasoline Marketing Advisory Committee, Los Angeles, Calif. (open), 11-29 and 11-30-78 ..... 52044; 11-8-78

Interconnection, Wheeling, and Pooling in the Southwest, Oklahoma City, Okla. (open), 11-29 and 11-30-78 ..... 51498; 11-3-78

Intergovernmental and Institutional Relations Office—
National Energy Extension Service Board, Golden, Colo. (open), 11-28 and 11-29-78 ..... 52051; 11-8-78

ENVIRONMENTAL PROTECTION AGENCY

Administrator's Toxic Substances Advisory Committee, Washington, D.C. (open), 11-30-78 ..... 52768; 11-14-78

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel, Houston, Tex. (open), 11-30 and 12-1-78 ..... 52282; 11-9-78

National Drinking Water Advisory Council, Philadelphia, Pa. (open), 11-30 and 12-1-78 ..... 49845; 10-25-78

FEDERAL COMMUNICATIONS COMMISSION

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FINE ARTS COMMISSION

Washington, D.C. (open), 11-28-78. 51125; 11-2-78

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services, Auburn, Wash. (open), 11-27-78 ..... 52290; 11-9-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—
Clinical Projects Research Review Committee, Washington, D.C.. (partially open), 11-27 through 11-29-78. 48718; 10-19-78

Rape Prevention and Control Advisory Committee, Rockville, Md. (open), 11-27-78 ..... 47789; 10-17-78

Education Office—
Adult Education National Advisory Council, Washington, D.C. (open), 11-29-78 ..... 52528; 11-13-78

Indian Education National Advisory Council, Tulsa, Okla. (closed), 11-30-78 and Muskogee, Okla. (partially open), 12-1 and 12-2-78 ..... 52527; 11-13-78

Special Projects Program for Fiscal Year 1978; apply by 11-27-78 ..... 49055; 10-20-78

Women's Educational Programs National Advisory Council, Nashville, Tenn. (open), 11-29 through 12-2-78.. 52528; 11-13-78

National Institutes of Health—
Ethics Advisory Board, Atlanta, Ga. (open), 12-1-78 ..... 50508; 10-30-78

Biomedical Library Review Committee, Bethesda, Md. (open), 11-28 and 11-29-78 ..... 48016; 10-18-78

Clinical Trials Review Committee, Bethesda, Md. (partially open), 11-26 and 11-27-78 ..... 49852; 10-25-78

Heart, Lung, and Blood Research Review Committee B, Bethesda, Md. (partially open), 11-30 and 12-1-78 ..... 49853; 10-25-78

Heart, Lung, and Blood Research Review Committee A, Bethesda, Md. (partially open), 11-30 thru 12-2-78..... 49853; 10-25-78

Maternal and Child Health Research Committee, Bethesda, Md. (open), 11-29 and 11-30-78 ..... 48017; 10-18-78

Office of the Assistant Secretary for Health—
Technical Consultant Panel on Mental Health Statistics of the United States National Committee on Vital and Health Statistics, Washington, D.C. (open), 11-27 and 11-28-78 .. 52061; 11-8-78

United States National Committee on Vital and Health Statistics, Washington, D.C. (open), 11-29 and 11-30-78 ..... 52062; 11-8-78

INTERIOR DEPARTMENT

Fish and Wildlife Service—
Discussion of U.S. positions at Endangered Species Convention, Washington, D.C. (open), 11-28-78 ..... 50928; 11-1-78

Geological Survey—
Earthquake Studies Advisory Panel, Menlo Park, Calif. (open), 12-1 and 12-2-78 ..... 53065; 11-15-78

Land Management Bureau—
California Desert Conservation Area Advisory Committee, Riverside, Calif. (open), 11-30 through 12-2-78.. 50744; 10-31-78

California Desert Conservation Area Advisory Committee, San Bernardino, Calif. (open), 11-30 through 12-2-78. 37224; 8-22-78

National Park Service—
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CORRECTION: The Wednesday, November 15, 1978, Reminders contained an entry for a hearing to be held in Washington, D.C., on 11-20-78 pertaining to restrictions on childrens' advertisIng. The hearing was rescheduled to 1-29-79 (See 43 FR 37203, 8-22-78).

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 2, Amdt. 4]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment allows each handler of Dancy variety tangerines to ship a quantity of smaller size tangerines (2$^{11}/_{16}$ inches diameter) equal to 25 percent of total shipments during the period November 20 to December 4, 1978. In the absence of this amendment only tangerines 2$^{11}/_{16}$ inches in diameter could be shipped. This action will allow an increase in the supply of tangerines during the period specified in recognition of market needs and the size composition of available supply in the interest of growers and consumers.

EFFECTIVE DATE: November 20, 1978, through December 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. (1) Pursuant to the marketing agreement and order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the recommendations of the committee established under the marketing agreement and order, and upon other available information, it is found that the regulation of shipments of Florida tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller size fresh Florida tangerines of the designated variety during the specified period based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is less than anticipated and there is a need to augment the supply by permitting shipment of a proportion of the smaller sized fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines during the overlap period, when both the Robinson and Dancy varieties are being shipped.

The Citrus Administrative Committee, at an open meeting on November 14, 1978, reported that the amendment would allow shipment of approximately 45 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for limited quantities of smaller size Dancy tangerines, but markets presently can absorb only a portion of the supply of the smaller fruit of such variety without disruption of the markets.

The Department's Crop Reporting Board estimates the 1978-79 season's crop of Florida tangerines at 3.8 million boxes (approximately 7.6 million cartons). Hence the volume of tangerines is comparable to that of last season.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,500 carlots); Robinson (1,500 carlots); Honey (2,100 carlots). Each carlot is equivalent to one-thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the provisions of § 905.302 (orange, grapefruit, tangerine and tangelo regulation 2; 43 FR 43013; 52197; 53027), should be and are amended by redesignating paragraph (d) as paragraph (e) and a new paragraph (d) is inserted reading as follows:

§ 905.302 Orange, Grapefuit, Tangerine, and Tangelo Regulation 2.

* * * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of table I in paragraph (a) of this section, any handler may during each of the periods November 20 through November 26, 1978, and November 27 through December 3, 1978, ship Dancy variety tangerines smaller than 2$^{11}/_{16}$ inches in diameter: Provided, That such smaller tangerines are not smaller than 2$^{5}/_{16}$ inches in diameter and: Provided further, That the quantity of such smaller tangerines does not exceed 25 percent of the quantity

shipped in the applicable prior period

ports the market for navel oranges is

accept employment; and to provide

1978-79 semester. Several individuals

foreign student adviser to be aware of

recommended a regulatory require-

shipped in the applicable prior period as determined by the procedure specified in § 905.152 (43 FR 32397) of this part.

. . . . . .

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: November 17, 1978, to become effective November 20, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-32808 Filed 11-21-78; 8:45 am]

[3410-02-M]

[Navel Orange Regulation 441]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 24-30, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on November 20, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The commitee reports the market for navel oranges is not yet stabilized

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time

§ 907.741 Navel Orange Regulation 441.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period November 24, 1978, through November 30, 1978, are established as follows:

(1) District 1: 950,000 cartons;
(2) District 2: Unlimited Movement;
(3) District 3: 126,505 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: November 21, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-33124 Filed 11-21-78; 1:01 pm]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 214—NONIMMIGRANT CLASSES

Admission of Nonimmigrant Students for Duration of Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rulemaking order amends the regulations of the Immigration and Naturalization Service to permit nonimmigrant students to be admitted for the duration of their status as students; to set forth criteria under which students may accept employment; and to provide that where students are granted permission to work under this regulation they may work full time when school is not in session, including the summer, when they are registered or are eligible and intend to register for the next succeeding school term. These amendments will eliminate the need for nonimmigrant students to apply each year for extensions of stay and summer employment, and will eliminate the need for the Service to adjudicate the large numbers of applications now required under existing regulations.

The regulation also establishes a group within the Central Office which will be responsible for coordinating activities of Service field offices and personnel in insuring compliance with and enforcement of Service laws and regulations relating to students.

These amendments are needed to facilitate the admission of nonimmigrant students and are intended to reduce the Service adjudications workload, while providing adequate immigration controls on persons here on suudent "F-1" visas.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: Reference is made to the notice of proposed rulemaking published in the FEDERAL REGISTER on July 26, 1978, at 43 FR 32306 concerning admission of nonimmigrant "F-1" students for duration of status. The comment period for this proposed rule was subsequently extended until September 25, 1978, by an order published in the FEDERAL REGISTER on August 28, 1978, at 43 FR 38414.

Over 150 responses were received from educational associations, university administrators, foreign student advisers, and the general public. The Service has considered carefully all of the responses which were submitted. A substantial number of the representations submitted favored the proposal in principle. However, several reservations were expressed which will be discussed below.

1. A number of representations pointed out that there was not enough time given in the proposed notice for public comment and that the implementation date of September 1, 1978, was too short to permit the schools to adequately prepare for compliance with the proposed regulations. At the time these dates were set, the Service had hoped to have the regulations implemented by the beginning of the fall

1978-79 semester. Several individuals and groups requested additional time to comment and asked that the regulations not be implemented any sooner than January 1, 1979. In response to these requests, the Service extended the comment period on this proposed regulation until September 25, 1978, and the final regulation will be published to become effective January 1, 1979.

2. Several representations objected to the proposed requirement that the foreign student adviser advise the Service when an alien student was failing to keep his passport valid for a period of 6 months. The schools and the foreign student advisers objected to this proposed requirement on grounds that it had the effect of making them enforcement officers; that the status of an alien's passport was not an academic concern; that the schools did not have the financial resources or personnel to comply with this requirement; that the matter of passport validity was one between the student and his own government; and that students who had reached college age should be responsible for their own documentation. In the light of these objections the Service will eliminate the requirement that the foreign student advisers advise the Service with respect to the validity of passports from proposed 8 CFR 214.2(f)(2) and 8 CFR 214.3(g). Instead, these checks will be performed by Service officers in the field operating under the coordination of the Central Office which will establish a unit to coordinate enforcement of the foreign student regulations throughout the United States.

3. Many representations were submitted with regard to the proposed regulations concerning the manner in which applications for student employment are to be processed by the foreign student advisers and adjudicated by the Service. Some representations suggested that the student be permitted to work as soon as the foreign student adviser certifies on form I-538 that the student applicant has complied with the criteria set forth in this regulation. Other representations suggested that the regulation provide that the action by the Service in endorsing the I-94 to state that the student may accept employment should be a pro forma action. Still other representations along this line suggested that the authorization to grant permission to work be given to the foreign student advisers. In connection with this, many foreign student advisers objected to the proposed requirement that the foreign student adviser notify the Service when the need for the student to be employed on the basis of economic necessity was no longer present because it was not possible for the foreign student adviser to be aware of the financial circumstances of each individual student. In response to these representations, the Service will clarify the amemdments to the proposed regulations on student employment in the following respects. The proposed language will be clarified so that the foreign student adviser is only certifying that the student has met criteria for work eligibility based on economic necessity. These criteria are not intended to be self-executing conditions which authorize students to work immediately when met. Nor have we any intention of delegating our authority for the adjudication of applications to accept part-time employment by students on the grounds of economic nesessity to the foreign student adviser. It would be illegal for this Service to delegate any of its legal or regulatory authority to nongovernmental personnel and to adopt the suggestion made in some representations that the student be permitted work immediately upon certification of form I-538 by the foreign student adviser or that the approval by the Service be a "pro forma" action would be to do just that. Therefore, this aspect of the proposal will be redrafted to specify that the conditions for work permission are criteria; and to provide further that the foreign student advisers may submit the forms I-538 and I-94 to the Service on behalf of the student. The Service will consider and give weight to the certification and recommendation by the foreign student advisers but will retain final and exclusive authority to grant students permission to accept employment.

The Service will not require the foreign student adviser to report when a student is no longer in need of employment as set forth in proposed 8 CFR 214.3(g). Service officers working under the coordination of the Central Office will perform periodic reviews of the student employment situation to determine whether employment which had been previously authorized on the basis of economic necessity should continue to be authorized.

4. A number of schools suggested that our proposed regulation that a student be registered for the following semester in order to qualify for summer employment would have the effect of depriving students of summer employment where the school did not have a provision for student preregistration. The Service will amend that requirement to provide that a student may be authorized to accept summer employment on the basis of economic necessity if he "has registered or is eligible and intends to register" for the following term.

5. Some representations urged that we still require students to apply annually for extensions of stay. Others recommended a regulatory requirement that the student check in with the foreign student adviser once a year. Others suggested that students be admitted for the duration of their study program, with a specific time limit rather than for duration of status as students. The Service disagrees with all of these recommendations. To require the students to apply for annual extensions of stay or provide for admission for duration of study program with a time limit instead of duration of status, would not represent a material change from the existing regulations. The purpose of the proposal is to eliminate the paperwork connected with routine applications for extension of stay or employment based on economic necessity. It is our considered judgment that the proposed regulation is the only effective way to accomplish that purpose. We also reject the suggestion that we provide by regulation for the student to visit his foreign student adviser once a year. The frequency of these visits is between the students, the advisers and the school. In our view it is not a proper area for Service regulation. Compliance with the student regulations will be effected by officers in the field under the coordination of the Central Office as described above.

6. It was suggested that the Service place in its regulations a provision which would have the effect of compelling the school administrations to give appropriate assistance to the foreign student advisers to assist them in complying with the requirements of these regulations. We do not feel it would be an appropriate exercise of regulatory authority for the Immigration and Naturalization Service to impose obligations on the administration of the schools to cooperate with the foreign Student advisers. This is a matter to be resolved by the foreign student advisers and the administrations of the various schools.

7. A small number of representations opposed publication of the proposal in any form. These representations suggested that the proposed rules would take away the control that the Service has over students because it would no longer be necessary for them to apply for extensions of stay every year. It was asserted that the duration of status manner of admission would encourage nonimmigrant students to become "professional students" and remain here indefinitely. This Service does not intend to permit abuse of this regulation. The Service will establish within the Central Office a staff of employees charged with the responsibility of coordinating enforcement of the student regulations. These employees will coordinate the work of Service inspectors and investigators in the field who will be responsible for li-

aison with the schools and foreign student advisers to assist them in complying with the requirements of these regulations. We do not feel it would be an appropriate exercise of regulatory authority for the Immigration and Naturalization Service to impose obligations on the administration of the schools to cooperate with the foreign Student advisers. This is a matter to be resolved by the foreign student advisers and the administrations of the various schools.

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containing his recommendation to his/her accepting employment. If ap- to indicate the date to which such

alson with the schools and foreign student advisers to insure compliance with Service regulations including the requirement that the students' passports are being maintained in accordance with the students' agreement with the Service and that the students who have been granted permission to work based on economic necessity still have a bona fide need for that employment. This capability will enable the Service to enforce the Act as required; and will at the same time permit implementation of a regulation which will eliminate the need for the processing by the Service of over 200,000 applications each year. This will provide a lessening of paperwork for the students and schools as well and facilitate the work of all concerned with the immigration and education of nonimmigrant alien students.

Accordingly, the following amendments will be made to the proposal:

1. Proposed 8 CFR 214.2(f)(2) will be amended to delete the requirement that the foreign student adviser advise the Service when an alien student is failing to keep his passport valid as required by the regulation. The reference to that reporting requirement proposed in 8 CFR 214.3(g) will likewise be deleted.

2. Proposed 8 CFR 214.2(f)(5) will be redrafted for purposes of clarification to provide that a student admitted for schooling which will take 1 year or less time will be admitted for that period of time and that a student who indicates that he requires more than 1 year to complete his academic work will be admitted for duration of status.

3. Proposed 8 CFR 214.2(f)(6) will be revised to set forth criteria which must be met by the student to enable him to accept employment under these regulations. The authorized school official will certify form I-538 that the criteria have been satisfied by the student and submit the form to the Service office. The student will have permission to accept employment when he receives the form I-94 endorsed by the Service to that effect. In addition, the part of this regulation providing for student permission to work full time when school is not in session including the summer will be amended to provide such employment may be undertaken if the student is eligible and intends to register for the following semester or school term.

4. The proposed requirement of 8 CFR 214.3(g) that the foreign student adviser advise the Service when a student no longer is in need of employment based on economic necessity will be deleted.

5. A new 8 CFR 214.3(i) will be added to provide regulations for the establishment of a Central Office coordinating unit and field office cooperation to ensure the students and schools are complying with these regulations. Existing 8 CFR 214.3(i) will be redesignated as 8 CFR 214.3(j) and republished without change.

In the light of the foregoing the following amendments are hereby prescribed to chapter I of title 8 of the Code of Federal Regulations.

1. In part 214, §§ 214.2(f) (2), (3), (5), and (6) are revised, and a new § 214.2(f)(6a) is added to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) *Students.* * * *

(2) *Admission.* A nonimmigrant who has a classification under section 101(a)(15)(F)(i) of the Act shall not be eligible for admission unless he/she establishes that he/she is destined to and intends to attend the school specified in his/her visa. In all cases, the name of the school a student is authorized to attend shall be endorsed by the examining immigration officer on the student's form I-94. The period of admission of a nonimmigrant student shall be for the duration of status in the United States as a student if the information on his/her form I-20 indicates that he/she will remain in the United States as a student for more than 1 year, and if he/she agrees to keep his/her passport valid at all times for at least 6 months. (This requirement does not apply to aliens who are by regulation exempt from presentation of a passport.) If the information on form I-20 indicates the student will remain in the United States for 1 year or less, he/she shall be admitted for the time necessary to complete his/her period of study. A nonimmigrant student presently in the United States shall upon his/her next application for extension of stay be granted duration of status if it is indicated that he/she requires more than 1 year to complete his/her studies.

(3) *Temporary absence.* Form I-20 presented by a student returning from a temporary absence may be retained by him/her and used for any number of reentries within 1 year of the date of its issuance. However, a Canadian national or an alien landed immigrant of Canada who has a common nationality with Canadian nationals who has been temporarily absent in Canada, or any alien whose visa is considered to be automatically revalidated pursuant to 22 CFR 41.125(f)(2) or is within the purview of that regulation except that his/her nonimmigrant visa has not expired, returning to the United States as a nonimmigrant under section 101(a)(15)(F)(i) of the Act, shall, if otherwise admissible, be readmitted, without presentation of form I-20, if the form I-94 in his/her possession indicates that he/she has been admitted to the United States for duration of status as a student under section 101(a)(15)(F)(i) of the Act.

* * * * *

(5) *Extension.* A nonimmigrant who was admitted as a student under section 101(a)(15)(F)(i) of the Act, who was not admitted for duration of status when first admitted to the United States may be granted duration of status upon application for extension of stay if the student indicates that anticipated schooling will require more than 1 year to complete and he/she establishes that he/she is currently maintaining student status; is able and in good faith intends to continue to maintain such status for the period during which he/she will remain in the United States; and the application may be made on form I-538. If the student indicates in the application for extension filed on form I-538 that the anticipated period of time needed to complete his/her course work is 1 year or less, that period of extension may be given. The student's spouse and children may be included in the application. The student's spouse and children shall not be eligible for duration of status unless the student is eligible. A student who has been compelled by illness to interrupt his/her schooling may be permitted to remain in the United States in duration of status for the time necessary to complete his/her studies provided the student establishes that he/she will assume a full course of study after treatment.

(6) *Employment.* A nonimmigrant who has a classification under section 101(a)(15)(F)(i) of the Act is not permitted to engage in off-campus employment in the United States, either for an employer or independently, unless all of the following conditions are met: (i) The student is in good standing as a student who is carrying a full course of studies as defined in subparagraph (1a) of this paragraph; (ii) the student has demonstrated economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification; (iii) the student has demonstrated that acceptance of employment will not interfere with his/her carrying a full course of study; (iv) the student has agreed that employment while school is in session will not exceed 20 hours per week; and (v) the student has submitted to an authorized official of a school approved by the Attorney. General a form I-538, and this form has been certified by that official that all the aforementioned requirements have been met. The authorized official of the school will submit the certified form I-538

containing his recommendation together with the student's form I-94 to the Service office which has jurisdiction over the place where the school is located. The student has permission to accept employment when he/she receives the form I-94 endorsed by the Service to that effect. Permission granted under this paragraph allows a student to work full time when the school is not in session, including the summer if the student is eligible and intends to register for the next following term. On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study, if related thereto. A student who is offered this kind of on-campus employment, or any other on-campus employment which will not displace a United States resident, does not require Service permission to be engaged in such employment. Permission which is granted to a student to engage in any employment shall not exceed the date of expiration of the authorized stay and is automatically suspended while a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place where the student is employed.

(6a) *Practical training.* If a student requests permission to accept or continue employment in order to obtain practical training, permission may be granted in increments of not more than 6 months for a maximum of not more than 12 months in the aggregate. However, when the course of study was of less than 12 months' duration, the alien graduate of a college, university, or seminary as defined by subparagraph (1a) of this paragraph, may be granted permission to engage in employment for practical training for an aggregate number of months not exceeding the length of that course of study, unless the district director and the recommending school agree that the maximum 12 months is warranted. After completion of a course or courses of study at a school which devotes itself exclusively or primarily to vocational, business, or language instruction, an alien graduate of such school may be granted permission to engage in employment for practical training for a period or periods of time equal to 3 months for each 12 months during which such an alien carried a full course of study at such school in the United States. Permission to accept employment for practical training may not be granted if the training applied for cannot be completed within the maximum period of time for which the applicant is eligible. In such case, the alien graduate may apply for change to another nonimmigrant classification that would permit his/her accepting employment. If application is granted for permission to engage in employment to obtain practical training, the initial authorized period shall be deemed to commence either on the date the student enters upon such employment or 60 days after the student's completion of his/her course of study whichever is earlier. An application for permission to accept or continue employment to obtain practical training must be submitted prior to the expiration of an alien student's authorized stay and, in the case of an initial application, not more than 60 days before graduation or completion of a course or courses of study nor more than 30 days after graduation or completion of such study. Such application may be made earlier only if the alien is attending a college, university, or seminary which certified that practical training is required of all degree candidates in a specified professional field, and that the alien student is a candidate for a degree in the field. The application for the first period of practical training shall be submitted to the office of the Service having jurisdiction over the school recommending practical training. An application to continue employment for practical training must contain the recommendation of the school in sufficient detail to enable the Service to determine whether the position is related to the applicant's major field of study. It shall be submitted to the office of the Service having jurisdiction over the actual place of employment, and shall be supported by a letter from the applicant's employer stating the occupation in which the applicant is employed and describing the duties he/she is performing. A student enrolled in a college, university, or seminary having alternate work/study courses as a part of its regular prescribed curriculum may participate in such courses without obtaining a change of status and without filing an application for permission to accept employment; however, such periods of acutal employment if off-campus shall be considered as periods of practical training. An applicant for practical training who has previously participated in an alternate work/study program must submit with his/her application a letter from the school stating the number of hours the applicant has participated in off-campus employment under the work/study program, a description of the applicant's duties while employed and the name and address of the employer. A student who has been granted permission to accept employment for practical training and who temporarily departs from the United States, may be readmitted for the remainder of the authorized period if he/she presents form I-20 endorsed by the school to indicate the date to which such training was authorized by the district director.

* * * * * *

2. In § 214.3 existing paragraph (i) is redesignated as paragraph (j) and republished without change. A new paragraph (i) is added to read as follows:

§ 214.3 Petitions for approval of schools.

* * * * *

(i) *Enforcement of student regulations by Immigration and Naturalization Service.* There shall be established in the Central Office a coordinating group of employees to coordinate enforcement of the student regulations throughout the country. This group shall coordinate liaison between Service officers in the field and the schools. Officers in the field shall be responsible for conducting periodic reviews on the campuses under their jurisdiction for the purpose of determining whether students are complying with Service regulations including keeping their passports valid for a period of 6 months at all times where required and that work permission which has been authorized on the ground of economic necessity should continue to be authorized. Any apparent violations of the provisions of these regulations found by the Service officers shall be referred to the district director for appropriate action.

(j) *Advertising.* In any advertisement, catalogue, brochure, pamphlet, literature, or other material hereafter printed or reprinted by or for an approved school, any statement which may appear in such material concerning approval for attendance by nonimmigrant students shall be limited solely to the following: This school is authorized under Federal law to enroll nonimmigrant alien students.

* * * * * *

(Sec. 103 and 214; (8 U.S.C. 1103, 1184).)

Effective date: The amendments contained in this order will become effective on January 1, 1979.

Dated: November 16, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-32739 Filed 11-21-78; 8:45 am]

[6320-01-M]

essary under 5 U.S.C. 553(b) and 12 D.C. 20428, 202-673-5442.

§ 385.17 Delegation to the Director.

SUMMARY: This document amends

[6720-01-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 78-616]

PART 545—OPERATIONS

Mortgage-Futures Transactions

NOVEMBER 15, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment permits Federal savings and loan associations to engage within existing regulatory limitations in mortgage futures transactions involving direct delivery of Government National Mortgage Association (GNMA) securities as recently authorized by the Commodity Futures Trading Commission. The prior regulation required settlement of such transactions by receiving or delivering due bills.

EFFECTIVE DATE: November 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6440.

SUPPLEMENTARY INFORMATION: When § 545.29 regarding mortgage-futures transactions was added to the rules and regulations for the Federal savings and loan system (12 CFR Part 545), effective June 22, 1976, the Chicago Board of Trade (CBT) was the only exchange designated by the Commodity Futures Trading Commission (CFTC) for trading of such transactions involving GNMA-guaranteed mortgage-backed securities. CBT's rules provided then that settlements be made by receiving or delivering due bills redeemable for the securities and § 545.29 was designed to permit settlements complying with that rule. Since that time, the CBT and other exchanges have obtained CFTC approval to begin trading in futures transactions with settlements to be made by receiving or delivering the securities rather than due bills. This amendment therefore liberalizes the regulations by permitting Federal associations to engage in mortgage futures transactions with settlement by receipt or delivery of either (1) the actual securities or (2) due bills for those securities.

The Bank Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11, because this amendment relieves restriction, and (2) publication of this amendment for the 30 days notice period specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to its effective date is unnecessary for the same reason.

Accordingly, the Bank Board hereby amends § 545.29 by revising paragraph (g)(3) thereof to read as set forth below, effective November 22, 1978.

§ 545.29 Mortgage-futures transactions.

* * * * * * *

(g) *Definitions.* * * *

(3) The term "mortgage-futures contract" means a transferable agreement to receive or deliver GNMA-guaranteed mortgage-backed securities or due bills under terms and conditions approved by the Commodity Futures Trading Commission.

* * * * * * *

(Sec. 5, 48 Stat. 132, as amended; (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-32773 Filed 11-21-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Regulation OR-137; Amdt. No. 12]

PART 384—STATEMENT OF ORGANIZATION, DELEGATION OF AUTHORITY, AND AVAILABILITY OF RECORDS AND INFORMATION

Transfer of the Audit Function to the Bureau of Accounts and Statistics

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board amends its statement of organization to reflect the transfer of all its audit functions from the former Bureau of Enforcement to the Bureau of Accounts and Statistics.

DATES: Adopted: November 16, 1978. Effective: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board recently consolidated its Office of Consumer Advocate and Bureau of Enforcement into a new Bureau of Consumer Protection. At the same time, it transferred the audit functions that had been under the Bureau of Enforcement to the Bureau of Accounts and Statistics.

The purpose of this amendment is to revise the description of the functions of the Bureau of Accounts and Statistics in § 384.7(e) of the Board's organization regulations to reflect the transfer of the audit functions.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends part 384 of its Organization Regulations, Statement of Organization, Delegation of Authority, and Availability of Records and Information (14 CFR Part 384) as follows:

Section 384.7 is amended by revising paragraph (e), to read:

§ 384.7 Organization and delegation of authority.

* * * Generally speaking, the Board's staff comprises:

* * * * * * *

(e) The Bureau of Accounts and Statistics, which is responsible for developing and administering a fact-finding facility adequate to support the Board's economic regulatory program. This Bureau is concerned with developing and administering uniform systems of carrier accounts and reports; performing audits and economic examinations of persons having control over, or affiliated with, any person subject to beard regulation; preparing accounting and statistical data for release in the Board's official publications; administering and operating the Board's automatic data processing facilities; and generally operating as the Board's expert arm in accounting and statistical matters.

* * * * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32811 Filed 11-21-78; 8:45 am]

[6320-01-M]

[Regulation OR-138; Amdt. No. 75]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Amendment of Delegations of Authority to the Director, Bureau of Accounts and Statistics and the Director, Bureau of Consumer Protection

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board amends its delegations of authority to reflect the transfer of all its audit functions from the former Bureau of Enforcement to the Bureau of Accounts and Statistics.

DATES: Adopted: November 16, 1978. Effective: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board recently consolidated its Office of Consumer Advocate and Bureau of Enforcement into a new Bureau of Consumer Protection. At the same time, it transferred the audit functions that had been under the Bureau of Enforcement to the Bureau of Accounts and Statistics. Nevertheless, certain investigative audit functions did remain with the new Bureau of Consumer Protection to enable it to act effectively in the consumers' interest and deter anticompetitive practices.

This amendment revises the delegations of authority to the Directors of the two Bureaus, to reflect the transfer. This change does not preclude special agents of the Bureau of Consumer Protection from examining accounting records and supporting documentation in connection with a BCP investigation.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board amends part 385 of its organization regulations, Delegations and Review of Action Under Delegation; Nonhearing Matters (14 CFR Part 385) as follows:

1. In § 385.17, a new paragraph (h) is added, to read:

§ 385.17 Delegation to the Director, Bureau of Accounts and Statistics.

* * * * * * *

(h)(1) Make findings, in connection with audits and economic examinations of accounting and statistical records and supporting documents, regarding the reasonable necessity for the application of the Board's authority to obtain access to lands, buildings, and equipment and to make notes and copies of accounts, records, memoranda, documents, papers, and correspondence of persons having control over, or affiliated with, any person subject to Board regulation; (2) authorize staff to conduct audits and economic examinations in accordance with those findings.

2. In § 385.22, *Delegation to the Director, Bureau of Consumer Protection*, paragraph (e) is revised by deleting "or auditors."

§ 385.22 Delegation to the Director, Bureau of Consumer Protection.

* * * * * * *

(e)(1) Make findings regarding the reasonable necessity for the application of the Board's authority to obtain access to lands, buildings and equipment, and to inspect, examine and make notes and copies of accounts, records, memorandums, documents, papers and correspondence of persons having control over, or affiliated with, any person subject to Board regulation, through issuance of an appropriate order, letter of other transmittal; (2) authorize one or more special agents to conduct inspections and examinations and to make notes and copies in accordance with such findings.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837. 5 U.S.C. Appendix.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32812 Filed 11-21-78; 8:45 am]

[3510-06-M]

Title 15—Commerce and Foreign Trade

CHAPTER VIII—BUREAU OF ECONOMIC ANALYSIS

PART 806—DIRECT INVESTMENT SURVEYS

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rules.

SUMMARY: This document amends the rules to: (a) Change the treatment of trusts in determining the existence and reporting of direct investment because the present definition of a trust excluded certain types of investment for which coverage is desired, and more specifically provides that information may be required to be reported by an intermediary; and (b) Institute a mandatory reporting requirement for a statistical survey of foreign-owned U.S. business enterprises covering the year 1977, in order to further implement the President's responsibilities (which were delegated to the Secretary of Commerce) under the International Investment Survey Act of 1976 (Pub. L. 94-472, 22 U.S.C. 3101-3108).

EFFECTIVE DATE: These rules become effective November 22, 1978.

FOR FURTHER INFORMATION CONTACT:

George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, 202-523-0657.

SUPPLEMENTARY INFORMATION: (a) On September 27, 1978 the Department of Commerce published a notice of proposed rulemaking to amend the rules regarding the treatment of trusts in determining the existence and reporting of direct investment and to more specifically provide that information may be required to be reported by an intermediary. No comments objecting to these proposed changes were received and therefore the proposed rules are being made final without change; and (b) On May 23, 1978 the Department of Commerce published a notice of proposed rulemaking regarding the institution of a mandatory reporting requirement for an annual statistical survey of foreign-owned U.S. business enterprises, form BE-15. The action was to further implement the President's responsibilities under the International Investment Survey Act of 1976; these responsibilities were delegated to the Secretary of Commerce in section 3 of Executive Order 11961 of January 19, 1977.

The changes appearing in these final rules reflect comments received from interested parties, including members of the general public.

1. The survey is being labeled an "interim" survey rather than an "annual" survey and these rules are being made a permanent addition to part 806. However, it should be noted that the Office of Management and Budget (OMB), pursuant to their review of the form under the Federal Reports Act, has approved the form for use only through March, 1979 pending a review of work being done on direct investment. If and when a request for an extension of the expiration date for

form BE-15 is submitted to OMB

this part and does not imply that con-

liate, they may be required to be re-

FEDERAL REGISTER of August 23, 1978

is qualified with the word "Brand" as

personnel involved in managing U.S. Air Force aircraft temporarily leased

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form BE-15 is submitted to OMB so that the form can be used for subsequent years, the public will be apprised of this through the notice OMB publishes in the FEDERAL REGISTER of forms received by them for clearance, including extensions, rather than through a notice pertaining to the rules contained in 15 CFR Part 806. (This is also presently the case for the other forms used in surveys conducted pursuant to this part.) This survey will be the first update of selected data items from the 1974 benchmark survey of foreign direct investment in the United States and will cover the year 1977.

2. Banks have been excluded from coverage of the survey.

3. It is specifically stated that the part of the exemption criteria relating to ownership of land is based on land located in the United States, not all land owned.

In consideration of the foregoing, Part 806, 15 CFR is amended as set forth below.

JUANITA M. KREPS,
Secretary of Commerce.

1. In § 806.7, paragraph (n) is revised to read as follows:

§ 806.7 General definitions.

• • • • •

(n) "Intermediary" means an agent, nominee, manager, custodian, trust, or any person acting in a similar capacity.

2. In § 806.11, paragraphs (b) and (c) are revised to read as follows:

§ 806.11 Estates, trusts, and intermediaries.

• • • • •

(b) A trust, either U.S. or foreign, is a person, but is not a business enterprise. The trust shall be considered the same as an intermediary and reporting should be as outlined in paragraph (c) of this section. For reporting purposes, the beneficiary(ies) of the trust, or the creator(s) of the trust in the situation detailed below or if there is, or may be, a reversionary interest, shall be considered to be the owner(s) of the investments of the trust for determining the existence of direct investment. Where a corporation or other organization creates a trust designating its shareholders or members as beneficiaries, the creating corporation or organization shall be deemed to be the owner of the investments of the trust, or succeeding trusts where the presently existing trust has evolved out of a prior trust, for the purposes of determining the existence and reporting of direct investment.

This procedure is adopted in order to fulfill the statistical purposes of this part and does not imply that control over an enterprise owned or controlled by a trust is, or can be, exercised by the beneficiary(ies) or creator(s).

(c) Intermediary. (1) If a particular U.S. direct investment abroad is held, administered, or managed by a U.S. intermediary, such intermediary shall be responsible for reporting the required information for, and in the name of, its principal or shall instruct the principal to submit the required information. Upon instructing the principal, the intermediary shall be released from further liability to report provided it has informed this bureau of the date such instructions were given and the name and address of the principal, and has supplied the principal with any information in the possession of, or which can be secured by, the intermediary, that is necessary to permit the principal to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with the foreign affiliate shall be considered as accounts or transactions of the U.S. principal with the foreign affiliate. To the extent such transactions or accounts are unavailable to the principal, they may be required to be reported by the intermediary.

(2) If a U.S. person holds a foreign affiliate through a foreign intermediary, the U.S. person will be considered to own the foreign affiliate directly and all accounts or transactions of the U.S. person with the intermediary will be considered to be with the foreign affiliate.

(3) If a particular foreign direct investment in the United States is held, exercised, administered, or managed by a U.S. intermediary for the foreign beneficial owner, such intermediary shall be responsible for reporting the required information for, and in the name of, the U.S. affiliate, and shall report on behalf of the U.S. affiliate or shall instruct the U.S. affiliate to submit the required information. Upon so instructing the U.S. affiliate, the intermediary shall be released from further liability to report provided it has informed this Bureau of the date such instructions were given and the name and address of the U.S. affiliate, and has supplied the U.S. affiliate with any information in the possession of, or which can be secured by, the intermediary that is necessary to permit the U.S. affiliate to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with a foreign beneficial owner shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner. To the extent such transactions or accounts are unavailable to the U.S. affiliate, they may be required to be reported by the intermediary.

(4) If a foreign beneficial owner holds a U.S. affiliate through a foreign intermediary, the U.S. affiliate may report the intermediary as its foreign parent but, when requested, must also identify and furnish information concerning the foreign beneficial owner, if known, or if such information can be secured. Accounts or transactions of the U.S. affiliate with the foreign intermediary shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner.

3. In § 806.15, paragraph (f) is revised to read as follows:

§ 806.15 Foreign Direct Investment in the United States.

• • • • •

(f) Update of benchmark survey. (1) BE-15—Interim Survey of Foreign Direct Investment in the United States.—One report is required for each consolidated U.S. affiliate, except a bank, exceeding an exemption level of $5,000,000, except that a U.S. affiliate which owns 200 acres or more of U.S. land must report regardless of the value of the items on which the exemption level is based, i.e., total assets, net sales or gross operating revenues excluding sales taxes, and net income after income taxes, whether positive or negative. U.S. affiliates which are banks are exempt from the reporting requirements of this survey. Annual data for 1977 will be collected in the first survey updating the 1974 benchmark survey of foreign direct investment in the United States.

[FR Doc. 78-32815 Filed 11-21-78; 8:45 am]

[4810-31-M]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-53; Correction]

PART 4—LABELING AND ADVERTISING OF WINE

Appellation of Origin, Grape Type Designations, Etc.

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Correction notice to final rule.

SUMMARY: This notice corrects errors appearing in Treasury Decision ATF-53 relating to the labeling and advertising of wine as published in the

FEDERAL REGISTER of August 23, 1978 (43 FR 37671).

EFFECTIVE DATE: November 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas Busey, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: Treasury Decision ATF-53, implemented new requirements concerning varietal labeling, appelations of origin, and certain other facets of the wine labeling regulations. Many of the new requirements were not made mandatory until January 1, 1983, in order to allow for an orderly transition. Consequently, in situations where new requirements were not mandatory until 1983, existing requirements were left in the regulations so as to govern wine labeling in the interim. In amending § 4.34(b) relating to appellation of origin, a minor editorial error and one inadvertent omission, erroneously deleted an existing requirement and made one of the new requirements effective immediately. It is, therefore, necessary that § 4.34(b) and (c) be reprinted with corrections as indicated below.

Accordingly, § 4.34(b) and (c) are follows:

§ 4.34 Class and Type.

(a) • • •

(b) Prior to January 1, 1983, an appellation of origin such as "American", "California", "Chilean", "New York State" or "Spanish", disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation, (1) if a grape variety name having geographic significance is employed as the type designation of the wine pursuant to § 4.34, (2) if a semi-generic type designation of geographic significance is employed as the type designation of the wine pursuant to § 4.24(b), or (3) if the label bears any statement, design, device, or representation which indicates or infers an origin other than the true place of origin of the wine.

(c) Beginning January 1, 1983, an appellation or origin, such as "American", "California", "Napa Valley", or "Chilean", disclosing the true place or origin of the wine, shall appear in direct conjunction with, in the same size of type, and in lettering as conspicuous as the class and type designation if (1) a grape type (varietal) designation is used under the provisions of § 4.23a, (2) a semi-generic type designation is employed as the type designation of the wine, pursuant to § 4.24(b), or (3) a brand name of product name is qualified with the word "Brand" as required by the provisions of § 4.39(i) or (j).

Signed: November 9, 1978.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 78-32992 Filed 11-21-78; 8:45 am]

[3910-01-M]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER F—AIRCRAFT

PART 862—U.S. AIR FORCE RESPONSIBILITIES FOR AIRCRAFT LEASED FOR AIRSHOWS

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding a rule on the responsibilities of U.S. Air Force and contractor personnel involved in managing U.S. Air Force aircraft temporarily leased to contractors for taking part in international airshows. It implements DOD Instruction 7230.8, June 9, 1976.

EFFECTIVE DATE: August 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Charles T. Helton, Operational Support Branch, Air Force Combat Operations Staff, Headquarters, USAF/XOO, Pentagon, Washington, D.C. 20330, phone 202-697-6481.

The added part will read as follows:

PART 862—U.S. AIR FORCE RESPONSIBILITIES FOR AIRCRAFT LEASED FOR AIRSHOWS

Sec.
862.1 Purpose.
862.2 General policy.
862.3 Terms explained.
862.4 Responsibilities assigned.

AUTHORITY: 10 U.S.C. 8012; DOD Instruction 7230.8, June 9, 1976.

NOTE.—This part is derived from Air Force Regulation 60-3, August 30, 1978.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 862.1 Purpose.

This part explains the responsibilities of U.S. Air Force and contractor personnel involved in managing U.S. Air Force aircraft temporarily leased to contractors for taking part in international airshows. It applies to all U.S. Air Force and contractor personnel involved in leasing, managing, or operating these aircraft and implements DODI 7230.8, June 9, 1976.

§ 862.2 General policy.

The U.S. Air Force leases aircraft to contractors for use in international airshows that are beneficial to the defense needs of the Nation if it is not desirable or not practical for the U.S. Air Force to take part in the shows. U.S. Air Force management concern continues for the safety of these valuable weapon systems while they are temporarily leased. The responsibilities outlined in this part are directive on U.S. Air Force personnel. Contractor compliance with the applicable portions of this part will be according to contractual provisions.

§ 862.3 Terms explained.

(a) *Contractor.* The aircraft manufacturers, their employees, and their agents who take part in any phase of managing, operating, or servicing U.S. Air Force aircraft solicited for lease, or leased for taking part in international airshows.

(b) *International airshows.* An international aviation event that features several nations' aircraft.

(c) *Crew rest.* A period of time exclusively provided to make sure that air crewmembers get adequate preflight rest in the interest of flight safety. Chapter 7 of AFR 60-1, Flight Management, establishes minimum crew rest requirements for U.S. Air Force crewmembers.

(d) *Flight profile.* A narrative and graphic description of the entire proposed flight from the first takeoff to final landing, including minimum and maximum airspeeds, G-loads, and altitudes.

(e) *Flight data recorder.* Any device installed on an aircraft to check and record conditions of flight or aircraft performance parameters.

(f) *Visual record.* Photographic or video products.

(g) *Contract monitor.* The U.S. Air Force officer appointed to observe and report how the contractor operates the leased aircraft.

(h) *Contractor's airshow plan.* A full description of how the contractor plans to operate and manage a U.S. Air Force aircraft under consideration for lease to take part in an international airshow.

(i) *Contract completion reports.* Separate reports sent by the lessee and the contract monitor explaining contract compliance problems for use in improving future lease agreements.

§ 862.4 Responsibilities assigned.

(a) *Commander, Air Force Logistics Command (AFLC).* (1) Establishes policy and procedures for leasing aircraft to contractors for airshow participation.

(2) Reviews and approves or disapproves contractor airshow plans.

(3) Coordinates with the Air Force Combat Operations Staff (AFCOS) on airshow plans.

(4) Appoints contract monitors.

(5) Establishes procedures for providing a contract monitor to the contractor's airshow.

(6) Establishes procedures for reviewing contract monitor reports.

(7) Establishes procedures for reviewing contractor compliance with airshow plans.

(8) Establishes procedures for providing a contract monitor to the contractor's airshow.

(9) Establishes procedures for reviewing contract monitor reports.

(10) Establishes procedures for reviewing contractor compliance with airshow plans.

(b) *Commander, Air Force Flight Test Center (AFFTC).* (1) Establishes procedures for reviewing contractor airshow plans.

(2) Establishes procedures for reviewing contractor compliance with airshow plans.

(3) Establishes procedures for reviewing contract monitor reports.

(4) Establishes procedures for reviewing contractor compliance with airshow plans.

(c) *Commander, Air Force Combat Operations Staff (AFCOS).* (1) Establishes procedures for reviewing contractor airshow plans.

(2) Establishes procedures for reviewing contractor compliance with airshow plans.

(3) Establishes procedures for reviewing contract monitor reports.

(4) Establishes procedures for reviewing contractor compliance with airshow plans.

(d) *Commander, Air Force Logistics Command (AFLC).* (1) Establishes procedures for reviewing contractor airshow plans.

(2) Establishes procedures for reviewing contractor compliance with airshow plans.

(3) Establishes procedures for reviewing contract monitor reports.

(4) Establishes procedures for reviewing contractor compliance with airshow plans.

(e) *Commander, Air Force Flight Test Center (AFFTC).* (1) Establishes procedures for reviewing contractor airshow plans.

(2) Establishes procedures for reviewing contractor compliance with airshow plans.

(3) Establishes procedures for reviewing contract monitor reports.

(4) Establishes procedures for reviewing contractor compliance with airshow plans.

(f) *Contract monitor.* (1) Observes

(viii) Procedures for providing a

DATES: This rule takes effect on No-

cluded. If the Administrator deter-

1. In consideration of the foregoing,

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§ 862.4 Responsibilities assigned.

(a) *HQ USAF/CV.* (1) Approves all available aircraft taking part in airshows, based on recommendations from the Air Staff agency that has primary responsibility for the aircraft. (Authority to approve the lease requests rests with SAF/AL.)

(2) Recommends lease requests to the Defense Security Assistance Agency (DSAA), through SAF/AL, for approval or disapproval regarding foreign sales or transfers.

(3) Approves adjustments in lease agreements recommended as a result of unsafe or undesirable conditions, or practices that might be made known in the contract completion reports.

(b) *HQ USAF/XOO.* (1) Identifies Air Force aircraft that may be suitable for taking part in international airshows and recommends, through HQ USAF/XO to HQ USAF/CV, those that are operationally available.

(2) Approves all the contractors' airshow plans.

(3) Provides assistance to contractors whose lease requests have been approved for operational aircraft.

(4) Reviews contract completion reports and recommends through HQ USAF/XO to HQ USAF/CV, after appropriate Air Staff coordination, changes to future contracts to correct conditions or practices that are not safe or desirable.

(c) *HQ USAF/RDP or HQ USAF/RDQ.* (1) Identifies Air Force aircraft under their jurisdiction that might be suitable for taking part in international airshows and recommends those that are available to HQ USAF/XOO.

(2) Provides assistance to contractors whose lease requests have been approved for HQ USAF/RDP or HQ USAF/RDQ aircraft.

(d) *HQ USAF/RDC.* (1) Develops determinations and findings for lease requests to get Secretarial approval to lease the aircraft.

(2) Prepares standard lease clauses to make sure that contractors comply with this part and to impose additional suitable controls.

(e) *Air Force Systems Command.* (1) Refers, with appropriate comments and recommendations, lease requests from contractors for taking part in airshows directly to HQ USAF/XOOOF at least 90 days befoe the first lease date.

(2) Appoints an officer who is well qualified in the aircraft as contract monitor. The appointed individual should be released from other duties until the airshow is completed.

(3) Reviews and sends HQ USAF/XOOOF the contract completion reports submitted by the contractor and the contract monitor.

(4) Recommends changes to future contracts to correct conditions or practices that are not desirable.

(f) *Contract monitor.* (1) Observes each aircraft practice and demonstration and monitors compliance with the contract.

(2) Immediately refers significant deviations from the terms of the contract or requirements of this part to AFSC and HQ USAF/XOO.

(3) Sends a contract completion report (RCS: HAF-XOO (AR) 7802) to AFSC no later than 30 days after the aircraft completes participation in the airshow. The report, in letter format to AFSC, must include:

(i) Contract identification.

(ii) Contractor deviations from the lease or this part.

(iii) Recommendations to improve management and safety for future international airshows.

(g) *The contractor.* (1) Provides, with sufficent leadtime (not less than 100 days), the first lease request to the Air Force Plant Representative Office or System Program Office with an air show plan that gives the following information:

(i) Detailed schedule of planned use of the leased aircraft.

(ii) The name (or names) and qualifications of the pilot (or pilots) who are scheduled to fly the aircraft in practice, deployment, or redeployment, and airshow flights.

(iii) Specific information on the qualifications of other crewmembers who may be needed.

(iv) The names, qualifications, and exact duties of contractor supervisory personnel who may take part in any way in managing and controlling the U.S. Air Force aircraft while it is leased.

(v) The intended flight profiles planned for:

(a) Favorable weather conditions (specify favorable weather conditions for subject aircraft).

(b) Weather conditions less than favorable but above the airshow minimums, AFR's 60-16, General Flight Rules, 60-18, Air Force Participation in Aerial Events and Demonstrations, and the Aircraft Handbook (Technical Order) limitations.

(c) Alternate modified profiles, for both weather conditions, that would be flown if the airshow authorities restrict participation due to timing problems.

(vi) Provisions for insuring adequate preflight crew rest for the pilot (or pilots) and other crewmembers. This must include the way in which the flightcrews (pilots) will be isolated for potential marketing or other pressures that may be expected in the international airshow environment.

(vii) Specific schedule and the names of those attending preflight planning, preflight briefing, and postflight debriefings.

(viii) Procedures for providing a visual record of all practice and airshow demonstrations (16-mm film or ¾-inch video tape).

(ix) Procedures for providing maximum flight data recorder coverage (if subject aircraft is normally flight data recorder equipped) of all practice and airshow demonstrations.

(x) Procedures for making sure the pilot who flies the aircraft wears suitable flight clothing for maneuvers to be performed, for example, anti-G suit.

(2) Sends a contract completion report, within 30 days, to the contracting officer explaining any problems found in carrying out the terms of the contract and recommended changes to improve the safety of U.S. Air Force aircraft leased in the future.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc 78-32768 Filed 11-21-78; 8:45 am]

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 990-3]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Orders for Five Bulk Gasoline Facilities in New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues delayed compliance orders to the following five companies operating bulk gasoline facilities in New Jersey: Agway Petroleum Corp., Syracuse, N.Y.; Andrews Oil Co., Salem, N.J.; Globe Petroleum, Inc., Red Bank, N.J.; Moore Brothers Oil Co., Inc., Mahwah, N.J.; and Taylor Oil Co., Somerville, N.J. The orders require the companies to bring air emissions during the loading and unloading operations at their bulk facilities into compliance with certain regulations contained in the federally approved New Jersey State implementation plan (SIP). Compliance with the orders by the operators of the five bulk gasoline facilities will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the orders during the period the orders are in effect.

DATES: This rule takes effect on November 22, 1978.

FOR FURTHER INFORMATION CONTACT:

William J. Friedman, Attorney, U.S. Environmental Protection Agency, General Enforcement Branch, 26 Federal Plaza, New York, N.Y. 10007, telephone 212-264-4940.

ADDRESSES: The delayed compliance orders and supporting material are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, General Enforcement Branch, Room 437, 26 Federal Plaza, New York, N.Y. 10007.

SUPPLEMENTARY INFORMATION: On August 1, 1978, the Regional Administrator of EPA's region II office published in the FEDERAL REGISTER, 43 FR 33754, a notice setting out the provisions of a proposed delayed compliance order for several bulk gasoline facilities in New Jersey. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed orders. No public comments or requests for a public hearing were received in response to the notice.

Therefore, delayed compliance orders effective this date are issued to five companies: Agway Petroleum Corp., Syracuse, N.Y.; Andrews Oil Co., Salem, N.J.; Globe Petroleum, Inc., Red Bank, N.J.; Moore Brothers Oil Co., Inc., Mahwah, N.J.; and Taylor Oil Co., Somerville, N.J. by the Administrator of EPA pursuant to the authority of section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The orders place the above-cited five companies on schedules to bring their bulk gasoline facilities in New Jersey into compliance as expeditiously as practicable with 40 CFR §§ 52.1595 and 52.1598, a part of the federally approved New Jersey State implementation plan. The orders also impose interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and reporting requirements. Imposition of emission monitoring in the orders, as set out in section 113(d)(1)(c), has been found to be an unreasonable requirement. If the conditions of the orders are met, they will permit the above-cited five companies to delay compliance with the SIP regulations covered by the orders until the dates for final compliance set by the orders. The latest final compliance date is October 1, 1978. The companies were previously unable to comply with these regulations.

Compliance with the orders by the above-cited five companies precludes Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the orders during the period the orders are in effect. Citizen suits under section 304 of the Act are similarly precluded. If the Administrator determines that any of the five companies are in violation of a requirement contained in the order for that company, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

EPA has determined that the orders shall be effective upon publication of this notice because of the sources' prior notice of the compliance schedules embodied therein, and because of the need to immediately bring the five affected companies into compliance with the applicable requirements of the New Jersey State implementation plan.

(42 U.S.C. 7413(d), 7601.)

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

1. In consideration of the foregoing, chapter 1 of title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding entries to the table in § 65.350 to read as follows:

Subpart FF—New Jersey

§ 65.350 Federal delayed compliance orders issued under section 113 (d) (1), (3), and (4) of the Act.

The delayed compliance orders referenced below have been issued by the Administrator in accordance with section 113(d) of the Act and with this part. With regard to each order, the Administrator has made all determinations and findings which are necessary for issuance of the order under section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Agway Petroleum Corp...	Mt. Holly, Chester, Freehold, and Hightstown, N.J.	80170	Aug. 1, 1978...	40 CFR §§ 52.1595 and 52.1598.	Sept. 1, 1978.
Andrews Oil Co.....	Salem, N.J	80169	....do.....	40 CFR §§ 52.1595 and 52.1598.	Oct. 1, 1978.
Moore Bros. Oil Co.....	Mahwah, N.J.....	80165	....do.....	40 CFR §§ 52.1595 and 52.1598.	Sept. 1, 1978.
Globe Petroleum	Red Bank, N.J.....	80167	....do.....	40 CFR §§ 52.1595 and 52.1598.	Do.
Taylor Oil Co., Inc	Somerville, N.J ...	80166	....do.....	40 CFR §§ 52.1595 and 52.1598.	Oct. 1, 1978.

2. The texts of the orders read as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY—REGION II

In the matter of Moore Bros. Oil Co., Inc. (Mahwah, N.J.), consent order, index No. 80165.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. ("the Act"). The order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of New Jersey have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

Regulations of the U.S. Environmental Protection Agency ("EPA"), codified as sections 52.1595 and 52.1598 of title 40 of the Code of Federal Regulations (40 CFR §§ 52.1595 and 52.1598), cover the transfer of gasoline from one vessel or storage tank to another in the New Jersey portions of the New Jersey-New York-Connecticut and Metropolitan Philadelphia Interstate Air Quality Control Regions, and are part of the New Jersey State implementation plan ("SIP") as defined in section 110(d) of the Act. These regulations require that facilities utilized for the filling of gasoline delivery vessels and having a daily throughput of 20,000 gallons of gasoline or less (commonly called "small bulk plants") have a vapor control system in operation no later than May 31, 1977 so as to prevent release to the atmosphere of no less than 90 percent by weight of organic compounds in the vapors and gases displaced during any loading or unloading operation.

Moore Bros. Oil Co., Inc., (hereinafter, "Respondent") did not install the required vapor-control system at its small bulk plant at Mahwah, N.J. ("the subject facility") by May 31, 1977, and has not installed such a system as of the date of this order. Thus, Respondent, in loading and unloading gasoline at the subject facility, is in violation of the requirements of 40 CFR §§52.1595 and 52.1598.

Pursuant to Respondent's request, EPA, region II has determined that it is reasonable to establish a compliance schedule which will allow Respondent additional time in which to install a vapor-control system at the subject facility, but which will require compliance with the above-cited regulations as expeditiously as is practicable.

Respondent acknowledges that the subject facility is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. Respondent explicitly waives both the notification requirement and the 30 day waiting period embodied in section 113(a)(1) of the Act. Furthermore, Respondent consents to the issuance of this order, and to its terms. In accordance with the provisions of

title 5, section 553 of the United States Code, this order will become effective immediately upon publication in the FEDERAL REGISTER of final rulemaking incorporating the terms of said order, inasmuch as Respondent will by then have had substantial actual prior notice of the substantive terms of the order.

ORDER

I. That Respondent install the equipment necessary to bring the subject facility into compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 in accordance with the following schedule:

(a) By no later than June 15, 1978, the necessary contracts for the installation of a vapor-control system shall be signed.

(b) By no later than August 1, 1978, onsite construction of a vapor-control system shall be completed.

(c) By no later than September 1, 1978, and at all times thereafter, all gasoline loading and unloading operations at the subject facility shall be performed in full compliance with the provisions of 40 CFR §§ 52.1595 and 52.1598.

Based upon the foregoing, after consideration of public comment, and pursuant to section 113(d) of the Act, it is hereby ordered:

II. That no later than 5 days after any date specified in paragraph I, above for achievement of any incremental step (including final compliance), Respondent shall notify EPA in writing of its status of compliance with respect to the said requirement. If compliance with any incremental step is not achieved in a timely manner, the notification required by this paragraph shall provide a full explanation of such noncompliance, which explanation shall not be held to excuse the noncompliance. If delay is anticipated in meeting any requirement of this order, Respondent shall immediately notify EPA in writing of the anticipated delay and the reasons therefor. Notification to EPA of any anticipated delay shall not be held to excuse the delay.

All submittals and notifications to EPA pursuant to this order shall be made to Mr. Gerald DeGaetano, Air and Environmental Applications Section, Status of Compliance Branch, Enforcement Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007.

III. Beginning immediately upon the effective date of this order, Respondent shall comply with the following requirements, which are determined to be the most reasonable and practicable means of minimizing pollutant emissions from the subject facility during the interim period until final compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 is achieved:

1. Respondent shall monitor its operating procedures during the loading and unloading of gasoline so as to prevent to the greatest extent possible the release to the atmosphere of unnecessary emissions of organic compounds in vapors and gases created during any gasoline transfer operation.

2. If Respondent makes ueo of top-loading procedures for the filling of gasoline delivery vessels, Respondent shall use a loading arm with a loading spout extended to within 6 inches of the bottom of the tank being filled. During the top loading operation, the loading rate shall be decreased until the bottom of the spout is covered with product.

3. Respondent shall take the action necessary to assure that during loading operations the loading arm is completely drained of liquid product before removal from the delivery vessel, so as to minimize the spillage of gasoline. Respondent shall also take all other actions necessary to minimize gasoline spillage.

4. Respondent shall take measures to assure that dome covers and other potential points of emission on all vessels loading and unloading at its facility are closed and sealed during the transfer operation, unless the dome cover must be open to allow the insertion of any loading or unloading apparatus into the vessel, or unless safety considerations require that an emission point be open for the purpose of venting.

5. Whenever possible, Respondent shall make arrangements to have vapor-laden delivery vessels bypass its small bulk plant and refill only at facilities equipped with a vapor recovery system or the equivalent.

IV. Nothing herein shall affect the responsibility of Respondent to comply with State or local regulations. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with 40 CFR §§ 52.1595 and 52.1598 no longer exists.

V. Violation of any requirement of this order shall result in one or more of the following actions:

(a) Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for injunction and/or civil penalties, and, in appropriate cases, criminal prosecution.

(b) Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of 40 CFR §§ 52.1595 and 52.1598 in accordance with the preceding paragraph.

(c) If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act, including the assessment of a noncompliance penalty.

So ordered effective immediately.

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator,
U.S. Environmental Protection Agency.

CONSENT

W. E. Sheriff, having full authority to represent Moore Bros., Oil Co., Inc., in these proceedings, has read the foregoing order, believes it to be resonable, and therefore consents to both its issuance and to its terms. Furthermore, Mr. Jacklin acknowledges that the Mahwah bulk plant of the Moore Bros. Oil Co., Inc., is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. He explicity waives both the notification requirement and the 30-day waiting period embodied in section 113(a) of the Act, recognizes that Moore Bros. Oil Co., Inc., is subject to all remedies provided in section 113 of the Act for failure to comply with the terms of the foregoing order, and explicitly waives any and all rights under any provision of law to challenge this order.

Dated: March 20, 1978.

RALPH JACKLIN,
Area Vice President,
Moore Bros. Oil Co., Inc.
W. E. SHERIFF,
President and
Chief Executive Officer.

U.S. ENVIRONMENTAL PROTECTION AGENCY—REGION II

In the matter of Taylor Oil Co., Inc. (Somerville, N.J.), consent order, index No. 80166.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. §7401 et seq. ("the Act"). The order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of New Jersey have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

Regulations of the U.S. Environmental Protection Agency ("EPA"), codified as sections 52.1595 and 52.1598 of title 40 of the Code of Federal Regulations (40 CFR §§ 52.1595 and 52.1598), cover the transfer of gasoline from one vessel or storage tank to another in the New Jersey portions of the New Jersey-New York-Connecticut and Metropolitan Phjladelphia Interstate Air Quality Control Regions, and are part of the New Jersey State implementation plan ("SIP") as defined in section 110(d) of the Act. These regulations require that facilities utilized for the filling of gasoline delivery vessels and having a daily throughput of 20,000 gallons of gasoline or less (commonly called "small bulk plants") have a vapor control system in operation no later than May 31, 1977 so as to prevent release to the atmosphere of no less than 90 percent by weight of organic compounds in the vapors and gases displaced during any loading or unloading operation.

The Taylor Oil Co., Inc. (hereinafter, "Respondent") did not install the required vapor-control system at its small bulk plant at Somerville, N.J. ("the subject facility") by May 31, 1977, and has not installed such a system as of the date of this order. Thus, Respondent, in loading and unloading gasoline at the subject facility, is in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598.

Pursuant to Respondent's request, EPA, region II has determined that it is reasonable to establish a compliance schedule which will allow respondent additional time in which to install a vapor-control system at the subject facility, but which will require compliance with the above-cited regulations as expeditiously as is practicable.

Respondent acknowledges that the subject facility is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. Respondent explicitly waives both the notification requirement and the 30 day waiting period embodied in section 113(a)(1) of the Act. Furthermore, Respondent consents to the issuance of this order, and to its terms. In accordance with the provisions of title 5, section 553 of the United States Code, this order will become effective immediately upon publication in the FEDERAL REGISTER of final rulemaking incorporating the terms of said order, inasmuch as Respondent will by then have had substantial actual prior notice of the substantive terms of the order.

Based upon the foregoing, after consideration of public comment, and pursuant to section 113(d) of the Act, it is hereby ordered:

I. That Respondent install the equipment necessary to bring the subject facility into compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 in accordance with the following schedule:

(a) By no later than July 1, 1978, the necessary contracts for the installation of a vapor-control system shall be signed.

(b) By no later than September 1, 1978, on-site construction of a vapor-control system shall be completed.

(c) By no later than October 1, 1978, and at all times thereafter, all gasoline loading and unloading operations at the subject facility shall be performed in full compliance with the provisions of 40 CFR §§ 52.1595 and 52.1598.

Provided that, should Respondent determine (and so notify EPA) by July 1, 1978 that it will not utilize the subject facility for the storage of gasoline after December 1, 1978, then the above-listed compliance schedule shall not apply, and the subject facility may operate without the installation of the controls required in said schedule (but in conformity with section III below) until the date that the subject facility ceases to store gasoline, which date shall in no event be later than December 1, 1978. Should Respondent reduce its gasoline throughput at the subject facility to less than 4,000 gallons per day by no later than July 1, 1978 (and so notify EPA), then the above-listed compliance schedule shall also not apply, and the subject facility may operate without the installation of the controls required in said schedule (but in conformity with section III below). If this latter option is chosen, then Respondent at all times after July 1, 1978 shall insure that the daily gasoline throughput at the subject facility is less than 4,000 gallons per day unless and until such time as Respondent shall install a vapor-control system at this location so as to bring it into compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598.

II. That no later than 5 days after any date specified in paragraph I, above for achievement of any incremental step (including final compliance), Respondent shall notify EPA in writing of its status of compliance with respect to the said requirement. If compliance with any incremental step is not achieved in a timely manner, the notification required by this paragraph shall provide a full explanation of such noncompliance, which explanation shall not be held to excuse the noncompliance. If delay is anticipated in meeting any requirement of this order, Respondent shall immediately notify EPA in writing of the anticipated delay and the reasons therefor. Notification to EPA of any anticipated delay shall not be held to excuse the delay.

All submittals and notifications to EPA pursuant to this order shall be made to Mr. Gerald DeGaetano, Air and Environmental Applications Section, Status of Compliance Branch, Enforcement Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007.

III. Beginning immediately upon the effective date of this order, Respondent shall comply with the following requirements, which are determined to be the most reasonable and practicable means of minimizing pollutant emissions from the subject facility during the interim period until final compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 is achieved:

1. Respondent shall monitor its operating procedures during the loading and unloading of gasoline so as to prevent to the greatest extent possible the release to the atmosphere of unnecessary emissions of organic compounds in vapors and gases created during any gasoline transfer operation.

2. If Respondent makes use of top-loading procedures for the filling of gasoline delivery vessels, Respondent shall use a loading arm with a loading spout extended to within 6 inches of the bottom of the tank being filled. During the top loading operation, the loading rate shall be decreased until the bottom of the spout is covered with product.

3. Respondent shall take the action necessary to assure that during loading operations the loading arm is completely drained of liquid product before removal from the delivery vessel, so as to minimize the spillage of gasoline. Respondent shall also take all other actions necessary to minimize gasoline spillage.

4. Respondent shall take measures to assure that dome covers and other potential points of emission on all vessels loading and unloading at its facility are closed and sealed during the transfer operation, unless the dome cover must be open to allow the insertion of any loading or unloading apparatus into the vessel, or unless safety considerations require that an emission point be open for the purpose of venting.

5. Whenever possible, Respondent shall make arrangements to have vapor-laden delivery vessels bypass its small bulk plant and refill only at facilities equipped with a vapor recovery system or the equivalent.

IV. Nothing herein shall affect the responsibility of Respondent to comply with State or local regulations. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with 40 CFR §§ 52.1595 and 52.1598 no longer exists.

V. Violation of any requirement of this order shall result in one or more of the following actions:

(a) Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for injunction and/or civil penalties, and, in appropriate cases, criminal prosecution.

(b) Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of 40 CFR §§ 52.1595 and 52.1598 in accordance with the preceding paragraph.

(c) If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act, including the assessment of a noncompliance penalty.

So ordered, effective immediately.

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator,
U.S. Environmental Protection Agency.

CONSENT

George F. Taylor, having full authority to represent the Taylor Oil Co., Inc., in these proceedings, has read the foregoing order, believes it to be reasonable, and therefore consents to both its issuance and to its terms. Furthermore, Mr. Taylor acknowledges that the Somerville bulk plant of the Taylor Oil Co., Inc. is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. He explicitly waives both the notification requirement and the 30 day waiting period embodied in section 113(a) of the Act, recognizes that the Taylor Oil Co., Inc., is subject to all remedies provided in section 113 of the Act for failure to comply with the terms of the foregoing order, and explicitly waives any and all rights under any provision of law to challenge this order.

Dated: May 1, 1978.

GEORGE F. TAYLOR,
Taylor Oil Co., Inc.

U.S. ENVIRONMENTAL PROTECTION AGENCY—REGION II

In the matter of Globe Petroleum, Inc. (Red Bank, N.J.), consent order, index No. 80167.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. §7401 et seq. ("the Act"). The order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of New Jersey have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

Regulations of the U.S. Environmental Protection Agency ("EPA"), codified as sections 52.1595 and 52.1598 of title 40 of the code of Federal Regulations (40 CFR §§ 52.1595 and 52.1598), cover the transfer of gasoline from one vessel or storage tank to another in the New Jersey portions of the New Jersey-New York-Connecticut and Metropolitan Philadelphia Interstate Air Quality Control Regions, and are part of the New Jersey State implementation plan ("SIP") as defined in section 110(d) of the Act. These regulations require that facilities utilized for the filling of gasoline delivery vessels and having a daily throughput of 20,000 gallons of gasoline or less (commonly called "small bulk plants") have a vapor control system in operation no later than May 31, 1977, so as to prevent release to the atmosphere of no less than 90 percent by weight of organic compounds in the vapors and gases displaced during any loading or unloading operation.

Globe Petroleum, Inc. (hereinafter, "Respondent") did not install the required vapor-control system at its small bulk plant at Red Bank, N.J. ("the subject facility") by May 31, 1977, and has not installed such a system as of the date of this order. Thus, Respondent, in loading and unloading gasoline at the subject facility, is in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598.

Pursuant to Respondent's request, EPA, region II has determined that it is reasonable to establish a compliance schedule which will allow Respondent additional time in which to install a vapor-control system at the subject facility, but which will require compliance with the above-cited regulations as expeditiously as is practicable.

Respondent acknowledges that the subject facility is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. Respondent explicity waives both the notification requirement and the 30 day waiting period embodied in section 113(a)(1) of the Act. Furthermore, Respondent consents to the issuance of this order, and to its terms. In accordance with the provisions of title 5, section 553 of the United States Code, this order will become effective immediately upon publication in the FEDERAL REGISTER of final rulemaking incorporating the terms of said order, inasmuch as Re-

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spondent will by then have had substantial actual prior notice of the substantive terms of the order.

ORDER

Based upon the foregoing, after consideration of public comment, and pursuant to section 113(d) of the Act, it is hereby ordered:

I. That Respondent install the equipment necessary to bring the subject facility into compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 in accordance with the following schedule:

(a) By no later than June 15, 1978, the necessary contracts for the installation of a vapor-control system shall be signed.

(b) By no later than August 1, 1978, onsite construction of a vapor-control system shall be completed.

(c) By no later than September 1, 1978, and at all times thereafter, all gasoline loading and unloading operations at the subject facility shall be performed in full compliance with the provisions of 40 CFR §§ 52.1595 and 52.1598.

II. That no later than 5 days after any date specified in paragraph I, above for achievement of any incremental step (including final compliance), Respondent shall notify EPA in writing of its status of compliance with respect to the said requirement. If compliance with any incremental step is not achieved in a timely manner, the notification required by this paragraph shall provide a full explanation of such noncompliance, which explanation shall not be held to excuse the noncompliance. If delay is anticipated in meeting any requirement of this order, Respondent shall immediately notify EPA in writing of the anticipated delay and the reasons therefor. Notification to EPA of any anticipated delay shall not be held to excuse the delay.

All submittals and notifications to EPA pursuant to this order shall be made to Mr. Gerald De Gaetano, Air and Environmental Applications Section, Status of Compliance Branch, Enforcement Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007.

III. Beginning immediately upon the effective date of this order, Respondent shall comply with the following requirements, which are determined to be the most reasonable and practicable means of minimizing pollutant emissions from the subject facility during the interim period until final compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 is achieved:

1. Respondent shall monitor its operating procedures during the loading and unloading of gasoline so as to prevent to the greatest extent possible the release to the atmosphere of unnecessary emissions of organic compounds in vapors and gases created during any gasoline transfer operation.

2. If Respondent makes use of top-loading procedures for the filling of gasoline delivery vessels, Respondent shall use a loading arm with a loading spout extended to within 6 inches of the bottom of the tank being filled. During the top-loading operation, the loading rate shall be decreased until the bottom of the spout is covered with product.

3. Respondent shall take the action necessary to assure that during loading operations the loading arm is completely drained of liquid product before removal from the delivery vessel, so as to minimize the spillage of gasoline. Respondent shall also take all other actions necessary to minimize gasoline spillage.

4. Respondent shall take measures to assure that dome covers and other potential points of emission on all vessels loading and unloading at its facility are closed and sealed during the transfer operation, unless the dome cover must be open to allow the insertion of any loading or unloading apparatus into the vessel, or unless safety considerations require that an emission point be open for the purpose of venting.

5. Whenever possible, Respondent shall make arrangements to have vapor-laden delivery vessels bypass its small bulk plant and refill only at facilities equipped with a vapor recovery system or the equivalent.

IV. Nothing herein shall affect the responsibility of Respondent to comply with State or local regulations. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with 40 CFR §§ 52.1595 and 52.1598 no longer exists.

V. Violation of any requirement of this order shall result in one or more of the following actions:

(a) Enforcement of such requirement pursuant to section 113 (a), (b), or (c) of the Act, including possible judicial action or injunction and/or civil penalties, and, in appropriate cases, criminal prosecution.

(b) Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of 40 CFR §§ 52.1595 and 52.1598 in accordance with the preceding paragraph.

(c) If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act, including the assessment of a noncompliance penalty.

So ordered, effective immediately.

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator, U.S. Environmental Protection Agency.

CONSENT

Ralph Mazzucca, president, having full authority to represent Globe Petroleum, Inc. in these proceedings, has read the foregoing order, believes it to be reasonable, and therefore consents to both its issuance and to its terms. Furthermore, Mr. Mazzucca acknowledges that the Red Bank bulk plant of Globe Petroleum, Inc. is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. He explicitly waives both the notification requirement and the 30-day waiting period embodied in section 113(a) of the Act, recognizes that Globe Petroleum, Inc. is subject to all remedies provided in section 113 of the Act for failure to comply with the terms of the foregoing order, and explicitly waives any and all rights under any provision of law to challenge this order.

Dated: March 20, 1978.

RALPH MAZZUCCA,
President, Globe Petroleum, Inc.

U.S. ENVIRONMENTAL PROTECTION AGENCY—REGION II

CONSENT ORDER, INDEX NO. 80169

In the matter of Andrews Oil Co. (Salem, N.J.).

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. §7401 et seq. ("the Act"). The order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and 30 days' notice to the State of New Jersey have been provided pursuant to section 113(d)(1) of the act.

FINDINGS

Regulations of the U.S. Environmental Protection Agency ("EPA"), codified as sections 52.1595 and 52.1598 of title 40 of the Code of Federal Regulations (40 CFR §§ 52.1595 and 52.1598), cover the transfer of gasoline from one vessel or storage tank to another in the New Jersey portions of the New Jersey-New York-Connecticut and Metropolitan Philadelphia interstate air quality control regions, and are part of the New Jersey State implementation plan ("SIP") as defined in section 110(d) of the Act. These regulations require that facilities utilized for the filling of gasoline delivery vessels and having a daily throughput of 20,000 gallons of gasoline or less (commonly called "small bulk plants") have a vapor control system in operaion no later than May 31, 1977, so as to prevent release to the atmosphere of no less than 90 percent by weight of organic compounds in the vapors and gases displaced during any loading or unloading operation.

The Andrews Oil Co. (hereinafter, "Respondent") did not install the required vapor-control system at its small bulk plant at Salem, N.J. ("the subject facility") by May 31, 1977, and has not installed such a system as of the date of this order. Thus, Respondent, in loading and unloading gasoline at the subject facility, is in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598.

Pursuant to Respondent's request, EPA, region II has determined that it is reasonable to establish a compliance schedule which will allow Respondent additional time in which to install a vapor-control system at the subject facility, but which will require compliance with the above-cited regulations as expeditiously as is practicable.

Respondent acknowledges that the subject facility is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. Respondent explicitly weaives both the notification requirement and the 30-day waiting period embodied in section 113(a)(1) of the Act, furthermore, Respondent consents to the issuance of this order, and to its terms. In accordance with the provisions of title 5, section 553 of the Unites States Code, this order will become effective immediately upon publication in the FEDERAL REGISTER of final rulemaking incorporating the terms of said order, inasmuch as Respondent will by then have had substantial actual prior notice of the substantive terms of the order.

ORDER

Based upon the foregoing, after consideration of public comment, and pursuant to section 113(d) of the Act, it is hereby ordered:

I. That Respondent install the equipment necessary to bring the subject facility into compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 in accordance with the following schedule:

(a) By no later than July 1, 1978, the necessary contracts for the installation of a vapor-control system shall be signed.

(b) By no later than September 1, 1978, onsite construction of a vapor-control system shall be completed.

(c) By no later than October 1, 1978, and at all times thereafter, all gasoline loading and unloading operations at the subject facility shall be performed in full compliance with the provisions of 40 CFR §§ 52.1595 and 52.1598.

Provided that, should Respondent notify EPA, by no later than July 1, 1978, that it will not utilize the subject facility for the storage of gasoline after October 1, 1978, then the above-listed compliance schedule shall not apply, and the subject facility may operate without the installation of the controls required in said schedule (but in conformity with section III below) until the date the subject facility ceases to store gasoline, which date shall in no event be later than October 1, 1978.

II. That no later than 5 days after any date specified in paragraph I, above for achievement of any incremental step (including final compliance), Respondent shall notify EPA in writing of its status of compliance with respect to the said requirement. If compliance with any incremental step is not achieved in a timely manner, the notification required by this paragraph shall provide a full explanation of such noncompliance, which explanation shall not be held to excuse the noncompliance. If delay is anticipated in meeting any requirement of this order, Respondent shall immediately notify EPA in writing of the anticipated delay and the reasons therefor. Notification to EPA of any anticipated delay shall not be held to excuse the delay.

All submittals and notifications to EPA pursuant to this order shall be made to Mr. Gerald De Gaetano, Air and Environmental Applications Section, Status of Compliance Branch, Enforcement Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007.

III. Beginning immediately upon the effective date of this order, Respondent shall comply with the following requirements, which are determined to be the most reasonable and practicable means of minimizing pollutant emissions from the subject facility during the interim period until final compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 is achieved:

1. Respondent shall monitor its operating procedures during the loading and unloading of gasoline so as to prevent to the greatest extent possible the release to the atmosphere of unnecessary emissions of organic compounds in vapors and gases created during any gasoline transfer operation.

2. If Respondent makes use of top-loading procedures for the filling of gasoline delivery vessels, Respondent shall use a loading arm with a loading spout extended to within 6 inches of the bottom of the tank being filled. During the top-loading operation, the loading rate shall be decreased until the bottom of the spout is covered with product.

3. Respondent shall take the action necessary to assure that during loading operations the loading arm is completely drained of liquid product before removal from the delivery vessel, so as to minimize the spillage of gasoline. Respondent shall also take all other actions necessary to minimize gasoline spillage.

4. Respondent shall take measures to assure that dome covers and other potential points of emission on all vessels loading and unloading at its facility are closed and sealed during the transfer operation, unless the dome cover must be open to allow the insertion of any loading or unloading apparatus into the vessel, or unless safety considerations require that an emission point be open for the purpose of venting.

5. Whenever possible, Respondent shall make arrangements to have vapor-laden delivery vessels bypass its small bulk plant and refill only at facilities equipped with a vapor recovery system or the equivalent.

IV. Nothing herein shall affect the responsibility of Respondent to comply with State or local regulations. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with 40 CFR §§ 52.1595 and 52.1598 no longer exists.

V. Violation of any requirement of this order shall result in one or more of the following actions:

(a) Enforcement of such requirement pursuant to section 113 (a), (b), or (c) of the Act, including possible judicial action for injunction and/or civil penalties, and, in appropriate cases, criminal prosecution.

(b) Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of 40 CFR §§ 52.1595 and 52.1598 in accordance with the preceding paragraph.

(c) If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act, including the assessment of a noncompliance penalty.

So ordered, effective immediately.

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator, U.S. Environmental Protection Agency.

CONSENT

G. G. Andrews, Jr., president, having full authority to represent the Andrews Oil Co. in these proceedings, has read the foregoing order, believes it to be reasonable, and therefore consents to both its issuance and to its terms. Furthermore, Mr. Andrews acknowledges that the Salem bulk plant of the Andrews Oil Co. is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. He explicitly waives both the notification requirement and the 30-day waiting period embodied in section 113(a) of the Act, recognizes that the Andrews Oil Co. is subject to all remedies provided in section 113 of the Act for failure to comply with the terms of the foregoing order, and explicitly waives any and all rights under any provision of law to challenge this order.

Dated: March 24, 1978.

G. G. ANDREWS, Jr.,
President.
CARLA H. ANDREWS,
Secretary, Andrews Oil Co.

These species were underharvested in 1977, although biological data collected by the National Marine Fisheries Service indicate that the stocks could have been fished at a higher level had a more intensive fishery been conducted. Consequently, the Assistant Administrator for Fisheries adjusts the 1978 OY's as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY—REGION II

In the matter of Agway Petroleum Corp., (Syracuse, N.Y.), consent order, index No. 80170.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. §7401 et seq. ("the Act"). The order contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of New Jersey have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

Regulations of the U.S. Environmental Protection Agency ("EPA"), codified as sections 52.1595 and 52.1598 of title 40 of the Code of Federal Regulations (40 CFR §§ 52.1595 and 52.1598), cover the transfer of gasoline from one vessel or storage tank to another in the New Jersey portions of the New Jersey-New York-Connecticut and Metropolitan Philadelphia Interstate Air Quality Control Regions, and are part of the New Jersey State Implementation Plan ("SIP") as defined in section 110(d) of the Act. These regulations require that facilities utilized for the filling of gasoline delivery vessels and having a daily throughput of 20,000 gallons of gasoline or less (commonly called "small bulk plants") have a vapor control system in operation no later than May 31, 1977 so as to prevent release to the atmosphere of no less than 90 percent by weight of organic compounds in the vapors and gases displaced during any loading or unloading operation.

Agway Petroleum Corp. (hereinafter, "Respondent") did not install the required vapor-control system at its small bulk plant at Mount Holly, N.J. ("the subject facility") by May 31, 1977, and has not installed such a system as of the date of this Order. Respondent has also not installed such a system on its Chester, Freehold, or Hightstown, N.J., small bulk plants as of this date. Thus, Respondent, in loading and unloading gasoline at these four facilities, is in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598.

Pursuant to Respondent's request, EPA, Region II has determined that it is reasonable to establish a compliance schedule which will allow Respondent additional time in which to install a vapor-control system at the subject facility, but which will require compliance with the above-cited regulations as expeditiously as is practicable. Respondent has agreed to reduce the gasoline throughput at the other above-cited small bulk plants below 4,000 gallons per day, and thus it will not be required to install vapor-control systems at these facilities at this time. EPA has provided in the compliance schedule included herein a date by which gasoline throughput at these facilities must be reduced below 4,000 gallons per day.

Respondent acknowledges that the subject facility is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598. Respondent explicitly waives both the notification requirement and the 30-day

the appendix at the end of subchapter

Fleet average

b. Requisitions submitted to GSA for

waiting period embodied in section 113(a)(1) of the Act. Futhermore, Respondent consents to the issuance of this order, and to its terms. In accordance with the provisions of title 5, section 553 of the United States Code, this order will become effective immediately upon publication in the FEDERAL REGISTER of final rulemaking incorporating the terms of said order, inasmuch as Respondent will by then have had substantial actual prior notice of the substantive terms of the order.

ORDER

Based upon the foregoing, after consideration of public comment, and pursuant to section 113(d) of the Act, it is hereby ordered:

I. That Respondent install the equipment necessary to bring the subject facility and its other facilities listed below into compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 in accordance with the following schedule:

(a) By no later than June 15, 1978, the necessary contracts for the installation of a vapor-control system at the subject facility shall be signed.

(b) By no later than August 1, 1978, onsite construction of a vapor-control system at the subject facility shall be completed.

(c) By no later than September 1, 1978, and at all times thereafter, all gasoline loading and unloading operations at the subject facility shall be performed in full compliance with the provisions of 40 CFR §§ 52.1595 and 52.1598.

(d) By no later than June 1, 1978, Respondent shall reduce the gasoline throughput at its Chester, Freehold and Hightstown, N.J., small bulk plants to a level below 4,000 gallons per day, and at all times thereafter it shall insure that the daily gasoline throughput at each of these facilities is less than 4,000 gallons per day unless and until such time as Respondent shall install vapor-control systems at these locations so as to bring them into compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598.

II. That no later than 5 days after any date specified in paragraph I, above for achievement of any incremental step (including final compliance), respondent shall notify EPA in writing of its status of compliance with respect to the said requirement. If compliance with any incremental step is not achieved in a timely manner, the notification required by this paragraph shall provide a full explanation of such noncompliance, which explanation shall not be held to excuse the noncompliance. If delay is anticipated in meeting any requirement of this order, respondent shall immediately notify EPA in writing of the anticipated delay and the reasons therefor. Notification to EPA of any anticipated delay shall not be held to excuse the delay.

All submittals and notifications to EPA pursuant to this order shall be made to Mr. Gerald DeGaetano, Air and Environmental Applications Section, Status of Compliance Branch, Enforcement Division, U.S. Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007.

III. Beginning immediately upon the effective date of this order, respondent shall comply with the following requirements, which are determined to be the most reasonable and practicable means of minimizing pollutant emissions from the subject facility during the interim period until final compliance with the requirements of 40 CFR §§ 52.1595 and 52.1598 is achieved:

1. Respondent shall monitor its operating procedures during the loading and unloading of gasoline so as to prevent to the greatest extent possible the release to the atmosphere of unnecessary emissions of organic compounds in vapors and gases created during any gasoline transfer operation.

2. If respondent makes use of top-loading procedures for the filling of gasoline delivery vessels, respondent shall use a loading arm with a loading spout extended to within 6 inches of the bottom of the tank being filled. During the top loading operation, the loading rate shall be decreased until the bottom of the spout is covered with product.

3. Respondent shall take the action necessary to assure that during loading operations the loading arm is completely drained of liquid product before removal from the delivery vessel, so as to minimize the spillage of gasoline. Respondent shall also take all other actions necessary to minimize gasoline spillage.

4. Respondent shall take measures to assure that dome covers and other potential points of emission on all vessels loading and unloading at its facility are closed and sealed during the transfer operation, unless the dome cover must be open to allow the insertion of any loading or unloading apparatus into the vessel, or unless safety considerations require that an emission point be open for the purpose of venting.

5. Whenever possible, respondent shall make arrangements to have vapor-laden delivery vessels bypass its small bulk plant and refill only at facilities equipped with a vapor recovery system or the equivalent.

IV. Nothing herein shall affect the responsibility of respondent to comply with State or local regulations. This order shall be terminated in accordance with section 113(d)(8) of the act if the Administrator (or his delegate) determines on the record, after notice and hearing, that an inability to comply with 40 CFR §§ 52.1595 and 52.1598 no longer exists.

V. Violation of any requirement of this order shall result in one or more of the following actions:

(a) Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the act, including possible judicial action for injunction and/or civil penalties, and, in appropriate cases, criminal prosecution.

(b) Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of 40 CFR §§ 52.1595 and 52.1598 in accordance with the preceding paragraph.

(c) If such violation continues beyond July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the act, including the assessment of a noncompliance penalty.

So ordered, effective immediately.

Dated: October 31, 1978.

DOUGLAS M. COSTLE,
Administrator, U.S. Environmental Protection Agency.

CONSENT

The undersigned, having full authority to represent Agway Petroleum Corp. in these proceedings, has read the foregoing order, believes it to be reasonable, and therefore consents to both its issuance and to its terms. Furthermore, the undersigned acknowledges that the Mount Holly bulk plant of Agway Petroleum Corp. is presently in violation of the requirements of 40 CFR §§ 52.1595 and 52.1598, as are its Chester, Freehold, and Hightstown, N.J., bulk plants. He explicitly waives both the notification requirement and the 30-day waiting period embodied in section 113(a) of the act, recognizes that Agway Petroleum Corp. is subject to all remedies provided in section 113 of the act for failure to comply with the terms of the foregoing order, and explicitly waives any and all rights under any provision of law to challenge this order.

Dated: April 26, 1978.

E. H. YOUNG,
President, Agway Petroleum Corp.

[FR Doc. 78-32604 Filed 11-16-78; 4:43 pm]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Temp. Reg. G-39]

APPENDIX—TEMPORARY REGULATIONS

Acquisition of Fuel-Efficient Light Trucks by the Federal Government

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation establishes policy and procedures governing the acquisition of light trucks by executive agencies beginning in fiscal year 1979. This policy is mandated by Executive Order 12003, dated July 20, 1977, which requires that all classes of nonpassenger automobiles (light trucks) acquired by executive agencies achieve certain fleet average fuel economies. This temporary regulation sets forth current standards for the acquisition of light trucks.

DATES: Effective date: October 1, 1978. Expiration date: September 30, 1979. Comments due: On or before December 1, 1978.

ADDRESS: General Services Administration (FAF), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

John I. Tait, 703-557-1914, Director, Regulations and Management Control Division.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of subchapter G.

JAY SOLOMON,
Administrator of General Services.

NOVEMBER 16, 1978.

[Federal Property Management Regs.; Temporary Reg. G-39]

ACQUISITION OF FUEL-EFFICIENT LIGHT TRUCKS BY THE FEDERAL GOVERNMENT

NOVEMBER 16, 1978.

1. *Purpose.* This regulation establishes policy and procedures governing the acquisition of light trucks by executive agencies beginning in fiscal year 1979.

2. *Effective date.* This regulation is effective October 1, 1978.

3. *Expiration date.* This regulation expires September 30, 1979, unless sooner revised or superseded. Before the expiration date, this regulation will be codified in the permanent regulations of the General Services Administration (GSA) appearing in Title 41 CFR, Public Contracts and Property Management.

4. *Applicability.* The provisions of this regulation apply to executive agencies as defined in subparagraph 5d.

5. *Background.* a. Title III of the Energy Policy and Conservation Act added Title V, Improving Automotive Efficiency, to the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.). Executive Order 11912, dated April 13, 1976, designated and empowered the Administrator of General Services to perform the functions vested in the President by section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010).

b. Subsequent to the publication of Executive Order 11912, Executive Order 12003, dated July 20, 1977, was issued, which provided additional requirements to those already established by the documents cited in subparagraph a, above. Executive Order 12003 requires that the Administrator of General Services promulgate rules that ensure that each class of nonpassenger automobiles (hereafter referred to as light trucks) acquired by all executive agencies, beginning in fiscal year 1979, achieve a fleet average fuel economy equal to or greater than the fuel economy standard established for that model year by the Secretary of Transportation.

c. The applicable fleet average fuel economy objectives by fiscal year are as follows:

Fiscal year	Fleet average fuel economy miles per gallon (mpg)	
	4 by 2	4 by 4
1979	17.2	15.8
1980[1]	16.0	14.0
1981[1]	18.0[2]	15.5[2]
1982-85	(3)	(3)

[1] GVWR limit of vehicles covered by the average fuel economy standards program to be raised from 6,000 to 8,500 pounds in 1980.

[2] Will be reduced by 0.5 mpg if the Environmental Protection Agency does not approve use of improved lubricants by January 1, 1980.

[3] To be determined by the Secretary of Transportation.

d. As used in this regulation:

(1) "Fleet average fuel economy" means the total number of light trucks acquired during a fiscal year by executive agencies (excluding light trucks designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work) divided by a sum of terms, each term of which is a fraction created by dividing the number of light trucks so acquired of a given model type by the fuel economy of that model type.

(2) "Executive agency" means an executive department, a Government corporation, or an independent establishment.

(3) "Acquired" means purchased or leased for a period of 60 continuous days or more but does not include light trucks obtained on assignment from the interagency motor pool system or rented through the Federal supply schedule for periods less than 60 days.

(4) "Light trucks" means any truck up to 6,000 pounds gross vehicle weight rating (GVWR) which is a 4-wheeled vehicle propelled by fuel (gasoline or diesel oil) and is manufactured primarily for use on public streets, roads, and highways. For purposes of this regulation light trucks shall mean those vehicles within the purview of Federal specifications KKK-T-723 (commercial light trucks, 4 by 2), types IA, IIB, IIIB, IVB, VIB, and XIB; and KKK-T-645 (commercial light trucks, 4 by 4) types IA, IB, and VIB. These vehicles are also covered by Federal Standards 307 (commercial light trucks, 4 by 2) items 1, 20, 30, 40, 60, and 110; and 292 (commercial light trucks, 4 by 4) items 5, 6, and 65.

6. *Policy and procedures.* a. The policy and procedures set forth in this regulation govening the acquisition of light trucks by executive agencies beginning in fiscal year 1979 are in compliance with Pub. L. 94-163 and Executive Orders 11912 and 12003. Attachment A outlines the procedures for acquiring fuel-efficient light trucks, and attachment B lists the miles per gallon (MPG) ratings to be used in the calculations.

b. Requisitions submitted to GSA for light trucks shall be in conformance with the requirements of § 101-26.501 and subpart 101-38.13.

c. Additionally, requisitions for light trucks submitted to GSA pursuant to agency forecasts developed in compliance with this regulation shall contain a certification that the acquisition is in conformance with Executive Order 12003, as implemented by this regulation. Each civilian executive agency, the Office of the Secretary of Defense, the military services, and defense agencies shall designate an official who shall be responsible for providing this certification and shall furnish the name, address, and telephone number of the official to the General Services Administration (FZ), Washington, D.C. 20406.

d. The fleet average fuel economy for all light trucks acquired by an executive agency for each fiscal year must meet or exceed the fleet average fuel economy for their respective classes of light trucks as shown in the corresponding fiscal year column in subparagraph 5c of this regulation.

(1) The provisions of this regulation are not applicable to light trucks designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work.

(2) An agency may request an exemption from the provisions of paragraph 6d for individual light trucks used for special purposes. These requests shall be submitted in writing to the General Services Administration (A), Washington, D.C. 20405, and shall state the reasons supporting the proposed acquisition of a light truck which will not enable the agency to meet the fleet average fuel economy established by Executive Order 12003 and this regulation. The Administrator of General Services will review the request and, with the concurrence of the Secretary of Energy, determine the merits of the request, then inform the requesting agency of the determination. Light trucks exempted under the provisions of this subparagraph 6d(2) shall not be included in the calculation of an agency's fleet average fuel economy.

7. *Agency comments.* Agency comments with regard to clarification of the policy and procedures in this regulation may be sent to the General Services Administration (FAF), Washington, D.C. 20406, no later than December 1, 1978, for consideration and possible incorporation into the permanent regulation.

8. *Reports.* The report required by this regulation is in conformance with the provisions of subpart 101-11.11 and has been assigned interagency report control number 0162-GSA-AN.

[FPMR Temp. Reg. G-39]

ATTACHMENT A

ACQUISITION OF FUEL-EFFICIENT LIGHT TRUCKS

1. *Authority.* Section 1(b) of Executive Order 12003, dated July 20, 1977, requires that the Administrator of General Services expand the program for the acquisition of fuel-efficient motor vehicles to include light trucks beginning in fiscal year 1979.

2. *Implementation.* In compliance with the Executive order, GSA will administer a consolidated Federal fleet acquisition plan for light trucks acquired by executive agencies. The plan will be composed of two sections, covering both 4 by 2 and 4 by 4 light trucks. It will be based on forecasts of total light truck acquisition requirements by item number (from the Federal standard) submitted by executive agencies to GSA by December 15 of each fiscal year. This forecast will serve as substantiation that each agency's acquisition plan is in conformance with the provisions of the Executive order; i.e., the agency plan will result in the achievement of the fleet average fuel economy prescribed for the applicable fiscal year. GSA will administer the plan by maintaining a master record of the miles per gallon rating for light trucks actually acquired by each agency during the fiscal year. Periodically, each agency will be furnished a listing of vehicles acquired with the cumulative fleet average fuel economy attained to compare with its forecast. This will enable an agency to adjust future vehicle acquisitions, when necessary, to comply with the Executive order by the end of the fiscal year. The Federal fleet plan will enable GSA to predict the total fleet average fuel economy to be achieved by all executive agencies prior to the end of the fiscal year and to provide management assistance to agencies, when necessary, to insure compliance with the Executive order. Forecasts of planned acquisitions shall be sent to the General Services Administration (FZ), Washington, D.C. 20406, not later than December 15 of each fiscal year, in the format illustrated in figure A-1. Interagency report control number 0162-GSA-AN has been assigned to this requested forecast. The miles per gallon ratings to be used in the forecast are illustrated in attachment B.

3. *Agency responsibilities.* a. Executive agencies shall furnish GSA a forecast of the total light truck acquisition requirements for each fiscal year based on the combined city/highway mileage ratings for light trucks developed by the Environmental Protection Agency (EPA). Despite EPA's decision to publicize only the city mileage ratings for vehicles 6,000 pounds GVWR and under in model year 1979, EPA will provide the combined city/highway ratings to GSA. In turn, GSA will furnish this information to agencies to enable them to plan the acquisitions and to prepare the forecasts. Agencies which do not plan any such acquisitions (purchases or commercial leases) or which satisfy the total vehicle requirements through the GSA Interagency Motor Pool System shall furnish a negative forecast. Agencies which need additional copies of the mpg ratings (for 49 States and California vehicles) may write to the General Services Administration (FZ), Washington, D.C. 20406. A sample calculation to clarify how the fleet average fuel economy is derived is illustrated in figure A-2.

b. The forecast of the total agency light truck acquisition requirements shall include trucks to be procured or leased and used in the conterminous United States, Alaska, Hawaii, Guam, the Virgin Islands, and the Commonwealth of Puerto Rico. The forecast shall not include light trucks (1) procured or leased and/or to be used outside the foregoing areas, (2) designed to perform combat-related missions for the Armed Forces, or (3) designed to be used in law enforcement work or emergency rescue work.

c. Requisitions for light trucks sent to GSA for procurement action but for which a contract is not effected during the same fiscal year the requisitions are submitted should be included in the agency's acquisition forecasts for the following fiscal year.

d. When a light truck lease contains an option to renew and the option is exercised, that renewal action shall count as a new acquisition and shall be included in the applicable year's forecast.

3. In order to maintain a master record of all light truck acquisitions, agencies shall forward to the General Services Administration (FZ), Washington, D.C. 20406, copies of all agreements for the leasing of light trucks for a period of 60 continuous days or more, including agreements to renew existing leases. When the lease agreement does not provide the following information, it shall be submitted as an attachment to the lease.

(1) Year.
(2) Make.
(3) Model.
(4) Transmission type (if manual, number of forward speeds).
(5) Cubic inch displacement.
(6) Fuel system (fuel injection or carburetor (number of barrels)).
(7) Whether it is a 4 by 2 or 4 by 4.
(8) If leased in California.

4. *GSA responsibilities.* a. GSA will incorporate into the Federal fleet plan forecasts of light truck acquisition requirements received from executive agencies. GSA assistance may be requested in preparing forecasts prior to submission.

b. Each agency will be furnished periodically a listing by GSA showing the status of light trucks acquired with the fleet average fuel economy achieved to enable the agency to determine the extent to which it is in conformance with the forecast originally submitted to GSA. The listing will enable an agency to make adjustments to its acquisition plan, when necessary, to insure that its fleet average fuel economy is achieved for the applicable fiscal year.

c. Submission of requisitions for procurement or requests for authority to lease light trucks which, in the opinion of GSA, will result in noncompliance with the fleet average fuel economy by the end of the fiscal year may result in requisitions being held in abeyance pending adjustment to the agency's acquisition plan.

[FPMR Temp. Reg. G-39]

ATTACHMENT A

GENERAL SERVICES ADMINISTRATION (FZ), WASHINGTON, D.C. 20406

The forecast for the total 4 by 2 light trucks to be acquired (procured or leased for 60 continuous days or more, but not obtained from the interagency motor pool system) by (agency) during fiscal year 1979 is as follows:

4 by 2

Van-wagon and van-panel (items 20 and 30):
100—49 States where the lowest EPA city/highway fuel economy rating for a 6-cylinder automatic is 17 mpg.
50—California where the lowest EPA city/highway fuel economy rating for an 8-cylinder automatic is 14 mpg.
Pickup (item 40):
200—49 States, 6-cylinder automatic (17 mpg).
50—California, 8-cylinder automatic (14 mpg).
Pickup, compact (item 60):
150—49 States, 4-cylinder automatic (22 mpg).
25—California, 4-cylinder, 4-speed manual (24 mpg).
Sedan, delivery (item 110):
25—49 States, 6-cylinder automatic (19 mpg).

The forecast for the total 4 by 4 light trucks to be acquired by (agency) during fiscal year 1979 is as follows:

4 by 4

Trucks, utility (items 5 and 6):
180—49 States, 6-cylinder automatic (18 mpg).
10—California, 8-cylinder, 3-speed manual (15 mpg).

Excluding light trucks designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work, the total planned acquisitions for fiscal year 1979 are calculated to yield a fleet average fuel economy for 4 by 2 trucks of 17.7 miles per gallon and for 4 by 4 trucks of 17.8 miles per gallon.

Interagency report control No. 0162-GSA-AN is assigned to this forecast.

Name _____
Title _____
Address _____
Telephone number _____

FIGURE A-1.—Sample agency acquisition forecast.

The fleet average fuel economy is determined by dividing the total number of light trucks of a certain configuration (4 by 2 and 4 by 4) to be acquired by a sum of terms, each term of which is a fraction created by dividing the number of light trucks of a given model type by the fuel economy of that model type.

This method of calculating the fleet average fuel economy uses harmonic averaging and is specifically required by section 510 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 915, 15 U.S.C. 2010).

The fleet average fuel economy shown in Figure A-1 has been calculated as follows:

4 by 2

Total number of light trucks (600) divided by:

1. Six-cylinder automatic transmission van-wagons and van-panels for use in 49 States (100) divided by 17 mpg, plus
2. Eight-cylinder automatic transmission van-wagons and van-panels for use in California (50) divided by 14 mpg, plus
3. Six-cylinder automatic transmission pickups for use in 49 States (200) divided by 17 mpg, plus
4. Eight-cylinder automatic transmission pickups for use in California (50) divided by 14 mpg, plus
5. Four-cylinder automatic transmission compact pickups for use in 49 States (150) divided by 22 mpg, plus
6. Four cylinder, 4-speed manual transmission compact pickups for use in California (25) divided by 24 mpg, plus
7. Six-cylinder automatic transmission sedan deliveries for use in 49 States (25) divided by 19 mpg.

$$= \frac{600}{\frac{100}{17} + \frac{50}{14} + \frac{200}{17} + \frac{50}{14} + \frac{150}{22} + \frac{25}{24} + \frac{25}{19}}$$

$$= \frac{600}{5.88 + 3.57 + 11.76 + 3.57 + 6.82 + 1.04 + 1.32}$$

$$= \frac{600}{33.96} = 17.7 \text{ (Rounded to the nearest 0.1 mpg)}$$

FIGURE A-2.—Illustration of sample calculation to determine fleet average fuel economy.

4 by 4

Total number of light trucks (190) divided by:

1. Six-cylinder automatic transmission utility trucks for use in 49 States (180) divided by 18 mpg, plus
2. Eight cylinder, 3-speed manual transmission utility trucks for use in California (10) divided by 15 mpg.

$$= \frac{190}{\frac{180}{18} + \frac{10}{15}}$$

$$= \frac{190}{10.0 + .67}$$

$$= \frac{190}{10.67} = 17.8 \text{ (Rounded to nearest 0.1 mpg)}$$

FIGURE A-2.—Illustration of sample calculation to determine fleet average fuel economy.

MILES PER GALLON RATINGS TO BE USED IN FORECASTING TOTAL FLEET LIGHT TRUCK ACQUISITIONS FOR FISCAL YEAR 1979

1. Forecasts of total agency light truck acquisitions for fiscal year 1979 shall be based on the model types of light trucks listed in this attachment. The miles per gallon ratings shown in the listing represent the lowest fuel economy for combined city/highway driving as tested by EPA.

2. Each executive agency submitting a forecast of total agency light truck acquisitions will receive from GSA the EPA 1979 miles per gallon ratings when this information is made available from EPA.

3. When the GSA listings indicate that the agency fleet average fuel economy is not in conformance with the 4 by 2 17.2 mpg objective or the 4 by 4 15.8 mpg objective, an agency shall revise its acquisition plan accordingly. The EPA 1979 mpg ratings shall be used when revisions are necessary.

Light Truck and Model Types and Ratings

Light truck and model type		Combined city/highway fuel economy mpg: 49 States	California
4 by 2			
Utility (item 1), such as AM general dispatcher:			
Standard 4 cylinder	Automatic	21	18
Standard 6 cylinder	do	18	16
Van-wagon and van-panel (items 20 and 30), such as Chevrolet Sportsvan and Dodge Sportsman and Tradesman, and Ford Club Wagon and Econoline:			
Standard 6 cylinder	Manual 3 speed	18	NA
	Manual 4 speed	19	NA
	Automatic	17	NA
Standard 8 cylinder	Manual 3 speed	16	NA
	Manual 4 speed	17	NA
	Automatic	14	14
Pickup (item 40), such as Chevrolet C10, Dodge D100, and Ford F-100:			
Standard 6 cylinder	Manual 3 speed	18	NA
	Manual 4 speed	18	NA
	Automatic	17	NA
Standard 8 cylinder	Manual 3 speed	16	NA
	Manual 4 speed	16	NA
	Automatic	14	14
Extra power 8 cylinder	Manual 3 speed	15	NA
	Manual 4 speed	NA	NA
	Automatic	14	12
Diesel engine	Manual	NA	NA
	Automatic	22	NA
Compact pickup (item 60), such as Chevrolet LUV, Ford Courier, and Dodge D50:			
Standard 4 cylinder	Manual 4 speed	25	24
	Automatic	22	22
Sedan delivery (item 110), such as AMC Concord, Chevrolet Malibu, Ford Fairmont, and Plymouth Volare:			
Standard 6 cylinder	Manual	21	NA
	Automatic	19	16
Standard 8 cylinder	Manual	18	NA
	Automatic	18	17
4 by 4			
Utility truck (items 5 and 6), such as AMC CJ5, CJ7, a nd IHC Travel Top:			
Standard 6 cylinder	Manual	18	17
	Automatic	18	16
Standard 8 cylinder	Manual	16	15
	Automatic	15	NA
Compact pickup (item 65), such as Chevrolet LUV:			
Standard 4 cylinder	Manual	22	22

NOTE.—NA - Not available.

[FR Doc. 78-32767 Filed 11-21-78; 8:45 am]

[6320-01-M]

EFFECTIVE DATE: November 16, SUPPLEMENTARY INFORMATION:

[6820-24-M]

[FPMR Temp. Reg. G-38]

APPENDIX—TEMPORARY REGULATIONS

Requirements for Reporting Transportation Payment Data

AGENCY: General Services Administration, Federal Supply Service.

ACTION: Temporary regulation.

SUMMARY: By this temporary regulation, GSA is establishing requirements for Federal executive agencies to report statistical data on Federal transportation procurements. The data from this report will be used to measure and assess the impact of Government procurement of transportation services on the Nation's economy and to develop policy on the procurement of transportation services.

DATES: Effective date: October 1, 1978. Expiration date: September 30, 1979. Comments due: On or before January 31, 1979.

ADDRESS: Comments should be submitted to the General Services Administration (FAF), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, telephone 703-557-1914.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c).)

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of subchapter G to read as follows:

[Federal Property Management Regs.; Temporary Reg. G-38]

REQUIREMENTS FOR REPORTING TRANSPORTATION PAYMENT DATA

1. *Purpose.* This regulation requires executive agencies to submit transportation payment data to GSA.

2. *Effective date.* This regulation is effective October 1, 1978.

3. *Expiration date.* This regulation expires September 30, 1979, unless revised or superseded sooner.

4. *Applicability.* This regulation applies to all executive agencies procuring freight and passenger transportation services on Government bills of lading and Government transportation requests which are submitted to GSA for audit in accordance with 49 U.S.C. 66.

5. *Background.* The Office of Federal Procurement Policy, OMB, has established the Federal procurement data system to assemble, organize, and present contract placement data for the Federal Government. The data available from this system can be used to measure and assess the impact of Government procurement on the Nation's economy, determine the extent to which small business firms and minority business enterprises are selling goods and services to the Government, and develop procurement policy and procedures for management control purposes. The system does not presently contain data on transportation procurement. The Office of Federal Procurement Policy has determined that transportation procurement data should be included in the system and has directed that GSA provide the necessary data.

6. *Reporting requirements.* Executive agencies shall report on a quarterly basis all payments to carriers and forwarders for freight and passenger transportation services furnished for the account of the United States on Government bills of lading and Government transportation requests audited by GSA pursuant to 49 U.S.C. 66. The reports shall be submitted within 15 calendar days following each quarter to the General Services Administration (BDA), Chester A. Arthur Building, Washington, D.C. 20406. The first quarterly report shall cover payments made from October 1 through December 31, 1978. Each report shall include the name and station number of the paying office, the dates of the period covered by the report, the name of each carrier-payee, and the total amount paid to each carrier-payee during the period. Each agency shall include with the initial report a list of the vendor codes assigned to carriers. Updates to this list shall be submitted by each agency along with subsequent quarterly reports. The reports should be automated whenever possible. Agencies using automated equipment to prepare tapes for issuance of Treasury checks shall submit their reports on tape and those not having that capability should use punch cards or typed listings to submit the required information. If the report is prepared by computer, it shall meet the standards of FIPS PUB. 3-1 and ANSI X3.22-1973 (standards for 9-track 800 CPI). If punch cards are submitted, they must be prepared in accordance with FIPS PUB. 14 and ANSI X3.26-1970 (Hollerith punched card code).

7. *Action by GSA.* GSA will consolidate the data furnished by agencies into the appropriate format for the Federal procurement data system and forward the consolidated data to the Office of Federal Procurement Policy within 45 calendar days following the close of each quarter.

8. *Assistance to agencies.* Upon request, GSA will provide assistance to agencies in preparing the reports. Agencies requiring assistance should call the GSA Transportation Audits Office, telephone 202-275-5468.

9. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations or programs should be submitted to the General Services Administration (FAF), Washington, D.C. 20406, no later than January 31, 1979, for consideration and possible incorporation into a permanent regulation.

10. *Reports.* The report required by this regulation is in conformance with the provisions of subpart 101-11.11 and has been assigned interagency report control No. 0198-GSA-QU.

11. *Effect on other issuances.* When the provisions of this regulation are in conflict with other regulations and related directives, the provisions of this regulation shall govern.

Dated: November 16, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-32776 Filed 11-21-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Increase of Optimum Yield and Incremental Apportionment of Total Allowable Level of Foreign Fishing in the Bering Sea and Northeast Pacific

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to regulations.

SUMMARY: Foreign fishermen did not harvest their total allocations of certain species allocated to them by the preliminary fishery management plan for the trawl fisheries and herring gillnet fishery of the eastern Bering Sea and northeast Pacific (PMP) (42 FR 9298). Consequently, the Director of the Alaska Regional Office (Regional Director) has determined that, as a result of the underutilization, the optimum yields (OY's) of those species can be increased. The Regional Director has determined further that the increased OY should be apportioned between the total allowable level of foreign fishing (TALFF) and reserves.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: The 1977 PMP for trawl fisheries in the Bering Sea (42 FR 9298) established TALFF's for 1977. The amended PMP for 1978 was developed in late 1977, on the assumption that the 1977 TALFF's would be fully utilized. However, this did not occur for all species. The following table depicts the extent of underharvesting in 1977:

1977[1]

[Metric tons (mt)]

Species	TALFF	Foreign catch	Unharvested TALFF
Yellowfin sole	106,000	60,000	46,000
"Other" flounders	105,000	60,000	45,000
Pacific cod	56,500	31,500	25,000
Squid	10,000	8,400	1,600
"Other" species (areas I, II, and III)	59,600	44,200	15,400

[1]Based on "best blend" estimates, TALFF's for other target species were almost completely taken.

[Metric tons]

Species	OY increase
Yellowfin sole	20,000
"Other" flounders	20,000
Pacific cod	12,500
Squid	800
"Other" species (areas I, II, and III)	7,000

The increase in OY is apportioned among the TALFF, U.S. capacity, and reserves in the following manner:

[Metric tons]

Species	OY increase	TALFF increase	Reserve increase	U.S. capacity increase
Yellowfin sole	20,000	0	20,000	0
"Other" flounders	20,000	410	19,5909	0
Pacific cod	12,500	1,570	10,930	0
Squid	800	170	630	0
"Other" species (areas I, II, and III)	700	0	7,000	0

Several factors are involved in the distribution of the increased OY. One factor is that U.S. fishermen are not presently engaged in this fishery. Another is that nearly all of the fishing in the Bering Sea is for pollock. The species listed above are generally harvested—with exceptions—as incidental to the pollock and flatfish fisheries. Thus, although large amounts of reserved species listed in the table above are available, foreign fishermen are not expected to utilize them fully. The reserves will probably go unused, but their creation will provide the National Marine Fisheries Service with some flexibility should other nations need additional allocations of those species in order to harvest existing allocations of primary target species such as pollock.

These proposed regulations were published in the FEDERAL REGISTER for public comment on October 30, 1978

(43 FR 50473). No comments were received. The Assistant Administrator has determined that this regulation will not have a significant impact on the human environment and that no environmental impact statement is required. The Assistant Administrator has also determined that this regulation is not a major federal action within the meaning of the National Environmental Policy Act

FMP prepared by the Mid-Atlantic Council and approved by the Secretary

England area in a surf clam vessel

the Secretary determines, after public

contain a major proposal requiring preparation of an economic impact statement under

(43 FR 50473). No comments were received. The Assistant Administrator for Fisheries finds and determines that the Administrative Procedure Act requirements can be waived because:

A. This action will not disadvantage any party;

B. No time is required to adjust to the revised regulations that will stem from this action;

C. Further delay will inhibit the ability of foreign nations to fulfill their allocations; and

D. Failure to implement these regulations in a timely manner is unnecessary, impractical, and contrary to the public interest.

The Assistant Administrator also finds that this is not a significant Federal action within the meaning of the National Environmental Policy Act and does not require compliance with Executive Orders 12044, 11821, and 11949.

(16 U.S.C. 1801 et seq.)

Signed at Washington, D.C., this the 16th day of November 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

§ 611.20 [Amended]

Amend 50 CFR 611.20(c) by revising table I as follows:

1. Lines 24, 25, 33, 34, 36, and 37 as revised to read:

"Species code"	"Species"	"Ocean area"	"Amended TALFF (mt)"
006	Cod, Pacific	Aleutians and Bering Sea	[4]58,070
003	Flounders, other than yellowfin sole,	do	[5]139,410
002	Sole, yellowfin	Aleutians and Bering Sea	[6]106,000
001	Squid	do	[7]10,170
099	Other species	do	[8]93,600
080, 081, and 099	Armorheads, alfonsins, and other groundfish.	do	[9]2,000

2. Footnotes are revised as follows:

[4]Does not include 11,930 metric tons held in reserve.

[5]Does not include 19,590 metric tons held in reserve.

[6]Does not include 20,000 metric tons held in reserve.

[7]Does not include 630 metric tons held in reserve.

[8]Does not include 7,000 metric tons held in reserve.

[9]The TALFF for armorheads, alfonsins, and other groundfish resources is subject to additional restrictions on total effort by foreign fishing vessels. No more than 50 vessel days of trawling and 50 vessel days of bottom longlining will be allowed in this fishery.

§ 611.93 [Amended]

Amend 50 CFR 611.93(b) by revising Table I as follows:

1. In column 1, bottom line, add words "and revised" between the words "initial" and "TALFF."

2. In column 4 headed "Other Flounders," strike "139,000," and substitute "139,410."

3. In column 9 headed "Pacific Cod," strike "56,500," and substitute "58,070."

4. In column 12 headed "Squid," strike "10,000," and substitute "10,170."

[FR Doc. 78-32704 Filed 11-21-78; 8:45 am]

[3510-22-M]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Extension of Surf Clam Vessel Moratorium

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Continuation of surf clam vessel moratorium for 1 year.

SUMMARY: The fishery management plan for the surf clam and ocean quahog fisheries (FMP), prepared by the Mid-Atlantic Fishery Management Council (Mid-Atlantic Council), and approved by the Secretary on November 17, 1977, contains a moratorium provision which prohibits additional vessels from entering the surf clam fishery for the 1-year period ending November 16, 1978. These regulations continue the moratorium for an additional 1-year period beginning 0001 hours e.s.t., November 17, 1978, and ending at midnight, November 16, 1979.

EFFECTIVE DATE: 0001 hours e.s.t., November 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton Moore, 202-634-7454.

SUPPLEMENTARY INFORMATION: Pursuant to section 305 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), final regulations were published on February 17, 1978 (43 FR 6952), to implement the FMP prepared by the Mid-Atlantic Council and approved by the Secretary of Commerce for the surf clam and ocean quahog fisheries. Section 652.9 of those regulations prohibits the entry of additional vessels into the surf clam fishery until November 16, 1978.

The FMP specifies annual quotas for the harvesting of surf clams for the 2 years in which the FMP is to be in effect with these quotas allocated on a quarterly basis. The surf clam annual and respective quarterly quotas are the same for each of the 2 years for which the Council specified an optimum yield for the surf clam resource.

In the first year of this FMP, the following actions were taken to insure that the quarterly quotas were not exceeded:

In the first quarter of 1978 the fishing period was limited to 4 days per week, Monday-Thursday. The quarterly quota was obtained by March 10 and the fishery closed until April 1.

Effort in the second quarter was initially restricted to 48 hours per week and then 24 hours per week to prevent the quota from being exceeded.

In the third quarter, the 24-hour-per-week fishing period was continued.

For the fourth quarter of 1978, a fishing period of 36 hours per week was originally specified. This extension was based on a "carry-over" of the uncaught part of the quota for the third quarter, and expected adverse weather conditions. The third quarter quota was not reached and the surplus of 37,834 bushels has been added to the fourth quarter quota for a total quota of 387,834 bushels for this quarter. The fishing period was reduced to 24 hours on October 30 due to the rapid rate of exploitation.

Judging by the actions taken during the first year in which the FMP has been in effect, there is no indication that the number of vessels permitted to harvest surf clams is insufficient to achieve allowable quotas. The need to significantly limit fishing effort during 1978 strongly suggests that the harvesting capacity of the fishing fleet easily exceeds the specified quotas. The economic impacts that would result from additional vessels entering this fishery are unchanged from those presented in the FMP.

The New England Fishery Management Council (New England Council) objects strongly to including the New England area in a surf clam vessel moratorium. Hearings were held on September 14 and 18, 1978 to obtain public comment on the proposal to continue the moratorium. The New England Council commented that the FMP should be amended to remove the very small New England fishery from the moratorium restrictions as soon as possible. The New England Council recognizes the need for a moratorium in the overcapitalized Mid-Atlantic fishery, but feels strongly that the moratorium applied in the New England area has served as a deterrent to the development of the fishery and has caused particular hardship to the area's fishermen. Most of these surf clams are taken from territorial waters and not the FCZ. The chief use of surf clams taken in the New England area is bait for recreational fishing.

The FMP provides that the Secretary of Commerce may continue the moratorium for 1 additional year beginning November 17, 1978. The Assistant Administrator for Fisheries has determined that the moratorium shall be continued and this document continues the moratorium by amending the regulations which implemented the FMP. All procedural requirements for this action have been fulfilled. Continuation of the moratorium in only the area south of the 41st parallel, as recommended by the New England Council, can be accomplished only by an amendment to the FMP. The FMP has not been amended to accomplish this. Therefore, the moratorium must be continued in the entire area or it must lapse. The Assistant Administrator determines that the surf clam vessel moratorium is continued for a period of 1 year beginning at 0001 hours e.s.t., November 17, 1978, and ending on midnight, November 16, 1979.

The Assistant Administrator further finds and determines that this is not a significant Federal action within the meaning of the National Environmental Policy Act and does not require compliance with Executive Orders 12044, 11821, and 11949.

(16 U.S.C. 1801 et seq.)

Signed at Washington, D.C., this the 16th day of November 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

Amend 50 CFR Part 652 to revise § 652.9 to read as follows:

§652.9 Vessel moratorium.

(a) A moratorium which became effective on November 17, 1977, prohibits the entry of additional vessels into the surf clam fishery.

(b) The moratorium shall remain in effect until November 16, 1979, unless the Secretary determines, after public hearings and consultation with the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils, to terminate the moratorium at an earlier date.

[FR Doc. 78-32731 Filed 11-21-78; 8:45 am]

[4310-55-M]

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Tewaukon National Wildlife Refuge, N. Dak., to Winter Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to winter sport fishing of Tewaukon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will provide additional recreational opportunity to the public.

DATES: December 16, 1978, through March 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Forrest W. Cameron, Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, N. Dak. 58013, 701-724-3598.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Winter sport fishing is permitted on the Tewaukon National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to fishing. These open areas are Lake Tewaukon, Mann Lake, Sprague Lake, which comprise of 1,180 acres and are delineated on maps available from the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Box 1897, Bismarck, N. Dak. 58501. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended 451, 1270, sec. 4, 76 Stat. 654 (5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 751i, 664, 718d, 43 U.S.C. 315a, 6 U.S.C. 460k); sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: November 15, 1978.

FORREST W. CAMERON,
Refuge Manager.

[FR Doc. 78-32807 Filed 11-21-78; 8:45 am]

[3510-22-M]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 222—ENDANGERED FISH OR WILDLIFE

PART 227—THREATENED FISH AND WILDLIFE

Emergency Regulations Declaring the Port Canaveral Navigation Channel a Restricted Fishing Area

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Temporary Emergency regulations and request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) is promulgating temporary emergency regulations under section 4(f)(2)(C) of the Endangered Species Act designating the Port Canaveral Navigation Channel, Cape Canaveral, Fla., as a restricted fishing area. The use of any trawl gear in this area during the 120-day emergency period beginning from the date of publication of these regulations is prohibited. This action is being taken to protect endangered and threatened species of sea turtles hibernating in this area from shrimp trawling operations.

In addition, this document solicits public comments on the desirability of extending and/or modifying these regulations for application beyond the 120-day emergency period.

DATES: These emergency regulations are effective on November 22, 1978, for a period of 120 days. Written comments on the desirability of modifying or extending these regulations must be received on or before January 22, 1979. A hearing will be held on December 12, 1978 at 10 a.m.; see address below.

ADDRESSES: Comments may be sub-

[3510-22-C]

Parts 222 and 227 are amended as fol-

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ADDRESSES: Comments may be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235. The hearing will be held at the Canaveral Port Authority Building, George King Boulevard, Port Canaveral, Fla.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: In early 1978, the NMFS received reports that shrimp vessels had incidentally captured large numbers of loggerhead sea turtles while trawling during late November 1977 in the Port Canaveral navigation channel. These reports prompted NMFS to conduct trawl surveys of the middle and outer reach of the Port Canaveral navigation channel on February 14-15 and March 15-17, 1978. Results from these trawl surveys, shrimp trawling records of October 1978, and trawling transects made by NMFS personnel on October 25-26, 1978, further corroborated the earlier reports.

Based on the information obtained, NMFS investigators believe that: (1) Loggerhead and Kemp's ridley sea turtles hibernate in the Port Canaveral navigation channel from at least November to March; (2) turtles dislodged from their hibernaculum may not successfully return to hibernation, especially if the water temperature is so low that normal swimming and burrowing activity is inhibited; (3) the dislodged turtles may be further weakened by exposure to the lower ambient seawater temperature and become highly susceptible to predation or may simply die while drifting passively at the surface; and (4) shell damage may be caused by contact with trawl doors or collisions with vessels.

NMFS surveys in the Canaveral Channel, planned for November 26-31, 1978, and January 11-14, 1979, will provide additional information to be considered prior to any decision to modify or extend these regulations.

On July 28, 1978 (43 FR 32800) NMFS announced that it was considering the Port Canaveral navigation channel and other candidate areas where sea turtles are concentrated for designation as restricted fishing areas and/or critical habitat under the Endangered Species Act of 1973, as amended ("the Act"). On October 4, 1978 (43 FR 45905) the NMFS proposed designation of critical habitat under section 7 of the Act for Kemp's ridley and loggerhead sea turtles in the Port Canaveral navigation channel, Cape Canaveral, Fla. This action was taken to protect hibernating sea turtles from federally controlled activities which might interfere with the conservation of the turtles. Because of the results of the trawling surveys in October 1978 that corroborated earlier reports that loggerhead were concentrated in this area, and because trawling in the channel begins in early November, it is necessary to issue these regulations on an emergency basis to take effect immediately. This action is taken pursuant to section 4(f)(2)(C) of the Act (formerly section 4(f)(2)(B)) which provides that a regulation issued "in regard to any emergency posing a significant risk to the well-being of any species of fish or wildlife" may, at the discretion of the Secretary, take effect immediately.

Section 4(f)(2)C) of the Act provides that emergency regulations shall only have force and effect for 120 days. Accordingly, these emergency regulations shall expire on or before March 22, 1979. However, public comments are invited on the desirability of modifying and/or extending the fishing restrictions in these regulations beyond the emergency period.

Comments should address the desirability of issuing final regulations that will have effect beyond the 120-day emergency period. Comments are solicited on whether or not new periods should be established during which the Port Canaveral navigation channel would be a restricted fishing area. Comments are also specifically solicited on the question of whether any final regulations should redefine the area of water to be considered restricted or the types of gear that can be used in this area. We invite comments on all of these issues and any others raised by these regulations.

A hearing may be held on these issues if requested on or before January 8, 1979. Notice of this temporary regulation has been sent to: Hon. Reubin Askew, Governor of Florida; Benjamin T. Hardesty, Chairman, South Atlantic Fishery Management Council: and John A. Mehos, Chairman, Gulf of Mexico Fishery Management Council.

An environmental assessment has been prepared in conjunction with this temporary regulation. It is on file in the NMFS Office of Marine Mammals and Endangered Species, Page Building No. 2, 3300 Whitehaven Street NW., Washington, D.C., and may be examined during regular business hours or can be obtained by mail.

The primary author of this emergency rule is Mr. William P. Jensen, Ofice of Marine Mammals and Endangered Species, 202-634-7461.

REGULATION PROMULGATION

Accordingly, 50 CFR Chapter II, Parts 222 and 227 are amended as follows:

1. 50 CFR 222.1 is amended to read as follows:

§ 222.1 Purpose of regulations.

The regulations contained in this part do the following: (a) Identify the species or subspecies of fish or wildlife determined to be endangered under either the Endangered Species Conservation Act of 1969 or the Endangered Species Act of 1973, and presently deemed endangered species under the Endangered Species Act of 1973, which are under the jurisdiction of the Secretary of Commerce; (b) establish procedures and criteria for the taking, importation, exportation, or other prohibited acts, involving endangered fish or wildlife; and (c) establish other restrictions deemed necessary for the protection of endangered fish or wildlife. The regulations of this part implement, in part, the Endangered Species Act of 1973 as amended, 87 Stat. 884, Pub. L. 93-205.

2. A new subpart D is added to part 222 as follows:

Subpart D—Further Restrictions

§ 222.31 Restricted fishing areas.

(a) It is unlawful to engage in any activity specified in § 227.72(e)(2) of this chapter, during any period specified in that subsection.

§ 227.71 [Amended]

3. 50 CFR 227.71 is amended by striking out the last word ("or") of § 227.71(g); by striking the period following the last sentence of § 227.71(h) and adding "; or"; and adding a new § 227.71(i) as follows:

* * * * *

(i) Engage in any activity specified in § 227.72(e)(2) during any period specified in that subsection.

§ 227.72 [Amended]

4. 50 CFR 227.72 is amended by striking out "[Reserved]" in § 227.71(e)(2) and by adding a new subparagraph (2) to § 227.72(e) as follows:

* * * * *

(e) * * *

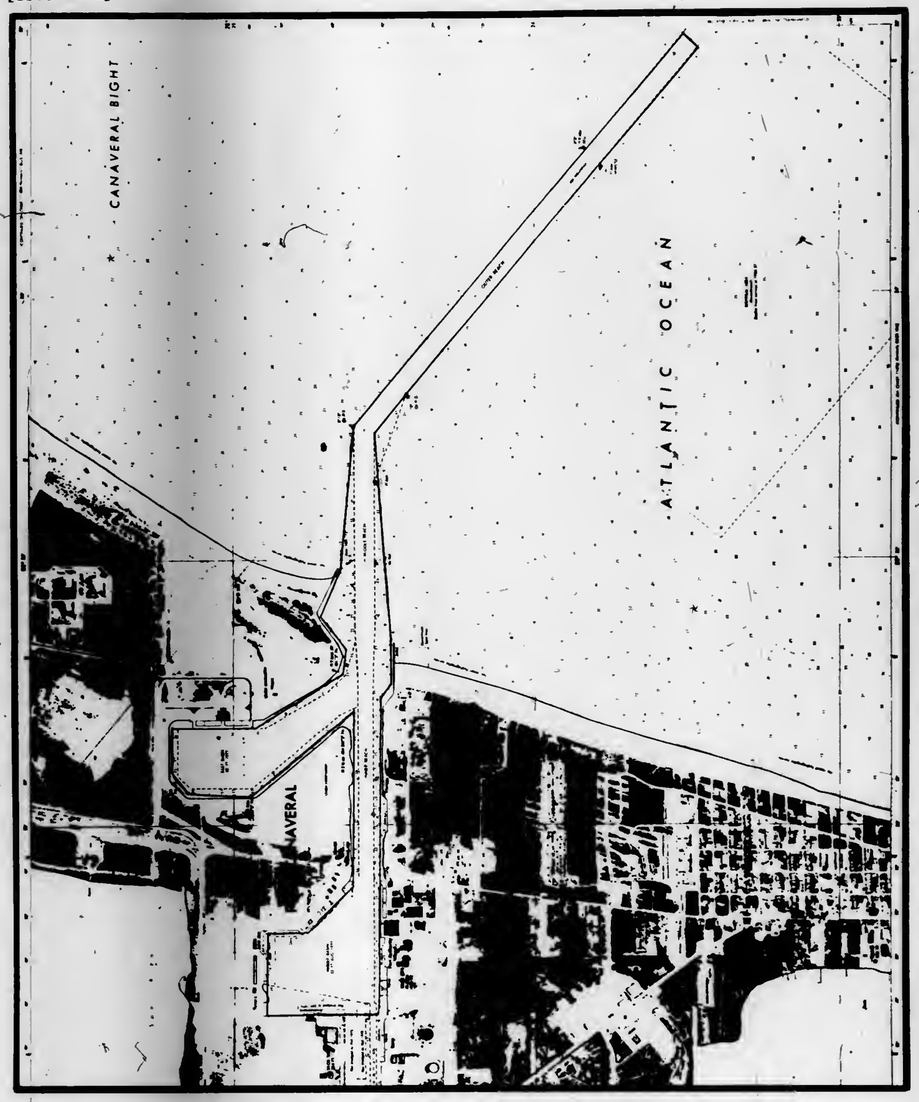
(2) *Restricted fishing areas.* (i) During the period between November 1 and April 1 the use of any trawl gear is prohibited in those parts of the Port Canaveral navigation channel, Cape Canaveral, Fla., known as the middle basin, east basin, inner reach, and that part of the dredged channel beyond the outer reach to a point 1.5 nautical miles beyond buoys R "7" and R "8" (lat. 28°23'08" N., long. 80°32'35" W.), C. & G.S. Chart 11484. See map below.

Dated: November 15, 1978.

TERRY L. LEITZELL,
Assistant Administrator for Fisheries.

[FR Doc. 78-32796 Filed 11-21-78; 8:45 am]

[3510-22-C]



Restricted Fishing Area for Kemp's ridley and loggerhead sea turtles, Port Canaveral, Florida.

plants in the event such plants were

America Dairymen, Inc. The milk

TABLE 1: CLASS I PRICE COMPARISONS

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1062]

[Docket No. A0-10-A53]

MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on industry proposals which were considered at a public hearing held June 21-22, 1978. The recommended amendments provide that a distributing plant which meets the pooling standards of the St. Louis-Ozarks milk order and one or more other Federal milk orders shall continue to be regulated under the St. Louis-Ozarks order until the third consecutive month in which it has more than 50 percent of its Class I sales in another Federal order marketing area. This change would apply only to plants that had been regulated under the St. Louis-Ozarks order for at least the previous 13 months. The current pooling standards would continue to apply for those plants regulated under the order less than that time. Another major change would increase the funding rate for the Advertising and Promotion program and also tie such rate to the level of the blend price to producers. The recommended amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

DATE: Comments are due on or before December 12, 1978.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing: Issued May 31, 1978, published June 6, 1978 (43 FR 24540).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the St. Louis-Ozarks marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by December 12, 1978. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Bridgeton, Mo., on June 21-22, 1978. Notice of such hearing was issued May 31, 1978 (43 FR 24540).

The material issues on the record of the hearing relate to:

1. Regulation of a distributing plant that qualifies as a pool plant under more than one order.
2. Pooling standards for supply plants.
3. Limitations on the diversion of producer milk.
4. Pricing of diverted milk.
5. Funding rate for the Advertising and Promotion program.
6. Assessment for order administration.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Regulation of a distributing plant that qualifies as a pool plant under more than one order.* The order should be amended to provide that a distributing plant which meets the pooling standards of the St. Louis-Ozarks order and one or more other Federal orders and has been regulated under the St. Louis-Ozarks order for the preceding 13 months shall remain regulated under the St. Louis-Ozarks order until the third consecutive month in which it has more than 50 percent of its route disposition, excluding filled milk, in another market unless, nevertheless, the plant is regulated under another order. In the case of a plant that has not been regulated under the St. Louis-Ozarks order for the entire preceding 13-month period, the current pooling standards should continue to apply.

Presently, when a distributing plant qualifies for pooling under the St. Louis-Ozarks order (Order 62) and another order, it is regulated under the order that covers the marketing area in which it has the most Class I sales. To prevent month-to-month changes in the order regulating such plant, the order provides that a plant which has been regulated under Order 62 shall continue to be regulated by such order until the third consecutive month in which it has greater sales in the other market.

Mid-America Dairymen, Inc. (Mid-Am), a cooperative association representing about 90 percent of the producers on the St. Louis-Ozarks market, proposed the order change which is adopted herein. Its spokesman testified that the cooperative is the principal supplier of a large distributing plant at Hazelwood, Missouri (a suburb of St. Louis), that is operated by the Kroger Company. He was concerned that this plant, which has been fully regulated under the St. Louis-Ozarks order for a long period of time, might become regulated under either the Nashville order (Order 98) or the Southern Illinois order (Order 32) due to steadily increasing sales by Kroger in the marketing areas of these two orders. The spokesman indicated that such a shift in the plant's regulation would lower the prices received by those producers who are supplying the plant either by direct shipments from the farm or through supply plants located at Effingham, Illinois, and Lebanon, Missouri, that transfer milk to Kroger's St. Louis plant. In his opinion, the blend prices which would be applicable at Kroger's distributing plant and the Effingham and Lebanon

plants in the event such plants were pooled under the Nashville order would not be high enough to attract a supply of milk to the bottling plant or the supply plants involved. The cooperative's spokesman held that regulation under the Southern Illinois order would also have an adverse effect on producer returns. In order to insure that the blend prices would not be reduced as the result of a slight increase in plant sales in either the Nashville or Southern Illinois marketing area relative to the plant's sales in the St. Louis-Ozarks marketing area, the cooperative proposed that the order be amended to keep the Kroger plant regulated under the St. Louis order until the third consecutive month in which the plant has more than 50 percent of its Class I sales in the marketing area of another order.

A spokesman for Kroger supported Mid-Am's proposal, emphasizing that his company is interested in stability of regulation and equity in milk costs with competing handlers. The company was primarily concerned that a shift in regulation of the plant to another order could reduce the blend price to producers to the point that they would not be willing to supply the total milk requirements of the plant.

Dairymen, Inc., a cooperative association representing the majority of producers on the Nashville market, offered testimony in opposition to Mid-Am's proposal. Its representative held that a plant should be regulated in the Federal order area in which it has the most sales. It was his position that producers in the market in which the plant has most of its sales have a right to share in the Class I sales associated with that plant. The witness acknowledged the uniqueness of the Kroger problem and conceded that milk of the cooperative's members would not be available to Kroger at the blend prices applicable under the Nashville order if the plant were to become regulated in that market. He offered several alternative solutions to keep the Kroger plant regulated under Order 62. One solution was to expand the St. Louis-Ozarks marketing area by taking in unregulated territory in which Kroger has Class I sales. Another suggestion was to merge the St. Louis-Ozarks order with another order, possibly Southern Illinois. Both of these suggestions, however, are beyond the scope of this proceeding.

The Kroger plant has been regulated by the St. Louis-Ozarks order since 1968. Its principal supplier is Mid-America Dairymen, Inc. The milk supply for this plant comes from producers located in Iowa, Illinois and Missouri. The plant receives milk directly from the farms of producers and from supply plants operated by the cooperative at Effingham, Illinois and Lebanon, Missouri.

The Kroger plant distributes fluid milk products in 14 Federal order markets and in unregulated areas as well. Most of its sales are concentrated in three markets: the St. Louis-Ozarks market, the Southern Illinois market, and the Nashville market. Data introduced into the record show that in May 1978 the Kroger plant had 19.3 percent of its Class I sales in the St. Louis-Ozarks market, 18.7 percent in the Southern Illinois market, 16.2 percent in the Nashville market, and 45.8 percent in all other areas.

The sales pattern of the Kroger plant is such that the plant could easily become pooled under either the Southern Illinois or Nashville milk order instead of the St. Louis-Ozarks order with only a slight shift in the plant's sales among the 3 markets. Such shift, of course, would not occur on a month-to-month basis since the provisions of the St. Louis-Ozarks order provide that a plant which has been regulated by such order shall continue to be regulated under that order until the third consecutive month in which it has greater sales in the other market. However, the existence of such provision in the St. Louis-Ozarks order and similar provisions in both the Southern Illinois and Nashville orders does not preclude the possibility that regulation of the Kroger plant might shift periodically among the 3 markets.

As previously noted, the regulation of the Kroger plant is most likely to shift from the St. Louis-Ozarks order to the Southern Illinois or Nashville order. In the event such a shift were to occur, the Class I price applicable to milk received by such handler at the Hazelwood location would be lower than the Class I price under Order 62 at such plant location. For example, if the Kroger plant had been regulated under the Nashville or Southern Illinois orders during April 1978, the Class I price applicable at the Hazelwood location would have been $10.375 per hundredweight under Order 98 and $10.53 under Order 32. (See Table 1) By comparison, the Class I price at Hazelwood under Order 62 was $10.60.

TABLE 1: CLASS I PRICE COMPARISONS

APRIL 1978

Location	Order 62	Order 98	Order 32
Base Zone (no location adjustment)	$10.60	$10.85	$10.53
Hazelwood, Mo.	$10.60	$10.375	$10.53
Effingham, Ill	$10.45	$10.45	$10.53
Lebanon, Mo.	[1]$10.33	$10.21	$10.275

[1] Minimum Class I price applicable to milk received at a supply plant at that location.

Kroger's representative pointed out that while his company would normally welcome the opportunity to obtain milk at a lesser cost it was far more interested in being assured that an adequate supply of milk would be made available to the plant. Both the Kroger and Mid-Am representatives were primarily concerned that producer pay prices at the Kroger plant would decline significantly if the plant were to become regulated under either the Southern Illinois or Nashville order. The indicated that the resulting reduction in pay prices to producers supplying the Kroger plant might cause such producers to seek alternative outlets for their milk.

In order to determine whether a supply of producer milk could be expected to be made available to the plant if the plant were to become regulated under either the Nashville order or the Southern Illinois order, consideration must be given to the extent to which the producers' pay prices currently applicable at the location of the Kroger plant and at the supply plants which transfer milk to the Kroger plant would change under such circumstance. It is concluded for the reasons set forth below that the change in producer pay prices that would result from a shift in regulation can best be assessed by looking only at how the pay prices to producers would change as a result of the location pricing that would apply at the plants affected. Data submitted by proponent to illustrate the extent to which the producer blend prices would change do not take into account how the Class I utilizations of the markets affected would change if the plant were to become regulated under another order. In that regard, questions directed to proponent at the hearing elicited no factual data upon which to estimate the extent to which the weighted average prices would change in such circumstances.

A further deficiency in proponent's data for April 1978 is that the Nashville weighted averge price apparently is understated relative to the normal situation. The weighted average price

for the Nashville order at the base

	Order	Order	Order

Lebanon plant has a transportation al-

diana order but was on the verge of

market for a period of years could

Kraft's witness stated that the com-

for the Nashville order at the base zone location for the month of April 1978 was shown as 11 cents less then the weighted average price for the St. Louis-Ozarks and Southern Illinois base zone location (prior to the 5-cent deduction for advertising and promotion which is currently applicable under the St. Louis-Ozarks order.) Although proponent alleged that the weighted average prices for the month of April for the three markets were representative of the prices in these markets in other months, a review of the Nashville weighted average price computation reveals that the weighted average price for that month was adjusted downward approximately 11 cents per hundredweight due to some special circumstance.[1] Such reduction in the weighted average price resulted when one-half of the producer-settlement fund was added to the computations in determining the weighted average price. Normally, such addition would have resulted in a 3- to 4-cent increase in the weighted average price. In this instance, however, such computation for the month of April 1978 resulted in 7- to 8-cent decrease in the weighted average price computations. Such a reduction could be the result of an audit adjustment.

On the basis of available information, it appears that most of the variation in the pay prices for producers supplying the Kroger plant would occur as the result of the location pricing provisions of the three orders. The following analysis details the extent to which location adjustments would affect the prices that producers would receive if the Kroger plant were to shift from regulation under the St. Louis-Ozarks order to either the Nashville or Southern Illinois order. It is thus assumed for this purpose that the announced blend prices under the three orders in April 1978 would have been the same. As an aid in illustrating how producer pay prices would vary at specific plant locations when identical uniform prices apply at plants in the base zones under each of the three orders, a table (See Table 2) detailing such information is set forth below.

TABLE 2: HYPOTHETICAL EXAMPLE SHOWING THE LEVEL OF PRODUCER PRICES THAT WOULD HAVE BEEN APPLICABLE AT SPECIFIED PLANTS FOR APRIL 1978 IF IDENTICAL UNIFORM PRICES ($10.10 IS USED IN THIS EXAMPLE) APPLIED AT PLANTS LOCATED IN THE BASE ZONES OF THE ST. LOUIS-OZARKS, NASHVILLE AND SOUTHERN ILLINOIS ORDERS

Location	Order 62	Order 98	Order 32
Base Zone (no location adjustment)	$10.10	$10.10	$10.10
Hazelwood, Mo	10.10	9.625	10.10
Effingham, Ill	9.95	9.70	10.10
Lebanon, Mo	10.10	9.46	9.545

[1] Official notice is taken of the Nashville market administrator's announcement of the uniform price computation for that market for the month of April 1978.

As indicated in Table 2, the uniform price payable at the Kroger plant under Order 98 would have been 47.5 cents below the price that producers would have received under Order 62. Mid-Am, the present supplier of Kroger, noted for the record that its milk would not have been available to the Kroger plant at such lower pricing level. As previously noted, a representative of Dairymen, Inc., conceded that milk of the cooperative's members would not be available to Kroger at the blend prices applicable under the Nashville order if the plant were to become regulated in that market.

Under the assumptions previously made, i.e., the uniform prices under Order 32 and Order 62 at the Kroger plant's location are identical, the plant would have no problem in retaining a milk supply from producers whose milk can be delivered directly from the farm to the plant irrespective of whether the plant is regulated under Order 62 or Order 32. However, such supply represents only a portion of the milk required by the plant. As noted later in the discussion, the milk that the plant currently obtains from the pool supply plant at Effingham might not be available to the Kroger plant if its plant and supply plant were to become regulated under Order 32.

If the Kroger plant were to become regulated under either the Nashville or Southern Illinois order, the resulting Class I prices applicable at the pool supply plants (See Table 1) which have been furnishing much of the milk supply for the Kroger plant might cause such supply plants to withdraw their current supplies from the Kroger plant. For example, a reduction in the transportation allowance at the Lebanon, Missouri, plant would occur if the plant were regulated under Order 98. Under the St. Louis-Ozarks order, the plant now has a minus 27-cent location adjustment to move milk from Lebanon to Hazelwood. Under Order 98, the transportation allowance for moving milk between these two locations would be 16.5 cents, a reduction of 10.5 cents per hundredweight.

If the Lebanon plant had been pooled under Order 32, the Class I price at such plant would have been 5.5 cents below the Order 62 Class I price at such plant ($10.275 compared to $10.33). As a conseqence of such a Class I price change, the Lebanon plant would have a transportation allowance of 25.5 cents per hundredweight to move milk to Hazelwood. Under the St. Louis-Ozarks order, the Lebanon plant has a transportation allowance of 27 cents to move milk to Hazelwood.

If the Effingham plant were regulated under Order 98, it would not be practical under order pricing to move milk from Effingham to Hazelwood. Under Order 98, the Effingham Class I price would be 7.5 cents more than Class I price at Hazelwood. The St. Louis-Ozarks order provides for a minus 15-cent location adjustment at the Effingham plant as a transportation allowance toward the cost of moving milk from Effingham to Hazelwood.

If the Effingham plant were regulated under Order 32, no transportation allowance would be available under the order to move milk from the Effingham plant to Hazelwood, since the Class I price would be the same at both plants. Under Order 62, the Effingham plant has a transportation allowance of 15 cents per hundredweight to move milk to Hazelwood.

Serious disruptions in the producer pay prices would result at the Lebanon and Effingham plants if the Kroger plant and the two supply plants were to become pooled under either the Nashville or Southern Illinois order (See Table 2). Under the assumptions previously noted in this regard the uniform price to producers at the Effingham plant would have been reduced 25 cents per hundredweight if the plant had been regulated under Order 98 during April 1978. the uniform price at the Lebanon plant would have been reduced 64 cents per hundredweight if the plant likewise had been pooled under Order 98 during April 1978.

Under Order 32, the disruption in uniform prices to producers supplying the Effingham and Lebanon plants would be somewhat less severe than if such plants were regulated under Order 98. At Effingham, the uniform price would have been increased 15 cents if the plant had been regulated by Order 32 during April 1978. However, at Lebanon, the uniform price would have been reduced 25.5 cents below the Order 62 uniform price if the plant likewise had been regulated by Order 32 during April 1978.

It is recognized that it has been the practice in most Federal orders to regulate a plant according to where it has the most Class I sales. In this regard, official notice was requested at the hearing by Dairymen, Inc., of a decision issued August 17, 1976, and published August 20, 1976 (41 FR 35194), pertaining to a situation similar to the one under consideration in this proceeding. In the prior proceeding, the Kroger plant at Indianapolis had virtually equal sales in the Indiana market and the Ohio Valley market. The plant was regulated under the Indiana order but was on the verge of shifting regulation to the Ohio Valley order.

Under the provisions of the Ohio Valley order, the plant would not have been regulated under that order until the second consecutive month in which the plant had greater sales in the Ohio Valley market. Proponents, however, did not want the plant to become regulated under the Ohio Valley order until the third consecutive month in which the plant had more sales in the Ohio Valley market.

The issue under consideration in the present proceeding again raises the question of where a plant should be regulated when it qualifies for pooling under more than one order. The traditional position on this point is that a plant should be pooled under the order regulating the market in which such plant had its greater sales during the month to insure that all handlers having their principal sales in a market are subject to the same prices and other regulatory provisions as their main competitors.

The pricing problems previously noted, however, make it necessary that special consideration be given to the pooling provisions for large distributing plants such as the Kroger plant which has Class I sales in excess of 20 million pounds per month. The potential problems that could occur if the Kroger plant were to shift to the Nashville or Southern Illinois market are severe enough to override the customary pooling requirements. As noted in testimony in the current proceedings, it is questionable whether the plant at Hazelwood, Missouri, would be able to procure an adequate milk supply if the plant were to become regulated under either the Nashville or Southern Illinois order as the result of having greater sales in the market. Under such circumstances, consideration must be given to regulating the plant in a market in which there is reasonable assurance that it will have available an adequate supply of producer milk. The record evidence indicates that the Kroger plant can be reasonably assured of an adequate supply if it continues to be regulated by the St. Louis-Ozarks order. Accordingly, the order should be amended to keep the Kroger plant, or any other pool distributing plant in a similar situation, pooled under the order until the third consecutive month in which it has more than 50 percent of its Class I sales in another Federal order marketing area.

It is appropriate that the application of this type of lock-in provision be limited only to those distributing plants that have had an extended association with the St. Louis-Ozarks market. Otherwise, a plant which has had a greater sales in another Federal order market for a period of years could become pooled for an indefinite period under the St. Louis-Ozarks market for only one month. The proposed 13-month association is an appropriate requirement since it would preclude the continued pooling of a plant which becomes newly regulated as a result of being awarded a contract to supply milk for a period as long as one year to schools, military bases, hospitals, or other institutions located in the St. Louis-Ozarks marketing area.

The proposed requirement will also permit a plant that previously was pooled under another order and then becomes pooled under the St. Louis-Ozarks order due to a temporary increase in sales in the St. Louis-Ozarks marketing area to again be pooled under the other order (at the end of the current two-month lock-in period) if such increased sales are subsequently lost in the next month or two. This will assure that a plant which is primarily associated with another market does not become locked into being pooled under the St. Louis-Ozarks order and thereby run the same potential risk that the Kroger plant operator wants to guard against, i.e., the possibility that a supply of producer milk may not be available to it in the market in which it is newly regulated because of a major change in the pricing situation.

2. *Pooling standards for supply plants.* A proposal that would allow a supply plant operator to move milk directly from producers' farms to pool distributing plants and have such deliveries count as though they were shipments from his supply plant for purposes of meeting the supply plant shipping requirements should not be adopted on the basis of this record.

Presently, the order requires that a supply plant must ship 50 percent of its Grade A receipts to pool distributing plants during the month to qualify as a pool plant. A plant that has made the required shipments during each of the months of September through February is eligible for automatic pooling status during the following months of March through August.

Kraft, Inc., proposed that deliveries of milk directly from producers' farms to pool distributing plants by a supply plant operator be allowed to count as qualifying shipments from the supply plant. Kraft's spokesman testified that his company operates a pool distributing plant located at St. Louis and nonpool manufacturing plants located at Springfield, Missouri, and Bentonville and Berryville, Arkansas. In addition, he said that Kraft had under construction a supply plant at Springfield which it planned to qualify as a pool plant under the St. Louis-Ozarks order in September 1978.

Kraft's witness stated that the company planned to qualify its Springfield supply plant on the basis of deliveries to a pool distributing plant at Fayetteville, Arkansas. He testified that 70 percent of the milk that Kraft intends to pool through its Springfield supply plant is located in the Springfield area, 25 percent is in the Bentonville area, and 5 percent is in the Berryville area. The witness stated that Kraft intended to supply the Fayetteville distributing plant primarily with milk from farms located in the Bentonville and Berryville area. Any additional quantities of milk needed by the Fayetteville plant would be obtained from milk supplies associated with Kraft's Springfield plant. The witness indicated that when milk in the Bentonville and Berryville area was not needed at the Fayetteville pool distributing plant, it would be delivered directly from the farm to Kraft's nonpool plants at Bentonville and Berryville. Likewise, whenever milk from the Springfield area was not needed at the Fayetteville plant, the milk would be diverted to Kraft's nonpool plant at Springfield.

Kraft's spokesman indicated that under the present order provisions it would be extremely inefficient for Kraft to supply the Fayetteville plant with milk from the Bentonville-Berryville area and still qualify the Springfield plant as a pool supply plant. Kraft would have to ship the milk to its Springfield supply plant, unload it there, and then reload it onto a tank truck and ship it to Fayetteville. The spokesman said that if milk in the Bentonville area had to move through the Springfield supply plant for delivery to Fayetteville, the milk would have to be shipped 220 miles. However, if the milk were permitted to be shipped directly from Bentonville to Fayetteville, it would only have to be shipped 26 miles, a savings of 194 miles. Similarly, the spokesman said, the Berryville milk supply would have to be shipped 195 miles if it were delivered via the Springfield plant compared to 60 miles if it were permitted to go directly from producers' farms to Fayetteville.

The witness also stated that, in addition to the savings in transportation involved, the quality of the milk would be better if the milk could be shipped directly from farms in the Bentonville-Berryville area to Fayetteville. He indicated that the quality of the milk deteriorates every time it is pumped, such as at reloading facilities.

Mid-Am opposed Kraft's proposal to allow shipments directly from producers' farms to pool distributing plants to count as qualifying shipments for pooling a supply plant. A Mid-Am spokesman held that the present supply plant shipping requirements

milk at farms located near Kraft's

order to achieve efficiencies in the

ary should be limited to not more than

such circumstances, it is expected that

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are reasonable and that the adoption of Kraft's proposal would make it possible for pool handlers to attach excessive milk supplies to the St. Louis-Ozarks market. This, he said, would reduce the uniform price in an already deficit market, thus making it more difficult to attract milk from surplus-producing regions.

The witness for the cooperative stated that there is a provision in the order now that allows a plant operated by a cooperative association to qualify on the basis of direct shipments from producers' farms "if the major function of the cooperative is to supply milk to pool distributing plants." It was his position that under Kraft's proposal a proprietary plant operator should be required to furnish a supply of milk for the fluid needs of the market to the same extent as a cooperative. He held, therefore, that if Kraft's proposal is adopted, the shipping requirements for a supply plant should be increased to 70 percent of the plant's producer receipts, which approximates the average proportion of the milk of its members on the market that Mid-Am delivers to pool distributing plants.

A spokesman representing the Kroger Company testified that his company is opposed to letting milk be associated with the fluid market without some requirement that the milk be available when needed for fluid use. He contended that there is a growing need for increasing the present performance requirements of pool plants. he held that with the marketwide Class I utilization running 65 percent in May and with declining production in the grain belt, it is getting more and more costly for handlers to attract a supply of milk for fluid use. These extra costs, he stated, must be passed on to consumers. He claimed that if consumers then reduce their consumption of milk because of the extra costs, the dairy farmer will ultimately receive a lower price for his milk.

Kraft's proposal was presented as a means of facilitating the efficient handling of milk of producers who are associated with a pool supply plant. Kraft's representative contended that if producers are located closer to a distributing plant that is buying milk from a supply plant than they are to the supply plant, the milk should be permitted to move directly from their farms to the distributing plant rather than to the supply plant for reloading and transshipment. However, the efficient handling of milk that Kraft wanted to achieve was not related to milk that normally might be associated with its proposed pool supply plant at Springfield. Instead, Kraft's proposed modification of the pool supply plant definition was designed to accommodate primarily the pooling of milk at farms located near Kraft's nonpool plants at Berryville and Bentonville rather than milk located in the proximity of the Springfield plant. Kraft's witness indicated that the company had no intention of physically associating milk in the Bentonville area with its proposed pool supply plant at Springfield. He stated, in response to a question concerning the pricing of milk associated with the Bentonville plant, that the company had no plans to deliver milk from the Bentonville area to its plants in Springfield. He indicated that when such milk was not needed for Class I at Fayetteville the milk would be diverted to Bentonville.

Because the proposed Springfield supply plant has not been in existence, there has been no operational experience to demonstrate whether or not the producers in the Bentonville-Berryville area would in fact ever have their milk physically associated with the plant. However, it is reasonable to assume from this record that none of this milk which might move directly from farms to pool distributing plants would ever be received at the Springfield supply plant. In this case, there would be little resemblance between this type of supply plant operation and the usual operation of a supply plant where milk of producers associated with the plant is physically received at the plant. Actually, the proposed operation could be likened somewhat to the operation of a cooperative that qualifies its balancing plant on the basis of milk deliveries from farms to distributing plants, as was contended by Mid-Am. This raises the question of whether the current performance standards for pool supply plants (i.e., level of shipments by the plant operator) would be equally appropriate under the different operational arrangements. A change in the level of performance was not contemplated under Kraft's proposal.

It is conceivable that some accommodation for diversions from a supply plant to distributing plants could be warranted in those cases where the procedures involved might otherwise normally have their milk received at the supply plant. This type of situation was not portrayed on the record.

It is recognized that the record evidence upon which this decision is based may not be representative of Kraft's actual marketing experience in operating its pool supply plant. As previously noted, Kraft's supply plant was under construction at the time of the hearing. Consequently, Kraft's testimony was limited to the projected operation of the plant on September 1, 1978, and thereafter. No basis exists, therefore, for determining whether the marketing conditions that Kraft anticipated would exist on and after that date are representative of the actual marketing conditions. Actual operating experience might well suggest a different approach to dealing with the marketing situation.

3. *Limitations on the diversion of producer milk.* The provisions relating to the diversion of producer milk from pool plants to other plants should be modified. During the months of September through February, a cooperative association should be allowed to divert to nonpool plants that are not producer-handler plants a quantity of milk not in excess of 50 percent of the quantity of producer milk that the association causes to be delivered to or diverted from pool plants during the month. The operator of a pool plant (other than a cooperative association) should be allowed to divert to nonpool plants that are not producer-handler plants any milk that is not under the control of a cooperative association that is likewise diverting milk to nonpool plants during the month. The quantity of milk that the operator of a proprietary plant may divert for his account during the months of September through February should not exceed 50 percent of the milk received at or diverted from such pool plant that is eligible to be diverted by the plant operator. The order should also provide that at least one day's production of a producer must be physically received at a pool plant during each of the months of September-February in order for the milk of such producer to be eligible for diversion to a nonpool plant during such months as producer milk. The order should continue to permit handlers to divert milk from pool plants to nonpool plants without limit during the months of March through August. Also, the order should no longer place a limit on diversions between pool plants.

Presently, diversions from a pool plant to another pool plant during any month are limited with respect to each producer to "not more days of production of producer milk than is physically received at the pool plant from which diverted." A similar limit also applies to milk diverted to nonpool plants during the months of September through February. During March through August no limits apply on diversions to nonpool plants.

Kraft, Inc., proposed several modifications of the diversion rules. Under its proposal, a cooperative or the operator of a proprietary plant would be permitted to divert to nonpool plants up to 50 percent of the total producer milk which it delivers to or diverts from pool plants during each of the months of September through February. Kraft proposed that the diversion limits be defined in terms of the aggregate producer milk of a handler rather than with respect to each producer in

order to achieve efficiencies in the handling of milk. Its representative noted that some producers are located closer to plants in which their milk could be manufactured than to pool plants with which their milk is normally associated for pooling purposes. He held, therefore, that if there is a need to divert reserve milk supplies to nonpool plants for manufacturing, a handler should have the opportunity to move the milk in the most efficient manner without jeopardizing the producer's status under the order. He claimed that under the proposal the milk of a producer could be diverted to the plant nearest his farm, thereby minimizing the producer's cost of delivering his milk to available outlets.

The proposal to permit unlimited diversions of milk between pool plants is adopted.

There appears to be no valid reason to limit such diversions. The only effect of a limit would be that milk is overdiverted would be considered as a receipt of producer milk at the pool plant where it is physically received instead of as a diversion from the diverting pool plant. For that reason, the quantity of milk pooled would be unchanged whether diversions between pool plants are limited or unlimited.

Mid-America Dairymen, Inc., testified in opposition to Kraft's proposal on diversions to nonpool plants. The cooperative contended that adoption of Kraft's proposal would "lessen the pressure needed to move needed supplies of milk into the fluid market." In its post-hearing brief, Mid-Am stated that Kraft's proposal "is designed to augment the available supplies of milk for Kraft's cheese plants." The cooperative's witness suggested that it would be more realistic if diversions to nonpool plants were limited to one day's production for each two days that milk was delivered to pool plants during September through February. He proposed that at all other times that one day of diversion be allowed for each day of delivery to pool plants.

Limitations on diversions to nonpool plants should be based on a percentage of the aggregate quantity of producer milk for which the handler is accountable rather than on the quantity of milk received at a pool plant from each producer. this change will provide greater flexibility to handlers in moving excess milk supplies to nonpool plants. For example, it will enable a handler to divert more often the milk of those producers whose farms are most distant from his plant than those located closest to his plant. Such change would benefit producers by reducing their cost of hauling.

The diversion of producer milk by a handler to nonpool plants during the months of September through February should be limited to not more than 50 percent of the quantity of producer milk of the handler that is physically received at pool plants or diverted therefrom to other plants. This limit on the total quantity of milk that may be diverted is essentially the same as the one that is presently provided under the order.

During the months of March through August, no limit should apply to milk diverted from a pool plant to a nonpool plant. In that regard, this represents no change from the current order provisions.

There is no apparent need on the basis of this record to limit diversions to nonpool plants to the extent proposed by Mid-Am. There was no demonstration by proponent that the current limit on the amount of milk that may be diverted to nonpool plants is causing in any way disruptive marketing conditions. Although the cooperative implied that the change in the diversion provisions would tend to result in more milk being diverted for manufacturing, it is again noted that the total amount of milk that could be diverted to nonpool plants would remain essentially unchanged.

Kraft proposed that if milk is diverted in excess of the limits provided the diverting handler may designate the dairy farmers whose milk would not be producer milk, otherwise the milk last diverted during such month—in lots of an entire day's production—would be excluded first in determining which milk should not be producer milk. A provision of this type is necessary when handlers are permitted to divert milk on the basis of aggregate producer receipts. Under the current order in which diversion limits are placed on the individual producers, it is readily apparent which producer's milk has been over-diverted.

This would not be the case under the revised method of establishing diversion limits. The proposal by Kraft provides a positive means of identifying those individuals whose milk would not be considered as producer milk in the event a handler were to divert in excess of the specified limits.

Kraft proposed that during each of the months of September through February at least one day's production of milk of a dairy farmer must by physically received at a pool plant before such dairy farmer's milk would be eligible for diversion as producer milk. The delivery of one day's production during such month will provide assurance that the milk of such dairy farmer represents a supply of milk that is readily available to pool plants in this market. Furthermore, the months of September through February are months in which producer milk supplies relative to fluid milk needs are usually the shortest. Under such circumstances, it is expected that the proposed shipment of one day's production would be easily met by all producers on the market during such months. Accordingly, the proposed limit should be adopted.

4. *Pricing of diverted milk.* No change should be made in the order regarding the pricing of diverted milk.

Presently, milk that is diverted from one pool plant to another pool plant is priced at the location of the plant to which diverted. Similarly, milk diverted to a nonpool plant located more than 120 miles from the nearer of the city halls in St. Louis or Springfield, Mo., is priced at the plant to which diverted. However, in the case of milk diverted to a nonpool plant located within 120 miles of St. Louis or Springfield, the milk is priced at the pool plant from which diverted.

Kraft, Inc., proposed that the present order provisions be modified to provide that milk diverted to a nonpool plant within the marketing area or within Carroll County, Arkansas, be priced at the location of the plant to which diverted rather than at the plant from which diverted, as is now the case. As part of this proposal, Kraft also proposed that the location adjustment for plants in Carroll County, Arkansas, be changed from minus 10.5 cents to plus 17 cents, a change of 27.5 cents. Such change would establish the location adjustment at plants in Carroll County at the same level as that applicable in Zone III of the marketing area, which borders Carroll County. The location adjustment in Zone III is plus 17 cents.

A spokesman for Kraft testified that his company operates nonpool manufacturing plants at Bentonville, in Benton County, Arkansas, and at Berryville, in Carroll County, Arkansas. The witness stated that Kraft plans to divert milk from its pool supply plant at Springfield beginning in the fall months of 1978. Under the present order provisions, milk diverted to Bentonville and Berryville from Springfield. Because Bentonville is in Zone III of the marketing area and Berryville is adjacent to Zone III, Kraft proposed that milk diverted to these locations be priced at the Zone III price, which is 17 cents higher than the price at Springfield, a Zone I location.

Kraft held that because milk which is produced in northwestern Arkansas and which Kraft plans to deliver to the pool distributing plant at Fayetteville, Arkansas, in Washington County would be priced at the Zone III price, other milk for which it is the handler that is also produced in the northwestern section of Arkansas and is available to supply the Fayetteville plant likewise should be priced at the same level. Kraft proposed, therefore, that

milk which is diverted to its nonpool

"weighted average prices"[2] applicable

ment projects, advertising on a non-

tising has occurred in local television. In terms of a dollar's worth of adver-

producers who have transferred to the St. Louis-Ozarks market from another

tablish for the assessment. The assess-ment rate is determined by the market

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milk which is diverted to its nonpool plants at Bentonville and Berryville in northwestern Arkansas be priced at the same level as milk delivered to the pool distributing plant at Fayetteville.

Mid-Am opposed changing the pricing point on milk diverted to a nonpool plant located within the marketing area. The cooperative's spokesman testified that Mid-Am supplies milk to the pool distributing plant located at Fayetteville from farms of its member producers located in the general vicinity of Fayetteville. Milk that is not needed by the Fayetteville plant is diverted to a nonpool plant operated by Mid-Am at Monett, Missouri, which is within the marketing area. The witness indicated that the milk diverted to Monett is priced at the plant from which diverted, which in this case is the Fayetteville plant. Accordingly, this diverted milk receives the Zone III uniform price. Mid-Am noted that under Kraft's proposal this milk would be priced at Monett and would receive the Zone I uniform price, which is 17 cents below the price its producers are now receiving.

No change should be made in the pricing of diverted milk. Although proponent took the position that all milk produced in northwestern Arkansas should be priced at the same level, its proposal to implement such pricing fails to accomplish that purpose. For example, milk produced in Washington County, Arkansas that is diverted to Monett, Missouri, which is just north of the Missouri-Arkansas border, would be priced 17 cents less than milk diverted to either Bentonville or Berryville, Arkansas.

A further reason for denying proponent's proposal is that it would price milk at the nonpool plants of Bentonville and Berryville at a higher level than if it were received at the Springfield pool supply plant from which diverted. Under such circumstances, the order would be structured to provide an incentive for milk associated with the supply plant to be delivered to plants for manufacturing uses rather than to the pool supply plant whose usual function would be to make such milk available for Class I uses.

One of proponent's concern was that milk which is diverted to its plants at Bentonville and Berryville be priced at the same level. The present provisions provide that milk diverted to nonpool plants within 120 miles of Springfield, any milk diverted by Kraft from the Springfield plant to such locations will receive the same price.

5. *Funding rate for the advertising and promotion program.* The funding rate for the Advertising and Promotion program should be modified by changing the present 5-cent rate to a rate determined yearly by multiplying the simple average of the monthly "weighted average prices"[2] applicable during the last quarter of the preceding calendar year by .75 percent.

Under the revised funding formula, a simple average of the "weighted average prices" for the last quarter of the calendar year would be computed by the market administrator as soon as possible after the end of the preceding calendar year. This average price would be multiplied by .0075 and rounded to the nearest whole cent to determine the actual rate of assessment to be effective on April 1. As soon as possible after the rate of withholding is computed, the market administrator would notify in writing all procedures currently on the market and any new producer that subsequently enters the market of the new withholding rate. This notification would be repeated annually thereafter only if there was any change in the rate from the provious period. Beginning March 1, producers would have the opportunity to request a refund of the money withheld just as they do presently. The current practice of requiring producers to submit such requests to the market administrator within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively, would be continued.

The advertising and promotion program was established under the St. Louis-Ozarks order in April 1973. The program has been funded since its inception through a monthly 5-cent per hundredweight assessment on milk delivered during the month by participating producers. The money is deducted by the market administrator in the computation of the blend price and is turned over to an agency of producer representatives. Certain reserves are withheld by the market administrator to cover refunds to producers and administrative costs.

The advertising and promotion agency is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a nonbrand basis, sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. The advertising and promotion program is a voluntary program. Accordingly, each producer, on a quarterly basis, is given an opportunity to request a refund of the money withheld from him.

An increase in the funding rate was proposed by Mid-Am, whose members comprise about 90 percent of the producers supplying the market. The cooperative's representative testified that the costs of operating the agency has escalated since the program was initiated while revenue to support the program had not kept pace. He indicated that it was for this reason that the cooperative proposed that the revenue for funding the program be fixed as a percentage of the producer's income in order to keep pace with the inflationary trend in the nation's economy.

At the request of the cooperative, a representative of the United Dairy Industry Association presented data in support of the cooperative's position that additional funds were needed by the agency. The data indicated that the cost of advertising by the various medias in the St. Louis area since 1972 has increased by at least 50 percent. In some instances, advertising costs have increased by 250 percent.

A spokesman for Prairie Farms Dairy, Inc., a cooperative that operates a pool distributing plant on this market, also testified in support of the proposed new assessment rate. He expressed concern about the continuing decline in per capita consumption of fluid milk. He indicated that an aggressive program of nonbrand advertising and promotion of milk and milk products is needed to combat declining milk consumption.

A spokesman for the Kroger Company questioned the need to expand the Advertising and Promotion program, claiming that the market does not have sufficient supplies of milk to meet the fluid needs of handlers. He stressed that while he was not opposed to advertising and pomotion he felt that the higher assessment to producers would be passed on to Kroger through the price that producers charge Kroger for milk. Kroger, in turn, would pass such costs on to consumers. The resulting higher costs to consumers, he reasoned, would encourage them to purchase less milk rather than more milk.

The proposed increase in the funding rate for the advertising and promotion program is warranted in view of the increased costs for advertising that have occurred since the program was established under the order. The greatest increase in the cost of advertising has occurred in local television. In terms of a dollar's worth of advertising in 1972, television advertising currently costs $2.57. The cost of newspaper and radio advertising also has increased but not to the same extent as television advertising. One dollar's worth of radio time in 1972 now costs $1.49 while the previous one dollar's worth of newspaper advertising now costs $1.58.

Based upon the increased cost for radio advertising, the funding rate would need to be increased by 2½ cents to enable the agency to purchase the same quantity of advertising as when the program was initiated. To purchase the same quantity of newspaper advertising, a 3-cent increase would be necessary. The funding rate adopted herein is in line with these cost increase for newspaper and radio advertising.

If the proposed funding rate were now in effect, the assessment for the period from April 1978 through March 1979 would be 7 cents per hundredweight. This is based on an average weighted average price of $9.84 for the last quarter of 1977. On the basis of the upward trend in weighted average prices for the months of January through September of 1978,[3] it appears likely that the funding rate for the period from April 1979 through March 1980 would be 8 cents per hundredweight. (The weighted average price for September 1978, the month immediately preceding the last quarter of 1978, was $10.64 per hundredweight, whereas a weighted average price in excess of $10.00 during the last quarter of 1978 would assure an 8-cent rate.)

The proposed rate as a percent of the weighted average price is in line with the rate at which producers originally funded the program. In 1973, when the Advertising and Promotion program was adopted in the St. Louis-Ozarks order, the 5-cent rate was equal to .72 percent or the weighted average price for the year. By 1977, the 5-cent rate represented only .52 percent of the annual weighted average price. The reason for this decline, of course, is that the annual weighted average price increased from $6.96 in 1973 to $9.53 in 1977, while the 5-cent funding rate has remained constant. As mentioned previously, the revised funding rate adopted herein would have provided an assessment rate during 1977 of 7 cents per hundredweight, which is equal to .73 percent of the annual weighted average price (approximately the same percentage rate that was in effect during 1973).

A minor change should be made in the refund procedure with respect to producers who have transferred to the St. Louis-Ozarks market from another Federal order market with an Advertising and Promotion program. Presently, a producer who is participating in an Advertising and Promotion program under another order and then transfers to the St. Louis-Ozarks order at any time other than the refund notification period (the first 15 days of December, March, June, or September) is required to participate in the Advertising and Promotion program under Order 62. This should be changed to give all new producers on this market the opportunity to request a refund of their money withheld for the Advertising and Promotion program, regardless of whether they were participating in a similar program under some other order.

Previously, it was presumed that a producer who was participating in an Advertising and Promotion program under one order would be willing to participate in a similar program under any other order since the rate of withholding was the same. However, since the rate of withholding under Order 62 would be somewhat higher than the rate now applicable under several other Federal orders, a producer should be given an opportunity upon coming onto the market to decide if he wants to participate in the program under this order at the higher rate.

Conforming changes have been made in the order to recognize that the current references in several sections to "weighted average price plus 5 cents" will no longer be appropriate. In implementing the revised funding rate for the Advertising and Promotion program, the order has been modified so that the weighted average price would be computed without deducting the amount of money to be withheld for such program. Thus, the current references to "weighted average price plus 5 cents" are changed to read "weighted average price." Under the adopted changes, the uniform price computation will continue, however, to reflect the deduction applicable for funding the Advertising and Promotion program.

6. *Assessment for order administration.* The maximum assessment rate for the administration of the order should be increased from 2.5 cents to 4 cents per hundredweight.

Funds for the operation of the market administrator's office except for marketing services are obtained through an assessment paid by handlers. The amount of each handler's monthly assessment is dependent upon the quantity of milk that he receives and the assessment rate effective for such month.

A maximum is specified in the order to provide an upper limit on the rate that the market administrator may establish for the assessment. The assessment rate is determined by the market administrator, subject to the approval of the Secretary, according to his projections of the level of monthly producer receipts and the costs of operating his office. The actual assessment rate in 1977 was 2 cents per hundredweight.

The market administrator of the order testified in support of an increase in the assessment rate. He stated that in view of increasing office expenses and declining producer receipts on which income for administration of the order is dependent, the present limit of 2.5 cents would not provide sufficient funds during the next several years to administer the order effectively. He indicated that the need to increase the maximum assessment rate became evident early in 1978. Up until that time, producer receipts had been increasing from year to year. However, producer receipts began declining during the early part of 1978 and, as a consequence, the revenue available to operate his office also declined. The market administrator pointed out that the present rate has been in effect since 1946 and is among the lowest in all Federal orders. He testified further that the maximum rate under the three other orders that he administers is twice that of the St. Louis-Ozarks order.

The record evidence provides no assurance that the present maximum assessment rate of 2.5 cents per hundredweight will yield sufficient funds for the market administrator to administer the order effectively during the next several years. The extent to which future producer receipts may decline can not be ascertained from this record. Also, it is not possible to project with certainty the extent to which the costs of operating the market administrator's office may increase during the coming years.

It is concluded, therefore, that the proposed 4-cent rate should be adopted in order to assure that the market administrator has sufficient resources at his disposal to administer the order effectively. In the absence of such resources, there would be no means of ascertaining with certainty that handlers had paid the minimum class prices established under the order. Furthermore, the adoption of a higher maximum rate at this time will avoid the necessity of holding a hearing at a later date solely for the purpose of adjusting the rate upward in order to obtain sufficient revenue to operate the market administrator's office effectively.

No opposition to increasing the assessment rate was expressed at the hearing or in the post-hearing briefs which were filed.

[2] For the purpose of computing this assessment, the "weighted average price" rather than the "uniform price" should be used because the latter includes an adjustment reflecting the order's seasonal incentive production plan (Louisville plan). Because of this plan, the uniform price during each of the months of March through July is lower than it would otherwise be, while during the months of September through December it is higher than it would normally be. In view of this, it is more appropriate to use the average "weighted average price" for the months of October through December in determining the assessment rate for the following April-March period.

[3] Official notice is taken of the monthly "Computation of Uniform Price" for the St. Louis-Ozarks order for the period of January through September 1978.

3. Section 1062.61 is revised to read

and November an amount equal to 30

tion for such month. The amount set

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations set forth below are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the St. Louis-Ozarks order and of the previously issued amendments to it. All of the previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the St. Louis-Ozarks marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1062.7, revise paragraph (d) to read as follows:

§ 1062.7 Pool plant.

* * * * *

(d) The term "pool plant" shall not apply to:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant that meets the requirements specified in paragraph (a) of this section and also meets the pooling requirements of another Federal order and has greater route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area unless one of the following conditions applies:

(i) If the plant was a pool plant under this order in each of the immediately preceding 13 months, it shall continue to be a pool plant under this order until the third consecutive month in which more than 50 percent of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) Except as provided in paragraph (d)(2)(i) of this section, if the plant was a pool plant under this order in the immediately preceding month, it shall continue to be a pool plant under this order until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A distributing plan which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in this marketing area is greater than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of March through August if such plant retains automatic pooling status under this part.

2. Section 1062.13 if revised to read as follows:

§ 1062.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer which is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1062.9(c); or

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant or diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such pool plant or for the account of a handler described in § 1062.9(b), subject to the following conditions:

(1) Milk from a dairy farmer shall not be eligible for deversion during any of the months of September through February unless at least one day's production is physically received during the month at a pool plant;

(2) The total quantity of milk diverted by a cooperative association to nonpool plants during each of the months of September through February may not exceed 50 percent of the quantity of producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month;

(3) The total quantity of milk diverted by the operator of a pool plant (other than a cooperative association) to nonpool plants during each of the months of September through February may not exceed 50 percent of the quantity of milk received at or diverted from such pool plant during the month that is not under the control of a cooperative association that diverts milk pursuant to paragraph (c)(2) of this section;

(4) Any milk diverted to nonpool plants in excess of the limits prescribed in paragraph (c)(2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which milk should not be producer milk; and

(5) For pricing purposes, milk diverted from one pool plant to another pool plant or milk diverted to a nonpool plant that is located more than 120 miles from the nearer of the city hall in St. Louis and Springfield, Mo. (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide), shall be priced as the location of the plant to which diverted. Milk diverted to a nonpool plant located less than 120 miles from the city hall in St. Louis or Springfield shall be priced at the location of the plant from which diverted.

3. Section 1062.61 is revised to read as follows:

§ 1062.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.60 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to §§ 1062.71 and 1062.73 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments which are applicable pursuant to § 1062.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1062.60 (f) and (g); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) For the months of January, February, and August, subtract from the weighted average price computed in paragraph (d) of this section the withholding rate for the Advertising and Promotion program as specified in § 1062.121(e). The result shall be the uniform price for the applicable month.

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(h) From the remaining amount in paragraph (g) of this section subtract for each of the months of March and July an amount equal to 15 cents per hundredweight, and for each of the months of April, May, and June an amount equal to 25 cents per hundredweight, of the total amount of producer milk included in these computations for each respective month. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) To the remaining amount in paragraph (g) of this section add for each of the months of September and December an amount equal to 20 percent, and for each of the months of October and November an amount equal to 30 percent, of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations;

(k) Subtract the withholding rate for the advertising and Promotion program as specified in § 1062.121(e); and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers for the applicable month.

§ 1062.71 [Amended]

4. In § 1062.71(a)(2)(ii), delete the words "plus 5 cents."

§ 1062.75. [Amended]

5. In § 1062.75(b), delete the words "plus 5 cents."

§ 1062.76 [Amended]

6. In § 1062.76(a)(4), delete the words "plus 5 cents."

§ 1062.85 [Amended]

7. In the preamble of § 1062.85, change the number "2.5" to read "4".

8. In § 1062.120, revise paragraph (c) to read as follows:

§ 1062.120 Procedure for requesting refunds.

* * * * *

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1062.61(f) or (k).

* * * * *

9. In § 1062.120(d), change the reference "§ 1062.61(d)" to read "§ 1062.61(f) or (k)."

10. In § 1062.121, revise the introductory text of paragraph (b) and paragraph (b)(2) and (3) to read as follows:

§ 1062.121 Duties of the market administrator.

* * * * *

(b) Each month set aside into an advertising and promotion fund, separately accounting for, an amount equal to the withholding rate for the month, as specified in § 1062.121(e), times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

(1) * * *

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1062.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

* * * * *

11. In § 1062.121, add two new paragraphs, (e) and (f), to read as follows:

§ 1062.121 Duties of the market administrator.

* * * * *

(e) Compute the rate of withholding as soon as possible after the end of the preceding calendar year by multiplying the simple average of the monthly "weighted average prices" applicable during the last quarter of such preceding calendar year by 0.75 percent. This rate, rounded to the nearest whole cent, shall become effective on the following April 1 and and shall remain in effect thereafter through the following March 31.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

Signed at Washington, D.C., on November 17, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-32809 Filed 11-21-78; 8:45 am]

Accordingly, as proposed § 1933.18

ACTION: Notice of proposed rulemak-

ing, Federal Courthouse, Courtroom

termine what further actions should

viding for a small refiner bias, but of-

[3410-07-M]

Farmers Home Administration

[7 CFR Part 1933]

LOAN AND GRANT PROGRAMS

Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA), proposes to amend its loan regulations concerning the bidding of specified materials for projects financed by FmHA. The intended effect is to require justification by the owner and consultant where all materials which would normally be suitable are not included for bidding. The action is proposed as a result of an administrative decision.

DATES: Comments must be received on or before January 22, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Lonney H. Posey, telephone 202-447-5717.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) proposes to amend § 1933.18(a)(9)(ii)(B) of subpart A of part 1933, Chapter XVIII, Title 7, Code of Federal Regulations.

As proposed, § 1933.18(a)(9)(ii)(B) of subpart A is amended to provide for requiring a written justification when materials which would normally be suitable are not included for bidding from the owner and the consultant. This amendment will help to increase competitiveness and insure fairness in the bidding process. When pipe materials are involved, the owner and the consultant must justify, in writing, the exclusion of material(s) normally considered suitable. Such justification must be acceptable to the FmHA. This document has been reviewed in accordance with FmHA Instruction 1901-G "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190 an Environmental Impact Statement is not required.

Accordingly, as proposed § 1933.18 paragraphs (a)(9)(ii)(B) (*1*), (*2*) and (*3*) are deleted and the introductory section is amended to read as follows.

§ 1933.18 Appendix B—Community facilities—Planning, bidding, contracting, constructing.

(a) • • •

• • • • • •

(9) *Procurement, bidding, and contracting.* (*i*) • • •

(ii) • • •

(A) • • •

(b) All procurement transactions regardless of whether negotiated or advertised, and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The borrower should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict eliminate competition or otherwise restrain trade. Performance specifications and the term "or equal" may be used for equipment and materials. In specifying materials, the owner and his consultant will consider all materials suitable for the project. Where materials which would normally be considered suitable are not included for bidding, the owner and the consultant may be required by FmHA to justify, in writing, the selection of the materials used and explain why normally suitable materials were excluded. When pipe materials for utility type projects are involved, the owner and the consultant must justify, in writing, the exclusion of any material(s) normally considered suitable. Such justification must be acceptable to the FmHA.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: November 9, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-32733 Filed 11-21-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

[Docket No. ERA-R-78-3]

ENTITLEMENTS PROGRAM TO REDUCE THE LEVEL OF BENEFITS RECEIVED UNDER THE SMALL REFINER BIAS

Proposed Amendments and Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic regulatory Administration ("ERA") of the Department of Energy ("DOE") proposes to amend the small refiner bias under the domestic crude oil allocation ("entitlements") program to reduce the level of benefits available to small refiners under the bias. This action is based on our tentative conclusion that the bias overcompensates small refiners, particularly those below the 50,000 barrels per day (B/D) level. The proposed amendments would reduce the maximum per barrel benefit received under the bias to $.96 per barrel, which is equal to the estimated operating margin disadvantage experienced by a representative small refinery at the 10,000 B/D crude level. The bias would be calculated on the basis of individual plant capacity (provided that the refiner's total refining capacity does not exceed 175,000 B/D), rather than on the current aggregate basis for all of a small refiner's refineries, and the value of the bias would be expressed in fixed dollar amounts. Bias benefits would be available only to those refineries which are in operation as of the date of publication of this proposed rule, or where the ERA has determined that a small refiner is eligible for the bias by reason of having expanded, or committed itself to expend by the date of this proposal, a significant portion of the total capital expenditures required for the particular refinery. For those small refineries that are proposed to be built and do not qualify for the bias because of this proposed "grandfather" clause, the ERA would consider applications on a case-by-case basis for determination as to whether a planned small refinery should be eligible for the bias, on the basis of whether the refinery furthered national energy objectives.

DATES: Comments by January 22, 1979, 4:30 p.m. Requests to speak by December 29, 1978, 4:30 p.m. Hearing dates: Washington hearing: January 16, 17 and 18, 1979, 9:30 a.m.; San Francisco hearing: January 9, 1979, 9:30 a.m.

ADDRESSES: All comments to: Public Hearing Management, ERA Docket No. ERA-R-78-3, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Requests to speak: Washington hearing, Public Hearing Management, Room 2313, Department of Energy, 2000 M Street NW., Washington, D.C. 20461; San Francisco hearing, Department of Energy, Attention: R. Laffel, Third Floor, 111 Pine Street, San Francisco, Calif. 94111. Hearing locations: Washington hearing, Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461; San Francisco hearing, Federal Courthouse, Courtroom 15, 7th and Mission, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures) 2000 M Street NW., Room 2214 Washington D.C. 20461, 202-254-5201.

Mary B. Jones (Regulations and Emergency Planning), 2000 M Street NW., Room 8202, Washington, D.C. 20461, 202-632-5133.

William L. Webb (Office of Public Information), 2000 M Street NW., Room B-110, Washington, D.C. 20461, 202-634-2170.

Douglas McIver (Entitlements Program Office), 2000 M Street NW., Room 6281, Washington, D.C. 20461, 202-254-8660.

Michael Paige or Fred Wolgel (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565 or 566-2454.

William C. Lane, Jr. (Office of Competition), 20 Massachusetts Avenue NW., Room 7127, Washington, D.C. 20545, 202-376-9495.

SUPPLEMENTARY INFORMATION:

I. Background and Principal Proposal
A. Background
B. History of the Small Refiner Bias
C. Discussion of Comments
D. The Principal Proposal
E. Small Refiner Exception Standards
II. Comments Requested on Alternative Proposals
III. Written Comments and Public Hearing Procedures

I. BACKGROUND AND PRINCIPAL PROPOSAL

A. BACKGROUND

On February 5, 1978 (43 FR 5870, February 10, 1978), we issued a notice of inquiry which gave notice of the availability of an independent report we had commissioned to analyze the small refiner bias under the domestic crude oil allocation ("entitlements") program. The notice summarized the report's findings, and requested comments concerning the report's findings and method of analysis. In addition, we requested specific comments on whether, in light of the report and any additional relevant considerations, the small refiner bias should be altered, and if so, the appropriate manner in which the bias should be altered at the various crude run levels. We stated that following the close of the comment period we would evaluate the report, the comments received, and the existing bias provisions to determine what further actions should be taken.

B. HISTORY OF THE SMALL REFINER BIAS

The DOE's entitlements program provides for the issuance to small refiners of additional entitlements over and above the number of entitlements issued to all refiners generally with respect to their crude oil runs to stills. Under the monthly entitlement calculations, each refiner is issued a number of entitlements that result from application of the domestic crude oil supply ratio to the volume (in barrels) of that refiner's crude oil runs to stills for that month. Under 10 CFR 211.67(e), which provides for the small refiner bias, small refiners (defined in § 211.62 as those with a refinery capacity not exceeding 175,000 B/D) are issued bias entitlements in addition to those issued by application of the domestic crude oil supply ratio. The number of additional entitlements issued under the bias is dependent on the level of the particular small refiner's crude oil runs in the month involved. The per barrel bias entitlements are highest at crude run levels of up to 10,000 B/D and declines as the small refiner's crude run volume increases over 10,000 B/D. Above the 175,000 B/D crude run level no bias entitlements are issuable. The general effect of the small refiner bias is to lower crude oil costs for small refiners, by either permitting them to sell a greater number of entitlements or requiring them to purchase fewer entitlements with respect to their crude oil receipts.

The small refiner entitlements bias was initiated in the first notice of proposed rulemaking to establish the entitlements program, issued by the Federal Energy Administration ("FEA")[1] on August 28, 1974 (39 FR 31650, August 30, 1974). The notice solicited comments on the desirability of providing for a small refiner bias, but offered no specific regulatory provision therefor.

Specific provision for a small refiner bias first appeared in FEA's further notice of proposed rulemaking issued on November 7, 1974 (39 FR 39740, November 11, 1974), which proposed a sliding scale bias whereby each small refiner would receive additional entitlements as a percentage of its crude runs and the number of entitlements so issued would be greater at the lower run levels. The rationale for providing favorable treatment for small refiners was FEA's belief that it was necessary to compensate for the higher operating costs and proportionately greater capital expenditure requirements that small refiners experienced relative to large refiners, and FEA's belief at that time that to remain competitive many small refiners priced their products below those marketed by major refiners. The bias, therefore, was designed principally to protect the competitive viability of the small refiner segment of the petroleum industry. The level of benefits initially proposed by FEA to favor small refiners was based on the sliding scale for issuances of oil import tickets under the mandatory oil import program when ticket values were in the $1 per barrel range.

The final rule adopting the entitlements program which was issued on November 29, 1974 (39 FR 42246, December 4, 1974), reflected FEA's affirmation of the need for a small refiner bias but concluded that, while its reference to the historic treatment afforded under the oil import program was valid, the benefits proposed were insufficient to adequately protect the competitive viability of small refiners. Accordingly, the rule adopted contained small refiner bias provisions that related the incremental entitlement issuances up to the first 30,000 B/D of crude runs to the maximum economic preferences granted under the oil import program with respect to the PAD District V ticket issuances.

On December 20, 1974, FEA adopted corrective amendments (39 FR 44710, December 27, 1974) to the entitlements program, which included technical changes relating to the small refiner bias provisions, because FEA had determined that the value of import tickets issuable to small refiners had been incorrectly computed. These corrective amendments adjusted bias entitlements issuances to the following levels, which were applicable through March 1976:

Value of Small Refiner Bias Prior to April 1976

Crude runs	Number of bias entitlements	Daily value of bias entitlements*	Per barrel value of bias entitlements*
10,000	1,238	$10,028	$1.00
30,000	1,690	13,689	.46
50,000	1,567	12,693	.25
100,000	1,258	10,190	.10

* Based on an entitlement price of $8.10.

[1] Effective October 1, 1977, all functions previously performed by the FEA were transferred to the Department of Energy (DOE) pursuant to the Department of Energy Organization Act (DOE Act, Pub. L. 95-91) and Executive Order 12009 (42 FR 46267, September 15, 1977). In DOE Delegation Order No. 0204-4, the Secretary of Energy delegated to the Administrator of the Economic Regulatory Administration (ERA) the authority previously exercised by ERA to take action with regard to the allocation and pricing of crude oil.

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On December 22, 1975, the Energy Policy and Conservation Act, Pub. L. 94-163 (the "EPCA") became law. Section 403 of the EPCA exempted refiners whose refining capacity did not, on January 1, 1975, or thereafter, exceed 100,000 barrels per day from entitlement purchase requirements as to the first 50,000 barrels per day of their inputs or receipts, or both. On December 31, 1975 (41 FR 1044, January 6, 1976), FEA adopted special rule No. 6 for subpart C (the "special rule") on an emergency basis to implement these exemption requirements of the EPCA. The special rule exempted all qualified small refiners from any purchase requirements they would otherwise have as to the first 50,000 barrels per day of their crude runs. For small refiners having run levels in excess of 50,000 barrels per day, the special rule exempted a proportion of the entitlement purchase requirements they would otherwise have.

Section 455 of the EPCA generally permitted FEA to modify the small refiner purchase exemption (as was implemented by the special rule) where FEA determined that the exemption resulted in an unfair economic or competitive advantage for its beneficiaries with respect to other small refiners or otherwise seriously impaired FEA's ability to provide for the attainment of the objectives of the Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159 (the "EPAA"). Any FEA modification of the exemption, however, was, by the terms of the EPCA, subject to review by both Houses of Congress under the procedures set forth in section 551, and would become effective only if neither House disapproved the modification within 15 days of submission.

On February 28, 1976 (41 FR 9391, March 4, 1976), FEA stated its initial determination that the full exemption as in effective under the special rule had certain unfair effects, and proposed modifications to the exemption. As a part of that proceeding, FEA invited comments on whether the exemption should be modified such that both small refiner entitlement purchasers and sellers would receive equivalent benefits. FEA suggested that such a modification could be accomplished by eliminating the exemption for small refiner entitlement purchasers, and by increasing the amount of the bias as to all small refiners, thereby keeping such refiners on the same competitive basis.

On May 12, 1976 (41 FR 20392, May 18, 1976), FEA confirmed its determination that the exemption had been operating to seriously impair its ability to attain the objectives of the EPAA and was resulting in an unfair economic or competitive advantage for certain small refiners with respect to other small refiners. Accordingly, FEA modified the exemption by revoking the special rule and increased the amount of additional entitlements issuable to all small refiners under the general regulatory provisions providing for the small refiner bias. The bias was increased because FEA concluded at that time that the bias amounts were not sufficient to enable small refiners to compete effectively. These amendments were not subsequently disapproved by either House of Congress under the procedures provided by the EPCA and became effective with respect to entitlement issuances for April 1976.

These amendments increased the value of the bias to its current level:

Value of Current Small Refiner Bias *

Crude runs	Number of bias entitlements	Daily value/cost of bias entitlements	Per barrel value of bias entitlements
10,000	2,288	$18,533	$1.85
30,000	3,123	25,298	.84
50,000	2,079	16,840	.34
100,000	1,258	10,190	.10
175,000	0	−21,000	−.12
600,000	0	−60,000	−.12

*Based on an estimated September 1978 entitlement price of $8.10.

Thus, at the 10,000 B/D level bias benefits were increased by 85 cents per barrel and by declining additional amounts as the refiner's volume of crude oil runs increased. At the 100,000 B/D and higher run levels, no increase was provided.

On February 10, 1977, FEA tentatively concluded that the rationale underlying the small refiner bias did not appear to support the issuance of bias entitlements to small refiners for crude oil refined at other refineries under processing agreements, and accordingly proposed to eliminate issuances of all bias entitlements with respect to processing agreements for the account of small refiners (42 FR 9394, February 16, 1977). On April 30, 1977, FEA affirmed its tentative conclusion that there was no justification for the issuance of bias entitlements for processing agreements outside a small refiner's plant, and adopted the final rule essentially as proposed, effective for June 1977 crude oil runs to stills.

C. DISCUSSION OF COMMENTS

In response to our Februry 5 notice, we received 114 written comments. In addition, public hearings were held in San Francisco, Calif., on March 9, 1978, at which 7 persons testified, in Dallas, Tex., on March 9, 1978, at which 10 persons testified, and in Washington, D.C., on March 6 and 7, 1978, at which 29 persons testified. Commenters included major, large independent, and small refiners, the U.S. Department of Justice, a U.S. Senator, an engineering consulting firm, and several trade associations, representing either crude oil producers, resellers, small refiners, or independent marketers.

The overwhelming majority of small refiners at the lower crude run levels expressed support for the small refiner bias at its current level. Many of the smallest refiners contended that the major refiners set artificially low prices on refined petroleum products, resulting in low margins of profit on their refinery operations, which major refiners can subsidize with profits from other activities, particularly from profits derived from their crude oil production operations. These commenters maintained that such "cross-subsidization" constituted the chief competitive disadvantage and threat to the competitive viability of small and independent refiners. A substantial number of small and independent refiners also claimed that to remain competitive, they are forced to price their products below that charged by the major refiners, further reducing their operating margins. The majority of the small refiners commenting took the position that the study completed for DOE was thus too limited, and

that DOE should undertake further study on the issue of cross-subsidization, and that bias benefits should not be altered until such studies are completed. Many small refiners also disputed the report's finding that variations in crude costs were not a function of refinery size.

Several of the larger small refiners supported the concept of a small refiner bias, but agreed with the report's conclusion that refiners below the 50,000 B/D level are overcompensated. Several refiners in the 30,000-50,000 B/D level pointed out that the bias, as currently structured, acts to discourage refinery expansion in the 30,000 to 50,000 B/D range.

Two small refiners proposed that the bias benefits vary as a factor of a refinery complexity.

The major and large independent refiners overwhelmingly opposed the small refiner bias, both in concept and at its current level of benefits. These commenters supported the report's findings with respect to overcompensation of refiners below 50,000 B/D. Several major refiners also noted that the bias contributed to reactivations of small plants that would otherwise be uneconomic. These refiners observed that the total annual value of the bias subsidies is sufficient to construct four to five new 200,000 B/D refineries, and questioned whether the diversion of resources of this magnitude to less efficient small refineries is in the national interest. Several larger refiners, both majors and independents, also questioned whether the present subsidy approach or level of benefits correctly reflects the intent of the Congress or is in the national interest. The current bias was credited with subsidizing inefficiency and constituting a disincentive for the smaller refiners to expand or upgrade their facilities. The major refiners and several larger and midsized independent refiners stated that numerous factors such as logistics, unique market conditions and special product slates have more impact on refining economics than size of operation, and account for the profitability of small refiners in areas where they have traditionally been viable.

Several commenters cited the inconsistency of basing the bias subsidy on relative economies of scale of refinery operations while administering it on a company aggregate capacity basis. It was pointed out that large refiners do not necessarily operate large refineries and that the size of the average refinery in the United States is 60,000 B/D. Among all size categories of refiners, except those in the 10,000 B/D range and under, support was expressed for application of bias benefits on and individual plant basis.

Independent branded marketers nearly unanimously opposed the small refiner bias and contended that it has created severe distortions in the petroleum market. This group objected vigorously to the bias program, which it perceives as an inequitable subsidy to its competition, that is, the small refiner marketers. Several branded independent marketers contended that the bias conflicts with the congressional intent that DOE protect the competitive viability of independent marketers. Several independent marketers claimed that the bias caused margin differentials in the retail market of 4 to 5 cents per gallon, and that the bias caused the demise of many small branded independent marketers. It was also noted that where the bias subsidies are passed through to the market, these markets are usually geographically circumscribed local markets served by individual small refiners and thus the benefits accrue to relatively few consumers. One marketer association contended that the bias has created subsidized marketing companies, and that small refiners are using excess compensation from the bias benefits to expand marketing operations and to purchase finished products instead of expanding and upgrading their refineries.

Based on the comments received, our analysis of the report's findings, and in light of the distortions which have occurred as a result of the current level of benefits, we have tentatively concluded that the aggregate amount of benefits received by small refiners greatly exceeds the amount necessary to preserve the viability of independent and small refiners. Such overcompensation acts as a disinentive to refinery expansion, and has encouraged the establishment of numerous small refineries that would otherwise be uneconomic. Since February 28, 1976, the date of publication proposing the current level of the bias, 22 new small refineries have been built. In addition, several new small refineries have been created through the conversion of various kinds of industrial plants into refineries, or through the reopening of previously inactive refineries. We believe that these reactivations have occurred primarily because of the current level of the bias, particularly at the lower crude run levels, and that the proliferation of refineries that would othewise be uneconomic is counter to the objective set forth in § 4(b)(1)(I) of the EPAA, i.e., the minimization of economic distortion. Accordingly, we propose to reduce the small refiner bias to eliminate that portion of benefits which appear to be greater than the cost disadvantage of a representative refinery. Further, in order to discourage the proliferation of refineries that would otherwise be uneconomic in the absence of the small refiner bias, we propose to limit eligibility for the small refiner bias benefits to those plants that are currently in operation or for which a significant portion of the capital expenditures have already been made or have been irrevocably committed. For those small refineries that are proposed to be built and do not qualify for the bias because of this proposed "grandfather" clause, the ERA would consider applications on a case-by-case basis for determination as to whether a planned small refinery should be eligible for the bias, on the basis of whether the refinery furthered national energy objectives.

We believe it is appropriate to examine the issue of overcompensation of small refiners in terms of operating cost differentials experienced by representative small refinery configurations, in comparison to a representative 175,000 B/D refinery, as was done in the report commissioned by DOE. We have tentatively concluded that an approach based on operating cost differentials is appropriate. It would reduce the level of benefits received under the bias, thereby reducing economic distortions caused by the current bias, while continuing to provide small refiners with a level of protection sufficient to preserve their viability. In this regard, we note that the bias levels in effect during the period immediately preceding the revocation of special rule No. 6 were generally sufficient to enable small refiners to continue profitable operations.

Section 301 of the Petroleum Marketing Practices Act, Pub. L. 95-91 (PMPA) states:

(a) The Secretary of Energy, in consultation with the Chairman of the Federal Trade Commission and the Attorney General and other agencies as the Secretary deems appropriate, shall conduct a study of the extent to which producers, refiners, and other suppliers of motor fuel subsidize the sale of such motor fuel at retail or wholesale with profits obtained from other operations.

(b) Such study shall examine—

(1) The role of vertically integrated operations in facilitating subsidization of sales of motor fuel at wholesale or retail;

(2) The extent to which subsidization is predatory and presents a threat to competition;

(3) The profitability of various segments of the petroleum industry;

(4) The impact of prohibiting such subsidization on the competitive viability of various segments of the petroleum industry, on prices of motor fuel to consumers and on the health and structure of the petroleum industry as a whole; and

(5) Such other matters as the Secretary considers appropriate.

With respect to the cross-subsidization issue raised by many commenters, we defer reaching any conclusion pending completion of the study required by the PMPA. However, with respect to the issues of crude oil costs

Because the total number of bias en-

tions for the specific criteria, the type of data and financial information that

under § 211.67(e)(3) the daily average volume of crude oil runs to stills at-

exception relief should be granted by DOE's Office of Hearings and Appeals

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and product netbacks in relationship to refinery size, based on our analysis of the report's findings we have tentatively concluded that there is no relationship between refinery size and crude oil acquisition costs or product netbacks.

D. THE PRINCIPAL PROPOSAL

The proposed amendments to § 211.67(e)(1) would reduce the maximum per barrel gross benefit received under the bias from the current $1.85 per barrel at the 10,000 B/D level, to $0.96 per barrel. At the 30,000 B/D level, we propose to reduce the gross bias from $0.84 per barrel to $0.53 per barrel. At the 50,000 B/D level, we propose to reduce the bias from $0.34 per barrel to $0.28 per barrel, and at the 100,000 B/D level, the bias would be reduced from $0.10 per barrel to $0.09 per barrel. Under the amendments proposed, the gross amount of bias benefits received would be reduced from the current $710 million annually to approximately $483 million annually. We invite specific comments on whether the level of benefit proposed is appropriate, or whether a different level of bias (either greater or lesser than proposed) is appropriate or justified, and whether the level of benefits should be structured or skewed in a different fashion.

Because the total number of bias entitlements received under the current bias declines as a small refiner's crude runs increase above 30,000 B/D, disincentives may exist with respect to increasing refinery expansion beyond the 30,000 B/D level. Under the current bias, for each barrel that a small refiner increases its runs above 30,000 B/D, the total benefits received under the bias are reduced by $0.42. Although the need for a bias subsidy may decline as a small refiner increases the size of its operation, the bias cannot be sharply decreased at any given level without acting as a disincentive to refinery expansion. Our methodology, which is based on a comparison of representative refinery operating margins, yields a result such that our proposal would diminish the amount by which the bias declines at any given level to not more than 12 cents for each additional barrel. We believe that the proposed amendments would thus remove any disincentives that may currently exist with respect to small refinery expansions.

The value of the current small refiner bias, and the maximum value of the proposed small refiner bias are shown in the two tables below. The last column to the right gives the per barrel value or cost of the bias for each additional barrel that a refiner increases its crude runs beyond the level shown in the first column:

*Value of Current Small Refiner Bias**

Crude runs	Number of bias entitlements	Daily value/cost of bias entitlements	Per barrel value/ cost of entitlements	Incremental per barrel value/cost of bias
10,000	2,288	$18,533	$1.85	$0.34
30,000	3,123	25,296	.84	−.42
50,000	2,079	16,840	.34	−.13
100,000	1,258	10,190	.10	−.14
175,000	0	−21,000	−.12	−.12
500,000	0	−80,000	−.12	−.12

*Based on an estimated September 1978 entitlement price of $8.10.

Value of Proposed Small Refiner Bias

Crude runs	Number of bias entitlements*	Daily value/cost of bias barrels	Per barrel value/ cost of bias entitlements	Incremental per barrel value/cost of bias
10,000	1,185	$9,600	$0.96	$0.315
30,000	1,963	15,900	.53	−.095
50,000	1,728	14,000	.28	−.10
100,000	1,111	9,000	.09	−.12
175,000	0	−14,000	−.08	−.08
500,000	0	−40,000	−.08	−.08

* The number of bias entitlements issuable would vary from month to month, based on the entitlement price. This example is based on an entitlement price of $8.10.

The proposed amendments also provide for the issuance of bias entitlements on the basis of individual plant capacity, rather than on a company aggregate basis. The majority of commenters addressing this issue supported this approach. We have tentatively determined that the adoption of this approach would better accomplish the objectives of the bias. In addition to more accurately compensating for diseconomies of scale, issuance on the basis of individual plant capacity may reduce the incentive for refinery "spinoffs", whereby a refiner sells one of its refineries for the purpose of increasing the total number of bias entitlement issuable. Major and large independent refiners would not qualify for bias entitlements with respect to any small refineries owned, since the definition of "small refiner" in § 211.62 (and in § 3 of the EPAA) is limited to refiners with aggregate refinery capacity below 175,000 B/D. Comments are requested whether independent refiners with aggregate runs to stills in excess of 175,000 B/D should be made eligible for bias benefits with respect to individual plants with runs to stills below 175,000 B/D.

Section 211.67(e)(4) would limit the eligibility to receive bias benefits to only those plants which are in operation as of the date of publication of this proposed rule. In order to avoid imposing hardships on small refiners who are currently constructing new plants, proposed § 211.67(e)(4) would permit the ERA to designate plants which begin operations after the cutoff date and eligible for bias benefits, if we determine that the refiner had expanded or irrevocably committed itself to expend a substantial portion of the capital expenditures required for a new facility by the cutoff date. We invite comments on the standards we should apply in making such determinations—for example, what threshold amount or percentage of the total capital required should be deemed sufficiently "substantial" and would therefore qualify a plant for the bias. Following and initial determination of this factual issue by the ERA, a firm could appeal a denial to the Office of Hearings and Appeals.

In addition, we are proposing to determine, on a case-by-case basis, whether a planned small refinery which is ineligible for bias benefits because of the "grandfather" provision should be granted bias benefits because such a facility, in addition to being an economically viable facility, would further the DOE's objectives with regard to increasing the nation's capability to process heavy gravity or high sulfur crude oil, or would further other important national energy objectives. We are particularly interested in receiving comments that would assist us in developing appropriate standards and guidelines for reviewing such applications, as well as suggestions for the specific criteria, the type of data and financial information that would be required to evaluate such applications.

The proposed amendment to § 211.67(e) provides that a small refiner shall receive bias entitlements on the basis of the daily average volume of crude oil runs to stills attributable to each of its refineries. For purposes of computing the small refiner bias, the daily average volume of a small refiner's crude oil runs to stills with respect to each of its refineries would not be computed on the basis of the actual volume of crude oil run through a particular plant. Instead, under § 211.67(e)(3) the daily average volume of crude oil runs to stills attributable to a particular plant would be equal to the same percentage of that small refiner's total daily average volume of crude oil runs to stills which a given plant bears to the total refining capacity of the small refiner. For example, if a small refiner had two plants, one with a certified capacity of 10,000 B/D (plant A), and another with a certified capacity of 30,000 B/D (plant B), and that small refiner had a daily average volume of crude oil runs to stills for a given month totalling 28,000 B/D, the crude runs attributable to each plant would be computed as follows:

10,000 B/D (Plant A) + 30,000 B/D (Plant B) = 40,000 B/D total refining capacity

For Plant A:

$$28{,}000 \text{ B/D} \times \frac{10{,}000 \text{ B/D}}{40{,}000 \text{ B/D}} = 7{,}000 \text{ B/D attributable to Plant A}$$

For Plant B:

$$28{,}000 \text{ B/D} \times \frac{30{,}000 \text{ B/D}}{40{,}000 \text{ B/D}} = 21{,}000 \text{ B/D attributable to Plant B}$$

In this fashion, a small refiner would not have an incentive resulting from the bias to utilize its smaller (and generally more inefficient) refineries at a higher rate in order to maximize the incentives it receives under the small refiner bias. We request comments on, among other things, the effect of this formula on refiners' decisions regarding the distribution of capacity expansion among its plants.

Small refiners would be required to report shutdowns in individual plants to the ERA, where the shutdown results in a 50 percent or greater portion of that plant's refinery capacity not having been operable during a month. In such instances, the ERA could make adjustments to the volume of a small refiner's crude oil runs to stills attributable to that particular plant.

Because the price of an entitlement varies from month to month, the amount of benefits received by a small refiner under present regulations may change significantly without any change in that small refiner's daily average volume of crude oil runs to stills. In order to provide small refiners with a level of certainty with respect to bias benefits, the proposed amendments to section 211.67(e)(1) provide that the number of entitlements issuable to small refiners under the small refiner bias shall be set in fixed dollar amounts. For example, if a small refiner owned one refinery with a daily average volume of crude oil runs to stills of 10,000 B/D, under the proposed amendments that small refiner would receive a number of additional entitlements for each day of that month equal to such refinery's daily average volume of crude oil runs to stills multiplied by a fraction, the numerator of which is $.96, and the denominator of which is the entitlement price for that month. We are interested in receiving specific comments as to whether the bias should be set in fixed dollar amounts, as proposed, or whether the bias should continue to fluctuate, based on the price of an entitlement (as is currently done) or based on the value of the entitlement crude runs credit that refiners receive for each barrel of crude oil that is processed.

In addition, if the entitlements program is phased out, as planned, either through the imposition of a crude oil equalization tax (COET) or some other action which has the effect of raising refiners' acquisition costs for domestic crude oil to the world market price, we believe that under such circumstances it would be inappropriate for small refiners to receive a fixed dollar amount of entitlement benefits while the total benefits available under the program are phased out. We solicit particular comments as to the appropriate manner in which the small refiner bias should be phased out if the entitlements program were to be eliminated.

E. SMALL REFINER EXCEPTION STANDARDS

In the context of this proceeding, the DOE invites preliminary comments and views from interested parties as to the standards under which exception relief should be granted by DOE's Office of Hearings and Appeals to companies that would be affected by the changes in the level of the small refiner bias as contemplated herein. With a decrease of the level of the small refiner bias that will have a financial impact particularly in the lower capacity ranges, we estimate that certain small refiners that are not currently receiving exception relief may apply for such relief as a result of losing these bias benefits. Alternatively, certain firms that are now receiving exception relief may apply for additional relief to compensate for lost bias benefits. For these companies, we invite comments from all interested parties as to whether the current entitlement exception standards for small refiners should continue to be applicable or as to whether other, and possibly more stringent, standards should be applied.

We are also interested in receiving comments as to whether the differing technical configuations of refineries, and the resulting operating cost differentials, should play a part in the calculation of any exception relief deemed appropriate by the DOE's Office of Hearings and Appeals for these new types of cases. Comments are also sought on whether differing standards should continue to be applied to entitlement purchasers and sellers in such cases.

II. COMMENTS REQUESTED ON ALTERNATIVE PROPOSALS

The DOE is undertaking a comprehensive study of the domestic refinery industry, in order to develop national policy positions on the major issues confronting the refining industry. As a part of that study, the state of competition in the refining sector will be evaluated including the need, if any, for protection for small independent refiners.

In section I.C., above, we have outlined comments received by DOE which question whether the present bias correctly reflects the intent of the Congress or is in the national interest. It has been charged that the bias subsidizes inefficiency, deters expansion, and damages the competitive viability of certain independent refiners and marketers. In light of these criticisms and others, we are requesting comments on alternatives to that of reducing the small refiner bias in the manner described above in section I.D.

The first of these alternatives is to eliminate the small refiner bias altogether. This would, of course, have the effect of increasing small refiners' crude acquisition costs, since small refiners would no longer receive additional entitlements based on their size. Instead, all refiners, including small refiners, would receive entitlements

based on the same entitlements formula. Comments received by DOE indicate that the bias has had a significant impact on the ability of small refiners to trade and buy/sell agreements. This would theoretically reduce and eventually eliminate the need for the bias. However, whether, in the absence of incentives, it is likely to change in the future

incentive or disincentive that would accomplish this objective.

based on the number of persons requesting to be heard.

supply bias entitlements (or alternatively provide direct incentives) for refiners who

based on the same entitlements formula. Comments received by DOE indicate that elimination of the small refiner bias would cause economic hardship to some small refiners. We are specifically requesting further comments on the extent to which elimination of the bias would adversely affect firms. How do these firms differ from those firms less adversely affected in their efficiency of processing and in in their plant complexity? We also request comments addressing the larger question of whether it is in fact necessary and appropriate to compensate small refiners for higher operating costs and proportionately greater capital expenditure requirements relative to large refiners.

In particular, we request opinions and information on the miminum efficient size of refineries that could be expected under an entitlements system with no small refiner bias. Also, if the bias were removed, how many firms would be expected to exit from the refining market; how would the investments and profitability of the remaining firms be affected; what new technologies, if any, would be likely to be adopted or diffused throughout the industry; what would be the expected changes in the role of independent refiners versus major integrated refiners; and to what extent would crude self-sufficiency become more important?

The second alternative on which comments are requested is replacing the small refiner bias system with a program focused away from compensation based on size, but instead directed to addressing the alleged need of nonintegrated refiners for access to crude oil at an equitable price. This system would not subsidize small refiners, but would instead provide incentives for all refiners to purchase crude oil through "open market" transactions. The system would attach a credit—under the entitlements system, additional entitlements—to every barrel of crude oil charged at the refinery which was purchased in an arm's length transaction in the secondary market.

This "open market credit" (OMC) system would not, as currently described, compel such purchases.[1] As devised, it would compensate the nonintegrated refiner for crude acquisition costs caused by vertical integration and the exchange system. At the same time, it would provide incentives for integrated firms to turn to open market sales rather than exchange and buy/sell agreements. This would theoretically reduce and eventually eliminate the need for the OMC altogether, since it is postulated that the acquisition costs of nonintegrated refiners would decrease as the overall level of open market sales increase. Formulas for the OMC have been proposed which would reduce the amount of the credit as the open market expands.[2] Comments are requested on the possible operation and enforcement of an OMC system, on the amount of entitlements or tax (COET) credit necessary to encourage refiners to turn to the open market for supply, and on its applicability to crude oil obtained from foreign sources.

As the OMC idea has been preliminarily developed, certain implicit assumptions seem to have been made, on which we request comments. First, it is assumed that independent refiners suffer competitive handicaps to the extent that they do not possess a captive supply of crude oil. Major integrated refiners have preferential access to crude oil, both through direct ownership of supply (vertical integration) and through participation in exchange agreements. It is also assumed that the exchange system raises incremental acquisition costs of crude oil to independent refiners. A refiner without a captive crude supply incurs higher acquisition costs than otherwise, because exchange agreements remove substantial quantities of supply from the open market. First, this removal replaces the normal market price mechanism with an artificial value-setting agreement attenuating market pressures. Second, in order to participate in exchanges for supply, a refiner without captive supply must allegedly go through a two-step process. Instead of merely locating convenient supply, the refiner must acquire crude oil for money purchase and then arrange an exchange transaction for other crude oil more conveniently located.

It is also assumed in the OMC proposal that the incentives for participation in exchanges are not so strong under current conditions that refiners would not turn to open market purchases if obvious benefits would attach to open market transactions. We request comments on whether this assumption is accurate, what in fact are the benefits to participating firms of current exchange practices, and what incentives would be necessary to counterbalance these benefits. Also, comments are requested on the extent to which participation in exchanges is a prevalent industry practice, estimates on the volume of crude oil that is exchanged, and whether reliance on exchanges has decreased or increased appreciably in the last few years, and whether, in the absence of incentives, it is likely to change in the future.

A major criticism of the current small refiner bias is that it encourages smallness rather than needed refinery expansion and improvements. A third alternative to reducing the level of the small refiner bias is to condition the receipt of bias entitlements upon utilizing one-half (or some other proportion) of those entitlements to invest in capital improvements. Comments are requested on whether this approach would encourage needed levels of refinery expansion and types of improvements.

It may also be that this problem can be addressed through a program of direct incentives to firms to make investments in certain kinds of refinery expansion and improvements. Possible applications of this proposal are to provide tax or entitlement credits to firms that increase their current desulphurization or unleaded gasoline capacity. We are interested in receiving specific comments as to whether we should develop a program of incentives for refiners who undertake to increase their capacity to produce unleaded gasoline, or who undertake to increase their capacity to process heavy crude oil or high sulfur crude oil. We also solicit comments on the level of refinery expansion and types of refinery improvements needed in the near and longer term, and whether these expansions need necessarily take place in the United States. We are also interested in receiving comments on the need for and probable effectiveness of such investment incentives, and the form which these incentives might take. In addition, comments are requested on the level of incentives required to stimulate such expansion and technological improvements.

We also request comments on possible incentives which would encourage the domestic refining industry to most efficiently utilize its capacity to refine crudes of varying sulfur content. More specifically, such a system might discourage a refiner who processes sweet crude (less than 0.5 percent sulfur at 9°) in a refinery capable of processing higher sulfur crudes. Such a system could encourage the efficient use of domestic sour crude refining capacity and reduce sweet crude oil imports. This could improve U.S. balance of payments to the extent that sweet crude now processed in larger refineries capable of processing sour crude becomes available to smaller independent refiners who are capable of processing sweet crude only, and now import higher cost sweet crude. Also, we invite your comments on the effects of such incentives and/or disincentives and the amount and type of

[1] The OMC idea was developed to a large extent by Federal Trade Commission staff. See the May 23, 1978, letter from Alfred F. Dougherty, Director of the Bureau of Competition, Federal Trade Commission to Senator Edward M. Kennedy, published in the Congressional Record, June 9, 1978, at S. 8949—S. 8954 (95th Cong., 2d sess.).

[2] Id.

incentive or disincentive that would accomplish this objective.

III. Public Hearing and Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views, or arguments with respect to the proposals set forth in this advance notice of proposed rulemaking. Comments should be submitted by 4:30 p.m., e.s.t., January 22, 1979, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the designation: "Proposed Amendments to Small Refiner Bias." Fifteen copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearings

1. *Procedure for request to make oral presentation.* The times and places for the hearings are indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, a hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

If you have any interest in the proposals in this notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., December 29, 1978. You should be prepared to describe the interest concerned and, if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., January 3, 1979, and will be required to submit 100 copies of your statement to the appropriate address indicated in the "Adresses" section of this preamble before 4:30 p.m., e.s.t. on January 15, 1979, for the Washington, D.C., hearing, and by 9:30 a.m. of the date of the hearing for the San Francisco hearing.

2. *Conduct of the hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. They will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at either of the hearings to the address indicated above for requests to speak before 4:30 p.m., e.s.t., January 4, 1979. If you wish to ask a question at a hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of each of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of a hearing from the reporter.

As required by section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency ("EPA") for his comments concerning the impact of this proposal on the quality of the environment. The Administrator commented a follows:

> We would like to receive comment on whether the reduction of the level of benefits available to small refiners under the small refiner bias of the entitlements program will cause these refiners to either curtail unleaded gasoline production from existing facilities or adversely affect their plans to construct new unleaded gasoline production facilities. Until we possess this information we cannot assess the environmental impact of these regulations.
>
> We are interested in one of the alternatives to reducing the level of the bias, that of conditioning receipt of bias entitlements upon utilizing the entitlements to invest in capital improvements. In particular, we would like to see explored a program to supply bias entitlements (or alternatively provide direct incentives) for refiners who undertake to increase their unleaded gasoline production capacity. This would encourage refinery expansion and the production of unleaded gasoline for those late model year vehicles requiring unleaded fuel to protect emission controls.

The interests expressed by the EPA Administrator have also been covered in requests for comment elsewhere in this notice.

Executive Order 12044 (43 FR 12661, Mar. 24, 1978) requires that a regulatory analysis be prepared for all regulations which will result in "an annual effect on the economy of $100 million or more" or will result in "a major increase in costs or prices for individual industries, levels of government, or geopgraphic regions." The Administrator has determined that a regulatory analysis is required for these regulations, and a preliminary regulatory analysis of the principal proposal is available from the ERA Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C. 20461, telephone 202-634-2170. Interested parties are invited to submit written comments on the preliminary regulatory analysis to the address indicated in the "Addresses" section of this preamble.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (Pub. L. 95-91), this proposal rule has been referred, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub, L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 211 of chapter II, title 10 of the Code of Federal Regulations, is proposed to be amended a set forth below.

Issued in Washington, D.C., November 14, 1978.

HAZEL R. ROLLINS,
Deputy Administrator, Economic Regulatory Administration.

Section 211.67(e) is amended by revising subparagraph (1), by adding new subparagraphs (3) and (4), by redesignating subparagraph (3) to be subparagraph (5), and by adding a new subparagraph (6), to read as follows:

§ 211.67 Allocation of domestic crude oil

and the denominator of which is the

[6450-01-M]

Albert F. Bass (Division of Natural

NGPA, it will be referred to the FERC

ternate fuel (excluding solar energy)

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§ 211.67 Allocation of domestic crude oil.

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(e) *Small refiner bias.* (1) In addition to the number of entitlements issuable under paragraph (a) of this section, subject to the limitations set forth in subparagraphs (2), (3), and (4) below, each small refiner shall be issued the following number of additional entitlements for each day of a particular month: (i) For each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 0 to 10,000 barrels in that month, each such refinery shall receive a number of entitlements equal to the number of barrels of such refinery's daily average volume of crude oil runs to stills for that month multiplied by a fraction, the numerator of which is $0.96, and the denominator of which is the entitlement price for that month; (ii) for each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 10,000 to 30,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $9,600 plus $0.315 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 10,000 barrels for that month, and the denominator of which is the entitlement price for that month; (iii) for each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 30,000 to 50,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $15,900 minus $0.095 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 30,000 barrels for that month, and the denominator of which is the entitlement price for that month; (iv) for each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 50,000 to 100,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $14,000 minus $0.10 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 50,000 barrels for that month, and the denominator of which is the entitlement price for that month; (v) for each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 100,000 to 175,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $9,000 minus $0.12 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 100,000 barrels for that month, and the denominator of which is the entitlement price for that month.

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(3) For purposes of these calculations, the daily average volume of a particular small refinery's crude oil runs to stills shall be computed as follows: The daily average volume of a small refiner's crude oil runs to stills (with respect to all of its refineries) shall be multiplied by a fraction, the numerator of which is the capacity of that particular small refinery as certified pursuant to subparagraph (a)(2) of this section, and the denominator of which is the capacity of that small refiner (with respect to all of its refineries) as certified pursuant to subparagraph (a)(2) of this section.

(4) For purposes of eligibility to receive the additional bias entitlements issuable to small refiners under subparagraph (e)(1) above, all small refiners are eligible for such additional bias entitlements with respect to refineries which were in operation on November 1, 1978. In addition, a small refiner shall be eligible for bias entitlements with respect to its refineries that have been determined by the ERA to be eligible for bias entitlements, by reason of that small refiner having expended or irrevocably committed itself to expend a significant portion of the capital expenditures required for a particular refinery by November 1, 1978. The ERA may also determine that a particular refinery which does not otherwise qualify for bias entitlements shall be eligible for bias entitlements if such refinery would be an economically viable facility, and would increase the Nation's capacity to process low gravity or high sulfur crude oil or further other important national energy objectives.

(5) Each small refiner shall separately identify in its reports filed pursuant to § 211.66(h) of this subpart any volumes of its crude oil runs to stills not eligible (under the provisions of paragraph (e)(2) of this section) for small refiner bias entitlements.

(6) Small refiners shall report shutdowns (by reason of either a mechanical failure or normal maintenance procedures) with respect to any of its refineries resulting in a fifty (50) percent or greater portion of that refiner's refinery capacity not having been operable for the duration of that month. In such instances, the ERA may make such adjustments to the calculations in subparagraph (1) as it deems necessary.

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[FR Doc. 78-32620 Filed 11-16-78; 10:36 am]

[6450-01-M]

[10 CFR Part 580]

[Docket No. ERA-R-78-22]

PRIORITY FOR ESSENTIAL AGRICULTURAL USES OF NATURAL GAS

Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is publishing for public comment a proposed rule protecting essential agricultural use from curtailment of natural gas deliveries by interstate pipelines as required by section 401 of the Natural Gas Policy Act of 1978 (NGPA). The proposed rule restricts interstate pipelines from curtailing "essential agricultural uses", as determined by the Secretary of Agriculture, except when necessary to meet the needs of other higher priority uses or when there is an alternate fuel available for that essential use. In accordance with section 403 of the NGPA, this proposed rule would be implemented by the Federal Energy Regulatory Commission (FERC) through revisions to current pipeline curtailment plans, although in the meantime this rule provides an immediate right to higher priority treatment for "essential agricultural uses." It is anticipated that, initially, only small adjustments will be required in presently effective curtailment plans to effectuate this rule.

DATES: Written comments by January 19, 1979, 4:30 p.m.; Requests to speak by December 27, 1978, 4:30 p.m., Public Hearing: January 10, 1979, 9:30 a.m.

ADDRESS: All comments to Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-78-22, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, 2000 M Street NW., Washington, D.C. 20461, 202-254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202-634-2170.

Albert F. Bass (Division of Natural Gas Regulations), Economic Regulatory Administration, 2000 M Street NW., Room 3308, 202-632-4721.

James K. White (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 6144, Washington, D.C. 20461, 202-566-9296.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the Rule
III. Procedures for Comment and Hearing

I. Background

Section 401(a) of the Natural Gas Policy Act of 1978 (NGPA), which became law on November 9, 1978, directs the Secretary of Energy (the Secretary) to prescribe and make effective within 120 days after enactment (that is, by March 9, 1979) a rule to protect essential agricultural uses from curtailment of natural gas deliveries by interstate pipelines to the maximum extent practicable. The NGPA requires that such rule provide that interstate pipeline companies may curtail natural gas for essential agricultural uses only in the event that such gas is needed to protect higher priority uses as defined by the NGPA or if it is determined that an alternate fuel is economically practical and reasonably available.

The implementation of the NGPA's requirements involves action not only by the Secretary of Energy but also by the Secretary of Agriculture and the FERC. Section 401(c) directs the Secretary of Agriculture to certify to the Secretary of Energy and the FERC the natural gas requirements for essential agricultural uses. The FERC will, pursuant to section 401(b), determine whether or not it is "economically practicable" to use another fuel for an essential agricultural use and whether such alternative fuels are "reasonably available." The FERC is also charged under section 403(b) with general responsibility to implement the provisions of the Secretary's rule, through its authority to establish, review and enforce curtailments under the Natural Gas Act.

The Secretary of Energy is directed by section 403(a) of the NGPA to prescribe this rule "pursuant to his authority under the Department of Energy Organization Act to establish and review priorities for curtailments under the Natural Gas Act." The Secretary of Energy's responsibilities under this authority have been delegated, in DOE Delegation order No. 0204-4, to the Administrator of the Economic Regulatory Administration. Since the NGPA provides explicitly that this rule is to be issued pursuant to DOE's authorities under the Natural Gas Act and the DOE Act, rather than any new authority given by the NGPA, it will be referred to the FERC under the procedures established by section 404 of the DOE Act. A referral of this rule should not be interpreted as a determination that other actions taken under the NGPA or other recent energy legislation must be referred under section 404 of the DOE Act.

Currently, curtailment priorities for individual pipelines are established in curtailment plans which are part of the pipeline's tariff approved by the FERC. These plans differ in their details from pipeline to pipeline. However, in general they follow the type of end-use plan set forth by the Federal Power Commission in order No. 467-B, which in a general statement of policy, establishes nine general curtailment categories and their relative priority.

II. Discussion of the Rule

The proposed rule is a general rule, binding on all interstate pipeline companies, and would be effective immediately upon publication. The rule would provide that, "to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of natural gas for any essential agricultural use," unless at least one of three conditions exists. The circumstances permitting curtailment of essential agricultural uses would be: (1) "Curtailment does not reduce the quantity of natural gas delivered for such use below the use requirement certified by the Secretary of Agriculture"; (2) "such curtailment is necessary to meet the requirements of high-priority users"; or (3) "the Federal Energy Regulatory Commission, in consultation with the Secretary of Agriculture, determines" that solar energy or another fuel (other than natural gas) "is economically practical" and "reasonably available" for that use.

The proposed rule defines "essential agricultural use" as that use of natural gas which the Secretary of Agriculture determines is necessary for full food and fiber production. "High priority user" is also defined, and includes persons who use natural gas in residences; small commercial establishments; schools, hospitals and similar institutions; minimum commercial and plant protections; sanitation; correctional facilities; and police and fire protection. In keeping with the policy illuminated in the "Joint Explanatory Statement of the Committee on Conference," the definition of "residence", which has been included in the highest priority category in order 467-B, only as single family and small multifamily units, would be expanded to include "apartment buildings and other multiunit high rise buildings used predominantly for residential purposes," provided they do not have existing alternate fuel (excluding solar energy) capability or access to alternate fuels. Similarly, schools, hospitals and similar institutions would be included in the high priority definition only if they do not have existing alternate fuel (excluding solar energy) capability or access to alternate fuels. This exclusion of apartment buildings, schools and hospitals having alternate fuel capability is not explicit in the NGPA, but is consistent with Congress' expressed intent to include in the high priority category only those uses essential to protection of life, health, and physical property, and is also consistent with Congress' priority treatment of essential agricultural uses, which explicitly excludes uses for which there is alternate fuel capability. We specifically invite your comments on whether this exclusion of apartment houses and other multiunit buildings and schools and hospitals with existing alternate fuel capabilities and access to adequate supplies of those fuels from the definition of high priority users should be changed.

The NGPA leaves to the discretion of the Secretary the determination of high priority uses other than those enumerated in the NGPA, provided they are uses the curtailment of which would endanger life, health, or maintenance of physical property. The proposed rule includes in the definition of high priority users those users who use natural gas for minimum commercial and plant protection at times when operations are shut down, correctional facilities, and police and fire protection. In the implementation of this proposed rule, the FERC would continue to exercise its authority on a case-by-case basis to provide for gas deliveries for other essential uses in an emergency, the curtailment of which deliveries would endanger life, health, or maintenance of physical property.

We do not intend in the proposal to determine any specific order of priority among the high priority uses defined in the Act (as further defined by the Secretary), but instead would allow the order of priority among such uses in current plans to remain in effect to the maximum extent practicable in conforming to the purposes of section 401 of the NGPA. In general, those uses defined as high priority uses would be moved ahead of essential agricultural uses in an interstate pipeline's curtailment plan, and those uses not within the definition of high priority uses would be placed below essential agricultural uses. However, it is expected that the relative order of priorities among the high priority uses and among the nonhigh priority uses would remain as they are in the firm's present curtailment plan.

An example of how these actions would work is provided below.

EXAMPLE OF A PRESENTLY EFFECTIVE PLAN

feedstock uses dropped to a lower pri-

serve the right to determine the confi-

ment will be given the opportunity, if

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(c) *Definitions.* For the purposes of this general rule, the following defini-

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EXAMPLE OF A PRESENTLY EFFECTIVE PLAN

Priority 1: Residentail and small commercial (including hospital) requirements of less than 50 Mcf per peak day.

Priority 2: Commercial (including hospital) requirements of more than 50 Mcf per peak day, industrial requirements for plant protection, feedstock, and process needs and other industrial requirement of up to 300 Mcf per day; and pipeline customer storage injection requirements.

Priority 3: School requirements.

Priority 4: Industrial requirements in excess of 300 Mcf per peak day for other than plant protection, feedstock, process or boiler fuel uses.

To change the example plan to conform with this proposed rule, a new priority 4 for essential agricultural uses (certified by the Secretary of Agriculture) would be created to follow priority 3. An essential agricultural use which is also classified as a high priority use would retain that high priority status. In this example, commercial requirements in priority 2 which cannot be redefined as residential under the rule (for example, apartment houses with existing alternate fuel capabilities) would be moved out of priority 2 to a new priority 5, along with feedstock and process needs and other industrial requirements of up to 300 Mcf per day and pipeline customer storage injection needs. Priority 3 would remain as it is, and priority 4 would be renumbered priority 6. The resulting curtailment plans would be as follow:

EXAMPLE OF PLAN REVISED AFTER EFFECTIVENESS OF PROPOSED RULE

Priority 1: Residential and small commercial (including hospital) requirements of less than 50 Mcf per peak day.

Priority 2: Residential and hosptial requirements of more than 50 Mcf per peak day, provided there is no alternative fuel capability or no access to alternate fuels, and requirements for plant protection.

Priority 3: School requirements.

Priority 4: Essential agricultural uses.

Priority 5: Industrial requirements for feedstock and process needs and other industrial requirements of up to 300 Mcf per day; nonresidential commercial requirements and pipeline customer storage injection requirements.

Priority 6: Industrial requirements in excess of 300 Mcf per peak day for other than plant protection, feedstock, process or boiler fuel uses.

As can be seen from the example, it is possible for some nonagricultural uses that previously had the same priority level to have different levels under this proposed rule (for example, plant protection and feedstock uses previously had the same priority in the example, but after implementation of the proposed rule would have significantly different priorities). It is even possible under the proposed rule for the relative priorities of nonagricultural uses to be reversed (in the example, school requirements became high priority uses, while industrial feedstock uses dropped to a lower priority level. Such substantial shifts are unavoidable if the NGPA is to be implemented as Congress intended, but it is the purpose of the proposed rule to keep such changes in present curtailment plans to a minimum.

Today's proposed rule should be viewed in the context of the ERA's review of existing curtailment priority systems in order to fulfill the Secretary of Energy's responsibilities under the DOE Act to review and establish curtailment priorities. We are presently conducting economic and environmental studies as part of this review. A programmatic environmental impact statement on alternative natural curtailment options is being prepared and will be circulated for comment at the appropriate time. When our review is completed, the determination will be made whether, and to what extent, it is necessary to change national policy concerning natural gas usage and the existing priority plans of interstate pipelines which implement that policy.

Given the above considerations, a two-phased approach is proposed for implementing this rule on essential agricultural uses. As contemplated by the Act, the FERC will establish interim procedures to insure that immediate protection is provided for essential agricultural users of gas as certified by the Secretary of Agriculture and will in due course review revised curtailment plans to see that they reflect the requirements of this rule. Later, after DOE completes its review of the entire priority system, the FERC will institute procedures to conform all curtailment plans to any changes adopted by the Secretary or his designee.

III. COMMENT AND HEARING PROCEDURES

A. COMMENTS

You are invited to participate in this proceeding by submitting written data, views, or arguments with respect to the proposals set forth in this notice of proposed rulemaking to: Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-78-22, 2000 M Street NW., Washington, D.C. 20461. You may hand-deliver your comments to this room between 8 a.m. and 4:30 p.m., Monday through Friday; or you may mail your comments to the above address. You should submit 15 copies and should include on the first page of each comment, and any envelope, the docket number and the designation "Priority for Essential Agricultural Uses of Natural Gas." We will consider all comments received by 4:30 p.m., on January 19, 1979, and all other relevant information before taking further action on this matter.

Any information you consider to be confidential must be so identified and submitted in one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

B. PUBLIC HEARINGS

1. *Procedures for request to make oral presentation.* The public hearing will begin at 9:30 a.m. on January 10, 1979, in Room 2105, 2000 M Street NW., Washington, D.C. 20461, and will be continued if necessary in the same location on the next day, beginning at 9:30 a.m. If you have any interest in this notice, or represent a person, group, or class of persons that has an interest, you may make a written request for an opportunity to make an oral presentation at the public hearing. Requests to speak should be directed to: Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-78-22, 2000 M Street NW., Washington, D.C. 20461, and must be received by 4:30 p.m. on December 27, 1978. You may hand-deliver your request to this room between 8 a.m. and 4:30 p.m., Monday through Friday; or you may mail your requests to the above address. The request, and the envelope, should include the docket number and the designation "Priority for Essential Agricultural Uses of Natural Gas."

In your request, you should briefly describe your interest; if appropriate, state why you are a proper representative of a group or class of persons having such interest; and give a concise summary of the proposed oral presentation and a phone number where we may contact you through January 9, 1979. If we select you to be heard, we will tell you before 4:30 p.m., local time, January 3, 1979. You must submit 100 copies of your hearing testimony to: Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-78-22, 2000 M Street NW., Washington, D.C. 20461, for receipt by 4:30 p.m., on January 9, 1979. You may hand-deliver your testimony to this room between 8 a.m. and 4:30 p.m., Monday through Friday; or you may mail it to the above address.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard.

We will designate an ERA official to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only to those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. Rebuttal statements will also be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-78-22, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., January 8, 1979. The first page, and any envelope, should include the docket number and the designation "Priority for Essential Agricultural Uses of Natural Gas." If you wish to ask a question at the hearing, you may submit it in writing to the presiding officer. We will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

We will have a transcript made of the hearing, and we will retain the entire record of the hearing, including the transcript, and make it available for inspection at the Freedom of Information Office, Room GA152, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

We have determined that this proposal will not have a major impact as that term is defined in section VI of the proposed DOE directive issued April 25, 1978 (43 FR 18634, May 1, 1978) to implement Executive Order No. 12044, on improving government regulations, and therefore, no regulatory analysis pursuant to Executive Order No. 12044 is required.

Pursuant to the requirements of section 404 of the Department of Energy Organization Act (Pub. L. 95-91), upon issuance of this proposed rule, a copy of this notice will be referred to the Federal Energy Regulatory Commission for a determination, in its discretion, whether this proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to section 402 (a)(1), (b), and (c)(1) of the Act. The Commission will have until January 19, 1979, the date the public comment period closes, to make this determination.

(Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009 (42 FR 46267); Natural Gas Policy Act of 1978.)

In consideration of the foregoing, Title 10 of the Code of Federal Regulations, is proposed to be amended by addition of part 580, set forth below, effective upon publication of the rule in the FEDERAL REGISTER.

Issued in Washington, D.C., November 16, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

Title 10 of the Code of Federal Regulations is amended by adding subchapter G consisting of part 580 to read as follows:

SUBCHAPTER G—NATURAL GAS (ECONOMIC REGULATORY ADMINISTRATION)

PART 580—PRIORITIES

Sec.
580.1 Definitions. [Reserved]
580.2 Priority for essential agricultural uses of natural gas.

AUTHORITY: Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009 (42 FR 46267); Natural Gas Policy Act of 1978.

§ 580.1 Definitions. [Reserved]

§ 580.2 Priority for essential agricultural uses of natural gas.

(a) *Authority and effective date.* This section implements section 401 of the Natural Gas Policy Act of 1978, Pub. L. 95-———, and is issued pursuant to that Act and the Department of Energy Organization Act, Pub. L. 91-95 and in particular sections 301(b) and 402(a)(1)(E). This rule will be effective upon publication in the FEDERAL REGISTER.

(b) *General rule.* (1) Notwithstanding any other rule, regulation, or order of the Department of Energy, the Federal Energy Regulatory Commission or their predecessor agencies and to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of natural gas for any essential agricultural use, unless—

(i) Such curtailment does not reduce the quantity of natural gas delivered for such use below the use requirement certified by the Secretary of Agriculture as necessary for full food and fiber production, pursuant to section 401(c), of the Natural Gas Policy Act of 1978; or

(ii) Such curtailment is necessary to meet the requirements of high-priority users; or

(iii) The Federal Energy Regulatory Commission, in consultation with the Secretary of Agriculture, determines, by rule or order, that use of solar energy or another fuel (other than natural gas) is economically practicable and that the fuel is reasonably available for the essential agricultural use:

(2) Notwithstanding section b(1), any essential agricultural use which also qualifies as a high-priority user shall remain a high-priority user.

(c) *Definitions.* For the purposes of this general rule, the following definitions apply:

(1) "Essential agricultural use" means any use of natural gas—

(i) For agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or,

(ii) As a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food;

which the Secretary of Agriculture certifies to the Secretary of Energy and the Federal Energy Regulatory Commission as necessary for full food and fiber production.

(2) "High-priority user" means any person who—

(i) Uses natural gas in a residence including any apartment house or other multi-unit dwelling used primarily for residential purposes if that apartment house or other multi-unit dwelling does not have either existing alternate fuel (excluding solar energy) capability in place or access to adequate supplies of alternative fuels;

(ii) Uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day;

(iii) Uses natural gas in any school, hospital, or similar institution which does not have either existing alternate fuel (excluding solar energy) capability in place or access to adequate supplies of alternate fuels;

(iv) Uses natural gas for any other use, the curtailment of which would endanger life, health, or maintenance of physical property, including minimum commercial and plant protection (when operations are shut down), sanitation, correctional facilities, and police and fire protection.

(3) "Interstate pipeline" means any natural gas company, as defined in section 2(6) of the Natural Gas Act, which is engaged in the transportation by pipeline of natural gas.

(4) "Natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.

[FR Doc. 78-32810 Filed 11-21-78; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

NOVEMBER 15, 1978.

[12 CFR Parts 552 & 563b]

[No. 78-617]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Amendments Relating to Stock Option and Stock Purchase Plans

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed regulations.

and regulations of the Federal savings and Loan Insurance Corporation (12

plan and expire within 5 years after they are granted; and

[1505-01-M]

who then serves his comments on others on the list.

Experience has shown that the mandatory 30 day period is too inflexible

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ACTION: Proposed regulations.

SUMMARY: The proposed regulations would govern stock option, stock purchase, and similar plans offered by Federal stock-chartered savings and loan associations and other converted institutions. The Bank Board believes such regulations are necessary as part of its development of a body of rules pertaining to conversions.

DATE: Comments must be received by January 24, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT:

Douglas P Faucette, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, telephone 202-377-6410.

SUPPLEMENTARY INFORMATION: By Resolution No. 75-414, dated May 9, 1975, the Bank Board added a new part 552 to the rules and regulations for the Federal Savings and Loan System (12 CFR Part 552), which provided the beginnings of a regulatory framework for operation of federal stock charter associations. Additional regulations, governing such matters as adoption of stock option plans, were deferred until the number of such associations demonstrated a need for them. The Bank Board believes that the number of Federal stock associations now justifies promulgation of such regulations, and therefore proposes to add to Part 552 a new § 552.16, entitled "Stock option and purchase plans."

The proposed regulations require prior written approval of the Bank Board for every stock option or purchase plan except stock option plans conforming to requirements prescribed in proposed paragraph (b), which relate primarily to the nature of the options, duration of the plan, and restrictions on eligible participants. Several of these provisions were incorporated from former section 422 of the Internal Revenue Code governing qualified stock options. The Bank Board believes the requirements in proposed paragraph (b) would form equitable bases for such plans, and does not intend to liberally grant approvals under proposed paragraph (a) for differing plans without a compelling need. The proposed regulations also prescribe certain percentage limitations and voting procedures for stock ownership plans.

The Bank Board believes that improper stock plans could have significant adverse impact on newly converted associations. It therefore also proposes to amend § 563b.3 of the rules and regulations of the Federal savings and Loan Insurance Corporation (12 CFR 563b.3) by adding a provision which would apply proposed § 552.16 to all converted insured associations for 3 years after conversion.

Accordingly, the Bank Board hereby proposes to amend parts 552 and 563b as stated below.

1. Amend part 552 by adding thereto a new § 552.16, to read as follows:

PART 552—STOCK ASSOCIATIONS

§ 552.16 Stock option and purchase plans.

(a) *General.* A Charter S association shall not adopt anystock option, ownership, purchase, or similar plan without prior written approval of the Board, except that such approval need not be obtained for any stock option plan which meets the requirements of paragraph (b) of this section. A Charter S association shall not make any contributions, purchase any shares, or issue any options under any existing plan unless such plan meets the requirements of paragraph (b) of this section or was other wise approved in writing by the Board. Plans at substantial variance with said requirements will not be approved for a period of 3 years following applicant's conversion; no plan will be approved at any time which would tend to frustrate the purposes of part 563b of this chapter. Approval of any plan under this section shall constitute approval of the form of any securities issued thereunder.

(b) *Requirements as to stock option plans.* A plan shall be deemed approved under this paragraph if it provides that:

(1) It may be amended, suspended, or terminated at the discretion of the board of directors;

(2) It is administered by a committee of at least three members all of whom are directors of the association, are not salaried emloyees, and are not eligible to participate in the plan;

(3) The total number of shares covered by options eligible to be granted under the proposed plan, together with the shares covered by all other options granted (whether or not yet exercised) or eligible to be granted in the previous 3 years (if still eligible), do not exceed 10 percent of the association's outstanding shares;

(4) The options are nontransferable (other than by inheritance);

(5) No employee is eligible to receive any options which, if exercised, would result in his holding beneficially or of record in excess of 5 percent of the outstanding voting stock of the association;

(6) The option price is not less than the fair market value of the underlying stock at the time of the grant;

(7) The options are granted within 10 years of the date of adoption of the plan and expire within 5 years after they are granted; and

(8) There is reasonable allocation of shares to each participant in relation to the association's personnel and managerial resources.

(c) *Nonconforming plans.* The Board will not approve a plan if it finds that it does not substantially incorporate requirements which provide that:

(1) The total number of shares that may be purchased when aggregated with the number of shares purchased under any other stock purchase plan will not exceed 10 percent of the association's outstanding stock.

(2) No employee participating in the plan holds beneficially or of record over 5 percent of the outstanding voting stock or value of all classes of stock of the association or its subsidiary or parent.

(3) The voting rights for all association stock purchased with an employee's contribution pass through to the beneficiary immediately and the voting rights for all association stock purchased with the association's contribution pass through at the time that the rights to the stock vest in the beneficiary or 3 years from the date of purchase, whichever occurs first.

(d) *Application form.* An application for approval of adoption of a nonconforming plan shall be in a form prescribed by the Board's Office of the General Counsel.

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

2. Amend § 563b.3 of part 563b by adding a new paragraph (j), to read as follows:

§ 563b.3 General principles for conversions.

* * * * *

(j) No converted association shall adopt, for a period of 3 years after conversion, a stock option or purchase plan which does not meet the requirements of § 552.16 of this chapter.

Sec. 105, Pub. L. 93-495, October 28, 1974; secs. 402, 403, 407 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR. 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR. Doc.78-32736 Filed 11-21-78; 8.45 am]

[1505-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 302]

DEVELOPMENT AND REVIEW OF FDIC RULES AND REGULATIONS

Correction

In FR Doc. 78-32118 appearing at page 53042 in the issue of Wednesday, November 15, 1978, make the following changes;

1. On page 53043, third column, in paragraph (a) of § 302.1, first line, "propose" should be corrected to read "purpose".

2. On page 53044, first column, in paragraph (b) of § 302.2, in the second line, "and-or" should be corrected to read "and/or".

3. On page 53044, first column, in paragraph (f) of § 302.2, the fourth line, "regulations" should be corrected to read "regulation".

4. On page 53044, second column, in paragraph (h)(1) of § 302.2, first line, "regulations" should be corrected to read "regulation".

5. On page 53044, second column, in paragraph (h)(2) of § 302.2, "for" should be corrected to read "of".

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 213]

[EDR-368; Docket 34052,]

TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS

NOVEMBER 16, 1978

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board proposes to amend its regulations to remove the mandatory 30-day waiting period for effectiveness of orders requiring foreign air carriers to discontinue operation of existing schedules. This proposal would allow the United States more flexibility to respond to the actions of foreign governments that restrict the operating rights of U.S. carriers.

DATES: Comments by: December 22, 1978. Reply comments by: January 8, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the service list by: December 4, 1978.

Docket section prepares the service list and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to docket 34052, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in room 711, Civil Aeronautics Board, as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Joseph Di Bella, Civil Aeronautics Board, Bureau of International Aviation, Legal Division, 1825 Connecticut Ave. NW., Washington, D.C. 20428, 202-673-5035.

SUPPLEMENTARY INFORMATION: Section 213.3 of the Board's Economic Regulations (14 CFR § 213.3) authorizes the Board to issue orders requiring foreign scheduled air carriers to file existing and proposed schedules [1] and, subsequently, to issue orders disapproving such schedules in whole or part. Orders requiring a foreign air carrier to file schedules ("Phase I" orders) [2] are usually a response to an action by the foreign air carrier's home government that restricts U.S. carriers, or denies them equal competitive opportunities, in contravention of a bilateral air transport agreement between the two countries, or of reciprocal operating rights where there is no agreement. In the event that the conditions that prompted the Phase I order continue, the Board may issue a second ("Phase II") order disapproving the carrier's schedules as contrary to applicable law or as adversely affecting the public interest, subject to stay or disapproval by the President within 10 days of the adoption. The foreign air carrier has 30 days from the date the Phase II order is issued to discontinue existing schedules that have been disapproved.[3]

[1] "Such schedules shall contain all schedules of aircraft which are or will be operated by such carrier between each pair of points set forth in the order, the type of equipment used or to be used, the time of arrival and departure at each point, the frequency of each schedule, and the effective date of any proposed schedule." Part 213.3(b).

[2] The carrier must file existing schedules in 7 days, and must file proposed schedules at least 30 days before they will take effect.

[3] Phase II orders prohibiting a foreign carrier fron inaugurating proposed schedules are operative immediately. However, as a Phase I order to file proposed schedules requires 30 days notice of any such schedules, the carrier requires advance Board approval to file its schedules less than 30 days prior to their effective date. In order to provide greater flexibility in this area, we have delegated authority to the Director, Bureau of International Aviation, to approve the filing of proposed schedules on short notice as circumstances warrant. (OR-132; 43 FR 40803, Sept. 13, 1978.)

Experience has shown that the mandatory 30 day period is too inflexible to permit the United States to respond effectively to the actions of foreign governments that deny U.S. air carriers their operating rights. Frequently, this country has been unable to act promptly enough to deter actions of foreign governments that caused irreparable economic harm to U.S. air carriers, because of this unnecessarily inflexible provision. In other cases, where the impact on the U.S. carriers was not so critical, a longer time period for implementation of Phase II orders would have been desirable to allow sufficient time for negotiation and resolution of a bilateral dispute. We propose to amend section 213.3 to enable us, in the Phase II order, to vary the date for discontinuance of existing schedules, depending upon the circumstances of each case.

Accordingly, the Board proposes to amend 14 CFR Part 213, Terms, Conditions, and Limitations of Foreign Air Carrier Permits, as follows:

Paragraph (d) of § 213.3 would be amended to read:

§ 213.3 Filing and approval of schedules.

* * * * *

(d) The carrier may continue to operate existing schedules, and may inaugurate operations under proposed schedules 30 days after the filing of such schedules with the Board, unless the Board with or without hearing issues an order, subject to stay or disapproval by the President of the United States within 10 days after adoption, notifying the carrier that such operations or any part of them, may be contrary to applicable law or may adversely affect the public interest. If the notification pertains to a proposed schedule, service under such schedule shall not be inaugurated; if the notification pertains to existing schedules, service under such schedules shall be discontinued on the date specified in the Board's order.

* * * * *

(Secs. 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32813 Filed 11-21-78; 8:45 am]

[1505-01-M]

ment used to receive educational as-

provisions of American Telephone & Telegraph Co.'s (A.T. & T.) tariff FCC

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[1505-01-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Regulations No. 4]

FEDERAL OLD-AGE, DISABILITY, DEPENDENTS' AND SURVIVORS' INSURANCE BENEFITS

Proposed Rulemaking

Correction

In FR Doc. 78-31909, appearing at page 52936 in the issue of Tuesday, November 14, 1978, the comment date in the first column on page 52936 should read "January 15, 1979" instead of "December 14, 1978."

[8320-01-M]

VETERANS ADMINISTRATION

[38 CFR Part 21]

VETERANS' EDUCATION

Buying Back of Entitlement

AGENCY: Veterans' Administration.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation sets forth a procedure for allowing eligible veterans to buy back the entitlement used to receive educational assistance during breaks between terms, quarters or semesters, and to use the entitlement gained to receive educational assistance for another term, quarter, or semester. This proposal puts in regulatory form established Veterans Administration policy.

DATES: Comments must be received on or before December 22, 1978. It is proposed to make this amendment affective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: Section 21.1041, title 38, Code of Federal Regulations is amended to provide a way for veterans to buy back entitlement used to receive educational assistance under Chapter 34, Title 38, United States Code, during intervals between terms, quarters or semesters. This will enable such veterans to receive educational assistance for an additional term, quarter or semester.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 2, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 15, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 21.1041, paragraph (d)(4) is added to read as follows:

§ 21.1041 Periods of entitlement.

* * * * * * *

(d) *Extension.* * * *

(4) A veteran may elect to reimburse the Veterans Administration for educational assistance paid to him or her for one or more intervals between terms, quarters or semesters and have entitlement restored for as many intervals as necessary to allow payment of educational assistance for one additional term, quarter or semester through an extension. Before the veteran can reimburse the Veterans Administration and receive additional educational assistance, all of the following conditions must be met:

(i) Payment for the interval or intervals must have been made without specific request from the student;

(ii) The payment checks for the interval or intervals must have been negotiated;

(iii) The election is to the advantage of the veteran;

(iv) The veteran has not previously made such an election; reimbursed the Veterans Administration; and received an extension. Entitlement for intervals must be repurchased sequentially beginning with the most recent interval for which payment was made without the student's request. (38 U.S.C. 1661).

[FR Doc. 78-32756 Filed 11-21-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 68]

[CC Docket No. 78-331]

PROTECTION OF THE NATIONAL DEFENSE AND SECURITY

Telephone Network; Registration Requirements of Equipment and Systems; Extension of Time

AGENCY: Federal Communications Commission.

ACTION: Extension of time to file comments and reply comments.

SUMMARY: An extension of time is granted to file comments and reply comments to a proposed rulemaking concerning the registration requirements of equipment and systems connected to the telephone network. The proposal before the FCC concerns exceptions to protect the national defense and security as well as other appropriate exceptions.

DATES: Comments must be received on or before December 8, 1978 and reply comments must be received on or before January 12, 1979.

ADDRESSES: Send comments and reply comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Eliot J. Greenwald, Common Carrier Bureau, telephone 202-632-5550.

SUPPLEMENTARY INFORMATION: In the matter of amendment of part 68 of the rules to provide for certain exceptions required to protect the national defense and security as well as other appropriate exceptions; Order extending time to file comments and reply comments. See also 43 FR 49020, October 20, 1978.

Adopted: November 16, 1978.

Released: November 17, 1978.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, is a motion filed by the Utilities Telecommunications Council (UTC) and the Central Committee on Telecommunications Facilities of the American Petroleum Institute (API) on November 9, 1978. UTC and API request an extension of time from November 17, 1978 until December 8, 1978 to file comments addressing whether interconnection under the so-called "right-of-way" provisions or "hazardous or inaccessible location" provisions of American Telephone & Telegraph Co.'s (A.T. & T.) tariff FCC 263 should be given special treatment under part 68 of the Commission's rules.

2. Normally, the Commission is reluctant to grant extensions of time. Such extensions can often interfere with the orderly conduct of Commission business. However, in this particular instance, it appears that UTC and API have been diligent in obtaining responses from their memberships and that they need additional time to prepare cogent comments for the Commission. We find that it is in the public interest to develop a complete record of the issues pertaining to the above-referenced docket. Thus, an extension of time would be appropriate and would not unduly delay this proceeding.

3. In view of the foregoing, *it is ordered*, pursuant to delegated authority under § 0.303 of the Commission's rules, 47 CFR 0.303, That the time to file comments is extended from November 17, 1978 until December 8, 1978, and the time to file reply comments is extended from December 19, 1978 until January 12, 1979.

JACK D. SMITH,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-32814 Filed 11-21-78; 8:45 am]

the northern Linn County line east; (Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 Ontario.[3] Soon after, the ATC modi-

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

PLANT VARIETY PROTECTION BOARD

Meeting

Pursuant to the provisions of § 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of a meeting of the Plant Variety Protection Board established under the Plant Variety Protection Act (7 U.S.C. 2327):

Name: Plant Variety Protection Board.

Time and date: 9:30 a.m., December 12 and 13, 1978.

Place: Room 3109, South Agriculture Building, 1400 Independence Avenue SW., Washington, D.C. 20250.

Status: The first part of the meeting will be open to the public; the second part will be closed.

Matters to be considered: Open portion: The agenda for this part of the meeting will consist of: (1) A progress report from the Plant Variety Protection Office, (2) comments, questions, and suggestions from members of the Board, and (3) public comments and questions, as determined by the Chairman.

Closed portion: This part of the meeting will involve consideration by the Board of the Commissioner's decision to reject an application for plant variety protection and to advise the Secretary whether to uphold the Commissioner's decision or reject it, in whole or in part. Review of this application in closed session is required to maintain the confidentiality of the application and its contents as required in section 56 of the act (7 U.S.C. 2426), and is permitted pursuant to the authority in section 10(d) of the Federal Advisory Committee Act and section 552b(c)(3) of the Administrative Procedure Act (5 U.S.C. 552b).

CONTACT PERSON FOR MORE INFORMATION:

Bernard M. Leese, Executive Secretary, 301-344-2518.

Dated: November 17, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-32741 Filed 11-21-78; 8:45 am]

[3410-02-M]

Federal Grain Inspection Service

OFFICIAL AGENCY DESIGNATION

Cancellation of Cedar Rapids Chamber of Commerce Grain Service, Inc.—Official Designation of Cedar Rapids Grain Service, Inc.—Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the cancellation of designation of the Cedar Rapids Chamber of Commerce Grain Service, Inc., Cedar Rapids, Iowa, and the designation of the Cedar Rapids Grain Service, Inc., owned by Mr. Florian E. Polaski, as an official agency at Cedar Rapids, Iowa, to perform grain inspection services under the U.S. Grain Standards Act, as amended, effective September 15, 1978. This notice also proposes a geographic area within which the agency will operate.

DATE: Comments by December 22, 1978.

FOR ADDITIONAL INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, 202-447-8525.

SUPPLEMENTARY INFORMATION: The U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

On July 28, 1978, a notice was published in the FEDERAL REGISTER (43 FR 32842) announcing that: (1) The Cedar Rapids Chamber of Commerce Grain Service, Inc. (Chamber of Commerce), requested that its designation as an official inspection agency be transferred to Mr. Florian E. Polaski, the chief inspector of the Chamber of Commerce; and (2) Mr. Florian E. Polaski applied for designation in accordance with section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)), to operate as an official agency at Cedar Rapids, Iowa, to be known as the Cedar Rapids Grain Service, Inc.

Interested persons were given until August 28, 1978, to submit written views and comments with respect to the requested transfer of designation and/or to apply for designation to operate as an official agency at Cedar Rapids, Iowa. No comments were received regarding the July 28, 1978, notice. No additional applications were received, other than the application from Mr. Polaski.

FGIS has conducted the required investigation of the Cedar Rapids Grain Service, Inc., which included an onsite review of the inspection point at Cedar Rapids.

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79 (f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result of this investigation and after due consideration of the request for transfer, the Cedar Rapids Grain Service, Inc., owned by Mr. Florian E. Polaski, was deemed eligible for designation, and was designated under the Act to perform official inspection functions (other than appeal inspection), not including official weighing, and the designation of the Cedar Rapids Chamber of Commerce was canceled, effective September 15, 1978.

A document designating the Cedar Rapids Grain Service, Inc., as an official agency was signed on September 15, 1978. Said designation also includes an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned to the Cedar Rapids Grain Service, Inc., on an interim basis pending final determination in this matter is:

Bounded on the north by: The north Blackhawk County line from V49 east; the Buchanan County line east; the eastern Buchanan County line south;

the northern Linn County line east; the Jones County line east;

Bounded on the east by: The eastern Jones County line south; the Cedar County line south to State Route 130;

Bounded on the south by: State Route 130 west to State Route 38; State Route 38 south to Interstate 80; Interstate 80 west to U.S. Route 63; and

Bounded on the west by: U.S. Route 63 north to State Route 8; State Route 8 east to State Route 21; State Route 21 north to D38; D38 east to State Route 297; State Route 297 north to V49; V49 north to Bremer County.

Interested persons may obtain a map of the proposed geographic area from the Compliance Division, Delegation and Designation Branch.

The three specified service points of the Cedar Rapids Grain Service, Inc., are all located within Cedar Rapids, Iowa, and within the agency's proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspector is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's assigned geographic area.

Publication of this notice does not preclude future amendment of this designation, consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to the Cedar Rapids Grain Service, Inc. All views or comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250. All materials submitted should be mailed to the Director not later than December 22, 1978. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C., on November 16, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-32734 Filed 11-21-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-11-87, Docket No. 34051]

CHARTER AUTHORITY OF CANADIAN FOREIGN AIR CARRIERS

Statement of Tentative Findings and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November, 1978.

For more than 7 years the Canadian Air Transport Committee (ATC) has imposed various restrictions on U.S. carriers' charter operations into Northwest Ontario. In December 1970, the ATC amended the licenses of approximately 200 U.S. air taxis to permit only two stops on each flight into Northwest Ontario, one at a Canadian Customs Port of Entry (a technical stop) and the other at the licensed base of a Canadian charter air carrier.[1] The ATC alleged the restrictions were necessary to protect the area from "irreparable ecological damage and much diminished wildlife reserves." Notwithstanding these concerns, the ATC did not impose similar restrictions on the transborder operations of the Canadian charter carriers.[2] As a result, the Canadian carriers gained a significant competitive advantage over the U.S. air taxis in that they alone were authorized by both governments to operate services from U.S points to the wilderness areas of Northwest Ontario.

In April 1971, after the ATC refused to suspend the restrictions pending consultations, the Board issued a show cause order (71-4170) proposing to impose similar restrictions on five Canadian carriers based in Northwest Ontario.[3] Soon after, the ATC modified the restrictions to allow the U.S. air taxis to deplane passengers "• • • at either a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario • • •." At the same time, the ATC added a condition requiring "• • • on each flight out of [Northwest Ontario] • • •, a stop at a Canadian Customs Port of Entry or at the licensed base of a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable." Since the modified restrictions appeared more acceptable to the affected U.S. air taxis, the Board's show cause order was not finalized.

On May 8, 1974 the Governments of the United States and Canada signed a Noncheduled Air Services Agreement (Agreement). Notwithstanding that Article XIV of the Agreement expressly prohibits either government from discriminating against the carriers of the other government, the ATC stated that it would continue to include the restrictions in all charter permits issued to U.S. carriers. By diplomatic note dated October 17, 1974, the U.S. Government protested to the Canadian Government that by continuing to restrict U.S. carriers' charter operations the Canadian authorities were violating Article XIV of the Agreement. The Canadian Government replied by diplomatic note dated December 4, 1974, stating that the restrictions were not contrary to Article XIV because "• • • it will apply to all U.S. carriers • • •." Since 1974 all charter licenses issued to U.S. carriers under the Agreement have contained the revised restrictions.

In the intervening years, the U.S. carriers most directly affected by these restrictions have experienced significant decreases in their transborder traffic.[4] The additional inspection stop they are required to make on leaving Northwest Ontario causes a substantial burden in terms of flight time and fuel costs, and is an inconvenience to the passengers. In the meantime, the Canadian carriers have continued to operate transorder flights to all points in Ontario without restriction. Moreover, the Canadian carriers are not required to stop for fish and game inspection on their return flights from Northwest Ontario, as the

[1] The restriction applied to the area west of a line drawn due north from Blind River, Ontario (46°11' North Latitude, 82°58' West Longitude) and extending to the border between Ontario and Manitoba.

[2] Prior to the restrictions and pursuant to a 1952 informal agreement between the Board and its Canadian counterpart, air taxi/small aircraft operators of both countries were granted authority to perform nonscheduled transborder operations on the basis of reciprocity. Under this arrangement, U.S. air taxis and Canadian small aircraft operators freely competed to carry sportspersons from U.S. points to the remote areas in Northwest Ontario.

[3] Canadian Voyageur Airlines, Ltd., Ignace Airways, Ltd., Lac La Croix Quetico Air Services, Ltd., Ontario Central Airlines, Ltd., and Parsons Airways, Ltd. were selected because they were the primary Canadian carriers operating charter transborder flights to the affected area.

[4] The U.S. carriers most directly affected by the Canadian restrictions are approximately eight air taxis based in northern Minnesota.

U.S. carriers are required to do, even those imposed on the U.S. carriers, so said Canadian carriers to file with the

ed persons of our intention to apply those sections of the new law which

The Court identified three areas on which the inquiry into the possible in-

any other material necessary to evalu-ate the effect the change of law might

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U.S. carriers are required to do, even though are both carrying U.S. sportspersons. The Ontario Ministry of Natural Resources has stated that the reason Canadian carriers are not required to stop for inspection is because they are inspected thoroughly by U.S. Customs upon entering the United States. In fact, U.S. Customs inspects thoroughly all aircraft entering the United States, including U.S.-registered aircraft, and confiscates all fish and game in excess of that allowed by Canadian law. There appears, therefor, to be of no valid reason for the ATC to treat the U.S. carriers differently from the Canadian carriers.

By diplomatic note dated January 18, 1978, the U.S. Government again informed the Canadian Government that the restrictions on U.S. carriers' operations into Northwest Ontario were clearly discriminatory and in violation of Article XIV of the Agreement. It stated that if the Canadian Government did not remove the restrictions, "it may be necessary for the United States authorities to consider actions consistent with paragraph D of section V of Annex A of the Agreement to restore equality of treatment with regard to transborder flights by the airlines of both our countries."[5] More than 8 months have elapsed without a satisfactory response from the Canadian Government.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes that:

1. The ATC's unilteral restrictions on U.S. carriers' charter operations to and from Northwest Ontario are discriminatory and in violation of Article XIV of the Agreement.[6]

2. The Canadian carriers' charter permits issued under the Agreement should be amended to impose restrictions on their authority similar to those imposed on the U.S. carriers, so as to restore equality of treatment for the U.S. carriers as provided for by paragraph D of section V of Annex A to the Agreement.[7]

3. It is in the public interest to amend the foreign air carrier permits held by the said Canadian carriers.

Accordingly, 1. We direct the Canadian carriers listed in the appendix and any other interested persons to show cause why the Board should not make final its tentative findings and conclusions and why it should not amend, subject to the disapproval of the President, the Canadian carriers' foreign air carrier permits issued under the Agreement and authorizing transborder charter operations, so as to incorporate the following conditions:

The holder shall not engage in the carriage of persons in foreign air transportation between the United States and Canada to or from a point in Ontario, west of a line drawn due North from Blind River, Ontario (46°11' North Latitude, 82°58' West Longitude) and extending to the border between Ontario and Manitoba, which is not a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario, nor the licensed base of Canadian charter air carrier nor a Canadian Customs port of entry; and is required on each flight out of the restricted area to make a stop at a Canadian Customs port of entry or at the licensed base of a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable, and shall have available on its aircraft for inspection by the U.S. authorities satisfactory evidence that it has complied with these conditions; *Provided, however,* That the above prohibition shall not apply to flights performed for purposes of medical evacuation, or other similar emergency situations; and *Provided, further* That, when the circumstances warrant, the Board may, upon application by the holder, waive all or any part of these restrictions; and *Provided, further* That the holder shall clearly notify in writing all persons who contract for the holder's services of the limitations imposed on its operations.

2. We direct any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and the amendment of the permits held by the said Canadian carriers to file with the Board and serve upon the persons named in paragraph 5, no later than December 8, 1978, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon in support of the statement of objections. If an oral hearing is requested, we ask the objector to state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. In the event no objections are filed, further consideration will be deemed to have been waived and we may proceed to enter an order in accordance with our tenative findings and conclusions set forth here;

4. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objector before we take further action; *Provided,* That we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in the order if we determine that there are no factual issues present that warrant the holding of an oral hearing;[8]

5. We shall serve a copy of this order upon the Canadian carriers listed in the appendix; the Ambassador of Canada in Washington, D.C.; the United States Departments of State, Transportation, and Treasury; and the Minnesota Department of Transportation.

We shall publish this order in the FEDERAL REGISTER and shall transmit it to the President.[9]

By the Civil Aeronautics Board:[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32785 Filed 11-21-78; 8:45 am]

[5] Paragraph D states: Each Contracting Party recognizes that for ecological reasons it may be necessary to place restrictions or bans within its territory on certain on certain nonscheduled air services, such as float plane flights to and from wilderness lakes. If such restrictions or bans are applied to the international traffic of carriers of the Contracting Party to and from the ultimate destinations of the traffic in the affected area, that other Contracting Party may impose such conditions on the carriers of the other Contracting Party placing the restrictions or bans as may be necessary to ensure equality of treatment with respect to such traffic.

[6] The Canadian authorities have contended their actions were made necessary in order to preserve the ecology of the area. We do not question the right of the Canadian Government to restrict access to wilderness areas, if it considers this to be in its national interest. We believe, however, that whenever it becomes necessary to protect the ecology of an area, this can be accomplished in a manner which does not discriminate against the air carriers of either country or their traffic.

[7] At such time as the Canadian authorities take action to restore equality of treatment for the U.S. carriers, we will promptly remove the restrictions on the Canadian carriers. The Canadian carriers currently holding charter permits issued under the Agreement are listed in the attached appendix.

[8] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[9] Appendix filed as part of the original document.

[10] All Members concurred.

[6320-01-M]

AIRLINE DEREGULATION ACT OF 1978

Applicability to Cases Pending at Time of Enactment

The Airline Deregulation Act of 1978, Pub. L. 95-504, became law on October 24, 1978. It amended the Federal Aviation Act of 1958 and made substantial changes in policy and procedure which could affect the outcome of pending cases, especially those involving applications for new route authority. The Board is issuing this policy statement to inform all interested persons of our intention to apply those sections of the new law which were effective immediately to all cases still pending at the time of its enactment.

The Deregulation Act substantially amends section 102 of the Federal Aviation Act, the Declaration of Policy; it changes the statutory definition of the "public convenience and necessity" to include such factors as "maximum reliance on competitive market forces and on actual and potential competition", the "encouragement of air service at major urban areas through secondary or satellite airports" and the "encouragement of entry • • • by new air carriers. • • •" Also of great significance to pending route cases is the amendment to section 401(d) of the Act, which creates the presumption that any application for certificate authority is consistent with the public convenience and necessity and places upon the opponent of any such application "the burden of showing that such air transportation in not consistent with the public convenience and necessity."

The original Senate bill provided that virtually all the substantive amendments to the Act were not to become effective until January 1, 1979. The final conference version, however, made the new Act effective on the date of enactment, except for a few sections which are explicitly indicated.[1] Given the strong language in the Declaration of Policy and the change in the originally contemplated effective date, we feel that Congress intended us to begin applying the new statutory goals immediately.

Application of new legislation to pending adjudications is fully in accord with established legal principles. The Supreme Court many years ago established the general rule of law that an appellate court "must decide according to existing laws. • • •"[2] That rule was recently reaffirmed and clarified by the Court in *Bradley* v. *School Board of the City of Richmond.*[3] It held that, when Congress passes a law affecting pending litigation and is silent or ambiguous on the issue of retrospective application, the new law shall be applied to all such litigation, unless to do so would result in manifest injustice.

[1] For example, the new Act requires the Board to choose the method of processing certificate applications within 90 days after the application is filed (60 days in the case of an applicant for restriction removal), and establishes deadlines for decision for these categories of application. These deadlines, however, apply only to applications filed on or after the 180th day after the date of enactment. See § 7(b) of the Airline Deregulation Act.

[2] *United States* v. *Schooner Peggy,* 5 U.S. (1 Cranch) 102 (1801).

[3] 416 U.S. 696 (1974).

The Court identified three areas on which the inquiry into the possible injustice of retrospective application should focus. They are: "• • • (a) the nature and identity of the parties, (b) the nature of their rights and (c) the nature of the impact of the change in law upon those rights." [4] The first test is concerned with "mere private cases between individuals," which the court found were the most dangerous in which to apply a change in law. Such is not the case here—we are dealing here with vital issues of public transportation policy. The second factor reflects the Court's concern that application of the change in law will not serve to defeat any vested or unconditional individual rights. Applicants in pending CAB cases do not have any such vested rights in a given outcome; rather they are entitled to a fair hearing under the current governing statute. The last prong of the test seeks to insure that no "new and unanticipated obligations may be imposed upon a party without notice or an opportunity to be heard." [5]

Although our proposed course of action will result in somewhat different evidentiary burdens upon the parties, we find that this is not the sort of "unanticipated obligation" which the Court held would rise to the level of "manifest injustice". All parties will be given time and opportunity to meet the new statutory requirements; no one will be closed out for failure to anticipate the new law.

The *Bradley* rule has been applied not only to litigation pending in court on the effective date of the new statute, but also to pending judicial review of administrative decisions.[6] The courts there ordered the agencies to apply the new statute on remand. Thus, we find a clear judicial mandate for application of the amended statute.

We intend to develop procedures on a case-by-case basis which will fully safeguard the due process rights of all parties and afford them ample opportunity to be heard. The administrative law judges should apply the applicable sections of the Deregulation Act to all cases pending before them and may call for such procedures as may be necessary to safeguard the rights of the parties. We do, however, discourage the judges from completely rehearing those cases which are already in an advanced procedual stage, especially as expedition is one of the goals of the new Act. The Board will take review of all proceedings in which an initial decision has already been issued. We intend to accept briefs and any other material necessary to evaluate the effect the change of law might have on that individual case. (In cases which have already been fully briefed to the Board, we may invite the submission of written evidence immediately, or issue a tentative decision and allow the parties to comment on the applicability of the Act before final decison).

All parties are therefore on notice that those sections of the Airline Deregulation Act of 1978 which, by their terms, became effective on the President's signature, will immediately be applied to all cases pending before the Board. Parties will have full opportunity to comment on the effect this change might have on their individual interests.

This notice will be published in the FEDERAL REGISTER.

Dated: November 16, 1978.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32682 Filed 11-21-78; 8:45 am]

[4] 416 U.S. at 717.

[5] 696 U.S. at 720.

[6] *Cort* v. *Ash,* 422 U.S 66 (1975); *Potomac Electric Power Company* v. *U.S. & I.C.C.,* C.A.D.C., No. 77-1494, August 2, 1978, slip opinion.

[6320-01-M]

[Order 78-11-86; Docket No. 31703]

QUEBECAIR

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November, 1978.

QUEBECAIR is the holder of a foreign air carrier permit [1] authorizing: charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

By application filed on November 17, 1978,[2] QUEBECAIR requests, either by amendment of its current permit or issuance of a new permit, authority to provide:

(a) Charter foreign air transportation of persons and their accompanying baggage between 20 named European countries [3] and any point or points in the United States, limited to charter flights originating in one of the named European countries; and

[1] Order 74-12-19, approved November 27, 1974.

[2] A copy of the application was transmitted to the President pursuant to section 801 of the Act.

[3] Austria, Belgium, Cyprus, Denmark, Finland, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia.

(b) Inbound or outbound legs of such flights;[9] and that it is willing to

eign air carrier to the applicant in the

(7) This permit shall be subject to the

BACKGROUND

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(b) Inbound or outbound legs of charter flights, including circle tour charter flights, of persons and their accompanying baggage between these same 20 named European countries and any point or points in the United States, subject to a requirement that QUEBECAIR shall not perform such a charter flight unless the Board shall specifically authorize it.

On April 14, 1978, QUEBECAIR motioned to have its application processed by show cause procedures. No answers to QUEBECAIR's application or motion have been filed.

In support of its application QUEBECAIR states, among other things, that the grant of such authority would be in the public interest,[4] and should be granted on the basis of comity and reciprocity;[5] that the Canadian Government maintains a liberal policy with respect to third-country originating Fifth Freedom charter flights by U.S. carriers:[6] that during the first 11 months of 1977 the Canadian Government approved 75 out of 78 requests by U.S. carriers to operate Canadian-originating Fifth Freedom charters;[7] and that it is willing to accept a tariff condition in its permit.[8]

As for its request to operate inbound or outbound legs of charter flights, including circle tour charter flights, QUEBECAIR states that it is seeking this authority to provide these services, for example, when other carriers experience mechanical or other emergency situations; that it has been approached by other carriers approximately 12 times per year to provide such flights;[9] and that it is willing to accept a condition that such flights shall not be operated unless the Board grants specific authority.[10]

In granting QUEBECAIR its existing charter authority to the United States, the Board found that the carrier was substantially owned and effectively controlled by the citizens of Canada, that it was financially and operationally fit, and that it was in the public interest to grant the carrier charter authority to the United States.[11] QUEBECAIR's application indicates that no changes in its corporate structure or operations have occurred which would cast doubt upon the continued accuracy of the Board's previous findings.

In view of the foregoing and all the facts of record, we tentatively find and conclude that:

1. QUEBECAIR is substantially owned and effectively controlled by citizens of Canada;

2. It is in the public interest to issue a foreign air carrier permit to be effective for a period of 5 years in the form of the attached specimen to QUEBECAIR, authorizing charter foreign air transportation of persons and their accompanying baggage;[12]

3. The public interest requires that the exercise of the privileges granted by such permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

4. QUEBECAIR is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regualtions, and requirements of the Board:

5. An oral hearing is not required in the public interest;[13]

6. Except to the extent granted, the application of QUEBECAIR in Docket 31703 should be denied; and

7. The issuance to QUEBECAIR of the proposed foreign air carrier permit is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in §313.4(a)(1) of the Board's regulations.[14]

Accordingly,

1. We direct interested persons to show cause why the Board should not make final its tentative findings and conclusions and, subject to the disapproval of the President under section 801 of the Act, issue a foreign air carrier permit in the form of the attached specimen to QUEBECAIR;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the permit shall file with the Board and serve on the persons named in paragraph 5, no later than December 1, 1978, a statement of objections specifying the part or parts objected to, and include a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. If an oral hearing is requested, to objector should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleading;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action; *Provided,* That we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in the order if we determine that there are no factual issues present that warrant the holding of an oral hearing;[15]

4. In the event no objections are filed, we will waive all further procedural steps and the Secretary shall enter an order which shall make final the Board's tentative findings and conclusions set forth in this order, and, subject to the disapproval of the President within 60 days, shall issue a foreign air carrier to the applicant in the specimen form attached; and

5. We shall serve this order upon QUEBECAIR; the Ambassador of Canada in Washington, D.C.; and the United States Departments of State and Transportaton.

We shall publish this order in the FEDERAL REGISTER and shall transmit it to the President.

By the Civil Aeronautics Board.[16]

PHYLLIS T. KAYLOR,
Secretary.

(Specimen Permit)

PERMIT TO FOREIGN AIR CARRIER

QUEBECAIR

is authorized, subject to the following provisions, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations of the Board, to engage in charter foreign air transportation of persons and their accompanying baggage, as follows:

Between a point or points in Austria, Belgium, Cyprus, Denmark, Finland, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia, and any point or points in the United States, limited to charter flights which originate in a named European country.

This permit shall be subject to the following terms, conditions, and limitations:

(1) The initial tariff filed by the holder shall not set forth rates, fares, and charges lower than those then in effect for any U.S. air carrier in the same foreign air transportation; *However,* This limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

(2) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(3) The authority of the holder to exercise the privileges granted by this permit shall be subject to Part 214 of the Board's Economic Regulations, other regulations of the Baord governing tours or charters, and all amendments and revisions adopted by the Board.

(4) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(5) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(6) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportaion now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(7) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(8) The holder (a) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit and uless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (b) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(9) By accepting this pemit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(10) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required be the public interest as may be prescribed by the Board.

This permit shall be effective on ———— , and shall terminate five years thereafter: *Provided, however,* That if during the period this permit shall be effective, the operation of the foreign air transporttion here authorized becomes the subject of any treaty, convention, or agreement to which the United States and Canada are or shall become parties, then this permit is continued in effect during the period provided in such treaty, convention, or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on ————.

Secretary,

[FR Doc. 78-32781 Filed 11-21-78; 8:45 am]

[6320-01-M]

[Order 78-11-85; Docket No. 31989]

TRANSPORTES AEREOS BOLIVIANOS

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

BACKGROUND

On January 16, 1978, the Board received an application from Transportes Aereos Bolivianos for a foreign air carrier permit to provide nonscheduled cargo service between a point or points in Bolivia; in the intermediate points Lima, Peru; Caracas, Venezuela; Panama City, Panama; and the coterminal points Miami, Fla., and Houston, Tex.[1] The permit would also allow the holder to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed in Part 212 of the Board's Economic Regulations.

On July 31 and August 3, 1978, we received the additional supporting information we had requested in order to process the application. The application was amended by letter dated October 2, 1978.

OWNERSHIP AND CONTROL

Transportes Aereos Bolivianos was incorporated under the laws of the Republic of Bolivia on November 7, 1977, as a Bolivian Government corporation to engage in the air transportation of passengers, cargo and mail in both domestic and international services. All of its stock is owned by the Government of Bolivia. Its headquarters are in La Paz, Bolivia. The Bolivian Ministry of Transportation has jurisdiction over and responsibility for the management of Transportes Aereos Bolivianos. The officers and directors of the company are native Bolivians; the directors are required to be members of the Bolivian Air Force. Based on the foregoing, we tentatively conclude that Transportes Aereos Bolivianos is 100 percent owned and effectively controlled by nationals of Bolivia.

FINANCIAL AND OPERATIONAL FITNESS

Transportes Aereos Bolivianos submitted unaudited financial statements for its first full six months of operations. Its total assets were $20.1 million as of June 30, 1978.[2] Its profit for the first six months of 1978 was $149,236. The applicant states that none of the company's stock has been given as collateral to purchase aircraft or to secure advancement of loans. The company owns two Hercules C-130s and its long-term indebtedness for these aircraft totals $20,000,000. It plans to operate approximately 24 charter flights during the first year of

[4] The Board found that the grant of similar requests by Wardair Canada (1975), Ltd. and Pacific Western Airlines, Ltd. (Orders 76-1-28 and 77-6-80) was in the public interest.

[5] The type of authority requested is not covered under the U.S.-Canada Nonscheduled Air Service Agreement dated May 8, 1974.

[6] In the first eleven months of 1977, the Canadian authorities approved all 88 applications filed by U.S. carriers to operate ABC, Affinity and Entity charters from third countries into Canada. The record in 1976 was 127 approved and 13 denied; in 1975, 74 approved and 1 denied; and in 1974, all 54 approved. U.S. carriers must receive specific approval for all foreign-origin Fifth Freedom charter flights.

[7] In 1976, the Canadian authorities approved 84 applications by U.S. carriers and denied 39; in 1975, 69 approved and 9 denied; and in 1974, 121 approved and 4 denied. U.S. carriers must receive specific approval for all Canadian-origin Fifth Freedom charter flights.

[8] The carrier states that it would not commence any service under this authorization "except pursuant to an initial tariff setting forth rates, fares, and charges no lower than rates, fares or charges that are in effect for any supplemental air carrier in the same foreign air transportation."

[9] The carrier has been in a position to operate such flights approximately four or fives times per year.

[10] The Board would determine if the flights were required in the public interest, and would grant authority either by Statement of Authorization, regulation, order, or otherwise.

[11] See order 74-11-154, approved by the President on November 27, 1974.

[12] We will not grant the applicant's request for a permit provision to operate, with the Board's prior approval, inbound or outbound legs of charter flights, including circle tour charter flights, because such operations may, in any event, be promptly authorized by the Board. Amended section 416(b) of Public Law 95-504, effective October 24, 1978, authorizes us to grant exemptions to foreign air carriers to the extent substitute service operations are sought to be provided to or from points not authorized in this permit. The procedures under §214.9a of our Economic Regulations allow us to authorize substitute service on behalf of another direct air carrier from the authorized European points.

[13] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached permit, shall be allowed 14 days from the date of service of this order to respond.

[14] Our tentative finding is based upon the fact that the proposed permit will not result in any significant change in the level of service at any United States point.

[15] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideraton.

[16] All members concurred.

[1] On January 13, 1978, the Department of State forwarded to us a diplomatic note from the Embassy of Bolivia referring to the U.S.-Bolivia Air Transport Agreement and stating that Bolivia grants U.S. carriers reciprocal rights. The application from the carrier was dated December 28, 1977.

[2] The company's Balance Sheet and Profit and Loss Statement from January 1 to June 30, 1978, are shown in Exhibit 3 of the application.

operations, 12 of which will be off-route and 12 on-route. In support of its application for a 402 permit, the applicant states that its operating authority has never been revoked, suspended or canceled, and that it has had no accidents. It has performed about 20 international cargo charter flights since November 1977.

Based on the applicant's statements, we tentatively find that Transportes Aereos Bolivianos meets the fitness requirements of section 402 of the Act.

PUBLIC INTEREST

The applicant states that the policy of the Bolivian Government is to encourage the development of air transportation, since Bolivia is a landlocked country, and seeks to encourage scheduled, nonscheduled and supplemental air services by international carriers as a means of promoting commerce and tourism. On the basis of reciprocity and comity, we tentatively find that it is in the public interest to issue a foreign air carrier permit to Transportes Aereos Bolivianos.

No answers to Transportes Aereos Bolivianos' application have been received.

On the basis of the foregoing and all the facts of record, we tentatively find and conclude that:

1. It is in the public interest to issue a foreign air carrier permit to Transportes Aereos Bolivianos for a period of 5 years in the specimen form attached;

2. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

3. Transportes Aereos Bolivianos is fit, willing and able properly to perform the transportation described in the specimen permit, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

4. The public interest does not require an oral evidentiary hearing on the application; [3]

5. The issuance of a foreign air carrier permit to Transportes Aereos Bolivianos would not constitute a "major Federal Action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in § 313.4(a)(1) of the Board's regulations; [4] and

6. Except to the extent granted, the application of Transportes Aereos Bolivianos in Docket 31989 should be denied.

Accordingly,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions; and (2) issue a foreign air carrier permit to Transportes Aereos Bolivianos in the specimen form attached, subject to the disapproval of the President pursuant to section 801 of the Act;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than December 4, 1978, file with the Board and serve on the persons named in paragraph 5, a statement of objections specifying the part or parts of the findings and conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, we will give consideration to the matters and issues raised by the objections before we take further action: *Provided,* That we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order, if we determine that there are no factual issues present that warrant the holding of an oral evidentiary hearing; [5]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801 of the Act, shall issue a foreign air carrier permit to the applicant in the specimen form attached; and

5. We are serving a copy of this order upon Transportes Aereos Bolivianos, the Embassy of Bolivia in Washington, D.C., and the Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board: [6]

PHYLLIS T. KAYLOR,
Secretary.

(Specimen Permit)

PERMIT TO FOREIGN AIR CARRIER
TRANSPORTES AEREOS BOLIVIANOS

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations of the Board, to engage in foreign air transportation of property as follows:

Between a point or points in Bolivia; the intermediate points Lima, Peru; Caracas, Venezuela; Panama City, Panama; and the coterminal points Miami, Fla. and Houston, Tex.

The authority granted above shall be subject to the condition that the holder shall not engage in scheduled foreign air transportation under the terms of this permit.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed in Part 212 of the Board's Economic Regulations.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Bolivia for Bolivian international air service.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S air carrier in the same foreign air transportation; *However,* This limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Bolivia shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder shall not provide foreign air transportation under this permit unless (1) there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and (2) there is in effect minimum liability insurance coverage for bodily injury to or death of cargo handlers in the amount of $75,000 per cargo handler, and (3) there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the insurance provided under (1) and (2) above. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

By accepting this permit, the holder waives any right it may possess to assert any defense of soverign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on ————, 1978, and shall continue in effect for a period of five of years except that if, during the five-year period, the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and the Government of Bolivia are or shall become parties, this permit is continued in effect during the period provided in such treaty, convention, or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on ————.

Secretary.

[FR Doc. 78-32784 Filed 11-21-78; 8:45 am]

[3] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed 15 days in which to respond from the date of service of this order. Answers to objections shall be filed no later than 10 days thereafter.

[4] Our tentative findings are based upon the fact that the proposed operations will consume 3,200,000 gallons of fuel yearly, and that the environmental impact will be *de minimis.*

[5] Since provision is made for filing of objections to this order, petitions for reconsideration will not be entertained.

[6] All members concurred.

[6320-01-M]

[Docket Nos. 32528 and 32574; Order No. 78-11-54]

UNITED AIR LINES, INC., AND BRANIFF AIRWAYS, INC.

Applications for Amendments of Certificates of Public Convenience and Necessity; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November, 1978.

In the matter of application of United Air Lines, Inc., for amendments of its certificate of public convenience and necessity for Route 1 (Docket No. 32528), and application of Braniff Airways, Inc., for amendment of its certificate of public convenience and necessity for Route 9 (Docket No. 32574).

On April 24, 1978, United Airlines applied to amend its certificate for Route 1 to authorize it to carry local traffic on nonstop flights between Kansas City, Mo., on the one hand, and Chicago and Denver, on the other.[1] On the same date, United petitioned for an order to show cause why we should not grant this authority.

Answers in opposition to United's petition were filed by Braniff, Continental, Frontier, North Central, Northwest, and TWA.[2] Four of the objectors propose to waive their objections if we also grant them unrestricted authority in certain markets. Braniff has applied to remove its one-stop restriction (at Oklahoma city) in the Kansas City-Denver market, so as to give it nonstop authority.[3] Frontier has no objection to United's carriage of local traffic on existing flights between Kansas City and Denver.[4] If, however, we propose to grant United unrestricted nonstop authority, Frontier requests that we also propose to remove its long-haul restriction in the Kansas City-Denver market and its one-stop restrictions in the Las Vegas-Omaha/Lincoln markets. Continental asks us to remove its long-haul restrictions in the Chicago-Kansas City/Denver markets, if we grant United's application.[5] TWA suggests that if we remove United's restriction in the Denver-Kansas City market, we also remove its similar restriction.

We tentatively conclude on the basis of the tentative findings below, that is is consistent with the public convenience and necessity to remove (1) Braniff's one-stop restriction in the Kansas City-Denver market, (2) Frontier's long-haul restriction in the Kansas City-Denver market,[6] (3) Continental's restrictions in the Kansas City-Chicago/Denver markets; [7] and (4) TWA's single-plane restriction between Kansas City and Denver.[8] We also tentatively conclude that there are no disputes concerning material determinative facts requiring resolution in an oral evidentiary hearing. We therefore tentatively determine that such a hearing is not necessary in this proceeding.

We will dimiss United's application as moot. Section 16 of the Airline Deregulation Act of 1978 (section 401(e) of the Federal Aviation Act of 1958, as amended) nullifies existing closed-door restrictions. Consequently, it is not necessary for us to grant United's request.

The statute compels the removal of United's closed-door restriction, but not the removal of the other carriers' restrictions. We find, however, that the removal of the restrictions on the other carriers conforms to our long-established policy of removing operating restrictions in the absence of an affirmative showing that their retention is required [9] and is consistent with the Declaration of Policy of the Airline Deregulation Act of 1978 (section 102(a) of the Federal Aviation Act, as amended), which stresses reliance on competitive market forces and on actual and potential competition to promote an efficient and responsive air transportation system.[10] Our proposed action will make possible more efficient and flexible operations for the carriers and new service benefits for the public. Even if not all of the carriers utilize their increased operating flexibility, their mere presence on the edge of the market constitutes potential competition which can help to spur the incumbents to provide service at the optimal price/quality mix. Moreover, no carrier has argued that

[1] Condition (9) of Route 1 of United's certificate states: "The holder shall not engage in local air transportation between Kansas City, Mo., on the one hand, and Denver, Colo., or Chicago, Ill., on the other hand."

[2] We will grant TWA's motion to file a late-filed answer.

[3] Docket No. 32574. It also moved to consolidate its application into this proceeding. Braniff's stop restriction is a result of a segment junction on Route 9.

[4] United operates one daily round trip over the segment. OAG, Nov. 1, 1978.

[5] By Order No. 78-7-91, July 21, 1978 (Docket No. 28857), we proposed to realine Continental's Route 29, by among other things, giving it a general long-haul restriction in the Kansas City-Chicago market.

[6] The Las Vegas-Omaha/Lincoln markets are not in issue here; therefore, we will not deal with Frontier's restriction. It is free, of course, to apply in a separate docket for removal of the restriction.

[7] We have recently proposed a modified long-haul restriction for Continental in the Kansas City-Chicago market. See Order No. 78-7-91, July 21, 1978, in response to Continental's route realinement application, Docket No. 28857. Our proposal here would preempt that proposal and would require a corresponding change in the final realinement order. Moreover, were we instituting our realinement program now under the new policy guidelines of the Act, we would have developed more liberal guidelines.

[8] We further tentatively find that Braniff, Continental, Frontier, and TWA are each citizens of the United States withing the meaning of the Act and are fit, willing and able to perform the air transportation proposed here. We also tentatively find that our action is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 or a "major regulatory action" requiring an energy statement under Part 313 of our Procedural Regulations.

[9] See, e.g. Order 78-8-192, August 31, 1978, p. 5.

[10] The Declaration of Policy reads, in part: "Sec. 102. (a) In the exercise and performance of its powers and duties under this Act with respect to interstate • • • air transportation, the Board shall consider the following among other things, as being in the public interest and in accordance with the public convenience and necessity: • • •

(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital. • • •

(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

ported objections. We direct that answers be filed within 10 days after the

By the Civil Aeronautics Board.[6]

1981. Meeting will be attended by chairs or designates of six SAC's in

V 43 1 226 NO 0 22 78 (IM)

the grant of the proposed authority will threaten its ability to perform its certificate obligations or will necessarily result in the termination of essential services that would not be replaced by other carriers.

We will give interested persons 30 days from the date of service of this order to show cause why the tentative findings and conclusions stated here should not be made final. We expect such persons to support their objections, if any, with detailed answers specifically reciting the the tentative findings and conclusions to which they object. If an oral evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary, and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague or unsupported objections. Answers should be filed within 10 days after the date for filing objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending (1) Braniff's certificate for Route 9 so as to authorize nonstop transportation between Kansas City and Denver; (2) Continental's certificate for Route 29 so as to delete condition (6); (3) Frontier's certificate for Route 73, so as to delete the long-haul restriction on flights between Denver and Kansas City; and (4) TWA's certificate for Route 2 so as to delete condition (19);

2. We dismiss United's application in Docket No. 32528 as moot;

3. We grant Braniff Airways' motion (Docket No. 32574) to consolidate its application into Docket No. 32528;

4. We grant TWA's motion to file a late-filed answer;

5. We direct any interested person having objection to the issuance of an order making final the proposed findings or conclusions made here to file with us no later than December 18, 1978, and serve upon all persons listed in paragraph 9, a statement of objections together with a summary of testimony, statistical data, and other evidence relied upon to support the stated objections;[11] answers will be due no later than December 28, 1978;

6. If timely and properly supported objections are filed, we will fully consider the matters and issues raised by the objections before we take further action;

7. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions stated here;

8. For purposes of computing license fees, we direct each carrier to estimate its annual gross transport revenue increase, for the first full year of operations, resulting from the modified authority tentatively granted by this order; and

9. A copy of this order shall be served upon the Mayors of the cities of Chicago, Denver, and Kansas City, the directors of O'Hare Field, Stapleton International Airport, Kansas City International Airport, the Governors of the States of Illinois, Colorado, Kansas, and Missouri, the heads of the Departments of Transportation of the States of Illinois, Colorado, Kansas, and Missouri, and on Braniff Airways, Continental Air Lines, Frontier Airlines, TWA, and United Air Lines.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[12]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32783 Filed 11-21-78; 8:45 am]

[11] Since we have provided for the filing of objections, we will not entertain petitions for reconsideration of the show cause order.

[12] All members concurred.

[6320-01-M]

[Order 78-11-53; Docket Nos. 34040 and 33635]

WESTERN AIR LINES, INC., AND SOUTHERN AIRWAYS, INC.

Amendments of Certificates; Order To Show Cause

In the matter of application of Western Air Lines, Inc., for amendment of its certificate of public convenience and necesssity for Route 19 (Docket 34040), and application of Southern Airways, Inc. for amendment of its certificate for Route 98 (Docket 33635).

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November 1978.

By an Order To Show Cause (78-8-192), August 31, 1978, we proposed to remove various restrictions on the certificates of eight carriers[1] so as to grant them unrestricted authority to operate between Miami and Ft. Lauderdale.[2] On September 11, Western filed a petition for reconsideration of Order 78-8-192, requesting that we also amend its certificate by redesigning the hyphenated points Miami-Ft. Lauderdale as coterminals. On October 6, Southern also petitioned for reconsideration of the Order, seeking to coterminalize these points on its certificate for Route 98. It is also filed an application and a petition for an order to show cause why it should not be granted this authority.

These requests are totally consistent with actions we have proposed to take in Orders 78-8-192 and 78-9-148. In addition, our redesignation of these hyphentated points conforms with the intent of section 16 of the Airline Deregulation Act of 1978 (section 401(e) of the Federal Aviation Act of 1958, as amended). That section nullifies all "closed-door" restrictions. Although hyphenations of points technically are not defined as closed-door restrictions by the Act, both have the effect of preventing the carriage of local traffic between two points. Accordingly, we tentatively conclude that it is consistent with the public convenience and necessity to make the hyphenated Miami-Ft. Lauderdale points coterminals on segment 5 of Western's Route 19, and segment 2(b)(i) of Southern's route 98.[3] We also tentatively conclude that there are no disputes of material determinative facts requiring an oral evidentiary hearing.

As we have said in the orders cited above, we also find that the proposed amendments conform with our policy of removing operating restrictions in the absence of an affirmative showing that their retention is required. The coterminalization of Miami and Ft. Lauderdale will afford increased scheduling and operating flexibility for both carriers.

We will give interested persons 30 days following the date of service of this order to show cause why our tentative findings and conclusions should not be made final.[4] We expect their objections to be supported by detailed economic or legal arguments. If the objector requests an oral evidentiary hearing, he should state, in detail, why such a hearing is necessary and what relevant and material facts will be established in written pleadings. We will not entertain general, vague or unsupported objections. We direct that answers be filed within 10 days after the date of filing objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending Western's certificate for Route 19 so as to redesignate the hyphenated Miami-Ft. Lauderdale points on segments 5 as coterminals; and Southern's certificate for Route 98 so as to redesignate the hyphenated Miami-Ft. Lauderdale points on segment 2(b)(i) as coterminals;

2. We order any interested persons objecting to the issuance of an order making final the proposed findings and conclusions and certificate amendments set forth here, to, no later than December 18, 1978, file with us and serve upon all persons listed in paragraph 7 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed no later than December 28, 1978;

3. If timely and properly supported objections are filed; we will fully consider the issues raised before we take further action; [5]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions stated here;

5. For purposes of computing license fees, we direct Western and Southern to estimate their annual gross transport revenue increase, for the first full year of operations, resulting from the modified authority tentatively granted by this order;

6. To the extent we have not granted them here, we will deny the petitions for reconsideration of Western and Southern; and

7. We will serve a copy of this order upon: the Mayor of the City of Ft. Lauderdale; Metropolitan Dade County; the directors of the Broward County Aviation Division, Dade County Aviation Department and the Greater Miami Traffic Association; the Chief, Bureau of Aviation, Department of Transportation, Tallahassee, Florida, Braniff Airways, Continental Air Lines, Delta Air Lines, Eastern Air Lines, National Airlines, Northwest Airlines, Piedmont Aviation, Southern Airways, Trans World Airlines, United Air Lines, and Western Air Lines.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-32782 Filed 11-21-78; 8:45 am]

[1] Braniff, Continental, Delta, Eastern, National, Northwest, TWA, and United.

[2] In addition, by Order 78-9-148, September 29, 1978, we proposed to coterminalize these points on the new segments we proposed to add to the certificates of Piedmont and Southern.

[3] We tentatively conclude that Western and Southern are citizens of the United States within the meaning of the Act and are fit, willing and able to perform the air transportation proposed here. In addition, we do not anticipate that our proposed action will result in any substantial increase in air carrier operations at either point, and we therefore tentatively find that it is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, nor a "major regulatory action" requiring an energy statement under Part 313 of our Procedural Regulations.

[4] Western requested that we propose to give it local Miami-Ft. Lauderdale rights by amending Order 78-8-192 and allowing the dates set for objections (October 6) and answers to objections (October 16) to remain the same. We believe the better practice, in terms of notice to all interested parties and in terms of administrative orderliness, is to issue a separate show-cause order for Western.

[5] Since we have provided for the filing of objections, we will not entertain petitions for reconsideration of the show-cause order.

[6] All members concurred.

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

REGIONAL ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee Advisory Committees (SAC's) of the Commission will convene at 9 a.m. on December 14, 1978, and will end at 12 noon, on December 15, 1978, in the Stadium Hotel, 450 Capitol Avenue, Atlanta, Ga. 30312.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue NE., Atlanta, Ga. 30303.

The purpose of this meeting is to discuss program planning for fiscal years 1980 and 1981.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., November 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-32751 Filed 11-21-78; 8:45 am]

[6335-01-M]

REGIONAL ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming Advisory Committees (SAC's) of the Commission will convene at 9 a.m., and will end at 5 p.m. on December 8, 1978, in the Executive Tower, Suite 1700, 1405 Curtis Street, Denver, Colo. 80202.

Persons wishing to attend this open meeting should contact the committee chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this meeting is to discuss program planning in Rocky Mountain region through fiscal year 1981. Meeting will be attended by chairs or designates of six SAC's in region VIII.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., November 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-32752 Filed 11-21-78; 8:45 am]

[6335-01-M]

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1 p.m., and will end at 5 p.m., on December 6, 1978, in the West Virginia Human Rights Commission, Conference Room, 1036 Quarrier Street, Charleston, W. Va. 25305.

Persons wishing to attend this open meeting should contact the committee chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within West Virginia.

This meeting will be conducted pursuant to the provisions of the rules and rugulations of the Commission.

Dated at Washington, D.C. November 16, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-32753 Filed 11-21-78; 8:45 am]

[6335-01-M]

WISCONSIN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 noon on December 19, 1978, 517 East Wisconsin Avenue Room 398, Milwaukee, Wis.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32d Floor, Chicago, Ill.60604.

The purpose of this meeting is to

Further information may be ob-

Inquiries may be addressed to the

be submitted to the Assistant Secre-

225,000 deadweight ton tanker, and it

section 552b(c) of title 5, U.S.C., specifical-

The purpose of this meeting is to review and discuss Vocational Educational Project Data.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., November 16, 1978.

JOHN I. BINKLEY
Advisory Committee Management Officer.

[FR Doc. 78-32754 Filed 11-21-78; 8:45 am]

[3510-20-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Wednesday, December 6, 1978 from 9 a.m. until 5 p.m. and on Thursday, December 7, 1978 from 9 a.m. until 12 o'clock noon in the AOML Conference Room, National Oceanic and Atmospheric Administration, 15 Rickenbacker Causeway, Miami, Fla.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

Tentative agenda items include:

1. Discussion of DoC and STI Policies.
2. Discussion of Panel on Human Resources and Industrial Innovation.
3. Domestic Policy Review of Industrial Innovation.
4. Cooperative Technology Program.
5. Report on the Study of Federal Policy on Entrepreneurship of Technology-Based Industries.
6. Overview of Atlantic Oceanographic and Meteorological Laboratory (AOML).
7. Overview of Southeast Fisheries Center.
8. Briefing: Hurricane Center.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal Advisory Committee Act, in Room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-5065.

Dated: November 8, 1978.

JORDAN J. BARUCH,
Assistant Secretary of Commerce for Science and Technology.

[FR Doc. 78-32716 Filed 11-21-78; 8:45 am]

[3510-60-M]

National Telecommunications and Information Administration

ELECTROMAGNETIC RADIATION MANAGEMENT ADVISORY COUNCIL

Partially Closed Meeting

The Electromagnetic Radiation Management Advisory Council will meet from 9 a.m. to 5:30 p.m. on December 7 in Room 543, 1800 G Street NW., Washington, D.C.

The Council advises the Secretary of Commerce on the biological effects of radiowaves and other forms of electromagnetic radiation. It was originally established in 1968 in the Executive Office of the President. The Council reports to the Secretary through NTIA's Administrator, the Assistant Secretary for Communications and Information.

The agenda will include (1) discussion of candidates for membership on the Council, and (2) discussions of ERMAC recommended program guidelines, priorities and resource requirements.

Agenda item (1) will involve discussion of personnel information the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy. With respect to this aganda item, therefore, the Assistant Secretary for Administration, with concurrence from General Counsel, formally determined on November 15, 1978, that this item should be exempt from the provisions of Federal Advisory Committee Act relating to open meetings and public participation therein, because these items will be concerned with matters listed in 5 U.S.C. 552b(c)(6), the Government in the Sunshine Act of 1976. (A copy of the determination is available for public inspection and copying.) Agenda item (2) from 10:30 a.m. to 5:30 p.m. will be open to public attendance. Oral questions and comments will be allowed, time permitting. Written questions and comments may be submitted before or after the meeting. Public seating will be available on a first-come, first-served basis. Copies of the minutes will be provided upon request when available.

Inquiries may be addressed to the Committee Control Officer, Mr. Robert Frazier, NTIA, 1800 G Street NW., Washington, D.C. 20504, telephone 202-395-3102.

Dated: November 16, 1978.

CLOYD DODSON,
Committee Liaison Officer, National Telecommunications and Information Administration.

[FR Doc. 78-32779 Filed 11-21-78; 8:45 am]

[3510-17-M]

Office of the Secretary

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Meeting of Advisory Committee Regarding Comments From the Public on the Proposed Laboratory Accreditation Criteria for Laboratories Which Test Thermal Insulation Materials.

Proposed criteria for accrediting testing laboratories that test thermal insulation materials were published in the FEDERAL REGISTER on September 29, 1978 (43 FR 45289-45298). Requests for informal public hearings to present views on the proposed criteria were due by October 16, 1978. No such requests were received and, accordingly, no hearing was held. Written comments were due by November 13, 1978, and those that were received are filed in the Department's Central Reference and Records Inspection Facility (CRRIF), Room 5317, Main Commerce Building, 14th Street between E and Constitution Avenue NW., Washington, D.C. 20230, where they are available for public inspection.

Pursuant to the procedures for the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7), the Assistant Secretary has requested the National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials (NLACC-1) to prepare and return to him in writing its evaluation of those public comments and to include any recommendations for appropriate action. In responding to this request, the chairman of the NLACC-1 has distributed copies of these comments to each Committee member with a request that each member evaluate and submit recommendations on the comments by December 1, 1978. A draft report will be prepared by the Department's NVLAP staff based on the responses from Committee members, and then will be made available to members of the Committee along with the evaluation and recommendations of each member. Any further comments from Committee members will be incorporated in the final report to

be submitted to the Assistant Secretary on or about December 18, 1978.

A meeting of the Committee will be held on Friday, December 8, 1978, at 9 a.m. in Room 5611, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. (public entrance to the building is on 14th Street, between Constitution Avenue and E Street NW.) The agenda will consist of a review of the public comments, a review of Committee members' recommendations about these comments, a clarification of any restrictions imposed by NVLAP procedures on possible courses of action, and a review of the draft Committee report to the Assistant Secretary containing an evaluation of the public comments and Committee recommendations. The meeting will be open to public observation. A limited number of seats will be available to the public and press on a first-come, first-served basis.

This notice also announces the availability, in the Department's CRRIF, of all written comments to be received from the Committee members, the draft and final Committee reports, when completed, and the minutes of the Committee's meeting following their certification by the Committee chairman in accordance with the Federal Advisory Committee Act. Copies of such comments and reports may be obtained directly from the chairman of the Committee, Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Dr. Forman at the above address or by telephone at 202-377-3221.

Dated: November 17, 1978.

HOWARD I. FORMAN,
Acting Assistant Secretary for Science and Technology.

[FR Doc. 78-32755 Filed 11-21-78; 8:45 am]

[3510-15-M]

Maritime Administration

[Docket No. S-627]

FILLMORE TANKER CORP.

Application

Notice is hereby given that Fillmore Tanker Corp. filed an application with the Maritime Administration on November 16, 1978, to approve the total repayment of construction-differential subsidy paid in connection with the construction of the T.T. *Bay Ridge* and thereby lift the trading restrictions imposed pursuant to Board Contract No. MA/MSB-284, dated June 29, 1973. The T.T. *Bay Ridge* is a 225,000 deadweight ton tanker, and it is expected to be delivered in December 1978.

This application may be inspected in the Office of the Secretary, Maritime Subsidy Board, Room 3099-C, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

The T.T. *Bay Ridge* is restricted by Board Contract No. MA/MSB-284 to operation in the U.S. foreign trade, except as may be permitted pursuant to section 506 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1156). If the application is approved, pursuant to proposed 46 CFR Part 276, published in the FEDERAL REGISTER on November 2, 1978 (43 FR 51045), the T.T. *Bay Ridge* will be allowed to operate permanently in the domestic trade.

Interested parties, who operate a vessel or vessels in the domestic trade, and who believe that approval of the subject application would subject them to a significant adverse competitive effect, may submit their views thereon to the the Secretary, Maritime Subsidy Board, in triplicate, on or before December 4, 1978. All timely responses will be considered in the agency's evaluation of this application.

(Catalog of Domestic Assistance Program No. 11.500 Construction-Differential subsidies (CDS).)

Dated: November 20, 1978.

By order of the Maritime Subsidy Board.

MARITIME ADMINISTRATION,
JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-32847 Filed 11-21-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

ARMY SCIENCE BOARD/AIR FORCE SCIENTIFIC ADVISORY BOARD

Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of Committee: Army Science Board/Air Force Scientific Advisory Board.
Date of Meeting: December 8, 1978.
Place: U.S. Army Training and Doctrine Command, Fort Monroe, Va.
Time: 0900-1200 hours. Closed Session.
Proposed Agenda: The Army and Air Force Science Boards will receive classified briefings and hold classified discussions on their Joint Summer Study on "Battlefield Systems Integration." This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof.

ROBERT F. SWEENEY,
LTC, GS, Executive Secretary, Army Science Board.

[FR Doc. 78-32742 Filed 11-21-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ECM

Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session on December 14-15, 1978 in the Pentagon, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on ECM has been scheduled for December 14-15, 1978 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32786 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON ENDURING STRATEGIC COMMUNICATIONS, COMMAND AND CONTROL AND INTELLIGENCE

Advisory Committee Meeting

The Defense Science Board Task Force on Enduring Strategic Communications, Command and Control and Intelligence will meet in closed session on December 18 and 19, 1978, in Washington, D.C.

The mission of the Defense Science Board is to advice the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Enduring Strategic Communications, Command and Control and Intelli-

gence has been scheduled for December 14-15, 1978 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32787 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on December 11-12, 1978 in the Pentagon, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for December 11-12, 1978 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32788 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on December 18 and 19, 1978, in Washington, D.C.

The mission of the Defense Science Board is to advice the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for December 18 and 19, 1978 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32789 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on December 20, 1978, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for December 20, 1978 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32790 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 8 and 9, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 8 and 9, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32791 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 10, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 10, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32792 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 15 and 16, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 15 and 16, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32793 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 17, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 17, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32794 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 22 and 23, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 22 and 23, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32795 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 24, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 24, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32796 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 29 and 30, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 29 and 30, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32797 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on January 31, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for January 31, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32798 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on February 1, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for February 1, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32799 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on February 5 and 6, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for February 5 and 6, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32800 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on February 7, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for February 7, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32801 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on February 12 and 13, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for February 12 and 13, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32802 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON MILITARY COMMUNICATIONS

Advisory Committee Meeting

The Defense Science Board Task Force on Military Communications will meet in closed session on February 14, 1979, in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Military Communications has been scheduled for February 14, 1979 to discuss potential technical solutions to several current problems in electronic counter measures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Director, DoD/WHS.

[FR Doc. 78-32803 Filed 11-21-78; 8:45 am]

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gence has been scheduled for December 18 and 19, 1978, to define the studies to be performed by the task force, to review background information, to organize the necessary subcommittees, and to identify the scope and source of ancillary studies to be performed. The task force will focus on the long-term problems in strategic communications, command and control and intelligence and will complement concurrent studies being performed by Strategic Air Command and the U.S. Navy.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

[FR Doc. 78-32788 Filed 11-21-78; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, January 2, 1979; Tuesday, January 9, 1979; Tuesday, January 16, 1979; Tuesday, January 23, 1979; and Tuesday, January 30, 1979, at 9:45 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency" (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D281, the Pentagon, Washington, D.C.

Dated: November 17, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-32787 Filed 11-21-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DISCHARGE REVIEW BOARDS

Implementation of Requirements Regarding the Index of Decisions and Preparation of Decisional Documents Issued by the Army, Navy, and Air Force Discharge Review Boards

Notice is hereby given that procedures have been established to implement requirements regarding the quarterly index of decisions and preparation of decisional documents issued by the Army, Navy, and Air Force Discharge Review Boards. Procedures have also been established to inform certain classes of persons about these procedures.

Requirements for the preparation of decisional documents and indexes of Discharge Review Board decisions were established in the Stipulation of Dismissal, *Urban Law Institute of Antioch College, Inc.* v. *Secretary of Defense*, No. 76-0530 (D.D.C., Jan. 31, 1977). These procedures were further developed in DOD Directive 1332.28 (43 FR 13564, 32 CFR 70). On August 23, 1978, the District Court entered a preliminary injunction in the *Urban Law Institute* case directing the Department of Defense to develop procedures that would further the purposes of the previous Stipulation of Dismissal.

By Memorandum [1] to the Secretaries of the Military Departments, the Assistant Secretary of Defense has created procedures for taking corrective action with respect to allegations that the decisional documents violate provisions of the Stipulation of dismissal. The Memorandum also sets forth the conditions under which such corrective action may entitle an applicant to a new hearing. The Memorandum further describes other opportunities for applicants to receive new hearings. Details concerning the placement of the index of Discharge Review Board decisions are provided in the Memorandum. The Memorandum also specifies the manner of notification about these matters to certain classes of individuals and provides sample letters to be used by the Discharge Review Boards.

The Department of Defense has been ordered by the District Court to implement these procedures; prompt action is required in order to meet the requirements established by the Court. Under the procedures set forth in the Memorandum, certain classes of applicants and their counsel will be provided with timely information about use of the index to be published in November 1978, which will contain entries under the newly published uniform standards for the Discharge Review Boards. The new indexing categories were published in the FEDERAL REGISTER (43 FR 47237) on October 13, 1978.

In view of the court order mandating prompt action, and the interest of applicants in receiving timely notice of the new procedures, immediate implementation is required. Therefore, notice and prepublication of the new terminology for public comment is impracticable, unnecessary, and contrary to the public interest.

Effective Date: October 28, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

NOVEMBER 17, 1978.

[FR Doc. 78-32789 Filed 11-21-78; 8:45 am]

[6360-01-M]

DELAWARE RIVER BASIN COMMISSION

PIONEER METAL FINISHING CO., INC., AND POPLAR BRAND FIRMS, INC.

Public Hearing

Notice is hereby given by the Delaware River Basin Commission that it will hold a public hearing on Wednesday, November 29, 1978, commencing at 2 p.m. The hearing will be a part of the Commission's regular November business meeting which is open to the public. Both the hearing and the meeting will be held in Marshall Hall, South, ASTM Building, 1916 Race Street, Philadelphia, Pa. The hearing will be held on applications for approval of the following projects which are now pending before the Commission pursuant to section 3.8 of the compact:

1. *Pioneer Metal Finishing Co., Inc. (D-78-91).* A project involving the discharge of industrial waste water from the company's finishing plant in Franklin Township, Gloucester County, N.J. Facilities will be installed to reduce the concentration of cyanide, chromium, copper, and nickel in a waste water flow of up to 19,000 gallons per day. Treated effluent will discharge to the Jerico Branch of Scotland Run, a tributary of the Maurice River.

2. *Poplar Brand Farms, Inc. (D-78-90).* A well water supply project to provide irrigation water at the applicant's farm in Cedarville, Cumberland County, N.J. The well facility is expected to yield approximately 270,000 gallons per day.

Documents relating to the above-listed applications may be examined at the Commission's office. Persons wishing to testify on these applications are requested to notify the Secretary to the Commission prior to the hearing.

W. BRINTON WHITALL.

NOVEMBER 15, 1978.

[FR Doc. 78-32743 Filed 11-21-78; 8:45 am]

[1] Filed with the original.

[6740-02-M]

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. CP79-43]

CITIES SERVICE GAS CO.

Application

NOVEMBER 14, 1978.

Take notice that on October 30, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125 filed in docket No. CP79-43 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of pipeline, measuring, regulating and appurtenant facilities and the sale of natural gas for resale in and about Oilton, Shidler and Webb City, and Wynona, Okla., presently being served by Applicant where the distribution systems have been acquired by new owners, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it would continue to operate pipeline, measuring, regulating and appurtenant facilities and to sell gas for resale in and about the towns of Oilton, Shidler and Webb City, and Wynona, Okla., where the distribution systems have been acquired from the Pact Gas Co. by Larry Kelly, d.b.a. Energy Systems; Mid-West Gas Co.; city of Wynona. It is indicated that the annual sales volumes for Oilton, Shidler and Webb City, and Wynona for the 12 months ending July 31, 1978 are 75,990 Mcf, 84,664 Mcf, and 63,635 Mcf, respectively.

Applicant also states that no new facilities are proposed to be constructed or installed and no new sales are proposed to be made through existing facilities and their continued operation will not materially affect Applicant's overall system.

Applicant states the sale for resale to the new owners of the distribution systems of these communities is required by the present and future public convenience and necessity.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32718 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-363]

COLUMBIA GAS TRANSMISSION CORP. AND NATIONAL FUEL GAS SUPPLY CORP.

Extension of time

NOVEMBER 9, 1978.

On November 3, 1978, UGI Development Co. (UGID) and UGI Corp. (UGI) filed a motion for extension of time for UGID to file an application for a certificate to sell gas to UGI as required by the Commission's order in this proceeding issued October 10, 1978. The motion states that the requested extension is sought in order to permit UGI and UGID to evaluate the sale in light of the Natural Gas Policy Act and the Commission's soon-to-be issued regulations under the Act.

Upon consideration, notice is hereby given that an extension is granted to and including December 8, 1978 for UGID to file for certificate authorization as required in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32719 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-50]

EL PASO NATURAL GAS CO.

Application

NOVEMBER 16, 1978.

Take notice that on November 1, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in docket No. CP79-50 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by conveyance to Southern Union Gas Co. (Southern Union) certain pipeline, metering and tap facilities, with associated appurtenances, all located on Applicant's interstate transmission system in and about the city of El Paso, Tex., all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states it has agreed to sell to Southern Union and Southern Union has agreed to purchase the following facilities currently being utilized by Applicant in providing natural

Southern Union in the El Paso area, it

Natural Gas Act and the Commission's

Copies of this application are on file with the Commission and are available

No. 3 of the Council Bluffs power sta-

gas to Southern Union for resale in and about the city of El Paso, Tex.:

(1) *Pipeline*—A total of approximately 26.79 miles of 16-inch, 12¾-inch, 10¾-inch, 6⅝-inch, 4½-inch O.D. pipeline located in El Paso County, Tex.;

(2) *Meter stations*—Niheteen (19) meter stations situated on the pipeline facilities to be abandoned and conveyed; and

(3) *Sales taps*—Four (4) sales taps, also located on the pipeline facilities to be abandoned and conveyed.

Such facilities essentially serve a distribution rather than transmission function and would, upon transfer, be utilized by Southern Union as a part of its existing natural gas distribution system serving the El Paso, Tex., area, it is said. Applicant states that presently it utilizes the facilities to be conveyed to deliver gas to Southern Union at approximately twenty-three (23) separate locations in the east and southeast areas of El Paso, Tex., and that following the proposed transfer of the facilities, Applicant would deliver gas to Southern Union at two (2) city gate locations for resale to its consumers.

Applicant states that gas deliveries to Southern Union in the El Paso area are now made pursuant to the currently effective service agreement dated October 1, 1969, between Applicant and Southern Union.

It is stated that after acquisition of the subject facilities, and the change in service arrangements described herein, Southern Union would be required to construct and operate, at its sole cost, approximately 1.60 miles of additional 8⅝-inch O.D. distribution system pipeline in order to provide hourly and peak day capacity in its enlarged distribution system needed to meet the priority 1, 2, and 3 requirements of its El Paso service area customers. Additionally, as a condition and consideration for the sale and conveyance of the subject facilities, Southern Union has agreed, pursuant to a letter agreement between the parties, to receive from and deliver to Applicant, up to 100 Mcf of natural gas per day, free of charge utilizing Southern Union's distribution system, for direct consumption by Applicant at its station No. 3 warehouse and maintenance facility, which facility is now being served by the pipeline proposed to be conveyed, it is asserted.

Applicant asserts further that the abandonment would eliminate operating and maintenance expenses now associated with the facilities which primarily serve a distribution function in the El Paso area. The conveyance would also provide Applicant with a greater degree of control over and increased efficiency in measuring and regulating natural gas delivered to Southern Union in the El Paso area, it is said.

Further, it is indicated that with regard to Southern Union and its El Paso customers, Southern Union needs to reinforce its distribution facilities in the city of El Paso to make efficient use of newly acquired intrastate natural gas supplies to meet the continually growing demand for gas of its high priority customers situated in and about the city of El Paso. Toward this end, the acquisition of the facilities by Southern Union would be less costly to Southern Union than the construction of entirely new facilities necessary to reinforce its existing distribution system Applicant asserts. The application indicates further that such acquisition would permit Southern Union to conduct more efficient distribution activities utilizing available and known additional supplies, both interstate and intrastate in nature, and that in addition, Southern Union would own and operate the subject pipeline facilities and could install taps or reinforce the facilities as may be required, thereby controlling operations so as to meet efficiently its operational needs in its El Paso service area.

Applicant asserts that no interruption, reduction or termination of natural gas service presently rendered by Applicant to any of its customers would result upon effectuation of the abandonment.

Applicant states that Southern Union would purchase the facilities from Applicant for a total price of $372,120 plus any excise, sales, use or other Federal, State, or local tax which may be levied exclusive of taxes based on income, profits, or franchise which are payable by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32720 Filed 11-21-78; 8:45 am]

[6740-02-M]

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. ER79-49]

ILLINOIS POWER CO.

Filing

NOVEMBER 15, 1978.

Take notice that Illinois Power Co. (Illinois Power) on November 6, 1978, tendered for filing revised exhibits A and B to an agreement dated August 26, 1974, between Illinois Power and the city of Highland, Ill. (Highland).

Illinois Power states that the purpose of the filing is to revise the agreement to reflect the addition of two air-break switches on either side of the tap on Illinois Power's line which is the point of interconnection between Illinois Power and Highland.

Illinois Power requests an effective date of May 1, 1978, and therefore requests waiver of the Commission's notice requirements.

According to Illinois Power, copies of this filing have been mailed to Highland and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32721 Filed 11-21-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER79-50]

IOWA POWER & LIGHT CO.

Filing

NOVEMBER 15, 1978.

Take notice that Iowa Power & Light Co., (Iowa Power) on November 6, 1978 tendered for filing a Transmission Service Agreement with Iowa-Illinois Gas & Electric Co., (Iowa-Illinois) dated December 30, 1977.

Iowa Power states that relating to the proposed utilization by Iowa-Illinois of 91 MW of capacity in 1978 and 75 MW of capacity after 1978 on Iowa Power's existing 345 kV transmission system from the Sycamore Substation near Des Moines, Iowa, to Hills Substation near Hills, Johnson County, Iowa, the agreement facilitates transmission of Iowa-Illinois' share of George Neal generating unit No. 3 capacity.

Iowa requests waiver of the Commission's notice requirements and proposes an effective date of October 1, 1978.

Iowa Power further states that the purpose of the proposed rates and charges is to recover reflected costs of the facilities to be provided as the scheduling path, for associated operation and maintenance, and for transmission losses for which compensation in kind is provided.

According to Iowa Power copies of the filing have been mailed to Iowa-Illinois and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Fderal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32722 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-9]

IOWA POWER & LIGHT CO.

Application

NOVEMBER 16, 1978.

Take notice that on November 6, 1978, Iowa Power & Light Co. (applicant) filed an application with the Federal Energy Regulatory Commission for an order pursuant to section 204(a) of the Federal Power Act, authorizing the applicant to enter into loan agreements to borrow the proceeds from the sale of and to provide for the payment of pollution control revenue bonds to be issued by the city of Chillocothe, Iowa, by the city of Pleasant Hill, Iowa and by the city of Council Bluffs, Iowa; authorizing the proposed issuance of additional first mortgage bonds by the applicant to provide for the payment of such pollution control revenue bonds; authorizing the applicant to execute and deliver letters to said cities and underwriters to induce the issuance and sale of said pollution control revenue bonds; and exempting these transactions from the competitive bidding requirements of § 34.1(a) of the Commission's regulations under the Federal Power Act.

The applicant is an operating electric and gas utility, primarily engaged in the generation, transmission, distribution and sale at retail of electric energy and in purchase, distribution and sale at retail of natural gas in central and southwestern Iowa.

Applicant states that the first mortgage bonds are to be issued, and loan agreements are to be entered into and inducement letters are to be executed and delivered, in connection with the sales (a) by the city of Chillocothe, Iowa of $7.0 million aggregate principal amount of its pollution control revenue bonds, (b) by the city of Pleasant Hill, Iowa of $2.3 million aggregate principal amount of its pollution control revenue bonds and (c) by the city of Council Bluffs, Iowa, of $2.0 million aggregate principal amount of its pollution control revenue bonds. Pursuant to the loan agreements, the proceeds from the sale of these bonds will be borrowed by the applicant to finance part of the cost of applicant's interest in certain pollution control facilities at (a) Unit No. 1 of the Ottumwa generation station near Chillocothe, Iowa, (b) Des Moines power station in Pleasant Hill, Iowa and (c) Unit No. 3 of the Council Bluffs power station in Council Bluffs, Iowa.

Any person desiring to be heard or to make any protest with reference to the application should on or before December 1, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32723 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-45]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

NOVEMBER 16, 1978.

Take notice that on October 30, 1978, Natural Gas Pipeline Co. of America (applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in docket No. CP79-45 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 61.4 miles of 10-inch transmission pipeline, 3,600 horsepower of compression, 5.4 miles of 6- and 8-inch gathering pipeline and other appurtenant facilities in Adams, Yuma, and Washington Counties, Colo., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has acquired gas supply commitments from a number of producers covering an extensive area of Yuma and Washington Counties, Colo., as part of its effort to supplement its long term gas supply. In addition to the commitment of these gas reserves, Natural's exploration and producing subsidiary NARMCO, Inc. (NARMCO) has acquired a substantial leasehold position in several areas which are located south of the area of interest, it is said. NARMCO has an average working interest of approximately 40 percent in over 300,000 gross acres and as a result of this involvement, Natural has obtained preferential purchase rights on an average of 60 percent of the working interest in this acreage, it is asserted. The reserves underlying all this acreage, when developed in the future, would be available to augment the gas supply supporting this project, applicant states.

Applicant asserts that the new and developing gas fields in the Rocky Mountain area offer one of the best

Gas Act so as to expand the area of in- ized by the Commission's Order in Texas Eastern states that it has the

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and most economical sources of new gas reserves for applicant's customers. The application indicates that such reserves, however, are located at a considerable distance from applicant's transmission system but that Colorado Interstate Gas Co. (CIG) has an existing pipeline available in the area and would be willing to transport and redeliver applicant's gas. Applicant and CIG are negotiating a transportation and/or exchange agreement for the redelivery of the gas to applicant, it is said.

Applicant states that it has been able to project 60,000,000 Mcf of proved reserves and probable potential gas supply on the productive acreage.

Applicant anticipates that further drilling would result in the upgrading of the presently classified probable potential gas supply to proved reserves and the discovery of subsequent additional reserves. The gathering system would be extended in the future to provide for the attachment of additional wells as they are completed, it is said.

In order to implement the delivery of gas to Colorado applicant states it is necessary to construct said facilities at an estimated cost of $9,566,000. The total cost would be financed initially by applicant with funds on hand, borrowings under applicant's revolving credit arrangements, or short-term financing, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32725 Filed 11-21-78; 8:45 am]

[6740-02-M]

[RP78-50]

NORTHWEST PIPELINE CORP.

Technical Conference and Informal Settlement Conference

NOVEMBER 15, 1978.

Take notice that a Technical Conference will be held between the Staff and Northwest Pipeline Corp. at 9:30 a.m. November 28, 1978. Any party desiring to attend this conference is welcome to do so. The conference will be for purposes of discussing data supplied to the staff at the last informal conference and any other matters which may need to be discussed prepatory to reconvening informal settlement discussions among all parties on December 14.

In addition, an informal settlement conference will be convened at 9:30 a.m. on December 14, 1978, for purposes of settlement discussions prior to the formal hearing scheduled at 3 the same afternoon. Both conferences will be held at the Comission's offices at 825 North Capitol Street N.E., Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32726 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-47]

OHIO POWER CO.

Proposed Changes in Rates and Charges

NOVEMBER 15, 1978.

Take notice that American Electric Power Service Corp. (AEP) on October 27, 1978, tendered for filing on behalf of its affiliate Ohio Power Co. (Ohio Power), modification No. 9 dated October 1, 1978, to the operating agreement dated June 14, 1962, between Ohio Power Co. and Cleveland Electric Illuminating Co. designated Ohio Power Rate Schedule FERC No. 31.

Section 1 of modification No. 9 provides for an increase in the demand charge for short term power form $0.60 to $0.70 per kilowatt per week and section 3 provides for an increase in the demand charge for limited term power from $3.25 to $3.75 per kilowatt per month; section 2 of modification No. 9 provides for an increase in the transmission charge for third party short term power transactions from $0.15 per kilowatt per week to $0.175 per kilowatt per week and section 4 provides for an increase in the transmission charge for third party limited term transactions from $0.65 per kilowatt per month to $0.75 per kilowatt per month, according to the applicant.

Applicant states that since the use of short term power and limited term power service cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the modification. Applicant's exhibit 1 which was included with the filing of this modification, demonstrates that the increase in revenues, which would have resulted had the modification been in effect during the 12-month period ending July 1978 would have been $508,107.18 (i.e. from $16,529,196.75 to $17,037,303.93), according to the applicant.

Copies of the filing were served upon the Cleveland Electric Illuminating Co. and Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before November 20, 1978. Protests will be considered by the Commission in determining the appropriate action to taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32724 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-383 (Phase I)]

PANHANDLE EASTERN PIPE LINE CO.

Application To Amend

NOVEMBER 16, 1978.

Take notice that on November 3, 1978, Panhandle Eastern Pipe Line Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP77-383 an application to amend the Commission's order issued February 17, 1978, in the instant docket (phase I) pursuant to section 7(c) of the Natural Gas Act so as to expand the area of interest existing between Applicant and Colorado Interstate Gas Co. (CIG) pursuant to a gas purchase and exchange agreement dated December 3, 1976, as amended March 1, 1978, to include the Fuller Reservoir area (Fuller), situated in Fremont County, Wyo., all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The order of February 17, 1978, provided in part for the sale by Panhandle and the purchase by CIG, the transportation by CIG on behalf of Panhandle, and the exchange by and between CIG and Applicant of natural gas committed to Applicant to be produced from an area of interest located in the Greater Green River Basin area of southwestern Wyoming.

Applicant states that on March 1, 1978, Applicant and CIG entered into an amendment to the agreement; the purpose of the amendment was to expand the area of interest of the agreement to include the Fuller area of Fremont County, Wyo., it is said.

Applicant states it has acquired from Husky Oil Co. (Husky) certain gas supplies developed and to be developed in the Fuller area, and approximately 30 percent of the Fuller natural gas production is controlled by Husky and is committed to Applicant; the remaining 70 percent is committed directly to CIG.

Applicant further states that its share of the Fuller gas would flow to CIG pursuant to the agreement. On August 29, 1978, the Commission granted certificate authority in docket Nos. CP78-198 and CP78-210 to CIG and Montana-Dakota Utilities Co. (MDU), respectively, to transport and exchange natural gas produced in the Fuller area of Fremont County, Wyo., it is stated. Pursuant to the Commission's order of August 29, 1978, CIG would gather and deliver the Fuller gas to MDU's pipeline in Fremont County and MDU would transport and redeliver thermally equivalent volumes to CIG at mutually agreeable locations on CIG's pipeline facilities, it is asserted. CIG would accept deliveries from MDU and, as appropriate, would transport and redeliver Panhandle's portion of the Fuller production to Panhandle in accordance with the terms of the agreement between Panhandle and CIG, as authorized by the Commission's order of February 17, 1978, in phase I of this proceeding, it is asserted.

Applicant further asserts it would pay a 10 cent per Mcf gathering charge to CIG for its share of the Fuller gas and would reimburse CIG 2 cents per Mcf for payment of a charge levied by MDU to CIG for the transportation of all Fuller gas, as authorized by the Commission's Order in docket Nos. CP78-198 and CP78-210.

Panhandle would benefit from the inclusion of the Fuller Reservoir area within the area of interest, because it would be able to connect new natural gas supplies, distant from its pipeline system, without the expenditure of large sums for major connection facilities.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32727 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-48]

TEXAS EASTERN TRANSMISSION CORP. AND TEXAS GAS TRANSMISSION CORP.

Application

NOVEMBER 14, 1978.

Take notice that on October 31, 1978, Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, Ky. 42301, (Applicants) filed in docket No. CP79-48 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas states that it has the right to purchase natural gas reserves, and is negotiating to purchase additional reserves, underlying West Cameron block 237, offshore Louisiana and proposes to construct and operate an undersea pipeline and related facilities to connect block 237 with Texas Eastern's existing off-shore Cameron Pipeline System on West Cameron block 250, offshore Louisiana.

Texas Eastern states that it has the right to purchase natural gas reserves underlying High Island block A-568, offshore Texas and proposes to construct and operate undersea pipelines and related facilities to connect such block with the 30-inch offshore pipeline of High Island Offshore System (HIOS) in the High Island offshore area, and is negotiating for the purchase of gas in the High Island area.

Texas Eastern states it would receive up to 20,000 Mcf of natural gas per day tendered for delivery by Texas Gas at the point of interconnection of Texas Eastern's Cameron Pipeline System with the pipeline facilities to be constructed by Texas Gas from West Cameron block 237 and to transport such quantities of natural gas onshore for exchange with or delivery to Texas Gas. It is further stated that Texas Gas has committed to it, capacity in the HIOS and Michigan Wisconsin offshore systems and would receive up to 20,000 Mcf of natural gas per day tendered for delivery by Texas Eastern at the point of interconnection of HIOS's system with the pipeline facilities to be constructed by Texas Eastern from High Island block A-568, for further transportation onshore for exchange with or delivery to Texas Eastern. By such agreement Applicants are committing capacity up to the maximum exchange volume for the exchange of additional gas supplies secured by Applicants in the High Island and West Cameron area, it is said.

Applicants proposed that any volume of natural gas transported onshore on any day in excess of the exchange volumes would be redelivered onshore by the transporting Applicant to the other Applicant. Daily deliveries of any such excess quantities of natural gas would be made at the interconnection of Texas Eastern's onshore pipeling system with the pipeline system of Transcontinental Gas Pipeline Corp. (Transco) near Ragley, La., it is asserted.

Texas Eastern states that it would transport for Texas Gas up to 20,000 Mcf per day, less fuel, to the Transco Ragley interconnection for the account of Texas Gas pending the delivery by Texas Eastern of the block A-568 volumes to Texas Gas and commencement of the exchange of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requfrements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32728 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-49]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 14, 1978.

Take notice that on October 31, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP79-49 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the interruptible transportation service of up to 723 dekatherms (dt) equivalent of natural gas per day for the account of Carolina Pipeline Co., Inc.; NCNG Exploration Corp., an affiliate of North Carolina Natural Gas Corp.; Philadelphia Electric Co.; Piedmont Exploration Co., Inc.; an affiliate of Piedmont Natural Gas Co., Inc.; Tar Heel Energy Corp., an affiliate of Public Service Co. of North Carolina, Inc.; Owens-Corning Fiberglas Corp.; UCG Energy Corp., an affiliate of United Cities Gas Co., North and South Carolina Division; Rockingham Exploration Co., an affiliate of North Carolina Gas Service Division of Pennsylvania and Southern Gas Co.; Burlington Industries, Inc.; and Devco Enterprises, Inc., an affiliate of Cherokee Brick Co. of North Carolina, Inc., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that with the exception of Owens-Corning Fiberglas Corp.; Burlington Industries, Inc.; and Devco Enterprises, Inc.; these transportation customers are all distribution company customers of Applicant or affiliates of Applicant's distributors.

Applicant further states that the joint venture (Transmac Exploration and Development Program) of these transportation customers has discovered and developed a successful well in the Lake Hatch '76 field, Terrebonne Parish, La.

Applicant states that the Lake Hatch '76 field is adjacent to existing facilities of Columbia Gulf Transmission Co. (Columbia Gulf) and of United Gas Pipe Line Co. (United) in Terrebonne Parish, La. Columbia Gas Transmission Corp. (Columbia Gas) has agreed to receive gas produced from the Lake Hatch '76 field which is delivered into the facilities of Columbia Gulf for Applicant's account, and, by displacement, would deliver such gas to United, it is said. United, in turn, would transport and redeliver such gas to Applicant at the existing authorized point of interconnection between the systems of Applicant and United at Gibson, Terrebonne Parish, La., Applicant states. Applicant is advised that Columbia Gas and United would forthwith file applications for the exchange and transportation services they would render.

Applicant requests authorization to transport for the account of the transportation customers, on an interruptible basis, their interests in the Lake Hatch '76 field gas from the point of receipt from United to existing points of delivery on Applicant's system to such customers, or their affiliates.

Applicant states further that transportation service into Applicant's rate zone 2 initially would be rendered at 23.5 cents per dt, and into rate zone 3 at 24.0 cents per dt.

Applicant would initially withhold 3.8 percent of the transportation volumes destined for delivery in rate zone 2 and 4.4 percent of the volumes for delivery in rate zone 3 for compressor fuel and line loss make-up, it is said. The Applicant asserts that transportation gas would be utilized by the transportation customers which would be the ultimate recipients to moderate the impact of Applicant's curtailments on their high-priority end uses.

Applicant asserts that the transportation service would be rendered with existing capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32729 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Project No. 814, et al.]

UTAH POWER & LIGHT CO., ET AL.

Expiration

NOVEMBER 13, 1978.

So that the Congress may have an adequate opportunity to decide whether upon the expiration of the licenses, to take over the projects under section 14 of the Federal Power Act, as amended (16 U.S.C. 807), and that the licensees for the projects and others may have adequate notice and opportunity to file timely application for new licenses under section 15 of the Act, as amended (16 U.S.C 808), public notice is hereby given that the license issued for the designated and described projects on the appended tables will expire on the dates specified.

KENNETH F. PLUMB,
Secretary.

[6740-02-C]

TABLE 1.--Projects for which licenses will expire between Jan. 1, 1979 and Dec. 31, 1984, inclusive, which are subject to relicensing or takeover

Project No	Licensee	State	County or Town	Stream	Installation (Kilowatts)	Facilities Under License	Period of License (years)	License Expiration Date
814	Utah Power & Light Co.	Utah	Beaver	Beaver River and tributaries	3,300	Dam, reservoir, powerhouse	50	Aug. 31, 1979
935	Pacific Power & Light Co.	Washington	Clark & Cowlitz	Lewi River	135,000	Dam, reservoir and powerhouse	50	Dec. 11, 1979
739	Consumers Power Co.	Michigan	Allegan	Kalamazoo River	2,550	Dam, reservoir, powerhouse and transmission line	50	Apr. 10, 1980
1015	Safe Harbor Water Power Corp.	Pennsylvania	York and Lancaster	Susquehanna River	190,000	Dam and powerhouse	50	Apr. 21, 1980
5	The Montana Power Co.	Montana	Flathead and Lake Counties	Flathead Lake and River	168,000	Dam, reservoir, 2 penstocks, powerhouse, and transmission lines	50	May 22, 1980
190	Moon Lake Electric Association	Utah	Duchesne County	Rock Creek and Uinta River	1,200	Dam, canal, diversion dam, powerhouse and a transmission line	50	June 30, 1980
749	Appalachian Power Co.	Virginia	Pulaski County	New River	77,400	Dam, reservoir, powerhouse and transmission line	50	June 30, 1981
1962	Pacific Gas & Electric Co.	California	Butte and Plumas Counties	North Fork of the Feather River	180,000	2 dams, 2 reservoirs, 2 powerhouses and transmission lines	35	Sept. 30, 1982
117	Kanawha Valley Power Co.	West Virginia	Kanawha and Fayette	Kanawha River	28,800	2 dams, 2 powerhouses and transmission lines	50	Jan. 15, 1984
1290	Kanawha Valley Power Co.	West Virginia	Kanawha and Putnam	Kanawha River	14,700	Powerhouse and transmission lines	46	Jan. 16, 1985
18	Idaho Power Co.	Idaho	Jerome and Twin Falls	Snake River	8,648	Dam, powerhouse and transmission line	50	June 10, 1984

[1] Sec. 14 of the Federal Power Act (16 U.S.C. 807) provides for the acquisition or condemnation by the United States or by any State or municipality of the property of a licensee which is necessary for the purposes of a project which is subject to the provisions of the Act, upon payment to the licensee of the net investment in the project, not to exceed the fair value of the property taken, plus severance damages, if any, to the remaining property of the licensee. Such net investment is not applicable to any project owned by a State or municipality, which is taken over pursuant to the act of Aug. 15, 1953 (67 Stat. 587).

[6740-02-M]

[Docket No. CP79-50]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 14, 1978.

Take notice that on October 31, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP79-50 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the interruptible transportation service of up to 1,000 dekatherms (dt) equivalent of natural gas per day for the account of Public Service Co. of North Carolina, Inc., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that with the exception of Owens-Corning Fiberglas Corp.; Burlington Industries, Inc.; and Devco Enterprises, Inc.; these transportation customers are all distribution company customers of Applicant or affiliates of Applicant's distributors.

Applicant further states that the joint venture (Transmac Exploration and Development Program) of these transportation customers has discovered and developed a successful well in the Lake Hatch '76 field, Terrebonne Parish, La.

Applicant states that the Lake Hatch '76 field is adjacent to existing facilities of Columbia Gulf Transmission Co. (Columbia Gulf) and of United Gas Pipe Line Co. (United) in Terrebonne Parish, La. Columbia Gas Transmission Corp. (Columbia Gas) has agreed to receive gas produced from the Lake Hatch '76 field which is delivered into the facilities of Columbia Gulf for Applicant's account, and, by displacement, would deliver such gas to United, it is said. United, in turn, would transport and redeliver such gas to Applicant at the existing authorized point of interconnection between the systems of Applicant and United at Gibson, Terrebonne Parish, La., Applicant states. Applicant is advised that Columbia Gas and United would forthwith file applications for the exchange and transportation services they would render.

Applicant requests authorization to transport for the account of the transportation customers, on an interruptible basis, their interests in the Lake Hatch '76 field gas from the point of receipt from United to existing points of delivery on Applicant's system to such customers, or their affiliates.

Applicant states further that transportation service into Applicant's rate zone 2 initially would be rendered at 23.5 cents per dt, and into rate zone 3 at 24.0 cents per dt.

Applicant would initially withhold 3.8 percent of the transportation volumes destined for delivery in rate zone 2 and 4.4 percent of the volumes for delivery in rate zone 3 for compressor fuel and line loss make-up, it is said. The Applicant asserts that transportation gas would be utilized by the transportation customers which would be the ultimate recipients to moderate the impact of Applicant's curtailments on their high-priority end uses.

Applicant asserts that the transportation service would be rendered with existing capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 30, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32730 Filed 11-21-78; 8:45 am]

[6740-02-M]

[6450-01-M]

deemed old oil included in a refiner's

V 43 N 226 78 UMI

TABLE 1.—Projects for which licenses will expire between Jan. 1, 1979 and Dec. 31, 1984, inclusive, which are not subject to takeover

License Expiration Date	Licensee	Project No.	State	County or Town	Stream	Installation (kilowatts)	Facilities Under License	Period of License (years)
Nov. 26, 1979	Hyrum City Corp.	946	Utah	Cache	Blacksmith Fork	2/ 450	Dam, reservoir, powerhouse and transmission line	50
Jan. 20, 1980	Public Utility District No. 1 of Chelan County and Puget Sound Power & Light Co.	943	Washington	Chelan, Ephrata, Rock Island, Waterville, Wenatchee, Chelan, and Douglas Counties	Columbia River	210 000 3/	Dam, reservoir, 2 powerhouses, and transmission lines	50
Apr. 10, 1980	City of Ocumka	925	Iowa	Wapello County	Des Moines River	1 000	Dams and powerhouse	50
May 1, 1980	New England Fish Co.	1299	Alaska	Kodiak Island	One Mile Creek	2/3/ 53	Diversion dam, pipeline, and 2 turbines	10
Aug. 29, 1981	City of Ephrata	1217	Utah	Sanpete	Ephraim Creek	2/ 205	Pipeline and powerhouse	50
Dec. 6, 1983	City of Radford, Virginia	1215	Virginia	Montgomery and Pulaski	Little River	2/ 800	Dam, reservoir and powerhouse	50
Apr. 16, 1984	Loup River Public Power District	1256	Nebraska	Platte, Nance, Madison, Stanton, Wayne, Dixon, Colfax, Dodge, Douglas, Butler, Saunders and Lancaster	Loup River	47,738	Diversion dams, reservoirs, powerhouses and transmission lines	50
May 30, 1984	City of Pasadena	1250	California	Los Angeles	San Gabriel River	3,000	Diversion dam and powerhouse	0

1/Sec. 14 of the Federal Power Act (16 U.S.C. 807), reserves the right to the United States to take over the project works upon expiration of the license at a price to be determined under that section, but may be waived pursuant to sec. 10(i) of the Act (16 U.S.C. 803(i)). Sec. 14 is not applicable to any project owned by a State or municipality, pursuant to the Act of Aug. 15, 1953 (67 Stat. 58).

2/Minor license.

3/Includes equivalent kW for 60 hp (mechanical). Does not include an additional kW [illegible] currently under construction.

[FR Doc. 78-32638 Filed 11-21-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-52]

THE WASHINGTON WATER POWER CO.

Filing

NOVEMBER 15, 1978.

Take notice that on November 7, 1978, the Washington Water Power Co. (Washington) tendered for filing copies of an amendment to an earlier filed transmission service contract dated December 3, 1976, under which Washington provides transmission service for Pacific Power & Light Co. (Pacific). Washington states that this amendment extends for 1 year (through November 1, 1979) the provisions of the above contract. Washington further states that no other provisions of the contract are altered.

Washington indicates that under the above transmission service contract, Washington provides 200 Mw of transmission capacity from its interconnection with Idaho Power Co. in the Oxbow-Lolo 230-Kv line to the Lolo terminal of the Walla Walla-Lolo 230-Kv line. Washington further indicates that the agreement provides that the transmission service is to continue until November 1, 1979 (as amended) or until Pacific's proposed Midpoint-Malin 500-Kv line is in service—whichever is earliest.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.10). All such petitions or protests should be filed on or before November 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32730 Filed 11-21-78; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for September 1978

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: September 1978 entitlement notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for September 1978.

DATES: Payments for entitlements required to be purchased under this notice must be made by November 30, 1978. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 6128I, Washington, D.C. 20461, 202-254-8660.

Fred Wolgel (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461, 202-566-2454.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for September 1978 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the east coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); October 1978 deliveries of crude oil for storage in the strategic petroleum reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for September 1978 is calculated to be 0.174394.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of September 1978, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to 0.163476 of a barrel of deemed old oil.

The issuance of entitlements for the month september 1978 to refiners and other firms is set forth in the appendix to this notice. The appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of September 1978 is hereby fixed at $8.13, which is the exact differential as reported for the month of September between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of September 1978 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of September 1978 equal to the difference between the number of barrels of deemed old oil included in those receipts and a number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of September 1978 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through August 1978 pursuant to 10 CFR 211.67(j)(1).

The listing of refiners' old oil receipts contained in the appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments

for relief granted by the Office of Hearings and appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see Beacon Oil Co. et al., 4 FEA par. 87,024 (Nov. 5, 1976).

The listing contained in the appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the September 1978 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to insure that Arizona Fuels is not relieved of its September 1978 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see Entitlement Notice for October 1977 (42 FR 64401, Dec. 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the U.S. Government for storage in the strategic petroleum reserve, the number of barrels sold to the Government totaled 9,109,579 barrels.

For the month of September 1978, imports of residual fuel oil eligible for entitlements issuances totaled 33,775,988 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity (in degrees)
California lower tier crude oil	9,465,336	19
California upper tier crude oil	7,431,154	20

The total number of entitlements required to be purchased and sold under this notice is 21,735,366.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for September 1978, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes*
Lower tier	88,089,888	$5.99	17.8
Upper tier	88,086,387	12.79	17.8
Exempt domestic:			
Alaskan	35,088,556	12.83	7.1
Stripper	35,508,401	14.51	7.2
Naval petroleum reserve	2,927,909	13.40	.6
Total domestic	249,701,141	10.65	50.6
Imported	243,970,005	14.53	49.4
Total reported crude oil receipts	493,671,146	$12.57	100.0
Total reported crude oil runs to stills	477,336,072		

*Numbers may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for September 1978 must be made by November 30, 1978.

On or prior to December 10, 1978, each firm which is required to purchase or sell entitlements for the month of September 1978 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of September. The monthly transaction report forms for the month of September have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by November 30, 1978 are requested to contact the ERA at 202-254-3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to November 30, 1978, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 22, 1978.

Issued in Washington, D.C. on November 16, 1978.

HAZEL R. ROLLINS,
Deputy Administrator, Economic Regulatory Administration.

[6450-01-C]

ENTITLEMENTS APPENDIX
DOMESTIC CRUDE OIL
September 1978

PAGE: 9

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	ENTITLEMENT POSITIONS TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT CALIFORNIA	REQUIRED TO BUY	REQUIRED TO SELL
*CONSOLID-SALES	-113,419	0	0	0	0	113,419*
A-JOHNSON	0	181,419	0	0	0	181,419
ALLIED	122,395	64,044	0	0	58,351	0
AMER-PETROFINA	393,402	758,641	0	0	0	365,239
AMERADA-HESS	1,996,709	3,067,634	0	0	0	1,070,925
AMOCO	9,185,173	6,094,292	0	3,090,881	0	0
ANCHOR	24,927	81,864	0	11,821	0	54,937
ARCO	3,785,315	3,221,298	0	36,554	564,014	0
ARIZONA	174,898	63,879	6,164	4,205	113,419	0
ASAMERA	71,273	158,017	0	0	0	86,744
ASHLAND	1,184,162	1,758,145	0	7,799	0	573,983
ASIATIC	0	204,695	0	0	0	204,695
BASIN	259,157	208,863	0	82,573	50,294	0
BAYOU	44,350	54,172	0	0	0	9,822
BEACON	204,630	258,800	0	35,081	0	54,170
BELCHER	0	48,323	0	0	0	88,323
BI-PETRO	4,185	119,116	0	0	0	112,931
BP-TRADING	0	340,208**	0	0	0	340,208
BRUIN	32,041	120,914	0	0	0	88,873
C&H	77	39	0	0	38	0
CALCASIEU	1,271	48,778	0	0	0	47,507
CALUMET	19,422	18,707	1	0	715	0
CANAL	63,667	78,907	0	0	0	15,240
CARIBOU	66,446	84,154	0	0	0	17,708
CASTLE	0	20,775	0	0	0	20,775
CENTRAL	0	20,926	0	0	0	20,926
CHAMPLIN	1,322,168	1,139,060	0	179,475	183,108	0
CHARTER	958,167	819,691	0	0	138,476	0
CHEVRON	4,415,131	5,909,251	0	71,746	1,494,120	0
CII	0	115,604	0	304,028	0	188,424
CIRILLO	0	52,487	0	52,487	0	0
CITGO	2,268,727	1,372,805	0	0	895,922	0
CLAIBORNE	48,497	30,723	0	0	18,174	0
CLARK	164,317	651,764	0	0	0	487,447

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
COASTAL	138,811	1,821,440**	0	32,557	0	0	1,682,629
COLONIAL	0	37,888	0	37,888	0	0	37,888
CONOCO	1,912,759	1,748,440**	0	42,312	106,009	120,319	0
CONSUMERS-POWER	0	74,224	0	74,224	0	0	74,224
CORAL	0	211,464	0	0	0	0	211,464
CORCO	0	1,369,344	599,619***	237,818	0	0	1,389,344
CRA-FARMLAND	284,836	459,120	0	0	0	0	170,284
CROSS	45,608	93,222	0	0	0	0	47,614
CROWN	304,508	540,437	0	0	0	0	235,929
CRYSTAL-OIL	133,411	142,564	0	0	0	0	9,153
CRYSTAL-REF	28,213	32,185	0	0	0	0	3,972
DELTA	246,230	290,827	0	0	0	0	44,597
DEMENNO	8,278	73,023	0	0	8,284	0	64,745
DETROIT-ED	0	34,420	0	34,420	0	0	34,420
DIAMOND	447,481	326,010	0	0	0	121,471	0
DILLMAN	0	853	0	0	0	0	853
DORCHESTER	1,897	224,474	0	0	0	0	222,577
DOW	44,632	103,759	0	0	0	0	59,127
E-SEABOARD	0	66,842	0	66,842	0	0	66,842
ECO	133,134	109,010	0	0	34,990	24,124	0
EDDY	35,247	38,359	0	0	0	0	3,112
ELM	0	14,599	0	14,599	0	0	14,599
ENERGY-COOP	0	481,819	0	0	0	0	481,819
ERICKSON	5,406	136,791	0	0	0	0	131,385
EVANGELINE	35,670	38,933	0	0	0	0	3,263
EXXON	7,974,530	8,267,344	0	558,748	0	0	292,814
EZ-SERVE	8,554	91,634	0	0	0	0	83,080
FARMERS-UN	141,274	287,427	0	0	0	0	146,153
FLETCHER	12,439	165,495	0	0	2,847	0	153,056
FLINT	7,918	8,586	0	0	0	0	668
GARY	89,337	110,147	0	0	0	0	20,810
GETTY	691,954	416,408	0	0	0	275,548	0
GIANT	31,742	58,440	0	0	0	0	26,698
GLACIER-PARK	94,315	48,286	0	0	0	46,029	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
GLADIEUX	99,445	129,392	0	0	0	0	29,947
GLENROCK	534	815	0	0	0	0	281
GOLDEN-EAGLE	0	146,919	0	0	0	0	146,919
GOLDEN-EAGLE-NY	0	30,935	0	30,935	0	0	30,935
GOLDKING	121,256	123,727	0	0	0	0	2,471
GOOD-HOPE	33,865	249,212	0	0	0	0	215,347
GUAM	0	253,748	0	0	0	0	253,748
GULF	4,349,759	4,117,706	0	19,850	70,882	4,232,053	0
GULF-STS	27,067	124,862	0	0	0	0	97,795
HIRI	0	394,489	0	0	0	0	394,489
HOWELL	127,156	252,693	0	0	0	0	125,537
HUDSON-OIL	9,992	171,741	0	0	0	0	161,749
HUNT	166,528	267,501	0	0	0	0	100,973
HUSKY	524,375	524,375	205,491	0	9,608	0	0 ****
INDEPENDENT-REF	17,703	123,939	0	0	0	0	106,236
INDIANA-FARM	29,312	176,829	0	0	0	0	147,517
INDUST-FUEL	0	37,577	0	0	0	0	37,577
IRVING	0	18,350	0	18,350	0	0	18,350
J&W	51,463	38,980	0	0	0	12,483	0
KENCO	18,215	34,388	0	0	0	0	16,173
KENTUCKY	15,054	11,760	0	0	0	3,294	0
KERN	517,235	428,366	168,864	0	72,951	88,869	0
KERR-MCGEE	894,863	733,473	0	0	0	161,390	0
KOCH	227,779	714,952	0	24,343	0	0	487,173
LAGLORIA	422,243	237,589	0	0	0	184,654	0
LAKESIDE	51,166	42,291	0	0	0	8,875	0
LAKETON	138,549	140,942	37,534	0	0	0	2,393
LITTLE-AMER	1,001,392	969,056	518,998	0	0	32,336	0
LOUISIANA-LAND	174,421	265,827	0	0	0	0	87,406
MACMILLAN	44,868	139,650	0	0	6,212	0	94,782
MARATHON	4,483,931	2,583,024	0	0	0	1,900,907	0
MARION	75,382	196,174	0	0	0	0	120,792
METROPOLITAN	0	169,803	0	169,803	0	0	169,803
MID-AMER	90,873	90,873	55,271	0	0	0	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
MID-TEX	17,891	31,889	0	0	0	0	13,998
MOBIL	5,819,596	4,491,260	0	26,574	462,724	1,328,336	0
MOBILE-BAY	0	120,658	0	0	0	0	120,658
MOHAWK	379,874	470,360	174,244	0	83,397	0	90,466
MONOCO	0	3,464	-3,768	7,234	0	0	3,466
MONSANTO	254,524	258,150	0	0	0	0	3,626
MORRISON	17,450	13,232	0	0	0	4,218	0
MOUNTAINEER	6,644	6,408	0	0	0	236	0
MT-AIRY	16,861	120,170	0	0	0	0	103,309
MURPHY	746,039	613,069	0	0	0	132,970	0
N-AMER-PETRO	34,435	185,850	0	0	12,274	0	151,415
NATL-COOP	194,310	296,460	0	0	0	0	102,150
NAVAJO	290,521	313,150	63,731	0	0	0	22,629
NEVADA	15,221	36,284	0	0	0	0	21,063
NEW-EDGINGTON	769,870	671,092	191,369	0	255,074	98,778	0
NEW-ENGL-PETRO	0	342,715	0	342,715	0	0	342,715
NEWHALL	92,216	186,357	0	0	29,254	0	94,141
NORTHEAST-PETRO	0	53,433	0	53,433	0	0	53,433
NORTHLAND	32,315	32,315	9,918	0	0	0	0
OKC	135,832	209,293	0	0	0	0	73,461
OKLA-REF	-9,325	140,033	0	0	0	0	149,358
OXNARD	4,265	23,790	0	0	3,339	0	19,525
PEMEX	0	145,784**	0	0	0	0	145,784
PENNZOIL	451,869	283,174	0	0	0	168,715	0
PESTER	52,410	193,950	0	0	0	0	141,540
PHILLIPS	2,519,853	1,643,339	0	0	328	876,513	0
PHILLIPS-PR	0	185,737	0	185,737	0	0	185,737
PIONEER	38,164	51,923	0	0	0	0	13,759
PLACID	208,070	252,303	0	0	0	0	44,233
PLATEAU	86,865	155,783	0	0	0	0	68,918
POWERINE	350,507	545,388	156,414	0	105,801	0	194,881
PR-OLEFINS	0	16,041	0	16,041	0	0	16,041
PRIDE	94,767	155,184	0	0	0	0	60,417
PRINCETON	4,115	52,893	0	0	0	0	48,778

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
QUAKER-ST	24,596	191,183	0	0	0	0	166,587
RANCHO-REF	2,102	8,409	0	0	0	0	6,307
RAYMAL	2,606	25,544	0	0	0	0	22,938
RICHARDS	413	47,253	0	0	0	0	46,840
RICHCO	0	104,636**	0	0	0	0	104,636
ROAD-OIL	0	1,498	0	0	0	0	1,498
ROCK-ISLAND	167,582	302,557	0	0	0	0	134,975
SABER-TEX	14,103	284,697	0	0	0	0	270,594
SABRE-CAL	48,954	148,119	15,089	0	17,383	0	103,165
SAGE-CREEK	1,505	3,492	0	0	0	0	1,987
SAN-JOAQUIN	360,824	325,967	13,549	0	136,045	34,857	0
SEARS	0	41,984	0	41,984	0	0	41,984
SEMINOLE	11,075	81,731	0	0	0	0	70,656
SENTRY	-1,287	100,388	0	0	0	0	101,675
SHELL	9,226,683	6,156,810	0	0	513,105	3,069,873	0
SHEPHERD	0	97,447	0	0	0	0	97,447
SIGMOR	20,893	65,800	0	0	0	0	44,907
SO-HAMPTON	75,414	123,599	0	0	0	0	48,185
SOHIO	1,436,750	2,318,154	0	0	0	0	881,404
SOMERSET	28,061	43,223	0	0	0	0	15,162
SOUND	77,229	108,457	0	0	28,606	0	31,228
SOUTHERN-UNION	196,045	238,388	0	0	0	0	42,343
SOUTHLAND	397,328	327,108	130,327	0	0	70,220	0
SOUTHWESTERN	7,831	7,831	3,775	0	0	0	0
SPRAGUE	0	46,490	0	46,490	0	0	46,490
STEUART	0	238,680	0	238,680	0	0	238,680
SUNLAND	75,884	146,418	0	0	25,221	0	70,534
SUNOCO	3,718,994	3,009,837	67,135	0	0	709,157	0
SWANN	0	77,037	0	77,037	0	0	77,037
T&S	28,480	97,681	0	0	0	0	69,201
TARRICONE	0	26,111	0	26,111	0	0	26,111
TENNECO	666,181	418,095	0	0	3,730	248,086	0
TESORO	274,717	412,302	0	0	5,658	0	135,585
TEXACO	7,244,473	5,957,402	0	352,846	246,486	1,287,271	0

the following key issues: Efficacy (in copy will be treated in accordance

PAGE: 14

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL	
TEXAS-AMERICAN	28,993	94,790	0	0	0	65,806	
TEXAS-ASPH	13,644	33,754	0	0	40,310	20,066	*****
TEXAS-CITY	528,509	484,199	0	0	0	0	
THAGARD	147,682	184,299	0	0	0	0	
THRIFTWAY	27,585	42,226	0	45,220	0	34,617	
THUNDERBIRD	71,304	121,421	0	0	0	14,641	
TIPPERARY	51,421	70,238	0	0	0	50,517	
TONKAWA	26,271	50,222	0	0	0	18,417	
TOSCO	1,452,958	1,533,823	0	376,587	0	23,051	
TOTAL-PETROLEUM	154,245	388,362	0	0	0	80,865	
UCC-CARIBE	0	154,429	0	150,429	0	234,118	
UNI-REF	0	123,977	0	0	0	154,429	
UNION-OIL	3,688,272	2,381,169	0	199,288	1,307,109	123,977	
UNION-PETRO	0	40,641	0	44,641	0	0	
UNTD-IND	0	1,484	0	0	0	44,641	
UNTD-REF	33,140	300,559	0	0	0	1,484	
USS90-AMER	0	280,559**	0	4,518	0	267,419	
US-OIL	14,643	181,172	0	7,154	0	280,559	
USA-PETROCHEM	24,734	181,300	0	0	0	166,522	
VAL-VERDE	195	2,417	0	0	0	154,562	
VICKERS	168,790	385,317	0	8,720	0	2,222	
WALLER	0	8,720	0	0	0	216,527	
WARRIOR	67,994	50,004	0	10,964	17,988	8,720	
WEST-COAST	45,912	148,610	0	0	0	0	
WESTERN	64,030	107,514	0	41,991	0	62,702	
WINSTON	109,216	143,608	0	0	0	41,484	
WIREBACK	0	797	0	0	0	34,347	
WITCO	81,863	201,290	0	26,497	0	797	
WYATT	0	27,444	0	27,444	0	119,427	
WYOMING	31,229	153,753	0	0	0	27,444	
YETTER	-229	641	0	0	0	122,524	
YOUNG	55,021	44,139	0	0	0	470	
TOTAL	100,952,408	100,952,408	0	22,454	3,539,185	3,459,235	21,735,364
			0	3,548,335			21,735,364

*See discussion in notice.

**Includes entitlements issued for sales of imported crude oil to the U.S. Government for storage in the Strategic Petroleum Reserve.

***Authorization to sell these entitlements is subject to conditions set forth in a DOE decision and order issued to Commonwealth Oil & Refining Co. on Mar. 20, 1978.

****This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in *Husky Oil Co. v. DOE, et al.*, Civ. Action No. C77-190-B (D. Wyo., filed Mar. 14, 1978), *remanded* — F. 2d — (No. 10-18 TECA, Aug. 10, 1978).

*****This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co. v. FEA*, Civ. Action No. 4-75-268 (N.D. Tex., filed Oct. 31, 1975).

[FR Doc. 78-32775 Filed 11-20-78; 9:38 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-210013; FRL 1011-6]

PESTICIDE PROGRAMS

Scientific Investigation; Request for Information

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (OPP, EPA).

ACTION: Notice of scientific investigation leading to development of report to Congress on methods of pesticide application.

SUMMARY: In accordance with section 27 of Pub. L. 95-396, the EPA has begun an in-depth investigation of all available scientific information pertaining to the advisability of low volume (LV) and ultra low volume (ULV) methods of pesticide applications. The terms "low volume" and "ultra-low volume" generally refer to the practice of applying a pesticide in a higher concentration of active ingredient (lower amount of diluent) than normally called for on pesticide labels, even though the amount of active ingredient applied per acre is the same as that called for on the product label. The practice is employed particularly in aerial application to increase efficiency by reducing the volume of finished spray applied, thus saving fuel and number of trips (time) required to treat any given area.

For the purposes of this investigation, ULV pesticide applications are limited to 3 gallons or less of use dilution per acre (3 g.p.a.) and LV pesticide applications are limited to less than 5 gallons of use dilution per acre (5 g.p.a.) but greater than 3 gallons of use dilution per acre (3 g.p.a.). It is the intention of the Agency to develop a report to Congress, and if necessary, regulations or advisory opinions on the following key issues: Efficacy (including the question of drift); environmental safety; human safety; and product performance. The Agency shall submit its findings and proposed recommendations to the Congress by March 31, 1978.

DATES: The information requested must be received on or before December 22, 1978.

ADDRESS MATERIAL TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room E-401, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard King, Registration Division (TS-767), Office of Pesticide Programs, EPA, Room 345, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-426-2510.

SUPPLEMENTARY INFORMATION: The Agency is soliciting written views from registrants and other interested parties concerning the efficacy, environmental safety, human safety, and product performance of ULV and LV pesticide applications. All information and materials sent to EPA as a result of this notice which comply with the guidelines stated herein will be considered in the Agency's determination. Such material, however, will not necessarily be referenced or included in any final document prepared by EPA.

A. Submission of Information: Confidentiality

A business confidentiality claim may be submitted covering part or all of the information submitted. Assertion of confidentiality is accomplished by placing on or attaching to the information a cover sheet upon which is stamped or typed, or appears in other suitable form, language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked. If confidentiality is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906, Sept. 1, 1976). If no confidentiality claim accompanies the submitted information, EPA will place the information in the public comment file where it will be available for public inspection. If confidentiality is asserted for a portion of the submitted information, the registrant should furnish two copies to EPA. The first should contain all of the submitted information with that claimed as confidential clearly identified; the second copy should be identical to the first except that all claimed confidential information should be deleted. The first copy will be treated in accordance with the procedures set out above. The second copy will be placed in the public comment file.

B. Public Inspection of Submitted Information

With the exception of confidential information, all written information and comments submitted in response to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days. Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since: (1) All of the information timely received will be considered before a final determination is made, and (2) the Agency may not publish a summary of all the information received in the Federal Register.

C. Guidelines for Submission

1. *Materials solicited.* All interested parties are invited to submit scientific information relative to ULV and LV pesticide applications. The Agency is particularly interested in information relative to efficacy, environmental safety, human safety, and product performance for ULV and LV insecticide, herbicide, and fungicide applications.

2. *Special materials.* a. Relevant unpublished research papers should bear the year research was completed, the purpose for which the research was done (i.e., graduate thesis), and the institution, organization, or company for which the research was performed.

b. Scientific comment on relevant, previously published research papers should be submitted with a copy of the original published material, if it is not readily available publicly. Submissions should include complete bibliographic citations of all materials utilized in preparing the comment.

3. *Procedures.* a. Initial submissions should be postmarked no later than thirty (30) calendar days after publication of this notice and should bear the identifying notation OPP-210013.

b. All material submitted must be in typed form and clearly legible and suitable for duplication by normal copying machines.

c. All material, other than general correspondence, should have the following front page format:

Topic
Author(s) full name
Author(s) full address (including ZIP code)
Author(s) telephone number (including area code)

d. Any material submitted in a foreign language should be accompanied by an English translation.

e. Information and comments received after the specified time period

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will be considered only to the extent practicable.

f. All interested parties should direct their questions regarding the submission of any pertinent information on LV-ULV pesticide application to Mr. Richard King at the address cited above.

Dated: November 15, 1978.

DOUGLAS D. CAMPT,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-32710 Filed 11-21-78; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC HEARINGS

Universal Social Security Coverage Study

AGENCY: Universal Social Security Coverage Study, HEW.

ACTION: Notice is hereby given of public hearings of the Universal Social Security Coverage Study.

SUMMARY: In July 1978, the Secretary of Health, Education, and Welfare appointed Joseph W. Bartlett as Chairman of the Universal Social Security Coverage Study. The study is authorized under section 311 of the Social Security Amendments of 1977. The study has been charged by the Secretary with conducting a comprehensive examination of the feasibility and desirability of universal social security coverage. It is to report its findings and recommendations to the Secretary for transmittal to the Congress and the President by December 20, 1979.

In its investigation of the feasibility and desirability of mandating universal coverage, the study is examining all aspects of the retirement plans and nonprofit organizations that are not presently covered by social security. As part of its overall investigation, the study has identified a series of issues which it would like to consider in more depth and on which it would like to hear the views of the general public.

In order to facilitate public comment, the study has scheduled hearings in seven locations around the country.

The dates and locations are:

Boston, Mass.—December 19, 1978.
Baton Rouge, La.—January 10, 1979.
Washington, D.C.—January 24, 1979.
Albuquerque, N. Mex.—February 6, 1979.
San Francisco, Calif.—February 8, 1979.
Kansas City, Mo.—March 6, 1979.
Miami, Fla.—March 20, 1979.
Washington, D.C.—April 13, 1979.

Within the constraints of time, as many speakers as possible will be scheduled at each site. Persons unable to testify at the hearings may submit written comments for the record up to one week following the date of each hearing. Because of the time constraints, any witnesses with lengthy testimony are encouraged to present a synopsis of their statement and submit the written testimony for the record.

The study recognizes the complexity of universal coverage and the broad range of concerns that people have about this issue. To provide some focus for testimony at the hearings and for written comment, the study has prepared a list of issues that it views as having particular importance for its review of the program. The issues and questions set out in this statement are intended to organize public comments in a way that will be most useful to the study.

BACKGROUND ON THE ISSUE OF UNIVERSAL SOCIAL SECURITY COVERAGE

When the social security program was established in 1935, there were few retirement plans in private industry and less than 10 percent of the private industry labor force was protected by a pension program. Social Security was intended to fill this gap and to serve as a base upon which employer plans would be developed.

Currently some 90 percent of all workers in this country contribute to the social security program. While participation is mandatory for most types of employment, approximately 8 million jobs are exempt from participation in the program. The majority of these noncovered positions are in the Federal, State and local governments and nonprofit associations.

Federal workers were exempted from social security because the civil service retirement system—which had been in effect for nearly 15 years prior to the inception of social security—was considered adequate protection for Federal workers. State and local government workers were excluded from coverage largely because of a question over the constitutionality of mandating coverage for this group. While State and local government groups may voluntarily elect to participate in the social security system—indeed some 70 percent of all such workers are covered by the program—these groups may also elect to terminate coverage and withdraw from the program. The great majority of workers not covered by the social security system are covered by their own staff retirement plans.

In addition to the exempted Government workers, certain self-employed and part-time workers have also been exempted from the program largely because of their minimal annual net earnings, the irregularity of their work schedule and the administrative difficulty in maintaining their earnings records.

ISSUES FOR THE PUBLIC HEARINGS

While the study will examine numerous complex issues during its investigations, it is desired that the public hearings focus on certain specific issues. Witnesses should not feel they are limited to the questions outlined below; however, discussion of these topics is vital to the study's work:

1. How do retirement, survivor, disability, medical and other major benefits offered in noncovered employment compare with benefits available under social security?
2. How frequently do individuals working in jobs excluded from social security coverage obtain social security coverage through subsequent employment or previous employment?
3. How frequently do individuals working in jobs not covered by social security receive coverage through a spouse's coverage?
4. What are the "portability" provisions of the existing noncovered retirement plans? How are portability programs financed?
5. In those instances where a group has "withdrawn" from the social security program, how were staff retirement plans adjusted to compensate for the loss of that coverage?
6. Are there acceptable alternative methods for extending social security coverage to those workers who are not now participating in the program? With regard to these alternatives, what would be the
   Transition problems involved in instituting such coverage.
   Possible financial impacts on both employers and employees (contributions and other financing problems).
   Potential impacts on staff or other retirement plans.
7. Are there desirable alternatives to mandatory or universal coverage? With regard to these alternatives, what would be the potential impact on employees and employers; and on existing retirement plans?
8. What are the legal ramifications of extending mandatory social security coverage to employees of State and local governments?

INFORMATION ON THE PUBLIC HEARINGS

The hearings will be conducted in a manner comparable to Congressional hearings. Each hearing will be from 9 a.m. to 12 noon and from 1 to 5 p.m. Participants will be permitted a maximum of 10 minutes each. Additionally, written statements may be offered by any person, including those who testify orally.

Requests to testify will be accepted from public officials, representatives of civic and public interest organizations, and concerned citizens. Time allotments of 10 minutes or less will be governed by the number of requests received. If the requests exceed the available time, prospective witnesses with similar views will be asked to combine their presentations. In the event that accommodations cannot be made, witnesses will be chosen by lot.

Any public official, representative of an organization, or individuals desiring to participate at the hearings should contact the Study at the address below, 30 days prior to the hearing, providing the following information: (1) Name; (2) business address; (3) telephone number during normal working hours; (4) capacity in which presentation will be made, i.e., public official, organization presentation, or citizen; (5) principal issues to be addressed and basic position on them; (6) time desired (which must be 10 minutes or less); and (7) text of presentation, if available. Late requests for testifying will be honored as time permits.

For additional background materials on any of the issues selected by the Study for discussion at the public hearings, and for requests to testify, write to:

Department of Health, Education and Welfare, Universal Social Security Coverage Study, Room 2311, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

The public and the press are invited to attend the hearings which will be transcribed. The transcriptions and all written submissions will become part of the record of these proceedings.

General telephone inquiries should be directed to Ms. Leigh H. McDermott, telephone number 202-472-3590.

Dated: November 15, 1978.

RICHARD J. WALLACE,
Executive Director, Universal Social Security Coverage Study.

[FR Doc. 78-32588 Filed 11-21-78; 8:45 am]

[4110-89-M]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to section 10, Pub. L. 92-463, that a meeting of the Advisory Council on Education Statistics will be held on December 7, 1978, from 9 a.m. to 5 p.m., in Room 3000, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202. The meeting will be continued on December 8, 1978, from 9 a.m. to 12:30 p.m., at the same location.

The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1221e-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education, and the National Center for Education Statistics (NCES); and shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting agenda will include an Administrator's report summarizing recent developments regarding budget, staff, and major projects of the National Center for Education Statistics.

Other major topics will include an overview of the Center's program for fiscal year 1979, the content of future agendas, and the content of the Council's next annual report.

The meeting is open to the public; however, because of limited accommodations, those members of the public wishing to attend should make reservations by writing, no later than November 28, 1978, to Executive Director, Advisory Council on Education Statistics, Room 3153-E, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on November 17, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

[FR Doc. 78-32777 Filed 11-21-78; 8:45 am]

[4110-39-M]

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATIONS

Meeting

Notice is hereby given that the next meeting of the panel for the review of laboratory and center operations will be held on December 9-10, at the Carnegie Endowment for International Peace, 11 Dupont Circle NW., Washington, D.C. The panel will meet from 9 a.m. until 5 p.m. on December 9 in room 800-D and from 9 a.m. until approximately 3 p.m. on December 10 in room 800-A.

The panel for the review of laboratory and center operations is established under section 405 of the General Education Provisions Act as amended by section 403(d) of the Education Amendments Act of 1976, 20 U.S.C. 1221e. Its functions include:

(a) Preparing recommendations on initial long-range funding and program plans submitted by the 17 education laboratories and research and development centers;

(b) Reviewing and assessing the operations of the laboratories and centers and making recommendations for the improvement and continuation of the individual laboratories and centers and for the support of new laboratories and centers.

The entire meeting will be open to the public. The meeting will be devoted primarily to conclusive discussion and editing of a draft of the panel's final report to the Director of the National Institute of Education and the Congress. The final report will be submitted to the NIE Director on December 15, 1978, and to Congress by January 1, 1979. The panel will also make plans for future activities.

Interested persons are invited to attend the session. Written statements relevant to an agenda item or any topic deemed of interest to the panel may be submitted to the panel staff at the address below.

Copies of the records of all panel proceedings may be obtained through the office of the panel staff. Minutes require approval by the panel at a subsequent meeting and are available to the public 2 weeks following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, persons likely to attend the panel meeting may contact the panel staff office as indicated below:

Panel for the Review of Laboratory and Center Operations, National Institute of Education, Washington, D.C. 20208, 202-254-5830 or 254-5306.

Dated: November 20, 1978.

GRADY MCGONAGILL,
Staff Director, Panel for the Review of Laboratory and Centers Operations.

[FR Doc. 78-33081 Filed 11-21-78; 9:22 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-650; FDAA-3067-EM]

CALIFORNIA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of California (FDAA-3067-

whether the application should be ap-

as promptly as possible after publica-

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EM), dated October 29, 1978 (43 FR 53829, Nov. 17, 1978).

DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive order 11795 of July 11, 1974, and delegated to me by Secretary under Department of Housing and Urban Development Delegation of Authority, docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143) notice is hereby given that on November 6, 1978, the President amended his emergency declaration of October 29, 1978, as follows:

I have determined that the impact of brush fires on the State of California is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such am emergency exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to donate Government-owned mobile homes to the State of California for the purpose of providing temporary housing under the provisions of section 404 of Pub. L. 93-288, and to implement such other portions of section 404 and section 408, "Individual and Family Grant Programs," as may be necessary. You are further authorized to allocate, from funds available for these purposes, such amounts as you find necessary for administrative expenses.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-32748 Filed 11-21-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WETLAND-RAPARIAN AREA PROTECTION AND MANAGEMENT

Policy and Protection Procedures—Interim Guidelines

Correction

In FR Doc. 78-31601 appearing at page 52179 in the issue for Wednesday, November 8, 1978, the date of deadline for comments now given as "January 8, 1978" should have been "January 8, 1979".

[4310-31-M]

Geological Survey

COAL LAND CLASSIFICATION ORDER COLORADO NO. 143

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, COLORADO

RECLASSIFIED COAL LAND FROM NONCOAL LAND

Prior classification of the following subdivisions as noncoal land is hereby revoked and the land is reclassified as coal land:

T. 3 N., R. 95 W.,
Sec. 16, lots 17, 18, and 20;
Sec. 17, lots 1, 4, 5, and 8.

The area described aggregates 139 acres (56 ha), more or less, of which all are reclassified as coal land.

Dated: November 13, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-32763 Filed 11-22-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

[Colorado 24128g]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

NOVEMBER 15, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4¼-inch o.d. natural gas pipeline for the Philadelphia Creek Gathering System approximately 0.680 mile long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 2 S., R. 100 W.,
Sec. 7, NW¼NW¼.
T. 2 S., R. 101 W.,
Sec. 12, NE¼.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

JOHN R. BERNICK,
Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-32758 Filed 11-22-78; 8:45 am]

[4310-84-M]

[M 42189]

MONTANA

Application

NOVEMBER 14, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Red Rock Land Corp. filed an application for a right-of-way to construct a 1-inch pipeline for the purpose of transporting natural gas across the following described public lands:

PRINCIPAL MERIDIAN, MONTANA

T. 33 N., R. 17 E.,
Sec. 11, NE¼SW¼ and N½SE¼; and
Sec. 12, N½SW¼.

The pipeline will transport natural gas from an existing pipeline across 1.14 miles of public land in Blaine County. The gas will be used by the corporation for heating purposes.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and, if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Drawer 1160, Lewistown, Mont. 59457.

KENNETH J. SIRE,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc. 78-32744 Filed 11-21-78; 8:45 am]

[4310-84-M]

[NM 35263, 35264, and 35269]

NEW MEXICO

Applications

NOVEMBER 13, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. SW.,
Sec. 14, W½NW¼ and SE¼NW¼.
T. 31 N., R. 11 W.,
Sec. 8, E½SE¼;
Sec. 17, W½SE¼;
Sec. 20, NW¼NE¼ and NE¼NW¼.

These pipelines will convey natural gas across 0.848 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32745 Filed 11-21-78; 8:45 am]

[4310-84-M]

[NM 35256]

NEW MEXICO

Application

NOVEMBER 13, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 33 E.,
Sec. 14, E½NE¼.

This pipeline will convey natural gas across 0.045 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32746 Filed 11-21-78; 8:45 am]

[4310-84-M]

[Colorado C-27352]

NORTHWEST PIPELINE CORP.

Pipeline Application

NOVEMBER 15, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch o.d. natural gas pipeline, approximately 1.193 miles long, across the following public lands in Garfield County:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 7 S., R. 91 W.,
Sec. 20 and 22.

The proposed lateral pipelines will enable the applicant to convey natural gas from the Rifle-Boulton No. 1 well to an existing Mountain Fuel Gathering System.

The purposes of this notice are: (1) To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; (2) to allow interested parties to comment on the application; and (3) to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bonafide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the Team Leader, Canon City-Grand Junction, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

EDWARD KOETEEUW,
Acting Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 78-32759 Filed 11-21-78; 8:45 am]

[4310-84-M]

[NM 35253 and 35255]

NEW MEXICO

Applications

NOVEMBER 13, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 10W.,
Sec. 24, lots 10 and 15.
T. 31 N., R. 11 W.,
Sec. 8, SW¼NE¼ and SE¼NW¼.

These pipelines will convey natural gas across 0.544 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32760 Filed 11-21-78; 8:45 am]

[4310-84-M]

[Wyoming 65495]

WYOMING

Application

NOVEMBER 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 30 N., R. 113 W.,
Sec. 34, N½SW¼.

or, 18th and C Streets NW., Washing-

ber 26, 1978, Judge Saxon made a de-

The pipeline will transport natural gas from a point in the NW¼SW¼ of sec. 34 to a point of connection with Northwest Pipeline Corp.'s existing pipeline designated as "Trunk N" in the NE¼SW¼ of sec. 34, T. 30 N., R. 113 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32761 Filed 11-21-78; 8:45 am]

[4310-84-M]

[W-65100]

WYOMING

Application

NOVEMBER 8, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½ o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 111 W.,
Sec. 19, lots 2, 3, 4, and SE¼NW¼.
T. 27 N., R. 112 W.,
Sec. 24, SE¼SE¼;
Sec. 25, NE¼NE¼.

The pipeline will transport natural gas produced from the Federal 10-19 well located in the SE¼NW¼ of sec. 19, T. 27 N., R. 111 W., to a point of connection with Northwest Pipeline Corp.'s existing pipeline in the NE¼NE¼ of sec. 25, T. 27 N., R. 112 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application would be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32762 Filed 11-21-78; 8:45 am]

[4310-84-M]

CALIFORNIA DESERT CONSERVATION AREA

Public Land Use Restrictions

There are 69 visitor use oriented restrictions in effect for public land areas in the California Desert Conservation Area. These restrictions were developed under authority of Title 43, Code of Federal Regulations. §§ 8363.2-2, 8363.1-6, and 8364.1 (previously 43 CFR 6010.2 and 6010.4, 1977 Ed.). The enactment of Pub. L. 94-579 on October 21, 1976, makes it a criminal offense to knowlingly and willfully violate any rule of conduct or any closure order promulgated under these regulations. The criminal penalty for any such violation is a fine of not more than $1,000 or imprisonment for not more than 12 months, or both as prescribed by 43 CFR 8363.5 and 8364.2

All 69 restrictions now in effect in the California Desert Conservation Area are being listed as a group to provide for improved public awareness of the restrictions now in effect and to provide additional notice to the public that any violation of these restrictions is a crime punishable by law.

The 69 restricted areas and type of restriction apply only to the public lands administered by the Bureau of Land Management. A map of these areas and additional information detailing specific restrictions is available on request. Write to State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, Calif. 95825.

DESIGNATED AREA AND RESTRICTION

1. North Saline Valley, vehicle closure.
2. Saline-Panamint, vehicle use only on existing roads and trails.
3. Darwin Falls, vehicle closure.
4. Walker Pass, vehicle use only on existing roads and trails.
5. Owens Peak, vehicle closure.
6. El Paso Mountain, vehicle closure.
7. Lone Tree Canyon, vehicle use only on existing roads and trails.
8. Jawbone Canyon, vehicle use only on existing roads and trails.
9. Tortoise Preserve, vehicle closure.
10. Argus Range Primitive Area, vehicle closure.
11. North Searles, vehicle use only on existing roads and trails.
12. Trona Pinnacles, vehicle use only on existing roads and trails.
13. Red Mountain Cuddeback, vehicle use only on existing roads and trails.
14. Lava Mountain Primitive Area, vehicle closure.
15. Golden Valley, vehicle use only on existing roads and trails.
16. Fremont Peak, vehicle use only on existing roads and trails.
17. Fremont Research Natural Area, vehicle use only on existing roads and trails.
18. Calico/Coyote Lake, vehicle use only on existing roads and trails.
19. Amargosa Canyon, vehicle closure.
20. Dumont Dunes, vehicle use only on existing roads and trails.
21. Kingston Mountain, vehicle use only on existing roads and trails.
22. Ivanpah Valley, vehicle use only on existing roads and trails.
23. Clark Mountain, vehicle closure.
24. Eastern Mojave, vehicle use only on existing roads and trails.
25. Kelso Dunes, vehicle closure.
26. Mojave Basin, vehicle use only on existing roads and trails.
27. El Mirage Lake, vehicle use only on existing roads and trails.
28. Shadow Mountain, vehicle use only on existing roads and trails.
29. Kramer Hills-Iron Mountain, vehicle use only on existing roads and trails.
30. Stoddard Valley, vehicle use only on existing roads and trails.
31. Bigelow Cholla, vehicle closure.
32. Needles, vehicle use only on existing roads and trails.
33. Whipple Mountain, vehicle closure.
34. Turtle Mountain—Interior, vehicle closure.
35. Turtle Mountain—Perimeter, vehicle use only on existing roads and trails.
36. Old Women Mountain, vehicle use only on existing roads and trails.
37. Cadiz Valley/Ranby Lake, vehicle use only on existing roads and trails.
38. Dale District, vehicle use only on existing roads and trails.
39. East Morongo, vehicle use only on existing roads and trails.
40. Whitewater, vehicle use only on existing roads and trails.
41. Bighorn, vehicle use only on existing roads and trails.
42. Grapevine, vehicle use only on existing roads and trails.
43. Desert Lily, vehicle closure.
44. Palen Dry Lake, vehicle use only on existing roads and trails.
45. Big Chuckwalla Mountain, vehicle use only on existing roads and trails.
46. Orocopia Foothills, vehicle use only on existing roads and trails.
47. Orocopia Mountains, vehicle closure.
48. Mecca Hills Foothills, vehicle use only on existing roads and trails.
49. Mecca Hills Interior, vehicle closure.
50. Salt Creek, vehicle closure.
51. Santa Rosa Mountain, vehicle use only on existing roads and trails.
52. San Felipe, vehicle use only on existing roads and trails.
53. Superstition Hills, vehicle use only on existing roads and trails.
54. San Sebastion Marsh, vehicle closure.
55. Coyote Mountain, vehicle use only on existing roads and trails.
56. NW and Upper Coyote Mountain Range, vehicle closure.
57. Yuha Basin, vehicle use only on existing roads and trails.
58. Davies Valley, vehicle use only on existing roads and trails.
59. West and SE Areas of Davies Valley, vehicle closure.
60. Crucifixion Thorn, vehicle closure.
61. Pinto Wash, vehicle use only on existing roads and trails.
62. Area between Pinto Wash, and International Boundary, vehicle closure.
63. Glamis/Imperial San Dunes (North), vehicle closure.
64. East Mesa, vehicle use only on existing roads and trails.
65. Plank Road, vehicle use only on existing roads and trails.
66. Picacho, vehicle use only on existing roads and trails.
67. Squaw Spring, road closure, no camping, 30-minutes maximum use time.
68. Eureka Dunes, vehicle closure.
69. Fossil Falls, road closure.

Effective Date: These restrictions became effective when they were previously finalized and became enforceable as criminal violations with the passage of Pub. L. 94-579 on October 21, 1976.

Dated: November 13, 1978.

ED HASTEY,
State Director.

[FR Doc. 78-32717 Filed 11-21-78; 8:45 am]

[4310-10-M]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD—PACIFIC REGION

Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Pacific Regional Board will meet during the period 8 p.m. to 10 p.m., December 13, 1978, at the Doubletree Inn, Monterey, Calif.

The meeting will cover the following principal subjects:

The meeting will cover the following principal subjects:

(1) Puget Sound oil transportation issues.

(2) Navigation Safety—OCS development conflicts off California.

(3) Joint Federal-State lease sale, Beaufort Sea, Alaska.

The meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made by December 6 to the Pacific Board Chairman:

Michael Fischer, Executive Director, California Coastal Commission, 631 Howard Street, San Francisco, Calif. 94105, 415-543-8555.

Minutes of the meeting will be available for public inspection and copying 6 weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th and C Streets NW., Washington, D.C.

RAYMOND A. KARAM,
Acting Director, Office of OCS Program Coordination.

NOVEMBER 14, 1978.

[FR Doc. 78-32764 Filed 11-21-78; 8:45 am]

[4310-10-M]

Office of the Secretary

ALASKA NATIONAL INTEREST LANDS PROPOSAL

Draft Supplement to Final Environmental Statement; Extension of Period for Public Review and Comment

Notice is hereby given that the Department of the Interior has extended from November 20, 1978, to November 22, 1978, the period for public review and comment on the Draft Supplement to the environmental evaluation made in 1974 on the Alaska National Interest Lands proposed under section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971.

Dated: November 20, 1978.

LEO KRULITZ,
Solicitor of the Interior.

[FR Doc. 78-32844 Filed 11-21-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-52]

CERTAIN APPARATUS FOR THE CONTINUOUS PRODUCTION OF COPPER ROD

Notice Designating This Investigation as More Complicated

BACKGROUND

On September 27, 1978, complainant, Southwire Co., made an ex parte application for a subpena duces tecum against Asarco, a competitor not named as a respondent in the notice of investigation, which resulted in a subpena requiring Asarco to permit certain attorneys and technical experts to enter the premises of Asarco and to make an inspection of the Hazelett/Krupp system for casting copper rod and to take photographs of the system beginning October 12, 1978. Asarco moved (motion docket No. 52-50) to quash the subpena on the ground that it exceeds the authority of the presiding officer and the Commission. The motion to quash was granted by the presiding officer, Judge Saxon. Thereupon, complainant filed, under rule 210.60(b) (19 CFR 210.60(b)), an application for review of Judge Saxon's ruling granting the motion to quash the subpena filed by Asarco. On October 26, 1978, Judge Saxon made a determination under rule 210.60 allowing complainant's application for review. She determined that the order granting Asarco's motion to quash involves a controlling question of law as to which there is substantial ground for difference of opinion, and subsequent review will be an inadequate remedy. Southwire had requested a stay of the investigation until the above issues were resolved. Judge Saxon refused this, since, under Commission rules, the hearing must be completed by January 22, 1979. She then recommended, however, that the case be designated "more complicated" pursuant to 19 U.S.C. 1337 and 19 CFR 210.15, so that additional time could be made available for discovery in the event that Asarco's motion to quash is denied. The presiding officer's determination of October 26, 1978, thus presents the Commission with two determinations: (1) The disposition of complainant's appeal of the order granting Asarco's motion to quash, and (2) the recommendation that the investigation be designated as "more complicated."

By designating an investigation as "more complicated," the period within which the investigation must be completed is extended from 12 months to 18 months.

Commission order: After considering the presiding officer's determination under rule 210.60, allowing an application for review, as well as the complexity of issues and the great volume of technical evidentiary materials present in this investigation, the Commission grants the motion of the presiding officer designating the investigation as more complicated. The Commission holds in abeyance its determination on complainant's interlocutory appeal of the order on the motion to quash.

Opinion: Section 337 of the Tariff Act of 1930, as amended, provides that the Commission shall conclude its investigation "at the earliest practicable time, but not later than 1 year (18 months in more complicated cases) after the date of publication of notice of such investigation." (19 U.S.C. 1337(b)(1).) Last month, the Commission denied a motion by complainant to designate the investigation as more complicated, while granting the presiding officer's request to extend the deadline for completion of the hearing from December 22, 1978, to January 22, 1979, under rule 210.41(e)(1) (19 CFR 210.41(e)(1)). The presiding officer's recommendation, adopted by the Commission at that time, was that it was not necessary to designate the investigation at that time as more complicated, and that a 1-month extension would probably allow the parties adequate time to prepare for the hearing.

It is clear now that 1 month is inad-

motions include a motion by complain-

Eli Lilly & Co., Tippecanoe Labora-

I. Call to order.

dowment for the Arts, Washington,

mission's final report to the President

It is clear now that 1 month is inadequate in view of the substantive issues raised by the motion of Asarco to quash the subpoena. The Commission believes that the presiding officer's recommendation for designating the investigation as more complicated is separable from the complainant's appeal of the order on the motion to quash, because, regardless of the Commission's decision with respect to the interlocutory appeal, the complexity of the issues and the great volume of technical evidentiary materials warrant a designation of the investigation more complicated. If the Commission denies Asarco's motion to quash, and allows complainant to conduct an onsite inspection of the machinery, additional time for discovery will be required. Even if a new trial time schedule which would allow for completion of the final hearing by January 22, 1979, were established, proper preparation for a trial would be very difficult and could prejudice both parties' rights to a fair hearing. Should the Commission grant Asarco's motion to quash, the Commission's designation of this case as more complicated would allow the presiding officer the flexibility with which to complete discovery and prepare for the trial. The investigative attorney and complainant have also strongly recommended that the investigation be designated as more complicated. Respondents, however, oppose such designation. The Commission adopts the position of the presiding officer to designate the investigation as more complicated.

Section 337(b)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1337(b)(1)), requires that the Commission complete its investigation at the earliest practicable time, but not later than 12 months, or 18 months in more complicated cases, after publication of notice of the investigation. Commission rule 210.15 (19 CFR 210.15) establishes the criteria under which the Commission must decide whether or not to designate the investigation as more complicated. These are complexity of subject matter; difficulty in obtaining information; or large number of parties involved. It is abundantly clear that all three criteria have been met, although the rule requires only that one of the criteria be met. The requirement that information be difficult to obtain is certainly met by the overall question whether the Commission may issue a subpena to allow complainant to inspect, and obtain information from, the facilities of a nonparty, here Asarco. The requirement that the investigation involve complex subject matter is also met. The subpena which Asarco desires the Commission to quash, as well as several other motions pending before the Commission, demonstrates this. These motions include a motion by complainant to amend the complaint by adding another patent to the scope of the investigation and a motion by some respondents to terminate the investigation with respect to some of the patents which are within the scope of this investigation. Finally, the requirement that there be a large number of parties involved is met, additionally because rights of a nonparty, Asarco, are also involved. Thus, the Commission determines that the criteria established by rule 210.15 have been met.

The Commission therefore grants the motion designating this a "more complicated" case.

Issued: November 17, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-32806 Filed 11-21-78; 8:45 am]

[7020-02-M]

Investigation No. 337-TA-59

PUMP TOP INSULATED CONTAINERS

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as presiding officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: November 16, 1978.

DONALD K. DUVALL,
Chief Administrative Law Judge.

[FR Doc. 78-32805 Filed 11-21-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Registration

By notice dated September 19, 1978, and published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43571), the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic class of controlled substances listed below:

Pharmaceuticals Division, Ciba-Geigy Corp., 556 Morris Avenue, Summit, N.J. 07901 (August 7, 1978):

Drug:	Schedule
Methylphenidate (1724)	II

Eli Lilly & Co., Tippecanoe Laboratory, Box 685, Lilly Road, Lafayette, Ind. 47902 (August 21, 1978):

Drug:	Schedule
Methadone (9250)	II
Methadone-intermediate (9254)	II

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Administrator hereby orders that the application submitted by each of the above firms for registration as bulk manufacturers of the basic class of controlled substances listed therein are granted.

Dated: November 15, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-32778 Filed 11-21-78; 8:45 am]

[4410-10-M]

Immigration and Naturalization Service

FEDERAL ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION

Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

SUMMARY: This notice announces the meeting of the Federal Advisory Committee on Immigration and Naturalization to be held in Washington, D.C., on December 7-8, 1978.

FOR FURTHER INFORMATION CONTACT:

Arnold Flores, Special Assistant to the Commissioner of Immigration and Naturalization for Labor Liaison, Room 7056, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8211 or 202-376-8233.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Federal Advisory Committee on Immigration and Naturalization. (All Subcommittees will have work sessions on December 7, 1978, from 3 to 6 p.m., prior to commencement of the formal Federal Advisory Committee meeting.) The meetings will start at 8:30 a.m. and end at 5:30 p.m., on Friday, December 8, 1978, at the Central Office of the Immigration and Naturalization Service, INS Conference Room 7061, 425 Eye Street NW., Washington, D.C.

FEDERAL ADVISORY COMMITTEE AGENDA

December 7, 1978, 3 to 6 p.m., Internal Subcommittee Work Sessions.

December 8, 1978:

I. Call to order.
II. Welcoming remarks by the Commissioner.
III. Review of agenda topics.
IV. Reading of minutes.
V. Staff presentations:
A. Immigration—A legislative update.
B. INS-CETA program.
C. Displacement research.
D. Office for refugee and parole.
VI. Public commentary.
VII. Travel information to FAC.
VIII. INS-DOL—(Wage and hour)—effort.
IX. Senate legislative review.
X. Subcommittee reports.
XI. Formal recommendation to the Commissioner.
XII. Meeting adjourns.

Attendance if open to the interested public on a space available basis. Persons or groups wishing to attend the meeting or make public commentary should address a letter to Mr. Arnold Flores at the address shown above.

Dated: November 17, 1978.

LEONEL J. CASTILLO,
Commissioner, Immigration and Naturalization.

[FR Doc. 78-32801 Filed 11-21-78; 8:45 am]

[7537-01-M]

NATIONAL ENDOWMENT ON THE ARTS AND THE HUMANITIES

SPECIAL PROJECTS ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Special Projects Advisory Committee to the National Council on the Arts will take place December 8, 1978, from 9 a.m. to 5:30 p.m.; December 9, 1978, from 9 a.m. to 5:30 p.m., in Room 1130 of the Columbia Plaza Office Building, 2401 E Street, Northwest, Washington, D.C. 20506.

This meeting is for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and 9(B) of Section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

NOVEMBER 16, 1978.

[FR Doc. 78-32747 Filed 11-21-78; 8:45 am]

[4410-01-M]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

EXTENSION OF TIME TO RECEIVE COMMENTS

Notice is hereby given that, pursuant to the direction of the Chairman, the record of the National Commission for the Review of Antitrust Laws and Procedures ("Commission") will be kept open until December 1, 1978, to receive public comment on the following subjects: (i) The proposed consolidation of the antitrust enforcement responsibilities of the Federal Trade Commission and the Antitrust Division of the Department of Justice; (ii) the desirability of retaining the exemption from the antitrust laws afforded to export trade associations under the provisions of the Webb-Pomerene Act (15 U.S.C. § 61, et seq.; 40 Stat. 516, et seq.); and (iii) the views on antitrust immunities and exemptions previously expressed by the members of the economic advisory panel of the Commission. Written statements by interested persons are solicited on the foregoing subjects and should be submitted by the aforesaid date to the Commission office (Attention: Ms. Deana Harvell), Room 7315, 10th and Pennsylvania NW., Washington, D.C. 20530.

Dated: November 17, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 78-32750 Filed 11-21-78; 8:45 am]

[4410-01-M]

PUBLIC MEETING

In accordance with Executive Order 12,022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "Commission"), will hold a public meeting on Friday, December 7, 1978 beginning at 9:30 a.m. in Room 2141, Rayburn House Office Building, Independence and South Capital Streets SW., Washington, D.C.

The purpose of the meeting is to consider matters relating to the Commission's final report to the President and the Attorney General.

Dated: November 17, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 78-32749 Filed 11-21-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-592-A and STN 50-593-A]

ARIZONA PUBLIC SERVICE CO. ET AL.; PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5

Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Arizona Public Service Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on July 28, 1978, information requested by the Attorney General for antitrust review as required by 10 CFR part 50, Appendix L. The information concerns additional ownership participants, Nevada Power Co., San Diego Gas & Electric Co., Los Angeles Department of Water and Power, and the cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, Calif., for the Palo Verde Nuclear Generating Station, Units 4 and 5 located in Maricopa County, Ariz.

This additional antitrust information was filed in connection with the Arizona Public Service Co.'s applications for construction permits and operating licenses for the Palo Verde Nuclear Generating Station, Units 4 and 5.

The original "Notice of Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses; Time for Submission of Views on Antitrust Matter" was published in the FEDERAL REGISTER on May 8, 1978 (43 FR 19729).

A copy of the Arizona Public Service Co. letter, dated July 28, 1978, and the above-stated documents are available for public examination and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555, and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Ariz. 85004.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attn: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have their views on the antitrust matters with respect to the Nevada Power Co., San

phone 202-634-3265, between 8:15 a.m.

ginia, Charlottesville, Va. 22901 and

Diego Gas & Electric Co., Los Angeles Department of Water and Power, and the cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, Calif., presented to the Attorney General should submit such views for consideration to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Chief Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before January 22, 1979.

Dated at Bethesda, Md., this 13th day of November 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-32556 Filed 11-21-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-42 and DPR-60 issued to Northern States Power Co. (the licensee), for operation of the Prairie Island Nuclear Generating Plant, unit Nos. 1 and 2 located in Goodhue County, Minn.

The amendments would revise the provisions in the technical specifications relating to the use of fuel manufactured by the Exxon Nuclear Co., Inc. in cycles 5 through 8 in accordance with the licensee's application for amendment dated September 8, 1978.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 22, 1978, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "rules of practice for domestic licensing proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial; or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene, become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 800-325-6000 in Missouri 800-342-6700. The Western Union operator should be given Datagram Identification No. 3737 and the following mesage addressed to A. Schwencer: (Petitioner's name and telephone number); (date petition was mailed); (Prairie Island Nuclear Generating Plant, unit No. 1 and 2); and (Publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the grainting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)-(v) and § 2.714(d).

Dated at Bethesda, Md., this 9th day of November, 1978.

For the Nuclear Regulatory Commission,

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-32676 Filed 11-21-78; 8:45 am]

[7590-01-M]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on December 7-9, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. This meeting of the ACRS was previously noticed in the FEDERAL REGISTER on October 20, 1978 (43 FR 49080).

The agenda for the subject meeting will be as follows:

THURSDAY, DECEMBER 7, 1978

8:30 a.m.-12:30 p.m. and 1:30-5 p.m.: Executive Session (open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities. The Committee will also discuss its proposed annual report to the U.S. Congress regarding the Nuclear Regulatory Commission (NRC) safety research program.

FRIDAY, DECEMBER 8, 1978

8:30-10:30 a.m.: Executive Session (open)—The Committee will discuss its proposed annual report to the U.S. Congress regarding the NRC safety research program.

10:30 a.m.-12:45 p.m.: Meeting with NRC Staff (open)—The Committee will hear and discuss a status report on action regarding resolution of anticipated transients without scram.

The anticipated schedule for future Committee activities will also be discussed.

1:45-5:30 p.m.: Executive Session (open)—The Committee will discuss its proposed annual report to the U.S. Congress regarding the NRC safety research program.

SATURDAY, DECEMBER 9, 1978

8:30-9 a.m.: Executive Session (closed)—The Committee will discuss the qualifications of nominees and will select ACRS officers for calendar year 1979.

9 a.m.-12:30 p.m. and 1:30-4 p.m.: Executive Session (open)—The Committee will discuss its proposed annual report to the U.S. Congress regarding the NRC safety research program. The Committee will also discuss a proposed report to the NRC regarding the combination of dynamic loads in the design of nuclear facilities

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 4, 1978, page 45926. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to protect information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, telephone 202-634-3265, between 8:15 a.m. and 5 p.m. e.s.t.

Dated: November 16, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer

[FR Doc. 78-32677 Filed 11-21-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-338A, 50-339A, 50-404A and 50-405A]

VIRGINIA ELECTRIC & POWER CO. ET AL.

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Virginia Electric & Power Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on September 1, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns two additional ownership participants, Old Dominion Electric Cooperative and North Carolina Electric Membership Corp. for the North Anna Power Station, Units 1, 2, 3, and 4 located on the south shore of Lake Anna in Louisa County, Va.

The information was filed in connection with the Virginia Electric & Power Co.'s applications for construction permits and operating licenses for the North Anna Power Station, Units 1, 2, 3, and 4. Unit 1 of the station is operating and Units 2, 3, and 4 are under construction. The information submitted by Virginia Electric & Power Co. is the first part of the application for Amendments to the North Anna Power station, Unit 1 operating license and construction permits for Units 2, 3, and 4.

The original "Notice of Application for Construction Permit and Operating License," for the North Anna Power Station, Units 1 and 2 included the antitrust aspects of the application and was published in the FEDERAL REGISTER on December 30, 1970 (35 FR 19805). The original antitrust portion of the application for Units 3 and 4, "Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters," was published in the FEDERAL REGISTER on October 28, 1971 (36 FR 20709).

A copy of the Virginia Electric & Power Co. letter, dated September 1, 1978, and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Va. 22901 and Office of the Board of Supervisors, Louisa County Courthouse, Main Street (P.O. Box 27), Louisa, Va. 23093.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Old Dominion Electric Cooperative and North Carolina Electric Membership Corporation presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission: Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation on or before January 2, 1979.

Dated at Bethesda, Md., this 23d day of October, 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-30679 Filed 11-7-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 16, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

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Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Application for Determination of Maximum Lawful Price Under the Natural Gas Policy Act of 1978
FERC-121
On occasion
Natural gas producers
60,000 resources; 15,000 hours
Hill, Jefferson B., 395-5867

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Food stamp workfare demonstration project
Other (see SF-83)
Political subdivisions
12,574 responses; 1,295 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration
Study of the Prescription Experience of Clients in Drug Programs (Study No. 3)
Single-time
Drug treatment program clients
1,200 responses; 267 hours
Office of Federal Statistical Policy and Standard, 673-7956.

Alcohol, Drug Abuse and Mental Health Administration
Patterns of Sedative and Hypnotic Drug Consumption No. 4
Single-time
Clients in prepaid health plan
300 responses; 150 hours
Office of Federal Statistical Policy and Standard, 673-7956

REVISIONS

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration
Privacy and Security Certification/Information
LEAA 6600/8
Annually
State and local criminal justice agencies covered by 28 CFR Part 20
1,000 responses; 500 hours
Laverne V. Collins, 395-3214

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration
Drug Experience Report (short form)
FD 1639A
On occasion
Physicians and other medical professionals
31,500 responses; 2,625 hours
Richard Eisinger, 395-3214

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-32770 Filed 11-21-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 15, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the informationis proposed to be collected;

An indication of, who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Visiting Women Scientists Program Forms
Single time
Women scientists
15,655 responses; 1,614 hours
Laverne V. Collins, 395-3214

REVISIONS

COMMUNITY SERVICES ADMINISTRATION

Survey Instruments—Weatherization Evaluation
Single time
Local CAA staff; weatherization applicants and clients
Reese, B. F., 395-3211

DEPARTMENT OF COMMERCE

Bureau of Census
Shipper's Export Declaration and Continuation Sheet
To Shipper's Export Declaration
7525-V
On occasion
Exporters of merchandise from the United States
5,000,000 responses; 794,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF STATE

Department of State (Excluding Aid and Action)
Registration/Applicant Record Form
DSP-24
Annually
Individuals seeking employment
21,531 responses; 5,382 hours
Marsha Traynham, 395-3773

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census
Shipper's Export Declaration and Continuation Sheet
To Shipper's Export Declaration
7525-V-ALT
On occasion
Exporters of merchandise from the United States
2,000,000 responses; 334,000 hours
Office of Federal Statistical Policy and Standard, 6673-7977

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-32771 Filed 11-21-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

VISIT TO POSTAL FACILITY

NOVEMBER 15, 1978.

Notice is hereby given that employees of the Postal Rate Commission will be visiting the Rates and Classification Department, U.S. Postal Service Headquarters, L'Enfant Plaza, on December 4, 1978, at 10 a.m., for the general purpose of identifying ways to simplify and/or expedite the flow of required information pertaining to rate case cost attributions using computer capabilities to the maximum extent possible.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's Docket room.

By direction of the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-32765 Filed 11-21-78; 8:45 am]

[4710-08-M]

DEPARTMENT OF STATE

[Public Notice 632]

IMPROVEMENT OF GOVERNMENT REGULATIONS

Implementation of Executive Order No. 12044

AGENCY: Department of State.

ACTION: Final report.

SUMMARY: The Department of State's proposal for implementing Executive Order No. 12044, dated March 23, 1978 (43 FR 12661, Mar. 24, 1978) was published in the FEDERAL REGISTER on May 25, 1978 (43 FR 22589) for public comment. One general comment was received requiring no change.

FOR FURTHER INFORMATION CONTACT:

K. E. Malmborg, Assistant Legal Adviser for Management, Department of State, Room 5423, 2100 C Street NW., Washington, D.C. 20520, telephone 202-632-2350.

SUPPLEMENTARY INFORMATION: The regulations listed as having been specially selected for review are not going to be so reviewed and therefore are being deleted from the final report. Those regulations, like all others, will be reviewed by May 15, 1979.

In accordance with the requirements of section 5(b) of the order, the final report for implementation of Executive Order No. 12044 will read as set forth below.

Dated: October 4, 1978.

BEN H. READ,
Deputy Under Secretary for Management.

1. IDENTIFICATION OF REGULATIONS

Most of the regulations proposed and issued by the Department of State are exempt from the requirements of the Executive order because they (a) relate to foreign affairs functions of the United States;[1] (b) related to Federal Government procurement activity; (c) are governed by short-term requirements of Executive orders, public laws, and other legally binding actions which do not allow the 60-day requirement for public participation; or (d) relate to the internal managment of the Department. Section 6(b) of the order exempts regulations in these categories.

Regulations which are not exempt from 6(b) of the order appear to be the following:

(a) Nationality regulations (22 CFR Part 50);

(b) Special consular services regulations (22 CFR Parts 71, 72, 87, 92, and 93);

(c) Civil aviation regulation (22 CFR Part 102);

(d) Freedom of Information and Privacy Act regulations (22 CFR Part 6 and 6a);

(e) Council on Environmental Quality implementing regulations;

(f) Flood plain and wetlands protection regulations; and

(g) Public participation in proceedings, advisory committee meetings and delegations to international conferences.

2. COMMENTS REQUESTED

The Department of State invites written comments on:

(a) Whether categories of regulations, in addition to those listed in paragraph 1 above, should be covered;

(b) The process for developing regulations in general, as set forth in section I below;

(c) The criteria for defining significant regulations as set forth in section II below (proposed directive);

(d) The criteria for determining which regulations require regulatory analysis as set forth in section III below; and

(e) The criteria for selecting existing regulations to be reviewed as set forth in section IV below. Suggestions of additional criteria in all areas are especially invited.

3. PROPOSED PROCEDURES

This notice establishes procedures for development of regulations by the Department of State. It implements sections 1, 2, 3, and 4 of the order on improving Government regulations.

4. SEMIANNUAL REGULATIONS AGENDA

In March and October of each year, the Department of State will publish a semiannual regulations agenda in the FEDERAL REGISTER describing the status of significant regulatory actions under development. This agenda will describe the regulations being considered, the need and the legal basis for the action being taken, show the status of regulations listed on previous agendas, and list the name and telephone number of the Department of State's point of contact for each regulation. The Secretary of State will approve the regulations agenda before publication.

I. PROCESS FOR DEVELOPING REGULATIONS

The existing process for developing regulations is that each bureau or office of the Department with substantive responsibility develops regulations to implement that responsibility. Detailed instructions for preparing regulations are set forth in volume 2, subchapter 1110 of the Foreign Affairs Manual. Each bureau or office coordinates with the Office of the Legal Adviser (L) and the Directives Staff of the Bureau of Administration (FADRC/DIR) to assure compliance with the Foreign Affairs Manual, the Administrative Procedure Act, and other applicable laws and regulations. Each public regulation is brought to the attention of the Executive Secretary of the Department of State on behalf of the Secretary of State in his responsibility for regulatory oversight.

As a result of Executive Order No. 12044, the Office of the Legal Adviser and the Directives Staff will also assure compliance with the following requirements of the order:

(1) The regulation is needed;

(2) The direct and indirect effects of the regulation have been adequately considered;

(3) Alternative approaches have been considered and the least burdensome of the acceptable alternative has been chosen;

(4) Public comments have been considered and an adequate response has been prepared;

(5) The regulation is written in plain English and is understandable to those who must comply with it;

(6) An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(7) The name, address, and telephone number of a knowledgeable agency official is included in the publication; and

(8) A plan for evaluating the regulation after its issuance has been developed.

In addition to publication in the FEDERAL REGISTER for public comment, originating bureaus or offices are required to consider use of other means of early public participation in development of regulations, such as publication of subjects being considered in the Department of State Newsletter.

Each significant regulation will be subject to the approval of the Deputy Under Secretary for Management or another statutorily designated officer and that approval will include determination on the factors specified in section 2(d) of the order.

II. CRITERIA FOR SIGNIFICANT REGULATIONS

A regulation will be considered significant if the originating bureau or

[1] As a matter of policy, the Department of State does not rely on the "foreign affairs function" exemption from the rulemaking procedures required by 5 U.S.C. 553, except in unusual cases individually justified to and approved by the Deputy Under Secretary for Management. The Department will follow a similar policy with respect to the application of Executive Order 12044 to regulations involving foreign affairs functions.

office, in consultation with the Office of the Legal Adviser and the Directives Staff, determines that:

(a) It may substantially affect—

(1) State and local government programs;

(2) Quality of environment;

(3) Inflation, employment, or economic growth;

(4) Business competition; or

(5) Existing regulatory programs of other executive agencies.

(b) It may be of substantial public interest or create substantial controversy.

(c) It will require substantial State Department resources to develop and enforce.

III. Criteria for Regulatory Analysis

A regulation will be subject to regulatory analysis if the originating bureau or office, in consultation with the Office of the Legal Adviser and the Directives Staff, determines that:

(1) It will result in an annual effect on the economy of $100 million or more; or

(2) It will result in a major increase in costs or prices for individual industries, levels of government, or geographic regions.

In the discretion of the Secretary of State, regulatory analysis may be required on any other proposed regulations.

An evaluation of existing regulations and those presently under consideration under the above criteria does not indicate any which require regulatory analysis. If future regulations are developed which meet the above criteria, an analysis will be carried out.

IV. Review of Existing Regulations

The following criteria shall be applied by the appropriate bureau or office to select regulations for review, in accordance with section 4 of the Executive order:

(1) A substantial period of time has gone by since the regulation was issued without amendment or comprehensive revision;

(2) A substantial number of compliants or suggestions have been made by the general public on a particular industry or area affected;

(3) Those directly or indirectly affected by the regulation have a recurring compliance responsibility;

(4) The text of the regulation is strikingly technical or unclear;

(5) There is apparent confusion with, or overlapping by, another regulation on the same or similar subject;

(6) There is new legislation, technology, economic conditions, or other change of basic circumstances which may substantially affect the validity or impact of the regulation.

Regulations selected for review will be listed in the Department of State semiannual agenda and published in the Federal Register in March and October of each year in accordance with section 2(a) of the order. Selected regulations will include the point of contact and will be approved by the Secretary of State.

All regulations will be reviewed by May 15, 1979.

Unless extended, this notice expires June 30, 1980.

[FR Doc. 78-32769 Filed 11-21-78; 8:45 am]

[4710-02-M]

Agency for International Development

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order No. 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 18th meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on December 12 and 13, 1978.

The purpose of the meeting is to review progress of the Collaborative Research support Program (CRSP) in Small Ruminant Animals and those CRSP's being planned for Nutrition, Beans/Cowpeas, and for Sorghum/Millet; to consider alternative approaches for a CRSP in Fisheries/Aquaculture; and to review proposed procedures for contract research and planning grants.

The meeting will convene at 9 a.m. and adjourn at 5 p.m. on December 12 and 13, 1978. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 North Fort Myer Drive, Arlington, Va. 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and the University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: November 14, 1978.

Erven J. Long,
A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 78-32766 filed 11-21-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 10]

CONSOLIDATED RAIL CORP; BLACK ROCK BRANCH

Emergency Order Forbidding Movement of Hazardous Materials

Correction

In FR Doc. 78-31530 appearing at page 51888 in the issue for Tuesday, November 7, 1978, make the following corrections:

(1) On page 51888, in the middle column, in the second full paragraph, in the 17th line, insert the word "involved" between the words "oxidizer" and "in".

(2) Also on page 51888, in the third column, in the second full paragraph, in the 8th line, substitute the number "255" for the number "155".

(3) On page 51889, in the first column, in the 2d line, "possible" should read "possibly".

(4) On page 51889, in the first column, in the third full paragraph, in the 17th line, the phrase "10 to 13 per hour" should read "10 to 13 miles per hour".

(5) On page 51889, in the third column, in Appendix A, under the heading, *"Number of Violations, 49 CFR Part 213"*, the entry, "1—vertical spilt in rail head, two feet long (.133)." should read, "1—vertical in spilt rail head,two feet long (.113)."

(6) Also on page 51889, in the third column, in Appendix B, under the heading *Number of Violation, 49 CFR Part 213"*, the entry,"1—vertical spilt head rail, 11 feet long (.113)." should read, "1—vertical split head rail, 11 feet long (.113)."

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

IMPORTED STEEL MILL PRODUCTS TRIGGER PRICE MECHANISM

First Quarter Revision of Trigger Prices

The Department of Treasury hereby revises trigger prices for imported steel mill products for the first quarter of 1979. These trigger prices are

used by the Treasury Department to monitor imports of steel mill products for the possible initiation of antidumping complaints under the Antidumping Act. Each quarter the Treasury Department revises trigger prices to reflect changes in the cost of Japanese steel production, including such components as the dollar-yen exchange rate, raw material costs, and labor usage rates.

First quarter trigger base prices and extras (effective for all shipments exported on or after January 1, 1979) are adjusted upward by 7 percent for products produced by the major Japanese integrated steel producers and by 9.8 percent for products produced by the electric furnace producers. The latter group of products accounts for under 10 percent of steel imports.

The adjustments announced here are made to account for a portion of the yen's appreciation from the 215 yen/dollar exchange rate (average for May 15 through July 14, used to establish fourth quarter trigger prices) to a 187 yen/dollar rate (average for September 4 through November 3).

The Department is utilizing 3 percent of the flexibility band built into the TPM to smooth the exceptionally sharp yen/dollar exchange rate experienced in recent months. Such use of the flexibility band was contemplated by the Steel Task Force Report of December 6, 1977. No other adjustments from fourth quarter trigger prices were necessary.

Calculation of First Quarter Revisions

To calculate the first quarter estimates of Japanese cost of production, a yen exchange rate of 187 /$ was applied to appropriate components of the fourth quarter cost estimates. Table I below shows the resulting average cost per ton of finished products for integrated producers.

Tables II-A through II-C show the revised costs for electric furnace producers. The same 187 /$ exchange rate is applied as is applied to the integrated producers' costs. However, the resulting increase in electric furnace producer costs is greater because more of those costs are yen-denominated and hence are more sensitive to the yen's appreciation. The products produced by electric furnace producers are:

Group A Products: Equal angles; unequal angles; channels; and I-beams;

Group B Products: Hot rolled strip from bar mills; merchant quality hot bars; hot rolled round bars, squares, and round cornered squares; and bar size channels;

Group C Products: Concrete reinforcing bars, plain and deformed.

The cost calculations indicate that when valued in U.S. dollars, the production costs of Japan's integrated steel producers have increased by approximately 10 percent, and those of electric furnace producers have increased by 12.8 percent for Group A and Group B products, and by 12.7 percent for Group C products.[1]

The resulting base prices for the first quarter for each product covered by the TPM are shown in table III. Extras accompanying the base product must also be increased by the percentage applicable to the base price of that product. Where fourth quarter extras have been increased by a stated percentage over third quarter extras, the percentage increase in extras announced today must be applied on top of the previous increase. For example, an extra of $30 which was increased by 4.86 percent in the third quarter and then increased by 7 percent for the first quarter would result in an extra of $34.[2]

Dated: November 9, 1978.

Robert H. Mundheim,
General Counsel.

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[1] For administrative ease, products of all three groups of electric furnace producers are being increased by the same percentage, since the calculations come within 0.1 percent of being identical.

[2] The two percentage increases are multiplicative rather than additive. ($30 × 1.0486 × 1.07 = $33.66, rounded to $34.)

Table IIB

First Quarter 1979

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[4810-25-C]

Table 1

First Quarter 1979

Japanese Costs of Production Estimates: Integrated Steel Producers

(U.S. $/Metric ton of finished product)

	Revised Original (240¥/$)	Fourth Quarter '78 (215¥/$)	First Quarter '79 (187¥/$) 3/
Basic Raw Materials	$113.17	$116.20	$116.20
Other Raw Materials	63.66	71.06	81.70
Labor	73.14	85.02	97.75
Other Expenses	26.48	29.56	33.99
Depreciation	21.49	23.99	27.58
Interest	21.30	23.78	27.34
Profit 1/	22.11	24.14	26.37
Yield Credit 2/	(9.81)	(10.57)	(11.34)
Total $/MT	$331.54	$363.12	$399.59
Total $/NT	$300.76	$329.42	$362.51

1/ Profit = .08 (Raw materials + labor + other expenses)

2/ Yield Credit $= (\frac{.865}{.827} - 1)$ (Raw materials + $\frac{\text{labor}}{2}$)

3/ The new yen rate, 187 ¥/$, is applied to that portion of the average production costs denominated in yen (e.g., labor), as distinguished from the portion denominated in dollars (e.g., coal).

Table IIA

First Quarter 1979

Japanese Electric Furnace Costs of Production Estimated for Group A Products 2/

(U.S. $/Metric ton of Finished Product)

	Original (240¥/$)	4th Quarter '78 (215¥/$)	1st Quarter '79 (187¥/$) 3/
Basic raw materials	$115.87	$146.61	$165.76
Other raw materials	31.32	33.10	35.76
Labor	24.52	28.17	32.43
Other expenses	10.06	11.23	12.91
Depreciation	5.47	6.11	7.02
Interest	6.14	6.86	7.89
Profit 1/	15.32	17.52	19.75
Scrap Credit	(1.94)	(2.59)	(2.98)
Total $/MT	$206.76	$247.01	$278.54
Total $/NT	$187.62	$224.09	$252.69

1/ Profit = .08 (Raw materials + labor + other expenses)

2/ Group A products include equal angles, unequal angles, channels, and I-beams.

3/ The new yen rate, 187 ¥/$, is applied to that portion of the average production costs denominated in yen (e.g., labor), as distinguished from the portion denominated in dollars (e.g., coal).

Table IIB

First Quarter 1979

Japanese Electric Furnace Costs of Production Estimates for Group B Products 2/

(U.S. $/Metric ton of finished product)

	Original (240¥/$)	4th Quarter '78 (215¥/$)	1st Quarter '79 (187¥) 3/
Basic Raw Materials	$122.59	$157.62	$178.22
Other Raw Materials	37.00	39.10	42.24
Labor	27.94	32.10	36.92
Other Expenses	12.28	13.71	15.76
Depreciation	6.96	7.77	8.93
Interest	8.78	9.80	11.27
Profit 1/	17.07	19.40	21.85
Scrap Credit	(2.14)	(2.92)	(3.36)
Total $/MT	$230.48	$276.56	$311.83
Total $/NT	$209.09	$250.90	$282.89

1/ Profit = .08 (Raw Materials + Labor + Other Expenses)

2/ Group B products include hot rolled strip from bar mills; merchant quality hot bars; hot rolled round bars, squares, and round cornered squares; and bar size channels.

3/ The new yen rate, 187 ¥/$, is applied to that portion of the average production costs denominated in yen (e.g., labor), as distinguished from the portion denominated in dollars (e.g., coal).

Table IIC

First Quarter 1979 Japanese Electric Furnace

Cost of Production Estimates for Group C Products 2/

(U.S. $/Metric Ton of Finished Product)

	Original (240 ¥/$)	4th Quarter '78 (215 ¥/$)	1st Quarter '79 (187 ¥/$) 3/
Basic Raw Materials	$114.51	$145.28	$164.30
Other Raw Materials	33.82	35.74	38.61
Labor	19.55	22.48	25.09
Other Expenses	12.68	14.15	16.27
Depreciation	5.60	6.25	7.19
Interest	5.63	6.28	7.23
Profit 1/	15.18	17.41	19.54
Scrap Credit	(2.00)	(2.56)	(2.94)
Total $/MT	$204.97	$245.03	$276.11
Total $/NT	$186.00	$222.29	$250.48

1/ Profit = .08 (Raw Materials + Labor + Other Expenses)

2/ Group C products include concrete reinforcing bars, plain and deformed.

3/ The new yen rate, 187 ¥/$, is applied to that portion of the average production costs denominated in yen (e.g., labor), as distinguished from the portion denominated in dollars (e.g., coal).

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PRODUCT BASE PRICES FOR SHIPMENTS EXPORTED DURING FIRST QUARTER 1979
(All Base Prices Increased 7% Unless Otherwise Noted)

Page*/	Product	Fourth Quarter Base Price ($/Metric Ton)	First Quarter Base Price ($/Metric Ton)
2-1	Wire Rods Commercial Quality AISI 1008 5.5 mm	$ 294	$ 315
2-2	Wire Rods Welding Quality AISI 1008	295	316
2-3	Wire Rods High Carbon AISI 1065 5.5 mm	342	366
2-5	Wire Rods Cold Heading Quality AISI 1038 12.7 mm	353	378
2-7	Wire Rods Cold Finished Bar Quality	353	378
2-9	Spheroidized Annealed Mo Alloy Steel Wire Rod AISI 4037 5.5 mm to 13 mm	516	552
2-13	Spheroidized Annealed Si-Mn-Cr High Carbon Steel Wire Rod AISI 9254 5.5 mm to 13 mm	494	529
2-15	Spheroidized Annealed High Carbon Cr Steel Wire Rod AISI 52100 5.5 mm to 13 mm	567	607
3-1	Wide Flange Beams and Bearing Piling ASTM A-36 12" x 12"	286	306
3-5	Standard Carbon Steel Channels ASTM A-36	251	276**/
3-7	Unequal Leg Carbon Steel Angles ASTM A-36	264	290**/
3-9	Equal Leg Carbon Steel Angles ASTM A-36	238	261**/
3-11	Standard Carbon Steel "I" Beams ASTM A-36	290	318**/
4-1	Sheet Piling ASTM A-328 Arch Web PDA-27	323	346
5-1	Steel Plates ASTM A-36 1/2" x 80" x 240"	295	316
6-1	Heavy Carbon Steel Rails AREA 115, 132 or 136	329	352
6-3	Light Rails 60 lbs./yd.	323	346
6-5	Tie Plates	330	353
8-1	Plain and Deformed Carbon Steel Concrete Reinforcing Bars ASTM A-615	234	257**/
9-1	Hot Rolled Carbon Steel Bar Size Channel ASTM A-36	350	384**/
10-1	Rolled Carbon Bars Special Quality AISI 1045 40 mm round x 4 meters	376	402
10-3	Merchant Quality Hot Rolled Carbon Steel Squares and Round Cornered Squares ASTM A-36 or AISI 1020	291	320**/
10-5	Merchant Quality Hot Rolled Carbon Steel Round Bar ASTM A-36 or AISI 1020	291	320**/
10-7	Merchant Quality Carbon Steel Flat Bars ASTM A-36 or AISI 1020	265	291**/
11-1	Hot Rolled Ni-Cr-Mo Alloy Steel Round Bar AISI 8620 40 mm	433	463
11-6	Spheroidize Annealed High Carbon Cr Steel Round Bar AISI 52100 40 mm to 100 mm	483	517
12-1	Cold Finished Carbon Steel Round Bar AISI 1008 through 1029 19.05 mm (3/4")	460	464***/
12-2	Cold Finished Round Steel Bar (Free Cutting Steel-Sulfur) AISI 1212 through 1215,19.05mm(3/4")	521	524***/
12-3	Cold Finished Round Steel Bar (Free Cutting Steel-Lead) AISI 12L14 and 12L15 19.05mm (3/4)"	544	550***/
14-1	Electric Resistance Welded Carbon Steel Pressure Tubing For Use in Boilers, Heat Exchangers, Condensers, Etc.	483	517
14-6	Continuous Butt Welded Standard Pipe	307	328
14-8	Electric Resistance Welded Pipe, Excluding Oil Well Casing, Without Coupling	344	368
14-13	Submerged Arc Welded Pipe	417	446
14-16	Electric Resistance Welded Structural Tubing to ASTM A-500 Grades A, B & C	360	385
14-22	Electric Resistance Welded Standard Pipe ASTM A-120 (A-53)	332	355

*/Page references are to the Fourth Quarter Trigger Price Manual published by the Department of the Treasury on October 10, 1978. The first figure of each page reference corresponds to the AISI product category for that product.
**/Electric furnace producer. The increase from Fourth to First Quarter is 9.8%.
***/Cold Finished Bar Base Trigger Price has been revised downward. See accompanying notice, "New and Adjusted Trigger Base Prices and Extras for Imported Steel Mill Products".

Page*/	Product	Base Price ($/Metric Ton)	Base Price ($/Metric Ton)
15-1	Seamless Carbon Steel Oil Well Casing, Not Threaded, up to 7" in Outside Diameter	$ 407	$ 435
15-4	Seamless Carbon Steel Oil Well Casing, Not Threaded, Seven Inches and Over in Outside Diameter	403	431
15-7	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, Seven Inches and Over in Outside Diameter	457	489
15-10	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, up to 7 Inches in Outside Diameter	462	494
15-13	Electric Resistance Welded Carbon Steel Oil Well Casing, Not Threaded	363	388
15-15	Electric Resistance Welded Carbon Steel Oil Well Casing, Threaded	428	458
15-17	Seamless Carbon Steel Pressure Tubing Suitable for use in Boilers, Superheaters, Heat Exchangers, Condensers, Refining Furnaces, Feed Water Heaters, Cold Finish	777	831
15-43	Seamless Carbon Steel Oil Well Tubing EUE With Threading and Coupling	608	651
15-45	Seamless Carbon Steel Line Pipe	414	443
15-48	Hot Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings AISI 52100 60 mm to 100 mm	590	631
15-49	Cold Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings AISI 52100 60 mm to 100 mm	877	938
15-50	Seamless Stainless Steel Round Ornamental Tube AISI TP 304, 1 1/4 x 0.049"	1989	2128
15-52	Seamless Stainless Steel Square Ornamental Tube AISI TP 304, 1 1/2 x 1 1/2 x 0.065"	2167	2319
16-1	Cold Heading Round Wire AISI 1018 Killed 0.192" Hard Drawn	443	474
16-1	Cold Heading Drawn from Annealed Rods	503	538
16-1	Cold Heading Drawn from Spheroidized Annealed Rods	514	550
16-1	Cold Heading Anneal in Process	518	554
16-1	Cold Heading Spheroidize Anneal in Process	527	564
16-1	Cold Heading Anneal in Process and Drawn from Annealed Rods	558	597
16-1	Cold Heading Spheroidize Anneal in Process and Drawn from Annealed Rods	567	607
16-1	Cold Heading Anneal at Finish Size	503	538
16-1	Cold Heading Spheroidize Anneal in Process	514	550
16-1	Cold Heading Anneal at Finished Size & Drawn from Annealed Rods	542	580
16-1	Cold Heading Spheroidize Anneal at Finished Size and Drawn from Annealed Rods	554	593
16-4	Bright Basic Round Wire AISI 1008 #8 Gauge Rimmed	364	389
16-5	Galvanized Iron Round Wise AISI Type I Coating #8 Gauge	458	490
16-8	Round Baling Wire 14.50	508	544
16-9	Bright Annealed Cold Drawn Stainless Steel Wire AISI 304, 0.080"	2414	2583
16-11	Spring Hard Temper Nickel Copper and Plastic Coat Cold Drawn Stainless Steel Wire AISI 302, 0.040"	3037	3250
16-12	Cold Heading Quality Copper and Molybdenum Coat Cold Drawn Stainless Steel Wire ASTM 493A, XM-7, 0.231"	2603	2785

*/Page references are to the Fourth Quarter Trigger Price Manual published by the Department of the Treasury on October 10, 1978. The first figure of each page reference corresponds to the AISI product category for that product.

Page*/	Product	Fourth Quarter Base Price ($/Metric Ton)	First Quarter Base Price ($/Metric Ton)
16-13	Cold Heading Quality Copper and Molybdenum Coat Cold Drawn Stainless Steel Wire AISI 305, 0.131"	$2673	$ 2860
16-14	Cold Heading Quality Copper and Molybdenum Coat Cold Drawn Stainless Steel Wire AISI 410, 0.131"	1728	1849
16-15	Cold Heading Quality Copper and Molybdenum Coat Cold Drawn Stainless Steel Wire AISI 430, 0.131"	1772	1896
16-16	Cold Finished Spheroidized Annealed SI-MN-CR High Carbon Steel Wire AISI 9254 5.5 mm to 13 mm	494	529
16-18	Cold Finished Spheroidized Annealed Mo Alloy Steel Wire AISI 4037 5.5 mm to 13 mm	516	552
20-1	Wire Nails Bright Common 20d # 6 13/32 x 4"	424	454
21-1	Barbed Wire 2 Ply, 12.50	578	618
22-1	Black Plate ASTM A625-76 0.0083" x 34" x Coil	380	407
23-1	Electrolytic Tin Plate SR-25/25 75L x 34" x C	515	551
25-1	Hot Rolled Steel Sheets ASTM A-569 0.121" x 48" x Coil	262	280
25-2	Hot Rolled Steel Band ASTM 569 0.121" x 48" x Coil	250	268
26-1	Electrical Steel Sheets Grain Oriented M-4 0.012" x 33" x C	1106	1183
26-3	Electrical Steel Sheets Non Oriented M-45 0.018" x 36" x C	596	638
26-5	Cold Rolled Sheets ASTM A-366 1.0m/m x 48" x C	328	351
27-1	Electro Galvanized Sheets EGC 10g/M² 1.0m/m x 48" x C	388	415
27-4	Galvanized Sheet ASTM A525G90 0.8m/m x 48" x C	390	417
29-1	Hot Rolled Carbon Steel Strip Produced on Bar Mills Cut Lengths	296	325
29-3	Hot Rolled Carbon Steel Strip Produced on Sheet Mills Coils Only	256	274
32-1	Tin Free Steel Sheets SR 75L x 34" x C	441	472
	Product Additions		
12-5	Cold Finished Ni-Cr-Mo Alloy Steel Round Bar, AISI $620	433	463
12-7	Cold Finished Spheroidized Annealed, High Carbon Cr Steel Round Bar, AISI 52100	483	517
14-26	Piling Pipe ASTM-A 252	324	347
14-30	ERW Galvanized Fence Pipe	332	355
14-32	ERW Mechanical Tubing	434	464
16-20	High Carbon Steel Drawn Wire, AISI 52100	772	826

*/Page references are to the Fourth Quarter Trigger Price Manual published by the Department of the Treasury on October 10, 1978. The first figure of each page reference corresponds to the AISI product category for that product..

[FR Doc. 78-32532 Filed 11-21-78; 8:45 am]

[4810-25-M]

NEW AND ADJUSTED TRIGGER BASE PRICES AND "EXTRAS" FOR IMPORTED STEEL MILL PRODUCTS

I am hereby announcing: (1) new trigger base prices and "extras" for products not previously covered by the Trigger Price Mechanism; and (2) adjustments to, and additional "extras" for products for which trigger prices have been previously announced. Attachment 1 lists the specific products involved and describes the action being taken. These trigger prices will be used by the Treasury Department in monitoring imports of these products under the trigger price mechanism. Accordingly, a number of pages in the Steel Trigger Price Handbook are being reissued to reflect these actions.

Description of the trigger price mechanism may be found in the "Background" to the final rulemaking which amended regulations to require the filing of a Special Summary Steel Invoice (SSSI) with all entries of imported steel mill products (43 FR 6065).

These base prices, and extras, and adjustments are based upon information made available to the Treasury Department by the Japanese Ministry of International Trade and Industry (MITI), as well as other information available to the Department.

All the trigger prices being announced here will be used by the Customs Service to collect information at the time of entry on all shipments of the products covered which are exported after the date of publication of this notice. However, the following rules will be applied to entries of these products covered by contracts with fixed price terms concluded before the publication date of this notice.

1. Contracts with fixed price terms between unrelated parties: If the importer documents at or before the time of entry that the shipment is being imported under such a contract with an unrelated party, the entry will not trigger an investigation even if the sales price is below the trigger price, provided that product is exported on or before December 31, 1978. However, failure to initiate an investigation will not diminish the right of affected interested persons to file a complaint with respect to such imports under the established procedures for antidumping cases.

2. Contracts between related parties: If the importer documents at the time of entry that the shipment is to be resold to an unrelated purchaser in the United States under a contract with fixed price terms concluded before the publication date of this notice, the entry will not trigger an investigation even if the sales price is below the trigger price, provided that product is exported on or before December 31, 1978.

While these sales will not as a rule trigger a self-initiated antidumping investigation, information concerning such sales will be kept as a part of the information in the monitoring system and will be available in the event that an antidumping petition is filed with respect to such products sold by that producer or the Treasury Department decided to self-initiate an antidumping investigation of such products based upon subsequent sales.

Dated: November 9, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

TABLE OF PRODUCT ADDITIONS AND ADJUSTMENTS

AISI Category/T.P. Handbook Page Number and Product Description	Type of Action	Description of Action
2-6 Wire Rods, Cold Heading Quality	Correction of a previous listing	Grade extras corrected.
2-8 Wire Rods, Cold Finished Bar Quality	Correction of a previous listing	Grade extra corrected
2-12 Alloy Steel Wire Rod, AISI 4037	Correction of a previous listing	Size extra dimensions corrected
2-16 High Carbon Steel Wire Rod, AISI 52100	Correction of a previous listing	Size extra for 19mm and over corrected
3-4 Wide Flange Beams	Reclassification of Product	Revised size extras for Junior Beams are found on revised page 3-12. Size extras for Junior Beams shown on p. 3-4 are being deleted. Further study and recent data from MITI indicate that Junior Beams are more appropriately categorized with Standard I Beams as M sections, and accordingly will be recalssified.
3-12 Standard Carbon Steel "I" Beams ASTM-A-36	Reclassification of Product	See above note for p. 3-4. This product is an electric furnace product under the TPM.

TABLE OF PRODUCT ADDITIONS AND ADJUSTMENTS
(Continued)

12-1	Cold Finished Carbon Steel Round Bar, AISI 1008 through 1029	Revised Trigger Price	Revised Base Price downward from $460 to $434 (in terms of 4th Quarter TP). Recent data from MITI confirmed that hot rolled product input costs should be based on 1 part bar and 3 parts rod, and clarified the destinction between these two in Japanese practice. Applying the proper ratio has the effect of lowering the material costs for cold finished bars and consequently the trigger price.
12-2	Cold Finished Round Steel Bar, AISI 1212 through 1215	Revised Trigger Price	Revised Base Price downward from $521 to $490 (in terms of 4th Quarter TP). See above explanation (12-1).
12-3	Cold Finished Round Steel Bar, AISI 12L14 and 12L15	Revised Trigger Price	Revised Base Price downward from $544 to $514 (in terms of 4th Quarter TP). See above explanation (12-1).
12-4	Size Extras for Cold Finished Steel Bars	Revised Page	Published Size extras in terms of 4th Quarter TP). See above explanation (12-1).
12-5,6	Cold Finished, NI-CR-MO Alloy Steel Round Bar, AISI 8620	New Page and Product Coverage	Published base price and grade, size, quality, thermal treatment extras.
12-7,8	Cold Finished Spheroidized Annealed, High Carbon Cr. Steel Round Bar, AISI 52100	New Page and Product Coverage	Published Base price and thermal treatment and size extras.
14-7	Continuous Butt Weld Pipe	Revised Page and Extended Coverage	Published new trigger price for sprinkler pipe (sch. 10). Figures shown are expressed in terms of 3rd Quarter prices to be consistent with all other pipe and tube product pages in trigger price handbook.

TABLE OF PRODUCT ADDITIONS AND ADJUSTMENTS
(Continued)

14-17,18,19,20 ERW Structural Tubing ASTM-500	Correction of a previous listing	Extra listings for selected O.D./W.T. corrected. Figures shown are expressed in terms of 3rd Quarter prices to be consistent with all other pipe and tube product pages in trigger price handbook.
14-23 ERW Standard Pipe ASTM-A-120 (A-53)	Revised Page	A-53 Pipe sizes from 2 3/8" through 4 1/2" may be found on p. 14-9. These sizes have been deleted from p. 14-23 in order to avoid duplication. Figures shown are expressed in terms of 3rd Quarter prices to be consistent with all other pipe and tube product pages in trigger price handbook.
14-24,25 ERW Standard Pipe ASTM-A-120	New Page	New trigger prices published to cover ASTM-A-120 pipe in sizes from 2-3/8" to 16"; also extras for Extra Strong W.T. on larger size ranges. Figures shown are expressed in terms of 3rd Quarter prices to be consistent with all other pipe and tube product pages in trigger price handbook.
14-26,27,28,29 Piling Pipe ASTM-A-252	New Page	Published Base Price and size and grade extras. Figures shown are expressed in terms of 3rd Quarter prices to be consistent with all other pipe and tube product pages in trigger price handbook.
14-30,31 ERW Galvanized Fence Pipe	New Page	Published Base Price and extras for fence pipe. Figures shown are expressed in terms of 3rd Quarter prices to be consistent with all other pipe and tube product pages in trigger price handbook.

TABLE OF PRODUCT ADDITIONS AND ADJUSTMENTS
(Continued)

14-32,33,34 ERW Mechanical Tubing	New Page	Published Base Price and extras for Mechanical Tubing. Figures shown are expressed in terms of 3rd Quarter prices to be consistent with all other pipe and tube product pages in trigger price handbook.
16-4 Bright Basic Round Wire AISI 1008	New Extras	Published grade extras and annealing extras.
16-5 Galvanized Iron Round Wire, Type 1 Coating	New Extras	Published Extra for Regular or commercial coating; grade extra.
16-6 Bright Basic and Galvanized Wire Size Extras	New Extras	Published Size Extra for additional gauges.
16-20,21 High Carbon Steel Drawn Wire AISI 52100	New Page	Published Base Price and size extras.
21-1 Barbed Wire	Revised Page	Changed title to read "Barbed Wire, 2-ply, 12.50 Gauge". This change is made to assure coverage of all 2-ply barbed wire, rather than merely Iowa-type.
25-3 Hot Rolled Sheet	Correction of Previous listing	Corrected Width Thickness dimensions on Extra Table.
25-12 Hot Rolled Sheet	Correction of Previous listing	Corrected Checker, and Pickled and Oiled Extra.
27-7 Galvanized Sheet	Deleted Extra	Deleted statement pertaining to adjustment due to fluctuation in the zinc price.

WIRE RODS - COLD HEADING QUALITY

Extra (Sizes/Grade) Per Metric Ton

GRADE (AISI NUMBER)	SIZES 7/32" thru 35/64	over 35/64" to under 39/64"	39/64" to under 3/4"	3/4" and over
1005, 1006, 1008 1010, 1011, 1012 1013 (Rimmed Steel)	Minus $23	$31	$17	NIL
1015, 1016, 1017 1018, 1919, 1020 1021, 1022, 1023, 1025, 1026 (Rimmed Steel)	Minus $23	$42	$30	$ 8
1005, 1006, 1008 1010, 1011, 1012, 1013 (Killed Steel)	Minus $ 7	$43	$30	$ 9
1015, 1016, 1017 1018, 1019, 1020 1021, 1022, 1023 1025, 1026	Minus $6	$55	$42	$21
1029, 1030, 1035 1037, 1038, 1039 1040, 1042, 1043	NIL	$43	$31	$ 9
10B18 10B21	20	77	64	41
10B22. 10B23	24	81	69	45
10B30	21	65	51	31
1110	Minus 5	43	30	9
1522	NIL	59	46	24
1524	12	69	55	33
1541	9	53	40	19
15B41	32	75	62	40

Tolerance Extra

If bar tolerances are specified or required for over 35/64" to under 3/4" ... Plus $11/M.T.

Note: All above extras are to be increased 4.86% on all wire rods exported to the United States on or after 10-1-78.

WIRE RODS-COLD FINISHED BAR QUALITY

Extras (Sizes / Grade) Per Metric Ton

GRADE (AISI NUMBER)	SIZES 7/32" Thru 35/64"	Over 35/64" to to Under 39/64"	39/64" To Under 3/4"	3/4" and Over
1015, 1016, 1017 1018, 1019, 1020, 1021, 1022, 1023 1025, 1026	Minus $36	$22	$ 9	Minus $11
1029, 1030, 1035 1037, 1038, 1039 1040, 1042, 1043 1044, 1045, 1046 1049 1050	Minus $19	$23	$ 9	Minus $ 9
1117	Minus $ 5	$51	$38	$17
1141	2	38	25	16
1144	2	43	30	9
1151	4	45	32	12
1212, 1213, 1215	Minus $ 2	$43	$30	$ 9
10L18	Minus $16	$52	$39	$18
10L38, 10145	NIL	43	30	9
11L17	$22	$81	$69	$45
11L37	15	57	44	23
12L14, 12L15	$15	$60	$47	$25

Tolerance Extra

If Bar Tolerances ar specified or required for over 35/64" to under 3/4" -- plus $11 per metric ton.

Note: all above extras are to be increased by 4.86% for wire rods shipped to the U.S. on or after 10-1-78.

2. Size Extras

Size	3rd Quarter Extra ($/MT)	4th Quarter Extra ($/MT
Over 13 mm but less than 19 mm	Minus 26	Minus 27
19 mm & over	Minus 37	Minus 39

3. Thermal Treatment Extras

	Extra ($/MT)	Extra ($/MT)
Regular Anneal Only	Minus $21/MT	Minus $22/MT
No heat treatment	Minus $63/MT	Minus $66/MT

4. Aircraft Quality Extra $26/MT $27/MT

5. Bearing Quality Extra $26/MT $27/MT

6. Vacuum Degassed Extra $12/MT $13/MT
(This extra does not apply when requirements are subject to extra for aircraftand/or bearing quality.)

1. Grade Extras (per MT)

AISI NUMBER	3rd Quarter Extra ($/MT)	4th Quarter
E50100, E51100	NIL	NIL

Size Extras

Size	Extra($/MT)	Extra ($/MT)
Over 13 mm but less than 19 mm	Minus 26	Minus 27
19 mm & Over	Minus 37	Minus 39

3. Thermal Treatment Extras

Regular Anneal Only	Minus $21/MT	Minus $22/MT
No heat treatment	Minus $63/MT	Minus $66/MT

SIZE EXTRAS
($/MT)

4th Qtr.

SIZE	EXTRA
S12 x 31.8 lb./ft.	Base
S8 x 18.4 lb./ft.	Base
S6 x 12.5 lb./ft.	12
S4 x 7.7 lb./ft.	12
SIZE EXTRAS JUNIOR BEAMS	
M-12" x 11.8 lb./ft.	Base
M-10" x 8.0 lb./ft.	Base
M-8" x 6.5 lb./ft.	12
M-6" x 4.4 lb./ft.	32

NOTE: Above size extras for Junior Beams supercede p.3-4 published October 10, 1978.

Cold Finished Carbon Steel Round Bar
AISI 1008 through 1029, 19.05 mm (3/4")

Category AISI 12

Tariff Schedule Number (s) 608.5015 8½%

	4th Quarter	1st Quarter
Base Price Per Metric	$ 460	$ 464

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$30	$7	$ 8
Gulf Coast	35	5	10
Atlantic Coast	40	4	10
Great Lakes	58	4	13

Insurance 1% of base price + extras + ocean freight

Extras

Size, See Table p. 12-4

Cold Finished Round Steel Bar (Free Cutting Steel-Sulfur)
AISI 1212 through 1215 19.05mm (3/4")

Category AISI 12

TAriff Schedule Number (s) 608.5005 8½%

	4th Quarter	1st Quarter
Base Price per Metric Ton	$ 521	$ 524

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$30	$7	$ 9
Gulf Coast	35	5	11
Atlantic Coast	40	4	12
Great Lakes	58	4	15

Insurance 1% of base price + extras + ocean freight

Extras

Size, See Table p. 12-4

Cold Finished Round Steel Bar (Free Cutting Steel-Lead
AISI 12L14 and 12L15 19.05 mm (3/4")

Category AISI 12

Tariff Schedule Number (s) 608.5005 8½%

	4th Quarter	1st Quarter
Base Price Per Metric Ton	$ 544	$ 550

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$30	$7	$ 9
Gulf Coast	35	5	12
Atlantic Coast	40	4	12
Great Lakes	58	4	15

Insurance 1% of base price + extras + ocean freight

Extras

Size, See Table p. 12-4

Size Extras for Cold Finished Steel Bars ($ Extra/M.T.)

Size	4th Quarter Shape	
	Round	Hexagon
Up to 3/16" inclusive	69	170
Over 3/16" thru 5/16"	46	92
5/16" thru 7/16"	37	56
7/16" thru 5/8"	19	37
5/8" " 7/8"	Base	8
7/8" " 1-7/16"	8	19
1-7/16" thru 1-3/4"	15	33
1-3/4" thru 2-11/16"	19	46
2-11/16" thru 3"	27	--
3" thru 3-3/4"	37	--
3-3/4" thru 4"	46	--

COLD FINISHED, NI-CR-MO ALLOY STEEL ROUND BAR
AISI 8620, 40 MM

Category 12

Tariff Schedule Number (s) 608.5240 10½% additional duties (see Headnote 4, TSUS)

Base Price per Metric Ton 4th Quarter $433

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$49	$7	$ 9
Gulf Coast	51	5	12
Atlantic Coast	63	4	12
Great Lakes	79	4	15

Insurance 1% of base price + extras + ocean freight

Extras:

(1) Grade Extras
(2) Thermal Treatment Extra
(3) Quality Extra
(4) Cold Finished Extra

COLD FINISHED, NI-CR-MO ALLOY STEEL ROUND BAR
(CONTINUED)

Extra

1. Grade Extra - same as hot rolled grade extras, pp. 11-2, 11-3
2. Thermal Treatment Extra - same as hot rolled thermal treatment extra, p. 11-4
3. Quality Extra - same as hot rolled extra, p. 11-4
4. Cold Finish Size Extra

Cold drawn with or without pickling. Smooth Turned (Turned & Polished).

Size (Inches)		4th Quarter Extra ($/MT)
Diameter	Exclusive	
½	5/16	348
5/16	3/8	287
3/8	½	255
½	5/8	194
5/8	1	166
1	1½	149
1½	3	144
3	4	149
4	6	172

COLD FINISHED SPHEROIDIZED ANNEALED, HIGH CARBON CR STEEL ROUND BAR AISI 52100, 50100, 51100

Category AISI 12

Tariff Schedule Number (s) 608.5225 10½% + additional duties (see Headnote 4, TSUS)

BAse Price per Metric Ton 4th Quarter $483

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$49	$7	$10
Gulf Coast	51	5	13
Atlantic Coast	63	4	13
Great Lakes	79	4	16

Insurance 1% of base price + extras + ocean freight

Extras:

1. Size Extras
2. Thermal Treatment Extras
3. Cold Finish Extra

New Page 12-8
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COLD FINISHED SPHEROIDIZED ANNEALED, HIGH CARBON CR -
STEEL ROUND BAR AISI
(Continued)

Extras:

1. Thermal Treatment Extra: $/MT without spheroidize anneal minus $63

2. Cold - Finished Extra
Cold drawn with or without pickling
Smooth Turned (Turned & Polished)

4th Quarter

Size (Inches)			Extra ($/MT)
		Exclusive	
Dia.	½ -	5/16	348
	5/16-	3/8	287
	3/8	½	255
	½	5/8	194
	5/8	1	166
	1	1½	149
	1½	3	144
	3	4	149
	4	6	172

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BASE PRICE, INCLUDING O.D./WT., GALVANIZING, THREADED AND COUPLED EXTRAS
($/M.T., 3rd Quarter)

CONTINUOUS BUTT WELDED PIPE — AISI 14 TSUSA 610.32

DESCRIPTION	NOM. (INCHES)					O.D. (INCHES)				
	1/2	3/4	1	1¼	1½	2 3/8	2 7/8	3½	4	4½
STD WEIGHT, BLK, PLAIN END	317	308	302	300	300	293	293	293	300	300
EX STRONG, BLK, PLAIN END	317	317	310	307	307	302	302	302	307	307
STD WEIGHT, GALV, PLAIN END	408	394	383	377	377	377	372	372	377	377
EX STRONG, GALV, PLAIN END	420	405	395	387	387	383	383	383	387	387
STD WEIGHT, BLK T AND C	354	342	329	326	326	320	320	320	331	331
EX STRONG, BLK T AND C	364	351	339	335	335	329	329	329	342	342
STD WEIGHT, GALV, T AND C	446	427	410	403	403	399	399	399	409	409
EX STRONG, GALV, T AND C	459	440	422	416	416	410	410	410	421	421
SPRINKLER PIPE, (SCH. 10)	331	332	316	314	314	308	308	308	314	314

Note: All above prices are to be increased by 4.86% for tubing exported on or after October 1, 1978

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Revised Nov. 1978

BASE PRICE INCLUDING OUTSIDE DIAMETER (OD) / WALL THICKNESS (WT) EXTRAS ($/MT) 3rd Quarter
ELECTRIC RESISTANCE WELDED STRUCTURAL TUBING TO ASTM A 500 GRADE A B & C

		AISI 14		TSUSA		610.32				
SQUARE	WT/OT .047	.056	.063	.072	.078	.083	.095	.109	.120	.125.134
1/2	405	405	387	387						
5/3	307	387	365	365						
3/4	375	375	353	353						
7/8	375	375	353	353						
1	375	375	353	353	353	353	353	353	353	
1 1/4	375	375	353	353	353	353	353	353	353	
1 1/2	375	375	353	353	353	353	353	353	353	
1 3/4			353	353	353	353	353	353	353	
2			353	353	353	353	353	353	353	353
2½						343	343	343	343	343
3							343	343	343	343
3 1/2							343	343	343	343
4							343	343	343	343
5										
6										
7										
8										
10										
12										

Note: All above prices are to be increased by 4.86% for tube exported to the United States on or after October 1, 1978

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Revised Nov , 1978

BASE PRICE INCLUDING OUTSIDE DIAMTER (OD) / WALL THICKNESS (WT) EXTRAS ($/MT) (3rd Quarter)
Electric resistance welded Structural tubing to ASTM A 500 Grade A B & C

	AISI 14	TSUSA	610.32			
SQUARE WT/OT	.156 .180	.1875 .250	.313	.375	.500	
1/2						
5/8						
3/4						
7/8						
1						
1 1/4						
1 1/2						
1 3/4						
2	353	353	353			
2½	343	343	343			
3	343	343	343			
3½	343	343	343			
4	343	343	343	356	356	
5	343	343	343	356	356	
6	343	343	343	356	356	365
7	343	343	343	356	356	365
8		343	343	356	356	365
10			343	356	356	365
12			353	365	365	375

Note: All above prices are to increased by 4.86% for tube exported to the United States on or after Octber 1, 1978

Base Price Including Outside Diameter (O.D.1) Wall Thickness (W.T.) Extras ($/MT)
Electric Resistance Welded Structural Tubing to ASTM A 500 Grade A B & C (3rd Quarter)

AISI 14 TSUSA 610.32

Rectangular WT/OD	.047	.056	.063	.072	.078.	.083	.095	.109	.120 & .125
1x1 1/2	375	375	353	353					
1 1/2x3/4	375	375	353	353	353	353	353		
1 1/2 x 1	375	375	353	353	353	353	353	353	353
2x1	375	375	353	353	353	353	353	353	353
2x1 1/2	375	375	353	353	353	353	353	353	353
2 1/2 x 1 1/2			353	353	353	353	353	353	353
3x1			353	353	353	353	353	353	353
3x1 1/2			343	343	343	343	343	343	343
3x2						343	343	343	343
4x2							343	343	343
4x3							343	343	343
5x2							343	343	343
5x3							343	343	343
6x2							343	343	343
6x3									
6x4									
7x4									
7x5									
8x4									
8x6									
9x7									
10x6									
12x8									
14x6									
16x8									

Note: All above prices are to be increased by 4.86% for tube exported to the United States on or after October 1, 1978

Base Price Including Outside Diameter (O.D.1/ Wall Thickness (W.T.) Extras ($/MT)(3rd Quarter)
Electric Resistance Welded Structural Tubing to ASTM A 500 Grade A B & C

AISI 14 TSUSA 610.39 610.49

Rectangular WT/OD	.134	.156	.180 & .1875	.250	.313	.375	.500
1 x 1/2							
1 1/2 x 3/4							
1 1/2 x 1							
2x1							
2 x 1 1/2							
2 1/2 x 1 1/2							
3 x 1 1/2							
3x2	343	343	343	343			
4x2	343	343	343	343			
4x3	343	343	343	343			
5x2	343	343	343	343			
5x3	343	343	343	343	356	356	
6x2	343	343	343	343			
6x3		343	343	343	356	356	
6x4		343	343	343	356	356	
7x4		343	343	343	356	356	
7x5		343	343	343	356	356	375
8x4		343	343	343	356	356	375
8x6		343	343	343	356	356	375
9x7			343	343	356	356	375
10x6			343	343	356	356	375
12x 8				353	365	365	375
14x6				353	365	365	375
16x 8				353	365	365	375

Note: All above prices to be increased by 4.86% for tube exported to the United States or after October 1, 1978

Base Price Including Outside Diameter (OD)/Wall Thickness (WT)
Threaded and Coupled Extras ($/MT) (3rd Quarter)
Electric Resistance Welded Pipe to ASTM A 120 (A 53)
(Standard Weight)

	Nom (inches)				
	¼	3/4	1	1¼	1½
Blk. P.E.	342	332	328	323	323
Blk. T.& C.	383	371	354	352	352
Galv., P.E.	440	425	415	408	408
Galv. T.& C.	481	462	443	437	437

Note: All above prices are to be increased by 4.86% for tube exported to the United States on or after October 1, 1978.

Electric Resistance Welded Standard Pipe
ASTM-A-120 (larger sizes).

Category AISI 14

Tariff Schedule Number (s) 610.32 0.3¢ per lb.

Base Price per Metric Ton	3rd Quarter	4th Quarter
	$317	$332

Charges to CIF

	Ocean Freight	Handling	Interest
West Coast	see freight table	7	6
Gulf Coast		5	8
Atlantic Coast		4	8
Great Lakes		4	10

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside diameter and wall thickness
B. Galvanizing
C. Threading and Coupling

Base Price Including OD/WT, Thread and Couple
ERW Pipe to ASTM A-120
$/MT (3rd Quarter)

	2 3/8	2-7/8	3½	4	4½	5-9/16	6 5/8	8 5/8	10 3/4	12-3/4	14	16
Black, Plain End, Standard W.T.	317	317	317	323	323	323	323	309	309	309	309	309
Black, Plain End, Extra Strong W.T.	-	-	-	-	-	332	332	318	318	318	318	318
Black, Thread & Couple Standard W.T.	345	345	345	357	357	-	-	-	-	-	-	-
Galv., Plain End Standard W.T.	401	401	401	408	408	-	-	-	-	-	-	-
Galv., Thread & Couple, Standard W.T.	430	430	430	443	443	-	-	-	-	-	-	-

NOTE: All above trigger prices are to be increased 4.86% for all pipe exported on or after October 1, 1978.

Piling Pipe ASTM A-252

AISI Category 14

Tariff Schedule Number 610.32 0.3¢ per lb.

	3rd Qtr.	4th Qtr.
Base Price Per Metric Ton	$309	$324

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	see freight table, p. 14-2	7	6
Gulf Coast		5	8
Atlantic Coast		4	9
Great Lakes		4	11

Insurance: 1% of base price + extras + ocean freight.

Extras:

Outside diametric/wall thickness by grade.

Note: In order to be consistent with pipe and tube trigger prices published in the October 10, 1978 Handbook, the trigger prices listed on pages 14-26 and 14-27 are 3rd Quarter prices. So, these trigger prices must be increased 4.86% for all pipe exported to the United States on or after October 1, 1978.

Base Prices Including OD/WT and Grade Extras ($/M.T.)
(3rd Quarter)

Piling Pipe ASTM - A-252

OD	W.T.	Grades 1, 2	Grade 3
6-5/8	.125	332	352
	.141	332	352
	.156	323	342
	.172	323	342
	.188	323	342
	.203	323	342
	.219	323	342
	.250	323	342
	.280	323	342
	.375	323	342
	.432	332	352
8-5/8	.125	318	337
	.156	318	337
	.172	318	337
	.188	309	327
	.203	309	327
	.219	309	327
	.258	309	327
	.277	309	327
	.312	309	327
	.322	309	327
	.344	309	327
	.375	309	327
	.500	318	337

Base Prices Including OD/WT and Grade Extras ($/M.T.)(3rd Qtr.)

Piling Pipe ASTM A-252

OD	WT	Grades 1,2	Grade 3
10-3/4	.156	318	337
	.172	318	337
	.188	318	337
	.203	309	337
	.219	309	327
	.250	309	327
	.279	309	327
	.307	309	327
	.344	309	327
	.365	309	327
	.500	318	337
12-3/4	.172	318	337
	.188	318	337
	.203	309	327
	.219	309	327
	.250	309	327
	.281	309	327
	.312	309	327
	.330	309	327
	.344	309	327
	.375	309	327
	.406	309	327
	.500	318	337

Base Prices Including OD/WT and Grade Extra ($/M.T.)(3rd Quarter)

Piling Pipe ASTM A-252

OD	W.T.	Grades 1, 2	Grades 3
14	.188	318	337
	.203	318	337
	.219	309	327
	.250	309	327
	.281	309	327
	.312	309	327
	.344	309	327
	.375	309	327
	.438	309	327
	.500	318	337
16	.188	318	337
	.203	318	337
	.219	309	327
	.250	309	327
	.281	309	327
	.312	309	327
	.344	309	327
	.375	309	327
	.438	309	327
	.500	318	337

Electric Resistance Welded Hot Dipped Galvanized Fence Pipe and Tubing in Plain Ends

Category AISI 14

Tariff Schedule Number(s) 610.32 0.3¢ per lb.

Base Price per Metric Ton	3rd Quarter	4th Quarter
	317	332

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	see freight	7	6
Gulf Coast	table	5	8
Atlantic Coast		4	8
Great Lakes		4	10

Insurance 1% of base price + extras + ocean freight

Extras
A. Hot Dipped Galvanized
B. In-line Galvanized
C. Cut length extra
D. Swaging

ERW GALVANIZED FENCE PIPE AND TUBING IN PLAIN ENDS
($/MT, 3rd Quarter)

A. OD/WT Extras - Hot Dipped Galvanized Type

WT.(inches) / OD(inches)	.047	.055	.069	.079	.104	.116	.128	.144	sch40
1.315	476	453	431	431	418	418	418	---	418
1.660	469	447	425	425	409	409	409	---	409
1.900	---	447	425	425	409	409	409	---	409
2.375	---	437	415	415	403	403	403	403	403
2.875	---	---	415	415	403	403	403	403	403
4.000	---	---	---	---	409	409	409	409	403

B. OD/WT Extras In-Line Galvanized Type

WT (inches) / OD(inches)	.047	.055	.069	.079	.104	.116	.128	.144	sch40
1.315	415	403	380	380	374	374	374	---	374
1.660	409	396	374	374	368	368	368	---	368
1.900	---	396	374	374	368	368	368	---	368
2.375	---	390	368	368	361	361	361	361	361
2.875	---	---	368	368	361	361	361	361	361
4.000	---	---	---	---	368	368	368	368	368

C. Cut Length Extra:

5% of base price for specific OD/WT

D. Swaging at One End:

5% of base price for specific OD/WT

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ERW Mechanical Tubing ASTM A 513
Type I A.W.H.R.

AISI Category 14

Tariff Schedule Number	610.32	0.3¢ per lb.
	610.31	0.625 ¢ per lb.

Base Price per Metric ton	3rd Qtr.	4th Qtr.
	413	434

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	see freight table	$7	$ 8
Gulf Coast		5	11
Atlantic Coast		4	11
Great Lakes		4	14

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside diameter/wall thickness
B. Cut Lengths
C. Quantity

Note: In order to be consistent with pipe and tube trigger prices published in the October 10, 1978 Handbook, the trigger prices listed on pages 14-30 and 14-31 are 3rd Quarter prices. So, these trigger prices must be increased 4.86% for all pipe exported to the United States on or after October 1, 1978

ERW MECHANICAL TUBING ASTM-A-513 TYPE 1 AWHR
Base Price Including OD/WT Extras ($/MT 3rd Quarter)

	3/4	1	1 1/4	1 1/2	1 3/4	2	2 1/8	2 1/4	2 3/8	2 1/2	2 3/4	3	3 1/4	3 1/2	4	4 1/2
0.049	703	641	599	---	---	---	---	---	---	---	---	---	---	---	---	---
0.065	682	579	579	537	537	---	---	---	---	---	---	---	---	---	---	---
0.083	599	579	537	496	475	455	455	455	434	434	434	434	---	---	---	---
0.095	599	537	537	475	455	434	434	434	434	413	413	413	413	---	---	---
0.105	579	517	496	455	434	434	434	413	413	413	413	413	413	413	---	---
0.109	579	517	475	434	413	413	413	413	413	413	413	393	413	413	434	---
0.120	579	517	475	413	413	413	413	413	413	393	393	393	393	393	434	475
0.125	---	517	475	413	413	413	413	393	393	393	393	393	393	393	413	434
0.134	---	517	475	413	413	413	413	393	393	393	393	393	393	393	413	434
0.135	---	517	475	413	413	413	413	393	393	393	393	393	393	393	393	413
0.148	---	---	475	413	413	413	413	393	393	393	393	393	393	393	393	413
0.150	---	---	496	434	413	413	413	393	393	393	393	393	393	393	393	413
0.165	---	---	496	434	413	413	413	413	393	393	393	393	393	393	393	393
0.180	---	---	496	455	413	413	413	413	393	393	393	393	393	393	372	372
0.200	---	---	---	475	413	413	413	413	413	393	393	372	372	372	372	372
0.203	---	---	---	475	434	434	434	413	413	393	393	372	372	372	372	372
0.220	---	---	---	496	434	434	434	413	413	393	393	372	372	372	372	372
0.238	---	---	---	---	455	455	455	434	434	413	413	393	393	393	393	393
0.259	---	---	---	---	496	496	496	455	434	413	413	393	393	393	393	393
0.284	---	---	---	---	---	---	---	---	---	---	---	413	413	393	393	393
0.300	---	---	---	---	---	---	---	---	---	---	---	---	434	413	413	413

Intermediate wall thickness will be priced on the next heavier wall shown.

ERW Mechanical Tubing ASTM A-513
Type I A.W.H.P.

Cut Length Extra

Cut Length	Extra %
10	on inquiry
10 to under 36	Base
36 to under 40	2.5
40 to under 44	7.5
44 to under 48	10
48 and over	on inquiry

Quantity Extras

Weight (pounds)	Extra (percent)
10,000 or more	base
5,000 to 9,999	20
Under 5,000	on inquiry

Bright Basic Round Wire, AISI 1008, #8 Gauge Rimmed

Category AISI 16

Tariff Schedule Number(s) 609.4010 8 1/2%
609.4105 0.3¢ per lb.
609.4125 0.3¢ per lb.

Base Price per Metric Ton — 4th Quarter $364

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$40	$7	$ 6
Gulf Coast	42	5	8
Atlantic Coast	45	4	8
Great Lakes	60	4	11

Insurance 1% of base price + extras + ocean freight

Extras
(1) Grade Extras: Same as Wire Rod Commercial Quality (page 2-1)
(2) Annealing Extra: $28/MT
(3) Size Extra: See Extra Table page 16-6
(4) Packing Extra: See Extra Table page 16-7

Galvanized Iron Round Wire, AISI Type I Coating, #8 Gauge

Category AISI 16

Tariff Schedule Number(s) 609.4040 8 1/2%
609.4165 0.3¢ per lb.

Base Price per Metric Ton — 4th Quarter $458

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$40	$ 7	$ 8
Gulf Coast	41	5	11
Atlantic Coast	45	4	11
Great Lakes	60	4	13

Insurance 1% of base price + extras + ocean freight

Extras
(1) Grade Extra: Same as Wire Rod Commercial Qiality (Page 2-1)
(2) Regular or Commercial: Minus $50/MT Coating Extra
(3) Size Extra: See Extra Table p. 16-6
(4) Packaging Extras: See Extra Table 16-7

SIZE EXTRAS FOR BRIGHT BASIC WIRE, ANNEALED WIRE AND GALVANIZED IRON WIRE

$ EXTRA/MT
(4th Quarter)

GAUGE	BRIGHT BASIC WIRE	ANNEALED WIRE	GALV. IRON WIRE (TYPE I)
4	22	22	35
5	16	16	27
6	8	8	21
7	4	4	16
8	Base	Base	Base
9	6	6	14
10	8	8	18
11	12	12	24
12	14	14	35
13	18	18	43
14	22	22	51
15	33	35	66
16	41	43	80
17	49	52	99
18	60	61	115
19	71	75	141
20	85	89	163
21	100	104	188
22	111	115	210
23	122	126	237
24	133	139	265
25	149	156	306
26	167	174	349
27	175	181	366

16-20
Nov. 1978

High Carbon Cr Stael Drawn Wire in Coil AISI 52100, 50100, 51100, Suitable for use in manufacture of Ball or Roller Bearings

AISI Category 16

Tariff Schedule Number (s) 609.4560 10½% + additional duties (See Headnote 4, TSUS)

Base Price per Metric Ton 4th Quarter $772

Charges to CIF

	Ocean Freight	Handling	Interest
West Coast	58	7	15
Gulf Coast	69	5	19
Atlantic Coast	72	4	19
Great Lakes	79	4	24

Insurance 1% of base price + extras + ocean freight

Extras:

1 Size Extra

16-21
Nov, 1978

High Carbon Cr Steel Drawn Wire in Coil AISI 52100, 50100, 51100, Suitable for use in manufacture of Ball or Roller Bearings

1. Size Extra

Size (inches)	Extra ($/MT) 4th Quarter
0.688 and over	nil
0.500 - 0.687	nil
0.312 - 0.499	Base
0.250 - 0.311	11
0.188 - 0.249	66
0.174 - 0.187	221
0.094 - 0.173	232
0.083 - 0.093	277
0.062 - 0.082	431

21-1

Rev. November, 1978

BARBED WIRE 2-ply, 12.50 Gauge

Category AISI 21

Tariff Schedule Number 642.0200 Free

	3rd Quarter	4th Quarter
Base Price per Metric Ton	$551	$578

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	$42	$7	$ 9
Gulf Coast	50	5	12
Atlantic Coast	55	4	12
Great Lakes	60	4	14

Insurance 1% of base price +extras +ocean freight

Hot Rolled Sheets + Band
Width-Thickness Extra ($/MT)

25-3
Rev. Aug. 1978

Width/thickness	over 12" up to 24"	From 24" thru 36"	Over 36" thru 48"	Over 48" thru 72"	Over 72" thru 76"	Over 76" thru 84"
over 0.5	---	12 + N	12 + N	12 + N	12 + N	15 + N
from 0.312 thru 0.5	26	12	12	12	12	15
from 0.251 thru 0.3119	26	12	12	12	12	13
from 0.230 thru 0.2509	17	0	0	0	7	13
from 0.180 thru 0.2299	17	0	0	0	6	12
from 0.121 thru 0.1799	17	0	0	0	11	12 + N
from 0.081 thru 0.1209	17	13	7	0	11	---
from 0.071 thru 0.0809	25	19	14	14	11 + N	---
from 0.061 thru 0.0709	38	28	21	21	---	---
from 0.0568 thru 0.0609	41	32	31	21 + N	---	---
from 0.0509 thru 0.0567	41 + N	32+N	31 + N	21 + N	---	---

Note: All above extras are to be increased by 7.38% for all sheet and band exported to the United States on or after October 1, 1978.

25-12
Rev. July, 1978

(5) QUALITY

	BASE
COMMERCIAL	
LOCK FORMING	NONE
DRAWING	11
DRAWING SPECIAL KILLED	27
STRUCTURAL	
GRADE A	3
" B and C	5
" D and E	11

(6) QUANTITY

	BASE
20ST$ W	
15ST$ W COST	1
10ST$ W CST	3

(7) THEORETICAL MINIMUM WEIGHING --------16

(8) OTHERS -------- SUBJECT TO NEGOTIATION

(9) Corrugating $19

Note: All above extras are to be increased by 7.14% for all sheets shipped to the U.S. on or after 10-1-78

3-OTHER EXTRAS

Description	$/MT
Killed	21
Fine Grain	6
Charpy -	
+40°F & up	
L	16
T	21
L & T	26
under +40°F	
L	21
T	26
L & T	32
Normalize	74
Quench & Temper	127
Normalize & Temper	127
Checker	21
Pickled & Oiled	
Up to 0.172" Thickness	21
Over 0.172" Thickness	14
Others	To be specified on SSSI

[FR Doc. 78-32533 Filed 11-21-78; 8:45 am]

[4830-01-M]

close or authorize, in specific in-

Grounds for relief—market competi-

Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin,

kee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson,

Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties,

V 43 / 226 NOV 22 78 UMI

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 101 (Rev. 1)]

ASSISTANT COMMISSIONER (TAXPAYER SERVICE AND RETURNS PROCESSING)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This revision authorizes the Assistant Commissioner (Taxpayer Service and Returns Processing) and others to act on requests by State tax officials for returns and return information and for redelegation of such authority. These new officials reflect the change resulting from the reorganization of the Internal Revenue Service. Also reflected is the amendment of IRC 6103 by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455). The text of the revision appears below.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EFFECTIVE DATE: November 16, 1978

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, TX:D, 1111 Constitution Avenue NW., Room 1603, Washington, D.C. 20224, telephone number 202-566-3908 (not a toll-free telephone number).

HOWARD T. MARTIN,
Director, Disclosure Operations Division.

Date of issue: November 16, 1978.
Effective Date: November 16, 1978.
Subject: Authority to act on requests for returns and return information by States and others under IRC 6103(d) and 6103(h)(4)

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated as follows:

(1) The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Director, Disclosure Operations Division and Assistant Director, Disclosure Operations Division are authorized to disclose or authorize, in specific instances, the disclosure of returns or return information to designated State tax officials, upon written request by the head of a State tax agency, for the purpose of and to the extent necessary in the administration of State tax laws, pursuant to the provisions of IRC 6103(d) and Subject to the conditions prescribed in IRC 6103 (h)(4) and (p)(8). The authority to withhold return information pursuant to IRC 6103 (d) and (h)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph does not extend to the entry into Federal/State Agreements on Coordination of Tax Administration. The authority delegated in this paragraph may be redelegated only to the Chief, Tax Disclosure Branch, Disclosure Operations Division.

(2) This revision supersedes delegation order No. 101, issued February 12, 1965.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-32803 Filed 11-21-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 17, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA NO. 43630, Southwestern Freight Bureau, Agent's No. B-782, rates on rubber and related articles, from specified stations in Louisana and Texas, to Pittsfield, Mass., in Sup. 102 to its tariff 13-F, ICC 5209, to become effective December 19, 1978.

Grounds for relief—destination rate relationship.

FSA NO. 43631, Southwestern Freight Bureau, Agent's No. B-775, rates on petroleum, petroleum products, and related articles, from stations in Southwestern and Western Territories, to Charity Church, S.C., in Sup. 91 to its tariff SW/S 123-P, ICC 5152, to become effective December 18, 1978.

Grounds for relief—market competition.

FSA NO. 43632, Trans-Continental Freight Bureau, Agent, No. 528, trailerload rates on sugar, beet, or cane, from Crockett and Richmond, Calif., to Amarillo and Lubbock, Tex., to be published in its tariff 23-R, ICC 1945.

Grounds for relief—market competition.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-32790 Filed 11-21-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

Notice

NOVEMBER 7, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by December 4, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107012 (Sub-E367), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated* (1) from points in Cochise, Gila, Graham, and Greenlee Counties, AZ, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, and Warren Counties, NC. (2) from points in Apache, Coconino, Mohave, Navajo, and Yavapal, Counties, AZ, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Allegheny, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Caraven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, and Warren Counties, NC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN. (3) from points in Yuma County, AZ, to points in NC, Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E368), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated* (1) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humbold, Lake, Mendicino, Tehama, and Trinity Counties, CA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; points in FL; points in GA; points in SC; points in TN. (2) From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (3) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura Counties, CA, to points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC; Anderson, Blount, Campbell, Carter, Clairborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (4) From points in San Bernardino, Imperial, Riverside and San Diego Counties, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (5) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santo Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsboróugh, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E369), filed May 16, 1974. Applicant: North American Van Lines, Inc., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated*, (1) from points in Garfield, Mesa, Moffat, Rio Blanco and Routt

Counties, CO. to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; points in FL; points in GA; points in SC; points in TN. (2) From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsboróugh, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (3) From points in Alamosa, Archuleta, Conejos, Costilla, Hinsdale, Mineral, Rio Grande and Saguache Counties, CO; to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsboróugh, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, and White Counties, TN. (3) From points in Alamosa, Archuleta, Conejos, Costilla, Hinsdale, Mineral, Rio Grande and Saguache Counties, CO; to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; points in FL; points in GA; points in SC; points in TN. (4) From points in Yuma County, AZ, to points in NC, Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E370), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated* (1) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humbold, Lake, Mendicino, Tehama, and Trinity Counties, CA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; points in FL; points in GA; points in SC; points in TN. (2) From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsboróugh, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (3) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura Counties, CA, to points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC; Anderson, Blount, Campbell, Carter, Clairborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (4) From points in San Bernardino, Imperial, Riverside and San Diego Counties, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (5) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santo Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsboróugh, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E371), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated* (1) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humbold, Lake, Mendicino, Tehama, and Trinity Counties, CA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; points in FL; points in GA; points in SC; points in TN. (2) From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsboróugh, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (3) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura Counties, CA, to points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC; Anderson, Blount, Campbell, Carter, Clairborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (4) From points in San Bernardino, Imperial, Riverside and San Diego Counties, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (5) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santo Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsboróugh, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (Gateway eliminated: St. Charles, IL.)

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Counties, CO. to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwanne, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson and Wilson Counties, TN. (2) From points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit and Teller Counties, CO, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putman, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL; Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens. Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty and Screven Counties, GA; to points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (3) From points in Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan and San Miguel Counties, CO, to points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (4) From points in Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO, to the points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC. (5) From points in Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwanne, Taylor and Wakulla Counties, FL; points in GA; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton; Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, and White Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E370), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated,* (1) From points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID, to points in TN. (2) From points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID, to points in Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, and White Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E371), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated,* (1) From points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, and Wright Counties, IA, to points in AL; points in FL; points in GA; points in NC; points in SC; points in TN. (2) From points in Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, and Webster Counties, IA, to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, Ala; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, and Wakulla Counties, FL; points in GA; points in NC; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, and White Counties, TN. (3) From points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington Counties, IA, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, and Saint Lucie Counties, FL; Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, and Warren Counties, NC; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dilion, Florence, Georgetown, Horry, Marion, and Williamsburg Counties, SC. (4) From points in Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, and Union Counties, IA, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, and Wakulla Counties, FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty, and Screven Counties, GA; points in NC; points in SC: Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN. (5) From points in Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, and Woodbury Counties, IA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marshall, and Morgan Counties, AL; points in FL; points in GA; points in NC; points in SC: Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, and White Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E372), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New kitchen cabinet sinks, uncrated,* (1) from points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, and Warren Counties, NC; points in VA; (2) from points in Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner, and Washington Counties, KS, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, Wilson, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, and Warren Counties, NC; points in VA; (3) from points in Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, and Wichita Counties, KS, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Perquimans, Pitt, Tyrell, Washington, Wilson, Alexander, Al-

leghany, Ashe, Avery, Burke, Caldwell, Roseau, Anoka, Blue Earth, Carver, points in Covington, Forrest, George,

Chickasaw, Choctaw, Clay, Desoto, Lafourche, Livingston, Orleans, Pla- sentative: John Nelson (same address

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leghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, and Warren Counties, NC; to points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN; points in VA; (4) from points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, and Woodson Counties, KS, to points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford, and Westmoreland Counties and independent cities of: Alexandria, Fairfax, Falls Church, and Fredericksburg; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, and York Counties and independent cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and independent cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, and Waynesboro; Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah, and Warren Counties and cities of Harrisonburg and Winchester, VA. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E373), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New kitchen cabinet sinks, uncrated*, (1) from points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tasca, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Good Hue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, and Yellow Medicine Counties, MN, to points in TN; (2) from points in Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock, and Watonwan Counties, MN, to points in Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatche, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, and Weakley Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E374), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New kitchen cabinet sinks, uncrated*, (1) from points in Bolivar, Carro, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, and Yazoo, MS, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, and Trinity Counties, CA; points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID; points in OR; points in Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, and Spink Counties, SD; (2) from points in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, and Wayne Counties, MS, to points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID; points in Benton, Clackamas, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake Malheur, Baker, Grant, Morrow, Umatilla, Union, and Wallowa Counties, OR; points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, and Spink Counties, SD; (3) from points in Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Nexubee, Rankin, Scott, Simpson, Smith, and Winston Counties, MS, to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID; points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Baker, Grant, Morrow, Umatilla, Union, and Wallowa Counties, OR; Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, and Spink Counties, SD; (4) from points in Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall, and Wilkinson Counties, MS, to points in Benewah, Bonner, boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID; points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties, OR; points in Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, and Spink Counties, SD; (5) from points in Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, and Yalobusha Counties, MS, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; points in ID; points in Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, and Washoe Counties, NV; points in OR; points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, and Spink Counties, SD. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E375), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New kitchen cabinet sinks, uncrated*, (1) points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux, and Yellowstone Counties, MT, to points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, LA; (2) from points in Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, and Valley Counties, MT, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, and Woodruff Counties, AR; points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, LA; (4) from points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, and Sanders Counties, MT, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR; points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, LA; (4) from points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, and Sanders Counties, MT, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR; points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, LA; (3) from points in Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, and Wheatland Counties, MT, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, and Woodruff Counties, AR; points to Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, LA. (Gateway eliminated: St. Charles, IL.)

MC 107403 (Sub-E296) (correction), filed May 29, 1974, published in the FEDERAL REGISTER issue of July 31, 1974, and partially republished, as corrected, this issue. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: John Nelson (same address as above). *Dry chemicals*, in bulk, in tank vehicles, * * * (2) from points in KY to points in PA. (Gateways eliminated: Zanesville and Riverview, OH.)

NOTE.—The purpose of this republication is to add part (2), previously omitted. The remainder of this letter notice remains as previously published.

MC 107515403 (Sub-E667), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390 Peachtree Road NE., Atlanta, GA 30326. (I) *Bananas, fresh and cured meats, frozen foods, and dairy products* (except in bulk), from New Orleans, LA, and Gulfport, MS, to points in that part of TN on or east of a line beginning at the GA-TN State line and extending along TN Hwy 58 to junction U.S. Hwy 127, then along U.S. Hwy 127 to junction TN Hwy 111, then along Hwy 111 to junction TN Hwy 135, then along TN Hwy 135 to junction TN Hwy 53, then along TN Hwy 53 to the KY-TN State line; (II) *frozen foods, fresh and cured meats, and dairy products* (except in bulk) from Ponchatoula, LA, to points in ME, VT, and NH; (III) *canned goods and frozen foods* (except in bulk), and *advertising, promotional, and display materials* when moving in the same vehicles at the same time with canned goods and frozen foods, from the facilities and plantsite of Delta Food Processing Corp. at Moorhead, MS, to points in ME, VT, and NH, restricted to the transportation of traffic originating at the named plantsite and facilities; (IV) *meats* (fresh, frozen, salted, cooked, or cured) (except in bulk), from Grenada, MS, to points in ME, VT, and NH. Restrictions: The authority granted herein is subject to the following conditions: All transportation authorized herein is restricted to transportation in vehicles equipped with mechanical refrigeration. The Commission reserves the right, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of section 210 of the Act. (Gateway eliminated: Doraville (Atlanta) GA.)

MC 114868 (Sub-E40) filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr. (same as above). *Household goods*, (1) between points in TX, on the one hand, and, on the other, points in CT (Gateways—points in KY within 125 miles of Nashville, and Washington, DC); (2) between points in TX, on the one hand, and, on the other, points in DE (Gateways—points in KY within 125 miles of Nashville); (17) between points in LA, on the one hand, and, on the other,

to junction GA Hwy 52, then along GA Hwy 52 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 80, then, along U.S. Hwy 80 to junction TX Hwy 19, then along TX

ways—points in KY within 125 miles of Nashville, and Washington, DC); (3) between points in TX, on the one hand, and on the other, points in IN within 10 miles north of the Ohio River (Gateway—points in TN within 125 miles of Nashville); (4) between points in TX, on the one hand, and, on the other, points in MD (Gateways—points in KY within 125 miles of Nashville, and Washington, DC); (5) between points in TX, on the one hand, and, on the other, points in MA (Gateways—points in KY within 125 miles of Nashville, and Washington, DC); (6) between points in TX west of a line beginning at the TX-OK State line extending along U.S. Hwy 87 junction U.S. Hwy 277, then along U.S. Hwy 277 to the United States-Mexico International Boundary line, on the one hand, and, on the other, points in Tiskomingo, Alcorn, Tippah, Benton, Prentiss, Union, Pontotoc, and Itawamba Counties, MS (Gateway—points in AL within 125 miles of Nashville); (7) between points in TX, on the one hand, and, on the other points in NJ (Gateways—points in Ky within 125 miles of Nashville, and Washington, DC); (8) between points in TX east of a line beginning at the TX-OK State line extending along U.S. Hwy 277 to junction U.S. Hwy 82, then along U.S. Hwy 82 to junction U.S. Hwy 277, then along U.S. Hwy 277 to the United States-Mexico International Boundary line, on the one hand, and, on the other, points in NY east of a line beginning at the NY-PA State line extending along NY Hwy 19 to junction NY Hwy 39, then long NY Hwy 39 to junction U.S. Alternate Hwy 20, then along U.S. Alternate Hwy 20 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the United States-Canada International Boundary line. (Gateway—points in KY within 125 miles of Nashville, and Washington, DC); (9) between points in TX, on the one hand, and, on the other, points in NC east of U.S. Hwy 301 (Gateway—points in KY within 125 miles of Nashville, and Washington, DC); (10) between points in TX, on the one hand, and, on the other, points in OH within 10 miles north of the Ohio River (Gateways—points in TN and KY within 125 miles of Nashville); (11) between points in TX, on the one hand, and, on the other, points in PA east of a line beginning at the MD-PA State line extending along U.S. Hwy-220 to junction U.S. Hwy 22, then along U.S. Hwy 22 to junction PA Hwy 45, then along PA Hwy 45 to junction PA Hwy 445, then along PA Hwy 445 to junction PA Hwy 64, then along PA Hwy 64 to junction U.S. Hwy 220, then along U.S. Hwy 220 to junction PA Hwy 287, then along PA Hwy 287 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the PA-NY State line (Gateway—points in KY within 125 miles of Nashville, and Washington, DC); (12) between points in TX, on the one hand, and, on the other, points in VA (Gateways—points in KY within 125 miles of Nashville, and Washington, DC); (13) between points in TX, on the one hand, and, on the other, points in WV (Gateways—points in KY within 125 miles of Nashville and Washington, DC); (14) between points in TX, on the one hand, and, on the other, points in Washington, DC (Gateway—points in KY within 125 miles of Nashville); (15) between points in TX, on the one hand, and, on the other, points in RI (Gateways—points in KY within 125 miles of Nashville and Washington, DC).

MC 114868 (Sub-E46), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr. (same as above). *Household goods*, (1) Between points in IN, on the one hand, and, on the other, points in IL south of a line beginning at the IL-MO State line extending along U.S. Hwy 36 to junction IL Hwy 106, then along IL Hwy 106 to junction IL Hwy 108, then along IL Hwy 108 to junction U.S. Hwy 66, then north along U.S. Hwy 66 to junction IL Hwy 127, then along IL Hwy 127 to junction IL Hwy 15, then along IL Hwy 15 to the IL-IN State line. (Gateway eliminated: points in KY within 125 miles of Nashville.) (2) Between points in IN, on the one hand, and, on the other, points in KY. (Gateway eliminated: points in KY within 125 miles of Nashville.) (3) Between points in IN within 10 miles north of the Ohio River, on the one hand, and, on the other, points in SC. (Gateway eliminated: points in KY within 125 miles of Nashville.) (4) Between points in IN south of IN Hwy 64, on the one hand, and, on the other, points in WI. (Gateway eliminated: points in KY within 125 miles of Nashville.) (5) Between points in IN south of a line beginning at the IN-IL State line extending along Interstate Hwy 70 to junction IN Hwy 46, then along IN Hwy 46 to the IN-OH State line, on the one hand, and, on the other, points in MD. (Gateways eliminated: points in KY within 125 miles of Nashville, and Washington, DC.) (6) Between points in IN within 10 miles north of the Ohio River, on the one hand, and, on the other, points in MI. (Gateway eliminated: points in KY within 125 miles of Nashville.) (7) Between points in IN within 10 miles north of the Ohio River, on the one hand, and, on the other, points in MN. (Gateway eliminated: points in KY within 125 miles of Nashville.) (8) Between points in IN within 10 miles north of the Ohio River, on the one hand, and, on the other, points in MO. (Gateway eliminated: points in KY within 125 miles of Nashville.)

MC 114868 (Sub-E48), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr. (same as above). *Household goods*, (1) between points in LA, on the one hand, and, on the other, points in CT. (Gateways eliminated: Washington, DC and points in KY within 125 miles of Nashville); (2) between points in LA, on the one hand, and, on the other, points in DE. (Gateways eliminated: points in KY within 125 miles of Nashville and Washington, DC); (3) between ponts in LA, on the one hand, and, on the other, points in MA (Gateways eliminated: points in AL within 125 miles of Nashville and Washington, DC); (4) between points in LA, on the one hand, and, on the other, points in MI (Gateway eliminated: points in AL within 125 miles of Nashville); (5) between points in LA, on the one hand, and, on the other, points in MN (Gateway eliminated: points in AL within 125 miles of Nashville); (6) between points in LA, on the one hand, and, on the other, Washington, DC (Gateway eliminated: points in AL within 125 miles of Nashville); (7) between points in LA, on the one hand, and, on the other, points in GA (Gateway eliminated: points in AL); (8) between points in LA, on the one hand, and, on the other, points in IL east of Interstate Hwy 57 (Gateway eliminated: points in AL within 125 miles of Nashville); (9) between points in LA, on the one hand, and, on the other, points in IN within 10 miles north of the Ohio River (Gateway eliminated: points in TN within 125 miles of Nashville); (10) between points in LA, on the one hand, and, on the other, points in KY (Gateway eliminated: points in KY within 125 miles of Nashville); (11) between points in LA, on the one hand, and, on the other, points in MD (Gateway eliminated: points in AL within 125 miles of Nashville); (12) between points in LA, on the one hand, and, on the other, points in MS (Gateway eliminated: points in AL within 125 miles of Nashville); (13) between points in LA south of U.S. Hwy 84, on the one hand, and, on the other, points in MO (Gateway eliminated: points in AL within 125 miles of Nashville); (14) between points in LA, on the one hand, and, on the other, points in NJ (Gateway eliminated: points in KY within 125 miles of Nashville and Washington, DC); (15) between points in LA, on the one hand, and, on the other, points in NY (Gateway eliminated: points in AL within 125 miles of Nashville); (16) between points in LA, on the hand, and, on the other, points in NC (Gateway eliminated: points in AL within 125 miles of

Nashville); (17) between points in LA, on the one hand, and, on the other, points in OH (Gateway eliminated: points in AL within 125 miles of Nashville); (18) between points in LA, on the one hand, and, on the other, points in PA (Gateways eliminated: points in KY within 125 miles of Nashville and Washington, DC); (19) Between points LA, on the one hand, and, on the other, points in RI (Gateways eliminated: points in AL and KY within 125 miles of Nashville and Washington, DC); (20) between points in LA, on the one hand, and, on the other, points in SC north of a line beginning at the GA-SC State line extending along U.S. Hwy 378 to junction U.S. Hwy 178, then along U.S. Hwy 178 to the Atlantic Ocean (Gateway eliminated: points in AL within 125 miles of Nashville); (21) between points in LA, on the one hand, and, on the other, points in TN (Gateways eliminated: points in TN and AL within 125 miles of Nashville); (22) between points in LA, on the one hand, and, on the other, points in VA (Gateway eliminated: points in AL within 125 miles of Nashville); (23) between points in LA, on the one hand, and, on the other, points in WV (Gateway eliminated: points in AL within 125 miles of Nashville); (24) between points in LA, on the one hand, and, on the other, points in WI north and east of a line beginning at the IL-WI State line extending along U.S. Hwy 51 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction U.S. Hwy 53, then along U.S. Hwy 53 to junction WI Hwy 70, then along WI Hwy 70 to the WI-MN State line (Gateway eliminated: points in AL within 125 miles of Nashville).

MC 114868 (Sub-E51), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr. (same as above). *Household goods*, (1) between points in GA, on the one hand, and, on the other, points in MI (Gateway—points in AL within 125 miles of Nashville); (2) between points in GA, on the one hand, and, on the other points in MA (Gateways—points in AL and KY within 125 miles of Nashville and Washington, DC); (3) between points in GA, on the one hand, and, on the other, points in MN (Gateway—points in AL within 125 miles of Nashville); (4) between points in GA, on the one hand, and, on the other, points in IN (Gateway—points in AL within 125 miles of Nashville); (5) between points in GA, on the one hand, and, on the other, points in CT (Gateways—points in AL and KY within 125 miles of Nashville and Washington, DC); (6) between points in GA north and west of a line beginning at the GA-TN State line extending along GA Hwy 5 to junction GA Hwy 52, then along GA Hwy 52 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction GA Hwy 20, then along GA Hwy 20 to junction GA Hwy 36 then along GA Hwy 36 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction GA Hwy 26, then along GA Hwy 26 to junction U.S. Hwy 27, then along U.S. Hwy 27 to the GA-AL State line, on the one hand, and, on the other, points in DE (Gateway—points in AL within 125 miles of Nashville); (7) between points in GA, on the one hand, and, on the other, points in IL (Gateway—points in AL within 125 miles of Nashville); (8) between points in GA, on the one hand, and, on the other, points in VA within 125 miles of Washington, DC (Gateway—Washington, DC); (9) between points in GA, on the one hand, and, on the other, points in MO (Gateway—points in AL within 125 miles of Nashville); (10) between points in GA west of a line beginning at the GA-NC State line extending along GA Hwy 11 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction Interstate 75, then along Interstate Hwy 75 to the GA-FL State line, on the one hand, and, on the other, points in NY (Gateway—points in AL within 125 miles of Nashville); (11) between points in GA, on the one hand, and, on the other, points in OK (Gateway—points in AL within 125 miles of Nashville); (12) between points in GA, on the one hand, and, on the other, points in RI (Gateways—points in AL and KY within 125 miles of Nashville, and Washington, DC); (13) between points in GA west of a line beginning at the GA-NC State line extending along GA Hwy 11 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction GA Hwy 257, then along GA Hwy 257 to junction GA Hwy 333, then along GA Hwy 333 to junction GA Hwy 97, then along GA Hwy 97 to the GA-FL State line, on the one hand, and, on the other, points in PA (Gateway—points in AL within 125 miles of Nashville); (14) between points in GA, on the one hand, and, on the other, points in NJ (Gateway—points in AL within 125 miles of Nashville); (15) between points in GA, on the one hand, and, on the other, points in KY (Gateways—points in AL and KY within 125 miles of Nashville); (16) between points in GA, on the one hand, and, on the other, points in MD (Gateway—Washington, DC); (17) between points in GA, on the one hand, and, on the other, points in OH (Gateways—points in AL and KY within 125 miles of Nashville); (18) between points in GA, on the one hand, and, on the other, points in TX north and west of a line beginning at the TX-OK State line extending along TX Hwy 37 to junction U.S. Hwy 80, then, along U.S. Hwy 80 to junction TX Hwy 19, then along TX Hwy 19 to junction TX Hwy 31, then along TX Hwy 31 to junction Interstate Hwy 45, then along Interstate Hwy 45 to junction TX Hwy 14, then along TX Hwy 14 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction TX Hwy 16, then along TX Hwy 16 to junction U.S. Hwy 190, then along U.S. Hwy 190 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 57, then along U.S. Hwy 57 to the United States-Mexico International Boundary line (Gateway—points in AL within 125 miles of Nashville); (19) between points in GA, on the one hand, and, on the other, points in WV (Gateway—points in AL within 125 miles of Nashville); (20) between points in GA, on the one hand, and, on the other, points in WI (Gateway—points in AL within 125 miles of Nashville); (21) between points in Dade, Walker, Chattanooga, Catoosa, and Whitfield Counties, GA, on the one hand, and, on the other, points in NC (Gateway—points in AL within 125 miles of Nashville); (22) between points in Dade, Walker, Chattanooga, Catoosa, and Whitfield Counties, GA, on the one hand, and, on the other, points in SC (Gateway—points in AL within 125 miles of Nashville).

MC 114868 (Sub-E52), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr. (same as above). *Household goods* (1) between points in MS, on the one hand, and, on the other, points in CT (Gateway—points in AL within 125 miles of Nashville); (2) between points in MS, on the one hand, and, on the other, points in DE (Gateway—points in AL within 125 miles of Nashville); (3) between points in MS, on the one hand, and, on the other, point in DC (Gateway—points in AL within 125 miles of Nashville); (4) between points in MS, on the one hand, and, on the other, points in IL (Gateway—points in AL within 125 miles of Nashville); (5) between points in MS, on the one hand, and, on the other, points in IN (Gateway—points in AL within 125 miles of Nashville); (6) between points in MS, on the one hand, and, on the other, points in MA (Gateway points in AL within 125 miles of Nashville); (7) between points in MS, on the one hand, and, on the other, points in MI (Gateway—points in AL 125 miles of Nashville); (8) between points in MS east of a line beginning at TN-MS State line extending along U.S. Hwy 51 to junction MS Hwy 35, then along MS Hwy 35 to junction U.S. Hwy 49, then along U.S. Hwy 49 to junction Interstate Hwy 59, then along Interstate Hwy 59 to the MS-LA State line, on the one hand, and, on the other, points in MN (Gate-

way—points in AL within 125 miles of

junction U.S. Hwy 36, then south

NOTE.—The purpose of this republication is to add the origin States of OR and WA,

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way—points in AL within 125 miles of Nashville); (9) between points in MS east and north of a line beginning at the MS-AL State line extending along U.S. Hwy 45 to junction U.S. Alternate Hwy 45, then along U.S. Alternate Hwy 45 to to junction U.S. Hwy 78, then along U.S. Hwy 78 to the MS-IL State line, on the one hand, and, on the other, points in MO (Gateway—points in AL within 125 miles of Nashville); (10) between points in MS, on the one hand, and, on the other, points in NJ (Gateway—points in AL within 125 miles of Nashville); (11) between points in MS, on the one hand, and, on the other, points in NC (Gateway—points in AL within 125 miles of Nashville); (12) between points in MS, on the one hand, and, on the other, points in NY (Gateway—points in AL within 125 miles of Nashville); (13) between points in MS, on the one hand, and, on the other, points in MD (Gateway—points in AL within 125 miles of Nashville); (14) between points in MS, on the one hand, and, on the other, points in OH (Gateway—points in AL within 125 miles of Nashville); (15) between points in MS, on the one hand, and, on the other, points in PA (Gateway—points in AL within 125 miles of Nashville and Washington, DC); (16) between points in MS north and east of a line beginning at the AR-MS State line extending along MW Hwy 8 to junction U.S. Hwy 49, then along U.S. Hwy 49 to junction U.S. Hwy 82, then along U.S. Hwy 82 to junction MS Hwy 35, then along MS Hwy 35 to junction MS Hwy 19, then along MS Hwy 19 to the MS-AL State line on the one hand, and, on the other, points in OK (Gateway—points in AL within 125 miles of Nashville); (17) between points in MS, on the hand, and, on the other, points in RI (Gateway—points in AL within 125 miles of Nashville); (18) between points in MS on the one hand, and, on the other, points in VA (Gateway—points in AL within 125 miles of Nashville); (19) between points in MS north of Interstate Hwy 20, on the one hand, and, on the other, points in SC (Gateway—points in AL within 125 miles of Nashville); (20), between Tiskomingo, Alcorn, Tippah, Benton, Prentiss, Union, Pontotoc, and Itawamba Counties, MS, on the one hand, and, on the other, points in TX west of a line beginning at the TX-OK State line extending along U.S. Hwy 87 to junction U.S. Hwy 277, then along U.S. Hwy 277 to the United States-Mexico International Boundary line (Gateway—points in AL within 125 miles of Nashville); (21) between points in MS, on the one hand, and, on the other, points in WV (Gateway—points in AL within 125 miles of Nashville); (22) between points in MS, on the one hand, and, on the other, points in WI (Gateway—points in AL within 125 miles of Nashville); (23) between points in MS east and north of a line beginning at the AL-MS State line extending along U.S. Hwy 78 to junction U.S. Hwy 45, then along U.S. Hwy 45 to the MS-TN State line, on the one hand, and, on the other, points in FL east of a line beginning at the FL-GA State line extending along U.S. Hwy 221 to junction trunk hwy 361A, then along trunk hwy 361A to the Gulf of Mexico (Gateway—points in AL within 125 miles of Nashville); and (24) between points in MS, on the one hand, and, on the other, points in GA (Gateway—points in AL).

MC 114868 (Sub-E53), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr., (same as above). *Household goods,* (1) between points in VA east of a line beginning at the NC-VA State line extending along Interstate Hwy 85 to junction VA Hwy 46, then along VA Hwy 46 to junction VA Hwy 40, then along VA Hwy 40 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction VA Hwy 20, then along VA Hwy 20 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction VA Hwy 231, then along VA Hwy 231 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction Interstate Hwy 81, then along Interstate Hwy 81 to the VA-MD State line, on the one hand, and on the other, points in IL north of U.S. Hwy 36 (Gateway: Washington, DC); (2) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in CT (Gateway: Washington, DC); (3) between points in VA within 125 miles of Washington, DC, on the one hand, and on the other, points in DE (Gateway: Washington, DC); (4) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in IN (Gateway: Washington, DC); (5) between points in VA, on the one hand, and, on the other, points in KY east of U.S. Hwy 75 (Gateway: Washington, DC); (6) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in MA (Gateway: Washington, DC); (7) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in MI (Gateway: Washington, DC); (8) between points in VA north of U.S. Hwy 60, on the one hand, and, on the other, points in MN (Gateways: Points in KY within 125 miles of Nashville, and Washington, DC); (9) between points in VA north of U.S. Hwy 60, on the one hand, and, on the other, points in MO (Gateways: Points in KY within 125 miles of Nashville, and Washington, DC); (10) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in NJ (Gateway: Washington, DC); (11) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in OH (Gateway: Washington, DC); (12) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in NC (Gateway: Washington, DC); (13) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in NY (Gateway: Washington, DC); (14) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in RI (Gateway: Washington, DC); (15) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in PA (Gateway: Washington, DC); (16) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in SC (Gateway: Washington, DC); (17) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in WV (Gateway: Washington, DC); and (18) between points in VA within 125 miles of Washington, DC, on the one hand, and, on the other, points in MD (Gateway: Washington, DC).

MC 115331 (Sub-E22) (Correction), filed May 7, 1974, published in the FEDERAL REGISTER issue of April 21, 1976, and partially republished, as corrected, this issue. Applicant: TRUCK TRANSPORT INC., 230 Saint Clair Avenue, East St. Louis, IL 66201. Representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. (13) *Lime* (except lime used for agricultural purposes), in bulk, from points in IL beginning at the IL-IN State line extending on and north of Interstate Hwy 70 to junction U.S. Hwy 51, then on and east along U.S. Hwy 51 to junction U.S. Hwy 36, then south along U.S. Hwy 36 to the IL-IN State line, to points in AZ, points in LA beginning at the LA-AR State line extending on and west of U.S. Hwy 165 to the Gulf of Mexico, points in TX on and south of a line beginning at the TX-NM State line extending along U.S. Hwy 70 to the TX-OK State line (except Houston and points in TX within 50 miles thereof), and points in NM beginning at the NM-TX State line extending on and south of U.S. Hwy 60 to junction U.S. Hwy 285, then west along U.S. Hwy 285 to the NM-CO State line. (Gateways eliminated: Ste. Genevieve, MO and Limedale, AR.) (20) *Lime* (except lime used for agricultural purposes), in bulk, from points in IL beginning at the IL-MO State line extending north along Interstate Hwy 70 to junction U.S. Hwy 51, then west along U.S. Hwy 51 to junction U.S. Hwy 36, then south along U.S. Hwy 36 to the IL-MO State line, to points in LA, points in NM beginning at the NM-TX State line extending south along U.S. Hwy 60 to junction Interstate Hwy 85, then west along Interstate Hwy 85 to junction U.S. Hwy 66, then south along U.S. Hwy 66 to the NM-AZ State line; points in AZ on and south and west of a line beginning at the AZ-NM State line, and extending along U.S. Hwy 66 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to the AZ-UT State line; those points in TX on and south of a line beginning at the TX-NM State line extending along U.S. Hwy 70, then along U.S. Hwy 70 to the TX-OK State line (except Houston and points in TX within 50 miles thereof) (Gateways eliminated: Sts. Genevieve, MO and Limedale, AR.)

NOTE.—The purpose of this republication is to correct the territorial descriptions in part (13) and (20) above. The remainder of this letter-notice remains as previously published.

MC 116073 (Sub-E72), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Box 919, 1825 Main Avenue, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Buildings,* in sections, mounted on wheeled undercarriages from Pocatello, Lewiston, Idaho, Falls, Moscow, Couer d'Alene, Twin Falls, Boise, Smelterville, Garden City, Nampa, and Kellogg, ID, to points in the United States on and east of the Mississippi River including MN, IA, MO, AR, and LA (except shipments from Pocatello, Idaho Falls, Twin Falls, Boise, Garden City, and Nampa, ID, to points in AR, AL, MS, LA, MO, IA, IL, KY, and TN). (Gateway eliminated: Roosevelt County, MT.)

MC 117574 (Sub-E120) (correction), filed July 16, 1975, published in the FEDERAL REGISTER issue of September 20, 1978, and partially republished, as corrected, this issue. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, tractors,* with or without attachments, cranes, industrial and processing machinery, *and attachments, accessories, and parts,* of all of the above described commodities, which are also heavy machinery or contractors equipment, and are also machinery, commodities which, because of size or weight require the use of special equipment or special handling (except boats), or, self-propelled articles each weighing 15,000 pounds or more (when transported on trailers) * * * (4) between points in the NC Counties of Cabarrus, Mecklenburg, and Rowan, on the one hand, and, on the other, points in ID, MT, OR, WA, and those points in CA on and west of a line beginning at the CA-NV State line southwest along U.S. Hwy 6 to junction U.S. Hwy 395, then south along U.S. Hwy 395 to junction CA Hwy 178, then southwest along CA Hwy 178 to junction CA Hwy 99, then south along CA Hwy 99 to junction CA Hwy 119, then southwest along CA Hwy 119 to junction CA Hwy 166, then northwest along CA Hwy 166 to its termination at the Pacific Ocean; points in NV on and north of a line beginning at the UT-NV State line northwest along NV Hwy 25 to junction U.S. Hwy 6, then southwest along U.S. Hwy 6 to the CA-NV State line; points in ND on and west of a line beginning at the ND-Canadian border south along ND Hwy 1 to junction ND Hwy 66, then west along ND Hwy 66 to junction ND Hwy 3, then south along ND Hwy 3 to junction U.S. Hwy 52, then northwest along U.S. Hwy 52 to junction ND Hwy 14, then south along ND Hwy 14 to junction U.S. Hwy 83, then south along U.S. Hwy 83 to the ND-SD State line; points in SD on and west of a line beginning at the ND-SD State line south along U.S. Hwy 83 to junction SD Hwy 20, then east along SD Hwy 20 to junction SD Hwy 47, then south along SD Hwy 47 to junction U.S. Hwy 212, then west along U.S. Hwy 212 to junction U.S. Hwy 83, then south along U.S. Hwy 83 to junction U.S. Hwy 14, then southwest along U.S. Hwy 14 to junction SD Hwy 79, then south along SD Hwy 79 to junction U.S. Hwy 18, then west along U.S. Hwy 18 to the SD-WY State line; points in UT on and west of a line beginning at the WY-UT State line southwest along Interstate Hwy 80 to junction U.S. Hwy 189, then south along U.S. Hwy 189 to junction U.S. Hwy 50, then southeast along U.S. Hwy 50 to junction UT Hwy 10, then south along UT Hwy 10 to junction UT Hwy 29, then west along UT Hwy 29 to junction U.S. Hwy 89, then southwest along U.S. Hwy 89 to junction UT Hwy 14, then west along UT Hwy 14 to junction UT Hwy 56, then northwest along UT Hwy 56 to the UT-NV State line; points in WY on and north of a line beginning at the SD-WY State line southwest along U.S. Hwy 18 to junction U.S. Hwy 26, then northwest along U.S. Hwy 26 to junction WY Hwy 789, then south along WY Hwy 789 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to junction WY Hwy 28, then southwest along WY Hwy 28 to junction U.S. Hwy 187, then south along U.S. Hwy 187 to junction Interstate Hwy 80, then west along Interstate Hwy 80 to the WY-UT State line * * *. (Gateways eliminated: Waynesboro and Stitz, PA.)

NOTE.—The purpose of this republication is to add the origin States of OR and WA, previously omitted. The remainder of this letter-notice remains as previously published.

MC 117574 (Sub-E165), filed January 20,1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Commodities* which because of size or weight require the use of special equipment, and *related materials, supplies, and parts,* of such commodities when their transportation is incidental thereto, except machinery, equipment, materials and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines: (1) Between points in Butler, Clermont, Hamilton, and Warren Counties, OH, on the one hand, and, on the other, all points in DE, MD, NJ, NY, and DC. (Gateways eliminated: points in IN on the IN-OH State line; points in KY on the KY-OH State line.) (2) Between points in Drake, Miami, Montgomery, and Preble Counties, OH, on the one hand, and, on the other, points in DE, MD, NJ, NY, and DC. (Gateways eliminated: points in IN on the IN-OH State line.) (3) Between points in Allen, Auglaize, Mercer, Shelby, and Van Wert Counties, OH, on the one hand, and, on the other, points in DE, NJ, DC, and points in MD (except Garrett County), and points in NY (except points in Cattaraugus and Chatauqua Counties). (Gateways eliminated: points in IN on the IN-OH State line.) (4) Between points in Defiance, Fulton, Henry, Lucas, Paulding, Putnam, Williams, and Wood Counties, OH, on the one hand, and, on the other, points in DE, MD, NJ, NY, and DC. (Gateways eliminated: points in IN or MI on the IN-OH State line or MI-OH State line.)

MC 117574 (Sub-E166), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Iron and steel and iron and steel products, machinery, boilers, and contractor's equipment,* restricted to the transportation of such commodities which because of their size or weight require the use of special equipment, and *related materials, supplies, and parts,* of such commodities when their transportation is incidental thereto, or, self-propelled articles each weighing 15,000 pounds or more (when transported on trailers) and related machinery, tools, parts, and supplies moving in connection therewith, (1) between points in Hamilton County, OH, on the one hand, and, on the other, points in NY and PA, and those points in WV on and east of a line beginning at the OH-WV State line on U.S. Hwy 50, then along

U.S. Hwy 50 to junction WV Hwy 14, TN State line, and points in TN on

MC 123407 (Sub-E541), filed July 25,

if any, and the protestant must certify

ton, WV, over the WV turnpike and return over the same route. Restric-

sives, household goods as defined by the Commission, articles of unusual

U.S. Hwy 50 to junction WV Hwy 14, then along WV Hwy 14 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction WV Hwy 16, then along WV Hwy 16 to the junction U.S. Hwy 60, then along U.S. Hwy 60 to the VA-WV State line. (Gateways eliminated: points on IN-OH State line or the KY-OH State line and Franklin County, OH (Columbus, OH.) (2) Between points in Butler County, OH, on the one hand, and, on the other, points in NY, PA, and those in WV on and north of a line beginning at the OH-WV State line on WV Hwy Alternate 50, then along WV Hwy Alternate 50 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 250, then along U.S. Hwy 250 to the VA-WV State line. (Gateways eliminated: points on the IN-OH State line, and Franklin County, (Columbus, OH).)

MC 117574 (Sub-E167), filed January 20,1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above), *Iron and steel articles*, the transportation of which because of size or weight require the use of special equipment, and *related materials, supplies, and parts*, of such commodities when their transportation is incidental thereto, (1) from points in IN on and east of a line beginning at the IN-OH State line on U.S. Hwy 35, then along U.S. Hwy 35 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line and points in the lower peninsula of Michigan to points in KY on and east of a line beginning at the KY-OH State line on Interstate Hwy 71, then along Interstate Hwy 71 to junction Interstate Hwy 65, then along Interstate Hwy 65 to junction KY Hwy 80, then along KY Hwy 80 to junction U.S. Hwy 79, then along U.S. Hwy 79 to the KY-IN State line, and points in TN on and east of U.S. Hwy 79. (Gateway eliminated: Hamilton, OH.) (2) From points in IL on and east of a line beginning at the IL-IN State line on U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 45, then along U.S. Hwy 45 to junction Interstate Hwy 90, then along Interstate Hwy 90 to the IL-WI State line, points in IN on and north of a line beginning at the IL-IN State line on U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the IN-OH State line, points in MI, MN, and those in WI on and north of a line beginning at the IL-WI State line on Interstate Hwy 90 then along Interstate Hwy 90 to junction U.S. Hwy 14, then along U.S. Hwy 14 to the MN-WI State line to points in KY on and east of a line beginning at the IN-KY State line on KY Hwy 55, then long KY Hwy 55 to junction U.S. Hwy 68, then along U.S. Hwy 68 to junction U.S. Hwy 31E, then along U.S. Hwy 31E to the KY-TN State line, and points in TN on and east of U.S. Hwy 321. (Gateway eliminated: Hamilton, OH.)

MC 123407 (Sub-E519), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials used in the manufacture and distribution of rafters, joists, and roof trusses* (except commodities in bulk, and those which, because of size or weight, require special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, waterrail, or by air, from points in OK, AR, TX, LA, and MS to Columbus, OH. Restriction: Said operations are restricted to the transportation of shipments originating at points in the above-named origin States and destined to the facilities of Trus Joist Corp. at Columbus, OH. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E520), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials used in the manufacture and distribution of rafters, joists, and roof trusses* (except commodities in bulk, and those which, because of size or weight, require special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, waterrail, or by air, from points in Marshall, Calloway, McCracken, Graves, Ballard, Carlisle, Hickman, and Fulton Counties, KY, to Columbus, OH. Restriction: Said operations are restricted to the transportation of shipments originating at points in the above-named origin States and destined to the facilities of Trus Joist Corp. at Columbus, OH. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E521), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials used in the manufacture and distribution of rafters, joists, and roof trusses* (except commodities in bulk, and those which, because of size or weight, require special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, waterrail, or by air, from points in Baldwin, Mobile, Washington, and Clarke Counties, AL, to Columbus, OH. Restriction: Said operations are restricted to the transportation of shipments originating at points in the above-named origin States and destined to the facilities of Trus Joist Corp. at Columbus, OH. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E541), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Hawen Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials used in the manufacture and distribution of rafters, joists, and roof trusses* (except commodities in bulk, and those which, because of size or weight, require special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, waterrail, or by air, from points in TN in and west of Henry, Benton, Decatur, and Hardin Counties, to points in OH. Restriction: Said operations are restricted to the transportation of shipments originating at points in the above-named origin State and destined to the facilities of Trus Joist Corp. at Columbus, OH. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E543), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials used in the manufacture and distribution of rafters, joists, and roof trusses* (except commodities in bulk, and those which, because of size or weight, require special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, waterrail, or by air, from points in AZ and NM, to Columbus, OH. Restriction: Said operations are restricted to the transportation of shipments originating at points in the above-named origin States and destined to the facilities of Trus Joist Corp. at Columbus, OH. (Gateway eliminated: Cairo, IL.)

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-32792 Filed 11-21-78; 8:45 am]

[7035-01-M]

[Notice No. 218]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 9, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

MC 3252 (Sub-105TA), filed October 3, 1978. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, ME 04104. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sodium chlorate*, in bulk, from Orrington, ME, to points in NH, VT, MA, RI, CT, NY, NJ, PA, and ports of entry located on or near the international boundary line between United States and Canada located in ME, NH, VT, and NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Minerals & Chemicals Corp., Traffic Department, Mundelein, IL 60060. Send protests to: Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

MC 8744 (Sub-14TA), filed October 3, 1978. Applicant: CONSOLIDATED MOTOR EXPRESS, INC., 909 Grant Street, Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putman Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment over regular routes, between Smithers, WV, and Charleston, WV, commercial zone as defined by the Commission. Between Princeton, WV, and Charleston, WV, over the WV turnpike and return over the same route. Restriction: The authority herein is restricted to (1) Traffic originating at or destined to points in VA and KY now served by carrier and, (2) traffic received from or interchanged with connecting carriers at Bluefield, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pyott-Boone, Inc., P.O. Box 809, Tazewell, VA 24651, Bluefield Supply Co., Route 102 north, Bluefield, VA 24705, Owens Mfg., Inc., P.O. Box 1490, Bristol, VA 24201. Send protests to: Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 16077 (Sub-400TA), filed October 13, 1978. Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place, Houston, TX 77027. Representative: J. C. Browder, 4550 One Post Oak Place, Houston, TX 77027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluoric acid*, in bulk, in tank vehicle, from Baton Rouge, LA to the states of IL, ID, NM, MN, MT, and WY, for 180 days. Supporting shipper: Allied Chemical Co., P.O. Box 1057R, Morristown, NJ 07960. Send protests to: District Supervisor, John F. Mensing, 8610 Federal Building, 515 Rusk Ave., Houston, TX 77002.

MC 21259 (Sub-3TA), filed October 16, 1978. Applicant: GERTSEN CARTAGE, CO., INC. 3000 Hirsch Street, Melrose Park, IL 60160. Representative: Anthony C. Vance, Esq., Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined copper*, moving in containers, from Chicago, IL, to IN, restricted to the transportation of shipments moving from facilities utilized by ASARCO Incorporated in Chicago, IL, and its commercial zone, and destined to points in Indiana, for 180 days. Supporting shipper: S. O. Holdman, ASARCO, Incorporated, 611 Olive Street, Suite 1755, St. Louis, MO 63101. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 29910 (Sub-198TA), filed October 16, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11 Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except commodities in bulk, classes A and B explosives, household goods as defined by the Commission, articles of unusual value and commodities requiring special equipment) serving the facilities of Essex-Franke Co. at New Madrid, MO as an off-route point in connection with carrier's authorized service between St. Louis, MO and Memphis, TN for 180 days. (ABF's authority to serve between Memphis, TN and St. Louis, MO can be found on Page 18, Sub 69, Line 35 of its operating authority attached hereto.) Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Essex-Franke Co. Subsidiary of Essex Chemical, No. 1 Essex Avenue, New Madrid, MO 63869. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 40898 (Sub-22TA), filed October 3, 1978. Applicant: S & W MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: A. W. Flynn, Jr., 314 S. Eugene Street, P.O. Box 180, Greensboro, NC 27402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* from Greensboro and Clemmons, NC to Eden, NC (shipments have prior interstate movement by motor common carrier), for 180 days. Supporting shipper: Owens-Illinois, Inc. Glass Container Division, P.O. Box 1035, Toledo, OH 43666. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 94350 (Sub-414TA), filed October 3, 1978. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Road, at Transit Drive, Greenville, SC 29602. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and buildings, in sections, mounted on wheeler undercarriages from origins of manufacture, from points in Weakley County, TN to points in AL, AR, GA, IL, IN, KY, MS, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Conchemco Homes Group, Greenfield, TN. Send protests to: E. E. Strotheid, District Supervisor, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 106887 (Sub-9TA), filed October 16, 1978. Applicant: A. D. RAY TRUCKING, INC., 1948 Edgar Street, Rock Springs, WY 82901. Representa-

tive: Eric A. Distad, Attorney at Law, 600 Arch Street, Room 3238, Philadel-

a *common carrier*, by motor vehicle,

Toledo, OH 43619. Representative: James M. Burtch, Attorney at Law, COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Repre-

of Operations, 414 Federal Building, 110 South 4th Street, U.S. Court

tive: Eric A. Distad, Attorney at Law, Suite 307, 120 W. 1st Street, Casper, WY 82602.Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products*, and (2) *machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines*, including the stringing and picking up thereof, between points in WY, CO, UT, ID, MT, ND, SD, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 14 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105, Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

MC 107002 (Sub-536TA), filed October 16, 1978. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Hwy 80 West, Jackson, MS 39205. Representative: John J. Borth (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Titanium dioxide*, in bulk, in tank vehicles, from Hamilton, MS, to points in KY and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kerr-McGee Corp., Kerr-McGee Center, Oklahoma City, OK 73125. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 107403 (Sub-1125TA), filed October 16, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from Reserve, LA to Pensacola and Panama City, FL. *Dry sugar*, in bulk, in tank vehicles, from Reserve, LA to Dallas, San Antonio and Houston, TX, for 180 days. Supporting shipper: Godchaux Henderson Sugar Co., Reserve, LA 70084. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107403 (Sub-1126TA), filed October 16, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, in tank vehicles, from Lake Providence, LA to points in AR, MS, and points in that part of TX on and north of Interstate Hwy 20, and on and east of Interstate Hwy 35, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mississippi Chemical Corp., P.O. Box 388, Yazoo City, MS 39194. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107403 (Sub-1127TA), filed October 16, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrups and blends of corn syrups*, in bulk, in tank vehicles, from Memphis, TN to Baton Rouge, New Orleans, Lafayette, and Lake Charles, LA and Wiggins, Jackson, and Clinton, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Sweetner and Syrup Co., P.O. Box 10221, New Orleans, LA 70181. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107496 (Sub-1167TA), filed October 3, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Prescott, WI to points in MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Chemical Corp., P.O. Box 2120, Houston, TX 77001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 107496 (Sub-1168TA), filed October 3, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propellants*, in bulk, from E. Chicago, IN to Atlanta, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Phillips Petroleum Co., 222 East Ogden Avenue, Hinsdale, IL 60521. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 107515 (Sub-1183TA), filed October 13, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Representative: Alan E. Serby and Richard M. Tettelbaum, Serby and Mitchell, P.C., 3390 Peachtree Road, NE, Fifth Floor, Lenox Towers S, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic film and sheeting* and (2) *Materials, equipment and supplies*, used in the manufacture, sale and distribution of plastic film and sheeting (except commodities in bulk), between facilities of Borden Chemical Division of Borden, Inc., at or near Griffin, GA, on the one hand, and, on the other, points in the United States (except GA), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden Chemical, Division of Borden, Inc., 1 Clark Street, North Andover, MA 01845. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Opertions, Interstate Commerce Commission, 1252 West Peachtree Street NW, Room 300, Atlanta, GA.

MC 108297 (Sub-28TA), filed October 3, 1978. Applicant: FOX TRANSPORT SYSTEM, 21 South 5th Street, Philadelphia, PA 19106. Representative: James Fox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cable scrap, lead covered copper, and reels, electric cable*, on vehicles with specialized equipment, between points in and east of Adams, Cumberland, Perry and Northumberland Counties, PA on the one hand, and, on the other, New York, N.Y. and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Telephone & Telegraph Co., 16 North Salem, Dover, NJ 07801. Send protest to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 109124 (Sub-52TA), filed October 3, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, Attorney at Law, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials* used in the installation of Wallboard, from the facilities of Rapid Supply, a division of Grand Rapids Gypsum, Inc., at Cleveland, OH, to points in IL, IN and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rapid Supply, a Division of Grand Rapids Gypsum, Inc., 201 Monroe Avenue, N.E. Grand Rapids, MI 49502. Send protests to: Interstate Commerce Commission, Bureau of Operations 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 110525 (Sub-1268TA), filed October 16, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and animal fats and products thereof*, in bulk, in tank vehicles from Pawtucket, RI to ports of entry on the International boundary line between the United States and Canada at or near Houlton and Calais, ME. Restricted to traffic having destination in PE, Canada from ports of entry on the International boundary line between the United States and Canada on the Niagara River. Restricted to traffic having destination in ON. *Vegetable oils and animal fats*, in bulk, in tank vehicles from Detroit, MI to Pawtucke, RI, for 180 days. Supporting shipper: Colfax, Inc., 38 Colfax Street, Pawtucket, RI 02860. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 110659 (Sub-27TA), filed October 3, 1978. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia Street, West, Charleston, WV 25302. Representative: John M. Friedman, 2930 Putman Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages in containers*, from Latrobe, PA to Charleston and Huntington, WV for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Central Distributing Co., 905 Seventh Avenue, P.O. Box 6809, Charleston, WV 25302. Send protests to: Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 111812 (Sub-590TA), filed October 3, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: David Peterson, P.O. Box 1233, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of John Morrell & Co. at Sioux Falls, SD to Albuquerque, NM and points in AZ, for 180 days. Supporting shipper: John Morrell & Co., P.O. Box 1266, Sioux Falls, SD 57101. Send protests to: Mr. James L. Hammond, District Supervisor, Bureau of Operations & Compliance, Interstate Commerce Commission, 455 Federal Building, Pierre, SD 57501.

MC 114457 (Sub-441TA), filed October 13, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and prescved foodstuffs* from the facilities of Heinz U.S.A. Division of H. J. Heinz Co. at or near Pittsburgh, PA to points in MN, MO, ND, SD, WI and IA (except Iowa City and Muscatine), for 180 days. Supporting shipper: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-442TA), filed October 13, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* (ECIB) from the facilities of International Paper Co. at or near Pittsburg, KS to points in the U.S. (Except AK and HI), and (2) *Equipment, materials and supplies* used in the manufacture, sale and distribution of paper and paper products (ECIB) from points in the U.S. (except AK and HI) to the facilities of International Paper Co. at or near Pittsburg, KS, for 180 days. Supporting shipper: International Paper Co., 220 East 42nd Street, New York, NY 10017. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, 110 South 4th Street, U.S. Court House, Minneapolis, MN 55401.

MC 114569 (Sub-252TA), filed October 13, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in controlled temperature vehicles from the plantsite and storage facilities owned and/or utilized by J. H. Filbert, Inc. located in Fulton, Clayton, De Kalb, Cobb, and Douglas Counties, GA, to points in DC, KY, MD, NC, OH, SC, TN, VA and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, MD 21229. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 114890 (Sub-83TA), filed October 3, 1978. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Drive, Fenton, MO 63026. Representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, from the facilities of Brunswick River Terminal, Inc., Brunswick, MO, to points in AR, IL, IN, IA, KS, KY, MO, NE, OK and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brunswick, MO 65236, Agricultural Chemical Group, W. R. Grace Chemical Co., P.O. Box 277, Memphis, TN 38101. Send protests to: District Supervisor, P. E. Binder, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 115200 (Sub-1TA) filed October 3, 1978. Applicant: WILLIAM S. SCULLION d.b.a. SCULLION TRUCKING CO., an individual, Shenango Road, Route 16, Beaver Falls, PA 15010. Representative: William J. Lavelle, Esq., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from Pittsburgh, PA to the facilities of Washington Mold Co. in Washington, PA, for 180 days, under a continuing contract or contracts with Manley Bros. of Chesterton, IN. Restriction: The service authorized above is restricted to the transportation of shipments having a prior interstate

MC 115495 (Sub-38TA), filed October 3, 1978. Applicant: DISTRIBUTORS SERVICE CO., 2000 First Avenue, Des Moines, IA 50314. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from Russellville and Searcy, AR, on the

bulk, in tank vehicles from the ports a *common carrier*, by motor vehicle, City, LA; Port Arthur, TX; Moss

movement by rail. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Manley Bros., P.O. Box 538, Chesterton, IN 46304. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 1000 Liberty Avenue, 2111 Federal Building, Pittsburgh, PA 15222.

MC 115213 (Sub-3TA), filed October 3, 1978. Applicant: ELLIOTT & FIKES TRUCK LINE, INC., P.O. Box 8827, Pine Bluff, AR 71601. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products, and materials and supplies* used in installation and distribution thereof, from Cuba, MO to all points in AL, AR, GA, IL, IA, KY, LA, KS, MS, NE, OK, TN and TX, for 180 days. Supporting shipper: Georgia-Pacific Corp., 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 115213 (Sub-4TA), filed October 3, 1978. Applicant: ELLIOTT & FIKES TRUCK LINE, INC., P.O. Box 8827, Pine Bluff, AR 71611. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials* other than in bulk, and roofing granules in bags, (1) from Kansas City, MO to OK and TX, (2) from Dallas, TX to AR, LA, MS, MO, KS and OK, (3) from Annapolis, MO, to AR, LA, and MS, for 180 days. Supporting shipper: GAF Corp., 1361 Alps Road, Wayne, NJ 07470. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 115215 (Sub-34TA), filed October 13, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber handling machinery, dry kiln outfits and materials and supplies* used in the installation of the above from Jacksonville, FL to points in AL, LA and MS, for 180 days. Supporting shipper: Irvington Moore, Division of National Resources, Inc., 1220 W. State Street, Jacksonville, FL 32203. Send protests to: District Supervisor, G. H. Fauss, Jr., ICC, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, FL 32202.

MC 115495 (Sub-38TA), filed October 13, 1978. Applicant: UNITED PARCEL SERVICE, INC., 300 North 2nd Street, St. Charles, IL 60174. Representative: Everett Hutchinson, Esq., Fulbright & Jaworski, Suite 400, 1150 Connecticut Avenue NW., Washington, DC 20036. Irving R. Segal, Esq., Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except the usual exceptions), between points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NB, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI and WY and points in PA, WV and VA, within 10 miles of the PA-OH, the WV-OH, the WV-KY, the VA-KY, the VA-TN and the VA-NC State lines, for 180 days. (Application to permit Applicant to continue tacking between Applicant's MC 115495, Subs 4, 14, 16, 20, and 22 certificates.) Applicant presently holds emergency temporary authority identical to the authority herein requested. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 120 statements of support attached to the application which may be examined at the filed office named below. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 115931 (Sub-70TA), filed October 16, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59806. Representative: William Grimshaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials* from the plant site of CertainTeed Corp. at or near Shakopee, MN to points in WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: CertainTeed Corp., P.O. Box 860, Valley Forge, PA 19482. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 116763 (Sub-447TA), filed October 16, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuffs*, in vehicles equippped with mechanical refrigeration (except commodities in bulk, in tank vehicles), (1) Between Russellville and Searcy, AR, on the one hand, and, on the other hand, Crozet, VA; (2) from Crozet, VA, to points in ME, NH, VT, CT, MA, RI, NY and OH, for 180 days. Restricted to the transportation of shipments originating at the named origins and/or destined to the named destinations. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morton Frozen Foods Division, ITT Continental Baking Co., Inc., Robert J. Prendergast, Director Distribution, One Morton Drive, Charlottesville, VA 22906. Send Protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 117344 (Sub-279TA), filed October 3, 1978. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, OH 45215. Representative: John C. Spencer (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lacquers*, in bulk, in tank vehicles, from Jasper, IN, to Archbold, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Foy-Johnston, Inc., Quinton Ball, Traffic Manager, 1776 Mentor Street, Cincinnati, OH 45212. Send Protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main St., Cincinnati, OH 45202.

MC 119988 (Sub-161TA), filed October 13, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enamelware and earthenware plumbing fixtures and fittings*, from the facilities of Kohler Co. at or near Brownwood, TX to points in AR, CA, and NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kohler Co., Domestic Traffic Manager, Kohler, WI 53044. Send Protests to: District Supervisor, John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 123233 (Sub-85TA), filed October 18, 1978. Applicant: PROVOST CARTAGE, INC., 7887 Grenache Street, Ville d'Anjou, PQ, Canada H1J 1C4. Representative: Gilbert G. Beriault, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in

bulk, in tank vehicles from the ports of entry between the United States and Canada located at Champlain and Rooseveltown, NY to Rotterdam Junction, NY; from the port of entry between the United States and Canada located at Alexandria Bay, NY to Rochester, NY; and from the port of entry between the United States and Canada located at Rooseveltown, NY to Renssalaer, NY, for 90 days. Restricted to traffic moving in foreign commerce. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dupont of Canada Limited, 555 Dorchester Street West, Montreal, PQ, Canada. Send Protests to: District Supervisor, David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 123407 (Sub-505TA), filed October 16, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN, 46383. Representative: H. E. Miller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Batteries* from San Antonio, TX, to Anaheim, CA; Fitzgerald, GA; Muncie, IN; and New Brunswick, NJ; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Industries Nelson Road at Reliable Drive, P.O. Box 27500, San Antonio, TX 78228. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1386, 219 S. Dearborn Street, Chicago, IL 60604.

MC 123987 (Sub-9TA), filed October 16, 1978. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr., Box 267, Mangum, OK 73554. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated steel pipe and related articles*, from the plantsite of Armco, Inc., Mangum, OK to CO, NM, TX and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armco, Inc., 1001 North Byers, Mangum, OK 73554. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 97101.

MC 129032 (Sub-57TA), filed October 3, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington, 6015 South 49th West Avenue, Tulsa, OK 74107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and feed business houses, between the facilities of Ralston-Purina at or near Clinton and Daventon, IA, on the one hand, and on the other, to points in the states of IN, MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129119 (Sub-2TA), filed October 13, 1978. Applicant: JOHN H. SANN, d.b.a. SANN'S TRUCKING SERVICE, 1572 Annapolis Road, Drawer 280, Odenton, MD 2113. Representative: Chester A. Zybult, Esq., 1030 15th Street., N.W. Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ground, mixed and blended spices, and mustard and mustard products*, from the facilities of the Baltimore Spice Co., Baltimore, MD, to points in the United States (except MD, AK, HI); and (2) *Materials, equipment and supplies used in the manufacture or distribution of ground, mixed and blended spices, and mustard and mustard products*, from points in the United States (except MD, AK, HI); to the facilities of the Baltimore Spice Co., Baltimore, MD. Transportation to be performed under a containuing contract or contracts with The Baltimore Spice Co., for 180 days. Supporting shipper: Edwin L. Statter, Vice President-Sales, The Baltimore Spice Co., P.O. Box 5858, Baltimore, MD 21208. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building Baltimore, MD 21201.

MC 133484 (Sub-2TA), filed September 18, 1978. Applicant: E. W. BELCHER TRUCKING, INC., 201 Dallas Drive, Denton, TX, 76201. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed, feed ingredients and feed supplements* from the facilities of H. J. Baker and Bro., Inc., at Keota, Haskell County, OK to all points in TX, LA, AR, AL, MS, and MO. (2) *Meat and bone meal and blood meal* in bulk, from San Angelo, Dallas, Palestine, and Houston, TX to the facilities of H. J. Baker and Bro., Inc. at Keota, Haskell County, OK. (3) *Fish meal, in bulk*, from Empire, Abbeville, Cameron, Dulac, Holmwood, Morgan City, LA; Port Arthur, TX; Moss Points, Pascagoula Gulf Port, MS; to the facilities of H. J. Baker and Bro., Inc., at Keota, Haskell County, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. J. Baker and Bros., Inc., 360 Lexington Avenue, New York, NY 10017. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 133932 (Sub-1TA), filed October 16, 1978. Applicant: CATAWBA VALLEY MOTOR LINE, INC., Highway 64-70 West, Claremont, NC 28610. Representative: Coyte Setzer, 64-70 West, Claremont, NC 28610. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated upholstered furniture* from all points in Catawba, Alexander, Burke, Caldwell, and Iredell Counties, NC to all points in SC, GA, FL, MS, and AL with a restriction on shipments moving to Key West, FL to 2,000 pounds or more, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (27) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 135797 (Sub-148TA), filed October 3, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk) (1) from Reno, NV to Modesto, CA; Lawrence, KS; Kansas City, MO; and Waseca, MN; and (2) from Lawrence, KS, to Waseca, MN; and (3) from Lenexa, KS to South Edmeston, NY. Restricted in (1) and (2) above to traffic originating at the facilities of Packer Plastics, Inc., for 180 days. Supporting shipper: Packer Plastics, Inc., 2330 Packer Road, Lawrence, KS 66044. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138469 (Sub-86TA), filed October 16, 1978. Applicant: DONCO CARRIERS, INC., 2025 South Nicholas, Oklahoma City, OK 73107. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, vanities, and related articles used in the installation thereof*, from the facilities of Triangle Pacific at or near McKinney, TX to points in CA, NM, AZ, OK, AR, and LA, for 180 days. Supporting shipper: Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 Northwest. 3d Oklahoma City, OK 73102.

MC 138890 (Sub-13TA), filed October 3, 1978. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, WI 54481. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk) from the facilities of Termicold Corp. and Great American Basic Commodities, Inc., at or near Plover, WI to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Great American Basic Commodities, Inc., 1001 Hoover Road, Plover, WI 54467. Termicold Corp., 1618 Southwest First Avenue, Portland, OR 97201. Send protests to: Interstate Commerce Commission, District Supervisor Ronald A. Morken, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 139340 (Sub-2TA), filed October 16, 1978. Applicant: CONRAD YELVINGTON DISTRIBUTORS, INC., 800 Big Tree Road, Daytona Beach, FL 32015. Representative: Paul M. Daniell, 235 Peachtree Street NE., 1200 Gas Light Tower, Atlanta, GA 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay products* (except in bulk) from from Milledgeville, GA to points in FL, under a continuing contract or contracts with Griffin Pipe Products Co., for 180 days. Supporting shipper: Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 139353 (Sub-3TA), filed October 3, 1978. Applicant: DAVIE TRUCKERS, INC., Rt. 1, Advance, NC 27102. Representative: W. P. Sandridge, Jr., P.O. Drawer 84, Winston-Salem, NC 27102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewers grains wet spent grain and waste yeast, and manufactured feed using brewers grains of wet spent grain or waste yeast* from Forsyth County, NC to points in the States of GA, VA, SC, TN, WV, KY, and NC. Points of destination in these States will be farms and feed lots in various locations, under a continuing contract or contracts with Murphy Products Co., Inc., for 180 days. Supporting shipper: Murphy Products Co., Inc., 124 South Dodge, Burlington, WI 53105. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 139353 (Sub-4TA), filed October 3, 1978. Applicant: DAVIE TRUCKERS, INC., Rt. 1, Advance, NC 27006. Representative: W. P. Sandridge, Jr., P.O. Drawer 84, Winston-Salem, NC 27102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewers wet grains, pressed grains, dry grains, and waste yeast* from Rockingham County, NC to various locations in the States of VA, SC, TN, WV, KY, GA, and NC. Points of destination in these States will be farms and feed lots in locations in these States, under a continuing contract or contracts with Pillsbury Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pillsbury Co., Mail Station 9095, 608 2d Avenue, South, Minneapolis, MN 55402. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 140104 (Sub-4TA), filed October 16, 1978. Applicant: TOLEDO FRIGID LINES, INC., 4060 Fitch Road, Toledo, OH 43613. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ice cream, ice cream confections, ice confections, ice water confections, and frozen desserts*, from Toledo, OH, to points in AZ, ID, MT, NV, NM, ND, OR, SD, UT, and WA; and (2) *materials, ingredients, equipment and supplies* (except commodities in bulk) used in the manufacture of the aforementioned commodities from the destination States named in (1) above, to Toledo, OH, under a continuing contract or contracts with Vroman Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vroman Foods, Inc., 4117 Fitch Road, Toledo, OH 43613. Send protests to: Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 141599 (Sub-8TA), filed October 16, 1978. Applicant: MOUNTAIN PACIFIC TRANSPORT (Edmonton), LTD., d.b.a. SHADOW LINES, 241 Schoolhouse Road, Coquitlam, BC, Canada V3K 4X9. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud* (betonite or clay) from Lovell, WY to the U.S./Canada International Boundary line at or near Sweetgrass, MT restricted to traffic moving to the Province of AB, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United Mud Supply, Ltd., 2410 505—Fourth Avenue SW., Calgary, AB, Canada T2P 0J8. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 141770 (Sub-4TA), filed October 16, 1978. Applicant: TPC TRANSPORTATION CO., 41 Cleveland Road East, Huron, OH 44839. Representative: Russell J. Bragg, 608 Second Avenue, S., Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brewers wet grains*, from St. Louis, MO to all points in the State of IL, under a continuing contract or contracts with the Pillsbury Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Pillsbury Co., 608 2d Avenue, S., Minneapolis, MN 55402. Send protests to: Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 141776 (Sub-33TA), filed October 3, 1978. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Representative: Pauline E. Myers, Suite 407, Walker Building, 734 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *canned and preserved foodstuffs* (except in bulk, in tank vehicles), from points in Franklin and Adams Counties, PA, to points in the States of AR, LA, MS, OK, TN, and TX; and returned, refused, and rejected merchandise from the above-named destination points to the named origin points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Knouse Foods, Inc., Peach Glen, PA 17306. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 141804 (Sub-148TA), filed October 13, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe fittings, connectors and valves*, from Sun Valley, Bakersfield, and Santa Ana, CA to points in and east of MN, IA, MO, AR, and LA and (2) from Cleveland, OH to Sun Valley, Bakersfied, and Santa Ana, CA; Atlanta, GA; Houston and Dallas, TX; and Kansas City, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R & G Sloane Manufacturing Co., Inc., 7606 North Clybourn Avenue, Sun Valley, CA 91352. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142310 (Sub-6TA), filed October 3, 1978. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk) from the facilities of Termicold Corp. and Great American Basic Commodities, Inc., at or near Plover, WI to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Great American Basic Commodities, Inc., 1001 Hoover Road, Plover, WI 54467. Termicold Corp., 1618 Southwest First Avenue, Portland, OR 97201. Send protests to: Interstate Commerce Commission, District Supervisor Ronald A. Morken, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 142508 (Sub-37TA), filed October 3, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and supplies* (except commodities in bulk), *and storage cabinets*, from Bridgeport, CT, Carlstadt, NJ, New York, Long Island City, and Deer Park, NY, Landisville, Philadelphia, and Williamsport, PA, and Providence, RI, to the facilities of Standard Motor Products, Inc. at Edwardsville, KS and Reno, NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oded Stitt, Manager-Bronx District Center, Standard Motor Products, Inc., 37-18 Northern Boulevard, Long Island City, NY 11101. Send protests to: Interstate Commerce Commission, Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142954 (Sub-7TA), filed October 3, 1978. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phil Glenn, P.O. Box 9343, Little Rock, AR 72219. Theodore Polydoroff, 1307 Dolley Madison Boulevard, Suite 301, McLean, VA 22101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulated wire and cable*, from Attleboro, MA and Pawtuckett, RI to Sparks and Mercury, NV. Restriction: The operations above are limited to a transportation service to be performed under a continuing contract or contracts with American Insulated Wire Co. (subsidiary of Leviton Manufacturing Co.), for 180 days. Applicant intends to tack the authority here applied for to its MC 142954 (Sub-2). Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Insulated Wire Co., 36 Freeman Street, Pawtuckett, RI 02862. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 143059 (Sub-28TA), filed October 3, 1978. Applicant: MERCER TRANSPORTATION CO., 40211 12th and Main Street, P.O. Box 35610, Louisville, KY 40232. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used railroad ties*, from points in MO to points in CA and NV for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jerry Higgins, Secretary-Treasurer, Quality Enterprises, Inc., 4101 West Capitol Ave., Sacramento, CA 95691. Send protests to: Mrs. Linda H. Sypher, District supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 143059 (Sub-29TA), filed October 3, 1978. Applicant: MERCER TRANSPORTATION CO., 40211 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, P.O. Box 35610, Louisville, KY 40232. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric light poles and electric wire poles*, and (2) *parts, accessories and supplies* used in the installation and operation of commodities named in item (1), from Houston, TX, to all points in the United States (except in AK and HI). Restriction: restricted to traffic originating at the plantsite of K W Industries at Houston, TX, for 180 days. Supporting shipper: E. A. Kostelnik, President, KW Industries, Inc., P.O. Box 42009, Houston, TX 77042. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 143127 (Sub-13TA), filed October 3, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: John M. Nader, Attorney at Law, 1600 Citizens Plaza, Louisville, KY 40202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* except frozen and in bulk, (1) from the facilities of the Joan of Arc Co. at or near Belledeau and St. Francisville, LA to Hoopeston and E. Peoria, IL; Mayville, WI; Fostoria, OH; Mechanicsburg, PA; Foxboro, MA and Turkey NC and (2) from the facilities of the Joan of Arc Co. at or near Mayville, WI to Hoopeston and E. Peoria, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joan of Arc Co., Inc., 2231 West Altorfer Drive, Peoria, IL 61614. Send protest to: Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, room 1259, Syracuse, NY 13260.

MC 143503 (Sub-16TA), filed October 16, 1978. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furnishings*, from the facilities of Town and Country Fine Furniture, Inc., Concordville, PA, to points in Garrett, Allegany, Washington, Frederick, Carroll, Baltimore, Harford and Cecil Counties, MD, New Castle, Kent and Sussex Counties, DE; and Warren, Morris, Essex, Hunterdon, Somerset, Burlington, Union, Monmouth, Middlesex, Mercer, Ocean, Camden, Gloucester, Salem, Cumberland, Cape May and Atlantic Counties, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper:

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Town and Country Fine Furniture, Inc., P.O. Box 1000, Routes 1 and 322, Concordville, PA 19331. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143812 (Sub-5TA), filed October 16, 1978. Applicant: MARTIN E. VAN DIEST d.b.a. M. VAN DIEST CO., 8087 Victoria Avenue, Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, liquid*, in bulk, from Fruitland, ID, to points in CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Food Brokers International, 5442 Jillson, Los Angeles, CA 90040. Send Protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144253 (Sub-1TA), filed October 13, 1978. Applicant: BOSWELL ENTERPRISES, INC., 1803 South Lamar Boulevard, Austin, TX 78704. Representative: John T. Muegge, 4202 Spicewood Springs Road, Austin, TX 78759. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic netting tree guards*, from Nalle Plastics, Inc., manufacturing and warehouse facilities in Austin, TX, to points in the States of OR, WA, and ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nalle Plastics, Inc., 203 Colorado Street, Austin, TX 78701. Send Protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400, Federal Building, 727 East Durango Street San Antonio, TX 78206.

MC 144622 (Sub-24TA), filed October 13, 1978. Applicant: GLENN BROS. TRUCKING INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, 1307 Dolley Madison Boulevard, Suite 301, McLean VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries* equipped with mechanical refrigeration (except in bulk), from the warehouses and plantsites of E. J. Brach & Sons in the Chicago Commerical Zone to points in NY, NJ, OH, PA, VA, AR, and MD. Restricted to traffic originating at the above named origin, for 180 days. Supporting shipper: E. J. Brach & Sons, 4656 West Kinzie, Chicago, IL 60644. Send Protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145125 (Sub-4TA), filed October 13, 1978. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 327, Milroy, PA 17063. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass, bronze, copper and nickel products, brass and copper alloys, and copper, billets*, from Reading and Ontelaunee, PA, to points in AZ, NM, OR, and WA; and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of the commodities described in (1) above, from points, in AZ, NM, OR, and WA to Reading and Ontelaunee, PA, for 180 days. Applicant has also filed an underlying emergency temporary authority application seeking up to 90 days of operating authority. Supporting shipper: Reading Industries, Inc., P.O. Box 1126, Reading, PA 19603. Send Protests to: Charles F. Meyers, District Supervisor, P.O. Box 869, 228 Walnut Street, Harrisburg, PA 17109.

MC 145152 (Sub-6TA), filed October 3, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products in packages*, from the facilities of Texaco, Inc., at or near Jefferson County, TX, to points in IL, IN, NJ, NY, OH, PA, and WI, for 180 days. Supporting shipper: Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145251 (Sub-2TA), filed October 4, 1978. Applicant: RANCHERS TRANSPORTATION SERVICE, INC., 3102 Brighton Boulevard, Denver, CO 80216. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses and fabricators* (except hides and commodities in bulk): (1) From Edgemont, SD, to all points in the United States (except AK and HI), and (2) from Denver, CO, to all points in the United States (except AK and HI), restricted to the traffic of Ranchers Meats, Inc. of Douglas, WY, originating at the storage facilities of Beatrice Cold Storage Warehouse and City Ice Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 30 days of operating authority and an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ranchers Meats, Inc., P.O. Box 547, Douglas, WY 82633. Send protests to: Roger Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 145396 (Sub-1TA), filed October 13, 1978. Applicant: BOYCE HOWARD d.b.a. BOYCE HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: Thomas J. Presson, Lot 27, River Bend Estates, Redfield, AR 72132. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump trailers, from all points and places in Johnson County, AR, Sebastian County, AR, Pope County, AR, Franklin County, AR, to all points and places in the States of MO, KS, OK, LA, TN, IL, and MS. Also from above Arkansas counties to all barge loading facilities in the State of AR. Also from all points and places in IL, MO, TN, and OK to all points and places in AR, for 180 days. Supporting shipper: Titan Mining Inc., P.O. Drawer 3197, Union Station Square, Little Rock, AR 72201. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145415 (Sub-1TA), filed October 16, 1978. Applicant: SEA-BAY TRANSPORTATION, INC., 9 South Massachusetts Street, Seattle, WA 98134. Representative: Steve Banchero, 9 South Massachusetts Street, Seattle, WA 98134. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except explosives, between points in the Seattle, WA, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pacific Western Lines, 600 South Garden Street, Seattle, WA 98108. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 145469TA, filed October 3, 1978. Applicant: CUSTOM TRUCK BROKERS, INC., 4117 Donnybrook Place, Charlotte, NC 28205. Representative: Dwight C. Holland, 4117 Donnybrook Place, Charlotte, NC 28205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipes and fittings*, from Eslon Thermoplastics, Inc., plant in Pineville, NC to points in AL, CO, CT, DE, DC, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI, under a continuing contract or contracts with Eslon Thermoplastics, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eslon Thermoplastics, Inc., 1 Rodney Ave., Pineville, NC 28134. Send protests to: Terrell Price, District Supervisor, 800 Brair Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145473TA, filed October 3, 1978. Applicant: GEORGE B. LAWRENCE ta. GEORGE LAWRENCE TRUCKING, P.O. Box 113, Gatesville, NC 27938. Representative: John N. Fountain, Attorney at Law, 336 Fayetteville Street Mall, P.O. Box 2246, Raleigh, NC 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Camden, Chowan, Currituck, Gates, Pasquotank, and Perquimans Counties, NC, to points in DC, DE, MD and VA, for 180 days. Supporting shipper: Cands Lumber Division, P.O. Box 40, Elizabeth City, NC 27909. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 145528 (Sub-1TA), filed October 13, 1978. Applicant: TOMKO TRUCKING, INC., 1850 Enterprise Drive, DePere, WI 54115. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and malt beverage dispensing equipment* from Detroit, MI to Green Bay, WI (2) *rejected shipments and empty malt beverage containers* from Green Bay, WI to Detroit, MI. Restriction: Restricted to transportation services to be performed under a continuing contract or contracts with Kay Distributing, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kay Distributing, Inc., 601 Harvey St., Green Bay, WI 54302. Send protests to: Mr. John Ryden, District Supervisor, Interstate Commerce Commission, 517 East Wisconsin Street, Room 619, Milwaukee, WI 53202.

PASSENGER CARRIERS

MC 109148 (Sub-26TA), filed October 13, 1978. Applicant: LAS VEGAS-TONOPH-RENO STAGE LINE, INC., 101 North Mojave Road, Las Vegas, NV 89104. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage and express, mail and newspapers* in the same vehicle with passengers, between Fallon, NV and Reno, NV; from Fallon, NV over Alternate U.S. Hwy 95 to junction Interstate Hwy 80; then over Interstate Hwy 80 to Reno, NV, and return over the same route. Service authorized to and from all intermediate points. Applicant wishes to tack to its existing authority at Reno and Fallon, NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: City of Fallon, Fallon, NV 89406, Churchill County Chamber of Commerce, 30 W. Williams, Fallon, NV 89406, Fallon Eagle Standard, P.O. Box 1210, Fallon, NV 89406, American Buslines, Inc., 500 W. 2nd Street, Reno, NV 89503, Greyhound Lines, Inc., 155 Stevenson Street, Reno, NV 89503. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 N. Plaza Street, Carson City, NV 89701.

MC 145482TA, filed October 3, 1978. Applicant: INNER CIRCLE QUONEXIONS, INC., 245 Park Avenue, Belford, NJ 07718. Representative: Raymond A. Thistle, Jr., Five Cottman Court, Homestead Road and Cottman Street, Jenkintown, PA 19046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, and unaccompanied baggage in motor homes, in special and charter operations, between New York, NY, Boston, MA, Los Angeles, CA, Nashville, TN, Dallas, TX, Washington, DC, New Orleans, LA, Atlanta GA, Miami, FL, Chicago, IL, San Francisco, CA, Las Vegas, NV, and Atlantic City, NJ, on the one hand, and, on the other, points in the United States, except AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-32793 Filed 11-21-78; 8:45 am]

[7035-01-M]

[Notice No. 217]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 9, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 1263 (Sub-31TA), filed October 6, 1978. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris Avenue, Trenton, MO 64683. Representative: James M. McCarty, President, 17th and Harris Avenue, Trenton, MO 64683. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furnaces, stoves, pipe, brushes, motors, dampers, parts* and *accessories*, from Gallatin, MO and Longwood Furnace, Co. plantsite to OH, IN, WI, IA, MI, IL, PA, and MN and (2) *Dampers, castings, stove pipe,*

chimneys, air filters, controls, supplies as a *common carrier*, by motor vehi-

Bakery goods other than frozen, serv-

of H. J. Heinz Co., at or near Pitts-

Commerce Commission, 600 Federal

ERY SERVICE, 802 Raitan Center,

chimneys, air filters, controls, supplies and accessories and *equipment* utilized in the manufacturing of furnaces and stoves, from OH, IL, IN, and WI to Gallatin, MO and Longwood Furnace Co plantsite and (3) *Pallets, lumber, nails and metal clamps,* from Trenton, MO and South Gifford, MO and Green Hill's Pallet plantsites to MN, WI, IL, and IN, for 180 days. Supporting shipper: Green Hill's Pallet Co., 2707 Oklahoma Avenue, Tenton, MO 64683, and Longwood Furnace Corp., Box 223, Route 1, Gallatin, MO 64640. Send Protests to: Vernon V. Coble, DS, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 25708 (Sub-30TA), filed October 6, 1978. Applicant: LANEY TANK LINES, INC., P.O. Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid petroleum products,* in bulk, in tank vehicles, between Lexington, SC, on the one hand, and, on the other hand, points in AL, FL, GA, KY, MS, NC, TN, and VA, for 180 days. Supporting shipper: Safety-Kleen Corp., 16325 West Ryerson Road, New Berlin, WI 53151. Send Protests to: Mr. Archie W. Andrews, DS, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 71902 (Sub-94TA), filed October 11, 1978. Applicant: UNITED TRANSPORTS, INC., P.O. Box 18547, 4900 North Santa Fe Avenue, Oklahoma City, OK 73154. Representative: Eric L. Spitler, 4900 North Santa Fe Avenue, Oklahoma City, Ok 73154. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New, imported agricultural tractors, with or without attachments;* in secondary truckaway service, each weighing less than 5,000 pounds, from Harris County, TX, to points in OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hinomoto Tractor Sales, U.S.A., Inc., P.O. Box 1341, Denison, TX 75020. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office & Court House Building, 215 Northwest 3d, Oklahoma City, OK 73102.

MC 79687 (Sub-21TA), filed October 13, 1978. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelienople, PA 16063. Representative: Henry M. Wick, Jr., David M. O'Boyle, Esq., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* from the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., at Lawrenceburg, IN to Columbus, OH, 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., P.O. Box 265, Elmira, NY 14902. Send protests to: John J. England, DS, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 103051 (Sub-456TA), filed October 13, 1978. Applicant: FLEET TRANSPORT CO., INC., P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brewers' condensed solubles,* in bulk, in tank vehicles, from Jacksonville, FL to Albany and DeSoto, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 105813TA, filed October 13, 1978. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 2009, 1759 Southwest 12th Street, Ocala, FL 32670. Representative: Arthur J. Sibik, 7025 South Pulaski Road, Chicago, IL 60629. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Candy and confectionery* and *advertising materials and premiums merchandise* when moving in mixed shipments therewith, (1) from the facilities of or those utilized by E. J. Brach & Sons at Chicago and points in its Commercial Zone, to Morrow, GA and (2) from Morrow, GA to points in the State of FL, for 180 days. Supporting shipper: E. J. Brach & Sons, Division of American Home Products, 4656 West Kinzie, Chicago, IL. Send protests to: D/S G. H. Fauss, Jr., ICC, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 110563 (Sub-246TA), filed October 6, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Sigrun Ambos, Traffic Manager (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs,* from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA to points in CO, KS, MO, and NE, for 180 days. Supporting shipper: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Mr. Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 111302 (Sub-140TA), filed October 6, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 90408, 934 44th Avenue North, Knoxville, TN 37209. Representative: David A. Peterson, P.O. Box 10470, 1500 Amherst Road, Knoxville, TN 37919. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Corn products* and *blends of corn products,* in bulk, in tank vehicles, from Auburndale and Clewiston, FL, to points in FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., P.O. Box 13368, Memphis, TN 38113. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 112016 (Sub-14TA), filed October 11, 1978. Applicant: BENMAR TRANSPORT & LEASING CORP., 405 Third Avenue, Brooklyn, NY 11215. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount department stores and *equipment, materials and supplies,* used in the conduct of such business (except commodities in bulk and foodstuffs), between New York, NY, and Secaucus, NJ, on the one hand, and, on the other, points in MN, under a continuing contract or contracts, with Jubilee Shops, Inc., of Secaucus, NJ, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jubilee Shops, Inc., 80 Enterprise Avenue, Secaucus, NJ 07094. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112713 (Sub-222TA), filed October 13, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting:

Bakery goods other than frozen, serving the facilities of Sunshine Biscuits, Inc., at Mount Pleasant, MI, as an off-route point in connection with carrier's otherwise authorized operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sunshine Biscuits, Inc., 245 Park Avenue, New York, NY 10017. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 113908 (Sub-453TA), filed October 6, 1978. Applicant: ERICKSON TRANSPORT, INC., P.O. Box 3180, 2105 East Oak Street, Glenstone Station, Springfield, MO. Representative: B. B. Whitehead, P.O. Box 3180, 2105 East Oak Street, Glenstone Station, Springfield, MO. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alcohol and alcoholic liquors,* in bulk, from Paducah, KY and the commercial zone thereof, to points in MI, CT, IA, KS, IL, (except Chicago, IL), and MD, for 180 days. Supporting shipper: Heublein, Inc., Hartford, CT. Send protests to: DS John V. Barry, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 116474 (Sub-40TA), filed October 13, 1978. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Treated poles* and *piling,* under a contract with McCormick & Baxter Creosoting Co., from the facilities of McCormick & Baxter Creosoting Co., at Portland, OR to points in CA, NV, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McCormick & Baxter Creosoting Co., P.O. Box 3048, Portland, OR 97208. Send protests to: DS, A. E. Odoms, Bureau of Operations, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 119493 (Sub-236TA), filed October 13, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th Street Road, Joplin, MO 64801. Representative: Thomas D. Boone, P.O. Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Flour* (except in bulk), from points in MN to Hutchinson, KS, for 180 days. Supporting shipper: The Kelly Milling Co., P.O. Box 1037, Hutchinson, KS 67601. Send protests to: John V. Barry, DS, Interstate Commerce Commission, 600 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

MC 119689 (Sub-19TA), filed October 11, 1978. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad Street, Pittsburgh, PA 15222. Representative: William J. Lavelle, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Castor oil,* (in bulk, in tank vehicles), from Baltimore, MD, and New York, NY, and points in their commercial zones, to Dover, OH, for 180 days. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 119988 (Sub-163TA), filed October 13, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household appliances* and *parts and accessories* for household appliances, from Little Rock, AR, to points in NM, TX, OK, LA, and MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Electric Co., 6901 Lindsey Road, Little Rock, AR 72206. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 123329 (Sub-42TA), filed October 13, 1978. Applicant: H. M. TRIMBLE & SONS, LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: D. S. VINCENT, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Grape juice,* in bulk, in tank vehicles, from Paw Paw, MI, to the port of entry on the U.S.-Canada international boundary line located at or near Portal, ND, for furtherance in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Andres Wines (Alberta) Ltd., 7530 Blackfoot Trail SE, Calgary, AB, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 123778 (Sub-43TA), filed October 11, 1978. Applicant: JALT CORP., d.b.a. UNITED NEWSPAPER DELIVERY SERVICE, 802 Raitan Center, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Magazine parts, sections, and inserts,* from East Greenville, PA, to Old Saybrook, CT, Edison, NJ, and Glenn Dale, MD, under a continuing contract or contracts, with Time, Inc., Time & Life Building, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Time, Inc., Time & Life Building, Rockefeller Center, Room 3170, New York, NY 10020. Send protests to: Robert E. Johnson, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 124306 (Sub-48TA), filed October 6, 1978. Applicant: KENAN TRANSPORT CO., INC., P.O. Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry terephthalic acid,* in bulk, in tote bins or hopper-type vehicles, from points in Berkeley County, SC, to points in the United States in and east of TX, OK, KS, NE, SD, and ND, For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amoco Chemicals Corp., 200 East Randolph Drive, Chicago, IL 60601. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 124511 (Sub-53TA), filed October 6, 1978. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, Highway 54 East, Mexico, MO 65265. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Refractory products and commodities* incidental to the installation thereof, and *materials and supplies* used in their manufacture and production (except commodities in bulk, in tank vehicles), (1) between the facilities of A. P. Green Refractories Co., in Audrain and Callaway Counties, MO, on the one hand, and, on the other, points in DE, KY, MD, MI, MN, NJ, NY, ND, OH, PA, SD, TN, VA, WV, and WI; and, (2) from the facilities of C-E Industrial Products, Division of Combustion Engineering, Inc., in Audrain County, MO, to points in OH, MI, PA, NJ, NY, DE, MD, WI, KY, TN, VA, CT, MA, and RI, for 180

er, by motor vehicle, over irregular IN, OH, and TN, restricted to trans- Representative: Milton W. Flack, 4311

days. Supporting shipper: C-E Industrial Products, Division of Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482; A. P. Geen Refractories Co., Mexico, MO 65265. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 126111 (Sub-7TA), filed October 13, 1978. Applicant: SCHAETZEL TRUCKING CO., INC., 520 Sullivan Drive, Fond du Lac, WI 54935. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sweetened condensed milk*, from Fond du Lac, WI, to points in the Chicago, IL, commercial zone, Centralia and Pana, IL, and Fort Wayne IN, under a continuing contract, or contracts, with Galloway-West Co., a division of Borden Co., Inc., for 180 days. Supporting shipper: Galloway-West Co., a division of Borden Co., Inc., P.O. Box 987, Fond du Lac, WI 54935 (John Look, Vice President). Send protests to: Gail A. Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

MC 129149 (Sub-13TA), filed October 6, 1978. Applicant: JOHN W. HIEL, R.R. No. 2, Prairie City, IL 61470. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refuse containers, wagon boxes, livestock equipment*, and *confinement equipment and tanks*, from Bushnell, IL, to points in the United States east of ID, UT, and AZ, for the account of Bushnell Illinois Tank Co., under a continuing contract, or contracts, with Bushnell Illinois Tank Co., for 180 days. Supporting shipper: David A. Sprague, Bushnell Illinois Tank Co., 145 South Washington, Bushnell, IL 61422. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 129401 (Sub-11TA), filed October 6, 1978. Applicant: DOUGLAS & BESS, INC., Route 5, Box 238, Statesville, NC 28677. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Airplane seats and airplane seat parts* from Winston-Salem, NC, to Denver, CO, Miami and Crestview, FL, Atlanta, GA, Kansas City, KS, New York, NY, Tulsa, OK, Charleston, SC, Dallas, Ft. Worth, and Houston, TX, Norfolk, VA, and points in Allegheny County, PA, St. Louis County, MO, Hennepin County, MN, St. Paul, MN, and Washtenaw County, MI, under a continuing contract, or contracts, with Fairchild-Burns Co., Division of Fairchild Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fairchild-Burns Co., Division of Fairchild Industries, 1455 Fairchild Drive, Winston-Salem, NC 27105. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 135070 (Sub-12TA), filed October 6, 1978. Applicant: JAY LINES, INC., 720 North Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Meats*, from the facilities of Illini Beef Packers, at or near Joslin, IL, to points in NY, NJ, PA, and MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Illini Beef Packers, Inc., P.O. Box 245, Joslin, IL. Send protests to: Haskell E. Ballard, DS, Interstate Commerce Commission—Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 135082 (Sub-75TA), filed October 6, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain, Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum Wallboard, and commodities* used in the installation thereof, from Albuquerque, NM to CA, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Richard M. Mais, Traffic Manager, American Gypsum Co., P.O. Box 6345, Albuquerque, NM 87197. Send protests to: District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 135399 (Sub-9TA), filed October 6, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: (1) *Batteries* and (2) *Materials and supplies* used in the distribution and sale of batteries, from Kankakee, IL, to Los Angeles and San Francisco, CA, Sparks, NV, and Dallas, TX, and points in their respective commercial zones, for 180 days. Supporting shipper: Gould, Inc., 2050 Cabot Boulevard West, Langhorne, PA 19047. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 138157 (Sub-94TA), filed October 6, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces and materials, equipment and supplies* used in the installation of fireplaces, from the plantsite and facilities of Marco Manufacturing, Inc., in Lynwood, CA, to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Supporting shipper: Marco Manufactuirng, Inc., 2520 Industry Way, Lynwood, CA 90262. Send protests to: Glenda Kuss, Bureau of Operations, Interstate Commerce Commission, A-422 Federal Building, 801 Broadway, Nashville, TN 37203.

NOTE—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved.

MC 138762 (Sub-27TA), filed October 13, 1978. Applicant: MUNICIPAL TANK LINES, LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW., Washington, D.C 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphoric acid*, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located at or near Buffalo, NY to points in NY, restricted to traffic in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Minerals and Chemical Corp. (Canada) Limited, P.O. Box 70, Dunnville, ON, Canada, N1A 2Y6. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 140024 (Sub-131TA), filed October 11, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic trays*, from Downingtown, PA, to Richmond and Logan, UT, including points in the commercial zones of destinations named, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pepperidge Farm, Inc., 595 Westport Avenue, Norwalk, CT 06856. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 140612 (Sub-58TA), filed October 13, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour, P.O. Box 2207, Cedar Rapids, IA 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail stores, and chain grocery and feed business houses (except in bulk) between Clinton and Davenport, IA, on the one hand, and, on the other, points in IN, MI, KY, and OH, for 180 days. Applicant has also filed an ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, MO. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 140829 (Sub-145TA), filed October 6, 1978. Applicant: CARGO CONTRACT CARRIERS CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from the facilities of the Schrafft Candy Co. at Boston, MA to points in the States of IL, OH, TX, IN, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John G. Downes, Director of Distribution, the Schrafft Candy Co., Sullivan Square, Boston, MA 02129. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 10 North 14th Street, Omaha, NE 68102.

MC 141402 (Sub-22TA), filed October 6, 1978. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 332, Indiana State Hwy 32, Lapel, IN 46051. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation*, in bags, from Louisville, KY to points in IN, OH, and TN, restricted to transportation performed under a continuing contract or contracts with Alton Box Board Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Alton Box Board Co., 401 Alton Street, Alton, IL 62002. Send protests to: District Supervisor, J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 141804 (Sub-140TA), filed October 6, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91786. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Computer machine paper, printed forms, materials, machinery and accessories*, between Orange, Los Angeles, Santa Clara, and San Diego Counties, CA, on the one hand, and, on the other, Tulsa, OK, Dallas and Houston, TX, and points in and east of MN, IA, MO, AR, and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vanier Graphics Corp., P.O. Box 2155, Santa Ana, CA 92707. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142715 (Sub-17TA), filed October 11, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, South Saint Paul, MN 55101. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities utilized by John Morrell & Co., at St. Paul, MN, to points in AL, FL, GA, MS, NC, SC, and TN, for 180 days. Supporting shipper: John Morrell & Co., 208 South La Salle Street, Chicago, IL 60604. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 143512 (Sub-2TA), filed October 6, 1978. Applicant: ALL CORPS, 838 Hutchison Street, Vista, CA 92083. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, from the facilities of Pogens Family Bakery, Inc., located at Compton, CA, to Cleveland, OH, New York, NY, Detroit and Grand Rapids, MI, Indianapolis, IN, and Roanoke, VA, under a continuing contract, or contracts with Pogens Family Bakery, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pogens Family Bakery, Inc., 1800 South Anderson Avenue, Compton, CA 90220. Send protests to: Irene Calos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143636 (Sub-3TA), filed October 11, 1978. Applicant: RON SMITH TRUCKING, R.R. 3, Arcola, IL 61910. Representative: Douglas G. Brown, INB Center, Suite 555, 1 North Old State Capitol Plaza, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel and aggregates*, from, to and between Parke and Vigo Counties, IN, on the one hand, and, on the other, Douglas County, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Herman Bade, Owner, Herman Bade & Sons, Villa Grove, IL 61956, (2) D. Dale Cornwell, Plant Manager, Tuscola Builders Supply Co., Tuscola, IL 61953. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Federal Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 144351TA, filed October 6, 1978. Applicant: DON HAUSAUSER, d.b.a. DON HAUSAUER TRUCKING, Fort Lincoln Estates, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages* and *empty returnable bottles*, between Duluth, MN, and the facilities of Northbrook Pop Shoppe, Bismarck, ND, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Northbrook Pop Shoppe, Northbrook Shopping Center, Bismarck, ND 58501. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building &

U.S. Post Office, 697 2d Avenue North

sentative: Don Garrison, 324 North

MC 145384 (Sub-12TA), filed Octo-

and NV, under a continuing contract,

hand, and, on the other, points in the

75221. Send protests to: D/S Roger L.

U.S. Post Office, 627 2d Avenue North, Fargo, ND 58102.

MC 144436 (Sub-3TA), filed October 13, 1978. Applicant: JOHN PRINCE TRANSPORTATION, INC., P.O. Box 440, Forsyth, MT 59327. Representative: Jerome Anderson, Anderson, Symmes, Brown, Gerbase, Cebull & Jones, 100 Transwestern Building, Billings, MT 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, building block, sewer tile* and *allied clay products* from Billings and Lewistown, MT to points in CA, under a continuing contract, or contracts with the Lovell Clay Products Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Lovell Clay Products Co., 1312 Lockwood Road, P.O. Box 2096, Billings, MT 59103. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 144584 (Sub-3TA), filed October 6, 1978. Applicant: WASHINGTON-CALIFORNIA EXPRESS, INC., 919 South McGarry Street, Los Angeles, CA 90021. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated thermosetting plastics and vulcanized fibre*, between Lower Providence and Upper Providence Townships, Montgomery County, PA, on the one hand, and, on the other, NJ, DE, MD, VA, WV, NC, SC, KY, TN, GA, and AL, *materials, supplies and equipment* used in the manufacture of laminated thermosetting plastics and vulcanized fibre, from the destination States named above to Lower Providence and Upper Providence Townships in Montgomery County, and points in PA. Commodities manufactured, used, sold, or processed by Synthane Taylor Corp. between Lower Providence and Upper Providence Townships, Montgomery County, PA, on the one hand, and, on the other, Rome, GA, under a continuing contract, or contracts, with Synthane-Taylor Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Synthane-Taylor Corp. and Alco Standard company, P.O. Box 835, Valley Forge, PA 19882. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles, CA 90012.

MC 145152 (Sub-8TA), filed October 6, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Office furniture*, from Springdale, AR, to points in AL, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MT, MS, NC, ND, NE, NM, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, WI, WV, WY, and DC, and (2) *parts equipment, materials and supplies* used in the manufacture of the commodities named in (1) above, from Morristown, TN, to Springdale, AR, for 180 days. Supporting shipper: P. F. I., Inc., P.O. Box 152, Springdale, AR 72764. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145226 (Sub-1TA), filed October 6, 1978. Applicant: HALES TRANSPORT CO., INC., P.O. Box 692, Bridgeport, TX 76026. Representative: Billy R. Reid, P.O. Box 9093, Ft. Worth, TX 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone* from the facilities of Dolese at or near Davis, OK, to Frisco and Farmers Branch, TX, under a continuing contract, or contracts with Freeway Ready Mix, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operting authority. Supporting shipper: Freeway Ready Mix, 1480 West Valley View Lane, Farmers Branch, TX 75234. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 145352 (Sub-1TA), filed October 6, 1978. Applicant: R. W. MCDANIEL TRANSPORTATION CORP., 21917 Garrison, Dearborn, MI 48124. Representative: James F. Schouman, 21915 Garrison, Dearborn, MI 48124. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *Carbonated soft drinks, beverage compounds, empty containers*, between States of MD, PA, VA, NY, OH, IL, DE, WV, MI, IN, WI, and NJ, restricted to serving plantsite of Faygo Beverages, Inc., at Havre DeGrace, MD, as point of origin or destination, under a continuing contract, or contracts, with Faygo Beverages, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operting authority. Supporting shipper(s): Faygo Beverages, Inc., 3579 Gratiot Avenue, Detroit, MI 48207. Send protests to: T. S. Quinn, District Supervisor 604 Federal Building and U.S. Court House, 231 West LaFayette Boulevard, Detroit, MI 48226.

MC 145384 (Sub-12TA), filed October 13, 1978. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50316. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Eureka, CA and Oregon City and Tualatin, OR, to points in IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operting authority. Supporting shipper: E. F. Gasper Lumber Sales, Inc., P.O. Box 55253. Indianapolis, IN 46220. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145498 (Sub-1TA), filed October 6, 1978. Applicant: SKYLINE CONSTRUCTION CO., INC., P.O. Box 38, Big Piney, WY 83113. Representative: Toni Gilchrist, P.O. Box 38, Big Piney, WY 83113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in CO, ID, MT, ND, UT, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days for operating authority. Supporting shippers: May Petroleum, Inc., Suite 1000, One Energy Square, Dallas, TX 75206, McIlnay-Adams & Co., Inc., 2305 Oxford Lane, Casper, WY 82601, Pacific Transmission Supply Co., P.O. Box 3093, Casper, WY 82602, Union Texas Petroleum Division of Allied Chemical Corp., P.O. Box 2120, Houston, TX 77001, Delgado Oil Co., Big Piney, WY 83113, and Belco Petroleum Corp., P.O. Box 250, Big Piney, WY 83113. Send protests to: District Supervisor, Paul A. Naughton, Room 105 Federal Building & Court House, 111 South Wolcott, Casper, WY 82601.

MC 145532TA, filed October 13, 1978. Applicant: FOODSERVICE TRANSPORT, INC., 18195 Galatina No. 4, Rowland Heights, CA 91748. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Restaurant and institutional foods, supplies*, and *equipment*, between points in CA and NV, under a continuing contract, or contracts with International Foodservice/Los Angles, Inc., International Foodservice/Las Vegas, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Foodservice/Los Angeles, Inc., International Foodservice/Las Vegas, Inc., 1065 East Walnut Street, Carson, CA 90746. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145534TA, filed October 13, 1978. Applicant: DUANE S. MORGAN, d.b.a. DUANE S. MORGAN TRUCKING, Route 1, Box 812, Prineville, OR 97754. Representative: Duane S. Morgan, Route 1, Box 812, Prineville, OR 97754. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* and *lumber mill products*, from Crook County, Deschutes County and Klamath County, OR, to Los Angeles County and Orange County, CA, for 180 days. Supporting shipper: United Wholesale Lumber Co., 1400 Mines Avenue, Montebello, CA 90640. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operation, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 145537TA, filed October 13, 1978. Applicant: BTR, INC., 436 West 21st Street, Carroll, IA 51401. Representative: Edward H. Bueltel, 436 West 21st Street, Carroll, IA 51401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverage (beer) and advertising materials*, from Carroll, IA to St. Paul, MN, Milwaukee, WI, and Peoria, IL, under a continuing contract or contracts with Farner-Bocken Beverage Co., for 180 day. Supporting shipper: Dennis L. Anderson, Vice President, Farner-Bocken Beverage Co., Carroll, IA 51401. Send protests to: Carrol Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC-145539-TA, filed October 6, 1978. Applicant: OHIO NORTHERN TRANSIT CO., 2871 West 130 Street, Medina Township, OH 44233. Representative: James C. White, 2871 West 130 Street, Medina Township, OH 44233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles*, which because of size or weight, require specialized equipment for loading, unloading, or transportation. Between points and places in Lorain and Medina Counties, OH, (and the commercial zones thereof), on the one hand, and, on the other, points in the United States east of the Continental Divide, between Mathiston, MS, on the one hand, and, on the other, points in the United States, for 180 days. Supporting shippers: Banks Manufacturing Co., Banks Road, Grafton, OH 44044, Frank A. Walsh & Sons, Inc., 13000 Athens Avenue, Cleveland, OH 44107, The Ceilcote Co., 140 Sheldon Road, Berea, OH 44017. There are approximately 13 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies of which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 713 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC-145546-TA, filed October 6, 1978. Applicant: ELDORADO TRUCK LINES, INC., Old Mill Road, P.O. Box 1109, Cartersville, GA 30120. Representative: Francis L. Ford, P.O. Box 1109, Cartersville, GA. 30120. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, carpet remanants or rugs, NOT, Soft surface (pile) fabric, power machine tufted or power loom woven*, in rolls, from Cartersville, GA, Calhoun, GA, and/or Dalton, GA, on the one hand, to Little Rock, AR, Miami, FL, Oklahoma City, OK, Dallas, TX, Ft. Worth, TX, and/or Houston, TX, on the other hand, under a continuing contract, or contracts, with Eldorado Carpet Mills, Inc., for 180 days. Supporting shipper: Eldorado Carpet Mills, Inc., P.O. Box 1105, Cartersville, GA 30120. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC-145620-TA, filed October 6, 1978. Applicant: INDUSTRIAL HEAVY TRANSPORT, 12151 West 44th Avenue, Wheatridge, CO 80033. Representative: William W. Selman, 18,500 John Kennedy Boulevard, Houston, TX 77205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap ferrous and nonferrous metals, scrap metals and scrap metal alloys, scrap electrical products, ingots, scrap automobile bodies*, between points and places within the States of AL, AK, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, and WY, for 180 days. Supporting shipper: Commercial Metals Co., 3000 Diamond Park Drive, P.O. Box 1046, Dallas, TX 75221. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 112934 (Sub-8TA), filed October 6, 1978. Applicant: AUTOBUSES INTERNACIONALES, S. de R. L. (a Mexican corporation), Calle 30 and Diaz Miron, Meadowvista, NM 88063. Representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, NM 87102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between the boundary of the United States and Mexico at or near El Paso, TX, and Silver City, NM, from the United States-Mexico boundary at or near El Paso, TX, and the Ports of Entry thereon, over the Stanton Street, Santa Fe, and any other downtown bridges through El Paso, TX, over city streets, to junction with NM Hwy 28, thence over NM Hwy 28 to junction with U.S. Hwy 80 and Interstate 10 at or near Mesilla, NM, thence over U.S. Hwy 80 and Interstate 10 to junction with U.S. Hwy 180 at or near Deming, NM, thence over U.S. Hwy 180 to Silver City, NM, and return over the same route, serving all intermediate points, including Deming and Mesilla, NM, except that service is restricted against passengers and their baggage originating at El Paso, TX, and destined to Deming, NM, and also restricted against passengers and their baggage originating at tack the authority herein sought with its existing authority at the common point of El Paso, TX, for 180. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: John N. Lopez, 303 South Pinos Altos, Silver City, NM 88061, Mrs. Charles L. Grant, P.O. Box 353, Tyrone, NM 88065, and Mr. Antonio Martinez, 1015 Grant Street, No. 6, Silver City, NM 88061. There are approximately 39 statements of support attached to this application which may be examined at the field office named below. Send protests to: DS, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, S.W., Albuquerque, NM 87101.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-32794 Filed 11-21-78; 8:45 am]

[7035-01-M]

All common carriers by railroad op-

V 43 N 226 78

[7035-01-M]

[Notice No. 133]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

NOVEMBER 22, 1978.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's General Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before December 12, 1978. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

Finance Docket No. 28869. By decision of November 17, 1978, the Motor Carrier Board approved the transfer to Central Forwarding Co., (an Ohio corporation), Hamilton, Ohio, of Amended Permit FF-50, issued October 4, 1946, to Central Forwarding Co., (an Illinois corporation), Hamilton, Ohio, authorizing the forwarding of paper and paper products, from points in IL, IN, KY, MI, and OH to points in AR, CO, IL, IA, KS, MN, MO, NE, OK, and WI. Any interested person may file a petition for reconsideration within 20 days of the date of this publication.

Stephen Hester, Box 598, Hamilton, OH 45012, representative for applicants.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-32791 Filed 11-21-78; 8:45 am]

[7035-01-M]

[Docket No. 37045]

NEBRASKA INTRASTATE FREIGHT RATES AND CHARGES—1978

Decision

Decided: October 26, 1978.

By joint petition filed October 4, 1978, petitioners, 5 common carriers by railroad [1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in Nebraska, request that this Commission institute an investigation of their Nebraska intrastate freight rates and charges on sugar beets and cement, under section 13 of the Act. They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 343, effective November 30, 1977. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It Is Ordered: The petition is granted. An investigation, under section 13 of the Act, is instituted to determine whether the Nebraska State rail freight rates on sugar beets and cement in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 343. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in Nebrska subject to the jurisdiction of the Commission are made respondents in this proceeding.

All persons who wish to particiate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents herein. Nebraska shall be notified of the proceeding by sending copies of this order by certified mail to the Governor of Nebraska. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C. this 26th day of October, 1978.

By the Commission, Alan M. Fitzwater, Acting Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-32795 Filed 11-21-78; 8:45 am]

[1] Burlington Northern, Inc., Chicago, and North Western Transportation Co., Chicago, Rock Island and Pacific Railroad Co., Missouri Pacific Railroad Co., and Union Pacific Railroad Co.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-179, Nov. 17, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 8:30 a.m., November 17, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Negotiations held with New Zealand in Wellington on November 6-10, and with Australia in Canberra on November 13-15.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Member O'Melia returned from the subject consultations to the Board on November 16. It is necessary that the Board consider immediately the results of the consultations with an eye to possible early resumption of talks or other action. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than 7 days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This meeting will concern positions for ongoing negotiations with Australia and New Zealand. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies prior to the negotiations could seriously compromise the ability of the U.S. Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

PERSONS EXPECTED TO ATTEND:

Board Members.—Chairman, Marvin S. Cohen; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. Sanford Rederer.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr. and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation.—Mr. Richard B. Hirst and Mr. Herbert Aswall.

Bureau of International Affairs.—Mr. Rosario J. Scibilia, Ms. Sandra W. Gerson, and Mr. Ronald C. Miller.

The Department of State.—Mr. Micheal Styles.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c) (9)(B) and 14 CFR 310b.5(9)(B) and that the meeting may be closed to public observation.

GARY J. EDLES,
Deputy General Counsel.

[S-2359-78 Filed 11-20-78; 3:53 pm]

[6335-01-M]

2

U.S. COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Sunday, November 26, 1978, 5 p.m. to 7 p.m.

PLACE: 1121 Vermont Avenue NW., Room 800.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Review of Media Update Report.
2. Review of School Desegregation Report.

FOR FURTHER INFORMATION PLEASE CONTACT:

Loretta Ward, Office of Public Information, 202-254-6697.

[S-2357-78 Filed 11-20-78; 3:41 pm]

[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2334-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, November 21, 1978.

CHANGES IN THE MEETING:

1. Postponed until 9:30 a.m. (eastern time), Monday, November 27, 1978.
2. The report on Commission operations by the Executive Director is deleted from the agenda.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; and J. Clay Smith, Jr., Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued November 16, 1978.

[S-2354-78 Filed 11-20-78; 11:48 am]

[6740-02-M]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 54174, published November 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 22, 1978.

CHANGE IN THE MEETING: The following item has been added:

54776-54786

SUNSHINE ACT MEETINGS

WEDNESDAY, NOVEMBER 22, 1978
PART II

V 43 / 226 NOV 22 78 UMI

Item No., Docket No., and Company

CP-4. CP78-136, Transcontinental Gas Pipe Line Corp.

KENNETH F. PLUMB,
Secretary.

[S-2356-78 Filed 11-20-78; 3:41 pm]

[6730-01-M]

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 53567, November 16, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., November 22, 1978.

CHANGES IN THE MEETING:

Addition of the following item to the closed session:

3. Docket No. 78-10: Union Camp Corp., et al., Possible Violation of sections 15, 16, 18 and 44 of the Shipping Act, 1916, and Commission General Order No. 4.

Deletion of the following item from the open session:

12. Special Docket No. 554: *Hermann Ludwig, Inc.* v. *Waterman Steamship Corp.*, consideration of the record.

[S-2358-78 Filed 11-20-78; 3:41 pm]

[6210-01-M]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 53102, November 15, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Following 10 a.m. open portion, Friday, November 17, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on Monday, November 13, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

GRIFFIN L. GARWOOD,
Deputy Secretary of the Board.

NOVEMBER 17, 1978.

[S-2353-78 Filed 11-20-78; 11:48 am]

[7545-01-M]

7

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 11 a.m., Wednesday, November 29, 1978.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Selection of Solicitor.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington, D.C. 20570, telephone 202-254-9430.

Dated, Washington, D.C., November 20, 1978.

By direction of the Board.

GEORGE A. LEET,
Associate Executive Secretary,
National Labor Relations Board.

[S-2355-78 Filed 11-20-78; 11:48 am]

federal register

WEDNESDAY, NOVEMBER 22, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

FEDERAL COMMUNICATIONS COMMISSION

PRIVATE LAND MOBILE RADIO SERVICE

Re-regulation

land mobile rules and describes the selection applies to the limitations on tone codes for nonvoice signaling oper-

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21348; FCC 78-799]

PRIVATE LAND MOBILE RADIO SERVICE

Reregulation

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action finalizes proposals for reregulation of the rules governing the Private Land Mobile Radio Services. These rules were formerly contained in Parts 89, 91, and 93. This action substitutes new Part 90 for these three rules parts and in this way consolidates and updates the provisions involved. The result is a simpler, more modern manageable set of rules for use by applicants, licensees, and industry users.

EFFECTIVE DATE: January 2, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Richard Taube or Art King, Safety and Special Radio Services Bureau, 202-632-6497.

In the matter of amendment of the Commission's rules governing the private land mobile radio service to provide a new Part 90 that reregulates and consolidates Parts 89, 91, and 93. Report and order.

Adopted: November 14, 1978.

Released: November 16, 1978.

By the Commission: Commissioner White absent.

1. On July 27, 1977, a notice of proposed rulemaking was released in this proceeding to amend the Commission's rules by adding a new part to be designated as Part 90 for the regulation of the private land mobile radio services. The Commission's present rules for these radio services are in three separate rule parts that would be deleted: Part 89 covers the public safety radio services which include local government, public safety, and medical radio uses; Part 91 governs the industrial radio services which cover radio operations for commercial, manufacturing, and utility activities; and Part 93 combines land transportation radio services for passenger- and freight-carrying land-based vehicles. The proposals in this proceeding were intended to consolidate these present rules into the single Part 90 rule part.

2. The consolidation effort was found to be desirable in view of the commonality that exists between the present three private land-mobile rule parts. Provisions in each part relating to general eligibility requirements, application procedures, and technical and operational standards are similar and often indentical both in language and effect. Part 90 would eliminate these repetitious provisions and the confusion which now results from minor differences that have no special purpose or intent. At the same time, development of Part 90 would permit updating and improving these rules by deleting obsolete provisions, by clarifying and simplifying the rules language, and by including minor substantive changes that reflect current Commission policies and procedures. Normally, accomplishing changes of this nature would necessitate numerous separate rulemaking actions. It was emphasized, however, that the proceeding is not intended to alter the purposes and standards of the various private land mobile radio services; nor would the Commission consider frequency reallocation issues, problems concerning innovative procedures or requirements, or matters that involve competitive or divergent interests.

3. Comments were received from the parties listed below. In general, the comments support the Part 90 approach. The American Petroleum Institute stated:

> • • • simplification of the Commission's rules and regulations in the general form proposed will be beneficial for those applicants and licensees who deal with many of the regulations on a day-to-day basis as does the Commission's staff, as well as for equipment vendors and frequency advisory committees. Even as to those individuals who are not required to refer to the rules on a day-to-day basis, the proposed consolidation clearly appears to have many advantages over the present format followed in Parts 89, 91 and 93.

Forest Industries Telecommunications notes:

> The Commission is to be commended in its proposal to consolidate the redundant and repetitive portions of its rules, Parts 89, 91 and 93 into a new Part 90. Further we agree with the Commission's conclusion that such consolidation should include deregulation where possible and that the resulting combination of deregulation and simplification will enhance comprehension and readability. FIT believes the Commission has made a major step in this direction through the vehicle of the subject proposed rulemaking.

And, similarly, from Minnesota:

> The State of Minnesota, Office of Electronic Communications firmly supports the Commission in its efforts to clarify, simplify, deregulate, and consolidate where possible its rules and regulations regarding the land mobile radio services. Similarities in the various parts of the rules, with some minor inconsistencies through historic, periodic modifications, has from time to time led to some confusion. Consolidation of common major portions of the rules can lead to better understanding on the part of the user, and can enhance user activity by reducing research and reference time expended.

4. The comments confirm the Commission's conclusion that amendment of the rules to add Part 90 essentially as proposed appears to be both timely and productive. The single rules part format will no doubt be easier for both the public and the Commission to deal with in the use and regulation of private land mobile radio station facilities. Accordingly, we have determined to finalize the proposals by substituting Part 90 for present rule Parts 89, 91, and 93. At the same time, a number of modifications were suggested in the comments or are required as a result of recent collateral rulemaking actions so that Part 90 in its final form and content contains numerous changes. Many of these changes are editorial involving oversights, corrections, deletions, and so forth, and they do not require discussion. Other suggestions involve minor modification of the proposed provisions. Each of there recommendations has been carefully considered and, as appropriate and feasible, a number of changes reflecting these comments are in the finalized rules. Still other changes recommended are more significant and these will be discussed in the following paragraphs. It should be noted, however, that we have adhered closely to the principles enunciated for limiting the scope of this proceeding. Thus, comments suggesting changes that are not in keeping with the purposes and objectives of this rulemaking action have not been considered.[1]

5. The Commission requested specific suggestions concerning the layout of Part 90. As proposed, Part 90 would contain 17 subparts rather than the 34 subparts throughout Parts 89, 91, and 93.[2] The initial subpart (Subpart A) sets forth general information as to the basis and purpose of the private land mobile rules and describes the content and organization of Part 90 for easy reference. One new provision (§ 90.5) includes references to other parts of the Commission's rules that are often of importance to applicants and licensees. Definitions are included in this subpart, a number of which are new definitions, and others are modified as necessary to reflect current standards. Many matters that appear as "general information" in present Parts 89, 91, and 93 are not considered appropriate for inclusion in this subpart. For example, Part 89 includes application requirements and procedures, technical standards, and operating requirements all as "general information." In Part 90, these matters are covered in separate more pertinent rule subparts.

6. Subparts B, C, D, E, and F cover, respectively, the public safety, the special emergency, the industrial, the land transportaion, and the radiolocation categories of radio services. Thus radio services would no longer be separate subparts as at present, but would fall into these broader categories. Each of these subparts sets forth for each radio service it covers the standards for eligibility, permissible communications, any special conditions, and a listing of the frequencies assignable together with their limitations. One radio service, the State guard service, will be deleted as a separate service with provision made for licensing State guard functions in the local government radio service (see § 90.17 (b) and (c)). The only other reclassification in radio services would expand the present industrial radiolocation service to become the radiolocation radio service to incorporate all radiolocation functions (see Subpart F).

7. One change in Part 90 that should be helpful is that the description for each radio service will contain for ready reference virtually every frequency that may be regularly assigned in the particular service involved, as well as those frequencies shared on a secondary basis with licensees in other services, available only on a renewal basis under "grandfathered" provisions, or assignable under limited conditions or for special uses, including developmental uses. The frequencies would be listed in tables supplemented by a description of special additional frequencies assignable. This should greatly simplify an applicant's search for appropriate frequencies, particularly in the land transportation services where the frequencies are not presently listed in a table format. The only frequency not in these lists is the frequency 4883.2 kHz, which is available in all of the services without the necessity of specific authorization, but only in Alaska (see § 90.253). Another change that should aid in frequency selection applies to the limitations on the assignable frequencies. We have eliminated redundant provisions and combined and renumbered many of these limitations, while others are modified to simplify the language. Finally, we have included as a supplement section to Part 90 (§ 90.555) a single complete numerical listing of every frequency assignable together with a one word or coded description of radio services for the frequency, general uses, and any special uses.

8. Many provisions that are presently included under individual radio services subparts of Parts 89, 91, and 93, concern matters that will not be included in the services sections in Part 90. These include points of communication, secondary nonvoice signaling, requirements for relay and control stations, etc., all of which appear in other appropriate subparts of Part 90.

9. Subpart G contains the licensing procedures for private land mobile station applications. Provisions therein generally conform to present rule requirements for filing and processing license requests. Some changes to note include the addition of a section (now in Part 1 of the Commission's rules) as to procedures for Canadian licensees to operate in the United States when permitted under treaty agreements (§ 90.121); the elimination of references to construction permits, as these are no longer issued; and the deletion of requirements, including the use of Form 456, for notification to a Commission field office of commencement of operation, as presently contained in Parts 89, 91, and 93 in numerous sections. In addition, we have extensively expanded the rules concerning procedures for making changes in authorized stations. For example, § 90.135 describes and clarifies each specific type of change that requires an application for modification of license.

10. The Commission's policies for assignment and use of frequencies in the private land mobil services are now detailed in Subpart H. Important information is included in this subpart with respect to such matters as intersystem interference, frequency coordination, and cooperative use. One change from present policy deletes the requirement for applicants to select the highest order of frequencies available since the necessary exceptions to this standard have rendered the requirment relatively meaningless.

11. Technical standards of a general nature are detailed in Subpart I. Of note is new § 90.207 which sets forth not only the emissions that may be authorized under this part, but also the references to the types of operations in which they may be utilized. One present requirement being detailed as unwarranted is that applicants will no longer need to furnish a description of tone codes for nonvoice signaling operations. Those technical standards which apply to specialized operations are set forth in Subpart J. That subpart includes secondary nonvoice signaling provisions and the special requirements for radioteleprinter, radiofacsimile, automatic vehicle monitoring, and radio call boxes. Subpart J also consolidates the various present rule provisions for the authorization and operations of relay and repeater equipment (including vehicular repeaters). This should be particularly advantageous in the design of systems for private land mobile operations.

12. There are a number of special frequencies or frequency bands which are available on a general basis in the private land mobile services. They are noted in the individual frequency tables but the standards applicable to these bands are extensive and, therefore, these frequencies and standards have been included in Subparts K, L, and M. Subpart K contains the special standards for the frequency 4383.8 kHz, and the bands 27.235-27.275 MHz, 72-76 MHz, 216-220 MHz, 450-470 MHz (secondary cross-service fixed), and 1427-1435 MHz. standards for substitution of frequencies below 25 MHz are also included in this subpart. Subpart L deals exclusively with the special standards, requirements, and procedures for authorizations in the band 470-512 MHz on the frequencies derived from the Commission's UHF-TV sharing program. Similarly, Subpart M governs special licensing and use of frequencies in the 806-821 MHz and 851-866 MHz bands.

13. Subpart N covers operating requirements. Many of these requirements relating to such matters as permissible and prohibited communications, interstation communication limitations, points of communication, and operation of mobile units by persons other than the licensee, presently appear in differing formats in Parts 89, 91, and 93, either in general provisions or under application procedures, or in the radio services subparts. There is also presently a somewhat random pattern as to where station-identification requirements can be found. Incorporation of each of these operational requirements into one Subpart in part 90 has enabled us to provide language which is consistent and which should facilitate comprehension and compliance. Further, we have taken this opportunity to simplify and update some of these requirements. A notable example is in the station identification area where the consolidated provisions should prove much easier to understand and less burdensome to follow. Another clarifying provision appears in § 90.419(a), concerning the present provisions in Part 89 that permit sec-

[1] A notable example is the comment of Telemotive Products Group Dynascan Corp. This comment proposes a new subpart to consolidate and govern "Industrial Remote Control Operations." The purpose would be to eliminate the requirement that this functional use be related to eligibility, frequencies, and standards for specific radio services. Clearly, in the Commission's judgment, and as argued in a reply comment from the Utilities Telecommunications Council, this matter is beyond the scope of this proceeding. The proposal could be presented in an appropriate petition under Section 1.401 of the Commission's rules for requesting rule changes.

[2] As a result of rulemaking action in Doc. No. 20846, adopted Aug. 17, 1978 (FCC 78-622), an 18th subpart to cover control of transmitters and to clarify requirements for interconnected radio systems, has been added to the final version of Pt. 90.

will be included editorially in Part 90

PART 90—PRIVATE LAND MOBILE

Sec.

V 4 3 1 2 2 6 NO 0 2 2 7 8 UMI

ondary fixed uses of public safety and special emergency base station frequencies. Such secondary fixed uses are intended to be authorized only on frequencies below 450 MHz, and this provision reflects this limitation. It also appears to the Commission that present special provisions, which allow Industrial and land transportation stations to utilize base station frequencies for fixed station communications under certain restricted circumstances involving urgent need to contact mobile units, should be extended to the public safety and special emergency services on frequencies above 450 MHz. Section 90.419(b) reflects this change. Note, also, the new provision in § 90.441(b), added to permit licensees sharing a tower to appoint one licensee or an appropriate agent to perform inspection, maintenance, and logging functions. This is not now authorized in the rules but has been allowed on a case-by-case basis.[3]

14. Subpart O reflects the recent Commission rulemaking action in Docket No. 20846 (FCC 78-622, adopted Aug. 17, 1978). This subpart covers control of transmitters. Methods and control requirements for interconnecting private land mobile systems to the public telephone networks are included. Some of these provisions are interim pending further action in Docket No. 20846.

15. Subpart P sets forth the special requirements for licensing of stations in the Chicago region under the Chicago land mobile spectrum management program. The program applies to major areas in Illinois, Indiana, Iowa, Michigan, and Wisconsin.

16. The developmental licensing procedures are contained in Subpart Q. The final subpart, Subpart R, includes the provisions that apply to formalized emergency communications plans for the industrial and land transportation services. The industrial plan, the industrial communications emergency plan (ICEP), contains the requirements recently adopted in Docket 19312 (FCC 75-1285). The land transportation industries communications emergency plan (LATICEP) will be revised in a separate Commission action.

17. One issue of note as to the Part 90 layout was raised by some parties who expressed concern that the special emergency radio service would be "taken out" of the public safety radio services to become a separate category of radio services under Subpart C. Comments of the Associated Public Safety Communications Officers, Inc. (APCO), highlight the problems asserted to be involved:

> Special emergency systems in support of ambulance and rescue services, disaster relief services and school transportation systems display many of the characteristics of traditional police, fire, and local government safety agencies. Many of these emergency services are operated by municipal, county, and State agencies as adjuncts to other public safety services. In general, the rules for operating personnel of special emergency systems are similar to those for other public safety radio systems, and the activities of emergency groups are often undertaken jointly with police or fire departments or local government units. The trend toward municipal or countywide public safety dispatch centers linked to the 911 emergency telephone systems has increased the interaction of special emergency organizations with other public safety agencies * * *. This integration of special emergency systems with other public safety systems should suffice to show that the special emergency radio services belong with public safety radio services and should be accorded similar treatment and priority, by being placed in Subpart B of Part 90.

18. The Commission does not concur that the separation of special emergency radio services into a rules category apart from public safety radio services has any important bearing on licensability, allocations, operational standards, status, or consideration of the relative services. This delineation merely reflects an administrative determination that the dissimilarities between these categories of services, as well as the other categories (i.e., industrial, land transportation, radiolocation), require this rules structure. In general, it is our view that this approach makes the rules significantly easier to deal with, and that is the underlying objective of this proceeding. Specifically, licenses in public safety services are almost exclusively issued to local governments, whereas the most prolific special emergency services, such as medical, rescue, buses, veterinarians, are predominantly licensed to individuals or private organizations. Also, the assignment of frequencies is distinctly different. Public safety applicants must geographically coordinate frequency selection; while in special emergency, frequencies are available only for shared use. Other distinctions could be noted but the more relevant point is that we see no handicap, despite these differences and despite the Part 90 structure, to accomplishment of the objectives noted by APCO and by the other parties who expressed similar concerns. Accordingly, no change has been made in this regard in the final version of Part 90.

19. The Commission specifically asked for comments as to the combined frequency list which was proposed as a quick-reference guide. The parties who commented in this regard found this special listing to be very helpful and as noted it is being retained as a supplement at the end of Part 90. Another important tool for users is the cross-reference table which list the various rule sections in Parts 89, 91, and 93, indicates the action taken to conform each section to Part 90, and gives the Part 90 reference as applicable. This table appears at § 90.560 of the finalized Part 90. The alphabetical word index reference table proposed to be included in Part 90, received little comment. It appears that while this index could be helpful, it is largely duplicative of the regular table of contents. We are not including this table at this time.

20. Apart from format, there were suggestions in the comments for changes in the Part 90 provisions which have been accomplished. Some of these relate to definitions which we agree should be added and, we have also modifed certain definitions as requested for clarification or completeness. New added definitions include "itinerant operation," "land station," "operational fixed station," and "travelers information station," as well as a number of other terms derived from recent rulemaking actions. (See § 90.7.)

21. The Central Station Electrical Protection Association asks that we reinstate the requirement for applications for frequencies for the central station activities to be approved by recognized central station rating agencies. This requirement had been proposed to be deleted but it appears appropriate to continue this approval procedure to assure consistent use of the specially allocated frequencies for this activity.

22. As noted, the finalized version of Part 90 contains a number of amendments which result from the rulemaking changes to Parts 89, 91, and 93 in recent Commission docket actions.[4] It had been anticipated that the Commission might revise its rules governing cooperative use of private land mobile radio stations[4] and that these revisions would also replace present provisions. For this reason, the proposed Part 90 did not include cooperative use provisions. However, this rulemaking action has not yet been taken and, accordingly, we have consolidated the present cooperative-use rules of Parts 89, 91, and 93 and they appear in §§ 90.179 to 90.185 in the finalized Part 90.

23. Other Commission rulemaking actions that affect Parts 89, 91, and 93 will be included editorially in Part 90 until it becomes effective. After Part 90 becomes effective, all relevant Commission rulemaking actions will be reflected solely as Part 90 changes.

24. In consideration of the foregoing, the Commission determines that it is in the public interest, convenience, and necessity to amend its rules to add a new Part 90 to replace Parts 89, 91, and 93 of the Commission's rules for the regulation of private land mobile radio operations.

25. Accordingly, pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, *It is ordered*, That, effective January 2, 1979, volume V of the Commission's rules is amended by deleting Parts 89, 91, and 93 and substituting therefor Part 90 as shown below. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended. 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

LISTING OF PARTIES WHO SUBMITTED COMMENTS

American College of Emergency Physicians
American Petroleum Institute
Associated Public Safety Communications Officers, Inc.
Association of American Railroads
Forest Industries Telecommunications
Maryland Institute for Emergency Medical Services
Mid-Atlantic Emergency Medical Services Council, Inc.
Minnesota Department of Transportation
Motorola, Inc.
National Association of Business and Educational Radio, Inc.
Offshore Navigation, Inc.
Sears, Roebuck & Co.
Seattle, Wash.
Special Industrial Radio Services Association, Inc.
Telemotive Product Group Dynascan Corp.
Utilities Telecommunications Council
Virginia Department of Health
West Virginia Department of Health

REPLY COMMENTS

Aeronautical Radio, Inc.
Central Station Electrical Protection Association
Utilities Telecommunications Council

Chapter I of Title 47 of the Code of Federal Regulations is amended by the deletion of Parts 89, 91, and 93 of the FCC rules and regulations and the substitution therefor of Part 90 as follows:

PART 89—[DELETED]

[3] Sears Roebuck Co. asks in its comments that a nonlicensed agent, such as the landlord of the building where the tower is located, or the owner of the tower, be acceptable to perform these functions. This arrangement appears appropriate and the proposed rule change has been amended accordingly. Sears also requests that we relieve the other licensees of responsibility for the proper performance of these functions when one licensee or a nonlicensed agent is appointed. However, no compelling reason has been given and the Commission must from a regulatory standpoint look to each licensee for meeting rule requirements particularly when nonlicensed agents of licensees may be involved.

[4] These rule changes are under consideration in Docket No. 18921.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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also contains standards and proce-

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Subpart A—General Information

§ 90.1 Basis and purpose.

(a) *Basis.* The rules in this part are promulgated under Title II of the Communications Act of 1934, as amended which vests authority in the Federal Communications Commission to regulate radio transmission and to issue licenses for radio stations. All rules in this part are in accordance with applicable treaties and agreements to which the United States is a party.

(b) *Purpose.* This part states the conditions under which radio communications systems may be licensed and used in the Public Safety, Special Emergency, Industrial, Land Transportation, and Radiolocation Radio Services. These rules do not govern radio systems employed by agencies of the Federal Government.

§ 90.3 Organization and applicability of the rules.

The rules in this part are divided in 17 subparts as follows:

(a) Subpart A contains general information and definitions for use in this part.

(b) Subparts B, C, D, E, and F set forth the radio services governed under this part and include eligibility provisions, listing of frequencies available for each radio service, and special requirements and limitations applicable to a particular radio service.

(c) Subpart G describes the procedures and requirements for filing applications and licensing radio stations under this part.

(d) Subpart H provides requirements for selection of frequencies.

(e) Subpart I contains general technical standards for use of equipment under this part.

(f) Subpart J contains standards for certain specialized uses.

(g) Subpart K contains standards for the use of certain frequencies or frequency bands.

(h) Subpart L contains special regulations for operation in the 470-512 MHz band.

(i) Subpart M contains special regulations for operation in the 806-821 and 851-866 MHz bands.

(j) Subpart N sets forth system operating requirements.

(k) Subpart O contains special regulations for operation in the Chicago Land Mobile Spectrum Management District.

(l) Subpart P provides regulations for the authorization of developmental operations.

(m) Subpart Q contains regulations for emergency operations in the Industrial Radio Services (ICEP), and in the Land Transportation Radio Services (LATICEP).

§ 90.5 Other applicable rule parts.

Other Commission rule parts of importance that may be referred to with respect to licensing and operations in radio services governed under this part include the following:

(a) Part 0 of the Commission's Rules describes the Commission's organization and delegations of authority. This part also lists available Commission publications, and standards and procedures for access to Commission records, and location of Commission Field Offices.

(b) Part 1 includes rules of practice and procedure for adjudicatory proceedings including hearing proceedings, rule making proceedings; procedures for reconsideration and review of the Commission's actions; provisions concerning violation notices and for forfeiture proceedings; and the requirements for environmental impact statements.

(c) Part 2 contains the table of frequency allocations and special requirements in International regulations, agreements, and treaties. This part also contains standards and procedures concerning marketing of radio frequency devices, and for obtaining equipment type acceptance and type approval.

(d) Part 5 contains standards and procedures for obtaining experimental authorizations.

(e) Conditions under which the operations of incidental and restricted radio devices are permitted are in Part 15.

(f) Part 17 contains detailed requirements for construction, marking, and lighting of antenna towers.

(g) Part 18 deals with the operation of industrial, scientific, and medical (ISM) devices that are not intended for radio communication.

(h) Part 68 contains technical standards for connection of private land mobile equipment to the public switched telephone network.

(i) Part 94 governs licensing and operation of private operational-fixed radio stations on frequencies above 952 MHz (Microwave).

§ 90.7 Definitions.

Antenna height above average terrain (AAT). Height of the center of the radiating element of the antenna above the average terrain. (See § 90.309(a)(4) for calculation method.)

Antenna height above sea level. The height of the topmost point of the antenna above mean sea level.

Antenna structure. Structure on which an antenna is mounted.

Assigned frequency. Center of a frequency band assigned to a station.

Assigned frequency band. The frequency band the center of which coincides with the frequency assigned to the station and the width of which equals the necessary bandwidth plus twice the absolute value of the frequency tolerance.

Authorized bandwidth. The frequency band, specified in kilohertz and centered on the carrier frequency containing those frequencies upon which a total of 99 percent of the radiated power appears, extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power.

Automatic Vehicle Monitoring (AVM). The use of non-voice signalling methods from and to vehicles to make known at fixed points the location of the vehicles. AVM systems may also transmit status and instructional messages related to the vehicles involved.

Average terrain. Tha average elevation of terrain between 2 and 10 miles from the antenna site.

Base station. A station at a specified site authorized to communicate with mobile stations.

Carrier frequency. The frequency of an unmodulated electromagnetic wave.

Channel loading. The number of mobile transmitters authorized to operate on a particular channel within the same service area.

Control point. Any place from which a transmitter's functions may be controlled.

Control station. An Operational Fixed Station, the transmissions of which are used to control automatically the emissions or operation of another radio station at a specified location.

Conventional radio system. A method of operation in which one or more radio frequency channels are assigned to mobile and base stations but are not employed as a trunked group. An "urban-conventional system" is one whose transmitter site is located within 15 miles (24 km) of the geographic center of any of the first 50 urbanized areas (ranked by population) of the United States. A "suburban-conventional system" is one whose transmitter site is located more than 15 miles (24 km) from the geographic center of the first 50 urbanized areas. See Table 21, Rank of Urbanized Areas in the United States by Population, page 1-87, U.S. Census (1970); and Table 1 of paragraph (h) of 90.365.

Developmental operation. A specially licensed operation for the purpose of testing concepts in the use of radio appropriate to the radio services governed by this part.

Dispatch point. Any place from which radio messages can be originated under the supervision of a control point.

Effective radiated power (ERP). The power supplied to an antenna multiplied by the relative gain of the antenna in a given direction.

Fired relay station. A station at a specified site used to communicate with another station at another specified site.

Frequency advisor. An individual or entity that has been recognized by the Commission for the purpose of coordinating the assignment of frequencies, by recommending, to applicants, upon request, appropriate frequencies for which to apply.

Geographic center. The geographic center of an urbanized area is defined by the coordinates given at Table 1 of paragraph (h) of § 90.365.

Harmful interference. For the purposes of resolving conflicts between stations operating under this part, any emission, radiation, or induction which specifically degrades, obstructs, or interrupts the service provided by such stations.

Interconnection. Connection, either through automatic or manual means, of private systems of radio communication with the facilities of the public switched telephone network to permit

Station authorization. A license

which are explained in paragraph (c)

Local Government Radio Service Frequency

Local Government Radio Service Frequency

V 4 3 1 2 2 6

the transmission of messages or signals between points in the public telephone network and persons or points served by the private radio system. Wire line or radio links furnished by common carriers and used by licensees for transmitter control, including dial-up circuits, are not included within the definition of interconnected systems. Such facilities are treated as separate and distinct and are regulated under the provisions of § 90.461.

Internal System. An internal system of communication is one in which all messages are transmitted between the fixed operating positions located on premises controlled by the licensee and the associated mobile stations or paging receivers of the licensee. (See Subpart O).

Interzone station. A fixed station in the Police Radio Service using radio telegraphy (A1 emission) for communications with interzone stations in other zones and with zone stations within the same zone.

Itinerant Operation. Operation of a radio station at unspecified locations for varying periods of time.

Land mobile radio service. A mobile service between base stations and land mobile stations, or between land mobile stations.

Land Station. A station in the mobile service not intended to be used while in motion. (As used in this part, the terms land station and base station are interchangeable.)

Line A. An imaginary line within the U.S., approximately paralleling the U.S.-Canadian border, north of which Commission coordination with Canadian authorities in the assignment of frequencies is generally required. It begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., then along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southern most point of Duluth, Minn., thence by great circle arc to 45° N., 85° W., thence souuthward along meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N. to its intersection with meridian . . . 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates.

Line C. An imaginary line in Alaska approximately paralleling the border with Canada, East of which Commission coordination with Canadian authorities in the assignment of frequencies is generally required. It begins at the intersection of 70° N., 144° W., thence by great circle arc to the intersection of 60° N., 143° W., thence by great circle arc so as to include all the Alaskan Panhandle.

Mobile relay station. A base station in the mobile service authorized to retransmit automatically on a mobile service frequency communications which originate on the transmitting frequency of the mobile station.

Mobile Repeater Station. A mobile station authorized to retransmit automatically on a mobile service frequency, communications to or from hand-carried transmitters.

Mobile service. A service of radiocommunication between mobile and base stations, or between mobile stations.

Mobile station. A station in the mobile service intended to be used while in motion or during halts at unspecified points. This includes hand carried transmitters.

Operational Fixed Station. A fixed station, not open to public correspondence, operated by, and for the sole use of those agencies operating their own radiocommunication facilities in the Public Safety, Industrial, Land Transportation, Marine, or Aviation Radio Services. (This includes all stations in the fixed service under this Part.)

Person. An individual, partnership, association, joint stock company, joint venture, trust, corporation, or local government entity.

Radio call box. A transmitter used by the public to request fire, police, medical, road service, or other emergency assistance.

Radiodetermination. The determination of position, or the obtaining of information relating to position, by means of the propagation of radio waves.

Radiofacsimile. A system of radiocommunication for the transmission of fixed images, with or without halftones, with a view to their reproduction in a permanent form.

Radiolocation. Radiodetermination used for purposes other than those of radionavigation.

Radionavigation. Radiodetermination used for the purposes of navigation, including obstruction warning.

Radio teleprinting. Radio transmissions to a printing telegraphic instrument having a signal-actuated mechanism for automatically printing received messages:

Secondary operation. Radio communications which may not cause interference to operations authorized on a primary basis and which are not protected from interference from those primary operations.

Signal booster. A device which automatically amplifies and transmits received base station transmissions with no change in frequency or authorized bandwidth.

SMSA (Standard Metropolitan Statistical Area). A city of 50,000 or more population and the surrounding counties.

Station authorization. A license issued by the Commission for the operation of a radio station.

Telecommand. The transmission of non voice signals for the purpose of remotely controlling a device.

Telemetering (also telemetry). The transmission of non-voice signals for the purpose of automatically indicating or recording measurements at a distance from the measuring instrument.

Travelers' Information Station. A base station in the Local Government Radio Service used to transmit non-commercial, voice information pertaining to traffic and road conditions, traffic hazard and traveler advisories, directions, availability of lodging, rest stops, and service stations, and descriptions of local points of interest.

Trunk (telephony). A one or two-way channel provided as a common traffic artery between switching equipment.

Trunk group. All of the trunks of a given type of characteristic that extend between two switching points.

Trunked radio system. A method of operation in which a number of radio frequency channel pairs are assigned to mobile and base stations in the system for use as a trunk group.

Urbanized Area. A city and the surrounding closely settled territories.

Zone station. A fixed station in the Police Radio Service using radio-telegraphy (A-1 emission) for communications with other similar stations in the same zone and with an interzone station in the same zone.

Subpart B—Public Safety Radio Services

§ 90.15 Scope.

The Public Safety Radio Services include the Local Government, Police, Fire, Highway Maintenance and Forestry-Conservation Radio Services. Rules as to eligibility for licensing, frequencies available, and any special requirements as to each of these radio services are set forth in the following sections.

§ 90.17 Local Government Radio Service.

(a) *Eligibility.* Any territory, possession, State, county, city, town, and similar governmental entity, including a district and an authority, but not including a shcool or park district or authority is eligible to hold authorizations in the Local Government Radio Service to operate radio stations for transmission of communications essential to official activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Local Government Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section.

Local Government Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
530	Base (T.I.S.)	23
1610	do	23
2726	Base or mobile	1
Megahertz:		
37.10	do	2
37.18	do	2
37.26	do	2
39.06	Mobile	2, 3
39.10	Base or mobile	2
39.18	do	2
39.50	do	2
39.58	do	2
39.82	do	2
39.90	do	2
39.98	do	2
45.08	do	
45.12	do	
45.16	do	
45.20	do	
45.24	do	
45.28	do	
45.32	do	
45.36	do	
45.40	do	
45.44	do	
45.48	do	
45.52	do	
45.56	do	
45.60	do	
45.64	do	
46.52	do	
46.54	do	
46.58	do	
46.58	do	
72.00 to 76.00	Operational fixed	4
153.740	Mobile	
153.755	do	
153.785	do	
153.800	do	
153.815	do	
153.845	do	
153.860	do	
153.875	do	
153.905	do	
153.920	do	
153.935	do	
153.965	do	
153.980	do	
153.995	do	
154.025	Base or mobile	
154.040	do	5
154.055	do	5
154.085	do	5
154.100	do	5
154.115	do	5
154.45625	Fixed or mobile	6, 19, 20, 21, 22
154.46375	do	7, 19, 20, 21, 22
154.47125	do	7, 20, 21, 22
154.47875	do	19, 20, 21, 22
154.965	Base or mobile	
154.980	do	
154.995	do	
155.025	do	
155.040	do	
155.055	do	
155.085	do	
155.100	do	
155.115	do	
155.145	do	
155.715	do	
155.745	do	
155.760	do	
155.775	do	
155.805	do	
155.820	do	
155.835	do	
155.865	do	
155.880	do	
155.895	do	
155.925	do	
155.940	do	
155.955	do	
155.985	Mobile	

Local Government Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
156.000	do	
156.015	do	
158.745	Base and mobile	
158.760	do	
158.775	do	
158.805	do	
158.820	do	
158.835	do	
158.865	Mobile	
158.880	do	
158.895	do	
158.925	do	
158.940	do	
158.955	do	
173.20375	Fixed or mobile	7, 20, 21, 22
173.2100	do	7, 8, 21, 22
173.2375	do	19, 20, 21, 22
173.2625	do	19, 20, 21, 22
173.2875	do	19, 20, 21, 22
173.3125	do	19, 20, 21, 22
173.3375	do	19, 20, 21, 22
173.3625	do	19, 20, 21, 22
173.3900	do	7, 8, 21, 22
173.39625	do	7, 20, 21, 22
450 to 470	Fixed	10
453.025	Central control, fixed.	11
453.050	Base or mobile	12
453.075	Central control, fixed.	11
453.100	Base or mobile	12
453.125	Central control, fixed.	11
453.150	Base or mobile	12
453.175	Central control, fixed.	11
453.200	Base or mobile	12
453.225	do	
453.250	do	12
453.275	do	
453.300	do	12
453.325	do	
453.350	do	12
453.375	do	
453.400	do	12
453.425	do	
453.450	do	12
453.475	do	
453.500	do	12
453.525	do	
453.550	do	12
453.575	do	
453.600	do	12
453.625	do	
453.650	do	12
453.675	do	
453.700	do	12
453.725	do	
453.750	do	12
453.775	do	
453.800	do	12
453.825	do	
453.850	do	12
453.875	do	
453.900	do	12
453.925	do	
453.950	do	12
453.975	do	
458.025	Radio call boxes, fixed.	11,13
458.050	Mobile	12
458.075	Radio call boxes, fixed.	11, 13
458.100	Mobile	12
458.125	Radio call boxes, fixed.	11, 13
458.150	Mobile	12
458.175	Radio call boxes, fixed.	11, 13
458.200	Mobile	12
458.225	do	
458.250	do	12
458.275	do	
458.300	do	12
458.325	do	
458.350	do	
458.375	do	

Local Government Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
458.400	do	12
458.425	do	
458.450	do	12
458.475	do	
458.500	do	12
458.525	do	
458.550	do	12
458.575	do	
458.600	do	12
458.625	do	
458.650	do	12
458.675	do	
458.700	do	12
458.725	do	
458.750	do	12
458.775	do	
458.800	do	12
458.825	do	
458.850	do	12
458.875	do	
458.900	do	12
458.925	do	
458.950	do	12
458.975	do	
470 to 512	Base or mobile	14
806 to 821	Mobile	15
851 to 866	Base or mobile	15
952 and above	Operational fixed	16
1427 to 1435	Operational fixed, base or mobile.	17
2450 to 2500	Base or mobile	18
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is shared with the Special Emergency Radio Services and is available for assignment to the official state guard or comparable organization of a State, territory, possession, or the District of Columbia which is shown to be duly created by law and subject to the control of the highest official of the governmental entity involved, and may be used for emergency communications and for essential communications related to training and maintenance of an efficient organization. In addition to base and mobile stations, this frequency may be assigned to fixed stations on a secondary basis to base or mobile stations. Upon a showing of need, the use of a second frequency in the band 2505-3500 kHz may be made available to these organizations through appropriate arrangements with Government agencies for restricted area use on a shared basis with maximum power output, emission, and hours of operation determined on the basis of the technical conditions involved in using the selected frequency in the particular area.

(2) This frequency is shared with the Police Radio Service.

(3) The maximum output power of any transmitter authorized to operate on this frequency shall not exceed 2 watts. Applicants for this frequency need not demonstrate compliance with the frequency coordination provisions of § 90.175.

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(4) The frequencies available for use

banized area of 200,000 or more popu-

(1) Additional frequencies above 25

can Radio Agreement, Washington

Police Radio Service Frequency Table—

Police Radio Service Frequency Table—

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(4) The frequencies available for use at operational fixed stations in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(5) This frequency is not available for assignment in this service in Puerto Rico or the Virgin Islands.

(6) This frequency is assignable for fixed stations to provide emergency callbox service in accordance with § 90.241(a).

(7) The maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

(8) For FM transmitters, the sum of the highest modulating frequency in hertz and the amount of the frequency deviation or swing in hertz may not exceed 1700 Hz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters, the highest modulating frequency may not exceed 1200 Hz. The carrier frequency must be maintained within .0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 3 kHz.

(9) [Reserved.]

(10) The frequencies available for fixed station in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(11) Available for radio callbox communications related to safety on highways in accordance with the provisions of § 90.241(c).

(12) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(13) Available for medical services mobile operations in the Special Emergency Radio Service in accordance with § 90.53(b)(13).

(14) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(15) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(16) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(17) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(18) Available only on a shared basis with stations in other services, and subject to no protection from interference from industrial, scientific, or medical (ISM) devices.

(19) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population 1970). Operation is on a secondary basis to that of the Power Radio Service.

(20) For FM transmitters, the sum of the highest modulating frequency in Hertz and the amount of the frequency deviation or swing in Hertz may not exceed 2800 Hz and the maximum deviation may not exceed 2.5 kHz. For AM transmitters, the highest modulation frequency may not exceed 2000 Hz. The carrier frequency must be maintained within .0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz.

(21) This frequency is available on a shared basis with the Power, Petroleum, Forest Products, Special Industrial, Business, and Manufacturers Radio Services for remote control and telemetry operations.

(22) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(23) This frequency is available for use by Travelers' Information Stations in accordance with § 90.242.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. See also § 90.257.

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz, are available for assignment for developmental operation subject to the provisions of Subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the varied frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) The frequency 39.06 MHz may be assigned notwithstanding this limitation.

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.19 Police Radio Service.

(a) *Eligibility.* Any territory, possession, State, county, city, town, and similar governmental entity including a governmental institution authorized by law to provide its own police protection, is eligible to hold authorizations in the Police Radio Service to operate radio stations for transmission of communications essential to official police activities of the licensee.

(b) *Police zone and interzone stations.* (1) Fixed zone and interzone stations may by authorized in the Police Radio Service. An unlimited number of zone stations may be authorized in a single zone, but only one interzone station will be authorized in any zone. (A zone is normally considered to be a single state.) Request to rezone a state to provide more than one interzone station must be supported by an adequate showing of need based upon the volume of traffic or the necessity for more expeditious handling of traffic. In addition, the request shall include a showing that all licensees of all affected zone stations have been notified and afforded an opportunity to comment on the request.

(2) In addition to the points of communication permitted by § 90.419, zone and interzone stations are authorized to intercommunicate in accordance with the operating procedure prescribed by the Commission. Copies of such procedure are available from the Secretary, Federal Communications Commission, Washington, D.C. 20554.

(c) *International police radiocommunication.* Police radio licensees which are located in close proximity to the borders of the United States may be authorized to communicate internationally. Request for such authority shall be written and signed and submitted in duplicate. The request shall include information as to the station with which communication will be conducted, and the frequency, power, emission, etc., that will be used. If authorized, such international communication must be conducted in accordance with Article 5 of the Inter-American Radio Agreement, Washington, D.C., 1949 which reads as follows:

Article 5. *Police radio stations.* When the American countries authorize their police radio stations to exchange emergency information by radio with similar stations of another country, the following rules shall be applied:

(a) Only police radio stations located close to the boundaries of contiguous countries shall be allowed to exchange this information.

(b) In general, only important police messages shall be handled, such as those which would lose their value, because of slowness and time limitations if sent on other communication systems.

(c) Frequencies used for radiotelephone communications with mobile police units shall not be used for radiotelegraph communications.

(d) Radiotelephone communications shall be conducted only on frequencies assigned for radiotelephony.

(e) Radiotelegraph communications shall be conducted on the following frequencies: 2804 kHz calling, 2808 kHz working, 2812 kHz working, 5195 kHz day calling, 5135 kHz day working, 5140 kHz day working.

(f) The characteristics of police radio stations authorized to exchange information shall be notified to the International Telecommunication Union, Geneva, Switzerland.

(g) The abbreviations contained in Appendix 9 of the Atlantic City Radio Regulations shall be used to the greatest possible extent. Service indications are as follows: "P", priority, for messages that are to be sent immediately, regardless of the number of other messages, are to be transmitted in the order of receipt.

(h) The message shall contain the preamble, address, text, and signature, as follows:

Preamble. The preamble of the message shall consist of the following: the serial number preceded by the letters "NR", service indications, as appropriate; the group count according to standard cable count system; the letters "CK", followed by numerals indicating the number of words contained in the text of the message; office and country of origin (not abbreviations); day, month, and hour of filing;

Address. The address must be as complete as possible and shall include the name of the addressee with any supplementary particulars necessary for immediate delivery of the message;

Text. The text may be either in plain language or code;

Signature. The signature shall include the name and title of the person originating the message.

(d) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Police Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (e) of this section:

Police Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1610	Base or mobile	1, 2, 3
1618	do	1, 2, 3
1626	do	1, 2, 3
1634	do	1, 2, 3
1642	do	1, 2, 3
1650	do	2, 3
1658	do	2, 3
1666	do	2, 3
1674	do	2, 3
1682	do	2, 3
1690	do	1, 2, 3
1698	do	1, 2, 3
1706	do	1, 2, 3
1714	do	2, 3
1722	do	2, 3
1730	do	2, 3
2326	do	1, 2
2366	do	1, 2
2382	do	2
2390	do	1, 2
2406	do	2
2414	do	2
2422	do	2
2430	do	2
2442	do	2
2450	do	2
2458	do	2
2468	do	2
2474	do	2
2482	do	2
2490	do	2, 3
2804	Fixed	4
2808	do	4
2812	do	4
5135	do	4, 5
5140	do	4
5195	do	4, 6
7480	do	4, 7, 8
7805	do	4, 7
7935	do	4, 7
Megahertz:		
37.02	Mobile	
37.04	Base or mobile	
37.06	do	
37.08	do	
37.10	do	9
37.12	do	
37.14	do	
37.16	do	
37.18	do	9
37.20	do	
37.22	do	
37.24	do	
37.26	do	9
37.28	do	
37.30	do	
37.32	do	
37.34	Mobile	
37.36	Base or mobile	
37.38	Mobile	
37.40	Base or mobile	
37.42	Mobile	
39.02	Base or mobile	
39.04	do	
39.06	do	9, 10
39.08	do	
39.10	do	9
39.12	do	
39.14	do	
39.16	do	
39.18	do	9
39.20	do	
39.22	do	
39.24	do	
39.26	Mobile	
39.28	Base or mobile	
39.30	Mobile	
39.32	Base or mobile	
39.34	Mobile	
39.36	Base or mobile	
39.38	Mobile	
39.40	Base or mobile	
39.42	do	
39.44	do	
39.46	do	11
39.48	do	
39.50	do	9
39.52	do	
39.54	do	
39.56	do	
39.58	do	9
39.60	do	
39.62	do	
39.64	do	
39.66	Mobile	
39.68	Base or mobile	
39.70	Mobile	
39.72	Base or mobile	
39.74	Mobile	
39.76	Base or mobile	
39.78	Mobile	
39.80	Base or mobile	
39.82	do	9
39.84	do	
39.86	do	
39.88	do	
39.90	do	9
39.92	do	
39.94	do	
39.96	do	
39.98	do	9
42.02	do	2, 3, 12
42.04	do	2, 3, 12
42.06	do	2, 3, 12
42.08	do	2, 3, 12
42.10	do	2, 3, 12
42.12	do	2, 3, 12
42.14	do	2, 3, 12
42.16	do	2, 3, 12
42.18	Mobile	2, 12
42.20	do	2, 12
42.22	do	2, 12
42.24	do	2, 12
42.26	do	2, 12
42.28	do	2, 12
42.30	do	2, 12
42.32	Base or mobile	2, 3, 12
42.34	do	2, 3, 12
42.36	do	2, 3, 12
42.38	do	2, 3, 12
42.40	do	2, 3, 12
42.42	do	2, 3, 12
42.44	do	2, 3, 12
42.46	do	2, 3, 12
42.48	do	2, 3, 12
42.50	do	2, 3, 12
42.52	do	2, 3, 12
42.54	do	2, 3, 12
42.56	do	2, 3, 12
42.58	do	2, 3, 12
42.60	do	2, 3, 12
42.62	do	2, 3, 12
42.64	do	2, 3, 12
42.66	Mobile	2, 12
42.68	do	2, 12
42.70	do	2, 12
42.72	do	2, 12
42.74	do	2, 12
42.76	do	2, 12
42.78	do	2, 12
42.80	Base or mobile	2, 3, 12
42.82	do	2, 3, 12
42.84	do	2, 3, 12
42.86	do	2, 3, 12
42.88	do	2, 3, 12
42.90	do	2, 3, 12
42.92	do	2, 3, 12
42.94	do	2, 3, 12
44.62	do	2, 3, 12
44.66	do	2, 3, 12
44.70	do	2, 3, 12
44.74	do	2, 3, 12
44.78	Mobile	2, 12
44.82	do	2, 12
44.86	do	2, 12
44.90	do	2, 12
44.94	Base or mobile	2, 3, 12
44.98	do	2, 3, 12
45.02	do	2, 3, 12
45.06	do	2, 3, 12
45.10	do	

Police Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
1618	do	1, 2, 3
1626	do	1, 2, 3
1634	do	1, 2, 3
1642	do	1, 2, 3
1650	do	2, 3
1658	do	2, 3
1666	do	2, 3
1674	do	2, 3
1682	do	2, 3
1690	do	1, 2, 3
1698	do	1, 2, 3
1706	do	1, 2, 3
1714	do	2, 3
1722	do	2, 3
1730	do	2, 3
2326	do	1, 2
2366	do	1, 2
2382	do	2
2390	do	1, 2
2406	do	2
2414	do	2
2422	do	2
2430	do	2
2442	do	2
2450	do	2
2458	do	2
2468	do	2
2474	do	2
2482	do	2
2490	do	2, 3
2804	Fixed	4
2808	do	4
2812	do	4
5135	do	4, 5
5140	do	4
5195	do	4, 6
7480	do	4, 7, 8
7805	do	4, 7
7935	do	4, 7
Megahertz:		
37.02	Mobile	
37.04	Base or mobile	
37.06	do	
37.08	do	
37.10	do	9
37.12	do	
37.14	do	
37.16	do	
37.18	do	9
37.20	do	
37.22	do	
37.24	do	
37.26	do	9
37.28	do	
37.30	do	
37.32	do	
37.34	Mobile	
37.36	Base or mobile	
37.38	Mobile	
37.40	Base or mobile	
37.42	Mobile	
39.02	Base or mobile	
39.04	do	
39.06	do	9, 10
39.08	do	
39.10	do	9
39.12	do	
39.14	do	
39.16	do	
39.18	do	9
39.20	do	
39.22	do	
39.24	do	
39.26	Mobile	
39.28	Base or mobile	
39.30	Mobile	
39.32	Base or mobile	
39.34	Mobile	
39.36	Base or mobile	
39.38	Mobile	
39.40	Base or mobile	
39.42	do	
39.44	do	
39.46	do	11
39.48	do	
39.50	do	9
39.52	do	
39.54	do	
39.56	do	
39.58	do	9
39.60	do	
39.62	do	
39.64	do	
39.66	Mobile	
39.68	Base or mobile	
39.70	Mobile	
39.72	Base or mobile	
39.74	Mobile	
39.76	Base or mobile	
39.78	Mobile	
39.80	Base or mobile	
39.82	do	9
39.84	do	
39.86	do	
39.88	do	
39.90	do	9
39.92	do	
39.94	do	
39.96	do	
39.98	do	9
42.02	do	2, 3, 12
42.04	do	2, 3, 12
42.06	do	2, 3, 12
42.08	do	2, 3, 12
42.10	do	2, 3, 12
42.12	do	2, 3, 12
42.14	do	2, 3, 12
42.16	do	2, 3, 12
42.18	Mobile	2, 12
42.20	do	2, 12
42.22	do	2, 12
42.24	do	2, 12
42.26	do	2, 12
42.28	do	2, 12
42.30	do	2, 12
42.32	Base or mobile	2, 3, 12
42.34	do	2, 3, 12
42.36	do	2, 3, 12
42.38	do	2, 3, 12
42.40	do	2, 3, 12
42.42	do	2, 3, 12
42.44	do	2, 3, 12
42.46	do	2, 3, 12
42.48	do	2, 3, 12
42.50	do	2, 3, 12
42.52	do	2, 3, 12
42.54	do	2, 3, 12
42.56	do	2, 3, 12
42.58	do	2, 3, 12
42.60	do	2, 3, 12
42.62	do	2, 3, 12
42.64	do	2, 3, 12
42.66	Mobile	2, 12
42.68	do	2, 12
42.70	do	2, 12
42.72	do	2, 12
42.74	do	2, 12
42.76	do	2, 12
42.78	do	2, 12
42.80	Base or mobile	2, 3, 12
42.82	do	2, 3, 12
42.84	do	2, 3, 12
42.86	do	2, 3, 12
42.88	do	2, 3, 12
42.90	do	2, 3, 12
42.92	do	2, 3, 12
42.94	do	2, 3, 12
44.62	do	2, 3, 12
44.66	do	2, 3, 12
44.70	do	2, 3, 12
44.74	do	2, 3, 12
44.78	Mobile	2, 12
44.82	do	2, 12
44.86	do	2, 12
44.90	do	2, 12
44.94	Base or mobile	2, 3, 12
44.98	do	2, 3, 12
45.02	do	2, 3, 12
45.06	do	2, 3, 12
45.10	do	

on this frequency, after June 1, 1956, through the low pass audio frequency

(g) *Limitation on number of fre-*

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Police Radio Service Frequency Table— Continued

Frequency or band	Class of station(s)	Limitations
45.14	do	
45.18	do	
45.22	do	
45.26	Mobile	
45.30	do	
45.34	do	
45.38	do	
45.42	Base or mobile	
45.46	do	
45.50	do	
45.54	do	
45.58	do	
45.62	do	
45.66	do	
45.70	do	
45.74	Mobile	
45.78	do	
45.82	do	
45.86	Base or mobile	11
45.90	do	
45.94	do	
45.98	do	
46.02	do	
72.00-76.00	Operational fixed	13
154.650	Mobile	
154.665	Base or mobile	12
154.680	do	12
154.695	do	12
154.710	Mobile	
154.725	Base or mobile	
154.740	do	
154.755	do	
154.770	Mobile	
154.785	Base or mobile	
154.800	do	
154.815	do	
154.830	Mobile	
154.845	Base or mobile	
154.860	do	
154.875	do	
154.890	Mobile	
154.905	Base of mobile	12
154.920	do	12
154.935	do	12
154.950	Mobile	
155.01	Base or mobile	
155.07	do	
155.13	do	
155.19	do	
155.25	do	
155.31	do	
155.370	do	
155.415	do	
155.430	do	
155.445	do	12
155.460	do	12
155.475	do	14
155.490	do	
155.505	do	12
155.520	do	
155.535	do	
155.550	do	
155.565	do	
155.580	do	
155.595	do	
155.610	do	
155.625	do	
155.640	do	
155.655	do	
155.670	do	
155.685	do	
155.700	do	
155.730	do	
155.79	do	
155.85	Mobile	
155.91	do	
155.97	do	
156.03	do	
156.09	do	
156.15	do	
156.210	Base or mobile	
158.730	do	
158.790	do	
158.850	do	
158.910	Mobile	
158.970	do	

Police Radio Service Frequency Table— Continued

Frequency or band	Class of station(s)	Limitations
159.030	do	
159.090	Base or mobile	
159.150	do	
159.210	do	
450-470	Fixed	15
453.050	Base or mobile	16
453.100	do	16
453.150	do	16
453.200	do	16
453.250	do	16
453.300	do	16
453.350	do	16
453.400	do	16
453.450	do	16
453.500	do	16
453.550	do	16
453.600	do	16
453.650	do	16
453.700	do	16
453.750	do	16
453.800	do	16
453.850	do	16
453.900	do	16
453.950	do	16
458.050	Mobile	16
458.100	do	16
458.150	do	16
458.200	do	16
458.250	do	16
458.300	do	16
458.350	do	16
458.400	do	16
458.450	do	16
458.500	do	16
458.550	do	16
458.600	do	16
458.650	do	16
458.700	do	16
458.750	do	16
458.800	do	16
458.850	do	16
458.900	do	16
458.950	do	16
460.025	Base or mobile	
460.050	do	
460.075	do	
460.100	do	
460.125	do	
460.150	do	
460.175	do	
460.200	do	
460.225	do	
460.250	do	
460.275	do	
460.300	do	
460.325	do	
460.350	do	
460.375	do	
460.400	do	
460.425	do	
460.450	do	
460.475	do	
460.500	do	
460.525	do	17, 18, 20
460.550	do	17, 18, 20
462.950	do	17, 19
462.975	do	17, 19
465.025	Mobile	
465.050	do	
465.075	do	
465.100	do	
465.125	do	
465.150	do	
465.175	do	
465.200	Mobile	
465.225	do	
465.250	do	
465.275	do	
465.300	do	
465.325	do	
465.350	do	
465.375	do	
465.400	do	
465.425	do	
465.450	do	
465.475	do	

Police Radio Service Frequency Table— Continued

Frequency or band	Class of station(s)	Limitations
465.500	do	
465.525	do	17, 18, 20
465.550	do	17, 18, 20
467.950	do	17, 19
467.975	do	17, 19
470-512	Base or mobile	21
806-821	Mobile	22
851-866	Base or mobile	22
952 and above	Operational fixed	23
1427 to 1435	Operational fixed, base or mobile.	24
2450 to 2500	Base or mobile	25
10,550 to 10.680	do	

(e) Explanation of assignment limitations appearing in the frequency table of paragraph (d) of this section:

(1) The use of this frequency is on a secondary basis to any Canadian station.

(2) The frequency is available for assignment only in accordance with a geographical assignment plan.

(3) Base stations operating on this frequency and rendering service to state police mobile units may be authorized to use a maximum output power in excess of the maximum indicated in § 90.205 but not in excess of 7500 watts: *Provided,* That such operation is secondary to other stations.

(4) This frequency is available for assignment to zone and interzone stations for use with type A1 emission only and a maximum output power of 750 watts.

(5) This frequency may be assigned to fixed stations in Alaska for point-to-point radiotelephone communications, using type A3 emission with a maximum output power of 750 watts on a secondary basis to zone and interzone stations and further subject to the condition that no harmful interference is caused to the service of any station, which in the discretion of the Commission may have priority on the frequency with which interference results.

(6) This frequency is authorized for use as a calling frequency; however, the transmission of operating signals or a single short radio telegram is permissible on a secondary basis to any calling signals.

(7) This frequency may be used only during that period of time between 2 hours after local sunrise and 2 hours before local sunset.

(8) This frequency may be assigned to fixed stations in the Police Radio Service in Alaska for point-to-point radiotelephone communication, using type A3 emission and a maximum output power of 750 watts.

(9) This frequency is shared with the Local Government Radio Service.

(10) The maximum output power of any transmitter authorized to operate on this frequency, after June 1, 1956, shall not exceed two watts. Licensees holding a valid authorization as of June 1, 1956, for base or mobile station operation on this frequency, with a power in excess of two watts, may continue to be authorized for such operation without regard to this power limitation.

(11) This frequency is reserved for assignment to stations for intersystem operations only: *Provided, however,* That licensees holding a valid authorization to use this frequency for local base or mobile operations as of June 1, 1956, may continue to be authorized for such use.

(12) This frequency is reserved primarily for assignment to state police licensees. Assignments to other police licensees will be made only where the frequency is required for coordinated operation with the state police system to which the frequency is assigned. Any request for such assignment must be supported by a statement from the state police system concerned indicating that the assigment is necessary for coordination of police activities.

(13) The frequencies available for use at operational fixed stations in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies, are shared with other services and are available only in accordance with the provisions of § 90.257.

(14) This frequency is available nationwide for use in police emergency communications networks operated under statewide law enforcement emergency communications plans. Operations authorized on this frequency which are not in accordance with this limitation may continue until January 1, 1985.

(15) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(16) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(17) This frequency is available for assignment, without regard to the coordination requirement of § 90.175 for the development and operation of nonvoice systems. F2, F4, or F9 emission will be authorized for use of this frequency, except that telemetry, telecommand, or automatic vehicle location systems may not be operated. F3 emission may also be authorized when required to supplement nonvoice operation. Transmitters type-accepted under this part for use of F3 emission may also be used for nonvoice operation on this frequency, provided that the audio keying signal is passed through the low pass audio frequency filter required in the transmitter for F3 emission, and provided further that the transmitter is so adjusted and operated that the instantaneous frequency deviation does not exceed the maximum value allowed for F3 emission. Operation on this frequency is exempted from the station identification requirements of § 90.425.

(18) This frequency is shared until March 1, 1986, with Fire Radio Service Licensees authorized for its use prior to July 16, 1974, and operations in the Police Radio Service are on a secondary basis to such Fire Radio Service use.

(19) This frequency is available in this service only for systems licensed in this service prior to April 16, 1976, until March 1, 1986. Use of this frequency is shared with, and is on a primary basis to operations by licensees in the Special Emergency Radio Service.

(20) Until March 1, 1986, use of this frequency is on a secondary basis to Special Emergency licensees authorized prior to April 16, 1976.

(21) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(22) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(23) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(24) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(25) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(f) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(4) The frequency bands 31.99 to 32.00 MHz 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 33.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(g) *Limitation on number of frequencies assignable.* Normally only one base and one mobile station frequency, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) The frequency 39.06 MHz may be assigned notwithstanding this limitation.

(3) A licensee may use, without specific authorization from the Commission any mobile service frequency between 40 MHz and 952 MHz listed in paragraph (d) of this section for communications in connection with physical surveillance, stakeouts, raids, and other such activities. Such use shall be on a secondary basis to operations of licensees regularly authorized on the assigned frequencies. The maximum power that may be used for such communications is 2 watts output. Other provisions of this part, including the requirements for station identification, shall apply.

(4) In addition to the frequencies assigned for mobile service operation, one base station frequency above 152 MHz may be assigned as a common frequency to all licensees in a particular area to permit intersystem communication between base stations or mobile stations or both. This frequency, use will not be authorized in any area where all available frequencies are required for independent systems.

(5) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands, 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.21 Fire Radio Service.

(a) *Eligibility.* Any territory, possession, state, county, city, town, or similar governmental entity, and persons or organizations charged with specific fire protection activities are eligible to hold authorizations in the Fire Radio Service to operate radio stations for transmission of communications essential to official fire activities of the licensee. Applications from persons or organizations other than governmental entities must be accompanied by a statement from the governmental entity having legal jurisdiction over the area to be served, supporting the request.

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(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Fire Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Fire Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz: 1630	Base or mobile	
Megahertz:		
33.42	Mobile or fixed	1
33.44	Base or mobile	
33.46	Mobile	
33.48	Base or mobile	
33.50	Mobile	
33.52	Base or mobile	
33.54	Mobile	
33.56	Base or mobile	
33.58	Mobile	
33.60	Base or mobile	
33.82	Mobile	
33.64	Base or mobile	
33.66	Mobile	
33.68	Base or mobile	
33.70	do	
33.72	do	
33.74	do	
33.76	do	
33.78	do	
33.80	do	
33.82	do	
33.84	do	
33.86	do	
33.88	do	
33.90	do	
33.92	do	
33.94	do	
33.96	do	
33.98	do	
45.88		2
46.06	do	
46.08	do	
46.10	do	
46.12	do	
46.14	do	
46.16	do	
46.18	do	
46.20	do	
46.22	Mobile	
46.24	do	
46.26	do	
46.28	do	
46.30	Mobile or fixed	1
46.32	Mobile	
46.34	do	
46.36	Base or mobile	
46.38	do	
46.40	do	
46.42	do	
46.44	do	
46.46	do	
46.48	do	
46.50	do	
72.00 to 76.00	Operational fixed	3
153.77	Mobile	
153.83	Mobile or fixed	1
153.890	Mobile	
153.950	do	
154.010	do	
154.070	do	4
154.130	Base or mobile	4
154.145	do	4
154.160	do	4
154.175	do	4
154.190	do	4
154.205	do	4
154.220	do	4
154.235	do	4
154.250	do	4
154.265	do	2, 4
154.280	do	2, 4
154.295	do	2, 4
154.310	do	4
154.325	do	4

Fire Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
154.340	do	4
154.355	do	4
154.370	do	4
154.385	Base or mobile	4
154.400	do	4
154.415	do	4
154.430	do	4
154.445	do	4
166.250	do	5
170.150	do	5
450.470	Fixed	6
453.050	Base or mobile	7
453.100	do	7
453.150	do	7
453.200	do	7
453.250	do	7
453.300	do	7
453.350	do	7
453.400	do	7
453.450	do	7
453.500	do	7
453.550	do	7
453.600	do	7
453.650	do	7
153.700	do	7
453.750	do	7
453.800	do	7
453.850	do	7
453.900	do	7
453.950	do	7
458.050	Mobile	7
458.100	do	7
458.150	do	7
458.200	do	7
458.250	do	7
458.300	do	7
458.350	do	7
458.400	do	7
458.450	do	7
458.500	do	7
458.550	do	7
458.600	do	7
458.650	do	7
458.700	do	7
458.750	do	7
458.800	do	7
458.850	do	7
458.900	do	7
458.950	do	7
460.525	do	8
460.550	do	8
460.575	do	
460.600	do	
465.525	do	8
465.550	do	8
465.575	do	
465.600	do	
465.625	do	
470-512	Base or mobile	9
806-821	Mobile	10
851-866	Base or mobile	10
952 and above	Operational fixed	11
1427 to 1435	Operational fixed, base or mobile.	12
2450 to 2500	Base or mobile	13
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) The maximum output power of any transmitter authorized to operate on this frequency shall not exceed 10 watts.

(2) This frequency is reserved for assignment to stations in this service for intersystem operations only and these operations must be primarily base-mobile communications.

(3) The frequencies available for use at operational fixed stations in the band 72-76 MHz are listed in §90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of §90.257.

(4) This frequency is not available for assignment to stations in this service in Puerto Rico or the Virgin Islands.

(5) This frequency may be assigned to stations in the Fire Radio Service, only at points within 240 km. (150 mi.) of New York, N.Y.

(6) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in §90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(7) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

(8) This frequency is available to Fire Radio Service licensees authorized prior to July 16, 1974, until March 1, 1986, on a shared basis with, and primary to operations in the Police Radio Service.

(9) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(10) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(11) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(12) This frequency band is available to stations in this service subject to the provisions of §90.259.

(13) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also §90.253.)

(1) Substitution of frequencies available below 25 MHz may be made in accordance with, the provisions of §90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz are available in accordance with §90.255.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also §90.257.)

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of mobile repeaters in accordance with §90.247, notwithstanding this limitation.

(2) The assignment of an additional frequency or frequencies may be authorized notwithstanding this limitation for common, intra-county, intra-fire-district, or intrastate fire coordination operations. The frequency or frequencies requested must be in accordance with a frequency utilization plan, for the area involved, on file with the Commission.

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with §90.239, notwithstanding this limitation.

§ 90.23 Highway Maintenance Radio Service.

(a) *Eligibility.* Any territory, possession, State, county, city, town, and similar governmental entity is eligible to hold authorizations in the Highway Maintenance Radio Service to operate stations for transmission of communications essential to official highway activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Highway Maintenance Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Highway Maintenance Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
33.02	Base or mobile	1
33.06	do	1
33.10	do	1
37.90	do	1
37.92	do	
37.94	do	1
37.96	do	
37.98	do	1
45.68	do	
45.72	do	
45.76	do	
45.80	do	
45.84	do	

Highway Maintenance Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
47.02	do	2
47.04	do	2
47.06	do	2
47.08	do	2
47.10	do	2
47.12	do	2
47.14	do	2
47.16	do	2
47.18	do	2
47.20	do	2
47.22	do	2
47.24	do	2
47.26	do	2
47.28	do	2
47.30	do	2
47.32	do	2
47.34	do	2
47.36	do	2
47.38	do	2
47.40	do	2
72.00 to 76.00	Operational fixed	3
150.995	Base or mobile	4
151.010	do	4
151.025	do	4
151.040	do	4
151.055	do	4
151.070	do	4
151.085	do	4
151.100	do	4
151.115	do	4
151.130	do	4
156.045	Mobile	
156.060	do	
156.075	do	
156.105	Base or mobile	
156.120	do	
156.135	do	
156.165	do	5
156.180	do	5
156.195	do	5
156.225	do	5
156.240	do	5
157.050	do	6
157.110	do	6
158.985	Mobile	5
159.000	do	5
159.015	do	5
159.045	do	5
159.060	do	5
159.075	do	5
159.105	Base or mobile	5
159.120	do	5
159.135	do	5
159.165	do	5
159.180	do	
159.195	do	
450.470	Fixed	7
453.050	Base or mobile	8
453.100	do	8
453.150	do	8
453.200	do	8
453.250	do	8
453.300	do	8
453.350	do	8
453.400	do	8
453.450	do	8
453.500	do	8
453.550	do	8
453.600	do	8
453.650	do	8
453.700	Base or mobile	9
453.750	do	8
453.800	do	8
453.850	do	8
453.900	do	8
453.950	do	8
458.050	Mobile	8
458.100	do	8
458.150	do	8
458.200	do	8
458.250	do	8
458.300	do	8
458.350	do	8
458.400	do	8
458.450	do	8
458.500	do	8

Highway Maintenance Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
458.550	do	8
458.600	do	8
458.650	do	8
458.700	do	8
458.750	do	8
458.800	do	8
458.850	do	8
458.900	do	8
458.950	do	8
470-512	Base or mobile	9
806-821	Mobile	10
851-866	Base or mobile	10
952 and above	Operational fixed	11
1427-1435	Operational fixed, base or mobile.	12
2450-2500	Base or mobile	13
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is shared with the Special Emergency Radio Service.

(2) This frequency will be assigned only in accordance with a geographical assignment plan and is reserved primarily for assignment to Highway Maintenance systems operated by states. The use of this frequency by other Highway maintenance licensees will be authorized only where such use is necessary to coordinate activities with the particular state to which the frequency is assigned. Any request for such use must be supported by a statement from the state concerned.

(3) The frequencies available for use at operational fixed stations in the band 72-76 MHz are listed in §90.257(a)(1). These frequencies, are shared with other services and are available only in accordance with the provisions of §90.257.

(4) This frequency is not available for assignment to stations in the Highway Maintenance Radio Service located in Puerto Rico and the Virgin Islands.

(5) This frequency is reserved for assignment for use in highway maintenance systems operated by licenses other than States.

(6) This frequency is only assigned to Highway Maintenance stations licensed for its use prior to April 28, 1952. Such use may continue on a secondary basis to any government or non-government radio operation.

(7) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in §90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(8) This frequency is available in this service on a shared basis with all other Public-Safety Radio Services.

gible to hold authorizations in the

Forestry-Conservation Radio Service

(c) Explanation of assignment limi-

sary to permit mobile relay operation

in accordance with §90.247 notwith-

(9) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(10) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-886 MHz bands.

(11) Assignment of frequencies for operational-fixed stations in the bands 952 and above is governed by Part 94 of this Chapter.

(12) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(13) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of mobile repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the 25-50 MHz, 150-170 MHz and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz 918-926 MHz and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.25 Forestry-Conservation Radio Service.

(a) *Eligibility.* Any territory, possession, State, county, city, town, and similar governmental entity, or persons or organizations charged with specific forestry-conservation activities are eligible to hold authorizations in the Forestry-Conservation Radio Service to operate radio stations for transmission of communications essential to official forestry-conservation activities of the licensee. Application from persons or organizations other than governmental entities must be accompanied by a statement from the governmental entity having legal jurisdiction over the area to be served, supporting the request.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Forestry-Conservation Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Forestry-Conservation Radio Service Frequency Table

Frequency or band	Class of stations(s)	Limitations
Kilohertz:		
2212	Base or mobile	1
2226	do	1
2236	do	1
2244	do	1
Megahertz:		
30.86	do	2
30.90	do	2
30.94	do	2
30.98	do	2
31.02	do	2
31.06	do	2, 3, 4
31.10	do	2, 3, 4
31.14	do	2, 3, 4
31.18	do	3, 4
31.22	do	3, 4
31.26	do	3, 4
31.30	do	3, 4
31.34	do	3, 4
31.38	do	3, 4
31.42	do	3, 4
31.46	do	3, 4
31.50	do	3, 4
31.54	do	3, 4
31.58	do	3, 4
31.62	do	3, 4
31.66	do	3, 4
31.70	do	3, 4
31.74	do	3, 4
31.78	do	3, 4
31.82	do	3, 4
31.86	do	3, 4
31.90	do	3, 4
31.94	do	3, 4
31.98	do	3, 4
44.64	do	
44.68	do	
44.72	do	
44.76	do	
44.80	do	
44.84	do	
44.88	do	
44.92	do	
44.96	do	
45.00	do	
45.04	do	
72.00 to 76.00	Operational fixed	5
151.145	Base or mobile	6
151.160	do	6
151.175	do	6
151.190	do	6
151.205	do	6
151.220	do	6
151.235	do	6
151.250	do	6
151.265	do	6
151.280	do	6
151.295	do	6
151.310	do	6
151.325	do	6

Forestry-Conservation Radio Service Frequency Table—Continued

Frequency or band	Class of stations(s)	Limitations
151.340	do	6
151.355	do	6
151.370	do	6
151.385	do	6
151.400	do	6
151.415	do	6
151.430	do	6
151.445	do	6
151.460	do	6
151.475	do	6
151.490	do	6, 7
159.225	do	
159.240	do	8
159.255	do	8
159.270	do	8
159.285	do	8
159.300	do	8
159.315	do	8
159.330	do	8
159.345	do	8
159.360	do	8
159.375	do	8
159.390	do	8
159.405	do	8
159.420	do	8
159.435	do	8
159.450	do	
159.465	do	
170.425	do	4, 9, 10
170.475	do	4, 9, 11
170.575	do	4, 9, 10
171.425	do	4, 9, 11
171.475	do	4, 9, 12
171.575	do	4, 9, 11
172.225	do	4, 9, 10
172.275	do	4, 11, 12
172.375	do	4, 9, 10
450.475	Fixed	13
453.050	Base or mobile	14
453.100	do	14
453.150	do	14
453.200	do	14
453.250	do	14
453.300	do	14
453.350	do	14
453.400	do	14
453.450	do	14
453.500	do	14
453.550	do	14
453.600	do	14
453.650	do	14
453.700	do	14
453.750	do	14
453.800	do	14
453.850	do	14
453.900	do	14
453.950	do	14
458.050	Mobile	14
458.100	do	14
458.150	do	14
458.200	do	14
458.250	do	14
458.300	do	14
458.350	do	15
458.400	do	14
458.450	do	14
458.500	do	14
458.550	do	14
458.600	do	14
458.650	do	14
458.700	do	14
458.750	do	14
458.800	do	14
458.850	do	14
458.900	do	14
458.950	do	14
470.512	Base or mobile	15
806 to 821	Mobile	16
851 to 866	Base or Mobile	16
952 and above	Operational fixed	17
1427 to 1435	Operational fixed, base or mobile.	18
2450 to 2500	Base or mobile	19
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) The use of this frequency is on a secondary basis to any Canadian station.

(2) This frequency is shared with the Motor Carrier Radio Service.

(3) This frequency is available for assignment only in accordance with a geographical assignment plan. This frequency may be used for conservation activities on a secondary basis to any station using the frequency for forest fire prevention, detection, and suppression.

(4) This frequency is reserved primarily for assignment to state licensees. Assignments to other licensees will be made only where the frequency is required for coordinated operation with the State system to which the frequency is assigned. Any request for such assignment must be supported by a statement from the State system concerned, indicating that the assignment is necessary for coordination of activities.

(5) The frequencies available for use at operational-fixed stations in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(6) This frequency is not available for assignment to stations in this service located in Puerto Rico or the Virgin Islands.

(7) This frequency is shared with stations in the Special Industrial Radio Service and evidence of interservice coordination is required.

(8) This frequency is shared with the Special Industrial Radio Service in Puerto Rico and the Virgin Islands. All applications for the assignment of a new frequency or to change existing facilities in such a manner as to require frequency coordination as specified in § 90.175 for stations in Puerto Rico or the Virgin Islands, shall be accompanied by evidence of interservice frequency coordination.

(9) This frequency will be assigned only to licensees directly responsible for the prevention, detection, and suppression of forest fires, on a secondary basis to any U.S. Government station.

(10) This frequency will be assigned for use only in areas west of the Mississippi River.

(11) This frequency will be assigned for use only in areas east of the Mississippi.

(12) In addition to agencies responsible for forest fire prevention, detection, and suppression, this frequency may be assigned to conservation agencies which do not have forest fire responsibilities on a secondary basis to any U.S. Government stations, *Provided,* That such assignment is necessary to permit mobile relay operation by such agencies.

(13) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land Transportation Radio Services where they are assigned for land mobile operations.

(14) This frequency is available in this service on a shared basis with all other Public Safety Services.

(15) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(16) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(17) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(18) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(19) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz, and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of Subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only two frequencies or pairs of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

Subpart C—Special Emergency Radio Service

§ 90.33 Scope.

The Special Emergency Radio Service covers the licensing of the radio communications of the following categories of activities: Medical services, rescue organizations, veterinarians, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. Rules as to eligibility for licensing, permissible communication, classes and number of stations, and any special requirements as to each of these categories are set forth in the following sections. Frequencies available for these categories of services are shown in a separate frequency table.

§ 90.35 Medical services.

(a) *Eligibility.* The following persons are eligible to hold authorization to operate radio stations for the delivery or rendition of medical services to the public and on a secondary basis, for transmission of messages related to the efficient administration of organizations and facilities engaged in medical services operations.

(1) Hospital establishments that offer services, facilities, and beds for use beyond 24 hours in rendering medical treatment.

(2) Institutions and organizations regularly engaged in providing medical services through clinics, public health facilities, and similar establishments.

(3) Ambulance companies regularly engaged in providing medical ambulance services.

(4) Rescue organizations for the limited purpose of participation in providing medical services.

(5) Associations comprised of two or more of the organizations eligible under paragraph (a) (1), (2), (3), and (4) of this section, for the purpose of active participation in and direct operational control of the medical services communication activities of such organizations.

(6) Physicians, schools of medicine, and oral surgeons, which may include an association of physicians or oral surgeons in a locality (such as a county, city, or metropolitan area), which is chartered by a national or

§ 90.45 Beach Patrols.

service under a mutual agreement

§ 90.53 Frequencies available.

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State association of physicians or oral surgeons, *provided*, That such association shall be subject fully to the provisions of § 90.179 governing the cooperative use of radio stations and *provided further*, That stations authorized to such associations may be used only for messages related to the medical activities of its members. This does not include associations whose primary purpose is to provide a communications service.

(7) Governmental entities and governmental agencies for their own medical activities.

(8) Governmental entities and governmental agencies for providing medical services communications to other eligible persons through direct participation in and direct operational control of the system, such as through central dispatch service.

(b) *Communications plans.* In the event that the applicant is participating in an area-wide medical communications plan, the plan may be filed with the application. A listing of current plans will be made available upon request to applicants and other interested parties in connection with the development of radio communications systems. In addition, copies of plans will be maintained for public inspection in the license records of the Commission's Washington, D.C., offices.

(c) *Class and number of stations available.* (1) The number and classes of stations which may be authorized will depend upon the frequencies selected and the demonstrated system requirements.

(2) Subject to the provisions of § 90.421, communication units of a mobile station authorized under this section may be installed in a vehicle or be handcarried for use by any person with whom cooperation or coordination is required for medical services activities.

§ 90.37 Rescue organizations.

(a) *Eligibility.* Persons or organizations operating a rescue squad are eligible to hold authorizations to operate radio stations for transmission of messages pertaining to the safety of life or property and urgent messages necessary for the rendition of an efficient emergency rescue service.

(b) *Class and number of stations available.* Each rescue squad will be authorized to operate one base station, and a number of mobile units (excluding hand carried mobile units) not exceeding the number of vehicles actually used in emergency rescue operations. In addition, each rescue squad will be authorized to operate a number of hand carried mobile units not exceeding two such units for each radio equipped vehicle actually used in emergency rescue operations.

§ 90.39 Veterinarians.

(a) *Eligibility.* A veterinarian, veterinary clinic, or a school of veterinary medicine is eligible to hold authorizations to operate radio stations for the transmission of messages pertaining to the care and treatment of animals.

(b) *Class and number of stations available.* Each licensee may be authorized to operate one base station and two mobile units. Additional base stations or mobile units will be authorized only on a showing of need.

§ 90.41 Disaster relief organizations.

(a) *Eligibility.* Organizations established for disaster relief purposes having an emergency radio communications plan are eligible to hold authorizations to operate radio stations for the transmission of communications relating to the safety of life or property, the establishment and maintenance of temporary relief facilities, and the alleviation of the emergency situation during periods of actual or impending emergency, or disaster, and until substantially normal conditions are restored.

(b) *Special eligibility showing.* The initial application from a disaster relief organization shall be accompanied by a copy of the charter or other authority under which the organization was established and a copy of its communications plan. The plan shall fully describe the operation of the radio facilities and describe the method of intergration into other communications facilities which normally would be available to assist in the alleviation of the emergency condition.

(c) *Class and number of stations available.* Disaster relief organizations may be authorized to operate the number of base, mobile, and fixed stations required.

§ 90.43 School buses.

(a) *Eligibility.* Persons or organizations operating school buses on a regular basis over regular routes are eligible to hold authorizations to operate radio stations for the transmission of messages pertaining to either the efficient operation of the school bus service or the safety or general welfare of the students they are engaged in transporting.

(b) *Class and number of stations available.* Each school bus operator may be authorized to operate one base station and a number of mobile units not in excess of the total of the number of buses and maintenance vehicles regularly engaged in the school bus operation. Additional base stations or mobile units will be authorized only in exceptional circumstances when the applicant can show a specific need.

§ 90.45 Beach Patrols.

(a) *Eligibility.* Persons or organizations operating beach patrols having responsibility for life-saving activities are eligible to hold authorizations to operate radio stations for the transmission of messages required for the safety of life or property.

(b) *Class and number of stations available.* Eligibles in this category will be authorized to operate base, mobile, and fixed stations in the stated area served by the beach patrol. The number of such stations requested shall be justified.

§ 90.47 Establishment in isolated areas.

(a) *Eligibility.* Persons or organizations maintaining establishment in isolated areas where public communications facilities are not available and where the use of radio is the only feasible means of establishing communication with a center of population, or other point from which emergency assistance might be obtained if needed, are eligible to hold authorizations to operate radio stations for the transmission of messages only during an actual or impending emergency endangering life, health or property for the transmission of essential communications arising from the emergency. The transmission of routine or non-emergency communications is strictly prohibited.

(b) *Special eligibility showing.* The initial application requesting a station authorization for an establishment in an isolated area shall be accompanied by a statement describing the status of public communication facilities in the area of the applicant's establishment; the results of any attempts the applicant may have made to obtain public communication service, and; in the event radio communications service is to be furnished under subparagraph (d)(2) of this section, a copy of the agreement involved must be submitted.

(c) *Class and number of stations available.* Persons or organizations in this category may be authorized to operate not more than one fixed station at any isolated establishment and not more than one fixed station in a center of population.

(d) *Communication service rendered and received.* (1) The licensee of a station at any establishment in an isolated area shall make the communication facilities of such station available at no charge to any person desiring the transmission of any communication permitted by paragraph (a) of this section.

(2) For the purpose of providing the communications link desired the licensee of a station at an establishment in an isolated area either may be the licensee of a similar station at another location or may obtain communication

service under a mutual agreement from the licensee of any station in the Public Safety or Special Emergency Radio Services or any other station which is authorized to communicate with the special emergency fixed station.

§ 90.49 Communications standby facilities.

(a) *Eligibility.* A communications common carrier operating communications circuits that normally carry essential communication of such a nature that their disruption would endanger life or public property is eligible to hold authorizations for standby radio facilities for the transmission of messages only during periods when the normal circuits are inoperative due to circumstances beyond the control of the user. During such periods the radio facilities may be used to transmit any communication which would be carried by the regular circuit.

(b) *Special eligibility showing.* Initial applications for authorization to operate a standby radio facility must include a statement describing radio communication facilities desired, the proposed method of operation, a description of the messages normally being carried, and an explanation of how their disruption will endanger life or public property.

(c) *Class and number of stations available.* Eligibles in this category may be authorized to operate the number of fixed stations as standby radio facilities required. Any such fixed station may be licensed for operation either at a specified location or for itinerant operation. In the latter case the area of desired operation must be specified by the applicant.

§ 90.51 Emergency repair of public communications facilities.

(a) *Eligibility.* Communications common carriers are eligible in this service for radio facilities to be used in effecting expeditious repairs to interruption of public communications facilities where such interruptions have resulted in disabling intercity circuits or service to a multiplicity of subscribers in a general area. Stations authorized under this section may be used only when no other means of communication is readily available, for the transmission of messages relating to the safety of life and property and messages which are necessary for the efficient restoration of the public communication facilities which have been disrupted.

(b) *Class and number of stations available.* Eligibles in this category may be authorized to operate the number of base, mobile and fixed stations required.

§ 90.53 Frequencies available.

(a) The following table indicates frequencies available for assignment to stations in the Special Emergency Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (b) of this section. (Frequencies below 450 MHz indicated for base or mobile stations may be authorized to fixed stations on a secondary basis to stations in the mobile service):

Special Emergency Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
2000-3000	Fixed	1
2726	Base or mobile	2
3201	do	
Megahertz:		
33.02	do	3
33.04	do	
33.06	do	3
33.08	do	
33.10	do	3
35.64	Base	4
35.68	do	4
37.90	Base or mobile	3
37.94	do	3
37.98	do	3
43.64	Base	4
43.68	do	4
45.92	Base or mobile	
45.96	do	
46.00	do	
46.04	do	
47.42	do	5
47.46	do	
47.50	do	
47.54	do	
47.58	do	
47.62	do	
47.66	do	
72.00 to 76.00	Operational fixed	6
150.775	Mobile	7
150.790	do	7
152.0075	Base	4
155.160	Base or mobile	8
155.175	do	8
155.205	do	8
155.220	do	
155.235	do	8
155.265	do	8
155.280	do	
155.295	do	8
155.325	do	8, 9
155.340	do	10
155.355	do	8, 9
155.385	do	8, 9
155.400	do	8, 9
155.450	Base	4, 11
155.250	do	4
450 to 470	Fixed	12
458.025	Mobile	13, 14
458.075	do	13, 14
458.125	do	13, 14
458.175	do	13, 14
460.525	Base or mobile	16, 17
460.550	do	16, 17
462.950	do	16, 18
462.975	do	16, 18
463.000	do	14, 15, 19
463.025	do	14, 15, 19
463.050	do	14, 15, 19
463.075	do	14, 15, 20
463.100	do	14, 15, 20
463.125	do	14, 15, 20
463.150	do	14, 15, 20
463.175	do	14, 15, 20
465.525	Mobile	16, 17
465.550	do	16, 17
467.950	do	16, 18
462.975	do	16, 18
468.000	do	14, 15, 16, 18
468.025	do	14, 15, 19
468.050	do	14, 15, 19
468.075	do	14, 15, 20
468.100	do	14, 15, 20
468.125	do	14, 15, 20
468.150	do	14, 15, 20
468.175	do	14, 15, 20
806 to 821	do	21
851 to 866	Base or mobile	21
952 and above	Operational fixed	22
1427 to 2435	Operational fixed, base or mobile.	23
2450 to 2500	Base or mobile	24
10,550 to 10,680	do	

(b) Explanation of assignment limitations appearing in the frequency table of paragraph (a) of this section:

(1) Appropriate frequencies in the band 2000-3000 kHz which are designated in Part 83 of this chapter as available to Public Ship Stations for telephone communications with Public Coast Stations may be assigned on a secondary basis to Special Emergency fixed stations for communication with Public Coast Stations only, provided such stations are located in the United States and the following conditions are met:

(i) That such fixed station is established pursuant to the eligibility provisions of § 90.47 and that the isolated area involved in an island or other location not more than 480 km (300 statute miles) removed from the desired point of communication and isolated from that point by water.

(ii) That evidence is submitted showing that an arrangement has been made with the coast station licensee for the handling of emergency communications permitted by § 81.302(b) and § 90.47(d) of this chapter.

(iii) That operation of the Special Emergency fixed station shall at no time conflict with any provision of Part 83 of this chapter and further, that such operation in general shall conform to the practices employed by Public Ship Stations for radiotelephone communication with the same Public Coast Station.

(2) This frequency is shared with the Local Government Radio Service where it is available for State Guard operations.

(3) This frequency is shared with the Highway Maintenance Radio Service.

(4) This frequency will be assigned only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on this frequency are not authorized.

(5) This frequency is reserved for assignment only to national organizations eligible for disaster relief operation under § 90.41.

(6) The frequencies available for use at operational fixed stations in the

(2) The frequencies 27.235, 27.245, Products, Motion Picture, Relay Press,

(b) *Special use of service.* (1) Radio

band 72-76 MHz are listed in § 90.257(a)(1). These frequencies, are shared with other services and are available only in accordance with the provisions of § 90.257.

(7) This frequency may be authorized only for voice transmission from a portable (hand-held unit) that is not airborne, to an ambulance or other emergency vehicle for automatic retransmission (mobile repeater) on a regular mobile frequency to a base station facility. Operation on this frequency is limited to 2.5 watts output power.

(8) Any application for use of this frequency shall be accompanied by a signed statement that all licensees in other radio services who operate on a frequency 15 kHz removed and are located 16 to 56 km. (10-35 mi.) from the proposed base station have been notified of the applicant's intent to file, together with an acceptable engineering report indicating that harmful interference to the operation of existing stations will not be caused. In no instance will an application be granted in this service where the distance between the proposed station and existing base stations is less than 16 km. (10 mi.).

(9) This frequency is assignable only to those hospitals described in § 90.35(a)(1) and to those ambulance companies which need to communicate with a hospital authorized on this frequency, while providing an ambulance service.

(10) This frequency is authorized for use under § 90.35(a) for the rendition and delivery of medical services, and may be designated by common consent as an inter-system mutual assistance frequency under an area-wide medical communications plan.

(11) Operations on this frequency are limited to 30 watts transmitter output power.

(12) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Industrial and Land-Transportation Radio Service where they are assigned for land mobile operations.

(13) This frequency is authorized for use under § 90.35(a) for telemetry or voice transmission with maximum transmitter output power of 1 watt from a portable telemetering unit to an ambulance for automatic retransmission (mobile repeater) to a hospital or other medical care facility. This frequency is also available in the Local Government Radio Service for highway radio call box operations. (See § 90.17 (b) and (c)(11).)

(14) The continuous carrier mode of operation may be used for telemetry transmission on this frequency.

(15) For applications for new radio systems received after August 15, 1974, the eight frequency pairs listed below will only be assigned in a block for shared operations under § 90.35(a) subject to the following:

(i) For uniformity in usage, these frequency pairs may be referred to by channel name as follows:

Frequencies base and mobile	Mobile only (megahertz)	Channel name
Megahertz:		
463.000	468.000	MED-1
463.025	468.025	MED-2
463.050	468.050	MED-3
463.075	468.075	MED-4
463.100	468.100	MED-5
463.125	468.125	MED-6
463.150	468.150	MED-7
463.175	468.175	MED-8

(ii) Except as provided in subparagraphs (v) and (vi) of this paragraph, mobile or portable stations must employ equipment which is both wired and equipped to transmit/receive, respectively, on each of these eight frequency pairs with transmitters operated on the 468 MHz frequencies.

(iii) Except as provided in subparagraph (vi) of this paragraph, base or control stations must employ equipment which is both wired and equipped to transmit/receive, respectively, on at least four (three, if biomedical telemetry operation is not employed in the system) of these eight pairs.

(iv) Multi-channel equipment requirement for use of these frequency pairs are intended to afford capability for alternating use of the individual frequencies, and ability to conduct simultaneous operations is not required. These requirements may be met in a single equipment unit or in any combination of equipment units suitable to a licensee's operations. The multi-channel requirements may be satisfied by several single-channel base stations in a mobile relay system provided that each control station can access all of the base stations and that any moblile unit located anywhere in the area of coverage can activate each of the base frequencies involved.

(v) Portable (hand-held) units operated with a maximum output power of 2.5 watts are exempted from the multi-channel equipment requirements specified in subparagraph (ii) in this paragraph.

(vi) Stations located in areas above line A, as defined in § 90.7, will be required to meet multi-channel equipment requirements only for those frequencies up to the number specified in subparagraph (ii) and (iii) of this paragraph which have been assigned to the licensee after coordination with Canada in accordance with the applicable U.S.-Canada agreement.

(16) This frequency is primarily authorized for use under § 90.35(a) in the dispatch of medical-care vehicles and personnel for the rendition or delivery of medical services. This frequency may also be assigned for intra-system and inter-system mutual assistance purposes.

(17) This frequency is available in this service only for systems licensed in the service prior to April 16, 1976, until March 1, 1986. Use of this frequency is shared with and is primary to operations in the Police Radio Service.

(18) Until March 1, 1986, use of this frequency is on a secondary basis to Police Radio Service licenses authorized prior to April 16, 1976.

(19) This frequency is primarily authorized for use, under § 90.35(a) for operations in bio-medical telemetry systems. F2, F3, and F9 emissions may be authorized. On a secondary basis, this frequency may be utilized for any other permissible communications consistent with § 90.35.

(20) This frequency is primarily authorized for use under § 90.35(a), for communications between medical facilities vehicles and personnel related to medical supervision and instruction for treatment and transport of patients in the rendition or delivery of medical services. F2 and F3 emissions are authorized. On a secondary basis, this frequency may be utilized for any other permissible communications consistent with § 90.35, including biomedical telemetry transmissions, and F9 emission may be additionally authorized.

(21) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(22) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by part 94 of this Chapter.

(23) This frequency band is available in this service subject to the provisions of § 90.259.

(24) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(25) A licensee regularly conducting two-way communication operations on this frequency may, on a secondary basis, also transmit one-way alert-paging signals to ambulance and rescue squad personnel.

(c) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253).

(1) Substitution of frequencies available below 25 MHz may be made in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(4) The frequency bands 31.99 to 32.00 MHz, 33.00 to 33.01 MHz, 33.99 to 34.00 MHz, 37.93 to 38.00 MHz, 39.00 to 39.01 MHz, 39.99 to 40.00 MHz and 42.00 to 42.01 MHz are available for assignment for developmental operation subject to the provisions of subpart P.

(d) *Limitation on number of frequencies assignable.* Normally only one frequency below 450 MHz will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with the operation of mobile repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) An additional frequency may be assigned for paging operations from those frequencies available under § 90.53(b)(4).

(3) The frequency 155.340 MHz may be assigned as an additional frequency when it is designated as a mutual assistance frequency as provided in § 90.53(b)(10).

(4) Additional frequencies may be assigned for fixed station operations.

(5) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.55 Paging operations.

Effective August 15, 1974, paging operations may be authorized in the Special Emergency Radio Service only on frequencies assigned under the provisions of § 90.53(b)(25). Paging operations on other frequencies, authorized prior to August 15, 1974, may be continued for the balance of the license term then effective. In addition, such operations may be renewed until January 1, 1980, subject to the condition that harmful interference is not caused to regularly authorized operations in the Special Emergency Radio Service.

Subpart D—Industrial Radio Services

§ 90.59 Scope.

The Industrial Radio Services include the Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Business, Manufacturers, and Telephone Maintenance Radio Services. Rules as to eligibility for licensing, specific frequencies available, and any special requirements as to each of these radio services are set forth in the following sections.

§ 90.61 General eligibility.

In addition to the eligibility shown in each Industrial Radio Service, eligibility is also provided for any corporation proposing to funish nonprofit radiocommunication service to its parent corporation, to another subsidiary of the same parent, or to its own subsidiary provided the party served is regularly engaged in any of the eligibility activities set forth in the particular service involved. Eligibility is also provided, except in the Business Radio Service, for a nonprofit corporation or association that is organized for the purpose of furnishing a radiocommunication service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.179.

§ 90.63 Power radio service.

(a) *Eligibility.* Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Power Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee:

(1) The generation, transmission, or distribution of electrical energy for use by the general public or by the members of a cooperative organization.

(2) The distribution of manufactured or natural gas by means of pipe line, for use by the general public or by the members of a cooperative organization, or, in a combination of that activity with the production, transmission or storage of manufactured or natural gas preparatory to such distribution.

(3) The distribution of steam by means of pipeline or, of water by means of pipeline, canal, or open ditch, for use by the general public or by the members of a cooperative organization, or in a combination of that activity with the collection, transmission, storage, or purification of water or the generation of steam preparatory to such distribution.

(4) The providing of a supporting service by a corporation directly related to activities of its parent corporation, of another subsidiary of the same parent, or of its own subsidiary, where the party served is regularly engaged in any of the eligibility activities set forth in this section.

(b) *Special use of service.* (1) Radio facilities licensed to an electric power entity, in addition to being used primarily for the installation and maintenance of the electric power system, may also be used for the installation and maintenance of any other wireline facilities where such facilities employ in whole or in part the same pole line or duct distribution system as that of the electric power entity and where the licensee has the responsibility to maintain such additional wireline facilities through common ownership or contractual arrangement.

(2) Persons licensed under the provisions of subparagraph (a)(2) of this section may utilize their radio facilities in conjunction with the supplying of liquefied petroleum gas to consumers in areas beyond gas distribution pipelines.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Power Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (d) of this section:

Power Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
2292	Base or mobile	1
2398	do	1
4637.5	do	1
Megahertz:		
37.46	Base or mobile	
37.48	do	
37.50	do	
37.52	do	
37.54	do	
37.56	do	
37.58	do	
37.60	Base, mobile or operational fixed.	2
37.62	Base or mobile	
37.64	do	
37.66	do	
37.68	do	
37.70	do	
37.72	do	
37.74	do	
37.76	do	
37.78	do	
37.80	do	
37.82	do	
37.84	Operational fixed, base or mobile.	2
37.86	Base or mobile	
47.70	do	
47.72	do	
47.74	do	
47.76	do	
47.78	do	
47.80	do	
47.82	do	
47.84	do	
47.86	do	
47.88	do	
47.90	do	
47.92	do	
47.94	do	
47.96	do	
47.98	do	
48.00	do	
48.02	do	
48.04	do	

Power Radio Service Frequency Table—

ma, and Texas. In these States, this

(13) This band is available to sta-

accordance with the provisions of

leum products (including natural gas)

Power Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
48.06	do	
48.08	do	
48.10	do	
48.12	do	
48.14	do	
48.16	do	
48.18	do	
48.20	do	
48.22	do	
48.24	do	
48.26	do	
48.28	do	
48.30	do	
48.32	do	
48.34	do	
48.36	do	
48.38	do	
48.40	do	
48.42	do	
48.44	do	
48.46	do	
48.48	do	
48.50	do	
48.52	do	
48.54	do	
72–76	Operational fixed	3
153.410	Base or mobile	
153.425	do	4
153.440	do	5
153.455	do	4
153.470	do	
153.485	do	4
153.500	do	5
153.515	do	4
153.530	do	
153.545	do	4
153.560	do	5
153.575	do	4
153.590	do	
153.605	do	4
153.620	do	5
153.635	do	4
153.650	do	
153.665	do	4
153.680	do	5
153.695	do	
153.710	do	
153.725	do	
154.45625	Mobile	7, 21, 22, 23
154.46375	do	6, 7, 21
154.47125	do	7, 11, 21, 22
154.47875	do	7, 21, 22, 23
158.130	Base or mobile	
158.145	do	8
158.160	do	9
158.175	do	8
158.190	do	
158.205	do	8
158.220	do	9
158.235	do	8
158.250	do	
158.265	do	8
169–172	Operational fixed	10
173.20375	Fixed or mobile	7, 11, 21, 22
173.2100	do	11, 12, 21, 22
173.2375	do	7, 21, 22, 23
173.250	Base or mobile	9
173.2625	Fixed or mobile	7, 21, 22, 23
173.2875	do	7, 21, 22, 23
173.300	Base or mobile	9
173.3125	Fixed or mobile	7, 21, 22, 23
173.3375	do	7, 21, 22, 23
173.350	Base or mobile	9
173.3625	Fixed or mobile	7, 21, 22, 23
173.3900	do	11, 12, 21, 22
173.39625	do	7, 11, 21, 22
406–413	Operational fixed	10
450–470	Fixed	14
451.025	Base or mobile	
451.050	do	
451.075	do	
451.100	do	
451.125	do	
451.150	do	
451.175	do	15
451.200	do	
451.225	do	15

Power Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
451.250	do	
451.275	do	15
451.375	do	15
451.425	do	15
451.475	do	15
451.525	do	15
451.575	do	15
451.625	do	15
451.675	do	15
458.025	Mobile	
456.050	do	
456.075	do	
458.100	do	
456.125	do	
456.150	do	
456.175	do	15
456.200	do	
456.225	do	15
456.250	do	
456.275	do	15
456.375	do	15
456.425	do	15
456.475	do	15
458.525	do	15
456.575	do	15
458.825	do	15
458.675	do	15
462.475	Base or mobile	15
462.525	do	15
467.475	Mobile	15
467.525	do	15
470 to 512	Base or mobile	16
806 to 821	Mobile	17
851 to 866	Base or mobile	17
952 and above	Operational fixed	18
1427 to 1435	Base, mobile or operational fixed.	13
2450 to 2500	Base or mobile	19
8400 to 8500	do	20
10,550 to 10,680	do	

(d) Explanation of assignment limitations appearing in the frequency tabulation of paragraph (c) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) This frequency may be assigned only to stations operating in an interconnected or coordinated utility system in accordance with an operational communications plan which sets forth all points of communications. Authorizations at variance with an established operational communications plan will be made only on a secondary basis.

(3) The frequencies available for use at operational fixed stations in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(4) This frequency is shared with the Forest Products and Petroleum Radio Services in the States of Arkansas, Louisiana, Oklahoma, and Texas.

(5) This frequency is not available for assignment in the service in the States of Arkansas, Louisiana, Oklahoma, and Texas. In these States, this frequency is available to the Petroleum and Forest Products Radio Services.

(6) This frequency is available primarily for assignment to multiple address fixed stations employing omnidirectional antennas used for Power Utility peak load shaving and shedding and to mobile stations used for the remote control of objects and devices. The maximum power that may be authorized to fixed stations is 300 watts output, and the maximum power that may be authorized for mobile stations is 1 watt output. A1, A2, F1, or F2 emission may be authorized. This frequency may also be assigned to operational fixed stations employing directional antenna systems (front-to-back ratio of 20 dB) when such stations are located at least 120 km. (75 mi.) from the boundaries of any urbanized area of 200,000 or more population, (U.S. Census of Population, 1970, vol. I, fig. 46, p. S36). The maximum power output of the transmitter for such fixed stations may not exceed 50 watts. A1, A2, F1, or F2 emission may be authorized.

(7) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2.0 kHz. The carrier frequency must be maintained within 0.0005 percent, and the authorized bandwidth may not exceed 6 kHz.

(8) This frequency is shared with Forest Products and Petroleum Radio Services in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

(9) This frequency is not available for assignment in this service in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington. In these States this frequency is available only in the Petroleum and Forest Products Radio Services.

(10) This frequency will be assigned only for transmitting hydrological or meteorological data in accordance with the provisions of § 90.265.

(11) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobiles. A1, A2, A9, F1, F2, or F9 emission may be authorized.

(12) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.2 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(13) This band is available to stations operating in this service subject to the provisions of § 90.259.

(14) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(15) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450-470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(16) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(17) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(18) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by part 94 of this chapter.

(19) This frequency band is available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(20) Use of this frequency is limited to developmental operation and is subject to the provisions of subpart P.

(21) This frequency is available on a shared basis with the Local Government, Petroleum, Forest Products, Special Industrial, Business and Manufacturers Radio Services for remote control and telemetry operations.

(22) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(23) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 ft.) above the ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(4) Persons eligible under the provisions of subparagraph (a)(2) of this section who are engaged in the distribution of natural gas directly to consumers and who have a substantial requirement for mobile service communication with a gas supplier may be authorized to operate on the Petroleum Radio Service frequency or frequencies assigned to the supplier. However, such operation shall be limited to communications in a local area common to both parties, and shall relate only to gas supply and distribution activities. The application of any person seeking a frequency assignment under the provisions of this paragraph shall be accompanied by a written statement from the natural gas supplier which concurs in the need for such intercommunication and consents to the use by the natural gas distributor of the frequency or frequencies involved.

(f) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56-30.57 MHz, 35.00-35.01 MHz, 35.99-36.00 MHz, and 37.00-37.01 MHz are available for developmental operation by applicants in this service subject to the provisions of subpart P, notwithstanding this limitation.

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.65 Petroleum radio service.

(a) *Eligibility.* Persons primarily engaged in prospecting for, producing, collecting, refining, or transporting by means of pipeline, petroleum or petroleum products (including natural gas) are eligible to hold authorizations in the Petroleum Radio Service to operate radio stations for transmissions of communications essential to such activities of the licensee: However, persons engaged solely in the containment or cleanup of oil spills will only be assigned those frequencies designated by limitations (30) and (31) in this section.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Petroleum Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Petroleum Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1614	Base or mobile	1,2,3,4
1628	do	1, 2, 3, 4
1652	do	1, 2, 3, 4
1676	do	1, 2, 3, 4
1700	do	1, 2, 3, 4
2292	do	1, 2, 3, 5
2398	do	1, 2, 4, 5
4637.5	do	1, 2, 4, 5
Megahertz:		
25.02	do	3, 4
25.04	do	6
25.06	do	3, 4
25.08	do	6, 7
25.10	do	3, 4
25.12	do	
25.14	do	3, 4, 7
25.16	do	
25.18	do	3, 4
25.20	do	
25.22	do	4, 5
25.24	do	
25.26	do	4, 5
25.28	do	
25.30	do	4, 5
25.32	do	
30.66	do	4, 5, 8
30.70	do	4, 5
30.74	do	4, 5, 8
30.78	do	4, 5
30.82	do	4, 5, 8
33.18	do	
33.20	do	
33.22	do	
33.24	do	
33.26	do	
33.28	do	
33.30	do	
33.32	do	
33.34	do	
33.36	do	
33.38	do	
36.25	do	9
41.71	do	9
48.56	do	10
48.58	do	10
48.60	do	10
48.62	do	10
48.64	do	10
48.66	do	10
48.68	do	10
48.70	do	10
48.72	do	10
48.74	do	10
48.76	do	10
48.78	do	10
48.80	do	10
48.82	do	10
48.84	do	10
48.86	do	10
48.88	do	10
48.90	do	10

Petroleum Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
72–76	Operational fixed	3
153.410	Base or mobile	
153.425	do	4
153.440	do	5
153.455	do	4
153.470	do	
153.485	do	4
153.500	do	5
153.515	do	4
153.530	do	
153.545	do	4
153.560	do	5
153.575	do	4
153.590	do	
153.605	do	4
153.620	do	5
153.635	do	4
153.650	do	
153.665	do	4
153.680	do	5
153.695	do	
153.710	do	
153.725	do	
154.45625	Mobile	7, 21, 22, 23
154.46375	do	6, 7, 21
154.47125	do	7, 11, 21, 22
154.47875	do	7, 21, 22, 23
158.130	Base or mobile	
158.145	do	8
158.160	do	9
158.175	do	8
158.190	do	
158.205	do	8
158.220	do	9
158.235	do	8
158.250	do	
158.265	do	8
169–172	Operational fixed	10
173.20375	Fixed or mobile	7, 11, 21, 22
173.2100	do	11, 12, 21, 22
173.2375	do	7, 21, 22, 23
173.250	Base or mobile	9
173.2625	Fixed or mobile	7, 21, 22, 23
173.2875	do	7, 21, 22, 23
173.300	Base or mobile	9
173.3125	Fixed or mobile	7, 21, 22, 23
173.3375	do	7, 21, 22, 23
173.350	Base or mobile	9
173.3625	Fixed or mobile	7, 21, 22, 23
173.3900	do	11, 12, 21, 22
173.39625	do	7, 11, 21, 22
406–413	Operational fixed	10
450–470	Fixed	14
451.025	Base or mobile	
451.050	do	
451.075	do	
451.100	do	
451.125	do	
451.150	do	
451.175	do	15
451.200	do	
451.225	do	15

Petroleum Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
451.250	do	
451.275	do	15
451.375	do	15
451.425	do	15
451.475	do	15
451.525	do	15
451.575	do	15
451.625	do	15
451.675	do	15
458.025	Mobile	
456.050	do	
456.075	do	
458.100	do	
456.125	do	
456.150	do	
456.175	do	15
456.200	do	
456.225	do	15
456.250	do	
456.275	do	15
456.375	do	15
456.425	do	15
456.475	do	15
458.525	do	15
456.575	do	15
458.825	do	15
458.675	do	15
462.475	Base or mobile	15
462.525	do	15
467.475	Mobile	15
467.525	do	15
470 to 512	Base or mobile	16
806 to 821	Mobile	17
851 to 866	Base or mobile	17
952 and above	Operational fixed	18
1427 to 1435	Base, mobile or operational fixed.	13
2450 to 2500	Base or mobile	19
8400 to 8500	do	20
10,550 to 10,680	do	

(2) Use of this frequency is limited

(10) This frequency is shared with the Forest Products Radio Service

(24) This frequency band is shared with Power, Forest Products, Special

(75 miles) from the center of an urbanized areas of 200,000 or more popu-

Petroleum Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
48.92	do	10
48.94	do	10
48.96	do	10
48.98	do	10
49.00	do	10
49.02	do	10
49.04	do	10
49.06	do	10
49.08	do	10
49.10	do	10
49.12	do	10
49.14	do	10
49.16	do	10
49.18	do	10
49.20	do	10
49.22	do	10
49.24	do	10
49.26	do	10
49.28	do	10
49.30	do	10
49.32	do	10
49.34	do	10
49.36	do	10
49.38	do	10
49.40	do	10
49.42	do	10
49.44	do	10
49.46	do	10
49.48	do	10
49.50	do	10
72 to 76	Operational fixed	11
150.980	Base or mobile	6
153.035	do	12
153.050	do	12
153.065	do	4, 5, 13
153.080	do	4, 5, 13
153.095	do	4, 5, 13
153.110	do	4, 5, 13
153.125	do	4, 5, 13
153.140	do	4, 5, 13
153.155	do	4, 5, 13
153.170	do	4, 5, 13
153.185	do	4, 5, 13
153.200	do	4, 5, 13
153.215	do	4, 5, 13
153.230	do	4, 5, 13
153.245	do	4, 5, 13
153.260	do	4, 5, 13
153.275	do	4, 5, 13
153.290	do	4, 5, 13
153.305	do	4, 5, 13
153.320	do	4, 5, 13
153.335	do	4, 5, 13
153.350	do	4, 5, 13
153.365	do	13
153.380	do	13
153.395	do	13
153.425	do	14
153.440	do	10, 15
153.455	do	14
153.485	do	14
153.500	do	10, 15
153.515	do	14
153.545	do	14
153.560	do	10, 15
153.575	do	14
153.605	do	14
153.620	do	10, 15
153.635	do	14
153.665	do	14
153.680	do	10, 15
154.45625	Fixed or mobile	16, 18, 24, 34
154.46375	do	16, 18, 24, 35, 36
154.47125	do	16, 18, 24, 35
154.47875	do	16, 18, 24, 34
154.585	Mobile	6, 19
158.145	Base or mobile	6, 19
158.160	do	10, 21
158.175	do	20
158.205	do	20
158.220	do	10, 21
158.235	do	20
158.265	do	20
158.280	do	13
158.295	do	13
158.310	do	13

Petroleum Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
158.325	do	13
158.355	do	10
158.370	do	4, 5, 10
158.415	do	13
158.430	do	4, 5, 13
158.445	Mobile	6, 22
159.480	Base of mobile	6
169.172	Operational fixed.	23
173.20375	Fixed or mobile	16, 18, 24, 25
173.2100	do	16, 24, 25, 35
173.2375	do	16, 18, 24, 34
173.250	Base or mobile	10, 21
173.2625	Fixed or mobile	16, 18, 24, 34
173.2875	do	16, 18, 24, 34
173.300	Base or mobile	10, 21
173.3125	Fixed or mobile	16, 18, 24, 34
173.3375	do	16, 18, 24, 34
173.350	Base or mobile	10, 21
173.3625	Fixed or mobile	16, 18, 24, 34
173.3900	do	16, 24, 25, 35
173.39625	do	16, 18, 24, 35
216–220	Base or mobile	26
406.413	Operational fixed.	23
450–470	Fixed	27
451.175	Base or mobile	28
451.225	do	28
451.275	do	28
451.375	do	28
451.425	do	28
451.475	do	28
451.525	do	28
451.550	Base or mobile	4, 5, 10
451.575	do	28
451.600	do	4, 5, 10
451.625	do	28
451.650	do	4, 5, 10
451.675	do	28
451.700	do	4, 5, 10
451.750	do	4, 5, 10
454.000	do	8
456.175	Mobile	28
456.225	do	28
456.275	do	28
456.375	do	28
456.425	do	28
456.475	do	28
456.525	do	28
456.550	do	10
456.575	do	28
456.600	do	10
456.625	do	28
456.650	do	10
456.675	do	28
456.700	do	10
456.750	do	10
459.000	Base or mobile	6
462.475	do	28
462.525	do	26
467.475	Mobile	28
467.525	do	28
470 to 512	Base or mobile	29
806–821	Mobile only	30
851–866	Base or mobile	30
952 and above	Operational fixed.	31
1427 to 1435	Operational fixed, base or mobile.	26
2450 to 2500	Base or mobile	32
8400 to 8500	do	33
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not need the operational requirements of the applicant.

(2) Use of this frequency is limited to an amplitude modulation mode of operation.

(3) This frequency is available for assignment only to stations utilized for geophysical purposes.

(4) Geophysical operations may use tone or impulse signaling for purposes other than indicating failure of equipment or abnormal conditions on this frequency. All such tone or impulse signaling shall be on a secondary basis and subject to the following limitations:

(i) Maximum duration of a single nonvoice transmission, may not exceed 3 minutes.

(ii) The bandwidth utilized for secondary tone or impulse signaling shall not exceed that authorized to the licensee for voice emission on the frequency concerned.

(iii) Frequency loading resulting from the use of secondary tone or impulse signaling will not be considered in whole or in part, as a justification for authorizing additional frequencies in the licensee's mobile service system.

(iv) The maximum transmitter output power for tone or impulse transmissions shall not exceed 50 watts.

(5) This frequency is available for assignment to geophysical stations on a secondary basis to other petroleum licensees. Geophysical stations must cease operations on this frequency immediately upon receiving notice that interference is being caused to mobile service stations.

(6) This frequency is primarily available for oil spill containment and cleanup operations and for training and drills essential in the preparations for the containment and cleanup of oil spills. It is secondarily available for general base-mobile operations in the Petroleum Radio Service on a noninterference basis. Secondary users of this frequency are required to forego its use should oil spill containment and cleanup activities be present in their area of operation or upon notice by the Commission or a primary user that harmful interference is being caused to oil spill containment or cleanup activities in other areas.

(7) Operation on this frequency is secondary to stations in the maritime mobile service operating in accordance with the International table of frequency allocations.

(8) This frequency is shared with the Motor Carrier Radio Service.

(9) This Government frequency is available for shared Government/non-Government use by stations engaged in oil spill containment and cleanup operations and for training and drills essential in the preparation for containment and cleanup of oil spills. Such use will be confined to inland and coastal waterways.

(10) This frequency is shared with the Forest Products Radio Service.

(11) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services, and are available only in accordance with the provisions of § 90.257.

(12) This frequency is shared with the Special Industrial Radio Service.

(13) This frequency is shared with the Forest Products and Manufacturers Radio Services.

(14) This frequency is shared with Power and Forest Products Radio Services and is available in this service only in the States of Arkansas, Louisiana, Oklahoma, and Texas. Elsewhere this frequency is available in the Power Radio Service.

(15) This frequency is available for assignment in this service only in the States of Arkansas, Louisiana, Oklahoma, and Texas. Elsewhere this frequency is available in the Power Radio Service.

(16) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(17) This frequency band is shared with the Special Industrial Radio Service.

(18) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2 kHz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz.

(19) This frequency is limited to a maximum power of 20 watts.

(20) This frequency is shared with Power and Forest Products Radio Services and is available in this service only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington. Elsewhere, this frequency is available only in the Power Radio Service.

(21) This frequency is available for assignment in this service only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington. Elsewhere, it is available in the Power Radio Service.

(22) This frequency is limited to a maximum output power of 75 watts.

(23) This frequency will be assigned only for transmitting hydrological or meteorological data in accordance with the provisions of § 90.265.

(24) This frequency band is shared with Power, Forest Products, Special Industrial, Petroleum, Manufacturers, Business, and with the Local Government Radio Service.

(25) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent, and the authorized bandwidth may not exceed 3 kHz.

(26) This band is available to stations operating in this service subject to the provisions of § 90.259.

(27) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(28) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station.

(29) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(30) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(31) Assignment of frequencies to operational-fixed stations in the bands 952 MHz and above is governed by part 94 of this chapter.

(32) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(33) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(34) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(35) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

(36) Use of this frequency is limited to stations located at least 120.7 km. (75 miles) from the center of an urbanized areas of 200,000 or more population (U.S. Census of Population, 1970). Operation is on a secondary basis to that in the Power Radio Service.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.255.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available for assignment in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(4) Persons eligible in this service who are engaged in the transporation of natural gas by pipeline and who have a substantial requirement for mobile service communication with a public utility company purchasing such gas for distribution to the consumer may be authorized to operate on the Power Radio Service frequency or frequencies assigned to such distributor(s). However, such operation shall be limited to communications in the local area common to both parties and shall relate only to gas supply and distribution activities. The application of any person seeking a frequency assignment under the provisions of this paragraph shall be accompanied by a written statement from the natural gas distributor which concurs in the need for such intercommunication, and consents to the use by the natural gas supplier or the frequencies involved.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247 not withstanding this limitation.

(2) Frequencies in the ranges 30.56–30.57 MHz, 30.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for developmental operation by applicants in this service subject to the provisions of subpart P notwithstanding this limitation.

(2) Authorizations for multiple fre-

Forest Products Radio Service Frequency

Forest Products Radio Service Frequency

Radio Services for remote control and

(1) Frequencies below 25 MHz will be

(25) Operational fixed stations must

(3) Authorizations for multiple frequencies for geophysical operations will be granted on the frequencies governed by the limitations in subparagraphs, (c)(3) and (c)(4) of this section notwithstanding this limitation. However, each geophysical exploration party may only use a maximum of four frequencies at any one time.

(4) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.67 Forest Products Radio Service.

(a) *Eligibility.* Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Forest Products Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee:

(1) Tree logging, tree farming, or related woods operations, including related hauling activities, if the hauling activities are performed under contract to, and exclusively for, persons engaged in woods operations;

(2) Manufacturing lumber, plywood, hardboard, or pulp and paper products from wood fiber by persons eligible under the provisions of subparagraph (1) of this paragraph.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Forest Products Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Forest Products Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1676	Base or mobile	1
1700	do	1
2398	do	1
Megahertz:		
29.71	do	
29.73	do	
29.75	do	
29.77	do	
29.79	do	
30.68	do	
30.72	do	
37.44	do	
37.88	do	
48.56	do	2
48.58	do	2
48.60	do	2
48.62	do	2
48.64	do	2
48.66	do	2
48.68	do	2
48.70	do	2
48.72	do	2
48.74	do	2
48.76	do	2
48.78	do	2

Forest Products Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
48.80	do	2
48.82	do	2
48.84	do	2
48.86	do	2
48.88	do	2
48.90	do	2
48.92	do	2
48.94	do	2
48.96	do	2
48.98	do	2
49.00	do	2
49.02	do	2
49.04	do	2
49.06	do	2
49.08	do	2
49.10	do	2
49.12	do	2
49.14	do	2
49.16	do	2
49.18	do	2
49.20	do	2
49.22	do	2
49.24	do	2
49.26	do	2
49.28	do	2
49.30	do	2
49.32	do	2
49.34	do	2
49.36	do	2
49.38	do	2
49.40	do	2
49.42	do	2
49.44	do	2
49.46	do	2
49.48	do	2
49.50	do	2
49.54	do	3
49.58	do	3
72-76	Operational fixed	4
152.465	Base or mobile	24
152.480	Base or mobile	5
153.050	do	6
153.065	do	6
153.080	do	6
153.095	do	6
153.110	do	6
153.125	do	6
153.140	do	6
153.155	do	6
153.170	do	6
153.185	do	6
153.200	do	6
153.215	do	6
153.230	do	6
153.245	do	6
153.260	do	6
153.275	do	6
153.290	do	6
153.305	do	6
153.320	do	6
153.335	do	6
153.350	do	6
153.365	do	6
153.380	do	6
153.395	do	6
153.425	do	7
153.440	do	2, 8
153.455	do	7
153.485	do	7
153.500	do	2, 8
153.515	do	7
153.545	do	7
153.560	do	2, 8
153.575	do	7
153.605	do	7
153.620	do	2, 8
153.635	do	7
153.665	do	7
153.680	do	2, 8
154.45625	Fixed or mobile	13, 14, 25, 27
154.46375	do	13, 14, 24, 25, 27
154.47125	do	13, 14, 24, 25
154.47875	do	13, 14, 25, 27
154.570	Mobile	9
154.600	do	9
154.625	Base or mobile	5

Forest Products Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
157.725	Base or mobile	24
157.740	do	5
158.145	do	10
158.160	do	2, 11
158.175	do	10
158.205	do	10
158.220	do	2, 11
158.235	do	10
158.265	do	10
158.280	do	6
158.295	do	6
158.310	do	6
158.325	do	6
158.355	do	2
158.370	do	2
158.415	do	6
158.430	do	6
158.460	do	5
169.172	Operational fixed	12
173.20375	Fixed or mobile	13, 14, 24, 25
173.2100	do	13, 15, 24, 25
173.2375	do	13, 14, 25, 27
173.250	Base or mobile	2, 11
173.2825	Fixed or mobile	13, 14, 25, 27
173.2875	do	13, 14, 25, 27
173.300	Base or mobile	2, 11
173.3125	Fixed or mobile	13, 14, 25, 27
173.3375	do	13, 14, 25, 27
173.350	Base or mobile	2, 11
173.3625	Fixed or mobile	13, 14, 25, 27
173.3900	do	13, 15, 24, 25
173.39625	do	13, 14, 24, 25
216-220	Base or mobile	16
406-413	Operational fixed	12
450-470	Fixed	17
451.175	Base or mobile	18
451.225	do	18
451.275	do	18
451.375	do	18
451.425	do	18
451.475	do	18
451.525	do	18
451.550	do	2
451.575	do	18
451.600	do	2
451.625	do	18
451.650	do	2
451.675	do	18
451.700	do	2
451.750	do	2
456.175	Mobile	18
456.225	do	18
456.275	do	18
456.375	do	18
456.425	do	18
456.475	do	18
456.525	do	18
456.550	do	2
456.575	do	18
456.600	do	2
456.625	do	18
456.650	do	2
456.675	do	18
456.700	do	2
456.750	do	2
462.475	Base or mobile	18
462.525	do	18
467.475	Mobile	18
467.525	do	18
470-512	Base or mobile	19
806-821	Mobile	20
851-866	Base or mobile	20
952 and above	Operational fixed	21
1427-1435	Operational fixed, base or mobile.	16
2450-2500	Base or mobile	22
8400-8500	do	23
10,550-10,680	do	

(c) Explanation of assignment limitations appearing in the frequency tabulation of paragraph (b) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) This frequency is shared with the Petroleum Radio Service.

(3) This frequency is shared with the Special Industrial Radio Service.

(4) The frequencies available for use at operational fixed stations in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(5) This frequency is available in this service and in the Special Industrial Radio Service on a secondary basis to one-way paging communications authorized in the Business Radio Service.

(6) This frequency is shared with the Petroleum and Manufacturers Radio Services.

(7) This frequency is shared with the Power and Petroleum Radio Service and is available in this service only in the States of Arkansas, Louisiana, Oklahoma, and Texas. Elsewhere it is available in the Power Radio Service.

(8) This frequency is available for assignment in this service, only in the States of Arkansas, Louisiana, Oklahoma, and Texas. Elsewhere, this frequency is available in the Power Radio Service.

(9) Authorizations to operate on this frequency will be issued for A2 or F2 emission for tone signaling or for a combination of such emission with A3 or F3 emission with a maximum bandwidth of 20 kHz. The output power shall not exceed 2 watts. The maximum distance between any transmitter and the center of the radiating portion of its antenna shall not exceed 8 m. (25 ft.) Operation on this frequency is secondary to stations in the Business Radio Service.

(10) This frequency is shared with Power and Petroleum Radio Services and is available in this service only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington.

(11) This frequency is available for assignment in this service, only in the States of Arkansas, Louisiana, Oklahoma, Oregon, Texas, and Washington. Elsewhere it is available in the Power Radio Service.

(12) This frequency will be assigned only for transmitting hydrological or meteorological data in accordance with the provisions of § 90.265.

(13) This frequency is available on a shared basis with the Local Government, Power, Petroleum, Special Industrial, Business, and Manufacturers Radio Services for remote control and telemetry operations.

(14) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 6 kHz.

(15) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(16) This band is available to stations in this service subject to the provisions of § 90.259.

(17) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.281. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(18) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450-470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(19) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(20) Subpart M contains rules for assignment of frequencies in the 806-821 MHz and 851-866 MHz bands.

(21) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(22) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(23) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(24) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 3 watts for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

(25) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 db. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(26) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census of Population, 1970). Operation is on a secondary basis to that in the Power Radio Service.

(27) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent land mobile operations.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service (See also § 90.253.)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.253.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(e) *Limitation on number of frequencies assignable.* Normally only one frequency or pair of frequencies in the pair frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with Operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56-30.57 MHz, 35.00-35.01 MHz, 35.99-36.00 MHz, and 37.00-37.01 MHz are available for developmental operation by applicants in this service subject to the provisions of Subpart P notwithstanding this limitation.

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operations of Automatic Vehicle Monitoring (AVM) systems in accordance with

(6) Assignment of frequencies for

Radio Service to operate radio stations

thorized their use on or before Decem-

(5) The operation of a commercial

the Special Industrial Radio Service

§ 90.239, notwithstanding this limitation.

§ 90.69 Motion Picture Radio Service

(a) *Eligibility.* Persons primarily engaged in the production or filming of motion pictures are eligible to hold authorizations in the Motion Picture Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Motion Picture Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Motion Picture Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
1828	Base or mobile	1
1652	do	1
2292	do	1
2398	do	1
4637.5	do	1
Megahertz:		
72 to 76	Operational fixed	2
152.87	Base or mobile	3
152.90	do	3
152.93	do	3
152.96	do	3
152.99	do	3
153.02	do	3
173.225	do	4
173.275	do	4
173.325	do	4
173.375	do	4
806 to 821	Mobile	5
851 to 866	Base or mobile	5
952 and above	Operational fixed	6
1427 to 1435	Base, mobile or operational fixed.	7
2450 to 2500	Base or mobile	8
8400 to 8500	do	9
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) The frequencies available for use at operational fixed stations in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(3) This frequency is shared with the Special Industrial Radio Service.

(4) This frequency is shared with the Relay Press Radio Service.

(5) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(6) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this chapter.

(7) This band is available in this service subject to the provisions of § 90.259.

(8) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(9) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service.

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the ranges 30.56-30.57 MHz, 35.00-35.01 MHz, 35.99-36.00 MHz, and 37.00-37-01 MHz are available for assignment for developmental operation by applicants in this service subject to the provisions of Subpart P notwithstanding this limitation.

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz, may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.71 Relay Press Radio Service.

(a) *Eligibility.* Persons primarily engaged in the publication of a newspaper or in the operation of an established press association are eligible to hold authorizations in the Relay Press Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Relay Press Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (c) of this section:

Relay Press Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
72.0 to 76.0	Operational fixed	1
173.225	Base or mobile	2
173.275	do	2
173.325	do	2
173.375	do	2
452.975	do	
453.000	do	
457.975	Mobile	
458.000	do	
806 to 821	do	3
851 to 866	Base or mobile	3
952 and above	Operational fixed	4
1427 to 1435	Operational fixed, base or mobile.	5
2450 to 2500	Base or mobile	6
8400 to 8500	do	7
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) The frequencies available in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(2) This frequency is shared with the Motion Picture Radio Service.

(3) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(4) Assignment of frequencies for operational fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(5) This band is available in this service subject to the provisions of § 90.259.

(6) Available only on a shared basis with stations in other services and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(7) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section the following frequencies are available in this service. (See § 90.253.)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73-74.6 MHz may be assigned to stations au-

thorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(e) *Limitation on number of frequencies assignable.* Normal only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single application in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56-30.57 MHz, 35.00-35.01 MHz, 35.99-36.00 MHz, and 37.00-37.01 MHz are available for assignment to applicants in this service subject to the provisions of subpart P notwithstanding this limitation.

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.73 Special industrial radio service.

(a) *Eligibility.* Persons regularly engaged in any of the following activities are eligible to hold authorizations in the Special Industrial Radio Service to operate radio stations for the transmission of only those communications essential to such activities of the licensee. (Persons engaging in some activities which are eligible under this paragraph and in some which are not, and desiring to use radio in connections with both types of activities should apply for authorization in the Business Radio Service.)

(1) The operation of farms, ranches, or similar land areas, for the quantity production of crops or plants; vines or trees (excluding forestry operations); or for the keeping, grazing or feeding of livestock for animal products, animal increase, or value enhancement. Persons establishing eligibility under this subparagraph may use their radio facilities in connection with the gathering or processing of products grown or raised for them by others.

(2) Plowing, soil conditioning, seeding, fertilizing, or harvesting for agricultural activities.

(3) Spraying or dusting of insecticides, herbicides, or fungicides, in areas other than enclosed structures.

(4) Livestock breeding service.

(5) The operation of a commercial business regularly engaged in the construction of roads, bridges, sewer systems, pipelines, airfields, or water, oil, gas, or power production, collection, or distribution systems. Other engineering projects, normally classified as heavy construction activities, will be considered on the merits of the showing made, however, the construction of buildings is not included in this category.

(6) The operation of mines for the recovery of solid fuels, minerals, metal, rock, sand and gravel from the earth or the sea, including the exploration for and development of mining properties.

(7) Maintaining, patrolling or repairing gas or liquid transmission pipelines, tank cars, water or waste disposal wells, industrial storage tanks, or distribution systems of public utilities. Persons establishing eligibility under this subparagraph may use their radio facilities in connection with the containment and cleanup of industrial liquid spillage.

(8) Acidizing, cementing, logging, perforating, or shooting activities, and services of a similar nature incident to the drilling of new oil or gas wells, or the maintenance of production from established wells.

(9) Supplying chemicals, mud, tools, pipe, and other materials or equipment unique to the petroleum and gas production industry, as the primary activity of the applicant if delivery, installation or application of these materials requires the use of specifically fitted conveyances.

(10) The delivery of ice or fuel to the consumer for heating, lighting, refrigeration or power generation purposes, by means other than pipelines or railroads when such products are not to be resold following their delivery. Persons establishing eligibility under this subparagraph may use their radio facilities in connection with the servicing of the equipment that uses or consumes the products delivered.

(11) The delivery and pouring of ready mixed concrete or hot asphalt mix.

(b) *Special limitation on use of service.* Communications relating to any of the following shall not be transmitted by any station licensed in the Special Industrial Radio Service.

(1) Sales reports or the dispatching of salesmen;

(2) Payrolls, accounts, or inventory controls; and

(3) Any message relating to the retail delivery of any item or product, except where such retail delivery is specifically included in the eligibility provisions of this section.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Special Industrial Radio Service together with the class of station(s) to which they are normally assigned, and the specific assignment limitations which are explained in paragraph (d) of this section.

Special Industrial Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Kilohertz:		
2292	Base or mobile	1
2398	do	1
4637.5	do	1
Megahertz:		
27.69	do	
27.31	do	
27.33	do	
27.35	do	
27.37	do	
30.58	do	2
30.60	do	2
30.62	do	2
30.64	do	
31.28	do	
31.32	do	
31.30	do	
31.36	do	
31.40	do	
31.44	do	
31.48	do	
31.52	do	
31.56	do	
31.60	do	
31.64	do	
31.68	do	
31.72	do	
31.76	do	
31.80	do	
31.84	do	
31.88	do	
31.92	do	
31.96	do	
33.12	Mobile	3
35.28	Base or mobile	
35.32	do	
35.36	do	
35.40	do	
35.44	do	
35.48	do	
35.52	do	
35.74	do	2
35.76	do	2
35.78	do	2
35.80	do	2
35.82	do	2
35.84	do	2
35.86	do	2
40.02	do	
43.04	do	4
43.06	do	
43.08	do	
43.10	do	
43.12	do	
43.14	do	
43.18	do	2
43.28	do	
43.32	do	
43.36	do	
43.40	do	
43.44	do	
43.48	do	
43.52	do	
47.44	do	2
47.48	do	2
47.52	do	2
47.56	do	2
47.60	do	2
47.64	do	2
47.68	do	2
49.52	do	
49.54	do	5
49.56	do	2
49.58	do	5
72.76	Operational fixed	6
72.44	Mobile	7
72.48	do	7
72.52	do	7
72.56	do	7

Special Industrial Radio Service Frequency

may be 120 km. (75 mi.) if the output

pansion of existing systems be permit-

of subpart P notwithstanding this lim-

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Special Industrial Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
72.60	do	7
75.44	do	7
75.48	do	7
75.52	do	7
75.56	do	7
75.60	do	7
151.490	Base or mobile	2, 8
151.505	do	4
151.520	do	2
151.535	do	2
151.550	do	2
151.565	do	2
151.580	do	2
151.595	do	2
152.48	do	2, 9
152.870	do	10
152.885	do	2
152.900	do	2, 10
152.915	do	2
152.930	do	2, 10
152.945	do	2
152.960	do	2, 10
152.975	do	2
152.990	do	2, 9
153.005	do	2
153.020	do	2, 9
153.035	do	2, 11
154.45625	Fixed or mobile	12, 13, 15, 25
154.46375	do	12, 13, 15, 26, 27
154.47125	do	12, 13, 15, 27
154.47875	do	12, 13, 15, 25
154.49	Base or mobile	2
154.625	do	2, 9
157.74	do	2, 9
158.385	do	2
158.400	do	4
158.46	do	2, 9
169 to 172	Operational fixed	14
173.20375	Fixed or mobile	12, 13, 15, 27
173.2100	do	12, 15, 16, 27
173.2375	do	12, 13, 15, 25
173.2625	do	12, 13, 15, 25
173.2875	do	12, 13, 15, 25
173.3125	do	12, 13, 15, 25
173.3375	do	12, 13, 15, 25
173.3625	do	12, 13, 15, 25
173.3900	do	12, 15, 16, 27
173.39625	do	12, 13, 15, 27
216 to 220	Base or mobile	17
406–413	Operational fixed	14
450 to 470	Fixed	18
451.725	Base or mobile	2
451.775	do	2
451.800	Operational fixed, base or mobile.	4, 19
451.825	Base or mobile	2
451.850	do	2
451.875	do	2
451.900	do	2
451.925	do	2
451.950	do	2
451.975	do	2
452.000	do	2
452.025	do	2
452.075	do	2
452.125	do	2
452.175	do	2
456.725	Mobile	2
456.775	do	2
456.800	Operational fixed, base or mobile.	4, 19
456.825	Mobile	2
456.850	do	2
456.875	do	2
456.900	do	2
456.925	do	2
456.950	do	2
456.975	do	2
457.000	do	2
457.025	do	2
457.075	do	2
457.125	do	2
457.175	do	2
470 to 512	Base or mobile	20
806 to 821	Mobile	21

Special Industrial Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
851 to 866	Base or mobile	21
952 and above	Operational fixed	2
1427 to 1435	Operational fixed, base or mobile.	17
2450 to 2500	Base or mobile	23
8400 to 8500	do	24
10,550 to 10,680	do	

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

(2) This frequency will be assigned only for operation in a permanent area, normally within 120 km (75 mi.) of a specified reference point.

(3) Operation on this frequency is limited to a maximum output of 2 watts; and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may provide the operational functions of a base or fixed station, on a secondary basis to mobile service operations provided that the separation between the control point and the center of the radiating portion of the antenna of any units so used does not exceed 25 feet (7.6 m).

(4) This frequency will be assigned only to stations used in itinerant operations.

(5) This frequency is shared with the Forest Products Radio Service.

(6) The frequencies available in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(7) This frequency is available on a shared basis in the Manufacturers, Special Industrial, and Railroad Radio Services and interservice coordination is required. All communications must be conducted within the boundaries or confines of plant, factory, shipyard, mill, mine, farm, ranch, or construction area. All operations on this frequency are subject to the provisions of § 90.257(b).

(8) This frequency is not available to stations in Puerto Rico or the Virgin Islands. Elsewhere, this frequency is shared with the Forestry-Conservation Radio Service and interservice coordination is required.

(9) This frequency is available in this service and in the Forest Products Radio Service on a secondary basis to one-way paging communications authorized in the Business Radio Service.

(10) This frequency is shared with the Motion Picture Radio Service.

(11) This frequency band is shared with the Petroleum Radio Service.

(12) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(13) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters, the highest modulating frequency may not exceed 2.0 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 6 kHz.

(14) This frequency will be assigned only for transmitting hydrological or meteorological data in accordance with the provisions of § 90.265.

(15) This frequency band is shared with the Power, Forest Products, Special Industrial, Petroleum, Manufacturers, Business, and the Local Government Radio Services for remote control and telemetry operations.

(16) For FM transmitters the sum of the highest modulation frequency and the amount of frequency deviation may not exceed 1.7 kHz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.2 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(17) This frequency band is available to stations in the service subject to the provisions of § 90.259.

(18) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(19) Operational fixed assignments on this frequency will only be made to an itinerant fixed control or relay station on a secondary basis to land-mobile stations in this service, provided that the fixed relay or control station is to be associated with base and mobile facilities authorized to use other frequencies available for itinerant operation in this service. All such use of these frequencies for fixed systems is limited to locations 161 or more km. (100 mi). from the center of any urbanized area of 200,000 or more population, except that the distance

may be 120 km. (75 mi.) if the output power does not exceed 20 watts. All such fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. The centers of urbanized areas of 200,000 or more population are determined from the appendix, page 226, of the U.S. Commerce publication, "Air Line Distance Between Cities in the United States." Urbanized areas of 200,000 or more population are defined in the U.S. Census of Population, 1960, volume 1, table 23, page 1–50.

(20) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(21) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(22) Assignment of frequencies for operational-fixed stations in the bands 952 and above is governed by part 94 of this chapter.

(23) Available only on a shared basis with stations in other services, and subject to no protection form interference due to the operation of industrial, scientific or medical (ISM) devices.

(24) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(25) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(26) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200, 000 or more population (U.S. Census of Population, 1970). Operation is on a secondary basis to that in the Power Radio Service.

(27) The maximum output power of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, A9, F1, F2, or F9 emission may be authorized.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also § 90.253)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(4) The following frequencies are available only in Puerto Rico and the Virgin Islands. These "Base and Mobile" and "Mobile and Only" frequencies are available on a shared basis in the Forestry-Conservation Railroad Radio Services, respectively. These "Mobile Only" frequencies may be assigned to a control station associated with a mobile relay system if it is also assigned to the associated mobile station. All applications for the assignment of a new frequency, or to change existing facilities in such a manner as to require frequency coordination as specified in § 90.175, shall be accompanied by evidence of frequency coordination with the sharing service.

Base and mobile:	*Mobile only*
159.240	160.410
159.255	160.425
159.270	160.440
159.285	160.455
159.300	160.470
159.315	160.485
159.330	160.500
159.345	160.515
159.360	160.530
159.375	160.545
159.390	160.560
159.405	160.575
159.420	160.590
159.435	160.605

(5) Land mobile service frequencies above 152 MHz which are listed elsewhere in this part as available to the Petroleum, Forest Products, and Manufacturers Radio Services, are also available, with the exception of the frequency 154.57 MHz, for asssignment in this service for use in Hawaii, Puerto Rico, and the Virgin Islands, subject to the same limitations as apply in the Petroleum Forest Products, and Manufacturers Radio Services. Operation on such frequencies is secondary to stations operating in the Petroleum, Forest Products, or Manufacturers Radio Services and their use will be terminated if they are needed in the areas concerned in any of those services.

(f) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247, notwithstanding this limitation.

Frequencies in the ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz and 37.00–37.01 MHz are available for assignment to applicants in this service subject to the provisions of subpart P notwithstanding this limitation.

(3) Authorization for more than one mobile frequency in the band 72–76 MHz will be issued notwithstanding this limitation.

(4) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

(g) *Limitation on itinerant operation.* Base or mobile stations being utilized in itinerant operation will be authorized only on base or mobile frequencies designated for itinerant operation under § 90.73(d)(4).

§ 90.75 Business radio service.

(a) *Eligibility.* Persons primarily engaged in any of the following activities are eligible to hold authorizations in the Business Radio Service to operate stations for transmission of communications necessary to such activities of the licensee:

(1) The operation of a commercial activity.

(2) The operation of educational, philanthropic, or ecclesiastical institutions.

(3) Clergymen activities.

(4) The operation of hospitals, clinics or medical associations.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Business Radio Service together with the class of station(s) to which they are normally assigned, and the specific assignment limitations, which are explained in paragraph (c) of this section.

Business Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
27.39	Base or mobile	
27.41	do	
27.43	do	1, 2
27.45	do	1, 2
27.47	do	1, 2
27.49	do	1, 3
27.51	Mobile	4
27.53	do	4
30.76	Base or mobile	1, 2
30.80	do	1, 2
30.84	Mobile	4, 22
30.86	Base or mobile	1, 2
30.92	do	1, 2
30.96	do	1, 2
31.00	do	1, 2
31.04	do	1, 2
31.16	do	1, 2
31.20	do	1, 2
31.24	do	1, 2
33.14	Mobile	4, 22
33.16	Base or mobile	1, 2
33.40	Mobile	6, 22
35.02	do	4, 22
35.04	Base or mobile	1, 3
35.06	do	1, 2
35.08	do	1, 2

Business Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
35.10	do	1, 2
35.12	do	1, 2
35.14	do	1, 2
35.16	do	1, 2
35.18	do	1, 2

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Business Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
35.10	do	1, 2
35.12	do	1, 2
35.14	do	1, 2
35.18	do	1, 2
35.70	do	2
35.72	do	2
35.88	do	1, 2
35.90	do	1, 2
35.92	do	1, 2
35.94	do	
35.96	do	
35.98	do	
42.96	Base or mobile	1, 2
42.98	Mobile	4, 22
43.00	Base or mobile	1, 2
72 to 76	Operational fixed	7
150.815	Base or mobile	8
150.845	do	8
150.875	do	8
150.905	do	8
150.935	do	8
150.965	do	8
150.995	do	8
151.025	do	8
151.055	do	8
151.085	do	8
151.145	do	8
151.145	do	6
151.175	do	6
151.205	do	8
151.235	do	8
151.265	do	8
151.295	do	8
151.325	do	8
151.355	do	8
151.385	do	8
151.415	do	8
151.445	do	8
151.475	do	8
151.625	do	1, 3
151.655	do	1, 2
151.685	do	1, 2
151.715	do	1, 2
151.745	do	1, 2
151.775	do	1, 2
151.805	do	1, 2
151.835	do	1, 2
151.865	do	1, 2
151.895	do	1, 2
151.925	do	
151.955	do	
152.300	do	9
152.360	do	9
152.420	do	9
152.480	Base	10, 11, 12
154.45625	Mobile	16, 19, 36
154.46375	do	18, 19, 35, 37
154.47125	do	18, 19, 35
154.47875	do	18, 19, 36
154.515	Base or mobile	1, 2
154.540	do	1, 2
154.570	Mobile	4, 13, 22
154.600	do	4, 14, 22
154.625	Base	10, 11, 15
157.560	Base or mobile	9
157.620	do	9
157.680	do	9
157.740	Base	10, 11, 12, 16
158.460	do	10, 11, 12, 15
169 to 172	Operational fixed	17
173.20375	Mobile	18, 19, 35
173.2100	do	18, 20, 35
173.2375	do	18, 19, 36
173.2625	do	18, 19, 36
173.2875	do	18, 19, 36
173.3125	do	18, 19, 36
173.3375	do	18, 19, 36
173.3625	do	18, 19, 36
173.3900	do	18, 20, 35
173.39625	do	18, 19, 35
216 tb 220	Base or mobile	21
406 to 413	Operational fixed	17
457.525	Mobile	4, 14, 22, 23
457.550	do	4, 14, 22, 23
457.575	do	4, 14, 22, 23
457.600	do	4, 14, 22, 23
460.650	Base or mobile	15, 25, 26

Business Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
460.675	do	15, 25, 26
460.700	do	15, 25, 26
460.725	do	15, 25, 26
460.750	do	15, 25, 26
460.775	do	15, 25, 26
460.800	do	15, 25, 26
460.825	do	15, 25, 26
460.850	do	15, 25, 26
460.875	do	15, 25, 26
460.900	Base or mobile	1, 27, 39, 40
460.925	do	1, 27, 39, 40
460.950	do	1, 27, 39, 40
460.975	do	1, 28, 39, 40
461.000	do	1, 28, 39, 40
461.025	do	1, 26
461.050	do	1, 26
461.075	do	1, 26
461.100	do	1, 26
461.125	do	1, 26
461.150	do	1, 26
461.175	do	1, 26
461.200	do	1, 26
461.225	do	1, 26
461.250	do	1, 26
461.275	do	1, 26
461.300	do	1, 26
461.325	do	1, 26
461.350	do	1, 26
461.375	do	1, 26
461.400	do	1, 26
461.425	do	1, 26
461.450	do	1, 26
461.475	do	1, 26
461.500	do	1, 26
461.525	do	1, 26
461.550	do	1, 26
461.575	do	1, 26
461.600	do	1, 26
461.625	do	1, 26
461.650	do	1, 26
461.675	do	1, 26
461.700	do	1, 26
461.725	do	1, 26
461.750	do	1, 26
461.775	do	1, 26
461.800	do	1, 26
461.825	do	1, 26
461.850	do	1, 26
461.875	do	1, 26
461.900	do	1, 26
461.925	do	1, 26
461.950	do	1, 26
461.975	do	1, 26
462.000	do	1, 26
462.025	do	1, 26
462.050	do	1, 26
462.075	do	1, 26
462.100	do	1, 26
462.125	do	1, 26
462.150	do	1, 26
462.175	do	1, 26
462.750	Base	10
462.775	do	10
462.800	do	10
462.825	do	10
462.850	do	10
462.875	do	10
462.900	do	10
462.925	do	10
463.200	Base or mobile	1, 26
463.225	do	1, 26
463.250	do	1, 26
463.275	do	1, 26
463.300	do	1, 26
463.325	do	1, 26
463.350	do	1, 26
463.375	do	1, 26
463.400	do	1, 26
463.425	do	1, 26
463.450	do	1, 26
463.475	do	1, 26
463.500	do	1, 26
463.525	do	1, 26
463.550	do	1, 26
463.575	do	1, 26
463.600	do	1, 26
463.625	do	1, 26

Business Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
463.650	do	1, 26
463.675	do	1, 26
463.700	do	1, 26
463.725	do	1, 26
463.750	do	1, 26
463.775	do	1, 26
463.800	do	1, 26
463.825	do	1, 26
463.850	do	1, 26
463.875	do	1, 26
463.900	do	1, 26
463.925	do	1, 26
463.950	do	1, 26
463.975	do	1, 26
464.000	do	1, 26
464.025	do	1, 26
464.050	do	1, 26
464.075	do	1, 26
464.100	do	1, 26
464.125	do	1, 26
464.150	do	1, 26
464.175	do	1, 26
464.200	do	1, 26
464.225	do	1, 26
464.250	do	1, 26
464.275	do	1, 26
464.300	do	1, 26
464.325	do	1, 26, 29
464.350	do	1, 26
464.375	do	1, 26, 29
464.400	do	1, 26,
464.425	do	1, 26, 29
464.450	do	1, 26
464.475	do	1, 26, 29
464.500	do	1, 3, 36, 30
464.525	do	1, 26, 29
464.550	do	3, 30
464.575	do	1, 26, 29
464.600	do	1, 26
464.625	do	1, 26
464.650	do	1, 26
464.675	do	1, 26, 29
464.700	do	1, 26
464.725	do	1, 26
464.750	do	1, 26
464.775	do	1, 26, 29
464.800	do	1, 26
464.825	do	1, 26, 29
464.850	do	1, 26
464.875	do	1, 26, 29
464.900	do	1, 26
464.925	do	1, 26, 29
464.950	do	1, 26
464.975	do	1, 26, 29
465.000	Base	10, 30
465.650	Mobile	4, 25, 26, 31
465.675	do	4, 25, 26, 31
465.700	do	4, 25, 26, 31
465.725	do	4, 25, 26, 31
465.750	do	4, 25, 26, 31
465.775	do	4, 25, 26, 31
465.800	do	4, 25, 26, 31
465.825	do	4, 25, 26, 31
465.850	do	4, 25, 26, 31
465.875	do	4, 25, 26, 31
465.900	Mobile	1, 27, 39
465.925	do	1, 27, 39
465.950	do	1, 27, 39
465.975	do	1, 28, 39
466.000	do	1, 28, 39
466.025	do	1, 26
466.050	do	1, 26
466.075	do	1, 26
466.100	do	1, 26
466.125	do	1, 26
466.150	do	1, 26
466.175	do	1, 26
466.200	do	1, 26
466.225	do	1, 26
466.250	do	1, 26
466.275	do	1, 26
466.300	do	1, 26
466.325	do	1, 26
466.350	do	1, 26
466.375	do	1, 26
466.400	do	1, 26
466.425	do	1, 26

Business Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
466.450	do	1, 26
466.475	do	1, 26
466.500	do	1, 26
466.525	do	1, 26
466.550	do	1, 26
466.575	do	1, 26
466.600	do	1, 26
466.625	do	1, 26
466.650	do	1, 26
466.675	do	1, 26
466.700	do	1, 26
466.725	do	1, 26
466.750	do	1, 26
466.775	do	1, 26
466.800	do	1, 26
466.825	do	1, 26
466.850	do	1, 26
466.875	do	1, 26
466.900	do	1, 26
466.925	do	1, 26
466.950	do	1, 26
466.975	do	1, 26
467.000	do	1, 26
467.025	do	1, 25
467.050	do	1, 26
467.075	do	1, 26
467.100	do	1, 26
467.125	do	1, 26
467.150	do	1, 26
467.175	do	1, 26
467.750	do	4, 13, 22, 23
467.775	do	4, 13, 22, 23
467.800	do	4, 13, 22, 23
467.825	do	4, 13, 22, 23
467.850	do	4, 13, 22
467.875	do	4, 13, 22
467.900	do	4, 13, 22
467.925	do	4, 13, 22
468.200	do	1, 26
468.225	do	1, 26
468.250	do	1, 26
468.275	do	1, 26
468.300	do	1, 26
468.325	do	1, 26
468.350	do	1, 26
468.375	do	1, 26
468.400	do	1, 26
468.425	do	1, 26
468.450	do	1, 26
468.475	do	1, 26
468.500	do	1, 26
468.525	do	1, 26
468.550	do	1, 26
468.575	do	1, 26
468.600	do	1, 26
468.625	do	1, 26
468.650	do	1, 26
468.675	do	1, 26
468.700	do	1, 26
468.725	do	1, 26
468.750	do	1, 26
468.775	do	1, 26
468.800	do	1, 26
468.825	do	1, 26
468.850	do	1, 26
468.875	do	1, 26
468.900	do	1, 26
468.925	do	1, 26
468.950	do	1, 26
468.975	do	1, 26
469.000	do	1, 26
469.025	do	1, 26
469.050	do	1, 26
469.075	do	1, 26
469.100	do	1, 26
469.125	do	1, 26
469.150	do	1, 26
469.175	do	1, 26
469.200	do	1, 26
469.225	do	1, 26
469.250	do	1, 26
469.275	do	1, 26
469.300	do	1, 26
469.325	do	1, 26
469.350	do	1, 26
469.375	do	1, 26
469.400	do	1, 26
469.425	do	1, 26
469.450	do	1, 26
469.475	do	1, 26
469.500	do	3, 30
469.525	do	1, 26
469.550	do	3, 30
469.575	do	1, 26
469.600	do	1, 26
469.625	do	1, 26
469.650	do	1, 26
469.675	do	1, 26
469.700	do	1, 26
469.725	do	1, 26
469.750	do	1, 26
469.775	do	1, 26
469.800	do	1, 26
469.825	do	1, 26
469.850	do	1, 26
469.875	do	1, 26
469.900	do	1, 26
469.925	do	1, 26
469.950	do	1, 26
469.975	do	1, 26
470 to 512	Base or mobile	32
606 to 821	Mobile	33
851 to 866	Base or mobile	33
952 and above	Operational fixed	34
1427 to 1435	Operational fixed, base or mobile.	21
10,550 to 10,680	Base or mobile	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) Operation on this frequency is limited to a maximum output power of 110 watts.

(2) This frequency will be assigned only for operation in a permanent area, normally within 120 km (75 mi.) of a specified reference point.

(3) This frequency will be assigned only to stations used in itinerant operations.

(4) Operation on this frequency is limited to a maximum output power of 2 watts; and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may provide the operational functions of a base or fixed station on a secondary basis to mobile service operations, *Provided,* That the separation between the control point and the center of the radiating portion of the antenna of any units so used does not exceed 8 m (25 ft.).

(5) [Reserved]

(6) Operation on this frequency is limited to a maximum output power of 1 watt and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may provide the operational functions of a base of fixed station on a secondary basis to mobile service operations, *Provided,* That the separation between the control point and the center of the radiating portion of the antenna of any units so used does not exceed 8 m (25 ft.)

(7) The frequencies available in the band 72-76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

(8) Use of this frequency in this service in limited to stations located in Puerto Rico and the Virgin Islands.

(9) This frequency is shared with Taxicab Radio Service and is available for assignment in the Business Radio Service only to stations which are used exclusively in areas outside of Standard Metropolitan Statistical Areas of 50,000 or more population (1950 Census). Operations on this frequency are on a secondary basis to operations in the Taxicab Radio Service.

(10) This frequency is assigned only for one-way paging communications to mobile receivers. Only A2, A3, F2, or F3 emissions may be authorized.

(11) This frequency is also available for base or mobile stations in the Special Industrial and Forest Products Radio Services on a secondary basis to paging operations in the Business Radio Service.

(12) This frequency will not be assigned to stations for use at temporary locations.

(13) This frequency may be used for mobile operation for radio remote control and telemetering functions. A1, A2, F1, or F2 emission may be authorized and mobile stations used to control remote objects or devices may be operated in the continuous carrier transmit mode.

(14) This frequency may be used for mobile operation for radio remote control and telemetering functions. A1, A2, F1, or F2 emission may be authorized. The use of the continuous carrier transmit mode for these purposes is permitted only for stations authorized and continuously licensed since before May 21, 1971.

(15) Operation on this frequency is limited to a maximum output power of 20 watts.

(16) Operation on this frequency is limited to a maximum output power of 75 watts.

(17) This frequency will be assigned only for transmitting hydrological or meteorological data in accordance with the provisions of § 90.265.

(18) This frequency is available on a shared basis with other Industrial Radio Services as follows: Power, Forest Products, Special Industrial, Petroleum, Manufacturers, Business, and the Local Government Radio Service and may be used in this service only for the purpose of remote control and telemetering.

(19) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 2.8 kHz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2.0 kHz. The carrier frequency must be maintained within

height of the antenna system may not

(viii) A1, A2, A9, F1, F2, or F9 emis-

ciated stations located within 45 de-

V 4 3 1 2 2 6 N 0 2 2 7 8 UMI

0.0005 percent and the authorized bandwidth may not exceed 6 kHz.

(20) For FM transmitters the sum of the highest modulating frequency and the amount of frequency deviation may not exceed 1.7 kHz, and the maximum frequency deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1.5 kHz. The carrier frequency must be maintained within 0.0005 percent and the authorized bandwidth may not exceed 3 kHz.

(21) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(22) This frequency may not be used aboard aircraft in flight.

(23) Frequencies subject to this assignment limitation are herein considered collectively for use for communications concerned with cargo handling from a dock, or a cargo handling facility, to a vessel alongside. Any number of the frequencies may be authorized to one licensee for the purpose. Mobile relay stations may be temporarily installed at or in the vicinity of a dock or cargo handling facility and used when a vessel is alongside the dock or cargo handling facility.

Mobile Relay (MHz)	Mobile (MHz)
457.525	467.750
457.550	467.775
457.575	467.800
457.600	467.825

For single-frequency simplex: use mobile relay frequencies. The effective radiated power (ERP) on any frequency shall not exceed 2 watts. The center of the radiating system of the onboard repeater antenna shall be located no more than 3 m (10 ft.) above the vessel's highest working deck.

(24) [Reserved]

(25) This frequency is available for assignment to stations located on or near airports serving urbanized areas of 200,000 or more population. U.S. Census of Population, 1960, vol. 1, table 23, page 1-50, and may be assigned only to persons engaged in furnishing commercial air transportation service, or to a nonprofit corporation or association for the purpose of furnishing radio communications service to persons so engaged on a nonprofit cost-sharing basis. Stations on this frequency may be used only in connection with the servicing and supplying of aircraft at the airport. Common frequency signal boosters may be employed in accordance with the following criteria:

(i) The amplified signal is retransmitted only on the exact frequency of the originating base station.

(ii) The booster is equipped with automatic gain control circuitry which will limit the total output of the booster to 500 milliwatts under all conditions.

(iii) All such devices are installed with sufficient isolation between receiving and retransmitting circuits to prevent oscillation.

(iv) The power of any emission except on frequencies within the 460.6375-460.8875 MHz band or on which there is an input signal to the booster, shall be attenuated at least 35 decibels below the total power output of the booster.

(v) In the event control of the booster is impaired due to its activation by signals other than those intended by the licensee to be retransmitted, the licensee shall provide the booster with means of control such that it will be activated only by signals intended to be retransmitted, and boosters so provided with such means of control shall also be provided with an automatic time-delay or clock device which will deactivate the booster not more than 3 minutes after its activation.

(vi) If signal boosters are to be used in conjunction with other facilities, the number of such boosters must be stated on the license application.

This frequency may also be assigned to low power (2 watts or less) stations in the Business Radio Service for use in areas removed by 8 km (5 mi.) from the boundaries of airports serving any urbanized areas of 200,000 or more population, U.S. Census on Population, 1960, vol. 1 table 23, page 1-50. All such use is restricted to confines of an industrial complex or manufacturing yard area. Finally, this frequency is also available for assignment to stations in the Business Radio Service for use at locations removed by 120 or more km (75 mi.) from the boundaries of airports in urbanized areas of 200,000 or more population, U.S. Census of Population, 1960, vol. 1 table 23, page 1-50. Maximum permissible output power is 110 watts for this use.

(26) This frequency may be assigned to fixed stations in the Business Radio Service in accordance with the provisions of § 90.261.

(27) Within the boundaries of urbanized areas of 200,000 or more population, defined in the United States Census of Population, 1960, vol. 1, table 23, page 1-50, this frequency may be used only by persons rendering a central station commercial protection service within the service area of the radio station utilizing the frequency and may be used only for communications pertaining to safety of life and property, and for maintenance or testing of the protection facilities. Central Station commercial protection service is defined as an electrical protection and supervisory service rendered to the public from and by a central station accepted and certified by one or more of the recognized rating agencies, or the Underwriters Laboratories' (UL), or Factory Mutual System. Other stations in the Business Radio Service may be licensed on this frequency only when all base, mobile relay and control stations are located at least 75 miles from the city center or centers of the specified urbanized areas of 200,000 or more population. With respect to combination urbanized areas containing more than one city, 75-mile separation shall be maintained from each city center which is included in the urbanized area. The locations of centers of cities are determined from appendix, page 226, of the U.S. Commerce publication "Air Line Distance Between Cities in the United States."

(28) This frequency may be assigned only to persons rendering a central station commercial protection service, which is defined at 90.75(c)(27), within the service area of the radio station utilizing the frequency.

(29) This frequency will be assigned only to stations whose control point location is within 805 m (½ mi. direct) of the transmitter location. Maximum power output may not exceed 110 watts, and the overall height of the antenna above ground may not exceed 30 m (100 ft.).

(30) Operation on this frequency is limited to a maximum output power of 35 watts.

(31) Maximum permissible power output for stations on airports is 3 watts. Each station authorized on this frequency will be classified and licensed as a mobile station. Any units of such a station, however, may provide the functions of a base station on a secondary basis to mobile service operations provided that the vertical separation between the control point or ground level and the center of the radiating portion of the antenna of any units so used shall not exceed 8 m (25 ft.).

(32) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(33) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(34) Assignment of frequencies to operational-fixed stations in the bands 952 MHz and above is governed by Part 94 of this Chapter.

(35) The maximum output power of the transmitter may not exceed 1 watt. A1, A2, A9, F1, F2, or F9 emission may be authorized.

(36) The maximum effective radiated power (ERP) may not exceed 2 watts. All operation is on a secondary basis to adjacent channel land mobile operations. All stations will be licensed as a mobile, however, such stations may be used to provide the operational functions of a base or fixed station. When performing such functions, the height of the antenna system may not exceed 15.24 m (50 feet) above ground.

(37) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S. Census or Population 1970). Operation is on a secondary basis to that in the Power Radio Service.

(38) This frequency may be used, with the transmitter carrier centered on the designated frequency or 5 kHz above or below the designated frequency, with P0 or P2 emission, using a bandwidth of 5 kHz and a power not to exceed 1 watt peak power output.

(39) Persons who render a central station commercial protection service are authorized to operate fixed stations on this frequency for the transmission of tone or impulse signals on a secondary, noninterference base-to-base/mobile operations subject to the following conditions and limitations.

(i) Secondary fixed operations may be used only for the following purposes.

(A) Indication of equipment malfunction.

(B) Actuation of a device to indicate the presence of an intruder, fire, or other hazardous condition on the property under the protection of the licensee.

(C) Indication of an abnormal condition in facilities under the protection of the licensee that, if not promptly reported, would result in danger to human life.

(D) Transmission, as may be necessary, to verify status of equipment; adjust operating conditions; or correct any abnormal condition.

(E) Confirmation of status, or that an operation or correction has been accomplished.

(ii) The maximum duration of any one nonvoice signal may not exceed 2 seconds and shall not be transmitted more than three times.

(iii) Systems employing automatic interrogation shall be limited to nonvoice techniques and shall not be activated for this purpose more than 10 seconds out of any 60-second period. This 10-second frame includes both transmit and response times.

(iv) The bandwidth shall not exceed that authorized to the licensee for the primary operation on the frequency concerned.

(v) Frequency loading resulting from the use of secondary signaling will not be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile system.

(vi) A mobile service frequency may not be used exclusively for secondary signaling.

(vii) The output power shall not exceed 30 watts (at the remote site).

(viii) A1, A2, A9, F1, F2, or F9 emission may be authorized.

(ix) The transmitter shall be designed to deactivate automatically after 3 minutes of continuous carrier radiation.

(x) Operational fixed stations authorized under this paragraph are exempt from the requirements of §§ 91.54(e)(2), 91.107(e), 91.152, 91.154.

(xi) On these frequencies, base, mobile relay or mobile stations may transmit secondary tone or impulse signals to receivers, as provided in this section.

(40) Licensees providing a central station commercial protection service may communicate with police or fire stations, or vehicles, on this frequency, and may install licensed transmitting units which operate on this frequency at police or fire stations, or in police or fire vehicles, if the frequency's primary use is in a base/mobile system for a central station commercial protection service.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service. (See also § 90.253.)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new station will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(3) Licensees holding a valid authorization on January 1, 1973, to operate on the frequencies 406.025, 406.075 MHz may continue to be authorized for such operations until the expiration of their present license on a secondary basis to stations operating in accordance with the table in § 2.106 of this chapter.

(4) Frequencies separated by 12.5 kHz from regularly assigned frequencies in the 457.525-460.650, 460.875-464.975, and 465.875-469.975 MHz bands may be assigned for use by mobile stations of two watts or less output power which may also serve the function of a base, fixed, or mobile relay station. All operation shall be on a secondary, noninterference basis to regularly assigned adjacent frequency operations and shall be entitled to no protection from such stations. Wide area operations will not be authorized. The area of normal day-to-day operation shall be described in the application in terms of a maximum geographic center (latitude and longitude). Mobile stations, when used as fixed stations, shall be exempt from the limitations of § 90.75(e). Antennas of mobile stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back ratio of at least 15 dB. Except as provided below, the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 7 m. (20 ft.) above the ground.

(1) No limit shall be placed on the length or height above ground of any commercially manufactured radiating transmission line when the transmission line is terminated in a nonradiating load and is routed at least 7 m. (20 ft.) interior to the edge of any structure or is routed below ground level.

(ii) Sea-Based stations may utilize antennas mounted not more than 7 m. (20 ft.) above the man-made supporting structure, excluding antenna structures.

(5) Low-power mobile stations of 100 mW or less output power may be assigned any frequency separated by 12.5 kHz from a regularly assigned frequency in the bands 460.650-460.875 MHz and 465.650-465.875 MHz listed in paragraph (c) of this section, for one-way, non-voice biomedical telemetry operations in hospitals, or in medical or convalescent centers.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the ranges 30.56-30.57 MHz, 35.00-35.01 MHz, 35.99-36.00 MHz, and 37.00-37.01 MHz are available for assignment to applicants in this service subject to the provisions of subpart P, notwithstanding this limitation.

(3) Frequencies in the 457 and 467 MHz bands may be assigned collectively as provided by paragraph (c)(23) of this section notwithstanding this limitation.

(4) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequencies bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239 notwithstanding this limitation.

(f) *Limitation on itinerant operation.* Base or mobile stations being utilized in itinerant operation will be authorized only on base or mobile frequencies designated for itinerant operation under § 90.75(c)(12).

modulating frequency may not exceed

§ 90.79 Manufacturers radio service.

(a) *Eligibility.* Persons primarily engaged in any of the following manufacturing activities are eligible to hold authorizations in the Manufacturers Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee:

(1) The mechanical or chemical transformation of substances into new products within such establishments as plants, factories, shipyards, or mills which employ, in that process, power-driven machines and materials-handling equipment.

(2) The assembly of components of manufactured products within such establishments as plants, factories, shipyards, or mills where the new product is neither a new structure nor other fixed improvement. Establishments primarily engaged in the wholesale or retail trade, or in service activities, even though they fabricate or assemble any or all the products or commodities handled, are not eligible in this service.

(3) The providing of supporting services or materials by a corporation to its parent corporation, to another subsidiary of its parent or to its own subsidiary, where such supporting services or materials are directly related to those regular activities of such parent or subsidiary which constitute the basis for eligibility in this service.

(b) *Special limitations on use.* The following limitations are applicable to the use of stations in this service:

(1) Authorized stations may be used only for the transmission of communications related to the operation of the plant, such as for security, production control or materials-handling. Communications related to the retail distribution of the licensees products are not permitted.

(2) Base station will only be authorized in this service for operation at specified and permanent locations.

(c) *Frequencies available.* The following table indicated frequencies available for assignment to stations in the Manufacturers Radio Service, together with the class of stations(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (d) of this section:

Manufacturers Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz		
72.02	Mobile	1, 2
72.04	do	1, 2
72.06	do	1, 2
72.08	do	1, 2, 3
72.10	do	1, 2
72.12	do	1, 2
72.14	do	1, 2
72.16	do	1, 2, 3

Manufacturers Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
72.18	do	1, 2
72.20	do	1, 2
72.22	do	1, 2
72.24	do	1, 2, 3
72.26	do	1, 2
72.28	do	1, 2
72.30	do	1, 2
72.32	do	1, 2, 3
72.34	do	1, 2
72.36	do	1, 2
72.38	do	1, 2
72.40	do	1, 2, 3
72.44	do	2, 4
72.48	do	2, 2
72.52	do	2, 4
72.56	do	2, 4
72.60	do	2, 4
75.44	do	2, 4
75.48	do	2, 4
75.52	do	2, 4
75.56	do	2, 4
75.60	do	2, 4
153.050	Base or mobile	5
153.065	do	5
153.080	do	5
153.095	do	5
153.110	do	5
153.125	do	5
153.140	do	5
153.155	do	5
153.170	do	5
153.185	do	5
153.200	do	5
153.215	do	5
153.230	do	5
153.245	do	5
153.260	do	5
153.275	do	5
153.290	do	5
153.305	do	5
153.320	do	5
153.335	do	5
153.350	do	5
153.365	do	5
153.380	do	5
153.395	do	5
154.45625	Mobile	6, 9, 10, 19
154.46375	do	6, 7, 9, 10, 19
154.47125	do	6, 7, 9, 10
154.47875	do	6, 9, 10, 19
158.280	do	5
158.295	do	5
158.310	do	5
158.325	do	5
158.415	do	5
158.430	do	5
173.20375	Fixed or mobile	6, 7, 9, 10
173.2100	do	7, 8, 9, 10
173.2375	do	6, 9, 10, 19
173.2625	do	6, 9, 10, 19
173.2875	do	6, 9, 10, 19
173.3125	do	6, 9, 10, 19
173.3375	do	6, 9, 10, 19
173.3625	do	6, 9, 10, 19
173.3900	do	7, 8, 9, 10
173.39625	do	6, 7, 9, 10
216–220	Base of mobile	11
450–470	Fixed	12
451.175	Base or mobile	13
451.225	do	13
451.275	do	13
351.375	do	13
451.475	do	13
451.525	do	13
451.575	do	13
451.625	do	13
451.675	do	13
456.175	Mobile	13
456.225	do	13
456.275	do	13
456.375	do	13
456.425	do	13
456.475	do	13
456.525	do	13
456.575	do	13
456.625	do	13
456.675	do	13

Manufacturers Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
462.200	Base or mobile	
462.225	do	
462.250	do	
462.275	do	
462.300	do	
462.325	do	
462.350	do	
462.375	do	
462.400	do	
462.425	do	
462.450	do	
462.475	do	13
462.500	do	
462.525	do	13
467.200	Mobile	
467.225	do	
467.250	do	
467.275	do	
467.300	do	
467.325	do	
467.350	do	
467.375	do	
467.400	do	
467.425	do	
467.450	do	
467.475	do	13
467.500	do	
467.525	do	13
470–512	Base or mobile	14
806–821	Mobile	15
815–866	Base or mobile	15
952 and above	Operational fixed	16
1427 to 1435	Operational fixed, base or mobile	1
2450 to 1435	Base or mobile	17
8400 to 8500	do	18
10,550 to 10,680	do	

(d) Explanation of assignment limitations appearing in the frequency tabulation of paragraph (c) of this section:

(1) This frequency is shared with fixed stations in other services and is subject to no protection from interference.

(2) All communications on this frequency must be conducted within the boundaries or confines of plant, factory, shipyards, mill, or other manufacturing area. All operations on this frequency are subject to the provisions of § 90.275(b).

(3) This frequency is shared with the Radio Control (R/C) Service, part of the Personal Radio Services, where it is used solely for the radio control of models.

(4) This frequency is available on a shared basis in the Manufacturers, Special Industrial and Railroad Radio Services and interservice coordination is required.

(5) This frequency is shared with the Forest Products and Petroleum Radio Services. The output power of transmitters operating on this frequency shall not exceed 110 watts.

(6) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 2800 Hz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2000 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the frequency band, and the authorized bandwidth may not exceed 6 kHz.

(7) In this frequency band the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. A1, A2, F1, or F2 emission may be authorized, and mobile stations used to control remote objects and devices may be operated in the continuous transmit mode.

(8) For FM transmitters the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 1700 Hz and the maximum deviation may not exceed 1.2 kHz. For AM transmitters the highest modulating frequency may not exceed 1200 Hz. The carrier frequency must be maintained within 0.0005 percent of the center of the freqency band, and the authorized bandwidth may not exceed 3 kHz.

(9) This frequency band is available on a shared basis with the Local Government and several Industrial Radio Services. Evidence of interservice coordination is required.

(10) Operational fixed stations must employ directional antennas having a front-to-back ratio of at least 20 db. Omnidirectional antennas having unity gains may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth.

(11) This frequency band is available to stations in this service in this service subject to the provisions of § 90.259.

(12) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is on a secondary basis to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(13) This frequency is available on a shared basis in the Power Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequences in the 450-470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(14) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(15) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(16) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by part 94 of this chapter.

(17) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(18) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(19) The maximum effective rediated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations and the height of the antenna system may not exceed 15.24 meters (50 feet) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

(20) Use of this frequency is limited to stations located at least 120.7 km (75 miles) from the center of any urbanized area of 200,000 or more population (U.S Census of Population, 1970). Operation is on a second any basis to that in the Power Radio Service.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also 90.253.)

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

(2) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(3) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(f) *Limitation on number of frequencies assignable.* Normally only one frequency or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the ranges 30.56-30.57 MHz, 35.00-35.01 MHz, 35.99-36.00 MHz, and 37.00-37.01 MHz are available for assignment to applicants in this service subject to the provisions of subpart P notwithstanding this limitation.

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.81 Telephone Maintenance Radio Service.

(a) *Eligibility.* Communications common carriers primarily engaged in rendering a wire-line or wire-line and radio communications service to the public for hire, and radio communications common carriers authorized in the Point-to-Point Microwave Radio Service under part 21 are eligible to hold authorizations in the Telephone Maintenance Radio Service to operate radio stations for transmission of communications in accordance with paragraph (b) of this section.

(b) *Special limitations on use.* The facilities authorized in this service shall only be used for transmission of communications directly related to the construction, repair, maintenance or operation of communications common carrier facilities. The facilities authorized in this service shall not be used for administrative or other sales related business activities of the licensee, nor for the transmission of any common carrier or public correspondence communication.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Telephone Maintenance Radio Service, together with the class of station(s) to which they are normally assigned and the specific assignment limitations which are explained in paragraph (d) of this section:

Telephone Maintenance Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
35.16	Base or mobile	1
43.16	Mobile	1
151.985	Base or mobile	1
156.34	Mobile	1
216 to 220	Base or mobile	2
450 to 470	Fixed	3
451.175	Base or mobile	4
451.225	do	4
451.275	do	4
451.300	do	1
451.325	do	1
451.350	do	1
451.375	do	4
451.400	do	1
451.425	do	4
451.450	do	1
451.475	do	4
451.500	do	1
451.525	do	4
451.575	do	4
451.625	do	4
451.675	do	4
456.175	Mobile	4
456.225	do	4
456.275	do	4
456.300	do	1, 5
456.325	do	1, 5
456.350	do	1, 5

Motor Carrier Radio Service Frequency

Motor Carrier Radio Service Frequency

band 72-76 MHz are listed in

Telephone Maintenance Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
456.375	do	4
456.400	do	1, 5
456.425	do	4
456.450	do	1, 5
456.475	do	4
456.500	do	1, 5
456.525	do	4
456.575	do	4
456.625	do	4
456.675	do	4
462.475	Base or mobile	4
462.525	do	4
467.475	Mobile	4
467.525	do	4
470 to 512	Base or mobile	6
806 to 821	Mobile	7
851 to 866	Base or mobile	7
952 and above	Operational fixed	8
1427 to 1435	Operational fixed, base or mobile.	2
2450 to 2500	Base or mobile	9
8400 to 8500	do	10
10,550 to 10,680	do	

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) This frequency may be assigned only to a communications common carrier primarily engaged in rendering a wire-line or wire-line and radio communications service to the public for hire.

(2) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(3) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Land Transportation Radio Services where they are assigned for land mobile operations.

(4) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. Except for assignments made to non-wire-line radiocommunications common carriers authorized in the Point-to-Point Microwave Radio Service under part 21 it may be assigned only when all of the base and mobile frequencies in the 450–470 MHz band for which the applicant is primarily eligible are assigned within 35 miles (56 km) of the proposed base station. Applications for this frequency must be coordinated with all five services.

(5) This frequency may be assigned to auxiliary test stations.

(6) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(7) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(8) Assignment of frequencies to operational-fixed stations in the bands 952 and above is governed by part 94 of this chapter.

(9) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(10) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(e) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also § 90.253.)

(1) The frequencies 27.235, 27.245, 27.255., 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(f) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation;

(2) Frequencies in ranges 30.56–30.57 MHz, 35.00–35.01 MHz, 35.99–36.00 MHz, and 37.00–37.01 MHz are available for assignment of applicants in this service subject to the provisions of subpart P notwithstanding this limitation.

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of automatic vehicle monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

Subpart E—Land Transportation Radio Services

§ 90.85 Scope.

The Land Transportation Radio Services include the motor carrier, Railroad, Taxicab and Automobile Emergency Radio Services. Rules as to eligibility for licensing, permissible communications, assignable frequencies, and any special requirements as to each of these radio services are set forth in the following sections.

§ 90.87 General eligibility.

In addition to the eligibility shown in each Land Transportation Radio Service, eligibility is also provided for any corporation proposing to furnish nonprofit radiocommunication service to its parent corporation, to another subsidiary of the same parent, or to its own subsidiary provided the party served is regularly engaged in any of the eligibility activities set forth in the particular service involved. Eligibility is also provided for a nonprofit corporation or association that is organized for the purpose of furnishing a radiocommunication service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.179.

§ 90.89 Motor carrier radio service.

(a) *Eligibility.* Persons primarily engaged in providing a common or contract motor carrier transportation service in any of the following activities are eligible to hold authorizations in the Motor Carrier Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee. For purposes of this rule, an urban area is defined as being one or more contiguous, incorporated or unincorporated cities, boroughs, towns, or villages, having aggregate population or 2,500 or more persons.

(1) The transportation of passengers between urban areas.

(2) The transportation of property between urban areas.

(3) The transportation of passengers within a single urban area.

(4) The transportation local distribution or collection of property within a single urban area.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Motor Carrier Radio Service, together with the class of station(s) to which they are normally assigned; and the specific assignment limitations, which are explained in paragraph (c) of this section:

Motor Carrier Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
30.66	Base or mobile	1, 2
30.74	do	1, 2
30.82	do	1, 2
30.86	do	1, 3
30.90	do	1, 3
30.94	do	1, 3
30.98	do	1, 3
31.02	do	1, 3
31.06	do	1, 3
31.08	do	1
31.10	do	1, 3
31.12	do	1
31.14	do	1, 3
43.70	do	4
43.72	do	4
43.74	do	4
43.76	do	4
43.78	do	4
43.80	do	4

Motor Carrier Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
43.82	do	4
43.84	do	4
43.86	do	5, 6
43.88	do	5, 6
43.90	do	5, 8
43.92	do	5, 8
43.94	do	5, 6
43.96	do	5
43.98	do	5
44.00	do	5
44.02	do	5
44.04	do	5
44.06	do	5
44.08	do	5
44.10	do	5
44.12	do	5
44.14	do	5
44.16	do	5
44.18	do	5
44.20	do	5
44.22	do	5
44.24	do	5
44.26	do	5
44.28	do	5
44.30	do	5
44.32	do	5
44.34	do	5
44.38	do	5, 6
44.38	do	5, 6
44.40	do	5, 6
44.42	do	5, 6
44.44	do	5, 6
44.46	do	1
44.48	do	1
44.50	do	1
44.52	do	1
44.54	do	1
44.56	do	1
44.58	do	1
44.60	do	1
72.0–76.0	Operational fixed	7
159.495	Base or mobile	8
159.510	do	8
159.525	do	8
159.540	do	8
159.555	do	8
159.570	do	8
159.585	do	8
159.600	do	8
159.615	do	8
159.630	do	8
159.645	do	8
159.660	do	8
159.675	do	8
159.690	do	8
159.705	do	8
159.720	do	8
159.735	do	8
159.750	do	8
159.765	do	8
159.780	do	8
159.795	do	8
159.810	do	8
159.825	do	8
159.840	do	8
159.855	do	8
159.870	do	8
159.885	do	8
159.900	do	8
159.915	do	8
159.930	do	8
159.945	do	8
159.960	do	8
159.975	do	8
159.990	do	8
160.005	do	8
160.020	do	8
160.035	do	8
160.050	do	8
160.065	do	8
160.080	do	8
160.095	do	8
160.110	do	8
160.125	do	8
160.140	do	8
160.155	do	8
160.170	do	8

Motor Carrier Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
160.185	do	8
160.200	do	8
450–470	Fixed	9
452.325	Base or mobile	10
452.375	do	10
452.425	do	10
452.475	do	10
452.625	do	
452.650	do	
452.675	do	
452.700	do	
452.725	do	
452.750	do	
452.775	do	10
452.800	do	
452.825	do	10
452.850	do	
452.875	do	10
457.325	Mobile	10
457.375	do	10
457.465	do	10
457.475	do	10
457.625	do	
457.650	do	
457.675	do	
457.700	do	
457.725	do	
457.750	do	
457.775	do	10
457.800	do	
457.825	do	10
457.850	do	
457.875	do	10
470 to 512	Base or mobile	11
806 to 821	Mobile	12
851 to 866	Base or mobile	12
952 and above	Operational fixed	13
1427 to 1435	Operational fixed, base or mobile.	14
2450 to 2500	Base or mobile	15
8400 to 8500	do	16
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is available for assignment in this service only to common and contract motor carriers of passengers within a single urban area.

(2) This frequency is available on a shared basis with the Petroleum Radio Service.

(3) This frequency is available on a shared basis with stations in the Forestry-Conservation Radio Service.

(4) This frequency is available for assignment in this service only to common and contract motor carriers of passengers between urban areas.

(5) This frequency is available for assignment in this service only to common and contract motor carriers of property between urban areas.

(6) In addition to single frequency operation, this frequency is available to base and mobile stations for the paired frequency mode of operation. For two frequency systems, the separation between base and mobile transmit frequencies is 500 kHz with the base stations transmitting on the higher of the two frequencies.

(7) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257.

8. This frequency is available for assignment in this service only to common and contract motor carriers of property.

(9) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Industrial Radio Services where they are assigned for land mobile operations.

(10) This frequency is shared in the Motor Carrier and Railroad Radio Services. It may be assigned only when all of the frequencies in the 450–460 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 35 miles (56 km) of the proposed base station. Applications for these frequencies must be coordinated with all services involved.

(11) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(12) Subpart M contains rules for assignment of frequencies in 806–821 and 851–866 MHz bands.

(13) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by part 94 of this chapter.

(14) This frequency is available to stations in this service subject to the provisions of § 90.259.

(15) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(16) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also § 90.253.)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0–74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(3) The frequency band 33.00–33.01 MHz may be used for developmental operations subject to the provisions of subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

purposes of automatically indicating the locomotive. (A1, A2, F1 or F2 emis-

will be assigned from mobile service

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247, notwithstanding this limitation.

(2) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.91 Railroad radio service.

(a) *Eligibility.* Railroad common carriers which are regularly engaged in the transportation of passengers or property when such passengers or property are transported over all or part of their route by railroad are eligible to hold authorizations in the Railroad Radio Service to operate radio stations for transmission of communications and to assure safety of operations essential to such activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Railroad Radio Service, together with the class of station(s) to which they are normally assigned; and the specific assignment limitations, which are explained in paragraph (d) of this section:

Railroad Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
72.0 to 76.0	Operational fixed	1
72.44	Mobile	2
72.48	do	2
72.52	do	2
72.56	do	2
76.60	do	2
75.44	do	2
75.48	do	2
75.52	do	2
75.56	do	2
75.60	do	2
160.215	Base or mobile	3, 4
160.230	do	3, 4
160.245	do	3, 4
160.260	do	3, 4
160.275	do	3, 4
160.290	do	3, 4
160.305	do	3, 4
160.320	do	3, 4
160.335	do	3, 4
160.350	do	3, 4
160.365	do	3, 4
160.380	do	3, 4
160.395	do	3, 4
160.410	do	3, 4, 5
160.425	do	3, 4, 5
160.440	do	3, 4, 5
160.455	do	3, 4, 5
160.470	do	3, 4, 5
160.485	do	3, 4, 5
160.500	do	3, 4, 5
160.515	do	3, 4, 5
160.530	do	3, 4, 5
160.545	do	3, 4, 5
160.560	do	3, 4, 5
160.575	do	3, 4, 5
160.590	do	3, 4, 5
160.605	do	3, 4, 5
160.620	do	3, 4
160.635	do	3, 4
160.650	do	3, 4
160.665	do	3, 4
160.680	do	3, 4
160.695	do	3, 4
160.710	do	3, 4
160.725	do	3, 4
160.740	do	3, 4
160.755	do	3, 4
160.770	do	3, 4
160.785	do	3, 4
160.800	do	3, 4
160.815	do	3, 4
160.830	do	3, 4
160.845	do	3, 4
160.860	do	3, 4, 6
160.875	do	3, 4, 6
160.890	do	3, 4, 6
160.905	do	3, 4, 6
160.920	do	3, 4, 6
160.935	do	3, 4, 6
160.950	do	3, 4, 6
160.965	do	3, 4, 6
160.980	do	3, 4, 6
160.995	do	3, 4, 6
161.010	do	3, 4, 6
161.025	do	3, 4, 6
161.040	do	3, 4, 6
161.055	do	3, 4, 6
161.070	do	3, 4, 6
161.085	do	3, 4, 6
161.100	do	3, 4, 6
161.115	do	3, 4, 6
161.130	do	3, 4, 6
161.145	do	3, 4, 6
161.160	do	3, 4, 6
161.175	do	3, 4, 6
161.190	do	3, 4, 6
161.205	do	3, 4, 6
161.220	do	3, 4, 6
161.235	do	3, 4, 6
161.250	do	3, 4, 6
161.265	do	3, 4, 6
161.280	do	3, 4, 6
161.295	do	3, 4, 6
161.310	do	3, 4, 6
161.325	do	3, 4, 6
161.340	do	3, 4, 6
161.355	do	3, 4, 6
161.370	do	3, 4, 6
161.385	do	3, 4, 7
161.400	do	3, 4, 7
161.415	do	3, 4, 7
161.430	do	3, 4, 7
161.445	do	3, 4, 7
161.460	do	3, 4, 7
161.475	do	3, 4, 7
161.490	do	3, 4, 7
161.505	do	3, 4, 7
161.520	do	3, 4, 7
161.535	do	3, 4, 7
161.550	do	3, 4, 7
161.565	do	3, 4, 7
169-172	Operational fixed	8
406-413	do	8
450-470	do	9
452.325	Base or mobile	10
452.375	do	10
452.425	do	10
452.475	do	10
452.775	do	10
452.825	do	10
452.875	do	10
452.900	do	
452.925	do	11
452.950	do	11
457.325	Mobile	10
457.375	do	10
457.425	do	10
457.475	do	10
457.775	do	10
457.825	do	10
457.875	do	10
457.900	do	
457.925	do	11
457.950	do	11
470 to 512	Base or mobile	12
806 to 821	Mobile	13
851 to 866	Base or mobile	13
952 and above	Operational fixed	14
1427 to 1435	Operational fixed, base or mobile.	15
2450 to 2500	Base or mobile	16
8400 to 8500	do	17
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) The frequencies available for assignment to operational fixed stations in the band 72.0 to 76.0 MHz are listed in § 90.257(a)(1). These frequencies which are shared with other services, are available only in accordance with the provisions of § 90.257.

(2) This frequency is available on a shared basis in the Manufacturers, Special Industrial, and Railroad Radio Services and interservice coordination is required. All communications must be conducted within the boundaries or confines of railroad terminals or yards. All operations on this frequency are subject to the provisions of § 90.257(b).

(3) This frequency may be used for the following:

(i) End-to-end, fixed point-to-train, or train-to-train communications in connection with the operation or railroad trains over a track, in yards, or tracks extending through yards and between stations upon which trains are operated by timetable, train order, or both, or the use of which is governed by block signals.

(ii) Intercommunication between adjacent base stations, provided interference is not caused to communications involving radio stations aboard railroad rolling stock.

(iii) Transmission of tone signals for signaling purposes or for remote control of locomotives, including slave locomotives placed within a train to assist the lead locomotive by providing, among other functions auxiliary starting, pulling, and braking actions; and radio controlled cab indicator devices that are placed within a locomotive to give visual signals to the operator of the locomotive.

(4) This frequency may also be used for the transmission of tone or voice communications, including such communications when prerecorded, for purposes of automatically indicating abnormal conditions of trackage and railroad rolling stock when in motion, on a secondary basis to other stations on this frequency. All such operations shall be subject to the following:

(i) The output power shall not exceed 30 watts.

(ii) The bandwidth used shall not exceed that authorized to the licensee for voice transmissions on the frequency concerned.

(iii) The station shall be so designed and installed that it can normally be activated only by its associated automatic control equipment and, in addition, it shall be equipped with a time delay or clock device which will deactivate the station within three (3) minutes following activation by the last car in the train.

(iv) Stations authorized pursuant to the provisions of this subparagraph are exempt from the station identification requirements of § 90.425.

(5) This frequenby is shared with and must be coordinated with the Special Industrial Radio Service in Puerto Rico and the Virgin Islands.

(6) In Puerto Rico and the Virgin Islands only, this frequency is available on a shared basis with remote pickup broadcast stations.

(7) In Puerto Rico and the Virgin Islands only, this frequency is not available to stations operating in the Railroad Radio Service.

(8) This frequency will be assigned only for transmitting hydrological or meteorological data in accordance with the provisions of § 90.265.

(9) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public Safety and Industrial Radio Services where they are assigned for land mobile operations.

(10) This frequency is shared in the Motor Carrier and Railroad Radio Services. It may be assigned only when all of the frequencies in the 450-460 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 35 miles (56 km) of the proposed base station. Applications for this frequency must be coordinated with all services involved.

(11) This frequency may be assigned primarily for stations used for the purpose of controlling slave locomotives that are placed within a train to assist the lead locomotive by providing, among other functions, auxiliary starting, pulling, and braking actions. Additionally, on a secondary basis this frequency may be assigned for remote control of all types of locomotives and, within a railroad yard or terminal area, for remote control of cab indicator devices placed with a locomotive to give visual signals to the operator of the locomotive. (A1, A2, F1 or F2 emissions may be authorized.)

(12) Subpart L contains rules for assignment of frequencies in the 470-512 MHz band.

(13) Subpart M contains rules for assignment of frequencies in the 806-821 and 851-866 MHz bands.

(14) Assignment of frequencies for operational-fixed stations in the band 952 MHz and above is governed by Part 94 of this Chapter.

(15) This frequency band is available to stations in this services subject to the provisions of § 90.259.

(16) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific or medical (ISM) devices.

(17) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(d) *Additional frequencies available.* In addition to the frequencies shown in the frequency table of this section, the following frequencies are available in this service: (See also 90.253).

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the band 73.0-74.6 MHz may be assigned to stations authorized their use on or before December 1, 1961, but no new stations will be authorized in this band, nor will expansion of existing systems be permitted. (See also § 90.257.)

(3) Base and mobile stations authorized as of April 1, 1968, to operate on frequency 161.61 MHz may continue to be authorized for such operation on a secondary basis to the Maritime Mobile Service. The licensees of such stations may renew, modify, reinstate, or assign their licenses in those cases where such assignment accompanies a change of ownership of the licensee's business to the assignee, and may expand existing systems when using that frequency; however, they will not be authorized to establish any new systems on the frequency.

(4) Stations authorized for operation on or before June 11, 1962, on the frequencies 169.575, 170.375, 171.175, 171.975, or 406.050 MHz may continue to be authorized for such operation on a secondary basis to Government stations.

(5) The frequency band 33.00-33.01 MHz may be used for developmental operation subject to the provisions of subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned from mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that:

(1) Additional frequencies above 25 MHz may be assigned in connection with operation of mobile repeaters in accordance with § 90.247 notwithstanding this limitation.

(2) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands, and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.93 Taxicab Radio Service.

(a) *Eligibility.* Persons regularly engaged in furnishing to the public for hire a nonscheduled passenger land transportation service (which may also include the occasional transport of small items of property) not operated over a regular route or between established terminals are elligible to hold authorizations in the Taxicab Radio Service to operate radio stations for the transmission of communications essential to such activities of the licensee.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Taxicab Radio Service, together with the class of station(s) to which they are normally assigned; and the specific assignment limitations, which are explained in paragraph (c) of this section:

Taxicab Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
152.270	Base or mobile	
152.285	do	1
152.300	do	1, 2
152.315	do	1
152.330	do	
152.345	do	1
152.360	do	1, 2
152.375	do	1
152.390	do	
152.405	do	1
152.420	do	1, 2
152.435	do	1
152.450	do	
157.530	Mobile	
157.545	do	1
157.560	do	1, 2
157.575	do	1
157.590	do	
157.605	do	1
157.620	do	1, 2
157.635	do	1
157.650	do	
157.665	do	1
157.680	do	1, 2
157.695	do	1
157.710	do	
450 to 470	Fixed	3
452.050	Base or mobile	
452.100	do	10
452.150	do	

or on behalf of persons who provide to

027 MHz may be assigned for the oper-

Radiolocation Service Frequency Table—

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Taxicab Radio Service Frequency Table—Continued

Frequency or band	Class of station(s)	Limitations
452.200	do	10
452.225	do	10
452.250	do	10
452.275	do	10
452.300	do	
452.350	do	10
452.400	do	10
452.450	do	
452.500	do	
457.050	Mobile	10
457.100	do	10
457.150	do	10
457.200	do	10
457.225	do	10
457.250	do	10
457.275	do	10
457.300	do	10
457.350	do	10
457.400	do	10
457.450	do	10
457.500	do	10
470–512	Base or mobile	4
808 to 821	Mobile	5
851 to 866	Base or mobile	5
952 and above	Operational fixed	6
1427 to 1435	Base, mobile, or operational fixed.	7
2450 to 2500	Base or mobile	8
8400 to 8500	do	9
10,550 to 10,680	do	

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency is available for assignment only to base or mobile stations operating wholly within Standard Metropolitan Areas having 50,000 or more population (1950 Census).

(2) This frequency is available on a secondary basis to Business Radio Service licensees for use at stations outside Standard Metropolitan Areas having 50,000 or more population (1950 Census).

(3) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public-Safety and Industrial Radio Services where they are assigned for land mobile operations.

(4) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(5) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(6) Assignment of frequencies for operational-fixed stations in the bands 952 MHz and above is governed by part 94 of this chapter.

(7) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(8) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(9) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(10) This frequency is shared by stations in the Forest Products Radio Service in the States of Washington, Oregon, Idaho, and Montana in areas at least 40 miles removed from the center of urbanized areas of 200,000 or more population, 1970 Decennial Census. (Provided that, taxicab operations within the specified urbanized areas will not be authorized on frequencies shared with the Forest Products Radio Service until the unshared frequencies are fully utilized.) For two-frequency systems, separation between base and mobile transmit frequencies is 5 MHz; however, a mobile station may be assigned the frequency of an associated base station. (Such operation may, however, subject the single-frequency system to interference that would not occur to a two-frequency system.)

(d) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that: (See also § 90.253).

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

(3) The frequency band 33.00–33.01 MHz may be used for developmental operation subject to the provisions of subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

§ 90.95 Automobile Emergency Radio Service.

(a) *Eligibility.* Persons regularly engaged in any of the following activities are eligible to hold authorizations in the Automobile Emergency Radio Service to operate radio stations for transmission of communications required for dispatching repair trucks, tow trucks, or other road service vehicles to disabled vehicles.

(1) The operation of a private emergency road service for disabled vehicles by associations of owners of private automobiles.

(2) The business of providing to the general public an emergency road service for disabled vehicles.

(b) *Special permissible communications.* On a secondary basis, the transmission of communications by associations of owners of private automobiles which provide emergency road service for the purpose of reporting traffic conditions is authorized.

(c) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Automobile Emergency Radio Service, together with the class of station(s) to which they are normally assigned; and the specific assignment limitations which are explained in paragraph (c) of this section:

Automobile Emergency Radio Service Frequency Table

Frequency or band	Class of station(s)	Limitations
Megahertz:		
150.815	Base or mobile	1, 2, 3
150.830	do	1, 2, 3
150.845	do	1, 2, 3
150.860	do	1, 2, 3
150.875	do	1, 2, 3
150.890	do	1, 2, 3
150.905	do	3, 4
150.920	do	3, 4
150.935	do	3, 4
150.950	do	3, 4
150.965	do	3, 4
157.470	do	5, 6
157.485	do	5, 6
157.500	do	5, 6
157.515	do	5, 6
450 to 470	Fixed	7
452.525	Base or mobile	8
452.550	do	8
452.575	do	8
452.600	do	8
470 to 512	Base or mobile	9
806 to 821	Mobile	10
851 to 866	Base or mobile	10
952 and above	Operational fixed	11
1427 to 1435	Operational fixed, base, or mobile.	12
2450 to 2500	Base or mobile	13
8400 to 8500	do	14
10,550 to 10,680	do	

(d) Explanation of assignment limitations appearing in the frequency table of paragraph (c) of this section:

(1) This frequency is available only for stations (other than those aboard aircraft) which are operated by or on behalf of persons who provide to the general public an emergency road service for disabled vehicles.

(2) Only one of the frequencies 150.815, 150.830, 150.845, 150.860, 150.875, or 150.890 MHz may be assigned to the same licensee in a given area.

(3) This frequency is not available to stations in this service in Puerto Rico or the Virgin Islands.

(4) This frequency is available for assignment to base stations and to mobile stations (other than those aboard aircraft) which are operated by or on behalf of associations of owners of private automobiles.

(5) This frequency is available for assignment to stations, other than those aboard aircraft, which are operated by or on behalf of persons who provide to the general public an emergency road service for disabled vehicles; Except that; at the discretion of the Commission this frequency may also be operated by or on behalf of associations of owners of private automobiles upon a showing that all other frequencies available for assignment to such stations are currently assigned to other stations for use in the area concerned and that the use of the requested frequency, in each case, will be less likely to result in mutual harmful interference that would the use of a frequency otherwise available to the station.

(6) Only one of the frequencies 157.470, 157.485, 157.500, or 157.515 MHz may be assigned to the same licensee in a given area.

(7) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. Operation on these frequencies is secondary to stations in the Public-Safety and Industrial Radio Services where they are assigned for land mobile operations.

(8) This frequency is available for assignment to stations which are operated by or on behalf of associations of owners of private automobiles for single-frequency operation.

(9) Subpart L contains rules for assignment of frequencies in the 470–512 MHz band.

(10) Subpart M contains rules for assignment of frequencies in the 806–821 and 851–866 MHz bands.

(11) Assignment of frequencies for operational-fixed stations in the bands 952.MHz and above is governed by part 94 of this Chapter.

(12) This frequency band is available to stations in this service subject to the provisions of § 90.259.

(13) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices.

(14) Use of this frequency band is limited to developmental operation and is subject to the provisions of subpart P.

(e) *Limitation on number of frequencies assignable.* Normally only one frequency, or pair of frequencies in the paired frequency mode of operation, will be assigned for mobile service operations by a single applicant in a given area. The assignment of an additional frequency or pair of frequencies will be made only upon a satisfactory showing of need, except that: (See also § 90.253.)

(1) The frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz are available in accordance with § 90.255.

(2) Frequencies in the 25–50 MHz, 150–170 MHz, and 450–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz 918–926 MHz, and 926–027 MHz may be assigned for the operation of Automatic Vehicle Monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

(3) The frequency band 33.00–33.01 MHz may be used for developmental operation subject to the provisions of subpart P. Any type of emission other than pulsed emission may be used if the bandwidth occupied by the emission is contained within the assigned frequency band.

Subpart F—Radiolocation Service

§ 90.101 Scope.

The Radiolocation Service accommodates the use of radio methods for determination of direction, distance, speed, or position for purposes other than navigation. Rules as to eligibility for licensing, permissible communications, frequency available, and any special requirements are set forth in the following section, except that the operation of Automatic Vehicle Monitoring (AVM) systems is governed by interim provisions set forth in § 90.239.

§ 90.103 Radiolocation service.

(a) *Eligibility.* The following persons are eligible for authorizations in the Radiolocation Service to operate stations to determine distance, direction, speed, or position by means of radiolocation devices, for purposes other than navigation:

(1) Any person engaged in a commercial, industrial, scientific, educational, or local government activity

(2) A corporation or association that will furnish radiolocation service to other persons.

(3) A corporation that will furnish a nonprofit radio communication service to its parent corporation, to another subsidiary of the same parent, or to its own subsidiary where the party to be served is regularly engaged in any of the eligibility activities set forth in this paragraph.

(b) *Frequencies available.* The following table indicates frequencies available for assignment to stations in the Radiolocation Service, together with the class of station(s) to which they are normally assigned, and the specific assignment limitations, which are explained in paragraph (c) of this section:

Radiolocation Service Frequency Table

Frequency or band	Class of station(s)	limitation
Kilohertz:		
70 to 90	Radiolocation land or mobile.	1
90 to 110	Radiolocation land.	
110 to 130	Radiolocation land or mobile.	1
1605 to 1715	do	4, 5, 6
1715 to 1750	do	5, 6
1750 to 1800	do	5, 6, 7
3230 to 3400	do	6, 8
Megahertz:		
420 to 450	do	21
2450 to 2500	do	9
2900 to 3100	do	10, 11
3100 to 3300	do	12
3300 to 3500	do	12, 13
3500 to 3700	do	12
5250 to 5350	do	12
5350 to 5460	do	10, 14
5460 to 5470	do	10, 15
5470 to 5600	do	10, 11
5600 to 5650	do	10, 16
8500 to 9000	do	12, 17
9000 to 9200	do	10, 14
9200 to 9300	do	12
9300 to 9500	do	10, 15, 18
9500 to 10,000	do	12
10,000 to 10,500	do	12, 13, 19
10,500 to 10,550	do	20
13,400 to 14,000	do	12
15,700 to 17,700	do	12
24,050 to 24,250	do	12
33,400 to 36,000	do	12

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to stations licensed in the International Fixed Service and the Maritime Mobile Service.

(2) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to the LORAN Navigation System; all operations are limited to radiolocation lands stations in accordance with footnote US104, section 2.106 of this chapter.

(3) [Reserved]

(4) Non-Government radiolocation service in this band is on a secondary basis to stations in the Aeronautical Radionavigation Service operating on 1638 or 1708 kHz.

(5) Station assignments on frequencies in this band will be made subject to the conditions that the maximum output power shall not exceed 375 watts and the maximum authorized bandwidth shall not exceed 2 kHz.

(6) Because of the operation of stations having priority on the same or adjacent frequencies in this or in other countries, frequency assignments in this band may either be unavailable of may be subject to certain technical of operational limitations. Therefore, applications for frequency assignments in this band shall include information concerning the transmitter output power; the type and directional characteristics of the antenna and the minimum hours of operation (GMT).

(7) This band is shared with the Disaster Communications Service (Part 99) and operations are on a secondary basis to that service between local sunset and local sunrise, or at any

Radiolocation Service Frequency Table—Continued

Frequency or band	Class of station(s)	limitation
3230 to 3400	do	6, 8
Megahertz:		
420 to 450	do	21
2450 to 2500	do	9
2900 to 3100	do	10, 11
3100 to 3300	do	12
3300 to 3500	do	12, 13
3500 to 3700	do	12
5250 to 5350	do	12
5350 to 5460	do	10, 14
5460 to 5470	do	10, 15
5470 to 5600	do	10, 11
5600 to 5650	do	10, 16
8500 to 9000	do	12, 17
9000 to 9200	do	10, 14
9200 to 9300	do	12
9300 to 9500	do	10, 15, 18
9500 to 10,000	do	12
10,000 to 10,500	do	12, 13, 19
10,500 to 10,550	do	20
13,400 to 14,000	do	12
15,700 to 17,700	do	12
24,050 to 24,250	do	12
33,400 to 36,000	do	12

(c) Explanation of assignment limitations appearing in the frequency table of paragraph (b) of this section:

(1) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to stations licensed in the International Fixed Service and the Maritime Mobile Service.

(2) This frequency band is shared with and stations operating in this frequency band in this service are on a secondary basis to the LORAN Navigation System; all operations are limited to radiolocation lands stations in accordance with footnote US104, section 2.106 of this chapter.

(3) [Reserved]

(4) Non-Government radiolocation service in this band is on a secondary basis to stations in the Aeronautical Radionavigation Service operating on 1638 or 1708 kHz.

(5) Station assignments on frequencies in this band will be made subject to the conditions that the maximum output power shall not exceed 375 watts and the maximum authorized bandwidth shall not exceed 2 kHz.

(6) Because of the operation of stations having priority on the same or adjacent frequencies in this or in other countries, frequency assignments in this band may either be unavailable of may be subject to certain technical of operational limitations. Therefore, applications for frequency assignments in this band shall include information concerning the transmitter output power; the type and directional characteristics of the antenna and the minimum hours of operation (GMT).

(7) This band is shared with the Disaster Communications Service (Part 99) and operations are on a secondary basis to that service between local sunset and local sunrise, or at any

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time during an actual or imminent disaster. Local sunrise and sunset times shall be derived from the 1946 American Nautical Almanac. Each frequency assignment in this band is on an exclusive basis within the daytime primary service area to which assigned. The daytime primary service area is the area where the signal intensities are adequate for radiolocation purposes during the hours from sunrise to sunset from all stations in the radiolocation system of which the station in question is a part; that is, the primary service area of the station coincides with the primary service area of the system. The normal minimum geographical separation between stations of different licensees shall be at least 580 km. (360 mi.) when the stations are operated on the same frequency or on different frequencies separated by less than 3 kHz. Where geographical separation of less than 580 km. (360 mi.) is desired uhder these circumstances it must be shown that the desired separation will result in protection ratio of at least 20 decibels throughout the daytime primary service area of other stations. Applications in this band are placed on public notice in accordance with § 1.962 of this chapter. Where the number of applicants requesting authority to serve an area exceeds the number of frequencies available for assignment; or where it appears that fewer applicants or licensees than the number before it should be given authority to serve a particular area; or where it appears that an applicant, either directly or indirectly, seeks to use more than 25 kHz of the available spectrum space in this band, the applications may be designated for hearing.

(8) Frequencies in this band may only be assigned to radiolocation stations which are also assigned frequencies in the 1605–1800 kHz band, provided the use of frequencies in this band is necessary for the proper functioning of the particular radiolocation system. Operations in this band are on a secondary basis to stations operating in accordance with the Commission's table of frequency allocations contained in § 2.106 of this chapter.

(9) This band is allocated to the radiolocation service on a secondary basis to other fixed or mobile services and must accept any harmful interference that may be experienced from such services or from the industrial, scientific, and medical (ISM) equipment operating in accordance with part 18 of this chapter.

(10) Speed measuring devices will not be authorized in this band.

(11) This frequency band is shared with and is on a secondary basis to the Maritime Radionavigation Service (part 83) and to the Government Radiolocation Service.

(12) This frequency band is shared with and is on a secondary basis to the Government Radiolocation Service.

(13) Operations in this band are limited to survey operations using transmitters with a peak power not to exceed 5 watts into the antenna.

(14) This frequency band is shared with and is on a secondary basis to the Aeronautical Radionavigation Service (part 87) and to the Government Radiolocation Service.

(15) The non-Government Radiolocation Service in this band is secondary to the Maritime Radionavigation Service (part 83), the Aeronautical Radionavigation Service (part 87) and the Government Radiolocation Service.

(16) This frequency band is shared with and is on a secondary basis to the Maritime Radionavigation Service (part 83) and the Government Meteorological Aids Service.

(17) Operation in this frequency band is on a secondary basis to airborne Doppler radars at 8800 MHz.

(18) Radiolocation installations will be coordinated with the Government Meteorological Aids Service, and insofar as practicable, will be adjusted to meet the needs of that service.

(19) Operations in this band are on a secondary basis to the Amateur Radio Service (part 97). Pulsed emissions are prohibited.

(20) This band is restricted to radiolocation systems using type A0 emission with a power not to exceed 40 watts into the antenna.

(21) Non-Government pulse-ranging radiolocation stations in this band are secondary to the Government Radiolocation Service and the Amateur Radio Service. Stations authorized pursuant to this footnote must cease operation on or before January 1, 1981. All power and antenna height specifications shall be made on a case-by-case basis.

(d) *Additional frequencies for automatic vehicle monitoring (AVM) systems.* The frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for AVM operations in accordance with § 90.239 except that for corporations rendering service to others under paragraph (a)(2) of this section, such operations are limited to the 904–912 MHz and 918–926 MHz bands.

(e) *Other additional frequencies available.* Radiolocation stations in this service may be authorized, on request, to use frequencies allocated exclusively to Federal Government stations, in those instances where the Commission finds, after consultation with the appropriate Government agency or agencies, that such assignment is necessary or required for coordination with Government activities.

Subpart G—Applications and Authorizations

§ 90.111 Scope.

This subpart contains the procedures and requirements for the filing of applications for authority to operate radio facilities under this part.

§ 90.113 Station authorization required.

No radio transmitter shall be operated in the services governed by this part except under and in accordance with a proper authorization granted by the Commission.

§ 90.115 Ineligibility of foreign governments.

No station authorization in the radio services governed by this part shall be granted to or held by a foreign government or its representative.

§ 90.117 Applications for radio station authorizations.

Persons desiring a radio station authorization must first submit an appropriate application. Prescribed application forms are listed in § 90.119. They may be obtained from the Washington, D.C., office of the Commission, or from any of its engineering field offices. (See § 90.145 for information regarding special temporary authorizations.)

§ 90.119 Application forms.

The following application forms shall be used—

(a) Except as provided for in paragraph (c) of this section, Form 400 shall be used to apply:

(1) For new base, fixed, or mobile station authorizations governed by this part.

(2) for modification or for modification and renewal of an existing authorization. (See § 90.135.)

(3) For the Commission's consent to the assignment of an authorization to another person or entity. In addition, the application shall be accompanied by a letter from the assignor setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of the station, and that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Form 1046 may be used in lieu of this letter.

(b) Except as provided for in paragraph (c) of this section, Form 405–A shall be used to apply for a renewal without modification of a station license.

(c) Form 425 shall be used in lieu of Form 400 and 405(a) to submit applications specifying any frequency in the band 470–512 MHz. (See also Subpart O.)

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(d) A separate application shall be submitted on FCC form 703 whenever it is proposed to change, as by transfer of stock ownership, the control of a corporate licensee.

§ 90.121 Canadian registration.

Form 410 shall be filed by Canadian licensees desiring to operate in the United States under the terms of Article 2 and 3 of the Convention between the United States and Canada concerning operation of Certain Radio Equipment or Stations (which entered into force May 15, 1952). This form may be obtained from the Department of Communications, Ottawa, Canada. That department should also be consulted by U.S. licensees desiring to operate in Canada.

§ 90.123 Full disclosures.

(a) Each application shall contain full and complete disclosures with regard to the real party or parties in interest and as to all matters required to be disclosed by the application forms.

(b) Each application shall be clear and complete in itself without cross reference to information previously filed. An application for modification of an existing station must show in precise detail all particulars of the desired operation, including those not affected by the modification.

§ 90.125 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer or duly authorized employee if the applicant is * * * a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in fact in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorneys belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies must, however, conform in all other particulars to such originals.

(d) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, Section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to Section 312(a)(1) of the Communications Act of 1934, as amended.

§ 90.127 Filing of applications.

(a) All applications for station authorizations and related correspondence shall be submitted to the Commission's Office at Washington, D.C. 20554, directed to the attention of the Secretary.

(b) Unless otherwise specified, an application should be filed at least 60 days prior to the desired date of Commission action. Applications for renewal should be filed no more than 90 days nor less than 30 days prior to the end of the license term. When timely and sufficient application for renewal of the license has been made, the license shall not expire until Commission action on the application has been completed.

§ 90.129 Supplemental information to be routinely submitted with applications.

Each application shall be accompanied by the appropriate information listed below:

(a) Evidence of frequency coordination as required by § 90.175.

(b) Description of any equipment proposed to be used if it does not appear on the Commission's current Radio Equipment List, Equipment Acceptable for Licensing, and designated for use under this part.

(c) A functional system diagram and a detailed description of the manner in which the interrelated stations will operate, if the station is part of a system involving two or more stations at different fixed locations.

(d) Agreements and statements required under § 90.179 if the stations will be cooperatively shared with others under the provisions of that section.

(e) Applicants proposing to construct a radio station in the vicinity of radio astronomy observatories in West Virginia or in the vicinity of a radio receiving zone in Colorado must submit the statements prescribed by § 90.177.

(f) Statements required in connection with developmental operation, as specified in § 90.505.

(g) The narrative statement required by subpart I, part 2 of this chapter concerning environmental impact, if required. See section 1.1101–1.1319.

(h) Requests for authorization to communicate with foreign stations in accordance with § 90.19(c) or § 90.417;

(i) Showings required in connection with the use of frequencies in the band 806–866 MHz as specified in subpart M.

(1) Any statements or showings required in connection with the use of the frequency requested.

(j) Any other statements or other data specifically required under special circumstances which are set forth in the applicable subpart of this part, by the particular form on which the application is filed or upon request by the Commission.

(k) If the applicant proposes to use a multiple-licensed transmitter, he must provide the name of the owner and the names and call signs of any other licensees of that transmitter.

(l) All applications for new stations to be interconnected with the facilities of wire line common carriers shall include a complete description of the equipment, devices, and techniques to be used to accomplish interconnection to show compliance with applicable provisions of subpart O.

§ 90.131 Amendment or dismissal of applications.

(a) Any application, except for mutually exclusive applications or those against which a petition to deny has been filed, may be amended as a matter of right at any time prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner as required for the original application. The procedures for amending applications mutually exclusive under this part, applications against which a petition to deny has been filed, and applications designated for hearing are set forth in § 1.918.

(b) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the time the application is granted or designated for hearing.

§ 90.135 Modification of license.

(a) The following changes in authorized stations require an application for modification of license:

(1) Any change in frequency.

(2) Any change in the type of emission.

(3) Any increase in output power beyond that authorized.

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(4) Any increase in antenna height beyond that authorized.

(5) Any increase in the number of transmitters or control points beyond that authorized.

(6) Any change in the authorized location of the base of fixed transmitter or control point or the area of mobile operation.

(7) Any change in ownership, control, or corporate structure.

(8) Any change in class of station.

(b) The following changes do not require an application for modification of license:

(1) Change in mailing address of licensee.

(2) Change in name only of licensee, without changes in the ownership, control, or corporate structure.

(3) Any other change not listed in paragraph (a) of this section.

(4) In case of a change listed in subparagraph (1) or (2) of this paragraph, the licensee shall promptly notify the Commission of such change.

The notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name or address, the call signs and classes of all radio stations authorized to the licensee under this part and the radio service in which each station is authorized. The notice shall be sent to the Secretary, Federal Communications Commission, Washington, D.C. 20554, and to the Engineer in Charge of the Radio District in which the station is located, and a copy shall be maintained with the license of each station until a new license is issued.

§ 90.137 Applications for operation at temporary locations.

(a) An application for authority to operate a base station or a fixed station at temporary locations may be submitted in accordance with the following:

(1) When one or more individual transmitters are to be operated by a licensee as a base station or as a fixed unspecified or temporary locations for indeterminate periods, such transmitters may be considered to comprise a single station intended to be operated at temporary locations.

(2) The application must specify the general georgaphic area within which the operation will be confined. The area may be specified as a city, a county or counties, a State or States or other definable geographic area.

(b) When any unit or units of a base station or fixed station which are authorized for operation at temporary locations actually remain or are intended to remain at the same location for more than 1 year, an application for a separate authorization specifying the fixed location shall be made as soon as possible, but not later than 30 days after the expiration of the 1-year period.

§ 90.138 Applications for itinerant operation

An application for authority to conduct an itinerant operation must be restricted to use of itinerant frequencies and need not be accompanied by evidence of frequency coordination. Users should be aware, however, that no protection is provided from interference from other itinerant operations.

§ 90.139 Preliminary processing of applications.

(a) Applications received for filing are given a file number. The assignment of a file number to an application is for administrative convenience and does not indicate the acceptance of the application for filing and processing.

(b) Applications which are incomplete with respect to answers, supplementary statements, execution, or other matters of a formal character shall be deemed to be defective and may be returned to the applicant with a brief statement as to such defects. In addition, if an applicant is requested by the Commission to file any additional documents or information not included in the prescribed application form, failure to comply with such request will be deemed to render the application defective, and such application may be dismissed. Applications will also be deemed to be defective and may be returned to the applicant in the following cases:

(1) Statutory disqualification of applicant;

(2) Proposed use or purpose of station would be unlawful;

(3) Requested frequency is not allocated for assignment for the service proposed.

(c) Applications which are not in accordance with the provisions of this chapter, or other requirements of the Commission, will be considered defective and may be dismissed unless accompanied by a request in accordance with § 90.151 of this part.

§ 90.141 Resubmitted applications.

Any application which has been returned to the applicant for correction will be processed in its original position in the processing line if it is resubmitted and received by the Commission within 30 days (45 days outside continental United States) from the date on which it was returned to the applicant. Otherwise it will be treated as a new application for the purpose of processing considerations.

§ 90.143 Grants of applications.

(a) The Commission will grant an application for a station authorization without a hearing if it is in proper form, and conforms with all rule requirements, and would serve the public interest, convenience or necessity.

(b) The Commission may grant any application in part, or add privileges, terms or conditions not requested. When such action is taken without a hearing, the applicant may accept the authorization as granted, or may return it to the Commission along with a written request for a hearing. Any such request for hearing must be made within 30 days from the date of the grant, or from its effective date, if a later date is specified. Upon receipt of a request for hearing, the Commission will vacate the grant and designate the application for hearing in the usual manner.

§ 90.145 Special temporary authority.

(a) In circumstances requiring the temporary use of radio facilites, the Commission may issue special temporary authority for new or modified operations. A request for special temporary authority may be made in letter form signed in accordance with § 90.125 of this part. It should be submitted, in duplicate, at least 10 days prior to the date of the proposed operation. However, in cases of emergency involving danger to life or property, or due to damage to equipment, the request may be made by telephone or telegraph under the condition that a letter request is submitted within the following 10 days. All requests for special temporary authority shall be clear and complete within themselves and shall not rely on any pending application.

(b) Every request for special temporary authority should contain the following information:

(1) Name and address of the applicant;

(2) Need for special action, including a description of any emergency or damage of equipment;

(3) Type of operation to be conducted (such as field test, dispatching etc.);

(4) Purpose of operation;

(5) Times and dates of operation;

(6) Class of station and name of radio service;

(7) Location, including geographical coordinates if known, of transmitter and/or mobile area of operations;

(8) Number of fixed transmitters and number of mobile units;

(9) Operating frequency;

(10) Output power of the transmitter;

(11) Type of emission;

(12) Description of antenna, including height above ground and power gain;

(13) Statement of eligibility for a radio service under this part.

§ 90.147 Mailing address furnished by licensee.

Each application shall set forth and each licensee shall furnish the Commission with an address in the United States to be used by the Commission in serving documents or directing correspondence to that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for this purpose.

§ 90.149 License term.

(a) Licenses for stations authorized under this part will normally be issued for a term of 5 years from the date of original issuance, modification, or renewal, except that, in some instances, a term of from 1 to 5 years will be applied, the term varying as may be necessary to permit the orderly scheduling of renewal applications.

(b) Authorizations for stations engaged in developmental operation under subpart P of this part will be issued upon a temporary basis for a specific period of time, but in no event to extend beyond 1 year from date of original issuance, modification or renewal.

§ 90.151 Requests for waiver.

Requests for waiver shall show the nature of the waiver or exception desired, and set forth the reasons in support thereof to include a showing that unique circumstances are involved and that there is no reasonable alternative solution within existing rules. Applications may be dismissed if the accompanying petition for waiver of rules does not set forth reasons which, sufficient if true, would justify a wavier or exception.

§ 90.153 Transfer or assignment of station authorization.

A station authorization and the rights it grants shall not be transferred, assigned, or in any manner disposed of to any person, unless the Commission shall, after obtaining full information, decide that the transfer, assignment, or disposal is in the public interest, convenience or neccessity and give its consent in writting.

§ 90.155 Time in which station must be placed in operation.

All stations authorized under this part must be placed in operation within 8 months from the date of grant or the authorization shall be invalid and must be returned to the Commission for cancellation.

§ 90.157 Discontinuance of station operation.

If a station licensed under this part discontinues operation on a permanent basis, the licensee shall forward the station license to the Commission for cancellation. A copy of the request for cancellation shall be sent to the Engineer in Charge of the district in which the station is located. For the purposes of this section, any station which has not operated for 1 year or more is considered to have been permanently discontinued.

Subpart H—Policies Governing the Assignment of Frequencies

§ 90.171 Scope.

This subpart contains detailed information concerning the policies under which the Commission assigns frequencies for the use of licensees under this part, frequency coordination procedures, and procedures under which licensees may cooperatively share radio facilities.

§ 90.173 Policies governing the assignment of frequencies.

(a) The frequencies which ordinarily may be assigned to stations in the services governed by this part are listed in subparts B, C, D, E, and F of this part. Except as otherwise specifically provided in this part, frequencies assigned to land mobile stations are available on a shared basis only and will not be assigned for the exclusive use of any licensee.

(b) All applicants and licensees shall cooperate in the selection and use of frequencies in order to reduce interference and make the most effective use of the authorized facilities. Licensees of stations suffering or causing harmful interference are expected to cooperate and resolve this problem by mutually satisfactory arrangements. If the licensees are unable to do so, the Commission may impose restrictions including specifying the transmitter power, antenna height, or area or hours of operation of the stations concerned. Further the use of any frequency at a given geographical location may be denied when, in the judgment of the Commission, its use in that location is not in the public interest; the use of any frequency may be restricted as to specified geographical areas, maximum power, or such other operating conditions, contained in this part or in the station authorization.

(c) Frequencies allocated for Federal Government radio stations under Executive order of the President may be authorized for the use of stations in these services upon appropriate showing by the applicant that such assignment is necessary for inter-communication with government stations or required for coordination with activities of the Federal Government, and where the Commission finds, after consultation with the appropriate government agency or agencies, that such assignment is necessary.

(d) The radio facilities authorized under this part are intended for use in connection with and as an adjunct to the primary governmental or business activities of the licensee.

(e) Persons requesting authority to operate in the band 25-50 MHz should recognize that this band is shared with various services in other countries and that harmful interference may be caused by the propagation of signals in this band from distant stations. No protection from such harmful interference generally can be expected.

(f) In the 150-170 MHz band, no application will be granted which proposes a base station located less than 16 km (10 mi.) from an existing base station on a frequency 15 kHz removed. In the Taxicab Radio Service, the minimum separation is 12 km (7 mi.).

(g) In the States of Alaska and Hawaii, and in areas outside the continental limits of the United States and the adjacent waters, the frequencies above 150.8 MHz which are listed elsewhere in this part as available for assignment to base stations or mobile stations in the Industrial and Land Transportation Radio Service, are also available for assignment to operational fixed stations in the same service, on a secondary basis.

(h) In the Public Safety Services listed in Subpart B, base stations may be authorized to operate on a secondary basis on frequencies below 450 MHz which are available to mobile stations.

(i) In the 450-470 MHz band, the frequencies are ordinarily assigned in pairs, with the mobile station transmit frequency 5 MHz above the paired base station transmit frequency. In the 470-512 MHz band, the frequencies are ordinarily assigned in pairs with the mobile station transmit frequency 3 MHz above the paired base station transmit frequency. A mobile station may be assigned the frequency which would normally be assigned to a base station for single-frequency operation. However, this single-frequency operation may be subject to interference that would not occur to a two-frequency system.

§ 90.175 Frequency coordination requirements.

Except for applications listed in paragraph (e) of this section, each application: (1) for a new frequency assignment, or (2) for a change in existing facilities by increasing the authorized power, raising the authorized antenna height, or changing the authorized station location or the location of the antenna; or (3) for the addition of a base station within the licensee's existing area of operation, shall include

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a showing of frequency coordination as set forth in either paragraph (a) or (b) of this section.

(a) For frequencies below 470 MHz:

(1) A report based on a field study indicating the degree of probable interference to all existing co-channel stations within 120 km. (75 mi.) of the proposed station, together with a statement that all such co-channel licensees have been notified of the applicant's intention to apply. In addition, for frequencies in the range 150–170 MHz, a report based on a field study indicating the degree of probable interference to existing stations located between 16 and 56 km. (10 and 35 mi.) (12 and 56 km. for taxicabs) from the proposed station, operating on a frequency 15 kHz removed, and a statement that the licensee of all such stations have been notified of the applicant's intention to apply. Or,

(2) A statement from a frequency coordinating committee recommending the frequency which, in the opinion of the committee, will result in the least amount of interference to all existing stations operating in the particular area. The Committee's recommendations may appropriately include comments on technical factors such as power, antenna height and gain, terrain, and other factors which may serve to mitigate any contemplated interference. If the frequency recommended is in the 150–170 MHz band, is 15 kHz removed from a frequency which is available to another radio service, and is assignable only after coordination, the committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished.

(b) For frequencies between 470 and 512 MHz:

(1) A report showing that the frequencies applied for are available for assignment in accordance with the applicable loading and separation standards, as specified in § 90.317 and § 90.303, or;

(2) A statement from a frequency coordinating committee recommending specific frequencies which are available for assignment in accordance with the loading standards and mileage separations applicable to the specific radio service involved.

(c) Any recommendation submitted in accordance with Subparagraphs (a)(2) or (b)(2) of this section is purely advisory in character and is not binding on either the applicant or the Commission. The recommendation may not contain statements implying that anyone other than the Commission has the power to grant or deny applications. Applicants are advised not to purchase radio equipment on specific frequencies until a valid authorization has been obtained.

(d) Applications for facilities near the Canadian border north of line A or east of line C in Alaska may require coordination with the Canadian government. See Section 1.955 of this chapter.

(e) The following applications need not be accompanied by evidence of frequency coordination:

(1) Applications in the Police, Highway Maintenance, or Forestry Conservation Radio Services from States requesting frequencies available only in accordance with a geographical assignment plan.

(2) Applications in the Special Emergency Radio Service, except as required by § 90.53(b)(8).

(3) Applications for a Federal Government frequency.

(4) Applications for a frequency allocated primarily for the operation of and affording no protection from industrial, scientific, and medical (ISM) devices, (27 MHz band).

(5) Applications for a frequency in the 72–76 MHz band for operational fixed stations.

(6) Applications for a frequency in the band 216–220 MHz.

(7) Applications for a frequency below 25 MHz.

(8) Applications for a frequency above 512 MHz.

(9) Applications for a frequency allocated primarily for developmental operation.

(10) Applications in the Business Radio Service for a frequency below 450 MHz where both frequencies immediately adjacent (±20 or 30 kHz) are available for assignment in that service, or where the frequency is available pursuant to § 90.75(d)(4).

(11) Applications in the Special Industrial Radio Service or the Business Radio Service specifying an itinerant operation only.

(12) Application in the Radiolocation Radio Service.

§ 90.177 Protection of certain radio receiving locations.

This section pertains to applications for new or modified authorizations in the vicinity of the National Radio Astronomy Observatory, Green Bank, Pocahontas County, W. Va., the Naval Radio Research Observatory, Sugar Grove, Pendleton County, W. Va., or the Table Mountain Radio Receiving Zone, Boulder County, Colo.

(a) Any applicant for a new permanent base or fixed station, or for a modification of an existing authorization which would change the frequency, power, antenna height, directivity, or location within the boundaries described in paragraph (b) of this section shall notify the Director, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, W. Va. 24944, in writing, of the technical parameters of the proposal.

(1) The notification shall be made prior to, or simultaneously with the filing of the application with the Commission.

(2) The notification shall state the geographical coordinates of the antenna, antenna height, antenna directivity, proposed frequency, type of emission, and effective radiated power.

(3) After receipt of such applications, the Commission will allow a period of 20 days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(4) The provisions of this paragraph do not apply to applications for mobile, temporary base, or temporary fixed stations.

(b) The area of concern for the National Radio Astronomy Observatory or the Naval Radio Research Observatory is the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west.

(c) Protection for Table Mountain Radio Receiving Zone, Boulder County, Colo. Applicants for a station authorization to operate in the vicinity of Boulder County, Colo., under this part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the Research Laboratories of the Department of Commerce, Boulder County, Colo. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to insure that field strengths at 40°07′50″ N. Latitude, 105°14′40″ W. Longitude, resulting from new assignments (other than mobile stations) or from modification or relocation of existing facilities do not exceed the following values:

Frequency range	Field strength (millivolt per meter) in authorized bandwidth of service	Power flux density [1] (decibel watt per square meter) in authorized bandwidth of service
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	−65.8
470 to 890 MHz	30	−56.2
Above 890 MHz	1	−85.8

[1] Equivalent values of power flux density are calculated assuming a free space characteristic impedance of 376.7 ≅ 120π ohms.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data indicating whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities. In such instance, the following is a suggested guide for determining whether coordination is appropriate:

(i) All stations within 2.4 km (1.5 statute miles);

(ii) Stations within 4.8 km (3 statute miles) with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16 km (10 statute miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 80 km (50 statute miles) with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder, Colo. 80302; in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which, in fact, permits a signal at the reference point in excess of the field strength specified herein.

§ 90.179 Cooperative use of Public Safety and Special Emergency Land Mobile Radio Stations.

Arrangements may be made between two or more persons for the cooperative use of radio station facilities in the Public Safety and Special Emergency Radio Services provided all persons sharing in the use of a station are eligible to hold licenses to operate the particular type of station shared. Such arrangements shall be governed by the following:

(a) *Agreements relating to control.* (1) A group of persons eligible for a license in the same radio service may share the use of a base station or a base and mobile station licensed to one member of the group provided there is on file with the Commission, and maintained with the records of the station, a copy of the agreement under which such shared operation shall take place. Such agreement should provide that the licensee of the station shall be in control of the operation of the station and that all use of its facilities shall take place only under the direction and supervision of an employee of the licensee.

(2) Subscribers to such service may either obtain a separate license to cover the mobile transmitters which they use or the mobile transmitters may be included in the license of the base station from which service is rendered. In the latter case the coordinated service agreement should specifically cover use of such mobile units and indicate that the licensee would be in control of such units.

(b) *Contributions to operating costs.* Coordinated service may be rendered without cost to subscribers or contributions to capital and operating expenses may be accepted by the licensee. Such contributions must be on a cost-sharing basis and pro-rated on an equitable basis among all persons who are parties to the cooperative arrangement. Records which reflect the cost of the service and its nonprofit, cost-sharing nature shall be maintained by the base station licensee and held available for inspection by a Commission representative.

(c) *Letter to accompany application.* Each application for a mobile station proposing to receive coordinated service shall be accompanied by a letter from the licensee of the base station concerned indicating that the proposed coordinated service will be rendered.

§ 90.181 Cooperative use of industrial and radiolocation land mobile radio stations

(a) Arrangements may be made between two or more persons for the cooperative use of radio station facilities, provided that all such persons are eligible in the same radio service. When two or more persons want to share use of a base station licensed to only one of those persons, arrangements may be made in either of the following two ways:

(1) A person who is to receive service from a base station licensed to a person other than himself may obtain a license for his own mobile radio units. The application for such license shall be accompanied by an application from the licensee of the base station for modification of his license to permit rendition of the desired service. The application for modification of the base station license shall name the person to be served and may be filed either on FCC form 400 or by letter, in duplicate; or

(2) A person who is to furnish base station service to mobile radio units installed in vehicles owned and operated by persons other than himself may, if he desires, be licensee of these mobile radio units. Each person owning and operating such mobile radio units shall enter into a written agreement giving the licensee thereof the sole right of control over such units, and that agreement shall be kept as a part of the records of the base station. The operator of each vehicle shall operate the radio units subject to the orders and instructions of the base station operator. The licensee shall at all times have such access to, and control of the mobile radio equipment as will enable him to discharge his responsibilities under the Communications Act.

(b) A base station licensee who enters into a cooperative arrangement in accordance with the provisions of paragraph (a)(1)(ii) of this section shall obtain prior approval from the Commission for each person who proposes to enter into said arrangement.

(c) All cooperative arrangements entered into under the provisions of this section shall be governed by the following requirements as to costs and charges:

(1) The arrangement may be without charge. If so, the records of the base station or fixed station licensee shall so indicate.

(2) Contributions to capital and operating expenses may be accepted only on a cost-sharing, nonprofit basis, said costs to be prorated on an equitable basis among all persons who are parties to the cooperative arrangement. Records which reflect the cost of the service and its nonprofit, cost-sharing nature shall be maintained by the base station licensee and held available for inspection by Commission representatives. An audited financial statement reflecting the nonprofit cost-sharing nature of the arrangement shall be submitted annually to the Commission's Washington office no later than 3 months after the close of the licensee's fiscal year.

(d) A licensee may install mobile units licensed to him in the vehicles of persons furnishing to the licensee, under contract, and for the duration of the contract only, a facility or service directly related to the activities that constituted eligibility for the station licensee in the service in which he is authorized. The licensee shall maintain exclusive control over the operation of the units. In order to maintain such control, each person in whose vehicles the mobile units of the licensee are to be installed shall enter into a written agreement with the licensee verifying that the licensee has the sole right to control the mobile radio units, that the vehicle operators shall operate the radio units subject to the orders and instructions of the base station operator, and that the licensee shall at all times have such access to and control of the mobile equipment as will enable him to carry out his reponsibilities under his license. A copy

station authorization or in the special (3) The radio service in which the 173, and 450–470 MHz bands on a sec-

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of the agreement with vehicle owners required hereby shall be kept with the station records.

§ 90.183 Cooperative use of land transportation land mobile radio stations.

The use of facilities licensed in the Land Transportation Radio Service for the transmission of reception or any communication which relates solely to the conduct of the activity or activities of a person other than the licensee of those facilities is defined as the rendition of a private radiocommunication service to such other person by the licensee. The installation and use of mobile units, operated under the licensee's station authorization, in the vehicles of other persons furnishing the licensee, under contract, services or facilities within the purview of the established scope of the service in which the station is authorized, in accordance with the provisions of §§ 93.357 and 93.506, shall not be considered the rendition of a private radiocommunication service when the communications involved relate solely to the furnishing of such services or facilities to the licensee. Except for emergency communications, or except for authorized communications relating to civil defense, any rendition of a private radiocommunication service by a station in the Land Transportation Radio Services shall be governed by the following:

(a) The licensee of a base station may render a private radiocommunication service to the licensee(s) of a mobile station or stations in the Land Transportation Radio Services, without specific advance approval by the Commission, upon satisfaction of the following conditions:

(1) The frequency upon which the base station is operated shall be one which would be available for assignment to base stations for use in connection with all the transportation activities involved.

(2) The rendition of the radiocommunication service shall be on a cost-sharing or no-charge basis, in accordance with the provisions of paragraph (e) of this section.

(3) The licensee of the base station shall maintain exclusive control over the operation of the base station; however, he may provide dispatch points (but not control points) for the use of the licensee of the mobile station.

(4) Except upon specific authorization by the Commission, the licensee of a base station shall not serve a greater number of mobile units of any other person than the number of mobile units of the licensee served by the same base station.

(b) The licensee of a base station may install mobile units, operated under an authorization held by him, in the vehicles of other persons who are separately engaged in transportation activities and may render a private radiocommunication service to the vehicles in which those mobile units are installed only upon specific advance approval by the Commission with respect to every person to whom such radiocommunication service is to be rendered and upon satisfaction of the following additional conditions:

(1) The frequency or frequencies upon which the base and mobile station(s) are operated shall be one(s) which would be available for assignment to base and mobile stations, respectively, for use in connection with all of the transportation activities involved.

(2) The rendition of the radiocommunication service shall be on a cost-sharing or no-charge basis, in accordance with the provisions of paragraph (e) of this section.

(3) The licensee of the base and mobile station(s) shall maintain exclusive control over the operation of the base and mobile station(s); however, he may provide dispatch points (but not control points) for the use of the persons receiving the radiocommunication service. In order to maintain such control, each person in whose vehicles the mobile units of the licensee are proposed to be installed shall enter into a written agreement verifying that the licensee has the sole right of control of the mobile radio units, that the vehicle operators shall operate the radio units subject to the orders and instructions of the base station operator, and that the licensee shall at all times have such access to and control of the mobile equipment as will enable him to carry out his responsibilities under the license. A copy of the agreement with vehicle owners required hereby shall be kept with the station records and held available for inspection by Commission representatives but need not be submitted to the Commission unless specifically requested in a particular case.

(4) Except upon specific authorization by the Commission, the licensee of a base station shall not serve a greater number of mobile units of any other person than the number of mobile units of the licensee served by the same base station.

(c) A licensee authorized under the provisions of the various subparts of this part which make eligible in certain of these services a nonprofit corporation or association organized for the purpose of furnishing a private radiocommunication service to persons engaged in the respective activities may render that communication service only upon specific advance approval by the Commission with respect to every person to whom such radiocommunication service is to be rendered and upon satisfaction of the following additional conditions:

(1) The frequency or frequencies upon which the base and mobile station(s) are operated shall be one(s) which would be available for use in connection with all of the transportation activities involved.

(2) The rendition of the radiocommunication service shall be on a cost-sharing or no-charge basis, in accordance with the provisions of paragraph (e) of this section.

(3) The licensee of the base and mobile station(s) shall maintain exclusive control over the operation of the base and mobile station(s) involved; however, he may provide dispatch points for the use of persons receiving the radiocommunication service. Control points may be provided only upon receiving the prior approval of the Commission in each case.

(d) All arrangements for the rendition of a private radiocommunication service in accordance with the provsions of the preceding paragraphs of this section shall be either on a no-charge basis or on a non-profit, cost-sharing basis pursuant to a written contract between the parties concerned. Such contract shall clearly establish that the licensee has full access to and exclusive control over the radio equipment operated under the authority of the license held by him; and that contributions to capital and operating expenses are accepted only on a cost-sharing non-profit basis, said costs to be prorated on an equitable basis among all persons who are parties to the arrangement. Records which reflect the cost of the service and its non-profit, cost-sharing nature shall be maintained by the base (or fixed) station licensee and held available for inspection by Commission representatives.

(e) In order to comply with the requirement of specific advance approval contained in paragraphs (b), and (c) of this section, a licensee proposing to render a private radio communication to any other person (other than to render base station service to the licensee of a mobile station) shall make application for authority to render that service with respect to each base station involved, naming each person who is to receive service and including a description of the kind and extent of the transportation activity in which each is engaged. When the radio communication service is to be rendered on a regular basis, the requests for such authority shall be made on FCC Form 400. However, if the service is to be rendered on an irregular or temporary basis, the request may be in the manner provided for in § 93.53. Upon approval of the request, the Commission will designate the persons to whom service may be rendered on the

station authorization or in the special temporary authority which shall be kept with the station records.

§ 90.185 Cooperative use of fixed radio stations.

(a) Licensees and persons eligible to become licensees of operational fixed stations under this part may make cooperative use of such licensed facilities under the conditions and subject to the limitations specified in this section.

(b) Such licensed facilities may be cooperatively used and shared only by: (1) Persons licensed or eligible to be licensed within the same radio service; or by (2) Government entities, units or subunits right-of-way companies, or enterprises whose rates and services are regulated by a governmental authority or body, regardless of whether such entities, units, subunits, companies, or enterprises are licensed or eligible to be licensed within the same radio service.

(c) The cooperative use of licensed facilities is authorized only on frequencies for which all participants would be separately eligible for assignment.

(d) Licensed facilities may be cooperatively used under this section only (1) without charge to any of the participants in its use, or (2) on a nonprofit, cost-sharing basis pursuant to a written contract between the parties involved which provides that the licensee shall have control of the licensed facilities and that contributions to capital and operating expenses are accepted only on a cost-sharing nonprofit basis, prorated equitably, among all participants using the facilities, or (3) on a reciprocal basis (e.g., use of one licensee's facilities in exchange for the use of another licensee's facilities) without charge for either capital or operating expense, pursuant to a written contract between the licensees involved.

(e) Each licensee sharing its facilities under this section shall maintain records showing the cost of the facilities and their operation and use, the charges made to and payments made by each of those using the facilities or contributing to their capital cost or operating expense, and such records shall be available for inspection by the Commission.

(f) Each licensee sharing its facilities under this section shall file a notification with the Commission 30 days prior to the use of its facilities by any other person that has not been specified in its license application or in a prior notification to the Commission containing the following information:

(1) Name and description of the licensee;

(2) Call sign of the station or stations;

(3) The radio service in which the station is licensed;

(4) The names of all prospective participants in the cooperative use of the station and a description of each participant sufficient to show its eligibility for participation under this section and its eligibility to use the frequencies assigned to the station; and

(5) A copy of the contract between the parties for the cooperative use of the facilities:

(g) The licensee may institute the service described in the notification filed pursuant to paragraph (f) of this section 30 days after filing unless the Commission during that period notifies the licensee that the information supplied is inadequate or that the proposed service is not authorized under these regulations, and the licensee shall then have the right to amend or to file another notification to remedy the inadequacy or defect and to institute service 30 days thereafter, or at such earlier date as the Commission may set upon finding that the inadequacy or defect has been remedied.

(h) Each licensee sharing its facilities under this section on a nonprofit, cost-sharing basis shall file an annual report with the Commission, using FCC Form 402-A, within 90 days of the close of its fiscal year containing:

(1) A financial statement of operations during the preceding fiscal year in sufficient detail to show compliance with the requirements of this section;

(2) The names of those who have shared the use of the facilities during the preceding fiscal year;

(3) A brief statement as to the use of the facilities made by each person sharing the use and an estimate of the approximate percentage of use by each participant during the preceding fiscal year; and

(4) Any change in the items previously reported to the Commission concerning such facilities or their use in the application for the license or in a notification under this section.

(i) When radio facilities are shared under the provisions of this section without charge and without any other consideration from any other participants, or on a reciprocal basis, or when the facilities are shared solely by governmental entities, in lieu of the statements required to be filed by paragraph (h) of this section, the licensee shall file with the Commission within 90 days after the close of his fiscal year a statement advising the Commission of that fact.

(j) The licensee shall inform the Commission whenever the cooperative use of any of its facilities in accordance with this section is permanently discontinued.

(k) This section authorizes the sharing of facilities of fixed stations using mobile frequencies in the 25-50, 150-173, and 450-470 MHz bands on a secondary basis only by persons all of whom are licensed or are eligible to be licensed in the same radio service.

Subpart I—General Technical Standards

§ 90.201 Scope

This subpart sets forth the general technical requirements for use of frequencies and equipment in the radio services governed by this part. Such requirements include standards for acceptability of equipment, frequency tolerance, modulation, emissions, power, and bandwidths. Special additional technical standards applicable to certain frequency bands and certain specialized uses are set forth in subparts J, K, M, and N.

§ 90.203 Type acceptance required.

(a) Except as specified in paragraph (b) of this section, each transmitter utilized for operation under this part and each transmitter marketed as set forth in section 2.803 (of part 2) must be of a type which is included in the Commission's current Radio Equipment List as type accepted or type approved for use under this part; or, be of a type which has been type accepted or type approved by the Commission for use under this part in accordance with the procedures in subparagraph (2) of this paragraph.

(1) The Commission periodically publishes a list of equipment entitled "Radio Equipment List, Equipment Acceptable for Licensing." Copies of this list are available for public reference at the Commission's offices in Washington, D.C., and at each of its field offices. This list includes type accepted and type approved equipment and, also, until such time as it may be removed by Commission action, other equipment which appeared in this list on May 16, 1955.

(2) Any manufacturer of radio transmitting equipment (including signal boosters) to be used in these services may request type acceptance or type approval for such equipment following the procedures set forth in subpart J of part 2 of this chapter. Type acceptance or type approval for an individual transmitter or signal booster also may be requested by an applicant for a station authorization by following the procedure set forth in part 2 of this chapter. Such equipment if approved or accepted will not normally be included in the Commission's "Radio Equipment List" but will be individually enumerated on the station authorization.

(b) Type acceptance is not required for the following:

(1) Transmitters used in developmental operations in accordance with subpart P.

frequency deviation will be specified in

ment frequency (f_d) greater than 10

(f) For stations authorized in the

(2) Transmitters used for police zone and interzone stations authorized as of January 1, 1965.

(3) Transmitting equipment used in the band 1427-1435 MHz.

(4) Transmitters used in radiolocation stations in accordance with subpart F authorized prior to January 1, 1974, for public safety and land transportation applications (old parts 89 and 93).

(5) Transmitters used in radiolocation stations in accordance with subpart F authorized for industrial applications (old part 91).

(c) Radiolocation transmitters for use in public safety and land transportation applications marketed prior to January 1, 1974, must meet the applicable technical standards in this part, pursuant to section 2.805 of this chapter.

(d) Radiolocation transmitters for use in public safety and land transportation applications marketed after January 1, 1974, must comply with the requirements of paragraph (a) of this section.

§ 90.205 Power.

(a) Applications for authorizations must specify no more power than the actual power necessary for satisfactory operation. In cases of harmful interference, the Commission may order a change in power or antenna height or both.

(b) Except where otherwise specifically provided, the maximum power that will be authorized is as follows:

Frequency range (megahertz)	Maximum output power	Maximum effective radiated power (watts)
1.3 to 3	[1]1500	
3 to 25	[1][2]750	
25 to 100	300	
100 to 216	[3]350	
216 to 220	([3][4])	([4])
220 to 470	[5][6]350	
470 to 512		1000
806 to 821	([5])	([5])
851 to 866	([7])	([7])
1427 to 1435	([8])	
2450 to 2500		5
2500 to 10,550	([9])	([9])
10,550 to 10,680		3
Above 10,680	([9])	([9])

[1] For single sideband operations (A3J emission) below 10 MHz, the authorized power shall be stated in terms of peak envelope power, which is the average power supplied to the antenna transmission line by a transmitter during 1 radio frequency cycle at the highest crest of the modulation envelope taken under conditions of normal operation. The maximum peak envelope power permitted is 2 kW.

[2] In the frequency band 3 to 6 MHz, stations in the industrial services and the radiolocation radio service may be authorized up to 1500 W.

[3] Except as noted in footnote 5 the maximum output power in the Motor Carrier, Taxicab, Railroad, and Automobile Emergency Radio Services is 75 W.

[4] To be specified in the authorization.

[5] In the frequency band 450 to 470 MHz, stations in the land transportation radio services are limited to 75 W, however, they may be authorized up to 350 W for developmental operations in accordance with subpt. P.

[6] Specified in subpt. M.

[7] The output power of a transmitter on any authorized frequency in this band shall not exceed 200 W.

(c) The output power shall not exceed by more than 20 percent either the output power shown in the Radio Equipment List (available in accordance with section 90.203(a)(1) for transmitters included in this list or when not so listed, the manufacturer's rated output power for the particular transmitter specifically listed on the authorization.

§ 90.207 Types of emissions.

Normally operations authorized in the services governed by this part are intended to provide voice communications between stations. Accordingly, except as otherwise provided for in the following paragraphs, stations in these services will be authorized to use only A3 or F3 emission.

(a) Authorizations to use A3 or F3 emission also include the use of emissions for tone signals or signaling devices whose sole functions are to establish and to maintain communications, to provide automatic station identification, and for operations in the Public Safety and Special Emergency Radio Services, to activate emergency warning devices used solely for the purpose of advising the general public or emergency personnel of an impending emergency situation.

(b) The use of F3 emission in these services will be authorized only on frequencies above 25 MHz.

(c) Except for Travelers' Information Stations in the Local Government Radio Service authorized in accordance with § 90.242, only A3J emission will be authorized for telephony systems on frequencies below 25 MHz.

(d) For tone paging operations only A1, A2, F1, or F2 emission will be authorized.

(e) For radioteleprinter operations that may be authorized in accordance with § 90.237, only F2 or F9 emission will be authorized.

(f) For radiofacsimile operations that may be authorized in accordance with § 90.237, only F4 emission will be authorized.

(g) For AVM systems that may be authorized in accordance with § 90.239, only F1, F2, F3, F9, or P9 emission will be authorized.

(h) For telemetry operations only A1, A2, F1, F2, or F9 emission will be authorized.

(i) For call box operations that may be authorized in accordance with § 90.241, only A1, A2, F1, F2, or F3 emissions will be authorized.

(j) For radiolocation operations as may be authorized in accordance with subpart F, unless otherwise provided for any type of emission may be authorized upon a satisfactory showing of need.

(k) For stations in the Fire and Police Radio Services utilizing digital voice modulation in either the scrambled or unscrambled mode F3Y emission will be authorized. Authorization to use F3Y is construed to include the use of F9Y emission subject to the provisions of paragraphs (a), (b), and (d) of § 90.233.

§ 90.209 Bandwidth limitations.

(a) Each authorization issued to a station licensed under this part will specify the maximum authorized bandwidth to be occupied by the emission. The bandwidth in kilohertz will appear as a prefix to the emission classification. The specified band will contain those frequencies upon which 99 percent of the radiated power appears, extended to include any discrete frequency upon which the power is at least 0.25 percent of the total radiated power.

(b) The maximum authorized bandwidth of emission corresponding to the type of emission specified in § 90.207 of this part and the maximum authorized frequency deviation in the case of frequency or phase modulated emission shall be as follows:

(1) For all type A1 emission, the maximum authorized bandwidth shall be 0.25 kHz.

(2) Except as noted in subparagraph 3, the maximum authorized bandwidth for type A3 emission shall be 8 kHz.

(3) For type A3J operations below 10 MHz, the bandwidth occupied by the emission shall not exceed 3500 Hz. The frequency coinciding with the center of the authorized frequency band of emission shall be the assigned frequency. Both the authorized carrier frequency and assigned frequency shall be specified in the authorization. The authorized carrier frequency shall be 1400 Hz lower in frequency than the assigned frequency. Only upper sideband emission shall be used. In the case of regularly available double sideband radiotelephone channels, and assigned frequency for A3J emission is available either 1.6 kHz below or 1.4 kHz above the double sideband radiotelephone assigned frequency.

(4) For all F3 emission, on frequencies below 947 MHz, the maximum authorized bandwidth shall be 20 kHz and the maximum authorized frequency deviation shall be 5 kHz. However, stations authorized for operation on or before December 1, 1961, in the frequency band 73.0-74.6 MHz may continue to operate with a bandwidth of 40 kHz and a deviation of 15 kHz. For stations operating on frequencies above 947 MHz, except as provided in subparagraph (5), of this section the maximum authorized bandwidth and

frequency deviation will be specified in the station authorization.

(5) The maximum authorized bandwidth shall be 25 MHz in the frequency band 10,550-10,680 MHz and 50 MHz in the frequency bands above 16,000 MHz.

(6) For all other types of emissions the maximum authorized bandwidth shall not be more than that normally authorized for voice operations.

(c) Except as noted in paragraph (d) and (f), the mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by more than 50 percent, but not more than 100 percent of the authorized bandwidth: at least 25 decibels;

(2) On any frequency removed from the assigned frequency by more than 100 percent, but not more than 250 percent of the authorized bandwidth: at least 35 decibels;

(3) On any ffequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: at least 43 plus 10 Log_{10} (mean output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

(d) For single sideband operations (A3J) below 10 MHz, the carrier frequency power shall be at least 40 dB below the peak envelope power and the mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by more than 1.75 kHz up to and including 5.25 kHz: At least 25 dB;

(2) On any frequency removed from the assigned frequency by more than 5.25 kHz and up to and including 8.75 kHz: At least 35 dB;

(3) On any frequency removed from the assigned frequency by more than 8.75 kHz: At least 43 plus 10 $\log_{10}$ (mean output power in watts) dB.

(e) When radiation in excess of that specified in paragraphs (c) and (d) of this section results in harmful interference, the Commission may require appropriate technical changes in equipment to alleviate the interference.

(f) The power of any sideband emission of a digital transmitter authorized pursuant to paragraph (l) of § 90.211 shall be attenuated below the unmodulated output power (P) in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by a displacement frequency (f_d) between 5 and 10 kHz, the attenuation shall be:

$$83 \text{ Log}_{10}(f_d/5)\text{dB}.$$

(2) On any frequency removed from the assigned frequency by a displacement frequency (f_d) greater than 10 kHz, the attenuation shall be:

$$116 \text{ Log}_{10}(f_d/6.1)\text{dB or } 50+10 \text{ Log}_{10}(P)\text{dB},$$

whichever is less.

§ 90.211 Modulation requirements.

(a) For those transmitters subject to the provisions of paragraph (d) of this section, the maximum audio frequency required for satisfactory radiotelephony intelligibility in the radio services governed by this part is considered to be 3000 Hertz (2800 Hz for single sideband operations below 25 MHz). For all others, the overall frequency response of the audio and modulating circuits may correspond approximately with that required for satisfactory intelligibility.

(b) When amplitude modulation is used for radiotelephony, the modulation percentage shall be sufficient to provide efficient communication and normally should be maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(c) Each transmitter shall be equipped with a device which automatically prevents modulation in excess of that specified in this subpart which may be caused by greater than normal audio level. This requirement shall not be applicable to transmitters authorized to operate as mobile stations with a maximum output power of 2 watts or less.

(d) Except as provided for in paragraph (g) of this section, each transmitter in the frequency ranges 25 to 50, 72.0 to 73.0, 75.4 to 76, 150.8 to 174, 450 to 512, 806 to 821, and 851 to 866 MHz which is equipped with a modulation limiter in accordance with paragraph (c) of this section shall be equipped with an audio low-pass filter. Such filter shall be installed between the modulation limiter and the modulated stage and shall meet the specifications contained in paragraph (e) or (f) of this section. The provisions of this paragraph do not apply to transmitters of licensed radio-communications systems operating wholly within the limits of one or more of the territories or possessions of the United States or Alaska, or Hawaii, except those systems operating in the frequency ranges 806 to 821 MHz and 851 to 866 MHz.

(e) Except as provided in paragraph (f) of this section, at audio frequencies between 3 kHz and 15 kHz, the low-pass filter required by the provisions of paragraph (d) of this section shall have an attenuation greater than the attenuation at 1 kHz by at least:

$$40 \log_{10}(f/3) \text{ decibels},$$

where "f" is the audio frequency in kHz. At audio frequencies above 15 kHz, the attenuation shall be at least 28 decibels greater than the attenuation at 1 kHz.

(f) For stations authorized in the 450-470 MHz band on or after November 1, 1967, and for all stations authorized in the 470-512, 806-821, and 851-866 MHz bands, and for Travelers' Information Stations on 530 and 1610 kHz, at audio frequencies between 3 kHz and 20 kHz, the low-pass filter required by the provisions of paragraph (d) of this section shall have an attenuation greater than the attenuation at 1 kHz by at least:

$$60 \log_{10}(f/3) \text{ decibels},$$

where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

(g) Except as provided in paragraph (h) of this section, each transmitter in the frequency ranges 25 to 50, 150.8 to 162, 450 to 512, 806 to 821, and 851 to 866 MHz shall be equipped with an audio low pass filter. Such filter shall be installed between the modulation limiter and the modulated stage and shall meet the specifications contained in paragraphs (e) and (f) of this section. The provisions of this paragraph do not apply to transmitters of licensed radiocommunications systems operated wholly within one or more of the territories or possessions of the United States or Alaska, or Hawaii, except those systems operating in the frequency ranges 806 to 821 MHz, and 851 to 866 MHz.

(h) Each transmitter in the frequency ranges 25 to 50, 150.8 to 162, 450 to 512, 806 to 821, and 851 to 866 MHz will be exempt from the audio low pass filter requirements of this section when type accepted for use with specific digital equipment. The application for type acceptance shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraph (g) of section 90.209, when used with the specific digital equipment. When the transmitter is to be type accepted for both digital and analog use, the analog input shall be equipped with an audio low pass filter as provided in paragraph (d) of this section.

§ 90.212 Provisions relating to the use of scrambling devices and digital voice modulation.

(a) Analog scrambling techniques may be employed at any station authorized the use of A3 or F3 emission, subject to the provision of paragraph (d) of this section.

(b) The use of digital scrambling techniques or digital voice modulation requires the specific authorization of F3Y emission, and this emission will be authorized only to stations in the Police and Fire Radio Services, subject to the provisions of paragraph (d) of this section.

Subpart J—Non-Voice and Other

of the licensee that, if not promptly

clude existing facilities and additional

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(c) The transmission of any non-voice information or data under the authorization of F3Y emission is prohibited. However, stations authorized the use of F3Y emission may also be authorized F9Y emission for non-voice communication purposes, pursuant to paragraph (k) of § 90.207.

(d) Station identification shall be transmitted in the unscrambled analog mode (clear voice) or Morse code in accordance with the provisions of § 90.425.

§ 90.213 Frequency tolerance.

(a) A licensee in the services governed by this part shall maintain the carrier frequency of each authorized transmitter within the following percentage of the assigned frequency:

Frequency Tolerance

Frequency range (MHz)	Fixed and base stations		Mobile stations	
	Over 200W output power	200W or less output power	Over 2W output power	2W or less output power
Below 25	[1] [2].005	.01	.01	.02
25 to 50	.002	.002	.002	.005
50 to 450	[3] .0005	[4] .0005	[5].0005	[6].005
450 to 470	[7] [8].00025	[7] [8].00025	.0005	.0005
470 to 512	[9].00025	[9].00025	.0005	.0005
806 to 821	[10].0015	[10].0015	.00025	.00025
851 to 866	.0015	.00015	.0025	.00025
1427 to 1435	[11].03	[11].03	[12].03	.03
Above 2450	([13] [14])	([13] [14])	([13] [14])	([13] [14])

[1] Fixed and base stations in the Public Safety and Special Emergency Radio Services may operate with a frequency tolerance of 0.01 pct.

[2] Radiolocation stations operating in the 70-90 kHz or 110-130 kHz bands may operate with a frequency tolerance of 0.01 pct.

[3] For single sideband operations below 10 MHz, the carrier frequency must be maintained within 50 Hz of the authorized carrier frequency.

[4] Stations authorized for operation on or before Dec. 1, 1961, in the frequency band 73-74.6 MHz may operate with a frequency tolerance of 0.005 pct.

[5] Radio call box stations in the Local Government Radio Service in the 72-76 MHz band may operate with a frequency tolerance of 0.005 pct.

[6] Stations operating in the 154.45 to 154.49 MHz or the 173.2 to 173.4 MHz bands must operate with a frequency tolerance of 0.0005 pct.

[7] Operational fixed stations controlling mobile relays, through use of the associated mobile frequency, may operate with a frequency tolerance of 0.0005 pct.

[8] Base stations operating on the frequencies 452.925, 452.950, 457.925, and 457.950 MHz used for remote control purposes in railroad yard and terminal areas, may operate with a frequency tolerance of 0.0005 pct.

[9] Central control and radio call box stations may operate with a frequency tolerance of 0.001 pct.

[10] Control stations may operate with a frequency tolerance of 0.00025 pct.

[11] Fixed stations with an putput power above 120W and necessary bandwidth less than 3 kHz must operate with a frequency tolerance of 0.01 pct. Fixed stations with an output power less than 120W and using time-division multiplex, may operate with a frequency tolerance of 0.05 pct.

[12] Radiolocation equipment using pulse modulation shall meet the following frequency tolerance: the frequency at which maximum emission occurs shall be within the authorized frequency band and shall not be closer than 1.5/T MHz to the upper and lower limits of the authorized frequency band, where T is the pulse duration in microseconds.

[13] To be specified in the station authorization.

(b) For the purpose of determining the frequency tolerance applicable to a particular transmitter in accordance with the foregoing provisions of this section, the power of a transmitter shall be the maximum rated output power as specified by the manufacturer.

§ 90.215 Transmitter measurements.

(a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter authorized to operate with an output power in excess of two watts is maintained within the tolerence prescribed in § 91.213. This determination shall be made, and the results entered in the station records in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the carrier frequency or its stability.

(b) The licensee of each station shall employ a suitable procedure to determine that each transmitter authorized to operate with an output power in excess of two watts does not exceed the maximum figure specified on the current station authorization. On authorizations stating only the input power to the final radiofrequency stage, the maximum permissible output power is 75 percent for frequencies below 25 MHz and 60 percent of the input power for frequencies above 25 MHz. If a non-DC final radiofrequency stage is utilized, then the output power shall not exceed 75 percent of the input power. This determination shall be made, and the results thereof entered into the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may increase the transmitter power input.

(c) The licensee of each station shall employ a suitable procedure to determine that the modulation of each transmitter, which is authorized to operate with an output power in excess of two watts, does not exceed the limits specified in this part. This determination shall be made and the following results entered in the station records, in accordance with the following:

(1) When the transmitter is initially installed;

(2) When any change is made in the transmitter which may affect the modulation characteristics.

(d) The determinations required by paragraphs (a), (b), and (c) of this section may, at the opinion of the licensee, be made by a qualified engineering measurement service, in which case the required record entries shall show the name and address of the engineering measurement service as well as the name of the person making the measurements.

(e) In the case of mobile transmitters, the determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench: Provided, That the measurements are made under load conditions equivalent to actual operating conditions; and provided further, that after installation in the mobile unit the transmitter is given a routine check to determine that it is capable of being received satisfactorly by an appropriate receiver.

§ 90.217 Exemption from technical standards.

Transmitters used at stations licensed in the Business Radio Service which have an output power not exceeding 120 milliwatts are exempt from the technical requirements set out in this subpart: Provided, however, that the sum of the bandwidth occupied by the emitted signal plus the bandwidth required for frequency tolerance shall be so adjusted that any emission appearing on a frequency 40 kHz or more removed from the assigned frequency is attenuated at least 30 dB below the unmodulated carrier. Such transmitters may operate in the continuous carrier transmit mode.

Subpart J—Non-Voice and Other Specialized Operations

§ 90.231 Scope.

This subpart sets forth requirements and standards for licensing and operation of non-voice and other specialized radio uses (other than radiolocation). Such uses include secondary signaling, telemetry, radioteleprinter, radiofacsimile, automatic vehicle monitoring (AVM), radio call box, relay, vehicular repeater, and control station operations.

§ 90.233 Secondary base/mobile nonvoice signaling operations.

On a secondary basis to voice operations, the use of A2, A9, F2, F9 (audio-frequency toneshift or tone phase shift) or F9 emission may be authorized to base/mobile operations in accordance with the following limitations and requirements:

(a) Authorizations are limited to mobile service frequencies below 950 MHz.

(b) Maximum duration of a transmission for each distinct non-voice message, including automatic repeats of the message, may not exceed 2 seconds. There must be a break in the carrier between each such transmission.

(c) Required station identification for non-voice operations must be made by F3 or A3 emission and may be given by the base station for a base/mobile system.

(d) Secondary non-voice operations under this section may not be authorized for tone paging, telemetry, radiolocation, AVM, radioteleprinter, radiofacsimile, or radio call box operations. These operations are authorized under other sections of this part.

§ 90.235 Secondary fixed tone signaling and alarm operations.

In the Local Government, Police, Fire, Highway Maintenance, Forestry Conservation, Power, and Petroleum Radio Services, fixed operations may be authorized for tone or impulse signaling on mobile service frequencies above 25 MHz within the area normally covered by the licensee's mobile system on a secondary basis to the primary mobile service operation of any other licensee for the purposes described in paragraphs (a) and (b):

(a) In the Public Safety Radio Services, the only purposes for which such secondary signaling may be used are:

(1) Indication of equipment malfunction.

(2) Actuation of a device to indicate the presence of an intruder, fire, or other hazardous condition on the property under the protection of the licensee.

(3) Indication of an abnormal condition in facilities under the jurisdiction of the licensee that, if not promptly reported, would result in danger to human life.

(4) Transmissions that may be necessary to verify status of equipment; adjust operating conditions; correct any abnormal condition; or to activate devices that alert the public to a condition affecting the imminent safety of life or property.

(5) Confirmation of status, when an operation or correction has been accomplished, or when an alerting device has been activated.

(b) In the Power and Petroleum Radio Services, the only purposes for which such secondary signaling may be used are:

(1) Indication of failure of equipment or service used in the facilities of the licensee.

(2) Indication of an abnormal condition in the production, transmission, collection, distribution, refining, or transporting facilities of the licensee, which if not promptly corrected would result in failure of the equipment affected.

(3) Transmission from the point where alarms or other operational data are received as may be necessary to verify status of equipment or processes; verify or adjust operating conditions; restore lost service; place standby equipment in operation; or to correct any abnormal conditions which would otherwise result in the immediate or continued failure in the licensee's operations.

(4) Confirmation of status or operating conditions, or that an operation or correction intended to be accomplished in subparagraph (3) of this paragraph has occurred.

(c) All such secondary signaling shall be subject to the following technical requirements:

(1) The bandwidth shall not exceed that authorized to the licensee for the primary operations on the frequency concerned.

(2) The output power shall not exceed 30 watts (at the remote site).

(3) A1, A2, A9, F1, F2, and F9 emission may be authorizcd. In the Police Radio Service A3 or F3 emission may also be authorized.

(4) For systems authorized in the Public Safety Services after June 20, 1975, to be used for the purposes outlined in paragraph (a) of this section, the maximum duration of any one nonvoice signal may not exceed 2 seconds and shall not be transmitted more than three times. The maximum duration of any one voice alarm shall not exceed 6 seconds and shall not be transmitted more than three times. For systems authorized prior to this date, any one alarm or warning may be transmitted a maximum of five times and each transmission shall not exceed 6 seconds; such system to include existing facilities and additional facilities which may be authorized as a clear and direct expansion of the existing system.

(5) For systems authorized in the Petrolem Radio Service after June 1, 1976, each transmission for any one alarm, warning corrective action, or requirement, positive confirmation, checkback, or other purpose set forth in paragraph (b) of this section, shall be limited to a maximum duration of 2 seconds and shall not be repeated more than three times. For systems authorized prior to June 1, 1976, any one alarm or warning may be transmitted a maximum of five times and each transmission may not exceed 6 seconds; such systems to include existing facilities and additional facilities which may be authorized as a clear and direct expansion of the existing system.

(6) For systems authorized in the Power Radio Service after June 1. 1976, each transmission for any one alarm, warning corrective action, or requirement, positive confirmation, checkback, or other purpose set forth in paragraph (b) of this section, shall be limited to a maximum duration of 2 seconds and shall not be repeated more than five times. For systems authorized prior to June 1, 1976, any one alarm or warning may be transmitted a maximum of five times and each transmission may not exceed 6 seconds; such systems to include existing facilities and additional facilities which may be authorized as a clear and direct expansion of the existing system.

(7) Systems employing automatic interrgation shall be limited to nonvoice techniques and shall not be activated for this purpose more than 10 seconds out of any 60-second period. This 10 second timeframe includes both transmit and response times.

(8) Frequency loading resulting from the use of secondary signaling will not be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile system.

(9) A mobile service frequency may not be used exclusively for secondary signaling.

(10) Automatic means shall be provided to deactivate the transmitter in the event the carrier remains on for a period in excess of 3 minutes.

(11) Operational fixed stations authorized pursuant to the provisions of this paragraph are exempt from the requirements of §§ 90.137(b), 90.425 and 90.429.

(12) Base, mobile relay, or mobile stations may transmit secondary tone or impulse signals to receives at fixed locations subject to the conditions, and for the purposes set forth in this section.

§ 90.237 Interim provisions for operations of radioteleprinter and radiofacsimile devices.

These provisions authorize and govern the use of radioteleprinter and radiofacsimile devices for base station use (other than on mobile-only or paging-only frequencies) in the radio services (except in the Radiolocation and Special Emergency Radio Services) in this part. In the Business Radio Service the authority extends only to those frequencies subject to the coordination requirements set forth in § 90.175.

(a) Information must be submitted with an application to establish that the minimum separation between a proposed radioteleprinter or radiofacsimile base station and the nearest co-channel base station of another licensee operating a voice system is 120 km. (75 mi.) for a single frequency mode of operation, or 56 km. (35 mi.) for a two-frequency mode of operation. Where this minimum mileage separation cannot be achieved, either agreement to the use of F2, F4, or F9 emission must be received from all existing co-channel licensees using voice emission within the applicable mileage limits, or if agreement was not received, the licensee of the radioteleprinter or radiofacsimile system is responsible for eliminating any interference with pre-existing voice operations. New licensees of voice operations. New licensees of voice operations will be expected to share equally any frequency occupied by established radioteleprinter or radiofacsimile operations.

(b) The application must list the manufacturer and model number of the radioteleprinter or radiofacsimile system to be employed, or contain a detailed technical description of the system.

(c) Transmitters type-accepted under this part for use of F3 emission may also be used for F2, F4, or F9 emission for radioteleprinter or radiofacsimile, provided the keying signal is passed through the low pass audio frequency filter required for F3 emission. The transmitter must be so adjusted and operated that the instantaneous frequency deviation does not exceed the maximum value allowed for F3.

(d) Frequencies will not be assigned exclusively for F2, F4, or F9 emission for radioteleprinter or radiofacsimile (except where specifically provided for in the frequency limitations).

(e) The requirements in this part applicable to the use of F3 emission are also applicable to the use of F2, F4, or F9 emission for radioteleprinter and radiofacsimile transmissions.

(f) The station identification required by § 90.425 must be given by voice or Morse code.

§ 90.239 Interim provisions for operation of automatic vehicle monitoring (AVM) systems.

(a) These provisions authorize, to persons eligible in the radio services of this part, the licensing of automatic vehicle monitoring (AVM) systems that utilize nonvoice radio techniques to determine the location of vehicles. Authority is also provided for the transmission of voice and/or nonvoice messages relating to vehicles being located.

(b) The use of F1, F2, F3, F9, or P9 emissions is authorized for operation of transmitters in AVM systems subject to paragraph (e)(2)(iii) of this section.

(c) Frequencies for AVM operations are assignable as follows: (1) Licensees for pulse-ranging AVM systems, requiring 8 MHz bandwidth may be authorized in the 904-912 MHz or 918-926 MHz band provided that:

(i) A licensee will not be assigned a second frequency band in the same geographic area until showing is made that the frequency band already assigned is being used to provide location data for not less than 5,000 vehicles.

(ii) Operations will not cause interference to government stations which operate in these bands and can tolerate interference from industrial, scientific, and medical (ISM) devices and from government stations which operate in these bands.

(2) AVM systems requiring bandwidths not exceeding 1 MHz may be authorized in the 903-904 or 926-927 MHz bands on a developmental basis in accordance with subpart P.

(3) Applicants requiring not more than 25 kHz bandwidth per frequency in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands may either utilize base-mobile frequencies presently assigned the applicant, or be assigned base-mobile frequencies available in the service in which eligibility has been established, provided that:

(i) For transmission between vehicles and base stations, each frequency in a single-frequency mode of operation will provide location data for approximately 200 vehicles, or both frequencies in a two-frequency mode of operation will provide location data for approximately 400 vehicles, except that for frequencies in the 450-512 MHz band that are assigned in pairs in accordance with the allocation plan for the band, the requirement is that location data be provided for approximately 200 vehicles for each frequency pair; and a showing is made that 50 percent of the vehicles will be in operation within the system by the end of the second year of the initial license term, and 70 percent will be in operation within the system by the end of the initial license term; except that if these vehicle loading standards will not be met, frequencies will be assigned only on a secondary noninterference basis to any authorized radiotelephony operation.

(ii) The minimum separation between a proposed AVM station and the nearest co-channel base station of another licensee operating a voice system is 75 miles (120 km) for a single frequency mode of operation or 35 miles (56 km) for a two-frequency mode of operation. Where the minimum mileage separation cannot be achieved, agreement to the use of F1, F2, F9, or P9 emission must be received from all existing co-channel licensees using voice emissions within the applicable mileage limits. If there is interference with voice operations and required agreement was not received, or operation was authorized on a secondary noninterference basis, the licensee of the AVM system is responsible for eliminating the interference.

(iii) Frequencies additional to any assigned under subparagraph (i) of this paragraph will not be assigned to the same licensee in the same geographic area until each of such licensee's frequencies for AVM operation is shown to accommodate not less than 90 percent of the frequency loading requirements specified in subparagraph (i) of this paragraph.

(d) Each application to license an AVM system shall include the following supplemental information:

(1) A detailed description of the manner in which the system will operate, including a map or diagram.

(2) For wide band frequency operation, the necessary or occupied bandwidth of emission whichever is greater.

(3) The data transmission characteristics as follows:

(i) The vehicle location update rates;

(ii) Specific transmitter modulation techniques used;

(iii) For codes and timing scheme: A table of bit sequences and their alphanumeric or indicator equivalents, and a statement of bit rise time, bit transmission rates, bit duration, and interval between bits;

(iv) A statement of amplitude-versus-time of the interrogation and reply formats, and an example of a typical message transmission and any synchronizing pulses utilized.

(4) A plan to show implementation schedule during the initial license term.

(e) Technical standards.

(1) AVM stations authorized for operation below 512 MHz must comply with the technical standards applicable to the frequency band prescribed in this chapter, including the requirement for type acceptance of equipment used.

(2) Pending final development of technical standards, utilization of nontype accepted transmitters by stations authorized for operation above 512 MHz will be permissible provided that:

(i) The output power of transmitters used in pulse ranging systems shall not exceed 1 kW PEP;

(ii) The output power of transmitters used in nonpulse ranging systems shall not exceed 300 watts.

(iii) Emissions will be authorized on a case-by-case basis dependent on the requirements of the specific technique utilized.

(3) Transmitters to be operated at signposts, or from vehicles to signposts for location signaling purposes may be employed with output power not to exceed 250 milliwatts, and their operation is secondary to regular co-channel operations on the frequency being utilized.

(4) Pending development of further specific technical standards for AVM systems, the Commission, on a case-by-case basis, may impose additional appropriate technical requirements to assure efficient and effective frequency utilization.

(f) AVM stations are exempted from the identification requirements of § 90.425; however, the Commission may impose automatic station identification requirements when determined to be necessary for monitoring and enforcement purposes.

§ 90.241 Radio call box operations.

(a) The frequencies in the 72-76 MHz band listed in § 90.17(b) may be assigned in the Local Government Radio Service for operation of radio call boxes to be used by the public to request fire, police, ambulance, road service, and other emergency assistance, subject to the following conditions and limitations:

(1) Maximum transmitter power will be either 2.5 watts plate input to the final stage or 1 watt output.

(2) Antenna gain shall not exceed zero dBd (referred to a half-wave dipole) in any horizontal direction.

(3) Only vertical polarization of antennas shall be permitted.

(4) The antenna and its supporting structure must not exceed 20 feet (6.1 meters) in height above the ground.

(5) Only A1, A2, F1, or F2 emission shall be authorized.

(6) The transmitter frequency tolerance shall be 0.005 percent.

(7) Except for test purposes, each transmission must be limited to a maximum of two seconds and shall not be automatically repeated more than two times at spaced intervals within the following 30 seconds. Thereafter, the authorized cycle may not be reactivated for one minute.

(8) All transmitters installed after December 10, 1970, shall be furnished with an automatic means to deactivate the transmitter in the event the carrier remains on for a period in excess of three minutes. The automatic cutoff system must be designed so the transmitter can be only manually reactivated.

(9) Frequency selection must be made with regard to reception of television stations on channels 4 (66-72 MHz) and 5 (76-82 MHz) and should maintain the greatest possible frequency separation from either or both of these channels, if they are assigned in the area.

(b) Frequencies in the band 154.4525 to 154.460 MHz may be assigned to fixed stations in the Local Government Radio Service for the purpose of providing emergency call box service. The maximum power output of the transmitter is 20 watts. A1, A2, F1, or F2 emission may be authorized. The authorized bandwidth may not exceed 6 kHz. For FM transmitters, the sum of the highest modulating frequency in hertz and the amount of frequency deviation or swing in hertz may not exceed 2800 Hz and the maximum frequency deviation may not exceed 2.5 kHz. For AM transmitters the highest modulating frequency may not exceed 2000 Hz. The carrier frequency must be maintained with 0.0005 percent of the center of the frequency band.

(c) Frequencies in the 450-470 MHz band which are designated as available for assignment to central control stations and radio call box installations in § 90.17(b) or § 90.17(c)(11) may be assigned in the Local Government Radio Service for highway call box systems subject to the following requirements:

(1) Call box transmitters shall be installed only on limited access highways and may communicate only with central control stations of the licensee.

(2) Maximum transmitter power for call boxes will be either 2.5 watts input to the final amplifier stage or one watt output. The central control station shall not exceed 25 watts effective radiated power (ERP).

(3) The height of a call box antenna may not exceed 7 meters (20 feet) above the ground, the natural formation, or the existing man-made structure (other than an antenna supporting structure) on which it is mounted. A central station transmitting antenna, together with its supporting structure shall not exceed 15 m. (50 ft.) above the ground surface.

(4) Only F1, F2, F3, or F9 emission may be authorized for nonvoice signaling, radiotelephony, and multiplexed voice and nonvoice use. The provisions in this part applicable to the use of F3 emission are also applicable to the use of F1, F2, or F9 emission for call box transmitters.

(5) The station identification required by § 90.425 shall be by voice and may be transmitted for the system from the central control station. Means shall be provided at each central control station location to automatically indicate the call box unit identifier when a call box unit is activated.

(6) Call box installations must be so designed that their unit identifier is automatically transmitted when the handset is lifted.

(7) Each application for a call box system must include a description of the nonvoice transmitting equipment. This description shall specify the character structure, bit rate, modulating tone frequencies, identification codes, and the method of modulation (i.e., frequency shift, tone shift, or tone phase shift).

(8) Call box installations may be used secondarily for the transmission of information from roadside sensors. Central control station transmitters may be used secondarily to interrogate call box roadside sensors and for the transmission of signals to activate roadside signs.

(9) Each call box transmitter must be provided with a timer which will automatically deactivate the transmitter after 2 minutes unless the central control station operator reactivates the timer cycle.

(10) The central control station must include facilities that permit direct control of any call box in the system.

(11) Call box transmitter frequency tolerance shall be 0.001 percent.

(12) Transmitters type-accepted under this part for use of F3 emission may be used for F1, F2, or F9 emission provided that the audio tones or digital data bits are passed through the low pass audio filter required to be provided in the transmitter for F3 emission. The transmitter must be adjusted and operated so that the instantaneous frequency deviation does not exceed the maximum value allowed for F3 emission.

(d) In addition to the frequencies available pursuant to § 90.17(b) the frequencies set forth in § 90.17(c)(11) may be used for central control station and call box installations in areas where such frequencies are available for fixed system use subject to the requirements and limitations of that section and subject to the provisions of subdivisions (1), (4), (5), (6), (7), (8), (9), (10), and (12) of paragraph (c) of this section.

(e) In accordance with subpart P of this part, the frequencies available pursuant to § 90.17(b) and § 90.17(c)(11) for central control station and call box installations may be assigned for developmental operation as part of a highway safety communication program which is designed to

provide radio communications directly with motorists to and from their motor vehicles.

§ 90.242 Travelers' information stations.

(a) *The frequencies 530 and 1610 kHz.* May be assigned in the Local Government Radio Service for the operation of Travelers' Information Stations subject to the following conditions and limitations:

(1) For Travelers' Information Station applications only, eligibility requirements as set forth in § 90.17(a) are extended to include park districts and authorities.

(2) Each application for a station or system shall be accompanied by:

(i) A statement certifying that the transmitting site of the Travelers Information Station will be located at least 15.0 km, (9.3 miles) measured orthogonally, outside the measured 0.5 mV/meter daytime contour of any AM broadcast station operating on a first adjacent channel (540 kHz or 1600 kHz). If the measured contour is not available, then the calculated 0.5 mV/m field strength contour shall be acceptable. These contours are available for inspection at the concerned AM broadcast station and FCC offices in Washington, D.C.

(ii) In consideration of possible cross-modulation and inter-modulation interference effects which may result from the operation of a Travelers Information Station in the vicinity of an AM broadcast station on the second or third adjacent channel, the applicant shall certify that he has considered these possible interference effects and, to the best of his knowledge, does not foresee harmful interference occurring to broadcast stations operating on 550 kHz, 560 kHz, 1580 kHz, or 1590 kHz.

(iii) A map showing the geographical location of each transmitter site and an estimate of the signal strength at the contour of the desired coverage area. For a cable system, the contour to be shown is the estimated field strength at 60 meters (197 feet) from any point on the cable. For a conventional radiating antenna, the estimated field strength contour at 1.5 km (0.93 mile) shall be shown. A contour map comprised of actual on-the-air measurements shall be submitted to the Commission within 60 days after station authorization or completion of station construction, whichever occurs later. A sufficient number of points shall be chosen at the specified distances (extrapolated measurements are acceptable) to adequately show compliance with the field strength limits.

(iv) For each transmitter site, the transmitter's output power, the type of antenna utilized, its length (for a cable system), its height above ground, distance from transmitter to the antenna, and the elevation above sea level at the transmitting site.

(3) Travelers Information Stations will be authorized on a secondary basis to stations authorized on a primary basis in the bands 510–535 and 1605–1715 kHz.

(4) A Travelers Information Station authorization may be suspended, modified, or withdrawn by the Commission without prior notice of right to hearing if necessary to resolve interference conflicts, to implement agreements with foreign governments, or in other circumstances warranting such action.

(5) The transmitting site of each Travelers Information Station shall be restricted to the immediate vicinity of the following specified areas: air, train, and bus transportation terminals, public parks and historical sites, bridges, tunnels, and any intersection of a Federal Interstate Highway with any other Interstate, Federal, State, or local highway.

(6) A Travelers Information Station shall normally be authorized to use a single transmitter. However, a system of stations, with each station in the system employing a separate transmitter, may be authorized for a specified area provided sufficient need is demonstrated by the applicant.

(7) Travelers Information Stations shall transmit only noncommercial voice information pertaining to traffic and road conditions, traffic hazard and travel advisories, directions, availability of lodging, rest stops and service stations, and descriptions of local points of interest. It is not permissible to identify the commercial name of any business establishment whose service may be available within or outside the coverage area of a Travelers Information Station. However, to facilitate announcements concerning departures/arrivals and parking areas at air, train, and bus terminals, the trade name identification of carriers is permitted.

(b) *Technical standards.* (1) The use of 6A3 emission will be authorized, however AO emission may be used for purposes of receiver quieting, but only for a system of stations employing "leaky" cable antennas.

(2) A frequency tolerance of 100 Hz shall be maintained.

(3) For a station employing a cable antenna, the following restrictions apply:

(i) The length of the cable antenna shall not exceed 3.0 km (1.9 miles).

(ii) Transmitter RF output power shall not exceed 50 watts and shall be adjustable downward to enable the user to comply with the specified field strength limit.

(iii) The field strength of the emission on the operating frequency shall not exceed 2 mV/m when measured with a standard field strength meter at a distance of 60 meters (197 feet) from any part of the station.

(4) For a station employing a conventional radiating antenna(s) (ex. vertical monopole, directional array) the following restrictions apply:

(i) The antenna height above ground level shall not exceed 15.0 meters (49.2 feet).

(ii) Only vertical polarization of antennas shall be permitted.

(iii) Transmitter RF output power shall not exceed 10 watts to enable the user to comply with the specified field strength limit.

(iv) The field strength of the emission on the operating frequency shall not exceed 2 mV/m when measured with a standard field strength meter at a distance of 1.50 km (0.93 miles) from the transmitting antenna system.

(5) For co-channel stations operating under different licenses, the following minimum separation distances shall apply:

(i) 0.50 km (0.31 miles) for the case when both stations are using cable antennas.

(ii) 7.50 km (4.66 miles) for the case when one station is using a conventional antenna and the other is using a cable antenna.

(iii) 15.0 km (9.3 miles) for the case when both stations are using conventional antennas.

(6) For a system of co-channel transmitters operating under a single authorization utilizing either cable or conventional antennas, or both, no minimum separation distance is required.

(7) An applicant desiring to locate a station that does not comply with the separation requirements of this section shall coordinate with the affected station.

(8) Each transmitter in a Travelers Information Station shall be equipped with an audio low-pass filter. Such filter shall be installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 20 kHz this filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$60 \log_{10} (f/3)$ decibels.

where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibles greater than the attenuation at 1 kHz.

§ 90.243 Mobile relay stations.

(a) Mobile relay stations under this part may be authorized only as follows:

(1) On frequencies below 450 MHz, mobile relay stations may be authorized to operate only in the Police, Fire, Local Government, Highway Maintenance, Forestry Conservation, Power, Petroleum, Forest Products, Telephone Maintenance, and Railroad Radio Services.

Outside the contiguous 48 states mobile relay operations below 450 MHz may also be authorized in the Business and Special Industrial Radio Services.

(2) Mobile relay stations will be authorized on frequencies between 450 MHz and 470 MHz in all of the services governed by this part except for the Radiolocation, Motor Carrier, Taxicab and Automobile Emergency Radio Services.

(3) Mobile relay stations will be authorized on frequencies between 470 MHz and 512 MHz in all of the services that have been allocated such frequencies.

(b) Special provisions for mobile relay operations:

(1) In the Special Emergency Radio Service, Medical Services systems in the 150–160 MHz band are permitted to be cross-banded for mobile and central station operations with mobile relay stations authorized to operate in the 450–470 MHz band.

(2) In the Business Radio Service, mobile relay stations operating on frequencies below 450 MHz will only be authorized when all control and mobile stations are operated on frequencies designated for low power operation (2 watts or less). For such operations the maximum output power shall not exceed 1 watt and the mobile relay antenna system shall not be more than 13 m. (40 ft.) above ground.

(3) In the Railroad Radio Service, mobile relay operation shall be on a secondary basis to other co-channel operations.

(4) Except where specifically precluded, a mobile relay station may be authorized to operate on any frequency available for assignment to base stations.

(5) A mobile station associated with mobile relay station(s) may not be authorized to operate on a frequency below 25 MHz.

(c) Technical requirements for mobile relay stations.

(1) Each new mobile relay station with an output power of more than one watt, and authorized after January 1, 1972, that is activated by signals below 50 MHz shall deactivate the station upon cessation of reception of the activating continuous coded tone signal. Licensees may utilize a combination of digital selection and continuous coded tone control where required to insure selection of only the desired mobile relay station.

(2) Mobile relay stations controlled by signals above 50 MHz or authorized prior to January 1, 1972, to operate below 50 MHz are not required to incorporate coded signal or tone control devices unless the transmitters are consistently activated by undesired signals and cause harmful interference to other licensees. If activation by undesired signals causes harmful interference, the Commission will require the installation of tone control equipment within 90 days of a notice to the licensee.

(3) Except in the Railroad Radio Service, each new mobile-relay station authorized after January 1, 1972, shall be equipped for automatic deactivation of the transmitter within 5 seconds after the signals controlling the station cease.

(4) Except in the Railroad Radio Service, each new mobile relay station authorized after January 1, 1972, during periods that it is not controlled from a manned fixed control point; shall have an automatic time delay or clock device that will deactivate the station not more than 3 minutes after its activation by a mobile unit.

(5) In the Railroad Radio Service, each mobile relay station, regardless of the frequency or frequencies of the signals by which it is activated shall be so designated and installed that it will be deactivated automatically when its associated receiver or receivers are not receiving a signal on the frequency or frequencies which normally activate it.

(6) Multiple mobile relay station radio systems shall use wireline or radio stations on fixed frequencies for any necessary interconnect circuits between the mobile relay stations.

§ 90.245 Fixed relay stations.

Except where specifically provided for, fixed relay stations shall be authorized to operate only on frequencies available for use by operational fixed stations.

§ 90.247 Mobile repeater stations.

A mobile station authorized to operate on a mobile service frequency above 25 MHz may be used as a mobile repeater to extend the communications range of hand-carried units subject to the following:

(a) Mobile repeaters and/or associated hand-carried transmitters may be assigned separate base/mobile frequencies for this use (including, in the Railroad Radio Service, any "base only" frequency in the 450–470 MHz range) in addition to the number of frequencies normally assignable to the licensee.

(b) In the Business and Special Industrial Radio Services on frequencies below 450 MHz, only low-power frequencies (2 watts or less output power) may be assigned for use by mobile repeaters or by hand-carried transmitters whose communications are directed to mobile repeaters, when separate frequencies are assigned for that purpose.

(c) Except as provided in paragraph (d) of this section, hand-carried transmitters whose communications will be automatically relayed by mobile stations shall be limited to a maximum output power of 2.5 watts.

(d) In the Railroad Radio Service, use of mobile repeaters is on a secondary basis to the stations of any other licensee. Hand-carried units used in connection with mobile repeaters in the Railroad Radio Service may operate only above 150 MHz and are limited to a maximum output power of 6 watts. The frequency and maximum power shall be specified in the station authorization.

(e) In the Railroad Radio Service, the output power of a mobile repeater station, when transmitting as a repeater station on the frequency used for communication with its associated pack-carried or hand-carried units, shall not exceed 6 watts except when the same frequency is also used by the same station for direct communication with vehicular mobile units or with one or more base stations.

(f) When automatically retransmitting messages originated by or destined for hand-carried units, each mobile station shall activate the mobile transmitter, only with a continuous coded tone, the absence of which will de-activate the mobile transmitter. The continuous coded tone is not required when the mobile unit is equipped with a switch that activates the automatic mode of the mobile unit and an automatic time-delay device that de-activates the transmitter after any uninterrupted transmission period in excess of 3 minutes.

§ 90.249 Control stations.

Control stations associated with land mobile stations under this part shall be authorized to operate subject to the following:

(a) *Frequencies for control stations.* (1) Control stations may be authorized to operate on frequencies available for use by operational fixed stations.

(2) A control station associated with mobile relay station(s) may, at the option of the applicant, be assigned the frequency of the associated mobile station. In the Railroad Radio Service such a control station may be assigned any mobile service frequency available for assignment to mobile stations in that service. Such operation is on a secondary basis to use of the frequency for regular mobile service communications. In the band 450–470 MHz, such operation is subject to the provisions of paragraph (b) of this section.

(3) Control and fixed stations in the Public Safety and Special Emergency Radio Services may be authorized on a temporary basis to operate on frequencies available for base and mobile sta-

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tions between 152 and 450 MHz, where there is an adequate showing that such operations cannot be conducted on frequencies allocated for assignment to operational fixed stations. Such operation will not be authorized initially or renewed for periods in excess of one year. Any such authorization shall be subject to immediate termination if harmful interference is caused to stations in the mobile service, or if the particular frequency is required for mobile service operations in the area concerned.

(b) Control stations operating on frequencies in the band 450–470 MHz shall comply with the following requirements if they are located within 120 km. (75 mi.) of the center of urbanized areas of 200,000 or more population as defined in the U.S. Census of Population, 1960, Vol. 1, Table 23, Page 50. The centers of urbanized areas are determined from the Appendix, page 226 of the U.S. Commerce Publication "Airline Distance Between Cities in the United States".

(1) If the station is used to control one mobile relay station or two or more mobile relay stations located within 45 degrees of azimuth, a directional antenna having a front-to-back ratio of at least 15 dB shall be used at the control station. For other situations, a directional or omnidirectional antenna may be employed. In each case, the antenna used must, to the exent practical, produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station and limit radiation in other directions.

(2) The strength of the signal of a control station, controlling a single mobile relay station, may not exceed by more than 6 dB, the signal strength produced by a unit of the associated mobile station at the antenna terminal of the mobile relay receiver. When the station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference need be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location within one-fourth mile (0.4 km) of the control station site.

(c) A base station which is used intermittently as a control station for one or more associated mobile relay stations of the same licensee shall operate only on the mobile service frequency assigned to the associated mobile relay station when operating as a base station and on the mobile service frequency assigned to the associated mobile station when operating as a control station. Authority for such dual classification and use must be shown on the station authorization. When operating as a control station, the licensee must meet all control station requirements. In the Railroad Radio Service base stations used intermittently as control stations shall operate only on a mobile service frequency which is available for assignment to base stations.

Subpart K—Standards for Special Frequencies or Frequency Bands.

§ 90.251 Scope.

This subpart sets forth special requirements applicable to the use of certain frequencies (4383.8 kHz) or frequency bands. (27.235–27.275, 72–76, 216–220, 450–470, and 1427–1435 MHz).

§ 90.253 Use of frequency 4383.8 kHz.

The frequency 4383.8 kHz may be used by any station authorized under this part, to communicate with any other station in the State of Alaska for emergency communications. The maximum power permitted is 150 watts peak envelope power (PEP). Airborne operations will not be permitted. All stations operating on this frequency must be located in or within 50 nautical miles (92.6 km) of the state of Alaska.

§ 90.255 Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.

(a) Effective September 10, 1976, station authorizations for the use of 27.235, 27.245, 27.255, 27.265, and 27.275 MHz will be issued only to applicants in the Personal Radio Services. Licenses in the Radio Services under this part authorizing the use of these frequencies shall remain valid until December 31, 1979, or, if such licenses expire prior to December 31, 1979, they may be renewed and will be given expiration dates of December 31, 1979. Licenses issued under this subpart for frequencies between 26.96 and 27.41 MHz should be modified prior to December 31, 1979, to permit operation on other authorized frequencies.

(b) Prior use of these frequencies is subject to the following limitations:

(1) The bandwidth of emission shall not exceed 8 kHz.

(2) The output power shall be limited to no more than 20 watts.

(3) All operation is subject to interference from the operation of industrial, scientific, and medical devices on the frequency 27.12 MHz.

§ 90.257 Assignment and use of frequencies in the band 72–76 MHz.

(a) The following criteria shall govern the authorization and use of frequencies within the band 72–76 MHz by fixed stations. (For call box operations see § 90.241).

(1) The following frequencies in the band 72–76 MHz may be used for fixed operations:

Megahertz

72.02 72.04 72.06 72.08 72.10 72.12 72.14 72.16
72.18 72.20 72.22 72.24 72.26 72.28 72.30 72.32
72.34 72.36 72.38 72.40 72.42 72.46 72.50 72.54
72.58 72.62 72.64 72.66 72.68 72.70 72.72 72.74
72.76 72.78 72.80 72.82 72.84 72.86 72.88 72.90
72.92 72.94 72.96 72.98 75.42 75.46 75.50 75.54
75.78 75.62 75.64 75.66 75.68 75.70 75.72 75.75
75.76 75.78 75.80 75.82 75.84 75.86 75.88 75.90
75.92 75.94 75.96 75.98

(2) All authorizations are subject to the condition that no harmful interference will be caused to television reception on channels 4 and 5.

(3) The applicant must agree to eliminate any harmful interference caused by his operation to TV reception on either channel 4 or 5 that might develop by whatever means are necessary. Such action must be taken within 90 days of notification by the Commission. If such interference is not eliminated within the 90-day period, operation of the fixed station will be discontinued.

(4) Vertical polarization must be used.

(5) Whenever it is proposed to locate a 72–76 MHz fixed station less than 128 km (80 mi.) but more than 16 km (10 mi.) from the site of a TV transmitter operating on either channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, the fixed station shall be authorized only if there are fewer than 100 family dwelling units (as defined by the U.S. Bureau of the Census), excluding units 112 or more km (70 mi.) distant from the TV antenna site, located within a circle centered at the location of the proposed fixed station. The radius shall be determined by use of the following chart entitled, "Chart for Determining Radius From Fixed Station in 72–76 MHz Band to Interference Contour Along Which 10 Percent of Service From Adjacent Channel Television Station Would Be Destroyed." Two charts are available, one for channel 4, and one for channel 5. The Commission may, however, in a particular case, authorize the location of a fixed station within a circle containing 100 or more family dwelling units upon a showing that:

(i) The proposed site is the only suitable location.

(ii) It is not feasible, technically or otherwise, to use other available frequencies.

(iii) The applicant has a plan to control any interference that might develop to TV reception from his operations.

(iv) The applicant is financially able and agrees to make such adjustments in the TV receivers affected as may be

necessary to eliminate any interference caused by his operations.

(v) All applications seeking authority to operate with a separation of less than 16 km (10 mi.) will be returned without action.

(b) The following criteria shall govern the authorization and use of frequencies within the band 72–76 MHz by mobile stations in the Special Industrial, Manufacturers, and Railroad Radio Services.

(1) Mobile operation on frequencies in the 72 to 76 MHz band is subject to condition that no interference is caused to the reception of television stations operating on channels 4 or 5. Interference will be considered to occur whenever reception of a regularly used television signal is impaired by signals radiated by stations operating under these rules in the 72 to 76 MHz band regardless of the quality of such reception or the strength of the signal used. In order to minimize the hazard of such interference, it shall be the duty of the licensee to determine whether interference is being caused to television reception, wherever television receivers other than those under the control of the licensee, are located within 31 m. (100 ft.) of any point where the stations licensed under these rules may be operated. In any case, it shall be the responsibility of the licensee to correct, at its own expense, any such interference and if the interference cannot be eliminated by the application of suitable techniques, the operation of the offending transmitter shall be suspended. If the complainant refuses to permit the licensee to apply remedial techniques which demonstrably will eliminate the interference without impairment of the original reception, the licensee is absolved of further responsibility.

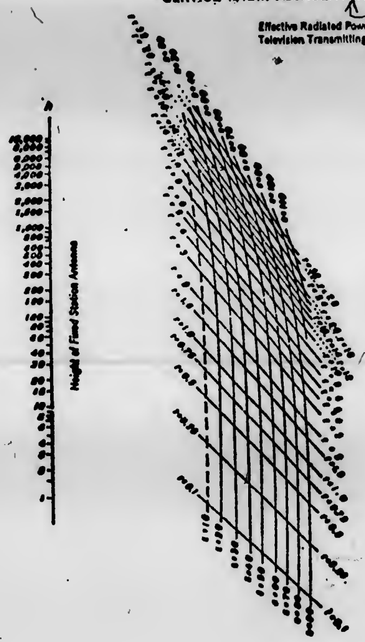
(2) The maximum transmitter output power that will be authorized is 1 watt; and each station authorized will be classified and licensed as a mobile station. Any units of such a station, however, may be used to provide the operational functions of a base or fixed station. The antennas of transmitters operating on these frequencies must be directly mounted or installed upon the transmitting unit: Except that when permanently installed aboard a vehicle, antenna and transmitter may be separated as required for convenience in mounting. Horizontal polarization will not be allowed; and the gain of antennas employed shall not exceed that of half-wave dipole. The maximum bandwidth that will be authorized is 20 kHz. Tone control transmissions are permitted.

FOR CHANNEL 4

CHART FOR DETERMINING RADIUS FROM FIXED STATION IN 72–76 MHz BAND TO INTERFERENCE CONTOUR ALONG WHICH 10% OF SERVICE FROM ADJACENT TELEVISION STATION WOULD BE DESTROYED

CHANNEL

Effective Radiated Power of TV Station.....100 kw.
Television Transmitting Antenna Height.....500 ft.



EXPLANATION OF SCALE HEADINGS:

P—effective radiated power of fixed 72–76 MHz station in watts and equals the power output of the transmitter adjusted for transmission line loss and antenna gain. In symbols
P = PoLG
where Po = output of transmitter in watts
L = transmission line efficiency, %
G = power gain of the antenna with respect to a half wave dipole in free space.
For a directional antenna use the power in the main lobe.

h—height in feet of the center of the transmitting antenna array of the fixed 72–76 MHz station with respect to the average level of the terrain between 2 and 10 miles from such antenna in the direction of the TV station. (The method for determining this height is explained in detail in the TV Broadcast Rules.)

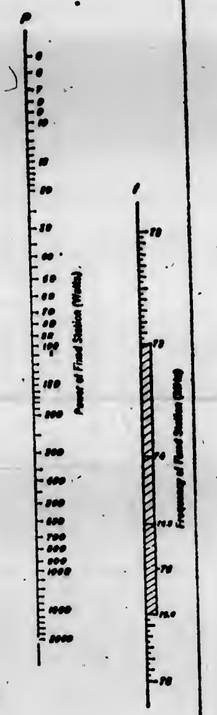
s—separation in miles between the television station antenna and the 72–76 MHz fixed station antenna.

r—distance in miles from the 72–76 MHz fixed station antenna to the contour at which the TV service area is reduced by 10%. This distance is measured from the 72–76 MHz antenna in the direction of the TV antenna.

f—frequency in MHz of 72–76 MHz fixed stations.
NOTE: frequencies included in cross hatched area are not available for assignment.

DIRECTIONS FOR USING THIS CHART:

1. Draw a straight line connecting P and h for the 72–76 MHz fixed station and continue to the Q axis.
2. From the intersection of the P-h line and the Q axis, draw another straight line to f.
3. Where the second line intersects the S–r curves, read the value of r for the appropriate value of S.



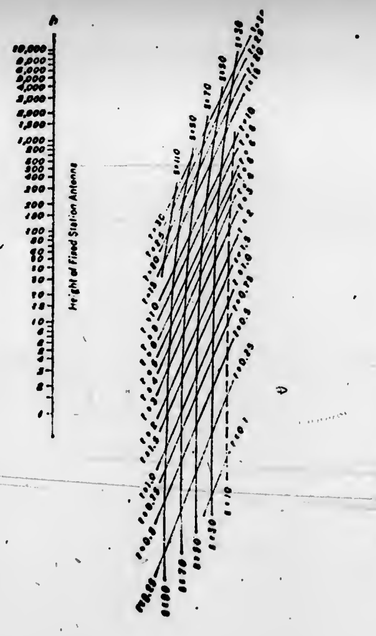
REVISED JANUARY 1965

FOR CHANNEL 5

CHART FOR DETERMINING RADIUS FROM FIXED STATION IN 72–76 MHz BAND TO INTERFERENCE CONTOUR ALONG WHICH 10% OF SERVICE FROM ADJACENT TELEVISION STATION WOULD BE DESTROYED

CHANNEL

Effective Radiated Power of TV Station.....100 kw.
Television Transmitting Antenna Height.....500 ft.



EXPLANATION OF SCALE HEADINGS:

P—effective radiated power of fixed 72–76 MHz station in watts and equals the power output of the transmitter adjusted for transmission line loss and antenna gain. In symbols
P = PoLG
where Po = output of transmitter in watts
L = transmission line efficiency, %
G = power gain of the antenna with respect to a half wave dipole in free space.
For a directional antenna use the power in the main lobe.

h—height in feet of the center of the transmitting antenna array of the fixed 72–76 MHz station with respect to the average level of the terrain between 2 and 10 miles from such antenna in the direction of the TV station. (The method for determining this height is explained in detail in the TV Broadcast Rules.)

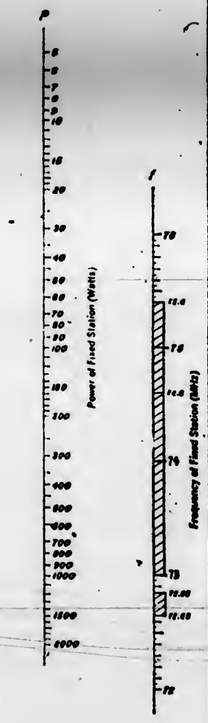
s—separation in miles between the television station antenna and the 72–76 MHz fixed station antenna.

r—distance in miles from the 72–76 MHz fixed station antenna to the contour at which the TV service area is reduced by 10%. This distance is measured from the 72–76 MHz antenna in the direction of the TV antenna.

f—frequency in MHz of 72–76 MHz fixed stations.
NOTE: frequencies included in cross hatched area are not available for assignment.

DIRECTIONS FOR USING THIS CHART:

1. Draw a straight line connecting P and h for the 72–76 MHz fixed station and continue to the Q axis.
2. From the intersection of the P-h line and the Q axis, draw another straight line to f.
3. Where the second line intersects the S–r curves, read the value of r for the appropriate value of S.



REVISED JANUARY 1965

Frequencies MHz—Continued

(c) All use of these frequencies is on a secondary basis.

Subpart I—Authorization in the Band

§ 90.259 Assignment and use of frequencies in the bands 216–220 MHz and 1427–1435 MHz.

Frequencies in the bands 216–220 MHz and 1427–1435 MHz may be assigned to applicants under this part provided the band is listed in the individual radio service under which they establish eligibility. Use of these bands is limited to telemetering purposes only and all operation is secondary to Federal Government operations. Base stations authorized in this band shall be used to perform telecommand functions with associated mobile telemetering stations. Base stations may also command actions by the vehicle itself, but will not be authorized solely to perform this function. Airborne use will not be authorized. Each application will be coordinated with the Federal Government by the Federal Communications Commission and is subject to such technical and operational limitations as may be imposed by the government. Each application should include precise information concerning emission characteristics, transmitter frequency deviation, output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation.

§ 90.261 Assignment and use of frequencies in the band 450–470 MHz for fixed operations.

The following frequencies may be assigned for fixed operations, on a secondary basis to land mobile operations, to eligibles in the services indicated. All such use of these frequencies for fixed systems is limited to locations 85 or more miles (136.79 or more km) from the center of any urbanized area of 600,000 or more population, except that the distance may be 65 miles (104.6 km), if the output power does not exceed 20 watts. All such fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, the separation between transmit-receive frequencies is 5 MHz. Fixed stations located more than 136 km (85 mi.) from the center of urbanized areas of 600,000 or more population and operating on frequencies no longer available for that use may continue indefinitely until such time as modification involving addition of new facilities is proposed. Such use is, however, on a secondary basis to land mobile operations and harmful interference may not be caused to land mobile stations. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distance Between Cities in the United States." Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Vol. 1, table 20, pages 1–74.

(a) The following frequencies may be assigned to fixed stations in the Public Safety and Special Emergency Radio Services, on a secondary basis to land mobile operations in the Industrial (except Business) and Land Transportation Radio Services.

FREQUENCIES (MHz)

451.025	451.050	451.075	451.100
451.125	451.150	451.175	451.200
451.225	451.250	451.275	451.300
451.325	451.350	451.375	451.400
451.425	451.450	451.475	451.500
451.525	451.550	451.575	451.600
451.625	451.650	451.675	451.700
451.725	451.750	451.775	451.825
451.850	451.875	451.900	451.925
451.950	451.975	452.000	452.025
452.050	452.075	452.100	452.125
452.150	452.175	452.200	452.225
452.250	452.275	452.300	452.325
452.350	452.375	452.400	452.425
452.450	452.475	452.500	452.625
452.650	452.675	452.700	452.725
452.750	452.775	452.800	452.825
452.850	452.875	452.900	452.975
453.000	456.025	456.050	456.075
456.100	456.125	456.150	456.175
456.200	456.225	456.250	456.275
456.300	456.325	456.350	456.375
456.400	456.425	456.450	456.475
456.500	456.525	456.550	456.575
456.600	456.625	456.650	456.675
456.700	456.725	456.750	456.775
456.825	456.850	456.875	456.900
456.925	456.950	456.975	457.000
457.025	457.050	457.075	457.100
457.125	457.150	457.175	457.200
457.225	457.250	457.275	457.300
457.325	457.350	457.375	457.400
457.425		457.475	457.500
457.625	457.650	457.675	457.700
457.725	457.750	457.775	457.800
457.825	457.850	457.875	457.900
457.975	458.000	462.200	462.225
462.250	462.275	462.300	462.325
462.350	462.375	462.400	462.425
462.450	462.475	462.500	462.525
467.200	467.225	467.250	467.275
467.300	467.325	467.350	467.375
467.400	467.425	467.450	467.475
467.500	467.525		

(b) The following frequencies may be assigned to fixed stations in the Industrial Radio Services (except Business) on a secondary basis to land mobile operations in the Public Safety, Special Emergency, and Land Transportation Radio Services.

FREQUENCIES MHz

452.050	452.100	452.150	452.200
452.225	452.250	452.275	452.300
452.325	452.350	452.375	452.400
452.425	452.450	452.475	452.500
452.625	452.650	452.675	452.700
452.725	452.750	452.775	452.800
452.825	452.850	452.875	452.900
453.050	453.100	453.150	453.200
453.225	453.250	453.275	453.300
453.325	453.350	453.375	453.400
453.425	453.450	453.475	453.500
453.525	453.550	453.575	453.600
453.625	453.650	453.675	453.700
453.725	453.750	453.775	453.800
453.825	453.850	453.875	453.900
453.925	453.950	453.975	457.050
457.100	457.150	457.200	457.225
457.250	457.275	457.300	457.325
457.350	457.375	457.400	457.425
457.450	457.475	457.500	457.625
457.650	457.675	457.700	457.725
457.750	457.775	457.800	457.825
457.850	457.875	457.900	
458.050	458.100	458.150	458.200

FREQUENCIES MHz—Continued

458.225	458.250	458.275	458.300
458.325	458.350	458.375	458.400
458.425	458.450	458.475	458.500
458.525	458.550	458.575	458.600
458.625	458.650	458.675	458.700
458.725	458.750	458.775	458.800
458.825	458.850	458.875	458.900
458.925	458.950	458.975	460.025
460.050	460.075	460.100	460.125
460.150	460.175	460.200	460.225
460.250	460.275	460.300	460.325
			460.350
	452.375	460.400	460.425
460.450	460.475	460.500	460.525
			460.550
	460.575	460.600	460.625
465.025	465.050	465.075	465.100
			465.125
	465.150	465.175	465.200
465.225	465.250	465.275	465.300
			465.325
	465.350	465.375	465.400
465.425	465.450	465.475	465.500
			465.525
	465.550	465.575	465.600
465.625			

(c) The following frequencies may be assigned to fixed stations in the Land Transportation Radio Services on a secondary basis to land mobile operations in the Public Safety and Industrial (except Business) Radio Services.

FREQUENCIES MHz

451.025	451.050	451.075	451.100
451.125	451.150	451.175	451.200
451.225	451.275	451.300	451.325
451.350	451.375	451.400	451.425
451.450	451.475	451.500	451.525
451.550	451.575	451.600	451.625
451.650	451.675	451.700	451.725
451.750	451.775	451.825	451.850
451.875	451.900	451.925	451.950
451.975	452.000	452.025	452.075
452.125	452.175	452.975	453.000
453.050	453.100	453.150	453.200
453.225	453.250	453.275	453.300
453.325	453.350	453.375	453.400
453.425	453.450	453.475	453.500
453.525	453.550	453.575	453.600
453.625	453.650	453.675	453.700
453.750	453.775	453.800	453.825
453.850	453.875	453.900	453.925
453.950	453.975	456.025	456.050
456.075	456.100	456.125	456.150
456.175	456.200	456.225	456.250
456.275	456.300	456.325	456.350
456.375	456.400	456.425	456.450
456.475	456.500	456.525	456.550
456.575	456.600	456.625	456.650
456.675	456.700	456.725	456.750
456.775	456.825	456.850	456.875
456.900	456.925	456.950	456.975
457.000	457.025	457.075	451.125
457.175	457.975	458.000	458.050
458.100	458.200	458.225	458.250
458.275	458.300	458.325	458.350
458.375	458.400	458.425	458.450
458.475	458.500	458.525	458.550
458.575	458.600	458.625	458.650
458.675	458.700	458.725	458.750
458.775	458.800	458.825	458.850
458.875	458.900	458.925	458.950
460.025	460.050	460.075	460.100
460.125	460.150	460.175	460.200
460.225	460.525	460.250	460.275
460.300	460.325	460.350	460.375
460.400	460.425	460.450	460.475
460.500	460.550	460.575	460.600
460.625	462.200	462.225	462.250
462.275	462.300	462.325	462.350
462.375	462.400	462.425	462.450
462.475	462.500	462.525	465.025
465.050	465.075	465.100	465.125
465.150	465.175	475.200	465.225
465.250	465.275	465.300	465.325
465.350	465.375	465.400	465.425
465.450	465.475	465.500	465.525
465.550	465.575	465.600	465.625

FREQUENCIES MHz—Continued

467.200	467.225	467.250	467.275
467.300	467.325	467.350	467.375
467.400	467.425	467.450	467.475
467.500	467.525		

(d) Frequencies subject to section 90.75(c)(26) may be used secondarily for fixed operations subject to the technical limitations of this section.

§ 90.263 Substitution of frequencies below 25 MHz.

Frequencies below 25 MHz when shown in radio service frequency listings under this part will be assigned to base or mobile stations only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant. These frequencies are available for assignment in many areas; however, in individual cases such assignment may be impracticable due to conflicting frequency use authorized to stations in other services by this and other countries. In such cases, a substitute frequency, if found to be available, may be assigned from the following bands 1605–1750, 2107–2170, 2194–2495, 2505–2850, 3155–3400, or 4438–4650 kHz. Since such assignments are in certain instances subject to additional technical and operation limitations, it is necessary that each application also include precise information concerning transmitter output power, type and directional characteristics, if any, of the antenna, and the minimum necessary hours of operation. (This section is not applicable to the Radiolocation Radio Service, Subpart F.)

§ 90.265 Assignment and use of frequencies in the bands 169–172 MHz and 406–413 MHz.

(a) The following frequencies are available for assignment to fixed stations in the Power, Petroleum, Forest Products, Special Industrial, Business and Railroad Radio Services subject to the provisions of this section:

FREQUENCIES (MHz)

169.425	170.275	171.125	406.175
169.450	170.300	171.825	409.675
169.475	170.325	171.850	409.725
169.500	171.025	171.875	412.625
169.525	171.050	171.900	412.675
170.225	171.075	171.925	412.725
170.250	171.100	406.125	412.775

(b) The use of these frequencies is limited to transmitting hydrological or meteorological data.

(c) All use of these frequencies is on a secondary basis to Federal Government stations and the hydrological or meteorological data being handled must be made available on request to governmental agencies.

(d) Other provisions of this part notwithstanding, an operational fixed station operating on these frequencies shall not communicate with any station in the mobile service unless written authorization to do so has been obtained from the Commission.

(e) Persons who desire to operate stations on these frequencies should communicate with the Commission for instructions concerning the procedure to be followed in filing formal application.

Subpart L—Authorization in the Band 470–512 MHz (UHF-TV Sharing)

§ 90.301 Scope.

This subpart governs the authorization and use of frequencies by land mobile stations in the band 470–512 MHz on a geographically shared basis with Television Broadcast stations. Under this special sharing plan, different radio services are allocated different specific frequencies in this band depending upon the geographic urban area involved as fully detailed in the following rule sections.

§ 90.303 Availability of frequencies.

(a) Frequencies in the band 470–512 MHz are available for assignment in the urbanized areas listed below. The specific frequencies available to each radio service are listed in section 90.311.

Frequency Availability for Land Mobile Use

Urbanized area	Geographic center		Channel	Frequencies (megahertz)
	North latitude	West longitude		
Boston, Mass.	42°21'24"	71°03'24"	14	470–476
			16	482–488
Chicago, Ill.[1]	41°52'28"	87°38'22"	14	470–476
			15	476–482
Cleveland, Ohio[2]	41°29'51"	81°41'50"	14	470–476
			15	476–482
Dallas/Fort Worth, Tex	32°47'09"	96°47'37"	16	482–488
Detroit, Mich.[3]	42°19'48"	83°02'57"	15	476–482
			16	482–488
Houston, Tex	29°45'26"	95°21'37"	17	488–494
Los Angeles, Calif	34°03'15"	118°14'28"	14	470–476
			20	506–512
Miami, Fla	25°46'37"	80°11'32"	14	470–476
New York—Northeastern, N.J.	40°45'06"	73°59'39"	14	470–476
			15	476–482
Philadelphia, Pa.	39°56'58"	75°09'21"	19	500–506
			20	506–512
Pittsburgh, Pa	40°26'19"	80°00'00"	14	470–476
			18	494–500
San Francisco—Oakland, Calif	37°46'39"	122°24'40"	16	482–488
			17	488–494
Washington, D.C.—Maryland—Virginia	38°53'51"	77°00'33"	17	488–494
			18	494–500

[1] In the Chicago, Ill., urbanized area, channel 15 frequencies may be used for paging operations in addition to low power base/mobile usages, where applicable protection requirements for ultrahigh frequency television stations are met.

[2] Channels 14 and 15 are not available in Cleveland, Ohio, until further order from the Commission.

[3] Channels 15 and 16 are not available in Detroit, Mich., until further order from the Commission.

§ 90.305 Location of stations.

(a) The transmitter site(s) for base station(s), including mobile relay stations, shall be located not more than 80 km. (50 mi.) from the geographic center of the urbanized area listed in § 90.303.

(b) Mobile units shall be operated within 48 km. (30 mi.) of their associated base station or stations. Such units may not be operated aboard aircraft in flight except as provided for in § 90.315(i).

(c) Control stations must be located within the area of operation of the mobile units.

(d) Base and control stations shall be located a minimum of 1.6 km. (1 mi.) from local television stations operating on UHF TV channels separated by 2, 3, 4, 5, 7, and 8 TV channels from the

V 43 N 0 22 7 8 UMI

television channel in which the base station will operate.

§ 90.307 Protection criteria.

The tables and figures listed in § 90.309 shall be used to determine the proper power (ERP) and antenna height of the proposed land mobile base station and the proper power (ERP) for the associated control station (control station antenna height shall not exceed 31 m. (100 ft.) above average terrain (AAT)).

(a) Base stations operating on the frequencies available for land mobile use in any listed urbanized area and having an antenna height (AAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel television stations in accordance with the values set out in Tables A and E of this subpart, except for Channel 15 in New York, N.Y., and Cleveland, Ohio, and Channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in Tables B and E.

(b) For base stations having antenna heights between 152-914 meters (500-3,000 ft.) above average terrain, except as noted in paragraph (f), the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure A, except for Channel 15 in New York, N.Y., and Cleveland, Ohio, and Channel 16 in Detroit, Mich., where the effective radiated power must be reduced in accordance with Figure B. For heights of more than 152 m. (500 ft.) above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the Grade B contour of a co-channel TV station, (Grade B contour defined in Section 73.683(a)) an authorization will not be granted unless it can be shown that actual terrain considerations are such as to provide the desired protection at the Grade B contour, or that the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the Grade B contour will be achieved.

(c) Mobile units and control stations operating on the frequencies available for land mobile use in any given urbanized area shall afford protection to co-channel and adjacent channel television stations in accordance with the values set forth in Table C and paragraph (d) of this section except for Channel 15 in New York, N.Y., and Cleveland, Ohio, and channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in Table D and paragraph (d) of this section.

(d) The minimum distance between a land mobile base station which has associated mobile units and a protected adjacent channel television station is 90 miles (145 km).

(e) The television stations to be protected (co-channel, adjacent channel, IM, and IF) in any given urbanized area, in accordance with the provisions of subparagraphs (a), (b), (c), and (d) of this paragraph, are identified in the commission's publication "TV stations to be considered in the preparation of Applications for Land Mobile Facilities in the Band 470-512 MHz." The publication is available at the offices of the Federal Communications Commission at Washington, D.C. or upon the request of interested persons.

(f) For stations in the Los Angeles urbanized area with antenna elevations of 457 m. or more (1,500 ft.) above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

Antenna height (above sea level)	Power, effective radiated power (watts)
1,500 to 2,000 ft (457 to 609 m)	155
2,000 to 2,500 ft (609 to 762 m)	100
2,500 to 3,000 ft (762 to 914 m)	70
3,000 to 3,500 ft (914 to 1,066 m)	50
3,500 to 4,000 ft (1,066 to 1,219 m)	40
4,000 to 4,500 ft (1,219 to 1,371 m)	30
Above 4,500 ft (1,371 m)	25

NOTE.—Existing stations may continue to use presently authorized powers until Jan. 1, 1980.

§ 90.309 Tables and figures.

(a) *Directions for using the tables.*

(1) Using the method specified in 73.611 or charts or maps of suitable scale, determine the distances (i) between the proposed land mobile base station and the protected cochannel television station and (ii) between the proposed land mobile base station and the protected adjacent channel television station. If the exact mileage does not appear in table A for protected co-channel television stations (or table B for channel 15 in New York and Cleveland and channel 16 in Detroit) or table E for protected adjacent channel television stations, the next lower mileage separation figure is to be used.

(2) Entering the proper table at the mileage figure found in paragraph (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 (15 m) to 500 (152 m) feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in the proper table, use the power figure beneath the next greater antenna height.

(3) The lowest power found using the tables mentioned in (1) and (2) above is the maximum power that may be employed by the proposed land mobile base station.

(4) In determining the average elevation of the terrain, the elevations between 2 (3 km) and 10 (16 km) miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 (17 km) miles. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest co-channel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 (12 m) to 100 (30 m) feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 (61 m) to 400 (122 m) feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic chart may be used. The average elevation of the 8-mile distance between 2 (3 km) and 10 (17 km) miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps (Scale 1:24000) whichever is the latest. If such maps are not published for the area in question, the next best topographic information should be used.

(5) Applicants for base stations in the Miami, Fla., urbanized area may, in lieu of calculating the height of average terrain, use 10 feet (3 m) as the average terrain height.

TABLE A.—*Base Station—Cochannel Frequencies (50 dB Protection) Maximum Effective Radiated Power (ERP)* [1]

	Antenna height in feet (AAT)									
	50 (15 m)	100 (30 m)	150 (45 m)	200 (61 m)	250 (76 m)	300 (91 m)	350 (106 m)	400 (122 m)	450 (137 m)	500 (152 m)
Distance in miles: [2]										
162 (260 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
160 (257 km)	1,000	1,000	1,000	1,000	1,000	875	775	700	625	575
155 (249 km)	1,000	1,000	1,000	1,000	1,000	875	775	700	625	575
150 (241 km)	1,000	1,000	950	775	725	625	550	500	450	400

TABLE A.—*Base Station—Cochannel Frequencies (50 dB Protection) Maximum Effective Radiated Power (ERP)* [1]

	Antenna height in feet (AAT)									
	50 (15 m)	100 (30 m)	150 (45 m)	200 (61 m)	250 (76 m)	300 (91 m)	350 (106 m)	400 (122 m)	450 (137 m)	500 (152 m)
Distance in miles: [2]										
145 (233 km)	850	750	650	575	500	440	400	350	320	300
140 (225 km)	600	575	475	400	350	300	275	250	230	225
135 (217 km)	450	400	335	300	255	240	200	185	165	150
130 (209 km)	350	300	245	200	185	160	145	125	120	100
125 (201 km)	225	200	170	150	125	110	100	90	80	75
120 (193 km)	175	150	125	105	90	80	70	60	55	50

[1] The effective radiated power (ERP) and antenna height above average terrain (AAT) shall not exceed the values given in this table.
[2] At this distance from transmitter site of protected UHF television station.

TABLE B.—*Base Station—Cochannel Frequencies (40 dB Protection) Maximum Effective Radiation Power (ERP)* [1]

	Antenna height in feet (AAT)									
	50 (15 m)	100 (30 m)	150 (45 m)	200 (61 m)	250 (76 m)	300 (91 m)	350 (106 m)	400 (122 m)	450 (137 m)	500 (152 m)
Distance in miles: [2]										
130 (209 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
125 (201 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	850	750	725
120 (193 km)	1,000	1,000	1,000	1,000	900	750	675	600	550	500
115 (185 km)	1,000	1,000	800	725	600	525	475	425	375	350
110 (177 km)	850	700	600	500	425	375	325	300	275	225
105 (169 km)	600	475	400	325	275	250	225	200	175	150
100 (161 km)	400	325	275	225	175	150	140	125	110	100
95 (153 km)	275	225	175	125	110	95	80	70	60	50
90 (145 km)	175	125	100	75	50					

[1] The effective radiated power (ERP) and antenna height above average terrain (AAT) shall not exceed the values given in this table.
[2] At this distance from transmitter site of protected UHF television station.

TABLE C.—*Mobile and Control Station—Distance Between Associated Base Station and Protected Cochannel TV Station*

[50 dB protection]

	Distance	
	Miles	Kilometers
Effective radiated power (watts) of mobile unit and control station:		
200	155	249
150	151	243
100	145	233
50	135	217
25	125	201
10	117	188
5	112	180

TABLE D.—*Mobile and Control Station—Distance in Miles Between Associated Land Mobile Base Station and Protected Co-channel TV Station*

[40 dB protection]

	Distance	
	Miles	Kilometers
Effective radiated power (watts) of mobile unit and control station:		
200	130	209
150	125	201
100	>120	193
50	115	185
25	110	177
10	105	169
5	100	161

TABLE E.—*Base Station Adjacent Channel Frequencies Maximum Effective Radiated Power (ERP)* [1]

	Antenna height in feet (AAT)									
	50 (15 m)	100 (30 m)	150 (45 m)	200 (61 m)	250 (76 m)	300 (91 m)	350 (106 m)	400 (122 m)	450 (137 m)	500 (152 m)
Distance in miles: [2] [3]										
67 (108 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
66 (106 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	750
65 (104 km)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	825	650	600
64 (103 km)	1,000	1,000	1,000	1,000	1,000	1,000	775	625	500	400
63 (101 km)	1,000	1,000	1,000	1,000	1,000	650	450	325	325	225
62 (99 km)	1,000	1,000	1,000	1,000	525	375	250	200	150	125
61 (98 km)	1,000	1,000	700	450	250	200	125	100	75	50
60 (96 km)	1,000	1,000	425	225	125	100	75	50		

[1] The effective radiated power (ERP) and antenna height above average terrain (AAT) shall not exceed the values given in this table.
[2] At this distance from transmitter site of protected UHF television station.
[3] The minimum distance is 90 miles (145 km) where there are mobile units associated with the base station. See sec. 90.307(d).

TABLE "F".

DECIBEL REDUCTION/POWER EQUIVALENTS

dB reduction below 1 kW:	*ERP permitted (figures rounded)*
1	795
2	630
3	500
4	400
5	315
6	250
7	200
8	160
9	125
10	100
11	80
12	65
13	50
14	40
15	30
16	25
17	20
18	15
19	12
20	10
21	8
22	6
23	5
24	4
25	3
26	2.5
27	2
28	1.5
29	1.25
30	1

(b) *Directions for Using the Figures.*

(1) Determine antenna height above average terrain. (According to 90.309(a)(4).)

(2) Locate this value on the antenna height axis.

(3) Determine the separation between the LM antenna site and the nearest protected co-channel TV station. (According to 73.611.)

(4) Draw a vertical line to intersect the LM/TV separation curve at the distance determined in step 3 above. For distances not shown in the graph use linear interpolation.

(5) From the intersection of the LM/TV separation curve draw a horizontal line to the power reduction scale.

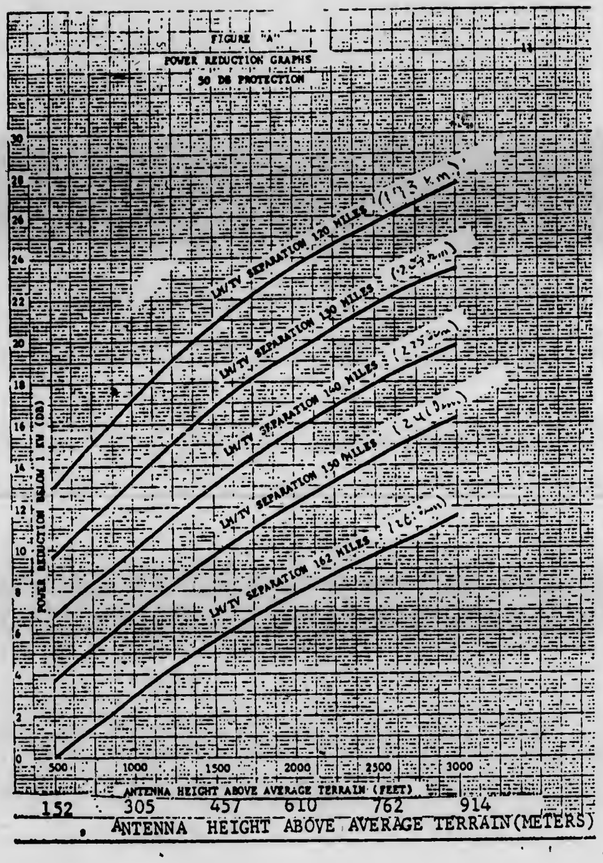
(6) The power reduction in dB determines the reduction below 1 kW that must be achieved.

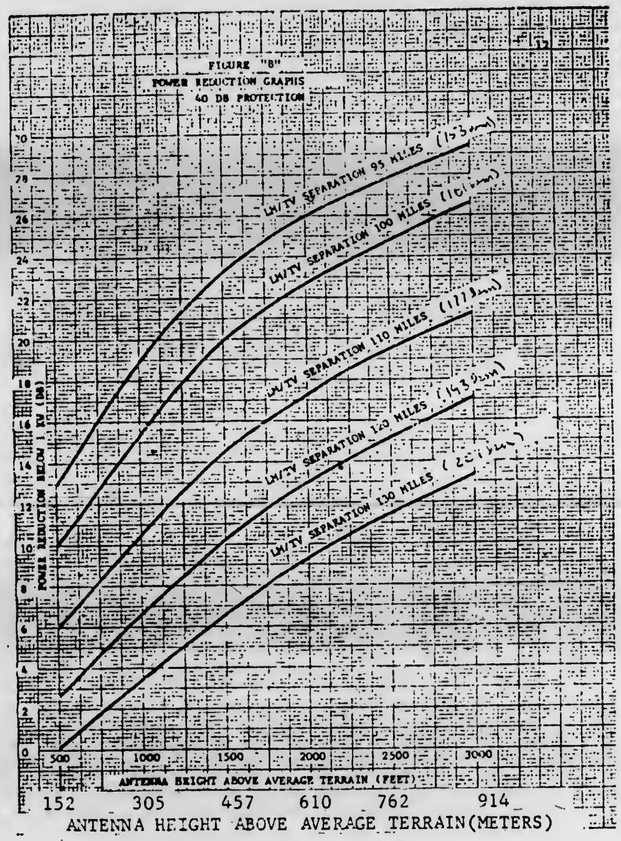
(7) See Table F for dB/power equivalents.

§ 90.311 Frequencies.

Except as provided for in § 90.315, the following frequencies in the band 470-512 MHz may be assigned to eligibles in the services as indicated below. The first and last assignable frequencies are shown. Assignable frequencies occur in increments of 25 kHz. The separation between base and mobile transmit frequencies is 3 MHz for two frequency operations.

V 4 3 1 2 2 6 N 0 2 2 7 8





FREQUENCIES ASSIGNED IN SERVICE POOLS

Urbanized area (channel assignment)	Public safety pool		Industrial pools								Land transportation pools						General access pool	
	Fire, police, local government, highway maintenance and forestry conservation radio service		Power and telephone maintenance radio service		Special industrial radio service		Business radio service		Petroleum, forest products and manufacturers radio service		Railroad, motor carrier and automobile emergency radio service		Taxicab radio service					
	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile
Boston:																		
Channel 14	470.3125 to 471.1375	473.3125 to 474.1375	471.3125 to 471.3875	474.3125 to 474.3875	471.4625 & 471.4875	474.4625 & 474.4875	471.8125 to 472.0625 & 472.1125 to 472.2125 & 472.2625	474.4625 to 475.0625 & 475.1125 to 475.2125 & 475.2625	None		472.4625 to 472.5375 & 472.5875 to 472.6875 & 472.7375 472.7875	475.4625 to 475.5375 & 475.5875 to 475.6875 & 475.7375 475.7875	472.3625 to 472.4375	475.3625 to 475.4375	470.3125 to 472.9875	473.3125 to 475.9875		
Channel 16	482.3125 to 483.1375	485.3125 to 486.1375	None		483.4875 to 484.3375	486.4875 to 487.3375	None		None		None		None		482.3125 to 484.9875	485.3125 to 487.9875		
Chicago:																		
Channel 14	470.3125 to 471.1375	473.3125 to 474.1375	None		471.4375 to 471.6375	474.4375 to 474.6375	471.8125 to 472.3375 & 472.6375 to 472.7875 & 472.9125 472.9625 472.9875	474.8125 to 475.3375 & 475.6375 to 475.7875 & 475.9125 475.9625 475.9875	472.8125	475.8125	472.4625 to 472.8125 & 472.9375	475.4625 to 475.8125 & 475.9375	None		470.3125 to 472.9875	473.3125 to 475.9875		
Channel 15	None		None		None		None		None		None		None		476.3125 to 478.9875	479.3125 to 481.9875		
Cleveland:																		
Channel 14	None		None		None		None		None		None		None		470.3125 to 472.9875	473.3125 to 481.9875		
Channel 15	None		None		None		None		None		None		None		476.3125 to 478.9875	479.3125 to 475.9875		
Detroit:																		
Channel 15	None		None		None		None		None		None		None		476.3125 to 478.9875	479.3125 to 481.9875		
Channel 16	None		None		None		None		None		None		None		[illegible]	485.3125		

FREQUENCIES ASSIGNED IN SERVICE POOLS

Urbanized area (channel assignment)	Industrial pools						Land transportation pools						General access pool
	Public safety pool		Power and telephone maintenance radio service		Petroleum, forest products and manufacturers radio service		Railroad, motor carrier and automobile emergency radio service		Taxicab radio service		Special industrial radio service		Business radio service	
	Fire, police, local government, highway maintenance and forestry conservation radio service		Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile	Base and mobile	Mobile
	Base and mobile	Mobile												
Los Angeles:														
Channel 14	470.3125 to 471.1375	473.3125 to 474.1375	471.4125 to 471.6375	474.4375 to 474.6375	472.8875 & 476.8875	473.8375 & 476.8875	472.4625 to 472.7875	475.4625 to 475.7875	472.9875	476.9875	471.4625 to 471.6375	474.4375 to 474.6375	471.1625 to 471.2875 & 471.6625 to 472.4375	474.1625 to 474.2875 & 474.6625 to 475.4375
Channel 20	506.3125 to 507.2625	509.3125 to 510.2625	507.4125 & 507.4125	510.4125 & 510.4125	508.8125 & 508.8875	511.8125 & 511.8875	508.4625 to 508.7875	511.4625 to 511.7875	508.9125	511.9125	507.4375 to 507.6375	510.4375 to 510.6375	507.2875 & 507.4375 to 507.6875	510.2875 & 510.4375 to 510.6875
New York:														
Channel 14	470.3125 to 471.4125	473.3125 to 474.4125	472.9625 & 472.9875	475.9625 & 481.9875	None		472.4625 to 472.6125	511.4625 to 478.6125	472.9625 to 472.9875 & 475.6375 to 475.6625 & 475.7375 to 475.7625 & 475.8875 to 475.9625	478.9625 to 481.9875	472.4375 to 472.6375	474.4375 to 474.6375	472.1875 to 472.3875 & 475.6625 to 475.8875	474.1875 to 474.3875 & 475.6625 to 475.8875
Channel 15	478.3125 to 479.4125	481.3125 to 482.4125	478.9625 & 478.9875	481.9625 & 481.9875	None		478.5125 to 478.6875	481.5125 to 481.6875	478.9625 to 478.9875 & 481.6625 to 481.6875	481.9625 to 481.9875	477.4625 to 477.6375	480.4625 to 480.6375	477.1625 to 477.3875 & 477.6625 to 477.8875	480.1625 to 480.3875 & 480.6625 to 480.8875
Philadelphia:														
Channel 19	501.3125 to 501.4375 & 501.4625 to 501.5375 & 501.6125 to 501.8125	504.3125 to 504.4375 & 504.4625 to 504.5375 & 504.6125 to 504.8125	503.1875 & 503.5625 & 503.6875 & 503.7375 & 503.7875	None	None		502.4625 to 502.7875	505.4625 to 505.7875	500.3125 to 500.9125 & 500.9625 to 500.9875 & 501.6625 to 501.8125	None	501.4375 to 501.4625 & 501.5375 to 501.6125 & 501.8125 to 502.3375	504.4375 to 504.4625 & 504.5375 to 504.6125 & 504.8125 to 505.3375	501.1875 to 501.3875 & 501.6625 to 501.8875	504.1875 to 504.3875 & 504.6625 to 504.8875

Channel 20	None	None	None	None	None	None	None	None	None	None	None	None	506.3125 to 508.9875	509.3125 to 511.9875
Pittsburg:														
Channel 14	None	None	471.8125	474.8125	None		None		None		None		470.3125 to 472.9875	473.3125 to 475.9875
Channel 18	None	None	None		None		None		None		None		488.3125 to 490.9875	491.3125 to 493.9875
San Francisco:														
Channel 16	None	None	488.8125 to 490.4375 & 490.5875 to 490.6375	492.4375 to 492.6375	None		490.4625 to 490.5125 & 490.5625 to 490.6125 & 490.6625 to 490.7125 & 490.7625 to 490.8125	493.4625 to 493.5125 & 493.5625 to 493.6125 & 493.6625 to 493.7125 & 493.7625 to 493.8125	None		488.4375 to 488.5875 & 488.6375 to 488.8125	491.4375 to 491.5875 & 491.6375 to 491.8125	485.3125 to 490.9875	491.3125 to 493.9875
Channel 17	488.3625 to 488.4625 & 488.5125 to 488.5625 & 488.6125 to 488.7125 & 488.7625 to 488.8125 & 488.8625 to 488.9125 & 488.9625 to 489.0125 & 489.0625 to 489.1125 & 489.1625 to 489.2125	491.3625 to 491.4625 & 491.5125 to 491.5625 & 491.6125 to 491.7125 & 491.7625 to 491.8125 & 491.8625 to 491.9125 & 491.9625 to 492.0125 & 492.0625 to 492.1125 & 492.1625 to 492.2125	None		None		None		None		None		484.3125 to 490.9875	491.3125 to 493.9875
Washington D.C.:														
Channel 17	488.3125 to 488.4375 & 488.5875 to 488.6375 & 488.8125 to 488.8875	491.3125 to 491.4375 & 491.5875 to 491.6375 & 491.8125 to 491.8875	None		None		None		None		None		484.3125 to 490.9875	491.3125 to 493.9875
Channel 18	488.3125 to 488.4375 & 488.5875 to 488.6375 & 488.8125 to 488.8875	491.3125 to 491.4375 & 491.5875 to 491.6375 & 491.8125 to 491.8875	None		None		490.4625 to 490.5125 & 490.5625 to 490.6125 & 490.6625 to 490.7125 & 490.7625 to 490.8125	493.4625 to 493.5125 & 493.5625 to 493.6125 & 493.6625 to 493.7125 & 493.7625 to 493.8125	488.3625 & 488.4625 & 488.5125 & 488.5625 & 488.6125 & 488.6625 & 488.7125 & 488.7625 & 488.8125 & 488.8625 & 488.9125 & 488.9625 & 489.0125 & 489.0625 & 489.1125 & 489.1625 & 489.2125	491.3625 & 491.4625 & 491.5125 & 491.5625 & 491.6125 & 491.6625 & 491.7125 & 491.7625 & 491.8125 & 491.8625 & 491.9125 & 491.9625 & 492.0125 & 492.0625 & 492.1125 & 492.1625 & 492.2125	484.3125 to 490.9875	491.3125 to 493.9875

San Francisco Radio Services will either during or at the close of the 8

(1) As specified in sec. 73.611 determine the dis- will be permitted at least the same bandwidth desired, the bandwidth to

V 43 / 226 NOV 22 78

(1) Channel availability in the General Access Pool in any of the urbanized areas referred to in the table depends upon whether that channel is presently assigned to users in one of the service pools. If unassigned, or should a channel subsequently become unassigned, it will be treated as available in the General Access Pool.

(2) Frequencies in the General Access Pool will be made available to applicants after all channels presently assigned are substantially loaded in accordance with the standards set out in 90.313 of this section. Channels from the General Access Pool will be assigned starting with the lowest frequency available at the time and progress towards the high end of the General Access Pool. Normally, each channel should be substantially filled before the next one will be assigned.

(b) Miami, Fla., Dallas, Tex., and Houston, Tex. urbanized areas.

Channel 14 (Miami)	Channel 16 (Dallas)	Channel 17 (Houston)
470.3125 to 475.9875	482.3125 to 487.9875.	488.3125 to 493.9875.

(1) Base station frequencies for the Public Safety Radio Service will be assigned serially beginning at 470.7125 MHz for Miami, 482.7125 MHz for Dallas, and at 488.7125 MHz for Houston and progressing a channel at a time upward and downward from those points.

(2) Base station frequencies for the Petroleum, Forest Products, and Manufacturers Radio Services will be assigned serially beginning at 470.3125 MHz for Miami, 482.3125 MHz for Dallas, and 488.3125 MHz for Houston and progressing a channel at a time.

(3) Base station frequencies for the Special Industrial Radio Service will be assigned serially beginning at 471.4375 MHz for Miami, 483.4375 MHz for Dallas, and 489.4375 MHz for Houston and progressing a channel at a time upward and downward from those points.

(4) Base station frequencies for the Business Radio Service will be assigned serially beginning at 472.3625 MHz for Miami, 484.3625 MHz for Dallas, and 489.3625 MHz for Houston and progressing a channel at a time upward and downward from those points.

(5) Base station frequencies for the Power and Telephone Maintenance Radio Services will be assigned serially beginning at 471.2625 MHz for Miami, 483.2625 MHz for Dallas, and 489.2625 MHz for Houston and progressing a channel at a time upward and downward from those points.

(6) Base station frequencies for the Railroad, Motor Carrier, and Automobile Emergency Radio Services will be assigned serially beginning at 471.7825 MHz for Miami, 483.7825 MHz for Dallas, and 489.7825 MHz for Houston and progressing upward and downward from those points a channel at a time.

(7) Base station frequencies for the Taxicab Radio Service will be assigned serially beginning at 472.9875 MHz for Miami, 484.9875 for Dallas, and 490.9875 MHz for Houston and progressing a channel at a time downward from those points.

§ 90.313 Frequency loading criteria.

(a) Except as provided for in paragraph (b), the maximum channel loading on frequencies in the 470-512 MHz band is as follows:

(1) 50 units in the Public Safety Radio Services.

(2) 70 units in the Industrial Radio Services (except business).

(3) 90 units in the Business Radio Service.

(4) 150 units in the Taxicab Radio Service, except in the New York Northeast New Jersey urbanized areas where the loading is 200 units.

(5) 70 units in the Railroad, Motor Carrier, and Automobile Emergency Radio Services except in the intraurban passenger carrier sub-category of the Motor Carrier Radio Service where the loading is 150 units.

(b) If a licensee has exclusive use of a frequency, then the loading standards in paragraph (a) may be exceeded. If it is a shared channel, the loading standards can be exceeded upon submission of a signed statement by all those sharing the channel agreeing to the increase.

(c) A unit is defined as one vehicular mobile unit or two hand-carried transmitter-receivers for the Public Safety Services, three hand-units for the Industrial, and Land Transportation Services. Loading standards will be applied in terms of the number of units actually in use or to be placed in use within 8 months following authorization. A licensee will be required to show that an assigned frequency pair is at full capacity before it may be assigned a second or additional frequency pair. Channel capacity may be reached either by the requirements of a single licensee or by several users sharing a channel. Until a channel is loaded to capacity it will be available for assignment to other users in the same area. A frequency pair may be reassigned at distances 64 km. (40 mi.), (32 km. (20 mi.) for Channel 15, Chicago: Channel 20, Philadelphia and Channel 17, Washington or more from the location of base stations authorized on that pair without reference to loading at the point of original installation. Following authorization, the licensee shall notify the Commission either during or at the close of the 8 months period of the number of units in operation. In the Industrial Radio Services, if the base station facility is to be used by more than a single licensee, the frequency assigned to it will not be reassigned for use by another facility within 64 km. (40 mi.) or 32 km. (20 mi.) where applicable for a period of 12 months, *Provided*, That the facility is constructed within 90 days from the date of the first grant, meets the loading standards to at least 50 percent within 9 months, and meets all loading standards within 12 months.

§ 90.315 Special provisions governing use of frequencies in the 488-494 MHz band (TV Channel 17) in the Southern Louisiana Offshore Zone.

(a) The frequency bands from 490-491 and 493-494 MHz will be available for assignment to stations governed by this part within the Southern Louisiana Offshore Zone. The boundaries of the Southern Louisiana Offshore Zone are from longitude 87°45' on the east to longitude 94°00' on the west, and from the three mile limit along the Gulf of Mexico shoreline on the north to the limit of the Outer Continental Shelf on the south. These frequencies may also be assigned to fixed stations located on shore designed to provide communications service within the zone.

(b) Offshore Base/Mobile, and offshore and shore fixed stations may be authorized.

(c) F2, F3, F4, F9, and A2, A3, A4, and A9 emissions may be authorized.

(d) Offshore stations shall afford cochannel protection to TV Channel 17, Bude, Miss. Station operating parameters shall be in accordance with the values given in Table I.

TABLE 1.—*Protection of Cochannel Television Stations by Offshore Stations Operating in the Southern Louisiana Zone (65 dB Protection); Maximum Effective Radiated Power (in Watts)*

	Antenna height above sea level		
	100 ft	150 ft	200 ft
Distance from transmitter to TV channel 17, Bude, Miss. (in miles):			
210	1,000	1,000	1,000
205	1,000	900	800
200	800	710	630
195	590	520	450
190	450	400	330
185	320	280	240
180	250	210	175
175	175	150	130
170	130	110	100
165	95	80	70
160	65	55	50
155	50	40	35
150	35	30	25

NOTE.—To determine the maximum permissible effective radiated power:

(1) As specified in sec. 73.611 determine the distance between the proposed station and channel 17, Bude, Miss. If the exact mileage does not appear in table 1, the next lower mileage separation is to be used.

(2) Opposite this mileage figure ERPs are given that may be used for antenna heights of 100, 150, or 200 ft ASL. If the exact antenna height is not shown, the ERP allowed will be that shown for the next higher antenna height.

(e) Shore stations communicating point-to-point with offshore stations will be permitted at least the same ERP as the offshore station, but only in the direction of the offshore station. A directional antenna shall be used and the rearward radiated power from the antenna in a sector ±22½° from the line joining the shore antenna to Bude, Miss., shall not exceed those shown in Table 2.

TABLE 2.—*Maximum Rearward Effective Radiated Power Allowed for Shore Stations in the Southern Louisiana Zone; Rearward Effective Radiated Power (in Watts) From Shore Antenna in a Sector ±22½° From the Line Joining the Shore Antenna to Bude, Miss.*

	Antenna height above ground					
	100 ft	150 ft	200 ft	300 ft	500 ft	750 ft
Distance from transmitter to TV channel 17, Bude, Miss. (in miles):						
185	320	280	240	190	125	90
180	250	210	175	125	100	60
175	175	150	130	100	70	50
170	130	110	100	75	40	35
165	95	82	70	50	35	25
160	65	55	50	40	25	20
155	50	40	35	30	20	15
150	35	30	25	20	15	10
145	25	20	18	15	10	7
140	18	15	13	10	7	5
135	13	10	9	7	5	3
130	10	8	6	5	3	2
125	7	6	5	4	3	2
120	5	4	3	3	2	1

NOTE.—As an example of the use of tables 1 and 2, assume an offshore station located 180 mi from Bude, Miss. with an antenna height of 100 ft. Table 1 allows this station to operate with 250 W ERP. Now assume the shore station communicating with the offshore station is 30 mi from the offshore station and 150 mi from Bude, Miss. The shore station antenna height is 500 ft above ground. The shore station will be allowed the same ERP as the offshore station (250 W) in the direction of the offshore station. Table 2 indicates that the effective radiated power in a sector ±22½° from the line joining the shore antenna to Bude, Miss. can only be 15 W. Consequently, a directional antenna must be used whose minimum front-to-back ratio over this 45° sector must be at least 12.2 dB. (250 W forward power to 15 W rearward power is a power ratio of 16.6 or 12.2 dB).

(f) To provide co-channel protection to TV Channel 17, no shore station will be allowed closer than 120 miles from Bude, Miss., coordinates 31°22'19" N and 90°45'05" W.

(g) To provide adjacent channel protection to TV Channel 18 in Lake Charles, Louisiana, no shore or offshore stations shall be allowed within an 80 mile distance of Lake Charles, Louisiana, whose coordinates are 30°13'45' N and 93°12'52" W.

(h) Mobile stations shall not operate closer to shore than 4 miles beyond the three mile limit and and shall not operate with an ERP in excess of 100 watts with 30 ft. maximum antenna height.

(i) Mobile stations installed in aircraft shall operate 7 miles beyond the three mile limit and shall not operate with an ERP in excess of 1 watt or at heights in excess of 1000 feet AMSL.

(j) The following frequencies are available for assignment in all services for use in the Southern Louisiana Zone as defined in paragraph (a) of this section.

Paired Frequencies (MHz)	
Transmit (or *received*)	*Receive* (or *transmit*)
490.025-490.975	493.025-493.975

Only the first and last assignable frequencies are shown. Frequencies shall be assigned in pairs with 3 MHz spacing between transmit and receive frequencies. Assignable frequency pairs shall occur in increments of 25 kHz.

(k) Fixed stations operating point-to-point shall be assigned frequencies beginning with 490.025/493.025 MHz and progressing upwards utilizing available frequencies towards the end of the band. Offshore Base/mobile stations shall be assigned frequencies beginning at 490.975/493.975 MHz and progressing downwards utilizing available frequencies towards the beginning of the band. All frequency assignments are subject to the conditions specified in § 91.8.

(l) Bandwidths other than 25 kHz may be authorized upon an adequate showing of need. An application requesting such authorization shall fully describe the modulation, emission and bandwidth desired, the bandwidth to be occupied, and justification for the request.

Subpart M—Special Regulations Governing Licensing and Use of Frequencies in the 806-821 MHz and 851-866 MHz Bands

§ 90.351 Scope.

This subpart sets out the regulations governing the licensing and operations of conventional and trunked stations authorized in the 806-821 MHz and 851-866 MHz bands. It includes eligibility requirements, application procedures, operational, and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of the subpart shall govern with respect to licensing and operation in these frequency bands.

APPLICATIONS FOR AUTHORIZATIONS IN THE 806-821 MHz AND 851-866 MHz BANDS

§ 90.355 Eligibility.

The following persons are eligible for licensing in the 806-821 MHz and 851-866 MHz bands.

(a) Any person eligible for licensing under Subparts B, C, D, or E of this part.

(b) Any person proposing to provide private dispatch service to any person eligible for licensing under Subpart B, C, D, or E of this part on a not-for-profit, cost-shared basis.

(c) Any person except wire line telephone common carriers proposing to provide, on a commercial basis, base station and ancillary facilities for the use of persons eligible for licensing under Subparts B, C, D, or E of this part.

§ 90.357 Forms to be used.

Applications for conventional and trunked radio facilities shall be submitted on FCC Form 400, and such applications shall be filed with the Commission, at its offices in Washington, D.C. Where the facility is to be established in the Chicago Regional area FCC Form 425 shall be used and all such applications shall be filed with th Chicago Regional Office. In addition, FCC Form 400-S shall be filed by all applicants.

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§ 90.359 Supplemental information to be furnished by applicants for facilities under this subpart.

(a) Applicants for conventional or trunked systems of communication shall, in addition to the information required by FCC Form 400 or FCC Form 425 furnish the following data and material:

(1) Where the applicant is a person proposing to provide dispatch service to eligibles under § 90.179 on a not-for-profit, cost-shared basis, he shall furnish:

(i) A copy of the plan or agreement under which service will be offered. It must be in sufficient detail to show that such service will be provided at cost.

(ii) A statement of the purposes for which the system is to be used and of the planned mode of operation.

(iii) The names and addresses of each person to participate in the sharing arrangement.

(iv) A statement showing that each participant is eligible to use the system for the purposes for which it is to be employed.

(2) Where the applicant is a person proposing to provide dispatch service to eligibles under this part on a commercial basis, he shall supply:

(i) A statement of the purposes for which the system is to be used and of the planned mode of operation.

(ii) A statement certifying that no person not eligible to use the proposes facility for the purposed for which it is to be authorized will be offered or provided service over or through the licensee's base station facility.

(iii) A copy of the basic agreement under which the dispatch service will be offered.

(3) Where the applicant is subject to the provisions of § 90.373 he shall furnish the following information:

(i) A list of any trunked stations licensed to the applicant.

(ii) A list of any trunked stations licensed to any other person or entity directly or indirectly controlled by the applicant or which directly or indirectly controls the applicant.

(4) All applicants for conventional radio systems shall furnish a list of all conventional radio systems licensed to them or proposed by them within 64 km. (40 mi.) from the location of the base station transmitter site of the facility applied for.

(b) All applicants for conventional systems shall specify the number of vehicle or portable units to be placed in operation upon grant of the authorization and the number of such units that will be placed in operation within 8 months of the date of grant.

(c) All applicants of trunked systems shall specify the number of mobile units to be placed in operation within the term of the license; *Provided, however,* Where the applicant applies for more than the minimum 5 channels, and elects to construct in 5-channel stages, he shall so specify and shall state the number of mobile units to be placed in operation by the end of two years from the date of the grant of his station authorization.

(d) Each applicant shall furnish a functional system diagram illustrating the inter-relationship of all stations being applied for, together with technical details (including antenna height (AAT) and effective radiated power (ERP)), together with his proposed area of coverage and the signaling methods he will employ.

§ 90.361 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems used to provide service to persons other than the licensee.

(a) No application for a conventional or trunked radio system proposing radio facilities to be made available for use by a single user or by multiple users on a commercial basis may be amended so as to substitute a new entity except in the following circumstances:

(1) The amendment does not involve a substantial change in the ownership or control of the applicant; or

(2) The changes in the ownership or control of the applicant are involuntary due to the original applicant's insolvency, bankruptcy, incapacity, or death.

(b) A license to operate a radio facility for the purposes described in paragraph (a) of this section may not be assigned or transferred prior to the completion of construction of the facility; *Provided, however,* The Commission may give its consent to the assignment or transfer of control of such a license where the applicant shows:

(1) That the assignment or transfer does not involve a substantial change in ownership or control of the authorized radio facilities; or,

(2) That the assignment or transfer is involuntary due to the licensee's insolvency, bankruptcy, incapacity, or death.

Policies Governing the Processing of Applications and the Selection and Assignment of Frequencies for Use in the 806-821 MHz and 851-866 MHz Bands

§ 90.363 Processing of applications.

Applications for facilities to operate in the 806-821 MHz and 851-866 MHz bands will be processed as follows:

(a) All applications will first be considered to determine whether they are substantially complete and acceptable for filing. If so, they will be assigned a file number and put in pending status. If not, they will be returned to the applicant.

(b) All applications in pending status will be processed in the order in which they are received. The order in which they are received will be determined by the time and date on which the original proposal was filed with the Commission.

(c) Each application will then be reviewed to determine whether it can be granted. Should it be granted, frequencies or channels will be assigned by the Commission in accordance with its assignment policies and loading criteria.

(d) Where, upon examination, it is determined that the proposal must be dismissed, that application will be returned; and the priority accorded it will no longer obtain.

(e) Where, upon examination, it is determined that the proposal cannot be granted or dismissed, but that it must be designated for hearing, such action will be taken.

§ 90.365 Selection and assignment of frequencies.

(a) The Commission will select and assign frequencies for operation in the 806-821 MHz and 851-866 MHz bands.

(1) For trunked systems, the assignment of frequencies will be made, in accordance with applicable loading criteria, in minimum groups of five and in maximum groups of twenty channel pairs. All mobile and control station frequencies will be chosen from those allocated in the 806-821 MHz band. Mobile station transmitting frequencies will commence with Channel No. 1 at 820.9875 MHz, followed by Channel No. 2 at 820.9625 MHz, and proceed to the band end with uniform 25 kHz channeling; and base station transmitting frequencies will be selected by the Commission and assigned from those allocated in the 851-866 MHz band, commencing with Channel No. 1 at 865.9875 MHz, followed by Channel No. 2 at 865.9625 MHz, and proceed to the band end with uniform 25 kHz channeling. The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(2) For conventional systems the assignment of frequencies will be made in accordance with applicable loading criteria. Accordingly, depending upon the number of mobile units to be served, the applicant may either be required to share a channel, or, if the applicant shows a sufficient number of mobile units to warrant the assignment of one or more channels for its exclusive use, he may be licensed to use such channel or channels on an exclusive basis in his area of operation.

(3) For conventional systems, mobile station transmitting frequencies, as well as those for use by control sta-

tions, will be selected from those allocated in the 806-821 MHz band. Mobile and control station transmitting frequencies will commence with Channel No. 1 at 806.0125 MHz, followed by Channel No. 2 at 806.0375 MHz, and proceed to the band end with uniform 25 kHz channeling. Base station transmitting frequencies will be selected and assigned from those allocated in the 851-866 MHz band, with Channel No. 1 commencing at 851.0125 MHz, followed by Channel No. 2 at 851.0375 MHz, and proceed to the band end with uniform 25 kHz channeling. The spacing between associated mobile and base station frequencies shall be, uniformly, 45 MHz.

(b) Stations authorized by the Commission to operate in the 806-821 and 851-866 MHz band will be afforded protection solely on the basis of the mileage separation criteria set out below. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

(1) For trunked systems, the minimum separation between co-channel systems must be 112 km. (70 mi.) except that no trunked system shall be less than 168 km. (105 mi.) distant from co-channel wide area trunked systems on any of the following mountian top sites: Santiago Peak, Sierra Peak, Mount Lukens, Mount Wilson (California).

(2) For urban-conventional systems, co-channel base stations will be authorized only when the separation between the centers of the urban areas involved is at least 160 km. (100 mi.).

(3) For suburban-conventional systems, co-channel base stations will be authorized only when the separation between the centers of the suburban loading areas involved is at least 176 km. (110 mi.)

(4) For a suburban conventional system to operate co-channel with an urban conventional system, the distance between the center of the urban area and the center of the suburban loading area must be at least 176 km. (110 mi.).

(5) The minimum distance from any of the following four sites: Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson (California) to the center of the nearest co-channel "urban" area, must be 192 km. (120 mi.) and to the center of the nearest co-channel suburban loading area (for a suburban-conventional station), must be 208 km. (130 mi.).

(c) Notwithstanding the provisions of paragraph (b)(2) of this section, where an assigned channel of an urban-conventional system is not fully loaded in accordance with applicable loading criteria, and where the transmitter site of that system is located within 24 km. (15 mi.) from the center of the urbanized area involved, the Commission may issue additional authorizations for facilities to be located within 24 km. (15 mi.) of the center of that urbanized area until the channel in question is occupied in conformity with applicable loading criteria.

(d) Notwithstanding the provisions of paragraph (b)(3) of this section, where an assigned channel of a suburban-conventional system is not fully loaded in accordance with applicable loading criteria, the Commission may issue additional authorizations for facilities to be located within 40 km. (25 mi.) of the transmitter site of the first station authorized until the channel in question is occupied in conformity with applicable loading criteria.

(e) Notwithstanding the provisions of paragraph (b)(5) of this section, where a channel is assigned for use at either Santiago Peak, Sierra Peak, Mount Lukens, or Mount Wilson (California) and the channel is not fully loaded in accordance with applicable loading criteria, the Commission may issue additional authorizations for wide-area-coverage facilities to be located at the same site area until the channel in question is occupied in conformity with applicable loading criteria. A channel previously assigned at one such site area may not be used at any of the three remaining designated mountain-top sites.

(f) UHF television translator stations using UHF output channels from Channel 70 through Channel 83, shall operate on a secondary basis to land mobile stations using the UHF bands allocated under this subpart for land mobile use, and, accordingly, such television translator stations will not be protected from interference from such authorized land mobile stations.

(g) Pending further negotiations with Canada and Mexico, land mobile stations operating in the 806-890 MHz band shall do so on a secondary basis to any Canadian or Mexican television station placed in operation on television channels in this band.

(h) See table below:

TABLE 1.—*Urbanized Areas*

Urbanized area	Geographic center	
	North latitude	West longitude
Akron, Ohio	41°05'00"	81°30'44"
Albany-Schenectady-Troy, N.Y.	42°39'01"	73°45'01"
Atlanta, Ga	33°45'10"	84°23'37"
Baltimore, Md	39°17'26"	76°36'45"
Birmingham, Ala	33°31'01"	86°48'36"
Boston, Mass	42°21'24"	71°03'24"
Buffalo, N.Y	42°53'12"	78°52'30"
Chicago, Ill	45°52'28"	87°38'22"
Cincinnati, Ohio	39°06'07"	84°30'35"
Cleveland, Ohio	41°29'51"	81°41'50"
Columbus, Ohio	39°57'47"	83°00'17"
Dallas, Tex	32°47'09"	96°47'37"
Dayton, Ohio	39°45'32"	84°11'43"
Denver, Colo	39°44'58"	104°59'22"
Detroit, Mich	42°19'48"	83°02'57"
Fort Lauderdale-Hollywood, Fla	26°07'30"	80°09'00"
Fort Worth, Tex	32°44'55"	97°19'44"
Houston, Tex	29°45'26"	95°21'37"
Indianapolis, Ind	39°46'07"	86°09'46"
Jacksonville, Fla	30°19'44"	81°39'42"
Kansas City, Mo.-Kans	39°04'56"	94°35'20"
Los Angeles, Calif	34°03'15"	118°14'28"
Louisville, Ky.-Ind	38°14'47"	85°45'49"
Miami, Fla	25°46'37"	80°11'32"
Memphis, Tenn.-Mississippi	35°08'46"	90°03'13"
Milwaukee, Wis	43°02'19"	87°54'15"
Minneapolis-St. Paul, Minn	44°58'57"	93°15'43"
New Orleans, La	29°56'53"	90°04'10"
New York-northeastern New Jersey	40°45'06"	73°50'39"
Norfolk-Portsmouth, Va	36°51'10"	76°17'21"
Oklahoma City, Okla	35°28'26"	97°31'04"
Omaha, Nebr.-Iowa	41°15'42"	95°56'14"
Philadelphia, Pa.-New Jersey	39°56'58"	75°09'21"
Phoenix, Ariz	33°27'12"	112°04'28"
Pittsburgh, Pa	40°26'19"	80°00'00"
Portland, Oreg.-Wash	45°31'06"	122°40'35"
Providence-Pawtucket-Warwick, R.I.-Mass	41°49'32"	71°24'41"
Rochester, N.Y	43°09'41"	77°36'21"
Sacramento, Calif	38°34'57"	121°29'41"
St. Louis, Mo.-Ill	38°37'45"	90°12'22"
St. Petersburg, Fla	27°46'18"	82°38'19"
San Antonio, Tex	29°25'37"	98°29'06"
San Bernardino-Riverside, Calif	34°06'30"	117°17'28"
San Diego, Calif	32°42'53"	117°09'21"
San Francisco-Oakland, Calif	37°46'39"	122°24'40"
San Jose, Calif	37°20'16"	121°53'24"
Seattle, Wash	47°36'32"	122°20'12"
Springfield-Chicopee-Holyoke, Mass.-Conn	42°06'21"	72°35'32"
Toledo, Ohio-Mich	41°39'14"	83°32'39"
Washington, D.C.-Maryland-Virginia	38°53'51"	77°00'33"

§ 90.367 Limitation on the number of frequencies assignable for conventional systems.

(a) The maximum number of frequency pairs that may be assigned to any one licensee for the operation of a conventional radio system shall be five, except for licensees in the Taxicab Radio Service.

(b) Where an applicant proposes to operate a conventional radio system to provide facilities for the use to a single person or entity eligible under Subparts B, C, D, or E of this part, he may be assigned only the number of frequency pairs justified on the basis of the requirements of the proposed user of the system.

(c) No more than five frequency pairs may be assigned to any person proposing to operate one or more conventional radio systems to provide facilities for use by more than a single entity, if there is any overlap of the 40 dBu contour of the proposed new facility and any of the 40 dBu contours

of any station authorized to that person, or to any person or entity in which he has a direct or indirect interest.

NOTE.—For the purposes of this subsection, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this subpart.

§ 90.369 Other criteria to be applied in assigning channels for use in conventional systems of communication.

(a) In every case, the Commission will examine a proposal to determine the requirements of the applicant in terms of the number of mobile units to be served, together with the nature of the activities the applicant is engaged in. Where the applicant shows that the channel will be loaded to 70 percent of its assigned capacity, as defined in § 90.377 then that channel will be made available to that applicant for his exclusive use in the area in which he proposes to operate. Where the showing made justifies the assignment of more than one channel to the applicant, then additional frequencies will be made available for his use.

(b) Where an applicant proposes to furnish service to eligibles under Subparts B, C, D, or E of this part on a commercial basis, using a conventional system of communication, his application will be considered on the same basis as that of an applicant for private or shared communication facilities.

(c) In loading channels, the Commission will further consider the mode of operation planned; the purposes for which the system is to be used, as noted; the persons to be served by the station and other factors. The other factors shall include the following:

(1) Mobile relay or repeater operations will not be assigned on channels to be used in two-frequency simplex mode, and conversely.

(2) Systems employing full duplex mode of operation will not be licensed on frequencies assigned for mobile relay or two-frequency simplex systems.

(3) Applicants in one service group, where possible, will not be required to share with applicants in other service groups, where the loading criteria of the services involved are different, except where circumstances require it.

(4) Push-to-talk operations will not be licensed on channels which are to be used under other modes of operation, except in those cases where it is shown that such method of operation is feasible.

(d) The Commission, in addition to the foregoing standards, set out at paragraph (c) of this section, may take into consideration any other factor which might enable the persons licensed to use a given channel or channels in more efficient and effective ways.

(e) There shall be no limit on the number of systems authorized to operate in any one given area except that imposed by allocation limitations; and no person authorized to operate any radio facility under the provisions of this subpart shall have a right to protest proposals on grounds other than violation of or inconsistency with the provisions of this subpart. All grants are made subject to this condition and to the other conditions and standards set out in this chapter.

(f) No applicant shall be required to obtain any approval from a state or local regulatory authority to operate facilities authorized pursuant to these rules. State or local regulation may be exercised only to the extent that it does not limit competition or otherwise conflict with these rules. There shall be no limit on the number of systems authorized to operate in any one given area except that imposed by allocation limitations; and no person authorized to operate any radio facility under the provisions of this subpart shall have a right to protest proposals on grounds other than violation of or inconsistency with the provisions of this subpart. All grants are made subject to this condition and to the other conditions and standards set out in this subpart.

§ 90.371 Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.

(a) The maximum number of frequency pairs that may be assigned for the operation of a trunked radio system shall be twenty. The minimum number of frequencies that may be assigned for the operation of such a system shall be five.

(b) No more than a single trunked system will be authorized to any one licensee to provide radio facilities for the use of more than a single person or entity where the 40 dBu contour of the proposed facility will overlap the 40 dBu contour of any existing facility of the licensee, or of any concern in which he has a direct or indirect interest, or for which applications are pending, except where the applicant shows:

(1) That the additional trunked system will be used to provide radio facilities for a single entity, where the additional system is justified on the basis of the requirements of the proposed single user; or,

(2) That radio systems previously authorized to the applicant are being operated to at least 90 percent of their authorized capacity.

NOTE.—For the purposes of this paragraph, the 40 dBu contour is assumed to be that obtained using maximum effective radiated power and antenna height permitted by this chapter.

§ 90.373 Restriction on licensing manufacturers in the 806–821 MHz and 851–866 MHz bands.

No person engaged in the manufacture or production of radio frequency ("RF") equipment to be used in systems authorized under this subpart, or any person directly or indirectly controlled (through stock ownership or otherwise) by such manufacturing entity, may be licensed to operate more than one trunked system of communication to be used in providing base station and ancillary facilities to eligibles under Subpart B, C, D or E of this part.

CHANNEL LOADING REQUIREMENTS FOR TRUNKED AND CONVENTIONAL SYSTEMS OPERATING IN THE 806–821 AND 851–866 MHz BANDS

§ 90.375 Trunked systems loading requirements.

(a) Trunked systems of communication will be authorized on the basis of the loading criteria set out in this section.

(b) See table below:

TABLE 1.—*Loading Requirements for Trunked Systems*

Service group[1]	Vehicular radio units[2]		
	5-channel systems	10-channel systems	20-channel systems
Police and fire group	300	750	1,500
Business radio group[3]	500	1,000	2,000
Motor carrier group (urban and interurban passenger motor carriers only)	800	1,600	2,500
Other services group[3]	400	800	1,600
Mixed service group	500	1,000	2,000

[1] No provision is made for use for trunked systems by persons eligible in the taxicab radio service, since this mode of communication is not compatible with normal transmission requirements of taxicab companies.

[2] For loading trunked systems of communication, no distinction is made between vehicular and portable mobile units.

[3] When the primary activity of the licensee is the operation of urban or interurban passenger motor carriers, the loading requirements shall be as shown for the motor carrier group.

(c) Each applicant for trunked facilities shall certify that a minimum of 70 percent of the mobile units specified in his application will be placed in operation not later than the date on which the term of his license for the system expires.

(d) Any licensee, at any time his authorized trunked system is occupied to 90 percent of its specified capacity, may apply for additional channels. Assignments will be made based, first, upon the availability of frequencies for use by the licensee; and, second, based upon the showing made by the licensee of its requirements for additional channel pairs.

(e) Licensees of trunked facilities must commence construction within six months from the date of grant and complete construction within one year; *Provided, however,* That a licensee of a "trunked" facility assigned more than the minimum five-channel group may elect to construct the facility in stages. In this event, the licensee shall complete construction of the basic five-channel group of the authorized facility within the time limits given above; *Provided, further,* That should the licensee elect to proceed in this manner, then he must demonstrate that at the end of a two-year period from the date of the grant of his station authorization, the constructed facility is occupied to a minimum of 70 percent of the loading required, notwithstanding the provisions of paragraph (c) of this section.

§ 90.377 Conventional systems loading requirements.

(a) Conventional systems of communication will be authorized on the basis of the loading criteria set out in this section.

(b) See table below:

TABLE 1.—*Loading Requirements for Conventional Systems*

Service group	Channel loading units per channel vehicular/portable		
	Single/ licensee	2 to 5 licensees	Over 5 licensees
Police and fire group	50/100	40/80	30/60
Business radio group	90/180	70/140	50/100
Taxicab radio group[1]	150	125	100
Motor carrier radio group (urban and interurban passenger motor carriers, only)[2]	150/300	125/250	100/200
Other services group[2]	70/140	50/100	40/60
Mixed service group		70/140	50/100

[1] No loading criteria for portable units in the taxicab radio group are given, since the requirements for units of this type has not been established in that service.

[2] Where the primary activity of the licensee is the operation of urban or interurban passenger motor carriers, the loading requirements shall be as shown for the motor carrier group.

(c) Every applicant for a conventional system of communication shall certify that a minimum of 70 percent of the mobile units specified in his application will be placed in operation not later than 8 months after the date of grant of his license for the system.

(d) Where licensees, authorized under the provisions of paragraph (c) of this section, do not load the channel or channels assigned in accordance with specified loading criteria, any (assigned channel) not so occupied shall be available for assignment to other applicants. All authorizations for conventional systems are issued subject to this condition.

(e) Any licensee, at any time its authorized conventional system is occupied to 90 percent of its specified capacity, may apply for additional channel pairs. Assignments will be made based, first, upon the availability of frequencies for use by the licensee, and, second, based upon the showing made by the licensee of its requirements for additional channel pairs.

TECHNICAL REGULATIONS REGARDING THE USE OF FREQUENCIES IN THE 806–821 MHz AND 851–866 MHz BANDS

§ 90.379 Limitations on power and antenna height.

(a) The maximum effective radiated power and antenna height, respectively, for base stations used in suburban-conventional systems of communication operating in the 851–866 MHz band shall be no greater than 500 watts (27 dBw) and 152 m. (500 ft.) above average terrain (AAT), or the equivalent thereof determined from table 1 of paragraph (c) of this section. These are maximum values, and applicants will be required to justify power levels and antenna heights requested. For service area requirements less than 32 km. (20 mi.) in radius, see table 3 of paragraph (c) of this section.

(b) The maximum effective radiated power and antenna height, respectively, for base stations used in trunked and urban conventional systems authorized in the 851–866 MHz band shall be no greater than 1 kilowatt (30 dBw) and 304 m. (1,000 ft.) above average terrain (AAT), or the equivalent thereof determined from table 1 of paragraph (c) of this section. These are maximum values, and applicants will be required to justify power levels and antenna heights requested. For service area requirements less than 32 km. (20 mi.) in radius, see table 3 of paragraph (c) of this section.

(c) See table below:

TABLE 1.—*Equivalent Powers and Antenna Heights for Base Stations in the 851–866 MHz Band Which Have a Requirement for a 32 km (20 mi) Service Area Radius*

Antenna height (AAT) (feet) (meters)	Effective radiated power (watts)[1][2]	
	Urban/ trunked	Suburban
Above 5,000	65	15
4,501 to 5,000	65	15
4,001 to 4,500	70	20
3,501 to 4,000	75	25
3,001 to 3,500	100	30
2,501 to 3,000	140	35
2,001 to 2,500	200	50
1,501 to 2,000	350	80
1,001 to 1,500	600	160
501 to 1,000	[3]1,000	220
Up to 500	1,000	[4]500

[1] Power is given in terms of effective radiated power (ERP).

[2] Applicants in the Los Angeles, Calif., area who demonstrate a need to serve both the downtown and fringe areas will be permitted to utilized an ERP of 1 kw at the following mountaintop sites: Santiago Peak, Sierra Peak, Mount Lukens, and Mount Wilson.

[3] Stations with antennas below 1,000 ft (AAT) will be restricted to a maximum power of 1 kw (ERP).

[4] Stations with antenna below 500 ft (AAT) Will be restricted to a maximum powr of 500 W (ERP).

TABLE 2.—*Equivalent Powers and Antenna Heights for Suburban-Conventional Base Stations in the 851–866 MHz Band Which Have a Requirement for Less Than 20-mi Service Area Radius—Maximum Effective Radiated Power (Watts)*

Service area radius, miles (kilometers)	Base station antenna height (AAT) (feet)					
	401-500	301-400	201-300	101-200	51-100	0-50
20 (32)	500	500	500	500	500	500
19 (30)	400	500	500	500	500	500
18 (29)	310	385	500	500	500	500
17 (27)	235	300	385	500	500	500
16 (26)	175	220	285	440	500	500

TABLE 2.—*Equivalent Powers and Antenna Heights for Suburban-Conventional Base Stations in the 851-866 MHz Band Which Have a Requirement for Less Than 20-mi Service Area Radius—Maximum Effective Radiated Power (Watts)*—Continued

Service area radius, miles (kilometers)	Base station antenna height (AAT) (feet)					
	401-500	301-400	201-300	101-200	51-100	0-50
15 (24)	130	160	215	330	500	500
14 (22)	95	120	155	240	480	500
13 (21)	70	85	115	175	350	500
12 (19)	50	60	80	125	250	500
11 (18)	35	45	60	90	180	360
10 (16)	25	30	40	60	120	240
9 (14)	15	20	25	40	80	160
8 (13)	10	12	15	25	50	100
7 (11)	6	7	10	15	30	60
6 (10)	3	4	5	7	15	30
5 (8) or less	1	2	3	4	8	16

TABLE 3.—*Equivalent Powers and Antenna Heights for Urban-Conventional and Trunked System Base Stations in the 851-866 MHz Band Which Have a Requirement for Less Than 20-mi Service Area Radius—Maximum Effective Radiated Power (Watts)*

Service area radius (miles)	Base station antenna height (AAT)							
	751-1,000	501-750	401-500	301-400	201-300	101-200	51-100	0-50
20	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
19	800	1,000	1,000	1,000	1,000	1,000	1,000	1,000
18	640	830	1,000	1,000	1,000	1,000	1,000	1,000
17	480	625	960	1,000	1,000	1,000	1,000	1,000
16	360	470	720	900	1,000	1,000	1,000	1,000
15	270	350	540	675	875	1,000	1,000	1,000
14	200	260	400	500	650	1,000	1,000	1,000
13	140	180	280	350	450	700	1,000	1,000
12	100	130	200	250	325	500	1,000	1,000
11	70	90	140	175	230	350	700	1,000
10	45	60	90	110	145	220	440	1,000
9	30	40	60	75	100	150	300	600
8	20	25	40	50	65	100	200	400
7	15	20	30	40	50	80	160	320
6	8	10	15	20	25	40	80	160
5 or less	5	6	9	12	15	25	50	100

(d) The maximum output power of the transmitter for mobile stations is 100 watts (20 dBw).

§ 90.381 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 806-821 and 851-866 MHz bands.

(1) Control stations associated with one or more mobile relay stations will be authorized only on the assigned frequency of the associated mobile station. Use of a mobile service frequency by a control station of a mobile relay system is subject to the condition that harmful interference not be caused to stations of licensees authorized to use the frequency for mobile service communication.

(2) Control stations shall in all cases employ directional antennas with the main lobe of radiation directed toward the station, or stations, being controlled. In each case, the antenna used, consistent with reasonable design, shall produce a radiation pattern that provides only the coverage necessary to permit satisfactory control of each mobile relay station and limits radiation in other directions to the extent feasible.

(3) The strength of the signal of a control station, controlling a single mobile relay station, may not exceed, by more than 6 dB, at the antenna terminal of the mobile relay receiver, the signal strength produced there by a unit of the associated mobile station. When the fixed station controls more than one mobile relay station, the 6 dB control-to-mobile signal difference need be verified at only one of the mobile relay station sites. The measurement of the signal strength of the mobile unit must be made when such unit is transmitting from the control station location or, if that is not practical, from a location which is not more than one-fourth mile from the control station site.

(4) Each application for a control station to be authorized under the provisions of this paragraph shall be accompanied by a statement certifying that the output power of the proposed transmitter will be adjusted to comply with the foregoing signal level limitation. Records of the measurements used to determine the signal ratio shall be kept with the station records and shall be made available, upon request, for inspection by Commission personnel.

§ 90.383 Acceptability of transmitters for licensing in the 806-821 and 851-866 MHz bands.

Except for transmitters used in developmental stations, each transmitter utilized by a station authorized for operation in these bands must be a type which is included on the Commission's current Radio Equipment List, or be of a type which has been type-accepted by the Commission for use in these bands.

OPERATING REQUIREMENTS IN THE 806-821 MHz AND 851-866 MHz BANDS

§ 90.385 Restrictions and limitations on permissible communications, on use, and on mode of operation.

(a) Systems licensed to provide service to persons or entities eligible under Subparts B, C, D, or E of this part may, in conformity with the following restrictions, be used:

(1) Only for purposes expressly allowed under this part.

(2) Only by persons who are eligible for facilities, either under this subpart or in the radio services included under Subparts B, C, D, or E of this part.

(3) Only for the transmission of messages or signals permitted in the service in which the participants are eligible.

(4) Only in the private dispatch mode of operation.

(b) Except as provided at paragraph (c) of this section, radio systems licensed under this subpart may be used for voice communications (telephony), only.

(c) Notwithstanding any contrary provisions in this subpart, a system licensed for use by a person or entity eligible under Subparts B, C, D, or E of this part may be employed for any purpose or operated in any manner, including the use of F2, F4, F9, and F9Y emissions and in the Police and Fire Radio Services only, F3Y emission which is consistent with the regulations governing the service in which the user is eligible: *Provided*, That the loading standard which applies to the system is met and the channel or channels are assigned to that person or entity for its exclusive use.

§ 90.387 Station identification.

(a) Conventional systems of communication shall be identified in accordance with existing regulations governing such matters.

(b) Trunked systems of communication shall be identified through the use of an automatic device which transmits the call sign of the base station facility at 30-minute intervals. Such station identification shall be made on the lowest frequency in the base station trunk group assigned to the licensee. Should this frequency be in use at the time station identification is required, such identification may be made at the termination of the communication in progress on this frequency. Identification may be by voice or International Morse Code. When the call sign is transmitted in International Morse Code, it should be at a rate of between 15 to 20 words per minute; and it should be transmitted by the means of tone modulation of the transmitter, the tone frequency being between 800 and 1000 hertz. The level of modulation is to be high enough to be clearly discernible, but low enough not to be disruptive of voice communications in progress.

§ 90.389 Restriction on interconnection.

Radio systems licensed under this subpart may be interconnected with wire line facilities of any telephone company; *Provided, however,* Such interconnection is accomplished at a control point or control station, which is situated at a fixed location (not in a mobile unit), licensed to the user, where a person directly responsible for the operation of the base station or stations is on duty, and where all of the applicable requirements set out at § 90.461-90.467 are met. Such interconnection may not be accomplished at the base station site or sites; nor may it be accomplished at any location other than the licensee's principal office or place of business. This shall be construed to bar interconnection at a common location, used for dispatching or for control, by the licensee together with other licensees or users, such as, a telephone answering service. *Provided further, however,* This provision shall not be interpreted to preclude common dispatching from such a location nor the relaying of messages through to mobiles of the licensee by such a dispatcher.

§ 90.391 Supplemental reports required of licensees authorized under this subpart.

(a) Licensees providing service to persons eligible either under Subparts B, C, D, or E of this part on a not-for-profit, cost-shared basis, shall, prior to furnishing service to any user not previously identified, notify the Commission of his intention to do so and furnish the Commission with sufficient information as to the prospective user to enable it to determine whether this person is eligible to participate in the sharing arrangement. Service to the participant may commence 30 days after such notification, unless the licensee is advised, in writing, of any deficiency in the licensees' showing or in the eligibility of the person to be served. In the latter case, until the deficiency is corrected or the user is shown to be qualified and eligible, he may not participate in the use of the system.

(b) Where a licensee provides service under the terms of an agreement, on a not-for-profit, cost-shared basis, such agreements may not be modified in any material respect until the changes in the terms and conditions are reported to, and approved by the Commission.

(c) Where a licensee provides service on a commercial basis, he shall not modify, in any material respect, the basic agreement under which such service is provided until the changes in its terms and conditions are reported to, and approved by, the Commission.

(d) Licensees offering service on a commercial basis to any person or entity eligible under either Subpart B, C, D, or E of this part, or to the public, must report, annually and at the time of filing applications for renewal of license, the number of mobile units being serviced; and such licensees shall, at that time, give the name and full address of each customer; the number of mobile units operated by each of them; and such other data as the party reporting may feel would be helpful in determining channel occupancy of the system, together with a certification that the terms of the basic agreement under which service is provided have not been modified or changed in any material respect. Such data shall be current as of the day and date falling 30 days prior to the date on which such licensees are required to file for renewal of their licenses, or, for the annual reports, at the close of the 12-month period covered by the annual report. The licensees of systems of the type covered by the provisions of this rule shall maintain records which, if referred to, will support any of the information required to be filed in the subject report. These records shall be available to the Commission upon request.

(e) Licensees furnishing service to eligible persons on a not-for-profit, cost-shared basis, shall, within 30 days of the close of the first full calendar year of operation, and each year thereafter, submit a report setting out the following information:

(1) A certification that during the period covered by the report, services have been offered and provided in accordance with the terms and conditions of the agreement approved by the Commission; that said agreement has not been modified or changed, except with the express approval of the Commission; and that records have been kept which show that service and facilities were made available on a not-for-profit, cost-shared basis. These records shall be available to the Commission upon request.

(2) A list of persons served during the period covered by the report.

(3) The number of mobile units operated by each user and a statement showing whether these units are of the vehicular or portable type.

(4) The total number of units served by the system during the period of the report, together with the number served on January 1st and on December 31st of the year of the report, and the average number of such mobile units served during this period of time.

(f) Licensees of trunked systems serving only themselves shall report annually, and at the time of filing applications for renewal of licenses, the number of mobile units being served, together with such other data as the licensees may feel would be helpful to the Commission in determining channel occupancy of their systems. Records supporting the information required in these reports shall be maintained by the licensees and shall be available to the Commission upon request.

(g) All licensees of conventional systems, in addition to the other requirements of this section, shall report the number of vehicular and portable units placed in operation within 8 months of the date of the grant of their license. Such reports shall be filed within 30 days from that date.

(h) All licensees of trunked systems shall report, within seven (7) months of the date of the grant, whether or not construction of the authorized facility has begun, and within thirteen months of the date of the grant, whether or not construction of the facility has been completed.

OTHER PROVISIONS GOVERNING THE USE OF THE 806-821 MHz AND 851-866 MHz BANDS

§ 90.393 Special conditions governing the furnishing of radio equipment by licensees.

Every licensee of a trunked or conventional system furnishing base station facilities on a commercial basis, under this subpart, shall afford users the option of purchasing, leasing, or renting the associated control and mobile station radio gear. Should a user elect to lease or to rent the equipment and should the lease or rental arrangement involve no more than five (5) transmitting/receiving units, the user must be given the further right to cancel the lease or rental agreement at any time, without penalty, on ten days' written notice.

§ 90.395 Number of systems authorized in a geographical area.

There shall be no limit on the number of trunked systems authorized to operate in any one given area except that imposed by allocation limitations and no person authorized to operate any trunked radio facility

are intended to communicate between not exceed the number of mobile units

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shall have a right to protest any other proposal on grounds other than violation of any inconsistency with the provisions of this subpart. All grants are made subject to the conditions and standards set out in this subpart.

§ 90.397 Special licensing requirements for radio systems used to provide service to persons other than the licensee.

Where a conventional or a trunked radio system is to be used to provide radio facilities to a single user or to multiple users, on a commercial basis, any associated control points, control stations, and mobile radio stations shall be authorized only to the user of those particular facilities.

Subpart N—Operating Requirements

§ 90.401 Scope.

The subpart prescribes general operating requirements for stations licensed under this part. This includes station operating procedures, points of communication, permissible communications, methods of station identification, control requirements, and station record keeping requirements.

§ 90.403 General operating requirements.

(a) Licensees of radio stations in the private land mobile radio services shall be directly responsible for the proper operation and use of each transmitter for which they are licensed. In this connection, licensees shall exercise such direction and control as is necessary to assure that all authorized facilities are employed:

(1) Only for permissible purposes;

(2) Only in a permissible manner; and

(3) Only by persons with authority to use and operate such equipment.

(b) In carrying out their responsibilities under § 89.900(a), licensees shall be bound by the provisions of the Communications Act of 1934, as amended, and by the rules and regulations of the Commission governing the radio service in which their facilities are licensed; and licensees may not, through written or oral agreements or otherwise, relieve themselves of any duty or obligation imposed upon them, by law, as licensees.

(c) Each licensee shall restrict all transmissions to the minimum practicable transmission time and shall employ an efficient operating procedure designed to maximize the utilization of the spectrum.

(d) Communications involving the imminent safety-of-life or property are to be afforded priority by all licensees.

(e) Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.

(f) Stations licensed in this part shall not continuously radiate except where required for tests as permitted in Section 90.405, except where specifically permitted by this part, where specifically authorized in the station authorization, or on an as needed basis in the Radiolocation Radio Service.

(g) The radiations of the transmitter shall be suspended immediately upon detection or notification of a deviation from the technical requirements of the station authorization and until such deviation is corrected. For transmissions concerning the imminent safety-of-life or property, the transmissions shall be suspended as soon as the emergency is terminated.

§ 90.405 Permissible communications.

Stations licensed under this part may transmit only the following types of communication:

(a) Any communication related directly to the imminent safety-of-life or property;

(b) Communications directly related and necessary to those activities which make the licensee eligible for the station license held under this part. In addition, when communication service is provided under the cooperative sharing provisions of § 90.179, the licensee providing such service may transmit communications related to the activities for which the parties receiving the service would be eligible to be licensed.

(c) Communications for testing purposes required for proper station and system maintenance. However, each licensee shall keep such tests to a minimum and shall employ every measure to avoid harmful interference.

§ 90.407 Communications permitted during emergency situations.

The licensee of any station authorized under this part may, during a period of emergency in which the normal communication facilities are disruptive as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication without regard to § 90.405, but in accordance with the following:

(a) As soon as possible after the beginning of such emergency use, notice is sent to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the emergency and the use to which the station is being put;

(b) The emergency use of the station be discontinued as soon as substantially normal communication facilities are again available, and the Commission in Washington, D.C., and the Engineer in Charge be notified immediately when such special use of the station is terminated; and

(c) The Commission may at any time order discontinuance of such special use of the authorized facilities.

§ 90.409 Emergency operation of Public Safety and Special Emergency mobile stations at fixed locations.

During an emergency requiring a local communication center, any mobile transmitter authorized in the Public Safety or Special Emergency Radio Services may be operated temporarily as a base station at a fixed location for a period not to exceed ten days. If operation for a longer period is required, such operation must be specifically authorized.

§ 90.411 Civil Defense Communications in the Public Safety and Special Emergency Radio Services.

The licensee of any radio station licensed in the Public Safety or Special Emergency Radio Services may, on a voluntary basis, transmit communications necessary for the implementation of civil defense activities assigned such station by local civil defense authorities during an actual or simulated emergency, including drills and tests. Such communications, however, must relate to the activity or activities which form the basis of the licensee's eligibility in the radio service in which he is authorized.

§ 90.413 Civil Defense Communications in the Taxicab Radio Service.

In addition to communications permitted by § 90.405, stations in the Taxicab Radio Service may be used for the transmission of the following:

(a) Messages relating to the dispatch of taxicabs which are temporarily diverted from their normal public passenger transportation activities to the performance of civil defense transportation functions.

(b) Messages relating to the activities of the civil defense agency in those cases where other communications facilities including the Radio Amateur Civil Emergency Service, Disaster, or Domestic Public Services are inoperative or inadequate, either in fact or during a simulated civil defense emergency: *Provided*, That:

(1) As soon as possible after the beginning of such use, the licensee shall send notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications being transmitted and the duration of the special use of the station. In addition, the Engineer in Charge shall be notified as soon as possible of any change in the nature of or termination of such use.

(2) In the event such use is to be a series of pre-planned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the times scheduled for such use. Notice shall likewise be given in the event of any change in the nature or termination of any such series of tests.

(3) The Commission may, at any time, order the discontinuance of such special use of the authorized facilities.

§ 90.415 Prohibited uses.

Stations licensed under this part shall not:

(a) Transmit program material of any kind for use in connection with broadcasting; or

(b) Render a communications common carrier service, except for stations in the Special Emergency Radio Service providing communications standby facilities under § 90.49, or operational fixed stations licensed in the Railroad Radio Service handling public telegraph messages as agents of telegraph common carriers in those instances where such public telegraph service cannot be efficiently provided through other railroad facilities.

§ 90.417 Interstation communication.

(a) Any station licensed under this part may communicate with any other station without restriction as to type, service, or licensee when the communications involved relate directly to the imminent safety-of-life or property.

(b) Any station licensed under this part may communicate with any other station licensed under this part, with U.S. Government stations, and with foreign stations, in connection with mutual activities, provided that where the communication involves foreign stations prior approval of the Commission must be obtained, and such communication must be permitted by the government that authorizes the foreign station. Communications by Police Radio Service stations with foreign stations will be approved only to be conducted in accordance with article 5 of the Inter-American Radio Agreement, Washington, D.C., 1949, the provisions of which are set forth in § 90.19(c).

§ 90.419 Points of communication.

Normally, operations licensed under this part are intended to provide intrastation mobile communications. For example, a base station is intended to communicate with its associated mobile stations and mobile stations are intended to communicate between associated mobile stations and associated base stations of the licensee. Accordingly, operations between base stations at fixed locations are permitted only in the following situations:

(a) Base stations licensed in the Public Safety and Special Emergency Radio Services may communicate with other base stations, operational fixed stations, or fixed receivers authorized in these services on frequencies below 450 MHz only on a secondary basis.

(b) Base stations licensed on any frequency in the Industrial and Land Transportation Radio Services and on base station frequencies above 450 MHz in the Public Safety and Special Emergency Services may communicate on a secondary basis with other base stations, operational fixed stations, or fixed receivers authorized in these services only when:

(1) The messages to be transmitted are of immediate importance to mobile stations; or

(2) Wireline communications facilities between such points are inoperative, economically impracticable, or unavailable from communications common carrier sources. Temporary unavailability due to a busy wireline circuit is not considered to be within the provisions of this subparagraph.

(c) Operational fixed stations may communicate with units of associated mobile stations only on a secondary basis.

(d) Operational fixed stations licensed in the Industrial and Land Transportation Radio Services may communicate on a secondary basis with associated base stations licensed in these services when:

(1) The messages to be transmitted are of immediate importance to mobile stations; or

(2) Wireline communications facilities between such points are inoperative, economically impracticable, or unavailable from communications common carrier sources. Temporary unavailability due to a busy wireline circuit is not considered to be within the provisions of this subparagraph.

(e) Travelers' Information Stations are authorized to transmit certain information to members of the traveling public (see Sec. 90.241).

§ 90.421 Operation of mobile units in vehicles not under the control of the licensee.

Mobile station transmitters may be installed in vehicles operated by persons other than the licensee as provided in the following paragraphs when necessary for the licensee to meet his requirements in connection with the activities for which he is licensed. The number of units so installed, together with units installed in vehicles operated by the licensee, must not exceed the number of mobile units authorized to the licensee. When an insufficient number of units is licensed to cover such additional units, the license must be modified to add a sufficient number of mobile units. The licensee is responsible for taking any necessary precaution to effectively eliminate the possibility of unauthorized operation of transmitters when not under the control of the licensee.

(a) Mobile units licensed in the Local Government Radio Service may be installed in any vehicle which in an emergency would require cooperation and coordination with the licensee, and in any vehicle used in the performance, under contract, of official activities of the licensee. This includes ambulances, emergency units of public utilities, lifeguard units, and vehicles of contractors or other persons or agencies performing for the licensee under contract one or more of its local government functions. This provision does not permit the installation of radio units in non-emergency vehicles not performing governmental functions under contract but with which the licensee might wish to communicate.

(b) Mobile units licensed in the Police Radio Services may be installed in any vehicle which in an emergency would require cooperation and coordination with the activities of the licensee. This includes emergency units of public utilities, lifeguard emergency units, ambulances, fire department vehicles and rural school buses.

(c) Mobile units licensed in the Fire Radio Service may be installed in emergency vehicles which may be alerted during a fire emergency. This includes emergency units of public utilities and water departments.

(d) Mobile units licensed in the Highway Maintenance Radio Service may be installed in vehicles of contractors or other persons having a direct responsibility for official highway activities.

(e) Mobile units licensed in the Forestry-Conservation Radio Services may be installed in vehicles of forestry cooperators, and persons having a direct responsibility in the prevention, detection, and suppression of forest fires.

(f) Mobile units licensed in the medical services category of the Special Emergency Radio Service may be installed in a vehicle or be hand-carried for use by any person with whom cooperation or coordination is required for medical services activities.

(g) Mobile units licensed in the Industrial Radio Services may be installed in vehicles of persons furnishing under contract to the licensee and for the duration of the contract, a facility or service directly related to the activities of the licensee.

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(h) Mobile units licensed to an electric utility in the Power Radio Service on frequencies designated for use by an interconnected utility system may be installed in any vehicle operated by an organization or association comprised of interconnected electric utilities forming interconnections, power pools or groups.

(i) Mobile units authorized in the Automobile Emergency Radio Service may be installed in the vehicles of persons furnishing a private emergency road service to its members pursuant to a contract with the association.

§ 90.423 Operation on board aircraft.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, and except as may be provided in other sections of this part with respect to operation on specific frequencies, mobile stations first authorized after September 14, 1973, under this part may be operated aboard aircraft for air-to-mobile, air-to-base, air-to-air and air-to-ship communications subject to the following:

(1) Operations are limited to aircraft that are regularly flown at altitudes below one mile (1.6 km) above the earth's surface;

(2) Transmitters are to operate with an output power not to exceed ten watts;

(3) Operations are secondary to landbased systems;

(4) Such other conditions, including additonal reductions of altitude and power limitations, as may be required to minimize the interference potential to land-based systems.

(b) Exceptions to the altitude and power limitations set forth in paragraph (a) of this section may be authorized upon a showing of unusual operational requirements which justify departure from those standards, provided that the interference potential to regular land-based operations would not be increased.

(c) Mobile operations aboard aircraft in the services governed by this part, under licenses in effect September 14, 1973, may be continued without regard to provisions of paragraph (a) of this section, as follows:

(1) Operations may be continued only for the balance of the term of such licenses if aircraft involved are regularly flown at altitudes greater than one mile (1.6 km) above the earth's surface.

(2) Operations may be continued for one additional renewal license term if the aircraft involved are regularly flown at altitudes below one mile (1.6 km) above the earth's surface.

(d) Operation of radiolocation mobile stations may be authorized without regard to limitations and conditions set forth in paragraph (a), (b), and (c) of this section.

§ 90.425 Station identification.

Stations licensed under this Part shall transmit identification in accordance with the following provisions:

(a) *Identification procedure:* Except as provided in paragraph (d) of this section, each station shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) during periods of continuous operation. The call sign shall be transmitted by voice in the English language, or by International Morse Code in accordance with paragraph (b) of this section. Permissible alternative identification procedures are as follows:

(1) A base station (including a mobile relay station) which is controlled by radio may be identified by the transmission of the call sign of the station at which communications originate.

(2) One or more fixed relay stations may be identified by the transmission of the call signs of the stations at which the communications originate.

(3) When a mobile station transmits on a different frequency than its associated base station, the assigned call sign of either the mobile station or the base station may be transmitted. Further, a single mobile unit in the licensee's authorized geographic area of operation may transmit station on behalf of any other operating mobile units in the fleet.

(4) *Use of an identifier other than the assigned call sign.* (i) In the Public Safety and Special Emergency Radio Services, mobile units licensed to a governmental entity and which operate on frequencies above 30 MHz may use an identifier which contains, at a minimum, the name of the licensee; *Provided,* That the licensee notifies, in writing, the Engineer-in-Charge of the field office area in which the units will operate, of the specific identifier(s) to be used by the mobile units.

(ii) In the Land Transportation Radio Services, licensees may request the Commission's local Engineer-in-Charge to approve the use of special mobile unit identifiers in lieu of the assigned call sign. Such requests, however, will not be granted where it appears that harmful interference to international operations may be caused by stations below 50 MHz, or by stations operating in areas within 50 miles of an international boundary, or where it appears that the proposed method of identification will not adequately distinguish the mobile units of the applicant from the mobile units of other licensees in the area.

(iii) In the Railroad Radio Service, stations may be identified by the name of the railroad and the train number, caboose number, engine number, or the name of the fixed wayside station. If none of these forms are practicable, any similar name or number may be designated by the railroad concerned for use by its employees in the identification of fixed points or mobile units; *Provided,* That, a list of such identifiers is maintained by the railroad. An abbreviated name or the initials of the railroad may be used where such are in general usage. In those areas where it is shown that no difficulty would be encountered in identifying the transmission of a particular station (as, for example, where stations of one licensee are located in a yard isolated from other radio installations), approval may be given to a request from the licensee for permission to omit the station identification.

(5) *Use of identifiers in addition to assigned call signs.* Nothing in this section shall be construed as prohibiting the transmission of station or unit identifiers which may be necessary or desirable for system operation, *Provided,* That, they are transmitted in addition to the assigned station call sign or other permissible form of identification.

(b) *Use of automatic Morse code identification equipment.* Automatically activated equipment may be used to transmit station identification in International Morse Code pursuant to the following conditions:

(1) The signal output of the automatic identification equipment shall be connected to the transmitter at the microphone input or any other manufacturer-provided signal input terminal and shall be adjusted to produce 40 percent ± 10 percent of the maximum permissible modulation or deviation level. This adjustment shall be performed when all other modulating signals are absent.

(2) The Morse code transmission rate shall be maintained between 20 and 25 words per minute.

(3) The frequency of the keyed tone comprising the identification signal shall be 1200 ± 800 Hz. A licensee may be required to change the frequency in order to prevent interference to the operations of another co-channel licensee.

(4) Should activation of automatic Morse code identification equipment interrupt the communications of another co-channel licensee, the Commission may require the use of equipment which will delay automatic station identification until such co-channel communications are completed.

(c) *Special provisions for identification in the Radiolocation Service.*

(1) Stations in the Radiolocation Service operating on frequencies below 3400 kHz shall identify on each carrier frequency by the transmission of the assigned call sign at the beginning and

end of each period of operation. Such identification shall be by the Morse Code signals specified in the Telegraph Regulations annexed to the International Telecommunications Convention, Geneva, 1959, using A1 or A2 emission. For the latter emission, either the modulating audio frequency or the modulated emission may be keyed.

(2) Stations in the Radiolocation Service operating on frequencies above 3400 kHz are not required to identify except upon specific instruction from the Commission.

(D) *General exemptions.* A station need not transmit identification if:

(1) It is a mobile station operating on the transmitting frequency of the associated base station (or an associated control station in a mobile relay system) when communicating with a control station.

(2) It is a mobile station in the Police or Fire Radio Services using F3Y emission.

(3) It is transmitting for telemetering purposes or for the activation of devices which are employed solely as a means of attracting attention, or for remote control purposes, or which is retransmitting by self-actuating means, a radio signal received from another radio station or stations.

(4) It is any type of radiopositioning or radar station authorized in a service other than the Radiolocation Service.

(5) It is used solely for automatic vehicle monitoring or location.

§ 90.427 Precautions against unauthorized operation.

Each transmitter shall be so installed and protected that it is not accessible to or capable of operation by persons other than those duly authorized by and under the control of the licensee. Provisions of this part authorizing certain unlicensed persons to operate stations, or authorizing unattended operation of stations in certain circumstances, shall not be construed to change or diminish in any respect the responsibility of station licensees to maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations and transmitter units in accordance with the terms of the licenses of those stations.

§ 90.429 Control point and dispatch point requirements.

(a) *Control point required.* Unless permitted to be operated on an unattended basis, each station shall be provided with a control point;

(b) A control point is an operating position:

(1) Which must be under the control and supervision of the licensee;

(2) Where a person immediately responsible for the operation of the transmitter is stationed;

(3) Where the monitoring facilities required by this part are installed.

(c) *Control point location.* The location of the control point will be specified in the station license and will be assumed to be the same as that of the transmitting equipment unless an application for a different location has been approved by the Commission.

(d) *Control point facilities required.* At each control point, the following facilities shall be installed:

A carrier operated device which will provide continuous visual indication when the transmitter is radiating, or, a pilot lamp or meter which will provide continuous visual indication when the transmitter circuits have been placed in a condition to produce radiation. The provisions of this subparagraph shall not apply to hand-carried transmitters or transmitters installed on motorcycles. The control point for a transmitter utilized to activate another radio station may employ a single pilot lamp or meter as an indication of the activation of local and remote transmitters.

(2) Equipment to permit the person responsible for the operation of the transmitter to monitor aurally all transmissions orginating at dispatch points under his supervision;

(3) Facilities which will permit the person responsible for the operation of the transmitter either to disconnect the dispatch point circuits from the transmitter or to render the transmitter inoperative from any dispatch point under his supervision; and

(4) Facilities which will permit the person responsible for the operation of the transmitter to turn the transmitter carrier on and off at will.

(e) *Dispatch point.* A dispatch point is any position from which messages may be transmitted under the supervision of the person at a control point who is responsible for the operation of the transmitter. Dispatch points may be installed without authorization from the Commission.

§ 90.431 Unattended operation.

No person is required to be in attendance at a station when transmitting during normal rendition of service and when either:

(a) Transmitting for telemetering purposes; or,

(b) Retransmitting by self-actuating means a radio signal received from another radio station or stations.

§ 90.433 Operator license requirements.

No operator license or permit is required for the operation of stations licensed under this part except as follows:

(a) *Maintenance and tests.* All transmitter adjustments or tests during the installation, servicing, or maintenance of a radio station which may affect the proper operation of such station shall be made by or under the immediate supervison and responsibility of a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, who shall be responsible for the proper functioning of the station equipment. Only persons holding a radiotelegraph first- or second-class operator license shall perform such functions at radiotelegraph stations transmitting by any type of the Morse Code.

(b) *Operation during the course of normal rendition of radiotelegraph service.* Only a person holding a commercial radiotelegraph operator license of any class issued by the Commission shall operate a station when transmitting radiotelegraphy by any type of the Morse Code, generally, only police zone and interzone stations will be transmitting radiotelegraphy.

§ 90.435 Posting of operator license.

Each person required to have an operator's license under this section shall post, or have immediately available at a place he is normally based or on duty, the original of his license, except that when he is performing duty at a station where he is not normally based, he shall have on his person a valid license identification card (FCC Form 785-F).

§ 90.437 Posting station licenses.

(a) The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

(b) A clearly legible photocopy of the authorization for each base or fixed station at a fixed location shall be posted at every control point of the station.

§ 90.439 Inspection of stations

All stations and records of stations in these services shall be made available for inspection at any reasonable time and any time while the station is in operation upon reasonable request of an authorized representative of the Commission.

§ 90.441 Inspection and maintenance of tower marking and associated control equipment.

(a) The licensee of any radio station with an antenna structure that must be painted or illuminated as specified in the station authorization is required to maintain the tower marking and associated control equipment in accordance with the following:

(1) The tower lights shall be checked at least once each 24 hours. Assurance

that such lights are functioning properly shall be accomplished by visually observing either the tower lights or by observing an automatic indicator that registers any failure of such lights. Alternately, an automatic alarm system which detects any failure of the tower lights and indicates such failure to the licensee may be used but must be properly maintained.

(2) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within 30 minutes, regardless of the cause of such failure, shall be reported immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

(3) All automatic or mechanical control devices, indicators, and alarm systems associated with the tower lights shall be inspected at intervals not to exceed three months, to insure that such apparatus is functioning properly.

(4) All lighting shall be exhibited from sunset to sunrise unless otherwise specified in the instrument of station authorization.

(5) All towers shall be cleaned or repainted as often as is necessary to maintain good visibility.

(b) Licensees operating stations licensed under this part which share a tower used for antenna and/or antenna supporting purposes with other licensees under this part or under this chapter, may designate in writing one licensee or an appropriate non-licensed agent to be responsible for maintenance and inspection of the tower, and maintenance of the inspection log. In such cases, a copy of the agreement must be filed with the Commission to be maintained in each participating licensee's station file.

§ 90.443 Content of station records.

Each licensee of a station in these services shall maintain records in accordance with the following:

(a) For all stations, the results and dates of the transmitting measurements required by § 90.215 of this part and the name of the person or persons making the measurements.

(b) When service or maintenance duties are performed on stations, the responsible operator shall sign and date an entry in the station record giving:

(1) Pertinent details of all duties performed by and under the supervision of the operator;

(2) The operator's name and address, and;

(3) The class, serial number and expiration date of the operator's license. Information stipulated in subparagraphs (2) and (3) of this paragraph need be entered only once in the station record at any station where the responsible operator is employed on a full time basis and an operator's license is properly posted.

(c) For stations whose antenna or antenna supporting structure must be illuminated, the licensee will record:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not provided.

(3) Any observed or otherwise known failure of a tower light by indicating:

(i) The nature of such failure.

(ii) The date and time the failure was observed or otherwise noted.

(iii) The date, time, and nature of adjustments, repairs or replacements made.

(iv) The identification of the Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) The date and time notice was given to the Flight Service Station of the Federal Aviation Administration that the required illumination was resumed.

(4) The completion of the 3-month periodic inspection required by § 90.441 of this part by indicating:

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements or repairs were made.

§ 90.445 Form of station records.

(a) Station records shall be kept in an orderly manner, and in such detail that the data required are readily available. Key letters or abbreviations may be used if proper meaning or explanation is set forth in the record.

(b) Each entry in the records of each station shall be signed by a person qualified to do so, having actual knowledge of the facts to be recorded.

(c) No record or portion thereof shall be erased, obliterated, or wilfully destroyed within the required retention period. Any necessary correction may be made only by the person originating the entry, who shall strike out the erroneous portion, initial the correction made, and indicate the date of correction.

§ 90.447 Retention of station records.

Records required by this part shall be retained by the licensee for at least one year.

§ 90.449 Answers to a notice of violation.

Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any legislative act or treaty to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall, within 10 days from such receipt or such other period as may be specified, send a written answer to the office of the Commission originating the original notice. If an answer cannot be sent, or an acknowledgement made within such period, acknowledgement and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. The reply shall set forth the steps taken to prevent a recurrence of improper operation.

Subpart O—Transmitter Control

§ 90.461 Direct and remote control of transmitters.

(a) *In general.* Radio transmitters may be operated and controlled directly (as when the operating position for the transmitter and the transmitter being operated are at the same location), or remotely (as when the transmitter being operated and the position from which it is being operated are at different locations).

(b) *Control of transmitters at remote locations.* Radio transmitters at remote locations may be operated and controlled through the use of wire line or radio links; or through dial-up circuits, as provided in subparagraph (c) of this section. Such control links or circuits may be either those of the licensee or they may be provided by common carriers authorized by law to furnish such service.

(c) *Dial-up circuits.* Dial-up circuits may be provided by wire line telephone companies under appropriate tariffs, and they may be used by licensees for purposes of transmitter control, provided:

(1) The dial-up circuits serve only to link licensed transmitter control points and the transmitters being controlled; and,

(2) The dial-up circuits are so designed that the transmitters being controlled cannot be operated from any fixed position other than the licensed control points for those transmitters.

(3) Equipment used to provide the transmitter/dial-up-circuit interface is designed to preclude associated mobile units of the licensee from reaching any point(s) served by the wire line telephone facilities other than the control point(s) of the station(s) controlled.

(4) Any direct electrical connection to the telephone network shall comply with applicable tariffs and with Part 68 of the Commission's rules (See. § 90.5(h)).

(5) Dial-up, transmitter control circuits may not be employed in any system of communication which is interconnected with the public, switched, telephone network within the meaning of §§ 90.7 and 90.477 through 90.483.

§ 90.463 Transmitter control points.

(a) A control operator is required to be stationed at the operating position of a transmitter control point. A control operator is any person designated by the licensee to exercise supervision and control over the operation and use of the licensee's facilities. The control operator may be the licensee, himself; or an employee of the licensee; or the agent of the licensee, appointed by the licensee to act as the control operator; or a third-party contractor, engaged by the licensee to serve as the control operator: *Provided, however,* In no case, through appointment or designation of any person to serve as control operator, may the licensee delegate any of the duties and responsibilities the licensee may have in his capacity as licensee.

(b) Each station or licensed system of communication shall normally have a control point, or control points, at which the control operator or operators are stationed and at or from which the licensee may exercise supervision and control over the authorized facilities, as required by the provisions of § 90.461. *Provided, however,* Control point requirements may vary from one system to another, depending upon the nature of the radio operation; the way and by whom the facilities are employed; and other factors, as set out in other rule sections under this subpart.

(c) A transmitter control point may be located at a fixed position in a system of communication at or from which the control operator exercises supervision and control over the operation and use of the licensed facilities. Each fixed transmitter control point shall have equipment and facilities to permit the control operator:

(1) To determine when the transmitter or transmitters controlled are either radiating "RF" energy, or when the transmitter circuits have been placed in a condition to produce such radiation. This may be accomplished either through the use of a carrier operated device which provides a visual indication when the transmitter(s) are radiating or a pilot lamp or meter which provides a visual indication when the transmitter circuits have been placed in a condition to produce radiation. Further, where a local transmitter is used to activate a remote transmitter or transmitters in the licensee's system of communication, a single pilot lamp or meter may be employed to indicate the activation of both the local and the remote transmitter(s).

(2) To turn the carrier of the transmitter on and off at will, or to close the system down completely, when circumstances warrant such action.

(d) Where the licensee's transmitting facilities may be operated from dispatch points, the fixed control point shall have equipment to permit the control operator:

(1) To aurally monitor all transmissions originating at those dispatch points which are under the supervision of the control operator; and,

(2) To either disconnect the dispatch point circuits from the transmitter(s) or to render the transmitter(s) inoperative from any dispatch point being supervised.

(e) Where the system is interconnected with public communication facilities, as provided at §§ 90.477 through 90.483, and where those rules so require, the fixed control point shall be equipped to permit the control operator:

(1) To monitor co-channel facilities of other licensees sharing an assigned channel or channels with the licensee in the licensee's area of operation; and,

(2) To either terminate any transmissions or communication(s) between points in the public communication system and points in the private system of communication.

(f) In urban areas, the location of fixed transmitter control points will be specified, "same as transmitter," unless the control point is at a street address which is different from that of the transmitter(s) controlled. In rural areas, the location of fixed control points will be specified, "same as transmitter," unless the control point is more than 500 feet from the transmitter(s) controlled. In the latter case, the approximate location of the control point will be specified in distance and direction from the transmitter(s) controlled in terms of feet and geographical quadrant, respectively. It would be assumed that the location of a fixed control point is the same as the location of the transmitter(s) controlled, unless the applicant includes a request for a different location described in appropriate terms as indicated herein.

(g) Authority must be obtained from the Commission for the installation of additional fixed control points, and until such authority is granted, transmitters may not be controlled from such points.

(h) Mobile transmitters shall be assumed to be under the immediate control of the mobile operator; provided, however, overall supervision and control of the operation and use of a communication system may be the responsibility of a fixed control point operator. In general, mobile transmitters shall be equipped to permit the operator to determine when they are radiating "RF" energy or when the transmitter circuits have been placed in a condition to produce such radiation. This may be accomplished either through the use of a carrier operated device or of a pilot lamp or meter which will provide a visual indication when the transmitter is radiating or has been placed in a condition to produce radiation provided, however, that hand-carried or pack-carried transmitters and transmitters installed on motorcycles need not be so equipped.

§ 90.465 Control of systems of communication.

(a) Depending on design considerations, control of a system of communication may be exercised in varying ways. In SF simplex, base/mobile operations, control may be exercised by the control operator at the fixed control point. In mobile relay systems, where there is an associated control point or control station, control may be exercised by the operator at the control point or control station. In mobile-only systems, control may be exercised by the mobile operator. In communication systems involving multiple base stations or fixed relays control of the system may result from a combination of factors and considerations, including control by a fixed control point operator at some point within the system of communication or control by the mobile station operator of the licensee.

(b) In internal systems, as defined at § 90.7 control may be maintained by conforming the system to the requirements of §§ 90.471 through 90.475.

(c) In interconnected systems, as defined at § 90.7 control may be maintained by conforming operation and system design to that permitted at §§ 90.477 through 90.483.

§ 90.467 Dispatch Points.

Dispatch points meeting the requirements of this section need not be specifically authorized; provided, however, that the licensee of any radio station operated from a dispatch point or points shall assume full responsibility for the use and operation of the authorized facilities in compliance with all applicable provisions of law or rule and shall comply with the policy:

(a) A dispatch point may be linked to the transmitter(s) being operated by private or leased wire line of fixed

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radio circuits, provided the requirements of § 90.463 are met.

(b) No telephone position in the public, switched, telephone network will be treated as a dispatch point within the meaning or intent of this section.

(c) Operation of transmitting facilities from dispatch points is permitted only when the control operator at a fixed control point in the system is on duty and at no other time.

§ 90.469 Unattended operation.

(a) Subject to the provisions of §§ 90.243, 90.245, and 90.247, mobile relay, fixed relay, and mobile repeater stations are authorized for unattended operation; and the transmitter control point requirements set out at §§ 90.463 through 90.465 shall not apply.

(b) Self-activated transmitters may be authorized for unattended operation where they are activated by either electrical or mechanical devices, provided the licensee adopts reasonable means to guard against malfunctions and harmful interference to other users.

§ 90.471 Points of operation in internal systems.

The transmitting facilities of the licensee may be operated from fixed positions located on premises controlled by the licensee. The fixed position may be part of a private telephone exchange or it may be any position in a closed or limited access communication facility intended to be used by employees of the licensee for internal communication purposes. Operating positions in internal systems are not synonymous with dispatch points (See § 90.467) nor with telephone positions which are part of the public, switched, telephone network; and the scheme of regulation is to be considered and treated as being different. See §§ 90.485 through 90.489.

§ 90.473 Operation of internal systems through licensed fixed control points.

An internal system may be operated under the control and supervision of a control operator stationed at a fixed control point in the system. In such case, the control point must be equipped to permit the control operator to monitor all traffic to and from fixed positions and mobile stations or paging units of the licensee; and the system must be so designed to permit the control operator to either disconnect any operating position in the internal system from the transmitter control circuit or to close the system down entirely at will.

§ 90.475 Operation of internal systems in specially equipped systems.

(a) An internal system need not be designed to meet the requirements of § 90.473. As an alternative, the licensee may meet the following requirements:

(1) All operating positions must be located on premises controlled by the licensee.

(2) Dial-up circuits (in the public, switched, telephone network) may not be employed for transmitter control; and the radio system must be so designed that it may not be accessed from telephone positions within the public, switched, telephone network.

(3) The system must be designed so that upon completion of a transmission, the base station transmitter(s) will close down automatically within 3 seconds.

(4) To guard against malfunctions, the system must also be designed so that the base station(s) will be deactivated by an automatic timing device when a modulated signal is not transmitted for a period of three (3) consecutive minutes.

(5) The system must include automatic monitoring equipment, installed at the base station transmitter site(s), which will prevent the activation of the system when signals of other co-channel stations are present.

§ 90.477 Restrictions on interconnected systems.

(a) As an interim measure, pending further decision in Docket No. 20846, interconnection of private radio systems licensed in the 806-821-MHz and 851-866 MHz bands will be permitted only in accordance with provisions of § 90.389.

(b) Interconnection of facilities in the Radiolocation Radio Service (Subpart F) is not permitted.

(c) In the bands below 800 MHz, interconnection of facilities licensed in the Special Emergency Radio Service (Subpart C), the Business and Special Industrial Radio Services (Subpart D), and the Automobile Emergency and Taxicab Radio Services (Subpart E) will be permitted only where the base station site or sites of proposed stations are located 75 miles or more from the designated centers of the following urbanized areas: Provided, this limitation shall not apply to medical emergency systems licensed in the Special Emergency Radio Service in the 450-470 MHz bands.

Urbanized area	North latitude	West longitude
New York, N.Y.-northeastern N.J	40°45'06"	73°59'39"
Los Angeles-Long Beach, Calif	34°03'15"	118°14'28"
Chicago, Ill	41°52'28"	87°38'22"
Philadelphia, Pa.-New Jersey	39°56'58"	75°09'21"
Detroit, Mich	42°19'48"	83°02'57"
San Francisco-Oakland, Calif	37°46'39"	122°24'40"
Boston, Mass	42°21'24"	71°03'25"
Washington, D.C.-Maryland-Virginia	38°53'51"	77°00'33"
Cleveland, Ohio	41°29'51"	81°41'50"
St. Louis, Mo.-Illinois	38°37'45"	90°12'22"
Pittsburgh, Pa	40°26'19"	80°00'00"
Minneapolis-St. Paul, Minn	44°58'57"	93°15'43"
Houston, Tex	29°45'26"	95°21'37"
Baltimore, Md	39°17'26"	76°36'45"
Dallas, Tex	32°47'09"	96°47'37"
Milwaukee, Wis	43°02'18"	87°54'15"
Seattle-Everett, Wash	47°36'32"	122°20'12"
Miami, Fla	25°46'37"	80°11'32"
San Diego, Calif	32°42'53"	117°09'21"
Atlanta, Ga	32°45'10"	84°23'37"
Cincinnati, Ohio-Kentucky	39°06'07"	84°30'35"
Kansas City, Mo.-Kansass	39°04'56"	94°35'20"
Buffalo, N.Y	42°52'52"	78°52'21"
Denver, Colo	39°44'58"	104°59'22"
San Jose, Calif	37°20'16"	121°53'24"

(d) Additional frequencies shall not be assigned to enable any licensee to employ any preferred method of interconnection, such as the use of two-frequency rather than single-frequency operating methods.

(e) The rules governing interconnection in this Subpart are effective for new systems on October 17, 1978. Licensees of existing systems shall bring their facilities into compliance with the provisions of this Subpart by January 1, 1984.

§ 90.479 Interconnection of radio systems with the facilities of telephone companies.

Subject to the limitations set out at § 90.477 authorized stations may be interconnected with facilities of common carriers, subject to applicable tariffs. Such arrangements must be made by the licensee or the user of the radio facility directly with the common carrier in accordance with applicable tariffs.

§ 90.481 Permissible methods of interconnecting private and public systems of communications.

Subject to the requirements of § 90.483, interconnection may be accomplished either manually; by a control operator stationed at a fixed control point; or automatically, under supervision of a control operator stationed at a fixed control point; or automatically, not under supervision of a control operator at a fixed control point. *Provided, however,* That shared, common, or multiple-licensed radio systems, where the facilities are provided by third parties, may not be interconnected under these rules at the location of the shared or common radio facility or at any other common location. However, interconnection may be accomplished at common locations where systems are not shared, or where systems are shared by eligibles under a cooperative, cost-sharing, nonprofit arrangement, with the costs prorated on an equitable basis among the users, and where third party involvement is limited to the sale or lease of the equipment and to incidental maintenance. Interconnection at a common location under these rules is not permitted for such popular sharing arrangements where third parties are involved as the so-called community repeater arrangements. *Provided further,* That any direct electrical connection to the telephone network shall comply with applicable tariffs and with Part 68 of the Commission's Rules. (See § 90.5.)

§ 90.483 Special requirements pertaining to the methods of interconnection.

(a) Where the system is interconnected manually, all transmissions, regardless of their point of origin, must be:

(1) Directed to, and received and processed by a control operator stationed at a fixed control point in the licensee's system of communication;

(2) Manually patched by the control point operator using some form of manual switching device or circuitry; and

(3) Monitored by the control operator to assure that the transmission is permissible and that the system is used for purposes and in ways consistent with the service in which the licensee's system of communication is authorized.

(b) Where the system is interconnected automatically, but under supervision by the licensee's control operator, the following conditions must be met:

(1) The control operator must be stationed at a fixed control point in the licensee's system of communication.

(2) All transmissions, regardless of their point of origin, must be monitored by the control operator to assure that the licensed system is being used in permissible ways; for permissible purposes; by persons having a need to communicate on the business of the licensee or in carrying out functions or activities of the licensee.

(3) The system must include automatic monitoring equipment, installed at the base station transmitter site(s), which will prevent the activation of the system when signals of other co-channel stations are present.

(c) Where the system is interconnected automatically, but is not under supervision by the licensee's control operator, as in subparagraph (b), above, the following conditions must be met:

(1) The system shall include automatic monitoring equipment, installed at the base station transmitter site(s), which will prevent the activation of the system when signals of other co-channel stations are present.

(2) The system shall be so designed that initial access to it from points within the public, switched telephone network will result solely in the transmission of an alerting signal. The alerting signal shall not exceed three (3) seconds in duration after which the base station transmitter(s) shall close down. Further transmissions of signals over the licensee's system shall not take place until it is activated by an acknowledgment signal from a mobile station of the licensee.

(3) The operator of the mobile station must have the ability to control the system in accordance with the following criteria:

(i) In two-frequency systems, the mobile operator must have the ability to terminate communications from points within the public, switched, telephone network at will; and the mobile equipment must be designed to permit this.

(ii) In single-frequency systems, equipment shall be installed at the base station(s) which will limit any single transmission from within the public, switched, telephone network to 30 seconds and which, in turn, will activate the base station receiver(s) which will monitor the operating frequency for a period of not less than 3 seconds. The mobile station shall be so equipped to permit the mobile operator to terminate communications during the three (3) second monitoring period, if such termination is necessary.

(4) A timer shall be installed at the base station transmitter(s) which will limit communications to three (3) minutes. After the three (3) minutes, the system shall close down, with all circuits between the base station and the public, switched, telephone network disconnected.

Paging Operations

§ 90.485 One-way paging operations in the 806-821 MHz and 851-866 MHz bands.

Except as provided at § 90.385(c) of the rules, systems of communication licensed in the 806-821 MHz and 851-866 MHz bands may not be employed for either tone only or tone and voice paging operations.

§ 90.487 One-way paging operations in the bands below 512 MHz.

(a) Subject to specific prohibition or restriction by rule provisions governing the radio service in which a licensee's radio system is authorized, tone only and tone and voice paging operations are permitted:

(1) Where the signals and messages are transmitted by a control operator of the licensee stationed at a licensed control point in the licensee's system of communication.

(2) Where the signals and messages are transmitted from an operating position within an internal system of communication which meets the tests of §§ 90.471 through 90.475.

(3) Where the signals and messages are transmitted from a dispatch point within the licensee's system of communication, as defined at § 90.7.

(b) Systems employing dial-up circuits (§ 90.461(c)) may be used in one-way paging operations, but only where the paging signals are transmitted as provided at subparagraph (a)(1) of this section.

(c) Paging signals, as such, may not be transmitted from telephone positions in the public, switched, telephone network, notwithstanding the fact that the radio system employed may be interconnected with the public telephone network and meet the conditions set out at §§ 90.477-90.483: *Provided, however,* Signaling employed to initiate or maintain communications in an interconnected system or to alert a mobile unit that it is being called or for any like purpose, except for one-way paging signalling as such, are permissible and are not excluded by the provision of this section.

Subpart P—Chicago Land Mobile Spectrum Management

§ 90.491 Scope.

This subpart sets forth special provisions for the filing of applications for authority to operate new or modified radio facilities in the Chicago region and the Chicago land mobile spectrum management district.

§ 90.493 Chicago region.

The Chicago Region is defined to consist of the counties listed below:

Illinois

1. Boone.
2. Bureau.
3. Carroll.
4. Champaign.
5. Christian.
6. Clark.
7. Coles.
8. Cook.
9. Cumberland.
10. De Kalb.
11. De Witt.
12. Douglas.
13. Du Page.
14. Edgar.
15. Ford.
16. Fulton.
17. Grundy.
18. Henry.
19. Iroquois.
20. Jo Daviess.
21. Kane.
22. Kankakee.
23. Kendall.
24. Knox.
25. Lake.
26. La Salle.
27. Lee.
28. Livingston.
29. Logan.
30. Macon.
31. Marshall.
32. Mason.

33. McHenry.
34. McLean.
35. Menard.
36. Mercer.
37. Moultrie.
38. Ogle.
39. Peoria.
40. Platt.
41. Putnam.
42. Rock Island.
43. Sangamon.
44. Shelby.
45. Stark.
46. Stephenson.
47. Tazewell.
48. Vermilion.
49. Warren.
50. Whiteside.
51. Will.
52. Winnebago.
53. Woodford.

INDIANA

1. Adams.
2. Allen.
3. Benton.
4. Blackford.
5. Boone.
6. Carroll.
7. Cass.
8. Clay.
9. Clinton.
10. De Kalb.
11. Delaware.
12. Elkhart.
13. Fountain.
14. Fulton.
15. Grant.
16. Hamilton.
17. Hancock.
18. Hendricks.
19. Henry.
20. Howard.
21. Huntington.
22. Jasper.
23. Jay.
24. Kosciusko.
25. Lake.
26. Lagrange.
27. La Porte.
28. Madison.
29. Marion.
30. Marshall.
31. Miami.
32. Montgomery.
33. Morgan.
34. Newton.
35. Noble.
36. Owen.
37. Parke.
38. Porter.
39. Pulaski.
40. Putnam.
41. Randolph.
42. St. Joseph.
43. Starke.
44. Steuben.
45. Tippecanoe.
46. Tipton.
47. Vermillion.
48. Vigo.
49. Wabash.
50. Warren.
51. Wells.
52. White.
53. Whitley.

IOWA

1. Cedar.
2. Clinton.
3. Dubuque.
4. Jackson.
5. Jones.
6. Muscatine.
7. Scott.

MICHIGAN

1. Allegan.
2. Barry.
3. Berrien.
4. Branch.
5. Calhoun.
6. Cass.
7. Clinton.
8. Eaton.
9. Hillsdale.
10. Ingham.
11. Ionia.
12. Jackson.
13. Kalamazoo.
14. Kent.
15. Lake.
16. Mason.
17. Mecosta.
18. Montcalm.
19. Muskegon.
20. Newaygo.
21. Oceana.
22. Ottawa.
23. St. Joseph.
24. Van Buren.

OHIO

1. Defiance.
2. Mercer.
3. Paulding.
4. Van Wert.
5. Williams.

WISCONSIN

1. Adams.
2. Brown.
3. Calumet.
4. Columbia.
5. Dane.
6. Dodge.
7. Door.
8. Fond du Lac.
9. Grant.
10. Green.
11. Green Lake.
12. Iowa.
13. Jefferson.
14. Juneau.
15. Kenosha.
16. Kewaunee.
17. Lafayette.
18. Manitowoc.
19. Marquette.
20. Milwaukee.
21. Outagamie.
22. Ozaukee.
23. Racine.
24. Richland.
25. Rock.
26. Sauk.
27. Sheboygan.
28. Walworth.
29. Washington.
30. Waukesha.
31. Waupaca.
32. Waushara.
33. Winnebago.

§ 90.495 Applications.

Applicants for new base, mobile, or fixed stations on frequencies below 950 MHz (excluding applications in the Radiolocation Service) and located in the Chicago Region, as defined in § 90.493, and licensees proposing to modify renew, or assign existing authorizations for such stations located in the Chicago Region shall submit Form 425.

§ 90.493 Special Provisions Relating to frequency assignments in the Chicago region.

(a) The table below reflects the basic frequency assignment methodology for use in the Chicago Region. Category I consists of the Police and Fire Radio Services and their present frequencies. Category II consists of other radio services and their frequencies:

CATEGORY I

Police Radio Service
Fire Radio Service

CATEGORY II

GROUP A

Forestry-Conservation Radio Service
Highway Maintenance Radio Service
Local Government Radio Service
Special Emergency Radio Service

GROUP B

Power Radio Service
Telephone Maintenance Radio Service
Railroad Radio Service

GROUP C

Petroleum Radio Service
Forest Products Radio Service
Manufacturers Radio Service
Relay Press Radio Service
Motion Picture Radio Service
Automobile Emergency Radio Service
Business Radio Service
Taxicab Radio Service
Motor Carrier Radio Service
Special Industrial Radio Service

(b) Frequencies in Category I are available only to those who establish eligibility in that Category. Frequencies in Category II are available to all persons who establish eligibility in Category II; and are also available to Category I eligibles on a secondary basis.

(c) To the extent practicable, frequencies from the service within which an applicant has established eligibility will be assigned to that applicant. If no suitable frequency is available, then a search will be made of frequencies of other services in the same group as the applicant. Access to the frequencies of a different group will be permitted only on a case-by-case basis and only when no suitable frequency is available in the group in which eligibility is established.

(d) Where services which presently share frequencies are in different categories or groups, the shared frequencies will only be available to the lower priority category or group; except for the eleven low band frequencies shared by police and local government which go to Category I. Licensees who presently operate on these frequencies may continue to do so even though the frequencies do not appear in their eligibility pool.

(e) The eligibility, permissible communications, points of communications, technical requirements and assignment limitations reflected in the various subparts of this part will also govern in the Chicago Region. Station limitations for the service in which licensee eligibility is established will govern the use of a station even though the frequency assigned may not be from the service in which eligibility was established; except in the case of mobile relay stations which will only be permitted on frequencies previously available for mobile relay use.

(f) Frequency coordination procedures of Section 90.175 are required in the Chicago region after August 31, 1977.

NOTE.—The above frequency assignment methodology for inter-service sharing will not be implemented until further notice by the Commission.

Subpart Q—Developmental Operation

§ 90.501 Scope.

This subpart contains the procedures and requirements for the filing of applications for developmental licenses. It includes special requirements related to developmental operation, restrictions on operations, and special reports required when the development operation is to seek operational data or techniques directed toward the extension of that service.

§ 90.503 Eligibility.

Those persons who are eligible to operate stations in services under this part on a regular basis are also eligible to obtain an authorization for developmental operation in those particular radio services.

§ 90.505 Showing required.

(a) Except as provided in paragraph (b) of this section, each application for developmental operation shall be accompanied by a showing that:

(1) The applicant has an organized plan of development leading to a specific objective;

(2) The actual transmission by radio is essential to proceed beyond the present stage of the program;

(3) The program has reasonable promise of substantial contribution to the expansion or extension of the radio art, or is investigating new unexplored concepts in radio transmission and communications;

(4) The program will be conducted by qualified personnel;

(5) The applicant is legally and financially qualified, and possesses adequate technical facilities to conduct the proposed program; and

(6) The public interest, convenience, and necessity will be served by the proposed operation.

(b) The provisions of paragraph (a) of this section do not apply when an application is made for developmental operation solely for the reason that the frequency requested is restricted to such developmental use.

§ 90.507 Limitations on use.

Stations used for developmental operation shall conform to all technical and operating requirements of Subparts I and N of this part, unless specifically exempted in the instrument of authorization.

§ 90.509 Frequencies available for assignment.

Stations engaged in developmental operation may be authorized to use a frequency or frequencies available in the service in which they propose to operate. The number of channels assigned will depend upon the specific requirements of the developmental program and the number of frequencies available in the particular geographical area where the station is to operate.

§ 90.511 Interference.

The operation of any station engaged in developmental work shall not cause harmful interference to the operation of stations regularly licensed under any part of the Commission's rules.

§ 90.513 Special provisions.

(a) The developmental program as described by the application for authorization shall be followed unless the Commission shall otherwise direct.

(b) Where some phases of the developmental program are not covered by the general rules in this chapter and the rules in this part, the Commission may specify additional requirements or conditions as deemed necessary in the public interest, convenience, or necessity.

(c) The Commission may, from time to time, require a station engaged in developmental work to conduct special tests which are reasonable and desirable to the authorized developmental program.

§ 90.515 Change or cancellation of authorization without hearing.

Every application for authority to engage in developmental operation shall be accompanied by a statement signed by the applicant in which it is agreed that any authorization issued pursuant thereto will be accepted with the express understanding of the applicant that it is subject to change in any of its terms or to cancellation in its entirety at any time, upon reasonable notice but without a hearing, if, in the opinion of the Commission, circumstances should so require.

§ 90.517 Report of operation.

A report on the results of a developmental program shall be filed with and made a part of each application for renewal of authorization. In cases where no renewal is requested, such report shall be filed within 60 days of the expiration of such authorization. Matters which the applicant does not wish to disclose publicly may be so labeled; they will be used solely for the Commission's information, and will not be publicly disclosed without permission of the applicant. The report shall include comprehensive and detailed information on:

(a) The final objective.
(b) Results of operation to date.
(c) Analysis of the results obtained.
(d) Copies of any published reports.
(e) Need for continuation of the program.
(f) Number of hours of operation on each frequency.

This report is not required if the sole reason for the developmental authorization is that the frequency of operation is restricted to developmental use only.

Subpart R—Emergency Communications Pursuant to the Industrial Communications Emergency Plan (ICEP) and the Land Transportation Industries Communications Emergency Plan (LATICEP)

§ 90.525 Industrial Communications Emergency Plan (ICEP).

(a) *Scope and objectives.* This section contains the rules and regulations providing for emergency operations for all Industrial Radio Service Licensees of the Federal Communications Commission, and an Industrial Communications Emergency Plan (ICEP) prepared pursuant to and by the authority of Sections 1, 4(i), 301, 303, 307, 308, 309, 312, 316, 318, 319, and 606 of the Communications Act of 1934 as amended, and Executive Order 11490, as amended. The objective of this subpart is to provide for the development of detailed communications plans containing the designation of facilities, mutually compatible operational arrangements, procedures, and interconnecting facilities, for the continued operation of industrial radio stations on a voluntary, organized basis during times of war, grave national crisis, or other National, State, or Operational (Local) emergency situations.

(b) *Industrial communications emergency plan (ICEP) defined.* The Industrial Communications Emergency Plan (ICEP) is a plan containing

communications plan applicable to his

IT—Telephone maintenance.

Frequency	Services	Special limitations

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procedures for the development of detailed communications plans of Industrial Radio Service licensees based on essential communications requirements of industry, including communications with interested Government Agencies during emergencies on a National, State, or Operational (Local) Area level.

(c) *Emergency situation.* An emergency situation is a situation posing a threat to the safety of life and/or property on a National, State, or Operational (Local) level.

(d) *Activation and termination.* In an emergency situation communications elements of the ICEP may be activated and terminated by competent authorities as defined in the Detailed Operational ICEPs.

(e) *National, State, and local emergency operation.* Detailed data, information, and instructions for emergency operation of mutually compatible facilities, systems, and arrangements will be set forth in the Detailed Operational ICEPs which are considered a supplement to the ICEP.

(f) *Participation of General Mobile Radio Service licensees.* Industrial entities may utilize their General Mobile Radio Service Class A facilities, licensed to them under Section 95.41(a) of the Commission's Rules, in the operation of their own Detailed Operational Industrial Communications Emergency Plans as developed in accordance with the procedures established in this subpart.

(g) *Emergency Communications Authorization (ECA).* (1) A radio station licensee in any industry covered by the Industrial Communications Emergency Plan (ICEP) may be granted an Emergency Communications Authorization (ECA) by the Federal Communications Commission. Each ECA shall remain in effect concurrently with the terms of the approved Detailed Operational Industrial Communications Emergency Plans provided:

(2) The licensee functioning within the terms of the ECA has demonstrated his willingness to cooperate with others by agreeing to provide service or interconnection as part of a communication emergency plan.

(3) The licensee is included in an FCC approved intra-company plan to utilize its radio facilities as emergency backup for other communications services used by the licensee.

(4) An ECA will be issued to each industrial entity for each communications system plan approved by the Commission.

(5) Any industrial radio service participating in the ICEP may withdraw from participation by giving thirty (30) days written notice and by submitting his Emergency Communications Authorization (ECA) to the Federal Communications Commission for cancellation.

(h) *Tests of approved interconnecting systems and facilities.* After detailed emergency communication systems plans are completed, or segments of the system are completed, system operational tests may be necessary. When deemed necessary, these tests shall be conducted as specified in the approved operational plans. Results of these tests shall be furnished to the FCC Engineer in Charge (EIC), the Chief, Emergency Communications Division of the FCC, and to others concerned. These tests would be used as training exercises for personnel at all levels.

§ 90.527 Land Transportation Industries Communications Emergency Plan (LATICEP).

(a) *Scope and objective.* This section applies to those stations licensed under this part and operating in a system for which a National Defense Emergency Authorization has been issued. The section provides for operation of stations within the United States during a grave national crisis or war. The objective is to provide for flexible operation of communications equipment during such an emergency to fulfill emergency communication requirements and needs.

(b) *Definition of terms.* (1) National Defense Emergency Authorization (NDEA). A National Defense Emergency Authorization is an authorization issued by the Federal Communications Commission to the licensees of land transportation stations, subject to the provisions of this part, for operation in accordance with the Interim Basic Land Transportation Industries Communications Emergency Plan (LATICEP) including the annexes and supplements to that plan.

(2) *Emergency action notification.* The Emergency Action Notification is the notice (with or without an Attack Warning) to all licensees and regulated services of the Federal Communications Commission and to the general public of the existence of an Emergency Action Condition. The Emergency Action Notification is released upon direction of the President of the United States and is disseminated only via the Emergency Action Notification System.

(3) *Emergency action condition.* The Emergency Action Condition is the period of time between the transmission of an Emergency Action Notification and the transmission of the Emergency Action Condition Termination.

(4) *Emergency action notification system.* The Emergency Action Notification System is the system by which all licensees and regulated services of the Federal Communications Commission, and the general public, are notified (with or without an Attack Warning) of the existence of an Emergency Action Condition resulting from a grave national crisis or war. The Emergency Action Notification System consists only of the following approved facilities, systems, and arrangements:

(i) *First method.* From the President of the United States via the White House Communications Agency to the Associated Press (AP) and United Press International (UPI); thence via automatic selective switching and teletype Emergency Action Notification to all standard, FM, and television broadcast and other stations (including Land Transportation stations) subscribing to the AP and UPI Radio Wire Teletype Networks.

(ii) *Second method.* From the President of the United States via the White House Communications Agency to specified control points of the nationwide commercial Radio and Television Broadcast Networks, the American Telephone and Telegraph Co. and other specified points via a dedicated teletypewriter network; thence to all affiliates via any available commercial Radio and Television internal network alerting facilities.

(iii) *Third method.* Off-the-air monitoring of a standard, FM, or television broadcast station by other standard, FM, and television broadcast stations and FCC licensees (including Land transportation licensees) for receipt of the Emergency Action Notification. All broadcast station licensees are required to install, maintain, and operate radio receiving equipment for receipt of the Emergency Action Notification at this level.

(iv) *Fourth method.* Off-the-air monitoring of standard, FM, and TV broadcast stations by the general public who are listening or viewing or whose receivers can be activated by standardized selective signaling transmitted by said stations.

(5) *Emergency action condition termination.* The Emergency Action Condition Termination is the notice to all licensees and regulated services of the Federal Communications Commission and to the general public of the termination of an Emergency Action Condition. The Emergency Action Condition Termination is released upon direction of the President of the United States and is disseminated only via the Emergency Action Notification System.

(c) *Emergency operation.* A National Defense Emergency Authorization will be issued on a system basis by the Commission to those licensees who are engaged in essential activities for which an approved National Industry Advisory Committee Emergency Plan has been adopted, provided, the licensee has submitted to the Commission a certification of willingness to participate in and conform to the emergency communications plan applicable to his stations licensed under this part for which coverage is desired, has certified thereon a willingness to interconnect facilities where necessary with those of similar licensees and to cooperate with such licensees in providing emergency communications. Once issued, a National Defense Emergency Authorization is effective for each station in the system concurrently with the regular license for that station. A National Defense Emergency Authorization may be terminated by the Commission upon a finding that, for any reason, the facilities are no longer capable of providing effective emergency communications in accordance with the National Industry Advisory Committee Emergency Plan concerned.

(2) Over and above the permissive provisions of all applicable rules and notwithstanding any provisions of this chapter or license restrictions to the contrary, systems covered by a National Defense Emergency Authorization and operated by licensees participating in the Land Transportation Industries Communications Emergency Plan (LATICEP) are authorized to operate in accordance with the provisions of this paragraph under the emergency conditions and for the periods of time specified above:

(i) To share facilities with, or interconnect with, any other communications facilities necessary to accomplish transportation industry's communications requirements where such sharing and/or interconnection is mutually acceptable.

(ii) To use mobile frequencies to provide point-to-point services and to effect tie-ins between established fixed services.

(iii) To use any type of modulation, including multiplex, so long as the occupied bandwidth does not exceed that normally authorized on the frequency involved, and to use any operating power not exceeding the maximum specified under Part 93, subject to mutual resolution of any resulting interference.

(iv) To test periodically any facility established for emergency use under this section.

§ 90.555 Combined frequency listing.

(a) The following table lists for ready reference all frequencies assignable under this part. The letter symbols following each frequency refer to radio services where the frequency is assignable as follows:

INDUSTRIAL SERVICES

IB—Business.
IF—Forest products.
IM—Motion picture.
IP—Petroleum.
IR—Radiolocation.
IS—Special industrial.
IT—Telephone maintenance.
IW—Power.
IX—Manufacturers.
IY—Relay press.

LAND TRANSPORTATION SERVICES

LA—Automobile emergency.
*LI—Interurban passenger.
*LJ—Interurban property.
LR—Railroad.
*LU—Urban passenger.
*LV—Urban property.
LX—Taxicab.

PUBLIC SAFETY SERVICES

PF—Fire.
PH—Highway maintenance.
PL—Local government.
PO—Forestry-conservation.
PP—Police.
PS—Special emergency.

(b) Combined frequency list:

Frequency	Services	Special limitations
Kilohertz		
70-90	IR	Radiolocation.
90-110	IR	Do.
110-130	IR	Do.
530	PL	Travelers' information stations.
1610	PL	Do.
1605-1715	IR	Do.
1610	PP	
1614	IP	Geophysical.
1618	PP	
1626	PP	
1628	IM, IP	Do.
1630	PP	
1634	PP	
1642	PP	
1650	PP	
1652	IM, IP	Do.
1658	PP	
1666	PP	
1674	PP	
1676	IP, IF	Do.
1682	PP	
1690	PP	
1698	PP	
1700	IP, IF	Do.
1706	PP	
1714	PP	
1715-1750	IR	Radiolocation.
1722	PP	
1730	PP	
1750-1800	IR	Do.
2000-3000	PS	Communication with public coast.
2212	PO	
2226	PO	
2236	PO	
2244	PO	
2292	IW, IP, IM, IS	
2326	PP	
2366	PP	
2382	PP	
2390	PP	
2398	IW, IP, IF, IM, IS	
2406	PP	
2414	PP	
2422	PP	
2430	PP	
2442	PP	
2450	PP	
2458	PP	
2466	PP	
2474	PP	
2482	PP	
2490	PP	
2505-3500	PS	State guard.
2726	PS	Do.
2804	PP	Zone, interzone.
2808	PP	Do.
2812	PP	Do.
3201	PS	
3230-3400	IR	Radiolocation.
4383.8	(2)	Alaska emergency frequency.
4637.5	IW, IP, IM, IS	
5135	PP	Zone, interzone.
5140	PP	Do.
5195	PP	Do.
7480	PP	Do.
7805	PP	Do.
7935	PP	Do.
Megahertz		
25.02	IP	Geophysical.
25.04	IP	Oil spill.
25.06	IP	Geophysical.
25.08	IP	Oil spill.
25.10	IP	Geophysical.
25.12	IP	
25.14	IP	
25.16	IP	
25.18	IP	
25.20	IP	
25.22	IP	
25.24	IP	
25.26	IP	
25.28	IP	
25.30	IP	
25.32	IP	
27.43	IB	
27.45	IR	
27.49	IB	Itinerant.
27.51	IR	Low power (2 W).
27.53	IB	Do.
29.71	IF	
29.73	IF	
29.75	IF	
29.77	IF	
29.79	IF	
30.565		Developmental.
Megahertz		
30.58	IS	
30.62	IS	
30.64	IS	
30.66	IP, LM	
30.68	IF	
30.70	IP	
30.72	IF	
30.74	IP, LM	
30.76	IB	
30.78	IP	
30.80	IB	
30.82	IP, LM	
30.84	IB	Low power (2W).
30.86	PO, LM	
30.88	IB	
30.90	PO, LM	
30.92	IB	
30.94	PO, LM	
30.96	IB	
30.98	PO, LM	
31.00	IB	
31.02	PO, LM	
31.04	IB	
31.06	PO, LM	
31.08	LM	
31.10	PO, LM	
31.12	LM	
31.14	PO, LM	
31.16	IB	
31.18	PO	State use.
31.20	IB	
31.22	PO	Do.
31.24	IB	
31.26	PO	Do.
31.28	IS	
31.30	PO	Do.
31.32	IS	
31.34	PO	Do.
31.36	IS	
31.38	PO	Do.
31.40	IS	
31.42	PO	Do.
31.44	IS	
31.46	PO	Do.
31.48	IS	
31.50	PO	Do.
31.52	IS	

*Identified collectively in the combined frequency list as "LM."

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Frequency	Services	Special limitations
31.54	PO	Do.
31.56	IS	
31.58	PO	Do.
31.60	IS	
31.62	PO	Do.
31.64	IS	Do.
31.66	PO	Do.
31.68	IS	
31.70	PO	Do.
31.72	IS	
31.74	PO	Do.
31.76	IS	
31.78	PO	Do.
31.80	IS	
31.82	PO	Do.
31.84	IS	
31.86	PO	Do.
31.88	IS	
31.90	PO	Do.
31.92	IS	
31.94	PO	Do.
31.96	IS	
31.98	PO	Do.
31.99–32.0	PL, PP, PF, PH, PO, PS.	Developmental.
33.0–33.1	PL, PP, PF, PH, PO, PS.	Do.
33.02	PH, PS	
33.04	PS	
33.06	PH, PS	
33.08	PS	
33.10	PH, PS	
33.12	IS	Low power (2 W).
33.14	IB	Do.
33.16	IB	Maximum power (100 W).
33.18	IP	
33.20	IP	
33.22	IP	
33.24	IP	
33.26	IP	
33.28	IP	
33.30	IP	
33.32	IP	
33.34	IP	
33.36	IP	
33.38	IP	
33.40	IB	Low power (½ W).
33.42	PF	Low power (10 W).
33.44	PF	
Megahertz		
33.46	PF	Mobile only.
33.48	PP	
33.50	PF	Do.
33.52	PP	
33.54	PF	Do.
33.56	PP	
33.58	PF	Do.
33.60	PP	
33.62	PF	Do.
33.64	PP	
33.66	PF	Do.
33.68	PP	
33.70	PF	
33.72	PF	
33.74	PF	
33.76	PF	
33.78	PF	
33.80	PF	
33.82	PF	
33.84	PF	
33.86	PF	
33.88	PF	
33.90	PF	
33.92	PF	
33.94	PF	
33.96	PF	
33.98	PF	
33.99–34.0		
35.0–35.01	PL, PP, PF, PH, PO, PS.	Developmental.
		Do.
35.02	IB	Low power (2W).
35.04	IB	Itinerant.
35.06	IB	Maximum power (110 W).
35.08	IB	Do.
35.10	IB	Do.
35.12	IB	Do.
35.14	IB	Do.
35.16	IT	Wireline common carrier.
35.18	IB	Maximum power (110 W).
35.28	IS	
35.32	IS	
35.36	IS	
35.40	IS	
35.44	IS	
35.48	IS	
35.52	IS	
35.64	PS	Paging only.
35.68	PS	Do.
35.70	IB	
35.72	IB	
35.74	IS	
35.76	IS	
35.78	IS	
35.80	IS	
35.82	IS	
35.84	IS	
35.86	IS	
35.88	IB	Maximum power (110 W).
35.90	IB	Do.
35.92	IB	Do.
35.94	IB	
35.96	IB	
35.98	IB	
35.99–36.0		Developmental.
37.0–37.01		Do.
37.02	PP	Mobile only.
37.04	PP	
37.06	PP	
37.08	PP	
37.10	PL, PP	
37.12	PP	
37.14	PP	
37.16	PP	
37.18	PL, PP	
37.20	PP	
37.22	PP	
37.24	PP	
37.26	PL, PP	
37.28	PP	
37.30	PP	
37.32	PP	
37.34	PP	
37.36	PP	
37.38	PP	
37.40	PP	
37.42	PP	
37.44	IP	
37.48	IW	
37.48	IW	
37.50	IW	
37.52	IW	
37.54	IW	
37.58	IW	
37.58	IW	
37.60	IW	Interconnected utility systems.
37.62	IW	
37.64	IW	
37.66	IW	
37.68	IW	
Megahertz		
37.70	IW	
37.72	IW	
37.74	IW	
37.76	IW	
37.78	IW	
37.80	IW	
37.82	IW	
37.84	IW	Do.
37.86	IW	
37.88	IP	
37.90	PH, PS	
37.92	PH	
37.94	PH, PS	
37.96	PH	
37.98	PH, PS	
37.99–38.0	PL, PP, PF, PH, PO, PS.	Developmental.
39.0–39.01	PL, PP, PF, PH, PO, PS.	Do.
39.02	PP	
39.04	PP	
39.06	PL, PP	Low power (2 W).
39.08	PP	
39.10	PL, PP	
39.12	PP	
39.14	PP	
39.16	PP	
39.18	PL, PP	
39.20	PP	
39.22	PP	
39.24	PP	
39.26	PP	Mobile only.
39.28	PP	
39.30	PP	Do.
30.32	PP	
39.34	PP	Do.
39.36	PP	
39.38	PP	Do.
39.40	PP	
39.42	PP	
39.44	PP	
39.46	PP	
39.48	PP	Intersystems operation.
39.50	PL, PP	
39.52	PP	
39.54	PP	
39.56	PP	
39.58	PL, PP	
39.60	PP	
39.62	PP	
39.64	PP	
39.66	PP	Mobile only.
39.68	PP	
39.70	PP	Do.
39.72	PP	
39.74	PP	Do.
39.76	PP	
39.78	PP	Mobile.
39.80	PP	
39.82	PL, PP	
39.84	PP	
39.86	PP	
39.88	PP	
39.90	PL, PP	
39.92	PP	
39.94	PP	
39.96	PP	
39.98	PL, PP	
39.99–40.0	PL, PP, PF, PH, PO, PS.	Developmental.
42.0–42.01	PL, PP, PF, PH, PO, PS.	Do.
42.02	PP	State police.
42.04	PP	Do.
42.06	PP	Do.
42.08	PP	Do.
42.10	PP	Do.
42.12	PP	Do.
42.14	PP	Do.
42.16	PP	Do.
42.18	PP	Do.
42.20	PP	State police (mobile).
42.22	PP	Do.
42.24	PP	Do.
42.26	PP	Do.
42.28	PP	Do.
42.30	PP	Do.
42.32	PP	Do.
42.34	PP	Do.
42.36	PP	State police.
42.38	PP	Do.
42.40	PP	Do.
42.42	PP	Do.
42.44	PP	Do.
42.46	PP	Do.
42.48	PP	Do.
42.50	PP	Do.

Frequency	Services	Special limitations
42.52	PP	Do.
42.54	PP	Do.
42.56	PP	Do.
42.58	PP	Do.
42.60	PP	Do.
42.62	PP	Do.
Megahertz		
42.64	PP	Do.
42.66	PP	State police (mobile).
42.68	PP	Do.
42.70	PP	Do.
42.72	PP	Do.
42.74	PP	Do.
42.76	PP	Do.
42.78	PP	Do.
42.80	PP	State police.
42.82	PP	Do.
42.84	PP	Do.
42.86	PP	Do.
42.88	PP	Do.
42.90	PP	Do.
42.92	PP	Do.
42.94	PP	Do.
42.96	IB	Maximum power (100 W).
42.98	IB	Low power (2 W).
43.00	IB	Maximum power (110 W).
43.02	IS	
43.04	IS	Itinerant.
43.06	IS	
43.08	IS	
43.10	IS	
43.12	IS	
43.14	IS	
43.16	IT	
43.18	IS	
43.28	IS	
43.32	IS	
43.36	IS	
43.40	IS	
43.44	IS	
43.48	IS	
43.52	IS	
43.64	PS	1-way paging.
43.68	PS	Do.
43.70	LM	Operation between urban areas.
43.72	LM	Do.
43.74	LM	Do.
43.76	LM	Do.
43.78	LM	Do.
43.80	LM	Do.
43.82	LM	Do.
43.84	LM	Do.
43.86	LM	Do.
43.88	LM	Do.
43.90	LM	Do.
43.92	LM	Do.
43.94	LM	Do.
43.96	LM	Do.
43.98	LM	Do.
44.00	LM	Do.
44.02	LM	Do.
44.04	LM	For operation between urban areas.
44.06	LM	Do.
44.08	LM	Do.
44.10	LM	Do.
44.12	LM	Do.
44.14	LM	Do.
44.16	LM	Do.
44.18	LM	Do.
44.20	LM	Do.
44.24	LM	Do.
44.26	LM	Do.
44.28	LM	Do.
44.30	LM	Do.
44.32	LM	Do.
44.34	LM	Do.
44.36	LM	Do.
44.38	LM	Do.
44.40	LM	Do.
44.42	LM	Do.
44.44	LM	Do.
44.46	LM	Operation within an urban area.
44.48	LM	Do.
44.50	LM	Do.
44.52	LM	Do.
44.54	LM	Do.
44.56	LM	Do.
44.58	LM	Do.
44.60	LM	Do.
44.62	PP	State police.
44.64	PO	
44.66	PP	Do.
44.68	PO	
44.70	PP	Do.
44.72	PO	
44.74	PP	Do.
44.76	PO	
44.78	PP	State police (mobile only).
44.80	PO	Do.
44.82	PP	Do.
44.84	PO	
44.86	PP	Do.
44.88	PO	
44.90	PP	Do.
44.92	PO	
Megahertz		
44.94	PP	State police.
44.96	PO	
44.98	PP	Do.
45.00	PO	
45.02	PP	Do.
45.04	PO	
44.46	PP	Do.
45.08	PL	
45.10	PP	
45.12	PL	
45.14	PP	
45.16	PL	
45.18	PP	
45.20	PL	
45.22	PP	
45.24	PL	
45.26	PP	Mobile.
45.28	PL	
45.30	PP	Do.
45.32	PL	
45.34	PP	Do.
45.36	PL	
45.38	PP	Do.
45.40	PL	
45.42	PP	
45.44	PL	
45.46	PP	
45.48	PL	
45.50	PP	
45.52	PL	
45.54	PP	
45.56	PL	
45.58	PP	
45.60	PL	
45.62	PP	
45.64	PL	
45.66	PP	
45.68	PH	
45.70	PP	
45.72	PP	
54.74	PP	Do.
45.76	PH	
45.78	PP	Do.
45.80	PH	
45.82	PP	Do.
45.84	PH	
45.86	PP	Intersystem operation.
45.88	PP	Do.
45.90	PP	
45.92	PS	
45.94	PP	
45.96	PS	
45.98	PP	
46.00	PS	
46.02	PP	
46.04	PS	
46.06	PP	
46.08	PP	
46.10	PP	
46.12	PP	
46.14	PP	
46.16	PP	
46.18	PP	
46.20	PP	
46.22	PP	Mobile.
46.24	PP	Do.
46.26	PP	Do.
46.28	PP	Do.
46.30	PP	Maximum power 10 W.
46.32	PP	Mobile.
46.34	PP	Do.
46.36	PP	
46.38	PP	
46.40	PP	
46.42	PP	
46.44	PP	
46.46	PP	
46.48	PP	
46.50	PP	
46.52	PL	
46.54	PL	
46.56	PL	
46.58	P	
47.02	PH	State use.
47.04	PH	Do.
47.06	PH	Do.
47.08	PH	Do.
47.10	PH	Do.
47.12	PH	Do.
47.14	PH	Do.
47.16	PH	Do.
47.18	PH	Do.
47.20	PH	Do.
47.12	PH	Do.
47.14	PH	Do.
47.16	PH	Do.
47.18	PH	Do.
47.20	PH	Do.
47.22	PH	Do.
47.24	PH	Do.
47.26	PH	Do.
47.28	PH	Do.
47.30	PH	Do.
47.32	PH	Do.
47.34	PH	Do.
Megahertz		
47.36	PH	Do.
47.38	PH	Do.
47.40	PH	Do.
47.42	PS	Disaster relief.
47.44	IS	
47.46	PS	
47.48	IS	
47.50	PS	
47.52	IS	
47.54	PS	
47.56	IS	
47.58	PS	
47.60	IS	
47.62	PS	
47.64	IS	
47.66	PS	
47.68	IS	
47.70	IW	
47.72	IW	
47.74	IW	
47.76	IW	
47.78	IW	
47.80	IW	
47.82	IW	
47.84	IW	
47.86	IW	
47.88	IW	
47.90	IW	
47.92	IW	
47.94	IW	
47.96	IW	
47.98	IW	
48.00	IW	
48.02	IW	
48.04	IW	
48.06	IW	
48.08	IW	
48.10	IW	
48.12	IW	
48.14	IW	
48.16	IW	
48.18	IW	
48.20	IW	
48.22	IW	
48.24	IW	
48.26	IW	
48.28	IW	
48.30	IW	
48.32	IW	
48.34	IW	
48.36	IW	
48.38	IW	
48.40	IW	

Frequency	Services	Special limitations
48.42	IW	
48.44	IW	
48.46	IW	
48.48	IW	
48.50	IW	
48.52	IW	
48.54	IW	
48.56	IP, IF	
48.58	IP, IF	
48.60	IP, IF	
48.62	IP, IF	
48.64	IP, IF	
48.66	IP, IF	
48.68	IP, IF	
48.70	IP, IF	
48.72	IP, IF	
48.74	IP, IF	
48.76	IP, IF	
48.78	IP, IF	
48.80	IP, IF	
48.82	IP, IF	
48.84	IP, IF	
48.86	IP, IF	
48.88	IP, IF	
48.90	IP, IF	
48.92	IP, IF	
48.94	IP, IF	
48.96	IP, IF	
48.98	IP, IF	
49.00	IP, IF	
49.02	IP, IF	
49.04	IP, IF	
49.06	IP, IF	
49.08	IP, IF	
49.10	IP, IF	
49.12	IP, IF	
49.14	IP, IF	
49.16	IP, IF	
49.18	IP, IF	
49.20	IP, IF	
49.22	IP, IF	
49.24	IP, IF	
49.26	IP, IF	
49.28	IP, IF	
49.30	IP, IF	
49.32	IP, IF	
49.34	IP, IF	
49.36	IP, IF	
49.38	IP, IF	
49.40	IP, IF	
Megahertz		
49.46	IP, IF	
49.44	IP, IF	
49.46	IP, IF	
49.48	IP, IF	
49.50	IP, IF	
49.52	IS	
49.54	IF, IS	
49.56	IS	
49.58	IF, IS	
72.0-76.0	PL, PP, PF, H, PO, PS, IW, IP IF, IM, IY, IS, IB, IX, LM, LR.	Fixed, non-interference with TV channels 4 and 5.
150.815	IB, LA	IB use limited to Puerto Rico and Virgin Islands.
150.830	LA	
150.845	IB, LA	Do.
150.860	LA	
150.875	IB, LA	Do.
150.890	LA	
150.905	IB, LA	Do.
150.920	LA	
150.935	IB, LA	Do.
150.950	LA	
150.965	IB, LA	Do.
150.980	IP	Oil spill.
150.995	PH, IB	Do.
151.010	PH	
151.025	PH, IB	Do.
151.040	PH	
151.055	PH, IB	Do.
151.070	PH	
151.085	PH, IB	Do.
151.100	PH	
151.115	PH, IB	Do.
151.130	PH	
151.145	PO, IB	Do.
151.160	PO	
151.175	PO, IB	Do.
151.190	PO	
151.205	PO, IB	Do.
151.220	PO	
151.235	PO, IB	Do.
151.250	PO	
151.265	PO, IB	Do.
151.280	PO	
151.295	PO, IB	Do.
151.310	PO	
151.325	PO, IB	Do.
151.340	PO	
151.355	PO, IB	Do.
151.370	PO	
151.385	PO, IB	Do.
151.400	PO	
151.415	PO, IB	Do.
151.430	PO	
151.445	PO, IB	Do.
151.460	PO	
151.475	PO, IB	Do.
151.490	IS	
151.505	IS	Interant use.
151.520	IS	
151.535	IS	
151.550	IS	
151.565	IS	
151.580	IS	
151.595	IS	
151.625	IB	Do.
151.655	IB	Maximum power 110 W.
151.685	IB	Do.
151.715	IB	Do.
151.745	IB	Do.
151.775	IB	Do.
151.805	IB	Do.
151.835	IB	Do.
151.865	IB	Do.
151.895	IB	Do.
151.925	IB	
151.955	IB	
151.985	IT	Communications common carrier.
152.0075	PS	1-way paging.
152.270	LX	
152.285	LX	For use within SMA's over 50,000.
152.300	IB, LX	For LX use within SMA's over 50,000.
152.315	LX	For use within SMA's over 50,000.
152.330	LX	
152.345	LX	Do.
152.360	IB, LX	For LX use within SMA's over 50,000.
152.375	LX	For use within SMA's over 50,000.
152.390	LX	Do.
152.405	LX	Do.
152.420	IB, LX	For LX use within SMA's over 50,000.
152.435	LX	For use within SMA's over 50,000.
152.450	LX	
152.465	IF, IS, LX	
152.480	IF, IS, IB	IB 1-way paging.
152.870	IM, IS	
Megahertz		
152.885	IS	
152.900	IM, IS	
152.915	IS	
152.930	IM, IS	
152.945	IS	
152.960	IM, IS	
152.975	IS	
152.990	IM, IS	
153.005	IS	
153.020	IM, IS	
153.035	IP, IS	
153.050	IP, IF, IX	
153.065	IP, IF, IX	
153.080	IP, IF, IX	
153.095	IP, IF, IX	
153.110	IP, IF, IX	
153.125	IP, IF, IX	
153.140	IP, IF, IX	
153.155	IP, IF, IX	
153.170	IP, IF, IX	
153.185	IP, IF, IX	
153.200	IP, IF, IX	
153.215	IP, IF, IX	
153.230	IP, IF, IX	
153.245	IP, IF, IX	
153.260	IP, IF, IX	
153.275	IP, IF, IX	
153.290	IP, IF, IX	
153.305	IP, IF, IX	
153.320	IP, IF, IX	
153.335	IP, IF, IX	
153.350	IP, IF, IX	
153.365	IP, IF, IX	
153.380	IP, IF, IX	
153.395	IP, IF, IX	
153.410	IW	
153.425	IW, IP, IF	See limitations for precluded areas.
153.440	IW, IP, IF	Do.
153.455	IW, IP, IF	Do.
153.470	IW	
153.485	IW, IP, IF	Do.
153.500	IW, IP, IF	Do.
153.515	IW, IP, IF	Do.
153.530	IW	
153.545	IW, IP, IF	Do.
153.560	IW, IP, IF	Do.
153.575	IW, IP, IF	Do.
153.590	IW	
153.605	IW, IP, IF	Do.
153.620	IW, IP, IF	Do.
153.635	IW, IP, IF	Do.
153.650	IW	
163.666	IW, IP, IF	Do.
153.680	IW, IP, IF	Do.
153.695	IW	
153.710	IW	
153.725	IW	
153.740	PL	Mobile.
153.755	PL	Do.
153.770	PF	Do.
153.785	PL	Do.
153.800	PL	Do.
153.815	PL	Do.
153.830	PF	Maximum power 10 W.
153.845	PL	Mobile.
153.860	PL	Do.
153.875	PL	Do.
153.890	PF	Do.
153.905	PL	Do.
153.920	PL	Do.
153.935	PL	Do.
153.950	PF	Do.
153.965	PL	Do.
153.980	PL	Do.
153.995	PL	Do.
154.010	PF	Do.
154.025	PL	
154.040	PL	Not available in Puerto Rico and Virgin Islands.
154.055	PL	Do.
154.070	PF	Do.
154.085	PL	Do.
154.100	PL	Do.
154.115	PL	Do.
154.130	PF	Do.
154.145	PF	Do.
154.160	PF	Do.
154.175	PF	Do.
154.190	PF	Do.
154.205	PF	Do.
154.220	PF	Do.
154.235	PF	Do.
154.250	PF	Do.
154.265	PF	Do.
154.280	PF	Do.
154.295	PF	Do.
154.310	PF	Do.

Frequency	Services	Special limitations
154.325	PF	Do.
154.340	PF	Do.
154.355	PF	Do.
154.370	PF	Do.
154.385	PF	Do.
154.400	PF	Do.
Megahertz		
154.415	PF	Do.
154.430	PF	Do.
154.445	PF	Do.
154.45625	PL, IW, IP, IF, IS, IB, IX.	Remote control and telemetry.
154.46375	PL, IW, IP, IF, IS, IB, IX.	Do.
154.47125	PL, IW, IP, IF, IS, IB, IX.	Do.
154.47875	PL, IW, IP, IF, IS, IB, IX.	Do.
154.490	IS	
154.515	IB	Maximum power 110 W.
154.540	IB	Do.
154.570	IF, IB	Low power, 2 W.
154.585	IP	Oil spill 20 W.
154.600	IF, IB	Low power, 2 W.
154.625	IF, IS, IB	IB 1-way paging.
154.650	PP	Mobile.
154.665	PP	State police.
154.680	PP	Do.
154.695	PP	Do.
154.710	PP	Mobile.
154.725	PP	
154.740	PP	
154.755	PP	
154.770	PP	Do.
154.785	PP	
154.800	PP	
154.815	PP	
154.830	PP	Do.
154.845	PP	
154.860	PP	
154.875	PP	
154.890	PP	Do.
154.905	PP	State police.
154.920	PP	Do.
154.935	PP	Do.
154.950	PP	Mobile.
154.965	PL	
154.980	PL	
154.995	PL	
155.010	PP	
155.025	PL	
155.040	PL	
155.055	PL	
155.070	PP	
155.085	PL	
155.100	PL	
155.115	PL	
155.130	PP	
155.145	PL	
155.160	PS	Adjacent channel coordination required.
155.175	PS	Do.
155.190	PP	
155.205	PS	Do.
155.220	PS	
155.235	PS	Do.
155.250	PP	
155.265	PS	Do.
155.280	PS	
155.295	PS	Do.
155.310	PP	
155.325	PS	Hospital/ ambulance use, coordination required.
155.340	PS	Redition and delivery medical services.
155.355	PS	Hospital/ ambulance use, coordination required.
155.370	PP	
155.385	PS	Do.
155.400	PS	Do.
155.415	PP	
155.430	PP	
155.445	PP	State police.
155.460	PP	Do.
155.475	PP	Nationwide police emergency channel.
155.490	PP	
155.505	PP	State police.
155.520	PP	
155.535	PP	
155.550	PP	
155.565	PP	
155.580	PP	
155.595	PP	
155.610	PP	
155.625	PP	
155.640	PP	
155.655	PP	
155.670	PP	
155.685	PP	
155.700	PP	
155.715	PL	
155.730	PP	
155.745	PL	
155.760	PL	
155.775	PL	
155.790	PP	
Megahertz		
155.805	PL	
155.820	PL	
155.835	PL	
155.850	PP	Mobile.
155.865	PL	
155.880	PL	
155.895	PL	
155.910	PP	Do.
155.925	PL	
155.940	PL	
155.955	PL	
155.970	PP	Do.
155.985	PL	Do.
156.000	PL	Do.
156.015	PL	Do.
156.030	PP	Do.
156.045	PH	Do.
156.060	PH	Do.
156.075	PH	Do.
156.090	PP	Do.
156.105	PH	
156.120	PH	
156.135	PH	
156.150	PP	Do.
156.165	PH	State use not permitted.
156.180	PH	Do.
156.195	PH	Do.
156.210	PP	
156.225	PH	Do.
156.240	PH	Do.
157.450	PS	1-way paging.
157.470	LA	
157.485	LA	
157.500	LA	
157.515	LA	
157.530	LX	
157.545	LX	For use within SMA's over 50,000.
157.560	IB, LX	IB outside, LX inside SMA's (50,000).

Frequency	Services	Special limitations
157.575	LX	For use within SMA's over 50,000.
157.590	LX	
157.605	LX	Do.
157.620	IB, LX	IB outside, LX inside SMA's (50,000).
157.635	LX	For use within SMA's over 50,000.
157.650	LX	
157.665	LX	Do.
157.680	IB, LX	IB outside, LX inside SMA's (50,000).
157.695	LX	For use within SMA's over 50,000.
157.710	LX	
157.725	IF, IS, LX	
157.740	IF, IS, IB	1-way paging.
158.130	IW	
158.145	IW, IP, IF	See limitations for precluded areas.
158.160	IW, IP, IF	Do.
158.175	IW, IP, IF	Do.
158.190	IW	
158.205	IW, IP, IF	Do.
158.220	IW, IP, IF	Do.
158.235	IW, IP, IF	Do.
158.250	IW	
158.265	IW, IP, IF	Do.
158.280	IP, IF, IX	
158.295	IP, IF, IX	
158.310	IP, IF, IX	
158.325	IP, IF, IX	
158.340	IT	Mobile, communications common carrier.
158.355	IP, IF	
158.370	IP, IF	
158.385	IS	
158.400	IS	Itinerant.
158.415	IP, IF, IX	
158.430	IP, IF, IX	
158.445	IP	Oil spill, mobile.
158.460	IF, IS, IB	1-way paging.
158.730	PP	
158.745	PL	
158.760	PL	
158.775	PL	
158.790	PP	
158.805	PL	
158.820	PL	
158.835	PL	
158.850	PP	
158.865	PL	Mobile.
158.880	PL	Do.
158.895	PL	Do.
158.910	PP	Do.
158.925	PL	Do.
158.940	PL	Do.
158.955	PL	Do.
158.970	PP	Do.
Megahertz		
158.985	PH	Mobile, State use not permitted.
159.000	PH	Do.
159.015	PH	Do.
159.030	PP	Mobile.
159.045	PH	Mobile, State use not permitted.
159.060	PH	Do.
159.075	PH	Do.
159.090	PP	
159.105	PH	State use not permitted.
159.120	PH	Do.
159.135	PH	Do.
159.150	PP	
159.165	PH	Do.
159.180	PH	
159.195	PH	
159.210	PP	
159.225	PO	
159.240	PO, IS	IS use in Puerto Rico and Virgin Islands only.
159.255	PO, IS	Do.
159.270	PO, IS	Do.
159.285	PO, IS	Do.
159.300	PO, IS	Do.
159.315	PO, IS	Do.
159.330	PO, IS	Do.
159.345	PO, IS	Do.
159.360	PO, IS	Do.
159.375	PO, IS	Do.
159.390	PO, IS	Do.
159.405	PO, IS	Do.
159.420	PO, IS	Do.
159.435	PO, IS	Do.
159.450	PO	
159.465	PO	
159.480	IP	Oil spill.
159.495	LM	
159.510	LM	
159.525	LM	
159.540	LM	
159.555	LM	
159.570	LM	
159.585	LM	
159.600	LM	
159.615	LM	
159.630	LM	
159.645	LM	
159.660	LM	
159.675	LM	
159.690	LM	
159.705	LM	
159.720	LM	
159.735	LM	
159.750	LM	
159.765	LM	
159.780	LM	
159.795	LM	
159.810	LM	
159.825	LM	
159.840	LM	
159.855	LM	
159.870	LM	
159.885	LM	
159.900	LM	
159.915	LM	
159.930	LM	
159.945	LM	
159.960	LM	
159.975	LM	
159.990	LM	
160.005	LM	
160.020	LM	
160.035	LM	
160.050	LM	
160.065	LM	
160.080	LM	
160.095	LM	
160.110	LM	
160.125	LM	
160.140	LM	
160.155	LM	
160.170	LM	
160.185	LM	
160.200	LM	
160.215	LR	
160.230	LR	
160.245	LR	
160.260	LR	
160.275	LR	
160.290	LR	
160.305	LR	
160.320	LR	
160.335	LR	
160.350	LR	
160.365	LR	
160.380	LR	
160.395	LR	
160.410	IS, LR	IS use in Puerto Rico and Virgin Islands only.
160.425	IS, LR	Do.
160.440	IS, LR	Do.
160.455	IS, LR	Do.
160.470	IS, LR	Do.
160.485	IS, LR	Do.
160.500	IS, LR	Do.
160.515	IS, LR	Do.
Megahertz		
160.530	IS, LR	Do.
160.545	IS, LR	Do.
160.560	IS, LR	Do.
160.575	IS, LR	Do.
160.590	IS, LR	Do.
160.605	IS, LR	Do.
160.620	LR	

Frequency	Services	Special limitations
160.635	LR	
160.650	LR	
160.665	LR	
160.680	LR	
160.695	LR	
160.710	LR	
160.725	LR	
160.740	LR	
160.755	LR	
160.770	LR	
160.785	LR	
160.800	LR	
160.815	LR	
160.830	LR	
160.845	LR	
160.860	LR	
160.875	LR	
160.890	LR	
160.905	LR	
160.920	LR	
160.935	LR	
160.950	LR	
160.965	LR	
160.980	LR	
160.995	LR	
161.010	LR	
161.025	LR	
161.040	LR	
161.055	LR	
161.070	LR	
161.085	LR	
161.100	LR	
161.115	LR	
161.130	LR	
161.145	LR	
161.160	LR	
161.175	LR	
161.190	LR	
161.205	LR	
161.220	LR	
161.235	LR	
161.250	LR	
161.265	LR	
161.280	LR	
161.2	LR	
161.310	LR	
161.325	LR	
161.340	LR	
161.355	LR	
161.370	LR	
161.385	LR	Not available in Puerto Rico and Virgin Islands.
161.400	LR	Do.
161.415	LR	Do.
161.430	LR	Do.
161.445	LR	Do.
161.460	LR	Do.
161.475	LR	Do.
161.490	LR	Do.
161.505	LR	Do.
161.520	LR	Do.
161.535	LR	Do.
161.550	LR	Do.
161.565	LR	Do.
161.610	LR	Grandfather basis only.
163.250	PS	1-way paging.
166.250	PF	Available only within 150 mi of New York City.
169.425	IW, IP, IF, IS	Hydrological or meteorological.
169.450	IW, IP, IF, IS, IB, LR.	Do.
169.475	IW, IP, IF, IS, IB, LR.	Do.
169.500	IW, IP, IF, IS, IB, LR.	Do.
169.525	IW, IP, IF, IS, IB, LR.	Do.
170.150	PF	Available only within 150 mi of New York City.
170.225	IW, IP, IF, IS, IB, LR.	Hydrological or meteorological.
170.250	IW, IP, IF, IS, IB, LR.	Do.
170.275	IW, IP, IF, IS, IB, LR.	Do.
170.300	IW, IP, IF, IS, IB, LR.	Do.
170.325	IW, IP, IF, IS, IB, LR.	Do.
170.425	PO	State use west of Mississippi River.
170.475	PO	State use.
170.575	PO	State use west of Mississippi River.
171.025	IW, IP, IF, IS, IB, LR.	Hydrological or meteorological.
Megahertz		
171.050	IW, IP, IF, IS, IB, LR.	Do.
171.075	IW, IP, IF, IS, IB, LR.	Do.
171.100	IW, IP, IF, IS, IB, LR.	Do.
171.125	IW, IP, IF, IS, IB, LR.	Do.
171.425	PO	State use east of Mississippi River.
171.475	PO	State use west of Mississippi River.
171.575	PO	State use east of Mississippi River.
171.825	IW, IP, IF, IS, IB, LR.	Hydrological or meteorological.
171.850	IW, IP, IF, IS, IB, LR.	Do.
171.875	IW, IP, IF, IS, IB, LR.	Do.
171.900	IW, IP, IF, IS, IB, LR.	Do.
171.925	IW, IP, IF, IS, IB, LR.	Do.
172.225	PO	State use west of Mississippi River.
172.275	PO	State use east of Mississippi River.
172.375	PO	State use west of Mississippi River.
173.20375	PL, IW, IP, IF, IS, IB, IX.	Remote control and telemetry.
173.2100	PL, IW, IP, IF, IS, IB, IX.	Do.
173.225	IM, IY	
173.250	IW, IP, IF	See limitations for precluded areas.
173.275	IM, IY	
173.300	IW, IP, IF	Do.
173.325	IM, IY	
173.350	IW, IP, IF	Do.
173.375	IM, IY	
173.2375	PL, IB, IP, IM, IP, IS, IW.	Remote control and telemetry.
173.2625	Do.	Do.
173.2875	Do.	Do.
173.3125	Do.	Do.
173.3375	Do.	Do.
173.39625	PL, IW, IP, IF, IS, IB, IX.	Remote control and telemetry.
173.390	PL, IW, IP, IF, IS, IB, IX.	Do.
216-220	IW, IP, IF, IS, IB, IX, IT.	Telemetry.
451.025	IW	
451.050	IW	
451.075	IW	
451.100	IW	
451.125	IW	
451.150	IW	
451.175	IW, IP, IF, IM, IT	
451.200	IW	
451.225	IW, IP, IF, IM, IT	
451.250	IW	
451.275	IW, IP, IF, IM, IT	
451.300	IW	
451.325	IW	

Frequency	Services	Special limitations
451.350	IW	
451.375	IW, IP, IF, IM, IT	
451.400	IW	
451.425	IW, IP, IF, IM, IT	
451.450	IW	
451.475	IW, IP, IF, IM, IT	

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Frequency	Services	Special limitations
451.350	IW	
451.375	IW, IP, IF, IM, IT	
451.400	IT	
451.425	IW, IP, IF, IM, IT	
451.450	IT	
451.475	IW, IP, IF, IM, IT	
451.500	IT	
451.525	IW, IP, IF, IM, IT	
451.550	IP, IF	
451.575	IW, IP, IF, IM, IT	
451.600	IP, IF	
451.625	IW, IF, IP	
451.650	IP, IF	
451.675	IW, IP, IF, IM, IT	
451.700	IP, IF	
451.725	IS	
451.750	IP, IF	
451.775	IS	
451.800	IS	
451.825	IS	
451.850	IS	
451.875	IS	
451.900	IS	
451.925	IS	
451.950	IS	
451.975	IS	
452.000	IS	
452.025	IS	
452.050	LX	
452.075	IS	
452.100	LX	
452.125	IS	
452.150	LX	
452.175	IS	
452.200	LX	
452.225	LX	
452.250	LX	
452.275	LX	
452.300	LX	
452.325	LI, LJ, LU, LV, LR.	
452.350	LX	
452.375	LI, LJ, LU, LV, LR.	
452.400	LX	
452.425	LI, LJ, LU, LV, LR.	
452.450	LX	
Megahertz		
452.475	LI,LJ, LU, LV, LR	
452.500	LX	
452.525	LA	Single frequency simplex.
452.550	LA	
452.550	LA	Do.
452.575	LA	Do.
452.600	LA	Do.
452.825	LI, LJ, LU, LV	
452.650	LI, LJ, LU, LV	
452.675	LI, LJ, LU, LV	
452.700	LI, LJ, LU, LV	
452.725	LI, LJ, LU, LV	
452.750	LI, LJ, LU, LV	
452.775	LI, LJ, LU, LV, LR.	
452.800	LI, LJ, LU, LV	
452.825	LI, LJ, LU, LV, LR.	
452.850	LI, LJ, LU, LV	
452.875	LI, LJ, LU, LV, LR.	
452.900	LR	
452.925	LR	
452.950	LR	
452.975	IY	
453.000	IY	
453.025	PL	Highway call box and medical telemetry.
453.050	PL, PP, PF, PH, PO.	
453.075	PL	Do.
453.100	PL, PP, PF, PH, PO.	
453.125	PL	Do.
453.150	PL, PP, PF, PH, PO.	
453.175	PL	Do.
453.200	PL, PP, PF, PH, PO.	
453.225	PL	
453.250	PL, PP, PF, PH, PO.	
453.275	PL	
453.300	PL, PP, PF, PH, PO.	
453.325	PL	
453.350	PL, PP, PF, PH, PO.	
453.375	PL	
453.400	PL, PP, PF, PH, PO.	
453.425	PL	
453.450	PL, PP, PF, PH, PO.	
453.475	PL	
453.500	PL, PP, PF, PH, PO.	
453.525	PL	
453.550	PL, PP, PF, PH, PO.	
453.575	PL	
453.600	PL, PP, PF, PH, PO.	
453.625	PL	
453.650	PL, PP, PF, PH, PO.	
453.675	PL	
453.700	PL, PP, PF, PH, PO.	
453.725	PL	
453.750	PL, PP, PF, PH, PO.	
453.775	PL	
453.800	PL, PP, PF, PH, PO.	
453.825	PL	
453.850	PL, PP, PF, PH, PO.	
453.875	PL	
453.900	PL, PP, PF, PH, PO.	
453.925	PL	
453.950	PL, PP, PF, PH, PO.	
453.975	PL	
454.0–455.0	(2)	
455.0–456.0	(3)	
456.025	IW	Mobile only
456.050	IW	Do.
456.075	IW	Do.
456.100	IW	Do.
456.125	IW	Do.
456.150	IW	Do.
456.175	IW, IP, IF, IM, IT	Do.
456.200	IW	Do.
456.225	IW, IP, IF, IM, IT	Do.
456.250	IW	Do.
456.275	IW, IP, IF, IM, IT	Do.
456.300	IT	Do.
456.325	IT	Do.
456.350	IT	Do.
456.375	IW, IP, IF, IM, IT	Do.
456.400	IT	Do.
456.425	IW, IP, IF, IM, IT	Do.
456.450	IT	Do.
456.475	IW, IP, IF, IM, IT	Do.
456.500	IT	Do.
Megahertz		
456.525	IW, IP, IF, IM, IT	Do.
456.550	IP, IF	Do.
456.575	IW, IP, IF, IM, IT	Do.
456.600	IP, IF	Do.
456.625	IW, IP, IF, IM, IT	Do.
456.650	IP, IF	Do.
456.675	IW, IP, IF, IM, IT	Do.
456.700	IP, IF	Do.
456.725	IS	Do.
456.750	IP, IF	Do.
456.775	IS	Do.
456.800	IS	Base, mobile, fixed.
456.825	IS	Mobile only.
456.850	IS	Do.
456.875	IS	Do.
456.900	IS	Do.
456.925	IS	Do.
456.950	IS	Do.
456.975	IS	Do.
457.000	IS	Do.
457.025	IS	Do.
457.050	LX	Do.
457.075	IS	Do.

Frequency	Services	Special limitations
457.100	LX	Do.
457.125	IS	Do.
457.150	LX	Do.
457.175	IS	Do.
457.200	LX	Do.
457.225	LX	Do.
457.250	LX	Do.
457.275	LX	Do.
457.300	LX	Do.
457.325	LI, LJ, LU, LV, LR.	Do.
457.350	LX	Do.
457.375	LI, LJ, LU, LV, LR.	Do.
457.400	LX	Do.
457.425	LI, LJ, LU, LV, LR.	Do.
457.450	LX	Do.
457.475	LI, LJ, LU, LV, LR.	Do.
457.500	LX	Do.
457.525	IB	Mobile only 2 W.
457.550	IB	Do.
457.575	IB	Do.
457.600	IB	Do.
457.625	LI, LJ, LU, LV	Mobile only.
457.650	LI, LJ, LU, LV	Do.
457.675	LI, LJ, LU, LV	Do.
457.700	LI, LJ, LU, LV	Do.
457.725	LI, LJ, LU, LV	Do.
457.750	LI, LJ, LU, LV	Do.
457.775	LI, LJ, LU, LV	Do.
457.800	LI, LJ, LU, LV	
457.825	LI, LJ, LU, LV, LR.	
457.850	LI, LJ, LU, LV	
457.875	LI, LJ, LU, LV, LR.	
457.900	LR	
457.925	LR	
457.950	LR	
457.975	IY	
458.000	IY	
458.025	PS	Highway call box; medical telemetry.
458.050	PL, PP, PF, PH, PO.	
458.075	PS	Do.
458.100	PL, PP, PF, PH, PO.	
458.125	PS	Do.
458.150	PL, PP, PF, PH, PO.	
458.175	PS	Do.
458.200	PL, PP, PF, PH, PO.	
458.225	PS	
458.250	PL, PP, PF, PH, PO.	
458.275	PS	
458.300	PL, PP, PF, PH, PO.	
458.325	PS	
458.350	PL, PP, PF, PH, PO.	
458.375	PS	
458.400	PL, PP, PF, PH, PO.	
458.425	PS	
458.450	PL, PP, PF, PH, PO.	
458.475	PS	
458.500	PL, PP, PF, PH, PO.	
458.525	PL	
458.550	PL, PP, PF, PH, PO.	
458.575	PL	
458.600	PL, PP, PF, PH, PO.	
458.625	PL	
458.650	PL, PP, PF, PH, PO.	
458.675	PL	
458.700	PL, PP, PF, PH, PO.	
458.725	PL	
458.750	PL, PP, PF, PH, PO.	
458.775	PL	
458.800	PL, PP, PF, PH, PO.	
458.825	PL	
458.850	PL, PP, PF, PH, PO.	
458.875	PL	
458.900	PL, PP, PF, PH, PO.	
458.925	PL	
458.950	PL, PP, PF, PH, PO.	
458.975	PL	
459.000	IP	Oil spill cleanup.
459.0—460.0	(3)	
460.025	PP	
460.050	PP	
460.075	PP	
460.100	PP	
460.125	PP	
460.150	PP	
460.175	PP	
460.200	PP	
460.225	PP	
460.250	PP	
460.275	PP	
460.300	PP	
460.325	PP	
460.350	PP	
460.375	PP	
460.400	PP	
460.425	PP	
460.450	PP	
460.475	PP	
460.500	PP	
460.525	PS	Medical care dispatch.
460.550	PS	Do.
460.575	PP	
460.600	PP	
460.625	PP	
460.650	IB	20 W, airport use.
460.675	IB	Do.
460.700	IB	Do.
460.725	IB	Do.
460.750	IB	Do.
460.775	IB	Do.
460.800	IB	Do.
460.825	IB	Do.
460.850	IB	Do.
460.875	IB	Do.
460.900	IB	110 W, central station protection.
460.925	IB	Do.
460.950	IB	Do.
460.975	IB	Do.
461.000	IB	Do.
461.025	IB	Do.
461.050	IB	Do.
461.075	IB	Do.
461.100	IB	Do.
461.125	IB	Do.
461.150	IB	Do.
461.175	IB	Do.
461.200	IB	Do.
461.225	IB	Do.
461.250	IB	Do.
461.275	IB	Do.
461.300	IB	Do.
461.325	IB	Do.
461.350	IB	Do.
461.375	IB	Do.
461.400	IB	Do.
461.425	IB	Do.
461.450	IB	Do.
461.475	IB	Do.
461.500	IB	Do.
461.525	IB	Do.
461.550	IB	Do.
461.575	IB	Do.
461.600	IB	Do.
461.625	IB	Do.
461.650	IB	Do.
461.675	IB	Do.
461.700	IB	Do.
461.725	IB	Do.
461.750	IB	Do.
461.775	IB	Do.
461.800	IB	Do.
461.825	IB	Do.
461.850	IB	Do.
461.875	IB	Do.

Frequency	Services	Special limitations
461.900	IB	Do.
461.925	IB	Do.
461.950	IB	Do.
461.975	IB	Do.
462.000	IB	Do.

Frequency	Services	Special limitations
461.900	IB	Do.
461.925	IB	Do.
Megahertz		
461.950	IB	Do.
461.975	IB	Do.
462.000	IB	Do.
462.025	IB	Do.
462.050	IB	Do.
462.075	IB	Do.
462.100	IB	Do.
462.125	IB	Do.
462.150	IB	Do.
462.175	IB	Do.
462.200	IM	
462.225	IM	
462.250	IM	
462.275	IM	
462.300	IM	
462.325	IM	
462.350	IM	
462.375	IM	
462.400	IM	
462.425	IM	
462.450	IM	
462.475	IW, IP, IF, IM, IT	
462.500	IM	
462.525	IW, IP, IF, IM, IT	
462.550	(1)	
462.725		
462.750	IB	Base only, 1-way paging.
462.775	IB	Do.
462.800	IB	Do.
462.825	IB	Do.
462.850	IB	Do.
462.875	IB	Do.
462.900	IB	Do.
462.925	IB	Do.
462.950	PS	
462.975	PS	
463.000	PS	Med 1.
463.025	PS	Med 2.
463.050	PS	Med 3.
463.075	PS	Med 4.
463.100	PS	Med 5.
463.125	PS	Med 6.
463.150	PS	Med 7.
463.175	PS	Med 8.
463.200	IB	110 W.
463.225	IB	Do.
463.250	IB	Do.
463.275	IB	Do.
463.300	IB	Do.
463.325	IB	Do.
463.350	IB	Do.
463.375	IB	Do.
463.400	IB	Do.
463.425	IB	Do.
463.450	IB	Do.
463.475	IB	Do.
463.500	IB	Do.
463.525	IB	Do.
463.550	IB	Do.
463.575	IB	Do.
463.600	IB	Do.
463.625	IB	Do.
463.650	IB	Do.
463.675	IB	Do.
463.700	IB	Do.
463.725	IB	Do.
463.750	IB	Do.
463.775	IB	Do.
463.800	IB	Do.
463.825	IB	Do.
463.850	IB	Do.
463.875	IB	Do.
463.900	IB	Do.
463.925	IB	Do.
463.950	IB	Do.
463.975	IB	Do.
464.000	IB	Do.
464.025	IB	Do.
464.050	IB	Do.
464.075	IB	Do.
464.100	IB	Do.
464.125	IB	Do.
464.150	IB	Do.
464.175	IB	Do.
464.200	IB	Do.
464.225	IB	Do.
464.250	IB	Do.
464.275	IB	Do.
464.300	IB	Do.
464.325	IB	110 W, local control only.
464.350	IB	110 W.
464.375	IB	110 W, local control only.
464.400	IB	110 W.
464.425	IB	110 W, local control only.
464.450	IB	110 W.
464.475	IB	110 W, local control only
464.500	IB	35 W, itinerant use.
464.525	IB	110 W, local control only.
464.550	IB	35 W, itinerant use.
Megahertz		
464.575	IB	110 W, local control only.
464.600	IB	110 W.
464.625	IB	Do.
464.650	IB	Do.
464.675	IB	110 W, local control only.
464.700	IB	110 W.
464.725	IB	Do.
464.750	IB	Do.
464.775	IB	110 W, local control only.
464.800	IB	110 W.
464.825	IB	110 W, local control only.
464.850	IB	110 W.
464.875	IB	110 W, local control only.
464.900	IB	110 W.
464.925	IB	110 W, local control only.
464.950	IB	110 W.
464.975	IB	110 W, local control only.
465.000	IB	35 W, 1-way paging.
465.025	PP	
465.050	PP	
465.075	PP	
465.100	PP	
465.125	PP	
465.150	PP	
465.175	PP	
465.200	PP	
465.225	PP	
465.250	PP	
465.275	PP	
465.300	PP	
465.325	PP	
465.350	PP	
465.375	PP	
465.400	PP	
465.425	PP	
465.450	PP	
465.475	PP	
465.500	PP	
465.525	PP	Nonvoice.
465.550	PP	Do.
465.575	PF	
465.600	PF	
465.625	PF	
465.650	IB	2 W, airport use.
465.675	IB	Do.
465.700	IB	Do.
465.725	IB	Do.
465.750	IB	Do.
465.775	IB	Do.
465.800	IB	Do.
465.825	IB	Do.
465.850	IB	Do.
465.875	IB	2 W, airport use, telemetry.
465.900	IB	110 W, central station protection.
465.925	IB	Do.
465.950	IB	Do.
465.975	IB	Do.
466.000	IB	Do.
466.025	IB	110 W, mobile; directional fixed.
466.050	IB	Do.

Frequency	Services	Special limitations
466.075	IB	Do.
466.100	IB	Do.
466.125	IB	Do.
466.150	IB	Do.
466.175	IB	Do.
466.200	IB	Do.
466.225	IB	Do.
466.250	IB	Do.
466.275	IB	Do.
466.300	IB	Do.
466.325	IB	Do.
466.350	IB	Do.
466.375	IB	Do.
466.400	IB	Do.
466.425	IB	Do.
466.450	IB	Do.
466.475	IB	Do.
466.500	IB	Do.
466.525	IB	Do.
466.550	IB	Do.
466.575	IB	Do.
466.600	IB	Do.
466.625	IB	Do.
466.650	IB	Do.
466.675	IB	Do.
466.700	IB	Do.
466.725	IB	Do.
466.750	IB	Do.
466.775	IB	Do.
466.800	IB	Do.
466.825	IB	Do.
466.850	IB	Do.
466.875	IB	Do.
466.900	IB	Do.
466.925	IB	Do.
Megahertz		
466.950	IB	Do.
466.975	IB	Do.
467.000	IB	Do.
467.025	IB	Do.
467.050	IB	Do.
467.075	IB	Do.
467.100	IB	Do.
467.125	IB	Do.
467.150	IB	Do.
467.175	IB	Do.
467.200	IM	Mobile only.
467.225	IM	Do.
467.250	IM	Do.
467.275	IM	Do.
467.300	IM	Do.
467.325	IM	Do.
467.350	IM	Do.
467.375	IM	Do.
467.400	IM	Do.
467.425	IM	Do.
467.450	IM	Do.
467.475	IM, IW, IP, IF, IT	Do.
467.500	IM	Do.
467.525	IM, IW, IP, IF, IT	Do.
467.550	(1)	
467.725		
467.750	IB	2W, telemetry.
467.775	IB	Do.
467.800	IB	Do.
467.825	IB	Do.
467.850	IB	Do.
467.875	IB	Do.
467.900	IB	Do.
467.925	IB	Do.
467.950	PS	Medical care dispatch.
467.975	PS	Do.
468.000	PS	Med 1.
468.025	PS	Med 2.
468.050	PS	Med 3.
468.075	PS	Med 4.
468.100	PS	Med 5.
468.125	PS	Med 6.
468.150	PS	Med 7.
468.175	PS	Med 8.
468.200	IB	110 W, mobile; directional fixed.
468.225	IB	Do.
468.250	IB	Do.
468.275	IB	Do.
468.300	IB	Do.
468.325	IB	Do.
468.350	IB	Do.
468.375	IB	Do.
468.400	IB	Do.
468.425	IB	Do.
468.450	IB	Do.
468.475	IB	Do.
468.500	IB	Do.
468.525	IB	Do.
468.550	IB	Do.
468.575	IB	Do.
468.600	IB	Do.
468.625	IB	Do.
468.650	IB	Do.
468.675	IB	Do.
468.700	IB	Do.
468.725	IB	Do.
468.750	IB	Do.
468.775	IB	Do.
468.800	IB	Do.
468.825	IB	Do.
468.850	IB	Do.
468.875	IB	Do.
468.900	IB	Do.
468.925	IB	Do.
468.950	IB	Do.
468.975	IB	Do.
469.000	IB	Do.
469.025	IB	Do.
469.050	IB	Do.
469.075	IB	Do.
469.100	IB	Do.
469.125	IB	Do.
469.150	IB	Do.
469.175	IB	Do.
469.200	IB	Do.
469.225	IB	Do.
469.250	IB	Do.
469.275	IB	Do.
469.300	IB	Do.
469.325	IB	Do.
469.360	IB	Do.
469.375	IB	Do.
469.400	IB	Do.
469.425	IB	Do.
469.450	IB	Do.
469.475	IB	Do.
469.500	IB	35 W, itinerant.
469.525	IB	110 W, mobile; directional fixed.
469.550	IB	35 W, itinerant.
469.575	IB	110 W, mobile; directional fixed.
469.600	IB	110 W.
Megahertz		
469.625	IB	Do.
469.650	IB	Do.
469.675	IB	110 W, mobile; directional fixed.
469.700	IB	Do.
469.725	IB	Do.
469.750	IB	Do.
469.775	IB	Do.
469.800	IB	Do.
469.825	IB	Do.
469.850	IB	Do.
469.875	IB	Do.
469.900	IB	Do.
469.925	IB	Do.
469.950	IB	Do.
469.975	IB	Do.
470.000-0125-		
470.2875	(2)	
470-512	(3)	Available in 13 urbanized areas only in accordance with provisions of subpt. L.

[1] All services.
[2] Domestic public.
[3] Remote pickup broadcast.
[4] Citizen's class A.

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§ 90.560 Cross reference table.

The following table lists the rules sections which, prior to the adoption of part 90, governed the private land mobile radio services. The former rule parts were parts 89, 91, and 93. Action taken with respect to each former section is described.

§ 90.560 Cross reference table.

(Conversion of parts 89, 91, and 93 to part 90).

Present section No.	Proposed section and title	Summary of changes proposed
89.1	90.1—Basis and purpose	Minor rewording.
89.3	90.7Definitions	Deletions and additions as necessary—minor reorganization and clarification.
89.5	NA	
89.7	90.415—Prohibited uses	Minor rewording.
89.9	90.115—Ineligibility of foreign governments	Do.
89.11	90.151—Assignment of station authorizations	Do.
89.12	90.243Mobile relay stations	Relay, repeater and control uses separated under specific sections with minor rewording and clarification.
	90.245—Fixed relay stations	
	90.247—Mobile repeater stations	
	90.249—Control stations	
89.13 and 89.14	90.179—Cooperative use of stations	Minor rewording.
89.15 (a), (b), and (c).	90.175—Frequency coordination requirements	Do.
89.15 (d) and (e)	90.177—Protection of certain radio receiving locations	No change.
89.17	90.411—Civil defense communications in the public safety and special emergency radio services.	Do.
89.51	90.113—Station authorization required	Minor rewording.
89.55(a)	90.117—Applications for radio station authorization	Minor rewording, added reference to fees information.
89.55(b)	90.127(a)—Filing of applications	Minor rewording, added Chicago filing address information.
89.55(c)	90.119(b)—Application forms	Information set forth in 2 new sections with minor rewording.
	90.127(b)—Filing of applications	
89.55(d)	90.139—Preliminary processing of applications	No change.
89.55(e)	90.137—Applications for operation at temporary location	Minor rewording.
89.56	90.147—Mailing address furnished by licensee	No change.
89.57	90.125—Who may sign applications	Paragraph (c) expanded.
89.59 (a) and (b)	90.119(a)—Application forms	Minor rewording, referenced form 1046, eliminated construction permit.
89.59(d)	90.119(d)—Application forms	Minor rewording.
89.59(e)	90.145—Special temporary authority	Do.
89.59(f)	NA	Requirement to file form 456 deleted.
89.59(g)	90.119(b)—Application forms	Minor rewording.
89.60	90.493—Chicago region	No change.
89.61	90.145—Special temporary authority	Minor rewording—added an eligibility statement requirement.
89.63	90.129—Supplemental information to be routinely submitted with applications.	Minor rewording.
89.65	90.143—Grants of application	Do.
89.67	90.139—Preliminary processing of applications	Deleted reference to alien restrictions.
89.69	90.131—Amendment or dismissal of applications	No change.
89.71	90.155—Time in which stations must be placed in operation	Minor rewording, deleted construction permit requirements.
89.73	90.149—License term	Minor rewording with clarification.
89.75	90.135—Modification of license	Rewritten to specify changes requiring applications to be approved.
89.77	90.157—Discontinuance of station operation	No change.
89.79	90.19(c)—Police radio service	Do.
89.81	90.497—Special provisions relating to frequency assignments in the Chicago region.	Do.
89.101 (a), (b)(1), and (g).	90.173—Policies governing the assignment of frequencies	Deletions and additions as necessary—minor rewording and clarification.
89.101(b)(2)	90.253—Use of the frequency 4383.8 kHz	Combines applicable provisions in this and other sections.
89.101(e)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Do.

Present section No.	Proposed section and title	Summary of changes proposed
89.101(d)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.285, and 27.275 MHz.	Do.
89.101(e)	90.263—Substitution of frequencies below 25 MHz	Combines applicable provisions.
89.101 (h), (l), and (l).	See various frequency tables in subpts. B, C, and F	Extensive deletions, additions and rearrangements as necessary, minor rewording and clarification.
89.101 (p) and (q)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	No change.
89.102	90.241—Radio call box operations	Minor rewording.
89.102(c)	Travelers' Information Stations	No change.
89.103	90.213—Frequency tolerance	Includes part of SSB requirements from sec. 89.124—minor rewording.
89.105	90.207—Types of emission	Reworded to reference each operation with types of emission permitted.
89.107	90.209—Bandwidth limitations	Minor rewording and includes schedule from SSB requirements in sec. 89.124.
89.109	90.211—Modulation requirements	Minor rewording and clarification.
89.111	90.205—Power	Do.
89.113(a)	90.427—Precaution against unauthorized operation	Minor rewording combined with other sections.
89.113 (b), (c), (d), and (e).	90.429—Control point and dispatch point requirements	Minor rewording and rearrangement.
89.115	90.215—Transmitter measurements	Minor rewording.
89.117	90.203—Type acceptance required	Combined with other sections.
89.119	do	Do.
89.120	90.239—Interim provisions for operation of Automatic Vehicle Monitoring (AVM) systems.	Minor rewording.
89.122	90.237—Interim provisions for operation of radiotelcprinter and radiofacsimile devices.	Do.
89.123	Subpt. L—Authorization in the band 470-512 MHz (UHF-TV. sharing).	Combined with other sections.
89.124	NA	Rearranged by including technical standards in other appropriate sections.
89.126	90.235—Secondard fixed tone-signalling and alarm operations	Minor rewording.
89.151 (a), (b), (d), and (e).	90.403—General operating requirements	Added priority to safety-of-life-or-property communications.
89.151(c)	90.19(b)—Police radio service	Combined with other sections.
89.153	90.425—Station identification	Combined with rules for industrial and land transportation.
89.155	90.403—General operating requirements	Combined with other sections.
89.156	90.423—Operations on board aircraft	Minor rewording.
89.157	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Combined with other sections.
89.159	90.409—Emergency operation of public safety and special emergency mobile stations at fixed locations.	No change.
89.161(a)	90.417—Interstation communications	Combined with other sections.
89.161(b)	90.253—Use of the frequency 4383.8 kHz	Minor rewording.
89.163 (a), (b), and (c).	90.433—Operator license requirements	Do.
89.163(d)	90.431—Unattended operation	Do.
89.163(f)	90.427—Precautions against unauthorized operation	Minor rewording, combined with other sections.
89.165	90.435—Posting of operator license	Minor rewording.
89.167	90.437—Posting station licenses	Do.
89.169	90.439—Inspection of stations	No change.
89.171	90.441—Inspection and maintenance of tower marking and associated control equipment.	Do.
89.173	90.449-Answers to a notice of violation	Minor rewording.
89.175	90.443—Contents of station records	No change.
89.177	90.445—Form of station records	Do.
89.179	90.447—Retention of station records	Do.
89.201	90.503—Eligibility	Minor rewording.
89.203	90.505—Showing required	Do.
89.205	90.507—Limitations on use	Do.
89.207	90.509—Frequencies available for assignment	No change.
89.209	90.511—Interference	Minor rewording.
89.211	90.513—Special provisions	Do.
89.213	90.515—Change or cancellation of authorization without hearing	No change except title.
89.215	90.517—Report of operation	Minor rewording.
89.251 and 89.253.	90.17(a)—Local government radio service	Minor rewording and rearrangement.
89.255	90.419—Points of communication	Combined with other sections.
89.257	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.259 (a) and (f)	90.17(b)—Local government radio service	Combined, renumbered limitations, included all frequencies in table.
89.259(b)	90.173—Policies governing the assignment of frequencies	Combined with other sections.
89.259(c)	NA	Deleted.
89.259(d)	90.17(e)—Local government radio service	Minor rewording.

Present section No.	Proposed section and title	Summary of changes proposed
89.259(g)	90.17(c)—Local government radio service	Renumbered and reworded with certain exceptions noted for sec. 89.254(g) (4), (5), and (7).
89.259(g)(4)	90.249—Control stations	Combined with other sections.
89.259(g)(5)	90.173(i)—Policies governing the assignment of frequencies	Minor rewording.
89.259(g)(7)	NA	Deleted.
89.259(h)	NA	Do.
89.301 and 303	90.19(a)—Police radio service	Minor rewording and rearrangement.
89.305 (a), (b), and (c).	90.419—Points of communications	Combined with other sections.
89.305(d)	90.19(b)—Police radio service	Do.
89.307(b)	90.421—Operation of mobile units in vehicles not under the control of the license.	Do.
89.307(c)	90.19(b)—Police radio service	Do.
89.309 (a) and (g).	90.19(d)—Police radio service	Combined, renumbered limitations, included all frequencies in the table.
89.309(b)	90.173—Policies governing the assignment of frequencies	Combined with other sections.
89.309(c)	90.19 (f) and (g)—Police radio service	Minor rewording.
89.309(d)	NA	Deleted.
89.309(e)	90.19(g)—Police radio service	Minor rewording.
89.309(h)	90.19(c)—Police radio service	Renumbered and reworded limitations with certain exceptions noted for secs. 90.304(h) (1), (2), and (4).
89.309(h)(1)	NA	Deleted.
89.309(h)(2)	90.173(i)—Policies governing the assignment of frequencies	Minor rewording.
89.309(h)(4)	90.249—Control stations	Combined with other sections.
89.309(i)	NA	Deleted.
89.351 and 89.353.	90.21(a)—Fire radio service	Minor rewording and rearrangement.
89.355	90.419—Points of communications	Combined with other sections.
89.357	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.359 (a) and (f).	90.21(b)—Fire radio service	Combined, included all frequencies in the table—renumbered limitations.
89.359(b)	90.173—Policies governing the assignment of frequencies	Combined with other sections.
89.359(c)	90.21(e)—Fire radio service	Minor rewording.
89.359(d)	NA	Deleted.
89.359(g)	90.21(c)—Fire radio service	Renumbered and reworded limitations with certain exceptions noted for secs. 89.359(g) (1), (2), and (4).
89.359(g)(1)	NA	Deleted.
89.359(g)(2)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
89.359(g)(4)	90.249—Control stations	Combined with other sections.
89.359(h)	NA	Deleted.
89.401 and 89.403.	90.23(a)—Highway maintenance radio service	Minor rewording and rearrangement.
89.405	90.419—points of communications	Combined with other sections.
89.407(b)	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.407(c)	90.23(c)—Highway maintenance radio service	Included in limitation on particular frequencies.
89.409 (a) and (e).	90.23(b)—Highway maintenance radio service	Combined—included all frequencies in table—renumbered limits.
89.409(b)	NA	Deleted.
89.409(c)	90.23(e)—)Highway maintenance radio service	Minor rewording.
89.409(f)	90.23(c)—Highway maintenance radio service	Renumbered and reword limits except as noted for sec. 89.409(f)(1).
89.409(f)(1)	90.249—Control stations	Combined with other sections.
89.409(g)	90.173—Policies governing the assignment of frequencies.	Do.
89.409(h)	NA	Deleted.
89.451 and 89.453.	90.25(a)—Forestry-conservation radio service	Minor rewording and rearrangement.
89.455	90.419—Points of communications	Combined with other sections.
89.457	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.
89.459(a) and (d).	90.25(b)—Forestry conservation radio service	Combined—included all frequencies in table, renumbered limitations.
89.459(b)	NA	Deleted.
89.459(e)	90.25(c)—Forestry-conservation radio service	Renumbered and reworded limits with exception noted for sec. 89.459(e)(1).
89.459(e)(1)	90.249—Control stations	Combined with other sections.
89.501	90.33—Scope	Minor rewording.
89.503	90.35—Medical services	Minor rewording 1st sentence of (b) deleted.
89.505	90.37—Rescue organization	Minor rewording.
89.507	90.39—Veterinarians	Do.
89.509	90.41—Disaster relief organization	Do.
89.511	90.43—School buses	Do.
89.513	90.45—Beach patrols	Do.
89.515	90.47—Establishments in isolated areas	Do.
89.517	90.49—Communication standby facilities	Do.
89.519	90.51—Emergency repair of public communications facilities.	Do.
89.521	90.419—Points of communication	Combined with other sections, minor rewording.
89.523(a)	90.243—Mobile relay stations	Do.
89.523(b)	NA	Specific requirement for monitoring deleted. See sec. 90.403(c).

Present section No.	Proposed section and title	Summary of changes proposed
89.523(c)	NA	Deleted.
89.523(d)	90.55—Paging operations	Minor rewording.
89.525(a) and (e).	90.53(a)—frequencies available	Combined—included all frequencies in table. Renumbered limitations.
89.525(b)	NA	Deleted.
89.525(c)	90.53(d)—Frequencies available	Minor rewording.
89.525(d)	90.53(a)—Frequencies available	Do.
89.525(f)	90.53(b)—Frequencies available	Renumbered and reworded limitations except as noted for secs. 89.525(f). (1), (13) and (22).
89.525(f)(1)	90.173(i)—Policies governing the assignment of frequencies.	Minor rewording.
89.525(f)(13)	NA	Deleted.
89.525(f)(22)	90.249—Control station	Combined with other sections.
89.551	90.17(c)—Local government radio service	State guard radio service moved to category of local government radio service.
89.553	90.405—Permissible communications	Combined with other sections.
89.555	90.419—Points of communication	Do.
89.559	90.17 (b) and (c)—Local government radio service	Included in local government radio service.
89.601	90.351—Scope	Minor rewording and rearrangement.
89.602	90.7—Definitions	No change.
89.603	90.351—Scope	Minor rewording and rearrangement.
89.604	90.355—Eligibility	No change.
89.605	90.387—Station identification	Do.
89.651	90.379—Limitations on power and antenna height	Do.
89.652	90.381—Restrictions on operational fixed stations	Do.
89.653	90.389—Restriction on interconnection	Do.
89.655	90.385—Restrictions and limitations on permissible communications, on use, and on mode of operation.	Do.
89.656	90.393—special conditions governing the furnishing of radio equipment by licensees.	Do.
89.657	90.373—Restrictions on licensing manufacturers in the 806-821 MHz, and 851-866 MHz bands.	Do.
89.658	90.383—Acceptability of transmitters for licensing in the 806-821 MHz, and 851-866 MHz bands..	Do.
89.701	90.357—Forms to be used	Do.
89.702	90.359—Supplemental information to be furnished by applicants for facilities under this subpart.	Do.
89.703	90.391—Supplemental reports required of licensees authorized under this subpart.	Do.
89.704	90.383—Processing of applications	Do.
89.751	90.365—Selection and assignment of frequencies	Do.
89.801	90.375—Trunked systems loading requirements	No change (except title).
89.802	90.377—Conventional systems loading requirements.	Do.
89.803	90.369—Other criteria to be applied in assigning channels for use in conventional systems of communication.	No change.
89.804	90.395—Number of systems authorized in a geographical area	No change (except title).
89.805	90.367—Limitation on the number of frequencies assignable for conventional systems.	No change.
89.806	90.371—Limitation on the number of frequency pairs assignable for trunked systems and on the number of trunked systems.	Do.
89.807	90.397—Special licensing requirements for radio stations used to provide service to persons other than the licensee.	Do.
89.808	90.361—Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems used to provide service to persons other than the licensee.	Do.
89.901	90.461—Direct and remote control of transmitters	Minor rewording.
89.902	90.463—Transmitter control points	Combined with other sections.
89.903	do	Do.
89.904	do	Do.
89.905	do	Do.
89.906	90.465—Control of systems of communication	Minor rewording.
89.907	90.467—Dispatch points	Do.
89.908	90.469—Unattended operation	Do.
89.925	90.7—Definitions	Do.
89.926	90.471—Points of operation in internal systems	No change.
89.927	90.473—Operation of internal systems through licensed fixed control points.	Do.
89.928	90.475—Operation of internal systems in specialty equipped systems	Do.
89.950	90.7—Definitions	Do.
89.951	90.477—Restrictions on interconnected systems	Minor rewording.
89.952	90.479—Interconnection of radio systems with the facilities of telephone companies.	Do.
89.953	90.481—Permissible methods of interconnecting private and public systems of communication.	Do.

Present section	Proposed section and title	Summary of changes proposed

Present section No.	Proposed section and title	Summary of changes proposed
89.954	90.483—Special requirements pertaining to the methods of interconnection.	Do.
89.975	90.485—One-way paging operations in the 806-821 MHz. and 851-866 MHz bands.	Do.
91.1	90.1—Basis and purpose	Minor rewording.
91.2	90.415—Prohibited uses	Combined with other sections.
91.3	90.7—Definitions	Deletions and additions as necessary. Minor reorganization and clarification.
91.4	90.115—Ineligibility of foreign governments	Minor rewording.
91.5	90.153—Assignment of station authorization	Do.
91.6	90.181—Cooperative use of radio services	Action deferred for resolution of docket 18921.
91.7	90.243—Mobile relay stations	Relay, repeater and control uses separated under specific sections with minor rewording and clarification.
	90.245—Fixed relay stations	
	90.247—Mobile repeater stations	
	90.249—Control stations	
91.8(a)	90.173 (a) and (b)—Policies governing the assignment of frequencies	Minor rewording.
	90.175—Frequency coordination requirements	Do.
91.8(b)	NA	Deleted.
91.8(c)	Various radio services sections under limitation on number of frequencies assignable.	Minor rewording.
91.8(d)	NA	Deleted.
91.8(e)	90.173(g)—Policies governing the assignment of frequencies	Minor rewording.
91.8(f)	90.173(c)—Policies governing the assignment of frequencies	Do.
91.8(g)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Combines applicable provisions in this and other sections.
91.8(h)	90.173(e)—Policies governing the assignment of frequencies	Minor rewording.
91.8(i)	NA	Deleted.
91.8(j)	Various radio services sections under limitation on number of frequencies assignable.	Minor rewording.
91.8 (k) and (m)	90.177—Protection of certain radio receiving locations	No change.
91.8(l)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Do.
91.9	90.185—Cooperative use of radio stations	Minor rewording.
91.50	90.147—Mailing address furnished by licensee	No change.
91.51	90.113—Station authorization required	Minor rewording.
91.53	90.145—Special temporary authority	Minor rewording—added a requirement for eligibility statement.
91.54(a)	90.119—Application forms	Combined with other sections.
91.54(b)	90.127(a)—Filing of applications	Minor rewording—added Chicago filing address.
91.54(c)	90.127(b)—Filing of applications	Combined with other sections.
91.54(d)	90.139—Preliminary processing of applications	No change.
91.54(e)	90.137—Applications for operation at temporary location	Minor rewording.
91.54(f)	90.129(e)—Supplemental information to be routinely submitted with applications.	Do.
91.55	90.125—Who may sign applications	Paragraph (c) expanded.
91.56(a)(b)	90.119(a)—Application forms	Minor rewording—reference to form 1046 added—eliminate reference to construction permit.
91.56(d)	90.153—Assignment of station authorization	Minor rewording.
91.56(e)	90.145—Special temporary authority	Do.
91.56(f)	NA	Requirement deleted.
91.56(g)	90.119(b)—Application forms	Minor rewording.
91.57(a)	90.119(c)—Application forms	Do.
91.57(b)	90.493—Chicago region	No change.
91.58(a)	90.129(1)—Supplemental information to be routinely submitted with applications.	Minor rewording.
91.58(a)(1)	90.173—Policies governing the assignment of frequencies	Do.
91.58(b)	Various services sections under limitation on number of frequencies assignable.	Do.
91.58(c)	NA	Deleted.
91.58 (d), (e), (f), (g), (h), (i), (j), (k), and (l).	90.129—Supplemental information to be routinely submitted with applications.	Minor rewording—combined with other sections.
91.59	90.143—Grants of applications	Minor rewording.
91.60	90.139—Preliminary processing of applications	Deleted reference to alien restrictions.
91.61	90.131—Amendment or dismissal of applications	No change.
91.62	90.155—Time in which stations must be placed in operation	Minor rewording—deleted construction permit requirements.
91.63	90.149—License term	Minor rewording and clarification.
91.64	90.135—Modification of license	Rewritten to specify changes.
91.65	NA	Deleted.
91.66	90.157—Discontinuance of station operation	No change.
91.67	90.497—Special provisions relating to frequency assignments in the Chicago region.	Do.
91.101(a)	NA	Deleted.

Present section No.	Proposed section and title	Summary of changes proposed
91.101(b)	90.253—Use of the frequency 4383.8 kHz	Combined with other sections.
91.102	90.213—Frequency tolerance	Do.
91.103(a)	90.207(a)—Types of emission	Combined with other sections—referenced each operation with type of emission permitted.
91.103(b)	90.233—Secondary base/mobile nonvoice signaling operations	Combined with other sections—deleted requirement for submission of coding system.
91.103(c)	NA	
91.104	90.209—Bandwidth limitations	Combined with other sections.
91.105	90.211—Modulation requirements	Do.
91.106	90.205—Power	Do.
91.107(a)	90.427—Precautions against unauthorized operation	Minor rewording.
91.107(b), (c), (d), and (e).	90.429—Control point and dispatch point requirements	Do.
91.108	90.215—Transmitter measurements	Combined with other sections—minor rewording.
91.109 (a) and (b).	90.203—Type acceptance required	Combined with other sections.
91.109(c)	NA	Deleted.
91.110	90.203—Type acceptance required	Combined with other sections.
91.112	NA	Rearranged by including technical standards in other appropriate sections.
91.113	90.237—Interim provisions for operation of radio teleprinter and radio fascimile devices.	Combined with other sections.
91.114	Subpart L—Authorizations in the band 470-512 MHz (UHF-TV Sharing).	Do.
91.116	NA	Deleted.
91.120	90.239—Interim provisions for operation of automatic vehicle monitoring (AVM) systems.	Combined with other sections.
91.151 (a) and (b).	90.405—Permissible communications	Do.
91.151(c)	90.419—Points of communication	Do.
91.151(d)	90.403—General operating requirements	Do.
91.151(e)	90.407—Communications permitted during emergency situations	Do.
91.151(f)	90.405—Permissible communications	Do.
91.152	90.425—Station identification	Combined with other sections reorganized.
91.153	90.403—General operating requirements	Minor rewording.
91.154	90.433—Operator license requirements	Do.
91.155	90.435—Posting of operator license	Reorganized.
91.156	90.437—Posting station license	Do.
91.157	90.439—Inspection of stations	Minor rewording.
91.158	90.441—Inspection and maintenance of tower marking and associated control equipment.	Do.
91.159	90.449—Answer to a notice of violation	Do.
91.160	90.443—Content of station records	
	90.445—Form of station records	Separated and reorganized with minor rewording.
	90.447—Retention of station records	
91.162	90.423—Operations on board aircraft	No change.
91.201	90.503—Eligibility	Minor rewording.
91.202	90.505—Showing required	Do.
91.203	90.507—Limitations on use	Do.
91.204	90.509—Frequencies available for assignment	No change.
91.205	90.511—Interference	Minor rewording.
91.206	90.513—Special provisions	Do.
91.207	90.515—Change or cancellation of authorization without hearing	No change except title.
91.208	90.517—Report of operation	Minor rewording.
91.251	90.63(a)—Power radio service	Minor rewording—combined with other sections.
91.251 (d) and (e).	90.61—General eligibility	Combined with other sections.
91.252(a)	90.123—Full disclosures	Do.
91.252(b)	90.63(b)(2)—Power radio service	Minor rewording.
91.252(c)	90.63(e)(4)—Power radio service	Do.
91.252(d)	90.63(b)(1)—Power radio service	Do.
91.252(e)	Assignment and use of frequencies in the 450-470 MHz band for fixed operations.	Do.
91.252(f)	90.233—Secondary base/mobile nonvoice signaling operations	Combined with other sections.
91.253(a)	NA	Not necessary.
91.253 (b) and (c).	90.235—Secondary fixed tone signaling and alarm operations	Combined with other sections.
91.253(d)	90.421(h)—Operation of mobile units in vehicles not under the control of the licensee.	Minor rewording.
91.254(a)	90.63(c)—Power radio service	Included all frequencies in table. Renumbered limitations.
91.254(b)	do	Renumbered and reworded limitations except as noted for 91.254(b), (6), (7), (8), (10), (26), (28), (29), (30), and (35).
91.254(b)(6)	NA	Deleted.
91.254(b)(7)	NA	Do.
91.254(b)(8)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.555, 27.265 and 27.275 MHz.	Minor rewording—combined with other sections.

Present section No.	Proposed section and title	Summary of changes proposed
91.254(b)(10)	90.263—Substitution of frequencies below 25 MHz	Minor rewording.
91.254(b)(26)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Combined with other sections.
91.254(b)(28)	NA	Deleted.
91.254(b)(29)	90.173—Policies governing the assignment of frequencies	Minor rewording.
91.254(b)(30)	90.249—Control stations	Combined with other sections.
91.254(b)(35)	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Combined with other sections. Minor rewording.
91.255(a)	NA	Deleted.
91.255(b)	90.63(e)(3)—Power radio service	Minor rewording.
91.301	90.659(a)—Petroleum radio sevice	Minor rewording. Combined with other sections.
91.302(a)	90.123—Full disclosures	Minor rewording.
91.302(b)	90.65(d)(4)—Petroleum radio service	Do.
91.302(c)	Assignment and use of frequencies in the 450-470 MHz band for fixed operations.	Do.
91.302(d)	90.233—Secondary base/mobile nonvoice signalling operations	Combined with other sections.
91.302(e)	90.65(c)(4)—Petroleum radio service	Made into frequency limitation and exception to limit on number of frequencies.
	90.65(e)(4)—Petroleum radio service	Not necessary.
91.303(a)	NA	Combined with other sections.
91.303(b)	90.235—Secondary fixed tone signalling and alarm operation	Included all frequencies in table. Renumbered limitations.
91.304(a)	90.65(b)—Petroleum radio service	Renumbered and reworded limits except as noted for secs. 91.304(b) (4), (5), (6), (8), (27), (29), (31), (32), (33), and (37).
91.304(b)	90.65(c)—Petroleum radio service	Deleted.
91.304(b)(4)	NA	Do.
91.304(b)(5)	NA	Minor rewording combined with other sections.
91.304(b)(6)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording.
91.304(b)(8)	90.263—Substitution of frequencies below 25 MHz	Combined with other section.
91.304(b)(27)	90.250—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Do.
91.304(b)(29)	90.261—Assignment and use of frequencies in the bands 450-470 MHz for fixed operations.	Deleted.
91.304(b)(31)	NA	Minor rewording.
91.304(b)(32)	90.173(i)—Policies governing the assignment of frequencies	Combined with other sections.
91.304(b)(33)	90.249—Control stations	Do.
91.304(b)(37)	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Minor rewording.
91.305(a)	90.65(d)—Petroleum radio service	Do.
91.305(b)	90.65(d)—Petroleum radio service	Minor rewording combined with other sections.
91.351	90.67(a)—Forest products radio service	Combined with other sections.
91.352	90.123—Full disclosures	Not necessary.
91.353	NA	Included all frequencies in table. Renumbered limitations.
91.354(a)	90.67(b)—Forest products radio service	Rewording and renumbered limitations except as noted for secs. 91.354(b) (4), (5), (6), (7), (8), (29), (31), (32), (33), and (35).
91.354(b)	90.67(c)—Forest products radio service	Deleted.
91.354(b)(4) and (5).	NA	Minor rewording. Combined with other sections.
91.354(b)(6)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.	Do.
91.354(b)(7) and 91.354(b)(35).	90.259—Assignment and use of the frequencies in the bands 216-220 MHz and 1427-1435MHz.	Minor rewording.
91.354(b)(8)	90.263—Substitution of frequencies below 25 MHz	Combined with other sections.
91.354(b)(29)	90.261—Assignment and use of frequencies in the bands 450-470 MHz for fixed operations.	Deleted.
91.354(b)(31)	NA	Minor rewording.
91.354(b)(32)	90.173(i)—Policies governing the assignment of frequencies	Combined with other sections.
91.354(b)(33)	90.249—Control stations	Deleted.
91.355(a)	NA	Minor rewording.
91.355(b)	90.67(d)—Forest products radio service	Minor rewording. Combined with other sections.
91.401	90.69(a)—Motion picture radio service	Combined with other sections.
91.402	90.123—Full disclosures	Not necessary.
91.403	NA	Included all frequencies in table. Renumbered limitations.
91.404(a)	90.69(b)—Motion picture radio service	Renumbered and reworded limitations except as noted for secs. 91.404(b) (2), (5), and (12).
91.404(b)	90.69(c)—Motion picture radio service	Minor rewording.
91.404(b)(2)	90.263—Substitution of frequencies below 25 MHz	Minor rewording. Combined with other sections.
91.404(b)(5)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Do.
91.404(b)(12)	90.259—Assignment of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Deleted.
91.405(a)	NA	

Present section No.	Proposed section and title	Summary of changes proposed
91.405(b)	90.69(b)—Motion picture radio service	Minor rewording.
91.451	90.71(a)—Relay press radio service	Minor rewording. Combined with other sections.
91.452	90.123—Full disclosures	Combined with other sections.
91.454(a)	90.71(b)—Relay press radio service	Included all frequencies in table renumbered limitations.
91.454(b)	90.71(c)—Relay press radio service	Reworded and renumbered limitations except as noted for secs. 91.454(b) (2), (10), (11), (12), and (13).
91.454(b)(2)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.555, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
91.454(b)(10)	NA	Deleted.
91.454(b)(11)	90.173—(i) Policies governing the assignment of frequencies	Minor rewording.
91.454(b)(12)	90.249—Control stations	Minor rewording. Combined with other sections.
91.454(b)(13)	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1735 MHz.	Do.
91.455(a)	NA	Deleted.
91.455(b)	90.71(d)—Relay press radio service	Minor rewording.
91.501	90.73(a)—Special industrial radio service	Combined with other sections.
91.502(a)	90.123—Full disclosures	Do.
91.502(b)	90.73(a)—Special industrial radio service	Incorporated into eligibility paragraph.
91.502(c)	90.83(b)—Special industrial radio service	Only change was to delete unenforceable sec. 91.502(c)(4).
91.502(d)	90.73(a)—Special industrial radio service	Minor rewording. Combined with other sections.
91.503(a)	90.243—Mobile relay stations	Combined with other sections.
91.503(b)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Minor rewording. Combined with other sections.
91.503(c)	90.73(g)—Special industrial radio service	Minor rewording.
91.504(a)	90.73(e)—Special industrial radio service	Included all frequencies in table renumbered limitations.
91.504(b)	90.73(d)—Special industrial radio service	Reworded and renumbered limitations except as noted for secs. 91.504(b) (6), (7), (8), (10), (26), (27), (28), (29), (30), (33), (34), and (36).
91.504(b)(6) and (7).	NA	Deleted.
91.504(b)(8)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
91.504(b)(10)	90.263—Substitution of frequencies below 25 MHz	Minor rewording.
91.504(b)(26)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Combined with other sections.
91.504(b)(27)	NA	Deleted.
91.540(b)(28)	90.173(i)—Policies governing the assignment of frequencies	Minor rewording.
91.504(b)(29)	90.249—Control stations	Minor rewording. Combined with other sections.
91.504(b)(30) and (36).	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1247-1435 MHz.	Do.
91.504(b)(33)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Do.
91.504(b)(34)	NA	Deleted.
91.504(c)	90.73(e)(5)—Special industrial radio service	Minor rewording.
91.504(d)	90.73(e)(4)—Special industrial radio service	Do.
91.506	90.73(e)(3)—Special industrial radio service	Do.
91.551	90.75(a)—Business radio service	Minor rewording. Combined with other sections.
91.552(a)	90.75(a) Business radio service	Do.
91.552(b)	90.123—Full disclosures	Combined with other sections.
91.552(c)	90.173—Policies governing the assignment of frequencies	Minor rewording.
91.552(d)	NA	Deleted.
91.552 (f) and (g).	90.75(c)—Business radio service	Minor rewording. Included in frequency limitations.
91.553(a)	90.243—Mobile relay stations	Minor rewording. Combined with other sections.
91.553(c)	90.75(f)—Business radio service	Minor rewording.
91.554(a)	90.75(b)—Business radio service	Included all frequencies in table. Renumbered limitations.
91.554(b)	90.75(c)—Business radio service	Reworded and renumbered limitations except as noted for secs. 91.554(b) (6), (7), (8), (34), (35, (38), (45), and (48).
91.554(b) (6) and (7).	NA	Deleted.
91.554(b)(8)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.	Minor rewording. Combined with other sections.
91.554(b)(9)	90.249—Control stations	Do.
91.554(b)(34)	NA	Deleted.
91.554(b)(35)	90.173—Policies governing the assignment of frequencies	Minor rewording.
91.554(b)(38)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Combined with other sections.
91.554(b) (45) and (48).	90.259—Assignment of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Minor rewording. Combined with other sections.
91.554 (c) and (d).	90.75(d)—Business radio service	Minor rewording.
91.555	90.217—Exemption from technical standards	No change.
91.556	90.75(d)—Business radio service	Minor rewording.
91.601	90.103—Radiolocation service	Minor rewording. Combined with other sections.
91.602(a)	90.123—Full disclosures	Combined with other sections.
91.602(b)	90.129(c)—Supplemental information to be routinely submitted with applications.	Minor rewording. Combined with other sections.

Present section No.	Proposed section and title	Summary of changes proposed
91.602(c)	NA	Deleted.
91.603	90.103(a)—Radiolocation service	Combined with other sections.
91.604(a)	90.103(b)—Radiolocation service	Renumbered limitations.
91.604(b)	90.103(c)—Radiolocation service	Renumbered and reworded limitations.
91.605	90.103(e)—Radiolocation service	No change.
91.606	90.103(c)(7)—Radiolocation service	Minor rewording. Combined with other sections.
91.726 and 91.727	90.79(a)—Manufacturers radio service	Combined definition and permissible communications with eligibility.
91.728(a)	90.123—Full disclosures	Combined with other sections.
91.728(b)	90.79(b)—Manufacturers radio service	Minor rewording.
91.729(a)	90.243—Mobile relay stations	Minor rewording. Combined with other sections.
91.729(b)	90.79(b)—Manufacturers radio service	Minor rewording.
91.729(d)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Combined with other sections.
91.730(a)	90.79(c)—Manufacturers radio service	Included all frequencies in table renumbered limitations.
91.730(b)	90.79(d)—Manufacturers radio service	Rewording and renumbered limits except as noted for secs. 91.730(b) (3), (4), (14), (16), (17), (18), (19), and (22).
91.730(b)(3)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.	Minor rewording. Combined with other sections.
91.730(b)(4)	NA	Deleted.
91.730(b)(14)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Combined with other sections.
91.730(b)(16)	NA	Deleted.
91.730(b)(17)	90.173(l)—Policies governing the assignment of frequencies	Minor rewording.
91.730(b)(18)	90.249—Control stations	Minor rewording. Combined with other sections.
91.730(b)(19) and 91.730(b)(22).	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Do.
91.751	90.81(a)—Telephone maintenance radio service	Do.
91.752(a)	90.123—Full disclosures	Combined with other sections.
91.752(b) and 91.752(c).	90.81(b)—Telephone maintenance radio service	Minor rewording. Combined with other sections.
91.753	90.243—Mobile relay stations	Do.
91.754(a)	90.81(c)—Telephone maintenance radio service	Included all frequencies in table. Renumbereed limitations.
91.754(b)	90.81(d)—Telephone maintenance radio service	Rewording and renumbered limitations except as noted for secs. 91.754(b) (3), (4), (10), (12), (13), (14), (16), and (18).
91.754(b)(3)	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.	Minor rewording. Combined with other sections.
91.754(b)(4)	NA	Deleted.
91.754(b)(10)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Minor rewording. Combined with other sections.
91.754(b)(12)	NA	Deleted.
91.754(b)(13)	90.173(l)—Policies governing the assignment of frequencies	Minor rewording.
91.754(b)(14)	90.249—Control stations	Minor rewording. Combined with other sections.
91.754(b)(16) and 91.754(b)(18).	90.259—Assignment and use of frequencies in the bands 216-220 MHz and 1427-1435 MHz.	Do.
93.1	90.1—Basis and purpose	Minor rewording.
93.2	90.415—Prohibited uses	Minor rewording. Combined with other sections.
93.3 and 93.4	90.183—Cooperative use	Deleted.
93.5	90.115—Ineligibility of foreign governments	Minor rewording.
93.6	90.153—Assignment of station authorization	Do.
93.7	90.7—Definitions	Deletions and additions as necessary. Minor reorganization and clarification.
93.8(a)	90.173(a)—Policies governing the assignment of frequencies	No change.
93.8(b)	90.173(g)—Policies governing the assignment of frequencies	Minor rewording.
93.8(c)	90.173(c)—Policies governing the assignment of frequencies	Do.
93.8(d)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Combined with other sections.
93.8(e)	90.173(e)—Policies governing the assignment of frequencies	Minor rewording.
93.8(h)	Various services sections in the frequency limitations	Do.
93.9(a)	90.175—Frequency coordination requirements	Do.
93.9(b) and 93.9(c).	90.177—Protection of certain radio receiving locations	No change.
93.10	90.247 Mobile—repeater stations	Minor rewording. Combined with other sections.
93.50	90.147—Mailing address furnished by licensee	No change.
93.51	90.113—Station authorization required	Minor rewording.
93.52(a)	90.117—Applications for radio station authorizations	Do.
93.52 (b), (c) and (d).	NA	Deleted.
93.53	90.145—Special temporary authority	Minor rewording added an eligibility statement requirement.
93.54(a)	90.117—Applications for radio station authorization	Minor rewording. Referenced fee information.
93.54(b)	90.127(a)—Filing of applications	Minor rewording. Added Chicago filing address information.
93.54(c)	90.127(b)—Filing of applications	Minor rewording. Combined with other sections.
93.54(d)	90.139—Preliminary processing of applications	No change.
93.54(e)	90.137—Applications for operation at temporary locations	Minor rewording.

Present section No.	Proposed section and title	Summary of changes proposed
93.54(f)	90.129(e)—Supplemental information to be routinely submitted with applications.	Do.
93.55	90.125—Who may sign applications	Paragraph (c) expanded.
93.56 (a) and (b)	90.119(a)—Application forms	Minor rewording. Referenced form 1046, eliminated reference to construction permit.
93.56(d)	90.119(h)—Application forms	Minor rewording.
93.56(e)	NA	Deleted.
93.56(f)	90.119(b)—Application forms	Minor rewording.
93.56(g)	90.145—Special temporary authority	Do.
93.57(a)	90.119(c)—Application forms	Do.
93.57(b)	90.495—Chicago region	No change.
93.58	90.129—Supplemental information to be routinely submitted with applications.	Minor rewording.
93.59	90.143—Grants of applications	Do.
93.60	90.139—Preliminary processing of applications	Deleted reference of alien restrictions.
93.61	90.131—Amendment or dismissal of applications	No change.
93.62	90.155—Time in which stations must be placed in operation	Minor rewording. Deleted construction permit.
93.63	90.149—License term	Minor rewording.
93.64	90.135—Modification of license	Rewritten to specify changes requiring applications to be approved.
93.65	90.157—Discontinuance of station operation	No change.
93.67	90.497—Special provisions relating to frequency assignment in the Chicago region.	Do.
93.101(a)(1)	NA	Deleted.
93.101(a)(2)	90.253—Use of the frequency 4383.8 kHz	Combined with other sections.
93.101(b)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Do.
93.102	90.213—Frequency tolerance	Minor rewording. Combined with other sections.
93.103(a)	90.207(a)—Types of emission	Minor rewording. Referenced each operation with types of emission permitted.
93.103(b)	90.233—Secondary base/mobile nonvoice signaling operations	Minor rewording. Eliminated requirement for submission of coding systems.
93.103(c)	NA	Deleted.
93.104	90.209—Bandwidth limitations	Minor rewording. Combined with other sections.
93.105	90.211—Modulation requirements	Do.
93.106	90.205—Power	Do.
93.107(a)	90.427—Precaution against unauthorized operation	Minor rewording.
93.107 (b), (c), (d) and (e).	90.429—Control point and dispatch point requirements	Minor rewording and rearrangement.
93.108	90.215—Transmitter measurements	Minor rewording.
93.109	90.203—Type acceptance required	Minor rewording. Combined with other sections.
93.110	....do	Do.
93.112	See various frequency tables in subpts. E and F	Extensive deletions, additions and rearrangement as necessary. Minor rewording and clarification.
93.113	90.237—Interim provisions for operation of radioteleprinter and radio-facsimile devices.	Minor rewording.
93.114	Subpart L—authorization in the band 470-512 MHz (UHF-TV sharing).	Combined with other sections.
93.116		Unnecessary.
93.120	90.239—Interim provisions for operation of automatic vehicle monitoring (AVM) systems.	Minor rewording.
93.151(a)	90.405—Permissible communications	Minor rewording. Combined with other sections.
93.151(b)	90.417—Interstation communications	Combined with other sections.
93.151(c)	90.419—Points of communications	Minor rewording. Combined with other sections.
93.151(c)(4)	90.417—Interstation communications	Combined other sections.
93.151(d)	90.403(a)—General operating procedure	Minor rewording.
93.151(e)	90.407—Communications permitted during emergency situations	Combined with other sections.
93.151(f)	90.405(c)—Permissible communications	Minor rewording. Combined with other sections.
93.151(g)	90.413—Civil defense communications in the taxicab radio services	Do.
93.152	90.425—Station identification	Reorganized. Combined with rules for public safety and industrial.
93.153	90.403—General operating requirements	Minor rewording. Combined with other sections.
93.154	90.433—Operator license requirement	Minor rewording.
93.155	90.425—Station identification	Do.
93.156	90.437—Posting station licenses	Do.
93.157	90.439—Inspection of stations	No change.
93.158	90.441—Inspection and maintenance of tower marking and associated control equipment.	Do.
93.159	90.449—Answer to a notice of violation	Minor rewording.
93.160	90.443—Content of station records	Separated and reorganized. Minor rewording.
	90.445—Form of station records	Do.
	90.447—Retention of station records	Do.
93.161	90.527—Land transportation industries communications emergency plan (LATICEP).	No change.

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Present section No.	Proposed section and title	Summary of changes proposed
93.162 and 93.163.		
93.164	90.423—Operations on board aircraft	Minor rewording.
93.201	90.503—Eligibility	Do.
93.202	90.505—Showing required	Do.
93.203	507—Limitations on use	Do.
93.204(a)	90.509—Frequencies available for assignment	Do.
93.204(b)	Various land transportation radio services under additional frequencies available, or limitation on number of frequencies assignable.	
93.205	90.511—Interference	Do.
93.206	90.513—Special provisions	Do.
93.207	90.515—Change or cancellation of authorization without hearing	No change except title.
93.208	90.517—Report of operation	Minor rewording.
93.251(a)	90.89(a)—Motor carrier radio service	Minor rewording. Combined with other sections.
93.251(b)	90.123—Full disclosures	Combined with other sections.
93.252	90.89 (b) and (c)—Motor carrier radio service	Placed frequencies in table form. Minor rewording of limitations.
93.253(a)	90.261—Assignment and use of frequencies in the band 450-470 MHz for fixed operations.	Minor rewording. Combined with other sections.
93.253(b)	90.257—Assignment and use of frequencies in the band 72-76.	Do.
93.253(d)	NA	Deleted.
93.253(e)	90.89(e)(2)—Motor carrier radio service	Minor rewording.
93.254	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
93.255	NA	Deleted.
93.351(a)	90.91(a)—Railroad radio service	Minor rewording. Combined with other sections.
93.351(b)	90.123—Full disclosures	Combined with other sections.
93.352 (a), (c), and (f).	90.91 (c) and (d)—Railroad radio service	Placed frequencies in table form. Minor rewording of limitations.
93.352(b)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Minor rewording. Combined with other sections.
93.352(d)	90.249—Control stations	Do.
93.352(e)	90.91(e)—Railroad radio service	Minor rewording.
93.353(a)	90.261—Assignment and use of frequencies 450-470 MHz for fixed operations.	Minor rewording. Combined with other sections.
93.353(b)	90.257—Assignment and use of frequencies in the band 72-76 MHz	Do.
93.353(c)	90.91(c)—Railroad radio service	Included in frequency table. Minor rewording of limitation.
93.353(d)	NA	Deleted.
93.353(e)	90.91(e)(2)—Railroad radio service	Minor rewording.
93.353(f)	90.91(e)—Railroad radio service	Do.
93.355	90.243—Mobile relay stations	Relay, repeater and control uses separated under specific sections with minor rewording and clarification.
	90.245—Fixed relay stations	
	90.247—Mobile repeater stations	
	90.249—Control stations	
93.356	90.255—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
93.357(a)	90.91(b)—Railroad radio service	Minor rewording.
93.357(b)	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Minor rewording. Combined with other sections.
93.352(c)	90.91(d)(3) and (d)(4)—Railroad radio service	Incorporated as assignment limitations on the appropriate frequencies. Minor rewording.
93.357(d)	90.91(b)—Railroad radio service	No change.
93.401(a)	90.93(a)—Taxicab radio service	Minor rewording. Combined with other sections.
93.402(b)	90.123—Full disclosures	Combined with other sections.
93.402	90.93 (b) and (c)—Taxicab radio service	Placed frequencies in table form. Minor rewording of limitations.
93.403	NA	Deleted.
93.404	90.255—Assignment and use of frequencies 27.235, 27.245, 27.255, 27.265 and 27.275 MHz.	Minor rewording. Combined with other sections.
93.405	90.412—Civil defense communications in the taxicab radio service	Minor rewording.
93.501(a)	90.95(a)—Automobile emergency radio service	Minor rewording. Combined with other sections.
93.501(b)	90.123—Full disclosures	Combined with other sections.
93.502(a)	90.405—Permissible communications	Minor rewording. Combined with other sections.
93.502(b)	90.95(a)—Automobile emergency radio service	Minor rewording. Combined with eligibility provisions.
93.502(c)	90.95—Automobile emergency radio service	Minor rewording.
93.503	90.95 (c) and (d)—Automobile emergency radio service	Placed frequencies in table form. Minor rewording of limitations.
93.504	90.225—Assignment and use of the frequencies 27.235, 27.245, 27.255, 27.265, and 27.275 MHz.	Minor rewording. Combined with other sections.
93.506	90.421—Operation of mobile units in vehicles not under the control of the licensee.	Do.

PART 91—[DELETED]

PART 93—[DELETED]

[FR Doc. 78-32535 Filed 11-21-78; 8:45 am]

federal register

WEDNESDAY, NOVEMBER 22, 1978
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Administration of An Import Licensing System on Certain Dairy Product and Milk Chocolate Crumb Import Quotas

Section 22 Import Quotas; Final Rule

items 950.07, 950.10, and 950.10A) have Agreement on Tariffs and Trade 50,000 pounds, a licensee may have to

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[3410-10-M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 6—IMPORT QUOTAS AND FEES

Subpart—Section 22 Import Quotas

DAIRY PRODUCTS AND MILK CHOCOLATE CRUMB

AGENCY: Foreign Agricultural Service.

ACTION: Final rule.

SUMMARY: This rule revises import regulation 1 which is established under authority of section 22 of the Agricultural Adjustment Act, as amended, to govern the administration of an import licensing system on certain dairy product and milk chocolate crumb import quotas. It is intended that this rule will: (1) Provide for more fair and equitable distribution of quota shares among eligible licensees, (2) provide for more complete use of the quotas as established by Presidential proclamation, and (3) provide for greater ability to prevent abuse of the licensing system.

This revision is made in order to deal with certain enforcement and administrative problems which have appeared since the last revision of import regulation 1, which became effective on January 1, 1974.

DATES: Effective date: November 22, 1978. Applications for 1979 nonhistorical eligibility will be accepted by the Licensing Authority through but not beyond December 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryant H. Wadsworth, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, CP, Foreign Agricultural Service, Room 6616, South Agricultural Building, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5270.

SUPPLEMENTARY INFORMATION: The proposed revision of import regulation 1, revision 5, was first published in the FEDERAL REGISTER on September 1, 1978. A 30-day public comment period ended on October 2, 1978. Written comments were received from 10 different entities. These comments, to the extent practicable, were incorporated into this final rule. Import regulation 1, revision 6.

Prompt implementation of certain provisions of the revision is essential in order for 1979 nonhistorical licenses to be issued on or near January 1, 1979, as required. Potential nonhistorical licensees will be given 30 days to make application for license eligibility. Evaluation of applications, calculation of quota shares and printing and issuing of licenses normally takes about 20 working days. It is therefore found that good cause exists for not postponing the effective date of this final rule until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553).

DISCUSSION OF MAJOR COMMENTS

DEFINITION OF AFFILIATE

Five entities submitted comments expressing concern that the proposed definition of "affiliate" was too restrictive since it would, for example, disqualify an individual importer from nonhistorical license eligibility if he or she owned even one share of stock in a public corporation which already held such eligibility. In connection with this, it was suggested that the proposed requirement under § 6.25(3)(ii), that applying firms submit a list of all owners of the firm be changed. Had the proposed requirement been left intact, it would have been virtually impossible, in the case of public corporations, to develop a complete list of stock holders since the stock of such corporations is generally held in large blocks in the names of various brokerage firms.

In this final rule, the definition of "affiliate" is changed so that ownership of less than 5 percent of or by another person or firm does not constitute affiliation. It was felt that this would make it possible for a person to carry on normal investment activities which are unrelated to his or her own importing business without jeopardizing his or her nonhistorical eligibility status. Consequently, in order to satisfy the requirements of § 6.25(3)(ii), only those owners holding an ownership interest of 5 percent or more need by listed.

OTHER CHEESE, NSPF

Three of the commenting entities expressed concern that the table in § 6.26(b) of the proposed rule did not contain two categories for "Other cheese, NSPF," viz, one "from New Zealand" and one "not from New Zealand." The commentors suggested that the absence of two such categories for this quota will mean that each eligible applying firm would be allowed to have only one nonhistorical quota share for "Other cheese, NSPF." In the past it has been possible for an eligible applicant to obtain two such quota shares, one for New Zealand and the other for some country other than New Zealand. In 1978, some 60 licensees have received two such nonhistorical shares, averaging together about 36,000 pounds per licensee. Rather than continue to allow double licenses as in the past, it was felt that the most equitable approach would be to raise the "Other cheese, NSPF" nonhistorical minimum share from the proposed 20,000 pounds to 40,000 pounds. This would not only help compensate those sixty or so licensees receiving two shares, but it would put all eligible applicants on an equal footing.

SURRENDER OF QUOTA SHARES

Three of the commenting entities suggested that language be added to the regulation allowing licensees to temporarily surrender their quota shares or portions thereof to avoid penalty for nonuse of such quota shares. Consequently, language was added in appropriate places (e.g., § 6.25(c)(3); § 6.26(c)(2)) providing for such surrender. Under the regulation, less than 85 percent use of a license in a quota year can result in temporary loss of license eligibility (for nonhistorical licensees), or temporary reduction in the quota share size (for historical licensees). The purpose of this "penalty" procedure is to help insure that the quotas are allocated to persons who will use them. However, at times market conditions and/or other factors are such that it becomes virtually impossible for a particular licensee to use his or her full quota allocation. The "surrender" option gives the licensee the opportunity, when he or she recognizes that he or she will be unable to fully use his or her license, to surrender it or a part of it back to the Department prior to the beginning of the last quarter of the quota year for distribution among other eligible applicants. Since the licensee in following this procedure will, in effect, be giving others an opportunity to try to fill his or her quota share, any penalty for nonuse that he or she may receive will be based only on his or her nonuse of the portion of his or her quota share which he or she did not surrender under this provision.

ALLOCATION OF NEW OR INCREASED PORTIONS OF OLD QUOTAS

Two entities submitted comments expressing concern about the proposed rule regarding the allocation of new quotas or increased portions of old quotas. They stated that a 50-50 division of increased portions of old quotas between historical and nonhistorical licensees would be unfair to historical licensees holding shares of quotas which have not been significantly increased during the many years since such quotas were established.

In recognition of this, an adjustment was made in the regulation, allowing for further growth in the quotas for Blue-mold and Italian-type cheeses before the 50-50 (historical-nonhistorical) rule goes into effect. The quotas for these two groups of cheese (TSUS items 950.07, 950.10, and 950.10A) have been increased only marginally (not at all in the case of item 950.10A) since the quotas were established, giving the historical licensees virtually no opportunity to increase their business in these varieties for many years. It was felt, therefore, that historical licensees for these quotas should be given greater opportunity to increase their business before new-to-the-market firms begin to share in the increases on an equal basis.

CERTIFICATION REQUIREMENTS AND ALLOCATION PROCEDURES

One commenting entity expressed concern about the differences in nonhistorical certification requirements and allocation procedures between the various groups of quotas. In the proposed rule, such requirements and procedures for the cheese quotas were different from those for the other quotas. It was originally thought that certification requirements could be less exacting for the noncheese quotas since they are either so small as to be of little interest to most nonhistorical importing firms or, as with the milk chocolate crumb quotas, seemed not to have been in much demand in recent years. During the comment period, however, it was brought to our attention that some potential importers are quite interested in obtaining nonhistorical eligibility for milk chocolate crumb licenses and would greatly prefer the stability previously proposed only for nonhistorical cheese licensees, wherein those who have nonhistorical licenses and maintain their eligibility from year to year will get first priority in allocation from year to year (see § 6.26(b)(2) of this final rule). The apparent strong demand for nonhistorical shares of the milk chocolate crumb quotas, which demand is enhanced by the relative assurance of a license each year for those who maintain eligibility, has lead to the conclusion that the certification requirements for these quotas should be as strict as those for cheese quotas. Since this would leave these aspects of the regulation different for only the noncheese and nonchocolate dairy product quotas it was felt that for the sake of clarity and uniformity the same certification requirements and allocation procedures would be used for all articles listed in appendix 1.

COUNTRY OF ORIGIN ADJUSTMENT

One commenting entity pointed out that the policy used for the past several years when authorizing country of origin adjustments on the group II (appendix 1 of the regulation) cheeses may not have given "due account," as required by the original proclamation (No. 3019 of June 8, 1953) as well as by article XIII, 2(d) of the General Agreement on Tariffs and Trade (GATT), to "special factors which may have affected or may be affecting the trade in the product." Specifically, the policy has been that whenever a country of origin adjustment was authorized for any of the quotas for which no countries were listed in part 3 of the appendix to the tariff schedule of the United States (TSUS) (e.g., items 950.05 Butter, 950.07 Blue-mold cheese, 950.08A Cheddar cheese, 950.08B American-type cheese other than Cheddar, 950.09A Edam and Gouda cheese and 950.10 Italian-type cheese in original loaves), the Licensing Authority authorized licensees for the adjusted quota to use their licenses only in those countries actually supplying the product during the chosen representative base period. The commentor, however, pointed out that the "special factors" language of the original proclamation includes changes in relative productive efficiency as between domestic and foreign producers, or as between different foregin producers. The commentor then contended that such changes have occurred since the quotas in question were established and that, therefore, when the Licensing Authority finds it proper to grant a country of origin adjustment on licenses for such quotas, such licensees should be allowed to use their licenses, for the temporary period involved, in any country which can supply rather than being restricted to only those countries which did in fact supply during the representative base period.

The language under § 6.30, Adjustments of countries of origin, was, as a result, changed to reflect a change in adjustment policy. It allows for country of origin adjustments on the quotas with no supplying countries specifically listed in part 3 of the appendix to the TSUS to be made on a global basis. In addition, the specific list of countries under "Other countries" for butter, Cheddar cheese, and American-type cheese other than Cheddar, were deleted from appendix 1 of the regulation. This gives "Other countries" a uniform meaning throughout appendix 1.

MINIMUM NONHISTORICAL QUOTA SHARE FOR MILK CHOCOLATE CRUMB

One commenting entity pointed out that a minimum nonhistorical quota share set at 50,000 pounds, as shown in the table under § 6.26(b)(1) of the proposed revision, presents a very difficult situation to the licensee in the modern age of containerized shipping. Since one container normally holds about 40,000 pounds and since the milk chocolate crumb licenses will be divided into two parts, as nearly equal as practicable, issued 6 months apart, with a minimum annual allocation of 50,000 pounds, a licensee may have to wait until the second half of the quota year before he or she would be authorized to import a full container load. Even if a licensee waited until the second half of the quota year so as to import a full container load, there would still be about 10,000 pounds left in his or her license (assuming it was issued at the minimum). Such amount would have to be imported at perhaps significantly higher shipping rates to prevent loss of license eligibility, since importing only 40,000 of a 50,000 pound quota share would result in less than an 85 percent quota use rate (see § 6.25(c)(3) of this final rule). An 80,000 pound minimum will allow for two containerized entries of 40,000 pounds each, one in the first half and one during the last half of the quota year.

In response to this comment, the minimum nonhistorical share for the milk chocolate crumb quotas was increased to 80,000 pounds.

PROCEDURE FOR HANDLING LICENSES

It was pointed out by the U.S. Customs Service that the proposed revision, like the revisions done in the past, does not contain specific instructions on how Customs is to handle the import licenses. Although approximately 80 percent of the entries covered by the regulation have normally been made at the ports of New York and Philadelphia, where the Customs officers are very familiar with the operating procedures desired by the Licensing Authority, there are numerous other ports where entries are made where Customs officers may not be as familiar with the regulation or the procedures used in administering it.

In order to avoid confusion and misunderstanding at these ports, § 6.27 spells out in greater detail the procedures for handling of licenses by Customs.

PERMANENT SURRENDER OF HISTORICAL ELIGIBILITY

Licensees may have historical shares of a quota which could be smaller from year to year than the nonhistorical minimum for the same quota. It was concluded, therefore, that the option of switching from historical to nonhistorical eligibility should be given to such licensees. Therefore, a provisions was added (see § 6.25(c)(4)) making it possible for a historical licensee to voluntarily surrender his or her historical eligibility and receive in exchange nonhistorical eligibility.

EFFECTIVE DATE

This rule becomes effective on November 22, 1978. Applications for 1979 nonhistorical eligibility will be accepted by the Licensing Authority through but not beyond December 22, 1978.

In 7 CFR Part 6, Subpart—Section

§ 6.22 Prohibitions and restrictions on im-

requirements of this paragraph, will

(c) *Continuation of eligibility.* (1)

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In 7 CFR Part 6, Subpart—Section 22 Import Quotas, §§ 6.20-6.32 and appendix 1 are revised to read as follows. Section 6.33 is removed.

Sec.
6.20 Determination.
6.21 Definitions.
6.22 Prohibitions and restrictions on imports.
6.23 Exceptions.
6.24 Application for license.
6.25 Eligibility.
6.26 Allocation of annual quota and issuance of licenses.
6.27 Use of licenses.
6.28 Records and inspection.
6.29 Suspension or revocation of eligibility.
6.30 Adjustment of countries of origin.
6.31 Delegation of authority.
6.32 Supersedure of import regulation 1, revision 5.

APPENDIX 1—Articles subject to import regulation 1, revision 6, and annual import quotas for each year.

§ 6.20 Determination.

Part 3 of the appendix to the Tariff Schedules of the United States, which contains the quantitative limitations on certain articles imported into the United States proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624) provides that articles which are listed in appendix 1 to this regulation may be entered only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture and only in accordance with the terms of such license. It is further provided that such licenses shall be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in (a) the equitable distribution of the respective quotas for such articles among importers or users and (b) the allocation of shares of the respective quotas for such articles among supplying countries based upon the proportion supplied by such countries during previous representative periods, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned and that no licenses will be issued which will permit any of the cheeses, substitutes for cheese, or milk chocolate crumb to be entered during the first 6 months of a quota year in excess of one-half of the annual import quotas specified for such articles. It is hereby determined that the regulation will, to the fullest extent practicable, accomplish this result.

§ 6.21 Definitions.

Except where the context otherwise requires, the following terms have the meanings set forth in this section:

(a) "Affiliate" means any person or legal entity which owns or is owned by, in total or in part, directly or indirectly, or controls or is controlled by another person, persons or legal entity. For a corporation, ownership interest will be the controlling criterion. If 5 percent or more interest is owned or controlled in a corporation, partnership, estate, or trust by or for a person, a corporation, a partnership, or a beneficiary of an estate or a trust, the interest will be considered as owned or controlled by the person, partnership, corporation, estate, or trust. If any person or legal entity has an option to acquire stock, such stock will be considered as controlled by such person. For purposes of this regulation, an option to acquire such an option, and each one of a series of such options, will be considered as an option to acquire such stock.

(b) "Annual quota" means the quantity of an article which may be entered in a quota year as provided in appendix 1.

(c) "Appendix 1" means appendix 1 to this regulation. Definitions of articles in this appendix are the same as those provided in the Tariff Schedules of the United States.

(d) "Article" means an item referred to in appendix 1.

(e) "Authorized agent" means an agent as used in 19 CFR 141.31(a) for whom the licensee has filed with the district director of Customs a limited power of attorney using Customs form 5291 authorizing such agent to act for, but only in, the licensee's name.

(f) "Basic annual allocation" refers to historical quota shares only and means the quota share of a licensee for an article before any reduction as authorized under § 6.26(c) has been effected. It will be calculated on the basis of the annual average amount entered by a licensee during the appropriate representative base period shown in appendix 1.

(g) "Country of origin" and/or "supplying country" mean the country in which the article subject to the regulation was produced or manufactured as defined under 19 CFR 134.1(b).

(h) "Date of entry" is the date when the specified Customs entry form is properly executed and deposited, together with estimated duties and any related documents required by law or regulation to be filed with such form at the time of entry, with the appropriate Customs officer.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Eligible applicant" means a person applying for a license to enter an article who has established, to the satisfaction of the Licensing Authority, eligibility to enter such article, in accordance with section 6.25.

(k) "Enter" means to make entry, or withdrawal from warehouse, for consumption by deposit with, and acceptance by, the appropriate Customs officer of the properly executed entry documents, including invoices, bills of lading, and payment of estimated duties.

(l) "Entire dairy products business" and/or "entire milk chocolate crumb business" mean the total assets and operations of the foreign and domestic aspects of a business pertaining to articles subject to the provisions of this regulation.

(m) "Entrepreneurial use" means the processing or sale of the article entered pursuant to the license as a part of the ordinary conduct of business by a licensee who is managing and assuming the risk of such business. Such term does not include one who is functioning as a mere supplier of license.

(n) "Increased portion of an already established quota" means the amount by which the quota set forth in appendix 1 for an article is increased by Presidential proclamation after (effective date).

(o) "Licensee" means any person to whom a license has been issued under the regulation.

(p) "Licensing Authority" means the Director, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture and any other officer or employee of the Department designated in writing as Acting Director in the absence of the Director.

(q) "Newly established quota" is a quota established pursuant to section 22 by Presidential proclamation after (effective date).

(r) "Other countries" refers to countries sharing a common quota which are not listed as having separate quotas in appendix 1, and for the purposes of the regulation is deemed as one country of origin.

(s) "Person" includes any individual, firm, corporation, partnership, association, or other legal entity. It also includes any government (other than the Government of the United States and any agency thereof).

(t) "Pricebreak" means the price determined in accordance with 3(a)(v) of part 3 of the appendix to the Tariff Schedules of the United States.

(u) "Quota share" means that part of the annual quota of an article listed in appendix 1 for which a person is eligible.

(v) "Quota year" means the 12-month period beginning on January 1 of any given year.

(w) "Regulation" means the provisions contained in the licensing regulation of this subpart.

(x) "United States" means the customs territory of the United States, which is limited to the United States, District of Columbia, and Puerto Rico.

§ 6.22 Prohibitions and restrictions on imports.

(a) No person may enter or cause to be entered any article listed in appendix 1, except as provided in § 6.23 or as authorized by a license issued pursuant to the regulation.

(b) A person to whom a license has been issued hereunder is not relieved from compliance with any requirement of the regulation or any other applicable laws and regulations.

§ 6.23 Exceptions.

Licenses are not required for the entry of:

(a) Articles imported by or for the account of any agency of the U.S. Government.

(b) Articles with an aggregate value of not over $25 in any shipment, if imported as samples for taking orders, for the personal use of the importer, or for research.

(c) Articles imported for exhibition, display, or sampling at a trade fair, or for research, if written approval of the Licensing Authority is obtained.

§ 6.24 Application for license.

Applications to the Licensing Authority for the issuance of licenses to enter articles must be made in writing, addressed to the Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Each letter of application must state the article (including type, in the case of cheese), the country of origin of the article, the port of entry at which the article is to be entered, and, in the case of nonhistorical licenses or licenses for portions allocated under paragraph (f) of § 6.26, the size of each quota share desired. Unpostmarked applications will not be approved by the Licensing Authority.

§ 6.25 Eligibility.

(a) *Historial eligibility.* Historical eligibility for licenses to enter a quota share of articles subject to quotas in effect as of November 22, 1978, has been determined. Historical eligibility for any new quotas which may be imposed will be established upon the basis of evidence submitted, satisfactory to the Licensing Authority, of entry during the base period of articles subject to such quotas, together with evidence that the applicant or his or her predecessor-in-interest is or was actively operating an individual business of entering such article for his or her own entrepreneurial use.

(b) *Nonhistorical eligibility.* (1) Any person, who is not eligible under paragraph (a) of this section to receive a license to enter a particular article in appendix 1, or has voluntarily surrendered such eligibility, who meets the requirements of this paragraph, will be eligible to obtain a license to enter a quota share of such article.

(2) Eligibility for specific articles listed in appendix 1 will be established upon submission of:

(i) A notarized certification sworn to by the applicant under penalty of perjury stating that: (A) Such person intends to be regularly engaged, during the period covered by the license(s) for which application is made, in the business of entering such articles and for this purpose will maintain a bona fide business office within the customs territory of the United States and have a person, principal or resident agent upon whom service of judicial process may be made; (B) such person intends to use any article entered pursuant to a license obtained hereunder in actual commerce and, when required will submit proof demonstrating the use to which licenses and the articles entered pursuant thereto have been made; (C) such person is not a part of or an affiliate of the business of any other person eligible for a license for the article(s) for which application for license is made, and is not an officer, member, partner, associate, or employee of such business;

(ii) A list of the person(s) holding an ownership interest of 5 percent or more in the applying firm (if other than an individual) showing the percent of ownership held by each such person, and;

(iii) In addition, in the case of application for license(s) to enter any article(s) under groups II through VI (cheese), documentary evidence that such person has made at least two commercial importations of cheese or cheese products together totaling at least 10,000 pounds, as owner of the product and importer of record, during the quota year preceding that for which application for license is being made, including, when required, proof of payment in said person's own name for the said cheese or cheese products and corresponding duties.

(3) Evidence and certification required to establish the nonhistorical eligibility of a person making application to receive a quota share for a given quota year will not be accepted by the Licensing Authority before August 1 or later than November 1 preceding the quota year for which the license to import is requested, except as may otherwise be provided by notice published in the FEDERAL REGISTER.

(4) Notwithstanding subparagraph (3) of this paragraph, evidence and certification required to establish nonhistorical eligibility for the 1979 quota year will be accepted by the Licensing Authority until (30 days after the date of publication in the FEDERAL REGISTER of the revision).

(c) *Continuation of eligibility.* (1) The historical eligibility of a person to receive a license for a quota share established under paragraph (a) of this section will be continued for subsequent quota years unless suspended or revoked pursuant to § 6.29: *Provided*, That, effective with the 1979 quota year, no such licenses will be issued to any licensee unless such licensee, no later than 60 days prior to the beginning of each subsequent quota year submits to the Licensing Authority a notarized certification sworn to by the licensee under the penalty of perjury stating that such licensee has been the sole user of said historical license(s), that such licensee has not permitted said historical license(s) to be used by or for any other person, that such licensee has not entered any article(s) under license(s) issued to any other person(s), and that such licensee will enter only for his or her own entrepreneurial use the articles for which he or she will be issued license(s) during the next year.

(2) The nonhistorical eligibility of a person established under paragraph (b) of this section to enter a quota share of an article listed in appendix 1 for a particular quota year will expire at the end of such quota year. Eligibility for each ensuing year, if desired, must be established as outlined in paragraph (b) of this section.

(3) Any nonhistorical licensee who fails to enter at least 85 percent of a quota share of any article for which a license has been issued under paragraph (b) of this section for a given year will be ineligible to receive a license for such article in the next quota year unless such licensee notifies the Licensing Authority by no later than October 1 of the quota year for which his license is valid, of his intention to enter less than 85 percent of his quota share and surrenders to the Licensing Authority that portion of the quota share which he or she does not intend to use. If, after surrendering a portion of a nonhistorical quota share of an article, a licensee fails to import 85 percent or more of the unsurrendered portion of the quota share, such licensee will be ineligible to receive a license to import a quota share of such article in the next quota year, unless the licensee establishes that he or she was unable to enter such article due to reasons acceptable to the Licensing Authority.

(4) A historical licensee may elect to permanently surrender his historical eligibility for a given article and receive a nonhistorical quota share for the same article in the next quota year. If done, said licensee's nonhistorical eligibility will be deemed to have been in effect in the year preceding the year for which nonhistorical application is made, giving said licensee the

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who hold a nonreduced historical li-

priority accorded under § 6.26(b)(2)(ii) and (iv) below.

(d) *Transfer of eligibility.* Upon receipt of documentary evidence acceptable to the Licensing Authority that the entire dairy products business and/or milk chocolate crumb business of a person who has established historical eligibility for a quota share has been sold or otherwise transferred (a complete transfer of total assets, binding on all parties-in-interest) to a person who is assuming the operation of the entire business involving dairy products and/or milk chocolate crumb, the Licensing Authority will recognize the successor-in-interest as having eligibility for such quota share: *Provided, however,* That, in the event of the merger of the businesses of two or more persons, the successor-in-interest, with the persons or firms for which said person is successor-in-interest and said person's affiliates, will be considered only as one person for the purpose of determining nonhistorical eligibility for quota shares.

§ 6.26 Allocation of annual quota and issuance of licenses.

(a) *Historical licenses.* Subject to paragraph (c) of this section, an eligible historical licensee will receive his or her basic annual allocation plus a prorated share of the portion derived from temporary reductions of historical quota shares (done under paragraph (c) of this section) of other historical licensees for the same article. The quantity of an article entered during the base period by a person who is not, as of the beginning of a quota year, actively operating an independent business of importing such articles will, for the purposes of determining the quota shares of eligible licensees, be deemed to have been entered by said person's successor-in-interest, if any, recognized by the Licensing Authority, who is actively operating such business as of the beginning of the quota year.

(b) *Nonhistorical licenses.* (1) The annual quotas, less the quantities allocated to historical licensees, will, to the extent practicable, be allocated among eligible nonhistorical applicants. Subject to paragraph (b)(2)(ii) of this section, the minimum annual nonhistorical quota share for each article will be as follows:

Article	TSUS Item No.	Minimum Quantity (Pounds)
Dried Buttermilk and Whey	950.01	2,500
Dried Skimmed Milk	950.02	5,000
Dried Whole Milk	950.03	1,000
Dried Cream	950.04	250
Butter	950.05	1,000
Blue-mold cheese	950.07	5,000
Cheddar cheese	950.08A	10,000
American-type cheese	950.08B	10,000
Natural Edam and Gouda cheese	950.09A	7,000
Processed Edam and Gouda cheese	950.09B	5,000
Italian-type cow's milk cheese in original loaves	950.10	5,000
Italian-type cow's milk cheese in other than original loaves	950.10A	5,000
Swiss or Emmenthaler cheese with eye formation	950.10B	10,000
Swiss or Emmenthaler cheese other than eye formation, "Gruyere-Process"	950.10C	10,000
"Other" cheese, NSPF	950.10D	40,000
"Other" cheese, "Low Fat"	950.10E	10,000
Malted milk	950.11	250
Milk chocolate crumb	950.15	80,000
Milk chocolate crumb, "Low Fat"	950.16	80,000

(2) A nonhistorical quota share will be determined on the following basis:

(i) A person with his or her affiliate(s) will be considered only as one person for the purpose of allocation of nonhistorical quota shares. No more than one quota share of each article in appendix 1 will be allocated to any such eligible person.

(ii) If, after applications for nonhistorical eligibility for a quota year have been evaluated, the Licensing Authority determines that the number of eligible applicants who held a nonhistorical license for an article in appendix 1 during the previous quota year exceeds the number which could be issued a quota share at the minimum quantity set forth above, the Licensing Authority will determine the quota shares by dividing the amount available by the number of such eligible applicants.

(iii) If the Licensing Authority determines that the number of eligible applicants for a quota year who held a nonhistorical license for an article during the previous year plus the number of eligible applicants who did not hold a nonhistorical license for such article during such year is less than the number which could be issued a quota share at the minimum quantity, the Licensing Authority will determine the quota shares by dividing the amount available by the number of such eligible applicants.

(iv) If the number of eligible applicants for a quota year who held a nonhistorical license for an article during the previous year plus the number of eligible applicants who did not hold a nonhistorical license for such article during such year exceeds the number which could be issued a quota share at the minimum quantity, the Licensing Authority will first issue quota shares at the minimum quantity to each of the eligible applicants who held such a nonhistorical license during the previous year, and then issue quota shares to eligible applicants who did not hold such a nonhistorical license during the previous year until all available quota shares are issued, the latter being selected on the basis of the date and time of postmark of the application received pursuant to § 6.24 of the regulation.

(3) Subject to subparagraph (2)(ii) of this paragraph, quota shares for an article may not be smaller than the applicable minimum quantity set forth above unless requested in writing by the applicant, but in no case shall the quota share be greater than the quantity requested by the applicant.

(c) *Temporary reduction of historical quota share.* (1) Subject to provisions of paragraph (f) of this section, the historical quota share for any article in appendix 1, which is not entered by its holder at the rate of 85 percent or more during each of the preceding 2 quota years will be reduced in the following quota year. Such reduced historical quota share will be equal to one half of its basic annual allocation or the amount actually entered against it in the previous year, whichever is greater: *Provided,* That (i) once such reduced quota share has been established, the quota share of the licensee in each of the following quota years will be no less than 110 percent of the amount entered against such quota share during the quota year immediately preceding; (ii) once a reduced quota share has again reached or exceeded 85 percent of the basic annual allocation, the quota share will be restored to 100 percent of the basic annual allocation.

(2) Notwithstanding the above, a licensee may, before October 1 of a quota year, voluntarily surrender without penalty that portion of a historical quota share which he or she does not intend to use. Any temporary reduction of a historical quota share will be based on the percentage used of the portion of such quota share which was not voluntarily surrendered before October 1 of each of the preceding 2 quota years.

(d) *Licenses.*—(1) *Annual basis.* Licenses to import quota shares of articles under group I of appendix 1 may be issued on an annual basis.

(2) *Semiannual basis.* Quota shares of articles under groups II through VII will be divided into two parts, as nearly equal as practicable, each to be covered by a license valid on the first day of January and the first day of July respectively: *Provided,* That no licenses will be issued which would permit the importation of any such article during the first 6 months of the quota year in excess of one-half the annual quota therefor.

(e) *Advance against next period license.* Notwithstanding any other provision herein, any person eligible for and holding a license to import a quota share of any article may be given an advance against his or her next period license (this may apply to the succeeding quota year if a license is to be forthcoming in that year) in order to permit importation of an additional quantity of such article, upon a determination by the Licensing Authority that not to grant the advance against said person's next period license would result in an undue hardship to such person: *Provided,* That no advance may be given which would permit the total quantity of such article to be imported in excess of the quota therefor, as set forth in appendix 1.

(f) *Reallocation of quota shares.* (1) Notwithstanding any other provisions of this regulation, to the extent that, prior to the last 4 months of a quota year, it appears from information submitted to the Licensing Authority or otherwise, that all or part of a quota share of a particular licensee will not be entered during that quota year, the Licensing Authority may require such licensee to submit in writing within a specified 21 day period a statement as to the amount of the unused portion of such quota share which will be used during the remainder of such quota year. In addition, such licensee may be required to submit copies of contracts, purchase orders or any other documentary evidence of intent to import against such quota share. If the licensee fails to submit such statement (including documentary evidence if requested) within the specified period, the Licensing Authority may conclude that the unused portion of the quota share in question will not be used during the remainder of said quota year. On the basis of said statement, or if no statement is submitted, the Licensing Authority may reallocate all or part of the unused portion of such quota share.

(2) To the extent that the quota shares or portions thereof are surrendered by such licensees for articles during a quota year, the quota shares for other licensees will be increased for such year as follows:

(i) Reallocation will be made among applying historical licensees for such articles (whose quota shares for such articles have not been reduced in accordance with paragraph (c) of this section) on the basis of the amounts requested by the applicants, unless the aggregate of the amounts requested exceeds the portion of the quota available for reallocation, in which case reallocation will be based on the respective amounts of such articles entered by such licensees during the previous 2 quota years. However, no applicant may receive more than the amount he or she requests.

(ii) If, after a surrendered quota share is reallocated among licensees who hold a nonreduced historical license for such quota and apply for a portion of the reallocation, unallocated quantities of the quota still remain, such quantities may be allocated to other interested, but not affiliated, applicants who have historical or nonhistorical eligibility for any quota under the regulation for the remainder of the quota year in question. Quota shares allocated to such other applicants under this provision will be made in equal amounts of not less than 2,500 pounds each; except in the case of quota items 950.04 (dried cream) and 950.11 (malted milk), which will be allocated in equal shares of not less than 250 pounds each; except that no applicant will receive more than the amount requested in his or her application.

(3) Application for a reallocated portion will be made in accordance with § 6.24.

(4) Any temporary reduction in a historical quota share (in accordance with paragraph (c) of this section) will be based on the percentage used of the portion of such quota share which was not surrendered for reallocation during the preceding 2 quota years.

(g) *Allocation of newly established quotas and increased portions of already established quotas, and reduction of existing quotas.* (1) No more than 50 percent of any newly established quota or increased portion of any already-established quota, which quota has been increased by at least 100 percent since its institution, may be allocated to eligible historical licensees. The remaining portion will be allocated to eligible nonhistorical licensees.

(2) Any increase of an already established quota which quota has not been increased by 100 percent since its institution, will be divided between historical and nonhistorical licensees with historical licensees receiving no more than 75 percent of the increase until the quota will have been increased sufficiently to fall within subparagraph (g)(1) of this section.

(3) To the extent possible, any reduction in an existing quota will be absorbed at the rate of 50 percent by historical licensees and 50 percent by nonhistorical licensees.

§ 6.27 Use of licenses.

(a) The article entered must be a product of the country of origin specified in the license under which it is entered.

(b) *Violations of the regulation.*—(1)

Licensing Authority by the regulation

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(b) Subject to § 6.30, a quota share may be imported from only one country of origin.

(c) Notwithstanding any other rules, regulations, or procedures for the importation of goods, the article entered under license may be entered or withdrawn from warehouse only in the name of the licensee either by the licensee or by the licensee's agent acting in the licensee's name under the power of attorney, and the quantity so entered must, on the date of entry, be owned by the licensee and must be charged against the license in effect. The article entered under license must be accompanied by an invoice from a seller in the country of origin and a through bill of lading to the United States from the country of origin named in the license: Provided, That the requirement for a through bill of lading may be waived by the Licensing Authority upon his or her determination that compliance therewith, during periods of strikes, lockouts, or other such emergencies affecting the importation of articles would interfere with the entry of such article.

(d) In the event of a sale in transit, an article may be entered for consumption under a license issued to an authorized person to whom the sale has been made against a properly endorsed through bill of lading and a certified copy of the bill of sale from the original consignee showing the amount paid, the date of purchase, and that the licensee is the owner of the article at such time.

(e) In the event of the loss of the original through bill of lading, a carrier's certificate showing the licensee as consignee and certifying that the shipment is a through shipment may be substituted therefor.

(f) An article may be entered from warehouse under bond only in the manner prescribed above for consumption entries. Withdrawal of goods from warehouse for consumption may be made only under license issued to the licensee who made the entry; or, in the event of a sale in bond, under license issued to an authorized person or firm to whom the sale has been made and only upon the presentation of a properly endorsed Customs form 7505 and a certified copy of the bill of sale, showing the amount, date of sale, and that the licensee is the owner of the article at such time.

(g) Consolidated entries or withdrawals from warehouse for consumption may not be made except with the written approval of the Licensing Authority.

(h) Each entry or withdrawal from warehouse for consumption must be accompanied by a copy of Customs entry form 7501 or Customs warehouse withdrawal form 7505 (with the appropriate license number noted on it), required through bill of lading and required invoice. The Customs Service will stamp the copy of the completed form 7501 or 7505 with the date of entry and the Customs entry or withdrawal number and submit it to the Licensing Authority as soon as practicable.

(i) The Customs copy of a licensee's license is the only valid copy against which entry for consumption may be made. Such license copy, unless recalled by the Licensing Authority, will remain in Customs custody until fully used or expired, whereupon it will be returned by the Customs Service to the Licensing Authority.

§ 6.28 Records and inspection.

Any person making an entry, except as provided in § 6.23, of an article listed in appendix 1 is required to retain all records, including invoices of all purchases, entries, withdrawals, sales and deliveries of such articles for a period of not less than 2 years subsequent to the end of the quota year during which entry was made. The Licensing Authority or his or her designee is entitled to make such audit and inspection of such records, to inspect the premises and stocks of articles of such person, and to make such other investigations as may be necessary or appropriate in the enforcement or administration of the regulation.

§ 6.29 Suspension or revocation of eligibility.

(a) *Failure to import quota share.* (1) If the Licensing Authority has reason to believe that a person with a historical quota share of any article in appendix 1, has failed to enter any of such article for 2 consecutive quota years, the eligibility of such person for a license to enter such article will be suspended for the following quota year pending receipt by the Licensing Authority of documentary evidence of entry against such quota share during one or both of said consecutive years or unless the reason for failure to enter is acceptable to the Licensing Authority and an application to receive a license to import such article is received and approved by the Licensing Authority no later than 6 months after the beginning of such following quota year.

(2) If the Licensing Authority, on the basis of documentary evidence submitted to it, determines that a person with a historical quota share of any article in appendix 1 has failed to import any of such article during 2 consecutive years, the eligibility of such person will be revoked unless the licensee establishes that he or she was unable to import such article due to reasons acceptable to the Licensing Authority.

(b) *Violations of the regulation*—(1) *Charge against licenses.* Any quantity of an article entered by any person contrary to this regulation may be charged against any unused import license held by, or to be issued to, such person.

(2) *Civil and criminal liability.* Any person who violates any provision of the regulation may be prosecuted under any and all applicable laws. Civil action may also be instituted to enforce any liability or duty created by, or enjoin any violation of any provision of the regulation or requirement pursuant hereto.

(3) *Revocation of license eligibility.* The Licensing Authority, upon reasonable cause to believe—after records are reviewed and a preliminary investigation is made by the Department—that a licensee has violated the provisions of the regulation or has furnished false or incomplete information in connection with the application for and/or use of licenses issued hereunder, may, after notice to the licensee, revoke said licensee's eligibility and may bar such person from receiving any nonhistorical licenses for a period of not more than 3 years. Any person whose eligibility has been revoked pursuant to provisions of this section will have the opportunity to appeal the determination to the Administrator, Foreign Agricultural Service (FAS), or his designee within 30 days from the date of notification. The request for reconsideration will be presented in writing separately stating any reason as to why such determination should not stand. The Administrator, FAS will provide such person with an opportunity for a hearing on such matter.

§ 6.30 Adjustment of countries of origin.

(a) Upon submission by a licensee of proof satisfactory to the Licensing Authority that said licensee will be unable to enter during a quota year his quota share of an article from the country of origin specified in his license, the Licensing Authority or his designee may authorize the licensee and other licensees to whom such licenses have been issued, after taking due account of any special factors which may have affected or may be affecting the trade in the article concerned, to obtain the unfilled portion of his quota share of such article from:

(i) Other countries specified in part 3 of the appendix to the Tariff Schedules of the United States as countries of origin for such article; or

(ii) Any other country of origin whenever countries of origin for such article are not specified.

§ 6.31 Delegation of Authority.

The powers vested in the Administrator, FAS, insofar as such powers relate to the functions vested in the

Licensing Authority by the regulation are hereby delegated to the Licensing Authority.

§ 6.32 Supersedure of Import Regulation 1, Revision 5.

This regulation will supersede the provisions of import regulation 1, revision 5, as amended, heretofore in effect (former 7 CFR §§ 6.20-6.33). With respect to violations, rights accrued, liabilities incurred, or appeals taken concerning import regulation 1, as amended and revised, prior to the effective date hereof, all provisions of said import regulation 1, as amended and revised, in effect at the time when such violations occurred, rights accrued, liabilities incurred, or appeals taken will be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

Signed this 17th day of November 1978.

THOMAS R. HUGHES,
Administrator,
Foreign Agricultural Service.

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[3410-10-C]

Subtitle A--Office of the Secretary of Agriculture

Appendix 1-Article[1] subject to Import Regulation 1, Revision 6, and Annual Import Quotas for each Quota Year

Article[1] by TSUS item numbers	Base Period[2]	Annual import quota (pounds)	Equivalent Whole Kilograms
Group I			
(a) Butter (Item 950.05	Jan. 1, 1961 to Dec. 31, 1965	707,000	320,693
New Zealand		332,000	150,594
Denmark		212,000	96,162
Other countries		163,000	73,936
(b) Dried Cream (Item 950.04)	Jan. 1, 1951 to Dec. 31, 1952	500	226
(c) Malted milk (Item 950.11)	July 1, 1951 to June 30, 1952	6,000	2,721
(d) Dried whole milk (Item 950.03)	July 1, 1951 to Dec. 31, 1952	7,000	3,175
(e) Dried skimmed milk (Item 950.02)	July 1, 1950 to Aug. 8, 1951	1,807,000	819,649
(f) Dried buttermilk and whey (Item 950.01)	Jan. 1, 1951 to Dec. 31, 1952	496,000	224,984
Group II:[3]	Jan. 1, 1948 to Dec. 31, 1950[4]		
(a) Edam and Gouda cheese (Item 950.09A)		9,200,400	4,173,272
(b) Blue-mold cheese (except stilton), and cheese and substitutes for cheese containing or processed from Blue-mold cheese (Item 950.07)		5,016,999	2,275,695
(c) Italian-type cheeses made from cow's milk, in original loaves. Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrina (Item 950.10)		11,500,100	5,216,411
Group III:[3]	Jan. 1, 1961 to Dec. 31, 1965		
(a) Cheddar cheese, and cheese and substitutes for cheese containing or processed from Cheddar cheese (Item 950.08A)		8,812,500	3,997,323
Australia		1,696,150	769,368
Canada		612,352	277,761
Ireland		562,250	255,034
New Zealand		5,502,498	2,495,916
Sweden		130,850	59,353
Other countries		308,400	139,889
(b) American-type cheese, including Colby washed curd, and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing, or processed from, such American-type cheese (Item 950.08B)		6,096,600	2,765,399
Australia		1,680,000	762,043
Ireland		560,000	254,014
New Zealand		3,360,000	1,524,086
Sweden		125,000	56,699
Other countries		371,600	168,556
Group IV:[3]	Jan. 1, 1965 to Dec. 31, 1967		
Cheese and substitutes for cheese containing, or processed from Edam and Gouda cheese (Item 950.09B)		3,151,000	1,429,284
Denmark		1,714,000	777,465
Ireland		331,000	150,140
Netherlands		169,000	76,657
Norway		368,000	166,923
West Germany		513,000	232,695
Other countries		56,000	25,401

See footnotes at end of table.

Subtitle A - Office of the Secretary of Agriculture

Group V:[4]			
Cheese described below, if shipped otherwise than in pursuance to a purchase, or if having a purchase price[5] under $1.10 per pound.			
Swiss or Emmenthaler cheese with eye formation; Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from, such cheeses.	Jan. 1, 1967 to Dec. 31, 1967 Jan. 1, 1970 to Dec. 31, 1970		
(a) Swiss or Emmenthaler with eye formation (Item 950.10B)		20,420,000	9,262,451
Austria		8,222,000	3,729,474
Denmark		3,396,000	1,540,415
Finland		6,111,000	2,771,931
Norway		1,672,000	758,414
Switzerland		269,000	122,017
West Germany		292,000	132,450
Netherlands		210,000	95,255
Israel		60,000	27,215
Other countries		188,000	85,276
(b) Other than Swiss or Emmenthaler with eye formation (Item 950.10C)		11,242,000	5,099,337
Austria		1,406,000	637,757
Denmark		3,435,000	1,558,105
Finland		1,606,000	728,476
Switzerland		2,234,000	1,013,335
West Germany		1,818,000	824,639
Ireland		210,000	95,255
Norway		82,000	37,194
Portugal		275,000	124,739
Other countries		176,000	79,833
(c) Cheese and substitutes for cheese provided for in Items 117.75 and 117.85, part 4C, schedule 1 (except cheese not containing cow's milk; cheese, except cottage cheese, containing 0.5 percent or less by weight of butterfat), and articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedule of the United States (Item 950.10D)	Jan. 1, 1967 to Dec. 31, 1967 Jan. 1, 1970 to Dec. 31, 1970	40,730,000	18,475,006
Belgium		469,000	212,737
Denmark		16,820,000	7,629,501
Finland		1,239,000	562,006
France		2,882,000	1,307,266
Iceland		649,000	294,384
Ireland		161,000	73,029
Netherlands		422,000	191,417
Norway		356,000	161,480
Poland		2,064,000	936,224
Sweden		1,707,000	774,290
Switzerland		215,000	97,523
United Kingdom		496,000	224,984
West Germany		2,148,000	974,326
New Zealand		7,556,000	3,427,379
Canada		2,670,000	1,211,104
Portugal		227,000	102,966
Austria		199,000	90,265
Italy		17,000	7,711
Israel		145,000	65,771
Other countries		288,000	130,635
(d) Cheese and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.85 of subpart C,	July 1, 1969 to June 30, 1970		

See footnotes at end of table.

WEDNESDAY, NOVEMBER 22, 1978
PART IV

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Subtitle A - Office of the Secretary of Agriculture

Part 4, schedule 1, except articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedules of the United States (Item 950.10E)	8,901,000	4,037,467
Denmark	6,680,000	3,030,028
United Kingdom	791,000	358,795
Ireland	756,500	343,146
West Germany	100,000	45,359
Poland	385,600	174,907
Australia	123,600	56,064
Iceland	64,300	29,166
Other countries	None	None
Group VI:[3] Jan. 1, 1965 to Dec. 31, 1967		
Italian-type cheeses, made from cow's milk, not in original loaves (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, and Sbrinz), and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Item 950.10A)	1,494,000	677,673
Argentina	1,347,000	610,995
Italy	104,500	47,400
Australia	13,700	6,214
Other countries	28,800	13,063
Group VII:[3]		
(a) Chocolate provided for in item 156.30, part 10, schedule 1, if containing over 5.5 percent by weight of butterfat (except articles for consumption at retail as candy or confection) (Item 950.15) Jan. 1, 1965 to Dec. 31, 1967	17,000,000	7,711,149
Ireland	9,450,000	4,286,491
United Kingdom	7,450,000	3,379,297
Netherlands	100,000	45,359
Other countries	None	None
(b) Chocolate provided for in item 156.30 of part 10 and articles containing chocolate provided for in item 182.95, part 15, schedule 1, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection) (Item 950.16) July 1, 1969 to June 30, 1970	4,680,000	2,122,834
United Kingdom	930,000	421,845
Ireland	3,750,000	1,700,988
Other	None	None

1 Each time a particular TSUS item No. is referred to in this appendix it includes all the articles classified under that item number in Part 3 of the Appendix to the Tariff Schedules of the United States except where specifically otherwise provided in the article description.

2 Importers of record during following periods have historical eligibility; each importer's quota share is prorated on basis of his historical imports from each country of origin. For TSUS Items Nos. 950.10B, 950.10C, and 950.10D each importer's quota share is a combination of his quota share determined for the respective cheese priced under 47 cents per pound (1967 base period) and a quota share determined on the basis of imports of the respective cheese priced from 47 cents to 62 cents per pound during the 1970 base period.

3 Annual quota allocated 2 time annually on January 1 and July 1 of each quota year.

4 Importer's allocation based on 1950 imports or base period averages, whichever are higher.

5 "Purchase price," in accordance with headnote 3(a)(iii) of Part 3 of the Appendix to the Tariff Schedules of the United States, is determined by the District Director of Customs on the basis of the aggregate price received by the exporter, including all expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, but excluding transportation, insurance, duty and other charges incident to bringing the merchandise from the place of shipment from the country of exportation to the place of delivery in the United States.

(Sec. 3, 62 Stat. 1248, as amended (7 U.S.C. 624); part 3 of the Appendix to the Tariff Schedules of the United States (9 U.S.C. 1202))

[FR Doc. 78-32804 Filed 11-21-78; 8:45 am]

Federal register

WEDNESDAY, NOVEMBER 22, 1978
PART IV



DEPARTMENT OF ENERGY

Economic Regulatory Administration

INTERIM RULE TO PERMIT CLASSIFICATION OF CERTAIN POWERPLANTS AND INSTALLMENTS AS EXISTING FACILITIES

D. Substantial financial penalty. In

ERA has proposed that the exist-

B. *Public hearing.* 1. *Request proce-*

IV. PROCEDURAL MATTERS AND FORMS

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

SUBCHAPTER E—ALTERNATE FUEL

[Docket No. ERA-R-78-21]

PART 515—TRANSITIONAL FACILITIES

Interim Rule To Permit Classification of Certain Powerplants and Installations as Existing Facilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing interim rules, effective upon publication, to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") which permits ERA to classify certain major fuel burning installations and powerplants which began substantial construction or acquisition after April 20, 1977, and before November 9, 1978, as existing facilities under terms of this Act. A public comment period and hearing will follow publication of these interim rules. Final decisions and classifications under these interim rules will not be made until completion of the public hearing and public comment period.

DATES: Procedures under these interim regulations are effective November 16, 1978. Comments on issues set forth in Section II below are due on or before January 15, 1979, in Docket No. ERA-R-78-21. Requests to speak by December 5, 1978, 4:30 p.m.; hearing date: December 13, 1978, 9:30 a.m.

ADDRESSES: Send comments and requests to speak to: Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket No. ERA-R-78-21. Hearing location: Room GE-086, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street NW., Washington, D.C. 20461, 202-634-2170.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 6010, 2000 M Street NW., Washington, D.C. 20461, 202-254-9766.

Barton House (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street NW., Washington, D.C. 20461, 202-254-3905.

James Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9266 or 566-9296.

SUPPLEMENTAL INFORMATION:

I. Background
II. Specific Comments Requested
III. Comment Procedures
IV. Procedural Matters and Forms

Background

Title II of the Act prohibits "new" powerplants and installations from using oil and natural gas, unless granted an exemption by DOE, and prohibits "new" powerplants from constructing without alternate fuel capability. The Act classifies all powerplants and installations which began construction or acquisition after April 20, 1977, as "new."

However, the Act also permits ERA to classify certain installations for which construction or acquisition began between April 20, 1977, and November 9, 1978 (enactment date), as "existing" and, therefore, subject to the provisions of title III rather than those of title II of the Act.

II. Specific Comments Requested

The Act classifies transitional facilities as "new" units unless the petitioner can demonstrate that such a classification would result in a substantial financial penalty for an installation or powerplant, or would result in a significant operational detriment to an installation or in an impairment of the electric system reliability for a powerplant. We are soliciting public comment on the criteria to be used by ERA in classifying a transitional facility as "existing," and specifically on the issues described below.

A. *Eligibility.* ERA proposes different tests to identify "existing" powerplant and installation field-erected boilers. Under these tests, "substantial construction" does not occur for these powerplants until the unit is operational, while the "substantial construction" standard is satisfied for installations when the main steam drum has been formed by the manufacturer.

Similarly, for packaged boilers and combustion turbines, ERA proposes that the substantial construction standard is met when the unit is delivered to the site. ERA is also considering, as an alternative, that these units must be "hooked up" for operation before "substantial construction" may be said to have been completed.

B. *Substantial financial penalty.* In assessing whether a firm will incur a substantial financial penalty if its transitional facility is classified as a "new" unit, ERA has proposed that a test be employed which compares the nonrecoverable outlays made for the transitional facility by the date of enactment to the construction expenditure for a comparable sized coal-fired unit. We specifically ask comments whether the "25 percent test" for installations is appropriate and whether some other test is appropriate. In calculating parameters for this test, ERA has proposed that elements considered be limited to the outlays for the boiler and/or combustion turbine, steam turbine, specified fuel handling equipment, and air pollution control equipment. ERA is also considering an alternative approach whereby additional factors such as land, labor, engineering, and other related costs would be included in these calculations. Please comment on which equipment, facilities, and other factors should be included in this calculation and which should not, as well as your perception of any difference in the outcome of the test which may occur as a result of using one standard or the other. Moreover, ERA solicits comment on its case-by-case approach to powerplants where nonrecoverable outlays (excluding a set percentage of the cost of a comparable sized coal unit), the impact on the rate base, and the status of the unit's construction are evaluated in determining whether a "substantial financial penalty" would be incurred.

C. *Significant operational detriment.* In its assessment of whether an installation will incur a significant operational detriment if categorized as "new," ERA proposes to use as one of its criteria a load shifting test. In this test, a petitioner must demonstrate that if a transitional unit which was operational on the date of FUA's enactment were immediately shut down, the necessary steam output from the unit could not be provided by other, existing units at the site without a loss of more than 5 percent of the historic steam production level. If this test is retained, what maximum capacity factor should be established for any of the existing units in order to leave a proper margin for maintenance and contingencies? ERA is also considering an alternative approach to this determination which simply places the burden upon the applicant to demonstrate to us, in whatever manner is most appropriate, that being classified as "new" would impair production. This alternative approach is not further detailed in these regulations; however, ERA requests comments on the merit and structure of this approach.

ERA has proposed that the existence of "substantial mitigating circumstances" also be used as criteria for the "significant operational detriment" test for installations. In the interim rule, we have enumerated a number of situations which we would consider as substantial mitigating circumstances. Please comment on whether these factors are appropriate and whether there are any additional factors which you believe ERA should consider in reviewing applications.

D. *Operational status.* The proposed rules do not, for the most part, differentiate between transitional facilities which were operational by November 9, 1978, and those which were not. However, we are considering reducing the administrative burden as to small transitional facilities by imposing a lesser reporting requirement on installations which have a heat input rate of 100 to 150 million Btu's/hour and which were operational on or before April 20, 1978. We specifically request comments on the appropriateness of the 150 million Btu/hour level, whether some other date should be used, or whether any reduced reporting requirement is advisable. In this regard, we particularly request information on the number and type of these small facilities that were operational on April 20, 1978, the amount of oil or gas which might be saved if they were determined to be new, and the administrative burden imposed on users if they were required to file the full petition with ERA for determining whether they are existing facilities.

III. Comment Procedures

A. *Written comments.* ERA invites you to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this interim rule. Comments should be submitted to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Transitional Facilities," Docket No. ERA-R-78-21. You should submit fifteen copies. All comments received will be available for public inspection in the DOE Reading Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. We will consider all comments received by January 15, 1979, 4:30 p.m.

You should identify separately any information or data you consider to be confidential and submit them in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat them according to our determination.

B. *Public hearing.* 1. *Request procedure.*—The time and place for the hearing is indicated in the "Dates" and "Addresses" section of this preamble. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

You may write to request an opportunity to speak at the hearing. Provide a phone number where we may contact you through the day before the hearing. Since we may have to limit the number of speakers, you should be prepared to describe your interest in this proceeding, and why you are a proper representative of a group or class or persons that has such an interest, and to give a concise summary of your proposed oral presentation.

We will notify each person selected to be heard before 4:30 p.m., December 8, 1978.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. We may limit the time allotted each speaker, based on the number of persons who ask to be heard.

We will designate a DOE official to preside at the hearing, which will not be judicial or evidentiary-type in nature. Only those conducting the hearing may ask questions. DOE will base its decisions on all of the information available at the time of the hearing. At the conclusion of all initial oral statements, each speaker will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. You may submit questions to be asked of any speaker. Such questions must be submitted to the address indicated above for requests to speak, 3 days before the hearing. If you wish to ask a question at the hearing, you may submit it, in writing, to the presiding officer. We will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing. We will have a transcript of the hearing made and we will retain the entire record of the hearing, including the transcript, and make it available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

IV. Procedural Matters and Forms

The regulations set forth below are being adopted as interim rules; effective immediately, but will be reviewed and may be revised after a public hearing is held and comments are received and analyzed.

Draft transitional facility forms to be filed with your petition requesting classification of a unit as an existing facility may be obtained from the Office of Public Information, Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, 202-634-2170. In requesting these forms, you should designate whether your transitional facility is a powerplant or an installation. Technical information regarding these forms may be obtained by calling Alfred C. Metz at 202-254-5436.

A regulatory analysis of the regulations set forth below, as contemplated by Executive Order No. 12044, is contained within the regulatory analysis of the regulations regarding new facilities proposed on November 9, 1978, 43 FR 53974 (November 17, 1978). In addition, a draft Environmental Impact Statement (DEIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both the draft regulatory analysis and the EIS may be obtained from the ERA, 2000 M Street NW., Room B-110, Washington, D.C. 20461, 202-634-2170.

(Department of Energy Organization Act, Pub. L. 95-96; Powerplant and Industrial Fuel Use Act; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, a part 513 is added to subchapter E of chapter II, Title 10 of the Code of Federal Regulations which is titled "Alternate Fuels", effective November 16, 1978.

Issued in Washington, D.C., November 16, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Subchapter D of chapter II, Title 10, is entitled "Alternate Fuels."

2. A new part 515 is added to subchapter B, to read as follows:

PART 515—TRANSITIONAL FACILITIES

Subpart A—General Provisions

Sec.
515.1 Policy.
515.2 Purpose and scope.
515.3 Criteria for electric powerplants.
515.4 Criteria for major fuel burning installations.
515.5 Evidence in support of the petition.

Subpart B—Definitions

515.10 Definitions.

Subpart C—Administrative Provisions

515.20 Purpose and scope.

515.21 Notice of petition, public comment.
515.22 Conferences.
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515.28 General filing requirement.
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515.31 Addresses for filing documents with ERA.
515.32 Office of public information.

Subpart A—General Provisions

§ 515.1 Policy.

(a) The language of the Fuel Use Act (FUA) is clear that facilities (units) for which substantial acquisition or construction had not begun as of April 20, 1977, are presumed to be classified as "new" unless you can prove to the Economic Regulatory Administration (ERA) that certain conditions exist. The date of April 20, 1977, is significant because that is the time at which the National Energy Act, containing the policy that electric powerplants and major fuel burning installations should use alternate fuels in lieu of petroleum and natural gas, was submitted to Congress and placed before the public.

(b) If you commenced acquisition or construction of your facility between April 20, 1977 and November 9, 1978 (the date of FUA's enactment), your facility is considered "new" under the Act unless you petition ERA to be classified as "existing" no later than 15 days after the effective date of these final regulations. If ERA determines that your facility meets the criteria for eligibility in § 515.3(a) or 515.4(a) below, your units will be categorized a "transitional facility" pending ERA's determination.

(c) ERA bases the criteria for eligibility as a transitional facility on the principle that if you had not engaged in a substantial and meaningful commitment to build a unit prior to April 20, 1977, you should have cancelled, rescheduled, or modified your unit and planned to burn an alternate fuel instead of petroleum or natural gas. This means, for example, that even if you had contracted for your unit prior to April 20, 1977, but had not engaged in substantial construction by that date, ERA will consider your facility as "new" unless your petition to be classified an existing facility is granted. Correspondingly, if you signed the contract for your unit after April 20, 1977, but had not engaged in substantial construction prior to November 9, 1978, your unit is automatically designated a "new" facility and will not be considered by ERA as a transitional facility.

(d) In determining whether you have engaged in substantial construction, ERA has attempted to weigh the different time requirements and construction procedures for building electric powerplants and major fuel burning installations, as well as the different construction practices in building various types of units (e.g., combustion turbines, combined cycles, packaged boilers, and field-erected boilers). Accordingly, ERA proposes a separate standard for each of these categories in setting its criteria for determining if "substantial construction" has occurred.

(e) If your unit meets the criteria of a transitional facility, you may petition to have that unit classified as an "existing" facility. Your petition must demonstrate to ERA's satisfaction that you will incur (1) A substantial financial penalty or (2) a significant operational detriment (for installations) or an impairment of reliability (for powerplants) if ERA declines to designate your unit an "existing facility."

(f) The "substantial financial penalty" test applies to both electric powerplants and major fuel burning installations. Because all transitional facilities are presumed by the Act to be "new" and the legislation requires new facilities to construct with alternate fuel firing capability, ERA concludes that the true financial penalty associated with complying with that requirement becomes significant where the nonrecoverable outlays that would be incurred as of November 9, 1978, as a result of cancelling, rescheduling, or redesigning the unit results in a substantial increase to the cost of a coal-fired unit. ERA proposes that this increase is substantial for installations when the additional capital required reaches 25 percent of the outlay for a comparable sized coal-fired unit. A similar test is used for powerplants, but ERA does not propose a set percentage at this time. Due to the different financial and economic factors affecting powerplants, ERA proposes to assess additional considerations, including the potential impact upon the rate base and the status of the powerplant construction.

(g) If your transitional facility is a powerplant, and the cancellation, rescheduling, or modification results in your electric region's reserve margin falling below 20 percent during the delay in construction, DOE will conclude this to be an adverse effect on electric system reliability and will designate the affected facility an "existing facility."

(h) If your transitional facility is a major fuel burning installation, your unit will be designated "existing" if you demonstrate to ERA that you would incur a "significant operational detriment." You can make this demonstration by satisfying either of the two criteria.

(i) First, you must demonstrate that there are substantial mitigating circumstances regarding your situation. ERA will review petitions of this nature on a case-by-case basis.

(ii) Second, if your transitional unit was operational on November 9, 1978, ERA may classify it as "existing" if you can demonstrate that, if you immediately ceased operating your transitional unit, you could not maintain 95 percent of your historic production level by increasing the steam output of other, existing units at the site.

(i) ERA believes that the approaches to assessing "significant operational detriment" described above will achieve the national objective of maximizing our replacement of petroleum and natural gas with alternate fuels while reducing disruptive short-term impacts on production and employment.

§ 515.2 Purpose and scope.

(a) *Application.* This part applies to all "transitional facilities." A transitional facility means a powerplant or major fuel burning installation on which substantial construction or acquisition began between April 20, 1977, and November 9, 1978, the date of enactment of the Powerplant and Industrial Fuels Use Act ("FUA") of 1978.

(b) *Purpose.* These rules and procedures are interim regulations governing petitions requesting the reclassification of transitional facilities by the Economic Regulatory Administration ("ERA"). These petitions should request a determination that your installation or powerplant be classified as an "existing" facility subject to the provisions of title III of FUA (which govern ERA-initiated prohibitions against the use of natural gas or petroleum and the exemptions from these prohibitions), rather than as a "new" facility subject to the provisions of title II of FUA (which govern statutory prohibitions against the use of natural gas or petroleum and the exemptions from these prohibitions).

(c) *ERA Determinations.* Based upon the criteria set forth below and after thorough consideration of the entire administrative record of your petition, ERA will publish in the FEDERAL REGISTER a formal decision either: (1) Granting the petition, having determined that the installation or powerplant is "existing," or (2) denying the petition, having determined that the installation or powerplant is "new." This determination is a final Departmental action.

§ 515.3 Criteria for electric powerplants.

(a) *Eligibility.* You are eligible to submit a petition to ERA to have your unit classified as an "existing facility" if you can demonstrate to the satisfaction of ERA that:

(1) A contract for the purchase or construction of the transitional facility was executed on or after April 20, 1977, and

(i) A *prefabricated packaged boiler or a combustion turbine* was delivered to the site on or before November 9, 1978; or

(ii) A *field erected boiler* was operational on or before November 9, 1978; or

(iii) A *combined cycle unit* had its packaged boiler delivered to the site or the main steam drum of its field erected boiler in place on or before November 9, 1978; or

(2) A contract for the purchase or construction of the transitional facility was executed prior to April 20, 1977, and

(i) *A prefabricated packaged boiler or combustion turbine* was not delivered to the site on or before April 20, 1977; or

(ii) *A field erected boiler* was not operational prior to April 20, 1977; or

(iii) *A combined cycle unit* did not have its packaged boiler delivered to the site or the main steam drum of its field erected boiler in place prior to April 20, 1977.

(b) *Reaching a determination.* ERA will grant a petition designating an eligible powerplant as "existing" if you can demonstrate you will incur either of the following:

(1) *Substantial financial penalty*—You must demonstrate that the financial penalty you would incur if your transitional facility is not redesignated "existing" is substantial. You must address, and ERA will consider in making its determination, the following factors:

(i) The nonrecoverable outlays you would incur by cancelling, rescheduling, or modifying your transitional facility to burn an alternate fuel compared to the capital expenditures required to construct a comparable sized coal fired boiler. ERA limits the capital expenditures it will include under the test to the outlay for the boiler, and/or combustion turbine, steam turbine, specified fuel handling equipment, and air pollution control equipment, exclusive of such factors as land, labor, engineering, contingency, and specified equipment facilities and site construction costs;

(ii) The impact of the nonrecoverable outlays upon the rate base; and

(iii) The status of the construction of the transitional facility and of the site at which it is located.

(2) *Impairment of reliability.*—You must prove that the reserve margin of the electrical region in which the transitional facility is located would be reduced to less than 20 percent during the period of the delay.

§ 515.4 Criteria for major fuel burning installations.

(a) *Eligibility.* You are eligible to submit a petition to ERA to have your unit classified as an "existing facility" if you can demonstrate to the satisfaction of ERA that:

(1) A contract for purchase or construction of the transitional facility was executed on or after April 20, 1977, and

(i) *A prefabricated packaged unit or combustion turbine* was delivered to the site on or before November 9, 1978; or

(ii) *A field erected unit* had its main steam drum formed on or before November 9, 1978; or

(iii) *A combined cycle unit* had its packaged boiler delivered to the site or the main steam drum of its field erected boiler formed on or before November 9, 1978.

(2) A contract for purchase or construction of the transitional facility was executed prior to April 20, 1977, and

(i) *A prefabricated packaged unit or combustion turbine* was not deliverd to the site on or before April 20, 1977; or

(ii) *A field erected unit* did not have its main steam drum formed on or before April 20, 1977; or

(iii) *A combined cycle unit* did not have its packaged boiler delivered to the site or the main steam drum of its field erected boiler formed prior to April 20, 1977.

(b) *Reaching a determination.* ERA will grant a petition designating an eligible installation as "existing" if you can demonstrate you will incur either of the following:

(1) *Substantial financial penalty*—You must demonstrate that the nonrecoverable outlays you would incur by cancelling, rescheduling, or modifying your transitional facility to burn an alternate fuel would be equal to or greater than 25 percent of the capital expenditure that will be required by you to construct a comparable sized coal-sized fired unit. (ERA limits the expenditures it will include under this test to the outlay for the boiler and/or combustion turbine, steam turbine, specified fuel handling equipment, and air pollution control equipment, exclusive of such factors as land, labor, engineering, contingency, and specified equipment, facilities, and site construction costs).

(2) *Significant operational detriment.* (i) *Substantial mitigating circumstances.*—ERA may designate a transitional facility as an "existing" facility if you can prove that there are substantial mitigating circumstances. These circumstances may include, but are not limited to, the:

(A) Extent of construction and anticipated startup date;

(B) Anticipated annual capacity utilization factor, as well as seasonal or other variations in use;

(C) Potential impact of the loss of production which could not be rescheduled elsewhere;

(D) Potential impact on employment, to include the number and type of jobs lost, the duration, and whether such jobs may be absorbed elsewhere within your parent company.

(ii) *Load shifting by transitional facilities operational by November 9, 1978.* ERA may designate a transitional facility which had commenced operations on or before November 9, 1978, an "existing" facility if you can prove that you would be unable to maintain 95 percent of your historic steam production level if you immediately ceased operating your transitional facility and increased the steam output of other, existing units at the site.

§515.5 Evidence in support of the petition.

(a) You must submit a separate petition, in writing, and signed by the duly authorized officer of the owner of the installation or powerplant, regardless of the fact that more than one unit may be colocated at a single site. Your petition must include:

(1) For substantial financial penalty, significant operational detriment and impairment of reliability criteria: (i) Copies of all contracts concerned with the purchase and construction of the transitional facility, to include the purchaser's design specifications contained in those contracts and (ii) a complete description of the transitional facility, if not included as a part of the contracts; (2) For substantial financial penalty, significant operational detriment, impairment of reliability criteria: (i) A certified statement of the date of delivery of the packaged boiler or combustion turbine unit (single or combined cycle operation), or (ii) a certified statement of the date that the field erected main steam boiler drum was formed (for installations or in place (for combined cycle units at powerplants), or (iii) the date at which the field erected boiler (for powerplants) became operational. Certification must be made by both the duly authorized officer of the owner of the installation or powerplant and the duly authorized officer of the boiler or turbine manufacturing or engineering firm;

(3) For substantial mitigating circumstances of the significant operational detriment criteria: a status report of the site construction, to include:

(i) Major components delivered to the site;

(ii) Foundation work completed;

(iii) Building structure work completed;

515.21 Notice of petition, public comment.
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515.28 General filing requirement.
515.29 Effective date of orders.
515.30 Order of precedence.
515.31 Addresses for filing documents with ERA.
515.32 Office of public information.

Subpart A—General Provisions

§ 515.1 Policy.

(a) The language of the Fuel Use Act (FUA) is clear that facilities (units) for which substantial acquisition or construction had not begun as of April 20, 1977, are presumed to be classified as "new" unless you can prove to the Economic Regulatory Administration (ERA) that certain conditions exist. The date of April 20, 1977, is significant because that is the time at which the National Energy Act, containing the policy that electric powerplants and major fuel burning installations should use alternate fuels in lieu of petroleum and natural gas, was submitted to Congress and placed before the public.

(b) If you commenced acquisition or construction of your facility between April 20, 1977 and November 9, 1978 (the date of FUA's enactment), your facility is considered "new" under the Act unless you petition ERA to be classified as "existing" no later than 15 days after the effective date of these final regulations. If ERA determines that your facility meets the criteria for eligibility in § 515.3(a) or 515.4(a) below, your units will be categorized a "transitional facility" pending ERA's determination.

(c) ERA bases the criteria for eligibility as a transitional facility on the principle that if you had not engaged in a substantial and meaningful commitment to build a unit prior to April 20, 1977, you should have cancelled, rescheduled, or modified your unit and planned to burn an alternate fuel instead of petroleum or natural gas. This means, for example, that even if you had contracted for your unit prior to April 20, 1977, but had not engaged in substantial construction by that date, ERA will consider your facility as "new" unless your petition to be classified an existing facility is granted. Correspondingly, if you signed the contract for your unit after April 20, 1977, but had not engaged in substantial construction prior to November 9, 1978, your unit is automatically designated a "new" facility and will not be considered by ERA as a transitional facility.

(d) In determining whether you have engaged in substantial construction, ERA has attempted to weigh the

ence prepared but may do so at its dis-

§ 515.26 Service.

(iv) ERA will deliver a copy of the

(iv) On site component assembly completed;

(v) Schedule of milestones leading to completion;

(vi) Anticipated date transitional facility will be placed in service; and

(vii) Dated photographs indicating progress and current status of construction;

(4) For impairment of reliability criteria for powerplants: (i) A description of the electric region and the interconnections with other utilities; (ii) projections of peakload for the electric region during the period of the delay caused by the cancellation or redesign of the unit to provide alternate fuel firing capability; (iii) the net dependable electrical capacity and energy resources including interconnections, and (iv) the electric region's reserve margin after the date the powerplant commences the sale or exchange of electric power;

(5) For substantial financial penalty criteria: (i) An accurate and reliable description of all modifications necessary to the design and construction of this facility to enable it to be capable of using alternate fuel as its primary energy source; and (ii) an estimate of the costs associated with such modifications to include descriptions of the site of which this facility will be located;

(6) For substantial financial penalty criteria: (i) A description of a comparable sized coal-fired facility and (ii) the costs associated with the design and construction of such a facility, including the boiler, coal handling equipment, air pollution control equipment, and all other necessary equipment for the comparable facility, as well as (iii) a description and plot plan of the site at which this facility will be located;

(7) Significant operational detriment (substantial mitigating circumstances) criteria: If the construction of this facility has been completed, provide the present operational status of the facility;

(8) For significant operational detriment criteria: (i) Expected operating capacity of the unit and (ii) the planned or actual hours of operation;

(9) For significant operational detriment criteria for installations: (i) The pounds of steam that the transitional facility will be expected to provide on an annual basis and during the peak requirement if the unit is a boiler; and (ii) the maximum number of Btu's heat input per hour that will be used for the unit on an annual basis and during the peak requirement, if the unit is a combustion turbine;

(10) For significant operational detriment criteria: A list of all other units at the same site as the transitional facility that can physically provide energy for the same function as does the transitional facility, regardless of the other commitments for that energy. For each unit listed, provide (i) The identification number of the unit, (ii) the annual steam output peak pounds per hour required, (iii) design specifications if the unit is a boiler; or (iv) the annual and peak number of Btu's per hour heat input and the design heat input if the unit is a combustion turbine;

(11) Any other relevant factors that you feel ERA should consider in reaching its determination.

Subpart B—Definitions

§ 515.10 Definitions.

(a) This subpart defines certain terms which are unique to this part 515, Transitional Facilities. Other definitions are provided in § 500.2.

(b) Throughout this subpart, the "Act" or "FUA" means the Powerplant and Industrial Fuel Use Act of 1978.

(c) Unless otherwise expressly provided, for purposes of this part, the term: "Acquisition" means the physical delivery of a unit to the site and does not include mere transfer of title or ownership.

"Comparable size coal unit" means a coal-fired unit which will provide energy output equal to the output capacity of the transitional facility.

"Construction" means substantial physical onsite construction of an electric powerplant or major fuel burning installation which constitutes more than clearance of a site, provision of access or installation of foundation pilings.

"Facility" means an electric powerplant or major fuel burning installation.

"Formation of main stream drum" means when the drum plate has been pressed or rolled, the drum seams welded, and the stubs and nozzles welded to the drum.

"Historic steam production level" means the average annual energy output of the transitional facility and of other, existing units which can physically provide the same energy function, excluding unscheduled outages, as that provided by the transitional facility.

"Impairment of reliability" means any delay caused by termination or redirection of the construction of your electric powerplant to provide alternate burning capability during which the overall electric region's reserve margin will be less than 20 percent. The reserve margin percentage is computed by subtracting the normal peak load expected during the delay from the system's total capability, including the additional capacity that will be available through interconnections, and dividing the result by the projected normal peak load during such delay.

"Nonrecoverable outlays" are those nonreimbursable expenditures you have made or were required to make for your transitional facility, as of November 9, 1978, as a result of cancellation or modification. The following items are to be credited against any nonrecoverable outlays.

(1) Reimbursements from selling or salvaging equipment or facilities associated with the petroleum-gas boiler system;

(2) Funds expended for equipment or facilities which could be used in the construction or operation of alternate fuel boiler system; and

(3) The value of equipment or facilities which can be used elsewhere by the owner or operator of the powerplant or installation.

"Operational" means that a unit is used and useful, has completed its testing phase and is producing a product or providing a service on a continuing basis.

Subpart C—Administrative Provisions

§ 515.20 Purpose and scope.

This subpart establishes the general procedures that are applicable to this part.

§ 515.21 Notice of petition, public comment.

When ERA receives your properly filed petition under this part, it will publish a notice in the FEDERAL REGISTER. ERA will provide in the notice a period of no less than 21 days for interested persons to file written data, views or arguments.

§ 515.22 Conferences.

(a) You may file with your petition a written request for a conference with ERA regarding your petition. The request must be addressed to the Office of the Assistant Administrator for Fuels Regulation, Room 6128, 2000 M Street NW., Washington, D.C. 20461. The ERA in its discretion will decide whether to hold a conference.

(b) Actual notice of the time, place, and nature of the conference will be provided to the person who requested the conference. ERA will determine who may attend a conference, but a conference will generally include only the representative of the person requesting the conference, Government representatives, and other persons requested by the person requesting the conference.

(c) When ERA convenes a conference in accordance with this section, any person invited may present views as to the issue or issues involved. You may submit documentary evidence at the conference. Such evidence will be treated as if submitted in the regular course of a hearing. ERA will not normally have a transcript of the conference prepared but may do so at its discretion. However, a summary of major points discussed will be prepared by ERA and placed in the public record with confidential material extracted.

(d) Because a conference is solely for the exchange of views incident to a proceeding, ERA will not prepare a transcript, issue a final report or finding unless ERA in its discretion determines that it would be advisable.

§ 515.23 Appearance before the ERA.

(a) A person may make an appearance and participate in any proceeding described in this part on his own behalf or by a duly authorized representative. Any petition filed by a duly authorized representative must contain a statement by such person certifying that he is a duly authorized representative. Falsification of such certification will subject such person to the sanctions stated in 18 U.S.C. 1001 (1970).

(b) ERA may deny, temporarily or permanently, the privilege of participating in proceedings or conferences, including oral presentation, to any individual who is found by ERA:

(1) To have made false or misleading statements, either orally or in writing;

(2) To have filed false or materially altered documents, affidavits or writings.

(3) To lack the specific authority to represent the person seeking an ERA action; or

(4) To have disrupted or to be disrupting a proceeding.

§ 515.24 Computation of time.

(a) *Days.* (1) When ERA computes time in days under these regulations, ERA will not include the day of the act (or default) from which a period of time begins to run. ERA will include the last day of the period, unless it is a Saturday, Sunday or Federal legal holiday, in which case the period runs until the end of the next weekday that is not a Federal legal holiday.

(2) ERA shall exclude Saturdays, Sundays or intervening Federal legal holidays from its computation of time when the period of time allowed or prescribed in the regulations is 7 days or less.

(b) *Additional time after service by mail.* Whenever DOE serves by mail an order, notice, interpretation or other document, specifying a time period for you to perform an act, refrain from performing an act, or commence a proceeding, you may add 3 days to the period prescribed.

§ 515.25 Extension of time.

ERA may provide an extension of time to file if you can show good cause for the extension.

§ 515.26 Service.

(a) DOE will serve all orders, notices, interpretations or other documents which it is required to serve, personally or by certified mail unless otherwise provided in these regulations.

(b) ERA will consider service upon your duly authorized representative to be service upon you.

(c) Service by certified mail is effective upon mailing. ERA will consider official United States Postal receipts from certified mailing as prima facie evidence of service.

§ 515.27 Subpoenas; witness fees.

(a) *Issuance.* The Administrator of ERA, or his duly authorized agent, may sign and issue subpoenas either on his own initiative or upon your request, where you are a participant in that hearing. You must support your request for a subpoena by an adequate showing that the information you seek will materially advance the proceeding.

(b) *Witness attendance; production of documents.* A subpoena may require the attendance of a witness, and/or the production of documentary or other tangible evidence in the possession or under the control of the person served, or both.

(c) *Service.* A Subpoena may be served personally or by registered or certified mail. If a subpoena is served personally, it may only be served by a person who is not an interested person in the proceeding and is not less than 18 years of age. For purposes of this paragraph, you are an "interested person" if you are participating directly in the proceeding with respect to which the subpoena is issued.

(2)(i) ERA will serve a subpoena by delivering a copy of it to the person named in the subpoena.

(ii) ERA will tender fees for one day's attendance and mileage as specified in paragraph (d) of this section, with the subpoena. If ERA issues the subpoena at the request of any officer or agency of the United States, however, ERA will not tender the fees for mileage at the time of service.

(iii) ERA will deliver a copy of the subpoena and any fees to a natural person by—

(A) Handing them to the person;

(B) Leaving them at the person's office with the person in charge of the office;

(C) Leaving them at the person's dwelling or the usual place of abode with a person of suitable age and discretion who resides there;

(D) Mailing them to the person by registered mail, to his last known address; or

(E) Any method that provides the person with actual notice.

(iv) ERA will deliver a copy of the subpoena and any fees to a person, other than a natural person by—

(A) Handing them to a registered agent of the person;

(B) Handing them to any officer, director, or agent in charge of any office of such person;

(C) Mailing them to the last known address of any registered agent, officer, director, or agent in charge of any office of the person by registered or certified mail; or

(D) Any method that provides any registered agent, officer, director, or agent in charge of any office of the person with actual notice and the fees are made available prior to the return date.

(v) If you have offices and operations in more than one jurisdiction, you may notify ERA in writing if you wish to designate one address to which any subpoena may be served.

(3) The Office of the Assistant Administrator for Fuels Regulations will retain the original subpoena together with a certificate of service.

(d) *Fees.* If you are subpoenaed by ERA, you will be paid the same fees and mileage as would be paid to a witness in a proceeding in the District Courts of the United States. The person requesting the subpoena will pay these fees and mileage, except that ERA may pay the fees and mileage when, in its judgment—

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person who requested the subpoena would suffer a serious hardship if required to pay the fees and mileage.

(e) *Petition to quash or modify.* (1) If you are a person to whom a subpoena is directed, you may apply prior to the time specified for compliance in the subpoena, but not more than 10 days after the date of service of the subpoena, to the Administrator of ERA, to quash or modify the subpoena. You must include in your petition a brief statement of the reasons you rely on.

(2) The Administrator of ERA, or his duly authorized representative may—

(i) Summarily deny your application;

(ii) Quash or modify the subpoena; or

(iii) Condition the denial or grant of your petition upon the satisfaction of certain just and reasonable requirements.

(3) While the Administrator of ERA or his duly authorized representative is considering your petition to quash or modify a subpoena, you may petition the Office of the Assistant Administrator for Fuels Regulation to stay your obligation to comply with the subpoena.

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(f) *Enforcement.* If you refuse to obey a subpoena, ERA may request the Attorney General to seek the aid of the District Court of the United States for any district in which you are found to compel you, after notice, to appear to give testimony, and/or to appear and produce any subpoenaed documents before ERA.

§ 515.28 General filing requirements.

(a) *Where to submit.* You must file your petition with the ERA at the address provided in section 515.31.

(b) *When to submit.* You must submit your petition under the provisions of this part no later than 14 days after the effective date of the final rules.

(c) *Completed filing.* (1) Your petition is considered to be filed when it has been accepted by ERA. If for any reason your petition is not acceptable, ERA will notify you within 42 days from the date of receipt of any deficiencies or defects contained in your petition.

(2) If ERA requests other documents or additional information from you these will be considered to be filed upon receipt, unless ERA advises you to the contrary within a reasonable time.

(d) *Signing and attestation.* (1) If you file a petition under this Part, on behalf of a corporation, the duly authorized officer of the corporation must attest to the accuracy of the facts and statements contained in your petition.

(2) If you are filing a petition under this part on behalf of a wholly owned subsidiary, then the requirements of paragraph (d)(1) shall apply to the subsidiary and to the parent corporation as well.

(3) If you are filing on behalf of an entity other than a corporation, the duly authorized officer must attest to the accuracy of the facts and statements contained in your petition.

(4) All requests, comments, and any other documents that are required to be signed must be signed by the person filing the document. Any request, comment or other document filed by a duly authorized representative must contain a statement by such person certifying that he is a duly authorized representative. (A false certification or filing under this Part is punishable under 18 U.S.C. 1001 (1970).)

(e) *Labeling.* You should clearly label any petition or other document that you file with ERA, as "petition for classification as an existing facility" both on the document and on the outside of the envelope in which the document is transmitted.

(f) *Obligation to supply information when you file a petition or other request for action, and other documents relevant thereto.* You are under a continuing obligation during the proceeding to provide the ERA with any new or newly discovered information concerning significantly changed circumstances relevant to the facility.

(g) *Request for confidential treatment.* (1) (i) If you wish to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1970) as amended) or is otherwise exempt by law from public disclosure, and if you wish to request ERA not to disclose such information, you must file together with the document a second copy of the document from which you have deleted the information for which you wish to claim confidential treatment. You must indicate in the original document that it is confidential or contains confidential information and file a concise statement specifying the justification for nondisclosure of the information for which confidential treatment is claimed. If you state that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information or is covered by 18 U.S.C. 1905, you must include a concise statement specifying why such information is privileged or confidential.

(ii) If you file a document and fail to submit a second copy of the document with the confidential information deleted, the ERA may assume that there is no objection to public disclosure of the document in its entirety.

(2) The ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny such claim, in whole or in part, and an opportunity to respond will be given to the person claiming confidentiality of information no less than 48 hours prior to the public disclosure of such information.

(3) This subsection does not apply where information is being submitted on an ERA form which contains its own instructions as to requests for confidential treatment of information provided.

(4) Each petition or request for ERA action must be submitted as a separate document, even if the petition or request deals with the same or a related issue, act, or transition, or is submitted in connection with the same proceeding.

§ 515.29 Effective date of orders.

Any order issued by ERA under this part is effective on the date issued against all persons having actual notice of it. Such order is deemed to be issued on the date, as specified in the order, it is signed by an authorized representative of ERA, unless the order or other determination states otherwise.

§ 515.30 Order of precedence.

If there is any conflict or inconsistency between the provisions of this subpart and any other provision of this part, the provisions of this subpart shall control with respect to procedure.

§ 515.31 Addresses for filing documents with the ERA.

All requests, petitions, reports, ERA forms, written communications or other documents are to be filed with the Assistant Administrator for Fuels Regulation, Economic Regulatory Administration, Attention: Office of Public Hearing Management, 2000 M Street NW., Washington, D.C. 20461.

§ 515.32 Office of public information.

The Office of Public Information, 2000 M Street NW., Washington, D.C., Room B-110 is available for public inspection of documents and copying of the following information:

(a) A list of all persons who have filed a Petition for Designation as existing facilities.

(b) Each decision on a petition, which will contain a statement setting forth the relevant facts and legal basis of each decision with confidential information deleted as well as written comments received from interested persons in connection with a petition.

[FR Doc. 78-32757 Filed 11-21-78; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-34-M]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 331—EMERGENCY PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

Sugarcane Smut

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Sugarcane smut, an infectious fungal disease affecting sugarcane, has been discovered in the State of Florida. In order to prevent the further spread of sugarcane smut into other areas of the United States, emergency regulations are promulgated to regulate the interstate movement of sugarcane plants (including parts of sugarcane and true seed) and used sugarcane processing and harvesting equipment from Glades, Hendry, Martin, and Palm Beach Counties in Florida.

EFFECTIVE DATE: Friday, November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

E. E. Crooks, 301-436-8249.

SUPPLEMENTARY INFORMATION: Sugarcane smut is a destructive plant disease which attacks sugarcane. Sugarcane smut is caused by a highly contagious fungus, *Ustilago scitaminea* Syd., which infects planted cuttings as well as the buds of standing cane. Heavy infection can cause complete loss of crops. Smut-infected plants result not only in fewer canes but also in reduced sugar content. The recent outbreak of the sugarcane smut in Florida is the first time the disease has been found in the continental United States. The smut fungus was found in sugarcane planted for research near Clewiston, Florida, and in nearby commercial fields. Sugarcane smut attacks sugarcane in most areas where the crop is grown in the Eastern Hemisphere, South America, the West Indies, Central America, and Hawaii. Smut spores are spread by wind, water, contaminated soil, plant material, and man. The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, cooperated with State Agencies in conducting biometric surveys in Florida, Louisiana, and Texas. Survey results in Louisiana and Texas were negative, and except for the initial finds in Florida, no further spread was found in that State. Regulatory action is being taken by the Florida Department of Agriculture and the United States Department of Agriculture to prevent the artificial spread of the disease to other sugarcane producing areas. Regulations affect Glades, Hendry, Martin, and Palm Beach Counties in Florida.

Based on the above information, Mr. James Lee, Deputy Administrator of Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, has determined that, in order to contain the further spread of sugarcane smut to other areas of the United States, emergency regulations restricting the interstate movement of regulated articles from regulated counties within Florida must be promulgated immediately. The emergency exists because there is a possibility that those articles listed as regulated articles can carry the smut spores to unaffected areas of the United States unless they have been treated or have not been exposed to the disease.

Therefore, Chapter III, Title 7 of the Code of Federal regulations, is hereby amended by adding to Part 331 a new section 331.6 and a subpart heading preceding said section as follows:

Subpart—Sugarcane Smut

§ 331.6 Notice of existence of emergency and regulations related thereto.

(a) *Definitions.* For the purposes of the regulations in this subpart, the following terms shall be construed, respectively, to mean:

Certificate. A document issued by the inspector to allow the movement of regulated articles to any destination.

Deputy Administrator. The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

Inspector. An employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the regulations in this subpart.

Limited Permit. A document issued by the inspector to allow the interstate movement of regulated articles to a specified destination.

Treatment. Procedures prescribed by the Deputy Administrator to destroy infections of sugarcane smut as specified in paragraph (b) of this section.

(b) Infections of the sugarcane smut, *Ustilago scitaminea* Syd., a dangerous plant disease not widely prevalent or distributed within and throughout the United States, exists in the State of Florida in Glades, Hendry, and Palm Beach Counties, and because of proximity of the disease, there is reason to believe it exists in Martin County. Therefore, as an emergency measure to prevent the interstate dissemination of sugarcane smut, the following rules are adopted. The products and articles listed in paragraph (c) of this section shall not be moved interstate to noninfected areas from any place in Glades, Hendry, Martin, and Palm Beach Counties, Florida, unless—

(1) Such products and articles have been subjected to treatment as follows to destroy sugarcane smut under the direction of an inspector and the products and articles are accompanied by a certificate:

Seedpieces (Pieces of Cane):

Immerse in hot water at 52°C (126.5°F.) for 45 minutes.

Note: Some varieties of sugarcane may be injured.

True Seed (Fuzz):

Immerse in 0.525% sodium hypochlorite solution for 30 minutes. (Dilute 1 part Chlorox or similar material containing 5.25% sodium hypochlorite with 9 parts water by volume). Air dry at least 48 hours.

Sugarcane Harvesting and Processing Equipment:

Remove all debris and soil from the equipment with high pressure water or steam; or

(2) Such products and articles are accompanied by a certificate and origi-

In § 1099.13(c) (2) and (3), the words

conditions in the marketing area in

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nate from an area within a regulated county that has been inspected by the inspector and the area has been found to be free from sugarcane smut; or

(3) Such products and articles are moved, under a limited permit, to a destination where the movement will not result in the spread of sugarcane smut and will not violate any other applicable Federal domestic quarantine, as determined by the Deputy Administrator and destination State officials.

(c) The following products and articles are subject to the emergency measures imposed under this section:

(1) Sugarcane plants, whole or in part, including true seed;

(2) Used sugarcane processing and harvesting equipment;

(3) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by subparagraphs (1) and (2) of this paragraph, when it is determined by an inspector that they present a risk of spread of sugarcane smut and the person in possession thereof has actual notice that the products, articles or means of conveyance is subject to the restrictions of this section.

(Sec. 105, 71 Stat. 32, sec. 106, 71 Stat. 33, sec. 107, 71 Stat. 34 (7 U.S.C. 150aa-150jj); 37 FR 28464, 28477, as amended; 38 FR 19141.)

Due to the possibility that sugarcane smut could be spread artificially to noninfected areas of the United States, an emergency situation exists requiring immediate action to control this infectious disease. Therefore, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and public participation regarding this regulation are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making said regulation effective on or before December 26, 1978.

Done at Washington, D.C., this 20th day of November 1978.

THOMAS G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 78-33054 Filed 11-22-78; 8:45 am]

[3410-02-M]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 99]

PART 1099—MILK IN THE PADUCAH, KY., MARKETING AREA

Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for November 1978 through March 1979 order provisions that limit the quantity of producer milk that may be diverted to a plant for manufacturing uses to 15 percent of a handler's receipts at milk bottling plants. The suspension will result in a 25 percent limit on such diversions during those months. The action was requested by a cooperative association to assure the efficient disposition of milk that is not needed for fluid use, and to maintain pool status for dairy farmers regularly associated with the Paducah market.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension—Issued October 31, 1978; published November 3, 1978 (43 FR 51405).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Paducah, Ky., marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 51405) concerning a proposed suspension of certain provisions of the order. Interested persons had an opportunity to comment in writing on the proposed suspension. Only the proponent of the suspension filed comments concerning the suspension.

After considering all relevant material, including the proposal in the notice, the comments received and other available information, it is found and determined that for the months of November 1978 through March 1979 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1099.13(c) (2) and (3), the words "in any of the months of April through August and 15 percent in other months."

STATEMENT OF CONSIDERATION

The suspension makes ineffective for the period November 1978 through March 1979 the provisions that limit diversions to nonpool plants to a quantity equal to 15 percent of the handler's milk that is physically received at pool plants. A 25 percent limit on such diversions that otherwise applies during the months of April through August would apply during the suspension period.

Action to suspend the 15 percent limit on diversions was requested by Dairymen, Inc., in order to facilitate the economical disposition of reserve milk supplies. The cooperative maintained that under current conditions in the market efficient disposition of reserve supplies cannot be achieved under the 15 percent diversion limit.

There are only two distributing plants fully regulated under the Paducah order, and they process mostly class I milk. The volumes of milk required by these plants vary widely on a day-to-day basis, which in turn requires a relatively large reserve supply of milk. When the milk is not required for use in a distributing plant, it is moved to nonpool plants for manufacturing. The most efficient way to move such reserve supplies to nonpool plants is by diversion, that is, direct from the farm to the nonpool plants. However, under the 15 percent limit provided in the order, not all of the cooperative's current supply of reserve milk can be handled by diversion.

Under the current situation, the cooperative must receive some of its reserve milk supply at a pool distributing plant in order to keep the milk pooled. The milk is then reloaded and moved to nonpool plants for surplus disposition. This is a costly and ineffecient means of temporarily maintaining pool status for member producers long associated with the Paducah market.

On the basis of the data, views and arguments filed, it is concluded that without the suspension the cooperative would be forced to continue uneconomic handling and transportation practices in order to maintain through March 1979 the benefits of pooling for some of its producers. The suspension will facilitate the efficient disposition of reserve supplies during this period.

It is hereby found and determined that 30 days' notice of the effective date thereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movement from producers' farms to manufacturing outlets. This suspension allows such economical movements of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No views were received in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective November 24, 1978.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of November 1978 through March 1979.

Signed at Washington, D.C., on November 20, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-33052 Filed 11-22-78; 8:45 am]

[3410-37-M]

CHAPTER I—FOOD SAFETY AND QUALITY SERVICE (FRUIT AND VEGETABLE QUALITY DIVISION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 2880—FRESH IRISH POTATOES

Subpart—Fresh Irish Potatoes—Livestock Feed Diversion Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the terms and conditions of a potato diversion program for 1978 crop potatoes. This rule sets out the provisions of eligibility for payments, the need for approval of diversion by USDA, the rate of payment to producers, and other conditions of participation. This rule is necessary to inform eligible producers of this new program's requirements.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

D. A. Thibeault, Chief, Commodity Procurement Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-2781.

SUPPLEMENTARY INFORMATION: Severe drought and other unfavorable growing conditions in parts of Aroostook and Penobscot counties, Maine, have produced some low quality potatoes containing deep growth cracks. Producers of these potatoes are already on the brink of economic disaster and can be expected to market these split potatoes at the best prices obtainable. Action must be taken to reduce the price-depressing effect which these sales would have on the market value of the potatoes produced in other parts of Maine as well as other growing areas. Accordingly, payments are being offered to eligible Aroostook and Penobscot county producers to encourage the diversion of such potatoes for use as livestock feed. These payments will compensate those producers for the lower prices obtained from the sales of potatoes for use as livestock feed.

The program will be offered in two periods. The payments will be higher during the first period than during the second period in order to obtain early diversion of sufficient potatoes to have an immediate market strengthening effect.

In this connection, in view of the fact that diversion is to be accomplished by using the potatoes for livestock feed, and since spreading in the field for dehydration by freezing and thawing is one of the principal methods which may be utilized, and since this must be done before snowfall, it is necessary to begin the program immediately. Moreover, in order to obtain maximum utilization of fresh potatoes as feed for livestock, the program must start before livestock producers obtain alternate sources of feed.

Immediate action is necessary to avoid the price-depressing impact which sales of these low-grade potatoes are having on the market value of potatoes. Accordingly, Sydney J. Butler, Acting Administrator, FSQS, has determined that this document represents an emergency situation requiring immediate program action without a notice and comment period, that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and in accordance with the provisions of Executive Order 12044 (43 FR 12661, March 24, 1978), that it is not possible to publish these regulations in proposed form and allow 60 days for public comment.

FINAL RULE

Accordingly, 7 CFR Chapter II is amended by adding a new Part 2880 to read as follows:

PART 2880—FRESH IRISH POTATOES

Subpart—Fresh Irish Potatoes—Livestock Feed Diversion Program

Sec.

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2880.2 Administration.
2880.3 Area.
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2880.6 Eligibility for payment.
2880.7 Application and approval for participation.
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2880.17 Records and accounts.
2880.18 Set-off.
2880.19 Joint payment or assignment.
2880.20 Officials not to benefit.
2880.21 Amendment and termination.

AUTHORITY: Sections 2880.1 to 2880.21 issued under sec. 32, 49 Stat. 774, as amended; 7 U.S.C. 612c.

Subpart—Fresh Irish Potatoes—Livestock Feed Diversion Program

§ 2880.1 General statement.

In order to encourage the domestic consumption of fresh Irish potatoes by diverting them from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Pub. L. 320, 74th Congress, as amended, offers to make payment for the diversion for use as livestock feed of 1978 crop potatoes produced and stored in certain Maine townships designated in § 2880.3, subject to the terms and conditions set forth in this subpart. Information relating to this program and forms prescribed for use hereunder may be obtained from the following:

Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, Washington, D.C. 20250.

State of Maine Agricultural Stabilization and Conservation Committee.

Aroostook County Maine Agricultural Stabilization and Conservation Committee.

§ 2880.2 Administration.

The program provided for in this subpart will be administered under the general direction and supervision of the Director, Fruit and Vegetable Quality Division, Food Safety and Quality Service, and in the field will be carried out by the Agricultural Stabilization and Conservation Service through the Maine Agricultural Stabilization and Conservation State Committee and the Aroostook County Agricultural Stabilization and Conservation County Committee, hereinafter

referred to as the State and County

tions contained in this subpart. The

ance of the lot as a whole has been

must be fed to livestock by one or

version previously made under this

§ 2880.19 Joint payment or assignment.

V 4 3 1 2 2 7

referred to as the State and County Committees. The State Committee will authorize one or more employees to act as representatives of the United States Department of Agriculture, hereinafter referred to as USDA, to approve applications for participation. The State and County Committees or their authorized representatives do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements to this subpart.

§ 2880.3 Area.

This program will be effective in the following Maine townships of Aroostook and Penobscot Counties:

AROOSTOOK COUNTY

Van Buren, Cyr, Hamlin, Frenchville, St. Agatha, New Canada, Grand Isle, Fort Kent, Winterville, Eagle Lake, Wallagrass, St. John, St. Francis, Silver Ridge, Township XVII, Range V, Madawaska, Moro, Merrill, Smyrna, Dyer Brook, Oakfield, Crystal, Island Falls, Sherman, Hersey, and Benedicta.

PENOBSCOT COUNTY

Patten and Stacyville.

Information with respect to the areas designated may be obtained from the offices listed in § 2880.1.

§ 2880.4 Period of program.

This program will be effective from the date of this announcement and continue for sixty days.

§ 2880.5 Rate of payment.

The rate of payment per 100 pounds of potatoes which meet the requirements of Specification A as defined in § 2880.10 and which are diverted as prescribed in § 2880.10 will be two dollars and 20 cents per hundredweight from the inception of the program through a period of 30 days; and one dollar and seventy cents thereafter to termination of the program. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

§ 2880.6 Eligibility for payment.

Payments will be made under this program to any individual, partnership, association, or corporation located in the continental United States, (a) who executes and files an application for participation on the prescribed form, (b) who files a performance bond as provided in § 2880.8, (c) whose application is approved, (d) who diverts fresh Irish potatoes produced and stored within the State of Maine townships listed in Section 2880.3 specified in the approved application, directly or through any other person or persons, (e) who files a claim as provided in § 2880.14, and (f) who complies with all other terms and conditions contained in this subpart. The Director may prescribe and publish further conditions of eligibility when deemed desirable to assure that growers are the primary recipients of program benefits.

§ 2880.7 Application and approval for participation.

Persons desiring to participate in this program must submit a written application on Form ASCS-117 "Application for Participation in Fresh Irish Potato Livestock Feed Diversion Program". Each applicant must submit a performance bond as provided in § 2880.8. Applications and bonds should be submitted to the Aroostook, Maine County ASCS Office. Applications will be considered in the order received and in accordance with the availability of funds. Applicants will be notified of the approval or nonapproval of their application. Approved applications may be modified or amended with the consent of the applicant and the duly authorized representative of the State Committee: *Provided*, That such modification or amendment shall not be in conflict with the provisions of this subpart or any amendment or supplements hereto. An approved applicant is hereinafter referred to as "the diverter".

§ 2880.8 Performance bond.

Each applicant shall submit with his first application for participation a performance bond as further assurance that the potatoes diverted pursuant to this program will be used exclusively for feeding to livestock by methods prescribed in § 2880.13. The bond shall be executed on Form ASCS-119, "Performance Bond", by the principal and two individual sureties, all of whom shall agree to indemnify USDA for any losses, claims, or payments made by USDA with respect to any quantity of such potatoes not used for livestock feed. USDA may disapprove any bond if for any reason any surety does not in the opinion of USDA afford USDA full protection and security.

§ 2880.9 Period of diversion.

The potatoes in connection with which payments are to be made must be diverted (a) after the date of approval of the diverter's application, (b) within the time period specified in the approved application, and (c) in any event on or before the termination date of the program.

§ 2880.10 Definition of diversion.

Diversion of potatoes for use as livestock feed as used herein means the initial processing of potatoes for feeding to livestock by cutting, chopping, slicing, gouging, crushing, or cooking to the degree that the general appearance of the lot as a whole has been damaged to such an extent that, in the opinion of the inspector, the potatoes are readily and obviously identifiable as having been initially processed and rendered unsuitable to enter into normal channels of trade and commerce as potatoes. However, when the diverter is the feeder, ensiling or freezing can be methods of diversion.

§ 2880.11 Diversion specifications.

Potatoes in connection with which payments will be made must meet the requirements of "Specification A", which is hereby defined as meaning "Field Run" or "Cellar Run" potatoes which are equal to or better than the quality requirements of the Maine Processing Grade, specified in circular 46, promulgated by the Maine Commissioner of Agriculture, dated November 1, 1971. For those potatoes which fail to meet the requirements of the Maine Processing Grade, payments will be based on the percentage of the potatoes meeting the grade requirements. Notwithstanding the above, after consultation with industry representatives, the Director may exclude from meeting the requirements of Specification A any additional grades and sizes which otherwise would meet the requirements of Specification A. Any such exclusion will be set forth in the application form for diversion authorization in the particular area to which it is applicable.

§ 2880.12 Inspection and certificate of diversion.

Prior to diversion, the potatoes shall be inspected by an inspector authorized or licensed by the Secretary of Agriculture to inspect and certify the class, quality, and condition of fresh Irish potaotes. The diverter shall be responsible for requesting and arranging for inspection so that the inspector can be present to determine the proportion of potatoes in each lot which meet the quality requirements of Specification A. The inspector shall also verify the quantity of potatoes being diverted and that such potatoes have been diverted as defined in § 2880.10. The diverter shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted. The cost of inspecting, verifying the quantity, certifying that diversion has been performed, and issuing certificates there, of shall be borne by the diverter. Certificates shall be prepared on Form ASCS-118, "Invoice and Certificates of Inspection and Diversion."

§ 2880.13 Methods of feeding.

Following the initial processing as specified in § 2880.10, the potatoes must be fed to livestock by one or more of the following methods:

(a) Feeding in barns or feed lots directly from troughs, bunkers, bins, or other suitable feeding receptacle;

(b) Spreading on pasture land where livestock are grazing, but the rate of spreading during any seven-day period shall not exceed 500 pounds of potatoes per head of cattle or horses or 250 pounds per head of sheep or swine; or

(c) Utilizing the potatoes for livestock feed after dehydration through a process of alternate freezing and thawing. In addition to other program requirements, the following special terms and conditions will be applicable to such method:

(1) The potatoes must be spread on pasture consisting of sod or other grassland and the land must be fenced. The potatoes may not be spread on land set aside under the Feed Grain Program, the Wheat Program, or under a Water Bank Program agreement. The land on which the potatoes are spread may not be plowed or otherwise cultivated until it is determined by USDA that adequate pasturing by livestock has taken place.

(2) The potatoes may be spread no deeper than 4 inches at any point.

(3) Diversion payments will be computed at the rate in effect at the time of initial processing but payment to diverters by USDA will not be made until it is determined by USDA that adequate pasturing by livestock has taken place.

§ 2880.14 Claim for payment.

In order to obtain payment the diverter must submit a properly executed "Invoice and Certificates of Inspection and Diversion", Form ASCS-118, and a certification of receipt by the ultimate feeder to the State ASCS Office which approved his application. All such claims shall be filed not later than one calendar month after the termination date specified in the applicable approved application.

§ 2880.15 Compliance with program provisions.

If USDA determines that any quantity of potatoes diverted under this program was not used exclusively for livestock feed purposes, whether such failure was caused directly by the diverter or by any other person or persons, the diverter shall not be entitled to diversion payments in connection with such potatoes, shall refund to USDA any payment made in connection with such potatoes, and shall be liable to USDA for any other damages incurred as a result of such failure to use the potatoes exclusively for livestock feed purposes. USDA may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that: (a) The diverter has failed to use or caused to be used any quantity of potatoes diverted under this program exclusively for livestock feed purposes, whether such failure was caused directly by the diverter or by any other person or persons, (b) the diverter has not acted in good faith in connection with any transaction under this program, or (c) the diverter has failed to discharge fully any obligation assumed by him under this program. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

§ 2880.16 Inspection of premises.

The diverter or livestock feeder shall permit authorized representatives of USDA at any reasonable time to have access to his premises to inspect and examine such potatoes as are being diverted or stored for diversion, and to inspect and examine the diverter's facilities for diverting potatoes in order to determine to what extent there is or has been compliance with the provisions of this program.

§ 2880.17 Records and accounts.

If the diverter sells or otherwise disposes of potatoes diverted pursuant to this program to any other person or persons for use as livestock feed or if the diverter acquires potatoes for diversion from producers, the diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such potatoes. The diverter shall permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts in order to determine to what extent there is or has been compliance with the provisions of this program. Such records and accounts shall be retained by the diverter for three years after date of last payment to him under the program or for two years after date of audit of records by USDA as provided herein, whichever is the later.

§ 2880.18 Set-off.

If the diverter is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the diverter hereunder. Setting off shall not deprive the diverter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 2880.19 Joint payment or assignment.

The diverter may name a joint payee on the claim for payment or may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, Public Law 811, 76th Congress, as amended (31 U.S.C. 203, 41 U.S.C. 15), the proceeds of any claim to a bank, trust company, Federal lending agency, or other recognized financing institution: *Provided*, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment with the authorized representative of USDA who approved the application, together with a true copy of the instrument of assignment, in accordance with the instructions on Form CSS-66 or ASCS-66 "Notice of Assignment", which form must be used in giving notice of assignment to USDA. The "Instrument of Assignment" may be executed on Form CSS-347 or the assignee may use his own form of assignment. The CSS forms may be obtained from the State ASCS Office or the Washington office shown in § 2880.1.

§ 2880.20 Officials not to benefit.

No member of or delegate to Congress or Resident Commissioner, shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend to such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a farmer.

§ 2880.21 Amendment and termination.

This subpart may be amended or terminated at any time but the amendment or termination shall not be effective earlier than the date of filing with the Office of the Federal Register. No amendment or termination shall be applicable to any potatoes diverted before the effective time of such amendment or termination.

An impact analysis has been prepared and is available from D. A. Thibeault.

NOTE: The reporting and recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated: November 20, 1978.

SYDNEY BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-33055 Filed 11-22-78; 8:45 am]

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Interested persons were given thirty

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[1505-01-M]

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[1505-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

Subchapter A—Board of Governors of the Federal Reserve System

[Reg. Z; FC-0157]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

Correction

In FR Doc. 78-31944 appearing at page 52695 in the issue for Tuesday, November 14, 1978, the effective date now given as "November 14, 1978" should have been given as "December 14, 1978".

[1505-01-M]

[Reg. Z., FC-0158]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

Correction

In FR Doc. 78-31945 appearing at page 52696 in the issue for Tuesday, November 14, 1978, the effective date now given as "November 14, 1978" should have read "December 14, 1978".

[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 5, Amendment 15]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

IRS Qualification of Limited Partnership SBIC's

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule adopts a proposed regulation, published on July 13, 1978 (43 FR 30067), to require a limited partnership SBIC to furnish a ruling from the Internal Revenue Service that it qualifies as a partnership for tax purposes, prior to the extension of any leverage by SBA. If, however, the delay while obtaining an IRS ruling would cause a hardship to the SBIC, SBA may extend leverage pending receipt of the ruling.

EFFECTIVE DATE: The amendment will be effective on November 24, 1978.

FOR FUTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6584.

SUPPLEMENTARY INFORMATION: Only two comments were received. One comment suggested that SBA not establish rigid standards. The other comment suggested amplification of the terms "hardship" and "interim" as used in the proposed rule. We believe that an SBIC would undergo a hardship if the IRS delay would, in effect, disable the SBIC. This would occur when the SBIC is not receiving a cash flow on its investments while its private capital is insufficient, by itself, to support a proper investment program. An interim period would last as long as the IRS delayed its ruling. We do not believe these administrative interpretations need be inserted in the regulation. Accordingly, we believe no changes to the regulation are required.

Accordingly, the proposed rule is adopted as published in proposed form.

Pursuant to the authority in Section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 687, Part 107 of Chapter I, Title 13 of the Code of Federal Regulations is amended by adding at the end of § 107.201(a)(1) a new sentence to read as follows:

§ 107.201 Funds to licensee.

(a) * * *

(1) * * * Prior to the extension of any Leverage, an Unincorporated Licensee must furnish SBA with a ruling by the Internal Revenue Service that it qualifies as a partnership for tax purposes, *Provided, however,* That where a delay in obtaining an IRS ruling would cause a hardship to the SBIC, SBA may, pending receipt of such a ruling, make leverage funds available to the SBIC under interim financial arrangements which, is SBA's judgment, are satisfactory to protect SBA's creditor or guarantor position from an adverse IRS determination.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 16, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-32980 Filed 11-22-78; 8:45 am]

[3510-24-M]

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Amendment of Labor Standards for Construction Projects

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: The Economic Development Adminstration is amending its regulations relating to Labor standards—construction of projects by deleting certain provisions containing an obsolete reference to a rescinded executive order and a provision relating to equal employment opportunity which is more appropriately codified in the nondiscrimination regulations. The change results from a joint EDA-HUD (Department of Housing and Urban Development) program to eliminate unnecessary differences between the two agencies' regulations. The intended effect of this amendment is to conform this regulation to the EDA-HUD agreement.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Dan Weiss, U.S. Department of Commerce, Room 7001, Washington, D.C. 20230, 202-377-4689.

SUPPLEMENTARY INFORMATION: On page 41408 of the September 18, 1978, FEDERAL REGISTER, EDA published a proposed amendment to 13 CFR 309.6. Section 309.6 lists labor standards which apply to EDA-assisted construction projects. The proposed amendment was to delete subsections (d) and (e).

Subsection (d) applied Executive Order 11588 on wage and price stabilization to contractors and subcontractors on EDA projects. This executive order has been rescinded; therefore, subsection (d) no longer served a useful purpose.

Subsection (e) notified contractors and subcontrators of their duty to comply with Executive Order 11246, which concerns equal employment opportunity. This notice also is contained, more appropriately, in EDA's nondiscrimination regulations, 13 CFR Part 311. Therefore, the deletion of subsection (e) did not affect the enforcement of these requirements.

Interested persons were given thirty days in which to submit comments on the proposed regulation. No comments have been received and the proposed amendment is hereby adopted without change, as set forth below.

Dated: November 16, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-33048 Filed 11-22-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket Number 77-CE-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area—Kaiser, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Kaiser, Mo., to provide additional controlled airspace for aircraft executing new instrument procedures to the Lee C. Fine Memorial Airport, Kaiser, Mo., and to the Linn Creek-Grand Glaize Memorial Airport, Osage Beach, Mo., which are based on the Sunshine, Mo., VOR.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, Telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: New VOR instrument approach procedures to the Lee C. Fine Memorial Airport, Kaiser, Mo., and to the Linn Creek-Grand Glaize Memorial Airport, Osage Beach, Mo., have been established on an existing navigational aid, the Sunshine, Mo., VOR. The establishment of new instrument approach procedures based on the navigational aid entails the alteration of the transition area at Kaiser, Mo., at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure additional adequate controlled airspace for aircraft executing these new instrument approach procedures.

DISCUSSION OF COMMENTS

On pages 9620 and 9621 of the FEDERAL REGISTER dated March 9, 1978, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Kaiser, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440) is amended, effective 0901 G.m.t., February 22, 1979, by altering the following transition area:

KAISER, MO.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Linn Creek-Grand Glaize Memorial Airport (latitude 38°06'38"N, longitude 92°40'50"W) within a 9-mile radius of the Lee C. Fine Memorial Airport (latitude 38°05'44"N, longitude 92°32'56"W) within 3 miles each side of the 213° radial of the Sunshine VOR extending from the 9-mile radius area to 8 miles southwest of the VOR, and within 4.5 miles each side of the 133° radial of the Sunshine VOR extending from the 7-mile radius area to 9 miles southeast of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE: The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri, on November 13, 1978.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc. 78-32829 Filed 11-22-78; 8:45 am]

[1505-01-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 78-448]

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

Granting Allowance for Losses to Imported Merchandise Caused by Natural Force or Leakage

Correction

In FR Doc. 78-32392 in the issue of Friday, November 17, 1978, on page 53713, the signature and title at the end of the document should have read: LEONARD LEHMAN, *Acting Commissioner of Customs.*

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76N-0152]

PART 155—CANNED VEGETABLES

Canned Tomatoes; Extension of Compliance Date of Final Regulation Amending Standards of Identity and Quality

AGENCY: Food and Drug Administration.

ACTION: Extension of compliance date of final rule.

SUMMARY: This document extends the mandatory compliance date of the final regulation amending the standards of indentity and quality for canned tomatoes. The extension will allow processors of canned tomatoes sufficient time to make the labeling changes required by the final regulation.

DATES: This extension is effective on November 24, 1978. Compliance with the final regulation may have begun August 16, 1976, and all products initially introduced into interstate commerce on or after January 1, 1980, shall fully comply.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Adminis-

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tration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a final regulation in the FEDERAL REGISTER of June 16, 1976 (41 FR 24342) to amend the standards of identity and quality for canned tomatoes (21 CFR 155.190 (a) and (b), formerly 21 CFR 53.40 and 53.41, respectively, before recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). In the FEDERAL REGISTER of July 14, 1978 (43 FR 30272), the agency confirmed July 1, 1979, as the mandatory effective date for compliance with the June 16, 1976, final regulation.

The Canners League of California has requested an extension of the July 1, 1979, mandatory compliance date to January 1, 1980. It asserted that the extra time is needed because the final disposition of the standards was not known until the July 14, 1978, publication of the final regulation and confirmation of effective date.

The Commissioner of Food and Drugs agrees that the compliance date of July 1, 1979, may not allow processors sufficient time to make the labeling changes required by the final regulation. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner extends the mandatory compliance date of the June 16, 1976, final regulation (as amended in the FEDERAL REGISTER of July 14, 1978 (43 FR 30272)) amending the standards of identity and quality for canned tomatoes to January 1, 1980. This extension is granted with the understanding that all new labels ordered after November 24, 1978, will comply with the final regulation and that no further extensions will be granted.

Effective date. This extension is effective November 24, 1978.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32735 Filed 11-22-78; 8:45 am]

[4110-03-M]

[Docket No. 76F-0463]

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Specific Usage Additives: Chemicals Used in Washing or To Assist in the Lye Peeling of Fruits and Vegetables

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document modifies the nomenclature of a substance used in flume water for washing sugar beets. The change is based on an objection to a published regulation.

EFFECTIVE DATE: Effective November 24, 1978; objections by December 26, 1978.

ADDRESS: Written objections to Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In response to a petition (FAP 5A3079) filed by Bismark Enterprise, 10003 Pecos Street, Denver, Colo. 80221, a regulation was published in the FEDERAL REGISTER of June 10, 1977 (42 FR 29856) amending § 173.315 (21 CFR 173.315) of the food additive regulations to provide for the use of certain substances in flume water used to wash sugar beets.

On July 7, 1977, Union Carbide Corp., Tarrytown, N.Y. 10591, filed an objection to the terminology used to identify one of the substances regulated by the June 10, 1977 regulation—namely, a surfactant, "*alpha*-alkyl(C_{10}-C_{18})-*omega*-hydroxypoly (oxyethylene); average number of moles of ethylene oxide is 9." Union Carbide Corp. objected, stating that the term used is broad and permits the alkyl alcohol used as the base for the ethoxylate to be either primary or secondary, whereas Union Carbide Corp. believes the petitioner used a secondary alcohol ethoxylate exclusively in its work. Union Carbide Corp. also believes toxicology information on secondary alcohol ethoxylates is more extensive than information on primary alcohol ethoxylates and is of the opinion that the surfactant should be identified as "*α*-alkyl-*omega*-hydroxypoly (oxyethylene) produced by condensation of 1 mole of C_{11}-C_{15} straight chain randomly substituted secondary alcohols with an average of 9 moles of ethylene oxide."

ICI Americas, Inc., Wilmington, Del. 19897, by letter dated November 22, 1977, questioned the need for the more specific identification of the surfactant put forth by Union Carbide and any implication that primary alcohol ethoxylates are not safe whereas the secondary ethoxylates are safe.

The petitioner, Bismark Enterprise, is not the manufacturer of the product that was regulated in the June 10, 1977 regulation. The petitioner markets a product formulated by another company and that product is made from substances supplied by several other companies. The name of the surfactant used in the regulation is the name given in the petition by the basic manufacturer of the surfactant. But further identification of the surfactant by the basic manufacturer indicates that the nomenclature put forth by Union Carbide is more descriptive of the substance used by the petitioner.

The Commissioner of Food and Drugs concludes that the surfactant should be identified in the regulation by a more specific chemical name than that used in the June 10, 1977 regulation and that additional data would be needed to substantiate the safe use of primary alcohol ethoxylates as direct food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), the list of substances in § 173.315(a)(3) is amended by revising the item "*alpha*-alkyl-(C_{10}-C_{18})-*omega*-hydroxypoly (oxyethylene)" to read as follows:

§ 173.315 Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

(a) • • •
(3) • • •

Substance	Limitations
α-Alkyl-*omega*-hydroxypoly-(oxyethylene) produced by condensation of 1 mole of C_{11}-C_{15} straight chain randomly substituted secondary alcohols with an average of 9 moles of ethylene oxide.	Not to exceed 3 ppm.

• • • • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 26, 1978 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be come effective November 26, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)),)

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32981 Filed 11-22-78; 8:45 am]

[4110-03-M]

[Docket No. 77F-0406]

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Allyl Methacrylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the use of allyl methacrylate as a minor monomer in acrylic and modified acrylic plastics, semirigid and rigid, intended for repeated use in contact with food. The Rohm & Haas Co. petitioned for the amendment.

DATES: Effective November 24, 1978; objections by December 26, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of January 6, 1978 (43 FR 1132) announced that a food additive petition (FAP 6B3172) had been filed by Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that the food additive regulations be amended to provide for use of allyl methacrylate in acrylic and modified acrylic plastics, semirigid and rigid, intended for repeated food-contact use.

The Commissioner of Food and Drugs has evaluated data in the petition and other relevant material and concludes that § 177.1010 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 177 is amended in § 177.1010(a)(3)(ii) by alphabetically inserting a new item in the list of substances to read as follows:

§ 177.1010 Acrylic and modified acrylic plastics, semirigid and rigid.

• • • • • •

(a) • • •
(3) • • •
(ii) • • •

Allyl methacrylate [Chemical Abstracts Service Registry No. 96-05-9]

• • • • • •

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 24, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)),)

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32738 Filed 11-22-78; 8:45 am]

[4110-03-M]

[Docket No. 77F-0305]

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Lubricants With Incidental Food Contact

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the use of certain poly-oxyalkylene glycols and glycol ethers as components of lubricants with incidental food contact. Union Carbide Corp. filed a petition requesting such use.

DATES: Effective November 24, 1978; objections by December 26, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs announced in the FEDERAL REGISTER of October 18, 1977 (42 FR 55644) that a food additive petition (FAP 6B3225) had been filed by Union Carbide Corp., Tarrytown, NY 10591, proposing that § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) be amended to provide for the use of *α*-butyl-*omega*-hydroxypoly(oxypropylene), *α*-butyl-*omega* - hydroxypoly (oxyethylene)

poly(oxypropylene), and α-hydro-*omega*-hydroxypoly (oxyethylene) poly(oxypropylene) as components of lubricants with incidental food contact.

The Commissioner has evaluated data in the petition and other relevant material and concludes that § 178.3570 should be amended as set forth in this document.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 178 is amended in § 178.3570(a)(3) by alphabetically inserting three new items in the list of substances to read as follows:

§ 178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	*Limitations*
* * *	* * *
α-Butyl-*omega*-hydroxypoly (oxyethylene) poly(oxypropylene) produced by random condensation of a 1:1 mixture by weight of ethylene oxide and propylene oxide with butanol: minimum molecular weight 1,500; Chemical Abstracts Service Registry No. 9038-95-3.	Addition to food not to exceed 10 parts per million.
α-Butyl-*omega*-hydroxypoly (oxypropylene): minimum molecular weight 1,500; Chemical Abstracts Service Registry No. 9003-13-8.	Addition to food not to exceed 10 parts per million.
α-Hydro-*omega*-hydroxypoly (oxyethylene) poly(oxypropylene) produced by random condensation of mixtures of ethylene oxide and propylene oxide containing 25 to 75 percent by weight of ethylene oxide: minimum molecular weight 1,500; Chemical Abstracts Service Registry No. 9003-11-6.	Addition to food not to exceed 10 parts per million.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 24, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32737 Filed 11-22-78; 8:45 a.m.]

[4710-06-M]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER E—VISAS

[Departmental Regulation 108.761]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Nonimmigrant Documentary Waivers

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: In January 1978 the Immigration and Naturalization Service commenced preclearance operations (inspection of passengers destined to the United States prior to embarkation upon a vessel or aircraft) at Freeport, The Bahamas. Officers of the Service at Freeport perform a function identical to that which has been performed for many years at Nassau, The Bahamas. Accordingly, the Departments of State and Justice have agreed that the waiver of the nonimmigrant visa and passport requirements now extended to Bahamian nationals and British subjects having residence in the Bahamas, who are precleared at Nassau, should also be extended to such aliens who are precleared at Freeport.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Cornelius D. Scully, Chief, Regulations and Legislation Division, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, 202-632-1900.

SUPPLEMENTARY INFORMATION: In view of the procedures already established in Nassau, the Departments of State and Justice find that compliance with the provisions of the Administrative Procedure Act (5 U.S.C. 553) as to notice of proposed rulemaking and delayed effective date is unnecessary. The new regulation is consistent with established Service procedures and will further facilitate travel to the United States for those aliens who qualify for preclearance in Freeport, The Bahamas. In light of the foregoing, 22 CFR 41.6(a) is amended at set forth below.

Paragraph (a) of § 41.6 is amended by revising the third sentence as follows:

§ 41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

* * * * *

(a) *Canadian nationals, and aliens having common nationality with nationals of Canada or with British subjects in Bermuda, Bahamian nationals or British subjects resident in The Bahamas, Cayman Islands, and Turks and Caicos Islands.* * * *

A Bahamian national or a British subject who has his residence in The Bahamas shall require a passport and a visa for admission to the United States except that a visa shall not be required of such an alien who, prior to or at the time of embarkation for the United States on a vessel or aircraft, satisfies the examining United States Immigration officer at either Freeport or Nassau, The Bahamas that he is clearly and beyond a doubt entitled to admission in all other respects. * * *

* * * * *

(Sec. 101, 84 Stat. 116; 8 U.S.C. 1101)

Dated: September 28, 1978.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

Dated: October 23, 1978.

LEONEL J. CASTILLO,
Commissioner, Immigration and Naturalization Service.

[FR Doc. 78-32976 Filed 11-22-78; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 808-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Procedures for Reorganization of Organizational Units Within the Department

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order revises the Department of Justice regulations relating to the establishment, transfer, reorganization or termination of major functions within Offices, Boards, Divisions, or Bureaus. The revision delegates the Attorney General's authority to approve organizational changes which do not affect the overall structure of the Department to the Associate Attorney General and the Deputy Attorney General, if the changes affect functions within their areas of responsibility.

EFFECTIVE DATE: November 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Kevin D. Rooney, Assistant Attorney General for Administration, Department of Justice, Washington, D.C. 20530, 202-633-3101.

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, Part O of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.190 of Subpart BB is revised to read as follows:

§ 0.190 Changes within organizational units.

The head of each Office, Board, Division or Bureau may from time to time propose the establishment, transfer, reorganization or termination of major functions within his organizational unit as he may deem necessary or appropriate. In each instance, the head of the Office, Board, Division or Bureau shall submit the proposed change in writing to the Assistant Attorney General for Administration. The Assistant Attorney General for Administration shall evaluate the proposal and submit the proposed change along with his recommendation to the Deputy Attorney General (if the proposed change affects functions within the Deputy Attorney General's area of responsibility) or to the Associate Attorney General (if the proposed change affects functions within the Associate Attorney General's area of responsibility) or both, for approval, which approval shall be final in the case of changes which do not affect the overall structure of the Department. Proposed changes which are determined by the Deputy Attorney General or the Associate Attorney General to affect the overall structure of the Department's organization shall be forwarded by the Deputy Attorney General or the Associate Attorney General to the Attorney General for final approval prior to implementation, and shall be effectuated by issuance of an Attorney General's order, in accordance with Subpart AA of this part.

2. Section 0.191 and its captions are revised to read as follows:

§ 0.191 Changes which affect the overall structure of the Department.

Changes to the overall structure of the Department include: The establishment, merger or abolishment of Offices, Boards, Divisions, and Bureaus; changes in reporting lines of Offices, Boards, Divisions and Bureaus to the Department; and transfers of major functions between or among Offices, Boards, Divisions and Bureaus.

Dated: November 14, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-33018 Filed 11-22-78; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-139]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Old Tampa Bay, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the regulations for the Courtney Campbell Causeway bridge, State Road 60, across Old Tampa Bay, mile 8.2, betweeen Tampa and Clearwater, because the drawbridge has been replaced by a high-level fixed bridge. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

DRAFTING INFORMATION: The principal persons involved in drafting this revocation of regulations are Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

§ 117.464 [Revoked]

In consideration of the above facts, part 117 of title 33 of the Code of Federal Regulations is amended by revoking § 117.464.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

Dated: November 16, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-33048 Filed 11-22-78; 8:45 am]

[4110-83-M]]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS, AND STUDENT LOANS

Grants for Residency Training in the General Practice of Dentistry

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for grants to schools of dentistry and to accredited postgraduate dental training institutions for projects to plan, develop, and operate approved residency training programs in general dentistry and to assist participating residents who plan to practice in general dentistry.

Subpart L—Grants for Residency Training in the General Practice of Dentistry

"Budget period" means an interval

(b) The application must be signed

V 4 3 1 2 2 7 N 0 2 4 7 8 V

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard Weaver, Education Development Branch, Division of Dentistry, Bureau of Health Manpower, Room 3-30, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, 301-436-6510.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 28, 1978, (43 FR 18217) the Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposed to amend Subpart L, "Grants for Residency Training in the General Practice of Dentistry", of 42 CFR Part 57. These regulations were proposed to implement section 786(b) of the Public Health Service Act, as added by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Interested persons were invited to participate in the rulemaking process by submitting comments on or before May 30, 1978. Seven comments on the proposed regulations were received during the comment period. The comments, the Department's response to the comments, and the revisions made in the regulations are indicated below. For clarity, the comments and responses have been arranged according to the section of the regulations to which they pertain.

Section 57.1102—Definitions. Several comments addressed the definition of "approved residency training program" or "program", pointing out that the definition required a program to have received full approval by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs, even if the proposed project is to plan or develop a program.

The Department recognizes that an accreditation classification of "approval" may be impossible to obtain for a program which is to be planned or developed. Therefore, the definition has been revised to include the accreditation classifications of "accreditation eligible," "provisional approval," and "conditional approval," to apply to projects to plan or develop residency training programs.

Another comment suggested that paragraph (4) in the definition of "practice of general dentistry" be changed from "Coordinates dental treatment provided by various dental practitioners" to "Coordinates dental treatment provided by dental specialists and by dental auxiliary personnel, including dental hygienists, dental assistants, and expanded function dental auxiliaries."

The Department agrees that the use of dental auxiliaries should be emphasized, and has changed the definition accordingly.

Section 57.1104—Application. One comment addressed the requirement that an applicant who requests funds for stipend support of residents must provide evidence showing that income available from other sources, including income from the residents' services, would be insufficient to pay their salaries. This comment pointed out that the application requirement should not include income from residents' services because it could not be readily identified through budgeting and accounting procedures.

The Department cannot accept this comment. It is necessary to include income from residents' services in the application to enable the Department to know whether available income will suffice to pay residents' salaries, and the Department believes that this income can be identified through the use of appropriate budget and accounting procedures.

Section 57.1105—Project requirements. One comment recommended that proposed § 57.1105(d), requiring each project to have at least two residents enrolled in the training program, be deleted, on the basis that it may be unrealistic for smaller programs with budget restraints to sustain more than one resident.

It is the Department's position that a project with only one resident is educationally weak due to the lack of opportunity for collegial learning. In addition, a project with only one resident is not cost-effective in terms of the required development and presentation of instructional activities. For these reasons, this requirement (§ 57.1105(b) in the final regulations) has been retained.

Another comment expressed strong support for proposed §§ 57.1105(e) and (f) which requires, respectively, the coordination of medical and dental care of patients if the training site provides medical care, and the coordination of training experiences for residents in primary care medical residency programs and general practice residency programs in dentistry, if the grantee conducts a primary care medical residency program. This comment suggested that the Department go further, and *require* that grantees offer joint training experience with primary care medical residents.

The Department believes that the language of proposed § 57.1105(f) (§ 57.1105(d) in the final regulation) would encourage the development of joint experiences while not excluding from the program those institutions which could not provide this experience due to lack of a primary care medical residency program. Therefore, this provision has not been modified.

Another comment suggested an additional project requirement providing that grantees must provide sufficient dental auxiliary personnel (e.g. dental hygienists, dental assistants, and expanded function dental auxiliaries) to assure that general practice residents receive adequate instruction in the utilization of dental auxiliaries.

Although the Department encourages the use of dental auxiliary personnel in programs and the instruction in the use of this personnel, the Department does not believe that grantees should be *required* to provide instruction in the use of auxiliary personnel for the following reasons. The Department recognizes that many dentists entering general practice residency programs already have had instruction in the use of auxiliary personnel through programs in the undergraduate curriculum, so that this instruction in the residency program would be a duplication of effort. Also, many institutions lack the physical or financial resources to offer adequate instruction in this area. Thus, the Department has not added the suggested provision.

Section 57.1106—Evaluation. One comment suggested that the evaluation criteria include specific criteria to evaluate the effectiveness of programs. The recommended criteria included the ratio of full-and part-time faculty to residents, the expected ratio of residents-to-patients, and the expected percentage of residents who intend to remain in the general practice of dentistry.

The Department is reluctant to unilaterally impose ratios such as those suggested and believes that evaluation in terms of these ratios would be arbitrary. In addition, since all residents receiving stipend support must sign a statement of intent to work in the general practice of dentistry, and there is no other basis for determining the expected percentage of residents who intend to work in the field, the Department believes that there is little utility in basing evaluation on this percentage. For these reasons, the Department is not including this recommendation in the final regulations.

In addition, the Department has made many minor editorial and technical changes in the proposed regulations for clarity.

Accordingly, a new subpart L is added to 42 CFR Part 57 and is adopted as set forth below.

Dated: October 16, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 16, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart L—Grants for Residency Training in the General Practice of Dentistry

57.1101 To what projects do these regulations apply?
57.1102 Definitions.
57.1103 What entities are eligible to apply for a grant?
57.1104 How must an entity apply for a grant?
57.1105 What requirements must a project meet?
57.1106 What are the criteria for deciding which applications are to be funded?
57.1107 How will grant awards be made?
57.1108 How will grant payments be made?
57.1109 Purposes for which grant funds may be spent.
57.1110 What nondiscrimination requirements apply to grantees?
57.1111 How must grantees account for grant funds received?
57.1112 Applicability of 45 CFR Part 74.
57.1113 What recordkeeping, audit, and inspection requirements apply to grantees?
57.1114 What additional conditions apply to grantees?

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690 as amended, 63 Stat. 35 (42 U.S.C. 216); Sec. 786(b) of the Public Health Service Act, 90 Stat. 2315 (42 U.S.C. 235g-6(b)).

§ 57.1101 To what projects do these regulations apply?

These regulations apply to the award of grants under section 786(b) of the Public Health Service Act to schools of dentistry and to accredited postgraduate dental training institutions to meet the cost of projects to: (a) Plan, develop and operate an approved residency training program in the general practice of dentistry; and (b) provide financial assistance (in the form of traineeships and fellowships) to residents participating in a program who are in need of financial assistance and who plan to practice general dentistry.

§ 57.1102 Definitions.

As used in this subpart:

"Accredited postgraduate dental training institution" means a public or private nonprofit institution which operates a postgraduate dental training program that has received an accreditation classification of "accreditation eligible," "provisional approval," "conditional approval," or "approval," by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs.

"Act" means the Public Health Service Act, as amended.

"Approved residency training program" or "program" means a general practice residency program in dentistry which has received an accreditation classification of "accreditation eligible," "provisional approval," "conditional approval," or "approval" by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs.

"Budget period" means an interval of time into which the project period is divided for budgetary purposes, as specified in the grant award document.

"Nonprofit school" means a school owned or operated by one or more corporations or associations no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual.

"Practice of general dentistry" means a practice of dentistry in which the dentist:

(1) Serves as a patient's first contact with the dental care system and provides the means of timely entry into that system;

(2) Evaluates the patient's general medical status and relates this to anticipated dental treatment;

(3) Assumes continuing responsibility for the patient's dental care and provides a comprehensive range of services which will minimize the need for patient referral;

(4) Coordinates dental treatment provided by dental specialists and by dental auxiliary personnel, including dental hygienists, dental assistants, and expanded function dental auxiliaries, as defined in 42 CFR Part 57, Subpart HH.

"Project period" means the total time for which support for a project has been approved, including any extensions thereof.

"School of dentistry" means a public or private nonprofit school which provides training leading to a degree of doctor of dentistry or an equivalent degree and which is accredited as provided in section 772(b) of the Act.

"Secretary" means the Secretary of Health, Education, and Welfare, and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means in addition to the several States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1103 What entities are eligible to apply for a grant?

Any school of dentistry or accredited postgraduate dental training institution located in a State may apply for a grant.

§ 57.1104 How must an entity apply for a grant?

(a) To apply for a grant, each entity must submit an application in the form and at the time that the Secretary requires.[1]

(b) The application must be signed by an individual authorized to act for the applicant and to assume, on behalf of the applicant, the obligations imposed by the terms and conditions of any award including the regulations of this subpart.

(c) In addition to other pertinent information that the Secretary may require, an application for a grant under this subpart must contain: (1) a full and adequate description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart, in particular the requirements of § 57.1105, and (2) a budget justification for the funds requested. If the applicant requests funds for stipend support of residents the applicant must provide evidence showing that income available from other sources, including income derived from services of the residents in the program, will be insufficient to pay their salaries and that grant funds will not be used to supplant other available funds.

§ 57.1105 What requirements must a project meet?

A project supported under this subpart must meet the following requirements:

(a) The project staff must plan, develop, and/or operate an approved residency program in the general practice of dentistry.

(b) Each project must have at least two residents enrolled in the training program.

(c) If the training site provides medical care, then the medical and dental care of patients must be coordinated.

(d) If a primary care medical residency program is conducted by the applicant, then joint training experiences must be provided. For purposes of this paragraph, primary care means internal medicine, family medicine, or pediatrics.

(e) Each resident who receives stipend support must sign a statement of intent to work in the practice of general dentistry.

(f) The training program, the performance of each resident, and the quality of patient care must be evaluated.

§ 57.1106 What are the criteria for deciding which applications are to be funded?

The Secretary, after consultation with the National Advisory Council on Health Professions Education established by section 702 of the Act, will approve or disapprove applications filed in accordance with § 57.1104, taking into consideration, among other pertinent factors:

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Hyattsville, Md. 20782.

§ 57.1113 What recordkeeping, audit, and

flective Devices, and Associated Equip-

ing of Arapaho National Wildlife

(a) The potential effectiveness of the proposed project in carrying out the training purposes of section 786(b) of the Act;

(b) The degree to which the proposed project adequately provides for meeting the project requirements set forth in § 57.1105;

(c) The administrative and managerial capability of the applicant to carry out the proposed project in a cost-effective manner;

(d) The qualifications of proposed staff and faculty; and

(e) The potential of the project to continue on a self-sustaining basis after the period of grant support.

§ 57.1107 How will grant awards be made?

(a) *General.* (1) Within the limit of funds available, the Secretary will award grants to those applicants whose approved projects will, in his or her judgment, best promote the purposes of section 786(b) of the Act, as determined in accordance with § 57.1106.

(2) All grant awards will be in writing and will specify the amount of funds granted and the period for which these funds will be available for obligation by the grantee. The initial period of support for any grant period for any grant under this subpart may not exceed three years.

(3) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make additional supplemental, continuation or other awards with respect to any approved project or any portion of an approved project. For continuation support, grantees must make separate application at the time and in the form which the Secretary may prescribe.

(4) The Secretary may make a grant award for an additional budget period for any previously approved project on the basis of an application and those progress and accounting records which may be required. If the Secretary finds that the project's activities during the current budget period justify continued support for an additional budget period, and the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section.

(b) *Determination of grant amount.* The Secretary will determine the amount of any award under this subpart on the basis of his or her estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any, which the Secretary will calculate either (1) on the basis of his or her estimate of the actual indirect costs of the project, or (2) on the basis of a percentage of all, or a portion of the estimated direct costs of the project when there are reasonable assurances that the use of the percentage will not exceed the approximate actual indirect costs. This award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended by the grantee for provisional items. In addition, determining the amount of stipend support to be made available, the amount of any stipend must be limited to that portion of the annual amount normally paid to other residents by the applicant which the Secretary determines, on the basis of the documentation required in the application, cannot reasonably be paid from other available funds, including the incomes derived from the residents' services.

§ 57.1108 How will grant payments be made?

The Secretary will, from time to time, make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.1109 Purposes for which grant funds may be spent.

(a) Any funds granted under this subpart, as well as other funds required as a condition of the grant to be used in the performance of the approved project may be expended solely for carrying out the approved project in accordance with section 786(b) of the Act, the regulations of this subpart, and the terms and conditions of the award.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

(c) Grants funds may not be used for sectarian instruction or for any other religious purpose.

§ 57.1110 What nondiscrimination requirements apply to grantees?

(a) Recipients of grants under this subpart are advised that in addition to the terms and conditions of these regulations the following laws and regulations are applicable to the administration of these grant awards:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in Federally assisted programs on the ground of race, color or national origin);

(2) Title IX of the Educational Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in Federally assisted education programs);

(3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in Federally assisted programs on the basis of handicap);

(4) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in admission of individuals to training programs).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.1111 How must grantees account for grant funds received?

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available, evidence satisfactory to the Secretary of funds spent for costs meeting the requirements of this subpart.

(b) *Grant closeout.*

(1) *Date of final accounting.* A grantee must submit, with respect to each grant under this subpart, a full account, in accordance with this subpart, as of the date of the termination of grant support.

The secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraphs (a) and (b) of this section; and (ii) any other amounts due in accordance with 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by set off or other lawful action.

§ 57.1112 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart.

§ 57.1113 What recordkeeping, audit, and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning recordkeeping, audit, and inspection.

§ 57.1114 What additional conditions apply to grantees?

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 78-33013 Filed 11-22-78; 8:45 am]

[1505-01-M]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 64—MUSEUM SERVICES PROGRAM

Final Rules

Correction

In FR Doc. 78-27284, appearing on page 45166 in the issue of Friday, September 29, 1978, on page 45170, beginning in the 2nd column, §§ 64.15 through 64.20 were inadvertently duplicated.

[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-5; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Correction.

SUMMARY: This notice corrects two typographical errors in the notice of the final rule published on July 27, 1978, amending Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to establish an alternate performance standard for most motor vehicle headlamps (43 FR 32416). The errors were pointed out by General Motors Corp. One error is an incorrect numerical reference to paragraph S4.2.2, and occurs in the sentence of the notice (paragraph 7) which introduces the addition of that paragraph. The sentence "A new paragraph S4.1.2 is added to read" * * * should have stated "A new paragraph S4.2.2 is added to read * * *". The other error is an incorrect denotation of a type of headlamp unit specified in Table III of the amended standard itself. In Table III under "Headlamps", line 2 of the first paragraph states "or 2 white 5¾-inch Type 2 headlamps", but should have stated "or 2 white 5¾-inch Type 1 headlamps" * * *."

FOR FURTHER INFORMATION CONTACT:

Bill Eason, Office of Rulemaking, National Highway Safety Traffic Administration, Washington, D.C., 202-426-2720.

Accordingly, Title 49, Code of Federal Regulations, § 571.108 is amended to read:

TABLE III—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

Headlamps	or 2 white 5¾-inch Type 1 headlamps

The lawyer and program official principally responsible for this rule are Z. Taylor Vinson and Bill Eason, respectively.

(Secs. 103, 112, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407); delegation of authority at 49 CFR 1.50.)

Issued on November 14, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-32668 Filed 11-23-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Arapaho National Wildlife Refuge, Colo., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Arapaho National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through May 31 and August 1 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Eugene C. Patten, Refuge Manager, Arapaho National Wildlife Refuge, P.O. Box 457, Walden, Colo. 80480, telephone 303-723-4717.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Arapaho National Wildlife Refuge, Colo. only on the areas designated by signs as being open to fishing. These areas are delineated on maps available at the refuge headquarters and from the office of Area Manager, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

EUGENE C. PATTEN,
Refuge Manager.

NOVEMBER 15, 1978.

[FR Doc. 78-33000 Filed 11-22-78; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

Opening of Pathfinder National Wildlife Refuge, Wyo., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Pathfinder National Wildlife Refuge is compatible with the objectives for which the area was estab-

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lished, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Eugene C. Patten, Refuge Manager, Arapaho National Wildlife Refuge, P.O. Box 457, Walden, Colo. 80480, telephone 303-723-4717.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on all areas of the Pathfinder National Wildlife Refuge, Wyo. These areas comprising 16,807 acres are delineated on maps available at the refuge headquarters and from the office of Area Manager, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat, 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

EUGENE C. PATTEN,
Refuge Manager.

NOVEMBER 15, 1978.

[FR Doc. 78-33001 Filed 11-22-78; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

Opening of Ouray National Wildlife Refuge, Utah, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Ouray National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1979, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone, 801-789-0351.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

Sport fishing on the Ouray National Wildlife Refuge, Utah, is permitted in the Green River only. The Green River comprises 360 acres within the refuge. Information may be obtained from the refuge office and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat, 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

HERBERT G. TROESTER,
Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.

NOVEMBER 17, 1978.

[FR Doc. 78-32998 Filed 11-22-78; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

Opening of Browns Park National Wildlife Refuge, Colo., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Browns Park National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through February 28, 1979, inclusive, and June 16 through December 31, 1979, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Browns Park National Wildlife Refuge, Greystone Route, Maybell, Colo., 81640, telephone, 303-365-3695.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

Sport fishing is permitted on the Browns Park National Wildlife Refuge, Colo., only on the areas designated by signs as being open to fishing. These open areas, Beaver Creek and the Green River, comprise 1,000 acres. Information may be obtained from the refuge office and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

JAMES A. CREASY,
Refuge Manager, Browns Park National Wildlife Refuge, Maybell, Colo.

NOVEMBER 17, 1978.

[FR Doc. 78-32999 Filed 11-22-78; 8:45 am]

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 174; Lemon Reg. 173, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period November 26-December 2, 1978, and increases the quantity of such lemons that may be so shipped during the period November 19-25. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective November 26, 1978, and the amendment is effective for the period November 19-25, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on November 20, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons has improved over the last several weeks.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.474 Lemon Regulation 174.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period November 26, 1978, through December 2, 1978, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

§ 910.473 [Amended]

2. Paragraph (a) of § 910.473 Lemon Regulation 173 (43 FR 53705) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period November 19, 1978, through November 25, 1978, is established at 210,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: November 22, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-33241 Filed 11-22-78; 12:13 pm]

Emanuel County. The entire county.

Screven County. The entire county.

Jackson County. The entire county.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[7 CFR Part 301]

DOMESTIC QUARANTINE NOTICES

Imported Fire Ant; Miscellaneous Amendments to Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal would amend the supplemental regulations which designate generally infested regulated areas and suppressive regulated areas subject to the Imported Fire Ant Quarantine. It would add areas in Georgia and Mississippi to the list of generally infested regulated areas. These additions appear to be necessary in order to prevent the spread of the imported fire ant.

DATE: Comments must be received on or before January 23, 1979.

ADDRESS: Submit written data, views, or arguments to: E. E. Crooks, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

E. E. Crooks, (301) 436-8249.

SUPPLEMENTARY INFORMATION: All written submissions made pursuant to this notice will be made available for public inspection in Room 633, Federal Building, Hyattsville, MD 20782, during regular hours of business, unless the person makes the submission to the Regulatory Support Staff, Plant Protection and Quarantine Programs, and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in the support of the request, the material will be held confidential; otherwise, notice will be given of the denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

The imported fire ant (*Solenopsis* spp.) is an insect that interferes with farming operations, can cause damage to certain crops, and is a pest of livestock and pets, as well as of people, in rural and urban areas. Areas would be designated as generally infested regulated areas or suppressive regulated areas in the nine States quarantined for imported fire ant. Those designations relate to specified restrictions on the movement of certain articles in order to prevent the spread of the imported fire ant. Regulated areas where eradication of infestation is undertaken as an objective are designated as suppressive areas.

Surveys conducted by the United States Department of Agriculture and State agencies have established that the imported fire ant has spread, or is likely to spread, to certain areas beyond the outer perimeter of current designated generally infested areas. Therefore, in order to prevent the spread of imported fire ant, generally infested areas would be added to or extended in the following counties: Burke, Candler, Columbia, Emanual, Glascock, Haralson, Jefferson, Jenkins, McDuffie, Morgan, Oconee, Paulding, Richmond, Rockdale, Warren, and Walton in Georgia; Leflore, Prentiss, and Yalobusha in Mississippi.

Accordingly, the list of regulated areas in the States of Georgia and Mississippi specifically designated as generally infested areas and suppressive areas by § 301.81-2a of the Imported Fire Ant Quarantine regulations (7 CFR 301.81-2a) would be amended to read as set forth below:

§ 301.81-2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as imported fire ant regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

* * * * *

GEORGIA

(1) *Generally infested areas.*

Appling County. The entire county.
Atkinson County. The entire county.
Bacon County. The entire county.
Baker County. The entire county.
Baldwin County. The entire county.
Barrow County. That portion of the county in Georgia Militia District 316 south of U.S. Highway 29, excluding the corporate city limits of Auburn and Carl, Georgia.
Ben Hill County. The entire county.
Berrien County. The entire county.
Bibb County. The entire county.
Bleckley County. The entire county.
Brantley County. The entire county.
Brooks County. The entire county.
Bryan County. The entire county.
Bulloch County. The entire county.
Burke County. The entire county.
Butts County. The entire county.
Calhoun County. The entire county.
Camden County. The entire county.
Candler County. The entire county.
Carroll County. The entire county.
Charlton County. The entire county.
Chatham County. The entire county.
Chattahoochee County. The entire county.
Clarke County. That portion of the county in Georgia Militia District 1467 outside the corporate city limits of Athens, Georgia.
Clay County. The entire county.
Clayton County. The entire county.
Clinch County. The entire county.
Cobb County. That portion of the county lying within Georgia Militia Districts 1319, 1897, 1891, 895, 1395, 1900, 992, 1292, 1679, 897, 1568, and that portion of Georgia Militia District 898 lying within the corporate city limits of Marietta, Georgia.
Coffee County. The entire county.
Colquitt County. The entire county.
Columbia County. The entire county.
Cook County. The entire county.
Coweta County. The entire county.
Crawford County. The entire county.
Crisp County. The entire county.
Decatur County. The entire county.
De Kalb County. The entire county.
Dodge County. The entire county.
Dooly County. The entire county.
Dougherty County. The entire county.
Douglas County.
Early County. The entire county.
Echols County. The entire county.
Effingham County. The entire county.

Emanuel County. The entire county.
Evans County. The entire county.
Fayette County. The entire county.
Forsyth County. That portion of the county lying within Georgia Militia Districts 879, 1276, and 795.
Fulton County. The entire county.
Glascock County. The entire county.
Glynn County. The entire county.
Grady County. The entire county.
Greene County. That portion of the county lying within Georgia Militia Districts 142, 143, 145, 160, 161, 162, and 163.
Gwinnett County. The entire county.
Hancock County. The entire county.
Haralson County. The entire county.
Harris County. The entire county.
Heard County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Irwin County. The entire county.
Jasper County. The entire county.
Jeff Davis County. The entire county.
Jefferson County. The entire county.
Jenkins County. The entire county.
Johnson County. The entire county.
Jones County. The entire county.
Lamar County. The entire county.
Lanier County. The entire county.
Laurens County. The entire county.
Lee County. The entire county.
Liberty County. The entire county.
Long County. The entire county.
Lowndes County. The entire county.
Macon County. The entire county.
Marion County. The entire county.
McDuffie County. The entire county.
McIntosh County. The entire county.
Meriwether County. The entire county.
Miller County. The entire county.
Mitchell County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Morgan County. The entire county.
Muscogee County. The entire county.
Newton County. The entire county.
Oconee County. The entire county.
Paulding County. That portion of the county lying within Georgia Militia District 951.
Peach County. The entire county.
Pierce County. The entire county.
Pike County. The entire county.
Polk County. That portion of the county lying within Georgia Militia Districts 1075, 1079, 1223, 1469, and 1570.
Pulaski County. The entire county.
Putnam County. The entire county.
Quitman County. The entire county.
Randolph County. The entire county.
Richmond County. The entire county.
Rockdale County. The entire county.
Schley County. The entire county.
Screven County. The entire county.
Seminole County. The entire county.
Spalding County. The entire county.
Stewart County. The entire county.
Sumter County. The entire county.
Talbot County. The entire county.
Tattnall County. The entire county.
Taylor County. The entire county.
Telfair County. The entire county.
Terrell County. The entire county.
Thomas County. The entire county.
Tift County. The entire county.
Toombs County. The entire county.
Treutlen County. The entire county.
Troup County. The entire county.
Turner County. The entire county.
Twiggs County. The entire county.
Upson County. The entire county.
Walton County. The entire county.
Ware County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wheeler County. The entire county.
Wilcox County. The entire county.
Wilkinson County. The entire county.
Worth County. The entire county.

(2) *Suppressive areas.* None.

MISSISSIPPI

(1) *Generally infested areas.*

Adams County. The entire county.
Amite County. The entire county.
Attala County. The entire county.
Bolivar County. T. 20 N., R. 6, 7, and 8 W.; T. 21 N., R. 5, 6, and 7 W., and S1/2, T. 22 N., R. 6 W.
Carroll County. That portion of the county lying south of the north line of T. 18 N., and the portion of the county lying east of the west line of R. 4 E.
Calhoun County. The entire county.
Chickasaw County. The entire county.
Choctaw County. The entire county.
Claiborne County. The entire county.
Clarke County. The entire county.
Clay County. The entire county.
Copiah County. The entire county.
Covington County. The entire county.
Forrest County. The entire county.
Franklin County. The entire county.
George County. The entire county.
Greene County. The entire county.
Grenada County. N1/2, T. 21 N., R. 4 E.; S1/2, T. 22 N., R. 4 E., and that portion of the county lying east of the west line of R. 5 E.
Hancock County. The entire county.
Harrison County. The entire county.
Hinds County. The entire county.
Holmes County. The entire county.
Humphreys County. The entire county.
Issaquena County. The entire county.
Itawamba County. The entire county.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Jefferson Davis County. The entire county.
Jones County. The entire county.
Kemper County. The entire county.
Lafayette County. That portion of the county lying south of the north line of T. 10 S.; T. 9 S., R. 1, 2, and E1/2, R. 3 W., T. 8 S., R. 1 W.; T. 7 S., R. 1 W., and SE1/4, T. 6 S., R. 3 W.
Lamar County. The entire county.
Lauderdale County. The entire county.
Lawrence County. The entire county.
Leake County. The entire county.
Lee County. The entire county.
Leflore County. That portion of T. 16 N., R. 2 W., lying in the county; S1/2, T. 17 N., R. 2 W.; N1/2, T. 19 N., R. 2 W.; T. 19 N., R. 1 E.; S1/2 T. 20 N., R. 1 E.; E1/3 T. 19 N., R. 2 E.; and Secs. 19, 20, 29, 30, 31, 32, T. 20 N., R. 2 E.
Lincoln County. The entire county.
Lowndes County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Neshoba County. The entire county.
Newton County. The entire county.
Noxubee County. The entire county.
Oktibbeha County. The entire county.
Pearl River County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Pontotoc County. The entire county.
Prentiss County. The entire county.
Rankin County. The entire county.
Scott County. The entire county.
Sharkey County. The entire county.
Simpson County. The entire county.
Smith County. The entire county.
Stone County. The entire county.
Sunflower County. T. 17 N., R. 4 W.; that portion of T. 17 N., R. 3 W., lying in the county; T. 18 N., R. 3 W.; T. 19 N., R. 5 W.; and T. 20 N., R. 5 W.
Tippah County. That portion of the county lying south of the north line of T. 4 S., and that portion of T., 3 S., R. 5 E., lying in the county.
Tishomingo County. That portion of the county lying south of the north line of T. 5 S.
Union County. The entire county.
Walthall County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wilkinson County. The entire county.
Winston County. The entire county.
Yalobusha County. All of Tps. 10, 11, and 12 S., lying in the county; and all

of Tps. 23, 24, and 25 N., Rs. 5, 6, and 7 E., lying in the county.

Yazoo County. The entire county.

(2) *Suppressive areas.* None.

This proposal has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations". While this action has not been designated "significant" under those criteria, a Draft Impact Analysis Statement has been prepared and is available from PPQ, APHIS, Room 633, Federal Building, Hyattsville, MD 20782.

Done at Washington, D.C., this 20th day of November, 1978.

THOMAS G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 78-33053 Filed 11-22-78; 8:45 am]

[3410-34-M]

Office of the Secretary

[7 CFR Part 2900]

ESSENTIAL AGRICULTURAL USES OF NATURAL GAS

Proposed Rulemaking and Public Hearings

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: Section 401(c) of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621, November 9, 1978) provides that the Secretary of Agriculture shall certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) the natural gas requirements of essential agricultural uses for full food and fiber production. The certification by the Secretary is proposed to be made as hereafter described.

Opportunity is provided for presentation of oral and written views for purposes of Section 401 of the NGPA, related to the determination and certification by the Secretary of Agriculture of essential agricultural uses of natural gas and of the amounts of natural gas (volumes or percentages of use) required for such essential agricultural uses.

DATES: Written comments shall be received by c.o.b. Monday, January 8, 1979. The normal 60-day comment period has been reduced to 45 days to meet the rule issuance requirements of Section 401 of the NGPA. Oral and written comments may be made at public hearings to be held on December 11, 1978, at Washington, D.C.; December 14, 1978, at Sacramento, California; and December 18, 1978, at Chicago, Illinois, beginning at 9:30 each day.

ADDRESSES: Public hearing locations are Freer Gallery (auditorium) in Washington, D.C.; Senator Hotel, 12th and L Streets, in Sacramento; Holiday Inn O'Hare/Kennedy, River Road and Kennedy Expressway, in Chicago.

Written comments and requests to speak at a public hearing should be directed to Dr. Weldon Barton, Director, Office of Energy, U.S. Department of Agriculture, Room 226-E, Administration Building, 12th and Independence Avenue SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION, CONTACT:

Weldon Barton, Director, Office of Energy, U.S. Department of Agriculture, Room 226-E, Administration Building, 12th and Independence Avenue SW., Washington, D.C. 20250; Telephone Number (202) 447-2455.

SUPPLEMENTARY INFORMATION: Natural gas supply curtailment plans of interstate pipeline companies are subject to regulation by the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act (15 U.S.C. 717). The Department of Energy (DOE) establishes curtailment priorities for interstate pipelines under the Natural Gas Act, the DOE Organization Act and the Natural Gas Policy Act of 1978. The recently enacted Natural Gas Policy Act of 1978 has modified in certain respects such FERC and DOE curtailment regulation. Section 401(c) of the NGPA requires the Secretary of Agriculture to determine the essential agricultural uses of natural gas, and to certify to the Secretary of Energy and FERC the natural gas requirements, expressed either as volumes or percentages of use, of persons, or classes thereof, for essential agricultural uses in order to meet the requirements of full food and fiber production.

Not later than 120 days after the date of enactment of the NGPA, the Secretary of Energy must prescribe and make effective a rule that, to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use below the requirements as certified by the Secretary of Agriculture, unless such curtailment is necessary in order to meet the requirments of high-priority users (defined in Section 401(f)(2), NGPA), or unless the FERC in consultation with the Secretary of Agriculture, determines, by rule or order, that use of a fuel (other than natural gas) is economically practicable and reasonably available (401(b), NGPA).

For certification to the Secretary of Energy and the FERC, the determination and certification by the Secretary of Agriculture are proposed to be made as hereinafter described, and public comment thereon is requested.

I. BACKGROUND

Natural gas is a crucial energy source in the food and fiber system. It is a major feedstock and fuel in the manufacture of nitrogen and other fertilizers and pesticides; it powers irrigation pumping and dries crops such as corn, rice, peanuts and hay; and it is the principal fuel for food processing. In certain processes, the clean burning characteristics of natural gas permit direct contact with foodstuffs without imparting any of the undesirable residues that are attendant with petroleum fuels. Natural gas also provides much of the energy for space heating in food warehouses and retail stores. From input supply to cooking in the home, natural gas is a major fuel used in the food system.

Natural gas is similarly important in fiber production and processing. For instance, it is extensively used in manufacturing fertilizer for cotton production, pumping irrigation water for millions of acres of cotton, and conditioning cotton for ginning and compressing. Natural gas is also used in processing fiber crops throughout the textile industry and in the transformation of raw wood into lumber, pulp, plywood and paper products.

The production and processing of food and fiber commodities is a continuous process. Agricultural activities are biological in nature and involve the growing of plants and animals and the conversion of these perishable commodities into products to feed, clothe and shelter mankind. Once an agricultural activity is started, it must be carried through to completion; or significant losses can occur. Consider, for example, the production of milk. Once a cow starts producing milk, she continues to produce through about a 305-day period. This product must be quickly cooled and then processed for use by humans. It is pasteurized, fortified, modified as to fat content, and packaged. If not all is needed as fresh milk, some is processed further into dried skim milk products and butter, evaporated milk, or cheese and whey products. The processing must take place shortly after production, or bacteria can cause the milk to spoil.

Natural gas is also used in the manufacture and sealing of sanitary food containers. Milk carton blanks, for example, are shipped flat from the paper manufacturer to the dairy. As needed, they are creased, formed, filled and sealed. The sealing is performed under an open natural gas or LP gas flame. Temperature is critical to proper sealing. Otherwise, containers leak, and products are no longer in a sanitary environment.

The curtailment of natural gas in the food system is especially burdensome on food industries and, ultimately, on food supplies. During the winter of 1976-77, certain dairy processing plants faced curtailment of interstate gas supplies. One dairy processing plant was within hours of closing, and the 3,000 dairy farmers who produced milk for the plant were in danger of having to dump their milk because there was no place to store it safely. Natural gas supply was restored in time to avert this closure.

During the winter of 1976-77, several million broiler chickens died in Arkansas because the interstate supply of natural gas was curtailed to feed mills, and feed supplies were exhausted. Broiler processing plants were curtailed with less than 4-hours' notice. Birds had been trucked to the plants for processing, where they froze to death on the trucks.

Disruption of natural gas supplies to the food and fiber sector also results in increased prices to consumers across a broad range of purchases and contributes substantially to inflationary pressures in the general economy. The curtailment priority in Section 401 is designed to avoid such detrimental effects on farmers, agricultural suppliers, processors and marketers, consumers, and the Nation's economy.

II. CRITERIA FOR THE CERTIFICATION OF ESSENTIAL AGRICULTURAL USES NECESSARY FOR FULL FOOD AND FIBER PRODUCTION

The NGPA provides for an end-product category of usage and a curtailment priority for essential agricultural uses of natural gas which are necessary for full food and fiber production. Section 401 prescribes that, notwithstanding any other provision of law, except where an economically practicable and reasonably available alternative fuel is determined, and to the maximum extent practicable, no interstate pipeline may provide for curtailment of deliveries of natural gas below the requirements for essential agricultural usage as certified by the Secretary of Agriculture, unless such curtailment is necessary to meet the requirements of high-priority users.

Section 401(b) prescribes that FERC, in consultation with the Secretary of Agriculture, shall make determinations regarding alternative fuels for certified essential agricultural uses that are deemed to be economically practicable and reasonably available. The Conference Report accompanying the NGPA states, regarding Section 401(b) that "The conferees intend that the authority to restrict curtailment priority by determining that alternative fuels are economically practicable and reasonably available be utilized only in cases where it is clean that both tests are met. One of the reasons for imposing such a requirement is to prevent unnecessary increases in the cost of food in this country. The Commission determination that an alternative fuel is 'economically practicable' shall not include a requirement to switch to high cost alternatives. That is not what the conferees consider to be 'economically practicable'."

The Conference Report further states, with reference to Section 401, that the Secretary of Agriculture is authorized to certify the natural gas requirements for agricultural uses in order to meet the requirements of full food and fiber production based upon the definition of "agricultural use" contained in this section. The statute defines essential agricultural use to mean "• • • any use of natural gas—

(a) For agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying; or

(b) As a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food,

which the Secretary of Agriculture determines is necessary for full food and fiber production."

These and related provisions of the statute and legislative history indicate the intent of Congress that the Secretary of Agriculture determine, and certify natural gas requirements for, a comprehensive set of essential uses of natural gas necessary for full food and fiber production, taking into consideration the perishable nature of many food and fiber commodities and the impact of future food and fiber price increases on consumers and the general economy.

The following is a discussion of the basic criteria proposed by the Secretary of Agriculture in this rule-making for the determination of, and certification of natural gas requirements for, essential agricultural uses, and of aspects of those criteria on which public comment is particularly desired.

1. *The establishment is the basic unit to be certified*—Section 401(c) prescribes that the Secretary of Agriculture shall certify natural gas requirements "• • • of persons (or classes thereof) • • •". This rule proposes to certify in terms of classes of users, namely, classes of establishments that are delineated in the Standard Industrial Classification (SIC) Codes. The rule proposes to include those classes of establishments, based upon the SIC codes, that are carrying out essential agricultural functions necessary for full food and fiber production.

It is recognized that classes of establishments in the SIC codes are imperfect categories for precise delineation of agricultural uses. Individual classes of establishments often include both agricultural and non-agricultural activities, and a specific establishment may be involved in both agricultural and non-agricultural production.

Comment and information is desired on how to identify that portion of a class of establishments, or an individual establishment, devoted to full food and fiber production.

Comment is particularly desired on ways to refine the SIC Code system to render it more useful to the specific requirements of this rule-making.

2. *Coverage is broadly inclusive of the agricultural sector*—Title IV of the NGPA establishes essential agricultural uses as an integral part of a comprehensive natural gas curtailment policy. The statute provides that protection from curtailment is to extend across the entire food and natural fiber system. It expressly prescribes the major food and fiber system activities to be covered, from certain inputs through processing and food quality maintenance.

This rule proposes a relatively broad scope of coverage, based upon the statutory mandate. It covers all food and natural fiber production.

Natural fibers include cotton, flax, bagasse, hemp, and other fibrous crops, animal fibers such as wool, fur and pelts, and wood fibers from forest products.

Ornamental and horticultural crops are classed as fibers if they are not edible. They undergo a biological process identical to any other cropping operation. Often both food and nonfood commodities are grown in the same operation, with the proportion varying both seasonally and annually. A continuous supply of heat is essential for proper growth and maintenance. Natural gas is the heat source in many greenhouses. Curtailments can result in loss of flower blooms and death of plants.

The rule provides that perishable commodities be processed and handled to the extent that they are converted into storable and salable products. For food products, this includes certain sanitary food containers.

Alcoholic beverages have been included only where necessary to protect the agricultural products through processing. Thus, it is proposed to include wines, brandy and brandy spirits, because perishable crops such as grapes, apples, apricots, peaches and pears are used in the manufacture of these products. Alcoholic beverages based on grain, which can be safely stored, are not included.

Natural fibers for making fabrics are processed through the stage whereby raw material is changed into cloth which is dyed and heat treated. Wood

A. WRITTEN COMMENTS

cedural rules needed for the proper establishments may receive such hear-

pulp fibers for manufacture of sanitary food containers are proposed for inclusion through pulping and reprocessing into certain final end products as food containers. Other wood products are protected through the point where the product is changed into a stable form which is amenable to storage or sale.

Section 401(f)(1)(A) defines essential agricultural use to include only "natural" fiber production and processing, but natural and synthetic fibers are comingled in many processing establishments and operations. Comment is desired on where and how a practicable differentiation can be made between natural and synthetic fibers, so that to the extent practicable, only natural fibers might be included in the essential agricultural use curtailment priority.

The statute cited "food quality maintenance" as a specific function to be covered. This rule protects food quality by covering production, processing and preparation of end use products. It also covers the food storage and warehousing functions of wholesale and retail trade establishments, to the extent that these functions are not covered under the "high-priority" category of end users (commercial establishment using less than 50 mcf on a peak day).

Some inputs not specifically identified in the statute are deemed essential for continued full food and fiber production. The proposed rule includes such vital inputs for food as sanitary food containers—cans, bottles, cartons, etc. These items appear to be required for meeting the intent of the phrase "food quality maintenance," and without them the food system would be impaired. However, the proposed rule does not include a variety of second-order or indirect inputs. For example, many materials involved in food packaging are small components of large, diverse industries. The same holds true for some farm chemical inputs. Comment is desired on how to identify essential inputs presently not included and how to extend non-curtailment protection to include them.

3. *No discrimination as to types of use*—Pursuant to the statutory directive that essential agricultural uses *per se* be accorded special end-product priority and that "high cost" alternatives to natural gas be avoided in the case of essential agricultural uses, the rule as proposed does not apply any other use distinctions in order to determine the necessity of natural gas usage for full food and fiber production.

4. *Full current requirements determined essential*—Section 401(c) prescribes that the Secretary of Agricultural shall certify natural gas requirements "• • • (expressed either as volumes or percentages of use) • • •". This rule proposes to certify such requirements in terms of percentage of use, specifically, 100 percent of current requirements. To assure that the food and fiber system operates with minimum constraint due to curtailment of interstate gas supplies, the volumes certified as essential must be sufficient for operations necessary for full food and fiber production. The requirements which are in excess of maximum contracts will receive protection against curtailment only to the extent contract revisions allow increased deliveries.

This proposed rule contemplates a current, rather than an historical base period, method for determining requirements of natural gas for essential agricultural uses. Due to the vagaries of weather whereby energy demands unpredictably vary from season to season and year to year, the historical base period concept tends to be impractical for agriculture. This method allows the curtailment priority to apply to actual current requirements rather than to past usage. This is particularly applicable in the case of users with technical multifuel capabilities who would be required to switch to high-priced alternative fossil fuels if the curtailment priority was based upon historical base period usage.

The establishments to which the requirements relate would be only those in existence at the time of issuance of the rule. Requirements for new establishments or additions to existing establishments would be considered periodically in connection with modification of the proposed rule as provided in Section 401(a) of the NGPA.

Comment is desired on how such a current method of determining natural gas requirements for essential agricultural uses can be carried out.

5. *Rule must be equitable and practicable*—An overriding consideraton is that this rule must be equitable and practicable to implement. Data requirements must not be overly burdensome to the individuals covered. Similarly, the certification to the Secretary of Energy and FERC must be in such a form and substance that it can be implemented on a generalized basis without undue delay and cost.

Accordingly, comment and information is desired toward the objective of rendering this rule practicable and equitable to the maximum extent, consistent with the basic substantive objectives of Section 401 of the NGPA and of the proposed rule.

Based upon the statute and the above criteria, we are publishing in the proposed rule a "Proposed Set of Essential Agricultural Uses," identified as § 2900.3. Comment is invited on the substantive uses to be certified, the criteria proposed for determining the uses to be certified, and the procedure for determining the amounts of natural gas required by certifed users. Comment is requested concerning classes of users of natural gas that might be deemed to be essential agricultural uses that are necessary for full food and fiber production, regardless of whether such classes of users are included or excluded from the proposed set. Uses included in the proposed rule might be removed, and uses not included in the proposed rule might be added, depending upon the public comment and justification received.

Comment is especially desired on how the classes of users can be more precisely circumscribed based upon the SIC codes, and how the code classification *per se* (at whatever level of aggregation) can be usefully adapted and refined to render it as useful as possible to satisfy the specific requirements of this rulemaking.

Section 401(a) of the NGPA provides for amendment by the Secretary of Energy, from time to time, of the rule relating to essential agricultural uses and amounts of natural gas required for full food and fiber production. For the Secretary of Energy to exercise this option so that the rule may remain current and effective, it is imperative that the Secretary of Agriculture maintain the certification on a current basis. Therefore, the proposed rule provides a procedure for requests to the Secretary of Agriculture for modifications in the certification to account for new or expanded agricultural establishments with natural gas use requirements, and for periodic certifications by the Secretary of Agriculture based upon such requests. Comment is invited on that procedure, including how the procedure would relate to new and existing contracts.

Under section 401(b) of the NGPA the curtailment priority for essential agricultural uses may be disallowed by FERC if, in consultation with the Secretary of Agriculture, FERC determines, by rule or order, that use of an alternative fuel to natural gas is both economically practicable and reasonably available. Comment is desired on how that procedure relates to the present rulemaking, including how the rule proposed here can assist in accomplishing such alternative fuel determinations to prevent avoidable delays in implementing section 401 of the NGPA.

COMMENT PROCEDURES

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this Notice.

A. WRITTEN COMMENTS

Written comments should be submitted to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside with the designation *Certification of Essential Agricultural Uses: Written comments.* Five copies should be submitted. All comments received by 4:30 p.m. January 8, 1979, and all relevant information, will be considered before final action is taken on the proposed regulations. All written comments received will be available for public inspection and photocopying in Room 5173 South Building, U. S. Department of Agriculture, 12th and Independence Avenue, SW., between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

Information or data believed to be confidential must be so identified and submitted in writing, one copy only. The Secretary reserves the right to determine the confidential status of the information or data and to treat it accordingly.

B. PUBLIC HEARINGS

Requesting Opportunity for Oral Statement. The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this Notice. Material not presented orally may be submitted for the record.

A request to make an oral presentation at a hearing should be received not later than 2 days before the hearing and in no case later then c.o.b. Tuesday, December 12, by Weldon Barton at the aforementioned address and should be indentified on the outside with the designation *Certification of Essential Agriculture Uses: Public Hearings.* Persons making such requests should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a telephone number where he or she may be contacted through the day before the hearing. Fifteen copies of the presentation should be provided to the presiding officer at the hearing.

Conduct of the Hearings. USDA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons who have asked to be heard.

The hearings will be conducted under the auspices of the Office of Energy, USDA, and a USDA official will preside at each of the hearings. These will not be judicial or evidentiary-type hearings. Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained and made available for inspection at the USDA, Room 5173 South Building, 12th and Independence Avenue, SW., Washington, D.C. between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

IMPACT ANALYSES

The Department of Agriculture has prepared a preliminary "Regulatory Impact Analysis of the Proposed Rule to certify Essential Agricultural Uses" which when finalized is intended to meet the requirements of Executive Order 12044 (42 FR 12661, March 24, 1978). A copy of this preliminary document is available for public review and copy in room 5173 South Building, 12th and Independence Avenue, SW., Washington, D.C. 20250.

The Secretary of Agriculture has determined that the impact of this proposed rule would not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not required.

The proposed determination and certification would be contained in the following proposed rule and codified as new chapter XXIX, Part 2900 of Title 7, Code of Federal Regulations. The proposed new chapter XXIX reads as follows:

CHAPTER XXIX—OFFICE OF ENERGY

PART 2900—ESSENTIAL AGRICULTURAL USES—NATURAL GAS POLICY ACT

Sec.
2900.1 General.
2900.2 Definitions.
2900.3 Proposed Set of Essential Agricultural Uses.
2900.4 Natural Gas Requirements.
2900.5 Modifications.

AUTHORITY: Pub. L. 95-621, November 9, 1978.

§ 2900.1 General.

Section 401(c) of the Natural Gas Policy Act of 1978 (NGPA) requires the Secretary of Agriculture to determine the essential agricultural uses of natural gas, and to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) the natural gas requirements, expressed either as volumes or percentages of use, of persons, or classes thereof, for essential agricultural uses in order to meet requirements of full food and fiber production. This rule covers establishments performing functions classed as essential agricultural uses whose natural gas supplies are distributed through the interstate pipeline system even though such establishments may receive such has directly from an interstate pipeline or local distribution company.

§ 2900.2 Definitions.

(a) "Full food and fiber production" means the entire output of food and fiber produced for the domestic market and for export, for building of reserves, and crops for soil building or conservation. This term also includes the processing of food and fiber into stable and storable products, and the maintenance of food quality after processing.

(b) "Establishment" means an economic unit, generally at a single physical location where business it conducted or where services or industrial operations are performed (for example, a factory, mill, store, mine, farm, sales office, or warehouse).

NOTE.—This is the same definition as is used in the Standard Industrial Classification Manual, 1972 edition.

(c) "Essential Agricultural Use Establishment" means any establishment covered by the classes of establishments under § 2900.3, which has an identifiable portion of its function, activities that are devoted to full food and fiber production and where natural gas deliveries are provided under contract or an appropriate tariff provision.

(d) "Current Natural Gas Requirement" means the volumes of natural gas required by an essential agricultural use establishment to perform the activities devoted to full food and fiber production.

§ 2900.3 Proposed set of essential agricultural uses.

For purposes of Section 401(c) of the NGPA the following industry classes are certified as essential agricultural uses in order to meet the requirements of full food and fiber production.

PROPOSED SET OF ESSENTIAL AGRICULTURAL USES

Industry SIC No. and Industry Description

FOOD AND NATURAL FIBER PRODUCTION

DIRECT

01 Agricultural Production—Crops
02 Agricultural Production—Livestock Excluding 0272—Horses and Other Equines and Nonfood Portions of 0279—Animal Specialties, Not Elsewhere Classified
0723 Crop Preparation Services for Market, Except Cotton Ginning (see fiber processing)
08 Forestry
4971 Irrigation Systems

FERTILIZER AND CHEMICAL INPUTS

1474 Potash, soda, and Borate Materials (agricultural related only)
1475 Phosphate Rock (agricultural related only)
287 Agricultural Chemicals
3274 Lime (agricultural related only)

FOOD AND NATURAL FIBER PROCESSING FOOD

20 Food and Kindred Products, Excluding 2067—Chewing Gum; 2082—Malt Beverages; 2083—Malt; and 2085—Distilled, Rectified, and Blended Liquors
2654 Sanitary Food Containers
3221 Glass Containers (food related only)
3411 Metal Cans (food related only)

NATURAL FIBER

0724 Cotton Ginning
22 Textile Mills
2421 Saw Mills and Planing
2611 Pulp Mills
2823 Cellulosic Man-Made Fibers (rayon from wood fiber)
3111 Leather Tanning and Finishing

FOOD QUALITY MAINTENANCE

4221 Farm Product Warehousing and Storage
4222 Refrigerated Warehousing
514 Groceries and Related Products

§ 2900.4 Natural gas requirements.

For purposes of Section 401(c), NGPA, the natural gas requirements for the essential agricultural uses listed in § 2900.3 are certified to be 100 percent of current natural gas requirements of existing essential agricultural use establishments.

§ 2900.5 Modifications.

Determinations of, and certifications of natural gas requirements for, essential agricultural uses may be modified by the Secretary of Agriculture from time to time in connection with amendments of the rule by the Secretary of Energy as provided in Section 401(a) of the NGPA. Requests for such modifications may be addressed to the Secretary of Agriculture who will review them at least annually. Such requests may propose additional classifications or deletions of essential agricultural uses, or may be based upon revised requirements for new establishments or additions to existing establishments.

Dated: November 20, 1978.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 78-33081 Filed 11-21-78; 9:44 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Chapter V]

[No. 78-641]

SAVINGS AND LOAN HOLDING COMPANIES

Forms and Procedures; Announcement of Informal Public Hearings and Solicitation of Written Views and Comments

NOVEMBER 17, 1978.

AGENCY: Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation.

ACTION: Announcement of informal public hearings and solicitation of written views and comments.

SUMMARY: On February 14, 1968 the Savings and Loan Holding Company Act ("Act" at 12 U.S.C. § 1730a) became effective. Shortly after the passage of the Act the Regulations for Savings and Loan Holding Companies ("Regulations" at 12 CFR Part 583 *et seq.*) were promulgated and various forms and procedures were adopted.

The present holding company regulatory program has been in operation for some ten years without major revision or review. Accordingly, the Bank Board has determined that a review of this program is in the public interest and should be undertaken. As one element of its review, the Bank Board feels that it is appropriate to elicit the views and comments of all interested parties on the Act and the Regulations as well as related forms, applications, and procedures.

DATES: The public hearings will begin at 9:00 a.m. EST, January 10, 1979. Unless the hearing is extended or re-scheduled in accordance with the procedures below, the hearing will end at 5:30 p.m. EST, January 10, 1979.

ADDRESSES: Hearings—Bank Board Building, Second Floor Amphitheatre, 1700 G Street NW., Washington, D.C.

Written communications should be directed to the Bank Board, Office of the General Counsel, 1700 G Street NW., Washington, D.C. 20552. Please legend all communications: "Holding Company Project, Attn: William M. Herrick."

FOR FURTHER INFORMATION CONTACT:

William M. Herrick, Attorney, Bank Board, Office of the General Counsel, Washington, D.C.; phone: 202-377-6417.

SUPPLEMENTARY INFORMATION:

ISSUES

The Bank Board specifically invites interested parties to comment on the following issues:

How should the terms "company" and "savings and loan holding company" be defined and interpreted?

Should different classes of "companies" (*e.g.* ESOTS, trusts, syndicates as opposed to traditional corporations) be subject to differing regulatory constraints?

How should "control", as used in the Act and Regulations, be defined and interpreted?

Are the "control" benchmarks in the Act and Regulations consistent with economic reality and regulatory needs?

Should "voting shares", as that phrase is used in the Act and Regulations, include depositor and other membership shares?

Do the Act and Regulations adequately and appropriately control dividends, fees, and other transactions between a subsidiary insured institution and its affiliates, as defined in the Act and Regulations?

Are restrictions on "investment" in "voting shares" of otherwise unaffiliated insured institutions, holding companies, and other entities in conformity with regulatory needs?

Is the application of the provisions of Section 545.9-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545), which regulates service corporations of Federal associations, to subsidiary service corporations in holding company system in conformity with regulatory needs and goals?

Do the Act and Regulations appropriately control interlocking management and director relationships with otherwise unaffiliated entities and the service of convicted persons in holding company managements?

Is regulation of the issuance of debt securities by holding companies and their nonsavings and loan subsidiaries consistent with economic reality and regulatory needs?

Should the Act impose restrictions on the acquisition of insured institutions and holding companies by non-U.S. companies or other specified classes of applicants?

Are the Act's standards for approval of various types of acquisitions adequate to fulfill regulatory needs?

Do the Act and Regulations afford applicants and other interested parties—especially in "takeover" situations—an adequate opportunity to be heard?

Do existing limitations on the activities of multiple savings and loan holding companies appropriately serve regulatory needs?

Should the certain activities be added to (or deleted from) the "laundry list" of "related activities" by statue or regulation?

Is the test for "diversified status" consistent with economic reality and regulatory needs?

Do the Act and Regulations as presently structured and interpreted appropriately address questions of community responsiveness, corporate opportunity, corporate governance, *etc.*?

Are modifications needed with respect to forms, reports, application processing, or other policies and procedures which have been adopted pursuant to the Act?

The aforementioned issues should not be considered exclusive, and comments on other related questions will be welcomed.

PROCEDURES

The procedures with respect to the conduct of the public hearings and the solicitation of written views and comments will be:

Each person or representative of a group who wishes to submit written views or comments may do so. Written material will be sent to the Bank Board, Office of the General Counsel (address above) and must be received by 5:30 p.m. EST, January 10, 1979.

Written views and comments may be submitted without participation in the public hearing; submission of views and comments does not bar participation in the public hearing.

Each person or representative of a group who wishes to make a presentation must make a request to do so in writing. A written copy of a statement or a summary of points to be covered must accompany the request. Requests and accompanying material will be sent to the Bank Board, Office of the General Counsel (address above) and must be received by 5:30 p.m. EST, December 22, 1978.

Written views and comments, statements, and summaries of points to be covered will be available for public inspection at the Bank Board, Office of the General Counsel (address above) when received.

Participants will be notified by January 3, 1979 of their order of appearance. A list of participants, and their order of appearance, will be available for public inspection at the Bank Board, Office of the General Counsel (address above) after this date.

The presiding Hearing Officer will have complete charge of the hearings and authority to do all things necessary and proper for the orderly conduct of the hearings. The Hearing Officer may exclude testimony, data and material which is deemed improper, irrelevant or repetitive.

Normally, a maximum of 15 minutes will be allowed for individuals and 30 minutes for group representatives. To the extent possible, groups having substantially similar positions are encouraged to select just one representative.

Hearing participants will not be permitted to examine or cross-examine other participants, although the Hearing Officer may question participants for the purpose of obtaining a fuller exposition of their views.

There shall be no provision for briefs or for oral argument at the conclusion of the hearings.

The foregoing rules may be relaxed by the Hearing Officer, if in his or her judgment such relaxation would aid the Bank Board in reaching a decision on the merits of proposals. If deemed necessary, the Hearing Officer may also extend the hearings or schedule additional hearings.

The hearing proceedings shall be transcribed. All interested parties may, after the close of the hearings and as soon as the transcript of the hearings has been prepared, obtain copies of the transcript through the procedure set out in Part 505 of the General Regulations of the Bank Board (12 CFR Part 505).

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

FR Doc 78 33125 Filed 11 22 78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-RM-23]

VOR FEDERAL AIRWAYS

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign V-160 airway from Denver, Colo., to Sidney, Nebr., via the INT of Denver 046° and Sidney 201° magnetic radials and to change the segment of V-263 which extends between Hugo, Colo., and Gill, Colo., to extend from Hugo to Denver via the Int of Hugo 325° and Denver 082° magnetic radials. These airway changes would improve the air traffic flow by being alined via arrival and departure routes in the vicinity of Denver.

DATES: Comments must be received on or before December 18, 1978.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA Rocky Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 78-RM-23, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communication should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before December 18, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would realign V-160 between Denver and Sidney via an intersection approximately 22 miles northwest of Akron, Colo. This amendment would also change a segment of V-263 to extend from Hugo to Denver via its present intersection with V-4 rather than continuing northwestward to Gill, Colo. these two airway changes would improve the traffic flow in the Denver area by converting seldom used route segments to connect with normal arrival and departure routes thereby becoming more useful.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307, 39753) as follows:

Under V-160 "to Sidney, Nebr." is deleted and "INT Denver 058° and Sidney, Nebr., 201° radials; to Sidney." is substituted therefor.

Under V-263 "Gill, Colo." is deleted and "INT Hugo 337° and Denver, Colo., 094° radials to Denver." is substituted therefor.

(Secs. 307(a), and 313(a), federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation Guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 17, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-32830 Filed 11-22-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR CH.11]

CONSUMER PRODUCTS CONTAINING NITROBENZENE

General Order for Submission of Information; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Correction of general order.

SUMMARY: This document makes corrections to the Consumer Product Safety Commission's general order concerning consumer products containing nitrobenzene. The general order, which was published in the June 5, 1978, FEDERAL REGISTER (43 FR 24325) requires manufaturers of consumer products containing nitrobenzene to furnish the Commission with information concerning the brand names of products containing nitrobenzene, the concentration of nitrobenzene in the product, the package sizes of consumer products containing nitrobenzene, the functions or purposes of nitrobenzene in the product and the functions of or uses for the product. The general order incorrectly listed two substances, C.I. Solvent Black 5 and nigrosine spirit soluble B as synonyms for nitrobenzene.

FOR FURTHER INFORMATION CONTACT:

Dorothy Canter, Directorate for Engineering and Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6477.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-15418, appearing at page 24325 in the issue of Monday, June 5, 1978, the general order issued by the Consumer Product Safety Commission incorrectly listed C.I. Solvent Black 5 and nigrosine spirit soluble B as synonyms for notrobenzene in the last sentence of the next to last paragraph of section D(3) describing the Scope of the Order on page 24326. Therefore, this sentence should read as follows:

"This order applies only to consumer products containing nitrobenzene, also known as essence of mirbane, essence of myrbane, mirbane oil, nitrobenzol, oil of mirbane, and oil of myrbane."

(15 U.S.C. 2076(b)(1), 15 U.S.C. 2054.)

Dated: November 19, 1978.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-32979 Filed 11-22-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 762 3049]

ART INSTRUCTION SCHOOL, ET AL.

Consent Agreement With Analysis to Aid Public Comment; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the FEDERAL REGISTER on Thursday, November 2, 1978. A portion of the Analysis of Proposed Consent Order To Aid Public Comment has been deleted.

DATE: The correction is effective November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Alice S. Perlin, Chicago Regional Office, Federal Trade Commission, 55 East Monroe Street, Suite 1437, Chicago, Ill. 60603. 312-353-4423.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-31047, appearing in FEDERAL REGISTER issue for Thursday, November 2, 1978, 43 FR 51031, in the Analysis of Proposed Consent Order To Aid Public Comment, under "II. The Proposed Order" at 43 FR 51038, a portion of the first paragraph has been deleted. Therefore, the paragraph should read as follows:

"The proposed order prohibits respondents from engaging in the above listed allegations."

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33015 Filed 11-22-78; 8:45 am]

[6750-01-M]

[16 CFR Part 13]

[File No. 781 0013]

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN, AND HELPERS OF AMERICA, LOCAL UNION 959

Consent Agreement and Analysis to Aid Public Comment; Extension of Time

AGENCY: Federal Trade Commission.

ACTION: Comment period extended for 30 days.

SUMMARY: The time period for filing comments on the consent agreement has been extended for 30 days to December 15, 1978.

DATE: Comments now due December 15, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William C. Erxleben, Director, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Building, 915 Second Avenue, Seattle, Wash. 98174. 206-442-4655.

SUPPLEMENTARY INFORMATION: The consent agreement and analysis to aid public comment were published in the FEDERAL REGISTER on Wednesday, July 19, 1978, 43 FR 31022. The comment period was previously extended by notice published in the FEDERAL REGISTER on September 19, 1978, 43 FR 42017.

On November 14, 1978, the Commission received several National Labor Relations Board decisions dealing with the impact of the Supreme Court's decision in *Connell Co.* v. *Plumbers & Steamfitters*, 421 U.S. 616. Interested persons may wish to comment on the consent agreement after having reviewed those decisions. This extension is necessary to permit the filing of such comments. Accordingly, notice is hereby given that the Commission has extended the comment period for an additional 30 days to and including December 15, 1978.

By direction of the Commission, dated November 15, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33016 Filed 11-22-78; 8:45 am]

[6750-01-M]

[16 CFR Part 13]

[Docket No. 9073]

FORD MOTOR CO., ET AL.

Consent Agreement with Analysis Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Dearborn, Mich. Manufacturer of motor vehicles, and the Ford Motor Credit Co. to incorporate into specified documents a system for determining and accounting for all surpluses realized on repossessed vehicles resold by its dealers and to institute training programs designed to familiarize employees and dealers with their obligations in handling repossessions. Following such training, Ford would be required to conduct a series of field audits to verify that dealers are calculating and paying surpluses correctly, and to submit timely compliance reports to the Commission. The companies would be additionally required to inform dealers of their obligations to pay surpluses on past and future repossessions, and to advise customers of their surplus and/or redemption rights, in the manner set forth in the order.

DATE: Comments must be received on or before January 23, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580

FOR FURTHER INFORMATION CONTACT:

William C. Erxleben, Director, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-4655.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and §3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with §4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9073]

FORD MOTOR CO. ET AL.

AGREEMENT CONTAINING CONSENT ORDER

In the matter of Ford Motor Company, Ford Motor Credit Company, and Francis Ford, Inc., corporations.

This agreement, by and between (1) Ford Motor Company and Ford Motor Credit Company, corporations, respondents in a proceeding initiated by the Federal Trade Commission, by their duly authorized officers and their counsel and (2) counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rules governing consent order procedures. Francis Ford, Inc. is not a party to this Agreement.

1. Respondents Ford Motor Company and Ford Motor Credit Company ("Ford respondents") are Delaware corporations with their offices and principal places of business at The American Road, Dearborn, Michigan 48121. Ford Motor Credit Company is a wholly owned subsidiary of Ford Motor Company.

2. The Ford respondents have been served with a copy of the Complaint issued by the Commission in this proceeding charging them with violations of Section 5 of the Federal Trade Commission Act, as amended, and have filed an answer denying the violations of law alleged in the Complaint.

3. The Ford respondents admit the jurisdictional facts set forth in Paragraph Three of the Complaint, and that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Ford respondents and has jurisdiction to issue the Order contained in this Agreement ("Order").

4. The Ford respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order, but do not waive the right to seek judicial review or otherwise to challenge or contest the validity of any order issued pursuant to Part VII of the Order or §3.72(b) of the Commission's rules of practice.

Provided, however, That such waivers shall cease to be effective if the Commission rejects this Agreement or returns this proceeding to adjudication as to the Ford respondents. The waiver of procedural steps shall not apply to any procedural actions taken by the Commission (with respect to this Agreement, and prior to final acceptance) other than those actions described in §3.25 of the Commission's rules of practice.

5. This Agreement shall not become a part of the official record of this proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record together with the Complaint for a period of 60 days and information in respect thereto will be publicly released. Such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations indicating that the Order is inappropriate, improper or inadequate.

6. This Agreement is for settlement purposes only and does not constitute an admission by the Ford respondents that the law has been violated as alleged in the Complaint.

7. This Agreement contemplates that if it is accepted by the Commission and such acceptance is not subsequently withdrawn by the Commission pursuant to §3.25(f) of the rules of practice, the Commission may, without further notice to the Ford respondents, issue its Decision containing the Order in disposition of the proceeding as to the Ford respondents and make information public with respect thereto. Then so entered, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Mailing the Decision and Order to the Ford respondents' address stated in this Agreement shall constitute service. The Ford respondents waive any rights they may have to any other manner of service. The Complaint and the Initial Compliance Report referred to in Paragraph 9 below may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or in this Agreement may be used to vary or contradict the terms of the Order.

8. By its final acceptance of this Agreement, the Commission waives its right to commence a proceeding against either of the Ford respondents seeking restitution or other consumer redress under sections 5 or 19(a)(2) of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in Complaint Paragraphs Nine, Ten or Eleven arising at any time prior to the date Ford Motor Company is required to submit the final sample audit report provided for in Subparagraph IV.I.2 of the Order, except with regard to acts, practices, or omissions of the Ford respondents (a) which occur after the effective date of the Order and are violations of the Order, (b) which occur after the effective date of a Trade Regulation Rule and are violations of that Rule, or (c) which occur after entry of an order by the Commission setting aside the Order.

9. The Ford respondents submit with this Agreement an Initial Compliance Report setting forth details of the manner in which they will comply with the Order. Final acceptance of this Agreement shall constitute acceptance of the Initial Compliance Report and shall also constitute advice under §3.61(d) of the Rules of Practice that implementation of the Initial Compliance Report will constitute compliance with applicable portions of the Order until such time as the Commission seeks additional evidence of compliance.

10. The Ford respondents have read the Complaint and Order and understand that after the Order becomes final (1) they may be required to file additional compliance reports showing they have complied fully with the Order, and (2) they may be liable for a civil penalty in the amount provided by law for each violation of the Order.

ORDER

I.

It is ordered, That for purposes of this Order the following definitions shall apply:

A. "Ford respondents" means Ford Motor Company ("Ford") and Ford Motor Credit Company ("Ford Credit"), corporations. It shall not refer to Francis Ford, Inc. References to either or both of the Ford respondents shall include their successors, assignees, officers, agents, representatives and employees, as well as any corporations, subsidiaries, divisions, or devices through which they act in the United States. *Provided, however,* That references to Ford shall not include Ford Credit and references to either or both of the Ford respondents shall not include dealerships.

B. "Vehicle" means a passenger car or a truck with a gross vehicle weight less than 26,000 pounds (11,794 kilograms).

C. "Dealership" or "dealer" means a corporation, partnership, or proprietorship that is a Ford, Lincoln or Mercury vehicle dealership but excludes truck dealerships whose principal business is the sale of trucks with a gross vehicle weight more than 8,000 pounds (3,629 kilograms).

D. "Retail sale" means the installment credit sale of a vehicle, other than for purposes of resale (e.g., sale to dealers or wholesalers), lease or rental, to a purchaser who is not a fleet purchaser.

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E. "Repurchase financing" means the financing of a retail sale subject to an agreement between a financing institution and a dealership (generally called a "repurchase," "recourse," or "guaranty" agreement) which provides that the dealership is obligated to pay off the outstanding obligation to the financing institution after receiving a transfer of the repossessed vehicle.

F. "Repurchase dealership" or "repurchase dealer" means a dealership that engages more than occasionally in repurchase financing transactions.

G. "Equity dealership" means a dealership in which Ford has a controlling equity interest, holds 50 percent or more of the voting stock, or is entitled to elect 50 percent or more of the board of directors.

H. "Liquidating dealership" means an equity dealership that has ceased or is in the process of ceasing normal operation of a dealership and whose business has been or is being wound up by Ford or under Ford's supervision. It shall not mean a dealership not previously an equity dealership whose assets come into the possession or control of either of the Ford respondents by virtue of default on or compromise of a debt obligation.

I. "Financing customer" means a purchaser of a vehicle from a dealership by means of a retail installment contract.

J. "Disposition" or "dispose" refers to a dealership's sale or lease of a repossessed vehicle previously sold by that dealership and returned to it by or for a financing institution pursuant to a repurchase agreement. Such sale or lease includes only transaction with an independent third party; i.e., it does not include a sale or lease to the financing institution, the dealership or their representatives, or to a person or firm liable under a guaranty, endorsement, or repurchase agreement covering the repossessed vehicle. Disposition or dispose shall not refer to the repurchase of a repossessed vehicle by a dealership pursuant to a repurchase agreement, or refer to a sale subsequent to a judicial sale in Louisiana.

K. "Proceeds" means whatever is received upon disposition of the repossessed vehicle, but exclusive of sales taxes, service contracts or separately priced warranties.

L. "Allowable expenses" means only actual out-of-pocket expenses incurred as the result of a repossession. The expenses must be reasonable and directly resulting from the repossessing, holding, preparing for sale and reselling of the vehicle, and not otherwise reimbursed to the dealership. They are limited to the following charges (if allowable under applicable State law):

1. Expenses paid to others, who are not employees of the dealership or of the financing institution that financed the vehicle, for repossessing, towing or transporting the vehicle;

2. Filing fees, court costs, cost of bonds, fees paid to a sheriff or similar officer, and fees and expenses paid to an attorney who is not an employee of the dealership or the financing institution for obtaining possession of or title to the vehicle;

3. Fees paid to others to obtain title to the vehicle, to obtain legally required inspection of the vehicle, or to register the vehicle;

4. Expenses paid to others for storage (excluding a charge for storage at facilities operated by the dealership);

5. Labor and associated parts and supplies furnished by the dealership for the repair, reconditioning or maintenance of the vehicle in preparation for resale, computed at dealer cost (as defined in the Initial Compliance Report) with appropriate adjustments for any insurance or warranty recovery;

6. Amounts paid to others for labor and associated parts and supplies purchased for the repair, reconditioning or maintenance of the vehicle in preparation for resale;

7. Sales commissions paid for actual participation in the sale of the particular vehicle, computed at a rate no higher than for a similar, nonrepossessed vehicle and excluding portions of commissions attributable to the selling of service contracts, separately priced warranties, financing or insurance;

8. Expenses of advertisements that specifically mention the particular vehicle, including a proportional share of any advertisement that also mentions other vehicles;

9. Auctioneer expenses and fees paid; and

10. Expenses for telephone calls and postage incurred in arranging for the repossession, holding, transportation, reconditioning and resale of the vehicle.

M. "Contract balance" means (1) the unpaid balance as of the date of repossession less applicable finance charge and insurance premium rebates deducted by the financing institution, plus (2) other charges authorized by contract or law and actually assessed prior to repossession.

N. "Surplus" means the excess of (1) the proceeds plus applicable insurance or warranty reimbursements received by the dealership or financing institution plus any other applicable rebates or credits not deducted by the financing institution, over (2) the contract balance, allowable expenses, and amounts paid to discharge any security interest provided for by law.

O. "Pay" or "paid," in reference to payment of a surplus, means a reasonable attempt to pay in accordance with the standards set forth in the Initial Compliance Report.

II.

It is further ordered, That Ford shall provide to all dealers within 60 days of the effective date of this Order, and to each new dealer within 30 days of entering into a sales and service agreement, a system for determining the existence of surpluses and for accounting for surpluses and for any deficiencies sought.

A. This system (hereinafter the "accounting system") shall be made a part of the Ford Manual of Dealer Accounting Procedures referred to in the various dealer sales and service agreements between Ford and its dealers. Such agreements provide that this manual is to be followed in dealership operations. Ford shall not change the sales and service agreements so as to affect the status of the accounting system portion of the Manual without 60 days notice to the Commission and shall not subsequently so change the sales and service agreements so as to affect the status of the Manual if the Commission, within that time period, advises Ford that it objects to the change. The accounting system shall also be incorporated into any subsequent set of compendium of comparable instructions.

B. The accounting system shall include a standardized form ("Ford accounting form") for dealers' use in determining the existence and amount of surpluses and of any deficiencies sought, and in recording payment of each surplus in accordance with the provisions of Paragraph II.C below.

C. The accounting system shall provide that:

1. Each surplus is to be determined according to Paragraphs I.J through I.N of this Order and paid to the repurchase financing customer within 45 days of disposition;

2. Expenses other than allowable expenses are not to be deducted in calculating surpluses and deficiencies sought;

3. Dispositions are to commercially reasonable, which in practice means that the dealer should make the same efforts to obtain the best available price for a repossessed vehicle as would be made for a comparable used vehicle except that a dealer is not required to offer a warranty without extra charge even though such warranties are provided on other used vehicles;

4. If any rebate owing to the repurchase financing customer's account has not been received at the time the Ford accounting form is completed, such rebate is to be applied for promptly;

5. If any rebate is received after completion of the Ford accounting form, any surplus or deficiency is to be redetermined and any remaining surplus paid within 45 days of disposition or within 10 days of receiving the rebate, whichever is later;

6. The Ford accounting form is to be prepared by the dealer for each disposition of a repossessed vehicle and:

a. Is to set forth the calculation of each surplus, and of each deficiency upon which collection is attempted;

b. Is to be certified by a person authorized to sign retail installment contracts on behalf of the dealership;

c. A copy of the form is to be sent with the surplus payment to each repurchase financing customer to whom a surplus is paid and to each repurchase financing customer from whom a deficiency is sought; and

d. Is to be retained by the dealer, together with all relevant underlying documentation, for at least two years from the date of disposition;

7. Dealers are not to obtain waivers of surplus or redemption rights from repurchase financing customers.

D. The accounting system shall state that failure to adhere to the standards of Subparagraphs II.C.1 through II.C.7 or to account properly to customers for surpluses will expose the dealer to legal action by the Federal Trade Commission and/or consumers.

E. Ford shall give the Federal Trade Commission 30 days advance notice of any change in its manner and form of carrying out the requirements of Part II of this Order.

F. The accounting system shall not apply to sales of repossessed vehicles subscquent to judicial sales in Louisiana.

G. The Federal Trade Commission has proposed a Trade Regulation Rule that defines duties involved in disposing of a repossessed vehicle differently from the method described in subparagraph II.C.3 above. Said Subparagraph is not to be considered a ratification or acceptance by the Commission of that method of disposition.

III.

A. *It is further ordered*, That the Ford respondents:

1. Shall, within 90 days of the effective date of this Order, develop and provide to every repurchase dealer detailed educational materials and training to carry out the purposes of Part II of this Order and of Part VI (insofar as it relates to reinstatement and redemption rights), as further described in the Initial Compliance Report.

2. Shall, commencing no later than 180 days after the effective date of this Order, include detailed information on all pertinent aspects of Part II of this Order and Part VI (insofar as it relates to reinstatement and redemption rights) in all appropriate seminars, correspondence courses and other training materials offered to dealers.

3. Shall provide no instructions to dealers inconsistent with this Order.

B. *It is further ordered*, That Ford:

1. Shall, within 60 days of the effective date of this Order, send to each repurchase dealer a letter which contains information to the following effect, with nothing to the contrary or in mitigation thereof:

a. State law requires that any surplus generated on the disposition of a repossessed vehicle must be returned to the defaulting customer;

b. The duty to pay surpluses has existed for many years and the company urges dealers to pay all surpluses on repossessed vehicles disposed of prior to the date of the letter, as well as those arising later;

c. Except in California and Louisiana, State law provides that if a dealer does not pay a surplus owed, the defaulting customer has the right to recover a penalty equal to "an amount not less than the credit service charge plus 10 percent of the principal amount of the debt or the time price differential plus 10 percent of the cash price";

d. If a customer to whom a surplus is owed has been reported by the dealer or its agent to a credit reporting agency as owing a deficiency, the dealer should promptly advise such agency of the correct facts; and

e. The Federal Trade Commission has issued complaints against three automobile dealers charging that their failure to pay past surpluses violated Federal law.

2. Shall include in the above mailing a copy of this Order, together with the Commission's published Analysis of Consent Order.

3. Shall, within 90 days of the effective date of this Order, develop and provide to all Ford Dealer Development branch personnel (other than clerical employees) educational materials and training to carry out the purposes of Parts II and V of this Order, as further described in the Initial Compliance Report.

4. Shall provide to authorized representatives of the Federal Trade Commission upon 30 days written notice a set of mailing labels addressed to the president of each dealership, together with a list containing the same information and a certification that the labels and list are complete.

C. *It is further ordered*, That Ford Credit:

1. Shall, within 60 days of the effective date of this Order, send to each dealer to which Ford Credit has returned a vehicle, pursuant to a repurchase agreement, that was repossessed since May 1, 1974:

a. A letter containing the same information required by Subparagraph III.B.1 above; and

b. A list containing the following data for each Ford Credit repossession returned to the dealer between May 1, 1974 and the effective date of this Order: Name, address and account number of the financing customer, net payoff and date of repossession of the vehicle.

2. Shall, within 90 days of the effective date of this Order, develop and provide to all Ford Credit branch personnel involved in repurchase financing transactions (other than clerical employees) educational materials and training to carry out the purposes of Parts II and VI of this Order, as further described in the Initial Compliance Report.

IV.

It is further ordered, That:

A. To determine whether dealers are correctly calculating and paying surpluses, Ford shall conduct an audit ("initial sample audit") of repurchase dealers. This audit shall:

1. Consist of 100 repurchase dealers randomly selected pursuant to a sampling method as set forth in the Initial Compliance Report accepted by the Federal Trade Commission;

2. Begin within sixteen months after the effective date of this Order and be completed and reported to the Federal Trade Commission in accordance with Subparagraph IV.I.2 below within the next eleven months, exclusive of the month of December, as set forth in the Initial Compliance Report.

B. An audit conducted pursuant to Paragraph IV.A or IV.C shall be deemed to demonstrate dealer compliance if less than 1.5 percent of the dispositions audited are noncomplying transactions. A "noncomplying transaction," as further described in the Initial Compliance Report, means a disposition that results in a surplus not correctly calculated and paid in full to the financing customer.

C. In the event the initial sample audit does not demonstrate dealer compliance Ford shall conduct further audits ("follow-up sample audits"), each to consist of 85 dealers randomly selected pursuant to the procedure and schedule described in the Initial Compliance Report, until an audit demonstrating dealer compliance has been attained or a total of four follow-up sample audits have been conducted, whichever occurs first.

D. Within thirty days after a determination by Ford or advice by the Commission's representatives that the initial sample audit or a follow-up sample audit does not demonstrate dealer compliance, Ford shall supplement the accounting system to provide that each dealer submit to Ford:

1. No later than six months after the above advice or determination, the completed Ford accounting forms described in Paragraph II.B of this Order for all repurchase financing repossessions disposed of by the dealer that were returned to the dealer during the audit period covered by the prior sample audit; and

2. With each of the above submissions, a signed statement that the Ford accounting forms submitted include all repurchase financing repossessions disposed of by the dealer that were returned to the dealer during the audit period or, alternatively, that there were no such repossessions.

No submission shall be necessary after the last follow-up sample audit.

E. Ford shall review all Ford accounting forms submitted to it pursuant to paragraph IV.D within 90 days of their receipt. This review shall be conducted by trained clerical personnel in accordance with the Initial Compliance Report, but Ford shall not be required to undertake a detailed analysis of these Ford accounting forms and shall not be deemed to have violated this Paragraph if, despite good faith efforts, there are errors or omissions in that review.

F. Three years after completion of the last audit required pursuant to Paragraph IV.A or IV.C, Ford shall conduct a "final sample audit" of 85 randomly selected dealers pursuant to the procedure and schedule described in the Initial Compliance Report.

G. In addition to the audits provided for above, Ford shall conduct a supplemental audit of each dealership:

1. Found by Ford, in the immediately preceding initial sample audit or follow-up sample audit of the dealership, to have had noncomplying transactions as set forth in the Initial Compliance Report;

2. Which failed to submit either the Ford accounting forms required by Paragraph IV.D or a signed statement that no repurchase financing repossessions were returned to the dealership during the relevant period;

3. Which failed to indicate payment of a surplus identified on any Ford accounting form submitted pursuant to Paragraph IV.D;

4. Which failed more than occasionally, as further described in the Initial Compliance Report, to sign the certification on Ford accounting forms submitted pursuant to Paragraph IV.D; or

5. Found, based on review of the Ford accounting forms submitted pursuant to Paragraph IV.D, to have deducted expenses other than allowable expenses.

Each supplemental audit required by this Paragraph shall be completed within six months of detection of the event which triggers it and shall be conducted pursuant to the procedure set forth in the Initial Compliance Report.

H. Within sixty days after completion of each audit of a dealership provided for in Paragraphs IV.A, C, F and G above, Ford shall:

1. Submit to the Federal Trade Commission a summary report of the audit for that dealership, containing: (a) The name and address of the dealership; (b) the number of dispositions examined; (c) the number and dollar value of surpluses properly calculated and paid; (d) the number and dollar value of surpluses as to which attempts to pay were unsuccessful; (e) the number of repossessed vehicles sold at wholesale; (f) the number of noncomplying transactions and, for each such transaction, the amount owed, copies of the audit worksheets, the Ford accounting form and business records of the dealership and/or financing institution sufficient to establish such noncompliance; and (g) a certification by the auditor attesting to his or her findings concerning each noncomplying transaction, including the reason for noncompliance and any explanation provided by the dealership; and

2. For each dealership found to have noncomplying transactions as set forth in the Initial Compliance Report, commence further dealership training to correct such noncompliance.

I. The audits provided for in Paragraphs IV.A, C, and F of this Order shall conform to Subparagraphs 1-7 below. The audits conducted pursuant to Paragraph IV.G shall conform to Subparagraphs 3-7 below. The audits and report submissions provided for in Paragraphs IV.C, D, E and G shall also conform to Subparagraph 8 below.

I. The Federal Trade Commission shall be given reasonable advance notice of the time of random selection and shall have the opportunity to have its representatives ob-

serve and review the random selection process.

2. Ford shall provide to the Commission a summary report of each entire sample audit, within 60 days after completion of such audit, specifying (a) the name and address of each dealership included, (b) the total number of dispositions examined, (c) the total number and dollar value of noncomplying transactions, (d) the number and dollar value of surpluses properly calculated and paid, (e) the number and dollar value of surpluses as to which attempts to pay were unsuccessful, and (f) the number of repossessed vehicles sold at wholesale.

3. For each dealer audited, each repurchase financing repossession returned to the dealer during the audit period shall be examined to determine whether it is a noncomplying transaction.

4. The audit shall be conducted by the General Auditor's Office of Ford Motor Company (or by other qualified auditors designated by Ford), in accordance with the procedure described in the Initial Compliance Report.

5. The Ford respondents shall direct their personnel (including retained consultants or experts) that they are not to inform dealers or other third parties of the audit procedure, the sample period, the method of drawing the sample, or the identity of dealers selected for audit except to the extent described in this Order, and the Ford respondents shall take all reasonable measures to insure that their personnel adhere to this direction.

6. No dealer selected for audit shall be given more than ten business days advance notice of the scheduled audit.

7. Upon request by the Commission's representatives, Ford shall, within 30 days, submit copies of the auditors' worksheets and summary comments on any dealership audited.

8. In particular circumstances of dealer noncompliance, the schedule and scope of audits and report submissions shall be modified as described in the Initial Compliance Report.

V

It is further ordered, That Ford:

A. Shall require each Ford employee who is a director of an equity dealership to vote for resolutions so that each such dealership:

1. Within 60 days of the effective date of this Order or within 60 days of initiating operation as a dealership, whichever is later, adopts and maintains the accounting system described in Part II of this Order;

2. Pays all surpluses (*Provided, however*, That a dealership's failure to pay a surplus which has not come to the attention of any Ford employee whose primary responsibilities concern equity dealerships shall not be deemed a violation of this Subparagraph); and

3. Has an annual examination of its documents by a certified public accounting firm, for each year up to and including the year that the final sample audit is completed, to determine whether the dealership is following the accounting system; such examination shall (a) include an inspection of underlying documents supporting entries on the Ford accounting form (described in Paragraph II.B of this Order) for all repossessed vehicles returned to the dealership during the year covered by the examination and (b) be followed by a report to the dealership board of directors regarding any noncomplying transactions.

B. Shall require that, at every accounting review of an equity dealership, but in any event at least once every calendar year commencing after the effective date of this Order, Ford's employees shall randomly select and examine underlying documents supporting entries on the Ford accounting form for at least one-fourth of the repossessed vehicles returned to the dealership since the previous such review or since January 1, 1978, whichever is later. If the examination reveals that the dealership has any noncomplying transactions, then:

1. Ford's employees shall examine underlying documents for the remaining three-fourths of the repossessions and report all noncomplying transactions to the dealership's board of directors; and

2. Ford employees who are members of such board of directors shall institute appropriate measures to correct the noncompliance.

C. Shall ascertain for each liquidating dealership whether any unpaid surpluses have arisen since the last audit by an independent certified public accounting firm, and pay each such surplus.

D. Shall, within 60 days of the effective date of the Order, with respect to repossessed vehicles returned between May 1, 1974 and December 31, 1977 to dealerships which are equity dealerships as of the effective date of this Order, and with respect to repossessed vehicles returned between May 1, 1974 and December 31, 1977 to liquidating dealerships, establish to the reasonable satisfaction of the Commission, ad described in the Initial Compliance Report, that:

1. All surpluses have been paid; and

2. In each instance where a customer entitled to receive a surplus pursuant to Subparagraph V.D.1 above had been previously reported by the dealership or its agent to a credit reporting agency as owing a deficiency, such agency has been subsequently advised of the correct facts.

VI

It is further ordered, That Ford Credit:

A. Shall incorporate provisions to the following effect into the "Retail Plan" section of its "Automotive Finance Plans for Ford Motor Company Dealers," within 60 days of the effective date of this Order, and into any subsequent edition of that document or any comparable successor document:

1. Dealers are to permit redemption by the customer whose vehicle has been repossessed, at any time until there is a binding agreement for disposition;

2. Dealers are to permit redemption in accordance with the post-repossession notice sent by Ford Credit to the customer;

3. Dealers are to determine whether a surplus exists on a repurchase financing repossession according to the accounting system described in Part II of this Order;

4. In determining surpluses and deficiences, dealers are not to deduct expenses other than allowable expenses;

5. Dealers are to account for and pay each surplus within 45 days of disposition.

B. Shall, as soon as practicable, but no later than twelve months after the effective date of this Order, develop and distribute to all dealers who use Ford Credit's form of retail installment contract, revised Ford Credit retail installment contract forms that include a clear, concise statement in lay language that, in the event of repossession:

1. No expenses other than reasonable expenses incurred as a direct result of repossessing (including, where permitted, attorney's fees and court costs), holding, preparing for sale and selling the vehicle may be deducted from the proceeds in determining a surplus or deficiency; and

2. Any surplus realized on the resale or other disposition of the vehicle is to be paid to the customer.

C. Shall direct its branch offices that, commencing two weeks after the distribution to a dealership of the revised Ford Credit retail installment contract forms described in Paragraph VI.B, they are not to purchase from that dealership Ford Credit forms of retail installment contracts that are not on the revised forms and shall, for a period of two years thereafter, periodically examine its branch office files, in accordance with its usual monitoring procedures, to determine whether prior retail installment contract forms are being used, and, if so, shall institute appropriate corrective action.

D. Shall, commencing 75 days after the effective date of this Order, include the following information in clear lay language in at least one notice sent prior to repossession to every Ford Credit repurchase financing customer to whom a notice of intent to repossess is sent:

1. The total amount past due at the time the notice is mailed;

2. In transactions where the customer is entitled to reinstatement of the contract, the customer will have an absolute right to such reinstatement and to regain possession of the vehicle by paying all past due installments and by paying such other amounts and fulfilling such other conditions as provided by law;

3. That the customer will have an absolute right to redeem the vehicle at any time prior to a binding agreement for its disposition, and that this right can be exercised by paying the contract balance plus all expenses incurred as a direct result of repossessing, holding and preparing the vehicle for sale;

4. The date or interval of time prior to which the vehicle will not be sold;

5. That if the vehicle is not redeemed or the contract reinstated, the customer will be entitled to a refund of any surplus within 45 days of disposition;

6. That failure to account for and refund a surplus will give the customer a right to sue for the amount of the surplus and, except in California and Louisiana, for statutory penalties as provided by state law.

E. Shall, within 60 days after the effective date of this Order, establish and follow a procedure for uniformly sending a written notice ("post-repossession notice") to Ford Credit financing customers as soon as practicable after repossession. Ford Credit shall periodically examine its branches' files, in accordance with its usual monitoring procedures, to determine whether the post-repossession notices have been and are being sent, and shall institute appropriate actions to assure that this procedure is adhered to. In the event of any charge of failure to follow the procedure for uniformly sending post-repossession notices, Ford Credit shall not be deemed in violation unless it is shown that Ford Credit has failed to send such notices at least ten days prior to the earliest resale date stated pursuant to Subparagraph VI.E.4 below on more than five percent of the repossessions of each of three Ford Credit branch offices in any twelve-month period. The post-repossession notice shall specify in clear, lay language:

1. The name, address and telephone number of the dealership to which the vehicle has been or will be returned for disposition, if applicable, and the address and telephone number of the Ford Credit branch office to be contacted;

2. The date or interval of time within which the customer may reinstate the contract in states where the creditor is required to permit reinstatement of the contract;

3. The net amount necessary to redeem the vehicle, and, in transactions where the customer is entitled to reinstatement, the amount necessary to reinstate the contract, at the time the notice is sent;

4. The date or interval of time prior to which the vehicle will not be sold;

5. That the vehicle can be redeemed at any time prior to a binding agreement for its disposition;

6. That additional expenses incurred as a direct result of holding and preparing the vehicle for sale may increase the amount necessary to redeem the vehicle if redemption is delayed;

7. That Ford Credit should be contacted to reinstate the contract in states where the customer is entitled to reinstatement;

8. That Ford Credit should be contacted for further information about redemption including the procedure for redeeming the vehicle;

9. That, where the vehicle has been returned to the dealer and is not redeemed or the contract is not reinstated, any surplus must be paid to the customer within 45 days after disposition (the notice may also state that a contract between the dealer and Ford Credit provides that the dealer is to pay any surplus);

10. That failure to account for and refund a surplus will give the customer a right to sue for the amount of the surplus and, except in California and Louisiana, for statutory penalties as provided by state law;

11. That the customer may be liable for a deficiency or that state law prohibits Ford Credit and the dealer from collecting any deficiency (the notice is to include the applicable language only);

12. That the customer has the right to direct the dealer to apply for a rebate of any unearned premiums payable by any insurance carrier or agent from whom the dealer has, on behalf of the customer, obtained a credit life, accident and health or collision insurance policy.

F. Shall obtain no waivers of redemption or surplus rights from financing customers.

G. Shall, commencing three months and to be completed no later than twelve months after the effective date of this Order, revise all pertinent Ford Credit forms, form letters, notices and internal written procedures to be consistent with the provisions of this Order.

VII

It is further ordered, That:

A. In the event the Federal Trade Commission issues a final Trade Regulation Rule establishing standards less restrictive on automobile manufacturers, financing companies or vehicle dealerships than a corresponding provision or provisions of this Order relative to (1) the disposition of repossessed vehicles, (2) the determination, calculation or communication of the existence of or the amount of surpluses, or the time or manner of paying or accounting for surpluses, or (3) the determination or communication of reinstatement or redemption rights (including their duration and/or the amount necessary to reinstate or redeem), then such less restrictive standards shall, on the effective date of the Rule, supersede and replace the corresponding provision(s) of this Order. The enumeration of subject matter contained in clauses (1), (2) and (3) of this Paragraph is exclusive. *Provided, however*, That the Ford respondents shall advise the Commission of their intention to rely upon any provision of a Trade Regulation Rule as having superseded any provision of this Order 30 days in advance of reliance thereon. *Provided further*, That this Paragraph shall not be construed as exempting the Ford respondents from any Trade Regulation Rule, or as limiting in any way their legal right or standing to challenge or otherwise contest any Trade Regulation Rule.

B. In the event any of the proceedings presently bearing Docket Nos. 9072, 9073, or 9074 results in a final adjudicated or consent order prescribing standards less restrictive than a corresponding provision or provisions of this Order relative to (1) the disposition of repossessed vehicles, (2) the determination, calculation or communication of the existence of or the amount of surpluses, or the time or manner of paying or accounting for surpluses, or (3) the determination or communication of reinstatement or redemption rights (including their duration and/or the amount necessary to reinstate or redeem), then the Commission shall, within 120 days of a Ford respondent's petition pursuant to § 3.72 of the Commission's rules of practice, reopen this proceeding and order modifications of this Order or other relief as necessary and appropriate to conform this Order to such less restrictive standards prescribed in the other order(s). The enumeration of subject matter contained in clauses (1), (2) and (3) of this Paragraph is exclusive.

C. In the event a Ford respondent is of the opinion that changed conditions of law require that this Order be altered or modified, the Ford respondent may, pursuant to § 3.72(b)(2) of the Commission's rules of practice, file a petition requesting a reopening of this proceeding for that purpose.

VIII

It is further ordered, That:

A. The Ford respondents shall maintain complete business records relative to the manner and form of their continuing compliance with this Order, including but not limited to copies of notices sent to financing customers pursuant to Paragraphs VI.D and E above, and records prepared pursuant to Paragraphs V.A–C for each equity and liquidating dealership. The Ford respondents shall retain all such records for at least three years and shall, upon reasonable notice, make them available for inspection and photocopying by authorized representatives of the Federal Trade Commission.

B. Each of the Ford respondents shall, within 120 days after the effective date of this Order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order and has implemented the Initial Compliance Report submitted with the Agreement Containing Consent Order.

C. Ford shall forthwith distribute a copy of this Order to its Ford, Lincoln-Mercury and Parts and services divisions, and to the Dealer Development activity, and Ford Credit shall forthwith distribute a copy of this Order to each of its Regions.

D. Each of the Ford respondents shall notify the Commission at least thirty days prior to any proposed corporate change such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, the discontinuance of Ford's present program for investing in equity dealerships, or any other change which may affect compliance obligations arising out of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Ford Motor Co. and its credit subsidiary, Ford Motor Credit Co.

The proposed consent order and material reasonably related to the merits of the order and not exempt from disclosure under the Freedom of Information Act have been placed on the public record for 60 days. During this period all interested persons may comment on the proposed order and compliance report. Such comments will become part of the public record. After 60 days the Commission will review the agreement and comments, and will determine whether to withdraw from the agreement or make the order final.

This analysis is intended to encourage public comment on the proposed order. It does not constitute an official interpretation of the agreement and proposed order nor a modification of their terms.

NATURE OF THE CASE

The Commission's complaint issued in February 1976. It made a number of allegations about repossession practices involving Ford Motor Credit Co. (Ford Credit) and Ford dealers, including the following:

1. Each year Ford Credit repossesses numerous cars and trucks from Ford dealers' credit customers. State law and "fairness" under the FTC Act require that on each resale of a repossessed vehicle, after paying off the underlying debt and meeting certain reasonable expenses of repossession and resale, any money left over (the "surplus") must be paid to the person from whom the vehicle was repossessed.

2. Ford Credit has arrangements with a majority of Ford dealers whereby it returns the repossessed car or truck to the dealer who had previously sold it. The dealer then handles the resale and becomes obligated (along with Ford Credit) to see that any surplus is paid. But many such transactions have resulted in surpluses which were not in fact paid by either Ford Credit or the dealer.

3. Ford Credit and dealers have not provided defaulting customers with necessary information about their right to redeem (buy back) their repossessed car or truck under state law.

The complaint specifically named Francis Ford, Inc., a Portland, Oregon Ford dealer, as a participant in these practices. Francis Ford continues to dispute the applicable charges and is not a party to the settlement proposal. The trial as to this remaining respondent was concluded on July 28, 1978 in

With respect to the proposed

dation appeared in a staff memoran-

co and January 12-14, 1976, in Wash-

Seattle, and an Initial Decision is expected later this year.

Another aspect of the case involves allegations of Ford Motor Co. responsibility for dealerships in which it owns all or part of the voting stock (about 3½ percent of all Ford dealers). The complaint charged that such "owned" dealerships have failed to pay surpluses and/or to provide necessary redemption information on repossessed vehicles returned to them by various financing institutions (such as banks) under arrangements similar to those described above for Ford Credit.

THE PROPOSED SETTLEMENT

The proposed consent order is designed to bring about correct calculation and prompt payment of all surpluses on repossessed vehicles resold by Ford dealers. It provides that Ford's Accounting Manual (which is binding on all Ford dealers) will be changed to include specific procedures for determining surpluses. The complete new procedure for "Determination and Refund of Repossession Surpluses" is on the public record as an attachment to an initial report of Ford's intended manner of compliance with the order.

Under the newly required procedure, each Ford dealer will obtain the best available price in reselling any repossessed vehicle returned to it, and will pay any resulting surplus within 45 days of the resale. The Initial Compliance Report allows a dealer, when computing a surplus on a repossessed vehicle, to adjust the selling price to reflect an overallowance or underallowance on a vehicle received in trade, so long as an adjustment for overallowance does not exceed the trade-in allowance given at the time the trade-in vehicle was received, less the wholesale value for the trade-in vehicle as determined by reference to a current recognized guidebook. The only expenses which may be deducted are reasonable, actual out-of-pocket costs incurred as a direct result of repossessing, holding, preparing for sale or reselling the vehicle. A prescribed written summary will be prepared and sent by the dealer within the 45-day period to each customer entitled to a surplus or from whom an attempt is made to collect any further amount (a "deficiency").

It should be noted that the agreed-to order represents a significantly different approach from that of the "notice" version published with the complaint. That version would have held Ford Credit responsible for surpluses arising from Ford Credit repossessions, and Ford Motor Company responsible for surpluses involving its "owned" dealerships. Although the settlement does not resolve the questions of the Ford companies' responsibilities for payment of surpluses, the remedial technique of a Ford-wide Accounting Manual modification provides coverage of all repossessed vehicles returned to Ford dealers (regardless of financing institution and regardless of who owns the dealership). Through this inclusion of bank-repossessed vehicles returned to non-owned dealership, the number of repossession transactions affected by the order has been more than doubled (as compared to the "notice" version).

The consent order requires that Ford and Ford Credit institute extensive training programs to familiarize dealers with their obligations in handling repossessions. The training will be followed by a series of field audits conducted by Ford, to verify that dealers are in fact calculating and paying surpluses correctly. Any instances of dealer noncompliance will be reported to the FTC with appropriate documentation. If noncompliance exceeds a rate of 1½% of all repossessions audited, Ford will review the prescribed written summaries for all Ford dealers' repossession transactions and conduct further audits of dealers generally—as well as special audits of those not complying with the mandated procedure.

Other provisions of the proposed order would require:

1. Specialized measures with respect to surpluses realized by Ford's "owned" dealerships, including payment of surpluses on vehicles repossessed as far back as May 1974.

2. Bulletins to all dealers setting forth their long-standing duty to pay surpluses, urging them to pay surpluses on past repossessions and identifying all repossessed vehicles returned to them by Ford Credit since May 1, 1974.

3. A notice to each customer whose vehicle is hereafter repossessed by Ford Credit, stating the nature and duration of the customer's rights to get the vehicle back and the amount needed to do so, and setting forth the customer's right to a refund of any surplus monies left over after resale.

4. Statements of customers' surplus and/or redemption rights to be included in certain other Ford Credit documents provided to customers and in Ford Credit's contractual arrangements with dealers.

5. Prohibitions against obtaining waivers of customers' surplus or redemption rights.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33050 Filed 11-22-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 433]

PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Publication of Staff Report on Proposed Trade Regulation Rule Amendment

AGENCY: Federal Trade Commission.

ACTION: Publication of staff report.

SUMMARY: On February 16, 1978, the Director of the Bureau of Consumer Protection published in the FEDERAL REGISTER notice of publication of the Presiding Officer's report on the proposed amendment to the trade regulation rule on Preservation of Consumers' Claims and Defenses. (41 FR 5305, February 5, 1976.)

The Bureau of Consumer Protection's staff report which summarizes and analyzes the evidence in its rulemaking proceeding on the proposed amendment and makes recommendations as to the final action which the Commission should take has now been made public and placed on Public Record No. 215-31.

DATE: The publication of the staff report commences the final 60-day comment period on both the staff report and the Presiding Officer's report. Comments will be accepted for the public record if received on or before January 24, 1979.

ADDRESS: Requests for copies of the report should be sent to: Distribution Office, Room 126, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Martin White, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, address above, 202-724-1158.

SUPPLEMENTARY INFORMATION: Pursuant to § 1.13(g) of the Commission's rules of practice, the staff has made its report, containing its summary and analysis of the record and its recommendations as to the form of the final amended rule, to the Commission. The report is now available for public comment under the Commission's rules of practice, § 1.13(h). Requests for copies of the report should be sent to the Distribution Office, Room 126, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments will be accepted on both the staff report and the Presiding Officer's report (which has previously been made public, 43 FR 6810, February 16, 1978) for a period of 60 days ending on January 24, 1979. Comments should be identified as "Comment on Presiding Officer and Staff Reports—Preservation of Consumers' Claims and Defenses TRR Amendment," addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, and submitted, when feasible, in five copies.

In addition to analyzing the issues raised by the proposed amendment, the Staff Report recommends changes in the text of the contract provision that the TRR requires in sales finance and "purchase money loan" contracts. The changes are intended to clarify the provision and make it more understandable to consumers. They are not intended to alter the legal meaning of the provision.[1]

[1] The clarity of the language of the provision was not raised as an issue in the amendment proceeding by the Commission's original Notice of Proposed Amendment. However, FTC Act section 18(d)(2)(g) implicitly gives the Commission authority to make nonsubstantive changes in rule language outside of the usual procedures of section 18 of the FTC Act. See also 5 U.S.C. section 553(b) concerning interpretive rules.

With respect to the proposed changes in the contract provision, the Bureau of Consumer Protection particularly encourages comment on the following issues (in addition to comment on all other relevant issues):

1. The primary purpose of the provision is to serve as binding contractual language that has the legal effect of preserving consumer claims and defenses. At the same time, the provision should convey to consumers some sense of the rights that it preserves so that consumers can take advantage of these rights. What message should the language of the provision convey to an ordinary consumer who reads it?

2. How can the language of the provision best convey to consumers the "message" referred to in Question 1, while still retaining the precise legal meaning of the contract provision specified in the existing rule? How well does the language proposed in Chapter V of the Staff Report serve this dual objective? How can the language proposed in the Report be improved?

3. Should the Commission expeditiously proceed to modify the provision based on the recommendation in the Staff Report (and on comments received on that recommendation)? Alternatively, should the Commission postpone a decision on the language of the provision until it has obtained more information from consumer testing or other sources.[2]

Issued: November 24, 1978.

ALBERT H. KRAMER,
Director,
Bureau of Consumer Protection.

[FR Doc. 78-32996 Filed 11-22-78; 8:45 am]

[2] A decision on the language of the required provision could be postponed without postponing the Commission's decision on the proposed amendment (i.e. on extending the rule to creditors). It should also be noted that the Staff Report recommends that whenever the Commission decides to alter the required provision it should give businesses an opportunity to use up existing inventories of forms.

[6750-01-M]

[16 CFR Part 447]

RETAIL PRICES FOR PRESCRIPTION DRUGS

Withdrawal of Proposed Trade Regulation Rules

AGENCY: Federal Trade Commission.

ACTION: Withdrawal of Proposed Trade Regulation Rules.

SUMMARY: The Federal Trade Commission's Bureau of Consumer Protection has recommended that the proposed trade regulation rules concerning prescription drug price disclosures be withdrawn and that the rulemaking proceeding be closed. The recommendation appeared in a staff memorandum analyzing that portion of the record which followed the U.S. Supreme Court's decision in *Va. Bd. of Pharm.* v. *Va. Cits. Cons. Council*, 425 U.S. 748 (1976).

Section 1.20, "Expeditious Procedures," of the Federal Trade Commission's rules of practice states the Commission may dispense with rulemaking procedures not otherwise required by law. The Commission may invoke this authority after finding certain rulemaking procedures unnecessary. The Commission thus dispensed with the presiding officer's report, a staff report and a period of public comment after finding: (1) The presiding officer's report unnecessary because no disputed issues of material fact existed in the rulemaking proceeding; (2) a staff report unnecessary because a staff memorandum addressed the issue of the continued need, if any, for the proposed rules; and (3) a further period of public comment unnecessary because the public received an extended opportunity to comment on the same issue. The Commission, therefore, went on to consider and to adopt the recommendation of the Bureau of Consumer Protection to withdraw the proposed rules and to close the rulemaking proceeding.

DATE: The Commission voted to withdraw the proposed rules and to close the rulemaking proceeding on October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Teresa Hennessy, Federal Trade Commission, Room 7714B, 1101 Pennsylvania Avenue NW., Washington, D.C. 20580, 202-724-1485.

SUPPLEMENTARY INFORMATION: On June 4, 1975, the Federal Trade Commission published proposed trade regulation rules which, if finally promulgated, would preempt state laws which prohibit or unfairly restrict the advertising of prescription drug price information. "Disclosure Regulations Concerning Retail Prices for Prescription Drugs," 40 FR 24,031. At this time, the Commission invited comment of two types: (1) Proposals of disputed issues of fact material to the rulemaking; and (2) expression of views and arguments on any issue of fact, law, or policy bearing on the proposed rules. On August 19, 1975, the Commission extended the deadline for the first type of comment to September 18, 1975. 40 FR 36,145. On September 30, 1975, the Commission announced a November 21, 1975, deadline for the second type of comment in a final notice of rulemaking. Informal hearings on the proposed rules occurred on: December 1-2, 1975, in Chicago; December 16-17, 1975, in San Francisco; and January 12-14, 1976, in Washington, D.C.

On July 2, 1976, the Commission invited interested persons to comment prior to November 30, 1976, on why the U.S. Supreme Court's decision in *Va. Bd. of Pharm.* cannot accomplish by First Amendment protection what the proposed rules might have accomplished by preemption, 41 FR 27,391. On January 13, 1977, the Commission extended to April 1, 1977, the period for receipt of comment on the need for rules in light of *Va. Bd. of Pharm.* and of evidence from the staff's monitoring of the impact of this decision. 42 FR 2,694.

The staff reviewed the post-*Va. Bd. of Pharm.* Public Record which included comments submitted in response to the Commission's July 2, 1976, and January 13, 1977, invitations and Regional Office reports on prescription drug price disclosure in the states. After this review, the staff recommended that the Commission withdraw the proposed trade regulation rules and close this rulemaking proceeding for two main reasons. One, the Supreme Court's decision has established pharmacists' legal rights to advertise prescription drug prices. Two, private interference with pharmacists' decisions to advertise prices has greatly declined.

After considering the staff's memorandum, the Commission adopted the staff's analysis and approved the staff's recommendation. The Commission then directed that the memorandum be incorporated in the record, that the proposed rules be withdrawn, and that the rulemaking proceeding be closed.

By direction of the Commission dated October 23, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33017 Filed 11-22-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection

[24 CFR Ch. XX]

[Docket No. R-78-584]

IMPLEMENTATION OF TITLE III OF THE ENERGY CONSERVATION AND PRODUCTION ACT OF 1976

Advance Notice of Proposed Rulemaking; Public Meetings

AGENCY: Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

V 43 227 NO 024 78

ACTION: Advance Notice of Proposed Rulemaking and Notice of Public Meetings.

SUMMARY: In August 1979, the Federal Government will promulgate regulations implementing Title III of the Energy Conservation and Production Act of 1976. That action will be preceded by publication of the proposed regulations, for public review and comment, in February 1979. The purpose of this Advance Notice of Proposed Rulemaking is: (1) To give advance notice of interest in developing policies and procedures to implement building energy performance standards for new residential and commercial buildings, and (2) to solicit advice and information from interested parties prior to the issuance of the proposed rule. Public meetings will be held before the proposed rule is published

DATE: Interested parties are invited to submit comments. If they are received by December 15, 1978, the comments will be considered for the draft regulations. Questions to be raised at and requests to speak at the public meetings are to be received by November 28, 1978.

The meetings will be held on the following dates and times: November 30, 1978, 9:30 a.m., Washington, D.C.; December 5, 1978, 9:30 a.m., Chicago, Illinois; and December 8, 1978, 9:30 a.m., San Francisco, California.

The Department of Housing and Urban Development, in collaboration with the Department of Energy, is sponsoring these meetings and is considering additional meetings in January 1979, but will not make that decision until after comments are received and the initial meetings are held. If additional meetings are to be held, the public will be provided advance public notice through publication in the FEDERAL REGISTER.

ADDRESSES: Interested parties may participate in this rulemaking by submitting comments, questions and requests to speak at the public meetings to: U.S. Department of Housing and Urban Development, Rules Docket Clerk, Room 5128, 451 Seventh Steeet, SW., Washington, D.C. 20410.

Public meetings will be held at the following locations:

Commerce Department Auditorium, 14th Street Entrance, Washington, D.C.; O'Hare Holiday Inn, 3801 North Mannhiem Road, Schiller Park, Illinois; and San Franciscan Hotel, Market Street at Civic Center, San Francisco, California.

FOR FURTHER INFORMATION CONTACT:

Dr. Charles G. Field, U.S. Department of Housing and Urban Development, Director, Office of Energy Conservation, Room 4108, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5860.

Archie Twitchell, U.S. Department of Housing and Urban Development, Director, Division of Technical Review and Certification, Room B-182, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 426-2123 or 426-2124.

SUPPLEMENTAL INFORMATION: The conservation of energy in buildings is a recent development. Because energy was both abundant and inexpensive before 1970, the conservation of energy used in controlling heating, cooling and lighting was not given a high priority in the United States. Since it was cheaper to burn fuel than to insulate buildings, the building industry chose to minimize initial construction costs rather than consider more long term life-cycle operating costs.

In response to the 1973 oil embargo the role of the Federal Government in energy conservation efforts increased. For example, Operation Button Up and Project Conserve, both run by the Federal Energy Administration, were designed to inform the public of the need to conserve energy. In addition, this Department incorporated energy standards into its HUD Minimum Property Standards.

In 1975 Congress enacted the Energy Policy and Conservation Act (Pub. L. 94-163) which established the State Energy Conservation Program. This program provides states with funds to carry out conservation measures, including the development of lighting efficiency standards and energy efficiency requirements for insulation.

A year later in 1976, Congress enacted enacted the Energy Conservation and Production Act (Pub. L. 94-385). Title III of this Act represents a fundamental departure from the State Energy Conservation Program by providing for the establishment of energy conservation performance standards for new buildings. Title III redirects Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal Financial assistance.

To accomplish this goal the Department of Energy (DOE) is directed to develop and publish energy performance standards ("Standards") for all new commercial and residential buildings. See Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*). The standards will apply to the design of the overall building itself and not to component parts. DOE will specify the standards as goals to be achieved with applicable requirements, criteria and evaluation techniques, but will not include or prescribe the methods, processes or materials to be used to achieve these goals. In addition these Standards will be designed to achieve the maximum economically practicable improvements in energy efficiency and to encourage the use of renewable sources of energy. DOE plans to issue an Advance Notice of proposed Rulemaking prior to issuing proposed Standards. Proposed Standards will be published in February 1979, with final Standards expected by August 1979.

The program is designed to encourage states and local governments to adopt and enforce the Standards or equivalent energy performance standards through their existing building codes and other construction control mechanisms. The Federal Government intends to publish proposed regulations by February 1979, with final regulations to become effective in August 1979.

Public Participation Plan. The Federal Government recognized that this program may substantially affect the design and construction of commercial and residential buildings; the development of construction technology; the consumption of energy by consumers and property owners; the energy and building codes of states and localities; state and local practices governing the design approval and inspection of new building including the issuance of building permits; and the administrative resources of state and local governmental entities. For this reason the Federal Government will provide a full opportunity for comment to all interested and affected parties.

In addition to written and oral comments received in response to this Advance Notice, the Federal Government seeks comments through other forums. The Federal Government has contracted with the National Association of Counties, the United States Conference of Mayors and the National League of Cities. Under the terms of these contracts, these associations are identifying pertinent issues which concern their members and are conducting research on overcoming constraints to implementation. In addition, the Federal Government has contracted with the Consumer Energy Council of America to develop a consultation process for consumer and energy groups. The National Institute of Building Sciences (NIBS) is analyzing the experiences of representative states in administering energy programs at the state and local levels, experiences of federal agencies with regulatory programs similar to Title III, and technical issues inherent to this program. The Federal Government also has entered into and expects to continue discussions with representative groups affected by this program including state energy administrators, building code administrators, design professionals, labor, and the building industry.

Environmental Impact, Economic Impact and Regulatory Analysis Efforts. Detailed studies are being conducted by DOE on the projected environmental and economic impacts attributable to the promulgation of the Standards. This work is being done in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190 (72 U.S.C. 4321 *et seq.*) and Section 310 of Title III.

The Department of Energy has contracted with Battelle Pacific Northwest Laboratories (PNL) to provide the necessary data. PNL has subcontracted with A. D. Little (ADL) for the economic program and with Energy and Environmental Associates (EEA) for the environmental program.

A regulatory analysis is being conducted by DOE in response to the President's Executive Order 12044. The governmental policy is to enact regulations that are simple and clear; effectively achieve legislative goals; and do not impose unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments.

This analysis will examine the problems in implementing the Standards and will provide a description of the major alternatives that were considered by the agency in developing the regulations. In addition, the analysis will consider the impact of the program upon urban communities. Since the regulations are statutorily mandated, the Department of Energy will not analyze non-regulatory alternatives.

When the proposed regulations are published for comment, a statement will be provided as to how the public may obtain a copy of the draft regulatory analysis. The final regulatory analysis will be made available at the time the final regulations are published.

Statutory Requirements. The following is a general description of the statutory requirements found in the Energy Conservation and Production Act of 1976. This description does not imply a specific regulatory format, but rather is intended to provide a useful background for a better understanding of the issues raised in this Advance Notice.

1. DOE will develop and publish the Standards for all new commercial and residential buildings by August 1979. Commercial buildings include any buildings developed for industrial or public purposes. These Standards are to become effective in February 1980. This timetable was established by President Carter as part of his National Energy Plan.

2. At the time the final Standards are published the President will transmit to Congress the Standards and any recommendation as to whether the sanction, as set forth in Section 305, should be approved. Congress, by joint resolution, must then determine within 90 days whether to approve the sanction. This sanction will be approved if Congress determines that it is necessary to assure that the Standards are applied to all new buildings.

3. The Section 305 sanction is the withholding of all Federal financial assistance for the construction of any new commercial or residential building in any area of any state which fails to comply with the requirements of the Act. Federal financial assistance is defined by the Act to include any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing of formula grants to states) approved by any Federal officer or agency; or any loan made or purchased by any bank, savings and loan association or similar institution subject to regulation by the Boards of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

4. Upon the effective date of the Standards, if the sanction is retained it will be imposed on a locality unless one of the following three conditions is met:

(a) The state has certified and the Federal Government has approved that either a state or locality has adopted and is implementing energy standards that meet or exceed the Standards.

(b) The construction plans for specific buildings in a locality have been approved in accordance with an "applicable approval process" acceptable to the Federal Government. An applicable approval process is a procedure for determining that a building, as designed, complies with the Federal Standards.

(c) The State has requested that the locality be excepted from the requirements of the Act by the Federal Government on the grounds that the magnitude of construction in that area is not sufficient to warrant the costs of implementing the energy standards. An exception may be rescinded if the amount of construction of new buildings in the locality has increased sufficiently to warrant such costs.

5. Federal agencies responsible for the construction of federal buildings not legally subject to state or local building codes are required to adopt procedures to assure that all construction meets or exceeds the applicable Federal standards.

6. The Federal Government is authorized to make grants to states and localities to assist them in meeting the costs of adopting and implementing final performance standards, administering state certification procedures, and carrying out an applicable approval process through either Section 307 of Title III or the State Energy Conservation Program.

7. The Federal Government is authorized to provide technical assistance to states and localities to assist them in meeting the requirements of Title III.

8. The Federal Government is required to monitor the progress made by states and localities in adopting and enforcing energy conservation standards. The effectiveness of standards adopted will also be evaluated. The Administration is to report to Congress on a semiannual basis.

9. The Federal Government is authorized to conduct investigations to determine the accuracy of state certifications.

10. The Federal Government will review all state certifications for approval. States whose certifications are rejected or withdrawn will be given notice of the determination and will be provided an opportunity for a hearing pursuant to the Administrative Procedure Act.

11. Appeal procedures will exist for use by affected parties seeking to appeal an adverse administrative ruling.

12. Administrative procedures will exist for use by affected parties seeking clarification of either technical or administrative provisions of the Act and accompanying regulations.

13. The Standards will be periodically updated.

PROGRAM ISSUES: HUD and DOE seek comments on the regulatory responsibilities for this program. While it is not possible to list all issues, some major ones include the following:

A. *Certification.* The Federal Government has the responsibility under Title III to accept state or local energy standards that meet or exceed the requirements of the Standards promulgated by DOE. At present most states' energy standards are based upon a component standard similar to, or in some cases, identical with the ASHRAE 90-75 standards developed by the American Society of Heating, Refrigerating and Air Conditioning Engineers. Since the Federal Standards will be performance based, states may encounter difficulties complying with Title III. The issues listed below raise questions about how to minimize such difficulties.

1. Should the Federal Government acceptance be limited to performance

U.S. Department of Health, Education

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standards similar to those promulgated by DOE or should acceptance be expanded to include existing energy standards which meet or exceed the Federal Standards?

2. If the Federal Government accepts state or local use of component standards, should the Federal Government condition acceptance of component standards with a requirement that the building code used in that state or locality also include a performance standard?

3. Should the Federal Government pre-approve model building energy codes as meeting the certification requirements, or should each state be required to establish that its standards comply with the Federal Standards?

4. What evidence should be submitted by the state in support of its certification request? For example, should the Federal Government pre-approve certification on the basis of a minimum review and conduct subsequent spot checks, or should it require a detailed state submission for technical review by the Federal Government prior to approval?

5. What criteria should be used for making certification determinations? What should be the scope and extent of the Federal Government's review of state certifications? Should certification be limited to design review or cover other compliance procedures? If the latter is preferred, what additional procedures should be included?

6. What procedures should be used to minimize disruptions to state and local code enforcement programs when either the Standards are updated or the regulations revised?

7. The Federal Government has authority to withdraw a state's certification approval. Under what circumstances should such authority be exercised? For example, if a locality were unwilling to enforce certified standards or did not adequately fund or staff its enforcement program, should these be circumstances justifying withdrawal of approval?

8. The Federal Government recognizes that some states or localities will, despite a good faith effort, be unable to achieve compliance by the effective date of the Standards. Therefore, should the Federal Government allow a state or locality to phase-in its implementation of a certified program and if so, under what conditions?

B. *Approval Process.* In areas not covered by certified standards, Title III provides procedures for the consideration and approval of applications to construct new buildings which comply with the Federal Standards. The mechanism establishing these procedures is identified as an applicable approval process. Jurisdiction over this process has been left to either the locality or the state.

9. What form should the approval process take? Possibilities include (1) certification by licensed architects or engineers; (2) design reviews by a city or state agency; or (3) design reviews by a third party such as an approved non-government laboratory.

10. How should the Federal Government assure that an applicable approval process is effectively implemented? What role, if any, should the state play?

11. Once a building design has been approved through this process, should non-federal procedures be established to assure that the building is ultimately constructed in accordance with the approved design?

C. *Section 305 Sanction.* 12. Is the statutory sanction necessary to accomplish the goals of this program? Would an alternative federal sanction be more appropriate? Is so, please specify. Can the program succeed on a voluntary basis and if so, under what circumstances?

13. How should the statutory sanction be applied so as to minimize paperwork and administrative actions?

D. *Exceptions.* The Federal Government may except an area, upon request from a state, where the construction of new buildings is not of a magnitude to warrant the costs of implementing energy performance standards. The exception may be rescinded when the level of construction activity has increased sufficiently to warrant such costs.

14. What criteria should be used to except an area?

15. Should exceptions be issued on a case-by-case basis or should exceptions be granted to any locality meeting prescribed criteria?

E. *Grants.* 16. Given limited funding, what priority criteria should be used in awarding grants (e.g. level of construction activity, experience with energy standards, etc.)?

17. How should these grant funds be distributed among states and localities?

18. Grants may be used to fund feasibility, planning, demonstration, operational and evaluation studies. Which studies would result in the most effective use of these grant funds?

F. *Technical Assistance.* Technical assistance may include training and computer programs, administrative guidelines, technical bulletins, demonstration programs of state and local enforcement of energy standards and analytical tools for architectural and engineering use.

19. What types of technical assistance would be most needed and for whom? Are any of these activities currently being provided and if so, by whom?

20. Should technical assistance be provided by the Federal Government through the state or should it be provided directly to local units of government?

21. Given limited funding, what priorities should be placed on the different elements of technical assistance?

22. To what extent should technical assistance be provided by state and local levels of government, and by private organizations?

G. *Monitoring and Evaluation.* Title III requires that the program be monitored as to (1) the progress of State and localities, (2) the procedural obstacles or technical constraints inhibiting implementation, and (3) the effectiveness of energy standards in use.

23. What would be the most efficient and effective way of monitoring State and local compliance with the program?

24. Should State and local code enforcement agencies retain records to facilitate Federal monitoring and evaluation? If so, what types of records should be maintained and for what period of time?

25. Should States have the primary responsibility for monitoring the program?

H. *Administrative Procedures.* The Federal Government must approve all State certifications. Title III provides that in the event the Federal Government rejects, disapproves or requires the withdrawal of a State's certification, the State must be provided with notice and an opportunity for a hearing.

26. Should the Federal Government suspend a State's certification prior to providing an opportunity for hearing when immediate and administrative action is deemed necessary to prevent the construction of energy inefficient commercial and residential buildings? What criteria should necessitate such an action?

27. Should localities or private parties be permitted to intervene in hearings concerning the rejection, disapproval or withdrawal of a State's certification? If so, which parties should be permitted to intervene?

28. Once there has been an administrative decision rendered as a result of a hearing, should there be any further administrative procedures for appeal?

I. *General Considerations.* 29. What actions by the Federal Government would facilitate a smooth transition from the thermal and lighting energy requirements of the State Energy Conservation Program (conducted by DOE under Pub. L. 94-163) to Title III?

30. Title III requires the State to certify that energy standards used by its localities meet or exceed the requirements of the Federal Standards. What remedies, if any, should be available to a locality whose energy standards meet or exceed the Federal Standards, but whose State has not submitted such standards to HUD for certification approval?

31. Title III defines a building as a structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system. Should a building which is to be substantially rehabilitated be considered a "building" for purposes of Title III? If so, what amount of rehabilitation should constitute "substantial"?

32. As enacted by Congress, Title III expresses only one exception to full compliance with the Federal Standards. That exception applies to localities with so little construction that the cost of implementing energy standards would be unwarranted.

Should there be other exceptions? If so, what exceptions and why?

AUTHORITY: This Advance Notice of Proposed Rulemaking is issued under authority of the Energy Conservation Standards for New Buildings Act of 1976 (42 U.S.C. 6831 *et seq.*), published as Title III of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1144 *et seq.* (42 U.S.C. 6801 *et seq.*); Section 7(d) of the Department of HUD Act, 79 Stat. 670 (42 U.S.C. 3535(d)).

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection.

[FR Doc. 78-33103 Filed 11-22-78; 8:45 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-115]

OCCUPATIONAL EXPOSURE TO PESTICIDES

Request for Comments and Information

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Request for Comments and Information.

SUMMARY: This notice requests comments and information on the regulation of occupational exposure to pesticides during the manufacturing and formulation processes. "Pesticides" is a generic term used to identify a group of substances that are added to the environment to kill or injure some form of life. They are further subdivided into groups by their specific intended use, for example, substances used to kill insects are classified as insecticides. OSHA currently regulates occupational exposure to airborne concentrations of approximately 180 substances used as pesticides (29 CFR 1910.1000). Employers are required to reduce employee exposure to the specified permissible exposure limits of these regulated substances by instituting engineering or work practice controls. Where such controls are not sufficient to reduce exposures, they may be supplemented by the use of respirators. On July 17, 1978, OSHA received a criteria document from the National Institute for Occupational Safety and Health, entitled "Criteria for a Recommended Standard . . . Occupational Exposure During the Manufacture and Formulation of Pesticides," which indicates that present regulations regarding pesticides may not sufficiently protect employees exposed to them. Furthermore, a large number of substances used as pesticides are not currently regulated by OSHA. OSHA is seeking information on the health hazards to employees involved in the manufacture and formulation of pesticides, and the factors that should be considered in determining how pesticide manufacturing and formulation should be regulated; and is requesting views on the appropriate regulatory response to the NIOSH recommendations.

DATE: The information requested in this notice must be submitted on or before January 8, 1979.

ADDRESS: The information requested in this notice should be submitted to the Docket Officer, Docket H-115, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Washington, D.C. 20210 (202-523-7894).

FOR FURTHER INFORMATION CONTACT:

Ms. Flo Ryer, Office of Special Standards Programs, Room N3663, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Washington, D.C. 20210 (202-523-7174).

SUPPLEMENTARY INFORMATION: Substances used as pesticides are extremely diverse in chemical structure, as well as in the degree and nature of the toxic effects they produce. In 1975, the lastest year for which figures are available, 1.61 billion pounds of pesticide active ingredients (excluding creosote) were produced in the United States. Under the Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 92-516), the Environmental Protection Agency (EPA) has registered over 1,200 pesticides which are formulated into over 30,000 products. NIOSH estimates that approximately 8,700 workers are employed in manufacturing and formulating facilities which produce primarily pesticides. In addition, there are over 350,000 employees who are potentially exposed because they work at plants that produce pesticides as secondary products.

The National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education and Welfare, has recently submitted to section 22 of the Occupational Safety and Health Act of 1970 (84 Stat. 1612; 29 U.S.C. 671), criteria for a recommended standard on occupational exposure to pesticides. The Directorate of Health Standards Programs, Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, is studying the criteria received from NIOSH, as well as other publications on the health effects resulting from exposure to pesticides. Human data relevant to occupational exposure to pesticides, as well as numerous animal studies, show that pesticides are capable of eliciting a wide variety of toxic effects. These effects may include sterility, degeneration of the kidney, liver and spleen, severe skin irritation, and central nervous system depression. The literature also suggests that certain pesticides may be carcinogenic, mutagenic, and teratogenic in animals.

COMMENTS AND INFORMATION REQUESTED: OSHA has concluded that a comprehensive occupational health standard may be needed to protect employees in the manufacturing and formulating industries from the harmful effects of exposure to pesticides. Consequently, OSHA hereby requests all interested persons to submit comments and information relating to the necessity of developing a standard regulating occupational exposure to pesticides. OSHA's decision on the appropriateness of commencing a rulemaking proceeding will be based on consideration of all comments and information received.

Interested persons are urged to submit written data, views, and arguments concerning a standard for occupational exposure to pesticides during the manufacturing and formulating processes. The following is a brief summary of NIOSH's recommendations for a generic pesticides standard, including indications of some of the issues raised by the recommended provisions. OSHA would like to receive comments on these issues. Interested persons are also invited to raise any other issues which they think are relevant to the development of a generic pesticides standard.

1. *Generic Approach to Pesticides Regulation.* The NIOSH recommended standard is a broad-based standard, primarily concerned with protecting employee health and preventing employee exposure through the application of work practices and control measures. NIOSH does not recommend development of permissible exposure limits (PEL) for the approximately 1,200 registered pesticide active ingredients.

The NIOSH criteria document in-

OSHA requests comments and information on the following:

(a) Is the generic approach appropriate for regulation of employee exposure in manufacturing and formulating facilities?

(b) Should PELs be developed for the substances not currently regulated?

(c) Are there any pesticides in widespread production that are not currently regulated in 29 CFR 1910.1000?

(d) Does the criteria document adequately demonstrate the need for development of a generic standard to regulate employee exposure to pesticides?

2. *Classification Scheme.* The NIOSH recommended standard incorporates a modification of the Environmental Protection Agency's (EPA) pesticides Classification scheme to delineate between various regulatory provisions. For example, for those substances classified as Group I, the most toxic category, some of the regulatory requirements recommended are more stringent than those for Groups II and III. In areas such as medical surveillance, however, requirements are the same for all the groups.

OSHA requests comments and information on the following:

(a) Is the modified EPA classification scheme appropriate for regulating pesticides manufacturing and formulating?

(b) What other schemes of grouping or classifying pesticides would be appropriate?

(c) Is there an approach to a generic pesticides standard that would not require classification?

(d) Would most manufacturing and formulating facilities have pesticides from more than one group present in the workplace at most times? Would classification present compliance difficulties in this situation?

3. *Scope and application.* The NIOSH recommended standard applies to all workers in the pesticide manufacturing and formulating industries. This would include workers involved in manufacturing, formulating, packaging, mixing, blending, or repackaging of any pesticide active ingredient. The standard does not apply to the population-at-large, or users of pesticides who are already regulated by other agencies such as the Department of Transportation, the Environmental Protection Agency, and the Food and Drug Administration.

OSHA requests comments and information on the following:

(a) Does the scope and application section cover all occupations in the manufacturing and formulating industries where exposure to pesticides might occur?

(b) Should raw ingredients and chemical intermediates used to manufacture or formulate pesticides, although not classified as pesticides, be covered under this standard?

(c) Are affected industries and employee groups, number of employees exposed, and conditions of exposure correctly described in the criteria document?

4. *Exposure Monitoring.* The NIOSH recommended standard would require an annual survey of the plant to determine the names and approximate quantities of all pesticides used or stored in the plant; places where pesticides might escape; all locations and operations in which employees might be exposed to pesticides; and the airborne concentrations of pesticides to which workers are exposed.

OSHA requests comments and information on the following:

(a) Is the requirement for monitoring airborne concentrations of pesticides appropriate? Is the time interval between measurements adequate?

(b) What benefits would be derived from the information gathered from the annual survey?

(c) Are there analytical and sampling methods available for employee exposure measurements? What is the precision and accuracy of these methods?

5. *Methods of compliance.* NIOSH recommends that employers minimize employee exposure to pesticides through the use of engineering controls and work practices. Isolation of processes, provision of local exhaust ventilation, and prohibition of threaded pipe connections for pesticide-contaminated streams are examples of the detailed engineering controls requirements included.

OSHA requests comments and information on the following:

(a) Are the specified engineering controls economically and technologically feasible? What other feasible engineering controls are currently available?

(b) What engineering and work practice controls are currently used in pesticide manufacturing and formulating processes? How effective are they in preventing employee exposure to pesticides?

6. *Respirators.* The NIOSH recommended standard states that protection of employees from exposure to airborne concentrations of pesticides may not be achieved by the use of respirators except during: installation, testing, and maintenance; cleanup of spills; and emergencies. Where respirators are permitted to reduce employee exposure, employers would have to select proper respirators in accordance with ANSI Practices for Respiratory Protection, Z88.2-1969. Respirators are to be inspected periodically to ensure they are maintained and functioning properly. Quantitative fit testing is to be performed on employees working with Group I pesticides.

OSHA requests comments and information on the following:

(a) As many of the substances which would be covered by the standard will not have PELs, what other selection criteria would employers use to choose the proper respirators?

(b) Are the inspection frequencies for the different classes of respirators appropriate?

(c) Are employers familiar with quantitative fit testing procedures, and are facilities available to perform such tests?

7. *Emergency Situations.* NIOSH recommends emergency and first-aid services to be provided by the employer. These services include deluge showers, eyewash fountains, oxygen, and resuscitation equipment. All emergency procedures would be incorporated into a written emergency action plan. For Group II and III pesticides, emergency-escape personal protective equipment shall be "readily" available, and for Group I pesticides it shall be "immediately" available.

OSHA requests comments and information on the following:

(a) Do the recommended provisions concerning emergency situations assure adequate protection for employees? Should additional provisions be included?

(b) Are the differences delineated between Group I and the other groups in the requirements concerning availability of emergency-escape personal protective equipment clearly defined and justified?

8. *Protective Clothing and Equipment.* The NIOSH recommended standard would require employees working with pesticides to wear various types of protective clothing and equipment. The degree of protection required would vary for the different groups of pesticides. For example, personal protective equipment suggested for Group III pesticides in the liquid state would include a face shield, chemical goggles, gloves, footwear, and apron.

OSHA requests comments and information on the following:

(a) Are the provisions for the use and storage of work clothing and other personal protective equipment appropriate?

(b) Are the varying time intervals for inspections of equipment necessary and adequate?

(c) Should there be a requirement for providing work clothing and other personal protective equipment for Group III compounds?

9. *Housekeeping.* NIOSH recommends certain materials handling, decontamination, and waste disposal procedures. For example, storage areas are to be separate from work areas; spills are to be immediately cleaned; and wastes that contain pesticide residue would have to be decontaminated before disposal. Periodic inspections for residual pesticide contamination are to be conducted at varying time intervals for the different groups of pesticides.

OSHA requests comments and information on the following:

(a) Would the requirements in the housekeeping section be effective in reducing exposure?

(b) Do the differing requirements based on the distinction between groups offer protection to employees without imposing an unnecessary burden on industry?

(c) Would it be better not to distinguish between groups of pesticides in the section on housekeeping? How frequently should inspections be conducted?

(d) What decontamination procedures are available for pesticides? Will these procedures produce by-products that will require additional decontamination? Are tests available to prove decontamination has been effective?

10. *Hygiene Practices.* This section of the NIOSH recommendations would prohibit smoking, eating, and food preparation in pesticides contaminated areas. Showers and daily changes of clothing would be required for employees working with Group I and II pesticides, and contaminated work clothing would be stored and cleaned by the employer.

OSHA requests comments and information on the following:

(a) Are the hygiene practices in this section appropriate for protecting employees? Should additional practices be developed?

11. *Medical Surveillance.* This section would require a preplacement exam, a comprehensive medical and work history, and periodic exams for all employees working with pesticides. The physician is directed to examine the eyes, liver, kidneys, lungs and central and peripheral nervous systems. Monitoring for cholinesterase activity is stipulated for workers exposed to substances identified as cholinesterase inhibitors.

OSHA requests comments and information on the following:

(a) Do the recommended requirements for medical surveillance give the physician enough direction to enable him to correctly diagnose a pesticide related illness?

(b) Should there be separate medical requirements for each of the three classes of pesticides?

(c) Could medical surveillance guidelines be developed for chemical families or groups of pesticides?

12. *Employee Information and Training.* This section requires that employees be informed of the pesticides they work with, symptoms that may occur from overexposure, limitations in the use of personal protective equipment, and precautions that should be taken when handling pesticides. It is also recommended that employees be trained semi-annually. Training requirements would differ for the various groups of pesticides.

OSHA requests comments and information on the following:

(a) Is the recommended training appropriate? Should additional training requirements be developed?

(b) Are there specific programs for educating employees to work safely with pesticides that are currently available?

(c) Should training requirements differ for the various groups of pesticides?

13. *Signs and Labels.* All pesticide-contaminated containers would have to be labeled, specifying the contents of the container, fire and toxicity hazards, and handling precautions. NIOSH's recommendations include specific provisions for posting entrances to areas where pesticide exposure may occur, and for labelling and color coding of process equipment. These recommended requirements would differ for the various groups of pesticides.

(a) Are the labelling recommendations appropriate for regulating employee exposure to pesticides?

(b) Is the delineation of requirements for the various groups necessary?

14. *Recordkeeping.* This section recommends that all required records be maintained for at least thirty years after termination of employment. These records must include monitoring data, medical exam results, records of emergency treatment, and respirator information. Records must be stored and arranged in such a way as to enable representatives of the Secretary of Labor and the Secretary of Health, Education, and Welfare to correlate exposure and medical data.

OSHA requests comments and information on the following:

(a) Are the required records appropriate for documenting exposures and related health effects?

(b) Is thirty years after termination of employment a sufficient time period to maintain records?

In addition to the specific issues related to the NIOSH criteria document, OSHA also requests comments and information on the following:

15. What benefits may be expected to result from the regulation, i.e., what mortality and morbidity are associated with current exposures, and to what extent would they be reduced by the recommended standard?

16. What is the environmental impact of the recommended standard?

The NIOSH criteria document, including the 343 references relied upon therein, and comments on the document from the NIOSH review consultants (Tab Document) are available for review and copying at the OSHA Technical Data Center, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Interested persons are invited to submit written data, views and comments with respect to the foregoing issues. All communications should be submitted in quadruplicate, by January 8, 1979, to the Docket Officer, Docket H-115 Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210 (202-523-7894). All timely written submissions, as well as other information gathered by the agency, will be considered in any action taken.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

(Sec. 6 Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655) 29 CFR Part 1911; Secretary of Labor Order No. 8-76 (41 FR 25059).)

Signed at Washington, D.C., this 17th day of November 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-33047 Filed 11-22-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 78-140]

HACKENSACK RIVER, N.J.

Proposed Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of Bergen County, N.J., and the New York, Susquehanna, & Western Railroad Co., the Coast Guard is considering changing the regulations governing the Court Street bridge, mile 16.2, and the railroad bridge, mile 16.3, Hackensack River, to provide that the swing span of the Court Street bridge need not open unless advance notice is given and that the swing span of the railroad bridge need not open for the passage of vessels. This proposal is being made because there have been an average of less than one opening per day of the Court Street bridge and the railroad bridge has not opened for the

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past 10 years. This action will, for the Court Street bridge, relieve the bridge owner of the burden of having a person constantly available to open the draw, and for the railroad bridge, relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw.

DATE: Comments must be received on or before December 27, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, N.Y. 10004.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

Bergen County, N.J., and the New York, Susquehanna, & Western Railroad Co. requested the proposed changes to relieve them of the responsibility of maintaining constant attendance at these drawbridges. The data shows that the Court Street drawbridge, mile 16.2, Hackensack River, presently opens on several hours notice. About three out of four of these openings (509—1975, 215—1976, 396—1977, and 67 for the first 4 months of 1978) were from 8 a.m. to midnight. The draw of the railroad bridge, mile 16.3, Hackensack River, has not opened for at least 10 years. There is no navigation at this time above the railroad bridge. The Midtown bridge, mile 16.5, was closed for the passage of vessels effective February 4, 1978 (43 FR 957). There is also under consideration by the Corps of Engineers a plan to build a dam between the Midtown bridge and the railroad bridge which would stop navigation at that point.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding new subparagraphs (1-d) and (1-e) immediately after subparagraph (1-c) of § 117.225(f) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(1-d) *Hackensack River.* The swing span of the Court Street bridge, mile 16.2, shall open on signal from 8 a.m. to midnight if at least two hours notice is given. From midnight to 8 a.m. the swing span shall open on signal if at least eight hours notice is given.

(1-e) *Hackensack River.* The swing span of the New York, Susquehanna, and Western railroad bridge, mile 16.3, need not open for the passage of vessels, and paragraphs (b) through (e) of this section shall not apply to this bridge.

* * * * *

(Sec. 5. 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE: The Coast Guard has detemined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: November 16, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-33049 Filed 11-22-78; 8:45 am]

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 219]

NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Extension of Comment Period

AGENCY: Forest Service, USDA.

ACTION: Extension of comment period on proposed rules to guide land and resource management planning in the National Forest System.

SUMMARY: The comment period is extended on the proposed rules for National Forest System Land and Resources Management Planning pursuant to the National Forest Management Act of 1976. Proposed rules were published in FEDERAL REGISTER Volume 43, No. 170, pages 39046-39059, on August 31, 1978.

DATES: Comments must be received on or before December 16, 1978.

ADDRESS: Send comments on Chief, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charles R. Hartgraves, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, 202-447-5933.

Proposed rules for National Forest System Land and Resource Management Planning pursuant to the National Forest Management Act of 1976 were published in the FEDERAL REGISTER on August 31, 1978. The review period was set from August 31, 1978 to October 30, 1978. Due to numerous requests, the comment period was later extended to November 29, 1978.

With this notice, the review period is now extended to December 16, 1978.

Dated: November 10, 1978.

DOUGLAS R. LEISZ,
Deputy Chief.

[FR Doc. 78-32693 Filed 11-22-78; 8:45 am]

[3410-11-M]

[36 CFR Part 219]

NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Meeting

AGENCY: Forest Service, USDA.

ACTION: Public meeting on proposed rules to guide land and resource management planning in the National Forest System.

SUMMARY: A public meeting will be held regarding the proposed rules published August 31, 1978 (FEDERAL REGISTER, Volume 43, No. 170, pages 39046-39059), by the Department of Agriculture pursuant to Section 6 of the National Forest Management Act.

DATES: public meeting: November 27, 1978—1:00 p.m.

ADDRESS: Meeting location: Department of Agriculture, Administration Building, Room 218-A, 14th Street and Jefferson Drive, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Charles R. Hartgraves, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, 202-447-5933.

A public meeting will be held in Washington, D.C., on November 27, 1978, regarding the proposed rules published August 31, 1978, by the Department of Agriculture pursuant to Section 6 of the National Forest Management Act. The meeting will be conducted by Assistant Secretary M. Rupert Cutler, beginning at 1:00 p.m. in Room 218—Administration Building, U.S. Department of Agriculture, 14th Street and Jefferson Drive, SW.

The public is invited to ask questions and submit oral and written statements about the proposed rules to guide future land and resource planning for the National Forest System.

Persons who wish to attend and/or submit written statements should notify Charles R. Hartgraves, Director, Land Management Planning, Forest Service, P.O. Box 2417, Washington, D.C. 20013. (Area Code 202-447-5933)

Dated: November 9, 1978

DOUGLAS R. LEISZ,
Deputy Chief.

[FR Doc. 78-32692 Filed 11-22-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 1012-4]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Public Hearing on Proposed Standards for Electric Utility Steam Generating Units

AGENCY: Environmental Protection agency (EPA).

ACTION: Extension of comment period on proposed rule.

SUMMARY: This notice extends the comment period and changes the public hearing dates for the proposed standards of performance for electric utility steam generating units which were proposed September 19, 1978 (43 FR 42183). EPA has been requested by representatives of industry, environmental groups, and governmental agencies to allow more time to comment on the proposed standards.

DATES: Public hearing: December 12-14, 1978; 9:00 a.m. to 4:00 p.m. Comments: Comments must be received on or before December 15, 1978. Public hearing record: The public hearing record will close January 15, 1979.

ADDRESSES: Hearing held: GSA Auditorium, 18th and F Streets NW., Washington, D.C..

FOR FURTHER INFORMATION CONTACT:

Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: On September 19, 1978, EPA proposed standards of performance for electric utility steam generating units under the authority of section 111 of the Clean Air Act and announced a public hearing. Comments were to be received on or before November 20, 1978, the public hearing was scheduled to be held on November 29-30, 1978, and the record of the public hearing would remain open for 30 days after completion of the hearing to provide an opportunity for any member of the public to submit rebuttal and supplementary information on the data presented at the hearing.

This notice changes those dates to the following:

Comments: Comments are to be received on or before December 15, 1978.

Public hearing: The public hearing will be held December 12-14, 1978, between the hours of 9:00 a.m. and 4:00 p.m. The public hearing record will remain open until January 15, 1979.

EPA has received requests to extend the times for filing comments on the proposed standards from the Utility Air Regulatory Group, the Sierra Club, the Department of Commerce, and others. EPA believes that the schedule changes provided in this notice should satisfy these requests.

Persons wishing to make oral presentations; which will be limited to 15 minutes each, should notify EPA by November 30, 1978, by contacting Ms. Shirley Tabler, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919-541-5421. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to Mr. Jack R. Farmer, Chief, Standards Development Branch (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

The public hearing will be legislative in nature with EPA officials empaneled to receive testimony and ask questions of all witnesses. Persons interested in testifying at the hearing should advise EPA as instructed above. If time permits, the third day of the hearing may be used by the hearing officer to have a panel discussion of the issues raised during the hearing. A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the Environmental Protection Agency's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460 (Docket No. OAQPS-78-1).

In addition to revising the comment period and hearing schedule, the Agency also recognizes that the organization of the public hearing itself will have to be changed. Initially, the public hearing was to serve as a forum for clarifying, supplementing, and rebutting previously submitted written statements. This approach anticipated that most written statements would be available for review by the public in advance of the close of the comment period and that only a limited amount of time would be required between the close of the comment period and the public hearing for review of those comments received near the deadline. However, a number of individuals have indicated they will not be able to complete and submit their comments as early as contemplated by this approach.

The extension of the comment period in response to the requests of these parties will make it impossible to follow EPA's original intention of having a nine-day interval between the close of the comment period and the beginning of the hearing and still comply with the terms of the consent order issued by the U.S. District Court for the District of Columbia. The order requires the standards to be promulgated by March 20, 1979. However, all interested persons will still be provided the opportunity to reply to one another's comments and submit supplemental information, as the record will be held open for thirty days after comments are due. Upon completion of this 30-day period (January 15, 1979), the record will be closed in order to provide sufficient time for the Administrator to carefully weigh all evidence submitted and to make the final decision on the basis of the formal record.

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Dated: November 16, 1978.

DAVID D. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-32821 Filed 11-22-78; 8:45 am]

[6560-01-M]

[40 CFR Part 81]

[FRL 1013-2]

AIR QUALITY CONTROL REGIONS, CRITERIA AND CONTROL TECHNIQUES

Section 107—Attainment Status Designations; Extension of Comment Period

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to extend the public comment period for the proposed designation of Valdez, Alaska as a nonattainment area for the primary sulfur dioxide (SO_2) national ambient air quality standard.

DATES: Comments are due by January 12, 1979.

ADDRESS: Environmental Protection Agency, Region 10 M/S 629, 1200 Sixth Avenue, Seattle, Washington 98101; Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Clark L. Gaulding, Chief, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, telephone 206-442-1230 (FTS 399-1230).

SUPPLEMENTARY INFORMATION: On September 11, 1978 (43 FR 40436) EPA proposed a change to revise the attainment status of Valdez, Alaska to non-attainment for SO_2. The action is part of a nationwide activity to designate all areas attainment or non-attainment for the national ambient air quality standards as required by Section 107 of the Clean Air Act Amendments of 1977.

Public comments on the proposed change were invited for a period of 60 days (November 13, 1978). EPA Region 10 has received several requests to extend the comment period for an additional 60 days.

In view of the potential impact of the designation upon Valdez, EPA is hereby extending the public comment period for 60 days, to January 12, 1979. Comments on the proposed redesignation should be addressed to Clark L. Gaulding at the address listed above. Comments received will be evaluated and a final designation published in the FEDERAL REGISTER.

(Secs. 107(d), 171(2), 301(a), of the Clean Air Act amended (42 U.S.C. 7407(d), 7501(2), 7601(a)).)

Dated: November 14, 1978.

DONALD DUBOIS,
Regional Administrator.

[FR Doc. 78-32822 Filed 11-22-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 78-47]

MISCELLANEOUS AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Maritime Commission hereby proposes to revise its rules of practice and procedure so that the Commission will be able to comply with the requirements of the recently enacted amendment to the Intercoastal Shipping Act, 1933. That legislation mandates that the Commission render final decisions on matters arising under the Act within 180 days of the effective date of a given filing. Under the existing rules of practice and procedure, the Commission would be unable to adhere to the deadline imposed by the Congress. The rules must therefore be modified to effectuate the legislative intent to expedite the Commission's decisionmaking process. The proposed revisions will provide procedural guidelines for participants in proceedings under the Act which will allow for prompt adjudication by the Commission.

DATE: Comments will not be accepted later than December 14, 1978.

ADDRESS: Comments should be directed to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, 202-523-5725.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Congress recently enacted an amendment to the Intercoastal Shipping Act, 1933, which was designed in part to expedite the Federal Maritime Commission's decisionmaking process as it relates to the regulation of the domestic offshore trades. A strict procedural schedule was imposed upon Commission adjudication of matters arising under the Act. The new legislation requires that decisions rendered by the Commission be reached within 180 days after the rate, fare, charge, classification, or regulation becomes effective. Additional subdeadlines were established by the Congress for the expeditious resolution of issues before the Commission. The evidentiary phase of the hearing is to be completed within the initial 60 days. The Administrative Law Judge is to submit an initial decision to the Commission within 60 days thereafter. A final decision will then be issued by the Commission within 180 days of the effective date of the filing. Extensions of up to 60 days are authorized, but limited to extraordinary circumstances. The legislative intent is clear. The Commission is to render decisions under the Intercoastal Shipping Act promptly and efficiently.

The Commission's present rules of practice and procedure are patterned closely after the Federal Rules of Civil Procedure. They work well in adjudicatory proceedings but often lead to delay in rate proceedings. Rule 67(c) of the Commission's rules of practice and procedure was an attempt to devise a procedure that would expedite proceedings brought under section 3 of the intercoastal Shipping Act, 1933. Although the objective of Rule 67(c) is sound, a number of modifications are required in view of the new legislation.

The proposed revisions in the rules of practice and procedure will require the carrier to file its entire direct case with any general increase in rates 60 days prior to the proposed effective date of the change. All necessary testimony, exhibits, and underlying data will be readily available to protestants and other interested parties. Protestants will be required to file protests against proposed changes in tariffs not later than 30 days prior to the proposed effective date of the changes. At present, protests may be made up to 15 days before the date the tariff is to become effective. A particularly important modification effectuated by the revised rules involves the quality of the protest to be filed with the Commission. Under the current rules, protests need only identify the tariff in question and specify the items opposed and the grounds for that opposition. The revised rules require the inclusion of extensive additional material. Protests will have to identify specific areas of dispute and disclose the protestant's position regarding those issues; justify the need for a hearing; designate additional data required of the carrier; and identify the witnesses and documents the protestant will produce at the hearing.

Within 7 days after the effective date of the changes, Hearing Counsel and any protestants will be required to serve on all parties all testimony and exhibits constituting the direct case, as well as the underlying data. It is anticipated that the exchange of testimony, exhibits, and underlying data by all parties will obviate the need for lengthy discovery. The various participants will have immediate access to information which would have ultimately been disclosed to them and a significant savings of time and expense will have been achieved.

Subsequent to the exchange of information, a prehearing conference will be scheduled. The revised rules dictate that each party file a prehearing statement prior to the date of the conference. The prehearing statement is designed to assist the Administrative Law Judge in identifying those issues subject to actual dispute and those which can be readily resolved, in determining the need for and scope of cross-examination, and in assessing the needs of the parties for additional witnesses and documents. The prehearing conference will be utilized to simplify, clarify, and limit the issues to be resolved and to establish the nature and scope of the procedure suited to the resolution of those issues. The prehearing conference will allow for the prompt disposal of preliminary matters and thereby serve to speed the ultimate decisionmaking process.

Having limited the issues to the extent possible and established a procedure for their resolution, the Administrative Law Judge will rule upon matters presented for his determination, either orally upon the record, or by subsequent ruling in writing.

If the parties adhere strictly to the procedural schedule established by the revised rules, the Commission will be able to render a final decision within 180 days of the effective date of the tariff filing. The revised rules allow for immediate and complete access to essential material and supply the necessary procedural mechanisms to expedite the decisionmaking process.

Accordingly, it is proposed that Title 46 CFR be amended by the addition of a Revised § 502.67 as set forth below. Existing § 502.67 (General Order 16) will be replaced by new regulations resulting from this rulemaking.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 21, 27, and 43 of the Shipping Act, 1916 (46 U.S.C. 820, 826, 841(a)), and section 3 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845), Part 502 of Title 46, Code of Federal Regulations is amended as set forth hereinafter.

Section 502.67 is deleted and new paragraphs (a), (b), (c), (d), (e), (f), (g), and (h) are substituted as follows:

§ 502.67 Proceedings under section 3(a) of the Intercoastal Shipping Act, 1933.

(a) No general increase in rates or general decrease in rates shall take effect before the close of the 60th day after the day it is posted and filed with the Commission. The carrier will file concurrently with any general increase or decrease in rates, testimony and exhibits of such composition, scope, and format that they will serve as the carrier's entire direct case in the event the matter is set for formal investigation together with all underlying data (including workpapers used in the preparation of the testimony and exhibits). Copies of testimony, exhibits and underlying data will be served simultaneously on the Attorney General of every State, Commonwealth, Possession, or Territory having ports in the trade that are served by the carrier. In addition, the testimony, exhibits and underlying data shall be made available at every port in the trade at the offices of the carrier during ususal business hours for inspection and copying by any person.

(b) (1) Protests against a proposed general increase or general decrease in rates made pursuant to section 3 of the Intercoastal Shipping Act, 1933, may be made by letter and shall be filed with the Director, Bureau of Ocean Commerce Regulation and the carrier not later than thirty (30) days prior to the proposed effective date of the proposed changes. In the event due date for protests falls on a Saturday, Sunday, or national legal holiday, protests must be filed with the Director, Bureau of Ocean Commerce Regulation and the carrier no later than the last business day preceding the weekend or holiday. Persons filing protests pursuant to this section shall be made parties to any docketed proceeding involving the matter protested, provided that the issues raised in the protest are pertinent to the issues set forth in the order of investitation and do not unduly broaden them. Protests shall contain the following:

(i) Identification of the tariff in question;

(ii) Specific reference to the items opposed;

(iii) Grounds for opposition to the change;

(iv) Identification of any specific areas of the carrier's testimony, exhibits, or underlying data that are in dispute and a statement of position on each area in dispute;

(v) Specific reasons why a hearing is necessary to resolve the issues in dispute;

(vi) Any requests for aditional carrier data;

(vii) Identification of any witnesses protestant would produce at a hearing, a summary of their testimony and identification of documents protestant would offer in evidence, and

(viii) A subscription and verification.

(2) Protests against other proposed changes in tariffs made pursuant to section 3 of the Intercoastal Shipping Act, 1933, shall be filed not later than twenty (20) days prior to the proposed effective date of the change. The provisions of paragraph (b)(1) of this section relating to the form, place, and manner of filing protests against a proposed general increase or general decrease in rates shall be applicable to protest against other proposed changes in tariffs.

(c) Replies to protests shall conform to the requirements of § 502.74 (Rule 74).

(d) In the event the matter is made subject to a docketed proceeding, Hearing Counsel and all protestants will serve testimony, exhibits constituting their direct case, together with underlying data (including workpapers used in the preparation of the testimony and exhibits) on all parties and the Administrative Law Judge no later than seven (7) days after the tariff matter takes effect or, in the case of suspended matter, seven (7) days after the matter would have otherwise gone into effect.

(e) (1) Subsequent to the exchange of testimony, exhibits, and underlying data by all parites, the Administrative Law Judge shall direct all parities to attend a prehearing conference to consider the following:

(i) Simplification of issues;

(ii) Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

(iii) Identification of any issues which require evidentiary hearing;

(iv) If evidentiary hearing is necessary, limitation of witnesses and areas of cross-examination, and

(v) Requests for subpenas.

(2) After considering the procedural recommendations of the parties, the Administrative Law Judge will limit the issues to the extent possible and establish a procedure for their resolution.

(3) The Administrative Law Judge shall rule upon matters presented for his decision, orally upon the record when feasible, or by subsequent ruling in writing.

(f) (1) It shall be the duty of every party to file a prehearing statement on a date specified by the Administrative Law Judge but in no event no later than the date of the prehearing conference.

(2) A prehearing statement shall state the name of the party or parties on whose behalf it is presented and briefly set forth the following matters:

(i) Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

(ii) Identification of any issues which require evidentiary hearing together with the reasons why these

Dated: November 17, 1978.

tusville, Fla., is permitted by special

7. The Refuge will be closed to fish-

issues cannot be resolved readily on the basis of documents, admissions of fact, stipulations, or an alternative procedure;

(iii) Requests for cross-examination of the direct written testimony of any witness, including an identification of the witness, the subjects upon which the witness will be examined and the reason why alternatives to cross-examination are not feasible;

(iv) Requests for additional witnesses and documents, including an identification of the witnesses and the documents to be produced by the witnesses at the evidentiary hearing, together with the reasons why the record would be deficient in the absence of this evidence, and

(v) Procedural suggestions that would aid in the timely disposition of the proceeding.

(g) The provisions of this section are designed to enable the Administrative Law Judge to complete a hearing within sixty (60) days after the proposed effective date of the changes and submit an initial decision to the Commission within one hundred twenty (120) days as required by section 3(b) of the Intercoastal Shipping Act, 1933. The Administrative Law Judge may employ any other provision of the Commission's rules of practice and procedure, not inconsistent with this section, in order to meet this objective. Exceptions to the decision of the Administrative Law Judge, filed pursuant to § 502.227 (Rule 227) shall be served no later than fifteen (15) days after date of service of the initial decision. Replies thereto shall be served no later than ten (10) days after date of service of exceptions.

(h) Intervention of persons other than protestants ordinarily will not be granted. In the event intervention of such persons is granted, the Administrative Law Judge or the Commission may attach such conditions or limitations as are deemed necessary to effectuate the purpose of this section.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-32828 Filed 11-22-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Part 9]

FEDERAL ACQUISITION REGULATION PROJECT

Availability and Request for Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on draft Federal Acquisition Regulation regarding; Responsible Prospective Contractors, Qualified Products, and First Article Testing and Approval.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR). Additional segments will be announced for availability and comment on later dates. The regulation is being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before January 24, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place NW., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

William Maraist, or Strat Valakis, 202-395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce the proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available for public and Government agency review and comment.[1]

PART 9—CONTRACTOR QUALIFICATIONS

SUBPART 9.1—RESPONSIBLE PROSPECTIVE CONTRACTORS

SUBPART 9.2—QUALIFIED PRODUCTS

SUBPART 9.3—FIRST ARTICLE TESTING AND APPROVAL

9.1 Responsible Prospective Contractors—This Subpart prescribes policy, standards and procedures for determining whether a prospective contractor or subcontractor is responsible. It contains a responsibility standard to emphasize Walsh-Healey Public Contracts Act requirements where applicable. Also, it provides for considerable standardization of preaward survey procedures and modification of DD 1524 into a Standard Form. This change is responsive to a recommendation of the Commission on Federal Paperwork. Additionally, special provisions concerning responsibility determinations for small businesses are set forth.

9.2 Qualified Products—This Subpart prescribes policies and procedures for the acquisition of items that have been examined and tested for compliance with specifications in advance of a contractual action. It provides for the establishment of Qualified Products Lists (QPL) to identify items so qualified, and establishes policy and procedures to assure that use of a qualified product is fully justified to meet the essential needs of the Government. Responsibilities of a specification preparing activity (SPA) are set forth to provide manufacturers, including small and disadvantaged business concerns, ample opportunity to qualify their products or items. Also, this subpart provides direction to contracting officers regarding solicitation requirements which involve qualified products and conditions for removal or omission of a product from a QPL.

Qualified Products contract clauses are provided with the text for review. They will be published in Part 52 of the completed FAR.

9.3 First Article Testing and Approval—This Subpart sets forth policy with respect to testing and approval of preproduction models, initial production samples, first lots, pilot lots and pilot models. It provides for such testing and approval when it is necessary to ensure that the contractor can furnish an item that conforms to all contractual requirements for acceptance.

First Article Testing and Approval contract clauses are provided with the text for review. They will be published in Part 52 of the completed FAR.

No significant policy changes are proposed for Subparts 9.1 and 9.2. Proposed policy changes to 9.3 include: (i) Elimination of the requirement for a contracting officer to secure higher level approval before authorizing a contractor to acquire specific materials, before first article approval, (ii) a requirement that all solicitations containing a first article testing and approval provision also permit alternative offers, with or without, a first article testing and approval requirement, and (iii) expansion of the term "first article approval" to "first article testing and approval" because the latter is more accurate and descriptive.

[1] A copy of the draft regulation is filed with the original document.

Dated: November 17, 1978.

LESTER A. FETTIG,
Administrator.

[FR Doc. 78-33101 Filed 11-22-78; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wild Life Service

[50 CFR Part 26]

MERRITT ISLAND NATIONAL WILDLIFE REFUGE, FLORIDA

Public Entry and Use

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed special regulations.

SUMMARY: The Director has determined that commercial fishing in designated areas of Merritt Island National Wildlife Refuge is compatible with the objectives for which the area was established, and will utilize a renewable natural resource. In the past, conflicts between commercial fishermen, sport fishermen, the Kennedy Space Center, and otheres using the Refuge have occurred. These regulations will reduce conflicts between the affected parties by designating closed areas and establishing fishing quotas.

DATE: Comments on this proposed rulemaking will be accepted until December 26, 1978.

ADDRESS: Send comments to: Stephen R. Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Fla. 32780, telephone 305-867-4820.

FOR FURTHER INFORMATION CONTACT:

Stephen R. Vehrs, Refuge Manager. (same address).

SUPPLEMENTARY INFORMATION: The primary author of this document is Stephen R. Vehrs.

BACKGROUND

Merritt Island National Wildlife Refuge is proposing regulations governing commercial fishing within its boundaries. Some of the areas open to commercial fishing are also open to public sport fishing, boating, hunting, photography, and nature observation. Additionally, portions of the Refuge are within the Kennedy Space Center security area and are closed to commercial fishing. The proposed regulations will reduce conflicts between commercial fishermen, sport fishermen and the other special interest groups using the Refuge and designated areas closed to commercial fishing. Commercial fishing in the Merritt Island National Wildlife Refuge, Titusville, Fla., is permitted by special use permit in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of the refuge which are open to commercial fishing are designated by signs and/or delineated on the refuge map. As provided by 50 CFR 26.34, the Service hereby proposes the following special regulations:

§ 26.34 Special regulations concerning public access, use, and recreation on individual national wildlife refuges.

FLORIDA

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

1. Fishing is permitted in the open waters of the Indian River, Banana River, and Mosquito Lagoon except for the Kennedy Space Center security areas.

2. No more than 20 total fish daily may be taken from the K.A.R.S. Marina in the banana River or Eddy Creek "trout hole" in Misquito Lagoon during the period October 1-March 31 annually, by any individual sport or commercial fishermen.

3. A refuge annual Special Use Permit is required of persons who commercially fish or crab on Merritt Island, N.W.R. The permit is available at the refuge headquarters, subject to an annual permit fee of $5 In addition, an annual $20 docking and gear storage fee will be charged individual commercial fishermen using the former Beacon 42 Fish Camp. A numbered site will be assigned each permittee. The maintenance and upkeep of each site will be the sole responsibility of the permittee. No overnight storage will be permitted at Haulover Canal (Bairs Cove).

4. Boat Launching on the refuge for commercial fishing between sunset and sunrise is permitted only at Beacon 42 Fish Camp and Bairs Cove. Air thrust boats are not allowed on refuge waters. Coast Guard approved life preservers shall be worn by persons in small craft less than 20 feet in length while these boats are in motion in the Indian River, Banana River, and Mosquito Lagoon within refuge boundaries.

5. A monthly commercial fishing report shall be submitted to the refuge manager, to include species and poundage of fish caught on the refuge. Non-compliance for two consecutive reporting periods subjects the permittees to cancellation of their annual permit.

6. Mosquito control impoundments are closed to commercial fishing year around except with specific written authorization from the refuge manager.

7. The Refuge will be closed to fishing at certain unannounced times during Space Center operations. Local news sources will provide a security schedule for the Space Center.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: November 16, 1978.

JOHN C. OREHEU,
Acting Area Manager.

[FR Doc. 78-32977 Filed 11-22-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

TRAWL FISHERIES OF WASHINGTON, OREGON, AND CALIFORNIA

Second Supplement to the Final Environmental Impact Statement/Preliminary Fishery Management Plan; Hearings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public hearings.

SUMMARY: The National Marine Fisheries Service will conduct a series of hearings on the proposed 1979 changes in the Preliminary Fishery Management Plan (PMP), as amended and the Final Environmental Impact Statement for the Trawl Fisheries of Washington, Oregon, and California. The PMP governs foreign fishing for Pacific hake and jack mackerel in the fishery conservation zone off Washington, Oregon, and California.

Under this proposed amendment, the total allowable catch (TAC) for Pacific hake will be 198,900 metric tons. Twenty percent of the hake TAC is set aside in reserve; the estimated domestic annual harvest (DAH) is 50,000 mt of hake, and the total allowable level of foreign fishing (TALFF) for hake is 109,120 mt. For the jack mackerel fisheries the proposed TAC is 55,000 mt, DAH is estimated to be 51,000 mt and TALFF is 4,000 mt. No significant adverse economic or environmental effects are anticipated as a result of the proposed amendment.

DATE: See below.

ADDRESSES: See below.

DATES, TIMES, AND LOCATIONS:

vessels may not possess crab pots in

day period, and contain additional in-

Dates and time 1978	City	Location
Dec. 12, 1:30 p.m..	Seattle, Wash.	Northwest and Alaska Fisheries Center, NMFS, 2725 Montlake Boulevard East, Seattle, Wash. 98112.
Dec. 13, 1:30 p.m..	Astoria, Oreg.	Commission Meeting Room, the foot of Portway Street, Pier 1, Astoria, Oreg. 97103. 503-325-4521.
Dec. 15, 9:00 a.m..	Eureka, Calif.	Red Lion Hotel 1929 4th Street, Eureka, Calif. 95501, 707-445-0844.

Written comments should be submitted to the contact person listed below prior to January 17, 1979, to receive full consideration in the amendment process.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Wash. 98109, 206-442-7575.

Copies of the Second Supplement to the Final Environmental Impact Statement/Preliminary Fishery Management Plan are available from the addressee shown above. A limited number of copies will also be available at the public hearings.

Dated: November 17, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-32857 Filed 11-22-78; 8:45 am]

[3510-22-M]

[50 CFR Part 611]

TANNER CRAB OFF ALASKA

Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed regulations.

SUMMARY: Section 611.91 regulating foreign fishing for Tanner crab off Alaska is again published in its entirety as proposed rulemaking for public comment. Several changes and additions are made to the previous proposed rules published on May 16, 1978 (43 FR 21170). Most of the changes are primarily editorial. In addition, § 611.91(b)(2) has been amended to make it clear that Tanner crab may be retained only by vessels conducting a directed fishery for Tanner crab. The total allowable level of foreign fishing (TALFF) will appear in § 611.20 instead of in § 611.91(b). Allocations to foreign nations will be announced by the Department of State. A new § 611.91(d)(2) provides that foreign vessels may not possess crab pots in the FCZ while engaging in any other fishery.

These proposed rules should be read in conjunction with the proposed Foreign Fishing Regulations as published in the FEDERAL REGISTER on November 2, 1978 (43 FR 51053), particularly Subpart A and § 611.90 which apply to the Tanner crab fishery. The proposed total allowable level of foreign fishing (TALFF) for Tanner crab in the Bering Sea is 15,000 metric tons. Comments are solicited on the proposed regulations as published herein.

DATE: Comments on the proposed rules will be received until November 30, 1978.

ADDRESS: Comments should be addressed to: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235. Please mark the envelope "Alaska Tanner Crab."

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska, 99802, telephone 907-586-7221.

Signed at Washington, D.C. this 17th day of November, 1978.

(16 U.S.C. 1801 et seq.)

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

50 CFR 611.20 and 611.91 are amended to read as follows:

§ 611.20 (Amended).

In § 611.20 *Total allowable level of foreign fishing* (as proposed for 1979, 43 FR 51053, at 51100), in Table I, the entry for "501 and 610—crab, tanner—crab—Reserved" is amended to delete the reference to "Reserved" and to insert "15,000."

§ 611.91 Tanner crab fishery.

(a) *Purpose.* This section regulates foreign fishing for Tanner crab (all species of the genus Chionoecetes, including C. bairdi, C. opilio, and hybrids) in the Bering Sea.

(b) *Authorized fishery.* (1) Foreign vessels may engage in fishing only in accordance with applicable national allocations provided that the fishery has not been closed under § 611.15.

(2) The Tanner crab fishery may be conducted only as a directed fishery. Notwithstanding the fact that there may be an applicable national allocation of Tanner crab and the fact that a vessel may be permitted in the Tanner crab fishery in addition to the snail fishery and/or the Bering Sea and Aleutian Island fishery, Tanner crab caught while engaged in another fishery may not be retained.

(c) *General restrictions.* No foreign vessel may retain any female or soft shell Tanner crab. All female or soft shell Tanner crabs and all other species of crabs shall be immediately returned to the sea in a manner which minimizes handling mortality, and in accordance with § 611.13.

(d) *Gear restrictions.* (1) It shall be unlawful for a foreign vessel fishing for Tanner crab to use gear other than crab pots. A crab pot is defined as a portable structure designed and constructed to capture and retain crabs alive in the water.

(2) It shall be unlawful for a foreign fishing vessel to possess crab pots in the FCZ while engaging in any other fishery.

(e) *Open area.* Foreign fishing vessels may fish for Tanner crab in the Bering Sea, except as restricted in § 611.91(f).

(f) *Closed area.* No foreign vessel may fish for Tanner crab:

(1) Within 12 nautical miles of the baseline used to measure the U.S. territorial sea; (2) south of 58° N. latitude; or (3) east of 164° W. longitude.

(g) *Processing.* No foreign fishing vessel operating with a factory ship may process Tanner crabs. All crabs taken by such vessels must be processed solely by a factory ship permitted in the Tanner crab fishery.

(h) *Loading and off-loading.* Tanner crabs must be taken aboard factory ships in a manner in which an observer can verify the total weight of crabs taken aboard. Tanner crabs off-loaded within the fishery conservation zone from fishing vessels not operating with a factory ship must be transferred in a manner in which an observer can verify the total weight of the crabs off-loaded.

(i) *Predeparture inspection.* No foreign Tanner crab catching vessels, other than those operating with a factory ship, may depart from the fishing area until its catch of crabs onboard is checked by an observer or an authorized officer. Fishing is prohibited after the predeparture inspection.

(j) *Additional reports.* (1) *Daily report:* Foreign Tanner crab catching vessels, other than those operating with a factory ship, shall report daily to the Regional Director:

(i) Its 12 noon (G.m.t.) position,

(ii) The preceding day's catch by species (C. bairdi, C. opilio, and hybrids), and

(iii) Its cumulative catch.

(2) *Weekly catch report.* The weekly catch report (required by § 611.9(e)) shall be submitted to the Regional Director within 6 days following each 7-day period, and contain additional information concerning:

(i) Effort in total pot lifts during the 7-day period, and

(ii) Catch in metric tons and number of crabs by species C. opilio, C. bairdi, and hybrids caught during the 7-day period.

(3) *Annual report.* Each nation whose vessels engage in this fishery shall report by May 30, of the following year annual catch and effort statistics as follows: Effort in number of pots hauled and hours pots soaked; catch in metric tons, and the number of Tanner crabs of the species C. opilio, C. bairdi, and hybrids. Each of these requirements is to be supplied by vessel class, by month, by ½° (lat.) by 1° (long.) statistical area, by the following species grouping: C. bairdi, C. opilio, and hybrids.

[FR Doc. 78-32978 Filed 11-22-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM (ACP)

Proposal To Establish Policies, Guidelines and Procedures To Govern the 1979 Agricultural Conservation Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed policies, guidelines, and procedures.

SUMMARY: ASCS proposes to establish policies, guidelines, and procedures to govern the 1979 Agricultural Conservation Program. This program provides financial incentives and assistance to agricultural producers to carry out soil and water conservation and pollution abatement practices and measures. A list of practices and measures thought to be consistent with the proposed policies, guidelines and procedures and, therefore, eligible for ACP assistance is also proposed.

DATES. This notice invites written comments on the proposed policies, guidelines and procedures. In order to be assured of consideration, comments must be received on or before December 26, 1978.

ADDRESS COMMENTS TO: Alan D. Durick, Acting Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Room 3096 South Building, Washington, D.C. 20013. Comments will be available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.)

FOR FURTHER INFORMATION CONTACT:

Gardner P. Smith, Deputy Director (ASCS), Washington, D.C. 20013, 202-447-5295.

SUPPLEMENTARY INFORMATION: This proposed action is being taken pursuant to the provisions of P.L. 95-448. The Agriculture, Rural Development, and Related Agencies Appropriations Act for fiscal year 1979. This act specified the general purposes and conditions under which financial assistance can be provided under ACP. On October 13, 1978, advance notice of forthcoming decisions on these matters was published (43 FR 47224). That notice invited comments, suggestions and other inputs from the public to be considered in the development of this proposal.

Subsequently, a revised notice was published on November 13, 1978 (43 FR 52507) stating that publication of the proposal would be postponed and that it would be necessary to reduce the comment period in the proposal from 60 to 30 days since the 1979 ACP must be operational by January 1, 1979.

A draft impact analysis is available from ASCS at the address listed above.

The environmental implications of the ACP have been thoroughly reviewed. A final program environmental impact statement (EIS) was issued in June 1974. The actions reflected in this proposal are reflected in the earlier EIS. Consequently, that document is considered applicable to this proposal.

PROPOSAL:

I. Program Objectives.

A. The objectives of the 1979 agricultural conservation program are:

1. To help ensure adequate supplies of food and fiber through the conservation of soil and water resources used in agriculture; and

2. To help prevent degradation of the human environment as affected by agriculture and to help provide for the enhancement of the environment where agricultural activities have caused it to deteriorate.

II. Achieving Program Objectives.

A. Policies.

1. Role of the Program.

a. The role of the Agricultural Conservation Program is to assist the owners and users of private agricultural lands and water to meet national conservation and environmental protection objectives.

b. The program's role is to be carried out by offering the minimum financial incentive or assistance necessary to insure the installation of measures and practices consistent with the achievement of national objectives.

c. In no event should the program be used to assume private responsibilities for the wise use and conservation agricultural resources and protection of the environment. Rather the program recognizes the public benefits from such measures and provides incentives to producers to voluntarily carry out such responsibilities.

2. Operation of the Program.

a. Financial incentives and assistance are to be provided only for those measures and practices that can be expected to provide effective, enduring solutions to conservation and environmental protection problems relating to the:

(1) Conservation of the productivity of the agricultural soil resource base;

(2) Conservation of water by increasing the efficiency of its use in agriculture;

(3) Protection and enhancement of the natural environment as affected by agricultural activities, especially as they relate to water quality;

(4) Avoidance of unnecessary increases in the private and social costs of producing agricultural commodities.

b. To avoid expenditure of funds that will not contribute to the objectives of the program, assistance will not be provided for measures and practices that are:

(1) Primarily production-oriented; or

(2) Have little or no soil or water conservation or pollution abatement benefits.

B. Guidelines.

1. Practice Lifespans.

a. To help ensure provision of enduring solutions to conservation and environmental protection problems, participants in the program must agree to maintain practices and measures for a specified minimum number of years (practice lifespan) as a condition of receiving financial incentives or assistance. Failure to maintain practices or measures for the specified lifespan will require that all or part of the Federal funds provided for the installation of the practice be refunded.

2. Cost-sharing.

a. To help ensure maximum achievement of program objectives with appropriated funds, the Federal share of the costs to install eligible practices and measures should be the amount necessary to ensure installation of practices or measures. To this end, the Federal cost-share should reflect the degree to which appropriate conservation or pollution abatement practices will be applied in the absence of financial assistance.

b. For annual agreements, cost-share levels up to 80 percent of the cost to install practices or measures are authorized. Higher rates may be authorized by the Secretary or his designee with proper justification.

c. For long-term agreements, cost-share levels of not less than 50 percent and not more than 75 percent of the costs to install practices and measures are authorized.

d. The Federal share of the cost to install conservation and pollution abatement practices should reflect the extent to which public benefits will be derived from it. Public benefits relate to offsite damages reduced by a practice or to conservation benefits that do not ordinarily provide sufficient short-term economic return to cause the producer to carry out the practice without the cost-share incentive. Federal and private cost-shares to install practices and measures should reflect public and private benefits to be realized from them.

e. The Federal share of the costs of installing practices and measures shall be reduced accordingly as the potential for short-term economic return from the practices increases. This applies only to practices yielding both conservation or pollution abatement and potential economic benefits. Practices yielding primarily economic benefits shall be considered as production-oriented and therefore, ineligible for assistance.

3. Practices and Measures Not Eligible for Assistance.

a. Incentives or assistance under the agricultural conservation program should not be provided in situations where applicants must install practices or measures as a condition of receiving assistance through other Federal programs. Specifically, ACP assistance should not be provided:

(1) For practices or measures representing the minimum protection required on set-aside acreage. This includes establishment of annual grasses, legumes, small grains, and temporary tillage operations, etc. (Cost-sharing for enduring practices on set-aside acreage may be authorized.)

(2) For non-cost-shared practices, measures, or other elements as required in the contracts of participants in the Great Plains Conservation Program or the Rural Clean Water Program or similar Federal Programs.

(3) For installation of practices or measures financed in total or in part through grants made by the Farmers Home Administration.

C. Eligible Practices.

1. Criteria for Determining Eligible Practices: To be eligible for cost-sharing under the agricultural conservation program, a practice or measure should meet all of the following criteria:

a. Provide solutions to problems relating to conserving soil and water resources or protection of the environment, or both; and

b. Yield benefits to the general public through the abatement or prevention of offsite pollution from agricultural activities or providing soil or water conservation benefits beyond what the participants can carry out using their own resources; and

c. Yield sufficient soil and water conservation or pollution abatement benefits so as to provide an effective solution to the problem addressed; and

d. Not yield sufficient short-term economic returns to the applicant that it may be considered as primarily production-oriented; and

e. Not violate the letter or spirit of Federal, State or local laws, executive orders, regulations, ordinances or other such instruments.

2. Practices thought to meet the proposed criteria and therefore eligible for cost-sharing assistance.

a. Prevention of soil loss from water and wind erosion.

(1) Permanent Vegetative Cover Establishment. This practice is intended to provide permanent protection to farm or ranch land subject serious wind or water erosion. There will be minimum lifespan of 5 years following the calendar year in which the seeding was made.

(2) Permanent Vegetable Cover Improvement. The purpose of this practice is to provide long-range protection to farm or ranch land subject to serious wind or water erosion through improvement of existing permanent vegetative cover. There will be a minimum lifespan of 5 years following the calendar year in which the improvement measures are carried out.

(3) Stripcropping Systems. This practice is intended to provide enduring protection to farm or ranch land subject to serious wind or water erosion by establishment of contour or field stripcropping systems. Cost-sharing will be limited to one time with a person on the same acreage and will reflect costs involved in establishing the strips. Practice lifespan is 5 years following year of installment.

(4) Terrace Systems. This practice is intended to provide maximum control of erosion and sedimentation from cropland. Practice lifespan is 10 years following year of installment.

(5) Diversions. This practice is intended for application where an erosion and sediment problem can be corrected by a single diversion facility as opposed to a terrace system. Subsurface drains essential to the effective operation of diversions are authorized under this practice. The practice lifespan is 10 years following year of installation.

(6) Grazing Land Protection. Cost-sharing is authorized for development of springs, seeps, wells, or dugouts, installing pipelines, storage facilities, cisterns, and artificial watersheds. The practice is intended to provide erosion control on range or pastureland by bringing about better grassland management to prevent destruction of cover due to over-concentration of livestock. The practice lifespan is 10 years following the year of installation.

(7) Windbreak Restoration or Establishment. This practice is applicable to farm or ranch land in need of protection from serious wind erosion. Cost-sharing for planting trees and shrubs for field and farmstead windbreaks is authorized. Practice lifespan is 10 years following year of installation.

(8) Cropland Protective Cover. The purpose of this practice is to provide needed protection from severe erosion on cropland between crops or pending establishment of enduring protective vegetative cover. A good stand and growth must be obtained and must be maintained on the land for a specified period. Assistance will be reduced if the growth is to be grazed or harvested for forage or seed except that grazing or haying may be approved in a designated emergency.

(9) Conservation Tillage Systems. This practice is intended to demonstrate a substantial reduction in soil loss by reducing the tillage operations used in producing a crop. The reduced tillage operations and crop residue management must be performed annually. Therefore, cost-sharing will be limited to only one time with a person. The lifespan is 3 years following the year of installation.

(10) Permanent Vegetative Cover on Critical Areas. Cost-sharing is authorized for measures to stabilize a source of sediment or other pollutant such as gullies, banks, private roadsides, field borders, and similar problem areas. Consideration should be given to establishing cover beneficial to wildlife. Cost-shares for filter strips are authorized. The practice lifespan is 5 years following the year of installation.

(11) Vegetative Row Barriers. This practice is intended to protect cropland from erosion by planting rows of vegetative barriers at intervals across the field. It is an alternative to Windbreak Restoration or Establishment in areas where trees are not practical because of farming methods. The lifespan is 5 years following the year of installation.

(12) Contour Farming. This practice is designed to reduce sediment or pollution from non-terraced cropland subject to serious wind or water erosion. Cost-sharing will be limited to one time with a person on the same acreage. Practice lifespan is 3 years following year of establishment.

b. Solutions to Water Conservation Problems.

(1) Water Impoundment Reservoirs. Assistance for this practice will require erosion control as a purpose along with water conservation. Structures which provide multiple benefits in addition to erosion control and water conservation will be encouraged. That is, special consideration will be given to environmental and wildlife enhancing features. The practice lifespan is 10 years following year of installation.

(2) Spreader Ditches and Dikes. The purpose of this practice is to divert and spread water in low areas to prevent erosion, to permit efficient beneficial use of runoff, and to replenish ground water supply. The practice lifespan is 10 years following year of installation.

(3) Rangeland Moisture Conservation. Cost-sharing is authorized for furrowing, chiseling, rippling, scarifying, pitting, or listing to reduce runoff volume and velocity and to improve water penetration and reduce soil loss. The practice lifespan is 5 years.

(4) Irrigation Water Conservation. This practice must conserve water, or prevent erosion, and reduce pollution of water or land. Cost-sharing is applicable to the reorganization of existing systems on land currently under irrigation, where irrigation will continue, for which an adequate supply of suitable water is available, and where a significant soil or water conservation problem will be solved. The practice lifespan is 10 years following year of installation.

c. Solutions to Water Quality Problems.

(1) Sediment Retention, Erosion or Water Control Structures. This practice is designed to control erosion, including sediment and chemical runoff, from a specific problem area thereby preventing or reducing pollution of water. The practice lifespan is 10 years following year of installation.

(2) Stream Protection. The purpose of this practice is to protect streams from sediment or chemicals by installing vegetative filter strips, protective fencing, livestock crossing, or similar measures. This is not a streambank stabilization practice. The practice lifespan is 10 years following year of installation.

(3) Sod Waterways. This practice is designed to provide a waterway to safely convey excess water across fields at non-erosion velocities into watercourses or impoundments. The waterway is to be protected from erosion and should reduce pollution by filtering out pollutants through the establishment of a sod cover of perennial grasses and/or legumes. The practice lifespan is 10 years following year of installation.

(4) Animal Waste Control Facilities. This practice is designed to provide facilities for the storage and handling of livestock and poultry waste so such waste can be recycled into the land in a manner so as to prevent or abate pollution which would otherwise result from livestock or poultry operations. The practice lifespan is 10 years following year of installation.

(5) Water Management Systems for Pollution Control. This practice is intended for management of water where necessary to maintain the productive capacity of the soil through removal of saline water or removing contaminated water for pollution abatement. This practice is not authorized for drainage of wetlands or soil with high water table. Practice lifespan is 10 years following year of installation.

d. Conservation of Soil and Water Through Forestry.

(1) Forest Tree Plantations. This practice is intended to establish trees or shrubs for forestry purposes and soil protection. Special emphasis under ACP will be given to stabilizing areas subject to wind or water erosion. The practice lifespan is 10 years following year of establishment.

(2) Forest Tree Improvement. This practice is applicable to existing stands of forest trees. It is intended to jointly improve and protect desirable trees for timber production and to provide soil protection. Consideration should be given to the effect of the practice on erosion control, wildlife, and general environmental enhancement. The practice lifespan is 10 years following the year of installation.

e. Conservation of Wildlife Habitat.

(1) Permanent Wildlife Habitat. This practice is intended to provide permanent cover to areas by establishing a permanent stand of trees, shrubs, grasses, and legumes, which also provide good permanent wildlife cover and food. The practice lifespan is 5 years following the year of installaton.

(2) Shallow Water Areas for Water Fowl. The purpose of this practice is to develop new or rehabilitate deteriorated shallow water to a condition that will support food, habitat, and cover for wild aquatic birds and animals. Cost-sharing is authorized for mechanical measures to construct dams, levees, or dikes for impounding water and for planning food plots or protective cover in the flooded area and on embankments. The practice lifespan is 10 years following the year of installation.

f. Procedure for Approval of Additional Practices.

(1) Where local soil and water conservation or pollution abatement problems exist for which the practices and measures listed under paragraph II.C.2 above do not provide effective, least-cost soltions, county ASC Committees may seek approval of additional practices from the Secretary or his designee provided that:

(a) The proposal practice or measure will help achieve program objectives by meeting the criteria for eligible practices listed under paragraph II.C.1 above; and

(b) The proposed practice or measure will be cost-shared and applied in a manner consistent with the policies and guidelines governing the program; and

(c) The proposed practice has been approved by the State ASC Committee.

(2) The Secretary may require that requests for approval of practices not in the State program include the following information:

(a) A description of the nature, extent and severity of the problem to be addressed by the proposed practice;

(b) A description of the means by which the proposed practices or measure will solve the problem;

(c) A description of the nature and estimate of the extent of the offsite or other public benefits to be derived from an application of the practice or measure;

(d) A description of the nature and estimate of the extent of the private benefits to be derived from the application of the practice or measure;

(e) An estimate of the average cost per unit (acre, animal unit, etc.) to install the proposed practice or measure;

(f) A description of the elements of practice installation (grading, seeding, fertilizer, etc.) to be cost-shared;

(g) A statement of the percentage rate or range or rates at which the Committee proposes to offer cost-sharing assistance for the practice.

Signed at Washington, D.C., on November 20, 1978.

STEWART N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-33051 Filed 11-22-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Dockets 33090 and 23080-2; Order 78-11-81]

AAT AIRLINES, INC. D/B/A AIR SUNSHINE

Rates of Compensation; Priority and Nonpriority Domestic Service Mail Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November 1978.

In the matter of petition of AAT Airlines, Inc. d/b/a Air Sunshine for Determination of the rates of compensation pursuant to section 406 of the Federal Aviation Act, as amended (Docket 33090) and in the matter of priority and nonpriority domestic service mail rates—phase II (Docket 23080-2): Order to show cause.

AAT Airlines, Inc. d/b/a Air Sunshine (AS) has an exemption from the provisions of section 401 which allows it to transport mail in conformance with the provisions of Agreement CAB 21946-A2.[1] In March 1976, AS began carrying mail in the Miami-Key West market at the multielement rates of 5 cents (Southbound) and 19 cents (Northbound) per pound-mile, the temporary service mail rates fixed by the Board in the *Priority and Nonpriority Service Mail Rate Investigation*, Docket 23080-2. Subsequently, the Postal Service advised AS that on the basis of the rates established by Order 77-12-157, AS had been overpaid by approximately $27,000.

On July 25, 1978, AS filed a petition with the Board for determination of the rate of compensation for the transportation of mail by AS between Miami and Key West via Marathon, Florida, from March 1, 1976 forward.[2] AS contends that the fair and reasonable rate of compensation is the rate which the Postal Service initially paid to AS, 5 cents and 19 cents per pound-mile. Relying on contract theory, AS contends that when it accepted the Postal Service's offer to carry mail at 5 cents and 19 cents, a contract was formed which the Board should enforce.[3] Alternatively, if no contract was formed, there are no rates in effect for the transportation of mail by AS, and the Board should establish the rate initially offered by the Postal Service as the fair and reasonable rate of compensation for the services involved.

Applying principles of equity, AS argues that it would be unfair and unlawful to bind it to Board orders in *Priority and Nonpriority Service Mail Rates—Phase II*, Docket 23080-2, because AS had no notice or knowledge of the existence of that docket; the Postal Service should have advised AS that mail rates were under review in Docket 23080-2; and the record in Docket 23080-2 closed five months before AS began transporting mail. Therefore, AS urges that the Board should not allow the Postal Service to gain an advantage from allegedly unfair or illegal acts.

In response to AS's petition, the Postal Service filed a motion to dismiss, alleging that AS has not complied with 14 CFR 302.303, which requires AS to submit an economic justification to support the reasonableness of the rates proposed; that AS has misstated certain facts; and that *TWA v. Civil Aeronautics Board*, 336 U.S. 601 (1949) prohibits the Board from fixing rates retroactively.

The Postal Service, in addition to moving to dismiss AS's petition, filed a motion in Docket 23080-2 to include AS in that docket in which the Postal Service argues that AS replaced Southeast Airlines as the substitute carrier for National Airlines in the Miami-Key West market and is bound by the orders which included Southeast in Docket 23080-2; AS was or should have been aware that the Postal Service intended to compensate AS at the rates provided in Docket 23080-2, because the Postal Service sent AS a check for fuel adjustment which referred to Orders 74-10-74 and 76-12-60 issued in Docket 23080-2; and the temporary service mail rates should be made applicable to AS because otherwise no rates are in effect for AS's services, since no contract for the carriage of mail was formed between AS and the Postal Service.

AS filed an answer in Docket 23080-2 reiterating the arguments it made in Docket 33090 and raising due process claims, and the Postal Service filed a reply.[4]

Examining the claims of AS, we see no justification to support its contention that the fair and reasonable rates are 5 cents and 19 cents. We agree with the Postal Service that no contract was formed between AS and the Postal Service for the carriage of mail, because the Postal Reorganization Act at 39 U.S.C. § 5402 specifically delineates the conditions and terms under which the Postal Service may engage in contracting; and the instant situation is beyond the scope of the Postal Service's contracting authority. AS's equity argument turns on the issue of notice and is fraught with factual questions, which, if decided against AS, would put the equities in favor of the Postal Service. In any event, the equities are not determinative of this situation.

Turning to the claims of the Postal Service, under Part 302 of the Board's Rules of Practice, a petition to fix and determine the fair and reasonable rates of compensation for the transportation of mail must specify the rate to be established and must be supported by a detailed economic justification. Even though AS's petition may not be in strict compliance with these requirements, we have determined that no useful purpose would be served by holding AS to the strict letter of the rule.[5] Addressing the issue of retroactive application of rates, the Postal Service has misapplied the holding in *TWA v. Civil Aeronautics Board, supra*, because on several occasions the Board has held that when an air carrier commences mail transportation prior to petitioning for an initial mail rate, the Board can make such rate effective from the commencement of the carrier's operations.[6] Lastly, as stated above, the question of notice and knowledge of Docket 23080-2 is not determinative of the issues in this case.

Allowing that AS may not have maintained detailed records to justify its petition, it is still entitled to fair and reasonable compensation for its services. Therefore, we have decided to issue an order to show cause why we should not set the final rate determined by Order 78-11- as the fair and reasonable compensation to be paid to AS by the Postmaster General for AS's services in the Miami-Key West market. After years of considering evidence in Docket 23080-2, today the Board has fixed and determined final domestic service mail rates for the open period commencing March 23, 1973, and for the future. The final rates apply to trunklines, Pan American, local service carriers, section 401 all-cargo carriers, and numerous air taxi/commuter operators. Since the Board has found the final service mail rates fair and reasonable for similar service, we have tentatively decided that these rates are fair and reasonable for AS.

It is unfortunate that AS was not formally made a party to Docket 23080-2, because the present dispute could have been avoided. However, we note that in Order 76-2-76, which granted AS authority to carry the mail, AS was put on notice that its rate of compensation would be computed in accordance with the rates established in Docket 23080-2. In that order, the Board approved an agreement between National Airlines and AS, which substituted AS for Southeast Airlines as the replacement carrier in the Miami-Key West market during the pendency of National's suspension, stating that AS's "proposed replacement services should offer the USPS continued benefits without any increase in cost." Since National and Southeast were already included in

[1] Order 76-2-76 granted AS exemption relief and approved an agreement between National Airlines and AS which substituted AS as the replacement carrier for Southeast Airlines in the Miami-Key West market during National's suspension.

[2] AS amended this petition on August 9, 1978, after the Postal Service moved to dismiss the petition for failure to comply with 14 CFR 302.303. On August 15, 1978, the Postal Service moved to dismiss AS's amended petition.

[3] In a letter dated February 19, 1976, to AS, the Postal Service quoted rates of $0.056618 (Miami-Key West) and $0.191088 (Key West-Miami) per pound-mile, and AS claims that this letter was an offer leading to a contract.

[4] The Postal Service's reply was accompanied by a motion for leave to file an unauthorized document, which we will grant.

[5] *Cf., Service Mail Rates for Air Midwest, Inc.*, Order 77-2-121.

[6] *Cf., Byers-Brennan, Mail Rates*, 17 CAB 1, 5 (1953); *Northwest Air Transpacific Mail Rates*, 16 CAB 722, 748 (1953); *Cordova Air Service, Mail Rates*, 15 CAB 604, 607-08 (1952).

Docket 23080-2, it was the Board's intent that AS be compensated based on rates established in that docket.

Based on the foregoing, the Board tentatively finds and concludes that:

1. On and after the date of commencement of AS's mail transporting operations, the fair and reasonable temporary rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and for the services connected therewith, to AS for operations between Miami and Key West and for other operations which AS may hereafter undertake are the final rates established in Docket 23080-2.

We will give interested persons 10 days after the date of service of this order to file a notice of objection to the tentative findings and conclusions. If such notice is filed, a written answer and any supporting documents shall be filed within 30 days after the service of this order. All further proceedings will be in accordance with the Rules of Practice, 14 CFR Part 302.

Accordingly, pursuant to the Federal Aviation Act, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

1. We grant Air Sunshine's petition for the establishment of domestic service mail rates;

2. We deny the Postmaster General's motion to dismiss;

3. We grant the Postmaster General leave to file an unauthorized document;

4. Except to the extent granted, we deny the relief requested by the Postmaster General in Docket 23080-2;

5. We direct all interested persons, particularly Air Sunshine and the Postmaster General, to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine and publish the final rates and charges specified;

6. Further proceedings shall be in accordance with the Rules of Practice, 14 CFR Part 302, and if there is any objections to the rates and charges or to the other findings and conclusions proposed, notice thereof shall be filed no later than November 27, 1978, and, if notice is filed, written answer and supporting documents shall be filed no later than December 18, 1978; and

7. We shall serve a copy of this order upon the Postmaster General and Air Sunshine.

We shall publish this order in the FEDERAL REGISTER.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33025 Filed 11-22-78; 8:45 am]

[7] All Members concurred.

[6320-01-M]

[Docket No. 33229; Order 78-11-74]

AIRCAIR SERVICES LTD., YELLOW BIRD AIR

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November 1978.

By application filed August 18, 1978, Aircair Services Ltd. d/b/a Yellow Bird Air requests a foreign air carrier permit to engage in charter foreign air transportation of persons and their accompanied baggage, and planeload charter foreign air transportation of property, between any point or points in Canada and the United States, using "small aircraft."[1] The application is filed pursuant to the Nonscheduled Air Service Agreement executed on May 8, 1974, by the Governments of the United States and Canada.

No answers to Aircair Services Ltd.'s application for a foreign air carrier permit have been filed.

FITNESS OF THE APPLICANT

Aircair Services Ltd. is incorporated pursuant to the laws of the Province of British Columbia, as set forth in the Companies Act. The Canadian Air Transport Committee has issued Aircair Services Ltd. a class 4 license which provides for the operation of charter commercial air services within Canada for the transport of persons or goods originating in Vancouver, British Columbia. The applicant has also obtained from the Air Transport Committee a class 9-4 license which authorizes the holder to operate charter commercial air services between Canada and international points from a base at Vancouver, British Columbia. Aircair Services Ltd. is restricted in its international operations to the use of one DC-3 aircraft with a 30-passenger seating capacity and a cargo capacity of 7,000 pounds. Aircair Services Ltd. also holds an operating certificate which permits the corporation to operate between points that can be safely served in North America from a base at Vancouver International Airport, British Columbia, using one DC-3 aircraft. This operating certificate was issued by the Canadian Department of Transport, Civil Aviation Branch.

The applicant's balance sheet as of December 31, 1977, shows total assets of $97,490 of which $3,400 is shown as current assets. On the liabilities side, the company shows current liabilities of $6,813 and total liabilities of $87,104, resulting in total shareholder's equity of $10,386. Aircair Services Ltd. showed a net profit of $924 for the year ended December 31, 1977, which gave the corporation retained earnings of $386 on this date. Aircair Services Ltd. owes $63,000 to the Royal Bank of Canada and $15,000 to Patricia J. Sandison, Secretary of the company.

The applicant states that it has had no safety or tariff violations in the last five years, nor have there been any major aircraft accidents during this period.[2] Furthermore, the applicant has stated that it will comply with all necessary insurance conditions.

"PUBLIC INTEREST" IN AWARD OF THE AUTHORITY SOUGHT

The applicant relies on the Nonscheduled Air Service Agreement signed by the Governments of Canada and the United States of America on May 8, 1974, as the basis for the grant of the requested authority. By diplomatic Note No. 195, dated April 27, 1978, the Government of Canada designated the applicant under the agreement to perform charter services with small aircraft.

OWNERSHIP AND CONTROL

The only shareholders, officers, directors, and management personnel of the corporation are Clifford Sandison (President, Director and majority shareholder), Patricia J. Sandison (Secretary, Director, and shareholder), Margot Furk (Treasurer, Director, and shareholder), and Robert Furk (Director and shareholder). All of the stockholders, officers, directors and management personnel of the corporation are Canadian citizens. Likewise, all creditors to the applicant are Canadian. The applicant states that neither it, nor any of its directors, officers or shareholders own any interest or any shares of common stock in any United States carrier, any other Canadian or other foreign carrier, any person engaged in a phase of aeronautics, any common carrier or in any person whose principal business is the holding of stock in, or control of any such entities, with the following exception: Mrs. Joan Sandison, shareholder, Director and Secretary of the company, holds 2,000 common shares of Okanagan Helicopters Ltd., a Canadian company, operating internationally. The issued ordinary shares of this company, which trades on the Montreal, Toronto and Vancouver Stock Exchanges, was 1,031,000 for the fiscal year ending in 1978. She holds no offices or directorships, nor is in any way connected with the operation or management of Okanagan.

In view of the foregoing and all of the facts of record, the board tentatively finds and concludes that:

1. It is in the public interest to issue a foreign air carrier permit to Aircair Services Ltd. d/b/a Yellow Bird Air authorizing it to engage in charter foreign air transportation with small aircraft of persons and their accompanied baggage, and planeload charters of property between any point or points in Canada and any point or points in the United States;

2. Aircair Services Ltd. d/b/a Yellow Bird Air is fit, willing, and able properly to perform the charter foreign air transportation described in the specimen permit, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;

3. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

4. Aircair Services Ltd. d/b/a Yellow Bird Air is substantially owned and effectively controlled by nationals of Canada;

5. The proposed issuance of Aircair Services Ltd. d/b/a Yellow Bird Air's foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy and Conservation Act as defined in subsection 313.4(a)(1) of the Board's Regulations;[3]

6. An oral evidentiary hearing is not required in the public interest;[4] and

7. Except to the extent granted, the application of Aircair Services Ltd. d/b/a Yellow Bird Air in Docket 33229 should be denied.

Accordingly,

1. We direct all interested persons to show cause why the Board should not (1) make final the tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801 of the Act, issue a foreign air carrier permit to Aircair Services Ltd. d/b/a/ Yellow Bird Air in the specimen form attached.

2. Any interested person objecting to the issuance of an order making final the tentative findings and conclusions and issuing the foreign air carrier permit shall, no later than December 11, 1978, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which he could not establish in written pleadings. Any interested person who wishes to answer these objections shall file such answers no later than December 21, 1978;

3. If timely and properly supported objections are filed, we will accord further consideration to the matters and issues raised by the objections before further action is taken by the Board; *Provided*, that the Board may enter an order in accordance with the tentative findings and conclusions, if it determines that there are no factual issues present that warrant the holding of an oral evidentiary hearing;[5]

4. In the event no objections are filed, we will waive all further procedural steps and the Secretary shall enter an order which (1) shall make final the Board's tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President, shall issue a foreign air carrier permit to the applicant in the specimen form attached; and

5. We shall serve a copy of this order upon Aircair Services Ltd. d/b/a Yellow Bird Air, the Ambassador of Canada in Washington, D.C. and the U.S. Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER and transmit a copy to the President of the United States.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER FOR SMALL AIRCRAFT OPERATIONS

Aircair Services Ltd. d/b/a/ Yellow Bird Air is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958 and the Board's orders, rules, and regulations, to engage in charter foreign air transportation, as follows:

Charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may be, prescribed for carriage by small aircraft in Annex B(III)(B) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement: *Provided*, That any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations.[7] The authority of the holder to perform United States-originating charters shall, in accordance with Annex B(III)(A) of the Nonscheduled Air Service Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations:

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: *Provided*, That the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974, exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: *Provided*, That the Board may authorize the performance of

[1] "Small aircraft" are defined by the Nonscheduled Air Service Agreement as aircraft which are not "large aircraft." "Large aircraft" are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorized takeoff weight on wheels greater than 35,000 pounds.

[2] The only aircraft accident involved collision with a ground vehicle which resulted in damage to a propeller. This accident did not result in the death or injury of anyone.

[3] This is not an action with environmental consequences. See subsection 312.2(a) of the Board's Procedural Regulations regarding Canadian carrier permits for small aircraft charter operations.

[4] Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached permit, shall file such objection within 21 days from the date of service of this order.

[5] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[6] All Members concurred.

[7] Annex B(III)(B) presently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: Single Entity Passenger, Single Entity Property, Pro Rata Common Purposes, and Inclusive Tour (in some instances split passenger charters are authorized).

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charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be condidered as one flight whether the charter be one-way, round-trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

(d) There shall be excluded from the computation: (i) Flights utilizing aircraft having a maximum authorized takeoff weight n wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and (ii) flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder aiso holds a foreign air carrier permit authorizing indicidually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when the flights serve either (a) a Canadian terminal point on the route, or (b) any Canadian intermediate point authorized for service on the route by the foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points on the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round-trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(7) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equavalent to Annex 6 of th Chicago Convention.

(8) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(9) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(10) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts of liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(11) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(12) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall become effective on ————. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment, which shall have the effect of eliminating the charter foreign air transportation authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder, or (3) upon the termination or expiration of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974: *However*, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and Canada are or shall become parties.

The Civil Aeronautics Board has directed its Secretary to execute this permit and affix its seal, on the ————.

————,
Secretary.

[FR Doc. 78-33020 Filed 11-22-78; 8:45 am]

[6320-01-M]

[Docket No. 33978; Order 78-11-93]

ALITALIA LINEE AEREE ITALIANE, S.P.A., ET AL.

U.S.-Italy Fare Revisons

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of November 1978.

In the matter of United States-Italy fare revisions filed by Alitalia Linee Aeree Italiane, S.p.A., Transportes Aereos Portugueses and Trans World Airlines, Inc.: Order of suspension and investigation.

By tariff revisions filed for effectiveness November 23, 1978, Alitalia Linee Aeree Italiane, S.p.A. (Alitalia), proposes to increase U.S.-Italy basic-season normal economy fares by about 5 percent. Transportes Aereos Portugueses (TAP) also filed U.S.-Itlay basic-season normal economy fare increases, effective December 25, 1978, and Trans World Airlines, Inc. (TWA), filed tariffs proposing 5-7 percent increases in U.S.-Itlay basic-season normal economy fares, effective January 15, 1979[1]

In justification of its proposal, TWA states that: the Board previously suspended these economy fare increases along with those it filed for other U.S.-Europe markets;[2] the reasons for suspension, however, were not appropriate to U.S.-Italy fares; the current two-tier structure of economy fares in this market is exactly what the Board desires; the increases are moderate; the proposed fares would not result in excessive earnings; and the Board should permit the instant filing since the normal economy fare is "unbundled" in this market.

The Board has decided to suspend Alitalia's proposed increases in the normal economy fare, TAP's proposed increases in the limited-stopover fare, and TWA's proposed increases in both the normal fare and the limited-stopover fare. Alitalia and TAP have offered no justification for the increases, and TWA's arguments supporting the increases center on its allegation that the two-tier normal economy, fare structure in the U.S.-Italy market is "exactly the unbundled fare structure desired by the Board," and therefore can be distinguished from normal fares in other U.S.-Europe markets. Yet in Order 78-9-38 suspending TWA's earlier proposal to increase normal economy fares, we expressed our doubt that the limited-stopover U.S.-Italy fares are truly cost-related, especially considering the existence of lower priced excursion fares with essentially identical costs.

The 60-day no-stopover, single-carrier fare, at $460 roundtrip in the New York-Rome market (basic season) is a confirmed-reservation fare for direct, point-to-point transportation. The only meaningful differences between this excursion fare and the "partially unbundled" normal fare are that the higher fare allows one stopover, may be sold on a one-way basis, and has no minimum/maximum-stay requirement. The length-of-stay requirement is a contrived one, unrelated to carrier costs, and it is inconceivable that the one stopover and one-way availability of the "unbundled" normal fare would increase carrier costs enough to justify the wide difference between the fares ($720 for the present one-stop normal fare versus $460 for the excursion fare).[3]

We note also that the current full-service normal fare from New York to Rome, at 9.76 cents per mile, displays almost an 8-percent inverse taper from the New York-London normal fare of 9.06 cents, and is considerably higher than the yields on normal economy fares offered by efficient, low-cost carriers from Dallas (8.25 cents), Atlanta (8.62 cents) and Miami (8.63 cents) to London. Even the one-stopover normal fare, if increased as TWA and TAP propose, would produce a yield (about 9 cents) approximating the yield on the full-service New York-London normal fare.

Thus it appears clear that the lower of the two U.S.-Italy normal fares, though partly unbundled in conditions, does not really reflect the cost changes associated with unbundling. Although it is a step in the right direction, it still incorporates costs for stopover and circuity services which a New York-Rome passenger does not use and—because he is allowed only one stopover in the United States or Italy—*cannot* use. The passenger is still being charged a fare level high enough to cover costs for services which he does not desire nor, under these circumstances, is allowed to use.

In Order 78-9-38, the Board reluctantly intervened to suspend economy fare increases, including those to Itlay, in a segment of the market where competition could not be relied on to temper increases. TWA's arguments do not convince us that we were in error, or that the existence of a partly unbundled normal fare between the United States and Italy, at even less unbundled levels, is evidence that competition is strong enough. We do not believe it is, and slightly decreasing normal economy fares by creating a lower, partly unbundled normal fare does not give the carriers *carte blanche* to increase the full-service normal fares.[4]

One thing should be clear. In suspending these and other fares, we are not simply pressing for an unbundled fare structure. While unbundling is desirable in that it presents the on-demand traveler with more choices, we encourage such fares mainly because we believe a competitive market would supply them. In a truly competitive market, we would not require unbundling, but it should be noted that under no circumstances can the U.S.-Italy market be considered a competitive market. Only three carriers currently operate between New York and Rome—Alitalia, Pan American and TWA—while a fourth, Air India, which provides relatively little service, cannot be considered a competitive factor. The Italians have regularly pressed us for capacity and frequency restrictions and have attempted to deny fare filings which differ from those filed by Alitalia. If any market is without competition, it is the U.S.-Italy market. While unbundled fares do exist is part, we are unable to conclude that, simply because of this fact, fares should be approved—particularly in view of the anticompetitive circumstances which prevail and the fact that we are not convinced that the fare offerings fully reflect possible cost savings. In view of these facts, we must continue to regulate fares in these markets, and our suspension represents our judgment that these increases are not required.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801, and 1002(j) thereof,

1. We shall institute an investigation to determine whether the fares and provisions set forth in appendices B, C, and D hereof, and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend the tariff provisions specified in the attached appendix B and defer their use from November 23, 1978, to and including November 22, 1979, suspend the tariff provisions specified in the attached appendix C and defer their use from December 25, 1978, to and including December 24, 1979, and suspend the tariff provisions specified in the attached appendix D and defer their use from January 15, 1979, to and including January 14, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[5] and it shall become effective on November 23, 1978;

4. We shall file copies of this order in the aforesaid tariffs and serve them upon Alitalia Lines Aeree Italiane, S.p.A., Transportes Aereos Portugueses, and Trans World Airlines, Inc.

We shall publish this order in the FEDERAL REGISTER.[6]

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33024 Filed 11-22-78; 8:45 am]

[6320-01-M]

[Docket 33274; Order 78-11-76]

FREDERICTON FLYING CLUB, INC.

Application for a Foreign Air Carrier Permit; Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November, 1978.

[1] Alitalia's and TAP's revisions are contained in Tariff C.A.B. No. 71, issued by Air Tariffs Corporation, Agent; TWA's revisions are contained in Tariff C.A.B. No. 37, issued by Trans World Airlines, Inc. The carriers offer two varieties of normal economy fares to and from Italy: (1) a "bundled" fare which permits unlimited stopovers; and (2) a lower-priced, partially "unbundled" fare with restricted stopover privileges. Alitalia's and TAP's unbundled fares permit one "free" stopover in each direction with additional ones available at an extra $30 each, and TWA's fare also allows one "free" stopover in each direction provided, however, it is taken in either the United States or Italy. Appendix A outlines the carriers' revisions as they apply in the New York-Rome market.

[2] Order 78-9-38, August 23, 1978.

[3] Particularly since Alitalia flies non-stop.

[4] When we permitted implemenatation of the partly unbundled fare, we noted that the transatlantic fare structure, in general, often results in passengers paying very different fares for essentially the same transportation. Order 77-11-78, November 18, 1977. This kind of discrimination is still inherent in TWA's two-tier structure. For example, each of two Chicago-Rome non-discretionary passengers make a stopover. One stops in New York, and pays the lower, unbundled fare. The other, who stops in Paris, must pay the higher, bundled fare. By the same token, passengers may pay the same fare for different services. A Chicago-Rome passenger making no stopovers pays the same fare as one who stops in New York and, under TWA's rules, a passenger making two stops in one direction pays the same as travelers making three or more. Such anomalies would not exist in a truly competitive environment.

[5] We submitted this order to the President on November 9, 1978.

[6] Appendices A through D filed as part of the original document.

By application filed August 23, 1978, The Fredericton Flying Club, Inc., requests a foreign air carrier permit to engage in charter foreign air transportation of persons and their accompanied baggage, and planeload charter foreign air transportation of property, between any point or points in Canada and the United States, using "small aircraft."[1] The application is filed pursuant to the Nonscheduled Air Service Agreement executed on May 8, 1974, by the Governments of the United States and Canada.

No answers to the Fredericton Flying Club, Inc.'s application for a foreign air carrier permit have been filed.

Fitness of the Applicant for a Foreign Air Carrier Permit—The Fredericton Flying Club, Inc. is incorporated pursuant to the Canada Corporations Act. The Canadian Air Transport Committee has issued The Fredericton Flying Club, Inc. a class 9-4 license which authorizes the holder to operate charter commercial air services between Canada and International points from a base at Fredericton, New Brunswick.

The Fredericton Flying Club, Inc. is restricted in its operations to the use of Group A aircraft having a maximum authorized weight on wheels no greater than 4,300 pounds. The Fredericton Flying Club, Inc. also holds an operating certificate which permits the corporation to operate between points that can be safely serviced in North America from a base at Fredericton Airport, New Brunswick. This operating certificate was issued by the Canadian Department of Transport, Civil Aviation Branch.

The applicant's balance sheet as of December 31, 1977, shows total assets of $111,409 of which $29,597 is shown as current assets. On the liabilities side, the company shows current liabilities of $11,227 and total liabilities of $87,086 resulting in a surplus of $24,323. The Fredericton Flying Club, Inc. showed a net profit of $6,417 for the year ended December 31, 1977.

The carrier lists the following aircraft, which are either owned or leased, as available for charter service between Canada and the United States:

Type of aircraft	No.	Passenger seating capacity	Maximum payload in pounds
Piper PA 28-151	1	3	994
Cessna 172	1	4	965

The applicant states that it has had no safety violations and no significant Canadian tariff violations in the last five years; there have been no aircraft accidents resulting in deaths or injuries during this period. Furthermore, the applicant has stated that it will comply with all necessary insurance conditions.

"Public Interest" in Award of the Authority Sought—The applicant relies on the Nonscheduled Air Service Agreement signed by the Governments of Canada and the United States of America on May 8, 1974, as the basis for the grant of the requested authority. By diplomatic Note No. 320, dated July 12, 1978, the the Government of Canada designated the applicant under the agreement to perform charter services with small aircraft.

Ownership and Control—The Fredericton Flying Club, Inc. is a member club in good standing of the Royal Canadian Flying Clubs Association and there are no shares issued. All officers and directors of The Fredericton Flying Club, Inc. are Canadian citizens.

The applicant states that neither it, nor any of its officers or directors, have interests in any U.S. carrier or any Canadian or other foreign air carrier or any person engaged in a phase of aeronautics, or any common carrier, or in any person whose principal business is the holding of stock in, or control of any such entities.[2]

In view of the foregoing and all of the facts of record, the Board tentatively finds and concludes that:

1. It is in the public interest to issue a foreign air carrier permit to The Fredericton Flying Club, Inc., authorizing it to engage in charter foreign air transportation with small aircraft of persons and their accompanied baggage and planeload charters of property between any point or points in Canada and any point or points in the United States;

2. The Fredericton Flying Club, Inc. it fit, willing, and able properly to perform the charter foreign air transportation described in the specimen permit, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board;

3. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

4. The Fredericton Flying Club, Inc. is substantially owned and effectively controlled by nationals of Canada;

5. The proposed issuance of The Fredericton Flying Club, Inc.'s foreign air carrier permit will not consititute a "major regulatory action" under the Energy Policy and Conservation Act as defined in subsection 313.4(a)(1) of the Board's Regulations;[3]

6. An oral evidentiary hearing is not required in the public interest;[4] and

7. Except to the extent granted, the application of The Fredericton Flying Club, Inc. in Docket 32840 should be denied.

Accordingly,

1. All interested persons are directed to show cause why the Board should not (1) make final the tentative findings and conclusions, and (2) issue a foreign air carrier permit to The Fredericton Flying Club, Inc. in the specimen form attached, subject to the disapproval of the President pursuant to section 801 of the Act.

2. Any interested person objecting to the issuance of an order making final the tentative findings and conclusions and issuing the foreign air carrier permit shall, no later than December 11, 1978, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which he could not establish in written pleadings. Any interested person who wishes to answer these objections shall file such answers no later than December 21, 1978;

3. If timely and properly supported objections are filed, we will accord further consideration to the matters and issues raised by the objections before further action is taken by the Board; *Provided*, that the Board may enter an order in accordance with the tentative findings and conclusions, if it determines that there are no factual issues present that warrant the holding of an oral evidentiary hearing;[5]

4. In the event no objections are filed, we will waive all further procedural steps and the Secretary shall enter an order which (1) shall make final the Board's tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President, shall issue a foreign air carrier permit to the applicant in the specimen form attached; and

5. We shall serve a copy of this order upon The Fredericton Flying Club, Inc., the Ambassador of Canada in Washington, D.C. and the U.S. Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[6]

PHYLLIS T. KAYLOR,
Secretary.

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[1] "Small aircraft" are defined by the Nonscheduled Air Service Agreement as aircraft which are not "large aircraft." "Large aircraft" are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorized takeoff weight on wheels greater than 35,000 pounds.

[2] However, some of the directors of The Fredericton Flying Club, Inc. hold shares in a small aircraft engine overhaul shop in Fredericton, New Brunswick.

[3] This is not an action with environmental consequences. See subsection 312.2(a) of the Board's Procedural Regulations regarding Canadian carrier permits for small aircraft charter operations.

[4] Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions and issuing to attached permit, shall file such objections within 21 days from the date of service of this order.

[5] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[6] All Members concurred.

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER FOR SMALL AIRCRAFT OPERATIONS

The Fredericton Flying Club, Inc.

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958 and the Board's orders, rules, and regulations, to engage in charter foreign air transportation, as follows:

Charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may be, prescribed for carriage by small aircraft in Annex B (III)(B) of the Nonscheduled Air Service Agreement between the United States and Canda, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement: *Provided*, That any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations.[1] The authority of the holder to perform United States-originating charters shall, in accordance with Annex B(III)(A) of the Nonscheduled Air Service Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations:

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: *Provided*, That the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974, exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round-trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

(d) There shall be excluded from the computation:

(i) flights utilizing aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and (ii) flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when the flights serve either (a) a Canadian terminal point on the route, or (b) any Canadian intermediate point authorized for service on the route by the foreign air carrier permit.

(4) The holder may grant stopover privilege at any point or points in the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round-trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey; *provided*, That the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The Board, by order or regulation and without hearings, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(7) The holder shall not operate any aircraft under the Authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(8) this permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(9) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

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[1] Annex B(III)(B) presently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: Single Entity Passenger, Single Entity Property, Pro Rata Common Purpose, and Inclusive Tour (in some instances split passenger charters are authorized).

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(10) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts of liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(11) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its teritories or possessions) based upon any claim arising out of operations by the holder under this permit.

(12) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall become effective on _____. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment, which shall have the effect of eliminating the charter foreign air transportation authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the government of Canada in lieu of the holder, or (3) upon the termination or expiration of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974: *However*, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foregn air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and Canada are or shall become parties.

The Civil Aeronautics Board has directed its Secretary to execute this permit and affix its seal, on the _____.

_____,
Secretary.

[SEAL]

[FR Doc. 78-33022 Filed 11-22-78; 8:45 am]

[6320-01-M]

[Docket 33275; Order 78-11-84]

NEW ORLEANS-WEST SERVICE INVESTIGATION

Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November, 1978.

By Order 78-8-122,[1] dated August 23, 1978, the Board instituted this investigation to consider "whether the public convenience and necessity require new or additional service between New Orleans, on the one hand, and Amarillo, Denver, Lubbock, Oklahoma City, Portland, Seattle, and Wichita, on the other hand."

Timely petitions for reconsideration were filed by five carriers requesting reconsideration and expansion of the scope of the proceeding. Also, motions for consolidation of applications into the investigation were filed by 13 carriers. The administrative law judge assigned to the case, acting pursuant to authority delegated to her by our instituting order, consolidated eight of the applications into the investigation because they "request authority within the current scope of the investigation," which she correctly stated to be "the need for additional nonstop service in seven New Orleans markets."[2] The judge deferred action on the five other motions for consolidation since the applications, although broader than our instituting order, were within the scope of the expanded investigation requested by the petitions for reconsideration and, therefore, should await the Board's decision on the petitions.

Two of the petitions (those of Continental and Eastern) ask for clarification as to whether our instituting order intended to make the seven named points linked with New Orleans intermediates as well as terminals. That was not our intention. We intended simply to place in issue nonstop authority in seven New Orlean's markets. A reading of the pleadings as a whole indicates that the parties clearly understood the scope of the proceeding.

The burden of the petitions for reconsideration is to seek to expand the proceeding. Braniff believes we should add Los Angeles/Chicago/Phoenix/Tucson-New Orleans. Western would add seven markets, including San Francisco/Las Vegas/Reno/San Diego/Tulsa-New Orleans.[3] Continental seeks to add Dallas/Ft. Worth-New Orleans. Finally, Delta suggests that the specific market of Tulsa-New Orleans be added and, more significantly, that the proceeding be scoped "so that the authority at issue is 'between and among' the various cities in the case," as was done in the *Florida Service Case*, Order 78-7-128.

Answers were filed by four parties. BPDA supports the expansion of the proceeding to include the new markets suggested by the carriers. However, it opposes Delta's request to expand the investigation to include authority "between and among" the named cities. Such a course, it asserts "would not merely expand the case, but change its nature." The *Florida Service Case*, it contends, "is not apposite" because it is concerned with the "needs of a limited geographic area." Continental's answer also opposes Delta's suggested expansion of the investigation to include authority "between and among" the named points. However, it supports the inclusion of the new named nonstop markets requested by Braniff, Western, and Delta. Its answer also proposes the inclusion of Kansas City-New Orleans. On the other hand, Delta's answer opposes the additional markets proposed by Braniff and Western as being outside the intended focus of the investigation. It also objects to the inclusion of Dallas/Ft. Worth-New Orleans, requested by Continental, on the ground that it was already under consideration by the Board in Docket 32315. Braniff's answer also raises the same objection and for the same reason. However, BPDA's answer apparently supports the addition of this market as requested by Continental.

The Board's instituting order contemplated the consideration of nonstop authority radiating from New Orleans to the cities named in its order so as to provide improved New Orleans-West service. The addition of the named markets suggested in the petitions for reconsideration filed by Braniff, Delta, and Western will further that objective without complicating or delaying the investigation unduly. However, inclusion of service "between and among" the named points, as Delta urges, would, on the expanded basis we are providing, result in a gargantuan area service proceeding covering all of the lower 48 States west of a line from Chicago to New Orleans. As BPDA asserts, this would change the nature of the proceeding as well as causing great delay. This investigation is in the mold of the *Oakland Service Case*, Docket 30699, the *Chicago-Midway Low Fare Route Proceeding*, Docket 30277, and the *Chicago-Midway Expanded Service Proceeding*, Docket 33019, rather than the geographically limited *Florida Service Case, supra*, relied on by Delta. We shall deny Delta's petition for reconsideration in this respect.

We shall not include the two markets proposed by Continental. Dallas/Ft. Worth-New Orleans is under consideration in *Nonstop Dallas/Ft. Worth-New Orleans Low Fare "Peanuts" Subpart M Application*, Docket 32315. Because expedited procedures are involved in that case it should reach final decision before this case and should not receive duplicative consideration here. The Kansas City-New Orleans market will also be excluded because it was first proposed in Continental's answer to the petitions for reconsideration, when replies by other parties are no longer permitted under our Rules of Practice. Continental had adequate opportunity to propose this market either by application or by petition for reconsideration. Since it failed to do so, we shall exclude the market here.

On the basis of the expanded scope of this investigation that we are establishing here, we shall grant the previously filed motions to consolidate applications filed by Continental in Docket 33439, Delta in Docket 33447, Ozark in Docket 33415, TXI in Docket 33431, and Amendment No. 2 of Braniff in Docket 31699,[4] but only to the extent that such applications conform to the scope of the investigation as set forth in this order.

In view of the changes we are making in the scope of the investigation instituted by Order 78-8-122, we shall provide for the filing of new applications, amendments to old applications, and motions to consolidate.[5]

A petition for intervention is pending on behalf of The Port of Seattle Commission, the City of Seattle, the County of King, The Seattle Chamber of Commerce, and the Puget Sound Traffic Association (the Seattle Parties). Each of these persons appears to have a sufficient economic interest in the investigation to justify their participation and no one has objected to their petition. We shall permit the Seattle parties to intervene.

ACCORDINGLY, THE BOARD:

1. Grants the petitions for reconsideration filed by Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., and Western Air Lines, Inc., to the extent indicated in this order and otherwise denies such petitions; 2. Expands the scope of this proceeding by amending paragraph 3 of Order 78-8-122 to include the following nonstop markets:

New Orleans—Los Angeles, Chicago, Phoenix, Tucson, San Francisco, Las Vegas, Reno, San Diego, and Tulsa.

3. Grants the motion of Braniff Airways to late-file Amendment No. 2 in Docket 31699.

4. Grants the motions to consolidate filed by Continental Air Lines in Docket 33439, Delta Air Lines in Docket 33447, Ozark Air Lines in Docket 33415, Texas International Airlines in Docket 33431, and Amendment No. 2 of Braniff Airways in Docket 31699 to the extent that such applications conform to the scope of this investigation and otherwise denies such motions;

5. Permits persons to file applications, amendments to applications, and motions to consolidate applications in this investigation to be filed within 10 days of the date of service of this order;[6]

6. Grants the petition of the Seattle parties for leave to intervene;

7. Directs all carriers filing applications or amendments to applications which they seek to have consolidated into this investigation to file environmental evaluations under section 312.12 of the Board's Regulations within 30 days of the date of service of this order;

8. Denies all other requests in this proceeding.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33023 Filed 11-22-78; 8:45 am]

[6320-01-M]

[Dockets 25608 and 31006; Order 78-11-75]

SEAGREEN AIR TRANSPORT LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November, 1978.

In the matter of application of Seagreen Air Transport Limited for renewal and amendment of its foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958 (Docket 25608), and in the matter of application of Seagreen Air Transport Limited for renewal of its foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958, as amended (Docket 31006)

BACKGROUND

Seagreen Air Transport Limited (Seagreen) holds two foreign air carrier permits, authorizing it (1) to engage in foreign air transportation of persons and property using aircraft with a maximum gross takeoff weight not in excess of 12,500 pounds,[1] and (2) to engage in foreign air transportation of property only.[2] Both permits authorize Seagreen to operate off-route charters in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

On June 8, 1973, Seagreen filed an application (Docket 25608) for amendment of its foreign air carrier permit issued by Order E-26939. On June 17, 1977, Seagreen filed an application (Docket 31006) for renewal of its permit issued by Order 72-6-110. In both instances, Seagreen invoked the provisions of the Administrative Procedure Act in order to continue operating pending Board action on its applications.

On August 2, 1978, Seagreen filed a motion to consolidate its application in Docket 25608 with Docket 31006. The applicant also filed a petition for orders to show cause in each Docket why its applications should not be granted without an oral evidentiary hearing. In Docket 25608 Seagreen requests that its permit to carry persons and property be renewed for 10 years; that the renewed permit be amended to include St. Kitts, British West Indies, as an intermediate point; that the limitation to "Casual, occasional and infrequent service" be replaced;[3] and that the takeoff weight be replaced by a passenger capacity limitation of 30 and a payload capacity weight limitation of 7,500 lbs. In Docket 31006 Seagreen requests that its permit authorizing it to carry property only be renewed for an indefinite period.

OWNERSHIP AND CONTROL

Seagreen Air Transport Limited was incorporated under the Companies Act of the Colony of Antigua, British West

[1] The order was served on August 25, 1978. An erratum sheet, dated September 21, 1978, corrected the inadvertent omission of Lubbock from the scope of the case.

[2] Order 78-10-19, served October 10, 1978.

[3] Like Braniff, it also named Los Angeles/Phoenix-New Orleans.

[4] Braniff's Amendment No. 2 was accompanied by a motion for leave to late-file. We shall grant the latter motion.

[5] We shall not entertain further petitions for reconsideration.

[6] We delegate to the presiding administrative law judge the authority to consolidate by order any applications or amendments to applications which conform to the scope of the investigation.

[7] All Members concurred.

[1] Order E-26939, 48 CAB 571(1968), effective June 18, 1968, for a period of five years. Under this permit, Seagreen may provide service between a point or points in Antigua, West Indies and all points in St. Thomas and St. Croix, Virgin Islands, and Puerto Rico.

[2] Order 72-6-110, effective June 23, 1972, for five years. Under this permit, Seagreen may provide service: "Between Granada, West Indies; intermediate points in St. Vincent, St. Lucia, Dominica, Monserrat, Antigua, St. Kitts (including Nevis and Anguilla), British Virgin Islands, U.S. Virgin Islands, Puerto Rico, and the Bahamas; and the coterminal points Miami, Ft. Lauderdale, and West Palm Beach, Florida." The authority under both Seagreen permits was automatically extended under 5 U.S.C. 558(c) through timely filing for renewal.

[3] Seagreen suggests the following in lieu of the wording now in its permit: "the holder shall not engage in scheduled international air service."

Indies, on December 18, 1964. It was owned by Seagreen Caribbean Limited, a holding company incorporated in Nassau, Bahamas.[4] The applicant is now wholly owned (99.2%) by Carib Holdings Limited, a Cayman Island corporation. All of the stock of Carib Holdings Limited is owned by citizens of Canada. Two of Seagreen's officers and directors are Antiguan citizens, one is a citizen of India; the others are Canadian citizens. The stock of Carib Holdings Limited is held in the name of nominees by the Bank of Nova Scotia Trust Co., Georgetown, Cayman Is., B.W.I. and is 100% beneficially owned by citizens of Canada. The applicant states that there has been no purchase of its stock by the Government of Antigua or by Antiguan nationals, although an offer to sell stock in Seagreen to the Government of Antigua is outstanding.[5] We tentatively find that in effect, the ownership and control of Seagreen Air Transport Limited rests substantially in the same persons as when its permits were first issued, and that the proposed amendment/renewal of its permits would be in the public interest.

FINANCIAL AND OPERATIONAL FITNESS

An Auditors' Report to Seagreen's shareholders dated August 26, 1977, stated that its financial statements contemplate continuantion of the company as a going concern, but that it has operated at a loss during current and prior years.[6] Notwithstanding its operating losses, Seagreen states that it is fit, willing and able properly to perform its operations; that its ability to do so has never been questioned; that it has a proven record of reliable and efficient service; and that it has been able to meet all current financial obligations and has never been refused insurance or debt financing. Seagreen states that no answers were filed in opposition to its applications for renewal/amendment of its permits and that the requested actions are both unopposed and noncontroversial. The carrier owns two DC3s, one DC4 and one DC6. Based on the applicant's statements, we tentatively conclude that Seagreen meets the fitness requirements of section 402 of the Act.

[4]Seagreen Caribbean Limited went into liquidation on November 6, 1975, and the amount due from Seagreen Air Transport Limited was written off. Its shares in Seagreen were sold to Carib Holdings Limited. Donald Patterson, a citizen of Canada, was beneficial owner of Seagreen Caribbean. He and members of his family wholly own Carib Holdings Limited.

[5]See Exhibit SAT-6, Dockets 25608 and 31006.

[6]See Exhibit SAT-7, pp. 19-26. The company had a net loss of U.S. $36.248 (East Caribbean $106,610) for the year ending June 30, 1977.

PUBLIC INTEREST

The applicant states that there has been no change in the policy of the Government of Antigua to grant reciprocal operating rights to U.S.-flag carriers, and that, on the basis of reciprocity and comity, it is in the public interest to renew and amend its foreign air carrier permits.

Because of the Circumstances of its ownership and control, as well as its financial condition, we will not renew for ten years Seagreen's permit to carry persons and property, nor will we renew indefinitely its authority to carry property only in foreign air transportation. Instead, we find it more appropriate to limit the effectiveness of both renewals to a period of five years. Our reasoning in limiting the effective period of the two permits to five years is based primarily on the fact that Seagreen is owned and controlled by citizens of Canada, and not by citizens or the Government of Antigua or the United Kingdom, and that its financial situation has never been satisfactorily improved during the many years of its existence. Nevertheless, Seagreen was owned and controlled by citizens of Canada at the time we last considered the permits and we concluded that it was in the public interest to waive our traditional policy of ownership and control. We find nothing here that would lead to a different conclusion.

No answers to any of Seagreen's applications, motion or petitions have been received.

On the basis of the foregoing and all the facts of record we tentatively find and conclude:

1. That it is in the public interest to amend[7] and renew the permit held by Seagreen Air Transport Limited authorizing the nonscheduled carriage of persons and property (Order E-26939) and to renew its permit authorizing the nonscheduled[8] carriage of property only (Order 72-6-110), for a period of five years.

2. That the public interest requires that the exercise of the privileges granted by the permits shall be subject to the terms, conditions, and limitations contained in the specimen form of permits attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

3. That Seagreen Air Transport Limited is fit, willing and able properly to perform the foreign air transportation described in the specimen permits attached to this order, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

4. That an oral evidentiary hearing is not required in the public interest;[9]

5. That the amendment and renewal of Seagreen Air Transport Limited's permits will not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a) of the Board's Regulations;[10] and

6. That except to the extent granted, the applications of Seagreen Air Transport Limited in Dockets 25608 and 31006 should be denied.

Accordingly, 1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions; and (2) subject to the disapproval of the President, issue amended and renewed foreign air carrier permits to the applicant in the specimen forms attached;

2. We direct any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the proposed amended/renewed foreign air carrier permits to file with the Board and serve on the persons named in paragraph 5, no later than December 11, 1978, a statement of objections specifying the part or parts objected to, and include a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, we shall give consideration to the matters and issues raised by the objections before further action is taken by the Board: *Provided*, That the Board may proceed to enter an order in accordance with its tentative findings and conclusions set forth in this order if it determines that there are no factual issues present that warrant the holding of an oral evidentiary hearing;[11]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Secretary shall enter an order which shall (1) make final the Board's tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President, issue amended and renewed foreign air carrier permits to the applicant in the specimen forms attached;

5. We shall serve a copy of this order upon Seagreen Air Transport Limited, the Antigua Ministry of Public Works and Communications, the Departments of State and Transportation, and the U.S.-flag carriers upon which Seagreen served its Petitions for Orders to Show Cause in Dockets 25608 and 31006.

We shall publish this order in the FEDERAL REGISTER and transmit a copy to the President of the United States.

By the Civil Aeronautics Board:[12]

PHYLLIS T. KAYLOR,
Secretary.

Specimen Permit

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Seagreen Air Transport Limited is authorized, subject to the provisions set forth below, the provisions of the Federal Aviation Act of 1958 and the orders, rules, and regulations issued under it, to engage in foreign air transportation of persons and property, as follows:

Between a point or points in Antigua, West Indies; intermediate points in St. Kitts, British Virgin Islands, and all points in St. Thomas and St. Croix, U.S. Virgin Islands, and Puerto Rico.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by part 212 of the Board's Economic Regulations.

The authority granted shall be used solely for the purpose of providing nonscheduled air transportation, and the holder shall not, in the course of providing such service, engage in scheduled foreign air transportation.

In the performance of the operations authorized by this permit, the holder shall not use any aircraft with a passenger capacity in excess of 30 and a payload carrying capacity weight in excess of 7,500 pounds.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation: However, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the United Kingdom of Great Britain and Northern Ireland for British international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom of Great Britain and Northern Ireland shall be parties.

This permit shall be subject to the condition that, in the event any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult, and will use their best efforts to agree upon modifications satisfactory to the Board and the holder.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

By accepting this permit the holder waives any right it may posses to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall become effective on ————, and unless otherwise terminated as provided below, shall terminate after a period of five years. Prior to the expiration of its five-year period of effectiveness, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment which shall have the effect of eliminating the bilaterally covered service here authorized from the service which may be operated by airlines designated by the Government of the United Kingdom (or in the event of elimination of any part of the bilaterally covered service authorized, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdom in lieu of the holder, or (3) upon the termination or expiration of the Air Services Agreement between the Governments of the United States and the United Kingdom (Bermuda II), as amended by an exchange of notes concluded April 25, 1978; *However*, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States and the United Kingdom are or shall have become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on.————

————,
Secretary.

[SEAL]

Specimen Permit

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Seagreen Air Transport Limited, is authorized, subject to the provisions set forth below, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued under it, to engage in foreign air transportation of property only, as follows:

Between points in Grenada, West Indies; intermediate points in St. Vincent, St. Lucia, Dominica, Monserrat, Antigua, St. Kitts (including Nevis and Anguilla), British Virgin Islands, U.S. Virgin Islands, Puerto Rico, and the Bahamas; and the coterminal points Miami, Ft. Lauderdale, and West Palm Beach, Florida.

The authority granted above shall be subject to the conditions that (1) the holder shall not carry traffic originating at one U.S. point and destined for another U.S. point; (2) the holder shall not engage in scheduled foreign air transportation; and (3) the holder shall serve Antigua, or a point south thereof (Montserrat, Dominica, St. Lucia, St. Vincent, or Grenada), or St. Kitts (including Nevis and Anguilla), on all flights which serve Miami, Ft. Lauderdale, or West Palm Beach, Florida.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitation prescribed by Part 212 of the Board's Economic Regulations.

[7]The effect of the amendment of Seagreen's permit to carry persons and property is to add St. Kitts, B.W.I. as an intermediate point, so that the route would read: Between a point or points in Antigua, West Indies; intermediate points in St. Kitts, British Virgin Islands, and all points in St. Thomas and St. Croix, U.S. Virgin Islands, and Puerto Rico.

[8]We shall, as we have in past cases, and solely in order to delineate the bounds of the nonscheduled foreign air transportation authority being granted, consider as being applicable to this condition the definition of "scheduled international air service" made by the Council of the International Civil Aviation Organization for the purposes of clarifying Articles 5 and 6 of the Chicago Convention. That definition reads: "A scheduled international air service is a series of flights that possesses all the following characteristics: (a) it passes through the airspace over the territory of more than one State; (b) it is performed by aircraft for the transport of passengers, mail or cargo for remuneration, in such a manner that each flight is open to use by members of the public; (c) it is operated so as to serve traffic between the same two or more points, either (i) according to a published time-table, or (ii) with flights so regular or frequent that they constitute a recognizable systematic series." As is well known, the ICAO Council's definition has not been accepted by a large number of the contracting States, including the United States, and is not binding on the Board. Accordingly, the Board's action should not be construed as an expression of opinion by the Board as to the proper interpretation to be placed on the scope of Articles 5 and 6 of the Chicago Convention. (See, Seagreen Air Transport Limited, Order 70-2-14, approved February 4, 1970).

[9]Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions stated here, and issuing the attached permit, shall be allowed 21 days in which to respond from the date of service of this order.

[10]This finding is based upon the fact that the proposed increase in aircraft operations to and from the U.S. will be *de minimis*, and the additional fuel consumed by Seagreen will be less than ten million gallons.

[11]Since provision is made for filing of objections to this order, petitions for reconsideration will not be entertained.

[12]All Members concurred.

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ern receives Atlanta-Washington au- and Washington via Dulles. Inasmuch

The holder shall not provide foreign air transportation under this permit unless (1) there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and (2) there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation: *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the United Kingdom of Great Britain and Northern Ireland for British international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom of Great Britain and Northern Ireland shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult, and will use their best efforts to agree upon modifications satisfactory to the Board and the holder.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on ——— and unless otherwise terminated as provided below, shall terminate after a period of five years. Prior to the expiration of its five-year period of effectiveness, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment which shall have the effect of eliminating the bilaterally covered service here authorized from the service which may be operated by airlines designated by the Government of the United Kingdom (or in the event of elimination of any part of the bilaterally covered service authorized, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdom in lieu of the holder, or (3) upon the termination or expiration of the Air Services Agreement between the Governments of the United States and the United Kingdom (Bermuda II), as amended by an exchange of notes concluded April 25, 1978; However, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States and the United Kingdom are or shall have become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on ———.

———,
Secretary.

(SEAL)

[FR Doc. 78-33021 Filed 11-22-78; 8:45 am]

[6320-01-M]

[Docket Nos. 32754; 32751; Order No. 78-11-55]

SOUTHERN AIRWAYS, INC.

Order To Show Cause and Granting Temporary Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November, 1978.

On May 26, 1978, Southern Airways, Inc. filed an application to amend its certificate of public convenience and necessity for Route 98 [1] to authorize it to engage in nonstop service between Atlanta and Washington, D.C., through Dulles International Airport and one-stop service between Atlanta and New York City.[2] The application was accompanied by a motion for hearing or, in the alternative, a request for an order to show cause why it should not be granted. The carrier also requests an exemption from the requirements of its certificate for Route 98 pending final Board action on its certificate amendment application.

Southern alleges, in support of its request, that there is no nonstop service available from Atlanta to Washington via Dulles International Airport; that its service proposal will fill a need which has not been met by Eastern and Delta, which are certificated to provide service to all three airports in the Washington metropolitan area, but only provide service to National and BWI; that Dulles serves a large section of the Washington metropolitan area not conveniently located to either National Airport or Baltimore-Washington International Airport; that the proposed service will be provided on a profitable basis without cost to the government in the form of a mail subsidy; and that its proposed service will have no adverse impact on the incumbent carriers.

Answers in support of Southern's applications were filed by nine civic parties: the Commonwealth of Virginia and the Dulles International Airport Development Commission; the Fairfax County Economic Development Authority; the Office of Economic Development, Loudon County, Virginia; the Herndon Chamber of Commerce; the Committee for Dulles; the City of Atlanta and the Atlanta Chamber of Commerce; and the Gulfport Area Chamber of Commerce, Gulfport, Mississippi.

Pan American World Airways and Delta Air Lines also filed consolidated answers in support of Southern's applications. Pan American asserts that Southern's proposed service will improve service in the Atlanta-Washington market, will reduce congestion at National Airport and will increase the number of domestic connections for international flights landing at Dulles. Delta does not oppose either application so long as Southern's authority is limited to Dulles.

Eastern Air Lines opposes both applications on the grounds that there is a multitude of nonstop service in the Atlanta-Washington market and therefore no need for additional nonstop service; that the areas in and around the Washington metropolitan area are readily accessible to National Airport; that Southern's proposed beyond service is duplicative and offers very little to the traveling public; and that Southern's proposed service could undermine the Board's original grant of authority on segment 7 of Route 98 if Southern starts routing the deep South-Washington/New York traffic through Atlanta.

In response to Eastern's objections, Southern claims that there is much civic support for its application; that the Board should consider its application since it previously applied for Atlanta-Washington/New York authority as part of its Greenville/Spartanburg-Washington/New York Subpart M application,[3] but the Board determined that the Atlanta portion of its application was inappropriate for processing under Subpart M,[4] and that its proposed service will not harm Eastern as evidenced by the fact that the latter does not claim any divsersion.

Southern's application falls within that class of cases that can be handled

[1] Condition 6 for Route 98 prohibits Southern from performing single-plane service between Atlanta and Washington/New York. In addition, Washington and New York are on segment 7, but Atlanta is not.

[2] It proposes to operate three round trips between Atlanta and Washington, one of which would extend beyond Washington to New York and one which would also extend beyond Atlanta to Huntsville, Jackson, and Mobile.

[3] Docket 24778.

[4] Order 75-8-49.

by show-cause procedures because of the absence of any material, determinative issue of fact requiring resolution in a formal evidentiary proceeding. *See Piedmont Boston Entry Application*, Order 78-4-69, April 14, 1978 (order to show cause); and Order 78-8-97, August 17, 1978 (final order).[5]

Our examination of the pleadings satisfies us that the applicant has made a plausible *prima facie* showing that the service it proposes can be operated on an economically sound basis,[6] so immediate processing of the application is in the public interest.

Based on the tentative findings below, we tentatively conclude that it is consistent with the public convenience and necessity to amend Southern's certificate for Route 98 so as to authorize it to engage in nonstop service between Atlanta and Washington, D.C., through Dulles International Airport and one-stop service between Atlanta and New York City. We also tentatively find that Southern is fit, willing and able to properly perform the air transportation it proposes and to conform to the provisions of the Act and the rules, regulations and requirements of the Board thereunder. We further find that our proposed action does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, or a major federal action under the Energy Policy and Conservation Act.

We find that the grant of Southern's request will result in significant benefits to the traveling public in the Atlanta-Washington/New York market. Delta and Eastern have authority to provide service to all three airports in the Washington metropolitan area, however, they have generally refused to provide service to Dulles. By providing single-plane service between Atlanta and Washington, D.C., via Dulles, amendment of Southern's certificate will afford Atlanta and deep South passengers much easier access to the outlying suburban Washington area than is possible with service through National and BWI and will increase the number of domestic connections for international flights landing at Dulles. Eastern asserts that if Southern receives Atlanta-Washington authority it will undermine the Board's original grant of authority on segment 7 of Route 98. Although Southern was certificated on its segment 7 of Route 98 to provide service between Elgin Air Force Base, Florida and New York, N.Y.-Newark, N.J. via the intermediate points Dothan, Alabama, Columbus, Georgia, and Washington, D.C.,[7] there is nothing in the record to suggest that the Board fashioned the certificate in such a manner because it did not want Southern routing deep South passengers through Atlanta. The certificate was fashioned in such a manner because Southern specifically requested this authority.[8] Therefore, the proposed certificate amendment will not undermine the Board's original grant of authority on segment 7 or Route 98.

While as noted above, Southern has made a plausible showing that the service it proposes can be profitably operated, we need not find that its specific service proposal here, or any other specific pattern of service, will in fact be profitable. Traffic in the markets in question is clearly sufficient to sustain at least some service of the kind proposed. If Southern's particular service proposal or some variant thereof can be profitably operated, service is likely to be provided and the public will benefit accordingly. However, if the service is or becomes unprofitable, the carrier will be free, under the permissive authority we propose to grant it, to discontinue the service at any time and thus avoid further losses. At that time any diversion from other carriers will cease, and the public will be no worse off than it is today, with the possibility still remaining that the service may be resumed at a later time if conditions permit.

We find that Eastern has neither asserted nor shown that the grant of the authority requested will result in such diversion from it as to threaten its ability to perform its certificate obligations, or will necessarily result in the termination of essential services that cannot be replaced by another carrier. We thus find it unnecessary to resolve any disputes about the precise amount of diversion which may occur.

In view of the tentative findings and the limited nature of the operation being proposed, we find that it will be in the public interest to exempt Southern from the provision of its certificate so as to authorize it to provide the proposed service pending Board action on Southern's certificate amendment application. We are particularly concerned about Delta and Eastern's historic disinterest in providing service between the deep South and Washington via Dulles. Inasmuch as Southern is willing to fill the void, we have also determined to allow Southern to provide one-stop service between Atlanta and New York since the inclusion of New York will help support Southern's Atlanta-Washington operations. Under these circumstances, we find that it is consistent with the public interest to grant Southern relief from the provisions of the Act and the terms and conditions of its certificate pending final action on its certificate amendment application in Docket 32754.[9]

We are satisfied from the pleadings that nothing developed at an oral evidentiary hearing would be likely to require reversal of any of the foregoing tentative findings and conclusions. We will give interested parties 30 days following the date of service of this order to show cause why these tentative findings and conclusions should not be made final; replies will be due within 10 days thereafter. We expect that such objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary, and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Southern's certificate for Route 98 so as to authorize the carrier to engage in nonstop operations between Atlanta and Washington, D.C. (service to be provided through Dulles International Airport), and one-stop operations between Atlanta and New York, New York, via Washington, D.C;

2. Any interested person having objections to the issuance of an order making final the tentative findings, conclusions and certificate amendments set forth here shall, no later than December 20, 1978, file with the Board and serve upon all parties who have filed pleadings in Dockets 32754 and 32751 a statement of objections together with a summary of testimo-

[5] Unlike *Piedmont Boston Entry* where the authority involved a new point, Southern is already certificated at each station—Atlanta, Washington, and New York. Restriction removals can be justified under public convenience and necessity standards solely on findings relating to operating flexibility (which are present here), unless a substantial probability is shown that it will be seriously harmful to the domestic air transportation system. Accordingly, the measure of proof here is less than required in *Piedmont Boston Entry*.

[6] Southern forecasts a first year operating profit of $1,279,000. SO-102, p. 1.

[7] *Southern Airways, Inc. Show Cause Proceeding*, 48 C.A.B. 708 (1968).

[8] See Order No. E-25784, October 6, 1967.

[9] We reach this conclusion notwithstanding Eastern's contention that flights conducted by Southern will increase operations at Atlanta's saturated airport. It remains our basic policy to relieve congestion at saturated airport by means of authorizing new authority at alternative airports, whether or not the alternative airport is a nearby satellite, rather than by restricting access to saturated airports. See generally, *Chicago-Midway Low-Fare Route Proceeding*, Order 78-7-40, July 14, 1978; and Order 78-8-203, August 31, 1978.

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ny, statistical data and evidence expected to be relied upon to support its objections; answers to objections shall be filed no later than January 2, 1979;

3. If timely and properly supported objections are filed, we will fully consider the matters or issues raised before taking any further action;[10]

4. In the event that no objections to any part of this order are filed, we will consider all further procedural steps relating to such part or parts to have been waived and the case submitted to us for final action;

5. We exempt Southern from the provisions of section 401 of the Act and the terms, conditions and limitationa of its certificate to the extent necessary to permit it to operate the service named in paragraph 1, above, pending final decision in Docket 32754; and

6. We shall serve a copy of this order upon all persons named in the service lists in Dockets 32751 and 32754.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33019 Filed 11-22-78; 8:45 am]

[10]Since provision is made for filing objections, no petitions for reconsideration will be entertained.

[11]All Members concurred.

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

CONSOLIDATED DECISION ON APPLICATIONS FOR DUTY FREE ENTRY OF ACCESSORIES FOR FOREIGN INSTRUMENTS

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 78-00344. Applicant: Lenox Hill Hospital, 100 East 77th Street, New York, N.Y. 10021. Article: Double tilt-lift for EMU-101 electron microscope. Manufacturer: Siemens Corp., West Germany. Intended use of article: The article is an accessory to an electron microscope that will be used for the examination of portions of human bronchial mucosa, liver, kidney, and skin for abnormal content of inorganic substances that are capable of producing diseases. Application received by Commissioner of Customs: July 20, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00320. Applicant: Naval Medical Research Institute, Bethesda, Md. 20014. Article: ASID-4D High Resolution Scanning Device. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the examination of biological specimens including bacteria, viruses, parasites, fungi, and other microorganisms. Experiments to be conducted will include:

(a) The ultrastructural localization of antibody-antigen reactions in schistosomules of *Schistosoma mansoni;*

(b) Electron microprobe study of trace metals in cellular ultrastructure exposed to organic metallic antifouling paints;

(c) Coagulopathies in vascular injuries and transplantation;

(d) A study of platelet lipoprotein-dependent coagulant activities in septic shock;

(e) Study of hyperbaric environment on blood platelets;

(f) Effects of acute low-level electromagnetic radiation on the central nervous system: Morphological study of hypothalamic and subthalamic regions;

(g) Scanning electron microscopic evaluation of nerve regeneration;

(h) Ultrastructural studies of microwave cataractogenesis;

(i) Endothelial perfusion injury using fibrinolytic and coagulation parameters in the preservation of organs for repairing battle casualties;

(j) Central nervous system circulatory changes in air embolism and decompression sickness;

(k) Septic shock due to *Pseudmonas aeruginosa:* Pathogenic effects of exotoxin.

Application received by Commissioner of Customs: July 7, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

Docket No. 78-00312. Applicant: Indiana University, Purchasing Department, 1101 East 17th Street, Bloomington, Ind. 47401. Article: Universal Camera for Elmiskop 1 Electron Microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory to an existing electron microscope manufactured by the same manufacturer which will be used in research and teaching applications. Specifically, the article will be used for (a) examination of fine structural changes in various experimental ocular disease conditions, (b) recognition of fine tissue changes in experimental animal retina research, and (c) the teaching of graduate students and residents in advanced training. Application received by Commissioner of Customs: July 5, 1978. Advice submitted by the Department of Health, Education, and Welfare on: October 10, 1978.

COMMENTS: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA
Director,
Statutory Import Programs Staff.

[FR Doc. 78-32971 Filed 11-24-78; 8:45 am]

[3510-25-M]

COLGATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00264. Applicant: Colgate University, Hamilton, N.Y. 13346. Article: Scanning Microdensitometer, Model M85 and accessories. Manufacturer: Vickers Ltd., United Kingdom. Intended use of article: The article is intended to be used for measurements of the biologically active concentrations of hormones. The primary field of interest is the circadian rhythms of hormones involved with reproductive cycles especially as they are affected by photoperiods, temperature, and pineal gland. These studies normally culminate in research papers published in the field. In addition, the article will be used for educational purposes in the courses Biology of Reproduction (Biol. 365), Experimental Endocrinology (Biol. 361-362), and Chronobiology (Biol. 364).

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a scanning capability with the ability to measure both area and absorption. The Department of Health, Education, and Welfare advises in its memorandum dated September 26, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32972 Filed 11-24-78; 8:45 am]

[3510-25-M]

NATIONAL CANCER INSTITUTE—NIH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00302. Applicant: National Cancer Institute, Building 10, Room 2A10, Laboratory of Pathology, NIH, Bethesda, Md. 20014. Article: EM 400 Accessories consisting of: PW6575/00 Basic Scanning Attachment and PW6576 Secondary Electron Detector including PW6337/00 EM 400 Retrofit Kit. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of Article: The articles are accessories to an existing electron microscope to be used as a very high resolution scanning electron microscope providing topographic information about the quantity and distribution of molecular markers specifically bound to receptors on the surfaces of normal and malignant tumor cells in vitro and to relate this information to the intracellular distribution of contractile proteins believed to control the distribution and movement of these receptors.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article if intended to be used and is pertinent to the applicant's purposes. The National Bureau of Standards advises in its memorandum dated October 12, 1978, that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32973 Filed 11-24-78; 8:45 am]

[3510-25-M]

PROFESSIONAL STAFF ASSOCIATION OF THE L.A. COUNTY HARBOR GENERAL HOSPITAL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00290. Applicant: Professional Staff Association of the L.A. County Harbor General Hospital, 1124 West Carson Street, Torrance, Calif. 90502. Article: HN A200 Electrophoretic Apparatus, Safety Model Complete with accessories. Manufacturer: V. Holm, Denmark. Intended Use of Article: The article is intended to be used to separate serum and brain protein in an electric field during the study of immunological response to the nervous system to viral infection.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for line and crossed line immunoelectrophoretic separations on glass supported agarose plates with good temperature and voltage control. The Department of Health, Education, and Welfare advises in its memorandum dated September 26, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

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(Catalog in Federal Domestic Assistance Program No. 11.15, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-32974 Filed 11-24-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

CONSERVATION AND SOLAR APPLICATIONS; FOOD INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Food Industry Advisory Committee will meet on Wednesday, December 13, 1978, from 9 a.m., until approximately 1 p.m., in Seminar Room CD, Sheraton Biltmore Hotel, 817 West Peachtree Street, Atlanta, GA.

The Committee was established to provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

The tentative agenda for the meeting is as follows:

9 a.m.—Presentation by USDA on agricultural energy priorities.

10 a.m.—Discussion of DOE briefings and Food Industry Advisory Committee subcommittee meeting:

a. Federal policies on energy efficiency in transportation and distribution.

b. DOE building performance standards.

c. DOE consumer technology transfer program.

d. Tax credits for energy efficient equipment.

e. DOE National Energy Strategy Study.

11 a.m.—Old Committee business.

11:30 a.m.—New Committee business.

12:30 p.m.—Public Comment (10 minute rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management Office 202-252-5187, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C on November 20, 1978.

PHILLIP S. HUGHES,
Assistant Secretary for Intergovernmental and Institutional Relations.

[FR Doc. 78-32846 Filed 11-22-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Project No. 2146 (Weiss Development)]

ALABAMA POWER CO.

Application for Change in Land Rights; and Authorization To Use Project Waters and Discharge Runoff

NOVEMBER 16, 1978.

Take notice that on May 26, 1978, an application was filed with the Federal Energy Regulatory Commission by the Alabama Power Co. (correspondence to: Jesse S. Vogtle, Senior Vice President, Alabama Power Co. P.O. Box 2641, Birmingham, Ala. 35291), for use of project lands and water, and to discharge runoff within the Weiss development of the Coosa River project No. 2146, located in Cherokee County, Ala.

Applicant proposes the following: (1) To lease to Mid-Western Nurseries, Inc., of Tahlequah, Okla., for a period of 25 years, with an option to renew for another 25 years, a 146-acre parcel of project land within the flood easement of project No. 2146 in sections 11, 13, and 14 T. 10 S., R. 8 E., Cherokee County, Ala.; (2) to grant lessee the nonexclusive right to use water from the Weiss Reservoir intake canal, the Coosa River below Weiss Dam, and from an inland lake in sections 13 and 14—owned in part by licensee—including rights for the installation, operation, and maintenance of water withdrawl and irrigation facilities; and (3) to grant lessee the rights to drain irrigation runoff water from leased premises across licensee's lands to Weiss Reservoir, the Coosa River downstream of Weiss Dam, or the inland lake for the purpose of developing and operating a containerized nursery.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § I.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before December 20, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-32832 Filed 11-20-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-256]

ALGONQUIN LNG, INC. AND ALGONQUIN GAS TRANSMISSION CO.

Extension of Time

NOVEMBER 15, 1978.

On November 3, 1978, the joint applicants in this proceeding filed a motion for an extension of time to file their direct case as required by Commission order of October 13, 1978, in this proceeding. The motion states that additional time is needed because the number of issues involved and detailed treatment required. Commission Staff Counsel on November 8, 1978, filed a motion asking that the dates suggested by applicants be further delayed because of a U.S. Department of Transportation-sponsored risk analysis of LNG trucking on the Distrigas of Massachusetts system. Staff's motion states that no party opposes the proposed schedule.

The following schedule is, therefore, established:

Direct case of applicants and supporting intervenors, March 19, 1979.

Case-in-chief of staff and opposing intervenors, April 9, 1979.

Rebuttal testimony of applicants and supporting intervenors, April 23, 1979.

Prehearing conference, April 26, 1979, 10 a.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32833 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-52]

CITIES SERVICE GAS CO.

Application

NOVEMBER 16, 1978.

Take notice that on November 3, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in docket No. CP79-52, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of gas to the Avant Gas Co. (Avant) for resale to the town of Avant in Osage County, Okla., all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that as of December 31, 1977, 199 customers were served by Avant and that Avant is carried as a "partial service customer." Further, Applicant states that it is unaware of any other gas supply available to the town. At the time the sale commenced, in 1959, the community was receiving some gas from local sources which were then depleted to such an extent that adequate service could not be maintained and Avant has been attempting unsuccessfully to dispose of this distribution system for some time, it is said. It is Applicant's understanding that the system is in poor condition and, according to the distributor, it has been operating at a loss for some time. Current income has been used to pay salaries, overhead, etc., but Applicant has not received any payment for gas delivered to Avant since June 26, 1978, and as of September 30, 1978, Avant owed Applicant $5,709.12, it is stated.

Applicant further states that Avant has notified Applicant by letter dated August 9, 1978, that it would not be responsible for any gas coming from Applicant's meter after August 18, 1978. It is indicated that on September 6, 1978, Applicant notified Avant that in view of their refusal to pay for gas delivered, Applicant's only alternative was to seek an order from the Commission for abandonment of service.

Applicant asserts that in view of the present circumstances and Applicant's inability to secure payment for volumes of gas delivered to Avant which it is reselling in the town of Avant, it is requested that permission and approval for this abadonment be granted.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32834 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. CP76-356]

MICHIGAN WISCONSIN PIPE LINE CO.

Request for Waiver

NOVEMBER 16, 1978.

Take notice that on November 1, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP76-356 a request for waiver pursuant to section 157.7(b)(2) of the regulations under the Natural Gas Act (18 CFR 157.7(b)(2)) of the cost limitations for a single project gas-purchase facility, costing in excess of the authorized $1,500,000, to connect the West Cheyenne field, Roger Mills County, Okla. to Applicant's system, all as more fully set forth in request which is on file with the Commission and open for public inspection.[1]

Applicant requests a waiver of the single project cost limitations prescribed by subparagraph 1(il) of section 157.7(b) as follows:

(1) Increase in the single project cost limitations from $1,500,000 to $2,024,325 stated as total installed cost of the facility to connect the West Cheyenne field.

Applicant's request reflects the cost of construction of a pipeline to connect the West Cheyenne field in Roger Mills County, Okla., to Applicant's existing transmission facilities at a total installed cost of $2,024,325. Applicant asserts that this overrun of the originally estimated cost of the facility resulted from factors beyond Applicant's control and gives rise to Applicant's request herein for a waiver of the $1,500,000 limitation for this project.

Applicant states that it obtained the dedication of substantial reserves in the West Cheyenne field. In August 1976 Applicant states it prepared work orders for the construction of facilities required to connect these reserves to its system and that these work orders reflected a total estimated cost of $1,426,963. Applicant further states that since this was well within the limits of Applicant's budget-type certificate, the decision was made to construct the facilities pursuant to such authorization. Thereafter, a more detailed analysis was made of the work to be performed and bids were obtained for the construction of the pipeline and the necessary materials and supplies, it is said. Applicant states that accordingly, revised work orders were prepared which incorporated the contractor's actual bid for construction of the line and actual purchase order prices for materials and this resulted in a net upward revision of $68,486 to a total cost of $1,495,449 for the project, and construction was commenced.

It is asserted that the request for waiver is predicated upon the unexpectedly severe weather conditions which caused delays amounting to almost double the estimated construction time from 36 days to 66 days. This resulted, among other things, in substantially increased contract inspection services, it is said.

Applicant states that it regrets that actual construction costs exceeded its budget-type authorization. However, Applicant states that it proceeded on the basis of carefully prepared estimates using the best information available to it and the cost estimates were overrun for reasons beyond its control.

Any person desiring to be heard or to make any protest with reference to said request for waiver should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to

[1] By order issued July 13, 1976, Applicant was granted certificate authorization, among other things, to construct and operate gas purchase facilities under section 157.7(b) of the regulation. The cost of any single onshore project was limited to $1,500,000.

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become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32835 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. RP79-2]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed Rate Increase

ISSUED NOVEMBER 16, 1978.

On October 2, 1978, as completed on October 17, 1978, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) tendered for filing First Revised Sheet No. 667 under Rate Schedule X-64 to its F.P.C. Gas Tariff, First Revised Volume No. 2 to be effective November 1, 1978.

Public notice of the filing in RP79-2 was issued on November 13, 1978, providing for protests or petitions to intervene to be filed on or before November 27, 1978. Any petitions filed in RP79-2 after the date of this suspension order will be dealt with by separate order.

Michigan Wisconsin states that this filing is made to reflect the redetermination of the monthly charge in accordance with a service agreement between Michigan Wisconsin and High Island Offshore System dated August 4, 1977, and authorized by Commission order issued July 6, 1978 at docket No. CP78-134.

Based upon a review of Michigan Wisconsin's filing in RP79-2, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Michigan Wisconsin's proposed rate increase for filing, grant waiver of notice requirements, suspend the proposed increase such that the filing shall become effective as of November 2, 1978, subject to refund. In addition, we shall set the matter for hearing.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Michigan Wisconsin and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Michigan Wisconsin.

(B) Pending hearing and decision Michigan Wisconsin's proposed rate increase is accepted for filing, waiver of notice is granted, and the proposed rate increase is suspended until November 2, 1978, when it shall be permitted to become effective, subject to refund.

(C) The Commission staff shall prepare and serve top sheets on all parties on or before February 19, 1978.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32836 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-51]

PACIFIC POWER & LIGHT CO.

Application

NOVEMBER 15, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on November 6, 1978, tendered for filing, in accordance with section 35.12 of the Commission's regulations, a new rate schedule for the loan of energy and possible return by Public Service Co. of Colorado (Colorado) and the United States of America Western Area Power Administration (United States).

Pacific requests waiver of the Commission's regulations so that the rate schedule could be made effective October 9, 1978.

Copies of the filing were supplied to Colorado and the United States, according to Pacific.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32837 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. G-8110 et al.]

PIEDMONT NATURAL GAS CO. ET AL.

Applications and Petitions for Declaratory Order

In the matter of Piedmont Natural Gas Co. (docket No. G-8110), Transcontinental Gas Pipe Line Corp. (docket No. CP79-38), Transcontinental Gas Pipe Line Corp. (docket No. CP79-39), Southern Natural Gas Co. (docket No. CP79-40), Carolina Pipeline Co. (docket No. CP79-41).

NOVEMBER 16, 1978.

Take notice that on October 25, 1978, petitions for declaratory orders pursuant to section 1(c) of the Natural Gas Act were filed in docket No. G-8110 by Piedmont Natural Gas Co. (Piedmont), P.O. Box 1968, Charlotte, N.C. 28201, and in docket No. CP79-41 by Carolina Pipeline Co. (Carolina), I-20 East and Alpine Road interchange, Columbia, S.C. 29206; and applications for certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act were filed in docket Nos. CP79-38 and CP79-39 by Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, and in docket No. CP79-40 by Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202 (collectively referred to as Applicants), all as more fully set forth in the applications and petitions on file with the Commission and open to public inspection.

The applications and petitions state that Applicants have entered into contractual arrangements which would result in Transco's providing storage service for Piedmont and Carolina. It is stated that Carolina is Piedmont's supplier of natural gas and that Piedmont has been experiencing significant curtailments during the winter months. The contractual arrangements it is stated are to enable Piedmont and Carolina to shift supplies of natural gas available to them from April to October each year to deliveries during the winter heating season.

It is further stated that these arrangements are pursuant to a stipulation and agreement establishing Southern's permanent curtailment plan, as approved in opinion No. 5 issued November 17, 1977, whereby Southern agreed to allocate to Carolina certain volumes of gas of injection into storage as proposed herein

The arrangements that would be used to effectuate this purpose are said to be as follows: Carolina would deliver to Southern, by back-off, up to 45,000 Mcf of gas per day for Piedmont's account, and up to 45,000 Mcf per day for its own account, on such days as are mutually agreeable to the parties. Southern would then deliver thermally equivalent volumes to Transco near Jonesboro, Ga. Transco, in turn, would transport by displacement on an interruptible basis thermally equivalent volumes for injection into its Washington storage field in Louisiana. During the winter heating season it is said that Transco would redeliver the gas to Carolina at existing points of connection in South Carolina for ultimate delivery to Carolina and Piedmont.

It is stated that Transco would charge Piedmont and Carolina and initial rate of 10 cents per dekatherm equivalent for all quantities of gas delivered to Carolina. Southern is stated, would receive $50 for each day it renders the above described service.

To effectuate the delivery of gas from Southern to Transco, it is said that Southern would install an additional meter run and tie-in facilities at its Jonesboro connection with Transco at an estimated cost of $37,030. Such costs, it is said, would be paid by Southern's customers whose gas is delivered to Transco at that point, Atlanta Gas Light Co. and Carolina.

In conjunction with the contractual arrangements described above, Piedmont and Carolina have filed in docket Nos. G-8110 and CP79-41, respectively, petitions for declaratory orders continuing exemptions from the provisions of the Natural Gas Act and the rules and regulations thereunder previously granted to them. The petitions state in support thereof that the gas at issue would be delivered and consumed wholly within the State of South Carolina, and that the rates, service and facilities of Piedmont and Carolina are subject to regulation by the Public Service Commission of South Carolina.

Any person desiring to be heard or to make any protest with reference to said applications and petitions should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on these applications and petitions if no petition to intervene is filed within the time required therein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32838 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-97]

SUN OIL CO.

Petition for Special Relief

NOVEMBER 16, 1978.

Take notice that on September 25, 1978, Sun Oil Co. (Petitioner), P.O. Box 20, Dallas, Tex. 75221, filed a petition for special relief in Docket No. RI 78-97 pursuant to section 2.76 of the Commission's statement of general policy and interpretations (18 CFR § 2.76).

Petitioner requests permission to charge 41.2712 cents per Mcf at 14.65 psia for the sale of gas to Panhandle Eastern Pipeline Co. from its T. M. Thomas, well No. 1, North Bishop field, Ellis County, Okla. Petitioner asserts that the increased rate is necessary in order to recover the cost of a proposed FRAC treatment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1978, file a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32839 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-96]

STERLING PRODUCTION CO.

Petition for Special Relief

NOVEMBER 16, 1978.

Take notice that on September 25, 1978, Sterling Production Co. (Petitioner), 1010 Wilson Building, Corpus Christi, Tex. 78476, filed a petition for special relief in docket No. RI78-96 pursuant to section 2.76 of the Commission's statements of general policy and interpretations (18 CFR § 2.76).

Petitioner states that because of financial loss due to insufficient gas processed, Coastal States Gas Producing (Coastal) has ceased to gather, compress, dehydrate and transport to Trunkline Gas Co. the small volume of gas produced by Sterling Production Co. Petitioner desires to purchase Coastal's system and also to install a two-stage compressor and dehydrator in order to continue its sales to Trunkline Gas Co. Therefore, petitioner is requesting permission to charge $2.00/Mcf at 14.65 psia for the sale of gas to Trunkline Gas Co. from its Robert Adams 30-acre lease and also its R. S. Adams 20-acre lease, Alfred field, Jim Wells County, Tex.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such protests or petitions should be filed on or before December 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

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Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32840 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-51]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

NOVEMBER 16, 1978.

Take notice that on November 1, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP79-51 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an interruptible transportation service of up to 1,053 dekatherms (dt) equivalent of natural gas per day for the account of Carolina Pipeline Co., Inc.; NCNG Exploration Corp., an affiliate of North Carolina Natural Gas Corp.; Philadelphia Electric Co.; Piedmont Exploration Co., Inc., an affiliate of Piedmont Natural Gas Co., Inc.; Tar Heel Energy Corp., an affiliate of Public Service Co. of North Carolina, Inc.; Owens-Corning Fiberglas Corp.; UCG Energy Corp., an affiliate of United Cities Gas Co., North and South Carolina Division; Rockingham Exploration Co., an affiliate of North Carolina Gas Service Division of Pennsylvania and Southern Gas Co.; Burlington Industries, Inc.; and Devco Enterprises, Inc., an affiliate of Cherokee Brick Co. of North Carolina, Inc., all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that with the exception of Owens-Corning Fiberglas Corp., which is Applicant's only direct industrial customer; Burlington Industries, Inc., which is an industrial customer of one of Applicant's distribution customers; and Devco Enterprises, Inc., which is an affiliate of Cherokee Brick Co. of North Carolina, Inc., an industrial customer of one of Applicant's distribution customers, these transportation customers are all distribution company customers of Applicant or affiliates of Applicants distributors.

Applicant further states that the joint venture (Transmac Exploration and Development Program) of these transportation customers has discovered and developed several successful wells in the Intracoastal City Prospect Field, Vermillion Parish, La.

Applicant states that the gas produced from the Intracoastal City Prospect field would be delivered directly into Applicant's system. Applicant requests authorization to transport for the account of the above transportation customers, on an interruptible basis, their interests in the Intracoastal City Prospect field gas from the point of connection in the field to existing points of delivery on Applicant's system to such customers, or their affiliates.

Applicant states further that transportation service into applicant's rate zone 2 initially would be rendered at 23.5 cents per dt, and into rate zone 3 at 24 cents per dt.

Applicant would initially withhold 3.8 percent of the transportation volumes destined for delivery in rate zone 2 and 4.4 percent of the volumes for delivery on rate zone 3 for compressor fuel and line loss make-up, it is said. the applicant asserts that transportation gas would be utilized by the transportation customers which would be the ultimate recipients to moderate the impact of Applicant's curtailments on their high-priority end uses.

Applicant asserts that the transportation service would be rendered with existing capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32841 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-54]

TRANSWESTERN PIPELINE CO.

Application

NOVEMBER 16, 1978.

Take notice that on November 6, 1978, Transwestern Pipeline Co. (applicant), P.O. Box 2521, Houston, Tex. 77001, filed in docket No. CP79-54 an application pursuant to section 7 of the Natural Gas Act and section 157.7(g) of the regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for a 12-month period commencing January 1, 1979, various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of proposed construction and abandonment under section 157.7(g) would not exceed $3,000,000 and no single project would exceed $500,000. Applicant also states that the cost of said facilities would be initially financed utilizing existing corporate funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32842 Filed 11-22-78; 8:45 am]

[6740-02-M]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Further Extension of Time

NOVEMBER 13, 1978.

On November 1, 1978, Lincoln Service Corp. (Lincoln) filed a motion for a further extension of time to file its brief on exceptions to the initial decision issued in this proceeding on June 12, 1978. The motion states that Lincoln cannot determine whether its dispute with Utah is moot until "Utah files with the Commission additional rate data as required by the Commission in this and in certain prior proceedings." The Staff has informed this office that it believes the additional data has been filed with the Commission in recent compliance filings made by Utah.

Upon consideration, notice is hereby given that a further extension of time is granted to and including December 4, 1978. Briefs opposing exceptions are due on or before December 26, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-32843 Filed 11-22-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[PPT-33; FRL 1012-6]

PESTICIDE PROGRAMS

Filing of Food Additive Petition

Fisons Corp., Agricultural Div., Bedford, MA 01730, has submitted a petition (FAP 8H5197) to the Environmental Protection Agency (EPA) which proposes that 21 CFR Part 193 be amended by establishing a regulation permitting the use of the insecticide bendiocarb (2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate) in a proposed experimental program involving application of the insecticide to growing corn with a tolerance limitation of 0.10 part per million (ppm) on the commodity corn oil. Notice of this submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street SW., Washington, DC 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: November 16, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-32818 Filed 11-22-78; 8:45 am]

[6560-01-M]

[PF-114 FRL 1012-5]

PESTICIDE PROGRAMS

Filing of Food Additive Petition

Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Kansas City, Mo. 64120, has submitted a petition (9H5199) to the Environmental Protection Agency (EPA) which proposes that 21 CFR 193.301 be amended by establishing a regulation permitting residues of the insecticide baygon [2-(1-methylethoxy)phenol methylcarbamate] resulting in food commodities exposed to the insecticide during treatment of food handling establishments with a tolerance limitation of 0.2 part per million (ppm). Notice of this submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: November 16, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-32817 Filed 11-22-78; 8:45 am]

[1505-01-M]

FARM CREDIT ADMINISTRATION

SEMIANNUAL AGENDA OF REGULATIONS

Correction

In FR Doc. 78-30774 appearing at page 50735 in the issue of Tuesday, October 31, 1978, on page 50736 in the first column, first line, change "(43 FR 27732)" to "(43 FR 27782)", and in the same column, the first full paragraph, the third line, change the word "funds" to "bonds".

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received or accepted by the Regulatory Reports Review Staff, GAO, on November 17, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collec-

The petitioner has misinterpreted household use of orange skins as food cause bladder tumors. The Commis-

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tion of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 12, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests an extension without change clearance for Form 395, Annual Employment Report, which is used to monitor and enforce FCC Rules and Regulations pertaining to Equal Employment Opportunities and is required by §§ 1.612, 73.125, 1.815(a), 21.307, and 23.55 of the FCC's Rules and Regulations. The form is used to collect data from firms employing less than 100 as this constitutes a significant percentage of firms operating in the communications industry, and the data is used by FCC to effectively monitor Equal Employment Opportunities practices. The FCC estimates respondent burden average 63 minutes per response and that approximately 10,700 broadcasters and common carriers report annually.

The FCC requests clearance of a revision to Form 395-A, Annual Employment Report—Cable Television. Form 395-A is used to monitor and enforce FCC Rules and Regulations pertaining to Equal Employment Opportunities and is required by Section 76.403 of the FCC's Rules and Regulations. The form is used to collect data from firms employing less than 100 as this constitutes a significant percentage of firms operating in the communications industry, and the data is used by FCC to effectively monitor Equal Employment Opportunities practices. Form 395-A has been revised to change the ethnic categories to comply with OMB Circular No. A-46, Transmittal Memorandum No. 6. The FCC estimates respondent burden averages 8 minutes per response and that approximately 3,500 cable television owners report annually.

The FCC requests clearance of a new "Quarterly Report of Expenses Incurred in Connection with Rewrite of the Communications Act." The report will give the FCC up-to-date accounting costs incurred by common carriers in connection with efforts to rewrite the Act. Sections 4(i) and 219 of the Communications Act of 1934, as amended, authorize the FCC to require the filing of periodic and/or special reports. The data collected by the quarterly report will be used by the Common Carrier Bureau to serve the public interest by assuring that common carriers are maintaining their accounts as prescribed by Part 31 of the FCC's Rules. The FCC estimates respondent burden will average approximately 80 hours for the first report and 10 hours for each quarterly report thereafter. Potential respondents will number approximately 81 common carriers.

NUCLEAR REGULATORY COMMISSION

The NRC requests an extension without change clearance of Form 443, Background Statement and Confidential Statement of Employment and Financial Interests. NRC regulations in 10 CFR Part 0 provide that certain NRC employees and all NRC consultants (including advisers and experts) shall submit statements of employment and financial interests. With regard to prospective consultants and advisers, Form NRC-443 is submitted in order that the NRC will have (1) a resume of the individual's employment and professional attainments, and (2) a confidential record of their employment and financial interests for use in judging possible conflicts of interest. The NRC estimates that respondent burden averages one hour per response and approximately 200 statements are filed annually.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-33012 Filed 11-22-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77P-0015]

COLOR ADDITIVES

Denial of Petition Proposing Revocation of Six Color Additive Regulations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the denial of a petition filed by the Health Research Group in which the revocation of the color additive regulations providing for the use of Citrus Red No. 2, FD&C Blue No. 1, Orange B, FD&C Yellow No. 5, FD&C Red No. 3 and FD&C Red No. 40 was sought. The petition is being denied because it is not supported by adequate scientific evidence and is therefore legally inadequate as a basis for revocation of the color additive regulations for these colors.

DATE: Written objections by December 26, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of July 1, 1977 (42 FR 33807) stated that a petition (Docket No. 77P-0015, nqw designated as CAP 7CP0133) has been filed by the Health Research Group (HRG), 2000 P Street NW., Washington, DC 20036, proposing immediate revocation of the color additive regulations for FD&C Blue No. 1 (21 CFR 74.101), Orange B (21 CFR 74.250), Citrus Red No. 2 (21 CFR 74.302), FD&C Red No. 3 (21 CFR 74.303), FD&C Red No. 40 (21 CFR 74.340), and FD&C Yellow No. 5 (21 CFR 74.705). In addition, HRG requested the institution of full and competent toxicological studies for each of the colors that are currently listed for food use and exempt from certification. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

The Commissioner of Food and Drugs has reviewed the petition and concludes that the petition does not contain a sufficient scientific and legal basis to support the requested actions. Each of the petitioner's points and the Commissioner's conclusions concerning them are discussed below.

CITRUS RED NO. 2

HRG states several major arguments in support of its proposed revocation of the regulation authorizing the use of Citrus Red No. 2.

1. HRG noted that Dr. Lehman, former Director, Division of Pharmacology, Food and Drug Administration (FDA), concluded in a memorandum dated June 25, 1958, that the color was a toxic substance. (This memorandum and all other documents and supporting material mentioned in this document are on public display in the office of the Hearing Clerk (HFA-305), address given above, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.)

The petitioner has misinterpreted the thrust of Dr. Lehman's statement and has failed to consider the statement in light of the color Additive Amendments of 1960 (hereinafter called the Amendments). Dr. Lehman's statement of June 25, 1958, must first be considered in the context of the provisions of the Federal Food, Drug, and Cosmetic Act of 1938 in effect at the time the memorandum was written. The act then authorized FDA to list for use in food, drugs, and/or cosmetics those "coal-tar" colors that were considered to be harmless and that would be batch-certified by FDA. In 1958, it was the agency's opinion that a color listed for use in food, drugs, and cosmetics was required by the statute to be harmless *per se*—that is, it must not of itself produce any toxic manifestations at any level, regardless of the conditions of actual use (see *Flemming* v. *Florida Citrus Exchange*, 385 U.S. 153 (1958)). Under this criterion, Citrus Red No. 2 was not considered appropriate for listing because it was not harmless when fed to rats at dietary levels of 0.1, 0.5, 1.0, and 5.0 percent and to dogs at 200 milligrams per kilogram of body weight per day (mg/kg/day).

Color additives are listed for use in foods today, however, under the provisions of the Color Additive Amendments of 1960. The Amendments, which became effective on July 12, 1960, explicitly authorize the listing of a potentially toxic color additive under safe conditions of use, by, for example, limiting the foods in which it may be used or establishing tolerances (i.e., maximum use levels). See 21 U.S.C. 376(b). The Amendments eliminated the "per se" approach in effect when Dr. Lehman wrote his memorandum and substituted an approach which permits tolerances to be established for color additives which are toxic at some level.

Dr. Lehman's memorandum, in addition to referring to citrus Red No. 2 as "toxic," stated that no-effect levels for this color were found to be 0.05 percent in rats and 50 mg/kg/day in dogs. This is the equivalent of 500 parts per million (ppm) in rats and 2,000 ppm in dogs.

In view of the no-effect levels for the color, Citrus Red No. 2 was listed under § 8.201 (21 CFR 8.201, now 21 CFR 74.302 pursuant to recodification) for limited use in coloring the skins of oranges at levels not exceeding 2.0 ppm of the color additive, calculated on the basis of the weight of the whole fruit. The regulation also limited the use of the color to mature oranges that were not intended for processing. Human exposure to the color is minimal because the colored oranges are not used commercially in the production of marmalade, and the household use of orange skins as food or as a food ingredient is minor. The amount of citrus Red No. 2 ingested under practices prevailing in the United States would be, at most, a few parts per billion of the diet. Citrus Red No. 2 is considered to be safe when used in compliance with the requirements of § 74.302.

2. The petitioner said that Citrus Red No. 2 is metabolized by rats to a compound very similar to a metabolite of the known animal and human bladder carcinogen, β-naphthylamine.

Although the petition fails to state clearly the identity of the metabolite in question, the petitioner is apparently referring to 1-amino-2-naphthol, which was reported by Bonser (Ref. 1) to produce tumors when implanted into bladders of mice. However, implantation is not generally considered an appropriate method for carcinogenic testing of compounds that are ingested (see discussion in item No. 3 below). The Commissioner concludes that the Bonser study is not relevant to the safety of Citrus Red No. 2 when ingested. The mere chemical similarity of β-naphthylamine and 1-amino-2-naphthol is also no basis for the conclusion that 1-amino-2-naphthol is a carcinogen.

To determine whether either 1-amino-2-naphthyl sulfate or 1-amino-2-naphthyl glucuronide (two known metabolites of Citrus Red No. 2 that could possibly be hydrolized to liberate the free amino-naphthol) cause bladder tumors after prolonged ingestion, Radomski (Ref. 2) fed Citrus Red No. 2 to rats and dogs. Radomski reported that no bladder tumors were found in the rats or dogs involved in this study.

The petitioner also attributed the following statement to Radomski: "This suggests the possibility that this (Citrus Red No. 2) dye may produce bladder cancer after prolonged ingestion." The petitioner has taken this sentence out of context. Radomski (Ref. 2) actually stated:

> The observation that both 1-xylylazo-2-naphthol and 2,5-dimethoxy-phenylazo-2-naphthol [Citrus Red No. 2] are metabolised to 1-amino-2-naphthyl glucuronide suggests the possibility that these and other azo dyes derived from 2-naphthol may produce bladder cancer after prolonged ingestion. The failure of these dyes to produce bladder tumors after prolonged feeding to dogs and rats could be explained by our observation that 1-amino-2-naphthyl glucuronide is not a prominent metabolite in the dog and the general failure of rats to develop bladder tumors when administered proven bladder carcinogens.

Thus, Radomski is stating that (if the Bonser study is accepted as relevant) although theoretically these metabolites might produce bladder cancer, in actuality, the metabolites of Citrus Red No. 2 were not found to cause bladder tumors. The Commissioner concludes, therefore, that there is no valid evidence of carcinogenicity.

3. The petitioner concluded that Citrus Red No. 2 produced bladder tumors in rats and mice and bladder cancer in mice when fed the color. In support of this statement the petition cited the following references and attributed the following conclusions to those studies:

a. 1965—*Mouse and rat-feeding studies.* Hyperplasia and benign tumors of the bladder were found in Citrus Red No. 2-fed mice and rats and bladder cancer in mice (Ref. 3).

b. 1966—*Bladder injection studies.* A statistically significant increase in malignant tumors (including one case of bladder cancer) was seen in female mice given Citrus Red No. 2 (Ref. 4).

c. 1968—*Bladder implantation.* A statistically significant increase in bladder cancer was found in mice with Citrus Red No. 2 treatment (Ref. 5).

The Commissioner has reviewed each of these reports and disagrees completely with the conclusions of the HRG. His comments on each study cited above are discussed below.

Commissioner's response to the mouse and rat-feeding studies (3a. above).—The statement cited by HRG is derived from experimental work done by Dacre (Ref. 3) and reported as a summary. Dacre's work was considered in the initial evaluation of the toxicity data for this color; however, in direct contradiction to his findings were the results of two feeding studies in rats (unpublished report, Hazleton Laboratories and Sharratt et al. (Ref. 4)), neither of which reported bladder carcinogenicity. This matter was subsequently submitted to an advisory committee for its consideration. That committee in its report (Ref. 6) of October 28, 1971, stated:

> Considering the lack of confirmation of Dacre's work and the negative findings in all other studies we recommend the following: The listing of Citrus Red No. 2 should remain unchanged until Dacre's results can be confirmed by examination of the bladder sections and of the detailed protocol and results of his study.

As far as the Commissioner is aware, a final report on Dacre's study has never been completed. Bladder slides from Dr. Dacre's study of Citrus Red No. 2 were reviewed by an FDA pathologist, Dr. Stuart Levin, who questioned the value of the study, stating "serious deficiencies, including loss of large numbers of animals, lack of adequate control bladders, poor tissue handling, and inadequate observation and description of gross lesions, raise serious questions about the usefulness of this study." Without more detailed results from Dr. Dacre and in view of the deficiencies noted by Dr. Levin, the Commissioner is unable to attach

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any significance to Dr. Dacre's study relevant to the safety of Citrus Red No. 2.

Commissioner's response to the mouse injection studies (3b. above).—While the Sharratt et al. findings (Ref. 4) are of interest, the Commissioner does not consider subcutaneous injection to be an appropriate method for testing materials that are to be ingested. The procedures of repeated subcutaneous injection and urinary bladder implantation of pellets of color additives into test animals are not generally considered by the scientific community as appropriate methods of testing the safety of substances intended for oral use. Arguments against both these techniques have been presented by a world-renowned pathologist, Dr. Grasso (Ref. 7).

The World Health Organization (WHO) stated that the production of local sarcomata at the site of subcutaneous injection in rats is considered to be related to the physicochemical properties of the chemical and special conditions of the experiment and does not constitute evidence of carcinogenicity by the oral route (Ref. 8).

Quoting the Sharratt et al. paper itself (Ref. 4); "the effect obtained after subcutaneous administration in one sex only in one strain of mice is a minimal response and it is not possible on the basis of these studies alone to conclude that there is any potential human hazard." Accordingly, the Commissioner believes that the Sharratt et al. findings cannot be considered relevant to the safety of Citrus Red No. 2 when ingested.

Commissioner's response to the bladder implantation study (3c. above).—This is the work of Clayson et al. (Ref. 5), which involved surgical introduction of a pellet containing Citrus Red No. 2 into the lumen of the mouse bladder. As discussed above, implantation, like subcutaneous injection, is not considered an appropriate method for testing materials to be ingested (Grasso—Ref. 7). Malignant tumors can occur when the vehicles themselves are implanted. As Grasso (Ref. 7) states, "the presence of a foreign body in the bladder can give rise to malignant tumors, probably from prolonged irritation." Accordingly, the Commissioner does not consider these findings relevant to the safety of Citrus Red No. 2 when ingested.

4. The HRG petition cites the opinions of the International Agency for Research on Cancer (IARC) and World Health Organization (WHO) concerning Citrus Red No. 2. Both IARC and WHO have based their opinions of Citrus Red No. 2 primarily on the study of Dacre (Ref. 3), which was discussed above. Neither organization examined Dr. Dacre's results in detail, nor did they examine the bladder slides—both relied mostly on the published report (Ref. 3). As discussed above, after exhaustively examining the merits of the Dacre study and after several unsuccessful attempts to obtain a final report of this study from Dr. Dacre, the Commissioner has concluded that it does not offer valid evidence of carcinogenicity.

As pointed out, the Commissioner does not agree that injection or implantation studies are germane to compounds that are ingested. Accordingly, from the point of view of FDA, the single study that might be considered to imply to any extent that this color is a carcinogen is that of Dacre. This study offers no valid evidence of carcinogenicity, nor do the other available data support revocation of the listing of Citrus Red No. 2.

FD & C Blue No. 1

HRG concldes that the evidence suggests that FD & C Blue No. 1 may be a carcinogen. In support of this conclusion, the petitioner discussed two feeding studies—a 2-year rat study carried out at FDA by Hansen et al. (Ref. 9), and a 2-year mouse study done in the Netherlands by Waterman and Lignac (Ref. 10). The following subcutaneous injection studies were also offered in support of the petition: a 2-year rat study carried out at FDA by Nelson and Hagen (Ref. 11) and a 20½-month rat study done by Gross (Ref. 12). The Commissioner finds that the petitioner's conclusion on the basis of these studies is tenuous at best.

In reviewing the 2-year feeding study by Hansen et al. (Ref. 9), the petitioner has compared the number of malignant tumors in the lowest dosed animals and all dosed animals to the controls to show that this study is supportive of its conclusion. It is germane, however, to compare the numbers of malignancies in terms of each of the dosage levels because a relationship should exist between the dose fed and the number of malignant tumors if the compound is carcinogenic.

Examination of the number of tumors that appeared at each dosage level—namely, tumors were found in 3 of 24 control animals; at the 0.5 percent dosage level, tumors were found in 6 of 24 animals; at the 1.0 percent dosage level, tumors were found in 4 of 24 animals; at the 2 percent dosage level, tumors were found in 2 of 24 animals; and at the 5.0 percent dosage level, tumors were found in 3 of 24 animals—shows that there is no dose relationship. Because there is no relationship between the dosage level fed and the incidence of tumors, these results are not supportive of any conclusion as to carcinogenicity.

HRG's comments on this study also include a parenthetical mention of a subcutaneous injection study done by Hansen, et al. (Ref. 9) at the same time. As noted above, injection or implantation studies are not germane to the evaluation of the safety of a compound which is ingested.

In referring to the data from Waterman and Lignac (Ref. 10), the petitioner has considered only the data for males and then only for those mice 400 or more days into the study. The Commissioner can see no rationale for this arbitrary selection of 400-day-old animals or indeed for eliminating the females, since the tumors found in the males and considered by HRG were lung tumors. Review of the actual data shows that for both control males and control females time of onset of lung tumors preceded onset in the treated animals. Tabulation of this type of data from time of initial onset, a generally accepted basis, gives the following: Control males 1/109, FD & C Blue No. 1 males 6/51, control females 2/59, FD & C Blue No. 1 females 0/43. Because there is no reason to believe any sexual difference exists in terms of lung tumor induction by a compound, these values do not suggest any carcinogenic potential.

The other two studies by Nelson and Hagan (Ref. 11) and by Gross (Ref. 12) were subcutaneous injection studies. As stated before, FDA has discounted injection studies as not being relevant to establishing the safety of color additives.

The most salient point made by the petitioner concerning FD & C Blue No. 1 is the view that by present day standards the color has not been adequately tested in long-term studies. The Commissioner agrees with this statement and has so stated in the Federal Register of September 23, 1976 (41 FR 41860) in the proposal to extend the provisional listing of this color. Because of this, the petitioner for the color has been required under § 81.27(d) (21 CFR 81.27(d)) to conduct new chronic feeding studies with the color before the color is "permanently" listed for ingested cosmetic uses.

A new life-time feeding study in rats was begun on June 8, 1977, and another life-time feeding study in mice was begun on April 26, 1978. In the meantime, the Commissioner finds that none of the data presented by the petitioner is sufficient to warrant a prohibition on the use of the color at this time.

Orange B

HRG makes three arguments in support of its petition to revoke the approval for Orange B. The first reason given is that a metabolite of Orange B is identical to one of the metabolites of FD&C Red No. 2 (the provisional listing of which was originally terminated on February 10, 1976 (41 FR 5823), temporarily stayed, reissued

with change of effective date on February 13, 1976 (41 FR 6774)). The mere fact that Orange B and FD&C Red No. 2 have metabolites in common, absent evidence showing the metabolite to be carcinogenic, is no reason to delist Orange B.

Second, the petitioner states that the long-term feeding studies of Orange B in mice and rats were inadequate. The Commissioner agrees that the chronic feeding studies, when judged by contemporary standards, may be deficient. Although this could be a basis for requiring the conduct of new studies, the inadequacies of individual studies are not sufficient reasons to revoke the approval for Orange B. Thorough consideration must be given to the available chemistry, toxicology, and usage data for the color before a conclusion can be made as to what, if any, new studies may be necessary.

As further basis for delisting the color, HRG cited the results of a dog study done by FDA in which liver nodules were seen. The liver lesions in these dogs caused concern at FDA. In the final analysis, the matter was resolved by sending the slides in question to Dr. Hans Popper, Mt. Sinai Hospital, a renowned expert in liver pathology. Dr. Popper stated in a letter dated May 31, 1965, that these lesions were not indicative or carcinoma, a view shared by other pathologists who were involved with this evaluation.

During further recent testing of Orange B, however, the manufacturer has discovered that there is a possibility that β-naphthylamine, a known carcinogen, may be present in Orange B as a contaminant. To resolve the questions raised by this discovery, the Commissioner requested that the manufacturer promptly provide to FDA data about the possible contamination of Orange B with β-naphthylamine. In the meantime, the manufacturer of Orange B ceased production of the color. Because of the concern about the presence of β-naphthylamine in Orange B, the Commissioner proposed in the Federal Register of October 3, 1978 (43 FR 45611) to revoke the listing for the color.

FD & C Yellow No. 5

The HRG petition proposes that FD&C Yellow No. 5 be prohibited because the data are inadequate to resolve the question of carcinogenicity and because FD&C Yellow No. 5 is known to be responsible for allergic problems.

Although the chronic feeding studies on FD&C Yellow No. 5 may have been inadequate when viewed by contemporary standards, this is not sufficient reason, in and of itself, to warrant revocation of the listing of FD&C Yellow No. 5. Two chronic feeding studies were done in the late 1950's and early 1960's. Review of these studies by the Bureau of Foods in 1976 (See Federal Register of September 23, 1976 (41 FR 41860)) disclosed that, when judged by contemporary standards for toxicological studies, the studies were, indeed, deficient. As a condition of continued provisional listing, a new 2-year rat feeding study was begun June 21, 1977, and a chronic feeding study in mice was begun on May 3, 1978. Thus, studies are underway that will resolve any questions about the carcinogenicity of FD&C Yellow No. 5.

FD&C Yellow No. 5 does not, strictly speaking, produce allergies, but rather there are individuals who are "intolerant" of the color and who react to it. Although the mechanism for this reaction is unclear, it is apparently not an allergic machanism. Those persons who are intolerant of FD&C Yellow No. 5 are apparently a subset of individuals who are intolerant of aspirin. A proposal was issued in the Federal Register of February 4, 1977 (42 FR 6834) to require labeling of foods and drugs containing this color as well as a ban on its use in particular drugs. The comment period for this proposal ended on April 6, 1977, with 428 comments received. These comments are currently being reviewed, and final regulations should be published soon. In general, the comments, including some from noted allergists, stated that required labeling of foods and drugs would be sufficient to alleviate the potential "allergic" problem.

The Commissioner finds that the data in the petition are insufficient to support the revocation of the listing of FD&C Yellow No. 5.

FD & C Red No. 3

In requesting the prohibition of FD&C Red No. 3, the HRG petition stated that the evidence suggests that the color is a carcinogen and, also, raises a question concerning goiter formation. The basic evidence to support the conclusion concerning carcinogenicity is a report from a pathologist working as a consultant to HRG. The report states that the consultant reviewed the data from two 1969 rat studies in detail, including the histopathological sections from the rats. Both these 2-year studies were conducted at FDA by Hansen et al.—one was an intubation study, the other a feeding study. The consultant also reviewed two other FDA rat studies—a 2-year feeding study done by Davis and a 2-year feeding study published by Hansen et al. in 1973 (Ref. 13). The striking point in the report of the pathologist who consulted with HRG is his arbitrary selection of data from the studies.

In the 1969 intubation study done by Hansen et al., suspicion of carcinogenicity was raised by the consultant in the case of female rats exhibiting sarcomas and carcinomas. This included those with tumors of the mammary and pituitary gland. In the 2-year 1969 feeding study by Hansen it al., the consultant neglected to consider those rats with mammary and pituitary gland tumors. The targets in the Davis study were female rats with benign or malignant tumors, and predominantly mammary or pituitary gland tumors were considered. The targets in the Hansen et al. study published in 1973 were male rats with malignant tumors.

The petitioner never claims that the incidence of tumors in these studies has any statistical significance. The need for such careful selection of data during the review, in order to arrive at a suspicion, and the variation in the data used may also be used with equal reason to conclude a lack of carcinogenicity from these studies.

The agency has reviewed those data that are available and were previously considered, but no details of the findings on the consultant's examination of slides were made available. Thus, it is impossible to know how much of the consultant's tabulated material is based on the FDA documents he cites as references. Tabulations were compiled by FDA that considered the same criteria as did the HRG consultant, except that the rats that showed mammary or pituitary carcinomas in the Hansen et al. study were not excluded. The differences between these two sets of tabulations from the same studies further diminish the significance of the suggestion of carcinogenicity of this color, and therefore there is no reason to conclude on the basis of these studies that FD&C Red No. 3 is a carcinogen.

The results of mutagenicity studies were also cited by HRG as showing a slight but statistically significant mutagenic effect on bacteria. While results of mutagenic tests in bacteria are of interest, by themselves they are not considered a sufficient basis for regulatory action against a substance, particularly when considered with the negative results of the existing feeding studies.

The petition also cites a recently published FDA study—*Food and Cosmetics Toxicology* 14:233-248, 1976—that showed "a dose related change in the thyroid reminiscent of human nodular goiter."

The Commissioner agrees that the study by Collins and Long suggests a goitrogenic effect produced by FD&C Red No. 3 in the gerbil. But the effect noted by Collins and Long might be caused by the relatively large amounts

of free iodine sometimes present in FD&C Red No. 3 and not by the color itself. Some lots examined have contained as much as 0.8 percent free iodine. Also, the use of the gerbil as a model for the human is respect to goitrogenicity has yet to be established. The agency is currently examining the relevance of this animal model and the possibility of conducting a similar study in another animal model. Until this examination has been completed, the Commissioner does not believe there is a basis for action.

FD & C Red No. 40

The only apparent basis to support the conclusion that FD&C Red No. 40 is carcinogenic are the findings of ongoing studies with this color in mice. On the basis of preliminary results from those studies, the petitioner concluded that the color is a carcinogen.

In the late 1974 and early 1975, Hazleton Laboratories, Vienna, VA, under the sponsorship of Allied Chemical Corp., Specialty Chemicals Division, began two chronic feeding studies on FD&C Red No. 40—one in the rat and one in the mouse. In February 1976, Hazleton Laboratories reported that the results of the study in the rat were unremarkable; however, they did report the occurrence of lymphomas at an early age in the test mice. At the suggestion of FDA, a second chronic feeding study in the mouse was initiated in mid-1976 to determine whether the early onset for lymphomas, apparently detected in the first mouse study, would be duplicated. Since April 1976, FDA has been closely monitoring all three studies and has been receiving monthly progress reports on them. The progress reports have been available to the public under the Freedom of Information Act (5 U.S.C. 552).

The Commissioner has been very concernded with findings of the ongoing studies with FD&C Red No. 40. Any action proposed, however, must be capable of withstanding close scientific scrutiny as well as being supportable in a court of law. Accordingly, the data on the studies have been considered very carefully prior to taking action. All the available data on FD&C Red No. 40, and, particularly the results of the ongoing studies, were presented to an Interagency Working Group of experts for their consideration. The formation of this Working Group was announced in the FEDERAL REGISTER on December 7, 1976 (41 FR 53546). The group is composed of individuals from FDA, the National Center for Toxicological Research (NCTR), and the National Cancer Institute (NCI). Their interim findings, which were made publicly available on February 8, 1977, stated that although there appeared to be some carcinogenic effect in terms of "time-to-tumor," it would be premature to act because the statistical validity of this apparent effect could be changed by subsequent findings.

The first mouse feeding study has now been completed, and the final report was received September 30, 1977. Further, the second mouse study has progressed far enough to allow a comparison of its early trends with those of the recently completed study. In addition, the final report on the rat feeding study is also available. In light of these events, a notice was published in the FEDERAL REGISTER of December 6, 1977 (42 FR 61630) announcing that the Working Group on FD&C Red No. 40 would meet on December 19-20, 1977 to evaluate these data. A notice announcing the availability of the Working Group's second interim report was published in the FEDERAL REGISTER of April 28, 1978. In this interim report, the Working Group concluded that there was no significant acceleration of lymphoma formation due to FD&C Red No. 40 on the basis of the completed first mouse study, nor does there appear to be any significant acceleration of lymphoma formation in the interim results of the second mouse study. There was no statistically significant increase in the incidence of lymphomas due to the ingestion of FD&C Red No. 40 in either mouse study. The Working Group also analyzed the data from the completed rat study and found no treatment-related tumors. Although the Working Group has concluded that these studies provide no evidence that FD&C Red No. 40 is carcinogenic, it recommended that a final assessment await completion of the second mouse study. Data from the two mouse studies also have been furnished to three expert consultants for analysis of the time-to-tumor issue. The consultants are Dr. Bernard G. Greenberg, Dean of the School of Public Health, University of North Carolina; Jerome Cornfield, Professor of Statistics, George Washington University; and Dr. Frederick Mosteller, Chairman of the Department of Statistics, Harvard University. The results of these analyses will be evaluated by the Commissioner in determining a course of action for FD&C Red No. 40. The Commissioner considers the resolution of the status of FD&C Red No. 40 to be a high priority. A notice announcing a public meeting of the Working Group will soon be published in the FEDERAL REGISTER. The Commissioner concludes that until a final assessment of all studies is made he will defer any action to terminate listing of FD&C Red No. 40.

Color Additives Exempt From Certification

Concerning these color additives, the petition requested that full and competent toxicological studies be instituted for each of the "non-coal tar" colors and cited limitations of the toxicological information for each of these color additives.

The Commissioner agrees, generally, with these conclusions. The Bureau of Foods has already begun an orderly evaluation of these color additives as it relates to their identity, usage, and safety. The basic intent of this program is to gather comprehensive information on the usage and consumption of each color. This will subsequently be coupled with all available information on the toxicity of each color. The Commissioner expects that there may be some instances where there are insufficient data by present standards to support the safety of a color additive. In such a case, continued listing, and therefore the use of the color additive, will be conditioned upon the undertaking by an interested person of studies considered necessary to establish the safety of the color. The orderly review initiated by the agency is the best course of action that will lead to results that can be legally and scientifically defended.

In view of the preceding, the Commissioner denies the petition requesting revocation of the color additive regulations for FD&C Blue No. 1 (§ 74.101), Orange B (§ 74.250), Citrus Red No. 2 (§ 74.302), FD&C Red No. 3 (§ 74.303), FD&C Red No. 40 (§ 74.340), and FD&C Yellow No. 5 (§ 74.705). The request that FDA "institute full and competent toxicological studies on each of the 'non-coal tar colors'" is likewise rejected. The reasons for this denial are summarized as follows:

1. *Petition for revocation.*—The petition does not provide a sufficient scientific and legal basis to support the recommended course of action. The comments concerning the "allergic-type responses to FD&C Yellow No. 5" will be considered along with the other comments received in response to the FDA proposal of February 4, 1977 (see the FEDERAL REGISTER of February 4, 1977 (42 FR 6835)) concerning the color.

2. *Request for toxicological studies.*—Steps have already been initiated by FDA that will respond to the request of the petitioner that new toxicological studies be required, albeit in a more time-consuming, but orderly manner. The Commissioner agrees with the petitioner's contention that the toxicological data previously considered to support the safety of the color additives may be inadequate by modern-day criteria. This general finding along, however, is not sufficient to require the undertaking of new studies

for the permanently listed color additives. It is first necessary to compile all the date currently available on a color additive and to consider carefully the types of studies that are necessary to demonstrate safety under the intended conditions of use. A decision can then be made concerning the adequacy of the existing studies.

The articles and publications cited in this notice are listed below. Copies of these and other information forming the basis for this action are on public display in the office of the Hearing Clerk, Food and Drug Administration, between 9 a.m. and 4 p.m., Monday through Friday (address cited above).

References

1. Bonser, G. M., *British Journal of Cancer*, 10:539-546, 1956.
2. Radomski, S. L., *Journal of Pharmacology and Experimental Therapeutics*, 136:378-385, 1962.
3. Dacre, J. C., *Proceedings of the University of Otago Medical School*, 43:31-33, 1965.
4. Sharratt, M., Frazer, A. C., and Paranjoti, I. S., *Food and Cosmetics Toxicology*, 4:493-502, 1966.
5. Clayson, D. B., Pringle, J. A. S., Bonser, G. M., and Wood, M., *British Journal of Cancer*, 22:825-832, 1968.
6. "Report of the Statutory Advisory Committee on FD&C Violet No. 1 and Citrus Red No. 2," October 28, 1971.
7. Grasso, P., *Chemistry in Britain*, 6:17-22, 1970.
8. "Toxicological Evaluation of Some Food Colours, Emulsifiers, Stabilizers, Anticaking Agents and Certain Other substances," FAO Nutrition Meetings Report series No. 46A, WHO/FOOD ADD/70.36, p. 39, 1969.
9. Hansen, W. H., Fitzhugh, O. G., Nelson, A. A., and Davis, K. J., *Toxicology and Applied Pharmacology*, 8:29-36, 1966.
10. Waterman, N. and Lignac, G. O. E., *Acta Physiol. Pharmacol. Neerlandica*, 7:35-55, 1958.
11. Nelson, A. A. and Hagan, E. C., *Federation Proceedings*, 12:397-398, 1953.
12. Gross, E., *Zeitschrift fur Krebsforchung*, 64:287-304, 1961.
13. Hansen, W., et al., *Food and Cosmetics Toxicology*, 11:527, 1973.

Any person who will be adversely affected by the foregoing order may at any time on or before December 26, 1978, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above-named office during working hours, Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1056, 74 Stat. 399-403 (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: October 30, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-32715 Filed 11-22-78; 8:45 am]

[4110-03-M]

[Docket No. 77-0150]

PHENFORMIN HYDROCHLORIDE; WITHDRAWAL OF APPROVAL OF NEW DRUG APPLICATIONS

Availability of Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice of availability of Commissioner's decision.

SUMMARY: The Commissioner of Food and Drugs has issued a final decision, following a formal evidentiary public hearing, withdrawing approval of new drug applications (NDA's) for phenformin hydrochloride. The Commissioner's decision, including findings of fact, conclusions of law, and final order may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday. The withdrawal was effective November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard A. Anderson, Supervisory Safety Officer, Office of the Associate Commissioner for Health Affairs (HFY-21), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1177.

SUPPLEMENTARY INFORMATION: The Commissioner has determined that phenformin is not shown to be safe for use under the conditions of use on the basis of which the applications were approved. He affirms the initial decision of the administrative law judge with modification and supplementation provided in the final order. Introduction into interstate commerce of phenformin, except in conformity with an exemption granted under section 505 (i) of the act (21 U.S.C. 355 (i)), constitutes a violation of law.

This notice is issued pursuant to 21 CFR 12.130 (e).

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32713 Filed 11-17-78; 10:15 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF DIBENZO-P-DIOXIN FOR POSSIBLE CARCINOGENICITY

Availability

Dibenzo-p-dioxin (CAS 262-12-4) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of dibenzo-p-dioxin (UDD) for possible carcinogenicity was conducted by administering the test chemical in feed to Osborne-Mendel rats and B6C3F1 mice. The chemical is a breakdown product of the industrial chemical pentachlorophenol and the herbicide 2,4,5-T.

It is concluded that under the conditions of this bioassay, UDD was not carcinogenic for Osborne-Mendel rats of B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: November 9, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-32406 Filed 11-22-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF DL-MENTHOL FOR POSSIBLE CARCINOGENICITY

Availability

dl-Menthol (CAS 89-78-1) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

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Summary: A bioassay of dl-menthol for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use in pharmaceutical products and menthol-flavored cigarettes.

It is concluded that under the conditions of this bioassay, dl-menthol was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: November 9, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-32407 Filed 11-22-78; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting Relocated

This notice is to amend a portion of the notice of November 17, 1978, of the meeting of the National Advisory Council on the Education of Disadvantaged Children scheduled to be held on December 8 and 9, 1978. The Council meeting which was scheduled to be held at 425 13th Street NW., Suite 1012, Washington, D.C. 20004, has been relocated to the Brent 1, Old Town Holiday Inn, 480 King Street, Alexandia, Va. 22314, area code 703-549-6080. The dates will remain the same.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress of the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

For any additional information regarding the above meeting, please contact Mrs. Lisa Haywood at 202-724-0114.

Signed at Washington, D.C., on November 20, 1978.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-32975 Filed 11-22-78; 8:45 am]

[4110-89-M]

Assistant Secretary for Education

COMMENT ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the control of paperwork amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before December 26, 1978, and should be addressed to Administrator, National Center for Education Statistics, Attention: Manager Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: November 20, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

Description of a Proposed Collection of Information and Data Acquisition

1. Title of proposed activity:
Rating form for the external validation of OE judgment for recognition of accrediting and State approval agencies.
2. Agency bureau office:
U.S. Office of Education/Office of Evaluation and Dissemination/Post-secondary Programs Division.,
3. Agency form number:
OE-663-1
4. Legislative authority for this activity:
"• • • the Secretary shall transmit to (appropriate congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs • • • such report shall • • • contain information on the progress being made • • • describe the cost and benefits of the applicable progam • • • identify which sectors of the public receive the benefits of such program • • •" (20 U.S.C. 1226c) Pub. L. 93-380, sec. 417(a)(1)(B)(C).)
5. Voluntary/obligatory nature of response:
Voluntary.
6. How information collected will be used:
The U.S. Office of Education (USOE) is required by law to identify those accrediting and state approval agencies that are "reliable authorities as to the quality of training" offered by the institutions or programs accredited. In determining which agencies to recognize as "reliable authority", USOE examines the organization and functioning of the agencies with respect to a published list of criteria. Educational Testing Service has contracted with USOE to assess the validity and reliability of its recognition criteria and procedures. The study deals with validity as it is determined by the content and substance of the procedure—content validity—and by the interrelationships among the criteria, the procedures used in applying them, and the judgments of knowledgeable persons about the importance of those criteria—construct validity. Both these forms of validity rest on the internal character of the recognition process and judgments about it. An assessment of a third form of validity, external validity, which relates the results of the recognition process to considerations external to the process itself is the purpose of this proposed rating form.
7. Data acquisition plan:
a. Method of collection: Mail.
b. Time of collection: January 15, 1979-March 15, 1979.
c. Frequency: One-time.
8. Respondents:
a. Type: 1. Senior staff members of accrediting agencies.
2. Senior administrators of institutions and programs who have primary responsibilities for accreditation.
3. Faculty members who have been closely involved with accrediting, as in preparing self-studies or participating on visiting teams.
4. Staff of Federal agencies involved with accrediting or the recognition of accrediting agencies, including congressional staff.
5. Staff of State agencies concerned with licensing of schools and colleges or with accrediting, including staff of legislative committees.
6. Persons not connected directly with the accrediting process but who because of their backgrounds are acknowledged experts on accreditation.
7. Persons who in their professional activities or writing have been identified as critics of the accrediting process as it now exists.
b. Number: 150 (sample).
c. Estimated average man-hours per respondent: Two hours.
9. Information to be collected:
Judgments on the external validity of the OE recognition process.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity:
National Center Impact Survey.
2. Agency bureau/office:
Office of Education, Bureau of Occupational and Adult Education.
OE Form 665.
3. Agency form numbers:
4. Legislative authority for this activity:
"Section 171(a). Funds reserved to the Commissioner • • • shall be used primarily for contracts • • • for (2) support of a national center for research in vocational education which Center shall • • • (A) conduct applied research and development on problems of national significance in vocational education • • •." (Pub. L. 94-482, Title II, Sec. 202; 20 U.S.C. 2401.)
5. Voluntary obigatory nature of response:
Voluntary.
6. How information to be collected will be used:
Results from the 1979 survey will comprise one of the several data bases used to assess the impact of the National Center for Research in Vocational Education. These results will be published and made available to the public. Data collected from this survey and from two subsequent surveys will be used for three major evaluative purposes. First, feedback from the survey will be used by the National Center management and staff for organizational improvement. Second, the data will provide evidence of impact to external audiences thus providing a mechanism for accountability. Third, the results from the surveys will provide comparative data which will be used to assess trends and changes in impact over time.
7. Data acquisition plan:
a. Method of collection: Mail and/or personal interview.
b. Time of collection: April-June 1979, 1980, and 1981.
c. Frequency: Annually for 3 years.
8. Respondents:
a. Type: School administrators and supervisors.
b. Number: 2,000.
c. Estimated average man-hours per repondent: 0.25.
9. Information to be collected:
Information about the knowledge, use, and appraisal of the National Center for Research in Vocational Education by its constituents will be collected from all respondents. Dimensions of the National Center to be assessed by its constituents include the National Center's image, staff, substantive areas of focus, operations, public information, products, training activities, and services. Attitudes toward vocational education research and devlopment in general and toward problems of national significance in vocational edueation will also be measured. Demographic data will be collected on respondent's gender, ethnic origin, professional role, institutional affiliation, geographic location, and relation to the National Center.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity:
Factors related to the underrepresentation of women in vocational education administration.
2. Agency/bureau/office:
Office of education, Bureau of Occupational and Adult Education.
3. Agency form number:
OE Form 666.
4. Legislative authority for this activity:
"Section 171(a). Funds reserved to the Commissioner • • • shall be used primarily for contracts • • • for (2) support of a national center for research in vocational education • • • which Center shall • • • (A) conduct applied research and development on problems of national significance in vocational education • • •." (Pub. L. 94-482, Title II, Sec. 202; 20 U.S.C. 2401.)
5. Voluntary/obligatory nature of response:
Voluntary.
6. How information collected will be used:
The data collected will be used to prepare the publication, "Perceptions of Factors Relating to the Underrepresentation of Women in Vocational Education Administration." The information will be used also as a data base for continuing research studies and as a data base for the proposed longitudinal study. Additionally the information will be used to design appropriate intervention strategies for a variety of audiences.
7. Data acquisition plan:
a. Method of collection: Personal interview.
b. Time of collection: January-February 1979.
c. Frequency: Single time.
8. Respondents:
a. Type: School administrators and supervisors.
b. Number: 100.
c. Estimated average man-hours per respondent: 0.75.
a. Type: Colleges and universities.
b. Number: 100.
c. Estimated average man-hours per respondent: 0.75.
a. Type: Individuals.
b. Number: 100.
c. Estimated average man-hours per respondent: 0.75.
a. Type: Other (Local Boards of Education and Boards of Trustees).
b. Number: 100.
c. Estimated average man-hours per respondent: 0.75.
9. Information to be collected:
a. Respondent perceptions of the factors relating to the underrepresentation of women in vocational education administration: broadly relating perceptions of technical, human relations, and conceptual skills required for administrative positions.
b. Respondent demographic data: years in present position, other administrative experience, educational attainment, credentials, age range, sex, ethnic origin, marital status, salary range, etc.
c. Respondent organizational data: size of community, minority composition of community, number of administrative positions and female and minority representation in those positions, and recruitment practices.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed acitivity:
Educational Placement Decision Questionnaire.
2. Agency/bureau/office:
U.S. Office of Education/Bureau of Education for the Handicapped.
3. Agency form number:
OE Form 672.
4. Legislative authority for this activity:
"The Commissioner is authorized to make • • • contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposed and to conduct research, surveys, or demonstrations, relating to education or handicapped children." (Pub. L. 91-230, Title VI, Part E, Sec. 641, U.S.C. 1441.)
5. Voluntary/obligatory nature of response:
Voluntary.
6. How information will be used:
Research.—The proposed data collection will be conducted by the University of Minnesota Institute for Research on Learning Disabilities, a program

eration and maintenance assessments and related information at the First

If during a time when delivery is by

in non-Indian ownership, and assess-

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funded under contract with BEH (300-77-0491). This Institute's research focuses on the assessment-intervention and decisionmaking processes used by educators in planning for learning disabled children. A critical area for research is that of placement decisions, and the questionnaire approach is being undertaken to obtain data on what educational personnel believe they are basing their placement decisions on. This survey, the first in a series of three, will examine the factors used by school principals in making placement decisions and the success of tho decisionmaking processes.

7. Data acquisition plan:
a. Method of collection: Mail.
b. Time of collection: Spring, 1979.
c. Frequency: Single time.
8. Respondents:
a. Type: Principals (school).
b. Number: Sample—500.
c. Burden: 2 hours per respondent.
9. Information to be collected:

The survey is divided into three sections: I (13 items) on size and facilities of the school itself, and of the community it serves; II (8 items) characteristics of children considered important in assignment to classes, and information sought to aid assignment: and III (7 items) on placement decisions and how the administrators and community feel about them.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISTION ACTIVITY

1. Title of proposed activity:
Application for Commissioner's Discretionary Programs of Bilingual Education (Title VII, ESEA).
2. Agency/bureau/office:
U.S. Office of Education, Office of Bilingual Education.
3. Agency form number:
OE Form 4561.
4. Legislative authority for this activity:
Part A, Section 721(a): "Funds available for this grant shall be used for—
"(1) The establishment of Programs of Bilingual Education;
"(2) Auxiliary and Supplementary, Community and Educational Acitivities;
"(3) (A) The establishment of training programs; and
(B) Auxiliary and Supplementary programs;
"(4) Planning and providing technical assistance for and taking other steps leading to the development of, such programs.
Part A, Section 721(b)(1): "A grant may be made under this section by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies. Each such application shall be made to the Commissioner at such time, and such manner, and containing such information as the Commissioner deems necessary."
Section 721(b)(5)(A): "Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination of technical assistance to programs in such States." (20 U.S.C. 880 b-7) (Pub. L. 93-380.)
Section 723(a)(1): "In carrying out the provisions of section 721, with respect to training, the Commissioner shall, through grants to and contracts with, eligible applicants provide for—
(A)(i) Traninig designed (I) to prepare personnel, (II) to train teachers, administrators, counselors, paraprofessionals, teacher aides, and parents, and (II) special training programs,
(B) The operation of short-term training institutes,
(a)(2) In addition the Commissioner is authorized to award fellowships (20 U.S.C. 880 b-9) (Pub. L. 93-380.)
Section 723(b): "For purposes of this section 723, the term 'eligible applicant' means:
"(1) Institutions of higher education and private nonprofit organizations which apply, after consultation with, of jointly with, one or more local educational agencies or State educational agencies;
"(2) Local educational agencies; and
"(3) State educational agencies.
5. Voluntary/obligatory nature of response:
Required to obtain or maintain benefits.
6. How information to be collected will be used:
The information will be used to award grants and enter into assistance contracts under the Commissioner's Discretionary Programs of Bilingual Education.
7. Data acquisition plan:
a. Method of Collection: Mail.
b. Time of collection: Spring.
c. Frequency: Annually.
8. Respondents:
a. Type: College and Universities.
b. Number: 200.
c. Estimated average man-hours per respondent: 40.
a. Type: Local educational agencies.
b. Number: 750.
c. Estimated average man-hours per respondent: 40.
a. Type: Nonprofit organizations.
b. Number: 25.
c. Estimated average man-hours per respondent: 40
a. Type: State education agencies.
b. Number: 50.
c. Estimated average man-hours per respondent: 40
9. Information to be collected:

All respondents will be required to provide information requested on the standard nonconstruction application for Federal assistance. Supplementation to the program narrative will include legal requirements.

[FR Doc. 78-32993 Filed 11-22-78, 8:45 am]

[4110-12-M]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the Status of women will meet on Monday, December 11, 1978, from 9 a.m. to 5 p.m., and on Tuesday, December 12, 1978, from 9 a.m. to 5 p.m., in Room 303-A, HEW Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include reports from Title IX, Health and Family Policy Task Forces and action decisions based upon those reports.

Further information on the Committee may be obtained from Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: November 20, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-32997 Filed 11-22-78 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Fort Hall Irrigation Project, Idaho

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with section 191.1(e) of part 191, subchapter T, chapter I, of title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Fort Hall irrigation project for calendar year 1979 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

The purpose of this notice is to announce an increase in the Fort Hall project assessment rates to correspond with actual operation and maintenance costs. The proposed assessment rates for 1979 will amount to an increase of approximately 6 percent.

The public is welcome to participate in the rulemaking process of the Department of the Interior. Accordingly, interested persons may submit written comments, views, and arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, P.O. Box 3785, Portland, Oreg. 97208, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

FORT HALL IRRIGATION PROJECT

REGULATIONS AND CHARGES

ADMINISTRATION

The Fort Hall irrigation project, which consists of the Fort Hall unit including ceded area south of the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the officer-in-charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

IRRIGATION SEASON

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

METHODS OF IRRIGATION

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the officer-in-charge may limit deliveries to this type of irrigation.

DISTRIBUTION AND APPORTIONMENT OF WATER

(a) *Delivery.* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the officer-in-charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditchrider who may permit such exchange, if feasible.

(b) *Preparation and submission of a water schedule.* If the decision of the officer-in-charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for deliveries of irrigation water.* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shutdown, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

DUTY OF WATER

Dependent upon available supplies of water for each unit of the project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the officer-in-charge depending on supplies available, but each irrigable acre shall be entitled to its pro rata share of the total water supply.

CHARGES

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham, or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

BASIC AND OTHER WATER CHARGES

(a) The annual basic water charges for the operation and maintenance of the Fort Hall irrigation project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a nonmember of the Shoshone-Bannock tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the calendar year 1979 and subsequent years until further notice as follows:

(1) Fort Hall unit basic rate, $13.25 per acre.

(2) Michaud unit basic rate, $17.75 per acre; additional rate for sprinkler irrigation when pressure is supplied by project $6.50 per acre.

(3) Minor units basic rate, $10.60 per acre.

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

PAYMENTS

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of 1½ percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

ASSESSMENTS ON INDIAN-OWNED LAND

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or nonmembers of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for 3 years. The 3 years the land is not subject to assessment need not run consecutively. When land has been leased for a total of 3 years, the land, when under lease to non-Indians or nonmembers of the tribe, is subject to operation and maintenance assessments the same as lands in non-Indian ownership and lands owned by nonmembers of the tribe within the project. (See Solicitor's opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938.)

WYMAN D. BABBY,
Acting Area Director.

NOVEMBER 15, 1978.

[FR Doc. 78-32968 Filed 11-22-78; 8:45 am]

Act of 1920, as amended (30 U.S.C. 181 et seq.), and the Act of May 21, 1930, as amended (30 U.S.C. 301-306), the Secretary of the Interior will be proceeding with consideration of

[4310-84-M]

Bureau of Land Management

[Colorado 012469 RW]

WESCO PIPELINE CO.

R/W Application for Cathodic Protection Site

NOVEMBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Wesco Pipeline Co., 1776 Lincoln Street, Denver, Colo. 80203, has applied for an amendment to right-of-way C-012469 for a cathodic protection site 250'×150', less than 1 acre on the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 4 S., R. 104 W.,
Sec. 11, NE¼NE¼.

The requested rectifier/ground bed is necessary to bring the existing cathodic protection system into compliance with the Office of Pipeline Safety Regulations, 49 CFR Part 195.242 (1977).

The purposes of this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed cathodic protection system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Wesco Pipeline Co.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

JOHN R. BERNICK,
Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-32963 Filed 11-22-78 8:45 am]

[4310-84-M]

[W-60228 Amendment]

WYOMING

Application

NOVEMBER 15, 1978

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Co. of Casper, Wyo., filed an amendment application to their existing right-of-way to construct an additional buried 4-inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 46 N., R. 92 W.,
Secs. 1, 2, 3, and 12.
T. 47 N., R. 92 W.,
Sec. 34.

The proposed pipeline will transport crude oil from a point located in the NE¼NW¼ of section 12, T. 46 N., R. 92 W., to a point located in the SE¼SW¼ of section 34, T. 47 N., R. 92 W., all within Washakie County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32965 Filed 11-22-78; 8:45 am]

[4310-84-M]

[Wyoming 65490]

WYOMING

Application

NOVEMBER 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Co. of Oklahoma City, Okla., filed an application for a right-of-way to construct a 6⅝-inch pipeline and related anode facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 93 W.,
Sec. 14, E½NE¼ and NW¼NE¼.

The pipeline with appurtenant anode facilities well transport natural gas produced from the Amoco Champlin 242 E-1 will located in the SE¼SW¼ of sec. 13 to a point of commection with Cities Service Gas Co.'s existing gathering line located in the NE¼SW¼ of sec. 11, T. 19 N., R. 93 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32966 Filed 11-22-78; 8:45 am]

[4310-84-M]

[Wyoming 65496]

WYOMING

Application

NOVEMBER 14, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Co. of Salt Lake City, Utah filed an application for a right-of-way to construct a 3½-inch O.D. pipeline for the purpose of transportation natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 103 W.,
Section 16, W½NW¼.

The pipeline will transport natural gas from a point in the NW¼NW¼ of sec. 16 to a point of connection with Mountain Fuel Supply Co.'s existing transmission system located in the NE¼SW¼ of sec. 17, T. 22 N., R. 103 W., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-32967 Filed 11-22-78; 8:45 am]

[2300U-41671(U-942)4310-84]

UTAH

Proposed Withdrawal and Reservation of Lands

NOVEMBER 16, 1978.

The Department of Defense submitted a withdrawal application for filing on October 23, 1978, serial No. U-41671, for the following described lands from settlement, sale, location, or entry under all the general land laws, including the mining laws subject to valid existing rights:

SALT LAKE MERIDIAN

Beginning at the northeast corner of sec. 20, T. 9 S., R. 9 W., S.L.B. & M; Thence south one mile to the southeast corner of said sec. 20, thence southwest through sec's. 29 and 31, T. 9 S., R. 9 W., and sec's. 1, 11, 15, 21, 29 and 31, T. 10 S., R. 10 W., to a point 0.7 mile into sec. 1, T. 11 S., R 11 W.; thence in a straight line north approximately 276° W. to the southwest corner of sec. 34, T. 9 S., R 11 W.; thence north one mile to the northwest corner of sec. 34 T. 9 S., R. 11 W.; thence west 2 miles to the southeast corner of sec. 30, T. 9 S., R. 11 W.; thence northwest through said sec. 30 and sec. 24, T. 9 S., R. 12 W., to the northwest corner of said sec. 24; thence east 15 miles along the section line and present south boundary of Dugway Proving Ground to the point of beginning.

Excepting therefrom sec's 32 and 36, T. 9 S., R. 10 W.; S.L.B. & M.; sec's 2 and 16, T. 10 S., R. 10 W., S.L.B. & M; sec. 36, T. 9 S., R. 11 W., S.L.B. & M.; sec's 2 and 36, T. 10 S., R. 11 W., S.L.B. & M.

The area described aggregates 38,179 acres more or less in Tooele and Juab Counties, Utah.

The U.S. Army, Dugway Proving Ground, Dugway, Utah, desires the continued use of the land in connection with the establishment of a safety zone for the Dugway Proving Ground.

On or before December 29, 1978, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawals. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, section 2351.16.B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized office will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

For a period of 2 years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for an indefinite period, and the lands will remain segregated.

All communications in connection with this proposed withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

WILLIAM G. LEAVELL,
Associate State Director.

NOVEMBER 14, 1978.

[FR Doc. 78-32964 Filed 11-22-78; 8:45 am]

[4310-84-M]

[M 42345]

MONTANA

Application

NOVEMBER 16, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Wesco Pipe Line Company filed an application for a right-of-way to construct one 4-inch crude oil pipeline and one 4-inch natural gas pipeline across the following described public lands:

PRINCIPAL MERIDIAN, MONTANA

T. 22 N., R. 60 E.,
Sec. 32, NE¼NW¼.
T. 23 N., R. 60 E.,
Sec. 32 S½NW¼, N½SW¼, and SE¼SW¼.

The pipelines will be used for the purpose of gathering and transporting crude oil and natural gas across 0.95-mile of public lands in Richland County, Montana.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O Box 940, Miles City, Mont. 59301.

KENNETH J. SIRE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33026 Filed 11-22-78; 8:45 am]

[4310-84-M]

[N-10659]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 13, 1978.

In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 31 N., R. 49 E.,
Sec 10, SE¼SE¼;
Sec. 14, N½NW¼.

The area described comprises 120 acres.

The land is located approximately 3.5 miles southeast of Beowawe, Nev. Physical and legal access is provided by an improved county road which bisects the subject land. Terrain is fairly level with slopes of 1-3 percent. Elevation is approximately 4,720 feet with the drainage pattern running from south to north draining into the Humboldt River. The land is located within the floodplain. Vegetation consists of scattered sagebrush, halogeton, and rabbitbrush. There are no springs or streams. The principal land use is livestock grazing.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, including the mining and mineral leasing laws.

CHARLES E. HANCOCK,
Acting Chief, Division of Technical Services.

[FR Doc. 78-32983 Filed 11-22-78; 8:45 am]

[4310-84-M]

[N-12856]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 13, 1978.

In an exchange of land made under the provisions of section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 11 N., R. 22 E.,
Sec. 11, NE¼NE¼;
Sec. 12, N½NW¼.

The area described comprises 120 acres.

The land is located on the east side of the Pine Nut Mountains in Douglas County, Nev. Topography is characterized by a narrow creek bottom and steep canyon walls. Elevation ranges from 6,100 to 6,800 feet. Predominant vegetation includes pinyon pine, mountain mahogany, big sage and cheatgrass. Principal land uses are livestock grazing and wildlife habitat.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, but not the mining and mineral leasing laws. The minerals were not reconveyed to the United States. All minerals are reserved to the State of Nevada.

CHARLES E. HANCOCK,
Acting Chief,
Division of Technical Services.

[FR Doc. 78-32984 Filed 11-22-78; 8:45 am]

[4310-84-M]

[N-12857]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 13, 1978.

In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 12 N., R. 22 E.,
Sec. 25, NW¼NE¼.

The area described comprises 40 acres.

The land is located on the east slope of the Pine Nut mountains in Douglas County, Nevada. Topography is steep and rugged. The elevation ranges from 6,150 to 7,093 feet. Vegetation is primarily pinyon and juniper. Principal land uses are livestock grazing and wildlife habitat.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, but not the mining and mineral leasing laws. The minerals were not reconveyed to the United States. All minerals are reserved to the State of Nevada.

CHARLES E. HANCOCK,
Acting Chief,
Division of Technical Services.

[FR Doc. 78-32985 Filed 11-22-78; 8:45 am]

[4310-84-M]

[N-12216]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 13, 1978.

In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 30 N., R. 50 E.,
Sec. 1, A11.

The area described comprises 637.23 acres.

The land is located approximately 28 miles south of Elko, Nevada. legal and physical access is provided by a BLM road which bisects the subject land. It lies within Crane Springs Canyon and the terrain is rough and mountainous. Elevation varies from 5,760 to over 6,030 feet with the drainage pattern running from south to north draining into Dixie Creek. Vegetation consists of open stands of juniper with an understory of sagebrush and various native grasses. The principal land use is livestock grazing.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, including the mining and mineral leasing laws.

CHARLES E. HANCOCK,
Acting Chief,
Division of Technical Services.

[FR Doc. 78-32986 Filed 11-22-78; 8:45 am]

[4310-84-M]

[N-11027]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 13, 1978.

In an exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 31 N., R. 49 E.,
Sec. 10, SE¼SW¼, SW¼SE¼.

The area described comprises 80 acres.

The land is located approximately 3 miles southeast of Beowawe, Nevada. Access is provided by county road 29-A which bisects the subject parcel. Elevation is approximately 4,720 feet with slopes of 2-5 percent. Vegetation consists of sagebrush, saltbush, and scattered stands of annual and perennial grasses. The land is located approximately one quarter mile from the Humboldt River. There are no springs, streams, or water holes. Principal land use is livestock grazing.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, including the mining and mineral leasing laws.

CHARLES E. HANCOCK,
Acting Chief,
Division of Technical Services.

[FR Doc. 78-32987 Filed 11-22-78; 8:45 am]

[4310-84-M]

[N-13329]

NEVADA

Order Providing for Opening of Public Land; Statements of Authority

NOVEMBER 13, 1978.

In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 14 N., R. 22 E.,
Sec. 8, Lots 2 and 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼.
T. 15 N., R. 22 E.,
Sec. 31, Lots, 2, 3 and 4, SE¼NW¼, E½SW¼.

The land described comprises approximately 465.42 acres.

The land is located approximately 11 miles east of Carson City, Nevada, Access is provided by the Sunrise Pass road. Predominate vegetation is pinyon pine, juniper and sagebrush. The principal land use is livestock grazing.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, including the mining laws. It has been continually open to the operation of the mineral leasing laws.

CHARLES E. HANCOCK,
Acting Chief,
Division of Technical Services.

[FR Doc. 78-32988 Filed 11-22-78; 8:45 am]

[4310-84—M]

[N-10660]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 13, 1978.

In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 43 N., R. 55 E.,
Sec. 31, SE¼NE¼, SE¼;
Sec. 32, NE¼SW¼, S½SW¼, NW¼SE¼.

The area described comprises 360 acres.

The land is located approximately 58 miles north of Elko, Nevada. Physical and legal access is provided by State Route 51 which crosses the subject land. Elevation varies from 6,320 to 6,400 feet with the drainage pattern running from south to north into the Owyhee River. The topography ranges from undulating to nearly level terrain. Vegetation consists of sagebrush and various types of native grasses. The principal land use is livestock grazing.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, but not the mining or mineral leasing laws. Minerals were not reconveyed to the United States.

All minerals in the reconveyed land are reserved to the State of Nevada.

CHARLES E. HANCOCK,
Acting Chief,
Division of Technical Services.

[FR Doc. 78-32989 Filed 11-22-78; 8:45 am]

[4310-84-M]

[N-12562]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 13, 1978.

In connection with the issuance of a new and correct patent under the provisions of Title 43, Code of Federal Regulations, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 6 N., R. 61 E.,
Sec. 27, N½NW¼SW¼NW¼.

The area described comprises 5 acres.

The land, located in eastern Nye County north of State Highway 25, was patented in 1965 due to an incorrect legal description. It remained in an undeveloped condition until reconveyed in 1975. Mineral rights were reserved by the United States in the original patent.

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, including the mining laws. The land was never closed to the operation of the mineral leasing laws.

CHARLES E. HANCOCK,
Acting Chief,
Division of Technical Services.

[FR Doc. 78-32990 Filed 11-22-78; 8:45 am]

[4310-84-M]

[NM 35238]

NEW MEXICO

Application

NOVEMBER 14, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southwest Gas Corporation has applied for two 4½-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 11 W.,
Sec. 7, SW¼NE¼, N½SE¼ and SE¼SE¼.
T. 32 N., R. 11 W.,
Sec. 34, NE¼SW¼.

These pipelines will convey natural gas across 0.734 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 78-33027 Filed 11-22-78; 8:45 am]

[4310-84-M]

[NM 35248 and 35250]

NEW MEXICO

Applications

NOVEMBER 14, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 11 W.,
Sec. 20, lots 2, 3, 4 and NW¼NE¼;
Sec. 21, lots 6 and 7.

These pipelines will convey natural gas across 0.867 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 78-33028 Filed 11-22-78; 8:45 am]

[4310-84-M]

[NM-35240]

NEW MEXICO

Application

NOVEMBER 17, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Benson-Montin-Greer has applied for a 2-inch natural gas pipeline and related facilities right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 13 W.,
Sec. 6, N½SE¼ and SE¼SE¼.
T. 32 N., R. 13 W.,
Sec. 31, lots 9, 11, and 12.

This pipeline will convey natural gas across 1.550 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration or whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 78-33029 Filed 11-22-78; 8:45 am]

[4310-84-M]

[NM 35270, 35271, 35273, 35274, 35278, 35280, 35281, 35282, and 35283]

NEW MEXICO

Applications

NOVEMBER 17, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for nine 4½-inch natural gas pipeline rights-of-way and related facilities across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 7 W.,
Sec. 35, SE¼NW¼.
T. 29 N., R. 7 W.,
Sec. 8, E½SE¼ and SW¼SE¼;
Sec. 17, NE¼;
Sec. 30, lots 7, 8, E½NW¼ and NE¼SW¼.
T. 29 N., R. 10 W.,
Sec. 13, lot 4.
T. 31 N., R. 11 W.,
Sec. 3, W½SW¼;
Sec. 4, lot 12;
Sec. 17, SW¼NW¼;
Sec. 18, SE¼NE¼;
Sec. 19, S½SE¼.
T. 32 N., R. 12 W.,
Sec. 34, W½SE¼.

These pipelines will convey natural gas across 2.101 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33030 Filed 11-22-78; 8:45 am]

[4310-84-M]

[W-65819]

WYOMING

Application

NOVEMBER 16, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Western Transmission Corportation of Dallas, Texas filed an application for a right-of-way to construct a 6 inch buried pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 96 W.,
Sec. 5, lot 3.
T. 25 N., R. 96 W.,
Sec. 21, SE¼SW¼;
Sec. 28, W½E½, SE¼NE¼, NE¼NW¼;
Sec. 33, W½E½.

The proposed pipeline and related facilities will be used to transport natural gas from the Federal 477 #1 well located in the SE¼SW¼ of section 21, T. 25 N., R. 96 W., and the Federal Q-1 well located in the SE¼NE¼ of section 28, T. 25 N., R. 96 W., to a point of connection with existing facilities located in lot 3 of section 5, T. 24 N., R. 96 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33031 Filed 11-22-78; 8:45 am]

[4310-84-M]

[W-65489]

WYOMING

Application

NOVEMBER 15, 1978.

Notice is hereby give that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 12¾ inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 91 W.,
Secs. 4 and 6.
T. 19 N., R. 92 W.,
Secs. 2, 4 and 6.

The proposed pipeline will transport natural gas from a point located in the SW¼ of section 1, T. 19 N., R. 93 W., to a point of connection with existing facilities located in the SE¼ of section 3, T. 19 N., R. 91 W., all within Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33032 Filed 11-22-78; 8:45 am]

[4310-09-M]

Bureau of Reclamation

COLORADO RIVER BASIN SALINITY CONTROL ADVISORY COUNCIL

Public Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), annoucement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council at 8:30 a.m. on December 19, 1978, at the Arizona Water Commission offices, 8th Floor Conference Room, Central Security Building, 222 North Central Avenue, Phoenix, Ariz.

Purpose of Meeting: Council members will be briefed on the status of salinity control activities.

Proposed Agenda: The Bureau of Reclamation, Soil Conservation Service, and Bureau of Land Management will each present a progress report and schedule of activities on salinity control in the Colorado River Basin. The Council will discuss Colorado River Basin salinity control activities.

Public Participation: The meeting of the Advisory Council is open to the public.

Any member of the public may file a written statement with the Council before, during, or after the meeting in person or by mail. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting including requests for time to make statements should be addressed to Mr. John W. Keys, Chief, Colorado River Water Quality Office, Bureau of Reclamation, Engineering and Research Center, P.O. Box 25007, Denver, Colo. 80225.

Dated: November 16, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-32825 Filed 11-22-78; 8:45 am]

[4830-01-M]
[4510-29-M]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

CERTAIN TRANSACTIONS INVOLVING EMPLOYEE BENEFIT PLANS AND BROKERS-DEALERS

Proposed Exemption and Hearing

AGENCIES: Department of Labor, Department of the Treasury/Internal Revenue Service.

ACTION: Notice of a proposed exemption and notice of hearing.

SUMMARY: This document contains a notice of pendency before the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as the Agencies) of a proposed permanent exemption allowing, under certain circumstances, broker-dealers to effect securities transactions for plans which they serve as fiduciaries. The proposed permanent exemption would replace and supersede an exemption which was granted in October, 1975, was extended in July, 1978 and which will expire on February 1, 1979. The proposed permanent exemption contains a number of conditions not present in the exemption now in effect.

DATES: All interested persons are invited to submit written comments concerning the proposed permanent exemption. Written comments on the proposed exemption and requests for time to present oral comments at the hearing must be received by the Department of Labor on or before December 21, 1978. The hearing will be held on January 3, 1979 beginning at 10 a.m.

ADDRESSES: Written comments and requests for time to present oral comments should be addressed to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Exemption for Certain Brokerage Transactions. All such communications and applications for exemption relating to this proposed exemption will be available for public inspection at the Public Document Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C., and at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue NW., Washington, D.C. The hearing will be held in Room S4215 A and B, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C.

HEARING PROCEDURE: Any interested person who chooses to present oral comments at the hearing and who wishes to be assured of being heard shall submit a statement to that effect, an outline of the topic to be discussed (at least six copies), and the time to be allocated to each topic by December 21, 1978. The statement and outline should be submitted to the address mentioned above. An agenda will be prepared concerning the order of presentation of oral comments and the time allocated to each commentator. Information about the contents of the agenda may be obtained on or after December 27, 1978 by telephoning 202 523-8195. This is not a toll-free number. At the conclusion of oral comments by persons listed in the agenda, to the extent time permits, other persons may be permitted to make oral comments. The public hearing will be transcribed.

FOR FURTHER INFORMATION CONTACT:

Frederic G. Burke, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8195, or Ivan Strasfeld, Prohibited Transactions Staff, Employee Plans Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3045. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of a proposed permanent exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (hereinafter ERISA or the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code (hereinafter the Code) By reason of section 4975(c)(1) of the Code. The proposed exemption applies to certain securities transactions effected on behalf of employee benefit plans by persons who are fiduciaries for those plans. At present, such transactions are covered by paragraph I(a) of Prohibited Transaction Exemption 75-1. That exemption was granted in October, 1975 and extended by Prohibited Transaction Exemption 78-10 in July, 1978.[1] In pertinent part, the existing exemption authorizes broker-dealers who ordinarily effected brokerage and incidental clearance, settlement, or custodial services on May 1, 1975, to continue to furnish such services until February 1, 1979.

In granting paragraph I (a) of Prohibited Transaction Exemption 75-1 in 1975 and extending it in 1978 , the Agencies recognized that securities broker-dealers in the ordinary courses of business provide research and investment management services concerning securities to accounts for which they also effect agency transactions for the purchase or sale of securities. The agencies concluded that a fiduciary in many cases was barred by ERISA from providing these combined services to an employee benefit plan. In addition, the agencies noted that a broker-dealer was prohibited from providing such a combination of services to managed accounts generally by section 11(a) of the Securities Exchange Act of 1934 (hereinafter Exchange Act), as amended by the Securities Act Amendments of 1975 (Pub. L. 94-29, 89 Stat. 110). Under that section, no member of a national securities exchange may effect any transaction on such exchange for an account for which it or an associated person thereof exercises investment discretion.[2]

In enacting section 11(a) of the Exchange Act Congress included a temporary exception to the above-described prohibition for broker-dealers who were members of a national securities exchange on May 1, 1975. In the conference report accompanying the Securities Act Amendments of 1975 (H.R. NO. 94-229, 94th Cong., 1st sess. (1975)), the conferees indicated that the Agencies should consider granting an exemption from the prohibited transaction provisions of the Act and the Code to permit broker-dealers to continue to provide brokerage services to plans over which they exercised investment discretion until May 1, 1978 in order to conform the pertinent provisions of ERISA and the Code to section 11(a) of the Exchange Act, and thereby permit broker-dealers to phaseout, in an orderly fashion, the business of both serving as investment advisers to plans and providing brokerage services to such plans. The conferees' statement was consistent with one make the previous year in the conference report accompanying ERISA.[3]

[1] Prohibited Transaction Exemption 75-1 was published in the FEDERAL REGISTER on October 31, 1975 (40 FR 50845). The extension of Prohibited Transaction Exemption 75-1 contained in Prohibited Transaction Exemption 78-10 was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 3296). It should be noted that Prohibited Transaction Exemption 78-10, like the class exemption being proposed herein, relates only to that portion of Prohibited Transaction Exemption 75-1 set forth in paragraph I(a).

[2] A person who exercises investment discretion within the meaning of the Exchange Act would be a fiduciary under section 3(21)(A) of ERISA. However, a person could be a fiduciary for reasons other then exercising investment discretion. For example, the term "fiduciary" includes a person who renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so. See also note (13) infra.

[3] The ERISA conferees expressed their expectation that any action taken by the

Footnotes continued on next page

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In light of the expressions of congressional intent described above, the Agencies granted Prohibited Transaction Exemption 75-1 on October 24, 1975. The pertinent part of the exemption was available only until May 1, 1978. On July 19, 1978, the Agencies granted an extension of the exemption until February 1, 1979, and made that extension retroactive to May 1, 1978. The Agencies' decision to extend the original exemption was based, again, largely on expressions of congressional intent. Specifically, the Agencies noted that section 11(a) of the Exchange Act had been amended to delay its full effectiveness for 9 months from May 1, 1978 to February 1, 1979.[4]

The Agencies also noted that Congress, in enacting this amendment, had recognized that the relief afforded thereby would be applicable to transactions effected for employee benefit plans only if the Agencies extended the exemption. In addition, both the Senate and House Committees had expressed the expectation that Prohibited Transaction Exemption 75-1 would be amended expeditiously to provide such relief.[5]

The Agencies have received three applications for a class exemption covering broker-dealer fiduciaries who effect securities transactions for plans. Two of these applications have been filed by the Securities Industry Association (SIA). In the first of these applications, filed on April 12, 1978,[6] the SIA asks the Agencies to grant an exemption which would permit broker-dealers to effect securities transactions for plans which they serve as investment managers, provided they act in accordance with rule 11a2-2(T) of the Securities and Exchange Commission (SEC) under the Exchange Act.[7] The SIA in its second application, filed on September 21, 1978, requests the Agencies to extend permanently Prohibited Transaction Exemption 78-10.[8]

Footnotes continued from last page

Agencies on requests for exemption in this area would be consistent with the outcome of the securities legislation then under consideration. The general issue of institutional investment management was under consideration, but section 11(a) had not been enacted, when ERISA was passed. Conference Report on the Act, H.R. Rep. No. 93-1280, 93rd Cong., 2d sess. 309-10(1974).

[4]Pub. L. 95-283, 95th Cong., 2d sess. (1978).

[5]S. Rep. No. 95-763, 95th Cong., 2d sess. 5-6 (1978), and H. Rep. No. 95-1010, 95th Cong., 2d sess. 5 (1978).

[6]Exemption Application No. D-1026.

[7]See Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978).

[8]Exemption Application No. D-1114. This application also includes a proposed alternative exemption which the SIA considers less desirable. This alternative proposal conditions the relief given in Prohibited Transaction Exemption 78-10 on a fiduciary's complying with certain specified requirements.

A third request for a broker-dealer class exemption has been made by seven broker-dealer firms.[9] These firms ask the Agencies to adopt a class exemption similar to that requested in the first SIA application.

Pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722, the Agencies now propose to grant a permanent class exemption for the period subsequent to February 1, 1979 authorizing broker-dealers to effect securities transactions for plans which they serve as fiduciaries, subject to certain conditions. The conditions set forth in the proposed class exemption, however, are not identical to the requirements of the SEC's rule 11a2-2(T). The Agencies' reasons for issuing the proposed class exemption, and the conditions under which it would be available, are discussed below.[10]

Rule 11a2-2(T) provides an exemption from section 11(a) of the Exchange Act allowing broker-dealers to effect securities transactions for accounts over which they exercise investment discretion provided that specified conditions are met. Thus, broker-dealers generally will be able to provide certain brokerage services for accounts which they manage even after the prohibitions of section 11(a) take effect on February 1, 1979. However, under ERISA a broker-dealer will be prohibited from rendering such services after February 1, 1979 where the managed account is an employee benefit plan, unless the Agencies grant additional exemptive relief. It has been suggested to the Agencies that such relief is appropriate because some plans, particularly smaller ones, currently obtain portfolio management services from broker-dealers whose compensation, at least in part, takes the form of commissions paid by the plan for effecting its securities transactions. It is argued that, if this practice is not permitted to continue, individual investment management services may not be available for such plans. It is further argued that, even if such services are available it might be prohibitively expensive for a small plan to pay an investment adviser the fee it would charge if it received no compensation for effecting the plan's brokerage transactions. At the same time, it is argued that no evidence exists of widespread abuses, such as undue portfolio turnover or failure to obtain best price and execution, on the part of broker-dealers who effect transactions for accounts which they manage.[11]

Although these arguments have certain persuasive force, the Agencies believe that a permanent exemption in this area would not be appropriate unless it contained certain requirements designed to protect the interests of plan participants and beneficiaries. In this regard, the Agencies noted that, in the conference report accompanying ERISA, Congress indicated its expectation that the Agencies would exercise their administrative descretion to allow broker-dealers to provide brokerage services to plans whose portfolios they managed only if satisfactory safeguards were provided.[12]

The Agencies' proposed permanent exemption would be available only to a broker-dealer which is not a fiduciary of a plan by reason of being a plan trustee or plan administrator and which is not an employer of any employees covered by the plan.[13]

[9]Exemption Application No. D-1176. The seven firms are Neuberger & Berman, Stralem & Co., Inc., Reich & Tang, Inc., First Manhattan Co., Weiss, Peck & Greer, David J. Greene and Co. and Wheat, First Securities, Inc.

[10]The Agencies have received five applications for individual exemptions which might relate to the class exemption being proposed herein (Exemption Application Nos. D-724, D-862, D-888, D-981, and D-1060). To the extent that the transactions which are the subject of those applications are of the type described in the class exemption being proposed herein, such transactions will be exempted provided that they satisfy the terms and conditions of the exemption if it is granted. Because the Agencies believe that it would be administratively feasible to deal with those applications on a class basis, the Agencies, pursuant to section 3.01 of ERISA Proc. 75-1 and Rev. Proc. 75-26, have determined to group such applications in a class. As stated in section 3.04 of ERISA Proc. 75-1 and Rev. Proc. 75-26, an application for an individual exemption will not ordinarily be considered separately if a class exemption which may encompass the application for individual exemption is under consideration by the Agencies. Accordingly, the Agencies are notifying directly each applicant requesting the individual exemptions referenced above that its application is not presently being considered separately from this proceeding, that such application might be closed following the conclusion of this proceeding, and that therefore the Agencies are seeding the applicant's comments concerning the class exemption proposed herein.

[11]*Cf.*, letter from SEC Commissioner Philip A. Loomis, Jr. to Congressmen James T. Broyhill and Matthew J. Rinaldo (March 20, 1978), cited at 121 Cong. Rec. H2432 (daily ed. April 4, 1978).

[12]H.R. Rep. No. 93-1280, 93d Cong., 2d sess., at 309 (1974).

[13]This limitation on the availability of the proposed exemption would, among other things, have the effect of preventing a plan administrator, plan trustee or employer from using a relating broker-dealer organization to "recapture" brokerage commissions for the plan. Cf. Tannenbaum v. Zeller, 552 F. 2d 402(2d Cir.), cert. denied, 98 S. Ct. 421(1977); Moses v. Burgin 445 F. 2d 369(1st Cir. 1971); Papilsky v. Berndt, [1976-1977 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 95627 (S.D.N.Y. June 24, 1976). In

Footnotes continued on next page

Under the exemption, such broker-dealer could effect or execute securities transactions for an employee benefit plan for which it is a fiduciary. Although the Agencies do not believe that the policies of ERISA require a distinction to be drawn in the class exemption between the broker-dealer services of executing and effecting transactions, it should be noted that such distinction is made in the SEC's rule 11a2-2(T) which permits a broker-dealer to effect, but not to execute, securities transactions for an account which it manages. In most cases, a broker-dealer availing itself of the proposed class exemption would be required to comply with rule 11a2-2(T) and thus would be allowed only to effect transactions for the plan which it manages.[14]

The proposed exemption conditions the effecting or executing of securities transactions on behalf of a plan on the broker-dealer's receiving written authorization, expressly permitting either or both of these activities, from a plan fiduciary who is independent of the broker-dealer. The written authorization could not be effective for more than one year unless the independent fiduciary authorized its continuance in writing at least annually. Where the authorization took the form of a binding contract upon the plan, the plan would be required to have the right to terminate the contract, without penalty, upon not more that 60 days' notice to the broker-dealer.

The exemption would place on the broker-dealer the duty to provide any information it reasonably believes to be necessary to enable the independent plan fiduciary to determine whether to grant or renew an authorization to perform multiple brokerage services. The fiduciary would have the right to request, and the broker-dealer would have the obligation to supply, any additional information reasonably necessary to make this determination.[15]

The exemption would also require a broker-dealer to supply a quarterly report to the plan trustee or other fiduciary disclosing the total of all transaction-related charges incurred by the plan during the preceding quarter in connection with transactions in which the broker-dealer performed any of the functions permitted by this exemption. In this quarterly statement, the reporting broker-dealer would have to disclose the portion of the total transaction-related charges it retained and the portion it paid to other broker-dealers for execution or other services. In addition, the broker-dealer would have to state, in substance, that brokerage commissions are not fixed by any stock exchange or by any other authority and are subject to negotiation.[16]

In addition to providing the quarterly report, a broker-dealer would have to furnish the plan fiduciary with a schedule of transaction-related commission rates it anticipates assessing in the coming quarter for transactions of the type normally entered into by the plan. Charging a commission which differed from the rate described in the schedule would not necessarily cause a broker-dealer to forfeit the relief available under the proposed exemption, so long as the departure from the schedule was attributable to special factors relating to a particular transaction or to circumstances not foreseen at the time the schedule was provided.[17]

In those cases where a transaction is effected for a plan on a national securities exchange of which the broker-dealer is a member and where the broker-dealer exercises investment discretion as that term is defined by the SEC under section 3(a)(35) of the Exchange Act, the broker-dealer would have to comply with both the conditions of the class exemption and the requirements of rule 11a2-2(T). However, the Agencies believe that the requirements of the proposed class exemption are sufficiently compatible with those of rule 11a2-2(T) as to impose no undue burden upon broker-dealers.[18]

The Agencies recognize that, if the exemption being proposed herein is adopted, broker-dealers which are presently providing services to plans pursuant to the existing Prohibited Transaction Exemption 78-10 likely will have to make certain adjustments. For example, changes in electronic data processing programs and dissemination of certain material to plan fiduciaries might be necessary. If the proposed exemption is adopted the Agencies will consider extending Prohibited Transaction Exemption 78-10 and postponing the effective date of the limitations contained in the new exemption to the extent that such action is appropriate in order to afford broker-dealers sufficient time to complete such adjustments.

General Information: The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accord-

Footnotes continued from last page

this regard, it is not clear to the Agencies whether institutional investment managers presently engage in the practice of recapture to any significant extent in view of the advent of fully negotiated stock exchange commission rates and other economic and legal developments. The Agencies request comment concerning this matter, in order that they may better determine whether the proposed condition, if adopted, should be modified to permit specifically recapture of brokerage commissions by plan administrators, plan trustees or employers, or their affiliates and, if so under what circumstances.

[14]Unlike the exemption now in effect, the proposed permanent exemption is not restricted to broker-dealers who ordinarily effected brokerage and incidental clearance, settlement or custodial services on May 1, 1975. As explained above, the May 1, 1975 "grandfather" date contained in Prohibited Transaction Exemption 75-1 corresponded to a provision Congress included when enacting section 11(a) of the Exchange act which limited the availability of the transitional relief given in that section to broker-dealers who were members of a national securities exchange on May 1, 1975. Although the "grandfather" date in the amended section 11(a) was changed to February 1, 1978, Prohibited Transaction Exemption 78-10 which extended the temporary relief provided by Prohibited Transaction Exemption 75-1, contained the May 1, 1975 limitation. Since the class exemption now being proposed is not designed to give mere transitional relief, but is instead designed to provide permanent relief for transactions within its scope, there seems to be no reason to confine its applicability to broker-dealers who were performing, the described functions on May 1, 1975 or on any other particular date.

[15]The proposed requirements described above are similar to provisions contained in section 15 of the Investment Company Act of 1940 regarding contracts between investment companies and their investment advisers.

[16]In this regard, commission rates might differ from broker-dealer to broker-dealer. The providing of research or other services by a broker-dealer might also cause its rates to vary. CF., section 28(e) of the Exchange Act.

[17]For instance, a broker-dealer could charge a commission higher than one appearing in the schedule for a transaction significantly more difficult to execute than a typical transaction.

[18]As the Agencies have explained in previous notices relating to Prohibited Transaction Exemption 75-1, a broker-dealer which provides investment advice (as defined in 29 CFR 2510.3-21 and section 54.4975-9 of the Pension Excise Tax Regulations) to a plan and is therefore a fiduciary may, under certain circumstances, effect securities transactions for the plan without relying upon an administrative exemption, provided that it obtains prior authorization from another plan fiduciary before effecting any such transaction. In such a case, the broker-dealer would not have to comply with the conditions of the proposed permanent exemption described above. In addition, since it would not be exercising investment discretion as defined by the SEC, it would not have to comply with rule 11a2-2(T).

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Date: November 15, 1978.

ance with subsection (a)(1)(B) of section 404 of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department and the Service must find that the exemption is administratively feasible, is in the interests of the plan or plans and of their participants and beneficiaries and is protective of the rights of participants and beneficiaries of such plans.

(3) The exemption proposed herein or one which may be subsequently proposed as part of this proceeding is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption or, though it would have been a prohibited transaction, is exempt by operation of a statutory exemption or a transitional rule.

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

Accordingly, it is proposed that the following exemption be granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975 C.B. 722:

PROPOSED EXEMPTION

Effective February 1, 1979, the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) of the Code, shall not apply to the effecting or executing of any securities transaction on behalf of an employee benefit plan by a broker-dealer which is a fiduciary with respect to the plan, and which is acting in such transaction as agent for the plan and to the performance by such broker-dealer of clearance, settlement, custodial, or other functions incidental to effecting such transaction, provided that the broker-dealer is not a trustee or administrator of the plan or an employer of any employee covered by the plan, and provided further that the following conditions are met:

(a) Such transactions are effected or executed and such other functions are performed pursuant to a written authorization executed by a fiduciary of the plan who is independent of the broker-dealer;

(b) Such written authorization continues in effect for more than 1 year only if such continuance is authorized in writing, at least annually, by a plan fiduciary who is independent of the broker-dealer;

(c) No such authorization is made or renewed unless the broker-dealer furnishes the authorizing plan fiduciary with any information the broker-dealer reasonably believes to be necessary to determine whether such authorization should be made or renewed and any other information regarding the matter that the authorizing fiduciary may reasonably request;

(d) The broker-dealer furnishes to the authorizing fiduciary, not later than 30 days after the end of each calendar quarter, a report disclosing: (i) The total of all transaction-related charges incurred by the plan during the preceding quarter in connection with transactions in which the broker-dealer performed any of the functions permitted by this exemption; and (ii) the amount of the transaction-related charges retained by the reporting broker-dealer and the amount of such charges paid to other broker-dealers for execution or other services;

(e) The broker-dealer states, in substance, in the report described in (d) above that brokerage commissions are not fixed by any stock exchange or other authority and are subject to negotiation;

(f) The broker-dealer furnishes to the authorizing fiduciary, not less frequently than 30 days after the end of each calendar quarter, a schedule disclosing rates for transaction-related services anticpated to be charged in the coming quarter for transactions of the type normally entered into by the plan; and

(g), In any case where such transactions are effected or executed or such functions are performed pursuant to a contract to which the plan is a party such contract is terminable by the plan, without penalty, on not more than 60 days' notice.

Signed at Washington, D.C. this 17th day of November 1978.

IAN LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

TED R. KERN,
Deputy Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.

[FR Doc. 78-32824 Filed 11-20-78; 10:44 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-114-C]

BROWN BADGETT COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Brown Badgett Coal Co., Inc., P.O. Drawer 617, Central City, Ky. 42330, has filed a petition to modify application of 30 CFR 75.1710-1 (canopies) to its Busick Underground Mine in Muhlenberg County, Ky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

(1) The petitioner is mining coal seams with a minimum height of approximately 51 inches.

(2) The petitioner installed canopies on face equipment, but this operation resulted in a diminution of safety to miners for these reasons:

(a) Cabs restrict the operator's movement so that the operator cannot properly control the machine in a safe manner.

(b) The cramped space in a cab results in greater stress and strain to the operator, increasing the chances of careless or reckless operation of the equipment.

(c) A canopy forces the operator into an unnatural position which can expose him to the same hazards the canopy was intended to prevent.

(d) Canopies reduce the operator's horizontal view of the work area.

(e) Canopies eliminate the operator's upward vision and therefore operators can no longer inspect the mine roof for defects.

(3) For these reasons the petitioner seeks to operate its equipment without a canopy or cab until such time that a canopy can be developed which meets the criteria of the standard and its use does not result in a diminution of safety to miners.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 26, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at the above address.

Dated: November 15, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33058 Filed 11-22-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-41-M]

UNION CARBIDE CORP.

Petition for Modification of Application of Mandatory Safety Standard

Union Carbide Corp., P.O. Box 1029, Grand Junction, Colo. 81501, has filed a petition to modify application of 30 CFR 57.9-22 (berms) to its Emerson Mine in Lincoln County, Nevada. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

(1) Each elevated roadway at the petitioner's mine has a berm capable of stopping a standard vehicle.

(2) Certain areas of the roadways do not have a base width sufficient to support a 27 inch high berm necessary for large vehicles.

(3) To widen existing roads to accommodate a 27 inch berm would require considerable rock blasting of the high wall.

(4) In the alternative, the petitioner proposes the following:

(a) The petitioner will erect a 27 inch berm in areas with sufficient road width.

(b) After the completion of a shaft presently under construction, the petitioner will restrict the use of the roadways to light vehicles and minor maintenance vehicles.

(5) The petitioner states that the modification of the standard will not reduce the safety protection from that in effect at this time.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 26, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: November 15, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33057 Filed 11-22-78; 8:45 am]

must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at the above address.

Dated: November 15, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33056 Filed 11-22-78; 8:45 am]

[4510-43-M]

(Docket No. M-78-84-C)

WOODS FUEL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Woods Fuel Coal Company, Route 1, Evarts, Kentucky 40828, has filed a petition to modify application of 30 CFR 1710-1 (canopies) to its Wood's Fuel No. 1 in Evarts, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

(1) The petitioner is mining a coal seam with an average height of 42 inches.

(2) The mine has no history of injury due to rib or roof falls.

(3) Canopies on face equipment frequently dislodge roof bolts due to the uneven mine floors.

(4) Canopies impair the visibility of the operator possibly leading to serious injury of fellow workers or of the operator.

(5) The cramped position of the operator in a cab makes it virtually impossible to operate equipment safely.

(6) As an alternative, the petitioner lists the following:

(a) Effective rib and roof control measures to prevent falls.

(b) A training program to inform workers of proper roof techniques and safe operation of equipment.

(7) The petitioner states that the alternative will not reduce the safety afforded miners by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 4, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at the above address.

Dated: November 15, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33057 Filed 11-22-78; 8:45 am]

[4510-27-M]

Office of Federal Contract Compliance Programs

HAHN & CLAY MACHINE & BOILER WORKS, INC.

Reinstatement

Notice is hereby given that Hahn & Clay Machine and Boiler Works, Inc. of Houston, Texas has been reinstated as an eligible bidder on Federal contracts and subcontracts, effective October 24, 1978, after they demonstrated their intent and ability to comply with the equal opportunity clause of Executive Order 11246, as amended.

A copy of a Consent Decree, approved by Administrative Law Judge Burton Sternburg, reinstating Hahn & Clay and committing the company to specific affirmative action steps and reporting requirements, is enclosed for publication in the FEDERAL REGISTER together with this notice.

Dated: November 15, 1978.

RICHARD J. DEVINE,
Deputy Director, OFCCP.

[No. OFCC-DSA]

CONSENT DECREE

In the matter of Hahn & Clay and Defense Supply Agency.

This Consent Decree, made and entered into between Hahn and Clay Machine and Boiler Works (Hahn & Clay), Houston, Texas and the Government, represented by the Director, Defense Logistics Agency (DLA), and the Director, Office of Federal Contract Compliance Programs (OFCCP), witnesseth:

I. INTRODUCTION

1. On August 31, 1977, the Director, OFCCP, approved the debarment of Hahn & Clay, its divisions and subsidiaries and any and all purchasers, successors, assignees, and/or transferees, from the award of any contract or subcontract funded in whole or in part with Federal funds, and from extensions or other modifications of any such existing contracts or subcontracts. The Director also cancelled and terminated all existing United States Government contracts and subcontracts with Hahn & Clay and its divisions and subsidiaries;

2. The Director's actions were based upon Administrative Law Judge Burton S. Sternburg's findings that Hahn & Clay had violated its contractual obligations pursuant to 41 CFR 60-1.32 of the Secretary of Labor's regulations implementing Executive Order 11246, as amended;

3. The debarment was to continue in effect until such time as Hahn & Clay satisfied the Director, OFCCP, that it had established and would carry out employment policies and practices in compliance with the Equal Employment Opportunity clause of Executive Order 11246, as amended;

4. By letter dated September 14, 1977 to the Director, OFCCP, Hahn & Clay requested reinstatement;

5. By letter date September 14, 1977 to Lorenzo S. Garcia, Hahn & Clay issued back pay checks plus interest to Mr. Garcia in

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the gross amount of $1,403.97 and restored to Mr. Garcia his seniority rights;

6. In accordance with a request contained in the Director of OFCCP's letter dated October 4, 1977 to the Acting Deputy Assistant Secretary of Defense (Equal Opportunity), a compliance review of Hahn & Clay was completed on December 20, 1977;

7. At the direction of the Director, OFCCP, another compliance review of Hahn & Clay was completed as of June 9, 1978;

8. The DLA, as a result of the compliance review completed on June 9, 1978, found that women at Hahn & Clay were underutilized in all job categories other than Office and Clerical; that although there was technically no underutilization of women in Sales, there were also no women in those positions; and that minorities at Hahn & Clay were underutilized in all job categories except Operatives and Service Workers;

9. The Director, OFCCP, has reviewed DLA's findings and recommendations relative to Hahn & Clay's compliance status, and hereby reinstates Hahn & Clay pursuant to the requirements of 41 CFR 60-1.31 and Department of Labor letter dated March 5, 1973, Memorandum to Heads of All Agencies, Subject: Implementation of Part 60-1.31, Guidelines for Reinstatement of Contractors or Subcontractors Debarred pursuant to E.O. 11246 (as amended) and subject to the terms and conditions of this Consent Decree.

II. AFFIRMATIVE ACTION

1. The following action oriented program has been developed to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interferring with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigative compliance review, hearing, or any other activity related to the administration of the order or any other Federal, State, or local laws requiring equal employment opportunity:

(a) A continuing, yearly awareness program has been instituted among all supervisors, and a report of progress will be provided the local Department of Labor contractor employment compliance office by December 31 of each year. This report will include dates of awareness training and summary of course content, names, title, race, sex, number of employees trained, and copies of all written communications between management and employees concerning this action oriented program.

(b) A reporting system was instituted prior to October 20, 1976 whereby employees were notified in writing of the procedures to follow to report violation of 41 CFR 60-1.32 (Intimidation and Interference) during all reporting periods to designated management officials. These written procedures will continue to be posted in a prominent location. (These procedures are attached hereto and made a part hereof as Appendix A).

2. Hahn & Clay will make a good faith effort to fulfill the following goals and timetables for women and minorities subject to the availability of qualified or readily qualifiable women and minorities:

(a) Job Group 1, Officials and Managers Category, Executive Department: A promotion goal of one minority is projected to be attained by 1980. No vacancies are anticipated during the 1978 AAP year. However, a good faith effort will be made to fill unanticipated vacancies at a rate of at least 7.6 percent for minorities and 12.5 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(b) Job Group 1a, Officials and Managers Category, Accounting Department: A promotion goal of one female is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 16.6 percent for minorities and 12 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(c) Job Group and Category, Professionals: A goal of 9.8 percent minority and 21.1 percent female is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 9.8 percent for minorities and 21.1 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(d) Job Group I, Technicians Category, Drafting Department: A goal of one female is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 19.7 percent for minorities and 30 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(e) Job Group II, Technicians Category: A goal of one minority new hire in the Drafting Department and one female in the Quality Assurance Department is projected to be attained by 1979 subject to the availability of qualified or readily qualifiable women and minorities.

(f) Job Group and Category, Sales: A goal of 8.8 percent minority is projected to be attained by 1979. A goal of 14.6 percent female is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies in the Sales Department during the 1978 AAP year at a rate of at least 8.8 percent for minorities and 15 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(g) Job Category and group, Office and Clerical: A goal of two minority new hires is projected to be attained by 1979 in the Accounting Department subject to the availability of qualified or readily qualifiable minorities.

(h) Job Group I, Craftsman Category, Fabricating Department: A goal of one minority new hire or promotion is projected to be attained by 1979 subject to the availability of qualified or readily qualifiable minorities. A good faith effort will be made to fill unanticipated vacancies in the 1978 AAP year at a rate of at least 25 percent for minorities and 5 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(i) Job Group II, Craftsman Category, Fabricating Department: A goal of one minority new hire or promotion is projected to be attained by 1979 subject to the availability of qualified or readily qualifiable minorities. A goal of 3.6 percent females is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 25 percent for minorities and 5 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(j) Job Group III, Craftsman Category, Fabricating and Machine Shop Departments: A goal of two minority new hires or promotions is projected to be attained by 1979. A female goal of 3.6 percent is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies at a rate of at least 30 percent for minorities and 4 percent for females during the 1978 AAP year subject to the availability of qualified or readily qualifiable women and minorities.

(k) Job Group IV, Craftsman Category, Fabricating Department: A goal to hire or promote two females is projected to be attained by 1980. A minority goal of 43.2 percent is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 45 percent for minorities and 5 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(l) Job Group I, Operatives Category, Fabricating Department: A goal to hire or promote one female and two minorities is projected to be attained by 1979. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 54.6 percent for minorities and 15 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(m) Job Group I, Operatives Category, Fabrication Department: A goal to promote or hire one female and one minority is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 54.6 percent for minorities and 15 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

(n) Job Group I, Laborers Category, Fabrication Department: A goal of six minority new hires and two female new hires is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during the 1978 AAP year at a rate of at least 75 percent for minorities and 15 percent for females subject to the availability of qualified or easily qualifiable women and minorities.

(o) Job Group and Category, Service Workers, Maintenance Department: A goal of one female new hire is projected to be attained by 1980. A good faith effort will be made to fill unanticipated vacancies during this AAP year at a rate of at least 56.7 percent for minorities and 15 percent for females subject to the availability of qualified or readily qualifiable women and minorities.

3. Hahn & Clay agrees that it will not use the goals and timetables or affirmative action measures contained in this Decree to discriminate against any person because of race, color, religion, sex, or national origin.

4. Hahn & Clay will file the following information with the OFCCP contract compliance agency and with the Counsel for Civil Rights, Office of the Solicitor, U.S. Department of Labor on October 1, 1978 and thereafter on January 1, April 1, July 1, and October 1 of each year:

(a) A listing of terminated employees by name, race, sex, employee number and job classification with the reason for each termination;

(b) Documentation of all recruitment efforts which Hahn & Clay has made to attract women into skilled craft positions including:

(1) A detailed account of Hahn & Clay's participation in training programs for women in the skilled crafts area including upgrading programs, apprenticeship and trainee programs and on-the-job training programs;

(2) A detailed description of all contracts made with schools, colleges, educational institutions, referral agencies, womens groups, radio or television stations, and/or newspapers and magazines in which Hahn & Clay affirmatively sought women to fill skilled crafts positions.

(c) A listing of all applicants for office and Clerical positions by name, race, position applied for, date of application with an indication of whether the applicant was hired and, if not, the reason the applicant was not hired; and if the rejected applicant is a minority and if another person was hired during the period the minority applicant's application was considered to be current, the following information concerning such other person: name, race, position applied for and date of application.

(d) A listing of all applicants for Skilled Craft and Laborer positions by name, race, position applied for, date of application with an indication of whether the applicant was hired and, if not, the reason the applicant was not hired; and if the rejected applicant is a Spanish-surnamed person and if another person was hired during the period the Spanish-surnamed applicant's application was considered to be current, the following information concerning such other person: name, race, position applied for and date of application.

5. Hahn & Clay agrees that it will develop on-the-job training opportunities and/or participate in training programs for the Houston area which expressly include minorities, and women including upgrading programs, and apprenticeship and trainee programs relevant to Hahn & Clay's employment needs.

6. Since the Houston Column Company, Houston, Texas has no employees and has been inactive for ten years; there is no requirement for the Houston Column Company to be shown to be in full compliance with Executive Order 11246, as amended, and the Secretary of Labor's implementing regulations prior to Hahn & Clay's reinstatement.

7. Hahn & Clay will maintain an acceptable AACP in accordance with the requirments of Executive Order 11246, as amended, and the Secretary of Labor's implementing rules and regulations. No changes will be made in Hahn & Clay's AACP without the prior approval of the compliance agency.

IV. JURISDICTION

1. Jurisdiction over the implementation of the provisions of the Consent Decree is retained by Administrative Law Judge Burton S. Sternburg.

2. The Administrative Law Judge shall have the authority to issue any additional orders and decrees necessary to effectuate Executive Order 11246, as amended, or to enforce or clarify the implementation of this Consent Decree.

3. Hahn & Clay agrees that representatives of OFCCP or its designees, upon reasonable request may review compliance with this Consent Decree. As part of such review, the OFCCP may require written reports concerning compliance, may inspect Hahn & Clay's premises and operations, examine witnesses and examine and copy documents.

4. The Parties hereto agree that, if, at any time in the future OFCCP or (the compliance agency) or their successor(s) believe that Hahn & Clay has violated any portion of this Decree or any provision of its AACP, Hahn & Clay shall be promptly notified of that fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In such an instance, if the matter cannot be resolved amicably, OFCCP or the compliance agency shall have the right to petition the Administrative Law Judge for immediate reinstatement of the debarment order, and the Administrative Law Judge shall have the authority to immediately reinstate the debarment order after a hearing on the matter. In the interim, the Director of OFCCP shall have the right to order immediate cancellation, suspension or termination of Hahn & Clay's existing Federal contracts.

5. This Consent Decree shall be filed with the Administrative Law Judge, U.S. Department of Labor, and shall be made a part of the record of proceedings before the Administrative Law Judge.

6. The Parties hereto agree that this Decree shall be effective until and unless modified or rescinded by mutual agreement of the Parties.

7. At any time after a minimum period of two years from the date of entry of this Decree, the defendant may move upon sixty days' notice to the plaintiffs, and upon a showing of compliance with the terms and conditions of this Decree, for its modification and dissolution.

8. If an application or motion for an order of enforcement or clarification indicates by signature of counsel that it is unopposed by Hahn & Clay and the United States Department of Labor, the application or motion may be presented to the Court without hearing, and the proposed order may be implemented immediately.

9. This Consent Decree shall not become final until it has been signed by the Administrative Law Judge.

10. This Consent Decree shall be applicable to and binding on Hahn & Clay and any and all purchasers, successors, assignees, and/or transferees.

11. Upon entry of this Decree, Hahn & Clay is reinstated as an eligible bidder on Government contracts and subcontracts, and as such, it may receive contracts and subcontracts bid upon on or after the effective date of this Decree.

It Is So Ordered.

Effective date: October 24, 1978.

EUGENE J. CLAY,
For Hahn & Clay.

AUGUST 12, 1978.

GERALD J. POST,
For Defense Logistics Agency.

SEPTEMBER 27, 1978.

BURTON S. STERNBURG,
Administrative Law Judge.
WELDON J. ROUGEAU,
Deputy Director, OFCCP, U.S. Department of Labor.
JAMES D. HENRY,
Associate Solicitor, U.S. Department of Labor.
LOUIS G. FERRAND, JR.,
Counsel for Civil Rights, U.S. Department of Labor.
BARBARA J. SULLIVAN,
Attorney, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C.

[FR Doc. 78-33059 Filed 11-22-78; 8:45 am]

[4510-28-M]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contibuted importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 4, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address

APPENDIX Continued

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shown below, not later than December 4, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bestform Foundations (workers)	Long Island City, N.Y	Nov. 13, 1978	Oct. 27, 1978	TA-W-4,390	Ladies' undergarments.
Chalfont Mills, Inc. (Knitgoods Union, ILGWU).	Quakertown, Pa	Nov. 14, 1978	Nov. 13, 1978	TA-W-4,391	Men's and ladies' sweaters.
Crescent Knitting Mills (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 13, 1978	Nov. 9, 1978	TA-W-4,392	Sweaters for men.
Fashion Maid Knitting Mills, Inc. (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,393	Men's and boys' sweaters.
Infanta Knitting Mills, Inc. (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,394	Women's dresses and woven sportswear and children's outerwear, sweaters, pants.
Levin and Hecht (workers)	New York, N.Y	Nov. 14, 1978	do	TA-W-4,395	Men's and boys' sport shirts and jeans.
Mode Knitting Mills, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	do	Nov. 13, 1978	TA-W-4,396	Men's and ladies' sweaters and sweater shirts.
Progressive Knitting Mills (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,397	Men's and boys' swimwear.
Queen Casuals, Inc. (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,398	Women's sportswear—skirts, pants, shorts, pant suits, and tops, blouses, shirts, and sweaters.
Sand and Surf, Inc. (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,399	Bathrobes and bathing suits for men and women.
Somerset Knitting Mills, Inc. (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,400	Men's sweaters and knit shirts.
Surrey Knitting Mills, Inc. (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,401	Men's sweaters.
Wexler Knitting Mills (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,402	Men's and boys' and ladies' sweaters.
Wilshire Knitting Mills, Inc. (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,403	Ladies' sweaters.

[FR Doc. 78-33042 Filed 11-22-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 4, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 4, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Allivine Knitting Mills, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 6, 1978	Nov. 3, 1978	TA-W-4,359	Double knit and sweater fabrics on contract basis.
Anita Foundations, Inc. (Undergarment & Negligee Worders Union, ILGWU).	New York, N.Y	Nov. 9, 1978	Nov. 6, 1978	TA-W-4,360	Brassieres and girdles and other sundries.
Barry Knitting Mills, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 6, 1978	Nov. 3, 1978	TA-W-4,361	Men's and ladies' sweaters on contract basis.
Bergman Knitting Mills, Inc. (Knitgoods Union, ILGWU).	do	do	Oct. 31, 1978	TA-W-4,362	Knit sweaters for men, women, and boys.
Capitol Knitting Mills (ACTWU)	Little Falls, N.J	Nov. 8, 1978	Nov. 3, 1978	TA-W-4,363	Knit sweaters.
Clover Knitting Mills, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 6, 1978	Nov. 2, 1978	TA-W-4,364	Men's sweater shirts.

APPENDIX - Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Continental Group, Inc., Continental Can (USWA).	Paterson, N.J	do	Oct. 30, 1978	TA-W-4,365	Articles needed for packaging: Steel cans, boxes, drums, etc.
Devon Apparel, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	do	Oct. 31, 1978	TA-W-4,366	Complete line of ladies' sportswear: Slacks, jackets, vests, sweaters, blouses, skirts, etc.
Dowen-Zier-Knits (workers)	West Hempstead, N.Y	do	Nov. 1, 1978	TA-W-4,367	Knit goods used in women's clothing.
Do	Long Island, N.Y	do	do	TA-W-4,368	Do.
Eastern Knitting Mills (Knitgoods Union, ILGWU).	Blenheim, N.J	do	Nov. 2, 1978	TA-W-4,369	Men's sweaters and men's knit shirts.
Ma-Zel Sportswear Manufacturing, Inc. (workers).	Boston, Mass	Nov. 9, 1978	Nov. 9, 1978	TA-W-4,370	Contracting of ladies' clothing.
New York Imperial Foundations, Inc. (ILGWU).	Brooklyn, N.Y	Nov. 6, 1978	Nov. 2, 1978	TA-W-4,371	Brassieres and girdles.
Qualified Coat Co. (workers)	do	Nov. 3, 1978	Nov. 1, 1978	TA-W-4,372	Contractor of ladies' coats, suits and rainwear.
Rockwell-Drapper Division, Rockwell International Corp. (workers).	Spartanburg, S.C	Nov. 6, 1978	Nov. 2, 1978	TA-W-4,373	Textile machinery, machinery repair parts and textile machinery accessories, grey iron foundry.
Super Knitting Mills (workers)	Brooklyn, N.Y	Nov. 3, 1978	Oct. 31, 1978	TA-W-4,374	Contractor of sweaters.

[FR Doc. 78-33043 Filed 11-22-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 4, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 4, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Baldt, Inc. (I.U.M.A.W.A.)	Chester, Pa	Nov. 13, 1978	Nov. 6, 1978	TA-W-4,375	Heavy anchors and anchor chains.
C. R. Bard, Inc. (workers)	Murray Hill, N.J.	do	Nov. 3, 1978	TA-W-4,376	Medical products in general for hospital use.
Brentwood Sportswear, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 9, 1978	Nov. 6, 1978	TA-W-4,377	Men's sweaters, knit shirts and bathing trunks.
Robert Bruce (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,378	Men's and boys' sweaters of polyester and wool blends.
Carol's Sportswear, Inc. (workers)	Boston, Mass	Nov. 13, 1978	Nov. 7, 1978	TA-W-4,379	Women's sportswear.
Comet Manufacturing Co. (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 9, 1978	Nov. 6, 1978	TA-W-4,380	Men's swimwear and several types of men's youths and boys' shirts, sport shirts and printed "T" shirts and some ladies' blouses and skirts.
FAG Bearings Corp. (IAM&AW)	Stamford, Conn	Nov. 14, 1978	Nov. 8, 1978	TA-W-4,381	Ball and roller bearings.
International Shoe Co. (Boot & Shoe Workers Union).	Jackson, Mo	Nov. 13, 1978	Nov. 9, 1978	TA-W-4,382	Women's dress and casual shoes.
L. R. Textiles (workers)	Paterson, N.J.	Nov. 7, 1978	Oct. 31, 1978	TA-W-4,383	Printed remnants and piece goods.
La Moda Sportswear (ILGWU)	do	Nov. 13, 1978	Nov. 6, 1978	TA-W-4,384	Ladies' coats.
Mario's Sportswear (workers)	Boston, Mass	Nov. 9, 1978	do	TA-W-4,385	Women's sportswear.
Philip Lingerie, Inc. (ILGWU)	Paterson, N.J	Nov. 13, 1978	do	TA-W-4,386	Ladies' lingerie.
Revere Copper & Brass Co., Inc. (workers).	New Bedford, Mass	do	Nov. 7, 1978	TA-W-4,387	Nonferrous metals—sheet, strip, and plate.
Stressteel Corp. (company)	Wilkes-Barre, Pa	do	Nov. 10, 1978	TA-W-4,388	High strength steel bars used in prestressed concrete construction.
Toby Fashions, Inc. (workers)	Union City, N.J	do	Nov. 3, 1978	TA-W-4,389	Ladies' coats.

[FR Doc. 78-33044 Filed 11-22-78; 8:45 am]

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[4510-28-M]

[TA-W-3967]

ALLEGRO FASHIONS, LODI, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Asistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3967: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 13, 1978 in response to a worker petition received on July 10, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' garments at Allegro Fashions, Lodi, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885-86). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allegro Fashions, its customers (manufacturers), the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the principal manufacturers for which Allegro Fashions worked in 1976 and 1977. Manufacturers who reduced purchases from Allegro Fashions in 1977 compared to 1976 did not purchase imported ladies garments. In the first six months of 1978 manufacturers who reduce purchases from Allegro Fashions in comparison to the first six months of 1977 did not purchase imported ladies' garments. These manufacturers had increasing sales under the period of investigation.

CONCLUSION

After careful review, I determine that all workers of Allegro Fashions, Lodi, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-33034 Filed 11-22-78; 8:45 am]

[4510-28-M]

[TA-W-3565]

BROOK MANUFACTURING CO., INC., OLD FORGE, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3565: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 20, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's slacks at Brook Manufacturing Company, Incorporated, Old Forge, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brook Manufacturing Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' dress and sport trousers and shorts increased from 55,508 thousand units in 1975 to 73,209 thousand units in 1976 and to 76,419 thousand units in 1977. In the first half of 1978, imports of trousers and shorts increased to 48,690 thousand units compared to 33,860 thousand units in the first half of 1977. The ratio of imports of trousers and shorts relative to domestic production increased from 34.1 percent in 1975 to 40.9 percent in 1976 and then declined to 38.0 percent in 1977.

Brook Manufacturing is a garment contractor that sews men's slacks for several manufacturers. A Department survey of the customers of these manufacturers revealed that, in 1977 as compared to 1976 as well as in the first half of 1978 as compared to the first half of 1977, many of the manufacturers' customers increased purchases of imported men's slacks and decreased purchases from the manufacturers. As these manufacturers experienced decreased sales of slacks, they, in turn, decreased their utilization of Brook Manufacturing Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's slacks produced by Brook Manufacturing Company, Incorporated, Old Forge, Pennsylvania contributed importantly to the decline in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Brook Manufacturing Company, Incorporated, Old Forge, Pennsylvania who became totally or partially separated from employment on or after April 17, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33035 Filed 11-22-78; 8:45 am]

[4510-28-M]

[TA-W-3840]

HONEY BEE SPORTSWEAR, FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3840: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 14, 1978 in response to a worker petition received on May 8, 1978 which was filed on behalf of workers and former workers producing women's sportswear at Honey Bee Sportswear, Fall River, Massachusetts. The investigation revealed that the plant primarily produces women's slacks, skirts and jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Honey Bee Sportswear, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of Honey Bee Sportswear's sole manufacturer revealed that the manufacturer does not import finished women's sportswear (slacks, skirts and jackets) and does not employ offshore contractors to produce those products. This manufacturer increased its sales from 1976 to 1977 and also increased its contracts with other domestic sources.

CONCLUSION

After careful review, I determine that all workers of Honey Bee Sportswear, Fall River, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33036 Filed 11-22-78; 8:45 am]

[4510-28-M]

[TA-W-3828]

KRIS, INC., CEDARBURG, WIS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3828: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 12, 1978 in response to a worker petition received on June 8, 1978 which was filed on behalf of workers and former workers producing citizens band radios at Kris, Incorporated, Cedarburg, Wisconsin. The investigation revealed that the plant did not produce citizen band radios but produced accessories for citizens band radios.

The notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Kris, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other critera have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

From mid-1974 until the firm closed in August 1977, Kris, Inc. was primarily an importer of citizen band radios. A significant portion of the value of sales by the firm during 1976 and the first half of 1977 consisted of imported products. Due to market factors, U.S. imports of mobile CB transceivers and CB base station units fell substantially in 1977. The various accessories produced at Cedarburg served primarily to complement the CB radios imported and sold by the firm.

CONCLUSION

After careful review, I determine that all workers of Kris, Incorporated, Cedarburg, Wisconsin are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33037 Filed 11-22-78; 8:45 am]

[4510-28-M]

[TA-W-3745]

LAWRENCE MANUFACTURING CO., WALNUT RIDGE, ARK.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3745: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on May 16, 1978 which was filed on behalf of workers and former workers producing ladies' sportswear and dresses at Lawrence Manufacturing Company, Walnut Ridge, Arkansas. The investigation revealed that dresses, pant suits and skirt suits are produced.

The corrected Notice of Investigation was published in the FEDERAL REGISTER on August 25, 1978 (43 FR 38140). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lawrence Manufacturing Company, Butte Knitting Mills, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Imports of women's, misses', and children's dresses declined from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1976 and to 1,420 thousand dozen in 1977. The ratios of imports to domestic production and consumption declined from 8.0 percent and 7.4 percent, respectively, in 1976 to 6.7 percent and 6.3 percent, respectively, in 1977. Imports increased from 371 thousand dozen in the first quar-

ter of 1977 to 403 thousand dozen in the first quarter of 1978.

Imports of women's, misses' and children's suits declined from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 and to 384 thousand dozen in 1977. The ratios of imports to domestic production declined from 11.4 percent and 10.2 percent, respectively, in 1976 to 10.5 percent and 9.5 percent, respectively in 1977. Imports increased from 62 thousand dozen in the first quarter of 1977 to 104 thousand dozen in the first quarter of 1978.

A survey was conducted of customers who reduced purchases from Butte Knitting Mills from 1977 to 1978. The survey revealed that customers increased their purchases of imported women's dresses and suits during that period.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with women's dresses and suits produced at Lawrence Manufacturing Company, Walnut Ridge, Arkansas contributed importantly to the decline in sales or production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Lawrence Manufacturing Company, Walnut Ridge, Arkansas who became totally or partially separated from employment on or after September 4, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33038 Filed 11-22-78; 8:45 am]

[4510-28-M]

[TA-W-4111]

LOUISVILLE & NASHVILLE RAILROAD CO., BIRMINGHAM, ALABAMA TERMINAL, BOYLES, ALA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4111: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 24, 1978 in response to a worker petition received on August 22, 1978 which was filed by the United Transportation Union on behalf of workers and former workers engaged in the shipment of steel, raw and finished products for the Louisville and Nashville Railroad Company, Birmingham Division Terminal, Boyles, Alabama.

The Notice of Investigation was published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39457). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Louisville and Nashville Railroad Company; and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of Section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm".

The Louisville and Nashville Railroad Company (L&N) was founded in 1850 and incorporated in Kentucky. The L&N is a wholly-owned subsidiary of Seaboard Coast Line Railroad Company, which is a wholly-owned subsidiary of Seaboard Coast Line Industries, Inc. The L&N and Seaboard Coast Line Railroad jointly operate under leases, as separate properties, the Clinchfield Railroad Company and the Georgia Railroad.

The L&N operates a comprehensive rail system serving a 14-state region between Chicago and the Gulf of Mexico.

The petitioning workers are employed at the Birmingham Division terminal, Boyles, Alabama, of the L&N. The main terminal and Headquarters for the Division are located in Birmingham, Alabama. Boyles Yard, the largest in the Division, is located at Birmingham.

Workers at the Birmingham Division terminal, Boyles, Alabama of the Louisville and Nashville Railroad are engaged exclusively in the transportation of goods and commodities and do not produce an article within the meaning of Section 222(3) of the Act.

The Louisville and Nashville Railroad is a common carrier. The L&N and its customers have no controlling interest in one another.

All workers engaged in providing transport services at the Birmingham Division terminal, Boyles, Alabama of the Louisville and Nashville Railroad Company are employed by that firm. All personnel actions and payroll transactions are controlled by the Louisville and Nashville Railroad. Workers are not, at any time, under employment or supervision by customers of the Louisville and Nashville Railroad. Thus, the Louisville and Nashville Railroad Company must be considered to be the "workers' firm".

CONCLUSION

After careful review, I determine that all workers of the Birmingham Division terminal, Boyles, Alabama, of the Louisville and Nashville Railroad Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of November 1978.

JAMES F. TAYLOR
Director, Office of Management, Administration and Planning.

[FR Doc. 78-33039 Filed 11-22-78 8:45 am]

[4510-28-M]

[TA-W-3039]

ROCKWELL INTERNATIONAL SUSPENSION AND TRUCK AXLE DIVISION PLANTS; NEW CASTLE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3039: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 17, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing leaf springs for cars and trucks and front axles for trucks at the New Castle, Pennsylvania plants of Rockwell International's Suspension Division and Truck Axle Division.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Rockwell International, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met with respect to workers of the New Castle, Pennsylvania

Truck Axle Division plant of Rockwell International:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of workers producing front axles for trucks at the Truck Axle Division plant of Rockwell International in New Castle, Pennsylvania increased in 1977 compared to 1976 and in the first three quarters of 1978 compared to the same period in 1977. Average quarterly employment of production workers at this plant increased in every quarter from the second quarter of 1976 through the third quarter of 1978 when compared to the same quarter of the previous year. The average weekly hours worked per employee did not change significantly during this period. There is no immediate threat of separation of workers at this plant.

Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to workers of the New Castle, Pennsylvania Suspension Division plant of Rockwell International:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Sales of leaf springs produced for domestic consumption at the New Castle, Pennsylvania plant increased in 1977 compared to 1976. Sales for domestic consumption declined by less than one percent in the first nine months of 1978 compared to the same period in 1977. The larger decline in total plant sales of leaf springs during the first three quarters of 1978 can be attributed to a major decline in plant exports, which accounted for approximately 99 percent of the decline in total plant sales during this period.

CONCLUSION

After careful review, I determine that all workers producing front axles for trucks at the Truck Axle Division plant of Rockwell International, New Castle, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers producing leaf springs at the Suspension Division plant of Rockwell International, New Castle, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-33040 Filed 11-22-78; 8:45 am]

[4510-28-M]

[TA-W-3546]

WELD, INC., RARITAN, NEW JERSEY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3546: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 25, 1978 in response to a worker petition received on April 12, 1978 which was filed on behalf of workers and former workers producing men's and boys' outerwear at Weld, Inc., Raritan, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-19479). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Weld, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Weld, Inc. produced men's and boys' outerwear on a contractual basis. Nearly all of Weld's output was produced for one manufacturer. Declines in sales by that manufacturer in 1977 resulted in the closure of Weld, Inc. in December of that year. The declines in sales by the manufacturer were due to the loss of a major customer which filed for bankruptcy in June 1977. This major customer ceased operations permanently in July 1977 due to inability to keep pace with shifts in consumer demand and to disadvantageous locations for many of its major retail outlets.

CONCLUSION

After careful review, I determine that all workers of Weld, Inc., Raritan, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33041 Filed 11-22-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (78-64)]

NASA ADVISORY COUNCIL (NAC) SPACE SYSTEMS AND TECHNOLOGY ADVISORY COMMITTEE

Meeting

The informal Ad Hoc Advisory Subcommittee on Power Technology for Future Satellites and Platforms will meet on December 13 and 14, 1978, in Room 625, NASA Headquarters, 600 Independence Avenue, SW., Washington, D.C. The meeting will be open to the public up to the seating capacity of the room (about 40 persons including subcommittee members and participants).

The subcommittee was established to identify the power technologies required to meet the needs of synchronous space activities through the mid-1990's and to evaluate the adequacy of current Office of Aeronautics and Space Technology and other research and technology efforts to meet those needs. The chairperson is Mr. Fred H. Esch, and there are nine members of the subcommittee.

For further information contact Mr. Jerome P. Mullin, Executive Secretary of the Informal Ad Hoc Advisory Subcommittee on Power Technology for Future Synchronous Satellites and Platforms, Code RP-6, NASA Headquarters, Washington, D.C. 20546, 202-755-3278.

AGENDA

DECEMBER 13, 1978

9 a.m.—Introductory remarks.
9:30 a.m.—Presentation of future synchronous satellite and platform requirements.
1 p.m.—Presentation of current NASA power technology program.

DECEMBER 14, 1978

9 a.m.—Committee discussions and formulation of recommendations and future actions.

2 p.m.—Adjourn.

NOVEMBER 16, 1978.

ARNOLD W. FRUTKIN,
Associate Administrator for External Relations.

[FR Doc. 78-32831 Filed 11-22-78; 8:45 am]

[4510-30-M]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will hold its fifteenth formal meeting on December 8, 1978, in the Mount Vernon Room of the Sheraton Carlton Hotel, 16th and K Streets, NW. The meeting will begin at 9 a.m. and adjourn at 5 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93-203). The Act charges the Commission with the broad responsibility of advising the President, the Congress, the Secretary of Labor, and other Federal agency administrators on national employment and training issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

The agenda will be concerned with identifying issues for its Fourth Annual Report, such as the role of private employers in national employment policies, and an overview of the status of the NCMP youth task force.

Members of the general public or other interested individuals may attend this meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director not later than 2 days before and 7 days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application must be submitted to the Director of the Commission 3 days before the meeting. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection five working days after the conference at the Commission's headquarters located at 1522 K Street, NW, Suite 300, Washington, D.C.

Signed at Washington, D.C., this 16th day of November 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-33045 Filed 11-22-78; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE HUMANITIES; HUMANITIES PANEL

Meeting

NOVEMBER 16, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506:

1. Date: December 14 and 15, 1978. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review higher education projects applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

2. Date: December 15, 1978. Time: 9 a.m. to 5:30 p.m. Room: First Floor Conference Room. Purpose: To review summer stipend applications in German, Slavic, and classics submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

3. Date: December 18, 1978. Time: 9 a.m. to 5:30 p.m. Room: 1130. Purpose: To review youth projects applications submitted to the National Endowment for the Humanities for projects beginning after May 1, 1979.

4. Date: December 20, 1978. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review summer stipend applications in music submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

5. Date: December 20, 1978. Time: 9 a.m. to 5:30 p.m. Room: 301. Purpose: To review summer stipend applications in political science submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's delegation of authority to close Advisory Committee meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-32995 Filed 11-24-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-348]

ALABAMA POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 7 to facility operating license No. NPF-2 issued to the Alabama Power Co. (the licensee), which revised technical specifications for operation of the Joseph M. Farley Nuclear Plant Unit No. 1, located in Houston County, Ala. The amendment is effective as of its date of issuance.

This amendment clarifies the action requirements associated with reactor coolant leak detection systems, allows the reactor coolant pumps and residual heat removal pumps to be secured for up to 1 hour during decay heat removal operation, provides for an additional senior number on the Nuclear Operations Review Board, and includes minor editorial changes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 26, 1978, (2) amendment No. 7 to license No. NPF-2, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the G. S. Houston Memorial Library, 212 West Verdeshaw Street, Dothan, Ala. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of November 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-32850 Filed 11-22-78; 8:45 am]

[7590-01-M]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulaory Commission (the Commission) has issued amendment No. 27 to facility operating license No. DPR-2, issued to the Commonwealth Edison Co. (the licensee), which amended the license for unit 1 of Dresden Nuclear Power Station (the facility) located in Grundy County, Ill. The amendment is effective as of its date of issuance.

This amendment modifies the license to permit low-power physics tests to be performed after the date established for the reactor shutdown to install ECCS modifications order by the Commission.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 11, 1978, (2) amendment No. 27 to license No. DPR-2, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717, H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Ill. 60451. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention; Director, Division of Operating Reactors.

Dated at Bethesda, Md, this 9th day of November 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-32851 Filed 11-22-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-498 OL, STN 50-499 OL]

HOUSTON LIGHTING & POWER CO. ET AL. (SOUTH TEXAS PROJECT, UNITS 1 AND 2)

Order Rescheduling Special Prehearing Conference

In our order dated October 23, 1978, and again in our order of November 1, 1978, we established December 12, 1978, as the date for a special prehearing conference to consider, inter alia, whether various petitions for intervention should be granted and a hearing held (see 43 FR 52069, Nov. 8, 1978). On November 3, 1978, the State of Texas filed a motion asking us to reconsider our orders setting such prehearing conference date. Shortly prior to that time (on November 1, 1978), we received an undated but apparently late-filed intervention petition from another petitioner. We are today filing a separate order with respect to that petition.

At our behest, the staff counsel canvassed the various parties and petitioners to determine whether a mutually satisfactory date for a perhearing conference could be agreed upon. The staff has now advised us that January 11, 1979, would be satisfactory to all the participants.

Accordingly, for good cause shown, the special prehearing conference originally scheduled for December 12, 1978, is hereby rescheduled for Thursday, January 11, 1979, beginning at 9:30 a.m., local time, in the Host International Hotel-Airport, 18700 John F. Kennedy Boulevard, Houston, Tex. 77205.

In accordance with the provisions of 10 CFR 2.751a, and to the extent consistent with the nature of an operating license proceeding (see 10 CFR 2.760a), the conference will be held to:

(1) Consider all intervention petitions to allow the Board to make such preliminary or final determinations as to the parties to the proceeding, as may be appropriate;

(2) Permit identification of the key issues in the proceeding;

(3) Take any steps necessary for further identification of the issues; and

(4) Establish a schedule for further actions in the proceeding.

In accordance with the terms of 10 CFR 2.714(a)(3) and 2.714(b), those who have filed petitions for leave to intervene may amend or supplement their petitions by no later than December 26, 1978. We request the applicants and staff to file written responses to any such supplements, to be in our hands no later than Monday, January 8, 1979.

As permitted by 10 CFR 2.715(a), and to the extent that time is available prior to 5 p.m. on January 11, 1979, beyond that necessary to complete the formal business of the conference, the Board will hear oral limited appearance statements. It is our present intention to hear any such statements after the formal business matters have been concluded.

It is so ordered.

Dated at Bethesda, Md., this 17th day of November 1978.

The Atomic Safety and Licensing Board, designated to rule on petitions for leave to intervene.

CHARLES BECHHOEFER,
Chairman.

[FR Doc. 78-32852 Filed 11-22-78; 8:45 am]

[7590-01-M]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 41 to facility operat-

ing license No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised technical specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

This amendment revises the technical specifications relating to surveillance requirements for discharge testing performed on the station batteries and on the low-pressure coolant injection system motor-operated valve power supplies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated September 1, 1978, (2) amendment No. 41 to license No. DPR-59, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of November 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-32853 Filed 11-22-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued two guides in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 14, "Design and Fabrication Code Case Acceptability—ASME Section III Division 1" and Regulatory Guide 1.85, Revision 14, "Materials Code Case Acceptability—ASME Section III Division 1" list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear powerplants. These two guides were revised to update the listings of acceptable code cases and to reflect public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 14th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-32854 Filed 11-22-78 8:45 am]

[7590-01-M]

TOPICAL REPORT

Issuance and Availability

The Nuclear Regulatory Commission has published a compilation of information dealing with radioactivity in consumer products. Consumer products are considered to be those products, commodities, or materials that are available in the marketplace to the general public. This document, "Radioactivity in Consumer Products," is identified as NUREG/CP-0001.

Although not intended to be the proceedings of a conference, it is based on papers presented at a symposium, "Public Health Aspects of Radioactivity in Consumer Products," held on February 2-4, 1977, in Atlanta, Ga. The symposium was organized by the Office of Interdisciplinary Programs, Georgia Institute of Technology, and was cosponsored by the Bureau of Radiological Health, Food and Drug Administration; the Office of Radiation Programs, U.S. Environmental Protection Agency; and the Office of Standards Development, U.S. Nuclear Regulatory Commission.

NUREG/CP-0001 is available for public inspection at the Commission's Public Document Roon at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161. (Paper copy: $15.25; microfiche: $3)

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 16th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-32855 Filed 11-22-78, 8:45 am]

[7590-01-M]

REGIONAL STATE LIAISON OFFICERS' MEETING

Changed Meeting

The location of the region II (Atlanta, Ga.) State liaison officers' meeting, which will be held on November 30 from 11 a.m. to 5:30 p.m. and on December 1 from 8:30 to 12:15 p.m., has been changed to the Glenmar Rooms A and B, Omni International Hotel, Convention Center, One Omni International, Atlanta, Ga. The original

notice was published November 8, 1978 (43 FR 52070).

Questions regarding this meeting should be directed to Sue Weissberg, Office of State Programs at 301-492-7794.

Dated at Bethesda, Md., this 17th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director, Office of State Programs.

[FR Doc. 78-32849 Filed 11-22-78; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-47]

RESPONSES TO SAFETY RECOMMENDATIONS

Receipt

The National Transportation Safety Board has recently received letters, summarized below, in response to safety recommendations issued following investigation of certain aviation and surface transportation accidents which occurred within the past several years.

Aviation

A-77-30.—The Federal Aviation Administration on November 3 supplemented its response of July 11 (43 FR 35565, Aug. 10, 1978) to this recommendation and A-77-31. These recommendations pertain to Enstrom helicopter accidents and incidents caused by material failure.

FAA now advises that its review of the Enstrom Maintenance/Flight Manuals has been completed. FAA believes that the overrunning clutch and drive belt inspection and maintenance procedures can be improved. Also, a caution against unnecessary throttle movement, during practice autorotations, should be added to the Enstrom Helicopter Flight Manual. Accordingly, FAA recommended to the manufacturer that these revisions be made.

On August 29 and 30 FAA reviewed the belt manufacturer's quality control system and found no discrepancies which would have an adverse effect on belt service life. FAA reports that Goodyear, the present manufacturer, has made several design changes since acquiring the design in 1972. In view of the fact that there has been a steady reduction in premature removal rate of drive belts, FAA plans no airworthiness directive action at ths time.

A-78-53 through A-78-55.—FAA's letter of November 9 responds to recommendations issued following investigation of the fatal accident involving a Columbia Pacific Airlines Beechcraft model 99 which attained an excessively steep climb immediately after takeoff on February 10, 1978, from Richland (Washington) Airport and crashed.

Recommendation A-78-53 asked FAA to issue an airworthiness directive applicable to all Beech 99, 99A, A99A, and B99 model aircraft to require an immediate one-time inspection of the horizontal stabilizer trim system to ascertain that all components of the system and its associated position-indicating and -warning circuits are operational within specified tolerances.

In response, FAA states:

> The fault analysis of the trim system shows that two electrical faults must occur before unwanted trim movement can occur. This meets the regulatory design requirement. In the event of a mechanical fault, such as a failed clutch, the airplane can be safely flown in any trim configuration at critical load conditions. NTSB's June 12 report of investigation of the flight characteristics of Beech model 99, serial No. U-126, verified that the airplane is controllable with full nose up trim at gross weight and maximum aft center of gravity loading.

FAA further reports that a review of the service records of 398 model 99 and models A100 and B100, which have the same trim system, did not reveal adverse service history. While FAA does not believe that airworthiness directive action is justified now, arrangements have been made with the FAA central region for the development of an item to be published in Advisory Circular 43-16, General Aviation Airworthiness Alerts. This information will emphasize the importance of proper inspection and maintenance of the horizontal stabilizer trim system. It will be circulated throughout the FAA, to all certificated repair stations, to all mechanics holding an inspection authorization, and to all air taxi certificate holders.

Recommendation A-78-54 asked FAA to require an inspection to insure that the primary and secondary mode of the horizontal stabilizer actuator are capable of deflecting the stabilizer under specified airloads, the exact instructions to be furnished by the Beech Aircraft Co. and the inspection to be made as soon as instructions are available and repeated at 2,000-hour intervals. FAA states that the stabilizer actuators are capable of deflecting the stabilizer under heavier airloads than can be encountered within the travel limits, and that the airplane can be safely flown with the trim in any position. Airworthiness directive action cannot be supported, according to FAA. However, the Beech Aircraft Co. informed FAA of plans to develop an inspection procedure to provide means for evaluating the clutch drive assembly under airload conditions.

Commenting on A-78-55, which asked FAA to change the minimum equipment list to make the out-of-trim warning system a mandatory requirement for flight, FAA reports that when the present stabilizer trim items were added to the minimum equipment list, consideration was given to making the out-of-trim warning system mandatory for takeoff. It was determined that an equal level of safety could be provided, without placing an undue burden on the operator, by requiring the pilot to visually check the stabilizer to determine that it is in the neutral position prior to takeoff and the stabilizer position indicator is operative. FAA said that the minimum equipment list for these aircraft permits flight with the out-of-trim aural warning indicator inoperative provided the alternate procedure of specified visual checks is accomplished prior to each takeoff. If the alternate procedure is used, the minimum equipment list also requires bringing the discrepancy to the attention of the flightcrew either by placarding or flight log sheet entry and requires further that the appropriate procedures be established by the operator and complied with, if flight is accomplished with the item inoperative. FAA does not believe that changing the minimum equipment list, on the assumption that the alternate procedures could be inadvertently omitted, would be justified. FAA plans no further action in response to this recommendation at this time.

A-78-59 through A-78-62.—FAA's letter of November 3 responds to recommendations issued following investigation of the accident which occurred on the night of July 27, 1976, at Paul Windle Airport, Greensburg, Kans. A Piper PA-34-200 landed on runway 17, continued past the end of the runway, struck the bank of a ditch, and came to rest in an open wheat field. Two passengers were killed, and the pilot and another passenger were seriously injured. Investigation revealed that low-intensity runway lights were installed only on the south 2,176 feet of runway 17/35, which is 2,580 feet long.

The recommendations asked FAA to: Review airport data program procedures to insure that instructions to airport managers/owners for annual solicitation of data are clearly and concisely stated and that data from the airport master record are compared in detail to that published in the National Ocean Survey (NOS) Airport/Facility Directory (A-78-59); examine the national flight data center (NFDC) data base to determine what airport data are not published in the directory, test those data against the publication criteria, and publish as ap-

propriate, and identify nonpublished data so that they are easily recognized as such by airport managers/owners when conducting annual reviews (A-78-60); in coordination with NOS and other appropriate agencies, establish symbology for sectional aeronautical chart use to indicate general limitations of airport lighting, with cross-referencing to the appropriate sources for details of the limitation (A-78-61); and establish the complete program of airport data verification (A-78-62).

In answer to A-78-59 and A-78-62, FAA reports that data collection forms and procedures in the airport data program are being revised by a regional airports programs working group. After agency and industry comments are finalized and recoordinated, implementation may be expected during 1979. When issued, the instruction will be concise and clearly stated to provide a significant improvement in the accurate and timely collection, verification, and dissemination of data on the Nation's public and private-use airports.

Concerning A-78-60, FAA says NFDC is recommending that the office of airport programs identify on the airport master report, data that will be published either in the Airport/Facility Directory or on aeronautical charts, implementation to be no later than December 31, 1979. In response to A-78-61, FAA states: "It is not desirable to add any symbols or further complicate the existing symbology on sectional charts because it may result in confusion and an increase in the already critical chart clutter. Very little detailed information could be included, even if new symbols were employed." However, FAA reports that a note will be added to the legend of all sectional charts explaining that usable airport runway length may be less than the physical length shown on the chart; availability of runway lights does not necessarily mean the lighted runway is the longest runway, or that it is lighted full length. FAA states: "The note will include a recommendation for pilots to consult the Airport/Facility Directory and Notices to Airmen, and/or to call the nearest flight service station or airport manager for more detailed and up-to-date information, as many unexpected conditions may exist that cannot be included on this chart."

A-78-75.—Letter of November 1 from the American Association of Airport Executives is in response to the recommendation issued October 16 (43 FR 50063, Oct. 26, 1978) asking the association to advise member airport operators of the importance of preserving and documenting the location of accident debris in accordance with the provisions of 49 CFR 830.10 before debris is removed and before runways and taxiways are swept clean.

The association indicates its intention to comply and states that its November 1 newsletter to the membership—which would include airport management at all large and medium hubs, all but two of the small hubs, and the majority of the nonhub airports—will relay the Safety Board's recommendation.

Highway

H-78-10.—Letter of November 3 from the National Highway Traffic Safety Administration responds to the Safety Board's August 23 letter commenting on NHTSA's initial response forwarded June 8 (see FR 29197, July 6, 1978). The recommendation resulted from investigation of the tractor-semitrailer rear end collision with a school bus near Rustberg, Va., March 8, 1977, which killed 3 of the 33 occupants of the school bus and injured 25 others. The Safety Board recommended that NHTSA modify Federal Motor Vehicle Safety Standard No. 217 to provide for additional emergency exit points to facilitate escape from and access to schoolbuses regardless of the vehicle's attitude following a collision or overturn, such exits to be in addition to the current options under standard 217.

The Safety Board's August 23 letter expanded on the discussion of additional emergency access points for school buses as outlined in H-78-10. The issue of escape-evacuation-rescue as the Board sees it is not a part of crash-avoidance or even of crashworthiness; it is singular in that it involves not initial injury prevention, but prevention of secondary injury after the emergency situation has stabilized. In the Rustberg accident, all required access points were blocked or unusable, and without the nonrequired "pop out" windshield, rescue work might have endangered the victims further. It is the Board's opinion, based on observance of 11 catastrophic schoolbus accidents, that these vehicles need extensive emergency exit requirements to safely transport children. The Board suggested that NHTSA sponsor a study to gather data from past records to further define the problem rather than wait for the situation to come up again.

NHTSA's November 3 response cites seven accidents, the reports of which NHTSA states have again been reviewed in detail with respect to improvements that might have been made in the rescue operations if other emergency exits, such as roof hatches, had been available. The study of these cases does not support a case for roof hatches or other emergency exits, NHTSA states, but does show that push-out windshields, which are an industry standard in school buses, are a very effective escape medium in event of a crash. They have been an industry voluntary standard since 1950, and the most important consideration in comparison is the familiarity that buyers, operators, rescue teams, police department staffs and others have with the design.

Further, NHTSA notes that the States of Washington and Oregon required roof hatches on school buses about 15 years ago; the hatches were never used, consequently the hardware was frozen with rust. The rule was subsequently abandoned. NHTSA also cites the experience of Greyhound in equipping some PD4100 coaches with escape hatches in the front lower level roof of the vehicle. The flexibility of the coach body prevented a tight seal and these hatches were frequent leakers in inclement weather. Since not a single hatch had been used as an escape medium, it was decided to decommission them. NHTSA notes that New York State mandated roof hatches in all State school buses purchased in 1977 and later. School transportation authorities advise that they have no record of a roof hatch being used in an emergency. Also, in order to reduce vandalism or thievery all of the roof hatches can be opened from inside the coach only.

In summary, NHTSA states:

> The space left by a pushed-out windshield provides the easiest and safest rescue route in an emergency. The past experience with roof hatches has indicated that the devices are not reliable and have many disadvantages. They tend to rust shut and warpage of the thin roof panels and weak bus body structure binds the hatches so that they are inoperable. The hatches must be opened from the inside which becomes a very difficult job for grade school children. In a new vehicle it is almost impossible to have the roof hatches leak proof. It makes sense that a roof hatch will be most usable when the bus is laying on its side, but even in this case, experience has shown that the windshield route is more accessible, more convenient and preferable to the roof hatch design.

NHTSA's November 3 letter does not address a subsequent Safety Board letter of October 25 enclosing a list of 10 accident investigations and one special study, each of which discussed accidents involving school buses. Copies of each of these reports were supplied to NHTSA staff personnel. The Board said on October 25 that it did not intend to imply in its August 23 letter that escape and emergency exiting were issues in each of these reports or investigations, but only that as more of these accidents are observed, the potential for entrapment due to the lack of sufficient emergency exits becomes more obvious. The Board again suggests a study to determine the extent of the entrapment problem and of the delays in evacuation or escape due to limited emergency exits.

Marine

M-78-35 through M-78-44.—Letter of October 31 from the U.S. Coast Guard responds to recommendations resulting from investigation of the fire and explosion which occurred on April 9, 1974, as the M/T *Elias* was discharging a cargo of crude oil at the Atlantic Richfield Co. Fort Mifflin Terminal on the Delaware River at Philadelphia, Pa. The ship, of Greek registry, sank at its berth; five crewmembers and three visitors were killed.

Recommendation M-78-35 asked Coast Guard to implement communications practices to insure that pilots, ship operating agents, terminal operators, and port firefighting authorities are informed of potentially hazardous ship movements. Coast Guard reports that it is modifying its regulations to obtain more relevant information concerning vessel movements, particularly vessels which carry certain dangerous cargoes and those vessels which experience hazardous conditions. Last April 13 Coast Guard published a notice of proposed rulemaking concerning Notification of Tank Vessel Ownership Information (43 FR 15586). Subsequently, on June 15, Coast Guard published a proposal concerning Notification Requirements for Vessels Arrivals, Departures, Hazardous Conditions, and Certain Dangerous Cargoes (43 FR 25958). Final regulations will be published after comments are analyzed. Coast Guard states that decisions in which information should be passed by the Coast Guard to others in port areas are best determined by each individual Captain of the Port because of the great differences among port areas and port constituencies.

Recommendation M-78-36 asked Coast Guard to improve the promptness and effectiveness of boarding programs and special investigative procedures on tank vessels and review the adequacy of checklists to aid in the detection of potentially hazardous shipboard conditions. In response, Coast Guard says that the promptness and effectiveness of Coast Guard boardings will be enhanced by the notification proposals discussed in answer to M-78-35. In April 1978 Coast Guard strengthened its vessel boarding procedures by issuing a policy directive to its field commands requiring certain boarding activities to insure that previously required permanent repairs have been made. This policy also directs the denial of entry, the establishment of operating requirements, or the detention of a vessel when permanent repairs have not been satisfactorily completed and the vessel constitutes a hazard to persons, property, or the port. The presently used boarding checklist and locally developed supplements are being reviewed and a standard comprehensive form is being developed.

Recommendation M-78-37 asked Coast Guard, in the implementation of the Marine Safety Information System (MSIS) and Port Safety Reporting System (PSRS), to incorporate information on ship safety deficiencies obtained from foreign inspection sources and from local activities responsible for ship operations, to insure effective control of such ships. Coast Guard notes that PSRS has been superseded by MSIS and that the use of MSIS by Coast Guard Captains of the Port is a primary factor in determining which vessels are boarded by the limited personnel resources available to each Captain of the Port. Each Captain of the Port provides input into MSIS concerning boarding activities detailing the results of such activities and the enforcement action taken as a result of discrepancies discovered. Inclusion of information in MSIS from sources outside the Coast Guard depends upon the willingness of those sources to provide such information and the reliability of it. Coast Guard says that reliable foreign inspection information (often proprietary in nature) has proven difficult to obtain. However, the MSIS data base is being expanded to include casualty data from Lloyd's and from Coast Guard search and rescue reports.

Coast Guard states that it has published in 1978 two advance notices of proposed rulemaking concerning waterfront facilities which handle hazardous materials—this in response to recommendation M-78-38 which called for a plan review program relative to construction of new port terminals that evaluates the protection of firefighting systems, to minimize damage or loss resulting from explosion, and to insure availability and effectiveness for firefighting. On April 10 Coast Guard published (43 FR 15108) an advance proposal concerning all waterfront facilities which handle hazardous materials, and on August 3 Coast Guard published (43 FR 34362) an advance proposal concerning waterfront liquefied natural gas facilities. After analyzing comments, Coast Guard will publish a series of notices of proposed rulemaking on safety and pollution prevention at waterfront facilities and on appropriate fire protection requirements.

In response to M-78-39, which asked Coast Guard to study the positioning of shipborne gangways and shore-placed brows to determine ways to provide for rapid personnel escape from vessels during emergencies, Coast Guard says this proposal is being studied and will be included in future rulemaking under Docket No. 75-101.

Concerning recommendation M-78-40, which called for regulations to control visitor movement through terminals and to restrict their boarding of tankers that are not gas-free or inerted, Coast Guard says that insofar as it relates to visitor movement through marine terminals, this proposal will be considered by Coast Guard's Waterfront Facilities Task Force and addressed in future rulemaking. Concerning restricting visitors from boarding tankers that are not gas-free or inerted, Coast Guard considers that present 46 CFR 35.30-1 is adequate and precludes the unauthorized boarding of tank vessels. Any person visiting a tank vessel is under the direct supervision and responsibility of the vessel's master, other ships officer, or crewmember. Further, there is no evidence to support a conclusion that the presence of visitors aboard *Elias* was a causal factor in this casualty, according to Coast Guard.

Coast Guard has initiated action to establish a research project looking into means to escape from tankships under all terminal conditions, as recommended in M-78-41.

Recommendation M-78-42 asked Coast Guard to modify regulations governing "designated waterfront facilities" to require reporting of casualties and accidents to the Coast Guard, conforming to those specified for deep water ports and artificial islands. In response, Coast Guard will soon publish a proposal concerning implementation of the waterfront facilities investigatory authority under the Ports and Waterways Safety Act (33 U.S.C. 1223). Such regulations will provide for required notifications to Coast Guard of certain casualties occurring on waterfront facilities; which ones are reportable to Coast Guard can be determined only after completion of the rulemaking procedures. However, Coast Guard states, since waterfront facilities are inherently different from deepwater ports and artificial islands and are regulated under different statutes, it is likely that the casualty reporting requirements will be different.

Recommendation M-78-43 asked Coast Guard to make public specific policy concerning the frequency of boarding, and the extent of examination to be made, of foreign tank vessels calling at American ports, to insure that such vessels meet U.S. safety and environmental protection regulations, as proposed in the President's message to Congress on March 17, 1977. Coast Guard reports that the foreign tank vessel examination program that annually examines each foreign tanker calling at U.S. ports is an expansion of a more limited boarding and examination program. Coast

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Guard expanded the scope of the program in January 1977 with initial emphasis on the examination of cargo venting and handling systems and proper transfer procedures, and further expanded it in response to the March 17, 1977, Presidential initiatives. The program now includes an examination for compliance with all safety and pollution standards presently applicable to foreign-flag tankers under both domestic regulations and international agreement. Coast Guard attached to its response copies of Commandant Instruction 16711.4 and Commandant Notice 16616, both issued last February 16, providing guidance for examining all foreign-flag tank vessels. Coast Guard reports that these enclosures have been incorporated into Chapter 32 of its Marine Safety Manual.

Coast Guard notes that recommendation M-78-36 is also responsive to recommendation M-78-44, which called for an expeditious and thorough investigation of arriving tank vessels which might pose a threat to U.S. ports and waterways because of an onboard fire or casualty at safety zones before berthing is permitted in U.S. ports.

Pipeline

P-77-27 through P-77-33.—On October 20 Exxon Gas System, Inc., provided a followup to its July 31 response (43 FR 42829, September 21, 1978), presenting conclusions regarding its study of the modification of fire gate control systems at Stations 5, 7, and 8. The recommendations were issued following investigation of the failure on December 7, 1976, of a natural gas compressor, followed by explosion and burning, at an Exxon station near Robstown, Tex.

Exxon's July 31 letter details plans to eliminate a pilot valve and a three-position gas operated valve by using an electrically activated solenoid valve in the fire gate control system. Exxon also concluded that a backup hydraulic system, electric motor driven or gas motor driven, should be provided. As a result of further review of the hydraulic systems operating at these locations, Exxon has developed an improved design.

In this new design, upon loss of the 24 volt signal at Stations 7 or 8, or the 100 psi instrument gas pressure at Station 5, gas pressure is vented off the pilot-operated block valves which supply gas for the gas-powered hydraulic pumps on each fire gate. The four-way spool valve used to switch hydraulic streams for raising and lowering the fire gate valves is kept padlocked into the position necessary for fire gate closing, making it unnecessary to make solenoid valve modifications similar to those now being made to the gas actuated fire gate valves at other stations. Exxon says that the two hydraulic pumps—one attached to each fire gate—will be piped in parallel so that if one pump should fail to operate, the other would close both fire gates. As before, the hydraulic pumps also have had levers for manual operation. for further backup, remotely operated nitrogen powered emergency shutdown stations will be installed, enabling application of pressurized nitrogen to the top of piston-type accumulators which will transfer this pressure to hydraulic fluid for closing the fire gates.

Exxon believes that these design modifications will insure emergency shutdown system reliability at Stations 5, 7, and 8 consistent with the Safety Board's recommendations, and there are plans to have fire gate system modifications at these three and the other seven stations complete by the end of the year.

Railroad

R-77-30 and 31.—On November 3, Burlington Northern (BN) responded to the Safety Board's October 4 letter replying to BN's June 23 response (43 FR 32477, July 27, 1978). The recommendations resulted from investigation into the November 26, 1978, derailment of a BN freight train at Belt, Mont.

The Safety Board's October 4 letter closed out recommendation R-77-30; the board was pleased to learn of BN's increased capabilities in rail flaw detection. Concerning recommendation R-77-31, the Safety Board noted that the Association of American Railroads (AAR) had taken exception to the board's method of determination of an overstressed rail. AAR's comments were reviewed by the board's technical staff and a response was forwarded to AAR on July 26, 1978. Several technical approaches were utilized in the determination of flexural stresses. the board requested that BN's engineering staff review the copy of the letter to AAR and provide a further response.

BN's November 3 letter indicates agreement with the statement made in the board's July 26 letter to AAR that the track support condition is critical in the analysis of rail stresses under load. Further, BN states:

> However, you err in equating the track support conditions contained in Professor Hay's broad discussion with conditions on branch lines with the conditions existent at Belt, Mont. Professor Hay says a track support modulus of 1,000 pounds per inch is not uncommon on branch lines, which may be true in some cases, but is certainly not true on the line at Belt. The rail at this location is well supported and we value the track support modulus at 2,000 pounds per inch, which is the value utilized by Mr. Way (vice president of AAR) in his appraisal of rail stresses. We agree with Mr. Way's calculations.

BN reiterates the objections made to R-77-31, as stated in its June 23 letter. BN states: "The restriction proposed by the NTSB on rail 100 pound and lighter is unreasonable, and further, the 90-pound rail at belt was not overstressed by either locomotives or cars. the NTSB must reconsider and revise the recommendations contained in R-77-31."

NOTE.—The above notice reports on recommendation responses recently received by the Safety Board. copies of these letters, as well as copies of related board correspondence, are available without charge. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

NOVEMBER 20, 1978.

[FR Doc. 78-33002 Filed 11-22-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

List of Requests

CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 17, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Importers' Statement of Activity and Turn-Around Document
ERA-17
Monthly
1,800 Importers of crude oil and finished petroleum products
1,800 responses; 14,400 hours
Hill, Jefferson B., 395-5867

TENNESSEE VALLEY AUTHORITY

Energy Conservation Audits
TVA 6253-6253D
On occasion
5,000 Commission and Industrial Establishments in TVA Valley
5,000 responses; 20,000 hours
Ellett, C.A., 395-6132

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Certificate of destruction of food coupons
FNS-136
On occasion
State Food Stamp Programs
3,000 responses; 1,500 hours
Ellett, C.A., 395-6132

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Affidavit of return exchange of food coupons
FNS-135
On occasion
Food Stamp Program Certification/Issuance Offices
5,300,000 responses; 1,500 hours
Ellett, C.A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Industrial gases (shipments and production)
MA-28C
Annually
Manufacturers of industrial gases
615 responses; 615 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
Accounting system—accrued unbilled costs
FHWA-186
Monthly
State Highway Agencies
52 responses; 832 hours
Geiger, Susan B., 395-5867

EXTENSIONS

DEPARTMENT OF TREASURY

U.S. Customs Service
Drawback entry and certificate of manufacture for exported articles
CF 7575-A 7575-B
On occasion
Manufacturers and producers
55,000 responses; 11,000 hours
Geiger, Susan B. 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-32962 Filed 11-22-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 06-06-0205]

RICE COUNTRY CAPITAL, INC.

Issuance of License to Operate as a Small Business Investment Company

On August 21, 1978, a notice was published in the FEDERAL REGISTER (43 FR 37049) stating that an application has been filed by Rice Country Capital, Inc., 100 Commerce Street, Eagle Lake, Tex. 77434, with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business September 5, 1978, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information; SBA issued License No. 06/06-0205 on November 1, 1978, to Rice Country Capital, Inc. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 16, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-32827 Filed 11-22-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1539; Amendment No. 1]

LOUISIANA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 52083) is amended by adding the following parishes:

Parish, Natural Disaster(s), and Date(s)
DeSoto, drought, June 1, 1978-September 30, 1978.
Red River, drought, June 1, 1978-September 30, 1978.
Tensas, drought, May 18, 1978-August 30, 1978.

and adjacent parishes within the State of Louisiana as a result of natural disasters as indicated. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on May 1, 1979, and for economic injury until the close of business on August 1, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 16, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-33010 Filed 11-22-78; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-462, Federal Advisory Committee Act, notice is hereby given of the meeting of the Regional Work Groups of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on December 11, 12, and 31, 1978.

The purpose of the meetings is to review the status of present and proposed title XII projects in the LAC, ASIA, AFRICA, and near East regions; to discuss plans for visits to the regions by persons from the BIFAD staff, Regional Work Groups and Bureau personnel; and a revised strategy for implementation of baseline studies.

The JCAD will meet on December 11, 12, and 21 in the form of Regional Work Groups (RWG's): For Asia on December 11, 1978, from 10 a.m. to 4 p.m. in room 206, Rosslyn Plaza Building, 1601 North Kent Street, Rosslyn, Va.; for Latin America on December 21, 1978, from 9:30 a.m. to 4 p.m. in room 2248, New State Department Building; for Africa on December 11, 1978, from 10 a.m. to 5 p.m. in room 2941, New State Department Building; and for the Near East on December 12, 1978, from 10 a.m. to 4 p.m. in room 6484, New State Department Building. All four meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

ment, the agency has concluded that "the 12 A figure." Finally, a recall impact protection zones which are the

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Dr. Carl. E. Ferguson and Dr. Frank H. Madden, Office of Title XII Coordination and University Relations, Development Support Bureau, are designated A.I.D. Advisory Committee representatives at the meetings. It is suggested that those desiring further information write to either of them in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9054.

Dated: November 20, 1978.

CARL E. FERGUSON,
A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 78-32994 Filed 11-24-78; 8:45 am]

[4710-07-M]

Office of the Secretary

[Public Notice CM-8/131]

Shipping Coordinating Committee: Subcommittee on Safety of Life at Sea

Meeting

The working group on life-saving appliances of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10 a.m. on Tuesday, Wednesday and Thursday, December 12, 13, and 14, 1978 in room 8238 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting will be to:

December 12, 1978

Discuss the draft text of chapter III, SOLAS 1974 and consider U.S. response to the proposal.
Discuss future IMCO LSA work program.

December 13, 1978

Discuss chapter III liferaft carriage and construction regulations.

December 14, 1978

Discuss chapter III lifeboat carriage and construction regulations.

Requests for further information should be directed to Mr. N. W. Lemley, U.S. Coast Guard (G-MMT-3/83), 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-1444.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD, III,
Deputy Director, Office of Maritime Affairs.

NOVEMBER 13, 1978.

[FR Doc. 78-32970 Filed 11-22-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RFA 511-78-3]

GUARANTEE OF OBLIGATIONS

Receipt of Application

Project: Notice is hereby given that the Chicago & North Western Transportation Co. ("Applicant"), 400 West Madison Street, Chicago, Ill. 60606, has filed an application with the Federal Railroad Administration ("FRA") under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. § 831, to obtain a guarantee by the United States of obligations or other evidence of indebtedness to be issued by the Applicant in the principal amount of $20,905,789. Although loan arrangements have not been completed at this time, Applicant proposes that the requested guarantee be secured by the indenture of mortgage and security agreement dated March 8, 1978, which constitutes a lien on substantially all of Applicant's property.

The proceeds of the loan are to be used by the Applicant to repair and rehabilitate 2,637 freight cars in types and quantities as follows:

Car type:	Number of cars
Box cars	400
Insulated boxcars	211
Open top hoppers	380
Covered hoppers (small and medium)	201
Covered hoppers (large)	604
Ore hoppers	255
Gondolas (53 ft)	461
Gondolas (65 ft)	98
Coil skid flatcars	7
Total	2,637

Justification for project: The Applicant states that the repair project will make freight cars available to meet the demand created by critical nationwide shortages of such cars. In addition, the Applicant states that the project will reduce its dependence on foreign cars, thereby reducing net car hire costs.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

To the extent permitted by law, the application will be made available for inspection during normal business hours in room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in part 7 of title 49 of the Code of Federal Regulations.

The comments will be taken into consideration by the FRA in evaluating the application. However, formal acknowledgement of the comments will not be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Dated: November 17, 1978.

Comment closing date: December 26, 1978.

CHARLES SWINBURN,
Associate Administrator, for Federal Assistance, Federal Railroad Administration.

[FR Doc. 78-32969 Filed 11-22-78 8:45 am]

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket 75-29; Notice 4]

MOTORIZED BICYCLES

Operational Safety; Comment Closing Date

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Extension of comment closing date.

SUMMARY: This notice extends the date by which comments concerning propose agency recommendations relating to the operational safety of motorized bicycles (mopeds) should be received.

ADDRESS: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis Buchanan, Driver and Pedestrian Safety Division, Traffic safety programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2180.

On October 12, 1978, the National Highway Traffic Safety Administration published in the FEDERAL REGISTER (43 FR 47040) proposed agency recommendations relating to the operational safety of motorized bicycles (mopeds). The agency requested public comment on these recommendations. To allow for additional public comment, the agency has concluded that the comment closing date should be extended 60 days. The new comment closing date is January 12, 1979.

The principal author of this notice was Frederic W. Schwartz, Jr. of the office of Chief Counsel.

(Pub. L. 89-564, 80 Stat. 731; 23 U.S.C. 401 et seq., delegations at 49 CFR 1.50 and 49 CFR 501.8 (d).)

Issued: November 16, 1978.

CHARLES F. LIVINGSTON,
Acting Associate Administrator, Traffic Safety Programs.

[FR Doc. 78-32740 Filed 11-22-78; 8:45 am]

[4910-59-M]

[Docket No. IP78-11; Notice 1]

PACCAR, INC.

Receipt of Petition for Determination of Inconsequential Noncompliance

Paccar Inc. of Bellevue, Wash., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.121 Motor Vehicle Safety Standard No. 121, Air Brake Systems. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.1.2.1 of standard No. 121 requires the combined volume of all service reservoirs (from which air is delivered to the brake chambers) and supply reservoirs to be "at least 12 times the combined volume of all service brake chambers at maximum travel of the piston or diaphragms." Paccar's Kenworth Truck Division has manufactured approximately 2,000 model W900 and C500 vehicles in which the air reservoir volume is only 11.82 times the total brake actuation chamber volume, or 1.5 percent less than the minimum required by the standard. Paccar argues that the noncompliance is inconsequential because it "has no effect on the brake performance of the vehicles," and that there has been "no case where insufficient air reservoir capacity has been an issue in the performance." It also argues that "neither NHTSA nor any other agency has presented evidence to substantiate that 12 times total chamber volume is the 'correct' or minimum volume for airbrake service reservoirs." If brake hose would be included in total system volume "the total volume would reach the 12.0 figure." Finally, a recall would require Kenworth to add an additional reservoir to each truck with "no improvement of the performance or safety of the vehicle." NHTSA's investigative file in this matter is CIR 1886.

Interested persons are invited to submit written data, views, and arguments on the petition of Paccar Inc. described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the cose of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: December 26, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 15, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-32711 Filed 11-22-78; 8:45 am]

[4910-59-M]

[Docket No. IP78-10; Notice 1]

PINETREE SERVICE CORP.

Receipt of Petition for Determination of Inconsequential Noncompliance

Pinetree Service Corp. of Long Beach, Calif., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.222 Motor Vehicle Safety Standard No. 222, School Bus Passenger Seating and Crash Protection. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Pinetree is an alterer of motor vehicles, modifying vans, produced by Dodge Division of Chrysler Corp., to schoolbuses. Paragraph S5.3.1.1 of Standard No. 222 establishes head impact protection zones which are the spaces in front of each schoolbus passenger seat that are not occupied by bus sidewall, window, or door structures, and which, in relation to that seat and its seating reference point, are enclosed by certain specified planes. One of these horizontal planes is 40 inches above the seating reference point. On 60 vehicles converted by Pinetree the planes measure only 34 inches (outboard) and 36 inches (inboard) above the reference point. The effect is that impact absorbant padding would have to be added to correct the noncompliance.

Pinetree argues that the noncompliance is inconsequential because it operates the buses itself under contract with school districts. All buses are equipped with seatbelts, there are signs posted in the buses requiring all passengers and the driver to use seatbelts, and company rules and contract require the belts to be used while the vehicles are in motion. The petitioner believes "the use of seatbelts modifies this impact zone providing they are used and enforced." The agency's investigative file in this matter is CIR 1959.

Interested persons are invited to submit written data, views, and arguments on the petition of Pinetree Service Corp. described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: December 26, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 15, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-32712 Filed 11-22-78; 8:45 am]

V 43 / 227 NOV 24 1978

[1505-01-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM ARGENTINA, BRAZIL, COLOMBIA, INDIA, PHILIPPINES, THE REPUBLIC OF CHINA (TIAWAN), REPUBLIC OF KOREA, URUGUAY, MALAYSIA, MEXICO, PAKISTAN, SINGAPORE, AND THAILAND

Clarification of Notices of Receipt of Countervailing Duty Petition and Initiation of Investigation and of Preliminary Countervailing Duty Determinations

Correction

In FR Doc. 78-28904 appearing on page 47340, in the issue for Friday, October 13, 1978, in the third column of page 47340, the third entry under "Textile yarn and threads" now reading "303.—" should have read "302.—"

On page 47341 in the third column the twelfth entry under "furnishings" now reading "361.209 (a)" should have read "361.20(a)".

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN FOOTWEAR FROM INDIA

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of India has not given benefits which are considered to be bounties or grants on the manufacture or exportation of certain footwear because the net amount of such benefits are deemed legally de minimis. A final determination will be made by March 10, 1979. Interested persons are invited to comment on this action.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On May 2, 1978, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 18807). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of India upon the manufacture, production, or exportation of certain footwear constitute the payment or bestowal of a bounty or grant, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice "certain footwear" includes footwear classifiable in items 700.05 through 700.85 inclusive, of the Tariff Schedules of the United States Annotated (except items 700.28, 700.51, 700.52, 700.53, 700.54, 700.60 and 700.8510). It also includes other leather articles cut or partly manufactured into forms or shapes suitable for conversion into footwear, classifiable in item 791.25 of the Tariff Schedules of the United States Annotated (TSUSA). Imports of articles classified under TSUSA item 791.25 are eligible for duty-free entry under the generalized system of preferences. In the event that it becomes necessary to refer this matter to the U.S. International Trade Commission (ITC) pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, an industry in the United States.

On the basis of an investigation conducted pursuant to section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it preliminarily has been determined that certain practices of the Government of India provided benefits to manufacturers, but that such benefits do not constitute bounties or grants within the meaning of section 303 of the Act. The benefits bestowed thereunder involve an aggregate amount which is considered to be de minimis.

These practices are:

(1) Export financing—The Government of India has provided information that short-term export financing is available through commercial banks at an interest rate of 11 percent for up to three months. Normal commercial rates in India vary between 12.5 and 16 percent for equivalent term notes. Although the Government has not supplied detailed information concerning export loans, it has stated that financing is available to small scale firms for domestic purposes on certain term loans at rates between 9.5 and 11 percent. Because, it argues, the preponderance of footwear production is accounted for by small scale firms, the financing terms available to firms on domestic shipments are generally equivalent to that granted on exports. The Government estimates that the maximum benefits that might accrue from preferential export financing would be limited to no more than 0.25 percent for any single firm, which is de minimis. However, before a final decision is made, more information will be required to determine the full extent of the benefits received under this program.

(2) Income tax deduction for overseas expenses—Indian footwear exporters are eligible to benefit from a program that provides for the deduction of overseas business expenses from taxable income. Under this program exporters are able to deduct up to 133 percent of certain limited business expenses from their taxable income. This program supersedes a program abolished April 1, 1978, which allowed a deduction of up to 150 percent of such expenses. Because the footwear industry in India basically consists of small-scale or cottage-type firms, few, if any, firms are believed to incur overseas business expenses. The Government estimates that the weighted-average benefit of this program for the industry in the aggregate is no more than 0.001 percent, which is clearly de minimis. More information will be required relative to this program before a final decision is made.

The following programs cited by petitioner do not on preliminary consideration constitute bounties or grants:

(1) Cash rebates upon export—Exporters of identified products are provided a cash rebate calculated as a percentage of the f.o.b. value of exported products. For products covered by this investigation the percentages vary from 5 to 15 percent. The Government of India claims that these rebates are compensation for indirect taxes paid on the exported product not otherwise refunded and, therefore, are not a "bounty" or "grant" under the law. The Government has provided information showing the incidence of indirect taxes directly related to the product category of leather sandals, which accounts for 85 percent of the exports to the United States of the merchandise under consideration. That category is entitled to "cash assistance" of 5 percent of the f.o.b. value of the product. The indirect taxes enumerated account for as much as 9.70 percent of the f.o.b. value of the product category "leather sandals". Thus, it seems clear that no excess rebate of allowable indirect taxes is provided. However, before a final determination is made, further information will be requested detailing the taxes intended to be covered by the rebate for the other categories of footwear included in this investigation.

(2) Import permits—Registered Indian exporters are granted permits to import goods used in the manufacture of their exported products up to a fixed percentage of the f.o.b. value of their exports. Although these import licenses appear to be negotiable, the Indian Government claims that they are not sold or transferred for value because the imports procured by the permits are necessary for the production of the exported goods. the Government has provided formal declarations from representative exporters indicating that the permits are used to obtain material which is otherwise banned from importation, and that if the permits are not needed by the exporters themselves, they are transferred to their "supporting" manufacturers without monetary gain. More information is needed to determine whether either the issuance or the so-called "transfer" of these permits results in some economic benefit to the exporter. The issuance of permits to import goods used to make merchandise for exports can have a trade-distorting effect. However, that does not render the practice a "bounty" or "grant" within the meaning of the Countervailing Duty Law. On the other hand, an ascertainable benefit may accrue if the permits are negotiated for value. The available information indicates that they are not. Before a final determination is made, more information will be requested to determine whether any quantifiable benefit is conferred by these permits.

(3) Customs duty drawback and rebate of excise taxes upon export—Petitioner has alleged that manufacturers receive excessive Customs-duty drawback and excise-tax rebates. It was also alleged that the rebates and drawback are allowed on equipment and machinery in addition to that on the exported product and on raw material imports. The Indian Government has shown that drawback and excise-tax rebates are limited to the amounts actually paid by manufacturers of these products and that no drawback or rebates are allowed on machinery or equipment. Nonexcessive Customs-duty drawback and excise-tax rebates upon export are not considered a bounty or grant by Treasury if they are limited to amounts actually paid on the exported product and raw materials incorporated into the exported product, as in this case.

(4) Export insurance—Petitioner alleges that export insurance provided by the Export Credit and Guarantee Corporation (ECGC), owned by the Indian Government, is at very low rates, implying that the corporation is subsidized by the Government. In fact, the insurance provided by the ECGC is limited to very specific export risks (both commercial and political) which are not covered by policies offered commercially. Also the annual report of the corporation shows that it is a profitmaking enterprise, with no apparent dependence upon Government funding. Given the fact that the ECGC is apparently able to cover its claims from operating income and, therefore, to be actuarily sound with no ongoing Government subsidization, this program does not constitute a bounty or grant.

In addition, a number of other programs were determined either not to be applicable to, or utilized by, the leather footwear industry in India. These programs include:

(1) Tax credit certificates—It was alleged that exporters were entitled to receive certificates equal to 15 percent of the export value of merchandise which could be used to offset income or business taxes owned. This program was proposed but never adopted by the Indian Government.

(2) Grants for export promotion—The Market Development Fund provides grants to exporters to cover a variety of trade promotion activities. The fund was not utilized by footwear exporters during the period investigated.

(3) Export financing through the Industrial Development Bank—These loans are limited to engineering goods and are therefore not applicable to manufacturers or exporters subject to this investigation.

(4) Location in the Kandla Free Trade Zone—Firms located in this area benefit from a number of import duty exemptions, foreign exchange concessions and other financial assistance from the Indian Government. There are no footwear exporters or producers in the Kandla Free Trade Zone.

(5) Reimbursement of shipping charges—The Government of India provides for the partial reimbursement of shipping charges on certain products shipped by air. However, inasmuch as virtually all Indian footwear products exported are shipped by sea, footwear exporters do not qualify for this program.

A final determination in this case is required on or before March 10, 1979.

Before a final determination is made consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination.

Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than December 26, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47 of the Custom Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 16, 1978.

[FR Doc. 78-33005 Filed 11-22-78; 8:45 am]

[4810-22-M]

[TMK-2-R:E:R]

APPLICATION FOR RECORDATION OF TRADE NAME

Fort Incorporated

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name FORT INCORPORATED used by Fort Incorporated, a corporation organized under the laws of the State of Rhode Island, located at 54 Taylor Drive (P.O. Box 4830), East Providence, Rhode Island 02916. The application states that the trade name is applied to jewelry, jewelry items souvenirs and novelties, manufactured in the United States.

The application states further that no foreign person, partnership, association or corporation is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken in the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

Dated: November 17, 1978.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-32991 Filed 11-22-78; 8:45 am]

Commission, commodities in bulk, and points in CA, CO, ID, MT, NV, OR,

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[4830-01-M]

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting

There will be a meeting of the Commissioner's Advisory Group on December 14 and 15, 1978, in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue NW., Washington, D.C. The meeting will begin at 10:00 a.m. on December 14 and 9:00 a.m. on December 15. The agenda will include the following topics:

THURSDAY, DECEMBER 14

Professional Standards of Practice
Income Tax Return Preparers Compliance with Regulations Problem Areas, and Assertion of Penalties
Suggestions for Assistance to Low Income Taxpayers
Discussion of Power of Attorney Form 2848
Disclosure of IRS Documents

FRIDAY, DECEMBER 15

ERISA: Reporting and Related Problems
Problems of an Experience with IRS Employment of Section 7805(b)
General Discussion

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements by nonmembers. If you want to make a statement at the meeting, or if you would like the Committee to consider a written statement, please call or write to Lauralee A. Matthews, Assistant to the Commissioner, 1111 Constitution Avenue NW., Washington, D.C. 20224.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

FOR FURTHER INFORMATION CONTACT:

Lauralee A. Matthew, Assistant to the Commissioner, 202-566-4390 (not toll free).

JEROME KURTZ,
Commissioner.

NOVEMBER 17, 1978.

[FR Doc. 78-33033 Filed 11-22-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 48]

DECISION—NOTICE

Decided: November 8, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission which is hereby expressly reserved to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decisions-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied. By the Commission, Review Board No. 3, members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Secretary.

MC 11207 (Sub-451F), filed September 15, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the

Commission, commodities in bulk, and those requiring special equipment), serving the facilities of John Deere Co., at or near Conyers, GA, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA or Washington, DC.)

MC 11207 (Sub-452F), filed September 15, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* (except commodities which because of size or weight require the use of special equipment), from the facilities of Georgetown Steel Corp., at Georgetown, SC, to points in AR, GA, KY, LA, MS, TN, and TX, (Hearing site: Columbia, SC or Washington, DC.)

MC 14252 (Sub-35F), filed August 28, 1978. Applicant: COMMERICAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household good as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Connersville, IN, as on off-route point in connection with connection with applicant's otherwise authorized regular-operations. (Hearing site: Indianapolis, IN.)

MC 26396 (Sub-202F), filed September 21, 1978. Applicant: POPELKA TRUCKING CO., INC., a corporation, d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wrought iron pipe,* from the facilities of Unarco-Leavitt, Division of Unarco Industries, Inc., at Chicago, Blue Island, and Evanston, IL, to points in CA, CO, IA, KS, MO, MT, NE, OR, OK, TX, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 32882 (Sub-100F), filed September 5, 1978. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, Portland, OR 97217. Representative: Edward G. Rawle, 1229 North Blue Gum Avenue, Anaheim, CA 92806. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fireplace logs,* (1) From Santa Fe Springs, CA, to points in AZ, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, (2) from Salt Lake City, UT, to points in CA, CO, ID, MT, NV, OR, WA, and WY, and (3) from Laramie, WY, to points in AZ, CA, CO, ID, MT, NV, OR, UT, and WA. (Hearing site: Los Angeles, CA or Salt Lake City, UT.)

MC 52460 (Sub-223F), filed October 18, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Dean Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal briguets,* from Pachuta, MS, to points in AL, GA, LA, MS, NC, SC, and TN. (Hearing site: Dallas, TX.)

MC 54837 (Sub-6F), filed August 24, 1978. Applicant: QUINN DISTRIBUTING CO., d.b.a. QUINN TRANSFER CO., a corporation, Watertown, MN 55388. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Landscape Structures, Inc., at or near Delano, MN, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Minneapolis or St. Paul, MN.)

MC 55896 (Sub-91F), filed September 1, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Automobile parts,* between Oshkosh, WI, on the one hand, and, on the other, St. Louis, MO, and points in IL, IN, MI, and OH, and those in PA on and west of U.S. Hwy 219. (Hearing site: Detroit, MI.)

MC 56244 (Sub-63F), filed August 22, 1978. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.F.D. No. 2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs and materials, equipment, and supplies* used in the conduct of retail food businesses (except commodities in bulk), from Chicago, IL, and Columbus, OH, to Mechanicsburg, PA, restricted to the transportation of traffic originating at the named origins and destined to the named destination. (Hearing site: Harrisburg, PA or Washington, DC.)

MC 59367 (Sub-127F), filed September 15, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs,* (except commodities in bulk, in tank vehicles), and (2) *inedible frozen meats and meat byproducts* (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, WI, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, and SD. (Hearing site: Milwaukee, WI or St. Paul, MN.)

MC 64932 (Sub-587F), filed August 31, 1978. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sulphur trioxide* (in bulk, in tank vehicles), from the facilities of E. I. duPont de Nemours & Co., at or near Columbia Park, OH, to Aisip, Chicago, and Lemont, IL, Denver, CO, East Chicago and Hammond, IN, El Dorado, AR, Geismar, LA, Houston, TX, Muskegon, MI, Newport, TN, Kansas City, MO, and Greenville and Mauldin, SC. (Hearing site: Chicago, IL.)

MC 69116 (Sub-204F), filed September 7, 1978. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Hwy, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Composition board and sheet,* from the facilities of Champion International Corporation, at or near Oxford, MS, to points in IA, IL, IN, MI, MN, OH, and WI. (Hearing site: Chicago, IL.)

MC 72243 (Sub-59F), filed October 2, 1978. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Road SE., P.O. Box 350, Warren, OH 44482. Representative: Leroy Hallman, 4555 First National Bank Building, Dallas, TX 75202. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from Gadsden, AL, to points in AR, IN, IL, LA, MS, MO, MD, OH, OK, PA, NY, TX, VA, and WV. (Hearing site: Birmingham, AL, or Dallas, TX.)

MC 75320 (Sub-197F), filed October 11, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box

northward along the western boundary

MC 110525 (Sub-1266F), filed Octo- by motor vehicle, over irregular

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22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Amerace Corp., at or near Lineville, Al, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Birmingham, AL.)

MC 87205 (Sub-6F), filed july 17, 1978. Applicant: PERKINS TRUCKING CO., INC., 250 Miller Place, Hicksville, NY 11801. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Springfield, MA, on the one hand, and, on the other, points on the CT-MA State line, restricted to the transportation of traffic having a prior or subsequent movement by motor carrier. (Hearing site: New York, NY.)

NOTE.—Applicant states this authority can be joined with its present authority under MC 87205.

MC 93649 (Sub-23F), filed October 23, 1978. Applicant: GAINES MOTOR LINES, INC., P.O. Box 1549, Hickory, NC 28601. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products* (1) from points in NC and SC, to points in DE and RI, and (2) from points in PA, to points in NC and SC. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 95540 (Sub-1049F), filed October 3, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from the facilities of Morgan Packing Co., Inc., at or near Austin and Brownstown, IN, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Indianapolis, IN, or Louisville, KY.)

MC 95540 (Sub-1050F), filed October 11, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and artilces distributed by meatpacking houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near St. Paul, MN, to points in FL, restricted to the transportation of traffice originating at the named origin facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 96286 (Sub-5F), filed September 7, 1978. Applicant: ECKNOR, INC., 7 Oakcrest Drive, Huntington Station, NY 11746. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal feed* (a) from Tenafly, Newark, Kearny, and Secaucus, NJ, to the facilities of Suffolk Agway Coop, Inc., at or near Riverhead, NY, and (b) from the facilities of Dext, Inc., division of Scope Industries, at or near Secaucus, NJ, to points in Suffolk County, NY, and (2) *fertilizer and fertilizer materials*, in bulk, in dump vehicles, from the facilities of Bethlehem Steel Corp., at Bethlehem, PA, to the facilities of Agway, Inc., at or near Riverhead, NY. (Hearing site: New York, NY.)

MC 99653 (Sub-8F), filed October 2, 1978. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, Birmingham, AL 35201. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers*, between the facilities of Southeastern Steel Container Co., at Birmingham, AL, and Self Manufacturing Co., at Trussville, AL, on the one hand, and, on the other, points in AL, FL, GA, TN, NS, LA, AR, SC, NC, VA, KY, MO, OH, and TX, and (2) *materials, equipment, and supplies* used in the manufacture of containers, in the reverse direction. (Hearing site: Birmingham, AL.)

MC 103993 (Sub-936 F), filed October 2, 1978 Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* (except those designed to be drawn by passenger automobiles), in initial movements, in truckaway service, and (2) *dump bodies*, from the facilities of Summit Trailer Sales, Inc., in Schuylkill County, PA, to points in the United States (except AK and HI). (Hearing site: Harrisburg or Philadelphia, PA.)

MC 103993 (Sub-937 F), filed October 2, 1978 Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *iron and steel articles*, from the facilities of Northwestern Steel & Wire Co., at or near Sterling, IL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago or Rockford, IL.)

MC 103993 (Sub-938 F), filed October 2, 1978 Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515.Representative: James B. Buda (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *concrete roof tile*, from the facilities of Skandia Roof Tile Co., at Weatherford, TX, to points in the United States (except AK and HI). (Hearing site: Dallas or Fort Worth, TX).

MC 103993 (Sub-939 F), filed October 2, 1978 Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed concrete building members, materials required in the manufacture of prestressed concrete building members* (except commodities in bulk, *and equipment* employed in the erection and transportation of prestressed concrete building members, between the facilities of Concrete Panel Systems, Inc., at Charlotte, NC, on the one hand, and, on the other, points in AL, GA, KY, MD, SC, TN, VA, WV, and DC. (Hearing site: Charlotte or Raleigh, NC.)

MC 106603 (Sub-185F), filed September 25, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos cement pipe, connections*, and *fittings*, and (2) *materials, supplies*, and *accessories* used in the manufacture and installation of the commodities named in (1) above (except commodities in bulk), from the facilities of CertainTeed Corp., at Ambler, PA, to those points in the United States on and east of a line beginnning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then

northward along the western boundaries of Itasca and Kochiching Counties, MN, to the international boundary line between the United States and Canadá. (Hearing site: Washington, DC, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 107012 (Sub-278F), filed August 28, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., a DE corporation, 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated packaging equipment*, and (2) *parts and accessories* when moving in mixed loads with uncrated packaging equipment, from points in OH and MI, to points in the United States (except AK and HI). (Hearing site: Lansing or Detroit, MI.)

MC 107012 (Sub-280F), filed August 28, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., a DE corporation, 5001 U.S. Highway 30 West P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Golf carts, and parts and accessories for golf carts*, from the facilities of Davis 500, Inc., at or near Greenville, SC, to points in the United States (except HI, AK, and SC). (Hearing site: Greenville, SC, or Washington, DC.)

MC 107295 (Sub-886F), filed October 6, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles*, from Hastings, MI, to points in the United States (except AK and HI). (Hearing site: Chicago.)

MC 108053 (Sub-148F), filed September 26, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Freemont, NE 68025. Representative: Arnold L. Burke, 180 North La Salle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hair care toiletries, and hair care and personal equipment*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between New York, NY, Lakewood, NJ, and Cheshire, CT, on the one hand, and, on the other, points in CA. (Hearing site: Boston, MA, or Washington, DC.)

MC 110525 (Sub-1266F), filed October 6, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a DE corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Albany, NY, to points in VT and MA. (Hearing site: Houston, TX.)

NOTE.—Operational feasibility may be at issue.

MC 111729 (Sub-148F), filed October 24, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between those points in WA and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, WA, and those in and west of Multnomah, Clackamas, Marion, Linn, Deschutes, Lane, Douglas, and Jackson Counties, or, restricted against the transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor at one location, to one consignee at one location, in any one day. (Hearing site: Seattle, WA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 111812 (Sub-583F), filed August 7, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soaps, razors and blades, cigarette lighters, portable appliances, writing instruments, stationery products, and personal care products*, (1) from Andover, MA, to Kent, WA, Atlanta, Morrow, Forest Park, and Newnan, GA, Sparks, NV, Lawrence, KS, Arlington and Dallas, TX, and points in CA and FL, and (2) from Santa Monica, CA, to Andover, MA, Lagrange Park, IL, Lawrence, KS, Arlington and Dallas, TX, and Newnan, GA, restricted to the transportation of traffic originating at the facilities of the Gillette Co. (Hearing site: Boston, MA.)

MC 111812 (Sub-584F), filed August 7, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soaps, razors and blades, cigarette lighters, portable appliances, writing instruments, stationery products, and personal care products*, from St. Paul, MN, to Atlanta, Morrow, Forest Park, and Newnan, GA, Andover, MA, Sparks, NV, Lawrence, KS, Arlington and Dallas, TX, Kent, WA, and points in VA, PA, NJ, NY, OH, MD, CA, and FL, restricted to the transportation of traffic originating at the facilities of the Gillette Co. (Hearing site: Boston, MA.)

MC 111812 (Sub-586F), filed August 24, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., a Minnesota corporation, P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of toilet preparations, personal care products, and beauty aids, from the facilities of La Maur, Inc., at Fridley, MN, to points in AL, AR, FL, GA, KS, KY, LA, MD, MA, MS, MO, NJ, NY, OK, PA, TN, TX, and DC. (Hearing site: St. Paul, MN.)

MC 111812 (Sub-587F), filed August 28, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., a MN corporation, P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of toilet preparations, personal care products, and beauty aids, from the facilities of LaMaur, Inc., at Fridley, MN, to points in AZ, CA, ID, MT, NV, OR, UT, and WA. (Hearing site: St. Paul, MN.)

MC 112617 (Sub-408F), filed September 15, 1978. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in bulk, from Ottawa, IL, to Jeffersonville, IN. (Hearing site: Louisville, KY, or Washington, DC.)

MC 112822 (Sub-463F), filed September 5, 1978. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except commodities in bulk, in tank vehicles), from points in Jefferson County, CO, to points in WA. (Hearing site: Denver, CO.)

er, by motor vehicle, over irregular

liamsburg, VA, restricted to the trans-

MC 123048 (Sub-417F), filed October

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MC 113106 (Sub-61F), filed September 7, 1978. Applicant: THE BLUE DIAMOND CO., a corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC. 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Cliffwood, NJ, to points in DE, MD, NC, NY, PA, VA, and DC. (Hearing site: Washington, DC.)

MC 113362 (Sub-336F), filed September 5, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE, P.O. Box 429, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved foodstuffs*, not frozen, in containers (except dairy products and commodities in bulk), from the facilities utilized by Geo. A. Hormel & Co., at Austin and Owatonna, MN, and Fort Dodge, IA, to points in TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

MC 114273 (Sub-474F), filed October 2, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Cleveland and Youngstown, OH, to Clinton, IA. Condition: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114290 (Sub-87F), filed October 5, 1978. Applicant: EKLEY EXPRESS, INC., 1205 South Platte River Drive, Denver, CO 80223. Representative: Henry A. Fahl (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Clairol, Inc., at or near Camarillo, CA, to the facilities of Clairol, Inc., at Portland, OR. (Hearing site: Denver, CO, or Los Angeles, CA.)

MC 114632 (Sub-181F), filed August 31, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: Dave Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facilities of Miller Co., at Milwaukee, WI, to points in ID, IL, IN, IA, KS, KY, MN, MO, MT, NE, ND, OH, OR, SD, WA, and WY. (Hearing site: Milwaukee, WI, or Chicago, IL.)

NOTE.—Dual operations are at issue in this proceedings.

MC 115162 (Sub-426F), filed August 25, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp* from points in Monroe County, AL, to points in the United States (except AK and HI). (Hearing site: Mobile, AL, or Atlantic, GA.)

MC 115654 (Sub-106F), filed August 28, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of Geo. A. Hormel & Co., at or near Memphis, TN, to points in AR and MS). Condition: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Memphis or Nashville, TN.)

MC 115841 (Sub-644F), filed September 7, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pharmaceuticals and toilet preparations*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, (a) from South Plainfield, NJ, to Los Angeles, CA, Atlanta, GA, Chicago, IL, Kansas City, KS, Cleveland, OH, Dallas, TX, and Seattle, WA; (b) from Chicago, IL, to Los Angeles, CA, Atlanta, GA, Kansas City, KS, Cleveland, OH, Dallas, TX, and Seattle, WA, and (c) from Cleveland, OH, to Atlanta, GA. (Hearing site: Washington, DC.)

MC 116063 (Sub-153F), filed September 25, 1978. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal fats, animal oils, and vegetable oils*, and (2) *products and blends* for the commodities named in (1) above, in bulk, in tank vehicles, from the facilities of Humko Products, Kraft, Inc., at Champaign, IL, to points in ID and UT. (Hearing site: Dallas or Fort Worth, TX.)

MC 116063 (Sub-154F), filed September 25, 1978. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., P.O. Box 270, Fort Worth, TX 76101. Representative: W. H. Cole (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal fats and vegetable oils*, and (2) *products and blends* of the commodities named in (1) above, in bulk, in tank vehicles, from Dallas, TX, to points in FL, GA, KY, NC, SC, TN, and UT. (Hearing site: Dallas or Fort Worth, TX.)

MC 116459 (Sub-73F), filed October 18, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt products*, in bulk, in tank vehicles, from Atlanta and Lithonia, GA, to points in TN. (Hearing site: Chattanooga, TN, or Chicago, IL.)

MC 116947 (Sub-60F), filed September 11, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Representative: Willimas Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers, metal container ends, decorated tin plate in sheets, and bottle caps, and* (2) *materials and supplies*, used in the manufacture and distribution of metal containers (except commodities in bulk), (a) between points in GA, LA, MD, NJ, SC, and TX; and (b) between the points named in (1) above, on the one hand, and, on the other, points in AL, AR, FL, LA, MS, NC, PA, TN, TX, and WV, under continuing contract(s) with Crown Cork & Seal Co., Inc., of Philadelphia, PA. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 117303 (Sub-16F), filed September 26, 1978. Applicant: HUDSON VALLEY CEMENT LINES, INC., Route 23B, Claverack, NJ 12513. Representative: Martin Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aggregates*, in bulk, in tank vehicles, from Mount Marion and Ulster, NY, to points in ME, DE, MD, PA (except those points east of the Susquehanna River), and NJ (except those points in and north of Ocean, Monmouth, and Mercer Counties). (Hearing site: New York, NY.)

MC 117589 (Sub-53F), filed October 16, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in vehicles equipped with mechanical refrigeration, and *materials and supplies* used in the manufacture and distribution of malt beverages, between points in Jefferson County, CO, on the one hand, and, on the other, points in WA. (Hearing site: Denver, CO, or Seattle, WA.)

MC 117940 (Sub-294F), filed October 4, 1978. Applicant: NATIONWIDE CARRIERS, INC., 5300 Hwy 12, P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from the facilities of Franchise Mailing Systems, at Mongomery, MN, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, MD, MA, ME, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, and VT, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. Condition: In view of the findings in MC 117940 (Sub-86), the certificate issued here will be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing it has been in full compliance with applicable rules and regulations. (Hearing site: Minneapolis or St. Paul, MN.)

MC 118142 (Sub-185F), filed September 5, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxed frozen meats*, from the facilities of Landmark Beef Processors, Inc., at Los Angeles, CA, to Birmingham, AL, Jacksonville and Tampa, FL, Watertown, MA, Landover, MD, Bayonne and Camden, NJ, Fort Sill, Ok, Charleston and Fort Jackson, SC, Nashville, TN, and Williamsburg, VA, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Los Angeles or San Francisco, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 119422 (Sub-65F), filed September 11, 1978. Applicant: EE-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln Streets, East St. Louis, IL 62204. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the facilities of Marquette Cement Co., at or near St. Louis, MO, to points in AR, IL, IN, IA, KY, MO, and TN. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 119700 Sub-48F), filed October 11, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, and wood products*, from the facilities of Willamette Industries, Inc., at Zwolle and Natchitoches, LA, to points in AR, IL, IN, IA, MI, MO, OH, AND WI. (Hearing site: New Orleans, LA.)

MC 119789 (Sub-524F), filed October 17, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas TX 75266. Representative: James K. Newbold, Jr. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from points in FL, to points in AR, IL, IN, IA, KS, LA, MI, MO, MN, NE, ND, OK, OH, SD, TX, and WI. (Hearing site: Tampa, FL.)

MC 120257 (Sub-48F), filed September 14, 1978. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 207, Ore City, TX 75683. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron castings and steel castings*, from Little Rock, AR, to Lufkin, TX. (Hearing site: Dallas or Fort Worth, TX.)

MC 121509 (Sub-10F), filed October 17, 1978. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, Muscatine, IA 52761. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, from Olin, IA, to points in IL, MN, MO, and WI. (Hearing site: St. Louis, MO.)

MC 123048 (Sub-417F), filed October 12, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Forklift trucks, and parts, attachments, and accessories* for forklift trucks, from Detroit and Granville, MI, to points in the United States (except AK and HI), (2) (a) *experimental and show display forklift trucks*, (b) *parts, attachments, and accessories* for such trucks, and (c) *incidental paraphernalia*, which at the time of movement are being transported for purposes of display or experiment, and not for sale, between points in the United States (except AK and HI), restricted to the transportation of traffic moving between the sites of plants, sales branches, warehouses, experimental stations, shows, exhibits, or field demonstrations owned, operated, or used by Liftmaster, Inc., and Harlo Products Corp., and (3) *commodities* described in (2) (a) and (f) above, from the sites named in (2) above, to points in the United States (except AK and HI). (Hearing site: Detroit, MI, or Chicago, IL.)

MC 123255 (Sub-176F), filed October 6, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (1) from Columbus, OH, to points in NY, VT, NH, ME, MA, CT, NJ, DE, VA, WV, KY, WI, and RI, (2) from Sturgis, MI, to points in NY, VT, NH, ME, MA, CT, NJ, DE, VA, WV, KY, WI, and RI, and (3) from Altavista, VA, to points in NY, VT, NH, ME, MA, CT, NJ, DE, WV, KY, WI, RI, OH, MI, IN, IL, PA, and MD. (Hearing site: Columbus, OH.)

MC 123263 (Sub-12F), filed October 2, 1978. Applicant: FLOYD R. WANGERIN AND LORRAINE C. WANGERIN, a partnership, d.b.a. WANGERIN TRUCKING CO., Rural Route No. 2, Stephenson, MI 49887. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone, gravel, and sand*, in bags, between Minneapolis, MN, Muscatine, IA, Chicago, IL, St. Louis, MO, Louisville, KY, and Detroit, MI, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, OK, and TX. (Hearing site: Milwaukee, WI, or Chicago, IL.)

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MC 123329 (Sub-41F), filed October 10, 1978. Applicant: H. M. TRIMBLE & SONS, LTD., P.O. Box 3500, Cal<gary, AB, Canada T2P 2P9. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Palm oil soap stock mix*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada at or near Sumas, WA, to the facilities of Meenderinck Molasses, in Whatcom County, WA, restricted to the transportation of traffic originating in the Province of AB, Canada. (Hearing site: Great Falls, MT.)

NOTE.—The restriction contained in the grant of authority in this proceeding is phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 123329 (Sub-43F), filed September 27, 1978. Applicant: H. M. TRIMBLE & SONS, LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid oxygen, liquid nitrogen, and liquid argon*, in shipper-owned trailers, between Union City, CA, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada, at or near Sumas, Blaine, and Orobille, WA, restricted to the transportation of BC and AB, Canada. Condition: Certificate authorized to be issued here shall be limited in point of time to a period expiring 5 years from its effective date. (Hearing site: Great Falls, MT.)

NOTE.—The restriction contained in the grant of authority in this proceeding is phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 124073 (Sub-12F), filed September 28, 1978. Applicant: ROY S. SARGEANT, INC., P.O. Box 95, Vienna, NJ 07880. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods*, from Wethersfield, CT, to points in NY, NJ, PA, DE, and MD, under a continuing contract with Foodways New York, Inc., of Wethersfield, CT. (Hearing site: Hartford, CT, or New York, NY.)

MC 124813 (Sub-190F), filed September 29, 1978. Applicant: UMTHUN TRUCKING CO., a corporation, 901 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers of fireplaces, from points in IL, IN, MO, and WI, to Mt. Pleasant and Centerville, IA. (Hearing site: Des Moines, IA, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 124887 (Sub-63F), filed September 14, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32431. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated log houses and prefabricated buildings*, from the facilities of Carolina Log Buildings, Inc., at or near Fletcher, NC, and the facilities of Traditional Log Homes, Inc., at or near Stateroad, NC, to points in AL, FL, GA, SC, and TN. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 133119 (Sub-144F), filed October 23, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, and *materials and supplies* used in the manufacture and distribution of frozen foods, (except commodities in bulk), between the facilities of The Pillsbury Co., at or near Murfreesboro and Nashville, TN, on the one hand, and on the other, points in the United States (except AK, HI, and TN), restricted to the transportation of traffic originating at or destined to the facilities of The Pillsbury Co., at or near Murfreesboro and Nashville, TN. (Hearing site: Minneapolis, MN, or Omaha, NE.)

MC 133689 (Sub-234F), filed October 16, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010 West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars, Inc., at or near Cleveland, TN, to point in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-272F), filed September 15, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department and catalog stores (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: St. Paul, MN.)

MC 134477 (Sub-273F), filed September 15, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), from the facilities of Boise Cascade Corp., at or near (a) Rumford, ME, (b) West Dudley, MA, (c) Brownville, Beaver Falls, and Lowville, NY, (d) and Brattleboro, VT, to points in AL, AR, CA, DE, FL, GA, IL, IN, IA, KY, LA, MD, MN, MS, MO, NJ, NC, OH, PA, SC, TN, TX, VA, WV, and WI. (Hearing site: St Paul, MN.)

MC 135399 (Sub-10F), filed October 16, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Batteries* and (2) *materials and supplies* used in the distribution and sale of batteries, from Kankakee, IL, to point in CA, NV, and TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 135874 (Sub-136F), filed August 24, 1978. Applicant: LTL PERISHABLES, INC., a Nebraska corporation, 550 East Fifth Street South, South St. Paul, MN 55075. Representative: K.O. Petrick (same address as applicant).To

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Pl, over WI, to points in CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

MC 136818 (Sub-45F), filed October 16, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, and (2) *used beverage containers, and materials and supplies used by breweries*, between points in Jefferson County, CO, and points in AZ, CA, ID, and TX. (Hearing site: Denver, CO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138126 (Sub-29F), filed September 1, 1978. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Federalsburg, MD 21632. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of J. H. Filbert, Inc., in Fulton, Clayton, De Kalb, Cobb, and Douglas Counties, GA, to points in KY, MD, NC, OH, SC, TN, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 138176 (Sub-8F), filed September 6, 1978. Applicant: RENTZ FARM SUPPLY, INC., Route 1, Box 60, Brinson, GA 31725. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, between the facilities of Pelham Phosphate Co., at or near Cottondale, FL, and Pelham, GA, on the one hand, and on the other, points in AL, FL, and GA. (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 138643 (Sub-6F), filed October 2, 1978. Applicant: MAKOVSKY BROS., INC., 5202 Spring Mill Road, Whitehall, PA 18052. Representative: Walter K. Swartzkopf, Jr., 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock salt*, in bulk, from the facilities of International Salt Co., at Lower Nazareth Township, PA, to points in NY, NJ, DE, and MD. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 138875 (Sub-109F), filed October 6, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail distributors of floor, wall, ceiling, and counter coverings (except commodities in bulk), from East Berlin, PA, to the facilities of C. A. Newell Co., at Portland, OR, and Seattle, WA. (Hearing site: Seattle, WA, or Washington, DC.)

MC 138875 (Sub-110F), filed October 6, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, door hardware, and door accessories* (except commodities in bulk), from Seattle, WA, to points in ID, MI, NV, UT, and WY. (Hearing site: Seattle, WA, or Boise, ID.)

MC 138875 (Sub-111F), filed October 6, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, door hardware, and door accessories* (except commodities in bulk), from Alliance, OH, Dearborn, MI, and Aurora, IL, to points in WA, restricted to the transportation of traffic originating at and destined to the named origins and destinations. (Hearing site: Seattle, WA, or Boise, ID.)

MC 138882 (Sub-139F), filed August 24, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum ingots and zinc alloy ingots*, from the facilities of Aluminum Smelting & Refining Co., Inc., and Certified Alloys Co., at Maple Heights, OH, Clinton, IA, Evansville, IN, and Waukeska, WI, to points in MI, IN, IL, WI, NY, PA, NJ, TN, KY, AL, MD, MO, and WV, and (2) *scrap aluminum*, from points in MI, IN, IL, WI, NY, PA, NJ, TN, KY, AL, MD, MO, and WV, to the facilities of Aluminum Smelting & Refining Co., Inc., at Maple Heights, OH. (Hearing site: Birmingham, AL, or Cleveland, OH.)

MC 138882 (Sub-151F), filed September 7, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Laredo, TX, to points in NJ, LA, NC, TN, PA, OH, MD, DE, VA, AL, GA, and DC. (Hearing site: Washington, DC.)

MC 138882 (Sub-152F), filed September 6, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in AZ, CO, and UT, to points in KY, LA, MS, TN, and WV. (Hearing site: Phoenix, AZ or Montgomery, AL.)

MC 138956 (Sub-10F), filed September 5, 1978. Applicant: ERGON TRUCKING, INC., 202 East Pearl Street, Jackson, MS 39201. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum crude oil and petroleum crude oil condensates*, in bulk, in tank vehicles, between points in AL, on the one hand, and, on the other, points in MS. (Hearing site: Jackson, MS.)

MC 138956 (Sub-11F), filed September 5, 1978. Applicant: ERGON TRUCKING, INC., 202 East Pearl Street, Jackson, MS 39201. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum crude oil and petroleum crude oil condensates*, in bulk, in tank vehicles, from points in AR, LA, and TX, to the facilities of Ergon Refining, Inc., at Vicksburg, MS. (Hearing site: Jackson, MS.)

MC 140068 (Sub-4F), filed October 13, 1978. Applicant: KARL EMDE, 3835 East Second Avenue, Burnaby, BC, Canada V4C 3W7. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruits, canned fruit juices, and canned meats*, between points in WA, on the one hand, and, on the other, the ports of entry on the international boundary line between the United States and Canada located at Blaine, WA, restricted to the transportation of traffic originating at or des-

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tined to points in the Province of British Columbia, Canada, under continuing contracts with (1) York Farms—Division of Canada Packers, of Sardis, BC, Canada, and (2) Cosmopolitan Importers, Ltd., of Richmond, BC, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Seattle, WA.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority To Handle Traffic to and From Points in Canada" published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 140709 (Sub-9F), filed October 19, 1978. Applicant: FANKHAUSER BROS., INC., 139 Hillside, El Dorado, KS 67042. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of the Mapco Pipeline Terminal, near Mocane, OK, to points in KS and TX. (Hearing site: Kansas City, MO.)

MC 141318 (Sub-3F), filed October 17, 1978. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., 129 North Main Street, Medford, WI 54451. Representative: John Fitch Michler, P.O. Box 1244, First American Center, Wausau, WI 54401. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Doors, windows, window units, sashes, frames, blinds, screens, shutters, thresholds, sills, and glass*, from Medford, WI, to points in AZ, CA, CT, FL, LA, ME, MA, NV, NH, NM, OR, TX, and VT; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, under continuing contract(s) with Weather Shield Mfg., Inc., of Medford, WI. (Hearing site: Milwaukee, WI or Minneapolis, MN.)

NOTE.—In view of the Geraci and Toto policies (see, e.g., 43 FR 33945, Aug. 2, 1978), applicant must satisfy the Commission that its operations will not result in objectionable private and for-hire operations.

MC 141804 (Sub-130F), filed August 28, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) from Cucamonga, CA, to those points in the United States in and west of MN, IA, MO, AR, and LA (except CA, HI, and AK); and (2) from Villa Rica, GA, to points in the United States (except GA, HI, and AK). (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-131F), filed August 28, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pallet racks, steel decking, wire mesh rack deck, wire mesh baskets, steel shelving lockers, work benches, and steel skid boxes*, from points in PA, WV, OH, MI, IN, KY, TN, and IL, to points in UT, AZ, NV, and CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142300 (Sub-2F), filed August 11, 1978. Applicant: F. A. F., INC., 5824 Lone Pine Road, Jacksonville, FL 32216. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail pharmaceutical businesses*, from Jacksonville, FL, to points in MS, restricted against the transportation of articles weighing more than 35 pounds each, and further restricted to the transportation of articles weighing less than 500 pounds in the aggregate from one consignor at the location to one consignee at one location during a single day, under a continuing contract with Lawrence Pharmaceuticals, Inc., of Jacksonville, FL. (Hearing site: Jacksonville, FL.)

MC 142516 (Sub-19F), filed September 7, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearney, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Titanium dioxide*, and (2) *materials and supplies* used in the manufacture and sale of titanium dioxide (except commodities in bulk), between the facilities of Titanium Pigment Division/NL Industries, Inc., of Sayreville, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Titanium Pigment Division/NL Industries, Inc., of Sayreville, NJ. (Hearing site: New York, NY or Washington, DC.)

MC 142715 (Sub-17F), filed October 4, 1978. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the facilities of or used by Shenson Meat Co., Coast Packing Co., Inc., and Geo. A. Hormel & Co. at Omaha, NE, to points in GA, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Minneapolis, MN.)

MC 143059 (Sub-31F), filed October 16, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe and tanks*, and (2) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), between Ardmore, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearings site: Oklahoma City, OK or Washington, DC.)

MC 143095 (Sub-6F), filed September 18, 1978. Applicant: NEW ENGLAND TRANSPORT, INC., LTD., P.O. Box 27, Chester Depot, VT 05144. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Talc*, in bags, in containers or trailers, from Windsor, VT, to New York, NY, restricted to the transportation of traffic having a subsequent movement by water; and (2) *containers, trailers, and trailer chassis*, in the reverse direction. (Hearing site: New Brunswick, NJ or Washington, DC.)

NOTE.—Dual operations may be issued in this proceeding.

MC 143103 (Sub-5F), filed September 29, 1978. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Charles Cline (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, additives, materials and supplies* used in the manufacture and distribution of

animal feed, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Los Angeles, CA, Ogden, UT, Hutchison, KS, Terre Haute and Indianapolis, IN, Mattoon, IL, Columbus, OH, and Sherburne, NY, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Kal Kan Foods, Inc., of Vernon, CA. (Hearing site: Los Angeles, CA or Oklahoma City, OK.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143109 (Sub-3F), filed October 17, 1978. Applicant: ASSOCIATED DIESEL SERVICE, INC., 499 Jackson, Denver, CO 80216. Representative: Robert E. Anderson, P.O. Box 17486 Terminal Annex, Denver, CO 80217. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packing houses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Peppertree Beef Co., at Denver, CO, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, under a continuing contract with Peppertree Beef Co., of Denver, CO. (Hearing site: Denver, CO.)

MC 143179 (Sub-7F), filed October 20, 1978. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Urethane foam products*, from Council Bluffs, IA, to points in IL, IN, LA, MI, MN, MO, MT, and WI; and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, from points in IL, IN, LA, MI, MN, MO, TX, and WI, to Council Bluffs, IA, Newton, KS, and Middleton, WI, under a continuing contract with Future Foam, Inc., of Council Bluffs, IA. (Hearing site: Omaha, NE.)

MC 143218 (Sub-2F), filed September 13, 1978. Applicant: DONALD SANTISI TRUCKING CO., a corporation, 1024 North Main Street, Niles, OH 44446. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books, magazines, periodicals, and advertising matter*, (except commodities in bulk), from Canton, OH, to points in AZ, CA, CO, MN, NM, OR, TX, UT, and WA, under continuing contract(s) with Danner Press Corp., of Canton, OH. (Hearing site: Columbus, OH.)

MC 143389 (Sub-3F), filed September 14, 1978. Applicant: MERCHANTS DUTCH EXPRESS, INC., P.O. Box 2525, Monroe, LA 72107. Representative: Bruce E. Mitchell, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail discount stores, between points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, OH, OK, TN, and TX, under a continuing contract with Howard Bros. Discount Stores, Inc., of Monroe, LA. Condition: Issuance of a permit in this proceeding is subject to the prior or coincidental cancellation of carrier's permit in MC 143389 (Sub-1), issued September 12, 1978. (Hearing site: Memphis, TN.)

MC 143540 (Sub-6F), filed October 2, 1978. Applicant: MARINE TRANSPORT CO., a corporation, 2321 Burnette Boulevard, P.O. Box 2142, Wilmington, NC 28402. Representative: Jean H. Lewis, 9525 Trojan Court, Richmond, VA 23229. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper articles, wood pulp, and lumber*, (except commodities in bulk), from the facilities of Federal Paper Board Co., Inc., at (a) Riegelwood, Wilmington, Cape Fear, and Roanoke Rapids, NC, and (b) Richmond, VA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction, under a continuing contract with Federal Paper Board Co., Inc., of Montvale, NJ. (Hearing site: Richmond, VA or Raleigh, NC.)

MC 143570 (Sub-4F), filed August 28, 1978. Applicant: D. & G. TRUCKING, INC., 4420 East Overland Road, Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and air-conditioning equipment, accessories for heating and air-conditioning equipment, floor covering;* and (2) *supplies* used in the installation of the commodities named in (1) above, (A) between points in ID, OR, and WA, (B) from Phoenix, AZ and Denver, CO, to points in ID, and UT, (C) from points in CA, to points in ID, MT, OR, UT, and WA, and (D) from points in OR, to points in MT, and WA. (Hearing site: Boise, ID or Portland, OR.)

MC 144442 (Sub-2F), filed August 30, 1978. Applicant: ESSEX EXPRESS, INC. 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: Clifton Peter Rose, 1200 Seventeenth Street NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wafers, cookies, breadsticks, and biscuits*, in cartons, between the facilities of Stella d'Oro, at Bronx, NY and independent distributors in Miami, Tampa, Fort Lauderdale, and Opa Locka, FL, under a continuing contract with Stella d'Oro, Inc., of Bronx, NY. (Hearing site: Washington, DC or Miami, FL.)

MC 144513 (Sub-5F), filed October 2, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shop and construction equipment, shop and construction supplies, coatings, hand tools, metal and rubber products, and metal and rubber materials* (except commodities in bulk, and commodities which by reason of size or weight require the use of special equipment), between Akron, OH, on the one hand, and, on the other, points in the United States (except AK, HI, and OH). (Hearing site: Cleveland, OH.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144682 (Sub-3F), filed August 24, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Representative: Richard T. Churchill, Suite 106, 5001 South Hulen, Fort Worth, TX 76132. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, prepared dough, and icing paste*, from the facilities of The Pillsbury Co., at Denison, TX, to Salt Lake City, UT, and Pocatello and Boise, ID. (Hearing site: Dallas or Fort Worth, TX.)

MC 144682 (Sub-4F), filed August 24, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Representative: Richard T. Churchill, Suite 106, 5001 South Hulen, Fort Worth, TX 76132. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods, prepared dough, and icing paste*, from the facilities of The Pillsbury Co., at Denison, TX, to Rapid City, SD and points in WY and MT. (Hearing site: D-FW Airport or Dallas, TX.)

MC 144747 (Sub-1F), filed August 31, 1978. Applicant: INTERSTATE EQUIPMENT CO., INC., 22821 North 81st Avenue, Phoenix, AZ 85345. Representative: Lewis P. Ames, 10th Floor, 111 West Monroe, Phoenix, AZ 85003. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass fiber, glass yarn, fiberglass fabric* and *waste fiber*, from the facilities of Owens-Corning, at (a) Aiken and Anderson, SC, (b) Jackson, TN, (c) Amarillo, TX, and (d)

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Huntington, PA, to Denver, CO, Salt Lake City, UT, Wallace, ID, Seattle, Bellingham, and Spokane, WA, and Culver and Portland, OR; and (2) *plastic granules and resin*, (A) from the facilities of (I) ARCO Polymers, at (a) La Porta, Port Arthur, and Houston, TX, and (b) Kobuta, PA, (II) WITCO, at (a) Lenwood, CA, (b) Wilmington, DE, and (c) Chicago, IL, (III) Synress, at Anaheim, CA, (IV) Abtec, at Louisville, KY and Big Springs, TX, (V) Shell Chemical Co., at Houston, TX, (VI) Cosden, at Orange, CA, (VII) Continental Polymers, at Compton, CA, and (VIII) Ashland Chemical Co., at (a) Newark, NJ, (b) Chicago, IL, and (c) Compton, CA, to the facilities of Fiberchem, Inc., at (a) Denver, CO, (b) Portland, OR, (c) Salt Lake City, UT, and (d) Seattle, WA, and (B) from origin points named in (A) above, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, under continuing contract(s) in (1) and (2) above with Fiberchem, Inc., of Seattle, WA. (Hearing site: Seattle, WA, or Phoenix, AZ.)

MC 144769 (Sub-2F), filed October 17, 1978. Applicant: ROBER ROMAN, d.b.a. R. ROMAN TRUCK LEASING, 8 Creston Avenue, Union, NJ 07083. Representative: Roger Roman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* and *containers*, between Newark, NJ, on the one hand, and, on the other, Baltimore, Youngstown, and Akron, OH. (Hearing site: New York, NY, or Newark, NJ.)

MC 144806 (Sub-3F), filed September 7, 1978. Applicant: FRED M. ANDERSON, d.b.a. DELTA VALLEY TRUCKING, 69 North 200 West, Delta, UT 84624. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail variety stores, from Los Angeles, CA, to points in CO, ID, and UT, under continuing contract(s) with Ben Franklin Stores of Los Angeles, CA. (Hearing site: Salt Lake City, UT, or Los Angeles, CA.)

MC 145054 (Sub-3F), filed August 27, 1978. Applicant: COORS TRANSPORTATION CO., a corporation, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery and food business houses, discount stores, and drug stores (except frozen foods and commodities in bulk), from the facilities of the Clorox Co., at Kansas City, MO, to points in CO, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Kansas City, MO, or Denver, CO.)

NOTE.—Dual operations are involved in this proceeding.

MC 145094 (Sub-1F), filed August 28, 1978. Applicant: BOBBY KITCHENS, INC., P.O. Box 6161, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Wood products* (except in bulk), from Anderson, CA, to Fort Smith, AR, Canton and Columbus, MS, Elkin and Lenoir, NC, and Galax, VA, under a continuing contract(s) with Wheatley Lumber Co., Inc., of New Albany, MS. (Hearing site: Jackson or Tupelo, MS.)

MC 145150 (Sub-4F), filed October 6, 1978. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, Rural Route 2, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Building, Suite 110L, 1010 Tyler, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of Cheveron Chemical Co., at or near Friend, KS, to points in CO, NE, OK, TX, and WY. (Hearing site: Kansas City, MO.)

NOTE.—(1) Operational feasibility may be in issue. (2) The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 145163 (Sub-3F), filed September 29, 1978. Applicant: DONALD MULDER d.b.a. 1735 MULDER TRUCKING Lincoln, NE 68504. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers and distributors of printed matter (except in bulk), between Lincoln, NE, and Council Bluffs, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to Lincoln, NE, and Council Bluffs, IA. (Hearing site: Lincoln or Omaha, NE.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145303F, filed August 24, 1978. Applicant: RAILCO, INC., 13939 Southwest Edy Road, P.O. Box 69, Sherwood, OR 97140. Representatives: Glen Magnuson (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rail track and accessories for rail track*, and (2) *materials, equipment, and supplies* used in the installation and removal of rail track, between Portland, OR, on the one hand, and, on the other, points in the United States, including AK and HI, under a continuing contract with Pacific Railway Supply Co., of Portland, OR. (Hearing site: Portland, OR.)

MC 145357F, filed September 6, 1978. Applicant: WESTERN MARINE SUPPLY, INC., 801 South Holgate Street, P.O. 24504, Seattle, WA 98124. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Distilled spirits, wine, beer, and cigarettes*, (1) from ports of entry on the international boundary line between the United States and Canada, in WA, MT, and ID, to Blaine, WA, and Los Angeles, Burlingame, Wilmington, and San Francisco, CA, (2) from Los Angeles, Wilmington, San Francisco, and Burlingame, CA, to Blaine and Seattle, WA, Great Falls, Rooseville, and Piegan, MT, restricted in (1) above to the transportation of traffic originating at the Province of BC, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Seattle, WA.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 145366 (Sub-2F), filed September 15, 1978. Applicant: VENABLE TRUCKING CO. INC., Route 1 Box 313, Odenville, AL 35120. Representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cold mix asphalt*, from the facilities of Ashland-Warren, Inc., at or near Birmingham, AL, to points in

GA, LA, MS, TN, and those in FL west of the Apalachicola River, and (2) *sand*, from points in TN, GA, MS, and those in FL west of the Apalachicola River, to points in Jefferson, Shelby, Calhoun, and Etowah Counties, AL. (Hearing site: Birmingham, AL.)

MC 145404F, filed August 15, 1978. Applicant: WELLS CARTAGE LIMITED, 726 Powell Street, Vancouver, BC, Canada V6A 1H6. Representative: Susan W. Carlson, 1215 Norton Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *containers*, and (2) *general commodities*) except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and motor vehicles), between the port of entry on the international boundary line between the United States and Canada at or near Blaine, WA, on the one hand, and, on the other, Seattle, WA, restricted to the transportation of traffic (a) originating at or destined to points in the Province of BC, Canada (b) having an immediately prior or subsequent movement by water, and (3) under continuing contract(s) with (i) CP Ships, Ltd., of Montreal, PQ, Canada (ii) Dart Containerline Canada Ltd., of Montreal, PQ, Canada and (iii) Furness Interocean Corp., of San Francisco, CA. (Hearing site: Seattle, WA.)

NOTE.—Dual operations may be involved in this proceeding. The restrictions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 145420F, filed September 26, 1978. Applicant: ALBERT HULSE, JR., 59 Myrtle Street, Methuen, MA 01844. Representative: George A. McLaughlin, Jr., 44 School Street, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, between points in MA and NH, under a continuing contract with Automatic Heating Service, Inc., of Methuen, MA. (Hearing site: Boston, MA.)

MC 145470F, filed October 5, 1978. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th Street, Kansas City, KS 66105. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed paper forms and paper pads*, (1) between the facilities of Deluxe Check Printers, Inc., at (a) Lenexa, KS, (b) Chicago and Des Plaines, IL, and (c) West Caldwell, NJ, and (2) between the facilities of Deluxe Check Printers, Inc., at (a) West Caldwell, NJ, (b) Greensboro, NC, (c) Atlanta, GA, and (d) Jacksonville and Miami, FL, under a continuing contract with Deluxe Check Printers, Inc., of St. Paul, MN. (Hearing site: Kansas City, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145559F, filed October 10, 1978. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from Portland, Eugene, and Salem, OR, Walla Walla, WA, and Nampa, ID, to points in TX, LA, AR, MS, AL, TN, GA, FL, and SC. (Hearing site: Washington, DC.)

PASSENGER AUTHORITY

MC 144164 (Sub-2F), filed August 25, 1978. Applicant: DONALD R. SPRAY d.b.a. ELK RIVER LINES, 302 South Atlantic Street, Tullahoma, TN 37388. Representative: Rick L. Moore, 300 North Jackson Street, Tullahoma, TN 37388. To operate as a *common carrier*, by motor vehicle, transporting: *Passengers and their baggage* in the same vehicle with passengers, between Tullahoma, TN, and Hollywood, AL: from Tullahoma, TN, over TN Hwy 55 to Manchester, TN, then over TN Hwy 24 to South Pittsburg, TN, then over U.S. Hwy 72 to Hollywood, AL, and return over the same route, serving all intermediate points. (Hearing site: Nashville or Knoxville, TN.)

[FR Doc. 78-32780 Filed 11-22-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Volume No. 124]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

NOVEMBER 15, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 116923 (Sub-6) (M2F) (notice of filing of petition to modify certificate), filed October 5, 1978. Petitioner: KRAMER TRUCKING CO., INC., 275 Trumbull Street, Elizabeth, NJ 07206. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Petitioner holds a motor *common carrier* certificate in MC 116923 (Sub-6) issued August 23, 1978, authorizing transportation, over irregular routes, of: *Water treatment units*, and *materials* and *supplies* used in the installation of water treatment units (except commodities in bulk), between points in the United States (except AK and HI). By the instant petition, petitioner seeks to modify the above commodity description to read: *Carbon*, and *water treatment units, incinerators, air pollution units*, and *carbon regenerators*, and *materials, equipment, and supplies* used in the installation and operation thereof (except commodities in bulk).

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION NOTICE

The following grants of operating rights authorities are republished by

[1]Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Box 707, Troy, AL 36081. Representa- gent: Brookside Transport Ltd., a cor- ...such authority to provide all or part

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order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 2900 (Sub-316) (republication), filed October 31, 1977, published in the FEDERAL REGISTER issue of December 15, 1977, and republished this issue. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). A Decision of the Commission, Review Board Number 2, decided September 7, 1978, and served November 1, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Knit pile fabric and padding*, from Delavan and Jefferson, WI, to points in the United States (except AK, WI, and HI); and (2) *equipment, materials, and supplies* used in the manufacture and distribution of knit pile fabric and padding, from points in the United States (except AK, WI, and HI), to Delavan and Jefferson, WI, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 48909 (Sub-6) (republication), filed October 28, 1977, published in the FEDERAL REGISTER issue of December 15, 1978, and republished this issue. Applicant: SEYMOUR TRANSFER LINES, INC., 800 East Factory Street, Seymour, WI 54165. Representative: Wayne W. Wilson, P.O. Box 8004, Madison, WI 53708. A Decision of the Commission, Review Board Number 2, decided September 11, 1978, and served November 3, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Steamed bone meal* (except in bulk, in tank vehicles), from Reading, PA, to points in the United States in and west of OH, KY, MO, AR, and LA (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 123765 (Sub-12F) (republication), filed March 6, 1978, published in the FEDERAL REGISTER issue of April 20, 1978, and republished this issue. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Avenue, Milwaukee, WI 53204. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. A Decision of the Commission, Review Board Number 1, decided October 23, 1978, and served November 7, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Such commodities* as are dealt in by lawn and garden supply houses; and (2) *pet food*, from Milwaukee, WI, to points in IL bounded by a line beginning at the junction of U.S. Hwy 24 and the IL-IN State line and extending along U.S. Hwy 24 to its junction with U.S. Hwy 51, then along U.S. Hwy 51 to its junction with U.S. Hwy 52, then along U.S. Hwy 52 to its junction with IL Hwy 78, then along IL Hwy 78 to the IL-WI State line, then east along the IL-WI State line to the shore of Lake Michigan, then east along the shore of Lake Michigan to the IL-IN State line, and then along the IL-IN State line to the point of beginning, including points on the described lines, restricted to the transportation of traffic originating at the facilities of Loft-Kellogg Seed, Inc., at Milwaukee, WI, and destined to the indicated destinations, under a continuing contract or contracts with Loft-Kellogg Seed, Inc., of Milwaukee, WI, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to broaden the commodity description, and to indicate the grant of contract carrier authority in lieu of common carrier authority.

MC 127042 (Sub-210F) (republication), filed February 27, 1978, published in the FEDERAL REGISTER issue of May 11, 1978, and republished this issue. Applicant: Hagen, Inc., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). A Decision of the Commission, Review Board Number 3, decided October 17, 1978, and served November 2, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Insulation and insulation materials*, from Kenosha, WI, to points in MN, ND, and SD; and (2) *fertilizer, fertilizer ingredients, and ice melters* (except in bulk, in tank vehicles), from Kenosha, WI, to points in IL, IN, IA, MN, MO, ND, and SD, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description in part (2) above; and delete Union Grove, WI, in part (2) above as an origin point.

MC 138882 (Sub-47F) (republication), filed March 1, 1978, published in the FEDERAL REGISTER issue of April 13, 1878, and republished this issue. Applicant: Wiley Sanders, Inc., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, Review Board Number 1, decided October 26, 1978, and served November 2, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Floor, wall, and ceiling tile*, from the facilities of Summitville Tiles, Inc., at Summitville and Minerva, OH, to Birmingham and Montgomery, AL, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 142484 (Sub-1) (republication), filed January 28, 1977, published in the FEDERAL REGISTER issue of March 17, 1977, and republished this issue. Applicant: Stringfellow Transportation Co., Inc., 724 Third Avenue North, P.O. Box 1117, Birmingham, AL 35201. Representative: Ronald L. Stichweh, 903 Frank Nelson Building, Birmingham, AL 35203. A Decision of the Commission, Division 1, decided October 30, 1978, and served November 3, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Forest products and lumber mill products*, (1) from points in AL, to points in FL, GA, IL, IN, KY, MI, MS, OH, and TN; (2) from points in GA, to points in AL, FL, IL, IN, KY, MI, MS, OH, and TN; (3) from points in LA, to points in AL, FL, GA, IL, IN, KY, MI, MS, OH, and TN; (4) from points in MS, to points in AL, FL, GA, IL, IN, KY, MI, OH, and TN; (5) from points in TN, to points in AL, FL, GA, IL, IN, KY, MI, MS, and OH; and (6) from Detroit, MI, to points in AL, FL, GA, MS, and TN, parts (1) through (6) under a continuing contract or contracts with Stringfellow Lumber Co., Inc., of Birmingham, AL, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 144047 (Sub-1F) (republication), filed March 27, 1978, published in the FEDERAL REGISTER issue of June 8, 1978, and republished this issue. Applicant: Brookside Transport, Ltd., a corporation, P.O. Box 1809, Brooks, AB, Canada. Representative: Donald Grisbrook (same address as applicant). A Decision of the Commission, Review Board Number 3, decided October 16, 1978, and served October 31, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Green animal hides*, from the port of entry on the international boundary line between the United States and Canada, at or near Eastport, ID, to Spokane, WA, restricted to the transportation of traffic originating at Brooks, AB, Canada; and (2) *salt in bulk and scrap iron*, from Spokane, WA, to the port of entry on the international boundary line between the United States and Canada, at or near Eastport, ID, restricted to the transportation of traffic destined to Brooks, AB, Canada, in (1) and (2) under a continuing contract or contracts with Lakeside Farm Industries, Ltd., of Brooks, AB, Canada and Pacific Hide & Fur Corp. of Spokane, WA, will be consistent with the public interest and the national transportation, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description; and add a restriction.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under the rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 4405 (Sub-585F), filed November 3, 1978. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. Authority sought to operate as a *common carrier* by motor vehicles over irregular routes, transporting: (1) *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing storage, transmission, and distribution of natural gas and petroleum and their products and byproducts: (2) *machinery, materials, equipment,* and *supplies* used in, or in connection with the construction, operation, repair, servicing maintenance and dismantling of pipelines, including the stringing and picking up thereof; and (3) *earth drilling machinery,* and *equipment,* and *machinery, equipment materials,* and *supplies,* and *pipe* incidental to, used in, or in connection with (a) transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling ma-

33 at or near Newton, IL, then over IL 800 to Akron, OH, then over OH Hwy stringing and picking up thereof, and

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chinery and equipment, (b) the completion of holes or wells drilled (c) the production, storage, and transmission or commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities into or from holes or wells, between those points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing: November 28, 1978 (3 weeks), at 9:30 am local time, at Denver, CO in a hearing room location to be later designated.)

NOTE.—Common control may be involved.

MC 94201 (Sub-164F), filed September 11, 1978. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). Route 1: Between Chattanooga, TN, and Chicago, IL: (a) From Chattanooga over U.S. Hwy 41 (also over Interstate Hwy 24) to Nashville, TN, then over Alternate U.S. Hwy 41 to Hopkinsville, KY, then over U.S. Hwy to Chicago, and return over the same routes. (b) From Chattanooga over U.S. Hwy 41 (also over Interstate Hwy 24) to Nashville, TN, then over Alternate U.S. Hwy 41 to Hopkinsville, KY, then over U.S. Hwy 41 to junction Interstate Hwy 64 (also over U.S. Hwy 41 to junction U.S. Hwy 460), then over Interstate Hwy 64 (also over U.S. Hwy 460) to junction U.S. Hwy 51, then over U.S. 51, then over U.S. Hwy 51 to Bloomington, IL, then over U.S. Hwy 66 to Chicago, and return over the same routes. (c) From Chattanooga over U.S. Hwy 41 (also over Interstate Hwy 24) to Nashville, TN, then over Alternate U.S. Hwy 41 to Hopkinsville, KY, then over U.S. Hwy 41 to junction Interstate Hwy 64 (also over U.S. Hwy 41 to junction U.S. Hwy 460), then over Interstate Hwy 64 (also over U.S. Hwy 460) to junction Interstate Hwy 57, thence over Interstate Hwy 57 to Chicago, and return over the same route. Route 2: Between Chattanooga, TN, and Indianapolis, IN: From Chattanooga, TN, over U.S. Hwy 41 (also over Interstate Hwy 24) to Nashville, TN, thence over U.S. Hwy 31-W to junction U.S. Hwy 31, then over U.S. Hwy 31 to Indianapolis (also over Interstate Hwy 65) to Indianapolis, and return over the same route. Route 3: Between Chattanooga, TN, and Cincinnati, OH: From Chattanooga to Nashville, TN, as specified above, then over U.S. Hwy 31-W (also over Interstate Hwy 65) to Louisville, KY, then over Interstate Hwy 71 (also over U.S. Hwy 42) to Cincinnati, and return over the same route. Route 4: Between Chattanooga, TN, and Louisville, KY; (a) From Chattanooga to Louisville as specified above, and return over the same route. (b) From Chattanooga over U.S. Hwy 27 (also over Interstate Hwy 75) to Lexington, KY, then over U.S. Hwy 60 (also over Interstate Hwy 64) to Louisville, and return over the same route. (c) From Chattanooga over U.S. Hwy 27 to junction U.S. Hwy 150 at Stanford, KY, then over U.S. Hwy 150 to Danville, KY, then over U.S. Hwy 127 to juction Interstate Hwy 64, then over Interstate Hwy 64 to Louisville, and return over the same route. Route 5: Between Chattanooga, TN, and Cleveland, OH: From Chattanooga over U.S. Hwy 27 (also over Interstate Hwy 75) to Lexington, KY, then over U.S. Hwy 25 (also over Interstate Hwy 75) to Cincinnati, and return over the same route. Route 6: Between Jackson, TN, and Chicago, IL: (a) From Jackson over U.S. Hwy 45 to intersection U.S. Hwy 45E and 45W, approximately 6 miles southeast of Humbolt, TN, then over U.S. Hwy 45W to junction U.S. Hwy 51, thence over U.S. Hwy 51 to Bloomington, IL, then over U.S. Hwy 66 to Chicago, and return over the same route. (b) From Jackson over U.S. Hwy 45 to intersection U.S. Hwy 45E and 45W, approximately 6 miles southeast of Humbolt, TN, then over U.S. Hwy 45W to junction U.S. Hwy 51, then over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago, and return over the same route. Route 7: Between Jackson, TN, and Evansville, IN: From Jackson over U.S. Hwy 45 to intersection U.S. Hwy 45E and 45W, approximately 6 miles southeast of Humbolt, TN, then over U.S. Hwy 45E to junction U.S. Hwy 45, then over U.S. Hwy 45 to Junction U.S. Hwy 60, then over U.S. Hwy 60, at or near Paducah, KY, then over U.S. Hwy 60 to junction U.S. Hwy 41, at or near Evansville, IN, then over U.S. Hwy 41 to Evansville, and return over the same route. Route 8: Between Memphis, TN and Chicago, IL: (a) From Memphis over U.S. Hwy 51 to Bloomington, IL, then over U.S. Hwy 66 to Chicago, and return over the same route. (b) From Memphis over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago, and return over the same route. (c) From Memphis over Interstate Hwy 55 to Chicago, and return over the same route. (d) From Memphis over Interstate Hwy 55 to junction Interstate Hwy 57, at or near Sikeston, MO, then over Interstate Hwy 57 to Chicago, and return over the same route. Route 9: Between Memphis, TN and Indianapolis, IN: From Memphis over Interstate Hwy 55 to junction Interstate Hwy 57, at or near Sikeston, MO, then over Interstate Hwy 57 to junction Interstate Hwy 70, at or near Effingham, IL, then over Interstate Hwy 70 to Indianapolis, and return over the same route. Route 10: Between Knoxville, TN, and Chicago, IL: From Knoxville, over Interstate Hwy 75 to Lexington, KY, then over Interstate Hwy 64 to Louisville, KY, then over Interstate Hwy 65 to Chicago, and return over the same route. Route 11: Between Knoxville, TN, and Louisville, KY: From Knoxville over Interstate Hwy 75 to Lexington, KY, then via Interstate Hwy 64 to Louisville, and return over the same route. Route 12: Between Knoxville, TN, and Cleveland, OH: From Knoxville, over Interstate Hwy 75 to Cincinnati, OH, then via Interstate Hwy 71 to Cleveland, and return over the same route. Route 13: Between Bristol, TN, and Louisville, KY: From Bristol over U.S. Hwy 421 to Lexington, KY, then via Interstate Hwy 64 to Louisville, and return over the same route. Route 14: Between Bristol, TN, and Chicago, IL: From Bristol over U.S. Hwy 421 to Lexington, KY, then over Interstate Hwy 64 to Louisville, KY, then over Interstate Hwy 65 to Chicago, and return over the same route. Route 15: Between Bristol, TN, and Toledo, OH: From Bristol over U.S. Hwy 23 to Toledo, and return over the same route. Route 16: Between Bristol, TN, and Cleveland, OH: From Bristol over Interstate Hwy 81 to junction Interstate Hwy 77, at or near Wytheville, VA, then over Interstate Hwy 77 to Cleveland, and return over the same route. Route 17: Between Bristol, TN, and Cincinnati, OH: From Bristol over U.S. Hwy 23 to junction U.S. Hwy 52, at or near Portsmouth, WV, then via U.S. Hwy 52 to Cincinnati, and return over the same route. Route 18: Between Memphis, TN, and Bristol, TN: (a) From Memphis over Interstate Hwy 40 to junction Interstate Hwy 81, at or near Jefferson City, then Interstate Hwy 81 to Bristol, and return over the same route. (b) From Memphis over U.S. Hwy 64 to junction U.S. Hwy 411, near Ocoee, TN, then over U.S. Hwy 411 to junction U.S. Hwy 11E, near Johnson City, TN, then U.S. Hwy 11E to Bristol, and return over the same route. Route 19: Between Decatur, IL, and Indianapolis, IN: From Decatur over U.S. Hwy 36 to Indianapolis, and return over the same route. Route 20: Between Decatur, IL, and Chicago, IL: From Decatur over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago, and return over the same route. Route 21: Between Evansville, IN, and Decatur, IL: From Evansville over U.S. Hwy 460 to junction U.S. Hwy 45, at or near Crossville, IL, then over U.S. Hwy 45 to junction IL Hwy 130, at or near Grayville, IL, then over IL Hwy 130 to junction IL Hwy

33, at or near Newton, IL, then over IL Hwy 33 to junction IL Hwy 32, at or near Effingham, IL, then over IL Hwy 32 to junction IL Hwy 121, at or near Sullivan, IL, then over IL Hwy 121 to Decatur, and return over the same route. Route 22: Between Louisville, KY, and Decatur, IL: From Louisville, over U.S. Hwy 150 to junction U.S. Hwy 50, at or near Shoals, IN, then over U.S. Hwy 50 to junction IL Hwy 130, at or near Olney, IL, then over IL Hwy 130 to junction IL Hwy 33, at or near Newton, IL, thence over IL Hwy 33 to junction IL Hwy 32, at or near Effingham, IL, then over IL Hwy 32 to junction IL Hwy 121, at or near Sullivan, IL, then over IL Hwy 121 to Decatur, and return over the same route. Route 23: Between Fort Wayne, IN, and Chicago, IL: From Fort Wayne over U.S. Hwy 33 to South Bend, IN, then over IN Hwy 2 to junction U.S. Hwy 20 at or near Rolling Prairie, IN, thence over U.S. Hwy 20 to Chicago (also over IN Hwy 2 to juhction combined Interstate Hwys 80 and 90, at or near Rolling Prairie, IN, then over combined Interstate Hwys 80 and 90 to Chicago), and return over the same routes. Route 24: Between Indianapolis, IN, and Chicago, IL: From Indianapolis over Interstate Hwy 65 to Gary, IN, then over Interstate Hwy 94 to Chicago, and return over the same route. Route 25: Between Indianapolis, IN, and Fort Wayne, IN: From Indianapolis over Interstate Hwy 69 (also over IN Hwy 37) to Fort Wayne, and return over the same route. Route 26: Between Indianapolis, IN and junction U.S. Hwys 41 and 52 near Gravel Hill, IN: From Indianapolis over U.S. Hwy 52 to junction U.S. Hwy 41, near Gravel Hill, IN, and return over the same route. Route 27: Between South Bend, IN, and Indianapolis, IN: From South Bend over U.S. Hwy 31 to Indianapolis, and return over the same route. Route 28: Between Indianapolis, IN, and Cincinnati, OH: From Indianapolis over U.S. Hwy 52 (also over Interstate Hwy 74) to Cincinnati, and return over the same route. Route 29: Between Columbus, OH, and Indianapolis, IN: From Columbus over U.S. Hwy 40 (also over Interstate Hwy 70) to Indianapolis, and return over the same route. Route 30: Between Chicago, IL, and Cleveland, OH: From Chicago over combined Interstate Hwys 80 and 90 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Cleveland, and return over the same route. Route 31: Between Cincinnati, OH, and Fort Wayne, IN: From Cincinnati over U.S. Hwy 27 to Fort Wayne, and return over the same route. Route 32: Between Cincinnati, OH, and Cleveland, OH: From Cincinnati over U.S. Hwy 22 to Washington Court House, OH, then over U.S. Hwy 62 to Canton, OH, then over OH Hwy 800 to Akron, OH, then over OH Hwy 8 to Cleveland, and return over the same route. Route 33: Between Cincinnati, OH and Toledo, OH: From Cincinnati over combined U.S. Hwy 25 and Interstate Hwy 75 to junction Interstate Hwy 75, then over Interstate Hwy 75 (also over U.S. Hwy 25) to Toledo, and return over the same route. Route 34: Between Columbus, OH, and Toledo, OH: From Columbus over U.S. Hwy 23 to Toledo, and return over the same route. Route 35: Between junction Interstate Hwys 76 and 71 approximately 13 miles south of Medina, OH and Youngstown, OH: From junction Interstate Hwys 76 and 71 over Interstate Hwy 76 to junction OH Hwy 18, then over OH Hwy 18 (also over Interstate Hwy 76) to Youngstown, and return over the same route. Service is authorized in the above routes to and from the following intermediate and off-route points: (a) points in TN; (b) points within 10 miles of Louisville, KY, including Louisville; (c) points in IN; (d) points in that part of IL on and bounded by a line beginning at the IL-IN State line and extending along U.S. Hwy 36 to Springfield, IL, then along IL Hwy 29 to Peoria, IL, then along IL Hwy 116 to Metamore, IL, then along IL Hwy 89 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction IL Hwy 31, then along IL Hwy 31 to unnumbered Hwy (Aurora Avenue), then along said unnumbered Hwy to junction U.S. Hwy 34, then along U.S. Hwy 34 to Chicago, IL, then along Lake Michigan to the IL-IN State line, and then along IL-IN State line to points of beginning; and (e) points in that part of OH on, west, and north of a line beginning at a point on the OH-PA State line, near Sharon, PA, and extending along U.S. Hwy 62 to Columbus, OH, then along U.S. Hwy 23 to Circleville, OH, and then along U.S. Hwy 22 to Cincinnati, OH. (Hearing site: Atlanta, GA or Washington, DC.)

MC 105984 (Sub-21F), filed October 30, 1978. Applicant: JOHN B. BARBOUR TRUCKING COMPANY, a Corporation, P.O. Box 577, Iowa Park, TX 76367. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, (a) between points in AZ, CO, ID, MT, NV, ND, SD, UT, and WY, and (b) between points in AZ, CO, ID, MT, NV, ND, SD, UT, and WY, on the one hand, and, on the other, points in TX, OK, KS, LA, and NM. (Hearing Site: Denver, CO, November 28, 1978).

MC 109326 (Sub-114F), filed June 16, 1978, and previously noticed in the FEDERAL REGISTER issues of August 22, 1978, and October 26, 1978, and republished as corrected this issue. Applicant: C & D TRANSPORATION CO., INC., P.O. Box 10506, New Orleans, LA 70121. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and such other commodities* as are dealt in by wholesale and retail chain and grocery houses, and in connection therewith *equipment, materials and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery, AL.)

NOTE.—This republication conforms to applicant's request for authority.

MC 114552 (Sub-163F), filed June 6, 1978, and previously noticed in the FEDERAL REGISTER issues of August 10, 1978, and October 26, 1978, and republished as corrected this issue. Applicant: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and such other commodities as are dealt in by wholesale and retail chain and grocery houses*, and in connection therewith *equipment, materials and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United

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States (except AK and HI). (Hearing site: Montgomery, AL).

NOTE.—This republication conforms to applicant's request for authority.

MC 121060 (Sub-65F), filed June 7, 1978, and previously noticed in the FEDERAL REGISTER issues of July 20, 1978 and October 26, 1978, and republished as corrected this issue. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and such other commodities as are dealt in by wholesale and retail chain and grocery houses*, and in connection therewith *equipment, materials and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery, AL).

NOTE.—This republication conforms to applicant's request for authority.

MC 125433 (Sub-170F), filed November 7, 1978. Applicant: F-B TRUCK LINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of manufactured and natural gas and petroleum and their products and by-products, and (b) *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in AZ, CA, CO, ID, KS, NE, NV, NM, OK, OR, TX, UT, WA and SD; and between points in MT, ND, WY and SD, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, NE, NV, NM, OK, OR, TX, UT, WA and SD; and (2) *earth drilling machinery and equipment, and machinery equipment, materials, supplies and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities into or from holes or wells, between points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY. (Hearing: November 28, 1978 (3 weeks) at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.)

NOTE.—Common control may be involved.

MC 135705 (Sub-11F), filed October 30, 1978. Applicant: MELROSE TRUCKING CO., INC., 6360 Raderville Route, Casper, WY 82601. Representative: Kim I. Melrose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts; and (2) *machinery, materials, equipment, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in AZ, CO, ID, MT, NM, ND, NV, UT and WY. (Hearing: November 28, 1978 (14 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room to be later designated)

NOTE.—Applicant holds contract carrier authority in MC 140807 Sub 2, therefore dual operations may be involved.

MC 138882 (Sub-95F), filed June 6, 1978, and previously noticed in the FEDERAL REGISTER issues of August 10, 1978, and October 26, 1978, and republished as corrected this issue. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081, Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and such other commodities* as are dealt in by wholesale and retail chain and grocery houses, and in connection therewith *equipment, materials and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery, AL).

NOTE.—This republication conforms to applicant's request for authority.

MC 144557F, filed May 23, 1978, and previously noticed in the FEDERAL REGISTER issues of July 20, 1978, and October 26, 1978, and republished as corrected this issue. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and such other commodities* as are dealt in by wholesale and retail chain and grocery houses, and in connection therewith *equipment, materials and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery or Birmingham, AL).

NOTE.—This republication conforms to applicant's request for authority.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 340(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representatives named.

No. MC-F-12498 (Supplemental) (CRST, INC.—purchase (portion)—LEE BROS., INC.), published in the April 30, 1975, issue of the FEDERAL REGISTER. This supplemental notice reflects the decision of the Commission, served October 30, 1978, which approved the transaction set forth below subject to republication. Operating rights authorized to be transferred: *General commodities*, except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in the Chicago, IL, commercial zone as defined by the Commission, and points in IL within 10 miles of Chicago, not included within the commercial zone, on the one hand, and, on the other, Cincinnati, Dayton, and Hamilton, OH, and points in that part of Ohio on and north of U.S. Highway 20 extending from the Ohio-Indiana State line to

and including Toledo, OH: Midland, MI: and points in that part of Michigan on and south of a line beginning at Benton Harbor, and extending along U.S. Highway 27 to St. Louis, thence on and south of Michigan Highway 46 to Saginaw, thence on the east of Michigan Highway 46 to Saginaw, thence on the east of Michigan Highway 47 to Bay City, thence on and south of Michigan Highway 25 to junction U.S. Highway 25, and thence on and south of U.S. Highway 25 from said junction to Detroit, and points in that part of Pennsylvania on and west of U.S. Highway 119 and on and south of U.S. Highway 442. *Meats, meat products, meat byproducts, dairy products, and articles* distributed by meat packinghouses, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except liquid commodities in bulk, in tank vehicles, (a) between the plantsite of Swift & Co., at Rochelle, IL, on the one hand, and, on the other, Cincinnati, Dayton, and Hamilton, OH; and points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 20 to junction Ohio Highway 120, and thence along Ohio Highway 120 to Toledo, OH; and Midland, MI; and points in that part of Michigan on and south of a line beginning at Benton Harbor, MI, and extending along unnumbered highway (formerly portion of U.S. Highway 12) through Columa, Watervliet, Hartford, Lawrence, Paw Paw, and Oshtemo, MI; to junction Business Interstate Highway 94 through Kalamazoo, MI, to junction Interstate Highway 94 (formerly portion U.S. Highway 12), thence over unnumbered highway through Battle Creek, MI, to Marshall, MI; thence on and east of U.S. Highway 27 to St. Louis, MI; thence on and south of Michigan Highway 46 to Saginaw, MI, thence on and east of Michigan Highway 85 (formerly Michigan Highway 47) to Bay City, MI, thence on and south of Michigan Highway 25 to junction U.S. Highway 25, and thence on, south and west of U.S. Highway 25 to Detroit, MI; and points in that part of Pennsylvania on and west of U.S. Highway 119 and on the south of U.S. Highway 442. (b) From the plantsite of Swift & Co., at Rochelle, IL, to points in that part of Indiana on and north of U.S. Highway 20, with no transportation for compensation on return, except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments originating at, or destined to, the plantsite of Swift & Co., at Rochelle, IL. Persons having an interest in, or would be prejudiced by this grant of authority may file an original and six copies of a petition (or any pleading) within 30 days from the date of this publication with appropriate service on applicant. Petitions shall set forth the precise manner in which the party may or has been prejudiced by the grant of authority. Applicants shall file their replies within 50 days from the date of publication. Applicants' attorney: Robert E. Konchar, 2720 First Avenue, N.E., P.O. Box 1943, Cedar Rapids, IA 52406.

No. MC-F-13680 (Supplement). Authority sought for purchase by BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162, of a portion of the operating rights of Sternberger Motor Corp., 45-50 Court Square, Long Island City, NY, and for acquisition by THE BEKINS COMPA-NY, 1335 So. Figueroa St., Los Angeles, CA 90015, of control of such rights through the purchase, published in the August 17, 1978 issue of the FEDERAL REGISTER. Applicant's attorneys: Marvin S. Maltzman, 777 Flower St., Glendale, CA, 91201, Russell S. Bernhard, Suite 1032 Pennsylvania Bldg., Washington, DC, 20004. The purpose of this supplemental notice is to correct the description of that portion of the operating rights sought to be purchased, which is evidenced by Certificate No. MC-46219 (Sub-No. 3), as described at page 36577 in the issue for Thursday August 17, 1978. The correct Sub-3 description is as follows. . . . (2) Sub-3, (a) New Furniture, From Hampton, VA, to points in AL, DE, FL, GA, LA, MD, MS, *NJ, NY, NC, PA*, SC, WV, and DC, with no transportation for compensation on return except as otherwise authorized. . . . The *underlined* destination states were omitted in prior publication.

MC-F-13698F Authority sought for purchase by NORMAN W. WENGER & SONS, INC., Box 11, R.D. No. 2, East Earl, PA 17519 of a portion of the operating authorities of RAYMOND E. TOWNSEND, JR., Dagsboro-Omar Road, Frankford, DE 19945, and for acquisition by NORMAN W. WENGER, Box 11, R.D., No. 2, East Earl, PA 17519, of control of such rights through the transaction. Applicant's representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Operating rights sought to be acquired: *Fertilizer*, as a common carrier, over irregular routes, from Chesapeake, VA, to points in DE and MD east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal; *manufactured fertilizers* (except liquid fertilizer) in bulk, from Chesapeake, VA, to Windsor, NC; *manufactured fertilizers* (except liquid fertilizer), from Baltimore, MD, to points in that part of Delaware south of the Chesapeake and Delaware Canal, and points in Wicomico, Worcester and Somerset Counties, MD, and Accomac and Northampton Counties, VA; and *fertilizer*, from Dagsboro, Seaford, Bridgeville, Frankford, Milton, Harrington, Hartley, and Mt. Pleasant, DE, to points in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Somerset and Worcester Counties, MD, and Accomac and Northampton Counties, VA, with no transportation for compensation on return except as otherwise authorized, and restricted against the transportation of liquid fertilizer in bulk, in tank vehicles, from Seaford, DE. Vendee seeks tacking or joinder with present authority at points in New Castle County, DE to authorize transportation of fertilizer from Chesapeake, VA to points in Berks, Bucks, Chester, Delaware, Lancaster, Montgomery, and Philadelphia Counties, PA. Vendee is authorized to operate as a *common carrier* in DE, MD, NJ, PA, and VA. No duplicating authority. Application has not been filed for temporary authority under section 210a(b).

NOTE.—No. MC 111023 (Sub-6F) is a directly related matter.

MC-F-13784F. Authority sought for purchase by WITTE TRANSPORTATION COMPANY, P.O. Box 43564, St. Paul, MN 55164, of a portion of the operating rights of G.M.W., INC., 965 Eustis Street, St. Paul, MN 55114, and for acquisition by SPACE CENTER, INC., 444 LaFayette Road, St. Paul, MN 55101 of control of such rights through the transaction. Applicants' attorney: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Operating rights sought to be transferred: Transferee is purchasing only the authority between Chicago, IL and Madison, WI over U.S. Hwy 14 and intermediate points authorized over said route as contained in the following authority described in Certificate No. MC 43475 dated December, 30, 1946: General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between St. Paul, MN and Chicago, IL: From St. Paul over U.S. Hwy 12 via Wisconsin Dells, WI to Madison, WI, then over U.S. Hwy 18 to junction WI Hwy 67 (also from Wisconsin Dells over U.S. Hwy 16 to Oconomoc, WI, then over WI Hwy 18 to Milwaukee, WI, then return over U.S. Hwy 18 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction IL Hwy 21, and then over IL Hwy 21 to Chicago, (also from Madison over U.S. Hwy 14 to Chicago), and return over the same route. Transferee is authorized to operate as a regular route and irregular route common carrier in the states of MN, IA, WI, MO, and IL. Application has been filed for

temporary authority under Section 210a(b). (Hearing site: St. Paul, MN.)

MC-F-13798F. Authority sought for purchase by A. DUIE PYLE, INC., 200 Garfield Avenue, West Chester, PA 19380, of a portion of the operating rights of WOOSTER EXPRESS, INC., Routes 63 and 202, P.O. Box 230, Lansdale, PA 19446. Applicant's attorney: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Operating rights sought to be purchased: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over regular routes between New York, NY, and Philadelphia, PA, serving the intermediate point in Trenton, NJ, restricted to traffic moving to or from points other than New York, NY, all other intermediate points without restriction; and off-route points within ten miles of the specified portions of U.S. Hwy 130 (formerly NJ Hwy 25); From New York over U.S. Hwy 1 to Philadelphia, and return over the same route; From New York over U.S. Hwy 1 to junction U.S. Hwy 130 (formerly NJ Hwy 25), then over U.S. Hwy 130 to Camden, NJ, and then across the Delaware River to Philadelphia, and return over the same route. Vendee is authorized to operate as a *common carrier* in NY, NJ, PA, MD, DE, VA, WV, DC, MA, RI, CT, IL, IN, KY, MI, NC, OH, and WI. Application has not been filed for temporary authority under section 210(b).

MC-F-13799F. Authority sought for purchase by FASTWAY TRANSPORTATION, INC., 151 Morristown Road, Matawan, NJ 07747, of a portion of the operating rights of BURGMEYER BROS., INC., 50 North Fifth Street, Reading, PA 19601, and for acquisition by EDMUND E. HUNT, DONALD BESMAN, and ROSE BECKER, all of, Matawan, NJ 07747, of control of such rights through the purchase. Applicants' attorneys: Thomas F. X. Foley, State Highway #34, Colts Neck, NJ 07722 and A. David Millner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Operating rights sought to be purchased: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), as a *common carrier* over regular routes, between Philadelphia, PA and Trenton, NJ, serving all intermediate points, from Philadelphia over U.S. Hwy 1 to Trenton, and return over the same route. Vendee is authorized to operate as a *common carrier* in NY and NJ. Application has been filed for temporary authority under section 210a(b).

MC-F-13860F. Authority sought for purchase by CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401, of a portion of the operating rights of RINGSBY TRUCK LINES, INC., 3980 Quebec Street, Denver, CO 80207, and for acquisition by PAUL E. CROUSE, P.O. Box 151, Carroll, IA 51401, of control of such rights through the transaction. Transferee's attorney: WILLIAM S. ROSEN, 630 Osborn Building, St. Paul, MN 55102; Transferor's attorney: RUSSELL R. SAGE, P.O. Box 11278, Alexandria, VA 22312. Operating rights sought to be transferred: Irregular routes: (1) *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points within 20 miles of Akron, IA, including Akron; between Akron, IA, and points within 20 miles thereof, on the one hand, and, on the other, points within 100 miles of Akron. (2) *Iron and steel articles*, from the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL, to points in IA, MN, NE, ND, SD and WI, and *materials, equipment, and supplies* used in the manufacture and processing of iron and steel articles, from points in IA, MN, NE, ND, SD, and WI, to the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL. Restriction: The operations authorized in (2) above are subject to the following conditions: Said operations are restricted to the transportation of traffic originating at or destined to the named origins and destinations. Said operations are restricted against the transportation of commodities in bulk. Transferee is authorized to operate as a regular route common carrier in the States of IL, IA, MO, NE, and KS, and transferee holds irregular route special commodity authority as a motor common carrier in 48 States. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Des Moines, Iowa.)

MC-F-13805F. Authority sought for purchase by GENERAL MOVERS, INC., 7645 Hall Street, St. Louis, MO 63147, of the operating rights of FASGO MOTOR EXPRESS, INC., 7845 Hall Street, St. Louis, MO 63147, and for acquisition of control by Lyons Transportation Lines, Inc., 138 East 26th Street, Erie, PA 16512, through acquisition of the stock of General Movers, Inc., and control of such rights by John M. Cochran through the acquisition. Applicants' attorney: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be purchased under MC 37544: General commodities (usual exceptions), over irregular routes, between points in the St. Louis, MO—East St. Louis, IL Commercial Zone; and over regular routes between Palestine, IL and Evansville, IN. Operating rights to be controlled under MC 120879: General commodities, over irregular routes, between points in IL. Lyons Transportation Lines, Inc. is authorized to operate as a common carrier of general commodities (usual exceptions) over regular and irregular routes in CT, IL, IN, KY, MA, MI, NY, OH, PA, and WV. Vendee is authorized to operate as a common carrier soley within the State of IL. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC-120879 (Sub 4F) is a directly related matter.

MC-F-13806F. Authority sought for purchase by HVH TRANSPORTATION, INC., d.b.a. Thacker Transportation, Inc., 3110 South Wadsworth Boulevard, Denver, CO 80227, of the operating rights of L. & E. FREIGHT LINE, INC., d.b.a. Lightning Express Freight Lines, Inc., 2950 Blake Street, Denver, CO 80205, and for acquisition by Robert L. Holder, Alice S. Holder, Richard F. Casey and Kathy S. Casey, all of 3110 South Wadsworth Boulevard, Denver, CO 80227, of control of such rights through the transaction. Applicants' representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Operating rights sought to be purchased: Certificate No. MC-120686 and Subs thereof authorizing the transportation of: (1) Sub 3; General commodities, usual exceptions, as a common carrier over regular routes, between Denver, CO and Limon, CO, serving all intermediate points: From Denver over U.S. Hwy 40 to Limon, and return over the same route; (2) Sub 4; General commodities, except commodities in bulk tank vehicles, over regular routes, between Limon, CO, and Burlington, CO, over U.S. Hwy 24, serving all intermediate points and the offroute point of Hugo, CO; (3) Sub 5; General commodities, usual exceptions, over regular routes, between Colorado Springs, CO, and Limon, CO, serving all intermediate points; from Colorado Springs over U.S. Hwy 24 to Limon, and return over the same route; from Colorado Springs over CO Hwy 94 to junction CO Hwy 71, then over CO Hwy 71 to Limon, and return over the same route; (4) Certificate No. MC-98946 Subs 1 and 2, authorizing the transportation of general commodities, usual exceptions, over regular routes, between Denver, Kiowa and Elbert, CO over various routes. Application has been filed for temporary authority under Section 210a(b). Vendee is authorized to operate as a common carrier in Colorado.

MC-F-13805F. Authority sought for control by B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Arkansas 72118, of Hughes Refrigerated Express, Inc., P.O. Box 2106, Haines City, Florida 33844, and for acquisition by Bob McAdams, 2909 Justin Matthews Drive, North Little Rock, Arkansas 72116, of control of such rights, through the acquisition. Applicants' representative: Bob McAdams, Route 6, Box 15, North Little Rock, Arkansas 72118. Operating rights sought to be controlled: Frozen foods, fruits, berries and vegetables, as a common carrier, over irregular routes, from, to and between specified points in the United States, mostly east of the Mississippi River, as more specifically described in Certificate No. MC 105783 and Subs thereto. Vendee is authorized to operate as a common carrier in all fifty states. No dual operations or duplicating authority will result in the approval of this transaction. B. J. McAdams, Inc. also controls McCormack's Highway Transportation, Inc., and Southern Trucking Corp. Application has not been filed for temporary authority under Section 210a(b).

MC-F-13811F. Authority sought for management in a common interest of FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Sycamore, AL., 35149, and BARNETT TRANSPORTATION, INC., Route No. 2, Box 183, Talladega, AL., 35160. The authority sought would enable ERRIS H. BARNETT of Talladega, AL., 35160, to remain as Vice President of FLOYD & BEASLEY TRANSFER COMPANY, INC., while serving as President and sole stockholder of BARNETT TRANSPORTATION, INC. Applicants' attorney: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, D.C., 20036. Operating rights sought to be managed in a common interest; As to FLOYD & BEASLEY TRANSFER COMPANY, INC.; General commodities, with exceptions, and numerous specified commodities, as a common carrier, over irregular and regular routes to, from, and between points in AL, GA, SC, and TN, as more specifically described in certificate No. MC-18088 and subs thereunder; as to BARNETT TRANSPORTATION, INC.: numerous specified commodities, as a common carrier, over irregular routes to, from, and between points in AL, FL, GA, LA, MS, NJ, NC, PA, SC, TN, TX and VA, as more specifically described in a portion of certificate No. MC-76177 and subs 250, 264, 265, 289, 299, 316, 323, and 327 thereunder acquired in No. MC-FC-77609. Approval of this transaction will not result in (a) dual operations, or (b) splitting of authority. Minimum duplicating authority is involved. Application has been filed for temporary authority under Section 210a(b).

MC-F-13813F. Authority sought for purchase by T.I.M.E.-DC, INC., 2598 74th St. (P.O. Box 2550), Lubbock, TX 79408, of a portion of the operating rights of GLENDENNING MOTORWAYS, INC., P.O. Box 43947, St. Paul, MN 55164, and for acquisition of control of such rights by NATIONAL CITY LINES, INC., P.O. Drawer 17-G, Terminal Annex, Denver, CO 80217, through the purchase. Applicants' attorneys: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603, and Kenneth G. Thomas, P.O. Box 2550, Lubbock, TX 79408. Operating rights sought to be transferred: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), as a *common carrier*, over regular routes, between Chicago, IL, and Minneapolis, MN: From Chicago over U.S. Hwy 20 to Dubuque, IA, thence over U.S. Hwy 52 to Minneapolis, and return over the same route, serving all intermediate points in Minnesota. T.I.M.E.-DC, Inc., is authorized to operate as a common carrier in AL, AZ, AR, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, MD, MA, MI, MO, NE, NV, NJ, NM, NY, OH, OK, OR, PA, RI, TN, TX, VA, WA, WV, WI and WY. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 29904 (Sub-3F) (correction), filed October 10, 1978 and previously noticed in the FEDERAL REGISTER issue of October 26, 1978. Applicant: SUDDATH VAN LINES, INC., 525 Stevens Street, P.O. Box 6699, Jacksonville, Florida 32205. Representative: ROBERT J. GALLAGHER, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transporting of *Household Goods* as defined by the Commission: Between points in NY, NJ, DE, MD, PA, WV, VA, NC, SC, GA, FL, AL, TN, KY, MS, LA, MO, IL, IN, MA, CT, RI, NH, VT, OH, and the DC, on the one hand, and, on the other, points in AZ, CO, IA, NE, WI, CA, MN, NV, and UT. Gateways to be eliminated are as follows: Points in that part of NC east of U.S. Hwy. 21. (Hearing site: Jacksonville, FL.)

NOTE.—This application is directly related to Purchase Application by Suddath Van Lines, Inc. of a portion of the operating authority of Plymouth Van Lines, Inc., MC-F-13679F published in the FR issue of August 24, 1978. The purpose of this application is to eliminate the gateway as noted above. The purpose of this correction is to indicate the correct publication date of the finance proceeding MC-F-13679F.

MC 83217 (Sub-76F) (correction), filed September 27, 1978, and previously noticed in the FEDERAL REGISTER issued of October 26, 1978. Applicant: DAKOTA EXPRESS, INC., 550 East 5th Street South, St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Foodstuffs, building materials, malt beverages, paper products* and *such commodities as are dealt in by retail and wholesale grocery houses* (except foodstuffs), when moving in the same vehicle at the same time with foodstuffs, (a) between points in MN, on the one hand, and, on the other, Sioux Falls, Gary, Brookings, Watertown, Egan, Lone Tree, Air Way Station, Trent and Elkton, SD, and (b) between Sioux Falls, Egan, Lone Tree, Elkton and Flandreau, SD, on the one hand, and, on the other, Gary, Brookings and Watertown, SD. (Hearing site: St. Paul, MN.)

NOTE:—The purpose of this application is to eliminate the gateway points on Flandrean, SD, and points in Lincoln county, MN, through the conversion of certain regular routes authorities to irregular routes authorities as outlined in the Commission's decision in MC-F-12411 served June 28, 1978. This application is directly related to MC-F-12411, published in the FEDERAL REGISTER issue of January 22, 1975. The purpose of this correction is to indicate the correct commodity description.

MC 99667 (Sub-2F)(correction), filed August 28, 1978 and previously noticed in the FEDERAL REGISTER issue of September 28, 1978. Applicant: SERVICE OIL CO., INC., 111 East 4th Street, P.O. Box 2195, Grand Island, NE 68801. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *General commodities* (except those requiring special equipment) between points in NE, restricted against the transportation of meat or meat products between Ord, NE, and points within a 50 mile radius thereof, on the one hand, and, Omaha, NE, on the other. (Hearing site: Omaha, NE.)

NOTE:—This application is directly related to a proceeding in Eight Way Xpress, Inc.—Control—Tri-Valley Express, Inc. and Service Oil Company docketed MC-F-13703 published in the FEDERAL REGISTER issue of August 31, 1978. The purpose of this application is to convert convenience and necessity. The purpose of this correction is to indicate the correct territorial description.

MC 120879 (Sub-4F), filed November 1, 1978. Applicant: , GENERAL MOVERS, INC., 7845 Hall Street, St. Louis, MO 63147. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in IL, and (2) between St. Louis, MO, on the one hand, and, on the other, points in IL. (Hearing site: Washington, DC.)

NOTE—Applicant presently holds the authority sought in part (1) in Certificate of Registration MC 120879 (Sub-1) and seeks by this application to convert said authority to a certificate of public convenience and necessity. The authority sought in part (2) seeks to eliminate those IL points within the St. Louis, MO, Commercial Zone as a gateway in connection with authority being purchased. This application is directly related to proceedings in docket MC-F-13805F, General Movers, Inc.—Purchase—Fasgo Motor Express, Inc. published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER INTRASTATE APPLICATION(S) NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Maine Docket No. X-67 (amendment), filed October 3, 1978. Applicant: JOHN T. THUT, d.b.a. THUT'S EXPRESS, 10 Patten Street, Bangor, ME 04401. Representative: John T. Thut (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between St. Albans and Stonington, serving: St. Albans, Hartland, Palmyra, Pittsfield, Detroit, Plymouth, Newport, East Newport, Etna, Carmel, Hermon, East Hampden, Bangor, Brewer, Deer Isle, and Stonington; both inclusive and intermediate pickup and delivery service in both directions and at all points. With authority to transport between said points general commodities in interstate and foreign commerce via interline with authorized interstate carriers. No pickup or delivery service to be rendered in Hampden (except that part of Hampden northerly and easterly of the southern junction of Old County Road and Route 1A commonly known as East Hampden and easterly of a line drawn due north from said junction where it will intersect the main line of the Maine Central Railroad, which area is understood to include the Hampden Industrial Park). Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Maine Public Utilities Commission, State House, Augusta, ME 04333, and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X-233 (amendment), filed October 2, 1978. Applicant: IVAN E. SHERWOOD, 81 Water Street, Howland, ME 04408. Representative: Ivan E. Sherwood (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, To pick up at points in Group (A) for delivery at points in Group (B). To pick up at points in Group (B) for delivery at points in Group (A). To perform pick up and delivery service between points in Group (B). Group (A) Bangor, Brewer, E. Hampden, Veazie, Orono, Old Town, Milford. Group (B) Costigan, Greenbush, Olamon, Passadumkeag, W. Enfield, Enfield, Edinburgh, Howland, Maxfield, Seboeis, No. Howland, Burlington, E. Lowell, Lowell. With authority to transport between said points general commodities in interstate and foreign commerce via interline with authorized interstate carriers. No pickup or delivery service to be rendered in Hampden (except that part of Hampden northerly and easterly of the southern junction of Old County Road and Route 1A commonly known as East Hampden and easterly of a line drawn due north from said junction to where it will intersect the main line of the Maine Central Railroad, which area is understood to include the Hampden Industrial Park). Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Maine Public Utilities Commission, State House, Augusta, ME 04333, and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X-2600 (amendment), filed September 14, 1978. Applicant: PAULINE A. MYRICK AND AUSTIN R. McDEVITT, d.b.a. R. L. McDEVITT AND SON, High Street, Ellsworth, ME 04605. Representative: A. R. McDevitt, P.O. Box 396, Ellsworth, ME 04605. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, Inclusive and intermediate pickup and delivery service in both directions and at all points, between points in Group (A) and points in Group (B), and between points within Group (B). No service to be provided between points within Group (A). Group (A). Bangor, Brewer, East Hampden, Holden, East Holden, Lucerne, Green Lake, Goose Pond, Nicolin, North Ellsworth, Ellsworth Falls, and Ellsworth. Group (B). Lamoine, Trenton, Town Hill, Eden, Salisbury Cove, Hull's Cove, Bar Harbor, Otter Creek, Seal Harbor, and Northeast Harbor. With authority to transport between said points general commodities in interstate and foreign commerce via interline with authorized interstate carriers. No pickup or delivery service to be rendered to Hampden (except that part of Hampden northerly and easterly of the southern junction of Old County Road and Route 1A commonly known as East Hampden and easterly of a line drawn due north from said junction where it will intersect the main line of the Maine Central Railroad, which area is understood to include the Hampden Industrial Park). Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Maine Public Utilities Commission, State House, Augusta, ME 04333, and should not be directed to the Interstate Commerce Commission.

Maine Docket No. X-5572 (amendment), filed September 28, 1978. Applicant: LUCIEN BISSON, INC., New Meadows Road, West Bath, ME 04530. Representative: Richard L. Bisson (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between Portland, South Portland, Scarborough and Nobleboro, serving: Portland, South Portland, Scarborough (1), Yarmouth (2), Freeport, Brunswick, Topsham, Pejepscot, West Bath, Bath, Woolwich, Montsweag, Wiscasset, North Edgecomb, Edgecomb, Trevett, Boothbay, Boothbay Harbor, West Boothbay Harbor, Southport, West Southport, Newagen, Bayville, East Boothbay, Ocean Point, South Newcastle, Newcastle, Sheepscot, Whitefield, Head Tide, Alna, Damariscotta Mills, Damariscotta, Walpole, Clark's Cove, South Bristol, Bristol, Pemaquid, Pemaquid Harbor, Pemaquid Beach, New Harbor, Pemaquid Point, Chamberlain, Round Pond, Muscongus, Bremen, Medomak, Broad Cove, and Nobleboro; both inclusive with intermediate pickup and delivery service in both directions at all points. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Maine Public Utilities Commission, State House, Augusta, ME 04333, and should not be directed to the Interstate Commerce Commission.

NOTES.—(1) Only service provided is interlining of shipments with carriers whose terminals are in Scarborough. (2) No service provided between Yarmouth and the following points: Portland, South Portland, Scarborough, Freeport, Topsham, Pejepscot, Woolwich, Wiscasset, Newcastle, Damariscotta, and Nobleboro. With authority to transport between said points general commodities in interstate and foreign commerce via interline with authorized interstate carriers. Intrastate, interstate and foreign commerce authority sought.

New York Docket No. T-3954, filed October 25, 1978. Applicant: ROOT'S EXPRESS, INC., 11 Karlada Drive, Binghamton, NY 13902. Representative: Martin Werner, 888 7th Avenue, New York, NY 10019. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportaton of: *General commodities* (as defined by the New York State Department of Transportation), between all points in the Counties of Broome, Erie, Livingston and Monroe. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, Building No. 4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33006 Filed 11-22-78; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-118]

GRANT OF MOTOR CARRIER OPERATING AUTHORITY TO AN APPLICANT WHO INTENDS TO USE IT PRIMARILY AS AN INCIDENT TO THE CARRIAGE OF ITS OWN GOODS AND ITS OWN NONTRANSPORTATION BUSINESS

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: The Commission here affirms the policy announced in *Toto Purchasing & Supply Co., Inc.*, 128 M.C.C. 873 (1978), that for-hire motor carrier operating authority can be granted to an applicant who intends to use it primarily as an incident to the carriage of its own goods and its own nontransportation business, provided (1) that the standard criteria for motor common carrier applications or motor contract carrier applications, as the case may be, are met, and (2) that the applicant is agreeable to the imposition of conditions requiring it to conduct its for-hire motor carrier activities and its other activities independently and to maintain separate records for each. The *Toto* decision was served March 24, 1978. Within the 30-day period immediately thereafter, petitions urging reconsideration of the *Toto* decision were filed by a number of persons. Because the change of policy announced in *Toto* raises many issues of general import that ought to be resolved in a general policy proceeding, this proceeding was instituted by a notice of proposed policy change published in the FEDERAL REGISTER on August 2, 1978 (43 FR 33945). In a separate order, we stayed the taking effect of the new *Toto* policy pending the final determination of this proceeding. Thirty-nine representations have been received including 18 from shipper interests and 14 from carrier interests. For-hire carriers (motor and rail) and the Teamsters oppose the proposed policy change, while shippers, the Private Carrier Conference of the American Trucking Associations, Inc., and governmental interests support the policy modification.

EFFECTIVE DATE: January 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Telephone: 202-275-7292.

SUPPLEMENTARY INFORMATION: Our recent decision in *Toto Purchasing & Supply Co., Inc.*, 128 M.C.C. 873 (1978), marked a departure from our adherence to the policy of *Geraci Contract Carrier Application*, 7 M.C.C. 369 (1938). The *Geraci* policy provided that the Commission would not grant a motor carrier certificate or permit to an applicant who intended to use it primarily as an incident to the carriage of its own goods and its own nontransportation business. The *Toto* policy provides that motor carrier operating authority can be granted to such an applicant, provided (1) that the standard criteria for motor common carrier applications or motor contract carrier applications, as the case may be, are met, and (2) that the applicant is agreeable to the imposition of conditions requiring it to conduct its for-hire motor carrier activities and its other activities independently and to maintain separate records for each.

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DISCUSSION AND CONCLUSIONS

The historical development of the *Geraci* policy is set forth in full detail in *Toto, supra*, at 877-880, and will not be repeated here. No party has discovered, nor have we found, any inaccuracy or error in *Toto's* examination of the historical record of the *Geraci* policy. For present purposes it suffices to say that the *Geraci* rule was developed in the very early days of motor carrier regulation, in an economic environment which no longer exists—the Depression of the 1930's—at a time when private motor carriage was of little economic significance and regulated motor carriage was weak and in its infancy. The rule, which was developed to meet the needs of a wholy different trucking industry than exists today, was thereafter followed for four decades, and no formal change was made despite the enormous growth and development of regulated motor carriage and the increasing role of private motor carriage. Although exceptions were carved into the rule (see *Toto, supra*, at 878-880), the rule itself remained intact, a monument to a bygone era in which the forces of market competition had had but a

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small role to play in the context of a regulated industry. The *Geraci* rule made less efficient, though it could not stop, the growing use of private vehicles.

Three reasons have often been advanced in support of the *Geraci* rule, *Geraci, supra*, at 372:

(1) It would be an anomalous situation under which a single operator of motor vehicles would at one and the same time, as to different parts of its operations, be a private carrier not subject to regulation and a [common or contract] carrier subject to regulation. The difficulties which such a status would present with reference to accounting, statistics, issue of securities, unifications, and the like are obvious.

(2) Apart from this objection to such a combination of functions, it is clear that the public interest, as declared in the policy of Congress, requires motor carriers able to supply "adequate, economical, and efficient service" to the public "without unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices." A private carrier has the advantages of an assured traffic obtained without solicitation expense, freedom from the expenses which public regulation necessarily entails, and often an overhead or management expense shared with the commercial enterprise for which the hauling is done. A disadvantage which it often suffers is lack of a well-balanced traffic on both directions. If the private carrier be able to overcome this disadvantage by operating as a [regulated] carrier in one direction, it is evident that advantages which it enjoys in its private carriage will enable it to compete on better than even terms with most contract carriers, to say nothing of common carriers.

(3) [M]any private carriers are associated with large industries. If private carriers generally were permitted to engage in [for-hire]-carrier operations in the manner here proposed, it is clear that the results might seriously affect the maintenance of adequate and efficient service by the motor common carriers upon whom the general public must depend, and by the contract carriers who do not also engage in private carriage. We are of the opinion that such a mixture of private-carrier and [for-hire]-carrier operations is definitely inconsistent with the public interest * * *.

The issues noted in *Geraci* and its progeny [1] reflect serious concerns; the *Geraci* rule has not persisted merely out of blind adherence to the past. There are, however, other countervailing considerations which also need to be weighed. The increasing need for energy-efficient operations has caused the Commission to place added emphasis on coordination between the various forms of transportation, public and private. The issues noted in *Geraci*, and raised in this proceeding by opponents of the new *Toto* policy, may be viewed as follows:

1. *The difficulties with reference to accounting, statistics, issue of securities, unifications, and the like.*— The concern is that the carrier would integrate the records of its transportation operation into the books of its primary, nontransportation business. Without the ability to see clearly the records of the transportation aspects of the enterprise, the Commission would arguably be unable properly to regulate the carrier.

The imposition of conditions requiring the carrier to conduct its for-hire motor carrier activities and its other activities independently and to maintain separate records for each should preclude the carrier from integrating its records in such a manner as to defeat our regulatory supervision. Imposition of these conditions upon grants of motor carrier operating authority will provide us with adequate information about the proposed for-hire motor carrier activities in order properly to discharge our regulatory responsibilities.

The requirement that the private carrier maintain separate records for its for-hire transportation operations should solve the difficulties "with reference to accounting, statistics, issue of securities, unifications, and the like" that so troubled the Commission in *Geraci*. The Commission's record-keeping requirements were not fully developed in 1938; they are far more adequate in 1978. The private carrier seeking for-hire motor carrier operating authority must be prepared to maintain separate records with regard to its for-hire operations; and it, like any other regulated carrier, must be prepared to file with the Commission the accounts, tariffs, and schedules which are required to be filed pursuant to our regulations.

2. *The potential for undue preference and prejudice between the carrier's own traffic and that of its customers.*— When a private carrier seeks for-hire motor carrier operating authority, a theoretical potential for preference and prejudice may be created, for it is to be expected that the private carrier would be naturally inclined to give first priority to its own shipments, as opposed to the traffic tendered to it by other shippers. However, the theoretical potential for preference and prejudice may be eliminated when the for-hire authority complements rather than conflicts with the private carriage. When a private carrier seeks to acquire for-hire authority which would allow it to backhaul on its existing private carrier routes, the two kinds of motor carrier operations would appear to complement one another and to provide little danger of undue preference and prejudice. That this was the situation in the two applications considered in the *Toto* case is not surprising, for almost all of the instances in which private carriers have sought for-hire authority have involved backhauls to established private carrier routes.

Even when the operations are not complementary, there may be good reasons to authorize the services. To start with, real rather than theoretical potentials are our concern in shielding the public from discriminatory practices in transportation. We can find little to be realistically concerned about when the shippers intending to use the carrier's services are aware that the carrier is controlled by another shipper. The shipper presumably knows the theoretical risks involved in using a carrier which also hauls its own goods. Some deference must be accorded to the business judgment of the shipper in deciding to use the service. Indeed, we believe it entirely possible that the shipper's judgment in such matters may be better than ours. Perpetuation of *Geraci* would preclude shippers from exercising any choice in the matter. For the shipper, this may be disastrous; he may be left with inadequate or no for-hire service. All things considered, we believe that a continuation of the *Geraci* rule would do the public more injury than any prejudicial activities which might occur because of its absence.

3. *Granting private carriers operating authority as for-hire carriers gives them an unfair advantage over regulated carriers.*—The general public may be dependent upon the common carriers' obligations to provide service within the limits of their authority to everyone who tenders them traffic.[2] However, it is not this Commission's purpose to provide protection for regulated carriers (rail, water or motor) when the public's interest in more adequate transportation service could best be served by authorization of a new, competitive service.

The Commission in *Geraci* pointed out that the private carrier has the advantage of being free from the expenses that regulation entails. However, to the extent that a private carrier receives operating authority from this agency, it too faces those expenses. The regulated traffic of a company which also conducts private carriage would, all things being equal, bear the same expenses of regulation as a similar amount of traffic carried by a company that engaged solely in for-hire carriage. Moreover, when the private carrier is required to maintain separate records and separate operations with regard to its for-hire service, its costs of regulation would seem to be proportionately higher.

The Commission in *Geraci* also noted that the private carrier often has the advantage of an overhead or management expense shared with the nontransportation side of the enterprise. However, such an arrangement would benefit the private carrier only if it were assumed that the transportation operation did not contribute its proportionate share to the total revenue of the enterprise. The argument assumes the existence of a cross-subsidy which is not inherent in such an arrangement. To the contrary, it is general business practice to extract from each segment of an enterprise at least sufficient productivity to meet its costs. Any part of a business that cannot contribute enough to the overall operation to meet its costs is usually eliminated.

[1] See, e.g., the cases collected in *Toto, supra*, 128 M.C.C. at 878, n 7.

[2] This obligation, of course, would apply equally to a private carrier granted for hire authority.

Another theoretical problem is the temptation of the private carrier to price its for-hire backhaul at less than variable cost, in order to fill up an otherwise empty haul. However, the incentive for the carrier to price its return haul at out-of-pocket costs would apply equally to for-hire carriers seeking backhaul traffic. In any event, the Commission can police any threatened abuses in this area through its ratemaking functions. Private carriers seeking for-hire authority must heed the mandate contained in 49 U.S.C. § 10701 (formerly Section 216(d) of the Interstate Commerce Act): "A rate, classification, rule, or practice related to service provided by a carrier subject to the jurisdiction of the Interstate Commerce Commission . . . must be reasonable."

This analysis persuades us that the *Geraci* policy should be rejected in favor of the *Toto* policy. It is our expectation that implementation of the new policy will enable private carriers to provide needed for-hire service to shippers and will also provide for increased efficiency in the transportation system by filling up otherwise empty backhauls. We are convinced that the high cost of energy, now and into the foreseeable future, requires us to pay close attention to the need for greater operating efficiency, not only in the for-hire sector, but in all interstate surface transportation. Energy efficiency and environmental preservation are best achieved by integration of all the existing systems of surface transportation, not by continued segregation of the private trucking sector. Furthermore, as is the case with all applications for motor carrier authority, each application filed for authority by a private carrier will be closely evaluated to determine the energy and environmental impacts of the proposal.

This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, and it is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

This document is promulgated under the authority contained in 49 U.S.C. §§ 10321(a), 10521, and 10921 and 5 U.S.C. §§ 553 and 559.

Dated: November 7, 1978.

By the Commission. Chairman O'Neal, Vice Chairman Christian Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Stafford dissenting.

H. G. Homme, Jr.,
Acting Secretary.

Commissioner Stafford, dissenting:

After careful consideration of the public comments filed in this proceeding, I am convinced that our earlier decision must be reversed. Parties opposed to the *Toto* policy have detailed several adverse effects which this new approach will have upon our national transportation system. The majority statement here today does nothing to answer these challenges.

I am particularly concerned about the question of cross-subsidy. Our earlier decision made light of this consideration. However, various parties have pointed to an abundance of cost items which by nature will be shared by both the private and for-hire segments of a business entity. These include maintenance costs, building and office equipment costs, management and supervisory expenses and registration and license fees. While any single cost saving may be minimal, the sum of all shared expenses will provide a large comparative cost advantage to private/for-hire carriers.

The majority responds to this issue by denying that cross-subsidy will be inherent in a private/for-hire operation. Instead, it suggests that if the for-hire carriage activity does not contribute enough to meet its costs, it will likely be eliminated. In view of the evidence presented, I find this to be an unrealistic assumption.

Questions have been raised as to the feasibility of requiring private/for-hire carriers to maintain separate accounting records. As pointed out by certain parties, this action comes at the same time the Commission is attempting to reduce the paperwork burden on both itself and the regulated carriers. Indeed, even the Council On Wage and Price Stability, which supports the proposed policy change, expresses reservation about the separate records requirement. The Council states that it is not clear how the ICC envisions maintenance of separate cost records, "since many cost elements would be of a joint nature." It concludes that the cost allocation question is "serious" and "needs to be addressed before the proposed policy change is implemented." The majority offers no response.

Today's statement dismisses the issue of whether a private/for-hire carrier will be naturally inclined to favor its own traffic. The majority presumes that a shipper will know the "theoretical risks" involved in using the hybrid carrier. I will not dispute that some deference must be accorded to the business judgment of such shippers. But what about the shipper whose traffic is not particularly attractive?

Parties in opposition to the *Toto* policy argue that because of the shared-cost factor, private/for-hire carriers have a competitive rate advantage, allowing them to capture the more lucrative traffic. The resulting diversion of revenue from the now regulated carriers could force some of these operations out of the market. The shipper with unattractive traffic would not be in a position to exercise its "business judgment." Indeed, the private/for-hire carrier may be its only available service.

Furthermore, it will be difficult, if not impossible, for a new carrier to enter such a marketplace. It, too, will be unable to compete with the advantages inherent in the private/for-hire operation. Accordingly, large shippers will be forced to protect themselves by entering the transportation business, to the further detriment of the common carrier system designed to serve all parties without discrimination. Viewed in this context, I see the likelihood of preferential treatment toward one's own traffic to be more than a "theoretical potential."

Overall, today's policy statement emphasizes the general theme that the Commission has no affirmative duty to protect regulated carriers from competition. This is true. But we do have a statutory mandate to assure that *all* shippers have available to them a viable common carrier network. The *Toto* policy presents some real threats to this system.

The statement issued today, however, is no more than a wholesale adoption of the language used in the earlier decision. There is no attempt to meet the issues raised by parties in response to the Federal Register notice. In fact, anyone reading today's statement can legitimately question whether the Commission ever actually considered these public comments. I find this especially disquieting and a serious undermining of the rulemaking process.

[FR Doc. 78-33008 Filed 11-22-78, 8:45 am]

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[7035-01-M]

[Notice No. 29]

SPECIAL PROPERTY BROKERS

NOVEMBER 20, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and (1) copy of a verified statement in oppoistion limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-134, filed: November 2, 1978. Applicant: KANSAS CITY TRUCK BROKERS, INC., 1820 West 91st Place, Suite 304, Kansas City, MO 64114. Representative: William Houlehan (Same address as applicant).

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33007 Filed 11-22-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-180, Nov. 20, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1 p.m., November 28, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Staff briefing and discussion of the Deregulation Act of 1978.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2388-78 Filed 11-21-78; 3:45 pm]

[6570-06-M]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2335-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Friday, November 17, 1978.

CHANGE IN THE MEETING: The following matter was postponed for consideration at a future meeting:

1. Recommended procedures for the Office of Appeals and Review.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; and J. Clay Smith, Jr., Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued November 20, 1978.

[S-2363-78 Filed 11-21-78; 10:52 am]

[6714-01-M]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on November 17, 1978, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following item from consideration:

Memorandum and Resolution regarding the Federal Deposit Insurance Corporation Investment Program.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: November 17, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2360-78 Filed 11-21-78; 10:52 am]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on November 17, 1978, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw from consideration a memorandum regarding the liquidation of assets acquired by the corporation from Northern Ohio Bank, Cleveland, Ohio.

The Board also determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: November 17, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2361-78 Filed 11-21-78; 10:52 am]

[6740-02-M]

5

NOVEMBER 20, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., November 27, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Hearing Room A.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. RM79-3; Interim Regulations Implementing the Natural Gas Policy Act of 1978.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

KENNETH F. PLUMB,
Secretary.

[S-2362-78 Filed 11-21-78; 10:52 am]

[6730-01-M]

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., November 29, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

FRIDAY, NOVEMBER 24, 1978

V 43 / 227 NOV 24 78 IMI

MATTERS TO BE CONSIDERED:

1. Appeal from action of Managing Director in rejecting certain tariff matter of the Japan/Korea-Atlantic and Gulf Freight Conference.
Agreement No. 10341: Transshipment and scheduling agreement between American President Lines, Ltd., and Medtainer Gulf Line SAL.
3. Agreement No. 3103-67: Extension of intermodal authority of the Japan/Korea-Atlantic and gulf Freight Conference.
4. Proposed rules on freight forwarder bids on Government shipments at United States ports.
5. Docket No. 78-5: Capitalization of interest during construction—Consideration of the record.
6. Docket No. 78-21: Average value rate base—Consideration of the record.
7. Docket No. 78-30: Time limit for filing of overcharge claims—Consideration of the record.
8. Docket No. 73-64: Additional provisions and reporting requirements applicable to self-policing system under General Order 7—Petition for reconsideration.
9. Docket No. 76-24: *United Nations* v. *Flota Mercante Grancolombiana, S.A.*—Petition for reconsideration
10. Docket No. 77-19: Agreement No. 10235, Consolidators Forwarders Intermodal Corp.—Consideration of draft report.
11. Docket No. 78-36: In re Baltic Shipping Co.—Rates and practices in the U.S. Gulf Coast/North Europe Trade—Consideration of the record.
12. Dockets Nos. 71-70, 73-13, 73-35, and 73-80: Cargo diversion cases—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2366-78 Filed 11-21-78 3:36 pm]

[6735-01-M]

7

NOVEMBER 21, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., November 28, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. In re Thomas S. Kale, Esq., and Paul D. Kelly, Jr., Esqs., Docket No. D-78-1.
2. *John Matala* v. *Consolidation Coal Company*, Docket No. IBMA 76-96 (alleged discrimination).
3. *MSHA* v. *Jim Walters Resources, Inc., Cowin and Company, Inc.*, Docket Nos. BARB 77-266-P, 76-465-P (petition for discretionary review).
4. Staff briefing on pending cases under the 1977 Act as to the independent reviewability of a notice under section 105(d).
5. Identification of those cases as to which oral argument may be appropriate.

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, 202-653-5644.

[S-2367-78 Filed 11-21-78; 3:40 pm]

[7020-02-M]

8

[USITC SE-78-58]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, November 28, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): (a) Rayon staple fiber from Finland and France (Docket No. 540).
5. Clothespins (Inv. TA-201-36)—Vote on remedy.
7. Any items left over from previous agenda.

Portions closed to the public:

6. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2365-78 Filed 11-21-78; 3:36 pm]

[8010-01-M]

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 27, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, November 28 at 10 a.m. An open meeting will be held on Wednesday, November 29, 1978 at 9:30 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 28, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Consideration of amicus participation.
Formal orders of investigation.
Freedom of Information Act appeals.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive action.
Institution and settlement of injunctive action.
Litigation matter.
Order compelling testimony.
Settlement of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Wednesday, November 29, 1978, at 9:30 a.m., will be:

1. Consideration of whether a release should be issued notifying issuers subject to the registration and reporting provisions of the Federal Securities Laws of their obligations to disclose any material impact on their operations of the Wage and Price Standards for 1979 announced by President Carter on October 24, 1978. For further information, please contact William H. Carter at 202-376-8090.
2. Consideration whether to delegate authority to the Director of the Division of Market Regulation to extend the deadline for Commission action on proposed rule changes of self-regulatory organizations. For further information, please contact John M. McNally at 202-755-1368.
3. Consideration of whether an FOIA Appeal of Dennis C. Brady, Esquire, of the law firm of Metzger, Shadyac & Schwarz, from the determination of the FOIA Officer that transcripts of testimony taken in the investigation relating to the securities of Financial General Bankshares, Inc., are exempt from production. For further information, please contact Rosalind Cohen at 202-376-8057.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Michael P. Rogan at 202-755-1638.

NOVEMBER 20, 1978.

[S-2364-78 Filed 11-21-78; 3:36 pm]

federal register

FRIDAY, NOVEMBER 24, 1978
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

(Docket No. N-78-897)

PRIVACY ACT OF 1974

Annual Publication of Systems of Records

Agency: Department of Housing and Urban Development.

Action: Annual publication of systems of records.

Summary: This notice published an up-to-date version of the existence and character of the Department's systems of records.

For further information contact: Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone number (202) 755-5192.

Supplementary information: Editorial changes have been made in individual systems to clarify terminology and to describe better the contents therein. Also, in order to reflect the reorganization of HUD field offices, the description of system location was changed for many record systems. The Office of Management and Budget advised HUD that a report is not required because the changes do not add, subtract or alter the record systems. The specific changes follow:

System name: HUD/DEP-1, Accident, Employees and/or Government Vehicles.

Changes: (1) Categories of individuals covered by the system—delete "other individuals who have sustained injury/illness as a result of such accidents". Records are retrieved only by name of HUD employee.

(2) Categories of records in the system—add "employee's absences due to injuries and resultant claims," which better describes the information contained in this system.

(3) Storage—substitute "In file folders" for "Primarily looseleaf folder; Standard Forms 91, 91A, free text".

(4) Retriveability—substitute "Subject name" for "Filed by name".

System name: HUD/DEPT-4, Fee Inspector, Appraisers and Mortgage Credit Examiners.

Changes: (1) System name—substitute above name for former name of "Appraisals/Appraiser Files".

(2) Categories of individuals covered by the system—substitute "Individuals who have applied to HUD for appointment as fee appraisers, inspectors and mortgage credit examiners" for "Fee appraisers for single family and multifamily properties, single family credit examiners; applicants for positions as fee examiners; builders, contractors realtors dealing with appraised property; HUD appraisers and certifiers; correspondents; Social Security recipients in FHA-appraised homes".

(3) Categories of records in the system—substitute "Applications and resumes containing personal data and qualifications for position sought; assignment logs, fees paid and appraisals made"; and evaluation of qualification and of appraisals made for "Roster of fee appraisers, qualifications; fee appraiser applications and certification; financial interest and employment statements; appraiser work records; appraisal fee, date, approving officers; HUD staff certifiers of fee appraisers; correspondence and inquiries on housing appraisals; application for appraisal; comparison valuation data on housing sales; appraisal of property held by Social Security recipients".

(4) Storage—add "5x8 file cards".

(5) Retention and disposal—delete "Social Security appraisals are historical data".

(6) Record source categories—change to "Subject individuals, references and HUD staff" from "Subject individual; other individuals; financial institutions; firms; federal agencies; non-federal agencies; employers; credit bureaus; law enforcement agencies".

System name: HUD/DEPT-5, Architects and Engineers.

Changes: (1) Categories of records in the system—substitute "Applications containing personal data and qualifications for position sought and assignment logs and fees paid" for "Engineering surveys, engineer's letters of map amendment, engineering reviews, established architectural reports, field reviews and performance ratings, job log files, fee and bond schedules, professional insurance policy records, and general work files"

(2) Storage—delete "Blueprints and specification in free text form, on standard forms, or".

(3) Retrievability—substitute "Subject name" for "Name, by persons' assigned number, case file number, and indexes".

(4) Record source categories—substitute "Subject individuals and references" for "Individual architect or engineer, professional organization, local housing authorities, government agencies, law enforcement agencies, state boards certifying professional competency".

System name: HUD/DEPT-9, Single-family Casualty Damage Files.

Changes: (1) System name—substitute "Single-family Casualty Damage Files" for "Casualty/Hazard Insurance".

(2) Categories of individuals covered by the system—substitute "Mortgagors under HUD single-family insurance programs filing claims for repairs due to casualty damage on their insured homes" for "Mortgagors and mortgagees under single-family insurable programs; HUD certifiers; insurers".

(3) Categories of records in the system—substitute "Inspection reports of repaired property; certifications of casualty damages/repairs; records of repairs made and their costs; and related correspondence" for "Certification of casualty damages/repairs; certification of unavailability of hazard insurance; referral list of insurers".

(4) Record source categories—substitute after Mortgagors, "mortgagees; inspectors; and contractors" for "subject individuals, rehabilitation contractor".

System name: HUD/DEPT-10, Construction Complaints Files.

Changes: (1) Categories of individuals covered by the system—substitute "Mortgagors of insured single-family homes who have filed construction complaints with HUD" for "Mortgagors, builders, developers, and contractors under HUD programs".

(2) Record source categories—add after Subjects and other individuals "builders and contractors and their".

System name: HUD/DEPT-15, Equal Opportunity Housing Complaints.

Changes: (1) Categories of individuals covered by the system—delete "individuals, officials, and organizations complained about; managers; grant or project applicants; builders; developers; contractors; appraisers; property owners; mortgagors; candidates for positions; witnesses; attorneys; individuals in disaster and EO files; Title VI, VIII and IX complainants."

(2) Categories of records in the system—a) delete "marketing activity". b) add "In mortgage discrimination cases, records include mortgage applications, credit reports, and verification of income, employment and bank deposits".

System name: HUD/DEPT-17, Experimental Housing Allowance Program—Participant Files.

Changes: (1) System location—delete "Division of Housing Assistance Research, Assistant Secretary for Policy Development and Research".

(2) Categories of individuals covered by the system—delete "and landlords".

(3) Notification procedure—a) in the first sentence, substitute "Headquarters" for "appropriate". b) in the second sentence, substitute "This location" for "A list of all locations".

(4) Record access procedures—in last sentence, substitute "This location" for "A list of all locations".

System name: HUD/DEPT-18, Fellowship Files, Urban Studies.

Changes: (1) Record access procedures—in the last sentence, substitute "This location" for "A list of all locations".

System name: HUD/DEPT-20, Homeownership Assistance and Recertification Application (HARAS).

Changes: (1) Categories of individuals covered by the system—add "Large sample of" at the beginning of the sentence describing categories of individuals.

(2) Retrievability—substitute "Case file number" for "Name. Application and recertification tables produced quarterly. No output automated system interfaces or terminal inquiry capability".

(3) Notification procedure—a) in the first sentence, substitute "Headquarters" for "appropriate". b) in the second sentence, substitute "This location" for "A list of all locations".

(4) Record access procedures—in the last sentence, substitute "This location" for a "A list of all locations".

System name: HUD/DEPT-23, Single-Family Research Files.

Changes: (1) System name—substitute "Single-family Research Files" for "Insured and Terminated Single-family Cases".

(2) Notification procedures—a) in the first sentence, substitute "Headquarters" for "appropriate". b) in the second sentence, substitute "This location" for "A list of all locations".

(3) Record access procedures—in the last sentence, substitute "This location" for "A list of all locations".

System name: HUD/DEPT-24, Investigation Files.

Changes: (1) Categories of individuals covered by the system—delete the following categories "mortgagees, and projects (before applicants), builders, developers, real estate firms, (and) contractors".

System name: HUD/DEPT-22, Housing Counseling

Changes: (1) System location—delete old system location and replace with "headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A. In addition to these offices, HUD-approved counseling agencies in many cities, both voluntary and paid by the Department, maintain files of this type. To determine whether such an agency exists in a particular city, contact the nearest HUD field office shown in Appendix A".

(2) Categories of individuals covered by the system—delete "Primarily individual mortgagors and prospective home buyers seeking advice, information and assistance regarding housing. Individuals with housing problems," and replace with "This system contains records of individuals who have been referred but not counseled; individuals who have been or are receiving counseling and assistance with housing problems and related family and financial problems, as well as individuals seeking general and consumer information".

(3) Categories of records in the system—delete "Dates counseling, summaries of aid furnished to inquiriers, correspondence. Sometimes include certificate of completion of counseling, standard forms or letters, financial data," and replace with "This system contains records of dates of counseling, summaries of aid furnished, correspondence with or on behalf of the individual being counseled, standard forms, letters and reports, purchase and financial data, medical history, employment information and problems, family composition, referral information and specific family and/or individual problems".

(4) Routine uses of records maintained in the system, including categories of users and purpose of such uses—for other routine use, substitute "to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency staff," for "Occasionally used by HUD approved counseling agencies in providing supportive counseling services such as money management and housekeeping training."

(5) Storage—substitute "The records are stored in paper files which are kept in standard lockable file cabinets and desks" for "HUD Forms 9906/9907, stored in file folders".

(6) Retrievability—replace "Always retrievable by name. Occasionally files are in chronological order or can be retrieved by case file number on address of property" with "Records are retrievable by name, case numbers or property address".

(7) Safeguards—Delete "Data maintained in lockable desks and file cabinets. In some cases, files are restricted to use by counsellors," and replace with "during the counseling process and the retention period, records and maintained in confidential files with access limited to those whose official duties require access"

(8) Retention and disposal—replace "A few records are active and kept up-to-date. Older records are treated according to HUD Handbook," with "Counseling records are maintained by the counseling agency for as long as the individual being counseled participates in the program and up to five (5) years thereafter. The Department may maintain summary records of the counseling for as long as the individual being counseled lives in HUD-insured or assisted property"

(9)Record source categories—substitute "Information in this system of records is, (1) supplied directly by the individual, and/or (2) supplied by a member of the individual's family, and/or (3) supplied by mortgagees, employers (past and present), creditors and credit reports, landlords (both public and private) and/or (4) supplied by sources to whom the individual being counseled has been referred, or has gone to for assistance, and/or (5) derived from information supplied by the individual, and/or (6) supplied by Department officials and/or (7) supplied by program counselors," or "Records usually furnished by subject individual. Occasionally received from other individuals, current or previous employers, credit bureaus, financial institutions, nonfederal agencies, counseling offices, community organizations and mortgage credit examiners".

(2) Record access procedures—in the last sentence, substitute "This location" for "A list of all locations".

System name: HUD/DEPT-25, Legal Action Files.

Changes: (1) System location—delete "insuring and service offices".

(2) Contesting record procedures—(a) in the second sentence, substitute "appropriate" for "Headquarters". (b) in the third sentence, substitute "A list of all locations" for "This location".

System name: HUD/DEPT-28, Property and Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default.

Changes: (1) Categories of individuals covered by the system—after the word debtors, substitute "delinquent or in default" for "builders and contractors under mobile home, home improvement and rehabilitation programs".

System name: HUD/DEPT-29, Rehabilitation Grants and Loans Files.

Changes: (1) System name—substitute "Rehabilitation Grants and Loans Files" for "Mobile Home, Home Improvement Loans and Rehabilitation Grants and Loans".

(2) System location—add after the first word, the term "regional".

(3) Categories of individuals covered by the system—substitute "Applicants who have applied for rehabilitation grants and loans" for "mobile home, home improvement and rehabilitation loan debtors; rehabilitation grantees, builders, dealers and contractors under mobile home, home improvement and rehabilitation loan and grant programs"

Storage: Add "and on magnetic tape/disc/drum".

Retrievability: (a) after name, add "property address". (b) at the end of the sentence, delete "of individual covered".

Record source categories: At the end of the sentence, add "credit reporting agencies".

System name: HUD/DEPT-32, Mortgages—Delinquent/Default/Assigned.

Changes: (1) System name—add as the last word, "Assigned".

(2) Categories of individuals covered by the system—substitute "Mortgagors with HUD/FHA insured single-family mortgages that are delinquent or in default; mortgagors seeking assistance to prevent foreclosures; and mortgagors whose mortgages are held by HUD" for "Mortgagors under single- and multi-family housing programs seeking assistance in preventing foreclosures; mortgagors whose mortgages are held by the Secretary; mortgagors whose payments are delinquent; mortgagors complaining about loan servicing; mortgagees under single- and multi-family housing programs; mortgagees servicing defaulted loans; banks lending money; builders, developers and other firms under multi-family housing programs; contractors, developers or lien holders under multi-family programs; builders, developers, real estate firms, contractors, appraisers, other corporations and firms making repair bids; defaulted borrowers; project owners; project managing agents; former owners; tenants; area managers; HUD personnel in Area and Regional offices".

(3) Categories of records in the system—substitute "Notices of delinquent mortgages; requests for forebearance or assignment; forebearance or assignment reviews include data on mortgage amount and payments made, employment and income, debts and expenses, reasons for delinquency, recommendations and actions on requests; credit reports; forebearance agreements; deeds of trust; and related correspondence" for "Foreclosure reports; bankruptcy reports; audit reports; inventory reports; monthly accounting records; credit documents; financial statements; mortgage delinquencies; records of collection efforts on defaulted loans, payment records of mortgagors under Section 234 of the National Housing Act; recertification of Section 235 National Housing Act; recertification violations of Section 235 mortgagors; loan servicing; assistance for mortgagors in lowering payments of helping to make mortgage payments; geographic location of single-family mortgagors in default; project fiscal data; project processing activities that may have led to projects going into default; properties conveyed to HUD; property information supplied by HUD area managers; proposed transfers of physical assets; managing plans; present management capabilities; repair bids; fire inspections; post-closing complaints; congressional inquiries resulting from mortgagor complaints".

(4) Storage—substitute "In file folders" for "Free text; Standard Forms 2068 and 2068S; binders; notebooks".

(5) Retrievability—delete "Social Security number; name of mortgagee".

System name: HUD/DEPT-35, Personnel Medical Records.

Changes: (1) Categories of individuals covered by the system—delete "and individuals writing to the Department".

System name: HUD/DEPT-37, Personnel Travel System.

Changes: (1) Retrievability—delete "and rarely by numerical or chronological sequence or by organization or vehicle".

System name: HUD/DEPT-42, Rent Subsidy Program Files.

Changes: (1) System name—substitute "Rent Subsidy Program Files" for "Public Housing Rent Subsidy Program".

(2) Categories of individuals covered by the system—substitute "Low-rent housing applicants and recipients under Section 236 and Rent Supplement programs" for "Low-rent housing applicants and recipients; HUD personnel; local housing authorities; mortgagors; mortgagees and financial institutions; realty brokers; construction contractors and builders; area managers; local service contractors".

(3) Categories of records in the system—substitute "Applications for rent subsidy and recertifications include name, address, telephone number, race, household composition, employment data, detailed financial information, monthly rent payment and supplement calculations, HUD review and certification, description of rental unit participant will occupy; subsidized tenant move-out records; verification of employment, income and bank deposits; credit bureau reports; and related correspondence." for "Section 236 Applications and Recertifications; rent supplement applications/vouchers/schedules; monthly reports of excess collections; subsidized tenant move-out records; requests for reservations; and permission-to-occupy certifications."

(4) Storage—substitute "In file folders" for "Free text; standard forms; computer print-outs; file folders".

(5) Retrievability—delete "according to project; or organizational program; building number".

(6) Safeguards—add "to secured computer facilities".

System name: HUD/DEPT-43, Property Disposition Files.

Changes: (1) System name—substitute "Property Disposition Filed" for "Real Estate Filed".

(2) Categories of individuals covered by the system—substitute "Mortgagors with HUD/FHA insured single-family homes who have had their mortgages foreclosed and properties acquired by HUD; individuals who have had their properties acquired by the Department of Defense and transferred to HUD; single-family mortgagors who defaulted on Section 312 loans and had their properties acquired by HUD; and potential buyers of HUD-held single-family properties" for "Management brokers appointed to manage HUD-acquired property; management agents for single-family and multi-family projects; real estate brokers who are area managers for HUD-acquired properties; real estate brokers selling repossessed homes for FHA; real estate brokers selling HUD-properties; real estate brokers involved in management of HUD-owned single-family and multi-family projects; brokers who have signed non-discrimination statements; builders and contractors under property disposition programs; bidders on property; purchasers of HUD homes with structural defects; potential buyers".

(3) Categories of records in the system—substitute "Documents pertaining to acquisition of foreclosed HUD/FHA insured single-family homes and single-family homes transferred from the Department of Defense. The documents include names, addresses, loan amounts and payments, and reasons for default; leases and rental information if properties are rented; purchasers' family characteristics, income and employment histories, credit reports, sales contracts, and settlement costs; and related correspondence." for "HUD single-family property disposition; real estate activity in urban renewal projects and public housing; management of acquired, insured projects; performance under terms of contract; contractors' qualifications and prior experience; development proceeds; local authority budgets; authorized proclaimers; credit; profit and loss; financial transactions; repairs to property in inventory; property acquisition and disposition; exhibits submitted by developers; information on purchasers of HUD homes with structural defects; information on development of new subdivisions; market needs and available maximum market rent and environment assessment; complaints against real estate brokers".

(4) Storage—substitute "In file folders." for "Free text; Standard Form 9556; card file; file folders; binders".

(5) Retrievability—substitute "Case file number and property address." for "Name; Social Security number; personal characteristics; case file number; contract number; geographic area; identification number".

(6) Safeguards—delete "safe; central file" and add "secured computer facilities. Access restricted".

(7) Retention and disposal—add "in accordance with HUD Handbook".

(8) Record source categories-add "real estate brokers and agents".

System name: HUD/DEPT-44, Relocation Assistance Files.

Changes: (1) System name—add "files" to the system name.

(2) Categories of individuals covered by the system—substitute "displaced persons and relocation claimants who have filed grievances for "Displaced persons relocation claimants and applicants; builders, developers, contractors and appraisers under relocation programs."

(3) Categories of records in the system—add "family characteristics".

(4) Record source categories-delete "law enforcement agencies".

System name: HUD/DEPT-46, Single Family Case Files.

(1) Categories of individuals covered by the system-substitute "individuals who have applied for HUD/FHA mortgage insurance in connection with single-family housing programs of the Department" for "Mortgagors, mortgagees, builders, developers, contractors, appraisers and real estate firms in connection with single-family housing programs of the department."

(2) Categories of records in the system—add "appraisal and inspection reports; verification of employment and income; credit bureau reports; mortgage note and deed of trust, record of escrow account".

System name: HUD/DEPT-51, Standards of Conduct File.

Changes: (1) System location—delete "Office of General Counsel".

(2) Record access procedures—substitute "This location" for "A list of all locations".

System name: HUD/H-1, Section 8 Lower-Income Assistance Files.

Changes: (1) System number-substitute "HUD/H-1" for "HUD/HM-1".

(2) System name-substitute "Section 8 Lower-Income Rental Assistance Files" for "Housing Management Section 8 Management Information".

(3) System location—substitute "Headquarters and many field offices. For a complete list of these offices, with addresses, see Appendix A" for "Headquarters Office".

(4) Categories of records in the system—substitute "Applicants filing for eligibility and recertification include names; addresses; social security numbers; telephone numbers; family characteristics; employment and income information; HUD review and certification; verfication of employment, income, and bank deposits; and related correspondence" for "tenant characteristics".

(5) Record source categories—add "financial institutions; employers, and local housing authorities".

System name: HUD/H-2, HUD Temporary Housing File.

Changes: (1) System number—substitute "HUD/H-2" for "HUD/HM-2".

(2) Categories of individuals covered by the system—substitute "(1) Individuals who apply for temporary housing disaster assistance in Presidentially declared major disasters or emergency areas, and (2) candidates for staff positions at Federal Disaster Assistance Centers" for "The files relate to disaster assistance functions. The files concern: builders, developers, real estate firms and other vendors, such as: mobile homes, furniture and truck rental, utility supplies and towing contractors, grant/project applications for aid (individuals and organizations); equal opportunity; qualified bidders on procurements; HUD personnel and candidates for temporary and permanent positions, some of which are on response cadre; past, present and inactive tenants; candidates for permanent or temporary housing in facilities such as mobile homes, or who withdrew from such housing, victims of natural disaster (fire, flood, tornado) and their case files".

(3) Categories of records in the system—delete "listings of debarred contractors".

(4) Storage—delete "or computer print-outs (some of which concern summaries of payments). Other forms of storage are file folders and Disaster Management Information Systems. Any computer files are controlled and reported at the Headquarters Office".

(5) Retrievability—substitute "Name or case file number" for "Administrative files systems are filed alphabetically and geographically by name and then by case file number, Direct Reimbursement Number, lease number, some are cross-referenced by Social Security number, application number, personal characteristics (e.g., age, marital status, GS level, etc); subject matter; designated disaster and area; functional assignment cards; accession to record group number. Most correspondence written in free text is filed by title of office and office designation. Some active files are within the program subject file classification method".

(6) Safeguards—substitute "Records are stored in lockable file cabinets in lockable rooms in secured buildings" for "Records exist in cardboard boxes, lockable desks, in notebooks in bookcases, in tape-disc libraries, in lockable file cabinets or in central file outside local offices. Records are kept in buildings which are secured after work hours, and most offices are locked when unattended. Confidential files are seen only by authorized personnel (in Regional Emergency Offices). Other files are seen only by personnel authorized to enter offices (whose names are posted on lists) and who are overseen by Disaster Assistance employees. In military installations, the records are maintained in loced areas; only authorized personnel have keys to files or offices. Computer and data files are stored in computer

facilities which are secured and accessible only to authorized personnel; all files are stored in a secured area. Technical constraints are employed with regard to access and the methods employed in order to maintain security include the use of unique account codes; file qualifiers; file names; read/write protection keys; site identification codes; run identification codes; and password codes".

(7) Record source categories—delete "various number HUD forms; unnumbered survey forms; authorization and statements".

System name: HUD/FIA-1, Federal Crime Insurance.

Changes: (1) Categories of records in the system—delete "class of business; annual gross receipts; payments of compensation to agents" and add "agent's name and address; other insurance held by policyholder; inspection report of protective devices".

(2) Retrievability—add "policy number".

System name: HUD/H-3, Housing Production and Mortgage Credit Monitoring System.

Changes: (1) System number—substitute "HUD/H-3" for "HUD/HPMC-1".

(2) Notification procedure—a) in the first sentence, substitute "Headquarters" for "appropriate". b) in the second sentence, substitute "This location" for "A list of all locations".

(3) Record access procedures—substitute "This location" for "A list of all locations".

System name: HUD/PD&R-2, Solar Energy Demonstration Research Files.

Changes: (1) Notification procedure—a) in the first sentence, substitute "Headquarters" for "appropriate". b) in the second sentence, substitute "This location" for "A list of all locations".

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., November 1, 1978.

William A. Medina,
Assistant Secretary for Administration.

The last annual compilation of systems of records was published at 42 FR 54756. Additions, deletions and amendments regarding individual systems of records were published at 42 FR 59558 and 43 FR 12760, 15367, 21947, 22245, 25386, 27247, 27248 and 36698 continue in effect. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 3 of the Privacy Act of 1974.

1. General Statement of Routine Uses.

ROUTINE USE—LAW ENFORCEMENT

In the event that a system of records maintained by this Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

ROUTINE USE—DISCLOSURE WHEN REQUESTING INFORMATION

A record from a system of records maintained by this Department may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

ROUTINE USE—DISCLOSURE OF REQUESTED INFORMATION

A record from a system of records maintained by this Department may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

ROUTINE USE—DISCLOSURE TO OMB

The information contained in a system of records will be disclosed to the Office of Management and Budget in connection with review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

ROUTINE USE—DISCLOSURE PURSUANT TO CONGRESSIONAL INQUIRY

Disclosures may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. Listing of Systems of Records Within Coverage of Act.

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HUD/DEPT—1

System name: Accidents, Employees and/or Government Vehicles

System location: Most Department Offices, including the Headquarters Office. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees in on-the-job accidents, including accidents involving government-owned vehicles.

Categories of records in the system: Details of how accidents occurred and injuries were sustanined; employees' absences due to injuries and resultant claims; and property damage incurred.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: the records are used by the Department of Labor when personal injury occurs and/or compensation is invloved. GSA uses the records when accidents involve motor vehicles and the repair of those vehicles.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Subject name.

Safeguards: The systems records are kept in lockable file cabinets, desks, and in locked rooms.

Retention and disposal: Procedural disposal follows HUD Handbook General Records Schedule.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the indivdual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesing contents of records, the Privacy Act Officer) at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

Record source categories: Subject individual and supervisor; Federal Government agencies; law enforcement agencies; current or previous employers; accident investigation officers.

HUD/DEPT—2

System name: Accounting Records

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Programs; builders, developers, contractors, and appraisers; individuals writing to the Department; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

Categories of records in the system: Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files and fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts; cancelled checks; mortgagors, builders and contractors financial statements, records and audit reports; requests for termination of home mortgage insurance; deposit and receipt records; detailed accounting reports concerning diversified payments, disbursements, and cancelled checks; repurchases of mortgages; adjustments from recoveries, manual adjustments, and defaults; acquired home property records; sales closing papers; statements of accounts; tax records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Users paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof: Internal Revenue Service—for reporting of sales commissions; General Accounting Office, General Services Administration, Department of Labor, Local housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgagee lenders—for accounting and financial reference purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Desks; safes; locked file cabinets, central files; bookcases; ledger trays and binders; tables.

Retrievability: By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

Safeguards: Security checks; limited authorization and access; security guards.

Retention and disposal: GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD: Federal and non-federal government agencies; HUD personnel.

HUD/DEPT—4

System name: Fee Inspectors, Appraisers, and Mortgage Credit Examiners.

System location: Field offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals who have applied to HUD for appointment as fee appraisers, inspectors, and mortgage credit examiners.

Categories of records in the system: Applications and resumes containing personal data and qualifications for position sought; assignment logs, fees paid and appraisals made; and evaluation of qualifications and of appraisals made.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to fee appraisers—for voucher preparation; to VA, mortgagors, mortgagees—notice of FHA action, billing; to local government officials—for code enforcement, health and wetlands clearance; to Environmental protection Agency—for environmental clearance; to Social Security Administration—for research.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and 5 x 8 file cards.

Retrievability: Name; case file number (in some cases).

Safeguards: Lockable file cabinets and desks.

Retention and disposal: Primarily active information; also mixed historical and active. Social Security appraisals are historical data. Disposal in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For inquiry about existence of records, contact the Privacy Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate locations. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; references; and HUD staff.

HUD/DEPT—5

System name: Architects and Engineers

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Certified architects and engineers dealing with HUD, both directly and on a consultant basis.

Categories of records in the system: Applications containing personal data and qualifications for position sought and assignment logs and fees paid.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs of prefatory statement. Other routine uses: to General Accounting Office—investigation and annual audit; to the U.S. Forest Service, Bureau of Indian Affairs, Corps of Engineers, HEW, and Farmers Home Administration for reference and information; to builders and other individuals dealing with HUD—for planning and specifications review.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Subject name.

Safeguards: Files are kept in file cabinets, in desks and on shelves. Access is limited by locks, by security checks, or by authorized individuals.

Retention and disposal: Most files are kept active and up-to-date. Some files are partly current and partly historical. Files are destroyed per regulation or stored at a federal records center one year after last date of commitment.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals and references.

HUD/DEPT—9

System name: SIngle-family Casualty Damage Files.

System location: Field offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors under HUD single-family insurance programs filing claims for repairs due to casualty damage on their insured homes.

Categories of records in the system: Inspection reports of repaired property; certifications of casualty damages/repairs; records of repairs made and their costs; and related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Veterans' Administration for information on veterans' participation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name; case file.

Safeguards: Stored in lockable file cabinets.

Retention and disposal: Primarily active information, some mixed historical and active. Disposed of in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street SW.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Mortgagors; mortgagees; inspectors; and contractors.

HUD/DEPT—10

System name: Construction Complaints Files

System location: Field Offices; for a compete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors of insured single-family homes who have filed construction complaints with HUD.

Categories of records in the system: Complaints regarding construction and defects; inspection reports; records of complaint status and disposition; compliance reports; related correspondence.

Retention and disposal: In accordance with HUD Handbook

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to the person or firm complained about—for resolution of the complaint; to IRS—for investigation; to Farmers Home Administration, Veterans Administration; Better Business Bureau and local agencies—for notice of restriction of builders; to state agencies—for investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Name of subject individual; case file number, property location.

Safeguards: Records filed in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are partly current and partly historical; disposal is in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh St., S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing intial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subjects and other individuals, builders and contractors and their current and previous employees, credit bureaus and financial institutions; federal and non-federal agencies.

HUD/DEPT—15

System name: Equal Opportunity Housing Complaints

System location: Housing discrimination files are located at the office where originated and may also be transferred to associated area and/or regional offices, or the Headquarters Office. For a complete listing of these with addresses see Appendix A.

Categories of individuals covered by the system: Individuals filing housing discrimination complaints. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

Categories of records in the system: Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaints status reports. In mortgage discrimination cases, records include mortgage applications, credit reports and verification of income, employment and bank deposits.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to non-federal EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents and attorneys—for investigation, preparing litigation, and monitoring compliance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

Retrievability: Usually retrievable by name of complainant and, in some instances, by case file number.

Safeguards: Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Centers for an additional five years.

System manager(s) and address:

Director of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals, Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material including conciliation files, in records contained in this System which meet the criteria of these sub-sections in exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

HUD/DEPT—17

System name: Experimental Housing Allowance Program—Participant Files

System location: Headquarters Office.

Categories of individuals covered by the system: Applicants for housing allowances; participants under Experimental Housing Allowance Program.

Categories of records in the system: Socio-economic, financial and demographic data on EHAP participant.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to EHAP contractors—analysis for research purposes in accoundance with program objectives.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy survey instrument stored in folders, microform, computer printout, punched cards, and magnetic tape/disc.

Retrievability: Manual files by name, social security numnber, personnel characteristics and case file number. Automated files have been stripped of all personal identifiers and are statistical only.

Safeguards: Access to manual files limited to survey subcontractors. No access to these records by prime contractors and HUD personnel. Records kept in secured areas and vaults.

Retention and disposal: In accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: the Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of intial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

Record source categories: Subject individual; current and previous employers.

HUD/DEPT—18

System name: Fellowship Files, Urban Studies

System location: Headquarters.

Categories of individuals covered by the system: Recipients of HUD fellowships in urban studies, and their alternates.

Categories of records in the system: Applications; financial statements; correspondence; policy statements; press releases.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Free text in file folders.

Retrievability: By name of award recipient and alternate.

Safeguards: Files are stored in lockable metal file cabinets.

Retention and disposal: Files are inactive and historical only. There are no established procedures for disposal of these records.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location if given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Individual awardees and alternates; educational institutions.

HUD/DEPT—20

System name: Homeownership Assistance and Recertifications Application (HARAS)

System location: Headquarters

Categories of individuals covered by the system: Participants in Section 235 Homeownership Assistance Program.

Categories of records in the system: Historical profile of participant group.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Case file number.

Safeguards: Computer Facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Applications; recertifications; Single-family Statistical Reporting System.

HUD/DEPT—22

System name: Housing Counseling

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A. In addition to these offices, HUD-approved counseling agencies in many cities, both voluntary and paid by the Department, maintain files of this type. To determine whether such an agency exists in a particular city, contact the nearest HUD field office shown in Appendix A.

Categories of individuals covered by the system: This system contains records of individuals who have been referred but not counseled; individuals who have been or are receiving counseling and assistance with housing problems and related family and financial problems, as well as individuals seeking general and consumer information.

Categories of records in the system: This system contains records of dates of counseling, summaries of aid furnished the individual being counseled, correspondence with or on behalf of the individual being counseled, standard forms, letters and reports, purchase and financial data, medical history, employment information and problems, family composition, referral information and specific family and/or individual problems.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the

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Department of Housing and Urban Development

Record access procedures: The Department's rules for providing

individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency or HUD staff. Community service agencies to which the individual being counseled is referred for additional supportive services have limited access to information appropriate to the reason for referral only through authorized counseling agency staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are stored in paper files which are kept in standard lockable file cabinets and desks.

Retrievability: Records are retrievable by name, case number or property address.

Safeguards: During the counseling process and the retention period, records are maintained in confidential files with access limited to those whose official duties require access.

Retention and disposal: Counseling records are maintained by the counseling agency for as long as the individual being counseled participates in the program and up to five (5) years thereafter. The Department may maintain summary records of the counseling for as long as the individual being counseled lives in HUD-insured or assisted property.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street SW.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. At list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Information in this system of records is: (1) supplied directly by the individual, and/or (2) supplied by a member of the individual's family, and/or (3) supplied by mortgages, employers (past and present), creditors and credit reports, landlords (both public and private) and/or (4) supplied by sources to whom the individual being counseled has been referred, or has gone to for assistance, and/or (5) derived from information supplied by the individual, and/or (6) supplied by Department officials and/or (7) supplied by program counselors.

HUD/DEPT—23

System name: Single-family Research Files.

System location: Headquarters Office.

Categories of individuals covered by the system: Single-family mortgagors.

Categories of records in the system: Sample of single-family home cases for most recent five-year peiod.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name; case file number; property address.

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street SW.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals; financial institutions; federal government agencies.

HUD/DEPT—24

System name: Investigation Files

System location: Headquarters

Categories of individuals covered by the system: HUD program participants and HUD employees under investigation, including mortgagors, grant applicants, and appraisers.

Categories of records in the system: Files contain information concerning investigation of alleged irregularities in connection with HUD programs and include initial complaints filed against subjects alleging violations, reports of investigation, findings of HUD officials and recommendations and disposition to be made.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Department of Labor—for investigative research; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Files may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act, or to locate specific individuals for personnel research or other personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name, investigation file number, case number.

Safeguards: Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those official duties require access.

Retention and disposal: Records are primarily active, with destruction of some records after three years and some after five years.

System manager(s) and address:

Director
Office of Organization and Management Information

Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; corporations or firms; law enforcement agencies.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552 a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f)) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT—25

System name: Legal Actions Files

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Litigants; potential and past claimants against the government.

Categories of records in the system: Threatened, pending and past litigation involving HUD as a party; summons; writs; indictments; pleadings; decisions; legal memoranda; litigation reports; deposition; deficiencies on court judgements; notices of levy; settlement negotiations; legal rulings; claims against the government; employee claims.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Justice Department—information for purposes of litigation, and representation of HUD before the courts and performance of all legal work incident thereto; to HEW—for investigation and litigation; to IRS—for investigation, litigation and collection of levies; to Local Housing Authorities—for investigation and litigation; to local governments—for investigation and litigation; to parties to litigation—to provide status and facts in litigation; to private individuals and corporations—to assist co-defendants or to provide documents and information as required by the Federal Rules of Civil Procedure; various uses under the Freedom of Information Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets.

Retrievability: Name; case names; case numbers assigned by courts.

Safeguards: Records maintained in locked and lockable metal file cabinets with access limited to authorized personnel.

Retention and disposal: Files are partly active and partly historical; disposal in accordance with HUD Handbook

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; financial institutions; firms and corporations; Federal government agencies; non-Federal government agencies; and Federal, state, and local courts.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1),(e)(4)(G), (H) and (I) and (f)) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT—28

System name: Property and Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mobile home, home improvement, and rehabilitation loan debtors delinquent or in default.

Categories of records in the system: Names, credit applications, and case histories of borrowers; records of payments; financing statements; delinquent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor requests for collection assistance; justifications for closing collection action; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to private employers and other Federal agencies—for the purpose of collecting government-owned debts; and to the Department of Justice and U.S. Attorney's offices—for collection purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of individual covered.

Safeguards: Files are stored in lockable file cabinets.

Retention and disposal: Files are partly active and partly historical and are disposed of in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Depart-

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ment of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; current and previous employees; credit bureaus; financial institutions; firms; federal and non-federal agencies; law enforcement agencies.

HUD/DEPT—29

System name: Rehabilitation Grants and Loans Files

System location: Field offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Applicants who have applied for rehabilitation grants and loans.

Categories of records in the system: Names of borrowers, builders, dealers and contractors; loan and grant applications and eligibility information; loan and grant documents; payment records; registration records; collection records; complaint records; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses; to dealers and contractors—for settling complaints; to lenders—for loan servicing; to tax assessors—for assessment of property; to local agencies—for monitoring and carrying out programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and/or on magnetic tape/disc/drum.

Retrievability: By name, property address and case file number of individual covered.

Safeguards: Records stored in lockable file cabinets and technical restraints are employed with regard to accessing computer files.

Retention and disposal: Records are primarily active with some historical information; disposal is in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

Record source categories: Financial institutions; subject and other individuals; federal and non-federal agencies; firms, current and previous employers; law enforcement agencies; credit reporting agencies.

HUD/DEPT—32

System name: Mortgages—Delinquent/Default/Assigned

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors with HUD/FHA insured single-family mortgages that are delinquent or in default; mortgagors seeking assistance to prevent foreclosures; and mortgagors whose mortgages are held by HUD.

Categories of records in the system: Notices of delinquent mortgages; requests for forebearance or assignment; forebearance or assignment reviews include data on mortgage amount and payments made, employment and income, debts and expenses, reasons for delinquency, recommendations and actions on requests; credit reports; forebearance agreements; deeds of trust; and related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to FHA—for insurance investigations; to IRS and GAO—for investigations; to state banking agencies—to aid in processing mortgagor complaints; to state housing and redevelopment agencies—for follow-up servicing; to mortgagees—to check on the status of cases and referrals of complaints; to counseling agencies—for counseling; to Legal Aid—to assist mortgagors.

Storage: In file folders and on magnetic tapes, drums, and discs.

Retrievability: Name; case file number; property address.

Safeguards: Records maintained in desks and lockable file cabinets; access to automated systems is by passwords and code identification cards; access limited to authorized personnel.

Retention and disposal: Obsolete records destroyed or shipped to Federal Records Center in compliance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, asssistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; Federal Government agencies; non-federal government (including foreign, state and local) agencies; law enforcement agencies.

HUD/DEPT—34

System name: Pay and Leave Records of Employees.

System location: All Department offices. For a complete listing of offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees.

Categories of records in the system: Name, Social Security number and employee number, grade, step and salary; organization, retirement of FICA data as applicable; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; coowner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Actions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings

bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry on its Government-wide personnel functions; to GAO—for audit; to other Federal government agencies—to facilitate employee transfers; and to State agencies—to verify workmen's compensation injury claims.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual, machine-readable and magnetic media.

Retrievability: Name of employee; Social Security Number.

Safeguards: Physical, technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records. Manual files kept in lockable desks, file cabinets and safes.

Retention and disposal: Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel; Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agencies.

HUD/DEPT—35

System name: Personnel Medical Records

System location: In most HUD offices. For a complete list of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD personnel.

Categories of records in the system: Pre-employment medical records and individual medical records of HUD-employees including standard medical forms completed by doctors at time of entrance of duty.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to federal agencies—for review when considering hiring and upon transfer to another agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In lockable file cabinets.

Retrievability: By name.

Safeguards: Records kept in locked file cabinet with access by authorized personnel only.

Retention and disposal: Active, kept up-to-date, partly historical. Maintained until retirement, resignation or transfer. Forwarded with official personnel folder when sent out for disposition according to HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410

Record source categories: Primarily from subject individual.

HUD/DEPT—37

System name: Personnel Travel System

System location: All Department offices maintain employee travel records, and several maintain driver permit application records. For a complete listing of offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD personnel.

Categories of records in the system: All travel records, including vouchers, requests, advances, receipts for requests, orders, applications for Federal vehicles, driver permits, U.S. Government driver's licenses, driver's physical fitness forms, motor pool records, monthly motor vehicle use records, and GSA vehicle mileage reports. Applications for parking space.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; driver's license information transmitted to Department of Transportation for verification with National Driver Register; vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files generally stored on standared Government forms in individual file folders or binders.

Retrievability: Almost always retrievably by name, occasionally by Social Security number.

Safeguards: Kept in lockable desks or file cabinets.

Retention and disposal: Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

System manager(s) and address:

Director & Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the

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Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual and supervisors.

HUD/DEPT—42

System name: Rent Subsidy Program Files

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Low-rent housing applicants and recipients under Section 236 and Rent Supplement programs.

Categories of records in the system: Applications for rent subsidy and recertifications include name, address, telephone number, race, household composition, employment data, detailed financial information, monthly rent payment and supplement calculations, HUD review and certification, description of rental unit participant will occupy; subsidized tenant move-out records; verification of employment, income and bank deposits; credit bureau reports; and related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office—for purposes of audit: to IRS—for investigation; to local and state housing authorities—for reference purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Name; case file number.

Safeguards: Limited access; locked file cabinets; security checks and limited authorization to secured computer facilities.

Retention and disposal: Files are active and kept up-to-date; partly current and partly historical. Files are either sent to GSA Federal Records Center for storage or disposed in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410

Record source categories: Subject inbdividual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal government agencies; project and project managers.

HUD/DEPT—43

System name: Property Disposition Files

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors with HUD/FHA insured single-family homes who have had their mortgages foreclosed and properties acquired by HUD; individuals who have had their properties acquired by the Department of Defense and transferred to HUD; single-family mortgagors who defaulted on Section 312 loans and had their properties acquired by HUD; and potential buyers of HUD-held single-family properties.

Categories of records in the system: Documents pertaining to acquisition of foreclosed HUD/FHA insured single-family homes and single-family homes transferred from the Department of Defense. The documents include names, addresses, loan amounts and payments, and reasons for default; leases and rental information if properties are rented; purchasers' family characteristics, income and employment histories, credit reports, sales contracts, and settlement costs; and related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to IRS—for auditing income tax returns; to insurance companies—to file claims for amounts due; to mortgagees—to review the credit of prospective purchasers; to local public authorities—to check on acquisition, reuse and prices of real estate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Case file number and property address.

Safeguards: Desk; lockable file cabinet; secured computer facilities. Access restricted.

Retention and disposal: Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal (including foreign, state and local) government agencies; real estate brokers and agents.

HUD/DEPT—44

System name: Relocation Assistance Files

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Displaced persons and relocation claimants who have filed grievances.

Categories of records in the system: Names of relocation claimants; family characteristics; personal and family financial data; relocation needs and problems; claims; documentation and evaluation of claims; recommendations; inquiries and grievances; responses to grievances; audits.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to the Department of Justice—for investigation and prosecution; to local public agencies—for processing, training and monitoring purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of subject individual.

Safeguards: Stored in lockable file cabinets; access limited to authorized personnel.

Retention and disposal: Files are partly active and partly historical, disposal is in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals; current and previous employers; credit bureaus and financial institutions; firms federal and non-federal agencies.

HUD/DEPT—46

System name: Single Family Case Files

System location: Headquarters and field officers. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals who have applied for HUD/FHA mortgage insurance in connection with single family housing programs of the department.

Categories of records in the system: Files contain standard records used for day-to-day maintenance of single-family mortgage cases, including daily case control, mortgage servicing, payment records, loan recommendations, information concerning borrower' inability to make payments, cancellations and monies returned. Also, requests for refinancing income and employment information used in determination of applicant eligibility, insurance documents, sales agreements, conditional and firm commitments, owner requests for appraisals, property descriptions, appraisal and inspection reports; verification of employment and income; credit bureau reports; mortgage note and deed of trust; record of escrow account; correspondence and complaints.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs of prefatory statement. Other routine uses: to welfare agencies—for fraud investigation, to VA—for coordination with HUD in processing construction complaints. Congressional delegation—providing information concerning status of complaints. Complainants and attorneys representing them—review of complainant file for status and information. Builders and attorneys representing them—review of complainant file for status information.

Storage: In file folders and computerized tape, disc and drum.

Retrievability: File by name of individual and case file number.

Safeguards: Records maintained in locked an lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are primarily active with some historical data. Inactive files are normally disposed after a two-year period.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410

Record source categories: Subject individuals, current or previous employers, credit bureaus and financial institutions, corporations and firms and federal and non-federal government agencies.

HUD/DEPT—51

System name: Standards of Conduct File.

System location: Headquarters.

Categories of individuals covered by the system: HUD employees.

Categories of records in the system: Financial statements; statements of employment.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses; to the Department of Justice, the Federal Bureau of Investigation, and the Internal Revenue Service for purposes of investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and standard forms.

Retrievability: Name.

Safeguards: Locked file cabinets.

Retention and disposal: Files are active and kept up-to-date; partly current and partly historical.

System manager(s) and address:

Assistant General Counsel for Finance and Administrative Law
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/DEPT—52.

System name: Privacy Act Requesters.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

Categories of records in the system: Personal identification of requester, nature of request, and disposition of the request by the Department.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file holders.

Retrievability: Filed by case number and name of individual.

Safeguards: Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are primarily active. Inactive files are normally disposed of after a one-year period.

System manager(s) and address:
Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD-DEPT—53

System name: Consumer Complaint Handling System.

System location: Headquarters.

Categories of individuals covered by the system: Any member of the public who writes a letter of complaint to HUD, including but not limited to: Community Development Block Grant (CDBG) recipients or individuals who use facilities or services supported by CDBG money; mortgagors/mortgagees having or seeking FHA-insured mortgages; tenants in FHA-insured projects; tenants in HUD-supported Low Rent Housing Projects; employees on HUD-assisted or insured construction projects and their unions; and public interest groups. Excluded are complaints from HUD employees arising out of the administration of internal HUD policies or procedures.

Categories of records in the system: Complaints expressing dissatisfaction with a Departmental program, policy, or service. Name of complainant and action dates.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: the following may receive individual records to assist in the resolution of a complaint—State and local officials; public and private counseling agencies; building associations; developers; financial institutions holding HUD-insured mortgages; Federal, State, and local Consumer Affairs offices; Consumer Protection agencies; State and local real estate and planning Commissions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders, cassettes, computerized tape, disc, and drum.

Retrievability: Control number, date of receipt, name of writer, date of letter, HUD program category, assigned due date, date of interim reply, date of last update on the System, and HUD Office to which complaint was referred for action.

Safeguards: Access to the automated System is accomplished by passwords and code identification codes limited in use to authorized personnel. Cassettes and computer/data files will be stored in computer facilities which are secured and accessible only to authorized personnel. File folders of pending and closed cases to be stored in lockable file cabinets.

Retention and disposal: Correspondence file is closed upon final response, and purged after six months. Correspondence pending response will remain open and active until final response is sent. Obsolete records will be disposed of in accordance with HUD Handbook.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Letters of complaint from individuals, and consumer oriented agencies on behalf of individuals.

HUD/DEPT—54

System name: Parking Permit Application Files.

System location: Headquarters Office.

Categories of individuals covered by the system: Headquarters and other Federal employees who made application to park at Headquarters location.

Categories of records in the system: Application forms that contain information about the vehicles owned by and addresses of the principal applicant and carpool members.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other Routine Uses: To parking management company—for billing purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 8" by 5" card file.

Retrievability: Name and permit number.

Safeguards: Lockable file cabinets.

Retention and disposal: (1) For individuals issued permits, a long as permits are valid; (2) for individuals on the waiting list, approximately 2 years.

System manager(s) and address: Director,
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location (this location is given in appendix A); (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D C 20410

Record source categories: Parking Permit Applicants.

HUD/DEPT—55

System name: Executive Personnel Files.

Security classification: Headquarters office.

Categories of individuals covered by the system: Executive employees, namely, executive levels, supergrades, schedule C's, experts and consultants, field office directors, and high potential senior level employees.

Categories of records in the system: Data pertaining to experience, training, education, achievements, personal activities, potential and career objectives, and evaluation of these skills and attributes.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraph in prefatory statement. Other routine uses: to former employers, education, institutions, and references for information verification.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets.

Retrievability: Name of applicant or HUD organization.

Safeguards: Records are maintained in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Retained during active status and then disposed, usually 3 years.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A. (ii) In relation to appeals of initial denials, the HUD departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals, former employers and references.

HUD/DEPT—56

System name: Telephone Numbers of HUD Officials.

System location: Headquarters office.

Categories of individuals covered by the system: HUD senior staff officials.

Categories of records in the system: Name, title, and home phone number.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraph in prefatory statement. Other routine uses; Executive Office of the President for identification and communication with key staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Bookcase of Director, Office of Executive Secretariat.

Retrievability: Office, name, and title.

Safeguards: Records are maintained to lockable room with access limited to authorized personnel.

Retention and disposal: Records are revised as personnel and telephone numbers change. When records are revised, older records are destroyed.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/DEPT—58

System name: HUD Child Care Center Files.

System location: Headquarters Office.

Categories of individuals covered by the system: Children enrolled in the Center and their parents, staff of the Center, others who may be involved in special programs of the Center, and names of donors.

Categories of records in the system: Information on the child, including parents names and addresses and income; health records of children and staff; information on staff including work history; current work evaluations, and other work-related information; evaluation of the children's progress in the Center; names of donors and amounts of donations to the Center.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Paper records in file cabinets.

Retrievability: By name of child or name of staff member.

Safeguards: Records will be main lockable file cabinets with access limited to authorized personnel of the Center.

files are stored at record centers. However, when a Disaster Field

Retention and disposal: Records of children who leave will be stored for one year; records of staff who leave will be stored for three years. At the expiration of those periods, records will be disposed.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance or inquiry about the existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Applicants; current and formerly enrolled children and their parents; current and former staff members; doctors, and former institutions attended by the children.

HUD/H—1

System name: Section 8 Lower-Income Rental Assistance Files.

System location: Headquarters and many field offices. For a complete list of these offices, with addresses, see Appendix.

Categories of individuals covered by the system: Tenants in Section 8 Program.

Categories of records in the system: Applicants filing for eligibility and recertification include names; addresses; social security numbers; telephone numbers; family characteristics; employment and income information; HUD review and certification; verification of employment, income and bank deposits; and related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name of tenant. Inquiry capability by HUD management. Output interface with HPMC Section 8 MIS (occupancy characteristics).

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system in active and kept up-to-date.

System manager(s) and address:

Director
Office of Organization and Management Information.
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; landlords; financial institutions; employers; and local housing authorities.

HUD/H—2

System name: HUD Temporary Housing File

System location: Contact appropriate Regional Offices for locations of field offices. For a complete listing of Regional Offices, see Appendix A.

Categories of individuals covered by the system: Individuals who apply for temporary housing disaster assistance in Presidentially declared major disaster or emergency areas, and (2) candidates for staff positions at Federal Disaster Assistance Centers.

Categories of records in the system: Personal information is contained, such as name, address, sex, Social Security number, telephone number, wages, job location, family income, insurance data (relating to homes) as pertaining to some applicants, and disapproval or approval of applicants for aid or employment. There is general correspondence concerning complaints, plaudits, reinstatement in jobs or housing, requests for disbursement of payments and inquiries from tenants and landlords in regard to aid. Files also include general administrative and fiscal information, including payroll, payment schedules and forms, travel vouchers, time and attendance records, applications, termination notices, individual and family grant programs, damage and relocation information, leases, contracts, disaster cadre registers, listings of emergency repairs given as a result of specific natural disasters, reasons for tenant eviction or denial of aid, sales information on homes after tenant purchase, and status of dispositions of applicants for housing.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to the FBI—for investigation of possible Small Business Administration loan frauds; to GAO—for the investigation of files and to verify family composition, income and sources of housing plans; to the Small Business Administration—to verify household composition and actual disaster assistance; forwarding of addresses; information concerning contracts, to Local Departments of Public Assistance—for verification of occupancy of victims, their income and relocation; to House of Representatives—specific tenant informaiton is given in response to a Congressional inquiry; to Post Office—in regard to location of individuals; to Departments of Motor Vehicles and State Tax Departments—to find serial number and cost of mobile homes and vehicles; to Local Housing Authorities and departments of community affairs (by state) and the Committee on Economic Opportunity—to determine family compositions, income and sources of income and housing plans concerning relocation; to law enforcement agencies—for relocation information; to Local Housing Authorities and local township police—concerning the forwarding of addresses; to utility companies—in regard to lease dates and forwarding addresses; to Defense Department Investigating Service—concerning mobile home occupancy dates; to county investigating services—to verify address and number of people within households; to local relief and government agencies—information on victims and housing; property ownership; tax rebates; to disaster victims—in regard to disaster assistance and its termination.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Some files are in free text form, such as notes, memos, ledger cards, printed cards and 3 x 5 cards, as well as daily reports. Other files are on Standard Forms Nos. SF 171, SF 52, SF 50, 491.1 or various certification forms relative to the need for assistance.

Retrievability: Name or case file number.

Safeguards: Records are stored in lockable file cabinets in lockable rooms in secured buildings.

Retention and disposal: Some files are active and kept up-to-date, but usually only when an individual is receiving assistance. Other files are inactive and historical only, unless a follow-up on a case is needed within one year after the close-down of the Disaster Field Office. Other files are partly current and partly historical. Some files are permanently retained, others destroyed by shredding according to appropriate schedules concerning disposal authority. When Disaster Field Offices are actively functioning, inactive case files are placed in inactive files. When Disaster Field Offices are inactive, case

files are stored at record centers. However, when a Disaster Field Office has been audited and closed out, any pertinent records are shipped to Regional Offices. There is a periodic review of some files, which includes the removal of obsolete information. Once a tenant is terminated or has vacated a temporary residence, his or her records are placed in a "vacate file". Some files are eventually sent to the archives for permanent retention.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Social service and other state and city agencies; subject individuals; current or previous employers; credit bureaus; financial institutions; corporation or firms; Federal Government agencies; non-Federal Government agencies; law enforcement agencies; Disaster Field Offices.

HUD/H—3

System name: Housing Production and Mortgage Credit Monitoring System

System location: Headquarters.

Categories of individuals covered by the system: Single-family mortgagors.

Categories of records in the system: Cross-indexes (used to support studies and investigations).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routing Uses paragraphs in prefatory statemtent. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name; case file number.

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to acccessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting (i) in relation to contesting contents or records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office or General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; current or previous employers; credit bureaus; financial institutions; corporations; firms; federal government agencies.

HUD/FIA—1

System name: Federal Crime Insurance

System location: Headquarters.

Categories of individuals covered by the system: Federal crime insurance policyholders.

Categories of records in the system: Names of policyholders; addresses of insured premises; type of premises; amounts and types of insurance desired; annual premiums; claims information; record of claim payments; record of premium payments; agent's name and address; other insurance held by policyholder; inspection report of protective devices.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Safety Management Institute for billing, verification of covcrage, claims adjusting and issuance of policies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files in metal cabinets, tape/disc library.

Retrievability: By name; Social Security number of policyholders policy number.

Safeguards: Access limited to authorized personel.

Retention and disposal: Information partly current and partly historical; no procedures for removal of obsolete information.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contests of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; police reports (for verification of claims data); servicing companies (for verification of claims data).

HUD/FIA—2

System name: The National Flood Insurance Application and Related Documents Files.

System location: Various offices of the Servicing Agent under contract to the Department.

Categories of individuals covered by the system: Applicants for individual flood insurance and individuals insured.

Categories of records in the system: Flood insurance policy issuance and administration records and claims adjustment records, including

ing and Urban Development 451 Seventh Street SW., Washington

System manager(s) and address: Director, Office of Organization

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applications for emergency and regular flood insurance, Endorsements, Renewal Applications, Cancellation Notices, Policy Questionnaires, Notices of Loss, and Proofs of Loss.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses in prefatory statement. Other routine uses: For use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; and to Small Business Administration for verification of nonduplication of benefits.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In the file folders and on magnetic tape/disc/drum.

Retrievability: Name, policy number.

Safeguards: Records kept in a secured area; automated systems have restricted access limited to authorized personnel.

Retention and disposal: Policy records are kept as long as insurance is desired and premiums paid and for an appropriate time thereafter and claim records are kept for the statutory time within which to file a claim.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Notification procedure: For. information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

HUD/PD&R—1

System name: Urban Homesteading Evaluation Data

System location: Cambridge, Massachusetts.

Categories of individuals covered by the system: Urban homesteaders, other residents of Urban Homesteading Demonstration (UHD) target neighborhoods, and unsuccessful applicants for UHD properties.

Categories of records in the system: Demographic, socioeconomic, housing characteristics, and housing costs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Survey questionnaires stored in file folders; punch cards, magnetic tape/disc/drum stored in facilities with limited access.

Retrievability: Code number; address.

Safeguards: File folders stored in locked cabinets; machine-readable files stored in secured areas and technical restraints are employed with regard to accessing the computer and machine-readable files. All material accessible only by authorized personnel.

Retention and disposal: Questionnaires are retained for about one month to permit conversion of data into machine-readable format; machine-readable records will be disposed of in approximately three years, early 1980.

System manager(s) and address:

Director, Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street SW.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Urban homesteaders, other residents of UHD target neighborhoods, and unsuccessful applicants for UHD properties.

HUD/PD&R—2

System name: Solar Energy Demonstration Survey Files

System location: Headquarters.

Categories of individuals covered by the system: Purchasers and renters of solar heated or cooled housing under the demonstration program; comparative purchasers of conventional heated and cooled housing; prospective purchasers of housing marketed under the demonstration program.

Categories of records in the system: Housing characteristics, reason for moving, utility expenditures, neighborhood characteristics, perception of housing and subdivision, housing costs and financing characteristics, marketing attitudes toward solar energy, operating experience with heating and cooling systems, socioeconomic information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraph in the prefatory statement. Other routine uses: Real Estate Research Corporation (Chicago, Ill.) for analysis and evaluation of solar energy use and its acceptance by the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magneitc tape/disc/drum.

Retrievability: Name; address; code number; and index.

Safeguards: Computer facilities are secured and accessible only to authorized personnel. The name-address index file will be kept in the Department in lockable file cabinets, with access limited to key authorized personnel.

Retention and disposal: Records will be maintained until followup interviews have been completed. Records of survey participants will be destroyed as each cycle ends or the participants leave the program. Hard copy questionnaires will be destroyed after they are encoded into machine readable format. All records will be destroyed at the conclusion of the study, scheduled to end in approximately five years.

System manager(s) and address: Director, Office of Organization and Management Information Department of Housing and Urban Development 451 Seventh Street, S.W. Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development. 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/PD&R—3

System name: Urban Reinvestment Task Force Data.

System location: Cambridge, Mass.

Categories of individuals covered by the system: Participants in Neighborhood Housing Services (NHS) Program and other residents of NHS neighborhoods.

Categories of records in the system: Socio-economic, demographic and housing characteristics of participants, their perceptions of the Neighborhood, and of the NHS program, and housing investment behavior of residents.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders, punch cards, magnetic tape and computer disc.

Retrievability: Identification code.

Safeguards: Access to file folders and computer files limited to authorized personnel.

Retention and disposal: Retained until June 1980 and then destroyed.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Survey participants.

HUD/PD&R—4

System name: Prepurchase Counseling Demonstration and Evaluation Records.

System location: Cambridge, Mass.

Categories of individuals covered by the system: Individuals who seek homes and inquire about the program; first-time homeseekers who join the program, counseled individuals after they purchase a home or decide not to purchase; and counseled individuals who default on their mortgages.

Categories of records in the system: Socio-economic, demographic, financial, attitudinal and, if appropriate, mortgagor payment information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape.

Retrievability: Name and Identification No.

Safeguards: Files are maintained in a secured data storage bank and in lockable file cabinets with access limited to authorized persons.

Retention and disposal: Records are retained until December 31, 1980 and then destroyed.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If addtional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individual, institution servicing the mortgage and HUD approved counseling agency.

APPENDIX A—OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT

Headquarters

Privacy Act Officer, 451 Seventh Street SW., Washington, D.C. 20410.

Region I

Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203.

Area Offices

Area Manager, Bulfinch Building, 15 New Chardon Street, Boston, Mass. 02114.

Area Manager, One Financial Plaza, Hartford, Conn. 06103.

Area Manager, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103.

Service Office

Supervisor, 330 Post Office Annex, Providence, Rhode Island 02903.

Valuation/Endorsement Stations

Supervisor, Federal Building and Post Office, 202 Harlow Street, Bangor, Maine 04401.

Supervisor, Federal Building, Elmwood Avenue, Burlington, Vermont 05401.

Region II

Regional Administrator, 26 Federal Plaza, New York, New York 10007.

Area Office

Area Manager, Suite 800, Statler Building, 107 Delaware Avenue, Buffalo, New York 14202.

Area Manager, 666 Fifth Avenue, New York, New York 10019.

Area Manager, Gateway I Building, Raymond Plaza, Newark, New Jersey 07102.

Caribbean Area Office

Area Manager, Federal Office Building, Room 428, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00917.

Service Offices

Supervisor, Leo W. O'Brien Federal Building, North Pearl Street and Clinton Avenue, Albany, New York 12207.

Supervisor, The Parkade Building, 519 Federal Street, Camden, New Jersey 08103.

Region III

Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106.

Area Offices

Area Manager, Two Hopkins Plaza, Merchantile Bank and Trust Building, Baltimore, Maryland 21201.

Area Manager, Curtis Building, 625 Walnut Street, Philadelphia, Pa. 19106.

Area Manager, Two Allegheny Center, Pittsburgh, Pennsylvania 15212.

Area Manager, 701 East Franklin Street, Richmond, Virginia 23219.
Area Manager, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.
Service Office
Supervisor, New Federal Building, 500 Quarrier Street, Charleston, West Virginia 25330.
Valuation/Endorsement Station
Supervisor, Delaware Trust Plaza, 1800 Pennsylvania Avenue, Suite 604, Wilmington, Delaware 19806.

Region IV

Regional Administrator, 1371-1375 Peachtree Street NE., Atlanta, Georgia 30309.
Area Offices
Area Manager, Peachtree Center Building, 230 Peachtree Street NW., Atlanta, Georgia 30303.
Area Manager, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233.
Area Manager, 1801 Main Street, Jefferson Square, Columbia, South Carolina 29202.
Area Manager, 415 N. Edgeworth Street, Greensboro, North Carolina 27401.
Area Manager, 101-C Third Floor, Jackson Mall, 300 Woodrow Wilson Avenue, West, Jackson, Mississippi 39213.
Area Manager, Peninsular Plaza, 61 Riverside Avenue, Jacksonville, Florida 32204.
Area Manager, One Northshore Building, 1111 Northshore Drive, Knoxville, Tennessee 37919.
Area Manager, Children's Hospital Foundation Building, 601 South Floyd Street, Louisville, Kentucky 40201.
Service Officers
Supervisor, 3001 Ponce de Leon Boulevard, Coral Gables, Florida 33134.
Supervisor, Federal Building, 700 Twiggs Street, Post Office Box 2097, Tampa, Florida 33601.
Supervisor, Federal Building—U.S. Courthouse, 80 N. Hughey Avenue, Post Office Box 1400, Orlando, Florida 32802.
Supervisor, 28th Floor, 100 North Main Street, Memphis, Tennessee 38103.
Supervisor, U.S. Courthouse, Federal Building Annex, 801 Broadway, Nashville, Tennessee 37203.

Region V

Regional Administrator, 300 South Wacker Drive, Chicago, Illinois 60606.
Area Offices
Area Manager, 1 North Dearborn Street, Chicago, Illinois 60602.
Area Manager, New Federal Building, 200 North High Street, Columbus, Ohio 43215.
Area Manager, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226.
Area Manager, 151 North Delaware Street, Indianapolis, Indiana 46207.
Area Manager, 744 North 4th Street, Milwaukee, Wisconsin 53203.
Area Manager, 6400 France Avenue, South Minneapolis, Minnesota 55435.
Service Offices
Supervisor, Federal Office Building, 550 Main Street, Room 9009, Cincinnati, Ohio 45202.
Supervisor, 777 Rockwell, Cleveland, Ohio 44114.
Supervisor, Northbrook Building Number II, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505.
Supervisor, Metropolitan Building, 432 North Saginaw Street, Flint, Michigan 48502.
Valuation/Endorsement Station
Supervisor, Lincoln Tower Plaza, 524 South Second Street, Springfield, Illinois 62701.

Region VI

Regional Administrator, Room 14C2, Earle Cabell Federal Building, U.S. Courthouse, 1100 Commerce Street, Dallas, Texas 75242.
Area Office
Area Manager, 2001 Bryan Tower, 4th Floor, Dallas, Texas 75201.
Area Manager, Room 1490, One Union National Plaza, Little Rock, Arkansas 72201.
Area Manager, Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113.
Area Manager, 200 N.W. Fifth Street, Oklahoma City, Oklahoma 73102.
Area Manager, Kallison Building, 410 South Main Avenue, Post Office Box 9163, San Antonio, Texas 78285.
Service Offices
Supervisor, 819 Taylor Street, Room 13A01 Federal Building, Fort Worth, Texas 76102.
Supervisor, Two Greenway Plaza East, Suite 200, Houston, Texas 77046.
Supervisor, Courthouse and Federal Office Building, 1205 Texas Avenue, Post Office Box 1647, Lubbock, Texas 79408.
Supervisor, 625 Truman Street, N.E., Albuquerque, New Mexico 87110.
Supervisor, 1515 Airway Boulevard, El Paso, Texas 79901.
Supervisor, New Federal Building, 500 Fannin, 6th Floor, Shreveport, Louisiana 71120.
Supervisor, 1708 Utica Square, Tulsa, Oklahoma 74152.

Region VII

Regional Administrator, Federal Office Building, Room 300, 911 Walnut Street, Kansas City, Missouri 64106.
Area Offices
Area Manager, Two Gateway Center, 4th and State Streets, Kansas City, Kansas 66101.
Area Manager, Univac Building, 7100 West Center Road, Omaha, Nebraska 68106.
Area Manager, 210 North 12th Street, St. Louis, Missouri 63101.
Service Office
Supervisor, 210 Walnut Street, Room 259, Federal Building, Des Moines, Iowa 50309.
Valuation/Endorsement Station
Supervisor, 444 S.E. Quincy Street, Room 330, Topeka, Kansas 66683.

Region VIII

Regional Administrator, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202.
Area Office
Area Manager, Title Building, 4th Floor, 909 17th Street, Denver, Colorado 80202.
Service Offices
Supervisor, Room 340, Federal Office Building, Drawer 10095, 301 South Park, Helena, Montana 59601.
Supervisor, 125 South State Street, Salt Lake City, Utah 84147.
Valuation/Endorsement Stations
Supervisor, Federal Office Building, 100 East B Street, Casper, Wyoming 82601.
Supervisor, Federal Building, 653-2nd Avenue, North, Fargo, North Dakota 58102.
Supervisor, 119 Federal Building, U.S. Courthouse, 400 S. Phillips Avenue, Sioux Falls, South Dakota 57102.

Region IX

Regional Administrator, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102.
Area Offices
Area Manager, Federal Building, 300 Ala Moana Boulevard, Suite 3318, Honolulu, Hawaii 96850.
Area Manager, 2500 Willshire Boulevard, Los Angeles, California 90057.
Area Manager, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111.
Service Offices
Supervisor, 34 Civic Center Plaza, Room 614, Santa Ana, California 92701.
Supervisor, Federal Office Building, 880 Front Street, Post Office Box 2648, San Diego, California 92112.
Supervisor, 244 West Osborn Road, Post Office Box 13468, Phoenix, Arizona 85002.
Supervisor, Federal Building, 301 West Congress, Tucson, Arizona 85701.

Supervisor, Federal Building—U.S. Courthouse, 1130 O Street, Fresno, California 93721.
Supervisor, 801 I Street, Room 147, Post Office Box 1978, Sacramento, California 95809.
Supervisor, 1050 Bible Way, Post Office Box 4700, Reno, Nevada 89505.
Supervisor, Federal Building—U.S. Courthouse, 300 Las Vegas Boulevard, South Las Vegas, Nevada 89101.

Region X

Regional Administrator, 3003 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.
Area Offices
Area Manager, 334 West 5th Avenue, Anchorage, Alaska 99501.
Area Manager, 520 Southwest 6th Avenue, Portland, Oregon 97204.
Area Manager, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.
Service Offices
Supervisor, 419 North Curtis Road, Post Office Box 32, Boise, Idaho 83707
Supervisor, West 920 Riverside Avenue, Spokane, Washington 99201.

Federal Disaster Assistance Administration

Region I
Director, Room 710, 150 Causeway Street, Boston, Massachusetts 02114.
Region II
Director, 26 Federal Plaza, New York, N.Y. 10007.
Region III
Director, Curtis Building, 7th Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
Region IV
Director, 1375 Peachtree St., N.E., Suite 750, Atlanta, Georgia 30309.
Region V
Director, 1 N. Dearborn Street Chicago, Illinois 60602.
Region VI
Director, Federal Building, Room 13C28, 1100 Commerce Street, Dallas, Texas 75202.
Region VII
Director, Federal Office Building, Room 407, 911 Walnut Street, Kansas City, Missouri 64106.
Region VIII
Director, Executive Tower Building, 25th Floor, 1405 Curtis Street, Denver, Colorado 80202.
Region IX
Director, 211 Main Street, San Francisco, California 94105.
Region X
Director, Arcade Building, Room M-16, 1319 Second Avenue, Seattle, Washington 98101.

These are permanent offices. For location of the nearest temporary field office, contact the appropriate Regional FDAA Office.

[FR Doc. 78-32014 Filed 11-22-78; 8:45 am]

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federal register

FRIDAY, NOVEMBER 24, 1978
PART III

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publications in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to it publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental ageny having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Alabama—AL78-1093.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama—AL78-1057	July 21, 1978
Arizona:	
AZ78-5114	Aug. 11, 1978
AZ78-5115; AZ78-5116	July 28, 1978
District of Columbia—DC78-3008	Mar. 17, 1978
Florida:	
FL78-1065	Aug. 11, 1978
FL78-1071	Sept. 1, 1978
FL78-1073	Sept. 8, 1978
Idaho—ID78-5120	Sept. 8, 1978
Louisiana:	
LA78-4099	Oct. 6, 1978
LA78-4113	Oct. 13, 1978
Minnesota:	
MN78-2062	July 14, 1978
MN78-2095; MN78-2097; MN78-2099	Sept. 29, 1978
MN78-2150; MN78-2151	Oct. 27, 1978
Nevada:	
NV78-5010	Mar. 10, 1978
NV78-5018	Mar. 17, 1978
NV78-5124	Sept. 15, 1978
NV78-5129	Oct. 27, 1978
New York:	
NY78-3077	Oct. 20, 1978
NY78-3079	Oct. 27, 1978
Pennsylvania—PA78-3090	Oct. 27, 1978
Texas:	
TX78-4017	Mar. 10, 1978
TX78-4034; TX78-4038	Apr. 14, 1978
TX78-4078; TX78-4079	Aug. 11, 1978
TX78-4082; TX78-4088	Aug. 25, 1978
TX78-4090; TX-4091	Sept. 15, 1978
TX78-4096	Sept. 22, 1978

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia:	
GA75-1039 (GA78-1096)	Apr. 11, 1975.
Hawaii:	
HI78-5016 (HI78-5130)	Mar. 17, 1978.
Illinois:	
IL78-2048 (IL78-2141); IL78-2047 (IL78-2142); IL78-2048 (IL78-2145)	Mar. 24, 1978.
Iowa:	
IA77-4223 (IA78-4100); IA77-4224 (IA78-4101); IA77-4225 (IA78-4102); IA77-4226 (IA78-4103); IA77-4227 (IA78-4104); IA77-4228 (IA78-4105); IA77-4229 (IA78-4106); IA77-4230 (IA78-4107); IA77-4231 (IA78-4108); IA77-4232 (IA78-4109); IA77-4233 (IA78-4110); IA77-4234 (IA78-4111); IA77-4235 (IA78-4112)	Sept. 30, 1977.
New York:	
NY78-3035 (NY78-3094)	Apr. 14, 1978.
Ohio:	
OH78-2006 (OH78-2156)	Feb. 24, 1978.
OH78-2056 (OH78-2152)	May 12, 1978.
OH78-2059 (OH78-2157)	May 5, 1978.
Tennessee:	
TN78-1059 (TN78-1097)	July 7, 1978.
Virginia:	
VA75-3095 (VA78-3096)	Sept. 19, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C., this 17th Day of November 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.,

[FR Doc. 78-32772 Filed 11-22-78; 8:45 am]

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POWER EQUIPMENT OPERATIONS:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A					
Asphalt plant; boom tractor; bulldozer; cableways; core driller; compressors (2 or more); crane-derrick dragline; dinky locomotive; dredges; forklift; front end loader; gradall; heavy duty mechanic; hoist (1 drum or more) mixers; push tractors; scrapers; shovels; trenching machine (and all similar equipment); winch trucks; motor graders; concrete pumps; piledriver; rotary drill	$ 9.34	.40	.30		.10
GROUP B					
Air compressor (over 125); Asphalt spreader; blade graders (pull type); boat operator; conveyor (2 or more up to 4); crawler tractor; distributors (bituminous surface); farm tractors; finishing machine; pumps over 4 inches; rollers; welding machine (4 or more)	8.91	.40	.30		.10
GROUP C					
Air compressor (125 & under); oilers-firemen; conveyor-(1) tended by oiler; pumps (under 4 inches); welding machines (3 or under)	7.94	.40	.30		.10
GROUP D					
Oil Field Erection: cranes; draglines; derrick; hoists; piledriver; winch trucks; forklift; tower cranes; climbing cranes; cherry picker; mechanics; locomotives; tug boat	10.04	.40	.30		.10
GROUP E					
Tractors; welding machine; gas or diesel driven welding machine (4 or more); air compressors over 125 (2 or less); power generating units (gas or diesel)	9.34	.40	.30		.10

NEW DECISION

COUNTY: Etowah

DATE: Date of Publication

STATE: Alabama

DECISION NO.: AL78-1093

DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	11.21	.45	.70		.05
A/C and heating mechanic	10.45	.69	.60		.09
Bricklayers	9.90		.25	.25	.05
Carpenters:					
Carpenters	8.70	.55	.40		.05
Millwrights	8.95	.55	.40		.05
Cement masons	9.90	.25	.25		.05
Electricians	11.05	.55	3%+.40		¼ of 1%
Glaziers	7.73				
Ironworkers:					
Structural and ornamental	10.00	.60	.815		.06
Reinforcing	10.00	.60	.815		.06
Sheeters	10.00	.60	.815		.06
Insulators	8.35				
Laborers:					
Laborers	5.40	.20	.15		.07
Mortar mixers	5.50	.20	.15		.10
Lathers	8.50				.09
Painters, brush	7.79				
Plumbers and pipefitters	11.35	.50	.55	a	
Roofers	8.90		.20		
Sheet metal workers	10.70	.69	.82		
Sprinkler fitters	10.80	.75	1.00		
Truck Drivers:					
Up to but not inc. 1½ tons	7.05	.40			
1½ up to but not inc. 3 tons	7.25	.40			
3 up to but not inc. 5 tons	7.50	.40			
5 tons and over inc. special equipment	7.65	.40			
Heavy-Duty-off the road trucks	7.75	.40			
Welders - Rate for Craft.					

FOOTNOTE:
a. Four Paid Holidays: July 4, Labor Day, Thanksgiving Day, Christmas Day.

AL78-1093

AL-2-FED-T-N

POWER EQUIPMENT OPERATORS: (Continued)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP F					
Gas or diesel driven welding machine (3 or less); air compressor 125 and under (2 or less); oiler; fireman; small boat	$ 8.07	.40	.30		.10

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL78-1057 - Mod. # 3 (43 FR-31549 - July 21, 1978) Madison County, Alabama					
Change:					
Cement Masons	9.35				
Plumbers and pipefitters	10.80	.55	.55		.15
DECISION #AZ78-5114 - Mod. #4 (43 FR 35828 - August 11, 1978) Statewide Arizona					
Change:					
Electricians:					
Flagstaff Area:					
Zone A: In the City of Flagstaff, that area lying in a square extending 20 miles North-South, East and West of the Post Office; For Williams, Winslow and Sedona that area covering a square extending 5 miles North-South, East and West of the Post Office in each town	$12.80	.96	3% + .88		1/2%
Zone B: All territorial jurisdiction allotted outside of Zone A	13.35	.96	3% + .88		1/2%
Laborers:	C&S Area	H Area			
Group 1	$8.36	$9.985	.92	.98	.10
Group 2	8.49	10.115	.92	.98	.10
Group 3	8.63	10.255	.92	.98	.10
Group 4	8.74	10.365	.92	.98	.10
Group 5	8.91	10.533	.92	.98	.10
Group 6	9.285	10.91	.92	.98	.10
Group 7	9.915	11.54	.92	.98	.10
Laborers (Tunnel and Shaft Work):					
Group 1	8.603	10.23	.92	.98	.10
Group 2	8.77	10.395	.92	.98	.10
Group 3	8.90	10.525	.92	.98	.10
Group 4	9.26	10.885	.92	.98	.10
Group 5	9.433	11.06	.92	.98	.10
Group 5-A	9.685	11.31	.92	.98	.10

DECISION #AZ78-5114 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Line Construction:					
Zone 1: Phoenix and Tucson 30 mile radius from center of town:					
Groundman	$9.97	8%	3% + 9%		1/2%
Equipment Operators; Powdermen; Mechanics	11.47	8%	3% + 9%		1/2%
Linemen; Technicians; Crane Operators	12.90	8%	3% + 9%		1/2%
Cable Splicers	13.30	8%	3% + 9%		1/2%
Zone 1-A: Douglas, Flagstaff, Globe, Kingman, Prescott, Yuma, 10 mile radius from center of town:					
Groundmen	10.81	8%	3% + 9%		1/2%
Equipment Operators; Powdermen; Mechanics	12.24	8%	3% + 9%		1/2%
Linemen; Technicians; Crane Operators	13.72	8%	3% + 9%		1/2%
Cable Splicers	14.20	8%	3% + 9%		1/2%
Zone 2: Other areas:					
Groundmen	11.59	8%	3% + 9%		1/2%
Equipment Operators; Powdermen; Mechanics	13.03	8%	3% + 9%		1/2%
Linemen; Technicians; Crane Operators	14.32	8%	3% + 9%		1/2%
Cable Splicers	14.95	8%	3% + 9%		1/2%
Painters:					
Phoenix Area:					
Zone A: 0-40 miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases:					
Brush and roller; Sandblaster (Nozzleman); Sandblaster (pot tender)	10.50	.60	.40		.08
Spray	10.75	.60	.40		.08
Creosote Applier	10.83	.60	.40		.08
Swing Stage:					
Brush, sandblaster	10.90	.60	.40		.08
Spray	11.15	.60	.40		.08
Steeplejack	11.36	.60	.40		.08

DECISION #AZ78-5114 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Painters (Cont'd):					
Zone A (Cont'd):					
Steel and bridge, brush; Steel Sandblaster	$11.43	.60	.40		.08
Steel and bridge, spray	11.63	.60	.40		.08
Zone B: 41-60 miles from Court House in Phoenix:					
Brush and roller; Sandblaster (Nozzleman); Sandblaster (Pot tender)	11.50	.60	.40		.08
Spray	11.73	.60	.40		.08
Creosote Applier	11.83	.60	.40		.08
Swing Stage:					
Brush, sandblaster	11.90	.60	.40		.08
Spray	12.13	.60	.40		.08
Steeplejack	12.36	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	12.43	.60	.40		.08
Steel and bridge, spray	12.63	.60	.40		.08
Zone C: 60 miles and over from Court House in Phoenix:					
Brush and roller; Sandblaster (Nozzleman); Sandblaster (Pot tender)	12.75	.60	.40		.08
Spray	13.00	.60	.40		.08
Creosote Applier	13.08	.60	.40		.08
Swing Stage:					
Brush, sandblaster	13.13	.60	.40		.08
Spray	13.40	.60	.40		.08
Steeplejack	13.61	.60	.40		.08
Steel and bridge, brush; Steel Sandblaster	13.68	.60	.40		.08
Steel and bridge, spray	13.88	.60	.40		.08
Sheet Metal Workers:					
Zones Bases: From the Administration Building or City Hall in Flagstaff, Kingman, Phoenix, Prescott, Yuma:					
Zone 1: 0 to 25 miles excluding Luke and Williams Air Force Bases	$11.70	.90	$1.30		.10
Zone 2: 25 to 50 miles including Luke and Williams Air Force Bases	12.35	.90	1.30		.10
Zone 3: 50 miles and over	14.20	.90	1.30		.10

MODIFICATIONS P. 4

DECISION #AZ78-3115 - Mod. 34
(43 FR 33018 - July 28, 1978)
Maricopa County, Arizona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Group 1	$8.36	.92	.98		.10
Group 2	8.49	.92	.98		.10
Group 3	8.63	.92	.98		.10
Group 4	8.74	.92	.98		.10
Group 5	8.91	.92	.98		.10
Group 6	9.285	.92	.98		.10
Group 7	9.915	.92			
Sheet Metal Workers:					
Zone 1: 0 to 25 miles excluding Luke and Williams Air Force Bases	11.70	.90	1.30		.10
Zone 2: 25 to 50 miles including Luke and Williams Air Force Bases	12.35	.90	1.30		.10
Zone 3: 50 miles and over	14.20	.90	1.30		.10

DECISION #AZ78-3116 - Mod. #4
(43 FR 33014 - July 28, 1978)
Pima County, Arizona

Change:					
Laborers:					
Group 1	$8.36	.92	.98		.10
Group 2	8.49	.92	.98		.10
Group 3	8.63	.92	.98		.10
Group 4	8.74	.92	.98		.10
Group 5	8.91	.92	.98		.10
Group 6	9.285	.92	.98		.10
Group 7	9.915	.92	.98		.10

MODIFICATIONS P. 5

DECISION #DC78-3008 - Mod. #7
(43 FR 11464 - March 17, 1978)
District of Columbia; Maryland - Montgomery and Prince Georges; and D. C. Training School; Virginia - Independant City of Alexandria & Arlington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES:					
All Counties					
BUILDING CONSTRUCTION:					
Excluding Alexandria, Virginia					
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	12.66	.60	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.58	.60	3%		½ of 1%
Groundmen (0 to 1 year)	6.16	.60	3%		½ of 1%
Groundmen (1 to 2 years)	6.07	.60	3%		½ of 1%
Groundmen (over 2 years)	7.32	.60	3%		½ of 1%
PLUMBERS	11.32	1.05	1.00		.27
POWER EQUIPMENT OPERATORS:					
Backhoes, cable ways, cranes, draglines power shovels, tunnel shovels, tunnel mucking machines, derricks, 1 cu. yd and over	8.94	.35	.45		.05
Backhoes, cableways cranes derricks, dragline, tunnel shovels, tunnel mucking machines up to 1 cu. yd., boom cats, elevating graders, hoists, paving mixers, pile-driving engines, batch plants concrete pumps	8.69	.35	.45		.05
Trenching machines (above 8' 3")	8.49	.35	.45		.05
Backhoes (hydraulic, under ½ c.y.)	8.57	.35	.45		.05
Trenching machines (up to 8' 3"), boilers skeleton, well drilling machines	8.39	.35	.45		.05
Air compressors, tunnel	8.36	.35	.45		.05
Front end loaders (highlift), bulldozers	8.34	.35	.45		.05
Concrete mixers, power shovel scoops and scrapers, motor graders, tunnel motor men, blade graders, tunnel mechanics	8.24	.35	.45		.05

DECISION #DC78-3008 - Mod. #7 MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS CONT'D					
Mechanics	8.42	.35	.45		.05
Bulldozer, hydraulic tampers	8.14	.35	.45		.05
Roller	8.04	.35	.45		.05
Air Compressor, pump, welding machine well points	7.965	.35	.45		.05
HEAVY CONSTRUCTION (EXCLUDING WATER AND SEWER LINES):					
All Counties					
BUILDING CONSTRUCTION:					
Excludig Alexandria, Virginia					
PAINTERS:					
Brush, spray, paperhangers, tapers	10.61	.86	1.10		.08
Steel, sandblasting, swing stage, power brushing	11.11	.86	1.10		.08
Decision No. FL78-1065 - Mod. #2 (43 FR-35809 - August 11, 1978) Brevard and Volusia (excluding Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site), Lake, Orange, Osceola, Polk, and Seminole Counties, Florida					
Omit:					
Ironworkers	9.33	.65	.60	.65	.05
Painters	8.65		.30		
Add:					
Indian River, Martin and St. Lucie Counties					
Change:					
Carpenters	6.41				
Cement masons	6.30				
Electricians:					
Polk County	8.87	5.5%	3%+3%	4%	.10
St. Lucie	10.08				
Volusia	8.65	.45	3%+.58		1%
Laborers:					
Unskilled	3.91				
Power Equipment Operators:					
Bulldozers	6.00				

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL78-1071 - Mod. # 1 (43 FR-39249 September 1, 1978) Citrus, Hernando, Hillsbrough, Indian River, Manatee, Martin, Pasco, Pinellas, Sarasota, St. Lucie, and Sumter Counties, Florida.					
Omit:					
Counties of:					
Indian River, Martin, & St. Lucie					
Change:					
Carpenters	5.17				
Cement Masons	5.86				
Laborers:					
Unskilled	3.00				
Power Equipment Operators:					
Draglines	6.36				
Mechanics	5.43				
Decision No. FL78-1073 - Mod. # 1 (43 FR-40173 - September 8, 1978) Bay County, Florida					
Changes:					
Supersedes Decision No. FL75-1012 dated May 14, 1976 in 41 FR-20130 to read:					
Supersedes Decision No.: FL76-1059 dated May 14, 1976 in FR-20130.					

MODIFICATIONS P. 8

DECISION #ID78-5120 - Mod. #2 (43 FR 40176 - September 8, 1978) Statewide Idaho	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	$11.94	.80	.70		.05
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls Counties	11.45	.55	.65		
Add:					
Bricklayers; Stonemasons:					
Bingham County (north of City of Blackfoot), Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton Counties	10.75	.55	.45		
Change:					
Glaziers:					
Remaining Counties	8.23	.42	.10	b	
Benewah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis, Nez Perce Counties	10.33	.40	.45	b	
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley, Washington Counties	10.79	.35	.30		.11
Marble Setters:					
Clearwater, Idaho, Latah, Lewis, Nez Perce Counties	11.94	.80	.70		.05
Add:					
Marble Setters:					
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls Counties	11.45	.55	.65		

MODIFICATIONS P. 9

DECISION #ID78-5120 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add (Cont'd):					
Marble Setters (Cont'd):					
Bingham County (north of City of Blackfoot), Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton Counties	$8.60	.55	.45		
Change:					
Painters:					
Ada, Adams, Boise, Canyon, Elmore (except Mt. Home Air Force Base), Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of 46th Parallel), Owyhee, Payette, Valley, Washington Counties:					
Painters and Tapers	9.34	.56	.35		
Elmore County (Mt. Home Air Force Base):					
Painters and Tapers	10.34	.56	.35		
Roofers:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:					
Roofers; Kettlemen	9.60	.65	.30	.50	
Roofers working with coal tar and pitch products	11.60	.65	.30	.50	
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	10.39	.65	1.00		.02
Sheet Metal Workers:					
Remaining Counties	11.98	.68	.52		.18

MODIFICATIONS P. 10

DECISION #ID78-5120 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Terrazzo Workers & Tile Setters:					
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls Counties	$11.45	.55	.65		
Bingham County (north of City of Blackfoot), Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton Counties	8.60	.55	.45		
DECISION #LA78-4099 - Mod. #3 (43 FR 46449 - October 6, 1978) Statewide Louisiana					
Change:					
Asbestos workers - Zone 2	$10.83	.50	.76		.03
Glaziers - Zone 4	8.68		.30		.04
DECISION #LA78-4113 - Mod. #3 (43 FR 47429 - October 13, 1978) Bossier, Caddo & Calcasieu Parishes, Louisiana					
Change:					
Asbestos workers:					
Bossier & Caddo Parishes	10.83	.50	.76		.03
Glaziers:					
Bossier & Caddo Parishes	8.68		.30		.04

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN78-2062 - Mod. #3 (43 FR 30459 - July 14, 1978) Aitken, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Itasca, Kanabec, Koochiching, Lake, LeSueur, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Stearns, Steel, St. Louis, Wabasha, Wascca, Washington, Winona & Wright Counties, Minnesota					
CHANGE:					
Laborers:					
Counties of Benton, Kanabec, Mille Lacs & Stearns					
Class 1	$8.20	.55	.35	.40	
Class 2	8.25	.55	.35	.40	
Class 3	8.30	.55	.35	.40	
Class 4	8.35	.55	.35	.40	
Class 5	8.45	.55	.35	.40	
Class 6	8.60	.55	.35	.40	
Class 7	8.65	.55	.35	.40	
Class 8	8.70	.55	.35	.40	
Counties of Blue Earth, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Nicolett, Olmstead, Rice, Steele, Wabasha, Waseca & Winona					
Class 1 - Unskilled, etc.	8.85	.35	.15		
Class 2 - Bit. Shoveler	9.05	.35	.15		
Class 3 - Bit. Tamper, etc.	9.10	.35	.15		
Class 4 - Bit. Raker, etc.	9.20	.35	.15		
Class 5 - Nozzleman-Gunite	9.35	.35	.15		
Class 6 - Pipelayer, etc.	9.40	.35	.15		
Class 7 - Powderman, etc.	9.45	.35	.15		

MODIFICATIONS P.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN78-2095 - Mod. #1 (43 FR 45130 - September 29, 1978) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota					
CHANGE: Laborers: Building Construction					
Class 1	$8.75	.60	.45	.40	
Class 2	8.80	.60	.45	.40	
Class 3	8.85	.60	.45	.40	
Class 4	8.90	.60	.45	.40	
Class 5	9.00	.60	.45	.40	
Class 6	9.05	.60	.45	.40	
Class 7	9.10	.60	.45	.40	
Class 8	9.15	.60	.45	.40	
Class 9	9.455	.60	.45	.40	
DECISION #MN78-2097 - Mod. #1 (43 FR 45141 - September 29, 1978) Olmsted County, Minnesota					
CHANGE: Laborers: Building Construction					
General Laborer; Carpenter Tender; Flagman; Power Buggy Operator	$8.90	.35	.15		
Mason Tender; Drill Runner; Vibrator Operator; Rebar Laborer	9.00	.35	.15		
Mortar Mixer; Air Acutated Tool	9.05	.35	.15		
Plasterer Tender	9.15	.35	.15		
Nozzleman	9.30	.35	.15		
Laborers: Site Preparation, etc.					
Class 1-Unskilled, etc.	8.95	.35	.15		
Class 2-Bit. Shoveler, etc.	9.05	.35	.15		
Class 3-Bit. Tamper, etc.	9.10	.35	.15		
Class 4-Bit. Raker, etc.	9.20	.35	.15		
Class 5-Nozzleman-Gunite	9.35	.35	.15		
Class 6-Pipelayer, etc.	9.40	.35	.15		
Class 7-Powderman, etc.	9.45	.35	.15		

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN78-2099 - Mod. #1 (43 FR 45151 - September 29, 1978) Carlton, Cook, Itasca, Koochiching, Lake & St. Louis Counties, Minnesota					
CHANGE: Laborers: Building Construction					
Carlton, Cook, Lake & St. Louis County South of T-55-N incl. the City of Duluth:					
Common Laborer	$8.65	.40	.45	.50	
Mortar Mixers, Carpenter & Mason Tenders, Jackhammer & Vibrator Operator	8.75	.40	.45	.50	
Itasca & Koochiching Counties & north of T-55-N, including Cities of Hibbing, Chisolm & Buhl in St. Louis County					
Common Laborer	9.25	.35	.15		
Carpenter & Mason Tender, Mortar Mixer, Bricklayer Tender & Jackhammer	9.35	.35	.15		
Pipelayer (non-metallic)	9.60	.35	.15		
DECISION #MN78-2150 - Mod. #2 (43 FR 50332 - October 27, 1978) Blue Earth, Fairbault, Freeborn & Mower Counties, Minnesota					
CHANGE: Laborers - Building Construction					
General Laborers & Carpenter Tender	8.90	.35	.15		
Mason Tenders & Vibrator Oprs	9.00	.35	.15		
Mortar Mixers	9.05	.35	.15		
Laborers - Site Preparation, etc.					
Class 1 - Unskilled Laborer, etc.	8.95	.35	.15		
Class 2 - Bituminous Shoveler etc.	9.05	.35	.15		
Class 3 - Bituminous Tamper	9.10	.35	.15		
Class 4 - Bituminous Raker, etc.	9.20	.35	.15		
Class 5 - Nozzlemen-Gunite	9.35	.35	.15		
Class 6 - Pipelayer, etc.	9.40	.35	.15		
Class 7 - Powderman, etc.	9.45	.35	.15		

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NN78-2151 - Mod. #1 (43 FR 50337 - October 27, 1978) Benton, Sherburne & Stearns Counties, Minnesota					
CHANGE: Laborers - Building Construction					
Stearns & Benton Counties					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr; Signal Men	$8.70	.35	.15		
Power Buggy Operators	8.75	.35	.15		
Mortar Mixers; Plasterer Tenders	8.80	.35	.15		
Jackhammer Man	8.85	.35	.15		
Underground; Caisson; Cofferdam & Tunnel Work	8.95	.35	.15		
Dynamite Men & Pipelayers	9.00	.35	.15		
Sherburne County:					
Common, Carpenter Tender	8.75	.60	.45	.40	
Wrecking & Demolition	8.85	.60	.45	.40	
Vibrator Opr; Jackhammermen; Mortar Mixers	8.90	.60	.45	.40	
Underground Work	9.00	.60	.45	.40	
Pipelayers	9.05	.60	.45	.40	
Caisson Work-Underpinning	9.10	.60	.45	.40	
Dynamite Men	9.455	.60	.45	.40	
Laborers-Site Preparation, etc.					
Benton & Stearns Counties					
Class 1	8.20	.55	.35	.40	
Class 2	8.25	.55	.35	.40	
Class 3	8.30	.55	.35	.40	
Class 4	8.35	.55	.35	.40	
Class 5	8.45	.55	.35	.40	
Class 6- Nozzleman(Gunite)	8.60	.55	.35	.40	
Class 7-Pipelayer-Laser Beam	8.65	.55	.35	.40	
Class 8	8.70	.55	.35	.40	

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV78-5010 - Mod. #4 (43 FR 10229 - March 10, 1978) Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada					
Change:					
Ironworkers:					
Ornamental; Reinforcing; Structural	$12.04	$1.29	$2.57	$1.65	.07
Mason Tenders	10.82	.66	1.35		
Sheet Metal Workers	12.46	1.14	1.61	1.50	.10
DECISION #NV78-5018 - Mod. #5 (43 FR 11447 - March 17, 1978) Clark County (does not include the Nevada Test Site), Nevada					
Change:					
Ironworkers:					
Fence Erectors	$11.11	$1.29	$2.57	$1.65	.07
Ornamental; Reinforcing; Structural	12.00	1.29	2.57	1.65	.07
Mason Tenders	10.82	.66	1.35		
Plaster Tenders	11.92	.66	1.35		
Sheet Metal Workers	14.71	1.61	1.61		.17
DECISION #NV78-5124 - Mod. #2 (43 FR 41351 - September 15, 1978) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change:					
Ironworkers:					
Remaining Counties:					
Fence Erector	$11.11	$1.29	$2.57	$1.65	.07
Ornamental; Reinforcing; Structural	12.00	1.29	2.57	1.65	.07
Mason Tenders:					
Clark, Esmeralda, Lincoln, Nye County (south half)	10.82	.66	1.35		
Plaster Tenders:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.92	.66	1.35		
Sheet Metal Workers:					
Clark, Esmeralda, Lincoln, Nye County (south half), White Pine Counties	14.71	1.14	1.61		.17
Soft Floor Layers:					
Remaining Counties including Lake Tahoe Area	12.64	.70	.20		

DECISION #NV78-5129 - Mod. #1
(43 FR 50344 - October 27, 1978)
Washoe County, Nevada

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers:					
Fence Erectors	$11.11	$1.29	$2.57	$1.65	.07
Ornamental; Reinforcing; Structural	12.00	1.29	2.57	1.65	.07
Soft Floor Layers	12.64	.70	.20		

DECISION NO. NY78-3077 - Mod. #1
(43 FR 49196 October 20, 1978)
Westchester County, New York

Change:

Bricklayers, Cement Masons, Plasterers, Pointers, Caulkers, Cleaners and Stone Masons	12.00	1.00	2.00	a+b	.07
Marble Setters:					
Cutters and Setters	9.15	1.16	1.51	1.00+k	
Carvers	9.30	1.16	1.51	1.00+k	
Crane Operators	8.45	1.26	1.54	1.00+k	
Polishers	9.83	.86	1.24	.60+k	
Glaziers	11.70	.66	1.66	.67	.01
Power Equipment Operators: Building Construction					

DECISION NO. NY78-3077 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
BUILDING:					
GROUP I	$14.105	6%+1.20	10%	a	1½%
GROUP II	13.19	6%+1.20	10%	a	1½%
GROUP III	13.0475	6%+1.20	10%	a	1½%
GROUP IV	12.905	6%+1.20	10%	a	1½%
GROUP V	11.7625	6%+1.20	10%	a	1½%
GROUP VI					
A	15.08	6%+1.20	10%	a	1½%
B	14.6175	6%+1.20	10%	a	1½%
C	9.9925	6%+1.20	10%	a	1½%
D	13.6175	6%+1.20	10%	a	1½%
E	12.3325	6%+1.20	10%	a	1½%
F	13.19	6%+1.20	10%	a	1½%
G	18.3325	6%+1.20	10%	a	1½%
H	11.7625	6%+1.20	10%	a	1½%
I	18.0475	6%+1.20	10%	a	1½%
J	16.325	6%+1.20	10%	a	1½%
K	17.325	6%+1.20	10%	a	1½%
L	14.605	6%+1.20	10%	a	1½%
M	15.105	6%+1.20	10%	a	1½%
GROUP VII	14.3325	6%+1.20	10%	a	1½%
GROUP VIII	10.0175	6%+1.20	10%	a	1½%

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

GROUP I

Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-euclid loader or similar type, cherry picker (cableway), compressor (steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsometer, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-½ yds., trenching machines, tractor type demolition equipment, winch truck "A" Frame

DECISION NO. NY78-3077 - Mod. #1

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP II

Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., rollor 4 ton and over, vib. roller

GROUP III

Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-¼ yds., & under, lighting unit (portable & generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV

Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hooper-sand-stone-cement, mixer-concrete-under 21E, Muching grass spreador, heator-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plasterer roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel outing machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V

Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI

A. Master mechanic, Assistant Master Mechanic
B. Helicopter hoist op.
C. Utility Man
D. Welder - certified
E. SEcond engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton and regardless of how the same is rigged (except for pile rigs)

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP VI (CONT'D)

J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII

Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overheadcrane, power house plant, telephiem, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

GROUP VIII

Oiler - Asphalt Paver

FOOTNOTES:

a. Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and X-Mas Day.

DECISION NO. NY78-3079 - Mod. #1
(43 FR 50351 - October 27, 1978)
Nassau and Suffolk Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	12.73	1.04	2.00		
Marble Setters:					
Cutters and Setters	9.15	1.16	1.51	1.00+j	
Carvers	9.30	1.16	1.51	1.00+j	
Crane Operators	8.45	1.26	1.54	1.00+j	
Polishers	9.83	.91	1.44	.60+j	
Painters, Suffolk County:					
Brush and Drywall Finishers	9.70	1.50	2.15		.21
Structural Steel	12.10	1.50	2.15		.21
Spray and Scaffold	10.90	1.50	2.15		.21
Painters, Nassau County:					
West of Port Washington Blvd. and North on the shore and west of Long Beach Road and South of Sunrise Highway on the South Shore:					
Structural Steel	12.13	13%	14%		1%
Structural Steel Spray, Sandblasting, and Power Tools	13.13	13%	14%		1%
Remainder of County:					
Painters	9.21	1.29	1.90	.60	.03
Open Steel, Swing Scaffold Rolling Scaffold 18' and over, Sandblasting	10.53	1.29	1.90	.60	.03
Glaziers	11.84	1.29	1.90	.60	.03
	11.70	.66	1.66	.67	.01

DECISION NO. NY78-3079 - Mod. #1

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	$12.28	8%+.25	2.00	a	.15
Backhoe, dragline, crsdall, pile-driver, shovel	12.555	8%+.25	2.00	a	.15
Batching plant (on site of Job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel) pump (concrete)	12.455	8%+.2 5	2.00	a	.15
Bending machine, generator (small), vibrator (1 to 5), dinky locomotive	11.105	8%+.25	2.00	a	.15
Boiler, bulldozer, compressor (on crane), compressor (pile-work), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front and), maintenance engineer, mechanical compactors (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action diaphragm), pump (gypsum), pump (hydraulic), pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	12.105	8%+.25	2.00	a	.15
Boom truck, crane (crawler or truck), conveyor-multi, plant engineer, stone spreader (self-propelled)	12.305	8%+.25	2.00	a	.15
Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), track tamper (2 engineers each), welding machine	11.855	8%+.25	2.00	a	.15

DECISION NO. NY78-3079 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
Crane and boom truck (stone setting, structural steel)	$12.68	8%+.25	2.00	a	.15
Bulldozer (used for excavation), fireman, loading machine, power-broom, scoop (carry-all scraper, vac-all	11.73	8%+.25	2.00	a	.15
CMI or maxim spreader, concrete spreader, derrick, sideboom tractor	12.655	8%+.25	2.00	a	.15
Compressor (structural steel)	12.255	8%+.25	2.00	a	.15
Concrete saw or cutter, mixer (with skip), mixer (2 small, with or without skip), pump (up to 3 inches), tractor-caterpiller or wheel	11.355	8%+.25	2.00	a	.15
Crane with clam shell bucket	12.555	8%+.25	2.00	a	.15
Crane, crawler or truck:					
Boom lengths of 100' (including jib) but less than 150'	12.805	8%+.25	2.00	a	.15
Boom lengths of 150' (including jib) but less than 250'	13.055	8%+.25	2.00	a	.15
Boom lengths of 250' (including jib) but less than 350'	13.305	8%+.25	2.00	a	.15
Boom lengths of 350'	13.805	8%+.25	2.00	a	.15
Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane (maintenance man)	12.055	8%+.25	2.00	a	.15
Dredge	12.43	8%+.25	2.00	a	.15
Elevator, forklift, hoist (1 drum)	12.48	8%+.25	2.00	a	.15
Forklift (walk-behind, power operated)	12.27	8%+.25	2.00	a	.15
Grador	11.88	8%+.25	2.00	a	.15
Hoist (2 and drum)	12.53	8%+.25	2.00	a	.15
Hoist (multiple platform)	15.15	8%+.25	2.00	a	.15
Mechanical compactors (hand operation), trench machine (hand)	10.73	8%+.25	2.00	a	.15
Hoist tandem platform	13.53	8%+.25	2.00	a	.15

DECISION NO. NY78-3079 - Mod. #1-

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATOR: (CONT'D)					
Hydra-hammer, ridge cutter	$11.27	8%+.25	2.00	a	.15
Lead engineer	13.755	8%+.25	2.00	a	.15
Loading machine (with capacity of 10 yds or over)	11.98	8%+.25	2.00	a	.15
Oiler, stump chipper	10.755	8%+.25	2.00	a	.15
Power buggies	10.98	8%+.25	2.00	a	.15
Roller, trench machine	12.355	8%+.25	2.00	a	.15
Scoop, carry-all, scraper in tandem	12.73	8%+.25	2.00	a	.15
Sideboom tractor (used in tank work)	12.815	8%+.25	2.00	a	.15
Striping machine	11.78	8%+.25	2.00	a	.15
Tank work	12.58	8%+.25	2.00	a	.15
Tower crane (engineer)	13.11	8%+.25	2.00	a	.15
Tower crane (oiler)	10.605	8%+.25	2.00	a	.15
Welding machine, structural steel	12.33	8%+.25	2.00	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.

MODIFICATIONS P. 24

DECISION NO. NY78-3079 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS: Asphalt spreader, boom truck, boring machine (other than holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker	$12.28	8%+.25	2.00	a	.15
Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shoval	12.65	8%+.25	2.00	a	.15
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	12.505	8%+.25	2.00	a	.15
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	10.03	8%+.25	2.00	a	.15
Boiler	11.78	8%+.25	2.00	a	.15
Boring machine (post holes)	12.22	8%+.25	2.00	a	.15
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine, dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 inches or over), pump (hydraulic), pump (jet), pump (submersible), pump (well point), roller (5 ton and over), scoop (carryall, scraper), maintenance man (tower crane), vac-all, welding and burning	11.47	8%+.25	2.00	a	.15
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house, loading machine (front end), compressor pile (pile work),					

MODIFICATIONS P. 25

DECISION NO. NY78-3079 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:CONT'D) power winch (truck mounted, used for other than stone or steel), hoist (2 drum)	12.005	8%+.25	2.00	a	.15
Compressor (2 or more in battery	11.70	8%+.25	2.00	a	.15
Compressor (stone setting), compressor (structural steel), welding machine (structural steel)	12.165	8%+.25	2.00	a	.15
Compressor, mulch machine, pin puller, pump (double action diaphgram), pump (single action 1 to 3), striping machine, welding machine, pump (gypsum)	11.905	8%+.25	2.00	a	.15
Loading machine, with bucket capacity of 10 yards or over	11.72	8%+.25	2.00	a	.15
Concrete breaker, concrete saw or cutter, forklift (walk-behind, power operated), hydra hammer, mixer (with skip), mixer (2 small with or without skips), mixer (2 bag or over with or without skip), power buggies, power grinders and ridge cutter	10.38	8%+.25	2.00	a	.15
Dredge	12.115	8%+.25	2.00	a	.15
Generator	11.39	8%+.25	2.00	a	.15
Generator (small)	10.065	8%+.25	2.00	a	.15
Grader	11.685	8%+.25	2.00	a	.15
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting and structural steel), trench machine	12.495	8%+.25	2.00	a	.15
Lead engineer	14.38	8%+.25	2.00	a	.15
Mechanic	10.08	8%+.25	2.00	a	.15
Mechanical compactors (machine drawn), roller (over 5 tons)	11.82	8%+.25	2.00	a	.15
Oiler, root cutter, stump chipper, tower crane (oiler), track tamper (2 engineers, each)	10.07	8%+.25	2.00	a	.15
Portable heaters	11.645	8%+.25	2.00	a	.15
Powerbroom	10.52	8%+.25	2.00	a	.15

MODIFICATIONS P. 26

DECISION NO. NY78-3079 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D Pump (concrete)	$11.74	8%+.25	2.00	a	.15
Scoop (carry-all, scraper tandem), tower crane (engineer)	12.905	8%+.25	2.00	a	.15
Tractor (caterpilla or wheel)	9.855	8%+.25	2.00	a	.15

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day and Christmas Day provided employee is employed the day before and after the holiday.

DECISION #PA78-3090 - Mod. #1
(43 FR 50357 - October 27, 1978)
Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers: Structural, Ornamental & Reinforcing: Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union, & York Counties	$12.105	1.14	1.36		.03

MODIFICATIONS P. 27

DECISION #TX78-4017 - Mod. #5 (43 FR 10272 - March 10, 1978) Taylor County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Asbestos workers	$10.83	.50	.76		.03
DECISION #TX78-4034 - Mod. #3 (43 FR 16121 - April 14, 1978) Cameron, Hidalgo, Starr & Willacy Counties, Texas					
Change: Asbestos workers	10.74	.55	.60		
DECISION #TX78-4038 - Mod. #6 (43 FR 16129 - April 14, 1978) Harrison County, Texas					
Change: Asbestos workers	10.83	.50	.76		.03
DECISION #TX78-4078 - Mod. #7 (43 FR 35881 - August 11, 1978) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
Change: Asbestos workers	10.83	.50	.76		.03
DECISION #TX78-4079 - Mod. #6 (43 FR 35884 - August 11, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change: Asbestos workers	10.74	.55	.60		

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION ØTX78-4082 - Mod. Ø4 (43 FR 38278 - August 25, 1978) Brazos County, Texas					
Change: Carpenters	$ 9.95				
DECISION ØTX78-4088 - Mod. Ø5 (43 FR 38287 - August 25, 1978) Wichita County, Texas					
Change: Asbestos workers	10.83	.50	.76		.03
DECISION ØTX78-4090 - Mod. Ø2 (43 FR 31364 - September 15, 1978) Bowie County, Texas					
Change: Asbestos workers	10.83	.50	.76		.03
DECISION ØTX78-4091 - Mod. Ø2 (43 FR 41365 - September 15, 1978) Gregg County, Texas					
Change: Asbestos workers	10.83	.50	.76		.03
DECISION ØTX78-4096 - Mod. Ø5 (43 FR 43242 - September 22, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change: Building Construction: Asbestos workers - Zone 2	10.83	.50	.76		.03

SUPERSEDEAS DECISION

STATE: GEORGIA — LOCATION: CHATTAHOOCHEE COUNTY & COLUMBUS

DECISION NUMBER: GA78-1096 — DATE: DATE OF PUBLICATION

Supersedes Decision No. GA75-1039, dated April 11, 1975, in 40 FR 16471.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 7.85				
CARPENTERS & SOFT FLOOR LAYERS	6.26				
CEMENT MASONS	5.77				
ELECTRICIANS	7.45	.30	1%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.595	.745	.56	1%+a+b	.025
Helpers	6.72	.745	.56	1%+a+b	.025
GLAZIERS	4.22				
IRONWORKERS - Structural, Reinforcing, & Ornamental	4.92				
LABORERS:					
Unskilled	2.98				
Mason tenders & Mortar mixers	3.00				
LATHERS	6.50				
PAINTERS	5.36				
PLASTERERS	6.50				
PLUMBERS & PIPEFITTERS	7.47				
ROOFERS	4.00				
SHEET METAL WORKERS	6.71				
TRUCK DRIVERS	3.02				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Blade/motor grader	4.50				
Bulldozer	4.00				
Crane, derrick, dragline	6.00				
Front end loader	3.75				
Scraper	3.75				
Tractor	4.25				

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christams Day.

b. Employer contributes 1% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

SUPERSEDEAS DECISION

STATE: Hawaii — COUNTIES: Statewide

DECISION NUMBER: HI78-5130 — DATE : Date of Publication

Supersedes Decison No. HI78-5016 dated March 17, 1978, in 43 FR 11366.

DESCRIPTION OF WORK: Building (including single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dradging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.54	.65	$ 2.00	.85	.06
BOILERMAKERS	11.78	.65	1.00		
BRICKLAYERS; Stonemasons	10.18	1.30	1.70	.60	.15
CARPENTERS:					
Carpenters; Hardwood Floorlayers; Patant Scaffold Erectors; Pneumatic Nailer; Shinglers	10.50	1.24	1.75	1.00	.06
Power Saw Operator (2 HP & over)	10.65	1.24	1.75	1.00	.06
Millwrights	10.75	1.24	1.75	1.00	.06
CEMENT MASONS:					
Cement Masons	9.63	1.30	1.70	.60	.15
Trowel Machine Operators	9.78	1.30	1.70	.60	.15
DRAPERY INSTALLERS	6.45	.50	.40	b	
DRYWALL APPLICATOR	10.60	1.24	1.75	1.00	.07
ELECTRICIANS:					
Electricians; Linemen	11.26	1.02	15%+1.74	11.2%	.50
Technicians	11.60	1.02	15%+1.74	11.2%	.50
Line Equipment Men	10.13	1.02	15%+1.74	11.2%	.50
Groundmen	8.45	1.02	15%+1.74	11.2%	.50
Cable Splicers	12.39	1.02	15%+1.74	11.2%	.50
ELEVATOR CONSTRUCTORS	12.98	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	9.09	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	6.49				
FENCE ERECTORS (Chain Link)	5.39	.23	.29	.10	.03
GLAZIERS	10.15	1.11	.85	.97	.16
IRONWORKERS:					
Bridge; Ornamental; Reinforcing; Structural	10.65	.90	1.37	1.00	.15
LATHERS	10.59	.88	1.25	1.25	.16
LINE CONSTRUCTION WORKERS:					
Electricians; Linemen	11.26	1.02	15%+1.74	11.2%	.50
Technicians	11.60	1.02	15%+1.74	11.2%	.50
Line Equipment Men	10.13	1.02	15%+1.74	11.2%	.50
Groundmen	8.45	1.02	15%+1.74	11.2%	.50
Cable Splicers	12.39	1.02	15%+1.74	11.2%	.50
MARBLE SETTERS	10.47	1.10	1.45		.10
PAINTERS:					
Brush	9.35	.79	3.00	.75	.10
Tapers	9.55	.79	3.00	.75	.10
Spray	9.85	.79	3.00	.75	.10
PLASTERERS	10.02	1.30	2.00	.60	.21

DECISION NO. HI78-5130 — Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters	$ 11.00	$ 1.05	$ 2.05	15%	.15
ROOFERS	11.35	1.05	1.10	.50	.10
SHEET METAL WORKERS	12.27	1.05	2.60		.38
SOFT FLOOR LAYERS	11.44	.65	.75	.15	.12
SPRINKLER FITTERS	11.96	.75	1.05		.08
TERRAZZO WORKERS & TILE SETTERS:					
Ceramic Tile Finisher	7.17	1.10	1.45		.10
Terrazzo Base Finisher	8.49	1.10	1.45		.10
Terrazzo Floor Grinder & Finisher	7.17	1.10	1.45		.10
Terrazzo Workers & Tile Setters	10.47	1.10	1.45		.10
TRUCK DRIVERS:					
Flatbed Dump, 8 yds. and under; Water Truck (up to and including 2000 gallons)	8.73	1.05	2.20	.75	.10
Water Truck (over 2000 gallons)	9.00	1.05	2.20	.75	.10
Tandem, Semi-trailer or Semi-Dump	9.31	1.05	2.20	.75	.10
Slip-in or pup	9.96	1.05	2.20	.75	.10
End Dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (hauling equipment)	10.28	1.05	2.20	.75	.10

RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Seven Paid Holidays: A through F plus Kamehaha Day. In order to be eligible for a Paid Holidsy, employees must work the last working day before the holiday and the first working day following the holiday. If the employee did not work either of these two days due to illness or layoff, he shall be entitled to holiday pay. In case of illness, the Company may require proof of illness.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DREDGING: Hydraulic suction dredges; Clamshell dredges; Boat operators; Derricks:					
Group 1	$11.34	$1.05	$2.20	.75	.10
Group 2	10.73	1.05	2.20	.75	.10
Group 3	10.28	1.05	2.20	.75	.10
Group 4	9.00	1.05	2.20	.75	.10
Group 5	8.73	1.05	2.20	.75	.10
Group 6	8.56	1.05	2.20	.75	.10
Group 7	11.09	1.05	2.20	.75	.10
Group 8	9.96	1.05	2.20	.75	.10
Group 9	10.79	1.05	2.20	.75	.10
Group 10	8.08	1.05	2.20	.75	.10

Group 1: Clamshell or Dipper Operator; Operators (Derricks, Piledrivers and Cranes)

Group 2: Mechanic or Welder; Assistant Engineer; Assistant Engineer (steam or electric)

Group 3: Deckmate; Barge Mate (seagoing)

Group 4: Fireman

Group 5: Oiler; Deckhand (can operate anchor scow under direction of Deck Mate)

Group 6: Bargeman; Leveeman

Group 7: Leverman; Master Boat Operator

Group 8: Winchman (stern winch on dredge)

Group 9: Boat operator

Group 10: Boat Deckhand

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.61	.64	$ 1.06	.38	.13
Group 1-a	7.66	.64	1.06	.38	.13
Group 1-b	8.01	.64	1.06	.38	.13
Group 1-c	8.21	.64	1.06	.38	.13
Group 1-d	8.11	.64	1.06	.38	.13
Group 1-e	8.31	.64	1.06	.38	.13
Group 1-f	8.36	.64	1.06	.38	.13
Group 1-g	8.36	.64	1.06	.38	.13
Group 1-h	6.00	.64	.10	.38	
Group 2	7.86	.64	1.06	.38	.13
Group 3	8.06	.64	1.06	.38	.13

LABORERS

Group 1: All clean-up work of debris, grounds, buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Pilers

Group 1-A: Plaster Laborers

Group 1-B: Plaster Hod Carrier

Group 1-C: Plaster Mortar Mixer

Group 1-D: Mason Tender

Group 1-E: High Scaler

Group 1-F: Gunnite Operator

Group 1-G: Powderman

Group 1-H: Landscape and Irrigation Laborer

Group 2: Asphalt Shovelers; Cement Dumpers; Choke-setter and Rigger (clearing work); Concrete Chipping; Driller's Helper, Chuck Tender, Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman-hydraulic monitor (over 100# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1

Group 3: Asphalt Ironers, rakers and hand rollers; Barko and similar type tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete and Magnesite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator; Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic Workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held-gas, air and electric); Riprap, Stonepaver and Rockslinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (bull float in connection with Laborers' work); Vibrator; Burning, welding, Signaling and Rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWH-2A, Gardner Denver DH-143 and similar type drills; Track Drillers, Diamond Core and Wagon Drillers; Davis Trencher T-66 or similar types; Concrete Laborers (wet or dry), including Bucket Tender for Concrete

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.45	$ 1.05	$ 2.20	.75	.10
Group 2	8.56	1.05	2.20	.75	.10
Group 3	8.73	1.05	2.20	.75	.10
Group 4	9.00	1.05	2.20	.75	.10
Group 5	9.31	1.05	2.20	.75	.10
Group 6	9.96	1.05	2.20	.75	.10
Group 7	10.28	1.05	2.20	.75	.10
Group 8	10.39	1.05	2.20	.75	.10
Group 9	10.50	1.05	2.20	.75	.10
Group 9-A	10.73	1.05	2.20	.75	.10
Group 10	10.79	1.05	2.20	.75	.10
Group 10-A	10.94	1.05	2.20	.75	.10
Group 11	11.09	1.05	2.20	.75	.10
Group 12	11.45	1.05	2.20	.75	.10
Asphalt Paving Group:					
Asphalt Raker	9.00	1.05	2.25	a	
Asphalt Roller	9.96	1.05	2.25	a	
Asphalt Spreader	10.28	1.05	2.25	a	

FOOTNOTE:

a. An employee who has completed two to five years' service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation for two weeks each year; for each year of completed service thereafter to and including fifteen years' service, an addition of one day vacation with pay; fifteen or more years of service, a vacation of three weeks each year with pay.

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Partsman (heavy duty repair shop parts room when needed); Repairman Helper

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete Plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Tugger Hoist, single drum; Rodman and Chainman

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Dinky Operator; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Ross Carrier and similar (job-site)

Group 5: Agri-Cat (mini-cat); Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline or diesel)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports and canals); Drilling Machinery (not to apply to waterliners, wagon drills or jackhammers); Highline Cableway Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Pavement Breakers; Portable Crushers; Power Jumbo Operator (setting slip forms, etc. in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Slip Form Pumps (power driven hydraulic, electric, air, gas, etc. lifting device for concrete forms); Small Rubber-tired Tractors; Trencher (up to and including 6 feet)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter (mechanical or otherwise); Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar); Mine or Shaft Hoist; Mixer-mobile (over 5 tons); Pavement Breaker, Truck mounted, with Compressor Combination; Pavement Breaker with Compressor Combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom D-6 or similar); Trancher (over 6 ft.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar); Instrument Man

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd. up to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yard to and including 3/4 yard); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu. yds.); Wheel Trencher (over 6")

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons) (single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type Earthmoving Machine (single engine with tandem scraper); Tractor, Compressor, Drill Combination; Tractor (tandem scraper); Tractors (D-9 or equivalent); Chief of Party

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 10-A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yd.)

Group 11: Automatic Slip Form Paver (concrete or asphalt); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers) (up to and including 35 cu. yds. struck MRC); Highline Cableway; Lift Slab Machine; Loader (over 12 yards); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yard and up to 7 yards); Power Blade Operator (10 or over); Pre-stress Wire Wrapping Machine; Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, Mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. m.r.c. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds., Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: See Below
DECISION NO.: IL78-2141 DATE: Date of Publication
Supersedes Decision No. IL78-2046, dated March 24, 1978, in 43 FR 12561
DESCRIPTION OF WORK: Heavy and Highway Construction

ILL-HH-5

COUNTIES: Champaign, Clark Coles, Cumberland, DeWitt, Douglas, Edgar, Macon, Moultrie, Piatt, Shelby & Vermillion	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
Champaign County, N.E. ¼ of Piatt Co., North of US Rt. #36 in Douglas Co.					
Carpenters	$11.715	.45	1.00		.08
Piledrivermen	12.215	.45	1.00		.08
Macon Co., SW ¼ of Piatt Co., North of Rt. #133 in Moultrie Co., Moweaqua & North therof in Shelby County					
Carpenters	11.935	.60	.65		.06
Piledrivermen	12.435	.60	.65		.06
Cumberland, Coles, Edgar, Clark, Moultrie & Shelby Counties					
Carpenters	12.325	.55	.30		.07
Piledrivermen	12.825	.55	.30		.07
Vermillion County					
Carpenters	11.645	.75	.80		.05
Piledriverman	12.145	.75	.80		.05
DeWitt County					
Carpenters	12.01	.40	.50		.05
Piledrivermen	12.51	.40	.50		.05
CEMENT MASONS:					
Macon Co., Clinton & South Thereof in DeWitt Co., S. of Monticel Monticello in Piatt Co., N.E N.E. corner of Moultrie Co; Lovington, Bethany & Moweaqua in Shelby County	11.45	.60	.475		
Coles & Edgar Counties	12.225				
Vermillion County	11.45		.50		
Champaign, Douglas, Clark & Cumberland Counties, Monticello & N. Thereof in Piatt County, Remainder of Shelby & Moultrie Counties	12.075	.45			.025

DECISION NO. IL78-2141

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Clark & Edgar Counties	$12.10	.50	3%+.50		.01
Vermillion County	12.27	.50	3%+.50		.25%
Twps. of Waynesville, Wilson & Rutledge in DeWitt County	11.95	.50	3%+.55		.002
Cumberland, Coles & Douglas Cos., Twps. of Bowdie, Burbon, Arcola & Sargent in Moultrie Co; Twps. of Lowe, Jonathan Creek, Whitley & E. Nelson in Shelby County	12.60	.50	3%+.40		.35%
Champaign Co; N. ½ of Douglas Co; Twps. of Blue Ridge, Sangamon & Monticello in DeWitt County	12.45	.50	3%+.40		.3%
Macon Co; Twps. of Wapella, Barnett, Clintonia, Harp, DeWitt, Turnsbridge, Texas Creek & Nixon in DeWitt Co; Twps. of Boose Creek, Willow Branch, Cerro Gordo, Bement & Unity in Piatt Co; Twps. of Carret & That portion of Tuscola lying west of the city of Tuscola & the Ill. Central Rail road tracks in Douglas Co; Twps. of Moweaqua, Pana, Flat, Branch, Pickaway, Todds Point, Rural, Ridge, Okaw, Tower Hill, Rose, Shelbyville, Oconee, Cold Springs, Lakewood, Clarkburg, Herrick, Dry Point & Holland in Shelby Co; Twps. of Dora Lovington, Marrowbone & Sullivan at the Ill. Masonic Home & Farm in E. Nelson in Moultrie County	12.60	.50	3%+.40		.35%
IRONWORKERS:					
Champaign, Coles, Cumberland, Douglas, Edgar, Moultrie, Piatt, Vermillion & E. ½ of DeWitt Co., & East of Decatur in Macon County	11.55	.65	1.00		.08

DECISION NO. IL78-2141

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS: (CONT'D)					
Western ½ of DeWitt Co; W. ½ of Shelby Co; Decatur & West thereof in Macon County	$11.75	.55	1.05		.08
Clark County	11.30	.90	2.05		.10
LINEMEN:					
Champaign, DeWitt, Douglas, Piatt, Edgar & Shelby Counties; Twps. of E. Oakland, Humboldt Morgan, N. Okaw & Seven Hickory in Coles County; Remainder of Moultrie County:					
Linemen	12.39	.45	3%		.5%
Groundman - Equip. Opr. Class 1	11.56	.45	3%		.5%
Groundman Truck Driver:					
W/Winch	8.65	.45	3%		.5%
WO/Winch	8.24	.45	3%		.5%
Groundman Class "A"	7.86	.45	3%		.5%
Vermillion County:					
Linemen & Groundman Equipment Operator	12.12	.50	3%+.30		.5%
Groundman Truck Driver:					
W/Winch	9.86	.50	3%+.30		.5%
WO/Winch	9.22	.50	3%+.30		.5%
Groundman	8.73	.50	3%+.30		.5%
Cumberland & Clark Counties; Whitley Twp. in Moultrie Co; & Remainder of Coles County:					
Linemen & Digging Machine Opr	12.29	.45	8%		.25%
Groundman Equipment Operator:					
Class 1	10.50	.45	8%		.25%
Class 2	9.40	.45	8%		.25%
Groundman:					
Class A	7.83	.45	8%		.25%
1st 6 Months	7.49	.45	8%		.25%
PAINTERS:					
Champaign, Coles & Douglas Cos:					
Brush	11.57	.65	.40		.04
Bridges	12.57	.65	.40		.04
Macon, Shelby, Moultrie, DeWitt & Piatt Counties:					
Brush	11.00	.50	.40		
Spray	11.75	.50	.40		
Structural over 50' - Radio - TV & Towers	12.00	.50	.40		

DECISION NO. IL78-2141

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Vermillion County:					
Brush	$11.80				
Spray	12.80				

DECISION NO. IL78-2141

ILL-HH-5-LAB

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Champaign County					
Unskilled	$10.80	.40	.40		.035
Semi-Skilled	11.00	.40	.40		.035
Skilled	11.15	.40	.40		.035
Coles & Cumberland Counties					
Unskilled	10.55	.55	.50		.035
Semi-Skilled	10.75	.55	.50		.035
Skilled	10.90	.55	.50		.035
Douglas Co; S. ¼ of Piatt Co.					
Unskilled	10.50	.50	.60		.035
Semi-Skilled	10.70	.50	.60		.035
Skilled	10.85	.50	.60		.035
Clark & Edgar Counties					
Unskilled	10.50	.50	.60		.035
Semi-Skilled	10.70	.50	.60		.035
Skilled	10.85	.50	.60		.035
Western ¼ of Moultrie County					
Unskilled	10.50	.60	.40		.035
Semi-Skilled	10.70	.60	.40		.035
Skilled	10.85	.60	.40		.035
Eastern ¼ of Moultrie County					
Unskilled	10.50	.50	.60		.035
Semi-Skilled	10.70	.50	.60		.035
Skilled	10.85	.50	.60		.035
Northern ¼ of Piatt County					
Unskilled	10.80	.40	.40		.035
Semi-Skilled	11.00	.40	.40		.035
Skilled	11.15	.40	.40		.035

DECISION NO. IL78-2141

ILL-HH-5-LAB

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Shelby County					
Unskilled	$10.40	.60	.60		.035
Semi-Skilled	10.60	.60	.60		.035
Skilled	10.75	.60	.60		.035
DeWitt County					
Unskilled	10.80	.40	.40		.035
Semi-Skilled	11.00	.40	.40		.035
Skilled	11.15	.40	.40		.035
Macon County					
Unskilled	10.50	.60	.50		.035
Semi-Skilled	10.70	.60	.50		.035
Skilled	10.85	.60	.50		.035
Vermillion County					
Unskilled	10.20	.60	.80		.035
Semi-Skilled	10.40	.60	.80		.035
Skilled	10.55	.60	.80		.035

DECISION NO. I178-2141

CLASSIFICATIONS

UNSKILLED LABORERS-Carpenters Tender, Tool Cribmen, Cleaning & Oiling Machinery & Tools, Fireman or Salamander Tenders, Flagmen, Gravel Box Men, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Pit Men, Material Checkers, Dispatchers, Landscapers, Unloading Explosives, Laying of Sod, Planting of Trees, Removal of Trees, Piledriver Helpers, Asphalt Plant Helpers, Wrecking Laborers, Fireproofing Laborers, Surveyors & Instrument Men Helpers, Janitors, Unloading & Carrying of Rebars, Caission Top Man Helper, Mason Tenders, Scaffold Workers, Laborers w/dewatering systems, Plaster Tenders & Tunnel Laborers (Free Air).

SEMI-SKILLED-Handling of Materials treated w/oil,& creosote, Asphalt and/or Foreign Material harmful to skin & clothing handled by any mode or method, Track Laborers, Cement Handlers, Signaling & Spotting of Rigs & Equipment, Chloride Handlers, Wet Concrete Workers, Tunnel Helpers in Free Air, Batch Dumpers, Kettle & Tar Men, Tank Cleaners, Plastic Installers, Motorized Buggies or Motorized Units used for Wet Concrete or Building Materials, Sewer Workers (excluding Pipe Layer & Helper), Vibrator Operators, Mortar Mixer Opr., Cement Silicia, Clay, Fly Ash, Lime & Plaster Handlers (Bulk or Bag), Cofferdam Workers, Work on Concrete Paving, Placing, Cutting & Tying of Reinforcing, Deck Hand, Dredge Hand & Shore Laborers, Bank Men on Floating Plant, Asphalt Workers & Layers with Machine, Grade Checker, Dumpmen & Spotter where Grade is to be established, Power Tools, Chain Saw Operator, Jackhammer & Drill Operators, Air Tamping Hammerman, Caisson Top Man, Gunnite Pot Man, Batterboard Setter, Digging Bell Holes, Driving or Stakes & Setting Stringlines for all Machinery.

SKILLED-Caisson or Tunnel Miners & Muckers, Gunnite Nozzlemen, Welders, Cutters, Burners & Torchmen, Tile or Pipelayers & Helpers, Steel Form Setters-Street & Highway, Concrete Saw Operator, Screenman on Asphalt pavers, Front-End Man on Chip Spreader, Laborers Tending Masons with Hot Materials or/where Foreign Matter or Materials are used, Multiple Concrete Duct-Leadman, Luteman, Curb Asphalt Machine Operator, Ready Mix Scalemen, Permanent Portable or Temporary Plant, Laborers handling Master-Plate or similar Materials, Lasor Beam Opr., Concrete Burning Machine Opr., Coring Mach. Opr., Underpinning & Shoring of Buildings, Dynamite Shooter, Cribbing & Jackman in Trench & Hydraulic Jackman.

DECISION NO IL78-2141

ILL-1-PEO-1-2-3

Powor Eqaipment Operators: Champaign, Clark, Coles, Edgar, Cumberland, Vermilion, Moultrie, Douglas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$11.60	.55	.75		.13
CLASS II	11.55	.55	.75		.13
CLASS III	11.35	.55	.75		.13
CLASS IV	7.35	.55	.75		.13

POWER EQUIPMENT OPERATORS:

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with Skip, Tournamixer, Two Drum Machine, One Drum Hoists with tower or Boom, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Asphalt Planer, Finishing Machine on Asphalt, Large Rollers on Earth, Rollers on Asphalt Mix, Ross Carriers or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge Engineer or Dredge Operator, Central Mix Plant Engineer, CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engine or Rock Crusher Plant, Concrete Plant Engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Picker, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Back Filler, Elevating Machine, Power Blade, Drilling Machines, incl. Well Testing, Caissons, Shaft or any similar type drilling machines, Motor Driven Paint Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, (Head Equipment Greaser), Barber-Greene Loaders, Formless Paver, (Well Point System), Concrete Spreader, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float, Finishing Machine, Self-Propelled Pavement Breaker (Backhoe attached), Lull (or similar type machine), Two Air Compressors, Compressors hooked in Manifold, Overhead Crane, Chip Spreader, Mud Cat, Sull-Air

DECISION NO.: IL78-2141

ILL-5-PEO-1-2-3

POWER EQUIPMENT OPERATORS: REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$11.90	.55	.65		.05
CLASS II	10.45	.55	.65		.05
CLASS III	9.35	.55	.65		.05

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, clm shell, C.N.E. & aimilar type autograde fromless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derricks, derrick boats, draglines, earth augeror bfoing machines, elevating graders engineers on dredge, gravel processing machines, high lift or fork lifts, hoist w.two drums or two or more loadlines locomotives (all) mechanics, mortar graders or auto pratrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), organe peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, rosa carriers or similar machines, scoops, skimmer, 2 cu. yds. capacity & under, sheep foot roller (self-propelled) Shovels, skimmer scoops, test hoeldrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lifts or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tamdem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self-propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanics helpers, mechanical heaters* oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*) welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO IL78-2141

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Concrete Mixers without Skips,Rock Crusher, Ditching Machine under 6', Curbing Machine, One Drum Machines without Tower or Boom, Air Tugger, Self Propelled Concrete Saw, Machine Mounted Post Hole Digger, two to four Generators, Water Pumps, or Welding Machines, within 400 feet, Air Compressor 600 cu. ft. and under, Rollers on Aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop curb Machine, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machine, House Elevators when used for hoisting Material, Engine Tenders, Fireman, Wagon Drill, Flex Plane, Conveyor, Siphons and Pulsometer, Switchman, Fireman on Pain Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat,Throttle Valve, Farm Tractor

DECISION NO. IL78-2141

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2, 3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois
DECISION NO.: IL78-2142
Supersedes Decision No. IL78-2047, dated March 24, 1978 in 43 FR 12566
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Adams, Brown, Cass, Christian, Logan, Mason, Menard, Morgan, Pike, Sangamon, Schuyler & Scott

ILL-RH-6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
Sangamon County (Illiopolis & Vicinity)	$11.715	.45	1.00		.08
Logan County	11.15	.45	.80		.06
Remainder of District #6	11.40	.55	.45		.06
CEMENT MASONS:					
Adams & Logan Counties	11.70				
Remainder of District #6	10.95	.45	.75		.03
ELECTRICIANS:					
Christian County	12.60	.50	3%+.40		.35%
Adams, Brown, Pike & Schuyler Counties	11.15	.50	3%+.75		1%
Sangamon, Logan, Menard, Cass, Morgan, & Scott Counties; Twps. of Lynchburg, Bath, Kilbourne, Crane, Creek, Salt Creek, & Mason in Mason County	12.37	.50	3%+.60		.1 of 1%
Remainder of Mason County	12.32	.50	3%+.75		1%
IRONWORKERS:					
Brown, Cass, Christian, Logan, Mason, Menard, Morgan, Pike Sangamon, Scott Counties Kingston & Vicinity in Adams County; Eastern ½ of Schuyler County	11.75	.55	1.05		.08
Remainder of Adams & Schuyler Counties	11.50	.55	.90		.06
LINE CONSTRUCTION:					
Linemen	12.39	.45	3%		.5%
Groundman Equip. Opr. Class	11.56	.45	3%		.5%
Groundman Truck Driver:					
W/Winch	8.65	.45	3%		.5%
WO/Winch	8.24	.45	3%		.5%
Groundman Class "A"	7.86	.45	3%		.5%

DECISION NO: IL78-2142

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Sangamon, Cass, Menard, Morgan, Christian, Scott & Logan Cos:					
Brush & Roller	$10.15	.55	.50		
Spray	10.65	.55	.50		
Pike County:					
Industrial	11.30	.55	.35		
Bridges	11.35	.55	.35		
Mason County:					
Brush	11.30	.55	.30		.03
Bridge Work & Spray	11.95	.55	.30		.03
Schuyler County:					
Brush	11.30	.55	.35		
Spray & Structural Steel	11.35	.55	.35		
Adams & Brown Counties:					
Brush	8.80				
Spray	9.80				

DECISION NO. IL78-2142

ILL-IIH-LAB-6

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams County:					
Unskilled	$ 9.76	.50	.60		.035
Semi-skilled	9.96	.50	.60		.035
Skilled	10.11	.50	.60		.035
Logan & Menard Cos: (North of Petersburgh):					
Unskilled	9.86	.60	.40		.035
Semi-skilled	10.06	.60	.40		.035
Skilled	10.21	.60	.40		.035
Morgan, Brown, Cass, Mason, Pike, Scott & Schuyler Coe.:					
Unskilled	9.81	.60	.45		.035
Semi-skilled	10.01	.60	.45		.035
Skilled	10.61	.60	.45		.035
Christian County:					
Unskilled	10.01	.45	.40		.035
Semi-skilled	10.21	.45	.40		.035
Skilled	10.36	.45	.40		.035
Menard County (Petersburgh & South)					
Unskilled	10.01	.35	.40		.035
Semi-skilled	10.21	.35	.40		.035
Skilled	10.36	.35	.40		.035
Sangamon County:					
Unskilled	10.01	.45	.40		.035
Semi-skilled	10.21	.45	.40		.035
Skilled	10.36	.45	.40		.035

LABORERS:

Unskilled Common Laborers

Semi-skilled Blade Grade Operators; Concrete Saw Operators, Asphalt Saw Opra; Chain Saw Oprs.; Form Tampers, Sandblasting; Form Setters other than Highway Paving Forms; Rubbing of Concrete; Sewer Tile & Pipe Layers; Shoring & Bracing in Sewer & Tunnels; Hopper men., Power Tool Opra; Spotters & Dumpmen on Dry Batch Concrete Trucks; Hot Tar & Kettle Men; Puddlers behind Paving Mixers and on walls over ten (10) feet high; Pipe Wrapper; Taper Coater & Torchmen on Pipeline; Stringline men & Batter Board Setters on Sewers, Hydraulic Trench Jacks.

Skilled Paving Breakers & Air Tampers; Asphalt Rakers; Cement & Rock Dust Handlers; Handling Creosote Hot Dope Men, Vibrator Men, Cutters & Burners on wrecking Jobs or Torchmen; Concrete Burners; Men Working in caissons below water level; Boring Machine.

DECISION NO. IL78-2142

POWER EQUIPMENT OPERATORS:
MASON COUNTY

ILL-20-PEO-2-3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.17	.45	.80		.05
GROUP 4	10.90	.45	.80		.05
GROUP 5	9.46	.45	.80		.05

POWER EQUIPMENT OPERATORS:

Group 1: Crane, hydro crane, shovels, crane type backfiller, tower cranes-mobile and crawler and stationary derricks and hoist (3-drum); Dragline, Dragline, Drott Yumbo and similar types considered as cranes, backhoe, derrick boats, pile driver and skid rigs, clam shells, locomotive cranes, road pavers,- single drum, dual drum and tri batcher, motor patrols and power blades - Dumore, elevating similar types, mechanica central concrete mixing plant operator, blacktop plant operators and plant engineers, grad-all, caisson rigs - requires oiler, skimmerscoopkerhing scooper, dredges (all types) hop-toe-crane type (require oiler), Escalated rate on crane and derricks booms, $.01 per hour, per ft., over 80' including jib all cherry pickers, cherry pickers (over 15 tons require oiler), work boat, Rosa carrier, helicopter, dozen and tournadozer

Group 2: Asphalt heater and planter combination (used to plant streets), trench machines, pump crete - belt crete - seqeeze crete - screw type pumps and gysum, bulker and pump, dinkeys, tournapulls-all, and similar types, multiple unit earth movers, $.25 per hour for each scoop over one scoops (all sizes), pushcats, endloaders (all types), side booms, P-H one-pass soil cement machines and similar types, wheel tractors (industrial or farm-type with dozer hoe - end loader or other attachments, backfillers, asphalt surfacing machines euclid loader, fork lifts, formless finishings, jeep w/ditching machine or other attachments, tuneluger, rock crusher, automatic cement and gravel batching mobile drills (soil testing) and similar types, pugmill with pump, flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), power launches, boring machine, C.M.I. and similar types (require oiler), all (1) and (2) drum hoists, dewatering system, straw blower, hydro-seeder, boring machine, hydro-boom, starting engineer on pipeline, F.W.D. and similar types

DECISION NO. IL78-2142

POWER EQUIPMENT OPERATORS: (CONT'D)

Group 3: Apsco spreader or similar types, tractors (track-type) without power units pulling rollers, rollers on asphalt - breck or macadam, concrate breakers, concrete spreaders, center stripper, cement finishing machines, vibro tampers (all similar types) self-propelled, mechenical bull floats, mixers over three bag to 27E, winch and boom trucks, tractor pulling power blade or elevating grader, Porter Rex rail, Clary screed, mule pulling rollers, pugmill without pump, Barber Greene or similar loaders, track-type tractors with power unit attached (minimum fireman, screed man on laydown machine, and spray machine on paving

Group 4: Power subgrader, oil distributor, straight tractor, tract-air (without attachments), curb machines, paver ditch machines, truck crane oiler, and truck type hoptoe oilers

Group 5: Herman Nelson Heater, Dravo, Warner, Silent glo and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser crawler crane and skid oilers, rollers 5 ton and under on earth and gravel, form graders, pump (1) or (2), light plant (1) or (2), generator (1) or (2), conveyor (1) or (2), welding machine (1) or (2) mixer 3 bags and under, and bulk cement plant

DECISION NO.: IL78-2142

ILL-5-PEO-1-2-3

POWER EQUIPMENT OPERATORS: REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$11.90	.55	.65		.05
CLASS II	10.45	.55	.65		.05
CLASS III	9.35	.55	.65		.05

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, clm shell, C.N.E. & similar type autograde fromless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derricks, derrick boats, draglines, earth augeror bfoing machines, elevating graders engineers on dredge, gravel processing machines, high lift or fork lifts, hoist w.two drums or two or more loadlines locomotives (all) mechanics, mortar graders or auto pratrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), organe peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yds. capacity & under, sheep foot roller (self-propelled) Shovels, skimmer scoops, test hoeldrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lifts or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 lood line, mud jacks, post holediggers, mechanical, road or street sweeper-self-propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, truck or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanics helpers, mechanical heaters* oilers, pwoer from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*) welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

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DECISION NO IL78-2142

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2, 3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES *See Below
DECISION NO: IL78-2145 DATE: Date of Publication
Supersedes Decision No.: IL78-2048, dated March 24, 1978 in 43 FR 12596
DESCIPTION OF WORK: Heavy and Highway Construction

COUNTIES: Clay; Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawrence, Marion, Richland, Wabash, Wayne & White

ILL-HH-7

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	10.12	.50	.50		.03
CEMENT MASONS:					
Wabash & Lawrence Counties; The Southern Part of Crawford County	10.85	.60			
Northern Part of Crawford County	10.35			.50	
Northern part of Fayette County	10.45	.40			
Wayne, Hamilton, Marion, Effingham, White, Jefferson, Clay, Jasper, Richland, Edwards & Remainder of Fayette County	10.85	.60			
ELECTRICIANS					
Wasbash County	13.05	.50	3%		4%
Crawford, Jasper, Lawrence & Richland Counties	12.10	.50	3%+.50		.01
Twps. of Bishop, Douglas, Lucas Moccasin, St. Francis, Summit & Teutopolis in Effingham Co.	12.60	.50	3%+.40		.35%
Banner & Liberty Twps. in Effingham County; Twp. of Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson, & Louden in Fayette County	12.60	.50	3%+.40		.35%
Edwards, Hamilton, Jefferson, Marion, Clay, Wayne & White Cos., Remainder of Effingham & Fayette Counties	12.50	.40	13%		1%
IRONWORKERS:					
Crawford, Jasper Cos: N. of Olney in Richland Co., Dexter & East thereof in Effingham Co., North of Lawrenceville in Lawrence Co., & Remainder of Clay County	11.30	.90	2.05		.10
Marion County, Brown & S. thereof in Fayette Co., & Mt. Vernon & west thereof in Lawrence County	12.10	.55	1.05		
Effingham Co., West of Dexter & Avena & North thereof in Fayette County	11.30	.90	2.05		.10

PAGE 2

DECISION NO. IL78-2145

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	8.70	.40	.30		.035
LINEMEN:					
Portion north of Avena, Bear Grove, Sefton & Sharon Twps. in Fayette County:					
Linemen	12.39	.45	3%		.5%
Groundmen Equipment Opr. Class 1	11.56	.45	3%		.5%
Groundmen Truck Driver:					
W/Winch	8.65	.45	3%		.5%
NO/Winch	8.24	.45	3%		.5%
GROundmen Class "A"	7.86	.45	3%		.5%
District #7 & Remainder of Fayette County:					
Linemen & Digging Machine Opr.	12.29	.45	8%		.25%
Groundmen Equipment Opr. Class 1	10.50	.45	8%		.25%
Groundmen Equipment Opr. Class 2	9.40	.45	8%		.25%
Groundman:					
Class "A"	7.83	.45	8%		.25%
1st 6 Months	7.49	.45	8%		.25%
PAINTERS:					
Clay; Salem & Vic. in Marion County:					
Brush	8.00				
Structural Steel	10.00				
Spray	9.25				
Wabash Co: Centralia & Vic. in Marion County:					
Brush	8.10				
Spray	9.10				
Jefferson, Wayne, Edwards & Hamilton Counties:					
Brush & Roller	8.45				
Spray	9.00				
Jasper & Effingham Counties:					
Brush	9.80	.45			
Bridges	10.60	.45			

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Richland & Lawrence Counties:					
Industrial	10.60	.45			
Spray	11.60	.45			
White County:					
Brush	9.65	.65	.30		
Bridges:					
Brush and Rollers	10.80	.65	.30		
Spray	11.80	.65	.30		
Crawford County:					
Brush	9.80	.45	.30		
Fayette County:					
Industrial	11.30	.55	.35		
Bridges	11.35	.55	.35		

DECISION NO. IL78-2145

ILL-2-PEO-1-7-3

POWER EQUIPMENT OPERATORS: Marion, Jefferson, & Fayette Cos.:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.52	.87	1.51		.05
GROUP II	10.19	.87	1.51		.05
GROUP III	9.54	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.97	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more (where oilar or firemen is not required) Hydrualic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas) concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machines, Drills (other than derrick type) 1-dum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Stright tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boats oprs., (under 25', conveyors) (1), distribution pors., on trucks, siphones or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
- a. Engineers operating under air pressure
- b. Engineers operating in air over 10 lbs pressure
- c. Oilers operating under air pressure
- d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL78-2145

ILL-17-PEO-1-2-3

POWER EQUIPMENT OPERATORS Hamilton & White Cos.:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class 1	11.30	.40	.60		.035
Class 2	10.35	.40	.60		.035
Class 3	10.10	.40	.60		.035
Class 4	9.80	.40	.60		.035
Class 5	9.10	.40	.60		.035
Class 6	10.35	.40	.60		.035
Class 7	10.10	.40	.60		.035
Class 8	9.60	.40	.60		.035
Class 9	9.00	.40	.60		.035
Class 10	9.00	.40	.60		.035
RIVER WORK and LEVEE WORK ON MISSISSIPPI and OHIO RIVERS					
Class 11	11.40	.40	.60		.035
Class 12	9.50	.40	.60		.035

POWER EQUIPMENT OPERATORS:

Class 1: Apsco or equal spreading machine; Backhoe; Backfiller; Boom or which cat; Bituminous mixplace machine; Backsmith; Bituminous surfacing machine; Bulldozer; Crane; Shovel; Dragline; Truck crane; Piledriver; Concrete finishing machine or spreader machine; Concrete breaker; Concrete or pumpcrete pumps; Dinky or standard locomotive; Drill well; Elevating grader; Forklifts; Rubber-tired; Flex-plane; Gradall; Hi-lift, handblade, power; Hoists, tugger type; Hoist, (2 drums) or over one; Guy-derrick; Hyster mechanic; Motor patrol; Mixer 21 cu. ft. or over; Push cat; Pulls and scrapers; Pumps; 2 well points; P&H pulverizer or pulverizer equal to pugmill; Rubber-tired farm type tractor with bull-dozer or hi-lift (over 1/2 yd.), Rubber-tired tractor w/auger; Skimmer scoops; Seaman tiller; Spreader, Jersey; Tract-air used w/drill or Hi-lift; Trenching machine, or ditching machine; Wood chipper with tractor; Self-propelled roller w/10 ft. blade; Concrete pumps; Equipment greader

Class 2: Roller, self-propelled, Power subgroder; Elevator operator

Class 3: Rubber-tired farm type tractor w/bull dozer or hi-lift (1/2 yd. or less)

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POWER EQUIPMENT OPERATORS (Cont'd)

Class 4: Pump, one well point; All tract type tractors, pulling any type roller or disc.

Class 5: Oiler; All wheel type tractors, Oiler on 30 Hp ditches and over; Oiler, Hydra-crane with 15 ton lifting capacity or more and cranes similar to Hydra-crane w/15 ton capacity and more

Class 6: Air compressor w/valve driving piling air compressors, two (220 cu. ft. capacity or over); Air track drills, air track drill w/compressor; Automatic bins scales w/compressor or generator; Pipeline boring machine; Bulk cement plant w/separate compressor bulk float power operator; Concrete saws, (two); Hydra-lift (single motor); Straw mulcher blower w/spout

Class 7: Backend man on bituminous surfacing machine; Boom or winch truck; Cat wagon w/or without dump; Conveyors, two; Chip spreader, self-propelled concrete saw, on self-propelled; Form grader; Heaters, (motor driven); Hoist, 1 drum; Truck crane oiler; Vibrator, self-propelled.

Class 8: Air track drill (one); Belt drag machine, Power boom, Mechanical; Plasterer applicator; Tract-air

Class 9: Air compressor (220 cu. ft. capacity or over), one; Air compressor under (220 cu. ft.) two; Automatic bins, bulk cement plant w/built in compressor, running of same motor or electric motor; Firemen or switchmen; Form tamper, self-propelled; Light plants (two); Welding machine (two); Pumps (two); or combination or 2 pumps, Light plants, welding machines, air compressor (under 200 cu. ft.); Mud jacks or wood chipper; Mixers, less than 21 cu. ft., Motor mixer w/skip or pump; Pipeline track jack

Class 10: Air compressor, under 220 cu. ft. capacity (one); Conveyor (one); Conveyor operator on self-propelled chip spreader; Heater (one); Motor driven; Light plant (one) pump (one); Welding machine (one) Ulmac or equal spreader

RIVER WORK and LEVEE WORK on MISSISSIPPI and OHIO RIVERS

Class 11: Crane, shovel, dragline 4 yards or more, scraper, 18 yards, struck or over, dredge, derrick and piledriver, push boat operator, mechanic or 4 yards machine or over, Engine man on dredge, Levee man on dredge

Class 12: Oiler on crane, dragline, shovel, 4 yard machine or over; Oiler on dredge

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ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: Remainder of Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.60	.55	.75		.13
CLASS II	11.55	.55	.75		.13
CLASS III	11.35	.55	.75		.13
CLASS IV	7.35	.55	.75		.13

POWER EQUIPMENT OPERATORS:

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with Skip, Tournantxer, Two Drum Machine, One Drum Hoists with tower or Boom, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Asphalt Planer, Finishing Machine on Asphalt, Large Rollers on Earth, Rollers on Asphalt Mix, Nose Carriers or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge Engineer or Dredge Operator, Central Mix Plant Engineer, CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engine or Rock Crusher Plant, Concrete Plant Engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Picker, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Back Filler, Elevating Machine, Power Blade, Drilling Machines, incl. Well Testing, Caissons, Shaft or any similar type drilling machines, Motor Driven Paint Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Banding Machine, Apsco Paver, Boring Machine, (Head Equipment Greaser), Barber-Greene Loaders, Formless Paver, (Wall Point System), Concrete Spreader, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float, Finishing Machine, Self-Propelled Pavement Breaker (Backhoe attached), Lull (or similar type machine), Two Air Compressors, Compressors hookad in Manifold, Overhead Crane, Chip Spreader, Mud Cat, Sull-Air

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Concrete Mixers without Skips, Rock Crusher, Ditching Machine under 6', Curbing Machine, One Drum Machines without Tower or Boom, Air Tugger, Self Propelled Concrete Saw, Machine Mounted Post Hole Digger, two to four Generators, Water Pumps, or Welding Machines, within 400 feet, Air Compressor 600 cu. ft. and under, Rollers on Aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop curb Machine, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machine, House Elevators when used for hoisting Material, Engine Tenders, Fireman, Wagon Drill, Flex Plane, Conveyor, Siphons and Pulsometer, Switchman, Fireman on Pain Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat, Throttle Valve, Farm Tractor

DECISION NO. IL78-2145

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pullad by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2, 3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO: IA78-4100
COUNTY: Black Hawk
DATE: Date of Publication
Supersedes Decision No. IA77-4223. dated September 30, 1977 in 42 FR 53002
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.07	.45	.85		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS AND STONEMASONS	9.79	.38	.50		
CARPENTERS:					
Carpenters; Piledrivermen	9.09	.45	1.25		
Millwrights	9.59	.45	1.25		
CEMENT MASONS	9.05	.45	1.00		
ELECTRICIANS:					
Electricians	12.22	.45	3%		3/4%
Cable Splicers	12.59	.45	3%		3/4%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.485	.32	4%+a	.02
ELEVATOR CONSTRUCTORS'. HELPERS (PROB.)	50% JR				
IRONWORKERS	12.18				.06
LABORERS:					
GROUP 1- Common laborers; Carpenters' helpers; moving; wrecking & demolition	7.60	.45	.20		
GROUP 2- Mason tenders; hod carriers; machine and air tool operators	7.70	.45	.20		
GROUP 3- Powderman	7.85	.45	.20		
LATHERS	7.24	.31			
LINE CONSTRUCTION:					
GROUP 1- Cable splicers; Lineman; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	b	1%
GROUP 2-CGroundman; truck driver (without winch); Experienced (not less than 6 months)	6.58	.45	7%	b	1%
GROUP 3- Groundman; truck driver (with winch)	6.78	.45	7%	b	1%
GROUP 4- Blaster; special equipment operations (hole digging machines, all tractions, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	8.10	45	7%	b	1%
GROUP 5- Groundman- 1st 6 mos	5.57	45	7%	b	1%

DECISION NO. IA78-4100

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BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, roller	$ 9.51		.30		.03
Tapers	9.62		.30		.03
Spray	10.01		.30		.03
PLASTERERS	9.87	.45			
PLUMBERS AND STEAMFITTERS	10.77	.75	.96		.08
ROOFERS	9.20	1.20			
SHEET METAL WORKERS	10.45	1.25	.22		.02
SOFT FLOOR LAYERS	8.68	.45	1.00		
SPRINKLER FITTERS	11.93	.75	1.05		.08
TILE SETTERS	7.01	.31		.25	
TRUCK DRIVERS:					
Up to 6 tons	7.95	.45	.75		
Helpers	7.78	.45	.75		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Six Paid Holidays A thru F
b Seven paid holidays - A thru G

PAID HOLIDAYS:
A- New Years's Day; B- Memorial Day; C- Independence Day; D- Labor Day; E- Thanksgiving Day; F- Christmas Day; G- Friday after Thanksgiving

DECISION NO. IA78-4100

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 10.16	.60	.60		.05
GROUP 2	9.985	.60	.60		.05
GROUP 3	9.02	.60	.60		.05
GROUP 4	8.465	.60	.60		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Cerro Gordo
DECISION NO.: IA78-4101 DATE: Date of Publication
Supersedes Decision No. IA77-4224, dated September 30, 1977 in 42 FR 53004
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 11.75	.89	.805		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.64		.75		
CARPENTERS:					
Carpenters	8.87		.20		.01
Millwrights; Piledrivermen	9.12		.20		.01
CEMENT MASONS	10.40				
ELECTRICIANS	12.19	.45	3%		3/4%
GLAZIERS	8.05	.70	.25	4%	
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - Construction laborers; Tenders; Power tools, barco operators; Mortar mixers; Concrete saw; Sand point setter	7.99	.30	.40		
GROUP 2 - Caissons, after 6 ft. depth; Dynamite men; Gunniting-nozzle man and backup man; Laborers working on swinging stage work, wood hoist, towers, scaffolds or ladders at a height of 35 ft. or over	8.24	.30	.40		
GROUP 3 - Laborers working on swinging stage work, wood hoist towers, scaffolds or ladders at a height of 75 ft. or over	8.49	.30	.40		
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welders; Technicians; All riga setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	a	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 months)	6.58	.45	7%	a	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.78	.45	7%	a	1/2%

DECISION NO. IA78-4101

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 8.10	.45	7%	a	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.57	.45	7%	a	1/2%
PAINTERS:					
Brush	9.75		.50		
Tapers	9.85		.50		
Spray	10.25		.50		
PLASTERERS	9.00				
PLUMBERS & STEAMFITTERS	11.50	.65	.55		.04
ROOFERS	8.52				
SHEET METAL WORKERS	9.92	1.00	.66		.06
SOFT FLOOR LAYERS	8.87		.20		.01
SPRINKLER FITTERS	11.93	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE
a-Seven Paid Holidays - A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA78-4101

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 10.16	.60	.60		.05
GROUP 2	9.985	.60	.60		.05
GROUP 3	9.02	.60	.60		.05
GROUP 4	8.465	.60	.60		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes & cherry pickers 12½ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (leverman)

GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes & cherry pickers (under 12½ ton); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pumps; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with ot without attachments; Air compressors (one or a combination of 250 cfm or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric (other than above); Ditching machine under 8"

GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO.: IA78-4102
COUNTY: Clinton
DATE: Date of Publication
Supersedes Decision No. IA77-4225, dated September 30, 1977 in 42 FR 53006
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.07	.45	.85		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.10		.65		
CARPENTERS:					
Carpenters	9.95	.60	.90		.04
Piledrivermen	10.35	.60	.90		.04
Millwrights	12.00	.45	.85		.20
CEMENT MASONS	9.35		.65		
ELECTRICIANS:					
Electricians	10.95	.45	5.5%		.03
Cable splicers	11.15	.50	3%+.50		1%
GLAZIERS	10.59	.70	1.00		.02
IRONWORKERS	11.22	.50	.375		.07
LABORERS:					
GROUP 1 - Common laborers	8.93	.30	.60		
GROUP 2 - Operator on air or power tools; mortar mixer man; any work 35 ft. high or over; cement dumper, puddlers or vibrator man and men working with concrete pump hose; ditch work 8 ft. below ground level; any man working with creosote materials	9.18	.30	.60		
GROUP 3 - Cutting torch burner; caisson & cofferdam workers	9.23	.30	.60		
MARBLE SETTERS	10.30	.40	.70		
PAINTERS:					
Brush	10.27	.55	.85		.18
Spray; Structural steel	10.77	.55	.85		.18
PLASTERERS	11.10		.65		
PLUMBERS & STEAMFITTERS	10.31	.60	.60		.10
ROOFERS	11.85		.60		
SHEET METAL WORKERS	10.66	.45	.44		.10
SOFT FLOOR LAYERS	9.40	.45	.70		.04
SPRINKLER FITTERS	11.93	.75	1.05		.08
TERRAZZO WORKERS	10.30	.40	.70		
TILE SETTERS	10.30	.40	.70		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. IA78-4102

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$ 9.45	.40	.50		.08
GROUP 2	8.05	.40	.50		.08
GROUP 3	7.00	.40	.50		.08

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All hoists or steel erecting equipment; Crane, Shovel, Clamshell, Dragline, Backhoe, Derricks, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator; Dipper Dredge Craneman, Dual Purpose Truck (boom or winch); Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required); Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hot Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Heiss Loader, Asphalt Pug Mill, Fireman & Drier, Concrete Pump, Concrete Spreader (servicing 1 paver); Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull & similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Screper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement & Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blaetholer Self-Propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-Propelled Sheep Foot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screed Operator, Apsco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. cap. or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Rooster, Fireman & Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachments, Dope Pot (agitating motor), Dope Chop Machine, Distributor (back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work; Self-Propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller-Kenyon Cement Pump or similar machines; Air Compresnor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-Propelled Curing Machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO.: IA78-4103
COUNTY: Des Moines
DATE: Date of Publication
Supersedes Decision No. IA77-4226, dated September 30, 1977 in 42 FR 53007
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.07	.45	.85		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	12.30		.20		
CARPENTERS:					
Carpenters	10.70	.75	.90		.04
Millwrights & piledrivermen	11.40	.75	.90		.04
CEMENT MASONS	11.15				
ELECTRICIANS	12.45	.55	3%		3/4%
GLAZIERS	10.59	.70	1.00		.02
IRONWORKERS	11.50	.55	.90		.06
LABORERS:					
GROUP 1 - Common laborers; Signal man; Wrecking deck hand	8.77	.30			
GROUP 2 - Plaster tender; Mortar mixer; Mason tender; Stone & marble setter tender; Drill operator; Jackhammer man; Air tamper; Air spade (electric or pneumatic); Spraying equipment & all mechanically operated tools; Excavation work over 6 ft. deep below ground level or basement level	8.93	.30			
GROUP 3 - Tile layers (sewers)	9.03	.30			
GROUP 4 - Gunniting & sandblasting	9.14	.30			
GROUP 5 - Tunnel & sewer mucker & miner over 6 ft. deep; Caisson worker & drill operator in tunnel & caisson; Powdermen	9.24	.30			
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	7%	a	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	6.06	.45	7%	a	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.24	.45	7%	a	1/2%

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DECISION NO. IA78-4103

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (no digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 7.46	.45	7%	a	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.73	.45	7%	a	1/2%
PAINTERS:					
GROUP 1 - Brush	9.70		.25		
GROUP 2 - Rollers	9.80		.25		
GROUP 3 - Sign	10.20		.25		
GROUP 4 - Structural steel over 25 ft. from the ground or floor; bridges, water towers & stage work	10.40		.25		
GROUP 5 - Spray gun & sandblasting	10.70		.25		
PLASTERERS	10.78				
PLUMBERS & STEAMFITTERS	12.05	.50	1.35		.05
ROOFERS	10.12				
SHEET METAL WORKERS	11.03	.55	.95		.12
SOFT FLOOR LAYERS	9.98	.60	.85		.04
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS:					
GROUP 1 - Warehouseman; Helpers; Teamsters; Mechanic helpers; Greasers; Single axle flat beds & dump trucks; Pulling air compressors & welding machines; Batch trucks 2-34E batches or less; Chip spreader	8.02	13.50p/w			
GROUP 2 - Cheater axle; Tandems; 6 wheel trucks; Semi-trailers; Carryall; Winch; Mixers; Batch over 2-34E	8.23	13.50p/w			
GROUP 3 - Track trucks; Euclid type truck; Oil distributors; Front & rear; All types of dumpsters; Pavement breakers	8.33	13.50p/w			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Seven Paid Holidays A thru G

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA78-4103

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.45	.40	.50		.08
GROUP 2	8.05	.40	.50		.08
GROUP 3	7.00	.40	.50		.08

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONA

GROUP 1 - All hoists or steel erecting equipment; Crane, Shovel, Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cable Way, Concrete Spreader (servicing 2 pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Dredge Operator, Dipper Dredge Craneman, Dual Purpose Truck (boom or winch), Leverman or Engineman (hydraulic dredge), Mechanic, Paving Mixer with tower attached (2 operators required), Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine (over 40 HP), Building Hoist (2 drums), Hose Paint Wrapping Machine, Cleaning & Priming Machine, Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-L-Plant or similar machines, CMI Autograder or similar machines, Slip Form Paver, Caisson Augering Machine, Mucking Machine, Asphalt Heater-Planer Unit, Hydraulic Cranes, Mine Hoists; Athey, Barber-Green, Euclid or Hetas Loader, Asphalt Pug Mill, Fireman and Drier, Concrete Pump, Concrete Spreader (servicing 1 paver), Bulldozer, Endloader, Log Chippers or similar machines, Elevating Grader, Group Equipment Greaser, LeTourneaupull and similar machines, DW-10, Hyster Winch & similar machines, Motor Patrol, Power Blade, Push Cat, Tractor Pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with Power Attachments, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix & Place Machine, Pipe Bending Machine, Flexaplane or similar machines, Automatic Curbing Machines, Automatic Cement and Gravel Batch Plants (1 stop set-up), Seaman Pulvi-Mixer or similar machines, Blascholer Self-propelled Rotary Drill or similar machines, Work Boat, Combination Concrete Finishing Machine & Float, Self-propelled Sheepsfoot Roller or Compactor (used in conjunction with a Grading Spread), Asphalt Spreader Screen Operator, Apaco Spreader or similar machine, Slusher, Forklift (over 6000 lbs. capacity or working at heights above 28 ft.), Concrete Conveyors

GROUP 2 - Asphalt Booster, Fireman and Pump Operator at Asphalt Plant, Mud Jack, Underground Boring Machine, Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power attachment, Dope Pot (agitating Motor), Dope Chop Machine, Distributor (Back end), Straddle Carrier, Portable Machine Fireman, Hydro-Hammer, Power Winch on Paving Work, Self-propelled Roller or Compactor (other than provided for above), Pump Operator (more than 1 well point pump), Portable Crusher Operator, Trench Machine (under 40 HP), Power Subgrader (on forms) or similar machines, Forklift (6000 lbs. or less capacity), Gypsum Pump, Conveyor over 20 HP, Fuller Kenyon Cement Pump or similar machines; Air Compressor (275 CFM or over), Driver on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bag), Power Batching Machine (Cement Auger or Conveyor), Boiler (Engineer or Fireman), Water Pumps, Mechanical Broom, Automatic Cement & Gravel Batch Plants (2 or 3 stop set-up), Small Rubber-tired Tractors (not including backhoes or endloaders), Self-propelled curing machine

GROUP 3 - Oiler, Mechanic's Helper, Mechanical Heater (other than steam boiler), Belt Machine, Small Outboard Motor Boat, Engine Driven Welding Machine

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Dubuque
DECISION NO.: IA78-4104 DATE: Date of Publication
Supersedes Decision No. IA77-4227, dated September 30, 1977 in 42 FR 53009
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.07	.45	.85		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.56	.45	.25		
CARPENTERS:					
Carpenters	10.18		.37		$35.00 p/yr
Piledrivermen	10.58		.37		35.00 p/yr
Millwrights	10.68		.37		35.00 p/yr
CEMENT MASONS	9.93				
ELECTRICIANS	11.50	.65	3%+.35		3/4%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.59	.70	1.00		.02
IRONWORKERS:					
Southeast portion	11.22	.50	.375		.07
Remainder of County	10.565				.02
LABORERS:					
GROUP 1 - Common laborers	8.33	.30	.30		
GROUP 2 - All air operated tools; Brickleyers' helpers & tenders; Caisson workers; Carpenters' helpers; Handling & cleaning of all steel floor pans & wall forms; Mortar mixers; Plasterers' helpers & tenders; Tile setters (4"-6"-8")	8.43	.30	.30		
GROUP 3 - Tile setters (10" and up)	8.58	.30	.30		
LATHERS	10.00				
MARBLE SETTERS	9.31	.45	.25		
PAINTERS:					
Brush or roller epoxy; Paperhanging; Tapers	8.95		.30		
High work and steel; spraying	9.50		.30		
PLASTERERS	10.00				
PLUMBERS & STEAMFITTERS	11.22	.65	.55		.08

DECISION NO. IA78-4104

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 9.55		.20		
SHEET METAL WORKERS	11.13	.55	.95		.12
SPRINKLER FITTERS	11.93	.75	1.05		.08
TERRAZZO WORKERS	9.31	.45	.25		
TILE SETTERS	9.31	.45	.25		
TRUCK DRIVERS:					
Single axle	5.24	9.50p/w			
Tandem axle; Tractor trailers; winches	5.39	9.50p/w			
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contributed 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. IA78-4104

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)

GROUP 2 - 1 and 2 drum hoist; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck Cranes and cherry pickers (under 12½ ton); Concrete Mixers (1 yard and over); Ditching machines (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractor (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 cfm or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO.: IA78-4105
Supersedes Decision No. IA77-4228, dated September 30, 1977 in 42 FR 53011
COUNTY: Johnson
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.07	.45	.85		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.89		.55		
CARPENTERS:					
Carpenters; Soft floor layers	9.70	.45	.45		.08
Piledrivermen	10.05	.45	.45		.08
Millwrights	10.39	.45	.45		.08
CEMENT MASONS	10.78	.45			
ELECTRICIANS	11.97	.65	3%+.50		3/4%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.59	.70	1.00		.02
IRONWORKERS	12.18				.06
LABORERS:					
GROUP 1 - Common laborers	5.72	.30	.25		
GROUP 2 - Mason mortar mixers	5.92	.30	.25		
GROUP 3 - All jack & chipping hammers; All water & sewer tile layers; Chain saw; Cutting torches; Power buggies; Rock drills; Tampers; Vibrators; Well point work	6.02	.30	.25		
LATHERS	10.86				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	b	1/2%
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 mos.)	6.58	.45	7%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.78	.45	7%	b	1/2%

DECISION NO. IA78-4105

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 8.10	.45	7%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.57	.45	7%	b	1/2%
PAINTERS:					
Brush & rollers	9.18				
Paperhangers	9.43				
Sandblasting; Spray painting	9.83				
PLASTERERS	10.31				
PLUMBERS & STEAMFITTERS	11.39	.50	.61		.10
ROOFERS	7.70				
SHEET METAL WORKERS	12.20		.55		.01
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS	4.63				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					
TILE SETTER	10.71		.55		

FOOTNOTES
a - Employer contributed 4% of the basic hourly rate for over 5 years' service and 2% of the basic hourly rate for 6 months to 5 years' of service as Vacation Pay Credit. Six Paid Holidays A thru F
b - Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA78-4105

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 10.16	.60	.60		.05
GROUP 2	9.985	.60	.60		.05
GROUP 3	9.02	.60	.60		.05
GROUP 4	8.465	.60	.60		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors, caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck cranes and cherry pickers (under 12½ ton); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW and over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa
DECISION NO.: IA78-4106
Supersedes Decision No. IA77-4229, dated September 30, 1978 in 42 FR 53013
COUNTY: Linn
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.55	.40	.60		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.89		.55		
CARPENTERS:					
Carpenters	9.70	.45	.45		.08
Millwrights	10.39	.45	.45		.08
Piledrivermen	10.05	.45	.45		.08
CEMENT MASONS	10.78	.45			
ELECTRICIANS	11.97	.65	3%+.50		3/4%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.59	.70	1.00		.02
IRONWORKERS	12.18				.06
LABORERS:					
GROUP 1 - Common laborers	8.185	.30	.67		
GROUP 2 - All water service, mortar mixers; Sewer tile layers	8.535	.30	.67		
GROUP 3 - Air, electric or gasoline powered jackhammers, chipping hammers; Machine rock drills; Power driven buggies; Tampers; Vibrators; Well point work	8.535	.30	.67		
LATHERS	10.86				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welder; Technician; All rigs setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	b	1/2%
GROUP 2 - Groundmen; Truck driver (without winch); Experienced (not less than 6 months	6.58	.45	7%	b	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	6.78	.45	7%	b	1/2%

DECISION NO. IA78-4106

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 8.10	.45	7%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.57	.45	7%	b	1/2%
PAINTERS:					
Brush & rollers	9.18				
Paperhangers	9.43				
Sandblasting; Spraying	9.83				
PLASTERERS	10.31				
PLUMBERS & STEAMFITTERS	11.39	.50	.61		.10
ROOFERS	7.70				
SHEET METAL WORKERS	12.20		.55		.01
SOFT FLOOR LAYERS	9.70	.45	.45		.08
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS	5.64				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					
TILE SETTERS	10.71		.55		

FOOTNOTES
a - Employer contributes 4% of basic hourly rate for over 5 years' service; 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays A thru F
b - Paid Holidays A thru G

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA78-4106

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 10.16	.60	.60		.05
GROUP 2	9.985	.60	.60		.05
GROUP 3	9.02	.60	.60		.05
GROUP 4	8.465	.60	.60		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower Cranes; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull, etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push Cat; Truck cranes and cherry pickers (under 12½ ton); Concrete Mixers (1 yard & over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; Endloaders (under 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Polk
DECISION NO.: IA78-4107 DATE: Date of Publication
Supersedes Decision No. IA77-4230, dated September 30, 1977 in 42 FR 53015
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.75	.84	.805		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.275	.80	.75		.02
CARPENTERS:					
Carpenters	10.18	.60	.75		.08
Millwrights; Piledrivermen	10.53	.60	.75		.08
CEMENT MASONS	10.56		.80		.04
ELECTRICIANS	12.53	.40	3%+.80		3/4%
ELEVATOR CONSTRUCTORS	10.31	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROM.)	50%JR				
GLAZIERS	9.12	.70	.25	4.35%+c	.005
IRONWORKERS	10.675	.61	.92		.03
LABORERS:					
GROUP 1 - General laborers	8.73	.30	.765		.05
GROUP 2 - Mortar mixers; motor buggies, when pouring concrete; power tool operators (air tools, concrete vibrator, gunnite nozzlemen, electric drills & hammers)	8.83	.30	.765		.05
GROUP 3 - Plasterers' tenders	8.855	.30	.765		.05
GROUP 4 - Powdermen	8.88	.30	.765		.05
GROUP 5 - Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over	8.93	.30	.765		.05
GROUP 6 - All tunnel work	8.43	.30	.635		
GROUP 7 - Paving breakers weighing 50 lbs. and over	9.03	.30	.765		.05
LATHERS	11.435				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Linemen; Welder; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	b	1/2%
GROUP 2 - Groundmen; Truck driver (without winch); Experienced (not less than 6 mos.)	6.58	.45	7%	b	1/2%

DECISION NO. IA78-4107

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
GROUP 3 - Groundman; Truck driver (with winch)	$ 6.78	.45	7%	b	1/2%
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	8.10	.45	7%	b	1/2%
GROUP 5 - Groundman-1st 6 mos.	5.57	.45	7%	b	1/2%
MARBLE SETTERS	11.69				
PAINTERS:					
GROUP 1 - Brush, roller, dry-wall finisher	10.80		.40		.03
GROUP 2 - Spray; Structural steel; Sandblasting; Swing stage	11.30		.40		.03
GROUP 3 - Paperhangers	11.05		.40		.03
GROUP 4 - Stack; Tower work over 100 ft.	11.90		.40		.03
PLASTERERS	9.975				
PLUMBERS & STEAMFITTERS	11.40	.60	.85		.10
ROOFERS	8.93	.60	.35		
SHEET METAL WORKERS	11.23	1.00	.88		.13
SOFT FLOOR LAYERS	9.93	.60	.75		.08
SPRINKLER FITTERS	11.93	.75	1.05		.08
TERRAZZO WORKERS	11.69				
TILE SETTERS	11.69				
TRUCK DRIVERS	5.91				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. IA78-4107

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

FOOTNOTES

a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays A thru F

b - Seven Paid Holidays A thru G

PAID HOLIDAYS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA78-4107

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$10.16	.60	.60		.05
GROUP 2	9.985	.60	.60		.05
GROUP 3	9.02	.60	.60		.05
GROUP 4	8.465	.60	.60		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; Tower crane; Truck cranes and cherry pickers 12½ ton & over rated capacity; Derricks; Piledrivers and extractors; Caisson rigs; Side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; Welders; Mechanics; Locomotive; Dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; Air and electric tuggers (on power plants or setting steel or grating); Economobiles; Plant mixers; Farm type tractors (with loaders, backhoes, attachments, etc.); Scrapers (tournapull,etc.); Endloaders; Dredge (engineer); Side boom and winch truck other than Group No. 1; Motor patrol; Bulldozers; Push cat; Truck cranes and cherry pickers (under 12½ ton); Concrete mixers (1 yard and over); Ditching machine (8" and over); Fork lifts (on steel erection and machinery moving or hoisting above one complete story); Concrete pump; Dewatering pump; Temporary hoist cage operated; Second man on locomotive; Vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; Air compressors (one or a combination of 35 HP) with or without attachments; Air compressors (one or a combination of 250 CFM or more); Pumps 3" or over; Welding machines 600 amps or combination thereof; Conveyors; Firemen (Boiler); Generator (75 KW & over); Fork lifts (other than above Group No. 2); Gunnite machine; Self-propelled rollers; Stump chippers; Self-propelled tampers; Air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers; Mechanical heaters; Truck crane drivers; Permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Pottawattamie
DECISION NO.: IA78-4108 DATE: Date of Publication
Supersedes Decision No. IA77-4231, dated September 30, 1977 in 42 FR 53017
DESCRIPTION OF WORK: Building Construction in entire County (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.62	.40	.51		.03
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	11.20	.67	.40		.05
CARPENTERS:					
Carpenters	10.14	.50	.50	1.00	.03
Piledrivermen	10.265	.50	.50	1.00	.03
Millwrights	10.39	.50	.50	1.00	.03
CEMENT MASONS	9.82	.50	.40		
DRYWALL TAPERS & FINISHERS	10.34	.55		.50	.04
ELECTRICIANS	12.38	.68	10%+.65		.06
ELEVATOR CONSTRUCTORS	10.99	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.55	.55	.35		.01
IRONWORKERS:					
Ornamental; Reinforcing; Structural	8.88	.50	.55	1.00	.05
LABORERS:					
Common laborers	7.17	.50	.40		.05
Mason Tenders; mortar mixers	7.315	.50	.40		.05
Pipelayers	7.45	.50	.40		.05
Plasterers' tenders	7.485	.50	.40		.05
LINE CONSTRUCTION:					
Cable Splicers; Lineman; welders; Technicians; all rigs setting assembled "H" fixtures & steel transmission structures	10.12	.45	7%	b	4%
Groundman; truck driver (without winch); experienced (not less than 6 months)	6.58	.45	7%	b	4%
Groundman; truck driver (with winch)	6.78	.45	7%	b	4%
Blaster; Special equipment operator (hole digging machines, all tractors, transmission lines equipment other than assembled "H" fixtures)	8.10	.45	7%	b	4%
Groundman - 1st 6 months	5.57	.45	7%	b	4%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Paperhangers	8.55		.25		
Highwork; spray; stage; structural steel	9.10		.25		
PLASTERERS	9.68	.50	.40		
PLUMBERS	11.74	.70	.85		.10
ROOFERS:					
Slate; Tile	9.98	.15	.20		.01
Composition	9.68	.15	.20		.01
SHEET METAL WORKERS	11.74	.50			.07
SPRINKLER FITTERS	11.93	.75	1.05		.08
STEAMFITTERS	11.99	.60	.75		.15
TERRAZZO WORKERS; TILE SETTERS; MARBLE SETTERS	9.45		.25		
TERRAZZO, TILE AND MARBLE SETTERS FINISHERS	8.11				
TRUCK DRIVERS:					
Single axle	8.025	.50	.40		
Tandem axle	8.10	.50	.40		
Trailer; lowboys	8.225	.50	.40		
Lumber carriers	8.40	.50	.40		

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays - A thru F.

b. Seven paid holidays - A thru G.

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA78-4108 Page 3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	10.16	.60	.60		.05
Group 2	9.985	.60	.60		.05
Group 3	9.02	.60	.60		.05
Group 4	8.465	.60	.60		.05

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.,; tower crane; truck cranes and cherry pickers over 15 ton rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

Group 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel or grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (15 tons and under); concrete mixers (1 yard and over); ditching machine (8' and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive

Group 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (over 125 CFM); Pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 K.W. and over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

Group 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Scott
DECISION NO.: IA78-4109 DATE: Date of Publication
Supersedes Decision No. IA77-4232, dated September 30, 1977 in 41 FR 53019
DESCRIPTION OF WORK: Building Const. including construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies; all construction of such structures; the installatio nof utilities and equipment both above & below ground level; all excavation & foundatins; site preparation & incidential paving & utilities. (exclude single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.07	.45	.85		.10
BOILERMAKERS	12.30	.65	1.00		.02
BRICKLAYERS & STONEMASONS	11.10	.35	.50		.03
CARPENTERS	9.71	.45	.60		.04
CEMENT MASONS	9.52	.50	.60		
ELECTRICIANS	11.69	.55	7.5%		.03
Cable splicer	12.69	.55	7.5%		.03
ELEVATOR CONSTRUCTORS	10.87	.495	.32	4%+a	.02
GLAZIERS	10.59	.70	1.00		.02
IRONWORKERS	11.22	.50	.375		.07
LABORERS:					
GROUP 1	9.72	.40	1.00		.035
GROUP 2	9.97	.40	1.00		.035
GROUP 3	10.22	.40	1.00		.035
MARBLE SETTERS	10.30	.40	.70		
MILLWRIGHTS	13.00	.45	.85		.20
PAINTERS - brush, roller	10.27	.55	.85		.18
spray, Struc. steel	10.77	.55	.85		.18
PILEDRIVERMEN	9.96	.45	.60		.04
PLASTERERS	10.90				
PLUMBERS & STEAMFITTERS	11.75	.61	.60		.10
POWER EQUIPMENT OPERATORS					
GROUP 1	11.80	.65	.70		.08
GROUP 2	10.40	.65	.70		.08
GROUP 3	9.35	.65	.70		.08
ROOFERS	11.85		.60		
SHEET METAL WORKERS	10.66	.45	.44		.10
SOFT FLOOR LAYERS	9.71	.45	.60		.04
SPRINKLER FITTERS	11.93	.75	1.05		.08
TERRAZZO WORKERS	10.55	.35	.50		
TILE SETTERS	10.55	.35	.50		
TRUCK DRIVERS:					
GROUP 1	6.35	.35	10.00 p/w		
GROUP 2	6.55	.35	10.00 p/w		
GROUP 3	6.75	.35	10.00 p/w		
GROUP 4	6.95	.35	10.00 p/w		

WELDERS: receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE:
a-Employer contributes 4% of basic hourly rate for over 5 years service and 2% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 6 paid holidays - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day

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LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Carpenter tenders, common laborers, mason tenders
GROUP 2 - Concrete saw, pipesetters, plumber laborer, power tools (barco-vibrator-motar mixers-dynamite handlers-burner on dismantling work to be junked), prime movers, sand points.
GROUP 3 - Caissons after 6' depth, dynamite men, tunnel miners
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINATIONS
GROUP 1 - Hoists or steel erecting equip.; crane, shovel, clamshell, dragline, backhoe, derrick, tower crane, cableway, concrete spreader, asphalt spreader, asphalt mix plant, dipper dredge, dipper dredge crane, dual purpose truck(boom or winch), leverman or Eng. (hydraulic dredge), mechanic, paving mixer w/tower att., pile driver, boom tractor, mixing plane, trenching mach. over 40 H.P., building hoist (2 drums), hot paint wrapping mach., cleaning & priming mach., backfiller (throw bucket), locomotive, welder, tow or push boat, concrete paver, seaman travel-plant or similar mach., CMI autograder, slip form paver, caisson augering mach., asphalt heater-planer unit, hydraulic cranes, mine hoists, loader (athey,barber-green, euclid or haiss), asphalt pug mill, fireman, drier, concrete pump, bulldozer, endloader, log chippers or similar mach,, elevating grader, group equip. greaser, LeTourneapull & similar mach., DW-10, Hyster winch & similar mach., motor patrol, power blade, push cat, tractor pulling elevating grader or power blade, tractor operating scoop or grader, tractor w/power att., roller on asphalt or black top, 1 drum hoist, Jaeger mix & place mach., pipe bending mach., flexplane or similar mach., auto. curbing mach., auto. cement & gravel batch plant (1 stop set-up), seaman pulvi-mixer or similar mach., blastholer, self-Prop rotary drill or similar mach. work boat, comb. concrete finishing mach & float, self-prop. sheep foot roller (used in conj. w/a grading spread, asphalt spreader screed, Apsco spreader or similar mach., slusher, forklift (over 6000 lbs. cap. or above 28'), concrete conveyors.
GROUP 2 - Asphalt rooster, fireman & pump at asphalt plant, mud jack, underground boring mach. concrete finishing mach., form grader w/roller on earth, mixers 93 bag to 16E), Power op bull float, tractor w/o power att., dope pot agitating motor, dope pump mach., distributor (back end), straddle carrier, portable mach. fireman, hydro-hammer, power winch on paving work, self-prop roller or compactor (other than above), pump op. more than 1 well point pump, portable crusher, trench mach. under 40 H.P., power subgrader on forms, forklifts 6000 lbs or less cap., gypsum pump, conveyor over 70 HP, Fuller Kenyon cement pump or similar mach., Air compressor 275 cfm or over, truck crane or similar mach., light plant, mixers 1-2 bags, power batching mach.(cement auger or conveyor), boiler eng. or fireman, water pump, mech. broom, auto. cement 7 gravel batch plant 2-3 stop set-up, small rubber tired tractor, self- propelled curing machine.
GROUP 3 - Oiler, mechanics helper, mechanical heater other than steam boiler, belt machine, small outboard motor boat, engine driven welding machine.
TRUCK DRIVERS CLASSIFICATION DEFINITIONS
GROUP 1 - 4 wheel trucks, dumpcretes, scoopmobiles 5 c.y. & under or under 7½ T., mixer trucks 3 c.y. & under, air compressors & welding mach,, batch trucks 2-3¼ catches or less, driver helpers, mechanics helpers, greasers, dumpsters, pallet type fork lift, pilot truck.
GROUP 2 - 4 wheel trucks over 5 c.y.or 7½ T. 6-wheel trucks. Koehring or similar dumpsters-track trucks. euclids tournapulls. hurbottom dumps. tournatrailers. tournarockers or similar equip. when used for trans.,under 9 c.y. or 13½ T., tandems & semi-trailer service trucks, mixer trucks over c.y. & including 6½ c.y., fork lift, 4-wheel A-frame trucks used for trans., 4-wheel winch trucks, pavement breakers, batch trucksover 2-4 5¼E batches
GROUP 3 - heavy equip. over 9 c.y. or 13½ T.- trucks licensed for 50,000 lbs. to & incl. 16 c.y. or 21 T. - track trucks - semitrailer water trucks - euclids - hug-bottom dumps-tournatrailers-tpurnarockers-tractor trailers-tandem A-frames-tandem winch trucks-hydro lift trucks or similar equip. used for trans., mixers over 6½ c.y., batch trucks over 4-3¼E batches, single axle lowboy trailers, 6-wheel pole trailers, 2 man oil distributors.
GROUP 4 - heavy equipment over 9 c.y. or 21 T. such as Koehring dumpsters- track trucks-euclids -hug-bottom dumps-tournapulls-tournarockers or similar equip. used for trans., 1 man oil distributors, pole trailers over 6 wheels, water pulls, lowboy trailers, tandem axle or more no weight limitation, dist. & heavy equipment mechanics

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Story
DECISION NO.: IA78-4110 DATE: Date of Publication
Supersedes Decision No. IA77-4233, dated September 30, 1977 in 42 FR 53020
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.75	.84	.805		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.17		.60		
CARPENTERS:					
Carpenters; piledrivermen	9.88		.75		
Millwrights	9.80		.50		
CEMENT MASONS	10.56		.80		.04
ELECTRICIANS	11.73	.40	3%+.70		3/4%
ELEVATOR CONSTRUCTORS	10.31	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.81	.45	.35	4.35%	.005
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - Common laborers	7.21	.30	.05		
GROUP 2 - Mortar, plaster & grout mixers; jackhammer; paving breaker; rock drill; vibrator opr.; motor buggy opr. while pouring concrete	7.36	.30	.05		
GROUP 3 - Plasterers' tenders	7.41	.30	.05		
GROUP 4 - Concrete saw man	7.46	.30	.05		
GROUP 5 - Sandblaster	7.56	.30	.05		
GROUP 6 - Digging of or work within a shaft entering into natural underground cavities or caverns and work within the said shaft or caverns	7.71	.30	.05		
LATHERS	9.975				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; linemen; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	b	4%
GROUP 2 - Groundman; truck driver (without winch); experienced (not less than 6 months)	6.58	.45	7%	b	4%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'd)					
GROUP 3 - Groundman; truck driver (with winch)	6.78	.45	7%	b	4%
GROUP 4 - Blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	8.10	.45	7%	b	4%
GROUP 5 - Groundman-1st 6 mos.	5.57	.45	7%	b	4%
MARBLE, TILE, TERRAZZO FINISHERS	9.16				
PAINTERS:					
GROUP 1 - Brush; roller; dry-wall finisher	10.80		.40		.03
GROUP 2 - Paperhangers	11.05		.40		.03
GROUP 3 - Spray; structural steel; sandblasting	11.30		.40		.03
GROUP 4 - Work over 100 ft.; stack	11.90		.40		.03
PLASTERERS	9.975				
PLUMBERS & STEAMFITTERS	11.55	.55	.75		.10
ROOFERS	8.93	.60	.35		
SHEET METAL WORKERS	11.23	1.00	.88		.13
SOFT FLOOR LAYERS	9.035	.30	.50		.04
SPRINKLER FITTERS	11.93	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTES

a - Employer contributes 4% of the basic hourly rate for 5 years' service and 2% of the basic hourly rate for 6 mos. to 5 years of service as Vacation Pay Credit. Six Paid Holidays A thru F

b - Seven Paid Holidays A thru G

PAID HOLIDAYS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.16	.60	.60		.05
GROUP 2	9.985	.60	.60		.05
GROUP 3	9.02	.60	.60		.05
GROUP 4	8.465	.60	.60		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs ;side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel or grating); Economobiles; plant mixer; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; Motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ ton); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 CFM or more); pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW and over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); Ditching machine under 8"

GROUP 4 - Oilers, mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Webster
DECISION NO.: IA78-4111 DATE: Date of Publication
Supersedes Decision No. IA77-4234, dated September 30, 1977 in 42 FR 53022
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.75	.84	.805		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.27		.40		
CARPENTERS:					
Carpenters; piledrivermen	9.60				
Millwrights	9.85				
CEMENT MASONS	6.50				
ELECTRICIANS	11.20	.40	3%		3/4%
ELEVATOR CONSTRUCTORS	10.31	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS	9.525	.40	.745		.025
LABORERS:					
GROUP 1 - Common Laborers	5.95		.30		
GROUP 2 - Mortar mixer	6.15		.30		
GROUP 3 - Machine & air tool op.	6.20		.30		
LATHERS	9.975				
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; line men; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	b	4%
GROUP 2 - Groundman; truck driver (without winch); experienced (not less than 6 mos.)	6.58	.45	7%	b	4%
GROUP 3 - Groundman; truck driver (with winch)	6.78	.45	7%	b	4%
GROUP 4 - Blaster; special equipment opr. (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	8.10	.45	7%	b	4%
GROUP 5 - Groundman-1st 6 mos.	5.57	.45	7%	b	4%
PAINTERS:					
GROUP 1 - Brush, drywall finishers; rollers	10.80		.40		.03
GROUP 2 - Paperhangers	11.05		.40		.03
GROUP 3 - Spray	11.30		.40		.03

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS	11.55	.55	.75		.10
ROOFERS	6.75				
SHEET METAL WORKERS	11.23	1.00	.88		.13
SPRINKLER FITTERS	11.93	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES

a - Employer contributes 4% of the basic hourly rate for over 5 years service and 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit. Six Paid Holidays A thru F.

b - Seven Paid Holidays A thru G

PAID HOLIDAYS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

POWER EQUIPMENT OPERATORS					
GROUP 1	10.12	.60	.60		.05
GROUP 2	9.985	.60	.60		.05
GROUP 3	9.02	.60	.60		.05
GROUP 4	8.465	.60	.60		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs ;side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel or grating); Economobiles; plant mixer; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournspull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; Motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ ton); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 CFM or more); pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW and over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers, mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Woodbury
DECISION NO.: IA78-4112 DATE: Date of Publication
Supersedes Decision No. IA77-4235 dated September 30, 1977 in 41 FR 53024
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.40	.50	1.00		
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.45		.40		.02
CARPENTERS:					
Carpenters	9.60	.72	.27		.025
Millwrights; piledrivermen	10.10	.72	.27		.025
CEMENT MASONS	10.435				
ELECTRICIANS:					
Within 15 mile radius of Sioux City and all electrical contracts over $300,000	12.01	.50	3%+.60		3/4%
All contracts $300,000 and under outside 15 mile radius of Sioux City	5.50	.50	3%+.60		3/4%
ELEVATOR CONSTRUCTORS	8.84	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%JR				
GLAZIERS	6.95				
IRONWORKERS	10.62	.62	.45		.045
LABORERS:					
GROUP 1 - Common laborers	7.435	.66	.365	.50	
GROUP 2 - Mortar mixer; plasterers' mixers; air tool operators; mechanical tampers; concrete saw; gunnite nozzle; chain saw; wrecking torch; sandpot and blasting	7.585	.66	.365	.50	
LATHERS	9.20				.01
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; lineman; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	10.12	.45	7%	b	½%
GROUP 2 - Groundman; truck driver (without winch); experienced (not less than 6 months)	6.58	.45	7%	b	½%
GROUP 3 - Groundman; truck driver (with winch)	6.78	.45	7%	b	½%

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION CONT'D					
GROUP 4 - Blaster; special equipment operations (hole digging machine, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	$ 8.10	.45	7%	b	½%
GROUP 5 - Groundman-1st 6 mos.	5.57	.45	7%	b	½%
MARBLE SETTERS	10.63		.40		.01
PAINTERS:					
GROUP 1 - Brush	9.87	.77	.50		
GROUP 2 - Spray; all swing work; all work higher than 40 ft. - scaffolds, jacks, ladders, etc. pressure roller, sandblasting; structural steel over 25 ft.	10.33'	.77	.50		
PLASTERERS	8.50				
PLUMBERS & STEAMFITTERS	11.52	.74	.80		.10
ROOFERS:					
Roofers	8.71				
Kettlemen	8.47				
SHEET METAL WORKERS	10.79	.50	.55		.04
SPRINKLER FITTERS	11.93	.75	1.05		.08
TERRAZZO WORKERS	10.83		.40		.01
TILE SETTERS	7.20				
TRUCK DRIVERS	5.49	.37	.20		.02
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTE:
a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit; sic paid Holidays A thru F

b - Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day, C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	9.785	.60	.60		.05
GROUP 2	9.605	.60	.60		.05
GROUP 3	8.665	.60	.60		.05
GROUP 4	8.09	.60	.60		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs ;side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)
GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel or grating); Economobiles; plant mixer; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; Motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ ton); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (gomaco, C-450 or equal)
GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 CFM or more); pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW and over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); Ditching machine under 8"
GROUP 4 - Oilers, mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ONONDAGA
DECISION NO.: NY78-3094 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY78-3035 dated April 14, 1978, in 43 FR 16083.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$12.78	.90	.43		.06
Boilermakers	11.80	1.05	10%		.02
Bricklayers and stone masons	10.59	.75	1.06		.01
Carpenters, (Building)	10.32	.85	1.20		.05
Carpenters, (Heavy and Highway)	9.22	.75	1.10	a	.025
Cement masons, (Building)	10.45	.80	1.00		
Cement masons, (Heavy & Highway)	9.60	.80	1.00	b	
Electricians:					
Elbridge and Skaneateles Twps.	12.65	.90	3%+.55		.15
Remainder of County:					
Electricians	12.70	.77	3%+.95		.05
Cable Splicers	13.55	.77	3%+.95		.05
Elevator constructors	11.78	.745	.56	c+d	.025
Elevator constructors' helpers	8.25	.745	.56	c+d	.025
Elevator constructors' helpers (probationary)	5.89				
Glaziers	10.00	.80			.01
Ironworkers:					
Structural, ornamental, machinery mover, reinforcing and rigger	10.86	.77	.92		.15
Sheeter	11.11	.77	.92		.15
Sheeter, bucker-up	10.98	.77	.92		.15
Laborers, (Building):					
Laborers	8.45	.75	1.15		
Mason tenders	8.55	.75	1.15		
Scaffold builders	8.55	.75	1.15		
Lathers	10.86	.75			.01
Lead burners	10.75	.40	.25	e	.01
Marble, tile and terrazzo workers	9.62	.75	1.06		
Marble, tile, terrazzo finishers	8.61	.75	1.06		
Millwrights and piledrivers	10.33	1.18	1.06		.05
Painters:					
Boatswain chair	10.77	.80	.88		.05
Bridge	11.22	.80	.88		.05
Swing	10.67	.80	.88		.05
Brush and roller, wallcovering	10.02	.80	.88		.05
Structural steel	10.62	.80	.88		.05
Sandblasting	10.72	.80	.88		.05
Spray, epoxy application	10.52	.80	.88		.05
Taping	10.12	.80	.88		.05

DECISION NO. NY78-3094

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers	$11.43	1.17	.87		.25
Roofers	11.60	1.00	1.35		
Sheet metal workers	10.655	.60	.80		.07
Soft floor layers	10.32	.85	1.20		.05
Sprinkler fitters	12.31	.75	1.05		.08
Steamfitters	11.495	.90	.80		.025
Truck drivers: (Building)					
Truck drivers	9.60	.60	.75		
Mechanics	9.80	.60	.75		
Euclids	9.85	.60	.75		
Welders - Receive rate prescribed for craft performing operation to which welding is incidential.					

DECISION NO. NY78-3094

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: C and D.

b. Holidays: A through F, provided employee works the day before and the day after the holiday.

c. Holidays: A through F, day after Thanksgiving.

d. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

e. Holidays: A through F; Washington's Birthday; Christmas Eve, and Good Friday providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

DECISION NO. NY78-3094

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 7.89	.75	1.15	a	
CLASS B	8.09	.75	1.15	a	
CLASS C	8.29	.75	1.15	a	
CLASS D	8.49	.75	1.15	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

DECISION NO. NY78-3094 Line Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricial Overhead and Underground Distribution Work:					
Lineman and Technicians	$10.50	1.00	3%+.75	a	3½%
Cable Splicers	13.70	1.00	3%+.75	a	3½%
Groundman Digging Machine Operator and Groundman Dynamiteman	9.45	1.00	3%+.75	a	3½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer units)	8.40	1.00	3%+.75	a	3½%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced)	7.825	1.00	3%+.75	a	3½%
All Overhead Transmission Line Work and Lighting For Athletic Fields:					
Lineman and Technicians	11.85	1.00	3%+.75	a	3½%
Groundman Digging Machine Operator, Groundman Dynamiteman	10.665	1.00	3%+.75	a	3½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit)	9.48	1.00	3%+.75	a	3½%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced)	8.8375	1.00	3%+.75	a	3½%
All Pipe Type Cable Installations:					
Lineman and Groundman Equipment Operator	12.45	1.00	3%+.75	a	3½%
Cable Splicer	13.695	1.00	3%+.75	a	3½%
Groundman Truck Driver, Groundman (experienced)	9.3375	1.00	3%+.75	a	3½%

DECISION NO. NY78-3094	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Sub-station, switching structures (when not part of the line), traffic signals, street lighting and electricial, telephone or CATV commercial work:					
Linemen and technicians	$12.45	1.00	3%+.75	a	3½%
Cable splicers	13.695	1.00	3%+.75	a	3½%
Groundman mobile equipment operator, mechanic 1st class, groundman truck driver (tractor-trailer unit)	9.96	1.00	3%+.75	a	3½%
Groundman truck driver, driver-mechanic, groundman (experienced)	9.3375	1.00	3%+.75	a	3½%
Groundman dynamiteman, groundman digging machine operator	11.205	1.00	3%+.75	a	3½%
Telephone and other communication systems, both overhead and underground:					
Linemen and installer repairmen	8.34	.40	3%+.25	a	1%
Splicers	8.89	.40	3%+.25	a	1%
Groundman digging machine operator	7.73	.40	3%+.25	a	1%
Groundman	5.72	.40	3%+.25	a	1%
Groundman truck driver	6.82	.40	3%+.25	a	1%
Groundman dynamiteman	6.60	.40	3%+.25	a	1%

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day F-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: A through F, Washington's Birthday, Good Friday and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

DECISION NO. NY78-3094	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class 1	$11.78	1.05	.75	a	.15
Class 2	11.18	1.05	.75	a	.15
Class 3	11.18	1.05	.75	a	.15
Class 4	12.47	1.05	.75	a	.15
Class 5	12.28	1.05	.75	a	.15
Class 6	13.78	1.05	.75	a	.15
Class 7	12.78	1.05	.75	a	.15
Class 8	12.28	1.05	.75	a	.15

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: Building Construction

Class 1: Asphalt and blacktop roll · Automated concrete spreader (CMI or equivalent); Automated fine grade ·shine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and BlawKnox); Blacktop Plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all-scraper-self loading; Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane, Crusher-Rock; Derrick; Diesel power unit; Dragline; Dredge; Dual drum paver; Elevating grader (self-propelled or towed); Elevator hoist - two cage; Excavator - all purpose - hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over); Gradall; Grader (power); Head tower (Saurman or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Mine hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil stabilization; Shovel; Side boom; Slip form paver; Straddle buggy (Ross carrier, Lumber carrier) Tractor drawn belt type loader (Euclid loader); Trenching machine (digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

DECISION NO. NY78-3094

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Class 2: "A" Frame truck; Blacktop plant (non-automatic); Boring machine; Bulldozer; Cage hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (315 c.f. and over); Concrete paver (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 lbs. and over); Hoist (one drum); Hydraulic breaking hammer (Drop hammer); Kolman plant loader (screening gravel); Maintenance grease man; Mixer for stabilized base - self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder; post hole digger (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road widener (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or less); Tugger hoist; vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driven); Winch cat; Winch truck

Class 3: Compressor (under 315 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreaders and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacture's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); One welding machine under 300 amp. will not require an engineer unless in a battery); Power heaterman (hay drier) Pump (under 4"); Revinius widner (road widener); Steam cleaner or Jenny; Tractor with or without towed accessories, post driver (truck or tractor mounted)

Class 4: Master Mechanic

Class 5: Tower Crane

Class 6: Crane or Derrick with a boom length over 300 ft. including jib

Class 7: Crane or Derrick with a boom length over 150 ft. including jib, and on a piledriver with leads or boom length of over 100 ft.

Class 8: Quad 9 bulldozer or multibowl scraper

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.73	1.05	1.05	a	.15
GROUP II	10.37	1.05	1.05	a	.15
GROUP III	9.36	1.05	1.05	a	.15
GROUP IV	8.46	1.05	1.05	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: A through F, providing the employee works the day before and the dat after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Koiman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$8.74	.60	.75	a	
CLASS 2	8.79	.60	.75	a	
CLASS 3	8.84	.60	.75	a	
CLASS 4	8.99	.60	.75	a	
CLASS 5	9.14	.60	.75	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays: A through f, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks(straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpercte type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off- highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: * See Below
DECISION NUMBER: OH78-2152 DATE: Date of Publication
Supersedes Decision No.: OH78-2056, dated May 12, 1978 in 43 FR 20673
DESCRIPTION OF WORK: Building Construction (Does not include family homes & garden type apartments up to and including 4 stories)

*ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, DARKE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GEAUGA, GREENE, HAMILTON, HIGHLAND, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MUSKINGUM, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, SHELBY, UNION, AND WARREN

ASBESTOS WORKERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Brown, Butler (excluding Middletown & vic.), Clermont, Hamilton, Highland, & Warren (exoluding Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	$13.16	.75	1.00		.02
Butler (Middletown & Vic.), Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) Cos.	11.47	.75	1.00		.02
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross & Union Cos.	13.07	.60	1.15		.02
Gallia, Lawrence, Meigs, Pike, & Scioto Cos.	13.10	.50	.70		.03
Geauga County	14.78				
BOILERMAKERS:					
Darke, Delaware, Shelby & Union Cos.	13.575	1.075	1.00		.03
Geauga Co.	12.68	.90	1.20		.03
Remaining Counties	10.70	1.05	1.10	1.50	.02
BRICKLAYERS; Caulkers; Cleaners; Marble setters; Pointers; Stonemasons; Terrazzo workers; & Tile setters:					
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Israel, Lanier, Somers, & Gratis), & Warren Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.845	.65	.35		.02
Marble setters	11.985	.65	.35		
Terrazzo workers & Tile setters	11.935	.65	.35		
Champaign, Clark & Logan Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; Stonemasons	9.87	.85	.75		.03
Marble setters; Terrazzo workers; & Tile setters	9.81	.85	.35		
Clinton & Highland Cos.	9.25				
Darke, Miami, & Shelby Cos.	10.63	.85	.75		.03
Delaware, Franklin, Madison, Pickaway, & Union Cos.:					

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BRICKLAYERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers; Stonemasons	$11.44	.80	1.00		.03
Rubble work	10.24	.40	.80		.01
Marble setters; Terrazzo workers & Tile setters	11.70				
Fairfield & Perry Cos.	10.15	.60	.90		.10
Fayette, Pike & Ross Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.20				
Gallia & Meigs Cos.	12.05	.50			
Geauga County	13.02	.60	1.00		"
Greene, Montgomery, & Preble (Rem. of Co.) Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	11.08	.85	.75		.03
Marble setters; Terrazzo workers; & Tile setters	9.81	.85	.35		
Lawrence County	11.50		.50		.05
Licking & Muskingum Cos.	10.70	.60	.90		.10
CARPENTERS; Millwrights;					
Piledrivermen; & Soft floor layers:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Cos.:					
Carpenters; Soft floor layers	9.24	.55	1.00		.03
Piledrivermen	9.53	.55	1.00		.03
Millwrights	10.79	.40	.37		.03
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters; Piledrivermen	12.20	.60	.65		.075
Millwrights	12.09	.55	1.10		.10
Soft floor layers	10.25	.60	.65		.05
Champaign, Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, & Union Cos.:					
Carpenters	10.79	.58	.85		.04
Millwrights	11.44	.58	.85		.04
Piledrivermen	11.44	.58	.85		.04
Soft floor layers	10.79	.58	.85		.04
Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Carpenters; Piledrivermen	10.95	.80	1.10		.07
Millwrights	10.86	.80	1.00		.07
Soft floor layers	9.80	.80	.80		.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Geauga Co.:					
Carpenters; Soft floor layers	12.87	.85	1.25		.03
Millwrights	12.60	.85	1.52		.03
Piledrivermen	12.10	.77	1.25		.03
CEMENT MASONS:					
Adams, Lawrence (excluding Fayette, Union, & Rome Twps.), Pike, & Scioto Cos.	12.52		.60		
Brown, Butler, Clermont, Hamilton & Warren Cos.	12.08	.80	.95		.20
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	10.53	.60	.60		.07
Clinton & Highland Cos.	9.25				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Pickaway, Ross, & Union Cos.	10.50	.60	.60		.05
Geauga Co.	13.02	.60	1.00		
Lawrence Co. (Fayette, Union & Rome Twps.)	11.50		.50		.05
ELECTRICIANS:					
Adams, Pike (S. part), & Scioto Cos.	11.45	.50	3%+.50	1.00	.04
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. court House	12.50	.70	3%+.60		%%
18 to 21 mi. radius from Hamilton Co. Court House	12.80	.70	3%+.60		%%
21 to 25 mi. radius from Hamilton Co. Court House	12.90	.70	3%+.60		%%
Over 25 mi. radius from Hamilton Co. Court House	13.05	.70	3%+.60		%%
Butler, & Warren (Twps. of Deer-Field, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington) Cos.:					
W. of Interstate #75:					
Electricians	12.65	.45	3%+.75		%%
Cable Splicers	13.15	.45	3%+.75		%%
E. of Interstate #75:					
Electricians	13.20	.45	3%+.75		%%
Cable Splicers	13.70	.45	3%+.75		%%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Champaign, Clark, & Madison (Twps. of Paint, Pike, Somerford, Stokes, & Union) Cos.	11.14	.45	3%+.85		.04
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (Rem. of Co.) Cos.:					
Electrical communications installers within 11 mi. radius of 3rd & Main Street, Dayton	12.03	.75	3%+1.00		.5%
Electrical communications installers beyond 11 mi. radius of 3rd & Main Street, Dayton	12.26	.75	3%+1.00		.5%
Delaware, Fairfield, Franklin, Madison (E. portion), Pickaway (N. & central portions), & Union Cos.	12.18	.38	3%+1.00		.06
Fayette, Highland, Pickaway (S. part), Pike (N. part), & Ross Cos.	12.35	.40	3%		.02
Gallia Co.	12.27	.50	3%+.80	1.00	.04
Geauga Co. (Bainbridge, Chester, & Russell Twps.)	13.75	.55	3%+.48		.02
Geauga Co. (Auburn, Middlefield, Parkman, & Troy Twps.)	13.39	.60	7%		.7%
Geauga Co. (Rem. of Co.)	13.13	.70	3%+.70		.3%
Lawrence Co.	11.82	.50	3%+.80	1.00	.04
Licking Co.	11.40	.40	3%+.60		.03
Meigs Co.	11.15	.50	3%+.80	1.25	.04
Muskingum & Perry Cos.	11.40	.40	3%+.60		.03
Shelby Co.	12.21	.45	3%+.37		.04
ELEVATOR CONSTRUCTORS:					
Adams, Brown, Butler, Clermont, Clinton, Darke, Hamilton, Highland, Miami, Preble, & Warren Cos.:					
Elevator Constructors	11.78	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Champaign, Clark, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Perry, Pickaway, Ross, Shelby & Union Cos.:					
Elevator constructors	$11.705	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Gallia & Meigs Cos.:					
Elevator Constructors	11.465	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Geauga Co.:					
Elevator constructors	12.79	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Greene & Montgomery Cos.:					
Elevator Constructors	11.78	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Lawrence, Pike, & Scioto Cos.:					
Elevator Constructors	11.465	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Lawrence, & Scioto Cos.	10.60		.70		
Adams, Brown, Butler (Hamilton & Vic.), Clermont, Clinton (Southern part), Hamilton, Highland (Part), & Warren (Lebanon & south) Cos.	12.10		.60		.01
Champaign, Butler (excluding Hamilton & Vic.), Clark, Clinton (Northern Part), Darke, Fayette (Eastern Part), Greene, Highland (Part), Miami, Montgomery, Preble, Shelby (Southern Part), & Warren (North of Lebanon) Cos.	10.53		.70		.01
Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Pike, Ross, & Union Cos.	11.22		.57		.005
Geauga Co.	13.68	.55	.65		.01
IRONWORKERS:					
Adams (Part), Gallia, Lawrence, Pike (Part), & Scioto Cos.:					
To 10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
10 to 15 mi. from Union Hall in Ashland, Kentucky	$11.42	.90	1.05		.01
15 to 20 mi. from Union Hall in Ashland, Kentucky	11.52	.90	1.05		.01
20 mi. & over from Union Hall in Ashland, Kentucky	11.62	.90	1.05		.01
Adams (Part), Brown, Butler (S. ½ of Co.), Clermont, Hamilton & Warren (S. ½ of Co.) Cos.:					
Ornamental; Structural Reinforcing	12.33	.90	1.20		.03
	11.53	.90	2.00		.02
Butler (N. ½ of Co.), Champaign (W. 2/3 of Co.), Clark (W 3/4), Clinton, Darke, Fayette (Part), Greene, Highland (W 4/5), Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.:					
Within 15 mi. radius of Local Union #290 office	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290 office	11.11	.90	1.25		.04
Champaign (Rem. of Co.), Clark (E. ¼), Fayette (Part), Highland (E. 1/5), Muskingum, Perry, Pike (Part), & Ross Cos.	11.55	.90	1.95		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union Cos.	11.45	.90	1.95		.05
Franklin Co.	11.30	.90	1.95		.05
Geauga Co.	12.72	1.05	1.30		.03
Maige Co.	11.67	.75	.85		.01
LATHERS:					
Butler, Champaign, Clinton, Darke, Fayette, Greene, Miami, Montgomery, Preble, Shelby, & Warren (N. ½) Cos.	11.69		.40		.01
Clark, Delaware, Farifield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross, & Union Cos.	11.60		.40		.01
Clermont, Hamilton, Highland, & Warren (S. ½) Cos.	13.32		.25		.025
Geauga Co.	13.38		1.50		.01
Lawrence Co.	11.725		.10		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Adams, Gallia, Lawrence, Meige, Pike (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & Scioto Cos.:					
Linemen	$12.73	.50	3%+.50	1.00	½%
Operators: All mechanized equipment	10.18	.50	3%+.50	1.00	½%
Cable splicers; Linemen welder	14.00	.50	3%+.50	1.00	½%
Groundmen	8.27	.50	3%+.50	1.00	½%
Brown, Clermont, & Hamilton Cos.:					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	12.50	.70	3%+.60		½%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	12.80	.70	3%+.60		½%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.90	.70	3%+.60		½%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	13.05	.70	3%+.60		½%
Butler & Warren (Twps. of Deerfield, Hamilton, Harlem, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.:					
E. of Interstate 75:					
Linemen	13.20	.45	3%+.75		½%
Cable splicers	13.70	.45	3%+.75		½%
Groundmen:					
0-1 yr.	6.33	.45	3%+.75		½%
1-2 yrs.	7.59	.45	3%+.75		½%
Over 2 yrs.	8.86	.45	3%+.75		½%
W. of Interstate 75:					
Equipment ops.; Linemen	12.65	.45	3%+.75		½%
Cable splicers	13.15	.45	3%+.75		½%
Groundmen:					
0-1 yr.	6.05	.45	3%+.75		½%
1-2 yrs.	7.26	.45	3%+.75		½%
Over 2 yrs.	8.47	.45	3%+.75		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Champaign, Clark, Fairfield, Geauga (Rainbridge, Russell, & Chester Twps.) Cos.:					
Linemen; Cable splicers; Equipment operators	$13.11	.50	3%		½%
Groundmen:					
0 - 6 months	6.33	.50	3%		½%
6 - 12 months	6.71	.50	3%		½%
12 - 18 months	7.13	.50	3%		½%
18 months & over	7.52	.50	3%		½%
Clinton, Darke, Greene, Miami, Montgomery, Preble & Warren (Twps. of Wayne, Clear Creek, & Franklin) Cos.:					
Linemen; Cable splicers	12.03	.75	3%+1.00		½%
Operators:					
Hole digging equipment; Cranes; Hydraulic lift or bucket	12.03	.75	3%+1.00		½%
Line truck with winch or pole & steel handling	9.02	.75	3%+1.00		½%
Non-specialized truck & misc. equipment	7.22	.75	3%+1.00		½%
Groundman-Truck Driver:					
0-1 yr.'s experience	6.62	.75	3%+1.00		½%
Over 1 yr.'s experience	7.22	.75	3%+1.00		½%
Delaware, Franklin, Madison, Pickaway (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut, & Washington), & Union Cos.					
Cable splicers; Linemen; Equipment operators	13.11	.50	3%		½%
Groundmen:					
Beginning	6.17	.50	3%		½%
After 6 months	6.57	.50	3%		½%
After 12 months	7.02	.50	3%		½%
After 18 months	7.44	.50	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Fayette, Highland, Pickaway (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), Pike (excluding Camp Creek, Marion, Newton, Scioto, Sunfish & Union Twps.), & Ross Cos.:					
Equipment ops.; Linemen	$10.95	.28	3%		½%
Truck Drivers	6.47	.28	3%		½%
Groundman	6.17	.28	3%		½%
Geauga (Auburn, Middlefield, Parkman, & Troy Twps.):					
Linemen; Cable splicers; Operator pole digging equipment	14.07	.45	3%		½%
Groundmen 1st 6 mos.	7.035	.45	3%		½%
Groundmen 2nd 6 mos.	8.44	.45	3%		½%
Groundmen 2nd yr.	9.85	.45	3%		½%
Groundmen 3rd yr.	10.55	.45	3%		½%
Groundmen over 3 yrs.	11.26	.45	3%		½%
Geauga (Rem. of Co.):					
Linemen; Cable splicers; Equipment operators	12.88	.70	3%+.70		½%
Truck drivers	9.02	.70	3%+.70		½%
Groundmen more than 2 yrs.' experience	8.37	.70	3%+.70		½%
Groundmen less than 2 yrs.' experience	7.08	.70	3%+.70		½%
Licking, Muskingum, & Perry Cos.:					
Linemen; Cable splicers; Equipment operators	12.13	.50	3%		½%
Groundmen:					
Beginning	6.17	.50	3%		½%
After 6 mos.	6.57	.50	3%		½%
After 12 mos.	7.02	.50	3%		½%
After 18 mos.	7.44	.50	3%		½%
Shelby Co.:					
Linemen	12.53	.50	3%		½%
Groundmen; Truck drivers	8.11	.50	3%		½%
Equipment operators	11.28	.50	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:					
Adams, Brown, Butler, Clermont, Fayette, Gallia, Hamilton, Highland, Lawrence, Meigs, Pike, Ross, Scioto, & Warren Cos.:					
Marble setters' finishers	$10.885				
Marble sanders; Polishers; stockmen; Waxers; & Sawyers	11.05				
Terrazzo workers' finishers; & grinders	10.835				
Terrazzo base grinders (While operating Base grinding machine)	11.255				
Tile setters' finishers	10.785				
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	8.34				
Delaware, Fairfield, Franklin, Madison, Pickaway, & Union Cos.:					
Marble setters' finishers; Terrazzo workers' finishers; & Tile setters' finishers	9.35				
Terrazzo base grinders	9.70				
Terrazzo floor grinders	9.50				
Geauga Co.:					
Marble setters' finishers	11.76		1.50		
Terrazzo workers' finishers	12.62		1.20		
Tile setters' finishers	12.29		1.50		
PAINTERS:					
Adams, Highland, Pike, & Scioto Cos.:					
Brush; Paperhangers; tapers; Wall covering, washing; Exterior buildings under 40'	11.55		.50		
Rollers; floor sanding; Power tools	12.05		.50		
Sandblasting; Steamcleaning; & Burning	12.55		.50		
Brown, Clermont, & Hamilton Cos.:					
Commercial:					
Brush	12.35		.25		25.00p/yr
Spray	12.75		.25		25.00p/yr

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Industrial:	$12.50		.25		
Brush	12.90		.25		
Spray					
Butler & Warren Cos.:					
Commercial:	10.58				
Brush	11.08				
Spray					
Industrial:	10.73				
Brush	11.23				
Spray					
Clinton, Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Brush; Roller	11.97		.60		.05
Scaffold; Structural steel; & Swing stage	12.37		.60		.05
Sandblasting; Spray; & Steam-cleaning	12.47		.60		.05
Spackling & finishing; & Taping	12.32		.60		.05
Steeple jackwork	12.72		.60		.05
Delaware, Fairfield, Fayette, Franklin, Madison, Pickeway, & Union Cos.:					
Brush; Paperhangers; Rollers; & Wall Washing	10.84	.65	.65		.02
Spray	11.34	.65	.65		.02
Structural steel; & Swing Stage	11.14	.65	.65		.02
Sandblasting; Steamcleaning; & Water tanks	11.54	.65	.65		.02
Drywall tapers & finishers	11.24	.65	.65		.02
Gallia, Lawrence, & Meigs Cos.:					
Brush; Roller	8.50			d	
Drywall taping; Paperhangers; & Wall Washers	9.05			d	
Spray	9.55			d	
Open Structural steel	9.25			d	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'd)					
Licking, Muskingum, & Perry Cos.					
Brush; Paperhangers	8.00				
Spray	8.45				
Ross County:					
Brush; Roller; & Taping	9.25				
Structural Steel	9.50				
Sandblast & Spray	10.00				
Shelby Co.:					
Brush; Roller; Drywall Taping	9.35	.73	.50		.03
Wallcovering; Swing stage; Safety belts; Spiders; Cherry pickers - brush or rollers	9.60	.73	.50		.03
Spray; Sandblasting; Steam-cleaning; Mitts; High pressure water cleaning & blow down	9.85	.73	.50		.03
Stilts & automatic drywall tools	10.10	.73	.50		.03
Petroleum storage tanks (over 30' high) brush, rollers	9.75	.73	.50		.03
Structural steel (open skeleton) - brush or rollers	9.65	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	10.85	.73	.50		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Adams, Lawrence (except Twps. of Fayette, Union, & Rome), Pike & Scioto Cos.	$12.52		.60		
Brown, Butler, Clermont, Hamilton, & Warren Cos.	12.845		.75		.02
Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.	12.10				
Clinton and Highland Cos.	9.25				
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross and Union Cos.	11.09	.60	.30		.02
Gallia & Meigs cos.	12.05	.50			
Geauga County	13.02	.60	1.00		
Lawrence Co. (Twps. of Fayette, Union & Rome Twps.)	11.50		.50		.05
PLUMBERS; Steamfitters:					
Adams, Gallia, Highland, Lawrence, Pike, & Scioto Cos.:					
Within 10 mi. radius of Portsmouth	12.47	.55	.75		
10 - 20 mi. radius of Portsmouth	12.72	.55	.75		
20 - 35 mi. radius of Portsmouth	12.82	.55	.75		
Over 35 mi. radius of Portsmouth	13.07	.55	.75		
Brown, Clermont, Hamilton, & Warren (N. of Rte #63 excl. Lebanon & S. Lebanon) Cos.:					
Plumbers; Gas Fitters	12.82	1.05	1.20		.05
Pipefitters; Steamfitters	13.08	1.00	1.325		.08
Butler Co. (N. ½)	12.35	.60	1.00		.05
Butler (S. ½) & Warren (S. of Rte. #63 incl. Lebanon & S. Lebanon) Cos.	13.12	.80	1.10		.02
Champaign, Clark, Greene (Twps. of Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), & Madison (W. of Rte. #38 incl. city of London) Cos.	12.40	.83	.85		.04
Clinton, Darke, Fayette, Greene (excl. Twps. of Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper), Miami, Montgomery & Preble Cos.	12.46	.80	1.05		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters: (Cont'd) Delaware, Fairfield, Franklin, Licking, Madison (E. of Rte. #38 not incl. city of London), Perry, Pickaway, Ross, & Union Cos.	$13.00	.93	.82		.06
Geauga Co:					
Pipefitters	12.45	1.22	1.30		.05
Plumbers	12.88	.90	1.10		.02
Meigs Co.	11.73	.52	.60		.045
Muskingum Co.	12.60	.45	.60		.08
Shelby Co.	12.80	.50	.75		.05
ROOFERS:					
Adams, Gallia, Lawrence, Meigs, Muskingum, Pike & Scioto Cos.	11.55		.50		
Brown, Butler, Clermont, Hamilton, Highland, & Warren Cos.:					
Roofers	13.32		.85		.01
Pitch	13.92		.85		.01
Champaign, Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Perry, Pickaway, Ross, & Union Cos.	11.795	.60	.65		.01
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Slate, Tile, & Asbestos Composition, Damp & Waterproof Workers	11.72	.80	.50		
Geauga Co.	11.50	.80	.50		
SHEET METAL WORKERS:	14.03	.25	.50		
Adams, Delaware, Fairfield, Fayette, Franklin, Gallia, Lawrence, Licking, Madison, Meigs, Muskingum, Perry, Pickaway, Pike, Ross, Scioto, & Union Cos.	11.31	.78+e	1.12		.15
Brown, Clermont, Hamilton, & Highland Cos.	11.935	1.00	.81		.04
Butler, Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, & Warren Cos.	11.70	.80+f	1.05		.16
Geauga Co.	12.85	.60	1.33		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS:					
Geauga Co.	12.45	1.22	1.30		.05
Remainder of Counties	12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation credit for employee who has worked in business less than 5 years.
c. 9 paid holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve, providing employee who has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. 6 paid holidays: A,C,E,F, Decoration Day & Veterans' Day
e. 3% of gross earnings to SASMI
f. 3% of gross earnings to SASNI

LABORERS:					
Adams, Gallia, Highland, Lawrence, Meigs, Pike, & Scioto Cos.:					
Common laborers; Signalmen	7.77	.65	.55		.10
Sheeting & Shoring men	7.87	.65	.56		.10
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & Sewer pipe layers	7.92	.65	.55		.10
Air & machine driven tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; & Powered concrete buggies; Hand spikers	8.02	.65	.55		.10
Gunnite machine op.; Gunnite nozzlemen; Powderman & blasters	8.34	.65	.55		.10
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	10.30	.70	.70		.10
GROUP 2	10.60	.70	.70		.10
GROUP 3	10.65	.70	.70		.10
GROUP 4	10.70	.70	.70		.10
GROUP 5	10.85	.70	.70		.10
GROUP 6	11.00	.70	.70		.10
GROUP 7	11.25	.70	.70		.10
GROUP 8	9.97	.70	.70		.10
GROUP 9	10.12	.70	.70		.10

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LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

GROUP 1: Common laborers; Cement Masons' helpers; Hand operated mechanical mule; Mechanical sweeper; Signal man
GROUP 2: Bottom man; Pipelayer
GROUP 3: Burning torch operator; Jackhammer; Mechanical & air tamper operator; Mechanical concrete buggies; Power operated mechanical mule; Concrete pump hose man; Vibrator man
GROUP 4: Plasterers' tender; Mason tender; Stone mason tender; Bottom jackhammer man
GROUP 5: Plaster mixer pump operator
GROUP 6: Tunnel laborer
GROUP 7: Gunnite nozzle operator
GROUP 8: Demolition Construction - Wrecking laborers
GROUP 9: Demolition Construction - Jackhammer man; Burner; & wall man

Butler & Warren Cos.:					
Common laborers	9.79	.70	.70		.10
Asphalt rakers; Tampers; Smoothers hand air pump; Hand air tamper chisel; Vibrator power tamper op.	9.89	.70	.70		.10
Gunnite operators; Sandblasters; Concrete pumps & hose men	10.14	.70	.70		.10
Mason tenders; Mortar mixers; & scaffold builders	10.12	.70	.70		.10
Champaign, Clark, & Logan Cos.:					
Laborers general; Carpenters' tenders; Flagman; & Signalmen	7.95	.70	.70		.10
Plasterers' tenders; Mason Tenders; Mortar mixers	8.35	.70	.70		.10
Air and Machine driven tool ops.; Jackhammer; Barko & chain saw; Sewer pipe layer; Bottom man; Wagon drill; Hand Spikers; Asphalt raker & tamper; Power concrete & buggies; Gunnite machine op. & nozzle man	8.20	.70	.70		.10
Miners & muckers for tunnel & caisson; Powderman & blaster	8.45	.70	.70		.10
Darke, Greene, Miami, Montgomery, & Preble Cos.:					
Unskilled	8.79	.70	.70		.10
All machine & Power driven tools; Power buggies; Vibrators; Chipping hammers, & railroad spikers					

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LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
by hand; Swinging scaffold over 15'	$ 8.94	.70	.70		.10
Jackhammer; Air drill; Sand blaster; Sewer pipe layers; Man-hole builders, & bottom men	8.99	.70	.70		.10
Caisson work; Scaffold with power tools	9.04	.70	.70		.10
Torch man on wrecking	9.09	.70	.70		.10
Caisson work with jackhammer	9.24	.70	.70		.10
Gunnite op.; Wagon drill op.; & blaster-powderman	9.29	.70	.70		.10
Tenders to bricklayers & masons	9.42	.70	.70		.10
Tenders to lathers & plasterers	9.46	.70	.70		.10
Delaware Co.:					
Building & Construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tender; Finisher tender; Concrete handler; Utility construction laborers; Guardrail erectors	8.96	.70	.70		.10
Bottom man; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote worker; Mortar mixer tenders; Plasterers' tenders; Hod carrier; Laser beam set up men	9.16	.70	.70		.10
Gunnite op.	9.56	.70	.70		.10
Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.:					
Common laborers; Carpenter tenders; Pouring of all concrete; Cleaning debris; Cleaning of all material; General clean up; Landscape Sod layers; Salamander; Flagmen; Wire mesh handlers or setters; Loading & unloading all trucks; Handling & conveying all material; Washing of all					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
windows; A man on bucket pouring concrete; Conveyor belt	8.54	.70	.70		.10
Brick tender; Stone mason tender; Plasterers' tenders; Mortar mixers & Operator; Cement mason tender; All scaffold builders (swinging scaffolds); Jackhammer op.; Air or electrical pneumatic tool op.; Power driven tools; Power buggy op.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sand & vacuum cleaning; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw op. & brush feeders on pulverizers; Pipelayers; Bottom man; Laser gun, Burners; Sandblasting of concrete; Vibrator man; Signal man; Caisson bottom man; & Forklift op.	8.79	.70	.70		.10
Geauga Co.:					
Laborers; Equipment replacing wheelbarrow & concrete buggy	10.52	1.37	1.40		
Power driven tools & vibrators; Sewer & Utilities laborers; Fine brick tenders	10.67	1.37	1.40		
Jackhammer; Acetylene burner mucker	10.72	1.37	1.40		
Swinging scaffold; Mason tender handling carbon block & bottom block material; Air track & Wagon drill	10.77	1.37	1.40		
Gunnite op.; Blasters & Shooters; Caisson; Well; Cylinder; Cofferdams; Mine workers w/o air	10.84	1.37	1.40		
Topman on free standing radial stack	11.02	1.37	1.40		
Acid brick tenders	10.92	1.37	1.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Licking Co.:					
Brick tender; Stonemason tender; Plasterer tender; Mortar mixer & operator; Cement mason tender; All scaffold builders; Swinging scaffolds; Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolitions; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man	8.49	.55	.40		.05
Common laborers; Carpenter tender; Pouring of all concrete; Cleaning of all material; General clean-up incl. vacuum cleaning; Landscape; Sod layers; All portable heaters; Loading & unloading all trucks; Handling & Conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; Water pumps up to & incl. 4" intake	8.27	.55	.40		.05
Muskingum & Perry Cos.:					
Planters (landscape); Tree Trimmers; Plumbers' helpers; Carpenters' tender; Building & construction laborers	8.72	.70	.70		.10
Air & machine driven tool ops.; Asphalt plant aggremeter ops.; Asphalt plant mixer men; Brick slingers; Car pushers & tunnel laborers; Caulkers; Yarners & Wrenchmen; Cement handlers; Concrete puddlers (behind mixers); Curb cutters & setters;					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Hand spikers ops.; Jackhammer ops.; Muckers; Mason tenders; Mortar mixers; Pipe layers; Proportioning plant ops.; Pump men (under 4"); Road form setters; Sewer bottom men; stone mason tenders; Sheeting & Shoring men; Vibrator op.; Plasterers' tenders; Cutting with burning torches; Dumpmen (batch trucks)	$ 8.82	.70	.70		.10
Brick droppers; Lock tenders; Powdermen or blasters	8.97	.70	.70		.10
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	8.56	.70	.70		.10
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	8.36	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Shelby Co.:					
Building laborers; Laser beam; Power wheelbarrow or Power buggy	$8.15	.70	.70		.10
Vibrators; spikers by hand (Railroad); Cement finishers helpers	8.30	.70	.70		.10
All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tampers; Torchman; Tunnel	8.30	.70	.70		.10
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & Wagon drill helper	8.45	.70	.70		.10
Blaster-Powderman; Gunnite ops.; Muckers & miners (Tunnel & caisson) free air; Sandblasters; & Wagon drill/operator	8.45	.70	.70		.10

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POWER EQUIPMENT OPERATORS	Geauga Co.	Remaining Cos.	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	13.17	12.61	.66	1.00		.11
GROUP B	13.02	12.45	.66	1.00		.11
GROUP C	12.67	12.09	.66	1.00		.11
GROUP D	11.89	11.31	.66	1.00		.11
GROUP E	11.57	10.98	.66	1.00		.11
GROUP F	9.64	9.03	.66	1.00		.11

GROUP A: A-frame; All rotary drills used on caisson work for foundations & sub-structure work; Boiler operator or compressor operator (when compressor or boiler is mounted on crane, piggyback Op.); Boom trucks; Cableways; Cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes; Derricks; Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. hoisting building materials; Helicopter winch operator hoisting builders material; Hoes; Hoisting engines (2 or more drums); Lift slab or panel jack operators; Locomotives; Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps w/boom; Panelboard (all types on site); Piledriver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction on site); Trench machines(over 24" wide)

GROUP B: Asphalt paver; Bulldozer; CMI type equipment; End loaders; Kohlman type loaders (dirt loading); Mucking machines; Power grader; Power scoops; Power scrapers; Push cats

GROUP C: Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (1 drum); House elevators; Man lift; Power boilers (over 15 lbs., pressure);Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D: Compressors on building construction;Conveyors (building material); Gunnite machines; Mixers (cap. more than 1 bag); Mixers (1 bag cap. side 1 loaders); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welding op.

GROUP E: Backfillers & tampers; Batch plant; Bar & joint installing machine; Bullfloats; Burlap & curing machines; Cleftplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractor (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over ½' discharge); Hydro seeders; Self-propelled power spreaders; Self-propelled sub-grader; Tire repairman; Tractors pulling sheep foot roller or grader; Vibratory compactors (with integral power)

GROUP F: Oiler; Helper; Signalman; Light plant operator; Power driven heaters (oil fired); Power boiler (less than 15 lbs., pressure); Pumps (under 4" discharge); Submersible pumps (under 4" discharge)

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Brown, Highland, Lawrence (W. of Coal Grove & W. of St. Rte #75), Pike, Ross, & Scioto Cos.: Jeep; Station Wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	8.96	21.50a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason Tending work); Euclids	9.88	21.50a			
Butler Co. (N. ½): Tandem axle trucks; Tandem axle dump trucks; Winch trucks; Fork lifts; Truck warehouse men	9.54	25.00b	28.00a		
Single axle trucks; Jeeps; Pickups	9.39	25.00b	28.00a		
Euclid trucks; Mechanics	9.84	25.00b	28.00a		
Lowboys & drags	9.80	25.00b	28.00a		
Semi combination & combination of hauling units	9.64	25.00b	28.00a		
Clinton, Darke, Greene, Miami, Champaign, Montgomery, & Preble Cos.: Straight flat & dump truck; Winch truck	6.23	21.50a	8.00a	c&e	
Ready mix dump crete	6.29	21.50a	8.00a	c&e	
Tandem truck & tractor trailer combination	6.34	21.50a	8.00a	c&e	
Euclid to 12 yds.	6.40	21.50a	8.00a	c&e	
Euclid over 12 yds.	6.76	21.50a	8.00a	c&e	
Delaware, Fayette, Franklin Madison, & Pickaway cos.: Dump & straight	9.21	25.00a			
Tandem & semi-farm tractor Lowboy	9.31	25.00a			
	9.41	25.00a			

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TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.: Truck helpers; pickups; Station wagons; Panel trucks; Yardmen; Warehousemen; Flatbody material truck (straight job); Greasers; Washers; Tiremen; Gas pump attendants; Dump trucks (up to 5 cubic yards)	$ 9.84	93.17d	60.67d	1.00	
Tank trucks (straight)	9.94	93.17d	60.67d	1.00	
Dump trucks (5 cu. yds. & over); Semi-dump trucks; Semi-trailers (whether flat, rack or pole & hauled or pushed by truck or tractors); Agitator or mixer trucks (up to 5 cu. yds.); Tank truck (semi)	10.09	93.17d	60.67d	1.00	
Low boy trailers; Winch trucks; Fork trucks; Distributor trucks (front end & back end); Truck crane; Monorail truck	10.14	93.17d	60.67d	1.00	
Material checker & receiver	10.19	93.17d	60.67d	1.00	
Agitator or mixer truck (5 cu. yds. & over)	10.24	93.17d	60.67d	1.00	
Mechanic's helper	10.19	93.17d	60.67d	1.00	
Mechanic	10.49	93.17d	60.67d	1.00	
Tri-axle dump trucks; Hydraulic lift tailgate truck & farm type tractors; End dumpsters; Turnarockers; Ross carriers; Athey wagon or similar equipment; A-frame; Hydrolift; Dual purpose trucks	10.49	93.17d	60.67d	1.00	

FOOTNOTES:
a. per week per employee
b. per week per employee providing employee has been on payroll at least 30 days
c. 1 yr's employment - 1 wk's paid vacation; 7 yrs' employment - 2 wks' paid vacation providing the employee has been on payroll for 0 months during the previous 12 month period.
d. per month per employee
e. an employee who has been on the payroll 30 days or more & has worked his last scheduled workday within 7 calendar days before his next scheduled workday within 7 calendar days after New Yr's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hrs. pay for said holidays

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NUMBER: OH78-2156 DATE: Date of Publication
Supersedes Decision No.: OH78-2006, dated February 24, 1978 in 43 FR 7915
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to & including 4 stories)

* ALLEN, AUGLAIZE, CRAWFORD, DEFIANCE, ERIE, HANCOCK, HARDIN, HENRY, HURON, KNOX, LOGAN, MARION, MERCER, MORROW, OTTAWA, PAULDING, PUTNAM, RICHLAND, SANDUSKY, SENECA, VAN WERT, WILLIAMS, WOOD, & WYANDOT

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Allen, Defiance, Mercer, Paulding, Van Wert, & Williams Cos.	$12.60	.55	1.25		
Auglaize, & Logan Cos.	11.47	.75	1.00		.02
Crawford, Hardin, Knox, Marion, & Morrow Cos.	13.07	.60	1.15		.02
Erie (W½), Hancock, Henry, Ottawa, Putnam, Sandusky, Seneca, Wood, & Wyandot Cos.	13.13	.50	1.30		.04
Erie (E ½), & Huron Cos.	14.78				
Richland Co.	12.135	.55	.80		.02
BOILERMAKERS	13.575	1.075	1.00		.03
BRICKLAYERS; Marble Setters; Stonemasons; Terrazzo Workers; & Tile Setters: Allen, Auglaize, Mercer, & Van Wert Cos.	11.62		.45		.02
Crawford, Hardin, Marion, Morrow, Richland, Wyandot (except Twps. of Crawford, Ridge, Richland, & Tymochtee) Cos.	11.48	.60	1.00		.02
Defiance, Henry (except Twps. of Monroe, Barlo, Liberty, Washington, Richfield, Marion, & Damascus & that part of Harrison outside city limits of city of Napoleon), Paulding, Putnam, & Williams Cos.: Bricklayers; Marble Setters; & Stonemasons	11.22	1.06	.50		
Erie, Hancock, Huron, Ottawa, Sandusky, Seneca, Wood, (Perry & Bloom Twps.), Wyandot (Tymochtee Crawford, Ridge, & Richland Twps.), & Island of Lake Erie North of Sandusky	11.84	.60	.80		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Henry (Twps. of Washington, Damascus, Richfield, Bartlo, Liberty, Harrison, Monroe, & Marion), & Wood (Twps. of Perrysburg, Ross, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids):					
Bricklayers; Marble Setters; Stonemasons	12.425	1.06	1.30		.01
Knox Co.	10.70	.60	.90		.10
Logan Co.	9.87	.85	.75		.03
CARPENTERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	10.79	.58	.85		.04
Crawford, Erie, Hancock (Fostoria), Huron, Ottawa, Richland, Sandusky, Seneca, & Wood (Fostoria) Cos.	11.59	.85	1.00	a	.06
Defiance, Henry, Paulding, & Williams Cos.	12.26	1.06	.75		
Hancock & Wood Cos. (excluding Fostoria)	12.99	1.06	.75		.05
CEMENT MASONS:					
Allen, Auglaize, Hardin, Logan, & Mercer, Van Wert Cos.	11.60	.60			.05
Crawford, Marion, Morrow, Richland, & Wyandot Cos.	10.80	.60			
Defiance, Paulding & Williams Cos.	11.90	.60			
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), & Wyandot (Twps. of Tymochtee, Crawford, Ridge, & Richland), & Island of Lake Erie North of Sandusky	11.84	.60	.80		.01
Hancock, Henry, Putnam, & Wood (except Perry & Bloom Twps.) Cos.	14.14	.60	.60		.02
Knox Co.	10.50	.60	.60		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.	12.21	.45	3%+.37		.04
Crawford, Huron (Twps. of Richmond, New Haven, Ripley, & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.	12.30	.45	3%+.50		.1%
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	13.80	.65	3%+.55		.1%
Erie, & Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) Cos.	12.70	.73	3%		.1%
Knox (Twps. of Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College) Co.	11.40	.40	3%+.60		.03
ELEVATOR CONSTRUCTORS:					
Allen, Auglaize, Defiance, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Elevator constructors	10.91	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
Crawford, Hardin, Knox, Logan, Marion, Morrow, & Richland Cos.:					
Elevator constructors	11.705	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Erie & Huron Cos.:					
Elevator constructors	$ 12.79	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
Hancock, Henry, Ottawa, Sandusky, Seneca, Wood, & Wyandot Cos.:					
Elevator constructors	12.355	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Allen, Auglaize, Crawford, Hancock, Hardin, Mercer, Putnam, Van Wert, & Wyandot Cos.	9.10		.60		
Defiance, Henry, Ottawa, Sandusky, Seneca, Williams, & Wood Cos.	11.825	.55	1.00		.01
Erie, & Huron Cos.	13.68	.55	.65		.01
IRONWORKERS:					
Allen, Auglaize, Logan (W 2/3), & Mercer Cos.:					
Within 15 mi. radius of Local Union #290	10.96	.90	1.25		.04
Beyond 15 mi. radius of Local Union #290	11.11	.90	1.25		.04
Crawford, Hardin, Knox, Logan (Rem. of Co.), Marion, Morrow, & Wyandot Cos.	11.55	.90	1.95		.05
Defiance, Paulding, Putnam, Van Wert, & Williams Cos.	11.80	.90	1.45		.02
Erie, & Huron Cos.	12.72	1.05	1.30		.03
Hancock, Henry, Ottawa, Sandusky, Seneca, & Wood Cos.	12.86	1.06	1.22		.05
Richland Co.:					
Ornamental; Reinforcing; & Structural	11.68	.80	.95		.05
Sheeter-roof	12.18	.80	.95		.05
Sheeter-side	11.93	.80	.95		.05
Bucker-up	11.05	.80	.95		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Auglaize, Logan, & Mercer Cos.	11.69		.40		.01
Crawford, Knox, Logan, Marion, Morrow, & Wyandot Cos.	11.60		.40		.01
Defiance, Hancock, Ottawa, Paulding, Sandusky, Seneca, Williams, & Wood Cos.	13.05	1.06	.10		.01
Erie, & Huron Cos.	13.30				.01
Terrazzo workers' Finishers; & Tile setters' Finishers:					
Allen, Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	11.00	1.06	.40	.50	
Auglaize, Hardin, Logan, & Mercer Cos.	8.34				
Erie, Huron, & Richland Cos.:					
Marble setters' Finishers	11.76		1.50		
Terrazzo workers' Finishers	12.62		1.20		
Tile setters' Finishers	12.29		1.50		
MILLWRIGHTS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.44	.58	.85		.04
Crawford, Huron, & Richland Cos.	11.59	.85	1.00	a	.06
Defiance, Erie (W. of B & O RR Tracks), Hancock, Henry, Ottawa, Paulding, Sandusky, Seneca, Williams, & Wood Cos.	12.99	1.06	.75		.05
Erie (E. of B & O RR Tracks)	12.60	.85	1.52		.03
PAINTERS:					
Allen, Auglaize, Defiance, Hardin, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Brush; Drywall taping; & Roller; Wall covering; Swing stage; Safety belts; Spliders & chair; pickers - brush or rollers	9.35	.73	.50		.03
	9.60	.73	.50		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sandblasting; Spray; Steam-cleaning; Mitts; High pressure water cleaning; Blow down	$ 9.85	.73	.50		.03
Stilts & automatic drywall tools	10.10	.73	.50		.03
Petroleum storage tanks (over 30 ft. high) brush, rollers	9.75	.73	.50		.03
Structural steel (open skeleton) - brush or roller	9.65	.73	.50		.03
Elevated water tanks & stacks - brush, roller or spray	10.85	.73	.50		.03
Crawford, Marion, Morrow, & Richland Cos.:					
Brush; Roller; Washer & cleaner	9.30		.50		
Drywall; Paperhangers; Wall coverer; Pot tender	10.05		.50		
Structural steel tanks & towers; Hazardous materials incl. epoxy or any 2 component materials	9.80		.50		
Spray; Riggers & helpers on scaffold over 30 ft. above base level	10.05		.50		
Sign & pictorial	10.15		.50		
Sandblaster cleaner	10.45		.50		
Erie, Hancock, Huron, Sandusky, Seneca, & Wyandot Cos.:					
Old Commercial					
Brush; Roller; Wash; Clean	9.40	.50	.70		$50.00p/
Drywall; Paperhanging; 30' to 60'	9.65	.50	.70		50.00p/
60' or over	10.50	.50	.70		50.00p/
Sandblasting; Spray; Swing stage; Boatswain chair; Needle beam	9.90	.50	.70		50.00p/
Hazardous work & material; Stacks, Tanks, Towers over 40' in ht.	10.40	.50	.70		50.00p/
New Commercial					
Brush; Roller; Wash; Clean	10.15	.50	.70		50.00p/
Drywall; Paperhanging	10.40	.50	.70		50.00p/
Structural steel; 30' to 60'	10.60	.50	.70		50.00p/
60' & over	11.00	.50	.70		50.00p/
Sandblast; Spray; Swing stage; Needlebeam; Boatswain chair	10.65	.50	.70		50.00p/
Hazardous work & material; Stacks, tanks, & towers over 40' in ht.	11.15	.50	.70		50.00p/

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Henry, Ottawa, & Wood Cos.:					
Brush; Paperhangers; Drywall tapers & finishers	$11.28	1.06	1.10		
Sandblasting; Spray; Pressure cleaning	11.83	1.06	1.10		
Knox Co.:					
Brush; Paperhangers	8.00				
Spray	8.45				
PILEDRIVERMEN:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.44	.58	.85		.04
Crawford, Huron, & Richland Cos.	11.59	.85	1.00	a	.06
Defiance, Erie (W. of B & O RR Tracks), Hancock, Henry, Ottawa, Paulding, Sandusky, Seneca, Williams, & Wood Cos.	12.99	1.06	.75		.05
Erie (E. of B & O RR Tracks)	12.10	.77	1.25		.03
PLASTERERS:					
Allen, Auglaize, Hardin, Knox, Logan, Mercer, & Van Wert Cos.	11.09	.60	.30		.02
Crawford, Marion, Morrow, Richland, & Wyandot (excluding Tymochtee, Crawford, Ridge, & Richland Twps.) Cos.	10.95				
Defiance, Hancock, Henry, Paulding, Williams, & Wood (excluding Perry & Bloom Twps.) Cos.	13.80	.60			.01
Erie, Huron, Ottawa, Sandusky, Seneca, Wood (Perry & Bloom Twps.), Wyandot (Tymochtee, Crawford, Ridge, & Richland Twps.), & Island of Lake Erie N. of Sandusky	11.84	.60	.80		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Allen, Auglaize, Hardin, Mercer, & Van Wert Cos.	12.80	.50	.75		.05
Crawford, Erie, Huron, Knox, Morrow, Richland, & Wyandot Cos.	13.23	.60	.88		.05
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	13.63	.80	.85		.09
Logan Co.	12.40	.83	.85		.04
Marion Co.	13.00	.93	.82		.06
ROOFERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.795	.60	.65		.01
Crawford, & Richland Cos.	11.18	.73	.55		.02
Defiance, Hancock, Henry, Paulding, Williams, & Wood Cos.	12.63	1.06	1.00		.02
Erie, Huron, Ottawa, Sandusky, & Seneca Cos.	14.03	.25	.50		
SHEET METAL WORKERS:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot Cos.	11.70	.80+d	1.05		.16
Crawford, & Richland Cos.	10.91	.61	.84		.05
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Seneca, Williams, & Wood Cos.	12.635	1.06	1.36		.045
Erie, Huron, & Sandusky Cos.	13.00	.85	.88		.04
Knox, Marion, & Morrow Cos.	11.31	.78+d	1.12		.15
SOFT FLOOR LAYERS:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	10.79	.58	.85		.04
Crawford, Erie, Hancock (Fostoria), Huron, Ottawa, Richland, Sandusky, Seneca, & Wood (Fostoria) Cos.	11.59	.85	1.00	a	.06
Defiance, Hancock (excluding Fostoria), Henry, Paulding, Williams, & Wood (excluding Fostoria) Cos.	11.32	1.06	.75		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$12.75	.75	1.05		.08

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 2 paid holidays: B & D
b. 7 paid holidays: A through F, & Day after Thanksgiving
c. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
d. 3% of gross earnings to SASMI

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Allen, Auglaize, Mercer, Paulding, Putnam, & Van Wert Cos.:					
Building laborers; Laser beam; Power wheelbarrow or power buggy	$8.15	.70	.70		.10
Vibrators; Spikers by hand (Railroad); Cement finishers' helpers; All machine driven tools (gas, electric, air); Asphalt rakers; Caisson; Cofferdam; Demolition; Packers; Pot tenders; Pump man under 4" discharge; Tamper; Torch man; & tunnel	8.30	.70	.70		.10
Blaster helper; Cylinder, shaft; Jackhammer; Man-hole builders; Mason tenders; Mortar mixers; Plasterers' tenders; Sewer bottom man; Sewer pipelayer; Sewer, water conduit, gas, oil, pipeline, except mainlines; & wagon drill helper	8.45	.70	.70		.10
Blaster-powder man; Gunite ops.; Muckers & miners (tunnel & caisson) free air; Sandblasters; & wagon drill/operator	8.45	.70	.70		.10
Crawford, Knox, Morrow, & Richland Cos.:					
General laborer; Carpenter tender; Concrete handler	8.96	.70	.70		.10
Mason & Plasterers' tenders; Air & power driven tools; Pipelayer; Dynamite blaster; Mortar mixer & formsetter	9.16	.70	.70		.10
Gunnite operator	9.56	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Defiance, Henry, & Williams Cos.:					
Unskilled laborers; Cement finishers' helpers; Carpenters' helpers; Carpenters' tenders	$ 9.27	.70	.70		.10
Mason tenders; Gunite pot man	9.39	.70	.70		.10
All power driven tools & buggies, burners, torchmen & nozzle man for concrete pump	9.42	.70	.70		.10
Plasterers' tenders	9.445	.70	.70		.10
Nozzle operator for gunite work	9.92	.70	.70		.10
Bellman; Bottom man; & Brick expeditor	9.505	.70	.70		.10
Erie, Huron, Ottawa, & Sandusky Cos.:					
Building & construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	10.11	.70	.70		.10
Bottom men; Scaffold; Tunnel laborers; Pipelayers; Air & power driven tools burner on demolition work; Swinging scaffold; Mucker; Caisson workers; Cofferdam worker; Power men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	10.31	.70	.70		.10
Gunnite operator	10.71	.70	.70		.10
Hancock, Hardin, Marion, Seneca, & Wyandot Cos.:					
Building & construction laborers; Signalman; Flagman; Tool crib-man; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erector...	8.96	.70	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote workers; Mortar mixers tenders; Plasterers' tenders; Hod carriers; Laser beam set up men	9.16	.70	.70		.10
Gunnite operators	9.56	.70	.70		.10
Logan Co.:					
Laborers, general; Carpenters' helpers	7.60	.55	.40		.05
Plasterers' tenders; Mason tenders; Mortar mixers; Air & machine driven tools ops.; Jackhammer; Barko & chain saw; Wagon drill; Hand spikers; Power concrete & buggies; Gunnite machine ops. & nozzle man; Sewer pipe layer; Bottom man; Asphalt raker & tamper	7.85	.55	.40		.05
Powderman & blaster	8.10	.55	.40		.05
Wood Co.:					
Unskilled laborers	10.86	.70	.70		.11
Mason tenders	10.99	.70	.70		.11
Mortar mixers; Gunnite pot men	11.06	.70	.70		.11
All power driven tools & buggies	11.015	.70	.70		.11
Pipelayers	11.115	.70	.70		.11
Plasterers' Tenders	10.88	.70	.70		.11

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POWER EQUIPMENT OPERATORS

	ZONE I	ZONE II	ZONE III	Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.89	$12.61	$13.17	.66	1.00		.11
GROUP B	12.73	12.45	13.02	.66	1.00		.11
GROUP C	12.38	12.09	12.67	.66	1.00		.11
GROUP D	11.57	11.31	11.89	.66	1.00		.11
GROUP E	11.24	10.98	11.57	.66	1.00		.11
GROUP F	9.28	9.03	9.64	.66	1.00		.11

ZONE I: Allen, Defiance, Hancock, Hardin, Henry, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, & Wood Counties
ZONE II: Auglaize, Crawford, Knox, Logan, Marion, Mercer, Morrow, & Wyandot Counties
ZONE III: Erie & Huron Counties

GROUP A - A-frames, rotary drills used on caisson work for foundations and sub-structure work, boiler or compressor operator mounted on crain (piggy-back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, dredge (dipper, clam or suction) 3 man crew, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator and helicopter winch operator when hoisting builders materials, hoes (all types), hoisting engines (two or more drums), lift slab or panel jack operator, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip forms pavers, straddle carriers (building construction on site), hammerhead tower cranes, trench machines (over 24" wide), tug boat

55204 NOTICES
55202 NOTICES
NOTICES 55205
NOTICES 55203

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POWER EQUIPMENT OPERATORS (CONT'D):

GROUP B - Asphalt paver, bulldozer, C.M.I. type equipment , endloaders, Kohlman type loaders (dirt loading), lead greaseman, mucking machines, power grader, power scoops, power scrapers, push cat.
GROUP C - Air compressor (pressure ing shafts or tunnels), asphalt rollers, fork lifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs. pressure), pump operators installing well points or other type of dewatering system, pumps (4" and over discharge), Submersible pumps (4" and over discharge), trenchers 24" and under
GROUP D - Compressors on building construction, conveyors (building material), generators, gunnite machines, mixers, (capacity more than one bag), mixers (one bag capacity, side loader), post driver, post hole digger, pavement breaker (hydraulic or cabin),road widening trencher rollers,welder operator
GROUP E - Backfillers & tampers, batch plant, bar and joint installing machines, bull floats, burlap and curing machines, clefplanes, concrete spreading mach., crushers, deck hands, drum fireman (asphalt), farm type tractors pulling attachments, finishing machines, form trenchers, high pressure pumps over 4" discharge, hydro seeders, self propelled power spreader, self propelled sub-grader, tire repairman, tractors pulling sheeps foot roller or grader, vibratory compactors (with integral power)
GROUP F - Oiler, helpers, signalman, inboard & outboard motor boat launch, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. presssure, pumps under 4" discharge, submersible pumps under 4" discharge

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.:					
Linemen	$12.53	.50	3%		½%
Groundman; Truck drivers	8.11	.50	3%		½%
Equipment operators	11.28	.50	3%		½%
Crawford, Huron (Twps. of Richmond, New Haven, Ripley, & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.:					
Linemen; Equipment operators	12.30	.45	3%+.50		½%
Line truck drivers	8.00	.45	3%+.50		½%
Groundman	7.38	.45	3%+.50		½%
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:					
Linemen	14.26	.50	3%	a	½%
Technicians	13.76	.50	3%	a	½%
Cable splicers	14.51	.50	3%	a	½%
Operator Class 1	11.36	.50	3%	a	½%
Operator Class 2	10.01	.50	3%	a	½%
Groundman:					
Driver 1st 6 mos.	7.16	.50	3%	a	½%
Driver 2nd 6 mos.	7.77	.50	3%	a	½%
Driver 3rd 6 mos.	8.58	.50	3%	a	½%
Erie, Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) Cos.:					
Linemen; Equipment operators; Cable splicers	12.70	.73	3%		½%
Beginning; truck driver groundman; Beginning groundman	6.985	.73	3%		½%

SUPERSEDEAS DECISION

STATE: Ohio
COUNTIES: Statewide
DECISION NO: OH78-2157
DATE: Date of Publication
Supersedes Decision No. OH78-2059, dated May 5, 1978 in 43 FR 19562
DESCRIPTION OF WORK: Heavy and Highway Construction

BRICKLAYERS & STONE MASONS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEN, AUGLAIZE, MERCER & VAN WERT COS.	$11.62		.45		.02
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, & WAYNE (except Twps. of Milton & Chippewa) Cos. & WYANDOT Co. (except Twps. of Crawford, Richland, Ridge & Tymochtee)					
Bricklayers	11.48	.60	1.00		.02
Sewer Bricklayers	11.48	.60	1.00		.02
ASHTABULA COUNTY					
Bricklayers	11.21	.95	.70		
Sewer Bricklayers	11.46	.95	.70		
ATHENS COUNTY	11.75	.60	.60		.05
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Twps. of Dixon, Gratis, Isreal, Lanier, & Somers), & WARREN COS.	12.845	.65	.35		.02
CARROLL, STARK & TUSCARAWAS Cos., MAHONING Co. (Twp. of Smith), COLUMBIANA Co. (Townships of Butler, Hanover, Knox & West)	11.44	.95	.70		.01
CHAMPAIGN, CLARK & LOGAN COS.	9.87	.85	.75		.03
CLINTON & HIGHLAND COS.	9.25				
COLUMBIANA CO., (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem & Unity), MAHONING CO. (except Smith Twp.)	11.49	.75	1.00		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Advanced truck driver (winch) groundman; Advanced groundman (over 2 years' experience)	$ 8.255	.73	3%		½%
Knox Co. (Rem. of Co.):					
Linemen; Equipment operators; Cable splicers	12.13	.50	3%		½%
Groundmen:					
Beginning	6.17	.50	3%		½%
After 6 mos.	6.57	.50	3%		½%
After 12 mos.	7.02	.50	3%		½%
After 18 mos.	7.44	.50	3%		½%

FOOTNOTE:
a. 10 paid holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Day after Thanksgiving Day; Christmas Eve; & New Year's Eve

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BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA County (Twps. of E. Liverpool, Franklin, Madison, St. Clair, Washington, Wayne & Yellow Creek), JEFFERSON Co. (Twps. of Buch, Creek & Saline)	$11.15	.60	.50		
COSHOCTON, GUERNSEY, KNOX, LICKING, MORGAN, MUSKINGUM Counties	10.70	.60	.90		.10
CUYAHOGA Co. & MEDINA Co. (except the Twps. of Chatham, Wadsworth, Guilford, Westfield, Sharon, Lafayette, Harrisville, Homer, Litchfield & Spencer)	12.65	1.05	1.20		.01
DARKE, MIAMI, & SHELBY Cos.	10.63	.85	.75		.03
DEFIANCE, PAULDING, PUTNAM & WILLIAMS Cos., FULTON Co. (except Twps. of Amboy, Fulton & Swan Creek), HENRY CO. (except Twps. of Barlo, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City limits of Napolean)	11.22	1.06	.50		
DELAWARE, FRANKLIN, MADISON, PICKAWAY & UNION COS. Bricklayers	11.44	.80	1.00		.03
ERIE, HANCOCK & HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.) WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) & ISLAND OF LAKE ERIE North of SANDUSKY Cos.	11.84	.60	.80		.01
FAIRFIELD, HOCKING & PERRY Cos.	10.15	.60	.90		.10
FAYETTE, ROSS & PIKE COS.	12.20				
GALLIA & MEIGS Cos.	12.05	.50			
GEAUGA & LAKE Cos.	13.02	.60	1.00		
GREENE & MONTGOMERY Cos. & the Remainder of PREBLE CO.	11.08	.85	.75		.03

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BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
NOBLE Co. (Twps. of Beaver, Buffalo, Marion, Seneca & Wayne)	$10.35	.60	.50		.02
HARRISON Co. & the Remainder of JEFFERSON Co.	11.33	.50			.02
JACKSON & VINTON Cos.	12.05				.05
LAWRENCE County	11.50		.50		.05
LORAIN Co. & MEDINA Co. (Chatham, Harrisville, Homer, Litchfield, & Spencer Twps.)	12.85		.60	e	.01
LUCAS Co., the remainder of HENRY, FULTON & WOOD Cos.	12.425	1.06	1.30		.01
MEDINA (Remainder of Co.,) PORTAGE, SUMMIT & WAYNE COS. (Twps. of Milton & Chippewa) Bricklayers	12.31	.88	.55		.02
TRUMBULL COUNTY	11.99	.75	.50		.02
WASHINGTON Co., & the remainder of NOBLE CO.	11.30	.50			.04
FOOTNOTE: e. 2 paid holidays:	Independence Day & Labor Day				
CARPENTERS & PILEDRIVERMEN					
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS. Carpenters	10.95	.55	1.00		.03
Piledrivermen	11.24	.55	1.00		.03
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS Carpenters	10.79	.58	.85		.04
Piledrivermen	11.44	.58	.85		.04

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CARPENTERS & PILEDRIVERMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHLAND, CRAWFORD, HURON, LORAIN and RICHLAND Counties Carpenters	$11.59	.85	1.00	a	.06
Piledrivermen	11.59	.85	1.00	a	.06
ERIE (East of B & O Rail Road Tracks) Carpenters	11.59	.85	1.00	a	.06
Piledrivermen	12.10	.77	1.25		.03
ERIE (West of B & O Rail Road Tracks), OTTAWA, SANDUSKY and SENECA Counties and City of Fostoria in WOOD and HANCOCK Counties Carpenters	11.59	.85	1.00	a	.06
Piledrivermen	12.99	1.06	.75		.05
ASHTABULA, CUYAHOGA, GEAUGA and LAKE Counties Carpenters	12.87	.85	1.25		.03
Piledrivermen	12.10	.77	1.25		.03
ATHENS, HOCKING, VINTON and WASHINGTON Counties Carpenters	10.82	.55	.85		.04
Piledrivermen	11.47	.55	.85		.04
BELMONT and MONROE Counties Carpenters	11.07	.50	.75		.03
Piledrivermen	11.82	.50	.50		.03
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON and WARREN Counties Carpenters	12.55	.60	.65		.075
Piledrivermen	12.55	.60	.65		.075
CARROLL, STARK, TUSCARAWAS and WAYNE Counties Carpenters	11.08	.55	.60		.02
Piledrivermen	10.76	.50	.50		.02
COLUMBIANA, HARRISON & JEFFERSON Counties Carpenters	10.75	.92	.95		.02
Piledrivermen	11.85	5.5%	10%		.5%

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CARPENTERS & PILEDRIVERMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DARKE, GREENE, MIAMI, MONTGOMERY PREBLE and SHELBY Counties Carpenters	$10.95	.80	1.10		.07
Piledrivermen	10.95	.80	1.10		.07
DEFIANCE, HENRY, PAULDING and WILLIAMS COUNTIES Carpenters	12.26	1.06	.75		
Piledrivermen	12.99	1.06	.75		.05
FULTON, HANCOCK, LUCAS and WOOD COUNTIES, excluding the City of Fostoria in HANCOCK and WOOD COUNTIES Carpenters; Piledrivermen	12.99	1.06	.75		.05
MAHONING and TRUMBULL COUNTIES Carpenters	10.74	1.17	1.10		.05
Piledrivermen	11.53	1.17	1.10		.05
MEDINA, PORTAGE and SUMMIT COUNTIES Carpenters	12.20	.50	.90		.02
Piledrivermen	12.10	.77	1.25		.03
FOOTNOTE: a. 2 Paid Holidays: Memorial Day and Independence Day.					
CEMENT MASONS: CUYAHOGA, FULTON, GEAUGA, HANCOCK, HENRY, LAKE, LORAIN, LUCAS, PUTNAM, and WOOD COUNTIES	12.03	.60	.30		.02
ASHTABULA, BROWN, BUTLER, CLERMONT, COLUMBIANA, DEFIANCE, ERIE, HAMILTON, HIGHLAND, HURON, MAHONING, MEDINA, OTTAWA, PAULDING, PORTAGE, SANDUSKY, SENECA, STARK, SUMMIT, TRUMBULL, WARREN and WILLIAMS	11.38	.60	.30		.02
REMAINING COUNTIES	10.83	.60	.30		.02
ELECTRICIANS: ADAMS AND SCIOTO COUNTIES, JACKSON COUNTY (All but Coal, Jackson, Liberty, Milton and Washington Twps.), PIKE County (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish and Union)	11.45	.50	3%+.50	1.00	.04

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, & VAN WERT COS. & WYANDOT Co. (West of Crane, Pitt, & Tymochtee Twps.)	$12.21	.45	3%+.37		.04
ASHLAND, CRAWFORD, MARION, MORROW & RICHLAND Cos., WYANDOT CO. (Remainder of County) & KNOX Co. (North ½ including Clinton, Howard, Liberty, Monroe & Union Twps.), & HURON CO. (Twps. of Greenwich, New Haven, Richmond & Ripley	12.30	.45	3%+.50		.1%
ASHTABULA Co. (all but Colebrook, Orwell, Wayne, Williamsfield & Windsor Twps.)	13.05	.90	3%+.85		.2%
ATHENS, MEIGS, MONROE, NOBLE & WASHINGTON Cos., & VINTON CO. (East of Clinton, Elk & Swan Twps.)	11.15	.50	3%+.80	1.25	.04
BELMONT Co.	11.30	.50	3%+.35	1.00	.04
BROWN, CLERMONT & HAMILTON COUNTIES					
Within 18 Mi. of Hamilton County Court House	12.50	.70	3%+.60		½%
From 18 to 21 Miles	12.80	.70	3%+.60		½%
From 21 to 25 Miles	12.90	.70	3%+.60		½%
Over 25 Miles	13.05	.70	3%+.60		½%
BUTLER County & WARREN CO. excluding Clear Creek, franklin & Wayne Twps.):					
West of Interstate 75	12.65	.45	3%+.75		½%
East of Interstate 75	13.20	.45	3%+.75		½%
CHAMPAIGN & CLARK Cos. & MADISON CO. (Twps. of Paint, Pike, Somerford, Stokes & Union)	11.14	.45	3%+.85		.04

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pension:	Vacation	Education and/or Appr. Tr.
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS. & WARREN CO. (Rem. of Co.)					
Within 11 Mi. Radius of 3rd & Main Streets, Dayton	$12.03	.75	3%+1.00		.5%
Beyond 11 Mi. Radius	12.26	.75	3%+1.00		.5%
COLUMBIANA Co. (except twps.of Butler, Fairfield, Knox, Perry, Salem & Unity)	11.90	.95	3%+.48		.07
COSHOCTON Co., KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), LICKING CO., TUSCARAWAS CO. (S½ incl. Twps. of Auburn, Clay, Rush, York. Salem, Jefferson, Oxford, Washington, Perry, & Bucks)	11.40	.40	3%+.60		.03
CUYAHOGA CO., LORAIN CO. (Twp. of Columbia), & GEAUGA Co. (Twps. of Bainbridge, Chester & Russell)	13.75	.55	3%+.48		.02
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD COS.	13.80	.65	3%+.55		.1%
DELAWARE, FAIRFIELD, FRANKLIN & UNION COS., MADISON (Rem. of Co.) & PICKAWAY CO. (Excl. Deer Creek Perry, Pickaway, Salt Creek & Wayne Twps.)	12.18	.38	3%+1.00		.06
ERIE CO., HURON CO. (Rem. of Co.)	12.70	.73	3%		.1%
FAYETTE, HIGHLAND, HOCKING, & ROSS COS. & JACKSON CO. (Rem. of Co.), PICKAWAY, PIKE & VINTON COS.	12.35	.40	3%		.02
GALLIA CO.	12.27	.50	3%+.80	1.00	.04

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COS.	$11.40	.40	3%+.60		.03
HARRISON & JEFFERSON COUNTIES & CARROLL County (South of Fox, Harrison, Rose and Washington Twps.)	12.95	6%	9%	8%	½%
HOLMES & STARK Counties, the remainder of CARROLL and TUSCARAWAS Counties, COLUMBIANA County (Knox Twp.), MAHONING County (Smith twp.) and WAYNE County (south of Baughman, Chester, Green and Wayne Twps.)	11.90	.40	3%+.40		.3%
LAKE COUNTY & GEAUGA Co. (all but Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.)	13.13	.70	3%+.70		.3%
LAWRENCE COUNTY	11.82	.50	3%+.80	1.00	.04
LORAIN County (remainder of Co.) and MEDINA County (Twps. of Litchfield and Liverpool)	12.95	.60	3%+.80		.1%
MAHONING County (excluding Milton and Smith Twps.), TRUMBULL Co. (Twps. of Hubbard and Liberty) and COLUMBIANA COUNTY (Twps. of Butler, Fairfield, Perry, Salem and Unity)	13.03	.59	7%		.3%
SUMMIT County, the remainder of MEDINA & WAYNE Counties & PORTAGE County (excluding Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris and Windham)	12.38	.74	3%+.65		.2%
MORGAN COUNTY	11.15	.50	3%+.80	1.25	.04
ASHTABULA (Remainder of County), Remainder of PORTAGE And TRUMBULL Counties, GEAUGA County (Twps. of Auburn, Middlefield, Parkman and Troy), and MAHONING County (Twp. of Milton)	13.39	.60	7%		.7%

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IRONWORKERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS (Part), BROWN, CLERMONT & HAMILTON Cos. & the South half of BUTLER & WARREN Cos.					
Structural & Ornamental	$12.33	.90	1.20		.03
Reinforcing	11.53	.90	2.00		.02
ALLEN, AUGLAIZE, CLINTON, DARKE, GREENE, MERCER, MIAMI, MONTGOMERY, PREBLE & SHELBY COS., The North ½ of BUTLER & WARREN Cos. the West 2/3 of CHAMPAIGN & LOGAN COS., The West 3/4 of CLARK CO. & the West 4/5 HIGHLAND CO., Dayton Metropolitan Area	10.96	.90	1.25		.04
Outside Dayton Metro area	11.11	.90	1.25		.04
ASHLAND, CARROLL, COSHOCTON, HOLMES, RICHLAND, STARK, TUSCARAWAS & WAYNE COS.	11.68	.80	.95		.05
CUYAHOGA, ERIE, GEAUGA, HURON, LAKE, LORAIN, MEDINA & SUMMIT, Cos., & ASHTABULA CO. (except The N/E ¼), PORTAGE CO. (except the Ravenna Ordnance Depot)	12.72	1.05	1.30		.03
ASHTABULA (Remainder of Co.)	11.59	1.86	1.01		.15
ATHENS, MEIGS, MORGAN, NOBLE & WASHINGTON COS.	11.67	.75	.85		.01
BELMONT, GUERNSEY, HARRISON, JEFFERSON & MONROE COS.	11.93	.80	.95		.03
COLUMBIANA, MAHONING & TRUMBULL COS. & The Ravenna Ordnance Depot in PORTAGE CO.	12.03	.40	1.30		.07
CRAWFORD, FAYETTE, HARDIN, HOCKING, JACKSON (N ½ of Co.), KNOX, MARION, MORROW, MUSKINGUM, PERRY, PIKE (Pt.), ROSS, VINTON, WYANDOT, & The rem. of CHAMPAIGN, CLARK, HIGHLAND & LOGAN COS.	11.55	.90	1.95		.05
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY & UNION COS.	11.45	.90	1.95		.05
FRANKLIN CO.	11.30	.90	1.95		.05
DEFIANCE, PAULDING, PUTNAM, VAN WERT & WILLIAMS COS.	11.80	.90	1.45		.02
FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, SANDUSKY, SENECA, & WOOD COS.	12.86	1.06	1.22		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GALLIA, LAWRENCE, SCIOTO, ADAMS (Pt.), JACKSON (S ½ of Co.), & PIKE (Pt.) COS.:					
10 mi. from Union Hall in Ashland, Kentucky	11.27	.90	1.05		.01
10 to 15 mi. from Union Hall	11.42	.90	1.05		.01
15 to 20 mi. from Union Hall	11.52	.90	1.05		.01
20 mi. & over from Union Hall	11.62	.90	1.05		.01
LINEMEN					
ADAMS, ATHENS, GALLIA, LAWRENCE, MEIGS, & SCIOTO Cos., JACKSON Co. (except Coal, Jackson, Liberty, Milton & Washington Twps.), PIKE CO. (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & VINTON Co. (East of Clinton, Elk, & Swan Twps.)	12.73	.50	3%+.50	1.00	½
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT & WYANDOT Co. (Remainder of Co.)	12.53	.50	3%		½
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Cos., HURON Co. (Twps. of Greenwich, New Haven, Richmond, & Ripley), KNOX Co. (North Half including the Twps. of Clinton, Howard, Liberty, Monroe, & Union), & WYANDOT CO. (East Half including the Twps. of crane, Pitt & Tymochtee)	12.30	.45	3%+.50		½
ASHTABULA Co. except the Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor	13.05	.90	3%+.85		½
BELMONT CO.	11.30	.50	3%+.35	1.00	½
BROWN, CLERMONT & HAMILTON COS.					
Within 18 Mi. of Hamilton County Court House	12.50	.70	3%+.60		.5%
From 18 to 21 Miles	12.80	.70	3%+.60		.5%
From 21 to 25 Miles	12.90	.70	3%+.60		.5%
Over 25 Miles	13.05	.70	3%+.60		.5%

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LINEMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUTLER CO. & WARREN CO. (except Twps. of Clear Creek, Franklin, & Wayne):					
West of Interstate 75	$12.65	.45	3%+.75		½%
East of Interstate 75	13.20	.45	3%+.75		½%
CHAMPAIGN, CLARK, CUYAHOGA, FAIRFIELD, GEAUGA (Bainbridge, Russell & Chester Twps.), LORAIN (Columbia Twp.), MEDINA (Litchfield & Liverpool Twps.), MONROE, MORGAN, NOBLE, & WASHINGTON COS.	13.11	.50	3%		½%
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS. & WARREN CO. (Rem. of Co.)	12.03	.75	3%+1.00		½%
COLUMBIANA CO. except the Twps. of Butler, Knox, Fairfield, Perry, Salem & Unity	11.03	8%	7%		½%
COSHOCTON, GUERNSEY, KNOX (Twps. of Butler, Clay, College, Harrison, Hilliar, Jackson, Milford, Miller, Morgan, & Pleasant), LICKING, MUSKINGUM, PERRY, & TUSCARAWAS COS.	12.13	.50	3%		½%
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD COS.	14.26	.50	3%	b	½%
DELAWARE, FRANKLIN, MADISON, PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenberg, Scioto, Walnut & Washington), & UNION COS.	13.11	.50	3%		½%
ERIE CO. & HURON CO. (Rem. of Co.	12.70	.73	3%		½%
FAYETTE, HIGHLAND, HOCKING & ROSS COS. & the remainder of JACKSON, PICKAWAY, PIKE, & VINTON COS.	10.95	.28	3%		½%

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LINEMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HARRISON, & JEFFERSON COS. & CARROLL CO. (South of Fox, Harrison, Rose & Washington Twps.)	12.95	6%	9%	8%	½%
HOLMES & STARK COS., CARROLL (Remainder of Co.), COLUMBIANA Co. (Knox Twp.), MAHONING (Smith Twp.), & WAYNE CO. (South of Bauchman, Chester, Green & Wayne Twps.)	11.90	.40	3%+.40		½%
LAKE CO. & GEAUGA CO. (except the Twps. of Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell & Troy)	12.88	.70	3%+.70		½%
LORAIN CO. (except Columbia Twp.)	12.95	.60	3%+.80		½%
MAHONING (excluding Smith Twp) & TRUMBULL COS., ASHTABULA CO. (Remainder of Co.), COLUMBIANA CO. (Twps. of Butler, Fairfield, Perry, Salem & Unity), GEAUGA CO. (Townships of Auburn, Middlefield, Parkman, & Troy) & PORTAGE CO. (Twps. of Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham)	14.07	.45	3%		½%
SUMMIT CO. & the remainder of MEDINA, PORTAGE & WAYNE COS.	12.38	.74	3%+.65		½%
FOOTNOTE:					
b. 10 paid holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Christmas Eve; New Year's Eve & Day after Thanksgiving Day.					
PAINTERS					
ADAMS, HIGHLAND, JACKSON, PIKE, & SCIOTO COS.					
Brush	12.55		.50		
Spray	13.55		.50		

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT And WILLIAMS Counties	$10.10	.73	.50		.03
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Counties					
Brush	9.30		.50		
Structural Steel	9.80		.50		
Spray	10.05		.50		
ATHENS & HOCKING Counties:					
Brush	11.58				
Spray	12.08				
BELMONT, JEFFERSON, & HARRISON COS.	10.05	.50	.40		
BROWN, CLERMONT & HAMILTON Cos.					
Brush	12.50		.25		25.00p/yr.
Spray	12.90		.25		25.00p/yr.
BUTLER & WARREN Counties					
Brush	10.73				
Spray	11.23				
CARROLL, HOLMES, STARK, TUSCARAWAS & WAYNE Counties					
Brush	10.61	.93	.60		.02
Spray	11.14	.93	.60		.02
Structural Steel	11.32	.93	.60		.02
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE COUNTIES					
Brush	11.97		.60		.05
Structural Steel	12.37		.60		.05
Spray	12.47		.60		.05
COSHOCTON:					
Brush	8.10				
Roller	8.10				
Spray; Sandblasting	8.60				
Sandblasting pot tend	7.60				

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PAINTERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHTABULA, CUYAHOGA, GEAUGA, & LAKE COUNTIES, LORAIN (North East Part) and PORTAGE & SUMMIT Counties (North of the Ohio Turnpike):					
Brush	$12.21	.67	1.00		.05
Bridge and open steel; closed steel over 55'	12.91	.67	1.00		.05
Closed steel belo 55'; Spray	12.61	.67	1.00		.05
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY And UNION Counties					
Brush	10.84	.65	.65		.02
Structural Steel	11.14	.65	.65		.02
Spray	11.34	.65	.65		.02
ERIE, HANCOCK, HURON, SANDUSKY, SENECA and WYANDOT Counties					
Brush	10.15	.50	.70		50.00 p/yr
Structural Steel and Bridges	10.60	.50	.70		50.00 p/yr
FULTON, HENRY, LUCAS, OTTAWA and WOOD Counties					
Brush	11.28	1.00	1.10		
Spray	11.83	1.06	1.10		
Structural Steel	11.53	1.06	1.20		
GALLIA, LAWRENCE, MEIGS, and VINTON Counties					
Brush; Spray	10.09			c	
Sandblasting; Waterblasting	10.30			c	
GUERNSEY County					
Brush; Roller; Sandblasting & Steamcleaning	9.50				
KNOX, LICKING, MUSKINGUM and PERRY COUNTIES:					
Sandblasting; Steel; Bridge	8.50				
Spray	8.95				
LORAIN COUNTY (Remainder of Co.)					
Brush	11.35			d	
Spray; Sandblasting	11.85			d	
Roller	11.60			d	

DECISION NO. 01178-2157

PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA, MAHONING & TRUMBULL COS. and the Ravenna Ordnance Depot in PORTAGE County					
Brush	$11.45	.75	1.00		
Spray	12.15	.75	1.00		
ROSS COUNTY					
Brush	10.50				
Spray	10.75				

FOOTNOTES: c. 6 paid holidays: Decoration Day; July 4th; Thanksgiving Day; Christmas Day; New Year's Day; & Veteran's Day
d. 2 paid holidays: Labor Day and July 4th

PLUMBERS & STEAMFITTERS:					
ADAMS, ATHENS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO, & VINTON COS.	12.47	.55	.75		
ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY & VAN WERT, COS.	12.80	.50	.75		.05
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, LORAIN, MORROW, RICHLAND & WYANDOT COS.	13.23	.60	.88		.05
ASHTABULA, CUYAHOGA, GEAUGA & LAKE COS., MEDINA CO. N. of RT. 18 & Smith Rd. & SUMMIT CO. N. of Rt. 303					
Plumbers	12.88	.90	1.10		.02
Pipefitters	12.45	1.22	1.30		.05
BELMONT CO. & MONROE CO. South of RT. 78	11.20	.40	9%	10%	.05
BROWN, CLERMONT, HAMILTON & WARREN COS.					
Plumbers; Gas Fitters	12.82	1.05	1.20		.05
Steamfitters; Pipefitters	13.00	1.00	1.325		.08

DECISION NO. 0H78-2157

PLUMBERS & STEAMFITTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUTLER Co. North Half	$12.35	.60	1.00		.05
BUTLER Co. South Half	13.12	.80	1.10		.02
CARROLL Co. (except Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), STARK & WAYNE COS.	12.12	.50	.70	e	.05
CARROLL (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London) COSHOCTON, GUERNSEY, HOLMES, MORGAN (South of State Route #78 & from McConnelsville West on State route #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS Cos.	12.60	.45	.60		.08
CHAMPAIGN, CLARK & LOGAN COS., GREENE Co. (Twps. of Cedarville, Ceasar Creek, New Jasper, Jefferson, & Ross), MADISON Co. (West of Rt. 38 including the City of London)	12.40	.83	.85		.04
CLINTON, DARKE, FAYETTE, MIAMI, MONTGOMERY, PREBLE & GREENE Co. (Remainder of Co.)	12.46	.80	1.05		.03
COLUMBIANA (excluding Washington & Yellow Creek Twps. & Liverpool Twp. secs. 35 & 36 - West of County Rd. #427), MAHONING Cos. & TRUMBULL Co. (Hubbard & Liberty Twps. Youngstown Municipal Airport & the Filtration Plant of the Mahoning Valley Sanitary District	12.20	1.37	.50		.03
COLUMBIANA (Washington & Yellow Creek Twps., & Liverpool Twp. secs 35 & 36 West of County Rd. #427), Harrison & Jefferson Cos.	12.61	.50	8%	8%	.12

DECISION NO. 0H78-2157

PLUMBING & STEAMFITTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	$13.63	.80	.85		.09
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MARION, PERRY, PICKAWAY, ROSS & UNION Cos. & MADISON (remainder of Co.)	13.00	.93	.82		.06
MEIGS, MONROE (Rem. of Co.), MORGAN (Remainder of Co.), & WASHINGTON COS.	11.73	.52	.60		.045
PORTAGE Co. & the remainder of MEDINA & SUMMIT Cos.	12.15	.85	1.00		.05
TRUMBULL CO. (Remainder of Co.)	12.60	.97	.90		.03
HARRISON AND JEFFERSON Cos.	12.61	.50	8%	8%	.12

FOOTNOTE:
e. One paid holiday: Labor Day providing employee has worked 5 consecutive days before and after the holiday.

55212 NOTICES
55214 NOTICES
55213 NOTICES
55215 NOTICES

DECISION NO. OH78-2157

LABORERS

	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates
GROUP I	$10.23	9.35	8.92
GROUP II	10.355	9.475	9.045
GROUP III	10.43	9.55	9.12
GROUP IV	10.58	9.70	9.27
GROUP V	10.88	10.00	9.57

FRINGE BENEFITS FOR ALL ZONES AND CLASSIFICATIONS
$.70 - Health & Welfare
.70 - Pension
.10 - Education and/or Apprentice Training.

GROUP I - Laborers (construction); plant laborers or yardmen; right-of-way laborers; landscape laborer; utility man or handyman; joint setter; flagman; carpenter helper; waterproofing laborer; slurry seal; seal coating surface treatment or road mix laborer; asphalt laborer; Dump man (batch trucks); Sign installer; Guardrail & fence installers; mesh handlers & placers; concrete curing applicator; scaffold erector, Riprap laborer & grouter; grade checker
GROUP II - Asphalt raker; concrete puddler; kettle man (pipeline); machine driven tools; mason tender; mortar mixer; sheeting & shoring man; surface grinder man; power buggy or power wheelbarrow
GROUP III - form setter; bottom man; Welder helper (pipeline); concrete saw man; cutting with burning torch; pipelayer; hand spiker (railroad); car pusher (without air); underground man (working in sewer & waterline, cleaning, repairing & reconditioning); Tunnel laborer (without air) and caisson; cofferdam (below 25 feet deep); air track & wagon drill
GROUP IV - blaster; Powder man; muckers; wrencher (mechanical joints & utility pipeline); yarner; top lander
GROUP V - Curb setter & cutter; miner without air; concrete crew in tunnels; utility pipeline tapper; gunnite nozzle man; waterline caulker

ZONE DEFINITIONS

Zone 1 - Cuyahoga, Geauga & Lake Cos.
Zone 2 - Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull & Wood Cos.
Zone 3 - Remainder of Counties

DECISION NO. OH78-2157

POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana, Mahoning & Trumbull Counties

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pension	Vacation	Education and/or Appr. Tr.
CLASS I	12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; berm builder-automatic; Backfiller w/drag attachments; Boat derrick; Boat-tug; boring mach. attached to tractor; bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; carrier-straddle, Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., crane; Crane-stationary or climbing; crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; drag line; dredge; drill-Kenny or similar type; electromatic; Fork lift; frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; paver-asphalt finishing mach.; Paver - road concrete; Paver-slipform; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; shovels; Spikemaster; stonecrusher; Tie puller & Loader; Tie tamper; tractor-double boom; tractor w/attachments; Trucks-boom; truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley
CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.-pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; concrete planer or asphalt; Concrete spreader; Elevator; fork lift walk behind; form line mach.; Grease truck op.; Grout pump; gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sangan derrick; seeding Mach.; self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil Stabilizer (pump type); Spray cure Mach.-Self propelled; straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana, Mahoning & Trumbull Counties (Cont'd)

CLASS III - batch plant-job related; boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self-propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); tractor; Trencher-form; Water Blaster
Class IV - Brake man; compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; deck hand; Drill wagon; Fireman; Generator sets; heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (Fuel burning)
CLASS V - Oiler
CLASS VI - Riga-pile driving or caisson type

DECISION NO. OH78-2157

POWER EQUIPMENT OPERATORS	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	12.78	12.04	.66	1.00		.15
CLASS B	12.68	11.92	.66	1.00		.15
CLASS C	11.64	10.88	.66	1.00		.15
CLASS D	11.17	10.45	.66	1.00		.15
CLASS E	9.23	8.34	.66	1.00		.15

CLASS A - Air compressor on steel erection; Asphalt plant engineer (Cleveland District Only); Boiler Op., compressor or generator when mounted on rig; Cableway; combination concrete mixer & tower; Concrete plants (over 4 yds. cap.); Concrete pumps; Cranes (all types incl. A frames, boom trucks, cherry pickers); Derricks; Draglines; Dredge (dipper clam or suction); Elevation grader or euclid loader; Floating equipment (all types); Helicopter crew (hoist or winch); hoes (all types); Hoisting engines (including shaft & tunnel work); Industrial type tractor; Jet engineer dryer (D8 or D9) diesel tractor; Locomotives (standard guage); Maintenance Op. Class A; Mixer (paving single or double drum); Mucking mach.; Multiple scraper; piledriving mach. (all types); power shovel; Quad 9 (double pusher); Refrigerating mach. (Freezer operation); Rotary drill on caisson work; slip form paver; Tower derricks; Tree shredder; Trench mach (over 24" wide); Truck mounted concrete pump; Tug boat; tunnel mach. and/or mining machine; Wheel excavator
CLASS B - Asphalt paver; Automatic subgrader mach. self propelled (CMI type); Boring mach. Op. (more than 48"); Bulldozers; Endloader; Kolman Loader (production type dirt); Lead grease man; Maintenance Op., Class B (in Zone 2 Portage & Summit Cos. only); Power grader; Power scraper; Push Cat; Trench mach. (24" wide & under)
CLASS C - Air compressor on tunnel work (low pressure); asphalt plant engineer (in Zone 2 Portage & Summit Cos. only); Locomotive (narrow guage); Concrete mixers (more than 1 bag cap.); Mixers (1 bag cap. - side loader); Power boiler over 15 lb. pressure; Pump op. installing & operating well points; Pumps (4" & over discharge); Rollers (asphalt); Utility op. (small equipment); Welding mach. & generators.

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POWER EQUIPMENT OPERATOR (CONT'D)

CLASS D - Back fillers; Bar (joint & mesh installing mach.); Batch Plant; Boring mach. Op. (48" o. less); Bull floats; Burlap & curing mach.; Compressor (portable, sewer, hvy. & hwy.); Concrete plant (4 yd. & under cap.); concrete saw (multiple); Conveyors (hwy.); Crusher,deckhand; drill highway (w. integral power); Farm type tractors w/attachs. (hwy); Finishing Mach.; Fireman (floating equipment, all types); fork lift (Hwy.); form Trenchers; Hydro Hammer; Hydro seeder; Pavement breaker; Plant mixers; Post driver; Post Hole digger (power auger); Power brush burner; Power form handling Equip.; Road widening trencher; Rollers (brick, grade, macadam); self- propelled power spreader; self-propelled power subgrader; Steam fireman; Tractor (pulling sheepfoot roller or grader); vibratory compactor w/integral power

CLASS E - Drum fireman (asphalt plant); Helpers; Inboard-outboard, motor boat-launch; Oil heaters (asphalt plant); Oilers; Power driven heaters; Pumps (under 4" discharge); Signalmen; Tire repairmen

ZONE DEFINITIONS

ZONE 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage & Summit Counties

ZONE 3 - Remainder of Counties

DECISION NO. OH78-2157

TRUCK DRIVERS
ZONE I - CUYAHOGA, LAKE & GEAUGA COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.70	26.00a	26.00a	b&c	
CLASS II	8.85	26.00a	26.00a	b&c	
CLASS III	9.20	26.00a	26.00a	b&c	
CLASS IV	9.20	26.00a	26.00a	b&c	

CLASS I - Straight & dumps (including asphalt); Warehousemen; Straight fuel
CLASS II - Semi fuel; semi pole drivers (hauling steel pipe); & semi tractor drivers.
CLASS III - Ready-mix; agitator or bulk concrete drivers; dry batch truck.
CLASS IV - Euclids; darts; tank asphalt spreaders; low boys; carry-all driver; tournarockers; hi-lifts; fork lifts; extra long trailers & semi pole trailers except when hauling steel pipe; double hook-up tractor trailers including team track & railroad siding; semi tractor & tri-axle trailer; tandem tractor, Tandem trailer & tri-axle trailer; tag along trailer, expandable trailers, loads (requiring road permits)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Per week per employee

b. One week's paid vacation for one year of service; two weeks for five years; three weeks for ten years & four weeks for seventeen years.

c. Seven paid holidays: A through F plus National Election Day.

DECISION NO. OH78-157

TRUCK DRIVERS
ZONE II - Remainder of the State

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
CLASS I	$9.12	25.00a	9.00a		.05
CLASS II	9.17	25.00a	9.00a		.05
CLASS III	9.22	25.00a	9.00a		.05
CLASS IV	9.32	25.00a	9.00a		.05
CLASS V	9.42	25.00a	9.00a		.05
CLASS VI	9.59	25.00a	9.00a		.05

CLASS I 4 wheel service truck; 4 wheel dump trucks; batch trucks; oil distributors; asphalt distributors
CLASS II Tandems
CLASS III Semi tractor trucks; pole trailers; fuel trucks
CLASS IV - All trucks five axle & over
CLASS V - Asphalt oiler spraybar man when operated from cab
CLASS VI - Euclid wagons; Euclid end dumps; low boys; heavy duty equipment over 12 cu yds capacity when used exclusively for transportation; truck mechanics

FOOTNOTE:
a. Per week Per employee

SUPERSEDEAS DECISION

STATE: TENNESSEE

COUNTIES: ANDERSON, GRAINGER, HAMBLEN, JEFFERSON, KNOX, & ROANE

DECISION NUMBER: TN78-1097 DATE: DATE OF PUBLICATION
Supersedes Decision No. TN78-1069, dated July 7, 1978, in 43 FR 29466.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION - consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning & Heating mechanics	$ 4.75				
Bricklayers	7.39				
Carpenters & Soft floor layers	5.47				
Cement mason	6.00				
Electricians	4.65				
Ironworkers	8.34				
Insulation installers	5.25				
Laborers:					
Unskilled	3.38				
Mortar mixer	3.58				
Concrete ribber	3.58				
Asphalt rakers	3.97				
Mason tenders	4.00				
Painters	7.75	.40	.40		.03
Plumbers & Pipefitters	6.00				
Roofers	4.81				
Sheet metal workers	4.75				
Truck drivers:					
Single axle	3.38				
Tander	3.38				
Tri axle	3.38				
Welders - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt paver	5.25				
Backhoe	5.50				
Bob-cat	4.50				
Broom/farm tractor	3.92				
Bulldozer	6.00				
Crane	6.47				
Curb machine	4.00				
Distributor	4.46				
Fork lift	4.25				
Front end loader	6.97				
High lift	5.59				
Motor grader/patrol	5.51				
Roller - asphalt/soil	4.50				
Scraper - pan	4.63				

(4510-27-C]

SUPERSEDEAS DECISION

STATE: Virginia
COUNTY: Campbell County
DATE: Date of Publication
DECISION NO.: VA78-3096
Supersedes Decision No. VA75-3095 dated September 19, 1975 in 40 FR 42416
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Acoustical Ceiling Mechanic	5.00				
Bricklayer	8.00				
Carpenter	5.00				
Drywall Finisher	7.25				
Drywall Hanger	6.50				
Electrician	5.00				
Elevator Constructor	8.64	.895	.69	a & b	.03
Glazier	4.50				
Heating and Air Conditioning Mechanic	5.75				
Ironworkers, Structural	7.21				
Laborers	3.56				
Lather	8.25				
Painter, Brush	4.88				
Pipefitter	6.04				
Plasterer	8.25				
Plumber	5.26				
Roofer	4.92				
Sheet Metal Worker	6.16				
Soft Floor Layer	5.90				
Sprinkler Fitter	9.93	.75	1.05		.08
Tile Setter	6.45				
Tile Setter Finishers	3.50				
Truck Drivers	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.50				
Bulldozer	4.25				
Crane	5.90				
Distributor	4.25				
Forklift	4.52				
Grader	4.40				
Loader	4.50				
Paver	4.35				
Roller	3.94				
Stone Spreader	3.58				

FOOTNOTES:

a. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years' service as vacation pay credit.

federal register

FRIDAY, NOVEMBER 24, 1978
PART IV

SMALL BUSINESS ADMINISTRATION

FIELD OFFICES

Delegation of Authority to Conduct Program Activities; Republication

V 43 / 227 / NOV 24 1978

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Rev. 15]

FIELD OFFICES

Delegation of Authority To Conduct Program Activities; Republication

This republication of Delegation of Authority No. 30, Revision 15, is done as a matter of reader convenience combining the various amendments and corrections made to this document since it was published March 12, 1975 (40 FR 11657). The amendments and corrections appear in 41 FR 8240; 41 FR 16234, 17829, 28049, 36702, 47610, 50883; 42 FR 56990, 59153, 60619, 61347, 62243; 43 FR 55, 1577, 6667, 10998, 13651, 22261, 36152, 45662, and 46914.

Delegation of Authority No. 30, Revision 15, combining the various amendments and corrections since March 12, 1975, is set forth below:

HAROLD A. THEISTE,
Acting Associate Administrator for Operations.

DELEGATIONS OF AUTHORITY TO CONDUCT PROGRAM ACTIVITIES IN FIELD OFFICES

Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated to the Associate Administrator for Operations together with further authority to delegate, amend, modify, or revoke any authority delegated to field positions hereinafter set forth:

PREFACE

The policies, rules, procedures and other requirements, as well as citations to the statutes, governing the programs for which this delegation of authority is issued, are contained in various parts of the Regulations of the Small Business Administration, Chapter I of Title 13 of the Code of Federal Regulations, as amended from time to time in the FEDERAL REGISTER.

PART I—FINANCING PROGRAM

SECTION A—*Loan Approval Authority.*

1. *Business and Handicapped Assistance Loans (Small Business Act) (SBAct).* a. To approve or decline direct and immediate participation section 7(a) business loans and 7(h) handicapped assistance loans, and guaranty handicapped assistance loans, not exceeding the following amounts (SBA share):

	Approve	Decline
(1) Regional director	$350,000	$350,000
(2) Assistant regional director, for F&I	350,000	350,000
(3) District director	350,000	350,000
(4) Assistant district director for F&I	350,000	350,000
(5) Chief, financing division, D/O	350,000	350,000
(6) Supervisory loan specialist, financing division, D/O	250,000	350,000
(7) Branch manager, except Fairbanks, B/O	250,000	350,000
(8) Assistant branch manager for F&I, Biloxi branch office and Springfield B/O only	250,000	350,000
(9) Branch manager, Fairbanks B/O only	150,000	150,000

b. *Guaranty Loans 7(a) business loans only:*

	Approve	Decline
(1) Regional director	$500,000	$500,000
(2) Assistant regional director for F&I	500,000	500,000
(3) District director	500,000	500,000
(4) Assistant district director for F&I	350,000	500,000
(5) Chief, financing division, D/O	350,000	500,000
(6) Supervisory loan specialist, financing division, F/O	250,000	500,000
(7) Branch manager, except Fairbanks, B/O	250,000	500,000
(8) Assistant branch manager for F&I, Biloxi branch office and Springfield B/O only	250,000	500,000
(9) Branch manager, Fairbanks B/O only	150,000	150,000

2. *Economic Opportunity Loans (EOL) (SBAct).* To approve or decline Section 7(i) economic opportunity direct, immediate participation, and guaranty loans not to exceed $100,000 (SBA Share):

a. Regional Director.
b. Assistant Regional Director for F&I.
c. District Director.
d. Assistant District Director for F&I.
e. Chief, Financing Division, D/O.
f. Supervisory Loan Specialist, Financing Division, D/O.
g. Branch Manager.
h. Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only.

3. *Product Disaster and Economic Injury Disaster Loans (SBAct).* To decline section 7(b)(4) product disaster and section 7(b)(2) economic injury disaster loans in connection with "natural disaster" declarations made by the Secretary of Agriculture in any amount and to approve such loans up to the following amounts (SBA share):

a. *Direct and Immediate Participation Loans:*

	Approve
(1) Regional director	$500,000
(2) Assistant regional director for F&I	500,000
(3) District director	500,000
(4) Assistant district director for F&I	500,000
(5) Chief, financing division, D/O	500,000
(6) Supervisory loan specialist, financing division, D/O	300,000
(7) Branch manager, except Fairbanks branch office	300,000
(8) Assistant branch manager for F&I, Biloxi branch office and Springfield B/O only	300,000
(9) Branch manager, Fairbanks B/O only	150,000

b. *Guaranty Loans:* (In addition to direct and immediate participation authority):

	Approve
(1) Regional director	$1,000,000
(2) Assistant regional director for F&I	1,000,000
(3) District director	1,000,000
(4) Assistant district director for F&I	500,000
(5) Chief, financing division, D/O	500,000
(6) Supervisory loan specialist, financing division, D/O	500,000
(7) Branch manager, except Fairbanks branch office	500,000
(8) Assistant branch manager for F&I, Biloxi branch office and Springfield B/O only	500,000
(9) Branch manager, Fairbanks B/O only	150,000

4. *Sections 7(b)(3), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8) and 7(g) Loans (SBAct).* To decline section 7(b)(3) displaced business loans, 7(b)(5) regulatory disaster loans (including coal mine health and safety, consumer protection—meat, eggs, poultry—, and occupational safety and health, etc.) 7(b)(6) strategic arms limitation economic injury loans, 7(b)(7) base closing economic injury loans, 7(b)(8) emergency energy shortage economic injury loans, and 7(g) water pollution loans in any amount and to approve such loans up to the following amounts (SBA share):

a. *Direct and Immediate Participation Loans:*

	Approve
(1) Regional director	$500,000
(2) Assistant regional director for F&I	500,000
(3) District director	500,000
(4) Assistant district director for F&I	500,000
(5) Chief, financing division, D/O	500,000
(6) Supervisory loan specialist, financing division, D/O	300,000
(7) Branch manager, except Fairbanks branch office	300,000
(8) Assistant branch manager for F&I, Biloxi branch office and Springfield B/O only	300,000
(9) Branch manager, Fairbanks B/O only	150,000

b. *Guaranty Loans:* (In addition to direct and immediate participation authority):

	Approve
(1) Regional director	$1,000,000
(2) Assistant regional director for F&I	1,000,000
(3) District director	1,000,000
(4) Assistant district director for F&I	500,000
(5) Chief, financing division, D/O	500,000
(6) Supervisory loan specialist, financing division, D/O	500,000
(7) Branch manager, except Fairbanks branch office	500,000
(8) Assistant branch manager for F&I, Biloxi branch office and Springfield B/O only	500,000
(9) Branch manager, Fairbanks B/O only	150,000

5. *Economic Dislocation Loans (SBAct).* To decline economic dislocation direct, immediate participation or guaranty loans in connection with such designations in any amount and to approve such direct, immediate participation or guaranty loans up to the following amounts (total loan, SBA and participant's share combined):

(a) Regional director	$100,000
(b) Assistant regional director for finance and investment	100,000
(c) District director	100,000
(d) Assistant district director for finance and investment	100,000
(e) Chief, financing division, D/O	100,000
(f) Supervisory loan specialist, financing division D/O	100,000
(g) Branch manager	100,000
(h) Assistant branch manager for finance and investment, Biloxi branch office and Springfield B/O only	100,000

SECTION B—*Other Financing Authority* for all types of loans contained in Section A above:

1. *Loan Participation Agreements.* To enter into individual and blanket loan participation agreements with lenders:

a. Regional Director.
b. Assistant Regional Director for F&I.
c. District Director.
d. Assistant District Director for F&I.
e. Chief, Financing Division, D/O.
f. Branch Manager.
g. Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only.

2. *Loan Authorizations.*

a. To execute written authorizations:

(1) Regional Director.
(2) Assistant Regional Director for F&I.
(3) District Director.
(4) Assistant District Director for F&I.
(5) Chief, Financing Division, D-O
(6) Supervisory Loan Specialist, Financing Division, D/O
(7) Branch Manager
(8) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only

b. To cancel, reinstate, modify, and amend authorizations;

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(7) Branch Manager
(8) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only

3. *Disbursement Period Extension.* To extend disbursement periods:

a. Without limitation:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Branch Manager
(7) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only

b. For a cumulative total not to exceed six (6) months:

(1) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)

4. *Service Charges.* To approve service charges by participating lenders not to exceed two (2) percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing:

(a) Regional Director
(b) Assistant Regional Director for F&I
(c) District Director
(d) Assistant District Director for F&I
(e) Chief, Financing Division, D/O (on fully undisbursed loans)
(f) Supervisory Loan Specialist, D/O (on fully undisbursed loans)
(g) Branch Manager
(h) Assistant Branch Manager for F&I Biloxi Branch Office and Springfied B/O only

PART II—DISASTER PROGRAM

NOTE: The loan approval authority in Part II refers to the total indebtedness of an applicant for a disaster loan (regardless of the number of structures damaged) for each separate disaster.

SECTION A—*Disaster Loan Authority.*

1. *Direct and Immediate Participation 7(b)(1) Physical Disaster Loans (SBAct).* a. To decline direct and immediate participation 7(b)(1) physical disaster loans in any amount and to approve such loans not exceeding the following amounts (SBA share):

(1) *Home Loans.* $50,000 for repair, restoration, or replacement of a home; $10,000 for repair, restoration, or replacement of household contents or personal property; or $55,000 for a single disaster home loan, plus $50,000 for refinancing prior liens:

(a) Regional Director
(b) Assistant Regional Director for F&I
(c) District Director
(d) Assistant District Director for F&I
(e) Disaster Branch Manager
(f) Supervisory Loan Specialist, Financing Division, D/O
(g) Supervisory Loan Specialist, Disaster Office
(h) Branch Manager
(i) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only

(2) *Business Loans:* Including repair, restoration, or replacement of all real or personal property and refinancing as follows:

(a) Regional Director	500,000
(b) Assistant Regional Director for F&I	500,000
(c) District Director	500,000
(d) Assistant District Director for F&I	500,000
(e) Disaster Branch Manager	500,000
(f) Supervisory Loan Specialist, Financing Division, D/O	300,000
(g) Supervisory Loan Specialist, Disaster Office	300,000
(h) Branch Manager, except Fairbanks Branch Office	500,000
(i) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only	500,000
(j) Branch Manager, Fairbanks B/O only	150,000

2. *Guaranteed Physical Disaster Loans 7(b)(1) (SBAct).* To decline section 7(b)(1) physical disaster guaranteed loans in any amount and to approve such loans in addition to direct and immediate participation authority not exceeding the following amounts (SBA share):

	Home loans	Business loans
a. Regional director	$200,000	$1,000,000
b. Assistant regional director for F&I	200,000	1,000,000
c. District director	200,000	1,000,000
d. Assistant district director for F&I	100,000	500,000
e. Disaster branch manager	100,000	500,000
f. Supervisory loan specialist, financing	100,000	500,000
g. Supervisory loan specialist, disaster office	100,000	500,000
h. Branch manager, except Fairbanks	100,000	500,000
i. Assistant branch manager for F&I, Biloxi branch office and Springfield B/O only	100,000	500,000
j. Branch manager, Fairbanks B/O only	100,000	150,000

3. *Direct and Immediate Participation Economic Injury Disaster Loans (SBAct).* To decline direct and immediate participation section 7(b)(2) economic injury disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declaration by the President) in any amount and to approve such loans, not exceeding the following amounts (SBA share):

	Business loans
(a) Regional Director	$500,000
(b) Assistant Regional Director for F&I	500,000
(c) District Director	500,000
(d) Assistant District Director for F&I	300,000
(e) Disaster Branch Manager	300,000
(f) Supervisory Loan Specialist, Financing Division, D/O	200,000
(g) Supervisory Loan Specialist, Disaster Office	200,000
(h) Branch Manager, except Fairbanks Branch Office	300,000
(i) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only	300,000
(j) Branch Manager, Fairbanks B/O only	150,000

4. *Guaranteed Economic Injury Disaster Loans (SBAct).* To decline Section 7(b)(2) Economic Injury guaranteed disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declared by the President) in any amount and to approve such loans, in addition to the direct and immediate participation authority, not exceeding the following amounts (SBA share).

(2) Assistant Regional Director for F&I

PART IV—PORTFOLIO MANAGEMENT (PM)

leged violation of a participation or

(a) Regional Director	1,000,000
(b) Assistant Regional Director for F&I	1,000,000
(c) District Director	1,000,000
(d) Assistant District Director for F&I	500,000
(e) Disaster Branch Manager	500,000
(f) Supervisory Loan Specialist Financing Division, D/O	500,000
(g) Supervisory Loan Specialist, Disaster Office	500,000
(h) Branch Manager except Fairbanks Branch Office	500,000
(i) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only	500,000
(j) Branch Manager Fairbanks B/O only	150,000

5. *Processing Representative.* To appoint as a processing representative any bank in the disaster area:

a. Regional Director
b. Assistant Regional Director for F&I
c. District Director
d. Disaster Branch Manager
e. Branch Manager
f. Assistant Branch Manager for F&I, Biloxi Branch Office and Springfield B/O only

6. *Late Filing.* To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired:

a. Regional Director—only

7. *Disaster Loan Authorizations*

a. To execute written authorizations:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O
(6) Branch Manager
(7) Assistant Branch Manager for F&I, Biloxi Branch Office and Springfield B/O only
(8) Disaster Branch Manager

b. To cancel, reinstate, modify, and amend authorizations:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(7) Branch Manager
(8) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only
(9) Disaster Branch Manager
(10) Supervisory Loan Specialist, Disaster Office

8. *Disbursement Period Extension on Disaster Loans.* To extend disbursement periods:

a. Without limitation:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Branch Manager
(7) Disaster Branch Manager
(8) Assistant Branch Manager for F&I Biloxi Branch Office and Springfield B/O only

b. For a cumulative total not to exceed six (6) months:

(1) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

SECTION B—*Administrative Authority.* 1. *Establishment of Disaster Field Offices.* a. To establish field offices upon receipt of advice of the designation of a disaster area and to close disaster field offices when justified; and

b. to Obligate the Small Business Administration to reimburse the General Services Administration for the rental of temporary office space:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

2. *Purchase and Contract Authority.* a. *Rental of Motor Vehicles and Garage Space.* To rent motor vehicles necessary for the use of disaster branch office personnel and garage space for the storage of such vehicles when not furnished by this Administration:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

b. *Office Supplies and Equipment.* To purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that Chapter:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

c. *Credit Bureau Services.* To contract for local credit bureau services pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that Chapter:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) Assistant Regional Director for Administration
(4) District Director
(5) Assistant District Director for F&I
(6) Disaster Branch Manager

PART III—COMMUNITY ECONOMIC DEVELOPMENT (CED) PROGRAM

SECTION A—*Section 501 and 502 Loan Approval Authority (SBAct).*

1. *Section 501 State Development Company Loans.* To approve or decline section 501 State development company loans not exceeding the following amounts (SBA share).

a. Regional director	Unlimited
With concurrence in at least one prior recommendation:	
b. Assistant regional director for F&I	$750,000
c. District director	750,000
d. Assistant district director for F&I	750,000
e. Chief, CED division, D/O	750,000
f. Chief, financing division, D/O	750,000

2. *Section 502 Local Development Company Loans (SBI Act).* To approve or decline section 502 local development company loans not exceeding the following amounts (SBA share) for each small business concern being assisted, within the project cost limitations shown below:

NOTE.—Project cost applies to the cumulative CED assistance to a small business concern and its affiliates and not to the additional assistance on which the action is being taken.

a. Unlimited project cost:	
(1) Regional Director	$500,000
b. Overall project cost not exceeding $1,000,000:	
(1) Assistant regional director for F&I	500,000
(2) District director	500,000
(3) Assistant district director for F&I	500,000
c. Overall project cost not exceeding $700,000:	
(1) Chief, CED division, D/O	500,000
(2) Chief, financing division, D/O	500,000

SECTION B—*Other 501 and 502 Authority.*

1. *Participation Agreements.* To enter into participation agreements with lenders:

a. Regional Director
b. Assistant Regional Director for F&I
c. District Director
d. Assistant District Director for F&I
e. Chief, CED Division, D/O
f. Chief, Financing Division, D/O

2. *Loan Authorizations.*

a. To execute written loan authorizations:

(1) Regional Director
(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, CED Division, D/O
(6) Chief, Financing Division, D/O

b. To cancel, reinstate, modify, and amend authorizations:

(1) Regional Director

(2) Assistant Regional Director for F&I
(3) District Director
(4) Assistant District Director for F&I
(5) Chief, CED Division, D/O (before initial disbursement)
(6) Chief, Financing Division, D/O (before initial disbursement)

3. *Disbursement Period Extension.* To extend disbursement periods:

a. Regional Director
b. Assistant Regional Director for F&I
c. District Director
d. Assistant District Director for F&I
e. Chief, CED Division, D/O (on wholly undisbursed loans)
f. Chief, Financing Division, D/O. (on wholly undisbursed loans)

SECTION C—*Lease Guarantee.* 1. *Approval Authority.* To approve or decline applications and issue commitment letters for the direct guarantee of rents not to exceed the following amounts:

a. Regional director	$1,000,000
b. Assistant regional director for F&I	500,000
c. District Director	500,000
d. Assistant district director for F&I	500,000

2. *Commitment Letters.* To modify commitment letters:

a. Regional Director
b. Assistant Regional Director for F&I
c. Regional Counsel
d. District Director
e. Assistant District Director for F&I
f. Chief, CED Division, D/O
g. District Counsel

SECTION D—*Surety Guarantee.* 1. To guarantee sureties against portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed $500,000

a. Regional Director
b. Assistant Regional Director for F&I
c. Surety Bond Guarantee Officer, R/O
d. District Director, Philadelphia, San Francisco, New York, Baltimore and Region IV District Offices only
e. Assistant District Director for F&I, Philadelphia, San Francisco, Baltimore and Region IV District Offices only
f. Chief, CED Division, New York, and Region IV District Offices only
g. Chief, Financing Division, Philadelphia D/O
h. Senior Surety Bond Guaranty Specialist, Philadelphia and San Francisco D/O's only.

SECTION E—*EDA Loan Authority.* 1. *EDA Loan Disbursement Authority.* To disburse EDA loans, as directed by EDA:

a. Regional Director
b. Assistant Regional Director for F&I
c. Regional Counsel
d. District Director
e. Assistant District Director for F&I
f. Chief, CED Division, D/O
g. District Counsel

PART IV—PORTFOLIO MANAGEMENT (PM) PROGRAM

SECTION A—*Portfolio Management, Servicing, Collection, and Liquidation Authority.*

1. To take all necessary action in connection with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, *exclusive of matters in liquidation,* and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.

Except:

a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereof;

b. *To deny liability* of the small Business Administration under the terms of a participation or guaranty agreement or a lease guarantee;

c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or

d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:

(1) Regional Director
(2) Assistant Regional Director of F&I
(3) District Director
(4) Assistant District Director of F&I
(5) Branch Manager (full service branches only)
(6) Chief, Portfolio Management Division, D/O
(7) Supervisory Loan Specialist, Portfolio Management Division, D/O
(8) Supervisory Loan Specialist, Liquidation Section, D/O
(9) Assistant Branch Manager for F&I, Biloxi, Branch Office and Springfield Branch Office only
(10) Chief, PM Division, Biloxi Branch Office

2. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when as authorized by EDA) and lease guarantees, *exclusive of matters in litigation,* and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.

Except:

a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;

b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement or a lease guarantee;

c. To initiate suit for recovery from a participating institution under any alleged violation of a participation or guaranty;

d. *To authorize the liquidation of a loan* (except Disaster Home Loans) or to cancel authority to liquidate; or

e. *To accept a lump sum settlement or to purchase property* under the lease guaranty:

(1) Branch Manager (limited servicing branches)
(2) Chief, Portfolio Management Division, B/O (full servicing branches)
(3) Supervisory Loan Specialist, Portfolio Management Division, B/O, (full servicing branches)

3. *Other Portfolio Management Authority.*

a. To take *only* the following actions on loans in a current status:

(1) Approve editorial modifications in loan authorizations;
(2) Extend disbursement periods on loans partially undisbursed;
(3) Release of cash surrender value or dividends to pay premiums due on assigned policy;
(4) Extend initial principal payment dates or adjust interest payment dates;
(5) Release of equipment (or hazard insurance checks) where the total value being released does not exceed $500.

(a) Loan Specialist, Portfolio Management Division, D/O or B/O
(b) Loan Specialist, Liquidation Section, D/O or B/O

PART V—CLAIMS REVIEW COMMITTEE

Section A—*Authority to Compromise Claims.*

1. *District Claims Review Committee.* This committee shall consist of three incumbents (or those officially acting in their behalf) in the following order of position classification. The first member available in this order shall serve as chairman.

Liquidation Chief (for liquidation Supervisor)
PM Chief (or PM Supervisor)
District Counsel
FD Chief (or FD supervisor)

However, the District Director may, at his option, establish an alternative committee membership consisting of the Assistant District Director for Finance and Investment, acting as chairman, District Counsel and the Assistant District Director for Management Assistance or those officially acting in their behalf. Authority is delegated to take final action on:

a. Claims not in excess of $50,000 (excluding interest) upon unanimous vote of the Committee.

b. Claims in excess of $50,000 when the amount offered represents the full principal balance due thereby forgiving only the interest upon unanimous vote of the Committee.

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c. Settlement offers on claims of any size may be declined upon majority vote of the committee.

2. *Regional Claims Review Committee.* This committee shall consist of Assistant Regional Director for Finance and investment (chaiman); Assistant Regional Director for Management Assistance; and Regional Counsel or those officially acting in their behalf. Authority is delegated to take final action on:

a. Claims not in excess of $50,000 (excluding interest) upon majority vote of the Committee.

b. Claims in excess of $50,000 but not exceeding $150,000 (excluding interest) upon unanimous vote of the Committee.

c. Settlement offers on claims of any size may be declined upon majority vote of the Committee.

PART VI—PROCUREMENT ASSISTANCE PROGRAM (PA)

SECTION A—*Certificate of Competency Approval Authority.*

1. With the exception of re-referred cases, to approve applications for Certificates of Competency up to but not exceeding $500,000 bid value received from small business concerns located within the Geographical jurisdiction:

a. Regional Director
b. Assistant Regional Director for Procurement Assistance
c. District Directors, New York and Newark, D/O's only (not exceeding $100,000).
d. Assistant District Director for Procurement Assistance, New York and Newark, D/O's (not exceeding $100,000).

2. To deny an applicant for a Certificate of Competency when an adverse determination as to capacity or credit is concurred in:

a. Regional Director
b. Assistant Regional Director for Procurement Assistance
c. District Directors New York and Newark DO's only (not exceeding $100,000)
d. Assistant District Director for Procurement Assistance New York and Newark DO's only (not exceeding $100,000)

SECTION B—*Section 8(a) Contracting Authority (SBAct).*

1. To enter into contracts such as, but not limited to, supplies, services, construction, and concessions on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration, and agreeing to the terms and conditions of such contracts up to the following amounts:

a. Regional director	Unlimited
b. Assistant regional director for PA	Do.
c. Chief, office of business development, region III, R/O only	$100,000
d. Contract specialist, region X, R/O only	250,000
e. District director, Washington, Richmond, and Philadelphia, D/O's only	Unlimited
f. District directors, New York, Newark, and Chicago, D/O's only	350,000
g. District directors, region IX and Anchorage, Portland, and Seattle, D/O's only	500,000
h. Deputy district director, Washington, D/O	Unlimited
i. Assistant District directors for PA, San Francisco and Los Angeles, D/O's only	100,000
j. Assistant district director for PA, New York and Newark, D/O's only	350,000
k. Contract specialist, Anchorage, D/O only	250,000

2. To arrange for the performance of such contracts as stated in paragraph 1 above by negotiating or otherwise letting subcontracts to small business concerns or others. Contracts shall not exceed the following amounts:

a. Regional director	Unlimited
b. Assistant regional director for PA	Do.
c. Chief, office of business development, region III, R/O only	$100,000
d. Contract specialist, region X, R/O only	250,000
e. District director, Washington, St. Louis, Richmond, and Philadelphia, D/O's only	Unlimited
f. District directors, New York, Newark, and Chicago, D/O's only	350,000
g. District directors, Region IX, Anchorage, Portland, and Seattle, D/O's only	500,000
h. Deputy district director, Washington, D/O	Unlimited
i. Assistant district director for PA, San Francisco and Los Angeles, D/O's only	100,000
j. Contract specialist, Anchorage, D/O	250,000
k. Business development specialist, St. Louis, D/O only	Unlimited

3. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer, such contract not to exceed the following amount:

a. Regional director	Unlimited
b. Assistant regional director for PA	Do.
c. Chief, business development, region III, R/O only	Do.
d. Contract specialist, region X, R/O only	$250,000
e. District director, Washington, Philadelphia, Richmond, and St. Louis, D/O's only	Unlimited
f. District directors, New York, Newark, and Chicago, D/O's only	350,000
g. District directors, region IX, D/O's; Seattle, Portland, and Anchorage, D/O's	500,000
h. Deputy district director, Washington, D/O	Unlimited
i. Assistant district director for PA, region IX	500,000
j. Assistant district director for PA, New York and Newark, D/O's	350,000
k. Contract specialist, Anchorage, D/O only	250,000
l. Business development specialist, St. Louis, D/O	Unlimited

PART VII—MANAGEMENT ASSISTANCE PROGRAM

SECTION A—*Call Contracts Authority.*

1. *Administration and Management of Call Contracts.* To take all necessary actions in connection with the administration and management of contracts awarded under the authority granted in Section 7(j) of the Small Business Act, as amended, (formerly under Section 406 of the Economic Opportunity Act of 1964) except changes, amendments, or termination of the contract.

a. Regional Director
b. Assistant Regional Director for Management Assistance
c. District Director
d. Assistant District Director for Management Assistance

PART VIII—LEGAL SERVICES

SECTION A—*Authority to Conduct Litigation Activities.*

1. To conduct all litigation activities, including SBIC and Economic Development Administration matters, as assigned, and to take all action necessary in connection with matters in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers.

EXCEPT:

a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;

b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees); or

c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or

d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:

(1) Regional Director
(2) Regional Counsel
(3) Attorney, Regional Office
(4) District Counsel
(5) Attorney, District Office
(6) Branch Counsel
(7) Attorney, Branch Office

SECTION B—*Loan Closing Authority.*

1. To close and disburse approved SBA loans and to close EDA loans, as authorized:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel
g. Attorney, Branch Office

2. To approve, when requested, in advance of disbursements, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel

e. Attorney, District Office
f. Branch Counsel
g. Attorney, Branch Office

3. To approve or disapprove fees charged by borrowers' counsel:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Director
e. District Counsel
f. Attorney, District Office
g. Branch Manager
h. Branch Counsel
i. Attorney, Branch Office

PART IX—ELIGIBILITY AND SIZE DETERMINATIONS

SECTION A—*Eligibility Determinations.*

1. *Eligibility Determination Authority.* In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under *any program of* the Agency: *EXCEPT the SBIC program.*

a. Regional Director
b. All officials having the authority and assigned responsibility to take final action on the assistance requested.

SECTION B—*Size Determinations.*

1. *Size Determination Authority.* In accordance with Small Business Administration Small Business Size Standards Regulations, to make initial size determinations of applicants for assistance under *any* program of the Agency:

a. Regional Director
b. All other officials having authority and assigned responsibility to take final action on the assistance requested, *EXCEPT* the SBIC procurement and sales activities.

2. *Size Determinations for Government Procurement and Sales.* In accordance with Small Business Administration Small Business Size Standards Regulations, to make size determinations for government procurement and sales activities.

a. Regional Director
b. Assistant Regional Director for PA
c. District Director, EXCEPT Region X.

PART X—ADMINISTRATIVE

SECTION A—*Authority to Purchase, Rent, or Contract for Equipment, Service, and Supplies.*

1. *Purchase Reproductions of Loans Documents.* To purchase reproductions of loan documents, chargeable to the revolving fund requested by U.S. Attorneys in foreclosure cases:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager

2. *Office Supplies and Equipment.* To purchase office supplies and equipment and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that Chapter:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager

3. *Contract for Services.* To contract for services for the agency not exceeding the monetary amount of $2,500 pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that Chapter:

a. Regional Director
b. Assistant Regional Director for Administration.

4. *Rental of Motor Vehicles.* To rent motor vehicles when not furnished by this Administration:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager

5. *Rental of Conference Space.* To rent temporarily SBA conference space located within the respective geographical jurisdiction.

a. Regional Director

6. *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certification.

a. Regional Director
b. District Director
c. Branch Manager

PART XI—REDELEGATION AUTHORITY

SECTION A—Redelegation.

1. The Associate Administrator for Operations may amend, modify, or revoke specific authorities delegated to field positions within the limitations of this document.

2. The Administrator shall approve delegations expanding the scope of any delegation herein.

3. The authority delegated herein may be exercised by any SBA employee designated as acting in a position designated herein.

4. Regional directors, district directors, and branch managers may withhold or limit authorities delegated to those positions prescribed in this document for a period not to exceed six months. Information relating to these temporary exceptions will be maintained and available for examination in their respective field offices.

[FR Doc. 78-33011 Filed 11-22-78; 8:45 am]

FRIDAY, NOVEMBER 24, 1978

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federal register

FRIDAY, NOVEMBER 24, 1978
PART V



DEPARTMENT OF ENERGY

AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

Review and Certification of Grants, Cooperative Agreements, Contracts, and Projects

pulsion system and does not mean activities involving technology transfer

the applicant receives a grant, cooperative agreement, or contract

APPLICANT'S INFORMATION ON RESEARCH AND DEVELOPMENT BUDGET

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 473—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

Review and Certification of Grants, Cooperative Agreements, Contracts, and Projects

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy hereby issues a final rule to implement section 304(f) of the Department of Energy Act of 1978—Civilian Applications. This Act confers authority on the Secretary of Energy to expend Federal funds in order to accelerate the development of certain advanced automobile propulsion system alternatives to the existing internal combustion engine. Today's final rule prescribes procedures, standards, and criteria for review and certification of new grants, contracts, cooperative agreements, Department of Energy projects, or other agency projects to be funded under the Act with the object of insuring that they supplement rather than supplant, duplicate, displace, or lessen research and development activities in the private sector.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Thur, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4675.

SUPPLEMENTARY INFORMATION:

A. Background

On July 24, 1978, the Department of Energy (DOE) published a notice of proposed rulemaking under section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), which requires issuance of administrative regulations setting forth procedures, standards, and criteria to insure that all new grants, contracts, cooperative agreements, DOE projects, and other agency projects do not supplant, duplicate, lessen, or displace research and development efforts in the private sector for advanced automotive propulsion systems. 43 FR 31929 (July 24, 1978). A scheduled public hearing was canceled because the DOE did not receive any requests to speak. However, three sets of comments were filed which raised a number of issues and resulted in some alterations of the proposed regulations.

B. Discussion of Comments

Relationship of part 473 and general financial assistance and procurement regulations

One commenter pointed out that although the proposed § 473.1 clearly stated that the new procedures, standards, and criteria of part 473 were in addition to the procedures and requirements of general DOE financial assistance and procurement regulations, the section did not similarly recognize that part 473 is also in addition to the general financial assistance and procurement regulations of other Federal agencies which would apply to research and development funded by them under the Act. The commenters suggested a revision to the concluding sentence of § 473.1 which, as proposed, read as follows: "Insofar as grants, cooperative agreements, and contracts are concerned, these regulations provide procedures and requirements that are in addition to those generally applicable *under the DOE assistance regulations of 10 CFR Chapter 10 and the DOE procurement regulations of 41 CFR Chapter 9.*" (Emphasis added.) In substance, the commenter suggested that the underscored prepositional phrase be revised to read "under the assistance and procurement regulations of DOE, or the agency awarding the grant or contract."

Today's final regulations contain two revisions in reaction to this comment. First, § 473.1 is promulgated with a redrafted concluding sentence stating that the final regulations are in addition to the procedures and requirements generally applicable "under the assistance and procurement regulations of the Federal agency funding research and development under the Act." The second change is to § 473.11(a) and was prompted by a general review of the proposed regulations to determine whether the comment with respect to § 473.1 was applicable to other parts of the rule. Paragraph 473.11(a), as proposed, would have required an unsolicited proposal for a grant, cooperative agreement, or contract under the Act to include items of information required by § 473.10 together with the information to be submitted under the "Guide for the Submission of Research Proposals from Educational Institutions" or the "Guide for Submission of Research and Development Proposals by Individuals and Organizations," as applicable. These guides are DOE documents and apply only to unsolicited proposals filed with the DOE. In order not to exclude other agencies' procedures and requirements inappropriately in certain circumstances, the DOE today promulgates a revised version of § 473.11(a) which states that the items of information required by § 473.10 are to be included with the proposal document filed under the assistance or procurement regulations of the DOE or other Federal agency which would fund the proposed research and development under the Act.

Direct notification of proposed research and development to the automotive industry

Two commenters urged that members of the automotive industry should be notified *directly* of proposed research and development and be asked specifically for a statement of objections, if any, on the ground of noncompliance with the standards and criteria of § 473.30. One of these commenters went so far as to suggest circulation of a voluntary questionnaire to the industry. Section 473.20 of the proposed regulations provided only for *constructive* notification by public notice in the Commerce Business Daily consisting of a statement describing the proposed research and development and inviting submission within 30 days of written objections with supporting information. The DOE declines to provide for direct notice because it is of the view that the proposed § 473.20 would provide adequate notice to the automotive industry, and further, that an additional direct notice to a specified few would be an unnecessary expense.

Definition of "research and development"

Two commenters made observations which implicitly raised the need for a definition of the term "research and development" in the definitions given in § 473.2. One of the commenters suggested that the proposed regulations were unclear as to whether activities such as project planning and evaluative testing would be part of a research and development project. Another commenter cited an introductory statement in the preamble to the proposed rule which noted that the Congress did not intend to fund production engineering activities, and suggested that the regulation ought to distinguish between "research and development" and "product development."

In response to these comments and for the purpose of clarification, today's final regulations contain a definition of the term "research and development" which provides as follows: "'Research and development' means activities constituting a project to create an advanced automobile propulsion system and does not mean activities involving technology transfer to mass production, evaluative testing, preliminary planning for a DOE or an agency project, or program administration and management."

Peer review panels

Responding to the DOE's tentative decision not to charter an advisory committee to participate in making determinations under the regulations, one commenter urged consideration of a provision for peer review panels, and contended that such a panel would provide special expertise and outside input missing in the Interagency Review Panel, which was the advisory mechanism set forth in the proposed regulations. The preamble to the proposed regulations explained that the DOE did not elect to propose an advisory committee out of concern for potential conflicts of interest.

Having reviewed its previously expressed position on the question of outside participation in the judgmental process in light of this comment, the DOE has decided to adhere to its decision to limit the role of persons outside the Government to providing information. The DOE is of the view that the mechanism provided in the regulations for public notice and opportunity to comment is adequate for the purpose of obtaining the expert input of persons in the private sector. Additional reasons for not accepting this commenter's suggestion are continuing concern over the possible conflicts of interest and a desire for a single procedure which will not cause undue delay.

Applicant's information on target date for mass production

Criticism from one commenter was directed at paragraphs (e)(1) and (e)(2) of § 473.10, which would require an applicant for financial assistance to provide to the extent possible a target date for mass production and an assurance that that date is unlikely to be reached in the absence of such assistance. The commenter thought that these two related items of information assumed an unrealistic capability on the part of applicants to predict research outcomes and the impact of Federal funding on the time period for achieving commercialization. The commenter concluded with the thought that the information provided in an attempt to comply would yield little benefit and might well be misleading. The commenter suggested substitute language which would require "the likely target time period when production decisions regarding mass production of the advanced automobile propulsion system can be considered," and "an indication" that that time period is likely to be delayed unless the applicant receives a grant, cooperative agreement, or contract.

The DOE has reconsidered the criticized paragraphs of § 473.10 and agrees that this section should be oriented toward the likely time period necessary to develop a system suitable for commencement of production engineering necessary for technology transfer to mass production rather than a time period which includes all steps necessary to complete technology transfer for mass production. The DOE acknowledges that at least the latter is too uncertain to predict, and further, is of the view that the former is a more appropriate time period since it is the actual focus of the automotive propulsion research and development program. The DOE, however, does not agree that an "indication" by the applicant of the likely impact of Federal financial assistance is enough. The DOE believes that an applicant should be able to gage the likely impact of not receiving financial assistance on its timetable for developing an advanced automobile propulsion system suitable for production engineering. In addition, the DOE has decided that, in preference to the commenter's suggested language, it would be better to condense and rephrase § 473.10(e) to capture the essence of the commenter's criticism by capitalizing on the new definition of "research and development" which excludes steps involving technology transfer to mass production such as creation of production prototypes. As revised and promulgated today, § 473.10(e) requires that the applicant "provide to the extent possible (1) an assurance that the time period for completing research and development of the advanced automobile propulsion system is likely to be shorter as a result of a grant, cooperative agreement, or contract; and (2) the estimated delay, if any, which is likely to occur if the application for a grant, cooperative agreement, or contract is denied."

Due to the revision of § 473.10(e), it became necessary to make a complementary conforming change to § 473.30(d) which, as proposed, would permit certification if, among other things, the research and development to be funded "results in an earlier, realistic target date for mass production consistent with appropriate research and development techniques than would otherwise be chosen." In substitution, the DOE promulgates a version of § 473.30(d) providing for certification if, among other things, the research and development to be conducted "is likely to produce an advanced automobile propulsion system suitable for steps toward technology transfer to mass production in a shorter time period than would otherwise occur."

Applicant's information on research and development budget

Section 473.10 also came in for criticism because, in paragraph (d), it required an applicant to provide either an assurance that the amount to be expanded on research and development will exceed the amount expended for that purpose the previous year by the amount of the financial assistance sought, or information showing that any decrease does not represent a lessening of research and development efforts. A commenter argued that it is unrealistic to assume that the level of effort will always increase, and suggested language which reduces § 473.10(d) to a simple assurance that funds to be expended during the annual funding period will exceed the amount that would otherwise be expended in the absence of financial assistance.

The language offered by the commenter is unacceptable because theoretically it would allow a recipient of Federal financial assistance to reduce its expenditure level drastically and rely almost totally on Federal funds. The DOE has, however, concluded that any implication in the proposal of a requirement for an assurance of constantly increasing effort as measured by a purely budgetary test is inappropriate. Accordingly, the DOE today promulgates a revised version calling for an assurance that expenditures during the initial annual funding period (the first year of Federal assistance for any particular project) will exceed the previous year's budget by at least the amount of the Federal funding. The DOE is also requiring that the accelerated level of effort (not necessarily measured in dollar terms) during the initial period of a particular project will be maintained in any future annual funding period of the project. The proposed § 473.10(c)(2) allowing an applicant to explain decreases in expenditures has been eliminated because the DOE believes there can be no acceptable explanation for such a decrease in the initial annual funding period which would be consistent with the purposes of the Act.

Technical or conforming changes

In addition to the foregoing, the DOE has made two editorial changes of a technical or conforming nature which are noteworthy.

First, the qualifying words "in the case of an unsolicited proposal" were deleted from § 473.22(b). This deletion eliminates an internal inconsistency in the proposed rule between §§ 473.11 and 473.22. The former governs submission of applicant's information required to gage the effect of the Federal financial assistance sought on an applicant's research and development

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project. It calls for submission by applicants filing an unsolicited proposal or responding to a solicitation. Section 473.22 deals with initial review by a manager, and as proposed with the deleted phrases, provided for consideration of information submitted in an unsolicited proposal without regard for cases where the applicant submitted information in responding to a solicitation. The deletion conforms § 473.22 to § 473.11, and as promulgated today, the former provides for consideration of information submitted in both solicited and unsolicited proposals.

The other change is the addition of the term "cooperative agreement" in § 473.24(b)(2) which conforms that provision to the rest of the rule and reflects the DOE's determination to provide for the likely impact of the Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C. 501 et seq. (1970) as implemented by interpretative guidelines issued by the Office of Management and Budget. See 43 FR 36860 (August 18, 1978).

C. FINAL REGULATIONS

The regulations are adopted as proposed except for the modifications described above and minor clarifying and conforming modifications.

(Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, chapter II of Title 10, Code of Federal Regulations, is amended by establishing a new part 473 as set forth below, effective November 20, 1978:

Issued in Washington, D.C.; dated: November 20, 1978.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications.

PART 473—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

REVIEW AND CERTIFICATION OF GRANTS, COOPERATIVE AGREEMENTS, CONTRACTS, AND PROJECTS

Sec.
473.1 Purpose and scope.
473.2 Definitions.
473.10 Required information from applicant.
473.11 Submission of applicant's information.
473.12-473.19 [Reserved]
473.20 Public notice and opportunity to object.
473.21 Supplemental information and rebuttal.
473.22 Initial review by manager.
473.23 Interagency review panel.
473.24 Final action and certification by manager.
473.25 Reviewability of certification.
473.26-473.29 [Reserved]
473.30 Standards and criteria.

AUTHORITY: Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238; Department of Energy Organization Act, Pub. L. 95-91.

REVIEW AND CERTIFICATION OF GRANTS, COOPERATIVE AGREEMENTS, CONTRACTS, AND PROJECTS

§ 473.1 Purpose and scope.

These regulations implement section 304(f) of the Department of Energy Act of 1978—Civilian Applications, and apply to each new contract, grant, cooperative agreement, Department of Energy project, or other agency project funded or to be funded under the authority of that Act. 15 U.S.C. 2703(f) (1970). These regulations do not apply to subcontractors, or to contracts, grants, cooperative agreements, Department of Energy projects, or other agency projects entered into, made, or formally approved and initiated prior to February 25, 1978, or with respect to any renewal or extension thereof. Insofar as grants, cooperative agreements, and contracts are concerned, these regulations provide procedures and requirements that are in addition to those generally applicable under the assistance and procurement regulations of the Federal agency funding research and development under the Act.

§ 473.2 Definitions.

For purpose of these regulations—

"Act" means the Department of Energy Act of 1978—Civilian Applications. Pub. L. 95-238, 92 Stat. 47.

"Advanced automobile propulsion system" means an energy conversion system, including engine and drivetrain, which utilizes advanced technology and is suitable for use in an advanced automobile.

"Agency project" means research and development under the Act by employees of a Federal agency furnishing assistance at the request of the DOE.

"Annual funding period" means the Federal fiscal year during which a grant, cooperative agreement, or contract is funded by an appropriation under the Act.

"Applicant" means any private laboratory, university, nonprofit organization, industrial organization, private agency, institution, organization, corporation, partnership, individual, or public agency other than a Federal agency.

"DOE project" means research and development under the Act by employees of the DOE.

"Federal agency" means an executive agency as defined by 5 U.S.C. 105 (1970).

"Manager" means the Federal program official who requests grant agreements, cooperative agreements, or contracts to be negotiated or who authorizes a DOE or agency project to begin.

"Notice of availability" means a notice published in the Commerce Business Daily advertising the availability of a formal solicitation document to be issued for the purpose of inviting and setting guidelines for submission of proposals for research and development grants, cooperative agreements, or contracts.

"Research and development" means activities constituting a project to create an advanced automobile propulsion system and does not mean activities involving technology transfer to mass production, evaluative testing, preliminary planning for a DOE or an agency project, or program administration and managment.

"Solicitation" means a formal, written request for proposals to perform research and development under a grant, cooperative agreement, or contract, typically including evaluation criteria and a statement of the work to be done.

§ 473.10 Required information from applicant.

In accordance with applicable procedures of § 473.11 any applicant for a grant, cooperative agreement, or contract under the Act to support research and development activities of an advanced automobile propulsion system shall—

(a) State whether the activities will initiate or continue research and development of an advanced automobile propulsion system;

(b) State, insofar as the applicant has information, whether and to what extent the activities to be supported are technically the same as activities conducted previously or to be conducted during the annual funding period by any person for research and development of a substantially similar advanced automobile propulsion system;

(c) Justify research and development activities on an advanced automobile propulsion system abandoned by any person because of a lack of mass production potential by presenting information showing a significant intervening technological advance, promising conceptual innovation, or other special consideration;

(d) Provide—

(1) An assurance that the amount of funds to be expended for research and development of advanced automobile propulsion systems during the initial annual funding period will exceed the amount of funds expended, if any, during the previous year for the same purpose by at least the amount of the grant, cooperative agreement, or contract being sought; and

(2) An assurance that the level of research and development effort on advanced automobile propulsion systems in the initial annual funding period will not be decreased in future annual funding periods.

(e) Provide to the extent possible—

(1) An assurance that the time period for completing research and development of the advanced automobile propulsion is likely to be shorter as a result of a grant, cooperative agreement, or contract; and

(2) The estimated delay, if any, which is likely to occur if the application for a grant, cooperative agreement, or contract is denied.

§ 473.11 Submission of applicant's information.

(a) An applicant submitting an unsolicited proposal to conduct research and development to be funded by a grant, cooperative agreement, or contract under the Act shall include the information required under § 473.10 in the unsolicited proposal document filed under the assistance or procurement regulations of the DOE or other Federal agency which funds the proposed research and development under the Act.

(b) In responding to a solicitation for a proposal to conduct research and development funded by a grant, cooperative agreement, or contract under the Act, the applicant shall include the information required under § 473.10 in the proposal.

(c) Information submitted under § 473:10 of these regulations shall be certified in writing as complete and accurate by the applicant, and if the applicant is not an individual, the chief executive officer of the applicant or his authorized designee shall sign the certification.

§§ 473.12-473.19 [Reserved]

§ 473.20 Public notice and opportunity to object.

(a) In compliance with paragraph (b) of this section and unless provisions of paragraph (c) of this section apply, the manager shall cause to be published in the Commerce Business Daily a statement describing the unsolicited proposal, solicitation, DOE project, or agency project, as appropriate, inviting any interested person to submit a written objection, with supporting information at an appropriate address on or before 30 days from the date of publication, if the person believes that the research and development to be performed does not comply with standards and criteria of § 473.30.

(b) Except as paragraph (c) of this section applies, the manager shall comply with the requirements of paragraph (a) of this section—

(1) Upon receipt of an unsolicited proposal from an applicant;

(2) In any notice of availability of a solicitation;

(3) Prior to beginning a DOE project; or

(4) Prior to beginning an agency project.

(c) Without publishing a notice under paragraph (a) of this section, the manager may reject an unsolicited proposal that does not comply with these regulations or any other generally applicable requirements.

§ 473.21 Supplemental information and rebuttal.

The manager may request additional information from an applicant or any interested person who files an objection under § 473.20.

§ 473.22 Initial review by manager.

(a) Upon expiration of the time for filing information under these regulations, the manager shall—

(1) Review the proposed research and development to be performed under grant, under cooperative agreement, under contract, as a DOE project, or as an agency project and any other pertinent information received under these regulations or otherwise available; and

(2) Initially determine whether the research and development reviewed under paragraph (a)(1) of this section complies with the standards and criteria of § 473.30.

(b) A manager who makes a negative determination under paragraph (a)(2) of this section shall inform the applicant and any interested person who objected of the decision in writing with a brief statement of supporting reasons.

(c) A manager who initially determines that research and development reviewed under this section complies with the standards and criteria of § 473.30 shall cause an interagency review panel to be convened under § 473.23.

§ 473.23 Interagency review panel.

(a) The interagency review panel shall consist of—

(1) A head designated by the Federal agency that employs the manager;

(2) A representative of the DOE if the manager is not an employee of the DOE; and

(3) A representative of any other Federal agency deemed appropriate by the Federal agency that employs the manager.

(b) The interagency review panel shall—

(1) Review the research and development to be performed and consider the information presented by the applicant, in the case of a grant, cooperative agreement, or contract, and by any interested person who filed a statement of objection;

(2) Make a recommendation with a supporting statement of findings to the manager as to whether the research and development to be performed complies with the standards and criteria of § 473.30; and

(3) Operate by majority vote with the head of the panel casting the decisive vote in the event of a tie.

§ 473.24 Final action and certification by manager.

(a) Upon consideration of the recommendation of the interagency review panel and other pertinent information, the manager—

(1) Shall determine whether the research and development to be performed complies with the standards and criteria of § 473.30;

(2) Shall obtain the concurrence of the DOE if the manager is not an employee of the DOE;

(3) Shall, in the event of a negative determination under this section, advise the applicant, in the case of a grant, cooperative agreement, or contract, and any interested person who filed a statement of objection; and

(4) Shall, in the event of an affirmative determination under this section, prepare a certification—

(i) Explaining the determination;

(ii) Discussing any allegedly related or comparable industrial research and development considered and deemed to be an inadequate basis for not certifying the grant or contract;

(iii) Discussing issues regarding cost sharing and patent rights related to the standards and criteria of § 473.30 of these regulations; and

(iv) Discussing any other relevant issue.

(b) After complying with paragraph (a) of this section, the manager shall sign the certification and distribute copies to the applicant, if any, and any interested person who filed a statement of objections—

(1) Immediately in the case of a DOE or agency project; and

(2) After the agreement has been negotiated in the case of a grant, cooperative agreement, or contract.

§ 473.25 Reviewability of certification.

Any certification issued under these rules is—

(a) Subject to disclosure under 5 U.S.C. 552 (1970) and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, 42 U.S.C. 5918 (1970);

(b) Subject neither to judicial review nor to the provisions of 5 U.S.C. 551-559 (1970), except as provided under paragraph (a) of this section; and

(c) Available to the Committee on Science and Technology of the House of Representatives and the Committee

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on Energy and Natural Resources of the Senate.

§§ 473.26–473.29 [Reserved]

§ 473.30 Standards and criteria.

Research and development to be performed under a grant, under a cooperative agreement, under a contract, as a DOE project, or as an agency project under the Act may be certified under these regulations only if the research and development to be conducted—

(a) Supplements the automotive propulsion system research and development efforts of industry or any other private researcher;

(b) Is not duplicative of efforts previously abandoned by private researchers unless there has been an intervening technological advance, promising conceptual innovation, or justified by other special consideration;

(c) Would not be performed during the annual funding period but for the availability of the Federal funding being sought;

(d) Is likely to produce an advanced automobile propulsion system suitable for steps toward technology transfer to mass production in a shorter time period than would otherwise occur;

(e) Is not technologically the same as efforts by any person conducted previously or to be conducted during the annual funding period regarding a substantially similar advanced automobile propulsion system; and

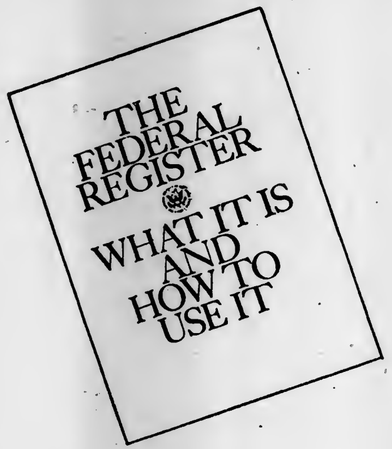
(f) Is not likely to result in a decrease in the level of private resources expended on advanced automotive research and development by substituting Federal funds without justification.

[FR Doc. 78-33014 Filed 11-21-78; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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[3195-01-M]

Title 3—The President

Memorandum of November 22, 1978

Determination Under Section 202(b) of the Trade Act; Artificial Baits and Flies

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, November 22, 1978.

Pursuant to Section 202(b)(1) of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the United States International Trade Commission (USITC) dated September 21, 1978, on the results of its investigation concerning artificial baits and flies provided for in Item 731.60 of the Tariff Schedules of the United States.

After considering all relevant aspects of the case, including those set forth in Section 202(c) of the Trade Act of 1974, I have determined that import relief would not be in the national economic interest. The measure proposed by the USITC (removal of these products from the GSP program thereby raising the tariff on imports from countries eligible for GSP benefits to 12.5%) would not provide relief in view of the large price differences between imports and the domestically produced items and furthermore it would contribute to inflation. In addition, imports have shown little significant increase during the five years examined, while import prices were reduced 30 percent and domestic prices nearly doubled.

This determination is to be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-33345 Filed 11-22-78; 5:03 pm]

EDITORIAL NOTE: The text of the President's letters to the Speaker of the House and the President of the Senate, dated Nov. 22, 1978, on artificial baits and flies, is printed in the Weekly Compilation of Presidential Documents (vol. 14, no. 47).

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Section 502 Rural Housing (RH) loan regulations to provide for the making of RH loans to FmHA employees. The intended effect of this amendment is to allow RH loans to be made to eligible FmHA employees. The action is taken because of an administrative decision to allow FmHA employees who are otherwise eligible for this type loan to be able to participate in this program.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Byron L. Fischer, 202-447-4295.

SUPPLEMENTARY INFORMATION: On June 23, 1978, FmHA published a notice of proposed rule making to amend § 1822.7 of Subpart A of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (43 FR 27195). Interested persons were given 60 days to submit comments regarding the proposed revision. Several comments and suggestions were received and considered. As a result of the comments, certain editorial changes were made and additional paragraphs were added to provide more guidance in processing RH loans under this paragraph. Most of these comments referred to three areas: (1) Employee purchasing inventory property, (2) assumptions by employees of RH loans and (3) the responsibility over inspections of property purchased by employees. Because of these comments provisions prohibiting the making of RH loans to employees for purchase of inventory property or the assuming of existing RH loans by employees were added as well as further procedure for inspections. In general, this addition provides for the making of RH loans to FmHA employees who are otherwise eligible but have not been able to participate in FmHA's housing program.

Accordingly, § 1822.7 is amended to add paragraph(s) which reads as follows:

§ 1822.7 Special requirements.

• • • • •

(s) *RH loans to FmHA employees and loan closing officials.* Employees and their spouses (including County Committee members and their spouses) and loan-closing officials and their spouses may receive a Section 502 RH loan subject to the provisions of this Subpart A and the following conditions:

(1) The loan application, with written evidence from primary real estate lending institutions serving the area indicating the applicant's inability to obtain the needed credit, will be submitted to the County Office in the usual manner. The County Office will obtain the verification of employment and credit report, and submit the application and related information to the District Director for review. The District Director will forward the applicant's docket, along with written recommendation concerning the applicant's eligibility, to the State Director for eligibility determination.

(2) The State Director will determine the eligibility of the applicant. If the applicant is determined eligible, the docket will be returned to the District Director for loan processing. If the applicant is determined ineligible for a loan, the State Director will notify the applicant in writing of the action taken, the reasons for denial, and the applicant's right to appeal the adverse decision in accordance with FmHA Instruction 1900-B. All rejected applications will be returned to the County Office in which the applications were received, if the rejection is upheld.

(3) The District Director will process the loan in the same order that the loan would have been processed in the County Office had the application been received from other than an FmHA employee or loan closing official.

(4) If the loan applicant works outside the County Office in which the application is filed, the District Director may permit authorized county office staff to perform the appraisal function. In all other cases the District Director will appraise the property or have it appraised by a qualified FmHA appraiser from outside the County Office area in which the loan is to be made. The completed loan docket will be submitted to the State Director for consideration of approval. The District Director's written recommendation for approval or disapproval will be included in the loan docket.

(5) The State Director must, before approving the loan, determine that the applicant has not been and will not be given any advantage because of the FmHA relationship and the making of a loan will not result in a conflict of interest under FmHA Instruction 2045-BB. The dwelling may not exceed the needs of the applicant or be excessive in size, design, or cost compared to other FmHA financed dwellings in the area.

(6) If the loan is approved, the borrower's case file will be kept in the District Office and the loan will be serviced by the District Director. In cases where the District Director is absent or where the loan was made to a members of the District Office staff, the State Director may designate a member of the State Office Staff to service the loan.

(7) If the loan involves any type of construction, the inspections for FmHA will be made by the District Director or other member of the District Director's staff as designated by the District Director. Under no circumstances will the employee receiving the loan make the inspections for FmHA.

(8) No FmHA employee or spouse or loan closing official or spouse may obtain an RH loan to finance the purchase of inventory property.

(9) No RH loan or assumption of an RH loan may be made to an FmHA employee or spouse, or loan closing of-

§ 1823.454 Department of Labor determi- an Environmental Impact Statement added and existing Paragraph (b)(4) is

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ficial or spouse, to purchase a dwelling from an existing RH borrower.

(10) No RH loan may be made to an FmHA employee or spouse, or loan closing official or spouse, to purchase FmHA security property being sold at a foreclosure sale.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 31, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-33131 Filed 11-24-78; 8:45 am]

[3410-07-M]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

PART 1933—LOAN AND GRANT PROGRAMS (GROUP)

Private Business and Community Grants

AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations on Community Facility Loans and Grants for Facilitating Development of Private Business Enterprises. The intended effect of the amendments is to permit other Federal agencies to fund projects jointly with FmHA, to modify the circumstances under which Department of Labor determinations are required, and to expand the definition of "rural" and "rural area." These amendments result from changes in the authorizing statutes.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Bowles, Director, Community Facilities Loan Division, telephone 202-447-7667.

SUPPLEMENTARY INFORMATION: Sections 1823.452, 1823.453(c), and 1823.454 of Subpart O of Part 1823 and §§ 1933.2 and 1933.4(b) of Subpart A of Part 1933, Chapter XVIII, Title 7, Code of Federal Regulations are amended. Section 1823.452 is amended to expand the definition of "rural" and "rural area" to include the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Section 1823.453(c) is amended to limit the requirement for DOL certification of grants to proposals of more than $1,000,000 in which direct employment will be increased by more than 50 employees. Section 1823.454 is amended to reflect the 30 day limitation within which the Secretary of Labor must make the certification. Section 1933.2 is amended to add subparagraph (e) which permits other Federal agencies to fund projects jointly with FmHA subject only to limitations on the amount of participation. Section 1933.4(b) is amended to correct a cross reference.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the changes are necessitated by changes in the authorizing statutes.

Accordingly, Sections 1823.452, 1823.453(c), and 1823.454 of Subpart O of Part 1823 and §§ 1933.2 and 1933.4(b) of Subpart A of Part 1933 are amended as follows:

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart O—Grants for Facilitating Development of Private Business Enterprises and Community Water and Waste Disposal Facilities

§ 1823.452 Use grant funds.

Grant funds may be used to finance industrial sites in rural areas including the acquisition and development of land and the construction, conversion, enlargement, repairs, machinery, equipment, access streets and roads, parking areas, transportation serving the site, utility extensions, necessary water supply and waste disposal facilities, pollution control and abatement incident to site development, fees and refinancing for debts incurred by or on behalf of an association prior to an application for a grant when all of the following conditions exist: (1) The debts were incurred for the facility or part thereof or service to be installed or improved with the grant, and (2) arrangements cannot be made with the creditors to extend or modify the terms of the existing debt. Such grants may be made only when there is reasonable prospect that they will result in development of private business enterprises. When land is to be purchased the purchase price will not exceed its "fair market value". When required by FmHA the applicant will submit an appraisal report prepared by an independent qualified appraiser. FmHA grant funds may be used jointly with funds furnished by the grantee including FmHA loan funds. As used herein "rural" and "rural area" may include all territory of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized or urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States. Priority for such grants shall be given to areas other than cities having a population of more than twenty-five thousand.

§ 1823.453 Grant limitations.

Grant funds will not be used:

* * * * *

(c) For any proposal in which both the grant is in excess of $1,000,000 and direct employment will be increased by more than fifty employees unless:

(1) The proposal is not calculated to or not likely to result in a transfer of any employment or business activity from one area to another. This limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations, unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) The proposal is not calculated to or is not likely to result in an increase in the production of goods, materials, or commodities or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

* * * * *

§ 1823.454 Department of Labor determination.

Grants shall not be made if the Secretary of Labor certifies within 30 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of § 1823.453(c) (1) and (2) of this Subpart have been complied with. Information for obtaining this certification will be submitted in writing to FmHA. The information will be submitted to the Department of Labor by FmHA. Grant approval may be given and funds may be obligated subject to the Department of Labor Certification being received.

PART 1933—LOAN AND GRANT PROGRAMS (GROUP)

Subpart A—Community Facility Loans

§ 1933.2 Processing applications.

* * * * *

(e) *Joint funding.* Other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with FmHA to any applicant to whom assistance is being provided by FmHA. The amount of participation by the other department, agency or executive establishment shall only be limited by its authorities except that any limitation on joint participation itself is superseded by Section 125 of Public Law 95-334.

* * * * *

§ 1933.4 Borrower contracts and bonds.

* * * * *

(b) *Bond counsel.* All tax exempt public bodies are required to obtain the services of recognized bond counsel in the preparation of evidence of indebtedness except as provided in 1933.19(a)(1)(iv) of this Subpart. When requesting National Office approval in accordance with Section 1933.19(a)(1)(iv) the State Director will submit sufficient evidence for a determination to be made.

* * * * *

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, P.L. 91-190 an Environmental Impact Statement is not required.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: November 13, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-33132 Filed 11-24-78; 8:45 am]

[3410-07-M]

[FmHA Instruction 442.13]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart P—Development Grants for Community Domestic Water and Waste Disposal Systems

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning grant determination for those applicants who impose uniform user charges for similar classes of service throughout their service area. The intended effect is to allow for the inclusion of FmHA grant funds in an amount sufficient to arrive at a reasonable average annual cost to the applicant for the delivery of service to residential users. The regulations are being amended in order to provide more service to rural communities by the Farmers Home Administration.

EFFECTIVE DATE: November 27, 1978. However, comments must be received on or before January 26, 1979.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Gary L. Smith, telephone: 202-447-5717.

SUPPLEMENTAL INFORMATION: Section 1823.472 of Subpart P of Part 1823, Chapter XVIII, Title 7 in the Code of Federal Regulations is amended. Paragraph (b)(4) of this section is added and existing Paragraph (b)(4) is renumbered (b)(5) and existing Paragraph (b)(5) is renumbered (b)(6). This change will provide more complete and responsive service to rural communities that have a need for grant assistance. It is the policy of this department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to allow currently needed water and waste projects in rural areas to be constructed and also provide for the delivery of services by the applicant at a reasonable cost. Therefore, any delay would be contrary to the public interest. The Agency, however, is interested in receiving comments which should be submitted to the address given above.

Accordingly, a new § 1823.472(b)(4) is added, the present paragraph (b)(4) and (b)(5) are renumbered to (b) (5) and (6) and a corresponding reference change is made as set forth below:

1. In § 1823.472(b)(1) line 16, the reference to "paragraph (b)(4)" is changed to "paragraph (b)(5)."

2. A new paragraph 1823.472(b)(4) is added and reads as follows:

§ 1823.472 Application processing.

* * * * *

(b) *Determining the need for development grant.* * * *

(4) If, after applying the formula in paragraph (b)(1) of this section, FmHA determines that a reasonable average annual cost to the applicant for delivery of service to residential type users has not been achieved, FmHA may proceed with a grant in an amount necessary to reduce such cost to not below a reasonable user rate as defined in paragraph (b) of this section. This option is only available to an applicant that imposes uniform user charges for similar classes of service throughout their service area. Reasonable average annual cost to the applicant is defined as that which is not less than existing prevailing costs in communities, being served by an established system, having similar economic conditions.

* * * * *

3. § 1823.472, paragraph (b)(4) and (b)(5) are renumbered to (b)(5) and (b)(6) respectively.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.)

NOTE.—This document has been reviewed in accordance with FmHA Instruction 1901-G "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190 and Environmental Impact Statement is not required.

Dated: November 8, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-33133 Filed 11-24-78; 8:45 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Elimination of Fee for Filing Certain Motions To Reopen or Reconsider

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service to revise the schedule of fees. The order provides that for certain applications, no fee will be charged for the filing of a motion for reopening or reconsideration because no fee was charged for filing the initial application. The applications involved are set forth below. This amendment is being published to set forth the Service policy and the reasons for it in the regulations for the information and guidance of the public.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536. Telephone: (202) 376-8373.

SUPPLEMENTARY INFORMATION: This final rule amends the regulations of the Immigration and Naturalization Service to provide that no fee is chargeable for filing of motions to reopen or reconsider decisions on applications filed by students on Form I-538; by exchange visitors on Form DSP-66; by Cuban refugees on Form I-485A filed pursuant to the Act of November 2, 1966; or by nonimmigrant aliens classified under section 101(a)(15)(G)(iv) filed on Form I-566. The Service has determined that no fee should be charged for the motions to reopen or reconsider decisions made on the above applications because there is no fee charged for the filing of the initial application.

Accordingly, the following amendment is hereby made to Chapter I of Title 8 of the Code of Federal Regulations:

In § 103.7(b)(1), the fee description for the fee for filing motions to reopen or reconsider any decision under the immigration laws is revised as set forth below:

§ 103.7 Fees.

* * * * * *

(b) *Amounts of fees*—(1) The following fees and charges are prescribed:

* * * * * *

For filing a motion to reopen or reconsider any decision under the immigration laws (except on applications filed by students on Form I-538, exchange visitors on Form DSP-66, Cuban refugees on Form I-485A filed under the Act of November 2, 1966 or G-4 nonimmigrants on Form I-566 for which no fee is chargeable). When the motion to reopen or reconsider is made concurrently with any application under the immigration laws, such application will be considered an integral part of the motion and only the fee for filing the motion or the fee for filing the application, whichever is greater, is payable. (The fee of $25 shall be charged whenever a motion is filed by or on behalf of two or more aliens and all such aliens are covered by one decision.) $25.00.

* * * * * *

(Sec. 103; 8 U.S.C. 1103.)

This amendment is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment contained in this order confer an exemption on the persons affected thereby.

Effective date: The amendment prescribed in this order will become effective on November 27, 1978.

Dated: November 13, 1978.

LEONEL J. CASTILLO,
Commissioner of
Immigration and Naturalization.

[FR Doc. 78-33187 Filed 11-24-78; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0190]

PART 211—CORPORATIONS ENGAGED IN FOREIGN BANKING AND FINANCING UNDER THE FEDERAL RESERVE ACT

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The recently enacted International Banking Act of 1978 removed the statutory requirement that corporations engaged in international banking and financial operations—so called "Edge Corporations"—maintain a minimum reserve of 10 percent on their U.S. deposits. The Board's regulation governing Edge Corporations imposes reserve requirements on the U.S. deposits of Edge Corporations subject to the former statutory 10 percent minimum. This amendment removes the 10 percent minimum reserve requirement in the Board's regulation to conform to the International Banking Act. Edge Corporations will, however, continue to be subject to reserve requirements as if they were member banks of the Federal Reserve System.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

C. Keefe Hurley, Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, 202-452-3269.

SUPPLEMENTARY INFORMATION: Section 3(e) of the International Banking Act of 1978 (Pub. L. No. 95-369) amends the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615) by removing the minimum 10 percent reserve requirement on the U.S. deposits of Edge Corporations. Section 211.7(c), the Board's Regulation K (12 CFR 211.7(c)), imposes reserve requirements on Edge Corporations subject to a 10 percent minimum. In view of the removal of the statutory 10 percent minimum reserve requirement, the Board has eliminated the corresponding 10 percent minimum reserve requirement in its regulation. This amendment will be effective with the computation period commencing November 16, 1978. Deposits of Edge Corporations would, however, continue to be subject to the reserve requirements contained in the Board's Regulation D (12 CFR § 204). This action is taken pursuant to the Board's authority under the fifth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615) and section 13(a) of the International Banking Act of 1978 (Pub. L. No. 95-369).

The last sentence of § 211.7(c) of the Board's Regulation K (12 CFR § 211.7(c)) is amended to read as follows:

§ 211.7 Limited operations in the United States.

* * * * * *

(c) * * * Such deposits shall be subject to Parts 204 (Regulation D) and 217 (Regulation Q) of this chapter and shall be reported in the same manner as if the Corporation were a member bank of the Federal Reserve System.

* * * * * *

Board of Governors of the Federal Reserve System, November 16, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33182 Filed 11-24-78; 8:45 am]

[6705-01-M]

CHAPTER VI—FARM CREDIT ADMINISTRATION

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

Organization, Personnel Administration, and Funding Operations; Correction

AGENCY: Farm Credit Administration.

ACTION: Correction.

SUMMARY: The citation of authority was omitted from the FEDERAL REGISTER document published at 43 FR 47488, FR Doc. 78-29135.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Lee R. Brobst, Acting Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, DC 20578, 202-755-2181.

SUPPLEMENTARY INFORMATION: The proper citation of authority for this document, to be inserted following the final paragraph, is as follows:

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

DONALD E. WILKINSON,
Governor.

[FR Doc. 78-33128 Filed 11-24-78; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SAB-27]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

STAFF ACCOUNTING BULLETIN No. 27

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This interpretation presents the staff's view that the general principles expressed in Staff Accounting Bulletin are intended to provide guidance for events and transactions with similar accounting implications.

DATE: November 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary A. Zell, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal Securities laws.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 17, 1978.

STAFF ACCOUNTING BULLETIN No. 27

Questions have been raised with the staff concerning the application of the staff's views to events and transactions that are similar to those for which a Staff Accounting Bulletin (SAB) has been issued. Specifically a question has been raised as to the applicability of SAB No. 21 [43 FR 29109], July 6, 1978, which reports the staff's view that the gain on the involuntary conversion of timberland should be recognized and not deferred or offset against the cost of timberland to be acquired.

In Accounting Series Release No. 180 [40 FR 53557], November 19, 1975, the Commission stated the following:

The process of financial reporting is dynamic and evolutionary. Consequently, new or revised administrative interpretations and practices must be implemented in response to changes in the reporting process. While large accounting firms who practice before the Commission have many opportunities to exchange information and views with the staff, the Commission has been concerned about comments that small accounting firms have fewer such opportunities and may be at an unfair competitive advantage because there has been no formal dissemination of staff positions.

The announced series of bulletins attempts to curtail these problems by making available to the public a compilation of certain existing staff interpretations and practices and by providing a means by which new or revised interpretations and practices can be quickly and easily communicated to registrants and their advisors. Thus, this series should not only reduce the staff's workload by eliminating repetitive comments and inquiries, but also save registrants both time and money in the registration and reporting process.

SAB's may be written narrowly in describing the individual facts and circumstances which resulted in the expression of the staff's views. However, registrants and their accountants should be aware that the purpose of the SAB's is to disseminate staff views on particular matters for guidance in other situations where events and transactions have similar accounting implications. For example, the staff would expect that gains on involuntary conversions, whether or not resulting from a transaction involving timberland, would be recognized currently in financial statements.

Where a registrant and its accountant believe that because of its peculiar circumstances the appropriate accounting should be different than would result from following the practice expressed in a SAB, the registrant is encouraged to discuss the specifics with the staff.

[FR Doc. 78-33086 Filed 11-24-78; 8:45 am]

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[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-469]

PART 153—ANTIDUMPING

Antidumping—Viscose Rayon Staple Fiber from Belgium

AGENCY: U.S. Treasury Department.

ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act of 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that viscose rayon staple fiber from Belgium is being sold at less than fair value and that those sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary S. Clapp, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determining whether imported merchandise is being sold at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that viscose rayon staple fiber from Belgium is being sold at less than fair value within the meaning of section 201(a) of the Antidumping Act of 1921, as amended, (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of May 1, 1978 (43 FR 18619)). An "Amended Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER of July 28, 1978 (43 FR 32915).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States International Trade Commission responsibility for determining whether, by reason of such sales at less than fair value, a domestic industry is being or is likely to be injured. The United States International Trade Commission has determined and on September 7, 1978, it notified the Secretary of the Treasury that a domestic industry is being injured by reason of less than fair value imports of viscose rayon staple fiber from Belgium. Notice of this determination was published in the FEDERAL REGISTER of September 15, 1978 (43 FR 41299).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to viscose rayon staple fiber from Belgium.

For purposes of this notice, the merchandise covered is "viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments)."

Section 153.46 of the Customs Regulations (19 CFR 153.46) is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Viscose rayon staple fiber.....	Belgium	

(Secs. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 20, 1978.

[FR Doc. 78-33168 Filed 11-24-78; 8:45 am]

[7708-01-M]

Title 29—Labor

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the interim regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits prescribes the rates and factors the Pension Benefit Guaranty Corporation (the "PBGC") will use to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). This valuation is necessary because under section 4041 of ERISA, the PBGC must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the unfunded guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation must be adjusted periodically to reflect changes in investment markets. This amendment adopts the rates and factors applicable to plans that terminated on or after March 1, 1978, but before June 1, 1978, and will enable PBGC to value the benefits provided under those plans.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202-254-4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulae for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various rates and factors that are to be used in the formulae. Because these rates and factors must be reflective of investment experience, it is necessary to update the rates and factors periodically. When first published, Appendix B contained rates and factors to the used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before March 1, 1978. (42 FR 2678 *et seq.*, 42 FR 32777 *et seq.*, 42 FR 41858 *et seq.*, 42 FR 59753 *et seq.*, 43 FR 10559 *et seq.*, 43 FR 25337 *et seq.*).

On July 19, 1978, the PBGC published for comment in the FEDERAL REGISTER rates and factors for valuing benefits in plans that terminated on or after March 1, 1978, but before June 1, 1978 (43 FR 31043 *et seq.*) The PBGC received one comment regarding the proposed amendment to the Interim Regulation. That comment compared low interest rates and factors set by PBGC for immediate annuities with the higher rates of yield for Standard & Poors ("S&P") long-term government bonds and "AAA" Industrial bonds. Based on this comparison, the comment suggested that the rates proposed by PBGC for the period March 1, 1978 to May 31, 1978 were too low and may result in an "overcharge" to a terminating plan.

The PBGC does not believe that the rates being established by this amendment for the March 1, 1978—May 31, 1978 period result in an "overcharge" to terminating plans. Section 4002(a)(1) of ERISA enjoins PBGC to carry out its functions under Title IV so as to encourage the continuation of private pension plans. To this end, the PBGC has sought to set rates that will not encourage plan terminations and/or PBGC trusteeships. On the other hand, the PBGC is also concerned that assessments for employer liability not be greater than what PBGC expects it will need to meet its guaranty liabilities for insufficient plans. Thus, PBGC has adopted what it believes is a balanced approach in setting its rates.

Consistent with PBGC's past practice, the interest rates and factors proposed by PBGC for the period March 1, 1978 to May 31, 1978 were derived from a survey of annuity price data obtained from the private insurance industry. Recently the PBGC became aware of certain statistical biases that may have resulted in unduly low rates proposed for this period. These biases result from variations in the size and distribution of the sample data for this reporting period. Accordingly, PBGC has reviewed its rates and factors for the period March 1, 1978 to May 31, 1978, using a refined estimation procedure to eliminate these biases. As a result, the PBGC has concluded that a minor adjustment is in order, and therefore, the interest rates and factors being issued in final form for this period are slightly higher than the proposed interest rates and factors.

The PBGC has determined that this amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 *et seq.* (March 24, 1978), and the PBGC's proposed Statement of Policy implementing the Order, 43 FR 22608 *et seq.* (May 25, 1978). The reasons for this determination are that this proposal is not likely to create substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

Because of the need to provide immediate guidance for the valuation of benefits in plans that terminated on or after March 1, 1978, but before June 1, 1978, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the Interim Regulation effective immediately.

APPENDIX B [Amended]

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations, is amended by adding a new Table XI to Appendix B to read as follows:

XI. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after March 1, 1978, but before June 1, 1978.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 7 percent shall be used to value immediate annuities, to compute the quantity "Gy" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0625$
(2) $k_2 = 1.0475$
(3) $k_3 = 1.0375$
(4) $n_1 = 7$
(5) $n_2 = 10$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 13029(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C., on this 20th day of November 1978.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 78-33197 Filed 11-24-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

[FRL 1013-4; OTS 061002]

PART 762—FULLY HALOGENATED

Chlorofluoroalkanes—Clarification of Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Clarification of final rule.

SUMMARY: On March 17, 1978, the Environmental Protection Agency (EPA) promulgated a final rule prohibiting almost all of the manufacture, processing, and distribution of fully halogenated chlorofluoroalkanes (hereinafter referred to as chlorofluorocarbons) for those aerosol propellant uses which are subject to the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.* (43 FR 11318). The prohibition on manufacture for aerosol propellant uses took effect on October 15, 1978, and the prohibition on processing and distribution in commerce for aerosol propellant uses will become effective December 15, 1978. Today's notice is intended to clarify the scope of the rule and the definition of aerosol propellant.

FOR FURTHER INFORMATION CONTACT:

James D. Silverman, Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Phone No. (202) 755-0920.

SUPPLEMENTARY INFORMATION: EPA's chlorofluorocarbon rule banned most uses of chlorofluorocarbons for aerosol propellant purposes. "Aerosol propellant" is defined in the rule to mean "a liquefied or compressed gas in a container where the purpose of the liquefied or compressed gas is to expel from the container liquid or solid material different from the aerosol propellant." (40 CFR 762.2(a)). It has come to EPA's attention that it is possible that the term "aerosol propellant" is being misinterpreted. The misinterpretation is that the definition of "aerosol propellant" does not include solvent, flame retardant, and vapor depressant uses of chlorofluorocarbons in combination with hydrocarbon or other propellants in aerosol products. This is incorrect; as explained below, manufacture, processing, and distribution of chlorofluorocarbons for such uses are prohibited by Part 762.

For the purposes of Part 762, aerosol products contain two categories of ingredients—active ingredients and propellants. The definition of "aerosol propellant" covers both the substance that directly expels the active ingredient, and any other substance that is used as part of the propellant system to modify the expelling force or to achieve the propelling effect in the desired controlled manner. Thus, even if a low vapor pressure chlorofluorocarbon like F-11 cannot by itself expel the active ingredient, it is part of the propellant system if by nature of its effect on the vapor pressure, flammability, or solvency of the substance physically expelling the active ingredient from the container, it facilitates the safe and effective delivery of the active ingredient. F-11's and F-12's various functions are interrelated and serve in effect as the product delivery system. (See, for example, a letter dated January 25, 1977 to the Office

of Toxic Substances, EPA from the E. I. DuPont de Nemours and Company).

F-11, a low vapor pressure chlorofluorocarbon, is used, for example, to reduce the higher vapor pressure of F-12. Alone, neither F-11 nor F-12 is a satisfactory propellant but together they create the appropriate spray characteristics sought for the product. If F-11 served a similar function with regard to hydrocarbons, it again would be regarded as part of the aerosol propellant system.

This reading of "aerosol propellant" is clear from the record. Were EPA to have excluded any propellant related uses from the rule, this exclusion would have been reflected in the discussion of F-11 in the record because F-11 is primarily used for vapor depressant and solvent purposes and because it constituted almost half of the chlorofluorocarbon production for aerosol uses. However, in discussions of what chlorofluorocarbons were covered by the rule, in the economic assessment of the impact of a ban rule, in the treatment of alternatives, and in the estimates of the effect of a ban rule on total chlorofluorocarbon production, F-11 was always included and, indeed, never differentiated from F-12 (which generally serves only as the direct high pressure propellant). No comments were received challenging or questioning the Agency's treatment of F-11, and EPA had not been aware until recently that there was any doubt as to the scope of the rule. The industry's comments on the rule show that it was aware of the comprehensive nature of EPA's rule.

RELATED ACTIONS: The Food and Drug Administration (FDA) also promulgated a rule regulating aerosol propellants. (21 CFR 2.125; 43 FR 11301, March 17, 1978). It has responded to similar concerns in a letter dated November 9, 1978, to Stuart J. Land, Esq. of Arnold & Porter, copies of which are available from Office of Hearing Clerk, Food and Drug Administration, HFA—305; Room 4-65, 5600 Fishers Lane, Rockville, MD 20857. Except to the extent that the letter concerns minor differences between the FDA and EPA rules, EPA is in full agreement with the position taken by FDA.

Dated: November 20, 1978.

STEVEN JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-33098 Filed 11-24-78; 8:45 am]

[4110-83-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Area Health Education Center Programs

AGENCY: Public Health Service, HEW.

ACTION: Interim-Final Regulations.

SUMMARY: These regulations set forth requirements for the award of contracts to schools of medicine or osteopathy for the planning, development, and operation of area health education center programs. These awards are authorized under the Public Health Service Act as amended by the Health Professions Educational Assistance Act of 1976. The purpose is to improve the distribution, quality and efficiency of health personnel services delivery system and to encourage regionalization of educational responsibilities of health professions schools.

DATES: These regulations are effective immediately; however, as discussed below, comments are invited. To be considered, comments must be received on or before January 26, 1979.

ADDRESS: Written comments should be addressed to the Director, Bureau of Health Manpower, Center Building, 4th Floor, 3700 East-West Highway, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying at the above address, weekdays (Federal holidays excepted), between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert F. Knouss, Director, Division of Medicine, Bureau of Health Manpower, Room 4-42, at the above address (telephone 301-436-6418).

SUPPLEMENTARY INFORMATION: On October 12, 1976, the Health Professions Educational Assistance Act of 1976, Public Law 94-484, added a new section 781 to the Public Health Service Act (42 U.S.C. 295g-1), authorizing the Secretary to award contracts to schools of medicine or osteopathy to plan, develop, and operate area health education center programs. The purposes of these programs are to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and to encourage the regionalization of educational responsibilities of health professions schools. The statute provides that the Secretary establish, by regulation, standards and criteria for the award of contracts and the implementation of the programs.

The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, is establishing a new Subpart MM of 42 CFR Part 57 entitled "Area Health Education Center Programs," in order to implement this statutory authority.

The following is a brief summary of the major features of the program.

1. Under section 781, the Secretary may enter into contracts with schools of medicine or schools of osteopathy for the purpose of planning, developing, and operating area health education center programs. While eligibility is limited to schools of medicine or schools of osteopathy, this does not preclude a parent institution from entering into contracts on behalf of the schools. Furthermore, under § 57.3803 one or more schools of medicine or schools of osteopathy may participate in a single area health education center program. When more than one school participates in a program, each school must meet the requirements of section 781(c) of the Act and § 57.3805(d) of this subpart. However, a school of medicine or osteopathy need not meet these requirements if its only function is to provide resources by purchase agreement with an area health education center. (See § 57.3805(d).)

2. Under section 781(b) of the Act, an area health education center program is a cooperative program of one or more medical or osteopathic schools and one or more nonprofit private or public area health education centers. The Act sets forth separate statutory requirements for the performance of functions by *each* school of medicine or school of osteopathy participating in the program and by *each* area health education center participating in the program. The regulations provide definitions of the terms "school of medicine," "school of ostopathy," and "area health education center." (See § 57.3802.) In light of the separate and distinct assignments of responsibilities to schools and area health education centers, as well as the legislative history of section 781, among other considerations, it is the Secretary's view that a school of medicine or ostoeopathy, its parent institution, or any of their subunits (e.g., branch campuses) may not serve as an area health education center. Furthermore, the regulations provide that each center must be a legal entity in the State in which it is located. One of the principal functions of the legal entity must be the operation of the center.

3. Fundamental to the area health education center program model set forth in section 781 is the cooperative arrangement between one or more schools of medicine or osteopathy and one or more area health education centers that participate in a program. These cooperative arrangements underscore the bilateral nature of the relationship in which all parties perform specified functions. Therefore, the regulations specify the broad areas which must be addressed in the establishment of written agreements between the schools and the centers so that each may fulfill its programmatic responsibilities. The details of these arrangements are expected to vary depending upon local circumstances and needs. (See § 57.3805(d)(1).)

4. Section 57.3805 of the regulations provides the requirements for each area health education center program, as well as each participating school of medicine or osteopathy and each area health education center. These requirements are self-explanatory. The Secretary wishes to point out, however, with respect to § 57.3805(d)(3) requiring a minimum of 10 percent of undergraduate medical or osteopathic clinical education in one or more centers, that preceptorship experiences conducted in the offices of physicians associated with the center or by other professionals associated with the center may be counted in fulfilling this requirement.

5. Attention is called to the statutory provision that at least 75 percent of the funds provided under section 781 must be expended by the schools in the area health education centers. (See § 57.3809.) During the initial planning and development phases for establishing an area health education center program, funds spent by the participating schools for the planning and development of an area health education center may be counted within the funds expended in the center. It should also be noted that under section 781(e) of the Act no school of medicine or ostoeopathy may receive funds solely for the planning and development of a program for more than two years. (See § 57.3806(a).)

6. Sections 57.3807 and 57.3808 set forth the provisions dealing with the evaluation and funding of proposals. For this fiscal year the Secretary will be issuing three separate solicitations for proposals for establishing area health education center programs: One for rural programs, one for urban programs and one for statewide programs, A rural area health education center program will be one which proposes the establishment of one or more rural area health education centers, whose principal programmatic objectives will be to meet the needs of health professionals serving a population which is substantially, though not necessarily exclusively, located in areas outside of standard metropolitan statistical areas. An urban area health education center program, containing one or more urban area health education centers, will be characterized by a principal programmatic thrust aimed at meeting the needs of health professionals in inner city and surrounding communities which are located in standard metropolitan statistical areas. This concept does not preclude the inclusion of the remainder of the county in which the central city is located and contiguous counties that are integrated economically and socially with the county containing the central city. A statewide area health education center program is envisioned as being a single program in a State which contains one or more urban or rural centers. While both urban and rural centers may be elements of the statewide program, the program is not to be merely a confederation of a number of centers loosely bound by an administrative overlay. Rather, the area health education center program is to play a leadership role within the State by coordinating and facilitating the regionalization of the educational responsibilities of the cooperating health professions schools within the State.

The Secretary will determine, after consultation with the National Advisory Council on Health Professions Education, which of the proposals submitted are technically acceptable, and which of the technically acceptable proposals will be funded. In making this latter determination, the Secretary will consider the technical merit of each proposal, the relative cost-efficiency to the government of the proposals, and one or more special factors relating to national needs which the Secretary may establish from time to time and will include in the Request for Proposals. In fiscal year 1978 special consideration will be given to proposed area health education center programs which include a new public medical school as a participating school. For this purpose, a new public medical school is a public medical school which enrolled its first class after July 1, 1970. This special consideration is being given based on an expression of congressional intent in the House Report on the Health, Education, and Welfare appropriations bill for 1978 (H.R. Rep. No. 95-381, 95th Cong. 1st Sess. 55 (1977)). For fiscal year 1979, the Secretary is contemplating that special consideration will be given to programs that provide substantial opportunities for the education of individuals from minority or low-income backgrounds.

Area health education center contractors were previously funded under section 774 of the Act. With the enactment of section 781, those contractors were required to come into compliance with the requirements of sections (b), (c), and (d) of section 781 and the implementing regulations directed by section 781(f). Since the additional requirements imposed on those contractors are extensive, Congress enacted section 802 of P.L. 94-484 granting the contractors a grace period to bring their projects into compliance.

However, if the contractors to whom section 802 applies are to receive any payments after September 30, 1978, they must provide the Secretary with assurances that they will bring their project into compliance with section 781 and the required regulations by September 30, 1979. Since the requirements with respect to which these contractors must provide assurances are implemented in the regulations, the contractors cannot provide meaningful assurances until the regulations are issued. Therefore, the Secretary has determined, in accordance with 5 U.S.C. 553 and Department policy, that it would be impractical and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than January 26, 1979, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective on November 27, 1978.

Accordingly Subpart MM is added to Part 57 of Title 42 of the Code of Federal Regulations and is adopted as set forth below.

Dated: August 16, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 11, 1978.

HALE CHAMPION,
Acting Secretary.

V 43 N 027 78 V

Subpart MM—Area Health Education Center Program

Sec.
57.3801 To what programs do these regulations apply?
57.3802 Definitions.
57.3803 What entities are eligible to submit proposals?
57.3804 How are proposals submitted?
57.3805 What requirements apply to projects?
57.3806 When do the requirements of § 57.3805 apply?
57.3807 Evaluation of proposals.
57.3808 Awards.
57.3809 Restrictions on the amount and use of funds.
57.3810 Applicability of procurement regulations.
57.3811 Records and audits.

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); Sec. 781 of the Public Health Service Act, 90 Stat. 2312 (42 U.S.C. 295g-1).

§ 57.3801 To what programs do these regulations apply?

The regulations of this subpart apply to the award of contracts under section 781 of the Public Health Service Act (42 U.S.C. 295g-1) to medical and osteopathic schools for the planning, development, and operation of area health education center programs.

§ 57.3802 Definitions

As used in this subpart:

"Act" means the Public Health Service Act.

"Allied health personnel" means individuals as defined in 42 CFR 58.502.

"Area health education center" or "center" means a public or nonprofit private entity which has a cooperative arrangement with one or more schools of medicine or osteopathy for the planning, development, and operation of an area health education center program. A center must be an entity which is recognized under the laws of the State in which it is located and which has as one of its principal functions the operation of the area health education center.

"Area health education center program" or "program" means a cooperative program among one or more schools of medicine or osteopathy and one or more area health education centers, which is capable of performing the functions described in sections 781(c) and (d)(2) of the Act and § 57.3805 of these regulations, and which is designed to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and to encourage the regionalization of educational responsibilities of health professions schools.

"Clerkship" means supervised clinical training.

"Continuing medical education" or "continuing education" means any education for the purpose of maintaining or enhancing the knowledge, attitudes or abilities of a health professional in his or her field which does not lead to any formal advanced standing in the profession.

"Health professional" means any physician, dentist, optometrist, podiatrist, pharmacist, nurse, nurse practitioner, physician's assistant or allied health personnel.

"Nurse practitioner" means an individual as defined in 42 CFR 57.2402.

"Physician's assistant" means an individual as defined in 42 CFR 57.802.

"Preceptorship" means an educational experience in which the student works with a designated health professional, the preceptor, who teaches in the student's field of study and personally supervises the student's clinical activity.

"School of medicine, osteopathy, dentistry, optometry, podiatry, pharmacy, public health or veterinary medicine" means a school as defined in section 701(4) of the Act which is accredited as provided in section 772(b) of the Act.

"School of nursing" means collegiate, associate degree or diploma school of nursing as defined in section 853 of the Act.

"Training center for allied health professions" means a training center as defined in 42 CFR 58.402.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

§ 57.3803 What entities are eligible to submit proposals?

(a) Any public or nonprofit private school of medicine or osteopathy located in a State is eligible to submit a proposal.

(b) More than one school of medicine or osteopathy may submit a joint proposal for the planning, development and operation of an area health education center program. In this case each school must conduct the activities required by section 781(c) of the Act and § 57.3805(d).

§ 57.3804 How are proposals submitted?

Proposals for contracts under this subpart must be submitted in the form and manner and at the time which the Secretary may prescribe in the Request for Proposals.

§ 57.3805 What requirements apply to projects?

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) Each area health education center program must have a program director who holds a faculty appointment at a medical or osteopathic school participating in the program and who is responsible for the overall direction and coordination of the program.

(b) Each area health education center program must have a program advisory committee to advise the program director on all aspects of the conduct of the program, including administrative, education and evaluation. This committee must include representatives of schools and programs of health professions which actively participate in the area health education program under § 57.3805(d)(5) of this subpart and section 781(c)(4) of the Act, individuals with training and experience in the fields of: medicine or osteopathy, dentistry, nursing, and an allied health profession, as well as a representative of each of the centers cooperating in the program.

(c) Each area health education center program must annually evaluate its activities to ascertain the extent to which it is meeting the purposes described in section 781(a) of the Act.

(d) *Requirements for schools of medicine or osteopathy.*

A school of medicine or osteopathy participating in an area health education program (with the exception of a school whose only function is to provide resources by purchase agreement to a center) must

(1) Have a cooperative arrangement with an area health education center, as evidenced by a written agreement. This agreement must provide at a minimum that the schools participating in the program will perform the following functions:

(i) Provide faculty to assist in the conduct of the center's educational activities, as necessary;

(ii) Provide an agreed upon amount of funds to the center to assist the center in meeting the costs of its activities, including those described in section 781(d)(2) of the Act;

(iii) Be responsible for the quality of the education received in the center, including evaluating the quality of the educational programs required by section 781(d)(2) of the Act and the performance of its students while receiving clinical training in the center. The area health education center must agree to conduct the activities described in section 781(d)(2) of the Act and these regulations and assist the schools participating in the program in meeting the requirements in section 781(c) of the Act and these regulations.

(2) Provide for the active participation in the program by individuals who are associated with the administration of the school, and staff or faculty members of each of the departments (or specialties if the school has no departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry and family medicine. These persons may participate in the program in either the school or center and must perform, among others, the following functions: provide guidance on educational program or curriculum development and operation; instruct students (including residents and other practicing health professionals); perform student or program evaluation; and assist in program administration.

(3) Conduct no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school in one or more centers and in clinical settings which are part of or affiliated with a center and in which the center arranges and supports the clinical education. The school shall assure that, annually the ratio of student-weeks of clinical education received by its undergraduate students in centers to the total number of student weeks of clinical education received by its undergraduate students, in any location, is no less than 0.10. For purposes of this paragraph, undergraduate medical or osteopathic clinical education means any clerkships, preceptorships, or other educational activities which are offered in the following fields: family medicine, internal medicine and its subspecialties, pediatrics and its subspecialties, dermatology, obstetrics and gynecology, surgery and its subspecialties, anesthesiology, psychiatry and its subspecialties, neurology, physical medicine and rehabilitation, emergency medicine, nuclear medicine and general preventive medicine, including community medicine. Courses, seminars, and other educaional programs which are entirely didactic or laboratory in nature or which are primarily in anatomy, biochemistry, physiology, microbiology, pharmacology, or pathology are not include in this definition.

(4) Be responsible for, or conduct a program for the training of physician's assistants, which meets the requirements of 42 CFR Part 57, Subpart I, or nurse practitioners, which meets the requirements of 42 CFR Part 57, Subpart Y Appendix. Where the school is responsible for but does not conduct one of these programs, it must participate in the presentation, review, and evaluation of one of these programs at an affiliated institution so that at least part of the education in the program is provided by faculty of the school. The school must give special consideration to the enrollment in these programs of individuals from or who plan to practice in the area served by the center by either:

(i) Giving preference to applicants whose place of residence has been in the area served by the center at any time prior to application; or

(ii) Obtaining a signed statement from applicants, indicating an intent to practice the skills acquired in the program in the area.

(5) Provide for the active participation of at least two schools or programs of other health professions in the educational program conducted in the area served by the center(s). In meeting this requirement:

(i) One of the participating schools or programs must be a school of dentistry, if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated;

(ii) Only the following schools or programs of other health professions may be included to meet the requirement of this paragraph:

(A) Training centers for the allied health professions;

(B) Schools of nursing;

(C) Schools of optometry;

(D) Schools of pharmacy;

(E) Schools of podiatry; or

(F) Schools of public health.

(iii) Each school or program participating in the area health education center program under this paragraph must have a written agreement with the school(s) of medicine or osteopathy, under which the school or program agrees to assist and participate, as is appropriate, in the activities of each center as required under section 781(d)(2) of the Act.

(iv) Each school or program participating in the area health education center under this paragraph must have a written agreement with each center, under which the school or program agrees to provide some or all of its students with educational experiences in the center or in settings affiliated with the center, and the center agrees to arrange for and support the provision of the educational programs. This agreement may be part of the agreement required by paragraph (d)(1) of this section.

(e) *Requirements for area health education centers:*

Each area health education center participating in an area health education center program must:

(1) Designate either a geographic area or medically underserved population which it will serve ("the area served by the center"). This area or population must be in a location remote from the main site of the teaching facilities of the schools which participate in the program. For purposes of this requirement,

(i) a medically underserved population means the population of a geographic area designated as a primary medical manpower shortage area under section 332 of the Act or a population group designated under section 332 of the Act as having a shortage of primary medical care manpower.

(ii) an area or population will meet this requirement if its location is removed from the site of the teaching facilities where the major part of the educational program of any participating schools is conducted. The area served by the center must not duplicate, in whole or in part, the area served by any other center.

(2) Provide for or conduct training in health education services, in the area served by the center. This training must consist of courses and programs to train health professionals to instruct the public or patients in medical self-help, disease prevention, accident prevention, nutrition, physical fitness, and other subjects relating to health maintenance, and must include the principles of nutrition, the evaluation of nutritional status, and nutritional counseling. The training must be oriented towards the ethnic and cultural backgrounds of the people in the area.

(3) Assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet these needs. In meeting this requirement the center must cooperate with the health systems agencies designated for the area served by the center and other appropriate entities in determining data on health manpower needs of the area for the next 10 years and in developing a plan for training programs to meet these needs. At a minimum the center must assess the need for (i) manpower to provide health education and nutrition counseling services, (ii) primary care health manpower including physicians in family practice, general internal medicine, general pediatrics, and obstetrics and gynecology, physican's assistants, and nurse practitioners; (iii) mental health practitioners, (iv) dentists and (v) nurses. In carrying out its responsibility to assess health manpower needs in the area, the center shall, to the maximum extent practicable, use existing data (including data used for the designation of shortage areas under sections 332 and 836(h) of the Act).

(4) Provide for or conduct a medical residency training program in family practice, general internal medicine, or general pediatrics in which no fewer than six persons are enrolled in first-year positions in the program. If one center which is participating in the area health education center program provides for or conducts a medical residency training program meeting this requirement, other centers participating in the program may, but need not, provide for or conduct a medical residency training program in these fields. In meeting this requirement:

requirements of § 57.3805 within three

[6315-01-M]

procedures that will increase adminis-

(i) A family practice residency must meet the requirements of section 786(a) of the Act, and implementing regulations.

(ii) A general internal medicine or general pediatrics residency must meet the requirements of 42 CFR § 57.3105, except for the requirements in paragraphs (h) and (i) of that section.

(iii) The center must conduct the medical residency training program at a site which is part of the center or provide for the conduct of this program, by written affiliation agreement with an appropriate entity located in the area served by the center.

(5) Provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals practicing within the area served by the center. This continuing medical education must include courses, seminars, lectures, grand rounds, clinical pathological conferences, mini-residencies, library services, or in-house training, as appropriate for all health professionals in the area. In meeting this requirement:

(i) The center must assess the need for providing continuing medical education taking into consideration the numbers, needs and location of health professionals in the area as well as educational activities available through other entities.

(ii) The center must announce the availability of continuing medical education activities offered in the center as well as those provided through other entities and distribute these announcements to all health professionals in the area.

(6) Provide continuing medical education and other support services to the National Health Service Corps (Corps) members assigned to the area served by the center, after notification of the assignment(s) by the Secretary. In meeting this requirement the center must:

(i) Establish an organized program which will provide for the assessment of the continuing medical education needs of the members of the Corps and offer to members of the Corps, at a cost not to exceed the cost to any other participant, continuing medical education relevant to these identified needs.

(ii) Assist in providing

(A) Consultation services, if needed, including telephone consultation, to Corps personnel.

(B) A patient referral system, if necessary, to Corps patients and assistance to these patients in obtaining laboratory and pathological services, at accessible locations.

(C) Supervision and consultation for non-physician and non-dentist members of the Corps in the area.

(D) Temporary substitutes for Corps personnel, as needed.

(7) Encourage the utilization of nurse practicioners and physician's assistants in the area and the recruitment of individuals for training in these professions at the participating medical or osteopathic schools. In meeting this requirement, the center must:

(i) Inform potential employers in the area regarding the following, among other subjects:

(A) The function and utilization of nurse practitioners and physician's assistants;

(B) State laws and regulations governing nurse practitioners and physician's assistants; and

(C) Reimbursement and malpractice coverage for services rendered by nurse practitioners and physician's assistants.

(ii) Determine employment opportunities for nurse practitioners and physician's assistants and participate in referral and recruitment of persons for these positions.

(iii) Distribute information in the area concerning the nurse practitioner or physician's assistant training program(s) provided for or conducted by the schools of medicine or osteopathy participating in the program, and participate in recruiting persons in the area for the programs.

(8) Arrange and support educational opportunities for medical and other students at affiliated health facilities, ambulatory care centers, and health agencies throughout the area served by the center. In meeting this requirement, the center must:

(i) Coordinate the conduct of the following programs, including assisting in their planning and development, obtaining the necessary resources and providing administrative support services for:

(A) Clinical education for undergraduate medical or osteopathic students in at least family practice, general internal medicine and general pediatrics;

(B) Education for undergraduate and, as appropiate, graduate students, at a school of dentistry, if one is participating in the program;

(C) Education for students of the other schools or programs participating in the area health education center program under § 57.3805(d)(5); and

(D) Orientation for high school and post-high school students in schools in the area to develop awareness of health careers and health opportunities.

(9) Have an advisory board of which at least 75 percent of the members are persons from the area served by the center, including health service providers and consumers. For this purpose, health service providers are individuals who derive more than 10 percent of their annual income from the health care industry. In meeting this requirement:

(i) The advisory board must be reasonably divided between:

(A) Providers of health care, including at least one physician, dentist, nurse, and allied health professional, who is actively engaged in the practice of his or her profession in the area served by the center; and

(B) Consumers, including students, who reside in the area and are broadly representative of the population in the area in terms of demographic factors, such as race, ethnic background, and sex. The advisory board shall advise the chief administrative official of the center on all major policies concerning the operation of the center, on the establishment of center program priorities and on other issues, as necessary.

§ 57.3806 When do the requirements of § 57.3805 apply? [1]

(a) The period of time in which any entity will have to meet all the requirements of § 57.3805 will be negotiated on a case-by-case basis depending upon the nature and scope of the planned area health education center program. No contract, however, shall provide funds solely for the planning or development of a program for a period of longer than two years.

(b) Each area health education center program must begin planning for at least one center during the first year of support so that at least one center is fully operational and meets all the applicable requirements of § 57.3805 during the third year of support. Additional centers may be phased in during the first four years of Federal support except that once planning for any center is initiated, it must become fully operational and meet all the applicable requirements of § 57.3805 within three years.

(c) Each school with which the Secretary enters into a contract under this subpart must meet all the requirements of § 57.3805 during the first four years of Federal support except that once planning to add any school is initiated it must meet all the applicable requirements of § 57.3805 within three years.

[1] Entities that are receiving funds in fiscal year 1978 and 1979 to continue payments under contracts originally entered into under section 774 of the Act (as in effect on September 30, 1977) for projects for area health education center programs do not have to be conducted in accordance with these requirements, *except that* no payments can be made under these contracts in the fiscal year ending September 30, 1979, unless the entity provides assurances satisfactory to the Secretary that not later than September 30, 1979, the project for which payment is made will be a project described in section 781(a) of the Act and that the project will meet the requirements of section 781(b), (c) and (d) of the Act and applicable provisions of these regulations.

[6315-01-M]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1067—FUNDING OF CSA GRANTEES

Subpart—Final Approval of CSA Grant Contract Actions

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: This rule effectuates immediate delegation to the Regional Directors of authority to give final approval for grants under the reopened Emergency Energy Assistance Program (EEAP). Previous to the passage of the Economic Opportunity Amendments of 1978, section 601(c) of the Economic Opportunity Act barred the delegation of this power to the Regional Directors.

EFFECTIVE DATE: This rule is effective November 27, 1978. CSA intends to adopt a more comprehensive rule. When it is published as a proposed rule CSA will welcome comment.

FOR FURTHER INFORMATION CONTACT:

Ms. Faye Rattner. Telephone (202) 245-5280. Teletypewriter (202) 254-5280.

SUPPLEMENTARY INFORMATION: When Section 601(c) was added to the Economic Opportunity Act, its last sentence prohibited the delegation of final approval of grants and contracts to any regional official after June 15, 1975. In the Economic Opportunity Amendments of 1978, this provision, which had proved to be administratively burdensome, was repealed and a requirement to promulgate rules and regulations for final approval of grants and contracts was substituted. The Community Services Administration fully intends to issue comprehensive regulations on this subject in the near future. However, in view of the September 27, 1978, order of the District Court, Northern District of Illinois in *Greig* v. *Olivarez*, Civil No. 78 C 1646, which requires completion of all grant actions by March 15, 1979, maximum efficiency in the processing of grants is immediately required. To achieve this administrative efficiency it is necessary to return final grant-making power for EEAP (Extended) effective immediately. Since this action does not affect any substantive rights, but is merely a matter of CSA procedures that will increase administrative efficiency, and since it is required to ensure timely compliance with the order of the court in *Greig* v. *Olivarez*, CSA finds that this rule must be effective immediately and that allowing time for prior public comment is impracticable and contrary to the public interest. CSA furthermore finds that this action is pursuant to the intent of Congress to further administrative efficiency by allowing the return of this power to the Regional Directors and that, as this rule is merely temporary, its immediate promulgation is consistent with Congressional intent for adoption of overall regulations governing final approval of CSA grants and contracts.

(Sec. 601(c) 78 Stat. 530, 42 U.S.C. 2941(c).)

GRACIELA (GRACE) OLIVAREZ,
Director.

Therefore, 45 CFR Part 1067 is amended by adding a new Subpart—Final Approval of CSA Grant Contract Actions consisting of § 1067.60-1 and § 1067.60-2 to read as follows:

Subpart—Final Approval of CSA Grant Contract Actions

§ 1067.60-1 Applicability of this subpart.

This subpart applies to grants made under the authority of Section 222(a)(5) of the Economic Opportunity Act of 1964, as amended (EOA) pursuant to the court order in *Greig* v. *Olivarez*, District Court, Northern District of Illinois, Civil No. 78 C 1646, September 17, 1978.

§ 1067.60-2 Policy.

The Regional Directors of the Community Services Administration shall have the concurrent authority to give final approval to grants under Section 222(a)(5) of the EOA, insofar as these grants are funded from monies made available under the reopened Emergency Energy Assistance Program, pursuant to the court order in *Greig* v. *Olivarez* and the Notice published in the November 20, 1978, FEDERAL REGISTER regarding this subject (43 FR 54115). The Regional Directors shall exercise this authority by signature in bloc 15 of CSA Form 314 entitled "Statement of CSA Approval."

[FR Doc. 78-33164 Filed 11-24-78; 8:45 am]

§ 57.3807 Evaluation of proposals.

The Secretary, after consultation with the National Advisory Council on Health Professions Education established by section 702 of the Act, shall find proposals technically acceptable or unacceptable after considering, among other pertinent factors:

(a) The potential effectiveness of the proposed project in carrying out the purposes of section 781 of the Act and this subpart;

(b) The degree to which the proposed project adequately provides for the program requirements set forth in § 57.3805;

(c) The capability of the offeror to carry out the proposed project; and

(d) The extent of the need of the area to be served by the proposed area health education center program.

§ 57.3808 Awards.

In determining which technically acceptable offerors will be awarded contracts, the Secretary will consider, among other factors, (a) the relative merit of the proposals, (b) the relative cost-efficiency of the proposals, and (c) any special factors relating to national needs as the Secretary may from time to time announce.

§ 57.3809 Restrictions on the amount and use of funds.

(a) The Secretary will not provide in any year under this subpart more than 75 percent of the total operating funds of an area health education center program.

(b) The area health education center program must spend at least 75 percent of the funds provided under this subpart in any year in area health education centers.

§ 57.3810 Applicability of procurement regulations.

Contracts made under this subpart shall be subject to all applicable provisions of the Federal Procurement Regulations, (41 CFR Chapter 1 *et seq.*) and Department of Health, Education, and Welfare Procurement Regulations (41 CFR Chapter 3).

§ 57.3811 Records and audits.

In addition to the record and audit requirements of the Federal and Department procurement regulations, the records and audit requirements of section 705 of the Act apply to contracts under this subpart.

[FR Doc. 78-32492 Filed 11-24-78; 8:45 am]

[1505-01-C]

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[1505-01-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-03; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE STANDARDS

New Pneumatic Tires—Passenger Cars

Correction

In FR Doc. 78-27449 appearing in the issue of Monday, October 2, 1978, the tables appearing on pages 45367 through 45369 are republished to include the footnotes at the end of each table.

[1505-01-C]

TABLE 1 - GG

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/80' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P155/80R15	345	370	395	420	445	465	485	505	525	4 ½	774	157

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE 1 - HH

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/75' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/75R15	395	425	455	480	510	535	555	580	600	5	807	177

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE 1 - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/70R13	315	340	365	385	410	430	445	465	485	5	740	177

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

V 4 3 1 2 2 8

TABLE I - KK

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P235/60R14	475	515	550	585	615	645	675	700	730	6 1/2	834	235
P245/60R15	535	580	620	655	690	725	760	790	820	7	907	248

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - LL

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR "T SERIES" 60LB/IN^2 TIRES

Tire size 1/	Maximum tire load (pounds at 60 psi cold inflation pressure	Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
T125/90D16	1995	4	29.41	5.16

1/ The letter "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified section sidth by more than the amount specified in S4.2.2.2.

TABLE I - X

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR MILLIMETRIC '50' SERIES RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)*												Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175/50R13	500	535	565	595	625	655	680	710	735	760	785	810	835	5 1/2	26.67	7.13

1/ The letter "H," "S" or "V" may be included in any specfied tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent

TABLE I - BB

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "40 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
205/40R13	460	490	520	545	575	600	625	650	675	695	720	740	765	7	27.13	8.11

1/ The letter "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I - OO

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "55 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
235/55R15	970	1035	1100	1160	1215	1270	1325	1375	1430	1475	1525	1570	1615	7	34.02	9.45

1/ The letter "H," "S," or "V" may be included in any tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I - MM

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175/65R14	695	740	785	830	870	910	945	985	1020	1055	1090	1125	1155	5	29.47	6

1/ The letter "H," "S" or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

N 0 2 7 7 8 UMI

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER D—TARIFFS AND SCHEDULES

PART 1331—SECTION 5a APPLICATIONS

Notification of Rate Proposals Following Prior Independent Action

AGENCY: Interstate Commerce Commission.

ACTION: Final Rule.

SUMMARY: The Interstate Commerce Commission is adopting a rule which modifies the rule published in the FEDERAL REGISTER on March 17, 1978, 43 FR 11201 by exempting general rate increases from that rule's provision concerning opportunity to be heard. This rule affirms that previous rule in all other respects. The Commission also has discussed portions of the rule which parties have requested be clarified.

DATE: The Rule adopted here will take effect December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Deputy Director Janice Rosenak or Assistant Deputy Director Harvey Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7693 or 202-275-7656.

SUPPLEMENTARY INFORMATION: This proceeding was before the Commission on appeal and on petition for clarification and modification of the Rule published in the FEDERAL REGISTER on March 17, 1978, 43 FR 11201. That Rule was adopted because the Commission found, in the course of the rulemaking proceeding, that unconsented to changes and cancellations of rates established by independent action can and do occur, and that occurrences of this nature infringe the carriers' statutory right of independent action.

On appeal, the Commission has determined that general rate increases (GRI) should be exempted from the rule's provision (c), concerning opportunity to be heard, since their inclusion would require a substantial change in railroad procedures for handling them and broaden the rule's scope beyond independent action rates. Such changes are better considered in a separate proceeding or as a part of a more general consideration of rail agreements. The rule has been affirmed in all other respects.

The Commission also has clarified the rule by explaining in its decision that (1) the rule does not apply to carriers changing rates by use of collective procedures, but only to independent actors and those joining without use of collective procedures; and (2) the rule's definition of adequate notice requires railroads to supply only general information concerning restrictions (not detailed identification), and identification of origin and destination groups (not each station).

This amended rule is issued under the authority of 49 U.S.C. §§ 5b, 5c, 12; 204(a)(6); 304(a); and 403(a), and was adopted formally at a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C. on the 4th day of October, 1978.

By the Commission, Commissioner Stafford, concurring in part, dissenting in part.

H. G. HOMME, Jr.,
Acting Secretary.

Under 49 U.S.C. 5b, 5c, 12, 204(a)(6), 304(a), and 403(a), 49 CFR Part 1331 was supplemented by adding a new § 1331.6. Section 1331.6 is amended to read:

§ 1331.6 Changing or canceling rates established by independent action.

(a) For purposes of this subsection the following definitions shall apply:

(1) "Independent action" is any action taken by a common carrier member of a rate bureau, on or after the date this rule takes effect,

(i) To established a rate to be published in the appropriate rate bureau tariff, or to cancel a rate for that carrier's account, or

(ii) To instruct the rate bureau that an existing rate (whether established by independent action or collective action), that is proposed to be changed or canceled, be retained for that carrier's account and published in the appropriate bureau tariff, or

(iii) To have published for its account in the appropriate rate bureau tariff a rate established by the independent action of another carrier. This definition applies regardless of the manner in which the carrier joins in the rate, as long as the rate published for the joining carrier's account is the same as the rate established by the other carrier under independent action.

(2) "Adequate notice" is notice which informs the carrier, shipper or other interested party for which it is intended (i) that a proposal has been made to change or cancel a rate established by independent action, (ii) of the rate proposed to be changed or canceled, (iii) the proposed new rate if there is one, (iv) limitations on weight or other restrictions pertaining to the existing rate and the proposed rule, (v) the commodities moving under the rate, (vi) the relevant origin and destination points, (vii) carrier participating in the rate proposed to be changed or canceled, and (viii) the identity of the proponent of the change or cancellation.

(3) A "rate bureau" is a ratemaking conference consisting of common carrier members operating under the provision of an agreememt approved by the Commission pursuant to section 5a or 5b of the Interstate Commerce Act, 49 U.S.C. 5b, 5c.

(4) The term "rate" refers to rates, fares, classifications, allowances or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto.

(5) A "general rate increase," when the term is used in reference to a motor common carrier rate increase, is a proposed general adjustment of substantially all the rates published in a rate bureau's tariff or tariffs.

(6) A "general rate increase," when the term is used in reference to a railroad rate increase, is a proposed general increase in freight rates or charges for the account of substantially all common carriers by railroad in the United States or in any of the three primary ratemaking territories, namely, eastern, western, or southern.

(7) A "rate restructuring," as the term is used in reference to motor carrier rates, is a proposed general adjustment of rates published in a rate bureau's tariffs with the objective of restructuring the rates on a wide range of traffic, involving both increases and reductions in rates.

(b) *Duty of adequate notice to shippers and other interested parties.* Motor carrier and railroad rate bureaus shall provide shippers and other interested parties (not including member carriers of the rate bureau), who have requested notice of proposed rate bureau action under the terms of the rate bureau's agreement, adequate notice of any proposal to change or cancel a rate established by independent action.

(c) *Opportunity to be heard.* Before the committee or other group designated under the terms of a motor carrier or railroad bureau's agreement meets to consider a proposal to change or cancel a rate established by independent action (whether for the purpose of voting to accept or reject the proposal or to consider whether to recommend it to the rate bureau membership for a final vote), member carriers (in the case of motor carrier rate bureaus), shippers and other interested parties (in the case of motor carrier and rail rate bureaus) shall have no less than 14 days (not counting the day notice of the proposal is sent to these parties) to respond to the notice to express their views to the appropriate committee or group in whatever manner they so choose be it in writing, in person or by some other means.

(d) *Duty of adequate notice to motor carriers and to obtain their consent.*

(1) When a proposal has been made under the collective ratemaking procedures of a motor common carrier rate bureau, or under the right of independent action, to change or cancel a rate established by independent action, all member carriers of the bureau participating in the rate that is proposed to be changed or canceled shall be provided adequate notice of that proposal.

(2) The change or cancellation shall not take effect or, as necessary, be published for the account of any member carrier participating in the rate if the carrier does not communicate to, and the rate bureau does not receive, that carrier's written consent to the change in or cancellation of the rate. Written consent must be freely given without any kind of direct or indirect pressure or coercion from any other carrier, shipper or other party. The requirement that written consent be communicated and received may not be waived by any carrier, shipper, officer of a rate bureau or other party. This rule applies notwithstanding the fact that a carrier of whom consent is required is in actual attendance or voting at a rate committee meeting or other meeting at which the proposal is considered.

(e) *General rate increases and rate restructuring.* The provisions set forth in paragraphs (b), (c), and (d) above do not apply to proposals to change rates established by independent action where the proposal is made as part of a proposed general rate increase or rate restructuring, and notice to member carriers, shippers and other interested parties informs the reader in a conspicuous place that the proposal is made as part of a general rate increase or rate restructuring.

(f) *A rate established by independent action.* For purposes of this rule a rate established by independent action continues to be a rate established by independent action even after it has been changed pursuant to a general rate increase or rate restructuring of the type defined in paragraph (e). However, a rate established by independent action ceases to be a rate of that character for the account of any carrier participating in the rate that consents in writing pursuant to paragraph (d) to the proposed change in or cancellation of the rate. For example, where more than one carrier is participating in the rate, and the rate is proposed to be changed, the rate continues to be a rate established by independent action for the account of the carriers which do not consent to the change or cancellation, but ceases to be a rate of that type for the account of the carriers that give their consent pursuant to paragraph (d).

[FR Doc. 78-33167 Filed 11-24-78; 8:45 am]

the confirmation of sale. Subject to

offering is commenced may adversely

circular in the form filed with a Regu-

V43N228 1978

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 230]

[Release No. 33-5997, File No. S7-762]

SMALL OFFERING EXEMPTION

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment a proposal to amend its small offering exemptive rule to permit under certain conditions use of a preliminary offering circular between the date of filing of a notification relating to a firm commitment underwritten public offering of securities in reliance upon this exemptive rule and the date on which the offering is commenced. This action is responsive to the concerns expressed by some witnesses at the recently completed small business hearings that underwritten offerings in reliance upon this rule are adversely affected by the existing proscription on use of the preliminary offering circular prior to the commencement of the offering.

DATES: Comments should be submitted on or before December 31, 1978.

ADDRESS: Comment letters should refer to File No. S7-762 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Ruth D. Appleton, 202-755-1290 or Linda L. Griggs, 202-755-1803, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today published for comment a proposed amendment to Regulation A [17 CFR 230.251-.264], a regulation adopted by the Commission pursuant to section 3(b) of the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)]. The amendment is being proposed in the nature of an experiment for the purpose of facilitating the use of Regulation A for firm commitment underwritten public offerings of securities.

The proposal represents another step in the Commission's ongoing efforts to assist small businesses. In Securities Act Release No. 5977 (September 11, 1978) [43 FR 41383], the Commission adopted an amendment to Regulation A to increase the aggregate offering price of securities which may be sold thereunder during a twelve month period from $500,000 to $1,500,000. This amendment followed Congressional action raising the aggregate amount of the small offering exemption specified in section 3(b). In Securities Act Release No. 5975 (September 8, 1978) [43 FR 41193], the Commission adopted an amendment to Rule 146 [17 CFR 230.146], the private placement exemptive rule, which modifies the disclosure requirements when an offering does not exceed $1,500,000. Most recently, the Commission amended Rule 144 [17 CFR 230.144], the rule which sets forth guidelines for the resale of certain securities, and proposed amendments to that rule. Securities Act Release No. 5979 (September 19, 1978) [43 FR 43709] amends Rule 144 to (1) relax the limitations on the amount of securities that can be sold under the rule; (2) permit sales made under the rule through market makers; and (3) eliminate the brokerage or market maker transaction requirement with respect to sales of securities by estates and beneficiaries thereof who are not affiliates of the issuer of securities.[1] Securities Act Release No. 5980 (September 20, 1978) [43 FR 43726] proposed for comment amendments to Rule 144 which would permit persons who have held securities covered by the rule for five years or more to sell such securities without any limitations, provided such persons are not affiliates of the issuer of the securities.

BACKGROUND

Section 3(b) of the 1933 Act authorizes the Commission to adopt rules and regulations to exempt securities from the registration requirements of the Act where the aggregate amount at which such issue is offered to the public does not exceed $2,000,000.[2] Pursuant to this authority, the Commission adopted Regulation A.[3]

Regulation A requires the filing and use of an offering circular containing information similar to, but less extensive than, the information which would be contained in a prospectus delivered pursuant to section 5 of the Act.[4] The most significant advantage to the use of a Regulation A offering circular over a 1933 Act prospectus used for registration of securities is that the financial statements in the offering circular need not be certified.[5]

Regulation A requires delivery of an offering circular concurrently with or prior to any written offer of securities made pursuant to its exemptive provisions. Rule 256(a) [17 CFR 230.256(a)] further provides that if the issuer is not required to file reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)], it must furnish an offering circular to the prospective purchaser at least 48 hours prior to the delivery of

[1] In Securities Act Release No. 5995 (November 8, 1978) [43 FR], Rule 144, Form 144 [17 CFR 239.144] and Form S-8 [17 CFR 239.16b] were amended further to reflect the amendments to Rule 144 adopted on September 19, 1978.

[2] Pub. L. 95-425 raised the ceiling under section 3(b) to $2,000,000. At the Commission meeting on September 7, 1978, it was determined to raise the ceiling under Regulation A to $1,500,000 with the decision whether to raise the ceiling to $2,000,000 being deferred for a period of experience. Securities Act Release No. 5977 (Sept. 11, 1978) [43 FR 41383].

[3] Under the authority granted by section 3(b) the Commission has also, inter alia, adopted Regulation B (17 CFR 230.300-230.346) for fractional undivided interests in oil and gas rights; Rule 240 (17 CFR 230.240) for certain limited offers and sales by closely held issuers; Regulation E (17 CFR 230.601-230.610a) for securities fo small business investment companies; and Regulation F (17 CFR 230.651-230.656), for assessments or assessable stock and for assessable stock offered or sold to realize assessments.

[4] A Regulation A offering which meets the conditions set forth in Rule 257 (17 CFR 230.257), however, may be made without the use of an offering circular if the aggregate offering price of all securities of the issuer, its predecessors and affiliates does not exceed $100,000. See Securities Act Release No. 5977 (Sept. 11, 1978).

[5] In Securities Act Release No. 5977, however, the Commission stated that it had determined not to require certified financial statements for offerings with an aggregate offering price above $500,000 although it "strongly encourage[d] the use of certified financials".

the confirmation of sale. Subject to one essential distinction, this delivery requirement parallels the prospectus delivery requirements applicable to registered public offerings. Under section 5(b)(2), unless an exemption from registration is available for the sale of a security, the sale must be accompanied or preceded by a prospectus.

Issuers of securities registered under the 1933 Act must also satisfy certain other prospectus delivery requirements, however. Section 8 of the Act requires the Commission to have "due regard to the adequacy of the information respecting the issuer theretofore available to the public" in making a determination whether to act favorably upon an issuer's request for acceleration of the effective date of the registration statement. This provision, as implemented in Rule 460 [17 CFR 230.460], promulgated under the Act, has been interpreted as a declaration of policy that information concerning the issuer must be disseminated before sales of its securities may be made and accordingly that, if the issuer is not required to file reports pursuant to section 13(a) or 15(d) of the Exchange Act, the Commission may not accelerate the effective date of a registration statement unless copies of a preliminary prospectus have been distributed to all persons to whom the underwriters expect to mail confirmations not less than 48 hours prior to the time it is expected such confirmations will be mailed (Securities Act Release No. 4968 (April 24, 1969) [34 FR 7235]).

The crucial distinction between the delivery requirements applicable to offerings registered under the 1933 Act and those applicable to offerings exempt from registration under Regulation A is that, unlike the registered offering, in which a preliminary prospectus may be used prior to the effective date of the registration statement, no preliminary offering circular may be distributed prior to the commencement of a Regulation A offering.[6]

Some of the witnesses from the investment banking community testifying before the Commission in its hearings on small business capital formation stated that Regulation A is currently not suited for the firm underwritten distribution process. The inability of an underwriter to circulate a preliminary offering document prior to the date on which the Regulation A offering is commenced may adversely affect the feasibility of Regulation A for firm commitment underwritten public offerings and accordingly may dissuade potential underwriters from entering firm commitment arrangements with respect to Regulation A offerings. Some of the possible reasons for this adverse effect on underwritten Regulation A offerings may include the following:

1. Adequate information concerning the issuer cannot be disseminated to and absorbed by potential investors prior to commencement of actual sales of the security.

2. The underwriter cannot follow the traditional practice of soliciting prospective selling group members to participate in the offering by furnishing them with a proposed offering document in preliminary form which they can review with prospective purchasers in order to decide whether to participate as members of the selling group.

3. The proposed offering document cannot be reviewed with analysts, institutional investors and others to determine whether it contains ambiguities or omits information which prospective investors consider material to an investment decision. Thus, the issuer and the underwriter may be cut off from an important source of information on which improvements in the quality of the disclosure document may be based.

4. Steps customarily taken in connection with an underwritten public offering to ascertain the extent of investor interest cannot be taken, precluding the underwriters from obtaining that information necessary to establish the price per share, size of the proposed offering and terms on which the offering should be made, and the underwriting commission.

5. Because of the requirement that the offering circular be delivered 48 hours prior to confirmation of sale, the issuer and the underwriters must agree on all of the pertinent terms of the offering, such as the price per share and aggregate amount to be offered, 48 hours before the securities may be sold.

For the foregoing reasons, any underwriters willing to undertake a firm commitment Regulation A offering would be likely to insist that the underwriting commissions be increased to reflect their uncertainty about the marketability of the issue that exists due to an inability to determine potential investor interest in the offering prior to the date of its commencement.

DISCUSSION OF THE PROPOSAL

The proposed amendment to Regulation A would add a provision permitting the use of a preliminary offering circular in the form filed with a Regulation A notification on Form 1-A [17 CFR 239.90] if the following conditions are met:

1. The offering circular contains substantially the information required by Regulation A, or contains substantially that information except for certain data dependent upon the offering price.

2. The preliminary offering circular is clearly designated as such and bears a legend comparable to that required on the cover of a Preliminary Prospectus.

3. The aggregate offering price of the securities being offered pursuant to the Regulation A exemption is equal to or in excess of $500,000.

4. The offering relates solely to a firm commitment underwritten public offering of securities.

5. A definitive offering circular other than one designated as a "Preliminary Offering Circular" accompanies or precedes the confirmation of sale sent to any person who has been furnished the preliminary offering circular.

The proposed amendment is based upon Rule 433 [17 CFR 230.433], which sets forth the terms and conditions governing the use of a preliminary prospectus in connection with an offering registered under the Securities Act of 1933. Unlike Rule 433, however, the proposal would limit the use of a preliminary offering circular in the following ways: (1) the aggregate offering price of the securities being offered pursuant to the Regulation A exemption must be equal to or in excess of $500,000; and (2) the offering must relate solely to a firm commitment underwritten public offering of securities.

The restrictions relating to the amount of the offering and the type of underwriting arrangements are intended to assure that the preliminary offering circular is of a reasonably good quality. Comment is specifically invited on the proposed $500,000 offering amount restriction and its anticipated impact on the availability of the proposal to small businesses. No distinction is made under Rule 433 between firm commitment underwritten offerings and best efforts or non-underwritten offerings. The reason for proposing in paragraph (i) of Rule 256 that a preliminary offering circular be useable in a firm commitment underwritten offering is that the difficulty created by the absence of a preliminary offering circular is greater as to firm commitment offerings than as to best efforts or non-underwritten offerings.

The proposal would not require that the underwriting agreement filed as an exhibit to the notification pursuant to Rule 255(a) be signed. Nevertheless, the Commission expects that the issuer which intends to use the offer-

[6] Under Rule 255 (17 CFR 230.255), a Regulation A offering may not be commenced until ten business days after the original notification is filed or ten calendar days after an amended notification is filed, unless acceleration is granted. Under Rule 263 [17 CFR 230.263], the issuer is required to notify the Commission if the offering is not commenced within three business days after the issuer is advised that the Commission has no further comments on the notification.

By the Commission.

North Capitol Street, Washington,

ing circular as a preliminary offering circular will have a bona fide intent to enter an agreement with the underwriter for such underwriter's purchase of all of the securities to be offered pursuant to the subject offering circular. Furthermore, any underwriter named in the offering by the issuer would be expected to be able to satisfy the net capital requirements[7] upon taking the securities.

Similarly to the provisions of Rule 433, the preliminary offering circular would be required to contain substantially the information generally required in offering circulars used pursuant to the provisions of Regulation A, except for the omission of specified information relating to the offering price and the underwriter's compensation. In addition, the preliminary offering circular would be required to include a legend similar to that required on a preliminary prospectus. The proposed legend to be included on the cover page of the preliminary offering circular, however, would be required to be printed in a color other than red and different from that used elsewhere in the offering circular, in order to distinguish it from a "red herring" or preliminary prospectus. In this regard, comments are invited on whether the costs of using a second color for the required legend are so substantial that an alternative means of emphasizing the legend should be considered.

The requirement that a definitive offering circular accompany or precede the confirmation of sale is intended to assure that prospective purchasers who received a preliminary offering circular receive the offering circular which includes all information relating to the offering price and the underwriter's compensation. This type of information likely would be deleted from the preliminary offering circular. Similarly, on a registered offering, delivery of a definitive prospectus to purchasers of the securities is required by section 5(b)(2) of the 1933 Act.

The proposal would enable the distribution of a preliminary offering circular complying with the provisions of proposed paragraph (l) of Rule 256 of Regulation A once the notification and offering circular were filed with the Commission. Oral offers related to such a preliminary offering circular would also be permitted. The provisions of sections (a) and (d) of Rule 255 would not be applicable to these uses of the preliminary offering circular. It should be noted, however, that sales of the securities would not be permitted during the ten day waiting periods provided for by sections (a) and (d) of Rule 255.

If the staff has no comments on the preliminary offering circular, its distribution to persons to whom the securities are expected to be sold would satisfy the requirements of paragraphs (a)(1) and (a)(2) of Rule 256.[8] Therefore, the proposal would permit persons to make written offers of securities of an issuer under Regulation A if the offer is accompanied or preceded by a preliminary offering circular meeting the requirements of paragraph (i). Furthermore, the proposal would enable persons to mail confirmations of sale to those prospective purchasers who had received such a preliminary offering circular 48 hours prior to their receipt of the confirmation. These persons would also receive copies of the definitive offering circular, that is, the offering circular containing the information required by Schedule I of Form 1-A, pursuant to proposed paragraph (l)(5) of Rule 256. Sales to persons who had not received preliminary offering circulars would have to satisfy the existing requirements of Rule 256(a), with delivery of an offering circular containing the Schedule I information 48 hours prior to receipt of the confirmation with respect to non-reporting issuers.

Rule 256(a)(2) does not require compliance with the 48 hour delivery provision with respect to offerings of issuers which are reporting companies. Therefore, the offering circular required to be distributed by proposed paragraph (l)(5) would be delivered to all prospective purchasers of the issuer's securities in compliance with Rule 256(a)(2).

If the staff has comments on the preliminary offering circular, the issuer would be required to file an amendment to the circular pursuant to Rule 255(d). Provided the conditions in proposed paragraph (i) are met, the amended offering circular could be distributed as a preliminary offering circular during the ten day waiting period provided for by Rule 255(d) during which sales of the securities cannot be made. The amended offering circular could also be used to satisfy the provisions of Rule 256(a).

Rule 255(d) enables the Commission, and its staff by delegated authority,[9] to authorize the offering of securities prior to the expiration of ten days following the filing of an amendment. Upon request for acceleration of the ten day period, the staff likely would require redistribution of the amended preliminary offering circular as a condition to the exercise of its discretion to authorize the commencement of sales prior to the expiration of the ten day period if the previously distributed preliminary offering circular is considered by the staff to be materially deficient.[10] Once again, the distributed amended preliminary offering circular may be used for compliance with Rule 256(a) in lieu of the offering circular containing all of the information required by Schedule I provided the conditions in paragraph (i) are met. Of course, with respect to issuers not required to file reports pursuant to section 13(a) or 15(d), prospective purchasers would have to receive the amended preliminary offering circular 48 hours prior to their receipt of confirmation of sale.

The staff likely would require also redistribution of the amended preliminary offering circular with respect to reporting issuers as a condition to acceleration where the amendments are material even through Rule 256(a)(2) would require only that prospective purchasers be furnished the definitive offering circular prior to or together with receipt of their confirmation of sale. The staff's procedure for determining whether redistribution of the preliminary offering circular will be required is intended to parallel procedures now followed by the staff with respect to the determination whether redistribution of a preliminary prospectus is required in offerings registered under the 1933 Act.

TEXT OF PROPOSED AMENDMENT

17 CFR 230.256 is proposed to be amended to revise paragraph (a) and add paragraph (i) as follows:

§ 230.256 Filing and use of the offering circular.

(a) Except as provided in paragraphs (o) or (i) of this section and in § 230.257—

* * * * *

(i) An offering circular filed pursuant to paragraph (f) may be distributed prior to the expiration of the ten day waiting periods provided for in § 230.255(a) and (d) and such distribution may be accompanied or followed by oral offers related thereto provided the conditions in subparagraphs (1) through (5) are met. In addition, such distributed offering circular may be used to meet the requirements of paragraph (a) of § 230.256 and shall be

[7] Rule 15c3-1 [17 CFR 240.15c3-1].

[8] Paragraph (a)(1) requires that a written offer of the securities be accompanied or preceded by an offering circular containing all of the information specified in Schedule I of Form 1-A. Paragraph (a)(2) provides that a person to whom a confirmation of sale is mailed should receive a copy of such an offering circular at least 48 hours prior to receipt of the confirmation if the issuer is not required to file reports pursuant to section 13(a) or 15(d) of the Exchange Act. The offering circular may be furnished with or at any time prior to delivery of the confirmation of sale with respect to reporting issuers, however.

[9] 17 CFR 200.30-1(g)(2).

[10] Should redistribution not be required, the earlier offering circular, which was designated as a "Preliminary Offering Circular," could be used to satisfy the delivery requirements of Rule 256(a).

exempt pursuant to the requirements of section 3(b) of the Act.

(1) Such offering circular contains substantially the information required by this section to be included in an offering circular, or contains substantially that information except for the omission of information with respect to the offering price, underwriting discounts or commissions, discounts or commissions to dealers, amount of proceeds, conversion rates, call prices, or other matters dependent upon the offering price.

(2) The aggregate offering price of the securities being offered pursuant to the Regulation A exemption is equal to or in excess of $500,000.

(3) The outside front cover page of such form of offering circular shall bear, in ink of a color other than red and different from that used elsewhere in the offering circular, the caption "Preliminary Offering Circular", the date of its issuance, and the following statement printed in type as large as that used generally in the body of such offering circular:

A notification pursuant to Regulation A relating to these securities has been filed with the Securities and Exchange Commission, but information contained herein is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time an offering circular which is not designated as a Preliminary Offering Circular is delivered. This offering circular shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sales of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

(4) The offering circular relates solely to a proposed firm commitment underwritten public offering of securities; and

(5) An offering circular which contains all of the information specified in Schedule I of Form I-A [17 CFR 239.90] and which is not designated as a Preliminary Offering Circular is furnished with or prior to delivery of the confirmation of sale to any person who has been furnished with a preliminary offering circular pursuant to this paragraph.

* * * * *

[Secs. 3(b), 19(a), 48 Stat. 75, 85; sec. 209, 48 Stat. 908; 59 Stat. 167; Pub. L. 91-565, 84 Stat. 1480; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77c(b), 77s(a)]

STATUTORY BASIS

The amendment to Rule 256 is being proposed by the Commission pursuant to the Securities Act of 1933, particularly sections 3(b) and 19(a) thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 16, 1978.

[FR Doc. 78-33087 Filed 11-24-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Chapter I]

PUBLIC UTILITY REGULATORY POLICIES ACT

Informal Public Conference; Gathering Information on Costs of Service

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Informal Public Conference.

SUMMARY: An informal public conference will be held on December 4, 1978, to receive preliminary comments on the implementation of Section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The Act requires the FERC to promulgate rules under which each electric utility having annual retail sales of electricity in excess of 500 million kilowatt hours will gather information to allow determination of the costs associated with providing retail electric service.

DATES: Request to speak at the conference—by phone (Mr. Kenneth Plumb, Secretary of the Commission 202-275-4166) by November 30, 1978. Conference—December 4, 1978, at 9:30 a.m. Written comments by December 15, 1978.

ADDRESSES: Conference—FERC Hearing Room A at 825 North Capitol Street, Washington, D.C. Written comments should be addressed to Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Daniel G. Lewis 202-275-4766 or Mr. Gregory D. Martin 202-275-4176.

SUPPLEMENTARY INFORMATION:

NOVEMBER 22, 1978.

Commissioner Matthew Holden of the Federal Energy Regulatory Commission (FERC) announces an informal public conference on December 4, 1978, for the purpose of receiving preliminary comments from interested parties on the implementation of Section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The public conference will begin at 9:30 a.m. on December 4 in Hearing Room A at the FERC Offices at 825 North Capitol Street, Washington, D.C., and continue on December 5 if necessary.

Section 133 of PURPA requires the FERC to promulgate rules under which each electric utility having annual retail sales of electricity in excess of 500 million kilowatt hours will gather information to allow determination of the costs associated with providing retail electric service. The information gathered is to be filed with the Commission and with the appropriate State regulatory authority by November 9, 1980, and no less frequently than every two years thereafter. Such data are also to be made public, as prescribed by the Commission.

Issues to be considered at the public conference include:

(1) The specific nature of the cost data to be gathered, e.g., marginal vs. embedded costs, financial vs. resource costs.

(2) The level of detail of cost data to be gathered.

(3) The nature and extent of load data to be collected and the availability and cost of metering that may be necessary to provide such data.

(4) Sampling and metering techniques to be employed in the collection of load data including application problems.

(5) The time required for obtaining and installing meters for the collection of sample load data following promulgation of a final Commission rule.

(6) The relationship between specification of load data and the choice of cost of service methodology.

The conference will also receive comments on any problems of policy or of the practicalities of compliance not included otherwise in the foregoing list.

The Commission invites interested persons and groups to participate in the public meeting either by making oral presentations or submitting written comments. Time for individual oral presentations may necessarily be limited. Group presentation is encouraged.

Unscheduled presentations will be permitted only if time is available. Persons wishing to make presentations at the Conference should so notify the Secretary of the Commission (202-275-4166) before 4 p.m., November 30, and should indicate the amount of time desired. The Secretary will make available by noon, December 1, a schedule of presentations. A transcript of the conference will be made.

Written comments may be addressed to the Secretary of the Commission either in advance of the public conference or afterwards, but must be received by December 15, 1978, to receive full consideration. Inquiries concerning this Conference may be directed to Daniel G. Lewis, Office of Elec-

tric Power Regulation, at 202-275-4766. periodically review such findings and may

[6560-01-C]

Table 7. SUMMARY OF 1990 ECONOMIC IMPACTS[a]

V 43 N 228 NOV 27 1978

tric Power Regulation, at 202-275-4766 or to Gregory D. Martin at 202-275-4176.

The complete text of Section 133 is set forth below.

KENNETH F. PLUMB,
Secretary.

PUBLIC UTILITY REGULATORY POLICIES ACT

SEC. 133 GATHERING INFORMATION ON COSTS OF SERVICE.

(a) *Information required to be gathered.*—Each electric utility shall periodically gather information under such rules (promulgated by the Commission) as the Commission determines necessary to allow determination of the costs associated with providing electric service. For purposes of this section, and for purposes of any consideration and determination respecting the standard established by section 111(d)(2), such costs shall be separated, to the maximum extent practicable, into the following components: customer cost component, demand cost component, and energy cost component. Rules under this subsection shall include requirements for the gathering of the following information with respect to each electric utility—

(1) The costs of serving each electric consumer class, including costs of serving different consumption patterns within such class, based on voltage level, time of use, and other appropriate factors;

(2) Daily kilowatt demand load curves for all electric consumer classes combined representative of daily and seasonal differences in demand, and daily kilowatt demand load curves for each electric consumer class for which there is a separate rate, representative of daily and seasonal differences in demand;

(3) Annual capital, operating, and maintenance costs: (A) For transmission and distribution services, and (B) for each type of generating unit.

(4) Costs of purchased power, including representative daily and seasonal differences in the amount of such costs.

Such rules shall provide that information required to be gathered under this section shall be presented in such categories and such detail as may be necessary to carry out the purposes of this section.

(b) *Commission rules.*—The Commission shall, within 180 days after the date of enactment of this Act, by rule, prescribe the methods, procedure, and format to be used by electric utilities in gathering the information described in this section. Such rules may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, in cases where such utility or utilities show and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments, that gathering such information is not likely to carry out the purposes of this section. The Commission shall periodically review such findings and may revise such rules.

(c) *Filing and publication.*—Not later than 2 years after the date of enactment of this Act, and periodically, but not less frequently than every 2 years thereafter, each electric utility shall file with—

(1) The Commission, and

(2) Any State regulatory authority which has ratemaking authority for such utility.

The information gathered pursuant to this section and make such information available to the public in such form and manner as the Commission shall prescribe. In addition, at the time of application for, or proposal of, any rate increase, each electric utility shall make such information available to the public in such form and manner as the Commission shall prescribe. The 2-year period after the date of the enactment specified in this subsection may be extended by the Commission for a reasonable additional period in the case of any electric utility for good cause shown.

(d) *Enforcement.*—For purposes of enforcement, any violation of a requirement of this section shall be treated as a violation of a provision of the Energy Supply and Environmental Coordination Act of 1974 enforceable under section 12 of such Act (notwithstanding any expiration date in such Act) except that in applying the provisions of such section 12 any reference to the Federal Energy Administrator shall be treated as a reference to the Commission.

[FR Doc. 78-33231 Filed 11-24-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 1012-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Electric Utility Steam Generating Units; Correction and Additional Information

AGENCY: Environmental Protection Agency.

ACTION: Corrections and Additional Information on proposed rule.

SUMMARY: This notice corrects information that appeared in the FEDERAL REGISTER on September 19, 1978 (43 FR 42164 and 42168), and provides information on the additional analyses being conducted.

On September 19, 1978 (43 FR 42154), EPA proposed standards of performance which would limit emissions of sulfur dioxide (SO_2), particulate matter, and nitrogen oxides (NO_x) from new, modified and reconstructed electric utility steam generating units capable of combusting more than 73 megawatts (MW) heat input (250 million Btu/hour) of fossil fuel. In that proposal, EPA indicated that a final decision on full versus partial SO_2 scrubbing would not be made until the analyses of various alternatives were completed and public comments evaluated. The purpose of this notice is to correct certain errors in Tables 7 and 8 contained in the preamble; to clearly identify certain documents in the docket (Docket Number OAQPS-78-1); and to advise the public of the additional analyses that are being undertaken.

DATES: Comments on this information may be submitted to EPA through January 15, 1979.

ADDRESSES: Comments should be submitted to Jack R. Farmer, Chief, Standards Development Branch, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT:

Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

SUPPLEMENTARY INFORMATION: The corrections and additinal information follow.

1. As a result of EPA's continuing analysis of the costs of the alternative standards, certain errors pertaining to average monthly residential bills and the incremental utility capital expenditures were identified in Tables 7 and 8 of the preamble of the September 19 proposal. The corrected tables are presented in this notice.

2. The "real resource" present value (presented in the second full paragraph of column one [43 FR 42164]) should also be corrected to read $17.5 billion for the full control option and $10.1 billion for the 340 ng/J (0.80 lb/million Btu) option as compared to the current standard.

3. In addition, it is also necessary to correct average monthly residential bills and the incremental utility capital expenditures in Tables 3-5 and 3-6 found on pages 3-15 and 3-19, respectively, of the document, "Background Information for Proposed SO_2 Emission Standards-Supplement," EPA-450/2-78-007a-1. The corrected tables are presented in this notice.

[6560-01-C]

Table 7. SUMMARY OF 1990 ECONOMIC IMPACTS[a]

	Level of Control									
	Current Standards		Full Control		Partial Control 210 ng/J		Partial Control 290 ng/J		Partial Control 340 ng/J	
	APR	AUG	APR	AUG	APR	AUG	APR	AUG	APR	AUG
Average monthly residential bills ($/month)	45.31	43.83	46.39	44.17	46.20	44.43	--	44.21	45.47	44.19
Incremental Utility Capital Expenditures, Cumulative 1976-1990 ($ billions)	--	--	10	-2	15	6	--	2	3	2
Incremental Annualized Cost ($ billions)	--	--	2.0	1.9	1.3	1.7	--	1.3	0.3	1.1
Incremental Cost of SO_2 Reduction ($/ton)	--	--	885	754	640	642	--	511	303	485

SOURCE: Background Information for Proposed SO_2 Emission Standards - Supplement, EPA-450/2-78-007a-1, Chapters 2 and 3, August, 1978.

[a]Results of EPA analyses completed in April, 1978, and August, 1978.

Table 8. SUMMARY OF 1995 IMPACTS: AUGUST, 1978, ANALYSIS

	1975 Actual	Level of Control: Current Standards	Full Control	Partial Control 210 ng/J	Partial Control 290 ng/J	Partial Control 340 ng/J
National Emissions (million tons)	18.6	23.3	18.5	18.5	18.7	19.0
New Plant Emissions[a] (million tons)	--	7.9	2.4	2.5	2.8	3.2
U.S. Coal Production (million tons)	647	1865	1865	1858	1868	1866
Western Coal Shipped East (million tons)	21	210	130	133	190	196
Oil/Gas Consumption (million bbl/day)	3.1	0.8	0.9	0.9	0.9	0.9
Incremental Cumulative Capital Expenditures (1975 $ billion)	--	--	27	22	15	13
Incremental Annualized Cost (1975 $ billion)	--	--	2.6	2.3	2.0	1.9
Average Monthly Residential Bill (1975 $/month)	--	45.34	46.31	46.10	46.02	45.98
Total Coal Capacity (GW)	198	587	580	580	580	580

SOURCE: Background Information for Proposed SO_2 Emission Standards - Supplement, EPA-450/2-78-007a-1, Chapter 3, August, 1978.

[a]Plants subject to the revised standards.

4. It has come to EPA's attention

the Coal Markets and Utility Capac-

In addition to oil prices, adjustments

Table 3-5. RESIDENTIAL BILLS, CAPITAL EXPENDITURES, PRESENT VALUES, AND ANNUALIZED COSTS

		Control Options					
		0.2		0.5		0.67	0.8
	Current NSPS	With Exemptions	Without Exemptions	With Exemptions	Without Exemptions	With Exemptions	With Exemptions
I. 1990 monthly national avg residential bills, $/mo	43.83	44.17	44.30	44.43	44.55	44.21	44.19
Utility capital expenditures, $ billions	476.90	475.00	474.30	482.60	481.30	478.50	478.50
Present value - increase over current NSPS - $ billions	--	17.50	22.10	15.30	19.40	11.10	10.10
Annualized cost - $ billions	91.50	93.40	93.80	93.20	93.60	92.80	92.60
II. 1995 monthly national avg residential bills, $/mo	45.34	46.31	46.63	46.10	46.38	46.02	45.98
Utility capital expenditures, $ billions	730.20	756.80	757.30	752.20	750.30	745.40	743.10
Present value - increase over current NSPS - $ billions	--	18.00	27.20	17.10	24.40	14.30	13.70
Annualized cost, $ billions	125.60	128.20	129.20	127.90	128.70	127.60	127.50

Table 3-6. A COMPARISON OF ALTERNATIVE OIL PRICE AND RAIL RATE ASSUMPTIONS UPON RESULTS FOR THE 0.2 (WITH EXEMPTIONS) OPTION IN 1990 (CONTINUED)

	BASE CASE[1]	LOW OIL PRICE[2]	VERY LOW OIL PRICE[3]	NO RAIL RATE ESCALATION[4]
V. Selected Economic Information[8]				
. Monthly National Avg. Residential Bill, $/mo	44.17	43.62	42.57	NA
. Utility Capital Expenditures, $ Billions Cumulative	475.00	450.10	405.70	NA
. Present value - Increase Over Current NSPS, $ Billions	17.50	11.80	12.31	NA
. Annualized Cost, $ Billions	93.40	91.30	87.10	NA

[1] 1990 oil price of $20.00/bbl; rail rate escalation of 1% over inflation.

[2] 1990 oil price of $17.00/bbl; rail rate escalation of 1% over inflation.

[3] 1990 oil price of $12.70/bbl; rail rate escalation of 1% over inflation.

[4] 1990 oil price of $20.00/bbl; rail rate escalation of 1% over inflation.

[5] Existing plants subject to SIPs.

[6] New plants required to meet the current NSPS of 1.2 lb SO_2/million Btu.

[7] Plants required to meet the revised (alternative) NSPS.

[8] All economic data are presented in 1975 dollars. All cost information includes costs for controlling particulate emissions for new sources to a level of 0.03 lbs per million Btu.

4. It has come to EPA's attention that some interested parties are having difficulty in identifying the documents that constitute the economic impact assessment that was prepared in accordance with Section 317 of the Clean Air Act. These documents are:

"Electric Utility Steam Generating Units: Background Information for Proposed NO_x Emission Standards," EPA 450/2-78-006a

"Electric Utility Steam Generating Units: Background Information for Proposed Particulate Matter Emission Standards," EPA 450/2-78-002a

"Electric Utility Steam Generating Units: Background Information for Proposed SO_2 Emission Standards," EPA 450/2-78-007a

"Electric Utility Steam Generating Units: Background Information for Proposed SO_2 Emission Standards-Supplement," EPA 450/2-78-007a-01.

In addition, EPA has prepared the following list of documents which provided background information for the preparation of the economic impact assessment. All of these documents are contained in Docket Number OAQPS-78-1, which is located at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Category and Title

II-A-18 EPA-45/3-78-045, February, 1977, Electrostatic Precipitator Costs for Large Coal-Fired Steam Generators.

II-A-24 EPA-450/3-78-046, August, 1977, Fabric Filter Costs for Large Coal-Fired Steam Generators.

II-A-47 EPA-45-/3-78/043, November, 1977, Flue Gas Desulfurization System Manufacturers Survey.

II-A-64 EPA-450/3-78-007, February, 1977, Particulate and Sulfur Dioxide Emission Control Costs for Large Coal-Fired Boilers.

II-A-66 EPA-450/3-78-004, February, 1978, Assessment of Manufacturers Capability to Meet Requirements for Particulate Controls on Utility and Industrial Boilers.

II-A-68 Review of New Source Performance Standards for Coal-Fired Utility Boilers, Volume II, Economic and Financial Impacts, March, 1978, Teknekron, Inc.

II-A-85 The Demand for Western Coal and Its Sensitivity to Key Uncertainties, Draft Report, Second Edition, June, 1978, ICF, Inc. (Prepared for DOE.)

II-A-87 Draft Report (Update of Item Number II-A-64) Flue Gas Desulfurization Costs for Large Coal-Fired Steam Generators, PEDCo Environmental.

II-A-90 Effects of Alternative New Source Performance Standards for Coal-Fired Electric Utility Boilers on the Coal Markets and Utility Capacity Expansion Plans, Draft Reports, September, 1978, ICF, Inc. (Prepared for EPA.)

II-A-91 Further Analysis of Alternative New Source Performance Standards for Coal-Fired Power Plants, Preliminary Draft, September, 1978, ICF, Inc. (Submitted to EPA and DOE.)

II-A-321 Letter from Michael Allen, Temple, Barker and Sloane, Inc., to Lou Pugliaresi, Office of Planning and Evaluation, EPA, dated April 18, 1978. Subject: NSPS Analysis Results.

II-D-420 Letter, Dave Watkins, ICF, Inc., to Dan Badger, *et. al.*, Department of Energy, dated August 7, 1978. Subject: Summary sheets for scenarios involving low oil prices and no rail escalation.

II-D-435 Letter, Michael Allen, Temple, Barker and Sloane, Inc., to Dave Shaver, Office of Planning and Evaluation, EPA, dated August 23, 1978. Subject: NSPS Analysis Results.

II-F-4 Letter, J. F. O'Leary, Department of Energy, to D. C. Costle, EPA, dated July 6, 1978. Subject: DOE Analysis of Alternative Proposals.

IV-B-4 Memo from Michael Allen, Temple, Barker and Sloane, Inc., to Dave Shaver, Office of Planning and Evaluation, EPA, dated September 29, 1978. Subject: Changes in the TBS NSPS Analysis.

5. EPA is continuing to analyze alternative standards of performance for limiting the emission of SO_2 from power plants. As part of this effort, EPA staff has met with representatives of the Department of Energy (DOE), the Council of Economic Advisors, the Council on Wage and Price Stability, and others for the purpose of reexamining the assumptions used for the April and August analyses. As a result of these meetings, certain assumptions have been revised for the analysis currently being conducted. These changes include different oil prices from those used in the April and August analyses. For the current round of analyses, EPA will examine the various alternative standards using two ranges of oil prices. These are presented below in 1975 dollars:

1985—$12.30, 1985—$12.90; 1990—$13.20, 1990—$16.40; 1995—$14.90, 1995—$21.00.

In determining which oil prices to use, EPA sought guidance from DOE and others. Pending their final recommendations, EPA selected oil prices which appeared to be most consistent with those being used in the most recent analysis of the national energy plan.

In addition to oil prices, adjustments are also being made to the assumed nuclear capacity. Scrubber costs have also been refined. These changes will be presented in detail when the new analyses are released prior to the public hearing on the proposed standards. The other assumptions used in the August analysis (see Table 1, 43 FR 42165) will be retained.

With respect to the analysis of alternative standards, EPA is reanalyzing the proposed full control option as well as the DOE and Utility Air Regulatory Group recommendations. EPA is also examining other forms of both the full and partial control options. Under full control, different reduction requirements, maximum allowable emission limitations, and maximum control levels are being considered. Under partial control, other options would vary the percent reduction requirement and maximum allowable emission limitation as a function of coal sulfur content.

EPA intends to make results of these analyses available so they can be considered at the public hearing scheduled for December 12, 13, 14 Washington, D.C. Interested persons will also be afforded an opportunity to submit written comments on the results of these analyses and their underlying assumptions through January 15, 1978.

Dated: November 8, 1978.

DAVID D. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-32820 Filed 11-24-78; 8:45 am]

[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 57]

PAYMENT FOR TUITION AND OTHER EDUCATIONAL COSTS

Proposed Rulemaking

AGENCY: Public Health Service, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations set forth criteria for determing allowable increases in tuition and other educational costs for which the Secretary of Health, Education, and Welfare will be responsible under three scholarship programs authorized by the Public Health Service Act.

DATES: Comments must be received on or before January 26, 1979.

ADDRESSES: Written comments should be addressed to the Director,

Bureau of Health Manpower, Health and is attributable to uncontrollable

Interested persons are invited to

cost-of-living increases in wages, sala-

Opportunity Act of 1964, as amended. The proposed rule simplifies, updates,

rate issuance. A brief discussion of the major proposed revisions follows.

V 4 3 1 2 2 8 NO 0 2 7 7 8 IMI

Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, 3rd Floor, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Donald C. Parks, Deputy Director, Office of Program Operations, Bureau of Health Manpower, Room 3-22 at the above address (Telephone: 301-436-6560).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education and Welfare proposes to add a new Subpart GG, "Payment for Tuition and Other Educational Costs," to Part 57 of Title 42 of the Code of Federal Regulations.

Section 711 of the Public Health Service Act (42 U.S.C. 292k) provides that the Secretary will establish criteria for determining allowable increases in tuition and other educational costs for which the Secretary will be responsible for payment under Title VII of the Public Health Service Act. The proposed regulations apply to three programs in Title VII in which the Secretary commits the Federal Government to pay the costs of the tuition and other educational expenses of participating students and only to institutions having students participating in these programs. The programs are section 751 of the Act, establishing the National Health Service Corps Scholarship Program, section 757 of the Act establishing an Indian Health Scholarship Program and section 758 of the Act establishing a program for scholarships for first year Students of Exceptional Financial Need.

The following is a brief summary of the regulations as proposed:

1. The proposed regulations provide that increases in tuition and other educational costs for which the Secretary will be responsible under section 751, section 757, and section 758 of the Act will be allowed only to the extent that the increases are attributable either to uncontrollable costs as fuel costs or to the institution's efforts to improve and maintain the quality of health professions education at the institution. Whenever an institution increases tuition or education costs for which the Secretary is responsible under the three scholarship programs, the institution must provide the Secretary with a statement explaining the basis of the increase. Assuming that the increase is reasonably justified and is attributable to uncontrollable costs or related to improving and maintaining educational quality, the Secretary, generally, will not request more detail information. However, the Secretary does reserve the right to require additional detailed cost breakdowns, particularly, in those instances where the percentage increase in tuition and other educational costs exceed the percentage increase in the Consumer Price Index (CPI) as determined annaully and published by the Bureau of Labor Statistics. While the Secretary considered prescribing amounts of allowable increases or percentages of allowable increases in tuition and other educational costs, the Secretary has not taken this approach in the proposed regulations. In the Secretary's view this approach is both impractical and potentially inequitable since institutions vary greatly with respect to which costs are included in "tuition" and which are classified as "eduational costs," and any set percentage or amount limitation could be unfair depending upon the classification system used by the particular institution. Moreover, in the Secretary's view, it is likely that by incorporating percentages or amount ceilings in these regulations, they would become the "federally approved level" and thus serve as the sole determinant of the amount of increases implemented by numerous health professions institutions. While the Secretary proposes to utilize the CPI as a benchmark for determing a general category of cost increases that may require additional justification, it is not intended that the CPI be interpreted as being the maximum (or minimum) increase that will be acceptable to the Secretary.

Further it should be understood that while under the proposed regulations the Secretary may determine the increases in tuition and other educational costs for which the Secretary will be responsible, the proposed regulations do not authorize the Secretary to *establish* tuition and other educational costs for an institution.

2. The proposed regulations provide that even if an increase is allowable under the criteria summarized in Item I, it will only be allowed if it is charged uniformly to all students in the same category, for example, year class, without regard to the fact that the student is being supported under Title VII of the Act.

3. The proposed regulations provide, that if the Secretary, after reviewing all available data, information, and justifications submitted by an institution, determines that an increase is not allowable under the criteria in § 57.3202, that the Secretary will provide the affected institution a detailed written explanation of the basis of this determination.

Interested persons are invited to submit written comments, data, views, and arguments relating to these proposed regulations to the Director of the Bureau of Health Manpower at the address given above.

All relevant material received not later than January 26, 1979 will be considered before adoption of the final regulations.

It is, therefore, proposed to add a new Subpart GG to Part 57 to read as set forth below.

Dated: August 16, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 11, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart GG—Payment for Tuition and Other Educational Costs

Sec.
57.3201 To which programs do these regulations apply?
57.3202 How will allowable increases be determined?

AUTHORITY: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 711, Public Health Service Act, 90 Stat. 2253 (42 U.S.C. 292k).

Subpart GG—Payment for Tuition and Other Educational Costs

§ 57.3201 To which programs do these regulations apply?

The regulations in this subpart establish the criteria to be used in determining allowable increases in tuition and other educational costs for which the Secretary is responsible for payment under the following sections of the Public Health Service Act: The National Health Service Corps Scholarship Program (sec. 751) (42 U.S.C. 294t), the Indian Health Scholarship Program (sec. 757) (42 U.S.C. 294y-1), and Scholarships for First-Year Students of Exceptional Financial Need (sec. 758) (42 U.S.C. 294z). The regulations apply to increases in tuition and other educational costs occurring after the school year beginning immediately before October 1, 1978.

§ 57.3202 How will allowable increases be determined?

(a) In addition to the limitation imposed by paragraph (c), the Secretary will be responsible for increases in tuition and other educational costs charged to students participating in scholarship programs authorized under sections 751, 757, or 758 of the Act (the Scholarship Programs) over the amount charged for the school year immediately preceding the increase only to the extent that they are either (1) attributable to uncontrollable costs, such as fuel costs, mandated cost-of-living increases in wages, salaries and fringe benefits, or (2) attributable to costs of maintaining and improving the quality of the health professions education provided by the institution, such as hiring additional faculty to improve the faculty-student ratio, costs incurred in off-site training of students, and necessary improvements in teaching equipment. Increases in patient care and research costs are allowable as part of an increase in tuition and other educational costs only to the extent that they can be documented as clearly necessary to maintain and improve he quality of the education being supported.

(b) Institutions must provide the Secretary with an explanation of the basis of any increase. The Secretary may request additional detailed cost breakdowns when it is determined that further information is necessary to justify the increase.

(c) The Secretary is responsible for increases in tuition and other educational costs only if the same increase is charged to all students in the same category (for example, the same class year or place of residence) and without regard to whether the student is receiving support under the Scholarship Programs. A student participating in the Scholarship Programs may not be denied eligibility because of this participation for any discounts or rebates in tuition or other educational costs given to all other students in the same category at the institution.

(d) If the Secretary, after reviewing all available data, information, and justifications submitted by an institution, determines that an increase in tuition and other educational costs is not allowable under the criteria contained in paragraphs (a) and (c) of this section, the Secretary will provide the affected institution a detailed written explanation of the basis of his or her determination.

[FR Doc. 78-32845 Filed 11-24-78; 8:45 am]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1062]

[CSA Instruction 6400-01a]

ESTABLISHMENT AND ELIGIBILITY OF COMMUNITY ACTION PROGRAMS

Boards and Committees of Title II Programs

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration (CSA) is filing a proposed rule revising its policy statement on boards and committees of programs funded under Title II of the Economic Opportunity Act of 1964, as amended. The proposed rule simplifies, updates, and fills vacuums in CSA policy on grantee boards, and publishes the policy for the first time in the FEDERAL REGISTER (45 CFR). This one policy statement will supercede OEO Instructions 6400-01, The Organization of Community Action Agency Boards and Committees Under the Economic Opportunity Act (Section 211); 6402-01, Service by OEO Employees and Other Federal Employees with Grantees and Delegate Agencies; 6402-02, Standards of Eligibility for Members of Governing Bodies and Policy Advisory Committees of Community Action Agencies and Single-Purpose Agencies, Policy and Procedures; and 6402-1, Limitation on Terms of Board Service.

DATE: CSA welcomes and encourages comments on the proposed rule. All comments received prior to January 26, 1979 will be considered in drafting the final rule.

ADDRESS: Please address all comments to: Timothy P. McTighe, Community Services Administration, Office of Community Action, Policy Development and Review Division, 1200 19th Street, NW., Washington, D.C. 20506

FOR FURTHER INFORMATION CONTACT:

Timothy P. McTighe, telephone: (202) 254-5280, teletypewriter: (202) 254-6218.

SUPPLEMENTARY INFORMATION: On June 16, 1978, CSA published in the FEDERAL REGISTER (43 FR 26274) a Notice of Proposed Rulemaking announcing a policy study regarding agency regulations that govern grantee boards. The agency requested comments on the overall effectiveness of the regulations, on where there were omissions in them, and on any particular problems which have arisen in interpreting or in implementing them. In all the agency received 135 comments. There were 91 from Community Action Agencies, 15 from Limited Purpose Agencies, 4 from Delegate Agencies, 9 from State Economic Opportunity Offices (SEOOs), 6 from CSA Regional Offices, 6 from the general public, 3 from state CAP associations, and 1 from a regional SEOO association. CSA is most pleased with this response, and would like to thank all of these people for their time and interest in responding to the Notice.

The proposed rule makes specific areas where the present rule is vague. Overall, CSA has made the proposed rule clearer by deleting all guidance material from it. Whatever guidance material CSA issues will be published either as an appendix to the Instruction version of the rule or as a separate issuance. A brief discussion of the major proposed revisions follows.

§ 1062.200-3 COMMUNITY ACTION AGENCIES

The material presently covered by OEO Instruction 6400-01 has been reorganized into three subsections: (a) Boards of Directors of Community Action Agencies; (b) Contracts for Performing Components of the CAA Work Program; and (c) By-Laws.

§ 1062.200-3(a) *Boards of Directors of Community Action Agencies:* The most significant change in this subsection concerns what CSA has called "administering boards" and now proposes to call "community action boards." In changing the name of these boards the agency is returning to the language of the 1967 Amendments to the Economic Opportunity Act. The term "administering board" is solely the creature of OEO Instruction 6400-01, has no standing in the legislation, and says very little about the function of the entity. "Community action board," on the other hand, conveys the impression that the board is very much concerned with the Community Action Program which the local government has designated.

§ 1062.200-3(a)(3)(iii) *Powers of the Community Action Board:* A major area of comment and concern was the division of responsibility between the community action board and the local government where there are public CAAs. The Executive Directors of the Minneapolis CAA and of the San Mateo County, Calif., CAA both pointed out that the division of responsibilities was unclear and that the lack of specific powers for the community action board tended to dilute the participation of the poor in policy decisions.

In the proposed rule community action boards will have the power to participate jointly and to concur formally in the selection of the Executive Director and of the senior staff of the CAA. The other powers of the board have likewise been made more explicit. For example, the community action board will be responsible for enforcing compliance with all conditions of CSA grants and may submit its recommendations on all arrangements for delegating components of the CAA work program. It is through the exercise of these powers that the community action board will "administer" its program, as section 211(a) of the Economic Opportunity Act of 1964, as amended, requires.

§ 1062.200-3(a)(1) Composition of the Board: The proposed rule incorporates the requirement introduced by the 1972 Amendments to the Economic Opportunity Act that the public officials serving on the board be elected and the new requirements of the 1978

Amendments that the board consist of

cials or major groups and interests assure that they represent the poor in the community reside in the area which he/she represents.

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Amendments that the board consist of at least 15 members and that elected public officials be currently holding office while they serve on the board. Many correspondents recommended different changes in the composition of the board, in the size of the board, or in the terms of service for board members. Since these requirements are legislated, CSA does not have the administrative authority to change them.

§ 1062.200-3(a)(2) *Selecting members of the Board:* Several rural CAAs commented that interest in selecting representatives of the poor would be greater in sparsely populated areas if there were issue-oriented constituencies to which the representatives must answer. The procedures for selecting representatives of the poor and of private organizations have therefore been changed. The proposed rule gives the same weight to selection from representative groups of the poor as to area and at large representation. While selection from groups has always been an option, at least one correspondent was unaware of it.

Many correspondents reported that the private sector of the board does help channel new resources to the CAA. Added emphasis has been given to representation from business and labor in the selection or private organizations, as section 211(b) of the Act mandates.

Note that the proposed rule gives each CAA wide latitude in determining how it will select its representatives of the poor and of private organizations. [See § 1062.200-3(c)(1).] By requiring a plan for selecting representatives of the poor and of private organizations from each CAA, CSA underscores every grantee's responsibility for assuring maximum feasible participation of the poor.

§ 1062.200-3(a)(2)(vi) *Conflict of Interest:* Several correspondents flagged the problem of conflicts of interest for board members. The chairperson of the board of the Huntington, W. Va., CAA, in particular, wrote eloquently of the difficulties which Delegate Agency representation on the CAA board of directors has caused for his and neighboring CAAs. Included in this subsection is a general statement on conflicts of interest for board members, including the conflicts prohibited by OEO Instruction 6402-01, which the proposed rule will supersede.

§ 1062.200-3(b) *Contracts for Performing Components of the CAA Work Program:* Decentralization and delegation were major issues for 16 correspondents. Opinion was fairly equally divided on the issue of decentralization. About half of the correspondents held the view that centralized authority over programming is more efficient; and half the view that decentralization stimulates the participation of the poor. The Executive Director of the St. Joseph, Mo., CAA steered a middle course between these two positions when he wrote: "Area councils * * * do increase citizen participation [and] encourage grass-roots decisions. * * * At the same time, this operation creates problems of decentralization of power and weakens direct line authority. I would rate the relative merits vs. weaknesses at about 50/50." In addition, two correspondents raised the problem of Delegate Agency control. The Executive Director of the San Antonio, Texas, CAA wrote that the regulations "should clearly delineate that Delegate Agency boards are responsible to the CAA board for contract or grant compliance".

This subsection of the proposed rule deals with both of these issues by concentrating on the agreement between the CAA and the Delegate Agency or area board. First, the CAA now must formalize this agreement in a contract in all cases when it delegates program responsibility or major policy determination. Second, it may enter into these agreements only with organizations or area boards which meet the requirements of this subsection. These board requirements, of course, do not apply to service contracts.

Whether to delegate or to decentralize is a decision for each CAA board. However, the proposed rule will prevent some of the difficulties inherent in delegation and in decentralization. It will assure participation of the poor, a strong voice for the board of directors, and the accountability of the Delegate Agency or area board for the work contracted. (Note that the requirements for program advisory committees are dealt with in the policy statement for each program.)

§ 1062.200-3(c) *By-Laws:* This subsection draws together the legislative and administrative requirements for CAA by-laws. The subjects of removal, alternates, and vacancies are now covered in the proposed rule. The new language proposed for the quorum requirement clears up the confusion about "current total membership" which the Executive Director of the Phoenix CAA, among others, noted.

§ 1062.200-4 Limited Purpose Agencies

This section provides a general statement of the board requirements for LPAs. Although the tripartite board structure is not required of LPAs, the poor must actively participate in the policy decisions of the programs which LPAs operate. The requirements set forth in this section assure that participation.

PLEASE NOTE: A Spanish translation of the proposed rule is available upon request from the contact person, Mr. McTighe.

GRACIELA (GRACE) OLIVAREZ,
Director.

The regulations of Boards and Committees of Title II Programs, 45 CFR § 1062.200-1 through § 1062.200-4, are proposed as follows:

Sec.

* * * * *

1062.200-1 Applicability.
1062.200-2 Policy.
1062.200-3 Community Action Agencies.
1062.200-4 Limited Purpose Agencies.

§ 1062.200-1 Applicability.

This subpart applies to all grantees funded under Title II of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1062.200-2 Policy.

Compliance with these requirements is a condition for receipt of funds.

§ 1062.200-3 Community Action agencies.

(a) *Boards of Directors of Community Action Agencies.* Section 211(a) of the Economic Opportunity Act of 1964, as amended, requires that each CAA have a broadly representative board. The appropriate type for a given CAA is determined by which entity the local government designates to be the CAA. (CSA instruction 6302-2 describes the formal process for the designation of a CAA.) When the local government designates a private nonprofit corportation or a separate public agency[1] to serve as the CAA, the board of directors of the CAA is a *governing board.* When the local government serves as the CAA in its own right, it administers its program through a *community action board.* The tribal government of an Indian reservation is both the governing board and the community action board as well if there are no other officials or major groups and interests within the community.

(1) *Composition of the Board.* Section 211(b) of the Act stipulates precise requirements for the size and composition of the board. The board consists of a least fifteen but not more than fifty-one members. (i) Elected public officials, or their representatives, comprise one-third of the board. Only if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board may appointed officials be counted in meeting this one-third requirement. (ii) Persons chosen to represent the poor comprise at least one-third of the board. (iii) Representatives of business, industry, labor, religious, welfare, or other private groups and interest comprise the remainder of the board.

(2) *Selecting Members of the Board.* Members of the board are selected in such a manner as to assure that they speak and act on behalf of the group or organization which they represent.

(i) *Public Officials:* The designating officials[2] of the local government shall select the elected public officials to serve on the board. In the event that there are not enough elected public officials reasonably available and willing to serve on the board, the designating officials may select appointed public officials to serve on the board. Both the elected and the appointed public officials selected to serve on the board shall have either general governmental responsibilities or responsibilities which require them to deal with poverty-related issues. They may not be officials with only limited, specialized, or administrative responsibilities. Each public official selected to serve on the board may choose one permanent representative to serve on the board either full-time in his/her place or whenever he/she is unable to attend a meeting. These representatives need not be public officials themselves, but they shall have full authority to act for the public official at meetings of the board. If the public officials, both elected and appointed, who are willing to serve do not comprise one-third of the board, then the remainder of the seats allotted to public officials shall remain vacant. However, the designating officials may fill these seats at any time, as soon as an official is willing to sit on the board.

(ii) *Representatives of the Poor:* Representatives of the poor shall be chosen in accordance with democratic selection procedures adequate to assure that they represent the poor in the area served by the CAA. They need not be poor themselves, but the selection procedure shall assure that they represent the poor. Representatives of the poor may be selected either to represent a specific area or neighborhood served by the CAA, or at large to represent the entire area served by the CAA, or to represent a particular organization whose membership is composed predominately of poor persons. Among the selection procedures which may be used, either along or in combination, are the following:

(A) Nominations and elections, either within neighborhoods or within the community as a whole;

(B) Selection at a meeting or conference of poor persons whose date, time, and place have been adequately publicized;

(C) Selection of representatives to a community-wide board by members of neighborhood or sub-area boards who are themselves selected by low-income neighborhood or area residents;

(D) Selection on a small area basis (such as a city block) of representatives who in turn select members for a community-wide board;

(E) Selection of representatives by existing organizations whose membership is predominately composed of poor persons.

This list is not meant to limit the variety of selection procedures which may be used. Any democratic selection procedure which assures maximum feasible participation of the poor is potentially acceptable. However, Section 211(g) of the Act prohibits any selection procedure from being held on Sabbath Day which is observed as a day of rest and worship by residents of the area served.

(iii) *Representatives of Private Organizations:* Private organizations shall be selected in such a manner as to assure that the board will benefit from board community involvement. Representation shall be drawn not only from among private social service agencies, private educational institutions, constituencies of the poor concerned with specific problems (for example, the disabled poor), and other private organizations within the community, but also from among business, industry and labor organizations. Once an organization is selected it shall choose the person to represent it on the board. Each representative shall be empowered to speak and act on behalf of the organization which he/she represents in connection with the board's business.

(iv) *Residence Requirement:* Section 211(b) of the Act requires that each member of the board selected to represent a specific geographic area within the community reside in the area which he/she represents.

(v) *Limitations on Board Service:* Public officials, or their representatives, serve at the pleasure of the designating officials and as long as the public official is currently holding office. Representatives of the poor and of private organizations may serve up to five consecutive years, but no more than a total of ten years. After serving five consecutive years, a representative of the poor or of a private organization may not serve on the board in any capacity for at least one full year.

(vi) *Conflict of Interest:* No person may sit on the board who is an officer or an employee of an organization receiving funds under contract with the CAA. (See CSA Instruction 6909-01, Conflicts of Interest in Community Action Programs, for a complete discussion of conflicts of interest.) No employee of the CAA or the Community Services Administration may serve on the board, and no other Federal employee may serve on the board in a capacity which will require him/her to represent the CAA in its dealings with CSA or with any other Federal agency.

(vii) *Selection of Members of the Board vs. Formal Appointment:* If a CAA is a local government or a separate public agency, its governing laws may require that members of the board be appointed by particular public officials such as the mayor of a city or the county executive. The requirements of selection set forth in this section are not intended to modify these legal requirements. However, the appointment of members of the board in these cases shall be a formal, non-discretionary confirmation of the actual selection of the board members by those whom they will represent, in accordance with the requirements set forth in the preceding paragraphs. Likewise, the removal of board members in these cases shall be a formal, non-discretionary confirmation of the action taken by the board itself.

(3) *Powers of the Board.* (i) *Governing Board:* The governing board of a private, non-profit CAA, or of a CAA which is a separate public agency, has the same legal powers and responsibilities granted under its state charter as the board of directors of any private, non-profit corporation. For example, the board must have the power to enter into legally binding agreements with any Federal, state, or local agency, or with any private funding organization for the purpose of running programs or providing services. In addition to these general corporate powers which all private, non-profit CAAs and all CAAs which are separate public agencies possess, Section 211(e) of the Act outlines the following spe-

[1] A CAA is a separate public agency when it is not part of the local government and when its governing body by law possesses the following exclusive powers with respect to the community action program: to appoint persons to senior staff positions (or to select these persons for formal appointment by others); to determine major personnel, fiscal, and program policies; to approve overall program plans and priorities; to enforce compliance with all conditions of CSA grants; and to approve all proposals for assistance under Title II of the Economic Opportunity Act of 1964, as amended. A CAA formed by two or more independent local governments will not be considered a separate public agency unless its governing body has the legal power to bind all of the governments jointly and without further action by them.

[2] The designating officials are the chief elected officials of the local government or combination of governments who collectively possess the power to designate a CAA according to the procedures outlined in CSA Instruction 6302-2.

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cific powers which each of these CAAs must possess:

(A) To appoint the Executive Director and the senior staff of the CAA;

(B) To determine, subject to CAS policies, major personnel, organization, fiscal, and program policies;

(C) To determine overall program plans and priorities for the CAA, including provisions for evaluating progress against performance;

(D) To make final approval of all program proposals and budgets;

(E) To enforce compliance with all conditions of CSA grants;

(F) To oversee the extent and the quality of the participation of the poor in the programs of the CAA;

(G) To determine, subject to CSA policies, rules and procedures for the governing board;

(H) To select the officers and the executive committee, if any, of the governing board.

(ii) *Local Government:* When the local government serves as CAA in its own right, it possesses powers (i)-(iv) outlined above. However, it may delegate these powers only to the community action board.

(iii) *Community Action Board:* Section 211(f) of the Act stipulates that the community action board shall "have a full opportunity to participate in the development and implementation of all programs and projects" run by the CAA. The community action board must have the following powers:

(A) To participate jointly and to concur formally in the selection of the Executive Director and of the senior staff of the CAA;

(B) To exercise all powers which the designating officials choose to delegate to the community action board;

(C) To oversee the extent and the quality of the participation of the poor in the programs of the CAA;

(D) To enforce compliance with all conditions of CSA grants;

(E) To determine, subject to CSA policies, rules and procedures for the community action board;

(F) To select the officers and the executive committee, if any, of the community action board.

In addition, the community action board shall deliberate upon the following matters and submit its written recommendations to the designating officials whenever the designating officials have not specifically delegated these powers:

(G) Determination, subject to CSA policies, of major personnel, organization, fiscal, and program policies;

(H) Determination of overall program plans and priorities;

(I) Approval of all program proposals and budgets;

(J) Approval of all evaluation and assessment studies and reports;

(K) Approval of all arrangements for delegating the planning, conducting, or evaluating a component of the work program.

(b) *Contracts for Performing Components of the CAA Work Program.* Whenever the CAA chooses to place the responsibility for planning, conducting, or evaluating a component of its work program with another organization, it shall formalize the relationship with that organization in a contract which states the specific responsibilities contracted and the conditions for performance. The board may delegate this responsibility only to organizations whose board of directors has a membership of at least one-third representatives of the poor or which forms an advisory committee at least a majority of which are democratically selected representatives of the poor. When the CAA "places the responsibility for major policy determinations with respect to the character, funding, extent, and administration of and budgeting for programs to be carried on in a particular geographic area within the community" in a subsidiary board or council, as Section 211(c) of the Act states, that board or council shall have a membership of at least a majority of representatives of the poor selected according to the procedures outlined above in section 2. These boards shall also include in their by-laws procedures for seating elected public officials who represent the area served by the area board and who wish to be seated on it.

(c) *By-Laws of the Community Action Agency.* When the CAA is first designated, the designating officials establish an interim board to draw up the by-laws for the CAA. Once the CSA administering office has approved the by-laws, the interim board shall within a reasonable period of time establish a new board according to the procedures outlined in the by-laws. These by-laws must include at least the following:

(1) *Selection Procedures.* The by-laws shall include the following procedures for selecting members of the board:

(i) A plan for selecting representatives of the poor which shows how the CAA will provide sufficient notice of times, places, and procedures for selection; how eligibility to vote will be established and, where feasible, limited to the poor; what safeguards there will be against persons voting more than once, etc.;

(ii) A plan for selecting representatives of private organizations which shows what are the criteria for selection; how representation will be balanced between private social service organizations and organizations from business and labor; and how seats will be rotated among interested organizations whenever there are more organizations willing to serve than there are seats available;

(iii) A fixed term of office for representatives of the poor and of private organizations.

The board shall report any amendment of these selection procedures immediately to the appropriate CSA administering office. (2) *Petition by Other Groups for Adequate Representation on the Board.* Section 211(d)(2) of the Act requires CAAs to establish and include in their by-laws procedures allowing community agencies and representative groups of the poor which feel themselves inadequately represented on the board to petition for adequate representation. The board shall specify in these procedures the channels of communication to be used, the number of signatures required for a valid petition, and the action required of the board in response to a petition for more adequate representation. The board shall also include in its by-laws provisions for adjusting and realigning its composition in cases where a petition is granted in order to maintain the proper percentage of public officials and of representatives of the poor within the fifty-one member limit.

(3) *Removal.* Public officials, or their representatives, may be removed from the board only by the designating officials. However, the board shall include in its by-laws a description of the grounds for removal and the procedures to be followed in the removal of representatives of the poor and of private organizations.

(4) *Alternates.* When it is consistent with its state charter, the board may allow alternates to substitute for its members. As stated in section 2(c)(1), each public official on the board may select a representative to serve in his/her place or in his/her absence. These representatives, however, may not select alternates to substitute for them. Alternates for representatives of the poor shall be selected in the same manner and at the same time as the representatives themselves. The voters who select the representative shall also select the alternate. The private organizations represented on the board shall select their own alternate, just as they select their own representative. As with the representative of the organization, the alternate shall be empowered to speak and act on behalf of the organization which he/she represents. Each board member may have only one alternate. Each alternate may substitute for only one board member. No alternate may serve as an officer of the board.

(5) *Vacancies.* There is a vacancy on the board when a member has been notified of his/her official removal by action of the board for cause, when a member notifies the board of his/her resignation, or when the designating officials remove a public official. When the seat of a public official is vacant, the board shall ask the designating officials to select another public official to fill the seat. When the seat of a representative of a private organization is vacant and no alternate has been named, the board shall ask that organization to name another representative to fill out the term. When the seat of a representative of the poor is vacant and no alternate has been selected, the remaining representatives of the poor, acting alone, shall select a person to fill out the term, with the condition that the person selected represent as much as possible the same constituency as the original representative.

(6) *Quorum.* According to the mandate of Section 211(d) of the Act, a quorum for a meeting of the board shall be at least 50 percent of the total seats on the board, including vacant seats.

(7) *Schedule and Notice of Meetings.*

(i) *Schedule:* The board shall meet on a regular basis, at least every ten weeks. The meetings shall be scheduled for the convenience of its members and of the general public.

(ii) *Notice:* the board shall provide in writing to all its members notice of and the agenda for any meeting at least ten days in advance.

(8) *Minutes.* The board shall keep for each meeting written minutes which include a record of votes on all motions. Minutes of previous meetings shall be available to all members before each meeting, and shall be made available to the public upon request. The board shall also make available to the public upon request translations of the minutes in areas where a significant portion of the poverty population does not speak English.

(9) *Executive Committee.* The board may appoint an executive or steering committee to transact routine and ordinary business between meetings of the full board. Section 211(d) of the Act requires that the composition of this committee fairly reflect the composition of the full board. The executive committee shall report on the actions it takes between meetings at the next meeting of the full board. The quorum for the executive committee is the same as for the full board.

(10) *Other Policy-Making Committees of the Board.* The board may establish any committees it considers necessary for carrying on its business. The composition of these committees shall fairly reflect the composition of the full board.

(11) *Proxy Voting.* Voting by proxy is not permitted at meetings of the board. This prohibition applies equally to all members of the board.

(12) *Compensation.* Although allowances for the poor and reimbursements to all members of the board for expenses are permitted, regular compensation to all members for their service on the board is not permitted.

§ 1062.200-4 Limited purpose agencies.

CSA funds Limited Purpose Agencies to operate one or several programs whose scope is limited either functionally (for instance operating a weatherization program) or geographically (a neighborhood). They may be funded under all funding authorities under Title II of the Act except section 231. LPAs are not required to have broad community representation on their policy-making boards, but they must have either a board of directors which is composed of at least one-third representatives of the poor or an advisory committee composed of a least a majority of representatives of the poor.

[FR Doc. 78-33169 Filed 11-24-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, NATIONAL MARINE FISHERIES SERVICE

[50 CFR Part 222, 226, and 227]

CRITICAL HABITAT OF ENDANGERED AND THREATENED FISH AND WILDLIFE

Supplement to Proposed Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles; Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Announcement of a Public Hearing, Supplement to Proposed Designation of Critical Habitat, and Notice of Extension of Comment Period.

SUMMARY: On October 4, 1978 (43 FR 45905), the National Marine Fisheries Service (NMFS) proposed to designate as Critical Habitat for the Kemp's ridley (*Lepidochelys kempii*) and loggerhead (*Caretta caretta*) sea turtles, the Port Canaveral navigation channel, Cape Canaveral, Florida. On November 22, 1978 (43 FR 54639), the National Marine Fisheries Service issued emergency regulations designating the same area as a Restricted Fishing Area effective immediately for a 120-day emergency period.

On November 10, 1978, the President signed the Endangered Species Act Amendments of 1978 (Pub. L. 95-632) (Amendments). The Amendments specify new procedural requirements the NMFS must follow when proposing to designate Critical Habitat. This notice supplements the October 4, 1978, Critical Habitat proposal in response to the new requirements.

DATES: A public meeting and hearing is scheduled for December 12, 1978, at the Canaveral Port Authority Office Building, George King Boulevard, Port Canaveral, Florida, on the proposed Critical Habitat designation and the Restricted Fishing Area designation. The meeting, which will consist of a question-and-answer session, will begin at 10:00 a.m. This will be followed by an informal hearing at which oral comments will be taken. The comment period on the proposed Critical Habitat designation is extended until January 9, 1979.

ADDRESSES: Comments should be mailed to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, telephone 202-634-7287.

SUPPLEMENTARY INFORMATION: Under the Endangered Species Act Amendments, the NMFS, when preparing to list a species as threatened or endangered, or to designate an area as Critical Habitat, has certain new responsibilities not previously required under the Endangered Species Act of 1973. The National Marine Fisheries Service must now publish notice of a proposed Critical Habitat designation in a newspaper of general circulation in an area adjacent to such habitat. Notice of the proposal must be offered for publication in appropriate scientific journals, and must be sent to all general local governments located within or adjacent to the proposed Critical Habitat. A public meeting must be held in each State where the proposed Critical Habitat is located, and a public hearing must be held if requested.

The Amendments specify that a proposed Critical Habitat regulation published in the FEDERAL REGISTER must be accompanied, to the maximum extent practicable, by a brief description and evaluation of those activities (whether public or private) which, if undertaken, may adversely modify such habitat, or may be impacted by such designation.

Prior to the effective date of the Amendments, the NMFS proposed to designate the Port Canaveral navigation channel, Cape Canaveral, Florida, as Critical Habitat for the Kemp's

cupied by a species to qualify as Critical Habitat, the NMFS must consider those physical and biological features essential to the conservation of the species and which may require special management considerations or protection. Such features include, but are not limited to, space for individual and population growth and normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

The Amendments require that the NMFS must designate Critical Habitat to the maximum extent prudent and determinable at the time a species is proposed for listing. The NMFS must also consider the economic impact of designating a particular area as Critical Habitat. The NMFS may exclude areas from Critical Habitat upon a determination that the benefits of such exclusion outweigh the benefits of specifying such area as part of the Critical Habitat, unless failure to designate such area as Critical Habitat will result in the extinction of the species concerned.

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ridley and loggerhead sea turtles (43 FR 45905, October 4, 1978). This notice supplements that proposal with additional information required by the Amendments. the October 4, 1978, publication and this publication should be read together as a single proposed Critical Habitat designation.

By letter dated October 23, 1978, the Port Manager of the Canaveral Port Authority requested a public hearing on the proposed Critical Habitat designation. This publication announces that a hearing has been scheduled for December 12, 1978, at the Port Canaveral Port Authority Office Building, Port Canaveral, Florida. The National Marine Fisheries Service also will conduct an informal meeting, consisting of a question-and-answer session, on December 12, immediately prior to the hearing. The informal session is intended to clarify the implications of designating the Port Canaveral channel as both a Critical Habitat and a Restricted Fishing Area. During the hearing, oral comments on either the Critical Habitat or Restricted Fishing Area designations will be received. All such comments will be recorded and incorporated into the rulemaking record.

Effect of the proposed rulemaking: The Restricted Fishing Area designation became effective for an emergency 120-day period on the date the notice appeared in the FEDERAL REGISTER (43 FR 54639, November 22, 1978). The regulations implementing the designation immediately prohibit shrimp trawling in the designated area during this 120-day period. As noted in the preamble to that emergency regulation, comments are being solicited on the desirability of modifying the emergency designation and/or extending it beyond the 120-day period.

Unlike the Restricted Fishing Area designation, the Critical Habitat designation will not become effective until at least 60 days after the final meeting or hearing on the proposal is held. A Critical Habitat designation affects the actions of Federal agencies, and serves to provide official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable to the designated Critical Habitat area.

Under the 1978 amended definition of "Critical Habitat," for a specific area within the geographical area occupied by a species to qualify as Critical Habitat for that species, it must contain physical or biological features (1) essential to the conservation of the species and (2) which may require special management or protection. Comments are invited on the question of whether or not the Port Canaveral channel qualifies as Critical Habitat under the new definition. Comments are also solicited on the economic and other relevant impacts of designating the Port Canaveral channel as Critical Habitat.

Federal actions that may impact on the Port Canaveral navigation channel include the funding, authorizing, or carrying out of activities that may disturb the channel bottom area used by hibernating sea turtles. Maintenance dredging during certain times of the year may constitute such an action. Activities that do not disturb the channel bottom are not likely to adversely modify the proposed Critical Habitat.

Private activities (those not requiring Federal funding or authorization) that may adversely modify the proposed Critical Habitat include bottom trawling for shrimp and fish. The Restricted Fishing Area regulations, recently issued by the NMFS on an emergency basis, are designed to prevent bottom trawling in the channel during specified periods. The National Marine Fisheries Service is not aware of any other private activities that may affect or be affected by the proposed Critical Habitat designation. Comments are invited from any persons who are aware of any activities, public or private, that may be impacted by this proposed designation.

Notification: Notice of the proposed Critical Habitat designation has been offered for publication in the following publications: Scientific American; Science; and Nautilus Press publications.

Notice of the proposed Critical Habitat designation will appear in TODAY newspaper, published by Cape Publications, Inc., Cocoa, Florida.

A copy of the notice of the proposal and this supplement, accompanied by an environmental assessment, has been sent to: Honorable Reubin Askew, Governor of Florida; Benjamin T. Hardestry, Chairman, South Atlantic Fishery Management Council; and John A. Mehos, Chairman, Gulf of Mexico Fishery Management Council.

The following local governments also were sent notice of the proposal and a copy of the environmental assessment and will have copies of this supplement.

Bureau of Intergovernmental Relations, Division of State Planning, Department of Administration, 660 Apalachee Parkway, Tallahassee, Florida 32304.

East Central Florida Regional Planning Council, 1011 Wymore Road, Winter Park, Florida 32789.

Ms. Ann Thurm, Mayor, City of Cape Canaveral, 105 Park Avenue, Cape Canaveral, Florida 32920.

Dated: November 20, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-33150 Filed 11-24-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

PACIFIC BILLFISHES AND SHARKS

Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of correction.

SUMMARY: The times for the following public hearings which appeared in the FEDERAL REGISTER November 8, 1978, (43 FR 52034) should be corrected to 7 p.m. for Kona and Honolulu, Hawaii, and 7:30 p.m. for Long Beach, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald V. Howard, Director Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731. Telephone: (213) 548-2575

Dated: November 20, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-33126 Filed 11-27-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

CONEJOS WILD AND SCENIC RIVER STUDY

Rio Grande National Forest, Colo.; Intent to Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, The forest Service, Department of Agriculture will prepare an environmental statement concerning the study of the potential for including the Conejos River, as a component of the National Wild and Scenic River System. This study was mandated by Pub. L. 93-621.

The following issues and concerns were identified through public involvement: protection of wild and scenic river values as stated in the Wild and Scenic River Act; eligibility criteria for inclusion; government restrictions on private lands; the impacts of public access and scenic easements; the impacts of increased use by recreationists; the loss of grazing privileges and the opportunities for designation of the South Fork.

John R. McGuire, Chief, Forest Service, is the responsible official and Terry Dangler, Landscape Architect, Rio Grande National forest is the team leader for the environmental assessment and statement. The draft environmental statement is scheduled for completion by January, 1979, with a 90-day review period, and the final environmental statement is scheduled for filing in June, 1979.

Comments on the Notice of Intent or the recommendation should be sent to John R. McGuire, Chief, Forest Service, Post Office Box 2417, Washington, D.C. 20013, or to George W. Whitlock, Forest Supervisor, Rio Grande National Forest, 1803 West Highway 160, Monte Vista, Colorado 81144.

EINAR L. ROGET,
Acting Deputy Chief.

NOVEMBER 17, 1978.

[FR Doc. 78-33122 Filed 11-24-78; 8:45 am]

[6820-32-M]

ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on December 14, 1978 from 9 a.m. to 6 p.m. and on December 15, 1978 from 9 a.m. to 6 p.m. at 2201 C Street, NW, Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 11652 dated March 10, 1972, and Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of November 20, 1978 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973 issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: November 20, 1978.

SIDNEY D. ANDERSON,
Advisory Committee
Management Officer.

[FR Doc. 78-33181 Filed 11-24-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78—1—73; Docket 32772]

AEROLINEAS ARGENTINAS

Application for a Declaratory Order; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November, 1978.

On October 6, 1977, in response to an inquiry from Washington counsel for Aerolineas Argentinas (Aerolineas), the Director of the Bureau of International Aviation confirmed in writing that under the Memorandum of Understanding between the United States and Argentina, implemented by an Exchange of Diplomatic Notes dated September 22, 1977 (MOU), Aerolineas may only serve Montreal beyond New York; that is, all Aerolineas' flights that serve Montreal and the United States must stop in New York.

On May 31, 1978 Aerolineas filed an application requesting issuance of an order declaring that under the MOU and Aerolineas' amended foreign air carrier permit [1] the carrier currently possesses the authority to carry revenue traffic between Miami, Florida and Montreal on Route 1 of its permit [2] without having to stop at New York.

In support of its application, Aerolineas states that the United States negotiated the MOU with Argentina to liberalize aviation relations between the two countries; that the MOU provides that normal operating details will be left to the discrption of carrier management; that a footnote to the Route schedule of the MOU indicates that "In the interest of providing for operational flexibility, each airline would be permitted . . . to omit points on any or all flights, provided at least one point in the homeland of the airline is served on each flight . . ."; that the provisions cited above plainly require that the MOU, and by extension Aerolineas' permit, receive a liberal

[1] Issued under Order 77-12-53, December 8, 1977.

[2] Route 1 of Route Schedule I of the MOU and Route 1 of Aerolineas' permit both read: Between the Republic of Argentina and the coterminal points Miami and New York via the intermediate points Sao Paulo and Rio de Janeiro and beyond New York to Montreal.

ditions, but were not intended to

tions were timely filed by Air Califor-

November 1978 (43 FR 53784, 11/17/

[6320-01-M]

second request were filed by Pan Am

reading for to do otherwise is contrary to the spirit of the MOU; and that the MOU mandates that restrictions be imposed upon Aerolineas' operating authority only where the plain language of the document demands them.

Aerolineas further states that Miami and New York are designated as coterminals on the route and that it is a well established principle that the relation between designated coterminal points is one of interchangeability; that such a condition will impair its ability to operate at maximum efficiency on its Route 1 to the United States; that a restrictive interpretation of the MOU also runs afoul of current U.S. aviation policy to trade rights and not restrictions in negotiating international aviation agreements.

Delta Air Lines filed an answer in opposition to Aerolineas' petition. Delta states that Aerolineas has made no showing that Miami-Montreal nonstop rights were intended to be conferred upon the Argentine carrier; that the listing of new route rights in the MOU [3] does not include Miami-Montreal but does include New York-Montreal; that the omission of Miami-Montreal from the listing compels the conclusion that those rights were not conferred by the MOU; that the rights described plainly provide for Montreal service only beyond New York; and that the fact that Miami and New York are coterminals and that the MOU provides for airline operating flexibility cannot be used to bootstrap an award of nonstop Miami-Montreal authority.

The Department of State filed a letter concerning the petition. The Department states that the text of the Argentine route description was carefully constructed to prevent nonstop Miami-Montreal service; that if this had not been intended, the route would have simply read "between the Republic of Argentina and the coterminal points Miami, Florida, and New York, New York, via the intermediate points Sao Paulo and Rio de Janeiro, Brazil and beyond to Montreal, Canada"; and that if Aerolineas wishes to fly nonstop between Miami and Montreal the Argentine Government should request consultations to achieve that goal through the regular diplomatic process.

We have decided to deny Aerolineas' petition. Route 1 was specifically worded to exclude nonstop Miami-Montreal rights because these were not part of the route package exchanged during the negotiations that led to the MOU. The provisions relating to airline flexibility were designed to allow airline managements to tailor their services to changing market conditions, but were not intended to confer route authority in addition to that provided in the Route Schedule. However, we stand ready to address the matter of nonstop Miami-Montreal rights for Aerolineas should the Government of Argentina request consultations through appropriate diplomatic channels and to trade competitive opportunities.

Accordingly, 1. We deny Aerolineas Argentinas' petition in Docket 32772 for an order declaring that under the MOU and its foreign air carrier permit it possesses the authority to operate nonstop between Miami, Florida, and Montreal, Canada; and

2. We shall serve this order upon Aerolineas Argentinas, the Ambassador of Argentina in Washington, D.C., and the U.S. Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33158 Filed 11-14-78; 8:45 am]

[3] Attachment E.

[4] All Members concurred.

[6320-01-M]

[Docket No. 32872]

BRANIFF AIRWAYS, INC. v. TEXAS INTERNATIONAL AIRLINES, INC.; ENFORCEMENT PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled matter is assigned to be held on December 20, 1978, at 9:30 a.m. (local time) in Room 1003, Hearing Room D, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., November 16, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-33153 Filed 11-24-78; 8:45 am]

[6320-01-M]

[Order No. 78-11-98; Docket No. 33237]

CALIFORNIA-ARIZONA LOW FARE ROUTE PROCEEDING

Order

NOVEMBER 20, 1978.

Issued Under Delegated Authority.

Pursuant to Board Order 78-10-104, served October 26, 1978, amended applications or amendments to applications were timely filed by Air California, Docket 33372; Braniff Airways, Inc., Docket 33375; Continental Airlines, Inc., Docket 33383; Frontier Airlines, Inc., Docket 33385; Northwest Airlines, Inc., Docket 33394; Ozark Airlines, Inc., Docket 33373; and Western Air Lines, Inc., Docket 32303.

On November 7, 1978, North Central Airlines, Inc., filed a motion requesting leave to file a late filed document, Amendment No. 1 to its application filed September 11, 1978.

On November 13, 1978, Ozark Airlines, Inc., filed motions for leave to file a document out of time, a motion to consolidate a second amended application which includes a city-pair market inadvertently omitted from its first amended application.

The grant of the motions accompanying such amended applications or amendments to applications is consistent with the public interest, will harm no party, and will not delay this proceeding.

Accordingly, *it is ordered that:*

1. The motions to consolidate the amended applications or amendments to applications of the following carriers are granted: Air California, Docket 33372; Braniff Airways, Inc., Docket 33375; Continental Airlines, Inc., Docket 33383; Frontier Airlines, Inc., Docket 33385; Northwest Airlines, Inc., Docket 33394; Ozark Airlines, Inc., Docket 33373; and Western Air Lines, Inc., Docket 32303.

2. The motions for leave to file late filed documents filed by North Central Airlines, Inc., and by Ozark Airlines, Inc., are granted.

3. The amended applications or amendments to applications of the carriers named above, and including the second amended application filed by Ozark Airlines, Inc., are consolidated in this proceeding, Docket 33237.

This order shall be published in the FEDERAL REGISTER.

By Frank M. Whiting, Administrative Law Judge.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33155 Filed 11-24-78; 8:45 am]

[6320-01-M]

[Docket No. 33363]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION

Postponement of Hearing

The hearing on the application of Land-Air Corp., heretofore set for 21 November 1978 (43 FR 53784, 11/17/78) is for good cause shown postponed to 28 November 1978 at 9:00 a.m. at the address heretofore set, Hearing Room C.

Dated at Washington, D.C., 20 November 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-33152 Filed 11-24-78; 8:45 am]

[6320-01-M]

[Order No. 78-11-99; Docket Nos. 32708 and 33078]

HOUSTON-PHOENIX/TUCSON CASE

Frontier Airlines, Inc.; Order Dismissing Application

NOVEMBER 20, 1978.

Issued Under Delegated Authority.

The notion of Frontier Airlines, Inc., to consolidate its application in Docket 33078 into the investigation in Docket 32708 was granted by Order 78-9-85, dated September 19, 1978. By motion filed on November 14, 1978, Frontier moved to dismiss its application. The application will therefore be dismissed.

Accordingly, pursuant to authority delegated by the Board to the Chief Administrative Law Judge in its Regulations, 14 CFR 385.10(b),

It is ordered that: 1. The application of Frontier Airlines, Inc., in Docket 33078, previously consolidated into Docket 32708, is dismissed.

2. Frontier Airlines, Inc., is dismissed as a party to Docket 32708.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By Nahum Litt, Chief Administrative Law Judge.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33156 Filed 11-24-78; 8:45 am]

[6320-01-M]

[Order No. 78-11-82; Docket Nos. 33320, 31542, 33605]

HOUSTON SERVICE INVESTIGATION

Applications of DHL AIRWAYS for Approval of Control and Interlocking Relationships and American Airlines for Amendment of Certificate

ORDER

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November, 1978. The Board instituted this investigation in response to an application by Pan American World Airways for authority between Houston, on the one hand, and New York, Miami, Los Angeles and San Francisco, on the other. Order 78-8-172, August 30, 1978. At the same time, the Board granted Pan Am a temporary exemption to operate in the Houston-Miami, Houston-Los Angeles and Houston-San Francisco markets, pending the outcome of this proceeding. By Orders 78-9-2, Administrative Law Judge Rudolf Sobernheim consolidated all applications which conformed to the scope of the proceeding. There remain several outstanding requests by various carriers which must be addressed.

Pacific Southwest Airlines (PSA) has filed a petition for reconsideration, asking us to include San Diego as an additional terminal point. It claims that the addition of San Diego will neither unduly delay nor shift their fundamental focus of the case, since service to the other two major California markets is already at issue; and that current service in this market, which is a nonstop monopoly for National Airlines, is inadequate. American Airlines filed an answer in support of PSA's request.[1] No party has opposed the petition. PSA's application in Docket 33473 also asks the Board to permit the carrier—either by exemption or "limited certification"—to tack any interstate routes it may receive as a result of this proceeding onto its intrastate system.

Continental Air Lines filed a petition for reconsideration asking (1) that we redesignate New York and San Francisco as New York-Newark and San Francisco-San Jose and (2) that we remove Pan Am's *pendente lite* exemption to serve Miami, Los Angeles and San Francisco. It argues that the exemption is both grossly unfair to Continental—by further frustrating its attempted entry into the South Pacific—and illegal—insofar as there exists no undue burden on Pan Am nor any unusual circumstances in this case to justify the award.[2] Answers opposing the second request were filed by Pan Am and by the City of Houston and Houston Chamber of Commerce (Houston Parties).[3] They contend that the interim service is vital to Houston and that Continental has merely restated the same arguments which were heard—and rejected—by the Board in reaching its initial decision.

Several other carriers have asked that we redesignate some or all terminal cities in issue as hyphenated points, thereby placing in issue service to all the satellite airports in those metropolitan areas.[4] The question of whether the Los Angeles-San Francisco market is in issue has also been raised.[5]

Finally, DHL Airways has filed a motion to consolidate its application in Docket 31542, which asks for approval of certain control and interlocking relationships arising out of its ownership by DHL Corporation, an airfreight forwarder.

We have decided to grant PSA's request to expand the scope of this case to include the issue of service to San Diego. We agree that such expansion will not significantly delay or complicate the proceeding, nor shift its geographical focus. For the same reason, we will include all the satellite airports requested by the various applicants. We are not prejudging the substantive question of whether any new service authorized by this proceeding should be limited to one or another of the metropolitan airports. But we have traditionally included all satellite airports when conducting an investigation into the need for service to a major city, and we see no reason to restrict our options while this case is still in a purely procedural phase.

[1] American (Docket 33605) and PSA (Docket 33474) have both filed applications for Houston-San Diego authority—along with motions to consolidate those applications into this case.

[2] Whatever merit this argument may have had at the time Continental filed its pleading, it has been rendered moot by the enactment of the Airline Deregulation Act of 1978, Pub. L. 95-504. That act amends Sec. 416(b) to allow the Board to grant an exemption to "any person or class of persons if it finds that the exemption is consistent with the public interest." The requirement of finding an undue burden has been deleted.

[3] Although the Houston parties filed their answer late, the accompanying motion for leave to file late does state good cause. Accordingly, we will grant their motion.

[4] Braniff (Docket 33416), Evergreen (Docket 33491) and Delta (Docket 24776) have applied for authority to Miami/Fort Lauderdale. Allegheny (Docket 33382), Braniff, National (Docket 33426), American (Docket 32255), Evergreen and United (Docket 33481) join Continental in requesting New York/Newark as a hyphenated point. American (Docket 32257), Evergreen, United and Delta designate Los Angeles as Los Angeles/Ontario/Long Beach; Braniff wants authority to Los Angeles/Ontario/Burbank. Five Carriers—Braniff, American (Docket 32257), Evergreen, United and Delta—have named all three Bay Area airports in their applications: San Francisco, Oakland and San Jose.

[5] In Docket 32257, American designates Los Angeles as an intermediate point between Houston and San Francisco.

On the other hand we conclude that the public interest warrant approval

Dated at Washington, D.C., November 20, 1978.

3rd column, the date in the last paragraph should read as follows: "EF-

DATES: The Subpanel will meet on Monday, December 11, 1978, at 1:30

V 43 N 228 78

On the other hand, we conclude that the Los Angeles-San Francisco market is not properly considered in this proceeding. The focus of this case is on service to Houston. The investigation as instituted presents a hub-and-spoke pattern with traffic from Houston radiating out to four major metropolitan areas on both coasts. Inclusion of a local California market would distort this central purpose.

PSA's request for a special tacking exemption is not moot. Sec. 4(a) of the new law adds a Sec. 105 to the Federal Aviation Act which provides for federal preemption of state regulation. Section 105(c) states that any intrastate authority "shall be considered to be part of its [an intrastate carrier's] authority to provide air transportation received from the Board under title IV . . . ." In other words, once PSA receives any interstate authority from the Board, that authority is automatically tacked onto all other routes in its system.[5]

As mentioned above, the question of Pan Am's *pendente lite* exemption has been rendered largely moot by the passage of the new act, which requires only that we find the exempted service to be in the public interest. As we did make that finding earlier and Continental has offered no new evidence to convince us otherwise, the exemption will remain in effect pending the outcome of this proceeding.

Last, we will grant DHL's motion to consolidate its application for approval of control and interlocking relationships. Consideration of this issue will not unduly delay or complicate the case, as the evidentiary presentation required will virtually duplicate that relating to the fitness issue.

Accordingly, the Board:

1. Amends ordering paragraph 4 of Order 78-8-172 as follows:

(a) It is consistent with the public convenience and necessity to grant additional certificated route authority between Houston, Texas, on the one hand, and New York, New York/Newark, New Jersey; Miami/Fort Lauderdale, Florida; Los Angeles/Ontario/Long Beach/Burbank, California; San Francisco/Oakland/San Jose, California; and San Diego, California, on the other?

(b) If so, which air carrier(s) should be authorized?

(c) Should the new or existing authority be subject to any terms, conditions or limitations? and

(d) Does the grant of any application give rise to any control or interlocking relationships which are prohibited by Section 408 or 409 of the Act in the Absence of Board approval? Is so, does the public interest warrant approval or exemption of such relationship subject to any necessary terms, conditions or limitations?

2. Consolidates into Docket 33320 the applications of DHL Airways (Docket 31542), Pacific Southwest Airlines (Docket 33474) and American Airlines (Docket 33605), to the extent they conform to the scope of that proceeding;

3. Grants the motion for leave to file late of the City of Houston and Houston Chamber of Commerce;

4. Directs that application within the expanded scope of this case and motions to consolidate be filed within 20 days of the service date of this order, and answer 10 days later; [7] and

5. Denies all petitions, motions, applications and requests, except to the extent granted.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33157 Filed 11-24-78; 8:45 am]

[5] That would include the right to carry local passengers between Los Angeles and San Francisco, since PSA has intrastate authority in that market.

[7] We delegate to the presiding administrative law judge the authority to consolidate by order any applications within the expanded scope of this proceeding.

[6] All Members concurred.

[6320-01-M]

[Docket 33275]

NEW ORLEANS-WEST SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 9, 1979, at 10 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues, (2) proposed stipulations, and (3) proposed requests for information and evidence. The Bureau of Pricing and Domestic Aviation will circulate its material on or before December 15, 1978, and the other parties on or before January 3, 1979.

Dated at Washington, D.C., November 20, 1978.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc. 78-33154 Filed 11-24-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

DELAWARE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 12 noon on December 12, 1978, Delaware State Building, Consumer Affairs Office, 820 North Street, 4th Floor Conference Room, Wilmington, Delaware 19801.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning for 1979.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 21, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-33149 Filed 11-24-78; 8:45 am]

[6335-01-M]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 4 p.m. on December 14, 1978, 52nd and Holmes, Room 337, Education Building, University of Missouri, Kansas City, Mo.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to review the metropolitan desegregation conference held in St. Louis and continue further planning for a subsequent conference.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-33178 Filed 11-24-78; 8:45 am]

[6335-01-M]

WASHINGTON ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 12 noon on December 13, 1978, 915 Second Avenue, Room 2854, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to discuss program planning and to discuss Administration of Justice project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-33179 Filed 11-24-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF COMMERCE

National Bureau of Standards

APPROVED INTERPRETATIONS FOR FEDERAL STANDARD COBOL (FIPS PUB 21-1)

Correction

In FR Doc. 78-32318 appearing in the issue of Friday, November 17,1978 on page 53787 in the 3rd column, the date in the last paragraph should read as follows: "EFFECTIVE DATE OF INTERPRETATION: This interpretation is effective on May 17, 1979."

[1505-01-M]

APPROVED INTERPRETATION FOR FEDERAL STANDARD COBOL (FIPS PUB 21-1)

Correction

In FR Doc. 78-32319 appearing in the issue of Friday, November 17, 1978 on page 53789, on page 53790 in the 3rd column, the date in the last paragraph should read as follows: "EFFECTIVE DATE OF INTERPRETATION: This interpretation is effective on May 17, 1979."

[3510-22-M]

National Oceanic and Atmospheric Administration

CHICAGO ZOOLOGICAL PARK

Issuance of Permit

On October 4, 1978, notice was published in the FEDERAL REGISTER (43 FR 45911), that an application had been filed with the National Marine Fisheries Service by Chicago Zoological Park, Brookfield, Illinois, 60513, for a public display permit to take two Atlantic bottlenose dolphins (*Tursiops truncatus*).

Notice is hereby give that on November 21, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a public display permit to Chicago Zoological Park, subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3000 Whitehaven Street, Washington, D.C.;

Regional Director, National Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: November 21, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-33141 Filed 11-24-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL'S PINK SHRIMP ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM

Meeting

AGENCY: National Marine Fisheries Services, NOAA.

ACTION: Notice of Public Meeting.

SUMMARY: The Pink Shrimp Advisory Subpanel and Plan Development Team of the Pacific Fishery Management Council established under Section 302(a) of the Fishery Conservation and Management Act (Pub. L. 94-265) will meet to review the preliminary draft of the Pink Shrimp Fishery Management Plan.

DATES: The Subpanel will meet on Monday, December 11, 1978, at 1:30 p.m. and adjourn at approximately 5:00 p.m. The Subpanel and Plan Development Team will meet on Tuesday, December 12, 1978, at 8:30 a.m. and adjourn at approximately 5:00 p.m. This meeting is open to the public.

ADDRESS: The meeting will take place at the Oregon Department of Fish and Wildlife located at 508 S.W. Mill Street, Portland, Oregon.

FOR FURTHER - INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201. Telephone: (503) 221-6352.

Dated: November 21, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-33088 Filed 11-24-78; 8:45 am]

[3510-22-M]

PALEONTOLOGY AND STRATIGRAPHY BRANCH, U.S. GEOLOGICAL SURVEY

Modification of Permit

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 4 issued to the Paleontology and Stratigraphy Branch, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94035 (39 FR 8647), is modified in the following manner:

Section 2 is modified by substituting the following: "Marine mammal specimen materials may be imported and re-exported in accordance with accepted curatorial practices of bona fide scientific collecting. Specimen materials authorized to be imported must have been taken in accordance with the laws of the country of origin."

The modification is effective November 27, 1978.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 2, 1978.

vided by and a commodity to be provided by a foreign country.

References: The Economic Opportu-

(c) The new community action subsection applies shall consist of no

D. A NEW PROGRAM: "DEMONSTRATION

V 4 3 1 2 2 8

Dated: November 2, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-33140 Filed 11-24-78; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 27, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a) (2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1979, November 15, 1978 (43 FR 53151):

CLASS 7210

Pillow, Bed, Polyester-Fiber, 7210-00-119-5358.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-33129 Filed 11-24-78; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1979

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a service to be provided by and a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 24, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703)557-1145.

SUPPLEMENTARY INFORMATION: On August 18, 1978 and September 29, 1978, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 36676 and 43 FR 44877) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the service and the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service and commodity are hereby added to Procurement List 1979:

SIC 7641

Furniture Rehabilitation (SH), San Antonio, Texas, plus 40-mile radius excluding Lackland and Randolph Air Force Bases.

CLASS 7510

Binder, Award Certificate (IB), 7510-01-056-1927.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-33130 Filed 11-24-78; 8:45 am]

[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

ECONOMIC OPPORTUNITY ACT

Notice and Information on Certain 1978 Amendments

CSA is providing to its grantees and their delegate agencies certain provisions of the Economic Opportunity Amendments of 1978 which are immediately applicable to their programs.

This CSA Notice applies to differing categories of CSA grantees depending upon the particular amendments to the Economic Opportunity Act. Each provision in Section 3 below indicates those categories of grantees to which the amendment discussed applies. CSA is now preparing detailed and comprehensive rules, regulations and guidelines implementing various provisions of the 1978 Amendments, both those appearing in Section 3 below and others.

References: The Economic Opportunity Amendments of 1978.

1. IMPLEMENTATION

All grantees and other recipients of CSA assistance to which the provisions of the 1978 Amendments apply must take steps at once to comply with the new statutory requirements as soon as possible. The detailed rules, regulations, and guidelines that CSA is now preparing will contain, when appropriate, specific deadlines for compliance with the various amendments.

2. BACKGROUND

The Economic Opportunity Amendments of 1978 contain several provisions which have an immediate and significant effect on CSA grantees. Because of their immediate impact, nine sections of the 1978 Amendments are quoted in this CSA Notice and are accompanied by comments briefly delineating their impact on grantees.

3. AMENDMENTS AND COMMENT

Each 1978 amendment treated below is identified in the heading by subject matter, section of the Economic Opportunity Act, and CSA Instruction or other regulation governing grantees which is thereby modified.

A. DEFINITION OF "COMMUNITY" AND TERMS UNDER WHICH A NEW CAA WITHIN A COUNTY OR MULTICOUNTY UNIT MAY NOT BE DESIGNATED, SECTION 210(C); OEO INSTRUCTION 6302-2

1. *Text:* Section 210(c) as amended provided: "(c) For the purpose of this title, a community may be a city, county, multicity, or multicounty unit, an Indian reservation, or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed for a community action program. The Director, in determining whether a county and multicounty unit is eligible to be served by a community action agency under this title, shall not apply, as the *sole* criterion for eligibility, any requirement or restriction relating to the number of individuals residing in the county or multicounty unit if at least 20 per centum of the families and unrelated individuals residing therein have incomes below the poverty line as determined by the Bureau of Census from the most recent census or survey. No new community action agency may be designated under subsection (a) within a county or multicounty unit if—

(a) Such county or multicounty unit has a population of less than 50,000;

(b) Such county or multicounty unit was served by an existing community action agency on June 1, 1978; and

(c) The new community action agency would serve a smaller geographical area than that served by an existing community action agency on June 1, 1978.

The Director shall consult with the heads of other Federal agencies responsible for programs relating to work and training programs, physical and economic development, housing, education, health, and other community services to encourage the establishment of coterminous or complementary boundaries for planning purposes among those programs and community action programs assisted under this title.

2. *Comment:* The basic change in Section (3) expands the statutory rule to set forth conditions or terms which prohibits the CSA Director from imposing arbitrary population requirements as the sole criterion for deciding the eligibility (or ineligibility) of county or multicounty units to be served by a new community action agency. Whenever at least 20 percentum of the families and unrelated individuals residing in a county or multicounty unit have incomes below the poverty level or index (such findings must be based on the most recent census or survey conducted by the Bureau of Census), the size of the total population of such units may not alone be the basis for granting (or denying) eligibility to such units seeking to be served by a community action agency.

On the other hand, the amended Section 210(c) does not prohibit the use of population size as a criterion for eligibility when it is used in conjunction with other compelling conditions provided in the law. Thus, under the amended law, a new CAA may not be designated in county or multicounty units if the unit: 1) has a population of less than 50,000; 2) was served by an existing CAA on June 1, 1978; and 3) the new CAA would serve a smaller geographical area than that served by an existing CAA on June 1, 1978. It should be noted that *all three* of the above conditions must be evident for denial of eligibility. The effect of the new Section 210(c) language is such that if the applicant unit can satisfy criteria 2) and 3) denial of eligibility could not be decided solely on the applicant's failure to satisfy the criterion related to population size.

CSA is amending its regulation on the eligibility and establishment of community action agencies (CSA Instruction 6400-02) to reflect this change.

B. COMPOSITION OF CAA GOVERNING BOARDS, SECTION 211(B); OEO INSTRUCTION 6400-01

1. *Text:* Amended Section 211(b) provides: "(b) Each board to which this subsection applies shall consist of no more than fifty-one members and not less than fifteen members and shall be so constituted that: (1) one third of the members of the board are elected public officials, currently holding office or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement, (2) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served, and (3) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. Each member of the board selected to represent a specific geographic area within a community must reside in the area he represents. No person selected under clause (2) or (3) of this subsection as a member of a board shall serve on such board for more than five consecutive years, or more than a total of ten year."

2. *Comment:* The amended 211(b) requires that Community Action boards shall now consist of not less than fifteen members. The first change assures for the first time, a representative minimum as well as maximum level of participation on all community action boards. In addition the one-third of the board who are elected public officials must be currently holding office.

The second change expresses the intent of Congress that elected public officials do not hold terms on the board *per se* but that they serve on the board in their capacity as elected officials.

Grantee boards must be in compliance with this subsection within forty days from publication in the FEDERAL REGISTER.

C. SPECIAL PROGRAMS AND ASSISTANCE. SECTION 222(A)

1. *Text:* Section 222(a) has been amended by adding a sentence: "In no event shall the Director provide financial assistance under this title to a public or private nonprofit agency other than a community action agency in an area in which a community action agency exists without prior notification of such financial assistance to the board of such community action agency and to any State economic opportunity office in the State in which financial assistance is provided."

2. *Comment:* CSA is developing an internal process/procedure to implement this section.

D. A NEW PROGRAM: "DEMONSTRATION EMPLOYMENT AND TRAINING OPPORTUNITIES"

1. *Text:* Section 222(a)(7). (7) A program to be known as "Demonstration Employment and Training Opportunities" designed to establish experimental employment and training programs and projects for low-income persons who are unemployed or underemployed, with special emphasis on youth, the structurally unemployed (especially those dependent on public assistance), single heads of households with dependent children, older workers and veterans. The Director is authorized to make grants to community action agencies, community economic development corporations (as designated under Title VII of this Act), and public or private nonprofit organizations and agencies for experimental programs and activities including, but not limited to, providing innovative approaches to employment and training programs, which shall, if necessary, make available to participants comprehensive supportive services; development programs, and linkages for low-income persons to achieve satisfactory transition from either unemployment or federally-subsidized jobs to employment that is not federally subsidized; and developing training programs, with special consideration for community development corporations, designed to place disadvantaged youth in the private sector. The Director and the Secretary of Labor shall assure a full exchange of information concerning the employment and training programs subject to their respective jurisdictions in order to assure the most effective and responsive demonstration programs and activities. Any employment and training activities assisted in whole or part with funds made available under this paragraph shall be subject to the applicable conditions, labor standards and benefits set forth in the Comprehensive Employment and Training Act of 1973 and other related laws.

2. *Comment:* This is an entirely new section. CSA has no specific appropriation for this section.

E. SUMMER YOUTH RECREATION, SECTION 222(A)(6)

It should be noted that this Section formerly designated 222(a)(13) has been redesignated to read 222(a)(6).

1. *Text:* Amended Section 222(a)(6) provides: "(a) A program to be known as "Summer Youth Recreation" designed to provide recreational opportunities for low-income children during the summer months. Funds made available for this paragraph shall be allocated by the Director among community action agencies where feasible, or other public or private nonprofit agencies where no such community

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action agency exists or is able to administer a program, to provide recreational opportunities for low-income children during the summer months."

2. *Comment:* The CSA Director will no longer be required to allocate funds to CETA prime sponsors. The new language provides the Director the flexibility to allocate funds to community action agencies where feasible, or other public or private nonprofit agencies where no CAA exists or where the CAA is incapable of undertaking such programming.

F. ALLOTMENT OF FUNDS: LIMITATIONS ON ASSISTANCE, SECTION 225(C); OEO INSTRUCTION 6802-3

1. *Text:* Amended Section 225(c) provides: "(c) Unless otherwise provided in this part, financial assistance extended to a community action agency or other agency pursuant to Section 221 and Section 222(a) of this title shall not exceed 80 percentum of the approved cost of the assisted programs or activities. The Director may, however, approve assistance in excess of such percentages if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this title. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, or services. The Director shall not require non-Federal contributions in excess of the amount required to meet the approved cost of assisted programs or activities after calculating the percentum of Federal assistance for which such program is eligible under the first sentence of this subsection. In addition, the Director may approve assistance in excess of such percentum upon evidence that the aggregate of all non-Federal contributions by agencies within a State for financial assistance provided pursuant to Sections 221 and 222(a) as a percentum of the aggregate of all financial assistance provided to such agencies in such State pursuant to such sections meets the percentum requirements of this subsection."

2. *Comment:* Amended Section 225(c) now provides for a decrease in the local share of the Federal/non-Federal ratio for financial assistance under Title II: an 80/20 ratio.

G. SPECIAL LIMITATION ON SALARIES RECEIVED BY CAA EMPLOYEES, SECTION 244(2); OEO INSTRUCTION 6903-1

1. *Text:* Amended Section 244(2) provides: "(2) The Director shall issue necessary rules or regulations to assure that no employee engaged in carrying out community action program activities receiving financial assistance under this title is compensated from funds so provided at a rate in excess of $18,000 per annum, and that any amount paid to such an employee at a rate in excess of $18,000 per annum shall not be considered in determining whether the non-Federal contributions requirements of Section 225(c) have been complied with; the Director may, however, provide in those rules or regulations for exceptions covering cases where, because of the need for specialized or professional skills or prevailing local salary levels, application of the foregoing restriction would greatly impair program effectiveness or otherwise be inconsistent with the purposes sought to be achieved."

2. *Comment:* The 1978 Amendments authorize an increase in the maximum salary allowable for payment from Title II funds to employees carrying out program activities under Title II from $15,000 to $18,000 per annum. In addition the Congress has rescinded the preference given to large metropolitan areas in providing exceptions to the $18,000 limitation by deleting the phrase "(Particularly in large metropolitan areas)" previously contained in Section 244(2).

H. COMPARABILITY OF WAGES, SECTION 610(B); OEO INSTRUCTION 6900-02

1. *Text:* Amended Section 610(b) provide: "(b) No person whose compensation exceed $8,000 per annum and is paid pursuant to any grant, contract, or agreement authorized under Part A of Title II (except a person compensated as provided in section 602) shall be employed at a rate of compensation which exceeds by more than 20 percent the salary which he was receiving in his immediately preceding employment, but the Director may grant exceptions for specific cases. In determining salary in preceding employment for one regularly employed for a period of less than 12 months per year, the salary shall be adjusted to an annual basis."

2. *Comment:* Previously this section mandated that any employee whose salary exceeded $6,000 could not be compensated at a rate which exceeded 20 percent of his/her previous salary. The 1978 Amendments have changed the base to read $8,000.

I. STATE AGENCY ASSISTANCE, SECTION 231(A); OEO INSTRUCTION 7501-1

1. *Text:* Section 231(a) has been amended by adding paragraphs e and f. "(a) The Director may provide financial assistance to State agencies designated in accordance with State law, to enable those agencies—

(a) To provide technical assistance to communities and local agencies in developing and carrying out programs under this title; with priority to programs funded under section 221 and section 222.

(b) To assist in coordinating State activities related to this title.

(c) To advise and assist the Director in developing procedures and programs to promote the participation of States and State agencies in programs under this title.

(d) To advise and assist the Director, the Economic Opportunity Council established by section 631 of the Act, and the heads of other Federal agencies, in identifying problems posed by Federal statutory or administrative requirements that operate to impede State level coordination of programs related to this title, and in developing methods or recommendations for overcoming those problems.

(e) To advise the Director and the chief elected official of the State on the status and impact of State and Federal programs and services affecting low-income individuals in the State; and

(f) To assist programs funded under section 221 and section 222 in coordinating and utilizing services available through other State agencies."

2. *Comment:* The change provides that State agencies must give priority to those community action programs under section 221 and section 222 with respect to the provisions of technical assistance.

In addition, the new provisions expand the activities for which State Economic Offices may receive funds; to advise the CSA Director and the State chief elected official on the impact of State and Federal programs which affect the low-income State population; and to assist the community action programs in utilizing services available through other State agencies.

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc. 78-33147 Filed 11-24-78; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 17, 1978.

The USAF Scientific Advisory Board Ad Hoc Committee on the EF-111A meeting as published in the FEDERAL REGISTER on November 9, 1978, Volume 43, page 52276 has been cancelled.

This meeting will not be rescheduled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-33085 Filed 11-24-78; 8:45 am]

[3810-70-M]

Office of the Secretary of Defense

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

The DoD Advisory Group of Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014 on 11 January 1979.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems and microelectronics. The review will include classified program details throughout.

In accordance with Section 10(d) of Appendix 1, Title 5, United States Code, it has been determined that this Advisory Group Meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director Correspondence and Directives, Washington Headquarters Service, Department of Defense.

NOVEMBER 21, 1978.

[FR Doc. 78-33102 Filed 11-24-78; 8:45 a.m.]

[6450-01-M]

DEPARTMENT OF ENERGY

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

October 23 through October 27, 1978

Notice is hereby given that during the period October 23 through October 27, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

NOVEMBER 9, 1978.

PROPOSED DECISIONS AND ORDERS

Cheyenne Airways, Inc., Cheyenne, Wyoming, FEE-4657 aviation fuels

Cheyenne Airways, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Cheyenne to increase its selling prices for aviation fuels in order to reflect non-product cost increases which it has incurred since May 15, 1973. On October 24, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

First Chemical Corporation, Pascagoula, Mississippi, DEE-0097 propane

First Chemical Corporation filed an Application for Exception from the provisions of 10 CFR 211.12. The exception request, if granted, would result in an increase in the volumes of propane which First Chemical Corporation is entitled to receive. On October 25, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Gulf Oil Corporation, Houston, Texas, DEE-1941 crude oil

The Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gulf to sell the crude oil produced for the benefit of the working interest owners from the Mattie White, *et al* "C" Lease at upper tier ceiling prices. On October 27, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Gulf Oil Corporation, Tulsa, Oklahoma DXE-1859 crude oil

The Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gulf to continue to sell a portion of the crude oil produced at the Kiefer Unit located in Creek County, Oklahoma, at upper tier ceiling price levels. On October 25, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Monsanto Company, Houston, Texas, DEE-1824 crude oil

The Monsanto Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Monsanto to sell the crude oil produced for the benefit of the working interest owners from the Navajo 138 Lease at upper tier ceiling prices. On October 24, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Allen K. Trobaugh, Midland, Texas, DXE-1860 crude oil

Allen K. Trobaugh filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Trobaugh to sell crude oil produced from the Bailey No. 1 lease located in Hockley County, Texas at upper tier ceiling prices. On October 27, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 78-33084 Filed 11-24-78; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

October 30 Through November 3, 1978

Notice is hereby given that during the period October 30 through November 3, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of

Hearings and Appeals of the Depart-

767). Office of Pesticide Programs,

EPA

EPA

Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

NOVEMBER 9, 1978.

PROPOSED DECISIONS AND ORDERS

BTA Oil Producers, Midland Tex., DEE-1456, crude oil

BTA Oil Producers filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell certain of the crude oil produced from the Baum 704 JV-D "Com" lease, located in Lea County, New Mexico, at upper tier ceiling prices. On October 31, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Damson Oil Corp., Houston, Tex., DEE-0362, crude oil

The Damson Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Damson to sell the crude oil which it produces from the Los Angeles 135 No. 2 well at upper tier ceiling prices. On November 2, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Gulf Oil Corp., Houston, Tex., DEE-1952, motor gasoline

The Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR 212.83(c). The exception request, if granted, would permit the firm to adjust the manner in which it calculates base period marketing costs pursuant to 10 CFR 212.83(c) to reflect the reduction in marketing costs no longer incurred as a result of a modification in the firm's marketing operations. On November 2, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Halter Gas Co., Oran, Mo., DEE-1966, propane

Halter Gas Company filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the issuance of an Order assigning Phillips Petroleum Company as Halter's base period supplier of propane in place of the Atlantic Richfield Company. On November 3, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Standard Oil Co. (Indiana), Chicago, Ill., DEE-0842, DEE-0849, DEE-0894, DEE-0895, and DEE-0982, crude oil

The Standard Oil Company (Indiana) (Amoco) filed an Application for Exception from the Provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to sell at upper tier ceiling prices or at market price levels the crude oil produced from the Springen Ranch Muddy Unit in Campbell County, Wyoming, the Collums Muddy Sand Unit in Campbell County, Wyoming, the Cottonwood Creek Prosphoria Unit in Waskakie County, Wyoming, the South Middle Lasing unit in Red William County, Nebraska, and the South Middle Ground Shoal Unit in Kenai Peninsula Borough, Alaska. On November 2, 1978, the DOE issued a Proposed Decision and Order which determined that exception relief be granted in part with respect to the Springen Ranch, Collums Muddy, and Sleepy Hollow Units.

[FR Doc. 78-33083 Filed 11-24-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1013-3]

Management Advisory Group to the Municipal Construction Division

Renewal

In accordance with section 14 of the Federal Advisory Committee Act (Pub. L. 92-463) the U.S. Environmental Protection Agency announces the renewal of the Management Advisory Group to the Municipal Construction Division. It has been determined that renewal of this advisory committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the Management Advisory Group through December 1, 1980, unless otherwise sooner terminated, will be filed at the Library of Congress.

FOR FURTHER INFORMATION CONTACT:

Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0866.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 78-33093 Filed 11-24-78; 8:45 am]

[6560-01-M]

PESTICIDE PROGRAMS

[FRL 1012-7; OPP-66047]

Intent to Cancel Registrations of Certain Pesticide Products

Pursuant to Section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), firms listed below have requested that the Environmental Protection Agency (EPA) cancel the registrations of several pesticide products. Such cancellation shall be effective within 30 days after publication of this notice in the FEDERAL REGISTER, unless the registrant or an interested person with the concurrence of the registrant, requests that the registration be continued in effect.

The Agency has determined that the distribution and sale of stocks of these products which were produced on or before the effective date of cancellation would not be inconsistent with the purposes of FIFRA and would not have an unreasonable adverse effect on the environment. Therefore, the distribution and sale of existing stocks of these products shall be permitted until the supply is exhausted or for one year after the effective date of cancellation, whichever occurs earlier, provided that these products shall be used only in a manner consistent with the label and labeling registered with EPA. Production of these products after the effective date of cancellation will be considered a violation of FIFRA.

Requests that the registration of these products be continued may be submitted to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. Any comments filed regarding this notice of intended cancellation will be available for public inspection in the office of the Process Coordination Branch from 8:30 a.m. to 4:00 p.m. Monday through Friday.

The registrants concerned and the products affected by this action are listed below.

Dated November 16, 1978.

JAMES M. CONLON,
Deputy Assistant Administrator for Pesticide Programs.

EPA Reg. No.	Product Name	Registrant
168-18	WASCO Brand Parathion 25 pct Wettable Powder.	Wasatch Chemical Division, 1979 South 7th West, P.O. Box 8219, Salt Lake City, Utah 84106.
168-59	Parathion 25 pct Emulsion Concentrate.	Do.
168-171	Methyl Parathion 2 pct Dust.	Do.
168-278	Parathion 4-LB Flowable.	Do.
168-279	Parathion Emulsion Concentrate.	Do.
168-374	Parathion 2 Granules.	Do.
241-157	Ethyl Parathion Methyl 6-3 E.C. Insecticide.	American Cyanamid Co., Agricultural Division, Box 400, Princeton, N.J. 08540.
255-102	AFC Phosphorous Paste.	American Fluoride Corp., Box 1003, New Rochelle, N.Y. 10801.
239-305	Ortho Parathion 2 Dust.	Chevron Chemical Co., Ortho Division, 940 Hensley Way, Richmond, Calif. 94801.
449-13	Techne Chlordane Emusifiable No. 4.	Farmland Industries, P.O. Box 7305, Kansas CKy, Mo. 64116.
449-299	Techne Chlordane 8 Emulsifiable.	Do.
449-501	Sure Death Brand Grandular 5 Parathion.	Techne Corp., c/o Farmland Industries, P.O. Box 7305, Kansas City, Mo. 64116.
449-502	Parathion 10-G	Do.
476-2011	Torbidan 28	Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804.
1100-1	Nuodex 87	Tenneco Chemicals, P.O. Box 365, Piscataway, N.J. 08854.
1145-78	Amoco Methyl Parathion 4E Emulsifiable Insecticide Concentrate.	Amoco Oil Co., 200 East Randolph Dr., Chicago, Ill. 60680.
1208-4	Plainsman Brand 25-WE Parathion.	Janson Industries, Inc., P.O. Box 1749, Plainview, Tex. 79072.
1212-157	Gavicide Parathion Sulfur Dust 2-25.	Pure Gro Co., 1111 West 6th St., los Angeles, Calif. 90017.
3533-28	Airkem, C-Kem Sanitizing Rug Shampoo and Germicidal Concentrate.	Airwick Industries, Inc., Commerce Rd., Carlstad, N.J. 07072.
9159-3	Methyl Parathion 4E.	Kaiser Agricultural Chemicals, Box 246, Savannah, Ga. 31402.
9159-40	Peanut Dust with Methyl Parathion.	Do.
9159-96	Kaiser 4-LB Ethyl Parathion Emulsifiable Concentrate.	Do.
9159-101	Kaiser Agricultural Chemicals 2 pct Parathion Dust.	Do.
10689-1	Best Yet Bleach	Food Brands, Inc., c/o Boogaart Supply, Inc., 124 East 5th, Concordia, Kans. 66901.

[FR Doc. 78-32819 Filed 11-24-78; 8:45 am]

[6560-01-M]

[OPP-30000/27C; FRL 1013-7]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing 2,4,5-Trichlorophenol and Its Salts; Correction

In FR Doc. 78-21012 in the issue of August 2, 1978, page 34054, third column, under registrant number 008591-Mogul Corp., P.O. Box 200, Chagrin Falls, OH 44022, delete the product entry 00006—Mogul A-421.

Dated: November 17, 1978.

JAMES M. CONLON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-33092 Filed 11-24-78; 8:45 am]

[1505-01-M]

[FRL-10064]

SECONDARY TREATMENT INFORMATION REGULATION

Suspended Solids Limitations for Wastewater Treatment Ponds

Correction

In FR Doc. 78-32022 appearing on page 53161 in the issue of Wednesday, November 15, 1978. The chart should appear as follows:

movement of the Japanese beetle by air- ed construction activities include: (1) Ap-

[1505-01-C]

ENVIRONMENTAL PROTECTION AGENCY

Suspended Solids Limitations for Wastewater Treatment Ponds**

Location	Suspended Solids Limit* (mg/l)
Alabama	90
Alaska	70
Arizona	90
Arkansas	90
California	95
Colorado	
Aerated Ponds	75
All others	105
Connecticut	N.C.
Delaware	N.C.
District of Columbia	N.C.
Florida	N.C.
Georgia	90
Guam	N.C.
Hawaii	N.C.
Idaho	N.C.
Illinois	37
Indiana	70
Iowa	
Controlled Discharge, 3 cell	case-by-case but not greater than 80
All others	80
Kansas	80
Kentucky	N.C.
Louisiana	90
Maine	45
Maryland	90
Massachusetts	N.C.
Michigan	
Controlled Seasonal Discharge	
Summer	70
Winter	40
Minnesota	N.C.
Mississippi	90
Missouri	80
Montana	100
Nebraska	80
North Carolina	90
North Dakota	
North & East of Missouri River	60
South & West of Missouri River	100

Suspended Solids Limitations for Wastewater Treatment Ponds** (continued)

Location	Suspended Solids Limit* (mg/l)
Nevada	90
New Hampshire	45
New Jersey	N.C.
New Mexico	90
New York	70
Ohio	65
Oklahoma	90
Oregon	
East of Cascade Mts.	85
West of Cascade Mts.	50
Pennsylvania	N.C.
Puerto Rico	N.C.
Rhode Island	45
South Carolina	90
South Dakota	110
Tennessee	100
Texas	90
Utah	N.C.
Vermont	55
Virginia	
East of Blue Ridge Mts.	60
West of Blue Ridge Mts.	78
Eastern slope counties Loudoun, Fauquier, Rappahannock Madison, Green, Albemarle, Nelson Amherst, Bedford, Franklin, Patrick	case-by-case application of 60/78 limits
Virgin Islands	N.C.
Washington	75
West Virginia	80
Wisconsin	60
Wyoming	100
Trust Territories & N. Marianas	N.C.

NOTES:

N.C. - no change from existing criteria

* thirty consecutive day average or average over the period of discharge when the duration of the discharge is less than 30 days

** The values set for Iowa and Virginia incorporate a specific case-by-case provision; however, in accordance with 40 CFR 133.103(c), adjustments of the suspended solids limitations for individual ponds in all states are to be authorized on a case-by-case basis.

[6560-01-M]

TRANSFER OF FUNCTIONS FROM COUNCIL ON ENVIRONMENTAL QUALITY

[FRL 1014-6]

Receipt of Environmental Impact Statements

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to § 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: The 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from November 13, 1978 through November 17, 1978; the date of submission of comments on draft EIS's as computed from November 24, 1978 is January 8, 1978.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: November 20, 1978.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Final

Japanese Beetle Regulatory Program, November 14: This statement presents the selection criteria of the Japanese Beetle Regulatory Program of Retarding the artificial movement of the Japanese beetle by aircraft from infested areas to the following noninfested States: Arizona, California, Idaho, Nevada, Oregon, Utah and Washington, and certain foreign countries. Approximately seven airports in the infested area may be declared hazardous due to high populations of Japanese beetles in the coming year. Approximately 3,000 aircraft will require some type of chemical treatment. USDA-APHIS, (ADM)-78-1F). Comments made by: HEW, DOD, EPA, State agencies, groups and businesses. (EPA order No. 81217.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Washington CZM, Evans Policy Deletion, Amendment 1, Washington, November 17: The proposed action is an amendment to the Washington Coastal Zone Management Program deleting the Evans Policy Statement on oil port location. This policy statement deals with the siting of a single major crude petroleum transfer site at or west of Port Angeles. The action is proposed in response to a request from Governor Dixie Lee Ray of the State of Washington. The legal analysis performed has shown the policy statement to be unenforceable under both State and Federal law. Alternatives to approve, delay, or deny the proposed amendment have been addressed. (EPA Order No. 81235.)

Draft supplement

PMP fiscal year 1979, Trawl Fisheries of Washington, Oregon, and California, November 17: The proposed action summarizes the changes in the Preliminary Fishery Management Plan (PMP), as amended, for the 1979 foreign fishing season and supplements the final EIS filed in January 1977. Under the amendment, the total allowable catch (TAC) for Pacific Hake will be 198,900 metric tons and for Jack Mackerel will be 55,000 metric tons. Twenty percent of the Hake TAC is set aside in reserve; the estimated domestic annual harvest (DAH) is 50,000 M.T. of Hake, and the total allowable level of foreign fishery (TALFF) for Hake is 109,120 M.T. for the Jack Mackerel fisheries, DAH is estimated to be 51,000 M.T. and TALFF is 4,000 M.T. (EPA Order No. 81236.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Baltimore-Washington Yachting Center, Magothy River, Anne Arundel County, Md., November 15: Proposed is the construction of a 937-slip commercial marina to be known as the Baltimore-Washington International Yachting Center located in the vicinity of Annapolis, Anne Arundel County, Md., on the south side of the Magothy River. Related construction activities include: (1) Approximately 888 L.F. of timber bulkhead, (2) approximately 6,135 L.F. of ten-foot wide main pier with 471 catwalks and a total of 1,612 mooring piles, (3) timber breakwaters, and (4) a 75-foot extension to the head of the existing pier. Dredging will also be done with material being used as fill landward of the bulkhead. (Baltimore District.) (EPA Order No. 81223.)

Mariners Two Marina, Permit, Middle River, Baltimore County, Md., November 16: The proposed action is the issuance of a permit to construct a 330-slip commercial marina with 16 piers, catwalks and the installation of 536 mooring piles and a travel lift. In addition, the applicants intend to provide a restaurant, a swimming pool, several tennis courts, bathhouses, boating sales and services, and pump-out facilities. The proposed project will be known as the Mariners Two Marina and would be located about ten miles east of downtown Baltimore on a tributary to the Middle River which is in Baltimore County, Md. (Baltimore District.) (EPA Order No. 81227.)

Commercial Sand and Gravel Dredging, Ohio River, several counties, November 14: Proposed is the issuance of permits to allow continued commercial sand and gravel dredging within the Ohio River Basin located in the States of Pennsylvania, West Virginia, Ohio, and Kentucky. The six firms applying to the Pittsburgh and Huntington Districts for renewal of their permits, currently maintain nine commerical dredging operations which operate at various points within the Upper Ohio River, from mile 0 to mile 438.0. Continued commercial dredging will result in the disruption and loss of sand and gravel from the river bottom, with localized removal of displacement of benthic organisms. (Pittsburgh and Huntington Districts.) (EPA Order No. 81215.)

DEPARTMENT OF DEFENSE

Contact: Mr. Ed Johnson, Head Environmental Impact Statement, R.D.T. & E. Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, 202-697-3689.

Draft

COSO Geothermal Development, NWC, China Lake, Kern County, Calif., November 17: The proposed action is the award of a contract to develop geothermal power as an alternative to conventional power sources at the Naval Weapons Center (NWC), China Lake, Kern County, Calif. Under the contract, the contractor will be responsible for implementing a COSO geothermal development program on approximately 3½ square miles of 4½ square miles of Navy fee acquired land within the COSO known geothermal resource area (COSO KGRA). Successful completion of this project will provide the Navy energy self-sufficiency at its NWC facility. Energy in excess will be made available to other west coast DOD facilities. (EPA Order No. 81234.)

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461.

Draft

Fuel Use Act, coal and alternate fuels use program, November 15: Programmatic. Proposed is the issuance of regulations to im-

plement the fuel use act (FUA) which would prohibit the contruction of new powerplants without the capability for utilization of coal or alternate fuels and prohibiting the use of natural gas or petroleum as the primary energy source in new powerplants and major fuelburning installations (MFBI) boilers. This statement deals with the overall program and is based on the assumption that coal will be the primary fuel substituted for oil and natural gas. The FUA will also affect use of natural gas and petroleum as a primary fuel source in existing powerplants and MFBI boilers. (DOE/EIS-0038-D.) (EPA Order No. 81219.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Spring Valley, Village of Carol Stream Du Page County, Ill., November 15: Proposed is the issuance of FHA mortgage insurance by the Department of Housing and Urban Development for the Spring Valley project located in the northwest edge of the village of Carol Stream in western Du Page County, Illinois. The project proposed includes 888 housing units on 160 acres with a potential for an additional 566 units, allocation of land for supporting uses to the above dwelling units for open spaces, schools, storm water retention, and commercial use, and provision of a coordinated plan for the integrated growth of the project. Several alternatives have been considered in the proposal. (HUD-RO5-EIS-78-13-D.) (EPA Order No. 81221.)

Fox Valley Villages, Kane and Du Page Counties, Ill., November 11: The proposed action is a request for HUD home mortgage insurance for the residential components of a complete planned development district (PDD) located in Naperville, Du Page County and Aurora, Kane County, Illinois. The PDD, known publicly as Fox Valley Villages, will be located on 4,142 acres that were annexed to the city of Aurora in July 1973. The PDD will be broken up as follows: 563 acres for commercial activities, 747 acres for manufacturing, and 2,832 acres for residential development. (HUD-RO5-EIS-78-16(D).) (EPA Order No. 81225.)

Poplar Hills Development in Hoffman Estates, Cook County, Ill., November 15: The proposed action is the issuance for HUD home mortgage insurance for the Poplar Hills development located in Hoffman Estates, Cook County, Illinois. The single family home development will contain a total of 740 units and be built in six phases on 331.9 acres. Present construction comprises the first, second, and third stages of the total development as 264 units have been completed as of April 1, 1978. Alternatives are no action (Rejection of insurance would not halt the project), development of remainder of site as multi-family, or build the number of remaining units as clustered townhouses. (HUD-RO5-DEIS-78-10(D).) (EPA Order No. 81226.)

Final

Cypress Point Subdivision, Harris County, Tex., November 14: Proposed is the development of 230 acres into a planned community composed of single-family homes with some commercial reserves in Harris County, Texas. The overall environmental impact of this project is expected to be beneficial in that it would transform a large tract of land, the majority of which is lying fallow, into a planned community. This development provides for the planning and controlling of a wide range of living accomodations for about 3,700 people. (HUD-RO6-EIS-38-F.) Comments made by: EPA, COE, AHP, DOT, DOI, USDA, State Agencies, and Groups. (EPA Order No. 81216.)

Section 104(H)

Following are community development block grant statements prepared and circulated directly by applicant pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD

Draft

West Wilcox Water System, Wilcox County, Ala., November 16: Proposed is an administrative action to grant funds for construction of a water system project in the western portion of Wilcox County, Alabama. A portion of the funds are to come from a HUD grant under the non-metropolitan discretionary fund. The proposed water system will consist of approximately 31 miles of water mains using 6-inch pipe except for 3-inch pipe to be used for short dead end lines, a 200,000 gallon elevated storage tank located at the north end of the project will insure a four to five day emergency water supply. Two pumping stations will be installed and a working pressure of 30 to 65 psi will be maintained. (EPA ORDER No. 81229.)

Final

Disposition of Amos Block, Syracuse, Onondaga County, N.Y., November 15: The proposed action is the application by the City of Syracuse, New York for community development block grant funds from HUD. This proposal entails the demolition of the Amos Block, encompassing the structures at 208-220 West Water Street, located in the City of Syracuse, Onondaga County, New York. This action is being considered in conjunction with the approved Clinton Square urban renewal project which outlines two possible objectives for the demolition area, 1) Additional right-of-way and 2) Landscaped entrance to Clinton Square and Central Syracuse. (HUD-R02.) Comments made by: EPA, State and Local Agencies, Groups, Individuals, and Businesses. (EPA Order No. 81220.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director For Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Final

La Salle County Station, unit Nos. 1 and 2, La Salle County, Ill., November 15: The proposed action involves the issuance of operating licenses to Commonwealth Edison Company, Chicago, Illinois, for the startup and operation of the La Salle County Station located near the Illinois River in La Salle County about 35 miles from Joliet, Illinois. The facility will employ two boiling-water reactors to produce up to 3293 megawatts thermal (MWT) per unit. A steam turbine generator will use this heat to provide up to 1078 megawatts electrical (MWE) of electrical power capacity per unit. The maximum design thermal output of each unit is 3434 MWT with a corresponding maximum calculated electrical output of 1124 MWE. (NUREG-0486) Comments made by: USDA, DOE, EPA, HEW, HUD, DOI, DOT, State agencies, individuals, and businesses. (EPA order No. 81222.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Salt Lake City International Airport, Davis and Salt Lake Counties, Utah, November 16: Proposed is a 20-year development plan for the Salt Lake City International Airport in Salt Lake City and will affect the counties of Davis and Salt Lake, Utah. Features of the plan include: (1) Construction of Airport access system, terminal units 3, 4, and 5, and adjoining aprons and additional parking, a subsurface and surface drainage system, and a new east general aviation runway; (2) relocation of the surplus and north point consolidated canals; (3) expansion of aviation facilities; (4) development of new air carrier runway complex; (5) various runway improvements; and, (6) miscellaneous development items. (EPA order No. 81232.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

CA-203, Mammoth Lakes Village, Mono County, Calif., November 16: Proposed are improvements on CA-203 from the Madero County Line to the CA-203/CA-395 junction in Mono County, California, to reduce bottlenecks and improve safety conditions. In addition to no-action three other alternatives are considered which involved: (1) widening about 1.5 miles of existing 2-lane conventional highway to 4-lanes and adding traffic signals, (2) operational improvements which would channelize two intersections and the addition of traffic signals, (3) no state highway construction with construction of country roads and other facilities. (FHWA-CA-EIS-78-05-D.) (EPA order No. 81228.)

CA-12 Fairfield and Suisun Bypass, Solano County, Calif., November 16: Proposed is the construction of CA-12 Bypass around the city of Fairfield to improve traffic flow between and around the cities of Fairfield and Suisun located in Solano County, Calif. Five of the alternatives considered involve the construction of CA-12 on an alignment south of the urbanized area of Fairfield City, and are designed as either expressway or freeway and vary from two to six lanes throughout their length. The length will vary from 0.9 to 2.9 miles depending on the alternative. The sixth alternative is no-build. This is an updated statement with substantial revisions and expansions and is being recirculated as a draft. (FHWA-CA-EIS-78-02-D.) (EPA order No. 81230.)

U.S. 20, Long Pine Junction, East and West, Brown County, Nebr., November 15: Proposed is the improvement of a portion of U.S. 20 part of which passes through the Long Pine State recreation area in Brown County, Nebr. The length of this project will be approximately two to four miles depending on the final route selected. The improvement will begin approximately one and one-third miles west of the U.S. 20/Long Pine Spur No. S-9A intersection following easterly and ending at the Brown and Rock County lines. In addition to no-action, five alternatives consider variations to the present aligment of total north and south relocations and partial north and south relocations with reentry. (FHWA-NEBR-EIS-78-05-D.) (EPA order No. 81224.)

I-579, Crosstown Boulevard, Allegheny County, Pa., November 16: Proposed is the construction of 1.6 miles of I-579 (the Crosstown Boulevard), including a major interchange with Fort Duquesne Boulevard and Bigelow Boulevard in Downtown Pittsburgh, Allegheny Count, Pa. The proposed highway section would be a four lane facility with fully controlled access. The proposed highway section extends to the north shore of the Allegheny River where it would interchange with the proposed (under the north side freeway system) East Street interchange. The build and no-action alternatives are considered. (FHWA-PA-EIS-D.) (EPA order No. 81231.)

Final

Hospital Loop Road, Lake City, Columbia County, Fla., November 17: The proposed action is located east of the center of Lake City, Columbia County, Florida. the project consists of providing a connecting street between North First Street in the vicinity of Franklin Street to East Duval Street in the vicinity of Desoto Drive or the Old Jacksonville Highway. The proposed Hospital Loop Road would be a municipal type section/approximately 1.5 miles in length, depending upon the alternative selected, with 2 travel lanes, refuge lanes, curbs, gutters, grass strip, sidewalks and street lights. The proposed facility would follow an alignment that combines several narrow existing streets. (FHWA-FLA-EIS-77-6-D). Comments made by: EPA, HEW, DOI, USDA, State and local agencies. (EPA Order No. 81233.)

Draft Supplement

I-83 in Baltimore City, Gay Street to I-95, Baltimore County, Md. November 14: This statement supplements three draft EIS's filed in December, 1974. Proposed is the construction of a section of I-83 in Baltimore City, Baltimore County, Maryland. The section will be approximately 3.5 miles in length and will extend from Gay Street to I-95. The design alternatives considered are: (1) An elevated viaduct, (2) depressed, (3) a tunnel, and (4) an at-grade boulevard. The action is part of the 3-A Interstate System Program for Baltimore City. (FHWA-MD-EIS-74-02-03-04-D-S.) (EPA Order No. 81218.)

It has come to EPA's attention that the following EIS was not distributed to the public at the same time the official filing was made by the originating agency. Therefore notice of availability is hereby withdrawn. Upon which time the agency completes the distribution and filing procedures, EPA will republish the availability in the FEDERAL REGISTER.

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Final

Non-Metro Discretionary Fund fiscal year-1977, Macon County, Ala., September 18: The proposed action is a request by Macon County, Alabama for Community Development Block Grant Funds. This statement discusses a proposed project to provide a safe and reliable source of potable water to existing residents along a segment of US Highway 80. The project which is located southwest of the City of Tuskegee, Macon County, Alabama, will involve the installation of 22,280 feet of 8-inch water main piping along the highway. The piping will carry water purchased from Tuskegee City and will be placed along the southern side of the highway within the public right-of-way. (EPA Order No. 81011.)

[FR Doc. 78-33148 Filed 11-24-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 7, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 9856-4.

Filing Party: Elliot B. Nixon, Esq., Burlingham Underwood & lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 9856-4 would amend various articles of the International Passenger Ship Association Agreement for the purpose of removing therefrom any authority of the member lines to discuss and/or agree upon fares and charges.

By Order of the Federal Maritime Commission.

Dated: November 21, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33151 Filed 11-24-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

FOUR SEASONS OF WISCONSIN, INC.

Formation of Bank Holding Company

Four Seasons of Wisconsin, Inc., Manawa, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Farmers State Bank of Manawa, Manawa, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 8, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33159 Filed 11-24-78; 8:45 am]

[6210-01-M]

MAGNOLIA BANCSHARES, INC.

Formation of Bank Holding Company

Magnolia Bancshares, Inc., Magnolia, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.6 per cent of the voting shares of Bank of Magnolia, Magnolia, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors

or at the Federal Reserve Bank of St.

[6210-01-M]

within 30 days of the date of this

B-180233 (S79003). This clearance ex-

searching and preparing their submis-

the NIH on October 3 and 4. The Con-ference Chairman, Dr. Donald S. Fre-

V 4 3 2 2 8 NO 227 78

or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 7, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 13, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33160 Filed 11-24-78; 8:45 am]

[6210-01-M]

PALISADE BANCSHARES, INC.

Formation of Bank Holding Company

Palisade Bancshares, Inc., Palisade, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of Palisades National Bank, Palisade, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 12, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33161 Filed 11-24-78; 8:45 am]

[6210-01-M]

STATE NATIONAL BANCORP, INC.

Formation of Bank Holding Company

State National Bancorp, Inc., Greenwich, Connecticut, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.3 percent of the voting shares of The State National Bank of Connecticut, Bridgeport, Connecticut. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 13, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33162 Filed 11-24-78; 8:45 am]

[6210-01-M]

WOOD RIVER FINANCIAL SERVICES, INC.

Formation of Bank Holding Company

Wood River Financial Services, Inc., Wood River, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95 per cent less directors' qualifying shares) of the voting shares of Bank of Wood River, Wood River, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 18, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33163 Filed 11-24-78; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt and Approval of Report Proposal

A request for emergency clearance of two new letters requesting status information from common carriers in the U.S. foreign commerce was received by the Regulatory Reports Review Staff, GAO, on November 16, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL MARITIME COMMISSION

The Federal Maritime Commission (FMC) requested clearance of two new letters requesting status information from common carriers in the U.S. foreign commerce. In order to comply with the Ocean Shipping Act of 1978 which became effective on November 17, 1978, the FMC must ascertain the identity of those foreign flag line carriers operating in the foreign commerce of the United States who would be classified as "controlled carriers" within the meaning of the Act. It is esential that the FMC identify controlled carriers immediately because of the short-time constraints within which the FMC must implememt the requirements of the Act.

The GAO agreed to accept FMC's emergency request for clearance due to the exigent need to identify the controlled carriers. The FMC estimates that the transmittal letters will be sent to 60 common carriers in the United States foreign commerce. The response time is estimated to be 3.75 hours per response.

The GAO granted emergency clearance to the letters requesting status information from common carriers in the United States foreign commerce on November 17, 1978, under number B-180233 (S79003). This clearance expires on May 31, 1979.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-33138 Filed 11-24-78; 8:45 am]

[1610-01-M]

REGULATORY REPORTS REVIEW

Receipt and Approval of Report Proposal

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 26, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

CIVIL AERONATICS BOARD

The Civil Aeronautics Board (CAB) requested emergency clearance of the application and related reporting requirements contained in 14 CFR Parts 302.1803, 1805, 1806, 1809, and 1810. These sections specify how persons can apply for unused nonstop route authority. Section 10 of the Airline Deregulation Act of 1978 authorizes this application process. Under provisions of the statute, CAB must award new route authority to the first carrier who applies for unused authority and certifies that it meets certain Federal Aviation Administration requirements.

The GAO agreed to review these reporting requirements on an emergency basis because Section 10 of the Airline Deregulation Act requires CAB to reassign unused route authority based on the application covered by this clearence. The statute also requires that the program become effective immediately upon enactment which occured on October 25, 1978, when the President signed the legislation. Anticipating the enactment of this legislation, CAB adopted and made effective, on October 18, 1978, Regulation PR-180 which included the application and reporting requirements submitted for GAO review.

During our review, we determined that § 302.1805(c)(4), which required copies of pages from the Official Airline Guide, imposed an excessive burden on applicants. To reduce respondent burden, CAB agreed to revise that requirement and permit applicants to provide citations to pertinent pages in the Official Airline Guides. CAB estimates that this revision will reduce applicants' compliance burden by an average of 60 hours. CAB estimates, based on submissions already received, that applicants will spend on the average 210 hours researching and preparing their submissions.

The GAO granted clearance of these reporting requirements on November 2, 1978, under number B-180226 (RO568). This clearance expires on November 30, 1979.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-32826 Filed 11-24-78; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

NOVEMBER 21, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, on December 11, 1978, from 10:00 a.m. to 4:00 p.m., in Room 2636 of the GSA Regional Office Building, Seventh and D Streets, SW, Washington, DC. The meeting will be devoted to the initial stage of the process for screening and evaluating prospective architect-engineer firms to furnish professional services required in connection with development of Design Services for Renovation, and Repair of Production Kitchen, Pentagon Building, Arlington, Virginia (GS-03B-88125/89020). The meeting will be open to the public.

WALTER V. KALLAUR,
Acting Regional Administrator.

[FR Doc. 78-33209 Filed 11-24-78; 8:45 am]

[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

ADVISORY COMMITTEE TO THE DIRECTOR, NIH

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on December 13-14, 1978, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9:00 a.m. to 5:00 p.m. on December 13 in Building 31, Conference Room 6, C Wing, and from 9:00 a.m. to 1:00 p.m. on December 14 in Conference Room 8. The entire meeting will be open to the public.

The purpose of the meeting will be to consider the report from Secretary Califano's Conference on Health Research Principles which was held at the NIH on October 3 and 4. The Conference Chairman, Dr. Donald S. Fredrickson, and the chairmen of the five panels, will lead the Committee review to consider the Conference's recommendations for revised health research planning principles. The Committee will also consider feasible approaches and appropriate next steps, in moving beyond research principles toward Secretary Califano's ultimate purpose: Development of a multiyear strategy for support of departmental health research activities.

In addition, the development of revised Recombinant DNA Research Guidelines and other policy issues of concern to the Director, NIH, will be discussed.

The Executive Secretary, Joseph G. Perpich, M.D., J.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 20014, 301-496-3152, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: November 15, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-33112 Filed 11-24-78; 8:45 am]

[4110-08-M]

BLOOD DISEASES AND RESOURCES ADVISORY COMMITTEE

Meeting

Notice of Meeting of Blood Diseases and Resources Advisory Committee Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, January 15, and 16, 1979, National Institutes of Health, Building 31, Conference Room 8, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 9:00 AM-5:00 PM, January 15, and from 8:30 AM-4:30 PM, January 16, 1979, to discuss the status of the Blood Diseases and Resources program, needs, and opportunities. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone: (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Fann Harding, Special Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Building 31, Room 5A04, National Institutes of Health, Bethesda, Maryland 20014,

phone: (301) 496-1817, will furnish

[4110-08-M]

Room 819, Bethesda, Maryland 20014,

[4310-84-M]

ment, appears to us as the preferred

or leased by the State with an option to buy under Alaska Statue 38.05.077 (the so-called

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phone: (301) 496-1817, will furnish substantive program information.

Dated: November 15, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-33115 Filed 11-24-78; 8:45 a.m.]

[4110-08-M]

CAUSE AND PREVENTION SCIENTIFIC REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cause and Prevention Scientific Review Committee, National Cancer Institute, December 18-19, 1978, Landow Building, Conference Room "A", 7910 Woodmont Avenue, Bethesda, Md. 20014. The meeting will be open to the public on December 18, 1978 and December 19, 1978 from 8:30 a.m. to 9:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 18, 1978 and December 19, 1978 from 9:00 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information about individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Carl E. Smith, Executive Secretary, National Cancer Institute, Landow Building, Room 8C37, National Institutes of Health, Bethesda, Md. 20014 (301/496-4141) and Dr. Virginia C. Dunkel, Executive Secretary, National Cancer Institute, Landow Building, Room 3A14, National Institutes of Health, Bethesda, MD (301/496-1071) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.395, National Institutes of Health.)

Dated: November 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-33114 Filed 11-24-78; 8:45 am]

[4110-08-M]

ETHICS ADVISORY BOARD

Hearing Changes

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 43 FEDERAL REGISTER 50507, published October 30, 1978.

Notice is hereby given that the location of the hearing on human in vitro fertilization, scheduled to take place in Dallas, Texas on December 11, 1978, has been changed. Due to water damage in the building originally designated, the site of the hearing has been moved to:

Room 7A-23, Earl Cabell Federal Building, 1100 Commerce Street, Dallas, Texas 75242.

Notice is also given that the hearing to be held in the Federal Building in New York City on December 15, 1978 will begin at 11:00 a.m. instead of 1:00 p.m. as originally announced.

For further information contact Dr. Charles R. McCarthy, Staff Director, Ethics Advisory Board, Westwood Building, room 125, 5333 Westbard Avenue, Bethesda, Md. 20016, telephone (301) 496-7776.

Dated: November 20, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-33111 Filed 11-24-78; 8:45 am]

[4110-08-M]

SARCOMAS OF SOFT TISSUE AND BONE IN CHILDHOOD

Symposium

Notice is hereby given of the Symposium on "Sarcomas of Soft Tissue and Bone in Childhood" sponsored by the Cancer Clinical Investigation Review Committee, Division of Cancer Research Resources and Centers, January 25-27, 1979, Grande Hall Area, Holiday Inn, International Drive, Orlando, Florida 32809.

This meeting will be open to the public on January 25, 1979, from 8:30 a.m. to 5:30 p.m. and 8:00 p.m. to adjournment; on January 26, 1979, from 8:30 a.m. to 6:00 p.m.; and on January 27, 1979, from 8:30 a.m. to 1:00 p.m. for presentation of scientific papers. Attendance by the public will be limited to space available.

For additional information, please contact Mr. Clare W. White, Executive Secretary, Cancer Clinical Investigation Review Committee, Review and Referral Branch, Division of Cancer Research Resources and Centers, National Cancer Institute, National Institutes of Health, Westwood Building, Room 819, Bethesda, Maryland 20014, (301) 496-7481.

Dated: November 15, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-33113 Filed 11-24-78; 8:45 am]

[4110-07-M]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part S (formerly part 4) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections SR.00, SR.10, and SR.20 (formerly designated as sections 4-03-00, 4-03-10, and 4-03-20, respectively) of the SSA Statement, published at 40 FR 4475-76 on January 30, 1975, describe the Mission, Organization, Order of Succession and Functions for SSA's Office of Program Policy and Planning (OPPP). Pursuant to the Reorganization Order of the Secretary of Health, Education, and Welfare published at 42 FR 13262-63 on March 9, 1977, responsibility assigned to SSA for evaluating the operations of the Federal Hospital Insurance Trust Fund and the Supplementary Medical Insurance Trust Fund has been transferred to the Health Care Financing Administration. As a result, Sec. SR.20, D.3. of the OPPP Statement is hereby amended to reflect the deletion of this responsibility from OPPP's Office of the Actuary. The replacement statement reads as follows:

3. Studies, for both the immediate and distant future, problems of financing program costs; estimates future workloads; and evaluates operations of the Federal Old-Age and Survivors Insurance Trust Fund, and the Federal Disability Insurance Trust Fund.

Dated: November 20, 1978.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

[FR Doc. 78-33166 Filed 11-24-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

SOUTHCENTRAL WYOMING COAL

Draft Environmental Statement; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of comment period on Draft Environmental Statement, Southcentral Wyoming Coal.

SUMMARY: Under guidelines published by the Council on Environmental Quality on April 23, 1971, the Department of the Interior will consider requests for an extension of the comment period on the Draft Environmental Statement for Coal Development in southcentral Wyoming. Comments were requested through November 29, 1978, but are hereby extended for an additional period to December 16, 1978. Comments received by that date will be considered before final action is taken on the preparation of a final environmental statement. The Environmental Statement is available for public review in Bureau of Land Management Offices in Cheyenne, Rawlins, and in public libraries in Carbon, Albany, Laramie and Sweetwater Counties, Wyoming.

DATE: Comments by December 16, 1978.

ADDRESS: Send comments to: Team Leader, Coal ES Team, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT:

Ed Coy, 307-324-7171 ext. 300.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

NOVEMBER 17, 1978.

[FR Doc. 78-33121 Filed 11-24-78; 8:45 am]

[4310-70-M]

National Park Service

SEASHORE MANAGEMENT STRATEGY, CAPE HATTERAS NATIONAL SEASHORE

Availability of Status Report

The National Park Service has prepared a Status Report on development of a Seashore Management Strategy for Cape Hatteras National Seashore.

The report discusses the National Park Service's conclusions regarding seashore management, summarizes the potential impacts of a strategy that, pending further public involvement, appears to us as the preferred one. It also identifies areas of emphasis and means of implementation to better define the strategy.

The seashore management strategy will be incorporated in a General Management Plan for the national seashore which will cover additional items relating to management, development, and conservation of seashore resources. Preparation of this plan is scheduled to begin in late 1978 or early 1979.

Written comments are invited and will be received at the offices listed below:

Regional Director, Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349.
Superintendent, Cape Hatteras National Seashore, Route 1, Box 675, Manteo, North Carolina 27954.

Dated: November 13, 1978.

NEAL G. GUSE, Jr.,
Acting Regional Director, Southeast Region.

[FR Doc. 78-33127 Filed 11-24-78; 8:45 am]

[4310-10-M]

Office of the Secretary

ALASKA NATIVE CLAIMS SETTLEMENT ACT

This notice publishes Order No. 3029 issued by the Secretary of the Interior on November 20, 1978. The Order, which amends the Departmental position regarding valid existing rights under the Alaska Native Claims Settlement Act (ANCSA), is published in its entirety below.

Additional information regarding the Order may be obtained from Mr. Beaumont McClure, Alaska Native Claims Coordinator, Bureau of Land Mangement, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-3078.

Dated: November 20, 1978.

DANIEL P. BEARD,
Acting Secretary of the Interior.

Secretarial Order No. 3029
Subject: Valid Existing Rights under the Alaska Native Claims Settlement Act (ANCSA)

Sec. 1 *Purpose.* The purpose of this Order is to cancel Secretarial Order 3016 and to replace it with this Order which resolves certain specific questions on valid existing rights under ANCSA.

Sec. 2 *Policy.* By this Order I hereby adopt the Memorandum from the Solicitor, dated October 24, 1978, (copy attached), as the position of the Department on the subject of valid existing rights under ANCSA. I reaffirm my conclusion in Order 3016 that, if prior to the passage of ANCSA, lands which were tentatively approved for selection by the State of Alaska were (a) tentatively approved or patented by the State to municipalities or boroughs; or (b) patented or leased by the State with an option to buy under Alaska Statue 38.05.077 (the so-called "open-to-entry" program); then valid existing rights were created within the meaning of ANCSA. I also now conclude that lands covered by such open-to-entry leases from the State should not be included in conveyances to Native corporations. The Bureau of Land Management should identify third party interests created by the State, as reflected by the land record of the State of Alaska, Division of Lands, and serve notice on all parties of each other's possible interests, but this Department should not adjudicate these interests. This Order is not intended to disturb any administrative determination contained in a final decision previously rendered by any duly authorized Departmental offical. The question of retroactive application of this Order shall be addressed by the Solicitor under procedures which shall be announced by him within 30 days of this Order's effective date.

Sec. 3 *Revocation.* Secretarial Order 3016 is hereby revoked.

Sec. 4 *Effective Date.* This Order is effective immediately and shall remain in effect until June 1, 1979, at which time it will be converted into the Departmental Manual.

Dated: November 20, 1978.

CECIL D. ANDRUS,
Secretary.

OCTOBER 24, 1978.

Memorandum
To: Secretary of the Interior.
From: Solicitor.
Subject: Valid Existing Rights under the Alaska Native Claims Settlement Act.

On November 28, 1977, I forwarded an opinion to you on the issue of valid existing rights under the Alaska Native Claims Settlement Act. On December 14, 1977, you signed Secretarial Order 3016 adopting my opinion as the position of the Department. Subsequent reaction to that order by various Native organizations, the State of Alaska, and other interested parties, precipitated a reconsideration of the original opinion. After careful review and reconsideration of the entire administrative record, I have concluded that my original opinion should be amended in certain respects. As such, I recommend that Secretarial Order 3016 be rescinded and that the following opinion, which will replace opinion M-36897, be issued as its replacement.

Certain questions have arisen in connection with the implementation of the Alaska Native Claims Settlement Act (ANCSA),[1] including an issue on which there is apparently a conflict between a decision by the Interior Board of Land Appeals (IBLA)[2] and two decisions issued by the Alaska Native Claims Appeal Board (ANCAB).[3] To the extent that the opinions have created uncertainty as to the Department's policy and legal position with respect to the implementation of ANCSA, the policy and legal position should be clarified.

ISSUES PRESENTED

1. Are lands which were tentatively approved for State selection available for conveyance to Native corporations when they

[1] 43 U.S.C. § 1601-1629.
[2] State of Alaska, 19 IBLA 178, March 18, 1975.
[3] Appeal of Eklutna, ANCAB VLS 75-10, Dec. 10, 1976, Appeal of Seldovia, VLS 75-14, 15, June 9, 1977.

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are located within the area withdrawn for Native selection by Section 11(a)(2) of the ANCSA *if prior* to the enactment of ANCSA the lands had been:

a. Tentatively approved or patented by the State to municipalities or boroughs?

b. Leased with an option to buy by the State to individuals under the State's "open-to-entry" program?

c. Patented by the State to individuals under the State's "open-to-entry" program?

2. If "open-to-entry" leases are "valid existing rights" should the land be excluded from the conveyance to Natives or should it be included in the conveyance as a "subject to" interest?

3. To what extent does ANCSA require the Department to determine whether third party rights acquired under State laws are valid?

4. Should this opinion be applied retroactively?

CONCLUSION

1. I conclude that all three of the third party interests identified above are "valid existing rights" within the meaning of ANCSA.

2. I conclude that the lands covered by "open-to-entry" leases should be excluded from Native conveyances.

3. I conclude that the validity of third party interests which were created by the State should be identified if possible to put all interested parties on notice, but need not be adjudicated.

4. I conclude that the issue of retroactive application of Secretarial Order 3016 was not adequately presented as an issue for reconsideration. As such, the Department should provide a thirty-day (30) comment period to *all* affected parties on the question of whether or not *this opinion* should be applied retroactively.

DISCUSSION

1. *Valid Existing Rights.*

From the time the United States acquired possession of Alaska from Russia, Congress recognized in a general way the claims of Alaska Natives to the land they had used and occupied. Thus in 1884 Congress declared: "The Indians * * * shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them, *but* the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress." Act of May 17, 1884 (23 Stat. 24).

At the time of the Alaska Statehood Act (72 Stat. 339) Congress recognized that these aboriginal claims would be a potential encumbrance on land conveyances to the State and would have to be addressed by Congress. Section 4 of the Statehood Act provides in pertinent part:

"The State and its people * * * forever disclaim all rights and title * * * to any lands * * * which may be held by any Indians, Eskimos, or Aleuts * * * (such lands) remain under the absolute jurisdiction of the United States until disposed of under its authority."

The legislation addressing the land claims of Alaskan Natives came in 1971, thirteen years after the Statehood Act. During the thirteen-year interim the State received patent to about 4.8 million acres and "tentative approval" to about 7.7 million acres. It has filed selections on an additional 15 million on which no federal action had been taken.

The concept of tentative approval comes from Section 6(g)[4] of the Statehood Act which states in pertinent part:

"* * * Following the selection of lands by the State and the tentative approval of such selection by the Secretary of the Interior * * * but prior to the issuance of final patent, the State is hereby authorized to execute conditional leases and to make conditional sales of such selected lands."

The implementing regulations (43 CFR 2627.3(d)) provide that "tentative approval" will be issued only "after determining that there is no bar to passing legal title * * * other than the need for survey of the lands or for the issuance of patent or both."

By the time ANCSA was enacted the State had created several types of third party interests on land to which it had received tentative approval. Among these were conveyances to boroughs and municipalities under A.S. §29.18.190, and conveyances by the State under its "open-to-entry" program A.S. §38.05.77, as well as mineral leases, timber sales contracts, free use permits, and others.

The determination of whether these rights survive Native selection under ANCSA could begin with an analysis of the nature of the State's title to tentatively approved lands. It is argued that the State's title is a vested title subject only to being voided if Native occupancy could be proved. *Edwardsen v. Morton*, 360 F. Supp. 1359 (D. D.C. 1970) is cited both for and against this proposition. It was also argued during the debates which preceded ANCSA that the State's tentatively approved selections, being vested rights, could not be used by Congress to settle the aboriginal claims without compensation to the State. If the protection which the third party grantees received is to be found in common law property principles outside of ANCSA, these exceedingly complex questions would have to be resolved. Since I conclude that protection of third party interests created by the State is provided in ANCSA, I need not determine whether such persons are also protected by principles outside of ANCSA.

A fundamental principle of ANCSA is that "[a]ll conveyances made pursuant to this Act shall be subject to valid existing rights."[5] In addition, the sections withdrawing land for Native selection (Sections 11(a), 16(a)) expressly provide that the withdrawal is "subject to valid existing rights." The revocation of prior reserves created for Natives is also "subject to valid existing rights." (Section 19(a)).

Although the phrase "valid existing rights" is not specifically defined in Section 3 "Definitions", both the statute and the legislative history offer guidance as to its meaning.

Section 14(g) provides in pertinent part:

"Where prior to patent of any land or minerals under this Act, a lease, contract, permit, right-of-way, or esasement (including a lease issued under section 6(g) of the Alaska Statehood Act) has been issued * * * the patent shall contain provisions making it subject to the lease, contract (etc.)* * *."

Section 22(b)[6] directs the Secretary "to promptly issue patents to all persons who have made a lawful entry on the public lands in compliance with the public land laws for the purpose of gaining title to homesteads, headquarters sites, trade and manufacturing sites or small tract sites, and who have fulfilled all the requirements of law prerequisite to obtaining a patent."

Section 22(c)[7] protects persons who have initiated valid mining claims or locations in their possessory rights if they have met the requirements of the mining laws.

By regulation the Department has construed Sections 14(g) and 22(b) and provided the mechanism for implementing them. 43 CFR 2650.3-1(a) provides:

"Pursuant to sections 14(g) and 22(b) of the act, all conveyances issued under the act shall exclude any lawful entry or entries which have been perfected under, or are being maintained in compliance with, laws leading to the acquisition of title, but shall include land subject to valid existing rights of a temporary or limited nature such as those created by leases (including leases issued under section 6(g) of the Alaska Statehood Act), contracts, permits rights-of-way, or easements."

This regulation makes a basic distinction between rights "leading to acquisition of title" and "right of a temporary nature." The former are excluded from the conveyance, the latter are included, but protected for the duration of the interest.

It has been argued that for those rights which lead to the acquisition of title the statute and the regulations also distinguish rights which are created under Federal law an those created by State law, protecting only the former. I do not agree for several reasons.

First, the authority of the State to create third party interests in tentatively approved (T.A.'d) lands comes from section 6(g) of the Statehood Act, quoted in pertinent part above. Although the State has exercised this authority through State legislation which defines the terms on which persons may acquire leases, etc., the Congress, in ANCSA, clearly considered such leases to be issued under Federal law, namely the Statehood Act. Section 11(a)(2), for example, withdraws T.A.'d land "from the creation of third party interests by the State under the Alaska Statehood Act." Section 14(g), as already stated, refers to leases "issued under section 6(g) of the Alaska Statehood Act."

Therefore, it is appropriate that 43 CFR 2650.3-1(a) does not limit its scope to entries which are maintained under *Federal laws* and lead to the acquisition of title, but says simply "laws leading to the acquisition of title."

Second, I do not believe the listing of the rights to be protected was intended to be limiting, but rather was *ejeusdem generis*. The regulation already quoted (43 CFR 2650.3-1(a)) precedes its list with "such as those created by * * *," indicating clearly that the list is not exhaustive. Furthermore, there is not longical reason why Congress would have intended to protect rights of municipalities or individuals which lead to the acquisition of title under such Federal laws as the Townsite Act or the Homestead Act, but did not intend to protect the same municipality or individual when the law under which the rights are being perfected is a State law.

It is my conclusion, therefore, that the department's regulations have construed "valid existing rights" under ANCSA to include rights perfected or maintained under State as well as Federal laws leading to the acquisition of title.

This conclusion is reinforced by the provisions of Section 11(a)(2) which provides that the withdrawal of State selected and T.A.'d lands is from "all forms of appropriation under the public land laws, including the mining the minerla leasing laws, *and from the creation of third party interests by the State under the Alaska Statehood Act.*" The underscored language reveals that third party interests created by the State are considered to have been created "under" the Statehood Act, which is a Federal statute. Also by withdrawing the land from the future creation of third party interests by the State, there is a strong implication that third party interests already created were considered "valid existing rights." Finally, the fact that the lands are withdrewn from appropriations under the mining laws makes it clear that "valid existing rights" as used in Section 11(a)(2) contemplates rights which lead to the acquisition of title as well as those of a temporary nature.

The fact that Congress expressly referred only to leases issued by the State is not persuasive evidence that Congress intended no other State-created interests to be protected. The reasons for Congress' special emphasis on State leases is entirely understandable.

The House Committee report reflects Congress' concern that a lease issued by the State which on its terms was conditional on the issuance of a patent to the State not be terminated by virtue of the Native Selection. H.R. Report No. 92-523, 92d Cong., 1st Sess. (1971), p. 9.

It is well-known that ANCSA was the subject of intense concern to the oil and gas industry which had mineral leases on State selected lands.[8] It is therefore not surprising that Congress paid special attention to State-issued leases. But that is not that is not to say that Congress was unaware of or unconcerned with State issued patents, which were equally conditional on the issuence of a federal patent to the State. Thus the House Committee report, *supra*, states: "Section 11(i) protects all valid rights * * *." If it had intended to protect only leases or only rights of a temporary nature the use of the word "all" would seem inappropriate.

This concern runs throughout the hearings' record. On August 8, 1969, Senator Stevens (R-Alaska) learned for the first time that the Alaska Federation of Natives was claiming land that had been tentatively approved to the State. Highlights from pages 344-351 of the testimony of that day's hearing are excerpted below:

SENATOR STEVENS. Maybe just one last question, and this will be directed to all of your people, General Clark. It is my understanding there is no conflict between the recommendations that are made here today and existing State rights, that is, in terms of State selections, already patented or State selections to which there has been tentative approval given is that correct?"

* * * * *

The Statehood Act set up a unique thing, and we are forever going to be indebted to Congress for this unique approach, and that is, the State of Alaska is going to be able to treat it as though it owns the land, the land to which the Secretary of Interior had given tentative approval on selection.

* * * * *

MR. CLARK. Well, it is right as to the patent insofar as the settlement proposal is concerned. On tentative approval, the federation has not taken a position on that here.

* * * * *

Well, let me have President Notti, who can speak better for the Federation than I, as counsel for it, address himself to that. But before he does, let me say that this does not mean that there is any irreconcilable conflict necessarily there. You are talking about whether there is a quitclaim or a waiver only to tentatively approved land.

* * * * *

MR. NOTTI. Senator, we have discussed this in our meetings, and as far as patented lands go to State or individuals, we here make no claim against that. Lands that have not been patented, have not gone to final patent, and that includes tentative approval, we are not willing to concede at this time that we do not have selection rights in these areas. We think we do.

* * * * *

SENATOR STEVENS. I hope everyone realizes the effect of the statement you have just made, which is probably the most significant statement that I think has been made in the whole hearing. I have never before this time had any indication that the Alaska Federation of Natives did not concede the validity of the land freeze.

* * * * *

I want to eliminate any conflict with the State. *We are protecting the rights of private individuals.* As I understand *the position* of everyone who has been here so far, if there are private *existing rights they will be recognized.* That would include the *homesteader* who has filed and received his certificate of final proof. It would include the man who has the *trade manufacturing site* or the various other entries who has gone as far as he can and has received final approval of the Interior Department, subject to only one thing, and that is the issuance of a patent after survey.

Now, the State is in that same position, and I think the position of the AFN is treating the State differently than other private rights, non-Federal, nonnative rights, because they are not recognizing the validity of a tentative approval in that sense, the sense that, in fact, put Alaska where it is today.

If it had not been for tentative approval, the State of Alaska could not have proceeded to *lease Prudhoe Bay*, could not have proceeded to lease most of the lands that have been leased, and I am sure that anyone familiar with the State government would tell you that without the right to issue leases on tentative approval land, we would not have had the income we have had.

The State would have been bankrupt, and I think it will drastically affect the outcome of the sale in September if this point is not cleared up before that time. We are expecting $1 billion from that lease sale. Now here is a cloud, a definite cloud, on that sale because those are tentative approval lands, and I think it must be cleared up. If it is not cleared up, it is going to affect all Alaskans drastically, and I urge you to clarify your position and to state that you are not going to contest lands to which tentative approval has been given to the State before the land freeze, because if you do not, I would predict that the income from the land sale in September is going to be somewhere around $40 million instead of $1 billion.

SENATOR GRAVEL. If the Forest Service sells timber from the Tongass Forest, would this not be a similar situation? The State's tentatively approved land is being claimed; just as is the forest lands. *AFN has already talked of protecting the rights of individuals*, and they are looking upon Government, the State or Federal, in the same light.

Now, I personally—maybe you could explain to me—do not see why the tentative approval area should be sacrosanct if the Tongass National Forest is not sacrosanct.

SENATOR STEVENS. Well, but this is the point: The State was given certain rights under the Statehood Act, the right to select these lands. Where the lands have been patented, there is no dispute. The only reason the patent was not issued under tentative approval was because the survey had not been done. The State and Federal Government have done everything there is to do except issue the patent.

SENATOR GRAVEL. I understand that. But suppose the State does have patent. The Natives would still be looking to the State for participation if there are certain areas of State land needed to fill out the allowable land grant area around the village. If that is the case they would get land from the State, just as they would from Federal Government lands, such as the Tongass National Forest or some wildlife refuge. That does not disturb me one iota, and I do not see an economic change of significance that will alter the wealth *because they are not going to disturb the oil companies under the lease.* That lease will be there.

* * * * *

The ambiguity might occur as to whether or not the Natives have a claim on the lease interest or the State's interest in it. There is a difference. *I believe AFN stated earlier that as far as the homesteader is concerned they recognize his rights, just as the rights of the oil companies would be recognized.* But possibly there may be inferences here of which I am not aware.

* * * * *

MR. CLARK. Let me say, first, Senator Stevens, that I think it would be terribly unfortunate if we exaggerated the risks here. *There is nothing that I can see that the Federation has ever done that would challenge a lease that may have been entered into* and, therefore, I do not see how their claiming their villages, whether it falls in tentatively approved land or the Tongass National Forest, could affect the bonus value of the lands. *The lessee is not really threatened.* (Emphasis supplied.)

Throughout this discussion several things are apparent: First, Senator Stevens is concerned with "protecting the rights of pri-

[4] Set forth in full in Appendix A.

[5] Section 14(g), 43 U.S.C. 1613(g), set forth in full in Appendix A.

[6] 43 U.S.C. 1621(b), set forth in full in Appendix A.

[7] 43 U.S.C. 1621(c), set forth in full in Appendix A.

[8] See, for example, the dissenting view of Congressman Saylor appended to House Committee Report No. 92-523, 92d Congress, 1st Sess. (1971), at p. 51.

vate individuals" He lists several examples—homesteaders and other people with

identical to those of the State and that the State cannot exempt land from Native selec-

estate or other property, or interest in property. * * *

b. *Open-to-Entry Leases.*

to perfect his option to purchase. When an

manner as the laws of the State may pro-

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vate individuals" He lists several examples—homesteaders and other people with rights under federal law, and in the same discussion mentions the Prudhoe Bay oil lessees. Second, these Prudhoe Bay leases are cited as an example and quoted with the homesteader in Senator Gravel's comment; and third, Stevens, Gravel, and Clark all agreed in general terms that private rights should be protected. Nowhere did anyone suggest that lessees should be treated differently from other private individuals.

In the 1971 hearings the question of private rights in T.A.'d land again arose:

SENATOR STEVENS. Almost all of the property rights that have been created since 1958 have come through the tentative approval provision in the Statehood Act. There have been very few rights in the State of Alaska created otherwise. If we were to disturb that provision • • • we would be disturbing the whole system of private rights in the State.

Mr. Weinberg, then speaking for the Natives, replied:

Now, we are not suggesting that every land title in the State of Alaska be upset • • • [P]atents should not be upset. Even patents to the State where the State still holds the land. But we do believe that the T.A. land problem can be met and it should be met by Congress • • • [N]obody's private title is going to be upset.

Testifying on May 7, 1971, before the House, Mr. Hugh Fleischer representing nine individual Native villages who were deeply concerned by the T.A.'d land issue, urged the Congress to include T.A.'d land in the bill, but included the statement:

We don't think that this legislation we are proposing would create any serious problems with respect to third party interests . . . Hearings on HR 3100, May 3, 4, 5, 6, 7, 1971, p. 327.

The need to protect *all* third parties was expressed by Governor Egan in a letter to the House Committee dated May 12, 1971, (Appended to the 1971 House Hearings at p. 264) as follows:

Under specific authorization of the Statehood Act the State has granted large numbers of patents and leases and entry rights to third parties in T.A.'d lands. The first principle to be observed in any determination regarding T.A. lands is that *no interest* given by the State to *any* third party shall be disturbed. (Emphasis added.)

All of the foregoing legislative history supports the conclusion that Congress did not single out leases from other State created rights as the only ones to be protected. It shows, I believe, that the reference to State issued leases, preceded by the word "including", was intended to mean that "leases" were only one of the State vested rights that were to be protected under the statute as valid existing rights.

In my opinion, there is no ambiguity in either the statutory language or the legislative history concerning Congress' intent to protect *all* valid existing rights which were created under federal or State law.

a. *Borough and Municipal Lands.*

Coupled with the issue of valid existing rights is the question of whether or not State T.A.'d lands which have been selected by boroughs or municipalities are valid existing rights which are protected from Native selection. Certain Native corporations have argued that boroughs and municipalities are instrumentalities of the State whose rights are so derivative as to be identical to those of the State and that the State cannot exempt land from Native selection by conveying to itself.

The legislative history on this point is non-existent. The Alaska native Claims Appeal Board (ANCAB) addressed the issue in the *Appeal of Eklutna, Inc.*, ANCAB VLS 75-10 and rejected the "Instrumentality of the State" argument, relying on provisions of State law and State Supreme Court decisions to the effect that for many purposes, including bringing lawsuits and holding land, a municipality * has a separate legal entity.

ANCAB found in its decision that a municipality is an entity legally capable of constituting a third party whose interest in lands is separable from that of the State. Forming the basis of this finding were pertinent sections of the Constitution of the State of Alaska, portions of Title 29 of the Alaska Statutes, and several decisions of the Alaska Supreme Court. The pertinent portion from pages 32-34 of the decisions is incorporated herein:

Article X, Section 1 of the Constitution of the State of Alaska provides:

The purpose of this article is to provide for maximum local self government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

Article X, Section 2, provides:

Local Government Powers. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

Article X, Section 3, provides as follows:

Boroughs. The entire State shall be divided into Boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. . . . The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law. The legislature shall classify boroughs and

Title 29 of the Alaska Statutes, *Municipal Government*, in A.S. 29.48.010, lists the following municipal powers, exercised by the Borough and its successor, the Municipality:

• • • • • •

4. to enter into agreements • • • with the State, or with the United States;

• • • • • •

6. to sue and be sued;

• • • • • •

9. to acquire, manage, control, use and dispose of real and personal property • • •

• • • • • •

A.S. 29.48.260 Municipal Properties, provides:

(a) A municipality may acquire and hold real and personal property or interest in property, • • •

(b) • • • a municipality may sell, lease, donate or exchange with the United States, the state, or a political subdivision real estate or other property, or interest in property, • • •

• • • • • •

Municipal powers to sue have been exercised against the State; in *Kenai Peninsula Borough v. State* (Alaska, 532 P. 2d 1019), the Court held that the Borough, in transporting students by school bus, did not act as agent of the State.

In *Wellmix Inc. v. City of Anchorage*, 471 P. 2d 408, 410 (1970), an eminent domain action, the Court held that the City of Anchorage, the condemnor, was not an "agency" of the State within Supreme Court rule 7(a), regarding the appeal period allowed in an action to which "the State or an agency thereof" is a party.

In *Chugach Electric Association v. City of Anchorage*, Alaska, 476 P. 2d 115 (1970), an electric utility holding a certificate of public convenience and necessity from the Public Service Commission (a State agency), sought relief from the City's refusal to issue a building permit, required under City Ordinance for the construction involved in providing service to a bowling alley. Construing the problem as a conflict between a municipal ordinance and the State statute vesting power in the Public Service Commission, the Court held in favor of the State.

In none of these cases was the municipal party's standing denied on the ground that a municipality functioned as a mere "alter ego" of the State.

The Board notes that a variety of statutory provisions, cited by the Municipality in its Supplemental Brief filed June 2, 1976, appear to place municipal governments on an equal footing with other private grantees with regard to disposition of State lands. The Board further notes that, insofar as § 6(g) of the Statehood Act provides, "The authority to make selections shall never to alienated or bargained away, in whole or in part, by the State," a municipal government may not participate directly in the selection process, but must take as the State's grantee. A selection made by the State to protect a city's watershed was held consistent with this principle:

The selection was made by Alaska in its own name and, insofar, as the record shows, was not subject to any contract, conveyance, or other transaction with the City of Anchorage. • • • The fact that the interests of the State and its political subdivision, the City of Anchorage, coincide, is with legal significance and, on this record, in no sense evidences a violation of the prohibition against alienation contained in section 6(g). (*Udal v. Kalerak*, 396 F. 2d. 746 749 (1968))

[14] The Board recognized that the Municipality is organized and may be dissolved under State law. At present, the Municipality is empowered to exercise governmental and proprietary functions under the Constitution and laws of Alaska. These functions include the acquisition, management, and disposal of land, independent of control by the State. The Board must conclude that, until revoked or modified by constitutional or legislative amendment, with the consent of the electorate, such powers remain in force and render the Municipality an entity separate from the State for purposes of holding third party interests under ANCSA.

In reviewing ANCAB's analysis and reasoning, it is my opinion that this interpretation reflects the Congressional intent of ANCSA.

*Under A.S. 29.08.030, the term municipality includes first, second, and third class boroughs and first and second class cities.

b. *Open-to-Entry Leases.*

The issue of whether or not "open-to-entry" leases are valid existing rights and how they should be processed by the BLM has also been raised.

The State "open-to-entry" leasing program, A.S. 38.05.077, provides for the issuance to qualified applicants of a five-year lease (renewable for five years) to not more than five acres of State land classified as "open-to-entry."

It further provides:

"(4) Before a person may purchase the parcel of land upon which he has entered he shall have a survey made of the entry • • •.

• • • • •

"(6) When the entry has been made upon land that has been selected by the State and upon which the State has not received tentative approval or patent, the entry shall be approved only on the basis of a renewable lease. When tentative approval or patent has been received by the State, the lessee may relinquish his lease and acquire patent to the entry by negotiated purchase upon the terms and conditions provided for in this section."

The program contemplated here is a lease with an option to buy at a negotiated price. It is a lease which could at the election of the lessee lead to the acquisition of title.

Under the analysis set forth above, third party interests created by the State are protected regardless of whether they are of a temporary nature or lead to the acquisition of title. However, for purposes of 43 CFR 2650.3-1(a), it must be determined whether land covered by an open-to-entry lease should be excluded from the conveyance, or whether it should be included in the conveyance which would be issued "subject to the lease."

After reviewing my original opinion on this issue, I have now concluded that lands subject to open-to-entry leases which were issued prior to December 18, 1971, and which are within a Native selection should not be included in or counted against lands conveyed to Native corporations. Under this procedure the State continues to administer the program in accordance with its laws. If the lessee fails to exercise the option to purchase, the affected Native corporation can either have the land conveyed as part of its original entitlement or, if the entitlement is otherwise satisfied, then by exchange.

By excluding these lands from Native conveyances, this procedure will be in conformity with 43 CFR 2650.3-1(a), which provides for the exclusion from Native conveyances entries which are being maintained in compliance with laws leading to the acquisition of title. Contrary to the conclusion which was drawn in my opinion of November 28, 1977, these open-to-entry leases are analogous to entries made under the Alaska homestead, trade and manufacturing site, homesite, and headquarters site laws which permit entrymen a certain period of time (usually five years) to perfect their notices of entry and thereby gain title to the land. Until the time period lapses and an application to purchase is filed, in most cases BLM does not know whether an entryman has, in fact, met the legal requirements for acquisition of title. As such, this time period is virtually indistinguishable from the time period in which an open-to-entry lessee must meet certain State law requirements to perfect his option to purchase. When an entryman files his application to purchase homestead lands, for example, he is, in effect, exercising an option to buy against the United States. If he fails to file his application to purchase or to meet any of the statutory criteria, his option fails. Because we are excluding from Native conveyances entries which have been noted on the public land records for homesteads, Native allotments, trade and manufacturing sites, and headquarters sites, but which have not been perfected, lands under open-to-entry leases which have been properly issued by the State should likewise be excluded from Native conveyances.

2. *Adjudication of Third Party Valid Existing Rights.*

Another issue for resolution is to what extent the law and regulations require the Department to identify and determine the validity of (adjudicate) third party valid existing rights.

Clearly the administrative act of listing an interest as a valid existing right or of failing to list it does not create or extinguish the right. Because of this the ultimate validity of all interests may require court litigation.

Nevertheless it is appropriate for BLM to determine in the first instance the validity of those interests which are created by federal law since BLM is in most cases the agency charged with the administration of those laws. It is also appropriate for BLM to identify any interests which appear on the State land records and to serve notice on all parties of each other's possible interests. It was for this reason that the Department promulgated 43 CFR 2650.7(d) requiring that decisions of BLM proposing to convey lands under ANCSA shall be served "on all known parties of record who claim to have a property interest or other valid existing right in the land affected by the decision." Neither the Department's regulations nor ANCSA require the Department to determine whether third party interests created by the State are valid under the applicable State law and regulations. The Department is not an appropriate forum to adjudicate these interests. If the State created interest is valid on its face it should be deemed valid for purposes of the conveyance document. This position is consistent with the decisions made March 3, 1978, on ANCSA implementation.

3. *Retroactive Application of this Opinion.*

The final issue concerns the retroactive application of Secretarial Order 3016. This issue was not addressed in my original opinion and was not adequately presented as an issue for reconsideration. It is, however, an issue which is presently before the Alaska District Court in *Richards, et al.*, v. *Andrus, et al.*, No. A78-170 Civ. We intend to petition the court for a stay of proceedings and to provide a thirty-day comment period on this issue to all parties who have participated in the affected administrative proceedings. A separate opinion on this issue will be written after the submissions are reviewed and analyzed.

LEO KRULITZ.

APPENDIX A

ALASKA STATEHOOD ACT

Sec. 6. (g) Except as provided in subsection (a), all lands granted in quantity to and authorized to be selected by the State of Alaska by this Act shall be selected in such manner as the laws of the State may provided, and in conformity with such regulations as the Secretary of the Interior may prescribe. All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least five thousand seven hundred and sixty acres unless isolated from other tracts open to selection or, in the case of selections under subsection (a) of this section, one hundered and sixty acres. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the State. Upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, if subsequent to the admission of Alaska into the Union, during which period the State of Alaska shall have a preferred right of selection, subject to the requirements of this Act, except as against prior existing valid rights or as against equitable claims subject to allowance and confirmation. Such preferred right of selection shall have precedence over the preferred right of application created by section 4 of the Act of September 27, 1944 (35 Stat. 748; 43 U.S.C., sec. 282), as now or hereafter amended, but not over other preference rights now conferred by law. Where any lands desired by the State are unsurveyed at the time of their selection, the Secretary of the Interior shall survey the exterior boundaries of the area requested without any interior subdivision thereof and shall issue a patent for such selected area in terms of the exterior boundary survey; where any lands desired by the State are surveyed at the time of their selection, the boundaries of the area requested shall conform to the public land subdivisions established by the approval of the survey. All lands duly selected by the State of Alaska pursuant to this Act shall be patented to the State by the Secretary of the Interior. Following the selection of lands by the State and the tentative approval of such selection by the Secretary of the Interior or his designee, but prior to the issuance of final patent, the State is hereby authorized to execute conditional leases and to make conditional sales of such selected lands. As used in this subsection, the words "equitable claims subject to allowance and confirmation" include, without limitation, claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Withdrawal of Public Lands

Sec. 11. (a)(1) The following public lands are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining an mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

(A) The lands in each township that encloses all or part of any Native village identified pursuant to subsection (b);

(B) The lands in each township that is contiguous to or corners on the township that encloses all or part of such Native village; and

(C) The lands in each township that is contiguous to or corners on a township con-

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taining lands withdrawn by paragraph (B) of this subsection.

The following lands are excepted from such withdrawal: lands in the National Park System and lands withdrawn or reserved for national defense purposes other than Naval Petroleum Reserve Numbered 4.

(2) All lands located within the townships described in subsection (a)(1) hereof that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from the creation of third party interests by the State under the Alaska statehood Act.

Conveyance of Lands

Sec. 14. (g) All conveyances made pursuant to this Act shall be subject to valid existing rights. Where, prior to patent of any land or minerals under this Act, a lease, contract, permit, right-of-way, or easement (including a lease issued under section 6(g) of the Alaska Statehood Act) has been issued for the surface or minerals covered under such patent, the patent shall contain provisions making it subject to the lease, contract, permit, right-of-way, or easement, and the right of the leasee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the State or the United states as lessor, contractor, permitter, or grantor, in any such leases, contracts, permits, rights-of-way, or easements covering the estate patented, and a lease issued under section 6(g) of the Alaska Statehood Act shall be treated for all purposes as though the patent had been issued to the State. The administration of such lease, contract, permit, right-of-way, or easement shall continue to be by the State or the United States, unless the agency responsible for administration waives administration. In the event that the patent does not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, permit, right-of-way, or easement by the State or the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the patent and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

Miscellaneous

Sec. 22. (a) None of the revenues granted by section 6, and none of the lands granted by this Act to the Regional and Village Corporation and to Native groups and individuals shall be subject to any contract which is based on a percentage fee of the value of all or some portion of the settlement granted by this Act. Any such contract shall not be enforceable against any Native as defined by this Act or any Regional or Village Corporation and the revenues and lands granted by this Act shall not be subject to lien, execution or judgment too fulfill such a contract.

(b) The Secretary is directed to promptly issue patents to all persons who have made a lawful entry on the public lands in compliance with the public land laws for the purpose of gaining title to homesteads, headquarters sites, trade and manufacturing sites, or small tract sites (43 U.S.C. 682), and who have fulfilled all requirements of the law prerequisite to obtaining a patent. Any person who has made a lawful entry prior to August 31, 1971, for any of the foregoing purposes shall be protected in his right of use and occupancy until all the requirements of law for a patent have been met even though the lands involved have been reserved or withdrawn in accordance with Public Land Order 4582, as amended, or the withdrawal provisions of this Act: *Provided*, That occupancy must have been maintained in accordance with the appropriate public land law. *Provided further*, That any person who entered on public lands in violation of Public Land Order 4582, as amended, shall gain no rights.

(c) On any lands conveyed to Village and Regional Corporations, any person who prior to August 31, 1971, initiated a valid mining claim or location under the general mining laws and recorded notice of said location with the appropriate State or local office shall be protected in his possessory rights, if all requirements of the general mining laws are complied with, for a period of five years and may, if, all requirements of the general mining laws are complied with, proceed to patent.

[FR Doc. 78-33184 Filed 11-24-78; 8:45 am]

[4310-10-M]

[INT DES 78-49]

U.S. FISH AND WILDLIFE SERVICE'S MAMMALIAN PREDATOR DAMAGE MANAGEMENT FOR LIVESTOCK PROTECTION IN THE WESTERN UNITED STATES

Availability of Draft Environmental Impact Statement and Notice of Public Hearings

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability for public comment on a draft environmental impact statement (DEIS) and notice of two public hearings on the U.S. Fish and Wildlife Service's western predator damage management program.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a Draft Environmental Impact Statement (DEIS) on the Service's western predator damage management program and will hold two public hearings on the statement. The DEIS examines the Service's mammalian predator damage management program as presently conducted in the Western United States and its impact on the physical, cultural, biological, and economic environment; on recreation, human health and safety, and on public attitudes.

DATES: Comments must be received on or before January 12, 1979.

ADDRESSES: All comments should be sent to U.S. Fish and Wildlife Service, Division of Animal Damage Control, Department of the Interior, Washington, D.C., 20240.

The draft statement is available for inspection and copies are available, upon request, from the following locations:

Associate Director, Fish and Wildlife Resources, U.S. Fish and Wildlife Service, 18th and C Streets, N.W. Room 3254, Washington, D.C. 20240. Telephone: (202) 343-5333.

Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232. Telephone: (503) 231-6118.

Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., Albuquerque, New Mexico 87103. Telephone: (505) 766-2321.

Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Telephone: (612) 725-3563.

Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30347. Telephone: (404) 881-4671.

Regional Director, U.S. Fish and Wildlife Service, 1 Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Telephone: (617) 965-5100, Ext. 9200.

Regional Director, U.S. Fish and Wildlife Service, Lake Plaza North, 134 Union Boulevard, Lakewood, Colorado 80228. Telephone: (303) 234-2209.

Alaska Area Director, U.S. Fish and Wildlife Service, 1101 E. Tudor Road, Anchorage, Alaska 99503. Telephone: (907) 276-3800.

A limited number of single copies are also available by writing the Chief, Division of Animal Damage Control at the address below.

FOR FURTHER INFORMATION, CONTACT:

Clarence E. Faulkner, Chief, Division of Animal Damage Control, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone: 202-632-7463.

SUPPLEMENTARY INFORMATION: To afford the public further opportunity for comment on the draft statement, two public hearings are scheduled as follows:

January 10, 1979—Tri-Arc Travelodge, 161 West 600 South, Salt Lake City, Utah 84111. Telephone: (801) 521-7373 (Gold Field and Grubstake Room).

January 12, 1979—Interior Department Auditorium, 18th and C Streets, N.W., Washington, D.C. 20240.

Both public hearings will start at 9:00 a.m. Persons wishing to provide oral testimony will be required to register previous to such testimony. A registration table will be located at the rear of the hearing room at least one hour prior to start of the hearing. Oral testimony will be limited to a maximum of 15 minutes per witness.

Written testimony may be submitted to the hearing officer at the time of oral presentation or no later than January 12, 1979, to the U.S. Fish and Wildlife Service, Division of Animal Damage Control, Department of the Interior, Washington, D.C. 20240.

For additional information on predator damage, persons may wish to review a copy of the Fish and Wildlife Service Report entitled, Predator Damage Management in the West. This document will be available for review on or about January 1, 1979 at all Fish and Wildlife Service offices listed above. A limited number of single copies are available, upon request, by contacting the above offices.

Dated: November 21, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

[FR Doc. 78-33142 Filed 11-24-78; 8:45 am]

[3170-01-M]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel, Annual Full Panel Meeting.

Date: December 15, 1978, 9 a.m.-1 p.m.

Place: New Executive Office Building, Room 2008, 726 Jackson Place NW., Washington, D.C.

Type of Meeting: Open.

Contact Person: Mr. Louis H. Blair, Office of Science and Technology Policy, Executive Office of the President, (202/395-4596). Anyone who plans to attend should contact Mr. Blair's office by December 8, 1978.

Purpose of Panel: The Intergovernmental Science, Engineering, and Technology Advisory Panel was established on November 4, 1976. The Panel is to identify State, regional, and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings.

Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Blair.

TENTATIVE AGENDA

1. Discussion of Panel report on strategies and actions to enhance the utilization of scientific and technical resources by State and local governments.

2. Review of AAAS/NSF/ISETAP intergovernmental R&D projects and development of plan for R&D agenda setting activities in 1979.

3. Consideration of reorganization of ISETAP.

4. Discussion of projects and activities for 1979.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

NOVEMBER 21, 1978.

[FR Doc. 78-33116 Filed 11-24-78; 8:45 am]

[7630-01-M]

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PROPOSED NATIONAL ARCHIVES AND RECORDS SERVICE ANNEX

Availability of a Supplement to the Final Environmental Impact Statement on the Pennsylvania Avenue Plan—1974

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Pennsylvania Avenue Development Corporation, with the General Services Administration and the National Capital Planning Commission as cooperating agencies, has prepared a supplement to the Final Environmental Impact Statement on The Pennsylvania Avenue Plan—1974 concerning the proposed National Archives and Record Service Annex (Archives Annex). It provides supplemental assessments of potential construction and operational impacts, including recommended mitigating measures for the approximately 1.3 million square foot Archives Annex, to be located at Market Square, an area bounded by Pennsylvania Avenue, 7th, 9th, and E Streets, N.W., Washington, D.C. The comprehensive analysis of other environmental issues is contained in the Final Environmental Impact Statement—1974.

Written comments on the supplement to the Final Environmental Impact Statement—1974 are invited and will be accepted on or before December 26, 1978. Comments should be addressed to Mr. F. David Harris, Assistant Director—Finance, Pennsylvania Avenue Development Corporation, 425 13th Street, N.W., Washington, D.C. 20004; phone (202) 566-0602.

Copies of the supplement to the final environmental statement are available during hours of operation for inspection at the following locations:

Pennsylvania Avenue Development Corporation, 425 13th Street, N.W. Suite 1148, Washington, D.C. 20004.

Copies are also available at:

Central Reference Room, National Archives, 8th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20408.

Office of Environmental Affairs, National Capital Planning Commission, 1325 G Street, N.W. 10th Floor, Washington, D.C. 20576.

Martin Luther King Library, 901 G Street, N.W., Washington, D.C.

Copies of the Supplement to the Final Environmental Impact Statement—1974 have been sent to various Federal and District of Columbia agencies as authorized in the EPA guidelines, as well as to concerned private individuals and organizations.

Dated: November 21, 1978.

W. ANDERSON BARNES,
Executive Director.

[FR Doc. 78-33123 Filed 11-24-78; 8:45 am]

[7910-01-M]

RENEGOTIATION BOARD

PROCEDURES FOR IMPROVING GOVERNMENT REGULATIONS

Final Report

AGENCY: Renegotiation Board.

ACTION: Publication of final report.

SUMMARY: The Renegotiation Board is publishing its Final Report under Executive Order 12044. The report describes the Board's current process for developing regulations and the changes that have been made to comply with the Executive Order; the Board's criteria for identifying significant agency regulations; the Board's criteria for determining which significant regulations require regulatory analysis; and the Board's criteria for selecting existing regulations for review. Use of the procedures described in the Final Report will assist the Board in developing better regulations.

EFFECTIVE DATE: The procedures described in the Final Report are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, Renegotiation Board, 2000 M Street, N.W., Washington, D.C. 20446, telephone (202) 254-8277.

SUPPLEMENTARY INFORMATION: As required by Executive Order 12044 (43 FR 12661 (1978)), the Renegotiation Board published for public comment on May 20, 1978, a Draft Report on its Rulemaking Procedures (43 FR

23197 (1978)). After consideration of comments received, the Board is publishing today a Final Report under the Executive Order. As required by section 5 of the Executive Order, the Office of Management and Budget has reviewed this Final Report and has approved it.

The Board received only two comments on its Draft Report. Both commenters questioned the Board's publication of a Report in light of the lapse of coverage of the Renegotiation Act of 1951 (the "Act"), on September 30, 1976 (*see* 50 U.S.C. App. § 1212(c)). Since the Board continues to have responsibility to process cases relating to periods before that date, however, it has concluded, that it is required by the Executive Order to prepare a report and to revise its rulemaking procedures to comply with the Executive Order. The Board has also concluded that adoption of the procedures described in the Final Report will assist it in developing clearer, more meaningful regulations.

One commenter expressed concern that, under the Draft Report, the General Counsel alone would decide whether a proposal is sufficiently "significant" to bring to the attention of the Board. This was not the intention of the Board, and the General Order which is included in the Final Report makes it clear that all proposals for regulations will be submitted to the Board for review. In addition, both the Draft Report and the Final Report make it clear that appropriate members of the Board's staff and interested members of the public will have an opportunity to participate in the formulation of regulations.

The same commenter expressed concern that the findings that a proposed regulation is needed and that adequate consideration has been given to the direct and indirect effects of a proposed regulation, both of which are prerequisites to the approval of a proposal for publication as a proposed rule, are subjective and will not reflect the impact of a proposal on industry. The Board hopes that the revised procedures will assure consideration of divergent points of view, through public and staff participation in the rulemaking process. The Board believes, however, that it must reserve to itself the final decision as to those rules which are "necessary and appropriate" to carry out the purposes of the Act. (See 50 U.S.C. App. § 1219.)

Finally, one commenter stated that the proposed standard that regulations be written in plain English had not been met in the Draft Report. The Board believes that its Final Report meets the requirements of the Executive Order and will be understandable to those affected by it.

The Board's Final Report follows:

FINAL REPORT UNDER EXECUTIVE ORDER 12044

I. CURRENT PROCESS FOR DEVELOPING REGULATIONS

Suggestions for the development of new regulations or for changes to existing regulations come from several sources. Usually, such suggestions are made by members of the Board or its staff and result from needs appearing in the course of renegotiation. Other suggestions have come from public and legislative sources.

The Board has traditionally exercised active oversight of the review of its existing regulations and the development of new regulations. In many instances, the Board has appointed an Ad Hoc Committee composed of members of the Board's staff, to study or develop a proposed regulation. Generally, after considering the needs giving rise to a proposal and analyzing the suggested solutions, the Ad Hoc Committee submits its report directly to the Board. On other occasions, the General Counsel, after consultation with other interested staff members, proposes changes to the regulations.

By section 111 of the Act (50 U.S.C. App. § 1221), the functions of the Board are excluded from the operation of the Administrative Procedure Act except for the public information requirments of section 3 (5 U.S.C. § 552). As the result of a recommendation of the Administrative Conference of the United States, however, the Board, since 1971, has voluntarily followed the public participation rulemaking procedures of the Administrative Procedure Act (5 U.S.C. § 553) to the extent practicable (see 36 FR 5877, June 12, 1971). Thus, since 1971, the public has had an opportunity to comment on proposed changes in the Board's regulations. Such comments are analyzed by the staff and the Board before the Board issues any final regulation.

II. PROPOSED PROCEDURES FOR DEVELOPING REGULATIONS

The Board has adopted a General Order describing the procedures it will follow in developing regulations. The object of these revised procedures is to conform to the requirements of Executive Order 12044, and to assure that regulations will be as simple and clear as possible and will achieve legislative goals effectively and efficiently. The text of the Board's General Order follows:

[General Order No. 9]

RENEGOTIATION BOARD

FORMULATION OF REGULATIONS

1. *Scope.* This General Order establishes procedures for use by the Board and its staff in formulating regulations; criteria for identifying "significant" regulations; criteria for determining which "significant" regulations require regulatory analysis; and criteria for selecting regulations for periodic review.

2. *Policy.* Regulations will be as simple and clear as possible. They will achieve legislative goals effectively and efficiently. They will not impose unnecessary burdens on the economy, on individuals, on public or private organizations, or on state and local governments.

To achieve these objectives, regulations will be developed through a process which ensures that:

(a) The need for and purposes of the regulation are clearly established;

(b) The Board exercises effective oversight;

(c) Opportunity exists for early participation and comment by other Federal agencies, state and local governments, businesses, organizations and individual members of the public;

(d) Meaningful alternatives are considered and anlayzed before the regulation is issued; and,

(e) Compliance costs, paperwork and other burdens on the public are minimized.

3. *Definitions.* For the purposes of this General Order,

(a) *Regulation* means any rule or regulation of the Renegotiation Board, and any material amendment to an existing rule or regulation, other than rules and regulations related solely to agency management or personnel.

(b) *Significant regulation* means any regulation which:

(1) Affects at least ten percent of the contractors filing with the Board for any fiscal year;

(2) Could result in the disclosure of contractor-furnished information not previously routinely disclosed by the Board under the Freedom of Information Act, 5 U.S.C. § 552; or,

(3) Is otherwise determined by the Board to be a significant regulation.

4. *Proposals for Regulations.* (a) Interested members of the public and members of the Board's staff are invited to submit proposals for regulations to the Assistant General Counsel-Secretary.

(b) At least semi-annually the General Counsel will review all proposals received by the Assistant General Counsel-Secretary together with any proposals made by the Board or any member of the Board. For each proposal, the General Counsel will recommend to the Board whether it should be considered a proposal for a significant regulation. For each proposal which he believes to be a proposal for a significant regulation the General Counsel will prepare a written statement for the Board's consideration describing the issues to be considered, the alternative approaches to be explored, a tentative plan for obtaining public comment, and target dates for the completion of each step in the development of the regulation.

(c) Each proposal, together with the General Counsel's recommendations, will be submitted to the Board for its review. The Board will determine which of the proposals it wishes the staff to develop and will determine which of such proposals should be treated as proposals for significant regulations.

5. *Semiannual Agenda.* (a) Each proposal for a significant regulation which the Board has approved for further study will be included in a semiannual agenda of regulations which will be published in the FEDERAL REGISTER. Copies of the semiannual agenda will also be available to the public through the Board's public information office.

(b) The General Counsel shall prepare the semiannual agenda. This agenda will, for each significant proposal which the Board has approved for further study:

(1) Describe the proposal;

(2) State the legal basis for the action being taken;

(3) State the name and telephone number of a knowledgeable official who is familiar with the proposal.

The semiannual agenda shall also state the status of any proposal previously listed on the agenda.

(c) On the first Monday in October of each year the Board will publish a schedule in the FEDERAL REGISTER showing the time during the coming year when the Board's semiannual agenda will be published. The agenda may be supplemented if necessary, but the semiannual agenda will be as complete as possible.

(d) The Board will approve each semiannual agenda and each supplement to an agenda before publication.

6. *Ad Hoc Committees.* The Board may appoint an Ad Hoc Committee to assist in the evaluation of any proposal. An Ad Hoc Committee may consult with other members of the Board's staff and interested members of the public in conducting its evaluation of the proposal.

7. *Regulatory Analysis.* (a) Upon approval by the Board for further study of a proposal for a significant regulation, the Director, Office of Planning and Development, will determine whether a regulatory analysis is required for each such proposal. A regulatory analysis will be performed if:

(1) The proposal would have an annual effect on the economy of $50 million or more;

(2) The proposal would result in a $25 million increase in costs or prices for individual industries, levels of Government or geographic regions; or,

(3) The Board otherwise determines that a regulatory analysis should be performed.

(b) If a regulatory analysis is required, the Director, Office of Planning and Development, will participate in the development of the regulation, and will prepare for the Board's consideration prior to publication of the proposal as a proposed rule, a draft statement of:

(1) The problem to which the proposal is addressed;

(2) The major alternative ways of dealing with the problem;

(3) The economic consequences of each of the major alternatives; and

(4) A detailed explanation of the reasons for choosing one alternative over the others considered.

8. *Publication of Proposed Rules.* After consultation with appropriate staff offices and any Ad Hoc Committee appointed by the Board, the General Counsel will submit to the Board his recommendation as to each proposal which the Board has approved for further study. In addition to this recommendation, the Board will consider the recommendations and suggestions of any Ad Hoc Committee and those of members of the public as well as any regulatory analyses. The Board will determine whether each proposal which it approves for publication as a proposed rule is or is not a proposal for a significant regulation. A statement of this determination will be included with the proposed rule when it is published. For each significant proposal, the Board will specifically find that:

(a) The proposed regulation is needed;

(b) The direct and indirect effects of the regulation have been adequately considered;

(c) Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(d) Public comments have been considered and an adequate response has been prepared;

(e) The regulation has been written in plain English and is understandable to those who must comply with it;

(f) An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(g) The name, address and telephone number of a knowledgeable agency official has been included in the publication; and

(h) A plan for evaluating the regulation after its issuance has been developed.

Except in exceptional circumstances the Board will give the public at least 60 days to comment on proposed significant regulations. In instances where the Board determines that this is not possible, the regulation will be accompanied by a brief statement of the reasons for a shorter time period. The Board will consider any public comments in preparing each final regulation. The Board will also make the finding listed as items "a" through "h" of this paragraph 8 for each significant final regulation.

In those cases where regulatory analysis has been undertaken the Board will include in the Notice of Proposed Rulemaking an explanation of the regulatory approach that is favored, a short description of the other choices considered and a statement of how the public may obtain a copy of the analysis. The regulatory analysis, with any revisions, will be made available when the regulation is published as a final rule.

9. *Review of Existing Regulations.* With its semiannual agenda of proposed regulations, the Board will publish a list of existing regulations which have been selected for review to determine whether they are achieving the policy goals of this General Order and Executive Order 12044. In selecting regulations for review the Board will apply the following criteria:

(a) The continued need for the regulation in light of the Board's experience;

(b) The type and number of complaints or suggestions received with regard to a regulation;

(c) The compliance cost burden created by the regulation;

(d) The need to rewrite the regulation in plain English; and,

(e) The need to simplify regulatory treatment of an issue.

Each part of the Board's regulations will be reviewed at least once every five years.

III. REGULATIONS CHOSEN FOR INITIAL REVIEW

Pursuant to section 5 of the Executive Order, and paragraph 9 of the Board's General Order, the Board has selected the following regulations for initial review:

(a) 32 C.F.R. Part 1480—Availability and Control of Renegotiation Records and Information.

(b) 32 C.F.R. 1499.1-5 Renegotiation Ruling No. 5: Subcontracts within the scope of the Act; sales and other transfers of patents.

(c) 32 C.F.R. Part 1459—Costs Allocable to and Allowable Against Renegotiable Business.

(d) 32 C.F.R. Part 1462—Renegotiation and Taxes.

(e) 32 C.F.R. Part 1481—Privacy Act Regulations.

(f) 32 C.F.R. Subchapter A—Military Regulations Under the Renegotiation Act of 1948.

Dated: November 20, 1978.

(c) How can the Board minimize the administrative expense of providing

Act for unlisted trading privileges in the common stock of Air Express. In a

prietary risk arbitrage and bona fide hedge transactions on the Exchange

nization consents, the Commission will:

Air Express is currently listed on the BSE. The BSE has filed this applica-

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Dated: November 20, 1978.

GOODWIN CHASE,
Chairman.

[FR Doc. 78-33003 Filed 11-24-78; 8:45 am]

[7910-01-M]

SEMI-ANNUAL AGENDA OF PROPOSALS FOR SIGNIFICANT REGULATIONS

I. Proposals for new significant regulations: None.

II. Proposals for significant amendments to existing regulations:

A. *RBR 1459, 32 C.F.R. Part 1459: Costs Allocable to and Allowable Against Renegotiable Business.*

(1) *Nature of the proposal.* The Board is studying the adequacy of its existing regulation dealing with the allocability and allowability of costs in renegotiation in light of recent experience. The Board is particularly interested in the following areas:

(a) The application of cost accounting standards in renegotiation;

(b) Methods of fairly matching renegotiable income with the costs of performing renegotiable contracts, with particular reference to methods of reassigning items of cost and income among different fiscal years.

The Board will welcome comments from interested persons on these issues.

(2) *Legal basis for the proposal.* The legal basis for any amendment to RBR 1459 is section 109 of the Renegotiation Act of 1951, as amended 50 U.S.C. App. § 1219.

(3) *Persons to contact.* Interested persons may contact Kelvin H. Dickinson, Esq., Assistant General Counsel-Secretary, telephone 202-254-8277, or Mr. Kenneth P. DeYoung, Supervisory Accountant, telephone 254-8260, concerning the proposal.

B. *RBR Part 1480, 32 C.F.R. Part 1480: Availability and Control of Renegotiation Records and Information.*

(1) *Nature of the Proposal.* The Board is considering amendments to its Freedom of Information regulation which will provide affected contractors with an opportunity to review financial information filed by them with the Board, which has been requested by a third party under the Freedom of Information Act. The Board specifically invites comments on the following:

(a) whether a regulation exempting from disclosure certain classes of commercial and financial information filed with the Board is appropriate. Would such a regulation be permissible under the Freedom of Information Act?

(b) What procedures will permit contractors to review requested financial information within the time limitations for disclosure under the Freedom of Information Act? See 5 U.S.C. § 552(a)(6).

(c) How can the Board minimize the administrative expense of providing such notification?

(2) *Legal basis for the proposal.* The leagal basis for any amendment to RBR Part 1480 is section 109 of the Renegotiation Act of 1951, as amended, 50 U.S.C. App. 1219.

(3) *Persons to contact.* Interested persons may contact Kelvin H. Dickinson, Assistant General Counsel-Secretary to the Board, telephone 254-8277, or Val S. McWhorter, General Counsel, telephone 254-5973, concerning the proposal.

III. Other existing regulations under review: A list of regulations selected for periodic review was published by the Board with its final Report under Executive Order 12044.

Dated: November 20, 1978.

GOODWIN CHASE,
Chairman.

[FR Doc. 78-33004 Filed 11-24-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15333; File No. 1-7240]

AIR EXPRESS INTERNATIONAL CORP.

Application To Withdraw From Listing and Registration

NOVEMBER 15, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the BOSTON STOCK EXCHANGE, INC. ("BSE").

The reasons alleged in the application for withdrawing the security from listing and registration include the following:

The common stock of Air Express International Corporation ("Air Express") has been listed for trading on the BSE since August 4, 1975. In view of the fact that such common stock was recently admitted to trading in the NASDAQ system, the Company has decided that it no longer wishes to have its stock listed on a regional exchange. In addition, Air Express believes that delisting from the BSE may increase its trading volume in the over-the-counter market, thereby making it eligible for primary NASDAQ listing and, as a consequence, providing investors with greater coverage of financial and quotation information concerning Air Express' common stock.

The BSE has filed an application pursuant to Section 12(f)(1)(C) of the Act for unlisted trading privileges in the common stock of Air Express. In a letter accompanying its application for unlisted trading privileges, the BSE has stated that it opposes the granting of Air Express' application to withdraw from listing on the BSE until such time as the BSE is granted unlisted trading privileges.[1] BSE's application for such trading privileges is currently pending before the Commission.[2]

Any interested person may, on or before December 15, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether Air Express' application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other submitted to it, issue on order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33119 Filed 11-24-78; 8:45 am]

[8010-01-M]

[Release No. 34-15322; File No. SR-Amex-78-23]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 30, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change. The American Stock Exchange, Inc. ("Amex") has provided the Commission with the following statement of terms of substance, basis and purpose under the Act of the proposed rule change.

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would allow members to engage in such proprietary risk arbitrage and bona fide hedge transactions on the Exchange floor as are permitted by Section 11(a) of the Act.

PURPOSE OF THE PROPOSED RULE CHANGE

Section 11(a)(1)(D) of the Act exempts bona fide arbitrage, risk arbitrage and bona fide hedge transactions from the prohibition against exchange members trading for their own account. The purpose of this amendment to Amex Rule III (which governs floor trading at the Amex) is to broaden the scope of its arbitrage exemption to parallel that of Section 11(a). Currently, only bona fide arbitrage transactions are exempt under Rule 111.

BASIS UNDER THE ACT

The exemptive language of Section 11(a) indicated that proprietary floor trading activities encompassed within "risk arbitrage" and "bona fide hedge" transactions were not considered by Congress to be inconsistent with the fair and orderly functioning of exchange markets. (See Report 94-75 of the Senate Committee on Banking, Housing and Urban Affairs (1975), p. 68.)

Adoption of the broadened exemption would add liquidity to the market by allowing all members to initiate risk arbitrage and hedging transactions on the Amex floor.

The amendment to Rule 111, by allowing floor traders to engage in risk arbitrage and bona fide hedge transactions free of existing floor trading restrictions, would remove impediments to a free and open market and eliminate burdens on competition not considered necessary or appropriate in furtherance of the purposes of the Act, and therefore is in furtherance of subparagraphs (b)(5) and (b)(8) of Section 6 of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

Amex states that no comments were solicited or received with respect to the proposed rule change.

BURDEN ON COMPETITION

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Within thirty-five days of the November 27, 1978, publication in the FEDERAL REGISTER (January 2, 1978),or within such longer period (i) as the Commission may designate up to 90 days of such date (February 26, 1978) if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 13, 1978.

[FR Doc. 78-33078 Filed 11-24-78; 8:45 am]

[8010-01-M]

[Rel. No. 154334; File No. 7-5031]

BOSTON STOCK EXCHANGE, INC., AND AIR EXPRESS INTERNATIONAL CORP.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 15, 1918.

The Boston Stock Exchange, Inc. ("BSE") has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 (the "Act") and Rule 12f-1 thereunder for unlisted trading privileges in the common stock of Air Express International Corporation ("Air Express"), which common stock is registered with the Commission pursuant to Section 12 of the Act or which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(B) or (g)(2)(G) of Section 12.1.[1]

Air Express is currently listed on the BSE. The BSE has filed this application for unlisted trading privileges, however, because air Express has filed an application to withdraw from listing and registration on the BSE. Air Express' application is currently pending before the Securities and Exchange Commission.[2]

Upon receipt of a request, on or before December 15, 1978, from any interested person, the Commission will determine whether the application with respect to Air Express shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to the particular applications, such applications will be determined by order of the Commission on the basis of the facts therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33120 Filed 11-24-78; 8:45 am]

[1505-01-M]

[Release No. 34-15289]

LOST AND STOLEN SECURITIES PROGRAM

Extension of the Pilot Period; Redesignation of Securities Information Center, Inc; Reregistration of Certain Institutions

Correction

In FR Doc. 78-31618 appearing at page 52417 in the Part II for the issue Thursday, November 9, 1978, on the Part II cover page (43 FR 52417), the bottom caption should read: "Extension of the Pilot Period; Redesignation of Securities Information Center, Inc.; Reregistration of Certain Institu-

[1] Letter dated May 23, 1978, from Walter Cummings, Secretary of the BSE, to Theodore W. Urban of the Commission's staff.

[2] Notice of the application was given in Securities Exchange Act Release No. 15334, November 15, 1978.

[1] This is not the first application for unlisted trading privileges pursuant to Section 12(f)(1)(C) of the Act to be filed with the Commission. The Commission currently has pending before it applications by the Pacific Stock Exchange for unlisted trading privileges pursuant to Section 12(f)(1)(C) in the common stock of Pacific Resources, Inc. (File No. 7-4933), United Canso Oil and Gas, Ltd. ("United Canso") (File No. 7-5022), and Canada Southern Petroleum, Ltd. ("Canada Southern") (File No. 7-5023), and by the BSE in the common stock of United Canso (Filed No. 7-5066) and Canada Southern (File No. 7-5067).

[2] Notice of the application was given in Securities Exchange Act Release No. 15333, November 15, 1978.

tions." Securities and Exchange Act

Any fees or expenses to be incurred

70174, Mississippi Power & Light Com-

loan agreement will also be amended

Chicago, Illinois 60603, filed with the

the Commission for a statement of the representations contained therein,

tions." Securities and Exchange Act Release No. 15289 contains a registration form which must be submitted by certain institutions subject to Rule 17f-1 (17 CFR 240.17f-1) by December 15, 1978.

[8010-01-M]

[Rel. No. 20773; 70-4538]

MICHIGAN POWER CO. AND AMERICAN ELECTRIC POWER CO., INC.

Notice of Proposed Extension of Time for Open-Account Advance by Holding Company

NOVEMBER 14, 1978.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, New York 10004, a registered holding company, and its public-utility subsidiary company, Michigan Power Company ("MPC"), 100 South Main Street, Three Rivers, Michigan 49093, have filed with this Commission a post-effective amendment to their declaration, as previously amended, in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, as now amended, which is summarized below, for a complete statement of the proposed transaction.

By orders dated October 10, 1967, May 2, 1968, May 26, 1969, December 16, 1969, October 28, 1970, December 21, 1971, March 23, 1972, November 29, 1972, December 27, 1973, December 4, 1974, December 16, 1975, December 23, 1976, and December 31, 1977 (HCAR Nos. 15872, 16051, 16383, 16559, 16880, 17405, 17508, 17783, 18232, 18686, 19297, 19820, and 20281), this Commission, among other things, authorized AEP to make open-account advances to MPC up to $12,000,000 outstanding at any one time. Such advances are to be repaid on or before December 31, 1978.

Declarants now request authorization for an extension of time through December 31, 1979, to make the aforesaid open-account advances and to repay such advances.

The proceeds from the open-account advances are required by MPC in connection with its construction program, which for the year 1979 is expected to amount to approximately $6,000,000, and to pay bank loans the proceeds of which were used in connection with past expenditures in connection with MPC's construction program. Declarants state that the open-account advances will be repaid with a portion of the proceeds to be realized by MPC in connection with the divestment by MPC of its gas assets.

Any fees or expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 7, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as further amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rule 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) any any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33074 Filed 11-24-78; 8:45 am]

[8010-01-M]

[Release No. 20769; 70-5259]

MIDDLE SOUTH UTILITIES, INC., ET AL.

Notice of Fourth Post-Effective Amendment Regarding Line of Credit Between Bank and Nonutility Subsidiary Company To Finance Fuel Procurement for Owner Associate Utility Companies

NOVEMBER 13, 1978.

In the Matter of Middle South Utilities, Inc., System Fuels, Inc., 225 Baronne Street, New Orleans, Louisiana 70112, Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, its public-utility subsidiary companies, Arkansas Power & Light Company ("Arkansas"), Louisiana Power & Light Company ("Louisiana"), Mississippi Power & Light Company ("Mississippi"), and New Orleans Public Service Inc. ("NOPSI") (collectively referred to as "Operating Companies"), and System Fuels, Inc. ("SFI"), a jointly-owned nonutility subsidiary company of Operating Companies, have filed with this Commission a fourth post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated December 8, 1972, September 17, 1973, November 25, 1974, and December 1, 1976 (HCAR Nos. 17797, 18097, 18679, and 19779), the Commission authorized SFI to issue and sell its unsecured promissory notes, in an aggregate amount not exceeding $25,090,000 outstanding at any one time, to Hibernia National Bank in New Orleans ("Hibernia") from time to time for a period of six years from the date of a loan agreement (December 8, 1972) among Hibernia, SFI, Operating Companies, and Middle South. Under the loan agreement, nine other banks are participating to the extent of $21,590,000 or 86.1 percent of the borrowings. It is stated that as of September 30, 1978, SFI had issued notes under the line of credit in the aggregate principal amount of $25,090,000, the proceeds of which were applied by SFI toward the purchase of oil for use as fuel by Arkansas, Louisiana, Mississippi, NOPSI, and Arkansas-Missouri Power Company.

It is now proposed that the period of the borrowings be extended for two more years so that notes issued pursuant to the loan agreement will be payable on or before December 8, 1980. Section 4 of the loan agreement will be amended to modify the method for determining the rate of interest from one based on the rate charged by Citibank, N.A., New York, New York, on commercial loans of 90-day maturities plus three-fourths of one percent (¾%) to one based on the rate charged by Citibank on commercial loans of 90-day maturities. Section 6(b) of the

loan agreement will also be amended to revise the capitalization restriction on SFI's repayment of any loans made to it by Arkansas, Louisiana, Mississippi, or NOPSI so that such repayment cannot be made if as a result the total of SFI's capital stock, surplus, and indebtedness to its parent companies would be less that 35 percent of SFI's total capitalization excluding indebtedness due within one year. All the other terms and conditions related to the borrowings remain the same.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 6, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33075 Filed 11-24-78; 8:45 am]

[8010-01-M]

[Release No. 15335; SR-MSE-78-18]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

NOVEMBER 15, 1978.

On September 5, 1978, the Midwest Stock Exchange, Incorporated ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would add Rule 24 to MSE Article VIII to provide an arbitration forum for the resolution of disputes between MSE members.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15176, September 20, 1978) and by publication in the FEDERAL REGISTER (43 FR 44947, September 29, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission funds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33076 Filed 11-24-78; 8:45 am]

[8010-01-M]

[Release No. 10485; 812-43741]

PEMBROKE CAPITAL COMPANY INC.

Notice of Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From All Provisions of the Act

NOVEMBER 17, 1978.

Notice is hereby given that Pembroke Capital Company Inc. ("Applicant"), a Delaware corporation (229 South State Street, Dover, Delaware 19901), filed an application on October 6, 1978, and an amendment thereto on November 3, 1978, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its only securities presently outstanding are shares of its capital stock, all of which are owned by Texaco Inc. ("Texaco Inc."), a Delaware corporation, and Gulf Oil Corporation ("Gulf"), a Pennsylvania corporation. Texaco Inc. and Gulf are the parent corporations of Texaco Limited ("Texaco") and Gulf Oil (Great Britain) Limited ("GOGB"), respectively, which are incorporated in England. The principal activities of Texaco and its subsidiaries are refining, transportation, distribution and marketing of petroleum products. The main business of GOGB and its subsidiaries consists of the importation, refining, storage and marketing of petroleum products. Texaco Inc. and Gulf, together with their respective consolidated subsidiaries, are integrated petroleum companies engaged in the exploration, production, transportation, refining and marketing of crude oil and its products.

Texaco and GOGB each have a 50 percent interest in Pembroke Cracking Company, an English partnership ("Partnership"). Applicant represents that the Partnership was established to construct, own and operate a fluid catalytic cracking unit and related facilities for the processing of petroleum products ("Cracking Facilities") in the Pembroke Milford Haven area of Wales adjacent to existing refineries of Texaco and GOGB.

Applicant states that its sole purpose is to assist the Partnership in the financing of the Cracking Facilities through the issuance of debt securities in the United States and elsewhere. Proceeds of the issuance of each such series of securities will be used by Applicant (i) to purchase notes or other evidences of indebtedness issued by the Partnership ("Partnership Notes"), (ii) to refinance previous borrowings of Applicant, or (iii) to pay interest on Applicant's debt obligations and to pay its expenses. Each series of securities issued by Applicant will be secured by a related series of Partnership Notes. The Partnership Notes will be secured by the several obligations of Texaco and GOGB under "Completion" and "Throughput Agreements", which obligations are, under "Guaranty Agreements", guaranteed by Texaco, Inc. and Gulf, respectively. Under the Completion Agreement, Texaco and GOGB are obligated to provide the Partnership with the necessary funds to pay all of its expenses, liabilities and obligations as they become due (including payment of principal and interest on the Partnership Notes), and to enable the Partnership to complete the Cracking Facilities. Under the Throughput Agree-

ment, Texaco and GOGB will be obli-

ings from third party lenders includ-

Notes and all of its equity securities

written notice to the Commission de-

For the Commission, by the Division of Investment Management, pursuant

COMMENTS RECEIVED FROM MEMBERS,

ment, Texaco and GOGB will be obligated to process sufficient amounts of petroleum feedstocks at the Cracking Facilities or to advance the necessary funds to the Partnership to assure that it will meet all of its expenses, liabilities and obligations (including payment of principal and interest on Partnership Notes) as they become due, in the event funds available to the Partnership from all other sources are insufficient for such purpose. Lastly, under the Guaranty Agreements, Texaco, Inc. and Gulf have each unconditionally and irrevocably guaranteed the performance of Texaco and GOGB, respectively, under the Completion and Throughput Agreements.

Applicant further states that each series of Partnership Notes together with the security therefor will be pledged with Manufacturers Hanover Trust Company, as trustee ("Trustee") for the benefit of holders of the related series of securities of Applicant. Applicant states that its initial sale of debt securities to institutional investors will be issued pursuant to the terms of an indenture ("Indenture"), as supplemented by a first Supplemental Indenture, between Applicant and the Trustee. Applicant states that each subsequent series of Applicant's securities will be issued under the same Indenture, as supplemented by Supplemental Indentures setting forth the specific terms relating to each subsequent series of securities.

Applicant further represents that initially it intends to issue and sell to institutional investors short-term securities with a maturity not exceeding nine months from the date of issuance in a manner designed to comply with Section 4(2) of the Securities Act of 1933. Applicant will offer the short-term securities only to a limited number of institutional investors who agree to purchase for investment and not with a view to distribution or resale thereof. Applicant states that thereafter it may, from time to time, issue short-term or long-term securities in transactions not involving a public offering to institutional investors in the United States or through underwriters to members of the public who are not resident in or nationals of the United States.

Applicant states that it is presently estimated that the cost of construction of the Cracking Facilities, excluding interest on borrowings prior to the commencement of operations, will be approximately $530 million. Interest expense during construction is estimated to be between $40-50 million. Approximately $40 million is expected to be financed through capital contributions and loans from Texaco and GOGB (which loans will be fully subordinated to the Partnership's borrowings from third party lenders including Applicant), approximately $100 million through pound sterling borrowings by the Partnership, and approximately $100 million through a Regional Development Grant provided by the government of United Kingdom to promote development in certain areas of the United Kingdom. It is presently estimated that the balance of the Partnership's requirement, $330-340 million, will be fiananced through Applicant from third party lenders.

Applicant further represents that upon consummation of the transactions described above, its only assets will consist of a series of Partnership Notes and assets representing its initial capitalization, amounting to $1,000. Since the business of Applicant is to provide funds to the Partnership, Applicant's assets in the future will be Partnership Notes obtained from the Partnership. Payments under such Partnership Notes will be made directly to the Trustee to service the debt requirements of the securities. Applicant further states that it will not deal with the Partnership Notes after it pledges them to the Trustee. Applicant further states that it may from time to time enter into certain other types of financial arrangements, including currency transactions, related to the financing of the Cracking Facilities, provided, however, that any risk of changes in currency rates shall not be borne by the holders of the debt securities issued by Applicant.

Applicant states that it may be deemed to be an "investment company" as defined in the Act by reason of (i) its proposed acquisition and holding of the Partnership Notes, which will constitute substantially all of its assets, and (ii) because its presently outstanding securities may be deemed to be beneficially owned by more than 100 persons as a result of its capital stock being held by subsidiaries of publicly held companies, and because securities it may offer in the future may be held by more than 100 persons.

Section 6(c) of the Act provides, however, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that it is not necessary or appropriate in the public interest or consistent with the protection of investors to regulate Applicant under the Act, because its only significant assets will be the Partnership Notes and all of its equity securities will be held by Texaco Inc. and Gulf. In addition, the securities proposed to be issued by Applicant to United States institutions and to foreign investors will be secured by the pledge of a series of Partnership Notes, which, in turn, will have the benefit of, and will be secured by an assignment of the Partnership's rights under, the Completion, Throughput and Guaranty Agreements. Thus, Applicant asserts that the purchase of Applicant's securities by United States institutional investors will be substantially the equivalent of purchasing obligations of Texaco and GOGB guaranteed by Texaco Inc. and Gulf, respectively.

Applicant agrees, in the event the Commission grants the application, to the following conditions:

(i) Applicant will file with the Commission within 120 days after the close of its fiscal year (a) information with respect to persons in a control relationship with Applicant (except with respect to persons under common control with Applicant), persons and number of persons owning equity securities of Applicant and directors, officers, employees and legal counsel required by Items 11 and 12 of Form N-2 under the Act, and (b) a statement of financial position as of the close of such fiscal year, including a statement of income, paid-in surplus and retained earnings, and a schedule of investments as of the close of such fiscal year;

(ii) Applicant will file with the Commission within 120 days after the close of each fiscal year of Applicant a schedule of the number of holders of its short-term securities and its securities in registered form as of the close of such fiscal year and the number of transfers of such securities during such fiscal year;

(iii) Applicant will not sell any equity securities other than to Texaco, Inc., Gulf, or any direct or indirect wholly-owned subsidiary of Texaco, Inc. or Gulf or sell any debt securities other than debt securities (a) which are to be held by the Partnership, Texaco, GOGB, Texaco, Inc. or Gulf, or (b) which (1) are secured by an assignment of the debt securities or other obligations of the Partnership and (2) are either (A) offered and sold in transactions not involving any public offering to institutions, located in the United States and elsewhere, which are not "underwriters" of such securities within the meaning of the Securities Act, or (B) sold in offerings outside the United States pursuant to agreements and procedures reasonably designed to prevent such debt securities from coming into the hands of a United States national or resident, unless Applicant shall have first given written notice to the Commission describing the proposed issuance of such additional debt securities not less than 60 days prior to the date of such proposed issuance, subject, however, to the right of the Commission, upon request of Applicant, to decrease such number of days. Applicant further agrees that if the Commission shall, after receipt of said written notice, determine that a substantial question exists as to whether or not the exemption granted by the order hereby requested should continue and the Commission shall, within 30 days after receipt by the Commission of such written notice from Applicant, mail or otherwise give notice to that effect to Applicant, c/o The Prentice-Hall Corporation System, Inc., 229 South State Street, Dover, Delaware 19901; and

(iv) Applicant will not issue such additional debt securities unless, after receipt by Applicant of such notice from the Commission and not less than 30 days prior to the issuance of such additional debt securities, Applicant shall mail or otherwise give written notice to the Commission stating its intention to issue such additional debt securities, and upon the giving of such notice by Applicant the order hereby requested shall be deemed to have terminated as of the date Applicant shall have mailed or otherwise given such notice to the Commission.

Notice is further given that any interested person may, not later than December 12, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33077 Filed 11-24-78; 8:45 am]

[8010-01-M]

[Release No. 34-15331; File No. SR-PSE-78-18]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 3, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated (the "PSE") hereby requests to amend PSE Rule IX, Section 9(c) by incorporating Commentary .01, as follows: (Italics indicate additions).

Commentary:

.01 In the event an individual operating under an XYZ Agreement transfers such XYZ membership to another broker or dealer, a new XYZ Agreement shall be executed and filed with the Exchange. The processing fee applicable with respect to transferring an XYZ membership follows:

(a) If the individual transfers his XYZ membership to an existing member organization, the processing fee shall be $200, as provided in subparagraph (ii) above; or

(b) If the individual transfers his XYZ membership to a non-member organization (or to a newly formed broker/dealer organization) which applies for a membership on the Exchange, the processing fee shall be equivalent to 5 percent of the purchase price paid by the last purchaser of a membership pursuant to Section 9(a)(i)(a) of this Rule, or $300, whichever is greater.

STATEMENT OF BASIS AND PURPOSE

The PSE states that the basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to list procedures and fees charged applicants acquiring or transferring memberships. The PSE believes that the rule change equitably allocates reasonable fees among its members, and therefore is in furtherance of subparagraph (b)(4) of Section 6 of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The PSE states that comments have neither been solicited nor received from members on the proposed rule change

BURDEN ON COMPETITION

The PSE has determined that the proposed rule change imposes no burden upon competition.

Within 35 days of the November 27, 1978, publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date (February 26, 1978) if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 15, 1978.

[FR Doc. 78-33079 Filed 11-24-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

LIST OF LICENSE SURRENDERS

Notice is hereby given that the corporations listed below which have been in the process of surrender for diverse periods of time, have surrendered their licenses to operate as small business investment companies under the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

Safety Administration, Department of

2001 *et seq.* The Act provides for the establishment of average fuel economy

cial report in that it is required to include a comprehensive analysis of the

2. The significant changes in automotive design needed to achieve 27.5

Name	Location	Date licensed	License No.
Baltimore Business Investment Co	Baltimore, Md	May 22, 1959	03/04-0006
Boca Raton Capital Corp	Boca Raton, Fla	Jan. 22, 1962	04/05-0044
Broadway Capital Corp	New York, N.Y	Aug. 30, 1960	02/02-0024
California Northwest Capital Corp	Ureda, Calif	April 27, 1962	09/12-0081
Capital Assistance Corp	San Francisco, Calif	March 28, 1961	09/12-0030
Equal Opportunity Corp. of Pennsylvania	Harrisburg, Pa	May 30, 1973	03/03-5115
First Growth Capital, Inc	Oklahoma City, Okla	Oct. 9, 1961	06/10-0077
Founders Capital Corp	do	March 21, 1968	10/10-0111
Frontiers Capital Corp	Rockville, Md	June 12, 1961	03/03-0091
Growth Assistance Co	San Francisco Calif	Mar. 8, 1962	09/12-0056
The Loud Venture Capital Corp	New York, N.Y	July 10, 1962	02/02-0177
Maritime Investment Co	Hialeah, Fla	Aug. 31, 1961	04/05-0079
Pennsylvania Capital Growth Corp	Philadelphia, Pa	Nov. 13, 1961	03/03-0013
Polytechnic Capital Corp	Newark, N.J	Mar. 21, 1962	02/01-0017
Providence Small Business Investment Co	Amarillo, Tex	July 29, 1968	06/10-0132
Sun Capital Corp	Pittsburgh, Pa	Mar. 9, 1964	03/03-0054
Technical Capital Corp	New York, N.Y	April 30, 1966	02/02-0201
Titan Capital Co	Oakland, Calif	Aug. 5, 1963	09/12-0098
Unlimited SBIC	Santa Rosa, Calif	May 23, 1961	09/12-0012

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the licenses is accepted, effective November 27, 1978, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 16, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33009 Filed 11-24-78; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State will hold a meeting on December 8 of the Working Group on Restrictive Business Practices (RBPs) of its Advisory Committee on Transnational Enterprises. The Working Group will meet from 1:30 to 5:30 p.m. in room 6320 of the State Department, 2201 C Street, N.W., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting is to continue consideration of the composite text on RBP "principles and rules" developed during the fifth session of the Third Ad Hoc Group of Experts on Restrictive Business Practices, held July 10-21, 1978 in UNCTAD. The December 8 meeting will give both Committee members and the U.S. negotiating team an opportunity to exchange views prior to the next round of discussions at UNCTAD on these issues.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

The Charter of the Department's Advisory Committee is currently under review and a proposal is being considered to change the Committee's name to the Advisory Committee on Investment, Technology, and Development.

Dated: November 22, 1978.

CLIFFORD G. BOND,
Acting Executive Secretary.

[FR Doc. 78-33221 Filed 11-24-78; 8:45 am]

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. FE 78-02; Notice 1]

AUTOMOTIVE FUEL ECONOMY PROGRAM REPORT TO CONGRESS

Request for Public Comments

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Request for public comments.

SUMMARY: Title V of the Motor Vehicle Information and Cost Savings Act, as amended, requires this agency to submit a comprehensive report on its automotive fuel economy program to Congress by January 15, 1979. This notice invites public comment to assist the agency in preparing that report.

DATE: Comments must be received on or before December 8, 1978.

ADDRESS: Comments should refer to the docket number and must be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. William Devereaux, Office of Automotive Fuel Economy, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: The Federal automotive fuel economy program was initiated by Congress in December 1975 with the passage of the Energy Policy and Conservation Act. The passage of this legislation was in response to the national concern with the depletable nature and uncertain availability of most of the energy upon which this country depends for its economic and social well-being. It also reflected the need to implement a national program for conserving energy. The adverse effects of the gasoline shortages of the winter of 1973-1974, the inflationary effect of rising fuel costs on almost all goods and services, and this country's increasing dependence upon foreign petroleum sources dramatized that need.

The significance of petroleum for this country was further demonstrated in 1975 by the fact that 46 percent of its annual energy needs were met by petroleum. Over half of the petroleum was used for transportation. Highway transportation accounted for 46 percent of all petroleum consumed. These figures are essentially the same today.

Title III of the Energy Policy and Conservation Act added a new Title V to the Motor Vehicle Information and Cost Savings Act (the Act), 15 U.S.C.

2001 *et seq.* The Act provides for the establishment of average fuel economy standards applicable to the manufacturers of passenger automobiles beginning with the 1978 model year and light trucks and vans beginning with the 1979 model year.

The average fuel economy standards do not require that individual vehicles achieve a particular level of fuel economy. Instead, they require that the fleet or corporate average of a manufacturer achieve the levels in the standards. Thus, a manufacturer may produce vehicles with fuel economy less than that specified for a particular year as long as it produces a sufficient number with fuel economy above the standard so that the average of all of its vehicles for that year is equal to or greater than the standard. The rationale for Congress' specifying average standards instead of the minimum performance standards used in most regulatory programs was in part to give the manufacturers flexibility in devising their compliance strategies. Specification of average standards was also intended to enable the agency to affect model mix in setting fuel economy standards while avoiding any undue limitation of consumer choice as to vehicle capacity and performance.

Section 502 of the Act establishes passenger automobile standards of 18 mpg, 19 mpg, and 20 mpg for model years 1978-1980, respectively, and 27.5 mpg for model year 1985 and thereafter. The earlier standards were largely based on the 1974 study by the Department of Transportation and Environmental Protection Agency on the potential for improving automotive fuel economy. Pursuant to a Congressional directive to set maximum feasible standards for model years 1981-1984 that result in steady progress toward the 1985 standard, the Department set standards of 22 mpg, 24 mpg, 26 mpg, and 27 mpg for model years 1981-1984, respectively. Section 502 provides that in determining maximum feasible levels of fuel economy the agency is to consider technological feasibility, economic practicability, the effects of Federal vehicle emissions, safety, damageability and noise standards on fuel economy, and the national need to conserve energy. The agency is authorized to modify the standard of 27.5 mpg for model year 1985 and thereafter if it finds that the maximum feasible standard is higher or lower than that level. As to light trucks and vans, the agency has thus far set fuel economy standards for 1979-1981 vehicles in those categories.

Not later than January 15 of each year, the agency is required to provide Congress with a report reviewing the fuel economy standards. The annual report due January 15, 1979, is a special report in that it is required to include a comprehensive analysis of the entire fuel economy program. The 1979 report must assess the ability of the vehicle manufacturers to comply with the standard of 27.5 mpg for 1985 passenger automobiles. It must also transmit any proposals it has for legislative amendments to improve the fuel economy program.

The purpose of this notice is to invite public comment on the subject of the 1979 report to aid the agency in making recommendations to the Congress. The agency is vitally interested in improving its ability to achieve the goals of the automotive fuel economy program while minimizing the burdens and giving appropriate consideration to the possible economic and other implications of significant increases in automotive industry investment. The agency is examining such matters as the degree of success of the fuel economy program in conserving petroleum to date, the future contributions which the program can make to energy conservation, and the past and possible future impacts of the program on the automotive industry, the consumer, and the national economy.

The issues of primary interest to the agency are the fuel economy levels achievable in 1985 and thereafter and the economic consequences of applying a single average fuel economy standard to all manufacturers. The agency has determined that this application of average standards has the potential for affecting the various different size manufacturers in disparate and possibly unintended ways. These differing impacts could affect the rate and degree of future progress of the automotive fuel economy program and the costs of that progress.

The 1979 report will not set forth any final conclusions about the passenger automobile fuel economy standard levels for 1985. The agency could reach those conclusions only after making detailed analyses of the plans and capabilities of the manufacturers and making judgments about the complex technological, economic, and other issues in the context of a rulemaking proceeding. However, based upon the agency's analysis to date of the significant body of information provided over the past three years by the manufacturers and other members of the public and generated by the agency's own research, the agency is prepared to make the following four tentative conclusions.

1. The technology is available that will enable manufacturers to achieve an average fuel economy of 27.5 mpg by 1985 without reducing vehicle interior space or significantly affecting performance and without significantly changing the mix of size classes.

2. The significant changes in automotive design needed to achieve 27.5 mpg by 1985 will require increases in automotive industry investment above traditional levels, although such investments, for the industry as a whole are economically practicable and yield cost-effective improvements in fuel economy.

3. The economic and competitive effects of achieving that average fuel economy level will vary from manufacturer to manufacturer.

4. Beyond 1985, average fuel economy levels in excess of 27.5 mpg are technologically possible.

In connection with the agency's interest in the effects of the average fuel economy concept and with these tentative conclusions, the agency invites comments on the four issues below relating to competition, equity, technological innovation, and other matters.

I. THE PROGRAM'S IMPACT ON SMALL FUEL LINE MANUFACTURERS

The large full line manufacturers are better able than the small full line manufacturers to generate internally the capital necessary to comply with the 1985 standard. These small full line manufacturers are at a competitive disadvantage since they are more likely to need to raise capital externally in the high cost money market. The highly concentrated nature of the automotive industry in this country increases the significance of this situation. Are these problems and their effect on future fuel economy standards sufficiently significant that the Act should be modified to accommodate the small full line manufacturers by treating them differently from the full line ones? Is it more equitable to require these small full line manufacturers to meet the same standards as the full line manufacturers or to require them to make the same degree of effort relative to their capacities as those full line manufacturers? If modification should be made, what type is most desirable? What impact would such modification have on the future benefits, costs, and other impacts of the fuel economy program?

II. THE PROGRAM'S IMPACT ON LIMITED LINE MANUFACTURERS

Although many foreign manufacturers produce small passenger automobiles that are very fuel efficient, there are some limited line foreign manufacturers that have traditionally built slightly larger, less fuel efficient passenger automobiles. These limited line manufacturers, which include Saab, Mercedes Benz, Volvo, Peugeot, and BMW, typically import relatively small numbers of these vehicles. While the agency is prepared to conclude tentatively that they can meet the

1985 standard of 27.5 mpg, some of the

IV. IMPROVING FUEL ECONOMY AFTER 1985

previously been disclosed or otherwise

ments on the petition of General Motors Corp. described above. Com-

door sedans (Model 242), 4-door sedans (Models 244 and 264) and station

compromise submitted pursuant to the provisions of the Federal Alcohol Ad-

1985 standard of 27.5 mpg, some of the major changes that they must make for that purpose may not be deemed by those manufacturers to be either justifiable solely to enable their vehicles to be marketed in this country or consistent with the preferences of the segment of the market in this country to which they have traditionally attempted to appeal. At some point, not necessarily before or during 1985, the effect of the fuel economy standards could be to cause these manufacturers to withdraw from the United States market or to necessitate their changing their vehicle line significantly. In the interest of preventing further concentration of the automotive industry and of preserving the presence in this country of manufacturers which in some cases have contributed valuable research and innovations in safety and other areas, should the statute be modified to accommodate them by treating them differently from other manufacturers? Is it more equitable to require these limited line manufacturers to meet the same standards as the other manufacturers or to require them to make the same degree of effort relative to their capabilities as those other manufacturers? If modification should be made, what type is most desirable? What impact would such modification have on the future benefits, costs, and other impacts of the fuel economy program?

III. The Program's Impact on Very Small Manufacturers

The Act permits low volume manufacturers (under 10,000 passenger automobiles produced annually worldwide) to apply for an exemption from the generally applicable fuel economy standards and meet lower, alternative standards. While setting alternative standards for exempted manufacturers instead of granting them complete exemptions seems equitable, it results in very small fuel savings due to the almost miniscule combined total production of the low volume manufacturers. Does equity require the continued setting of those standards given such small savings? Is the setting of alternative standards a sufficiently productive activity to warrant continued expenditure of Federal resources for that purpose and the imposition of significant administrative burdens on the low volume manufacturers? Conversely, some commenters in rulemaking proceedings to exempt certain low volume manufacturers have suggested that the agency use its discretionary authority to require those low volume manufacturers selling very expensive vehicles to meet the generally applicable fuel economy standards. How should such low volume manufacturers be treated under the fuel economy program?

IV. Improving Fuel Economy After 1985

Based upon the information available to NHTSA, the technology is already available to achieve the 1985 statutory standard of 27.5 mpg. It is also clear that there are no technological impediments to further significant fuel economy improvements in the years after 1985. What is not yet clear, however, is precisely what measures will be necessary to achieve these further gains, at that pace they can reasonably be implemented, what they will cost, and what their impact will be upon the vehicle manufacturers and suppliers. The agency is seeking public comment on these questions and, in their light, on the nature and timing of regulatory actions appropriate through the mid-1990's.

NHTSA also seeks public comment about what other governmental actions should be undertaken to ensure that new technology becomes available to permit continuing significant fuel economy improvements into the 1990's.

Interested persons are invited to submit comments on the issues raised by this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4), and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comment filed after the closing date will also be considered. However, the agency's ability to consider late comments will be severely limited by the deadline for submitting the 1979 report.

Issued on November 20, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-33060 Filed 11-21-78; 8:45 am]

[4910-59-M]

[Docket No. IP78-9; Notice 1]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

General Motors Corp. of Warren, Michigan ("GM" herein) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motors Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the position.

Pursuant to paragraph S4.1.2.3.1 of Motor Vehicle Safety Standard No. 208, GM manufactures passenger cars with seat belt assemblies that conform with the requirement of Motor Vehicle Safety Standard No. 209. It has discovered that belt assemblies used in 44 Chevrolet Impala and Caprice vehicles manufactured in early April 1978 contain belts that do not comply with S4.1(k) of Standard No. 209 in that they are incorrectly marked as having been manufactured in 1977 when, in fact, they were manufactured in 1978. GM argues that this noncompliance is inconsequential as it relates to motor vehicle safety as it has no effect upon any aspect of performance of the seat belt assembly, and that in the event of a recall of seat belt assemblies, GM's records enable it to identify the 44 vehicles which contain the incorrectly labeled belts.

Interesed persons are invited to submit written data, views and arguments on the petition of General Motors Corp. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: December 27, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 20, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-33144 Filed 11-24-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP78-4; Notice 2]

VOLVO OF AMERICA

Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Volvo of America Corp. of Rockleigh, N.J., ("Volvo" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims for Passenger Cars*, on the basis that it is inconsequential as it related to motor vehicle safety.

Notice of the petition was published on May 11, 1978, and an opportunity afforded for comment (43 FR 20292).

Paragraph S4.3(b) of Standard No. 110 requires that the information on the placard affixed to the glove compartment door or other equally accessible location include the designated seating capacity of the vehicle expressed in terms of total numbers of occupants and in terms of occupants for each seat location. Volvo has discovered that the placards installed on 17,780 passenger cars for 1978 lack this information. The vehicles include 2-door sedans (Model 242), 4-door sedans (Models 244 and 264) and station wagons (Models 245 and 265). Volvo argued that the noncompliance is inconsequential as the total number of disignated seating positions in each model is five (two front and three rear) and the configuration of the vehicles is such that extra passengers cannot be added to overload the vehicle.

One comment was received on the petition, from an individual who opposed it on the grounds that Volvo should not be permitted to eliminate the costs associated with compliance.

The NHTSA hereby grants Volvo's petition, concurring with the manufacturer's argument that the physical limitation of the vehicles involved preclude the addition of a third adult passenger on the front seat. This means that the acutal seating capacity for each vehicle is five, easily determined by visual examination (two in the front seat, three in the rear seat) and the failure to provide this information is deemed inconsequential as it relates to motor vehicle safety.

(Sec. 102, Pub. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 401.8.)

Issued on November 20 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-33143 Filed 11-24-78; 8:45 am]

[4810-31-M]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 79-1; Reference: ATF 0 1100.63B]

ACCEPTANCE OR REJECTION OF OFFERS IN COMPROMISE

Delegation Order

1. *Purpose.* This order delegates the authority to accept or reject certain offers in compromise of liabilities incurred under Chapters 51, 52, 53 and 78 of the Internal Revenue Code, and of liabilities incurred under the Federal Alcohol Administration Act.

2. *Cancellation.* ATF 0 1100.63A, Delegation Order—Acceptance or Rejection of Offers in Compromise, dated April 29, 1977, (42 FR 22968 (1977)) is canceled.

3. *General.* Authority to accept or reject offers in compromise of liabilities arising under Chapters 51, 52, and 53 and sections 7652 and 7653 (Chapter 78) of Title 26 U.S.C., is vested in Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7122.1. The authority to accept or reject offers in compromise submitted pursuant to the provisions of the Federal Alcohol Administration Act is vested in the Director by Treasury Department Order No. 221, dated June 6, 1972.

4. *Delegations.* Pursuant to the authority vested in the Director of ATF by Treasury Department Order No. 221, subject to the limitations contained in applicable regulations and procedures, there is hereby delegated the following authority relating to offers in compromise of liabilities arising under Chapters 51, 52, 53, and 78 of Title 26 U.S.C., and of liabilities arising under the Federal Alcohol Administration Act.

a. *Regional Regulatory Administrators.* (1) Each regional regulatory administrator is authorized to accept or reject offers in compromise of tax liabilities and penalties arising from:

(a) Chapter 51, Title 26, U.S.C., as follows:

1. Illegal production of untaxpaid distilled spirits, wines, or beer.

2. Failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, or beer.

(b) Chapter 53, Title 26, U.S.C. (Failure to pay firearms making, transfer, and occupational taxes).

(2) Each regional regulatory administrator is authorized to accept or reject offers in compromise of criminal liabilities of retail dealers in liquor arising from violations of the Internal Revenue laws relating to liquor, including the refilling or reuse of liquor bottles.

(3) This authority may not be redelegated.

b. *Assistant Director, Regulatory Enforcement.* (1) The Assistant Director (Regulatory Enforcement) is authorized to accept or reject offers in compromise of all civil and criminal liabilities arising under Chapter 52 of the Internal Revenue Code (cigars, cigarettes, and cigarette papers and tubes).

(2) The Assistant Director (Regulatory Enforcement) is authorized to accept or reject offers in compromise of civil and criminal liabilities in cases under Chapters 51 and 53 which are not subject to compromise by regional regulatory administrators. This authority includes cases where singular offers are submitted by or on behalf of proprietors having multiple plants or operations where the liabilities to be compromised arise from operations conducted in two or more regions. It also includes cases which combine liabilities arising under Chapter 51 and the FAA Act. With respect to civil liability, the authority to accept or reject such offers in compromise is limited to cases in which the liability sought to be compromised (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $100,000.

(3) The Assistant Director (Regula-

dustry in the United States, within the

unrelated purchasers in the United

as required by § 153.10 of the Customs

ed-average margin of all sales consid-

[8320-01-M]

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(3) The Assistant Director (Regulatory Enforcement) is authorized to accept or reject offers in compromise of all liabilities under sections 7652 and 7653 of the Internal Revenue Code, insofar as those sections relate to the commodities subject to tax under Chapters 51, 52, and 53 of the Internal Revenue Code.

(4) The Assistant Director (Regulatory Enforcement) is authorized to accept or reject offers in compromise submitted pursuant to the provisions of the Federal Alcohol Administration Act (27 U.S.C. 207).

Effective Date: This order becomes effective on November 17, 1978.

Signed: November 17, 1978.

STEPHEN E. HIGGINS,
Acting Director.

[FR Doc. 78-33104 Filed 11-24-78; 8:45 am]

[4810-22-M]

Office of the Secretary

STEEL WIRE ROPE FROM THE REPUBLIC OF KOREA

Antidumping; Determination of Sales at not Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Determination of Sales at Not Less than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that steel wire rope from the Republic of Korea is not being, nor is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTAL INFORMATION: Information was received in proper form on September 27, 1977, from counsel acting on behalf of Broderick and Bascom Rope Co. of St. Louis, Missouri, alleging that steel wire rope from the Republic of Korea was being sold in the United States at less than fair value, thereby causing injury to, or the likelihood of injury to, an industry in the United States, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of November 1, 1977 (42 FR 57202).

During the course of the investigation, the Secretary determined that a tentative determination could not be made within the normal 6-month investigatory period. Accordingly, the investigatory period in this case was extended two times by notices published in the FEDERAL REGISTER of May 3, 1978 (43 FR 19095) and June 8, 1978 (43 FR 24934), respectively. A "Notice of Tentative Determination of Sales at Not less Than Fair Value" was published in the FEDERAL REGISTER of August 15, 1978 (43 FR 36155). A statement of reasons was published in the above-mentioned notice and interested persons were afforded an opportunity to present views. The views so presented have been considered in making this final determination.

For purposes of this notice, the term "steel wire rope" means ropes, cables and cordage other than wire strand, of steel, other than brass plated, not fitted with fittings, not made up into articles, and not covered with textiles or other nonmetallic materials.

DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE

On the basis of information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that the purchase price of steel wire rope from the Republic of Korea is not, nor is likely to be, less than fair value of such or similar merchandise.

Statement of Reasons on Which This Determination is Based. The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that virtually all imports of the subject merchandise from the Republic of Korea were manufactured by Korean Iron and Steel Works, Ltd., Bookook Steel and Wire Co., Ltd., and Dong-Il Steel Manufacturing Co., Ltd. Therefore, the investigation was limited to these three manufacturers.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of such or similar merchandise purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since the export sales compared were made to unrelated purchasers in the United States. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b), pricing information was obtained concerning sales in the home market and to the United States during the period May 1 through October 31, 1977.

c. *Purchase Price.* For purpose of this determination, purchase price has been calculated on the basis of the c.i.f. packed price to unrelated U.S. purchasers, with deductions for ocean freight, marine insurance, inland freight, brokerage, stevedorage, and wharfage charges, as appropriate.

Additions were made, where appropriate, for the amount of the business tax imposed on home market sales, which tax was not imposed on export sales. Additions were also made for a Korean defense surtax and a customs duty imposed on raw material imported into Korea, in accordance with section 203 of the Act (19 U.S.C. 162). The Customs duty and the surtax were both rebated upon exportation of the wire rope containing these imported components.

Additions were also made for cost savings achieved on an "import deposits" program. For each shipment of raw materials imported into Korea for the production of steel wire rope, an amount referred to as an import deposit is placed in the Central Bank. The deposit required for materials used in exports is lower than that for materials used in producing the same product for sale in the home market. The deposit requirement has the same effect as a duty or tax. Consequently, the interest savings on the exported merchandise has been added in accordance with section 203 of the Act (19 U.S.C. 162).

d. *Home Market Price.* For purposes of this determination, the home market price has been calculated on the basis of delivered packed prices to unrelated customers in the home market. Adjustments have been made for freight and for interest and packing cost differentials, as appropriate. A claim made by respondents for an adjustment for differences in warehousing inventory costs in the home market was not allowed because the costs related to presale expenses and not after-sale expenses. In the past, the Department has disallowed claims for warehousing costs which are incurred prior to the sale of the merchandise because such costs are viewed as overhead expenses not directly related to the sales under consideration, as required by § 153.10 of the Customs Regulations (19 CFR 153.10).

The petition contained an allegation that sales of the subject merchandise in the home market, or to third countries, are being made at less than the cost of producing the merchandise, within the meaning of section 205(b) of the Act (19 U.S.C. 164(b)). Information submitted by respondents was inadequate for resolving the issue of sales below cost for purposes of the tentative determination. Additional costs information requested of the respondents has been received and analyzed. The analysis revealed that no sales in the home market were made below the cost of production.

The following claims were made by the petitioner:

First it argued that sales in the home market by each of the manufacturers should be disregarded because of their lack of sufficiency. However, Customs found that each manufacturer's sales to the appropriate level of trade in the home market constituted more than 10 percent of sales to countries other than the United States. Sales in the home market of that magnitude have repeatedly been considered by Treasury as sufficient to represent a viable home market. In fact, with respect to two of the three manufacturers investigated, sales in the home market accounted for more than 25 percent of each manufacturer's sales to third countries. Under section 205 of the Act, home market prices are to be preferred in establishing "foreign market value" and § 153.2 of the Customs Regulations (19 CFR 153.2) expresses the same preference for fair value determination if a viable home market can, in fact, be found.

Second, petitioner argued that no sales below cost of production might be found because the wire rope makers may be buying wire rod, used in the production of steel wire rope, at below the cost of making the rod. However, as the wire rod producers are not related to the wire rope makers and Treasury has no reason to believe the purchase of rod was not on an arm's length basis, the Department cannot consider the possible below-cost purchase of the rod under the Act as presently drafted.

Third, petitioner argued that Treasury was in error in characterizing the sales below fair value as *de minimis*, when in the case of one manufacturer a margin of 45 percent was found on one sale investigated. However, Treasury has always calculated margins in relation to total sales during the period of investigation. This is appropriate in light of the broad economic purposes of the Act, so that a finding either that margins do exist or those that are found are *de minimis* or minimal should be based upon the weighted-average margin of all sales considered. A single sale made at a large margin should not prevent a ruling that the margins found were *de minimis*, when the margins related to all sales are clearly in a *de minimis* amount.

Finally, petitioner contended that Treasury erred in making adjustments to purchase price for rebates of a defense surtax, customs duties and an import deposit scheme, all of which are related to imported raw materials used in the production of the exported steel wire rope. However, Treasury's practice of making additions to purchase price for the amount of these items is well established. This is fully consistent with the treatment of such items under the countervailing duty law under which the rebate of such items is not treated as a bounty to assist exportation. Similarly, the rebate of such items by the government of the exporting country shall not be "defeated" by the imposition of a dumping duty. Additions to purchase price for these same factors were made in several recent antidumping investigations involving the Republic of Korea (see Sacharrin, "Determination of Sales at Less Than Fair Value" (42 FR 46091, September 14, 1977); and Monosodium Glutamate, "Determination of Sales at Not Less Than Fair Value" (42 FR 10084, February 18, 1977)).

e. *Results of Fair Value Comparisons.* Using the above criteria, comparisons were made on 77 percent of the sales of the subject merchandise to the United States during the representative period. In some instances, purchase price was less than the home market price of such or similar merchandise. Margins were found ranging from less than one percent to approximately 45 percent on 2 percent of the sales to the United States during the representative period. However, the weighted-average margins, when calculated over 100 percent of the merchandise compared for each manufacturer, amounted to 0.27 percent for Bookook, 0.06 percent for Dong-Il, and 0.08 percent for Korean Iron and Steel. Those margins are considered to be *de minimis*.

This determination and the statement of reasons therefor are published pursuant to § 153.34(c) of the Customs Regulations (19 CFR 153.34(c)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 20, 1978.

[FR Doc. 78-33139 Filed 11-24-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

HEALTH SERVICES RESEARCH AND DEVELOPMENT, MERIT REVIEW BOARD

Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 of a meeting of the Health Services Research and Development Merit Review Board, chartered on September 5, 1978. This meeting will convene in Room 817 of the Veterans Administration Central Office Building, 810 Vermont Avenue, NW, Washington, DC, on January 10, 1979 beginning at 3 p.m. and on January 11-12, 1979 beginning at 8:30 a.m. The purpose of the meeting is to review health services research and development applications for scientific and technical merit and to make recommendations to the Director, Health Services Research and Development Service (HSR&DS) regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the January 10th session in order to cover administrative matters and to discuss the general status of the program. During the closed sessions (beginning approximately one-half hour from the start of the January 10th session), the Board will be reviewing research and development applications relating to the delivery and organization of health services. This review involves the discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents that necessitate the consideration of personnel qualifications and performance and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Further, decisions recommended by the Board are strictly advisory in nature; other factors are considered in final funding decisions. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with provisions set forth in section 552b, subsections (c) (6) and (c) (9) (B), Title 5, United States Code and the determination of the Administrator of Veterans Affairs pursuant to section 10(d) of Public Law 92-463.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Ms. Shirley Garin, Staff Assistant for Merit Review (152B), Health Services Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, 20420 (phone: 202-

389-3408) at least 5 days prior to the

on October 24, 1978, at 43 FR 49601.

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389-3408) at least 5 days prior to the meeting.

Dated: November 20, 1978.

By direction of the Administrator.

JOHN J. LEFFLER,
Associate Deputy Administrator.

[FR Doc. 78-33118 Filed 11-24-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[No. MC-C-3437 (Sub-No. 7)]

PETITION TO AMEND INTERPRETATION OF OPERATING RIGHTS AUTHORIZING SERVICE AT DESIGNATED AIRPORTS

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: This proceeding was instituted by a notice of filing of a petition seeking institution of a rulemaking published in the FEDERAL REGISTER on October 24, 1978, at 43 FR 49601. All interested persons were invited to file comments respecting the proposal on or before December 8, 1978.

One interested party has pointed out that it is difficult for it to evaluate the impact of the instant proposal which deals with exempt air terminal zones, inasmuch as the size of those zones is presently being considered by the Commission in No. MC-C-3437. Accordingly, in order to prepare their comments, the time for filing comments will be extended.

DATES: Comments regarding the petition should now be submitted to the Commission on or before February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-375-7292.

By the Commission, Alan M. Fitzwater, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-32703 Filed 11-24-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., November 28, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

New Form 40 and 102.
Proliferation of Interest-Rate Futures Contract.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2376-78 Filed 11-22-78; 10:53 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., November 28, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters: Application for registration as a floor broker; application as an associated person of a futures commission merchant; proposed administrative proceeding.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2377-78 Filed 11-22-78; 10:53 am]

[6712-01-M]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, November 21, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

General—1—Assessment of Joint Appendix Costs in *FCC* v. *NCCB*, of 46 U.S.L.W. 4609 (June 12, 1978) (newspaper/broadcast cross-ownership).

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 21, 1978.

[S-2374-78 Filed 11-22-78; 10:28 am]

[6712-01-M]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, November 21, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—*Graphnet Systems, Inc.* v. *FCC*, Case Nos. 78-1213, 78-1256, D.C. Circuit.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 15, 1978.

[S-2375-78 Filed 11-22-78; 10:28 am]

[6715-01-M]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, November 29, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports. Compliance. Personnel.
DATE AND TIME: Thursday, November 30, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meeting.
Correction and approval of minutes.
Advisory Opinions: AO 1978-85, AO 1978-87, AO 1978-88, and AO 1978-62.
Audit policy.
Final fiscal year 1978 management report.
First fiscal year 1979 management report.
Time in grade personnel policy.
Appropriations and budget.
Pending legislation.
Pending litigation.
Liaison with other Fedcral agencies.
Classification actions.
Routing administrative matters.

Portions of the meeting closed to the public:

Any matters not concluded on November 29, 1978.

PERSONS TO CONTACT FOR INFORMATION:

Ms. Sharon Snyder, Press Office, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2380-78 Filed 11-22-78; 3:42 pm]

[6740-02-M]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: CAC-5, FERC Gas Rate Schedules Nos. 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 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1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 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1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 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2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838, 2839, 2840, 2841, 2842, 2843, 2844, 2845, 2846, 2847, 2848, 2849, 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2859, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, 2870, 2871, 2872, 2873, 2874, 2875, 2876, 2877, 2878, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913, 2914, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2928, 2929, 2930, 2931, 2932, 2933, 2934, 2935, 2936, 2937, 2938, 2939, 2940, 2941, 2942, 2943, 2944, 2945, 2946, 2947, 2948, 2949, 2950, 2951, 2952, 2953, 2954, 2955, 2956, 2957, 2958, 2959, 2960, 2961, 2962, 2963, 2964, 2965, 2966, 2967, 2968, 2969, 2970, 2971, 2972, 2973, 2974, 2975, 2976, 2977, 2978, 2979, 2980, 2981, 2982, 2983, 2984, 2985, 2986, 2987, 2988, 2989, 2990, 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3038, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3051, 3052, 3053, 3054, 3055, 3056, 3057, 3058, 3059, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070, 3071, 3072, 3073, 3074, 3075, 3076, 3077, 3078, 3079, 3080, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3093, 3094, 3095, 3096, 3097, 3098, 3099, 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160, 3161, 3162, 3163, 3164, 3165, 3166, 3167, 3168, 3169, 3170, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3190, 3191, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3199, 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3219, 3220, 3221, 3222, 3223, 3224, 3225, 3226, 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, 3240, 3241, 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3258, 3259, 3260, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3281, 3282, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3299, 3300, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3322, 3323, 3324, 3325, 3326, 3327, 3328, 3329, 3330, 3331, 3332, 3333, 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355, 3356, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3398, 3399, 3400, 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408) at least 5 days prior to the meeting.

PLACE: 1700 G Street NW., sixth floor conference room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda, Item No., and Docket No.

I. Electric Rate Matters

1. Docket No. ER78-[illegible], Public Service Company of Colorado

2. Docket No. ER78-[illegible], Public Service Company of Colorado

3. Docket No. ER78-[illegible], Public Service Company of Colorado

4. Docket No. ER78-[illegible], Public Service Company of Colorado

5. Docket No. ER78-[illegible], Public Service Company of Colorado

6. Docket No. ER78-[illegible], Public Service Company of Colorado

7. Docket No. ER78-[illegible], Public Service Company of Colorado

8. Docket No. ER78-[illegible], Public Service Company of Colorado

9. Docket No. ER78-[illegible], Public Service Company of Colorado

10. Docket No. ER78-[illegible], Public Service Company of Colorado

11. Docket No. ER78-[illegible], Public Service Company of Colorado

12. Docket No. ER78-[illegible], Public Service Company of Colorado

13. Docket No. ER78-[illegible], Public Service Company of Colorado

14. Docket No. ER78-[illegible], Public Service Company of Colorado

15. Docket No. ER78-[illegible], Public Service Company of Colorado

16. Docket No. ER78-[illegible], Public Service Company of Colorado

17. Docket No. ER78-[illegible], Public Service Company of Colorado

18. Docket No. ER78-[illegible], Public Service Company of Colorado

19. Docket No. ER78-[illegible], Public Service Company of Colorado

20. Docket No. ER78-[illegible], Public Service Company of Colorado

21. Docket No. ER78-[illegible], Public Service Company of Colorado

22. Docket No. ER78-[illegible], Public Service Company of Colorado

23. Docket No. ER78-[illegible], Public Service Company of Colorado

24. Docket No. ER78-[illegible], Public Service Company of Colorado

25. Docket No. ER78-[illegible], Public Service Company of Colorado

26. Docket No. ER78-[illegible], Public Service Company of Colorado

27. Docket No. ER78-[illegible], Public Service Company of Colorado

28. Docket No. ER78-[illegible], Public Service Company of Colorado

29. Docket No. ER78-[illegible], Public Service Company of Colorado

30. Docket No. ER78-[illegible], Public Service Company of Colorado

31. Docket No. ER78-[illegible], Public Service Company of Colorado

32. Docket No. ER78-[illegible], Public Service Company of Colorado

33. Docket No. ER78-[illegible], Public Service Company of Colorado

34. Docket No. ER78-[illegible], Public Service Company of

V 43 12 28 NO 027 78

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 54174, published November 20, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 22, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CAM-1. Secretary of Energy proposed regulation protecting essential agricultural use from curtailment of natural gas deliveries by interstate pipelines.
M-1. RM79-1, Proposed regulation requiring jurisdictional pipelines to elect either adoption of PGA clauses, or general section 4 rate filings to recover changes in the cost of purchased gas.
M-2. R-406, Amendments to the purchased gas cost adjustment provisions in natural gas pipeline companies FERC gas tariffs.
M-3. Tracking by interstate pipeline companies of NGPA impact.
ER-4B. ER78-279, Niagara Mohawk Power Corp.

KENNETH F. PLUMB,
Secretary.

[S-2378-78 Filed 11-22-78; 3:42 pm]

[6740-02-M]

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NOVEMBER 22, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., November 29, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C., Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—209TH MEETING, NOVEMBER 29, 1978, REGULAR MEETING (10 a.m.)

CAG-1. Docket No. RP72-157 (PGA Nos. 79-1, 79-1a; 79-1b, 79-2, and 79-2a), Consolidated Gas Supply Corp.
CAG-2. Docket No. RP72-157 (PGA78-12), Consolidated Gas Supply Corp.
CAG-3. Docket No. RP76-31, Louisiana-Nevada Transit Co.
CAG-4. Docket No. RP74-50-1, et al., Florida Gas Transmission Co. (Basic Magnesia, Inc., et al.)
CAG-5. FERC Gas Rate Schedules Nos. 222, 223, and 225, Pennzoil Producing Co.
CAG-6. Docket No. G-13788, Pennzoil Producing Co.
CAG-7. Docket Nos. CS78-446, Field Drilling Co. CS73-603, Andover Oil Co., et al. CS73-605, George B. Kaiser. CS73-645, Brunson & McKnight, Inc. CS74-164, Champlin Exploration, Inc., 1973 Drilling Partnership. CS73-511, Champlin Exploration, Inc., 1972 Oil & Gas Partnership. CS73-528, Carl M. Archer. CS73-603, Andover Oil Co. CS75-144, Greenbriar Operating Co. CS73-96, Jane H. Gingsby. CS73-515, S. H. Killingsworth. CS75-249, J. G. Stone. CS75-227, B. W. Whittington. CS72-1169, et al., Bobby Joe Manziel, et al. CS78-184, et al., F. H. N., Ltd., et al. CS78-409, The Boston Co. of Texas. CS78-401, United Co., et al. CI78-246, Texaco, Inc. CI78-302, Texaco, Inc. CI78-471, Texaco, Inc. CI78-480, Texaco, Inc. CI78-482, Texaco, Inc. CI77-819, Southland Royalty Co. CI78-391, Tenneco Oil Co. CS77-339, Tenneco Oil Co. CI78-1171, Stephens Production Co. G-7670, Southern Union Gathering Co. CI77-250, Pioneer Production Co. CI75-722, Pioneer Production Co. CI78-105, Phillips Petroleum Co. CI78-1185, Mesa Petroleum Co. CI78-748, Mesa Petroleum Co. CI78-1112, Marathon Oil Co. CI78-984, Marathon Oil Co. CI78-370, Exxon Corp. CI78-55, Exxon Corp. CI77-520, Exxon Corp. CI78-1174, Energy Reserves Group, Inc. G-5766, Continental Oil Co. G-7223, Chevron USA. CI78-394, Amoco Production Co. CP78-33, Amoco Production Co. CI76-691, Amoco Production Co. G-7535, Amoco Production Co.
RP-1. Docket No. RP79-7. Southern Natural Gas Co.
RP-2. Docket No. RP79-8, Kansas-Nebraska Natural Gas Co., Inc.
RP-3. Docket Nos. RP-78-58 and RP76-53, et al., South Texas Natural Gas Gathering Co.
M-1. Docket No. RM78-12, Incentive Rate of Return for the Alaska Natural Gas Transportation System.
M-2. Docket No. RM79- , Treatment of certain production related costs for gas to be transported through the Alaska Natural Gas Transportation System.

POWER AGENDA—209TH MEETING, NOVEMBER 29, 1978, REGULAR MEETING

CAP-1. Docket No. ES78-36, Gulf States Utilities Co.
ER-1. Docket No. EL78-20, Central Kansas Power Co.
ER-2. Docket No. ER77-533, Louisiana Power & Light Co.
ER-3. Docket No. ER79-44, Florida Power & Light Co.
P-1. Project No. 2800, Lawrence Hydroelectric Associates.

KENNETH F. PLUMB,
Secretary.

[S-2383-78 Filed 11-22-78; 3:42 pm]

[6720-01-M]

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FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., November 29, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Merger Application—First Federal Savings & Loan Association of Mount Vernon, Mount Vernon, Wash., into Washington Federal Savings & Loan Association of Seattle, Seattle, Wash.
Consideration of Proposed Merger—Home Federal Savings & Loan Association of Evansville, Evansville, Ind., into Permanent Federal Savings & Loan Association, Evansville, Ind.
Concurrent Consideration of Branch Office Applications—(1) Branch Office Application—First Family Federal Savings & Loan Association, Eustis, Fla.; and (2) Satellite Office Application—Fidelity Federal Savings & Loan Association, Ocala, Fla.
Consideration of Merger and Cancellation of Membership and Insurance—Streator Federal Savings & Loan Association, Streator, Ill., into Bloomington Federal Savings & Loan Association, Bloomington, Ill.
Branch Office Application—Western Federal Savings & Loan Association, Denver, Colo.
Withdrawal from Bank Membership—Portsmouth Savings Bank, Portsmouth, N.H.
Concurrent Consideration of Branch Office Applications for Sherman Oaks-(1) Pacific Federal Savings & Loan Association, Hollywood, Calif.; and (2) First Federal Savings & Loan Association of Santa Monica, Santa Monica, Calif.
Application for Merger; Maintenance of Branch Office; Cancellation of Membership and Insurance and Transfer of Stock—First Federal Savings & Loan Association of Canon City, Canon City, Colo., into Midland Federal Savings & Loan Association, Denver, Colo.
Branch Office Application—Mid-America Federal Savings & Loan Association, Parsons, Kans.
Proposed Amendments to Articles of Incorporation and Bylaws—Queen City Savings & Loan Association, Seattle, Wash.
Application for Bank Membership—American Savings Bank, New Britain, Conn.
Limited Facility Application—First Federal Savings & Loan Association of Miami, Miami, Fla.
Limited Facility Application—Security Federal Savings & Loan Association of Nashville, Nashville, Tenn.
Application for Insurance of Accounts—Red River Savings & Loan Association, Shamrock, Tex.
Mobile Facility Application—First Federal Savings & Loan Association of Brainerd, Brainerd, Minn.
Consideration of FSLIC Assessments, fiscal year 1979.

No. 198, November 22, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2381-78 Filed 11-22-78; 3:42 pm]

[6720-02-M]

9

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., November 30, 1978.

PLACE: 1700 G Street NW., 6th floor, Conference Room "E", Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Henry Judy, 202-789-4734.

MATTERS TO BE CONSIDERED: Consideration of amendment to PMI eligibility requirements.

RONALD A. SNIDER,
Assistant Secretary.

[S-2382-78 Filed 11-22-78; 3:42 pm]

[6210-01-M]

10

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, November 29, 1978. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed revision and extension of the Domestic Bank Holding Company Annual Report (F.R. Y-6).
2. Proposed revision to the Financial Supplement to the Bank Holding Company Annual Report (F.R. Y-6S).
3. Proposed revision to the Report of Intercompany Transactions and Balances (F.R. Y-8).
4. Proposed amendment to Regulation BB (the Community Reinvestment Act) to implement a portion of the Financial Institutions Regulatory and Interest Rate Control Act relating to financial institutions that serve predominantly military personnel.

DISCUSSION AGENDA

1. Request by members of Congress for a moratorium on applications by bank holding companies to engage in or expand insurance agency activities.
2. Any agenda items carried forward from a previously announced meeting.

NOTE.—The open portion of this meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling 202-452-3684 or by writing to:

Closed portion:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: November 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2369-78 Filed 11-22-78; 10:28 am]

[6750-01-M]

11

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 54351, published November 21, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Tuesday, November 21, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission rescheduled this November 21 meeting for December 1, 1978, and thereafter further rescheduled the meeting for November 29, 1978, at 9:30 a.m.

[S-2371-78 Filed 11-22-78; 10:28 am]

[6750-01-M]

12

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, November 21, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS

1. Approval of minutes on nonadjudicative matters considered at meeting of November 1, 1978.
2. Consideration of initiation of investigation of the proposed merger of LTV Corp. and Lykes Corp.
3. Consideration of proposed injunction and complaint in a nonpublic Part II matter.

ADJUDICATIVE MATTER UNDER PART 3 OF THE RULES OF PRACTICE

Approval of minutes on adjudicative matter considered at meeting of October 4, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-2372-78 Filed 11-22-78; 10:28 am]

[6750-01-M]

13

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, November 22, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Petition of Proprietary Association for Designation of Disputed Issues of Fact in Trade Regulation Rule Proceeding Relating to Advertising of Over-the-Counter Antacids.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-2373-78 Filed 11-22-78; 10:28 am]

[7590-01-M]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, November 27, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: 2 p.m.

1. Briefing on report of the NRC/EPA Task Force on Emergency Planning (approximate 1 hour, public meeting).
2. Briefing on reactor licensing schedules (approximate 1 hour, public meeting).
3. Discussion of comments on IRG report (if required) (approximate 1 hour, public meeting).

NOTE.—The above three items are tenative and may be replaced by the following:

1. Discussion of personnel matter (approximate 3 hours, closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

MONDAY, NOVEMBER 27, 1978
PART II

V 43 / 228
NOV 27 1978

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

NOVEMBER 20, 1978.

[S-2370-78 Filed 11-22-78; 10:28 am]

[8010-01-M]

15

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, November 20, 1978.

CHANGES IN THE MEETING: Additional items to be considered.

The following additional items will be considered at the closed meeting to be held on Wednesday, November 22, 1978, immediately following the 10 a.m. open meeting:

Institution of injunctive action and formal order.
Regulatory matter bearing enforcement inplications.
Settlement of administrative proceeding of an enforcement nature.

Chairman Williams and Commissioner's Loomis, Evans, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

NOVEMBER 22, 1978.

[S-2379-78 Filed 11-22-78; 3:42 pm]

[6820-35-M]

16

LEGAL SERVICES CORPORATION (Board of Directors Meeting):

TIME AND DATE: 9 a.m., Friday and Saturday, December 1-2, 1978.

PLACE: Marvin Center, George Washington University, 800 21st Street NW., Washington, D.C.

STATUS: Open meeting (meeting closed during lunch hour 12:30-1:30 p.m.) *

MATTERS TO BE CONSIDERED:

1. Adoption of agenda.
2. Approval of minutes of October 19-20, 1978 meeting.
3. Reports by committees:

COMMITTEE ON APPROPRIATIONS AND AUDIT

Status of the annual audit for fiscal year 1978;
Review of the preliminary consolidated operating budget for fiscal year 1979;
Review of the draft fiscal year 1980 budget request to the Congress; and
Report on the Financial Management Improvement Program.

COMMITTEE ON PROVISION OF LEGAL SERVICES

The delivery systems study;
The study required by section 1007(h); and
The Reginald Heber Smith program.
4. Reports by the President:
a. Activities of the Office of Field Services and the Regional Offices—Clinton Lyons.
b. Relations with the Private Bar—Harriet Ellis.
5. Future meeting dates.
6. Other business.

* The meeting will begin at 9 a.m. and adjourn at 5:30 p.m. The meeting will recess for lunch from 12:30 to 1:30 p.m. There will be a closed meeting at lunch on December 1, as authorized by 5 U.S.C. 552b(c)(2), that will relate solely to internal personnel matters of the Corporation.

CONTACT PERSON FOR MORE INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: November 22, 1978.

THOMAS EHRLICH,
President.

[S-2384-78 Filed 11-22-78; 3:59 pm]

federal register

MONDAY, NOVEMBER 27, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

STATUS OF NATIVE SPECIES PROTECTED BY THE ENDANGERED SPECIES CONVENTION

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

STATUS OF NATIVE SPECIES PROTECTED BY THE ENDANGERED SPECIES CONVENTION

AGENCY: Fish and Wildlife Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to recommendations made by Parties as a special working session of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) the Fish and Wildlife Service reviewed the species listed in Appendices I and II of the Convention that are native to the United States. Species were to be examined in terms of criteria adopted by the Parties at their first meeting in 1976. As a result of that review, the Fish and Wildlife Service has found that the status of 18 species should be changed. The Service proposes to transfer the alligator and five other species from Appendix I to Appendix II and the eastern U.S. population of the golden eagle and three other species from Appendix II to Appendix I. It also proposes to remove the Mexican duck from Appendix I and the bobcat and six other species from Appendix II. These proposals have been communicated to the Secretariat of the Convention for consideration at the next meeting of Party nations.

DATES: Comments or information on the proposals should be submitted to the Service by January 15, 1979. The proposed amendments will be considered by Party nations on March 19-31, 1979, and any that are adopted by the Parties will become effective 90 days after adoption.

ADDRESS: Please send correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-2418.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249) is a treaty regulating the import, export and re-export of wildlife and plants. The species for which such trade is controlled are included in three appendices. Appendix I includes species threatened with extinction which are or may be affected by trade. Appendix II includes species which although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled, and species which must be subject to regulation in order that trade in currently or potentially threatened species may be brought under effective control. Appendix III includes species which Party nations identify as being subject to regulation within their jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.

Participants in a Special Working Session held in 1977 in Geneva, Switzerland, recommended that Party nations review the species of wildlife in Appendices I and II that are native to their countries. Species were to be examined in terms of criteria adopted by the Parties at their first meeting in 1976. These criteria were included in the Services's proposed rule of March 22, 1978, on procedures for changing the appendices (43 FR 12349) and in a notice of May 3, 1978, concerning the species review (43 FR 19176).

The Convention requires that any Party seeking amendments to Appendix I or II at a meeting of the Parties must communicate its proposals to the Secretariat for the Convention at least 150 days before the meeting. The deadline for proposals to be considered at the next meeting was October 20, 1978. The Service has communicated the amendments in this proposed rule to the Secretariat for consideration at that meeting. Any information and comments received by the Service during the comment period will be used to evaluate the proposals and may alter the positions taken on them by the United States delegation at the meeting. It should be noted that the United States can withdraw any of its proposals at any time prior to action by the Parties. However, no proposal could have been considered unless it was submitted by October 20.

COMMENTS

The Service requested information on these native species through direct correspondence with individuals and state and foreign governments, notices in the FEDERAL REGISTER, and a public meeting. Space limitations prevent a discussion of the many comments received on individual species, but general comments are summarized below.

Much information, including several petitions, was supplied by state fish and wildlife agencies. A total of 42 states and Guam and Puerto Rico commented on the species included in this review, many of which are resident wildlife managed by the states. Generally, the states were concerned that Federal controls on importing and exporting resident wildlife would interfere with state management programs. They also were concerned that those species included in the appendices on the basis of little information could not be deleted without extensive (and expensive) scientific data, given the criteria adopted by the Parties.

Comments from 11 Federal agencies or offices, including those of the Service, were mainly directed toward particular species. Dr. Howard W. Campbell, Chief of the Gainesville Field Station, National Fish and Wildlife Laboratory, noted that in some nations, listing the crocodilians in Appendix II rather than Appendix I would offer an economic incentive for developing effective management programs. The Commissioner of the Bureau of Reclamation noted that native wildlife species that do not enter international trade should not be included in the appendices.

Although the present survey concerned only species of wildlife native to the United States, many of these species also occur in other countries. The Service received comments and information from 15 foreign nations on particular species included in this survey.

A total of 17 organizations representing the interests of wildlife protection, management and utilization commented on the review of native wildlife. The National Wildlife Federation urged that the current Appendix II listing of the bobcat, lynx and puma be used as a method of monitoring rather than as a mechanism to restrict trade. The Fur Takers of America asked that the current import and export restrictions on certain species be suspended until those species are deleted from Appendix II. Safari Club International urged that the appendices be limited to species actually in international trade, and that the Service strongly consider data submitted by state agencies on native species. The International Association of Fish and Wildlife Agencies criticized the criteria adopted by the Parties for deleting species from Appendix I and II, and said that they should not guide the Service's policy. It also emphasized the need to use objective criteria instead of political considerations in listing species.

Support for the retention of several species of particular interest on Appendix II, and for adherence to the criteria adopted in Bern, was expressed by the Defenders of Wildlife. The Florida Audubon Society, the Humane Society of the United States, and the Society for Animal Protective Legislation also stated the need to keep such species on Appendix II.

A total of 29 individuals offered comments and information on the present survey with respect to particular species, some of which are discussed later in this notice.

FINDINGS

The United States is one of many Parties conducting a survey of its native wildlife listed in Appendices I and II. Each Party is to examine species in terms of the criteria adopted in 1976 to ensure that the listings are based on a uniform interpretation of the appendices. Since the U.S. and other nations have agreed to conduct the survey in terms of these criteria, the Service finds that it would be improper to depart from them at this time.

In its advance notice in the FEDERAL REGISTER (43 FR 19176), the Service noted that certain native species now in Appendix I or II, if not presently listed, would not meet the criteria for addition, but that the strict criteria for deletion prevent their removal from the appendices. It has been argued that inclusion of such species dilutes the enforcement effort, weakens the credibility of the Convention, and unnecessarily restricts trade in certain species that are not currently or potentially threatened by international trade. On the other hand, it has been argued that their retention places little additional burden on the Parties, and that the best course is to retain such species until it is clear that removing present controls would not be detrimental to the survival of the species.

Because of its concern that only appropriate restrictions be placed on trade in wildlife and plants, and that the Convention serve as an effective instrument, the Service intends to seek a change in the criteria at the next meeting of the Parties. The Service plans to recommend that those species included in Appendix I and II before the criteria of 1976 were applied to such listings should be examined in terms of the criteria for addition, rather than the more rigorous ones for deletion. If such species do not meet the former criteria, the Service would recommend their deletion from the appendices.

Where appropriate, the Service will submit proposals consistent with the revised criteria for consideration by the mail procedure if the Parties adopt this recommended change. The Convention requires that proposed amendments be submitted at least 150 days in advance for consideration at a meeting. Therefore, proposals based on revised criteria will have to be considered after the next meeting.

Comments are invited on the proposed change in the criteria for amending the appendices. The Service would especially appreciate comments on the following issues:

(1) The inclusion of all member-species under the listing of a higher taxon, such as was done when all wild cats were included in the listing of the family Felidae in Appendix II;

(2) The deletion of species included in Appendix I or II if they are apparently extinct; and

(3) The use of standards for adding species to the appendices that differ from standards for their deletion.

In its preliminary notice (43 FR 19176), the Service discussed the possibility of annotating the list of species in the appendices to indicate those included because of actual or potential threat of extinction, those included for monitoring purposes, and those included to facilitate enforcement. The Fundamental Principles in Article II of the Convention make no provision for monitoring on a basis for listing species in the appendices. The origin of this concept was the provision in Article IV that trade in species already listed on Appendix II shall be monitored. Annotation would aid in readily determining the basis for listing species, but it would not eliminate or change the requirement of the Convention that certain findings must be made by Management and Scientific Authorities before import and export permits can be issued. The provisions of Articles III and IV of the Convention that control the granting of permits make no distinctions between those species included in an appendix for different reasons.

PROPOSALS TO AMEND THE APPENDICES

The Service has determined that the following native wildlife species should be reclassified in the Convention appendices, based on an examination of all available information in terms of the criteria adopted by the Parties in 1976.

(A) Proposal to delete a species from Appendix I.

Anas diazi (Mexican duck)—The original inclusion of this species in Appendix I was based on its listing as an Endangered species under U.S. law in 1967. It recently has been determined by ornithologists to be a subspecies of the mallard. There is a large zone of intergradation between the Mexican duck and other mallard subspecies from New Mexico to Durango, Mexico. The total population of all such intergrade ducks in May, 1978, was estimated at 5,000. Their population in the U.S. is expanding into Arizona and Texas, with no evidence of threats to its continued existence.

Apparently genotypically pure populations of *Anas platyrhynchos diazi* occur only in the central highlands of Mexico, where they are adapting to local agricultural practices and have no evident threats to their survival. An aerial survey prior to the nesting season in May and June, 1978, indicated that more than 55,000 birds were present.

The present proposal follows from the Service's recent determination in the FEDERAL REGISTER of July 25, 1978 (43 FR 32258) that the Mexican duck does not merit listing as an Endangered or Threatened species under the U.S. Endangered Species Act of 1973.

(B) Proposals to delete species from Appendix II.

(1) *Circus Cyaneus* (harrier or marsh hawk)—This species has a breeding range in the northern hemisphere that extends from temperate to sub-arctic regions. It is one of the most numerous hawks in North America, with a population in the 48 conterminous states of the U.S. estimated at 121,800 in 1975. The numbers that breed appear to fluctuate with abundance of their rodent prey in approximately 4-year cycles. The Service's Breeding Bird Survey indicates a national decline over the past 10 years, but fall migration counts show an upward population trend since 1972. The species is protected throughout North America, and is rarely kept for falconry or zoological exhibition. The presence of a large population and the absence of any significant utilization or trade in this species lead the Services to propose that the U.S. population of the harrier be deleted from Appendix II.

(2) *Cygnus buccinator* (trumpeter swan)—In the early 1900's this species had disappeared from almost all of its former range because of changes in land-use and because of hunting for sport and market. By 1932, there were only 69 trumpeter swans left in the 48 conterminous states. Following extensive conservation work, this population had increased to about 800 in 1968. There were also 2,800 in Alaska and additional uncensused numbers in Canada in 1968. Continuing efforts to conserve this species have led to a well-documented, stable or increasing population that is adequately protected and no longer not potentially threatened with extinction. International trade has no significant impact on the trumpeter swan.

(3) *Cyrtonyx montezumae mearnsi* (Mearn's quail)—This subspecies occurs in Arizona, New Mexico, Texas and Mexico. Population levels in Arizona are increasing, and support an annual harvest that averaged 37,400 birds per year between 1972 and 1976. Populations in Arizona attain densities of 85-135 bird per square kilometer, although densities of 10-15 birds per square kilometer are more common. mearn's quail is hunted for sport in the U.S. and Mexico, but there is no record of international trade. Population data are not available for Mexico. In view of the substantial U.S. popula-

monial purposes, and its major threats are pesticide contamination, unlawful

America, Mexico, Cuba, Jamaica, Hispanola, and Southern Florida. It is

Service is proposing that the U.S population of the goshawk be annotated

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tions of this species, the management it receives from state agencies, and the absence of significant international trade, the Service proposes that it be deleted from Apendix II.

(4) *Falco sparverius* (kestrel or sparrow hawk)—This is the most common hawk in the U.S., and it is widely distributed throughout North and South America. The population in the 48 conterminous States of the U.S. was estimated to be over 300,000 birds in 1975. The kestrel is a popular bird for falconry in this country, but the annual take for this purpose was estimated at only 300 birds, or 0.1% of the U.S. population, in 1976. There is little, if any, international trade in this species. The Service therefore proposes that the kestrel be deleted from Appendix II.

(5) *Lynx rufus* (bobcat)—The original listing of the bobcat was done by including all wild species of the cat family in Appendix II, except for those species that were listed in Appendix I. There has been controversy about listing the bobcat, based on a difference between the views of many state fish and wildlife agencies that feel the species does not need Federal protection, and the views of persons and organizations that feel the fur harvest is a threat to the species. current estimates of bobcat populations, derived from the best available information, indicate there are from 750,000 to 1,000,000 animals in the U.S. The present geographic distribution of the bobcat generally corresponds with its historical range although bobcats have disappeared or become scarce in some parts of that range. Recent evidence of the bobcat's abundance, distribution and harvest, and of improved management by the states, indicates that it is not now potentially threatened with extinction by international trade. The Service therefore proposes that it be deleted from Appendix II.

(6) *Pandion haliaetus* (osprey)—This species occurs along seacoasts, rivers and lake shores in many parts of the world. The substantial populations in the U.S., which have been closely monitored, have declined until recent years. This decline was largely due to reproductive failure associated with pesticides. Present populations in the U.S. are slightly increasing, as evidenced by nesting surveys and fall migration counts. The U.S. populations of the osprey are not used for falconry or zoological exhibition, and do not enter into international trade for these or other purposes.

(7) *Tympanuchus cupido pinnatus* (greater prairie chicken)—This species was extremely abundant in the tallgrass prairie and oak-savannah vegetation of the central U.S. in the last century, but it became extirpated in parts of its range and greatly reduced elsewhere because of habitat changes due to agriculture. As of 1974, it was extirpated in Iowa, Ohio, Kentucky, and Arkansas; doing poorly in Illinois, Indiana, Michigan, Minnesota, Missouri and Wisconsin; and much-reduced from the pre-1900 level but producing sufficient surpluses for hunting in some areas of Kansas, Nebraska, Oklahoma and South Dakota. The total population is estimated to exceed 1,000,000 birds. Several states and organizations currently operate land acquisition and management programs for this species. There is no evidence of significant international trade, and the species is not potentially threatened with extinction under current management programs.

(C) Proposals to transfer species from Appendix I to Appendix II.

(1) *Acipenser oxyrhynchus* (Atlantic sturgeon)—This species has a long history of exploitation in the U.S. It virtually disappeared throughout its range by the beginning of this century because of overfishing, deterioration of water quality and damming of rivers. Commercial fishing for this species continues in several states, although it generally is a bycatch of fisheries directed at other species. The evidence of population status comes largely from catch records, but more detailed population surveys have been made in the Hudson River of New York and the St. John River of New Brunswick. It has been suggested that the sturgeon has been recovering in recent years on the Atlantic coast due to a reduction in the amount of appropriate fishing gear in use, or that it never was as rare as was generally thought. Current evidence indicates that this species is not now threatened with extinction but might become so if the factors that led to its decline are not strictly controlled.

(2) *Alligator mississippiensis* (American alligator)—The alligator was afforded Federal protection under the Endangered Species Act at a time when state efforts to control poaching were unsuccessful. The species now is well protected in every state where it occurs naturally. The result has been a rapid recovery to the point where there are harvestable surpluses in some areas and alligators have become a nuisance to human residents. Population surveys indicate the species had increased from all-time lows in the mid-1950's and early 1960's to an estimated 734,000 in 1974. Given a reported 46.8% population increase from 1970 to 1974, and vigorous protection by state and Federal governments, the species would be most appropriately included in Appendix II. The impact of this transfer, pending modification of the regulations under the Endangered Species Act, would be to allow a controlled harvest of wild alligators for the international market. Retention of the species in Appendix II would help ensure adequate Federal control to restrict exports to a level that is not detrimental to the survival of the species.

(3) *Enhydra lutris nereis* (southern sea otter)—This species originally occurred along 1,500 miles of coastline from the state of Washington to Baja California, but it was brought to near extinction by the fur trade in the late 1800's. It has been afforded state and federal protection since 1911, and has been slowly recovering since the rediscovery of a small group in California in 1938. The expanding California population, estimated at 1,800 to 1,900 individuals in 1976, now occupies 180 miles of coastline. Isolated, reintroduced populations also occur in Oregon and Washington. In view of the sea otter's growing population, the protection afforded by state and federal governments, and the unlikelihood of international trade in this subspecies in the foreseeable future, the Service proposes it transfer to Appendix II.

(4) *Falco peregrinus pealei* (Peale's peregrin falcon)—This subspecies of the peregrin, which occurs along the northwest coast of North America and in the Aleutian Island, has not experienced the marked decline in abundance that has been reported for the eastern peregrine (*Falco peregrinus anatum*). There has been little or no eggshell thinning or pesticide contamination, and the recorded population changes have been correlated with changing abundance of prey species. There is a strictly limited amount of utilization for falconry. However, the state of Alaska has only rarely, in recent years, allowed the taking of this subspecies for any reason. Recent surveys show it to be near the apparent carrying capacity of the study areas, with good reproductive success. Accordingly, the Service proposes that it be transferred to Appendix II.

(5) *Haliaeetus leucocephalus* (bald eagle)—There has been an accelerated decline in the abundance of this species in the 48 conterminous states of the U.S. since the mid-1940's. In 1972, there were an estimated 750 breeding pairs. By contrast, there were an estimated 7,000 to 7,500 breeding pairs in Alaska. The Alaskan population now appears stable, but much less is known about trends in its status than about such trends in the lower U.S. Significant breeding populations exist along the coast of Alaska from the Aleutian Islands southward. The largest concentration of wintering eagles is found in the Chilkat Valley of Alaska, where as many as 3,500 eagles have been observed. There is very little utilization of this species except for Indian cere-

monial purposes, and its major threats are pesticide contamination, unlawful shooting and habitat disturbance. In view of the comparatively healthy population and lack of significant trade in specimens, the Service proposes that the Alaskan population of the bald eagle be transferred to Appendix II.

(6) *Mirounga angustirostris* (northern elephant seal)—This species was brought to near extinction by commercial hunting, which reduced the population to probably less than 100 individuals in the late 1800's. The Mexican and U.S. governments granted the elephant seal protection and it has multiplied rapidly to reoccupy most of its former known range. The conditions for increase have been almost optimal and the growth curve approximates the lower part of the logistic curve. The current population is reliably estimated at 50,000 animals, an increase of 20,000 from the early 1960's. Considering this recovery under national protection, and the strict controls on taking of this species, the Service proposes that it be transferred to Appendix II.

(D) Proposals to transfer species from Appendix II to Appendix I.

(1) *Aquila chrysaetos* (golden eagle)—This species is widely distributed throughout the northern hemisphere, including Europe, Asia and North America. In North America, it is found from Alaska and Canada south to North Carolina and California. Surveys lead toa current estimate of 50,000 to 60,000 golden eagles in North America, with a stable or increasing population. However, the population in the eastern U.S. is down to about 10 breeding pairs. This population is threatened with extinction. Although it is protected under the Eagle Act of 1940, specimens might enter trade for falconry, egg collection or other purposes. Accordingly, the Service propose that the U.S. golden eagle population east of the Mississippi River be transferred to Appendix I.

(2) *Arctocephalus townsendi* (Guadalupe fur seal)—The last commercial harvest of this seal occurred on the islands of Southern California and Baja California in 1894. It was considered extinct during two periods (1895 to 1926 and 1928 to 1949). Under protection of the U.S. and Mexico, the population has expanded to about 1000 animals in 1977. Despite the current increase, this species remains vulnerable because of its very localized and accessible population, the high potential value of its fur, and the difficulty of protecting it adequately. Therefore, the Service proposes that it be transferred to Appendix I.

(3) *Crocodylus acutus* (American crocodile)—This species occurs in northwestern South America, Central America, Mexico, Cuba, Jamaica, Hispanola, and Southern Florida. It is becoming rare in most parts of its range, but there is little quantitative information on its status in many countries. The Florida population was estimated in 1976 to be only 200 to 400 individuals, with fewer than 25 breeding females. The Everglades National Park and Big Pine Key Refuge offer protection, but habitat destruction threatens to eliminate the crocodile elsewhere in Florida. The Service proposes that the geographically distinct population of the crocodile in Florida be transferred from Appendix II to Appendix I in accordance with its endangered status, and in view of the international trade in other populations of this species.

(4) *Gopherus flavomarginatus* (Bolson tortoise), largest terrestrial reptile in temperate North America, was first described as a distinct species in 1959. It occurs in basins of the North central Mexican plateau, and therefore is technically outside the scope of the Service's review of native U.S. wildlife. However, a recent study showed that the species is severely impacted by human predation for meat and eggs, by habitat destruction, and to a lesser extent by collection for museums, zoos and the pet trade. A few large populations numbering several thousand individuals may still exist, but it is likely they will be eliminated by the end of this century if destruction continues at the present rate. In view of the present threat of extinction, and the Mexican Government's position that this species belongs on Appendix I, the Service proposes that it be transferred to that appendix.

(E) Proposals to annotate species in Appendix II as being included in order to effectively control trade in other species.

(1) *Accipiter gentilis* (goshawk)—This northern hemisphere species occurs from the arctic tree-line to Mexico in North America. Northern populations have been described as high and stable, but there are no quantitative data. In the 48 conterminous states of the U.S., the 1974 winter population was estimated at 3,400 birds. This was the smallest population of any raptor except the peregrine falcon. Data from Breeding Bird Surveys, migration counts and Christmas Bird Counts show no statistically significant population trend from 1967 to 1974. However, eastern U.S. populations are about three time greater in 1967-1974 than in 1947-1966. In the lower 48 states, approximately 2.4% of the total goshawk population is taken annually for falconry. This is a larger fraction than is taken in any other species, although there is no indication that this taking is detrimental to the total population. The Service is proposing that the U.S population of the goshawk be annotated to indicate that it is included to effectively control trade in other species (including foreign populations of the goshawk). This proposal is based on evidence of a stable U.S. population and on the potential for trade in this species.

(2) *Aquila chrysaetos* (golden eagle)—The proposed transfer of the threatened eastern U.S. population of this species to Appendix I was discussed above. The population in the western U.S. is much larger. Accordingly to Christmas Bird Counts it has significantly decreased (16% per year) from 1967 to 1974, while the Breeding Bird Survey indicates it has significantly increase (18% per year) during the same period. Considering all available data, there has not been a significant change in abundance of the total U.S. population of the golden eagle between the periods of 1948-1966 and 1967-1974. Several hundred birds are killed each year for predator control in the western U.S., and a small number are taken for falconry or for indian ceremonial purposes. However, few specimens enter international trade. The Service proposes that the U.S. population of the golden eagle west of the Mississipps River be annotated in Appendix II to indicate that it is included to effectively control trade in other species (including foreign and eastern U.S. populations of the golden eagle).

(3) *Canis lupus* (gray wolf)—Although formerly distributed throughout much of the northern hemisphere, the wolf has been eliminated in large parts of its original range. There are now only about 550 wolves in the 48 conterminous states of the U.S., although much greater numbers occur in Canada and Alaska. Wolf numbers in Alaska have varied considerably, at least in some areas. During this century, their normal range has included about 85% of Alaska's 586,000 square mile area. Various surveys in different parts of Alaska and Canada have given estimates of one wolf per 10 to 200 square miles, with density depending mainly on food supply and harvest by man. Annual harvests of around 1,000 wolves approximate 10 to 15% of the statewide population according to the Alaska Department of Fish and Game. In Canada, the total population is estimated at 51,000 to 52,000, with an annual harvest of around 5,000 wolves. Under present conditions, there is evidence that the populations can sustain this rate of harvest. In view of the relatively secure status of the wolf in Alaska and Canada, the Service proposes that these populations of *Canis lupus in Appendix II be annotated to indicate that they are included to effectively control trade in other species*

(including other populations of the other species (including the Mexican Michigan, where only several thou-

(4-6) *Balaenoptera borealis* (sei whaling on gray whales and almost all

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(including other populations of the gray wolf).

(4) *Felis concolor* (puma)—This species ranges from the southern Yukon to the southern tip of mainland Chile. Although extirpated in settled areas, it is still fairly common elsewhere. The total population in the U.S. was estimated in 1974 to be 8,700, with about the same number in Canada. The puma is classified and managed as a game animal in Canada and in eleven western states. Harvest figures for 1973 indicate that about 760 pumas were taken by hunters and predator control agents in the U.S. However, the eastern and Florida subspecies (*F.c. cougar* and *F.c. coryi*) are endangered and completely protected. The status of the puma in Central and South America is poorly known. Present knowledge of puma populations in the U.S. is insufficient to justify deletating the species from Appendix II under present cretieria. However, the existence of apparently stable populations under game management in the western states and Canada indicates that his species in the U.S. and Canada, except for the two endangered subspecies, should be annotated to indicate that it is included to effectively control trade in other species (particularly other populations or subspecies of *Felis concolor*).

(5) *Ovis canadensis* (bighorn sheep)—This sheep formerly had an estimated 1.5 to 2 million individuals distributed throughout the mountainous areas of western North America from Canada to northern Mexico. The estimated population in the U.S. in 1974 was 21,500 individuals, with another 11,000 in Canada and 4,600 in Mexico. This general decline has been attributed to habitat loss, competition with domestic and feral stock, formerly uncontrolled hunting and disease. There are six living subspecies of bighorns, of which *ovis canadensis canadensis* in Canada and the U.S. has the largest population (21,000) and *Ovis canadenis weemsi* in Mexico has the smallest population (2,000). The species is protected in Mexico and closely managed as a game animal by state wildlife agencies in the U.S. and by provincial wildlife agencies in Canada. Strict limits on hunting and reintroduction of bighorns into former habitats have led to stable or increasing populations in some areas. International trade in trophies is on a small scale compared to national utilization. The Government of Mexico has recommended Appendix II status for the species. In view of the bighorn's relatively secure status in the U.S. and Canada and its occurrence of international trade, the Service proposes that the U.S. and Canadian populations be annotated to indicate that they are included to effectively control trade in other species (including the Mexican population of bighorns).

(6) *Ursus arctos* (grizzly and brown bears)—The former range of this species extended over large areas of the northern hemisphere. In 1972, the world population was estimated to be 47,000 animals, including 26,000 in North America, 18,000 in Europe and 3,000 in Japan. In the 48 conterminous states of the U.S., the grizzly is threatened. However, large and stable populations occur in Canada and Alaska, where this species is carefully managed as a game species. The Alaska Department of Fish and Game estimated the state population in 1978 to be from 31,500 to 42,900 individuals, of which 2 to 3% are killed annually. About 10% of the bears shot in Alaska are exported as trophies by foreign hunters. In view of the healthy status of Alaskan and Canadian populations, and the need to protect other populations from potentially harmful trade, the Service proposes that the Alaskan and Canadian populations of *Ursus arctos* be annotated to indicate they are included in Appendix II to effectively control trade in other species (in this case, other populations of *U. arctos*).

DECISIONS NOT TO AMEND THE APPENDICES

The Service has determined that all other species of wildlife native to the United States currently included in Appendices I and II should not be reclassified, based on an examination of all available information in terms of the criteria adopted by the Parties in 1976. In some cases this determination has been easy, since the species appear to be appropriately listed in accordance with the Fundamental Principles in Article II of the Convention. However, in other cases this determination has been difficult because the species do not appear to need the protection of the Convention for their conservation, but the criteria for deletion adopted by the Parties cannot be met.

The Service's findings on certain of the native wildlife species not proposed for reclassification are discussed below in terms of the existing criteria.

(1) *Acipenser fulvescens* (lake sturgeon)—Although formerly common throughout its range in the upper Mississippi River, Great Lakes, Saskatchewan and Hudson's Bay drainages, this fish has suffered a great decline. Overfishing, water pollution, damming of rivers, destruction of spawning areas and deliberate destruction of fish to protect commercial fishing gear have led to reductions in both range and numbers of this species. Populations in the U.S. are now too low to reliably estimate except in the Lake Winnebago system in Wisconsin and the Menominee River in Wisconsin and Michigan, where only several thousand individuals occur. Wisconsin has a carefully controlled sport harvest of lake sturgeon, but commercial fishing is banned or highly restricted in most parts of the U.S. and Canada. There has been trade in this fish between these two countries, although it has declined in recent years. The widespread reduction in this species, the lack of reliable population data for nearly all populations, and the occurrence of trade indicate that the lake sturgeon should be retained in Appendix II.

(2) *Lutra candansis* (river otter)—Widely distributed in the U.S. and Canada, the otter continues to exist over much of its original range. It has been extirpated in Colorado, Indiana, Kentucky, Nebraska, North Dakota, and West Virginia. However, 24 States report a stable or increasing otter population. The information on which such reports are based is often qualitative, making it difficult to assess the actual abundance of the species in the U.S. The harvest of otters in the 1976–1977 trapping season was approximately 43,000 individuals, higher than the average harvest of the last five years. However, the harvest data are subject to changes in reporting methods and may not accurately reflect actual changes in kill. It has been estimated that 90 to 95 percent of the harvest is exported to Europe. There is insufficient evidence to demonstrate that otter populations can withstand the level of exploitation that would be experienced if current controls were removed. Such evidence is required by the criteria for deletion that were adopted by the Parties in 1976.

(3) *Lynx canadensis* (lynx)—The lynx occurs across an extensive portion of Alaska and Canada, and in small areas of the northern part of the 48 conterminous states of the U.S. There was a general decline in lynx populations from 1910 to 1954, followed by a marked increase. The major factor controlling abundance of this species appears to be its food supply, which typically has a ten-year cyclic fluctuation. Fur harvests fluctuate with lynx abundance, although they are also subject to other factors. There are no data on lynx numbers or densities in Alaska or in those states of the lower 48 that have appreciable lynx populations. Collection of such data is generally considered by wildlife managers to be impractical in the case of this cyclic species. There is some concern that in parts of its range the lynx is vulnerable to overharvesting during periods of low abundance. As with the otter, there is insufficient evidence to demonstrate that lynx populations can withstand the level of exploitation that would be experienced if current controls were removed.

(4–6) *Balaenoptera borealis* (sei whale), *Balaenoptera physalus* (fin whale) and *Eschrichtius robustus* (gray whale)—The Service's review of these species indicated that certain of the stocks presently included in Appendix I should be transferred to Appendix II. The basis for this finding was that the Appendix I stocks (except for the western Pacific gray whale) were sufficiently abundant to be considered as not threatened with extinction at this time. The Service's finding was prompted by an initial request from the National Marine Fisheries Service (NMFS) for such transfers. The Fish and Wildlife Service included proposals to transfer these stocks with the other proposals that it sent to the Secretariat for the Convention. However, NMFS subsequently requested that the Service withdraw the whale proposals on the grounds that the U.S. should defer to consideration of proposals by the United Kingdom, which is conducting a review of all the whales, and that the U.S. should urge the Parties to take into account the actions of the International Whaling Commission to prohibit commercial whaling on gray whales and almost all stocks of fin and sei whales.

All materials received in connection with the survey of native species are available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday except Federal holidays, in Room 616, 1000 North Glebe Road, Arlington, Va.

This proposed rule is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

NOTE.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: November 20, 1978.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-33089 Filed 11-24-78; 8:45 am]

MONDAY, NOVEMBER 27, 1978

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federal register

MONDAY, NOVEMBER 27, 1978
PART III



DEPARTMENT OF ENERGY

Economic Regulatory Administration

MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendment to the Entitlement Program as to Certain Limited Product Refineries Located in Alaska

[6450-01-M]

SUPPLEMENTARY INFORMATION: stead are used exclusively for purposes

should they continue to receive im-

B. RELATED ISSUES

ments on the same basis as it has in the past.

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-78-2]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendment to the Entitlements Program as to Certain Limited-Product Refineries Located in the State of Alaska

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby amends the domestic crude oil allocation ("entitlements") program to clarify the proper calculation of crude oil runs to stills to be reported for certain refineries located in the State of Alaska, in order to avoid the potential of a double entitlement issuance for the same volume of crude oil. The refineries affected will be required to account for their crude oil runs to stills on a "net" basis, i.e., to subtract from their crude oil runs to stills any volumes of unfinished oils or partially refined products which are injected or reinjected into the Trans-Alaska Pipeline System (TAPS).

EFFECTIVE DATE: Effective for refiners' crude oil runs to stills on or after January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202-634-2170.

Robert Kane (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2304, 2000 M Street NW., Washington, D.C. 20461, 202-254-7200.

Doug McIver (Entitlements Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street NW., Washington, D.C. 20641, 202-254-8660.

Michael Paige (Office of General Counsel), Department of Energy, Room 5136, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Comments:
A. Amendment to Adjust Crude Oil Runs to Stills Reported for Limited-Product Alaskan Refineries.
B. Related Issues:
1. Regulatory Treatment of Limited-Product Refineries Located Elsewhere in the United States.
2. Inclusion of the Alaskan Limited-Product Refineries in the Entitlements Program.
3. Receipt by the Alaskan Limited-Product Refineries of Imported Tier Entitlements Treatment on their Crude Oil Runs to Stills.
III. Amendment Adopted.

I. Background

On January 24, 1978, the ERA issued a notice of proposed rulemaking and public hearing (43 FR 3916, January 30, 1978) to amend the entitlements program with respect to certain refineries located in the State of Alaska. The purpose of the proposed rule was to clarify the proper calculation of crude oil runs to stills reported for those refineries in Alaska which produce a limited range of products from Alaska North Slope (ANS) crude oil. The refineries are specialized facilities which, following production of only certain products from the ANS crude oil, inject or reinject the remaining unfinished oils or partially refined products into the TAPS, where they flow commingled with unprocessed crude oil for ultimate sale as crude oil. Under the proposal, these Alaskan refineries would be required to account for their crude oil runs to stills on a "net" basis, i.e., any volumes of unfinished oils or partially-refined products which were returned to the Trans-Alaska Pipeline by the refineries would be subtracted from the volume of crude oil runs to stills they reported under the entitlements program.

The refineries affected by the proposed rule are of two types. One of the facilities is a commercial refinery located at Fairbanks which was designed to provide a limited range of petroleum products to the interior of Alaska. This is an area which, prior to construction of the refinery, was dependent entirely on petroleum products that were manufactured elsewhere and shipped to the interior, resulting in a high cost to consumers. The Fairbanks refinery utilizes ANS crude oil to produce a limited range of distillate-type material for sale in local markets, and reinjects the remainder if its crude runs into the TAPS.

The second type of facility affected by the proposed rule are plants which are designed to produce fuel used in vehicles and machinery at the Prudhoe Bay field, or to operate the pumping stations located along the TAPS. These facilities are owned by the companies which own the Trans-Alaska Pipeline. The products of these facilities are not sold commercially, but instead are used exclusively for purposes associated with the production of ANS crude oil or operation of the pipeline.

The January proposal discussed whether these specialized, limited-product Alaskan processing facilities qualify as "refineries" for purposes of the entitlements program. As was indicated in the proposal, we have determined that the facilities are encompassed by the definition of "refinery" contained in 10 CFR 211.62, since the facilities process crude oil and manufacture at least some refined petroleum products, and thus qualify to participate in the entitlements program.

The main purpose of the January proposal was to obtain comment on the proper method of calculating the crude oil runs to stills reported by these specialized facilities for purposes of the entitlements program. As discussed in the proposal, the Alaskan limited-product refineries present the potential for a given volume of crude oil to earn entitlements twice. This situation would occur if the initial refiner were to report its total crude oil runs to stills for the calculation of entitlement issuances. The initial refiner, however, returns significant volumes of unfinished oils or partially refined products to the TAPS, where the reinjected substances are commingled with ANS crude oil and sold as crude oil after being transported to the lower 48 states. A refiner purchasing and processing the commingled stream, unless is had received the appropriate certification under 10 CFR 212.131 as to the composition of the stream, would then report the total volume of the commingled stream in its crude oil runs to stills, thus earning entitlements as to volumes for which the original refiner had already been issued entitlements. The proposed amendment was intended to set up a method whereby this result would be avoided. Specifically, the amendment proposed would require the subtraction from the crude oil runs to stills of a Alaskan limited-product refinery of any volumes of unfinished oils or partially refined products injected or reinjected into the TAPS and commingled with the crude oil in the line.

The January proposal also requested comments on three related issues: (1) Whether facilities similar to the Alaskan limited-product refineries exist elsewhere in the United States; if so, how such plants are reporting their crude oil runs to stills; and whether such facilities should be subject to the same regulatory treatment as the Alaskan facilities; (2) whether the Alaskan limited-product refineries should be included within the entitlements program at all; and (3) if the limited-product refineries are included within the entitlements program, should they continue to receive imported tier entitlements treatment for the ANS crude oil they process?

II. Discussion of Comments

Eighteen written comments on the January proposal were received. In addition, six persons testified at the public hearings on the proposal held in Anchorage, Alaska on March 13, 1978, and in Washington, D.C. on March 16, 1978. The commenters included major, small, and independent refiners, two utility companies, a trade association, an agency of the State of Alaska, one senator from the State of Alaska, and a public-interest group based in Alaska.

A. Amendment to Adjust Crude Oil Runs to Stills Reported for Limited-Product Alaskan Refineries

Those comments which discussed the proposed "net" system of reporting crude oil runs to stills by Alaskan limited-product refineries were nearly unanimous in their support of this method.

Two of the comments noted, however, that the unfinished oils or partially refined products injected or reinjected into the TAPS are not in fact crude oil and thus a question arises as to whether they should be considered as commingled crude oil when the ANS crude is sold to refineries in the lower 48 states. An alternative approach to the "net" system of calculating crude oil runs to stills would be to require the certification of the composition of the stream in the TAPS following reinjection of the unfinished oils. This approach, as stated in the January proposal, would place a difficult accounting burden on the sellers. The unfinished oils which currently are returned to the TAPS by all of the facilities subject to the amendment represent less than 1.5 percent of the total pipeline throughput. Thus, it would be a difficult accounting task to trace the reinjected unfinished oils to their ultimate purchasers. Due to this burden and to the very low percentage of the total pipeline throughput which the unfinished oils will represent, we have determined to consider the ANS crude stream which arrives at the Valdez terminus as "crude oil" for purposes of the entitlements program, as well as all other relevant portions of the Mandatory Petroleum Allocation and Price Regulations, Parts 211 and 212 of Title 10 of the Code of Federal Regulations. We recognize that this treatment of the commingled ANS stream will vary from its treatment under 10 CFR Part 213, the Oil Import Regulations. However, since the differing treatments pose no regulatory difficulties, we have determined at this time not to propose or undertake to amend Part 213.

B. Related Issues

(1) *Regulatory Treatment of Limited-Product Refineries Located Elsewhere in the United States.* Some commenters stated that they knew of a few facilities similar to the Alaskan limited-product refineries which are located in the lower 48 states. In all cases, however, any unfinished oils placed in a pipeline by such facilities are certified as such to the ultimate purchaser pursuant to 10 CFR 212.131, or are segregated altogether from crude oil. One comment noted that most crude oil pipelines prohibit the injection of anything other than lease crude oil into their common streams.

For these reasons and because of our lack of comprehensive data on the number and production of such plants, we have determined that the amendment proposed for specialized refineries in Alaska should not be expanded to include limited-product facilities located elsewhere in the United States.

(2) *Inclusion of the Alaskan Limited-Product Refineries in the Entitlements Program.* There was a significant division of opinion in the comments offered as to whether the Alaskan specialized refineries should be included at all within the entitlements program. The entitlements program is designed generally to equalize the cost of crude oil purchases among U.S. refiners and thus preserve a competitive market for all refiners, regardless of their relative access to controlled domestic crude oil. The question arises as to whether facilities which produce products which are not in practical marketplace competition with other refinery production should be eligible to receive the benefits of the entitlements program.

Of those comments addressed to this issue, a majority supported continued entitlements program participation for the one commercial limited-products refinery located in Alaska. As stated above, this refinery was constructed to provide a local source of certain products to interior Alaska. Since this refinery is in fact in competition with other refiners, we believe it is appropriate that it be eligible to earn the benefits made available through the entitlements program.

One comment on the proposed regulation questioned whether the Fairbanks refinery had in fact been passing through the entitlements benefits it receives to consumers. Based on the refiner's assertion that all benefits received in connection with the Fairbanks refinery have been passed on to Alaskan consumers and on a lack of convincing data which would refute this statement, the ERA has determined this refinery should not be singled out for any discriminatory treatment under the program, but will continue to be eligible to earn entitlements on the same basis as it has in the past.

As to the limited-product facilities designed to produce fuel for production of the Prudhoe Bay field or to operate the pump stations along the pipeline, the comments were almost equally divided as to whether these facilities should be included in the entitlements program. Those comments opposing entitlements program participation for the non-commercial facilities cited the fact that the facilities are not in competition with other refineries (and thus do not need equalization of crude oil costs to compete effectively in the marketplace), that the operating costs for these facilities can be recovered through the pipeline tariff, and that the arrangements under which the pipeline facilities are operated are so complex that entitlements program reports for these facilities would be administratively burdensome. We believe that these arguments have considerable merit.

However, those comments which supported inclusion of the non-commercial plants within the entitlements program argued that any facility which qualifies as a refinery under DOE regulations should be treated as a refinery in all respects and that carving out an exception for the Alaskan plants would lead to requests for additional exceptions for similar plants in the lower 48. These comments also argued that FEA (a predecessor agency of DOE) determinations had established that facilities which produce products not commercially sold still come within the scope of the entitlements program, that the purpose of the program is to provide every refiner equal access to price-controlled domestic crude oil (regardless of whether the products from the crude oil are sold in a competitive market), and, finally, that the products of the specialized pipeline plants do have to compete with product which could, and has in the past, been trucked in from other sources.

After considering all of the comments offered on this issue, and all of the purposes of the entitlements program, we have determined that all of the limited-product refineries located in Alaska, both commercial and non-commercial plants, should be included in the entitlements program, since such inclusion is called for by the regulation as currently in effect. We believe the benefits of the entitlements program should be available to all firms owning facilities which qualify as refineries, as that term is defined in DOE regulations and as that term is interpreted by the Department.

(3) *Receipt by the Alaskan Limited-Product Refineries Of Imported Tier Entitlements Treatment on their Crude Oil Runs to Stills.* The com-

ments addressed to the issue were

III. Amendment Adopted

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ments addressed to the issue were almost equally divided as to whether ANS crude oil processed in the limited-product Alaskan refineries should continue to receive imported tier entitlements treatment, assuming the facilities are included in the program. The question was posed in the January proposal because the original decision to grant imported treatment to the ANS crude oil was based on the high transportation cost for moving the crude oil from Alaska to the lower 48 states. It was believed imported tier treatment would allow the crude oil to be priced at the wellhead at a level high enough to encourage continued and further development of frontier areas. However, the cost of shipping the ANS crude oil to the pipeline facilities and the Fairbanks refinery affected by the proposed rule is less than the cost of moving the crude to the West and Gulf Coasts and it can be argued that imported tier entitlements in these cases provide excess benefits to the respective refiners.

The question of imported versus upper tier treatment is relevant only with respect to the Fairbanks commercial refinery and the facilities at the pipeline pumping stations, since the crude oil processed at the Prudhoe Bay limited-product refinery is only eligible to earn upper tier entitlements. That facility utilizes crude oil which has not traversed the TAPS and is thus not eligible for imported tier treatment under the definition of "ANS crude oil" contained in 10 CFR 211.62.

We have determined that both the Fairbanks refinery and the pipeline pumping station facilities should continue to be eligible for imported tier entitlements. The Fairbanks refinery at the present time must pay the full tariff for shipment of the crude oil through the TAPS. As the tariff comprises the greater portion of the transportation costs which are associated with shipping ANS crude oil, it is appropriate that the Fairbanks facility should continue to receive imported tier entitlements.

III. Amendment Adopted

Based on its analysis of the material submitted in the public hearing, in the written comments, and upon all other information available to it, we have determined to adopt the amendment to the entitlements program with respect to certain Alaskan refineries as the rule was proposed. One minor change has been made to the amendment in that the word "partially" is inserted prior to "refined products" to more accurately describe the materials reinjected into the TAPS by the respective refiners.

Under this amendment, limited-product facilities in the State of Alaska will be required to account for their crude oil runs to stills on a "net" basis by subtracting any volumes of unfinished oils or partially-refined products which are injected or reinjected into the TAPS from their total crude oil runs to stills. This method of accounting for crude oil runs to stills will avoid the issuance of duplicate entitlements for the same volume of crude oil.

The amendment is being made effective for refiners' crude oil runs to stills for the month of January 1979. We are aware that in some instances reports of crude oil runs to stills filed previous to this date by Alaskan refiners have been on a gross rather than net basis, with later purchasers accounting for the reinjected volumes as unfinished oils. Inasmuch as no party has been forced to bear an unjustified burden in these cases, the ERA has determined it is not necessary to require that such previous reports be amended to conform to the rule adopted below. However, beginning with reports for January 1979 crude oil runs to stills, Alaskan refiners will calculate and report their crude oil runs to stills on the net basis set forth in the regulation below.

Finally, as is the case under the current regulations, ANS crude oil processed in Alaskan refineries will continue to receive imported tier treatment for purposes of the entitlements program.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23785; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective January 1, 1979.

Issued in Washington, D.C., November 17, 1978.

Hazel R. Rollins,
Deputy Administrator, Economic Regulatory Administration.

Section 211.67 is amended in paragraph (d) to add a new subparagraph (9) to read as follows:

§ 211.67 Allocation of domestic crude oil.

. . . . . .

(d) *Adjustments to volume of crude oil runs to stills.*

. . . . . .

(9) Commencing with the month of January 1979, the volume of crude oil runs to stills of a refiner in a particular month as to any of its refineries located in the State of Alaska, for purposes of the calculations in subparagraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio, shall not include the number of barrels of unfinished oils or partially-refined petroleum products injected or reinjected by that refinery into the Trans-Alaska Pipeline System in that month.

[FR Doc. 78-33165 Filed 11-22-78; 8:45 am]

federal register

MONDAY, NOVEMBER 27, 1978
PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA NATIVE SELECTIONS

Reservation of Public Easements

[4310-84-M]

Various comments were received on

interpretation" of the Act. The major-

of Land Management. As such, all ref-

44 LD 513. The Department's position

present, an overall management program for public easements has not

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 2650—ALASKA NATIVE SELECTIONS

Reservation of Public Easements

AGENCY: Bureau of Land Management.

ACTION: Final rulemaking.

SUMMARY: This rulemaking implements section 17(b) of the Alaska Native Claims Settlement Act of 1971 and the court decision in *Calista, et al. v. Andrus, et al.*, 435 F. Supp. 664 (D. Ak. 1977) by establishing the policy and procedures for the reservation of public easements. It provides the standards for the reservation by the Secretary of the Interior of a minimal, non-duplicative system of easements to provide access to public lands across lands conveyed to Alaska natives under the Alaska Native Claims Settlement Act.

DATE: November 27, 1978.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On May 25, 1978, proposed rulemaking was published in the FEDERAL REGISTER (Vol. 43, p. 22620). Comments were invited for 30 days ending June 26, 1978. Written responses were received from the State of Alaska, the Joint Federal State Land Use Planning Commission, various Federal agencies and bureaus, Native Corporations, and individuals. These responses have been reviewed and analyzed, and the following summarizes the comments and suggestions received, and the action taken on them.

Various comments were received on the supplemental information section of the proposed regulations. It was suggested that these regulations provide for a review process of lands already conveyed in order to conform easements which were previously reserved to the policy which is enumerated in these regulations. For the present, these regulations are directed primarily to the future reservation of easements and are not directly concerned with reaching the question of conformity of past conveyances. In many cases, easement agreements exist which address this issue and must be adhered to. In other cases, the Director of the Bureau of Land Management may be able to resolve the conformity problem without employing a regulatory process. It should be stressed that the first priority of these regulations is the proper reservation of public easements, and if conformity later becomes a problem, new regulations shall be issued. Also, as noted in one response, these regulations do not address the Alaska Native Claims Appeal Board's jurisdiction in easement disputes. This concern, as well as others which pertain to the Board's operations, will be addressed in amendatory regulations which are presently being prepared.

Concern was expressed that the examples of uses which were otherwise permitted by law and therefore not to be restricted (i.e., "fishing from a boat in the water or fishing while standing on the bed of a waterway which is in Federal, State, or municipal ownership") were confusing and could lead to abuse. Since these examples were directed at easement management and were intended to assist the public's awareness of easement uses or nonuses, they should be disregarded until easement uses are more properly addressed and explained in future regulations.

The statement of the policy objectives to maximize the Alaska Natives' participation in decisions affecting their rights and property was intended to reflect the mandate of section 2(b) of the Alaska Native Claims Settlement Act of 1971 (ANCSA) and to apply not only to these regulations, but to any other regulations which affect their rights and property.

DEFINITIONS

Numerous comments were received on the proposed definitions, including one comment which recommended that the term "isolated tracts" could be problematic and should be defined and added to the list. The final regulations reflect that concern.

Major waterway: The definition of major waterway elicited many comments which ranged from "unworkable" and "confusing," to "a reasonable interpretation" of the Act. The majority of the comments, however, clearly indicated that application of the multi-faceted test of the proposed definition would result in more problems than it would resolve. One group of commentators suggested that "major waterways should be synonymous with "navigable waterways." The Department has never accepted this interpretation, and in light of the holding in *Calista, et al. v. Andrus, et al.*, 435 F. Supp. 664, 678 (D.Ak.1977) that "it would be unduly restrictive construction to equate the term waterways to navigable waterways," a major waterway does not have to be a navigable waterway. The final regulations consequently reflect a definition which is a straightforward, one-factor test and which uses the concept of access to publicly owned lands or between communities as the primary standard for determining which waterways are, in face, "major."

Present existing use: Comments on this definition were directed at the use of December 18, 1976, instead of December 18, 1971, as the cut-off date for establishing use. This concern had been previously voiced to the Department and, in fact, was considered by the court in *Calista*. The court concluded that the use of December 18, 1976, was entirely consistent with the purpose of section 17(b), a holding which the Department accepts and sees no reason to change. However, in determining present existing use, this definition is intended to reflect recent use and not past, historical use which may have long been abandoned. As such, the definition has been changed to reflect this intent.

Public easement: This definition received comments which indicated a degree of confusion and inconsistency with other sections of the regulations. It has been rewritten to eliminate these problems.

Publicly owned lands: Comments on this definition were concerned with the inclusion of the term "interests therein" which could be used to reserve an otherwise impermissible easement it provided access to a legitimate access easement. One of the basis principles of these regulations is to provide a minimal, non-duplicative system of public easements. As such, multiple easements are suspect. However, we do not believe that the basic policy will be abused and that there may be valid situations where access from one public easement to another may be necessary to provide an effective system of easements. To eliminate, as recommended, this possibility would frustrate effective land planning and management.

State Director: This definition has been changed to reflect current delegation procedures within the Bureau

of Land Management. As such, all references to "State Director" throughout the final regulations are changed to "Director."

Isolated tract: This definition has been added in order to clarify those areas of publicly owned lands to which public easements may be reserved without any showing of present existing use. This definition is not intended to preclude the reservation of public easements to an isolated tract of Federally owned land even though there may also be justification to reserve easements to an adjacent isolated tract of State or municipal lands.

PUBLIC EASEMENTS

(a) *General requirements.* Subsection (1) has been modified to reflect the changes in the definition of a public easement. The concept of reserving only those easements which are "reasonably necessary" has been retained to reflect the statutory language of section 17(b)(1). In response to one comment which called for assessments in subsection (2) to be in writing, such a provision was intended and is now provided. These assessments are part of the official easement file and are available for public inspection. The concerned Native Village now has and will continue to have an opportunity to review this file before the final decisions are made. Also, the "must" in subsection (2) is changed to "shall" to reflect the mandatory nature of this provision.

Numerous commentators noted the apparent absence of a comma in subsection (3) between "obligations" and "if." This omission was the result of a typographical error and has been corrected in the final regulations. Since the intent of this subsection is to limit the reservation of public easements to three basic situations, each of which is necessary to guarantee proper implementation of section 17(b), and "only" is added between "use" and "if." The following sentence on alternative routes has been rewritten to cover all potential easements and not just those which are justified by present existing use.

In subsection (4) "uses" replaces "location" since it is uses which are standard. "Specific conditions" in this subsection has been changed to "special circumstances" and is not defined because of the wide variety of occurrences which could reasonably justify a variation.

Comments on subsection (5) indicate that this provision is too rigid and needs more flexibility. The final regulations have been changed to eliminate this criticism. In subsection (6), one commenter suggested that the Department clarify the legal status of rights-of-way and other interests which have been created pursuant to 44 LD 513. The Department's position is that interests which have been created pursuant to this authority are prior reservations of the land. Another commentator on this subsection suggested that the "Unless otherwise justified" clause be changed to "Absent a showing of extreme hardship." This suggestion was not adopted because it unduly restricts the possible use of some easements for valid, multiple uses.

Subsection (8) has been eliminated and incorporated into the definition of major waterways. The remaining subsections have been renumbered accordingly. Subsection (9) received several adverse comments, including a recommendation for removal. Since this process will occur in any case and is not directly germane to the reservation of public easements, this subsection has been deleted from the final regulations.

Numerous comments were received on subsections (10)-(14). The procedures which were set forth in these subsections addressed the consultation process through which proposed easements traveled before being reserved in a decision to issue conveyance (DIC). These basic procedures were instituted by the Bureau of Land Management (BLM) by internal directives and have been followed with some modifications and additions since 1975. The process provides the opportunity for input and feedback to *all* interested parties, including the appropriate Native Corporations, the State, and the LUPC. The final regulations reflect a few changes which are intended to clarify the existing process. Statutory and other responsibilities have been addressed and no other changes are contemplated at this time. Subsection (14) which gives the LUPC a final 10-day review period is not extended to other parties. The LUPC has a special statutory role as both consultant and advisor to the Department which is best utilized by means of this special review period. The 10-day review period is considered by the LUPC to be adequate and has not been changed. All other parties who are interested have an adequate opportunity to participate in the easement process and to have their views considered. If, in the final BLM decision, a party remains aggrieved and has the requisite interest, an appeal may be pursued before the Alaska Native Claims Appeal Board.

Numerous comments were received on subsection (15). This provision establishes termination dates for public easements which have not been used for the purposes for which they were originally reserved. Some commentators requested a more definitive termination process; others felt that the subsection needed more clarity. At the present, an overall management program for public easements has not been fully articulated. Termination provisions fall more appropriately into this category. For the present, the Department intends to keep the provision as is. This mandatory termination provision shall remain intact until an easement review process is established at which time new regulations may be needed. No public easements, however, shall be terminated without proper notice and opportunity to submit written comments or an opportunity for a hearing if a hearing is determined to be necessary by the Director or the Secretary, as appropriate.

(b) *Transportation easements.* Two additions were made in the general provisions of subsection (1) to reflect certain comments. Easements for railroads which had previously been included in the miscellaneous provisions were moved to this subsection to consolidate access-related easements. Other suggestions for changes to subsection (1) pertained to the lack of specificity for some of the standards; for example, what constitutes a sufficient number of private holdings to constitute public use? In most instances, a judgment call is required for these determinations. What may be a sufficient number in one place may not be a sufficient number in another. As such, the Director has to exercise his best judgment under the specific circumstances. The same reasoning applies to those standards which permit a variance if there is sufficient justification for one.

In those instances where there is a requirement for a construction plan, there must be a plan in existence at the time the easement is reserved. Construction must be planned to begin within 5 years of the date of conveyance. This five year period has been established as a reasonable limitation on major projects which might affect Native lands. To permit, as suggested by some commentators, a ten or twenty year period would unreasonably encumber Native lands. If construction has not started within this time period, the easement shall be terminated, or if designated in the conveyance document, reduced to a trail easement. Since these easements are reserved to the United States, no performance bond, as suggested by one commentator, will be required.

Subsection (1)(x) has been expanded in response to several comments which felt that the intent of the section needed additional language. The purpose of this provision is to limit public easements on the beds of waterways except where the bed is used as part of a transportation system. The new language emphasizes the extent of this exception which is intended to permit easements on portions of streambeds

which are essential to maintaining the

easement shall lapse. Subsection

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licly owned lands completely surrounded by lands held in nonpublic

include participation by appropriate Natives and Native corporations

use. Public easements which have been reserved to guarantee interna-

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which are essential to maintaining the integrity and usefulness of a transportation route.

In subsection (b)(2) there was some concern over the differences between small and large all-terrain vehicles. As such, a gross vehicle weight limit of 3,000 lbs. has been established as the dividing line between small and large all-terrain vehicles. The permissible widths for roads and trails are variable up to specified maximums. The Director, however, has the discretion to reduce the size of road and trail easements to conform them to the width of the existing road or trail. For proposed roads, the width has been changed to 100 feet. This width is necessary to accommodate construction which cannot be properly conducted within a 60 foot easement. If, after the road has been constructed, a lesser width is sufficient to accommodate the road, the Director shall reduce the size of the easement to that width. Easements for future railroads shall be 100 feet in width either side of the center line of the easement.

(c) *Site easements.* This subsubsection has been placed under *Transportation Easements* since these sites are directly related to access purposes. Limited aircraft landing sites for bush strips have been added to the list of permissible uses for public easements to reflect comments from the LUPC which felt that there were a few instances where unimproved airports not qualifying under section 14(c)(4) of the ANCSA were intended for public access. Log dump sites, however, have not been added because it is the Department's position that these sites are not justified under section 17(b) of ANCSA. Site easements, like all other easements, must meet the reasonable necessity test of section 17(b). Site easements have a 1-acre limitation, but can be larger or smaller depending upon the conditions under which the easement is reserved. Existing sites shall be used unless there is justification for reserving the easement in another location.

(d) *Miscellaneous easements.* This subsection provides guidelines for those easements which are not provided for above, but which are, nevertheless, related to public benefit or access-related functions. Section 17(b) contemplates the reservation of easements for utility purposes. Where these easements are not otherwise protected as valid existing rights, a public easement may be reserved. Future easements for these purposes are also permissible under section 17(b) and may be reserved if there is an actual plan at the time of conveyance. Construction must commence within 5 years of that date. Like public easements for future roads, if construction has not commenced within 5 years, the easement shall lapse. Subsection (d)(ii) has been deleted from the final regulations because it was redundant of other provisions in the final regulations which could provide for such easements. Space easements have been redesignated as "easements for air, light, or visibility purposes" because of the confusion which surrounded the terminology. Easements for these purposes are primarily intended to protect government facilities, such as U.S. Coast Guard navigational aids, without requiring the administering entity to claim excessive amounts of lands to provide the requisite safeguards. These easements are essentially prohibitions of certain activities within specified distances of certain facilities, (e.g., prohibition of certain electronic transmissions or prohibitions against obstructing an arc of visibility for a light house). Although these easements are primarily intended for government protection, there may be other instances where this type of easement is desirable in lieu of reserving additional lands (e.g., easements which prohibit the building of structures in the flight path of a landing strip). It is, however, anticipated that the reservation of this type of easement will be minimal. Easements which guarantee international treaty obligations are authorized by section 17(b). The Department has not catalogued all the relevant treaties which may impact this section. However, the Fur Seal Treaty, the Migratory Bird Treaty, and the U.S.-Canadian Boundary Treaty are examples of treaties which may require easements in order to assure that the United States complies with their pertinent provisions.

In subsection (d)(1), the word "permitted" has been changed to "permissible" to avoid any potential conclusion that a permitting system will be required for easement use.

It is hereby determined that the publication of this rulemaking does not require a detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4322(2)(c), and that this document does not contain a significant regulatory proposal requiring preparation of a regulatory analysis under Executive Order 12044.

These regulations are effective immediately in order to expedite conveyances to the Alaska Natives. The issuance of patents to the Natives under ANSCA has been delayed, and it is in the public interest to carry out the purposes of ANSCA as rapidly as possible.

The principal authors of this proposed rulemaking are Don Argetsinger of the Office of the Assistant Secretary—Land and Water Resources, and John W. Burke of the Solicitor's Office, assisted by other staff members of those two offices and personnel from the Bureau of Land Management.

Under the authority of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), part 2650, group 2600, subchapter B, chapter II, title 43 of the Code of Federal Regulations is amended by revising sections 2650.0-5 and 2650.4-7 as set forth below.

CECIL D. ANDRUS,
Secretary of the Interior.

NOVEMBER 20, 1978.

Subpart 2650—Alaska Native Selections—Generally

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§ 2650.0-5 Definitions.

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(n) "LUPC" means the Joint Federal-State Land Use Planning Commission for Alaska.

(o) "Major waterway" means any river, stream, or lake which has significant use in its liquid state by watercraft for access to publicly owned lands or between communities. Significant use means more than casual, sporadic or incidental use by watercraft, including floatplanes, but does not include use of the waterbody in its frozen state by snowmobiles, dogsleds or skiplanes. Designation of a river or stream as a major waterway may be limited to a specific segment of the particular waterbody.

(p) "Present existing use" means use by either the general public which includes both Natives and non-Natives alike or by a Federal, State, or municipal corporation entity on or before December 18, 1976, or the date of selection, whichever is later. Past use which has long been abandoned shall not be considered present existing use.

(q) "Public easement" means any easement reserved by authority of section 17(b) of the act and under the criteria set forth in these regulations. It includes easements for use by the general public and easements for use by a specific governmental agency. Public easements may be reserved for transportation, communication and utility purposes, for air, light or visibility purposes, or for guaranteeing international treaty obligations.

(r) "Publicly owned lands" means all Federal, State, or municipal corporation (including borough) lands or interests therein in Alaska, including public lands as defined herein, and submerged lands as defined by the Submerged Lands Act, 43 U.S.C. 1301, et seq.

(s) "Director" means the Director, Bureau of Land Managment

(t) "Isolated tract" means a tract of one or more contiguous parcels of publicly owned lands completely surrounded by lands held in nonpublic ownership or so effectively separated from other publicly owned lands as to make its use impracticable without a public easement for access.

(u) "State" means the State of Alaska.

. . . . . .

§ 2650.4-7 Public easements.

(a) *General requirements.* (1) Only public easements which are reasonably necessary to guarantee access to publicly owned lands or major waterways and the other public uses which are contained in these regulations, or to guarantee international treaty obligations shall be reserved.

(2) In identifying appropriate public easements assessment shall be made in writing of the use and purpose to be accommodated.

(3) The primary standard for determining which public easements are reasonably necessary for access shall be present existing use. However, a public easement may be reserved absent a demonstration of present existing use only if it is necessary to guarantee international treaty obligations, if there is no reasonable alternative route or site available, or if the public easement is for access to an isolated tract or area of publicly owned land. When adverse impacts on Native culture, lifestyle, and subsistence needs are likely to occur because of the reservation of a public easement, alternative routes shall be assessed and reserved where reasonably available. The natural environment and other relevant factors shall also be considered.

(4) All public easements which are reserved shall be specific as to use, location, and size. Standard sizes and uses which are delineated in this subsection may be varied only when justified by special circumstances.

(5) Transportation, communication, and utility easements shall be combined where the combination of such easements is reasonable considering the primary purposes for which easement is to be reserved.

(6) Public easements may be reserved to provide access to present existing Federal, State, or municipal corporation sites; these sites themselves shall not be reserved as public easements. Unless otherwise justified, access to these sites shall be limited to government use.

(7) Scenic easements or easements for recreation on lands conveyed pursuant to the Act shall not be reserved. Nor shall public easements be reserved to hunt or fish from or on lands conveyed pursuant to the Act.

(8) The identification of needed easements and major waterways shall include participation by appropriate Natives and Native corporations, LUPC, State, Federal agencies, and other members of the public.

(9) After reviewing the identified easements needs, the Director shall tentatively determine which easements shall be reserved. Tentative determinations of major waterways shall also be made by the Director and shall apply to rivers, streams, and lakes. All lakes over 640 acres in size shall be screened to determine if they qualify as major waterways. Those smaller than 640 acres may be considered on a case-by-case basis. The Director shall issue a notice of proposed easements which notifies all parties that participated in the development of the easement needs and information on major waterways as to the tentative easement reservations and which directs that all comments be sent to the LUPC and the Director.

(10) The State and the LUPC shall be afforded 90 days after notice by the Director to make recommendations with respect to the inclusion of public easements in any conveyance. If the Director does not receive a recommendation from the LUPC or the State within the time period herein called for, he may proceed with his determinations.

(11) Prior to making a determination of public easements to be reserved, the Director shall review the recommendations of the LUPC, appropriate Native corporation(s), other Federal agencies, the State, and the public. Consideration shall be given to recommendations for public easement reservations which are timely submitted to the Bureau of Land Management and accompanied by written justification.

(12) The Director, after such review, shall prepare a decision to convey that includes all necessary easements and other appropriate terms and conditions relating to conveyance of the land. If the decision prepared by the Director is contrary to the LUPC's recommendations, he shall notify the LUPC of the variance(s) and shall afford the LUPC 10 days in which to document the reasons for its disagreement before making his final decision. The Director shall then issue a Decision to Issue Conveyance (DIC).

(13) The Director shall terminate a public easement if it is not used for the purpose for which it was reserved by the date specified in the conveyance, if any, or by December 18, 2001, whichever occurs first. He may terminate an easement at any time if he finds that conditions are such that its retention is no longer needed for public use or governmental function. However, the Director shall not terminate an access easement to isolated tracts of publicly owned land solely because of the absence of proof of public use. Public easements which have been reserved to guarantee international treaty obligations shall not be terminated unless the Secretary determines that the reasons for such easements no longer justify the reservation. No public easement shall be terminated without proper notice and an opportunity for submission of written comments or for a hearing if a hearing is deemed to be necessary by either the Director or the Secretary.

(b) *Transportation easements.* (1) Public easements for transportation purposes which are reasonably necessary to guarantee the public's ability to reach publicly owned lands or major waterways may be reserved across lands conveyed to Native corporations. Such purposes may also include transportation to and from communities, airports, docks, marine coastline, groups of private holdings sufficient in number to constitute a public use, and government reservations or installations. Public easements may also be reserved for railroads. If public easements are to be reserved, they shall:

(i) Be reserved across Native lands only if there is no reasonable alternative route of transportation across publicly owned lands;

(ii) Within the standard of reasonable necessity, be limited in number and not duplicative of one another (nonduplication does not preclude separate easements for winter and summer trails, if otherwise justified);

(iii) Be subject only to specific uses and sizes which shall be placed in the appropriate interim conveyance and patent documents;

(iv) Follow existing routes of travel unless a variance is otherwise justified;

(v) Be reserved for future roads, including railroads and roads for future logging operations, only if they are site specific and actually planned for construction within 5 years of the date of conveyance;

(vi) Be reserved in topographically suitable locations whenever the location is not otherwise determined by an existing route of travel or when there is no existing site;

(vii) Be reserved along the marine coastline only to preserve a primary route of travel between coastal communities, publicly owned uplands, or coastal communities and publicly owned uplands;

(viii) Be reserved from publicly owned uplands to the marine coastline only if significant present existing use has occurred on those publicly owned lands below the line of mean high tide. However, for isolated tracts of publicly owned uplands, public easements may be reserved to provide transportation from the marine coastline if there is no other reasonable transportation route;

(ix) Be reserved along major waterways, including lakes, for a distance of 100 feet, unless otherwise justified.

part of the pertinent interim conveyance and patent documents.

Alaska Native Claims Settlement Act (ANCSA)

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(ix) Be reserved along major waterways only to provide short portages or transportation routes around obstructions. However, this condition does not preclude the reservation of a trail or road easement which happens to run alongside a waterway;

(x) Not be reserved on the beds of major waterways except where use of the bed is related to road or trail purposes, portaging, or changing the mode of travel between water and land (e.g., launching or landing a boat); a specific portion of the bed or shore of the waterway which is necessary to provide portage or transportation routes around obstructions, including those that are dangerous or impassible or seasonably dangerous or impassible, may be reserved.

(xi) Not be reserved on the beds of nonmajor waterways except where use of the beds is related to road or trail purposes. However, this exception shall not be used to reserve a continuous linear easement on the streambed to facilitate access by boat.

(xii) Not be reserved simply to reflect patterns of Native use on Native lands;

(xiii) Not be reserved for the purpose of protecting Native stockholders from their respective corporations;

(xiv) Not be reserved on the basis of subsistence use of the lands of one village by residents of another village.

(2) Transportation easements shall be limited to roads and sites which are related to access. The use of these easements shall be controlled by applicable Federal, State, or municipal corporation laws or regulations. The uses stated herein will be specified in the interim conveyance and patent documents as permitted uses of the easement.

(i) The width of a trail easement shall be no more than 25 feet if the uses to be accommodated are for travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. G.V.W.);

(ii) The width of a trail easement shall be no more than 50 feet if the uses to be accommodated are for travel by large all-terrain vehicles (more than 3,000 lbs. G.V.W.), track vehicles and 4-wheel drive vehicles, in addition to the uses included under subdivision (i) of this subparagraph;

(iii) The width of an existing road easement shall be no more than 60 feet if the uses to be accommodated are for travel by automobiles or trucks in addition to the uses included under subdivisions (i) and (ii) of this subparagraph. However, if an existing road is wider than 60 feet, the specific public easement may encompass that wider width. For proposed roads, including U.S. Forest Service logging roads, the width of the public easement shall be 100 feet, unless otherwise justified. Prior to construction, trail uses which are included under subdivisions (i) and (ii) of this subparagraph may be permitted if otherwise justified and may continue if the road is not built. If after the road has been constructed a lesser width is sufficient to accommodate the road, the Director shall reduce the size of the easement to that width.

(iv) The width of a proposed railroad easement shall be 100 feet on either side of the center line of any such railroad.

(3) *Site Easements.* Site easements which are related to transportation may be reserved for aircraft landing or vehicle parking (e.g., aircraft, boats, ATV's, cars, trucks), temporary camping, loading or unloading at a trail head, along an access route or waterway, or within a reasonable distance of a transportation route or waterway where there is a demonstrated need to provide for transportation to publicly owned lands or major waterways. Temporary camping, loading, or unloading shall be limited to 24 hours. Site easements shall not be reserved for recreational use such as fishing, unlimited camping, or other purposes not associated with use of the public easement for transportation. Site easements shall not be reserved for future logging or similar operations (e.g., log dumps, campsites, storage or staging areas). Before site easements are reserved on transportation routes or on major waterways, a reasonable effort shall be made to locate parking, camping, beaching, or aircraft landing sites on publicly owned lands; particularly, publicly owned lands in or around communities, or bordering the waterways. If a site easement is to be reserved, it shall:

(i) Be subject to the provisions of subsections (b)(1)(ii), (iii), (vi), (xii), (xiii), and (xiv).

(ii) Be no larger than one acre in size and located on existing sites unless a variance is in either instance, otherwise justified;

(iii) Be reserved on the marine coastline only at periodic points along the coast where they are determined to be reasonably necessary to facilitate transportation on coastal waters or transportation between coastal waters and publicly owned uplands;

(iv) Be reserved only at periodic points on major waterways. Uses shall be limited to those activities which are related to travel on the waterway or to travel between the waterway and publicly owned lands. Also, periodic site easements shall be those necessary to allow a reasonable pattern of travel on the waterway;

(v) Be reserved for aircraft landing strips only if they have present significant use and are a necessary part of a transportation system for access to publicly owned lands and are not suitable for reservation under section 14(c)(4) of the act. Any such easement shall encompass only that area which is used for takeoffs and landings and any clear space around such site that is needed for parking or public safety.

(c) *Miscellaneous easements.* The public easements referred to in this subsection which do not fall into the categories above may be reserved in order to continue certain uses of publicly owned lands and major waterways. These public easements shall be limited in number. The identification and size of these public easements may vary from place to place depending upon particular circumstances. When not controlled by applicable law or regulation, size shall not exceed that which is reasonably necessary for the purposes of the identified easement. Miscellaneous easements may be reserved for the following purposes:

(1) Public easements which are for utility purposes (e.g., water, electricity, communications, oil, gas, and sewage) may be reserved and shall be based upon present existing use. Future easements for these purposes may also be reserved, but only if they are site specific and actually planned for construction within 5 years of the date of conveyance;

(2) Easements for air light or visibility purposes may be reserved if required to insure public safety or to permit proper use of improvements developed for public benefit or use; e.g., protection for aviation or navigation aids or communications sites;

(3) Public easements may be reserved to guarantee international treaty obligations or to implement any agreement entered into between the United States and the Native Corporation receiving the conveyance. For example, the agreement of May 14, 1974, related to Naval Petroleum Reserve Number Four (redesignated June 1, 1977, as the National Petroleum Reserve-Alaska) between the United States Department of the Navy and the Arctic Slope Regional Corporation and four Native village corporations, shall be incorporated in the appropriate conveyances and the easements necessary to implement the agreement shall be reserved.

(d) *Conveyance provisions.* (1) Public easement provisions shall be placed in interim conveyances and patents.

(2) Permissible uses of a specific easement shall be listed in the appropriate conveyance document. The conveyance documents shall include a general provision which states that uses which are not specifically listed are prohibited.

(3) The easements shall be identified on appropriate maps which shall be part of the pertinent interim conveyance and patent.

(4) All public easement shall be reserved to the United States and subject, as appropriate, to further Federal, State, or municipal corporation regulation.

(5) All conveyance documents shall contain a general provision which states that pursuant to section 17(b)(2) of the Act, any valid existing right recognized by the Act shall continue to have whatever right of access as is now provided for under existing law.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY, WASHINGTON, D.C. 20240

SECRETARIAL ORDER 3028

Subject: Revocation of Secretarial Order 2982.

Section 1. *Revocation.*

(a) Secretarial Order 2982, dated February 5, 1976, provides for the reservation of local easements pursuant to section 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

(b) In an effort to speed the conveyance of lands to Alaska Natives, a thorough review of the Department's ANCSA policies was initiated, including policies concerning easement reservations. The Department's new policy, as stated in a memorandum and decision document dated March 3, 1978, calls for new procedures and guidelines for the reservation of public easements pursuant to section 17(b) of ANCSA. This new policy was incorporated and proposed as rulemaking in the FEDERAL REGISTER on May 25, 1978, (43 FR 22620).

As stated in the proposed rulemaking, Secretarial Order 2982 was to be revoked upon promulgation of final rulemaking. Final rulemaking was published in the FEDERAL REGISTER on ——————, 1978, and, accordingly, Secretarial Order 2982 is hereby revoked.

Section 2. *Effective Date.*

This order is effective immediately.

Dated: November 20, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-33185 Filed 11-24-78; 8:45 am]

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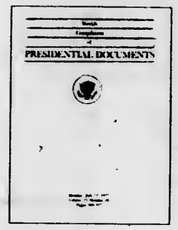
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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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CSA	CSC		CSA	CSC
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	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325–01–M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Position of Information Officer in the Immigration and Naturalization Service of the Department of Justice is no longer excepted under Schedule A because examination is practicable for this position.

EFFECTIVE DATE: October 28, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202–632–4533.

Accordingly, 5 CFR 213.3110(b)(1) is revoked as set out below:

§ 213.3110 Department of Justice

• • • • • •

(b) *Immigration and Naturalization Service.*

(1) [Revoked].

• • • • • •

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78–33183 Filed 11–27–78; 8:45 am]

[6325–01–M]

PART 213—EXCEPTED SERVICE

Franklin Delano Roosevelt Memorial Commission and James Madison Memorial Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The amendment revokes the Schedule A authority for all positions on the staff of the Franklin Delano Roosevelt Memorial Commission because the authority is not being used and is no longer needed. This amendment also revokes the Schedule A authority for one executive secretary position in the James Madison Memorial Commission because that organization no longer exists.

EFFECTIVE DATE: October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202–632–4533.

Accordingly, 5 CFR 213.3158 and 5 CFR 213.3161 are revoked, as follows:

§ 213.3158 [Revoked]

§ 213.3161 [Revoked]

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78–33180 Filed 11–27–78; 8:45 am]

[6325–01–M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment revokes the Schedule A authority for the Micronesian Claims Commission because this organization no longer exists.

EFFECTIVE DATE: November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202–632–4533.

Accordingly, 5 CFR 213.3199(p) is revoked, as follows:

§ 213.3199 Temporary boards and commissions.

• • • • • •

(p) [Revoked].

• • • • • •

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78–33186 Filed 11–27–78; 8:45 am]

[6325–01–M]

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Elimination of the Second Review Cycle and Mini Open Season

CORRECTION

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: In the FEDERAL REGISTER of November 13, 1978 (43 FR 52460) the Commission published final rulemaking eliminating the second review cycle and mini open season for comprehensive medical plans desiring access to the Federal Employees Health Benefits Program. The effective date for the elimination of the second review cycle and mini open season is October 1, 1979. However, subparagrah 890.203(a)(2) which was added in this regulation pertains to a limited application opportunity for employee organization plans and is effective January 1, 1979.

DATES: Section 890.203(a)(2) is effective January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Craig Pettibone—202–632–4682, Office of Policy Development and Technical Services, Bureau of Retirement, Insurance and Occupational Health

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78–33254 Filed 11–27–78; 8:45 am]

the sponsor or FNS should reimburse sponsor to pay half of any medical in-

[3810-70-M]

CHAPTER VI—DEPARTMENT OF DEFENSE

SUBCHAPTER A—OFFICE OF THE SECRETARY OF DEFENSE

PART 1601—SALARIES AND PERSONNEL PRACTICES APPLICABLE TO TEACHERS, CERTAIN SCHOOL OFFICERS, AND OTHER EMPLOYEES OF THE OVERSEAS DEPENDENTS' SCHOOLS OF THE DEPARTMENT OF DEFENSE

PART 1602—ABSENTEE VOTING

Deletion of Parts

AGENCY: Office of the Secretary of Defense.

ACTION: Deletion of Parts.

SUMMARY: The Office of the Secretary of Defense is reviewing its directives and instructions, including those published in the Code of Federal Regulations, as part of the effort to meet Presidential objectives to improve Government regulations. The review resulted in identifying in Title 5 CFR two parts, one of whose source document has been superseded (5 CFR Part 1601); and the other (5 CFR Part 1602) whose subject matter is duplicated in 32 CFR Part 46. Deleting these parts will eliminate obsolescence and duplication.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. M. S. Healy, telephone 202-697-4111.

SUPPLEMENTARY INFORMATION: Using guidelines issued by the General Counsel, DoD, the Office of the Secretary of Defense has determined that Part 1601 does not have sufficient impact on the public to warrant publication in the FEDERAL REGISTER and the CFR. Regarding Part 1602, it is contemplated to update it, revising 32 CFR Part 46 appropriately.

Accordingly, 5 CFR Chapter VI is amended by revoking Parts 1601 and 1602.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

NOVEMBER 22, 1978.

[FR Doc. 78-33276 Filed 11-27-78; 8:45 am]

[3410-30-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amendment No. 139]

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rules and Notice of Intent.

SUMMARY: On July 12, 1978, the Department published in the FEDERAL REGISTER proposed rulemaking and a Notice of Intent for the Food Stamp Workfare Demonstration Project which is mandated by Subsection 17(b)(2) of the Food Stamp Act of 1977. Under this project, food stamp work registrants will be required to perform work in a public service capacity in exchange for the coupon allotment to which their household is otherwise normally entitled. The Notice of Intent announces the intention of the Departments of agriculture and Labor to jointly conduct the project and further seeks proposals for project operation from eligible political subdivisions or groupings thereof wishing to take part in the project.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Keith Spinner, Acting Division Director, Program Development Division, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: As a result of the proposed rule making, close to 100 comment letters were received. Based on these comments, the Department is hereby making some modifications in the final rule and Notice of Intent. Letters received are available for public inspection and copying during regular business hours in Room 672, 500 12th Street, SW., Washington, D.C.

Concept of workfare. About 50 individuals addressed the statutory requirement for project operations, some in support and others in opposition. Some commenters offered alternatives to the workfare concept. Adoption of these alternatives is not within the legislative authority of the Department. Conduct of the workfare demonstration project is mandated by the Act.

Project purpose. Approximately 10 individuals and groups requested clarification of the purpose of the project. The major concern expressed was the lack of criteria for determining "feasibility." Suggestions included adding criteria for determining the cost-effectiveness of administering workfare (the concern of one State welfare agency) and the benefits accruing to participants. In addition, it was recommended that ongoing reports be developed for monitoring project performance, and that an evaluation be done to determine "feasibility" and practicality of the workfare concept as applied to the Food Stamp Program. To determine the feasibility of this concept in Food Stamp Program administration, the Departments of Agriculture and Labor have established evaluative criteria by which such feasibility will be measured. The evaluation of the project will be performed by an independent contractor, and will run concurrently with the project. There will be a process evaluation, related to the operational features of the project, and an impact evaluation, to analyze the project's effect on participants and local labor markets. The impact evaluation will also include an analysis of the costs and benefits of the project to participants, site communities, and sponsors. A Request for Proposal (RFP) for the evaluation contract will be announced in *Commerce Business Daily* shortly after this rulemaking, and copies of the RFP will be available to the public on request as in all competitive contract proceedings.

Other recommendations included: not limiting workfare to public service; permitting volunteer service in a public or private agency; and revising the regulations to reflect how long the workfare project will last. The Act states that this project is to involve the performance of work in a public service capacity in return for food stamp benefits. Regulations clarify that such public service employment may be for either State and local public service agencies or, under specific conditions, for private nonprofit agencies. Actual project operations will commence in conjunction with the implementation of the benefit computation provisions of Pub. L. 95-113 and, with the extension provided by Pub. L. 95-400, will last approximately one year. The evaluation process will take place concurrently with project operations and then extend for six months beyond to allow for a complete impact analysis.

Limits on use of Federal funds. Approximately 30 persons commented on the lack of Federal funding. Of those commenting, over half were State and local agencies who believed that the Federal government should absorb some or all of the cost of administering the project.

The legislative history clearly states (House Report No. 95-464, 95th Congress, 1st session, p. 370) that there will be no Food Stamp Program funds used in the administration of the project and that Food Stamp Program funding for project operations would be limited to the payment of the coupon allotment to which the household is normally entitled. The Solicitor of the Department of Labor has issued an opinion that funds available for the administration of public service employment through the Comprehensive Employment and Training Act of 1973, as amended, generally cannot legally be used for this project.

The final Notice of Intent clarifies that no Department of Agriculture funds may be used by the workfare sponsor for project operation. However, other funds which may have originated with the Federal Government (such as revenue sharing funds) may be used to defray the costs of administering workfare. In addition, the final Notice of Intent includes one significant provision omitted from the Notice published with the proposed regulations: Full Federal funding for sponsor costs incurred in connection with project evaluation. Since this issue was omitted from the proposed regulations, some commenters believed that the workfare sponsors would be required to fund evaluation costs in addition to costs of project operation. The final Notice distinguishes between sponsor costs in operating workfare and sponsor costs incurred in tasks necessary for the evaluation that are undertaken at the direction of the evaluation contractor. The contractor will request data compilations from the workfare sponsor's records on workfare participants and assignments, and may request some additional evaluation related activities from sponsors. Such compilations (and any other evaluation activities that the workfare sponsor agrees to undertake at the request of the contractor) are considered to be part of the evaluation and shall be performed entirely at the expense of the contractor, not at the expense of the sponsor. These compilations are not to be confused with the recordkeeping and administrative reporting requirements (such as reporting to the food stamp office that a participant has refused to comply with workfare) of normal day-to-day operations of workfare, which are to be conducted at the expense of the sponsor.

In addition to concern over Federal support for administrative costs, approximately 10 advocate groups and 3 State and local agencies expressed concern about participant's work-related expenses. They believed that either the sponsor or FNS should reimburse participants for project-related expenses, such as transportation costs, or that FNS should allow a deduction for work-related expenses. The Department is constrained by the Act from reimbursement of participants' expenses. Moreover, there is no provision which requires sponsors to pay any work-related costs incurred by project participants, and sponsors do not receive Federal administrative funding for this purpose. One organization suggested dealing with this issue by providing a 20 percent earned income deduction for work performed by a workfare participant. However, under Section 8 of the Act, food stamps are not considered earned income and do not qualify for such a deduction. Further, the application of such a deduction would result in an increase in the household's coupon allotment; thus increasing the workfare hour requirements and subsequently increasing the household's earned income deduction. The continuing application of such deductions with the consequent fluctuation in benefit levels would be impractical if not impossible.

A flat grant to participants to cover work-related expenses was also suggested. The Department of Agriculture has no fiscal authority to make such expenditures either from program or administrative funds. The Departments recognize that the lack of reimbursement for work-related expenses could cause hardships on project participants. Thus, in selecting among competing applications for project sponsorship, the Departments will consider the provision of transportation to work sites, and/or reimbursement for work-related expenses (although there is no requirement that a workfare sponsor provide such transportation or expenses). In addition, the Notice of Intent has been revised to instruct workfare sponsors to schedule, where possible, the work hours in blocks of time equivalent to an eight hour work day, so long as such scheduling does not conflict with other employment scheduled by the participant. Such action will provide controls over excessive participant transportation costs, and will also be less disruptive of normal job search activities.

Several commenters requested clarification concerning the employee benefits that are to be provided to workfare participants. The workfare sponsor will be required to make available to participants the same benefits made available to others similarly employed. Since workfare participants will generally be employed on a part-time basis, benefits accruing to similar part-time employees must be made available to workfare participants. For example, if it is customary for the sponsor to pay half of any medical insurance costs, the workfare participant must be given the option of such coverage. The participant would be free to refuse such coverage but would be equally free to pay his share from other available household funds at his or her option.

Criteria for participation. Approximately 10 individuals had questions concerning the identification of households and household members subject to participation in workfare. All such commenters recommended that the regulations clearly indicate who must participate in the project. It was suggested that the work registration exemptions be incorporated into the regulations so it will be evident who will be subject to the workfare provisions. The Act makes clear that only those households members subject to the full-time work requirements of Pub. L. 95-113 would be potentially subject to workfare if such household's non-excluded earned income does not exceed the value of the household's coupon allotment. The workfare requirements do not apply to households whose earned income exceeds the value of the coupon allotment or to household members who are exempted by law from work registration. Clarification of these issues has been added to the regulations.

Suggestions offered to improve the clarity of the language were: (1) to clearly indicate that only one household member who qualifies for work registration must participate in workfare; (2) to allow two household members to split the workfare hours; and (3) to add mechanics for designation of a second household member when the first household member fails to comply with the workfare provisions.

The final regulations clarify that if more than one member of a household is subject to the work registration requirement, the household shall designate which member will complete the workfare requirement and "work off" the household's food stamp allotment. The member designated by the household (referred to as the prime designee) may divide his or her work hours with another household member if this arrangement is acceptable to the workfare sponsor. However, in the event of split work, the prime designee remains principally responsible for completion of the workfare obligation. In the event that the household's full workfare obligation is not met, it shall always be the prime designee who is disqualified. Thus, if the second member does not fulfill his or her share of the work hours (and those hours are not completed by the prime designee either), the prime designee will be disqualified because the workfare requirement was not completed by the household.

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The prime designee shall not be disqualified if the full workfare requirement is completed. Thus, if the prime designee and a second household member work out an arrangement with a sponsor whereby each will work 10 hours a week, the household will not be disqualified if one member works fewer than 10 hours but the other member arranges with the sponsor to make up the difference so that the full 20 hours of work are still performed.

The final regulations also clarify procedures to be followed when a household member is disqualified. If no other household member is registered for work (or if the household's reduced allotment during the month of disqualification does not exceed the household's earned income), the household does not have a workfare obligation during the month of disqualification. However, if there is another member subject to the work registration requirements, and the reduced allotment exceeds the household's earned income, this member shall be subject to the workfare requirements during the month that the initial household member is disqualified.

Federal minimum wage. Approximately 15 comment letters were received in opposition to limiting compensation for workfare employment to 100 percent of the Federal minimum wage. The most prevalent concern was that the use of the Federal minimum wage as the level of compensation may result in the depression of wages for similar jobs in the community. Other individuals believed this form of compensation to be an exploitation of workfare participants who perhaps could receive higher pay. Suggested alternatives included either the use of the prevailing wage for similar jobs, or the use of the Federal minimum wage if there are no similar jobs in the community. Use of the Federal minimum wage is mandated by the Act. Workfare jobs will be designed as entry level positions and are intended to increase work opportunities in the community by supplementing existing employment. Workfare sponsors will be prohibited from using workfare jobs to replace existing jobs or to displace employed workers. The evaluation of the project will analyze the impact of workfare employment on the labor market and the wage structure of similar jobs which exist in the community.

Relationship of workfare to CETA public service employment. Nearly twenty individuals and groups commented on the Department's interpretation of the Act which states that no workfare job offer is to be made until all public service jobs supported under the Comprehensive Employment and Training Act of 1973 (CETA), as amended, are filled. The legislative history (see H.R. 95-464, 95th Congress, 1st Session, p. 371) emphasizes that the purpose of this provision is to assure that workfare jobs supplement, rather than supplant, other job programs. In order to ensure the continuing operation of the workfare project, and to provide maximum validity to project results, while at the same time carrying out the intent of Congress that workfare employment supplement and not supplant other job programs, the Department proposed that a workfare job could only be offered if the CETA sponsor is making every effort to fill all available public service job openings and the potential workfare participant is found to be unqualified for available CETA job slots. This caveat on the offer of workfare employment, taken in conjunction with the requirement contained in the Notice of Intent that the workfare sponsor be located where a CETA prime sponsor is basically fulfilling its public service employment hiring schedule, was intended to insure increased job availability. Of those who commented, only two program administrators favored the Department's proposal. Numerous recipients, advocates and legal services organizations objected to the Department's interpretation of the law. They argued that the legislation requires that every CETA slot be filled before a workfare sponsor could make any offer of workfare employment. A few individuals requested clarification of the phrase "every effort" as used in § 282.10(d)(1)(iv): "• • • the CETA sponsor is making every effort to fill all available openings." The American Federation of State, County and Municipal Employees (AFSCME) suggested that the prime sponsor report weekly to the Regional Office of the Department of Labor so that compliance can be monitored.

The Department has deleted the language related to "making every effort to fill" since such a determination would be difficult, if not impossible, to make. The proposed regulations and Notice of Intent have been revised to a degree to ensure that Congressional intent in expanding employment opportunities is met. A workfare job will not be offered unless it is determined that: the CETA prime sponsor is basically fulfilling its public service employment hiring schedule (i.e., openings which exist are due to normal attrition or the unavailability of qualified technical personnel); and the potential workfare participant is not found qualified for available CETA openings, or, available CETA openings for which the participant is qualified are refused by the participant for good cause. The Department would like to point out that a workfare participant may initially be found unqualified for CETA openings, but later be found qualified for a CETA job that subsequently becomes available. The determination regarding whether a workfare job may be offered to a particular participant may need to be reassessed if new CETA jobs become available after the participant has begun workfare activity. CETA prime sponsor activities will be monitored to ensure: (1) the continued basic fulfillment of the CETA public service employment hiring schedule; and (2) the validity of determinations made regarding potential workfare participants' qualifications for available CETA public service employment slots.

Relationship of workfare to job search. Approximately twenty individuals addressed this subject. Of the comments received, nearly all were negative and over half represented the comments of organizations representing the interests of participants. Opposition centered, to varying degrees, around the rule which requires workfare participants to engage in job search unless they are working an average of at least 30 hours per week (workfare plus other employment). Suggested alternatives included exempting all workfare participants from the job search requirement or modifying the average number of work hours per week which would exempt a participant from job search. One individual suggested the number of hours be set at 20, while another believed it would be more effective to establish a maximum limit of 25 hours per week. The Department established the average 30-hour work week exemption from job search taking into consideration various factors. First, persons working less than 30 hours a week are subject to the food stamp work registration requirement. This level of effort in terms of work hours has been logically extended to workfare for the purposes of the job search exemption. Total exemption from the job search requirements due to workfare employment, as suggested by some comments, has not been incorporated into these rules. Most workfare participants will be employed by a workfare sponsor for less than half-time and will still have time to engage in job search.

Another area of concern to two individuals was the length of time required to find a job in the private or public sector before the workfare requirement becomes effective. Both individuals believed 30 days was not enough time to find a job and one of the individuals recommended this time period be increased to 90 days. The Act prescribes the 30-day interval between initial work registration and potential workfare participation, so no change has been made.

Training/meaningful employment. Approximately twenty individuals and groups commented on this subject. Most of those commenting were State and local program administrators and advocate groups who believed that it is questionable whether career development can take place as a result of workfare. According to a few of these individuals, workfare fails to provide "real" jobs, teach marketable skills, provide training to all participants, or provide incentives for good work performance. One program administrator questioned how opportunities for promotion would be handled when the workfare provisions are implemented. It was suggested that built-in incentives be added to the workfare provision to encourage upward mobility. One incentive mentioned was "preferential hiring" of qualified workfare participants for salaried positions when they become available at the job site. The Department does not believe a Federal requirement for preferential hiring is appropriate or authorized under the Act. However, the Department will consider the training and developmental aspects of proposed workfare operations in making selections for project sponsorship. The evaluation will examine the impact of workfare on future employment.

Other individuals questioned how meaningful such short-term jobs could be and recommended that final regulations set a minimum number of participant work hours, with participants excused from workfare if their obligation was less than the minimum number of hours. On the other hand, some individuals questioned whether households participating in workfare would have enough time or resources left over for real job search, and suggested that the maximum work week limit be set at less than the forty hours established in the proposed regulations.

The Act is explicit in both establishing 40 hours a week as the maximum workfare obligation and in providing that the hours to be worked shall be determined with reference to the household's coupon allotment. Thus, there is no authority under the legislation for altering the maximum 40-hour limit or setting a minimum number of participant work hours.

Disqualification. Approximately 30 individuals or groups commented on the disqualification procedures established in the proposed regulations. The large majority opposed some aspect of these procedures.

Five advocacy groups indicated their opposition to the withholding of food stamp benefits for noncompliance and requested that this penalty be deleted from the final regulations. The requirement regarding disqualification in instances of refusal is specifically mandated by the statute. Other commenters suggested that noncompletion of workfare requirements not be classified as a refusal to meet workfare obligations. Other than minor modifications in language for the purpose of clarity, the original definition of refusal has been retained since the Department believes that it was Congressional intent to apply the disqualification penalty to all persons refusing to comply with the workfare requirement.

Of concern to seven advocate groups and three State and local agencies was the definition of "good cause." The majority of these individuals recommended that the definition be clarified by including additional examples of circumstances beyond the member's control, such as lack of suitable child care, lack of transportation (including public transportation) or refusal of the sponsor to pay transportation costs, and discrimination in employment. One State agency recommended that this section be revised to require that "good cause" not cover those instances where public transportation is available but the participant refuses to use it. Another area of concern to some of these commenters was the impact this compliance requirement could have on migrant farmworkers. It was suggested that the Department add to the definition of "good cause," "households moving to seek more gainful employment" in order that migrant farmworkers not be disqualified because they move to find agricultural labor elsewhere. The Department has clarified the "good cause" definition section of the regulations to clarify what is and what is not an example of "good cause." The Department never intended that a participant's refusal to use available public transportation be considered as "good cause," and has made this clear. A grievance procedure related to both workfare sponsor employment practices and alleged violations of project requirements has been added.

Comments were also received on the proposed one-month period for disqualification should the workfare member refuse to comply with program requirements. One individual supported this provision as written. One individual supported the right of clients to receive benefits when a hearing is requested. Approximately 10 others, however, expressed concerns regarding these proposed procedures. One program administrator requested that the regulations clarify whether or not a workfare participant may be disqualified more than once, and, whether the fair hearing procedures afford the participant protection from disqualification for further instances of noncompliance during the period of advance notice or pending the outcome of the hearing. In response to these comments, the regulatory language has been clarified. Refusal either to accept workfare employment, to report for job scheduling, or to complete the entire work hour requirement will result in disqualification for a one-month period. Subsequent refusals to comply with the workfare requirement in another month will result in another one-month disqualification. Disqualification will not take effect until after a fair hearing decision is reached, if such a hearing has been requested. Until the fair hearing decision is reached the household member may continue to be offered appropriate workfare employment. For each month of refusal without good cause, a penalty of a one-month disqualification will be assessed against the noncompliant member. Any disqualification will be effective during the month following expiration of the notice of adverse action, or, the month following a negative fair-hearing decision.

One objection to the one-month disqualification period came from a lawyer involved in litigation of joint Department of Health, Education, and Welfare and the Department of Labor regulations on the WIN Program. He believed that the proposed one-month disqualification was arbitrary and capricious, citing the *McLean vs. Matthews* case on a disqualification issue which was decided in favor of the client. The *McLean vs. Matthews* litigation dealt with statutory language providing for disqualification ". . . if and for so long as" an individual refused employment (42 U.S.C. § 602(a)(19)(f)) while subsection 17(b)(2) of the Food Stamp Act requires a disqualification for one month when the individual refuses workfare employment. Since workfare legislation provides that the disqualification period shall be for one month, the proposed regulations seem neither arbitrary nor capricious on this point. One program administrator contended that the Departments had deviated from the language of the Act which states that a household member is ineligible *during* the month in which he or she refuses to comply with workfare requirements. This individual objected to the Department's proposal to disqualify the noncomplying household member in a month following the actual month of refusal. The proposed procedures have been retained for the same reasons discussed in the supplementary information to the proposed regulations. First, it would be administratively impossible to take action during the month of refusal since in virtually all instances the household would have already received its allotment by the time refusal takes place. Second, the proposed procedure com-

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plies with constitutional requirements concerning due process under law by allowing time to notify the participant of the adverse action to be taken, and by allowing time for a participant to exercise his or her right to appeal the decision through the food stamp fair hearing process.

Approximately 10 comments were received on the Department's proposed procedures for determining a household's food stamp entitlement in those instances where a household member has been disqualified but has partially completed the assigned hours of work (§ 282.10(f)(3)). Most of the comments received were from State and local agencies who indicated that the calculations to be made are too complicated. This section has been reworded for clarity. Language has been added related to calculating the income and resources of the remaining household members during the month of disqualification of the noncompliant workfare participant.

Language clarification. More than 10 individuals and groups offered suggestions relative to language clarification, miscellaneous corrections and/or editing needed in the proposed regulations.

Most of these suggestions were made by FNS Regional Offices and State and local welfare agencies. Clarification on a number of points has been supplied.

One issue on which clarification was sought was on how to detemine what month's allotment the participant is working off if he/she has been waiting several months for a workfare assignment. The month's allotment used for workfare will always be the current month. Language has been added to the regulations to clarify that uncompleted work hours will not be carried forward from one month to another. Failure on the part of the sponsor to provide a work assignment or to schedule sufficient work to complete the required number of hours within the month will not subject the workfare participant to a penalty, or to an increase in the required number of work hours in a subsequent month.

Clarification was also sought regarding the phrase "initial registration" for work, and, what procedures to follow when a person's work registration status changes. Section 273.7(a) defines initial registration for work as the completion of the work registation form during the food stamp application process. During the initial phases of project operations, household members may be immediately subject to workfare participation if an existing food stamp work registration has not lapsed or has simply been renewed. In addition, the final regulations note that if a household member registered for work should become exempt due to employment or other circumstances, and then later should become subject to work registration again, the 30-day waiting period would begin at the time that subsequent work registration takes place.

Public review of proposals and comment on project sites. More than 10 persons, mostly advocates, commented on the need for broader review of project proposals. Only one State commented and this was on the need for clarification and research on labor contract issues. The major comment was that parties other than labor organizations, such as community action and advocacy groups, should be able to comment on workfare proposals. Some comments suggested that no parties should have this right to comment and that the proposed regulations affording this right to labor organizations should be deleted. Other persons recommended that the "local" public in proposed workfare pilot project sites be invited to comment since workfare could affect them directly. Publication of notices in newspapers, creation of citizen advisory boards, and public hearings were among the methods most often recommended to accomplish the objective.

The Act, in citing CETA legislation, specified that labor organizations must be given the opportunity to comment on proposals for workfare sponsorship before the proposals are submitted. No other group is mentioned in either the Act, legislative history or pertinent CETA legislation. Due to the pilot project character of workfare, the Department does not believe requirements for other groups to comment on proposals are necessary.

Site and sponsor selection. Approximately 10 individuals commented on the criteria for workfare site and sponsor selection. Most of these comments came from advocate groups. Several individuals requested clarification of "sufficient number and variety of public service jobs" as a criterion for site selection. In addition, one commenter was opposed to the selection of project sites with heavy concentrations of seasonal workers, and one was opposed to the selection of sponsors in States with more than 6 percent unemployment. The major recommendation was that the criteria for sponsor selection be strengthened by making the likelihood of permanent work resulting from workfare a factor to be used in evaluating applications. Another recommendation was that preference be given to sponsors who are willing to supplement the hours of work and/or the expenses of the participants.

The Department has added to Part G of the Notice of Intent additional critieria by which applications will be ranked. As previously mentioned, location with a CETA prime sponsor who is basically fulfilling its public service employment hiring schedule or location in an area not served by CETA is mandatory. The additional, nonmandatory selection criteria include the extent to which a sponsor provides for: (1) transportation of workfare participants or reimbursement of work-related travel expenses; (2) payment of other work-related expenses; (3) training and skill development; (4) permanent employment resulting from the workfare assignments; and (5) supplementation of the hours required under workfare with additional hours of paid employment. The failure of a potential sponsor to make positive proposals with regard to one or more of these criteria will not preclude the potential sponsor from consideration or selection. The ability of the applicant sponsor to develop jobs for all or most of the potential participants will be weighed during selection. Suggested selection criteria which would delete from consideration sites with particular labor or racial or ethnic minority characteristics have not been adopted. Given the existence of such characteristics in various locations throughout the country, their categorical exclusion as demonstration projects sites would restrict the validity of project findings. Demographic and economic characteristics will be considered in project evaluation.

Administrative requirements. Approximately twenty individuals and groups commented on the administrative requirements established in the proposed regulations and Notice of Intent. Of particular interest were the comments received from the National Association of Counties which surveyed both rural and urban counties. Some urban counties believed a workfare program would not be administratively feasible. They were principally concerned about the problems involved in monitoring and supervising participants who will work only an average of 2 to 5 days per month. Rural counties had different concerns. One rural county analyzed its food stamp rolls and found that only a very small number of participants would be subject to workfare. Transportation in rural areas was presented as a problem, as was finding jobs suitable for participants.

The administrative feasibility of the workfare concept from the sponsor's point of view will be evaluated in detail. The process evaluation phase, running concurrently with project operations, calls for documentation by the contractor of the operational design established by each workfare sponsor. Administrative procedures and changes made thereto during the demonstration project year are to be recorded and evaluated by the contractor for their impact on successful or unsuccessful project operations. The 14 demonstration projects will provide a mix of administrative designs, including representation of urban and rural sites. The contractor's final report will include findings on the administrative components of workfare not only for the sponsors, but also for State welfare agencies and other cooperating agencies and employers.

A few commenters believed that the recordkeeping requirements contained in the proposed workfare regulations were too minimal to evaluate the project effectively. Suggestions offered for additional reporting included: (1) reports and evaluations which provide information on the administrative feasibility and practicality of the project; (2) records indicating the number and percentages of workfare participants obtaining permanent employment as a direct or indirect result of workfare placements; and (3) a cost/benefit analysis showing any reductions in benefits or caseloads resulting from salaried employment obtained as a result of workfare, and comparing these reductions to the additional costs involved in administering workfare projects. One individual recommended that the regulations impose a definite time limit for submittal of the monthly report and suggested 10 days following the end of the report month as an appropriate time limit. Two State agencies objected to the additional reports the workfare regulations would generate. One State recommended that statistics not be collected and reported unless they are absolutely necessary, that report formats be simple and instructions easy to understand, that deadlines be reasonable, and that agencies not be held accountable for errors caused by untimely or inaccurate reporting by workfare sponsors.

Most of the data collection will take place as part of the evaluation contract. The evaluation will include analysis of the three areas listed above. Submission of monthly reports will be required by the 15th day following the end of the report month. State agencies will be required to exclude errors resulting from workfare requirements from State Quality Control error rates, according to new language added to § 282.10(g).

Two State agencies were concerned that sufficient time be provided to select sites, plan, and implement workfare. One State agency felt that the 30-day timeframe for submitting sponsor applications was inadequate because of the approvals and coordination necessary between the various agencies required to run the program. The final Notice of Intent provides that project operations will begin at the same time as implementation of the benefit computation provisions of the Food Stamp Act of 1977. The Notice of Intent has been changed to give potential sponsors 45 days for formal proposal submission in recognition of the number of agencies involved in approvals and clearances.

Clarification was also sought concerning timeliness standards for the exchange of information between State agencies and workfare sponsors. Procedures will be developed by the Departments with sponsors and State welfare agencies to ensure timely submission and processing of reports on workfare participation. The sponsor will report noncompliance to the State agency as it occurs. Changes in a household's allotment or earnings that affect the number of hours to be worked, or affect a participant's workfare status, will be reported as soon as they are known.

Some commenters stated that some of the responsibilities they thought had been assigned to State agencies would be more appropriately assigned to Employment Service Offices. These include employment screening and placement mechanics and determinations of whether a specific job is suitable for a participant. In addition, the recommendation was made that participants unable to obtain a job after 30 days be referred to a workfare project by the local Employment Service Office rather than the State agency which is not otherwise involved. For the purpose of this demonstration project, these responsibilities have been assigned not to the State agency, but to the workfare sponsor. The State welfare agency's role is to maintain the food stamp case status current under the additional requirements of workfare. Referral activities, other than those for work registration, are limited to referral of the household's eligible workfare participant to the sponsor. The responsibility has been given to the sponsor to contact the potentially eligible workfare participant after 30 days from initial registration to verify whether or not the work registrant has obtained employment, whether CETA employment has been sought, and whether the participant will be available for workfare scheduling. Employment screening will be performed by the sponsor or his designee, who will, to the extent possible, match participants with jobs by skills and experience. If an individual contests the suitability of the job to which he or she is assigned and alleges "good cause" for refusal to comply with the workfare requirements, then the sponsor's responsibility is to report the refusal to the State welfare agency for final determination. Whether or not there is "good cause" is a determination to be made by the State agency. Where "good cause" is established, no disqualification will result. The participant will remain subject to workfare and available for scheduling for another job. The Department has added new language under § 282.10(g) to incorporate into State welfare agency responsibilities the obligation to report to DOL/USDA any alleged or actual sponsor violations of the requirements of this project.

Commenters pointed out that no provision has been made for the months in which the number of workfare jobs is less than the number of participants eligible for workfare. One State agency recommended that each participant have an equal opportunity to be chosen for work. The Department recognizes that a workfare sponsor may not be able to find slots for all persons potentially subject to workfare. Therefore, the regulations clarify that a participant shall not be disqualified if he or she receives no job offer from the sponsor. The workfare sponsor is responsible for providing jobs and filling them according to the assurances made in response to the Notice of Intent, including giving special consideration to those persons who have been unemployed the longest and to those who have the least prospect of finding employment without assistance. These situations will be evaluated and the Departments will take prompt action on any complaints of discrimination in job placement or scheduling of work hours. A suggestion was made that the concept of rescheduling not be addressed because of the amount of paperwork involved. However, every opportunity must be provided for fulfillment of the workfare obligation.

Compliance monitoring and evaluation. A need for strong enforcement of labor standards laws and project requirements, through complaint and hearing procedures, was expressed by several groups. One suggestion involved establishing a complaint procedure through DOL's regional offices. An appeal procedure was also recommended for participants who questioned their inclusion in a workfare project, their ability to perform assigned work, or the suitability of the work assigned. In addition, three advocate groups voiced the need for a monitoring system to assure compliance with the workfare regulations and to guard against potential sponsor abuses. Advocate groups also expressed the need for a fiscal penalty to deter workfare sponsors from displacing regular employees with workfare employees.

The Departments of Agriculture and Labor are developing a monitoring system to ensure sponsor compliance with appropriate provisions of the

CETA Act, these regulations, and the Notice of Intent, and a grievance system for workfare participants, labor organizations, and other groups alleging sponsor violation of the requirements of the regulations and Notice of Intent or discrimination in employment practices. A new section has been added to the regulations at § 282.10(h) on compliance monitoring and grievance procedures and a similar section added to the Notice of Intent. The regulations oblige State agencies and workfare sponsors to cooperate with the Departments by making participants aware of their rights to appeal noncompliance of workfare requirements on grounds of alleged violations of the regulations and Notice of Intent through both the fair hearing process and by referring such grievances to DOL/USDA for investigation. Guarantees similar to those stipulated in the CETA regulations, § 96.24(d), which prohibit hiring of participants when any other employee is on layoff from the same or any substantially equivalent job, and § 96.24(g), which prohibits participants from working in any position substantially equivalent to a position which is vacant due to a hiring freeze, were also recommended. These guarantees have been incorporated into the Notice of Intent as assurances to be provided by a the workfare sponsor to the Departments as a condition of participation. Compliance with these assurances will be monitored by the Departments who have agreed to designate staff to perform this function as well as to ensure that individual grievances receive prompt attention. The monitoring system will include on-going administrative reviews of project site operations. Project operations will be designed to ensure that the food stamp fair hearing system is used to promptly resolve workfare related issues which are contested by participants.

Accordingly a new § 282.10 of Chapter II, Title 7, Code of Federal Regulations, is promulgated as follows:

§ 282.10 Workfare demonstration project.

(a) *Authority.* Subsection 17(b)(2) of the Act mandates that the Secretaries of the United States Department of Agriculture and Labor jointly conduct a demonstration project involving the performance of public service work by food stamp participants subject to the work registration requirement.

(b) *Purpose.* The purpose of the workfare demonstration project is to determine the feasibility of having food stamp participants perform work in a public service capacity in return for the food stamp benefits to which the household is otherwise entitled. The project will be analyzed and evaluated on the basis of both operational feasibility and economic impact.

(c) *Areas of Operation.* A workfare demonstration project will be conducted in one urban and one rural area in each of the seven FNS administrative regions. The selection of project sponsors will be made by the Departments of Agriculture and Labor based on applications submitted by political subdivisions or groupings thereof wishing to participate in the project.

(d) *Criteria for Participation.* (1) A food stamp household member in a selected demonstration project area will be potentially subject to participation in the workfare project if the member meets the following criteria:

(i) He or she is required to register for full-time work under the terms of § 273.7(a). The normal exemptions from the work registration requirement, § 273.7(b), will be in effect for the purposes of this project;

(ii) The household's total non-excludable earned income, as defined in §273.9(b)(1), is less than the household's coupon allotment. Work registrants who are members of households which receive unearned income shall be subject to participation in workfare if the household's non-excludable earned income does not exceed the value of the coupon allotment;

(iii) He or she has been unable to secure a job in the private or public sector after 30 days from the date of initial registration for work as required in § 273.7(a). Household members becoming exempt from work registration during this 30 day period shall not be subject to workfare participation until such exemption ceases, the member reregisters and 30 days lapse; and

(iv) All public service jobs supported under the Comprehensive Employment and Training Act of 1973 (CETA) have been filled. For the purpose of this project all CETA jobs will be considered filled if:

(A) the CETA prime sponsor is basically fulfilling its hiring schedule (i.e., any openings are due to either normal attrition or the unavailability of qualified technical personnel); and

(B) with respect to any individual potentially subject to workfare:

(*1*) that the CETA sponsor has determined that such individual is not suitable for CETA jobs that are open; or

(*2*) that available openings for which the participant is qualified are not accepted by the participant because these openings do not constitute suitable employment in accordance with § 273.7(i)(1) and (2) (i) through (v). The continued basic fulfillment of the CETA public service employment hiring schedule and the determinations made under (B) (i) and (ii) above will be monitored by the Departments of Agriculture and Labor as described in § 282.10(h);

(2) Households containing more than one work registrant will have the option of deciding which member or members will fulfill the workfare requirement. At the time of application, or upon subsequent notification that the household is subject to workfare requirements, the household shall name one of its members as a prime designee to fulfill the workfare requirements. If acceptable to the workfare sponsor, the household may divide the workfare requirements among work registrants, but shall still designate one registrant as the prime designee. In such circumstances, the prime designee shall be disqualified if the household's workfare obligation is not completed since the second household member is considered to be acting in a proxy capacity for the prime designee. If either the prime designee or the other household member fails to complete his or her share of the workfare obligation but the other member is able to satisfy in full the remaining workfare hour obligation, the prime designee shall not be disqualified.

(3) If a household member is disqualified for refusal to comply with the workfare requirements, the remaining household members shall, if otherwise eligible, continue to receive food stamp benefits. The household shall still be subject to the workfare requirement during the month of disqualification if: the household contains another member subject to the work registration requirement, and, the household's non-excludable earned income (as computed for purposes of determining the household's allotment during the month of disqualification) is less than the reduced allotment the household receives during the month of disqualification. In such a circumstance, a household member who has not been disqualified and who is subject to work registration shall be subject to workfare participation during this month.

(e) *Conditions of employment.* (1) No participant shall be required to accept an offer of workfare employment if such employment fails to meet the criteria established in § 273.7(i)(1) (iii) and (iv); and § 273.7(i)(2) (i), (ii), (iv), and (v);

(2) The total number of required work hours each month will be determined by subtracting the household's monthly earned income, as defined in § 273.9(b)(1), from the household's coupon allotment, and dividing the remainder by the Federal minimum wage. For computational purposes, this earned income figure shall be rounded up to the next highest dollar amount. Fractions of hours to be worked shall be disregarded;

(3) In no instances shall the total number of hours worked under workfare, combined with any other employment, exceed 40 hours a week for any participant;

(4) If the workfare participant is unable to report for job scheduling, to appear for scheduled workfare employment, or to complete the entire workfare obligation due to compliance with the additional work requirements established in § 273.7(e) (1), (2), (3), or (4), such inability shall not be considered a refusal to accept workfare employment. The workfare participant shall inform the workfare sponsor of the time conflict to avoid disqualification and the workfare sponsor shall reschedule the missed activity if possible. If such rescheduling cannot be completed before the end of the month, this shall not be cause for disqualification. The State Employment Service Office shall make every effort not to schedule the additional work requirements established in § 273.7(e) (1), (2), (3), or (4) to conflict with workfare job scheduling, workfare employment or travel time necessary to reach or return from workfare employment. If the State employment office does not avert such a conflict, however, and the participant does not comply with the additional work requirements because he or she is fulfilling a workfare obligation, the noncompliance with the additional work requirement shall be considered to be for good cause;

(5) The workfare sponsor shall schedule employment for eight hour intervals whenever possible so long as such intervals do not conflict with other employment in which a workfare participant is engaged;

(6) If the workfare sponsor is unable to schedule the workfare participant for employment or is unable to provide the required work hours, the workfare participant shall not be disqualified;

(7) During any month in which the average hours of workfare employment combined with any other hours of employment equal 30 hours or more per week, the workfare participant shall not be subject to the job search activity requirements of § 273.7(d);

(8) Compensation for workfare employment shall be paid in the form of the food stamp allotment to which the household is otherwise entitled. Such employment shall be required until the household's coupon allotment (minus any nonexcludable earned income the household receives) is earned;

(9) The workfare sponsor shall assure that all persons employed in workfare jobs receive job related benefits at the same levels and to the same extent as similar non-workfare employees. Any elective benefit which requires a cash contribution by the participant shall be optional at the discretion of the participant;

(10) All persons employed in workfare jobs will be assured by the workfare sponsor of working conditions and promotional opportunities neither more nor less favorable than those provided other employees similarly employed;

(11) The provisions of section 2(a)(3) of Pub. L. 89-286 (relating to health and safety conditions) shall apply to the workfare program;

(12) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under this program for which an application is being developed for submission, such organization shall be notified and afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary of Labor;

(13) Special consideration in filling workfare jobs will be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance. However, such special consideration shall not authorize the placement of any workfare participant when any other person is on lay-off from the same or any substantially equivalent job slot at the job site;

(14) That no workfare participant will be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless it can be demonstrated that the job slot open due to the freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of workfare participants;

(15) That no job vacancy will be created by the action of an employer in laying off or terminating the employment of any regular employee in anticipation of filling the vacancy with a workfare participant;

(16) That the workfare jobs in each promotional line in no way infringe upon the promotional opportunities which would otherwise be available to regular employees, and, that no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with.

(f) *Refusal to comply.* (1) If a household member subject to the workfare requirement refuses, without good cause, to accept an offer of workfare employment, to report for job scheduling, or to complete the entire workfare requirement, such person shall, after opportunity is given for a fair hearing, be disqualified from participation in the food stamp program for a period of one month. If, during the same month in which the refusal occurs, another household member subject to the work registration requirements completes the required workfare obligation for the household, no disqualification shall result.

(2) If a household member is disqualified, and no other member of the household is subject to the work registration requirements, then the household shall not have a workfare obligation during the month of disqualification. However, if such a household does contain another member subject to the work registration requirements, and the household's earned income (as defined in § 273.9(b)(1)) is less than the reduced allotment it receives during the month of disqualification, then the remaining member who is registered for work shall be subject to workfare during this month.

(3) Good cause, for the purpose of this demonstration project, shall be defined as:

(i) Circumstances beyond the member's control, such as, but not limited to: illness; the illness or incapacitation of another household member requiring the presence of the workfare member; a household emergency; or the unavailability of either public or private transportation; or even of the minimal financial resources to obtain available public transportation when transportation is not provided by the sponsor. Lack of private transportation shall not constitute good cause when public transportation is available and the potential workfare participant has the financial resources to use public transportation;

(ii) Becoming exempt from the work registration requirement under the terms established in § 273.7(b);

(iii) Becoming exempt from workfare participation because the household's earned income exceeds the value of the household's coupon allotment. This includes earned income anticipated by the food stamp eligibility worker; or

(iv) Moving to follow the stream of employment while a part of the migrant labor force.

(4) For those households containing a workfare participant who has been disqualified from program participation, the income and resources of such disqualified persons shall be treated in accordance with § 273.11(c). In determining Food Stamp Program eligibility for the remaining household members, a pro rata share of the income of a disqualified member shall be counted as income to the remaining members and his or her resources shall continue to count in their entirety to the remaining household members.

(5) Households containing a disqualified workfare participant may be entitled to additional benefits during the month of disqualification if such par-

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ticipant has completed part of the workfare obligation. Such entitlement shall be established by calculating the household's entitlement without the disqualified member, subtracting from this amount any earned income as defined in § 273.9(b)(1), and then comparing this difference to the value of hours worked by the disqualified workfare participant (computed at the Federal minimum wage). If the value of hours worked is greater, the household shall be entitled to benefits in the amount of the difference. The entitlement thus calculated provides compensation when the value of hours worked by the disqualified member exceeds the household's coupon allotment (as calculated without the disqualified member) minus the household's earned income.

(g) *State agency responsibilities.* The State agency shall be responsible for undertaking the following activities:

(1) Determining, during the certification process, those work registrants subject to participation in workfare;

(2) Informing potential participants about the nature of the project, the options in household member designation, the penalty for noncompliance, their rights, procedures for appeal through the fair hearing process, and grievance procedures as established in § 282.10(h);

(3) Establishing and maintaining a recordkeeping system for each household subject to the workfare requirements;

(4) Forwarding information to the workfare sponsor on required work hours for each workfare participant and any subsequent information affecting a household member's workfare obligation, such as a change in the required work hours, or a change resulting in the inapplicability of the workfare requirement;

(5) Informing a workfare household who reports a change in earned income of the effect this change will have on the workfare hours requirement or the continuing applicability of the workfare requirement;

(6) Taking the following actions, as appropriate, on information received from the workfare sponsor:

(i) Upon notification that the participant has failed to comply with the workfare requirement (see § 282.10(f)(1)), the State agency shall issue a notice of adverse action in accordance with § 273.13 unless good cause has already been established in accordance with § 282.10(f)(2);

(ii) If the household member establishes good cause for noncompliance, as defined in § 282.10(f)(2), the requirement for further workfare participation shall be dependent on the continuing applicability of the workfare requirement;

(iii) If a notice of adverse action is issued and no appeal is filed, the State agency shall take action to disqualify the noncompliant household member for one month following expiration of the notice period. During the month of disqualification, no workfare job referrals shall be made for the disqualified member since this person is not a member of a food stamp household for that month. If, however, in the subsequent month, the household is still certified for participation and the member is still subject to the workfare requirement, the workfare job referral process shall be reinstated;

(iv) If a fair hearing is requested, any action to disqualify the noncomplying household member will be suspended until completion of the hearing. During pendency of the fair hearing, the workfare requirements will continue to apply. If the hearing results in a decision upholding the disqualification, the period of disqualification shall be effective in the first month following the decision;

(v) If disqualification resulted from refusal to complete the entire workfare requirement, the State agency shall provide benefits, where appropriate, under the conditions of § 282.10(f)(4);

(7) Take such action as is necessary to:

(i) Eliminate errors attributable to workfare requirements from the Quality Control error rate computations;

(ii) Establish procedures to refer alleged violations of project requirements by the workfare sponsor to appropriate USDA/DOL officials for investigation and resolution, as established in § 282.10(h);

(iii) Resolve grievances, to the extent possible, related to alleged violations by a sponsor of the requirements of these regulations or the Notice of Intent. In resolving such matters, contact shall first be made with the workfare sponsor. Issues which cannot be resolved at this level shall immediately be forwarded to USDA/DOL as specified in § 282.10(h) below;

(iv) Provide fair hearings in those instances where participants claim that noncompliance resulted from alleged sponsor violations of project requirements. Such alleged violations shall also be forwarded immediately to USDA/DOL for review. Any findings of USDA/DOL officials may be entered into evidence at the fair hearing, so long as all affected parties have been informed of these findings at a reasonable time in advance of the hearing. When a fair hearing official renders a decision in such a case, the hearing decision shall be implemented, but the decision shall also be forwarded to USDA/DOL for review. Subsequent USDA/DOL findings regarding the alleged sponsor violations, if contrary to the evidence presented at the fair hearing, shall be provided to the State agency for a reconsideration of the fair hearing decision in light of the new evidence. If the initial decision is reversed, benefits shall be restored or a claim initiated as appropriate.

(h) *Compliance monitoring and workfare evaluation.* The Departments of Agriculture and Labor will establish procedures for monitoring compliance with the operational requirements of § 282.10 and for the evaluation of the workfare concept as demonstrated by project site operations. Persons, organizations or agencies alleging workfare sponsor noncompliance with the terms of these regulations or the Notice of Intent shall refer such complaints to the National headquarters of the Departments of Agriculture and Labor for investigation and disposition. Compliance monitoring shall include, but not be limited to:

(1) Administrative reviews of project site operations;

(2) Ongoing reviews of workfare sponsors' and related agencies' compliance with the terms of these regulations and the Notice of Intent which follows;

(3) Grievance procedures for resolution of complaints against workfare sponsor operations;

(4) Desk reviews of workfare sponsors' monthly activity reports.

APPENDIX

NOTICE OF INTENT

In accordance with subsection 17(b)(2) of the Food Stamp Act of 1977, (Title XIII, Pub. L. 95-113), the Secretaries of Agriculture and Labor jointly announce their intention to conduct a demonstration project, hereafter called workfare, involving the performance of work in exchange for food stamp benefits. Under this project, members of food stamp households, subject to the work registration requirement, whose total household earned income is less than their household's coupon allotment, will be required to work in a public service capacity if they are unable to secure work in the private or public sector. The required hours of employment will be determined by dividing the household's coupon allotment, minus any nonexcludable earned income the household receives, by the Federal minimum wage. Compensation will be "paid" in the form of the monthly coupon allotment to which the household would normally be entitled. Persons required to participate in the workfare project who refuse to accept workfare employment will not be eligible to participate in the Food Stamp Program for a period of one month following each month in which refusal occurs. The workfare project will be conducted in one urban and one rural political subdivision or groupings thereof in each of the seven FNS/USDA administrative regions. Actual project operations are targeted to begin in conjunction with the implementation of the benefit computation provisions of the Food Stamp Act of 1977. Regulations issued by the Department on October 17, 1978 require that such provisions be implemented by State agencies no later than March 1, 1979.

This notice further seeks proposals for project operation from political subdivisions or groupings thereof wishing to participate in the Workfare Demonstration Project. Such proposals shall describe in detail how the political subdivision, working with the welfare agency and any other cooperating agencies that may be involved in the project, shall fulfill the provisions of the Act governing the Workfare Demonstration Project, which are enumerated below.

A. BASIC OPERATIONAL REQUIREMENTS

1. Household members, subject to the full-time work registration requirement, whose total household earned income is less than the household's coupon allotment, and who are unable to find work in the private or public sector after 30 days from initial registration for work, shall be subject to participation in workfare in addition to all other work registration requirements.

2. No workfare job shall be offered until all public service jobs supported under the Comprehensive Employment and Training Act of 1973 (CETA) within that subdivision have been filled. For the purpose of this project all CETA public service jobs will be considered filled if:

(a) The CETA prime sponsor is basically fulfilling its public service employment hiring schedule (i.e., any openings are due either to normal attrition or the unavailability of qualified technical personnel); and

(b) With respect to the individual potentially subject to workfare:

(i) the CETA sponsor has determined that such individual is not qualified for suitable CETA slots that are open; or

(ii) that available CETA openings, for which the participant is qualified, are not refused by the participant for reasons established in § 273.7 (i)(1) and (2) (i) through (v).

3. Compensation for workfare employment shall be paid in the form of the coupon allotment to which the hosehold is normally entitled.

4. The number of hours a workfare participant is required to work shall be determined by dividing the household's total coupon allotment, minus any nonexcludable earned income the household receives, by the Federal minimum wage.

5. A workfare participant shall not be eligible to participate in the Food Stamp Program for a period of one month for each month in which the participant refuses to accept a workfare job offer. Refusal, for the purposes of this demonstration project, shall be defined as actual refusal, without good cause, to accept workfare employment; refusal, without good cause, to report to the workfare sponsor for job scheduling; or refusal, without good cause, to complete the entire workfare hour requirement.

B. WORKFARE SPONSORS

1. *Eligibility.* To participate in the project, potential workfare sponsors must meet the folowing requirements:

(a) Be a political subdivision or grouping thereof (i.e., a State or a unit of local government or a combination of local governments), currently operating a public service employment program under State or local general assistance programs, the Comprehensive Employment and Training Act (CETA), or other legislation. This includes those political subdivisions sponsoring general assistance workfare programs. Political subdivisions who are not now operating a public service employment program may be considered for eligibility if the application is sufficiently detailed to enable the Departments to determine the proposer's administrative ability to sponsor a workfare demonstration project.

(b) Have the capability for effectively operating and administering a workfare project under the terms and conditions established in the Food Stamp Act, this Notice, and regulations established in § 282.10.

2. *Responsibilities.* The workfare sponsor shall be responsible for:

(a) Determining which agencies within its jurisdiction shall be used in the various administrative functions of this project. For administrative simplicity, a workfare sponsor may use a currently operational administrative structure if it can fulfill the requirements of this project.

(b) Establishing an operational system to fulfill the functions of the workfare project. At a minimum, the system shall:

(1) Provide for communication between involved agencies;

(2) Ensure the establishment of a sufficient number and variety of short-term public service jobs to allow testing of the workfare concept. Jobs may be allocated among State and local public service agencies and subdivisions thereof. To the extent consistent with the maintenance of effort requirements of this Notice and with personnel procedures and collective bargaining agreements of the workfare sponsor and cooperating agencies, jobs may also be allocated to private nonprofit agencies;

(3) Before contacting the potential workfare participant, assure that:

(i) 30 days have passed since his or her initial registration for work under the food stamp program; and,

(ii) all public service jobs supported under CETA are filled (see A2). Documentation that all CETA jobs are filled shall be noted in each workfare participant's records;

(4) Notify workfare participants of job scheduling and assure the continuing applicability of the workfare requirement. Such notification shall include the number of hours to be worked (based on the household's monthly food stamp entitlement and earned income) for the month and the penalty for noncompliance;

(5) Provide for monthly work scheduling for each workfare participant based on the number of hours of work each participant is required to perform, as determined by the welfare agency. Such employment shall be scheduled in eight hour increments whenever possible. However, such employment shall not be scheduled to conflict with any other employment scheduled by the participant;

(6) Ensure timely reporting to the welfare agency on those workfare participants failing to report for job scheduling;

(7) Assign workfare participants to workfare jobs and ensure the provision of the necessary supervision;

(8) Monitor the hours of work of workfare participants;

(9) Have records maintained which identify the name of the sponsoring agency; the participant's name and food stamp case file number; the type of work to be performed; the period covered by the time reports and any additional benefits provided by the sponsoring agency, such as transportation, training, upward mobility programs and health benefits;

(10) Ensure monthly reporting on the total number and type of workfare slots available; the number of workfare slots filled by participants in the food stamp workfare project; the total number and names of participants who fully complied with the workfare requirement, including the number of hours worked; the total number and names of persons refusing to participate in workfare; the total number of hours worked; and other information as requested. Such reports shall be directed to the USDA/DOL evaluation contractor and elsewhere, as required, no later than the 15th of the month following the report month; and

(11) Ensure that all necessary reports are submitted as required.

(c) Establish a monitoring system to ensure that cooperating agencies are carrying out their responsibilities as established for the workfare project.

3. *Assurances.* All potential workfare sponsors shall provide the following assurances:

(a) They have the legal authority to conduct the project;

(b) They will be responsible for the development and execution of the project;

(c) They will comply with all requirements of the Civil Rights Act of 1964, of the Food Stamp Act of 1977, the regulations issued pursuant to these Acts which are applicable to the project and this Notice;

(d) That special consideration in filling workfare jobs will be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance. However, such special consideration in filling workfare jobs shall not authorize the placement of any workfare participant when any other person is on lay-off from the same or any substantially equivalent job at the job site;

(e) That no workfare participant will be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless it can be demonstrated that the freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of workfare participants;

(f) That no job vacancy will be created by the action of an employer in laying off or terminating the employment of any regular employee in anticipation of filling the vacancy with a workfare participant;

(g) That there will be planning for and training of supervisory personnel in working with participants;

(h) That the applicant sponsor will, where appropriate, maintain or provide linkages with upgrading and employment and training programs for the purposes of:

(1) providing those persons employed in workfare jobs who want to pursue work with the employer, in the same or similar work, the opportunities to do so and to find permanent upwardly mobile non-workfare careers in that field; and

(2) providing those persons so employed, who do not wish to pursue permanent careers in such fields, with opportunities to seek, prepare for, and obtain work in other fields; and

(i) That the workfare jobs in each promotional line in no way infringe upon the promotional opportunities which would otherwise be available to regular employees, and,

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that no job will be filled in other than an entry level postion in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with.

4. *Conditions of participation.* Sponsors of workfare shall insure compliance with the following conditions:

(a) Workfare will result in an increase in employment opportunities over those opportunities which would otherwise be available; will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of non-overtime work or wages or employment benefits); will not impair existing contracts for services, or result in the substitution of Federal for other funds in connection with work that would otherwise be performed; and will not substitute public service workfare jobs for existing federally-assisted jobs.

(b) Compensation shall be at 100 percent of the Federal minimum wage, to be paid by the Federal government in food stamps until the household coupon allotment (minus any non-excludable earned income) is earned. However, all persons employed in workfare jobs will be assured of workmen's compensation, health insurance, unemployment insurance and other benefits at the same levels and to the same extent as other similar employees of the employer, and to working conditions and promotional opportunities neither more nor less favorable than other persons similarly employed enjoy. Costs associated with such coverage shall be borne by the workfare sponsor.

(c) Work-related expenses, such as transportation costs, may be provided by workfare sponsors at their descretion.

(d) The cost of any work related supplies, such as uniforms and special equipment, shall be borne by the workfare sponsor if such supplies are necessary to employment.

(e) The provisions of section 2(a)(3) of Public Law 88-286 (relating to health and safety conditions) shall apply to the workfare program.

(f) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under this program and for which application is being developed for submission, such organization shall be notified and afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary of Labor.

(g) Conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

C. Welfare Agency

1. Responsibilities of the welfare agency in localities in which a workfare project is operating shall be to:

(a) Establish a procedure within the food stamp eligibility determination process to identify potential workfare participants. Explain to such households, at the time of certification, the project's operation, the household's rights, and the penalty for noncompliance.

(b) Identify the total number of hours to be worked based on the household's entitlement minus any non-excludable earned income the household receives. Such information, in addition to any subsequent information affecting the member's workfare obligation, shall be transmitted as directed by the workfare sponsor.

(c) Receive preliminary information on workfare participants reporting to the job site and, at the end of the month, final information on the number of hours worked.

(d) Take action on information received. In instances of refusal without good cause, i.e., refusal to accept a workfare job offer, refusal to report for job scheduling, or refusal to complete the entire work requirement, the noncomplying household member shall be subject to the penalty of a one month disqualification as established in § 282.10(f) of the implementing regulations.

(e) Establish procedures for referral of complaints regarding workfare sponsor's alleged violations of this Notice and the regulations to the appropriate official of DOL and/or USDA for investigation and adjudication.

(f) Resolve, to the extent possible, grievances related to alleged violations of the requirements of this Notice or the implementing regulations. In resolving such matters, contact shall first be made with the workfare sponsor. Issues which cannot be resolved at this level shall be forwarded to USDA/DOL.

(g) Where workfare noncompliance and subsequent fair hearings are based on alleged sponsor noncompliance with project requirements, forward all such fair hearing transcripts to USDA/DOL for review.

(h) Maintain records on workfare activities, including:

(1) Recording in individual case files information on:

(i) Referral to the workfare sponsor; and

(ii) Noncompliance with the workfare requirements.

(2) Fair hearings and disqualifications as a result of workfare noncompliance; and

(3) Such other records as deemed appropriate.

2. *Assurances.* The participating welfare agency shall provide assurances that it will comply with all applicable requirements of the Food Stamp Act, this Notice, and regulations, as promulgated.

D. Funding

Funding for project operations by the Department of Agriculture shall be limited to the payment of the coupon allotment to which the food stamp household is otherwise normally entitled. The workfare sponsor shall be responsible for performing the sponsor's administrative activities and providing employee benefits as prescribed herein. The cost of data compilations (such as the monthly report required in B.2.(b)(10)) performed by the workfare sponsor at the direction of the evaluation contractor shall, however, be fully reimbursed by the evaluation contractor at a rate negotiated between the sponsor and contractor. Additional evaluation activities which the sponsor agrees to undertake at the request of the evaluation contractor shall also be fully reimbursed.

E. Records

All records pertaining to the Workfare Demonstration Project shall be available to USDA and DOL representatives or their designees for purposes of inspection and review. Such records shall be maintained for a period of three years from the date of project completion, or longer if requested in writing by USDA or DOL.

F. Applications

Applications shall be submitted in an original and two copies and shall be received by the Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, USDA, 500 12th Street, SW., Washington, D.C. 20250, within 45 days following publication of the final regulations governing the workfare project. Applications must be signed by the representative of the potential workfare sponsor having the authority to commit the political subdivision to the project. The workfare sponsor shall insure that all necessary agencies, including the welfare agency, which are either involved or have review authority, have concurred in project operations. In addition to the information on project operations and assurances required above, the application shall contain the following information:

1. A precise description of the administrative procedures to be used and a work plan which establishes a schedule for development and implementation of the project.

2. A description of:

(a) the approximate number of jobs and the types of jobs which will be provided;

(b) training and/or skill development which will be given; and

(c) any employee benefits, including transportation costs, which will be provided to participants.

3. A statement of the qualifications and size of the staff to be used, including a project director, to accomplish the purpose of the project.

G. Selection of Project Sites

1. *Federal procedures.* (a) All applications will be reviewed by a panel comprised equally of representatives from USDA and DOL; and (b) Applications will be ranked based on the criteria established in (2) below.

2. *Criteria for selection.* To be selected, the potential sponsor must be located with a CETA prime sponsor basically fulfilling its public service employment hiring schedule or located in a political subdivision not served by a CETA prime sponsor. Meeting this criterion, the contents of the proposals will be weighted on the following criteria:

(a) Conceptual development and clarity of operational design;

(b) Geographical mix as required by the Food Stamp Act;

(c) Ability of the sponsor to provide a sufficient number and variety of public service jobs to test the feasibility of the workfare concept;

(d) Compliance of the work plan with the provisions governing the project as contained in the Act, this Notice, and applicable regulations;

(e) The adequacy of the work plan;

(f) The capability of the applicant to conduct the project based on:

(1) A description of the qualifications of staff;

(2) Availability of necessary facilities, staff, and other resources;

(3) Administrative and supervisory capacity; and

(4) Previous experience of the workfare employer in administering public service employment.

(g) Additional points shall be given to potential sponsors for the payment of participants' work-related expenses and/or provisions for transportation to the job site(s); the ability to supplement workfare hours with paid employment; the likelihood of an offer of permanent employment following the workfare employment; the development of new job skills; the career potential of jobs to be offered; and other assurances over and above the minimum levels required in Part B.3 (d) through (g).

3. *Selection.* USDA and DOL shall notify all proposers of those sites selected for project operation. To the extent possible, the Departments will select project sites which represent a cross-section of food stamp household characteristics.

H. Monitoring and Evaluation

The Departments of Agriculture and Labor shall establish procedures for monitoring the compliance of the workfare sponsors and related agencies with the requirements of the workfare demonstration project regulations. An evaluation shall be structured to assess both the operational feasibility and economic impact of the project. The cost of the evaluation shall be borne, in its entirety, by the Department of Agriculture. All data compilations performed by the workfare sponsor at the direction of the evaluation contractor, as distinct from the recordkeeping requirements necessary for the operation of the workfare project, shall be fully reimbursed by the evaluation contractor at a rate negotiated between the sponsor and the contractor. Additional evaluation activities undertaken by the sponsor at the request of the evaluation contractor shall also be fully reimbursed by the contractor.

(91 Stat. 950, as amended (7 U.S.C. 2011-2027).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been forwarded to the Office of Management and Budget for approval in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: November 9, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary of Agriculture.

Dated: November 22, 1978.

ERNEST G. GREEN,
Assistant Secretary of Labor.

[FR Doc. 78-33378 Filed 11-27-78; 8:45 am]

[FmHA Instruction 1980-A]

PART 1980—GENERAL

Subpart A—General

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER P—GUARANTEED LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Loan Note Guarantee (Form FmHA 449-34). The intended effect of this action is to make the form applicable to guaranteed economic emergency loans, and to revise the full faith and credit provision of the guarantee. The change is required to make the form applicable to guaranteed economic emergency loans and to make the guarantee unconditional.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

William K. Krause, telephone 202-447-7600.

SUPPLEMENTARY INFORMATION: Appendix A of Subpart A of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations is amended. These amendments to Form FmHA 449-34, Loan Note Guarantee will (1) make the form applicable to economic emergency loans guaranteed by FmHA pursuant to Pub. L. 95-334, "the Emergency Agricultural Credit Adjustment Act of 1978" enacted August 4, 1978, and (2) change the full faith and credit provision of the guarantee to make it clear that the guarantee is "unconditional" by defining the phrases "use of loan funds for unauthorized purposes" and "unauthorized purpose."

The Comptroller of the Currency advised FmHA that the full faith and credit provision of the Loan Note Guarantee did not meet the requirements of 12 U.S.C. 84 (10) which exempts loans that are guaranteed unconditionally by the Federal Government from the lending limit requirements imposed on national banks. It is the opinion of the Comptroller General that this revision in the full faith and credit provision will make the guarantee "unconditional," as that word is used in 12 U.S.C. 84 (10).

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the first change adapts the form for use in the guaranteed economic emergency loan program and is administrative in nature and the second change will benefit the lending institutions which participate in the FmHA guaranteed loan programs. Therefore, public participation is unnecessary.

Appendix A [Amended]

Accordingly, Appendix A of Subpart A of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

1. The paragraph directly above paragraph A is amended to read as follows:

* * * * *

In consideration of the making of the subject loan by the above named Lender, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.), the Emergency Livestock Credit Act of 1974 (7 U.S.C. note preceding 1961, Pub. L. 93-357 as amended), the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. note preceding 1921, Pub. L. 95-334), or Title V of the Housing Act of 1949 (42 U.S.C. 1471 et. seq.) does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to:

* * * * *

2. Paragraph 3 under "Conditions of Guarantee" is amended by adding a sentence to the end of the paragraph as follows:

CONDITIONS OF GUARANTEE

* * * * *

3. *Full Faith and Credit.* * * *

As used herein, the phrase "use of loan funds for unauthorized purposes" refers to the situation in which the lender in fact agrees with the borrower that loan funds are to be so used and the phrase "unauthorized purpose" means any purpose not listed by the lender in the completed application as approved by FmHA.

* * * * *

(7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: November 13, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-33222 Filed 11-27-78; 8:45 am]

V 4 3 1 2 2 9 NOV 28 1978

[3410-07-M]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-A]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart A—General

AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to revise the full faith and credit provisions of the guarantee. The effect of these changes is to make clear that the guarantee issued under the FmHA regulations is "unconditional." This change is required to make the guarantee unconditional.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Darryl H. Evans, Loan Specialist, telephone 202-447-4150.

SUPPLEMENTARY INFORMATION: § 1980.11 and Appendix B of Subpart A of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations are amended. These amendments clarify the full faith and credit provisions of the Guarantee by defining the phrases "use of loan funds for unauthorized purposes, and "unauthorized purpose."

The Comptroller of the Currency advised FmHA that the full faith and credit provisions of the Loan Note Guarantee did not meet the requirements of 12 U.S.C. § 84 (10) which exempts loans that are guaranteed unconditionally by the Federal Government from the lending limit requirements imposed on national banks. According to the Comptroller under the above cited regulations prior to these revisions, the guarantee was conditional. It is the opinion of the Comptroller General that enactment of these revisions to the full faith and credit sections of the regulations will clearly make the new guarantees and previously issued guarantees which are subject to Subpart A "unconditional," as that word is used in 12 U.S.C. § 84 (10).

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since they make clear that the loan guarantee is unconditional, thereby benefitting the lending institutions which participate in the FmHA guaranteed loan programs. Therefore, public participation is unnecessary.

Accordingly, § 1980.11 and Appendix B of Subpart A of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations are amended as follows:

1. Section 1980.11 is amended by adding a sentence to the end of the section as follows:

§ 1980.11 Full faith and credit.

* * * As used in this paragraph and in any Loan Note Guarantee (including those now outstanding) in which the phrase appears, "use of loan funds for unauthorized purposes" refers to the situation in which the lender in fact agrees with the borrower that loan funds are to be so used and the phrase "unauthorized purpose" means any purpose not listed by the lender in the completed application as approved by FmHA.

* * * * * *

3. Paragraph II under the Parties Agree of Appendix B, Form FmHA 449-35, Lender's Agreement, is amended to add a sentence to the end of the paragraph as follows:

APPENDIX B—FORM FmHA 449-35, LENDER'S AGREEMENT

* * * * * *

THE PARTIES AGREE

* * * * * *

II. Full Faith and Credit. * * *

As used herein, the phrase "use of loan funds for unauthorized purposes" refers to the situation in which the lender in fact agrees with the borrower that loan funds are to be so used and the phrase "unauthorized purpose" means any purpose not listed by the lender in the completed application as approved by FmHA.

* * * * * *

(7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10, Pub. L. 93-357, 88 Stat. 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: October 11, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-33223 Filed 11-27-78; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

Radiation Surveys of Therapy Patients

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Final rule.

SUMMARY: Certain NRC licensees are authorized to treat patients with temporary implants incorporating radioactive material. NRC will require such licensees to confirm the removal of the implants at the end of the treatment by (1) a source count and (2) a radiation survey of the patient. Failure to account for all implants at the conclusion of patient treatment has resulted in some instances of unnecessary radiation exposure to patients and members of the general public.

EFFECTIVE DATE: The amendment becomes effective on December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward Podolak, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone: 301-443-5966).

SUPPLEMENTARY INFORMATION: NRC regulations in § 35.14(b)(5)(vii) require Group VI licensees [1] to assure that patients treated with cobalt-60, cesium-137 or iridium-192 temporary implants remain hospitalized until the implants have been removed. The primary method for confirming that all sources have been removed is to count the sources implanted and count the sources removed. The source counting has not always been performed accurately, or on a timely basis.

Some patients have been discharged from the hospital with radioactive sources still implanted. (It is particularly difficult to count iridium-192 seeds, which sometimes become dislodged from their encasement in nylon ribbon). Because a backup radiation survey of the patient could have prevented these incidents, on June 28, 1978 NRC published a proposed rule in the FEDERAL REGISTER adding a requirement for source counting and patient radiation surveys to the existing § 35.14(b)(5)(vii) which prohibits Group VI licensees from discharging patients until all sources are removed. The comment period ended August 14, 1978.

Twenty-one comments were received. Eleven favored the proposal without qualification. Three commenters suggested that bulky afterloaded devices that protrude from the body be exempted from the radiation survey. One commenter suggested that an x-ray be permitted as an alternative to the radiation survey. One commenter asked what was meant by "the end of the treatment" and one commenter, while favoring the proposal, suggested that the radiation survey should be performed within one hour of source removal. Four commenters objected to the proposal because they believe that regulations that define what is already good medical practice are useless. One commenter objected to the proposal because he believes that there are some cases where it would be impossible to survey the patient before discharge.

The wording of the final rule is the same as the proposed and requires a radiation survey of the patient before discharge. The radiation survey is the most positive (active) method of verifying source removal. The x-ray is a passive method. Although good practice would suggest a radiation survey soon after source removal, the regulation has to recognize the realities of the clinical setting where other tasks may have higher priority. Placing a tight time limit on this essentially quality control function may interfere with patient care. However, it is extremely unlikely that the licensee will experience difficulty performing the survey between source removal and discharge of the patient.

The suggestion to exempt afterloaded devices is well made. The devices are bulky relative to the actual source size and it is difficult to imagine that patients would be discharged with these devices in-place. However, NRC inspectors, who are familiar with incidents of overexposure from implants remaining in patients, say that this is an area where the "impossible" happens in spite of great care and precautions. Also, NRC inspectors have investigated an incident where a patient was discharged with an afterloaded device in-place with the sources loaded. The radiation survey is simple and inexpensive and it will also detect any sources lost in the bedclothes or room where the survey is performed. Therefore, the afterloaded devices will not be exempted from the requirements for a radiation survey.

Finally, regulations that define what is generally considered good practice may seem useless or may even dismay conscientious licensees. However, this is insufficient reason to forgo these regulations when there is evidence that the good practices are not universal.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and sections 552 and 553 of title 5 of the United States Code, notice is hereby given that the following amendment to 10 CFR Part 35 is published as a document subject to codification.

In 10 CFR Part 35, § 35.14(b)(5)(vii) is amended to read as follows:

§ 35.14 Specific licenses for certain groups of medical uses of byproduct material.

* * * * * *

(b) Any licensee who is authorized to use byproduct material pursuant to one or more groups in §§ 35.14(a) and 35.100 is subject to the following conditions:

* * * * * *

(5) For Group VI any licensee who possesses and uses sources or devices containing byproduct material shall:

* * * * * *

(vii) Assure that patients treated with cobalt-60, cesium-137 or iridium-192 implants remain hospitalized until a source count and a radiation survey of the patient confirm that all implants have been removed.

* * * * * *

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Bethesda, Maryland this 14th day of November 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-33229 Filed 11-27-78; 8:45 am]

[1] The most common types of NRC specific licenses for the medical use of byproduct material are the *Group* medical licenses under § 35.14 that apply to those radioactive materials listed in § 35.100. The radioactive materials listed in § 35.100 are divided into six groups, each group having similar requirements for user training and experience, facilities and equipment, and radiation safety procedures. Groups I, II, and III are lists of radiopharmaceuticals for diagnostic procedures; Groups IV and V are lists of radiopharmaceuticals for therapeutic procedures; and Group VI is a list of radioactive medical devices for both diagnostic and therapeutic procedures.

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9042]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Coventry Builders, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Shaker Heights, Ohio home improvements firm to cease, in connection with the extension of credit, failing to provide consumers with those materials and disclosures required by Federal Reserve System regulations.

DATES: Complaint issued July 15, 1975. Decision issued October 23, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Regional Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500, Mall Bldg., 118 St. Clair Ave., Cleveland, Ohio 44114. 216-522-4207.

SUPPLEMENTARY INFORMATION: On Wednesday, August 16, 1978, there was published in the FEDERAL REGISTER, 43 FR 36281, a proposed consent agreement with analysis In the Matter of Coventry Builders, Inc., a corporation, and Louis Galiano, Sr., individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.73 Formal regulatory and statutory requirements; 13.73-92 Truth in Lending Act; § 13.155 Prices; 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act.

[1] Copies of the Decision and Order filed with the original document.

Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; 13.1623-95 Truth in Lending Act.—Prices: § 13.1823 Terms and conditions; 13.1823-20 Truth in Lending Act. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-75 Truth in Lending Act; § 13.1905 Terms and conditions; 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; (15 U.S.C. 45, 1601, *et seq.*).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33271 Filed 11-27-78; 8:45 am]

[6750-01-M]

[Docket No. C-2933]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Moore & Associates, Inc., et al., Trading as Uni-Check, et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, will require a Honolulu, Hawaii firm engaged in providing various businesses with consumer credit information and other services, to cease furnishing reports containing obsolete, inaccurate, or disputed information; providing such reports for improper purposes; or otherwise failing to comply with statutory requirements.

DATES: Complaint and order issued October 24, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

William A. Arbitman, Regional Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: On Friday, August 18, 1978, there was published in the FEDERAL REGISTER, 43 FR 36642, a proposed consent agreement with analysis In the Matter of Moore & Associates, Inc., a corporation doing business as Uni-Check, and Rentcheck, and R. Donald Moore, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibitive trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Collecting, Assembling, Furnishing or Utilizing Consumer Reports: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports; 13.382-1 Confidentiality, accuracy, relevancy, and proper utilization; § 13.382-5 Formal regulatory and/or statutory requirements; 13.382-5(a) Fair Credit Reporting Act. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-37 Formal regulatory and/or statutory requirements.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 84 Stat. 1127-36 (15 U.S.C. 1601, *et seq.*).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33272 Filed 11-27-78; 8:45 am]

[6351-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 11—RULES RELATING TO INVESTIGATIONS

Delegation of Authority To Reassign Duties From Persons Named in a Commission Order of Investigation to Other Staff Persons

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rule.

SUMMARY: The Commission has delegated to the Director of the Division of Enforcement the authority to grant to other members of the Commission staff the authority of persons named in a Commission Order of Investigation.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Field, III, Director, Division of Enforcement, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, 202-254-9501.

SUPPLEMENTARY INFORMATION: The Commission has amended § 11.2 of its regulations under the Commodity Exchange Act to include a new paragraph (b) which authorizes the Director of the Division of Enforcement to grant to any Commission employee under his direction, all or part of the authority which the Commission, by order, has authorized specific employees to perform in connection with a Commission investigation conducted by the Division of Enforcement. With the approval of the Executive Director, the Director of the Division of Enforcement may grant similar authority to any Commission employee under the direction of the Executive Director. This delegation will enable the Director to appoint additional (or substitute) staff persons to issue subpoenas and take testimony without having to obtain an amended order from the Commission.

The Commission finds that the amendment of § 11.2 relates solely to agency practice and procedure and that the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking and other opportunity for public participation are not required.

In consideration of the foregoing, 17 CFR 11.2 is amended by designating the present section as paragraph (a) and by adding a new paragraph (b) as follows:

§ 11.2 Authority to conduct investigations.

* * * * *

(b) The Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Enforcement the authority to grant to any Commission employee under his direction all or a portion of the authority which the Commission, by order, has authorized specified employees of the Commission to perform in connection with a Commission investigation conducted by the Division of Enforcement. With the approval of the Executive Director, the Director of the Division of Enforcement may also grant such authority to any Commission employee under the direction of the Executive Director.

(Secs. 2a(11) and 6(b) of the Act, 7 U.S.C. 4a(j) and 15 (1976), as amended by the Futures Trading Act of 1978, Pub. L. 95-405, sec. 13, 92 Stat. 871 (1978)).

Issued in Washington, D.C. on November 21, 1978, by the Commission.

READ P. DUNN, JR.,
Commissioner.

[FR Doc. 78-33227 Filed 11-27-78; 8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[4110-07-M]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION; DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 4, 16]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Rules for Adjudicating Disability Claims in Which Vocational Factors Must Be Considered

AGENCY: Social Security Administration, HEW.

ACTION: Final rules.

SUMMARY: The amendments will expand existing regulations to include additional detailed criteria for the evaluation of those cases involving claims based on disability under titles II and XVI of the Social Security Act in which the determination as to disability cannot be made on medical severity alone or on the ability to do past work. In those instances the individual's impairment will be considered in conjunction with the individual's age, education and work experience to determine his or her ability to engage in substantial-gainful activity. In publishing the amendments, the Social Security Administration intends to consolidate and elaborate upon longstanding medical-vocational evaluation policies for adjudicating disability claims in which an individual's age, education, and work experience must be considered in addition to the medical condition.

DATES: These amendments shall be effective February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

William J. Ziegler, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7415.

SUPPLEMENTARY INFORMATION: On March 7, 1978, there was published in the FEDERAL REGISTER (43 FR 9284) a Notice of Proposed Rule Making with proposed amendments providing rules for adjudicating disability claims in which vocational factors must be considered in addition to impairment severity. Interested persons, organizations, and groups were invited to submit data, views, or arguments pertaining to the proposed amendments within a period of 60 days from the date of publication of the notice. The comment period was extended an additional 30 days to allow members of the public more time to submit their comments (43 FR 19238). After careful consideration of all the comments submitted, the proposed amendments are being adopted and shall become effective 90 days after this publication. Many issues identified in the comments received from the public were previously addressed in the NPRM. All issues which were not discussed there are addressed later in this preamble.

The amendments will expand existing regulations to include additional detailed criteria for the evaluation of those cases involving claims based on disability under title II and title XVI of the Social Security Act in which the determination as to disability cannot be made on medical severity alone or on the ability to do past work. In those instances, the individual's impairment will be considered in conjunction with the individual's age, education, and work experience to determine his or her ability to engage in substantial gainful activity. The rules in Appendix 2 consider only impairments which result in exertional limitations. They do not apply where the impairment(s) causes only nonexertional limitations; e.g., certain mental, sensory or skin impairments. The regulations text, however, provides the framework in which to evaluate impairments resulting in nonexertional limitations. In any case where a numbered rule in Appendix 2 does not apply, full consideration must be given to all the facts of the case in accordance with the definitions and discussions of each factor in the regulations.

These amendments do not apply to individuals who are blind as defined under title II or title XVI of the Social Security Act, nor in determining disability for children under age 18 under title XVI or applicants for disabled widow' or widowers' benefits under title II.

In publishing the amendments, the Department intends to consolidate and elaborate upon long standing medical-vocational evaluation policies for adjudicating disability claims in which an individual's age, education, and work experience must be considered in addition to the medical condition. These policies have in the past been reflected in adjudicative guides but have not been available in the same format at all levels of adjudication. While the majority of disability cases are resolved on the basis of medical considerations alone or the ability to do past work, those cases that require the full consideration of an individual's age, education, and work experience are the most difficult to resolve at all levels of adjudication. And, they are more difficult for the general public to understand. Consolidating these policies and incorporating them into the regulations will serve to make clearer to claimants and their representatives how disability is determined where vocational factors must be considered. In addition, it will serve to better assure the soundness and consistency of disability determinations in all claims that are filed regardless of the level at which adjudicated; and finally, it should promote better understanding and acceptance by the public and the courts of disability determinations that are made.

BACKGROUND

Congress first amended the Social Security Act in 1954 to preserve the insurance rights of individuals who have periods of total disability before reaching retirement age. The 1954 provision defined disability, in pertinent part, as:

"inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration * * * (Section 106(d), Pub. L. 761, 83rd Cong., 2d Sess., September 1, 1954, C. 1206, 68 Stat. 1080).

The law, on its face, did not initially mandate consideration of any vocational factors. However, the Congress envisaged that the determination in every case be an individual one. Accordingly, since the inception of the social security disability program in 1954, in the application of the statutory test, consideration has been given to the individual's vocational capacity, where pertinent, in determining whether the individual is disabled. However, because of the clearly limited statutory definition, those factors which relate primarily not to disability but to an individual's ability to obtain employment have been excluded from consideration.

The Social Security Administration's first effort in developing rules for disability determinations was in February 1955 when the Commissioner of Social Security appointed a Medical Advisory Committee to provide technical advice on administrative guides and standards designed to provide equal consideration to all individuals in the evaluation of their disabilities under the 1954 law. This committee suggested that age, education, training, experi-

the Census and State employment impairment(s), better assure consisten- establish that a particular rule is met.

ence, and other individual factors would need consideration in any case requiring evaluation of facts beyond the medical report and work record even though the law did not specifically require consideration of such factors.

In 1956, the law was further amended to provide for payment of disability insurance benefits to insured individuals who were disabled; the above-quoted statutory definition of disability was adopted for this purpose (Social Security Act as amended by § 103(a) of Pub. L. 84-880, approved August 1, 1956, (C. 836, 70 Stat. 815)). Regulations promulgated in 1957 to implement the statute also provided for the consideration of vocational factors. Section 404.1501 of Regulations No. 4, provided in pertinent part:

(b) In determining whether an individual's impairment makes him unable to engage in such activity [substantial gainful activity] primary consideration is given to the severity of his impairment. *Consideration is also given to such other factors as the individual's education, training and work experience.*

(c) It must be established by medical evidence, and where necessary by appropriate medical tests, that the applicant's impairment results in such a lack of ability to perform significant functions—such as moving about, handling, objects, hearing or speaking, or, in a case of mental impairment, reasoning or understanding—*that he cannot, with his training, education and work experience, engage in any kind of substantial gainful activity.* (Emphasis added.)

The initial years of operation of the disability program were reviewed by the Subcommittee on the Administration of the Social Security Laws of the Committee on Ways and Means. This Subcommittee's Preliminary Report, issued on March 11, 1960, stated, in commenting on "nonmedical standards" in the disability program, that:

"The subcommittee believes it is essential that there be a clear distinction between this program and one concerned with unemployment. It also believes it is desirable that disability determinations be carried out in as realistic a manner as possible, and that theoretical capacity in a severely impaired individual can be somewhat meaningless if it cannot be translated into an ability to compete in the open labor market."

In August 1960 the regulations were further amended. Among other things, the amended regulations continued to provide for the consideration of vocational factors including age, education, training, and work experience in determining disability, and specifically stated:

"The physical or mental impairments must be the primary reason for the individual's inability to engage in substantial gainful activity. Where for instance, an individual remains unemployed for a reason or reasons not due to his physical or mental impairment but because of the hiring practices of certain employers, technological changes in the industry in which he has worked, or local or cyclical conditions, such individual may not be considered under a disability • • •"

Reflecting concern about the disability insurance benefit program and the way the definition was being interpreted by the courts, the 1967 amendments to the law clarified the definition of disability. This legislation emphasized the role of medical standards in determining disability by stating that an individual is not to be considered under a disability unless the individual's impairment is of such severity that he or she is not only unable to do his or her previous work but cannot (considering his or her age, education, and work experience) engage in any other kind of substantial gainful work which exists in the national economy.

Specifically, the statutory definition of disability in section 223 of the Act was amended by the 1967 amendments to read, in pertinent part, as follows:

"(d)(1) the term 'disability' means—

"(A) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

"(B) [Blindness].

"(2) For purposes of paragraph (1)(A)—

"(A) An individual (except a widow, surviving divorced wife, or widower for purposes of section 202 (e) or (f)) shall be determined to be under a disability *only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any kind of substantial gainful work which exists in the national economy,* regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), 'work which exists in the national economy' means work which exists in significant numbers either in the region where such individual lives or in several regions of the country. (Emphasis added.)

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"(3) For purposes of this subsection, a 'physical or mental impairment' is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

• • • • • •

"(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require." (Section 158(b), Pub. L. 90-248, January 2, 1968, 81 Stat. 821.)

The legislative history of this amendment indicates that the Congress clearly intended that medical factors be given predominant importance in making disability determinations. The House Report (H.R. Rep. No. 544, 90th Cong., 1st sess. (1967)) states, at page 30:

"• • • In most cases the decision that an individual is disabled can be made solely on the basis that his impairment or impairments are of a level of severity (as determined by the Secretary) to be sufficient so that, in the absence of an actual demonstration of ability to engage in substantial gainful activity, it may be presumed that he is unable to so engage *because* of the impairment or impairments." (Emphasis in original.)

Further, for the first time, Congress specifically alluded to vocational factors in the statutory language (223(d)(2)(A)) and provided guidance as to their applicability. In discussing the factors which must be applied to individuals whose medical impairments are not of a sufficient level of severity so that the presumption of disability would apply, the House Report went on to state, at page 30:

"• • • that such an individual would be disabled only if it is shown that he has a severe medically determinable physical or mental impairment or impairments; that if, despite his impairment or impairments, an individual still can do his previous work, he is not under a disability; and that if, considering the severity of his impairment together with his age, education, and experience, he has the ability to engage in some other type of substantial gainful work that exists in the national economy even though he can no longer do his previous work, he also is not under a disability regardless of whether or not such work exists in the general area in which he lives or whether he would be hired to do such work. It is not intended, however, that a type of job which exists only in very limited numbers or in relatively few geographic locations would be considered as existing in the national economy. While such factors as whether the work he could do exists in his local area, or whether there are job openings, or whether he would or would not actually be hired may be pertinent in relation to other forms of protection, they may not be used as a basis for finding an individual to be disabled under this definition. It is, and has been, the intent of the statute to provide a definition of disability which can be applied with uniformity and consistency throughout the nation, without regard to where a particular individual may reside, to local hiring practices or employer preferences or to the state of the local or national economy."

Except for the existing appendix to the regulations listing specific medical impairments which are presumptive of disability due to the severity involved, the existing regulations have provided general guidance in the determination of disability. They have been supported by a wide array of specific administrative materials which have been used primarily at the initial and reconsideration levels in the making of each decision. Such materials (provided primarily from surveys of industry by the Department of Labor, the Bureau of the Census and State employment services) include a variety of specific, published documentations of jobs existing in the local and national economy and specific physical, mental and skill requirements of such jobs (e.g., the *County Business Patterns*, published by the Bureau of the Census, which show distribution of employment in the United States by locality and by industry; the *Census Reports*, published by the Bureau of the Census, which give detailed characteristics of the working population on a national, regional, and local level; occupational analyses of light and sedentary jobs prepared for the Social Security Administration by various State employment agencies; the *Occupational Outlook Handbook*, published by the Bureau of Labor Statistics, which shows the nature of work, the training and other qualifications needed and working conditions and employment outlook for certain occupations; and the third edition of the *Dictionary of Occupational Titles*, published by the Department of Labor, which provides job definitions, requirements, worker traits, industry designations and indicators of skills). Thus, the relationship between the physical abilities of specific individuals and the physical, mental, and skill requirements of specific jobs available in the national economy has been administratively determined. The administrative notice which is taken of the mentioned reference materials is based on the fact that they are generally recognized in business, industry, and government as representing authoritative sources on jobs throughout the national economy. As later editions are published, e.g., the fourth edition of the *Dictionary of Occupational Titles* now being prepared by the Department of Labor, they will be used in the same manner.

Consistent with the definition of disability prescribed by the law and regulations, and the relationship between the physical abilities of specific individuals and the physical, mental, and skill requirements of specific jobs available in the national economy, detailed guides for determining whether disability exists have been developed by the Social Security Administration and have been provided in the form of administrative issuances at the initial and reconsideration levels for use in the adjudication of each case. Hundreds of thousands of such cases are adjudicated each year under these evaluation guides. These guides are now being incorporated into the regulations as rules. Their publication in this form will facilitate a sound determination of disability in those cases where the vocational impact of age, education, and work experience must be assessed in conjunction with the severity of an individual's medical impairment(s), better assure consistency of determinations, and better serve to advise the public, adjudicatory personnel within the Social Security Administration, and the courts, of the specific rules followed by the Social Security Administration.

This need for publication of additional, more definitive medical vocational rules has been further heightened by the advent of the recent title XVI (Supplemental Security Income) legislation, which introduced into general adjudicative consideration for the first time, a factor not normally present in the title II disability program—the vocational impact upon adult individuals who have no relevant work experience.

Under title II, the "insured status" requirement, which applies to most disability claimants, requires that the claimant have a significant and recent work history covered under the title II program. Under title XVI, the same test of disability is used as under title II, but the collateral requirements are directed to financial need rather than participation in a work-related contributory system. Therefore, needy disabled individuals may qualify under title XVI even if they have no work history.

AMENDMENTS EXPANDING THE REGULATIONS

GENERAL

For consistency with the statutory definition of disability, the regulations contain a technical clarification of the language in Regulations No. 4 and Regulations No. 16 to reflect that an impairment that is "not severe" would support a finding that an individual is not disabled.

The regulations specifically define the adjudicative weight to be given to impairment severity, age, education, and work experience. They emphasize that the adjudicative judgment is to be based on consideration of the interaction of all of the individual factors. They also add a new Appendix 2 which is composed of rules that reflect the major functional and vocational patterns that are encountered in cases where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and the individual's impairment(s) prevents the performance of his or her vocationally relevant past work. The rules in Appendix 2 also reflect the analysis of the various vocational factors in combination with the individual's residual functional capacity in evaluating the individual's ability to engage in substantial gainful activity in other than vocationally relevant past work.

These rules are not presumptive, but are conclusive where the necessary findings with regard to each individual establish that a particular rule is met. That is, where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a conclusion as to whether the individual is or is not disabled. However, these individual findings of fact are subject to rebuttal and the individual may present evidence to refute the findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a conclusion.

Because the rules consider only impairments which result in exertional limitations, they are not applicable where an individual's impairment(s) causes only non-exertional limitations, e.g., certain mental, sensory, or skin impairments. Further, the rules may not apply where a combination of impairments significantly limits the range of work an individual can perform at a given exertional level; nor do the rules apply where a finding of fact concerning age, education, or work experience differs from the vocational characteristics covered by a rule. The rules, however, are useful as adjudicative guides in considering borderline cases and cases involving combinations of impairments. In any case where a rule does not apply, full consideration must be given to all the facts of the case in accordance with the definitions and discussions of each factor in the regulations.

The criteria are considered in appropriate sequence in the context of the overall disability sequential evaluation process. This sequence, conforming to existing social security regulations, and left substantially unchanged by the amendments, is applied in the following manner.

1. *Determinations based on an individual engaging in substantial gainful activity.*

Where an individual is actually engaging in substantial gainful activity, a finding will be made that the individual is not under a disability without consideration of either medical or vocational factors.

2. *Determinations based solely on the medical severity of impairments.*

a. Medical considerations alone can justify a finding that the individual is not under a disability where the medically determinable physical or mental impairment(s) is not severe, e.g., does not significantly limit the individual's physical or mental capacity to perform basic work-related functions.

b. On the other hand, medical consideration alone would justify a finding of disability where:

(1) The impairment meets the duration requirement (i.e., is expected to

last at least 12 months or result in death);

(ii) The impairment meets or equals the severity of a listed impairment published in the Appendix (now designated "Appendix") of the disability regulations; and

(iii) Other evidence does not rebut a finding of disability, e.g., the individual is not actually engaging in substantial gainful activity.

3. *Determinations based on vocational as well as medical considerations.*

a. Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor, is not working and is no longer able to perform such labor because of a significant impairment or impairments, the individual may be found to be under a disability.

b. Where a finding of disability (or its absence) is not made under any of the foregoing steps, the individual's impairment(s) is evaluated in terms of physical and mental demands of the individual's past relevant work. If the impairment(s) does not prevent the performance of past relevant work, disability will be found not to exist.

c. If an individual cannot perform his or her past relevant work but the individual's physical and mental capacities are consistent with his or her meeting the demands of a significant number of jobs in the national economy and the individual has the vocational capabilities (considering his or her age, education, and past work experience) to make an adjustment to work different from that which the individual has performed in the past, it will be determined that the individual is not under a disability. However, if the individual's physical and mental capacities in conjunction with his or her vocational capabilities (considering his or her age, education, and work experience) are not consistent with making an adjustment to work differing from that which the individual has performed in the past, it will be determined that the individual is under a disability.

The amendments and the addition of Appendix 2 primarily concern the last two steps of the process (3 b and c above) and principally the last step (3c above). They provide a logical sequence for evaluating disability within the last step the step where it is necessary to evaluate the impact of the individual's severe impairment(s) in conjunction with his or her vocational profile (i.e., age, education, and work experience). These rules apply only after a determination has been made that the individual's impairment(s), although severe, does not meet or equal the listing of impairments in Appendix 1 and the individual is unable to perform past relevant work. Moreover, the rules apply only after the impairments have been translated into the individual's physical and mental ability to perform functions necessary for the performance of work.

In the determination of the individual's impairments and ability to function, all medical evidence is evaluated. The individual has the burden of proving his or her case by furnishing evidence of disability, but all evidence adduced in the case from any source is fully considered. If, however, nothing in the evidence raises a question regarding a particular impairment or function, such as seeing or hearing, the individual is considered to be able, in that respect, to perform work activities.

The amendments focus on the vocational factors of age, education, and work experience. They are premised on the necessity to adjudicate each case individually to determine what work a specific individual is able to do. This includes a specific consideration of the individual's vocational profile. In making determinations of disability, administrative notice is taken of authoritative publications and studies which identify the kinds and numbers of jobs that exist in the national economy and their skill and exertional requirements.

Most sources not connected with the Social Security Administration which deal with the vocational implications of limitations resulting from impairments, age, education, and work experience do so from the standpoint of job placement rather than the social security concept of disability, which is concerned with the physical and mental ability to engage in jobs that exist. Such sources entail consideration of elements such as employer hiring practices which the law excludes from consideration in social security disability adjudication. Thus, most of their findings are not directly applicable. Such data do, however, provide an overview of the realities of the labor market and some specific reference points that can be utilized. The extensive experience of the Social Security Administration is also used as a basis for consideration of vocational factors.

Recognizing the primary importance of the individual's impairment(s) and any limitations resulting therefrom, the amendments require first that sound professional judgments be made as to an individual's residual functional capacity. Then, a reliable basis is needed to relate the individual's resiual, functional capacity to what he or she could be expected to do in terms of work at various exertional levels. The individual has the burden of proving that he or she is disabled and where no issue is raised by his or her allegations or the evidence adduced as to specific physical or mental capacities, findings as to such capacities are not required.

In order to consider the individual's residual functional capacity in terms of the level of work his or her exertional capabilities would represent, the definitions of sedentary, light, medium, heavy and very heavy work are use as those terms are defined in the third edition of the *Dictionary of Occupational Titles* published by the Department of Labor. This provides a "bridge" between assessment of residual functional capacity and the identification of ranges of work and types of jobs that remain within the individual's functional capabilities. The rules attach vocational significance to the functional capability for various ranges of work in terms of the relative numbers of jobs represented by the various capabilities.

The functional ability to perform heavy work, which includes the functional capability for work at all of the lesser functional levels as well, indicates the functional capability for almost all work that is listed in the third edition of the *Dictionary of Occupational Titles*. The functional ability to perform very heavy work includes the functional capability for all work that is listed in the third edition of the *Dictionary of Occupational Titles*.

The functional capacity to perform medium work includes the functional capacity to perform sedentary, light, and medium work and indicates a substantial work capability. Approximately 2,500 separate unskilled sedentary, light and medium occupations are identified in the *Selected Characteristics of Occupations*, a supplement to the third edition of the *Dictionary of Occupational Titles*. Each occupation represents numerous jobs found throughout the national economy.

The functional ability to perform a full or wide range of light work represents substantial work capability in diverse jobs and industries at all skill levels. Approximately 1,600 separate unskilled light and sedentary occupations can be identified in the *Supplement to the Dictionary of Occupational Titles* (third edition), each occupation representing numerous jobs found throughout the national economy.

Most sedentary occupations are skilled or semi-skilled, and fall within the professional, administrative, technical, clerical, machine trade, and benchwork classifications. There are also approximately 200 separate unskilled sedentary occupations which can be identified in the *Supplement to the Dictionary of Occupational Titles* (third edition), each occupation representing numerous jobs found throughout the national economy. While sedentary work represents a significantly restricted range of work, this range itself is not so restricted as to negate work capability for substantial gainful activity. As with the other factors, the functional level of work which an individual can perform is not, in itself, determinative of disability but must be considered in conjunction with the individual's age, education and work experience.

Appendix 2 considers the functional level of work which an individual can perform in relation to the individual's age, education, and work experience. Various combinations of these functions are arranged to direct a conclusion as to whether the individual is disabled. Where findings of fact as to the individual's remaining functional capacity, age, education and work experience coincide with the criteria of a specific rule, the indicated conclusion obtains. Where any one of the individual findings of fact does not coincide with a criterion specified in a particular rule, the rule does not apply in that particular case and, therefore, does not direct a conclusion of disabled or not disabled. In those instances the Appendix 2 rules will provide a guide for decisionmaking along with the discussions of each factor in the body of the regulations.

If it is found that an individual does not have the physical-mental capacity to perform work even at a sedentary level—the level requiring the least exertion—disability will be determined to exist, absent specific evidence to the contrary (e.g., the individual is working in substantial gainful activity). (In such a situation, the individual should ordinarily have been determined to be disabled based solely on consideration of the medical severity of impairment under Step 2b in the sequential process described above.) If, on the other hand it is found that the individual, although severely impaired, does have the physical-mental capacity to perform work at some exertional level (i.e., sedentary through heavy), consideration then must be given, as provided in the law, to whether "jobs exist in the national economy" that are within the individual's capability, considering his or her residual functional capacity in the light of his or her age, education, and work experience.

As previously set out, the law provides that "jobs exist in the national economy" when they exist in significant numbers either in the region where an individual lives or in several regions of the country. Further, in defining what constitutes disability, under sections 223(d) and 1614(a)(3) of the Social Security Act, the Congressional intent is that where an individual's physical or mental impairment(s) and his or her age, education, and past work experience are compatible with the performance of substantial gainful activity, the individual cannot be considered under a disability because he or she is unsuccessful in obtaining work he or she can do; or because work he or she could do does not exist in his or her local area; or because of the hiring practices of employers, technological changes in the industry in which the individual has worked, or cyclical economic conditions; or because there are no job openings for the individual or the individual would not actually be hired to do work he or she could otherwise perform. On the other hand, an individual may be determined to be under a disability if the individual's physical or mental impairments are of such severity that the individual is not only unable to do his or her previous work but cannot, considering his or her age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy.

In view of the provisions of the law and data which show that significant numbers of unskilled jobs do exist in the "national economy" at each of the levels of required exertion from sedentary through heavy and very heavy, an individual would not meet the requirements for disability if the individual has the residual functional capacity to do work at any of these levels and the individual's vocational capabilities, considering his or her age, education, and work experience, are not so adverse as to preclude his or her ability to engage in such work. Thus, for example, an individual who retains the physical ability to do a wide range of light work, who is not of advanced age, and is able to communicate, read, and write on an elementary level, would generally be considered to still be in the competitive labor market for light, unskilled work, despite the absence of special experience or skills. This is a longstanding guide used by social security disability program adjudicators and has been available in administrative issuances.

Within the context of the preceding discussion concerning the overall impact of vocational considerations in assessing disability, the expanded regulations also provide specific rules for assessing each of the vocational factors of age, education, and work experience. The bases for these rules are discussed below:

Age

Reference sources and materials dealing with chronological age in terms of vocational relationship deal principally with employment and rehabilitation activities, basing their conclusions mainly on the rate of participation in the labor force, the unemployment rate, duration of unemployment, and the proportion of hires to applicants. It appears from such materials that the "older worker" is usually considered as an individual 45 years of age and older. See, for example *"Services to Older Workers"* by the Public Employment Service (May 1957), page 9; *Training and Employment of the Older Worker, Recent Findings and Recommendations Based on Older Worker Experimental and Demonstration Projects* by Sarah F. Leiter (February 1968), page 1 and 2; *The Productive Years Age 45–65* (undated) published by the National Association of Manufacturers; *Meeting the Manpower Challenge of the Sixties with 40-plus Workers*, a November 1960 Department of Labor publication, page 12.

It is further noted in publications that age 55 represents a critical point in the attempts of "older workers" to obtain employment. See, for example, *A Survey of the Employment of Older Workers* (1965) by the State of California, Department of Employment and Citizens' Advisory Committee on Aging, page 96; *The Vocational Adjustment of the Older Disabled Worker, A Selective Review of the Recent Literature*, by Herbert Rusalen, Ed. D (a study for the Vocational Rehabilitation Administration), pages 9, 10, and 12; *Services to Older Workers* by the Public Employment Service (May 1957).

In viewing the overall implications of the data in the sources cited, it must be recognized that there is a direct relationship between age and the likelihood of employment. However, the statutory definition of disability provides specifically that vocational factors must be viewed in terms of their effect on the ability to perform jobs rather than the ability to obtain jobs—in essence, in terms of how the progressive deteriorative changes which occur as individuals get older affect their vocational capacities to perform jobs. Since no data or sources are available which relate varing specific chronological ages to specific vocational limitations for performing jobs, it has been necessary to analyze and interpret the available age—employment data to ascertain a point where it would be realistic to ascribe vocational limitations based on chronological age.

Prior experience of the Social Security Administration in determining when age makes a difference in disability determinations has also been considered, e.g., as shown in the *Social Security Disability Applicant Statistics/1970* published by the U.S. Department of Health, Education, and Welfare, Social Security Administration, Office of Research and Statistics, September 1974, as well as the Veter-

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ans Administration Schedule for rating disabilities (38 CFR 4.17).

In this respect, while the data reflect employment problems as developing at age 45, they recognize that this problem becomes significantly intensified at age 55. It is at this point, age 55, where it can reasonably be anticipated, therefore, that the deteriorative changes which occur in older persons which affect vocational capacities would most likely occur. Further, the vocational adversity of age 55 was recognized in *Report of the 1971 Advisory Council on Social Security* published by the U.S. Government Printing Office, April 5, 1971; and age 55 has already gained Congressional recognition in legislation establishing special provisions for disability because of blindness (see section 223(d)(1)(B) of the Social Security Act).

Thus, from the standpoint of chronological age, the proposed amendments reflect age 55 and over as advanced age representing the point when age could be expected to be an adverse consideration in determining an individual's vocational adaptability to work differing from that of his or her past experience. This designation of age is an expectancy only and not an arbitrary limit and may not be crucial in a particular case. Indeed, whatever disadvantage "advanced age" may have generally may be offset in a specific case by an advantage such as skills or training. Further, no general application or inferences are intended regarding employer hiring practices with respect to age. (The Age Discrimination in Employment Act of 1967 prohibits discrimination in hiring practices because of age.) As noted earlier, employer hiring practices, regardless of their legality, are excluded from consideration in social security disability adjudication. The ultimate finding of whether an individual of advanced age can or cannot reasonably be expected to adjust to work other than that which the individual has performed in the past, is dependent upon an evaluation of the extent of the individual's limitations resulting from medically determinable impairments in interaction with his or her age, education, training, past work experience (or lack of work experience), and skills.

In addition, these amendments take cognizance of the fact that the vocational impact of age does not abruptly change from a favorable to an adverse vocational consideration precisely at the point of attaining age 55. Therefore, the proposed amendments provide for consideration of a lesser, but nevertheless significant, degree of vocational adversity as advanced age is approached. The chronological ages shown in the Appendix 2 Rules (45, 50, 55, 60) as representative of the increasing adversity of age within the scope of consideration of this factor in social security disability adjudication are intended as specific indicators, but are not intended to be applied mechanically in borderline situations.

EDUCATION

Formal education is given adjudicative weight to the extent that it relates to an individual's ability to meet reasoning abilities, language, and arithmetical requirements of jobs. Reasoning ability would affect the individual's ability to follow instructions and make judgments in a work situation. Language competence relates to ability to read, write, and speak. The inability to meet the language requirements at an elementary level would restrict even the number of unskilled jobs a person would be able to do. Similarly, the inability to perform simple calculations in addition and subtraction would represent vocational restrictions in performing some unskilled jobs. On the other hand, the *Dictionary of Occupational Titles*, third edition, and particularly the supplement thereto, *Selected Characteristics of Occupations* published by the Department of Labor, reflects that individuals with basic competences in speaking, reading, writing, and making simple calculations do have the educational capabilities for performing unskilled work. The *Occupational Outlook Handbook*, published by the Bureau of Labor Statistics (page 778, 1970–1971 edition and page 764, 1974–1975 edition), also reflects that people who have less than a high school education and no previous experience often can qualify for unskilled jobs. Other materials indicate similar correlations and reflect that employability tends to increase with education. See, for example, in the *Occupational Outlook Handbook*, published by the Bureau of Labor Statistics (1974–1975 edition), the section within each occupational listing entitled "Training, Other Qualifications, and Advancement," for example, see page 764; *The Long Term Unemployed, Educational Attainment* (October 1964) published by the Manpower Administration of the Department of Labor in cooperation with the Oklahoma Employment Security Commissioner (pages vi, and 18); *Monthly Labor Review* of January 1974, an article entitled "Educational Attainment of Workers, March 1973" (pages 58–61); Automation Manpower Services Program Report by the New Jersey State Employment Service entitled *"The 'Mack' Worker, The Impact of His Job Loss 2½ Years Later* (December 1965) (pages 14 and 15); *A Survey of the Employment of Older Workers* (1965) by the State of California Department of Employment and Citizens' Advisory Committee on Aging; *The Impact of Technological Change in the Meatpacking Industry*, published by the Division of Employment, Department of Labor in March 1966 (page 16). Illiteracy as an adverse factor has also been discussed in certain sources (e.g., *Rehabilitation of the Aging* prepared by Portland State College under auspices of Vocational Rehabilitation; *Monthly Labor Review*, September 1972, an article titled "How Employers Screen Disadvantaged Job Applicants").

An education of high school level or above may serve as a partial substitute for loss of physical capacity, i.e., better educated individuals are more likely to be engaged in sedentary and professional jobs. Thus, they are not as likely to apply for benefits or to be classified as disabled. In support of this, the data do not show the better educated to be heavily represented among the disabled; see, for example, Social Security Disability Applicant Statistics/1970, DHEW Pub. No. (SSA) 75–11911, pages 45, 46, 47, tables 18, 19, and 20.

In viewing the overall implications of the data in the sources cited, it must be recognized that there is a direct relationship between the level of education attained and the likelihood of employment. These sources indicate that young people who have less than a high school education and no previous work experience often can only qualify for employment in unskilled jobs such as kitchen workers, dishwashers, or construction laborers. Also, it is noted that individuals with the least schooling tend to have the most unemployment. In the blue collar classification, skilled workers tend to have a higher educational attainment than semi-skilled workers. In the white collar classification, most employees are high school graduates. Additionally, upon becoming unemployed or laid off, individuals with at least a high school education have better success in finding new employment. As a corollary, the chronically unemployed tend to be functional illiterates since most employers require that prospective employees at least be able to read and write. This is true even in the case of some unskilled work.

Thus, it can be seen that employability tends to increase and unemployment tends to decrease as the level of education increases. Increasing adaptability to changing working conditions and acquisition of more readily transferable skills occurs with increased education. Further, individuals who lack an adequate education, especially if they are illiterate, may be excluded from consideration for jobs which require a specified minimal educational background, even though these individuals might meet all other job qualifications. In considering the impact of education in social security disability adjudication, judgments must be made beyond the mere use of the number of grades of formal schooling an individual has achieved. In applying the Rules in Appendix 2, the factor of education must represent the individual's demonstrated competences in addition to or instead of a particular number of years of formal schooling or a lack of formal schooling.

WORK EXPERIENCE

An individual's past work experience is considered as demonstrating most persuasively the kinds of work and skill level at which an individual is qualified to perform. In the regulations, previous experience, particularly if it resulted in work skills that are transferable to other jobs, is treated as a substantial vocational asset in accordance with sources which reflect that workers with skills tend to have fewer and shorter periods of unemployment, and that skilled workers are often in demand even at age levels when some workers without acquired skills are experiencing difficulty in the labor market. Some of these sources are: *Counseling and Placement Services for Older Workers* (September 1956) published by the Department of Labor, Page 4, Section C.2.c; page 12, No. 14; page 15, No. 8, page 77, Section H.1; *A Survey of the Employment of Older Workers 1964*, published by the State of California, Department of Employment and Citizens' Committee on Aging, Page 9, Section B.1; Page 10, under the heading "Experience"; Page 49, Section A.; Page 70, Section 2.a.; and *Services to Older Workers* by the Public Employment Service (May 1957), published by the U.S. Department of Labor; Page 7, Section C. However, to be under a disability an individual must not only be unable to do his or her customary work but also must be unable to do any other kind of work that exists in significant numbers in the national economy. Although past work experience provides an individual with familiarity with certain work environments, as previously noted the third edition of the *Dictionary of Occupational Titles*, and other sources identify many unskilled jobs in the national economy at all levels of exertion which do not require skills or previous work experience, and even individuals without past work experience may vocationally qualify for such jobs. Notwithstanding this fact, the expanded regulations do recognize that where the applicant has had no prior work experience (a significant number of applicants for Supplemental Security Income benefits fall in this category) this is an adverse vocational factor which must be taken into consideration, particularly for individuals of advanced age.

PUBLIC COMMENTS

Over 2,800 comments have been received on these amendments following their publication as a notice of proposed rulemaking (NPRM) in the FEDERAL REGISTER, Volume 43, No. 45 on March 7, 1978, beginning at page 9284. Some of those who had comments were supportive of the regulations. Others feared that the substance of the amendments is new and intended primarily to deny benefits to disabled individuals in order to save trust fund moneys. The majority of commenters were concerned that the amendments represented new policies which were intended to pay many persons who would not now qualify for disability benefits, thereby adversely affecting program financing.

The policies, definitions and rules set out in the regulations reflect existing policies. We believe that the regulations will not have any significant effect on the current allowance-denial rates. Rather than abridge claimants' rights, the regulations will provide information about the applicable rules, and will promote more equitable, consistent and understandable decisions.

Many of the comments raised issues which were answered in the preamble to the NPRM published on March 7 (43 FR 9284). Since the issues in these comments were addressed in the NPRM and changes were made in response to the ones that were accepted, the repetitive comments are included in this preamble only where helpful in responding to new comments, or where there are significant variations. We regret, however, that some of the repeated comments reflect some misconceptions that have persisted despite frank discussions. Some additional changes have been made in the amendments as a result of the comments currently received. However, these are mostly of a clarifying nature and do not change the substance of the regulations. For example, several cross references to related disability regulations (including those concerning "substantial gainful activity") have been added and certain complex sections subdivided to make them more readily understood.

Because of the volume of comments, we have not provided individual responses. The following discussion sorts the comments into broad categories and responds to the issues raised.

I. *Public Perceptions of the Nature and Effect of the Regulations*

Issues

Several commenters requested that the regulations be withdrawn or extensively modified on the basis that "everyone has expressed opposition to their publication." Some continued to suggest that the Social Security Administration (SSA) was introducing at least a "limited" average man concept. Fears were also expressed that the regulations will cause a crisis in hearings, appeals and judicial review, leading to delays of decisions for claimants, and that administrative law judges (ALJ's) and other decisionmakers will make preconceived decisions. It was further suggested that additional instructional material will be needed for Federal and State adjudicators, new pamphlets for the public and more detailed notices of findings of not disabled at the initial and reconsideration levels.

Several said that it will become necessary for claimants to be represented by attorneys, while others believed that the regulations will encourage fraud, discourage people from self-improvement, and result in more findings of disabled for minority groups. Another writer asked what part of SSA's disability caseload will be affected by the regulations.

Response

The bulk of the public comments on the regulations have been from two distinct sources: (1) A coordinated response form claimant advocacy groups who fear that the regulations are intended to "deliberalize" the disability program at the expense of disabled persons in order to save trust fund moneys; and (2) a large response (over 2,500) generated by a syndicated newspaper column and related articles which pictured the regulations as a "liberalization" intended to pay benefits to nondisabled persons and thus cause the trust funds to go broke.

The two main groups of commenters, while both objecting to the proposed regulations, are on opposite sides regarding the direction they believe the disability program will and should take. Actually, the regulations as reflective of longstanding policies are neither intended nor expected to make the disability program more or less liberal. They are in accordance with the Social Security Act and legislative history, and intended only for the purposes set out in the NPRM.

Contrary to many of the commenters' concerns about "liberalization" of the program, the requirement of the law that a severe medically determinable impairment must be present for any finding of disability has not been changed. In fact, the regulations reemphasize the primary importance of the individual's impairment. These concerns arose mainly from newspaper articles which indicated that an inability to add and subtract, advanced age, inability to adjust to new work or inability to communicate

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in English would replace consideration of a severe impairment to qualify persons for disability benefits. Since this information (upon which over 2,500 commenters relied) was faulty, this preamble does not include discussion of each of the items erroneously described as replacing a severe impairment as the basic requirement for disability benefits. However, these comments were not ignored. We individually considered and acknowledged all of the comments received, sent copies of the NPRM to those who requested them, and provided additional information in response to mail and telephone inquiries. It is hoped that these efforts have helped achieve a better understanding of the regulations.

Regarding "deliberalization" of the program, some of the continued fears about an "average man" approach in place of individualized adjudication appear to result from an emphasis on the tables in Appendix 2 to the exclusion of the rest of the regulations. These tables cannot be applied, and should not be read, out of context. The explanatory material, definitions and guides in the regulations must also be considered, and adjudication must proceed in a sequential manner as set out in the regulations. In following this sequence and considering all appropriate factors, individualized adjudication is assured as in the past.

ALJ's and other decision makers are aware that a person's impairments can worsen or improve with the passage of time and that thorough individual consideration of all applicable factors is necessary in each claim. Decision makers are expected to use the regulations as they are published, which will improve decision making rather than lead to pre-conceived decisions, or the disregarding of evidence or other misuse of the tables in Appendix 2.

As in the past when such major regulations as those on medical criteria and substantial gainful activity were issued, SSA will hold training sessions and publish instructions for personnel in the disability program, as well as issue any appropriate pamphlets or other materials for the general public and revise notices as appropriate.

These regulations do not address the basic medical aspects of disability evaluation, the nature and sufficiency of signs, symptoms and laboratory findings reported; these are at least as complex as vocational factors and are the basis of the assessment of the claimant's residual functional capacity which, in turn, provides the setting for evaluation of age, education and work experience. This is the same as before. However, the regulation set out and defined in a single source the longstanding guides for evaluating the vocational factors in context with the individual's residual functional capacity, making this material more readily available in detail to everyone.

Therefore, we do not agree that a person could not prosecute his or her own disability claim or would be likely, because of these regulations, to need attorney representation more than in the past. Further, the denial notice at each adjudicative level clearly informs the claimant of appeal rights and, if a claimant expresses interest in having representation, he or she is told about the right to be represented; how to appoint a representative; what a representative may do; and fee regulations.

While in the short run delays in claim processing could result if the courts decide to make wholesale remands, this would have to be dealt with at the appropriate time and the inconvenience to claimants minimized. Such possibilities are not unique to these regulations and do not obviate their need. Further, the regulations have a 90-day delayed effective date to help prepare for their implementation.

Previous publications of regulations setting out disability criteria, such as the medical listings and the substantial gainful activity (SGA) criteria, did not result in an increase in fraudulent statements by claimants or their representatives, and it is not anticipated that these regulations will either. Any significant increase in misstatements would result in a review of documentation policies. With respect to the possibility that the regulations will nurture of lack of motivation for a person to become better educated or skilled, it is emphasized that the presence of adverse vocational factors without a severe physical or mental impairment does not warrant a finding of disabled.

The longstanding policies for the adjudicative consideration of age, education and work experience apply equally in consideration of all individuals who are severely impaired. These policies, which reflect an individualized adjudicative approach, apply regardless of where a severely impaired person may live. Otherwise the disability program, which is national in scope, would not treat impaired persons living in different areas, or persons who might move to other areas, in the same manner. Each claimant will receive a determination that reflects the facts in his or her case. However, the regulation will help to assure consistent results for claimants with similiar factual situations.

We are aware that there have often been greater concentrations of individuals in particular areas or groups who may be more poorly educated, unable to communicate in English or less skilled, and that such individuals who are severely impaired may be more likely to be found disabled. However, they will not be paid disability benefits on the basis of their residence or cultural background, but on the basis of a severe impairment and the existence of adverse vocational factors. As stated in existing policies and as reflected in these regulations, *disabled individuals* are paid benefits regardless of where they live, from where they may have come, or how many other disabled individuals may have a similar background or residence. Examples of some areas in which greater numbers of persons with adverse nonmedical factors have been found in the past include Puerto Rico, some Indian reservations, parts of Alaska, Appalachia, cities where disadvantaged or newly arrived groups have congregated, and other urban and rural areas. The fact that SSA's policies have recognized these realities in the past would indicate no expected overall change in allowance/denial rates.

Figures were distributed at the public meetings which SSA held in Baltimore (41 FR 51471), Dallas, and San Francisco (42 FR 8223), about title II cases processed in Fiscal Year 1976 which show that, on the initial level, of 948,180 worker claims processed that year 91,969 individuals were found not disabled because they could do other work; while 116,088 were found disabled because they could not do other work. This is the type of case covered in these regulations. The remainder of the cases were decided on purely medical and other bases. Approximately the same distribution exists for other years.

II. *Procedures Used in Promulgating the Regulations*

Issues

Two writers stated that additional public meetings should be held to discuss the NPRM responses to the issues raised in public comments. Others asked for an additional extension of the public comment period. One commenter suggested that lower-ranking officials have been remiss in not presenting the views opposed to the regulations to the Commissioner of Social Security and the Under Secretary of HEW, and requested a meeting with them. Another writer noted that all questions and comments resulting from the public meetings and responded to in the NPRM were from individuals and groups who feared the regulations were more restrictive than past policies, and inquired if any attempt had been made to obtain comments from persons with the opposite view—that the regulations are more liberal and will, therefore, result in benefits being paid to more people than before.

Response

We have tried to obtain as much public imput over as broad a spectrum as possible through publicizing the regulations and inviting comments. To this purpose, the public meetings held in Baltimore, Dallas, and San Francisco were announced in the FEDERAL REGISTER and in press releases, inviting everyone to attend and to provide comments. In addition, public comment periods were provided following the meetings. Since most of the persons who attended the meetings represented claimant advocacy groups, the comments addressed in the NPRM were largely in response to their concerns.

Publication of the NPRM with attendant publicity represented an additional effort to expose the proposed regulations to as much public scrutiny as possible, and to encourage everyone to submit any comments they might wish to make. The extension of the NPRM comment period for an additional 30 days to allow more time for public comments was also announced in the FEDERAL REGISTER (43 FR 19238) and in press releases. Further, representatives of groups opposed to the regulations have had access to SSA documents, and have met with the immediate staffs of both the Commissioner and Under Secretary. All views expressed during these meetings have been presented fully and accurately to top SSA and HEW staff.

Several changes were made in the NPRM as a result of views expressed in the public meeting and the written comments which were received thereafter. In light of more than ordinary efforts to seek and accommodate public participation, and since there have been no significant changes in the regulations on SSA's own motion after the public meetings, there is no present need for additional publicity, meetings or extensions of public comment period. We believe that full opportunity to comment has been offered, and that the full range of comments on these regulations has now been received and carefully considered.

III. *SAA's Experience, Data and Studies Used to Support the Regulations*

Issues

One commenter stated that SSA has misled the public about the regulations being merely an elaboration of longstanding policy, and that a new NPRM should be issued with deletions of any such references. Another commenter stated that the regulations have not been used in the past in any form which is entitled to any weight in rulemaking. Some writers suggested that SSA used references to experience as a substitute for data, evidence and careful study; and one requested an opportunity to cross-examine social security employees having knowledge of SSA's adjudicative experience and data relied upon in the proposed regulations.

In related questions, writers asked how quality control results were used in testing the regulations, and what data support the use of the 15 year period for consideration of an individual's past work. Also, some commenters repeated statements that scientific pretesting of the regulations should have been done.

Response

In promulgating these regulations, the Secretary is exercising statutory rulemaking authority to put into the regulations a construction that has existed for many years. While extensive background and experience is not required for such publications, SSA does, in fact, have considerable agency expertise developed over many years. Organizations and professions commonly recognize the value of experience even though it may not always be presented in statistical form.

Experience with the adjudicative policies set out and elaborated upon in the regulations is commonly held knowledge by thousands of past and present State and Federal employees who have worked in the social security disability program. Further, inspection of SSA files under the Freedom of Information Act showed the policy system reflected in the regulations to not be of recent origin. Accordingly, we do not believe that cross-examination of present SSA personnel as to experience or other subjects is either necessary or appropriate.

The data used in the evolution of the policies over the years are largely in the public domain. While data and reference materials have been used as appropriate, it must be borne in mind that SSA has had to create policy in several areas of the disability program that is different, by law, from other Governmental and private disability programs.

As stated in the NPRM, the 15-year period established as a limitation for considering past work is designated essentially as a safeguard in the interest of the disability claimant. While the law speaks only of "previous work," there is obviously some doubt that a claimant should be denied disability benefits on the basis that he or she could still functionally engage in some particular job held many years in the past, or because of skills he or she acquired at that time which have not been used since. The 15-year guide is a longstanding policy which was adopted many years ago during the evolution of the disability policy system, and has been followed since.

Continued suggestions that the regulations be pretested apparently resulted from beliefs that the regulations reflect new policies. While, as noted in the NPRM, we do not consider pretesting necessary because of expectations based on long experience, we plan to monitor the disability program to make sure there are no unforeseen effects. Quality control findings, which were noted during the evolution of the policy system will be a part of the monitoring effort.

One organization commissioned a study of the proposed regulations and submitted the study report as supporting their comments, including the major criticisms of the regulations which they and others have advanced. A thorough study by qualified SSA professionals revealed that the organization relied to some extent on faulty premises in making their comments. Thus most of the commissioned study conclusions were not applicable. The commissioning organization was provided directly with SSA's detailed analysis and discussion of the conclusions of the study. While the lengthy professional evaluation could not be readily included in this preamble, it is available upon request.

IV. *Definition of Impairments as "Not Severe"*

Issues

Several commenters questioned the use of the term "not severe." One suggested that the term indicates a change in the definition of disability, while another believed it could be seen as a device to limit entitlement. A writer stated that, instead of the negative wording, "A medically determinable impairment is not severe if it does not significantly limit an individual's physical or mental capacity to perform basic work-related functions," the definition should be given in the positive terms, "A severe impairment is one that significantly limits an individual's physical or mental capacity to perform basic work-related functions." Another commenter believed that it would be simpler to say that an individual can be found not disabled on medical considerations alone when the impairment does not prevent heavy work.

Still another writer, not questioning the concept itself, pointed out that in regulations sections 404.1502(a)/416.902(a), the phrase "absent evidence to the contrary" at the end of the sentence is misplaced and implies that, where medical considerations alone justify a finding of no disability, something other than medical evidence can justify a finding that an individual is under a disability.

Response

The definition, "A medically determinable impairment is not severe if it does not significantly limit an individual's physical or mental capacity to

perform basic work-related functions" is a clarification of the previous regulations terms "a slight neurosis, slight impairment of sight or hearing, or other slight abnormality or a combination of slight abnormalities." Both have a negative sense and are related to the requirement of the law that, for impairments to be disabling, they must be "of such severity" as to prevent the claimant from doing previous work and, considering age, education and work experience, prevent the individual from engaging in *any* kind of substantial gainful work which exists in the national economy. The discussion on pages 9296 and 9297 of the NPRM shows that there is no intention to alter the levels of severity for a finding of disabled or not disabled on the basis of medical considerations alone, or on the basis of medical and vocational considerations. Negative phrasing of this concept is more useful in evaluating disability than affirmative terms would be. With respect to the suggestion that a "not severe" impairment be defined as one that does not prevent heavy work, it cannot be adopted because such a definition would not pertain to loss of mental function and all other nonexertional impairments.

We are appreciative of the writer's calling our attention to the possible misconstruction that could occur of the wording in §§ 404.1502(a)/416.902(a), which has been changed to, "Medical evidence (i.e., signs, symptoms, and laboratory findings) alone can justify a finding that an individual is not under a disability, or absent evidence to the contrary, that an individual is under a disability."

V. *Consideration of Medical Factors before Consideration Is Given to Vocational Factors*

Issues

Several commenters stated that there should be no "gray areas" of disability decisions, that people are either disabled or not disabled, and that this can be determined on a medical basis alone, without considering age, education, and work experience. One commenter wished to have a definition of "erratic or irregular" as used in the preamble response on page 9299 of the NPRM. Another writer stated that pain should be considered a nonexertional impairment along with mental, sensory and skin impairments. Somewhat in the same vein, one commenter observed that, under case law, SSA must consider the claimant's subjective evidence not only of pain but also of his or her exertional abilities.

One writer was concerned that "evidence of record" as used in regulations sections 404.1505(a)/416.905(a) not be construed as preventing the testimony of witnesses at a hearing. Several commenters stated that the regulations are vague about the extent, if any, of their application to nonexertional impairments. One questioned whether the definitions of functional levels take any notice of particular functions that may be critical to one range of work but not another. Others questioned whether Appendix 2 rules are intended to apply if there are additional limitations such as in pushing, pulling, gripping, bending, stooping, etc.

Some commenters suggested that the regulations result in shifting the burden of proof from the Secretary to the claimant where the claimant has nonexertional impairments. Two writers believed that since, under title XVI, the Government will pay for medical evidence of record as well as for tests and consultative examinations, regulations sections 416.902 and 416.905 should be cross-referenced and expanded to include a detailed discussion of medical evidence.

Response

Under provisions of the law, medical considerations alone are the bases for determining whether disability exists for the statutorily blind; widows; widowers; surviving divorced wives; and children below age 18 under the supplemental security income program. For other disability applicants and beneficiaries, the law provides that age, education and work experience be considered. Thus, where a decision cannot be made on medical factors alone these regulations set forth the guides and rules to be used to arrive at a finding of disabled or not disabled considering age, education and work experience in conjuction with the person's residual physical and mental capacities.

The phrase "the capacity for such functions only on an erratic or irregular basis," on page 9299 of the NPRM, relates to the heading, "Residual functional capacity, maximum sustained work capability," of Tables No. 1, 2, and 3 in Appendix 2. An erratic or irregular basis refers to a person's *inability to sustain* work-related activities in terms of an ordinary work day on a continuous day-to-day basis.

In regulations §§ 404.1501(c)/416.901(c) which are not being amended at this time a physical or mental impairment is defined as "an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. Statements of the applicant, including his own description of his impairment (symptoms) are, alone, insufficient to establish the presence of a physical or mental impairment." Signs and laboratory findings must be considered together with symptoms in determining the nature and extent of an impairment, as explained in previous regulations §§ 404.1506/416.906, now renumbered §§ 404.1517/416.917. Symptoms such as pain, fatigue and shortness of breath enter into evaluation under the Listing of Impairments in Appendix 1 and are also considered when determining a claimant's residual functional capacity for use in a medical-vocational decision. Thus, pain and other symptoms are constituents of an impairment, not impairments by themselves, and are given recognition in Tables No. 1, 2 and 3 in Appendix 2, as elements of residual functional capacity when the impairment with which they are associated is one that limits exertional capability to sedentary, light or medium work. Guidelines are also provided for considering limitations within ranges of work, including any additional limitations imposed by nonexertional impairments.

"Evidence of record" as used in regulations §§ 404.1505(a)/416.905(a) is not meant to prevent the testimony of witnesses at a hearing, whether the subject is the claimant's symptoms or any other matter. Such a construction of intent is precluded by the regulations on hearings, particularly §§ 404.927/416.1441, 404.928/416.1442, 404.929/416.1443 and 404.934/416.1446.

Many commenters did not appear to have a clear understanding of SSA's use of the term "nonexertional impairment." Nonexertional limitations involve mental, sensory or skin impairments. Environmental restrictions such as the need to avoid moving machinery and unprotected elevations, avoid breathing certain fumes or dust, avoid contact with certain substances, or avoid extremes of heat or cold, significant temperature changes, high humidity, noise or vibration are also considered, as well as restrictions in postural or manipulative abilities. All limitations which result from medically determinable impairments are considered in assessing residual functional capacity as illustrated by the examples in § 201.00(h) of Appendix 2.

Where a person has nonexertional (or additional exertional) limitations, the ranges of work he or she can perform (sedentary to very heavy) are diminished by exclusion of the particular occupations or kinds of work within those ranges that entail use of the abilities which the person has lost. In some cases, the exclusion will have a negligible effect, still leaving a wide range of work capability within the functional level; while in others the range of possible work may become so narrowed that the claimant does not have a meaningful employment opportunity. Different types of functional loss may be more critical to some exertional levels than to others; e.g., loss

of fine dexterity would narrow the range of sedentary work much more than it would for light, medium or heavy work. In the absence of such other limiting factors, it is presumed that an individual can also do all lesser ranges of work.

Nonexertional limitations are discussed in §§ 404.1505(c),(d)/416.905(c), (d) and 404.1511(b)/416.911(b) of the regulations as well as §§ 200.00(d), (e), (1), (2) and 201.00(h) of Appendix 2. This particular area does not lend itself to a great degree of specificity, and judgments are required as in the past. For example, a claimant who would otherwise fully meet Rule 201.29 in Table No. 1 is also allergic to petroleum derivatives. He or she would be found not disabled on the basis of being able to do sedentary occupations except for those relatively few ones which require contact with or other hazardous exposure to petroleum derivatives. However, assuming the existence of several medically determinable nonexertional and environmental impairments, or even one critical to the performance of unskilled sedentary occupations in general, or a large number of specific occupations of that type, the same claimant may be found disabled.

A person with nonexertional impairments has no different burden of proving his or her claim than does another person with only exertional impairments. The burden of proof remains as established in case law and observed by SSA. Where the medical evidence establishes the claimant's inability to do vocationally relevant past work, the Secretary will continue to consider all the claimant's work-related physical and mental limitations, including those of a nonexertional nature, in determining what the claimant can do functionally and what occupational opportunities in the national economy—if any—there are for a person who can do only what the claimant can do.

We agree with the writers who suggested that regulations §§ 416.902 and 416.905 should be cross-referred to each other, as both relate to medical evidence and the Secretary's assistance in securing and paying for it. We have done this, as well as referencing them to §§ 416.924 and 416.927, which also relate to medical evidence under title XVI. However, expansion and elaboration upon medical evidentiary standards is not within the scope of these regulations.

VI. *Age as an Adjudicative Consideration*

Issues

Several commenters expressed the belief that the age criteria of 45, 50, 55, and 60 are arbitrary and rigid break-off points which will cause dramatic shifts in adjudicative results due to the passage of a few days or months. Having the same view, a writer stated that, when age has been critical to the decision of denial, the applicant should be notified to reapply for benefits upon reaching the critical age. Another commenter wrote that the use of these age criteria is unjust to some minority groups because the life spans of members of some minorities are shorter than the national average and, thus, these persons would not have an opportunity to qualify for disability benefits. In contrast, several writers believe that age 55 is too young to be defined as "advanced age," since most persons continue to work after age 55, and there is recent legislation raising the mandatory retirement age to 70.

Response

The discussion of age on page 9289 of the NPRM refers to the publications relied upon when policy was being formulated. As stated there, the "older worker" is usually considered as an individual 45 years of age and older, while age 55 represents a critical point in the attempts of "older workers" to obtain employment. At age 65, of course, the "older worker" can qualify for unreduced social security retirement benefits. Between these 10-year increments, the regulations include ages 50 and 60 resulting in a 5-year gradation of age distinctions which better recognizes progressive difficulties.

We acknowledge that there are no conclusive data which relate varying specific chronologial ages to specific physiologially-based vocational limitations for performing jobs; this was a pioneering effort by SSA due to the unique nature of its disability program. Although ages 45, 50, 55 and 60 may be considered by some as too sharply defined as points in a progression of increasing difficulties, the concept of adversity of the aging process for severely impaired persons approaching advanced or retirement age is not arbitrary. On the one hand, age may not be crucial in a particular case; on the other hand, where age is critical to a decision, recognition is taken of increasing physiological deterioration in the senses, joints, eye-hand coordination, reflexes, thinking processes, etc., which diminish a severely impaired person's aptitude for new learning and adaptation to new jobs.

With respect to the possibility of rigidity and dramatic shifts in adjudicative results due to the passage of a few days or months, we state on page 9289 of the NPRM that ages 45, 50, 55 and 60 are intended as specific indicators but are not intended to be applied mechanically in borderline situations; this was repeated on page 9300. SSA practice over the years, in fact, has been in agreement with the commenter that the passage of a few days or months before the attainment of a certain age should not preclude a favorable disability decision. In response to comments that the caution in the preamble should be included in the regulations, we have modified sections 404.1506/416.906 accordingly.

False expectations of entitlement to disability benefits could be raised if SSA were to notify denied applicants that they should routinely reapply upon nearing or attaining ages 45, 50, 55 and 60. It must be considered that future circumstances cannot be exactly forecast. While someone will now have a severe impairment and a vocational background that, combined with future attainment of a certain age would qualify him or her as disabled, the person may recover medically, may acquire new education or work skills, or may actually be engaging in substantial gainful activity by the time of attainment of the specified age. Notices sent to denied applicants would have to take these factors into account and, as in the past, advise the persons that they *may* be found disabled if they reapply.

We realize that life spans of some individuals—including members of some minority groups—are shorter than the national average. However, unlike retirement programs where benefits depend upon an individual's living to a particular age, the social security disability program is based on the severity of an individual's impairment—at any age. In fact, age is not considered at all in the bulk of initial allowances of disability benefits. These cases are decided on the severity of the impairment alone. Where it is necessary to consider age, it is one of three additional factors for consideration and is never, in itself, determinative of disability. The severity of an individual's impairment remains as the primary consideration, and must be the primary reason for the applicant to be unable to work.

While most persons continue to work after age 55 and some work until age 70 or beyond, these persons are usually unimpaired or not severely impaired. Contrary to some writers' fears, the regulations do not indicate that persons "fall apart" or are unable to work at age 55; neither do they suggest age 55 as a retirement age in conflict with the recent legislation on mandatory retirement. As discussed in the NPRM the use of age 55 relates only to the social security disability program and is not intended for use by other programs or for retirement plans.

VII. *Education as an Adjudicative Consideration*

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Issues

Some commenters wrote that the regulations on education are defective in that they do not more clearly articulate the need for the adjudicator to closely examine asserted grade levels, and because they believe that persons with a high school diploma are treated as the equivalent of persons with university degrees. They are particularly concerned that an education received in a school with high academic standards and excellent resources will not be the equivalent of one obtained in a marginal school with inadequate resources; and that grade placement may not be a true indicator of grade-level achievement. The same commenters believe that data show only a straight-line progression between education and an ability to obtain and perform work; therefore, they suggest that the educational categories in the regulations are arbitrary, unreasonable, and dramatic critical demarcations.

Another writer was concerned that an overstated educational background, possibly due to a claimant's embarrassment at his or her actual educational level, could result in that person's being erroneously denied disability benefits. Two other commenters asked how many months or years could elapse between completion of a claimant's education and the date of adjudication for the education to be considered as "recently acquired."

Response

We do not believe that the educational categories are arbitrary or unreasonable. As previously explained on page 9290 of the NPRM, the cited published materials show that increasing adaptability to changing work conditions and acquisition or more readily transferable skills occur with increased education. It is important to observe that Tables No. 1, 2, and 3 in Appendix 2 do not contain specific grade levels but have terms ranging upward from illiterate to high school graduate or more. Explanatory material in §§ 404.1507/416.907 states that what is meant by a sixth grade level or less ("marginal education") is an education qualifying a person for no more than simple, unskilled types of jobs. A seventh through eleventh grade level ("limited education") is qualifying for some semi-skilled and skilled jobs; while high school education and above refers to such a level of competence in reasoning, arithmetic and language skills that the person can generally be expected to work at a semi-skilled through skilled level of job complexity. There is a correlation between these levels and the general educational development level figures used in the Dictionary of Occupational Titles (DOT) as one of the criteria in classifying occupational complexity.

SSA policy is and has been that asserted grade level is determinative only in the absence of evidence to the contrary. Demonstrated competences in work and daily living rather than a particular number of years of formal schooling (or no schooling) are the better adjudicative measure. Accordingly, where a claimant's file shows that he or she did not work or function at the asserted educational level, the adjudicator continues to be directed to determine the effective level of education, which may actually be higher or lower than stated. While regulations §§ 404.1507(a)/416.907(a) did refer to the kinds of responsibilities assumed when working, daily activities, hobbies, the results of testing and what the individual has done with his or education in a work context, we have acted on the commenter's suggestion to expand the regulations explanation of how to evaluate educational levels.

It was previously explained on page 9290 of the NPRM that, on the one hand, the chronically unemployed tend to be functional illiterates; and, on the other hand, upon becoming unemployed or laid off, individuals with at least a high school education have better success in finding new employment. We also observed that better-educated persons are more likely to be engaged in sedentary and professional jobs, are not as likely to apply for benefits or to be classified as disabled and, in fact, are not heavily represented among the disabled. A corollary is that, while functional illiterates are unlikely to have transferable work skills, better-educated persons would tend to have such skills, and decisions on their disability claims would often depend more on past work and acquired skills than on the level of education. In these respects, therefore, a high school graduate and a university graduate ordinarily have a similar advantage in being able to learn and do a new unskilled job, although the university graduate may have more transferable skills to assist in his or her change to a job which is compatible with lessened functional capacity.

Judgments must be made in some areas of disability evaluation, medical as well as vocational, as they always have. Because assessments are made of each appropriate factor for each claimant, the individual circumstances cannot always be anticipated with precision, and specific guides set. "Recently completed education," as discussed in § 201.00(d) of Appendix 2, refers to the *rare* situation where a claimant of advanced age has recently completed education which provides a basis for direct entry into skilled sedentary work (this circumstance is taken into account in Tables No. 2 and 3, as well as in Table No. 1). Here, there is a requirement of skilled educational content qualifying a person immediately to begin a specific skilled job, as opposed to the competences in reasoning, communicating and calculating referred to in regulations §§ 404.1507/416.907. The immediacy of the person's ability to enter a job establishes that his or her education has current application. Where such education is footnoted in the tables, and a decision depends on the factor, there should be very little time lapse.

VIII. *Work Experience and Job Existence as Adjudicative Considerations*

Issues

Many commenters expressed their beliefs that only persons with work experience who have contributed tax payments for social security should receive benefits from the trust funds. One writer cited the financial and physical inability of many persons to move and secure jobs in the continental United States, and suggested that the "national economy test" should not apply to such noncontiguous areas as Alaska, Hawaii, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific, and the Virgin Islands.

Two commenters were concerned about the intention of the words "majority of jobs within a particular range of work" on page 9300 of the NPRM. They observed that Rule 203.00 in Appendix 2 states that approximately 2,500 separate unskilled sedentary, light and medium occupations can be identified as existing in the national economy. They suggested that this could mean that the Secretary would need to show that a not disabled claimant with the exertional capacity for medium work could do 1,251 occupations, the majority of 2,500. Another person wrote that by not identifying the 2,5000 occupations of which administrative notice is taken, and other occupations, SSA prevents a necessary assessment of transferability of skills from taking place.

Some commenters stated that the regulations are already dated in that they rely to a large extent on the 1966 (third) edition of the Dictionary of Occupational Titles rather than the recently published fourth edition. They requested a detailed analysis of the new DOT before issuance of the regulations and notice to interested parties of the results of the evaluation, particularly if changes in the DOT warrant restructuring of the regulations. Another individual wrote that the regulations should consider the realities of the changing economy which provide an increasingly better chance for imparied persons to earn a livelihood as opportunities in the service industry increase and work is made physically easier through automation.

One writer questioned whether administrative notice of job existence in the national economy precludes rebuttal of decisions based on specific rules in Appendix 2. Several commenters questioned the basis for and use of the guides for determining transferability of work skills. They requested the meaning of the term "occupationally significant work functions," asked what other factors are involved, and wanted to know how an adjudicator would decide whether there is a transferability of skills from a dishwasher to a chemist in view of the fact that both handle glassware in their work. Other writers stated that the regulations do not clarify the degree to which Administrative Law Judges (ALJs) are to determine whether a claimant's past work was unskilled, semiskilled, or skilled, whether skills can be transferred, and to which occupations the skills can be transferred.

Response

Benefit payments from the disability trust fund are made only where workers have had sufficient work credits to insure them for disability protection. In the event that a person has insufficient or no work credits, and he or she applies for and receives disability benefits under the supplemental security income program (title XVI), payments are made from general revenues.

One of the considerations in the definition of disability in sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act is a claimant's ability (or inability) to do work "which exists in the national economy." Congress intended to have a definition of disability which could be uniformly and consistently applied throughout the Nation without regard to the place of an individual's residence. Legislative intent has also been to have a clear distinction between inability to *do* a job—the disability programs—and inability to *get* a job—the unemployment programs. The law does not permit exemptions from the "national economy test" for areas within the continental United States or for noncontiguous areas. Where occupations are named that a claimant can do, the citations are meant to show that the individual has a meaningful vocational opportunity despite the limiting effects of his or her impairment(s), not that job vacancies exist or that the claimant would be hired if he or she applied for those jobs.

On page 9300 of the preamble to the NPRM, perhaps the better word would have been *most* or *bulk* since no mathematical distinction was intended by the use of the word "majority." The point being made was that *within* a range of work (sedentary, light, medium, heavy or very heavy) unless the individual possesses physical capacities equal to the strength requirements for *most* of the jobs in that range, he or she cannot be classified as able to do the pertinent range of work. This has no relationship to the discussion in § 203.00 of Appendix 2, or to the numbers of citations of potential occupations necessary to sustain a denial of disability benefits.

It is not necessary and would be far too cumbersome to provide in these regulations lists of the thousands of different occupations at all skill levels which exist in the national economy. This information is available in public libraries, local employment agencies, etc. The 2,500 sedentary, light and medium occupations whose existence is being administratively noticed (identifiable in "Selected Characteristics of Occupations (Physical Demands, Working Conditions, Training Time), A Supplement to the Dictionary of Occupational Titles, Third Edition") are all *unskilled* occupations; since no work skills are attributable to unskilled occupations, no skills can be transferred to or from these occupations. Where transferability of skills is an issue, past and potential occupations other than these relatively simple ones will be involved. While understanding of skills and the basis of transferability can be obtained from Volume II of the DOT and the lists of occupations in "Selected Characteristics of Occupations By Worker Traits and Physical Strength, Supplement 2 to the Dictionary of Occupation Titles, Third Edition", this remains a judgmental area.

The third edition of the Dictionary of Occupational Titles will remain the only one which bears directly on the SSA disability program until the time that the fourth edition becomes available in its entirety. At present, only the first volume of the fourth edition has been issued, with a second volume and a supplement to be published, as in the past, with the cooperation of SSA. Because the latest first volume is different in content and substance, we cannot do a detailed analysis of the fourth edition in the immediate future, and we have not delayed publication of the vocational factors regulations on that account. While we do not anticipate any major changes of job incidence or other occupational data, if later analyses indicate that any rules should be restructured, the public will be notified. If, as the commenter suggested, impaired persons may benefit because of increased opportunities in the service industry and physically easier jobs through automation, we would need firm evidence of this. Further, only a significantly increased number of unskilled jobs could affect the tables in Appendix 2 in the manner suggested by the commenter.

As to whether administrative notice of job existence in the national economy precludes rebuttal of decisions based on specific rules in Appendix 2, it must be noted that the regulations do not take administrative notice of jobs above the unskilled level. Hence, the rules pertaining to denial on the basis of transferable skills would be subject to rebuttal on that issue. Also rebuttable, of course, is the accuracy of the assessment of the claimant's residual functional capacity, age education, and work experience. As indicated on page 9301 of the NPRM, the distinction should be made between adjudicative facts, which can be rebutted, and the adjudicatory rule to be applied to these facts, which is conclusive. Where any one of the findings of adjudicative fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that paticular case and, accordingly, does not direct a conclusion of disabled or not disabled.

The use of the word "largely" in regulations §§ 404.1511(e)/416.911(e) caused several commenters to ask what factors other than occupationally significant work functions are involved in the transferability of skills, and why they cannot be articulated. The work *functions* are those involving action or activity: (1) the same or lesser degree of skills; (2) the same or similar tools and machines; and (3) the same or similar raw materials, products, processes or services. In addition to work functions, the *industry* and *work environment* may sometimes be of importance, since if a person's skill is so specialized or acquired in such an isolated vocational setting that it is not readily usable in other industries, jobs and work environments, the person's vocational outlook may be as limited as if he or she had no skill. The regulations have been expanded to include an additional sentence to cover this. An adjudicator should immediately be aware that there is no transferable skill connection between such entirely different types of workers as professional persons engaged in scientific analysis or research and hotel or restaurant employees primarily using their hands or machines to clean kitchen and dining room utensils. A dishwasher is unskilled, a chemist is highly skilled, and by those facts alone the jobs cannot be compared to each other in terms of transferable skills.

Where called for in individual cases, Administrative Law Judges will be expected to make the ultimate determinations as to the skill levels of a claimant's vocationally relevant past jobs and the relationship of those skills to potential occupations. However, these

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regulations do not pertain to the conduct of title II or title XVI hearings, which is covered in 20 CFR 404.917 through 404.940, particularly 404.927; and 20 CFR 416.1425 through 416.1458, particularly 416.1441. The use of a vocational expert is at the discretion of the Administrative Law Judge, and it is anticipated that some issues on hearing may continue to require the services of vocational experts.

Summation

In essence, the regulations and Appendix 2 identify and define the individual medical-vocational factors which Congress intended to be considered in appropriate cases and illustrate the relative weights to be ascribed to each factor in conjunction with all of the other variables in determining an individual's ability or inability to perform substantial gainful activity. Appendix 2 sets forth these interactions in the form of individual profiles demonstrating the changing adjudicative weights to be accorded each factor in relation to the others. The conclusion of disabled or not disabled shown in a rule reflects whether or not a severely impaired individual with that particular combination of individual characteristics is able to engage in substantial gainful activity. The conclusion in the individual case is based on a medical-vocational determination of capacity for the performance of ranges of work, rather than singular or isolated occupations and, therefore, inherently considers the performance of a significant number of jobs that exist in the national economy.

The publication of Appendix 2 is not intended to direct the adjudication of social security disability claims on the basis of an "average man" approach. Rather, the rules make the process of determining the ability to engage in subtantial gainful activity (work) more uniform and definitive while preserving the individuality of the determination. The standards for evaluation included in Appendix 2 are rules whereby each case is evaluated. They do not detract from the requirement that the determination of facts in every case be on an individual basis. To the contrary, the rules require that individualized findings of fact be made with respect to each individual's age, education, work experience, and physical and mental limitations, and that all factors resulting from those findings of fact coincide with the criteria of a particular rule in order for that rule to direct a conclusion of disabled or not disabled in the individual case. Thus, the rules require that each individual's age, education, work experience, and physical and mental limitations personal to him or her, be taken thorough account of before the rules are applied to the facts in the case. The rules need to be as definitive as possible so that the claims of all individuals similarly situated are handled in a fair and consistent manner and to assure that determinations made by one set of adjudicators on the basis of the same facts will be handled the same way by another group of adjudicators, wherever in the country they are located. The necessity for each determination to be an individual one does not eliminate the need for consistency and uniformity in determinations. The way that is achieved administratively is by the regulations and the Appendices (1 and 2).

With respect to those claims not covered within the specific parameters of a rule in Appendix 1 or 2, a determination will have to be made on the basis of the discussions and definitions in the main body of the regulations, taking appropriate account of the rules in Appendix 2.

The rules stated herein represent a consolidation and elaboration of long-standing medical-vocational evaluation policies, which heretofore have been reflected in fragmented guides not readily available in the same format at all levels of adjudication. The regulations and Appendix 2 take appropriate account of the Social Security Administration's extensive experience to date in administering disability programs. Appendix 2 will help insure individual consideration of all appropriate factors in each case, while providing meaningful rules for soundness, consistency and equity of disability adjudications.

The amendments will become effective February 26, 1979.

(Secs. 205, 223, 1102, 1614, and 1631, of the Social Security Act, as amended; 53 Stat. 1368, as amended; 70 stat. 815, as amended; 49 Stat. 647, as amended, 86 Stat. 1471, 86 Stat. 1475; 42 U.S.C. 405, 423, 1302, 1382c, 1383.)

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program.)

Dated: September 25, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: November 11, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 404 and Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.1502 is revised to read as follows:

§ 404.1502 Evaluation of disability in general.

The provisions of §§ 404.1502 through 404.1513 apply to cases involving disability insurance benefits (except statutory blindness) under section 223 of the Act, child's insurance benefits based on disability under section 202(d) of the Act, and a period of disability under section 216(i)(1)(A) of the Act. In general, the individual has the burden of proving that he or she is disabled and of raising every issue with respect to his or her alleged disability. Whether an impairment in a particular case constitutes a disability is determined from all the pertinent facts of that case. The determination of disability may be based on medical considerations alone, or on medical considerations and vocational factors as follows:

(a) *Disability determinations on the basis of medical considerations alone.* Medical evidence (i.e., signs, symptoms and laboratory findings) alone can justify a finding that an individual is not under a disability, or absent evidence to the contrary that an individual is under a disability.

(b) *Disability determinations in which vocational factors must be considered along with the medical evidence.* In those cases where a finding of disabled or not disabled cannot be made based on medical evidence alone, other evidence is required. This other evidence may include information about:

(1) The individual's residual functional capacity;

(2) The individual's age, education, and work experience; and

(3) The kinds of substantial gainful activity (work) which exist in significant numbers in the national economy for someone who can do only what the individual can do.

(c) *Disability determinations in which vocational factors are extremely adverse.* Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments, such an individual may be found to be under a disability.

§§ 404.1503 through 404.1507 [Redesignated as § 404.1514 through 404.1518]

2. Sections 404.1503 through 404.1507 are redesignated as §§ 404.1514 through 404.1518 respectively.

3. New §§ 404.1503 through 404.1513 are added to read as follows:

§ 404.1503 Considerations in the sequential evaluation of disability.

(a) *General.* In the determination of whether or not an impairment in a particular case constitutes a disability as defined in § 404.1501, consideration is given to all the pertinent facts of that case. If the individual is engaging in substantial gainful activity, a determination that he or she is not disabled shall be made. In all other cases, primary consideration is given to the physical or mental impairment(s), which must be severe. The impairment(s) must also meet the duration requirement before disability can be found to exist. However, in determining whether an individual is disabled, a sequential evaluation process shall be followed, whereby current work activity, severity of the impairment(s), and vocational factors are assessed in that order. The following evaluation steps shall be followed in the sequence shown, but when a determination that an individual is or is not disabled can be made at any step, evaluation under a subsequent step shall be unnecessary.

(b) *Is the individual currently engaging in substantial gainful activity?* Where an individual is actually engaging in substantial gainful activity, a finding shall be made that the individual is not under a disability without consideration of either medical or vocational factors. (See §§ 404.1532, 404.1533, 404.1534)

(c) *Does the individual have any severe impairment?* Where an individual does not have any impairment(s) which significantly limits his or her physical or mental capacity to perform basic work-related functions, a finding shall be made that he or she does not have a severe impairment and therefore is not under a disability without consideration of the vocational factors.

(d) *Does the individual have any impairment(s) which meets or equals those listed in Appendix 1?* Where an individual's impairment(s) meets the duration requirement and is either listed in Appendix 1 or is determined to be medically the equivalent of a listed impairment, a finding of disability shall be made without consideration of the vocational factors.

(e) *Does the individual have any impairment(s) which prevents past relevant work?* Where a finding of disability or no disability cannot be made based on current work activity or on medical considerations alone, and the individual has a severe impairment(s), his or her residual functional capacity and the physical and mental demands of his or her past relevant work shall be evaluated. If the impairment(s) does not prevent the individual from meeting the physical and mental demands of past relevant work, including arduous unskilled physical labor, disability shall be found not to exist.

(f) *Does the individual's impairment(s) prevent other work?* If an individual cannot perform any past relevant work because of a severe impairment(s), but the individual's remaining physical and mental capacities are consistent with his or her meeting the physical and mental demands of a significant number of jobs (in one or more occupations) in the national economy, and the individual has the vocational capabilities (considering age, education, and past work experience) to make an adjustment to work different from that which he or she has performed in the past, it shall be determined that the individual is not under a disability. However, if an individual's physical and mental capacities in conjunction with his or her vocational capabilities (considering age, education, and past work experience) do not permit the individual to adjust to work different from that which he or she has performed in the past, it shall be determined that the individual is under a disability.

§ 404.1504 Determining whether disability exists—medical and other considerations.

(a) *Medical considerations*—(1) *Finding individual not disabled.* Medical considerations alone can justify a finding that an individual is not under a disability where the medically determinable impairment is not severe. A medically determinable impairment is not severe if it does not significantly limit an individual's physical or mental capacity to perform basic work-related functions.

(2) *Finding individual disabled.* Medical considerations alone (including the physiological and psychological manifestations of aging) can justify a finding that an individual is under a disability, absent evidence to the contrary. Medical considerations which justify a finding that an individual is under a disability are those that bring an individual's impairment(s) under the listing in Appendix 1 of this subpart or which justify a determination by the Secretary that the impairment(s) is the medical equivalent of an impairment listed in Appendix 1 of this subpart.

(b) *Relevant work.* Any medically determinable impairment(s) may justify a finding that an individual is under a disability if the impairment(s) is severe and prevents an individual from engaging in substantial gainful activity. In determining whether impairment(s) not listed in Appendix 1 of this subpart (nor found to be the equivalent of an impairment listed in Appendix 1) meet this test, additional considerations are evaluated. These include determining whether an individual can qualify because he or she has only performed arduous unskilled work for a long period of time or, if not, whether he or she can perform vocationally relevant past work.

(c) *Vocational Factors.* In those cases in which an individual is found unable to perform vocationally relevant past work, age, education, and work experience must then be considered in addition to the functional limitations imposed by the individual's physical or mental impairment(s).

§ 404.1505 Residual functional capacity.

(a) *General.* Physical or mental impairment(s) may impose functional limitations on an individual's ability to engage in substantial gainful activity. The kind and severity of the impairment(s) determine the individual's work limitations and residual functional capacity. The manner in which the impairment(s) affects the individual's ability to perform work-related physical and mental activities, and the kind and extent of function the individual retains, are assessed in determining the individual's residual functional capacity. Where multiple impairments are involved, the assessment of residual functional capacity reflects the totality of restrictions resulting from all impairments. Assessments of residual functional capacity may be based solely on medical evidence where such evidence includes sufficient findings (e.g. signs, symptoms and laboratory findings) to permit and support the necessary judgments where relevant, with respect to the individual's physical, mental, and sensory capabilities. Where all reasonably obtainable relevant medical findings alone are not sufficient for an adequate assessment of residual functional capacity, additional factors may be considered. Such additional factors as the individual's description of the impairment, recorded observations of the individual, and any other evidence of record may be considered in conjunction with the medical findings.

(b) *Physical capacities.* Assessment of physical capacities (e.g., strength and exertional capabilities) includes an evaluation of the individual and indicates the individual's maximal residual functional capacity for sustained activity on a regular basis. The assessment also includes the evaluation of the individual's ability to perform significant physical functions such as walking, standing, lifting, carrying, pushing or pulling. The assessment includes the evaluation of other physical traits and sensory characteristics such as reaching, handling, seeing, hearing, and speaking, insofar as limited capacity to perform these functions may also affect the individual's capacity for

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work for which the individual would otherwise be qualified.

(c) *Mental impairments.* The assessment of impairments because of mental disorders includes a consideration of such factors as the capacity to understand, to carry out and remember instructions, and to respond appropriately to supervision, co-workers and customary work pressures in a routine work setting.

(d) *Non-exertional limitations.* Any medically determinable impairment(s) resulting in non-exertional limitations (such as certain mental, sensory, or skin impairments) must be considered in terms of the limitations resulting from the impairment. When an individual has a non-exertional impairment in addition to an exertional impairment(s), the residual functional capacity must be assessed in terms of the degree of any additional narrowing of the individual's work-related capabilities.

(e) *When assessment is required.* An assessment of residual functional capacity is required only with respect to those specific physical or mental capacities that are in doubt by reason of the individual's allegations or the evidence adduced. Where such doubt does not exist with respect to particular physical or mental capacities, the individual is considered to have no restrictions with respect to those capacities.

(f) *Relationship of residual functional capacity to ability to do work.* Where the residual functional capacity so determined is sufficient to enable the individual to do his or her previous work (i.e., usual work or other vocationally relevant past work), a determination is made that the individual is not under a disability. Where the residual functional capacity so determined is not sufficient to enable the individual to do his or her previous work, it must be determined what work, if any, the individual can do, taking into consideration the individual's residual functional capacity, age, education, and work experience and whether work that the individual can do exists in significant numbers in the national economy.

§ 404.1506 Age as a vocational factor.

(a) *General.* The term "age" refers to chronological age and the extent to which it affects the individual's capability to engage in work in competition with others. However, the factor of age in itself is not determinative of disability; the residual functional capacity and the education and work experience of the individual must also be considered. An individual who is unemployed because of age cannot be found incapable of engaging in substantial gainful activity when the individual's impairment and other vocational considerations, e.g., education and work experience, would enable the individual to perform a significant number of jobs which exist in the national economy. The considerations given to age are appropriately reflected in Appendix 2, but are not to be applied mechanically in borderline situations.

(b) *Younger individual.* In the case of a younger individual (under age 50), age in itself is ordinarily not considered to affect significantly the individual's ability to adapt to a new work situation.

(c) *Individual approaching advanced age.* For the individual not of advanced age but who is closely approaching advanced age (age 50–54), the factor of age, in combination with a severe impairment and limited vocational background may substantially affect the individual's adaptability to a significant number of jobs in a competitive work environment.

(d) *Individual of advanced age.* "Advanced" age (age 55 or over) represents the point where age significantly affects the ability to engage in substantial work. Where a severely impaired individual is of advanced age, such ability may be adversely affected except where the individual has skills that are readily transferable to jobs which exist in significant numbers in the national economy. Those individuals of advanced age who are aged 60–64 are further described as closely approaching retirement age.

§ 404.1507 Education as a vocational factor.

(a) *General.* The term "education" is primarily used in the sense of formal schooling or other training which contributes to the individual's ability to meet vocational requirements, e.g., reasoning ability, communication skills, and arithmetical ability. Lack of formal schooling is not necessarily proof that the individual is uneducated or lacks such capacities. For individuals with past work experience, the kinds of responsibilities assumed when working may indicate the existence of such intellectual capacities although their formal education is limited. Other evidence of such capacities, for individuals with or without past work experience, may consist of daily activities, hobbies, or the results of testing. The significance of an individual's educational background may be materially affected by the time lapse between the completion of the individual's formal education and the onset of physical or mental impairment(s) and by what the individual has done with his or her education in a work context. Formal education that was completed many years prior to onset of impairment or unused skills and knowledge that were a part of such formal education may no longer be useful or meaningful in terms of the individual's ability to work. Thus, the numerical grade level of educational attainment may not be representative of an individual's present educational competences which could be higher or lower. However, in the absence of evidence to the contrary, the numerical grade level will be used. The term "education" also indicates whether an individual has the ability to communicate in English, since that ability is often acquired or enhanced through educational exposure. In evaluating the educational level of an individual, the following classifications are used:

(b) *Illiteracy.* Illiteracy refers to the inability to read or write. An individual who is able to sign his or her name, but cannot read or write a simple communication (e.g., instructions, inventory lists), is considered illiterate. Generally, an illiterate individual has had little or no formal schooling.

(c) *Marginal education.* Marginal education refers to competence in reasoning, arithmetic, and language skills which are required for the performance of simple, unskilled types of jobs. Absent evidence to the contrary, formal schooling at a grade level of sixth grade or less is considered a marginal education.

(d) *Limited education.* Limited education refers to competence in reasoning, arithmetic, and language skills which, although more than that which is generally required to carry out the duties of unskilled work, does not provide the individual with the educational qualifications necessary to perform the majority of more complex job duties involved in semi-skilled or skilled jobs. Absent evidence to the contrary, a seventh grade through the eleventh grade level of formal education is considered a limited education.

(e) *High school education and above.* High school education and above refers to competence in reasoning, arithmetic, and language skills acquired through formal schooling at a level of grade twelve or above. Absent evidence to the contrary, these educational capacities qualify an individual for work at a semi-skilled through a skilled level of job complexity.

(f) *Inability to communicate in English.* Ability to communicate in English is often acquired or enhanced through educational exposure, and this may be considered an educational factor. Where there is inability to communicate in English, the dominant language of the national economy, this may be considered a vocational handicap because it often narrows an individual's vocational scope. For example, the inability to communicate in English may preclude an individual from performing jobs which require conversing with peers and supervisors in English, or reading instructions, signs, forms, etc., which are printed in English. However, the inability to communicate in English in no sense implies that an individual lacks formal schooling or intelligence. A person unable to communicate in English may have a vocational handicap which must be considered in assessing what work, if any, the individual can do. The particular non-English language in which an individual may be fluent is generally immaterial.

§ 404.1508 Work experience as a vocational factor.

The term "work experience" means skills and abilities acquired through work previously performed by the individual which indicates the type of work the individual may be expected to perform. Work for which the individual has demonstrated a capability is the best indicator of the kind of work that the individual can be expected to do. Such work experience has current vocational relevance where the recency of the work and the skills acquired demonstrate the individual's ability to perform work which exists in the national economy. Work performed 15 years or more prior to the point at which the claim is being considered for adjudication (or when the earnings requirement was last met) is ordinarily not considered vocationally relevant. In our economic system, a gradual transition occurs in the job functions of most jobs so that by the time 15 years have elapsed, it is no longer realistic to assume that skills and abilities acquired in a job performed more than 15 years ago continue to be relevant. The 15-year guide is essentially intended to insure that current vocational relevance is not imputed to remote work experience which could not reasonably be expected to enhance an individual's vocational prospect as of the point of adjudication. An individual who has no prior work experience or has worked only sporadically or for brief periods of time during the 15-year period may be considered to have no relevant work experience. Any skills acquired through work experience are vocational assets unless they are not transferable to other skilled or semi-skilled work within the individual's current capacities. When acquired skills are not transferable, the individual is considered capable of only unskilled work. However, an individual need not have work experience to qualify for unskilled work which requires little or no judgment in the performance of simple duties which can be learned in a short period of time.

§ 404.1509 Work which exists in the national economy.

(a) *General.* Work is considered to exist in the national economy when it exists in significant numbers either in the region where the individual lives or in several other regions of the country, regardless of whether such work exists in the immediate area in which the individual lives, or whether a specific job vacancy exists for the individual, or whether the individual would be hired if the individual applied for work. A finding that work exists in the national economy is made when there is a significant number of jobs (in one or more occupations) having typical requirements which do not exceed the individual's physical or mental capacities and vocational qualifications. Isolated jobs of a type that exist only in very limited number or in relatively few geographic locations outside of the region where the individual resides are not considered to be "work which exists in the national economy" for purposes of determining whether an individual is under a disability; an individual is not denied benefits on the basis of the existence of such jobs. If work that the individual can do does not exist in the national economy, disability shall be determined to exist. If such work does exist in the national economy, disability shall be determined not to exist.

(b) *Inability of individual to obtain work.* If an individual's residual functional capacity and vocational capabilities are consistent with the performance of work which exists in the national economy but the individual remains unemployed because the individual is unsuccessful in obtaining such work or because such work does not exist in the individual's local area; or because of the hiring practices of employers, technological changes in the industry in which the individual has worked, or cyclical economic conditions; or because there are no job openings for the individual or the individual would not actually be hired to do work the individual could otherwise perform, the individual is considered not to be under a disability as defined in § 404.1501.

(c) *Administrative notice of job data.* In the determination of whether jobs, as classified by their exertional and skill requirements, exist in significant numbers either in the region or the national economy, administrative notice shall be taken of reliable job information available from various governmental and other publications; e.g., "Dictionary of Occupational Titles," published by the Department of Labor; "County Business Patterns", published by the Bureau of the Census; "Census Reports", also published by the Bureau of the Census; occupational analyses prepared for the Social Security Administration by various State employment agencies; and the "Occupational Outlook Handbook", published by the Bureau of Labor Statistics.

§ 404.1510 Exertional requirements.

(a) *General.* For the purpose of determining exertional requirements of work in the national economy, jobs are classified as "sedentary," "light," "medium," "heavy," and "very heavy." Such terms have the same meaning as they have in the "Dictionary of Occupational Titles", published by the Department of Labor, and when used in making disability determinations under this subpart are defined as follows:

(b) *Sedentary work.* Sedentary work entails lifting 10 pounds maximum and occasionally lifting or carrying such articles as dockets (e.g., files), ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(c) *Light work.* Light work entails lifting 20 pounds maximum with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, an individual must be capable of performing substantially all of the foregoing activities. The functional capacity to perform light work includes the functional capacity to perform sedentary work.

(d) *Medium work.* Medium work entails lifting 50 pounds maximum with frequent lifting or carrying of objects weighing up to 25 pounds. The functional capacity to perform medium work includes the functional capacity to perform sedentary work and light work as well.

(e) *Heavy work.* Heavy work entails lifting 100 pounds maximum with frequent lifting or carrying of objects weighing up to 50 pounds. The functional capacity to perform heavy work includes the functional capacity to perform work at all of the lesser functional levels.

(f) *Very heavy work.* Very heavy work entails lifting objects in excess of 100 pounds with frequent lifting or carrying of objects weighing 50 pounds or more. The functional capacity to perform very heavy work includes the

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functional capacity to perform work at all of the lesser functional levels.

§ 404.1511 Skill requirements.

(a) *General.* For purposes of assessing the skills reflected by an individual's work experience, and of determining the existence in the national economy of work the individual is competent to do, occupations are classified as unskilled, semi-skilled, and skilled. When used in making disability determinations under this subpart, these terms are used in the following sense:

(b) *Unskilled work.* Unskilled work denotes work which requires little or no judgment in the performance of simple duties that can be learned on the job in a short period of time. Considerable strength may or may not be required. As an example, where the primary work function of occupations consists of handling, feeding and offbearing (i.e., placing or removing materials from machines which are automatic or operated by others), or machine tending, and average successful job performance can ordinarily be achieved within 30 days, such occupations are considered unskilled. Other types of jobs requiring little specific vocational preparation and little judgment are likewise unskilled. No acquired work skills can be attributed to individuals who have performed only unskilled work.

(c) *Semi-skilled work.* Semi-skilled work denotes work in which some skills are involved but the more complex work functions are not required. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise detecting irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities involving work functions of similar complexity. A job may be classified as semi-skilled where coordination and dexterity are necessary as in the use of the hands or feet for the rapid performance of repetitive tasks.

(d) *Skilled work.* Skilled work requires qualifications in which the independent judgment of the individual determines the machine and manual operations to be performed in obtaining the proper form, quality, or quantity of material to be produced. The individual may be required to lay out work, to estimate quality, suitability and needed quantities of materials, to make precise measurements, to read blueprints or other specifications, or to make necessary computations or mechanical adjustments to control or regulate processes. Other skilled jobs may require dealing with personnel, data, or abstract ideas at a high level of complexity.

(e) *Transferable work skills.* An individual is considered to have transferable skills when the skilled or semi-skilled work functions which he or she has demonstrated in his or her past work can be applied to meet the requirements of skilled or semi-skilled work functions of other jobs or kinds of work. Transferability depends largely on the similarity of occupationally significant work functions among jobs. Transferability is most probable and meaningful among jobs in which the same or a lesser degree of skill is required; and the same or similar tools and machines are used; and the same are similar raw materials, products, processes, or services are involved. There are degrees of transferability ranging from a close approximation of work functions involving all three factors to only remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary to warrant the inference of transferability. Where an individual's work skills are so specialized or have been acquired in such a limited vocational setting that they are not readily usable in other industries, jobs and work environments, they are not transferable and the individual may be considered as if he or she is unskilled. (Also, see Appendix 2, § 201.00(e), (f), and § 202.00(e), (f).)

§ 404.1512 Effect of performance of arduous unskilled physical labor.

Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments and, considering his or her age, education, and vocational background is unable to engage in lighter work, such individual may be found to be under a disability. On the other hand, a different conclusion may be reached where it is found that such individual is working or has worked despite his or her impairment or impairments (except where such work is sporadic or is medically contraindicated) depending upon all the facts in the case. In addition, an individual who was doing heavy physical work at the time he or she suffered such impairment might not be considered unable to engage in any substantial gainful activity if the evidence shows that he or she has the training or past work experience which qualifies him or her for substantial gainful work in another occupation consistent with his or her impairment, either on a full-time or a reasonable regular part-time basis.

Example. B, a 60-year old miner, with a fourth grade education, after a life-long history of arduous physical labor alleged that he was under a disability because of arthritis of the spine, hips, and knees and other impairments. Medical evidence shows a combination of impairments and establishes that these impairments prevent B from performing his usual work or any other type of arduous physical labor. His vocational background does not disclose either through performance or by similarly persuasive evidence that he has skills or capabilities needed to do lighter work which would be readily transferrable to another work environment. Under these circumstances, B may be found to be under a disability.

§ 404.1513 Listing of medical-vocational guidelines in Appendix 2.

In light of information that is available about jobs (classified by their exertional and skill requirements) that exist in the national economy, Appendix 2 sets forth rules reflecting the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 404.1504(a) and (b) or § 404.1512, where an individual is not engaging in substantial gainful activity and is prevented by a medically determinable impairment from performing his or her vocationally relevant past work. The Appendix 2 rules do not encompass all possible variations of factors and, as explained in § 200.00 of Appendix 2, are not applicable in any case where any one of the findings of fact made with respect to the individual's vocational factors and residual functional capacity does not coincide with the corresponding criterion of a rule. In such instances, full consideration must be given to all relevant facts in accordance with the definitions and discussions of each factor in §§ 404.1505–404.1511. However, when the findings of fact made as to all factors coincide with the criteria of a rule, that rule directs a factual conclusion of disabled or not disabled.

Appendix (Listing of Impairments) [Redesignated as Appendix 1]

4. Subpart P of part 404 is further amended by designating the Appendix (Listing of Impairments), appearing at the end, as Appendix 1, and by adding a new Appendix 2, to read as follows:

APPENDIX 2—MEDICAL—VOCATIONAL GUIDELINES

Sec.

200.00 Introduction.
201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).
202.00 Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).
203.00 Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).
204.00 Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).

200.00 *Introduction.* (a) The following rules reflect the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 404.1504 (a) and (b) or § 404.1512, where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and the individual's impairment(s) prevents the performance of his or her vocationally relevant past work. They also reflect the analysis of the various vocational factors (i.e., age, education, and work experience) in combination with the individual's residual functional capacity (used to determine his or her maximum sustained work capability for sedentary, light, medium, heavy, or very heavy work) in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work. Where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a conclusion as to whether the individual is or is not disabled. However, each of these findings of fact is subject to rebuttal and the individual may present evidence to refute such findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a conclusion of disabled or not disabled. In any instance where a rule does not apply, full consideration must be given to all of the relevant facts of the case in accordance with the definitions and discussions of each factor in §§ 404.1505–404.1511.

(b) The existence of jobs in the national economy is reflected in the "Decisions" shown in the rules; i.e., in promulgating the rules, administrative notice has been taken of the numbers of unskilled jobs that exist throughout the national economy at the various functional levels (sedentary, light, medium, heavy, and very heavy) as supported by the "Dictionary of Occupational Titles" and the "Occupational Outlook Handbook," published by the Department of Labor; the "County Business Patterns" and "Census Surveys" published by the Bureau of the Census; and occupational surveys of light and sedentary jobs prepared for the Social Security Administration by various State employment agencies. Thus, when all factors coincide with the criteria of a rule, the existence of such jobs is established. However, the existence of such jobs for individuals whose remaining functional capacity or other factors do not coincide with the criteria of a rule must be further considered in terms of what kinds of jobs or types of work may be either additionally indicated or precluded.

(c) In the application of the rules, the individual's residual functional capacity (i.e., the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education, and work experience must first be determined.

(d) The correct disability decision (i.e., on the issue of ability to engage in substantial gainful activity) is found by then locating the individual's specific vocational profile. If an individual's specific profile is not listed within this Appendix 2, a conclusion of disabled or not disabled is not directed. Thus, for example, an individual's ability to engage in substantial gainful work where his or her residual functional capacity falls between the ranges of work indicated in the rules (e.g., the individual who can perform more than light but less than medium work), is decided on the basis of the principles and definitions in the regulations, giving consideration to the rules for specific case situations in this Appendix 2. These rules represent various combinations of exertional capabilities, age, education and work experience and also provide an overall structure for evaluation of those cases in which the judgments as to each factor do not coincide with those of any specific rule. Thus, when the necessary judgments have been made as to each factor and it is found that no specific rule applies, the rules still provide guidance for decisionmaking, such as in cases involving combinations of impairments. For example, if strength limitations resulting from an individual's impairment(s) considered with the judgments made as to the individual's age, education and work experience correspond to (or closely approximate) the factors of a particular rule, the adjudicator then has a frame of reference for considering the jobs or types of work precluded by other, nonexertional impairments in terms of numbers of jobs remaining for a particular individual.

(e) Since the rules are predicated on an individual's having an impairment which manifests itself by limitations in meeting the strength requirements of jobs, they may not be fully applicable where the nature of an individual's impairment does not result in such limitations, e.g., certain mental, sensory, or skin impairments. In addition, some impairments may result solely in postural and manipulative limitations or environmental restrictions. Environmental restrictions are those restrictions which result in inability to tolerate some physical feature(s) of work settings that occur in certain industries or types of work, e.g., an inability to tolerate dust or fumes.

(1) In the evaluation of disability where the individual has solely a nonexertional type of impairment, determination as to whether disability exists shall be based on the principles of §§ 404.1505–404.1511, giving consideration to the rules for specific case situations in this Appendix 2. The rules do not direct factual conclusions of disabled or not disabled for individuals with solely nonexertional types of impairments.

(2) However, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules in this subpart are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone and, if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience provide a framework for consideration of how much the individual's work capability is further diminished in terms of any types of jobs that would be contraindicated by the nonexertional limitations. Also, in these combinations of nonexertional and exertional limitations which cannot be wholly determined under the rules in this Appendix 2, full consideration must be given to all of the relevant facts in the case in accordance with the definitions and discussions of each factor in §§ 404.1505–404.1511, which will provide insight into the adjudicative weight to be accorded each factor.

201.00 *Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).* (a) Most sedentary occupations fall within the skilled, semi-skilled, professional, administrative, technical, clerical, and benchwork classifications. Approximately 200 separate unskilled sedentary occupations can be identified, each representing numerous jobs in the national economy. Approximately 85 percent of these jobs are in the machine trades and benchwork occupational categories. These jobs (unskilled sedentary occupations) may be performed after a short demonstration or within 30 days.

(b) These unskilled sedentary occupations are standard within the industries in which they exist. While sedentary work represents a significantly restricted range of work, this range in itself is not so prohibitively restricted as to negate work capability for substantial gainful activity.

(c) Vocational adjustment to sedentary work as defined in § 404.1510(b) may be expected where the individual has special skills or experience relevant to sedentary work or where age and basic educational competences provide sufficient occupational mobility to adapt to the major segment of unskilled sedentary work. Inability to engage in substantial gainful activity would be indicated where an individual who is restricted to sedentary work because of a severe medically determinable impairment lacks special skills or experience relevant to sedentary work, lacks educational qualifications relevant to most sedentary work (e.g., has a limited education or less) and the individual's age, though not necessarily advanced, is a factor which significantly limits vocational adaptability.

(d) The adversity of functional restrictions to sedentary work at advanced age (55 and over) for individuals with no relevant past work or who can no longer perform vocationally relevant past work and have no transferable skills, warrants a finding of disabled in the the absence of the rare situation where the individual has recently completed education which provides a basis for direct entry into skilled sedentary work. Advanced age and a history of unskilled work or no work experience would ordinarily offset any vocational advantages that might accrue by reason of any remote past education, whether it is more or less than limited education.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinarily warrant a finding of ability to engage in substantial gainful activity regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) In order to find transferability of skills to skilled sedentary work for individuals who are of advanced age (55 and over), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

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(g) Individuals approaching advanced age (age 50–54) may be significantly limited in vocational adaptability if they are restricted to sedentary work. When such individuals have no past work experience or can no longer perform vocationally relevant past work and have no transferable skills, a finding of disabled ordinarily obtains. However, recently completed education which provides for direct entry into sedentary work will preclude such a finding. For this age group, even a high school education or more (ordinarily completed in the remote past) would have little impact for effecting a vocational adjustment unless relevant work experience reflects use of such education.

(h) The term "younger individual" is used to denote an individual age 18 through 49. For those within this group who are age 45–49, age is a less positive factor than for those who are age 18–44. Accordingly, for such individuals; (1) who are restricted to sedentary work, (2) who are unskilled or have no transferable skills, (3) who have no relevant past work or who can no longer perform vocationally relevant past work, and (4) who are either illiterate or unable to communicate in the English language, a finding of disabled is warranted. On the other hand, age is a more positive factor for those who are under age 45 and is usually not a significant factor in limiting such an individual's ability to make a vocational adjustment, even an adjustment to unskilled sedentary work, and even where the individual is illiterate or unable to communicate in English. However, a finding of disabled is not precluded for those individuals under age 45 who do not meet all of the criteria of a specific rule and who do not have the ability to perform a full range of sedentary work. The following examples are illustrative: Example 1: An individual under age 45 with a high school education can no longer do past work and is restricted to unskilled sedentary jobs because of a severe medically determinable cardiovascular impairment (which does not meet or equal the listings in Appendix 1). A permanent injury of the right hand limits the individual to sedentary jobs which do not require bilateral manual dexterity. None of the rules in Appendix 2 are applicable to this particular set of facts, because this individual cannot perform the full range of work defined as sedentary. Since the inability to perform jobs requiring bilateral manual dexterity significantly compromises the only range of work for which the individual is otherwise qualified (i.e., sedentary), a finding of disabled would be appropriate. Example 2: An illiterate 41 year old individual with mild mental retardation (IQ of 78) is restricted to unskilled sedentary work and cannot perform vocationally relevant past work, which had consisted of unskilled agricultural field work; his or her particular characteristics do not specifically meet any of the rules in Appendix 2, because this individual cannot perform the full range of work defined as sedentary. In light of the adverse factors which further narrow the range of sedentary work for which this individual is qualified, a finding of disabled is appropriate.

(i) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. Thus, the functional capability for a full range of sedentary work represents sufficient numbers of jobs to indicate substantial vocational scope for those individuals age 18–44 even if they are illiterate or unable to communicate in English.

TABLE No. 1.—*Residual functional capacity: Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
201.01	Advanced age	Limited or less	Unskilled or none	Disabled.
201.02	do	do	Skilled or semiskilled—skills not transferable [1].	Do.
201.03	do	do	Skilled or semiskilled—skills transferable [1].	Not disabled.
201.04	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Unskilled or none	Disabled.
201.05	do	High school graduate or more—provides for direct entry into skilled work [2].	Unskilled or none	Not disabled.
201.06	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable [1].	Disabled.
201.07	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills transferable [1].	Not disabled.
201.08	do	High school graduate or more—provides for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable [1].	Do.
201.09	Closely approaching advanced age.	Limited or less	Unskilled or none	Disabled.
201.10	do	do	Skilled or semiskilled—skills not transferable.	Do.
201.11	do	do	Skilled or semiskilled—skills transferable.	Not disabled.
201.12	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Unskilled or none	Disabled.
201.13	do	High school graduate or more—provides for direct entry into skilled work [2].	do	Not disabled.
201.14	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Disabled.
201.15	do	do	Skilled or semiskilled—skills transferable.	Not disabled.
201.16	do	High school graduate or more—provides for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Do.
201.17	Younger individual age 45–49.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
201.18	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
201.19	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
201.20	do	do	Skilled or semiskilled—skills transferable.	Do.
201.21	do	High school graduate or more.	Skilled or semiskilled—skills not transferable.	Do.
201.22	do	do	Skilled or semiskilled—skills transferable.	Do.
201.23	Younger individual age 18–44.	Illiterate or unable to communicate in English.	Unskilled or none	Do. [4]
201.24	do	Limited or less—at least literate and able to communicate in English.	do	Do. [4]
201.25	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do. [4]
201.26	do	do	Skilled or semiskilled—skills transferable.	Do. [4]
201.27	do	High school graduate or more.	Unskilled or none	Do. [4]
201.28	do	do	Skilled or semiskilled—skills not transferable.	Do. [4]
201.29	do	do	Skilled or semiskilled—skills transferable.	Do. [4]

[1] See 201.00(f).
[2] See 201.00(d).
[3] See 201.00(g).
[4] See 201.00(h).

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform a full range of light work as defined in §404.1510(c) includes the functional capacity to perform sedentary as well as light work. Approximately 1,600 separate sedentary and light unskilled occupations can be identified in eight broad occupational categories, each occupation representing numerous jobs in the national economy. These jobs can be performed after a short demonstration or within 30 days, and do not require special skills or experience.

(b) The functional capacity to perform a wide or full range of light work represents substantial work capability compatible with making a work adjustment to substantial numbers of unskilled jobs and, thus, generally provides sufficient occupational mobility even for severely impaired individuals who are not of advanced age and have sufficient educational competences for unskilled work.

(c) However, for individuals of advanced age who can no longer perform vocationally relevant past work and who have a history of unskilled work experience, or who have only skills that are not readily transferable to a significant range of semi-skilled or skilled work that is within the individual's functional capacity, or who have no work experience, the limitations in vocational adaptability represented by functional restriction to light work warrant a finding of disabled. Ordinarily, even a high school education or more which was completed in the remote past will have little positive impact on effecting a vocational adjustment unless relevant work experience reflects use of such education.

(d) Where the same factors in paragraph (c) of this section regarding education and work experience are present, but where age, though not advanced, is a factor which significantly limits vocational adaptability (i.e., closely approaching advanced age, 50–54) and an individual's vocational scope is further significantly limited by illiteracy or inability to communicate in English, a finding of disabled is warranted.

(e) The presence of acquired skills that are readily transferable to a significant range of semi-skilled or skilled work within an individual's residual functional capacity would ordinarily warrant a finding of not disabled regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) For a finding of transferability of skills to light work for individuals of advanced age who are closely approaching retirement age (age 60–64), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. The capability for light work, which includes the ability to do sedentary work, represents the capability for substantial numbers of such jobs. This, in turn, represents substantial vocational scope for younger individuals (age 18–49) even if illiterate or unable to communicate in English.

TABLE No. 2.—*Residual functional capacity: Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
202.01	Advanced age	Limited or less	Unskilled or none	Disabled.
202.02	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.03	do	do	Skilled or semiskilled—skills transferable [1].	Not disabled.
202.04	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Unskilled or none	Disabled.
202.05	do	High school graduate or more—provides for direct entry into skilled work [2].	do	Not disabled.
202.06	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Disabled.
202.07	do	do	Skilled or semiskilled—skills transferable [1].	Not disabled.
202.08	do	High school graduate or more—provides for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Do.
202.09	Closely approaching advanced age.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
202.10	do	Limited or less—At least literate and able to communicate in English.	do	Not disabled.
202.11	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.12	do	do	Skilled or semiskilled—skills transferable.	Do.
202.13	do	High school graduate or more.	Unskilled or none	Do.
202.14	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.15	do	do	Skilled or semiskilled—skills transferable.	Do.
202.16	Younger individual.	Illiterate or unable to communicate in English.	Unskilled or none	Do.
202.17	do	Limited or less—At least literate and able to communicate in English.	do	Do.
202.18	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.19	do	do	Skilled or semiskilled—skills transferable.	Do.
202.20	do	High school graduate or more.	Unskilled or none	Do.
202.21	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.22	do	do	Skilled or semiskilled—skills transferable.	Do.

[1] See 202.00(f).
[2] See 202.00(c).

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform medium work as defined in §404.1510(d) includes the functional capacity to perform sedentary, light, and medium work. Approximately 2,500 separate sedentary, light, and medium occupations can be identified, each occupation representing numerous jobs in the national economy which do not require skills or previous experience and which can be performed after a short demonstration or within 30 days.

(b) The functional capacity to perform medium work represents such substantial work capability at even the unskilled level that a finding of disabled is ordinarily not warranted in cases where a severely impaired individual retains the functional capacity to perform medium work. Even the adversity of advanced age (55 or over) and a work history of unskilled work may be offset by the substantial work capability represented by the functional capacity to perform medium work. (Note that the provisions of §404.1512 must have been given prior consideration.)

(c) However, the absence of any relevant work experience becomes a more significant adversity for individuals of advanced age (55 and over). Accordingly, this factor, in combination with a limited education or less, militates against making a vocational adjustment to even this substantial range of work and a finding of disabled is appropriate. Further, for individuals closely approaching retirement age (60–64) with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

TABLE No. 3.—*Residual functional capacity: Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
203.01	Closely approaching retirement age.	Marginal or none	Unskilled or none	Disabled.
203.02	do	Limited or less	None	Do.
203.03	do	Limited	Unskilled	Not disabled.
203.04	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
203.05	do	do	Skilled or semiskilled—skills transferable.	Do.
203.06	do	High school graduate or more.	Unskilled or none	Do.
203.07	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.08	do	do	Skilled or semiskilled—skills transferable.	Do.
203.09	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.10	Advanced age	Limited or less	None	Disabled.
203.11	do	do	Unskilled	Not disabled.
203.12	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.13	do	do	Skilled or semiskilled—skills transferable.	Do.
203.14	do	High school graduate or more.	Unskilled or none	Do.
203.15	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.16	do	do	Skilled or semiskilled—skills transferable.	Do.
203.17	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.18	Closely approaching advanced age.	Limited or less	Unskilled or none	Do.
203.19	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.20	do	do	Skilled or semiskilled—skills transferable.	Do.
203.21	do	High school graduate or more.	Unskilled or none	Do.
203.22	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.23	do	do	Skilled or semiskilled—skills transferable.	Do.
203.24	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.25	Younger individual.	Limited or less	Unskilled or none	Do.
203.26	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.27	do	do	Skilled or semiskilled—skills transferable.	Do.
203.28	do	High school graduate or more.	Unskilled or none	Do.
203.29	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.30	do	do	Skilled or semiskilled—skills transferable.	Do.
203.31	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.

204.00 *Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).* The residual functional capacity to perform heavy work as defined in §404.1510(e), or very heavy work as defined in §404.1510(f), includes the functional capability for work at the lesser functional levels as well, and represents substantial work capability for jobs in the national economy at all skill and physical demand levels. Individuals who retain the functional capacity to perform heavy work (or very heavy work) ordinarily will not have a severe impairment or will be able to do their past work—either of which would have already provided a basis for a decision of "not disabled". Environmental restrictions ordinarily would not significantly affect the range of work existing in the national economy for individuals with the physical capability for heavy work (or very heavy work). Thus an impairment which does not preclude heavy work (or very heavy work) would not ordinarily be the primary reason for unemployment, and generally is sufficient for a finding of not disabled, even though age, education, and skill level of prior work experience may be considered adverse.

5. Section 416.902 is revised to read as follows:

§416.902 Evaluation of disability in general.

The provisions of §§416.902 through 416.913 apply to cases involving supplemental security income benefits based on disability under §1614 of the Act (except for statutory blindness and children under age 18). In general, the individual has the burden of proving that he or she is disabled and of raising every issue with respect to his or her alleged disability. (See §§416.905, 416.924, 416.927.) Whether an impairment in a particular case constitutes a disability is determined from all the pertinent facts of that case. The determination of disability may be based on medical considerations alone, or on medical considerations and vocational factors as follows:

(a) *Disability determinations on the basis of medical considerations alone.* Medical evidence (i.e., signs, symptoms and laboratory findings) alone can justify a finding that an individual is not under a disability, or absent evidence to the contrary, that an individual is under a disability.

(b) *Disability determinations in which vocational factors must be considered along with the medical evidence.* In those cases where a finding of disabled or not disabled cannot be made based on medical evidence alone, other evidence is required. This other evidence may include information about:

(1) The individual's residual functional capacity;

(2) The individual's age, education, and work experience; and

(3) The kinds of substantial gainful activity (work) which exist in significant numbers in the national economy for someone who can do only what the individual can do.

(c) *Disability determinations in which vocational factors are extremely adverse.* Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments, such an individual may be found to be under a disability.

§416.903 through 416.907 [Redesignated §§416.914 through 416.918]

6. Sections 416.903 through 416.907 are redesignated as sections 416.914 through 416.918 respectively.

7. New §§416.903 through 416.913 are added to read as follows:

§416.903 Considerations in the sequential evaluation of disability.

(a) *General.* In the determination of whether or not an impairment in a particular case constitutes a disability as defined in §416.901, consideration is given to all the pertinent facts of that case. If the individual is engaging in substantial gainful activity, a determination that he or she is not disabled shall be made. In all other cases, primary consideration is given to the physical or mental impairment(s), which must be severe. The impairment(s) must also meet the duration requirement before disability can be found to exist. However, in determining whether an individual is disabled, a sequential evaluation process shall be followed, whereby current work activity, severity of the impairment(s), and vocational factors are assessed in that order. The following evaluation steps shall be followed in the sequence shown, but when a determination that an individual is or is not disabled can be made at any step, evaluation under a subsequent step shall be unnecessary.

(b) *Is the individual currently engaging in substantial gainful activity?* Where an individual is actually engaging in substantial gainful activity, a finding shall be made that the individual is not under a disability without consideration of either medical or vocational factors. (See §§416.932, 416.933, 416.934.)

(c) *Does the individual have any severe impairments?* Where an individual does not have any impairment(s) which significantly limits his or her physical or mental capacity to perform basic work-related functions, a finding shall be made that he or she does not have a severe impairment and therefore is not under a disability without consideration of the vocational factors.

(d) *Does the individual have any impairment(s) which meets or equals those listed in Part A of Appendix 1?* Where an individual's impairment(s) meets the duration requirement and is either listed in Part A of Appendix 1 or is determined to be medically the equivalent of a listed impairment, a finding of disability shall be made without consideration of the vocational factors.

(e) *Does the individual have any impairment(s) which prevents past relevant work?* Where a finding of disability or no disability cannot be made based on current work activity or on medical considerations alone, and the individual has a severe impairment(s), his or her residual functional capacity and the physical and mental demands of his or her past relevant work shall be evaluated. If the impairment(s) does not prevent the individual from meeting the physical and mental demands of past relevant work, including arduous unskilled physical labor, disability shall be found not to exist.

(f) *Does the individual's impairment(s) prevent other work?* If an individual cannot perform any past relevant work because of a severe impairment(s), but the individual's remaining physical and mental capacities are consistent with his or her meeting the physical and mental demands of a significant number of jobs (in one or more occupations) in the national economy, and the individual has the vocational capabilities (considering age, education, and past work experience) to make an adjustment to work different from that which he or she has performed in the past, it shall be determined that the individual is not under a disability. However, if an individual's physical and mental capacities in conjunction with his or her vocational capabilities (considering age, education, and past work experience) do not permit the individual to adjust to work different from that which he or she has performed in the past, it shall be determined that the individual is under a disability.

§416.904 Determining whether disability exists—medical and other considerations.

(a) *Medical considerations.*—(1) *Finding individual not disabled.* Medical considerations alone can justify a finding that an individual is not under a disability where the medically determinable impairment is not severe. A medically determinable impairment is not severe if it does not significantly limit an individual's physical or mental capacity to perform basic work-related functions.

(2) *Finding individual disabled.* Medical considerations alone (including the physiological and psychological manifestations of aging) can justify a finding that an individual is under a disability, absent evidence to the contrary. Medical considerations which justify a finding that an individual is under a disability are those that bring an individual's impairment(s) under the listing in Part A of Appendix 1 of this subpart or which justify a determintion by the Secretary that the impairment(s) is the medical equivalent of an impairment listed in Part A of Appendix 1 of this subpart.

(b) *Relevant work.* Any medically determinable impairment(s) may justify a finding that an individual is under a disability if the impairment(s) is severe and prevents an individual from engaging in substantial gainful activity. In determining whether impairment(s) not listed in Part A of Appendix 1 of this subpart (nor found to be the equivalent of an impairment listed in Part A of Appendix 1) meet this test, additional considerations are

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evaluated. These include determining whether an individual can qualify because he or she has only performed arduous unskilled work for a long period of time or, if not, whether he or she can perform vocationally relevant work.

(c) *Vocational Factors.* In those cases in which an individual is found unable to perform vocationally relevant past work, age, education, and work experience must then be considered in addition to the functional limitations imposed by the individual's physical or mental impairment(s).

§ 416.905 Residual functional capacity.

(a) *General.* Physical or mental impairment(s) may impose functional limitations on an individual's ability to engage in substantial gainful activity. The kind and severity of the impairment(s) determine the individual's work limitations and residual functional capacity. The manner in which the impairment(s) affects the individual's ability to perform work-related physical and mental activities, and the kind and extent of function the individual retains, are assessed in determining the individual's residual functional capacity. Where multiple impairments are involved, the assessment of residual functional capacity reflects the totality of restrictions resulting from all impairments. Assessments of residual functional capacity may be based solely on medical evidence where such evidence includes sufficient findings (e.g., signs, symptoms, and laboratory findings) to permit and support the necessary judgments where relevant, with respect to the individual's physical, mental, and sensory capabilities. In establishing disability for purposes of title XVI, the Secretary will assist the individual in meeting that burden by securing and paying for medical evidence needed for a sound determination. (See §§ 416.902, 416.924, 416.927.) Where all reasonably obtainable relevant medical findings alone are not sufficient for an adequate assessment of residual functional capacity, additional factors may be considered. Such additional factors as the individual's description of the impairment, recorded observations of the individual, and any other evidence of record may be considered in conjunction with the medical findings.

(b) *Physical capacities.* Assessment of physical capacities (e.g., strength and exertional capabilities) includes an evaluation of the individual and indicates the individual's maximal residual functional capacity for sustained activity on a regular basis. The assessment also includes the evaluation of the individual's ability to perform significant physical functions such as walking, standing, lifting, carrying, pushing or pulling. The assessment includes the evaluation of other physical traits and sensory characteristics such as reaching, handling, seeing, hearing, and speaking, insofar as limited capacity to perform these functions may also affect the individual's capacity for work for which the individual would otherwise be qualified.

(c) *Mental impairments.* The assessment of impairments because of mental disorders includes a consideration of such factors as the capacity to understand, to carry out and remember instructions, and to respond appropriately to supervision, co-workers and customary work pressures in a routine work setting.

(d) *Non-exertional limitations.* Any medically determinable impairment(s) resulting in non-exertional limitations (such as certain mental, sensory, or skin impairments) must be considered in terms of the limitations resulting from the impairment. When an individual has a non-exertional impairment in addition to an exertional impairment(s), the residual functional capacity must be assessed in terms of the degree of any additional narrowing of the individual's work-related capabilities.

(e) *When assessment is required.* An assessment of residual functional capacity is required only with respect to those specific physical or mental capacities that are in doubt by reason of the individual's allegations or the evidence adduced. Where such doubt does not exist with respect to particular physical or mental capacities, the individual is considered to have no restrictions with respect to those capacities.

(f) *Relationship of residual functional capacity to ability to do work.* Where the residual functional capacity so determined is sufficient to enable the individual to do his or her previous work (i.e., usual work or other vocationally relevant past work), a determination is made that the individual is not under a disability. Where the residual functional capacity so determined is not sufficient to enable the individual to do his or her previous work, it must be determined what work, if any, the individual can do, taking into consideration the individual's residual functional capacity, age, education, and work experience and whether work that the individual can do exists in significant numbers in the national economy.

§ 416.906 Age as a vocational factor.

(a) *General.* The term "age" refers to chronological age and the extent to which it affects the individual's capability to engage in work in competition with others. However, the factor of age in itself is not determinative of disability; the residual functional capacity and the education and work experience of the individual must also be considered. An individual who is unemployed because of age cannot be found incapable of engaging in substantial gainful activity when the individual's impairment and other vocational considerations, e.g., education and work experience, would enable the individual to perform a significant number of jobs which exist in the national economy. The considerations given to age are appropriately reflected in Appendix 2, but are not to be applied mechanically in borderline situations.

(b) *Younger individual.* In the case of a younger individual (under age 50), age in itself is ordinarily not considered to affect significantly the individual's ability to adapt to a new work situation.

(c) *Individual approaching advanced age.* For the individual not of advanced age but who is closely approaching avanced age (age 50–54), the factor of age, in combination with a severe impairment and limited vocational background, may substantially affect the individual's adaptability to a significant number of jobs in a competitive work environment.

(d) *Individual of advanced age.* "Advanced" age (age 55 or over) represents the point where age significantly affects the ability to engage in substantial work. Where a severely impaired individual is of advanced age, such ability may be adversely affected except where the individual has skills that are readily transferable to jobs which exist in significant numbers in the national economy. Those individuals of advanced age who are age 60–64 are further described as closely approaching retirement age.

§ 416.907 Education as a vocational factor.

(a) *General.* The term "education" is primarily used in the sense of formal schooling or other training which contributes to the individual's ability to meet vocational requirements, e.g., reasoning ability, communication skills, and arithmetical ability. Lack of formal schooling is not necessarily proof that the individual is uneducated or lacks such capacities. For individuals with past work experience, the kinds of responsibilities assumed when working may indicate the existence of such intellectual capacities although their formal education is limited. Other evidence of such capacities, for individuals with or without past work experience, may consist of daily activities, hobbies, or the results of testing. The significance of an individual's educational background may be materially affected by the time lapse between the completion of the individual's formal education and the onset of physical or mental impairment(s)

and by what the individual has done with his or her education in a work context. Formal education that was completed many years prior to onset of impairment or unused skills and knowledge that were a part of such formal education may no longer be useful or meaningful in terms of the individual's ability to work. Thus, the numerical grade level of educational attainment may not be representative of an individual's present educational competences which could be higher or lower. However, in the absence of evidence to the contrary, the numerical grade level will be used. The term "education" also indicates whether an individual has the ability to communicate in English, since that ability is often acquired or enhanced through educational exposure. In evaluating the educational level of an individual, the following classifications are used:

(b) *Illiteracy.* Illiteracy refers to the inability to read or write. An individual who is able to sign his or her name, but cannot read or write a simple communication (e.g., instructions, inventory lists), is considered illiterate. Generally, an illiterate individual has had little or no formal schooling.

(c) *Marginal education.* Marginal education refers to competence in reasoning, arithmetic, and language skills which are required for the performance of simple, unskilled types of jobs. Absent evidence to the contrary, formal schooling at a grade level of sixth grade or less is considered a marginal education.

(d) *Limited education.* Limited education refers to competence in reasoning, arithmetic, and language skills which, although more than that which is generally required to carry out the duties of unskilled work, does not provide the individual with the educational qualifications necessary to perform the majority of more complex job duties involved in semi-skilled or skilled jobs. Absent evidence to the contrary, a seventh grade through the eleventh grade level of formal education is considered a limited education.

(e) *High school education and above.* High school education and above refers to competence in reasoning, arithmetic, and language skills acquired through formal schooling at a level of grade twelve or above. Absent evidence to the contrary, these educational capacities qualify an individual for work at a semi-skilled through a skilled level of job complexity.

(f) *Inability to communicate in English.* Ability to communicate in English is often acquired or enhanced through educational exposure, and this may be considered an educational factor. Where there is inability to communicate in English, the dominant language of the national economy, this may be considered a vocational handicap because it often narrows an individual's vocational scope. For example, the inability to communicate in English may preclude an individual from performing jobs which require conversing with peers and supervisors in English, or reading instructions, signs, forms, etc., which are printed in English. However, the inability to communicate in English in no sense implies that an individual lacks formal schooling or intelligence. A person unable to communicate in English may have a vocational handicap which must be considered in assessing what work, if any, the individual can do. The particular non-English language in which an individual may be fluent is generally immaterial.

§ 416.908 Work experience as a vocational factor.

The term "work experience" means skills and abilities acquired through work previously performed by the individual which indicates the type of work the individual may be expected to perform. Work for which the individual has demonstrated a capability is the best indicator of the kind of work that the individual can be expected to do. Such work experience has current vocational relevance where the recency of the work and the skills acquired demonstrate the individual's ability to perform work which exists in the national economy. Work performed 15 years or more prior to the point at which the claim is being considered for adjudication (or when the earnings requirement was last met) is ordinarily not considered vocationally relevant. In our economic system, a gradual transition occurs in the job functions of most jobs so that by the time 15 years have elapsed, it is no longer realistic to assume that skills and abilities acquired in a job performed more than 15 years ago continue to be relevant. The 15-year guide is essentially intended to insure that current vocational relevance is not imputed to remote work experience which could not reasonably be expected to enhance an individual's vocational prospect as of the point of adjudication. An individual who has no prior work experience or has worked only sporadically or for brief periods of time during the 15-year period may be considered to have no relevant work experience. Any skills acquired through work experience are vocational assets unless they are not transferable to other skilled or semi-skilled work within the individual's current capacities. When acquired skills are not transferable, the indivdual is considered capable of only unskilled work. However, an individual need not have work experience to qualify for unskilled work which requires little or no judgment in the performance of simple duties which can be learned in a short period of time.

§ 416.909 Work which exists in the national economy.

(a) *General.* Work is considered to exist in the national economy when it exists in significant numbers either in the region where the individual lives or in several other regions of the country, regardless of whether such work exists in the immediate area in which the individual lives, or whether a specific job vacancy exists for the individual, or whether the individual would be hired if the individual applied for work. A finding that work exists in the national economy is made when there is a significant number of jobs (in one or more occupations) having typical requirements which do not exceed the individual's physical or mental capacities and vocational qualifications. Isolated jobs of a type that exist only in very limited number or in relatively few geographic locations outside of the region where the individual resides are not considered to be "work which exists in the national economy" for purposes of determining whether an individual is under a disability; an individual is not denied benefits on the basis of the existence of such jobs. If work that the individual can do does not exist in the national economy, disability shall be determined to exist. If such work does exist in the national economy, disability shall be determined not to exist.

(b) *Inability of individual to obtain work.* If an individual's residual functional capacity and vocational capabilities are consistent with the performance of work which exists in the national economy but the individual remains unemployed because the individual is unsuccessful in obtaining such work or because such work does not exist in the individual's local area; or because of the hiring practices of employers, technological changes in the industry in which the individual has worked, or cyclical economic conditions; or because there are no job openings for the individual or the individual would not actually be hired to do work the individual could otherwise perform, the individual is considered not to be under a disability as defined in § 416.901.

(c) *Administrative notice of job data.* In the determination of whether jobs as classified by their exertional and skill requirements exist in significant numbers either in the region or the national economy, administrative notice shall be taken of reliable job information available from various governmental and other publications; e.g., "Dictionary of Occupational Titles," published by the Department of Labor; "County Business Patterns," published by the Bureau of the

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Census; "Census Reports," also published by the Bureau of the Census; occupational analyses prepared for the Social Security Administration by various State employment agencies; and the "Occupational Outlook Handbook," published by the Bureau of Labor Statistics.

§ 416.910 Exertional requirements.

(a) *General.* For the purpose of determining exertional requirements of work in the national economy, jobs are classified as "sedentary," "light," "medium," "heavy," and "very heavy." Such terms have the same meaning as they have in the "Dictionary of Occupational Titles," published by the Department of Labor, and when used in making disability determinations under this subpart, are defined as follows:

(b) *Sedentary work.* Sedentary work entails lifting 10 pounds maximum and occasionally lifting or carrying such articles as dockets (e.g., files), ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(c) *Light work.* Light work entails lifting 20 pounds maximum with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, an individual must be capable of performing substantially all of the foregoing activities. The functional capacity to perform light work includes the functional capacity to perform sedentary work.

(d) *Medium work.* Medium work entails lifting 50 pounds maximum with frequent lifting or carrying of objects weighing up to 25 pounds. The functional capacity to perform medium work includes the functional capacity to perform sedentary work and light work as well.

(e) *Heavy work.* Heavy work entails lifting 100 pounds maximum with frequent lifting or carrying of objects weighing up to 50 pounds. The functional capacity to perform heavy work includes the functional capacity to perform work at all of the lesser functional levels.

(f) *Very heavy work.* Very heavy work entails lifting objects in excess of 100 pounds with frequent lifting or carrying of objects weighing 50 pounds or more. The functional capacity to perform very heavy work includes the functional capacity to perform work at all of the lesser functional levels.

§ 416.911 Skill requirements.

(a) *General.* For purposes of assessing the skills reflected by an individual's work experience, and of determining the existence in the national economy of work the individual is competent to do, occupations are classified as unskilled, semi-skilled, and skilled. When used in making disability determinations under this subpart, these terms are used in the following sense:

(b) *Unskilled work.* Unskilled work denotes work which requires little or no judgment in the preformance of simple duties that can be learned on the job in a short period of time. Considerable strength may or may not be required. As an example, where the primary work function of occupations consists of handling, feeding, and offbearing (i.e., placing or removing materials from machines which are automatic or operated by others), or machine tending, and average successful job performance can ordinarily be achieved within 30 days, such occupations are considered unskilled. Other types of jobs requiring little specific vocational preparation and little judgment are likewise unskilled. No acquired work skills can be attributed to individuals who have performed only unskilled work.

(c) *Semi-skilled work.* Semi-skilled work denotes work in which some skills are involved but the more complex work functions are not required. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise detecting irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities involving work functions of similar complexity. A job may be classified as semi-skilled where coordination and dexterity are necessary as in the use of the hands or feet for the rapid performance of repetitive tasks.

(d) *Skilled work.* Skilled work requires qualifications in which the independent judgment of the individual determines the machine and manual operations to be performed in obtaining the proper form, quality, or quantity of material to be produced. The individual may be required to lay out work, to estimate quality, suitability and needed quantities of materials, to make precise measurements, to read blueprints or other specifications, or to make necessary computations or mechanical adjustments to control or regulate processes. Other skilled jobs may require dealing with personnel, data, or abstract ideas at a high level of complexity.

(e) *Transferable work skills.* An individual is considered to have transferable skills when the skilled or semi-skilled work functions which he or she has demonstrated in his or her past work can be applied to meet the requirements of skilled or semi-skilled work functions of other jobs or kinds of work. Transferability depends largely on the similarity of occupationally significant work functions among jobs. Transferability is most probable and meaningful among jobs in which the same or a lesser degree of skill is required; and the same or similar tools and machines are used; and the same or similar raw materials, products, processes, or services are involved. There are degrees of transferability ranging from a close approximation of work functions involving all three factors to only remote and incidental similarities among jobs. A complete similarity of all three factors is not necessary to warrant the inference of transferability. Where an individual's work skills are so specialized or have been acquired in such a limited vocational setting that they are not readily usable in other industries, jobs and work environments, they are not transferable and the individual may be considered as if he or she is unskilled. (Also see Appendix 2, § 201.00 (e), (f), and § 202.00 (e), (f).)

§ 416.912 Effect of performance of arduous unskilled physical labor.

Where an individual with a marginal education and long work experience (e.g., 35 to 40 years or more) limited to the performance of arduous unskilled physical labor is not working and is no longer able to perform such labor because of a significant impairment or impairments and, considering his or her age, education, and vocational background is unable to engage in lighter work, such individual may be found to be under a disability. On the other hand, a different conclusion may be reached where it is found that such individual is working or has worked despite his or her impairment or impairments (except where such work is sporadic or is medically contraindicated) depending upon all the facts in the case. In addition, an individual who was doing heavy physical work at the time he or she suffered such impairment might not be considered unable to engage in any substantial gainful activity if the evidence shows that he or she has the training or past work experience which qualifies him or her for substantial gainful work in another occupation consistent with his or her impairment, either on a full-time or a reasonably regular part-time basis.

Example. B, a 60-year old miner, with a fourth grade education, after a life-long history of arduous physical labor alleged that he was under a disability because of arthritis of the spine, hips, and knees and other impairments. Medical evidence shows a combination of impairments and establishes that these impairments prevent B from performing his usual work or any other type of arduous physical labor. His vocational background does not disclose either through performance or by similarly persuasive evidence that he has skills or capabilities needed to do lighter work which would be readily transferable to another work environment. Under these circumstances, B may be found to be under a disability.

§ 416.913 Listing of medical-vocational guidelines in Appendix 2.

In light of information that is available about jobs (classified by their exertional and skill requirements) that exist in the national economy, Appendix 2 sets forth rules reflecting the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 416.904 (a) and (b) or § 416.912, where an individual is not engaging in substantial gainful activity and is prevented by medically determinable impairment from performing his or her vocationally relevant past work. The Appendix 2 rules do not encompass all possible variations of factors and, as explained in § 200.00 of Appendix 2, are not applicable in any case where any one of the findings of fact made with respect to the individual's vocational factors and residual functional capacity does not coincide with the corresponding criterion of a rule. In such instances, full consideration must be given to all relevant facts in accordance with the definitions and discussions of each factor in §§ 416.905–416.911. However, when the findings of fact made as to all factors coincide with the criteria of a rule, that rule directs a conclusion of disabled or not disabled.

8. Subpart I of Part 416 is further amended by adding a new Appendix 2, to read as follows:

APPENDIX 2—MEDICAL—VOCATIONAL GUIDELINES

Secs.

200.00 Introduction.
201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).
202.00 Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).
203.00 Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).
204.00 Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).

200.00 *Introduction.* (a) The following rules reflect the major functional and vocational patterns which are encountered in cases which do not fall within the criteria of § 416.904 (a) and (b) or § 416.912, where an individual with a severe medically determinable physical or mental impairment(s) is not engaging in substantial gainful activity and the individual's impairment(s) prevents the performance of his or her vocationally relevant past work. They also reflect the analysis of the various vocational factors (i.e., age, education, and work experience) in combination with the individual's residual functional capacity (used to determine his or her maximum sustained work capability for sedentary, light, medium, heavy, or very heavy work) in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work. Where the findings of fact made with respect to a particular individual's vocational factors and residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a conclusion as to whether the individual is or is not disabled. However, each of these findings of fact is subject to rebuttal and the individual may present evidence to refute such findings. Where any one of the findings of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a conclusion of disabled or not disabled. In any instance where a rule does not apply, full consideration must be given to all of the relevant facts of the case in accordance with the definitions and discussions of each factor in §§ 416.905–416.911.

(b) The existence of jobs in the national economy is reflected in the "Decisions" shown in the rules; i.e., in promulgating the rules, administrative notice has been taken of the numbers of unskilled jobs that exist throughout the national economy at the various functional levels (sedentary, light, medium, heavy, and very heavy) as supported by the "Dictionary of Occupational Titles" and the "Occupational Outlook Handbook," published by the Department of Labor; the "County Business Patterns" and "Census Surveys" published by the Bureau of the Census; and occupational surveys of light and sedentary jobs prepared for the Social Security Administration by various State employment agencies. Thus, when all factors coincide with the criteria of a rule, the existence of such jobs is established. However, the existence of such jobs for individuals whose remaining functional capacity or other factors do not coincide with the criteria of a rule must be further considered in terms of what kinds of jobs or types of work may be either additionally indicated or precluded.

(c) In the application of the rules, the individual's residual functional capacity (i.e., the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education, and work experience must first be determined.

(d) The correct disability decision (i.e., on the issue of ability to engage in substantial gainful activity) is found by then locating the individual's specific vocational profile. If an individual's specific profile is not listed within this Appendix 2, a conclusion of disabled or not disabled is not directed. Thus, for example, an individual's ability to engage in substantial gainful work where his or her residual functional capacity falls between the ranges of work indicated in the rules (e.g., the individual who can perform more than light but less than medium work), is decided on the basis of the principles and definitions in the regulations, giving consideration to the rules for specific case situations in this Appendix 2. These rules represent various combinations of exertional capabilities, age, education and work experience and also provide an overall structure for evaluation of those cases in which the judgments as to each factor do not coincide with those of any specific rule. Thus, when the necessary judgments have been made as to each factor and it is found that no specific rule applies, the rules still provide guidance for decisionmaking, such as in cases involving combinations of impairments. For example, if the strength limitations resulting from an individual's impairment(s) considered with the judgments made as to the individual's age, education and work experience correspond to (or closely approximate) the factors of a particular rule, the adjudicator then has a frame of reference for considering the jobs or types of work precluded by other, non exertional impairments in terms of numbers of jobs remaining for a particular individual.

(e) Since the rules are predicated on an individual's having an impairment which manifests itself by limitations in meeting the strength requirements of jobs, they may not be fully applicable where the nature of an individual's impairment does not result in such limitations, e.g., certain mental, sensory, or skin impairments. In addition, some impairments may result solely in postural and manipulative limitations or environmental restrictions. Environmental restrictions are those restrictions which result in inability to tolerate some physical features(s) of work settings that occur in certain industries or types of work, e.g., an inability to tolerate dust or fumes.

(1) In the evaluation of disability where the individual has solely a nonexertional type of impairment, determination as to whether disability exists shall be based on the principles of §§ 416.905–416.911, giving consideration to the rules for specific case situations in this Appendix 2. The rules do not direct factual conclusions of disabled or not disabled for individuals with solely nonexertional types of impairments.

(2) However, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules in this subpart are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone and, if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience provide a framework for consideration of how much the individual's work capability is further diminished in terms of any types of jobs that would be contraindicated by the nonexertional limitations. Also, in these combinations of nonexertional and exertional limitations which cannot be wholly determined under the rules in this Appendix 2, full consideration must be given to all of the relevant facts in the case in accordance with the definitions and discussion of each factor in §§ 416.905–416.911, which will provide insight into the adjudicative weight to be accorded each factor.

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201.00 *Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).* (a) Most sedentary occupations fall within the skilled, semi-skilled, professional, administrative, technical, clerical, and benchwork classifications. Approximately 200 separate unskilled sedentary occupations can be identified, each representing numerous jobs in the national economy. Approximately 85 percent of these jobs are in the machine trades and benchwork occupational categories. These jobs (unskilled sedentary occupations) may be performed after a short demonstration or within 30 days.

(b) These unskilled sedentary occupations are standard within the industries in which they exist. While sedentary work represents a significantly restricted range of work, this range in itself is not so prohibitively restricted as to negate work capability for substantial gainful activity.

(c) Vocational adjustment to sedentary work as defined in §416.910(b) may be expected where the individual has special skills or experience relevant to sedentary work or where age and basic educational competences provide sufficient occupational mobility to adapt to the major segment of unskilled sedentary work. Inability to engage in substantial gainful activity would be indicated where an individual who is restricted to sedentary work because of a severe medically determinable impairment lacks special skills or experience relevant to sedentary work, lacks educational qualifications relevant to most sedentary work (e.g., has a limited education or less) and the individual's age, though not necessarily advanced, is a factor which significantly limits vocational adaptability.

(d) The adversity of functional restriction to sedentary work at advanced age (55 and over) for individuals with no relevant past work or who can no longer perform vocationally relevant past work, and have no transferable skills, warrants a finding of disabled in the absence of the rare situation where the individual has recently completed education which provides a basis for direct entry into skilled sedentary work. Advanced age and a history of unskilled work or no work experience would ordinarily offset any vocational advantages that might accrue by reason of any remote past education, whether it is more or less than limited education.

(e) The presence of acquired skills that are readily transferable to a significant range of skilled work within an individual's residual functional capacity would ordinarily warrant a finding of ability to engage in substantial gainful activity regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) In order to find transferability of skills to skilled sedentary work for individuals who are of advanced age (55 and over), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) Individuals approaching advanced age (age 50–54) may be significantly limited in vocational adaptability if they are restricted to sedentary work. When such individuals have no past work experience or can no longer perform vocationally relevant past work and have no transferable skills, a finding of disabled ordinarily obtains. However, recently completed education which provides for direct entry into sedentary work will preclude such a finding. For this age group, even a high school education or more (ordinarily completed in the remote past) would have little impact for effecting a vocational adjustment unless relevant work experience reflects use of such education.

(h) The term "younger individual" is used to denote an individual age 18 through 49. For those within this group who are age 45–49, age is a less positive factor than for those who are age 18–44. Accordingly, for such individuals (1) who are restricted to sedentary work, (2) who are unskilled or have no transferable skills, (3) who have no relevant past work or who can no longer perform vocationally relevant past work, and (4) who are either illiterate or unable to communicate in the English language, a finding of disabled is warranted. On the other hand, age is a more positive factor for those who are under age 45 and is usually not a significant factor in limiting such an individual's ability to make a vocational adjustment, even an adjustment to unskilled sedentary work, and even where the individual is illiterate or unable to communicate in English. However, a finding of disabled is not precluded for those individuals under age 45 who do not meet all of the criteria of a specific rule and who do not have ability to perform a full range of sedentary work. The following examples are illustrative: Example 1: An individual under age 45 with a high school education can no longer do past work and is restricted to unskilled sedentary jobs because of a severe medically determinable cardiovascular impairment (which does not meet or equal the listings in Part A of Appendix 1). A permanent injury of the right hand limits the individual to sedentary jobs which do not require bilateral manual dexterity. None of the rules in Appendix 2 are applicable to this particular set of facts, because this individual cannot perform the full range of work defined as sedentary. Since the inability to perform jobs requiring bilateral manual dexterity significantly compromises the only range of work for which the individual is otherwise qualified; (i.e., sedentary), a finding of disabled would be appropriate. Example 2: An illiterate 41 year old individual with mild mental retardation (IQ of 78) is restricted to unskilled sedentary work and cannot perform vocationally relevant past work, which had consisted of unskilled agricultural field work; his or her particular characteristics do not specifically meet any of the rules in Appendix 2, because this individual cannot perform the full range of work defined as sedentary. In light of the adverse factors which further narrow the range of sedentary work for which this individual is qualified, a finding of disabled is appropriate.

(i) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. Thus, the functional capability for a full range of sedentary work represents sufficient numbers of jobs to indicate substantial vocational scope for those individuals age 18–44 even if they are illiterate or unable to communicate in English.

TABLE No. 1.—*Residual functional capacity: Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
201.01	Advanced age	Limited or less	Unskilled or none	Disabled.
201.02	do	do	Skilled or semiskilled—skills not transferable [1]	Do.
201.03	do	do	Skilled or semiskilled—skills transferable [1]	Not disabled.
201.04	do	High school graduate or more—does not provide for direct entry into skilled work [2]	Unskilled or none	Disabled.
201.05	do	High school graduate or more—provides for direct entry into skilled work [2]	do	Not disabled.
201.06	do	High school graduate or more—does not provide for direct entry into skilled work [2]	Skilled or semiskilled—skills not transferable [1]	Disabled.
201.07	do	do. [3]	Skilled or semiskilled—skills transferable [1]	Not disabled.
201.08	do	High school graduate or more—provides for direct entry into skilled work [2]	Skilled or semiskilled—skills not transferable [1]	Do.
201.09	Closely approaching advanced age.	Limited or less	Unskilled or none	Disabled.
201.10	do	do	Skilled or semiskilled—skills not transferable.	Do.
201.11	do	do	Skilled or semiskilled—skills transferable.	Not disabled.
201.12	do	High school graduate or more—does not provide for entry into skilled work [2]	Unskilled or none	Disabled.
201.13	do	High school graduate or more—provides for direct entry into skilled work [2]	do	Not disabled.

TABLE No. 1.—*Residual functional capacity: Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s)*—Continued

Rule	Age	Education	Previous work experience	Decision
201.14	do	High school graduate or more—does not provide for direct entry into skilled work [2]	Skilled or semiskilled—skills not transferable.	Disabled.
201.15	do	do. [3]	Skilled or semiskilled—skills transferable.	Not disabled.
201.16	do	High school graduate or more—provides for direct entry into skilled work [2]	Skilled or semiskilled—skills not transferable.	Do.
201.17	Younger individual, age 45 to 49.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
201.18	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
201.19	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
201.20	do	do	Skilled or semiskilled—skills transferable.	Do.
201.21	do	High school graduate or more.	Skilled or semiskilled—skills not transferable.	Do.
201.22	do	do	Skilled or semiskilled—skills transferable.	Do.
201.23	Younger individual, age 18 to 44.	Illiterate or unable to communicate in English.	Unskilled or none	Do. [4]
201.24	do	Limited or less—at least literate and able to communicate in English.	do	Do. [4]
201.25	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do. [4]
201.26	do	do	Skilled or semiskilled—skills transferable.	Do. [4]
201.27	do	High school graduate or more.	Unskilled or none	Do. [4]
201.28	do	do	Skilled or semiskilled—skills not transferable.	Do. [4]
201.29	do	do	Skilled or semiskilled—skills transferable.	Do. [4]

[1] See 201.00(f).
[2] See 201.00(d).
[3] See 201.00(g).
[4] See 201.00(h).

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform a full range of light work as defined in § 416.910(c) includes the functional capacity to perform sedentary as well as light work. Approximately 1,600 separate sedentary and light unskilled occupations can be identified in eight broad occupational categories, each occupation representing numerous jobs in the national economy. These jobs can be performed after a short demonstration or within 30 days, and do not require special skills or experience.

(b) The functional capacity to perform a wide or full range of light work represents substantial work capability compatible with making a work adjustment to substantial numbers of unskilled jobs and, thus, generally provides sufficient occupational mobility even for severely impaired individuals who are not of advanced age and have sufficient educational competences for unskilled work.

(c) However, for individuals of advanced age who can no longer perform vocationally relevant past work and who have a history of unskilled work experience, or who have only skills that are not readily transferable to a significant range of Semi-skilled or skilled work that is within the individual's functional capacity, or who have no work experience, the limitations in vocational adaptability represented by functonal restriction to light work warrant a finding of disabled. Ordinarily, even a high school education or more which was completed in the remote past will have little positive impact on effecting a vocational adjustment unless relevant work experience reflects use of such education.

(d) Where the same factors in paragraph (c) of this section regarding education and work experience are present, but where age, though not advanced, is a factor which significantly limits vocational adaptability (i.e., closely approaching advanced age, 50–54) and an individual's vocational scope is further significantly limited by illiteracy or inability to communicate in English, a finding of disabled is warranted.

(e) The presence of acquired skills that are readily transferable to a significant range of semi-skilled or skilled work within an individual's residual functional capacity would ordinarily warrant a finding of not disabled regardless of the adversity of age, or whether the individual's formal education is commensurate with his or her demonstrated skill level. The acquisition of work skills demonstrates the ability to perform work at the level of complexity demonstrated by the skill level attained regardless of the individual's formal educational attainments.

(f) For a finding of transferability of skills to light work for individuals of advanced age who are closely approaching retirement age (age 60–64), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) While illiteracy or the inability to communicate in English may significantly limit an individual's vocational scope, the primary work functions in the bulk of unskilled work relate to working with things (rather than with data or people) and in these work functions at the unskilled level, literacy or ability to communicate in English has the least significance. Similarly, the lack of relevant work experience would have little significance since the bulk of unskilled jobs require no qualifying work experience. The capability for light work, which includes the ability to do sedentary work, represents the capability for substantial numbers of such jobs. This, in turn, represents substantial vocational scope for younger individuals (age 18–49) even if illiterate or unable to communicate in English.

TABLE No. 2.—*Residual functional capacity: Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
202.01	Advanced age	Limited or less	Unskilled or none	Disabled.
202.02	do	do	Skilled or semiskilled—skills not transferable.	Do.

TABLE No. 2.—*Residual functional capacity: Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s)*—Continued

Rule	Age	Education	Previous work experience	Decision
202.03	do	do	Skilled or semiskilled—skills transferable [1].	Not disabled.
202.04	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Unskilled or none	Disabled.
202.05	do	High school graduate or more—provides for direct entry into skilled work [2].	do	Not disabled.
202.06	do	High school graduate or more—does not provide for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Disabled.
202.07	do	do. [2]	Skilled or semiskilled—skills transferable [1].	Not disabled.
202.08	do	High school graduate or more—provides for direct entry into skilled work [2].	Skilled or semiskilled—skills not transferable.	Do.
202.09	Closely approaching advanced age.	Illiterate or unable to communicate in English.	Unskilled or none	Disabled.
202.10	do	Limited or less—at least literate and able to communicate in English.	do	Not disabled.
202.11	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.12	do	do	Skilled or semiskilled—skills transferable.	Do.
202.13	do	High school graduate or more.	Unskilled or none	Do.
202.14	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.15	do	do	Skilled or semiskilled—skills transferable.	Do.
202.16	Younger individual.	Illiterate or unable to communicate in English.	Unskilled or none	Do.
202.17	do	Limited or less—at least literate and able to communicate in English.	do	Do.
202.18	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
202.19	do	do	Skilled or semiskilled—skills transferable.	Do.
202.20	do	High school graduate or more.	Unskilled or none	Do.
202.21	do	do	Skilled or semiskilled—skills not transferable.	Do.
202.22	do	do	Skilled or semiskilled—skills transferable.	Do.

[1] See 202.00(f)
[2] See 202.00(c)

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).* (a) The functional capacity to perform medium work as defined in 416.910(d) includes the functional capacity to perform sedentary, light, and medium work. Approximately 2,500 separate sedentary, light, and medium occupations can be identified, each occupation representing numerous jobs in the national economy which do not require skills or previous experience and which can be performed after a short demonstration or within 30 days.

(b) The functional capacity to perform medium work represents such substantial work capability at even the unskilled level that a finding of disabled is ordinarily not warranted in cases where a severely impaired individual retains the functional capacity to perform medium work. Even the adversity of advanced age (55 and over) and a work history of unskilled work may be offset by the substantial work capability represented by the functional capacity to perform medium work. (Note that the provisions of §416.912 must have been given prior consideration.)

(c) However, the absence of any relevant work experience becomes a more significant adversity for individuals of advanced age (55 and over). Accordingly, this factor, in combination with a limited education or less, militates against making a vocational adjustment to even this substantial range of work and a finding of disabled is appropriate. Further, for individuals closely approaching retirement age (60–64) with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

TABLE No. 3.—*Residual functional capacity: Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)*

Rule	Age	Education	Previous work experience	Decision
203.01	Closely approaching retirement age.	Marginal or none	Unskilled or none	Disabled.
203.02	do	Limited or less	None	Do.
203.03	do	Limited	Unskilled	Not disabled.
203.04	do	Limited or less	Skilled or semiskilled—skills not transferable.	Do.
203.05	do	do	Skilled or semiskilled—skills transferable.	Do.
203.06	do	High school graduate or more.	Unskilled or none	Do.
203.07	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.

TABLE No. 3.—*Residual functional capacity: Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)*—Continued

Rule	Age	Education	Previous work experience	Decision
203.08	do	do	Skilled or semiskilled—skills transferable.	Do.
203.09	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.10	Advanced age	Limited or less	None	Disabled.
203.11	do	do	Unskilled	Not disabled.
203.12	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.13	do	do	Skilled or semiskilled—skills transferable.	Do.
203.14	do	High school graduate or more.	Unskilled or none	Do.
203.15	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.16	do	do	Skilled or semiskilled—skills transferable.	Do.
203.17	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.18	Closely approaching advanced age.	Limited or less	Unskilled or none	Do.
203.19	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.20	do	do	Skilled or semiskilled—skills transferable.	Do.
203.21	do	High school graduate or more.	Unskilled or none	Do.
203.22	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.23	do	do	Skilled or semiskilled—skills transferable.	Do.
203.24	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.25	Younger individual.	Limited or less	Unskilled or none	Do.
203.26	do	do	Skilled or semiskilled—skills not transferable.	Do.
203.27	do	do	Skilled or semiskilled—skills transferable.	Do.
203.28	do	High school graduate or more.	Unskilled or none	Do.
203.29	do	High school graduate or more—does not provide for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.
203.30	do	do	Skilled or semiskilled—skills transferable.	Do.
203.31	do	High school graduate or more—provides for direct entry into skilled work.	Skilled or semiskilled—skills not transferable.	Do.

204.00 *Maximum sustained work capability limited to heavy work (or very heavy work) as a result of severe medically determinable impairment(s).* The residual functional capacity to perform heavy work as defined in §416.910(e), or very heavy work as defined in §416.910(f) includes the functional capability for work at the lesser functional levels as well, and represents substantial work capability for jobs in the national economy at all skill and physical demand levels. Individuals who retain the functional capacity to perform heavy work (or very heavy work) ordinarily will not have a severe impairment or will be able to do their past work—either of which would have already provided a basis for a decision of "not disabled". Environmental restrictions ordinarily would not significantly affect the range of work existing in the national economy for individuals with the physical capability for heavy work (or very heavy work). Thus, an impairment which does not preclude heavy work (or very heavy work) would not ordinarily be the primary reason for unemployment, and generally is sufficient for a finding of not disabled even though age, education, and skill level of prior work experience may be considered adverse.

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[4110-07-M]

[Regulations No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart B—Eligibility

ELIGIBILITY OF INDIVIDUALS RESIDING IN PUBLICLY OPERATED COMMUNITY RESIDENCES SERVING NO MORE THAN 16 RESIDENTS

AGENCY: Social Security Administration, HEW.

ACTION: Final regulations.

SUMMARY: This final rule provides that the term "public institution" does not include publicly operated community residences which serve no more than 16 residents and defines this kind of residence. Thus, individuals who are residing in publicly operated community residences which serve no more than 16 residents, and who are otherwise qualified, are eligible for Supplemental Security Income (SSI) benefits.

This rule encourages the development of small residential facilities as an alternative to care in large institutions for persons who would benefit from a living arrangement closely approximating independent living in a community setting while, at the same time, receiving supportive care and some degree of supervision. These provisions are designed to acclimate residents to community living and to ease the transition into an independent living situation.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: On January 31, 1978, this amendment was published in the FEDERAL REGISTER (43 FR 4004) as an interim regulation.

BACKGROUND

Prior to the enactment of section 505(a) of Pub. L. 94-566, section 1611(e)(1) of the Act provided only one exception to the general rule that no person shall be eligible to receive SSI benefits for any month throughout which the individual is an inmate of a public institution. The previous exception, which continues in effect, provides that an individual who is throughout a month in a public institution may be eligible for SSI benefits if the institution is receiving payments under a State plan approved under Title XIX (Medicaid) on his or her behalf, assuming all other SSI eligibility criteria are met. In this situation, the standard payment amount is $25 for each full month of such institutionalization. This amount is then subject to reduction for any countable income which the individual may have. However, if the public institution is not receiving title XIX (Medicaid) payments on his or her behalf, the individual is ineligible for SSI benefits. The rules implementing these statutory provisions are found in Title 20 of the Code of Federal Regulations, § 416.231.

SCOPE OF RULES

1. Section 505(a) of Pub. L. 94-566 added a second exception to the exclusion of inmates of public institutions. Section 1611(e)(1)(C) of the Act now

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provides that the term "public institution" does not include publicly operated community residences which serve no more than 16 residents. Accordingly, we have amended § 416.231 by adding a new paragraph (a)(3) to state that for purposes of § 416.231 the term public institution does not include publicly operated community residences which serve no more than 16 residents. Thus, individuals residing in residences of this type are eligible for SSI benefits if all other SSI criteria are met.

2. We have also amended § 416.231 by adding a new paragraph (b)(6)(i). This paragraph defines publicly operated community residences which serve no more than 16 residents as follows:

It must be publicly operated as defined in § 416.231(b)(2); and

It must be planned and designed to serve no more than 16 residents, or the plan and design was changed to serve no more than 16 residents; and

It must be serving no more than 16 residents; and

It must make available some services beyond food and shelter such as social services or help with personal living activities, or training in socialization and life skills; occasional or incidental medical or remedial care may also be provided (as defined in 45 CFR 228.1).

In developing this definition we looked to the wording of the statute. We also considered the background materials contained in the legislative history of the statute. (See Hearing on H.R. 10210 Before the Subcommittee on Public Assistance of the House Committee on Ways and Means, 94th Cong., 2nd Sess. (1976). Also see S. Rep. No. 1265, 94th Cong., 2nd Sess. page 29 (1976).)

The central theme in these materials is the underlying philosophy that community residences provide a desirable alternative to large institutions because they can provide not only life sustaining services of food and shelter, but also can encourage personal independence in an atmosphere of mutual acceptance and support for emotional growth and life enrichment activities. Based on this information, the critical factors used in developing this definition were size, location, and purpose.

We also considered the problems which can arise because of fluctuating occupancy levels in this type of facility. We believe the most feasible and equitable way to meet the intent of the legislation is to look to the number of residents the facility is designed or planned to serve. This is in keeping with the intent of the statute which envisions a 16 resident capacity as an outer limit applicable to community residences. The test is whether or not community residences are designed or planned, according to their specifications, to house and provide services for no more than 16 residents, and whether no more than 16 persons are actually residing in the residence.

A publicly operated community residence, while not considered a "public institution" for purposes of making residents ineligible for SSI under section 161(a)(1)(A) of the Act, is nevertheless an institution, and as such is expected to provide some services beyond food and shelter (§ 416.231(b)(1)). Thus, a publicly operated community residence must make available some other services such as social services, or help with personal living activities, or training in socialization and life skills. Such services may also include occasional or incidental medical or remedial care. It is intended that these services will provide the individual with the skills necessary to return to community living.

3. To further insure clarity of the above definition, we also added a new paragraph (b)(6)(ii) to § 416.231. It describes those public facilities which are not considered community residences even if their accommodations are for 16 or fewer residents. Excluded are educational or vocational training institutions, correctional or holding facilities, medical treatment facilities, and residential facilities located on the grounds of or immediately adjacent to any large institution or multiple-purpose complex.

Educational and vocational training institutions are designed to provide individuals with approved, accredited or recognized educational or training programs preparatory to gainful employment. A publicly operated community residence is designed to acclimate its residents to community living, thereby easing their transition into independent living situations. Since each differs in its primary goal, educational and vocational training institutions cannot qualify as publicly operated community residences. Even though individuals residing in educational or vocational training institutions would not be eligible for SSI benefits under this final rule, such individuals may be eligible for SSI benefits under § 416.231(b)(3). This is so because § 416.231(b)(3) provides that a person is not considered an "inmate of a public institution" when he or she is in a public educational or vocational training institution for purposes of securing education or vocational training.

Correctional or holding facilities are part of the criminal justice system, and medical treatment facilities primarily focus on providing medical or remedial care. Since none of these institutions is designed to provide the desired living arrangement envisioned by the statute, they are excluded from the definition of publicly operated community residences.

Residential facilities located on the grounds of or adjacent to a larger institution or multiple-purpose complex are excluded because their location is inconsistent with the statutory provisions and purposes regarding community residences. Colocated residential facilities are an integral part of the larger institution. Therefore, such a living arrangement would not be considered as an alternative to institutional living. Moreover, a facility so situated is really not part of the community and thus could not as readily accomplish the intended goal.

Discussion of Comments

Interested persons were given the opportunity to submit, within 90 days, data, views, or arguments with regard to the interim regulation. A number of comments were received from private, State, and local organizations. Responses to the comments are discussed below.

Comment: One commenter recommended that a payment of graded higher allowances be allowed based on the number of services provided by halfway houses and that those which do not furnish specified minimum services be eliminated by closing their doors.

Response: Concerning the first part of the comment, there is no statutory provision for varying the amount of Federal SSI benefits based on the number of services a community residence may provide. The second part of the comment relates to the regulations published by the Office of Human Development Services (OHDS) on January 31, 1978 (43 FR 4016) which provides for States to establish standards for such facilities. Accordingly, this comment was forwarded to OHDS for their consideration of that issue.

Comment: Two commenters objected to § 416.231(b)(6)(ii)(a) because it excludes from the definition of "publicly operated community residences which serve no more than 16 residents" residential facilities located on the grounds of or immediately adjacent to any large institution or multiple-purpose complex. They state that this exclusion is inconsistent with the intent and purposes of the statute, constitutes poor social policy, and presents an unnecessary obstacle to the States.

Response: All of the pertinent background information relating to section 505(a) of Pub. L. 94-566 shows that the Congress and other concerned organizations intimately involved in the development of the statute, specifically indicated the need for the limitation in § 416.231(b)(6)(ii)(a). The Congress intentionally chose the term "community residence" to refer to a small, free-standing, community-based living unit and clearly intended that facilities on the grounds of large institutions or immediately adjacent to them be excluded from the definition of "publicly operated community residences which serve no more than 16 residents," because these living arrangements are not considered to be alternatives to institutional living.

This is borne out in a letter we received from Congressman William Brodhead and Congresswoman Martha Keys (co-sponsors of this legislation) shortly after enactment of this statute in which they shared with us their thoughts on the direction the regulations should take. They specifically stated that "small houses on the grounds of large institutions or immediately adjacent to them should not be considered community residences." Since it was clearly the intent of Congress to exclude this type of residential facility, we are not adopting this recommendation.

Comment: One commenter viewed the interim regulation as a positive step and hoped it would become permanent.

Response: This amendment adopts the interim regulation as a final rule.

Comment: One commenter proposed that: (1) the interim regulation be revised to exclude SSI benefits only from those residences in which more than 16 people are receiving SSI benefits; and (2) the definition of "inmate" be revised to include anyone placed in an institution by court or doctor's order.

Response: The first proposal cannot be adopted because it is not consistent with section 1611(e)(1)(C) of the Social Security Act and its legislative history. That section states "not more than 16 residents." Congress intended that these residential facilities be small enough so that a financial incentive would not exist for the States to fragment their institutions which provide custodial care to those who need it. Throughout the hearings and committee reports on the amendment, the term "small residential facility" is used to refer to small, free-standing, community living units.

With respect to the second proposal, the term "inmate of a public institution" is defined in current regulations (§ 416.231(b)(3)) as a person who is living in a public institution and receiving treatment or services which are appropriate to the person's requirements. This provision is based on section 1611(e)(1) (A) and (B) of the Act. These provisions were not changed by Pub. L. 94-566.

Comment: One commenter suggested that the interim regulation be revised to include people who reside in private homes, private apartments, and family care centers. The commenter also suggested changes concerning the trial work period as it relates to sheltered workshop employment, increasing the limitation on resources, and a number of other points not related to this regulation.

Response: Individuals residing in private homes, private apartments, or family care facilities are not affected by this amendment. This rule concerns only public residences. Qualified individuals residing in private facilities have been and continue to be eligible for the full standard payment amount, unless the facility is receiving payments under a State plan approved under Title XIX (Medicaid) in which case the standard payment amount is $25. Thus, no change is made on this point.

With respect to the commenter's suggestion that the limitation on resources be increased, a Notice of Proposed Rule Making proposing an increase for certain resources (e.g., automobile, personal effects, and household goods) was published in the Federal Register of April 28, 1978 (43 FR 18206). However, the limitation of $1,500 for an individual ($2,250 for a couple) is set by law and cannot be increased by regulations. The commenter's other suggestions not related to this amendment will be studied and given further consideration.

Technical Changes

Section 416.231(a)(3) was reserved at the time this amendment was published as an interim regulation. This reserved paragraph is being deleted and § 416.231(a)(4) is being redesignated § 416.231(a)(3). Conforming editorial corrections have been made to § 416.231(a) and to § 416.231(b)(6)(i) to reflect this change.

Accordingly, with these editorial changes, the amendment is adopted as set forth below.

(Sections 1102, 1611, and 1631 of the Social Security Act as amended, 49 Stat. 647, as amended, 86 Stat. 1466 and 1475; 42 U.S.C. 1302, 1382(e) and 1383(d)(1).)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: August 18, 1978.

Don Wortman,
Acting Commissioner of Social Security.

Approved: November 17, 1978.

Hale Champion,
Acting Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

Section 416.231 is amended by revising paragraph (a)(1) and adding paragraphs (a)(3), (b)(6)(i), and (b)(6)(ii) to read as follows:

§ 416.231 Limitation on eligibility due to institutional status.

(a) *General.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph, no person shall be an eligible individual or eligible spouse for purposes of title XVI of the Act with respect to any month if throughout such month the person is an inmate of a public institution.

* * * * * *

(3) The term "public institution," as used in this section does not include a publicly operated community residence which serves no more than 16 residents. Where it is determined that a community residence is not publicly operated such residence is not a public institution as defined in § 416.231(b)(2) and this section will not apply.

(b) *Definitions.* For purposes of this part the following definitions shall apply:

* * * * * *

(6)(i) The term "publicly operated community residence which serves no more than 16 residents" (see § 416.231(a)(3)) means:

(*a*) It must be publicly operated as defined in § 416.231(b)(2); and

(*b*) It must be designed and planned to serve no more than 16 residents, or the plan and design was changed to serve no more than 16 residents; and

(*c*) It must be serving 16 or fewer residents; and

(*d*) It must make available some services beyond food and shelter such as social services, or help with personal living activities, or training in socialization and life skills; occasional or incidental medical or remedial care may also be provided (as defined in 45 CFR 228.1).

(ii) Excluded from the definition of "publicly operated community residences" are the following facilities, even if their accommodations are for 16 residents or less:

(*a*) Residential facilities located on the grounds of or immediately adjacent to any large institution or multiple-puprose complex: and

(*b*) Educational or vocational training institutions that primarily provide an approved or accredited or recognized program to some or all of the individuals residing within it; and

(*c*) Correctional or holding facilities which provide for individuals whose personal freedom is restricted because of a court sentence to confinement (prisoners), court ordered holding (material witness, juvenile) or a pending disposition of charges or status (individuals who have been arrested or detained); and

(*d*) Medical treatment facilities (hospitals and skilled nursing facilities, see 42 U.S.C. 1395x and intermediate care facilities, see 42 U.S.C. 1396d) which provide medical or remedial care on an inpatient basis.

[FR Doc. 78-33192 Filed 11-27-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0294]

ANTIBIOTIC DRUGS

Certification of Natamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of natamycin. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of natamycin.

DATES: Effective November 28, 1978; comments by January 29, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of natamycin and concludes that the data supplied by the manufacturer concerning this antibiotic drug product are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Parts 430, 436, and 449 (21 CFR Parts 430, 436, and 449) to provide for the drug's certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 430, 436, and 449 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended as follows:

a. In § 430.4 by adding new paragraph (a)(45) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) • • •

(45) *Natamycin.* Each of the antibiotic substances produced by the growth of *Streptomyces natalensis*, and each of the same substances produced by any other means, is a kind of natamycin.

b. In § 430.5 by adding new paragraphs (a)(63) and (b)(63) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) • • •

(63) *Natamycin.* The term "natamycin master standard" means a specific lot of natamycin designated by the Commissioner as the standard of comparison in determining the potency of the natamycin working standard.

(b) • • •

(63) *Natamycin.* The term "natamycin working standard" means a specific lot of a homogeneous preparation of natamycin.

c. In § 430.6 by adding a new paragraph (b)(65) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

• • • • • •

(b) • • •

(65) *Natamycin.* The term "microgram" applied to natamycin means the natamycin activity (potency) contained in 1.0846 micrograms of the natamycin master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. In § 436.105(a) and (b) by alphabetically inserting a new item into the tables, as follows:

§ 436.105 Microbiological agar diffusion assay.

• • • • • •

(a) • • •

[4110-03-C]

Antibiotic	Media to be used (as listed by medium number in § 436.102(b))		Milliliters of media to be used in the base and seed layers		Test Organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation Temperature for the plates
	Base layer	Seed layer	Base layer	Seed layer			
						Milliliters	Degrees C.
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Natamycin----------	None	19	None	8	E	0.25	30
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Natamycin----------			Dimethylsulfoxide	1 mg 5/	Use same day	10	3.20, 4.00, 5.00 6.25, 7.81 µg. (Prepare the standard response line solutions simultaneously with the sample solution to be tested using red low actinic glassware. Use solutions within 2 hours after preparation.)
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

5/ Further dilute aliquots of the working standard stock solution with dimethylsulfoxide to give concentrations 64.0, 80.0, 100, 125, and 156 micrograms per milliliter.

* * * * *

514.111(a)(5)(vi) of the animal drug

ACTION: Final rule.

V 43 1 29 NO 28 78 UMI

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

3. Part 449 is amended as follows:

a. In Subpart A, by adding new § 449.40 to read as follows:

§ 449.40 Natamycin.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Natamycin is 22-[(3 - amino - 3,6 - dideoxy -β-D-mannopyranosyl) - oxy] - 1,3,26-trihydroxy - 12-methyl-10-oxo-6,11,28-trioxatricyclo [22.3.1.0^{5,7}] octacosa-8,14,16,18,20 - pentaene-25-carboxylic acid. It is an off-white to cream colored powder which may contain up to 3 moles of water. It is practically insoluble in water, slightly soluble in methanol, and soluble in glacial acetic acid and dimethylformamide. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms of natamycin per milligram on an anhydrous basis.

(ii) Its moisture content is not less than 6.0 percent and not more than 9.0 percent.

(iii) Its pH in a 1 percent aqueous suspension is not less than 5.0 and not more than 7.5.

(iv) It passes the identity test.

(v) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, moisture, pH, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay.* Dilute solutions of natamycin are very sensitive to light and should be kept in the dark as much as possible or substantial decomposition will take place.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in dimethylsulfoxide and further dilute with sufficient dimethylsulfoxide to give a concentration of 100 micrograms of natamycin per milliliter (estimated). Further dilute with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 5.0 micrograms of natamycin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using a 1.0 percent aqueous suspension.

(4) *Identity.* Accurately weigh approximately 50 milligrams of the sample into a 200-milliliter volumetric flask. Add approximately 5.0 milliliters of distilled water, and completely moisten the sample. Then add approximately 100 milliliters of an acid-alcohol solvent (0.1 percent glacial acetic acid in methyl alcohol) and stir or shake mechanically in the dark until solution is complete. Dilute to volume with the acid-alcohol mix. Transfer 2.0 milliliters of this solution to a 100-milliliter volumetric flask and dilute to volume with the acid-alcohol mix. Using a suitable spectrophotometer with 1-centimeter cells and the acid-alcohol as a blank, record the ultraviolet absorption spectrum from 215 to 330 nanometers. The spectrum compares qualitatively to that of the natamycin working standard similarly treated.

(5) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

b. By adding new Subpart D, consisting of new § 449.340, to read as follows:

Subpart D—Ophthalmic Dosage Forms

§ 449.340 Natamycin ophthalmic suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Natamycin ophthalmic suspension contains natamycin with one or more suitable and harmless preservatives in a suitable and harmless aqueous vehicle. Each milliliter contains 50 milligrams of natamycin. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of natamycin that it is represented to contain. It is sterile. Its pH is not less than 6.0 and not more than 7.5. The natamycin used conforms to the standards prescribed by § 449.40(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The natamycin used in making the batch for potency, moisture, pH, identity, and crystallinity.

(*b*) The batch for potency, sterility, and pH.

(ii) Samples required:

(*a*) The natamycin used in making the batch: 10 packages, each containing not less than 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay.* Dilute solutions of natamycin are very sensitive to light and should be kept in the dark as much as possible or substantial decomposition will take place.

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with sufficient dimethylsulfoxide to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with dimethylsulfoxide to a concentration of 100 micrograms of natamycin per milliliter (estimated). Further dilute an aliquot with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 5.0 micrograms of natamycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(2) of that section, except use 0.25 milliliter of sample in lieu of 1.0 milliliter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted suspension.

Because the conditions prerequisite to providing for certification of this drug have been complied with and because the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are impracticable and unnecessary, and that the amendment may become effective November 28, 1978.

Interested persons may, on or before January 29, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation shall be effective November 28, 1978.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: November 21, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-33226 Filed 11-27-78; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Caramiphen Ethanedisulfonate and Ammonium Chloride Tablets

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the regulations to reflect an approved new animal drug application (NADA) sponsored by Fort Dodge Laboratories providing for the use of caramiphen ethanedisulfonate and ammonium chloride tablets for the relief of cough in dogs. A previously approved supplement reflects this product's compliance with the conclusions of the National Academy of Sciences/National Research Council (NAS/NRC) evaluation of the product.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, 800 5th St. NW., Fort Dodge, IA 50501, is the sponsor of a new animal drug application (NADA 9-339V), which was originally approved April 1, 1954 for the relief of cough in small animals.

The product was the subject of a NAS/NRC review published in the FEDERAL REGISTER of December 6, 1968 (33 FR 18204). The Academy concluded, and the agency concurred, that the drug was probably effective, but the label claim "for use in small animals for relief of cough" was too broad. The Academy stated: (1) That the label should show species and dosage; (2) that data submitted would support use in dogs and cats; (3) that additional toxicity and effectiveness data would be required for other animals; (4) and that dosage studies were inadequate to allow for a complete evaluation. The firm responded with a supplement to its application bringing it into compliance with the results of the NAS/NRC review. The supplement was approved on April 7, 1969. This document codifies the conditions of that approval.

The conditions are those for which approval of an NADA for a similar product does not require efficacy data as specified by §§ 514.1(b)(8)(ii) or 514.111(a)(5)(vi) of the animal drug regulations (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(vi)). These conditions, indicated by footnote, are those for which approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration.

This action, reflecting an approved NADA, does not constitute reaffirmation of the drug's safety or efficacy. Since the application was originally approved before July 1, 1975, a summary of safety and effectiveness data and other information submitted to support approval of the application in accordance with § 514.11(e)(2)(ii) is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding a new § 520.310 to read as follows:

§ 520.310 Caramiphen ethanedisulfonate and ammonium chloride tablets.

(a) *Specifications.* Each tablet contains 10 milligrams of caramiphen ethanedisulfonate and 80 milligrams of ammonium chloride.[1]

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

c) *Conditions of use in dogs*—(1) *Amount.* One tablet per 15 to 30 pounds of body weight every 4 to 6 hours.[1]

(2) *Indications for use.* For relief of cough.[1]

Effective date. This regulation is effective November 28, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 20, 1978.

LESTER M. CRAWFORD,
Director of Bureau of Veterinary Medicine.

[FR Doc. 78-33225 Filed 11-27-78; 8:45 am]

[4110-03-M]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Primidone Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a new animal drug application (NADA) sponsored by Fort Dodge Laboratories. The NADA provides for the use of a 250-milligram primidone tablet for treating dogs for convulsions associated with certain forms of epilepsy, distemper, and hardpad disease. A previously approved supplement reflects this product's compliance with the conclusions of the National Academy of Sciences/National Research Council, Drug Efficacy Study Group (NSA/NRC) review.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald A Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, 800 5th St. NW., Fort Dodge, IA 50501, is a sponsor of an NADA (10-091V) which was originally approved October 18, 1955. The product was one of two which were the subject of an NAS/NRC review published in the FEDERAL REGISTER of February 14, 1969 (34 FR 2214). The NAS/NRC concluded, and the agency concurred, that the product was probably effective but that a proper package insert was needed. The NAS/NRC review set forth information which substantially reflects the conditions of use of the drug.

In response to the NAS/NRC review, the firm submitted a supplement to its application to bring it into compliance with the NAS/NRC conclusions. The supplement, approved April 24, 1969, provides for conditions of use which are the same as those in § 520.1900 of the regulations (21 CFR 520.1900) for an identical drug, as published in the FEDERAL REGISTER of December 6, 1977 (42 FR 61594) and amended December 20, 1977 (42 FR 63773). The December 6, 1977 publication provides for the NAS/NRC conditions of use.

This action, reflecting an approved NADA, does not constitute reaffirmation of the drug's safety or effectiveness. Because this application was approved before July 1, 1975, a summary of safety and effectiveness data and information submitted in accordance with § 514.11(e)(2)(ii) to support this application is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

The NADA was approved in conjunc-

ADDRESS: Written comments to the

necessary and would be contrary to

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Veterinary Medicine (21 CFR 5.83), § 520.1900 is amended by revising paragraph (b) to read as follows:

§ 520.1900 Primidone tablets.

* * * * *

(b) *Sponsor.* See No. 000046 in § 510.600(c) of this chapter for use of 50- and 250-milligram tablets and Nos. 000725 and 000856 in § 510.600(c) of this chapter for use of 250-milligram tablets.

* * * * *

Effective date. This regulation shall be effective November 28, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: November 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33136 Filed 11-27-78; 8:45 am]

[4110-03-M]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Promazine Hydrochloride Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect a previously approved new animal drug application (NADA) sponsored by Wyeth Labs. The NADA provides for use of promazine hydrochloride tablets as a tranquilizer in dogs and cats. A previously approved supplement reflects this product's compliance with the conclusions of the National Academy of Sciences—National Research Council, Drug Efficacy Study Group (NAS/NRC) review.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Wyeth Laboratories, Division of American Home Products Corp., P.O. Box 8299, Philadelphia, PA 19101, is sponsor of an NADA (10-783V) which was originally approved May 1, 1957. The product was one of several which were the subject of an NAS/NRC evaluation published in the FEDERAL REGISTER of November 18, 1969 (34 FR 18394). The NAS/NRC concluded, and the agency concurred, that the product was probably effective for veterinary use as a tranquilizer. The evaluation described certain labeling changes and additional information needed to upgrade the product from probably effective to effective.

Wyeth Labs complied with the NAS/NRC review by submitting a supplemental NADA (10-783V) which revised the labeling as recommended. No new efficacy data were required to upgrade the application from probably effective to effective.

Applications need not include efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(vi) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(vi)) of the animal drug regulations for similar products having the same conditions of use. However, approval may require bioequivalency or similar data as suggested in the guidelines for submitting NADA's for generic drugs reviewed by NAS/NRC. The guidelines are available from the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

This action, reflecting an approved NADA, does not constitute reaffirmation of the safety and effectiveness data supporting this approval. Because the NADA was approved before July 1, 1975, a summary of safety and effectiveness data and information submitted in accordance with § 514.11 (e)(2)(ii) to support this approval is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.1962 by redesignating the existing paragraphs (a), (b), (c), (d), and (e) as paragraph (a)(1), (2), (3), (4), and (5) and adding new paragraph (b) to read as follows:

§ 520.1962 Promazine hydrochloride.

* * * * *

(b)(1) *Specifications.* Each tablet contains 25, 50, or 100 milligrams of promazine hydrochloride.

(2) *Sponsor.* No. 000008 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Amount—Dogs and cats.* 1 to 3 milligrams orally per pound of body weight in intervals of 4 to 6 hours.[1]

(ii) *Indications for use.* The drug is used for control of central nervous system excitation; allaying anxiety, nervousness and apprehension; calming agitated animals; and minimizing injury during shipment. As a preanesthetic agent, the drug potentiates effects of general anesthesia. It is indicated during physical and/or radiographic examination, radiographic diagnosis or therapy, and surgery. It reduces self-mutilation associated with sutures, bandages, eczema, pruritis, and otitis. Oral administration before vermifuge prevents emesis in cats.[1]

(iii) *Limitations.* As with all phenothiazine-derived compounds, promazine should not be used in conjunction with organophosphates because their toxicity may be potentiated, nor with procaine hydrochloride for its activity may be increased. Prolonged depression or motor restlessness may occur in sensitive animals or on excessive dosing. For use only by or on the order of a licensed veterinarian.[1]

Effective date. This regulation shall be effective November 28, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: November 17, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33135 Filed 11-27-78; 8:45 am]

[4110-03-M]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Ferrous Fumarate

AGENCY: Food and Drug Adminisration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect withdrawal of approval of a new animal drug application (NADA) held by ConAgra, Inc. This action was requested by the firm.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION:

David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administraion, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: In a separate document published elsewhere in this issue of the FEDERAL REGISTER, the agency is withdrawing approval of NADA 31-876 for Boost-O-Iron (20 percent ferrous fumarate) sponsored by ConAgra, Inc., 3801 Harney St., Omaha, NE 68131.

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bio-equivalency and safety information.

The NADA was approved in conjunction with publication of a new food additive regulation, § 121.297 *Ferrous fumarate* (21 CFR 121.297, subsequently recodified as § 558.258) in the FEDERAL REGISTER of February 14, 1967 (32 FR 2846). The regulation was issued in response to NADA 31-876 and food additive petition 5D1685 filed by Nixon & Co., Omaha, NE 68131, since renamed ConAgra, Inc. Accordingly, the new animal drug regulations are being amended to revoke § 558.258.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Part 558 is amended by revoking § 558.258 *Ferrous fumarate.*

Effective date. This regulation is effective November 28, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)).)

Dated: November 17, 1978.

LESTER M. CRAWFORD,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33134 Filed 11-27-78; 8:45 am]

[41-1003-M]

SUBCHAPTER J—RADIOLOGICAL HEALTH

[Docket No. 77N-0074]

PART 1040—PERFORMANCE STANDARDS FOR LIGHT-EMITTING PRODUCTS

Laser Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the laser products performance standard to remove unneeded criteria for determining human access to laser or collateral radiation; specify more appropriate parameters for measuring the accessible emission levels of laser and collateral radiation, including scanned laser radiation; relax the accessible emission limits for collateral radiation in the wavelength range of greater than 400 nanometers (nm); relax the labeling and performance requirements for some Class II laser products; and allow more administrative flexibility in determining the wording of warning labels.

DATES: Effective December 8, 1978, except for § 1040.10(h)(2) (i) and (ii) which will be effective January 29, 1979, for laser products that are manufactured on or after these dates; comments by January 29, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a notice of intent, published in the FEDERAL REGISTER of April 1, 1977 (42 FR 17495), to amend the performance standard for laser products (§ 1040.10 (21 CFR 1040.10)). That notice described the amendments being considered as a result of experience gained in administering the performance standard. Interested persons were invited to submit written data, views, or arguments concerning those amendments and any associated potential environmental and economic impact. A draft of the amendments was distributed widely to manufacturers, professional associations, consumer groups, government agencies, and individuals who had requested information about laser products from the Bureau of Radiological Health of the Food and Drug Administration (FDA). Subsequently, the draft amendments and the basic concepts for them were discussed publicly at the May 5, 1977 meeting of the Technical Electronic Product Radiation Safety Standards Committee. Under the Radiation Control for Health and Safety Act of 1968, this statutory committee must be consulted prior to the establishment of any electronic product performance standard. The Committee and others generally supported the concepts involved in the amendments and suggested revisions to eliminate possible ambiguities.

The Commissioner therefore finds that further notice and public procedure on these amendments are unnecessary, and that more than adequate notice and opportunity for comment have already been provided.

EFFECTIVE DATE

These amendments would reduce the burden on affected manufacturers and the cost to the consumers without compromising the public health and safety. Also, no manufacturer with a currently compliant product would need to redesign his or her products in order to comply with the proposed amendments, and there would be greater design latitude within each of the graded risk classes for laser products. Therefore, it has been determined that pre-effectiveness delay concerning these amendments is unnecessary and would be contrary to the public interest by delaying realization of the cost savings that are anticipated to result from their implementation.

The Commissioner concludes, therefore, that good cause exists and that the public interest would best be served by making this amendment to the performance standard effective December 8, 1978, except for § 1040.10(h)(2) (i) and (ii) which will be effective January 29, 1979; the purchasing and servicing information specified in § 1040.10(h)(2) pertaining to Class IIa laser products will need to be printed.

At the same time, the Commissioner invites and encourages public comment on this action. Interested persons may on or before Janaury 29, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of written comments on this amendment, identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by the comments will be the subject of a further amendment.

HUMAN ACCESS

As indicated in the April 1, 1977 notice, the Commissioner has reviewed the criteria of § 1040.10 for determining human access to laser and collateral radiation and has concluded that some of these criteria can be eliminated without affecting the protection afforded the public by the standard.

The current definition of "human access" in § 1040.10(b)(12) involves the concepts of access to laser or collateral radiation at a point by any part of the human body, by a straight line having an unobstructed length of 100 centimeters (cm), or by any line having an unobstructed length of 10 cm. The reference to a 10-cm line was included in the original definition to account for the possible insertion of flexible optical fibers, mirrors, or similar materials into a laser product. However, the Commissioner has concluded that the additional degree of safety provided by this requirement does not justify the added design difficulty that it poses. The Commissioner also finds the definition of "human access" overly restrictive when the criterion involving a 100-cm straight line is applied to collateral radiation. Collateral radiation arises from other than point sources and is difficult to collect and to focus into a diffraction-limited spot. Therefore, the Commissioner has revised the definition for "human access" to clarify the definition and to

infrared spectral regions. Simple fo-

duced in purchasing and servicing in-

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delete (1) any reference to a 10-cm line and (2) reference to a 100-cm line for collateral radiation. The revised definition now clearly states that human access means access at a particular point to laser or collateral radiation by any part of the human body or access to laser radiation (but not collateral radiation) by a straight unobstructed path of up to 100 cm from any part of the body, including the eye.

The Commissioner notes that, after reviewing the draft amendments and in response to the April 1, 1977 notice, several persons, including members of the Technical Electronic Product Radiation Safety Standards Committee, suggested that the definition of "human access" should specify a minimum diameter for the 100-cm straight line.

The Commissioner disagrees with this suggestion and notes that a test object of specified diameter was included in the performance standard for microwave ovens in § 1030.10 (21 CFR 1030.10) and was found unsatisfactory as a concealed safety interlock criterion. Products could be designed to meet the literal requirements of this criterion, although many common household objects could be used to circumvent its intent (see 40 FR 27038 (June 26, 1975) and 40 FR 52007 (Nov. 7, 1975)). The new definition for human access and the acceptance angle and collimating optics (discussed later in this preamble) will enable manufacturers to design a more open protective housing using perforated or grille panels for their products, as long as the design does not permit any unobstructed straight-line path of less than 100 cm through the protective housing to the laser radiation. The Commissioner concludes that specifying a minimum diameter for the line would defeat the benefits of the new definition without any apparent increase in protection of the public health.

Other portions of § 1040.10 have been revised to clarify concepts of human access. The definition of "accessible emission level" in § 1040.10(b)(1) has been changed to express more clearly that the term refers to the magnitude of the radiation at a particular point. Section 1040.10(f)(3) concerning the remote control connector has been clarified by substituting "available" for "accessible." For consistency, "human" has been added to § 1040.10(h)(2)(ii) so that the requirement reads, in part, "displaceable portions of the protective housing that could allow human access to laser or collateral radiation."

The experience of FDA is that the beam attenuator specified in § 1040.10(f)(6) is used only with laser products for which access to laser and collateral radiation during operation is necessary to perform the product's function, and that the criteria of § 1040.10(b)(12) for determining human access to the radiation are not appropriate. Thus, the Commissioner is amending § 1040.10(f)(6) to specify that the beam attenuator, when in use, shall simply prevent access to radiation by any part of the human body. The emission indicator and aperture label would still indicate the possible presence of the laser radiation.

A comment made by some members of the Technical Electronic Product Radiation Safety Standards Committee indicated the term "viewable" in § 1040.10(f)(8) was not clear.

The Commissioner agrees with this comment, and the viewing optic requirement in § 1040.10(f)(8) has been restated to include the specific concept of accessibility of laser and collateral radiation to the human eye only by means of viewing optics, viewports, or display screens, rather than the generalized concept of accessible radiation; access of the human eye to laser or collateral radiation is the key issue.

Acceptance Angle and Collimating Optics for Measurements

The accessible emission limits for laser products, expressed in terms of irradiance, radiant energy, or radiant power, are based in part on collimated laser and collateral radiation that can be collected in an optical system having a small angle of acceptance and can be made equivalent to a narrower beam of radiation. The Commissioner concludes that the performance standard is overly restrictive with regard to multiple, extended, and divergent sources of radiation, and that different parameters for measuring the accessible emission levels of laser and collateral radiation need to be specified. Therefore, the Commissioner is amending § 1040.10(b)(18), (e)(3), and (e)(4) to include the concepts of the acceptance angle and collimating optics. By this change the standard will be more appropriate for multiple, extended, and divergent sources of radiation that do not present the same hazard as virtual point sources capable of producing highly collimated beams. The Commissioner is not amending that part of § 1040.10(e)(3)(ii) relating to the measurement of radiant exposure because these measurements of accessible laser radiation are needed only to determine if the upper limits of Class III, as specified in Table I–C of § 1040.10(d), are exceeded and these levels of laser radiation are both eye and skin hazards even upon diffuse reflection.

The Commissioner adds that, except for radiance measurements, the acceptance angle for the measurement of the other radiometric quantities is not specified directly in the standard. An acceptance angle of 2 pi steradians, established as part of the tests for determining compliance, is however based upon the criteria in § 1040.10(e)(2) and considers the maximum collectible radiation. This regulatory interpretation was necessary to account for the most hazardous situation, but may be unnecessarily restrictive with regard to multiple, extended, and divergent sources, when the question to be considered is how well collimated the laser and collateral radiation must be to be collected and focused on a small area of the skin, cornea, or retina.

One comment in response to the April 1977 notice suggested the introduction of a variable acceptance angle to match the dual accessible emission limits specified in § 1040.10(d)(4) to determine if laser or collateral radiation exceeds the limits of Class I. The comment recommended that magnitudes of the limiting angular subtense (α(min)) in the American National Standard Z136.1–1976 be used for the acceptance angle.

The Commissioner rejects the comment and maintains that using a variable acceptance angle for the instrumentation would unnecessarily complicate the measurements needed to determine a product's compliance with the standard. Further, the Commissioner intended the integrated radiance alternative of the dual limits included in § 1040.10(d)(4) to accommodate extended sources (real or virtual) such as holographic images, diffuse reflections, transmissions through diffusers, or diffuse collateral radiation, and notes that the dual limits of Class I are exceeded only if the limits for radiant energy and integrated radiance are exceeded; consequently, the dual limits of Class I are less restrictive than if a variable acceptance angle were used.

The standard in § 1040.10(d)(4) establishes limits for Class I from two perspectives. One limit, expressed as integrated radiance, pertains to the accessible emission level measured as a function of the brightness of the source; the other relates to the accessible emission level measured as the radiant energy incident upon the detector. The largest acceptance angle derived from these accessible emission limits for radiant energy measurements is 5×10^{-4} steradian, using a 7-millimeter (mm) diameter aperture stop. A somewhat larger solid angle of acceptance of 1×10^{-3} steradian provides more safety and is equivalent to a circular cone of acceptance of approximately 2 degrees diameter. Therefore the standard is being amended in § 1040.10(e)(3) and (e)(4), where appropriate, to require a specific acceptance angle of 1×10^{-3} steradian when determining the accessible

emission levels of laser and collateral radiation.

The Commissioner has determined that § 1040.10(e) is ambiguous as to the minimum size of a source of laser or collateral radiation that must be considered when measuring the radiance or integrated radiance because a source may be small or have a nonuniform spatial distribution. The size of the source to be considered depends upon the distance of the detector from the product. The closest approach of a person's eye to a point source of light at which a sharply focused retinal image is still produced is called the distance of maximum accommodation; moving closer to the point source would cause the spot formed on the retina to enlarge and the image to blur. According to published research, 20 cm is the average distance of maximum accommodation expected for 37-year old humans; older persons are expected to have a greater accommodation distance and younger persons a lesser distance (Ref. 1). A power of 5 diopters (the focusing power of a lens, expressed in diopters, is the reciprocal of the focal length, expressed in meters) for the collimating optics represents a 20-cm minimum focal distance. Utilizing the collimating optics of 5 diopters or less means that the source area of approximately 0.7 mm or larger in diameter that results in the maximum level will be considered in determining the accessible emission level in terms of radiance. Therefore, the standard is being amended to require collimating optics of 5 diopters or less as an additional measurement parameter to be used in conjunction with the aperture stops in the tests for determining compliance.

The Commissioner also recognizes that the combination of collimating optics and aperture stop establishes a collection angle for the aperture stop for divergent radiation emitted by a point source. The collection angle is twice that angle whose tangent is the ratio of the aperture stop radius to the distance of the aperture stop from point of emission of radiation on the product. In most instances this distance will be the focal distance of the collimating optics, modified by the acceptance angle of the aperture stop to maximize the collection of accessible radiation. The maximum collection angle is about 22 degrees for the 80-mm diameter aperture stop and about 2 degrees for the 7-mm diameter aperture stop.

The concepts of the acceptance angle of 1×10^{-3} steradian and the collimating optics of 5 diopters have been developed using information applicable primarily to the visible spectrum; however, the original intent of the agency is retained when these concepts are utilized in the ultraviolet and infrared spectral regions. Simple focusing optics are available that will concentrate well collimated radiation in these spectral regions.

Radiation Intended To Be Viewed

Laser products have accessible laser and collateral radiation that may be grouped into two categories: (1) radiation that is intended to be viewed directly and frequently, though not exclusively, by way of display screens, viewports, or microscopes when such viewing is necessary to achieve the intended function of the product; and (2) radiation that is not likely to be viewed for extended periods of time, either because use of the product would not require operators and others to view the radiation to perform the functions of the product or because no characteristics of the radiation would attract a person's gaze for long periods. The Commissioner believes the second category can be incorporated into the standard for appropriate types of laser products.

Accessible laser radiation of Class III is at levels at which biological damage to human tissue is possible from acute direct exposure. Similarly, accessible laser radiation of Class IV is at levels at which biological damage is possible from acute direct or diffuse exposure. Thus, the requirements relating to Class III and IV cannot be relaxed on the above basis. By contrast, Class II accessible laser radiation is at levels of visible radiation at which eye damage from chronic exposure is possible. However, Class II laser radiation is bright and can be uncomfortable to view, especially the higher levels of Class II. The Commissioner believes a person would not view such a light source for more than 1×10^3 seconds (16.7 minutes), unless there were some compelling reason. Chance viewing of Class II levels of laser radiation that do not exceed the accessible emission limits of Class I for any emission duration less than or equal to 1×10^3 seconds is not expected to be hazardous.

Therefore, the Commissioner is amending the standard to add a new subclass for laser products, Class IIa, and to amend § 1040.10 (f)(5), (f)(6), (g)(1), and (g)(4) to provide for special considerations within Class IIa. Class IIa products are exempted from the requirements for a laser radiation emission indicator, beam attenuator, Class II warning logotype, and aperture label. As amended, the standard requires Class IIa laser products to bear a class designation label with instructions to avoid long-term viewing of the direct laser radiation. The class designation label, because it does carry a warning statement to the operator of the Class IIa product, must be visible during operation as required by § 1040.10(g)(10) and must be reproduced in purchasing and servicing information as required by § 1040.10(h)(2)(i).

Also, the Commissioner is extending this concept to collateral radiation by amending the standard to increase the long-term level of collateral radiation permitted by reducing the applicable maximum emission duration used in determining the accessible emission level (Table III of § 1040.10(d)). This change for radiation in the wavelength range of greater than 400 nm but less than 13,000 nm decreases the maximum emission duration from 1×10^4 seconds to 1×10^3 seconds, but does not apply either to radiation that is accessible to the human eye by means of viewing optics, viewports, or display screens (§ 1040.10(f)(8)), or to ultraviolet collateral radiation because a cumulative damage mechanism is likely.

Emission Indicators and Collateral Radiation

Some members of the Technical Electronic Products Radiation Safety Standards Committee have commented extensively in their last two meetings concerning the provisions of the laser standard and the agency's policy with respect to the light emitted from the pilot light on laser products.

The standard requires in § 1040.10(f)(5) that each laser product of Class II or greater incorporate an emission indicator. Nowhere does the standard require that the emission indicator be a pilot light, although manufacturers have found a pilot light a convenient means for satisfying the requirements of § 1040.10(f)(5). The Commissioner believes that the radiation from laser product pilot lights should not be considered collateral radiation because, to be collateral radiation, such radiation must be emitted by a laser product as a result of the operation of the laser(s) or be emitted by any component that is physically necessary for the operation of the laser(s) incorporated into that product. Collateral radiation includes, for example, light from the laser-tube plasma glow, light from the flashlamp for exciting the laser medium, and x-radiation from the laser energy source (components that are physically necessary for the operation of the laser). Collateral radiation does not include emissions from a pilot light because it is not physically necessary to the operation of the laser. The Commissioner concludes that the definition for collateral radiation needs clarification and amends § 1040.10(b)(9) accordingly.

Measurement Parameter for Scanned Laser Radiation

A comment received before the effective date of the standard, August 2,

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1976, suggested that in some cases, high levels of accessible scanned laser radiation could be reduced below the Class I limits by varying the apparent origin from which the scanned pattern is emitted. This type of radiation source can be regarded as an apparent extended source.

The Commissioner believes the standard should provide for the apparent extended sources of laser radiation. The standard currently provides in § 1040.10(e)(4) that the accessible emission levels of scanned laser radiation shall be determined by the measurement of radiation detectable within a stationary, circular aperture stop having a 7-mm diameter. The resulting temporal variation of detected radiation is considered as a pulse or series of pulses. Under § 1040.10(e)(3)(iii), measuring integrated radiance involves a solid angle of acceptance of 1×10^{-3} steradian. However, under § 1040.10(e)(2)(iv) the acceptance angle of the instrument for measuring integrated radiance must be instantaneously so positioned and so oriented with respect to the laser product "as to result in the maximum detection of radiation by the instrument." Conceptually the orientation of the instrument must track the source, but its aperture stop remains stationary. As noted in § 1040.10(e)(3), techniques, including computations, that provide results equivalent to the above are permitted.

Apparent extended sources formed by a moving, well collimated, laser beam can be more hazardous than conventional extended sources. The eye can follow and fix upon a slowly moving source of visible light, but the source can also move so rapidly (e.g., a television image formed by a rapidly scanning electron beam) that the eye cannot follow. The human eye has difficulty tracking an angular motion of 2 radians/second or greater (Refs. 2 and 3.) An effective extended source is achieved when the angular motion of the source transversely to the line of sight of the eye is 5 radians/second or greater. Therefore, the Commissioner is amending § 1040.10(e)(4) to provide that the solid angles of acceptance utilized in the measurement of radiant energy and radiance need not track the source at an angular speed greater than 5 radians/second to maximize the measurement of radiation.

Change in Wavelength Range for Visible Radiation

The introduction of Class IIa into the standard results in anomalies in the classification of certain products that emit accessible laser radiation between 700 nm and 711 nm and at radiant exposure values below the accessible emission limits of Class IIa at 700 nm. For example, a 1-microwatt laser product would be classified in Class IIa if emission were at 699 nm, Class III if emission were at 701 nm, and Class I at 711 nm. However, the original rationale for Class II remains valid because the relative spectral luminous efficiency value, a measure of relative photochemical response of the eye at 710 nm, is still half the value at 700 nanometers (Ref. 4).

Thus, the Commissioner is changing the Class II and Class IIa wavelength boundary to 710 nm where the Class IIa accessible emission limit curve intercepts that for Class I, and all portions of the standard that contain the wavelength 700 nanometers have been revised accordingly.

Flexibility in Labeling

Wording of the warning statements specified in § 1040.10(g) has been found on occasion to be inappropriate. Problems in which the size, configuration, or design of the laser product precludes compliance with the label requirements have been readily resolved using the mechanism established in § 1040.10(g)(10); without this mechanism, the lengthy variance procedure of § 1010.4 would have to be used. The Commissioner concludes that similar provisions are appropriate for wording and is amending § 1040.10(g)(10) to permit the Director, Bureau of Radiological Health, on his own initiative or upon written application by the manufacturer, to approve the use of alternate wording on warning labels when the wording prescribed by the standard is inappropriate or would be ineffective because of the size, configuration, design, or function of the laser product.

The warning required by § 1040.10(g)(8) for invisible radiation is amended to permit use of the words "visible and/or invisible" whenever the product may emit any combination of visible and invisible radiation.

References

1. Davson, Hugh, "The Physiology of the Eye," 3d ed., Academic Press, New York, pp. 402-403, 1972.

2. Barmack, M., "Dynamic Visual Acuity as an Index of Eye Movement Control," *Vision Research*, 10:1377-1391, 1970.

3. Brown, B., "Dynamic Visual Acuity, Eye Movements, and Peripheral Acuity for Moving Targets," *Vision Research*, 12:305-321, 1972.

4. RCA Electro-Optics Handbook, 1974.

Pertinent background data and information supporting the Commissioner's action are available for public review in the office of the Hearing Clerk (HFA-305), Food and Drug Administration.

On the basis of an amendment to the environmental impact analysis report for the performance standard for laser products, the Commissioner concludes that promulation of this amendment to the standard will not significantly affect the quality of the human environment and, therefore, that no environmental impact statement is necessary under § 25.1(b) (21 CFR 25.1(b)). A copy of the FDA environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 1040 is amended as follows:

1. In § 1040.10, by revising paragraph (b) (1), (6)(i), (9), (12), and (18); the wavelength column in Table I-B and item 1 of Table III in paragraph (d); paragraph (e)(3)(i), (ii), and (iii) and (4); paragraph (f)(3), (5)(i), (6), and (8); paragraph (g)(1), (2)(i), the introductory text of (4), (6)(i)(*a*), (ii)(*b*), and (iii)(*b*), (7)(i)(*a*), (ii)(*b*), and (iii)(*b*), (8)(i) and (ii), and (10); and paragraph (h)(2)(i) and (ii) to read as follows:

§ 1040.10 Laser Products.

* * * * *

(b) * * *

(1) "Accessible emission level" means the magnitude of accessible laser or collateral radiation of a specific wavelength and emission duration at a particular point as measured according to paragraph (e) of this section. Accessible laser or collateral radiation is radiation to which human access is possible, as defined in paragraph (b)(9), (12), and (18) of this section.

* * * * *

(6) * * *

(i) Permits human access to laser radiation in excess of the accessible emission limits of Class I, but not in excess of the accessible emission limits of Class II in the wavelength range of greater than 400 nanometers (nm), but less than or equal to 710 nanometers for emission durations greater than 0.25 second; and

* * * * *

(9) "Collateral radiation" means any electronic product radiation, except laser radiation, emitted by a laser product as a result of the operation of the laser(s) or any component of the laser product that is physically necessary for the operation of the laser(s).

* * * * *

(12) "Human access" means access at a particular point to:

(i) Laser or collateral radiation by any part of the human body, or

(ii) Laser radiation by a straight unobstructed path of up to 100 centimeters from any part of the human body.

* * * * *

(18) "Laser radiation" means all electromagnetic radiation emitted by a laser product within the spectral range specified in paragraph (b)(15) of this section that is produced as a result of controlled stimulated emission or that is detectable with radiation so produced through the appropriate aperture stop and within the appropriate solid angle of acceptance, as specified in paragraph (e) of this section.

* * * * *

(d) * * *

TABLE I-B

CLASS II ACCESSIBLE EMISSION LIMITS FOR LASER RADIATION

Wavelength (nanometers)	Emission duration (seconds)	Class II — Accessible emission limits
>400 but ≤710	$>2.5 \times 10^{-1}$	$1.0 \times 10^{-3} k_1 k_2 t$ J

* * * * *

TABLE III—ACCESSIBLE EMISSION LIMITS FOR COLLATERAL RADIATION FROM LASER PRODUCTS

1. *Accessible emission limits* for collateral radiation having wavelengths greater than 250 nanometers but less than or equal to 13,000 nanometers are identical to the accessible emission limits of Class I laser radiation, as determined from Tables I-A and II-A in this paragraph:

i. In the wavelength range of less than or equal to 400 nanometers, for all emission durations;

ii. In the wavelength range of greater than 400 nanometers, for all emission durations less than or equal to 1×10^3 seconds and, when applicable under paragraph (f)(8) of this section, for all emission durations.

* * * * *

(e) * * *

(3) * * *

(i) The radiant power (W) or radiant energy (J) detectable through a circular aperture stop having a diameter of 80 millimeters (except for scanned laser radiation) and within a circular solid angle of acceptance of 1×10^{-3} steradian with collimating optics of 5 diopters or less.

(ii) The irradiance (W cm^{-2}) or radiant exposure (J cm^{-2}) equivalent to the radiant power (W) or radiant energy (J) detectable through a circular aperture stop having a diameter of 7 millimeters and, for irradiance, within a circular solid angle of acceptance of 1×10 cm^{-2} steradian with collimating optics of 5 diopters or less, divided by the area of the aperture stop (cm^{-2}).

(iii) The radiance (W cm^{-2} sr^{-1}) or integrated radiance (J cm^{-2} sr^{-1}) equivalent to the radiant power (W) or radiant energy (J) detectable through a circular aperture stop having a diameter of 7 millimeters and within a circular solid angle of acceptance of 1×10^{-5} steradian with collimating optics of 5 diopters or less, divided by that solid angle (sr) and by the area of the aperture stop (cm^2).

(4) *Measurement parameters for scanned laser radiation.* Accessible emission levels of scanned laser radiation shall be based upon the measurement of radiation detectable through a stationary circular aperture stop having a 7-millimeter diameter and within the circular solid angle of acceptance with collimating optics applicable under paragraph (e)(3) of this section, or the equivalent. The direction of the solid angle of acceptance shall change as needed to maximize detectable radiation, with an angular speed of up to 5 radians/second.

(f) * * *

(3) *Remote control connector.* Each laser system classified as a Class III or IV laser product shall incorporate a readily available remote control connector having an electrical potential difference of no greater than 130 root-mean-square volts between the terminals of the remote control connector. When the terminals of the connector are not electrically joined, human access to all laser and collateral radiation from the laser product in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section shall be prevented.

* * * * *

(5) * * *

(i) Each laser system classified as a Class II laser product, except Class II laser products that do not exceed the accessible emission limits of Class I for any emission duration less than or equal to 1×10^{-3} seconds, shall incorporate an emission indicator that provides a visible or audible signal during emission of accessible laser radiation in excess of the accessible emission limits of Class I.

* * * * *

(6) *Beam attenuator.* Each laser system classified as a Class II, III, or IV laser product, except Class II laser products that do not exceed the accessible emission limits of Class I for any emission duration less than or equal to 1×10^3 seconds, shall be provided with one or more permanently attached means, other than laser energy source switch(es), electrical supply main connectors, or the key-actuated master control, capable of preventing access by any part of the human body to all laser and collateral radiation in excess of the accessible emission limits of Class I and Table III.

* * * * *

(8) *Viewing optics.* All viewing optics, viewports, and display screens incorporated into a laser product, regardless of its class, shall at all times limit the levels of laser and collateral radiation accessible to the human eye by means of such viewing optics, viewports, or display screens to less than the accessible emission limits of Class I and Table III of paragraph (d) of this section. For any shutter or variable attenuator incorporated into such viewing optics, viewports, or display screens, a means shall be provided:

(i) To prevent access by the human eye to laser and collateral radiation in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section whenever the shutter is opened or the attenuator varied.

(ii) To preclude, upon failure of such means as required in paragraph (f)(8)(i) of this section, opening the shutter or varying the attenuator when access by the human eye is possible to laser or collateral radiation in excess of the accessible emission limits

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of Class I and Table III of paragraph (d) of this section.

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(g) • • •

(1) *Class II designation and warning.* (i) Each Class II laser product which does not exceed the accessible emission limits of Class I for any emission duration less than or equal to 1×10^{3} seconds, shall have affixed a label bearing the following wording: "Class IIa Laser Product—Avoid Long-Term Viewing of Direct Laser Radiation."

(ii) Each Class II laser product other than those described in paragraph (g)(1)(i) of this section shall have affixed a label bearing the warning logotype A (Figure 1 in this paragraph) and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION—DO NOT STARE INTO BEAM"; and

[Position 3 on the logotype]

"CLASS II LASER PRODUCT".

• • • • •

(2) *Class III designation and warning.* (i) Each laser product classified in Class III solely because of the emission of accessible laser radiation for emission durations greater than 3.8×10^{-4} second and in the wavelength range of greater than 400 nanometers but less than or equal to 710 nanometers with an irradiance of less than or equal to 2.5×10^{-3} W cm^{-2} and with a radiant power of less than or equal to 5.0×10^{-3} W shall have affixed a label bearing the warning logotype A (Figure 1 of paragraph (g)(1) of this section) and including the following wording:

[Position 1 on the logotype]

"LASER RADIATION—DO NOT STARE INTO BEAM OR VIEW DIRECTLY WITH OPTICAL INSTRUMENTS"; and,

[Position 3 on the logotype]

"CLASS IIIa LASER PRODUCT".

• • • • •

(4) *Aperture label.* Each laser product, except medical laser products and Class II laser products that do not exceed the accessible emission limits of Class I for any emission duration less than or equal to 1×10^{-3} seconds, shall have affixed, in close proximity to each aperture through which is emitted accessible laser or collateral radiation in excess of the accessible emission limits of Class I and Table III of paragraph (d) of this section, a label(s) bearing the following wording as applicable:

• • • • •

(6) • • •

(i) • • •

(*a*) In excess of the accessible emission limits of Class I for emission durations greater than 0.25 second and in the wavelength range greater than 400 nanometers but less than or equal to 710 nanometers; and,

• • • • •

(ii) • • •

(*b*) In excess of either an irradiance of 2.5×10^{-3} W cm^{-2} or a radiant power of 5.0×10^{-3} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nanometers but less than or equal to 710 nanometers; and,

• • • • •

(iii) • • •

(*b*) In excess of either an irradiance of 2.5×10^{-3} W cm^{-2} or a radiant power of 5.0×10^{-3} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nanometers but less than or equal to 710 nanometers; or,

• • • • •

(7) • • •

(i) • • •

(*a*) In excess of the accessible emission limits of Class I for emission durations greater than 0.25 second and in the wavelength range greater than 400 nanometers by less than or equal to 710 nanometers; and,

• • • • •

(ii) • • •

(*b*) In excess of neither an irradiance of 2.5×10^{-3} W cm^{-2} nor a radiant power of 5.0×10^{-3} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nanometers but less than or equal to 710 nanometers; and,

• • • • •

(iii) • • •

(*b*) In excess of either an irradiance of 2.5×10^{-3} W cm^{-2} or a radiant power of 5.0×10^{-3} W for emission durations greater than 3.8×10^{-4} second for wavelengths greater than 400 nanometers but less than or equal to 710 nanometers; or,

• • • • •

(8) • • •

(i) Less than or equal to 400 nanometers or greater than 710 nanometers, the word "invisible" shall appropriately precede the word "radiation"; or,

(ii) In a range specified in paragraph (g)(8)(i) of this section and also within the range of greater than 400 nanometers but less than or equal to 710 nanometers, the words "visible and invisible" or "visible and/or invisible" shall appropriately precede the word "radiation."

• • • • •

(10) *Label specifications.* Labels required by this section and § 1040.11 shall be permanently affixed to, or inscribed on, the laser product, legible, and clearly visible during operation, maintenance, or service, as appropriate. If the size, configuration, design, or function of the laser product would preclude compliance with the requirements for any required label or would render the required wording of such label inappropriate or ineffective, the Director, Bureau of Radiological Health, on the Director's own initiative or upon written application by the manufacturer, may approve alternate means of providing such label(s) or alternate wording for such label(s) as applicable.

(h) • • •

(2) • • •

(i) In all catalogs, specification sheets, and descriptive brochures pertaining to each laser product, a legible reproduction (color optional) of the class designation and warning required by paragraph (g) of this section to be affixed to that product, including the information required for positions 1, 2, and 3 of the applicable logotype (Figure 1 or 2 of paragraph (g)(1) and (2)(ii) of this section).

(ii) To servicing dealers and distributors and to others upon request at a cost not to exceed the cost of preparation and distribution, adequate instructions for service adjustments and service procedures for each laser product model, including clear warnings and precautions to be taken to avoid possible exposure to laser and collateral radiation in excess of the accessible emission limits in Tables I–A, I–B, I–C and III of paragraph (d) of this section, and a schedule of maintenance necessary to keep the product in compliance with this section and § 1040.11; and, in all such service instructions, a listing of those controls and procedures that could be utilized by persons other than the manufacturer or his agents to increase accessible emission levels of radiation and a clear description of the location of displaceable portions of the protective housing that could allow human access to laser or collateral radiation in excess of the accessible emission limits in Tables I-A, I-B, I-C, and III of paragraph (d) of this section. The instructions shall include protective

procedures for service personnel, and legible reproductions (color optional) of required labels and hazard warnings.

• • • • •

2. In § 1040.11, by revising paragraph (b)(1) to read as follows:

§ 1040.11 Specific purpose laser products.

• • • • •

(b) • • •

(1) Shall not permit human access to laser radiation in the wavelength range of greater than 400 nanometers but less than or equal to 710 nanometers with a radiant power that exceeds 5.0×10^{-3} W for any emission duration greater than 3.8×10^{-4} second; and,

• • • • •

Effective date. This regulation shall be effective December 8, 1978, except for § 1040.10(h)(2) (i) and (ii) which will be effective January 29, 1979.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f).)

Dated: November 17, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-33137 Filed 11-27-78; 8:45 am]

[4710-08-M]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dept. Reg. 108.762]

PART 3a—ACCEPTANCE OF EMPLOYMENT FROM FOREIGN GOVERNMENTS BY MEMBERS OF THE UNIFORMED SERVICES

Final Rule

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule establishes regulations governing the procedures for approving civil employment by a foreign government of retired and reserve members of the uniformed services (Army, Navy, etc.) and commissioned Corps of the Public Health Service and the National Oceanic and Atmospheric Administration. The regulations implement section 509 of Pub. L. 95-105 (37 U.S.C. 801 note).

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Capt. John E. Burgess, United States Navy, Office of International Security Operations, Bureau of Politico-Military Affairs, Department of State, Washington, D.C 20520, phone 202-632-8688.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on May 31, 1978 (43 FR 23593) inviting interested persons to submit comments regarding the proposed regulations. No comments were received.

The title of the new Part 3a has been changed from "Acceptance of Employment from Foreign Governments by Retired and Reserve Officers" to "Acceptance of Employment from Foreign Governments by Members of the Uniformed Services." This change reflects more accurately and generally the category of persons to whom the regulation applies. In addition, the words "no authority", which were inadvertently omitted from the text of § 3a.2(b) in the notice of proposed rulemaking, have been added. With these exceptions, the text published in the notice of proposed rulemaking is adopted without change.

ADOPTION OF AMENDMENT

Chapter I of 22 CFR is amended by adding a new Part 3a as set forth below.

Dated: November 18, 1978.

WARREN CHRISTOPHER,
Deputy Secretary of State.

Sec.
3a.1 Definitions.
3a.2 Requirement for approval of foreign government employment.
3a.3 Authority to approve or disapprove proposed foreign government employment.
3a.4 Procedure for requesting approval.
3a.5 Basis for approval or disapproval.
3a.6 Notification of approval.
3a.7 Notification of disapproval and reconsideration.
3a.8 Change in status.

AUTHORITY: Sec. 509, 91 Stat. 859 (37 U.S.C. 801 Note); Sec. 4, as amended, 63 Stat. 111 (22 U.S.C. 2658).

§ 3a.1 Definitions.

For purposes of this part—

(a) "Applicant" means any person who requests approval under this part to accept any civil employment (and compensation therefor) from a foreign government and who is: (1) Any retired member of the uniformed services;

(2) Any member of a Reserve component of the Armed Forces; or

(3) Any member of the commissioned Reserve Corps of the Public Health Service.

The term "applicant" also includes persons described in subparagraph (1), (2), or (3), who have already accepted foreign government employment and are requesting approval under this part to continue such employment.

(b) "Uniformed services" means the Armed Forces, the commissioned Regular and Reserve Corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(c) "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast guard.

(d) "Secretary concerned" means: (1) The Secretary of the Army, with respect to retired members of the Army and members of the Army Reserve;

(2) The Secretary of the Navy, with respect to retired members of the Navy and the Marine Corps, members of the Navy and Marine Corps Reserves, and retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is operating as a service in the Navy;

(3) The Secretary of the Air Force, with respect to retired members of the Air Force and members of the Air Force Reserve;

(4) The Secretary of Transportation, with respect to retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is not operating as a service in the Navy;

(5) The Secretary of Commerce, with respect to retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; and

(6) The Secretary of Health, Education, and Welfare, with respect to retired members of the commissioned Regular Corps of the Public Health Service and members of the commissioned Reserve Corps of the Public Health Service.

§ 3a.2 Requirement for approval of foreign government employment.

(a) The United States Constitution (Article I, Section 9, clause 8) prohibits the acceptance of civil employment with a foreign government by an officer of the United States without the consent of Congress. Congress has consented to the acceptance of civil employment (and compensation therefor) by any person described in § 3a.1(b) subject to the approval of the Secretary concerned and the Secretary of State (37 U.S.C. 801 Note). Civil employment with a foreign government may not be accepted without such approval by any person so described.

(b) The Secretary of State has no authority to approve employment with a foreign government by any officer of the United States other than a person described in § 3a.1(a). The acceptance of employment with a foreign government by any other officer of the United States remains subject

regulations for the prevention of con-

agement, supply management, motor

4.23 which were not included in the

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to the constitutional prohibition described in paragraph (a) of this section.

(c) Any person described in § 3a.1(a) who accepts employment with a foreign government without the approval required by this section or otherwise obtaining the consent of Congress is subject to forfeiture of retired pay to the extent of his or her compensation from the foreign government, according to the Comptroller General of the United States (44 Comp. Gen. 139 (1964)). This forfeiture is in addition to any other penalty which may be imposed under law or regulation.[1]

§ 3a.3 Authority to approve or disapprove proposed foreign government employment.

The Director, Bureau of Politico-Military Affairs, is authorized to approve or disapprove any request by an applicant for approval under this part to accept civil employment (and compensation therefor) from a foreign government. The Director may delegate this authority within the Bureau of Politico-Military Affairs, Department of State.

§ 3a.4 Procedure for requesting approval.

(a) An applicant must submit a request for approval of foreign government employment to the Secretary concerned, whose approval is also required by law for the applicant's acceptance of civil employment from a foreign government. The request must contain information concerning the applicant's status, the nature of the proposed employment in as much detail as possible, the identity of and relationship to the foreign government concerned, and other matters as may be required by the Secretary concerned.

(b) Requests approved by the Secretary concerned will be referred to the Director, Bureau of Politico-Military Affairs, for approval. Requests received by the Director, Bureau of Politico-Military Affairs, directly from an applicant will be initially forwarded to the Secretary concerned, or his designee, for approval of disapproval.

§ 3a.5 Basis for approval or disapproval.

Decisions by the Director, Bureau of Politico-Military Affairs, under this part shall be based on whether the applicant's proposed employment with a foreign government would adversely affect the foreign relations of the United States, in light of the applicant's official status as a retiree or reservist.

[1] Approval under this Part does not constitute an exception to the provisions of the Immigration and Nationality Act concerning loss of United States citizenship, for example, by becoming a citizen of or taking an oath of allegiance to another country. See 8 U.S.C. 1481 et seq.

§ 3a.6 Notification of approval.

The Director, Bureau of Politico-Military Affairs, will notify the Secretary concerned when an applicant's proposed foreign government employment is approved. Notification of approval to the applicant will be made by the Secretary concerned or his designee.

§ 3a.7 Notification of disapproval and reconsideration.

(a) The Director, Bureau of Politico-Military Affairs, will notify the applicant directly when an applicant's proposed foreign employment is disapproved, and will inform the Secretary concerned.

(b) Each notification of disapproval under this section must include a statement of the reasons for the disapproval, with as much specificity as security and foreign policy considerations permit, together with a notice of the applicant's right to seek reconsideration of the disapproval under paragraph (c) of this section.

(c) Within 60 days after receipt of the notice of disapproval, an applicant whose request has been disapproved may submit a request for reconsideration by the Director, Bureau of Politico-Military Affairs. A request for reconsideration should provide information relevant to the reasons set forth in the notice of disapproval.

(d) The disapproval of a request by the Director, Bureau of Politico-Military Affairs, will be final, unless a timely request for reconsideration is received. In the event of a request for reconsideration, the Director, Bureau of Politico-Military Affairs, will make a final decision after reviewing the record of the request. A final decision after reconsideration to approve the applicant's proposed employment with a foreign government will be communicated to the Secretary concerned as provided in § 3a.6. A final decision after reconsideration to disapprove the applicant's proposed employment with a foreign government will be communicated directly to the applicant as provided in paragraph (a) of this section and the Secretary concerned will be informed. The Director's authority to make a final decision after reconsideration may not be redelegated.

§ 3a.8 Change in status.

In the event that an applicant's foreign government employment approved under this part is to be materially changed, either by a substantial change in duties from those described in the request upon which the original approval was based, or by a change of employer, the applicant must obtain further approval in accordance with this part for such changed employment.

[FR Doc. 78-33341 Filed 11-27-78; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 809-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart M—Land and Natural Resources Division

ASSIGNMENT OF RESPONSIBILITY UNDER SECTION 201(f) OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Section 201(f) of the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 450, provides that no federal employee performing any function under the Act may hold any direct or indirect financial interest in surface or underground coal mining, and it directs the Secretary of the Interior to promulgate regulations enforcing it. Under regulations promulgated at 30 CFR Part 706, 42 FR 56060 (October 20, 1977), the head of each Executive Department performing any function under the Act is required to implement a system of disclosure of employee financial interests in cooperation with the Director, Office of Surface Mining Control and Reclamation, Department of the Interior. This order designates the Assistant Attorney General, Land and Natural Resources Division, to carry out the responsibilities of the Department of Justice under these regulations.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Lois J. Schiffer, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, 202-633-2704.

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, § 0.65 of Subpart M of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding a new paragraph (h) to read as follows:

§ 0.65 General functions.

* * * * *

(h) Performance of the Department's functions under § 706.5 of the regulations for the prevention of conflict of interests promulgated by the Secretary of the Interior under the authority of the Surface Mining Control and Reclamation Act of 1977, section 201(f), 91 Stat. 450, and contained in 30 CFR Part 706.

Dated: November 20, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-33273 Filed 11-27-78; 8:45 am]

[4410-01-M]

[Order No. 810-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart O—Office of Management and Finance

RESPONSIBILITY FOR AUDIOVISUAL ACTIVITIES

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order expressly assigns the Department-wide responsibility for the management of audiovisual programs to the Assistant Attorney General for Administration. His functions include the issuance of policies and procedures for audiovisual programs, the design of a recordkeeping and reporting system, and the approval or disapproval of production and equipment requests. The purpose of the order is to clarify the authority of the Assistant Attorney General for Administration to centralize audiovisual program management and to prevent duplication and waste.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Fair, Acting Director, Administrative Programs Management Staff, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, 202-633-2728.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, § 0.75(j) of Subpart O of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 0.75 Policy functions.

* * * * *

(j) Plan, direct, and administer Department-wide policies, procedures, and regulations concerning records, reports, procurement, printing, graphics, audiovisual activities (including the approval or disapproval of production and equipment requests), forms management, supply management, motor vehicles, real and personal property, space assignment and utilization, and all other administrative services functions.

Dated: November 20, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-33274 Filed 11-27-78; 8:45 am]

[3510-16-M]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER I—PATENT AND TRADEMARK OFFICE, DEPARTMENT OF COMMERCE

PART 4—FORMS FOR TRADEMARK CASES

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office adopts revisions to the suggested forms for use in trademark cases. These revisions are intended to improve suggested forms which had been found to be confusing or susceptible to misinterpretation and provide a new suggested form to eliminate the need for the user to combine two forms.

DATES: Effective date: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Miss Katharine I. Hancock by telephone at (703) 557-5380, or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 3, 1977 (42 FR 22378) there was published a Patent and Trademark Office proposal to revise certain existing forms and provide one new form for trademark cases. Comments were received from six persons. Two persons suggested that the the word "swears," proposed at the beginning of verifications and affidavits, was not appropriate and that language relating to oath should be confined to the jurat. This suggestion has been adopted. It was suggested by two persons that double signatures be eliminated from the forms for opposition and petition to cancel, and this suggestion has been adopted. Also, after further consideration with the object of eliminating confusion, inconsistency and error from the forms, some additional changes to forms set out in the proposal, and to forms 4.7, 4.9, 4.11 and 4.23 which were not included in the proposal, are being adopted.

Changes which have not been published for comment do not represent any change in practice but are editorial in nature and do not impose a burden on anyone; further opportunity for comment is therefore deemed not necessary.

The ways in which the changes being adopted vary from the published proposal are summarized as follows:

The words "hereby swears" proposed at the beginning of verifications and affidavits are replaced by the word "states." This change appears in forms 4.1, 4.5, 4.6, 4.13, 4.14, 4.15, 4.16, 4.16 (Combined 8 & 15), 4.17 and 4.18.

In forms 4.1, 4.1a 4.7, 4.8, 4.9 and 4.10, where goods or services are set forth, the terms "(Common, usual or ordinary name of (goods or services))" and "(Insert illustrative examples of the goods or services)" are deleted and the term "the following (goods or services):" is inserted instead, although the format of form 4.8 makes it necessary to use the variation "Name the goods or services."

In forms 4.1 and 4.1a, the term "trade style" is deleted and "business trade name" put in its place in identifying an individual applicant in order to conform more closely to the language of the statute. The wording "including street, city and State" is deleted from the address lines. The same changes have been made, where appropriate, in forms 4.17 and 4.18.

In form 4.1a, last clause, the word "herein" is deleted as unclear; the word "further" and the last occurrence of the word "that" are deleted as unnecessary.

In form 4.5, "firm" is changed to "partnership" as a more definite term for the entity for which the form is designed; "member of firm" is changed to "partner;" and the wording "including street, city and State" in the address, as well as the wording and space for domicile, are deleted.

In form 4.6, the proposed change of the word "affidavit" to "application" in the verification is not adopted; instead, the word "affidavit" is changed to "instrument" because the paper being executed contains both an application and an affidavit (verification) and the term "instrument" will encompass both. The wording "including street, city and State" in the address is deleted.

In forms 4.8 and 4.10, footnote (5) is replaced by new footnote (16) in order to clarify instructions for setting forth the manner of use of the mark; as a result, present footnote numbers (16), (17) and (18) in companion forms 4.9 and 4.11 are changed to numbers (17), (18) and (19), respectively.

In form 4.8, last sentence, the words "declaration from form" are inserted

(2) If more than one item in a class is set ing the mark as actually used are presented

(Business address of partnership)

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before "4.1a" in order to make it clear that form 4.1a is a declaration form.

In form 4.9, in the heading, the words "(If known)" under Class No. are replaced by "(A, for Goods; B, for Services)" in view of the fact that those are the only classes for certification marks. The term "(or form 4.7)" is placed after "footnote (5)" to accommodate either goods or services. For the sake of clarity, footnote (17) which explains certification has been reworded slightly.

In form 4.10 the phrase "Use form 4.1" is changed to "Use body of form 4.1, 4.7 or 4.8" in order to be more clear and to accomodate services and collective mark situations; under "Notes," reference is made to form 4.8 in addition to form 4.1 for the same reason.

In form 4.13, the statement in the verification "that the applicant for renewal owns the above identified registration" is deleted as it constitutes repetition.

In forms 4.13 and 4.16, where goods are listed, the words "or services" and "or 'all the services' " are added, where appropriate, to accommodate services as well as goods.

In forms 4.13, 4.14, 4.15 and 4.16 (Combined 8 & 15), in the Note relating to designation of a domestic representative, for purposes of clarity the word "made" is changed to "submitted with this form" and the word "prior" is added before "unrevoked."

In forms 4.13, 4.17 and 4.18, in the caption under the line where the signer's name is to appear, the words "a juristic" are added after the phrase "to sign for," and in the body of forms 4.17 and 4.18, the word "juristic" is added after the phrase "to sign for the." The purpose of these changes is to make clear who is an authorized signer and to provide uniformity with other forms.

In form 4.14, footnote (3) is deleted. The footnote relates to services but this form is not applicable to services because registration of service marks was not available under the acts to which the form pertains. Footnote numbers (4) and (5) are changed to numbers (3) and (4), respectively. Immediately above the signature, the notation footnote (3) (inadvertently omitted) is inserted.

In forms 4.14 and 4.16, in the clause for listing goods or services, the word "recited" is replaced by "stated," to conform to the language of the statute.

Proposed new form 16(a) has been redesignated as form 16 (Combined 8 & 15), in order to coordinate properly with the numbering system used for the forms.

The following changes are made in new form 16 (Combined 8 & 15): after "footnote (5)" in the body of the form, "recited" is replaced by "stated" to conform to the language of the statute; under the space for listing goods, wording is added to accommodate services as well as goods; before "footnote (4)" in the body of the form the wording "or the date of publication under section 12(c) of the act" (inadvertently omitted) is inserted; and after the phrase "that such mark is still in use" the wording "in (3) _____ (Type of commerce) commerce" (inadvertently omitted) is inserted.

Forms 4.17 (Opposition) and 4.18 (Petition to cancel) are made single signature forms by deletion of the provision for signature at the end of the body of the form, leaving a signature only at the end of the verification. This accords with forms for applications, which also require only a single signature at the end of the verification or declaration. In the verification of forms 4.17 and 4.18, the words "the foregoing" (two occurrences) are replaced by the word "this," and the words "and signed" which follow the words "has read" are deleted.

In the parenthetical sentence relating to grounds of damage, the word "he" is changed to "opposer" or "petitioner" in each form, respectively.

In form 4.21, first sentence, "he" is replaced by "said assignor."

In forms 4.21 and 4.22, third paragraph, the letter "s" is deleted from the word "rights." At the end of footnote (2) the wording "changing the word 'applicant' to 'assignee' " is added.

The words "he," "himself" and "his" have been replaced by "he/she," "himself/herself," "his/her" or "it/he/she," as appropriate, in forms 4.1, 4.1a, 4.5, 4.6, 4.13, 4.17, 4.18, 4.21 and 4.22, to give choice of gender.

In form 4.23 (Certificate of mailing), the first line at the bottom is labeled "Print or Type Name of Person Signing Certificate" and the second line is labeled "Signature of Person Signing Certificate," in order to make it clear that in addition to a person's signature, such person's name is to be set out legibly in typing or printing; under the third line, the words "of Signature" are added after "Date" to distinguish the date of signature clearly from the date of deposit which is to be set forth in the body of the form. In the heading of the form, the words "of mailing" are added after "Certificate" for the sake of clarity.

Accordingly, pursuant to the authority contained in section 41 of the act of July 5, 1946, as amended, 37 CFR Part 4 is amended as follows:

1. By revising § 4.1 to read as follows:

§ 4.1 Trademark application by an individual; Principal Register with oath.

Mark _____
(Identify the mark)

Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

.....
(Name of applicant, and business trade name, if any)

.....
(Business address)

.....
(Residence address)

.....
(Citizenship of applicant)

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing (1) for the following goods:

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used on the goods (2) on _____(Date); was first used in _____ (Type of commerce) commerce (3) on _____(Date); and is now in use in such commerce.
(4)

The mark is used by applying it to (5) _____ and five specimens showing the mark as actually used are presented herewith.
(6)

State of _____ }
County of _____ } ss.

_____
(Name of applicant)

states that he/she believes himself/herself to be the owner of the trademark sought to be registered; to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; and the facts set forth in this application are true.

_____
(Signature of applicant)

JURAT:
Subscribed and sworn to before me, this ____ day of _____, ____.
•_____
Notary Public

REPRESENTATION

(See form 4.2 and Note (7) below.)

NOTES

(1) If registration is sought for a word or numeral mark not depicted in any special form, the drawing may be the mark typed in capital letters on letter-size bond paper; otherwise, the drawing shall comply with section 2.52.

•The person who signs the jurat must be authorized to administer oaths by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.

(2) If more than one item in a class is set forth and the dates given for that class apply to only one of the items listed, insert the name of the item to which the dates apply.

(3) Type of commerce should be specified as "interstate," "territorial," "foreign," or other type of commerce which may lawfully be regulated by Congress. Foreign applicants relying upon use must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(4) If the mark is other than a coined, arbitrary or fanciful mark, and the mark is believed to have acquired a secondary meaning, insert whichever of the following paragraphs is applicable:

(a) The mark has become distinctive of applicant's goods as a result of substantially exclusive and continuous use in _____ (Type of commerce) commerce for the five years next preceding the date of filing of this application.

(b) The mark has become distinctive of applicant's goods as evidenced by the showing submitted separately.

(5) Insert the manner or method of using the mark with the goods, i.e., "the goods," "the containers for the goods," "displays associated with the goods," "tags or labels affixed to the goods," or other method which may be in use.

(6) The required fee of $35.00 for each class must be submitted.

(7) If the applicant is not domiciled in the United States, a domestic representative must be designated. See form 4.4.

2. By revising Section 4.1a to read as follows:

Section 4.1a Trademark application by an individual; Principal Register with declaration.

Mark _____
(Identify the mark)

Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

_____
(Name of applicant, and business trade name, if any)

_____
(Business address)

_____
(Residence address)

_____
(Citizenship of applicant)

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing (1) for the following goods:

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used on the goods (2) on _____ (Date) was first used in _____ (Type of commerce) commerce (3) on _____ (Date) and is now in use in such commerce.
(4)

The mark is used by applying it to (5) _____ and five specimens showing the mark as actually used are presented herewith.
(6)

_____
(Name of applicant)

being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares: That he/she believes himself/herself to be the owner of the trademark sought to be registered; that to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; that the facts set forth in this application are true; and that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

_____
(Signature of applicant)

_____
(Date)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTES

For Notes referred to in this form but not set out here, see same numbered Notes under form 4.1.

3. By revising Section 4.2 to read as follows:

Section 4.2 Power of attorney at law (which may accompany application).•

Applicant hereby appoints (8) _____, _____ (Address) an attorney at law or attorneys at law, to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate of registration.

NOTE.—(8) An individual attorney at law or individual attorneys at law must be named here. If the name of a law firm is given, it will be regarded merely as a designation of address for correspondence.

4. By revising Section 4.5 to read as follows:

Section 4.5 Trademark application by a partnership; Principal Register.

Mark _____
(Identify the mark)

Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

_____
(Name of partnership)

_____
(Names of partners)

_____
(Business address of partnership)

_____
(Citizenship of partners)

(Body of application is same as in form 4.1.)

State of _____ }
County of _____ } ss.

_____ (Name of partner) states that he/she is a partner of applicant partnership; he/she believes said partnership to be the owner of the trademark sought to be registered; to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; and the facts set forth in this application are true.

_____
(Signature of partner)

JURAT:
Subscribed and sworn to before me, this ____ day of _____, ____.
•_____
Notary Public

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

5. By revising Section 4.6 to read as follows:

Section 4.6 Trademark application by a corporation; Principal Register.

Mark _____
(Identify the mark)

Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

_____
(Corporate name and State or country of incorporation) (10)

_____
(Business address)

(Body of application is same as in form 4.1.)

State of _____ }
County of _____ } ss.

_____ (Name of officer of corporation) states that he/she is _____ (Official title) of applicant corporation and is authorized to execute this instrument on behalf of said corporation; he/she believes said corporation to be the owner of the trademark sought to be registered; to the best of his/her knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause

•An attorney at law is not required to file a power of attorney; an attorney at law may represent a trademark applicant on the basis of being an attorney at law without presenting a power of attorney.

•The person who signs the jurat must be authorized to administer oaths by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.

confusion, or to cause mistake, or to deceive; and the facts set forth in this application are true.

_____
(Name of corporation)
By _____
(Signature of officer of corporation, and official title of officer)

JURAT:
Subscribed and sworn to before me, this ——— day of ———, ——.
_____*
Notary Public

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTE.—(10) If applicant is an association or other collective group, the word "association" or other appropriate designation should be substituted for "corporation" when referring to applicant.

6. By revising Section 4.7 to read as follows:

Section 4.7 Service mark application; Principal Register.

Mark _____
(Identify the mark)
Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

(Insert appropriate identification of applicant in accordance with form 4.1, 4.5, or 4.6.)

The above identified applicant has adopted and is using the service mark shown in the accompanying drawing (11) for the following services: _____, and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the act of July 5, 1946.

The service mark was first used in connection with the services (2) on _____ (Date); was first used in connection with the services rendered in (3) _____ (Type of commerce) commerce on _____ (Date); and is now in use in such commerce. (4)

The mark is used by _____
_____
(State method of using the mark in connection with the services)
and five (12) _____ showing the mark as actually used are presented herewith.

(Insert appropriate verification of declaration from form 4.1, 4.1a, 4.5 or 4.6, changing the word "trademark" to "service mark" and the word "goods" to "services.")

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTES

For Notes referred to in this from but not set out here, see same numbered Notes under form 4.1.

(11) See Note (1) under form 4.1, and if drawing is not practicable, insert description of the mark instead of reference to the drawing.

(12) Insert "specimens," or state the nature of the representation of the mark which is furnished.

7. By revising Section 4.8 to read as follows:

Section 4.8 Collective mark application (including collective membership mark); Principal Register.

Mark _____
(Identify the mark)
Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

(Insert identification of applicant in accordance with form 4.6.)

The above identified applicant has adopted and is exercising legitimate control over the use of the collective mark shown in the accompanying drawing (1) for (13) _____ (Name the goods or services) to indicate (14) _____, and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the act of July 5, 1946.

The collective mark was first used on the (2) _____ (Insert "goods" or "services") (15) by members of applicant on _____ (Date); was first used by said members in (3) _____ (Type of commerce) commerce on _____ (Date); and is now in use in such commerce. (4)

The mark is used by applying it to (16) _____ and five specimens of the mark as actually used are presented herewith.

(Insert verification from form 4.6 or declaration from form 4.1a, changing the wording as necessary to agree with applicant's legal entity.)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTES

For notes referred to in this form but not set out here, see same numbered Notes under form 4.1.

(13) If the application is for a membership mark, omit the word "for" and the space for the name of the goods or services.

(14) If the application is for a membership mark, insert "membership in applicant organization," or similar appropriate statement. If not for a membership mark, omit the words "to indicate" and the following space.

(15) If the application is for a membership mark, the phrase "on the goods or services" should be omitted.

(16) For goods, see Note (5); for services, see form 4.7; for membership, insert the manner or method of using the mark to indicate membership, such as membership cards, wall plaques, or other method which may be in use.

8. By revising Section 4.9 to read as follows:

Section 4.9 Certification mark application; Principal Register.

Mark _____
(Identify the mark)
Class No. _____
(A, for Goods; B, for Services)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

(Insert appropriate identification of applicant in accordance with form 4.1, 4.5 or 4.6.)

The above identified applicant has adopted and is exercising legitimate control over the use of the certification mark shown in the accompanying drawing (1) for the following goods or services:

_____

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the act of July 5, 1946.

The certification mark, as used by persons authorized by applicant, certifies (17) _____; said mark was first used under the authority of applicant on _____ (Date); was first used in (3) _____ (Type of commerce) commerce on _____ (Date); and is now in use in such commerce. (4)

The mark is used by applying it to (5) (or see form 4.7) _____, and five specimens showing the mark as actually used are presented herewith.

Applicant is not engaged in the production or marketing of any goods or services to which the mark is applied.

(Insert appropriate verification or declaration from form 4.1, 4.1a, 4.5 or 4.6 and add after the word "association" the words "other than those authorized by applicant.")

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTES

For Notes referred to in this form but not set out here, see same numbered Notes under form 4.1.

(17) Insert an appropriate statement as to what the mark certifies, relating to regional origin, or to material, mode of manufacture, quality, accuracy or other characteristic of the goods or services, or that the work or labor on the goods or in rendering the services was performed by members of applicant.

9. By revising Section 4.10 to read as follows:

Section 4.10 Application based on concurrent use; Principal Register.

Mark _____
(Identify the mark)
Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

(Insert appropriate identification of applicant in accordance with form 4.1, 4.5 or 4.6.)

Use body of form 4.1, 4.7 or 4.8, and add at the end of the first paragraph: "for the area comprising _____ (List the States for which registration is sought)"; and add as final paragraph of application:

The following exception(s) to applicant's right to exclusive use are:

By _____, doing business at _____, who is using the mark _____ (Identify the mark and Reg. No. or Ser. No., if any) for the following goods (or services): _____ in the States of _____ by applying the mark to (16) _____ from _____ (Earliest known date of such use) to the present.

(Insert appropriate verification of declaration from form 4.1, 4.1a, 4.5 or 4.6 and add after the word "association" the words "other than specified in the application.")

*The person who signs the jurat must be authorized to administer oaths by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTES

For Notes referred to in this form but not set out here, see same numbered Notes under forms 4.1 and 4.8.

10. By revising Section 4.11 to read as follows:

Section 4.11 Application to register on Supplemental Register.

Mark _____
(Identify the mark)
Class No. _____
(If known)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

(Insert appropriate identification of applicant in accordance with form 4.1, 4.5 or 4.6.)

For the body of an application for a trademark registration (18), yse form 4.1, 4.5 or 4.6, whichever is appropriate, changing the word "Principal" to "Supplemental," and adding a final paragraph to the application as follows:

"The mark sought to be registered has been in lawful use in _____ (Type of commerce) commerce in connection with the goods for the year preceding the date of filing of this application." (19)

(Insert appropriate verification or declaration from form 4.1, 4.1a, 4.5 or 4.6.)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1.)

NOTES

(18) For the body of service mark, collective mark or certification mark applications on the Supplemental Register, use form 4.7, 4.8 or 4.9, whichever is applicable, with the change and addition indicated in this form.

(19) If the mark has not been in use for the year next preceding the filing date, and registration in the United States is required as a basis for obtaining foreign protection of the mark, substitute the following statement for the last sentence: The mark sought to be registered is now in use in _____ (Type of commerce) commerce and domestic registration is required as a basis for foreign protection of the mark.

In this instance applicant will be required to make a showing that U.S. registration is required as a basis for foreign protection of the mark.

11. By revising Section 4.13 to read as follows:

Section 4.13 Application for renewal.

Mark _____
(Identify the mark)
Reg. No. _____
Class No. _____

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

(Insert appropriate identification of applicant for renewal in accordance with form 4.1, 4.5 or 4.6.)(1)

The above identified applicant for renewal requests that the above identified registration, granted to _____ (Name of original registrant) on _____ (Date of Issuance); which applicant for renewal now owns, as shown by records in the Patent and Trademark Office, be renewed in accordance with the provisions of section 9 of the act of July 5, 1946.

The mark shown in said registration is still in use in (2) _____ (Type of commerce) commerce on each of the following goods (3) recited in the registration: _____, (List the goods or services or insert the words "all the goods" or "all the services"), the attached specimen (or facsimile) showing the mark as currently used. (4)
(5)

State of _____ }
County of _____ } ss.

(Name of renewal applicant or of person authorized to sign for a juristic renewal applicant) states that to the best of his/her knowledge and belief the facts set forth in this application are true.

(Signature of renewal applicant; if renewal applicant is a corporation or other juristic organization, give the official title of the person who signs for renewal applicant)

(JURAT) (Use Jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and Note (6) below.)

NOTES

(1) Applicant for renewal must be the present owner of the registration.

(2) Type of commerce should be specified as "interstate," "foreign," "territorial," or other type of commerce which may lawfully be regulated by Congress. Foreign registrants must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(3) If a service mark registration, state "in connection with each of the following services * * *".

(4) If the mark is not in use in commerce at the time of filing the application for renewal, but there is no intention to abandon the mark, facts must be recited to show that the nonuse is due to special circumstances. A specimen (or facsimile) illustrating use, or facts as to nonuse, must be submitted for each class sought to be renewed.

(5) The required fee for renewal sought prior to expiration is $25.00 for each class; and for delayed renewal filed within three months after expiration, an additional $5.00 for each class. If renewal is sought for less than the total number of classes in the registration, the classes for which renewal is sought should be specified.

(6) If applicant for renewal is not domiciled in the United States, a domestic representative must be designated. See form 4.4. If a designation is not submitted with this form, a prior unrevoked designation will meet the requirement if such is already in the registration file.

12. By revising Section 4.14 to read as follows:

Section 4.14 Affidavit for publication under section 12(c).

Mark _____
(Identify the mark)
Reg. No. _____
Date of Issue _____
To: _____
(Name of original registrant)

State of _____ }
County of _____ } ss.

(Name of registrant or of person authorized to sign for a juristic registrant) states that (1) _____ (Name of registrant) owns the above identified registration, as shown by records in the Patent and Trademark Office; that said registration is now in force; that the mark shown therein is in use in (2) _____ (Type of commerce) commerce on each of the following goods stated in the registration:
_____ (List the goods or insert the words "all the goods") and that the benefits of the act of July 5, 1946, are hereby claimed for said registration.
(3)

(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)

(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and Note (4) below.)

NOTES

(1) The present owner of the registration must file the affidavit as registrant.

(2) Type of commerce should be specified as "interstate," "territorial," "foreign," or other type of commerce which may lawfully be regulated by Congress. Foreign registrants must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(3) The required fee of $10.00 must be submitted.

(4) If registrant is not domiciled in the United States, a domestic representative must be designated. See form 4.4. If a designation is not submitted with this form, a prior unrevoked designation will meet the requirement if such is already in the registration file.

13. By revising Section 4.15 to read as follows:

Section 4.15 Affidavit required by section 8.

Mark _____
(Identify the mark)
Reg. No. _____
Class No. _____

State of _____ }
County of _____ } ss.

(Name of registrant or of person authorized to sign for a juristic registrant) states that (1) _____ (Name of registrant) owns the above identified registration issued _____ (Date) (2), as shown by records in the Patent and Trademark Office; and that the mark shown therein is still in use (3) as evidenced by (4) _____.
(5)

(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)

(JURAT) (Use jurat from form 4.1.)

person who signed this instrument, who ac-

V 4 3 / 2 2 9 NO 0 2 8 7 8 UMI

REPRESENTATION

(See form 4.2 and Note (6) below.)

NOTES

The affidavit of which this form is an illustration must be filed within the sixth year after the date of registration under the act of 1946 or after the date of publication under section 12(c) of said act.

(1) The present owner of the registration must file the affidavit as registrant.

(2) If the registration issued under a prior act and has been published under section 12(c), add: "and published under section 12(c) on _____ (Date)".

(3) If the mark is not in use at the time of filing the affidavit, but there is no intention to abandon the mark, facts must be recited to show that the nonuse is due to special circumstances.

(4) Insert "the specimen included showing the mark as currently used," or recite facts as to sales or advertising which will show that the mark is in current use. Specimen illustrating use, or facts as to use or nonuse, are required for each class for which action is sought.

(5) The required fee of $10.00 must be submitted for each class for which action is sought, and if action is sought for less than the total number of classes in the registration, the classes for which action is sought should be specified.

(6) If registrant is not domiciled in the United States, a domestic representative must be designated. See form 4.4. If a designation in not submitted with this form, a prior unrevoked designation will meet the requirement if such is already in the registration file.

14. By revising Section 4.16 to read as follows:

Section 4.16 Affidavit under section 15.

Mark _____

(Identify the mark)

Reg. No. _____

Class No. _____

State of _____ }
County of _____ } ss.

(Name of registrant or of person authorized to sign for a juristic registrant) states that (1) _____ (Name of registrant) owns the above identified registration issued _____ (Date) (2), as shown by records in the Patent and Trademark Office; that the mark shown therein has been in continuous use in (3) _____ (Type of commerce) commerce for five consecutive years from (4) _____ (Date) to the present, on each of the following goods (5) stated in the registration:

(List the goods or services or insert the words "all the goods" or "all the services"); that such mark is still in use in (3) _____ (Type of commerce) commerce; that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register, and that there is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)

(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2.)

NOTES

(1) The present owner of the registration must file the affidavit as registrant.

(2) If the registration issued under a prior act and has been published under section 12(c), add: "and published under section 12(c) on _____(Date)."

(3) Type of commerce must be specified as "interstate," "territorial," "foreign," or such other commerce as may lawfully be regulated by Congress. Foreign registrants must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(4) The date should be the beginning of a five year period of continuous use, all of which five year period falls after the date of registration under the act of 1946 or after the date of publication under section 12(c). A date which would produce a period of continuous use which is longer than five years may be stated provided the period indicated includes five years of continuous use after registration under the act of 1946 or publication under section 12(c)

(5) If a service mark registration, state: "in connection with each of the following services."

15. By adding a new Section 4.16 (Combined 8 & 15) to read as follows:

Section 4.16 (Combined 8 & 15) Combined affidavit under Sections 8 and 15.

Mark _____

(Identify the mark)

Reg. No. _____

Class No. _____

State of _____ }
County of _____ } ss.

(Name of registrant or of person authorized to sign for a juristic registrant) states that (1) _____ (Name of registrant) owns the above identified registration issued _____ (Date) (2), as shown by records in the Patent and Trademark Office; that the mark shown therein has been in continuous use in (3) _____ (Type of commerce) commerce for five consecutive years from the date of the registration or the date of publication under section 12(c) (4) to the present, on each of the following goods (5) stated in the registration:

(List the goods or services or insert the words "all the goods" or "all the services"); that such mark is still in use in (3) _____ (Type of commerce) commerce; that such mark is still in use as evidenced by (6) _____ ; that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register, and that there is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

(7)

(Signature; if a corporation or other juristic organization, give the official title of the person who signs.)

(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and note (8) below.)

NOTES

This combined form should not be used with the section 8 portion of the affidavit is based on nonuse.

(1) The present owner of the registration must file the affidavit as registrant.

(2) If the registration issued under a prior act and has been published under section 12(c), add: "and published under section 12(c) on _____ (Date)."

(3) Type of commerce must be specified as "interstate," "territorial," "foreign," or such other commerce as may lawfully be regulated by Congress. Foreign registrants must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

(4) This form is only appropriate when the five year period of continuous use which is required for section 15 is also the first five years after registration or after publication under section 12(c) which is required for section 8.

(5) If a service mark registration, state: "in connection with each of the following services."

(6) Insert "the specimen included showing the mark as currently used," or recite facts as to sales or advertising which will show that the mark is in current use.

(7) The required fee of $10.00 for section 8 must be submitted for each class for which action is sought, and if action is sought for less than the total number of classes in the registration, the classes for which action is sought should be specified.

(8) If registrant is not domiciled in the United States, a domestic representative must be designated for section 8. See form 4.4. If a designation is not submitted with this form, a prior unrevoked designation will meet the requirement if such is already in the registration file.

16. By revising Section 4.17 to read as follows: Section 4.17 Opposition in the United States Patent and Trademark Office.

In the matter of application Serial No. _____. Published in the Official Gazette on _____ (Date)

(Name of opposer)
v.

(Name of applicant)

Opposition No. _____ (To be inserted by Patent and Trademark Office) _____ (Name of opposer), a(n)(1) _____ (Legal entity of opposer), located and doing business at _____ (Address), believes that it/he/she will be damaged by registration of the mark shown in the above identified application, and hereby opposes the same.

As grounds of opposition, it is alleged that:

(Numbered paragraphs should state the grounds and recite facts tending to show why opposer believes opposer will be damaged.)

(2)

State of _____ }
County of _____ } ss.

(Name of opposer or of person authorized to sign for a juristic opposer) states that he/she is the opposer named in this opposition, or is the person authorized to sign for the juristic opposer named in this opposition; that he/she has read the opposition and knows the contents thereof; and that the allegations are true, except as to the matters stated therein to be upon information and belief, and as to those matters he/she believes them to be true.

(Signature of opposer; if opposer is a corporation or other juristic organization, give the official title of the person who signs for opposer.)

(JURAT) (Use Jurat from form 4.1)

REPRESENTATION

(See form 4.2 and Note (7) under from 4.1 For opposers who are foreigners, is is customary to regard a power of attorney as the equivalent of a domestic representative.)

NOTES

(1) If an individual, state: "an individual," or "an individual trading as _____," if there is a business trade name. If a partnership, state: "a partnership composed of _____ (Names of partners)." If a corporation, association, or other organization, state "a corporation (or specify other type of organization) organized and existing under the laws of _____ (State or country)."

(2) The required fee of $25.00 must be submitted for each class to be opposed, and if opposition is sought for less than the total number of classes, the classes to be opposed should be specified.

17. By revising Section 4.18 to read as follows:

Section 4.18 Petition to cancel a registration in the United States Patent and Trademark Office.

In the matter of Registration No. _____. Date of Issue _____.

(Name of petitioner)
v.

(Name of registrant)

Cancellation No. _____ (To be inserted by Patent and Trademark Office) _____ (Name of petitioner), a(n)(1) _____ (Legal entity of petitioner), located and doing business at _____ (Address), believes that it/he/she is or will be damaged by the above identified registration, and hereby petitions to cancel the same.

As grounds therefor, it is alleged that:

(Numbered paragraphs should state the grounds and recite facts tending to show why petitioner believes that petitioner is or will be damaged.)

(2)

State of _____ }
County of _____ } ss.

(Name of petitioner or of person authorized to sign for a juristic petitioner) states that he/she is the petitioner named in this petition to cancel, or is the person authorized to sign for the juristic petitioner named in this petition to cancel; that he/she has read the petition to cancel and knows the contents thereof; and that the allegations are true, except as to the matters stated therein to be upon information and belief, and as to those matters he/she believes them to be true.

(Signature of petitioner to cancel; if petitioner is a corporation or other juristic organization, give the official title of the person who signs for petitioner.)

(JURAT) (Use jurat from form 4.1.)

REPRESENTATION

(See form 4.2 and Note (7) under form 4.1. For petitioners who are foreigners, it is customary to regard a power of attorney as the equivalent of a domestic representative.)

NOTES

(1) If an individual, states: "an individual," or "an individual trading as _____," if there is a business trade name. If a partnership, state: "a partnership composed of _____ (Names of partners)." If a corporation, association, or other organization, state "a corporation (or specify other type of organization) organized and existing under the laws of _____ (State or country)."

(2) The required fee of $25.00 must be submitted for each class sought to be cancelled, and if cancellation is sought for less than the total number of classes, the classes sought to be cancelled should be specified.

18. By revising Section 4.21 to read as follows: Section 4.21 Assignment of application.

Whereas _____ (Name of assignor), of _____ (Address), has adopted and is using a mark for which said assignor has filed application in the United States Patent and Trademark Office for registration, Serial No. _____; and

Whereas _____ (Name of assignee), of (1) _____ (Address), is desirous of acquiring said mark;

Now, therefore, for good and valuable consideration, receipt of which is hereby acknowledged, said _____ (Name of Assignor) does hereby assign unto the said _____ (Name of assignee) all right, title and interest in and to the said mark, together with the good will of the business symbolized by the mark, and the above identified application for registration of said mark.

(2)

The Commissioner of Patents and Trademarks is requested to issue the certificate of registration to said assignee.

(Signature of assignor; if assignor is a corporation or other juristic organization, give the official title of the person who signs for assignor.)

State of _____ }
County of _____ } ss.

On this ____ day of _____, ____, before me appeared _____, the person who signed this instrument, who acknowledged that he/she signed it as a free act on his/her own behalf (or on behalf of the identified corporation or other juristic entity with authority to do so).

_____
Notary Public

NOTES

(1) If the postal address of the assignee is not given either in the instrument or in an accompanying paper, registration to the assignee may be delayed.

(2) If assignee is not domiciled in the United States, a domestic representative must be designated. See form 4.4, changing the word "applicant" to "assignee."

19. By revising Section 4.22 to read as follows:

Section 4.22 Assignment of registration.

Whereas _____ (Name of assignor), of _____ (Address), has adopted, used and is using a mark which is registered in the United States Patent and Trademark Office, Registration No. _____, dated _____; and

Whereas _____ (Name of assignor), of _____ (Address), is desirous of acquiring said mark and the registration thereof;

Now, therefore, for good and valuable consideration, receipt of which is hereby acknowledged, said _____ (Name of assignor) does hereby assign unto the said _____ (Name of assignee) all right, title and interest in and to the said mark, together with the good will of the business symbolized by the mark, and the above identified registration thereof.

(2)

(Signature of assignor; if assignor is a corporation or other juristic organization, give the official title of the person who signs for assignor.)

State of _____ }
County of _____ } ss.

On this ____ day of _____, ____, before me appeared _____, the person who signed this instrument, who acknowledged that he/she signed it as a free act on his/her own behalf (or on behalf of the identified corporation or other juristic entity with authority to do so).

_____
Notary Public

NOTES

(1) If the postal address of the assignee is not given either in the instrument of in an

*(The wording of the acknowledgement may vary from this illustration but should be wording acceptable under the law of the jurisdiction where executed; the person who signs the acknowledgement must be authorized to do so by the law of the jurisdiction where executed, and the seal or stamp of the notary, or other evidence of authority in the jurisdiction of execution, must be affixed.)

accompanying paper, recording may be delayed pending receipt of such address.

(2) If assignee is not domiciled in the United States, a domestic representative must be designated. See form 4.4, changing the word "applicant" to "assignee."

20. By revising Section 4.23 to read as follows:

Section 4.23 A suggested format for the certificate of mailing under 37 CFR 1.8(a) to be included with the correspondence.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on ——————— (Date of Deposit).

Print or Type Name of Person Signing Certificate

Signature of Person Signing Certificate

Date of Signature

The Patent and Trademark Office has determined that these rule changes have no potential major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044.

Dated: September 18, 1978.

DONALD W. BANNER,
Commissioner of Patents and Trademarks.

Approved: November 21, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

Dated: November 21, 1978.

[FR Doc. 78-33269 Filed 11-27-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 1013-5; PP 8E2015/R176]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Thiabendazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide thiabendazole on bananas for preharvest application. The regulation was requested by Merck & Co. This rule establishes a maximum permissible level for residues of thiabendazole on bananas and banana pulp from preharvest application.

EFFECTIVE DATE: Effective on November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-2456.

SUPPLEMENTARY INFORMATION: On April 28, 1978, notice was given (43 FR 18246) that Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065, had filed a pesticide petition (PP 8E2015) with the EPA. Since the petition was for tolerances of residues of a pesticide on imported bananas, it was reclassified as an "E" petition and was examined under Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

The petition proposed that 40 CFR 180.242 be amended to establish a tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl)ben-zimidazole) in or on the raw agricultural commodity bananas at 3 parts per million (ppm), of which no more than 0.4 ppm of residues shall be present in the pulp after the peel is removed and discarded, resulting from both preharvest and postharvest applications. No comments were received in response to this notice of filing.

Since the proposed tolerances are the same as those presently established for postharvest application to bananas, there will be no change in the dietary exposure to thiabendazole.

The scientific data considered in support of the tolerance included an acute oral toxicity test (LD_{50}) showing an LD_{50} of 3.3 grams (g)/kilogram (kg) of body weight (bw); two-year rat and dog feeding studies with a no-observable-effect level (NOEL) of 10 and 50 milligrams mg/kg bw/day, respectively; a five-generation mouse reproduction study with an NOEL of 30 mg/kg bw/day (the highest dose used); a rat three-generation reproduction study with an NOEL of 20 mg/kg bw/day; a rabbit teratology study (negative at 800 mg/kg bw/day) (highest dose); a rat teratology study with a NOEL of 80 mg/kg bw/day; subacute studies on rats, sheep, and other farm animals; and a 24-week study in humans with no observable effects noted at a dosage of 250 mg/person/day.

Based on a rat study, the NOEL is 10 mg/kg bw/day. This results in an acceptable daily intake (ADI) of 0.1 mg/kg bw/day and a maximum permissible intake (MPI) of 6 mg/day for a 60-kg man. Existing and proposed tolerances result in a theoretical maximal residue contribution of about 1 mg/day. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities, ranging from 10 ppm to 0.1 ppm. An adequate analytical method (spectrophotofluorometry) is available to enforce the tolerances established by this regulation. A tolerance for residues of thiabendazole in or on sugar beets is currently pending (PP 6F1860).

The existing meat and milk tolerances are adequate to cover any residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2). There are no desirable data lacking from the petition, nor are there any actions currently pending against continued registration of the pesticide, nor are any other considerations involved in establishing the proposed tolerances. It has been determined that the tolerances established by amending 40 CFR 180.242 will protect the public health, and it is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before December 28, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on November 28, 1978, Part 180 is amended as set forth below.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: November 17, 1978.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.242 is amended by revising the items "Bananas" and "Bananas, pulp" in the table in paragraph (a) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodity:	Parts per million
* * * * *	
Bananas (PRE-H and POST-H)	3
Bananas, pulp (PRE-H and POST-H)	0.4
* * * * *	

[FR Doc. 78-33097 Filed 11-27-78; 8:45 am]

[6560-01-M]

[FRL 1013-6; OPP-300016A]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions from Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from the requirement of a tolerance for two new inert (or occasionally active) ingredients in pesticide formulations and changes the use pattern of a third. The regulation was requested by various firms. This rule permits the use of two inert ingredients in pesticide formulations and expands the use pattern of a third to include wheat.

EFFECTIVE DATE: Effective on November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington DC (202/426-2680).

SUPPLEMENTARY INFORMATION: On September 21, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 42769) to amend 40 CFR 180.1001 by exempting two pesticide chemicals which are additional inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements and by expanding the use pattern of a third inert ingredient under provisions of Section 408(e) of the Federal Food, Drug, and Cosmetic Act. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health and, therefore, that the amendment to the regulations should be adopted as proposed.

Any person adversely affected by this regulation may, on or before December 28, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M St., SW, Washington DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issue for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on November 28, 1978, Part 180, Subpart D, § 180.1001 is amended as set forth below.

Dated: November 17, 1978.

JAMES M. CONLON,
Deputy Assistant Administrator for Pesticide Programs.

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Carrageenan, conforming to 21 CFR 172.620.	Minimum molecular weight: 100,000...	Thickener.
* * * * *		

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Dipropylene glycol dibenzoate.	For seed treatment use only.....	Solvent, cosolvent.
* * * * *		

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Carrageenan, conforming to 21 CFR 172.620.	Minimum molecular weight: 100,000...	Thickener.
* * * * *		

2. Section 180.1001(d) is amended by revising the item "Isophorone * * *" in the table to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Isophorone		Solvent and cosolvent for formulations used before crop emerges from soil, for postemergence herbicide use on rice and wheat before crop begins to head, and for postemergence use on beets (sugar beets, and table beets).
* * * * *		

[FR Doc. 78-33096 Filed 11-27-78; 8:45 am]

[1505-01-M]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-19—TRANSPORTATION

Ocean Transportation on Privately Owned United States Flag Vessels

Correction

In FR Doc. 78-31336, appearing on page 51635, in the issue for Monday, November 6, 1978, below the "SUMMARY" paragraph, add the following effective date paragraph: "EFFECTIVE DATE: December 6, 1978".

[6820-25-M]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

[FPMR Amdt. F-35]

PART 101-36—ADP MANAGEMENT

ADP Standards

AGENCY: General Services Administration, Automated Data and Telecommunications Service.

ACTION: Final rule.

SUMMARY: This regulation specifies mandatory standard terminology for Federal agencies in ADP acquisitions relating to recorded magnetic tape cartridges for information interchange, computer output microforms, and the transmittal form for describing computer tape file properties. Use of the standards information implements approved National Bureau of Standards Federal Information Processing Standards Publications (FIPS PUBS).

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

L. Perlman, Office of Policy and Planning, telephone 202-566-0834.

The table of contents for Part 101-36 is amended to add the following entries:

Sec.
101-36.1304-18 FIPS PUB 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (0.250 in), 63 BPMM (1600 BPI) Phase Encoded.
101-36.1304-19 FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16 mm and 105 mm.
101-36.1305-4 FIPS PUB 53, Transmittal Form for Describing Computer Magnetic Tape File Properties.

Subpart 101-36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards into Solicitation Documents

1. Sections 101-36.1304-18 and 101-36.1304-19 are added as follows:

§ 101-36.1304-18 FIPS PUB 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (0.250 in), 63 BPMM (1600 BPI) Phase Encoded.

(a) FIPS PUB 52 specifies the recorded characteristics for a 6.30 mm (0.250 in) wide magnetic tape cartridge with either one, two, or four serial data tracks in order to provide for data interchange between information processing systems, communication systems, and associated equipment at a recording density of 63 bits per millimeter (1600 bits per inch) using phase encoding recording techniques. This standard is one of a series of Federal standards implementing the Federal Standard Code for Information Interchange (FIPS PUB 1) on magnetic tape media. (With one exception as cited in FIPS PUB 52, technical specifications of the standard are contained in American National Standard X3.56-1977, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 0.250 in (6.30 mm), 1600 BPI (63 BPMM), Phase Encoded.)

(b) The standard terminology for use in solicitation documents is:

All magnetic tape cartridge recording and reproducing equipment which results from this solicitation and employs 6.30 millimeter (0.250 inch) wide magnetic tape with one, two, or four independent serial data tracks at recording densities of 63 bits per millimeter (1600 bit per inch) using phase encoding techniques, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in the code and format as specified in FIPS PUB 1 and FIPS PUB 52.

§ 101-36.1304-19 FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16 mm and 105 mm.

(a) FIPS PUB 54 specifies the image arrangement, size, and reduction for 16 mm and 105 mm microforms generated by computer output microfilmers. It is limited to systems using business-oriented fonts similar to line printer output. The standard does not cover engineering drawings or microphotocomposition using complex graphics or graphic arts fonts and formats, nor does it cover special systems using two-step reduction techniques. (Technical specifications of the standard are included with FIPS PUB 12.)

(b) The standard terminology for use in solicitation documents is:

All applicable equipment or services that may result from this solicitation that produce computer generated microforms using plain type faces must be in compliance with FIPS PUB 54.

2. Section 101-36.1305-4 is added as follows:

§ 101-36.1305-4 FIPS PUB 53, Transmittal Form for Describing Computer Magnetic Tape File Properties.

(a) FIPS PUB 53 provided for the use of Standard Form 277, Computer Magnetic Tape File Properties, together with the instructions for providing the necessary information on the form. The form is to be used by Federal agencies to document the physical properties and characteristics of a recorded magnetic tape file needed by the receiving agency to process the tape. (Technical specifications of the standard are contained in FIPS PUB 53.)

(b) The standard terminology for use in solicitation documents is:

All magnetic tape used to transmit coded information to the Federal Government as a result of this solicitation must include completed Standard Forms 277 describing magnetic tape file properties as set forth in FIPS PUB 53.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Dated: November 8, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-33228 Filed 11-27-78; 8:45 am]

[4110-02-M]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 137—EDUCATIONAL INFORMATION CENTERS PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: These final regulations will govern the administration of the Educational Information Centers Program as authorized by the Education Amendments of 1976. Under this program grants are made to States that have submitted an acceptable plan to pay a portion of the cost of planning, establishing, and operating Educational Information Centers. The Centers provide educational information, talent search, guidance, counseling, and referral services to persons residing in the area served by the Center.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the FEDERAL REGISTER. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Velma L. Monteiro, Division of Student Services and Veterans Programs, Room 3514, ROB 3, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202, telephone: 202-245-2511.

SUPPLEMENTARY INFORMATION: The Educational Information Centers Program is a State plan program under which the Commissioner provides States with funds to plan, establish, and operate Educational Information Centers. Centers will provide educational information, guidance, counseling and referral services to all individuals in a State. Only the State agency or institution designated by the Governor may submit the State plan. Any individual interested in additional information about a State's participation in this program should write or call the Office of Education contact person.

A Notice of Intent to Issue Regulations was published in the FEDERAL REGISTER on November 29, 1976 (41 FR 52414-52415). The Notice set forth those issues on which the Office of Education sought direction in developing the proposed regulations. The comments received in response to the Notice of Intent were considered in the development of the proposed regulations.

A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on January 12, 1978 (43 FR 1896-1898). Public hearings were held in St. Louis, Missouri; Los Angeles, California; Tallahassee, Florida; and Washington, D.C. In addition, interested persons were given 30 days in which to submit written comments, suggestions, or objections.

The written and oral comments received in response to specific sections of the Notice of Proposed Rulemaking and the response of the Office of Education to these comments follow.

§ 137.1(a) PURPOSE AND SCOPE—GENERAL PROVISIONS

Comment. One commenter expressed concern about the purpose of the program. This commenter felt that the purpose of the program was reasonable but totally unrealistic because of the low appropriation level.

Response. The regulations that govern the implementation of the program have been modified to allow States to submit (1) a plan for developing a plan; (2) a comprehensive strategy for implementing a plan or (3) a plan that combines planning and implementing. However, the program requirements are mandated by statute and cannot be eliminated because of a small appropriation.

§ 137.2 DEFINITIONS

Comment. Several commenters pointed out that the definition of Educational Information Centers did not make sense with regard to the area to be served. Specifically, the Notice of Proposed Rulemaking included the "geographical area now greater than that which will afford all persons * * *".

Response. This error has been corrected. The confusion is the result of a typographical error. The word *now* was mistyped for *no*.

Comment. Several commenters questioned whether reasonable geographic distance, reasonable access, and reasonable time would be defined in the final regulations or whether the States would be responsible for developing their own definitions.

Response. No additional terms have been defined in the regulations. States vary a great deal in geography, population density, and services currently available for the dissemination of educational information. Since no standard definition for these terms would be fairly and equally applicable to all States, the Commissioner will allow each State to define these terms for itself.

§ 137.3(a) ALLOTMENT OF FUNDS

Comment. Several commenters suggested changes in the allotment formula to better accommodate rural and sparsely populated areas.

Response. No change has been made in the regulations because the allotment formula is specified in the statute.

§ 137.3(b) ALLOTMENT OF FUNDS

Comment. One commenter suggested that when the appropriation for a fiscal year is insufficient to permit the award of the $50,000 minimum, the allocation should be based on the population of the participating States with a minimum allocation of $25,000 to each State submitting an approved plan.

Response. No change has been made in the regulations. Because each State will have many similar basic costs regardless of its size, the States that participate in the program will share equally when the appropriation is insufficient to permit the award of the $50,000 minimum.

§ 137.4(a) EDUCATIONAL INFORMATION CENTERS PROGRAM REQUIREMENTS

Comment. Several commenters expressed concern that private and public agencies and organizations may receive grants and contracts from the States only when the agencies and organizations are acting in combination with an institution of higher education.

Response. No change has been made in the regulations. The regulations do not require agencies and organizations to act in combination with an institution of higher education. Only local educational agencies must act in combination with institutions of higher education in order to receive a contract or grant from the State.

Comment. One commenter suggested that the regulations be modified to permit an area vocational school to be considered an institution of higher education rather than a local educational agency so that it may be eligible for State grants without the need to work in combination with an institution of higher education.

Response. No change in this definition can be made by regulations. This program is subject to the statutory definition of an institution of higher education as defined in Sections 1201(a) and 491(b) of the Higher Education Act.

Comment. Several commenters expressed concern that a State government might retain the major part of its allotment to pay for the administration of and planning for the project rather than using most of its allotment to deliver services to clients.

Response. The regulations have been modified to allow States: (1) to plan for developing a plan; (2) to submit a comprehensive strategy for implementing the plan; or (3) to both plan and implement a comprehensive strategy. Costs, therefore, for planning, establishing, and operating the program are allowable within an approved work plan. Costs for planning activities in addition to or beyond those specified in the approved State plan are unallowable.

Comment. Several commenters urged that non-institutional educational centers have a chance to receive funding to continue their existing operations and thus avoid duplication of

services. In addition, the commenters suggested that business and industry, proprietary schools, and secondary school adult education programs can plan a major role in offering services and training.

Response. No change has been made in the regulations. Section 137.4(a) permits States to fund non-institutional educational centers. Section 137.4(c), which refers to postsecondary education and training, does not limit the referrals of persons to institutions of higher education only. The intent of the program is that each center will refer individuals to all available and appropriate sources of services and training: agencies, organizations, and institutions—whether private, profit, or non-profit—as well as institutions of higher education.

§ 137.4(c) EDUCATIONAL INFORMATION CENTERS PROGRAM REQUIREMENTS

Comment. Several commenters expressed concern that the direct services offered by the Educational Information Centers would conflict with other Governmental agencies and with private businesses providing these same services.

Response. No change has been made in the regulations. The regulations do not require the Centers to provide direct services. Rather, it is the intent of the regulations to have the Centers provide information and *referral* services. Referrals are to be made to any public or private agency and organization, any public, private or proprietary school, or to any individual that can adequately help the client.

Comment. One commenter suggested that § 137.4(c)(v) be amended to read: "Guidance and counseling services by *professionally trained personnel* designed to assist * * *"

Response. No change has been made in the regulations. Each State will decide for itself the type of guidance and counseling services it will provide through the Center or Centers.

Comment. One commenter questioned whether the Educational Information Centers needed to provide all of the services described in § 137.4(c)(i-vi) or just some of them.

Response. No change has been made in the regulations. The statute that governs the Educational Information Centers Program requires all of the services described in § 137.4(c) of the regulations.

§ 137.5 STATE PLAN REQUIREMENTS—INITIAL YEAR

Comment. Many commenters expressed concern over the requirements for the State plan for the initial year of funding. Because of the limited level of funding, several commenters suggested that these requirements for initial year funding be geared heavily toward planning, surveying, and organizing for a Statewide network. States, therefore, could better coordinate with those agencies, organizations, and institutions that are currently providing services similar to those to be provided through this program. Another suggestion was that the regulations be relaxed to allow those States that are not ready to implement this program to plan for the development of a plan. Finally, other commenters suggested that the regulations allow States to both plan and establish Educational Information Centers in the initial year of funding.

Response. The regulations have been revised to allow for the flexibility suggested by the commenters regarding State plan requirements for the initial year of funding. Specifically, § 137.5(a)(4), (5), (7), (8), and (9) have been revised to permit States to submit a plan that includes a plan for the development of those items requested in § 137.5(a) (4), (5), (7), (8), and (9). They will have the prerogative to choose to submit either the completed material or a plan for the development of the material, or both.

Comment. One commenter recommended that members of the business community, such as representatives of proprietary schools, have the right to veto a State plan and policy for establishing and operating Educational Information Centers.

Response. No change has been made in the regulations. There is no statutory authority for such a veto. Moreover, to allow a veto by one section of the community would have unfair impact on all others involved with the development of the plan.

Comment. One commenter expressed concern that, except for § 137.5(a) (1), (2), (4) and (b)(3), this section is unnecessarily prescriptive and should not be judged as "essential to carry out the provisions of the legislation."

Response. No change has been made in this part of the regulations. The requirements for initial year State plans are consistent with the legislation from which these regulations are derived.

§ 137.5(a) (1) AND (2) STATE PLAN REQUIREMENTS—INITIAL YEAR

Comment. Several commenters named an agency or institution within their State that, they believed, should be named by the Governor to develop and administer the State Plan.

Response. No change has been made in the regulations because the Governor of each State has the sole authority and responsibility for choosing the agency or institution to develop the plan. Recommendations, therefore, should be directed to each Governor.

§ 137.5(a)(3) AND (b)(4) STATE PLAN REQUIREMENTS—INITIAL YEAR

Comment. Many commenters named various groups that should be heavily involved in the development of the State plan. Each commenter wanted his or her group to play a more significant role in the development of the plan.

Response. No change has been made in the regulations to require that specific groups be included in the development of the State plan. Preferably, each State will involve a variety of groups, agencies, institutions, and individuals in the development of its plan so that a full strategy for the State will be developed.

§ 137.5(a)(6) STATE PLAN REQUIREMENTS—INITIAL YEAR

Comment. Several commenters expressed concern that their respective programs were not listed under § 137.5(a)(6)(i), "* * * such as occupational and career information systems, * * *".

Response. No change has been made in the regulations. The types of programs cited are illustrative of the programs that could be coordinated with the Educational Information Centers Program and are not meant to be exhaustive.

§ 137.5(b)(1)(i) STATE PLAN REQUIREMENTS—INITIAL YEAR

Comment. One commenter expressed concern that the State legal officer had to submit a certification as part of the State plan. The commenter stated that this procedure is both unnecessary and burdensome.

Response. The Office of Education concurs. Sections 137.5(b)(1) (i) and (ii), therefore, have been deleted from these regulations.

§ 137.5(b) STATE PLAN REQUIREMENTS—INITIAL YEAR

Comment. One commenter suggested that another assurance be required of the States. That assurance should require States to provide services to the low-income and academically disadvantaged.

Response. No change has been made in the regulations. The regulations require that Centers provide the necessary information and referral services to all individuals in the State. Therefore, services are to be provided to low-income and academically disadvantaged persons within a reasonable distance of the Center.

§ 137.6 STATE PLAN AMENDMENTS

Comment. One commenter expressed concern that this section appears to be designed to aid the Office of Education in maintaining its program personnel rather than to help

address realistically the need of States to update their plans periodically and to report routinely progress in the achievement of objectives. This commenter felt that the need for States to update plans could be easily accomplished through more simple and flexible procedures and requirements.

Response. No change has been made in the regulations. The legislation from which these regulations are derived requires the Commissioner to use the latest available actual data, including data on previous participation, to assess State plans and to make allocations to the States. The State plan amendments section of the regulations, therefore, is consistent with the law.

§ 137.8(b) REPORTS

Comment. Several commenters suggested that the annual performance reporting requirements be revised to accommodate those States that will be involved with planning and surveying during their initial year in the program.

Response. The Office of Education concurs, and § 137.8(b) has been revised accordingly.

§ 137.9 ALLOWABLE COSTS—MATCHING

Comment. Several commenters suggested that § 137.9(b) be revised to include a statement that the matching 33⅓ percent may be in cash or in kind.

Response. The Office of Education concurs. Section 137.9(b) has been revised accordingly.

(Catalog of Federal Domestic Assistance Program No. 13.585; Educational Information Centers Program.)

Dated: September 28, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: November 11, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Chapter I of Title 45 of the Code of Federal Regulations is amended by adding a new part, Part 137, to read as follows:

Sec.
137.1 Purpose and scope—general provisions.
137.2 Definitions.
137.3 Allotment of funds.
137.4 Educational Information Centers Program requirements.
137.5 State plan requirements—initial year.
137.6 State plan amendments.
137.7 Approval of the State plan.
137.8 Reports.
137.9 Allowable costs—matching requirement.

AUTHORITY: Sec. 418A, 418B, Title IV of the Higher Education Act of 1965 as added by sec. 125 of Title I, Pub. L. 94-482, 90 Stat. 2096-2098 (20 U.S.C. 1070d-2—1070d-3), unless otherwise noted.

§ 137.1 Purpose and scope—general provisions.

The purpose of the Educational Information Centers Program is to provide educational information, guidance, counseling, and referral services to all individuals in a State through Centers. These Centers would be located within a reasonable distance of all residents in the State, including those individuals residing in rural areas. The Commissioner will award to each State that submits an approved State plan a grant to pay the Federal share of the cost of planning, establishing, and operating the Centers.

(b) Assistance provided under this part is subject to the provisions in Subchapter A of this chapter relating to fiscal, administrative, and other matters (General Provisions for Office of Education Programs—45 CFR Part 100b).

(20 U.S.C. 1070d-2—1070d-3.)

§ 137.2 Definitions.

For the purpose of this part:

"Educational Information Center" or "Center" means an institution or agency, or combination of institutions or agencies, organized to provide educational information, guidance, counseling, and referral services for a geographical area. That area may not be greater than that which will afford all persons within the area reasonable access to the services of the Center.

(20 U.S.C. 107d0-2.)

"State" means, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(20 U.S.C. 1141(b); 1088(a).)

§ 137.3 Allotment of funds.

(a) For each fiscal year, the Commissioner will allocate funds to each State that has submitted an approved plan. That amount will bear the same ratio to the appropriation as the population of that State bears to the total population of all States submitting an approved State plan. However, subject to the availability of funds, no State submitting an approved plan shall receive less than $50,000.

(b) If the appropriation for a fiscal year is insufficient to permit the award of the $50,000 minimum, the appropriation will be divided equally among each of the participating States.

(c) In making allocations under this section, the Commissioner will use the latest available census data.

(20 U.S.C. 1070d-2(b).)

§ 137.4 Educational Information Centers Program requirements.

(a) Each State receiving funds may make grants and contracts to plan, establish, and operate Centers. However, it may enter into these grants and contracts only with (1) institutions of higher education as defined in sections 1201(a) and 491(b) of the Higher Education Act of 1965; (2) combinations of such institutions as defined in section 1201(j) of that Act; (3) public and private agencies; and (4) local educational agencies as defined in section 1201(g) of that Act that are acting in combination with an institution of higher education.

(b) Each State must establish a sufficient number of Centers so that there is a Center within a reasonable geographic distance of all residents of the State.

(c) Each Center must provide the following services:

(1) Information and talent search services. These services must be designed to seek out persons who could benefit from postsecondary education or training if it were not for cultural or financial barriers, physical handicaps, deficiencies in secondary education, or lack of information about available programs or financial assistance. They must also be designed to encourage those persons to participate in full-time or part-time postsecondary education or training;

(2) Information and referral services with regard to:

(i) Available postsecondary educational and training programs;

(ii) Available Federal, State, and other financial assistance;

(iii) The procedures and requirements for applying for the educational and training programs and the financial assistance;

(iv) Job placement;

(v) Gaining admission to postsecondary educational institutions offering education programs designed to prepare persons for careers or for retraining, continuing education, or upgrading of skills;

(vi) Competency-based learning opportunities. These opportunities include testing existing competencies for the purpose of certification, awarding of credit, or advanced placement in postsecondary education programs;

(vii) Guidance and counseling services designed to assist persons in identifying postsecondary educational or training opportunities that are appropriate to their needs and to their individual career plans. These opportunities may include part-time opportunities for persons who are employed; and

(viii) Remedial or tutorial services designed to prepare persons for postsecondary educational opportunities

or training programs. These services may be provided to persons enrolled in postsecondary educational institutions within the area served by the Center.

(d) Services may be provided by a Center directly or under an agreement with agencies and institutions located in the area served by the Center.

(20 U.S.C. 107d0-2; 1141(a)(g)(j); 1088(b).)

§ 137.5 State plan requirements—initial year.

(a) Any State desiring to receive its allotment for the first year of its participation in the program must submit a State plan to the Commissioner. The plan must comply with the forms and instructions that will be furnished for this purpose. The State plan must include:

(1) The name of the State agency or institution that will be responsible for administering and implementing the State plan;

(2) The name of the official, within that agency or institution, designated by the Governor as responsible for submitting the State plan and to whom communications concerning the plan shall be directed;

(3) A description of the involvement of individuals, public and private agencies, organizations and institutions in the development of the State plan. This description shall include a list of those agencies, organizations, institutions and individuals;

(4) A schedule for establishing or expanding the Centers, within a reasonable period of time, so as to make their services available to all residents of the State; or, a plan for developing the schedule;

(5) A comprehensive plan for providing the required program activities; or, a plan for developing the comprehensive plan. The comprehensive plan must include:

(i) Specific goals and objectives,

(ii) The development of various educational information systems, and,

(iii) The manner in which the State will monitor the accuracy and timeliness of the information being disseminated;

(6) A plan for:

(i) Surveying the State to identify those organizations and agencies that already provide comparable information, referral and guidance services, such as occupational and career information systems, and

(ii) Coordinating the activities of the Centers with the activities of those agencies and organizations;

(7) The policies and procedures to be used in selecting the location of each Center; or, a plan for developing the policies and procedures;

(8) The criteria that will be followed by the State in selecting the recipients of grants or contracts as permitted by section 137.4(a); or, a plan for developing the criteria;

(9) The monitoring process to be used to assure that adequate progress is being made toward achieving the goals of the program; or, a plan for developing the monitoring process;

(10) A budget itemizing the approximate amount of funds from Federal and non-Federal sources that will be needed during the first year for:

(i) Developing and administering the State plan for that year; and/or

(ii) Establishing or expanding and operating the Centers for that year.

(11) The activities to be funded if the State's allotment is less than the amount the State indicated it needed in subparagraph (10) of this paragraph; and

(12) The source and amount of the State, local, and/or private funds that will be used to meet the non-Federal share.

(b) The State plan must also include the following assurances:

(1) An assurance that the State has provided for fiscal control and fund accounting procedures that are necessary to assure proper disbursement of and accounting for Federal funds paid the State. These procedures include the monitoring of funds paid by the State to agencies, organizations and/or institutions to carry out the activities under section 137.4;

(2) An assurance that State, local and/or private funds will be provided to meet the non-Federal share of the cost of planning, establishing and operating the Centers; and

(3) An assurance that, in the development of the State plan, the State has consulted with a variety of public and private agencies, organizations, institutions, and individuals, including potential consumers.

(20 U.S.C. 1070d-3.)

§ 137.6 State plan amendments.

(a) The State plan must be amended annually to reflect any change in the information submitted under § 137.5. The State plan amendment must be submitted at the time and in the format prescribed by the Commissioner and must contain the following information:

(1) The revisions in the State plan and their relationship to the State's comprehensive plan for establishing or expanding and operating the Centers. The amendment shall contain any changes in the locations of the Centers and in the services provided;

(2) The activities are to be carried out in planning, establishing, and operating the Centers for that year;

(3) The progress the State has made during the award period toward accomplishing the goals and objectives of its State plan;

(4) The problems the State encountered that prevented it from meeting its goals and objectives;

(5) The location of Centers currently operating;

(6) The program activities and services being provided through each Center;

(7) A budget itemizing the approximate amount of funds from Federal and non-Federal sources that will be needed during the next program year for:

(i) Updating and administering the State plan for the next program year;

(ii) Establishing or expanding and operating the Centers; and

(8) The source and amount of the State, local, and/or private funds that will be used to meet the non-Federal share of the cost of planning, establishing, and operating Centers for that year.

(b) The annual State plan amendment shall also contain the assurances required under § 137.5(b).

(c) Those States that, for their initial year, submitted a plan to plan for the development of items required by § 137.5(a) (4), (5), (7), (8), and (9) must submit those completed items with their first State plan amendment.

(20 U.S.C. 1070d-3.)

§ 137.7 Approval of the State plan.

(a) The Commissioner will approve each State plan that meets the requirements of § 137.5 and will notify the applicant of the granting, conditioning, or withholding of approval in each case.

(b) The Commissioner will approve each annual State plan amendment that meets the requirements set forth in § 137.6

(20 U.S.C. 1070d-3.)

§ 137.8 Reports.

The State shall prepare and submit to the Commissioner the following reports within 90 days after the close of the grant period:

(a) An annual financial report for the grant period that sets forth:

(1) The total outlays and unpaid obligations;

(2) The amount and source of the State's matching funds;

(3) The amount of funds from all sources that were spent for administrative purposes; and

(4) The amount of unobligated funds, allotted under this part, that will remain at the end of the grant period; and

(b) An annual performance report that contains:

(1) A list of grants and contracts made during that year, including:

(i) The name of the grantee or contractor;

(ii) A description of services provided under the grant or contract;

(iii) The locations where services were provided; and

(iv) The amount of funds, from all sources, involved;

(2) A report on the number of individuals served by the program and the services provided them; and

(3) If the State has not provided services to clients, a narrative report of the progress that the State has made during the award period toward the development of its comprehensive strategy.

(20 U.S.C. 1070d-2.)

§ 137.9 Allowable costs—matching requirement.

(a) The Commissioner will pay up to 66⅔ percent of the costs reasonably related to planning, establishing, and operating Educational Information Centers.

(b) The State must provide 33⅓ percent of those costs. Its share may be met with State, local or private funds and may be met in cash or in kind.

(20 U.S.C. 1070d-2.)

[FR Doc. 78-32856 Filed 11-27-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1347]

PART 1033—CAR SERVICE

Hillsdale County Railway Co. Inc. Authorized To Operate Over Tracks Abandoned by Penn Central Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1347.

SUMMARY: The Hillsdale County Railway Company Inc. is authorized to operate between Pleasant Lake, Indiana, and Steubenville, Indiana, over tracks abandoned by Penn Central Transportation Company. Hillsdale County Railway has purchased this railroad property from the trustees of Penn Central Transportation Company and the Fort Wayne and Jackson Railroad Company.

DATES: Effective 11:59 p.m., November 21, 1978. Expires 11:59 p.m., May 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided November 20, 1978.

The Hillsdale County Railway Company Inc. (HCRC) operates 59 miles of line in Branch and Hillsdale Counties, Michigan, and Steuben County, Indiana, connecting with the Consolidated Rail Corporation (CR) at Quincy, Michigan. There are no other connections with CR or other railroads. To provide another connection with the general rail network the HCRC purchased from the trustees of the former Penn Central Transportation Company, 2.93 miles of railroad between Pleasant Lake, Indiana, the end of the present HCRC, and a connection with the Norfolk and Western Railway Company (NW) at Steubenville, Indiana. Access to the NW will enable the HCRC to provide shippers served by its lines with additional routings and improved car supplies. An application seeking permanent authority to acquire and operate these tracks will be filed with the Commission.

It is the opinion of the Commission that an emergency exists requiring the operation by HCRC over tracks formerly operated by PC in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1347 Service Order No. 1347.

(a) *Hillsdale County Railway Company Inc. authorized to operate over tracks abandoned by Penn Central Transportation Company.* The Hillsdale County Railway Company Inc. (HCRC) is authorized to operate over tracks abandoned by Penn Central Transportation Company (PC) between former PC milepost 35.7 at Pleasant Lake, Indiana, and former PC milepost 32.77 at Steubenville, Indiana, a distance of approximately 2.93 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Operations over these tracks by HCRC shall not commence until tariffs to, from and via Steubenville become effective.

(d) Nothing herein shall be considered as a prejudgement of the application of the HCRC seeking authority to operate over these tracks.

(e) *Effective date.* This order shall become effective at 11:59 p.m., November 21, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33189 Filed 11-27-78; 8:45 am]

[7035-01-M]

[S.O. No. 1348]

PART 1033—CAR SERVICE

Chicago & North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1348.

SUMMARY: The line of the Chicago and North Western Transportation Company (CNW) between James Valley Junction, South Dakota, and Redfield, South Dakota, has deteriorated and is no longer operable thus isolating that portion of the CNW north of Redfield from the remainder of the system. The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) has consented to use of its parallel line by the CNW between Wolsey, South Dakota, and Aberdeen, South Dakota. Use of this MILW line by the CNW will enable the CNW to continue service to shippers on its line north of Redfield. Service Order No. 1348 authorizes the use of these MILW tracks by the CNW pending disposition by the Commission of the application of the CNW seeking permanent authority to operate over this line.

DATES: Effective 12:01 a.m., November 22, 1978. Expires 11:59 p.m., May 15, 1979.

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FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided November 20, 1978.

The line of the Chicago and North Western Transportation Company (CNW) between James Valley Junction, South Dakota, and Aberdeen, South Dakota, has deteriorated and is no longer suitable for the movement of loaded cars having a gross weight in excess of 210,000 pounds. An alternate route is available via the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW). The CNW has requested and the MILW has consented to use of the parallel line of the MILW between a connection with the CNW at Wolsey, South Dakota, and another connection between these lines at Aberdeen, a distance of approximately 70.6 miles.

It is the opinion of the Commission that an emergency exists requiring operation of CNW trains over these tracks of the MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1348 Service Order No. 1348.

(a) *Chicago and North Western transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company.* The Chicago and North Western Transportation Company (CNW) is authorized to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between MILW milepost 705.0 at Wolsey, South Dakota, and MILW milepost 775.6 at Aberdeen, South Dakota, a distance of approximately 70.6 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the CNW over tracks of the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the CNW over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Nothing in this order shall be deemed to prejudge the decisions of the Commission in the applications of the CNW seeking permanent authority to operate over these tracks of the MILW.

(e) *Effective date.* This order shall become effective at 12:01 a.m., November 22, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 15, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33190 Filed 11-27-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

National Wildlife Refuges in Nevada

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to fishing of certain National Wildlife Refuges in Nevada is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document established special regulations effective for the upcoming fishing season.

DATES: January 1, 1979, through December 31, 1979.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of the special regulations.

FOR FURTHER INFORMATION CONTACT:

William D. Sweeney, Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825, telephone: FTS 468-4664, Commercial (916) 484-4664.

SUPPLEMENTARY INFORMATION: Fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR, Part 33, and the following Special Regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps available at refuge headquarters. No vehicle travel is permitted except on maintained roads and trails designated open to public use. Fishing shall be in accordance with all applicable State regulations subject to the following conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Charles Sheldon Antelope Range, (Headquarters: P.O. Box 111, Lakeview, Oregon 97630, (503) 947-2366).

Ruby Lake National Wildlife Refuge, Ruby Valley, Nevada 89833, (702) 779-2237.

Special Condition: Utilization of personal flotation devices will be permitted only in those portions of Unit 21 and only during only those periods as designated by signs. Boats, canoes, and all other types of watercraft are prohibited.

Stillwater National Wildlife Refuge, P.O. Box 1236, Fallon, Nevada, 89406, (702) 423-5128.

Special Condition: Refuge closed to fishing during the migratory waterfowl hunting season.

Pahranagat National Wildlife Refuge, (Headquarters: 1500 North Decatur Blvd., Las Vegas, Nevada 89108, (702) 878-9617).

Special Condition: Only that portion of Upper Pahranagat Lake between the south dam and the cross dike, approximately one mile north is open to fishing as posted.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Lynn C. Howard, Sacramento Area Office, Telephone FTS 468-4664, Commercial (916) 484-4664.

Dated: November 20, 1978.

PATRICK O'HALLORAN,
Area Manager—California-Nevada, U.S. Fish and Wildlife Service.

[FR Doc. 78-33277 Filed 11-27-78; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

National Wildlife Refuges in California

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to fishing of certain National Wildlife Refuges in California is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document established special regulations effective for the upcoming fishing season.

DATES: January 1, 1979, through December 31, 1979.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of the special regulations.

FOR FURTHER INFORMATION CONTACT:

William D. Sweeney, Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825, telephone: FTS 468-4664, Commercial (916) 484-4664.

SUPPLEMENTARY INFORMATION: Fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR, Part 33, and the following Special Regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps available at refuge headquarters. No vehicle travel is permitted except on maintained roads and trails designated open to public use. Fishing shall be in accordance with all applicable State regulations subject to the following conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Colusa National Wildlife Refuge, (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, (916) 934-4090.

Special Condition: The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and taking of frogs during the migratory waterfowl hunting season. No campfires or firearms permitted.

Delevan National Wildlife Refuge, (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, (916) 934-4090.

Special Condition: The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season. No campfires or firearms permitted.

Modoc National Wildlife Refuge, (Headquarters: Sheldon-Hart Mountain-Modoc National Wildlife Refuges, P.O. Box 111, Lakeview, Oregon 97630, (503) 947-3315.

Special Conditions: (1) The refuge is closed to fishing during the waterfowl hunting season.

(2) The taking of frogs on refuge lands is prohibited.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, (916) 934-4090.

Special Condition: The taking of frogs is permitted in the public fishing area. The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season. No campfires or firearms permitted.

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, California 92233, (714) 348-2323.

Special Condition: Fishing is permitted only on that portion of the refuge which is inundated by the Salton Sea and other refuge lands posted with public fishing signs.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, (209) 826-3508.

Special Conditions: (1) Fishing permitted from sunrise to one hour after sunset.

(2) The refuge is closed to sport fishing during the migratory waterfowl hunting season.

(3) Use of boats is prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Lynn C. Howard, Sacramento Area Office, Telephone FTS 468-4664, Commercial (916) 484-4664.

Dated: November 20, 1978.

PATRICK O'HALLORAN,
Area Manager—California-Nevada, U.S. Fish and Wildlife Serivce.

[FR Doc. 78-33278 Filed 11-27-78; 8:45 am]

[3510-22-M]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Corrections of Notice of Closures and Catch Limit Adjustments

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Correction to trip limitations and closure notice.

SUMMARY: On November 15, 1978, a notice containing a table (Appendix B—Catch Limitations) appeared in the FEDERAL REGISTER (43 FR 53040). This table summarized the catch limitations for U.S. fishermen participating in the Atlantic groundfish fishery. That table contained several errors. A corrected table appears herein.

EFFECTIVE DATE: November 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: The table summarizing trip limitations and vessel class closures which appeared in the FEDERAL REGISTER on November 15, 1978 (43 FR 53040) contained several errors. Consequently, that table is withdrawn, and the attached table is substituted for it.

The general public has already been advised of the correct landing limitations and vessel class closures, which will become effective on November 22, 1978.

(16 U.S.C. 1801 et seq.)

Signed at Washington, D.C., on this the 22d day of November 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

Strike 50 CFR Part 651. Appendix B, substitute the following 50 CFR Part 651 Appendix B.

[3510-22-C]

COD (pounds/week)

Vessel Class	Gulf of Maine limits	Gulf of Maine overruns	Georges Bank and South limits	Georges Bank and South overruns
0-60 GRT	2,500	1,500	4,900	3,500
61-125 GRT	2,500	1,500	4,900	1,500
Over 125 GRT	Close Nov. 19		7,000	1,500
Fixed gear	5,000	0	13,000	0

HADDOCK (pounds/week)

Vessel Class	Gulf of Maine limits	Gulf of Maine overruns	Georges Bank and South limits	Georges Bank and South overruns
0-60 GRT	Close Nov. 19		Close Nov. 19	
61-125 GRT	Close Nov. 19		3,500	1,500
Over 125 GRT	Close Nov. 19		Close Nov. 19	
Fixed gear	8,000	0	8,000	0

YELLOWTAIL FLOUNDER*

Vessel Class	West of 69° West	East of 69° West
0-60 GRT	5,000	
61-125	5,000	
Over 125	5,000	

* Pounds per week or trip, whichever time period is longer. A vessel may land no more than 5,000 pounds, even if it fished on both sides of the 69° W. line. No overruns are allowed.

[FR Doc. 78-33344 Filed 11-27-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[No. 78-642]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Amendments Regarding Forward Commitments To Purchase Securities

NOVEMBER 22, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to regulate forward commitments by FSLIC-insured institutions to purchase certain securities. Regulatory action is needed because some institutions are incurring losses by engaging in forward commitments in a speculative manner and are keeping inadequate records of such transactions. The new regulation would limit the dollar amount of outstanding forward commitments, require certain records to be maintained, prohibit so-called "overtrading", specify the accounting treatment of commitment fees, and provide for immediate accounting of profit or loss if forward commitments are disposed of prior to settlement.

DATE: Comments must be received on or before January 15, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION, CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 202-377-6440, at the above address.

SUPPLEMENTARY INFORMATION: The Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, is mandated by Congress to require FSLIC-insured institutions to follow safe and sound practices, consistent with economical home financing and the purposes of the National Housing Act, as amended. In recent months, the Bank Board's examiners have reported instances of some institutions engaging speculatively in forward commitments to purchase securities, resulting in commitments in excess of their internal funding capacity, with consequent losses or liability for failure to honor the commitments. It also appears that there may be instances of undisclosed and unreported transactions involving an unsafe level of forward commitments by other FSLIC-insured institutions. The proposed regulations are principally intended to assist the Bank Board in fulfilling its responsibilities regarding such unsafe financial transactions by limiting the dollar amounts of forward commitments to amounts which can be funded in the normal course of business, prohibiting so-called "overtrading" or "overmarketing", specifying the accounting treatment of commitment fees, and requiring maintenance of sufficient records to enable the Bank Board's examiners to scrutinize forward commitments of FSLIC-insured institutions.

The proposed regulations would not require that the names and current limits of authority of an institution's personnel authorized to engage in forward commitments for it be disclosed, but the Bank Board believes that institutions should follow the normal business practice of disclosing this information to a seller or prospective seller to the institution of securities under a forward commitment.

Paragraph (e)(4) of the proposed regulation would require recognition of any decline in market value during the period of a standby commitment. It would require that an association in booking a purchase charge the amount of such a decline against current income with a corresponding credit to unearned discount.

The Bank Board believes that the limitations and requirements hereby proposed are reasonable and appropriate to ensure safe and sound operation of insured institutions engaging in forward commitment transactions. It therefore strongly encourages insured institutions engaging in such transactions to do so only in compliance with these proposed regulations, pending final action on them.

Accordingly, the Board proposes to add a new § 563.17-3 to the rules and regulations for Insurance of Accounts (12 CFR 563.17-3) to read as set forth below.

§ 563.17-3 Forward commitments.

(a) *Definitions*—(1) *Forward commitment.* A contract, oral or written, to purchase securities at a date more than 30 days after the date of the contract; such a commitment is a *standby commitment* if sale is optional with the seller and a *firm commitment* if both seller and purchaser are obligated to perform on the agreed date.

(2) *Securities.* Mortgage loans and assets which are legal investments for a Federal savings and loan association under § 545.9 of this chapter (except mortgage-futures transactions made in accordance with § 545.29), and any additional similar assets of a State-chartered insured institution.

(3) *Commitment fee.* Any consideration received either directly or indirectly by an insured institution for a forward commitment.

(b) *Authorized personnel.* The minutes of the board of directors of the insured institution shall set out the names, duties, responsibilities, and current limits of authority of the insured institution's personnel authorized to engage in forward commitments for the institution.

(c) *Limitations.* An insured institution's outstanding forward commitments may not exceed the lesser of (1) total repayments of principal on its outstanding mortgage loans during the twelve-month period ending at the close of the preceding month or (2) its documented capacity to fund all commitments. An insured institution shall not sell a forward commitment or security at a price above actual market value under agreement to purchase another forward commitment or security at a price above actual market value.

(d) *Disposal prior to settlement.* All profit or loss related to disposal or modification of a forward commitment prior to settlement shall be recognized on the institution's books at the time of disposal or modification.

(e) *Recordkeeping requirements.* An institution engaging in forward commitments shall establish and maintain the following:

(1) A current register of all outstanding forward commitments;

(2) Documentation of the institution's ability to fund all outstanding forward commitments in compliance with paragraph (c) of this section, stating specifically the actual or projected source of funds to be used in the funding; and

(3) A record of each forward commitment, including type (firm or standby), commitment date, amount, rate, price to be paid at settlement, market price at date of commitment, settlement date, commitment fees received, date and manner of disposal, sales price and market value at disposal if disposition is made on or prior to settlement date other than through funding, and seller's identity and confirmation.

(4) Purchases under standby commitments shall be recorded at the lower of cost or market value at the date of settlement.

(f) *Commitment fees received.* Any fee received for a forward commitment shall be deducted from the purchase price of the securities as recorded by an insured institution, except that a fee received in cash for a commitment may be recognized as income over the life of the commitment, but in no event more rapidly than permitted by generally accepted accounting principles, if (1) the commitment term is longer than 30 days and (2) the commited purchase price is not in excess of the market price at the date of commitment. Fees received in connection with a commitment to purchase securities on a date less than 30 days after the date of commitment shall be deferred over a period of at least ten years.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp. p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-33343 Filed 11-27-78; 8:45 am]

[4110-07-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Records of Earnings

AGENCY: Social Security Administration, HEW.

ACTION: Proposed rulemaking.

SUMMARY: The Department of Health, Education, and Welfare (HEW) proposes to revise the regulations on earnings records to make them clearer and easier for the public to use. The Social Security Administration (SSA) keeps records of the earnings of persons who work in employment or self-employment covered under social security. The regulations deal mainly with the rules for correcting errors in these records. All the rules have been reorganized and rewritten in simpler, clearer language. There are no changes in policy.

DATES: Your comments will be considered if we receive them no later than January 29, 1979.

ADDRESSES: Send your written comments to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independent Avenue, SW, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

James MacDonald, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-7336.

SUPPLEMENTARY INFORMATION: These regulations, which carry out section 205(c) of the Social Security Act, are being revised as part of HEW's "Operation Common Sense". Operation Common Sense is a Department-wide initiative to review, simplify and reduce HEW's regulations.

The regulations on earnings records are in Subpart I of Part 404 in Title 20 of the Code of Federal Regulations. This subpart is an important part of the regulations issued for SSA's retirement, survivors', and disability program. SSA keeps a record of the earnings of all persons who work in employment or self-employment covered under social security. SSA uses these records of earnings to determine whether benefits are payable based on a person's earnings and the amount of those benefits. The regulations in this subpart deal mainly with the rules for correcting errors in the earnings records. In addition, the regulations explain the circumstances under which SSA's record of a person's earnings is conclusive evidence of earnings for social security purposes. The regulations also explain how to obtain a statement of earnings and how to request correction of the earnings record.

In rewriting this subpart we have made the following changes:

(1) We have simplified the title of the subpart.

(2) We have simplified in proposed § 404.802 those definitions currently used in the regulations. Also, we have added some new definitions to cover other terms that are frequently used.

(3) We have clarified in proposed § 404.810 the rule that a request to SSA for a statement of earnings must be in writing. The revised section also tells the public what information the request must contain, to help us locate the record of earnings, and that the request may be made at any social security office.

(4) We have clarified and combined in proposed § 404.820 the rules about filing a request for correction of an earnings record. We have clarified the rule that a request to correct an earnings record must be filed within the time limit for correcting the year in question unless an exception to the time limie applies. The proposed section (1) states the rule concerning who may sign a request for correction of a person's record of earnings, (2) explains where to file a request and what determines the date of filing, and (3) states the requirements for withdrawing a request and cancelling a withdrawal. Some of the rules about requests in the proposed section are the same rules that apply to applications for social security benefits. In the interest of shortening the regulations, these rules are not described in full in this section. Instead they are shown by reference to the appropriate sections on applications in Subpart G (as published with notice of proposed rulemaking in the FEDERAL REGISTER on September 1, 1978. See Vol. 43, No. 171, pages 39266 to 39274).

(5) We have moved to proposed § 404.822 all the rules about correcting records of earnings after the time limit ends. We have included in this section the rules about correcting an earnings records after the time limit ends based on an investigation that began before the time limit ended. We have clarified the current regulations to show that we will not make a downward (and therefore a normally adverse) correction of the earnings record in these cases unless we carried out the investigation as promptly as circumstances permitted.

(6) We have clarified what is meant by the statutory term "absence of an entry". Proposed § 404.822(e)(5) states that we may add wages paid to an employee by an employer for a period if no part of those wages are entered on SSA's record of the employee's earnings for that period. Wages previously entered on the record for the employee paid by that employer for that period, but later removed, are not considered entries.

(7) We have deleted current § 404.811 which states in detail the information that should be furnished with a request to revise an earnings record. In its place we have included a much shorter statement specifying the minimum information we need and indicating that any available evidence

can be included with the request (see proposed § 404.820(b)).

(8) We have deleted much of current § 404.812. The rule in current § 404.812 about who makes determinations of whether covered wages were paid for work in the employ of the United States is included in proposed § 404.823.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.804 Social Security Special Benefits for Persons Aged 72 and Over; 13.805 Social Security-Survivors' Insurance.)

Dated: October 19, 1978.

STANFORD G. ROSS,
Commissioner of Social Security.

Approved: November 17, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Subpart I of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart I—Records of Earnings

GENERAL PROVISIONS

Sec.
404.801 Introduction.
404.802 Definitions.
404.803 Conclusiveness of the record of your earnings.

OBTAINING EARNINGS INFORMATION

404.810 How to obtain a statement of the record of your earnings.

CORRECTING THE EARNINGS RECORD

404.820 Filing a request for correction of the record of your earnings.
404.821 Correction of the record of your earnings before the time limit ends.
404.822 Correction of the record of your earnings after the time limit ends.
404.823 Correction of the record of your earnings for work performed in the employ of the United States.

NOTICE OF REMOVAL OR REDUCTION OF AN ENTRY OF EARNINGS

404.830 Notice of removal or reduction of your wages.
404.831 Notice of removal or reduction of your self-employment income.

AUTHORITY: Secs. 205 and 1102 of the Social Security Act, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; sec. 5, Reorg. Plan No. 1 of 1953, 67 Stat. 18, 631 (42 U.S.C. 405, 1302).

Subpart I—Records of Earnings

GENERAL PROVISIONS

§ 404.801 Introduction.

The Social Security Administration (SSA) keeps a record of the earnings of all persons who work in employment or self-employment covered under social security. We use these earnings records to determine entitlement to and the amount of benefits that may be payable based on a person's earnings under the retirement, survivors', disability and health insurance program. This subpart tells what is evidence of earnings, how you can find out what the record of your earnings shows, and how and under what circumstances the record of your earnings may be changed to correct errors.

§ 404.802 Definitions

For the purpose of this subpart—

"Earnings" means wages and self-employment income earned by a person based on work covered by social security. (See Subpart K for the rules about what constitutes wages and self-employment income for benefit purposes.)

"Period" means a taxable year when referring to self-employment income. When referring to wages it means a calendar quarter if the wages were reported quarterly by your employer or a calendar year if the wages were reported annually by your employer.

"Record of earnings", "earnings record", or "record" means SSA's records of the amounts of wages and the amounts of self-employment income you received and the periods in which the wages and the self-employment income were received.

"Survivor" means your spouse, divorced wife, child, or parent, who survives you. "Survivor" also includes your surviving divorced wife who may be entitled to benefits as a surviving divorced mother.

"Tax return" means, as appropriate, a tax return of wages or a tax return of self-employment income (including information returns and other written statements filed with the Commissioner of Internal Revenue under chapter 2 or 21 of the Internal Revenue Code of 1954, as amended.

"Time limit" means a period of 3 years, 3 months, and 15 days after any year in which you received earnings. The period may be extended by the Soldiers and Sailors Relief Act of 1940 because of your military service or the military service of certain relatives who survive you (50 U.S.C. App. 501 and following sections). Where the time limit ends on a Federal nonwork day, we will extend it to the next Federal work day.

"Wage report" means a statement filed by a State under section 218 of the Social Security Act or related regulations. This statement includes wage amounts for which a State is billed and wage amounts for which credits or refunds are made to a State according to an agreement under section 218 of the Act.

"We", "us", or "our" means the Social Security Administration (SSA).

"Year" means a calendar year when referring to wages and a taxable year when referring to self-employment income.

"You" or "your" means any person for whom we maintain a record of earnings.

§ 404.803 Conclusiveness of the record of your earnings.

(a) *Generally.* For social security purposes, SSA records are evidence of the amounts of your earnings and the periods in which they were received.

(b) *Before time limit ends.* Before the time limit ends for a year, SSA records are evidence, but not conclusive evidence, of the amounts and periods of your earnings in that year.

(c) *After time limit ends.* After the time limit ends for a year—

(1) If SSA records show self-employment income or wages during that year, our records are conclusive evidence of your self-employment income in that year or the wages paid to you by the employer and the periods in which they were received unless one of the exceptions in § 404.822 applies;

(2) If SSA records show no entry of wages for an employer for a period in that year, our records are conclusive evidence that no wages were paid to you by that employer in that period unless one of the exceptions in § 404.822 applies; and

(3) If SSA records show no entry of self-employment income for that year, our records are conclusive evidence that you did not receive self-employment income in that year unless the exception in § 404.822(b)(2) (i) or (iii) applies.

OBTAINING EARNINGS INFORMATION

§ 404.810 How to obtain a statement of the record of your earnings.

You or your legal representative or, after your death, your survivor or the legal representative of your estate, may obtain a statement of your earnings as shown by SSA records by making a written request. The written request for a statement of your earnings may be made at any social security office. The request must be signed and contain your full name, address, social security number, and date of birth. The earnings statement will explain the right to request correction of your earnings record if you believe it is incorrect.

CORRECTING THE EARNINGS RECORDS

§ 404.820 Filing a request for correction of the record of your earnings.

(a) *When to file a request for correction.* You or your survivor must file a request for correction of the record of your earnings within the time limit for the year being questioned unless one of the exceptions in § 404.822 applies.

(b) *Contents of a request.* (1) A request for correction of an earnings

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record must be in writing and must state that the record is incorrect.

(2) A request must be signed by you or your survivor or by a person who may sign an application for benefits for you or for your survivor as described in § 404.612.

(3) A request should state the period being questioned.

(4) A request should describe, or have attached to it, any available evidence which shows that the record of earnings is incorrect.

(c) *Where to file a request.* A request may be filed at any social security office of with an SSA employee who is authorized to receive a request. A request may be filed with the Veterans Administration Regional Office in the Philippines or with any U.S. Foreign Service Office.

(d) *When a request is considered filed.* A request is considered filed on the day it is received by any of our offices, by an authorized SSA employee, by the Veterans Administration Regional Office in the Philippines, or by any U.S. Foreign Service Office. If using the date we receive a mailed request disadvantages the requester, we will use the date the request was mailed to us as shown by a U.S. postmark. If the postmark is unreadable or there is no postmark, we will consider other evidence of when the request was mailed.

(e) *Withdrawal of a request for correction.* A request for correction of SSA records of your earnings may be withdrawn as described in § 404.640.

(f) *Cancellation of a request to withdraw.* A request to withdraw a request for correction of SSA records of your earnings may be cancelled as described in § 404.641.

(g) *Determinations on requests.* When we receive a request described in this section, we will make a determination to grant or deny the request. If we deny the request, this determination may be appealed under the provisions of Subpart J of this part.

§ 404.821 Correction of the record of your earnings before the time limit ends.

Before the time limit ends for any year, we will correct the record of your earnings for any year for any reason if satisfactory evidence shows SSA records are incorrect. We may correct the record as the result of a request filed under § 404.820 or we may correct it on our own.

§ 404.822 Correction of the record of your earnings after the time limit ends.

(a) *Generally.* After the time limit for any year ends, we may correct the record of your earnings for that year if satisfactory evidence shows SSA records are incorrect and any of the circumstances in paragraphs (b) through (e) of this section applies.

(b) *Correcting SSA records to agree with tax returns.* We will correct SSA records to agree with a tax return of wages or self-employment income to the extent that the amount of earnings shown in the return is correct.

(1) *Tax returns of wages.* We may correct the earnings record to agree with a tax return of wages or with a wage report of a State.

(2) *Tax returns of self-employment income.*—(i) *Return filed before the time limit ended.* We may correct the earnings record to agree with a tax return of self-employment income filed before the end of the time limit.

(ii) *Return filed after time limit ended.* We may remove or reduce, but not increase, the amount of self-employment income entered on the earnings record to agree with a tax return of self-employment income filed after the time limit ends.

(iii) *Self-employment income entered in place of erroneously entered wages.* We may enter self-employment income for any year up to an amount erroneously entered in SSA records as wages but which was later removed from the records. However, we may enter self-employment income under this paragraph only if—

(A) An amended tax return is filed before the time limit ends for the year in which the erroneously entered wages were removed; or

(B) Net earnings from self-employment, which are not already entered in the record of your earnings, were included in a tax return filed before the end of the time limit for the year in which the erroneously entered wages were removed.

(c) *Written request for correction or application for benefits filed before the time limit ends*—(1) *Written request for correction.* We may correct an earnings record if you or your survivor files a request for correction before the time limit for that year ends. The request must state that the earnings record for that year is incorrect. However, we may not correct the record under this paragraph after our determination on the request becomes final.

(2) *Application for benefits.* We may correct an earnings record if an application is filed for monthly benefits or for a lump-sum death payment before the time limit for that year ends. However, we may not correct the record under this paragraph after our determination on the application becomes final.

(3) See Subpart J for the rules on the finality of determinations.

(d) *Transfer of wages to or from the Railroad Retirement Board.*—(1) *Wages erroneously reported.* We may transfer to or from the records of the Railroad Retirement Board earnings which were erroneously reported to us or to the Railroad Retirement Board.

(2) *Earnings certified by Railroad Retirement Board.* We may enter earnings for railroad work under Subpart O if the earnings are certified by the Railroad Retirement Board.

(e) *Other circumstances permitting correction.*—(1) *Investigation started before time limit ends.* We may correct an earnings record if the correction is made as the result of an investigation started before, but completed after the time limit ends. An investigation is started when we take an affirmative step leading to a decision on a question about the earnings record. for example, an investigation is started when one SSA unit asks another unit to obtain additional information or evidence. We will remove or reduce earnings on the record under this paragraph only if we carried out the investigation as promptly as circumstances permitted.

(2) *Error apparent on face of records.* We may correct an earnings record to correct errors, such as mechanical or clerical errors, which can be identified and corrected without going beyond any of the pertinent SSA records.

(3) *Fraud.* We may remove any entry which was entered on the earnings record as the result of fraud.

(4) *Entries for wrong person or period.* We may correct errors in SSA records resulting from earnings being entered for the wrong person or period.

(5) *No entry of wages on SSA records.* We may enter wages paid to you by an employer for a period if no part of those wages are entered on SSA records. Wages previously entered on SSA records for that employer and that period but later removed are not entries on SSA records.

(6) *Wage payments under a statute.* We may enter and allocate wages awarded to you for a period as the result of a determination or agreement approved by a court or administrative agency that enforces Federal or State statutes protecting your right to employment or wages.

§ 404.823 Correction of the record of your earnings for work performed in the employ of the United States.

We may not correct the record of your earnings under § 404.821 or § 404.822 to remove, reduce, or enter earnings for work performed in the employ of the United States, except—

(a) To make the record agree with a tax return filed under section 3122 of the Internal Revenue code (26 U.S.C. 3122); or

(b) To make the record agree with a certification by the head of the Federal agency or instrumentality or his or her agent. A Federal instrumentality for these purposes includes a non-appropriated fund activity of the armed forces or Coast Guard.

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NOTICE OF REMOVAL OR REDUCTION OF AN ENTRY OF EARNINGS

§ 404.830 Notice of removal or reduction of your wages.

If we remove or reduce an amount of wages entered on the record of your earnings, we will notify you of this correction if we previously notified you of the amount of your wages for the period involved. We will notify your survivor if we previously notified you or your survivor of the amount of your earnings for the period involved.

§ 404.831 Notice of removal or reduction of your self-employment income.

If we remove or reduce an amount of self-employment income entered on the record of your earnings, we will notify you of this correction. We will notify your survivor if we previously notified you or your survivor of the amount of your earnings for the period involved.

[FR Doc. 78-33191 filed 11-27-78; 8:45 am]

[4110-03-M]

Food and Drug Administration

[21 CFR Part 337]

[Docket No. 78N-0036]

EMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Tentative Final Order

In FR Doc. 78-24841 in the issue of Tuesday, September 5, 1978 on page 39546 in the 3d column, in § 337.50(d), the 5th line should read, "[Precau-]-tions": "Activated charcoal will adsorb . . . ".

[4310-10-M]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

[36 CFR Part 800]

PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Extension of comment period and Notice of Public Briefing

AGENCY: Advisory council on Historic Preservation.

ACTION: Extension of comment period and notice of public briefing.

SUMMARY: This document extends the comment period on proposed amendments and supplementary information to the Council's current regulations and also notifies the public of a briefing on the proposed amendments. The comment period has been extended in response to requests from members of the Council and others.

DATES: Written comments are due by December 29, 1978. The Public briefing will be held on December 11, 1978, beginning at 9:30 a.m.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

John Fowler, Director, Office of Intergovernmental Programs and Planning, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005, 202-254-3495.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER, October 30, 1978, (43 FR 50650), the Council published proposed amendments and supplementary guidelines for public comment. [NOTE.—This document was inadvertently published in the "Rules and Regulations" section of the FEDERAL REGISTER. The document should have appeared in the "Proposed Rules" section.] Interested persons were invited to submit comments on the proposed amendments and supplementary guidelines by November 29, 1978.

A number of council member agencies and interested individuals and organizations have requested an extension of the deadline for submission of comments. The Executive Director has decided it would be appropriate to extend the commenting period in order to allow sufficient time for all interested parties to submit comments. Therefore, the comment period is being extended an additional 30 days until December 29, 1978.

Additionally, the staff of the Council will conduct an informal briefing for interested agencies, organizations, and individuals on the proposed amendments and supplementary guidelines on Monday, December 11, 1978. The briefing will be held in Room 2008 of the New Executive Office Building, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. beginning at 9:30 a.m. The briefing will last approximately two hours. Council staff will review the proposed amendments and supplementary guidelines and will answer questions. Persons wishing to attend the briefing and who lack Federal identification cards must notify the Council by December 8, 1978 at 202-254-3495 that they will be attending.

Dated: November 22, 1978.

ROBER R. GARVEY, Jr.,
Executive Director.

[FR Doc. 78-33316 Filed 11-27-78; 8:45 am]

[3510-16-M]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Parts 1 and 3]

PATENT APPLICATION OATH OR DECLARATION REQUIREMENTS

Proposed Rulemaking

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Patent and Trademark Office proposes amendment of the rules of practice and also amendment of certain forms for patent cases to specify certain additional requirements of an oath or declaration for a patent application. In view of various court decisions interpreting the patent law, this proposal would clearly indicate matter which must be disclosed by applicants for the proper examination of patent applications.

DATES: Written comments by February 7, 1979. Hearing: February 7, 1979, beginning at 1:00 p.m.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The hearing will be held in Room 11C-24 of Building 3, Crystal Plaza at 2021 Jefferson Davis Highway, Arlington, Virginia. Written comments and transcript of hearing will be available for public inspection in Room 11E-10 of Building 3, Crystal Plaza, at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis O. Maassel by telephone at (703) 557-3070, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is considering amendments to the rules of practice and forms for patent cases (1) to require acknowledgment by the inventor in the oath or declaration of the best mode disclosure requirement of Section 112 of Title 35, United States Code and (2) to more clearly specify the requirements of an oath or declaration accompanying a continuation-in-part application.

The reasons for the change are set forth in the following discussion.

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BEST MODE ACKNOWLEDGEMENT

The addition of an acknowledgment of the requirement to disclose the best mode known to the applicant at the time of filing in the oath or declaration seems desirable in view of the frequency of assertions in litigation of the failure of the patentee to have disclosed the best mode. A number of these assertions have been successful in recent years. See *Flick-Reedy Corp.* v. *Hydro-Line Manufacturing Co.*, 351 F.2d 546, 146 USPQ 694 (CA 7 1965), cert. denied, 383 U.S. 958, 148 USPQ 771 (1966); *Indiana General Corp.* v. *Krystinel Corp.*, 297 F. Supp. 427, 161 USPQ 82 (S.D.N.Y. 1969), affirmed, 421 F.2d 1033, 164 USPQ 321 (CA 2 1970); *Dale Electronics, Inc.* v. *R.C.L. Electronics, Inc.*, 488 F.2d 382, 180 USPQ 235 (CA 1 1973); *Union Carbide Corp.* v. *Borg-Warner Corp.*, 550 F. 2d 355, 193 USPQ 1 (CA 6 1977); *Reynolds Metals Co.* v. *Acorn Building Components Inc.* 548 F.2d 155, 163, 192 USPQ 737 (CA 6 1977).

The proposed changes in 37 CFR 1.65 and in the related forms and sections are not intended to add to any presently defined requirement for disclosing best mode under 35 U.S.C. 112 or the duty of disclosure under 37 CFR 1.56. The changes are not to be interpreted to create any new requirement to include an up-dated best mode of carrying out an invention, as better modes are discovered after filing an application or at the time of or after filing a continuation, divisional or continuation-in-part application. In regard to existing best mode requirements, see *Sylgab Steel & Wire Corp.* v. *Imoco-Gateway Corp.*, 357 F. Supp. 657, 178 USPQ 22 (N.D. Ill. 1973); *H. K. Porter Co., Inc.* v. *Gates Rubber Co.*, 187 USPQ 692, 708, (D. Colo. 1975).

The acknowledgment should serve as better notice and as a reminder of the best mode requirement of the statute and result in greater patent validity.

For these reasons, § 1.65 is proposed to be amended by the addition of a requirement to acknowledge the existing requirement for a disclosure of the best mode. Corresponding changes are proposed in the oath and declaration forms Part 3 of 37 CFR. Examples of the proposed changes in the continuation-in-part oath and declaration forms are set forth below. If the proposed addition of the acknowledgment of the best mode requirement language to the continuation-in-part forms is adopted, the same change will be made in the other relevant oath and declaration forms.

CONTINUATION-IN-PART OATH OR DECLARATION

Any claim in a continuation-in-part application which is directed *solely* to subject matter adequately disclosed under 35 U.S.C. 112 in the parent application is entitled to the benefit of the filing date of the parent application. However, if a claim in a continuation-in-part application recites a feature which was not disclosed or adequately supported by a proper disclosure under 35 U.S.C. 112 in the parent application, but which was first introduced or first adequately supported in the continuation-in-part application, such a claim is entitled only to the benefit of the filing date of the continuation-in-part application, *In re von Langenhoven*, 458 F.2d 132, at 136, 173 USPQ 426, at 429, (CCPA 1972) and *Chromalloy American Corp.* v. *Alloy Surfaces Co., Inc.*, 339 F. Supp. 859, at 874, 173 USPQ 295, at 306, (D. Del. 1972).

An illustration of the effects of these and other cases is as follows: An application is filed which discloses the combination AB. Within the priority year a foreign application to the combination AB is filed by applicant and later published. More than one year after the foreign publication, but still during the pendency of the parent United States application, a second United States application is filed by the same inventor which discloses and claims the combination AC and is therefore designated a continuation-in-part application.

Upon examination of the continuation-in-part application, the examiner concludes that C is in fact a known element in the art and that it would be obvious to substitute C for B in the combination AB.

A claim drawn to AC finds no support in the parent case and therefore carries an effective date only as early as the filing of the continuation-in-part application. Therefore, any publication, public use or sale in this country of AB more than one year prior to the filing of the continuation-in-part application, or the grant of a foreign patent or inventor's certificate based on a foreign application filed more than twelve months prior to and issued before the filing of the continuation-in-part application, is prior art under 35 U.S.C. 103 by reason of the provisions of 35 U.S.C. 102 (b) or (d) and, together with a showing that C is old, may provide basis for rejection of a claim to AC for obviousness.

By way of further illustration, if the claims of a continuation-in-part application "read on" such published, publicly used or sold or patented subject matter (e.g., as in a genus-species relationship) a rejection under 35 U.S.C. 102 would be proper. Cases of interest in this regard are *In re Steenbock*, 83 F. 2d 912, 30 USPQ 45 (CCPA 1936); *In re Ruscetta*, 255 F. 2d 687, 118 USPQ 101 (CCPA 1958); *In re Hafner*, 410 F. 2d 1403, 161 USPQ 783 (CCPA 1969); *In re Lukach*, 442 F. 2d 967, 169 USPQ 795 (CCPA 1971); and *Ex parte Hageman*, 179 USPQ 747 (Bd. App. 1971).

In addition, knowledge, use or patenting by another before the applicant's invention of additional subject matter claimed in the continuation-in-part application would also constitute prior art although such activity may not necessarily be known to the applicant.

In view of the above, § 1.65 is proposed to be amended by the addition of a subsection (d) which would require the applicant in a continuation-in-part application, which both discloses and claims subject matter in addition to that disclosed in the prior copending application, to make an oath or declaration as of the filing date of the continuation-in-part application. Corresponding changes are proposed in the oath and declaration forms 3.18 and 3.18a for continuation-in-part applications in Part 3 of 37 CFR.

It is recognized that all of the information called for in the proposed oath and declaration would not be required in some cases, such as where there is additional disclosure in the continuation-in-part application but where all claims are directed to the common subject matter disclosed in the parent application. In such case, proposed § 1.65(d) does not require the new statements in the proposed forms and the applicant may modify the forms, if desired, for use in such case. However, the use of the proposed forms in these cases would act as a safeguard for applicant. For example, if applicant later amended his claims to recite some of the additional disclosure, a new oath or declaration would be required. Similarly, the examiner might disagree with applicant's conclusion that additional subject matter is not being claimed in the continuation-in-part application. For this reason and the possibility that confusion might be generated by multiple forms, no specific forms are proposed for use in the case where all of the claims in the continuation-in-part application may be entitled to the filing date of the parent application.

Where activity has occurred in connection with an invention, but is not believed to constitute prior art within the meaning of Section 102 of Title 35, United States Code (such as a prior public use or sale of an experimental nature more than one year before the date of the application), such activity may be referred to in the CIP oath or declaration with any qualifications about its prior art status deemed warranted, or it need not be mentioned in the oath or declaration at all. If such activity is not mentioned in the CIP oath or declaration but may be material to the examination under 37 CFR 1.56, it, of course, must be called to the Office's attention in a separate paper.

Section 1.65 is also proposed to be amended in a manner to refer to both genders.

Notice is hereby given that, pursuant to the authority contained in Section 6 of the Act of July 19, 1952 as amended (66 Stat. 793; 85 Stat. 364; 88 Stat. 1949; 35 U.S.C. 6), the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending §§ 1.65, 3.18 and 3.18(a).

The Patent and Trademark Office has determined that these rule changes have no potential major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044.

The proposed forms are examples of forms which would meet the requirements of proposed §1.65(d). The forms could be modified by applicant to handle specific situations.

In the texts of the following proposed amendments to §1.65, additions are indicated by arrows and deletions are indicated by brackets. The changes to §3.18 and 3.18(a) are not noted in this manner because of numerous changes in wording. It is proposed to amend 37 CFR Chapter I, as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. By amending § 1.65 by revising paragraph (a) and adding a new paragraph (d) to read as follows:

§1.65 Oath or declaration.

(a)(1) The applicant, if the inventor, must state that [he] ► the applicant ◄ verily believes himself ► or herself ◄ to be the original and first inventor or discoverer of the process, machine, manufacture, composition of matter, or improvement thereof, for which [he solicits] a patent ► is solicited ◄; that [he] ► the applicant ◄ does not know and does not believe that the same was ever known or used in the United States before [his] ► the applicant's ◄ invention or discovery thereof, and shall state of what country [he] ► the applicant ◄ is a citizen and where [he] ► the applicant ◄ resides and whether [he] ► the applicant ◄ is a sole or joint inventor of the invention claimed in [his] ► the ◄ application. In every original application the applicant must distinctly state that to the best of [his] ► the applicant's ◄ knowledge and belief the invention has not been in public use or on sale in the United States more than one year prior to [his] ► the ◄ application or patented or described in any printed publication in any country before [his] ► the applicant's ◄ invention or more than one year prior to [his] ► the ◄ application, or patented or made the subject of an inventor's certificate in any foreign country prior to the date of [his] ► the ◄ application on an application filed by [himself] ► the applicant ◄ or [his] ► the applicant's ◄ legal representatives or assigns more than twelve months prior to the application in this country. ► The applicant must acknowledge the requirement of section 112 of Title 35 United States Code to disclose the best mode contemplated by the inventor of carrying out the invention. ◄ [He] ► The applicant ◄ must ► also ◄ acknowledge [a] ► the ◄ duty to disclose information [he] ► the applicant ◄ is aware of which is material to the examination of the application. [He] ► The applicant ◄ shall state whether or not any application for patent or inventor's certificate on the same invention has been filed in any foreign country, either by [himself] ► the applicant ◄, or [his] ► the applicant's ◄ legal representatives or assigns. If any such application has been filed, the applicant shall name the country in which the earliest such application was filed, and shall give the day, month, and year of its filing; [he] ► the applicant ◄ shall also identify by country and by day, month, and year of filing, every such foreign application filed more than twelve months before the filing of the application in this country.

(2) This statement (i) must be subscribed to by the applicant, and (ii) must either (*a*) be sworn to (or affirmed) as provided in § 1.66, or (*b*) include the personal declaration of the applicant as prescribed in § 1.68. See § 1.153 for design cases and § 1.162 for plant cases.

* * * * *

► (d) An applicant in a countinuation-in-part application, filed under the conditions specified in 35 U.S.C. 120, which discloses and claims subject matter in addition to that disclosed in the prior copending application, must identify the prior copending application and make an oath or declaration which includes (1) the statements required by paragraph (a) of this section, or a list of the exceptions to the statements, as to the common subject matter and (2) the statements required by paragraph (a) of this section as to the non-common subject matter. The statements must be made in reference to the filing date of the continuation-in-part application in both cases (1) and (2).◄

PART 3—FORMS FOR PATENT CASES

2. By revising § 3.18 to read as follows:

§ 3.18 Oath in copending application containing additional subject matter.

(This form of oath may be used with an application disclosing additional subject matter to that disclosed in a prior copending application of the same inventor.)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I depose and say that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled:———— described and claimed in the attached specification.

That I acknowledge the requirement of section 112 of Title 35 United States Code to disclose the best mode contemplated by me for carrying out my invention and also acknowledge my duty to disclose information of which I am aware which is material to the examination of this application.

This application discloses subject matter in addition to that disclosed in my or our earlier filed pending application(s), Serial No. ———, filed ————.

As to the subject matter of this application which is common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, except as follows: ———— that the same was not in public use or on sale in the United States of America more than one year prior to this application, except as follows: ———, that said common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, except as follows: ————; that as to applications for patent or inventor's certificate on said common subject matter filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns,

[–] no such applications have been filed

[–] such applications have been filed, the filing date and country in which the earliest such application was filed is ————, and that the filing date and country of filing of every other such foreign application filed more than twelve months prior to the filing of this application is as follows: ————.

As to the additional subject matter of this application which is not common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to the date of this application, and that said non-common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the date of this application; that as to applications for patent or inventor's certificate on said non-common subject matter filed in any country foreign to the United States of America

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prior to this application by me or my legal representatives or assigns.

[-] no such applications have been filed

[-] such applications have been filed, the filing date and country in which the earliest such application was filed is ————, and that the filing dates and country of filing of every other such foreign application filed more than twelve months prior to the filing of this application is as follows: ————.

I hereby appoint the following attorney(s) and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: ——— Registration Number ———

Telephone No. ———.

Address all correspondence to ————.

Inventor's full name———————————

Inventor's signature———————————

Date ———————————

Residence ———————————

Citizenship ———————————

Post Office Address ———————————

Inventor's full name———————————

Inventor's signature———————————

Date ———————————

Residence ———————————

Citizenship ———————————

Post Office Address ———————————

————————ss:

Sworn to and subscribed before me this —— day of ————, 19——.

.....

(Signature of notary or officer)

.....

(Official character)

3. By revising § 3.18a to read as follows:

§ 3.18a Declaration in copending application containing additional subject matter.

(§§ 1.65 and 1.68 provide for a declaration in lieu of an oath in certain instances.)

(This form of declaration may be used with an application disclosing additional subject matter to that disclosed in a prior copending application of the same inventor.)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I hereby declare that I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the invention entitled: ———— described and claimed in the attached specification.

That I acknowledge the requirement of section 112 of Title 35 United States Code to disclose the best mode contemplated by me for carrying out my invention and also acknowledge my duty to disclose information of which I am aware which is material to the examination of this application.

This application discloses subject matter in addition to that disclosed in my or our earlier filed pending application(s), Serial No. ———, filed ————.

As to the subject matter of this application which is common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, except as follows: ————, that the same was not in public use or on sale in the United States of America more than one year prior to this application, except as follows: ————, that said common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, except as follows: ————; that as to applications for patent or inventor's certificate on said common subject matter filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns,

[ ] no such applications have been filed

[ ] such applications have been filed, the filing date and country in which the earliest such application was filed to is ————, and that the filing date and country of filing of every other such foreign application filed more than twelve months prior to the filing of this application is as follows: ————.

As to the additional subject matter of this application which is not common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to the date of this application, and that said non-common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve monthe prior to the date of this application; that as to applications for patent or inventor's certificate on said non-common subject matter filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns,

[ ] no such applications have been filed,

[ ] such applications have been filed, the filing date and country in which the earliest such application was filed is ————, and that the filing dates and country of filing of every other such foreign application filed more than twelve months prior to the filing of this application is as follows: ————.

I hereby appoint the following attorney(s) and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: ———— Regis. No. ——— Telephone No. ———.

Address all correspondence to ————.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's full name ———————— ————

Inventor's signature ———————— Date

Residence ———————— ————

Citizenship ———————— ————

Post Office Address ————————

Dated: October 10, 1978.

DONALD W. BANNER,
Commissioner of Patents and Trademarks.

Approved: November 14, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-33230 Filed 11-27-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

[38 CFR Part 3]

VETERANS BENEFITS

Increased Benefits

AGENCY: Veterans Administration.

ACTION: Proposed rulemaking.

SUMMARY: The Veterans Administration is amending its regulations to implement the Veterans' Disability Compensation and Survivors' Benefits Act of 1978, enacted October 18, 1978. This law (1) increases the rates of disability compensation and dependency and indemnity compensation by approximately 7.3 percent, (2) reduces the service-connected degree of disability evaluation needed to be eligible to receive additional compensation for dependents from 50 percent to 30 percent, (3) increases the Medal of Honor pension from $100 to $200 monthly, (4) provides increased compensation for certain veterans who have suffered service-connected loss or loss of use of three extremities, (5) authorizes an increase in the rate of dependency and indemnity compensation payable to a veteran's surviving spouse who is housebound, (6) increases the compensation payable to certain veterans who have suffered service-connected loss or loss of use of an extremity and non-service-connected loss or loss of use of the paired extremity, (7) increases the clothing allowance from $203 to $218, (8) establishes a new monthly aid and attendance rate of $900 for certain veterans catastrophically disabled from service-connected disability, (9) authorizes payment of dependency and indemnity compensation rates in certain cases when the cause of the veteran's death is non-service-connected, (10) increases from $250 to $300 the burial allowance payable when the cause of a veteran's death is non-service-connected and from $800 to $1,100 (or if greater, the amount payable for the funeral and burial expenses of a

Federal employee who dies as a result of an injury sustained in the performance of duty) the burial allowance payable when the cause of a veteran's death is service-connected, (11) increases the automobile allowance from $3,300 to $3,800, and (12) exempts from taxation the amount of military retired pay equivalent to the amount of compensation or pension a former service member is found entitled to receive from date of the compensation or pension entitlement determination to date of waiver of retired pay provided waiver of retired pay is filed within 1 year after notification of Veterans Administration entitlement. In addition to changes implementing the new law, certain terms (e.g. "widow or widower" to "surviving spouse") have been changed to eliminate gender references.

DATES: Comments must be received on or before December 28, 1978. It is proposed to make the increase in the Medal of Honor pension effective January 1, 1979, and all other changes effective October 1, 1978, as these are the effective dates specified in the law, designated as Pub. L. 95-479.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle, 202-389-3005.

SUPPLEMENTAL INFORMATION: The regulation changes needed to implement the various rate increases authorized by the Veterans' Disability Compensation and Survivors' Benefits Act of 1978, Pub. L. 95-479, require no explanation since the only changes made are substitution of the new rates for the old ones. The reduction in degree of service-connected disability evaluation from 50 percent to 30 percent for a veteran to be eligible to receive additional compensation for dependents is also self explanatory.

Explanatory comment is furnished for the changes implementing increased compensation for loss of three extremities, increased dependency and indemnity compensation for surviving spouses who are housebound, increased compensation for loss of paired extremities, payment of dependency and indemnity compensation rates in certain cases based on a non-service-connected cause of death, the military retired pay tax exemption, and the new aid and attendance allowance for catastrophically disabled veterans.

INCREASED COMPENSATION FOR LOSS OF THREE EXTREMITIES

Compensation in excess of the monthly amount of compensation payable for total disability ($809) is authorized under 38 U.S.C. 314 (l) through (o) for certain seriously disabled veterans. For example, under Section 314(l) a veteran who has suffered service-connected anatomical loss or loss of use of both hands is entitled to $1,005 monthly. Under Section 314(m) a veteran who has suffered service-connected anatomical loss or loss of use of two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, is entitled to $1,107 monthly.

Under Section 314(p) a veteran whose service-connected disabilities exceed the requirements for a rate prescribed under Sections 314 (l) through (n) but are not severe enough to qualify for the next higher rate, may receive an intermediate rate subject to a monthly maximum of $1,408. For example, if a veteran entitled under Section 314(l) for loss of use of both hands has also suffered permanent service-connected disability independently ratable at 50 percent or more, he or she would be entitled to the intermediate rate between Section 314(l) and Section 314(m) under 38 CFR 3.350(f)(3). (The intermediate rates and intermediate rate criteria are provided by regulation. See 38 CFR 3.350(f)). The Section 314(l) rate is $1,005 and the Section 314(m) rate is $1,107. The intermediate rate between them is $1,056.

Pub. L. 95-479 amends 38 U.S.C. 314(p) to provide that a veteran who has suffered loss or loss of use of three extremities shall be entitled to the next higher rate (either statutory or intermediate) not to exceed $1,408. In applying this provision an eligible veteran will first be rated without regard to this provision and then, pursuant to this provision, will have his or her compensation rate increased to the next higher rate without any loss of entitlement under 38 U.S.C. 314(k). (Under 38 U.S.C. 314(k) special monthly compensation of $56 is payable for loss or loss of use of certain extremities and organs).

The following example illustrates application of the three extremity provision of Pub. L. 95-479.

A veteran has suffered service-connected loss or loss of use of two hands and one foot. Loss or loss of use of one hand and one foot entitles the veteran to compensation at the rate authorized by 38 U.S.C. 314(l). Loss of the other hand, which is at least 60 percent disabling affords entitlement to the next higher rate under 38 CFR 3.350(f)(3) which is the intermediate rate between 38 U.S.C. 314(l) and 314(m). Application of the three extremity provision increases the veteran's compensation to the rate provided under 38 U.S.C. 314(m).

The addition of § 3.350(f)(5) implements this change.

HOUSEBOUND RATE FOR SURVIVING SPOUSES IN RECEIPT OF DEPENDENCY AND INDEMNITY COMPENSATION

Prior to the enactment of Pub. L. 95-479 housebound benefits were provided only to veterans in receipt of disability compensation or pension. Pub. L. 95-479 amends 38 U.S.C. 411 to provide that the monthly dependency and indemnity compensation payable to a surviving spouse shall be increased by $45 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the higher aid and attendance allowance. The housebound requirement is met when the surviving spouse is substantially confined to his or her home or if institutionalized, the ward or clinical areas.

The amendments to §§ 3.5 and 3.351 implement this benefit.

INCREASED COMPENSATION FOR LOSS OF PAIRED EXTREMITIES

Pub. L. 95-479 authorizes increased compensation of $175 monthy to certain veterans who have suffered service-connected loss or loss of use of one extremity and non-service-connected loss or loss of use of the paired extremity. To qualify for the increase the service-connected extremity loss must be rated at 40 percent or more disabling and the non-service-connected extremity loss must also be 40 percent or more disabling under the same rating criteria that would apply if the non-service-connected loss was service connected.

This increase is limited to veterans in receipt of compensation not in excess of the 90 percent rate (38 U.S.C. 314(i)) and who are also receiving special monthy compensation under 38 U.S.C. 314(k). In addition, this increase is not payable after the veteran receives any money or property in settlement of a cause of action for the non-service-connected extremity loss until the amount of the increase that would have been payable but for this provision equals the amount of money and the fair market value of any property received in settlement of the cause of action. Social Security benefits and Workmen's Compensation are not subject to recoupment under this provision.

The addition of § 3.384 implements the paired extremity provision.

PAYMENT OF DIC RATES BASED ON NON-SERVICE-CONNECTED CAUSE OF DEATH

Dependency and indemnity compensation (DIC) authorized by chapter 13, of title 38, United States Code, is a

monthly payment made by the Veterans Administration based on a service-connected cause of death to deceased veteran's surviving spouse or children and parents. The rates of DIC payable to a veteran's surviving spouse and children are greater than the rates of death pension payable to the surviving spouse and children of a veteran who dies of non-service-connected causes. In addition, unlike death pension, DIC is paid to a surviving spouse and children without regard to their income or net worth.

Pub. L. 95-479 provides that the surviving spouse and children of certain veterans who die from non-service-connected causes may receive DIC rates in the same manner as if cause of death is service connected. No benefits, however, are payable if the cause of the veteran's death is due to his or her own willful misconduct. For a spouse or child to receive benefits in the same manner as if cause of death is service connected the veteran must have been receiving (or but for the receipt of military retired pay was entitled to receive) compensation at time of death for service-connected disablement that either was continuously rated totally disabling for a period of 10 or more years immediately preceding death, or was continously rated totally disabling from date or discharge from active duty until death for a minimum period of 5 years. Both schedular and unemployability ratings meet the total disability rating requirment. A surviving spouse must have been married to the veteran for not less than 2 years immediately preceding the veteran's death to qualify for benefits in the same manner as if the veteran's death is service connected.

No benefits are payable to a surviving spouse or child after the surviving spouse or child receives any money or property in settlement of a cause of action for the veteran's death until after the amount of the benefit that would be payable but for this provision equals the amount of money and the fair market value of any property received in settlement of the cause of action. Social Security benefits and Workmen's Compensation are not subject to recoupment under this provision since offsets are limited to recoveries from judicial proceedings or settlements of causes of action for damages.

The addition of § 3.22 and amendment of § 3.54 implement this new benefit.

Retired Pay Taxation Exemption

Veterans Administration compensation and pension is not subject to taxation. Military retired pay based on longevity is taxable.

Many persons entitled to military retired pay are also entitled to Veterans Administration compensation as a result of service-connected disability. The law does not permit concurrent payment of these benefits. A military retiree must, therefore, waive an equivalent portion of retired pay to receive Veterans Administration compensation (or all of his or her retired pay if the amount of compensation payable exceeds the amount of military retired pay payable).

When the Veterans Administration receives a claim from a person in receipt of military retired pay, benefits are not awarded until the date waiver of retired pay is effective. Considering the time to develop the claim and receive and process the waiver, several months can elapse between the date a person is first potentially entitled to Veterans Administration benefits and the date Veterans Administration benefits are actually received by the claimant.

The Internal Revenue Service had at one time taken the position that a person could not exclude from taxable military retired pay income the amount of Veterans Administration benefits that would have been paid but for the delay in receipt of a waiver from date of entitlement until date waiver is effective. Pub. L. 95-479 now permits this exclusion from taxable income provided waiver is filed within 1 year from date of Veterans Administration entitlement notification.

The Veterans Administration has no jurisdiction over tax law and, therefore, no Veterans Administration regulation changes are necessary to implement this provision of Pub. L. 95-479.

High Level of Care Aid and Attendance Allowance

Pub. L. 95-479 provides that if a veteran entitled to the regular aid and attendance allowance under 38 U.S.C. 314(r) is in need of a higher level of care and the Veterans Administration finds that but for the provision of such care the veteran would require hospitalization, nursing home care, or other residential institutional care, the veteran shall receive $900 per month allowance in lieu of the regular aid and attendance allowance. Under this provision, a need for a higher level of care would be considered a need for personal health care services provided on a daily basis in the veteran's home by a person who either is licensed to provide such services or who the Veterans Administration finds is providing such services under the regular supervision of a licensed health care professional.

The factors considered in determining whether a disabled veteran is in the need or regular aid and attendance under current law are specified in 38 CFR 3.352(a). They include, among others, the inability to dress or undress oneself; keep ordinarily clean and presentable; feed oneself; attend to the wants of nature; or to protect oneself from the hazards or dangers incident to one's daily environment. Individuals providing assistance to a veteran for these necessities ordinarily need not possess any specific health care skills.

It is recognized, however, that the health care needs of certain of the more seriously disabled veterans are such that higher levels of skill are required of those giving them aid and attendance, and that, in such cases, the costs of necessary aid and attendance are extraordinarily high. Therefore, the higher aid and attendance allowance will be paid to those whose need for such assistance extends beyond that for which the current rate is adequate. It is intended that entitlement to the higher rate be limited to those who, in addition to meeting the requirements for aid and attendance under 38 CFR 3.352(a), have a demonstrable need for and regularly receive the services of a licensed health care professional (such as a doctor of medicine or osteopathy, a registered or licensed practical nurse, or a physical thereapist) or an individual performing skilled health care services under the regular supervision of a licensed professional, and who, but for the assistance of such person, would be institutionalized.

Examples of qualifying skilled health care services for this purpose include, but are not limited to, physical therapy, administration of injections, placement of indwelling catheters, and the changing of sterile dressing, or like function which are required on a regular basis and which require professional health care training or the regular supervision of a trained health care professional to perform. The need for such care is to be determined by a physician employed by the Veterans Administration, or in areas where no such physician is available, after examination by a physician retained under a contract or fee arrangement.

Ordinarily, the laws governing veterans' benefits are liberally construed but in this instance it is the expressed will of Congress that this provision be strictly construed by the Veterans Administration and that the higher allowance be granted only when the need is clearly established and the amount of services required by the veteran each day is substantial.

The amendment of §§ 3.350 and 3.552 implements the new high level of care aid and attendance allowance.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 8, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 20, 1978.

By direction of the Administrator.

JOHN J. LEFFLER,
Associate Deputy Administrator.

§ 3.3 [Amended]

1. Section 3.3 is amended by deleting the words "widow, widower" and inserting "surviving spouse" in the first and second sentences of paragraph (d)(3).

2. Section 3.4 is amended as follows:

(a) By deleting the words, "widow, widower" and inserting "surviving spouse".

(1) In the first sentence of paragraph (a);

(2) In the introductory portion of paragraph (c) preceding subparagraph (1).

(b) By revising paragraph (b)(2) to read as follows:

§ 3.4 Compensation.

• • • • •

(b) *Disability compensation.* • • •

(2) An additional amount of compensation may be payable for a spouse, child, and/or dependent parent where a veteran is entitled to compensation based on disability evaluated as 30 percentum of more disabling. (38 U.S.C. 315)

• • • • •

3. In § 3.5, paragraph (a), the introductory portion of paragraph (b) preceding subparagraph (1) and paragraphs (d) and (e) are revised to read as follows:

§ 3.5 Dependency and indemnity compensation.

(a) *"Dependency and indemnity compensation."* This term means a monthly payment made by the Veterans' Administration to a surviving spouse, child, or parent:

(1) Because of a service-connected death occurring after December 31, 1956, or

(2) Pursuant to the election of a surviving spouse, child, or parent, in the case of such a death occurring before January 1, 1957. (38 U.S.C. 101 (14))

(b) *Entitlement.* Basic entitlement for a surviving spouse, child or children, and parent or parents of veteran exists, if:

• • • • •

(d) *Group life insurance.* No dependency and indemnity compensation or death compensation shall be paid to any surviving spouse, child or parent based on the death of a commissioned offier of the Public Health Service, the Coast and Geodetic Survey, the Environmental Science Services Administration, or the National Oceanic and Atomspheric Administration occurring on or after May 1, 1957, if any amounts are payable under the Federal Employees' Group Life Insurance Act of 1954 (Pub. L. 598, 83d Cong., as amended) based on the same death. (Sec. 501(c)(2), Pub. L. 881, 84th Cong. (70 Stat. 857), as amended by Sec. 13(u), Pub. L. 85-857; (72 Stat. 1266); Sec. 5, Pub. L. 91-621 (84 Stat. 1863))

(e) *Surviving spouse's rate.* (1) The monthly rate of dependency and indemnity compensation for a surviving spouse is based on the "pay grade" of the veteran. This rate is subject to increase as provided in paragraph (e)(3) and (4) of this section. (38 U.S.C. 411(a))

(2) The Secretary of the concerned service department will certify the "pay grade" of the veteran and the certification will be binding on the Veterans Administration. (38 U.S.C. 421)

(3) If there is a surviving spouse with one or more children under the age of 18 (including a child not in the surviving spouse's actual or constructive custody and a child who is in active military, air, or naval service), the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(b) for each child.

(4) If the surviving spouse is determined to be in need of aid and attendance under the criteria in § 3.352 or is a patient in a nursing home, the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(c). If the surviving spouse does not qualify for the aid and attendance allowance but is housebound under the criteria in § 3.351(f), the total amount payable shall be increased by the amount set forth in 38 U.S.C. 411(d).

4. Section 3.20 is revised to read follows:

§ 3.20 Surviving spouse's benefit for month of veteran's death.

Where the veteran died on or after December 1, 1962, the rate of death pension, death compensation or dependency and indemnity compensation otherwise payable for the surviving spouse for the month in which the death occurred shall be not less than the amount of pension or compensation which would have been payable to or for the veteran for that month but for his or her death. (38 U.S.C. 3110)

5. Section 3.22 and a cross reference are added to read as follows:

§ 3.22 Benefits payable as if cause of death is service connected.

(a) *Entitlement criteria.* Benefits authorized by chapter 13 of title 38, United States Code shall be paid to a deceased veteran's surviving spouse (See § 3.54(c)(2)) or children in the same manner as if the cause of the veteran's death is service connected when the following conditions are met:

(1) The veteran's death was not caused by his or her own willful misconduct; and

(2) The veteran was in receipt of (or but for the receipt of military retired pay was entitled to receive) compensation at time of death for service-connected disablement that either:

(i) Was continuously rated totally disabling by a schedular or unemployability rating for a period of 10 or more years immediately preceding death; or

(ii) Was continuously rated totally disabling by a schedular or unemployability rating from the date of the veteran's discharge or release from active duty for a period of not less than 5 years immediately preceding death.

(b) *Effect of judgment or settlement.* If a surviving spouse or child eligible for benefits under paragraph (a) of this section receives any money or property pursuant to a judicial proceeding based upon, or a settlement or compromise of, any cause of action or other right or recovery for damages for the death of the veteran, benefits payable under paragraph (a) of this section shall not be paid for any month following the month in which such money or property is received until the amount of benefits that would otherwise have been payable under paragraph (a) of this section equals the amount of money received or the fair market value of the property received.

(c) *Relationship to survivor benefit plan.* For the purpose of 10 U.S.C. 1448(d) and 1450(c) eligibility for benefits under paragraph (a) of this section shall be deemed eligible for dependency and indemnity compensation under 38 U.S.C. 411(a). (38 U.S.C. 410(b))

CROSS REFERENCE: Marriage dates. See § 3.54.

6. Section 3.54 is amended as follows:

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(a) By deleting the words "widow's or widower's" and inserting "surviving spouse's" in the first sentence of paragraph (d).

(b) By deleting "widow or widower" and inserting "surviving spouse" in paragraph (e).

(c) By revising the introductory portion of paragraph (b) preceding subparagraph (1) and paragraph (c) to read as follows:

§ 3.54 Marriage dates.

• • • • • •

(b) *Compensation.* Death compensation may be paid to a surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Veterans Administration in effect on December 31, 1957, or who was married to the veteran:

• • • • • •

(c) *Dependency and indemnity compensation.* (1) Dependency and indemnity compensation payable under 38 U.S.C. 410(a) may be paid to the surviving spouse of a veteran who died on or after January 1, 1957, who was married to the veteran:

(i) Before the expiration of 15 years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated, or

(ii) For 1 year or more, or

(iii) For any period of time if a child was born of the marriage, or was born to them before the marriage. (38 U.S.C. 404)

(2) In order for a surviving spouse to be entitled to benefits under chapter 13 of title 38, United States Code, in the same manner as if the cause of death is service connected, the marriage to the veteran shall have been for a period of not less than 2 years immediately preceding the date of the veteran's death. (See § 3.22) The birth of a child does not change this requirement. (38 U.S.C. 410(b))

7. In § 3.55, the introductory portion of paragraph (a) preceding subparagraph (1) and paragraphs (b), (c) and (d) are revised as follows:

§ 3.55 Terminated marital relationships.

(a) Remarriage of a surviving spouse or marriage of a child shall not bar the furnishing of benefits to such surviving spouse or to or on account of such child, if the marriage

• • • • • •

(b) On and after January 1, 1971, remarriage of a surviving spouse shall not bar the furnishing of benefits to such surviving spouse if the marriage

(1) Has been terminated by death, or

(2) Has been dissolved by a court with basic authority to render divorce decrees unless the Veterans Administration determines that the divorce was secured through fraud by the surviving spouse or by collusion.

(c) On and after January 1, 1971, the fact that a surviving spouse has lived with another person and has held herself (himself) out openly to the public as the spouse of such other person shall not bar the furnishing of benefits to her (him) after she (he) terminates the relationship.

(d) On and after January 1, 1971, the fact that benefits to surviving spouse may previously have been barred because her (his) conduct or a relationship into which she (he) had entered had raised an inference or presumption that she (he) had remarried or had been determined to be open and notorious adulterous cohabitation, or similar conduct, shall not bar the furnishing of benefits to such surviving spouse after she (he) terminates the conduct or relationship.

• • • • • •

8. In § 3.350, paragraphs (a) (introductory portion preceding subparagraph (1)), (f)(1) (i) and (iii) and (2) (i) and (iii) and (h) are revised and paragraph (f)(5) is added so that the added and revised material reads as follows:

§ 3.350 Special monthly compensation ratings.

The rates of special monthly compensation stated in this section are those provided under 38 U.S.C. 314.

(a) *Ratings under 38 U.S.C. 314(k).* Special monthly compensation under 38 U.S.C. 314(k) is payable for each anatomical loss or loss of use of one hand, one foot, both buttocks, one or more creative organs, blindness of one eye having only light perception, deafness of both ears, having absence of air and bone conduction, or complete organic aphonia with constant inability to communicate by speech. This special compensation is payable in addition to the basic rate of compensation otherwise payable on the basis of degree of disability, provided that the combined rate of compensation does not exceed $1,005 monthly when authorized in conjunction with any of the provisions of 38 U.S.C. 314 (a) through (j) or (s). When there is entitlement under 38 U.S.C. 314 (l) through (n) or an intermediate rate under (p) such additional allowance is payable for each such anatomical loss or loss of use existing in addition to the requirements for the basic rates: *Provided,* The total does not exceed $1,408 per month. The limitations on the maximum compensation payable under this paragraph are independent of and do not preclude payment of additional compensation for dependents under 38 U.S.C. 315, or the special allowance for aid and attendance provided by 38 U.S.C. 314(r).

• • • • • •

(f) *Intermediate or next higher rate; 38 U.S.C. 314(p)—(1) Extremities.* (i) Anatomical loss or loss of use of one extremity with the anatomical loss or loss of use of another extremity at a level or with complications preventing natural elbow or knee action with prosthesis in place will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $1,056.

• • • • • •

(iii) Anatomical loss or loss of use of extremity at a level preventing natural elbow or knee action with prosthesis in place with anatomical loss of another extremity so near the shoulder or hip as to prevent the use of a prosthetic appliance will entitle to the rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $1,183.

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate intermediate between 38 U.S.C. 314 (l) and (m). The monthly rate is $1,056.

• • • • • •

(iii) Blindness of one eye having only light perception and anatomical loss, or blindness having no light perception accompanied by phthisis bulbi, evisceration or other obvious deformity or disfigurement of the eye, will entitle to a rate intermediate between 38 U.S.C. 314 (m) and (n). The monthly rate is $1,183.

• • • • • •

(5) *Three extremities.* Anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities shall entitle a veteran to the next higher rate without regard to whether that rate is a statutory rate or an intermediate rate. The maximum monthly payment under this provision may not exceed $1,408. (38 U.S.C. 314(p))

• • • • • •

(h) *Special aid and attendance benefit in maximum monthly compensation cases; 38 U.S.C. 314(r).* A veteran receiving the maximum rate ($1,408) of special monthly compensation under any provision or combination of provisions in 38 U.S.C. 314 who is in need of regular aid and attendance or high level of care aid and attendance

is entitled to an additional allowance during periods he or she is not hospitalized at U.S. Government expense. (See § 3.552(b)(2) as to continuance following admission for hospitalization.) The regular aid and attendance allowance rate is $604; the high level of care aid and attendance allowance rate is $900 and is in lieu of the regular aid and attendance allowance. Determination of this need is subject to the criteria of § 3.352. The regular or high level of care aid and attendance allowance is payable whether or not the need for regular aid and attendance or high level of care aid and attendance was a partial basis for entitlement to the maximum $1,408 rate, or was based on an independent factual determination.

• • • • • •

9. In § 3.351, paragraph (a) and the introductory portion of paragraph (c) preceding subparagraph (1) are revised and paragraph (f) is added so that the revised and added material reads as follows:

§ 3.351 Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings.

(a) *Aid and attendance; general.* Additional pension for veterans in need of regular aid and attendance is provided for Spanish-American War veterans (38 U.S.C. 512) and for veterans of the Mexican border period, world War I, World War II, the Korean conflict or the Vietnam era (38 U.S.C. 521). Additional pension for surviving spouses in need of regular aid and attendance is provided for surviving spouses of veterans of all periods of war, including those entitled to pension under the law in effect on June 30, 1960, based on service in World War I, World War II, or the Korean conflict (38 U.S.C. 544). Additional compensation is provided for a married veteran receiving compensation of the 30 percent rate or greater whose spouse is in need of regular aid and attendance. (38 U.S.C. 315(l)(I)) Additional dependency and indemnity compensation and dealth compensation for surviving spouses and for parents in need of regular aid and attendance is provided for surviving spouses and for parents of veterans of all periods of service. (38 U.S.C. 322(b); 411(c); 415(h))

• • • • • •

(c) *Aid and attendance; criteria.* The veteran, spouse, surviving spouse, or parent will be considered in need of regular aid and attendance if he or she:

• • • • • •

(f) *Housebound; dependency and indemnity compensation.* The monthly rate of dependency and indemnity compensation payable to a surviving spouse who does not qualify for increased dependency and indemnity compensation under 38 U.S.C. 411(c) based on need for regular aid and attendance shall be increased by the amount specified in 38 U.S.C. 411(d) if the surviving spouse is permanently housebound by reason of disability. The permanently housebound requirement is met when the surviving spouse is substantially confined as a direct result of disabilities to his or her home (ward or clinical areas, if institutionalized) or immediate premises by reason of disability or disabilities which it is reasonably certain will remain throughout the surviving spouse's lifetime. (38 U.S.C. 411(d))

10. Immediately following § 3.351, the cross references are changed to read as follows:

CROSS REFERENCES: Basic pension determinations. See § 3.314.

Criteria for permanent need for aid and attendance and "permanently bedridden." See § 3.352.

11. Section 3.352 is amended as follows:

(a) By changing the heading of the section.

(b) By changing the heading of paragraph (a).

(c) By adding paragraph (b) and redesignating paragraph (b) as paragraph (c) so that the added and redesignated material reads as follows:

§ 3.352 Criteria for permanent need for aid and attendance and "permanently bedridden."

(a) *Basic criteria for regular aid and attendance and permanently bedridden.* • • •

(b) *Basic criteria for the high level of care aid and attendance allowance.* (1) A veteran is entitled to the high level of care aid and attendance allowance authorized by § 3.350(h) in lieu of the regular aid and attendance allowance when all of the following conditions are met:

(i) The veteran is entitled to the compensation authorized under 38 U.S.C. 314(o), or the maximum rate of compensation authorized under 38 U.S.C. 314(p).

(ii) The veteran meets the requirements for entitlement to the regular aid and attendance allowance in paragraph (a) of this section.

(iii) The veteran needs a "higher level of care" (as defined in paragraph (b)(2) of this section) than is required to establish entitlement to the regular aid and attendance allowance, and in the absence of the provision of such higher level of care the veteran would require hospitalization, nursing home care, or other residential institutional care.

(iv) The veteran's need for a higher level of care than is required to establish entitlement to the regular aid and attendance allowance is determined by a Veterans Administration physician or, in areas where no Veterans Administration physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

(2) Need for a higher level of care shall be considered to be need for personal health care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health care professional. Personal health care services include (but are not limited to) such services as physical therapy, administration of injections, placement of indweiling catheters, and the changing of sterile dressings, or like functions which are required on a regular basis and which require professional health care training or the regular supervision of a trained health care professional to perform. A licensed health care professional includes (but is not limted to) a doctor of medicine or osteopathy, a registered nurse, a licensed practical nurse, or a physical therapist, and so forth, licensed to practice by a State or political subdivision thereof. (38 U.S.C. 314(r)(2))

(c) *Attendance by relative.* The performance of the necessary aid and attendance service by a relative of the beneficiary or other member of his or her household will not prevent the granting of the additional allowance.

§ 3.382 [Amended]

12. Section 3.382 is amended as follows:

(a) By adding the words "or she" after the word "he" in the third sentence of paragraph (a).

(b) By deleting the words "his service support his allegation," and inserting "his or her service support his or her allegation," in the first sentence of paragraph (b).

§ 3.383 [Amended]

13. Section 3.383 is amended by adding the words "or her" after the word "his" in paragraphs (a), (b) and (c).

14. Section 3.384 is added to read as follows:

§ 3.384 Additional compensation for non-service-connected loss or loss of use of paired extremity.

(a) *General.* Subject to the conditions in paragraph (b) and (c) of this section a veteran who has service-connected loss or loss of use of one ex-

Order PCB 77-145 (hereinafter referred to

tremity and non-service-connected loss or loss of use of the paired extremity is entitled to increased compensation in the amount specified in 38 U.S.C. 314(t).

(b) *Entitlement criteria.* (1) The loss or loss of use of the service-connected extremity is rated at 40 percent or more disabling; and

(2) The loss or loss of use of the non-service-connected paired extremity would be rated 40 percent or more disabling if service connected; and

(3) The loss or loss of use of the non-service-connected extremity is not the result of the veteran's own willful misconduct; and

(4) The veteran is entitled to receive compensation at any rate under 38 U.S.C. 314 (a) through (i) and special monthly compensation under 38 U.S.C. 314(k).

(c) *Effect of judgment or settlement.* If a veteran receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the loss or loss of use of the non-service-connected extremity, the increased compensation payable by reason of this section shall not be paid for any month following the month in which any such money or property is received until such time as the total amount of the increased compensation that would otherwise have been payable equals the total of the amout of any such money received and the fair market value of any such property received. (38 U.S.C. 314(t))

15. In § 3.552, the heading is changed and paragraphs (a)(1), (b)(2) and (g) are revised to read as follows:

§ 3.552 Adjustment of allowance for aid and attendance.

(a)(1) When a veteran is hospitalized, additional compensation or increased pension for aid and attendance will be discontinued as provided in paragraph (b) of this section except as to disabilities specified in paragraph (a)(2) of this section.

* * * * *

(b) * * *

(2) When a veteran is hospitalized at the expense of the United States Government, the additional aid and attendance allowance authorized by 38 U.S.C. 314(r) (1) or (2) will be discontinued effective the last day of the month following the month in which the veteran is admitted for hospitalization.

* * * * *

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only), or anatomical loss of both eyes is being paid compensation of $1,408 because of entitlement to another rate under section 314(l) on account of need for aid and attendance the compensation will be reduced while hospitalized to the following:

(1) If entitlement is under section 314(l) and in addition there is need for regular aid and attendance for another disability, the award during hospitalization will be $1,107 since the disability requiring aid and attendance is 100 percent disabling. (38 U.S.C. 314(p))

(2) If entitlement is under section 314(m), $1,258.

(3) If entitlement is under section 314(n), $1,408 would be continued, since the disability previously causing the need for regular aid and attendance would then be totally disabling entitling the veteran to the maximum rate under 38 U.S.C. 314(p).

* * * * *

§ 3.556 [Amended]

16. Section 3.556(a)(1) is amended by deleting the words "wife (husband)" and inserting the word "spouse" in the second sentence.

17. In § 3.802, paragraph (b) is revised to read as follows:

§ 3.802 Medal of Honor.

* * * * *

(b) An award of special pension of $200 monthly (prior to Jan. 1, 1979, $100 monthly) will be made as of the date of filing of the application with the Secretary concerned. The special pension will be paid in addition to all other payments under laws of the United States. However, a person awarded more than one Medal of Honor may not receive more than one special pension. (38 U.S.C. 562)

§ 3.803 [Amended]

18. Section 3.803 is amended by deleting "6159" in the citation following paragraph (a).

§ 3.805 [Amended]

19. Section 3.805 is amended by deleting the words "widows (widowers)" and inserting the words "surviving spouses" in the heading and in the introductory portion preceding paragraph (a).

20. In § 3.808, the introductory portion preceding paragraph (a) is revised to read as follows:

§ 3.808 Automobiles or other conveyances; certification.

A certification of eligibility for financial assistance in the purchase of one automobile or other conveyance in an amount not exceeding $3,800 (including all State, local, and other taxes where such are applicable and included in the purchase price) and of basic entitlement to necessary adaptive equipment will be made where the claimant meets the requirements of paragraphs (a), (b) and (c) of this section.

* * * * *

21. In § 3.1600, paragraphs (a), (c) and (g) are revised to read as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(a) *Wartime veterans.* When a veteran of any war dies, an amount not to exceed $300 ($1,100 if death is service-connected) (where entitlement is based on § 3.8 (c) or (d), at a rate in Philippine pesos equivalent to $150 or $550 if death is service-connected) is payable on the burial and funeral expenses and transportation of the body to the place of burial, if otherwise entitled within the further provisions of §§ 3.1600 through 3.1611. For this purpose the period of any war is as defined in § 3.2, except that World War I extends only from April 6, 1917, through November 11, 1918, or if the veteran served with the United States military forces in Russia, through April 1, 1920. (38 U.S.C. 902; 907; 107(a))

* * * * *

(c) *Death while properly hospitalized.* If a person dies while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed $300 ($1,100 if he or she died of a service-connected disability) for the actual cost of funeral and burial, and an additional amount for transportation of the body to the place of burial. See § 3.1605. (38 U.S.C. 903; 907)

* * * * *

Transportation expenses for burial in national cemetery. Where a veteran dies as the result of a service-connected disability, or at the time of death was in receipt of disability compensation (or but for the receipt of military retired pay or non-service-connected disability pension would have been entitled to disability compensation at time of death) there is payable, in addition to the burial allowance (either $300 or $1,100 if cause of death was service connected), an additional amount for payment of the cost of transporting the body to a national cemetery for burial. This amount may not exceed the cost of transporting

the body from the veteran's place of death to the national cemetery nearest the veteran's last place of residence in which burial space is available. The amounts payable under this paragraph are subject to the limitations set forth in §§ 3.1604 and 3.1606.

22. In § 3.1601, paragraph (a)(1)(i) is revised to read as follows:

§ 3.1601 Claims and evidence.

(a) *Claims.* * * *

(1) Claims for burial allowance may be executed by;

(i) The funeral director, if entire bill or any balance is unpaid (if unpaid bill is under $300 only amount of unpaid balance will be payable to the funeral director); or

* * * * *

23. In § 3.1604, the introductory portion of paragraph (a) preceding subparagraph (1) and paragraph (b)(2) are revised to read as follows:

§ 3.1604 Payments from non-Veterans Administration sources.

(a) *Contributions or payments by public or private organizations.* When contributions or payments on the burial expenses have been made by a State, any agency or political subdivision of the United States or of a State, or the employer of the deceased veteran only the difference between the entire burial expenses and the amount paid thereon by any of these agencies or organizations, not to exceed $300 ($1,100 if death was service connected), will be authorized. Contributions or payments by any other public or private organization such as a lodge, union, fraternal of beneficial organization, society, burial association or insurance company, will bar payment of the burial allowance if such allowance would revert to the funds of such organization or would discharge such organization's obligation without payment.

* * * * *

(b) *Payment by Federal agency.* * * *

(2) A provision in any Federal law or regulation permitting the application of funds due or accrued to the credit of the deceased toward the expenses of funeral, transportation and internment (such as Social Security benefits), as distinguished from a provision specifically prescribing a definite allowance for such purpose, will not bar payment of the burial allowance. In such cases only the difference between the total burial expense and the amount paid thereon under such provision, not to exceed $300 will be authorized.

* * * * *

§ 3.1605 [Amended]

24. Section 3.1605 is amended by adding the words "or she" after the word "he" in the first sentence of the introductory portion preceding paragraph (a).

[FR Doc. 78-33275 Filed 11-27-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1014-2]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Withdrawal of a Proposed Disapproval of an Administrative Order Issued by Illinois Environmental Protection Agency to Central Illinois Public Service Company

AGENCY: U.S. Environmental Protection Agency.

ACTION: Withdrawal of Proposed Disapproval.

SUMMARY: U.S. EPA is withdrawing its proposed disapproval of an Administrative Order issued by the Illinois Environmental Protection Agency to Central Illinois Public Service Company. The proposed disapproval was published in the FEDERAL REGISTER on May 10, 1978.

This action is being taken in response to the comment published below.

FOR FURTHER INFORMATION CONTACT:

Bertram Frey, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois, 60604 312-353-2082.

SUPPLEMENTARY INFORMATION: The notice invited public comment on the proposed disapproval. Two comments were received. Central Illinois Public Service Company sent a comment to U.S. EPA on June 7, 1978. The U.S. EPA responded to this comment in a letter on August 8, 1978. The second comment received from the Illinois Environmental Protection Agency (IEPA), is shown below.

Re EPA Proposed Disapproval of Delayed Compliance Order for Central Public Service, 43 FR 20022, May 10, 1978.

Dear Mr. McDonald: In response to request for written comments appearing in Notice in FEDERAL REGISTER Vol. 43, No. 91, dated Wednesday, may 10, 1978, the Illinois Environmental Protection Agency (hereinafter referred to as the "Agency") has the following comments to make:

1. The Agency was aware of the deficiencies of Illinois Pollution Control Board Order PCB 77-145 (hereinafter referred to as the "Order") in respect to variance granted to Central Illinois Public Service *Company Newton Unit I* (hereinafter referred to as the "Petitioner") in that the Order granted a variance for final compliance later than July 1, 1979, as allowed by Section 113(d)(1)(D) of the Clean Air Act as amended (42 U.S.C. Section 7413(d)(1)(D) hereinafter referred to as the "Act"). The Agency was also aware that the Order failed to notify the Petitioner that it would be required to pay penalties under the provisons of Section 120 of the Act if the Petitioner failed to achieve final compliance by July 1, 1979, also that the Order failed to require compliance with applicable interim requirements as provided by paragraph (6) and (7) of Section 113(d) of the Act, and contained no requirement for emission monitoring and reports contrary to the provisions of Section 113(d) of the Act.

2. Because of the deficiencies referred to in comment 1 above, the Agency was mindful that a Delayed Compliance Order would probably not be approved by the Administrator as an addition to the Illinois State Implementation Plan under the provisions of Section 110 of the Act. Therefore, the Agency as the official State authority, under the provisions of Section 4m of the Illinois Environmental Protection Agency Act, designated to submit State implementation Plans or their revisions to the Administrator for approval, did not do so for the reasons stated above.

3. The Board's Order in this instance is a shield against State Prosecution of the Petitioner for violations of Section 9(b) of the Illinois Environmental Act or regulation 204(a)(1) of the Illinois Air Pollution Control Regulations, although such Order was deficient under the provisions of the Clean Air Act.

The U.S. EPA finds the IEPA's point well taken. Since the IEPA has not made an official submittal of the Order in question for U.S. EPA approval, the U.S. EPA is withdrawing its proposed disapproval.

Dated: November 14, 1978.

JOHN MCGUIRE,
Regional Administrator.

[FR Doc. 78-33095 Filed 11-27-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1014-4; Docket No. DCO-78-28]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of a Delayed Compliance Order Issued by the Knox County Department of Air Pollution Control to Tamko Asphalt Products Co., Knoxville, Tenn.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

sion of time for filing comments and

SUMMARY: EPA proposed to approve a delayed compliance order issued by the Knox County Department of Air Pollution Control to Tamko Asphalt Products Company located in Knoxville, Tennessee. The delayed compliance order requires the Tamko Asphalt Company to bring air emissions from their coal fired boilers in Knoxville, Tennessee into compliance with applicable regulations contained in the Tennessee State Implementation Plan (SIP) by June 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If aproved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before December 28, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Bert Cole, U.S. Environmental Protection Agency, 354 Courtland Street, N.E., Atlanta, Georgia 30308, telephone 404-881-4298.

SUPPLEMENTARY INFORMATION: Tamko Asphalt Products Company operates a roof felt manufacturing facility in Knoxville, Tennessee. The order under consideration addresses emissions from the coal fired boilers which are subject to sections 17.0 and 41.0 of the Knox County Air Pollution Control Regulations. These regulations limit visible emissions and particulate emissions from the coal fired boiler stack and are part of the federally-approved Tennessee State Implementation Plan. The order requires final compliance with the regulations by June 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

1. July 15, 1978: Evaluate all options for achieving and maintaining compliance, and determine specific method to be employed. Options include, but are not limited to the following:

a. Purchase and installation of pollution control equipment for coal-fired boilers.

b. Substitution of wood industry by-products (e.g., "Woodex") for coal.

c. Conversion of present coal-fired boiler to oil firing.

d. Abandon present coal-fired boilers and purchase new package boiler units capable of meeting referenced regulations.

2. September 1, 1978: Issue purchase order for any equipment attendant to the control option selected.

3. March 1, 1979: Initiate on-site construction as appropriate to control option selected.

4. June 1, 1979: Complete performance testing and achieve compliance with all applicable particulate and visible emission limiting regulations, and certify such compliance to Knox County Department of Air Pollution Control and EPA.

Interim limits for Tamko Asphalt Products Company require that the visible emission be limited to 20% equivalent opacity or less and that the mass particulate emission rate be reduced to 14 pounds per hour or less prior to the attainment of the last milestone.

Because this order has been issued to a major source of visible and particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Tennessee SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: November 17, 1978.

JOHN A. LITTLE,
Acting Regional Administrator,
Region IV.

[FR Doc. 78-33246 Filed 11-27-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20954; RM-2684; RM-2772; RM-2982]

FM BROADCAST STATION IN STAUNTON, VA.

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of an FM channel to Staunton, Virginia. Petitioner, WANV, Inc., states that the additional time is needed so that it can complete preparation of its comments.

DATES: Comments must be filed on or before December 1, 1978, and reply comments on or before December 22, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stanley P. Wiggins, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 17, 1978.

Released: November 20, 1978.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Staunton, Virginia). Order extending time for filing comments and reply comments (see also 43 FR 49552, October 24, 1978).

By the Chief, Broadcast Bureau:

1. On August 17, 1978, the Commission adopted a *Second Further Notice of Proposed Rule Making*, 43 FR 38060, proposing the assignment of Class B FM Channel 259 to Staunton, Virginia. The present dates for filing comments and reply comments are November 17, and December 8, 1978, respectively.

2. On November 9, 1978, counsel for WANV, Inc., filed a request for extension of time for filing comments and reply comments to and including December 1, and December 22, 1978, respectively. Counsel asserts that WANV's consulting engineers are awaiting comments from the National Radio Astronomy Observatory and the Naval Research Laboratory on WANV's proposed facilities. He adds that until they receive the views of these agencies they are unable to complete preparation of the engineering exhibits which WANV intends to submit in support of its comments. Counsel states that WANV's engineering consultants have been advised that the information they need will be supplied shortly.

3. We are of the view that the additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. Accordingly, *It is ordered*, That the dates for filing comments and reply comments are extended to and including December 1, and December 22, 1978, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-33224 Filed 11-27-78; 8:45 am]

Mexico City and Monterrey, Mexico. Order 74-7-91, dated July 19, 1974, 1976 through December 31, 1976, (5)

notices

This section of the FEDERAL REGISTER contoins documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

LOUISIANA-PACIFIC LONG-TERM TIMBER SALE—1979-84 OPERATING PERIOD

Ketchikan area, Tongass National Forest, Alaska; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Statement for the proposed timber harvest and related activities under this timber sale contract for the five-year operating period from 1979 to 1984.

Under this contract, the Forest Service is obligated to make available 960 MM bf every five years. It is to come from the primary sale area on Prince of Wales and Revillagigedo Islands as long as timber is available thereon.

The primary concern, and the reason for preparing an Environmental Statement, is that some of the sale area is roadless. Plans for logging are being coordinated with the second Roadless area Review and Evaluation (RARE II) and the Tongass Land Management Plan (TLMP) in order to avoid any areas of wilderness quality or other roadless management under these allocation plans.

The Forest Service is working with the Alaska Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service in preparation of this plan. The purpose of this is to assure full coordination with and protection of fish and wildlife values on the sale area.

John McGuire, Chief of the Forest Service, is the responsible offical. The ES is being prepared under the direction of James S. Watson, Forest Supervisor. Ed Johnson, Timber Staff Assistant, is the team leader for the Environmental Assessment and Statement.

It is anticipated that the Draft Environmental Statement will be completed by late November 1978. A two-month review period will follow, with the Final Statement to be released about March 1979. Activities under the plan will begin July 1, 1979.

Comments on the Notice of Intent or on the project should be sent to James S. Watson, Forest Supervisor, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901.

EINAR L. ROGET,
Acting Deputy Chief.

NOVEMBER 20, 1978.

[FR Doc. 78-33243 Filed 11-27-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

ORDER ESTABLISHING FINAL SERVICE MAIL RATES

The Board adopted Order 78-11-80 on September 16, 1978, establishing the Final Service Mail Rates in the *Priority and Nonpriority Domestic Service Mail Rates Investigation*, Docket 23080-2.

After a full public hearing and consideration of the record the Board ordered that:

1. The fair and reasonable rates of compensation to be paid by the Postmaster General.

(a) From March 28 through October 12, 1973, for the transportation by air of nonpriority mail (*i.e.* all mail other than airmail and air parcel post, which may be tendered from time to time by the Postal Service in sacks and carried on a space-available basis) other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, to:

Airlift International, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Caribbean-Atlantic Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hughes Air Corp., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Seaboard World Airlines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc.

for operations over their routes authorized under certificates in effect on or subsequent to March 28, 1973, within the 48 contiguous States and the District of Columbia; between points in the 48 contigious States and the District of Columbia, on the one hand, and, on the other hand, points in the State of Alaska; Hilo and Honolulu, Hawaii; San Juan, Puerto Rico, St. Croix and St. Thomas, Virgin Islands; Wake Island; Agana, Guam; Pago Pago, American Samoa; Acapulco, Guaymas, La Paz, Mazatlan, Merida, Mexico City, Monterrey, Puerto Vallarta, Tempico, and Veracruz, Mexico; and terminal points in Canada; between Honolulu, Hawaii, on the one hand, and, on the other hand, Agana, Guam; Wake Island; and Pago Pago, American Samoa; between points in Puerto Rico, on the one hand, and St. Croix and St. Thomas, Virgin Islands, on the other; between points in Puerto Rico; and between St. Croix and St. Thomas, Virgin Islands; and to the air carriers specified in Order 74-7-91, dated July 19, 1974, over the routes and subject to the conditions specified by the orders set forth therein or subsequent orders of the Board; shall be the sum of a linehaul charge of 7.56 cents per nonstop great-circle ton-mile and a terminal charge of 6.990 cents per pound originated subject to the terms and conditions specified in Order 70-4-9, dated April 2, 1970.

(b) From March 28 through October 12, 1973, for the transportation by air of priority mail in sacks other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, to:

Airlift International, Inc., Allegheny Airlines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp., North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., Texas International Airlines, Inc., United Air Lines, Inc.

for operations over their entire systems as constituted on or subsequent to March 28, 1973, and:

Aiaska Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Caribbean-Atlantic Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., The Flying Tiger Line, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., Western Air Lines, Inc.

for operations over their routes within the 48 contiguous States and the District of Columbia insofar as authorized under certificates for interstate air transportation; over their routes between points within the 48 contiguous States and the District of Columbia, on the one hand, and, on the other, points in the State of Alaska, Hilo and Honolulu, Hawaii, Acapulco, Merida, Mexico City, and Monterrey, Mexico, San Juan, Puerto Rico, points in the Virgin Islands, and terminal points in Canada; and between points in Puerto Rico, on the one hand, and points in the Virgin Islands, on the other; between points in Puerto Rico; between points in the Virgin Islands; and between points in the State of Alaska and Hilo and Honolulu, Hawaii; which are in effect on or subsequent to March 28, 1973; and to the air carriers specified in Order 74-7-91, dated July 19, 1974, over the routes and subject to the conditions specified by the orders set forth therein or subsequent orders of the Board; shall be the sum of a line- haul charge of 10.69 cents per nonstop great-circle ton-mile and a terminal charge of 7.751 cents per pound originated, subject to the terms and conditions specified in Order E-25610, dated August 28, 1967.

(c) For the transportation by air of mail in sacks (Sack mail, Con-Con mail, Express mail), or in Con-Con containers, ½ F containers, or 3150 trays, other than that established elsewhere for Parcel Airlift mail, the facilities used and useful therefor, and the services connected therewith to:

Airlift International, Inc., Air New England, Inc., Allegheny Airlines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp., North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., Texas International Airlines, Inc., United Air Lines, Inc.

for operations over their entire systems as constituted on or subsequent to October 13, 1973, and:

Alaska Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., The Flying Tiger Line, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., Western Air Lines, Inc.

for operations over their routes within the 48 contiguous States and the District of Columbia insofar as authorized under certificates for interstate air transportation; over their routes between points within the 48 contiguous States and the District of Columbia, on the one hand, and, on the other, points in the State of Alaska, Hilo and Honolulu, Hawaii, Acapulco, Merida, Mexico City, Monterrey, Mexico, San Juan, Puerto Rico, points in the Virgin Islands, and terminal points in Canada; and between points in Puerto Rico, on the one hand, and points in the Virgin Islands, on the other; between points in Puerto Rico; between points in the Virgin Islands, and between points in Alaska, on the one hand, and Hilo and Honolulu, Hawaii, on the other hand; which are in effect on or subsequent to October 13, 1973; and to the air carriers specified in Order 74-7-91, dated July 19, 1974, over the routes and subject to the conditions specified by the orders set forth therein or subsequent orders of the Board; shall be (1) the sum of a linehaul charge charge of 9.28 cents per nonstop great-circle ton-mile and a terminal charge of 7.185 cents per pound originated for the period October 13, 1973 through December 31, 1973, (2) the sum of a linehaul charge of 11.49 cents per nonstop great-circle ton-mile and a terminal charge of 8.241 cents per pound originated for the period January 1, 1974 through December 31, 1974, (3) the sum of a linehaul charge of 12.50 cents per nonstop great-circle ton-mile and a terminal charge of 8.920 cents per pound originated for the period January 1, 1975 through December 31, 1975, (4) the sum of a linehaul charge of 13.25 cents per nonstop great-circle ton-mile and a terminal charge of 9.586 cents per pound originated for the period January 1, 1976 through December 31, 1976, (5) the sum of a linehaul charge of 14.32 cents per nonstop great-circle ton-mile and a terminal charge of 10.028 cents per pound originated for the period January 1, 1977 through December 31, 1977, (6) the sum of a linehaul charge of 15.15 cents per nonstop great-circle ton-mile and a terminal charge of 10.463 cents per pound originated for the period January 1, 1978 through December 31, 1978, and (7) the sum of a linehaul charge of 14.86 cents per nonstop great-circle ton-mile and a terminal charge of 10.677 cents per pound originated for the period January 1, 1979 through June 30, 1979, subject to the terms and conditions specified in Order E-25610, dated August 28, 1967.

(d) For the transportation by air in sacks of that mail matter described in 39 U.S.C. 3401 (Parcel Airlift mail—PAL), the facilities used and useful therefor, and the services connected therewith for the carriers and the points stated in subparagraph (c) above, shall be (1) the sum of a linehaul charge of 7.56 cents per nonstop great-circle ton-mile and a terminal charge of 6.990 cents per pound originated for the period October 13, 1973 through December 31, 1973, (2) the sum of a linehaul charge of 6.50 cents per nonstop great-circle ton-mile and a terminal charge of 7.653 cents per pound originated for the period January 1, 1974 through December 31, 1974, (3) the sum of a linehaul charge of 7.07 cents per nonstop great-circle ton-mile and a terminal charge of 8.300 cents per pound originated for the period January 1, 1975 through December 31, 1975, (4) the sum of a linehaul charge of 7.49 cents per nonstop great-circle ton-mile and a terminal charge of 8.929 cents per pound originated for the period January 1, 1976 through December 31, 1976, (5) the sum of a linehaul charge of 8.09 cents per nonstop great-circle ton-mile and a terminal charge of 9.340 cents per pound originated for the period January 1, 1977 through December 31, 1977, (6) the sum of a linehaul charge of 8.56 cents per nonstop great-circle ton-mile and a terminal charge of 9.740 cents per pound originated for the period January 1, 1978 through December 31, 1978, and (7) the sum of a linehaul charge of 8.40 cents per nonstop great-circle ton-mile and a terminal charge of 9.945 cents per pound originated for the period January 1, 1979 through June 30, 1979, subject to ther terms and conditions specified in Order 70-4-9, dated April 2, 1970.

(e) For the transportation by air of mail containers, the facilities used and useful therefor, and the services connected therewith for the carriers and between the points listed in subparagraph (c) above, (1) for standard container service between 9:00 p.m. and 6:00 a.m. local time, shall be (1) for standard container service between 9:00 p.m. and 6:00 a.m. local time, shall be (i) the sum of a linehaul charge of 7.12 cents per nonstop great-circle ton-mile and a terminal charge of 3.801 cents per pound originated for the period March 28, 1973 through December 31, 1973, (ii) the sum of a linehaul charge of 8.79 cents per nonstop great-circle ton-mile and a terminal charge of 3.901 cents per pound originated for the period January 1, 1974 through December 31, 1974, (iii) the sum of a linehaul charge of 9.56 cents per nonstop great-circle ton-mile and a terminal charge of 4.178 cents per pound originated for the period January 1, 1975 through December 31, 1975, (iv) the sum of a linehaul charge of 10.13 cents per nonstop great-circle ton-mile and a terminal charge of 4.466 cents per pound originated for the period January 1, 1976 through December 31, 1976, (v) the sum of a linehaul charge of 10.95 cents per nonstop great-circle ton-mile and a terminal charge of 4.675 cents per pound originated for the period January 1, 1977 through December 31, 1977, (vi) the sum of a linehaul charge of 11.58 cents per nonstop great-circle ton-mile and a terminal charge of 4.891 cents per pound originated for the period January 1, 1978 through December 31, 1978, and (vii) the sum of a linehaul charge of 11.36 cents per nonstop great-circle ton-mile and a terminal charge of 4.980 cents per pound originated for the period January 1, 1979 through June 30, 1979; and (2) for daylight container service between 6:01 a.m. and 8:59 p.m. local time, shall be (i) the sum of a linehaul charge of 5.45 cents per nonstop great-circle ton-mile and a terminal charge of 3.997 cents per

pound originated for the period March

the period January 1, 1977 through

other carrier; and "station (or point)

pound originated for the period March 28, 1973 through December 31, 1973, (ii) the sum of a linehaul charge of 7.05 cents per nonstop great-circle ton-mile and a terminal charge of 3.884 cents per pound originated for the period January 1, 1974 through December 31, 1974, (iii) the sum of a linehaul charge of 7.67 cents per nonstop great-circle ton-mile and a terminal charge of 4.161 cents per pound originated for the period January 1, 1975 through December 31, 1975, (iv) the sum of a linehaul charge of 8.13 cents per nonstop great-circle ton-mile and a terminal charge of 4.448 cents per pound originated for the period January 1, 1976 through December 31, 1976, (v) the sum of a linehaul charge of 8.79 cents per nonstop great-circle ton-mile and a terminal charge of 4.656 cents per pound originated for the period January 1, 1977 through December 31, 1977, (vi) the sum of a linehaul charge of 9.30 cents per nonstop great-circle ton-mile and a terminal charge of 4.871 cents per pound originated for the period January 1, 1978 through December 31, 1978, and (vii) the sum of a linehaul charge of 9.12 cents per nonstop great-circle ton-mile and a terminal charge of 4.960 cents per pound originated for the period January 1, 1979 through June 30, 1979; subject to the terms and conditions specified in Order 74-1-89, dated January 16, 1974, and subject to a minimum charge for each container equal to the product of the rate specified in (1)(i), (1)(ii), (1)(iii), (1)(iv), (1)(v), (1)(vi), (1)(vii), (2)(i), (2)(ii), (2)(iii), (2)(iv), (2)(v), (2)(vi), or (2)(vii), of this subparagraph as applicable, in which the mail is transported:

Container type	Through Dec. 31, 1973		Beginning Jan. 1, 1974	
	Standard container	Daylight container	Standard container	Daylight container
M-2			13,250	14,750
M-1			6,700	7,450
A-3	4,900	6,400	5,400	6,000
A-2	4,750	6,200	5,200	5,800
A-1	3,950	5,150	4,350	4,600
LD-9			4,300	4,800
LD-7	3,750	4,950	4,150	4,600
LD-5	2,750	3,600	3,000	3,350
LD-11	2,550	3,350	2,850	3,150
LD-10			2,750	3,050
FT-B	2,200	2,850	2,400	2,650
B			2,250	2,500
LD-1	1,800	2,350	2,000	2,200
LD-3	1,600	2,100	1,750	1,950
FT-C	1,600	2,100	1,750	1,950
LD-W	800	1,050	900	1,000

(f) Any prior order of the Board notwithstanding, all container types not specified in subparagraph (e), above, shall be subject to minimum chargeable weights established as follows: (1) For standard container service the internal cubic footage of the container will be multiplied by 11.70 pounds per cubic foot, and (2) for daylight container service the internal cubic footage of the container will be multiplied by 13.00 pounds per cubic foot.

(g) All weight in excess of the minimum chargeable weight per container established herein shall be charged at the sum of the full linehaul charge for the applicable service established in subparagraph (e) above, and the capacity-related portion of the teminal charge per pound originated as follows:

	Standard container, cents	Daylight container, cents
Mar. 28-Dec. 31, 1973	1.847	2.032
Jan. 1-Dec. 31, 1974	2.155	2.137
Jan. 1-Dec. 31, 1975	2.270	2.252
Jan. 1-Dec. 31, 1976	2.405	2.386
Jan. 1-Dec. 31, 1977	2.520	2.500
Jan. 1-Dec. 31, 1978	2.648	2.627
Jan. 1-June 30, 1979	2.686	2.665

(h) On and after March 28, 1973, for the pickup and delivery of mail in containers, by the carriers and at the points indicated in subparagraph (c) above, (1) at on-airport Postal Service facilities, *i.e.* those where the pickup or delivery vehicle does not leave airport property, there shall be no additional charge for these services, and (2) at off-airport Postal Service facilities the charges for these services shall be those applicable to the pickup and delivery of freight in containers as stated in ATP Tariff C.A.B. No. 19, superseded by ATP Tariff C.A.B. No. 231.

2. The mail ton-miles for each shipment shall be computed by using the nonstop great-circle ton-miles between the station of origin and the station of destination for each shipment as the standard mileage between such points.

3. *Definitions*—As used herein "station (or point) of origin" means the station at which the carrier first enplanes the mail shipment after receipt thereof from the Postal Service or its representatives, from another ratemaking division of the same carrier, the operations of which division are not encompassed herein, or from another carrier; and "station (or point) of destination" means the station at which the carrier deplanes the mail shipment for delivery to the Postal Service or its representatives, to a separate ratemaking division of the same carrier, the operations of which division are not encompassed herein, or to another carrier. When a mail shipment is transported by a carrier, between domestic points (as defined in paragraphs 1(a), 1(b), and 1(c) to the extent applicable for the type of mail and period involved) and international or overseas points (not within the geographical scope of paragraphs 1(a), 1(b), and 1(c)), the last scheduled station in the domestic operations subject to this order which is departed on the way to the international or overseas destination and the first scheduled station in the domestic operations subject to this order which is entered on the way from the international or overseas origination shall be considered both a "station (or point) of destination" and a "station (or point) of origin" even though the mail does not pass through the airport mail facility at such station. Each interchange point on a through flight of two or more carriers flown pursuant to an interchange agreement shall not be considered as a seaprate point of origin and destination. Except as otherwise stated above a point at which a mail shipment is transferred from one flight to another flight of the same carrier shall not be considered as a point of origin or point of destination for such shipment.

4. *Equalization of Rates.* (a) Any carrier or, pursuant to agreement, any two or more carriers providing services on an interline or interchange basis, may, by notice, elect to transport mail between stated points served by such carrier or carriers at a reduced rate equal to the rate then in effect for such service between such points by any other carrier or carriers.

(b) In the case of equalization of rates by agreement pursuant to (a) above, the agreement shall provide for the proration of the mail compensation by the participating carriers on the basis of the relative compensation which would otherwise be payable to each carrier in the absence of the provisions of paragraph (a).

(c) In the absence of an agreement among carriers, pursuant to (a) above, for equalization of rates for interline shipments between a stated pair of points, any carrier (or two or more carriers jointly) may, by notice, elect to receive as its portion of the total compensation for each such shipment the amount remaining after subtracting

from such total compensation the compensation due the other carrier or carriers involved (non-electing carriers). Such total compensation shall be computed on the basis of the lowest rate then in effect for service between the stated pair of points for any carrier or carriers. The compensation due the non-electing carrier or carriers shall be determined on the basis of all the provisions of this formula.

In those instances where two or more carriers elect to receive payment under this provision, the total payment due such carriers shall be prorated by them on the basis of the relative compensation which would otherwise be payable to each carrier in the absence of the provisions of this paragraph.

(d) In the event that any carrier is unable to enter into an agreement with any other carrier to transport mail between any stated points at a reduced rate pursuant to paragraphs (a) and (b) and elects initially to accept compensation as provided in paragraph (c), it may file an application with the Board requesting it to determine and fix a different method of apportioning the total compensation for each such shipment of mail between the participating carriers. In reviewing such applications, the Board will consider, among other pertinent factors, the need for the proposed service, the historical participation of the electing carrier or carriers in transportation of mail between such stated points, the amount of absortion required, and the grounds for refusal by the carrier or carriers to enter into an equalization agreement. After hearing the carriers concerned, either orally or in writing, in those cases where it deems such action appropriate the Board will by order prescribe the method for apportioning the total compensation between such carriers, but in no event shall the carrier or carriers refusing to enter into an agreement to equalize compensation be required to accept less than the compensation which would have been payable if the service were performed under voluntary agreement pursuant to paragraphs (a) and (b).

(3) An original and 3 copies of each notice of election and agreement, and an original and 19 copies of each application under the preceding paragraph 4(d) shall be filed with the Board and a copy thereof shall be served upon the Postmaster General and each carrier providing service between the stated points. Such notices shall contain a complete description of the reduced charge being established, the routing over which it applies, and how it is constructed and shall similarly describe the charge being equalized with. Applications filed pursuant to paragraph 4(d) shall not be deemed to reopen the mail rates or rate structure prescribed herein. All notices and agreements outstanding as of March 28, 1973, shall continue in effect under this Order until canceled as provided herein.

Any rate established pursuant to paragraph (a), (b), or (c) shall be effective for the electing carrier or carriers as of the date of filing of the notice required by such paragraphs, or such later date as may be specified in the notice, until said election is terminated: *Provided, however,* That in no event shall any such rates be effective prior to March 28, 1973. Elections may be terminated by any electing carrier upon 10 days notice filed with the Board, as aforesaid, and served upon the Postmaster General and each carrier providing service between the stated points.

Applications filed pursuant to paragraph 4(d) shall conform generally to the provisions of the rules of practice governing the filing of petitions in mail rate cases. Within seven days after the application is served, any party may file an answer in support of or in opposition to the application together with any documentary material upon which it relies. Any order upon such application pursuant to paragraph 4(d) shall be effective no earlier than the date of filing of the application within the Board: *Provided,* That in no event shall any such rates be effective prior to March 28, 1973.

5. *Eastern Flight Ordered by the Postmaster General.* (a) The fair and reasonable rates of compensation to be paid to Eastern Air Lines, Inc. for the operation of the Boston-New York-Atlanta flight ordered by the Postmaster General are as follows: $4,941 for the period June 3, 1974 through December 31, 1974, $5,714 for the period January 1, 1975 through December 31, 1975, and $5,669 for the period January 1, 1976 through December 6, 1976; all rates being established after offsetting the revenues received by the carriers for non-mail traffic.

(b) On any of the Eastern Air Lines, Inc., flights ordered by the Postmaster General, where mail was refused and the mail on board the aircraft weighed less than 12,000 pounds on either the Boston-New York or the New York-Atlanta segment, the rate applicable to that flight shall be reduced by the following amounts for each pound less than 12,000 pounds which was tendered and refused: Boston-New York segment—14.733 cents a pound for the period June 3, 1974 through December 31, 1974, 17.192 cents a pound for the period January 1, 1975 through December 31, 1975, 16.933 cents a pound for the period January 1, 1976 through December 6, 1976; and for the New York-Atlanta segment—26.442 cents a pound for the period June 3, 1974 through December 31, 1974, 30.425 cents a pound for the period January 1, 1975 through December 31, 1975, and 30.308 cents a pound for the period January 1, 1976 through December 6, 1976.

6. The terms and conditions under which the rates for containerized mail have been established herein are set forth in the attachment to this order and are an integral part thereof.

7. All service mail rates fixed and determined herein shall be paid in their entirety by the Postmaster General.

8. The petitions for reconsideration of Order 77-12-157 filed in this docket by American Airlines, Inc., The Flying Tiger Line, Inc., Pan American World Airways, Inc., and United Air Lines, Inc. are dismissed.

9. The July 14, 1978 petition of United Air Lines, Inc., requesting a revision of the temporary mail rates established by Order 77-12-157 is dismissed.

10. This order shall be served upon all parties to the proceeding in Docket 23080-2.

11. The investigation herein is terminated.

PHYLLIS T. KAYLOR,
Secretary.

ATTACHMENTS

TERMS AND CONDITIONS FOR CONTAINERIZED MAIL

1. "Container" and the various types of containers used herein refer to the types of containers defined in Tariff ATP No. CT-7, CAB No. 227, Rule 10, and Tariff ATC C-P-2, CAB 52, Rule 20(E), and Petition of the Flying Tiger Line Inc. for the establishment of container mail rates in Docket 23080-2, Appendix A, paragraph 35. The containers referred to herein are owned by the carrier.

2. A "pallet supporter" is a portable conveyor base placed under a container for the purpose of positioning such container for loading and unloading while in the possession of the Postal Service.

3. "Airbill" refers to a non-negotiable shipping document issued by the Postal Service or by the carrier. It also refers to a Postal Service dispatch document issued by USPS and approved by the airline.

4. "Advance arrangement" shall mean that the Postal Service is required to contact the carrier at least six hours prior to tender of a shipment in order to enable the Postal Service and/or the carrier to make special arrangements for the shipment.

5. "Legal holiday" shall mean any national, state or local legal holiday.

6. "Shipment" shall mean a single consignment of one or more containers from one Postal Service facility at one time at one address, receipted for in one load and moving on the airbill or Postal Service dispatch document, to one destination Postal Service facility.

7. Fractions shall be treated as follows:

(A) Fractions of pounds will be assessed at the charge for the next higher pound.

(B) In computing charges, fractions of less than one-half cent will be dropped and frac-

[1] All members concurred except Member Schaffer who did not participate.

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tions of one-half cent or more will be considered as one cent.

8. Unless otherwise provided, in computing time in days, full calendar days shall be used and Sundays and legal holidays shall be included, except when the last day falls on a Sunday or legal holiday in which event the next following calendar day (other than a Sunday or legal holiday) shall be included.

9. Packing and Marking Requirements.

(A) Containers must be so prepared or packed as to insure safe transportation with ordinary care in handling. Carrier acceptance of a container shipment shall be *prima facie* evidence of the Postal Service's compliance with this paragraph.

(B) Each container must be legibly and durably marked with the name and address of the origination and destination Postal Service facility.

(C) The Postal Service shall load a container to distribute the container load so as not to exceed 200 lbs. per square foot of floor contact surface: *Provided, however,* That, for mail shipments in Type FT-O) containers, the Postal Service shall load such containers to distribute the container load so as not to exceed 150 lbs. per square foot of floor contact surface.

(D) The containers must be loaded and unloaded by the Postal Service at places other than the carrier's business.

(E) The Postal Service shall indicate in the airbill, or USPS dispatch document that the container shipment is subject to the terms and conditions of this mail rate order and shall also indicate therein and to a carrier representative if such shipment contains any articles listed in the Board's Regulations, 14 CFR 221.38(a)(5) and the other federal regulations referenced therein.

10. Unless otherwise indicated, the rates and conditions referred to herein apply airport-to-airport and are applicable only to the transportation of mail wholly loaded in containers owned by the carrier. Any mail carried outside containers will be carried at applicable non-container mail rates established by the civil Aeronautics Board.

11. (A) The Standard Container rates described herein are applicable to container mail shipments on flights departing between the hours of 9:00 p.m. and 6:00 a.m. local time.

(B) The Daylight Container rates described herein are applicable to container mail shipments on flights departing between the hours of 6:01 a.m. and 8:59 p.m. local time.

12. The following will be acceptable for carriage only upon advance arrangement:

(A) Shipments liable to impregnate or otherwise damage equipment or other shipments.

(B) Shipments requiring special attention, protection or care.

13. The carrier will reject a container prior to the performance of any transportation by air from the airport of origin when it reasonably appears to the carrier that such container is:

(A) Improperly packed or packaged, damaged, or structurally impaired;

(B) Not accompanied by proper documentation and necessary information as required by the terms and conditions herein;

(C) Subject to advance arrangements unless such arrangements have been satisfactorily completed;

(D) Packed so as to exceed the following pounds in gross weights:

Container type:	Pounds
A-1/A-3	10,000
A-2	12,500
LD-7	10,200
LD-11	7,000
LD-5/FT-B/FT-C	5,000
LD-3/LD-1	3,500
LD-W	1,200
M-2	25,000
M-1	15,000
LD-9	10,000
LD-10	6,500
B	5,000

14. (A) Subject to advance arrangements and the availability of a container, the carrier will furnish such container(s) (including pallet supporter) for the carriage of a shipment. The charge for the use of such container(s) (including pallet supporter) is included in the rates and charges established herein.

(B) (1) An empty container delivered to the Postal Service for loading must be tendered loaded to the carrier within 36 hours after receipt by the Postal Service.

(2) After transportation has been provided to destination a loaded container delivered to the Postal Service for unloading must be returned empty to the carrier within 36 hours after receipt by the Postal Service.

(3) In the event such container(s) (including pallet supporter) is not so tendered to the carrier as provided in (B)(1) above, or returned to the carrier as provided in (B)(2) above, a rental charge of $10.00 for each container (including pallet supporter) shall be assessed for each 24-hour period or fraction thereof in excess of 36 hours, computed (1) from the time of delivery of the empty container to the Postal Service to the time of the return of the loaded container to the carrier, or (2) from the time of delivery of the loaded container to the Postal Service to the time of the time of the return of the empty container to the carrier.

(4) A Postal Service official shall sign a container receipt, documenting the date and time of receipt for each container provided to the USPS for loading at a on-airport or off-airport location. A similar document will be excuted at destination when loaded containers are tendered to the USPS for unloading at an on-airport and off-airport location. This container receipt shall serve to document any applicable container charges which the carrier may assess the USPS.

(C) In Computing time in hours as provided in (B)(1), (2), (3) and (4) above, Saturdays, Sundays and legal holidays shall be excluded, except that when an empty container is delivered to the Postal Service for loading or a loaded container is delivered to the Postal Service for the balance of that day and then commence again on the next following calendar day other than Saturday, Sunday or legal holiday.

15. When the carrier furnishes a container (including pallet supporter) the Postal Service shall be liable to the carrier for loss of or damage to such container (including pallet supporter), occurring at any time or place other than when in the possession of the carrier.

16. The mail rates established apply also when the carrier performs motor truck transportation in lieu of transportation by aircraft for that part of the transportation between points specified in its tariff, such as Rule 13 of Tariff C.T.C. (A) No. 116, CAB No. 227.

17. (A) The Postal Service shall prepare an airbill or other non-negotiable Postal Service dispatch document indicating the number of contaihers in each shipment tendered, and the serial number, weight, routing and condition of each container. If the Postal Service fails to present such an airbill, the carrier will prepare a non-negotiable airbill subject to these terms and conditions.

(B) The airbill shall apply at all times when the shipment is being handled by or for the carrier, including pick-up and delivery and other ground services rendered by or for the carrier in connection with the shipment.

18. All container mail shipments shall contain mail conforming to the postal regulations applicable thereto. The carrier shall not be liable to the Postal Service for loss or expense due to the Postal Service's failure to conform to its own regulations. No liability shall attach to the carrier if the carrier in good faith determines that what it understands to be the applicable law, postal regulation, demand, order or requirement provides that it refuse and it does refuse a shipment.

19. (A) The Postal Service shall be responsible for the correctness of the particulars and statements relating to the shipment which it inserts in the airbill and shall be liable for all damages suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompletness of the said particulars and statements.

(B) The statements in the airbill relating to the weight of the mail shipments shall be *prima facie* evidence of the facts stated: those relating to the number of containers in the shipment and the condition thereof shall not constitute evidence against the carrier except as far as they have been, and are stated in the airbill to have been, checked by the carrier in the presence of the Postal Service or related to the apparent conditions of the shipment.

20. By tendering the container(s) to the carrier for tansportation, the Postal Service agrees to the limitations set forth in these rules and regulations and affirms the description of the shipment as recited on the airbill, and the fact that the container and its contents are not of a nature unsuitable for the carriage of air or hazardous thereto.

21. The Postal Service shall be liable to pay or indemnify the carrier for all claims, fines, penalties, damages, costs or other sums which may be incurred, suffered or disbursed by the carrier by reason of any violation of any of the terms contained herein or any other default of the Postal Service with respect to a mail shipment.

22. The Postal Service shall be liable for all unpaid charges payable on account of a shipment including, but not confined to, sums advanced or disbursed by the carrier on account of such shipment.

23. Except as otherwise provided herein the carrier will promptly notify the Postal Service of the arrival of a mail container shipment except when delivery is to be provided by the carrier. Where the Postal Service fails to pick up a mail container shipment within 24 hours of notification or where delivery by the carrier is impossible due to a work stoppage at the destination post office, or due to any other reason outside the carrier's control, the mail container shall be stored by the carrier at the expense of the Postal Service. Such shipment will be held subject to a charge of 50 cents per day per 100 pounds of any fraction thereof.

24. The carrier, in the exercise of due diligence and in order to protect all containerized mail accepted for transportation, will determine the routing of any shipment.

With respect to the carrier's routing of any shipment pursuant to this paragraph and unless the Postal Service specifies to the contrary at the time the carrier accepts the shipment, the carrier shall choose the most expeditious routing available via the carrier's flights.

25. Except as otherwise provided herein, the carrier has no obligation to commence or complete transportation within a certain time or according to any specific schedule, or for error in any statement of times of arrival or departure.

(a) The carrier undertakes to transport, consistent with its capacity to carry, all containerized mail accepted for transportation on flights to which such containers are tendered within the time periods established herein. All shipments are subject to the availability of equipment of the kind and type capable of handling the shipment. Nothing in this paragraph shall be construed as relieving the carrier with respect to Standard Container service of liability for fines or penalties authorized by 49 U.S.C. 1471 and 39 U.S.C. 5401(b).

(B) With respect to the Daylight containerized mail service proposed herein, such traffic will be subject to the availability of space and will be boarded after the accommodation of passengers and their baggage; and after shipments of loose sack rated mail and express. The carrier will determine on a reasonable and not unjustly discriminatory basis the boarding priority of Daylight containerized mail shipments and air freight shipments. The carrier will determine which such shipments shall not be carried on a particular flight and which shall be removed at any time or place whatsoever and when a flight shall proceed without all or any part of such a shipment. Nothing in this paragraph shall be construed as relieving the carrier of liability for negligent delay.

(C) Any shipment will be subject to refusal, delay or embargo by the carrier if such mail container shipment cannot be transported with reasonable dispatch by reason of any governmental rules, regulations, or orders or because of unavailability of equipment of the kind or type capable of handling the shipment, or for other conditions beyond the control of the carrier.

(D) All shipments are subject to three hours advance notification and to the availability of equipment of the type and kind capable of handling the shipment.

26. Charges will be paid pursuant to procedures established for the payment of charges for the transportation of mail outside of containers.

27. No employee, agent, or representative of the carrier has the authority to alter, modify, amend or waive any provisions of the rates, terms or conditions contained herein.

[FR Doc. 78-33261 Filed 11-27-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

REGIONAL ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Conference of the Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin Advisory Committees (SACs) of the Commission will convene at 9:00 am and will end at 5:00 pm on December 15, 1978, 230 South Dearborn, Room 3280—Conference Room, Chicago, Illinois 60604.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss advisory committee and staff operation for Fiscal Year 1979. Review of Commission program planning process of Fiscal Year 1981 program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 22, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-33281 Filed 11-27-78; 8:45 am]

[3510-15-M]

DEPARTMENT OF COMMERCE

[S-628]

Maritime Administration

GREAT LAKES-ATLANTIC STEAMSHIP CO.

Trade Area No. 1—Great Lakes/Western Europe; Proposed Determination of Essentiality of the Proposed Intermodal Service by the Great Lakes-Atlantic Steamship Co. between U.S. Great Lakes Ports and Ports in the United Kingdom and Continent, Via the Port of Albany, N.Y.

Notice is hereby given that the Assistant Secretary of Commerce for Maritime Affairs, acting pursuant to section 211 of the Merchant Marine Act, 1936, as amended (the Act), proposes to determine that between the annual dates of December 15, and April 15, approximately, intermodal service between U.S. Great Lakes ports and ports in the United Kingdom and Continent, via the port of Albany, New York, under through intermodal bills of lading issued to and from Great Lakes ports in conjunction with connecting rail carriers, as proposed by Great Lakes-Atlantic Steamship Company, when offered in connection with all-water service during the balance of the year, is essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States. The purpose of the service via Albany, New York, is to provide a continuing year-round service from the Great Lakes during those months when the St. Lawrence Seaway is closed to navigation. In making this determination, the Assistant Secretary has taken special cognizance of the physical limitations and climatic conditions which preclude regular U.S.-flag service on a normal year-round basis and which merit special consideration if the provisions set forth in section 809(a) of the Act are to be met.

Any person, firm, or corporation having an interest in the foregoing who desires to offer views and comments thereon for consideration by the Assistant Secretary of Commerce for Maritime Affairs should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, DC 20230, by the close of business on Dec. 8, 1978. The Assistant Secretary of Commerce for Maritime Affairs will consider such views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS).)

Dated: November 21, 1978.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-33211 Filed 11-27-78; 8:45 am]

[3510-13-M]

National Bureau of Standards

APPROVED INTERPRETATIONS FOR FEDERAL STANDARD COBOL (FIPS PUB 21-1)

Correction

In FR Doc. 78-32318 appearing at page 53787 in the issue for Friday, November 17, 1978, on page 53787, in the third column, under the heading, EFFECTIVE DATE OF INTERPRETATION, the date should be "May 17, 1979," and not May 17, 1978, as given.

[3510-13-M]

APPROVED INTERPRETATION FOR FEDERAL STANDARD COBOL (FIPS PUB 21-1)

Correction

In FR Doc. 78-32319 appearing at page 53789 in the issue for Friday, November 17, 1978, on page 53790, in the third column, the last paragraph should read, "Effective Date of Interpretation: This interpretation is effective on May 17, 1979."

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[3510-22-M]

National Oceanic and Atmospheric Administration

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting.

SUMMARY: Representatives of the Gulf of Mexico, New England, South Atlantic and Caribbean Councils and representatives of the National Marine Fisheries Service Northeast Fisheries Center, Southeast Fisheries Center, and Northeast Regional Office, will meet with representatives of the Mid-Atlantic Council to discuss the draft shark fishery management plan. The Regional Fishery Management Councils were established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

DATES: The meeting will convene on Monday, December 11, 1978, at 10:00 a.m. and adjourn at approximately 3:00 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Motel, Philadelphia Airport, Route 291, Philadelphia, PA 19153, 215-365-7000.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Delaware 19901, Telephone: 302-674-2331.

Dated: November 22, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-33217 Filed 11-27-78; 8:45 am]

[3510-11-M]

Travel Service

TRAVEL ADVISORY BOARD

Meeting

On October 24, 1978, notice was given in the FEDERAL REGISTER (43 FR, Page 49556), that the Travel Advisory Board would meet on December 5, 1978. Notice is hereby given that the Travel Advisory Board meeting will begin at 9:00 a.m., in the Capitol Room of the Hotel Washington, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

Agenda items are as follows:

1. Report of Regional Directors Meeting
2. Report of Airline Round Table Meeting
3. Report of Personnel Relocations-ICO-Paris; Regional Directors Paris/London-Mexico City
4. Report Regarding USTS London Operation
5. Presentation by Albert N. Alexander, Director of newly established International Services Division of the Industry & Trade Administration of the Department of Commerce
6. Report of USTS Task Force on New Directions for USTS
7. Miscellaneous.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, of the United States Travel Service, Room 1856, U.S. Department of Commerce, Washington, D.C. 20230, (telephone (202) 377-4752) will respond to public requests for information about the meeting.

FABIAN CHAVEZ, Jr.,
Assistant Secretary for Tourism.

[FR Doc. 78-33216 Filed 11-27-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

Office of the Assistant Secretary

ARMY SCIENCE BOARD

Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the committee: Army Science Board.
Dates of meeting: December 18-19, 1978.
Place: Pentagon, Washington, D.C. (exact location can be determined by contacting LTC Sweeney at 202 697-9703).
Time: 0800 to 1700 hours, December 18-19, 1978. (Closed.)

Proposed agenda. The ASB Chemical Decontamination/Contamination Avoidance AHSG will hold classified discussions of briefings they have received on the threat and other issues and programs which relate to the defensive posture of the U.S. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., Specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

ROBERT F. SWEENEY,
Lieutenant Colonel, GS, Executive Secretary, Army Science Board.

[FR Doc. 78-33247 Filed 11-27-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, COORDINATING SUBCOMMITTEE AND TASK GROUPS OF THE SUBCOMMITTEE ON PETROLEUM INVENTORIES AND STORAGE AND TRANSPORTATION CAPACITIES

Meetings

Notice is hereby given that the Coordinating Subcommittee on Petroleum Inventories and Storage and Transportation Capacities of the National Petroleum Council will meet on December 4, 1978. In addition, the Tank Cars and Trucks Task Group will meet on November 28, 1978, the Waterborne Transportation Task Group and the Gas Pipeline Task Group will meet on November 29, 1978. The Petroleum Pipeline Task Group will meet on December 4, 1978, and the Inventory and Storage Task Group will meet on December 12, 1978.

The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. The Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will make an analysis of the Petroleum inventories, and storage and transportation capacities of the United States, and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by task groups whose efforts will be coordinated by the Coordinating Subcommittee.

The third meeting of the Coordingating Subcommittee of the Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will meet on Monday, December 4, 1978, starting at 2 p.m., in the Conference Room National Petroleum Council, 1625 K Street NW., Suite 601, Washington, D.C. Its tentative agenda is as follows:

1. Introductory Remarks by R. Scott Van-Dyke, Chairman.
2. Remarks by Mario Cardullo, Government Cochairman.
3. Discuss and Review Study Scope.
4. Discuss Progress of Task Groups.
5. Discuss Any Other Matters Pertinent to the Overall Assignment of the Coordinating Subcommittee.

The individual task groups will meet at the following times and locations.

Tank Cars and Trucks Task Group: Second meeting—Tuesday, November 28, 1978, starting at 10 a.m., in the Conference Room, National Petroleum Council, 1625 K Street, N.W., Suite 601, Washington, D.C.

Waterborne Transportation Task Group: Second meeting—Wednesday, November 29, 1978, starting at 11:30 a.m. In the Presidential Suite, Marriott Hotel I-70 & Lambert Airport, St. Louis, Missouri.

Gas Pipeline Task Group: Third meeting—Wednesday, November 29, 1978, starting at 12 p.m. in Room 393, Marriott-O'Hare Hotel, 8535 West Higgins Road, Chicago, Illinois.

Petroleum Pipeline Task Group: Third meeting—Monday, December 4, 1978, starting at 10 a.m. in the Conference Room, National Petroleum Council, 1625 K Street, NW., Suite 601, Washington, D.C.

Inventory and Storage Task Group: Third meeting—Tuesday, December 12, 1978, starting at 10 a.m. in Room 1031, The Midland Building, 101 Prospect Avenue, Cleveland, Ohio.

The agenda for each of these task groups will be as follows:

Remarks by Chairman Government Cochairman.
Discuss and Review Study Scope.
Discuss Questions and data sources for planned survey.
Discuss Format, Distribution and Tabulation of the Survey.
Discuss Any Other Matters Pertinent to the Overall Assignment of the Task Group.

The meetings are open to the public. The chairmen of the Coordinating Subcommittee and task groups are empowered to conduct the meetings in a fashion that will, in their judgment facilitate the orderly conduct of business. Any member of the public who wished to file a written statement with the Coordinating Subcommittee or task groups will be permitted to do so, either before or after the meeting but not later than December 29, 1978. Members of the public who wish to make oral statements should inform Dr. Erik A. Svenson, Office of Policy and Evaluation, 202-376-1846, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on November 22, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-33283 Filed 11-27-78; 8:45 am]

[6450-01-M]

Energy Information Administration

INVENTORY OF CURRENT DOE ENERGY INFORMATION REPORTING REQUIREMENTS

AGENCY: Energy Information Administration.

ACTION: Notice of inventory of current Department of Energy, energy information reporting forms and expiration dates for these documents.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interesterd parties of an inventory of current energy information reporting forms and their respective expiration dates. The listing which follows this notice indicates for each form the current form number, the former form number (if any), the title of the reporting form and the expiration date for the reporting form which has been set by the Office of Management and Budget (OMB).

In the future, whenever an energy information form is developed, revised, or discontinued, EIA will publish a notice in the FEDERAL REGISTER summarizing the action which is being taken.

FOR FURTHER INFORMATION CONTACT:

Carolyn Sinclair, Energy Information Administration, Room BG-035, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, 202-252-5147.

SUPPLEMENTARY INFORMATION: This notice, as well as future notices issued by EIA relating to changes in reporting requirements, includes only those forms for which EIA is responsible. Neither this notice nor future notices issued by EIA will reference the existence of reporting documents or changes in the statue of reporting requirements which are controlled by the Office of Administration within DOE.

Issued in Washington, D.C., November 16, 1978.

LINCOLN E. MOSES,
Adnimistrator, Energy Information Administration.

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[6450-01-C]

U.S. DEPARTMENT OF ENERGY
Energy Information Administration
Inventory of Current Energy Related* Reporting Forms
As of October 27, 1978

FORM NUMBER	OLD FORM NUMBER	FORM TITLE	FORM EXPIRATION DATE
BOM-6-1302-MS		BULK TERMINAL STOCKS OF NO.6 AND RESIDUAL FUEL OILS BY SULFUR CONTENT	04/30/81
BOM-6-1305-M		NATURAL GAS PROCESSING PLANT REPT.	01/31/79
BOM-6-1308-M		TANKER AND BARGE SHIPMENTS OF CRUDE OIL AND PETROLEUM PRODUCTS BETWEEN STATES	04/30/81
BOM-6-1320-M		DISTRICT 5 MONTHLY PETROLEUM REPT. SUPPLEMENT	03/31/81
BOM-6-1325-T		CRUDE OIL AND PETROLEUM PRODUCTS PIPELINE SURVEY	08/31/80
BOM-6-1329-A		SALES OF ASPHALTS AND ROAD OILS	11/30/80
BOM-6-1334-A		CAPACITY OF PETROLEUM REFINERIES	01/31/79
BOM-6-1335-A		FUEL CONSUMED FOR ALL PURPOSES AT REFINERIES	01/31/79
BOM-6-1337-A,AS		FUEL OIL AND KEROSINE SALES AND INVENTORIES	11/30/79
BOM-6-1340,1341		SUPPLY AND DISTRIBUTION OF NATURAL GAS - PRODUCERS AND DISTRIBUTORS	11/30/80

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BOM-6-1343-A		NATURAL GAS PROCESSING REPORT	11/30/80
BOM-6-1345-A,AS		SALES OF LIQUIFIED PETROLEUM GASES	11/30/80
BOM-6-1370-A		COKE AND COAL-CHEMICAL MATERIALS	06/30/79
BOM-6-1385-A		PENNSYLVANIA ANTHRACITE PRODUCTION	11/30/78
BOM-6-1386-A		PENNSYLVANIA ANTHRACITE PRODUCTION (MINE WITHOUT PREPARATION PLANTS)	11/30/78
BOM-6-1387-A		PENNSYLVANIA ANTHRACITE PRODUCTION (CONTRACTOR'S REPORT)	11/30/78
BOM-6-1392-A		DISTRIBUTION OF PENNSYLVANIA ANTHRACITE	11/30/78
CS-43	FEA-U531-S-0	BUILDING WORKSHOP FOLLOW-UP SURVEY	06/30/79
CS-44	FEA-532-S-0	INDUSTRY WORKSHOP FOLLOW-UP SURVEY	06/30/79
CS-45	FEA-U533-S-0	VANPOOL WORKSHOP FOLLOW-UP SURVEY	06/30/79
EIA-14	FEA-P110-M-2	REFINERS MONTHLY COST ALLOCATION REPORT	08/31/79
EIA-19	FEA-P136-M-0	SYNTHETIC NATURAL GAS PLANT REPT	08/31/79
EIA-2,3,5		MONTHLY COAL REPORT, FUEL CONSUMPTION REPORT, COKE AND COAL CHEMICAL REPORT	01/31/80
EIA-25 EIA-28	FEO-1000	PRIME SUPPLIERS REPORT FINANCIAL REPORTING SYSTEM	06/30/79 12/31/79
EIA-35		EPA-DOE FUEL ECONOMY GUIDE EVALUATION SURVEY	06/30/79

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EIA-28	FEO-1000	FINANCIAL REPORTING SYSTEM	12/31/79
EIA-29		ANNUAL REFINERY REPORT	12/31/79
EIA-30		ANNUAL REPORT OF NATURAL GAS PRODUCTION AND DISPOSITION	12/31/79
EIA-32		ANNUAL REPORT OF NATURAL GAS PRODUCTION AND DISPOSITION	12/31/79
EIA-33		ANNUAL REPORT OF NATURAL GAS PRODUCTION AND DISPOSITION	12/31/79
EIA-34		ANNUAL REPORT OF NATURAL GAS PRODUCTION AND DISPOSITION	12/31/79
EIA-36		ANNUAL REPORT OF NATURAL GAS PRODUCTION AND DISPOSITION	12/31/79
EIA-37		ANNUAL REPORT OF NATURAL GAS PRODUCTION AND DISPOSITION	12/31/79
EIA-38		ANNUAL REPORT OF NATURAL GAS PRODUCTION AND DISPOSITION	12/31/79

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EIA-50	FEA-G101-A-2 FPC-69 FEA-G101-A-0	ALTERNATIVE FUEL DEMAND DUE TO NATURAL GAS CURTAILMENTS	12/31/78
EIA-52		SURVEY OF FUEL SWITCHING BY END USE CUSTOMERS	12/31/78
EIA-6	BOM-6-1419-A	DISTRIBUTION OF BITUMINOUS COAL AND LIGNITE SHIPMENTS	01/31/80
EIA-63		SOLAR COLLECTOR MANUFACTURING SURVEY	04/30/79
EIA-65		FIELD EVALUATION OF ROOM AIR CONDITIONERS	12/31/78
EIA-7	BOM-6-1401-A	BITUMINOUS COAL AND LIGNITE PRODUCTION AND MINE OPERATION	01/31/80
EIA-72		MONTHLY ENERGY REVIEW SURVEY	12/31/78
EIA-79	EIA-8	RETAIL MOTOR GASOLINE SERVICE STATION SURVEY	07/31/79
EIA-84		NATIONAL ENERGY CONSUMPTION INTERIM SURVEY	06/30/79
EIA-9	FEA-P112-M-0 CLC-92	NO. 2 HEATING OIL SUPPLY PRICE MONITORING REPORT (SCHEDULE A)	08/31/80
EIA-97			12/31/79
ERA-100	FEA-25	CERTIFICATION OF REQUIREMENTS FOR USE UNDER ALLOCATION LEVELS NOT SUBJECT TO AN ALLOCATION FRACTION	03/31/79
ERA-49	FEA-P102-M-0	DOMESTIC CRUDE OIL ENTITLEMENTS PROGRAM REFINERS MONTHLY REPT.	03/31/79
ERA-60	FEA-1005-IM FEA-P126-M-0 88-42 FEA-P113-M-0	REPORT OF OIL IMPORTS INTO THE UNITED STATES AND PUERTO RICO	08/30/79

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ERA-99	FEA-17	REQUEST FOR ASSIGNMENT OF BASE PERIOD SUPPLY VOLUME	01/31/79
ERDA-HQ-254		QUARTERLY PROGRESS REPORT ON STATUS OF REACTOR CONSTRUCTION	07/31/81
ERDA-0170		SURVEY OF U.S. URANIUM MARKETING ACTIVITY	01/31/81
ERDA-0171		ANNUAL SURVEY URANIUM EXPLORATION AND SURFACE DRILLING COSTS AND ANTICIPATED EXPENDITURES	04/30/81
FEA-AHS-2		HOUSING ENERGY CONSERVATION	09/30/81
FEA-C602-S-1		MFRI COAL CONVERSION REPORT	12/31/78
FEA-C603-S-0		POWERPLANT IN EARLY PLANNING PROCESS IDENTIFICATION REPORT	12/31/78
FEA-C607-S-01		MAJOR FUEL BURNING INSTALLATION-EARLY PLANNING PROCESS IDENTIFICATION REPORT	12/31/78
FEA-C607-S-03		MAJOR FUEL BURNING INSTALLATION-EARLY PLANNING PROCESS IDENTIFICATION REPORT	12/31/78
FEA-F701-M-0		TRANSFER PRICING REPORT	01/31/79
FEA-G318-M-0		UNDERGROUND GAS STORAGE REPORT	06/30/79
FEA-P101-Q-1		REFINER QUARTERLY REPORT	12/31/78
FEA-P103-M-0		OLD OIL ENTITLEMENTS PROGRAM ENTITLEMENT TRANSACTION REPORT	01/31/79
FEA-P105-S-0		COMPLAINTANT'S REPORT	01/31/79
FEA-P106-S-0		APPLICATION TO STATE FOR PETROLEUM HARDSHIP OR EMERGENCY RELIEF	01/31/79

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FEA-P107-S-0		STATE OFFICE OF PETROLEUM ALLOCATION STATE ACTION ON APPLICATION FOR HARDSHIP OR EMERGENCY RELIEF	01/31/79
FEA-P108-S-0		WHOLESALE PURCHASER-RESELLER'S CERTIFICATION OF DISTRIBUTION TO PURCHASERS	01/31/79
FEA-P114-M-0		MONTHLY REMITTANCE ADVICE	01/31/79
FEA-P115-S-0		OTHER REMITTANCE ADVICE	01/31/79
FEA-P116-S-0		REQUEST FOR REFUND OF OIL IMPORT FEES	01/31/79
FEA-P118-Q-1		REFINER REPORT OF BUY/SELL CRUDE OIL TRANSACTIONS (FOR ALLOCATION PROGRAM)	12/31/78
FEA-P124		DOMESTIC CRUDE OIL PURCHASER'S REPORT	07/31/80
FEA-P127-P-0		SELECTED PETROLEUM PRODUCTS PRICE REPORT	12/31/78
FEA-P302-M-1		PETROLEUM INDUSTRY MONTHLY REPORT FOR PRODUCT PRICES	06/30/79
FEA-P306-M-0		REFINER/IMPORTER MONTHLY REPORT OF PETROLEUM PRODUCT DISTRIBUTION	12/31/79
FEA-P310-M-0		MONTHLY SURVEY OF DISTILLATE & RESIDUAL FUEL SALES VOLUME TO ULTIMATE CONSUMERS	12/31/79
FEA-P315-M-0		MONTHLY SURVEY OF PROPANE SALES VOLUME TO ULTIMATE CONSUMERS	12/31/79
FEA-P320-M-0	FEO-1001 BOM-6-1300-M	REFINERY REPORT	01/31/79

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FEA-P321-M-0	FEO-1006 BOM-6-1302-M	BULK TERMINAL STOCKS OF FINISHED PETROLEUM PRODUCTS	01/31/79
FEA-P322-M-0	FEO-1004 BOM-6-1303-M	PIPELINE PRODUCTS REPORT	01/31/79
FEA-P323-M-0	FEO-1007 BOM-6-1311-M	CRUDE OIL STOCKS	01/31/79
FEA-P328-Q-0		FOREIGN CRUDE OIL COST REPORT	06/30/80
FEA-SG-1,2,4		SURVEY OF GALLONAGE SALES OF GASOLINE	12/31/78
FEA-U501-S-0		LIGHTING AND THERMAL OPERATIONS AWARD APPLICATION	12/31/78
FEA-U502-Q-1		ENERGY CONSERVATION PERFORMANCE REPORT	07/31/80
FEA-U524-P-0		INDUSTRIAL ENERGY CONSERVATION AND CONSUMPTION REPORT	05/30/81
FEA-U535-A-0		ENERGY SAVINGS REPORT	09/30/80
FEA-U537-S-0		MEDIA SURVEY (RADIO AND TELEVISION)	06/30/79
FEA-U584-S-0		OFFICE OF CONSUMER SERVICES GRANT APPLICATION	07/31/80
FERC-15	FPC-15	TOTAL GAS SUPPLY OF NATURAL GAS COMPANIES ANNUAL REPORT -	12/31/79
FERC-47	ICC-ACV-162	APPLICATION FOR ANNUAL OR BASIC VALUATION	07/31/80
FERC-66	FPC-1003	DATA FOR HEADWATER BENEFITS	07/31/81
FPC-R0016		REPORT ON SERVICE INTERRUPTIONS ON PIPELINE SYSTEMS	03/31/79
FPC-R0211		REPORT OF EVENTS AFFECTING BULK POWER SUPPLY (ORDER NO.331, 361)	03/31/79

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FEA-U585-S-0		ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS	07/31/80
FEA-U586-S-0		ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS	07/31/80
FEA-U587-S-0		ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS	07/31/80

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FPC-R0281		DATA ON MEASURES TO IMPLEMENT CONSERVATION OF NATURAL RESOURCES (R-454, APPENDIX B)	06/30/79
FPC-R0288		ANNUAL REPORTS OF SYSTEM FLOW DIAGRAMS	07/31/79
FPC-R0309		RESPONSE TO ORDER NO. 383-3, APPENDIX A-1, RELIABILITY AND ADEQUACY OF ELECTRIC SERVICE	06/30/79
FPC-R0326		TEMP EMERGENCY SALES/DELIVERIES OF NAT GAS FOR RESALE IC BY PERSONS WITH EXEMPTIONS UNDER NAT GAS ACT	06/30/79
FPC-R0327		RELIABILITY OF ELECTRIC AND GAS SERVICE;POLICY STATEMENT AND PROPOSED RULEMAKING (R-805)	06/30/79
FPC-1		ANNUAL REPORT FOR ELECTRIC UTILITIES, LICENSEES AND OTHERS (CLASS A AND CLASS B)	12/31/79
FPC-1-F		ANNUAL REPORT FOR PUBLIC UTILITIES AND LICENSEES (CLASS C AND CLASS D)	12/31/79
FPC-1-M		ANNUAL REPORT FOR MUNICIPAL ELECTRIC UTILITIES (HAVING ANNUAL REVENUES OF $250,000 OR MORE)	12/31/79
FPC-10A		QUESTIONNAIRE SCHED FOR CONTINUING REVIEW OF RATE SCHEDULES ANLYSIS FILED RATES, VOLUMES, QUALITY COND	09/30/79
FPC-11		NATURAL GAS PIPELINE COMPANY MONTHLY STATEMENT	06/30/79
FPC-12		POWER SYSTEM STATEMENT (CLASS I & II SYSTEMS & REQUESTED CLASS IV & V SYSTEMS)	12/31/79

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FPC-12-A		POWER SYSTEM STATEMENT (CLASSES III, IV, AND V SYSTEMS)	12/31/79
FPC-12-C		INDUSTRIAL ELECTRIC GENERATING CAPACITY-SMALLER INDUSTRIAL PLANTS	06/30/79
FPC-12-D		POWER SYSTEM STATEMENT (CLASS I & II SYSTEMS & REQUESTED CLASS IV & V SYSTEMS)	12/31/79
FPC-12-F		POWERLINE AND CONSTRUCTION DATA	12/31/79
FPC-12E-2		SUPPLEMENTAL POWER STATEMENT	06/30/79
FPC-13		SUMMARY FOR NATIONAL ELECTRIC RATE BOOK	06/30/79
FPC-14		ANNUAL REPORT FOR IMPORTERS AND EXPORTERS OF NATURAL GAS	03/31/79
FPC-16		REPORT OF GAS SUPPLY, REQUIREMENTS AND CURTAILMENTS	09/30/79
FPC-17		MONTHLY REPORT OF NATURAL GAS PIPELINE CURTAILMENTS	06/30/79
FPC-2		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-2-A		NATURAL GAS PROCESSING REPORT	12/31/79
FPC-237A		WEEKLY FUEL EMERGENCY REPORT-COAL	03/31/79
FPC-237B		WEEKLY FUEL EMERGENCY REPORT-OIL	03/31/79
FPC-3		TYPICAL NET MONTHLY BILLS FOR ELECTRICAL SERVICE	06/30/79

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FPC-3-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-4		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-4-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-4-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-4-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-5		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-5-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-5-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-5-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-6		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-6-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-6-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-6-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-7		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-7-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-7-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-8		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-8-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-8-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-8-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-9		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-9-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-9-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-10		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-10-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-10-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-10-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-11		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
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FPC-11-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-11-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-12		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
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FPC-12-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-14		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
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FPC-15-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-16		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-16-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-16-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-17-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-18-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-19-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-19-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-20-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-21		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-21-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-21-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-21-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-22		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-22-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-22-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-22-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-23		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-23-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-23-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-24		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-24-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-24-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-24-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-25		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-25-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-25-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-25-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-26		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-26-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-26-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-26-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-27		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-27-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-27-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-27-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-28		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-28-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-28-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-28-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-29		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-29-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-29-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-29-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-30		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-30-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-30-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-30-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-31		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-31-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-31-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-31-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-32		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-32-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-32-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-32-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-33		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-33-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-33-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-33-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-34-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-34-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-34-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-35		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-35-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-35-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-36-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-37		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-37-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-37-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-43-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-44		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-44-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-44-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-44-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-45-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-47-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-48-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-48-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-49-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-49-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-50-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-50-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-51		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-51-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-51-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-51-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-52		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-52-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-52-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-52-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-53		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-53-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-53-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-53-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-54		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-54-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-54-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-54-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-55		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-55-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-55-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-55-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-56		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-56-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-56-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-56-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-57		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-57-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-57-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-57-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-58		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
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FPC-58-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
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FPC-59-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-59-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-59-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-60		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-60-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-60-S		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-60-S-A		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS C AND CLASS D)	12/31/79
FPC-61		ANNUAL REPORT OF NATURAL GAS COMPANIES (CLASS A AND CLASS B)	12/31/79
FPC-61-A		ANNUAL REPORT OF NATURAL GAS CO

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Inventory of Current Energy Related* Reporting Forms

As of October 27, 1978

FORM NUMBER	OLD FORM NUMBER	FORM TITLE	FORM EXPIRATION DATE
FPC-3-A		ALL ELECTRIC HOMES DATA SHEET	06/30/79
FPC-3-P(1)		MONTHLY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL ELECTRIC BILL DATA FOR BLS	12/31/78
FPC-3-P(2)		MONTHLY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL ELECTRIC BILL DATA FOR BLS	09/30/79
FPC-314A		APPLICATION FOR SMALL PRODUCER EXEMPTION	12/31/79
FPC-314B		ANNUAL STATEMENT TO SUPPORT SMALL PRODUCER EXEMPTION	06/30/79
FPC-338		RESERVE DEDICATION REPORT	12/31/79
FPC-38		ELECTRIC GENERATING STATION AND SUBSTATION DATA AND LOCATION	06/30/79
FPC-8		MONTHLY POWER PLANT REPORT	03/31/79
FPC-823		MONTHLY REPORT OF COST AND QUALITY OF FUELS FOR ELECTRIC PLANTS	03/31/79
FPC-85		REPORTING OF NEW NON-JURISDICTIONAL SALES OF NAT GAS BY NAT GAS CO SUBJECT TO JURISDICTION OF FPC	06/30/79
FPC-5		MONTHLY STATEMENT OF ELECTRIC OPERATING REVENUE AND INCOME	06/30/79
FPC-6		INITIAL COST STATEMENT FOR LICEASED PROJECTS	06/30/79
FPC-67		STEAM - ELECTRIC PLANT AIR AND WATER QUALITY CONTROL	12/31/79
FPC-7		STATEMENT OF ACTUAL LEGITIMATE ORIGINAL COST OF CONSTRUCTION	06/30/79

*Does not include reporting requirements controlled by DOE Office of Administration

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FORM NUMBER	OLD FORM NUMBER	FORM TITLE	FORM EXPIRATION DATE
FPC-8	FPC-2 FPC-11 FPC-16	UNDERGROUND GAS STORAGE REPORT	01/31/80
FPC-80		LICENSED PROJECTS RECREATION REPORT	12/31/79
FPC-9		ANNUAL REPORT FOR LICENSEES OF PRIVATELY OWNED MAJOR PROJECTS (UTILITY AND INDUSTRIAL)	12/31/79
ICC-ACR-81		REPORT OF EXPENDITURES FOR ADDITIONS AND BETTERMENT-OIL PIPELINE COMPANIES	03/31/79
ICC-ACV-1		STATEMENT OF PROPERTY CHANGES OTHER THAN LAND AND RIGHTS-OF-WAY PIPELINE CARRIERS	03/31/79
ICC-ACV-11		INFORMATION FOR USE IN DEVELOPMENT OF WORKING CAPITAL	03/31/79
ICC-ACV-159		SERVICE LIFE DATA	12/31/78
ICC-ACV-2		SUMMARY OF LAND AND RIGHTS-OF-WAY PROPERTY CHANGES-PIPELINE CARRIERS	03/31/79
ICC-ACV-3		SUMMARY OF CHANGES IN ORIGINAL COST AND TOTAL ORIGINAL COST AT END OF PERIOD-PIPELINE CARRIERS	03/31/79
ICC-ACV-4		SUMMARY OF COST REPRODUCTION NEW AND REPRODUCTION NEW LESS DEPRECIATION-PIPELINE CARRIERS	03/31/79
ICC-ACV-5		INVENTORY OF PROPERTY OTHER THAN LAND AND RIGHTS-OF-WAY	03/31/79
ICC-ACV-6		INVENTORY OF LAND AND RIGHTS-OF-WAY	03/31/79

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Inventory of Current Energy Related* Reporting Forms

As of October 27, 1978

FORM NUMBER	OLD FORM NUMBER	FORM TITLE	FORM EXPIRATION DATE
ICC-ACV-7		SUMMARY OF ORIGINAL COST OF INVENTORY	03/31/79
ICC-ACV-8		COST DATA FOR EQUIPMENT AND TANKS	03/31/79
ICC-ACV-9		COST DATA FOR PIPELINE CONSTRUCTION	03/31/79
ICC-P		ANNUAL REPORT - CARRIERS BY PIPELINE	03/31/79
ICC-OPS		QUARTERLY REPORT OF PIPELINE COMPANIES	12/31/79
MA-412		MANUFACTURERS OF COAL INVENTORIES AS OF 10/31/77	04/30/79
RA-16	FEA-C613-S-0	COAL LOAN GUARANTEE APPLICATION	09/30/83
S-380, 380B, 3805		SOLAR COLLECTOR MANUFACTURING SURVEY	12/31/78

*Does not include reporting requirements controlled by DOE Office of Administration

[FR Doc. 78-33145 Filed 11-27-78; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

PROCEDURE FOR EARLY FILING AS PROVIDED FOR UNDER SECTION 902 OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Notice is hereby given that the Economic Regulatory Administration is prepared to receive, consider and take action on:

1. Filings by certain powerplants as provided for in Section 902(a) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA); and

2. Filings by major fuel burning installations for the use of petroleum under Section 211(d) of FUA as provided for in Section 902(b) of FUA.

If you wish to file early as provided for in Section 902 of FUA you must submit appropriate documents signed by your Chief Executive Officer. Such filings must be clearly labeled as filed pursuant to the Powerplant and Industrial Fuel Use Act of 1978 both on the filing itself and on the outside of the envelope in which it is sent. Your filing must be sent to the Assistant Administrator for Fuels Regulations, Room 6128, 2000 M Street NW., Washington, D.C. 20461. For further information contact: Mr. Barton R. House, Office of Fuels Regulation, Economic Regulatory Administration, Department of Energy, Room 6128, 2000 M Street NW., Washington, D.C. 20461, (202) 254-3905.

Issued in Washington, D.C., November 17, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-33282 Filed 11-27-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Project No. 2305]

SABINE RIVER AUTHORITY OF TEXAS AND SABINE RIVER AUTHORITY, STATE OF LOUISIANA

Application for Approval of Revised Recreation Plan

NOVEMBER 21, 1978.

Take notice that an application was filed May 24, 1978, by the Sabine River Authority, State of Lousiana (correspondence to: Mr. R. D. Morgan, Chief Engineer, Sabine River Authority of the State of Louisiana, P.O. Box 44155 Capitol Station, Baton Rouge, Louisiana 70804) under the Federal Power Act, 16 U.S.C. §§ 791a-825r, for approval of revised plans for recreational development at the constructed Toledo Bend Project, FERC No. 2305. The Authority is, with the Sabine River Authority of Texas, a joint licensee of the project, located on the Sabine River in Newton, Sabine, and Shelby Counties, Texas, and Sabine and Desoto Parishes, Louisiana. The project occupies lands of the Sabine National Forest.

The revised recreation plan proposed by the Authority is for the Louisiana portion of the project. A revised plan is also being proposed by the Sabine River Authority of Texas for the Texas portion of the project. A separate notice will be issued for that plan when the filing is completed.

The revised plan of the Sabine River Authority, State of Louisiana calls for transferring the responsibility for recreational development now vested with it to the Louisiana State Parks and Recreational Commission (La SPARC). The present recreation plan for the project approved some 16 recreational areas on the Louisiana shore. La SPARC would trade land in these areas to acquire land to develop two major state parks to be known as North and South Toledo Bend Parks, under two consecutive 5 year programs. It is anticipated that the North Toledo Bend State Park would be constructed during the first five year period, would consist of approximately 1000 to 1200 acres, and would be located on the northern half of the Louisiana side of the reservoir. The park would offer water-related recreational opportunities such as swimming, boating, skiing, and fishing, as well as facilities for activities usually available in large state parks including camping grounds, hiking trails, playgrounds and cabins. The South Toledo Bend State Park, which would be constructed during the second 5 year period, would be a 1200-acre facility near the project dam. Striped bass fishing is already established. Other recreational opportunities would be similar to those described for the North Toledo Bend Park. The estimated cost for both parks is 9.7 million dollars.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accoredance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 2, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33270 Filed 11-27-78; 8:45 am]

[6450-01-M]

Intergovernmental and Institutional Relations

NATIONAL PETROLEUM COUNCIL; SUBCOMMITTEE ON PETROLEUM INVENTORIES AND STORAGE AND TRANSPORTATION CAPACITIES

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Petroleum Inventories and Storage and Transportation Capacities of the National Petroleum Council will meet Wednesday, December 13, 1978, at 2:00 p.m. in the Mount Vernon Room, Madison Hotel, 15th and M Streets, NW., Washington, D.C.

The parent Committee was established to provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

The subcommittee will make an analysis of the petroleum inventories, and storage and transportation capacities of the United States, and will report its findings to the parent Committee.

The tentative agenda is as follows:

Discuss the Scope of the Study Being Conducted in Response to the Secretary of Energy's Request.

Discuss the Methodology and Data Collection of the Study.

Discuss the Timetable for Completion of the Study.

Discuss Any Other Matters Pertinent to the Overall Assignment From the Secretary.

The meeting is open to the public. The Chairperson of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management, 202-252-5187, at least 5 days prior to the meet-

ing and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on November 24, 1978.

GEORGIA HILDRETH,
Director, Advisory Committee Management.

[FR Doc. 78-33458 Filed 11-27-78; 9:30 am]

[6450-01-M]

, Office of Hearings and Appeals

APPLICATION FOR EXCEPTION FILED BY SHELL OIL CO.

Public Hearing

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of public hearing.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) gives notice of a public hearing to be held to receive comments with respect to an Application for Exception filed by Shell Oil Company (Shell) on November 16, 1978. In its submission, Shell requests relief from the provisions of 10 CFR 211.10, which requires that allocations of motor gasoline be determined by reference to volumes supplied during 1972, as adjusted. The purpose of this hearing is to provide suppliers and any other interested persons an opportunity to make oral presentations regarding the basis for Shell's request that exception relief be granted to Shell which permits the firm to determine allocation levels on the basis of 1977 supply levels.

DATES: Hearing: December 8, 1978, 9:30 a.m.

Request to Speak: December 5, 1978.

ADDRESSES: Request to Speak: Debra Kidwell, Office of Public Hearing Management, Box WG, 2000 M Street, NW., Room 2313, Washington, D.C. 20461, (202) 254-5201.

Hearing Location: Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

Comments and Further Information to: Thomas O. Mann, Acting Deputy Director, Office of Hearings and Appeals, 2000 M Street, NW., Room 8014, Washington, D.C. 20461, (202) 254-8606.

SUPPLEMENTARY INFORMATION: Currently pending before the Office of Hearings and Appeals are an Application for Stay, and an Application for Exception which were filed by the Shell Oil Company (Shell) on November 16, 1978.

In its Application for Exception, Shell states that the firm's current supply of gasoline is insufficient to meet the needs of its customers. Shell attributes this shortfall to two factors. According to the Shell submissions, the DOE price regulations have held Shell's gasoline prices at levels below other major oil companies. Shell states that this situation has resulted in an increased demand for the gasoline that Shell refines. Shell also indicates that the production of gasoline at the firm's Wood River, Illinois and Norco, Louisiana refineries has been partially curtailed. This curtailment, according to the firm, has been necessitated by repairs and maintenance.

Shell claims that it will be unable to fully meet its customers' current gasoline requirements until the end of December 1978. Shell contends that in order to equitably distribute its available supplies of gasoline until that time, an exception should be granted which permits it to use an allocation method which more closely reflects current demand than the 1972 base period specified in Section 211.102 of the DOE allocation regulations.

On November 22, 1978, the Office of Hearings and Appeals granted the relief which Shell had requested for a period of 20 days. That action was taken in response to an Application for Temporary Stay that had been filed on November 16, 1978. However, because of the potential impact on the various customers of Shell and the precedential effect that granting exception relief would have on other purchasers and suppliers, the DOE has determined that it would prove beneficial to convene a public hearing at which all interested parties will have an opportunity to make oral presentations regarding the merits of the underlying Shell exception application. Comments will also be accepted as to whether the Temporary Stay should be extended for an additional period of time.

Any party that wishes to make an oral presentation at the hearing should contact the individual whose name appears at the beginning of this notice. The Office of Hearings and Appeals reserves the right to limit the number of persons to be heard and to establish the procedures governing the conduct of the hearing. The Director of the Office of Hearings and Appeals or his designee will preside at these hearings.

At the hearings, representatives from Shell will be afforded an opportunity to make an initial statement. Following those statements, interested parties, including customers affected by the exception application, will be permitted to make statements, subject to reasonable time constraints. If any person wishes to ask a question of any person who has made an oral presentation at the hearing, he or she may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for an answer.

At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearings will be made and may be purchased from the reporter. The entire record of the hearings will be retained by DOE and will be made available for inspection at the Office of Hearings and Appeals Public Docket Room, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., Monday through Friday.

Issued in Washington, D.C., November 22, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

[FR Doc. 78-33396 Filed 11-24-78; 8:45 am]

[6450-01-M]

Office of Hearings and Appeals

NO. 2 (HOME) HEATING OIL

Issuance of a Decision and Recommendations

AGENCY: Department of Energy, Office of Hearings and Appeals.

ACTION: Notice of Issuance of Decision and Recommendations Concerning the Possibility of Further Regulatory Action on Home Heating Oil.

EFFECTIVE DATE: November 21, 1978.

FOR FURTHER INFORMATION CONTACT:

George B. Breznay, Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Room 8014, Washington, D.C. 20461, telephone 202-254-9681.

On January 13, 1978, the Department of Energy announced the program which it had implemented to monitor the prices of No. 2 (home) heating oil over the course of the 1977-1978 heating season. 43 FR 2917 (January 20, 1978). At the same time, the Deputy Secretary of the Department of Energy indicated that the Office of Hearings and Appeals would conduct an evidentiary hearing to evaluate the performance of the No. 2 heating oil industry since the exemption of that product from Federal price and allocation controls on July 1, 1976. *Id.* at 2919. The purpose of the hearing was to consider the need for further regulatory action regarding No. 2 heating oil in light of information which had been collected as a result of the monitoring program and any other information submitted at the hearing. The evidentiary hearing was convened on August 21, 1978 and adjourned on August 29, 1978.

Notice is hereby given that on November 20, 1978 the Office of Hearings and Appeals issued a Decision and Recommendations regarding No. 2 (home) heating oil. The findings contained in the Decision are based on the record of the August 1978 evidentiary hearing. A copy of the Decision is available at the Public Docket Room of the Office of Hearings and Appeals in Washington, D.C., Room B-120, 2000 M Street, NW. between the hours of 1 p.m. and 5 p.m. Copies may also be obtained by submitting a written request to:

Marcia B. Proctor, Chief, Docket and Publications Branch, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

See also 43 FR 17393 (April 24, 1978); 43 FR 24588 (June 6, 1978).

Issued in Washington, D.C., November 21, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

[FR Doc. 78-33234 Filed 11-27-78; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

October 16 Through October 20, 1978

Notice is hereby given that during the period October 16 through October 20, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

NOVEMBER 21, 1978.

Allison Propane Gas, Allison, Iowa, DEE-0082, propane

Allison Propane Gas filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would result in the assignment by the DOE of a new base period supplier of propane to Allison. On October 20, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request should be denied.

Belco Petroleum Corp., Houston, Tex., DEE-1426, crude oil

The Belco Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Belco to sell the crude oil produced from the White River Unit Green River Participating Area "B," Secondary Water Flood Unit located in Uintah County, Utah at upper tier ceiling prices. On October 17, 1978, the DOE issued a Proposed Decision and Order which permits Belco to sell 70.20 percent of the crude oil produced from the White River Unit at upper tier ceiling prices.

City of Long Beach, Long Beach, Calif., DXE-1870, crude oil

The City of Long Beach filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the Fault Block Unit 3, located on the Wilmington Oil Field, California, at upper tier ceiling prices. On October 16, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception relief should be granted.

Cooper & Brain, Inc., and Robert E. Brain, Wilmington, Calif., DEE-1405, crude oil

Cooper and Brain, Inc. and Robert E. Brain filed an Application for Exception from the provisions of 10 CFR 212.73. The request, if granted, would result in a retroactive exception permitting Cooper and Brain to retain overcharges resulting from their improper certification of the Brea Canyon Fee Lease as a stripper well property during 1974. On October 16, 1978, the DOE issued a Proposed Decision and Order in which it determined that the Application for Exception be denied.

Gulf Oil Corporation, Tulsa, Okla., DXE-1167, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gulf to continue to sell certain quantities of crude oil which it produces at the Northwest Graylin "D" Sand Unit at upper tier ceiling prices. On October 16, 1978 the DOE issued a Proposed Decision and Order in which it determined that Gulf should be permitted to sell at upper tier ceiling prices 45.73 percent of the crude oil produced from the Northwest Graylin "D" Sand Unit for the benefit of the working interest owners.

Charles F. Haas, Corpus Christi, Tex., DEE-1026; DEE-1027, curide oil

Charles F. Haas filed two Applictions for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would relieve Haas of any obligation to make refunds for revenues which he realized during the period September 1, 1973 through November 30, 1975 as a result of charging prices for crude oil which exceeded the applicable ceiling prices. In considering the Haas exception requests, the DOE concluded that: (i) Haas failed to provide financial data relating to the firm's overall petroleum related operations the therefore failed to substantiate its claim of serious financial hardship; and (ii) Haas failed to present any compelling reasons which would justify retroactive relief. On October 17, 1978, the DOE therefore issued a Proposed Decision and Order in which it determined that the exception request should be denied.

Parente's Oil Service, Inc., Coventry, R.I., DEE-1780, No. 2 heating oil

Parente's Oil Service, Inc. filed an Application for Exception which, if granted, would relieve the firm of any obligation to prepare and submit Form EIA-9 (No. 2 Heating Oil Supply/Price Monitoring Report). On October 17, 1978, the DOE issued a Proposed Decision and Order in which it determine that the exception request should be denied.

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Phillips Petroleum Co., Bartlesville, Okla., DEE-1357, crude oil

The Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners of the Thelmer D lease located in Oklahoma County, Oklahoma to sell crude oil produced from the lease at upper tier ceiling prices. On October 17, 1978, the DOE issued a Proposed Decision and Order in which it determined that the Phillips exception request should be granted.

Puerto Rico Olefins Co., Penuelas, P.R., DEE-1303, naphtha

Puerto Rico Olefins Company filed an Application for Exception which, if granted, would result in the issuance of additional entitlements to the firm for each barrel of naptha which it imported into Puerto Rico during the period from January 2, 1977 through October 31, 1977. On October 20, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Pyramid Corp., Inc., Wichita, Kans., DEE-0843, crude oil

Pyramid Corporation, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Pyramid to retain the revenues which the firm may have realized during the period September 1, 1973 through December 31, 1974 by charging unlawful prices for the crude oil it produced and sold from the "Pascoe A" property and the "Pasco B" property, located in Barton County, Kansas. On October 16, 1978 the DOE issued a Proposed Decision and Order which determined that the exception request should be denied.

Samedan Oil Corp., Ardmore, Okla., DEE-1171, crude oil

Samedan Oil Corporation filed an Applicatoin for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced for its benefit from the Martin Muncrief No. 2 Lease, located in McClain County, Oklahoma at upper tier ceiling prices. On October 19, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception request be denied.

Texaco, Inc., Atlanta, Ga., DEE-4842, motor gasoline

Texaco, Inc. (Texaco) filed an Application for Exception from the provisions of 10 CFR 211.9 The exception request, if granted, would permit Texaco to terminate its base period supplier/purchaser relationship with J. C. Varn and relieve the firm of its obligation to supply Varn with motor gasoline. On October 20, 1978, the DOE issued a Proposed Decision and Order in which the DOE determined that the exception request should be granted in part.

Texaco, Inc., Denver, Colo., DEE-1306 crude oil

Texaco Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Texaco to sell the crude oil produced from the Northern Pacific "G" Lease at upper tier ceiling prices. On October 16, 1978, the DOE issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Wallace & Wallace, Fuel Oil Co., Inc.; Wallace & Wallace Chemical & Oil Corp., St. Albans, N.Y., DEE-0388, No. 2 fuel oil

Wallace and Wallace Fuel Oil Co., Inc., and Wallace and Wallace Chemical and Oil Corporation jointly filed an Application for Exception from the provisions of 10 CFR 212.93. In the Application Wallace requested that it be permitted to retain the revenues which it realized during the period from November 1, 1973 through December 31, 1974 as a result of charging prices for No. 2 fuel oil which exceeded those permitted under CFR 212.93. On October 19, 1978, the Department of Energy issued a Proposed Decision and Order in which it determined that the Wallace exception request should be granted in part and that Wallace should be relieved of the requirement that it refund overcharges attributable to sales under contracts awarded under the 8(a) program adminstered by the Small Business Administration. The DOE also determined that wallace should not be required to refund certain overcharges made on sales of No. 2 fuel oil to other resellers.

[FR Doc. 33235 Filed 11-27-78; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

November 6 Through November 10, 1978

Notice is hereby given that during the period November 6 through November 10, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.
NOVEMBER 21, 1978.

PROPOSED DECISIONS AND ORDERS

Commonwealth Oil Refining Co., Inc., Penuelas, P.R., DEE-1022, crude oil; naphtha

The Commonwealth Oil Refining Co., Inc. (Corco) filed an Application for Exception which, if granted, would have resulted in an increase in the firm's entitlement sales obligation sufficient to enable it to realize $36 million in additional revenues over a three month period. On November 7, 1978, the DOE issued a Proposed Decision and Order in which it determined that Corco should be granted an exception from the provisions of Section 211.67(d)(5)(ii) of the naphtha entitlements program and that the Corco exception request should be denied in all other respects.

Crown Central Petroleum Corp., Bellaire, Tex., DEE-1872, crude oil

The Crown Central Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell the crude oil which is produced from the Santa Ana and Fresno Land Leases located in the Raisin City Field in Fresno County, California, at upper tier ceiling prices. On November 9, 1978, the DOE issued a Proposed Decision and Order which would permit Crown Central to sell at upper tier ceiling prices 82.16 percent of the crude oil produced for the benefit of the working interest owners from the Santa Ana and Fresno Land Leases.

Earlsboro Oil & Gas Co., Inc., Oklahoma City, Okla., DEE-1375, crude oil

Earlsboro Oil & Gas Co., Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Schroeder-Post No. 1 Well, located in Kingfisher County, Oklahoma, at upper tier ceiling prices. On November 7, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception request be denied.

Gulf Oil Corp., Houston, Tex., DXE-1973, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gulf to continue to sell a portion of the crude oil produced from the Sidney A. Smith Lease located in Liberty County, Texas, at upper tier ceiling price levels. On November 7, 1978, the DOE issued a Proposed Decision and Order in which it determined that exception relief should be granted to the working interest owners of the Smith Lease.

Hughes & Hughes Oil & Gas, Beeville, Tex., FEE-4450, crude oil

Hughes & Hughes Oil and Gas filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Hughes & Hughes to retain the revenues that it realized in the sale of crude oil produced from the East Pleasanton Field Unit during the period June 1974 through January 1976. In addition, Hughes & Hughes requested prospective exception relief which would enable the firm to undertake an enhanced recovery waterflood project on the East Pleasanton Field Unit. On November 7, 1978, the DOE issued a Proposed Decision and Order in which it determined that the retroactive portions of Hughes & Hughes' exception application should be denied. The DOE also determined that prospective exception relief should be granted which would permit Hughes & Hughes to implement the enhanced recovery project at the East Pleasanton Field Unit.

Maguire Oil Co., Howard County, Tex., DXE-1791, crude oil

The Maguire Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Maguire to sell the crude oil produced for the benefit of the working interest owners at the Chandler Lease at market prices. On November 6, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

[FR Doc. 78-33236 Filed 11-27-78; 8:45 am]

[6450-01-M]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of September 11 Through September 15, 1978

Notice is hereby given that during the week of September 11 through September 15, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Davison Oil Co., Inc., Mobile, Ala., DRA-0021, diesel fuel

Davison Oil Company, Inc. filed an Appeal from a Remedial Order which FEA Region VI issued to it on August 29, 1977. In the Remedial Order, Region IV found that during the period November 1, 1973 through April 30, 1974, Davison had improperly sold No. 2-D diesel fuel at prices in excess of the maximum selling prices permitted by the Mandatory Petroleum Price Regulations. The Remedial Order directed Davison to make refunds to its purchasers through direct payments within thirty days. In its appeal, Davison argued that the FEA should have been precluded from auditing the firm because an earlier audit had found no pricing violations. In considering this contention, the DOE noted that the previous audit concerned the firm's pricing of motor gasoline rather than diesel fuel. The DOE also pointed out that it is not precluded from re-investigating a firm's pricing practices when circumstances warrant. Davison also argued that it had received conflicting advice concerning the computation of maximum lawful selling prices from FEO and FEA representatives whom it contacted during the audit period. However, the DOE found that Davison had failed to submit any documentary evidence of such oral advice. In addition, the DOE determined that in the absence of countervailing factors, oral advice cannot ratify conduct which is unlawful under federal regulations. Davison also contended that the FEA improperly excluded certain freight costs from the calculation of increased product costs in determining its maximum lawful selling prices. However, the DOE found that those costs were incurred in transporting diesel fuel directly from Davison's supplier to its customers without bringing the product into inventory. The DOE determined that under the applicable regulations, that type of cost cannot be passed through as a product cost. Davison also argued that the FEA and DOE improperly delayed releasing information to the firm which prevented it from adequately preparing its Appeal. However, the DOE found that Davison had obtained the information through a Freedom of Information Act request and had ample opportunity to review the information and supplement its Appeal. Finally, Davison contended that enforcement of the Remedial Order would cause the firm to experience a serious hardship. The DOE concluded on the basis of financial data which the firm submitted that the time period for refunding overcharges to customers should be extended from thirty days to 18 months. Accordingly, the Davison Appeal was granted in part and denied in part.

Phillips-Good Oil Co., Enid, Okla., DRA-0108, crude oil

Phillips-Good Oil Company appealed from a Remedial Order issued to it by DOE Regional VI on December 20, 1977. In the Remedial Order, Region VI found that during the period November 1973 through August 1976, Phillips-Good had sold crude oil produced from seven properties at unlawful prices. The Remedial Order directed Phillips-Good to refund the overcharges plus interest to its purchasers. In its Appeal, Phillips-Good contended that Ruling 1975-12 was improperly issued and should not have been used in determining the average daily production of the seven properties. In considering the Appeal, the DOE observed that since Ruling 1975-12 was interpretive of the stripper well rule set forth in 10 CFR 212.54, it was specifically exempt from the notice and hearing requirements of the Administrative Procedure Act. The DOE also rejected the firm's contention that Ruling 1975-12 is discriminatory because it distinguishes between wells that produce crude oil from independent formations through multiple tubing strings and wells that produce through a single string of tubing. The DOE also refused to grant a stay of the Remedial Order pending resolution of similar issues in two district court proceedings. The DOE noted that administrative stays of enforcement proceedings pending federal district court determinations would have a disruptive effect on the agency's enforcement program. The DOE therefore denied the Phillips-Good Appeal.

REQUESTS FOR EXCEPTION

L. W. Babcock, Montecito, Calif., DEE-1408, crude oil

L. W. Babcock filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners of the Union Avenue Field, located in Kern County, California, to sell a certain percentage of the crude oil produced from the lease at upper tier prices. In considering the exception request, the DOE observed that the data submitted by the applicant indicated that operating costs at the Union Avenue Field has increased to the point where they exceeded the revenues received from the sale of crude oil produced at lower tier prices. The DOE also found that the abandonment of the lease by Babcock would result in the loss of a significant quantity of otherwise recoverable crude oil. On the basis of the precedent established in a number of prior Decisions, the DOE approved exception relief which permitted Babcock to sell 90.86 percent of the crude oil produced from the Union Avenue Field at upper tier prices for a period of six months.

Commonwealth Oil Refining Co., Inc., San Antonio, Tex., DEE-1369, crude oil

The Commonwealth Oil Refining Company, Inc. (Corco) filed an Application for Exception in which it requested additional benefits under the Old Oil Entitlements Program for using low quality crude oil from California in its Puerto Rican refinery. In addition, the firm requested an exception from the provisions of 10 CFR 211.67(d)(4) which would permit it to earn full entitlement benefits for residual fuel oil refined from California crude oil and sold in the East Coast market. On June 30, 1978, the DOE issued a Proposed Decision and Order in which it approved the exception relief sought by Corco.

Fourteen firms filed Statements of Objections to the Proposed Decision and Order. In their Statements, the firms maintained that: (i) the DOE lacks authority to approve exception relief on gross inequity grounds to a firm that is not itself experiencing an inequity and (ii) the approval of exception relief in this proceeding constitutes unlawful rulemaking. In considering the first argument, the DOE observed that it has approved exception relief to alleviate an inequity to a third party on numerous occasions. The DOE concluded that there was no basis to the claim that it lacked authority to grant exception relief to Corco in order to mitigate the gross inequity currently experienced by California crude oil producers due to the price and allocation regulations. In response to the second argument, the DOE held that it has the discretion to proceed by either rule-making or individual

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adjudication in addressing situations in which gross inequity exists.

The parties filing Statements of Objections also contended that the approval of exception relief would not result in the production of additional California crude oil, that exception relief was unnecessary since posted prices for California crude oil were recently increased, and that there was no evidence that the crude oil which Corco intends to purchase represents shut-in production. In considering these contentions, the DOE found that the production of certain types of California crude oil was either shut-in or curtailed as a result of insufficient market demand. The DOE also found that the recent increases in posted prices for California crude oil were insufficient to encourage increased production. The DOE also held that since the record contained substantial evidence of shut-in production and insufficient market demand for certain types of low gravity California crude oil Corco should not be required to supply specific evidence that the crude oil it intends to purchase would not otherwise be produced.

In view of these circumstances, the DOE determined that Corco should receive $4.13 in additional entitlement benefits for each barrel of California crude oil which it processes in its refinery, subject to certain specified restrictions. That amount was based on Corco's projected increased costs and decreased revenues due to the use of California crude oil and an incentive factor varying with the gravity of the crude oil. Finally, the DOE determined that Corco should be permitted to earn full entitlement benefits for each barrel of residual fuel oil which it produces from California crude oil and sells in the East Coast market.

Gibson Oil & Refining Co., Bakersfield, Calif., FEE-4387, crude oil

Gibson Oil & Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). The exception request, if granted, would permit Gibson to receive additional entitlements for the crude oil which is refined for its account pursuant to processing agreements. In its Application, Gibson stated that a fire had destroyed its refinery, and it requested that it be granted small refiner bias entitlements for its processing agreements pending the construction of a new refinery. In considering Gibson's request, the DOE determined that the firm had failed to demonstrate that its operational difficulties were attributable to DOE regulations. The DOE also rejected Gibson's contention that exception relief would promote the national interest by increasing domestic refining capacity for California crude oil. The DOE noted that neither the entitlements program nor the exceptions process is the appropriate mechanism for receiving aid in building new refining facilities. Accordingly, the Gibson exception request was denied.

W. N. McMurry, Casper, Wyo., DXE-1477, crude oil

W. N. McMurry filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of exception relief previously granted to McMurry and would permit the firm to continue to sell a portion of the crude oil produced from the West Sage Creek Lease in Park County, Wyoming, at upper tier ceiling prices. *W. N. McMurry*, 1 DOE Par. 81,117 (April 26, 1978). In considering the exception application, the DOE found that McMurry continued to incur increased operating expenses on the West Sage Creek Lease. The DOE also found that in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of these determinations and on the basis of the operating data which McMurry had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit McMurry to sell 16.31 percent of the crude oil produced from the West Sage Creek Lease for the benefit of the working interest owners at upper tier ceiling prices.

Monsanto Co., Houston, Tex., DXE-1424; DXE-1425, crude oil

Monsanto Company filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exceptions, if granted, would result in the extension of the exception relief previously granted to Monsanto and would permit the firm to sell a portion of the crude oil produced from the Milo No. 1 and State 16 No. 1 Wells at upper tier ceiling prices. In considering the Monsanto exception request, the DOE found that the firm continued to incur increased operating expenses at the properties and that, in the absence of exception relief, the working interest owners would lack an economic incentive to produce crude oil. In view of this determination and on the basis of the operating data which Monsanto submitted for the most recently completed fiscal period, the DOE concluded that Monsanto should be permitted to sell at upper tier ceiling prices 78.36 percent of the crude oil produced from the Milo Well and 62.29 percent of the crude oil produced from the State Well for the benefit of the working interest owners.

REMEDIAL ORDER

Jimmie Austin, d.b.a. Austin Drilling Co., Seminole, Okla., DRO-0001, crude oil

Jimmie Austin, d.b.a. Austin Drilling Company filed an Objection to a Proposed Remedial Order issued to it by DOE Region VI. In the Proposed Remedial Order, Region VI determined that Austin had charged excessive prices in sales of crude oil and had thereby violated the applicable ceiling price regulations. In its objection, Austin claimed that Region VI had improperly excluded an injection well in determining the average daily production of crude oil. In considering this claim, the DOE noted that the identical contention had been considered and rejected in a number of previous decisions. The DOE also concluded that the pendency of litigation involving that issue did not provide sufficient justification for suspending enforcement of the remedial action. Austin also claimed that the Regional Office erred in finding that a $.15 per barrel payment to the firm by a purchaser constituted a bonus in excess of the posted price. The DOE found that this contention had also been denied in previous decisions and concluded that Austin had presented no basis for reaching a contrary result. Therefore, the DOE denied Austin's Objection and issued a final Remedial Order to the firm.

REQUEST FOR STAY

O. B. Mobley, Jr., Lafayette County, Ark., DES-0100, crude oil

O. B. Mobley, Jr. filed an Application for Stay of an Interpretation which was issued to him by the DOE General Counsel on March 16, 1978 and affirmed on Appeal by the DOE on June 16, 1978. *O. B. Mobley, Jr.*, 2 DOE Par. —— (June 16, 1978). If his present request were granted, Mobley would not be required to comply with the provisions of 10 CFR Part 212, Subpart D, pending judicial review of the Interpretation. In considering the Application, the DOE concluded that Mobley should not be permitted to continue to charge prices determined to be unlawful in two previous agency proceedings. The DOE also noted that approval of stay relief would frustrate the public interest in timely compliance with DOE regulations. Finally, the DOE noted that Mobley is unlikely to succeed on the merits of his lawsuit. Accordingly, the Application for Stay was denied.

SUPPLEMENTAL ORDER

Varibus Corp., Beaumont, Tex., DEX-0106, No. 2 fuel oil

The Acting Director of Enforcement of DOE Region VI requested that the Office of Hearings and Appeals issue an Order directing the disbursement of funds which the Varibus Corporation has deposited in an escrow account pursuant to a Decision and Order which the FEA issued to the firm on October 28, 1976. *Varibus Corporation*, 4 FEA Par. 85,030 (October 28, 1976). In support of his request, the Acting Director of Enforcement stated that on June 23, 1978, the United States District Court for the Eastern District of Texas sustained previous agency actions in the matter and directed Varibus to comply with the provisions of a Remedial Order which the agency issued to it on September 20, 1976. *See Varibus Corporation*, 4 FEA Par. 80,593 (December 17, 1976). The Acting Director of Enforcement also stated that Varibus informed the DOE that it does not intend to further contest the Remedial Order. Accordingly, the Office of Hearings and Appeals issued an order directing the Acting Director of Enforcement to disburse the funds in the escrow account in a manner consistent with the provisions of the Remedial Order.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Courtney F. Foos Coal Company, Virginia Beach, Virginia, DEE-1052.
Marvel Heat Corporation, Boston, Massachusetts, DEE-1017.

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Hill, Christopher & Phillips, Washington, D.C., DFA-0208.
Wyoming Refining Company, Denver, Colorado, DED-0495.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

NOVEMBER 9, 1978.

[FR Doc. 78-33237 Filed 11-27-78; 8:45 am]

[6450-01-M]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of September 18 Through September 22, 1978

Notice is hereby given that during the week of September 18 through September 22, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Gas Del Oro, Inc.; Gas Del Oro International, Inc.; El Dorado Marketing Co. of Laredo, Houston, Tex., FXA-1478, natural gas liquid products

Gas del Oro, Inc. and two affiliated companies filed an Appeal from a Decision and Order which the FEA issued on May 27, 1977 to Suburban Propane Gas Corporation, and three of its affiliated companies (collectively referred to as Ozona). In the May 27 Decision, the FEA granted Ozona's Application for Exception from the provisions of 10 CFR, Part 212, Subpart K by permitting that firm to increase its prices for natural gas liquid products above the maximum permissible levels, in order to reflect certain increased non-product costs incurred in connection with the operation of the Ozona natural gas processing plant located in Crockett County, Texas. In its Appeal, Gas del Oro contended that Ozona's non-product cost increases should have been attributed to the entire production of the Ozona plant, rather than being limited to the propane and butane which was "owned and sold" by Ozona. The DOE rejected this claim because Ozona's actual out-of-pocket costs of operating the plant were allocated only to the sales of Ozona's "owned and sold" production, rather than total plant production. In addition, the DOE found that Ozona returned all plant condensate to its suppliers and concluded that non-product costs should not be attributed to the condensate portion of the plant production. The DOE also found that the expenses that Ozona incurred in operating its gathering system should be included as a non-product cost eligible for passthrough. The record indicated, however, that Ozona received substantial income by charging producers a fee for the use of its gathering system to transport natural gas to Ozona's plant. The DOE concluded that this fee should be offset against the costs incurred at the plant and modified the exception relief approved in the May 27, 1977 Decision in order to reflect this conclusion. Finally, the DOE rejected Gas del Oro's contention that it was denied due process because it did not have access to certain information concerning Ozona's operations. The DOE concluded that this information was commercial and financial information of a confidential nature which the agency is required to protect from unwarranted disclosure. Accordingly, the Gas del Oro Appeal was granted in part with respect to the offset of the gathering system fee at the Ozona plant, but was denied in all other respects.

General Motors Corp.; Petrochemical Energy Group, Detroit, Mich.; Washington, D.C., DEA-0183; DEA-0180, natural gas liquids

The General Motors Corporation (GM)—and the Petrochemical Energy Group (PEG) filed Appeals from a Decision and Order which the DOE Economic Regulatory Administration (ERA) issued to the Consumers Power Company on March 31, 1978. In the March 31 Order, the ERA assigned Consumers the same base period use of feedstock for its Marysville, Michigan synthetic natural gas (SNG) plant that it had received under prior DOE orders. In considering the GM and PEG Appeals, the DOE found that: (i) Consumers had sufficient supplies of natural gas to satisfy the estimated needs of its priority users and industrial boiler users as specified in Section 211.29(c), without regard to the base period use of SNG feedstock granted in the March 31 order; (ii) the record did not support the ERA's determination that the current allocation should be maintained for an additional period of time; (iii) a substantial reduction in Consumers' allocation would not adversely affect the environment; and (iv) Consumers' SNG feedstock allocation could be significantly reduced without impeding the efficient transportation of butane and propane through Canada's Interprovincial Pipeline or diminishing imports of Canadian petroleum products into the United States. On the basis of these findings, the DOE concluded that the March 31 Order should be modified by substantially reducing the firm's allocation. In addition, the DOE noted that the agency had extended Consumers' SNG feedstock assignment for more than two years through the issuance of a series of interim orders. In each of those orders, the agency stated that Consumers' allocation would be continued on an interim basis to allow the firm to complete the assessment of the environmental consequences relating to a request for permanent SNG feedstock assignment which Consumers filed on June 1, 1976. In accordance with the National Environmental Policy Act of 1969 (NEPA), an environmental assessment must be undertaken to determine whether an environmental impact statement was required in connection with the disposition of the firm's petition. Because this mandatory assessment had not yet been completed, the DOE concluded that the March 31 Order might have contravened the NEPA. Therefore, the DOE held that any future allocation order issued to Consumers should take the environmental considerations into account.

Laketon Asphalt Refining, Inc., Evansville, Ind., FXA-1432, crude oil

Laketon Asphalt Refining, Inc. filed an Appeal of a Decision and Order issued to the firm on July 20, 1977. *Laketon Asphalt Refining, Inc.*, 6 FEA Par. 87,019 (July 20, 1977). In the July 20 determination, the FEA concluded that no adjustment should be made in the exception relief granted to the firm with respect to its obligations under the Entitlements Program (10 CFR 211.67) during the period April 1, 1976 through December 31, 1976. In its Appeal, Laketon contended that the FEA erred in failing to relieve the firm of its April and May 1976 entitlement purchase obligations. Laketon also challenged the FEA's finding that it would not incur a severe and irreparable injury in the absence of retroactive exception relief from its April and May 1976 entitlement purchase obligations. In evaluating Laketon's contentions, the DOE found that Laketon had failed to present evidence that it would incur an irreparable injury in the absence of retroactive exception relief. Accordingly, its Appeal was denied.

Oahu Gas Service, Inc., Ewa Beach, Hawaii, FEA-1469, propane

Oahu Gas Service, Inc. (OGS) filed an Appeal from a Decision and Order issued to it by FEA Region IX on August 7, 1977. OGS initially filed an exception application with Region IX in which it requested an increase in its annual base period volume of propane to 425,000 gallons. In denying this request, Region IX concluded that OGS had failed to demonstrate that it was incurring a gross inequity or serious hardship. In its present Appeal, OGS claimed that an increased allocation would significantly enhance the competitive structure of the Hawaiian propane market. OGS also argued that the DOE allocation regulations have severely impeded its efforts to establish itself as a viable competitor to Gasco, Inc., the only other reseller of propane in the state. According to OGS, this situation constituted a gross inequity. OGS also maintained that it was experiencing a serious hardship which will require it to terminate operations the absence of exception relief.

In considering the OGS Appeal, the DOE examined the structure of the Hawaiian propane market and made the following findings. OGS is a reseller of propane in Hawaii which is suppled by the Standard Oil Company of California (Chevron), the only refiner in that state which is capable of producing commercial propane. Because OGS initially possessed a low base period volume of propane, the ERA Region IX Office issued an order on June 6, 1974 which established the firm's base period volume of propane as 208,333 gallons per month, or 2,500,000 gallons per year. OGS currently sells 18.12 percent of propane sold on the Island of Oahu and 8.65 percent of propane sold in Hawaii. The propane produced at the Chevron refinery is currently divided between OGS and Gasco on the basis of the two firms' adjusted base period volumes. In order to meet the demand for propane in Hawaii, Gasco also imports substantial volumes of propane from foreign sources. Imported propane is considerably more expensive than the domestic price-controlled propane produced by Chevron, and Gasco's weighted average cost and price of propane are considerably greater than those of OGS. The approval of the OGS request for an increased allocation would necessar-

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ily divert a portion of the domestic propane produced by Chevron from Gasco to OGS, thereby increasing the differential between their product costs. This result would benefit the OGS customers at the expense of the Gasco customers. The DOE found no evidence, however, that the exception relief requested by OGS would benefit consumers by enhancing competition. The DOE did find that OGS might be compelled by adverse financial considerations to terminate its operations on December 1, 1979 in the absence of some form of exception relief. In order to avoid the undesirable competitive effect of that situation, the DOE granted exception relief to OGS by permitting the firm to increase its price of propane by $0.05 per gallon, but denied the firm's request in all other respects.

Pennsylvania Petroleum Corp., Norwalk, Conn,. FXA-1435, motor gasoline

Pennsylvania Petroleum Corporation (PPC) filed an Appeal from a Decision and Order which the FEA issued to it on July 11, 1977. *See Pennsylvania Petroleum Corporation,* 6 FEA Par. 83,039 (July 11, 1977). In that Decision, the FEA granted prospective exception relief which permitted PPC to adjust its May 15, 1973 selling prices for gasoline. The FEA also granted retroactive exception relief, which was made effective as of January 10, 1974, the date on which PPC first filed its request for exception. On Appeal, PPC contended that it should also be relieved of the obligation to refund overcharges which occurred during November and December 1973. In considering PPC's Appeal, the DOE affirmed the prior determination that retroactive relief was warranted for the period subsequent to January 10, 1974, when PPC affirmatively sought administrative relief. The DOE found, however, that the PPC Appeal presented no basis for granting additional retroactive relief prior to January 10, 1974. Accordingly, the PPC Appeal was denied.

Phillips Petroleum Co., Bartlesville, Okla., DFA-0203, freedom of information

Phillips Petroleum Company filed an Appeal from a partial denial by the DOE Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In its initial request, Phillips sought disclosure of documents relating to the DOE Transfer Pricing Program. The Information Access Officer released ten documents to the firm, but withheld all or part of 20 other documents as exempt from mandatory disclosure under 5 USC 552(b)(4) and (5). In considering Phillips' Appeal, the DOE determined that the Information Access Officer's decision to withhold portions of one document pursuant to Exemption 4 of the Act was consistent with prior DOE determinations since the information withheld was confidential financial information which, if released, would be traceable to identifiable petroleum firms. *See, e.g., Kerr-McGee Corporation; Standard Oil Company (Indiana),* 1 DOE Par. 80,155 (December 15, 1977). With respect to 17 of the 19 documents which the Information Access Officer withheld pursuant to Exemption 5, the DOE noted that it had previously affirmed the withholding of those documents in prior Decisions. The DOE found, however, that the Information Access Officer had failed to release to Phillips certain portions of one document which the agency had ordered released in a prior Decision. *See Marathon Oil Company; Murphy Oil Corporation,* 1 DOE Par. 80,241 (April 18, 1978). The DOE therefore directed the Information Access Officer to disclose those portions of the document to Phillips. The DOE also determined that the remaining document was pre-decisional and recommendatory in nature and therefore was properly withheld pursuant to Exemption 5. Finally, the DOE found that the agency might have in its possession additional documents that were responsive to Phillips' request, but which the Information Access Officer had failed to identify. The DOE therefore remanded the matter and directed the Information Access Officer to conduct a further search for responsive documents.

REQUESTS FOR EXCEPTION

Adobe Oil & Gas Corp., Franklin County, Tex., DEE/0907, crude oil

Adobe Oil & Gas Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit Adobe to sell a portion of the crude oil produced from the Bagwell Lease in Franklin County, Texas, at upper tier ceiling prices. In considering the Adobe request, the DOE found that the operating costs at the Bagwell Lease exceeded the revenues which the firm received from the sale of crude oil at lower tier ceiling prices. Consequently, the DOE determined that Adobe had no economic incentive to continue its production operations at the Bagwell Lease in the absence of exception relief. The DOE also found that the cessation of extraction activities at the lease would result in the loss of significant quantities of otherwise recoverable crude oil. On the basis of criteria applied in previous Decisions, the DOE determined that Adobe should be permitted to sell at upper tier ceiling prices 59.42 percent of the crude oil produced from the Bagwell Lease for the benefit of the working interest owners.

C. F. Lawrence & Associates, Inc., Midland, Tex., DEE-1304, crude oil

C. F. Lawrence & Associates, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell the crude oil produced from the Childress M. I. Masterson Lease, Located in the Apco Warner Field, Pecos County, Texas, at upper tier ceiling prices. In considering the exception request, the DOE found that Lawrence's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Masterson Lease if the crude oil were subject to the lower tier ceiling price rule. The DOE also determined that if Lawrence abandoned its operations at the Masterson Lease, a substantial quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of the criteria applied in previous Decisions of the FEA, the DOE determined that Lawrence should be permitted to sell 29.86 percent of the crude oil produced from the Masterson Lease for the benefit of the working interest owners at upper tier ceiling prices.

Continental Oil Co., Houston, Tex., DEE-0983; DEE-0984, crude oil

Continental Oil Company (Conoco) filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the McCroskey and McNee leases located in Santa Barbara County, California at upper tier ceiling prices. In considering the exception request, the DOE found that the operating expenses incurred by Conoco at the McCroskey and McNee leases had increased to the point that the firm no longer had an economic incentive to continue the production of crude oil from the two properties if the crude oil remained subject to the lower tier ceiling price rule. The DOE also determined that if Conoco abandoned its operations at the McCroskey and McNee leases, a substantial quantity of otherwise recoverable crude oil would not be produced. On the basis of the principles enunciated in prior determinations, the DOE concluded that exception relief was warranted to provide Conoco with an economic incentive to continue its crude oil extraction operations at the two leases. In determining the appropriate level of relief, however, the DOE noted that a modification of the methodology applied in previous cases was necessary. The DOE observed that Conoco is the purchaser and refiner as well as the producer of the crude oil involved and that the ultimate benefits of any exception relief granted to Conoco as the working interest owner of the two leases will accrue to the firm in the form of reduced purchase obligations under the Domestic Crude Oil Entitlements Program (10 CFR 211.67). Consequently, the DOE determined that the levels of exception relief should be calculated with reference to the per barrel monetary benefit which the firm will realize through its reduced entitlement purchase obligation as the refiner of the crude oil. Using this methodology, the DOE determined that Conoco should be permitted to classify 77.98 percent of the crude oil produced for its benefit from the McCroskey lease and 73.41 percent of the crude oil produced for its benefit from the McNee lease as upper tier crude oil.

C. W. Culpepper, Oklahoma City, Okla., DEE-0248, crude oil

C. W. Culpepper filed an Application for Exception from the provisions of 10 CFR 212.74 which, if granted, would permit him to retroactively increase the maximum allowable ceiling price for the crude oil which he produced from the Mickie No. 1 lease in Dewey County, Oklahoma. Culpepper claimed that a mechanical breakdown in January 1972 significantly curtailed the production of crude oil for that month and resulted in an unrepresentatively low base production control level (bpcl). As a result, in January 1974, Culpepper produced 5.5 barrels of crude oil in excess of the bpcl, which he classified as new crude oil. His production level, however, did not exceed the bpcl in any month subsequent to January 1974 until he drilled a new well on the lease in October 1975. Because he had sold new crude oil in January 1974, Culpepper proceeded to accrue a cumulative deficiency which amounted to 25,942.90 barrels as of October 1975. After October 1975, Culpepper sold all of the production in excess of the bpcl as new crude oil without first eliminating the cumulative deficiency, as required by the price regulations. Thus, Culpepper was confronted with a potential liability arising from his failure to eliminate the cumulative deficiency before selling crude oil at upper tier ceiling prices. In considering Culpepper's request, the DOE concluded that the production level at the Mickie No. 1 lease during January 1972 was unrepresentative of Culpepper's normal operations. In addition, the DOE determined that he could incur a potential refund obligation of $296,334. The DOE concluded that a refund of that magnitude would have a significant adverse effect on Culpepper and would distort the intent of the price regulations. Therefore, Culpepper was granted an exception which permitted him to adopt a more representative bpcl for January 1972 and thereby eliminate his possible liability for overcharges.

Gala Gas Co., Eufala, Ala., DEO-0042, propane

Gala Gas Company filed an Application for Exception which, if granted, would permit the firm both retroactively and prospectively to sell propane at prices in excess of the maximum lawful price levels specified in 10 CFR 212.93. In considering the request, the DOE found that Gala's markup on May 15, 1973 was substantially below historic levels because the firm had not been able to increase its prices prior to the reference date by passing through cost increases which it had incurred. Based on this finding, the DOE determined that prospective exception relief was warranted because the unrepresentative markup would seriously affect the firm's ability to continue operations. The DOE also determined, however, that Gala had failed to demonstrate that it would experience irreparable financial injury without retroactive relief. Accordingly, the DOE granted the firm's request for prospective relief, but denied its request for retroactive relief.

Placid Oil Co., Washington, D.C., DEE-0156, crude oil

Placid Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell at market prices a portion of the crude oil which it intends to produce from the Black Lake Pettit Zone Unit, located in the Black Lake Field, Natchitoches Parish, Louisiana. In considering the request, the DOE found that Placid would be able to recover a substantial additional quantity of crude oil if it undertakes a proposed capital investment at the Black Lake Unit. The DOE further determined that the investment would be uneconomic if the incremental crude oil production were sold at the applicable ceiling prices specified in 10 CFR, Part 212. On the basis of these findings, the DOE concluded that an exception should be granted which would provide the firm with a sufficient economic incentive to undertake the capital investment. Placid contended that in establishing the appropriate level of relief, the DOE should depart from its standard which permits a firm to earn a 15 percent pre-tax internal rate of return on its investment. Placid argued that the DOE should instead permit the firm to realize a 15 percent after-tax return. In rejecting this contention, the DOE determined that Placid had failed to establish that the risks associated with its capital investment program were sufficiently great to warrant a departure from the standard employed in crude oil investment cases. Accordingly, the DOE permitted Placid to sell at market prices a portion of crude oil produced for the benefit of the working interest owners of the Black Lake Unit that would enable the firm to realize a 15 percent pre-tax return on its investment.

REMEDIAL ORDERS

Amax Petroleum Corp., Houston, Tex., DRO-0011, crude oil

Amax Petroleum Corporation filed a Statement of Objections to a Proposed Remedial Order which the Director of Enforcement of DOE Region IV issued to the firm. In the Proposed Remedial Order, the Regional Office determined that Amax had improperly treated each of the thirteen wells on the Martinville and Laurel fields as a separate property, thereby selling the crude oil produced from the wells at unlawful price levels. In considering the Statement of Objections, the DOE held that the existence of individual "drilling units" for each well did not create new rights to produce and therefore did not constitute separate properties. The DOE also determined that with respect to two fault blocks, Amax had failed to present sufficient geological evidence to satisfy the criteria in Ruling 1977-1 that would allow separate property treatment for separate producing formations. The DOE also affirmed the Regional Office's finding that the existence of four separate reservoirs at the Martinville field prior to September 1, 1976 did not permit Amax to consider each reservoir as a separate property. In addition, the DOE found that the Regional Office did not abuse its discretion by serving Amax with the Proposed Remedial Order as the operator of the properties. Finally, the DOE held that a Mississippi statute of limitations did not preclude federal enforcement action against Amax. Accordingly, the Amax Objection was denied and the Proposed Remedial Order was issued in final form.

W. W. Lindsey and W. E. Elliott, Pikeville, Ky., DRO-0014, crude oil

The partnership of W. W. Lindsey and W. E. Elliott filed a Statement of Objections to a Proposed Remedial Order issued to it by DOE Region IV. In that Order, the Regional Office found that during 1973 and 1974, Lindsey and Elliott improperly classified its J. W. Bailey Lease as stripper well property and sold the crude oil produced from that property at prices in excess of the ceiling prices established pursuant to 10 CFR 212.73. The Regional Office therefore directed the firm to refund the revenues that it improperly obtained. In its Statement of Objections, Lindsey and Elliott claimed that the DOE regulations exceeded the agency's statutory authority by requiring producers to exclude substantial periods of curtailed production in calculating the average daily production to determine whether a property qualified for the stripper well exemption. The DOE rejected this claim, finding that it was reasonable to exclude lengthy periods of disruption in making stripper well lease calculations. Accordingly, the Lindsey and Elliott Objection was denied, and the Proposed Remedial Order was issued in final form.

REQUEST FOR MODIFICATION OR RESCISSION

Pennzoil Producing Co., Houston, Tex., DMR-0022, crude oil

Pennzoil Producing Co. filed an Application for Modification of a Decision and Order which the DOE had issued to the firm. *Pennzoil Producing Co.,* 1 DOE Par. 81,134 (May 15, 1978). In that Decision, the DOE granted Pennzoil an extension of an exception from the crude oil ceiling price regulations. In its request for modification, the firm contended that the DOE should consider as operating expenses those capital expenditures greater than $15,000 that were made solely for the purpose of maintaining its existing crude oil operations, notwithstanding the standards set forth in *M. J. Mitchell,* 1 DOE Par. 80,130 (November 25, 1977). The firm also requested that the DOE include the firm's initial authorizations for expenditures as expense items deemed to have occurred on the actual date of the expenditure. In considering the firm's request, the DOE concluded that Pennzoil had failed to satisfy the criteria for modification of a prior determination since there was no showing of significantly changed circumstances or frustration of the initial DOE Order. Accordingly, Pennzoil's Application for Modification was denied.

REQUEST FOR STAY

Texas City Refining, Inc., Texas City, Tex., DES-0095, crude oil

Texas City Refining, Inc. (TCR) filed an Application for Stay of 10 CFR 211.67 (the Entitlements Program). The stay relief, if granted, would relieve the firm of its obligation to purchase entitlements during September and October 1978. TCR requested the stay pending a final determination on an Application for Exception which it filed on July 12, 1978. In considering the request, the DOE found that TCR's request for stay relief was based largely on the claim that it would not have a sufficient cash balance as of October 31, 1978, to maintain its operations if the firm were required to satisfy its entitlement purchase obligation. The DOE determined, however, that TCR's financial projections included expenditures which were not essential to its continued operations. The DOE restated TCR's financial projections after excluding these non-essential expenditures and concluded that the firm would have ample funds both to discharge its entitlement obligations and to maintain its business operations. Consequently, the Application for Stay was denied.

MOTION FOR DISCOVERY

Point Landing Fuel Corp. and Point Landing, Inc., New Orleans, La., DRD-0059, motion for discovery

Point Landing Fuel Corp. and Point Landing, Inc. (PLFC) filed a Motion for Discovery in connection with a Statement of Objections to a Proposed Remedial Order which the firm had previously filed. In its Motion, PLFC requested that the Economic Regulatory Administration (ERA) make available to the firm certain documents concerning the DOE's calculations of the firm's weighted average cost of product in inventory and the particular transactions in which overcharges occurred. In considering the Motion, the DOE found that the evidence which PLFC sought appeared to be relevant and material to the contentions raised in its pending objection. The DOE also found no evidence in the record to indicate that the collection of these documents, which were already in ERA's possession, would be unduly burdensome or would delay the consideration of the firm's Statement of Objections. The PLFC Motion was therefore granted.

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SUPPLEMENTAL ORDERS

Jimmie Austin, d.b.a. Austin Drilling Co., Seminole, Okla., DRX-0128, crude oil

On September 11, 1978, the DOE issued a Remedial Order to Jimmie Austin, d.b.a. Austin Drilling Company. In Paragraph (3) of that Order, the DOE indicated that any person aggrieved by the determination could file an appeal with the Federal Energy Regulatory Commission. However, in a Supplemental Order, the DOE reviewed the applicable statutory authority regarding the review of Remedial Orders and concluded that the correct procedure in this case was the filing of a complaint in federal district court. Since Paragraph (3) of the September 11 Remedial Order was inconsistent with that conclusion, the DOE rescinded that paragraph and substituted a new ordering paragraph which stated that any aggrieved party may seek judicial review.

Charter Oil Co., Jacksonville, Fla., DEX-0109, crude oil

On September 22, 1978, the DOE issued a Proposed Decision and Order to Charter Oil Company which, if issued in final form, would grant exception relief with respect to the firm's obligation to purchase entitlements under the Old Oil Entitlements Program. The DOE stated that, in accordance with the applicable procedural regulations, the Proposed Decision and Order would not be issued in final form for at least ten days. The DOE also stated, however, that it would issue its monthly Entitlement Notice without taking into account the exception relief proposed for Charter in the September 22 Proposed Decision and Order. To ensure that Charter would not be required to purchase entitlement prior to the issuance of a final Decision and Order on its exception request, the DOE issued a second determination to the firm on September 22 which stayed Charter's entitlement purchase obligation to the extent specified in the Proposed Decision and Order. The stay was made effective pending the issuance of a final order with respect to the firm's exception proceeding.

Little America Refining Co., Washington, D.C., DEX-0110, crude oil

On September 22, 1978, the DOE issued a Proposed Decision and Order to Little America Refining Company which, if issued in final form, would grant exception relief with respect to the firm's obligation to purchase entitlements under the Old Oil Entitlements Program. The DOE stated that, in accordance with the applicable procedural regulations, the Proposed Decision and Order would not be issued in final form for at least ten days. The DOE also stated, however, that it would issue its monthly Entitlement Notice without taking into account the exception relief proposed for Little America in the September 22 Proposed Decision and Order. To ensure that Little America would not be required to purchase entitlements prior to the issuance of a final Decision and Order on its exception request, the DOE issued a second determination to the firm on September 22 which stayed Little America's entitlement purchase obligation to the extent specified in the Proposed Decision and Order. The stay was made effective pending the issuance of a final order with respect to the firm's exception proceeding.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Kerr-McGee Corp., Washington, D.C., DEE-1074.
Green's Propane Gas Co., Alexandria, Va., DRO-0028.
Morton & Dolley, Los Angeles, Calif., DEE-1033.
Roger Cox Petroleum, Inc., Albuquerque, N. Mex., DEE-1476.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

NOVEMBER 9, 1978.

[FR Doc. 78-33238 Filed 11-27-78, 8:45 am]

[6450-01-M]

APPEALS AND APPLICATIONS FOR EXCEPTION

Week of October 27 Through November 3, 1978

Notice is hereby given that during the week of October 27, 1978 through November 3, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

NOVEMBER 21, 1978.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Oct. 27 through Nov. 3, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 25, 1978	Pyrofax Gas Corp., Washington, D.C	DSG-0037 DES-0113	Petition for special redress and request for stay. If granted: The Office of Hearings and Appeals would review the Oct. 16, 1978, denial of the application for review of Pyrofax Gas Corp.'s application to quash a subpoena. Compliance with the subpoena would be stayed pending a determination on the firm's petition for special redress.
Oct. 27, 1978	Brown & Fox, Kansas City, Mo	DFA-0237	Appeal of an information request denial. If granted: The DOE's Oct. 4, 1978, information request denial would be rescinded and Brown & Fox would receive access to all documents relating to a fall 1976 audit of Lowe Oil Co. performed by DOE region VII.
Oct. 30, 1978	Northern Illinois Gas Co., Washington, D.C.	DEA-0239	Appeal of an ERA decision and order. If granted: The Sept. 30, 1978, decision and order issued to the Northern Illinois Gas Co. by the Economic Regulatory Administration regarding assignment of synthetic natural gas feedstocks would be rescinded.
Do	Vinson & Elkins, Washington, D.C	DRA-0238	Appeal of an information request denial. If granted: The DOE's Sept. 22, 1978, information request denial would be rescinded and Vinson & Elkins would receive access to certain DOE data concerning the transfer pricing regulations (sec. 212.84).
Do	General Motors Corp., Washington, D.C	DEA-0242	Appeal of an ERA decision and order. If granted: The Sept. 30, 1978, decision and order issued to the Northern Illinois Gas Co. by the Economic Regulatory Administration regarding assignment of synthetic natural gas feedstocks would be rescinded.
Do	Karchmer Pipe & Supply Co., Inc., Washington, D.C.	DRA-0106	Motion for discovery. If granted: Discovery would be granted with respect to the statement of objections submitted by Karchmer Pipe & Supply Co., Inc. (case No. DRO-0106).

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Oct. 27 through Nov. 3, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Petrochemical Energy Group, Washington, D.C.	DEA-0240	Appeal of an ERA decision and order. If granted: The Sept. 30, 1978, decision and order issued to the Northern Illinois Gas Co. by the Economic Regulatory Administration regarding assignment of synthetic natural gas feedstocks would be rescinded.
Do	do	DEA-0241	Appeal of an ERA decision and order. If granted: The Sept. 30, 1978, decision and order issued by the Economic Regulatory Administration regarding the base period assignment of natural gasoline to Columbia LNG Corp. would be rescinded.
Do	Taunton Municipal Lighting Plant, Taunton, Mass.	DEH-0011	Motion for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with the objections raised by the Taunton Municipal Lighting Plant with respect to a proposed decision and order issued to Quincy Oil, Inc.
Oct. 31, 1978	Continental Oil Co., Houston, Tex	DES-1947	Stay request. If granted: Continental Oil Co. would receive a stay of the provisions of 10 CFR 211.10(b) regarding the single allocation fraction requirements pending a final determination on its application for exception.
Nov. 1, 1978	Arizona Fuels Corp., Washington, D.C	DXE-1988	Exception to the entitlements program. If granted: Arizona Fuels Corp. would be granted an exception from its obligation to purchase entitlements under the provisions of 10 CFR 211.67.
Do	Ashland Oil, Inc., Washington, D.C	DFA-0243	Appeal of an information request denial. If granted: The DOE's Sept. 29, 1978, information request denial would be rescinded and Ashland Oil, Inc. would be granted access to certain DOE memoranda regarding the application of the regulatory definition of class of purchaser.
Do	Attorney General for Ohio, Columbus, Ohio.	DEA-0245	Appeal of an ERA decision and order. If granted: The decision and order issued by the Economic Regulatory Administration on Sept. 30, 1978, regarding the base period assignment of natural gasoline to Columbia LNG Corp. would be rescinded.
Do	Ben R. Briggs, Dallas, Tex	DXE-1987	Extension of the relief granted in *Ben R. Briggs*, case No. DEE-1068 (decided July 7, 1978) (unreported decision). If granted: Ben R. Briggs would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the east Texas natural gas processing plant.
Nov. 1, 1978	Hugh M. Briggs, Dallas, Tex	DXE-1990	Extension of relief granted in *Hugh M. Briggs*, case No. DEE-1067 (decided July 7, 1978) (unreported decision). If granted: Hugh Briggs would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its east Texas natural gas processing plant.
Do	Marvel Heat Corp., Boston, Mass	DEE-1989	Exception to reporting requirements. If granted: Marvel Heat Corp. would no longer be required to submit form EIA-9 (No. 2 Heating Oil Supply/Price Monitoring Report).
Do	New England Petroleum Corp., Washington, D.C.	DPI-0025	Exception from base fee requirements. If granted: New England Petroleum Corp. would be permitted to import residual fuel oil into PAD district I for the period May 1, 1978, through Apr. 30, 1979, on a fee-exempt basis.
Do	Trends Publishing, Inc., Washington, D.C	DFA-0246	Appeal of an information request denial. If granted: Trends Publishing, Inc. would receive access to certain DOE data.
Nov. 2, 1978	Northland OIL & Refining Co., Tulsa, Okla.	DES-0115	Stay request. If granted: Northland Oil & Refining Co. would be granted a stay of its obligation to purchase entitlements under the provisions of 10 CFR 211.67.
Do	T-C Oil Co., Washington, D.C	DRR-0035	Request for modification. If granted: The DOE's Oct. 12, 1978, decision and order (case No. DRA-0140) would be modified and T-C Oil Co. would be permitted to offset undercharges against overcharges which it realized on sales of crude oil.
Do	Trends Publishing Co., Washington, D.C	DFA-0244	Appeal of an information request denial. If granted: The DOE's June 16, 1978, information request denial would be rescinded and Trends Publishing Co. would receive access to certain DOE documents relating to the Nuclear Materials and Equipment Corp.
Nov. 3, 1978	Atlantic Richfield Co., Los Angeles, Calif	DES-1981	Request for stay. If granted: Atlantic Richfield Co. would receive a stay of the provisions of 10 CFR 211.9 pertaining to its base period supplier relationships.

NOTICES OF OBJECTION RECEIVED

Date	Name and location of applicant	Case No.
Oct. 30, 1978	First Chemical Corp., Washington, D.C	DEE-0097
Oct. 27, 1978	Cooper & Brain, Inc., Washington, D.C	DEE-1405
Nov. 1, 1978	Herbell Oil Production Co., Long Beach, Calif	DEE-0497
Nov. 2, 1978	Texaco, Inc., Houston, Tex	DEE-1729 through DEE-1746
Nov. 1, 1978	Pyramid Corp., Inc., Wichita, Kans	DEE-0843

REMEDIAL ORDERS

Nov. 1, 1978	Ross Production Co., Shreveport, La	DRO-0142
Do	Domind Petroleum, Inc., Washington, D.C	DRO-0140

[FR Doc. 78-33239 Filed 11-27-78; 8:45 am]

[6450-01-M]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of November 3 Through November 9, 1978

Notice is hereby given that during the week of November 3 through November 9, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

NOVEMBER 21, 1978.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

(Week of Nov. 3 through Nov. 9, 1978)

Date	Name and location of applicant	Case No.	Type of submission
Nov. 3, 1978	Champlin Petroleum Co., Fort Worth Tex.	DES-1309	Request for stay. If granted: Champlin Petroleum Co. would be granted a stay of the provisions of 10 CFR Part 212, Subpart D, pending a final determination of its application for exception.
Do	Chevron, U.S.A., San Francisco, Calif	DEE-1993	Price exception (sec. 212.73). If granted: Chevron U.S.A. would be permitted to sell the crude oil produced from the Huntington B-FE unit, located in Orange County, Calif., at upper tier ceiling prices.
Do	Mid-Michigan Truck Service, Inc., Kalamazoo, Mich.	DES-0118	Request for stay. If granted: Mid-Michigan Truck Service, Inc. would be granted a stay of the provisions of 10 CFR 211.25, pending a determination on an application for extension of exception relief which the firm has filed with DOE region V.
Do	Moran Pipe & Supply Co., Seminole, Okla.	DXE-1992	Extension of relief granted in *Moran Pipe and Supply Company, Inc.*, 1 DOE par. 81,135 (May 19, 1978). If granted: Moran Pipe & Supply Co. would be permitted to sell the crude oil produced from the Cozar lease, located in Seminole County, Okla., at upper tier ceiling prices.
Do	Rickelson Oil & Gas Co., Tulsa, Okla	DXE-2002	Extension of relief granted in *Rickelson Oil and Gas Company*, 1 DOE par. 81,015 (Nov. 10, 1977). If granted: Rickelson Oil & Gas Co. would be permitted to sell crude oil produced from the Rosa Washington No. 3 lease at upper tier ceiling prices.
Nov. 5, 1978	Charles Fusco, Revere, Mass	DEE-1996	Exception to reporting requirements. If granted: Charles Fusco would not be required to file form EIA-9 (Supply Price Monitoring Survey).
Nov. 6, 1978	Energy Cooperatives, Inc., Long Grove, Ill.	DPI-0026	Exception to the base fee requirements. If granted: Energy Cooperatives, Inc. would be permitted to import crude oil on a fee-exempt basis.
Nov. 7, 1978	Champlin Petroleum Co., Fort Worth, Tex	DXE-2001	Extension of relief granted in *Champlin Petroleum Company*, 1 DOE par. 80,144 (Dec. 8, 1977). If granted: Champlin Petroleum Co. would be permitted to sell the crude oil produced at the fault block II, III, and IV units located at the Wilmington field, Calif., at upper tier ceiling prices.
Do	Cities Service Co., Tulsa, Okla	DEE-2000	Price exception (sec. 212.73). If granted: Cities Service Co. would be permitted to sell the crude oil produced from the State AE lease, located in Lea County, N. Mex., at upper tier ceiling prices.
Do	Howell Corp., Houston, Tex	DES-0119	Stay request. If granted: Howell Corp. would receive a stay of the DOE's Aug. 21, 1978, decision and order issued to Monsanto Co. (case No. FEE-4397).
Do	Ikard & Newsom, Inc., Las Cruces, N. Mex.	DEE-1998	Exception to reporting requirements. If granted: Ikard & Newsom, Inc. would no longer be required to file form REA-P315-M-0.
Do	Mid-Michigan Truck Service, Inc., Kalamazoo, Mich.	DXE-1997	Extension of relief granted in *Mid-Michigan Truck Service, Inc.*, 2 DOE par. —— (Nov. 2, 1978). If granted: Mid-Michigan Truck Service, Inc. would continue to receive refined petroleum products directly from the Gulf Oil Corp., its base period supplier, rather than from Gulf's designated substitute supplier, Bestrom Oil Co.
Do	Palo Pinto, Dallas, Tex	DXE-1999	Extension of relief granted in *Palo Pinto Oil & Gas Company*, case No. DXE-1324 (decided Aug. 8, 1978) unreported decision. If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Markley plant.
Do	Standard Oil Co., Cleveland, Ohio	DEE-1995	Price exception (sec. 212.73). If granted: Standard Oil Co. would be permitted to sell the crude oil produced from the Barndt No. 1 well, located in the Sage Creek field, Wyoming, at upper tier ceiling prices.
Nov. 8, 1978	Navajo Refining Co., Washington, D.C	DEX-0122	Supplemental order. If granted: The DOE would review the entitlements exception relief granted to Navajo Refining Co. during its fiscal year ended July 31, 1978, in order to determine whether the level of relief accorded to the firm was appropriate.
Do	Office of Enforcement, Washington, D.C	DRD-0012	Motion for discovery. If granted: The Office of Enforcement would be granted discovery in connection with a proposed remedial order issued by DOE region IV to Corpus Christi Management Co. and J. W. McKellip.

REMEDIAL ORDERS—NOTICES OF OBJECTION RECEIVED

Date	Name and location of applicant	Case No.
Nov. 3, 1978	A. H. Wadsworth, Jr., Houston, Tex	DRO-0143
Nov. 7, 1978	Austral Oil Co., Inc., Houston, Tex	DRO-0141

NOTICES OF OBJECTION RECEIVED

Nov. 3, 1978	Wallace & Wallace Fuel Oil Co., Washington, D.C	DEE-0388
Nov. 7, 1978	Texaco, Inc., Houston, Tex	FEE-4842
Do	Charles F. Haas, Corpus Christi, Tex	DEE-1026, DEE-1027
Nov. 3, 1978	Don Baldwin Oil, Gloversville, N.Y	DEE-1062

[FR Doc. 78-33240 Filed 11-27-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1015-1; OPP-180249]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of Specific Exemption To Use Sodium Chlorate as a Harvest Aid To Desiccate Blackeye, Lima, and Pinto Beans

The Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use sodium chlorate as a pre-harvest desiccant on 154,000 acres of dry beans in California. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Steet, SW., Room E-315, Washington, D.C.

According to the Applicant, this year there is unusually high moisture in the bean crop due to unseasonal, heavy rains in California. The wet beans have prevented the proper operation of harvest machinery; green foliage on the plants prevents the soil from drying enough to permit the machinery to pass through the field. The Applicant further stated that seasonal rains normally start during the latter half of October, and it was essential that harvest be completed before the rains began. Finally, the Applicant stated that there was no desiccant registered for this use or alternative method of control presently available. Without the use of a desiccant chemical to facilitate harvesting, heavy losses are likely to occur; the Applicant estimated that the entire crop, valued at $65,411,000 was in jeopardy. Some 154,000 acres of blackeye, lima, and pinto beans are involved. It was proposed that sodium chlorate be applied by aircraft at a rate of not more than 6 pounds per acre of crop.

There is neither an established tolerance, nor an exemption from the requirement of a tolerance for sodium chlorate on blackeye, lima, and pinto beans. However, sodium chlorate is exempted from the requirement of a tolerance for residues in or on cottonseed, chili peppers, rice, and sorghum grain. The maximum rate of application proposed by the Applicant was equivalent to six pounds of sodium chlorate per acre, which is the same rate as that granted by EPA for the use of this pesticide on sorghum and rice; furthermore, the use pattern is essentially the same. The Applicant requested the use of FMC Corporation's Light MC Defoliant, which is registered by EPA and which has fire retardant capabilities.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation has occurred; (b) there is no pesticide presently registered and available for use to desiccate the blackeye, lima, and pinto beans in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the situation is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The dosage rate shall not exceed six pounds of active ingredient sodium chlorate per acre;

2. FMC Corporation's Liquid MC Defoliant (EPA Reg. No. 279-1993) will be the product used;

3. The treated areas shall not exceed 154,000 acres;

4. A fourteen-day pre-harvest interval for all treated beans will be observed;

5. A restriction prohibiting grazing of treated fields or feeding treated bean foliage to livestock will be imposed;

6. Applications are limited to blackeye, lima, and pinto beans;

7. The Applicant will be responsible for instructing personnel applying the sodium chlorate in the proper application procedures;

8. The Applicant must supervise aerial applications to avoid to minimize drift to non-target areas;

9. EPA has determined that dried beans treated according to the conditions of use listed above should not pose a threat to human health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

10. The EPA will be immediately informed of any adverse effects resulting from the use of sodium chlorate in connection with this exemption;

11. California and concerned growers must pursue the appropriate tolerance clearance of sodium chlorate for use on dry beans either through the IR-4 project or the Registration Division, EPA; and

12. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by July 15, 1979.

Dated: November 20, 1978.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) *et seq.*)

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 33200 Filed 11-27-78; 8:45 am]

[6560-01-M]

[FRL 1015-2; PP 5G1579/T173]

5-CHLORO-3-METHYL-4-NITRO-1*H*-PYRAZOLE

Renewal of Temporary Tolerance

On August 12, 1977, the Environmental Protection Agency (EPA) announced (42 FR 40969) the extension of temporary tolerance for residues of the plant regulator 5-chloro-3-methyl-4-nitro-1*H*-pyrazole in or on oranges at 0.1 part per million (ppm).

This tolerance was established (40 FR 17314) in response to a pesticide petition (PP 5G1579) submitted by Abbott Laboratories, Agricultural and Veterinary Products Div., North Chicago, IL 60064. This renewal expired June 20, 1978.

Abbott Laboratories requested a 15-month renewal of this temporary tol-

V 4 3 1 2 2 9 NOV 28 1978

erance to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that has been renewed under the Federal Register Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Abbott Laboratories must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires October 5, 1979. Residues not in excess of 0.1 ppm remaining in or on the above Agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Product Manager (PM) 25, Registration Division (TS-767), Rm. E-359, Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-7012.

Dated: November 17, 1978.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-33199 Filed 11-27-78; 8:45 am]

[6560-01-M]

[FRL 1015-3; PP 8G2130/T172]

PROPYLENE

Establishment of a Temporary Exemption from the Requirement of a Tolerance

Great Western Sugar Co., Agricultural Research Center, Sugar Mill Road, Longmont, Co 80501, submitted a pesticide petition (pp 8G2130) to the Environmental Protection Agency (EPA). This petition requested that a temporary exemption from the requirement of a tolerance be established for residues of the growth regulator propylene in or on the raw agricultural commodity sugar beets.

This temporary exemption from the requirement of a tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

Based on an evaluation of the scientific data reported and other relevant material, it was concluded that the requested exemption from the requirement of a tolerance would protect the public health. The temporary exemption has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Great Western Sugar Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires October 20, 1979. Residues of the pesticide remaining in or on sugar beets after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and the temporary exemption. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St., SW., Washington, DC 20460 (202-755-7012).

Dated: November 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).

[FR Doc. 78-33198 Filed 11-27-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1014-1; OPP-42052B]

STATE OF WISCONSIN

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides—Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 *et seq.*), and the implementing regulations of 40 CFR Part 171 require each State desiring to certifiy applicators to submit a plan for such purpose, subject to approval by the U.S. Environmental Protection Agency (EPA). On December 19, 1977, the Wisconsin State Plan was approved contingent upon promulgation by the Wisconsin Department of Agriculture (WIDA) of regulations necessary for the implementation of the Wisconsin State Plan. Notice of contingent approval was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65266). Subsequently, on September 1, 1978, implementing regulations promulgated by the WIDA became effective. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA Region V, hereby gives notice that the Wisconsin State Plan is now a fully approved State Plan.

Dated: November 15, 1978.

JOHN MCGUIRE,
Regional Administrator,
Region V.

[FR Doc. 78-33094 Filed 11-27-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

EXECUTIVE COMMITTEE MEETING

The next Executive Committee Meeting will be on Thursday, December 14, 1978, at 9:30 a.m. in Conference Room 7200, Nassif Building, 400 Seventh Street, SW. (at D Street), Washington, D.C.

AGENDA

1. Call to Order.
2. Administrative Matters.
3. Discussion on Petition to Amend Bylaws, Article IV, Section 1.
4. Discussion on Resolution to Amend Constitution, Article VI, Section 8.
5. Acceptance of FY-78 Audit Report.
6. New business.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: 202-632-6490).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-33210 Filed 11-27-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 18, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 161-34.

Filing party: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, N.Y. 10004.

SUMMARY: Agreement No. 161-34 modifies the basic agreement of the Gulf/United Kingdom Freight Conference to provide that the cost of maintaining a policing, cargo inspection and enforcement agency for the Conference shall be equitably apportioned among the members as they shall, from time to time, unanimously determine.

Agreement No. 5680-28.

Filing party: H. R. Rollins, Secretary, Pacific-Straits Conference, 320 California Street, Suite 600, San Francisco, Calif. 94104.

SUMMARY: Agreement No. 5680-28, among the member lines of Pacific-Straits Conference, modifies the basic agreement by changing the title of the Conference executive officer from "Secretary" to "Chairman."

Agreement No. 10028-9.

Filing party: John D. Straton, Jr., Director, Rates & Conferences, Moore-McCormack Lines, Inc., 2 Broadway, New York, N.Y. 10004.

SUMMARY: Agreement No. 10028-9 by and among Companhia de Navegacao Lloyd Brasileiro, Companhia de Navegacao Maritima, Moore-McCormack Lines, Inc., and Sea-Land Service, Inc., amends the parties' basic cargo revenue pooling and sailing agreement in the northbound trade from Brazilian ports within the Porto Alegre/Recife range to ports on the Atlantic Coast of the United States, and is a restatement of the basic agreement in its entirety. This restatement provides for the inclusion of transshipment cargo in the pooling of revenues on transshipment of cargoes to other than U.S. destinations when moving over U.S. Atlantic ports.

Agreement No. 10359.

Filing party: Lester Nelson, Esq., Miller, Montgomery, Sogi, Brady & Taft, 200 Park Avenue, New York, N.Y. 10017.

SUMMARY: Agreement No. 10359, among twenty-four owners, operators or agents engaged in water transportation who are members of the New York Credit & Financial Management Association, is a cooperative working arrangement known as the "Water Transportation Credit Group" of the New York Credit Group Service, Inc., (an affiliate of New York Credit & Financial Management Association), the purpose of which is the collection, compilation, and exchange of credit experience information and its distribution to members. The arrangement consists of, and is subject to, the terms and conditions of the Constitution and By-Laws set forth therein.

Agreement No. T-3743.

Filing party: Ms. Betty I. Crofoot, House Counsel, Port of Portland, P.O. Box 3529, Portland, Oreg. 97208.

SUMMARY: Agreement No. T-3743, between the Port of Portland (Port) and Port Services Company (PSC), provides for the Port's five-year lease to PSC (with renewal options) of certain premises at John Fulton Terminal 6, Rivergate Industrial District, Portland, Oreg., to be used for the receipt, storage, processing, assembly, staging, and shipment of vehicles or other vehicle related merchandise. As compensation for the first five-year period, PSC shall pay Port rental equal to the sum of six percent per annum on the value of land at $35,000 per acre, plus six percent per annum on the value of surface improvements, plus ten percent per annum on the processing building and its facilities.

Dated: November 22, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33249 Filed 11-27-78; 8:45 am]

[6730-01-M]

[Docket No. 78-48]

ALLIED CHEMICAL INTERNATIONAL CORP. v. FARRELL LINES, INC.

Filing of Complaint

Notice is hereby given that a complaint filed by Allied Chemical International Corp. against Farrell Lines, Inc. was served November 20, 1978. The complaint alleges that respondent has assessed charges for ocean transportation in excess of those lawfully applicable in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before May 20, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33248 Filed 11-27-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

FURNITURE TRADE ASSOCIATIONS

Discussion

Notice hereby is given that the Federal Supply Service, General Services Administration, will hold a one-day discussion with representatives of furniture trade associations on December 5, 1978, 8:00 a.m., 1941 Jefferson Davis Highway, Arlington, Virginia, Room 1129, for the purpose of exchanging information regarding how GSA may obtain greater competition in its procurement efforts and other matters relating to competition, including specification and acquisition.

MATION, the 9th line in paragraph (i) (21 CFR 558.258) to reflect withdrawal the FEDERAL REGISTER of September

V 43 N 229 NOV 28 1978

The discussion will be open to the public.

WILLIAM P. KELLY, JR.,
Commissioner,
Federal Supply Service.

[FR Doc. 78-33188 Filed 11-27-78; 8:45 am]

[6820-22-M]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

NOVEMBER 24, 1978.

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Central Office, December 11 and December 12, 1978, from 9:00 A.M. to 4:00 P.M., Room 5206, General Services Administration, 18th & F Streets NW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Smithsonian Institution Museum Support Center, Suitland, Maryland. The meeting will be open to the public." In order to meet the schedule requirements of the full committee, it will be necessary to hold the meeting on the specified dates.

DAVID R. DIENER,
Acting Commissioner.

[FR Doc. 78-33406 Filed 11-27-78; 8:45 am]

[6820-38-M]

[Federal Property Management Regs., Temporary Regulation E-54]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in a gas rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Oklahoma Corporation Commission involving the application of the Arkansas Louisiana Gas Company for an increase in rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of
General Services.

NOVEMBER 10, 1978.

[FR Doc. 78-33208 Filed 11-27-78; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

Meeting Change

In FR Doc. 78-31506 appearing on page 52061 in the issue of Wednesday, November 8, 1978, the Notice is changed as follows:

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

December 20-22, 9 a.m., Conference Room I, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Open: December 20, 9-10 a.m. Closed: Otherwise.

All other information remains as announced November 8.

Dated: November 21, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer,
Alcohol, Drug Abuse, and
Mental Health Administration.

[FR Doc. 78-33212 Filed 11-27-78; 8:45 am]

[4110-88-M]

NATIONAL ADVISORY COUNCIL ON DRUG ABUSE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of January 1979:

NATIONAL ADVISORY COUNCIL ON DRUG ABUSE

January 25-26, 1979, Conference Room G-H, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Closed: 9:30-noon, January 25. Open: Otherwise. Contact: Ms. Mary E. Kielkopf, Room 10A-23, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6618.

Purpose. The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities, and the efficient administration of drug abuse research, training, demonstration, prevention, and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes recommendations on grant applications.

Agenda. From 9:30 a.m. to 12 Noon, January 25, the meeting shall be closed for final review of grant applications for Federal assistance in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Title 5, U.S. Code 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

The remainder of the meeting from 1:30 p.m. on January 25 until adjournment on January 26 will be open to the public for a discussion of issues in the field of drug abuse, and administrative announcements. Discussions around drug paraphernalia, priority scores for grant applications, and a report from the National Association of State Alcohol and Drug Abuse Directors are planned. Agenda items are subject to change as priorities dictate.

Substantive program information, summaries of the meeting, and roster of the Council members may be obtained from the contact person listed above.

Dated: November 21, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer,
Alcohol, Drug Abuse, and
Mental Health Administration.

[FR Doc. 78-33213 Filed 11-27-78; 8:45 am]

[1505-01-M]

Food and Drug Administration

[Docket No. 78N-0263]

ANTACID DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Final Classification of Category III Antacid Ingredients and Labeling Claims

Correction

In FR Doc. 78-24914 appearing on page 39427 in the issue of Tuesday, September 5, 1978, in the 1st column under SUPPLEMENTARY INFORMATION, the 9th line in paragraph (i) in small type should read as follows:

". . . directions for use, prescription or OTC . . .".

[4110-03-M]

Food and Drug Administration

CONAGRA, INC.

Boost-O-Iron; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of new animal drug application (NADA) providing for use of Boost-O-Iron (20 percent ferrous fumarate), a product intended for use in the prevention of iron deficiency anemia in infant pigs. This action is taken in response to a request by ConAgra, Inc., the sponsor.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATON CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HRV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: ConAgra, Inc., 3801 Harney St., Omaha, NE 68131, is the sponsor of NADA 31-876 providing for Boost-O-Iron (20 percent ferrous fumarate), which is intended for use in the prevention of iron deficiency anemia in infant pigs. The application was originally approved on February 14, 1967.

The sponsor informed the agency that the product was never manufactured, requested withdrawal of approval of the application, and waived opportunity for a hearing by letter of April 17, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 31-876 and all supplements for Boost-O-Iron is hereby withdrawn, effective November 28, 1978.

Published elsewhere in this issue of the FEDERAL REGISTER is a final order revoking § 558.258 *Ferrous fumarate* (21 CFR 558.258) to reflect withdrawal of approval of this application.

Dated: November 17, 1978.

LESTER M. CRAWFORD,
Acting Director, Bureau
of Veterinary Medicine.

[FR Doc. 78-33090 Filed 11-27-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0306; DESI 10670]

TOLBUTAMIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing tolbutamide for the indication for which it is regarded as effective, allowing for the submission of abbreviated new drug applications (ANDA's). The drug is an oral hypoglycemic agent.

DATE: Supplements to approved new drug applications (NDA's) due on or before January 29, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10670, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number); Division of Metabolism and Endocrine Drug Products (HFD-130), Rm. 14B-04, Bureau of Drugs.

Original abbreviated new drug applications of supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Rsearch Council: Public Records and Document Center (HFI-35), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 10670) published in the FEDERAL REGISTER of September 27, 1968 (33 FR 14551), the Food and Drug Administration, having evaluated the drug described below, announced its conclusion that tolbutamide is effective for its labeled indication.

NDA 10-;670; Orinase TAblets containing tolbutamide; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

The following new drug application was not included in the initial notice, but is affected by this notice.

NDA 12-678; Tolbutamide Tablets; Premo Pharmaceutical Laboratories, Inc., 111 Leuning St., South Hackensack, NJ 07606.

The September 27, 1968 notice also stated that an approved new drug application is required for marketing the drug product. At that time the new drug application had to contain full information as required by the new drug application form FD-356H (21 CFR 314.1(c)). Upon reevaluating the requirement of full new drug applications for tolbutamide, the director of the Bureau of Drugs concludes that abbreviated new drug applications (21 CFR 314.1(f)) are appropriate for the drug.

Labeling for oral hypoglycemic drugs is presently undergoing revision. Proposed labeling was published in the FEDERAL REGISTER of July 7, 1975 (40 FR 28587). The September 27, 1968 notice contained full labeling for tolbutamide. As the full labeling is now under review, only the indications section is included in this notice. The current indication is as follows: "Tolbutamide is indicated in uncomplicated diabetes mellitus of the stable, mild, or moderately severe, nonketotic, naturity-onset type that cannot be completely controlled by diet alone." When the review of the labeling for oral hypoglycemic drugs is finalized, revision of the indication may be required.

Accordingly, the September 27, 1968 notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applicatons are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such a drug product.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes.

[4110-03-M]

Food and Drug Administration

[Docket No. 78N-0305; DESI 10671]

TOLBUTAMIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing tolbutamide for the indication for which it is regarded as effective, allowing for the submission of abbreviated new drug applications (ANDA's). The drug is an oral hypoglycemic agent.

DATE: Supplements to approved new drug applications (NDA's) due on or before January 29, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10671, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number); Division of Metabolism and Endocrine Drug Products (HFD-130), Rm. 14B-04, Bureau of Drugs.

Original abbreviated new drug applications of supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Rsearch Council: Public Records and Document Center (HFI-35), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 10671) published in the FEDERAL REGISTER of September 27, 1968 (33 FR 14551), the Food and Drug Administration, having evaluated the drug described below, announced its conclusion that tolbutamide is effective for its labeled indication.

NDA 10-;671; Orinase Forte Tablets containing tolbutamide; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

The following new drug application was not included in the initial notice, but is affected by this notice.

NDA 12-679; Tolbutamide Tablets; Premo Pharmaceutical Laboratories, Inc., 111 Leuning St., South Hackensack, NJ 07606.

The September 27, 1968 notice also stated that an approved new drug application is required for marketing the drug product. At that time the new drug application had to contain full information as required by the new drug application form FD-356H (21 CFR 314.1(c)). Upon reevaluating the requirement of full new drug applications for tolbutamide, the director of the Bureau of Drugs concludes that abbreviated new drug applications (21 CFR 314.1(f)) are appropriate for the drug.

Labeling for oral hypoglycemic drugs is presently undergoing revision. Proposed labeling was published in the FEDERAL REGISTER of July 7, 1975 (40 FR 28587). The September 27, 1968 notice contained full labeling for tolbutamide. As the full labeling is now under review, only the indications section is included in this notice. The current indication is as follows: "Tolbutamide is indicated in uncomplicated diabetes mellitus of the stable, mild, or moderately severe, nonketotic, naturity-onset type that cannot be completely controlled by diet alone." When the review of the labeling for oral hypoglycemic drugs is finalized, revision of the indication may be required.

Accordingly, the September 27, 1968 notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applicatons are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such a drug product.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes.

Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under condition described herein.

1. *Form of drug.* Tolbutamide is in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For use in uncomplicated diabetes mellitus of the stable, mild or moderately severe, nonketotic, maturity-onset type that cannot be completely controlled by diet alone.

3. *Marketing status.* a. Marketing of such a drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before January 29, 1978, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated new drug applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Bioavailability regulations (21 CFR 320.21) published in the FEDERAL REGISTER of January 7, 1977 (42 FRf 1638), require any person submitting an abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. No waiver will be granted for tolbutamide as it is included in the list of effective drugs (21 CFR 320.22(c)) having a known or potential bioequivalence problem published in the FEDERAL REGISTER of January 7, 1977. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: November 17, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-33091 Filed 11-27-78; 8:45 am]

[4110-03-M]

Food and Drug Administration

[Docket No. 78D-0322]

OTC COMBINATION DRUG PRODUCTS

Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of a guideline that states in detail the agency policy for combining two or more safe and effective over-the-counter (OTC) active drug ingredients. The agency will use this guideline, in addition to the existing regulatory requirements for OTC combination drugs, in evaluating the safety and effectiveness of all OTC combination drug products.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The regulatory requirements for OTC combination drug products, set forth in §330.10(a)(4)(iv) (21 CFR 300.10(a)(4)(iv)), are sufficiently general that they allow various interpretations. The OTC drug advisory review panels have been encouraged to exercise their own scientific judgment in developing all aspects of their reports, and different panels have, in fact, variously interpreted the OTC combination regulations. The Commissioner of Food and Drugs is therefore making available a guideline entitled "General Guidelines for OTC Drug Combination Products September 1978" that specifically sets forth acceptable criteria for combining Category I active ingredients in certain situations that are not covered by the broad regulation. For example, the guidelines explain the Food and Drug Administration's position regarding combinations of ingredients from: different therapeutic categories and which are intended to treat different symptoms; the same therapeutic category but with different mechanisms of action; and the same therapeutic category and with the same mechanism of action. The agency will apply the criteria in the guideline, in addition to the regulatory requirements in §330.10(a)(4)(iv) in determining the safety and effectiveness of all OTC combination drug products.

The Division of OTC Drug Evaluation (HFD-510), Bureau of Drugs is responsible for maintaining the guideline.

A copy of the guideline is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk. Requests for single copies of the guideline may be submitted to the office of the Hearing Clerk, identifying the guideline with the Hearing Clerk docket number found in brackets in the heading of this document.

Interested persons may submit written comments on the guideline to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857 (preferably in four copies, identified with the Hearing Clerk docket number). Such comments will be considered in determining whether amendments or revisions to the guideline are warranted. Received comments will be incorporated into the public file on the guideline and may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Dated: November 21, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-33215 Filed 11-27-78; 8:45 am]

[4110-84-M]

Health Services Administration

FEDERAL ADVISORY COMMITTEES

Filing of Annual Reports

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Services Administration Federal Advisory Committee has been filed with the Library of Congress:

MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue SW., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Gontran Lamberty, Dr. P. H., Bureau of Community Health Services, Room 7-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2190.

Dated: November 17, 1978.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator For Management.

[FR Doc. 78-33250 Filed 11-27-78; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF PARATHION FOR POSSIBLE CARCINOGENICITY

Availability

Parathion (CAS 56-38-2) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of technical-grade parathion was conducted by administering the test chemical in the diet to Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as a pesticide.

It is concluded that under the conditions of this bioassay, parathion was not carcinogenic to B6C3F1 mice. In the male and female Osborne-Mendel rats receiving parathion in their diet, there was a higher incidence of cortical tumors of the adrenal than in pooled or historical controls, suggesting that parathion is carcinogenic to this strain of rat.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: November 1, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-33105 Filed 11-27-78; 8:45 am]

REPORT ON BIOASSAY OF PHOSPHAMIDON FOR POSSIBLE CARCINOGENICITY

Availability

Phosphamidon (CAS 13171-21-6) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade phosphamidon for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an insecticide. The test material was administered in feed to 50 rats and 50 mice of each sex at one of two doses.

It is concluded that under the conditions of this bioassay, technical-grade phosphamidon was not carcinogenic for B6C3F1 mice. The data obtained in this bioassay with Osborne-Mendel rats are insufficient to allow the interpretation that technical-grade phosphamidon is carcinogenic in this species.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: November 1, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-33106 Filed 11-27-78; 8:45 am]

REPORT ON BIOASSAY OF PIPERONYL BUTOXIDE FOR POSSIBLE CARCINOGENICITY

Availability

Piperonyl butoxide (CAS 51-03-6) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade piperonyl butoxide for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an insecticide enhancer.

It is concluded that under the conditions of this bioassay, piperonyl butoxide was not carcinogenic for Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: November 1, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-33107 Filed 11-27-78; 8:45 am]

[4110-02-M]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Meeting

AGENCY: Department of Health, Education, and Welfare, Office of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of its opportunity to attend and to participate.

DATES: December 12, 1978, 1 p.m. to 6 p.m., local time; December 13, 8:30 to 6 p.m.; December 14, 8:30 a.m. to 5:30 p.m.; and December 15, 9 a.m. to 3 p.m. Requests for oral presentations before the Committee must be received on or before December 8, 1978. All written material which a party wishes to file may be submitted at any time and will be considered by the Advisory Committee.

ADDRESS: Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202, 202-245-9873.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to Section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S.

Code). The Committee advises the Commissioner of Education regarding his responsibilities to publish lists of nationally recognized accrediting agencies and associations; State agencies recognized for the approval of public postsecondary vocational education; and accrediting and State agencies recognized for the approval of nurse education. The Committee also advises the Commissioner regarding policy affecting accreditation and institutional eligibility for participation in Federal funding programs.

The meeting on December 12, 13, 14, and 15 will be open to the public. This meeting will be held at the Sheraton National Motor Hotel, Arlington, Va. The Committee will review petitions and reports by accrediting and State approval agencies relative to initial or continued recognition by the U.S. Commissioner of Education. The Committee also will hear presentations by representatives of the petitioning agencies and interested third parties. Agencies having petitions and reports pending before the Committee are:

American Medical Association, Committee on Allied Health, Education and Accreditation, in cooperation with the Review Committee for Physical Therapy Education, which is sponsored by the American Medical Association.
American Society of Landscape Architects, Landscape Architectural Accreditation Board.
California Board of Registered Nursing.
Council on Education for Public Health.
Iowa Board of Nursing.
Joint Commission on Dance and Theater Accreditation, sponsored by the National Association of Schools of Art and the National Association of Schools of Music.
Kansas State Board of Education.
Liaison Committee on Medical Education.
Louisiana State Board of Nursing.
Missouri State Board of Nursing.
National Association of Private; Nontraditional Schools and Colleges.
National Association of Schools of Music.
National Association of Trade and Technical Schools, Accrediting Commission.
New Jersey State Board of Education.
New York State Board of Regents (Nursing Education Unit).
Utah State Board for Vocational Education.

The Advisory Committee also will review a request by Flaming Rainbow University, Talequah, Okla., for a determination of satisfactory assurance that it will meet the accrediting standards of a nationally recognized agency within a reasonable period of time.

The Advisory Committee will review the following policy matters during its meeting:

1. Proposed revisions to the Criteria for Recognition of National Accrediting Bodies and State Agencies.
2. Issues regarding reauthorization of the Higher Education Act of 1965:
a. Should the present Federal eligibility system, placing dominant reliance upon accreditation, be retained unchanged?
b. Should the Office of Education undertake efforts to develop a dominant role in its eligibility system by either:
i. State legal authorizing agencies; or
ii. State approval/accrediting agencies?
c. Should the Office of Education consider establishing its own Federal approval/accrediting system for purposes of eligibility?
d. Should the Office of Education revise its eligibility system to effect a more balanced reliance upon accrediting agencies and State legal authorizing agencies?

Requests for oral presentation before the Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent (if applicable), and the purpose for which the presentation is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before December 8, 1978. Time constraints may limit oral presentations. However, all additional written material that a party wishes to file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C. on November 22, 1978.

JOHN R. PROFFITT,
Director, Division of Eligibility, and Agency Evaluation, Office of Education.

[FR Doc. 78-33280 Filed 11-27-78; 8:45 am]

[4110-02-M]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Meeting.

SUMMARY: This notice set forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Extension and Continuing Education and its ad hoc committees. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: Meetings: December 13, 14, and 15, 1978.

ADDRESS: The St. Francis Hotel, Union Square, San Francisco, California.

FOR FURTHER INFORMATION:

William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 13th Street, NW., Suite 529, Washington, D.C. 20004, telephone 202-376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public beginning with the meeting of the ad hoc committees on Wednesday, December 13, from 6:00 to 8:00 p.m.; and the meetings of the full Council on Thursday, December 14, from 9:00 a.m. to 5:00 p.m.; and on Friday, December 15, from 8:30 a.m. until 1:00 p.m.

The agenda for the Council meeting is summarized as follows:

A. WEDNESDAY, DECEMBER 13 (6-8 P.M.)

1. Meeting of the Ad Hoc Committee on Adult Learners and Federal Financial Aid.
2. Meeting of the Ad Hoc Committee on the Reformulation of Title I, HEA.
3. Meeting of the Ad Hoc Committee on Private Funding Alternatives for Postsecond- ary Education.
4. Meeting of the Ad Hoc Committee on International Dimensions of Continuing Education.

B. THURSDAY, DECEMBER 14 (9 A.M.-5 P.M.) AND FRIDAY, DECEMBER 15 (8:30 A.M.-1 P.M.)

a. Report of the Chairperson.
b. Report of the Executive Director.
c. Action on previous meeting minutes.
d. Community Service and Continuing Education Program Report.
e. Budget Review.
f. Election of Officers and Executive Committee.
g. Report of Ad Hoc Committees and briefing about Federal programs.
h. Discussion of Special Report to the President.
i. Review of status of Congressional reauthorization of the Higher Education Act.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street, NW., Washington, D.C.

Due to limited space, guests will be seated during the public meeting on a first-come basis by calling the Council office 202-376-8888.

Dated: November 22, 1978.

WILLIAM G. SHANNON,
Executive Director.

[FR Doc. 78-33233 Filed 11-27-78; 8:45 am]

[4110-02-M]

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

The Council had previously planned a series of hearings throughout the nation from December through March for the purpose of advising on the preparation of regulations. The schedule and procedures for promulgating regulations has been changed subsequent to those plans, therefore the Council will only have one hearing.

In order for the Council to participate effectively in the regulatory process, the required public notice of fifteen days is not being met.

DATES: December 6, 1978 Public Hearing 9:30 A.M.-4:30 P.M. December 7, 1978 Business Meeting 9:00 A.M.-4:00 P.M. December 8, 1978 Business Meeting 9:00 A.M.-4:00 P.M.

ADDRESS: Public Hearings will be held in Room 100, Home Economics Building Seventh Street, San Jose State University, San Jose, California 95192. Business Meetings will be held in the Associated Student Council Chambers, Student Union Building, San Jose State University, San Jose, California 95192.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis J. Serpa Office of Bilingual Education, Reporters' Bldg., Room 421, Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202, (202—245-2600).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

On *December 6, 1978*, in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics:

(1) Parental Participation;
(2) Adequate Training for Basic Programs;
(3) Priorities for Training under the Bilingual Education Act;
(4) Requirements for Fellowship Recipients to pay back or work;
(5) Definition of Limited English Proficiency as basis for participation in Basic Program;
(6) Follow-up services to sustain academic achievement;
(7) Gradual assumption of costs;
(8) Measurable goals to determine when children no longer need the program;
(9) Capacity Building;
(10) Use of bilingual personnel to the extent possible;
(11) The extent and manner which English proficient students should participate;
(12) Historically underserved;
(13) Services to non-public schools;
(14) Meaning of supplement/supplant clause in the Bilingual Education Act;
(15) Participation of private nonprofit organizations in the training activities.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis;
(2) Witnesses shall limit their testimony to fifteen minutes: ten minutes of formal presentation followed by five of questioning from Council mambers;
(3) Two or more persons from the same organization shall designate one person to speak for the group;
(4) Witnesses shall present an oral synopsis of their written testimony. Witnesses who do not provide such a testimony will be heard after all who have written testimony are heard;
(5) Witnesses shall provide fifteen copies of their written testimony;
(6) Witnesses may address the Council in English or in their native language. The written testimony must be submitted in English;
(7) All testimony shall be tape recorded;
(8) Exceptions to the aforementioned procedures shall be at the discretion of the Chairman of the Public Hearings Committee.

December 7. 1978: The proposed agenda for the Business Meeting includes:

(1) Old Business: Dissertation Award Procedures, Discussion on Coordination among bilingual programs, and Participation in national conferences.
(2) New Business: Digest of Testimony.

December 8, 1978: The proposed agenda includes the following:

(1) Digest of testimony (continued).
(2) Recommendations on the development of regulations.

Records will be kept of all Council proceedings and shall be available for public inspection 14 days after the meeting in Room 421, Reporter's Building, 300 7th Street, SW., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on November 22, 1978.

DEAN BISTLINE,
Acting Director, Office of Bilingual Education.

[FR Doc. 78-33279 Filed 11-27-78; 8:45 am]

[4110-87-M]

Public Health Service

INDUSTRYWIDE OCCUPATIONAL HEALTH RESEARCH STUDIES

Request for Information

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW.

ACTION: Request for Information.

SUMMARY: This notice requests information concerning certain substances and industries for which NIOSH is planning to conduct industrywide occupational health research studies during fiscal year 1979. Of particular interest to NIOSH is information that is not published or would not be found during routine literature searches. The information will aid NIOSH in developing protocols and background data for the studies.

DATES: Information concerning this notice should be submitted by January 29, 1979.

ADDRESSES: Information should be submitted in writing to Dr. Bobby F. Craft, Director, Division of Surveillance, Hazard Evaluations and Field Studies, (DSHEFS), NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

FOR FURTHER INFORMATION CONTACT:

F. Sutton Kay, Operations Management Officer, DSHEFS, NIOSH, 513-684-3616.

SUPPLEMENTARY INFORMATION: Section 20(a)(7) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(7)) provides that the Sec- retary of Health, Education, and Welfare shall conduct and publish industrywide studies of the effect of chronic or low-level exposure to industrial materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults. To carry out this responsibility, NIOSH plans to initiate certain industrywide studies during fiscal year 1979. These studies will be of workers in the leather industry and of workers in other industries with specific exposure to manganese, toluene, urethane, and adrenocortical steroids. The public is invited to submit information that would aid NIOSH in developing protocols and background data for the studies. Such information would include, but not be limited to, (1) human epidemiologic studies, (2) animal studies, (3) methods for air sampling and analyses, (4) data on engineering controls, work practices and industrial hygiene practices, and (5) potential industrial and/or commercial establishments, occupational groups, etc., that could be studied by NIOSH.

Trade secret information will be held confidential under section 15 of the Act (29 U.S.C. 654) and HEW regulations (45 CFR Part 5.71(c)). Personal information concerning living individuals will be held confidential under section 3 of the Privacy Act (5 U.S.C. 552(a)) and HEW regulations (45 CFR Part 5b). All other information received in response to this notice will be available for public inspection at the foregoing address.

Dated: November 21, 1978.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-33214 Filed 11-27-78; 8:45 am]

[4110-92-M]

INTERAGENCY COMMITTEE FOR THE INTERNATIONAL YEAR OF THE CHILD

APPROVAL OF DEVELOPMENT OF PORTABLE CUMULATIVE CHILD HEALTH RECORD CARD AS AN ACTIVITY FOR IYC

The Interagency Committee for the International Year of the Child (IYC) has approved the development of a portable cumulative child health record card as an activity for IYC. Those persons wishing to receive further information regarding this proposal may do so by contacting:

Secretariat for IYC, P.O. Box 1182, Room 5044 Donohoe Building, Washington, D.C. 20013.

Dated: November 13, 1978.

CHESTER E. NORRIS, Jr.,
Co-Chairperson, Interagency Committee on the International Year of the Child.

[FR Doc. 78-33242 Filed 11-27-78; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Ringling Bros.-Barnum & Bailey Combined Shows, Inc., 1015 18th Street NW., Washington, D.C. 20036.

The applicant requests a permit to import from Hungary, reexport to Canada and reimport to the United States, and reexport to Hungary, nine (9) tigers (*Panthera tigris*) for the purpose of enhancement of propagation and survival of the species. All tigers involved in the activity are captive-born. the purpose of the activity will be achieved in conjunction with circus exhibition.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3433. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before December 28, 1978. Please refer to the file number when submitting comments.

Dated: November 22, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-33290 Filed 11-27-78; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 17, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by December 7, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

CALIFORNIA

Orange County

Anaheim, *Anaheim Colony Multiple Resource Area*, roughly bounded by RR tracks, Harbor Blvd., Sycamore and Santa Ana Sts.

CONNECTICUT

New Haven County

New Haven, *Blackman, Elisha, Building*, 176 York St.

GEORGIA

Richmond County

Augusta, *Wilson, Woodrow, Boyhood Home*, 419 7th St.

LOUISIANA

East Baton Rouge Parish

Baton Rouge vicinity, *Santa Maria Planation House*, S of Baton Rouge on Perkins Rd.

Lafayette Parish

Lafayette, *St. John's Cathedral*, St. John St.

Orleans Parish

New Orleans, *Napoleon Street Branch Library*, Napoleon St.
New Orleans, *Sommerville-Kearney House*, 1401 Delachise St.

Rapides Parish

Pineville, *Post of Rapides*, Hardtner and Main St.

Tangipahoa Parish

Hammond, *Oaks Hotel (Casa de Fresa)* Railroad Ave. SW.

Washington Parish

Franklinton, *Knight Cabin*, Washington Parish Fairgrounds.
Franklinton, *Sylvest House*, Washington Parish Fairgrounds.

West Feliciana Parish

St. Francisville vicinity, *Greenwood Plantation*, N of St. Francisville on U.S. 61.

MONTANA

Jefferson County

Boulder vicinity, *Boulder Hot Springs Hotel*, SE of Boulder on MT 281.

NEBRASKA

Saline County

Wilber, *Mann-Zwonecek House*, 524 W. 1st.

NEW HAMPSHIRE

Merrimack County

Concord, *Merrimack County Bank (Old Historical Society Building)* 214 N. Main St.

Strafford County

Milton vicinity, *Plumer-Jones Farm*, N of Milton on NH 16.

NEW MEXICO

Catron County

Glenwood vicinity, *Whitewater Canyon Pipeline*, 4 mi. NE of Glenwood.

Colfax County

Eagle West vicinity, *Eagle Nest Dam*, 3 mi. SE of Eagle Nest off U.S. 64.

Socorro County

Magdalena, *Atchison, Topeka and Santa Fe Railway Depot*, off U.S. 60.

NORTH CAROLINA

Martin County

Hamilton, *Conoho Lodge*, Liberty St.

OHIO

Athens County

Nelsonville, *Stuart's Opera House*, Public Sq. and Washington St.

Delaware County

Galena vicinity, *Keeler, Diadatus, House*, SE of Galena at 4567 Red Bank Rd.

Erie County

Snadusky, *Melville-Milne, William Gordon, House*, 319 Lawrence St.

Hamilton County

Cincinnati, *Beech Avenue Houses*, 1120 and 1128 Beech Ave.
Cincinnati, *Columbia-Tusculum Multiple Resource Area*, East End neighborhood.
Cincinnati, *Immaculate Conception Church, School, and Rectory*, Pavilion and Guido Sts.

Jackson County

Wellston, *Morgan Mansion*, Broadway and Pennsylvania Aves.

Lake County

Kirtland Hills, *Hanna, Leonard C., Jr., Estate*, Little Mountain Rd.
Unionville, *Unionville District School* 3480 West St.

Lawrence County

Ironton, *Rankin Historic District*, roughly bounded by Vernon, 7th, Monroe and 4 Sts.

Lorain County

Lorain, *Lorain Lighthouse*, Lorain Harbor.
Wellington vicinity, *Wellington-Huntington Road Multiple Resource Area*, S of Wellington along OH 58.

Mercer County

Maria Stein, *Gast, Matthias, House and General Store*, OH 119. Mendon, *Mendon Town Hall*, S. Main St.

Montgomery County

Centerville vicinity, *Belville-Maxwell House*, W of Centerville off OH 725.

Muskingum County

Zanesville, *Kearns, George and Edward, Houses*, 306 and 320 Luck Ave.

Richland County

Mansfield, *Ritter, William, House*, 181 S. Main St.

Ross County

Chillicothe, *Mountain House*, Highland Ave.
Hopetown, *Wesley Chapel*, off U.S. 23.

Scioto County

Portsmouth, *Boneyfiddle Commercial District*, roughly bounded by Front, Washington, 3rd and Scioto Sts.

Seneca County

Bellevue vicinity, *Heter Farm*, NW of Bellevue on SR 29.
Tiffin, *Miami Street Grade School*, 155 Miami St.

Shelby County

Sidney, *Sidney Waterworks and Electric Light Building*, 121 N. Brooklyn Ave.

Stark County

Canton, *Timken, Henry H., Barn*, 13th St. NW., and I 77.
Canton vicinity, *Bair, Jacob H., House*, N of Canton at 7225 N. Market Ave.

OKLAHOMA

Garvin County

Paulis Valley, *Pauls Valley Historic District*, roughly bounded by RR tracks, Joy and Walnut, Sts., and Grant Ave.

OREGON

Marion County

Salem, *Lee Mission Cemetery*, D St.

Mulnomah County

Portland, *Lloyd, Frank M., Estate*, 0615 Palatine hill Rd. SW.

Washington County

North Plains vicinity, *Jackson, John Wesley, House*, E of North Plains on W. Union Rd.

[FR Doc. 8-33082 Filed 27-78; 8:45 am]

[3210-10-M]

Office of the Secretary

ALASKA NATIONAL INTEREST LANDS PROPOSAL

Availability of Final Supplement to Final Environmental Statement

Notice is hereby given that the Department of the Interior is making available for information, a Final Supplement to the environmental evaluation made in 1974 on the Alaska National Interest Lands proposed under Section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971. These actions were described in the Final Environmental Impact Statement issued in 1974 (28 volumes) and covering proposed legislative authorization to establish new units or expand existing units of the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System. This supplement updates that environmental statement and includes revisions due to available new study information. It also assesses the potential impacts of alternatives not previously discussed in the original evaluation. For reference to the earlier statement, a complete listing of government offices and public libraries throughout the Nation where the 28-volume EIS and this supplement may be studied is published in the FEDERAL REGISTER of Thursday, October 26, 1978 (Vol. 43, No. 208) at pages 50050 through 50055. (However, on page 50051 of the aforementioned FEDERAL REGISTER, the list is amended to show the following three address corrections.

U.S. Fish and Wildlife Service

USFWS, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.
USFWS, 500 Gold Street, S.W.K 10th Floor, Albuquerque, New Mexico 87103.

National Park Service

NPS, Southwest Regional Office, 1100 Old Santa Fe Trail, Santa Fe, New Mexico 87501.

Copies of this final supplement will be mailed to recipients of the draft supplement. Individual copies may be secured or examined upon request at the following Government offices.

Anchorage

National Park Service, Alaska Area Office, 540 W. 5th Avenue, Anchorage, Alaska 995701.

Fairbanks

U.S. Fish and Wildlife Service, 1412 Airport Way, Fairbanks, Alaska 99701.

Juneau

U.S. Fish and Wildlife Service, Federal Building, Juneau, Alaska 99701.

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Honolulu

Hawaii State Director's Office, National Park Service, 300 Ala Moana Boulevard, Box 50165, Honolulu, Hawaii 96850.

Seattle

Pacific Northwest Regional Office, National Park Service, 601 Fourth and Pike Building, Seattle, Washington 98101.

Spokane

Mines and Minerals, Pacific Northwest Region, National Park Service, Room 580, U.S. Courthouse, West 920 Riverside, Spokane, Washington 99201.

San Francisco

Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.

Los Angeles

Bureau of Land Management, Outer Continental Shelf Office, 300 N. Los Angeles Street, Los Angeles, California 90012.

Denver

Rocky Mountain Regional Office, National Park Service, 655 Pardet Street, P.O. Box 25287, Denver, Colorado 80225.

Albuquerque

Heritage Conservation and Recreation Service, 5000 Marble Avenue, N.E., Albuquerque, New Mexico 87110.

Phoenix

Southern Arizona Group Office, National Park Service, 1115 N. first Street, Phoenix, Arizona 85004.

Billings

Bureau of Land Management, Granite Tower Building, 222 N. 32nd Street, Billings, Montana 59101.

Salt Lake City

Assistant to the Regional Director (Utah), National Park Service, 125 S. State Street, Room 2208, Salt Lake City, Utah 84138.

Dallas

U.S. Geological Survey, 1045 Federal Building, 1100 Commerce Street, Dallas, Texas 75242.

Chicago

Federal Information Center, Room 250, 219 South Dearborn, Chicago, Illinois.

Ann Arbor

Heritage Conservation and Recreation Service, Federal Building, Ann Arbor, Michigan 48107.

Omaha

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

St. Louis

Jefferson National Expansion Memorial, National Park Service, 11 North Fourth Street, St. Louis, Missouri 63102.

Minneapolis-St. Paul

U.S. Fish and Wildlife Service, Federal Building, fort Snelling, Twin Cities, Minnesota 63102.

Philadelphia

Mid-Atlantic Regional Office, National Park Service, 143 S. 3rd Street, Philadelphia, Pennsylvania 19106.

Boston

U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Massachusetts 02158.

New York

Bureau of Land Management, Outer Continental Shelf Office, Federal Building, 26 Federal Plaza, New York, New York 10014.

Atlanta

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349.

Louisville

Federal Information Center, 600 Federal Place, Louisville, Kentucky 40202.

Memphis

U.S. Geological Survey, Water Resources Division, Federal Office Building, 167 N. Main, Memphis, Tennessee 38103.

Miami

U.S. Geological Survey, Water Resources Division, 901 S. Main Avenue, Miami, Florida 33130.

New Orleans

Bureau of Land Management, Outer Continental Shelf Office, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

Dated: November 22, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-32848 Filed 11-27-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-51]

CERTAIN CIGARETTE HOLDERS

Commission Hearing on Presiding Officer's recommendation, Relief, Bonding and the Public Interest

Recommendation of "no violation" issued. In connection with the Commission's investigation, under Section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of certain cigarette holders in the United States, the Presiding Officer recommended on October 23, 1978, that the Commission determine that there is no violation of Section 337. The Presiding Officer certified the hearing record to the Commission for its consideration. Copies of the Presiding Officer's recommendation may be obtained by interested persons by contacting the office of the Secretary to the Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

Commission hearing scheduled. The Commission will hold a hearing beginning at 10:00 a.m., e.s.t., Wednesday, February 21, 1979, in the Commission's Hearing Room (Room 331), 701 E Street, N.W., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral argument on the Presiding Officer's recommendation that there is no violation of Section 337 of the Tariff Act of 1930. Second, the Commission will receive oral presentations concerning appropriate relief, bonding, and the public interest in the event that the Commission determines that there is a violation of Section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure of each portion of the hearing follows.

Oral argument on Presiding Officer's recommendation. A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the Presiding Officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10 minutes of its time for rebuttal. The oral arguments will be held in this order: complainant, respondents, interested agencies, and Commission investigative staff. Any rebuttals will be held in this order: respondents, complainants, interested agencies, and Commission investigative staff.

Oral presentations on relief, bonding, and the public interest. Following the oral arguments on the Presiding Officer's recommendation, a party to the investigation, an interested agency, a public interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* In the event that the Commission were to find a violation of Section 337, it would issue (1) an order which could result in the exclusion from entry of certain cigarette holders into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of these cigarette holders. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. *Bonding.* In the event that the Commission were to find a violation of Section 337 and order some form of relief, that relief would not become final for a 60-day period during which the President would consider the Commission's report. During this period, the certain cigarette holders would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.* In the event that the Commission were to find a violation of Section 337 and order some form of relief, the Commission must consider the effect of that relief upon the public interest. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the United States economy, (3) the production of like or directly competitive articles in the United States, and (4) United States consumers.

A party to the Commission's investigation, an interested agency, a public interest group, or any interested person wishing to make an oral presentation concerning relief, bonding, and the public interest will be limited to no more than 15 minutes. Participants will be permitted an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainant, respondents, interested agencies, public interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing. If you wish to appear at the Commission's hearing, you must file a written request to appear with the Secretary to the Commission, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.s.t.) on Wednesday, February 7, 1979. Your written request must indicate whether you wish to present an oral argument concerning the Presiding Officer's recommendation or an oral presentation concerning relief, bonding and the public interest, or both. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may present an oral argument concerning the Presiding Officer's recommendation, public interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written submissions to the Commission. The Commission requests that written submissions of two types be filed prior to the hearing in order to focus the issues and facilitate the orderly conduct of the hearing.

1. *Briefs on the Presiding Officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the Presiding Officer's recommendation. Prehearing briefs must be filed with the Secretary to the Commission by no later than the close of business on Wednesday, February 7, 1979. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions are encouraged to consolidate their briefing, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public interest group, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These written submissions will be very useful to the Commission in the event it determines that there is a violation of Section 337 and that relief should be granted.

Written comments and information concerning relief, bonding, and the public interest shall be submitted in this order. First, complainant shall file a detailed proposed Commission action, including a proposed determination of bonding, a proposed remedy, and a discussion of the effect of its proposals on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, with the Secretary to the Commission by no later than the close of business on Wednesday, January 31, 1979. Second, other parties, interested agencies, public interest groups, and other interested members of the public shall file written comments and information concerning the action which complainant has proposed, any available alternatives, and the advisability of any Commission action in light of the public interest considerations listed above by no later than the close of business on Wednesday, February 14, 1979.

Additional information. The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. If you wish to submit a document (or a portion thereof) to the Commission in confidence, you must request *in camera* treatment. Your request should be directed to the Chairman of the Commission and must include a full statement of the reasons for granting *in camera* treatment. The Commission will either accept such submission in confidence, or it will return the submission to you. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the FEDERAL REGISTER of March 29, 1978 (43 FR 13104).

By order of the Commission:

Issued: November 22, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-33294 Filed 11-27-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

THIRD CIRCUIT PANEL UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Meeting

United States Circuit Judge Nominating Commission, Third Circuit Panel, Chairman: John McLean, Jr.

The first meeting of the nominating panel for the Third Circuit of the United States Circuit Judge Nominating Commission will be held on December 20, 1978, at 10:00 a.m., in the Third Circuit Judical Council Conference Room, 20th Floor, Room 20321, United States Court House, 6th and Market Streets, Philadelphia, Pennsylvania 19160.

The purpose of the meeting is to provide the panel members with a history of the Circuit Court system; an explanation of the merit selection process; and, the qualifications to be sought in nominating candidates for Circuit Court Judgeships.

This meeting will be open to the public.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

NOVEMBER 21, 1978.

[FR Doc. 78-33251 Filed 11-27-78; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-117-C]

BETHLEHEM MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871, Martin Tower, Bethlehem, Pennsylvania 18016, has filed a petition to modify application of 30 CFR

75.305 (weekly examination of return airways) to its Mine No. 51 in Washington County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) Certain return air courses in the petitioner's mine (designated on a map supplied by the petitioner) have deteriorated in the 68 years since they were driven. Roof falls are common.

(2) As a result of the deteriorated condition, these air courses cannot be safely examined in their entirety.

(3) As an alternative to weekly examinations or attempting a hazardous rehabilitation of the air courses, the petitioner proposes a three station air quality monitoring system and outlines its use.

(4) The petitioner states that this alternative will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33332 Filed 11-27-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-112-C]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241, has filed a petition to modify application of 30 CFR 75.1103 (automatic fire sensors) at its Amonate No. 31 Mine in Amonate, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) A rail strike has delayed the petitioner's plan to join a section of the mine designated as the P-left belt with the mine's main fire sensor system by 2½ to 3 months.

(2) In order to join a fire sensor system on P-left with the main system during the interim, the petitioner would have to temporarily install a cable over 5,800 feet in length.

(3) As an alternative, the petitioner outlines the current fire protection measures on the belt and proposes a monitoring system for the interim.

(4) The petitioner states that this alternative will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33333 Filed 11-27-78; 8:45]

[4510-43-M]

[Docket No. M-78-113-C]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241, has filed a petition to modify application of 30 CFR 75.305 (weekly examinations) to its Bishop Mine No. 34 in McDowell County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) Major roof falls in the Daniel Mains and Pine Ridge sections of the mine have made the return entries in these sections impassable.

(2) Rehabilitation of those return entries would be impractical and dangerous.

(3) As an alternative to weekly examinations of the return entries, the petitioner outlines the proposed use of an air quality monitoring system using five checking stations.

(4) The petitioner states that the alternative will provide at all times a measure of protection equal to that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33335 Filed 11-27-78; 8:45 am]

Dated: November 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33334 Filed 11-27-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-118-C]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pa. 15241, has filed a petition to modify application of 30 CFR 75.305 (weekly examination of return air courses) to its Amonate No. 31 Mine in Amonate, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) This petition pertains to return air courses designated on a map of the mine supplied by the petitioner.

(2) Timbers have deteriorated in these sections of the mine and roof falls have resulted, leaving the air courses virtually impassable and extremely hazardous to travel and examine.

(3) The existing falls have had no effect on the velocity or quantity of air passing through the air courses.

(4) The return air courses are not designated as escapeways.

(5) As an alternative to weekly examinations or attempting a hazardous rehabilitation of the air courses, the petitioner proposes to install and maintain a two station air quality monitoring system.

(6) The petitioner states that this alternative will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33338 Filed 11-27-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-116-C]

MARROWBONE DEVELOPMENT CO.

Petition for Modification of Application of Mandatory Safety Standard

Marrowbone Development Company, P.O. Box 119, Naugatuck, West Virginia 25685, has filed a petition to modify application of 30 CFR 75.1700 (oil and gas well barriers) to its Western Mingo Coal Company No. 1 Mine in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) The petitioner wishes to mine through Columbia Gas Transmission Corporation's gas well #8817.

(2) If the petitioner were required to establish and maintain barriers around the well in accordance with the standard, roof control in the mine would be adversely affected, and the mine's ventilation plan would be unduly complicated.

(3) In lieu of a barrier around gas well #8817, the petitioner proposes to plug the well by a technique outlined in the petition and which has been approved by the State of West Virginia.

(4) The plugged well would then be mined through following a list of safeguards stated in the petition.

(5) The petitioner states that this alternative will provide no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33336 Filed 11-27-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-53-M]

PORTLAND-MONSON SLATE CO.

Petition for Modification of Application of Mandatory Safety Standard

The Portland-Monson Slate Co., Monson, Maine 04464, has filed a petition to modify application of 30 CFR 57.19-102 (shaft guides) to its No. 5 Mine in Piscataquis County, Maine. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) The vertical shaft of the mine measures approximately 20 feet by 20 feet square and 375 feet deep. There is a lateral drift in two directions from the bottom landing.

(2) The petitioner uses a guy derrick which allows for both vertical and horizontal movement of the conveyance and hoist hook. The horizontal movement is necessary:

(a) To service air, water, electrical and ventilation lines in the shaft;

(b) To service pumping stations on the shaft wall at the 150 and 300 foot levels;

(c) To hoist large, irregular blocks of slate from any point on the shaft bottom and to swing them laterally from the mine opening for truck loading.

(3) The horizontal movement makes the installation of guides impractical.

(4) The possibility of large rocks entangling in guides will constitute an extreme hazard to miners underground.

(5) Guides of any kind will interfere with the operation and placement of a wall mounted shaft mucker hung at the bottom of the shaft.

(6) For these reasons, the petitioner states that guides will not result in any net gain in safety in the mine and will constitute a hazard to miners and equipment when hoisting large rock.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available at that address.

Dated: November 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33337 Filed 11-27-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-58-M]

RIO ALGOM CORP.

Petition for Modification of Application of Mandatory Safety Standard

The Rio Algom Corp., P.O. 610, Moab, Utah 84532, has filed a petition to modify application of 30 CFR 57.21-1 (gassy mines) to its Lisbon Mine in San Juan County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) MESA classified the mine as gassy in 1973 following ignition of a gas which included acetylene leaking from a compressed gas cylinder.

(2) The mine does not connect to any mine that has been classified as gassy.

(3) Since the initial classification of the mine as gassy, no ignition of flammable gas emanating from the ore body or the strata surrounding the ore body has occurred nor has the concentration of flammable gas ever been found in excess of .06 percent.

(4) The petitioner states that the mine was erroneously classified as gassy and that reclassification of the mine as non-gassy will in no fashion diminish the safety of miners in the mine.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33338 Filed 11-27-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-60-M]

RIO BLANCO SHALE CO.

Petition for Modification of Application of Mandatory Safety Standard

Rio Blanco Oil Shale Co., 9725 East Hampden Avenue, Denver, Colo. 80231, has filed a petition to modify application of 30 CFR 57.19-3 (hoists) to its mine in Larimer County, Colo. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) The petitioner plans to install a roller chain hoist for emergency escape at its shale mine.

(2) The hoist drive uses two independent chains, either of which is adequate to drive the unit. If one of the chains is defective, the other serves as complete backup.

(3) The hoist would serve during the four-year life of the mine's modular development phase and would be

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eliminated should the mine go on to commercial production.

(4) For these reasons, the petitioner requests relief from the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33339 Filed 11-27-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-103-C]

UNITED POCAHONTAS COAL CO.

Petition for Modification of Application Mandatory Safety Standard

United Pocahontas Coal, Crumpler, W. Va. 24825, has filed a petition to modify application of 30 CFR 75.305 (weekly examination of return airways) to its Rolfe No. 6-A Mine in McDowell County, W. Va. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) The top of entries serving as return airways in the 005 section of the petitioner's mine is not supported and has deteriorated in a number of areas.

(2) Although the entries are open and function efficiently as return airways, weekly examinations of them as well as attempts to rehabilitate them would be hazardous.

(3) The entries are not designated as escapeways.

(4) As an alternative to weekly examinations of the airways, the petitioner proposes to establish monitoring points specified on a map supplied with the petition. The roof in these areas is supported or will be supported.

(5) The petitioner states that these monitoring points will enable air quality and quantity to be measured in a safe manner on a daily basis.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 28, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33340 Filed 11-27-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3760]

ALLSTATE LAWN PRODUCTS, INC., DULUTH, MINN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3760: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on April 25, 1978 which was filed on behalf of workers and former workers producing women's and children's raincoats at the Duluth, Minnesota plant of Allstate Lawn Products, Incorporated.

the Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Allstate Lawn Products, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative detrmination and issue a certification of eligibility to apply for adjustment assitance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Allstate Lawn Products produced rainwear under a licensing agreement with a Duluth manufacturer between September 1976 and May 1977. In May 1977 this manufacturer's two plants, in Duluth and Chisholm, Minnesota, were closed and Allstate began to manufacture rainwear in another facility in Chisholm. Very little production occurred in Duluth in 1977—by the second quarter of 1977 the plant was closed. Most workers of Allstate Lawn Products, Duluth, were laid off by May 1977.

Since April 1977, the earliest possible impact date, sales at Allstate have increased. Sales of Allstate including its predecessor corporation increased from 1976 to 1977 and in the first six months of 1978 compared to the same period in 1977. Sales and production are approximately equal.

In the period following the closure of the Duluth plant, total employment, as well as sales, at Allstate increased. The shutdown of the Duluth plant resulted in a consolidation of business into the Chisholm plant of Allstate Lawn Products.

CONCLUSION

After careful review, I determine that all workers of the Duluth, Minnesota plant of Allstate Law Products, Incorporated, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33295 Filed 11-27-78; 8:45]

[4510-28-M]

[TA-W-4163]

AMERICAN PILLOW COMPANY, INC., LOWELL, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4163: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 19, 1978 in response to a worker petition received on September 18, 1978 which was filed on behalf of workers and former workers producing down-filled outerwear at the American Pillow Co., Inc., Lowell, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the American Pillow Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

On March 24, 1978, the U.S. Department of Commerce issued a certification of eligibility for firm adjustment assistance for the American Pillow Co. (F-228)

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of feather products, including down-filled outerwear, increased 201 percent in value from the 1975 level of $9.4 million to $28.3 million in 1976. Imports increased 366 percent from 1976 to $132 million in 1977.

The investigation revealed that retail customers of the American Pillow Company reduced their purchases of down-filled outerwear from the company from 1976 to 1977. During the same period, these customers increased their import purchases of that product.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with down-filled outerwear produced at the American Pillow Co., Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the American Pillow Co., Inc., Lowell, Massachusetts, who became totally or partially separated from employment on or after September 11, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33296 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3923]

ANDREX INDUSTRIES CORP., NEW YORK, N.Y.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers at the New York, New York sales office of Andrex Industries Corporation engaged in employment related to the production of knitted fabrics.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-29). No public hearing was requested and none was held.

On July 5, 1978, a petition was filed on behalf of the same group of workers (TA-W-3940).

Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-29). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA-W-3940, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 17th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33297 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4033]

CENTRAL SLIPPER COMPANY OF NEW YORK, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein present the results of TA-W-4033: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 3, 1978 in response to a worker petition received on July 31, 1978 which was filed on behalf of workers and former workers producing slippers and sneakers at Central Slipper, New York, N.Y. The investigation revealed that the plant stitched uppers for slippers and sneakers produced at affiliated plants.

The investigation also revealed that Central Slipper's official corporate name was Central Slipper Company of New York, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Frier Industries, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The ratio of imports of rubber/canvas footwear (sneakers) to domestic production of rubber/canvas footwear increased from 100.0 percent in 1976 to 119.1 percent in 1977, and increased from 127.1 percent in the first half of 1977 to 238.8 percent in the first half of 1978.

Central Slipper Company of New York stitched uppers for slippers and sneakers produced at two affiliated plants: Fashion Footwear Company, Incorporated, Rutherford, N.J. (TA-W-2083) and Frier Industries Distribution Corporation, Carlstadt, N.J. (TA-W-2087). These two companies were certified for trade adjustment assistance on December 20, 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with canvas/rubber footwear (sneakers), the uppers of which were produced at Central Slipper Company of New York, Incorporated, New York, N.Y., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certifications:

All workers of Central Slipper Company of New York, Incorporated, New York, New York who became totally or partially separated from employment on or after November 26, 1977 and before August 31, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-33299 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3706]

CHEMICAL METALLURGICAL DIVISION, SCM CORP., LAKEHURST, N.J.

Negative Determination Regarding Application for Reconsideration

On October 14, 1978, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the Lakehurst mine of the Chemical Metallurgical Division of the SCM Corporation, Lakehurst, New Jersey. The determination was published in the FEDERAL

REGISTER on September 26, 1978, (43 FR 43576).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that the Glidden Pigments Group of the Chemical Metallurgical Division of SCM imported ilmenite ore as late as March 1978.

The Department's investigation revealed that the entire output of ilmenite ore from the Lakehurst mining site of the Chemical Metallurgical Division of SCM was used by the Glidden Pigments Group. The Lakehurst mining site, which was acquired in 1960, originally had a life expectancy of 15 years and closed in March, 1978 because the supply of ilmenite ore had been effectively exhausted and the strip mining operation was no longer economically feasible. The property has subsequently been sold to a domestic firm in the construction industry. SCM has not imported ilmenite for at least the past three years. Just before the Lakehurst mine closed, SCM had stockpiled about two years supply of ilmenite ore from the Lakehurst site. After the Lakehurst mining site closed, SCM made a substantial purchase of ilmenite ore from the stockpile of a domestic firm which stated that the ilmenite ore it sold to SCM had originally been imported from India between 1956 and 1960.

Thus, workers laid off at the Lakehurst mining site were laid off because the supply of ilmenite had been effectively exhausted and the mine had fully lived out its life expectancy.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 17th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33300 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3990]

COBLENTZ BAGS CO., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3990: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 17, 1978 which was filed by the Leather Goods, Plastics, and Novelty Workers Union, on behalf of workers and former workers producing ladies leather and vinyl handbags at the Coblentz Bags Company, Incorporated, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33840). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of The Coblentz Bags Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of ladies handbags increased both absolutely and relative to domestic production for each year from 1974 through 1977 when compared to the previous year. Imports continued to increase absolutely in the first three months of 1978 as compared to the same period in 1977.

Results of a Department of Labor survey indicated that customers of the Coblentz Bags Company increased purchases of imported handbags and decreased purchases from Coblentz in 1977 compared to 1976 and in the first six months of 1978 compared to the first six months of 1977.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies handbags produced at the Coblentz Bags Company, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of The Coblentz Bags Company New York, New York, who became totally or partially separated from employment on or after July 11, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33301 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3816]

CRAIG BYRON CO., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3816: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1978 in response to a worker petition received on June 2, 1978 which was filed on behalf of workers and former workers producing women's dresses, three piece suits and pant suits at Craig Byron Company, Fall River, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Craig Byron Company, its customers, the National Cotton Council of America, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met. The following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In 1977, total sales both quantity and dollar value were above 1976 levels. In the first six months of 1978, quantity of sales were above January-June 1977 levels.

Total production in 1977 increases compared to 1976 production levels. January-June 1978 production levels were above the January-June 1977 production levels.

Customers of the Craig Byron Company who were surveyed and who reduced purchases from the manufacturer did not increase purchases of imported dresses, suits, or pantsuits.

CONCLUSION

After careful review, I determine that all workers of Craig Byron Company, Fall River, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33302 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3839]

DAVID HOBER AND COMPANY, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3839: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 14, 1978 in response to a worker petition received on June 12, 1978 which was filed on behalf of workers formerly producing ladies' tailored sportswear at David Hober and Company, Incorporated, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of David Hober and Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased from 30,273,000 dozen in 1976 to 30,849,000 dozen in 1977. For the first half of 1978, imports increased to 19,854,000 dozen, compared to 16,829,000 dozen in the first half of 1977.

U.S. imports of women's, misses', and children's skirts increased to 568,000 dozen in the first half of 1978 compared to 220,000 dozen in the first half of 1977.

U.S. imports of women's, misses', and children's slacks and shorts increased from 11,040,000 dozen in 1976 to 11,622,000 dozen in 1977. For the first half of 1978, imports increased to 8,233,000 dozen, compared to 6,393,000 dozen in the first half of 1977. The ratio of imports to domestic production increased from 36.8 percent in 1976 to 38.0 percent in 1977.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252,000 dozen in 1976 to 2,723,000 dozen in 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

A Department survey, conducted with customers who purchased ladies' sportswear produced by David Hober and Company, Incorporated, revealed that customers increased imports of ladies' sportswear from 1976 to 1977 and in the first half of 1978 compared to the first half of 1977, while decreasing purchases from David Hober and Company, Incorporated.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sportswear produced by David Hober and Company, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of David Hober and Company, Incorporated, New York, New York, who became totally or partially separated from employment on or after May 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33303 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3555, 4067, 4069, 4070, 4073, 4076, 4078]

DOREL GROUP CO., NORTH QUINCY, MASS.

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

TA-W-3555, Dorel Steel Corporation,
TA-W-4067, Angle Iron and Steel Corporation,
TA-W-4069, Dorel Crane and Equipment Rental Company,
TA-W-4070, W. P. Griffin Company,
TA-W-4073, Metro Steel Company,
TA-W-4076, Quinfield Steel Fabrication Company,
TA-W-4078, The Quincy Corporation.

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3555, 4067, 4069, 4070, 4073, 4076, 4078: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on August 17, 1978 in response to worker petitions received on August 15, 1978 which were filed on behalf of workers and former workers fabricating and erecting buildings at the Dorel Group companies listed in the appendix. Petition TA-W-3555 was received on April 14, 1978 and the investigation was initiated on April 27, 1978.

Notices of investigation were published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39194).[1] No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officals of the Dorel Group companies, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In the order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the absolute and relative levels of imports of fabricated structural steel

[1] Notice of Investigation of TA-W-3555 was published on May 16, 1978 (43 FR 21069).

in the first five months of 1978 com-

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decreased over the period of time when employment declines occurred at the Dorel Group companies. Imports of fabricated structural steel, in absolute terms, decreased from 1975 to 1976, increased from 1976 to 1977 and decreased 28 percent in the first six months of 1978 compared to the first six months of 1977. The ratios of imports to domestic production and consumption decreased from 5.6 percent and 5.5 percent, respectively, in the first six months of 1977 to 3.9 percent and 3.9 percent, respectively in the first six months of 1978.

Sales, production and employment levels at each Dorel Group company increased significantly from 1976 to 1977, decreasing only in the first half of 1978 compared to the first half of 1977. Production and employment declines in the first half of 1978 at these companies are attributable to inclement weather conditions in February and March 1978 in the Boston, Massachusetts region.

CONCLUSION

After careful review, I determine that all workers at the Dorel Group companies listed in the appendix are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

APPENDIX

TA-W-Number and

3555, Dorel Steel Corporation; 4067, Angle Iron and Steel Corporation; 4069, Dorel Crane and Equipment Rental Company; 4070, W. P. Griffin Company; 4073, Metro Steel Company; 4076, Quinfield Steel Fabrication Company; 4078, The Quincy Corporation.

[FR Doc. 78-33304 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4060]

DUVAL CORP., BATTLE MOUNTAIN, NEV.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4060: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 15, 1978 in response to a worker petition received on August 10, 1978 which was filed by the International Union of Operating Engineers on behalf of workers and former workers mining and milling copper at the Battle Mountain, Nevada mine of Duval Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Duval Corporation, *American Metal Market*, the American Bureau of Metal Statistics, the U.S. Department of Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and increased again to 391 thousand short tons in 1977. In the first six months of 1978, imports increased to 327 thousand short tons compared with 164 thousand short tons in the same period in 1977. The ratio of imports to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976 and increased again to 22.2 percent in 1977. In the first six months of 1978, the ratio increased to 35.9 percent compared with 15.0 percent in the same period in 1977.

The level of imports of copper is affected by the differential between the domestic producers price for copper and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the domestic producers price, the demand for imported copper increases. During the last nine months of 1977 and the first six months of 1978, the average LME price had fallen almost 8 cents per pound below the average domestic producers price.

The major factor contributing to depressed prices has been an oversupply of imported and domestic copper, as evidenced by U.S. inventory levels for refined copper. U.S. inventories of refined copper were higher in every month of 1977, except December, when compared to the same month in 1976. Inventories in December 1977 were less than one percent below December 1976 levels. Duval Corporation's inventory of copper at the end of 1977 was 38 percent higher than at the end of 1976. In the first six months of 1978, U.S. inventories surpassed levels in the same months of 1977, with the exception of March which was only marginally below the same month in the previous year. The abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977 and in the first half of 1978, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased in 1977 compared to 1976 and doubled in the first half of 1978 compared to the same period in 1977.

Duval Corporation's decision to lay off workers and reduce its mining operations beginning in June, 1977 and culminating in the six week shutdown in August, 1977 of all Duval properties including the Battle Mountain mine, was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the copper which is mined and milled at the Battle Mountain, Nevada mine of Duval Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that mine. In accordance with the provisions of the Act, I make the following certification:

All workers of the Battle Mountain, Nevada mine of Duval Corporation who became totally or partially separated from employment on or after August 7, 1977 and before October 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after October 1, 1977 are denied eligibility.

Signed at Washington, D.C., this 20th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-33305 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3961]

ERIE TECHNOLOGICAL PRODUCTS, INC., NORTH AND SOUTH PLANTS, ERIE, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3961: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 11, 1978 in response to a worker petition received on July 6, 1978, in response to a worker petition received on July 6, 1978 which was filed by the International Union of Electrical Workers on behalf of workers and former workers producing electronic component parts at Erie Technological Products, Incorporated, Erie, Pennsylvania. The investigation revealed that the petition is intended to cover workers and former workers producing capacitors at the North and south plants of Erie Technological Products, Incorporated, Erie, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Erie Techological Products, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The value of U.S. imports of ceramic capacitors increased from 27.5 million dollars in 1976 to 37.8 million dollars in 1977. The ratio of imports to domestic production increased from 20.0 percent in 1976 to 22.1 percent in 1977. The value of imports increased from 7.9 million dollars in the first three months of 1977 to 11.1 million dollars in the first three months of 1978. The ratio of imports to domestic production increased from 18.5 percent in the first three months of 1977 to 24.9 percent in the first three months of 1978.

Erie Technological Products, Incorporated transferred production of some capacitors from its North and south plants in Erie, Pennsylvania to an offshore company facility during the first quarter of 1978. The transfer was completed and production at the offshore facility began in April 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with capacitors produced at the North and South plants of Erie Technological Products, Incorporated, Erie, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the North and South plants of Erie Technological Products, Incorporated, Erie, Pennsylvania engaged in employment related to the production of capacitors who became totally or partially separated from employment on or after June 23, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33306 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3685]

FLORA FASHIONS, INC., STANHOPE, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3685: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Worker's Union on behalf of workers and former workers producing ladies' coats and raincoats at Flora Fashions, Incorporated, Stanhope, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Flora Fashions, Incorporated, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Subsequent to the earliest impact date that could be set under the law—April 25, 1977—there were no significant layoffs until December 1977 when the usual seasonal layoffs occur. Employment increased from July-December of 1977 compared to the same period in 1976. Employment increased in the first five months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine all workers of Flora Fashions, Stanhope, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33307 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3027]

FORT PITT STEEL CASTING DIVISION, CONVAL PENN, INC., McKEESPORT, PA.

Negative Determination Regarding Application for Reconsideration

By application dated October 12, 1978, the petitioner for workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Conval Penn, Incorporated's, Fort Pitt Steel Casting Division located in McKeesport, Pennsylvania. The determination was published in the FEDERAL REGISTER on September 26, 1978, (43 FR 43578).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In his application, the petitioner claims that the Department did not fully consider all of the facts regarding the subject firm and its primary customers indicating that the Department should have emphasized in its survey of customers the so-called non-captive firms. Further, the petitioner points to the increase in absolute imports of steel castings in 1977.

In its investigation, the Department conducted a survey of both captive and non-captive customers of subject firm. Included in its survey were three of the six firms cited in the application for administrative reconsideration. The results of the Department's

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customer survey were in accord with the aggregate import data which while showing an increase in absolute terms of imports of steel castings in 1977 nonetheless showed that the ratio of such imports to domestic production was only 1.3 percent, just slightly higher than the 1.1 percent recorded the previous year. While the customer survey indicated that some customers increased purchases of imported steel castings, none of the customers increased such purchases while at the same time decreasing purchases of steel castings from Fort Pitt Steel Casting Division.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 22d day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33308 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4061]

GTE SYLVANIA, INC., ALTOONA RECEIVING TUBE PLANT, ALTOONA, PA.; EMPORIUM RECEIVING TUBE PLANT, EMPORIUM, PA.; WILLIAMSPORT RECEIVING TUBE FINISHING WAREHOUSE, WILLIAMSPORT, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4061: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 15, 1978 in response to a worker petition received on August 10, 1978 which was filed by the United Electrical, Radio and Machine Workers of America on behalf of workers and former workers producing electron receiving tubes at the Emporium Receiving Tube Plant, GTE Sylvania, Inc., Emporium, Pennsylvania. The investigation ws expanded to include workers and former workers producing electron receiving tubes at the GTE Sylvania, Inc., Altoona Receiving Tube Plant, Altoona, Pennsylvania and the Williamsport Receiving Tube Finishing Warehouse, Williamsport, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635-38636). No public hearing was requested and none was held.

On February 28, 1976, the Department issued a certification of eligibility to apply for adjustment assistance applicable to workers at GTE Sylvania, Altoona and Emporium, Pennsylvania (TA-W-392). That certification expired on February 28, 1978, two years from its date of issuance.

The determination was based upon information obtained principally from officials of GTE Sylvania, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of electron receiving tubes and mounts increased both absolutely and relative to domestic production during the first half of 1978 compared to the same period of 1977. Further, mounts imported by the major domestic firms for assembly onto domestically produced tubes are comprising an increasing share of the tube and mount import category, increasing from 67 percent of the category in 1974 to 75 percent in 1977.

Since a small number of domestic producers account for most of the production of electron receiving tubes, industry figures directly reflect the situation of the individual firms.

A major domestic tube manufacturer is relying increasingly upon imported mounts for assembly onto tubes. The intensified competition for the declining electron receiving tube market has resulted in production cutbacks at GTE Sylvania in the third quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conlcude that increases of imports of articles like or directly competitive with electron receiving tubes produced at the Altoona Receiving Tube Plant, the Emporium Receiving Tube Plant and the Williamsport Receiving Tube Finishing Warehouse of GTE Sylvania, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance wth the provisions of the Act, I make the following certification:

All workers of the Altoona Receiving Tube Plant, Altoona, Pennsylvania the Emporium Receiving Tube Plant, Emporium, Pennsylvania and the Williamsport Receiving Tube Finishing Warehouse, Williamsport, Pennsylvania of GTE Sylvania, Inc. who became totally or partially separated from employment on or after February 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33309 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4203]

GALETON PRODUCTION CO., GALETON, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4203: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 21, 1978 in response to a worker petition received on September 21, 1978 which was filed on behalf of workers and former workers producing electron receiving tubes at the Galeton Production Company, Galeton, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on October 10, 1978 (43 FR 46591). No public hearing was requested and none was held.

On June 28, 1976 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to all workers of Galeton Production Company (TA-W-817). That certification expired on June 28, 1978, two years from its date of issuance.

The determination was based upon information obtained principally from officials of Galeton Production Company, its customers, the Electronics Industry Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of electron receiving tubes increased both absolutely and relative to domestic production in the first half of 1978 compared to the same period of 1977. The ratio of imports to domestic production during the first half of 1978 was 75.7 percent.

Galeton Production Company's customer for tube mounts decreased purchases from the subject firm and increased purchases of imported tube mounts in the second quarter of 1978 compared to the previous quarter.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electron receiving tube mounts produced at Galeton Production Company, Galeton, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm.

In accordance with the provisions of the Act, I make the following certification:

"All workers engaged in employment related to the production of electronic receiving tube mounts at Galeton Production Company, Galeton, Pennsylvania who became totally or partially separated from employment on or after June 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 20th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33310 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4169]

GENESCO INC., GENERAL SHOE DIVISION, TULLAHOMA, TENN.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 19, 1978 in response to a worker petition received on September 13, 1978 which was filed on behalf of workers and former workers producing footwear for men, women and children at the Tullahoma, Tennessee plant of Genesco Incorporated, General Shoe Division.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50270). No public hearing was requested and none was held.

On November 25, 1977, the Department certified as eligible to apply for adjustment assistance all workers at the Tullahoma, Tennessee plant of Genesco, Incorporated (TA-W-2131). Since all workers separated, totally or partially, from the Tullahoma, Tennessee plant of Genesco Incorporated, General Shoe Division on or after June 6, 1976 (impact date) and before November 25, 1979 (expiration date of the certification) are covered by the existing certification a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 17th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33311 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4170]

GENESCO INC., GENERAL SHOE DIVISION, COWAN, TENN.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 19, 1978 in response to a worker petition received on September 13, 1978 which was filed on behalf of workers and former workers producing footwear for men, women and children at the Cowan, Tennesse plant of Genesco Incorporated, General Shoe Division.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50270). No public hearing was requested and none was held.

On October 31, 1977, the Department certified as eligible to apply for adjustment assistance all workers of the Cowan, Tennessee plant of Genesco, Incorporated, General Shoe Division (TA-W-2174). Since all workers separated, totally or partially, from the Cowan, Tennessee plant of Genesco Incorporated, General Shoe Division on or after June 15, 1976 (impact date) and before October 31, 1979 (expiration date of the certification) are covered, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington D.C. this 17th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33312 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3989]

IGUALDAD TRACTOR SHOP, MAYAGUEZ, P.R.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 25, 1978 in response to a worker petition received on July 17, 1978 which was filed on behalf of workers and former workers producing raw sugar at the Aquadilla, Puerto Rico plant of Central Coloso. The Department's investigation revealed that the petitioning group of workers were employed at the Igualdad Tractor Shop, located at the Igualdad Sugar Mill, Mayaguez, Puerto Rico.

The Notice of Investigation was published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33840). No public hearing was requested and none was held.

On May 19, 1978, the Department certified as eligible to apply for adjustment assistance all workers of the Igualdad Sugar Mill, Mayaguez, Puerto Rico (TA-W-2793). Since all workers separated, totally or partially, from the Igualdad Tractor Shop, Mayaguez, Puerto Rico on or After May 6, 1978 (impact date) and before May 19, 1980 (expiration date of the certification) are covered under the certification in TA-W-2793, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 17th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 33313 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4182]

INTERCONTINENTAL PETROLEUM CORP., INC., HOUSTON, TEX., TEXAS CITY, TEX., PAWHUSKA, OKLA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4182: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 19, 1978 in response to a worker petition received on September 19, 1978 which was filed on behalf of workers and former workers producing crude oil at Intercontinental Petroleum Corporation, Inc., Houston Texas. The investigation revealed that workers at Intercontinental Petroleum Corporation, Inc., are engaged in transporting crude oil, gasoline, and diesel fuel, at three locations: Houston, Texas; Texas City, Texas; and Pawhuska, Oklahoma.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50270). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Intercontinental Petroleum Corporation, Inc,, and Department files.

the Findlay, Ohio, plant of Nothern of serious injury to the domestic sugar former workers producing men's and

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In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act.

Intercontinental Petroleum Corporation, a wholly-owned subsidiary of Intercontinental Oil Company, Inc., was incorporated in Texas in 1975. Both companies are engaged in transporting crude oil, gasoline and diesel fuel. Intercontinental Petroleum (IPC) operates in three locations—corporate offices are located in Houston, Texas, a maintenance yard for trucks is located in Pawhuska, Oklahoma, and a storage terminal is located in Texas City, Texas.

Prior to April 1978, trucks owned by IPC transported crude oil from the well to receiving stations. In April 1978, IPC discontinued this trucking operation. In 1978, IPC leased a storage terminal in Texas City, Texas. IPC now transports diesel fuel and gasoline from storage tanks to local gas stations. The parent company continues to truck crude oil from the well to the receiving stations.

Workers of the Intercontinental Petroleum Corporation, Inc., are engaged in the transporting and storage of crude oil, gasoline, and diesel fuel, and do not produce an article within the meaning of Section 222(3) of the Act.

CONCLUSION

After careful review, I determine that all workers of Intercontinental Petroleum Corporation, Inc., Houston, Texas, Texas City, Texas, and Pawhuska, Oklahoma, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-33314 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4162]

J. P. STEVENS CO., ROCK HILL INDUSTRIAL PLANT, ROCK HILL, S.C.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 14, 1978 in response to a worker petition received on September 13, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing denim fabric at the J. P. Stevens Company, Rock Hill Industrial Plant, Rock Hill, South Carolina.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43587-88). No public hearing was requested and none was held.

Section 221 (a) of the Trade Act of 1974 states that a petition for certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representative. During the course of the investigation, it was established that the Amalgamated Clothing and Textile Workers Union is not an authorized representative of the workers at the Rock Hill, South Carolina plant of J. P. Stevens Company. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 20th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33315 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3971]

MORRIS WHITE FASHIONS, SCRANTON, PA.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3971: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 13, 1978 in response to a worker petition received on July 13, 1978 which was filed by the International Leather Goods, Plastic and Novelty Workers' Union on behalf of workers and former workers producing ladies' handbags at Morris White Fashions, Scranton, Pennsylvania. The investigation revealed that the U.S. Department of Commerce certified Morris White Fashions on September 2, 1977 (F-118).

The Notice of Investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885,6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Morris White Fashions, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of handbags increased each year from 54.4 million units in 1974 to 92.8 million units in 1977 and from 22.1 million units in the first quarter of 1977 to 34.0 million units in the first quarter of 1978.

The ratio of imports to domestic production increased each year from 66.7 percent in 1974 to 116.6 percent in 1977.

The Department conducted a survey of major customers purchasing ladies' handbags from Morris White Fashions during 1976, 1977, and 1978. The majority of customers that responded indicated decreases in purchases from Morris White in favor of purchases of imported products.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' handbags produced at Morris White Fashions, Scranton, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Morris White Fashions, Scranton, Pennsylvania who became totally or partially separated from employment on or after July 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 17th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33317 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3780]

NORTHERN OHIO SUGAR CO., FINDLAY, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3780: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 25, 1978 in response to a worker petition received on May 24, 1978 which was filed by the American Federation of Grain Millers on behalf of workers and former workers processing sugar beets into refined sugar at the Findlay, Ohio, plant of Nothern Ohio Sugar Company.

The Notice of Investigation was published in the FEDERAL REGISTER on June 29, 1978 (43 FR 25197). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Northern Ohio Sugar Company, Great Western Sugar Company, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of cane and beet sugar (raw value) increased from 3.9 million short tons in 1975 to 4.7 million short tons in 1976 and to 6.1 million short tons in 1977. The ratio of imports to domestic production increased from 59 percent in 1975 to 66 percent in 1976 and to 96 percent in 1977.

Imports of raw sugar into the United States were subject to quotas from 1935 to December 31, 1974. Since December 31, 1974, when the Sugar Act expired, imported sugar has entered the U.S. free of quantity restrictions. Removal of quotas occurred about the time per capita sugar consumption declined in the U.S.

The resultant surplus of sugar severely depressed sugar prices. World prices fell from 57.3 cents a pound in November 1974 to 11.5 cents a pound in January 1976 and to a level of 11.0 cents a pound in 1977. World sugar supply presently outstrips world demand by four million tons; consequently world prices are not expected to rise in the near future.

The U.S. Department of Agriculture (U.S.D.A.) considering depressed conditions in the domestic sugar market, instituted a price support program in an effort to guarantee a floor price level paid to sugar producers.

In 1977, the U.S.D.A. price support program guaranteed producers $13.50 per hundred weight (13.50¢ per lb.) of raw sugar. The support price has been raised to $14.65 per hundred weight for the 1978 harvest. However, the support price has not been sufficient to protect domestic producers from the increased volume of imports.

The U.S. International Trade Commission conducted an investigation under Section 201 of the Trade Act of 1974 and in March 1977 issued a finding that sugar was being imported into the United States in such quantities as to be a substantial cause of the threat of serious injury to the domestic sugar industry.

The Commission also conducted an investigation under Section 22 of the Agriculture Adjustment Act and in April 1978 issued a finding that sugar was being imported in such quantities as to render, or tend to render, ineffective the price support program conducted by the U.S. Department of Agriculture for sugar cane and sugar beets.

Sugar beet growers contracted with the Findlay plant of Northern Ohio Sugar Company for less acreage in 1977 than in 1976. Depressed sugar prices result in low profitability for growers, which leads the growers to devote less acreage to beets and switch to other crops. The Findlay refinery was closed in May 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the refined sugar processed from sugar beets produced at Findlay, Ohio, plant of Northern Ohio Sugar Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Findlay, Ohio plant of Northern Ohio Sugar Company who became totally or partially separated from employment on or after May 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 17th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-33318 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4054]

PROGRESSIVE UNIFORM MANUFACTURING CORP., PHILADELPHIA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4054: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 10, 1978 in response to a worker petition received on August 10, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and women's jeans and related sports wear at Progressive Uniform Manufacturing Corporation, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Progressive Uniform Manufacturing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of women's misses', and children's slacks and shorts increased absolutely and relative to domestic production from 1974 through 1977. Imports increased from 11.0 million dozen in 1976 to 11.6 million dozen in 1977. U.S. imports increased from 6.3 million dozen in the first half of 1977 to 8.2 million dozen in the first half of 1978. The import to domestic production ratio of slacks and shorts increased from 36.8 percent in 1976 to 38.0 percent in 1977.

United States imports of men's and boys' woven cotton man-made jeans and dungarees increased to 23 million units in 1977 compared to 14 million units in 1976. Imports increased to 17 million units in the first six months of 1978 compared to 6.7 million units in the same period of 1977. The import to domestic production ratio was 5.4 percent in 1976 and increased to 8.5 percent in 1977.

Major customers of Progressive who were surveyed decreased purchases from Progressive and increased purchases from foreign sources.

On August 12, 1976, the Department issued a certification of eligibility to apply for adjustment assistance applicable to workers of Progressive Uniform Manufacturing Company (TA-W-919). That certification expired on August 12, 1978—two years from its date of issuance.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's jeans and related sportswear produced at Progressive Uniform Manufacturing Corporation, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial sep-

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United States imports of men's and

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aration of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Progressive Uniform Manufacturing Corporation, Philadelphia, Pennsylvania who become totally or partially separated from employment on or after August 12, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 20th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33319 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4183]

RITE COAT, INC., COPIAGUE, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4183: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 19, 1978, in response to a worker petition received on September 15, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' rainwear and wintercoats at Rite Coat, Inc., Copiague, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50270). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Rite Coat, Inc., its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files. In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses and children's raincoats increased from 191 thousand dozen in 1975 to 261 thousand dozen in 1976 and decreased to 242 thousand dozen in 1977. Imports increased to 210 thousand dozen in the first half of 1978 compared to 116 thousand dozen in the first half of 1977. The ratio of imports to domestic production increased from 36.8 percent in 1975 to 45.0 percent in 1976 and decreased to 40.3 percent in 1977.

U.S. imports of women's, misses' and children's coats and jackets increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports decreased to 1,132 thousand dozen in the first half of 1978 compared to 1,231 thousand dozen in the first half of 1977.

Rite Coat, Inc., was engaged in contract work for one manufacturer during the period under investigation. This manufacturer, which accounted for 100 percent of the company's business, increased its purchases from Rite Coat, Inc., in each of the last 3 years and in the first 9 months of 1978 compared to the first 9 months of 1977. During the same period the manufacturer, whose own sales increased, did not import or contract with foreign sources for the production of ladies' rainwear.

CONCLUSION

After careful review, I determine that all workers of Rite Coat, Inc., Copiague, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33321 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3882]

ROSEMER MANUFACTURING CO., HACKENSACK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3882: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 22, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and sportswear at Rosemer Manufacturing Hackensack, N.J. The investigation revealed that the correct name of the firm is Rosemer Manufacturing Co.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Rosemer Manufacturing Co., its manufacturers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separations, or threat thereof, and to the absolute decline in sales or production.

Rosemer Manufacturing Co. produces primarily ladies' and children's coats. A survey of the manufacturers who purchased the majority of ladies' and children's coats produced by Rosemer Manufacturing Co. in 1976 and 1977 indicated that none of these manufacturers increased purchases of imported coats while decreasing purchases from the subject firm. Only one manufacturer surveyed reduced purchases from Rosemer Manufacturing Co. in 1977 compared to 1976. This manufacturer does not purchase imports or use foreign contractors and sales by this manufacturer increased in 1977 compared to 1976 and increased in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review, I determine that all workers of Rosemer Manufacturing Co., Hackensack, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33322 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4108]

SKF INDUSTRIES, INC., ALTOONA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department

of Labor herein presents the results of TA-W-4108: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 22, 1978, in response to a worker petition received on August 15, 1978 which was filed on behalf of workers and former workers producing ball bearings at the Altoona, Pennsylvania plant of SKF Industries, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39458/9). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of SKF Industries, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of ball bearings increased from 111.9 million units in 1976 to 127.9 million units in 1977 and from 65.7 million units in the first six months of 1977 to 84.6 million units in the same period in 1978.

The imports to domestic production ratio for ball bearings increased from 45.6 percent in 1976, to 49.2 percent in 1977 and from 50.5 percent in the first six months of 1977 to 60.7 percent in the same period in 1978.

Imports of ball bearings by the Altoona plant increased absolutely and relative to plant production in 1976, 1977 and the first nine months of 1978. Imports of ball bearings have replaced, in some instances totally, in others partially, production of smaller ball bearings formerly produced at the plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ball bearings produced at the Altoona, Pa., plant of SKF Industries, Inc., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Altoona, Pa., plant of SKF Industries, Inc., who became totally or partially separated from employment on or after December 25, 1977, and before September 9, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33323 Filed 11-27-78; 8:45 am]

[4510-23-M]

[TA-W-3015]

SARAJO MANUFACTURING CO., PIERCE CITY, MO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3015: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 2, 1978 in response to a worker petition received on January 25, 1978 which was filed on behalf of workers and former workers producing boys' sport and dress shirts at Sarajo Manufacturing Company, Pierce City, Missouri. During the course of the investigation it was established that boys' vests, jackets and suit tops were also produced.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7066). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sarajo Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, The National Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of men's and boys' woven dress, business, sport and uniform shirts increased from 91,808 thousand units in 1975 to 144,103 thousand units in 1976 and then decreased to 139,720 thousand units in 1977. Imports increased from 30,875 thousand units in the first quarter of 1977 to 34,583 thousand units in the first quarter of 1978. Imports of men's and boys' woven dress, business, sport and uniform shirts relative to domestic production increased from 36.8 percent in 1975 to 53.9 percent in 1976 and to 54.7 percent in 1977.

United States imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased from 66.2 million units in 1975 to 74.0 million units in 1976 and to 75.2 million units in 1977. Imports increased from 20.0 million units in the first quarter of 1977 to 26.1 million units in the first quarter of 1978. The import to domestic production ratio remained constant at 22.9 percent from 1975 to 1976 and decreased to 19.7 percent in 1977.

United States imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976 and then decreased to 6,269 thousand units in 1977. Imports increased from 1,323 thousand units in the first quarter of 1977 to 1,776 thousand units in the first quarter of 1978. The imports to domestic production ratio increased from 28.2 percent in 1975 to 30.0 percent in 1976 and decreased to 26.5 percent in 1977.

United States imports of men's and boys' tailored suits increased from 3,106 thousand units in 1975 to 3,562 thousand units in 1976 and to 4,091 thousand units in 1977. Imports decreased from 1,834 thousand units in the first quarter of 1977 to 1,132 thousand units in the first quarter of 1978. Imports of men's and boys' tailored suits relative to domestic production increased from 19.0 percent in 1976 to 20.0 percent in 1977.

A survey of customers of Sarajo Manufacturing Company indicated that a major customer decreased purchases of boys' leisure jackets and suits from Sarajo and increased purchases of imports in 1977 compared to 1976. Another major customer ceased purchases of boys' shirts from Sarajo in the first quarter of 1978 while continuing to purchase imported boys' shirts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with boys' shirts, vests, jackets and suit tops produced at Sarajo Manufacturing Company, Pierce City, Missouri contributed importantly to the decline in sales and production and to the total or partial separations of workers at the firm.

In accordance with the provisions of the Act, I make the following certification:

"All workers at Sarajo Manufacturing Company, Pierce City, Missouri who became totally or partially separated from employment on or after September 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this

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Signed at Washington, D.C., this 17th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33324 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3796]

SPEED TEX CORP., FAIR LAWN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3796: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 31, 1978 in response to a worker petition received on May 15, 1978 which was filed on behalf of workers and former workers producing finished knit polyester fabric at Speed Tex Corporation, Fair Lawn, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Speed Tex Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imported garments are not considered like or directly competitive with finished fabric. Imports of finished fabric must be considered in this case.

U.S. imports of finished fabric decreased from 464 million yards in 1976 to 453 million square yards in 1977. Imports increased from 187 million square yards in the first half of 1977 to 255 million square yards in the first half of 1978. The ratio of imports to domestic production was 2.2 percent or less from 1973 through 1977. The ratio increased from 1.8 percent in 1976 to 1.9 percent in 1977.

The Department surveyed the major textile mills and converters who reduced their value of contract work with Speed Tex. None of the respondents indicated that they purchased imported fabric in 1977 or in the first quarter of 1978. A survey of the customers of these mills and converters also indicated insignificant import penetration. These results are consistent with industry data, which show negligible imports of finished fabric during the past four years.

CONCLUSION

After careful review, I determine that all workers of Speed Tex Corporation, Fair Lawn, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33325 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4019]

U.S. STEEL CORP., TEXAS WORKS, BAYTOWN, TEX.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 31, 1978 in response to a worker petition received on July 27, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel pipe at the Baytown, Texas works of the U.S. Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-31). No public hearing was requested and none was held.

Due to the short term of operation of the pipe mill at the Baytown, Texas plant of the U.S. Steel Corporation, there is not sufficient information in this case upon which to base a determination. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 17th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33326 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4036]

U.S. STEEL CORP., AMERICAN BRIDGE DIVISION, COMMERCE (LOS ANGELES), CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistence

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4036: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 3, 1978 in response to a worker petition received on July 31, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing fabricated structural steel at the Commerce (Los Angeles), California plant of the American Bridge Division of the U.S. Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the U.S. Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

All of the plant's business is obtained through competitive bids. An examination of the bids lost by the Commerce plant in 1977 and in the first half of 1978 was made by the Department. Only a minor percentage of the bids lost by the Commerce plant in both periods was lost to foreign fabricators. The demand for fabricated structural steel is dependent upon the activity in the construction industry. Both the value of construction and the value of fabricated structural steel shipments declined in each year compared to the preceding year from 1974 to 1977.

Imports of fabricated structural steel increased from 94,400 tons in 1976 to 142,100 tons in 1977 before declining from 94,000 tons in the first half of 1977 to 67,300 tons in the first half of 1978. The ratio of imports to the domestic shipments of fabricated structural steel increased from 2.5 percent in 1976 to 4.1 percent in 1977 before declining from 5.6 percent in the first half of 1977 to 3.9 percent in the first half of 1978.

CONCLUSION

After careful review, I determine that all workers of the Commerce (Los Angeles), California plant of the American Bridge division of the U.S. Steel Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33327 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4055]

UNIVERSAL DATA SERVICES, BOYERTOWN, PENNA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4055: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 10, 1978 in response to a worker petition received on August 9, 1978 which was filed on behalf of workers and former workers engaged in employment related to data processing at Universal Data Services, Boyertown, Pennsylvania. The investigation revealed that Universal Data Services was a division of Universal Container Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Universal Container Corporation and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Universal Data Services, Boyertown, Pennsylvania was a wholly owned division of Universal Container Corporation until it closed in September, 1978. Universal provided a signficant proportion of data processing services during 1976, 1977 and 1978 for the Faith Shoe Company, a subsidiary of Universal Container Corporation. All employees of the Faith Shoe Company who became totally or partially separated from employment on or after February 17, 1976 have previously been certified eligible to apply for adjustment assistance benefits in a determination issued on May 27, 1977 (TA-W-1695). The Faith Shoe Company closed in May, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's and children's shoes produced at the Faith Shoe Company, Wilkes Barre, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of Universal Data Services, Boyertown, Pennsylvania. In accordance with the provisions of the Act, I make the following certification:

All workers of Universal Data Services, Boyertown, Pennsylvania who became totally or partially separated from employment on or after January 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-33328 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3998]

WHITE PINE COPPER DIVISION, OF COPPER RANGE CO., WHITE PINE, MICH.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3998: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 26, 1978 in response to a worker petition received on July 24, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing refined copper at the White Pine Copper Division of the Copper Range Company, White Pine, Michigan.

The Notice of Investigation was published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34562). No public hearing was requested and none was held.

On August 6, 1976, the Department issued a certification of eligibility to apply for worker adjustment assistance applicable to workers at the White Pine Copper Company. (TA-W-788) That certification expired on August 6, 1978, two years from its date of issuance.

The determination was based upon information obtained principally from officials of White Pine Copper Division, its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased from 384 thousand short tons in 1976 to 391 thousand short tons in 1977 and rose from 164 thousand short tons in January-June 1977 to 327 thousand short tons in January-June 1978. The ratio of imports to domestic copper production increased from 21.0 percent in 1976 to 22.2 percent in 1977 and rose from 15.0 percent in January-June 1977 to 35.9 percent in January-June 1978.

Price competition from imports of refined copper has adversely affected production and employment at White Pine. Imports of copper are affected by the differential between the domestic price for copper and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the domestic producers price, the demand for imported copper increases. During the last nine months of 1977 and the first six months of 1978, the average LME price had fallen almost 8 cents per pound below the average domestic producers price.

The major factor contributing to depressed prices is an oversupply of domestic and imported copper as evidenced by U.S. inventory levels for refined copper. U.S. inventories of refined copper were higher in every month of 1977, except December, when compared to the same month in 1976. Inventories in December 1977 were less than one percent below December 1976 levels. In the first nine months of 1978, inventory levels surpassed levels in the same months of 1977, except for March which was only marginally below March 1977.

The abundant supply of copper stocks in the forseeable future provides no reason for domestic consumers of copper to maintain ties with do-

from Riddell while increasing pur- ment agency and generally does not

mestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977 and in the first half of 1978, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased in 1977 compared to 1976 and doubled in the first half of 1978 compared to the same period in 1977. A Departmental survey revealed that customers of White Pine decreased purchases from the subject firm and increased purchases of imported copper in the first half of 1978 compared to the first half of 1977.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. Estimated costs of production at White Pine during the period January-August 1978 were above the price which White Pine received for its copper. As a result the company lost money and was forced to reduce production and employment levels at its copper division.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined copper produced at the White Pine Copper Division of Copper Range Company, White Pine, Michigan contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of the White Pine Copper Division of Copper Range Company, White Pine, Michigan and workers of the Copper Range Company employed at the White Pine Copper Division, White Pine, Michigan who became totally or partially separated from employment on or after August 6, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-33329 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4118]

WHITMO HANDBAGS, INC., NEWBURGH, N.Y.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3843: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 28, 1978 in response to a worker petition received on August 25, 1978 which was filed by the International Leather Goods, Plastics and Novelty Workers' Union on behalf of workers and former workers producing handbags at Whitmo Handbags, Incorporated, Newburgh, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on September 8, 1978 (43 FR 40071). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Whitmo Handbags, Incorporated its customers, the National Handbag Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Aggregate U.S. imports of handbags increased absolutely and relative to domestic production in each year from 1974 to 1977 and increased absolutely in the first quarter of 1978 compared to the same period in 1977. Imports increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports relative to domestic production increased from 111.1 percent in 1976 to 116.6 percent in 1977.

Customers of Morris White Fashions, Inc., Whitmo's parent corporation and the firm for which Whitmo produced exclusively under contract, were surveyed by the Department and by the U.S. Department of Commerce. Most customers who were surveyed who reduced purchases from Morris White increased purchases of imported handbags.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' handbags produced at Whitmo Handbags, Incorporated, Newburgh, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Whtimo Handbags, Incorporated, Newburgh, New York who became totally or partially separated from employment on or after August 23, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 17th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33330 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-4165]

BRENTWOOD FABRICS CORP., NEW YORK, N.Y.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 19, 1978 in response to a worker petition received on September 14, 1978 which was filed on behalf of workers and former workers engaged in the dyeing, finishing and printing of gray goods at Brentwood Fabrics Corporation, New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50279). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Brentwood Fabrics Corporation were separated from employment in August 1977. Section 223(b) of Trade Act of 1974 states that a certification under this section may not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year before the date of the petition under Title II, Chapter 2 of the Trade Act of 1974.

The date of the petition in this case is September 8, 1978. Since workers separated from employment at Brentwood Fabrics Corporation prior to September 8, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 20th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33298 Filed 11-27-78; 8:45 am]

[4510-28-M]

[TA-W-3699]

RIDDELL, INC., CHICAGO, ILL.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3699: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 11, 1978 in response to a worker petition received on May 5, 1978 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's leather athletic and athleisure shoes at Riddell, Incorporated, Chicago, Illinois. The investigation revealed that the plant produces football helmets and athletic footwear.

The Notice of Investigation was published in the FEDERAL REGISTER on May 30, 1978 (43 FR 23036). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Riddell, Incorporated, its customers, the Sporting Goods Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers engaged in employment related to the production of football helmets, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of football helmets are not separately identifiable in the official trade statistics. Industry sources indicate, however, that imports of football helmets are negligible.

With respect to workers engaged in employment related to the production of athletic footwear all of the group eligibility requirements have been met.

U.S. imports of athletic footwear increased both absolutely and relative to domestic production during 1977 compared to 1976.

Several customers surveyed who purchased football and baseball shoes from Riddell either reduced purchases from Riddell while increasing purchases of imports or reduced purchases from Riddell relative to their purchases of imported football and baseball shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with athletic footwear produced at Riddell, Incorporated, Chicago, Illinois contributed importantly to the decline in sales or production and to the total or partial separation of workers engaged in employment related to such production at that firm.

In accordance with the provisions of the Act, I make the following certification:

"All workers engaged in employment related to the production and distribution of athletic footwear at Riddell, Incorporated, Chicago, Illinois who became totally or partially separated from employment on or after April 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

I further determine that workers engaged in employment related to the production of football helmets at Riddell, Incorporated, Chicago, Illinois are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc 78-33320 Filed 11-27-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-65]

IMPROVING GOVERNMENT REGULATIONS

Final Report

AGENCY: National Aeronautics and Space Administration.

ACTION: Final Report.

SUMMARY: NASA is issuing this notice to implement Executive Order 12044 and to publish its Final Report. The Report describes procedurcs for developing new regulations, criteria for defining a significant agency regulation, criteria for defining regulations requiring regulatory analysis and criteria for selecting existing regulations for review.

Because of the nature of NASA's work, few significant regulations are anticipated and only an occasional regulation will require a regulatory analysis. NASA is a research and development agency and generally does not issue regulations with any significant impact on the public.

A process for reviewing NASA regulations, both internal and those published in 14 CFR Chapter V, is in place and predates the Executive Order. For this reason, the agency believes that development of a new plan for reviewing existing regulations is unnecessary and not required by the Executive Order.

EFFECTIVE DATE: November 28, 1978.

ADDRESS: Director, Information Systems Division (Code NSM-12), Office of Management Operations, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Richard Reeves, 202-755-3924 or Joan Cavanaugh, 202-755-3219.

SUPPLEMENTARY INFORMATION: On May 22, 1978, NASA published in the Federal Register (43 FR 21981) its First Report implementing Executive Order 12044. The public was invited to send written comments on this Report by July 21, 1978. The only comments received by NASA were from the Task Force on Sex Discrimination, Department of Justice. Two comments from the Task Force concerned review of existing and future regulations to eliminate gender-specific language. NASA is committed to eliminating the use of such language not only in public regulations but also in internal management directives. NASA Handbook 1410.12 (currently in final coordination) on preparation of directives and regulations requires the use of sex-neutral terminology and a review procedure ensures the elimination of such language. Many regulations have already been reviewed and revised to eliminate such language. To reinforce this commitment the paragraph on "Policy" in this Report is revised to add a sentence on the subject.

NASA's recently revised management directives system, which consists of both internal directives and regulations published in 14 CFR Chapter V, in our judgment includes the underlying policy expressed in EO 12044. It also requires initiating offices to review annually all regulations and revise or cancel them if appropriate.

NASA's First Report stated that 14 CFR Subparts 1204.4 and 1204.508 were being reviewed. A revision of 14 CFR Subpart 1204.4 correcting organizational titles is scheduled for completion by December 31, 1978. A revision to NASA's enforcement plan for Title VI, Civil Rights Act of 1964, was sent to the Department of Justice. When that plan is approved by the Depart-

REVIEW

duction—Prof. Benjamin Lax, Director,

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ment of Justice, NASA will revise 14 CFR 1204.508.

A review of all other NASA regulations in 14 CFR Chapter V was completed during the summer of 1978. Regulations no longer necessary are being canceled. Those requiring revision were identified and scheduled for updating. Revisions are now in process or scheduled for action. Another annual review of all regulations in 14 CFR Chapter V is scheduled for completion in August 1979. Based on this review, unnecessary regulations will be canceled and those requiring revision will be scheduled for update.

Because reviews are now required on an annual basis, and have recently been done, NASA does not propose to establish an additional review. Written comments concerning existing regulations in 14 CFR Chapter V are invited at any time and will be considered during the annual review.

PROCESS FOR DEVELOPING REGULATIONS

NASA is revising its internal directive on development of CFR regulations to comply with Executive Order 12044. The revised directive (NASA Management Instruction 1410.10B) should be finalized in the near future and will include the following provisions implementing Executive Order 12044.

POLICY

Regulations will be written clearly and concisely. Sex-neutral terminology will be used in all regulations. A regulation will be issued or continued only if it is necessary for the effective and efficient performance of an agency function. Before adopting a regulation, meaningful alternatives and costs of compliance, paperwork and other burdens on those affected will be considered.

SIGNIFICANT AGENCY REGULATIONS

Any regulation that meets one or more of the following criteria will be considered significant:

(1) It is a matter of major concern to the public, especially if substantial public comments are anticipated;

(2) It may impose heavy compliance and reporting burdens on the public, especially on small business;

(3) It may substantially affect the quality of the environment, and the public health and safety; and

(4) It involves important NASA policy which will require substantial resources to develop and enforce.

REGULATIONS REQUIRING REGULATORY ANALYSIS

A draft Regulatory Analysis shall be prepared for each proposed significant regulation which:

(1) could have an annual effect on the economy of $100 million or more;

(2) Could cause a major increase in costs or prices for individual industries, levels of government or geographic regions; or

(3) The Administrator determines deserves such analysis.

Each draft Regulatory Analysis shall contain:

(1) A succinct statement of the problem or policy objective;

(2) A description of the major alternative ways of dealing with the problem that were considered by the agency;

(3) An analysis of the economic consequences of each of these alternatives;

(4) A detailed explanation of the reasons for choosing one alternative over the others; and

(5) The urban and community analyses required by Office of Management and Budget Circular A-116.

Each advance notice or notice of proposed rulemaking on a proposal requiring a Regulatory Analysis shall contain an explanation of the regulatory approach that has been selected or is favored, a short description of the other alternatives considered, and a statement of how the public may obtain a copy of the draft Regulatory Analysis.

A final Regulatory Analysis shall be prepared and made available when the final regulations are published.

DETERMINATIONS REQUIRED

(1) When the need for a regulation is identified, the initiating office (the office having the need) immediately will determine, in consultation with the Office of General Counsel, whether the regulation:

Would have external impact requiring that it be published in 14 CFR Chapter V;

(b) Meets the criteria for a significant regulation;

(c) Requires a regulatory analysis or is one that may require such analysis and therefore must be referred to the Administrator for a determination.

(2) If an affirmative determination is made under (1) (b) or (c), the initiating office will submit a written report to the Administrator after coordination with the Directives System Manager and the Office of General Counsel. The report will describe the nature of the required regulations, the issues to be considered, the alternative approaches to be explored, a tentative plan for obtaining public comment, target dates for completion of steps in the development of the regulations, the responsible official, proposed coordination and the determinations made under (1). Subsequent changes in this information will be reported in a timely fashion.

(3) For those regulations requiring a regulatory analysis, the initiating office will submit a draft analysis to the Administrator as part of the report required in (2). The draft regulatory analysis will incorporate the urban and community analyses required by Office of Management and Budget Circular A-116.

DOCUMENTATION FOR APPROVAL OF SIGNIFICANT REGULATIONS

The initiating office shall insure that each proposed or final "significant" regulation submitted to the Administrator includes sufficient documentation to establish the following:

(1) The proposed regulation is needed;

(2) The direct and indirect effects of the regulation have been adequately considered;

(3) Alternative appraches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) Public comments have been considered and an adequate response has been prepared;

(5) The regulation is written in plain English and is understandable to those who must comply with it;

(6) An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(7) The name, address and telephone number of a knowledgeable agency official is included in the publication; and

(8) A plan for evaluating the regulation after its issuance has been developed.

COORDINATION

Federal Register regulations will be coordinated in the same manner as other NASA directives (see NASA Handbook 1410.12). The procedure for consultation with state and local government officials, or their representatives, established by the March 23, 1978, Memorandum from the President will be followed.

APPROVAL

The Administrator will approve all proposed and final rules to be published in the FEDERAL REGISTER. If the regulation is "significant," the Administrator will consider the 8 factors described above before approving the regulations.

OPPORTUNITY FOR PUBLIC PARTICIPATION

(1) *Policy.* NASA shall give the public an early and meaningful opportunity to participate in its rulemaking activities.

(2) *Significant Regulations*

(a) To give the public an early opportunity to participate in the development of NASA's significant regulations, initiating offices will consider the following:

(i) Publishing an advance notice of proposed rulemaking;

(ii) Holding open conferences or public hearings;

(iii) Sending notices of proposed rules to publications likely to be read by those affected; and

(iv) Notifying interested parties directly.

(b) Public comment period for proposed significant regulations will be at least 60 days unless the Administrator determines in a given case that this is not possible. Should this occur a brief statement of the reasons for a shorter period will be included in the preamble to the regulation.

(3) *Other Regulations.* In keeping with the spirit of Executive Order 12044, other proposed rules for which a public comment period is required will provide a 60-day public comment period whenever possible. If this is not possible, at least a 30-day comment period will be provided unless the Administrator authorizes a shorter time period.

(4) *Consideration of Comments.* Relevant comments will be considered and incorporated into the final regulations as appropriate.

SEMIANNUAL AGENDA OF SIGNIFICANT REGULATIONS

Each Program and Staff Office, through its Directives Manager, will submit a report (RCS 10000000774) to the Directives System Manager (Code NSM) by the second Monday of September and the second Monday of March. The report will describe the significant regulations being considered by that office, the need and legal basis for the action being considered, the name and phone number of a knowledgeable official, whether a regulatory analysis is required and the status of regulations previously reported. The report will be submitted in the format depicted in an attachment to NASA Management Instruction 1410.10B; negative responses are required. Reports will be consolidated by the Directives System Manager into a semiannual agenda of significant regulations for publication in the FEDERAL REGISTER on the first Monday of October and the first Monday of April. In addition, the agenda will include existing regulations scheduled for review in accordance with the paragraph entitled Review. The Administrator will approve the agenda before it is published. Supplements may be issued if necessary.

REVIEW

Review of existing regulations in the Code of Federal Regulations will be accomplished through the annual review of the NASA Management Directives System. In this review initiating offices shall also consider:

(1) The continued need for the regulation;

(2) The type and number of complaints or suggestions received;

(3) The burdens imposed on those directly or indirectly affected by the regulations;

(4) The need to simplify or clarify language;

(5) The need to eliminate overlapping and duplicative regulations; and

(6) The length of time since the regulation has been evaluated or the degree to which technology, economic conditions or other factors have changed in the area affected by the regulation.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 78-33117 Filed 11-27-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

NATIONAL MAGNET LABORATORY VISITING SUBCOMMITTEE OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: National Magnet Laboratory Visiting Subcommittee of the Advisory Committee for Materials Research.

Date and Time: December 14, 1978—9:00 a.m. to 5:00 p.m., December 15, 1978—9:00 a.m. to 5:00 p.m.

Place: Francis Bitter National Magnet Laboratory, Massachusetts Institute of Technology, 170 Albany Street, Cambridge, Massachusetts.

Type of Meeting: December 14, 1978—Open: 9:00 a.m. to 5:00 p.m., December 15, 1978—Closed: 9:00 a.m. to 5:00 p.m. Contact Person: Dr. William Bernard, Senior Staff Associate/Mathematical, Physical Sciences and Engineering, Room 307, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632-7307.

Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of Subcommittee: To provide the Foundation with specific guidance as to how the National Magnet Laboratory may best serve as a national facility responsive to the needs of the scientific community.

Agenda: *December 14, 1978.* Welcome—Dr. Robert A. Alberty, Dean of Science, Massachusetts Institute of Technology. Introduction—Prof. Benjamin Lax, Director, National Magnet Laboratory (NML). Magnet Technology—Dr. D. Bruce Montgomery. Magnetism and Superconductivity—Dr. Simon Foner. Motional Stark Spectroscopy—Dr. Michael Rosenbluh. High Field Thin Film Superconductors—Prof. Malcolm R. Beasley, Stanford University. Structure and Dynamics of Proteins in Solution—Dr. Christopher M. Dobson, Harvard University. Negative Hydrogen Ions in Semiconductors—Dr. David M. Larsen. Laboratory Tour—Prof. Benjamin Lax. High Field dHvA Effects—Prof. Douglas H. Lowndes, University of Oregon. Cellular and Subcellular Effects of Magnetic Field—Dr. Richard Frankel. Magnetics and Ophthalmology—Dr. David Lobel, Tel Aviv University, Israel. Individual visits by Visiting Subcommittee Members with Laboratory Staff.

DECEMBER 15, 1978

CLOSED SESSION (9:00 A.M. TO 5:00 P.M.)

Evaluation of the management, operation, and programs of the NML.

Reason for Closing: The program being reviewed includes information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

NOVEMBER 22, 1978.

[FR Doc. 78-35331 Filed 11-27-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-329 and 50-330]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Order Extending Construction Completion Dates

Consumers Power Company is the holder of Construction Permits Nos. CPPR-81 and CPPR-82, issued by the Atomic Energy Commission* on December 15, 1972, for construction of

*Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission, and Permits in effects on that day were continued under the authority of the Nuclear Regulatory Commission.

the Midland Plant, Units 1 and 2 [illegible] A negative declaration and an envi-

[7590-01-M]

Dated at Bethesda, Maryland, this

V 43 I 229 NOV 28 78

the Midland Plant, Units 1 and 2, which is presently under construction at the licensee's site in Midland County, Michigan.

On August 29, 1977, Consumers Power Company filed a request for an extension of the completion dates because construction has been delayed due to:

1. Reevaluation of construction time due to changing project scope and industry experience.

2. Switching the completion sequence of Unit 1 and Unit 2,

3. Adverse financial conditions prevailing in 1974 and 1975, and

4. Initial mobilization of the architect-engineer after issuance of the construction permit.

This action involves no significant hazards consideration; good cause has been shown for delay; and the extension is for a reasonable period, the bases for which are set forth in an NRC staff evaluation dated November 17, 1978.

A negative declaration and an environmental impact appraisal have been prepared and are available, as are the above stated documents, for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan 48640.

It is hereby ordered that the latest completion dates for Construction Permits Nos. CPPR-81 and CPPR-82 are extended from December 1, 1978, and December 1, 1979, to October 1, 1982, and October 1, 1981 for Units 1 and 2, respectively.

Date of Issuance: November 17, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-33201 Filed 11-27-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

EXPORTATION OF NUCLEAR FACILITIES OR MATERIALS

Applications For Licenses

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day, November 17, 1978, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

JAMES R. SHEA,
Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Quantity—Special nuclear material in kilograms: Total element	Total isotope	End-use	Country of ultimate destination
Edlow International Oct. 20, 1978, Nov. 1, 1978, XSNM01403	3.55 pct enriched uranium	61.750	2.190	First and second reload fuel for Foramark I.	West Germany.
Edlow International, Oct. 30, 1978, Nov. 1, 1978, XU08438	Natural uranium	10,000		For research and lab studies at Korea Nuclear Fuel Institute.	South Korea.
Mitsubishi International, Oct. 30, 1978, Nov. 7, 1978, XSNM01404	3.25 pct enriched uranium	15,247	496	Reload fuel for Ohi Unit 1	Japan.
Mitshbishi International, Oct. 31, 1978, Nov. 7, 1978, XSNM01405	2.85 pct enriched uranium	11,983	342	Reload fuel for Mihama 3	Do.
Nissho-Iwai Corp., Nov. 3, 1978, Nov. 8, 1978, XSNM01406	93.30 pct enriched uranium	47.162	44.003	Fuel for JMTR, JRR-2 and JRR-4.	Do.

[FR Doc. 78-33206 Filed 11-27-78; 8:45am]

[7590-01-M]

[Dockets Nos. 50-250 and 50-251]

FLORIDA POWER & LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 42 and 34 to Facility Operating Licenses Nos. DPR-31 and DPR-41, respectively, issued to Florida Power & Light Co. These amendments revise the Appendix A Technical Specifications for operation of the Turkey Point Plant Unit Nos. 3 and 4, located in Dade County, Florida. The amendments are effective 60 days after the date of issuance.

The amendments revise the Technical Specifications to incorporate limiting conditions for operation and surveillance requirements for existing fire protection systems and administrative controls.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 22, 1977, (2) Amendments Nos. 42 and 34 to Licenses Nos. DPR-31 and DPR-41 and (3) the Commission's letter of November 25, 1977 transmitting proposed fire protection Technical Specifications and the related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 8th day of November 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-33203 Filed 11-27-78; 8:45 am]

[7590-01-M]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment revises the MAPLHGR limits for Exxon Fuel types III E, III F, V, and V B, and adds a MAPLHGR multiplier.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with this action was published in the FEDERAL REGISTER on September 11, 1978 (43 FR 40329). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 30, 1978, and supplements thereto dated June 6, 1978 and October 3, 1978, (2) Amendment No. 33 to License No. DPR-16, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of November, 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-33204 Filed 11-27-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-329 and 50-330]

MIDLAND PLANT, UNIT NOS. 1 AND 2

Negative Declaration Supporting: Extension of Construction Permits No. CPPR-81 and CPPR-82 Expiration Dates

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Consumers Power Company (permittee) request to extend the expiration date of the construction permits for the Midland Plant, Unit Nos. 1 and 2 (CPPR-81 and CPPR-82) which is located in Midland County in the State of Michigan. The permittee requested a forty-six month extension to permit CPPR-81 through October 1, 1982 and a twenty-two month extension to permit CPPR-82, through October 1, 1981, to allow for completion of construction of the plant.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to these changes to CPPR-81 and CPPR-82. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been described in the Commission's Final Environmental Statement—Construction Permit stage.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Mich.

Dated at Bethesda, Md., this 17th day of November 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-33202 Filed 11-27-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.24, "Health Physics Surveys During Enriched Uranium-235 Processing and Fuel Fabrication," specifies the types and frequencies of surveys that are acceptable to the NRC staff for the protection of workers in plants licensed by the NRC for processing enriched uranium and for the fabrication of uranium fuel. This guide provides guidance to applicants in preparing license applications and to licensees in establishing acceptable survey programs to detect radiation exposure in accordance with the "as low as is reasonably achievable" (ALARA) philosophy.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 8.24 will, however, be particularly useful in evaluating the need for an early revision if received by January 25, 1979.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 20th day of November 1978.

For the Nuclear Regulatory Commission.

RAY G. SMITH,
Acting Director, Office, of Standards Development.

[FR Doc. 78-33207 Filed 11-27-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-259, 50-260 and 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-33, Amendment No. 40 to Facility Operating License No. DPR-52, and Amendment No. 17 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit Nos. 1, 2, and 3 (the facility) located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to (1) permit the average power range monitor system to be inoperable in the refuel mode, provided the source range monitors are connected to give a noncoincidence, high flux scram; (2) permit less than three intermediate range monitors (IRMs) per trip channel to be operable in the shutdown or refuel modes, provided at least four IRMs (one in each core quadrant) are connected to give a non-coincidence, high flux scram; (3) clarifies ambiguous portions of the Technical Specifications related to the rod block monitor system; (4) removes reference to an obsolete 1968 version of an ASTM procedure; (5) modifies the list of snubbers that are required to be operable; (6) removes a specification for additional tests of secondary containment that only applied during the first fuel cycle for each Browns Ferry Unit, and (7) changes one of the four locations where milk samples are collected.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated August 2, 1978 and August 11, 1978, (2) Amendment No. 44 to License No. DPR-33, Amendment No. 40 to License No. DPR-52, and Amendment No. 17 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of November 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-33205 Filed 11-27-78; 8:45 am]

[7905-01-M]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of quarterly rate of excise tax

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1979, shall be at the rate of twelve and one-half cents.

In accordance with directions in Secton 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1979, 17.4 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 82.6 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: November 20, 1978.

By Authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 78-33232 Filed 11-27-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20770; 70-6082]

APPALACHIAN POWER CO., ET AL.

Proposed Issuance and Sale of Notes to Banks by Holding Company and Capital Contributions by Holding Company to Subsidiaries

NOVEMBER 14, 1978.

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009, Indiana & Michigan Electric Company, 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, Kentucky Power Company, 15th Street and Carter Avenue, Ashland, Kentucky 41101, Ohio Power Company, 301 Cleveland Avenue SW., Canton, Ohio 44701, and American Electric Power Company, Inc., 2 Broadway, New York, New York 10004.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), a registered holding company, and Appalachian Power Company ("Appalachian"), Indiana and Michigan Electric Company ("I&M"), Ohio Power Company ("Ohio Power"), and Kentucky Power Company ("KPCO"), AEP's subsidiary electric utility companies, have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) and 12 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, as amended by the post-effective amendment, summarized below, for a complete statement of the proposed transactions.

By prior order in this proceeding (HCAR No. 20365, January 5, 1978), AEP was authorized to issue and sell from time to time, prior to January 1, 1979, short-term notes and commercial paper, to banks, and to a dealer in commercial paper respectively, in an amount of up to $165,000,000, such notes maturing no later than June 30, 1979. AEP was also authorized to make cash capital contributions, prior to January 1, 1979, to its public utility subsidiary companies in the following aggregate amounts: Appalachian, $95,000,000; I&M, $60,000,000; and Ohio Power, $35,000,000.

AEP, by post-effective amendment, requests that it be permitted to issue and sell from time to time, prior to January 1, 1980, as funds may be required, short-term notes (including commercial paper) in an aggregate amount not to exceed $165,000,000 outstanding at any one time. None of such notes or commercial paper shall mature no later than June 30, 1980. The notes to be sold to banks will be dated as of the date of the borrowing which it evidences, will mature not more than 270 days from the date of issue or reissue thereof, and will be prepayable at any time without premium or penalty. AEP proposes to issue and sell such short-term notes to 11 banks with lines of credit in an aggregate amount of $179,000,000. The banks and their respective lines of credit which AEP has established at such banks are as follows:

Name	Amount
Chemical Bank, New York, N.Y.	$45,000,000
The Chase Manhattan Bank (National Association), New York, N.Y.	40,000,000
Manufacturers Hanover Trust Co., New York, N.Y.	25,000,000
Morgan Guaranty Trust Co. of New York, New York, N.Y.	22,000,000
Bankers Trust Co., New York, N.Y.	9,000,000
Irving Trust Co., New York, N.Y.	6,000,000
The Bank of New York, New York, N.Y.	4,000,000
The Cleveland Trust Co., Cleveland, Ohio	8,000,000
First Pennsylvania Bank & Trust Co., Philadelphia, Pa.	9,000,000
Mellon Bank, N.A., Pittsburgh, Pa.	6,000,000
United Virginia Bank, Richmond, Va.	3,000,000
Total	179,000,000

AEP will be required to either (1) maintain compensating balances of 10% of the bank lines made available and additional compensating balances of 10% of the amount of any borrowings, or (2) maintain compensating balances and pay an annual fee for the availability of the line of credit, equivalent generally, in combination, to compensating balances not in excess of 10% of the line of credit made available. Where only compensating balances are required, borrowings under such lines will bear interest at an annual rate not greater than the bank's prime commercial rate in effect at the time of issuance. Where a combination of compensating balances and fees are required, borrowings under such lines would bear interest at a specified rate in excess of the bank's prime commercial rate in effect at the time of issuance, but such specified rate would not be greater than the equivalent rate of borrowings bearing interest at the prime rate with compensating balances equal to 10% of the amount borrowed. If the full amount were borrowed from the banks, the effective interest cost to AEP, based on a prime commercial rate of 10¾%, would be 13.44%.

The commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $50,000,000 of varying maturities, with no such maturity more than 270 days after the date of issuance and none will be prepayable prior to maturity. The commercial paper notes will be sold directly to Lehman Commercial Paper Incorporated (the "dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which AEP could borrow from banks.

The dealer will reoffer the commercial paper notes to not more than 200 of such dealer's customers identified and designated in a non-public list prepared by the dealer in advance, at a discount rate of ⅛ of 1% per annum less than the discount rate to AEP. It is expected that such customers of the dealer will hold the commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on the list.

AEP also requests authority to make cash capital contributions from time to time prior to January 1, 1980, to its public utility subsidiary companies in the following aggregate amounts: Appalachian, $100,000,000, I&M, $60,000,000, Ohio Power, $50,000,000 and KPCO, $20,000,000.

The proceeds from the sale of the short-term notes are to be applied by AEP, together with other funds, to make additional investments in its public utility subsidiary companies to assist them in financing the costs of their respective construction programs and to retire their short-term debt. The construction programs of AEP's public utility subsidiary companies for 1978 and 1979 are estimated as follows: $314,000,000 and $37,000,000 respectively, for Appalachian; $275,000,000, $252,000,000, respectively, for I&M and its generating subsidiary; $205,000,000 and $241,000,000, respectively, for Ohio Power and its generating subsidiary, and $42,000,000 and $123,000,000, respectively, for KPCO.

AEP requests an exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof.

No additional fees and expenses are expected to be incurred with this proposed transaction. It is stated that the State Corporation Commission of Virginia and the Public Service Commission of West Virginia have jurisdiction over the proposed capital contribution by AEP to Appalachian and that no other State Commission and no Federal Commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 7, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration, as amended by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33061 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Release No. 10486; 811-2465]

BAYROCK CAPITAL SERIES, INC.

Application

NOVEMBER 17, 1978.

Notice is hereby given that Bayrock Capital Series, Inc. (Bayrock Capital Preservation Fund Series), 40 Wall

("Act") and Rules 42, 45 and 50(a)(3) covered through an actual cost adjust- 1940 ("Act"), and Lord, Abbett & Co

V 43 N 229 NOV 28 1978

Street, New York, New York 10005 ("Applicant"), a Maryland corporation registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified investment company, filed an application on October 26, 1978, pursuant to Section 8(f) of the Act and Rule 8F-1 thereunder, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant asserts that on March 13, 1974, it registered under the Act and filed a registration statement under the Securities Act of 1933, which was subsequently amended on July 9, 1974. Such registration statement was later withdrawn and no public offering was made. Applicant further asserts that it has only one shareholder, no assets and no outstanding liabilities. Applicant represents that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 12, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33062 Filed 11-27-78; 8:45 am]

[8010-01]

[Release No. 15339]

BOSTON STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 16, 1978.

The Boston Stock Exchange, Inc. ("BSE") has filed applications with the Securities and Echange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 (the "Act") and Rule 12f-1 thereunder for unlosted trading privileges in the securities of the companies as set forth below, which securities are registered with the Commission pursuant to Section 12 of the Act or which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(B) or (g)(2)(G) of Section 12.[1]

United Canso Oil and Gas, Ltd., Common Stock, $1.00 par value (Canadian—File No. 7-5066.
Canada Southern Petroleum, Ltd., Common Stock, $1.00 par value (Canadian) File No. 7-5067.

United Canso and Canada Southern are currntly listed on the BSE and the PSE. The BSE has filed these applications for unlisted trading privileges, however, because these companies have filed applications to withdraw from listing and registration on the BSE as well as the PSE. United Canso's and Canada Southern's applications are currently pending before the Securities and Exhange Commission.[2]

Upon receipt of a request, on or before December 15, 1978, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular applications, such applications will be determined by order of the Commission on the basis of the facts therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33063 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Release No. 20778; 70-6142]

THE COLUMBIA GAS SYSTEM, INC., ET AL.

Post—Effective Amendment Relating to Intrasystem Financing

NOVEMBER 15, 1978.

In the matter of The Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gulf Transmission company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Hydrocarbon Corporation, Columbia Coal Gasification Corporation, The Inland Gas Company, Inc., 340—17th Street, Ashland, Kentucky 41101; Columbia Gas Development Corporation, Columbia LNG Corporation,, and Columbia Development of Canada Ltd., 20 Montchanin Road, Wilmington, Delaware 19807.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary companies named above, have filed a post-effective amendment to their application-declaration in this proceeding pursuant to Sections 6(b), 9, 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45 and 50(a)(3) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated April 28, 1978 (HCAR No. 20523) in this proceeding, the Commission, among other things, authorized Columbia to advance on open account to certain subsidiaries, and have outstanding from time to time, up to an aggregate amount of $260,700,000 to finance the purchase by such subsidiaries of under ground storage gas inventories, miscellaneous other inventories and for short-term seasonal purposes. The advances authorized for Columbia Gas of West Virginia, Inc. ("Columbia of West Virginia"), were limited to $24,000,000, its then estimated short-term financing requirements.

The open account advances initially bear interest at the rate in effect from time to time at the agent bank for Columbia's short-term loan line of credit. Interest charges to the subsidiaries subsequently will be adjusted, after the storage financing period, to the effective cost of money Columbia achieves on its short-term borrowing for this purpose. Substantially all of such advances are expected to be taken down by December 31, 1978, however, a portion may be taken down during the period January 1, 1978, through May 31, 1979. The funds would be advanced, repaid and reborrowed, as required from time to time for periods not exceeding one year from the date of each advance. All such advances are to be repaid on or before May 31, 1979.

Applicants-declarants now seek to increase the authorization for the proposed advances to Columbia of West Virginia to an aggregate principal amount of $31,000,000. It is stated that the $7,000,000 increase is required to provide Columbia of West Virginia with sufficient funds to finance gas purchases and other normal short-term seasonal requirements. It is further stated that the proposed increase in short-term financings has been necessitated by an unanticipated reduction in cash flow resulting from the denial by the State of West Virginia Public Services Commission ("West Virginia Commission") in its order dated June 30, 1978 in Case No. 9407 of Columbia of West Virginia's request to fully recover gas costs until completion of further hearings. In its final order in that proceeding dated October 5, 1978, the West Virginia Commission authorized the recovery of substantially all the increase in purchased gas costs. Since these costs are not recoverable immediately, but will be recovered through an actual cost adjustment provision over the next twelve months, the company is experiencing a current reduction in cash flow. In all other respects, the proposed transactions remain the same.

It is stated that the West Virginia Commission has jurisdiction over the proposed transactions. It is further stated that no other state commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 11, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33064 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Rel. No. 10479; 812-4365]

DEVELOPING GROWTH SHARES, INC., ET AL.

Notice of Filing of Application

NOVEMBER 15, 1978.

Notice is hereby given that Developing Growth Shares, Inc. ("New Fund") and Lord Abbett Developing Growth Fund, Inc. ("LADGF") (collectively, "Funds"), both open-end, diversified investment companies registered under the Investment Company Act of 1940 ("Act"), and Lord, Abbett & Co. ("Lord Abbett"), the investment manager and principal underwriter for the Funds (collectively referred to as "Applicants"), 63 Wall Street, New York, New York 10005, filed an application on September 5, 1978, and amendments thereto on October 16, 1978 and November 13, 1978, for an order: (1) pursuant to Section 17(b) of the Act, exempting the proposed transactions described below from Section 17(a) of the Act; (2) pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, permitting Applicants to participate in the proposed transactions; and (3) pursuant to Section 6(c) of the Act, exempting the issuance of shares of New Fund from Section 22(d) of the Act and Rule 22c-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that on August 21, 1978, Lord Abbett organized New Fund under the laws of the State of Maryland as a vehicle by which LADGF can, in the manner described below, make an indirect offering of LADGF shares at a fixed and predetermined price. New Fund has, or will have, the same investment objective, policies and restrictions and the same practices, programs and management as LADGF. Applicants further state that although New Fund has not yet commenced operations, it proposes to make a public offering ("Underwritten Offering"), in January 1979, of shares of its capital stock at its present net asset value of $11.65 per share, plus an underwriting discount, through underwriters for whom Bache Halsey Stuart Shields Incorporated, E. F. Hutton & Company Inc., Paine, Webber, Jackson and Curtis, Incorporated and others will act as representatives. For purchases of less than 400 shares, the underwriting discount will be 85 cents per share, or 6.8 percent of the public offering price (7.3 percent of the amount invested). These charges will be reduced according to a schedule of decreasing percentages according to the amount invested. New Fund's schedule of sales charges is lower than that of LADGF.

Immediately after the closing of the Underwritten Offering, LADGF will merge into New Fund ("Merger"), and New Fund will change its name to Lord Abbett Developing Growth Fund, Inc. pursuant to an Agreement and Articles of Merger ("Merger Agreement"). Persons purchasing shares of New Fund's capital stock pursuant to the Underwritten Offering will not be required to make payment for such shares until the closing date of the conversion of LADGF's shares into shares of New Fund pursuant to the

[1] These are not the first applications for unlisted trading privileges pursuant to Section 12(f)(1)(C) of the Act to be filed with the Commission. The Commission currently has pending before it applications by the Pacific Stock Exchange Incorporated ("PSE") for unlisted trading privileges pursuant to Section 12(f)(1)(C) in the common stock of Pacific Resources, Inc. (File No. 7-4933), United Canso Oil and Gas, Ltd. ("United Canso") (File No. 7-5022) and Canada Southern Petroleum, Ltd. ("Canada Southern") (File No. 7-5023), and by the BSE in the common stock of Air Express International Corporation (File No. 7-5031).

[2] Notice of the applications was given in Securities Exchange Act Release Nos. 14484, February 16, 1978 (Canada Southern) and 14485), February 16, 1978 (United Canso).

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Merger Agreement. Applicants represent that such closing date will be approximately five weeks after the effective date of New Fund's Registration Statement under the Securities Act of 1933 ("Securities Act") for the Underwritten Offering.

In the Merger, shares of capital stock of LADGF will be converted into full or fractional shares of capital stock of New Fund having the same aggregate net asset value as the shares being converted. No adjustments will be made to reflect potential federal income tax liabilities by reason of unrealized appreciation in LADGF's portfolio prior to the Merger. However, LADGF will be declaring a dividend of all its then undistributed investment company income and a capital gains distribution of all its then undistributed net capital gains prior to the Merger. Net asset values will be determined as of the close of business on the business date next preceding the effective date of the Merger. No sales charge will be payable upon the conversion of the shares. All expenses of the Applicants in connection with the Underwritten Offering and the Merger will be borne by Lord Abbett.

As soon as practicable after the Merger, New Fund, as the surviving fund in the Merger and renamed "Lord Abbett Developing Growth Fund, Inc.," will offer its shares in the same manner as LADGF presently does. New Fund's Board of Directors has approved the Underwritten Offering and the Merger. The initial stockholders of New Fund, who will be partners of Lord Abbett, will consent to the Merger prior to the Underwritten Offering. The Board of Directors of LADGF approved the Merger and has authorized the submission of the merger proposals to stockholders at its annual meeting.

Applicants contend that the proposed transactions have been structured in the manner described above in order to effect what amounts to an indirect public offering, through an underwriting syndicate, by LADGF of its capital stock at a fixed price and in an orderly manner. The current prospectus of LADGF has been supplemented to disclose the terms of the proposed Underwritten Offering. On the effective date of the Registration Statement of New Fund under the Securities Act for the Underwritten Offering, LADGF intends to cease offering its shares, except to its existing shareholders, who, through cumulative purchasing or statements of intention, can purchase shares at lower sales charges than they could in the Underwritten Offering.

Section 17(a) of the Act provides, in part, that it is unlawful for an affiliated person of a registerd investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered investment company any security or other property. Section 2(a)(3) of the Act provides, in part, that an affiliated person of another person includes any person directly or indirectly controlling, controlled by, or under common control with, such other person. LADGF and New Fund state, without conceding, that they may be deemed to be affiliated persons of one another because each has an investment management and distribution agreement with Lord Abbett and because they have the same officers and directors. Thus, Section 17(a) of the Act may prohibit LADGF and New Fund, as affiliated persons of each other, from effectuating the Merger.

Section 17(b) of the Act, however, provides, in part, that the Commission shall exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

LADGF and New Fund submit that the terms of the Merger Agreement are reasonable and fair and do not involve overreaching on the part of any person concerned and are consistent with the policies of the Funds and the general purposes of the Act. The Underwritten Offering will permit New Fund to raise funds without cost to it. In the Merger, New Fund will be issuing its shares to stockholders of LADGF on the basis of the relative net asset values of the Funds immediately prior to the Merger without the payment of any commissions. Lord Abbett will bear all of the expenses of the Funds in connection with the Underwritten Offering and the Merger.

Applicants state that the directors of LADGF concluded that the increased size of the surviving corporation, estimated to be nearly twice the size of LADGF, which presently has approximately $15 million in net assets, should be advantageous to the stockholders of LADGF for three reasons. First, an increase in assets, without cost to LADGF, will cause the fixed and semi-fixed expenses of the surviving corporation to be spread over a greater asset base, thus lowering the ratio of expenses to net assets. Second, the increase in assets will permit the surviving corporation to take advantage of investment opportunities that are not now available to LADGF because of its present size. Third, the increase in assets should enable the surviving corporation to attract favorable attention from investors and securities dealers. This could result in an increase in sales of the surviving corporation's capital stock, which could permit a further reduction in the per share expense ratio and provide additional assets for expansion of its portfolio.

Section 17(d) of the Act and Rule 17d-1 thereunder provide, in part, that it shall be unlawful for any affiliated person of, or principal underwriter for, a registered investment company, or any affiliated person of such a person or principal underwriter, acting as principal, to effect any transaction in which such registered company is a joint or a joint and several participant with such person, principal underwriter, or affiliated person, unless an order of the Commission permitting such transaction is issued. In passing upon an application for such an order, the Commission will consider whether the participation of such registered company in such enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants state that Lord Abbett acts as principal underwriter and investment manager for both Funds. Lord Abbett proposes to bear all of the expenses of the Funds in connection with the Underwritten Offering and the Merger. During LADGF's fiscal year ending September 30, 1977, Lord Abbett reimbursed LADGF for expenses in the amount of $45,583, which was $1,599 greater than its management fee for that period. Further, it is represented that, according to the unaudited report of LADGF's expenses for its fiscal year ending September 30, 1978, Lord Abbett would be required to reimburse LADGF for expenses in the amount of $2,409. While not conceding that the provisions of Section 17(d) of the Act and Rule 17d-1 apply to the proposed transactions, Applicants request that, to the extent that the interrelationships described herein might cause any of the proposed activities by Lord Abbett to come within the provisions of Section 17(d) of the Act, an order of the Commission permitting the participation by the Funds in the proposed transactions be issued pursuant to section 17(d) of the Act and Rule 17d-1 thereunder.

Applicants submit that the participation by each of the Funds in the proposed transactions is consistent with the provisions, policies and purposes of the Act and is not on a basis different from or less advantageous than that of the other participants.

Rule 22c-1 under the Act provides, in part, that no registered investment company shall sell, redeem or repurchase any redeemable security of which it is the issuer except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Applicants state that because under the Merger Agreement, the respective net asset values of the Funds will be determined as of the close of business on the business day immediately preceding the Merger, the issuance by New Fund of shares of its capital stock in the Merger may not comply with Rule 22c-1.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the timing of the determination of net asset values of the Funds is appropriate. It will allow adequate time to prepare for the closing of the Merger. It is further submitted that such timing will not give rise to the speculative activity which Rule 22c-1 was designed to prohibit. Therefore, Applicants state that the granting of the exemption is necessary and appropriate, is in the public interest and is consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act.

Accordingly, Applicants request that to the extent that the proposed transactions may not be in compliance with Rule 22c-1 under the Act, the Commission issue an order of exemption therefrom pursuant to Section 6(c) of the Act, to permit the transactions described in the application to be consummated.

Section 22(d) of the Act provides, in part, that no registered investment company shall sell redeemable securities of which it is the issuer except at a current public offering price described in the prospectus.

Applicants state that while the availability to certain LADGF shareholders during the Underwritten Offering of purchasing privileges they enjoy under LADGF's current schedule of sales charges may appear to constitute price discrimination which Section 22(d) is designed to prohibit, the purpose of this arrangement is to enable existing shareholders to buy at the lowest possible price. Thus, present LADGF shareholders who are able to obtain lower sales charges on purchases of shares through statements of intention or cumulative purchasing discounts, will be able to exercise these privileges with respect to LADGF shares during the Underwritten Offering. Applicants represent that Lord Abbett and the transfer agent for LADGF will take all necessary steps to avoid sales of LADGF shares to existing shareholders of LADGF who do not qualify for lower sales charges. All other investors will buy at the sales charge structure in the New Fund prospectus. Applicants further represent that the current prospectus of LADGF was supplemented to disclose the terms of the proposed Underwritten Offering and the reduced sales charges. Present LADGF shareholders will be informed of their options also by means of a letter accompanying the proxy material which will be sent to them in connection with the approval of the Merger and by the proxy statement itself.

Thus, Applicants submit that the granting of the requested exemption from Section 22(d) of the Act is necessary and appropriate, is in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 11, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33065 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Rel. No. 20779; 70-6227]

GENERAL PUBLIC UTILITIES CORP.

Holding Company's Proposed Capital Contributions to Subsidiaries

NOVEMBER 15, 1978.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 260 Cherry Hill Road, Parisppany, New Jersey 07054, a registered holding company, has filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designing Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

GPU requests authorization to make cash capital contributions from time to time commencing from the date of the order permitting this declaration to become effective through December 31, 1979, to two of its three major electric utility subsidiaries, Jersey Central Power and Electric Light Company ("Jersey Central") and Pennsylvania Electric Company ("Penelec"), of amounts aggregating up to $90,000,000. GPU does not expect that it will be necessary to make cash capital contributions to its other major electric utility subsidiary, Metropolitan Edison Company ("Met-Ed") during the year.

GPU requests permission to allocate the respective amounts of the proposed contributions (within the $90,000,000 aggregate amount) between Jersey Central and Penelec as to best match their needs as such needs develop during 1979. Those needs will be affected by the earnings and internal cash generation, rate and timing of expenditures for construction, and restrictions on the issuance of debt, preferred stock and short term debt with respect to each subsidiary.

It is stated that the cash capital contributions will be credited by Jersey Central and Penelec to their respective capital accounts and the funds used for the purpose of financing their respective businesses, including the payment of construction expenditures, which are estimated for 1979 at $305,000,000 for Jersey Central and $115,000,000 for Penelec.

The fees and expenses to be incurred in connection with the proposed transactions are estimated to $6,000, including legal fees of $3,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 8, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33065 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Rel. No. 20771, 70—6195]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Increase in Short-Term Indebtedness

NOVEMBER 14, 1978.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed in this matter pursuant to the Public utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated September 7, 1978 (HCAR No. 20700), I&M was authorized to issue and sell short-term notes and commercial paper through January 1, 1980, in an aggregate amount not to exceed $125,000,000 outstanding at any one time, such indebtedness to mature not later than June 30, 1980. As of October 26, 1978, I&M had $102,090,000 aggregate principal amount of short-term debt outstanding.

By post-effective amendment applicant proposes that its short-term debt authorization be increased from $125,000,000 to $150,000,000. It is stated that the increase is necessary due to changes in previous plans to sell a 15% interest in its Rockport Plant to Kentucky Power Company, another electric utility subsidiary of AEP. That planned sale, which is the subject of a separate application before this Commission (File No. 70-6198), was disapproved by the Kentucky Public Service Commission on October 19, 1978.

Concerning the credit arrangements, it is stated that I&M has lines of credit with 39 banks which total $295,990,000, such banks being of three classes.

Each note to be issued to a Class I bank will mature not more than 270 days after the date of issuance or renewal thereof, and will be prepayable at any time without premium or penalty. I&M's credit arrangements with these banks require it to maintain compensating balances equal to a percentage of the line of credit made available by the bank plus a percentage of any amount actually borrowed (generally not in excess of 10 percent of the line of credit and 10 percent of the amount borrowed). In most cases I&M maintains deposit balances for its operational and financial needs in amounts sufficient to satisfy any compensating balances required with respect to borrowings from such banks. Borrowings from a Class I bank would generally bear interest at an annual rate not greater than the bank's prime commercial rate in effect from time to time.

Each note to be issued to a Class II bank will mature not more than 90 days after the date of issuance or renewal thereof, and will be prepayable at any time without premium or penalty. I&M's credit arrangements with these banks require it to maintain compensating balances of 5 percent of the line of credit and to pay a fee equal to 4 percent of the bank's prime commercial rate then in effect on the size of the line. The combination of 5 percent compensating balances and a fee is generally equivalent to compensating balances not in excess of 10 percent of the line of credit made available. In addition, I&M must pay interest at the rate of 100.5 percent of the bank's prime commercial rate then in effect on the borrowings. It is stated that if the balances maintained and the fees paid by I&M with and to the Class I and II banks were maintained and paid solely to fulfill requirements for borrowings by I&M, the effective annual interest cost under either such arrangement, assuming full use of the line of credit, would not exceed 125 percent of the prime commercial rate in effect from time to time, or not more than 13.4375 percent on the basis of a prime commercial rate of 10.75 percent.

With respect to the Class III banks, I&M has a money market facility at each of two named banks in an aggregate amount of $25,000,000. These money market facilities do not represent a formal commitment or engagement by these banks to I&M, but represent merely the ability of I&M to request unsecured borrowings, in the form of promissory notes, on a case-by-case basis. These money market facilities are available for unsecured borrowings in domestic dollars and/or in Eurodollars for periods of up to 180 days after the date of issuance, and any such borrowings will be prepayable at any time without premium or penalty. No compensating balances are required. The interest rate, which is presently to be negotitated on a case-by-case basis (using a 360 day year), is pegged to either the London Interbank Offering Rate plus a designated percent, if the borrowings are made in Eurodollars, or to a designated percent of the banks's prime rate, it the borrowings are made in domestic dollars. It is stated that interest rates on these notes will be lower than the effective interest rates for borrowings made from Class I and II banks, including the effect of any compensating balances and fees pald.

I&M also has arrangements to sell commercial paper directly to Lehman Commercial Paper Incorporated (the "Dealer"). The commercial paper will consist of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, of varying maturities, with no maturity more than 270 days after the date of issue; such notes will not be repayable prior to maturity and will be sold at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper will be issued having a maturity of more than 90 days if such commercial paper would have an effective interest cost to I&M which exceeds the effective interest cost at which I&M could borrow from commercial banks. The Dealer will reoffer the commercial paper, at a discount rate ⅛ of 1 percent annum less than the discount rate at which such notes were purchased from I&M, to not more than 200 of the Dealer's customers designated in a non-public list prepared by the Dealer in advance. No sales of such commercial paper will be made to any customer unless that customer has received up-to-date reports as to the credit position of I&M. It is expected that the Dealer's customers will hold such commercial paper to maturity; but if any such customer wishes to resell I&M commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer it to other customers on its non-public list.

The proceeds from the issue and sale of the notes will be used by I&M to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. I&M estimates its construction expenditures for the year 1978 and 1979 at $450,000,000 (exclusive of the expenditures of its generating subsidiary).

I&M claims exemption from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks pursuant to paragraph (a)(2) thereof, and requests exemption from such requirements for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof.

There are no additional fees or expenses to be incurred in connection with the proposed transaction. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 7, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc. 78-33087 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Rel. No. 10484; 812—4293]

JET CAPITAL CORP.

Renotice of Application

NOVEMBER 17, 1978.

Notice is hereby given that an application was filed on April 19, 1978, and amended on July 7, 1978, by Jet Capital Corporation ("Applicant"), One Allen Center, Houston, Texas 77002, a Delaware corporation, pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act"), declaring that the Applicant is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities. On July 13, 1978, a notice of the application (Investment Company Act Release No. 10322) was issued. On August 30 and October 30, 1978, the Applicant filed additional amendments to its application setting forth, among other things, certain information concerning purchases by Texas International Airlines, Inc. ("TXIA"), the securities of which are Applicant's principal assets) of the common stock of National Airlines, Inc. ("National"), and the means by which TXIA financed these purchases. All interested persons are referred to the application and amendments thereto on file with the Commission for a statement of the representations and modifications made therein, which are summarized below and in the previous notice.

Section 3(a)(3) of the Act defines an investment company as any issuer which is engaged, or proposes to engage, in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Applicant was incorporated in 1969, but during that year it had minimal assets and virtually no business. Applicant states that after a public offering of its common stock and warrants to purchase common stock increased its assets, Applicant's business became leasing jet aircraft. Applicant represents that subsequently the aircraft leasing business became unattractive and shareholder approval was obtained to explore other business opportunities in the airline field. This exploration eventually led in early 1971 to an advisory agreement with TXIA, a scheduled airline which operates primarily in the Southwest as well as in the Republic of Mexico. Applicant states that it acquired control of TXIA in 1972 as a part of a comprehensive refinancing of TXIA designed by Applicant and necessitated by losses of $20 million incurred by TXIA in the four prior years. In exchange for $1,150,000 Applicant received 2,040,000 shares of TXIA Series C convertible preferred stock and common stock purchase warrants, expiring June 30, 1982, to purchase 765,000 shares of TXIA common stock. Applicant states that the TXIA Series C convertible preferred stock enabled it to cast more than 50% of the votes at any meeting of TXIA stockholders.

As of January 31, 1978, Applicant states that it was entitled to cast 55.7% of the votes at a meeting of TXIA stockholders. However, as a result of the issuance by TXIA of 990,000 common shares on April 19, 1978, Applicant states that the percentage of such votes which Applicant would be entitled to cast declined to approximately 43.9%, and Applicant's investment securities, as defined in Section 3(a) of the Act, exceeded 40% of the value of its total assets.

Applicant states that on August 16, 1978, TXIA offered outside of the United States through a wholly-owned subsidiary $25,000,000 of debentures convertible into TXIA's common stock. Applicant states that these debentures will be convertible into an aggregate of 1,724,138 shares of common stock of TXIA. In addition, Applicant states on October 6, 1978, TXIA filed a registration statement with the Commission for the public offering and sale of 1,525,287 shares of the common stock of TXIA. Of that number, TXIA proposes to offer and sell to the public 350,000 shares, plus up to an additional 138,000 shares to the extent the underwriters of the offering exercise an option to purchase such shares from TXIA in order to cover overallotments. The remaining 1,037,287 shares are to be sold by or for the account of certain selling security holders. Applicant states that based on the number

fill requirements for borrowings by

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of shares outstanding on August 31, 1978, and giving effect to the proposed public offering (including the conversions of preferred stock and exercises of warrants contemplated thereby and assuming the exercise in full of the underwriters' option), the voting interest of Applicant on votes for directors of TXIA would be 31.2%. Applicant further states that if all warrants are exercised (other than those owned by Applicant), if all debentures are converted, if all Series A and B preferred stock are converted, and if all shares reserved under a stock option plan and an employee stock purchase plan are issued, then the possible voting interest of Applicant on votes for directors of TXIA would be 21%.

Applicant states that since April 18, 1978, TXIA's business has included its purchases of the stock of National, although it is asserted that the purchases of National stock were not contemplated by Applicant on April 18, 1978. Applicant states that as of July 10 and at all times through August 21, 1978, TXIA held an aggregate of 790,700 shares of National common stock or approximately 9.2% of the outstanding shares. From August 22 to October 30, 1978, TXIA purchased an additional 1,178,300 shares, and as of the close of business on October 30, 1978, TXIA held approximately 23% of the outstanding common stock of National. Applicant states that TXIA intends to purchase up to 25% of the National common stock but is not committed to do so. Based upon estimated asset figures as of August 31, 1978, 27.5% of TXIA's assets were held in investment securities for purposes of Section 3(a)(3) of the Act.

Section 3(b)(2) of the Act exempts from the definition of an investment company in Section 3(a)(3) of the Act any issuer which the Commission finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or (a) through majority-owned subsidiaries or (b) through controlled companies conducting similar types of businesses. Section 2(a)(9) of the Act defines control as the power to exercise a controlling interest over the management or policies of a company, unless such power is solely the result of an official position with such company. In addition, Section 2(a)(9) of the Act states that any person who owns beneficially, either directly or through one or more controlled companies, more than 25 per centum of the voting securities shall be presumed to control such company. Any person who does not so own more than 25 per centum of the voting securities of any company shall be presumed not to control such company, but any such presumption may be rebutted by evidence.

Applicant submits that it is entitled to an order of exemption under Section 3(b)(2) of the Act because it is primarily engaged and has been primarily engaged since 1972 in the air transportation business through a controlled subsidiary, TXIA. Applicant states that it has never been nor held itself out to be an investment company, that the three officers of Applicant have been principal executive officers of TXIA for more than 6 years and devote nearly all of their business time to the affairs of TXIA, and that Applicant's assets and income reflect these factors. Applicant states that in addition to having 51.2% of the vote at a meeting of shareholders, by virtue of its ownership of a majority of a combined class of TXIA's Series B and Series C preferred stock, Applicant has veto power over certain corporate action, such as any merger or consolidation of TXIA, any sale of all or substantially all of TXIA's assets, the reclassification of the capital shares of TXIA or the liquidation of TXIA. Applicant states that as a result of an amendment of TXIA's loan agreements, TXIA will not be in default if Applicant no longer controls TXIA; however, Applicant asserts that this amendment was not made in anticipation of a loss of control of TXIA by Applicant and that amendment does not indicate that any lender has questioned the lenders' earlier confirmation that Applicant controls TXIA.

Applicant asserts that it has no present intention of engaging in any business activity other than the direction and control of TXIA for the foreseeable future and that it has no present intention to sell any of its securities in TXIA. Applicant asserts that the purchases by TXIA of the common stock of National are in furtherance of TXIA's business as an airline and are not part of any intention of TXIA to engage in the business of investing or trading in securities within the meaning of the Act. Applicant states that prior to TXIA's purchases of National stock, TXIA had never purchased stock of any other corporation in any substantial amount. Applicant states that it is not the present intention of TXIA to purchase stock of National for purposes of control and then to resell after National's earnings performance has improved. Applicant contends that if TXIA gains control of National, its intention would be to participate in the airline business directly and through National either by control or consolidation.

In further support of the request for exemption, Applicant states that it has never owned a material amount of stock of any corporation other than TXIA, and that it has never sold any TXIA securities. Applicant states that subsequent to the purchase and control of TXIA by Applicant in 1972, the three officers of Applicant who are principal executive officers of TXIA moved themselves and their families from New York to Houston, Texas where TXIA's offices are located. Applicant also states that to its knowledge, no person other than Applicant is entitled to cast 5% of the votes for directors after completion of the proposed TXIA public offering.

Applicant states that it is its understanding that, other than the proposed public offering described above, TXIA has no current intention to offer or sell any equity securities or any securities convertible into or exchangeable for equity securities, although a combination of TXIA and National might involve the issuance of such securities. In this connection, however, TXIA has filed a petition with the CAB requesting permission to purchase National stock beyond the present 25% limit and expects that the financial terms of a combination of TXIA and National would require the issuance of a substantial amount of additional securities and that if may also require substantial additional financing. Applicant submits that TXIA would not be an investment company even if it acquired National stock in an amount having a value in excess of 40% of TXIA's assets. Applicant contends that TXIA would be entitled to an exemption pursuant to either Section 3(b)(1) or Section 3(b)(2) of the Act because it would continue to be primarily engaged in the airline business.

Applicant states that as a condition to an order pursuant to Section 3(b)(2) of the Act, the exemptive order will terminate 30 days after it is determined that at the end of any calendar quarter more than 40 percent of TXIA's total assets consist of investment securities as defined by Section 3(a)(3) of the Act, unless:

(1) Applicant has received an opinion of counsel to the effect that TXIA is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities within the meaning of Section 3(b)(1) of the Act, or

(2) Applicant or TXIA has filed a request for a no-action letter pursuant to Section 3(b)(1) of the Act and, alternatively, an order pursuant to Section 3(b)(2) of the Act, or

(3) Applicant or TXIA has filed a request for an order pursuant to Section 3(b)(2) of the Act.

Applicant states that in the event that Applicant or TXIA shall proceed under either item (2) or item (3) above, Applicant's exemption shall cease, and it shall register in the event that the Commission shall have finally denied the request from exemption and the time to appeal therefrom shall have run.

Section 3(b)(2) provides, in part, that whenever the Commission finds, upon its own motion, that the circumstances which gave rise to the issuance of an order granting an application thereunder no longer exist, the Commission shall by order revoke such order.

Notice is further given that any interested person may, not later than December 11, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33068 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Rel. No. 20772; 70-6224]

KENTUCKY POWER CO.

Proposed Short-Term Borrowing

NOVEMBER 14, 1978.

Notice is hereby given that Kentucky Power Company ("Kentucky"), an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), 15th Street and Carter Avenue, Ashland, Kentucky 41101, a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete description of the proposed transaction.

Kentucky requests that from the date of the granting of this application to January 1, 1980, the exemption from the provisions of Section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, related to the issuance of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks in an aggregate amount not to exceed $35,000,000 outstanding at any one time, all such indebtedness to mature not later than March 31, 1980.

Kentucky states that such short-term financing is necessary due to a change in its plans concerning a contemplated $100,000,000 term loan involved with its proposed purchase of a 15% interest in the Rockport Plant owned by Indiana & Michigan Electric Company, another electric utility subsidiary of AEP. That proposed transaction is the subject of a separate application before this Commission (File No. 70-6198), but was disapproved by the Kentucky Public Service Commission on October 19, 1978. Kentucky expects to request a reconsideration of the decision of the Kentucky Public Service Commission or to file a new application before it. Due to the uncertainty as to when and if said state commission will approve the proposal, Kentucky requests the short-term borrowing authorization in the event such approval is not forthcoming.

Concerning the credit arrangements, it is stated that Kentucky has lines of credit with 11 banks which total $241,000,000. Each note to be issued will mature not more than 90 days after the date of issuance or renewal thereof, and will be prepayable at any time without premium or penalty. Kentucky's credit arrangements with these banks require it to maintain compensating balances of 5% of the line of credit and pay a fee equal to 4% of the bank's prime commercial rate then in effect on the size of the line of credit. The combination of a 5% compensating balance and a fee is generally equivalent to a compensating balance not in excess of 10% of the line of credit made available. In addition, Kentucky must pay interest on the borrowings at the rate of 108.5% of the bank's prime commercial rate then in effect. Interest computed at this rate would not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10% of the amount borrowed. If the balances maintained and fees paid by Kentucky were maintained and paid solely to fulfill requirements for borrowings by Kentucky, the effective interest cost to Kentucky, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 13.4375% on the basis of a prime commercial rate of 10.75%.

Kentucky claims exemption from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks pursuant to paragraph (a)(2) thereof.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 7, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33069 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Release No. 20780; 70—6225]

LOUISIANA POWER & LIGHT CO.

Proposed Extension of Issuance and Sale of Notes to Banks and to Dealer in Commercial Paper and Exception From Competitive Bidding

NOVEMBER 16, 1978.

Notice is hereby given that Louisiana Power and Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Lousiana 70174, a public-utility subsidiary company of Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 23, 50(a) (2), and 50(a) (5) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the application, as amended, for a complete statement of the proposed transactions.

Louisiana presently has in effect a program covering its interim financing requirements (bank borrowings and sales of commercial paper) through December 31, 1978, as authorized by the Commission (HCAR No. 19825). To cover its interim financing requirements through June 30, 1980, Louisiana proposes, from time to time, to borrow from, pay, prepay and/or reborrow from one or more commercial banks and to issue and sell commercial paper to a dealer or broker in such securities in an aggregate principal amount not exceeding $120,000,000 outstanding at any one time. The proposed commercial bank loans would be evidenced by unsecured promissory notes of Louisiana, each to the order of the lending bank, maturing not later than June 30, 1980, and generally bearing interest at the prime rate in effect from time to time at certain New York banks. Such notes would be subject to prepayment in whole at any time or in part from time to time without penalty or premium. Set forth below are the respective maximum amounts which the banks participating in the bank loans have committed themselves to lend during the period through June 30, 1980:

Bank	*Maximum amount*
The Chase Manhattan Bank (National Association) New York, N.Y	$54,000,000
Irving Trust Co., New York, N.Y	12,000,000
Manufacturers Hanover Trust Co., New York, N.Y	9,000,000
Whitney National Bank of New Orleans, New Orleans, La	8,000,000
First National Bank of Louisville, Louisville, Ky	8,000,000
First National Bank of Commerce, New Orleans, La	6,000,000
Bank of Virginia, Richmond, Va	5,000,000
Hibernia National Bank, New Orleans, La	5,000,000
Securities Pacific National Bank, Los Angeles, Calif	5,000,000
National American Bank of New Orleans, New Orleans, La	2,800,000
The National Bank of Commerce in Jefferson Parish, New Orleans, La	750,000
First State Bank & Trust Co., Bogalusa, La	640,000
The Bank of New Orleans & Trust Co., New Orleans, La	500,000
Central Bank, Monroe, La	500,000
First National Bank of Jefferson Parish, Gretna, La	400,000
First National Bank of West Monroe, West Monroe, La	400,000
Assumption Bank & Trust Co., Napoleonville, La	240,000
Bastrop National Bank, Bastrop, La.	200,000
American Bank & Trust Co. in Monroe, Monroe, La	100,000
Bank of Louisiana in New Orleans, New Orleans, La	100,000
Guaranty Bank & Trust Co., Gretna, La	100,000
Metairie Bank & Trust Co., Metairie, La	100,000
Terrebonne Bank & Trust Co., Houma, La	100,000
Ouachita National Bank, Monroe, La	100,000
Bank of the South, Gretna, La	100,000
First Guaranty Bank, Hammond, La	75,000
Franklin State Bank & Trust Co., Winnsboro, La	50,000
Winnsboro State Bank & Trust Co., Winnsboro, La	50,000
Bank of Morehouse, Bastrop, La	25,000
Citizens Bank & Trust Co., Thibodaux, La	20,000
Total	119,350,000

Louisiana maintains accounts with the lending banks and, at September 30, 1978, balances in such accounts aggregated $2,543,432. Although the balances in some of these accounts may be deemed to be compensating balances, most of these bank accounts are working accounts and fluctuations in their balances do not reflect or depend upon fluctuations in the amount of bank loans outstanding. The minimum balances customarily maintained in such bank accounts aggregate $1,291,000. Louisiana believes that these balances are adequate as of this time. If minimum balances of 10% or 20% were required, the effective rate of interest would be, 12.22% and 13.75%, respectively using the present prime rate of 11%.

The commercial paper will be sold by Louisiana directly to Lehman Commercial Paper Incorporated ("Lehman") in denominations of not less than $50,000 or more than $1,000,000 at a discount which will not exceed the discount rate per annum prevailing at the respective dates of issuance for the particular maturities involved for sales of prime commercial paper of comparable quality by public utility issuers to commercial paper dealers. The maximum amount of commercial paper purchased and outstanding at any one time will not exceed $75,000,000. The proposed commercial paper of Louisiana would be in the form of unsecured bearer notes maturing not longer than nine months after their respective dates of issuance. No other costs, fees, commissions or additional charges will be payable by Louisiana to Lehman in connection with the issuance and sale of such commercial paper. The commercial paper will not be prepayable prior to maturity. As principal, Lehman will initially reoffer the commercial paper at a discount rate no greater than ⅛th of 1% per annum less than the discount rate to Louisiana, to corporations and institutional investors from a list of not more than 200 such proposed offerees.

Louisiana will not issue any of its commercial paper notes having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Louisiana could borrow from banks, and, in general, the nature of the borrowing or borrowings made at any particular time would be determined on the basis of market conditions with a view toward obtaining borrowed funds at the lowest possible cost.

The net proceeds of the borrowings herein proposed will be used, together with other funds available to Louisiana, for the construction of new facilities, for additions and improvements to present facilities, and for other corporate purposes. Louisiana's construction program contemplates expenditures of approximatey $257,500,000 in 1978, $269,000,000 in 1979, and $289,000,000 in 1980.

Louisiana expects to effect permanent financing also during the period through June 30, 1980, and may use part of all of the proceeds of such permanent financing to pay or prepay commercial bank loans or to pay commercial paper. Louisiana states that it is essential to its interim financing program & therefore proposes, that such use of the proceeds of permanent financing shall not reduce the aggregate principal amount of commercial paper and/or commercial bank loans which Louisiana herein seeks authorization to have outstanding at any one time during said period through June 30, 1980. Louisiana expects to retire all of the then outstanding borrowings covered by this application on or before June 30, 1980, from the proceeds of the sale of securities.

Louisiana requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraphs (a) (2) or (a) (5) thereof. It is stated that it is not necessary or appropriate in the public interest or for the protection of investors or consumers to invite competitive bids for the commercial paper because such paper will have a maturity not in excess of nine months, and because current rates for commercial paper for such prime borrowers as Louisiana are published daily in financial publications.

Louisiana also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper on a quarterly basis.

No associate company or affiliate of Louisiana or affiliate of any such associate company has any material interest, direct or indirect in the transactions proposed.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees, commissions, and expenses to be incurred in connection with these transactions are estimated at $4,000 including legal fees not to exceed $2,000.

Notice is further given that any interested person may, not later than December 13, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33070 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Release No. 10487; 811-1317]

MARATHON SECURITIES CORP.

NOVEMBER 17, 1978.

Notice is hereby given that Marathon Securities Corporation ("Applicant"), 635 Madison Avenue, New York, New York 10022, registered as a closed-end, non-diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act on September 20, 1978, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Delaware corporation and registered under the Act on or about May 14, 1965. At a meeting held on October 2, 1974, Applicant's stockholders considered and approved a plan for the liquidation and dissolution of Applicant and the termination of Applicant's status as a registered investment company. On December 6, 1974, Applicant filed a Certificate of Dissolution with the Secretary of State of Delaware and, under Delaware law, Applicant was thereby legally dissolved. On June 30, 1978, the Delaware Court of Chancery issued an order extending Applicant's time to complete winding up its affairs until December 31, 1978.

On December 9, 1974, Applicant made its first liquidating distribution to stockholders. Subsequently, Applicant has made four more liquidating distributions, and a final distribution of not more than $41,000, or about $0.10 per share, is expected to be made upon the granting of the requested order and the completion of the winding up of Applicant's affairs. The application states that such final distribution would represent the value of the assets of Applicant remaining after payment of all known expenses and other liabilities. Applicant further represents that it has no outstanding indebtedness, is not a party to any litigation or administrative proceeding and that it does not now nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 12, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33071 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Rel. No. 10478; 812-4386]

MARYLAND TAX EXEMPT TRUST AND LEGG MASON WOOD WALKER INC.

Filing of Application

NOVEMBER 13, 1978.

Notice is hereby given that Maryland Tax Exempt Trust, Series 1 (and Subsequent Series) ("Trust"), a unit investment trust registered under the Investment Company Act of 1940 ("Act") and its Sponsor, Legg Mason Wood Walker Inc. ("Sponsor") (hereinafter the Sponsor and the Trust are referred to collectively as "Applicants"), 7 East Redwood Street, Baltimore, Maryland 21203, have filed an application on October 30, 1978, for an order of the Commission pursuant to Section 6(c) of the Act exempting the Applicants from the provisions of Section 14(a) of the Act, and Rule 19b-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

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Series 1 of the Trust is a unit investment trust, and is the first of a series of similar but separate trusts which the Sponsor intends to form (hereinafter all such subsequent Series are collectively referred to as the "Series"). The Series will be created under the laws of the state of New York pursuant to separate trust agreements, such agreements containing certain standard terms and conditions of trust common to all the Series. The Applicants represent that the investment objective of each Series will be to seek both the preservation of capital and income which is tax-exempt from both federal income taxes and Maryland personal income taxes through the investment in a portfolio of tax-free municipal bonds issued by issuers located in the state of Maryland ("Bonds") and, subject to certain limitations, Units of previously-issued Series of the Trust (the Bonds and previously issued Units are collectively called herein the "Trust Securities"). The Trust Securities which will constitute the portfolio of each Series will be selected in advance and will be identifiable in respect of each Series on the date of deposit with the Trustee.

The Sponsor has filed a Form S-6 Registration Statement under the Securities Act of 1933 ("1933 Act") covering fractional undivided interests in Series 1 to be offered to investors at a public offering price set forth in the prospectus included in the S-6 Registration Statement. The 1933 Act Registration Statement has not yet become effective. The Sponsor has also filed a Form N-8A Notification of Registration and a Form N-8B-2 Registration Statement under the Act relating to Series 1.

Each Series of the Trust will be governed by the provisions of a trust indenture and agreement ("Indenture") to be entered into by the Sponsor and a corporation organized and doing business under the laws of the United States or a state thereof, which is authorized under such laws to exercise corporate trust powers and having at all times an aggregate capital, surplus, and undivided profits of not less than $2,500,000 ("Trustee"). It is contemplated that the Bradford Trust Company will serve as Trustee for Series 1. The Sponsor will serve as Evaluator for Series 1. A separate Indenture will be entered into each time a Series is created and activated and the Trust Securities which comprise its portfolio (or delivery statements relating to contracts for the purchase of such Trust Securities together with funds represented by cash or an irrevocable letter of credit issued by a major commercial bank in the amount required for their purchase) are deposited with the Trustee. Each Series will be substantially identical except as to size, number of Units and the individual Trust Securities in the portfolio.

When a Series of the Trust is created, the Sponsor and the Trustee will enter into an Indenture and the Trust Securities to constitute such Series of the Trust (or delivery statements relating thereto and funds for the purchase thereof as set forth above) will be delivered to and deposited with the Trustee by the Sponsor. Substantially concurrently, the Trustee will issue in the name of the Sponsor, or such other name as the Sponsor may direct, one or more certificates evidencing the ownership of all of the undivided interests in such Series of the Trust. These Units will be separately offered for sale to the public at prices based upon their then respective current net asset values, after the registration statement filed in respect thereto under the 1933 Act has become effective.

Applicants state that Trust Securities will not be pledged or be in any other way subjected to any debt at any time after they are deposited with the Trustee. The Sponsor has been accumulating Trust Securities for the purpose of deposit in Series 1 and will follow a similar procedure of accumulating Trust Securities for each subsequent Series.

The assets of the Trust may consist of Bonds initially deposited, such Bonds as may continue to be held from time to time in exchange for or substitution of any of the Bonds, accrued and undistributed interest, undistributed cash and Units of previously issued Series of the Trust. On the date of deposit, the maximum number of Units in the Trust of a Series and the Bonds which will comprise the respective portfolios are determined. No additional Units can be issued, although the number of Units outstanding may be reduced by redemptions. No additional Trust Securities can be deposited in the Trust except that under certain circumstances, refunding bonds issued in exchange and substituted for outstanding Bonds may be deposited with the Trustee. The Trustee may dispose of Trust Securities when events occur which may affect their investment stability and distribute the proceeds thereof in partial liquidation to Unitholders; and the Trustee must sell Trust Securities if necessary for the payment of the redemption price of Units tendered for redemption. The proceeds from such dispositions will be distributed to the holders of Units of the Trust ("Unitholders"), and not reinvested.

Each Unit of the Trust will represent a fractional undivided interest, the numerator of the fractional interest represented will be 1 and the denominator will be the number of Units issued and outstanding in any particular Series. Units are redeemable, and in the event that any Units are redeemed, the fractional undivided interest represented by each Unit will be increased accordingly. Units will remain outstanding until redeemed or until the termination of the Indenture. The Indenture may be terminated by 100% agreement of the Unitholders or, in the event that the value of Trust Securities shall fall below an amount specified, either upon direction of the Sponsor to the Trustee or by the Trustee without such direction. There is no provision in the Indenture for the issuance of any Units after the initial issuance and such activity will not take place (except to the extent that the secondary trading by the Sponsor in the Units is deemed the issuance of Units under the Act).

SECTION 14(a)

Section 14(a) of the Act, in substance, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless (1) the company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than twenty-five responsible persons within ninety days, or the entire proceeds received, including sales charge, will be refunded.

Applicants seek an exemption from the provisions of Section 14(a) in order that a public offering of Units of the Trust as described above may be made. In connection with the requested exemption from Section 14(a) the Sponsor agrees (1) to refund, on demand and without deduction, all sales charges to purchasers of Units of a Series if, within ninety days from the time that a registration statement for a Series becomes effective under the Securities Act of 1933, the net worth of the Series shall be reduced to less than $100,000, or if such Series is terminated; (2) to instruct the Trustee on the date Trust Securities are deposited in each Series that in the event that redemption by the Sponsor of Units constituting a part of the unsold Units shall result in that Series having a net worth of less than 40% of the principal amount of Trust Securities originally deposited for such Series, the Trustee shall terminate the Series in the manner provided in the Indenture and distribute any Trust Securities or other assets deposited with the Trustee pursuant to the Indenture as provided therein; and (3) in the event of termination for the reasons described in (2) above, to refund any sales charges to any purchasers of Units purchased from the Sponsor on demand and without any deduction.

The Sponsor has further represented that no Series of the Trust will be created which will contain in the portfolio on the date of deposit, Trust Securities (or delivery statements relating thereto and funds for the purchase thereof) having a face amount of less than $3,000,000. In the event the value of such Series should decrease to the greater of $1,000,000 or 20% of the amount of the Trust Securities initially deposited, for any reason, the Trustee may, and when so directed by the Sponsor shall, terminate and liquidate the Series. Thus, Applicants represent that it is highly unlikely that, except during the course of liquidation, the net worth of any Series would ever decline to $100,000 or less.

RULE 19b-1

Rule 19b-1 provides in substance that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year. Paragraph (b) of the Rule contains a similar prohibition for a company not a "regulated investment company" but permits a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

Distributions of interest and principal on each Series will be made to Unitholders semiannually unless a Unitholder elects to receive them monthly or quarterly. Applicants represent that distributions of principal constituting capital gains to Unitholders may arise in the following instances: (1) If an issuing authority calls or redeems an issue of Bonds held in the portfolio, the sums received by the Trust will be distributed on a pro rata basis to each Unitholder on the next distribution date; (2) if Units are redeemed by the Trustee and Trust Securities from the portfolio are sold to provide the funds necessary for such redemption, each Unitholder will receive his pro rata portion of the proceeds from the Trust Securities sold over the amount required to satisfy such redemption distribution; (3) if Bonds held in the portfolio are sold to maintain the investment stability of a Series of the Trust, the sums received by the Trust may be distributed on a pro rata basis to each Unitholder on the next distribution date; and (4) as Bonds mature by their terms, the sums received by the Trust will be distributed on a pro rata basis to each Unitholder on the next distribution date. In such instances, a Unitholder may receive in his distribution funds which constitute capital gains, since in some cases the value of the Trust Securities redeemed or sold may have increased since the date of their acquisition by the Trust.

As noted above, Paragraph (b) of Rule 19b-1 provides that a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. Applicants assert that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year and distribute them only at year end, and that the operations of Applicants in this regard are squarely within the purpose of such provision. However, in order to comply with the literal requirements of the Rule, each Series of the Trust would be forced to hold any monies which would constitute capital gains upon distribution until the end of its taxable year. The application contends that such practice would clearly be to the detriment of the Unitholders.

In support of the requested exemption, Applants state that the dangers against which Rule 19b-1 is intended to guard do not exist in the situation at hand since neither the Sponsor nor the Trust has control over events which might trigger capital gains, e.g., the tendering of Trust Units for redemption and the prepayment of portfolio Bonds by the issuing authorities. In addition, it is alleged that any capital gains distribution will be clearly indicated as capital gains in the accompanying report by the Trustee to the Unitholder. Furthermore, Applicants assert that the sale of Bonds in an effort to maintain the investment stability of a Series of the Trust is an activity designed generally to prevent or to retard deterioration of values when certain adverse factors exist. These factors include a default in the payment of principal or interest on its Bonds, or an adverse change in the market, revenue or credit factors affecting the investment stability of the Bonds. Finally, Applicants contend that sale of Bonds in an effort to maintain investment stability of any Series is not expected to result in capital gain dividends to the Trust or its Unitholders because the above factors will normally have a depressing effect on the market value of the Bonds.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally, exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 4, 1978, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of any attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33072 Filed 11-27-78; 8:45 am]

[8010-01-M]

[Rel. No. 10481; 812—4366]

MERRILL LYNCH, PIERCE, FENNER & SMITH INC. et al.

Notice of Filing of Application

In the matter of Merrill Lynch, Pierce, Fenner & Smith Incorporated; Bache Halsey Stuart Shields Incorporated; Dean Witter Reynolds, Inc.; Municipal Investment Trust Fund; The Corporate Income Fund; The Municipal Income Fund; and The Government Securities Income Fund, c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated, 125 High Street, Boston, Massachusetts 02110.

Notice is hereby given that Merrill Lynch, Pierce, Fenner, & Smith Incorporated, Bache Halsey Stuart Shields Incorporated, Dean Witter Reynolds, Inc. (the "Sponsors"), and all presently outstanding or subsequently issued Series (exclusive of short term Series and any other Series where the appli-

cable sales charge is less than that applicable at the time to the public offering price of intermediate term series of Municipal Investment Trust Fund, The Corporate Income Fund, The Municipal Income Fund and The Government Securities Income Fund (the "Funds" or the individual Series thereof, a "Series") (collectively, the "Applicants"), filed an application on September 7, 1978, and an amendment thereto on November 2, 1978, pursuant to Sections 6(c) and 11 of the Investment Company Act of 1940 (the "Act"), for an order of the Commission to permit the exchange of units of any Series of any of the Funds for units of any other Series thereof on the basis of a reduced fixed sales charge per unit, subject to certain conditions specified in the application and as set forth below, and exempt such transactions of the Applicants from the provisions of Section 22(d) of the Act. All interested persons are referred to the application, which is on file with the Commission, for a statement of the representations made therein, which are summarized below.

Municipal Investment Trust Fund, the Corporate Income Fund, The Municipal Income Fund and The Government Securities Income Fund are investment companies registered under the Act, each of which is sponsored by one or more of the Sponsors and is made up of one or more Series of separate unit investment trusts registered under the Securities Act of 1933. While the structures of the Funds and the various Series are very similar in most respects, the investment objectives of the Funds are different. Thus, the primary objective of Municipal Investment Trust Fund and The Municipal Income Fund are tax-exempt income while the primary objective of The Corporate Income Fund and The Government Securities Income Fund is income which is subject to Federal income taxation. In addition, subgroupings of Series under the basic Fund structures are different. Thus, Series of Municipal Investment Trust Fund are variously invested in long-term municipal bonds, intermediate term municipal bonds and municipal bonds issued by particular states (such as Florida, New York, Pennsylvania, Michigan and Minnesota) and various Series of The Corporate Income Fund and The Government Securities Income Fund are variously invested in long-term corporate bonds, intermediate term corporate bonds, preferred stock and U.S. guaranteed "Ginnie Maes". In the future, it can be expected that additional Series of the Funds may be organized with investment objectives which, while they will be similarly structured and consistent with the basic objectives of the Funds of tax-exempt or taxable income, will have their particular investment objectives oriented towards specialized investments within these general categories.

The Applicants state that at the present time, more than 300 Series of the Funds have been issued, comprising portfolios of underlying securities aggregating some $8 billion, and additional Series are being created and offered to the public at a rate of more than one a week. The Applicants further state that the creation and public offering of all existing Series of the Funds has been undertaken with a view to full compliance with the requirements of the Act and the Securities Act of 1933 and it is anticipated that subsequent offerings of new Series will comply in all repects with these Acts.

The Applicants state that although the structure of particular Funds and particular Series differ in various respects depending on the nature of the underlying portfolios, the essential procedure followed in all cases is for the Sponsors to acquire a portfolio of securities, believed by them to satisfy the standards applicable to the investment objectives of the particular Series, which is then deposited in trust with a corporate fiduciary in exchange for certificates representing units of undivided interest in the deposited portfolio. These units are then offered to the public at a public offering price which is based upon the offering prices of the underlying securities plus a sales charge, which is currently 3¾% of the public offering price in the case of the Series investing in long-term debt securities and preferred stock and 3% in the case of offerings of Series investing in intermediate term bonds or "Ginnie Maes". The sales charge applicable to future Series may be varied by the Sponsors.

The Applicants state that although the Sponsors are not legally obligated to do so, the Sponsors maintain a secondary market for Units of outstanding Series and continually offer to purchase these Units at prices based upon the offering side evaluation of the underlying bonds, as determined by an independent evaluator. If the Sponsors discontinue maintaining such a market at any time, the Units of the Series can be liquidated by holders only by direct presentation to the trustee at redemption prices based upon the bid side evaluation of the underlying bonds.

The Applicants state that the Sponsors seek authority to offer, subject to the conditions and exceptions described below, an exchange option (the "Exchange Option") to certificateholders of the various Series of all of the Funds. The purpose of the Exchange Option would be to provide investors in any of the Series a convenient means of transferring interests as their investment requirements change into any other Series of any of the Funds. If the Sponsors implement the Exchange Option, they would intend to hold it open under most circumstances. However, they reserve the right to modify, suspend or terminate the Exchange Option at any time without further notice to certificateholders.

The Applicants state that it is intended the Exchange Option would operate as follows: The Exchange Option would be meant to operate only as to units of the various Series of the Funds as to which a secondary market may from time to time be maintained. A certificateholder wishing to dispose of those of his Units for which a market is maintained would have the option to exchange his Units into Units of any other Series of any Fund for which a market is also maintained. While it is not presently contemplated that certificateholders would be permitted to exchange their Units into Units of other Series which are available on original issue, the Sponsors might at some future date determine to permit such exchanges. When any certificateholder notifies the Sponsores of his desire to exercise his Exchange Option, the Sponsors would deliver to such certificateholder a current prospectus for those Series in which the certificateholder has indicated an interest and which the Sponsors have available to offer to the certificateholder as a result of acquisitions by them in the secondary market.

The Applicants state that the exchange transaction would operate in a manner essentially identical to any secondary transaction, except that the Sponsors seek authority to allow a reduced sales charge in a transaction pursuant to the Exchange Option. Heretofore, Units of any Series repurchased by the Sponsors have been resold at a public offering price based upon the offering side evaluation of the underlying securities plus a sales charge of either 3¾% or 3% depending on the nature of the portfolio making up the particular Series. The Applicants seek authority to sell Units pursuant to the Exchange Option at a price equal to the offering side evaluation of the underlying securities divided by the number of Units outstanding (the "Unit Offering Price"), plus a fixed charge of $15 per Unit, except as described in the next paragraph. Such $15 sales charge can be expected to approximate about 1½% of the offering price. The Sponsors reserve the right to change such fixed charge from time to time in the event of fluctuations in the cost of professional assistance and operational expenses in connection with these exchange transactions.

The Applicants state that certificateholders of a Series with a sales charge less than the sales charge of the Series for which such certificateholders desire to exchange who have held their Units for a period of at least eight months would be allowed to exercise the Exchange Option at the Unit Offering Price plus a fixed sales charge of $15 per Unit. However, such certificateholders of Series with a lower sales charge who wish to exchange their units for Units of a Series with a higher sales charge prior to the expiration of the eight month period would be allowed to exchange such Units at the Unit Offering Price plus a sales charge based on the greater of $15 per Unit or an amount which together with the initial sales charge paid in connection with the acquisition of the Units being exchanged equals the sales charge of the Series for which such certificateholders desire to exchange, determined as of the date of exchange.

The Applicants state that the certificateholder would not be permitted to make up any difference between the amount representing the Units being submitted for exchange and the Units being acquired. That is to say, the certificateholder would be permitted to acquire pursuant to the Exchange Option whole Units only and any excess amounts representing sales price of Units submitted for exchange would be remitted to the certificateholder.

Section 11(c) of the Act prohibits any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company unless the terms of the offer had been approved by the Commission or are in accordance with rules and regulations prescribed by the Commission with respect to such orders. None of the exemptions from the provisions of Section 11 appear to apply to the proposed Exchange Option. The Applicants state that they would therefore be unable to proceed with the Exchange Option unless the Commission grants the requested exemption from the provisions of Section 11(c) of the Act.

Section 22(b) of the Act prohibits a registered investment company from selling any redeemable security issued by it except either to or through a principal underwriter for distribution other than at the current public offering price described in its prospectus. None of the applicable exemptions from the provisions of that Section appears to apply to the Exchange Options. The Applicants state that they would therefore by unable to proceed with the Exchange Option unless, pursuant to Section 6(c) of the Act, the Commission exempts the Exchange Option from the provisions of Section 22(d).

The initially suggested reduced sales charge of $15 rather than the customary 3¾% or 3% sales charges for regular primary and secondary market sales is proposed by the Applicants as a result of certain cost savings. In the judgment of the Applicants the proposed reduction would be beneficial to investors. The Applicants state that under the proposed Exchange Option, a person desiring to dispose of Units of one Series and acquire Units of another Series may wish to do so for a number of reasons—such as changes in his or her particular investment goals or requirements or in order to take advantage of possible tax benefits flowing from the exchange.

Taking these factors into account, it is asserted that it is likely that there will be a continuing need to assess an investors financial and tax position and in all probability the account executives of the Sponsors will actively participate in financially counseling the investor as to the proper course of action to follow taking into account all of the relevant investment factors involved. However, the fact that the investor is an existing customer whose essential investment needs have been identified should produce some transaction savings. Further, in view of the fact that all the Funds are very similar investment vehicles, an exchanging certificateholder may require somewhat less advice than if he were acquiring an interest in an entirely different kind of investment. It is the belief of the Applicants that a charge of $15 is a reasonable and justifiable expense to be allocated for the professional assistance and operational expenses which are contemplated in connection with these exchange transactions. This sales charge compares favorably to the regular 3¾% and 3% sales charges applicable to non-exchange transactions in connection with primary and secondary sales of Units of the Funds and, the Applicants contend, such a sales charge is warranted in that such charges should cover the reasonable costs related to the exercise of the Exchange Option and yet give exchanging certificateholders an opportunity to share in expected cost savings.

The Applicants state that the requirement that certificateholders of a Series with a lower sales charge pay an adjusted sales charge for exchanges made by them under the Exchanges Option during the first eight months in which they have held Units of a Series with a lower sales charge is appropriate since the sales charge relating to original purchases of Units of such Series is less than the sales charge of the Series to which they desire to convert. They state that it could be possible under certain circumstances for a person to acquire Units of Series with a lower sales charge and immediately convert such units into Units of other Series with a higher sales charge and pay a lower total sales charge than a person purchasing Units of such Series directly at the same time. Under normal circumstances this situation is unlikely, since the initial sales charge on direct purchases of units of Series with a lower sales charge (currently 3%) plus the conversion sales charge ($15 per Unit or approximately 1½% usually will exceed the sales charge related to direct purchases of Units of Series with a higher sales charge (currently 3¾%). However, if the price of the Units of Series with the higher sales charge were to increase sharply, the $15 sales charge on exhange could represent less than the difference between the lower sales charge and the higher sales charge, in which case the exchanging certificateholder could obtain an unfair price advantage when compared to investors making direct purchases of Units of the applicable Series. However, after a certificateholder of a Series with a lower sale charge has held his Units for an adequate period of time, the Applicants believe that the discriminatory nature of his effecting an exchange transaction is not as compelling, and thus the possible abuses outlined above are not material if the converting certificateholder of a Series with a lower sales charge has held his Units for at least an eight period of time.

Section 6(c) of the Act provides, in part, that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 7, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or

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in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered and any postponements thereof).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33073 Filed 11-27-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

AMPICILLIN TRIHYDRATE FROM SPAIN

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that as a result of an investigation a preliminary determination has been made that benefits granted by the Government of Spain to manufacturers or exporters of ampicillin trihydrate constitute bounties or grants within the meaning of the countervailing duty law. A final determination will be made no later than March 23, 1979. Interested parties are invited to comment on this action.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Operations Officer, Deputy Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On May 25, 1978, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 22479). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Spain upon the manufacture, production or exportation of ampicillin trihydrate constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). Imports covered by this investigation are classified under item 407.8525 of the Tariff Schedules of the United States Annotated.

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been determined preliminarily that benefits have been paid or bestowed, directly or indirectly, on the exportation of ampicillin trihydrate by the Spanish Government which constitute "bounties or grants". The benefits are received in the form of an overrebate upon export of the Spanish indirect tax, the "Desgravacion Fiscal". The overrebate consists of two elements: (1) A number of "parafiscal taxes" which are included in the computation of the rebate and which are charges assessed for services rendered and are not directly related to the product and (2) a credit for a tax assessed on transactions between manufacturers and wholesalers which in fact is not assessed on export sales.

As dicussed in the notice published in the FEDERAL REGISTER of June 15, 1978 in the cases of *Zinc, Non-Rubber Footwear* and *Bottled Olives from Spain* (43 FR 25812), the Treasury does not regard the non-excessive rebate of the cascade tax in Spain as constituting the bestowal of a "bounty or grant". This policy was adopted after it was determined that the treatment under the countervailing duty law of rebates of a cascade type tax should be similar to the treatment accorded rebates of value-added taxes, as both are generally identical in their purpose and economic effects. However, for the reasons published in the Notice in the FEDERAL REGISTER on August 29, 1978 (43 FR 38658), this policy is under review. The Final Determination in this case will take into account the results of the general review now being undertaken.

Accordingly, it is determined preliminarily that bounties or grants, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), are being paid or bestowed, directly or indirectly, upon the manufacture, production or exportation of ampicillin trihydrate from Spain. A final determination will be made not later than March 23, 1979.

Additionally, in making a final determination, consideration will be given to the volume of trade affected by any countervailing duty determined to be due. Preliminary indications suggest that although the *ad valorem* benefits determined to be bounties exceed *de minimis* levels, duties on all imports in 1977 would have been less than $100 in the aggregate. If such import levels are likely to continue, a *de minimis* determination may be appropriate.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than December 28, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

NOVEMBER 20, 1978.

[FR Doc. 78-33218 Filed 11-27-78; 8:45 am]

[4810-22-M]

OLEORESINS FROM INDIA

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that as a result of an investigation a preliminary determination has been made that certain benefits granted by the Government of India to manufacturers and/or exporters of oleoresins constitute bounties or grants. A final determination will be made no later than March 21, 1979.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

William T. Trujillo, Deputy Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On May 16, 1978, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 21087). The notice stated that benfits conferred by the Government of India upon the manufacture, production or exportation of oleoresins may constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to as the "Act").

An investigation has been conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)). On the basis of that investigation, it has been preliminarily determined that (1) the "Export Cash Assistance Program," under which exporters of oleoresins receive 20 percent of the f.o.b. value of their exported product, contains an element of overrebate which constitutes a bounty or grant; and (2) the program of import permits does not constitute a bounty or grant in the present case.

It is claimed that the purpose of the "Export Cash Assistance Program" is to refund various indirect taxes and to serve as compensation for extraordinary expenses incurred by locating in the State of Kerala, an industrially undeveloped area of India.

The non-excessive rebate of indirect taxes on inputs directly related to the final product upon exportation of the product, is not regarded a "bounty" or "grant" under the Act. The portion of the 20 percent payment which represents the rebate of such taxes is not countervailable; the remainder of the payment is preliminarily considered a bounty or grant and may be subject to a countervailing duty.

The dislocation costs claimed as a result of locating in Kerala are not preliminarily accepted as offsetting a share of the export rebate. More information will be required before a final determination is made to determine whether the producers would have been unlikely to located in Kerala but for the payment to offset such dislocation costs. The data provided is not conclusive since there also appear to be certain benefits derived from locating in Kerala.

The question of whether import permits, granted to exporters of the subject merchandise for imported goods valued at up to 2 percent of the f.o.b. value of the exports, constitute a bounty or grant, revolves around the marketability of the permit. Declarations by the exporters state that, notwithstanding the potential market value, the permits are not sold nor do they otherwise yield monetary gain. The import permits are fully utilized by the holder to obtain materials not available in India. Therefore, in the present case, the issuance and use of import permits are preliminarily determined not to constitute a bounty or grant.

A final determination in this case must be made on or before March 21, 1979.

For purposes of this notice, "oleoresins" means flavoring extracts, and fruit flavors, essences, esters, and oils, not containing alcohol, and not in ampoules, capsules, tablets, or similar forms, classifiable under item number 450.20 of the Tariff Schedules of the United States (TSUS). An oleoresin is a thick liquid extract of the flavor of a spice used primarily as a seasoning in the food industry.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office no later than December 28, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159,47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

NOVEMBER 20, 1978.

[FR Doc. 78-33219 Filed 11-27-78; 8:45 am]

[4810-40-M]

Office of the Secretary

[Supplement to Dept. Circular—Public Debt Series—No. 28-78]

TREASURY NOTES SERIES V-1980

Interest Rate

NOVEMBER 22, 1978.

The Secretary of the Treasury announced on November 21, 1978, that the interest rate on the notes designated Series V-1980, described in Department Circular—Public Debt Series—No. 28-78, dated November 16, 1978, will be 9¼ percent. Interest on the notes will be payable at the rate of 9¼ percent per annum.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

SUPPLEMENTARY STATEMENT: The announcment set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-33252 Filed 11-27-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

[Decisions Volume No. 47]

DECISION-NOTICE

Decided: November 6, 1978.

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of

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record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceeding containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission which is hereby expressly reserved to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decisions-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied. By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,
Secretary.

MC 531 (Sub-361F), filed September, 5, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road (P.O. Box 14048), Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *chemicals*, in bulk, in tank vehicles, from the facilities of Union Carbide Corp., at or near Texas City, TX, to points in AL, AR, CA, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WV, WI, and WY. Restricted to the transportation of traffic originating at the above named origin. (Hearing site: Houston, TX.)

MC 2505 (Sub-3F), filed October 4, 1978. Applicant: LOTT MOTOR LINES, INC., a Pennsylvania corporation, West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *metal articles, and materials, equipment, and supplies* used in the manufacture and distribution of metal articles, between Buffalo, NY, Philadelphia, PA, and Edison, NJ, on the one hand, and, on the other, points in ME, VT, NH, MA, CT, RI, NY, NJ, PA, OH, WV, VA, MD, DE, and DC, under continuing contract(s) with Alcan Aluminum Corp. of Cleveland, OH. (Hearing site: Cleveland, OH, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 2505 (Sub-4F), filed October 5, 1978. Applicant: LOTT MOTOR LINES, INC., a Pennsylvania corporation, West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *metal articles, and materials, equipment, and supplies* used in the manufacture and distribution of metal articles, between Marlborough, MA, Windsor, CT, and Baltimore, MD, on the one hand, and, on the other, points in ME, VT, NH, MA, CT, RI, NY, NJ, PA, OH, WV, VA, MD, DE, and DC, under continuing contract(s) with Alcan Aluminum Corp., of Cleveland, OH. (Hearing site: Cleveland, OH, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 4405 (Sub-582F), filed October 5, 1978. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, OK 74103. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *heating equipment and heating equipment parts*, between Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tulsa, OK.)

MC 5623 (Sub-43F), filed September 18, 1978. Applicant: ARROW TRUCKING CO., a corporation, 4230 South Elwood, P.O. Box 7280, Tulsa, OK 74105. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *(1)(a) commodities*, the transportation of, which by reason of size or weight, require the use of special equipment; *(b) general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require the use of special equipment; and *(c) self-propelled articles transported on trailers*, from the facilities of Riley Beird, Inc., at or near Shreveport, LA, to points in the United States (except AK and HI), and *(2) materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) (a), (b) and (c) above (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of Riley Beird, Inc., at or near Shreveport, LA. (Hearing site: Dallas, TX.)

MC 18738 (Sub-46F), filed October 6, 1978. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th Street, Riverdale, IL 60627. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwestern Steel and Wire Co., at Sterling and Rock Falls, IL, to St. Louis, MO, points in IN, KY, OH, PA, NY, and points in the Lower Peninsula of MI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 19311 (Sub-48F), filed September 5, 1978. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Walter N. Bieneman, 100 West Long Lake Road, Bloomfield Hills, MI 48033. To operate as a *common carrier*, by motor vehicle,

over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Richville, MI and Bay City, MI, over MI Hwy 15, (2) between Bay City, MI, and Harbor Beach, MI, over MI Hwy 25, serving the off-route points of Pointe Aux Barques and Grindstone City, MI, (3) between junction MI Hwy 15 and MI Hwy 138, and junction MI Hwy 25 and MI Hwy 138, over MI Hwy 138, (4) between Unionville, MI, and Port Austin, MI, from Unionville over unnumbered Hwy (Bay City-Forestville Rd.) to junction MI Hwy 53 and then over MI Hwy 53 to Port Austin, and return over the same route, (5) between Sebewaing, MI, and junction unnumbered Hwy (Sebewaing Rd.) and MI Hwy 53, over unnumbered Hwy (Sebewaing Rd.), (6) between junction unnumbered Hwy (Bay City-Forestville Rd.) and unnumbered Hwy (Colwood Rd.), and junction unnumbered Hwy (Sebewaing Rd.) and unnumbered Hwy (Bay Port Rd.), from junction unnumbered Hwy (Bay City-Forestville Rd.) and unnumbered Hwy (Colwood Rd.), over unnumbered Hwy (Colwood Rd.) to junction unnumbered Hwy (Bay Port Rd.), then over unnumbered Hwy (Bay Port Rd.) to junction unnumbered Hwy (Sebewaing Rd.), and return over the same route, (7) between Owendale, MI, and junction unnumbered Hwy (McEldowney Rd.) and unnumbered Hwy (Bay City-Forestville Rd.), from Owendale over unnumbered Hwy (Owendale Rd.) to junction unnumbered Hwy (McEldowney Rd.), then over unnumbered Hwy (McEldowney Rd.) to junction unnumbered Hwy (Bay City-Forestville Rd.), and return over the same route, (8) between Bay Port, MI, and Harbor Beach, MI, from Bay Port over MI Hwy 25 to junction MI Hwy 142, and then over MI Hwy 142 to Harbor Beach, and return over the same route, (9) between Caseville, MI and Kinde, MI, over unnumbered Hwy (Kinde Rd.), (10) between Richville, MI, and Sandusky, MI, over MI Hwy 46, (11) between Elmer, MI, and junction MI Hwy 142 and MI Hwy 19, over MI Hwy 19, in (1) through (11) above, serving all intermediate points, (12) between Detroit, MI, and junction MI Hwy 53 and unnumbered Hwy (Bay City-Forestville Rd.), over MI Hwy 53, (13) between Davison, MI, and Richville, MI, over MI Hwy 15, (14) between Richville, MI, and Saginaw, MI, over MI Hwy 46, serving no intermediate points in (12), (13), and (14) above, serving all off-route points within 5 miles of the routes in (1) through (14) above, all of the service in (1) through (14) above restricted to the transportation of traffic at Harbor Beach, MI, for purposes of joinder only. (Hearing site: Lansing, MI.)

MC 22311 (Sub-7F), filed September 6, 1978. Applicant: WEST SHORE TRANSFER, INC., Z 215 Marble Street, Hammond, IN 46320. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *(1) iron and steel articles*, and *materials, equipment, and supplies* used in the manufacture of iron and steel articles, (except commodities in bulk), between the facilities of Western Cold Drawn Steel, Division of Stanadyne Corp., at or near Gary, IN, on the one hand, and, on the other, points in IL, IA, KS, KY, MI, MO, MN, NE, OH, TN, and WI. (Hearing site: Chicago, IL.)

MC 35706 (Sub-14F), filed August 21, 1978. Applicant: ATSL, INC., Building A, 10 Oregon Avenue, Philadelphia, PA 19148. Representative: Steven M. Tannenbaum, 135 North Fourth Street, Philadelphia, PA 19106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *ladies wearing apparel*, and (2) *equipment, materials and supplies* used in the distribution of ladies wearing apparel, (except commodities in bulk), from the facilities of Petrie Stores Corp., at Secaucus, NJ, to the facilities used by Petrie Stores Corp., at or near (a) Cleveland, OH, (b) Detroit, MI, (c) Chicago, IL, and (d) Dallas, TX. (Hearing site: Camden, NJ, or Philadelphia, PA.)

MC 51146 (Sub-629F), filed August 18, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 3308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A & B explosives, commodities in bulk, household goods as defined by the commission, and commodities requiring special equipment), between points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 59367 (Sub-125F), filed September 6, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *diagnostic equipment, electrical equipment and accessories, roll cabs, tools, tool storage units, and automotive supplies*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between Algona and Fort Dodge, IA, on the one hand, and, on the other, points in IL, IN, MI, MN, OH, and WI. (Hearing site: St. Paul, MN, or Milwaukee, WI.)

MC 59367 (Sub-126F), filed September 12, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lignin powder*, from points in Marathon and Oneida Counties, WI, to Fort Dodge, IA. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 59488 Sub-44F), filed October 19, 1978. Applicant: SOUTHWESTERN TRANSPORTATION CO., a Delaware Corporation, 7600 South Central Expressway, P.O. Box 226187, Dallas, TX 75266. Representative: Lloyd M. Roach (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, and New Orleans, LA, from Memphis over Interstate Hwy 55 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving no intermediate points, and with service at New Orleans, LA, restricted to the transportation of traffic received from or delivered to connecting carriers. (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 60190 (Sub-4F), filed August 25, 1978. Applicant: ACTIVE MOVING & STORAGE CO., INC., P.O. Box 9217, Seattle, WA 98109. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *used household goods* as defined by the Commission, between points in WA, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments. (Hearing site: Seattle or Spokane, WA.)

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MC 61231 (Sub-129F), filed September 5, 1978. Applicant: EASTER ENTERPRISES, INC., d.b.a. Ace Lines, Inc., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Such commodities* as are dealt in by retail home improvement stores, home furnishing stores, and lumber stores, (except commodities in bulk), between points in AR, CO. IL, IN, IA, KS, KY, MI, MN, MO, NE, OK, OH, TX, and WI. (Hearing site: Chicago, IL.)

MC 67646 (Sub-77F), filed August 15, 1978. Applicant: HALL MOTOR TRANSIT CO., a corporation, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Norfolk and Richmond, VA, over U. S. Hwy 60 or Interstate Hwy 64, (2) from Norfolk over U. S. Hwy 460 to Petersburg, VA, then over U. S. Hwy 1 or Interstate Hwy 95 to Richmond, VA, and return over the same routes, serving Richmond for the purpose of joinder only, and serving the intermediate or off-route points or Chesapeake, Franklin, Hampton, Newport News, Suffolk, Virginia Beach, Williamsburg, and Yorktown, VA, restricted to the transportation traffic originating at or destined to points in MD and DC. (Hearing site: Harrisburg, PA, or Washington, D.C.)

MC 99365 (Sub-5F), filed September 28, 1978. Applicant: SHORTY HALL RIG CO., INC., P.O. Box 2429, Odessa, TX 79760. Representative: Mike Cotton, P.O. Box 1148, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting *materials, equipment, and supplies* used in the construction, operation, and servicing of (a) utility, electrical, uranium, and hydroelectric plants, (b) mines, and (c) disposal and industrial plants, (except commodities in bulk), between points in Ector and Midland Counties, TX, on the one hand, and, on the other points in NM, OK, and KS. (Hearing site: Dallas, TX.)

MC 99653 (Sub-7F), filed August 25, 1978. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, Birmingham, AL 35201. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (*1*) *Water treatment equipment, pollution control equipment, and manufactured iron and steel articles*, from points in AL, to points in the United States (except AK and HI), and (*2*)(*a*) *water treatment equipment*, (*b*) *pollution control equipment, and* (*c*) *materials and supplies* used in the manufacture of the commodities above, from the destinations in (1) above, to points in Alabama. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 102616 (Sub-960F), filed August 31, 1978. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquefied petroleum gas*, in bulk, in tank vehicles, (1) from the facilities of the Cochin Pipeline, at or near (a) New Hampton, IA, (b) Mankato and Benson, MN, and (c) Carrington, ND, to points in IA, IL, MN, SD, and WI, and (2) from the facilities of Cochin Pipeline, at or near Milford, IN, to points in IL, KY, MI, and OH. (Hearing site: Chicago, IL, or Columbus, OH.)

NOTE.—The certificate to be issued here shall be limited in points of time to a period expiring 5 years from its effective date.

MC 107012 (Sub-279F), filed August 28, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture*, from Florence, SC, to points in AL, FL, GA, IL, IN, IA, KY, LA, MI, MN, MS, NY, NC, LH, TN, and VA. (Hearing Site: Columbia, SC, or Atlanta, GA.)

MC 107515 (Sub-1175), filed September 13, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, fifth floor Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (*1*) *foodstuffs, restaurant supplies, restaurant furniture, and restaurant fixtures, and* (*2*) *poultry, unprocessed agricultural commodities, and fish*, the transportation of which is otherwise exempt from regulation under Section (b)(6) of the Interstate Commerce Act, when moving in mixed loads with the commodities in (1) above, (except commodities in bulk), between Carpinteria, CA, and Florence, KY, restricted to the transportation of traffic originating at or destined to the facilities of Sambo's Restaurants, Inc. at the above named points. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 108053 (Sub-149F), filed September 25, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *alcoholic liquors and wines*, (except commodities in bulk), from Lawrenceburg, IN, Frankfort, KY, Schenley, PA, and Tullahoma, TN, to points in AZ, CA, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Cincinnati or Columbus, OH.)

MC 108207 (Sub-486F), filed September 8, 1978. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastics and plastic products*, (except commodities in bulk), from Toledo, OH, to Chicago, IL, and to points in CA and TX, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Toledo, OH.)

MC 109397 (Sub-427F), filed September 11, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foamed plastic carpet cushion*, from the facilities of North Carolina Foam Industries, at Mt. Airy, NC, to those points in the United States in and east of NM, IA, MO, AR, and LA. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 109692 (Sub-71F), filed August 7, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *roofing, roofing materials*, and *roofing supplies*, from the facilities of GAF Corporation, at or near Kansas City, MO, to Dallas, TX. (Hearing site: Kansas City, MO.)

MC 110525 (Sub-1265F), filed October 4, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, TA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals*, (except petrochemicals), in bulk, in tank vehicles, from the facilities of E. J. DuPont, at or near Gregory, TX, to points in AL, AR, CO, FL, GA, IL, KS, KY, LA, MS, MO, NE, NM, OK, and TN. (Hearing site: Houston, TX.)

MC 111545 (Sub-257F), filed October 2, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *aluminum and aluminum products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 111545 (Sub-258F), filed October 4, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cast stone veneer*, from the facilities of Stucco Stone Products, Inc., at Napa, CA, to points in AL, AR, AZ, FL, GA, LA, MS, NM, NC, OK, SC, TN, and TX. (Hearing site: San Francisco or Los Angeles, CA.)

MC 111812 (Sub-588F), filed August 31, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: David Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *ice making machines*, and metal finishing equipment; and (2) materials and supplies used in the manufacture, distribution, and operation of the commodities in (1) above, from Albert Lea, MN, to points in the United States (except AK, HI, and MN), restricted in (1) and (2) above to the transportation of traffic originating at the named origin. (Hearing site: St. Paul, MN.)

MC 113855 (Sub-449F), filed September 6, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road Southeast, Rochester, MN 55901. Representative: Kip B. H. Erickson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *tractors* (except truck tractors), and (2) *Attachments, parts, and equipment* designed for use with tractors, in mixed loads with tractors, from points in Harrison County, MS, to the ports of entry on the International Boundary line between the United States and Canada, at points in MN, ND, MT, ID, and WA, restricted to the transportation of traffic (a) originating at the facilities of International Harvester Company, in Harrison County, MS, and (b) destined to points in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, and Ontario, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. This affidavit must be submitted within 90 days of the service of a notification of effectiveness of this decision-notice. (Hearing site: Chicago, IL.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials, regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 113855 (Sub-452F), filed September 29, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road Southeast. Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *building brick*, from the ports of entry on the International Boundary line between the United States and Canada in MT, to points in MT, WY, UT, NV, CA, OR, WA, and ID, restricted to the transportation of traffic originating at Medicine Hat, Alberta, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. This affidavit must be submitted within 90 days of the service of a notification of effectiveness of this decision-notice.(Hearing site: Billings, MT.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 113855 (Sub-453F), filed September 29, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road Southeast, Rochester, MN 55901. Representative: Kip B. H. Erickson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum articles*, and *materials, equipment, and supplies* used in the manufacture of aluminum articles (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 114273 (Sub-419F), filed July 24, 1978 and previously published in the FEDERAL REGISTER of September 14, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron and steel shot*, (except in bulk, in tank vehicles), from Hamilton, OH, and Mt. Pleasant, PA, to points in WI, and those points in the Lower Peninsula of MI on and west of a line beginning at the OH/MI State Line and extending along U.S. Hwy 127 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction Interstate Hwy 75, then along Interstate Hwy 75 to Mackinaw City; (2) *ceramic foundry products and ceramic foundry supplies*, (except commodities in bulk, in tank vehicles), from Columbus, OH, to Milwaukee, WI, and (3) *silicon carbide* (except in bulk, in tank vehicles), from Niagara Falls, NY, to points in IL, IA, MN, and WI, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the indicated destination. CONDITION: In view of the findings in No. MC-114273 (Sub-Nos. 147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless prior to its expiration (but not less than 6 months prior to its expira-

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tion), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—This republication substitutes the word west for east in part (1).

MC 114273 (Sub-420F), filed July 24, 1978, and previously published in the FEDERAL REGISTER issue of September 14, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron and steel nails and staples, steel, plastic and nylon strapping and seals, and pneumatic hand tools*, and (2) *parts and accessories* used in the installation of the commodities named in (1) above, from Chicago, IL, Cincinnati, OH, Downingtown, PA, New York, NY, and Philadelphia, PA, to the facilities used by Carlson Stapler and Shippers Supply, Inc., at (a) Des Moines, IA, (b) Denver, CO, (c) Minneapolis, MN, (d) Omaha, NE, and (e) Wichita, KS, restricted to the transportation of traffic destined to the named destinations. CONDITION: In view of the finding in No. MC-114273 (Sub-Nos. 147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL or Washington, DC.)

NOTE.—this republication includes Des Moines, IA as a facility point.

MC 116077 (Sub-398F), filed September 11, 1978. Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, TX 77001. Representative: Pat H. Robertson, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry clay and clay slurry*, in bulk, in tank vehicles, from points in Warren County, GA, to points in MS, LA, OK, and TX. (Hearing site: Atlanta, GA, or Houston, TX.)

MC 116763 (Sub 438F), filed September 11, 1978 Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative H M. Richters (same address as applicant) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *chalk and lack boards, lockers, toilet compartments, building materials*, and *building supplies*, (except commodities in bulk, in tank vehicles) and (2) *doors, door sections and accessories and supplies* used in the manufacture and installation of doors and door sections, (except commodities in bulk in tank vehicles), from points in AR, CT, NJ, NY, OH, and PA, to points in IL, MI, MN, and WI. (Hearing site: Chicago, IL.)

MC 117068 (Sub-104F), filed October 16, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *mining equipment and self-propelled vehicles*, (except automobiles, trucks, and buses), from the facilities of Wagner Mining Equipment, Inc., in Multnomah County, OR, to points in the United States (except AK and HI); and (2) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of Wagner Mining Equipment, Inc., in Multnomah County, OR, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 117698 (Sub-16F), filed October 6, 1978. Applicant: LEO H. SEARLES, d.b.a. L. H. SEARLES, South Worcester, NY 12197. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *ice cream, ice cream products, ice confections, and ice mix confections*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) from Lancaster, PA, Chicopee, MA, Richmond Hill, NY, and Suffield, CT, to Norfolk, VA, Baltimore and Gaithersburg, MD, New Haven, CT, Worcester, Brockton, Charlestown, Lowell, and Hyannis, MA, Toledo, OH, Romulus, MI, Lakewood and Mt. Holly, NJ, and Huntingdon Valley, PA, (2) from Philadelphia, PA, to New Haven, CT, and Charlestown and Brockton, MA, and (3) from Dunkirk, NY, Green Bay, WI, Ocala, FL, Baltimore, MD, and Huntingdon Valley, Allentown, and Lancaster, PA, to Boston, MA. (Hearing site: Albany, NY.)

MC 119493 (Sub-227F), filed August 14, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron, steel and plastic articles*, and (2) *parts and accessories* used in the manufacture and installation of the commodities named in (1) above, between Holt, AL, and points in IA, KS, OK, MO, and NE. (Hearing site: Tuscaloosa, AL, or Little Rock, AR.)

MC 119702 (Sub-64F), filed August 30, 1978. Applicant: STAHLY CARTAGE CO., a corporation, 119 S. Main Street, P.O. Box 486, Edwardsville, IL 62025. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, from Ashkum, IL, to points in IN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 119988 (Sub-159F), filed September 1, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber, lumber mill products, forest products, wood products, and sawmill products*, (1) from points in CA, ID, MT, OR, and WA, to points in AZ, AR, CA, CO, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NM, ND, NV, OK, SD, TX, UT, WY, and WI, and (2) from points in AZ, CO, and NM, to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, NV, NE, ND, OK, SD, TX, UT, WY, and WI. (Hearing site: Portland, OR.)

NOTE: Dual operations are involved in this proceeding.

MC 119988 (Sub-164F), filed September 7, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103, East, P.O. Box 1384, Lufkin, TX 75901. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, from Denver, CO, to points in TX. (Hearing site: Denver, CO, or Houston, TX.)

NOTE: Dual operations are involved in this proceeding.

MC 119988 (Sub-165F), filed September 19, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by nursery and horticultural stores (except commodities in bulk), from Pine Bluff, AR and DeKalb, IL, to points in the United States (except AK and HI)

(Hearing site: Little Rock, AR, or Dallas, TX.)

NOTE: Dual operations involved in this proceeding.

MC 119988 (Sub-166F), filed September 27, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *motor vehicle parts and motor vehicle accessories*, between Houston, TX, on the one hand, and, on the other, points in AZ and CA. (Hearing site: Dallas, TX.)

NOTE: Dual operations are involved in this proceeding.

MC 119988 (Sub-167F), filed September 29, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *commercial refrigeration units and parts for commercial refrigeration units*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Waxahachie, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 119988 (Sub-168F), filed October 2, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foundry supplies and industrial mill supplies* (except commodities in bulk), from points in the United States (except AK and HI), to points in AR, LA, OK, and TX. (Hearing site: Dallas, TX or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 119988 (Sub-169F), filed October 4, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *motor vehicle parts and motor vehicle accessories*, between San Antonio, TX, on the one hand, and, on the other, points in AZ and CA. (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 119988 (Sub-170F), filed October 5, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plumbing fixtures and plumbing fittings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Brown County, TX, on the one hand, and, on the other, points in the United States (except AK, HI, and TX). (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 119988 (Sub-171F), filed October 6, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *air conditioning equipment, refrigeration equipment, and parts* for air conditioning and refrigeration equipment, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between San Antonio, TX, on the one hand, and, on the other, those points in the United States in and west of MT, WY, CO, and NM (except AK and HI). (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 119988 (Sub-172F), filed October 12, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *playground apparatus, wheel goods, and motorized bicycles*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between Olney, IL, and Little Rock, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved in this proceeding.

MC 119988 (Sub-173F), filed October 23, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic articles* (except commodities in bulk), and *equipment and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 123408 (Sub-24F), filed September 25, 1978. Applicant: FOOD HAULERS, INC., 600 York Street, Elizabeth, N.J. 07207. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in or used by (a) drug stores and (b) grocery and food business houses (except commodities in bulk), from the facilities of Warner Lambert Company, at or near Lititz, PA, to points in GA, under continuing contract(s) with Warner Lambert Company, of Morris Plains, NJ; and (2) *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), from points in GA, NC, and SC, to Elizabeth and Edison, NJ, under continuing contract(s) with Wakefern Food Corporation, of Elizabeth, NJ. (Hearing site: New York, NY.)

MC 124212 (Sub-100F), filed August 22, 1978. Applicant: MITCHELL TRANSPORT, INC., an Indiana corporation, 6500 Pearl Road, P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cement mill waste and stack dust*, in bulk, from Mason City, IA, to points in IL and NE. (Hearing site: Washington, DC.)

NOTE.—Dual Operations are involved in this proceeding.

MC 124692 (Sub-231F), filed August 3, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *barium sulfate*, from Battle Mountain and Fallon, NV, and Salt Lake City, UT, to Orland, Lodi, and Bakersfield, CA, (2) *ferro chrome lignosulfonate*, from Rothschild, WI, to Lodi and Bakersfield, CA, and Laredo, TX, and (3) *lignite*, from Williston, ND, to Lodi and Bakersfield, CA. (Hearing site: Los Angeles, CA.)

MC 124692 (Sub-236F), filed August 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: J. David Douglas (same address

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as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Church & Clark, Inc., at Dallas, TX, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named orgins. (Hearing site: Dallas, TX.)

MC 124692 (Sub-237F), filed August 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from Oklahoma City, OK, to points in AZ, AR, IA, MN, MT, ND, SD, TX, WI, and WY. (Hearing site: Oklahoma City, OK.)

MC 124692 (Sub-238F), filed August 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cleaning compounds*, from Dallas, TX, to points in AZ, CA, CO, ID, MN, MO, MT, NM, OR, TN, UT, and WA. (Hearing site: Dallas, TX.)

MC 124692 (Sub-239F), filed August 24, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *steel coils* and *steel decking* from the facilities of Merco Manufacturing, Inc., at (a) Dallas and Houston, TX, and (b) Little Rock, AR, to points in AZ, AR, CA, CO, KS, LA, MO, MT, NM, OK, and WY, restricted to the transportation of traffic originating at the named origins. (Hearing site: Dallas, TX.)

MC 125433 (Sub-166F), filed September 19, 1978. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84101. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *fabricated steel fireplaces and fireplace parts*, from Union City, TN, to points in the United States (except AK and HI), and (2) *materials and supplies* (except commodities in bulk), used in the manufacture of the commodities in (1) above (except commodities in bulk), from the destinations in (1) above, to Union City, TN. (Hearing site: Los Angeles, CA, or Salt Lake City, UT.)

MC 125433 (Sub-167F), filed September 25, 1978. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *coal and wood burning stoves*, and *coal and wood burning fireplaces*, from points in Salt Lake County, UT, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

MC 126422 (Sub-7F), filed August 30, 1978. Applicant: QUALITY TRANSPORT, INC., 1200 Simons Building, Dallas, TX 75201. Representative: Leroy Hallman, 4555 First National Bank Building, Dallas, TX 75202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cement*, from the facilities of Missouri Portland Cement Company, at or near Union, LA, to points in AL, AR, FL, GA, LA, MS, OK, and TX. (Hearing Site: New Orleans, LA, or Dallas, TX.)

MC 127042 (Sub-22F), filed August 21, 1978. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by (a) grocery and food business houses and (b) drug stores, (except frozen commodities and commodities in bulk), from the facilities of The Clorox Company, at Chicago, IL, to points in MN, ND, and SD. (Hearing site: Chicago, IL.)

MC 127625 (Sub-31F), filed September 26, 1978. Applicant: Santee Cement Carriers, Inc., P.O. Box 638, Holly Hill, SC 29059. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum, articles*, and *materials, equipment, and supplies* used in the manufacture of aluminum articles, (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbia, SC, or Washington, DC.)

MC 128273 (Sub-320F), filed September 15, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *cots, beds*, and *parts and accessories for cots and beds*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), (a) from Carthage, MO, to points in AZ, AR, CA, CO, FL, ID, KS, LA, MS, MT, NV, NM, ND, OK, OR, SD, UT, WA, and WY, (b) from Hominy, OK, to points in AZ, CA, CO, CT, DE, FL, ID, KS, ME, MA, MT, NE, NV, NH, NJ, NM, NY, ND, OR, RI, SD, TX, UT, VT, WA, and WY, and (c) from Ennis, Dallas, and Fort Worth, TX, to points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundries of Itasca and Koochiching Counties, MN, to the United States-Canada international boundary line, (except points in AK, AR, HI, IA, KS, MO, NE, ND, OK, and SD). (Hearing site; Kansas City, MO.)

MC 128951 (Sub-20F), filed September 5, 1978. Applicant: ROBERT H. DITTRICH, d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073. Representative: James T. Flescher, 1745 Universtiy Avenue, St. Paul, MN 55104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Dry animal feed*, and *dry poultry feed*, from the facilities of Cargill, Nutrena Feed Division, at New Richland, MN, to points in IA, SD, WI, and the Upper Peninsula of MI. (Hearing Site: St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 129032 (Sub-53F), filed August 17, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Ave., Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in or used by manufacturers of rubber and rubber products, (except commodities in bulk), between the facilities of the Good- year Tire and Rubber Company, at or near Lawton, OK, on the one hand, and, on the other points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY. (Hearing site: Akron, OH, or Washington, DC.)

MC 129455 (Sub-35F), filed October 3, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in by a manufacturer of toilet preparations, (except commodities in bulk), from the facilities of The Mennen Company, at Morristown and Newark, NJ, to points in AL, AR, FL, GA, IA, KS, KY, LA, MN, MS, NV, NM, NC, OR, SC, WA, and WI, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of toilet preparations, (except commodities in bulk), from points in the United States in and east of MN, NE, KS, OK, and TX, to the facilities named in (1) above, under continuing contract(s) in (1) and (2) above, with The Mennen Company, of Morristown, NJ. (Hearing site: New York, NY.)

NOTE.—Dual operations are involved in this proceeding.

MC 129624 (Sub-17F), filed June 7, 1978, and previously noticed in the FEDERAL REGISTER issue of August 22, 1978. Applicant: ROUTE MESSENGERS OF PENNSYLVANIA, INC., 2425 Bainbridge Street, Philadelphia, PA 19146. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *copying machine parts* and *copying machine supplies*, from Pennsauken, NJ, to points in Berks, Bucks, Lehigh, Luzerne, and Northampton Counties, PA. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding. This republication amends the commodity description.

MC 133095 (Sub-202F), filed October 2, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *alcoholic beverages* (except in bulk), and (2) *materials and supplies* used in the manufacture and distribution of alcoholic beverages, from Peoria, IL, to points in WY, NM, AZ, CA, NE, MN, IN, OH, KY, WV, VA, MD, DE, PA, NY, CT, RI, MA, VT, NH, ME, FL, GA, TN, and DC. (Hearing site: Dallas, TX.)

MC 133095 (Sub-204F), filed October 2, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture, distribution, and administration of drugs, nutritional and anti-coagulent solutions, and distilled water, from points in the United States on and east of U.S. Hwy 85, to the facilities of McGaw Laboratories, Inc., Division of American Hospital Supply, at Milledgeville and Atlanta, GA. (Hearing site: Atlanta, GA.)

MC 133221 (Sub-36F), filed September 5, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, GA 30245. Representative: Alvin Button, 1644 Tullie Cir NE., Suite 102, Atlanta, GA 30329. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum stampings*, from Palestine, TX, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Washington, DC.)

MC 133655 (Sub-123F), filed September 15, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Chicago, IL, to Dallas, Houston, San Antonio, Amarillo, Lubbock, and Laredo, TX. (Hearing site: Chicago, IL.)

MC 134922 (Sub-275F), filed August 23, 1978. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by manufacturers and distributors of tile, (except commodities in bulk and those which because of size or weight require the use of special equipment), from Lansdale and Quakertown, PA, to points in TX.

Condition: Pursuant to the Decision in MC 134922 (Sub-95), et al., served September 7, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Applicant states the purpose of this filing is to substitute single-line service for existing joint-line service.

MC 135633 (Sub-14F), filed August 18, 1978. Applicant: NATIONWIDE TRANSPORTERS, INC., 2175 Lemoine Avenue, Fort Lee, NJ 07024. Representative: Harold G. Hernly, Jr., 118 North Saint Asaph Street, Alexandria, VA 22314. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *trucks, tractors, and chassis*, in secondary movements, in driveway service, between points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC, or Chicago, IL.)

MC 136161 (Sub-16F), filed September 5, 1978. Applicant: ORBIT TRANSPORT INC., P.O. Box 163, Spring Valley, IL 61362. Representative: Elizabeth A. Purcell, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *containers*, and (2) *materials* and *supplies* used in the manufacture of containers, between Kankakee, IL, on the one hand, and, on the other, points in IN, MI, MO, OH, WI, MN, IA, AR, TN, KY, and WV. (Hearing site: Chicago, IL.)

MC 136818 (Sub-38F), filed September 8, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *gypsum wallboard and gypsum plaster*, from points in Clark County, NV, to points in CA, ID, and UT. (Hearing site: Los Angeles, CA, or Las Vegas, NV.)

NOTE.—Dual operations are involved in this proceeding.

MC 138157 (Sub-85F), filed September 5, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fabricated and shaped metal articles*, (except commodities which by reason of size or weight require the use of special equipment), from the facilities of Norris Industries, Inc., in Los Angeles and Orange Counties, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the noted facilities and destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

NOTE: Dual operations are involved in this proceeding.

MC 138308 (Sub-57F), filed October 16, 1978. Applicant: KLM, INC., A Texas corporation, Old Hwy 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *television sets, radio sets, phonograph sets, recording sets, loudspeakers, and sound systems*, and (2) *stands and accessories* for the commodities in (1) above, (a) from the facilities of GTE Sylvania, Inc., at Smithfield, NC, to points in AZ, CA, CO, GA, IL, LA, MS, NV, NM, OK,

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OR, NY, TN, and TX, (b) from the facilities of GTE Sylvania, Inc., at Atlanta, GA, to points in AL, OR, KY, LA, MS, TN, and TX, (c) from the facilities of GTE Sylvania, Inc., at Elk Grove Village, IL, to points in CO, (d) from the facilities of GTE Sylvania, Inc., at Los Angeles, CA, to points in GA, IL, NC, and NY, (e) from the facilities of GTE Sylvania, Inc., at Sparks, NV, to points in CA, OR, and WA, (f) between the facilities of GTE Sylvania, Inc., at Batavia, NY, and the facilities of GTE Sylvania, Inc., at Smithfield, NC, and (3) *supplies and accessories* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of GTE Sylvania, Inc., at (a) El Paso, TX, (b) Smithfield, NC, and (c) Elk Grove Village, IL, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origin facilities. (Hearing site: Jackson, MS, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 138635 (Sub-63F), filed October 4, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, from points in CA, to points in AL, FL, GA, NC, SC, TN, VA, and WV. (Hearing site: San Francisco, CA.)

NOTE. Dual operations are involved in this proceeding.

MC 138635 (Sub-64F), filed October 4, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of rubber and rubber products, (except commodities in bulk), (1) from the facilities of The Good- year Tire and Rubber Co., at or near Lawton, OK, to points in CA, OR, WA, NC, AL, and MD, and (2) from the facilities of The Goodyear Tire and Rubber Co., at or near (a) Decatur and Scottsboro, AL, and (b) Rockmart, Cartersville, and Cedartown, GA, to the facilities of The Goodyear Tire and Rubber Co., at or near Lawton, OK. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 138772 (Sub-6F), filed August 25, 1978. Applicant: ALL-WAYS FREIGHT LINES, INC., 215 North 18th Street, Leavenworth, KS 66048. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Hiawatha and Marysville, KS: from Hiawatha over U.S. Hwy 73 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction NE Hwy 4, then over NE Hwy 4 to junction NE Hwy 50, then over NE Hwy 50 to junction U.S. Hwy 136, then over U.S. Hwy 136 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Marysville, and return over the same route, serving all intermediate points (except Falls City, NE), and all off-route points in Richardson (except Falls City), Pawnee, Gage, and Johnson Counties, NE. (Hearing site: Kansas City, MO.)

MC 138882 (Sub-137F), filed August 24, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *wheel weights, lead, and steel holding and fastening devices*, from the facilities of Plumbiam Manufacturing Corp., at Bristol, TN, to points in the United States (except AK and HI). (Hearing site: Knoxville, TN, or Montgomery, AL.)

MC 138882 (Sub-144F), filed August 31, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *malt beverages*, from the facilities of Pabst Brewing Co., at Pabst, GA, to points in NC, SC, and FL; and (2) *materials, equipment*, and *supplies* used in the manufacture and sale of malt beverages (except commodities in bulk), from points in NC, SC, and FL, to the facilities of Pabst Brewing Co., at Pabst, GA. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 138882 (Sub-145F), filed August 24, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *steel pipe, fittings and valves*, from the facilities of Piping and Equipment Company, Inc., at Jackson, MS, to points in TX, GA, KY, WI, IN, AR, NC, SC, OH, and MN, and (2) *steel pipe, and fittings*, from Lorain and Cleveland, OH, Fairless, PA, and Birmingham and Pelham, AL, to points in TX, GA, KY, WI, IN, AR, NC, SC, OH, MN, and MS. (Hearing site: Jackson, MS, or Montgomery, AL.)

MC 138882 (Sub-146F), filed August 31, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except frozen), in containers, from the facilities of Doxsee Foods, Inc., at or near Brundidge, AL, to points in GA, SC, NC, TN (except Memphis), VA and MD. (Hearing site: Birmingham or Montgomery, AL.)

MC 138882 (Sub-147F), filed August 31, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, fittings, hydrants, valves*, and (2) *castings, parts*, and *accessories* for the commodities in (1) above, from Chattanooga, TN, to points in CO, WY, NM, TX, AR, and UT. (Hearing site: Montgomery or Birmingham, AL.)

MC 138882 (Sub-148F), filed August 31, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *moulded pulp*, and *nested egg cartons*, from the facilities of the Packaging Corp. of America, at or near Macon, GA, to points in MI and IN; and (2) *scrap paper* and *waste paper* used for recycling, from points in MI, IN, AR, MO, KY, PA, and NJ, to the facilities of the Packaging Corp. of America, at or near Macon, GA. (Hearing site: Atlanta, GA, or Montgomery, AL.)

MC 139457 (Sub-8F), filed September 15, 1978. Applicant: G. L. SKIDMORE d.b.a. JELLY SKIDMORE TRUCKING CO., P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *canned and preserved foodstuffs*, and *canned and packaged animal food*, from the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, to points in LA, under continuing contract(s) with Campbell Soup (Texas) Inc., of Paris, TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 139615 (Sub-21F), filed October 2, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicles, over irregular routes, transporting (1) *sewage treatment plants, aerators, and lift stations*, and (2) *materials, supplies, and accessories* used in the manufacture, distribution, and installation of the commodities in (1) above, from the facilities of Clow Corporation, at or near Richwood, KY, to points in the United States (except AK, KY, and HI). (Hearing site: Chicago, IL.)

MC 139723 (Sub-4F), filed July 25, 1978, previously noticed in the FEDERAL REGISTER issue of September 26, 1978 as MC 144711 Sub 2F. Applicant: FARISH R. THOMPSON d.b.a. THOMPSON TRUCKING, R. R. No. 1, Afton, WY 83110. Representative: Farish R. Thompson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber*, between Afton, WY, on the one hand, and, on the other, points in UT and ID. (Hearing site: Salt Lake City, UT, or Casper, Wy.)

NOTE.—This republication indicates that the applicant is seeking common carrier authority, and that the territorial description sought involves a radial movement.

MC 139858 (Sub-31F), filed October 16, 1978. Applicant: AMSTAN TRUCKING, INC., a Delaware corporation, 1255 Corwin Avenue, Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *stoves, fireplaces, and accessories* for stoves and fireplaces (except commodities which because of size or weight require the use of special equipment), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities which because of size or weight require the use of special equipment), from Grand Rapids, MI, to Huntington and North Manchester, IN, under continuing contract(s) with American Standard, Inc., of New Brunswick, NJ. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 140123 (Sub-7F), filed September 25, 1978. Applicant: GRAHAM TRANSFER, INC., Route 2, Box 44, Linden TN 37906. Representative: Roland M. Lowell, 618 Imoted American Bank Building, Nashville, TN 37096. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fiberglass articles, aluminum articles, and iron and steel articles*, between the facilities of IKG Industries, at (a) Nashville, TN (b) Gulfport, MS, and (c) New Orleans, LA. (Hearing site: Nashville, TN.)

MC 140168 (Sub-5F), filed October 6, 1978. Applicant: FANETTI REFRIGERATED TRANSPORT, Rt. 1, Box 29-A, Bloomer, WI 54724. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *building insulation* from Bloomer, WI, to points in MN and IA; and (2) *materials, equipment, and supplies* used in the manufacture and sale of building insulation, (except commodities in bulk), from Minneapolis, MN, and Columbus, OH, to Bloomer, WI. (Hearing site: St. Paul, MN.)

MC 140186 (Sub-28F), filed August 30, 1978. Applicant: TIGER TRANSPORTATION, INC., P.O. Box 2248, Missoula, MT 59801. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *flour*, from Billings, MT, to points in CA. (Hearing site: Billings, MT.)

MC 140665 (Sub-39F), filed October 4, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *automotive parts and accessories*, from the facilities of Ford Motor Company, at or near (a) Melvindale, MI, (b) Mansfield, OH, and (c) Nashville, TN, to Pico Rivera and Milpitas, CA. (Hearing site: Washington, DC, or Detroit, MI.)

NOTES.—(1) The person or persons engaged in common control of applicant and another regulated carrier must file an application under section 5(2) of the Interstate Commerce for common control or show why such application is not necessary. This must be done within 30 days after publication of the notice in the FEDERAL REGISTER.

(2) Dual operations may be involved in this proceeding.

MC 140665 (Sub-40F), filed October 4, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Greer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Paint, paint products, aerosol products, and adhesives*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Hubbard, Deshler, Dayton, Brooklyn Heights, and Bedford Heights, OH, Fulton and Richmond, KY, and Elgin and Chicago, IL, on the one hand, and, on the other, points in CA and TX. (Hearing site: Cleveland, OH and Washington, DC.)

NOTES.—(1) The person or persons engaged in common control of application and another regulated carrier must file an application under section 5(2) of the Interstate Commerce Act for common control or show why such application is not necessary. This must be done within 30 days after publication of this notice in the FEDERAL REGISTER. (2) Dual operations may be involved in this proceeding.

MC 141046 (Sub-10F), filed August 30, 1978. Applicant: MASON O. MITCHELL, d.b.a., M. MITCHELL TRUCKING, 1911 I Street, LaPorte, IN 46350. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *corn products and soybean products*, and (2) *chemicals*, in containers, from Decatur, IL, to points in CT, MA, ME, NH, and RI, under continuing contract(s) with A. E. Staley Manufacturing Co., at Decatur, IL. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 141232 (Sub-6F), filed August 29, 1978. Applicant: STATEWIDE TRUCKING CO., a corporation, 1801 W. Oxford, Englewood, CO 80110. Representative: A. B. Ballah Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *building materials*, and *fencing*, between points in WY, and on the one hand, on the other, points in NE on and west of U.S. Hwy 281. (Hearing Site: Denver, CO, or Cheyenne, WY.)

MC 141781 (Sub-10F), filed September 5, 1978. Applicant: LARSON TRANSFER & STORAGE CO., INC., 950 West 94th Street, Minneapolis, MN 55431. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *Common Carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in by retail stores (except foodstuffs and commodities in bulk) *and* (2) *foodstuffs*, in mixed shipments with the commodities in (1) above, from the facilites of Target Stores, at Minneapolis, MN, to points in SD. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 141781 (Sub-11F), filed September 5, 1978. Applicant: LARSON TRANSFER & STORAGE CO., INC., 950 West 94th Street, Minneapolis, MN 55431. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Wire steel springs*, from Logansport, IN, to Sioux Falls, SD. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

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MC 141921 (Sub-20F), filed September 6, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses* as described in sections A, B and C of Appexdix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities used by John Morrell and Company, at or near (a) Estherville, IA, and (b) Sioux Falls, SD, to points in CT, FL, GA, ME, MA, MD, NH, NJ, VT, RI, PA, NY, OH, DE, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Concord, NH, or Boston, MA.)

NOTE.—Dual operations are involved in this proceeding.

MC 142672 (Sub-28F), filed August 28, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appexdix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Palestine, TX, to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NY, OH, OK, PA, and TN. (Hearing site: Dallas, TX, or Tulsa, OK.)

NOTE.—Dual operations are involved in this proceeding.

MC 142941 (Sub-19F), filed September 6, 1978. Applicant: SCARBOROUGH TRUCK LINES, 1313 N. 25th Avenue, Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except frozen) from the facilities of Ocean Spray Cranberries, Inc., at (a) Kenoska, WI, and (b) North Chicago, IL, to points in KS, OK, TX, NM, and to the facilities of Diamond Sunsweet, at (a) Yuba City, CA, and (b) Kansas City, MO. (Hearing site: Kinosha, WI.)

NOTE.—In view of the findings in MC 142941 (Sub-5) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 1 year from its effective date unless, prior to its expiration, applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 143061 (Sub-2F), filed September 5, 1978. Applicant: ELECTRIC TRANSPORT, INC., Post Office Box 528, Eden, NC 27288. Representative: K. Edward Wolcott, Post Office Box 872, Atlanta, GA 30301. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by a manufacturer of electrical products (except commodities which because of size or weight require special equipment, commodities in bulk, and aerospace craft and aerospace craft parts), between points in the U.S. (except AK and HI), under between continuing contract(s) with General Electric Company, of Schenectady, NY. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 143085 (Sub-3F), filed September 26, 1978. Applicant: THE DANIEL CO. OF SPRINGFIELD, a corporation, 419 East Kearney, Springfield, MO 65803. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between Springfield, MO, and Evansville, IN, (b) from Springfield, MO, and Evansville, IN, to points in TX, and (c) between Evansville, IN, and points in MI.

NOTE.—Dual operations are involved in this proceeding.

(Hearing site: Kansas City or St. Louis, MO.)

MC 143085 (Sub-4F), filed September 26, 1978. Applicant: THE DANIEL CO. OF SPRINGFIELD, a corporation, 419 East Kearney, Springfield, MO 65803. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Springfield, MO, and Evansville, IN, to points in CA and OR.

NOTE.—Dual operations are involved in this proceeding.

(Hearing site: Kansas City or St. Louis, MO.)

MC 143117 (Sub-5F), filed September 11, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *cartons, knocked down, and macaroni, vermicelli, and noodles*, between the facilities of Prince Macaroni Manufacturing Company, Inc., at Lowell and Lawrence, MA, on the one hand, and, on the other, points in AL, FL, GA, IA, IL, IN, KY, LA, MD, MI, MN, NC, NE, NY, OH, OK, PA, SC, TX, VA, and WI, under continuing contract(s) with Prince Macaroni Manufacturing Company, Inc., of Lowell, MA.

NOTE.—Dual operations are involved in this proceeding.

(Hearing site: Concord, NH, or Boston, MA.)

MC 143127 (Sub-8F), filed July 26, 1978, previously noticed in the FEDERAL REGISTER issue of September 26, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *canned goods*, from the facilities of (a) Curtice-Burns, Inc., at Alton, Egypt, Leicester, LeRoy, Phelps, Oakfield, Red Creek, Rushville, Shortsville, South Dayton, and Waterloo, NY, (b) Duffy-Mott Company, Inc., at Hamlin and Williamson, NY, and (c) Marion Foods Corp., Division of Seneca Foods Corp., at Dundee, Marion, Newark, Oaks Corners, Williamson, and East Williamson, NY, to points in AL, FL, GA, NC, and SC, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. NOTE: This republication shows FL as a destination state in lieu of "GL." Dual operations are involved in this proceeding. (Hearing site: Buffalo or Syracuse, NY.)

MC 143775 (Sub-21F), filed October 4, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *swimming pools, and materials, equipment, and supplies* used in the manufacture, installation, and assembly of swimming pools, (except commodities in bulk), (a) from Holland, MI, to points in AZ, CO, NV, NM, UT, MT, OK, MO, KS, ND, TN, NE, KY, TX, WA, OR, CA, and GA, and (b) from points in CA, to Holland, MI. (Hearing site: Holland, MI.)

NOTE.—Dual operations are involved in the proceeding.

MC 143812 (Sub-3F), filed August 24, 1978. Applicant: MARTIN E. VAN DIEST, d.b.a., M. VAN DIEST CO., 8087 Victoria Avenue, Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *liquid sugar*, in bulk, from Crockett, CA, to points in AZ, ID, NM, OR, TX, and WA; and (2) *liquid foodstuffs*, in bulk, from points in WA, to points in AZ and CA. (Hearing site: Los Angeles, CA.)

MC 144622 (Sub-5F), filed July 6, 1978, and previously published in the FEDERAL REGISTER issue of September 14, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bicycles, and bicycle parts and accessories*, from Little Rock, AR, to points in MN, IA, MO, LA, KS, NE, OK, TX, WI, IL, MS, TN, KY, AL, GA, FL, IN, MI, OH, SC, NC, PA, WV, VA, MD, DE, MA, CT, NJ, and NY, restricted to the transportation of traffic originating at the facilities of AMF Incorporated at Little Rock, AR. (Hearing site: Little Rock, AR, or Washington, DC.)

NOTE. (1) Dual operations are involved in this proceeding. (2) This republication includes MO as a destination State.

MC 144672 (Sub 4F), filed August 22, 1978. Applicant: VICTORY EXPRESS, INC., Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *business and computer forms*, and (2) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) above, between Langhorne, PA, Dayton, OH, and Indianapolis, IN, on the one hand, and, on the other, those points in the United States on and east of Interstate Hwy 35. (Hearing site: Dayton or Columbus, OH.)

NOTE.—Dual operations are involved in this proceeding.

MC 144682 (Sub 5F), filed August 24, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Representative: Richard T. Churchill, Suite 106, 5001 S. Hulen, Fort Worth, TX 76132. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bakery goods, prepared dough, and icing paste*, from the plantside facilities of the Pillsbury Co., at Denison, TX, to points in NM and CO. (Hearing site: D-FW Airport or Dallas, TX.)

MC 144753 (Sub 1F), filed September 20, 1978. Applicant: RONALD D. OFFUTT, JR. d.b.a. RONALD OFFUTT & SON, Box 126, Glyndon, MN 56547. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *frozen potato products* (except in bulk), from the facilities of Potato Processing Co., at or near Atlanta, GA, to points in FL, AL, SC, VA, NC, TN, MD, LA, and MS, under continuing contract(s) with Potato Processing Co., of Atlanta, GA. (Hearing site: Minneapolis, MN, or Fargo, ND.)

MC 144853 (Sub-2F), filed September 21, 1978. Applicant: JAMES D. WATT, an individual, 729 Mansfield-Lucas Road, Mansfield, OH 44907. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *air conditioning electric motor parts*, between the facilities of Ideal Electric Co., at Mansfield, OH, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Ideal Electric Co., of Mansfield, OH. (Hearing site: Columbus, OH.)

MC 144923 (Sub-1F), filed September 21, 1978. Applicant: KELTRAN, INC., 210 Industrial Parkway, Buffalo, NY 14224. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, in containers, between points in NJ, NY, OH, and PA, under continuing contract(s) with (1) Try-It Distributing Co., Inc., of Buffalo, NY, and (2) Spartan Beverage Corp., of Webster, NY. (Hearing site: Buffalo, NY.)

MC 145152 (Sub-2F), filed August 17, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals, esters, fatty alcohol, coconut oil, softeners, textiles, liquid cleaning compounds, lubricating oils, wax, and fireproofing compounds*, (except commodities in bulk), from Mauldin, SC, Lock Haven, PA, Linden, NJ, and Santa Fe Springs, CA, to points in the United States (except AK and HI). (Hearing site: Mauldin, SC, or Tulsa, OK.)

MC 145152 (Sub-4F), filed August 31, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *electrical applicances, equipment and parts* as described in Appendix VII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, 283, and *materials* used in the manufacture of electrical appliances (except commodities in bulk), from the facilities of Gibson-Metalux Corp., at or near Americus, GA, to points in the United States (except AK, AL, AR, AZ, CA, CO, GA, HI, ID, NM, NV, OR, UT, and WA). (Hearing site: Atlanta, Ga, or Little Rock, AR.)

MC 145236F, filed August 14, 1978. Applicant: MT. HOOD LIMOUSINE, INC., 8705 S. W. Barnes Road, Portland, OR 97225. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, between Portland, OR, on the one hand, and, on the other, Timberline Lodge near Government Camp, OR, and Bowman's Resort near Weeme, OR, limited to the transportation of not more than fifteen (15) passengers in any one vehicle, not including the driver thereof. (Hearing site: Portland, OR.)

MC 145242F, filed August 21, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 1156, Huntington, WV 25714. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from Huntington, WV, to points in IN, IL, NC, NE, MD, DE, NJ, NY, GA (except Atlanta), DC those in MI on and south of MI Hwy 21, those in PA on and east of U.S. Hwy 15, and those in MS on and east of U.S. Hwy 78. (Hearing site: Columbus, OH.)

MC 144247 (Sub-3F), filed September 12, 1978. Applicant: DOWNEY ENTERPRISES INC., 31706 Coast Hwy, South Laguna, CA 92647. Representative: Gregory L. Parkin, 2500 West Orangethorpe, Suite U, Fullerton, CA 92633. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *meats and meat products*, from Denver, CO, to New Haven, CT, Claremont, NH, Inglewood and Newark, NJ, and New York, NY, under continuing contract(s) with United Packing Co., of Denver, CO. (Hearing site: Denver, CO, or Washington, DC.)

MC 145205 (Sub-1F), filed October 4, 1978. Applicant: RECO TRANSPORTATION, INC., Route 1, Box 274, Black Mountain, NC 28711. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. To operate as a *contract carrier*, by motor vehicle,

over irregular routes, transporting *synthetic fibers and synthetic yarns*, from Enka and Highshoals, NC, Clemson, SC, and Chattanooga and Lowland, TN, to points in CA, under continuing contract(s) with American Enka Company, of Enka, NC. (Hearing site: Asheville, NC.)

MC 145252 (Sub-1F), filed August 30, 1978. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chimney assemblies, gas vents*, and *doors*, from Fredricksburg, VA, to points in the United States (except AK, HI, and VA). (Hearing site: Washington, DC.)

NOTE: Dual operations are involved in this proceeding.

MC 145268 (Sub-2F), filed September 26, 1978. Applicant: KENNETH B. HOLM AND GLEN STEED, a partnership, d.b.a. H&S ENTERPRISES, 3150 South 1200 West, P.O. Box 26302, Salt Lake City, UT 84126. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *steel, and steel pipe*, from the facilities of Metra Steel, at Portland, OR, and Oakland, CA, to points in Salt Lake, Weber, Davis, and Utah Counties, UT, and (2) from the facilities of Metra Steel, at Portland, OR, to Oakland, CA, under continuing contract(s) with Metra Steel, of Portland, OR. (Hearing site: Washington, DC.)

MC 145272F, filed August 24, 1978. Applicant: LAWRENCE REIDLINGER, Box 109, Conception Junction, MO 64434. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *sand*, between Stanberry and Burlington Junction, MO, on the one hand, and, on the other, points in Page, Taylor, Ringgold, and Decatur Counties, IA; and (2) *crushed rock*, from points in Page and Taylor Counties, IA, to points in Nodaway and Atchison Counties, MO. (Hearing Site: Kansas City, MO.)

MC 145302F, filed August 29, 1978. Applicant: GULF STATES CORP., Box 7130, Tenton, NJ 08628. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *materials* used in the manufacture of glass, between Fairfield, AL, Wilmington, DE, Shoals, IN, Bow, NH, Camden, NJ, Middletown, OH, Morrisville, PA, Memphis, TN, and Cresap, WV, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with The Calumite Co., of Trenton, NJ. (Hearing Site: Washington, DC.)

MC 145403F, filed September 25, 1978. Applicant: ENSMINGER MOTOR LINES, INC., P.O. Box 166, Frankfort, IL 60425. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *plastic articles* (except commodities in bulk), from the facilities of Mobil Chemical Co., at Joliet, Frankfort, and Chicago, IL, to points in AR, CA, CO, GA, IN, IA, KS, KY, MA, MI, MN, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, WV, WI, and WY, under continuing contract(s) with Mobil Chemical Co., of Macedon, NY. (Hearing site: Chicago or Joliet, IL.)

NOTE: Dual operations are involved in this proceeding.

MC 145423F, filed September 21, 1978. Applicant: C. VAN BOXELL TRANSPORTATION, INC., 763 South Oakwood, Detroit, MI 48217. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *coal tar and coal tar products*, in bulk, in tank vehicles, from Detroit, MI, to points in IL, IN, NJ, NY, OH, PA, and WI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 145558F, filed October 16, 1978. Applicant: AL'S GARAGE, INC., 1805 Lennox Avenue, Lima, OH 45804. Representative: Andrew J. Burkholder, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *wrecked, disabled, and repossessed motor vehicles* (except trailers designed to be drawn by passenger automobiles), and (2) *replacement vehicles* for wrecked and disabled motor vehicles, (except trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, between points in Allen, Hancock, Van Wert, Auglaize, and Hardin Counties, OH, on the one hand, and, on the other, those points in the United States on and east of U.S. Hwy 83. (Hearing site: Columbus, OH.)

MC 145453F, filed September 22, 1978. Applicant: L. CURTIS TRIPP, d.b.a. TAR HEEL STAGE LINES, 1603 Herrington Road, Elizabeth City, NC 27909. Representative: Frank B. Aycock, Jr., P.O. Box 427, Elizabeth City, NC 27909. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in Martin, Bertie, Tyrrell, Chowan, Perquimans, Pasquotank, Camden, Currituck, Washington, Gates, and Hertford Counties, NC, and extending to points in the United States, including AK, but excluding HI. (Hearing site: Elizabeth City, NC, or Norfolk, VA.)

MC 145458F, filed September 28, 1978. Applicant: McLELLAN BUS LINES, P.O. Box 1095, Truro, Nova Scotia, Canada B2N 5G9. Representative: Jerry McLellan (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage*, in round-trip charter operations, beginning and ending at the ports of entry on the international boundary line between the United States and Canada located in ME, and extending to points in the United States (except AK and HI), restricted to the transportation of passengers beginning and ending in the Province of Nova Scotia, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Portland or Bangor, ME.)

NOTE: The restriction and condition contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice of Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the conditions or restrictions was imposed, as being null and void and having no further force or effect.

[FR Doc. 78-33285 Filed 11-27-78; 8:45 am]

[7035-01-M]

[Decisions Volume No. 49]

DECISION-NOTICE

Decided: November 18, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30

days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceeding containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the rights of the Commission which is hereby expressly reserved to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered:

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decisions-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, Jr.,
Secretary.

MC 2202 (Sub-568F), filed September 12, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Beaumont, TX, and Las Cruces, NM, from Beaumont over U.S. Hwy 90 to Houston, TX, then over U.S. Hwy 290 to junction Interstate Hwy 10 near Junction, TX, then over Interstate Hwy 10 to Las Cruces, and return over the same route, (2) between McAllen, TX, and Kingman, AZ, from McAllen over U.S. Hwy 281 to San Antonio, TX, then over U.S. Hwy 87 to Amarillo, TX, then over U.S. Hwy 66 to Kingman, and return over the same route, (3) between Houston, TX, and junction U.S. Hwys 77 and 83, from Houston over U.S. Hwy 90 to San Antonio, TX, then over U.S. Hwy 81 to Laredo, TX, then over U.S. Hwy 83 to junction U.S. Hwy 77, and return over the same route, (4) between Houston and Brownsville, TX, from Houston over U.S. Hwy 59 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Brownsville, and return over the same route, (5) between Victoria and Laredo, TX, over U.S. Hwy 59, (6) between junction TX Hwy 9 and U.S. Hwy 281 at or near Three Rivers, TX, and Corpus Christi, TX, from junction TX Hwy 9 and U.S. Hwy 281 over TX Hwy 9 to junction Interstate Hwy 37, then over Interstate Hwy 37 to Corpus Christi, and return over the same route, (7) between junction U.S. Hwys 60 and 87 and Las Cruces, NM, from junction U.S. Hwys 60 and 87 over U.S. Hwy 60 to Clovis, NM, then over U.S. Hwy 70 to Las Cruces, and return over the same route, (8) between junction U.S. Hwys 87 and 283 and Brady, TX, from junction U.S. Hwys 87 and 283 over U.S. Hwy 283 to junction U.S. Hwy 84, then over U.S. Hwy 84 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 183, then over U.S. Hwy 183 to junction U.S. Hwy 377, then over U.S. Hwy 377 to Brady, and return over the same route, (9) between Victoria and San Antonio, TX, over U.S. Hwy 87, (10) between San Antonio and Del Rio, TX, over U.S. Hwy 90, (11) between Del Rio and Laredo, TX, from Del Rio over U.S. Hwy 277 to junction U.S. Hwy 81, then over U.S. Hwy 81 to Laredo, and return over the same route, (12) between Eagle Pass, TX, and junction TX Hwy 57 and U.S. Hwy 81 at or near Moore, TX, over TX Hwy 57, (13) between Lamesa and Midland, TX, over TX Hwy 349, (14) between Fort Worth and Lubbock, TX, from Fort Worth over U.S. Hwy 180 to junction U.S. Hwy 84, then over U.S. Hwy 84 to Lubbock, and return over the same route, (15) between junction U.S. Hwy 180 and Interstate Hwy 20 and Cisco, TX, over U.S. Hwy 80, (16) between Abilene, TX, and junction U.S. Hwys 84 and 180, over U.S. Hwy 84, (17) between Abilene and Anson, TX, over U.S. Hwy 83, (18) between Comfort, TX, and junction TX Hwy 27 and U.S. Hwy 290, over TX Hwy 27, and (19) between Shreveport, LA, and Beaumont, TX, from Shreveport over U.S. Hwy

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171 to junction LA Hwy 5, then over LA Hwy 5 to junction U.S. Hwy 84, then over U.S. Hwy 84 to junction TX Hwy 7, then over TX Hwy 7 to junction U.S. Hwy 96, then over U.S. Hwy 96 to Beaumont, and return over the same route, serving in (19) no intermediate points and Shreveport for purposes of joinder only, and in (1) through (18), inclusive, serving all intermediate points and points in Aransas, Atascosa, Austin, Bee, Bexar, Brazoria, Brooks, Caldwell, Calhoun, Cameron, Chambers, Colorado, DeWitt, Duval, Fayette, Fort Bend, Frio, Galveston, Goliad, Gonzales, Guadalupe, Hardin, Harris, Hidalgo, Jackson, Jefferson, Jim Hogg, Jim Wells, Karnes, Kenedy, Kleberg, La Salle, Lavaca, Liberty, Live Oak, McMullen, Matagorda, Nueces, Orange, Refugio, San Patricio, Starr, Victoria, Waller, Webb, Wharton, Willacy, Wilson, and Zapata Counties, TX, as off-route points. (Hearing sites: San Antonio, Brownsville, Corpus Christi, and Lubbock, TX, and Albuquerque, NM.)

MC 2900 (Sub-342F), filed October 16, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between New Orleans, LA, and Albertville, AL, from New Orleans over U.S. Hwy 90 to Mobile, AL, then over U.S. Hwy 31 to Birmingham, AL, then over AL Hwy 75 to Albertville, and return over the same route, (2) between Meridian, MS, and Columbus, GA, over U.S. Hwy 80, (3) between Laurel, MS, and Bainbridge, GA, over U.S. Hwy 84, (4) between Meridian, MS, and Pensacola, FL, from Meridian over U.S. Hwy 45 to Mobile, AL, then over U.S. Hwy 90 to Pensacola, and return over the same route, (5) between Eutaw, AL, and Pensacola, FL, from Eutaw over U.S. Hwy 43 to Mobile, AL, then over U.S. Hwy 98 to Pensacola, and return over the same route, (6) between Huntsville, AL, and Marianna, FL, from Hunstville over U.S. Hwy 231 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Marianna, and return over the same route, (7) between Huntsville and Dothan, AL, over U.S. Hwy 431, (8) between Stafford and Clanton, AL, over AL Hwy 22, (9) between Harpersville and Thomasville, AL, from Harpersville over AL Hwy 25 to junction AL Hwy 5, then over AL Hwy 5 to Thomasville, and return over the same route, (10) between Tallassee and Uniontown, AL, from Tallassee over AL Hwy 14 to Greensboro, AL, then over AL Hwy 61 to Uniontown, and return over the same route, (11) between Cuthbert, GA, and Tuscaloosa, AL, over U.S. Hwy 82, (12) between Seale and Troy, AL, from Seale over U.S. Hwy 26 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 29, then over U.S. Hwy 29 to Troy, and return over the same route, (13) between Midway and Brundidge, AL, from Midway over AL Hwy 51 to Clio, AL, then over AL Hwy 10 to Brundidge, and return over the same route, (14) between Gadsden and Birmingham, AL, over U.S. Hwy 411, (15) between Anniston and Sylacauga, AL, from Anniston over AL Hwy 21 to junction Alternate U.S. Hwy 231, then over Alternate U.S. Hwy 231 to Sylacauga, and return over the same route, (16) between Selma and Atmore, AL, from Selma over AL Hwy 41 to junction AL Hwy 21, then over AL Hwy 21 to Atmore, and return over the same route, and (17) between Arab and Guntersville, AL, over AL Hwy 69, serving, in (1) (17), inclusive, all intermediate points. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 2960 (Sub-23F), filed October 17, 1978. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, a corporation, 2301 McKinney St., P.O. Box 18333, Houston, TX 77023. Representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *kitchen cabinets and vanities*, and (2) *such commodities as are used in the installation of the commodities named in (1) above*, from the facilities of Triangle Pacific Corp., at or near McKinney, TX, to points in AR, LA, and OK. (Hearing site: Dallas, TX.)

MC 5470 (Sub-161F), filed October 17, 1978. Applicant: TAJON, INC., a Delaware corporation, R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St., NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *alloys and silicon metals*, in dump vehicles, between points in Montgomery County, AL, on the one hand, and, on the other, those points in the United States in and east of LA, AR, MO, IA, and MN. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 7840 (Sub-5F), filed August 28, 1978. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: E. Stephen Heisley, 806 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum articles, aluminum ingot, aluminum sheet metal, aluminum plate, aluminum scrap, and aluminum foil*, between Oswego, NY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 11220 (Sub-160F), filed October 16, 1978. Applicant: GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of International Paper Co., at or near Texarkana, TX, on the one hand, and, on the other, points in IL, IN, and OH, Shelby County, TN, and those in KY on and north of Interstate Hwy 64, restricted to the transportation of shipments originating at or destined to the facilities of International Paper Co., at or near Texarkana, TX. (Hearing site: Washington, DC.)

MC 21259 (Sub-4F), filed October 20, 1978. Applicant: GERTSEN CARTAGE CO., INC., 3000 Hirsch Street, Melrose Park, IL 60160. Representative: Anthony C. Vance, 1307 Dolley Madison Boulevard—Suite 301, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *refined copper*, in containers or in trailers, from the facilities used by ASARCO, Inc., at or near Chicago, IL, to points in IN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 25869 (Sub-145F), filed October 19, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., P.O. Box 7184, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting (1) *Alcoholic beverages*, from points in MI and IL, to Denver, CO, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of alcoholic beverages, from points in KY and TN, to Denver, CO. (Hearing site: Denver, CO, or Omaha, NE.)

MC 29910 (Sub-195F), filed October 17, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except in bulk),

(1) from Staunton, IL, to points in AR, CO, KS, LA, MS, NM, OK, and TX, and (2) from St. Louis, MO, to points in the United States (except AK and HI). (Hearing site: Washington, DC, or St. Louis, MO.)

MC 29910 (Sub-196F), filed October 17, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the Black Fox Nuclear Plant, at or near Inola, OK, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tulsa, OK, or Washington, DC.)

MC 35320 (Sub-161F), filed October 10, 1978. Applicant: T.I.M.E.-DC, INC., a Delaware corporation, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Electric Company, at or near Mount Vernon, IN, as a off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Evansville, IN, or Louisville, KY.)

MC 51146 (Sub-633F), filed September 5, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by manufacturers and distributors of educational and office supplies (except commodities in bulk), from the facilities of Mead Products, Division of The Mead Corporation, at Kalamazoo, MI, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 51146 (Sub-634F), filed September 5, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *salt and salt products* (except commodities in bulk), (a) from Manistee, MI, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (b) from Rittman, OH, to points in KY, NC, SC, TN, and VA, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL)

MC 51146 (Sub-635F), filed September 6, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *kitchen cabinets and vanities*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of kitchen cabinets and vanities (except commodities in bulk), between Adrian, MI, and Lakeville, MN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 60014 (Sub-87F), filed August 31, 1978. Applicant: AERO TRUCKING, INC., a Ohio corporation, Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *building materials*, from the facilities of Johns Manville Sales Corporation at Waukegan, IL, to points in DE, MD, NJ, NY, OH, PA, VA, WV, and the Lower Peninsula of MI; and (2) *plastic pipe*, from the facilities of Johns Manville Sales Corporation at Jackson, TN, to the destinations named in (1) above. (Hearing site: Washington, DC.)

MC 61396 (Sub-358F), filed September 5, 1978. Applicant: HERMAN BROS., INC. 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith II (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquefied petroleum gases*, in bulk, in tank vehicles, from the facilities of The Cochin Pipeline Company, (1) at or near Mankato and Benson, MN, to points in IA, ND, SD, and WI, (2) at or near Carrington, ND, to points in MN and SD, (3) at or near New Hampton, IA, to points in MN and WI, and (4) at or near Milford, IN, to points in IL, KY, MI, and OH. The certificate to be issued here shall be limited in points of time to a period expiring 5 years from the effective date thereof. (Hearing site: Minneapolis, MN, or Omaha, NE.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 75320 (Sub-198F), filed October 17, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Kerr McGee Corporation, at or near Hamilton, MS, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Jackson, MS, or Oklahoma City, OK.)

MC 77061 (Sub-13F), filed August 29, 1978. Applicant: SHERMAN BROS., INC., 29534 Airport Road, P.O. Box 706, Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Sawmill machinery, logging equipment*, and *contractors' equipment*, (2) *parts* for the commodities named in (1) above, (3) *roadbuilding materials* and *roadbuilding supplies*, (except commodities in bulk), and (4) *iron and steel articles*, between points in Lane and Jackson Counties, OR, on the one hand, and, on the other, those points in CA in and north of Medocino, Glenn, Butte, Plumas and Lassen Counties. (Hearing site: Medford or Eugene, OR.)

NOTE.— Dual operations may be at issue in this proceeding.

MC 105733 (Sub-68F), filed October 3, 1978. Applicant: H.R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals*, in bulk, from Gretna, LA, to points in TX, AR, MO, TN, AL, GA, FL, and LA. (Hearing site: Philadelphia, PA.)

MC 106009 (Sub-10F), filed October 24, 1978. Applicant: CAUSTIC SODA TRANSPORTATION CO., a corporation, P.O. Box 6035, Asheville, NC 28806. Representative: Henry E.

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Seaton, 929 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *caustic soda*, in bulk, in tank vehicles, between Augusta, GA, those points in NC on and west of U.S. Hwy 1, those in SC on and west of U.S. Hwy 1, and those in TN on and east of U.S. Hwy 27. (Hearing site: Asheville, NC.)

MC 106603 (Sub-186F), filed October 4, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *gypsum and gypsum products*, and (2) *materials and supplies* used in the distribution and installation of the commodities named in (1) above, from the facilities of Georgia-Pacific Corporation at or near (a) Wilmington, DE, to points in MI, and (b) Buchanan, NY, to points in MI and OH. (Hearing site: Washington, DC, or Chicago, IL.)

MC 106920 (Sub-78F), filed October 11, 1978. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: David C. Venable, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *spaghetti noodles, and macaroni*, and (2) *products of the commodities named in (1) above*, from the facilities of C. F. Mueller Company, at or near Jersey City, NJ, to points in IL, IN, MI, OH, and WI. (Hearing site: New York, NY.)

MC 107403 (Sub-1117F), filed September 29, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from Marcus Hook, PA, to points in CT, RI, VA, NC, SC, GA, AL, MS, and FL.

Condition: Pursuant to the Decision in MC 107403 (Sub-1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC 107403 Sub-1101F. (Hearing site: Washington, DC.)

MC 107403 (Sub-1118F), filed October 2, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum lubricating oil*, in bulk, in tank vehicles, from New Orleans and Good Hope, LA, to points in AL, AR, FL, GA, IN, KY, MS, OH, and TN.

Condition: Pursuant to the Decision in MC 107403 (Sub-1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC 107403 (Sub-1101F). (Hearing site: Washington, DC.).

MC 107403 (Sub-1119F), filed October 3, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *calcium carbonate and ground limestone*, from points in Talladega County, AL, to points in AR, FL, GA, LA, MS, TN, and SC. CONDITION: Pursuant to the Decision in MC-107403 (Sub-No. 1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 (Sub-No. 1101F). (Hearing site: Washington, DC.)

MC 107403 (Sub-1120F), filed October 3, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry sugar*, in bulk, in tank vehicles, from Supreme, LA, to points in TX, OK, MO, AR, IL, IN, OH, TN, KY, NC, SC, GA, AL, and MS. CONDITION: Pursuant to the Decision in MC-107403 (Sub-No. 1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 Sub. 1101F. (Hearing site: Washington, DC.)

MC 107515 (Sub-1180F), filed October 6, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, fifth floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, in vehicles equipped with mechanical refrigeration, (except in bulk), from Winston-Salem, NC, to points in GA. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved in this proceeding.

MC 107515 (Sub-1181F), filed October 6, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, fifth floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *confectionery and confectionery products*, (except commodities in bulk), from the facilities of (1) Nabisco Confectioners Inc., and Merckens Chocolate, in Cambridge and Mansfield, MA, and (2) Deran Confectionery-Bordon, Inc. at Cambridge, MA, to points in CO, UT, CA, and OR. (Hearing site: Boston, MA.)

NOTE.—Dual operations may be involved in this proceeding.

MC 108461 (Sub-129F), filed May 25, 1978, previously noticed in the FEDERAL REGISTER on August 24, 1978 as MC 108461 Sub-128F. Applicant: SUNDANCE FREIGHT LINES, INC., d.b.a. SUNDANCE TRANSPORTATION, 821 East Pasadena, P.O. Box 7676, Phoenix, AZ 85011. Representative: James E. Snead, P.O. Box 2828, Santa Fe, NM 82501. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Amarillo, TX, and Carlsbad, NM: From Amarillo over U.S. Hwy 87 to Lubbock, TX, then over U.S. Hwy 62 to Carlsbad, and return over the same route, serving the intermediate points of Lubbock, TX, and Hobbs, NM, and serving the off-route points of Eunice, Humble City, Buckeye, Knowles, Lovington, Monument, and Oil City, NM, (2) Between Amarillo, TX, and Roswell, NM: From Amarillo over Interstate Hwy 27 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Roswell, and return over the same route, serving the intermediate points of Clovis and Portales, NM, (3) Between Lubbock, TX, and Clovis, NM, over U.S. Hwy 84, serving no intermediate points, and (4) serving Hobbs, NM, as an intermediate point in connection with carrier's presently authorized regular-route operations between Dallas, TX, and Carlsbad, NM. (Hearing sites: Albuquerque, Hobbs, and Roswell, NM, and Lubbock, TX.)

NOTE.—This republication indicates the correct sub number, and also includes several off-route points in the first territorial description.

MC 108678 (Sub-132F), filed August 28, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sewage treatment plants, sewage lift stations*, and *parts and accessories* for sewage treatment plants and sewage lift stations, from the facilities of Clow Corporation, at or near

Richwood, KY, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 110325 (Sub-89F), filed October 10, 1978. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Widland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Stillwater, OK as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Oklahoma City, OK.)

MC 111401 (Sub-531F), filed September 7, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *petroleum naphtha*, in bulk, in tank vehicles, from Wynnewood, OK, to points in IN; and (2) *industrial waste material*, in bulk, in tank vehicles, from points in MS, to Tulsa, OK. (Hearing site: Dallas, TX, or Oklahoma City, OK.)

MC 112989 (Sub-78F), filed October 19, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97504. Representative: John G. McLaughlin, Suite 1440, 200 Market Building, Portland, OR 97201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (A) *lumber, lumber mill products, millwork, and wood products*, from points in CA, ID, MT, OR, and WA, to points in AR, IL, IN, IA, KS, MI, MN, MO, NE, OH, OK, PA, TX, and WI; and (B)(1) *commodities* the transportation of which, because of size or weight, requires the use of special equipment or special handling, (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), in mixed loads with commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling when the mixed load moves on a single bill of lading from a single consignor, (3) *self-propelled articles*, (4) *farm equipment*, (5) *construction materials, construction equipment, and construction supplies*, (6) *metal articles and pipe*, (except iron and steel pipe), (a) from points in AR, IL, IN, IA, KS, MI, MN, MO, NE, OH, OK, PA, TX, and WI, to points in AZ, CA, ID, NV, OR, and WA, and (b) from points in CA, OR, and WA, to points in AR, IL, IN, IA, KS, MI, MN, MO, NE, OH, OK, PA, TX, and WI. (Hearing sites: Portland, OR, San Francisco, CA, Chicago, IL, and Dallas, TX.)

MC 113106 (Sub-60F), filed September 5, 1978. Applicant: THE BLUE DIAMOND CO., a corporation, 4401 East Fairmont Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *paper and paper products*, from Williamsport, PA, to points in DE, MD, NY (except New York, and Nassau and Suffolk Counties), and WV. (Hearing site: Washington, DC.)

MC 113267 (Sub-365F), filed August 30, 1978. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 AMF, Memphis, TN 38130. Representative: Lawrence A. Fischer (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery houses, from the facilities of Southern States Distribution, Inc., at or near Memphis, TN, to points in AL, AR, FL, LA, MS, TN, those in KY on and west of U.S. Hwy 31E, and those in MO on and south Interstate Hwy 44. CONDITION: Pursuant to the Notice to the Parties in MC 113267 Sub-353, et al., served July 5, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC 113267 Sub-355. (Hearing site: Memphis, TN, or Washington, DC.)

MC 113459 (Sub-125F), filed October 18, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *dust collection systems*, and *parts* for dust collection systems, (2) *grain handling equipment*, and (3) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) and (2) above, between Hutchinson, KS, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Dallas, TX, or Kansas City, KS.)

MC 113459 (Sub-126F), filed October 24, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Tractors* (except tractors used for pulling highway trailers), *lift trucks, excavators, motor graders, scrapers, engines, generators, generators and engines combined, road rollers, pipe layers, and dump trucks* designed for off-highway use, between ports of entry on the International Boundary Line between the United States and Canada in MT, on the one hand, and, on the other, points in the United States, (except AK and HI), restricted to the transportation of traffic originating at or destined to points in the Province of Alberta, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Dallas, TX, or Denver, CO.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 113974 (Sub-54F), filed August 29, 1978. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *rough iron* and *steel castings*, and *rough iron* and *steel forgings*, from Elyria, OH, to St. Louis, MO, Milwaukee, WI, and points in IN and IL. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 114045 (Sub-512F), filed October 10, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J.B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and*

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meat byproducts, and articles distributed by meatpacking houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at Shreveport, LA, and Memphis, TN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 114569 (Sub-255F), filed October 23, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N.L. Cummins (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Printing paper and printed forms,* from Bedford and York, PA, to points in AZ, CA, MO, and TX. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 115162 (Sub-425F), filed August 25, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by retail home improvement, home furnishing, and lumber stores, (except commodities in bulk, in tank vehicles), between points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, NJ, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC, restricted to shipments originating at or destined to the facilities of the Wickes Corporation in the above-named States. (Hearing site: Detroit, MI, or Washington, DC.)

MC 115215 (Sub-33F), filed September 25, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *poles, pilings, crossties, crossarms, and lumber,* from the facilities of Koppers Company, Inc., at or near Gainesville, FL to points in AL, GA, MS, NC, KY, SC, TN, VA, and WV. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 115311 (Sub-304F), filed September 11, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier,* by motor vehicle, over irregular routes transporting *Lumber, particleboard, wallboard, poles, piling, pallets, timbers, crossties, composition board,* and *hardboard,* from points in FL, GA, NC, SC, TN, and VA, to those points in the United States in and east of WI, IA, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

MC 115557 (Sub-17F), filed September 13, 1978. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *prefabricated log buildings, knocked-down* or *in sections,* and (2) *materials and supplies* used in construction, and erection of prefabricated log buildings, from Houlton, ME to points in PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 115654 (Sub-107F), filed August 29, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *fresh meats and packinghouse products,* from the facilities of the Rath Packing Co., at or near Indianapolis, IN, to points in AL, MS, and TN. (Hearing site: Indianapolis, IN, or Nashville, TN.)

NOTE.—In view of the findings in No. MC-115654 (Sub-No. 43) of which official notice is take the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 115841 (Sub-645F), filed September 8, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission), from the facilities of Wheelabrator-Frye, Inc., at or near Mishawaka, IN, and Bedford, VA, to points in AL, AR, AZ, CA, FL, GA, LA, MS, NC, NM, NV, OK, OR, SC, TN, TX, UT, and WA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115904 (Sub-122F), filed August 29, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *iron and steel articles,* (except commodities bulk), between the facilities of (a) Commercial Shearing, Inc., at Youngstown, OH, (b) Gregory Galvanizing Co., at Canton, OH, (c) Dura Bond, Inc., at Export, PA, (d) Young Galvanizing Co., at Pulaski, PA, (e) Hanlon Gregory Co., at Pittsburgh, PA, and (f) Commercial Stamping and Forging at Bedford Park, IL, on the one hand, and, on the other, points in the United States, (except AK and HI), restricted to the transportation of traffic originating at or destined to the above indicated points. (Hearing site: Washington, DC.

MC 116325 (Sub-78F), filed October 6, 1978. Applicant: JENNINGS BOND, d.b.a. Bond Enterprises, P.O. Box 8, Lutesville, MO 63762. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg. St. Louis, MO 63101. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *clay and clay products,* (except commodities in bulk), from points in Pulaski County, IL, to points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Indianapolis, IN.)

MC 116459 (Sub-74F), filed October 20, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *ground limstone and ground limestone products,* in bulk, in hopper-type vehicles, from the facilities of Franklin Limestone Co., at or near Crab Orchard, TN, to points in AL, GA, KY, NC, and SC. (Hearing site: Chattanooga or Nashville, TN.)

MC 116459 (Sub-75F), filed October 20, 1978. Applieant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams (same address as applicant.) To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *asphalt and asphalt products,* in bulk, in tank vehicles, from Knoxville, TN, to points in KY. (Hearing site: Chattanooga, TN, or Houston, TX.)

MC 116519 (Sub-55F), filed October 24, 1978. Applicant: FREDERICK TRANSPORT, LTD., Rural Route 6, Chatham, ON, Canada M7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K street NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Iron and steel articles,* from the facilities of Allegheny Ludlum Steel Corporation in Allegheny, Armstrong, Chester, and Westmoreland Counties, PA, Henry County, IN, and New Haven County, CT, to ports of entry on the International Boundary line between the United States and Canada in MI and NY, restricted to the transportation of traffic moving in foreign commerce and destined to points in the Providence of Ontario, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Washington, DC.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 116519 (Sub-56F), filed October 24, 1978. Applicant: FREDERICK TRANSPORT, LTD., Rural Route 6, Chatham, ON, Canada M7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Scrap metals* for recycling, between ports of entry on the International Boundary line between the United States and Canada in MI, NY, VT, and NH, on the one hand, and, on the other, points in CT, IL, IN, MI, NJ, NY, OH, PA, WV, and WI, restricted to the transportation of traffic moving in foreign commerce and originating at or destined to points in the Provisions of Ontario and Quebec, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Washington, DC.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 116915 (Sub-62F), filed May 30, 1978, and previously noticed in the FEDERAL REGISTER issue of August 24, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, P.O. Box 1365, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *cranes, draglines, backhoes, shovels, and loaders,* and (2) *machinery, attachments, accessories, and parts* used in connection with the commodities in (1) above, between points in the United States (except AK and HI). (Hearing Site: Chicago, IL.)

NOTE.—This republication shows that traffic will not necessarily be moving between specified facilities or be restricted with respect to origin and destination.

MC 117730 (Sub-27F), filed October 4, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, transporting *chemicals* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Rohm & Haas Company, Inc., at or near Bristol, Croydon, and Philadelphia, PA, to points in IL, IN, WI, MO, IA, KS, MI, TN, and MN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 117730 (Sub-29F), filed October 18, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *hospital supplies and drugs,* in vehicles equipped with mechanical refrigeration, from the facilities of Abbott Laboratories, at North Chicago, IL, to those points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 117765 (Sub-246F), filed October 10, 1978. Applicant: HAHN TRUCK LINE, INC., 1100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *roofing materials,* in containers, from Wynnewood, OK, to points in TX. (Hearing site: Oklahoma City, OK.)

MC 118130 (Sub-91F), filed October 11, 1978. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 9093, Forth Worth, TX 76107. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *foodstuffs,* Jacksonville, Orlando, and Madison, FL, to points in LA, OK, and TX. (Hearing site: Dallas, TX, or Jacksonville, FL.)

MC 118159 (Sub-294F), filed October 23, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Such commodities* as are dealt in by home improvement stores, between points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 118831 (Sub-165F), filed September 8, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *liquid commodities,* in bulk, from points in GA, to points in the United States (except AK and HI). (Hearing site: Washington, DC)

MC 119349 (Sub-9F), filed October 24, 1978. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *petroleum and petroleum products,* in containers, from Edison, NJ, to points in FL. (Hearing site: New York, NY.)

MC 119399 (Sub-82F), filed September 26, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375,

Joplin, MO 64801. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *canned goods*, from the facilities of Oconomowoc Canning Co., in Columbia, Dane, Dodge, and Lincoln Counties, WI, to points in AR, KS, LA, MO, NM, OK, and TX. (Hearing site: Kansas City, MO.)

MC 119399 (Sub-83F), filed October 20, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW., 58th Street, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *uncrated flat glass*, and (2) *crated flat glass* moving in mixed loads with uncrated flat glass, from Tulsa, OK, to points in AL, AZ, CA, CT, DE, FL, GA, ID, ME, MD, MA, MT, NV, NJ, NH, NY, NC, OH, OR, PA, RI, SC, UT, VT, VA, WA, WV, and DC. (Hearing site: Tulsa, OK, or Kansas City, MO.)

MC 119654 (Sub-60F), filed August 29, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Such commodities* as are dealt in or used by manufacturers and distributors of paper products and plastic products (except commodities in bulk, and those which because of size or weight require the use of special equipment), (1) between Chicago, IL, on the one hand, and, on the other, points in IN, KY, MI, MO, OH and WI, and (2) between Louisville, KY, on the one hand, and, on the other, points in IL, IN, MI, MO, OH and WI, restricted to the transportation of traffic originating at or destined to the facilities of Continental Plastics Industries. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119741 (Sub-110F), filed September 7, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods*, from the facilities of Mid-Continent Underground Storage, at or near Bonner Springs, KS, to points in TX and OK. Restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 119765 (Sub-60F), filed October 10, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 766, (except hides and commodities in bulk), from Omaha, NE, to the facilities of Royal Packing Company, at St. Louis, MO. (Hearing site: Omaha, NE, or Chicago, IL.)

MC 119765 (Sub-61F), filed October 10, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cheese*, from the facilities of Newman Grove Creamery, at Newman Grove, NE, to points in the United States (except AK and HI). (Hearing site: Omaha, NE.)

MC 119765 (Sub-62F), filed October 10, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as defined in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 766 (except hides and commodities in bulk), from Omaha, NE, to points in WI. (Hearing site: Omaha, NE.)

MC 119789 (Sub-525F), filed October 19, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 766 (except hides and commodities in bulk), from Guymon, OK and Clovis, NM, to points in AL, CT, DE, FL, GA, KY, ME, MA, MD, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, and WV. (Hearing site: Chicago, IL.)

MC 119789 (Sub-526F), filed October 19, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *carbonated mineral water*, in containers, from New York, NY, Baltimore, MD, Charleston, SC, Savannah, GA, Jacksonville, Miami, and Tampa, FL, Mobile, AL, New Orleans, LA, Dallas, Houston, and Galveston, TX, and Los Angeles and San Francisco, CA, to points in the United States (except AK and HI). (Hearing site: New York, NY.)

MC 119789 (Sub-527F), filed October 23, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 766 (except hides and commodities in bulk), from Kansas City, MO, Grand Island, NE, and Rochelle, Bradley, and St. Charles, IL, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV. (Hearing site: Chicago, IL.)

MC 121496 (Sub-13F), filed September 6, 1978. Applicant: CANGO CORP., Suite 2900, 1100 Milam Building, Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Chemicals*, in bulk, in tank vehicles, from the facilities of Union Carbide Corp., at or near Texas City, TX, to points in AL, AR, CA, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WV, WI, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Houston, TX.)

MC 121777 (Sub-2F), filed September 13, 1978. Applicant: PACKARD TRUCK LINES, INC., P.O. Box Drawer H, Buras, LA 70041. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *oil field machinery, equipment, materials, and supplies*, (except commodities in bulk), between Cameron, LA, on the one hand, and, on the other, points in TX. (Hearing site: New Orleans or Baton Rouge, LA.)

MC 124025 (Sub-12F), filed October 10, 1978. Applicant: GLASS TRUCKING CO., a corporation, 200 Chestnut Street, P.O. Box 276, Newkirk, OK 74647. Representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 North Classen, Oklahoma City, OK 73106. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *fencing and fencing materials, and wire and wire products*, from the facilities of Bekaert Steel Wire Corp., at Van Buren, AR, to points in the United States (except AR, AL, GA, IL, IN, IA, KS, KY, LA, MS, MO, NM, OH, OK, NE, TN, TX, AK, and HI), (2) *coiled steel wire rods*, from points in the United States (except AK and HI), to the facilities of Bekaert Steel Wire Corp., at Van Buren, AR, and (3) *steel wire carriers*, from the facilities of Georgetown Steel Corp., at or near Beaumont, TX, to the facilities of Bekaert Steel Wire Corp., at Van Buren, AR, under a continuing contract in (1), (2), and (3) above, with Bekaert Steel Wire Corp., of Van Buren, AR. (Hearing site: Fort Smith, AR.)

MC 124151 (Sub-8F), filed September 6, 1978. Applicant: VANGUARD TRANSPORTATION, INC., Lafayette Street, Carteret, NJ 07008. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *liquid chemicals* and *petroleum products*, in bulk, in tank vehicles, from points in Bergen, Essex, Hudson, Middlesex, and Union Counties, NJ, to points in MA, CT, RI, NY, NJ, PA, DE, and MD; (2) *chemicals*, from Philadelphia, PA, to New York, NY; and (3) *silver slurry*, in bulk, in tank vehicles, from Binghamton, NY, to Linden, NJ. (Hearing site: Washington, DC or New York, NY.)

MC 124692 (Sub-241F), filed September 11, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron* and *steel articles*, (1) from Chicago, IL, Wilmington, DE, Canonsburg, PA, Jersey City and Camden, NJ, New Orleans, LA, Savannah, GA, and Houston, TX, to those points in the United States in and east of ND, SD, NE, CO, and AZ, and (2) from Los Angeles, CA, to points in AZ, CA, CO, and NM. (Hearing site: Portland, OR.)

MC 124692 (Sub-242F), filed September 11, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bolts, nuts*, and *washers*, from Lakeville, MN, to points in AZ, CA, ID, MT, NV, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Minneapolis, MN.)

MC 124692 (Sub-244F), filed September 11, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *steel bars, wire products* on tubular carriers, and *fabricated steel articles*, from Maryville, MO, to points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NM, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: St. Louis, MO.)

MC 126514 (Sub-45F), filed August 28, 1978. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *photographic and reproductive equipment, parts and accessories* for photographic and reproductive equipment, *chemicals, paper, paper products, and plastic articles*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, and (2) *equipment, materials, and supplies* used in the manufacture and sale of the commodities in (1) above, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Scott Graphics, Inc., at Holyoke, MA, on the one hand, and, on the other, points in AZ and CA, restricted to the transportation of traffic originating at or destined to the above indicated points. (Hearing site: New York, NY, or Boston, MA.)

MC 127042 (Sub-226F), filed September 11, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cleaning compounds, polishing compounds, sodium hypochlorite solution, soap based compounds, rust preventive lube oils, rust preventive lube oils and greases, deodorants, disinfectants, facric softeners, textile softeners, plastic bags*, and *coffee filters* (except commodities in bulk), from the facilities of Economics Laboratory, Inc., at Joliet, IL, to points in AZ, CA, CO, IA, MN, NE, NV, OR, SD, UT, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL.)

MC 127625 (Sub-32F), filed September 26, 1978. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, SC 29059. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cement mixes and mortar mixes, coal mix asphalt, sand, vinyl concrete patcher, lime, masonry coating, tile grout, hydraulic cement*, and *adhesives*, in containers, from the facilities of W. R. Bonsal Company, at or near Lilesville, NC, to points in SC. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 128652 (Sub-14F), filed September 11, 1978. Applicant: LARSON TRANSFER & STORAGE CO., INC. 950 West 94th Street, Minneapolis, MN 55431. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products* and *meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Minneapolis, MN, to points in the United States (except AK, HI, and MN), under a continuing contract with International Multifoods, King Food Division, of South St. Paul, MN. (Hearing Site: Minneapolis or St. Paul, MN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 129537 (Sub-28F), filed September 11, 1978. Applicant: REEVES TRANSPORTATION CO., a Florida corporation, Rt. 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan Street, Tampa, FL 33602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic articles*, and (2) *materials and supplies* used in the manufacture and distribution of plastic articles, from points in LA and TX, to points in AL, FL, GA, KY, NC, SC, and TN. (Hearing site: Atlanta, GA.)

MC 133314 (Sub-4F), filed August 31, 1978. Applicant: SILVAN TRUCKING CO., INC., R.R. 2, Box 137, Pendleton, IN 46064. Represetative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal feed, feed ingredients, additives, and materials and supplies* used in the manufacture and distribution of animal feeds, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, Columbus, OH, Terre Haute,

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IN, Indianapolis, IN, Sherburne, NY, Hutchinson, KS, Ogden, UT, and Vernon, CA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Indianapolis, IN, or Louisville, KY.)

MC 133591 (Sub-41F), filed May 10, 1978, and previously noticed in the FEDERAL REGISTER issue of July 18, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Heating and cooling systems, steel, insulation, insulation materials, electric motors, blowers,* and *paint*, (2) *materials, supplies,* and *equipment* used in production and installation of heating and cooling systems; and (3) *parts* and *accessories* of heating and cooling systems, (except commodities in bulk and commodities which, require use of special equipment), from Mount Vernon, MO, to points in MN, WI, MI, IA, TN, KY, IL, AR, LA, MS, TX, OK, KS, NE, ND, SD, MT, WY, CO, NM, AZ, UT, ID, WA, OR, CA, and NV. (Hearing site: Kansas City or St. Louis, MO.)

NOTES.—(1) This republication modifies the commodity description. (2) The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 134494.

MC 135070 (Sub-13F), filed October 3, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cleaning compounds* (except in bulk), from the facilities, of The Proctor & Gamble Distributing Company, at or near Alexandria, LA, to Houston, TX. (Hearing site: Cincinnati, OH, or Amarillo, TX.)

MC 135183 (Sub-9F), filed August 16, 1978. Applicant: KERR CONTRACT CARRIAGE, INC., Route 4, Salem, MO 65560. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo 63105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *charcoal* and *charcoal briquettes*, from Seymour, MO, to points in IA, NE, AR, WV, AL, MN, SC, NC, FL, GA, IL, IN, KS, KY, MI, MS, OH, OK, WI, PA, TX, VA, LA, and TN (except Memphis), under a continuing contract with Floyd Charcoal Co., of Salem, MO. (Hearing site: St. Louis or Jefferson City, MO.)

MC 136511 (Sub-26F), filed September 11, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture, furniture parts,* and *clocks*, (1) from points in Henry County, VA, and Moore and Davidson Counties, NC, to points in ID, MT, WY, CO, and NM, and (2) from points in VA (except Henry County and points in NC (except Moore and Davidson Counties, to points in CA, OR, WA, ID, NV, AZ, MT, WY, UT, CO, and NM. (Hearing site: Greensboro, or Charlotte, NC.)

NOTE.—Taking official notice pursuant to the Decision in MC 136511 Sub 7, et al., served July 13, 1978, applicant must submit written evidence in the form of a verified statement demonstrating that it is fit, willing, and able to perform the service granted in this proceeding.

MC 136605 (Sub-76F), filed October 6, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *prefabricated metal buildings*, knocked down, and (2) *parts, components, and accessories* used in the manufacture of the commodities in (1) above, from the facilities of Kirby Building Systems, at or near Spanish Fork, UT, to those points in the United States in and west of ND, SD, NE, CO, and NM (Except UT, AK, and HI). (Hearing site: Salt Lake City, UT.)

MC 138157 (Sub-84F), filed September 1, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic carpeting, adhesives, sealants, solvents, stains, preservatives, weather stripping, wood trim, wood fillers, paint, and supplies for paint and wall covering*, (except commodities in bulk, in tank vehicles), from the facilities of Roberts Consolidated Industries, Inc., at (a) Kalamazoo, MI and (b) Dayton, OH, to those points in the United States east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Lost Angeles, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138510 (Sub-10F), filed September 29, 1978. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Avenue, Pomona, NJ 18240. Representative: J. Raymond Clark, Suite 1150, 600 New Hampshire Avenue NW., Washington, DC 20037. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, in containers, from Rochester, NY, to Pleasantville, NJ, under a continuing contract with Harrison Beverage Co., of Pleasantville, NJ. (Hearing site: Atlantic City or Trenton, NJ.)

NOTE.—Dual operations may be involved.

MC 138762 (Sub-26F), filed September 7, 1978. Applicant: MUNICIPAL TANK LINES LTD., a corporation, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid asphalt products*, in bulk, in tank vehicles, from the port of entry on the International Boundary line between the United States and Canada, at or near Buffalo, NY, to points in NY, restricted to the transportation of traffic originating at points in the Province of Ontario, Canada. (Hearing site: Washington, DC, or Buffalo, NY.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials, regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

NOTE.—(1) The person or persons who appear to be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (2) Dual operations may be at issue in this proceeding.

MC 138875 (Sub-113F), filed October 10, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *recyclable scrap materials* (except in bulk, in tank vehicles), from points in CO, NM, and NV, to points in CA, NV, OR, UT, and WA. (Hearing site: Denver, CO, or Boise, ID.)

MC 138882 (Sub-138F), filed August 24, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *non-ferrous scrap metal*, in containers, from points in GA, MS, IL, OH, PA, MO, MI, IN, NJ, TN, KY, AL, and NC, to the facilities of Metal Processors, Inc., at Jackson, MS. (Hearing site: Jackson, MS, or Montgomery, AL.)

MC 138882 (Sub-154F), filed September 11, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *perlite board*, from the facilities of the Johns-Manville Corp., at Natchez, MS, to the facilities of the Celotex Corp., at Elizabethtown, KY. (Hearing site: Tampa, FL, or Montgomery, AL.)

MC 138956 (Sub-9F), filed September 4, 1978. Applicant: ERGON TRUCKING, INC., 202 East Pearl Street, Jackson, MS 39201. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum crude oil and petroleum crude oil condensates*, in bulk, in tank vehicles, from those points in MS on and south of U.S. Hwy 80, to Chalmette and Meraux, LA. (Hearing site: Jackson, MS.)

MC 139247 (Sub-3F), filed September 21, 1978. Applicant: COOPER BROTHERS, INC., P.O. Box 167, Braselton, GA 30517. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE, Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), from points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC, to the facilities of Colonial Stores, Inc., at Cordele, GA, under continuing contract with Colonial Stores, Inc., of Atlanta, GA. (Hearing site: Atlanta, GA.)

MC 139897 (Sub-6F), filed September 21, 1978. Applicant: ORRAN HOFSTETTER, INC., P.O. Box 237, Route 2, Orrville, OH 44667. Representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *coal*, in bulk, in dump vehicles, from points in Monogalia County, WV, to points in Sandusky and Seneca Counties, OH. (Hearing site: Columbus, OH.)

MC 140024 (Sub-127F), filed August 28, 1978. Applicant: J. B. Montgomery, Inc., a Delaware corporation, 5565 East 53d Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes transporting (1) *iron castings and steel castings*, from La Porte and New Castle, IN, Ludington, MI, and Tiffin, OH, to Colorado Springs, CO; (2) *iron castings, steel castings, iron stampings, steel stampings, and internal combustion engine parts*, from Auburn IN, to Colorado Springs, CO, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Colorado Springs or Denver, CO.)

MC 141795 (Sub-2F), filed September 7, 1978. Applicant: A & B EXPRESS CO., INC., P.O. Box 567, Fair Lawn, NJ 07410. Representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *citrus products* (except in bulk), *and canned non-acoholic beverages and beverage concentrates*, between the facilities of Tropicana Products, Inc., at Kearny, NJ, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, under a continuing contract with Tropicana Products, Inc., of Kearny, NJ. (Hearing site: New York, NY.)

MC 143456 (Sub-3F), filed September 11, 1978. Applicant: THEODORE ROSSI TRUCKING CO., INC., P.O. Box 332, Barre, VT 05641. Representative: William L. Rossi (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *stone, stone working materials, stone working machinery, and stone working supplies*, (a) between the facilities of Rock of Ages Corporation in VT, and the facilities of Rock of Ages Building Granite Corporation, at Concord, NH, (b) between the facilities of Rock of Ages Building Granite Corporation, at or near Concord, NH, on the one hand, and, on the other, points in TX and those in the United States in and east of WI, IL, KY, TN, MS, and LA; (c) from points in Texas and those in the United States in and east of WI, IL, KY, TN, MS, and LA, to the facilities of Rock of Ages Corporation in VT, and (2) *building stone*, from the facilities of Rock of Ages Corporation in VT, to points in PA, OH, MD, VA, and DC, under continuing contract in (1) and (2) above, with Rock of Ages Corporation of Barre, VT, and Rock of Ages Building Granite Corporation, of Concord, NH.

Condition: The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval. (Hearing site: Barre, VT, or Concord, NH.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143873 (Sub-3F), filed October 2, 1978. Applicant: TITAN TRANSFER, INC., 4302 South 30th Street, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meat, meat products and meat byproducts, and articles distributed by meatpacking houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from the facilities of Swift & Co., at Des Moines, IA, to Omaha, NE, and (2) from Fremont, NE, to those points in IA on south and west of a line beginning at the Missouri River and IA Hwy 175, then east on IA Hwy 175 to junction U.S. Hwy 65, then south along U.S. Hwy 65 junction to U.S. Hwy 34, then east along U.S. Hwy 34 to junction U.S. Hwy 63, and south along U.S. Hwy 63 to the IA-MO State line. (Hearing site: Omaha, NE.)

MC 144282 (Sub-2F), filed August 28, 1978. Applicant: JAMES RECK, d.b.a. JAMES RECK TRUCKING, 4029 West McDowell, No. 4, Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *cement roofing tile, and accessories* used in the installation of cement roofing tile, from the facilities of Staco Roof Tile, In Phoenix, AZ, to points in CA, CO, NV, NM, TX, and UT, under a continuing contract with Staco Roof Tile, Division of Kinsman Industries, of Phoenix, AZ. (Hearing site: Phoenix, AZ.)

MC 144330 (Sub-45F), filed October 3, 1978. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Clearfield, UT 84016. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *asbestos cement pipe, couplings,* and *fittings*, and (2) *accessories* used in the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of CertainTeed Cor-

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poration, at or near Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT, or Philadelphia, PA.)

MC 144330 (Sub-47F), filed October 16, 1978. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake, UT 84110. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *wooden pallets*, from Fayetteville and Van Buren, AR, and Morris, OK, to points in KS, TX, and UT. (Hearing site: Salt Lake City, UT, or Little Rock, AR.)

MC 144440 (Sub-3F), filed October 11, 1978. Applicant: RICHARD D. DOMBACH, 58 South Duke Street, Millersville, PA 17551. Representative: John W. Metzger, 49 North Duke Street, Lancaster, PA 17602. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *agricultural chemicals* (1) from the facilities of Lebanon Chemical Corporation, at or near Baltimore, MD, to Millersville, PA, and points in Chester, Columbia, Cumberland, Dauphin, Lebanon, Snyder, and York Counties, PA, and (2) from the facilities of Lebanon Chemical Corporation, at or near Allentown, PA, to Baltimore, MD, under a continuing contract with Lebanon Chemical Corporation, of Lebanon, PA. (Hearing site: Lancaster or Harrisburg, PA.)

MC 144622 (Sub-14F), filed August 28, 1978. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR, 72219. Representative: Ted Polydoroff, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *mattresses, boxsprings, batting* and *wadding*, from Memphis, TN, to points in OK, TX, LA, FL, AL, NC, SC, IL, and OH. (Hearing site: Memphis, TN, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 144622 (Sub-15F), filed August 28, 1978. Applicant: GLENN BROS. TRUCKING INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Ted Polydoroff, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *protective coating paint, insulation, ice-making and refrigerating kits, cork*, and *insulation tape*, from Wynne and Colt, AR, to points in NJ, NY, MD, OH, and MI. (Hearing site: Memphis, TN, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 144622 (Sub-17F), filed September 15, 1978. Applicant: GLENN BROS. TRUCKING INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *straw florist forms*, from Gastonia, NC, to points in AL, AR, CT, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, NH, OK, PA, RI, SC, SD, TX, TN, VT, VA, WV, and WI. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144692 (Sub-1F), filed September 11, 1978. Applicant: G. L. MAN TRUCKING, 551 East 18th Street, Hastings, MN 55033. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry fertilizer*, in bulk, (1) from Pine Bend, MN, to points in IA, the Upper Peninsula of MI, NE, ND, SD, MN, and WI, and (2) from Minneapolis and Winona, MN, to points in ND and WI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 144926 (Sub-2F), filed September 5, 1978. Applicant: E. W. WYLIE CORP., P.O. Box 1188, Fargo, ND 58102. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *sugar beet pulp pellets*, in bulk, from the facilities of Minn-Dak Farmers Cooperative, Inc., at or near Wahpeton, ND, to Minneapolis, MN, (2) *sugar beet pulp pellets*, from the facilities of Minn-Dak Farmers Cooperative, Inc., at or near Wahpeton, ND, to Duluth, MN, and (3) *limerock*, from Duluth, MN, to the facilities of Minn-Dak Farmers Cooperative, Inc., at or near Wahpeton, ND, under a contract with Minn-Dak Farmers Cooperative, Inc., of Minneapolis, MN. (Hearing site: Fargo, ND, or Minneapolis, MN.)

MC 145150 (Sub-3F), filed October 5, 1978. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, R.R. 32, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *anhydrous ammonia*, in bulk, from the facilities of the Mapco Pipeline Terminal, at or near Mocane, OK, to points in KS and TX. (Hearing site: Kansas City, MO.)

MC 145214 (Sub-1F), filed August 31, 1978. Applicant: DONALD M. CAMPBELL, d.b.a. CAMPBELL TRUCKING CO., 3017 Falls Church Lane, Mesquite, TX 75149. Representative: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *soil inoculant* (except in bulk, in tank vehicles), from Dallas, TX, to points in the United States (except AK and HI) under continuing contract with SnCorp, Inc., of Dallas, TX. (Hearing site: Dallas, TX.)

MC 145267 (Sub-1F), filed August 31, 1978. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ 08360. Representative: L. Agnew Myers, Jr., 407 Walker Building, 734 15th Street NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *metal alloys, aluminum articles, containers, cement brick, mortar brick, castings, forgings, chemicals, polishing compounds, graphite crucibles, furnace electrodes, fluorspar, fly ash, powdered iron, scrap iron, metals, ores, pallets, and slag pots*, (1) from the facilities of Shieldalloy Corporation, at or near Newfield, NJ, to points in AL, IA, IL, IN, KY, LA, MD, MI, MO, NC, NY, OH, PA, TN, TX, and WV, and (2) from Birmingham, AL, Chicago, IL, St. Louis, MO, Atlanta, GA, and Freeport and Texas City, TX, to the facilities of Shieldalloy Corporation, at or near Newfield, NJ, under continuing contract, with Shieldalloy Corporation, of Newfield, NJ. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 145317 (Sub-1F), filed September 21, 1978. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel, San Antonio, TX 78218. Representative: Pat H. Robertson, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cement*, in bulk, from points in Hays County, TX, to points in AR, LA, NM, and OK. (Hearing site: San Antonio or Austin, TX.)

MC 145317 (Sub-2F), filed September 21, 1978. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel, San Antonio, TX 78218. Representative: Pat H. Robertson, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cement*, in bulk, from points in Bexar County, TX, to points in AR, LA (except Bossier City), NM, and OK. (Hearing site: San Antonio or Austin, TX.)

MC 145336 (Sub-1F), filed September 5, 1978. Applicant: R. G. H. TRANSPORTATION, INC., 6000 Gum Springs Road, P.O. Box 7072, Longview, TX 75602. Representative:

Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *paneling*, from Jacksonville, FL, to points in AR, IA, KS, MO, NE, OK, and TX, under continuing contract with D. G. Shelter Products, Inc., of Newton, KS. (Hearing site: Dallas, TX, or Washington, DC.)

MC 145351F, filed September 11, 1978. Applicant: CHARLES SORRELS, d.b.a. SORREL's TRUCKING CO., 66 East Farrow, Memphis, TN 38106. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Memphis, TN, and Burnsville, MS, over U.S. Hwy 72, serving the intermediate point of Corinth, MS, and serving all points in Tishomingo County, MS, as off-route points, (2) between Corinth, MS, and Savannah, TN, from Corinth over U.S. Hwy 45 to junction MS Hwy 2, then over MS Hwy 2 to the MS-TN State line, then over TN Hwy 22 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Savannah, TN, and return over the same route, serving no intermediate points but serving the off-route point of Counce, TN, (3) between Corinth, MS, and Bethel Springs, TN, over U.S. Hwy 45, serving the intermediate point of Selmer, TN, and the off-route point of Ramer, TN, and (4) between Savannah, TN, and Selmer, TN, over U.S. Hwy 64, serving no intermediate points, as an alternate route for operating convenience only, restricted in (1) above against the transportation of traffic in that portion of the Memphis, TN commercial zone within AR. (Hearing site: Memphis, TN, and Corinth, MS.)

MC 145589F, filed October 22, 1978. Applicant: HALL SYSTEMS, INC., 212 South 10th Street, Birmingham, AL 35233. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, valves, couplings, gaskets, fittings, hydrants, and castings*, from the facilities of United States Pipe & Foundry Co., Birmingham Division, at or near Birmingham and Bessemer, AL, to points in the United States (except AK and HI), and (2) *machinery, materials* and *supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk, in tank vehicles), in the reverse direction, under a continuing contract in (1) and (2) above, with United States Pipe & Foundry Company, of Birmingham, AL. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 145591F, filed September 11, 1978. Applicant: ACE MOVING & STORAGE CO., INC., 2400 34th Street, Gulfport, MS 39501. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *used household goods*, between points in Baldwin, Clarke, Conecuh, Escambia, Mobile, and Washington Counties, AL, Jefferson, Orleans, St. Bernard, St. Tammany, Tangipahoa, and Washington Parishes, LA, and Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jefferson Davis, Jones, Lamar, Lawrence, Marion, Pearl River, Perry, Pike, Stone, Walthall, and Wayne Counties, MS. Restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments. (Hearing site: Gulfport or Biloxi, MS.)

[FR Doc. 78-33286 Filed 11-27-78; 8:45 am]

[7035-01-M]

[No. MC-129068 (Sub-No. 38)]

GRIFFIN TRANSPORTATION, INC., EXTENSION—UNITED STATES (OKLAHOMA CITY, OK)

Decision

Decided: November 1, 1978.

We have considered the application and the record in this proceeding, including the initial decision of the Administrative Law Judge, the exceptions filed by Chandler Trailer Convoy, Inc., protestant, and the reply filed by applicant.

The Administrative Law Judge recommended the granting to applicant of the certificate authorizing the operations described in the appendix to this decision.

The pleadings raise no new or meterial matters of fact or law not adequately considered and properly disposed of by the Administrative Law Judge in his initial decision, and are not of such nature as to require the issuance of a decision discussing the evidence in the light of the pleadings.

We find:

The evidence considered in the light of the pleadings does not warrant a result different from that reached by the Administrative Law Judge. The statement of facts, the conclusions, and the findings of the Administrative Law Judge in his initial decision are proper and correct in all material respects, and are affirmed and adopted as our own. This decision does not significantly affect the quality of the human environment. An appropriate certificate should be granted.

It is ordered:

The application is granted to the extent set forth below. A certificate will be issued if applicant complies with the appropriate requirements set forth in the Code of Federal Regulations (49 CFR 1043, 1044 and 1307). Applicant must comply within 90 days after the date of service of this decision (or such additional time as may be authorized by the Commission). If it fails to comply, the grant of authority will be void.

This decison will become effective 30 days from the date of service.

By the Commission, Division 2, Commissioners Stafford, Gresham, and Christian. Commissioner Stafford dissenting.

H. G. HOMME, Jr.,
Acting Secretary.

SERVICE AUTHORIZED: Operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, transporting trailers designed to be drawn by passenger automobiles, in secondary movements (except recreational vehicles), from points in Alabama, California, Florida, Georgia, Indiana, Mississippi, North Carolina, and South Carolina to points in the United States (except Alaska and Hawaii).

CONDITION: The above service authorization is subject to prior publication in the FEDERAL REGISTER of a notice of the authority actually granted by this decision and any interested party will have 30 days from the publication of the notice to petition for intervention or other appropriate relief, showing precisely how it has been prejudiced by the grant of authority.

NOTICE: By this decision, this proceeding is rendered administratively final within the meaning of 49 CFR 1101.2(f) of the Commission's regulations; and, in accordance with the provisions of Section 558(c) of the Administrative Procedure Act, any corresponding temporary authority expires and operations thereunder must cease upon the effective date of this decision, except that to the extent permanent authority is granted in this proceeding (and if partial, only to that extent) the corresponding temporary authority or portion thereof will continue in effect until a certificate or permit is issued and becomes effective. The filing of any further pleadings in this matter will not stay the expiration of the temporary authority related to the denied portion of the sought permanent authority.

[FR Doc. 78-33288 Filed 11-27-78; 8:45 am]

[7035-01-M]

[Volume No. 125]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS

Applications

NOVEMBER 22, 1978.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. a protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 147(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 119774 (Sub-96F), filed October 30, 1978. Applicant: EAGLE TRUCKING COMPANY, a Corporation, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, (2) earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities into or from holes or wells, (a) between points in AZ, CO, MT, NV, ND, SD, UT and WY; and (b) between points in AZ, CO, MT, NV, ND, SD, UT and WY, on the one hand, and, on the other, points in TX, OK, KS, LA, and NM. (Hearing Site, Denver, CO, November 28, 1978, 9:30 a.m. local time.)

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33289 Filed 11-27-78; 8:45 am]

[7035-01-M]

[Notice No. 135]

MOTOR CARRIER TRANSFER PROCEEDINGS

Dated: November 28, 1978

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR part 1132:

MC-FC 77716. By application filed November 13, 1978, GRAHAM H. BELL, an individual, d.b.a. B & W TRUCKING, P.O. Box 281, Gloucester, MA 01930, seeks temporary authority to transfer a portion of the operating rights of ROGER D. PETERSON, an individual, d.b.a. PETERSON MOTOR TRANSPORTATION, 107 Portland Street, Rochester, NH 03867, under section 210a(b). The transfer to GRAHAM H. BELL, an individual, d.b.a. B & W TRUCKING, of a portion of the operating rights of ROGER D. PETERSON, an individual, d.b.a. PETERSON MOTOR TRANSPORTATION, is presently pending.

MC-FC 77930. By application filed November 14, 1978, T & E TRUCKING INC., Box 342, Clarksville, VA 23927, seeks temporary authority to transfer the operating rights of CLARENCE OVERTON THOMAS, and individual, d.b.a. C. O. THOMAS TRUCKING, Route 1, Box 153, New Canton, VA 23123, under section 210a(b). The transfer to T & E TRUCKING INC., of the operating rights of CLARENCE OVERTON THOMAS, an individual, d.b.a. C. O. THOMAS TRUCKING, is presently pending.

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33287 Filed 11-27-78; 8:45-am]

[7035-01-M]

[Notice No. 221]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 17, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 6461 (Sub-18TA), filed October 16, 1978. Applicant: B-LINE TRANSPORT CO., INC., East 7100 Broadway, Spokane, WA 99206. Representative: Max Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products* from the facilities of Central Pre Mix Concrete Co., located in Spokane County, WA to points in Morrow, Umatilla, Wallowa, Union and Baker Counties, OR, for 180 days. Supporting shipper: central Pre Mix Concrete-prestress, N. 922 Carahan Road, Spokane, WA 99206. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 7205 (Sub-6TA), filed October 16, 1978. Applicant: POZZI BROTHERS TRANSPORTATION, INC., 21441 76th South, Kent, WA 98031. Representative: Tom Pozzi, 21250 North Tapps Highway, Sumner, WA 98390. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, stains, wall and floor coverings and materials and supplies* used in the installation of such commodities, from Kent, WA to Portland, OR and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Brands Paint Co. Northwest, Inc., 19021 80th South, Kent, WA 98031. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 13569 (Sub-42TA), filed September 7, 1978, and published in the FR issue of October 19, 1978, and republished as corrected this issue. Applicant: THE LAKE SHORE MOTOR FREIGHT CO., INC., 1200 South State Street, Girard, OH 44420. Representative: John P. Tynan, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsites of the Jones & Laughlin Steel Corporation, an LTV Company, located at Cleveland, Louisville, Warren and Youngstown, OH, to points in the State of IN, for 180 days. Applicant has also filed an underlying seeking up to 90 days of operating authority. Supporting shipper: Jones & Laughlin Steel, an LTV Co., 3341 Jennings Road, Cleveland, OH 44109. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth St., Cleveland, OH 44199. The purpose of this republication is to show IN, in lieu of IL, as previously published.

MC 19311 (Sub-50TA), filed September 15, 1978. Applicant: CENTRAL TRANSPORT, INC., 4200 Mound Road, Sterling Heights, MI 48077. Representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48033. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Bay City, Mich., and Sault Ste. Marie, Mich., from Bay City, over Interstate Highway 75 to Sault Ste. Marie, and return over the same route, serving all intermediate points (except Linwood, Pinconning and Standish); (2) between Saginaw, Mich., and Farwell, Mich., from Saginaw, over Michigan Highway 47 to junction U.S. Highway 10, thence over U.S. Highway 10 to Farwell, and return over the same route, serving all intermediate points; (3) between St. Johns, Mich., and junction Interstate Highway 75, from St. Johns over U.S. Highway 27 to junction Interstate Highway 75, and return over the same route, serving all intermediate points; (4) between Midland, Mich., and junction U.S. Highway 27 at Mt. Pleasant, Mich., from Midland over Michigan Highway 20 to junction with U.S. Highway 27 at Mt. Pleasant, and return over the same route, serving all intermediate points; (5) between St. Louis, Mich., and junction Michigan Highway 20 west of Midland, Mich., from St. Louis over unnumbered county road (River Road) thence northeast to junction Michigan Highway 20 west of Midland, and return over the same route, serving all intermediate points; (6) between Meredith, Mich., and Roscommon, Mich., and Interstate Highway 75, from Meredith over Michigan Highway 18 to Roscommon, thence over Business Route Interstate Highway 75 to junction Interstate Highway 75, and return over the same route, serving all intermediate points; (7) between junction U.S. Highway 27 and Michigan Highway 55 and junction Interstate Highway 75, from junction U.S. Highway 27 and Michigan Highway 55 over Michigan Highway 55 to junction Interstate Highway 75 and Michigan Highway 55, and return over the same route, serving all intermediate points; (8) between Mackinaw City, Mich., and junction Interstate Highway 75, from Mackinaw City over U.S. Highway 23 to Cheboygan, Mich., thence over Michigan Highway 27 to junction Interstate Highway 75, and return over the same route, serving all intermediate points; (9) between junction U.S. Highway 31 and Interstate Highway 75 and Frankfort, Mich., from junction U.S. Highway 31 and Interstate Highway 75 near Mackinaw City, Mich., over U.S. Highway 31 to junction Michigan Highway 115 at Benzonia, thence over Michigan Highway 115 to Frankfort, and return over the same route, serving all intermediate points; (10) between Indian River, Mich., and junction U.S. Highway 31, from Indian River over Michigan Highway 68 to junction U.S. Highway 31, and return over the same route, serving all intermediate points; (11) between junction County Road C-48 and Interstate Highway 75 and junction U.S. Highway 131, from junction County Road C-48 and Interstate Highway 75 near Vanderbilt, Mich., over County Road C-48 to Boyne Falls, Mich., thence over Michigan Highway 75 over Boyne City, Mich., to junction with U.S. Highway 131, and return over the same route, serving all intermediate points; (12) between Gaylord, Mich., and Alba, Mich., from Gaylord over Michigan Highway 32 to East Jordan, Mich., thence over County Road C-48 to Atwood; also from junction Michigan Highway 32 and County Road C-42 to Alba, Mich., and return over the same route, serving all intermediate points; (13) between junction County Road C-38 and Interstate Highway 75 at Eastport, Mich., from junction County Road C-38 and Interstate Highway 75 near Otsego Lake, Mich., over County Road C-38 to Mancelona, Mich., thence over Michigan Highway 88 to Eastport, Mich., and return over the same route, serving all intermediate points; (14) between junction Michigan Highway 88 and County Road C-65 and Charlevoix, Mich., from junction Michigan Highway 88 and County Road C-65 near Central Lake, Mich., over County Road C-65 to Charlevoix, and return over the same route, serving all intermediate points; (15) between Grayling,

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Mich., and Acme, Mich., from Grayling over Michigan Highway 72 to Acme, and return over the same route, serving all intermediate points; (16) between Petoskey, Mich., and Kalkaska, Mich., from Petoskey over U.S. Highway 131 to Kalkaska, and return over the same route, serving all intermediate points; (17) between Charlevoix, Mich., and Mancelona, Mich., from Charlevoix over Michigan Highway 66 to Mancelona, and return over the same route, serving all intermediate points; (18) between Grand Rapids, Mich., and junction Michigan Highway 46 and Elmore, Mich., from Grand Rapids over U.S. Highway 131 to junction Michigan Highway 46, thence over Michigan Highway 46 to Elmore, and return over the same route, as an alternate route serving no intermediate points; and (19) serving all off-route points within five miles of routes 1 through 17 above described except Linwood, Pinconning and Standish, also serving all off-route points in the Counties of Antrim, Charlevoix and Emmet, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 56 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: T. S. Quinn, District Supervisor, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

MC 26396 (Sub-206TA), filed October 12, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the facilities of Certain Teed Corporation, located in Shakopee, MN to points in the State of WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: CertainTeed Corp,. P.O. Box 860, Valley Forge, PA 19482, Dresco, Inc., 140 Chamberlain Rd., Box 175, Mills, WY 82644, Casper Lumber Co., Inc., 601 E. Street, Casper, WY 82601. Send protests to: District Supervisor Paul J. Labane, ICC, 2602 First Ave. North, Billings, MT 59101.

MC 30844 (Sub-628TA), filed October 12, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000, Waterloo, IA 50702. Representative: John P. Rhodes (same as applicant). Authority sought to operate as a *commom carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* from the facilities of Heinz U.S.A., Division of H.J. Heinz Co., at or near Pittsburgh, PA to points in MN and WI, for 180 days. Supporting shipper: Heinz U.S.A., Division of H.J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, District Supervisior, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 52574 (Sub-55TA), filed October 12, 1978. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, NJ 07111. Representative: Edward F. Bowes, Esq., 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* from Frederick, MD to Charlottesville, VA, under a continuing contract or contracts with S.B. Thomas Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: S.B. Thomas Inc., 930 North Riverview Drive, Totowa, NJ 0711. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton St., Newark, NJ 07102.

MC 71536 (Sub-14 TA), filed October 13, 1978. Applicant: ARROW CARRIER CORP., 2600 Penhorn Avenue and State Hwy 3, North Bergen, NJ 07047. Representative: A. David Milliner, Esq. and Michael R. Werner, Esq., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) serving Merrimack, NH, as an off-route point in connection with carrier's authorized regular route operations to and from Lowell, MA restricted to the transportation of traffic originating at or destined to the facilities of Nashua Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nashua Corporation, 44 Franklin Street, Nashua, NH 03060. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 100449 (Sub-98TA), filed October 12, 1978. Applicant: MALLINGER TRUCK LINE, INC., R.R. No. 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, except in bulk, (1) from the facilities of Rich Products Corp. at or near Appleton, WI to the facilities of Rich Products Corp. at or near Murfreesboro, TN and (2) from the facilities of Rich Products Corp. at or near Murfreesboro, TN to points in Tx. Restricted to shipments originating at the named origins and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rich Products Corp., 1145 Niagara St., Buffalo, NY 14213. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 107012 (Sub-285TA), filed October 12, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns, P.O. Box 988, Fort Wayne, IN 56801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snow Throwers, and parts and accessories*, from Plymouth, WI, to points in IN, MI, MD, MO, NH, NY, OH, PA and VT. Restricted to traffic originating to the facilities of Cilson Brothers, Inc. and destined to the facilities of Montgomery Ward and Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Montgomery Ward and Co., Number 1 Montgomery Ward Plaza, Chicago, IL 60671. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, IN 46802.

MC 107496 (Sub-1169TA), filed October 16, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, in tank vehicles from Brunswick, MO to points in IA, NE, KS, OK, AR, and IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brunswick River Terminal, Inc., P.O. Box 235, Brunswick, MO 65236. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 111812 (Sub-539TA), filed October 11, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: David Peterson, P.O. Box 1233, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Hygrade Food Products Corporation located at or near Storm Lake & Cherokee, IA to points in FL and GA for 180 days. Supporting shipper: Hygrade Food Products Corporation, P.O. Box 4771, Detroit, MI 48219. Send protests to: Mr. James L. Hammond, District Supervisor, Bureau of Operations & Compliance, Interstate Commerce Commission, 455 Federal Building, Pierre, SD 57501.

MC 113024 (Sub-156TA), filed October 11, 1978. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 South DuPont Hwy, Smyrna, DE 19977. Representative: Samuel W. Earnshaw, Esq., 833 Washington Building, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber* (except in bulk), from Louisville, KY, Geismar & LaPlace, LA to McCook, NE. (2) *Crushed oyster shells*, in bags, from Mobile, AL to McCook, NE. (3) *Miscellaneous rubber chemicals* (except in bulk) from Trenton, NJ to McCook, NE, under a continuing contract or contracts with Electric Hose & Rubber Co. for 180 days. Supporting shipper: Fred H. Evick, Director of Distribution, Electric Hose & Rubber Co., P.O. Box 910, Wilmington, DE 19899. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Bldg., Baltimore, MD 21201.

MC113855 (Sub-454TA), filed October 16, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, S.E., Rochester, MN 55901. Representativ: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building brick*, from ports of entry between the U.S. and CN located at or near Sweetgrass, MT to points in UT, for 180 days. Restricted to traffic originating at the facilities of IXL Industries, Ltd., at or near Medicine Hat, Alberta. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: IXL Industries, Ltd., Box 70, Medicine Hat, Alberta. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114048 (Sub-3TA), filed October 16, 1978. Applicant: GEBEKE TRANSPORT, INC., P.O. Box 287, Melrose, MN 56352. Representative: Edward C. Gebeke (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* from Sauk Centre, MN to the counties of Roberts, Day, Grant and Codington in the state of SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amoco Oil Company, 200 East Randolph Drive, Chicago, IL 60601. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114211 (Sub-382TA), filed October 18, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, forest and wood products* from ports of entry of the International Boundary Line between the United States and Canada located in ND and MN to points in MN, ND, SD, NE, KS, IA, WI, IL, IN, MI, OH, MO, and KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southeast Forest Products, Ltd., Blumenort, Manitoba, Canada ROA OCO. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114939 (Sub-50TA), filed October 12, 1978. Applicant: BULK CARRIERS LTD., P.O. Box 10, 2421 Cawthra Road, Cooksville Post Office, Mississauga, ON, Canada 2W7. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood preservative, class B poison*, in bulk, in tank vehicles, from Memphis, TN to ports of entry on the United States-Canada International Boundary Line located in MI, restricted to foreign commerce, for 180 days. Supporting shipper: Commercial Chemical Co., Division of Osmose Wood Preserving Co., 1172 North Thomas St., P.O. Box 7275, Memphis, TN 38107. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 115364 (Sub-12TA), filed October 16, 1978. Applicant: GOODMAN MOTOR TRANSPORT CO. (1973) LTD., 8510 Jellicoe Street, Vancouver, BC, Canada V5S 3V1. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and equipment* between points in King and Snohomish Counties, WA and the United States Canadian International Boundary at or near Blaine, Lyden and Sumas, WA, under a continuing contract or contracts with Morgan Power Apparatus (Canada) Ltd., for 180 days. Canadian origin and destination points at Burnaby, BC, Canada. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morgan Power Apparatus (Canada) Ltd., 7465 Griffiths Avenue, Burnaby, BC, Canada. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 115654 (Sub-119TA), filed September 5, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 425 Thirteenth Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products* from Ashland, KY to Murfreesboro, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rich Products Corporation, 1145 Niagara Street, Buffalo, NY 14240. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 118202 (Sub-94TA), filed October 18, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meat, meat products, meat by-products, and articles* distributed by meat packing houses and *foodstuffs* (except hides and commodities in bulk) from the facilities of George A.

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Hormel & Co., at Austin, MN and Owatonna, MN to points in AR, OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119493 (Sub-235TA), filed October 11, 1978. Applicant: MONKEM CO., INC., West 20th Street Road, P.O. Box 1196, Joplin, MO 64801. Representative: Thomas Boone (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, floor sweeping compounds and absorbents* (except in bulk) from facilities of Oil Dri Corporation of America at or near Ripley, MS, to points in the U.S. in and east of ND, SD, NE, KS, OK, TX and materials and supplies used in the manufacture, sale and distribution of above named commodities, from destination states named above, to facilities of Oil Dri Corporation of America at or near Ripley, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oil Dri Corporation of America, Chicago, IL 60611. Send prostests to: District Supervisor, John V. Barry, Rm. 600, 911 Walnut St., Kansas City, MO 64106.

MC 119632 (Sub-80TA), filed October 16, 1978. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool insulation* (except in bulk) from the facilities of Guardian Insulation Div. of Guardian Industries at or near Huntington, IN to Kalamazoo, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Guardian Insulation Division of Guardian Industries, 701 North Broadway, Huntington, IN 46750. Send protests to: Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 119700 (Sub-47TA), filed October 11, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, particleboard, composition board, lumber* (treated or untreated), *insulation, piling posts and poles* (treated or untreated), and, *construction materials* (except in bulk), from the facilities of Temple, Div. Temple-Eastex, Inc. at or near Diboll, TX and Pineland, TX, to points in the States of OK, KS, MO, IL, IN, OH, MS, AR, LA, CO, IA, MN, NE, NM, SD, WI, WY, and MI for 180 days. Supporting shipper: Temple, Div. Temple-Eastex, Inc., P.O. Drawer N, Diboll, TX 75941. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Office Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119789 (Sub-522TA), filed October 11, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles* distributed by meat packinghouses, as described in sections A and C of App. I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from facilities of Thies Packing Co. at Great Bend, Topeka and Wichita, KS to AL, FL, GA, KY, MS, NC, SC, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thies Packing Co., P.O. Box 49, Great Bend, KS 67530. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Rm. 13C12, Dallas, TX 75242.

MC 124711 (Sub-66TA), filed September 26, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper, P.O. Box 1050, El Dorado, KS 67042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* (not petroleum derived) in bulk, from the facilities of Getty Refining and Marketing Company near Columbus, NE to points in IA, KS, and SD, for 180 days. Supporting shipper: Getty Refining and Marketing Company, P.O. Box 1650, Tulsa, OK 74102. Send protests to: Merlyn E. Taylor, District Supervisor, Bureau of Operations, 101 Litwin Bldg., 110 North Market Street, Wichita, KS 67202.

MC 126276 (Sub-200TA), filed October 12, 1978. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Cleveland, OH to Broadview and Chicago, IL, under a continuing contract or contracts with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Thomas D. Corbett, Manager of Traffic, The Continental Group, Inc., One Landmark Square, Stamford, CT 06901. Send protests to: Lois Stahl, Transporting Assistant, Interstate Commerce Commission, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 128527 (Sub-504TA), filed October 12, 1978. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. Authority sought to operate in interstate commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned and bottled, from Fruitland, ID and points in its Commercial Zone, to points in Maricopa County, AZ, and points in CA south of Sonoma, Napa, Colusa, Sutter and Placer Counties, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Payette Cider, P.O. Box 528, Payette, ID 83661. Send protests to Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 128633 (Sub-19TA), filed October 11, 1978. Applicant: LAUREL HILL TRUCKING CO., 614 New County Road, Secaucus, NJ 07094. Representative: William J. Augello, 120 Main St., P.O. Box Z, Huntington, NY 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, medicines, toilet preparations, cleaning, scouring & washing compounds, disinfectants, disposable towels, chemicals, dies, paints, staines, varnishes, pigments, plastics, glass bottles, synthetic fibre and materials, supplies and equipment* used in the manufacture and sale of drugs, medicines and toilet preparations (except in bulk, in tank vehicles); and (2) *emulsifiers*, in bulk, in shipper-owned tank vehicles, (1) between, CT, DE, KS, IL, IN, MD, MA, ME, NH, NJ, NY, OH, PA, RI, VT, VA, WV and DC; and (2) from Philadephia, PA to Rensselaer, NY; restricted to traffic moving to or from plants, warehouses or facilities to operated by or for Sterling Drug, Inc. or its Divisions or Subsidiaries. If a hearing is deemed necessary, applicant requests it be held at either New York, NY or Washington, DC, under a continuing contract or contracts with Sterling Drug, Inc., for 180 days, Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sterling Drug, Inc., 90 Park Avenue, New York, NY 10016. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Washington, D.C. 20423.

MC 134064 (Sub-13TA), filed October 11, 1978. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Highway, Gainesville, GA 80501. Representative: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery products, and foodstuffs* (except in bulk), from the facilities utilized by the Nestle Co., at or near Burlington, WI, to Memphis, TN; Jacksonville, FL; and Charlotte, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Nestle Company, 100 Bloomingdale Road, White Plains, NY 10605. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 138237 (Sub-7TA), filed October 16, 1978. Applicant: METRO HAULING, INC., 20848 77th Avenue South, Kent, WA 98031. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials*, between the facilities of Palmer G. Lewis Co., Inc., in WA and OR on the one hand, and, on the other, points in ID, MT, OR and WA, for 180 days. Supporting shipper(s): Palmer G. Lewis Co., Inc., 525 C Street, N.W., Auburn, WA 98002. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 138365 (Sub-3TA), filed August 25, 1978, and published in the FEDERAL REGISTER issue of October 20, 1978, and republished as corrected this issue. Applicant: DOUGLAS RUCKDASCHEL, d.b.a. RUCKDASCHEL TRUCKING, R.R. No. 1, P.O. Box 9, Postville, IA 52162. Representative: Jack H. Blanshan, Attorney-at-law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles* distributed by meatpacking houses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides) from the facilities of Hygrade Food Products Corp., at Postville, IA to points in IN, ME, MN, NE, OH, PA, NJ, and NY, restricted to the transportation of traffic originating at the named origin and destined to the named destinations, for 180 days. Supporting shipper(s): Hygrade Food Products, 26300 North Western Highway, Southfield, MI 48075. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309. The purpose of this republication is show MI, in lieu of MO, as previously published.

MC 138741 (Sub-58TA), filed October 12, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60432. Representative: Tom B. Kretsinger, Esq., Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and materials and supplies* used in the manufacture, installation and distribution of Gypsum products between the facilities of Georgia-Pacific Corporation, Gypsum Division at Cuba, MO and all points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, TX and WI, for 180 days. Supporting shipper(s): Robert A. Cronk, Transportation Supervisor, Georgia-Pacific Corp., 1062 Lancaster Ave, Rosemont, PA 19010. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 140006 (Sub-1TA), filed August 15, 1978, and published in the FEDERAL REGISTER issue of October 19, 1978, and republished as corrected this issue. Applicant: JOHN W. GEORGE, d.b.a. HEPNER'S TRUCKING CO., 1810 East Washington Avenue, Vineline, NJ 08360. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and materials and supplies used in the installation and manufacturing thereof*, except in bulk, between Vineland, NJ and Philadelphia, PA, on the one hand, and, on the other, Atlanta, Dalton, and Rome, GA, and Chattanooga, TN, for 180 days. Supporting shipper(s): There are six (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608. The purpose of this republication is to show Georgia (GA) in lieu of California (CA) as previously published.

MC 140186 (Sub-30TA), filed October 16, 1978. Applicant: TIGER TRANSPORTATION, INC., P.O. Box 2248, Missoula, MT 59801. Representative: David A. Sutherland, Fullbright & Jaworski, 1150 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood and wood products*, from points in CA, OR, and WA to points in IL, IA, KS, MN, MO, MT, NE, ND, SD, and WI for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission at Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 140968 (Sub-4TA), filed October 12, 1978. Applicant: VALLEY TRANSPORT, INC., Drayton, ND 58225. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *sugar*, except in bulk, from Drayton, ND, to Albert Lea, Alexandria, Austin, Brainerd, Chaska, Duluth, Marshall, Minneapolis, Pipestone, Rochester, St. Cloud, St. Paul, Waseca, White Bear Lake and Worthington, MN, under a continuing contract or contracts with American Crystal Sugar Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Crystal Sugar Co., 101 3rd St., North, Moorhead, MN 56560. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 268 Federal Bldg. and U.S. Post Office, 657 2nd Avenue, North, Fargo, ND 58102.

MC 141804 (Sub-147TA), filed October 16, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

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routes, transporting: *Plastic granules and materials* used in the production of plastic pipe and plastic fittings (except commodities in bulk), from Louisville, KY; Neal, WV; and Avon Lake, OH to Bakersfield, Santa Ana, and Sun Valley, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R & G Sloane Manufacturing, Inc., 7606 N. Claybourn Avenue, Sun Valley, CA 91352. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 141921 (Sub-24TA), filed October 11, 1978. Applicant: SAV-ON TRANSPORATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film and sheeting, and items related to the sales and distribution thereof* (except in bulk, in tank vehicles) from the facilities of Borden Chemical at North Andover, MA to points in PA, WV, OH, IN, MI, KY, GA, WI, IL, MO, IA, MN, SD, NE, CA, KS and CO, and from the facilities of Borden Chemical at Griffin, GA to points in PA, WV, MA, OH, IN, MI, KY, WI, IL, MO, IA, MN, SD, NE, CA, KS and CO, for 180 days. Supporting shipper(s): Borden Chemical, Division of Borden, Inc., 1 Clark St. No. Andover, MA 01845. Attention: Rudy Bibeau, Traffic Manager. Send protest to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, Rm. 3, 6 Loudon Rd., Concord, NM 03301.

MC 142332 (Sub-4TA), filed October 16, 1978. Applicant MEAT HANDLERS' EXPRESS, INC., 540 42d Avenue West, Camano Island, WA 98199. Representative: Michael D. Duppenthaler, 201 South Washington Street, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of grinding wheels, from Niagara and Erie Counties, NY; Worchester County, MA; Bound Brook, Camden, South Brunswick, and South Hackensack, NJ; and Cave-in-Rock, IL; to Marysville, WA, under a continuing contract or contracts with Pacific Grinding Wheel Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Pacific Grinding Wheel Company, 13120 Hwy 99, Marysville, WA 98270. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 143003 (Sub-3TA), filed July 10, 1978, and published in the FEDERAL REGISTER issue of September 13, 1978, and republished as corrected this issue. Applicant: GEORGE L. MORROW TRUCKING CO., INC., 429 N. Seventh Street, P.O. Box 916, Raymondville, TX 78580. Representative: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pork pigskins and by products of pork* from St. Paul, MN, Kansas City, MO, Memphis, TN, Louisville, KY, Pittsburgh, PA, Omaha, NE, San Francisco, CA, Chicago, IL, Roswell, NM, and Oklahoma City, OK to Raymondville, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cisneros Packing Company, 169 South Fifth Street, Raymondville, TX 78580. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Building, 727 E. Durango Street, San Antonia, TX 78206. The purpose of this republication is to show TN, in lieu of TX, as previously published.

MC 143619 (Sub-6TA), filed August 25, 1978, and published in the FEDERAL REGISTER issue of October 20, 1978, and republished as corrected this issue. Applicant: PALS BROS., TRUCKING, INC., R.F.D., Alexander, IA 50430. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transportating: *Dry feed grade urea* from the Port Neal Industrial Complex in Woodbury County, IA to the facilities of Cargill, Incorporated at Fort Worth and Giddings, TX under continuing contract or contracts with Cargill, Incorporated, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc. Nutrena Feed Division, Box 9300, Minneapolis, MN 55440. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309, under a continuing contract of contracts with Cargill, Inc., The purpose of this republication is to show TX, in lieu of TN, in lieu of TN, as previously published.

MC 143775 (Sub-22TA), filed October 12, 1978. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, 6601 W. Orangewood, Glendale, AZ 85301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal wire and cable*, from Shrewsbury, MA to CA, IL, IA, NV, OH and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Phalo Wire and Cable Co., 530 Borton Tpke., Shrewsbury, MA 01545. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Rm. 2020 Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 144122 (Sub-24TA), filed August 8, 1978, and published in the FEDERAL REGISTER issued of October 5, 1978, and republished as corrected this issue. Applicant: CARRETTA TRUCKING, INC., S. 160, Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tape, tape products, materials, equipment, and supplies* used in the manufacture thereof (except commodities in bulk), from Beacon, NY, and Passaic, NJ, to Carbondale, IL, and from Carbondale, IL, to points in CA; and (2) *springs and spring assemblies, bed frames, materials and equipment and supplies* used in the manufacture thereof, from Carthage, MO, to points in IL, IN, OH, MI, PA, NJ, NY, and GA, for 180 days. Supporting shipper(s): Technical Tape, Inc., 1 Market Street, Passaic, NJ 07055. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102. The purpose of this republication is to complete the commodity description as previously omitted.

MC 144122 (Sub-28TA), filed September 27, 1978. Applicant: CARRETTA TRUCKING, INC., Route 17 North, South 160, Paramus, NJ 07662. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk), those of unusual value, household goods as defined by the Commission, Class A and B explosives, and commodities which require special equipment), from the facilities of West Coast Shippers Association, Inc., at Philadelphia, PA, to Los Angeles, San Francisco and Fresno, CA; Portland, OR; Seattle, WA; Amarillo, Houston, Dallas, Fort Worth and San Antonio, TX: Albuquerque, NM: Phoenix, AZ; Reno and Las Vegas, NV; Denver, CO; and Salt Lake City, UT. Restriction: The authority requested herein is to be restricted to traffic moving on the bills of lading of shipper's associations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): West Coast Shipper's Association, Inc., 2000 South 71st Street, Philadelphia, PA 19142 (Robert Tannenbaum). Send protests to: Joel Morrows District Supervisor, Interstate Commerce Commission. 9 Clinton Street, Newark, NJ 07102.

MC 144122 (Sub-29TA), filed October 12, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, Esq., 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by a producer and distributor of paper and plastic products (except commodities in bulk) (1) from the facilities utilized by Continental Groups Inc., at Ft. Worth, TX to points in IL, and (2) from Shelbyville, IL to points in NJ and NY, for 180 days. Supporting shipper(s): Continental Group, 800 E. Northwest Highway, Palatine, IL 60067. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton St., Newark, NJ 07102.

MC 144239 (Sub-4TA), filed September 27, 1978. Applicant: J.L.T. CORP., 233 Green Village Road, Green Village, NJ 07935. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese* (in vehicles equipped with mechanical refrigeration), from New Wilmington, PA, to points in IL, IN, MD, MI, MN, NJ, NY, OH and WI; and (2) from Hayfield, MN, to points in PA, MD, DE, DC, VA, CT, MA, RI, NY, and NJ, under a continuing contract or contracts, with Valley Lea Dairies, Inc., for 180 days. Supporting shipper(s): Valley Lea Dairies, Inc., 54501 North Ironwood Road, South Bend, IN 46660. Send protests to: Joel Morrows District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144315 (Sub-2TA), filed October 18, 1978. Applicant: PORT CITY LEASING, INC., 602 20th Street North, Lewiston, ID 83501. Representative: Boyd Hartman, 10655 NE 4th, Suite 210, Bellevue, WA 98004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, particle board and millwork* from points in Spokane, Stevens, and Asotin County, WA and Idaho, Clearwater, Lewis, Nez Perce, Latah, Kootenai, Benewah and Bonner Counties, ID to points in NV, for 180 days. Supporting shipper(s): Dale Daley Forest Products, Inc., P.O. Box 23246, Portland, OR 97223. Bennett Lumber Products, P.O. Box 49, Princeton, ID 83857. Hoff Building Supply, Inc., d.b.a. Western Forest Products, 711 E. Broadway, Meridian, ID 83642. Send protests to: High H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 144759 (Sub-1TA), filed October 16, 1978. Applicant: AIR FREIGHT, INC., Terminal Box No. 2, Casper, WY 82602. Representative: Linda L. McIntosh (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having a prior or subsequent movement by air, between Natrona International Airport and Casper, WY and its commercial zone, Glenrock, Douglas and Midwest, WY and their commercial zones, restricted to traffic having a prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (10) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

MC 144793 (Sub-1TA), Filed October 12, 1978. Applicant: RICHARD PELLETIRE, d.b.a. PELLETIER TRUCKING, 8744 Avalon Street, Alta Loma, CA 91701. Representative: Richard Pelletier, 8744 Avalon St., Alta Loma, CA 91701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Generators and motors, electric, materials and supplies* used in the manufacture thereof, between the facilities of Reuland Electric Company at City of Industry, CA, on the one hand, and, on the other, Howell, MI, under a continuing contract or contracts with Reuland Electric Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Reuland Electric Co., 17969 E. Railroad Ave., Industry, CA 91749. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Rm. 1321 Federal Building, 300 North Los Angeles St., Los Angeles CA 90012.

MC 145152 (Sub-9TA), filed October 12, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springfield, AR 72764. Representative: Don Garrison, 324 North Second St., Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic Film* (except in bulk) in vehicles, equipped with mechanical refrigeration, from the facilities of Resinite Department, Division of Borden, Inc., at or near North Andover, MA; Griffin, GA; Illiopolis, IL; Carson, CA; North Bergen, NJ; Cockeysville, MD; Cloucester City, NJ; Charlotte, NC; Cleveland, OH; Elk Grove, IL; Tampa, FL; Oakland, CA; Seattle, WA; Dallas, TX; and, Minneapolis, MN. To points in the United States (except AK and HI), Restricted to the transportation of traffic originating at the facilities of Resinite Department, Borden Chemical Division of Borden, Inc., for 180 days. Supporting shipper(s): Borden Chemical, Div. of Borden, Inc., 1 Clark St., North Andover, MA 01845. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145179 (Sub-2TA), filed October 12, 1978. Applicant: J & J CONTRACT CARRIER, INC., 60 South State Avenue, Indianapolis, IN 46201. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and food business houses and in connection therewith, equipment, materials, and supplies* used in conduct of such business (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of The Kroger Co., at Cincinnati, and Columbus, OH on the one hand, and on the other points and places in AR, GA, IL, IN, KY, MI, MO, PA (west of U.S. highway 219), TN, TX, VA, WV. Restriction: restricted to service to be performed under a continuing contract or contracts with The Kroger Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kroger Co., 1014 Vine St., Cincinnati, OH 45201. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Bldg. & U.S. Courthouse, 46 East Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 145339 (Sub-2TA), filed October 13, 1978. Applicant: NEBRASKA BEEF EXPRESS, INC., 5521 South 91st Street, Omaha, NE 68127. Representative: Kenneth P. Weiner, 408 Executive Building, Omaha, NE 68102.

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Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk) from Omaha, NE and points in IA to points in NC, SC, FL, TX and Kenosha and Cudahy, WI; and Chicago, IL and their commercial zones. restricted to traffic originating in Omaha, NE and its commercial zone. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lynn Plambeck, Sales Manager, Missouri Valley Foods, Inc., 11414 W. Center Road, Omaha, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 145385TA, filed September 22, 1978. Applicant: SHADE TRANSPORTATION SYSTEMS, INC., 800 Heritage Road, DePere, WI. 54115. Representative: David V. Purcell, 111 E. Wisconsin Avenue, Milwaukee, WI. 53202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper forms and printing paper other than newsprint, and materials, equipment and supplies* used in the manufacture or distribution of paper forms and printing paper other than newsprint (except commodities in bulk), between DePere, WI., on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MN, NY, NC, OH, PA and VA; and (2) From DePere, WI, to Phoenix and Tucson, AZ; Boca Raton, FL; Scoville, ID; Oklahoma City and Tulsa, OK; Ogden and Salt Lake City, UT; Essex Junction, VT, and points in AR, CA, CO, CN, DE, DC, GA, MD, MA, MO, NE, NJ, TX and WA; and (3) from Courtland, AL; Ashdown, AR; Bastrop, LA; Jay, ME, and points in TN, to DePere, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shade Information Systems, Inc., P.O. Box 730, Green Bay, WI. 54305. Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145500TA, filed October 17, 1978. Applicant: EAST TEXAS CARTAGE COMPANY, 3300 West Front Street, P.O. Box 7225, Tyler, TX 75711. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* having a prior or subsequent movement by air, except those of unusual value, equipment, household goods, and those injurious or contaminating to other lading, between the DFW Airport located in the Dallas-Forth Worth, TX commercial zone, on the one hand, and, on the other, points in Smith, Rusk, Cherokee, Anderson, Henderson, Van Zandt, Wood, Upshur, Morris, Camp, Titus, Harrison, and Gregg Counties, TX, for 180 days. Supporting shipper(s): There are approximately 9 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, TX 75242.

MC 145531TA, filed October 11, 1978. Applicant: RAPID TRANSFER, INC., 8726-25th Ave. NW., Seattle, WA 98117. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, household goods as defined by the Commission, articles of unusual value, articles, which, because of their size or weight require the use of special equipment and livestock), between points in the Seattle, WA Commercial Zone, restricted to traffic having a subsequent or prior movement by water, for 180 days. Supporting shipper(s): There are approximately 9 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, I.C.C. 858 Federal Bldg., Seattle, WA 98174.

MC 145536TA, filed October 16, 1978. Applicant: LARRY HENDERSON, West Railroad Street, Pelham, GA 31779. Representative: Larry Henderson (Same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Bagged and bulk fertilizer* from the facilities of Pelham Phosphate Company, Pelham, GA to points in AL and FL, under a continuing contract or contracts with Pelham Phosphate Co., for 180 days. Supporting shipper(s): Pelham Phosphate Co., P.O. Box 468, Pelham, GA 31779. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, FL 32202.

MC 145538TA, filed October 16, 1978. Applicant: J. D. VICKERS TRUCKING, INC., P.O. Box 1201, North Wilkesboro, NC 28659. Representative: J. D. Vickers, 1090 Fairchild Road, Winston-Salem, NC 27105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials* in bags and bulk from Winston-Salem, NC to Campbell, Patrick, Henry, Pittsylvania, Mecklenburg, Franklin, Carroll, Grayson, Floyd, Brunswick, Roanoke and Halifax Counties, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Minerals and Chemicals, P.O. Box 4145, Winston-Salem, NC 27105. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145540TA, filed October 12, 1978. Applicant: VILLAGE MOTORS OF CATTARAUGUS COUNTY, INC., 730 East State St., Olean, NY 14760. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Battery chargers rectifiers, transformers and materials, parts, supplies and equipment* used in the manufacture thereof, between Cuba, NY, Lumberton, NC and Salt Lake City, UT, and between Allegany, NY and Salt Lake City, UT, under a continuing contract or contracts with Acme Electric Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days. Supporting shipper(s): Acme Electric Corp., 20 Water Street, Cuba, NY. Send protests to: Interstate Commerce Commission, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 145544TA, filed October 12, 1978. Applicant: W & M., INC., P.O. Box 2237, East Chicago, IN 46312. Representative: Samuel Ruff, 2109 Broadway, East Chicago, IN 46312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution equipment, materials, and supplies* used in the manufacture, of air pollution equipment for the account of Flex-Kleen Corp. between Chicago, IL and Libertyville, IL, on the one hand and on the other points in the United States over irregular routes. Restricted to transportation for Flex-Kleen Corp, under a continuing contract or contracts with Flex-Kleen Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roger Selby, General Manger of Material Control & Shipping Flex-Kleen Corp., 222 South Riverside Plaza, Chicago, IL 60606. Send Protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 145545TA, filed October 16, 1978. Applicant: CENTURY REEFER SERVICE, INC., 8 Main Street, Salisbury, MA 01950. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street, NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, steel and wire spoke tired wheels* from Seabrook, NH, to Dothan and Union Springs, AL; Compton and North Hollywood, CA; Denver, CO; Freeport and Chicago, IL; Columbus, Seymour, and South Bend, IN; Gardner and Westfield, MA; St. Louis, MO; Englewood, Pennsauken, and Blenheim, NJ; Orangeburg and Rochester, NY; Tarboro, NC; Celina, OH; Bedford, PA; and Delavan, Janesville and Milwaukee, WI and their respective commerical zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Spherex, Inc., Walton Road, P.O. Box 530, Seabrook, NH 03874. Send protests to:-Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 501, 150 Causeway Street, Boston, MA 02114.

MC 145571TA, filed October 18, 1978. Applicant: RALPH AARON, JAMES BARTHOLOMEW & AUBRY WILLIS dba ABW TRUCKING COMPANY, Box 113, Scotts Hill, TN 38374. Representative: Mr. Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rock, sand, gravel and base materials* from Hardin County, TN to the Yellow Creek Nuclear Plant in Tishomingo County, MS, under a continuing contract or contracts with Clyde Owens Sand and Gravel, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clyde Owens Sand and Gravel, Inc., P.O. Box 190, Collierville, TN 38017. Send protests to: Mr. Floyd A. Johnson, Distric Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145579TA, filed October 18, 1978. Applicant: D. IRVIN TRANSPORT LIMITED, 3020-52nd Street, SE., Calgary, AB, Canada T2G 2A7. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* from ports of entry on the International Boundary line between the U.S. and Canada located in ND and MT to points in MN, WI, ND, SD, KS, NE, IL, IN, MI, MO, AK, OK, AL, TX, IA, OH, KY, GA and TN; restricted to traffic originating in AB and BC, Canada, for 180 days. Supporting shipper(s): P. A. Tindle, VP, Ralph S. Plant, Ltd., P.O. Box 2089, MPO, Vancouver, BC, Canada V6B 3T2. Send protests to: District Supervisor Paull J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 145586TA, filed October 18, 1978. Applicant: DONALD M. MAULDING & DICK M. MAULDING dba MAULDING BROS. TRUCKING, 204 Cincinnati, Box 181, Greenup, IL 62428. Representative: Robert T. Lawley, Attorney, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete slats*, for the account of Brim Slats, Inc., from Casey and Roanoke, IL to points in IN, IA, KY, MO, OH, TN and WI, under a continuing contract or contracts with Brim Slats, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jeffrey J. Brim, Mgr., Brim Slats, Inc., Box 65, Casey, IL. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

Passenger Carriers

MC 109736 (Sub-43TA), filed September 22, 1978. Applicant: CAPITOL BUS COMPANY, d/b/a CAPITOL TRAILWAYS, 1061 South Cameron Street, Harrisburg, PA 17104. Representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and express and newspapers in the same vehicle with passengers, (1) Between Baltimore, MD, and Washington, DC, serving Baltimore for purpose of joinder only, and serving no intermediate points except the junction MD Highway 46 and the Baltimore-Washington Parkway for purposes of joinder only, from Baltimore over MD Highway 3 and Baltimore-Washington Parkway to junction U.S. Highway 50, then over U.S. Highway 50 to Washington, and return over the same route, (2) Between the junction of MD Highway 46 and the Baltimore-Washington Parkway and Baltimore-Washington International Airport, serving no intermediate points, and restricted to traffic moving to or from points north of Baltimore, MD, and serving the junction of MD Highway 46 and the Baltimore-Washington Parkway for purposes of joinder only, from the junction of MD Highway 46 and the Baltimore-Washington Parkway over MD Highway 46 to the Baltimore-Washington International Airport, and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (6) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Charles F. Myers District Supervisor, P.O. Box 809, Federal Square Station, Harrisburg, PA 17108.

MC 145535TA, filed October 11, 1978. Applicant: JACK BISCEGLIA AND ANNETTE BISCEGLIA dba FRONT RANGE AIRPORT LIMOUSINE SERVICE—a partnership, 4640 East County Road 66, Wellington, CO 80549. Representative: Roy Wittstruck, Manges, and Wittstruck, Attorneys at Law, 315 Canyon Ave., Fort Collins, CO 80521. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, passenger baggage and non-passenger baggage* from Cheyenne, WY to Stapleton International Airport, Denver, CO; Non-passenger baggage and parcels from Fort Collins, Windsor, Greeley, and Loveland, CO to Stapleton International Airport, Denver, CO. (Cheyenne, WY to Stapleton International Airport, Denver, CO, via I-25; stops Fort Collins, CO; Loveland at junction of U.S. 34 and I-25; junction of U.S. 119 and I-25; Windsor CO, via Colorado 392; to Greeley via Colorado 392 and U.S. 85; Greeley to junction U.S. 34 and I-25 via U.S. 34), for 180 days. Supporting shipper(s): Teledyne Water Pik, 1730 E. Prospect, Fort Collins, CO 80521. Woodward Governor Co., P.O. Box 1519, 1000 E. Drake Road, Fort Collins, CO 80525. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-33170 Filed 11-27-78; 8:45 am]

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[7035-01-M]

[Notice No. 222]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 20, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 13569 (Sub-43TA), filed October 20, 1978. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY, INC., 1200 South State St., Girard, OH 44420. Representative: John P. Tynan, Esq., 107 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. *Such commodities* as are dealt in by grocery and food business houses. From the facilities of The General Foods Corporation located at Blue Ash, OH, to points in the State of WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Foods Corp., 250 North St., White Plains, NY 10625. Send protests to: Mary Wehner, District Supervisor, 731 Federal Bldg., 1240 East Ninth St., Cleveland, OH 44199.

MC 22509 (Sub-10TA), filed October 19, 1978. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St Joseph, MO 64505. Representative: E. Wayne Farmer, 3rd Floor, 900 Walnut St., Kansas City, MO 64106. *Glass containers and closures* therefor, from plantsite of Ball Corporation in Mundelein, IL to Manhattan, Kansas, and other points and places in KS and MO execpt Kansas City, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ball Corp., 345 So. High St., Muncie, IN 47302. Send protests to: Vernon V. Coble, District Supervisor, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 29079 (Sub-96TA), filed October 20, 1978. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, 1210 South Union St., Kokomo, IN 46901. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, DC 20006. *Auto body parts*, From Greencastle, IN, to Wixom and Detroit, MI, for 180 days. Supporting shipper(s): Greencastle Mfg. Co., Division of The Lobdell-Emery Mfg., P.O. Box 508, Greencastle, IN 46135. Send protests to: J. H. Gray, District Supervisor, 343 West Wayne St., Suite 113, Fort Wayne, IN 46802.

MC 37327 (Sub-11TA), filed October 20, 1978. Applicant: PENN EMPIRE TRANSPORT, INC., P.O. Box 517, Livingston Avenue, Jamestown, NY 14701. Representative: Ronald W. Malin and Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. (1) *New furniture*, from points in Chautauqua and Cattaraugus Counties, NY to points in OH, MI and IN; and (2) *Voting machines, uncrated and accessories* between OH, MI, IL and IN, on the one hand, and Jamestown, NY, on the other, for 180 days. Supporting shipper(s): Monitor Furniture Co., Inc., 92 Steele Street, Jamestown, NY 14701. Fancher Furniture Co., Inc., 100 Rochester Street, Salamanca, NY 14779. AVM Corporation, P.O. Box 1000, Jamestown, NY 14701. Send protests to: ICC District Supervisor, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 55709 (Sub-5TA), filed October 20, 1978. Applicant: ANDING TRANSIT, INC., P.O. Box 112, Arena, WI 53503. Representatives: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. (1) *Yogurt*; and (2) *materials, equipment and supplies used in the manufacture of yogurt*, (1) from the facilities of Elm Grove Dairy Company at Richland Center, WI, to the facilities of Jewel Companys, Inc. at Melrose Park, IL, and (2) from points in IL north of Hwy. I-80 to Richland Center, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Elm Grove Milk Company, Inc., P.O. Box 390, Richland Center, WI 53581. Send protests to: District Supervisor, Ronald A. Morken, 212 East Washington Avenue, Rm. 317, Madison, WI 53703.

MC 55709 (Sub-6TA), filed October 20, 1978. Applicant: ANDING TRANSIT, INC., P.O. Box 112, Arena, WI 53503. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719 *Butter*, from points in WI to Browerville, Faribault, Minneapolis, Mountain Lake, New Ulm, and St. Paul, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Burt Lewis, Inc., 1301 West 22nd St., Oak Brook, IL 60521. Send protests to: District Supervisor, Ronald A. Morken, 212 East Washington Ave., Rm. 317, Madison WI 53703

MC 63387 (Sub-6TA), filed October 18, 1978. Applicant: STANLEY STANLEY d.b.a. ACME EXPRESS, 607 Frelinghuysen Avenue, Newark, NJ 07114 Representative: Thomas F. X. Foley, Esq., State Highway 34, Colts neck, NJ 07722. *Cold finished steel bars*, from the plantsite of Wyckoff Steel Division of Ampco-Pittsburgh Corporation at Newark, NJ to Baltimore, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Wycoff-Steel Division, Ampco-Pittsburgh Corp., 722 Frelinghuysen Ave., Newark, NJ 07114. Send protests to District Supervisor, Joel Morrows, 9 Clinton St., Newark, NJ 07102.

MC 71902 (Sub-95TA), filed October 19, 1978. Applicant: UNITED TRANSPORTS, INC., 4900 N. Santa Fe Avenue, P.O. Box 18547, Oklahoma City, OK 73154. Representative: Eric L. Spitler, 4900 N. Santa Fe, P.O. Box 18547, Oklahoma City, OK 73154. *New motor vehicles* (except motor homes, trailers, agricultural and industrial tractors, and attachments for trailers and agricultural and industrial tractors), in secondary movements, in truckaway and driveaway service, restricted to the transportation of shipments having an immediately prior movement by rail or motor carrier, from New Orleans, LA to points in MS, for 180 days. Supporting shipper(s): Chrysler Corp., P.O. Box 1976, Detroit, MI 48231. Send protests to: Connie Stanley, Trans. Assistant Rm. 240 Old Post Office & Court House Bldg., 215 NW 3rd, Oklahoma City, OK 73102.

MC 82063 (Sub-93TA), filed October 19, 1978. Applicant: KLIPSCH HAULING CO., 10795 Watson Rd., Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as applicant). *Liquid chemicals*, in bulk, in rubber-lined tank vehicles, between Eldorado, AR and Gulfport, MS, for 180 days. Suporting shipper(s): Velsicol Chemical Corp., 341 E. Ohio St., Chicago, IL 60611. Send protests to: District Supervisor, P. E. Binder, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 106398 (Sub-846TA), filed October 19, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, OK 74103. Representative: Irvin Tull, 525 South Main, P.O. Box 3329, Tulsa, OK 74103. *Buildings, complete, knocked down or in sections*, from the facilities of Kirby Building Systems in Houston, TX to points in AZ, CA, CO, LA, OK, OR, WA & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kirby Building Systems, 7101 Renwick, P.O. Box 36425, Houston, TX 77036. Send protests to: Connie Stanley, Trans. Assistant, Rm. 240, Old Post Office & Court House Bldg., 215 NW 3rd, Oklahoma City, OK 73102.

MC 107496 (Sub-1170TA), filed October 20, 1978. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (Same as applicant). *Aluminum sulfate* (alum) in bulk, in tank vehicles, from Denver, CO to Amarillo, TX, for 180 days. Supporting shipper(s): Allied Chemical Corp., P.O. Box 1139R, Morristown, NJ 07960. Send protests to: Herbert W. Allen, District Supervisor, 518 Federal Building, Des Moinès, IA 50309.

MC 109593 (Sub-5TA), filed October 12, 1978. Applicant: H. R. HILL d.b.a. H. R. HILL TRUCKING COMPANY, Box 875, 2007 West Shawnee, Muskogee, OK 74401. Representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbonated beverages* from the facilities of Shasta Beverages, at or near Houston, TX to points in OK and from the facilities of Shasta Beverages, at or near Lenexa, KS to points in OK, that on and north of I-20 and on and west of I-35, that part of AR on and west of U.S. Hwy 71; and (2) *Equipment, materials, and supplies* used in the processing and distribution of carbonated beverages (except commodities which because of size and weight require special equipment) from points in OK to the facilities of Shasta Beverages at or near Houston, TX and from points in OK those in that part of TX on and north of I-20 and on and west of I-35, and that part of AR on and west of U.S. Hwy 71 to the plantsite of Shasta Beverages at or near Lenexa, KS, under a continuing contract or contracts with Shasta Beverages, for 180 days. Supporting shipper(s): Shasta Beverages, 26901 Industrial Blvd., Hayward, CA 94545. Send protests to: Connie Stanley, Trans. Assistant, Rm. 240 Old Post Office & Court House Bldg., 215 NW 3rd, Oklahoma City, OK 73102.

MC 112962 (Sub-12TA), filed October 19, 1978. Applicant: CRUPPER TRANSPORT CO., INC., 25 South Third, Kansas City, KS 66118. Representative: Tom B. Kretsinger, Esq., Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Iron and steel forms, conveyors and construction materials, equipment and supplies*, between Kansas City, KS and points in CO, IA, IL, LA, MO, NE, OK, and WY. This is a non-radial application. Restricted to transportation for the account of Midwest Conveyor Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-West Conveyor Co., Inc., 450 E. Donovan Road, Kansas City, KS 66115. Send protests to: Vernon V. Coble, District Supervisor, I.C.C., 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 114334 (Sub-40TA), filed October 20, 1978. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Mr. Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles* from Memphis, TN to a power plant construction site located 10 miles west of Princeton, IN on Indiana Highway 64, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armco Steel Inc., 1969 Harbor Ave., Memphis, TN 38113. Send protests to: Mr. Floyd A. Johnson, District Supervisor, 100 North Main Building, Suite 2006, 100 North Main St., Memphis, TN 38103.

MC 114569 (Sub-253TA), filed October 20, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as above). *Heating and air-conditioning equipment and parts and accessories therefor* (except commodities the transportation of which because of size or weight requires the use of special equipment) from Nashville, TN to points in IL, IN, OH, MI, MD, NJ, NY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heil Quaker Corp., 1717 Heil Quaker Boulevard, La Vergne, TN 37086. Send protests to: Charles F. Myers, District Supervisor, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 114569 (Sub-254TA), filed October 20, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as above). (1) *Foodstuffs, canned or bottled* (except frozen foods and commodities in bulk, in tank vehicles) from the facilities of Wm. Underwood Co., at or near Hannibal, MO to Great Falls, MT; Los Angeles, Milpitas, and San Jose, CA; Phoenix, AZ; Portland, OR; Salt Lake City, UT; Seattle, WA; El Paso, TX; and Denver, CO, and (2) *Equipment, supplies, and parts utilized in manufacturing and sale of foodstuffs, canned or bottled* from Marion, AL to the facilities of Wm. Underwood Co., at or near Hannibal, MO restricted to traffic originating at or destined to the facilities of Wm. Underwood Co., at or near Hannibal, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wm. Underwood Co., One Red Devil Lane, Westwood, MA 02090. Send protests to: Charles F. Myers, District Supervisor, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 118142 (Sub-187TA), filed October 20, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Meat, meat products and meat by-products*, from facilities of Riverland Food Corporation, Gonzales, LA, to IL, IN, MN & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riverland Food Corp., P.O. Box 68, Gonzales, LA 70737. Send protests to: M. E. Taylor, District Supervisor, 101 Litwin Bldg., Wichita, KS 67202.

MC 119493 (Sub-237TA), filed October 20, 1978. Applicant: MONKEM COMPANY, INC., West 20th Street Road, P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Flour* (except in bulk), from IL and IN to AL, AR, FL, GA, LA, MS, NC, SC, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilbert Jackson Co., Inc., Kansas City, MO. Send protests to: District Supervisor, John V. Barry, Rm. 600, 911 Walnut, Kansas City, MO 64106.

MC 121509 (Sub-10TA), filed October 19, 1978. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, Muscatine, IA 52761. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Liquid feed*, in bulk, from Olin, IA to points in IL, MN, MO, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square 11T, St. Louis, MO. Send protests to: Herbert W. Allen, District Supervisor, I.C.C., 518 Federal Building, Des Moines, IA 50309.

MC 123407 (Sub-504TA), filed October 12, 1978. Applicant: SAWYER

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TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same as applicant). *Honeycomb paper products* from the facilities of Hexagon Honeycomb Corporation located in St. Claire County, IL, to Stockton, CA; Douglas, GA; Elkhart, IN; New Orleans, LA; Grand Rapids, MI; Forest City, NC; Cleveland and Upper Sandusky, OH; McKenzie and Milan, TN; Harrisonburg, VA; and Clarksville, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hexagon Honeycomb Corp., 7803 Clayton Road, Suite 201, St. Louis, MO 63117. Send protests to: Lois Stahl, Trans. Assistant, I.C.C. Everett McKinley Dirksen Building, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 124078 (Sub-895TA), filed October 19, 1978. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28 St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same as applicant). *Cement* from Hagerstown, MD to Superior, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marquette Cement Div., Gulf & Western Natural Resources Group, 2200 First American Center, Nashville, TN 37238. Send protests to: Gail Daugherty, Trans. Assistant U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 12885 (Sub-1TA), filed October 20, 1978. Applicant: M & M TRANSPORT, INC., P.O. Box 455, Mossy Rock, WA 98564. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Sawdust and shavings* from Little Skookum Plantsite and plantsite of Delson Lumber at Olympia, WA to St. Helens, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delson Lumber Co., P.O. Box 8580, Olympia, WA. 98507. Send protests to: R. V. Dubay, District Supervisor, 114 Pioneer Courthouse, Portland, OR 97204.

MC 129032 (Sub-61TA), filed October 19, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same as applicant). *Candy and confectionery* (except in bulk) moving in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons at or near Chicago, IL to points in TX and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. J. Brach & Sons Div. of American Home Products Corporation, 4656 W. Kinzie, Chicago, IL 60644. Send protests to: Connie Stanley, Trans. Assistant, Rm. 240, Old Post Office & Court House Bldg., 215 NW 3rd, Oklahoma City, OK 73102.

MC 133095 (Sub-207TA), filed October 20, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Petroleum and petroleum products in packages* from the facilities of Texaco, Inc. in Jefferson County, TX to points in OH, IN, IL, MI, IA, NE, LA, MO, KY, TN, MS & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: Robert J. Kirspel, District Supervisor, Rm. 9A27, Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 134286 (Sub-85TA), filed October 20, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Kenneth L. Ackerman (same as above). *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766* (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., located at or near Dakota City, NE, and Sioux City, IA, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glen Echelbarger, Transportation Rate Analyst, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135070 (Sub-14TA), filed October 20, 1978. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, NE 68501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* (except in bulk and hides), from the facilities of Royal Packing Company, at or near National Stockyards, IL and St. Louis, MO, to points in CT, MD, MA, NJ, NY, PA, RI, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Royal Packing Company, P.O. Box 156, National City, IL 62071. Send protests to: Haskell E. Ballard, District Supervisor, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135070 (Sub-15TA), filed October 20, 1978. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, NE 68501. *Candy and confectionery* (except in bulk), from the plantsite and warehouse facilities of or utilized by E. J. Brach & Sons at or near Chicago, IL to points in MD, NJ, NY, OK, PA, TX, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. J. Brach & Sons, 4656 West Kinzie St., Chicago, IL 60644. Send protests to: Haskell E. Ballard, District Supervisor, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135082 (Sub-33TA), filed October 19, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain (same as applicant). *Brick and tile,* and the commodities used in the installation thereof, from Los Angeles and Elsinore, CA, to points in AR, LA, and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacific Clay Building Products, 9500 South Norwalk Blvd., Santa Fe Springs, CA 90607. Send protests to: I.C.C. District Supervisor, 1106 Federal Office Bldg., 517 Gold Ave. SW., Albuquerque, NM 87101.

MC 135810 (Sub-4TA), filed October 19, 1978. Applicant: BRUCE CART<AGE CO., INC., 8399 Zionsville Road, Indianapolis, IN 46268. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Electrical goods and household appliances and parts thereof,* from the facilities of ADI at Indianapolis, IN to points in KY. Restriction: Restricted to traffic originating at the facilities of ADI at Indianapolis, IN under a continuing contract or contracts with ADI of Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ADI, 8399 Zionsville Road, Indianapolis, IN 46268. Send protests to: Beverly J. Williams, Trans. Assistant, I.C.C., Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 136315 (Sub-41TA), filed October 20, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. (1) *Lumber* from the facilities of Weyerhaeuser Company at or near Millport, AL to points in IL, IN, KY, MI, MN, OH, PA, and WI; (2) and *equipment, materials and supplies* (except in bulk) from points in the above named states to the facilities of Weyerhaeuser Company at or near Millport, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Co., P.O. Box 577, Bruce, MS 38915. Send protests to: Alan C. Tarrant, District Supervisor, I.C.C., Rm. 212, 145 East Amite Building, Jackson, MS 39201.

MC 138388 (Sub-3TA), filed October 20, 1978. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, 255 Beaver Dam St., Lowell, WI 53557. Representative: Thomas P. Shannon, 622 N. Water St., Milwaukee, WI 53202. *Bagged feed or feed* in bulk which excludes all chemical or liquid commodities from the Town of Emmet, County of Dodge, WI to points located within IL, IN, MI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Provimi, Inc., Provimi Road, Watertown, WI. Send protests to: Mrs. Gail Daugherty, Trans. Assistant, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, WI 53202.

MC 138567 (Sub-2TA), filed October 19, 1978. Applicant: R. L. PAQUETTE, INC., Box 162, Middlebury, VT 05753. Representative: Roger Paquette, Jr., Dog Team Road, New Haven, VT 05472. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Plastic brushes,* from Middlebury, VT to Sheffield, PA, under a continuing contract or contracts with Tucel Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shippper(s): Tucel Industries, Inc., Maple Street, Middlebury, VT 05753. Send protests to: District Supervisor, David A. Demers, P.O. Box 548, 87 State St., Montpelier, VT 05602.

MC 129495 (Sub-392TA), filed October 20, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 E. 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick lane, Silver Spring, MD 20910. *Adhesives, sealants, solvents, stains, wood preservatives, and accessories, equipment, materials, and supplies used in the installation, maintenance, and distribution of floors, floor coverings, walls and wall coverings,* in vehicles equipped with mechanical refrigeration, from the facilities of Roberts Consolidated industries located at or near City of Industry, Monrovia, and Southgate, CA to points in the United States (except AK, HI, and CA), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roberts Consolidated Industries, 600 N. Baldwin Park Boulevard, City of Industry, CA 91749. Send protests to: M. E. Taylor, District Supervisor, 101 Litwin Building, Wichita, KS 67202.

MC 140820 (Sub-9TA), filed October 19, 1978. Applicant: A & R TRANSPORT, INC., an Illinois corporation, 2996 N. Illinois 71, Route 3, Ottawa, IL 61350. Representative: James R. Madler, 120 West Madison St., Chicago, IL 60602. *Sulfuric acid,* from DePue, IL to points in IA, IN, KS, KY, MI, MO, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): T. C. Welch, Vice President, Chemical Interchange Company, 11 S. Meramec, Suite 1104, St. Louis, MO 63105. Send protests to: Lois M. Stahl, Trans. Assistant, 219 South Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 143812 (Sub-6TA), filed October 19, 1978. Applicant: MARTIN E. VAN DIEST, d.b.a. M. VAN DIEST CO., 8087 Victoria Avenue, Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Liquid foodstuffs,* in bulk, from points in Kern County, CA, to points in Washington, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delano Growers Cooperative Winery, Route 1, Box 283, Delano, CA 93215. Send protests to: Irene Carlos, Trans. Assistant, Rm. 1321, Federal Building, 300 North Los Angeles St., Los Angeles, CA 90012.

MC 143988 (Sub-4TA), filed October 19, 1978. Applicant: JAMES W. TATE, d.b.a. JAMAR TRUCKING, 5377 Fleetway Avenue, Memphis, TN 38118. Representative: Mr. Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Foodstuffs* (except commodities in bulk) from the facilities of Green Giant Company at or near Belvidere, IL to points in the states of TN, MO, MS and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Giant Company, Le Sueur, MN 56058. Send protests to: Mr. Floyd A. Johnson, District Supervisor, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 144264 (Sub-2TA), filed October 17, 1978. Applicant: MOHR TRUCKING CO., INC., Route 1, Box 198, Barboursville, WV 25526. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Crushed stone and limestone aggregate,* in bulk, in dump vehicles, from points in Adams County, OH to points in Boone, Cabell, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne, and Wirt Counties, WV, under a continuing contract or contracts with Plum Run Stone Div. of Davon Inc., for 180 days. Supporting shipper(s): Plum Rum Stone Div of Davon Inc. 4281 Roush Road, Hillsboro, OH 45133. Send protests to: ICC District Supervisor, 3108 Federal Building, 500 Quarrier Street, Charleston, WV 25301.

MC 145152 (Sub-11TA), filed October 18, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Canned foods,* from Napoleon, OH to Paris, TX, for 180 days. Supporting shipper(s): Campbell Soup Company, East Maumee Avenue, Napoleon, OH 43545. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-12TA), filed October 18, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Such commodities as are dealt in or used by wholesale and retail discount and variety stores,* from points in the States of IL and PA to the facilities of Wal-Mart Stores, Inc., at or near Bentonville and Searcy, AR, for 180 days. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-13TA), filed October 20, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Canned goods,* from Napoleon, OH to Paris, TX; Camden, NJ; Chicago, IL; and points in NY, PA, KY, WV, IN, NC, and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Campbell Soup Co., East Maumee Ave., Napoleon, OH 43545. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145409 (Sub-2TA), filed October 18, 1978. Applicant: STA-GREEN TRANSPORTATION CO., INC., 321 North Anniston Avenue, Sylacauga, AL 35150. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. (1) *Fertilizer and fertilizer ingredients, seed, insecticides, herbicides, and fungicides,* from the facilities utilized by Parker Fertilizer Co., Inc., in Talladega County, AL to all points in the United States (except AK and HI); and (2) *equipment, materials, and supplies used in the manufacture or distribution of fertilizer and fertilizer ingredients, seed, insecticides, herbicides, and fungicides,* from all points in the United States (except AK and HI) to the facilities utilized by Parker Fertilizer Co., Inc., to Talladega County, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Parker Fertilizer Co., Inc., P.O. Box 540 Sylacauga, AL 35150. Send protests to: Mabel E.

Holston, Trans. Asst., Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145573TA, filed October 18, 1978. Applicant: ELBERT R. RANEY, d.b.a. RANEY'S TRUCKING, 634 East Olive, Oxnard, CA 93030. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Expanded shale and bentonite*, in bulk, from Lightweight Processing Co. plant sites, at or near Frazier Park and Ventura, CA to points in AZ and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lightweight Processing Co., 715 North Central Avenue, Suite 321, Glendale, CA 91203. Send protests to: Irene Carlos, Trans. Asst., Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 145574TA, filed October 19, 1978. Applicant: RUSS'S MOTOR SERVICE, INC., 5070 Lake Street, Melrose Park, IL 60160. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *General commodities* having a prior or subsequent movement by rail and empty trailers or containers, between Chicago, IL on the one hand, and, on the other Waukegan, IL and Kenosha, Racine, and Milwaukee, WI, for 180 days. Supporting shipper(s): C. V. Murphy, Manager, Intermodal Operations, Chicago & Northwestern Transportation Company, Inc., Rm. 100, 500 W. Madison St., Chicago, IL 60606. Send protests to: Lois M. Stahl, Trans. Assistant, ICC, 219 South Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 145578TA, filed October 18, 1978. Applicant: CHEVALLEY MOVING & STORAGE OF LAWTON, INC., P.O. Box 627, Lawton, OK 73501. Representative: Billy R. Reid, P.O. Box 9093, Ft. Worth, TX 76107. *Used household goods*, between points in Commanche, Kiowa, Caddo, McLain, Carter, Grady, Garvin, Murray and Stephens Counties, OK, for 180 days. Restriction: The operations authorized are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization, or unpacking, uncrating and decontainerization of such traffic. Supporting shipper(s): Sunpak Movers, Inc., 100 West Harrison Plaza, Seattle, WA 98119. Imperial Van Lines International, Inc., 2805 Columbia Street, P.O. Box 2949, Torrance, CA 90503. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 145580TA, filed October 18, 1978. Applicant: GAINER'S TOWING, INC., 4321 SE. Hawthorne Boulevard, Portland, OR 97215. Representative: Richard James Spielman (same as above). *Mobile offices, restrooms and storage trailers* by towing (1) from Portland, OR and Vancouver, WA serving all intermediate points and off route points within fifty (50) airline miles of Portland, OR and Vancouver, WA. (2) From Portland, OR and Vancouver, WA, on the one hand, and, on the other, points in OR, WA, ID and MT, for 180 days. Supporting shipper(s): There are (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: R. V. Dubay, District Supervisor, 114 Pioneer Courthouse, Portland, OR 97204.

MC 145581TA, filed October 17, 1978. Applicant: HAROLD L. HOOD, d.b.a. HOOD TRUCKING, R.R. No. 1, Rushville, IL 62681. Representative: Robert T. Lawley, Attorney, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, for the account of Kent Feeds, Inc., between Beardstown, IL, on the one hand, and, on the other, points in IN, IA and MO, under a continuing contract or contracts with Kent Feeds, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thomas D. Donis, Director of Transp., Kent Feeds, Inc., 1600 Oregon Street, Muscatine, IA. Send protests to: Charles D. Little, District Supervisor, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 145583TA, filed October 18, 1978. Applicant: XPRESS TRUCK LINES, INC., 4325 Bath Street, Philadelphia, PA 19137. Representative: Anthony A. Cerone (same as above). *Iron and steel articles* having a prior movement by water, between points in PA, DE, CT, NY, NJ, MD, VA within 250 miles of Philadelphia, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nasco Steel, Inc., Milnor and Bleigh Streets, Philadelphia, PA 19136. Send protests to: T. M. Exposito, Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 145584TA, filed October 18, 1978. Applicant: SOUTHLAND TRANSPORTATION, INC., P.O. Box 7760, Washington, DC 20044. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such articles* as are dealt in by variety and department stores, and newspaper supplements when moving in mixed loads with the above, between the facilities of Kuhn's Big K Stores at Nashville, TN, on the one hand, and, on the other, its retail outlets at Brunswick and Savannah, GA and points in SC, under a continuing contract or contracts with Kuhn's Big K Stores Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supportng shipper(s): Kuhn's Big K Stores Corporation, 245 Great Circle Drive, Nashville, TN 37228. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 145654TA, filed October 10, 1978. Applicant: RICAR, INC., 106 Crown Court, Lancaster, OH 43130. Representative: Robert W. Gardler, Jr., 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fireplace coal, fireplace supplies and accessories, and materials used in the manufacture, distribution or sale thereof*, between the facilities of the Hearthland Corp., located at or near Columbus, OH, on the one hand, and, on the other, points in CA, CO, DE, DC, IL, IN, KY, MD, MA, MI, MO, NH, NY, PA, RI, TN, TX, VT, VA and WI, and the following points: Albuquerque, NM; Atlanta, GA; Coyers, GA; Englewood, CO; Kansas City, KS; Lincoln, NE; Little Rock, AR; Metarie, LA; Minneapolis, MN; St. Paul, MN; Salt Lake City, UT; and Tampa, FL, for 180 days. Restricted: To service performed under continuing contract or contracts with Hearthland Corp., of Columbus, OH. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hearthland Corp., P.O. Box 15361, Columbus, OH 43215. Send protests to: Frank L. Calvary, District Supervisor, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

PASSENGER CARRIER

MC 145548 (Sub-1TA), filed October 20, 1978. Applicant: COMMUNITY TRANSIT LINES, INC., 315 Howe Avenue, Passaic, NJ 07055. Representative: J. G. Dail Jr., P.O. Box LL, McLean, VA 22101. *Passengers and their baggage*, between the junction of the Garden State Parkway and New Jersey Highway 3 in Clifton, NJ and New York, NY, serving all intermediate points between the junction of the Garden State Parkway and New Jersey Highway 3 and the Hackensack River: From junction Garden State Parkway and New Jersey Highway 3 over New Jersey Highway 3 to junction Interstate 495 in North Bergen, NJ, then over Interstate Highway 495 through the Lincoln Tunnel to New York, and return over the same route, for 180 days. An underlying ETA seeks

90 days authority. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: District Supervisor Joel Morrows, I.C.C., 9 Clinton St., Newark, NJ 07102.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-33171 Filed 11-27-78; 8:45 am]

[7035-01-M]

[Notice No. 134]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission with 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77794, filed August 1, 1978. Transferee: DELIVERY SERVICE CORPORATION, d.b.a. DELIVERY SERVICE, INC., 155 Bignall Street, Warwick, RI 02888. Transferor: Mr. Messenger, Inc., 10 Messenger Drive, Warwick, RI 02888. Representative: John E. Fuyat, Attorney at Law, 1345 Warwick Avenue, Warwick, RI 02888. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates Nos. MC-117243 and MC-117243 (Sub-No. 4), issued January 31, 1972, and May 23, 1975, respectively, as follows: Photo film and photo finishers handling materials (excepting transportation of motion picture film, between Providence, RI, and the Theodore Francis Green Airport, Warwick, RI, and between Providence, RI, and the Theodore Francis Green Airport, Warwick, RI on the one hand, and, on the other points in CT and MA within 25 miles of the Rhode Island State line, restricted to shipments having a prior or subsequent movement by air or rail; dental, medical, and optical supplies, in shipments not exceeding 35 pounds in weight, in retail delivery service, between Providence, RI on the one hand, and, on the other, points in Massachusetts and Connecticut within 25 miles of the Rhode Island State line; and such merchandise as is dealt in retail stores, in retail delivery service, between points in Rhode Island and Connecticut, and points in Bristol, Norfolk, Plymouth, Worcester, and Barnstable Counties, MA and Boston, MA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77829, filed August 30, 1978. Transferee: BILL HEAD TRUCKING, INC., 1281 Pine Tree Drive, Birmingham, AL 35235. Transferor: Caravan Refrigerated Cargo, Inc., P.O. Box 6188, Dallas, TX 75222. Representative: John W. Cooper, Attorney at Law, 1927 First Ave. No., 200 Woodward Building, Birmingham, AL 35203. Authority sought for purchase by transferee of portion of the operating rights of transferor as set forth in Certificate No MC-119789 issued August 19, 1963, as follows: Bananas, from Gulfport, MS to points in Alabama (except Montgomery) with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77847, filed September 13, 1978. Transferee: AIM INDUSTRIES, INC., 330 Manhattan Ave., Jersey City, NJ 07307. Transferor: Transloric Trucking Corp., 720 Tonelle Ave., Jersey City, NJ 07307. Representative: Salvatore Guasto, President, Aim Industries, Inc., 330 Manhattan Ave., Jersey City, NJ 07307. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-134085 issued September 13, 1971, as follows: General commodities (except noninflammable liquids, in bulk, in tank vehicles; automobiles, trucks, chassis, bodies, and cabs; and classes A and B explosives), between points in that part of the New York, NY, Commercial Zone, as defined by the Commission, within which local operations may be conducted pursuant to the partial exemption of Section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), restrictive to the transportation of traffic having an immediately prior or subsequent movement by water. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77879, filed September 26, 1978. Transferee: JENSEN TRUCKING CO., INC., P.O. Box 402, American Fork, UT 84003. Transferor: Hi-Line Transport, Inc., 572 East 1700 South, Salt Lake City, UT 84105. Representative: Jack L. Jensen, President-Jensen Trucking Co., In., P.O. Box 402, American Fork, UT 84003. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-117415 (Sub-No. 1) issued April 10, 1961, as follows: Lumber, from points in Del Norte, Nodoc, Siskiyou, Lassen, Shasta, Humboldt, Tehama, Butte, Sonoma, Mendocino, and Plumas Counties, CA to points in Box Elder, Cache, Rich, Weber, Morgan, Davis, Wasatch, Summit, Salt Lake, Utah, Duchesne, Uintah, Carbon, Sanpete, Juab, Millard, and Sevier Counties, UT; and returned shipments of lumber, and exempt agricultural commodities moving the same vehicle with returned shipments of lumber, from points in the above named destination counties to points in the above named origin counties. Transferee holds authority in Certificate No. MC-129991 (Sub-No. 1). Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77887, filed October 17, 1978. Transferee: RBL, INC., 325 North Second Street, Terre Haute, IN 47807. Transferor: Ray Wilson, Inc., Hattiesburg, MS 39401. Representative: A. Charles Tell, Attorney at Law, 100 East Broad Street, Columbus, OH 43215. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-117998 and the Permit in No. MC-139751 issued July 24, 1961 and March 12, 1975, respectively, as follows: Bananas, from New Orleans, LA to Terre Haute and Indianapolis, IN, DeKalb, IL, and Springfield and St. Louis, MO, from Mobile, AL to Terre

Haute, IN, and from Tampa, FL to Terre Haute, IN; and metal containers ends, from the facilities of Rockford Can Company, at Rockford, IL to Pascagoula, MS. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77904, filed October 24, 1978. Transferee: FOURWAY EXPRESS, INC., 5 Henshaw Street, Woburn, MA 10801. Transferor: Great East Trucking Corp., 5 Henshaw Street, Woburn, MA 10801. Representative: Mary E. Kelley, Attorney at Law, 11 Riverside Avenue, Medford, MA 02155. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC-120847, issued May 15, 1974, as follows: General commodities anywhere within Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77912, filed October 26, 1978. Transferee: J. B. O. L., INC., 10050 West Roosevelt Road, Westchester, IL 60153. Transferor: Freight Brokers, Inc., 10050 West Roosevelt Road, Westchester, IL 60153. Representative: Eugene L. Cohn, Attorney at Law, One North LaSalle Street, Chicago, IL 60602. Authority sought for purchase by transferee of the operating rights of transferor as set forth in License No. MC-78948 issued April 30, 1959, authorizing transferor to engage in the transportation of general commodities as a broker at Chicago, IL. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77918, filed October 31, 1978. Transferee: FRATE SERVICE, INC., R.R. 1, East Peoria, IL 61611. Transferor: C.P.T. Freight, Inc., 2600 Calument Avenue, Hammond, IN 46320. Representatives: Eugene L. Cohn, Attorney for transferor, One North LaSalle Street, Chicago, IL 60602; Samuel G. Harrod, Attorney for transferee, Professional Building, Eureka, IL 61530. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-1042 (Sub-No. 5), issued March 19, 1968, as follows: Iron and steel articles, from the facility of Jones & Laughlin Steel Corporation, located in Putnam County, IL, to points in Indiana; and materials, equipment, and supplies used in the manufacture and processing of iron and steel articles, from points in Indiana, to the facility of Jones & Laughlin Steel Corporation, located in Putnam County, IL, restricted against the transportation of commodities in bulk. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33172 Filed 11-27-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28583 (Sub-No. 22F)]

STANLEY E. G. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Debtor-Trackage Rights Over Burlington Northern, Inc., Between Miles City, MT and Big Sky and Kuehn, MT, a Distance of 138.9 Miles

November 21, 1978.

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Milwaukee Road), 516 West Jackson Boulevard, Chicago, IL 60606, represented by Thomas H. Ploss, General Solicitor, and William C. Sippel, Attorney, each of the foregoing address hereby gives notice that on November 3, 1978, he filed with the Interstate Commerce Commission at Washington, D.C. an application under section 11344 of Title 49—Transportation, Public Law 95-473 (1978) for an order approving and authorizing a grant trackage rights to permit Milwaukee Road to operate its own locomotives, cars, and trains with its own crews between Miles City and Big Sky and Kuehn, MT, over trackage of Burlington Northern, Inc. (BN), a distance of approximately 138.9 miles. The transaction proposed by Milwaukee Road is subject to the execution of an appropriate agreement between Milwaukee Road and BN. This application is a major market extension and has been accepted and assigned Finance Docket No. 28583 (Sub-No. 22F).

This application has been filed in response to Finance Docket No. 28583 (Sub-No. 1F), Burlington Northern, Inc.—Control and Merger—St. Louis-San Francisco Railway Company. It will be consolidated with Finance Docket No. 28583 (Sub-No. 1F). Milwaukee Road is seeking imposition of these trackage rights as a condition in the event the BN-Frisco merger is approved by the Commission in order to reduce its operating costs and gain additional revenues which would enhance its reorganization on an income basis.

Milwaukee Road operates approximately 9,891 miles of railroad in the States of Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oregon, South Dakota, Washington, and Wisconsin.

Milwaukee Road is under the sole control of the U.S. District Court for the Northern District of Illinois, Eastern Division, Judge Thomas R. McMillen, and the trusteeship of Stanley E. G. Hillman. The Chicago Milwaukee Corp. owns 96 percent of the Milwaukee Road's outstanding stock.

Interested persons may participate formally in a proceeding by submitting written comments in regard to the application. Such submissions shall indicate the proceeding designation (F.D. No. 28583 (Sub-No. 22F)), and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than January 2, 1979. Such written comments shall include the following: the person's position—e.g. party protestant or party in support, regarding the proposed transaction—and specific reasons why approval would or would not be in the public interest. This proceeding has been set for oral hearing. Additionally, interested persons who do not intend to participate formally in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon applicant, the Secretary of Transportation, the Attorney General, and all parties of record in Finance Docket No. 28583 (Sub-No. 1F).

Dated: November 20, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Vice Chairman Christian absent and not participating.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33177 Filed 11-27-78; 8:45 am]

[7035-01-M]

[ICC Order No. P-13]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Passenger Train Operation

November 21, 1978.

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and St. Louis, Missouri; that the operation of these trains requires the use of the tracks and other facilities of the Illinois Central Gulf Railroad Company (ICG) between Chicago, Illinois, and St. Louis, Missouri; that these tracks of the ICG are temporarily out of service because of a plant fire; that an alternate route between these points is available via The Atchison, Topeka and Santa Fe Railway Company between Chicago, Illinois, and Joliet, Illinois, thence via ICG from Joliet to St. Louis, Missouri; that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served December 10, 1976, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC § 562(c)), The Atchison, Topeka and Santa Fe Railway Company is directed to permit use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between Chicago, Illinois, and Joliet, Illinois.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 9:30 a.m., CST, November 9, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., CST, November 10, 1978, unless otherwise modified, changed or suspended by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company, and upon the National Railroad Passenger Corporation and a copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 9, 1978.

Interstate Commerce Commission,
Robert S. Turkington,
Agent.

[FR Doc. 78-33175 Filed 11-27-78; 8:45 am]

[7035-01-M]

[2d Rev. S.O. 1332; Exception 3]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Exception to Service Order

November 21, 1978.

Decided November 9, 1978.

By the Board:

The Maine Central Railroad Company (MEC) has purchased one hundred-fifty (150) new boxcars which will be delivered to Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Portland, Oregon, for movement to the MEC. MEC has allowed MILW to load these cars on the west coast for movement to the MEC. Reduced loadings of these cars on the MILW to destinations as directed by MEC means the MILW will hold some of the cars beyond the 60 hours permitted in Section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, is authorized to assemble and hold up to one hundred-fifty (150) new Maine Central Railroad Company (MEC) boxcars for loading as directed by MEC, regardless of the provisions of Section (a)(2)(ii) of this order.

These cars shall become fully subject to all provisions of Second Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective November 9, 1978.

Expires November 30, 1978.

Robert S. Turkington,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-33174 Filed 11-27-78; 8:45 am]

[7035-01-M]

[2d Rev. S.O. 1332; Exception 4]

MARYLAND AND PENNSYLVANIA RAILROAD CO.

Exception to Service Order

November 21, 1978.

Decided November 14, 1978.

By the Board.

The Columbus and Greenville Railway Company (CAGY) has purchased four hundred (400) new boxcars which will be delivered to Maryland and Pennsylvania Railroad Company (MPA) at York, Pennsylvania, for movement to the CAGY. CAGY has allowed MPA to load these cars for movement to the CAGY. Reduced loadings of these cars on the MPA to destinations as directed by CAGY means the MPA will hold some of the cars beyond the 60-hours permitted in Section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, Maryland and Pennsylvania Railroad Company (MPA) is authorized to assembled and hold up to four hundred (400) new Columbus and Greenville Railway Company (CAGY) boxcars for loading as directed by CAGY, regardless of the provisions of Section (a)(2)(ii) of this order.

These cars shall become fully subject to all provisions of Second Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective November 15, 1978.

Expires November 30, 1978.

Joel E. Burns,
Chairman,
Railroad Service Board.

[FR Doc. 78-33176 Filed 11-27-78; 8:45 am]

[7035-01-M]

[2nd Rev. S.O. No. 1332; Exception 2]

ST. LOUIS SOUTHWESTERN RAILWAY CO. AND SOUTHERN PACIFIC TRANSPORTATION CO.

Exception to Service Order

November 21, 1978.

Decided November 9, 1978.

By the Board.

Because of recent work stoppage on the St. Louis Southwestern Railway Company (SSW) and on other connections of the Southern Pacific Transportation Company (SP), and due to * derailments at Pine Bluff, Arkansas, New Orleans, Louisiana, Klamath Falls, Oregon, and in the vicinity of Roseville, California, the SP and the SSW are temporarily unable to forward all cars within 60 hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the SSW and the SP are required to forward loaded cars or empty foreign or private cars from the points named below within 72 hours.

* Change.

V 43 N 229 PT 2 11-28-78

SSW	SP
Pine Bluff, Ark	Eugene, Oreg.
	Roseville, Calif.
	XXX.
	West Colton, Calif.
	XXX.
	Houston, Tex.

XXX Los Angeles, California, San Antonio, Tex., eliminated.

Effective November 10, 1978.

Expires. 11:59 p.m., November 24, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-33173 Filed 11-27-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[3410-05-M]

1

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 3 p.m., December 5, 1978.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on October 26, 1978.
2. Docket UCP 101a and UCP 178a re Wool and Mohair payment programs for the 1978 to 1981 marketing years.
3. Docket UCP 72a re 1979 cotton loan and payment program (upland cotton).
4. Docket UCP 72a re 1979 cotton loan program (extra long staple).
5. Docket UCP 105 re 1979-crop soybean loan and purchase program.
6. Docket UCP 137a re 1979-crop barley, corn, oats, rye, and sorghum loan, purchase, payments, set-aside and land diversion programs.
7. Docket UMD 3a re Section 32 diversion of potatoes.
8. Consideration of proposals for pilot industrial hydrocarbon and alcohol projects.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-2390-78 Filed 11-24-78; 11:37 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 3 p.m., November 27, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED Personnel.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2393-78 Filed 11-24-78; 12:05 pm]

[6355-01-M]

3

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: Wednesday, November 29, 1978, 10 a.m.

LOCATION: Room 456, Westwood Towers Bldg., Bethesda, Md.

STATUS: partly open, partly closed.

MATTERS TO BE CONSIDERED:

AGENDA

OPEN TO THE PUBLIC

1. *Briefing on cellulose insulation labeling rule.* The staff will brief the Commission on issues related to a draft labeling and notification for cellulose insulation, to be issued under section 27(e) of the Consumer Product Safety Act.

2. *Briefing on Denver insulation petition.* In October 1978, the Metropolitan Denver District Attorney's Office petitioned the Commission to set standards for home insulation. The Commission has granted the petition as to cellulose insulation. At this briefing, the staff will brief the Commission on the remaining issues of the petition. plastic foam and fibrous glass insulation.

CLOSED TO THE PUBLIC

3. *Enforcement of sharp points/edges technical requirements.* The staff will discuss issues related to enforcement of the technical requirements the Commission has issued for sharp points and sharp edges on toys and other children's products. (Closed under exemption 9: possible significant frustration of agency action.)

Agenda approved November 17, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon B. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202 634-7700.

[S-2394-78 Filed 11-24-78]

[6355-01-M]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: Thursday, November 30, 1978, 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED.

AGENDA

OPEN TO THE PUBLIC

1. *Decision on Christmas tree lights.* The Commission will consider options for action on a recommended product safety rule for miniature Christmas tree lights. The staff briefed the Commission on this matter at the November 15 briefing.

2. *Decision on definition of "glazed panels".* The Commission will consider issues related to the definition of "glazed panel" in its Safety Standard for Architectural Glazing Materials. This will include consideration of two related petitions. CP 78-10 from Elwood Buck, and CP 78 18 from the National Glass Dealers Association. The staff and representatives of building codes organizations briefed the Commission on these issues at the November 15 briefing.

3. *Recommendation to accept corrective action plan: Bassett Furniture Industries, Inc., full-size cribs, ID 78-51.* The staff has recommended that the Commission accept and monitor the corrective action plan which Bassett has implemented to deal with possible hazards associated with certain cribs Bassett manufactured.

4. *Recommendation to accept corrective action plan: AMF/Harley Davidson Motor Co. golf cars, ID 78-100.* The staff has recommended that the Commission accept the corrective action plan which this firm has implemented to deal with possible hazards associated with certain golf cars it manufactures.

Agenda approved November 17, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-2395-78 Filed 11-24-78; 3:04 pm]

[6570-06-M]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2334-78 and S-2354-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Monday, November 27, 1978.

CHANGE IN THE MEETING: Canceled.

The only matter scheduled for this meeting was consideration of final affirmative action guidelines. The matter is postponed until further notice.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued November 22, 1978.

[S-2401-78 Filed 11-24-78; 3:04 pm]

[6712-01-M]

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9 a.m., Wednesday, November 29, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Commission briefing on the CCIR Special Preparatory Meeting for WARC 1979.

General—2—Subpoena of FCC records by A.T. & T. in connection with *United States v. A.T. & T. et al.*, Civil Action No. 74-1698 (D.D.C.).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 24, 1978.

[S-2398-78 Filed 11-24-78; 3:04 pm]

[6712-01-M]

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 30, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Questions addressed to the Commission by the United States Court of Appeals for the District of Columbia Circuit concerning the Beaufort, S.C., AM revocation proceeding (Docket No. 19886).

Hearing—2—Certification to the Commission in the Eaton, Ohio, Construction permit proceeding (Docket No. 20832).

Hearing—3—Petition to terminate hearing and for other belief in the Centerville, Utah, FM proceeding for construction permit (Docket No. 20460).

General—1—Instructions to Bureau Chiefs and Staff Officers regarding internal Affirmative Action for Minorities and Women.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from FCC Public Information Office, telephone 202-632-7260.

Issued: November 24, 1978.

[S-2399-78 Filed 11-24-78; 3:04 pm]

[6712-01-M]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 30, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Motion for stay in the Omaha, Nebrasha/Council Bluffs, Iowa consolidated AM/FM comparative licensing proceeding (Docket Nos. 78-33-78-345).

General—1—Rule adjustments in light of the Sunshine Act.

General—2—Renewal of the Advisory Committee for Cable Signal Leakage and the Radio Technical Commission for Marine Services as Federal Advisory Committees.

General—3—Petitions for Special Relief filed by Citizens Communications Center requesting approval of reimbursement provisions contained in certain licensee-citizens group agreements.

General—4—Amendment of Parts 1, 81 and 83 of the Commission's Rules to implement a system of temporary authorizations for ship stations in the Maritime Services.

General—5—Report to the Commission regarding public participation in FCC Rulemaking Proceeding Workshops.

Safety and Special Radio Services—1—Applications for review of action taken which dismissed applications of Arthur W. Brothers for authorization of new public coast class III-B stations at Boulder Peak and Boulder City, Nevada.

Common Carrier—1—Petition for Rulemaking (RM-2875) filed by Common Cause on April 1, 1977.

Common Carrier—2—Memorandum Opinion and Order denying an application for review filed by ITT World Communications, Inc., directed against a delegated action by the Chief, Common Carrier Bureau granting the joint application of Telenet Communications Corp. and Hawaiian Telephone Co.

Common Carrier—3—Petition for Partial Reconsideration of *American Television Relay, Inc. (ATRII).*

Common Carrier—4—Reconsideration of ATR Refund.

Common Carrier—5—Extension of Time Limit for Adoption of Rules and Technical Standards for Cellular Mobile Radio Communications Systems.

Common Carrier—6—Regulation of domestic satellite receive-only earth stations.

Common Carrier—7—Applications of All America Cables and Radio, Inc., to construct an additional antenna and associated equipment, acquire, install and operate channelizing equipment at the Cayey, P.R., Earth station, (File Nos. 20-DSE-P-74 and DS-AA-1) and application of Communications Satellite Corp. to discontinue service via the Cayey, P.R., Earth station and to transfer ownership to All America Cables and Radio, Inc. (File No. I-P-D-5).

Cable Television—1—"Petition for Special Relief" (CSR-1287) filed by the New York State Commission on Cable Television.

Cable Television—2—Edward Dunn (McKean County, Pa.) CT Docket No. 78-109.

Assignment and Transfer—1—Application of North Dakota Broadcasting Co., Inc., to transfer control of North American Communications Corp., KXJB-TV, Valley City, N. Dak., to Central Minnesota Television Co., and a Petition to Deny filed by Spokane Television Inc., licensee of Television Station KTHI-TV, Valley City, N. Dak.

Renewal—1—Up-dated EEO programs which include minority/female hiring goals.

Renewal—2—Petition to deny the application of the Georgia State Board of Education for renewal of license for WVAN-TV, Savannah-Pembroke, Ga., filed by the Savannah Branch of the National Association for the Advancement of Colored People.

Renewal—3—Renewal applications of Communico Oceanic Corp. for Stations KPOI and KHSS(FM) Honolulu, Hawaii, and Petition for Emergency and Extraordinary Relief, filed by licensee on October 4, 1978.

Renewal—4—Petition for reconsideration of decision granting B & H Broadcasting Co. waiver of the ascertainment documentation and reporting requirements for Stations WHMI-AM-FM, Howell, Mich.; Requests of seven other licensees for waivers and small market exemption—evaluation to date.

Aural—1—Application to construct a new daytime commercial AM station filed by Dennis F. Doelitzsch, Johnston City, Ill.; petition to deny application by Meredith Corp., KCMO(AM), Kansas City, Mo., and petition to deny application by Greentree Broadcasting Co., WJPF (AM), Herrin, Ill.

Complaints and Compliance—1—Violation by United Broadcasting Co. Station WOOK(FM), Washington, D.C.

Complaints and Compliance—2—Requests for a declaratory ruling concerning the meaning of the phrase "program or any part thereof" in Section 325(a) of the Act.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from FCC Public Information Office, telephone 202-632-7260.

Issued: November 24, 1978.

[S-2400-78 Filed 11-24-78; 3:04 pm]

[6712-01-M]

9

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., 10:30 a.m. and 2 p.m., Tuesday, November 28, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Oral arguments and closed instructions following oral arguments.

MATTERS TO BE CONSIDERED:

The Commission will hold a closed meeting on Tuesday, November 28, 1978, for the purpose of issuing instructions to the staff following oral arguments on Walton Broadcasting, Inc., Tucson, Ariz., standard broadcast station renewal proceeding (Docket No. 20287); WHAM and WHFM, Rochester, N.Y., broadcast renewal proceeding (Docket No. 20477) and renewal application of New Mexico Broadcasting Co., Inc. for television station KGGM-TV, Albuquerque, N. Mex. (Docket No. 20540).

Oral argument, which is open to the public, is scheduled to start at 9:30 a.m. on KGGM-TV, 10:30 a.m. on Walton Broadcasting, Inc., and 2 p.m. on WHAM and WHFM, in Room 856, 1919 M Street NW., Washington, D.C.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 21, 1978.

[S-2389-78 Filed 11-24-78; 11:37 am]

[6714-01-M]

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m., November 30, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of National Bank & Trust Co. of Gloucester County, Woodbury, N.J., and the National Bank of Mantua, Sewell, N.J.

Recommendation regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator or liquidating agent of those assets:

Case No. 43,721-L—Bank of Black Mountain, Black Mountain, N.C.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the liquidation of First State Bank of Northern California, San Leandro, Calif. (two memorandums).

Powell, Goldstein, Frazer & Murphy, Atlanta, Ga., in connection with the liquidation of the Hamilton Bank & Trust Co., Atlanta, Ga.

Chapman & Cutler, Chicago, Ill., in connection with the liquidation of the Drovers' National Bank of Chicago, Chicago, Ill.

Patterson & Patterson, Whitfield, Manikoff & White, Bloomfield Hills, Mich., in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Mich.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the receivership of American Bank & Trust Co., New York, N.Y.

Atkinson, Mueller & Dean, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Schneider, Smeltz, Huston & Bissell, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

O'Neill & Borges, Hato Rey, P.R., in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, P.R. (five memorandums).

Hansell, Post, Brandon & Dorsey, Atlanta, Ga., in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Strasburger & Price, Dallas, Tex., in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Meredith, Donnell & Edmonds, Corpus Christi, Tex., in connection with the liquidation of Northeast Bank of Houston, Houston, Tex.

Memorandum and resolution proposing the adoption of a statement of policy, and the publication for comment of proposed amendments to Part 337 of the Corporation's rules and regulations, regarding income derived from the sale by bank insiders of credit life, health or accident insurance to loan customers of insured State nonmember banks.

Resolution authorizing a contribution by the Corporation to the "Minority Bank Development Program."

Proposed amendments to the current delegations of authority relating to the Manning Table and to the Budget of Administrative Expenses.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2396-78 Filed 11-24-78; 3:04 pm]

[6714-01-M]

11

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., November 30, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Growers & Merchants State Bank, a proposed new bank to be located at the southwest corner of the McCall Village Shopping Center, 3700 North McCall Avenue, Selma, Calif., for Federal deposit insurance.

Bank of Gibson City, a proposed new bank to be located at the junction of U.S. Route 54 and Illinois Routes 47 and 9, Gibson City, Ill., for Federal deposit insurance.

Colonial Banking Co., a proposed new bank to be located at 3600 Merlin Road, Grants Pass (Merlin), Oreg., for Federal deposit insurance.

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Peoples Bank of Crossville, a proposed new bank to be located on Route 11, Tennessee Highway 127, approximately one-half mile south of the county courthouse, Crossville, Tenn., for Federal deposit insurance.

Citizens Bank of Marysville, a proposed new bank to be located at the southeast corner of 10th and State Avenue, Marysville, Wash., for Federal deposit insurance.

Marshall County Industrial Financing Corp., and operating industrial loan company converting to an industrial bank, located at 526 Seventh Street, Moundsville, W. Va., for Federal deposit insurance.

Applications for consent to establish branches:

Lloyds Bank California, Los Angeles, Calif., for consent to establish branches in the vicinity of the intersection of Dublin Boulevard and Golden Gate Drive, Dublin, Calif., and at the intersection of North Texas Street and Atlantic Avenue, Fairfield, Calif.

Application for consent to purchase assets, assume liabilities, and establish a branch:

Bank of Sonoma County, Santa Rosa, Calif., an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Healdsburg branch of the First National Bank of Cloverdale, Cloverdale, Calif., and for consent to establish the Healdsburg branch as a branch of Bank of Sonoma County.

Applications for consent to merge and establish branches:

La Jolla Bank & Trust Co., La Jolla, Calif., an insured State nonmember bank, for consent to merge, under its charter and title, with West Coast National Bank, Oceanside, Calif., and for consent to establish the five offices of West Coast National Bank as branches of the resultant bank.

First American Bank of North Palm Beach, North Palm Beach, Fla., an insured State nonmember bank, for consent to merge under its charter, and with the title of "First American Bank of Palm Beach County," with First American Bank of Lake Worth, National Association, Lake Worth, Fla., and for consent to establish the main office and three branches of First American Bank of Lake Worth, National Association, as branches of the resultant bank.

Flagship Bank of Orlando, Orlando, Fla., an insured State nonmember bank, for consent to merge under its charter and title with Flagship Bank of West Orlando, N.A., Orlando, Fla., and for consent to establish the sole office of Flagship Bank of West Orlando, N.A., as a branch of the resultant bank.

Flagship Peoples Bank of Tallahassee, Tallahassee, Fla., an insured State nonmember bank, for consent to merge under its charter and title with Flagship American Bank of Tallahassee, Tallahassee, Fla., and for consent to establish the sole office of Flagship American Bank of Tallahassee as a branch of the resultant bank.

Burlington County Trust Co., Moorestown, N.J., an insured State nonmember bank, for consent to merge with Bank of West Jersey, Delran Township (P.O. Delran), N.J., under the charter and title of Burlington County Trust Co., and for consent to establish the four offices of Bank of West Jersey as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 42,971-L (Addendum)—Algoma Bank, Algoma, Wis.

Case No. 43,699-L—State Bank of Clearing, Chicago, Ill.

Case No. 43,707-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,709-L—Bank of Commerce, Tonkawa, Okla.

Case No. 43,710-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,713-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Case No. 43,716-L—American City Bank & Trust Co., National Association Milwaukee, Wis.

Case No. 43,718-NR—United States National Bank, San Diego, Calif.

Case No. 43,719-L—Wilcox County Bank, Camden, Ala.

Case No. 43,722-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Memorandum re Franklin National Bank, New York, N.Y.

Memorandum re Northern Ohio Bank, Cleveland, Ohio.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Sullivan & Worcester, Boston, Mass., in connection with the receivership of Surety Bank & Trust Co., Wakefield, Mass. (3 memorandums).

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Reports of committees and officers:

Audit Report: Franklin National Bank Liquidation, New York, N.Y., dated August 4, 1978.

Audit Report: Travel Voucher Process—Phase II, Processing Procedures and Financial Reporting, dated August 11, 1978.

Audit Report: Service Branch Purchasing Function, dated August 25, 1978.

Audit Report: Asset No. R-328, Treetops Condominiums, Hamilton National Bank Liquidation, dated November 2, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2397-78 Filed 11-24-78; 3:04 pm]

[6740-02-M]

12

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 55055, published November 24, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 27, 1978.

CHANGE IN THE MEETING: The meeting scheduled for November 27, 1978, at 10 a.m. has been changed to November 27, 1978, at 9 a.m.

KENNETH F. PLUMB,
Secretary.

[S-2391-78 Filed 11-24-78; 11:37 am]

[6210-01-M]

13

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 53897, November 17, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Following 10 a.m. open portion, Wednesday, November 22, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Proposed salary structure adjustments at Federal Reserve Banks. (This matter was originally announced for a meeting on Friday, November 17, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: November 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2385-78 Filed 11-24-78; 11:37 am]

[7020-02-M]

14

[USITC SE-78-59]

INTERNATIONAL TRADE COMMISSION.

TIME AND PLACE: 10 a.m., Thursday, December 7, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
6. Any items left over from previous agenda.

Portions closed to the public:

5. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2392-78 Filed 11-24-78; 11:34 am]

[7590-01-M]

15

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of November 27, 1978 (includes changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

MONDAY, NOVEMBER 27 (REVISED) 1:30 P.M.

1. Discussion of personnel matter (approximately 1½ hours, closed—exemption 6).
2. Discussion of proposed Commission response to IRG Report on Waste Management (approximately 1 hour, public meeting).

TUESDAY, NOVEMBER 28; 10 A.M.

1. Briefing by American Electric Power Co. on new nuclear projects (approximately 1 hour, public meeting).
2. Briefing on Reactor licensing schedules (approximately 1 hour, public meeting).

FRIDAY, DECEMBER 1:10 A.M.

1. Briefing on report of the NRC/EPA Task Force on Emergency Planning (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ADDITIONAL INFORMATION: The executive branch briefing scheduled for Friday, November 17, was held as scheduled and continued on Monday, November 20.

WALTER MAGEE,
Office of the Secretary.

[S-2387-78 Filed 11-24-78; 11:37 a.m.]

[4410-01-M]

16

PAROLE COMMISSION (National Commissioners—the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: 9:30 a.m., November 21, 1978.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Open or closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On November 21, 1978, the Commission determined that the date and time for the above meeting be changed to Wednesday, November 22, 1978, at 9:30 a.m.; and that the above change be announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3117.

[S-2402-78 Filed 11-24-78; 3:04 pm]

[7715-01-M]

17

POSTAL RATE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, November 28, 1978.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Draft opinion and recommended decision in Docket No. MC77-2. Closed pursuant to 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-2403-78 Filed 11-24-78; 3:04 pm]

[7905-01-M]

18

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., November 28, 1978.

CHANGES IN THE MEETING: Additional item to be considered at the closed meeting:

(12) Appeal from referee's denial of disability annuity application, Robert E. Bigger.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM No. 312-751-4920; FTS No. 387-4920.

[S-2388-78 Filed 11-24-78; 11:37 am]

[8120-01-M]

19

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m. (C.S.T.), Thursday, November 30, 1978.

PLACE: Auditorium of TVA's National Fertilizer Development Center, Muscle Shoals, Ala.

STATUS: Open.

MATTERS FOR ACTION:

OLD BUSINESS

No. 1. Quarterly rate review and proposal for elimination of monthly fuel cost and purchased power adjustment.

No. 2. Project Authorization No. 3390—Develop nuclear spent fuel storage alternatives (Phase 1).

No. 3. Revised TVA policy codes to implement changes in policy discussed by the Board at the November 16 meeting regarding reclamation requirements in coal purchase contracts.

No. 4. Sale at public auction of 13.93 acres of land on White Bridge Road in Davidson County, Tennessee, acquired by TVA for a power service center site—Tract XNVSC-8.

NEW BUSINESS

B—Consulting and personal service contracts

1. Renewal of consulting contract with Sheppard T. Powell Associates, Baltimore, Md., for advice and assistance in the field of chemical engineering, requested by the Office of Engineering Design and Construction.

C—Purchase awards

1. Req. 823912—Furnish all necessary labor, tools, equipment, and materials to construct reinforced drilled pier foundations for the proposed Yellow Creek Nuclear Plant.

2. Req. No. 572850—Indefinite quantity term contract for carbon steel sheets, coils and strips (nuclear) for various TVA projects and warehouses.

3. Amendment to contracts 76K38-86163-1 with Atwood and Morrill Co., Inc.; 76K38-86163-2 with Rockwell International Corp.; 76K38-86163-3 with BIF-A Unit of General Signal Corp.; and 77K38-86163-8 with Nuclear Valve Division, Borg-Warner Corp. for motor-operated and manual valves for the Bellefonte Nuclear plant.

4. Amendment to contract 78P-42-T30 with Falcon Coal Co., Inc., for coal for TVA steam plants.

5. Req. No. 822080 (Reissue)—Requirement contract for metal cable trays and fittings for the Hartsville and Phipps Bend Nuclear Plants.

V 43 N 229

6. Rejection of bids received in response to Invitation No. 824481 for spent fuel storage racks for Bellefonte Nuclear Plant.

D—Project authorizations

1. No. 3392—Pilot-plant production of granular fertilizer by the pipecross granulation process.
2. No. 511.7—Continuation of farm test demonstrations outside the Valley as part of the TVA fertilizer program.
3. No. 3388—Convert the East Bowling Green-Scottsville, Ky., 69-kV transmission line to 161-kV operations.

E—Fertilizer items

1. Supplemental letter agreement between TVA and the International Fertilizer Development Center covering arrangements for library services.

F—Power items

1. New power contract with Blue Ridge Mountain Electric Membership Corp.
2. New power contract with Tallahatchie Valley Electric Power Association.
3. New power contract with the city of Humboldt, Tenn.
4. New power contract with the Mayor and Aldermen of Ripley, Tenn.
5. Amendment to lease and amendatory agreement TV-44653A with Gibson County Electric Membership Corp. providing for exercise of option to purchase TVA's Rutherford 69-kV Substation site; and deed covering sale of the substation site to the Gibson County Electric Membership Corp.
6. Proposed agreements and bonding arrangements to facilitate continued milling of TVA ore at Federal-American Partners uranium mill in Gas Hills area of Wyoming.

G—Real property transactions

1. Grant of 30-year easement to Union County, Tenn., for commercial recreation facilities, affecting approximately 50 acres of Norris Reservoir Land—Tract XTNR-82RE.
2. Grant of 30-year public recreation easement to Meigs County, Tenn., for a county park, affecting approximately 240 acres of Watts Bar Reservoir Land—Tract XTWBR-129RE.
3. Filing of condemnation suits.

H—Unclassified

1. Letter agreement with the Department of Energy covering arrangements for Oak Ridge National Laboratory to conduct fluidized bed combustion studies for TVA.
2. Interagency agreement with the Department of Energy covering arrangements for studies to analyze the impact of wind-powered generation on the electric power system.

[S-2386-78 Filed 11-24-78; 11:37 am]

federal register

TUESDAY, NOVEMBER 28, 1978
PART II



DEPARTMENT OF HEALTH EDUCATION, AND WELFARE

Office of Human Development Services

RUNAWAY YOUTH PROGRAM

Administration Requirements

V 43 N 229 NOV 28 1978

[4110-92-M]

Title 45—Public Welfare

CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1351—RUNAWAY YOUTH PROGRAM

AGENCY: Office of Human Development Services, HEW.

ACTION: Final rule.

SUMMARY: These regulations establish the requirements that govern the administration of the Runaway Youth Program grants. They provide information necessary for grantees and potential grantees, and runaway or otherwise homeless youth and their families, to clearly understand the purpose of the Runaway Youth Program. Written comments, suggestions, and objections to the Notice of Proposed Rulemaking published in the FEDERAL REGISTER on February 23, 1978 (43 FR 7600) were carefully considered in developing these final regulations. Decisions reached and changes made are explained. The basis for these regulations is the Runaway Youth Act, Title III, Juvenile Justice and Delinquency Prevention Act of 1974, as amended by the Juvenile Justice Amendments of 1977.

DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia T. Jefferson, Youth Development Bureau, Administration for Children, Youth and Families, Office of Human Development Services, DHEW, 330 Independence Avenue, SW., Washington, D.C. 20201, 202-245-2862

SUPPLEMENTARY INFORMATION: The Runaway Youth Act provides financial assistance to develop or strengthen proposed or existing runaway youth projects. These projects are community-based facilities designed to take care of the immediate needs (temporary shelter, counseling, and aftercare services) of runaway or otherwise homeless youth, and their families. The law mandates that grantee organizations or agencies be outside the law enforcement structure and the juvenile justice system. The statute also makes provision for technical assistance and short-term training. Those eligible for grants are: States, localities, and private nonprofit agencies, and coordinated networks of private nonprofit agencies. HEW is revising its Runaway Youth Program regulations (41 FR 54296), December 13, 1976, (45 CFR Part 1351) in order to:

(1) Implement the Juvenile Justice Amendents of 1977 relating to the Runaway Youth Program;

(2) Clarify and simplify the existing regulations under HEW's Operation Common Sense. The aim of Operation Common Sense is to produce readable and understandable regulations which reflect Congressional intent and which do not unnecessarily regulate consumers and providers, including State and local governments; and

(3) Carry out the goals of the President's zero-based review of Federal planning requirements. The purpose of the zero-based review is to eliminate unnecessary, burdensome requirements.

1977 RUNAWAY YOUTH ACT AMENDMENTS

The 1977 Amendments give priority to applicants whose grant request to provide services to runaway or otherwise homeless youth is less than $100,000. Priority is also given to applicants whose total project budgets, considering all funding sources, are less than $150,000. Previously these dollar thresholds were $75,000 and $100,000, respectively. The amendments also require that crisis care services be provided to otherwise homeless youth, as well as runaway youth and their families. HEW is also authorized to provide short-term training to runaway or otherwise homeless youth service providers. Coordinated networks of nonprofit private agencies are now eligible for grant assistance in addition to States, localities, and individual nonprofit private agencies.

In the original Act, client records could only be released with the consent of the parent or legal guardian. However, the Department included in the regulations published in the FEDERAL REGISTER on December 13, 1976, provisions for the consent of the youth and parents or legal guardians prior to the release of records. In the amendments, Congress acknowledged and affirmed the Department's decision for joint consent through legislative mandate in Section 7(a)(3) of the 1977 amendments (which amends Section 312(b)(6) of the original Act.

SUBPARTS

For the purposes of clarity, the final regulations for Part 1351, the Runaway Youth Program, are divided into three basic subparts. These subparts, and significant regulations contained in them, are discussed separately to describe any changes made to the Notice of Proposed Rulemaking published in the FEDERAL REGISTER on February 23, 1978. The purpose of the subpart and its basis is also given.

Subpart A, *Definition of Terms*, defines significant terms used in the Act and these regulations. This subpart includes new terms—for example, "coordinated networks of agencies", "homeless youth", and "short-term training". It deletes certain definitions which are unnecessary or redundant. Other definitions have been revised to clarify administrative policy and to reaffirm particular administrative decisions reflected in the proposed regulations published in the FEDERAL REGISTER on February 23, 1978.

The definition for "coordinated networks of agencies" was revised to mean only private nonprofit agencies. This is based on an analysis of public comments and a legal opinion within the Department.

The provisions of Subpart B, *Runaway Youth Program Grant*, pertain to the purpose of the Runaway Youth Act and provide rules regarding grant applications and the use of grant funds.

Section 1351.14 incorporates provisions regarding application for continued grant support. These provisions were not included in the proposed rulemaking because the Department was re-examining the advantages and disadvantages of awarding grants competitively each year versus providing continued financial support to current grantees during a maximum project period of three years. Based on its review, the Department will continue to adhere to policies in the regulations (Section 1351.12) published in the FEDERAL REGISTER on December 13, 1976.

Section 1351.17 informs applicants that the criteria used in rating grant applications will be published annually in the FEDERAL REGISTER as a part of the official program announcement.

Section 1351.18 describes the involvement of both the youth and the parent or legal guardian in the development of plans for case disposition. It also includes provisions for the contact of parents or legal guardians within a preferred time frame. Section 1351.19 describes provisions regarding the confidentiality of client information. The provisions in Sections 1351.18 and 1351.19 were inadvertantly omitted from the proposed rulemaking; however, the Department considers these policies proper and reasonable and has included them as a part of these final regulations.

Subpart C, *Additional Requirements*, explains administrative requirements affecting grantees and potential grantees. These requirements are acceptance of technical assistance and short-term training; coordination with a 24-hour National toll-free communication system; and submission of statistical reports profiling clients served. The purpose of this subpart is to outline the nature of these requirements and to describe the types of assistance and training that will be available.

The requirements for technical assistance and short-term training are based on the Department's intent to improve the administration of the Runaway Youth Program by increasing the capability of the runaway service providers to deliver services. The requirement for coordination with the 24-hour toll-free communication system is based on the need to assure that runaway or otherwise homeless youth are aware of the availability of services and can be referred for assistance regardless of their whereabouts. The statistical reporting requirements are based on the legislative mandate in Section 312(b)(6) of the Act which states that "runaway youth projects shall keep adequate statistical records profiling the children and parents which it serves. . . ." This information is provided in the Annual Report to Congress on the Runaway Youth Program.

PUBLIC COMMENTS

Comments received in response to the proposed regulations were carefully considered. Revisions have been made where appropriate. These changes and significant areas of comment are described below. The decisions made after review of public comments are explained.

1. *Definitions*—(a) *Youth:* Several comments suggested that the definition of a youth as "a person who has not yet reached the legal age of majority" was vague, confusing, contradictory, and could present problems in providing services. State laws vary on the "age of majority" and this could result in grantees having to serve two significantly distinct groups because of the different legal relationships between parents and youth in the age range of 18 to 21. Also, the level of maturity for the 18 to 21 group is different. Their needs are more acute and they require longer-term services and greater staff expertise than runaway youth projects are designed to provide. Given these substantive needs differences and the varying legal relationships, it would not be possible for runaway youth projects to accomplish the intent and goals of the Act, such as reuniting youth with their families. Accordingly, revisions have been made to the proposed definitions of "runaway youth" and "homeless youth". The definitions describe these youth as persons under 18 years of age. The Department will continue to adhere to the age ceiling set forth in the regulations published in the FEDERAL REGISTER on December 13, 1976.

(b) *Technical Assistance:* Concern was expressed that the proposed definition of technical assistance was not adequate because it could be confused with that of "short-term training". The nature of technical assistance places emphasis on problem resolution and increases the overall capability of grantee organizations to administer an effective program. Current grantees report frustration because of an unclear understanding of the nature and function of technical assistance. To take care of this concern, the Department has revised the definition used in the past and has presented additional examples of technical assistance and removed those related to short-term training.

(c) *Short-term Training:* Numerous comments noted that short-term training is the development of staff skills to strengthen the effective delivery of services. Comments also indicated that allowing the training to be State, local or regionally-based will contribute to making the training more useful and accessible to grantee organizations. The Department agrees with these suggestions and has revised Section 1351.20(a) and the definition of "short-term training" in Section 1351.1(m).

(d) *Temporary Shelter:* It was recommended that the present definition be revised to include a specific time frame to define short-term room and board. Since it is not the Department's intention to establish group homes for permanent or long-term care of runaway or otherwise homeless youth, the Department accepts this recommendation. It was decided that a maximum time frame of 15 days would be appropriate. This is based on the average length of stay by a youth in a local runaway youth project as indicated through statistical reporting requirements placed on grantees over the past three years.

2. *Standard for capacity:* A few comments recommended that a standard which requires a minimum residential capacity of four be added to the Program Performance Reporting Requirements placed on grantees in September 1976. The Department has decided to establish a minimum residential capacity to assure a quantifiable standard for measuring whether a runaway youth project is in fact complying with the Act and these regulations regarding shelter. The decision to establish a particular minimum capacity of four is based on limited resources available to runaway youth projects. Therefore, Section 1351.17(d) has been revised.

3. *Indian eligibility:* One comment recommended that Indian tribes be specifically mentioned as eligible to apply for grants as they are considered local units of government. 45 CFR Section 74.3 notes that Federally recognized Indian tribes are presently eligible to apply as localities. All other Indian tribes and Indian organizations are eligible to apply for grants as private nonprofit organizations. These regulations have been revised to include a specific reference to these groups in the definition of "locality" in Section 1351.1(i).

A second recommendation was made to earmark 10 percent of the appropriation specifically for Indian tribes and organizations. The Runaway Youth Act does not permit set-asides for any group of runaway or otherwise homeless youth. The regulations have not been revised in this regard.

4. *Accreditation of local private nonprofit agencies:* One comment suggested that these applicants be awarded grants if accredited by an independent body designated by the Department. This accreditation would establish whether or not the agency has met acceptable professional standards. All runaway youth projects funded by the Department are required to adhere to local licensing requirements for shelter facilities. These requirements address minimum professional standards in such areas as administration, personnel, training, physical facilities, and records and reports. Therefore, the Department believes that a regulation requiring private nonprofit applicants to be accredited is unnecessary.

5. *Technical Changes:* In addition to the revisions described above, the Department has incorporated various suggestions regarding minor technical changes designed to clarify the language and intent of the regulations.

(Catalog of Federal Domestic Assistance 13.623—Runaway Youth)

Dated: August 23, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: November 8, 1978.

HALE CHAMPION,
Acting Secretary.

Chapter XIII of Title 45 of the Code of Federal Regulations (CFR), Part 1351 is amended as follows:

Subpart A—Definition of Terms

Sec.
1351.1 Significant Terms.

Subpart B—Runaway Youth Program Grant

1351.10 What is the purpose of the Runaway Youth Program grant?
1351.11 Who is eligible to apply for a Runaway Youth Program grant?
1351.12 Who gets priority for the award of a Runaway Youth Program grant?
1351.13 What are the Federal and non-Federal participation requirements under a Runaway Youth Program grant?
1351.14 What is the period for which a grant will be awarded?
1351.15 What costs are supportable under a Runaway Youth Program grant?
1351.16 What costs are not allowable under a Runaway Youth Program grant?
1351.17 How is application made for a Runaway Youth Program grant?

1351.18 What criteria has HEW established for deciding which Runaway Youth Program grant applications to fund?
1351.19 What additional information should an applicant or grantee have about a Runaway Youth Program grant?

Subpart C—Additional Requirements

1351.20 What are the additional requirements under a Runaway Youth Program grant?

AUTHORITY: 91 Stat. 1058 (42 U.S.C. 5711)

Subpart A—Definition of Terms

§ 1351.1 Significant terms.

For the purposes of this part:

(a) "Aftercare services" means the provision of services to runaway or otherwise homeless youth and their families, following the youth's return home or placement in alternative living arrangements which assist in alleviating the problems that contributed to his or her running away or being homeless.

(b) "Area" means a specific neighborhood or section of the locality in which the runaway youth project is or will be located.

(c) "Coordinated networks of agencies" means an association of two or more nonprofit private agencies, whose purpose is to develop or strengthen services to runaway or otherwise homeless youth and their families.

(d) "Counseling services" means the provision of guidance, support and advice to runaway or otherwise homeless youth and their families designed to alleviate the problems which contributed to the youth's running away or being homeless, resolve intrafamily problems, to reunite such youth with their families, whenever appropriate, and to help them decide upon a future course of action.

(e) "Demonstrably frequented by or reachable" means located in an area in which runaway or otherwise homeless youth congregate or an area accessible to such youth by public transportation or by the provision of transportation by the runaway youth project itself.

(f) "Homeless youth" means a person under 18 years of age who is in need of services and without a place of shelter where he or she receives supervision and care.

(g) "Juvenile justice system" means agencies such as, but not limited to juvenile courts, law enforcement, probation, parole, correctional institutions, training schools, and detention facilities.

(h) "Law enforcement structure" means any police activity or agency with legal responsibility for enforcing a criminal code including, police departments and sheriffs offices.

(i) "A locality" is a unit of general government—for example, a city, county, township, town, parish, village, or a combination of such units. Federally recognized Indian tribes are eligible to apply for grants as local units of government.

(j) "A nonprofit private agency" is any agency, organization, or institution whose net earnings do not benefit any private shareholder, governing board member, or individual and which agrees to be legally responsible for the operation of a runaway youth project. It may include agencies which are fully controlled by private boards or persons. Non-Federally recognized Indian tribes and Indian organizations are eligible to apply for grants as nonprofit private agencies.

(k) "Runaway youth project" means a locally controlled human service program facility outside the law enforcement structure and the juvenile justice system providing temporary shelter, either directly or through other facilities, counseling and aftercare services to runaway or otherwise homeless youth.

(l) "Runaway youth" means a person under 18 years of age who absents himself or herself from home or place of legal residence without the permission of parents or legal guardian.

(m) "Short-term training" means the provision of local, State, or regionally based instruction to runaway or otherwise homeless youth service providers in skill areas that will directly strengthen service delivery.

(n) "A State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(o) "Technical assistance" means the provision of expertise or support for the purpose of strengthening the capabilities of grantee organizations to deliver services.

(p) "Temporary shelter" means the provision of short-term (maximum of 15 days) room and board and core crisis intervention services, on a 24-hour basis, by a runaway youth project.

Subpart B—Runaway Youth Program Grant

§ 1351.10 What is the purpose of the Runaway Youth Program grant?

The purpose of the Runaway Youth Program grant is to establish or strengthen existing or proposed community-based runaway youth projects to provide temporary shelter and care to runaway or otherwise homeless youth who are in need of temporary shelter, counseling and aftercare services. The Department is concerned about the increasing numbers of youth who leave, and stay away from, their homes without permission of their parents or legal guardian. There is also national concern about runaway youth who have no resources, who live on the street, and who represent law enforcement problems in the communities to which they run. The problems of runaway or otherwise homeless youth should not be the responsibility of already overburdened police departments and juvenile justice authorities. Rather, Congress intends that the responsibility for locating, assisting, and returning such youth should be placed with low-cost, community-based human service programs.

§ 1351.11 Who is eligible to apply for a Runaway Youth Program grant?

(a) States, localities, nonprofit private agencies and coordinated networks of private nonprofit agencies are eligible to apply for a Runaway Youth Program grant unless they are part of the law enforcement structure or the juvenile justice system.

§ 1351.12 Who gets priority for the award of a Runaway Youth Program grant?

In making Runaway Youth Program grants, HEW gives priority to those private agencies which have had past experience in dealing with runaway or otherwise homeless youth. HEW also gives priority to applicants whose total grant requests for services to runaway or otherwise homeless youth are less than $100,000 and whose project budgets, considering all funding sources, are smaller than $150,000. Past experience means that a major activity of the agency has been the provision of temporary shelter, counseling, and referral services to runaway or otherwise homeless youth and their families, either directly or through linkages established with other community agencies.

§ 1351.13 What are the Federal and non-Federal Financial Participation requirements under a Runaway Youth Program grant?

HEW will pay 90 percent of the costs of operating a runaway youth project for any fiscal year. Grantees must pay 10 percent of the costs of operating a runaway youth project for any fiscal year.

§ 1351.14 What is the period for which a grant will be awarded?

(a) The initial notice of grant award specifies how long HEW intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed three years.

(b) Generally the grant will initially be for one year. A grantee must submit a separate application to have the support continued for each subsequent year. Continuation awards within the project period will be made provided the grantee has made satisfactory progress, funds are available, and HEW determines that continued funding is in the best interest of the Government.

§ 1351.15 What costs are supportable under a Runaway Youth Program grant?

Costs which can be supported include, but are not limited to, temporary shelter, referral services, counseling services, aftercare services, and staff training. Costs for acquisition and renovation of existing structures may not normally exceed 15 percent of the grant award. HEW may waive this limitation upon written request under special circumstances based on demonstrated need.

§ 1351.16 What costs are not allowable under a Runaway Youth Program grant?

A Runaway Youth Progam grant does not cover the cost of constructing new facilities.

§ 1351.17 How is application made for a Runaway Youth Program grant?

HEW publishes annually in the FEDERAL REGISTER a program announcement of grant funds available under the Runaway Youth Program Act. The program announcement states the amount of funds available, program priorities for funding, and criteria for evaluating applications in awarding grants. The announcement also describes specific procedures for receipt and review of applications. An applicant should:

(a) Obtain a program announcement from the FEDERAL REGISTER or from one of HEW's 10 Regional Offices in Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle;

(b) Obtain an application package from one of HEW's Regional Offices; and

(c) Upon fulfillent of the requirements of OMB-Circular A-95 which can also be obtained at one of HEW's Regional Offices, submit a completed application to the Grants Management Office at the appropriate Regional Office.

§ 1351.18 What criteria has HEW established for deciding which Runaway Youth Program grant applications to fund?

In reviewing applications for a Runaway Youth Program grant, HEW takes into consideration a number of factors, including:

(a) Whether the application meets one or more of the program's funding priorities; (see § 1351.12)

(b) The need for Federal support based on the number of runaway or otherwise homeless youth in the area in which the runaway youth project is or will be located;

(c) The availability of services to runaway or otherwise homeless youth in the area in which the runaway youth project is located;

(d) Whether there is a minimum residential capacity of four and a maximum residential capacity not to exceed 20 youth with a ratio of staff to youth sufficient to assure adequate supervision and treatment;

(e) Plans for meeting the best interests of the youth involving, when possible, both the youth and the parent or legal guardian. These must include contacts with parents or legal guardian. This contact should be made within 24 hours, but must be made no more than 72 hours following the time of the youth's admission into the runaway youth project. The plans must also include assuring the youth's safe return home or to local government officials or law enforcement officials and indicate efforts to provide appropriate alternative living arrangements.

(f) Plans for the delivery of aftercare or counseling services to runaway or otherwise homeless youth and their parents or legal guardians;

(g) Whether the estimated cost to the Department for the runaway youth project is reasonable considering the anticipated results;

(h) Whether the proposed personnel are well qualified and the applicant agency has adequate facilities and resources;

(i) Whether the proposed project design, if well executed, is capable of attaining program objectives;

(j) The consistency of the grant application with the provisions of the Act and these regulations.

§ 1351.19 What additional information should an applicant or grantee have about a Runaway Youth Program grant?

(a) Several other HEW rules and regulations apply to applicants for or recipients of Runaway Youth Program grants. These include:

(1) The provisions of 45 CFR Part 74 pertaining to the Administration of Grants;

(2) The provisions of 45 CFR Part 16, Departmental Grants Appeal Process, and the provisions of Informal Grant Appeal Procedures (Indirect Costs) in volume 45 CFR Part 75;

(3) The provisions of 45 CFR Part 80 and 45 CFR Part 81 pertaining to nondiscrimination under programs receiving Federal assistance, and hearing procedures;

(4) The provisions of 45 CFR Part 84 pertaining to discrimination on the basis of handicap;

(5) The provisions of 45 CFR Part 46 pertaining to protection of human subjects.

(b) Several program policies regarding confidentiality of information, treatment, conflict of interest and State protection apply to recipients of Runaway Youth Program grants. These include:

(1) *Confidential information.* All information including lists of names, addresses, photographs, and records of evaluation of individuals served by a runaway youth project shall be confidential and shall not be disclosed or transferred to any individual or to any public or private agency without written consent of the youth and parent or legal guardian. Youth served by a runaway youth project shall have the right to review their records; to correct a record or file a statement of disagreement; and to be apprised of the individuals who have reviewed their records. Procedures shall be established for the training of project staff in the protection of these rights and for the secure storage of records.

(2) *Medical, psychiatric or psychological treatment.* No youth shall be subject to medical, psychiatric or psychological treatment without the consent of the youth and parent or legal guardian unless otherwise permitted by State law.

(3) *Conflict of interest.* Employees or individuals participating in a program or project under the Act shall not use their positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

(4) *State law protection.* HEW policies regarding confidential information and experimentation and treatment shall not apply if HEW finds that State law is more protective of the rights of runaway or otherwise homeless youth.

(c) Nothing in the Runaway Youth Act or these regulations gives the Federal Government control over the staffing and personnel decisions regarding individuals hired by a runaway youth project receiving Federal funds.

Subpart C—Additional Requirements

§ 1351.20 What are the additional requirements under a Runaway Youth Program grant?

(a) To improve the administration of the Runaway Youth Program by increasing the capability of the runaway youth service providers to deliver services, HEW will require grantees to

accept technical assistance and short-term training as a condition of fund ing for each budget period.

(1) Technical assistance may be provided in, but not limited to, such areas as:

- Program Management,
- Fiscal Management,
- Development of coordinated networks of private nonprofit agencies to provide services, and
- Low cost community alternatives for runaway or otherwise homeless youth.

(2) Short-term training may be provided in, but not limited to, such areas as:

- Shelter facility staff development,
- Aftercare services or counseling,
- Fund raising techniques,
- Youth and Family counseling, and
- Crisis intervention techniques.

(b) Grantees will be required to coordinate their activities with the 24-hour National toll-free communication system which links runaway youth projects and other service providers with runaway or otherwise homeless youth.

(c) Grantees will also be required to submit statistical reports profiling the clients served. The statistical reporting requirements are mandated by the Act which states that "runaway youth projects shall keep adequate statistical records profiling the children and parents which it serves . . .".

[FR Doc. 78-32473 Filed 11-27-78; 8:45 am]

federal register

TUESDAY, NOVEMBER 28, 1978
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Proposals on Development of Classification of Neurological Devices

V 43 N 229 11 28 78

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 882]

[Docket No. 78N-1000]

CLASSIFICATION OF NEUROLOGICAL DEVICES

Development of General Provisions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency is proposing general rules applicable to the classification of all neurological devices. The Medical Device Amendments of 1976 requires the Food and Drug Administration (FDA) to classify all medical devices intended for human use into three categories: Class I, general controls; class II, performance standards; and class III, premarket approval. In the preamble to this proposal, FDA describes the development of the proposed regulations classifying individual neurological devices, which are being published elsewhere in this issue of the FEDERAL REGISTER. The preamble also describes the activities of the Neurological Device Classification Panel, an FDA advisory committee that makes recommendations to FDA concerning the classification of neurological devices.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposed become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

DEVICE CLASSIFICATION SYSTEM

The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) establishes three catogories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and is substantially equivalent to a device classified under this scheme, is also classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807).

RELATED REGULATIONS

In the FEDERAL REGISTER of July 28, 1978 (43 FR 32988), the Commissioner issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the FEDERAL REGISTER of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the FEDERAL REGISTER of May 19, 1975 (40 FR 21848).

ACTIVITIES OF PANEL

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The Neurological Device Classification Panel (the Panel) was originally chartered on October 15, 1974, as the Panel on Review of Neurological Devices. On January 26, 1976, FDA placed a report of the Panel's tentative classification recommendations on file with the office of the Hearing Clerk (HFA-305), Food and Drug Administration, and announced the availability of the report to the public by notice published in the FEDERAL REGISTER of June 25, 1976 (41 FR 26245).

On August 9, 1976, the Panel and other preamendments device classification panels were rechartered to reflect their new responsibilities under the amendments. The agency directed each panel to reconsider its preamendments classification recommendations in light of the new requirements. In 1976 and 1977, the Panel reviewed all devices that FDA had referred to it to make certain that its recommendations were in accord with the amendments.

Throughout the Panels deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of neurological devices. The Panel also invited experts to testify and sought information on many devices from the published literature.

In October 1977, the Panel submitted to FDA a preliminary report of its recommendations. The report included a roster of current and previous Panel members and consultants and listed all meeting dates. The agency placed a copy of the report in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, and announced its availability to the public by notice published in the FEDERAL REGISTER of November 29, 1977 (42 FR 60792). At meetings held on January 13, 1978 and April 21, 1978, the Panel changed its previous recommendations concerning the clasification of several devices. An addendum to the Panel report showing these changes has been placed in the office of the Hearing Clerk, Food and Drug Administration. Also available in the office of the Hearing Clerk are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in individual neurological device proposed classification regulations. Interested persons may review these documents in the office at the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

LIST OF NEUROLOGICAL DEVICES

In 1972 FDA surveyed device manufacturers to identify the devices for which classification regulations would be needed. Following this survey, FDA developed a list of neurological devices. The Panel supplemented the list utilizing its members' knowledge of

neurological devices in use. Devices that were solely for experimental or investigational use or that were not generally available were not included.

The Commissioner is proposing to establish a new Part 882 in Title 21 of the Code of Federal Regulations. Part 882 will consist of sections identifying each neurological device with a brief narrative description and stating the classification of that device. A list of the neurological devices appears elsewhere in this preamble.

INDIVIDUAL NEUROLOGICAL DEVICE CLASSIFICATION REGULATION

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing 103 individual proposed regulations to classify each neurological device. The Commissioner is proposing to classify 26 neurological devices into class I (general controls), 66 neurological devices into class II (performance standards), and 11 neurological devices into class III (premarket approval). The Commissioner also is publishing the recommendations of the Panel regarding these devices, as required by section 513(c)(2) and (d)(1) of the act (21 U.S.C. 360c(c)(2) and (d)(1)).

PUBLISHED PANEL RECOMMENDATIONS

Each published Panel recommendation concerning a neurological device includes the information described below.

1. *Identification.* The Panel recommendation and proposed FDA classification regulation each include a brief narrative identification of the device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 882.1, manufacturers who submit premarket notification submissions under section 510(k) of the act and Part 807 of the regulations cannot show merely that a newly offered device is accurately described by the section title and identification provisions of a classification regulation, although a new device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act of it is not substantially equivalent to a preamendment device (or to a postamendment device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. The commissioner believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR § 807.87), and whether the device is described in a classification regulation.

2. *Recommended classification.* Each Panel's recommendation describes whether the device is recommended for classification into class I (general controls), class II (performance standards), or class III (premarket approval).

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), good manufacturing practice requirements). Although the Panel did not recommend that any device be exempted at this time from section 510 or section 519 of the act, the panel did recommend that the manufacturers of several class I devices be exempted from good manufacturing practice regulations (and thus from the records and reports requirements in these regulations) in the manufacture of these devices. The Commissioner's policy concerning these exemption recommendations is discussed below in the section of this proposal concerning "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended priority ("high" or "low") for establishing a performance standard for the device. Similarly, each Panel recommendation that a device be classified into class III includes the Panel's recommended priority ("high" or "low") for application of premarket approval requirements to that device. As explained below in the section of this notice concerning "Priorities for Class II and III Devices," the Commissioner is not, however, proposing the establishment of FDA priorities at this time.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendation explains why the Panel believes a particular device meets the statutory criteria for classification into class I, II, or III.

Except in those instances in which FDA's classification proposal differs from an advisory committee's recommendation, the Commissioner is adopting the committee's summary of reasons as the agency's statement of the reasons for issuing the regulations, as required by section 517(f) of the act (21 U.S.C. 360g(f)).

The summary of reasons for a recommendation identifies any device that is an implant or a life-supporting or life-sustaining device. The summary of reasons for any implant or life-supporting or life-sustaining device that is not recommended for classification into class III also explains why the Panel determined that classification of the device into class III is not necessary to provide reasonable assurance of its safety and effectiveness. The agency provides a similar explanation in the "Proposed Classification" section of the preamble to any proposal to classify an implant or a life-supporting or life-sustaining device into a class other than class III.

4. *Summary of data on which the recommendation is based.* In many cases, the Panel based its recommendations on Panel members' personal knowledge of, and familiarity with, the devices under review. Reliance upon clinical experience and judgement was particularly common when the Panel considered a simple device that had been used extensively and was accepted widely before the amendments were enacted. The legislative history of the amendments provides that the term "data" has a special meaning in section 513(a)(2) of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in this section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H. Rept. 94-853, 94th Congress, 2d Session 40 (1976)). The Commissioner has determined that clinical experience and judgment are valid scientific evidence for classifying certain devices.

In many cases, FDA sought data and information concerning the classification of a device in addition to that cited by the Panel. References to these data and information are found in the "Proposed Classification" section of the preambles to individual neurological device regulations. The Commissioner is adopting, as the agency's statement of the basis for issuing the regulation under section 517(f) of the act, the Panel's summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in the preamble to the proposed classification regulation.

5. *Risks to health.* In identifying the risks to health presented by neurological devices, the Panel recognized that few devices are completely free of risk. The Panel listed the risks it considered most significant, especially those that are unique to the use of a device.

In some cases, FDA has identified additional risks to health presented by a device. These additional risks are set out in the section of the preamble concerning the "Proposed classification" of a particular device.

Because the classification recommendations and FDA regulations do not identify all risks to health presented by neurological devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) and future regulations requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify risks to health to be addressed by FDA requirements in addition to those identified in the classification recommendations and regulations.

Proposed Classification

Each proposed regulation to classify a neurological device states whether FDA agrees with the Panel's recommendation, describes the agency's proposed classification of the device, and proposes a new section in Part 882 in which the device classification will be codified.

The Commissioner cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, the agency's reconsideration of existing data and information, and the agency's consideration of new data and information.

Priorities for Class II and Class III Devices

For a device that the Panel recommends to be classified into class II or class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignment of a priority for application to the device of a performance standard or premarket approval requirements. In developing its advice concerning priorities ("high" or "low") of devices recommended for classification into class II or class III, the Panel compared the device with other neurological devices, based on information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device. The Panel recommended assignment of a "high priority" only to those class II or class III devices that the Panel believed should receive the agency's immediate attention.

The Commissioner is not proposing at this time to establish priorities for development of performance standards for class II devices or application of premarket approval requirements to class III devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. At a later date, however, the Commissioner will establish priorities for the development of standards for class II devices and the application of premarket approval requirements to class III devices. These priorities will be based on the classification panels' recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the Federal Register.

The agency intends to proceed as quickly as the statute and classification panel resources permit to require premarket approval of devices classified into class III. There are two factors affecting the length of time necessary before FDA requires submission of premarket approval applications for any particular device that is classified by an FDA regulation into class III: the number of devices reviewed by a panel and the priority of a particular device in relation to other class III devices considered by a classification panel. For example, where FDA classifies into class III only a few devices within a Panel's specialty area, FDA may at the same time also publish regulations under section 515(b) of the act requiring premarket approval for many of the class III devices considered by the Panel, regardless of whether of a high or a low priority. Where practical, FDA will publish these section 515(b) regulations during the grace period (30 months) following classification during which a device classified into class III by FDA regulation may lawfully remain on the market without a premarket approval application. The grace period is provided for in section 501(f) of the act (21 U.S.C. 351(f)).

Exemptions for Class I Devices

The Panel recommended that several neurological devices that are recommended for classification into class I be exempted from the good manufacturing practice (GMP) regulation. The GMP regulation was published in final form in the Federal Register of July 21, 1978 (43 FR 31508). At the time of the Panel's recommendation, the GMP regulation had not been promulgated, and the agency had not yet developed criteria for exempting a class I device from the GMP regulation.

The Commissioner has decided that the agency will consider exempting a class I device from the GMP regulations if any one of the following requirements is met:

1. Based on adequate information about current practices in the manufacture of the device and about user experience with the device, the agency has determined that application of the GMP regulation will not improve the safety and effectiveness of the device.

2. The agency has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or through testing that is done routinely before use, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. The agency has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

List of Neurological Devices

The following is a list of neurological devices that shows the section in the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Section	Device	Docket No.	Class
	Subpart B—Neurological Diagnostic Devices		
882.1020	Rigidity analyzer	78N-1001	II
882.1030	Ataxiagraph	78N-1002	I
882.1200	Two-point discriminator	78N-1003	I
882.1240	Echoencephalograph	78N-1004	II
882.1275	Electroconductive media	78N-1005	II
882.1310	Cortical electrode	78N-1006	II
882.1320	Cutaneous electrode	78N-1007	II
882.1330	Depth electrode	78N-1008	II
882.1340	Nasopharyngeal electrode	78N-1009	II
882.1350	Needle electrode	78N-1010	II
882.1400	Electroencephalograph	78N-1011	II
882.1410	Electroencephaldgraph electrode/lead tester	78N-1012	II
882.1420	Electroencephalogram (EEG) signal spectrum analyzer	78N-1013	I
882.1430	Electroencephalograph test signal generator	78N-1014	I
882.1460	Nystagmograph	78N-1015	II
882.1480	Neurological endoscope	78N-1016	II
882.1500	Esthesiometer	78N-1017	I

Section	Device	Docket No.	Class
	Subpart B—Neurological Diagnostic Devices—Continued		
882.1525	Tuning fork	78N-1018	I
882.1540	Galvanic skin response measurement device	78N-1019	I
882.1550	Nerve conduction velocity measurement device	78N-1020	II
882.1560	Skin potential measurement device	78N-1021	II
882.1570	Powered direct-contact temperature measurment device	78N-1022	II
882.1610	Alpha monitor	78N-1023	II
882.1620	Intracranial pressure monitoring device	78N-1024	II
882.1700	Percussor	78N-1025	I
882.1750	Pinwheel	78N-1026	I
882.1790	Ocular plethysmograph	78N-1027	III
882.1835	Rheoencephalograph	78N-1028	III
882.1835	Physiological signal amplifier	78N-1029	II
882.1845	Physiological signal conditioner	78N-1030	II
882.1855	Physiological signal telemetry system	78N-1031	II
882.1870	Evoked response electrical stimulator	78N-1032	II
882.1880	Evoked response mechanical stimulator	78N-1033	II
882.1890	Evoked response photic stimulator	78N-1034	II
882.1900	Evoked response auditory stimulator	78N-1035	II
882.1925	Ultrasonic scanner calibration test block	78N-1036	I
882.1950	Tremor transducer	78N-1037	II
	Subparts C—D [Reserved]		
	Subpart E—Neurological Surgical Devices		
882.4030	Skull plate anvil	78N-1038	I
882.4060	Ventricular cannula	78N-1039	I
882.4100	Ventricular catheter	78N-1040	II
882.4125	Neurosurgical chair	78N-1041	I
882.4150	Scalp clip	78N-1042	II
882.4175	Aneurysm clip applier	78N-1043	II
882.4190	Clip forming/cutting instrument	78N-1044	I
882.4200	Clip removal instrument	78N-1045	I
882.4215	Clip rack	78N-1046	I
882.4250	Cryogenic surgical device	78N-1047	II
882.4275	Dowel cutting instrument	78N-1048	I
882.4300	Manual drill, burr, trephine, and accessories	78N-1049	II
882.4305	Powered compound drill, burr, trephine, and accessories	78N-1050	II
882.4310	Powered simple drill, burr, traphine, and accessories	78N-1051	II
882.4325	Drill handpiece (brace)	78N-1052	II
882.4360	Electric drill motor	78N-1053	II
882.4370	Pneumatic drill motor	78N-1054	II
882.4400	Radiofrequency lesion generator	78N-1055	II
882.4440	Neurosurgical headrest	78N-1057	I
882.4460	Neurosurgical head holder (skull clamp)	78N-1058	II
882.4500	Cranioplastry material forming instrument	78N-1059	I
882.4525	Microsurgical instrument	78N-1061	I
882.4535	Nonpowered neurosurgical instrument	78N-1062	I
882.4545	Shunt system implantation instrument	78N-1063	I
882.4560	Stereotaxic instrument	78N-1064	II
882.4600	Leukotome	78N-1065	I
882.4850	Nrurosurgical suture needle	78N-1066	I
882.4700	Cottonoid paddle	78N-1067	II
882.4725	Radiofrequency lesion probe	78N-1068	II
882.4750	Skull punch	78N-1069	I
882.4800	Self-retaining retractor	78N-1070	II
882.4840	Manual rongeur	78N-1071	II
882.4845	Powered rongeur	78N-1072	II
882.4900	Skullplate screwdriver	78N-1073	I
882.4925	Sponge for internal use	78N-1074	II
	Subpart F—Neurological Therapeutic Devices		
882.5030	Methyl methacrylate for aneurysmorrhaphy	78N-1075	II
882.5050	Biofeedback device	78N-1076	II
882.5070	Bite block	78N-1077	II
882.5150	Intravascular occluding catheter	78N-1078	III
882.5175	Carotid artery clamp	78N-1079	II
882.5200	Aneurysm clip	78N-1080	II
882.5225	Implanted malleable clip	78N-1081	II
882.5335	Aversive conditioning device	78N-1082	II
882.5250	Burr hole cover	78N-1083	II
882.5275	Nerve cuff	78N-1084	III
882.5300	Methyl methacrylate for cranioplasty	78N-1085	II
882.5320	Preformed alterable cranioplasty plate	78N-1086	II
882.5330	Preformed nonalterable cranioplasty plate	78N-1087	II
882.5360	Cranioplasty plate fastener	78N-1088	II
882.5500	Lesion temperature monitor	78N-1089	II
882.5550	Central nervous system fluid shunt and components	78N-1090	II
882.5800	Cranial electrotherapy stimulator	78N-1091	III
882.5810	External functional neuromuscular stimulator	78N-1092	II
882.5820	Implanted cerebellar stimulator	78N-1093	III
882.5830	Implanted diaphragmatic/phrenic nerve stimulator	78N-1094	III
882.5840	Implanted intracerebral/subcortical stimulator for pain relief	78N-1095	III
882.5850	Implanted spinal cord stimulator for bladder evacuation	78N-1096	III
882.5860	Implanted neuromuscular stimulator	78N-1097	III
882.5870	Implanted peripheral nerve atimulator for pain relief	78N-1098	II
882.5880	Implanted spinal cord stimulator for pain relief	78N-1099	II
882.5890	Transcutaneous electrical nerve stimulator for pain relief	78N-1100	II
882.5900	Preformed cranlosymostosis strip	78N-1101	II
882.5910	Dura substitute	78N-1102	II

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Section	Device	Docket No.	Class
	SUBPART F—NEUROLOGICAL THERAPEUTIC DEVICES—Continued		
882.5940	Electroconvulsive therapy device	78N-1103	II
882.5950	Artificial embolization device	78N-1104	III
882.5960	Skull tong for traction	78N-1105	II

DEVICES CONSIDERED BY TWO OR MORE PANELS

Many devices were reviewed by two or more device classification panels. For these devices, FDA will publish each panel's recommendations and a single proposed classification regulation. The following devices were considered by the Neurological Device Classification Panel and by other panels:

1. The Physical Medicine Device Classification Panel recommended that the two-point discriminator esthesiometer and the touch discriminator esthesiometer be classified into class I. The Neurological Device Classification Panel recommended that the two-point discriminator be classified into class I. The Commisssioner has determined that these devices are essentially the same. Therefore, the Commissioner is proposing a single regulation classifying the two-point discriminator into class I, and is publishing the two panels' recommendations in a proposal appearing elsewhere in this issue of the FEDERAL REGISTER.

2. The Physical Medicine Device Classification Panel recommended that the battery-powered skin resistance meter be classified into class I and that the AC-powered skin resistance meter be classified into class II. The Neurological Device Classification Panel recommended that the neurodermamometer for galvanic skin response measurement, whether battery-powered or AC-powered, be classified into class II. The Commissioner has determined that these devices are essentially the same. Therefore, the Commissioner is proposing a single regulation classifying the galvanic skin response measurement device into class II, and is publishing the two panels' recommendations in a proposal appearing elsewhere in this issue of the FEDERAL REGISTER.

3. The Physical Medicine Device Classification Panel recommended that the external functional neuromuscular stimulator be classified into class II. The Neurological Device Classification Panel recommended that the external neuromuscular stimulator be classified into class II. The Commissioner has determined that these devices are essentially the same. Therefore, the Commissioner is proposing a single regulation classifying the external functional neuromuscular stimulator into class II, and is publishing the two panel's recommendations in a proposal appearing elsewhere in this issue of the FEDERAL REGISTER.

4. The Anesthesiology Device Classification Panel recommended that the electrophrenic pacer be classified into class III. The Neurological Device Classification Panel recommended that the implanted diaphragmatic/phrenic nerve stimulator be classified into class III. The Commissioner has determined that these devices are the same. Therefore, the Commissioner is proposing a single regulation classifying the implanted diaphragmatic/phrenic nerve stimulator into class III and is publishing the two panels' recommendations in a proposal appearing elsewhere in this issue of the FEDERAL REGISTER.

5. The Orthopedic Device Classification Panel recommended that the implanted peroneal stimulator be classified into class II. The Neurological Device Classification Panel recommended that the implanted neuromuscular stimulator be classified into class III. The Commissioner has determined that these devices are the same. Therefore, the Commissioner is proposing a single regulation classifying the implanted neuromuscular stimulator into class III and is publishing the two panels' recommendations in a proposal appearing elsewhere in this issue of the FEDERAL REGISTER.

6. The Neurological Device Classification Panel and the other panels listed below made classification recommendations concerning the following devices:

Device	Other panel(s)
Chronaximeter	Physical medicine.
Dynamometer	Physical medicine; orthopedic; anesthesiology.
Electromyograph	Physical medicine.
Computed tomography X-ray scanner.	Radiology.
Angiographic catheter	Radiology; cardiovascular.
Angiographic wire guide and accessories.	Do.
Angiographic needle	Do.
Fiberoptic surgical field illuminator.	General and plastic surgery.
Surgical microscope system.	General and plastic surgery; ophthalmic; ear, nose, and throat.
Electrosurgical apparatus.	Cardiovascular; general and plastic surgery; anesthesiology; gastroenterology and urology; dental.
Ligature-passing and knot-tying instrument.	General and plastic surgery.
Neurosurgical headlight	General and plastic surgery; ear, nose, and throat; dental.
Ultrasonic bone-cutting instrument.	Orthopedic.
Pneumoencephalographic chair.	Radiology.
Manual saw and accessories.	Cardiovascular; orthopedic; ear, nose, and throat; general and plastic surgery.
Powered saw and accessories.	Cardiovascular; orthopedic; dental; ear, nose, and throat.
Sponge (external use)	General and plastic surgery; dental; ophthalmic.
Manual retractor	Dental; ear, nose, and throat; gastroenterology and urology; ophthalmic; orthopedic; general and plastic surgery; obstetrics and gynecology.
Hemostatic clip applier	General and plastic surgery.
Electroanesthesia stimulator.	Anesthesiology.

The Commissioner is not at this time publishing the Neurological Device Classification Panel's recommendations to classify the devices listed above. The Commissioner will publish these recommendations, and proposed classification regulations, when FDA publishes the recommendations of other panels that reviewed the devices.

TISSUE ADHESIVES

At a future date, FDA will publish in the FEDERAL REGISTER a final regulation stating that one neurological device (tissue adhesives for aneurysmorrhaphy) is classified into class III (premarket approval) because of transitional provisions of the act in section 520(1) (21 U.S.C. 360j(1)). The transitional provisions classify into class III any device previously regarded by FDA as a new drug. At the time FDA publishes this regulation, the agency also will publish the Panel's recommendations regarding tissue adhesives for aneurysmorrhaphy and for general neurosurgical use.

ENVIRONMENTAL IMPACT

The Commissioner has carefully considered the environmental effects of proposed § 882.1 and of the proposed neurological device classification regulations and because the proposed actions will not significantly affect the quality of the human environment has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration (address above).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)), and under authority delegated to the Commissioner (21 U.S.C. 5.1), the Commissioner proposes that Chapter I of Title 21 of the code of Federal Regulations be amended by adding new Part 882, Subpart A, to read as follows:

PART 882—NEUROLOGICAL DEVICES

Subpart A—General Provisions

Sec.
882.1 Scope.

AUTHORITY: Secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c and 701(a)).

Subpart A—General Provisions

§ 882.1 Scope.

(a) This part sets forth the classification of neurological devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 of this chapter cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87 of this chapter.

(c) To avoid duplicative listings, a neurological device that has two or more types of uses (e.g., use both as a diagnostic device and as a therapeutic device) is listed in the subpart representing one use of the device, rather than in two or more subparts.

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding proposed § 882.1. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32858 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1001]

MEDICAL DEVICES

Classification of Rigidity Analyzers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying rigidity analyzers into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medcial Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the hearing Clerk (HFA-305), Food and Drug Administraion, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of rigidity analyzers:

1. Identification: A rigidity analyzer is a device for quantifying the extent of the rigidity of a patient's limb to determine the effectiveness of drugs or other treatment.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the rigidity analyzer be classified into class II (performance standards) to require that the performance characteristics be maintained at a satisfactory level. The Panel believes that general controls will not provide sufficient control over these characteristics. The function of this device is to quantify a physiological measurement; therefore, the Panel believes that the device should provide accurate and repeatable measurements. The Panel also recommends that FDA require the labeling of this device to indicate the limitations of the device. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Rigidity analyzers have been in use for many years. The Panel members based their recommendation on their experience with these rigidity analyzers.

5. Risks to health: Incorrect treatment. If the device measurements are not sufficiently accurate, the assessment of the patient's response to therapy may be in error, and the physician may prescribe incorrect treatment.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the rigidity analyzer be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act 9 (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to add a new Part 882 as follows:

PART 882—NEUROLOGICAL DEVICES

Subpart A—[Reserved]

Subpart B—Neurological Diagnostic Devices

§ 882.1020 Rigidity analyzer.

(a) *Identification.* A rigidity analyzer is a device for quantifying the extent of the rigidity of a patient's

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limb to determine the effectiveness of drugs or other treatments.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32859 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1002]

MEDICAL DEVICES

Classification of Ataxiagraphs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ataxiagraphs into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by Janurary 29, 1979. the Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of ataxiagraphs:

1. Identification: An ataxigraph is a device used to determine the extent of ataxia (failure of muscular coordination) by measuring the amount of swaying of the body when the patient is standing erect and with eyes closed.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I (general controls) because it make no electrical contact with the patient and presents no inherent hazards. It is used to help quantify clinical observations only and does not replace subjective evaluation. Because no particular precision is required, the Panel believes that a performance standard is not necessary and that general controls are sufficient to assure the safety and effectivness of the device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience in evaluating ataxia and familiarity with these devices.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the ataxiagraph be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1030 as follows:

§ 882.1030 Ataxiagraph.

(a) *Identification.* An ataxiagraph is a device used to determine the extent of ataxia (failure of muscular coordination) by measuring the amount of swaying of the body when the patient is standing erect and with eyes closed.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32860 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1003]

MEDICAL DEVICES

Classification of Two-Point Discriminators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying two-point discriminators into class I (general controls). The FDA is also publishing the recommendations of the Neurological Device Classification Panel and the Physical Medicine Device Classification Panel that the device by classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel and the Physical Medicine Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of two-point discriminators:

1. Identification: A two-point discriminator is a device with points used for testing a patient's touch discrimination.

2. Recommended Classification: Class I (general controls). The Neurological Device Classification Panel recommends that the device be exempted from good manufacturing practice regulations under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)). The Physical Medicine Device Classification Panel recommended no exemptions.

3. Summary of reasons for recommendation: The two-point discriminator is an extremely simple mechanical device which is routinely used in neurological examinations. It presents no hazards to health and requires no special materials or properties. The panel members noted that an ordinary object such as a paper clip will often serve the same purpose as this device. Because the Neurological Device Classification Panel believes that the functional capabilities and qualities of the device are easily determined by examination of the device itself, the Panel believes that control of manufacturing methods for manufacturing the device is unnecessary.

4. Summary of data on which the recommendation is based: The panel members based their recommendation on their familiarity with this device and its routine use in neurological examinations.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that two-point discriminators be classified into class I (general controls) because the Commissioner believes that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of the device.

The Commissioner is also proposing that two-point discriminators be exempted from good manufacturing practice regulations under section 520(f) of the act and from recordkeeping and reporting requirements in good manufacturing regulations, because all defects related to the safety and effectiveness of the device are readily detectable prior to use. The FDA's good manufacturing practice regulations for medical devices (21 CRF Part 820) were published in the FEDERAL REGISTER of July 21, 1978 (43 FR 31508).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1200 as follows:

§ 882.1200 Two-point discriminator.

(a) *Identification.* A two-point discriminator is a device with points used for testing a patient's touch discrimination.

(b) *Classification.* Class I (general controls). Exempt from the good manufacturing practice regulations in Part 820 of this chapter, including recordkeeping and reporting requirements in Part 820 of this chapter.

Interested persons may, on or before January 29, 1978; submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32861 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1004]

MEDICAL DEVICES

Classification of Echoencephalographs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying echoencephalographs into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of echoencephalographs:

1. Identification: An echoencephalograph is an ultrasonic scanning device (including A-scan, B-scan, or doppler systems) that uses noninvasive transducers for measuring intracranial interfaces and blood flow velocity to and in the head.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that echoencephalographs be classified into class II (performance standards) to control the hazards of excessive ultrasonic power output, electric shock, and explosive environments and to assure usable resolution (image quality) and accuracy. The Panel believes that records and images obtained from this device are valuable aids in the diagnosis of various cranial disorders. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their knowledge and experience with ultrasonic diagnostic instruments. Dr. Mark Dyken, a Panel member, stated that laboratory experiments to determine the adverse effects on the eyes produced by the highest level of clinically used ultrasound had been conducted. The results (Ref. 1) indicated no adverse effects.

5. Risks to health: a. Excessive ultrasonic output: An excess level of power could cause tissue damage by cavitation (bubble formation and activity), thermal effects, or nonthermal mechanisms.

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b. Electric shock. Failure of the transducer insulation could allow high voltage to reach the patient.

c. Explosion. If the device is not explosion proof it might cause an explosion if used in an environment having flammable gases.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the echoencephalograph be classifed into class II (performance standards). Stratmeyer's review (Ref. 2) of the possible biological effects of ultrasound includes references to two investigations showing that exposures of ultrasonic energy similar to those used in echoencephalography may cause alterations in the central nervous system of dogs (Ref. 3) and nonhuman primates (Ref. 4). Although those investigations are cause for concern, the Commissioner regards them as inconclusive at this time. The studies have yet to be verified, and some investigators question the methods or findings of these investigations or their applicability to humans.

The Biological Effects of Ultrasound Subcommittee of FDA's Obstetrical and Gynecological Device Classification Panel has also reviewed the possible adverse effects of diagnostic ultrasound devices. (The Subcommittee was established because of FDA's special concerns about the obstetrical use of ultrasound, based upon several studies involving laboratory animals that showed various biological effects from prenatal ultrasound exposures (Ref. 2).) The Subcommittee concluded that there is sufficient information available to establish a standard for diagnostic ultrasound devices generally (Refs. 5, 6, and 7).

FDA will soon publish a notice of intent in the FEDERAL REGISTER announcing that it is considering an action program to reduce exposure to diagnostic ultrasound as much as practicable, consistent with the need for essential diagnostic information. One action the agency will consider taking is promulgation of a performance standard under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 2636 et seq.).

The Commissioner believes that a performance standard under the Radiation Control for Health and Safety Act may be necessary for the echoencephalograph because general controls by themselves are insufficient to control the risks to health. The Commissioner also believes that there is sufficient information to establish a standard that will provide reasonable assurance of the safety and effectiveness of the device.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fisheries Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday:

1. Maroon, J., R. L. Campbell, and M. Dyken, *Stroke*, 1:122-127, 1970.

2. Stratmeyer, M. E., "Research Directions in Ultrasound Bioeffects—a Public Health View," Proceedings of a Symposium on Biological Effects and Characterization of Ultrasound Sources, HEW publication (FDA) 78-8044, 1978.

3. Tsutsumi, Y., K. Sano, T. Kuwabara, T. Takakura, K. Hayakawa, T. Suzuki, and M. Katanuma, "A New Portable Echo-encephalograph, Using Ultrasonic Transducers and its Clinical Application," *Medical Electronics and Biological Engineering*, 2:21-29, 1964.

4. Hu, J. H. and W. D. Ulrich, "Effects of Low-Intensity Ultrasound on the Central Nervous System of Primates" *Aviat. Space Environ, Med.*, pp. 640-643, June, 1976.

5. Minutes of the Biologic Effects of Ultrasound Subcommittee of the OB-GYN Device Classification Panel (First Meeting), Jan. 22-23, 1976.

6. Minutes of the Biologic Effects of Ultrasound Subcommittee of the OB-GYN Device Classification Panel (Second Meeting), Oct. 28, 1976.

7. Minutes of the Biologic Effects of Ultrasound Subcommittee of the OB-GYN Device Classification Panel (Third Meeting), Oct. 4, 1977.

Therefore, under the Federal Food, Drug, and Comestic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1240 as follows:

§ 882.1240 Echoencephalograph.

(a) *Identification.* An echoencephalograph is an ultrasonic scanning device (including A-scan, B-scan, and doppler systems) that uses noninvasive transducers for measuring intracranial interfaces and blood flow velocity to and in the head.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32862 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1005]

MEDICAL DEVICES

Classification of Electroconductive media

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electroconductive media into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electroconductive media:

1. Identification: Electroconductive media are the conductive creams or gels used with external electrodes to reduce the impedance (resistance to alternating current) of the contact between the electrode surface and the skin.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that electroconductive media be classified into class II (performance standards) becuase the material is applied to the patient's skin and carries electrical current and the Panel believes that performance standards are necessary to control the material's electrical conductivity and compatibility with the skin. The need for specifying an adequate acid/base buffer to avoid skin burns was also noted by the Panel. The Panel believes that general controls will not provide sufficient control of the device characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Various substances have been used as electroconductive media for many years in conjunction with cutaneous electrodes. The Panel members based their recommendation on their experience ith these electroconductive media.

5. Risks to health: a. Chemical skin burn casued by pH change: The electrical current can produce adverse chemical changes in the conductive media unless the media contain a buffer.

b. Toxic reactions: A toxic substance in the media could attack the skin or be absorbed through the skin.

c. Unacceptable recording quality: Material which does not maintain sufficiently low resistance to the electrical current may impair the quality of the recorded signal.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the electroconductive media be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding New § 882.1275 to read as follows:

§ 882.1275 Electroconductive media.

(a) *Identification.* Electroconductive media are the conductive creams or gels used with external electrodes to reduce the impedance (resistance to alternating current) of the contact between the electrode surface and the skin.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32863 filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1006]

MEDICAL DEVICES

Classification of Cortical Electrodes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cortical electrodes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. these actions are being taken under the medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of cortical electrodes:

1. Identification: A cortical electrode is an electrode which is temporarily placed on the surface of the brain for stimulating the brain or recording the brain's electrical activity.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the cortical electrode be classified into class II (performance standards because the device uses materials that come into contact with the body and should be controlled, and the device has performance characteristics which should be maintained at an acceptable level. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel also recommends that the method of sterilization be stated in the device labeling. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Cortical electrodes have been in use for many years. The Panel members based their recommendation on their experience with these electrodes.

5. Risks to health: a. Sterility: If not sterilized, the device may introduce contaminants into the brain.

b. Local irritation: The electrode materials may cause toxic or adverse reactions when placed in contact with brain tissue.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the cortical electrode be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513,

701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1310 to read as follows:

§ 882.1310 Cortical electrode.

(a) *Identification.* A cortical electrode is an electrode which is temporarily placed on the surface of the brain for stimulating the brain or recording the brain's electrical activity.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32864 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1007]

MEDICAL DEVICES

Classification of Cutaneous Electrodes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cutaneous electrodes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of cutaneous electrodes:

1. Identification: A cutaneous electrode is an electrode which is applied directly to a patient's skin either to record physiological signals (e.g., the electroencephalogram) or to apply electrical stimulation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the cutaneous electrode be classified into class II because the electrical properties of the device must be controlled to assure that when physiological signals are recorded, they are adequately reproduced; to prevent burns when the device is used to apply stimulation; and to assure that only materials with known and acceptable properties are used in electrodes. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Cutaneous electrodes have been in use for many years. The Panel members based their recommendation on their experience with these electrodes.

5. Risks to health: a. Burns. Poor design or incorrect application of the electrodes could result in skin burns when the electrodes are used for stimulation.

b. Toxic reactions. Material or substances in the electrodes that are in contact with the skin could produce adverse reactions.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the cutaneous electrodes be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1320 to read as follows:

§ 882.1320 Cutaneous electrode.

(a) *Identification.* A cutaneous electrode is an electrode that is applied directly to a patient's skin either to record physiological signals (e.g., the electroencephalogram) or to apply electrical stimulation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32865 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1008]

MEDICAL DEVICES

Classification of Depth Electrodes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying depth electrodes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of depth electrodes:

1. Identification: A depth electrode is an electrode used for temporary stimulation of, or recording electrical signals at, subsurface levels of the brain.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that depth electrodes be classified into class II (performance standards) because they use materials that come into contact with the brain and because the geometric configuration and performance characteristics of this device must be controlled to assure that the device is safe and effective. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with these electrodes.

5. Risks to health: a. Local irritation: Improper materials in the electrode can adversely react with the tissue.

b. Damage to brain tissue: The electrode geometry must be such that it spreads rather than cuts tissue during insertion.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the depth electrode be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1330 as follows:

§ 882.1330 Depth electrode.

(a) *Identification.* A depth electrode is an electrode used for temporary stimulation of, or recording electrical signals at, subsurface levels of the brain.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32866 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1009]

MEDICAL DEVICES

Classification of Nasopharyngeal Electrodes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nasopharyngeal electrodes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of nasopharyngeal electrodes:

1. Identification: A nasopharyngeal electrode is an electrode which is temporarily placed in the nasopharyngeal region for the purpose of recording electrical activity.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the nasopharyngeal electrode be classified into class II (performance standards) to assure that when physiological signals are recorded, they are adequately reproduced and to control the materials used in the electrode to prevent injury to the sensitive internal surface of the nose or the pharynx. The Panel believes that general controls alone will not be sufficient to control these properties. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with devices of this type.

5. Risks to health: a. Improper positioning: If the device is poorly designed or is not accompanied by adequate directions for use, an accurate reproduction of the physiological signal may not be obtained.

b. Tissue damage: If the device is poorly designed or is made from inflexible material, the device could injure the inside of the nose or the pharynx.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the nasopharyngeal electrode be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1340 as follows:

§ 882.1340 Nasopharyngeal electrode.

(a) *Identification.* A nasopharyngeal electrode is an electrode which is temporarily placed in the nasopharyngeal region for the purpose of recording electrical activity.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM P. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32867 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1010]

MEDICAL DEVICES

Classification of Needle Electrodes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying needle electrodes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of needle electrodes:

1. Identification: A needle electrode is a device which is placed subcutaneously to stimulate or to record electrical signals.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the needle electrode, because it penetrates the skin, be classified into class II (performance standards) to assure that the device is sterile. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard should require that the device be capable of being sterilized. They Panel recommends that FDA require that the manufacturer furnish users with adequate instructions for achieving sterile use and that the labeling indicate the maximum safe stimulating current that can be applied to a specific electrode. The Panel believes further tht the conducting and insulating materials of the electrode should meet standards to reduce the risk of toxic effects. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Needle electrodes have been used for many years. The Panel members based their recommendation on their experience with these electrodes.

5. Risks to health: a. High current-density burns: Burns may result if the exposed conducting surface area is too small for the stimulation current being used.

b. Site-of-entry infection: Infection may result with an unsterile needle or improper technique.

c. Systemic infection: An unsterile needle may result in circulatory system infection.

d. Toxicity: Materials used for the needle or for insulation my be toxic.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the needle electrode be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1350 as follows:

§ 882.1350 Needle electrode.

(a) *Identification.* A needle electrode is a device which is placed subcutaneously to stimulate or to record electrical signals.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal.

Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32868 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1011]

MEDICAL DEVICES

Classification of Electroencephalographs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electroencephalographs into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electroencephalographs:

1. Identification: An electroencephalograph is a device used to measure and record the electrical activity of the patient's brain obtained by placing two or more electrodes on the head.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the electroencephalograph be classified into class II (performance standards) to ensure that the electroencephalogram is adequately reproduced and that neurological conditions are accurately diagnosed. The Panel believes that electrical safety standards are needed to prevent electrical shock. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience and familiarity with electroencephalography. Electroencephalographs have been in clinical use for many years and are standard diagnostic instruments well known to neurologists.

5. Risks to health: a. Misuse: Use of this device requires special training. Use by unqualified persons could result in improper diagnosis and treatment.

b. Misdiagnosis: Distortion of the physiological signal could cause a misdiagnosis and lead to improper treatment of a neurological condition.

c. Electrical shock: Leakage current can be especially hazardous because the device makes a low resistance contact with the patient.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the electroencephalographs be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1400 as follows:

§ 882.1400 Electroencephalograph.

(a) *Identification.* An electroencephalograph is a device used to measure and record the electrical activity of the patient's brain obtained by placing two or more electrodes on the head.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32869 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1012]

MEDICAL DEVICES

Classification of Electroencephalograph Electrode/Lead Testers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electroencephalograph electrode/lead testers into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become ef-

fective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electroencephalograph electrode/lead testers:

1. Identification: An electroencephalograph electrode/lead tester is a device used for testing the impedance (resistance to alternating current) of the electrode and lead system of an electroencephalograph to assure that an adequate contact is made between the electrode and the skin.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the electroencephalograph electrode/lead tester be classified into class II because the Panel believes that performance standards are needed to assure that the device performs the required measurement accurately and to protect the patient from electrical shock. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members are familiar with the techniques of electroencephalography. The Panel members based their recommendation on their knowledge that predictable electrical contact is necessary to obtain a satisfactory recording.

5. Risks to health: Electric shock: The patient might receive an electrical shock from the device if it is poorly designed.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the electroencephalograph electrode/lead tester be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks ot health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1410 as follows:

§ 882.1410 Electroencephalograph electrode/lead tester

(a) *Identification.* An electroencephalograph electrode/lead tester is a device used for testing the impedance (resistance to alternating current) of the electrode and lead system of an electroencephalograph to assure that an adequate contact is made between the electrode and the skin.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32870 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1013]

MEDICAL DEVICES

Classification of Electroencephalogram (EEG) Signal Spectrum Analyzers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electroencephalogram (EEG) signal spectrum analyzers into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979.

The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsehere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electroencephalogram (EEG) signal spectrum analyzers:

1. Identification: An electroencephalogram (EEG) signal spectrum analyzer is a device used to display the frequency content or power spectral density of the electroencephalogram (EEG) signal.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified in class I (general controls) because the device does not make contact with the patient and no hazards have been identified. This device is used to process data obtained from an electroencephalograph (EEG) device and to display the results. The Panel believes that the information obtained from this device is not used in a manner which involves any risks to health. The Panel believes that general controls will suffice to control this device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience in the interpretation of EEG information and their familiarity with the technique of spectral analysis.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the electroencephalogram (EEG) signal spectrum analyzer be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide a reasonable assurance of safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1420 as follows:

§ 882.1420 Electroencephalogram (EEG) signal spectrum analyzer.

(a) *Identification.* An electroencephalogram (EEG) signal spectrum analyzer is a device used to display the frequency content or power spectral density of the electroencephalogram (EEG) signal.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: Nov. 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32871 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1014]

MEDICAL DEVICES

Classification of Electroencephalograph Test Signal Generators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electroencephalograph test signal generators into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electroencephalograph test signal generators:

1. Identification: An electroencephalograph test signal generator is a device used to test or calibrate an electroencephalograph.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: This device makes no electrical contact with the patient and presents no inherent hazards. The Panel believes that the safety and effectiveness of the device can be controlled by general controls.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on extensive personal experience with electroencephalography and familiarity with these test devices.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the electroencephalograph test signal generator be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide a reasonable assurance of safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1430 as follows:

§ 882.1430 Electroencephalograph test signal generator.

(a) *Identification.* An electroencephalograph test signal generator is a device used to test or calibrate an electroencephalograph.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32872 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1015]

MEDICAL DEVICES

Classification of Nystagmographs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nystagmographs into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classsifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are

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being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. the Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of nystagmographs:

1. Identification: A nystagmograph is a device used to measure, record, or visually display the involuntary movements (nystagmus) of the eyeball.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: the Panel recommends that the nystagmograph be classified into class II (performance standards) because the device may be powered by an external electrical source. Some devices of this type make low resistance electrical contact with the skin therefore, malfunction is particularly dangerous if the device is not properly designed. The Panel believes that performance standards are necessary to assure that the device measurements are accurate. The Panel also recommends that FDA require labeling which identifies the limitations of the measurement. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this device, which is used extensively.

5. Risks to health: Electrical shock: Excessive leakage current could cause injury, or a malfunction could result in dangerous electrical shock.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the nystagmograph be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1460 as follows:

§ 882.1460 Nystagmograph.

(a) *Identification.* A nystagmograph is a device used to measure, record, or visually display the involuntary movements (nystagmus) of the eyeball.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32873 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1016]

MEDICAL DEVICES

Classification of Neurological Endoscopes

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neurological endoscopes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of neurological endoscopes:

1. Identification: A neurological endoscope is an instrument with a light source used to view the inside of the ventricles of the brain.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the neurological endoscope be classified into class II (performance standards) because the light intensity should be controlled to avoid burns, the optical distortion should be limited so that the field of view is faithfully reproduced, and the device should be subject to an electrical safety standard because it makes contact with body fluid. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with these devices.

5. Risks to health: (a) Infection: The device could introduce bacteria into cerebrospinal fluid if the device is not adequately sterilized. (b) Burns: Excessive illuminating power can cause burns. (c) Electrical shock: The patient may receive an electrical shock because a low resistance path exists between the patient and the instrument.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the neurological endoscope be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1480 as follows:

§ 882.1480 Neurological endoscope.

(a) *Identification.* A neurological endoscope is an instrument with a light source used to view the inside of the ventricles of the brain.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32874 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1017]

MEDICAL DEVICES

Classification of Esthesiometers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying esthesiometers into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of esthesiometers:

1. Identification: An esthesiometer is a mechanical device which usually consists of a single rod or fiber which is held in the fingers of the physician or other examiner and which is used to determine whether a patient has tactile sensitivity.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempted from good manufacturing practices regulations under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that the esthesiometer be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This simple device presents no risks to health, and the examiner can easily determine whether the device is effective by examining it. The Panel believes that manufacturers of the device should not be required to comply with good manufacturing practice regulations in manufacturing the device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this device because it is routinely used by neurologists as an aid to physical examination.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the esthesiometer be classified into class I (general controls) because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

The Commissioner is also proposing that the esthesiometer be exempted from good manufacturing practice regulations under section 520(f) of the act and from recordkeeping and reporting requirements in good manufacturing practice regulations, because all defects related to the safety and effectiveness of the device are readily detectable prior to use. The FDA's good manufacturing practice regulations for medical devices (21 CFR Part 820) were published in the FEDERAL REGISTER of July 21, 1978 (43 FR 31508).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1500 as follows:

§ 882.1500 Esthesiometer.

(a) *Identification.* An esthesiometer is a mechanical device which usually consists of a single rod or fiber which is held in the fingers of the physician or other examiner and which is used to determine whether a patient has tactile sensitivity.

(b) *Classification.* Class I (general controls). Exempt from the good manufacturing practice regulation in Part 820 of this chapter, including recordkeeping and reporting requirements in Part 820 of this chapter.

Interested persons may, on or before January 29, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments,

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and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32875 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1018]

MEDICAL DEVICES

Classification of Tuning Forks

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying tuning forks into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of tuning forks:

1. Identification: A tuning fork is a mechanical device which resonates at a given frequency and is used to diagnose hearing disorders and to test for vibratory sense.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempted from good manufacturing practice regulations under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The tuning fork is a well-known device which contains no hazards to health and which can be adequately regulated by general controls. The Panel recommends that manufacturers of the device not be required to comply with good manufacturing practice regulations in manufacturing the device because tuning forks require no special qualities for medical use.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this device and its long history of routine use in neurological examinations.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the tuning fork be classified into class I (general controls) because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner is also proposing that the tuning fork be exempted from good manufacturing practice regulations under section 520(f) of the act and from recordkeeping and reporting requirements in good manufacturing regulations, because all defects related to safety and effectiveness of the device are readily detectable prior to use. The FDA's good manufacturing practice regulations for medical devices (21 CFR Part 820) were published in the FEDERAL REGISTER of July 21, 1978 (43 FR 31508).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1525 as follows:

§ 882.1525 Tuning fork.

(a) *Identification.* A tuning fork is a mechanical device which resonates at a given frequency and is used to diagnose hearing disorders and to test for vibratory sense.

(b) *Classification.* Class I. (general controls). Exempt from the good manufacturing practice regulations in Part 820 of this chapter, including recordkeeping and reporting requirements in Part 820 of this chapter.

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32876 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1019]

MEDICAL DEVICES

Classification of Galvanic Skin Response Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying galvanic skin response measurement devices into class II (performance standards). The FDA is also publishing the recommendations of the Neurological Device Classification Panel that these devices be classified into class II and of the Physical Medicine Device Classification Panel that these devices be classified into class II if they are AC powered and into class I if they are battery powered. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and

Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8758 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel and the Physical Medicine Device Classification Panel, FDA advisory committees, made the following recommendation with respect to the classification of galvanic skin response measurement devices:

1. Identification: A galvanic skin response measurement device is a device used to determine autonomic responses as psychological indicators by measuring the electrical resistance of the skin and the tissue path between two electrodes applied to the skin.

2. Recommended classification: The Neurological Device Classification Panel recommends that these devices be classified into class II (performance standards) and that establishing a performance standard for this device be a low priority. The Physical Medicine Device Classification Panel recommends that this device be classified into class II if it is powered by alternating current (AC) and that establishing a performance standard for this device be a low priority. The Physical Medicine Device Classification Panel recommends that if the devices are battery powered, they be classified into class I (general controls) and that there be no exemptions.

3. Summary of reasons for recommendation: The Neurological Device Classification Panel recommends that galvanic skin response measurement devices be classified into class II because the Panel believes that the characteristics of the electrical current, which is applied to measure the resistance of the skin, should be controlled to prevent injury. The Panel also believes that the measurement limitations inherent in the use of the device should be clearly specified by manufacturers in the device's labeling. The Physical Medicine Device Classification Panel recommends that AC-powered galvanic skin response measurement devices be classified into class II because they believe that a standard is needed to prevent electrical shock and burns from leakage of electrical current. The Physical Medicine Device Classification Panel recommends that battery-powered galvanic skin response measurement devices be classified into class I because they believe that the risks of electrical shock and burns are not as great with battery-powered devices as with AC-powered devices and the safety and effectiveness of the battery-powered device can be reasonably assured by general controls. Both the Neurological Device Classification Panel and the Physical Medicine Device Classification Panel believe that a standard will provide reasonable assurance of safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with this device.

5. Risks to health: a. Electrical shock: Excessive current could cause injury, or a malfunction could result in an electric shock.

b. Inaccurate measurements: An inaccurate diagnosis could result if the device does not measure skin resistance accurately.

PROPOSED CLASSIFICATION

The Commissioner does not agree with the Physical Medicine Device Classification Panel recommendation that the battery-powered galvanic skin response measurement device be classified into class I (general controls). Although it is true that there is less risk of electrical shock from a battery-powered device than from an AC-powered device, there still is enough of a risk of electrical shock from the battery-powered device to justify the application to it of a performance standard. The Commissioner therefore agrees with the Neurological Device Classification Panel and is proposing that the galvanic skin response measuring device, whether battery-powered or AC-powered, be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1540 as follows:

§ 882.1540 Galvanic skin response measurement device.

(a) *Identification.* A galvanic skin response measurement device is a device used to determine autonomic responses as psychological indicators by measuring the electrical resistance of the skin and the tissue path between two electrodes applied to the skin (including the electrode/skin interface impedance).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32877 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1020]

MEDICAL DEVICES

Classification of Nerve Conduction Velocity Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nerve conduction velocity measurement devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of nerve conduction velocity measurement devices:

1. Identification: A nerve conduction velocity measurement device is a device which measures nerve conduction time by applying a stimulus, usually to a patient's peripheral nerve. This device includes the stimulator and the electronic processing equipment for measuring and displaying the nerve conduction time.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that nerve conduction velocity measurement devices be classified into class II (performance standards) because the electrical properties of the device must be controlled to assure that nerve conduction velocity will be accurately measured and to prevent burns and electrical shock from the electrical stimulus that the device applies to the patient. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with these devices.

5. Risks to health: a. Burns: The device includes an electrical stimulator which may burn the skin if the electrical current is excessive.

b. Electrical shock: Leakage current can be especially dangerous because the device makes a low resistance contact with the patient.

c. Misdiagnosis: Inaccurate measurement of the nerve conduction velocity can result in improper treatment.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the nerve conduction velocity measurement devices be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1550 as follows:

§ 882.1550 Nerve conduction velocity measurement device.

(a) *Identification.* A nerve conduction velocity measurement device is a device which measures nerve conduction time by applying a stimulus, usually to a patient's peripheral nerve. This device includes the stimulator and the electronic processing equipment for measureing and displaying the nerve conduction time.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32878 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1021]

MEDICAL DEVICES

Classification of Skin Potential Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation clasifying skin potential measurement devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, RM. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological device Classification Panel, an FDA advisory committee, made the following recommendation will respect to the classfication of skin potential measurement devices:

1. Identification: A skin potential measurement device is a general diagnostic device used to measure skin voltage by means of surface skin electrodes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the skin potential measurement device be classified into class II (performance standards) to ensure that the device provides accurate measurements and to prevent electrical shock. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with these devices.

5. Risks to health: a. Misdiagnosis: If a device that is not calibrated and accurate is used for diagnosis of disease conditions, inappropriate treatments may be prescribed.

b. Electrical shock: Excessive leakage current can cause electrical shock.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the skin potential measurement device be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1560 as follows:

§ 882.1560 Skin potential measurement device.

(a) *Identification.* A skin potential measurement device is a general diagnostic device used to measure skin voltage by means of surface skin electrodes.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, RM. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: Nov. 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32879 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1022]

MEDICAL DEVICES

Classification of Powered Direct-Contact Termperature Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered direct-contact temperature measurement devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of powered direct-contact temperature measurement devices:

1. Identification: A powered direct-contact temperature measurement device is a device which contains a power source and is used to measure differences in temperature between two points on the body.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the powered direct-contact temperature measurement device be classified into class II (performance standards) to insure adequate sensitivity to temperature differences and to prevent accidental reversal of temperature-sensing elements. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with the device and the techniques of temperature measurement.

5. Risks to health: Misdiagnosis: Accidentally reversed sensing elements or lack of adequate sensitivity to temperature differences can result in misdiagnosis and improper treatment.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the powered direct-contact temperature measurement device be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1570 as follows:

§ 882.1570 Powered direct-contact temperature measurement device.

(a) *Identification.* A powered direct-contact temperature measurement device is a device which contains a power source and is used to measure differences in temperature between two points on the body.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32880 Filed 11-27-78; 8:45 am]

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[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1023]

MEDICAL DEVICES

Classification of Alpha Monitors

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying alpha monitors into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of alpha monitors:

1. Identifidcation: An alpha monitor is a device with electrodes that are placed on a patient's scalp to monitor that portion of the electroencephalogram which is referred to as the alpha wave.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that this device, which is a specialized version of the electroencephalograph, be classified into class II (performance standards) to assure control of electrical safety and that the device performs properly. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with the clinical use of electroencephalography and related devices.

5. Risks to health: a. Misdiagnosis: If the physiological signal is distorted or the electrical filtering process does not correctly select the alpha wave, the physician may make an erroneous assessment of the patient's neurological state.

b. Electrical shock: Excessive leakage current could cause injury, or a malfunction could result in dangerous electrical shock.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the alpha monitor be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1610 as follows:

§ 882.1610 Alpha monitor.

(a) *Identification.* An alpha monitor is a device with electrodes that are placed on a patient's scalp to monitor that portion of the electroencephalogram which is referred to as the alpha wave.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32881 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1024]

MEDICAL DEVICES

Classification of Intracranial Pressure Monitoring Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying intracranial pressure monitoring devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation

with respect to the classification of intracranial pressure monitoring devices:

1. Identification: An intracranial pressure monitoring device is a device used for short term monitoring and recording of intracranial pressures and pressure trends. The device includes the transducer, monitor and interconnecting hardware.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that intracranial pressure monitoring devices be classified into class II because the Panel believes that the device needs to be subject to a performance standard to assure that the pressure measurements obtained from the device are accurate, to prevent brain damage due to an excessively bulky device, and to assure that the device is designed to prevent leakage of cerebrospinal fluid. The Panel also recommends that intracranial pressure monitoring systems be required to incorporate an alarm (hat is triggered by sudden or abnormal increases in intracranial pressure. The Panel recommends that intracranial pressure monitoring devices be classified into class II (performance standards) but that the recommendation apply only to short-term clinical applications of intracranial pressure monitoring because sufficient clinical data are not available to evaluate long-term use and because the Panel is not aware of a commercially available product intended for long-term use. Although a variety of devices has been used to monitor intracranial pressure, they all consist essentially of a manometer (pressure indicator) inserted through a hole in the skull so that a pressure connection is made with the fluid that surrounds the brain. This procedure presents risks of brain damage and infection. However, the Panel believes that, in certain circumstances, the information obtained by monitoring intracranial pressure is sufficiently valuable to justify the risks. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Intracranial pressure monitoring devices have been used in various forms for several years. The Panel members based their recommendation on their clinical experience with intracranial pressure monitoring devices.

5. Risks to health: a. Brain damage by pressure. An excessively bulky device could exert damaging pressure on the brain.

b. Brain damage by surgical trauma. The surgery involved in inserting this device presents inherent risks.

c. Inaccurate pressure readings. A defect in the device can result in inaccurate pressure readings.

d. Leakage of cerebrospinal fluid. The device needs to have a tight seal to prevent leakage of cerebrospinal fluid.

e. Infection. Infection may result if the device is not sterile or if contaminants enter the surgical opening.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation to classify intracranial pressure monitoring devices into class II (performance standards). The Commissioner also agrees with the Panel's decision to distinguish between the usual short-term application of the intracranial pressure monitoring device and the possible long-term application of the device. Sufficient clinical data are not available to permit evaluation of long-term use of the device.

The FDA has reviewed literature relating to intracranial pressure monitoring devices and has found that several devices have been used which measure pressure by a direct connection with the fluid in the subdural space of the brain. (Refs. 1 through 4). Epidural devices (inserted between the cranium and the dura mater; i.e., the tough, outer membrane covering the brain) are also currently being used to monitor intracranial pressure (Refs. 5 through 7), but on an investigational basis.

In the literature reviewed, an investigation of one device in a series of 650 patients (Ref. 2) showed an average infection rate of 2.1 percent and an average device failure rate of 8 percent. Device failures were due either to faulty installation or to brain herniation. In this investigation, the monitoring device was not left in place more than 20 days, and 5 days use was typical. In another study of a different device involving 27 patients, the pressure monitoring device was left in place for longer periods of time, with 14 days being a typical period and the extreme being 41 days (Ref. 4).

Based on the Panel recommendation and the references listed below, the Commissioner is proposing that the intracranial pressure monitoring device for short-term monitoring be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFC20), Rm. 465, 5600 Fishers Lane, Rockville, MD 20857, and may be viewed by interested persons from 9 a.m. to 4 p.m. Monday through Friday, except on Federal holidays:

1. Hanlon, K., "Description and Uses of Intracranial Pressure Monitoring," *Heart and Lung*, 5:277282, 1976.

2. Winn, H. R. et al., "Intracranial Subarachnoid Pressure Recording: Experience With 650 Patients," *Surgical Neurology*, 8:41-47, (1977).

3. Vries, J. K. et al., "A Subarachnoid Screw for Monitoring Intracranial Pressure," *Journal of Neurosurgery*, 39:416-419, 1973.

4. Tindal, G. T. et al., "Current Methods for Monitoring Patients with Head Injury," *Clinical Neurosurgery*, 19:98-120, 1972.

5. Dorsch, N. W. C. and L. Symon, "A Practical technique for Monitoring Extradural Pressure," *Journal of Neurosurgery*, 42:249-257, 1975.

6. Zervas, N. T. et al., "A Pressure-Balanced Radio-Telemetry System for the Measurement of Intracranial Pressure," *Journal of Neurosurgery*, 47:899-911, 1977.

7. Yoneda, S. et al., "Continuous Measurement of Intracranial Pressure with SFT: Clinical Experience," *Surgical Neurology*, 4:289-295, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1620 as follows:

§ 882.1620 Intracranial pressure monitoring device.

(a) *Identification.* An intracranial pressure monitoring device is a device used for short term monitoring and recording of intracranial pressures and pressure trends. The device includes the transducer, monitor, and interconnecting hardware.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32882 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1025]

MEDICAL DEVICES

Classification of Percussors

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying percussors into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of percussors:

1. Identification: A percussor is a small hammerlike device used by a physician to provide light blows to a body part. A percussor is used as a diagnostic aid during physical examinations.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempted from good manufacturing practice regulations under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)).

3. Summary of reasons for classification: A percussor is a simple nonpowered device, usually a rubber tipped hammer, used as an aid in physicial examination. Because the characteristics of the device are obvious, and its functional capability is easily determined by examination of the device, the Panel recommends that the device be classified into class I (general controls) and that the manufacturer not be required to comply with the good manufacturing practice requirements.

4. Summary of data on which the recommendation is based: The Panel members are familiar with devices of this type because they are used in routine physical examinations.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the percussor be classified into class I (general controls) because the Commissioner believes that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of the device.

The Commissioner is also proposing that the percussor be exempted from good manufacturing practice regulations under section 520(f) of the act and from recordkeeping and reporting requirements in good manufacturing practice regulations, because all defects related to the safety and effectiveness of the device are readily detectable prior to use. The FDA's good manufacturing practice regulations for medical devices (21 CFR Part 820) were published in the FEDERAL REGISTER of July 21, 1978 (43 FR 31508).

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360C 371(a))) and authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1700 as follows:

§ 882.1700 Percussor.

(a) *Identification.* A percussor is a small hammerlike device used by a physician to provide light blows to a body part. A percussor is used as a diagnostic aid during physical examinations.

(b) *Classification.* Class I (general controls). Exempt from the good manufacturing practice regulations in Part 820 of this chapter, including recordkeeping and reporting requirements in Part 820 of this chapter.

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32883 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1026]

MEDICAL DEVICES

Classification of Pinwheels

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying pinwheels into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendations with respect to the classification of pinwheels:

1. Identification: A pinwheel is a device with sharp points on a rotating wheel used for testing pain sensation.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendations: The Panel recommends that the pinwheel be classified into class I (general controls) because it is a simple mechanical device which contains no hazards to health and which requires no special material or properties.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this deivice.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the pinwheels be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1750 as follows:

§ 882.1750 Pinwheel.

(a) *Identification.* A pinwheel is a device with sharp points on a rotating wheel used for testing pain sensation.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32884 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1027]

MEDICAL DEVICES

Classification of Ocular Plethysmographs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ocular plethysmographs into class III (premarket approval). the FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A notice elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. the Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of ocular plethysmographs:

1. Identification: An ocular plethysmograph is a device used to measure or detect volume changes in the eye produced by pulsations of the artery, to diagnose carotid artery occlusive disease (restriction on blood flow in a carotid artery).

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reaons for recommendation: The Panel recommends that the ocular plethysmograph be classified into class III (premarket approval) because the device is used to detect the life-threatening condition that occurs when the brain does not receive adequate blood flow through a carotid artery. Also, the Panel believes that it is not possible to establish an adequate performance standard for this device. The information derived from the ocular plethysmograph may be used to screen patients for the more risky diagnostic procedure of carotid angiography (an invasive radiological technique involving injection of radiopaque material into the patient's arterial system to detect arterial disorders such as carotid artery occlusion). If the ocular plethysmograph produces a false positive result, an unnecessary carotid angiography procedure may be performed; however, a false negative result could result in the failure to detect carotid artery occlusion. the Panel believes that the reliability of ocular plethysmograph measurements in detecting the presence or absence of carotid artery occlusion has not been sufficiently demonstrated and that the device should, therefore, be subject to premarket approval to assure satisfactory performance of the device and thus to provide reasonable assurance of its safety and effectiveness.

4. Summary of data on which the recommendation is based: the Panel members based their recommendation on their clinical experience and their knowledge of the techniques used in ocular plethysmography.

5. Risks to health: a. Eye injury. Excessive pressure can damage the eye.

b. Misdiagnosis. The device may misdiagnose the presence or absence of carotid artery occlusion because of a poor relationship between pulsatile arterial blood flow changes and the degree of occlusion.

c. Infection. Eye cups that are not sterile can cause infections.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that ocular plethysmographs be classified into class III (premarket approval).

The Commissioner believes that the device presents a potential unreasonable risk of illness or injury to the patient, especially if practitioners rely upon the information derived from the device to diagnose carotid artery occclusion. Furthermore, the device is for a use (screening for carotid angiography) which is of substantial importance in preventing impairment of human health. The Commissioner believes that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard that will provide such assurance. Therefore, the Commissioner is proposing that ocular plethysmographs be classified into class III (premarket approval).

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The Commissioner has obtained additional data and information describing the application of ocular plethysmographic devices. There are two techniques used to diagnose an occlusion of the carotid artery: pulse delay detection and ophthalmic artery pressure measurement.

The pulse delay detection technique gives inaccurate diagnostic information when a patient has symmetrical bilateral occlusive disease of the carotid artery, disease of the eye globe, occlusive disease of the ophthalmic artery, or arteriosclerotic lesions that do not alter blood flow (Ref. 1). A study of 210 carotid arteries reported that this technique is 81 percent accurate when results from it are compared with those of carotid angiography (Ref.1). In another study involving 936 caparisons with results of carotid angiography, 7 percent of diagnoses were false negatives (significant occlusion that was not detected), and 8 percent of diagnoses were false positives (patients without significant occlusive disease were indicated by the technique to have occlusion) (Ref. 2).

The systolic ophthalmic artery pressure measurement technique causes a transient elevation of intraocular pressure that is 400 percent to 500 percent above normal (Refs. 3 through 5). This technique does not accurately diagnose patients with less than 70 percent occlusion of the carotid artery (Ref. 1). Greater sensitivity is reported when the carotid artery is compressed manually (Refs. 1 and 3). However, because the carotid compression technique presents risks of cardiac arrhythmia or neurologic deficit, adequate assurance of safety is not possible.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday, except on Federal Holidays:

1. Dean, R. and J. Yao, "Hemodynamic Measurements in Peripheral Vascular Disease," *Current Problems in Surgery*, 12:52-56, 1976.

2. Karchner et al., "Oculoplethysmography: An Adjunct to Arteriography in the Diagnosis of Extracranial Carotid Occlusive Disease," *American journal of Surgery*, 132:728-732, 1976.

3. Gee, W. et al., "Measurement of Collateral Cerebral Hemispheric Blood Pressure by Ocular Pneumoplethysmography," *American Journal of Surgery*, 130:121-127, 1975.

4. Gee, W. et al., "Simultaneous Bilateral Determination of the Systolic Pressure of the Ophthalmic Arteries by Ocular Pneumoplethysmography," *Investigative Ophthalmology and Visual Science*, 16:86-89, 1977.

5. Gee, W. et al., "Noninvasive Diagnosis of Carotid Occlusion by Ocular Pneumoplethysmography," *Stroke*, 7:18-21, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1790 as follows:

§ 882.1790 Ocular plethysmograph.

(a) *Identification.* An ocular plethysmograph is a device used to measure or detect volume changes in the eye produced by pulsations of the artery, to diagnose carotid artery occlusive disease (restrictions on blood flow in the carotid artery).

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32885 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1028]

MEDICAL DEVICES

Classification of Rheoencephalographs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying rheoencephalographs into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of rheoencephalographs:

1. Identification: A rheoencephalograph is a device used to estimate a patient's cerebral circulation (blood flow in the brain) by electrical impedance methods with direct electrical connections to the scalp or neck area.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the rheoencephalograph be classified into class III because satisfactory performance has never been demonstrated, and the Panel believes that it is not possible to establish an adequate performance standard for this device. Although electrical standards would be sufficient to control electric shock hazard, the device design presents an inherent risk of misdiagnosis of cerebral circulatory status. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel members are familiar with the literature on this device. Some of the panel members have witnessed its clinical application. Dr. William Jarzembski, one of the Panel members, provided some detailed information concerning his research on this device.

5. Risks to health: a. Erroneous clinical conclusions. The device may indicate that cerebral circulation is normal, when in fact it may be very abnormal.

b. Electrical shock. Excessive current could cause injury, and malfunction of the device could result in an electrical shock.

c. Skin reaction. The electrode materials and conductive media may irritate the skin.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that rheoencephalographs be classified into class III (premarket approval). The Commissioner has reviewed the Panel recommendation and has obtained additional data and information describing the application of cranial impedance techniques (rheoencephalograph) to measure cranial blood flow. Some of the literature states that this measurement is feasible but has not been sufficiently refined to be practical (Refs. 1 through 3). However, Hill et al. (Ref. 4) assert that the theoretical basis for this measurement is erroneous and that the pulsatile signal obtained from these devices is due to an unrelated phenomenon.

The Commissioner believes that the device presents a potential unreasonable risk of illness or injury to the patient if practitioners rely upon the information derived from the device to diagnose conditions which result in abnormal cerebral blood flow. The Commissioner concurs that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be viewed by interested persons from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays:

(1) Jarzembski, W. B., "Pathological Implications of Transcranial Impedence Change," (prepublication draft).

(2) Jarzembski, W. B., "Evaluation of Specific Cerebral Impedance and Cerebral Current Density," *Annals of New York Academy of Science*, 170:476-490, 1970.

(3) Geddes, L. A. and H. E. Hoff, "The Measurement of Physiologic Events by Electrical Impedance," *American Journal of Medical Electronics*, 3:16-27, 1964.

(4) Hill, R. V. et al., "Electrical Impedance Plethysmography: A Critical Analysis," *Journal of Applied Physiology*, 22:161-68, 1967.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1825 as follows:

§ 882.1825 Rheoencephalograph.

(a) *Identification.* A rheoencephalograph is a device used to estimate a patient's cerebral circulation (blood flow in the brain) by electrical impedance methods with direct electrical connections to the scalp or neck area.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32886 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1029]

MEDICAL DEVICES

Classification of Physiological Signal Amplifiers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying physiological signal amplifiers into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of physiological signal amplifiers:

1. Identification: A physiological signal amplifier is a general purpose device used to electrically amplify signals derived from various physiological sources (e.g., the electroencephalogram).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the physiological signal amplifier be classified into class II (performance standards) to assure that the device is electrically safe because the amplifier makes a low-resistance connection with the patient and there is a hazard of dangerous electrical shock. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience and their knowledge of these devices.

5. Risks to health: Electrical shock: Leakage of electric current can produce dangerous electrical shock.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that the physiological signal amplifier be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a) 52 Stat. 1055, 90 Stat. 540546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1835 as follows:

§ 882.1835 Physiological signal amplifiers.

(a) *Identification.* A physiological signal amplifier is a general purpose device used to electrically amplify signals derived from various physiological sources (e.g., the electroencephalogram).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32887 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1030]

MEDICAL DEVICES

Classification of Physiological Signal Conditioners

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulaton classifying physiological signal conditioners into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of physiological signal conditioners:

1. Identification: A physiological signal conditioner is a device such as an integrator or differentiator used to modify physiological signals for recording or processing.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) to assure a sufficient degree of accuracy for its intended function. Also, electrical safety standards are needed to prevent excessive leakage current when used with other electrical hospital equipment. The Panel believes that general controls will not provide sufficient control of the device characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience and indicate that these hazards are widely recognized:

5. Risks to health: a. Electrical shock: Use of this device with other hospital equipment might result in leakage current and electrical shock of the patient.

b. Inaccurate diagnosis. Inadequate accuracy or distortion of the physiological signal could result in false information.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the physiological signal conditioner be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new §882.1845 as follows:

§ 882.1845 Physiological signal conditioner.

(a) *Identification.* A physiological signal conditioner is a device such as an integrator or differentiator used to modify physiological signals for recording and processing.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hous of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32888 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1031]

MEDICAL DEVICES

Classification of Physiological Signal Telemetry Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying physiological signal telemetry systems into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of physiological signal telemetry systems:

1. Identification: A physiological signal telemetry system consists of transmitters, receivers, and other components used for remotely monitoring or measuring physiological signals by means of radio or telephone transmission systems.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) to ensure that the device performs with a sufficient degree of accuracy. The Panel believes that electrical safety standards are also needed to prevent excessive leakage current when the device is used with other electrical hospital equipment. The Panel believes that general controls will not provide sufficient control of the device characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with this device and state that users are familiar with the identified risks to health presented by this device.

5. Risks to health: a. Electrical shock: Use of this device with other hospital equipment might cause excessive leakage current that would be hazardous to the patient.

b. Inaccurate diagnosis. Inadequate accuracy or distortion of the physiological signal could result in false information and, therefore, inaccurate diagnosis.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the physiological signal telemetry system be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1855 as follows:

§ 882.1855 Physiological signal telemetry system.

(a) *Identification:* A physiological signal telemetry system consists of transmitters, receivers, and other components used for remotely monitoring or measuring physiological signals by means of radio or telephone transmission systems.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32889 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1032]

MEDICAL DEVICES

Classification of Evoked Response Electrical Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying evoked response electrical stimulators into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of evoked response electrical stimulators:

1. Identification: An evoked response electrial stimulator is a device used to apply an electrical stimulus to a patient by means of skin electrodes for the purpose of measuring the evoked response.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

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3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) because its electrical current may cause burns to the body if the output parameters are not controlled. The Panel believes that the device is safe when the electrical output is limited according to established parameters. The Panel believes that performance standards can be established to control the risks of this device and that the provisions of general controls are not sufficient to assure its safety and effectiveness. The Panel believes that performance standards will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which recommendation is based: The Panel members based their recommendation on their clinical experience and judgment. Electrical stimulators for evoked response measurements have been widely used.

5. Risks to health: a. Local burns. Improper electrode surface area or excessive current can cause burns.

b. Electrical shock. Leakage current can produce electrical shock.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the evoked response electrical stimulator be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1870 as follows:

§ 882.1870 Evoked respose electrical stimulators.

(a) *Identification.* An evoked response electrical stimulator is a device used to apply an electrical stimulus to be patient by means of skin electrodes for the purpose of measuring the evoked response..

(b) *Classification:* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32890 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1033]

MEDICAL DEVICES

Classification of Evoked Response Mechanical Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying evoked response mechanical stimulators into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of evoked response mechanical stimulators:

1. Identification: An evoked response mechanical stimulator is a device used to produce a mechanical stimulus or a series of mechanical stimuli for the purpose of measuring a patient's evoked response.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendations: The Panel recommends that this device be classified into class II (performance standards) to protect the patient against the possibility of electrical shock hazard from an external electrical source. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience and scientific knowledge regarding the problems posed by electrical devices.

5. Risks to health: Electrical shock: Use of this device with other hospital equipment might produce "sneak" circuits that could result in hazardous leakage current to the patient.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the evoked response mechanical stimulator be classified into class II (performance standards). However, he is aware that evoked response averaging techniques require the stimulator to be synchronized with the recording device to permit proper interpretation of the evoked response record. The Commissioner believes, therefore, that the functional characteristics of this device are important to its effectiveness and should also be addressed in a standard. The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1880 as follows:

§ 882.1880 Evoked response mechanical stimulator.

(a) *Identification.* An evoked response mechanical stimulator is a device used to produce a mechanical stimuli or a series of mechanical stimuli for the purpose of measuring a patient's evoked response.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32891 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1034]

MEDICAL DEVICES

Classification of Evoked Response Photic Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying evoked response photic stimulators into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of evoked response photic stimulators:

1. Identification: An evoked response photic stimulator is a device used to apply a brief light stimulus to a patient's eye for use in evoked response measurements or electroencephalogram activation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the evoked response photic stimulator be classified into class II (performance standards) because an excessively intensive light source may damage the retina, and the possibility of flashlamp implosion requires that protection be provided. Also, the Panel believes that electrical safety standards are needed to eliminate shock hazards, especially when the device is used with other electrical equipment. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectivenss of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience and state that these hazards are widely recognized.

5. Risks to health: a. Retinal damage. An intense light source could burn the retina.

b. Eye and face injury. Glass from an imploding lamp could be projected toward the face.

c. Electrical shock. Use of this device with other hospital equipment might produce "sneak" circuits that could result in hazardous leakage current to the patient.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the evoked response photic stimulator be classified into class II (performance standards). In addition to the hazards cited by the Panel, the Commissioner believes that this device has performance characteristics which should be controlled to insure that it performs its intended function. Failure of the device to perform satisfactorily can result in erroneous diagnosis of various neurological disorders. The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1890 as follows:

§ 882.1890 Evoked response photic stimulator.

(a) *Identification.* An evoked response photic stimulator is a device used to apply a brief light stimulus to a patient's eye for use in evoked response measurements or for electroencephalogram (EEG) activation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32892 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1035]

MEDICAL DEVICES

Classification of Evoked Response Auditory Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying evoked response auditory stimulators into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of evoked response auditory stimulators:

1. Identification: An evoked response auditory stimulator is a device that produces a sound stimulus for use during evoked response measurements or electroencephalogram activation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Pannel recommendations that evoked response auditory stimulators be classified into class II (performance standards) because the device applies to the ear acoustic energy which should be carefully limited to prevent hearing loss and other injury, and the performance of the device should meet standards to ensure that an accurate result is obtained. Electric shock hazards are present with this device and should be controlled by standards. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Audiometry and evoked response measurements are used clinically on a routine basis. The Panel members based their recommendation on their clinical experience and their knowledge of this technique.

5. Risks to health: a. Hearing damage: Excessive sound intensity can injure the ear.

b. Electrical shock: Use of this device with other hospital equipment might produce "sneak" circuits that could result in hazardous leakage current to the patient.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the evoked response auditory stimulator be classified into class II (performance standards). In addition to the risks to health cited by the Panel, the Commissioner believes that there are risks associated with the fact that a failure of this device to perform accurately is not necessarily apparent to the physician and may result in failure to detect hearing loss. The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissionr also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1900 as follows:

§ 882.1900 Evoked response auditory stimulator.

(a) *Identification.* An evoked response auditory stimulator is a device that produces a sound stimulus for use in evoked response measurements or electroencephalogram activation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32893 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1036]

MEDICAL DEVICES

Classification of Ultrasonic Scanner Calibration Test Blocks

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ultrasonic scanner calibration test blocks into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of ultrasonic scanner calibration test blocks:

1. Identification: An ultrasonic scanner calibration test block is a block of material with known properties used to calibrate ultrasonic scanning devices (e.g., the echoencephalograph).

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: This device consists of a block of material of known thickness and composition that is used to calibrate ultrasonic scanning devices. Because the device makes no contact with the patient, the Panel believes that it does not present a risk to the patient and, therefore, the Panel recommended that it be classified into class I (general controls).

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on experience with ultrasonic scanning devices.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the ultrasonic scanner calibration test blocks be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide a reasonable assurance of safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1925 as follows:

§ 882.1925 Ultrasonic scanner calibration test block.

(a) *Identification.* An ultrasonic scanner calibration test block is a block of material with known properties used to calibrate ultrasonic scanning devices (e.g., the echoencephalograph).

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32894 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1037]

MEDICAL DEVICES

Classification of Tremor Transducers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying tremor trnasducers into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of tremor transducers:

1. Identification: A tremor transducer is a device used to measure the degree of tremor caused by certain diseases.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendations: Tremor transducers are used to quantify what would otherwise be a subjective estimate. The physiological measurement which is performed does not need to be precise. However, because the device is electrically powered, the Panel recommends that it be classified into class II (performance standards) to assure electrical safety. The Panel believes that general controls will not provide sufficient control of the device's characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members believe that the need to control electrical hazards is well known.

5. Risks to health: Electrical shock: Excessive leakage current could injure the patient.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the tremor transducer be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart B by adding new § 882.1950 as follows:

§ 882.1950 Tremor transducer.

(a) *Identification.* A tremor transducer is a device used to measure the degree of tremor caused by certain diseases.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug

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Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32895 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1038]

MEDICAL DEVICES

Classification of Skull Plate Anvils

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying skull plate anvils into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of skull plate anvils:

1. Identification: A skull plate anvil is a device used to form alterable skull plates in the proper shape to fit the curvature of a patient's skull.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the skull plate anvil be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The device is used only as a tool to alter skull plates and does not come into contact with the patient. The Panel believes that the device is constructed with generally acceptable materials and presents no health hazards.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this device and the conditions of its use:

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the skull plate anvil be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 by adding new Subpart E—Neurological Surgical Devices—consisting at this time of § 882.4030, to read as follows:

Subparts C and D—[Reserved]

Subpart E—Neurological Surgical Devices

§ 882.4030 Skull plate anvil.

(a) *Identification.* A skull plate anvil is a device used to form alterable skull plates in the proper shape to fit the curvature of a patient's skull.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32896 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1039]

MEDICAL DEVICES

Classification of Ventricular Cannulas

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ventricular cannulas into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of ventricular cannulas:

1. Identification: A ventricular cannula is a device used to puncture the ventricles of the brain for aspiration or for injection This device is frequently referred to as a ventricular needle.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the ventricular cannula be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The ventricular cannula is a simple device that is frequently used in the practice of neurosurgery. The Panel does not believe that this device requires performance standards to control the identified risks to health.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with the device, which is routinely used in neurosurgery.

5. Risks to health: (a) Tissue or blood vessel damage. Brain tissue or intracranial blood vessels may be damaged if the ventricular cannula has sharp or uneven edges or burrs. (b) Infection. Since the cannula is inserted into the brain, infection may occur if the cannula is not sterile.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the ventricular cannula be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4060 as follows:

§ 882.4060 Ventricular cannula.

(a) *Identification.* A ventricular cannula is a device used to puncture the ventricles of the brain for aspiration or for injection. This device is frequently referred to as a ventricular needle.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32897 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1040]

MEDICAL DEVICES

Classification of Ventricular Catheters

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ventricular catheters into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of ventricular catheters:

1. Identification: A ventricular catheter is a device used to gain access to the cavities of the brain for injection of material into, or removal of material from, the brain.

2. Recommend classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summay of reasons for recommendation: The Panel recommends that the ventricular catheter be classified into class II (performance standards) because the Panel believes that standards are necessary to control the surface properties of the catheter to avoid injury and to insure that the catheter can be sterilized. The Panel believes that the catheter should be constructed of materials that are suitable for chronic (long-term) implantation because it is often necessary for the device to remain in the patient for an extended period of time. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with the device.

5. Risks to health: (a) Tissue or blood vessel damage: Brain tissue or intracranial blood vessels may be damaged if the ventricular catheter has sharp or uneven edges or burrs. (b) Infection: Since the catheter inserted into the brain, infection may occur if the catheter is not sterile.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the ventricular catheter be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4100 as follows:

§ 882.4100 Ventricular catheter.

(a) *Identification.* A ventricular catheter is a device used to gain access to the cavities of the brain for injection of material into, or removal of material from, the brain.

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(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32898 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1041]

MEDICAL DEVICES

Classification of Neurosurgical Chairs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neurosurgical chairs into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of neurosurgical chairs:

1. Identification: A neurosurgical chair is an operating room chair used to position and support a patient during neurosurgery.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the neurosurgical chair be classified into class I because the device is used only to position and support the patient during surgery, and therefore general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that the user can control the possible hazard of chair position instability through proper maintenance. The Panel does not believe that this device requires a performance standard to control the identified risks to health.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience.
5. Risks to health: Chair position instability: Chair position instability may allow sudden movement of the patient during the operation.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the neurosurgical chair be classifed into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4125 as follows:

§ 882.4125 Neurosurgical chair.

(a) *Identification.* A neurosurgical chair is an operating room chair used to position and support a patient during neurosurgery.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be indentified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32899 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1042]

MEDICAL DEVICES

Classification of Scalp Clips

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying scalp clips into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of scalp clips:

1. Identification: A scalp clip is a plastic or metal clip used to stop bleeding during surgery on the scalp.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that the scalp clip be classified into class II (performance standards) because performance standards are necessary to control the amount of pressure applied by the clip to the point of contact. These devices are used to clip temporally tissue or blood vessels during surgery of the head. The clips are not left in the patient but are removed upon completion of the surgery. The Panel believes that general controls will not provide sufficient control over the amount of pressure applied by the clip. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with these devices.
5. Risks to health: (a) Necrosis of the scalp: Injury to the scalp tissue may occur if the clip applies excessive pressure at the point of contact. (b) Failure of hemostasis: The pressure of the clip must be sufficient to prevent bleeding in the area applied

PROPOSED CLASSIFICATION

The commissioner agrees with the Panel's recommendation and is proposing that the scalp clip be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701 (a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371 (a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4150 as follows:

§ 882.4150 Scalp clip.

(a) *Identification.* A scalp clip is a plastic or metal clip used to stop bleeding during surgery on the scalp.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32900 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1043]

MEDICAL DEVICES

Classification of Aneurysm Clip Appliers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying aneurysm clip appliers into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of aneurysm clip appliers:

1. Identification: An aneurysm clip applier is a device used by the surgeon for holding and applying intracranial aneurysm clips.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.
3. Summary of reasons for recommendation: The Panel recommends that the aneurysm clip applier be classified into class II (performance standards) because it is a specialized surgical tool that must be very reliable. Its design may be quite simple, but a high degree of precision is needed to minimize the risk associated with clipping intracranial aneurysms. Although various types of this device that are quite satisfactory have been marketed, the Panel believes that performance standards are needed to ensure the degree of reliability, precision, and suitability necessary for adequate safety. The Panel believes that general controls will not provide sufficient control over these characteristics. Elsewhere in this issue of the FEDERAL REGISTER, the Panel is recommending that aneurysm clips be classified into class II and that they be given a high priority for development of standards. The Panel also recommends that the development of performance standards for the aneurysm clip applier be given a high priority because of the importance of the device to safe aneurysm clip surgery. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information is available to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their extensive experience with the device, which is frequently used in aneurysm surgery.
5. Risks to health: (a) Blood vessel injury: If the device has sharp edges, the edges can cut a blood vessel. Mechanical action of the clip applier can shear a blood vessel. (b) Hemorrhage: Failure of the device to properly control the clip can result in a poorly applied clip that allows the aneurysm to leak. (c) Death: Improper manipulation of the clip can result in a rupture of the aneurysm, which is likely to be fatal.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is pro-

posing that the aneurysm clip applier be classified into class II (performance standard). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4175 as follows:

§ 882.4175 **Aneurysm clip applier.**

(a) *Identification.* An aneurysm clip applier is a device used by the surgeon for holding and applying intracranial aneurysm clips.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32901 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1044]

MEDICAL DEVICES

Classification of Clip Forming/Cutting Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying clip forming/cutting instruments into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of clip forming/cutting instruments:

1. Identification: A clip forming/cutting instrument is a device used by the physician to make tissue clips from wire stock.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the clip forming/cutting instrument be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. A clip forming/cutting instrument is a simple device used to cut pieces of wire in order to make tissue clips for use in surgery. The Panel believes that the device presents no health hazards.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity and clinical experience.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the clip forming/cutting instrument be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4190 as follows:

§ 882.4190 **Clip forming/cutting instrument.**

(a) *Identification.* A clip forming/cutting instrument is a device used by the physician to make tissue clips from wire stock.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32902 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1045]

MEDICAL DEVICES

Classification of Clip Removal Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying clip removal instruments into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of clip removal instruments:

1. Identification: A clip removal instrument is a device used to remove surgical clips from the patient.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the clip removal instrument be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that this simple device presents no health hazards.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the clip removal instrument be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4200 as follows:

§ 882.4200 **Clip removal instrument.**

(a) *Identification.* A clip removal instrument is a device used to remove surgical clips from the patient.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of clip removal instruments:

1. Identification: A clip removal instrument is a device used to remove surgical clips from the patient.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the clip removal instrument be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that this simple device presents no health hazards.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the clip removal instrument be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4200 as follows:

§ 882.4200 **Clip removal instrument.**

(a) *Identification.* A clip removal instrument is a device used to remove surgical clips from the patient.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32903 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1046]

MEDICAL DEVICES

Classification of Clip Racks

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying clip racks into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of clip racks:

1. Identification: A clip rack is a device used to hold or store surgical clips during surgery.
2. Recommended classification: Class 1 (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the clip rack be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The device is used for storing clips and does not come into direct contact with the patient.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the clip rack be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4215 as follows:

§ 882.4215 **Clip rack.**

(a) *Identification.* A clip rack is a device used to hold or store surgical clips during surgery.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours

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of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32904 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1047]

MEDICAL DEVICES

Classification of Cryogenic Surgical Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cryogenic surgical devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public coments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of cryogenic surgical devices:

1. Identification: A cryogenic surgical device is a device used to destroy nervous tissue or produce lesions in nervous tissue by the application of extreme cold to the selected site.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Sumary of reasons for recommendation: The Panel recommends that cryogenic surgical devices be classified into class II (performance standards) because the temperature of the device probe must be controlled assure satisfactory performance. The Cryogenic surgical device is used to destroy selectively very small parts of the brain or spinal cord. The size of the destroyed area is determined by the temperature of the tip of the device probe, and the destroyed area must be precisely controlled to minimize the risk of causing a neurologic deficit or of failing to obtain a good therapeutic result. The Panel believes that general controls will not provide sufficient control over these characteristics. The panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with these devices.

5. Risks to health: (a) Inappropriate size lesions. Inaccurate control of the temperature can result in a lesion that is either too large or too small. A lesion that is too small does not produce a good therapeutic result and a lesion that is too large may cause a neurological deficit. (b) Electrical shock. Leakage current from the thermal element or from the monitoring element can injure the patient.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the cryogenic surgical device be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4250 as follows:

§ 882.4250 Cryogenic surgical device.

(a) *Identification.* A cryogenic surgical device is a device used to destroy nervous tissue or produce lesions in nervous tissue by the application of extreme cold to the selected site.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32905 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1048]

MEDICAL DEVICES

Classification of Dowel Cutting Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying dowel cutting instruments into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of dowel cutting instruments:

1. Identification: A dowel cutting instrument is a device used to cut dowels of bone for bone grafting.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the dowel cutting instrument be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The dowel cutting instrument is a very simple device that has no inherent hazard.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with this device.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the dowel cutting instruments be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4375 as follows:

§ 882.4275 Dowel cutting instrument.

(a) *Identification.* A dowel cutting instrument is a device used to cut dowels of bone for bone grafting.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be indentified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32906 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1049]

MEDICAL DEVICES

Classification of Manual Drills, Burrs, Trephines, and Their Accessories

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying manual drills, burrs, trephines, and their accessories into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that these devices be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of manual drills, burrs, trephines, and accessories:

1. Identification: Manual drills, burrs, trephines, and their accessories are manually operated bone cutting and drilling instruments that are used without a power source.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that manual drills, burrs, trephines, and their accessories be classified into class II to require guards that will prevent the device tips from plunging into the brain. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of these devices and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with these devices, which are routinely used in neurosurgical procedures.

5. Risks to health: Penetration of brain tissue: The device can cause brain injury by plunging into the brain after entry through the skull.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that manual drills, burrs, trephines, and accessories be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for these devices because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4300 as follows:

§ 882.4300 Manual drills, burrs, trephines, and their accessories.

(a) *Identification.* Manual drills, burrs, trephines, and their accessories are manually operated bone cutting and drilling instruments that are used without a power source.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written

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comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32907 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1050]

MEDICAL DEVICES

Classification of Powered Compound Drills, Burrs, Trephines, and Their Accessories

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered compound drills, burrs, trephines, and their accessories into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that these devices be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classfying these devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of powered compound drills, burrs, trephines, and their accessories:

1. Identification: Powered compound drills, burrs, trephines, and their accessories are bone cutting and drilling instruments that use a power source and employ a clutch mechanism to prevent the instrument's tip from plunging into the brain.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that powered compound drills, burrs, trephines and their accessories be classified into class II (performance standards) because standards are necessary to control the performance of the clutch used to prevent the device from accidentally plunging into the brain. Failure of the clutch mechanism could result in brain damage if the tip accidentally plunges into the brain. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of these devices and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their extensive experience with these devices; they are widely used and the hazards are well known.

5. Risks to health: Penetration of brain tissue: Accidental penetration of brain tissue can cause brain injury if the clutch fails.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that powered compound drills, burrs, trephines, and accessories be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for these devices because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4305 as follows:

§ 882.4305 Powered compound drills, burrs, trephines, and their accessories.

(a) *Identification.* Powered compound drills, burrs, trephines, and their accessories are bone cutting and drilling instruments that use a power source and employ a clutch mechanism to prevent the instrument's tip from plunging into the brain.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32908 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1051]

MEDICAL DEVICES

Classification of Powered Simple Drills, Burrs, Trephines, and Their Accessories

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered simple drills, burrs, trephines, and their accesories into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the devices be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of powered simple drills, burrs, trephines, and their accessories:

1. Identification: Powered simple drills, burrs, trephines, and their accessories are bone cutting and drilling instruments used with a power source but without a clutch mechanism.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that powered simple drills, burrs, trephines, and their accessories be classified into class II (performance standards) because standards are necessary to assure safe design. The Panel believes that guards are needed to prevent the tool cutting tip from accidentally plunging into the brain and that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the devices and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with these devices. The devices are widely used, and the hazards are well known.

5. Risks to health: Penetration of brain tissue: The tip of the cutting tool can accidentally plunge into the brain tissue causing brain injury if the device lacks guards to prevent plunging.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that powered simple drills, burrs, trephines, and their accessories be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4310 as follows:

§ 882.4310 Powered simple drills, burrs, trephines, and their accessories.

(a) *Identification.* Powered simple drills, burrs, trephines, and their accessories are bone cutting and drilling instruments used with a power source but without a clutch mechanism.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be indentified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32909 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1052]

MEDICAL DEVICES

Classificotion of Drill Handpieces (Brace)

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulations classifying drill handpiece (brace) into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A Proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of drill handpieces (brace):

1. Identification: A drill handpiece (brace) is a hand holder, which is used without a power source, for drills, burrs, trephines, or other cutting tools.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that drill handpieces (brace) be classified into class II (performance standards) because a standard is needed that requires the device to have a guard that prevents the tip of the drill from being accidentally plunged into the brain. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with the drill handpiece. These are common surgical tools that have been used by neurosurgeons for many years.

5. Risks to health: Penetration of brain tissue: The drill tip can accidentally plunge into the brain causing brain injury.

PROPOSED CLASSIFICATION

The Commissioner ageees with the Panel's recommendation and is pro-

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posing that the drill handpiece (brace) be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4325 as follows:

§ 882.4325 **Drill handpiece (brace).**

(a) *Identification.* A drill handpiece (brace) is a hand holder, which is used without a power source, for drills, burrs, trephines, or other cutting tools.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32910 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1053]

MEDICAL DEVICES

Classification of Electric Drill Motors

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulations classifying electric drill motors into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATED: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electric drill motors:

1. Identification: An electric drill motor is an electrically operated power source used with removable rotating surgical cutting tools or drill bits.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that electric drill motors be classified into class II (performance standards) because performance standards are necessary to prevent excessive current leakage and electrical shock hazards. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with the device. These devices have been used for many years and are very familiar to the Panel members.

5. Risks to health: (a) Electrical shock: The patient or the physician may receive an electrical shock from the device. (b) patient injury: If the device is unwieldy, poorly balanced, or too heavy, the physician may be unable to control it, and the patient may be injured.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that electric drill motors be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4360 as follows:

§ 882.4360 **Electric drill motor.**

(a) *Identification.* An electric drill motor is an electrically operated power source used with removable rotating surgical cutting tools or drill bits.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before Janurary 29, 1979, submit to the Hearing Clerk (HFA-305). Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32911 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1054]

MEDICAL DEVICES

Classification of Pneumatic Drill Motors

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying pneumatic drill motors into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that these device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of pneumatic drill motors:

1. Identification: A pneumatic drill motor is a pneumatically operated power source used with removable rotating surgical cutting tools or drill bits.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that pneumatic drill motors be classified into class II (performance standard) because the method of exhausting the gas used to power the device and the method of pressure regulation used with the device should be controlled to assure safety. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with these device. These devices are routinely used and have been in use for many years.

5. Risks to health: (a) Air emboli: The gas which is exhausted from the drill motor may cause emboli if directed toward the wound site: (b) Infection and contamination: The exhaust gas may carry contaminants into the wound site. (c) Patient injury: The device may explode, and the patient may be injured if the pressure regulation fails..

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that pneumatic drill motors be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4370 as follows:

§ 882.4370 **Pneumatic drill motor.**

(a) *Identification.* A pneumatic drill motor is a pneumatically operated power source used with removable rotating surgical cutting tools or drill bits.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32912 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1055]

MEDICAL DEVICES

Classification of Radiofrequency Lesion Generators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying radiofrequency lesion generators into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation

with respect to the classification of radiofrequency lesion generators:

1. Identification: A radiofrequency lesion generator is a device used to produce lesions in the nervous system or other tissue by the direct application of radiofrequency currents to selected sites.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that the radiofrequency lesion generator be classified into class II (performance standards) because the electrical characteristics of the lesion generator must be controlled to assure satisfactory performance. The radiofrequency lesion generator is used to selectively destroy very small parts of the brain, spinal cord, or other tissue. The size of the destroyed area must be precisely controlled to minimize the risk of causing a neurological deficit or of failing to obtain a good therapeutic result. The Panel believes that general controls will not provide sufficient controls over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience using these devices.

5. Risks to health: (a) Excessive destruction of normal tissue. Inaccurate or unreliable control of the lesioning current can produce an excessively large lesion that may produce a neurological deficit in the patient. (b) Failure to produce lesions of appropriate size. Inaccurate or unreliable control of the lesioning current can result in a lesion that is too small to produce a therapeutic result. (c) Electrical shock. Excessive leakage current can injure the patient. (d) Burns. Improper design of the return (inactive) electrode can cause burns.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the radiofrequency lesion generator be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4400 as follows:

§ 882.4400 Radiofrequency lesion generator.

(a) *Identification.* A radiofrequency lesion generator is a device used to produce lesions in the nervous system or other tissue by the direct application of radiofrequency currents to selected sites.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32913 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1057]

MEDICAL DEVICES

Classification of Neurosurgical Headrests

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neurosurgical headrests into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of neurosurgical headrests:

1. Identification: A neurosurgical headrest is a device used to support the patient's head during a surgical procedure.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the neurosurgical headrest be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device because of the simplicity of the device design. The Panel believes that performance standards are not necessary for the neurosurgical headrest because the user can control the risks to health identified for this device by carefully positioning the patient's head.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with this device.

5. Risks to health: Eye or ear damage. If the physician improperly positions the neurosurgical headrest, it may place excessive pressure on the patient's eye or ear.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the neurosurgical headrest be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4440 as follows:

§ 882.4440 Neurosurgical headrest.

(a) *Identification.* A neurosurgical headrest is a device used to support the patient's head during a surgical procedure.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32914 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1058]

MEDICAL DEVICES

Classification of Neurosurgical Head Holder (Skull Clamp)

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying the neurosurgical head holder (skull clamp) into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of the neurosurgical head holder (skull clamp):

1. Identification: A neurosurgical head holder (skull clamp) is a device used to clamp the patient's skull to hold the head and neck in a particular position during surgical procedures.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the neurosurgical head holder (skull clamp) be classified into class II (performance standards) to prevent penetration of the skull clamp points into the brain. The Panel believes that performance standards are necessary to ensure that the locking mechanism is suitable and to ensure that corrosion resistant materials are used. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience.

5. Risks to health: Patient injury. Excessive spring pressure or improper skull clamp pin design may allow penetration of the pin points into the brain. Premature release of pins may result in a sudden movement of the patient's head.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the neurosurgical head holder (skull clamp) be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat., 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4460 as follows:

§ 882.4460 Neurosurgical head holder (skull clamp).

(a) *Identification.* A neurosurgical head holder (skull clamp) is a device used to clamp the patient's skull to hold the head and neck in a particular position during surgical procedures.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32915 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1059]

MEDICAL DEVICES

Classification of Cranioplasty Material Forming Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cranioplasty material forming instruments into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regula-

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tion based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Gerogia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of cranioplasty material forming instruments:

1. Identification: Cranioplasty material forming instruments are rollers used in the preparation and forming of cranioplasty (skull repair) materials.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the cranioplasty material forming instrument be classified into class I because general controls are sufficient to provide reasonable assurance of safety and effectiveness of the device. The device is a simple roller that does not come into direct contact with the patient.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this device and its use.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the cranioplasty material forming instrument be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4500 as follows:

§ 882.4500 Cranioplasty material forming instrument.

(a) *Identification.* Cranioplasty material forming instruments are rollers used in the preparation and forming of cranioplasty (skull repair) materials.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32916 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1061]

MEDICAL DEVICES

Classification of Microsurgical Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying microsurgical instruments into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of microsurgical instruments:

1. Identification: A microsurgical instrument is a nonpowered surgical instrument used in neurological microsurgery procedures.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that microsurgical instruments be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The Panel believes that the hazards associated with these devices depend primarily upon the skill of the user.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the fact that these devices are common surgical instruments which have been in use for many years.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that microsurgical instruments be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.45.25 as follows:

§ 882.4525 Microsurgical instrument.

(a) *Identification.* A microsurgical instrument is a nonpowered surgical instrument used in neurological microsurgery procedures.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), and Drug Administration, Rm 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32917 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1062]

MEDICAL DEVICES

Classification of Nonpowered Neurosurgical Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nonpowered neurosurgical instruments into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposed become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of nonpowered neurosurgical instuments:

1. Identification: A nonpowered neurosurgical instrument is a hand instrument or an accessory to a hand instrument used in neurosurgical procedures to cut, hold, or manipulate tissue. It includes specialized chisels, osteotomes, curettes, dissectors, elevators, forceps, gouges, hooks surgical knives, rasps, scissors, separators, spatulas, spoons, blades, blade holders, blade breakers, probes, etc.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that nonpowered surgical instruments be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these simple devices.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the fact that these devices are common surgical instruments which have been in routine use for many years.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the nonpowered neurosurgical instrument be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4535 as follows:

§ 882.4535 Nonpowered neurosurgical instruments.

(a) *Identification.* A nonpowered neurosurgical instrument is a hand instrument or an accessory to a hand instrument used during neurosurgical procedures to cut, hold, or manipulate tissue. It includes specialized chisels, osteotomes, curettes, dissectors, elevators, forceps, gouges, hooks, surgical knives, rasps, scissors, separators, spatulas, spoons, blades, blade holders, blade breakers, probes, etc.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be see in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32918 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR PART 882]

[Docket No. 78N-1063]

MEDICAL DEVICES

Classification of Shunt System Implantation Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying shunt system implantation instruments into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of shunt system implantation instruments:

1. Identification: A shunt system implantation instrument is an instrument used in the implantation of cerebrospinal fluid shunts, and includes tunneling instruments for passing shunt components under the skin.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that shunt system implantation instruments be classified into class I because general controls are sufficient to provide reasonable assurance of their safety and effectiveness. Although this device has a special purpose, it is a simple hand instrument that has no inherent hazards associated with it.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their own surgical experience.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that shunt system implantation instruments be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4545 as follows:

§ 882.4545 Shunt system implantation instrument.

(a) *Identification.* A shunt system implantation instrument is an instrument used in the implantation of cerebrospinal fluid shunts, and includes tunneling instruments for passing shunt components under the skin.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32919 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1064]

MEDICAL DEVICES

Classification of Stereotaxic Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying stereotaxic instruments into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Springs, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of stereotaxic instruments:

1. Identification: A stereotaxic instrument is a device consisting of a rigid frame with a calibrated guide mechanism for precisely positioning probes or other devices within a patient's brain, spinal cord, or other part of the nervous system.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that stereotaxic instruments be classified into class II (performance standards) because of the importance of ensuring the rigidity, precision, and accuracy of this instrument. In addition, the patient may be injured if the probe is not precisely positioned or if the instrument is not stable. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with this device, which has been used by neurosurgeons for many years.

5. Risks to health: Tissue damage. Improper calibration of the device could result in surgical error and damage to brain tissues. Instability of the device or its base or inadequate rigidity could result in tissue damage if the device is moved suddenly or becomes miscalibrated. If the device does not hold the skull properly in place, the head could move and tissue damage from miscalibration could result.

PROPOSED CLASSIFICATION

The Commissioner agrees with the panel recommendation and is proposing that the stereotaxic instrument be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4560 as follows:

§ 882.4560 Stereotaxic instrument.

(a) *Identification.* A stereotaxic instrument is a device consisting of a rigid frame with a calibrated guide mechanism for precisely positioning probes or other devices within a patient's brain, spinal cord, or other part of the nervous system.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305) Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32920 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1065]

MEDICAL DEVICES

Classification of Leukotomes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying leukotomes into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of leukotomes:

1. Identification: A leukotome is a device used to cut sections out of the brain.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the leukotome be classified into class I because general controls are sufficient to provide reasonable assurance of safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience and judgment.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the leukotome be classified into class I (general controls) with no exemptions because the Commissioner believes that these controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4600 as follows:

§ 882.4600 Leukotome.

(a) *Identification.* A leukotome is a device used to cut sections out of the brain.

(b) *Recommended classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32921 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1066]

MEDICAL DEVICES

Classification of Neurosurgical Suture Needles

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neurosurgical suture needles into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of neurosurgical suture needles:

1. Identification: A neurosurgical suture needle is a needle used in suturing during

neurosurgical procedures or in the repair of nervous tissue.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: the Panel recommends that neurosurgical suture needles be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This device is a very simple device, and the materials which have been used in the needles have all been generally acceptable.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the fact that this device is essentially equivalent to other suture needles that have been used for many years. The neurosurgeon members have had extensive experience with such suture needles.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the neurosurgical suture needle be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4650 as follows:

§ 882.4650 Neurosurgical suture needle.

(a) *Identification.* A neurosurgical suture needle is a needle used in suturing during neurosurgical procedures or in the repair of nervous tissue.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32922 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1067]

MEDICAL DEVICES

Classification of Cottonoid Paddies

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cottonoid paddies into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of cottonoid paddies:

1. Identification: A cottonoid paddie is a cotton pad used during surgery to protect nervous tissue, absorb fluids, or stop bleeding.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that cottonoid paddies be classified into class II (performance standards) because the device may fragment and leave bits of cotton or fiber within the surgical wound and the Panel believes that performance standards are needed to control this hazard. The Panel also believes that cottonoid paddies should have radiopaque markers and suture tails in case the device is accidentally left within the patient. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The panel members based their recommendation on their familiarity and experience with this device, which is used frequently in neurosurgery. One of the Panel members stated that he has seen pieces of fiber from these devices in tissue specimens taken from patients.

5. Risks to health: (a) Foreign body materials in the patient. Fragmentation of the device, leaving fibers or fragments of cotton in the patient, may result in a foreign body reaction. (b) Tissue reaction. Scarring or other adverse tissue reactions may result if the material remains in the body or is toxic.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the cottonoid paddie be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4700 as follows:

§ 882.4700 Cottonoid paddies.

(a) *Identification.* A cottonoid paddie is a cotton pad used during surgery to protect nervous tissue, absorb fluids, or stop bleeding.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32923 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1068]

MEDICAL DEVICES

Classification of Radiofrequency Lesion Probes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying radiofrequency lesion probes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of radiofrequency lesion probes:

1. Identification: A radiofrequency lesion probe is a device that is connected to a radiofrequency (RF) lesion generator to deliver the RF energy to the site within the nervous system where a lesion is desired.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) to provide for a performance standard that minimizes the amount of coincidental destruction by the device of normal tissue. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with these devices.

5. Risks to health: Excessive destruction of normal tissue. A probe that does not have the correct dimensions may cause unnecessary destruction of nervous tissue.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the radiofrequency lesion probe be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4725 as follows:

§ 882.4725 Radiofrequency lesion probe.

(a) *Identification.* A radiofrequency lesion probe is a device connected to a radiofrequency (RF) lesion generator to deliver the RF energy to the site within the nervous system where a lesion is desired.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32924 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1069]

MEDICAL DEVICES

Classification of Skull Punches

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying skull punches into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides back-

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ground information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of skull punches:

1. Identification: A skull punch is a device used to punch holes through a patients skull to allow fixation of cranioplasty plates or bone flaps by wire or other means.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the skull punch be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this device and their knowledge of its design and the conditions of its use.
5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the skull punch be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4750 as follows:

§ 882.4750 Skull punch.

(a) *Identification.* A skull punch is a device used to punch holes through a patient's skull to allow fixation of cranioplasty plates or bone flaps by wire or other means.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32925 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1070]

MEDICAL DEVICES

Classification of Self-Retaining Retractors

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying self-retaining retractors into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of self-retaining retractors:

1. Identification: A self-retaining retractor is a self-locking device used to hold the edges of a wound open during neurosurgery.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) to protect against injuring the patient by sudden movement because of failure of the device's locking mechanism. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with this device, which is routinely used in neurosurgery.
5. Risks to health: Patient injury. Serious injury could result if the locking mechanism fails, allowing the retractor to collapse suddenly thereby disrupting the surgery.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the self-retaining retractor be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4800 as follows:

§ 882.4800 Self-retaining retractor.

(a) *Identification.* A self-retaining retractor a is self-locking device used to hold the edges of a wound open during neurosurgery.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours

of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 78-32926 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR PART 882]

[Docket No. 78N-1071]

MEDICAL DEVICES

Classification of Manual Rongeurs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comments a proposed regulation classifying manual rongeurs into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of manual rongeurs:

1. Identification: A manual rongeur is a manually operated instrument used for cutting or biting bone during surgery involving the skull or spinal column.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that the manual rongeur be classified into class II (performance standards) because of the need to control the variability in design and the high incidence of breakage of the rongeur jaws. Rongeurs that are represented to be of a particular design frequently vary considerably from the purported design and, in fact, may vary from year to year. The Panel believes that performance standards are needed to ensure that the thickness of the rongeur jaws and the material used in their construction are sufficient to prevent them from breaking. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with this device.
5. Risks to health: Residual foreign matter in patient. If rongeur jaws break because the metal is too thin or too brittle, pieces of metal may enter the patient's head.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the manual rongeur be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4840 as follows:

§ 882.4840 Manual rongeur.

(a) *Identification.* A manual rongeur is a manually operated instrument used for cutting or biting bone during surgery involving the skull or spinal column.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner Regulatory Affairs.

[FR Doc. 78-32927 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1072]

MEDICAL DEVICES

Classification of Powered Rongeurs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered rongeurs into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

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PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of powered rongeurs:

1. Identification: A powered rongeur is a powered instrument used for cutting or biting bone during surgery involving the skull or spinal column.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that the powered rongeur be classified into class II (performance standards) because of the need to control the variability in design and high incidence of breakage of the rongeur jaws. Rongeurs that are represented to be of a particular design frequently vary considerably from the purported design and, in fact, may vary from year to year. The Panel believes that performance standards also are needed to ensure that the thickness of the rongeur jaws and the material used in their construction are sufficient to prevent them from breaking. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with this device.
5. Risks to health: Residual foreign matter in patient. If the rongeur jaws break because the metal is too thin or too brittle, pieces of metal may enter the patient's head.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the powered rongeur be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4845 as follows:

§ 882.4845 Powered rongeur.

(a) *Identification.* A powered rongeur is a powered instrument used for cutting or biting bone during surgery involving the skull or spinal column.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets, in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32928 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1073]

MEDICAL DEVICES

Classification of Skullplate Screwdrivers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying skullplate screwdrivers into class I (general controls). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere is this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of skullplate screwdrivers:

1. Identification: A skullplate screwdriver is a tool used by the surgeon to fasten cranioplasty plates or skullplates to a patient's skull by screws.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that the skullplate screwdriver be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Summary of data on which the recommendation is based: The Panel members based their recommendation on their extensive experience with these devices.

5. Risks to health: None identified.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the skullplate screwdriver be classified into class I (general controls) with no exemptions because the Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4900 as follows:

§ 882.4900 Skullplate screwdriver.

(a) *Identification.* A skullplate screwdriver is a tool used by the surgeon to fasten cranioplasty plates or skullplates to a patients skull by screws.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32929 Filed 11-27-78; 8:45]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1074]

MEDICAL DEVICES

Classification of Sponges for Internal Use

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying sponges for internal use into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of sponges for internal use:

1. Identification: A sponge for internal use is a device used for absorbing blood or other fluids inside the body during surgery. It is not left in the body cavity after surgery.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that sponges for internal use be classified into class II (performance standards) because they come into direct contact with the surgical wound and may contaminate the wound or produce a tissue reaction if the sponge materials are not suitable. The Panel believes that general controls will not provide sufficient controls over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their experience with this device, which has been used for absorption in surgical wounds for many years.
5. Risks to health: (a) Foreign body material in patients: If the sponge should fragment while in the patient, portions of the sponge may be left in the patient upon closure of the wound. (b) Tissue reaction: If not biocompatible, the sponge materials may cause adverse tissue reaction.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the sponge for internal use be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart E by adding new § 882.4925 as follows:

§ 882.4925 Sponge (internal use).

(a) *Identification.* A sponge for internal use is a device used for absorbing blood or other fluids inside the body during surgery. It is not left in the body cavity after surgery.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32930 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1075]

MEDICAL DEVICES

Classification of Methyl Methacrylate for Aneurysmorrhaphy

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying methyl methacrylate for aneurysmorrhaphy (repair of aneurysms which are balloonlike sacs formed on blood vessels) into class II (performance standards). The FDA is also publishing the recommendation of the Neurosurgical Device Classification Panel that the device be classified into class II. The effect of classifing a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug

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Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of methyl methacrylate for aneurysmorrhaphy:

1. Identification: Methyl methacrylate for aneurysmorrhaphy (repair of aneurysms, which are balloonlike sacs formed on blood vessels) is a self-curing acrylic used to encase and reinforce intracranial aneurysms that are not amenable to conservative management, removal, or obliteration by aneurysm clip.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that methyl methacrylate for aneurysmorrhaphy be classified into class II (performance standards) because sufficient scientific and medical data are available to establish the safety and effectiveness of methyl methacrylate for this use. The Panel believes that premarket approval of this device is unnecessary because, although this product is implanted, methyl methacrylate has been used extensively for aneurysmorrhaphy and has been shown to be safe and effective. The hazards associated with the use of methyl methacrylate can be avoided by controlling its chemical composition and by following adequate preparation procedures. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their extensive clinical experience in repairing aneurysms, their familiarity with the large amount of literature that has been published on aneurysm repair, and testimony from Dr. Shelley Chou, Professor of Neurosurgery at the University of Minnesota Medical School. Dr. Chou presented information pertaining to several chemical substances that have been employed for aneurysmorrhaphy. He pointed out the methyl methacrylate has been successfully used since 1956 for encasing aneurysms. The Panel was also informed that the American Society for Testing and Materials (ASTM) is presently working to develop standards for the formulation of methyl methacrylate that is to be used for neurosurgery.

5. Risks to health: (a) Immediate or delayed rupture of the aneurysm. Variations in the chemical composition and formulation of the polymer can result in an unpredictable setting time. (b) Injury to surrounding normal tissue. Variation in the composition of the material or the procedures used may result in excess heat that may injure adjacent tissue. (c) Tissue toxicity. Impurities in some formulations may be toxic.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that methyl methacrylate for aneurysmorrhaphy be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation to classify methyl methacrylate for aneurysmorrhaphy into class II and has obtained additional data and information on the safety and effectiveness of this material. Methyl methacrylate has been used generally for various medical applications for approximately 40 years and has been used extensively for cranioplasty (repair of the skull) and in dentistry. This material has been employed since 1956 for encasement of intracranial aneurysms that cannot be treated by clipping or other more conventional means (Ref. 1). Hayes and Leaver reported in 1966 on 40 patients with aneurysms that were successfully treated without major complications with this material (Ref. 2). In 1968, Hammond reported on a total of 85 patients with 102 aneurysms that were encased with polymethyl methacrylate and noted two cases of hemorrhage from aneurysms that were not completely encased by the material (Ref. 3).

Although methyl methacrylate has been shown to produce an inflammatory reaction, in rabbit brain, that gradually lessens with time (Ref. 4), the material is generally regarded as safe for implantation (Ref. 5).

A temperature of 130° F may be produced by the polymerization of the methyl methacrylate, and concern has been expressed about the effect of this heat on structures adjacent to the aneurysm, such as blood vessels or the optic nerve. Hayes and Leaver, however, reported no evidence of such injuries and stated that the heat is easily handled by irrigating the aneurysm (Ref. 2). There is also an increase risk of rupturing the aneurysm during methyl methacrylate encasement because more dissection to free the aneurysm from the surrounding tissue is required for methyl methacrylate encasement than is required for clipping (Ref. 2).

The Commissioner believes that premarket approval is unnecessary for this implanted material because there is sufficient information to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the material for use in treating intracranial aneurysms. The Commissioner also believes that general controls alone will not provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Dutton, J. E. M., "Intracranial Aneurysm: A New Method of Surgical Treatment," *British Medical Journal*, 2:585-586, 1958.

2. Hayes, G. J. and R. C. Leaver, "Methyl Methyacrylate Investment of Intracranial Aneurysms," *Journal of Neurosurgery*, 25:79-80, 1966.

3. Hammon, W. M., "Intracranial Aneurysm Encasement," *Journal of Neurology, Neurosurgery and Psychiatry*, 31:524-547, 1968.

4. Tsuchiya, G., et al., "Reactions of Rabbit Brain and Peripheral Vessels to Plastic Used in Coating Arterial Aneurysms," *Journal of Neurosurgery*, 28:409-416, 1968.

5. Lee, H. and K. Neville, "Handbook of Biomedical Plastics," Pasadena Technology Press, Pasadena, Calif., pp. 8-4 and 14-2 to 14-32.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 by adding new Subpart F, including § 882.5030, to read as follows:

Subpart F—Neurological Therapeutic Devices

§ 882.5030 Methyl methacrylate for aneurysmorrhaphy.

(a) *Identification.* Methyl methacrylate for aneurysmorrhaphy (repair of aneurysms, which are balloonlike sacs formed on blood vessels) is a self-curing acrylic used to encase and reinforce intracranial aneurysms that are not amenable to conservative management, removal, or obliteration by aneurysm clip.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32931 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR PART 882]

[Docket No. 78N-1076]

MEDICAL DEVICES

Classification of Biofeedback Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying biofeedback devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of biofeedback devices:

1. Identification: A biofeedback device is an instrument that provides a visual or auditory signal corresponding to the status of one or more of a patient's physiological paramaenters (e.g., brain alpha wave activity, muscle activity, skin temperature, etc.) so that the patient can control voluntarily these physiological parameters.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that biofeedback devices be classified into class II (performance standards) because they are electrically powered and are attached to patients by means of electrodes, thus exposing patients to risk of electrical shock. The Panel also believes that the device should be required to meet performance standards to assure that the device reliably measures the physiological parameter that it is intended to measure. The Panel notes that biofeedback has been reported to be useful for treating a variety of medical conditions, such as retraining muscles in paralyzed patients, treatment of stress and migraine headache, and reduction of blood pressure. The Panel recommends that the device's labeling include a warning stating that if the device is used in the diagnosis or treatment of disease, it should be used only by, or after consulting with, a physician. However, the Panel believes that use for nonmedical conditions (e.g., relaxation training) need not be under the supervision of a physician. The Panel believes that general controls will not provide sufficient control over the electrical safety and performance characteristics of this device. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal knowledge of the devices and techniques used in biofeedback and on presentations made to the Panel by researchers in biofeedback. Dr. Charles Stroebel, Institute of Living, Hartford, Connecticut, and Dr. Kenneth Greenspan, New York State Psychiatric Institute, appeared before the Panel to present their opinions on biofeedback. Dr. Stroebel warned that indications and claims for biofeedback must be judged carefully because of the sensational reports in the lay press. Dr. Greenspan stressed that a patient should not be treated with biofeedback for medical conditions without an adequate medical examination because failure to diagnose some conditions may result in failure to institute appropriate treatment. Dr. Greenspan reported that stress and migraine headaches have been treated with 60 to 80 percent success after 1 year's followup. Dr. Greenspan also noted that he was concerned because of the lack of well-controlled studies for some of the investigational uses of biofeedback.

5. Risks to health: (a) Electrical shock. The patient may receive an electrical shock because the device is electrically powered and connected to the patient by means of electrodes. (b) Errors in treatment. If the device is used to treat medical conditions, the patient may become worse if the practitioner relies on the device and it does not perform properly.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that biofeedback devices be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

The Commissioner has also considered the Panel's recommendation that a warning label stating that if the device is used in the diagnosis or treatment of disease it should be used only by, or after consulting with, a physician, be affixed to the device or accompany the device. The Commissioner agrees with the Panel that biofeedback devices should be used for diagnosing or treating diseases or other medical conditions only by, or after consulting with, a physician. In the past, FDA has allowed unrestricted (over-the-counter) marketing of biofeedback devices only if no medical claims are made for the devices. The FDA does not regard a claim for use in relaxation training as a medical claim. The FDA regards a biofeedback device as misbranded if medical claims are made for the device and the device is not labeled for use only by or on the order of a physician or other licensed practitioner. The Commissioner intends to continue this policy for biofeedback devices and believes that this policy essentially satisfies the Panel's recommendation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5050 as follows:

§ 882.5050 Biofeedback device.

(a) *Identification.* A biofeedback device is an instrument that provides a visual or auditory signal corresponding to the status of one or more of a patient's physiological parameters (e.g., brain alpha wave activity, muscle activity, skin temperature, etc.) so that the patient can control voluntarily these physiological parameters.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fish-

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ers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32932 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1077]

MEDICAL DEVICES

Classification of Bite Blocks

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying bite blocks into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of bite blocks:

1. Identification: A bite block is a device inserted into a patient's mouth to protect the tongue and teeth while the patient is having convulsions.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that bite blocks be classified into class II (performance standards) because the design of the device and the material of which it is made must be adequate to prevent injury to the patient's teeth or gums and to prevent the patient from biting off a piece of the device and swallowing it. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with the device, which has been in use for many years.

5. Risks to health: (a) Injury to teeth and tongue. Improper design, excessively hard material, or improper application may permit injury to the patient's teeth or tongue, and the patient may aspirate or swallow teeth if the device causes them to be knocked out. (b) Aspiration of material. If the material is too weak, the patient may bite off a piece and aspirate or swallow it.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that bite blocks be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5070 as follows:

§ 882.5070 Bite Block.

(a) *Identification.* A bite block is a device inserted into a patient's mouth to protect the tongue and teeth while the patient is having convulsions.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers lane, Rockville, MD 20857, written comments regarding this proposal. Four Copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc.78-32933 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1078]

MEDICAL DEVICES

Classification of Intravascular Occluding Catheters

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying intravascular occluding catheters into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of intravascular occluding catheters:

1. Identification: An intravascular occluding catheter is a catheter with an inflatable or detachable balloon tip that is used to block a blood vessel to treat malformations, e.g., aneurysms (balloonlike sacs formed on blood vessels), of intracranial blood vessels.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the intravascular occluding catheter be classified into class III (premarket approval) because the device is used to treat severe and life-threatening conditions and presents a potential unreasonable risk of illness or injury to the patient. The Panel believes that there is not sufficient information available to determine whether general controls will assure the safety and effectiveness of the device, nor is there sufficient scientific and medical data available so that performance standards can be established that will assure the safety and effectiveness of the device. Therefore, the device should be subject to premarket approval to ensure that manufacturers demonstrate satisfactorily the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the fact that there are few data available on this device. Although the Panel members are aware of the use of this device in investigational programs, they believe that there is not enough information or data to demonstrate that its safety and effectiveness can be adequately controlled by means other than premarket approval.

5. Risks to health: (a) Infarction of nervous tissue. If the catheter is not controllable or if the balloon or tip should fail or unexpectedly come loose from the catheter, use of the device may cause infarction of nervous tissue (death of nervous tissue due to stoppage of circulation) and other serious injury to the brain and other nervous tissue. (b) Hemmorhage. The catheter or improper balloon inflation may injure a blood vessel and result in bleeding. (c) Thrombogenesis. Blood coagulation and clotting may result if the material of which the catheter is constructed is not compatible with blood.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the intravascular occluding catheter be classified into class III (premarket approval). The device is used to treat severe and life-threatening conditions, and the Commissioner believes that it presents a potential unreasonable risk of illness or injury to the patient if the device should fail or if the practitioner is unable to control the ballon tip. Furthermore, the device is for a use (treatment of vascular malformations) which is of substantial importance in preventing impairment of human health. The Commissioner concurs that insufficient information exists to determine whether general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513. 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5150 as follows:

§ 882.5150 Intravascular occluding catheter.

(a) *Identification.* An intravascular occluding catheter is a catheter with an inflatable or detachable ballon tip that is used to block a blood vessel to treat malformations, e.g., aneurysms (balloonlike sacs formed on blood vessels) of intracranial blood vessels.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32934 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1079]

MEDICAL DEVICES

Classification of Carotid Artery Clamps

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying carotid artery clamps into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of carotid artery clamps:

1. Identification: A carotid artery clamp is a device that is surgically placed around a patient's carotid artery (the principal artery in the neck that supplies blood to the brain) and has a removable adjusting mechanism that protrudes through the skin of the patient's neck. The clamp is used to occlude the patient's carotid artery to treat intracranial aneurysms (balloon like sacs formed on blood vessels) or other intracranial vascular malformations that are difficult to attack directly by reducing the blood pres-

sure and blood flow to the aneurysm or other malformation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the carotid artery clamp be classified into class II (performance standards) because the performance of the device must be controlled to assure that the blood pressure reduction can be performed smoothly and because the material used in the device must be compatible with tissue. The clamp is used for occlusion of the carotid artery in patients with aneurysms that are difficult to attack directly. The Panel believes that biocompatible materials are necessary for this device because the clamp is implanted into the patient. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal clinical experience with this device. This device has been in use for several decades to treat intracranial aneurysms.

5. Risks to health: (a) Brain injury. Poor control of the pressure reduction may result in stroke and injury to the brain. (b) Blood vessel injury. The carotid artery could be damaged if the control assembly does not easily couple with and uncouple from the clamp. (c) Tissue toxicity. The material used to construct the device may cause an adverse tissue reaction if it is not biocompatible.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that the carotid artery clamp be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation to classify the carotid artery clamp into class II (performance standards) and has obtained additional data and information on the device to determine if reasonable assurance of the safety and effectiveness of the device can be provided by performance standards.

Carotid artery occlusion is an established technique for the treatment of intracranial aneurysms, and the carotid artery clamp is an integral part of this treatment.

According to Tindall (Ref. 1), ligation (constriction) of the carotid artery as a treatment for intracranial aneurysms has a long history dating back to 1805. It was in the 1950's, however, that adjustable clamps allowing gradual occlusion of the artery were introduced (Refs. 1 and 2). With the advent of adjustable clamps, carotid ligation became more widely practiced in neurosurgery. Tindall believes that the clamp's ability to occlude the artery gradually has contributed to a lower incidence of neurological deficits in patients treated by carotid ligation. Several clamp designs have been introduced to further refine the technique of carotid ligation (Refs. 1 and 3).

Tindall lists indications and contraindications for carotid ligation and describes the procedure in detail (Ref. 1) Tindall also discusses complications of this technique. The most severe complication is the possibility of cerebral ischemia (insufficient blood flow to the brain). Tindall states that 38 patients out of a series of 220 (11.5 percent) exhibited signs of cerebral ischemia. After the clamp was opened, 5 of the patients were left with permanent neurological deficits, 15 died, and the rest recovered normally (no data were available on two patients). Other complications listed by Tindall include erosion of the artery, infection, hemorrhage from the neck wound, and nerve injury. Tindall believes that the procedure, although characterized by rather serious complications, is nonetheless an effective treatment for some types of aneurysms because of the far greater dangers of death or neurological injury presented by the untreated aneurysm and because of the difficulties involved in a direct surgical attack on the aneurysm.

Although most clamps are constructed of stainless steel, there is at least one report of brass (a biologically unacceptable material) being used as a component in a clamp (Ref. 3). However, no reports regarding the biological compatibility of carotid artery clamps have been found.

Although it is conceivable that, if not designed properly, the mechanism used to couple the adjusting stem to the clamp could injure the blood vessel, no reports of such injury have been found in the literature. Virtually all complications that have been reported are related to the risks associated with the carotid ligation procedure rather than to any particular device. The carotid artery clamp allows more gradual occlusion than does ligation by suture.

The Commissioner believes that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that a performance standard is necessary for this device because general controls will not provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be viewed by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Tindall, G. T., "Management of Aneurysms of Anterior Circulation by Carotid Artery Occlusion," in *Neurological Surgery*, Vol. 2, Edited by J. R. Youmans, W. B. Sunders Co., Philadelphia, PA. pp. 768-786, 1973.

2. Mount, Lester A., "Results of Treatment of Intracranial Aneurysms Using the Selverstone Clamp," *Journal of Neurosurgery*, 16:611-618, 1959.

3. Fuster, B., et al., "An Adjustable Clamp for use in Carotid Ligation," *Acta Neurologica Latinoamericana*, 16:224-230, 1970.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5175 as follows:

§ 882.5175 Carotid artery clamp.

(a) *Identification.* A carotid artery clamp is a device that is surgically placed around a patient's carotid artery (the principal artery in the neck that supplies blood to the brain) and has a removable adjusting mechanism that protrudes through the skin of the patient's neck. The clamp is used to occlude the patient's carotid artery to treat intracranial aneurysms (balloonlike sacs formed on blood vessels) or other intracranial vascular malformations that are difficult to attack directly by reducing the blood pressure and blood flow to the aneurysm or malformation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32935 Filed 11-29-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1080]

MEDICAL DEVICES

Classification of Aneurysm Clips

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying aneurysm clips into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere is this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, on FDA advisory committee, made the following recommendation with respect to the classification of aneurysm clips:

1. Identification: An aneurysm clip is a device used to occlude an intracranial aneurysm (a ballonlike sac formed on a blood vessel) to prevent it from bleeding or bursting.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that the aneurysm clip be classified into class II (performance standards) because the performance of the clip needs to be reliable and the material used to construct the clip needs to be biocompatible. The Panel believes that general controls will not provide sufficient control over these characteristics. Although the aneurysm clip is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with aneurysm surgery and with this device. J. T. McFadden, M.D., a Panel member, has personal experience in the development of spring-loaded aneurysm clips, and has written about their problems and their successful application (Refs. 1, 2, and 3). A. U. Daniels, Ph. D., of the Utah Biomedical Test Laboratory (UBTL), presented to the Panel the results of a survey that showed that aneurysm clips are marketed in a great variety of designs, but that the manufacturers seldom specify the operating characteristics of the various types. John Tew, M.D., of the Mayfield Neurological Institute, presented to the Panel a review of aneurysm clip development and discussed the steps required to develop a standard. Dr. Tew, who is also chairman of the Working Group on Aneurysm and Blood Vessel Clips under the American Society for Testing and Materials (STM), discussed the progress ASTM is making toward developing a standard.

5. Risks to health: (a) Slippage of the clip may result in hemorrhage and possible death. If the clip does not maintain sufficient pressure, or if the jaw design does not provide sufficient friction, the clip may open or slide off the aneurysm after operation and allow the aneurysm to bleed. (b) cutting of the aneurysm or its parent vessel. In some designs, the "crotch" part of a clip may cut the arterial wall, or a clip having a sharp edge may accidentally cut the artery. (c) Tissue toxicity. Clips constructed of metals that are not biocompatible may cause an adverse tissue reaction.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that aneurysm clips be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation and has sought other data and documentation on aneurysm clips to determine if reasonable assurance of the safety and effectiveness of the device can be assured by performance standards. The Commissioner has found a considerable body of evidence to support the Panel recommendation. According to Fox, the first attempt to "clip" aneurysms probably occurred in 1911 and involved use of a soft metal device (Ref. 4). Spring clips, which were first employed in 1952 and have subsequently undergone improvements, have gained wide acceptance (Ref. 5 and 6). Since the late 1960's, the mortality rate for correction and intracranial aneurysms has decreased from approximately 25 percent to less than 5 percent due to several techniques that reduce the distance that the brain is moved during surgery (Ref. 7). Aneurysm clips have played a part in this improved mortality rate because they provide a means to repair large defects in an artery under the brain by access through a small opening (Ref. 3). Although failures of aneurysm clips are rare, they do occur (Ref. 8). Unsuccessful operations are more frequently related to incomplete occlusion of the aneurysmal sac because the clip slipped or was not applied properly (Ref. 9). Neurosurgeons have expressed a need for some means of comparing the characteristics of various clips (Ref. 10 and 11). A recent report describes a method and an instrument for testing aneurysm clips that may satisfy this need (Ref. 12).

Although the aneurysm clip is an implanted device that is of substantial importance in preventing impairment of human health, the Commissioner believes that premarket approval is not necessary because there is sufficient information to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that general controls alone will not provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be viewed by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. McFadden, J. T., "Chocked-Clip Aneurysmorrhaphy," *Surgery, Gynecology and Obstetrics*, 132:898, 1971.

2. McFadden, J. T., "Modifications of Crossed-Action Interacranial Clips," *Journal of Neurosurgery*, 32:116-118, 1970.

3. McFadden, J. T., "Metallurgical Principles in Neurosurgery," *Journal of Neurosurgery*, 31:373-385, 1969.

4. Fox, J. L., "Vascular Clips for the Microsurgical Treatment of Stroke," *Stroke*, 7:489-500, 1976.

5. Mayfield, F. H., and G. Kees, "A Brief History of the Development of the Mayfield Clip," *Journal of Neurosurgery*, 25:97-100, 1971.

6. Hiefetz, M. D., "A new Interacranial Aneurysm Clip," *Journal of Neurosurgery*, 30:763, 1969.

7. Fox, J. L., and G. R. Nugent, "Recent Advances in Intracranial Aneurysm Surgery, *West Virginia Medical Journal*, 72:104-106, 1976.

8. Servo, A., "Delayed Breaking of a Heifetz Aneurysm Clip," *Journal of Neurosurgery*, 47:463-465, 1977.

9. Drake, C. G., and J. M. Allcock, "Postoperative Angiography and the Slipped Clip," *Journal of Neurosurgery*, 39:683-689, 1973.

10. DeLong, W. B., "A Simple Method of Measuring Aneurysm Clip Tension," *Journal of Neurosurgery*, 47:788-789, 1977.

11. Sugita, K., et al, "Comparative Study of the Pressure of Various Aneurysm Clips," *Journal of Neurosurgery*, 44:723-727, 1976.

12. Aneurysm Clip Data Collection and *In Vitro* Testing, final Report TR 1603-003, Task Order No. 24 of Contract No. 223-74-5253, Utah Biomedical Test Laboratory, Salt Lake City, Utah 84108, May 10, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5200 as follows;

§ 882.5200 Aneurysm clip.

(a) *Identification.* An aneurysm clip is a device used to occlude an intracranial aneurysm (a balloonlike sac formed on a blood vessel) to prevent it from bleeding or bursting.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32936 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1081]

MEDICAL DEVICES

Classification of Implanted Malleable Clips

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted malleable clips into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. the Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of implanted malleable clips:

1. Identification: A implanted malleable clip is a bent wire or staple that is forcibly closed with a special instrument to occlude a blood vessel or aneurysm (a balloonlike sac formed on a blood vessel), stop bleeding, or hold tissue or a mechanical device in place in a patient.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that implanted malleable clips be classified into class II (performance standards) because the device Must be biologically compatible with tissue and must be structurally sound so that it will hold after application. The Panel recommends that a standard prohibit construction of implanted malleable clips from sterling silver because of the toxicity of this material. The Panel believes that general controls will not provide sufficient control over these characteristics. Although the implanted malleable clip is an implanted device, the Panel believes that premarket approval is not necessary because sufficient information exists to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal clinical experience with this device. Implanted malleable clips have been used in neurosurgery since the early 1900's. Dr. J. T. McFadden, one of the Panel members, has published several journal articles on implantable metallic devices used in neurosurgery, such as the implanted malleable clip (Refs. 1, 2, 3, and 4). He has shown that clips made of sterling silver are especially reactive in tissue (Ref. 1).

5. Risks to health: (a) Local tissue reaction. An adverse tissue reaction may occur if the material used in the clip is not biocompatible. (b) Hemorrhage. Bleeding may occur if the clip is not structurally sound or fails to stay in place.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that implanted malleable clips be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation and has obtained additional data and information on implanted malleable clips to determine if reasonable assurance of the safety and effectiveness of the device can be assured by performance standards.

According to Fox, metal clips for use in neurosurgery were first described in 1911 (Ref. 5). Fox also described the different designs for malleable clips that have been used in neurosurgery. These clips were constructed of either sterling silver or tantalum. McFadden (Refs. 1, 2, and 3) states that tantalum produces the least tissue reaction, and Fox (Ref. 5) notes that the advantages of tantalum for malleable clip construction have been known since the 1940's. Although McFadden has shown that sterling silver produces the most tissue reaction of any of the metals commonly used in neurosurgery (Refs. 1, 2, and 3) clips made of sterling silver were very popular for many years and are still being marketed today.

The Commissioner believes that the establishment of performance standards for the implanted malleable clip is feasible considering the simplicity of the device and the existence of acceptable materials for its construction. However, the Commissioner requests comments on whether a performance standard established for implanted malleable clips should exclude the use of sterling silver as a material for constructing these devices, and whether, even before such a standard is established, FDA should consider regulatory action to remove sterling silver implanted malleable clips from the market.

Although the malleable clip is an implanted device, the Commissioner believes that premarket approval is not necessary because there is sufficient information to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that general controls alone will not provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be viewed by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. McFadden, J. T., "Tissue Reactions to Standard Neurosurgical Metallic Implants," *Journal of Neurosurgery*, 36:598-603, 1972.

2. McFadden, J. T., "Metallurgical Principles in Neurosurgery," *Journal of Neurosurgery*," 31:373-385, 1969.

3. McFadden, J. T., "Neurosurgical Metallic Implants," *Journal of Neurosurgical Nursing*, 3:123-130, 1971.

4. McFadden, J. T., "Chocked-clip Aneurysmorrhaphy," *Surgery, Gynecology and Obstetrics*, 132:898, 1971.

5. Fox, J. L., "Vascular Clips for the Microsurgical Treatment of Stroke," *Stroke*, 7:489-499, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5225 as follows:

§ 882.5225 Implanted malleable clip.

(a) *Identification.* An implanted malleable clip is a bent wire or staple that is forcibly closed with a special instrument to occlude a blood vessel or aneurysm (a balloonlike sac formed on a blood vessel), stop bleeding, or hold tisssue or a mechanical device in place in a patient.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32937 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1082]

MEDICAL DEVICES

Classification of Aversive Conditioning Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying aversive conditioning devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of aversive conditioning devices:

1. Identification: An aversive conditioning device is an instrument used to administer an electrical shock or other noxious stimulus to a patient to modify undersirable behavioral characteristics.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the aversive conditioning device be classified into class II (performance standards) because the device may apply an electrical current that may be hazardous to the patient. The Panel believes that general controls will not provide adequate control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendaton is based: The Panel members based their recommendation on their familiarity with these techniques. As summarized below, the risks to health presented by the device are well known.

Risks to health: (a) Worsened psychological condition. The patient's mental condition may become worse if aversive conditioning is administered incorrectly or if the patient is not carefully selected for this treatment. (b) Electrical shock. Leakage current from the device may injure the patient. (c) Patient injury. An aversive shock applied to the patient may be harmful or lethal if excessive current is used or if it is applied incorrectly.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that aversive conditioning devices be classified into class II (performance standards). Electrical shocking devices frequently have been used for aversive conditioning to treat various conditions (Refs. 1, 2, and 4). A loud bell that is electrically activated by the presence of moisture on a pad in the patient's bed has been used to treat enuresis (bedwetting) (Ref. 3). The Commissioner agrees with the Panel that these devices may apply an electrical current to the patient that may be hazardous. The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Butterfield, W. H., "Electric Shock Hazards in Aversive Device Conditioning in Humans," *Behavioral Engineering*, 3:1-28, 1975

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2. Logan, D. L. and J. R. Turnage, "Ethical Considerations in the Use of Faradic Aversion Therapy," *Behavioral Engineering*, 3:29-34, 1975

3. Thorne, D. E. "Instrumented Behavior Modification of Bedwetting." *Behavioral Engineering*, 2:47-52, 1975.

4. Johnson, J. B., "Electronic Aversive Conditioning," Proceedings of the 23rd Annual Conference on Engineering in Medicine and Biology, 1970, Washington, DC.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F, by adding new § 882.5235 as follows:

§ 882.5235 Aversive conditioning device.

(a) *Identification.* An aversive conditioning device is an instrument used to administer an electrical shock or other noxious stimulus to a patient to modify undersirable behaviorial characteristics.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32938 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1083]

MEDICAL DEVICES

Classification of Burr Hole Covers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying burr hole covers into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 201-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of burr hole covers:

1. Identification: A burr hole cover is a plastic or metal device used to cover or plug hole drilled into the skull during surgery and to reattach cranial bone removed during surgery.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the burr hole cover be classified into class II (performance standards) because the material used in the device must be biocompatible and must be strong enough to protect the brain. The Panel believes that general controls will not provide sufficient control over these characteristics. The device is a simple plastic or metal plug. The Panel believes that, although the burr hole cover is an implant, premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device because sufficient information exists to develop a performance standard that will provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the personal clinical experiences of the Panel members with these devices and their knowledge of the techniques, devices, and materials used in cranioplasty (repair of the skull).

5. Risks to health: (a) Local tissue reaction. The material used to construct the device may have a toxic effect if it is not biocompatible. (b) Structural failure. The material may fracture or break and expose the brain to injury if the material is not strong enough.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel recommendation and is proposing that the burr hole cover be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation to classify burr hole covers into class II (performance standards) and has obtained additional data and information to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by performance standards. There is a limited amount of published literature that deals directly with burr hole covers (Refs. 1 and 2). However, the materials used in burr hole covers (silicone, tantalum, and acrylic) also have been used extensively in other applications, e.g., cranial repair, and have been found to elicit minimal local tissue reaction (Refs. 3 and 4). Complications from use of burr hole covers are similar to those from use of other cranioplasty devices. Erosion of the skin over the implant due to friction pressure (Ref. 4), latent infection (Ref. 5), and discomfort or headache caused by the thermal conductivity of metallic implants (Ref. 4) have been reported in the literature as complications from use of various cranial implants and probably would occur also with the use of burr hole covers. The major hazard associated with burr hole covers, as with other implants, is the potential risk of excessive tissue reaction if a material is used that is not biocompatible; however, the literature suggests that this hazard is minimal because the materials used to construct burr hole covers have been reported to have satisfactory biocompatibility (Refs. 3, 4, and 6). FDA has found no reports in the literature of structural problems with burr hole covers.

The Commissioner agrees with the Panel that general controls will not provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also agrees that premarket approval is not necessary for this implanted device because there is sufficient information to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Todd, E. M. and B. L. Crue, "Burr-Hole Buttons for Fixation of Craniotomy Bone," *Journal of Neurosurgery*, 20:448-449, 1963.

2. Vallfors, B. and D. Forster, "An Alternative Method for the Fixation of Bone Flaps After Craniotomy, "Journal of Neurosurgery, 37:620, 1972.

3. Lee, H. and K. Neville, "Handbook of Biomedical Plastics," Pasadena Technology Press, Pasadena, CA, pp. 8-4 and 14-2 to 14-32, 1971.

4. Timmons, R. L., "Cranial Defects and Their Repair," *Neurological Surgery*, Vol. 2, Edited by J. R. Youmans, W. B. Saunders Co., Philadelphia, PA, pp. 993-1008, 1973.

5. Mirabile, J. C., et al., "Delayed Infection Following Tantalum Cranioplasty: Case Report," *Military Medicine*, 139:398-9, 1974.

6. McFadden, J. T., "Tissue reactions to Standard Neurosurgical Metallic Implants," *Journal of Neurosurgery*, 35:593-603, 1972.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5250 to read as follows:

§ 882.5250 Burr hole cover.

(a) *Identification.* A burr hole cover is a plastic or metal device used to cover or plug holes drilled into the skull during surgery and to reattach cranial bone removed during surgery.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32939 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1084]

MEDICAL DEVICES

Classification of Nerve Cuffs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nerve cuffs into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of nerve cuffs:

1. Identification: A nerve cuff is a tubular silicone rubber sheath used to encase a nerve for aid in repairing the nerve (e.g., to prevent ingrowth of scar tissue) and for capping the end of the nerve to prevent the formation of neuroma (tumors).

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the nerve cuff be classified into class III (premarket approval) because satisfactory performance has not been demonstrated for this implanted device and the Panel believes that there is not sufficient information available to establish a performance standard that will assure its safety and effectiveness. The Panel also believes that there is not sufficient information available on this device to show that general controls are sufficient to assure its safety and effectiveness. The Panel has changed its recommendation concerning the classification of this device. At the Panel meeting of August 20-21, 1977, the Panel members recommended that the nerve cuff be classified into class II (performance standards) because the device is simple in design and uses a material (silicone) that is widely accepted as biocompatible. However, at the Panel meeting on April 21, 1978, the Panel reassessed its previous recommendation and recommended that the nerve cuff be classified instead into class III (premarket approval) because the device is an implant and there is serious doubt that the device is safe and effective when used to repair nerves. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal experience with nerve cuffs, and familiarity with the literature on this device. A recent report (Ref. 1) states that better results are obtained by stitching the nerve together without the use of the nerve cuff.

5. Risks to health: (a) Tissue reaction: The material that is used to construct the device may have a toxic effect if it is not biocompatible: (b) Infection: Infection may result if the device is not sterile. (c) Neuroma formation: The device may act as an irritant which may cause excess growth of neural tissue. (d) Foreign body contamination: Contaminants in the material of which the device is constructed may cause it to disintegrate and contaminate the nerve site.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the nerve cuff be classified into class III (premarket approval).

The Commissioner has reviewed the Panel's recommendation and has obtained additional data and information on the safety and effectiveness of this device. The Commissioner believes that the published literature (Refs. 1, 2, and 3) supports the Panel's recommendation that the nerve cuff be classified into class III. In addition to the risks to health cited by the Panel, Szal and Milles report that swelling of the nerve after surgery may result in destruction of the repaired nerve if the diameter of the cuff is not sufficiently large (Ref. 1). Szal and Milles also report that the nerve cuff might, under some conditions, actually impede the healing of the nerve.

The Commissioner believes that this implanted device presents a potential unreasonable risk of illness or injury to the patient if it is ineffective. Furthermore, the device is for a use (aid in repairing nerves) which is of substantial importance in preventing impairment of human health. The Commissioner concurs that insufficient information exists to determine that general controls will provide reasonable assurance of the safety and effec-

tiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Szal, G. J. and T. Milles, "Surgical Repairs of Facial Nerve Branches," *Archives of Otolaryngology*, 101:160-165, 1975.

2. Midgley, R. D. and F. M. Woolhouse, "Silicone Rubber Sheathing as an Adjunct to Neural Anastomosis," *Surgical Clinics of North America*, 48:1149-1154, 1968.

3 Bucker, T. B. and George J. Haynes, "Experimental Improvements in the Use of Silastic Cuff for Peripheral Nerve Repair," *Journal of Neurosurgery*, 28:582-587, 1968.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5257 as follows:

§ 882.5275 Nerve cuff.

(a) *Identification.* A nerve cuff is a tubular silicone rubber sheath used to encase a nerve for aid in repairing the nerve (e.g., to prevent ingrowth of scar tissue) and for capping the end of the nerve to prevent the information of neuroma (tumors).

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32940 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1085]

MEDICAL DEVICES

Classification of Methyl Methacrylate for Cranioplasty

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying methyl methacrylate for cranioplasty (skull repair) into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of methyl methacrylate for cranioplasty:

1. Identification: Methyl methacrylate for cranioplasty (skull repair) is self-curing acrylic that a surgeon uses to repair a skull defect in a patient. At the time of surgery, the surgeon initiates polymerization of the material and forms it into a plate or other appropriate shape to repair the defect.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that methyl methacrylate for cranioplasty be classified into class II (performance standards) because scientific and medical data are available to establish the safety and effectiveness of methyl methacrylate for this use. Although methyl methacrylate for cranioplasty is implanted in the patient's skull, the Panel believes that premarket approval of this device is not necessary because methyl methacrylate has been used extensively for cranioplasty and has been shown to be safe and effective. The hazards associated with the use of methyl methacrylate can be avoided by controlling its chemical composition and by following preparation procedures. The panel believes that general controls will not provide sufficient control over these characteristics.

The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal clinical experience with cranioplasty plates and the materials used in cranioplasty. Methyl methacrylate has been used since the 1940's for repairing skull defects and is widely used today (Ref. 1). Some Panel members have served on the subcommittee under the American Society for Testing and materials (ASTM) that is developing standards for cranioplasty materials.

5. Risks to health: (a) Heat damage of tissue: The material generates heat as it polymerizes and hardens. If the material is not cooled, adjacent tissue can be injured by the heat. (b) Loss of brain protection: If the cranioplasty plate is made from material that is not sufficiently strong, it may be easily broken and allow brain injury. (c) Tissue toxicity: Impurities in some formulations may be toxic.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the methyl methacrylate for cranioplasty be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation to classify methyl methacrylate for cranioplasty into class II (performance standards) and has obtained additional data and information on the safety and effectiveness of this material.

The medical literature contains extensive reports on acrylic cranioplasty, including a thorough review by Timmons (Ref. 1) of the repair of cranial defects and the methods and materials that have been used for cranioplasty since the turn of the century. Timmons observes that the use of methyl methacrylate for repairing cranial defects has been common since the 1940's and has become very popular because its use avoids some of the problems of cranioplasty using metal plates. For example, acrylic is not radiopaque and thus will not interfere with future x-ray diagnosis of the patient. In addition, acrylic cranioplasty plates also do not conduct heat very easily and, thus, avoid the problems of headache or patient discomfort that have been reported when metal cranioplasty plates are exposed to temperature extremes (Ref. 1). One of the advantages of acrylic is the ease with which it can be formed in place to fit precisely a skull defect.

Several reports in the medical literature show that there are, however, certain disadvantages and risks involved in using acrylic for cranioplasty. The polymerization reaction involved in forming the acrylic plate produces a great deal of heat that can damage the brain or other tissue (Refs. 1, 2, and 3). Fortunately, the surgeon can protect the brain from the heat with moist cottonoid strips, or can dissipate the heat by irrigating with a cold solution (Refs. 1 and 2). A technique was recently reported involving preparation of a plastic of paris model of the skull defect and formation and hardening of the acrylic plate to fit the model, without contact with the patient's skull (Ref. 3).

Another disadvantage of acrylic is that it is brittle and can be fractured by a relatively minor blow (Refs. 1, 4, and 6). To overcome this problem, acrylic has been reinforced using metal mesh made of stainless steel, aluminum, or tantalum (Refs. 1, 5, 6, and 7). Stainless steel and tantalum are radiopaque, however, and x-ray diagnosis may be hindered if these materials are used to reinforce acrylic.

There are also complications with acrylic cranioplasty that are common to all cranioplasty materials, including metals. Infection, erosion of the skin over the implant, and foreign body reaction to the implant have been reported (Refs. 1 and 2). Skin erosion over the implant may occur in regions where the scalp is thin if the plate has sharp or uneven edges. Some degree of foreign body reaction occurs with all implanted materials. However, methyl methacrylate acrylic is generally regarded as biologically safe for cranioplasty (Refs. 1, 2, and 8).

The Commissioner agrees with the Panel that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of its safety and effectiveness. The Commissioner also agrees with the Panel that a performance standard is necessary for this device because general controls would not provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Timmons, R. L., "Cranial Defects and Their Repair," *in* "Neurological Surgery," Vol. 2, Edited by J. R. Youmans, W. B. Saunders Co., Philadelphia, PA, pp. 993-1008, 1973.

2. Hammon, W. M. and L. G. Kempe, "Methyl Methacrylate Cranioplasty: 13 Years Experience with 417 Patients," *Acta Neurochirurgica*, 25:69-77, 1971.

3. Asimacopoulos, T. J., et al., "A New Method of Cranioplasty," *Journal of Neurosurgery*, 47:790-92, 1977.

4. Henry, H. M., et al., "Cerebrospinal Fluid Fistula from Fractured Acrylic Cranioplasty Plate," *Journal of Neurosurgery*, 45:227-8, 1976.

5. Sessions, R. B., et al., "Wire Mesh Foundation for Methyl Methacrylate Cranioplasty," *Laryngoscope*, 84:1020-30, 1974.

6. Lake, P. A., et al., "Radiolucent Prosthesis of Mesh-Reinforced Acrylic," *Journal of Neurosurgery*, 27:376-78, 1967.

7. Galicich, J. H. and K. H. Hovind, "Stainless Steel Mesh-Acrylic Cranioplasty," *Journal of Neurosurgery*, 27:376-78, 1967.

8. Lee, H. and K. Neville, "Handbook of Biomedical Plastics," Pasadena Technology Press, Pasadenia, California, pp. 8-4 to 8-5 and 14-2 to 14-32, 1971.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5300 as follows:

§ 882.5300 Methyl methacrylate for cranioplasty.

(a) *Identification.* Methyl methacrylate for cranioplasty (skull repair) is a self-curing acrylic that a surgeon uses to repair a skull defect in a patient. At the time of surgery, the surgeon initiates polymerization of the material and forms it into a plate or other appropriate shape to repair the defect.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32941 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1086]

MEDICAL DEVICES

Classification of Preformed Alterable Cranioplasty Plates

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying preformed alterable cranioplasty plates into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of preformed alterable cranioplasty plates:

1. Identification: A preformed alterable cranioplasty plate is a device that is implanted into a patient to repair a skull defect. It is constructed of a material, e.g., tantalum, that can be altered or reshaped at the time of surgery without changing the chemical behavior of the material.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that preformed alterable cranioplasty plates be classified into class II (performance standards) because the materials that are used in these plates must be biocompatible and strong. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes, however, that the materials that have been used for these plates have been proven acceptable through many years of use and that biological compatibility of these materials can be assured by establishment of standards for the composition of the materials. The Panel believes that premarket approval is not necessary for this implanted device because a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal clinical experience with cranioplasty plates and the materials used in those plates. Some Panel members have served on the subcommittee under the American Society for Testing and Materials (ASTM) that is developing standards for cranioplasty materials.

5. Risks to health: (a) Loss of brain protection: If the device is not sufficiently strong, it may bend or break and may cause brain injury. (b) Tissue toxicity: If the materials used to construct the device are not biocompatible, they may corrode and cause toxic reactions.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the preformed alterable cranioplasty plate be classified into class II (performace standards).

The Commissioner has reviewed the Panel's recommendation to classify preformed alterable cranioplasty plates into class II (performance standards) and has obtained additional data and information on the safety and effectiveness of the device. The Commissioner has found that surgeons have used several metals and plastics for cranioplasty plates. However, the Commissioner believes that all commercially available preformed cranioplasty plates are constructed of vitallium, tantalum, or stainless steel. Although aluminum (Ref. 3), silicone (Ref. 4), polyethylene (Refs. 2, 5, and 6), titanium (Refs. 2 and 8), and zirconium (Ref. 2) have also been used by surgeons for cranioplasty plates, the Commissioner is unaware of any commercially available preformed cranioplasty plates made of these materials. The Commissioner requests comments on whether materials other than vitallium, tantalum, or stainless steel have been used in commercially available preformed cranioplasty plates.

Several reports in the medical literature discuss corrosion of metals used for cranioplasty plates. Most metals used for cranioplasty plates are protected form corrosion by a natural oxide coating that forms on the metal (Ref. 1). If the oxide coating is disturbed by cutting, drilling, hammering, or other manipulation during surgery, the plate may corrode excessively after implantation. Tantalum has an oxide coating that is tough enough to permit the plate to be reshaped without undergoing excessive corrosion. McFadden states that tantalum can be modified by cutting, bending, hammering, drilling, or other manipulation without changing the material's chemical behavior. McFadden states that stainless steel should never be altered when used as an implant (Ref. 1).

Timmons has thoroughly reviewed the repair of cranial defects and has described the methods and materials that have been used for cranioplasty since the turn of the century (Ref. 2). According to Timmons, the metal tantalum has been used extensively for cranioplasty because of its malleability, light weight, strength, and biological inertness. McFadden has reported that tantalum produced very little tissue reaction compared with other popular metals used in neurosurgery (Refs. 10 and 11). Tantalum is, however, a radiopaque material, and useful x-rays of the skull are difficult to obtain after implantation of a tantalum plate.

Complications common to virtually all cranioplasty plates, whether metal or plastic, are infection, erosion of the skin over the implant, and foreign body reaction to the implant (Ref. 2). Infection requiring removal of the plate has been reported as long as 17 years after implantation (Ref. 9). Skin erosion over the implant may occur in regions where the scalp is thin because the plate has sharp or uneven edges (Ref. 2). Some degree of foreign body reaction occurs with all implanted materials. If handled properly, however, the plastics and metals (with the possible exception of aluminum) that have been used for cranioplasty are generally regarded as biologically safe (Refs. 1 through 11).

Because of the high thermal conductivity of the metal, metal cranioplasty plates may cause headache or patient discomfort when the plates are exposed to temperature extremes (Ref. 2). In addition, a metal plate may be deformed by a blow to the head, although this occurrence is rare (Ref. 5). Another possible drawback of metal implants is that they leave a dead space between the implant and the brain; there has been debate whether this dead space might result in brain herniation (abnormal protrusion) (Ref. 2).

Plastic or acrylic cranioplasty does not share some of the problems presented by metal cranioplasty. Plastics do not corrode and may be cut or modified to fit the particular patient. Because plastic and acrylic implants do not conduct heat as readily as metals, they do not cause temperature-induced headaches. Plastics are, however, weaker than metals and need to be made thicker to achieve sufficient strength. Acrylic plates are brittle and easily cracked (Ref. 2). Polyethylene and silicone implants, however, are flexible and are less likely to be deformed by blows than are metal plates.

The Commissioner believes that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that a performance standard is necessary for this device because general controls will not provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, form 9 a.m. to 4 p.m., Monday through Friday.

1. McFadden, J. T., Neurosurgical Metallic Implants," *Journal of Neurosurgical Nursing*, 3:123-130, 1971.

2. Timmons, R. L., "Cranial Defects and Their Repair," *Neurological Surgery*, Vol. 2, Edited by J. R. Youmans, W. B. Saunders Co., Philadelphia, PA, pp. 993-1008, 1973.

3. Black, S. P. W., et al., "Aluminum Cranioplasty," *Journal of Neurosurgery*, 29:562-564, 1968.

4. Courtemanche, A. D. and G. B. Thompson, "Silastic Cranioplasty Following Cranio-Facial Injuries," *Pastic and Reconstructive Surgery*, 41:165-170, 1968.

5. Karvounis, D. C., et al., "The Use of Prefabricated Polyethylene Plate for Cranioplasty," *Journal of Trauma*, 10:149-154, 1970.

6. Polisar, R. S. and A. W. Cook, "Use of Polyethylene in Cranial Implants," *Journal of Prosthetic Dentistry*, 29:310-316, 1973.

7. Simpson, D., "Titanium in Cranioplasty," *Journal of Neurosurgery*, 22:292-293, 1965.

8. Lee, H. and K. Neville, "Handbook of Biomedical Plastics," Chapter 14, Pasadena Technology Press, Pasadena, CA, 1971.

9. Merabile, J. C., et al., "Delayed Infection Following Tantalum Cranioplasty: Case Report," *Military Medicine*, 139:398-399, 1974.

10. McFadden, J. T., "Tissue Reactions to Standard Neurosurgical Metallic Implants," *Journal of Neurosurgery*, 36:595-603, 1972.

11. McFadden, J. T., "Metallurgical Principles in Neurosurgery," Journal of Neurosurgery, 31:373-385, 1968.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5320 as follows:

882.5320 Preformed alterable cranioplasty plate.

(a) *Identification.* A preformed alterable cranioplasty plate is a device that is implanted into a patient to repair a skull defect. It is constructed of a material, e.g., tantalum, that can be altered or reshaped at the time of surgery without changing the chemical behavior of the material.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32942 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1087]

MEDICAL DEVICES

Classification of Preformed Nonalterable Cranioplasty Plates

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying preformed nonalterable cranioplasty plates into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. the Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of preformed nonalterable cranioplasty plates:

1. Identification: A preformed nonalterable cranioplasty plate is a device that is implanted into a patient to repair a skull defect. It is constructed of a material, e.g., stainless steel or vitallium, that cannot be altered or reshaped at the time of surgery without changing the chemical behavior of the material.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that preformed nonalterable cranioplasty plates be classified into class II (performance standards) because the materials that are used in these plates must be biocompatible and strong. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes, however, that the materials that have been used for these plates have been proven acceptable through many years of use and that biological compatibility of these materials can be assured by establishment of standards for the composition of the materials. The Panel believes that premarket approval is not necessary for this implanted device because a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal clinical experience with cranioplasty plates and the materials used in those plates. Some Panel members have served on the subcommittee under the American Society for Testing and Materials (ASTM) that is developing standards for cranioplasty materials.

5. Risks to health: (a) Loss of brain protection: If the device is not sufficiently strong, it may bend or break and may cause brain injury. (b) Tissue toxicity: If the materials used to construct the device are not biocompatible, they may corrode and cause toxic reactions.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that the preformed nonalterable cranioplasty plate be classified into class II (performance standards).

The Commissioner has reviewed the Panel's recommendation to classify preformed nonalterable cranioplasty plates into class II (performance standards) and has obtained additional data and information on the safety and effectiveness of the device. The Commissioner has found that several metals and plastics have been used by surgeons over the years for cranioplasty plates. However, the Commissioner believes that all commercially available preformed cranioplasty plates are constructed of vitallium, tantalum, or stainless steel. The Commissioner requests comments on whether materials other than vitallium, tantalum, or stainless steel have been used in commercially available preformed cranioplasty plates.

Several reports in the medical literature discuss corrosion of metals used for cranioplasty plates. Most metals used for cranioplasty plates are protected from corrosion by a natural oxide coating that forms on the metal (Ref. 1). If the oxide coating is disturbed by cutting, drilling, hammering, or other manipulation during surgery, the plate may corrode excessively after implantation. Some metals, e.g., tantalum, have oxide coatings that are tough enough to permit reshaping of the plate without causing excessive corrosion.

Several types of stainless steel have been used in constructing various implantable devices. Scott used Type 316 stainless steel for cranioplasty plates and reports it to be the most corrosion resistant of the stainless steels (Ref. 2). McFadden states, however, that stainless steel should never be altered by cutting, bending, drilling, or other manipulation at the time of surgery because of the tendency of stainless steel to corrode faster if its external oxide coating is disturbed (Ref. 1).

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Vitallium is a very hard alloy of cobalt, chromium, and molybdenum that has been used in orthopedic implantable devices, but has received very little attention in neurosurgery because it is not malleable and is difficult to work with. McFadden (Ref. 1) rates the corrosion resistance of vitallium as better than stainless steel and worse than tantalum. Vitallium cannot be altered, and its use in neurosurgery has been confined to preformed nonalterable cranioplasty plates and the screws for such plates (Refs. 1, 2, and 4).

Complications common to virtually all cranioplasty plates are infection, erosion of the skin over the implant, and foreign body reaction to the implant (Ref. 2). Infection requiring removal of the plate has been reported as long as 17 years after implantation (Ref. 5). Skin erosion over the implant may occur in regions where the scalp is thin because the plate has sharp or uneven edges (Ref. 2). Some degree of foreign body reaction occurs with all implanted materials. If handled properly, stainless steel and vitallium are, however, generally regarded as biologically safe (Refs. 1 through 4). Because of the high thermal conductivity of the metal, metal cranioplasty plates may cause headache or patient discomfort when the plates are exposed to temperature extremes (Ref. 2). In addition, a metal plate may be deformed by a blow to the head, although this occurrence is rare. Another possible drawback of metal implants is that they leave a dead space between the implant and the brain; there has been debate whether this dead space might result in brain herniation (abnormal protrusion) (Ref. 2).

Plastic or acrylic cranioplasty does not share some of the problems presented by metal cranioplasty. Plastics do not corrode and may be cut or modified to fit the particular patient. Because plastic and acrylic implants do not conduct heat as readily as metals, they do not cause temperature-induced headaches. Plastics are, however, weaker than metals and need to be made thicker to achieve sufficient strength. Acrylic plates are brittle and easily cracked (Ref. 2). However, polyethylene and silicone implants are flexible and are less likely to be deformed by blows than are metal plates.

The Commissioner believes that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that a performance standard is necessary for this device because general controls will not provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. McFadden, J. T., "Neurosurgical Metallic Implants," *Journal of Neurosurgical Nursing*, 3:123-130, 1971.
2. Timmons, R. L., "Cranial Defects and Their Repair," "Neurological Surgery," Vol. 2, edited by J. R. Youmans, W. B. Saunders Co., Philadelphia, PA, pp. 993-1008, 1973.
3. McFadden, J. T., "Tissue Reactions to Standard Neurosurgical Metallic Implants," *Journal of Neurosurgery*, 36:595-603, 1972.
4. McFadden, J. T., "Metallurgical Principles in Neurosurgery," *Journal of Neurosurgery*, 31:373-385, 1968.
5. Merabile, J. C., et al., "Delayed Infection Following Tantalum Cranioplasty: Case Report," *Military Medicine*, 139:398-399, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5330 as follows:

§ 882.5330 Preformed nonalterable cranioplasty plate.

(a) *Identification.* A preformed nonalterable cranioplasty plate is a device that is implanted in a patient to repair a skull defect and is constructed of a material, e.g., stainless steel or vitallium, that cannot be altered or reshaped at the time of surgery without changing the chemical behavior of the material.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32943 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1088]

MEDICAL DEVICES

Classification of Cranioplasty Plate Fasteners

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cranioplasty plate fasteners into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of cranioplasty plate fasteners:

1. Identification: A cranioplasty plate fastener is a screw, wire, or other article made of tantalum, vitallium or stainless steel used to secure a plate to the patient's skull to repair a skull defect.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that cranioplasty plate fasteners be classified into class II (performance standards) because a standard governing the composition of materials that are used in the fasteners should require that the materials be both biocompatible and compatible with the material used in the cranioplasty plate. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that premarket approval is not necessary for this implanted device because a standard will provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The panel members based their recommendation on their personal clinical experience with cranioplasty plates and the devices used to fasten those plates to the skull. Some Panel members have served on the subcommittee under the American Society for Testing and Materials (ASTM) that is developing standards for cranioplasty materials.
5. Risks to health: (a) Tissue toxicity: If the material used to construct the cranioplasty plate fastener is not biocompatible or is not compatible with the material used in the cranioplasty plate, it may corrode and cause a toxic reaction. (b) Loss of structural integrity: If the material used to construct the cranioplasty plate fastener is not compatible with the material used in the cranioplasty plate, corrosion of the fastener and plate may weaken the plate, causing the brain to be exposed to possible injury.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the cranioplasty plate fastener be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation to classify cranioplasty plate fasteners into class II (performance standards) and has obtained additional data and information on the safety and effectiveness of the device. Tantalum, vitallium, and stainless steel in the form of screws, metal wedges, and wire have been used to fasten cranioplasty plates to the skull. McFadden stresses that the chemical behavior of stainless steel wire will change if it is twisted or tied, and corrosion will ultimately occur (Refs. 1 and 2). He suggests that tantalum wire be used if the wire is to be buried in tissue. Dispite wide use of the cranioplasty plate fastener in cranioplasty, FDA has found no cases of complications directly associated with the cranioplasty plate fastener. It is, however, generally acknowledged that the fastener should be constructed of the same material as the cranioplasty plate to avoid galvanic corrosion (Refs. 1 and 2). The materials used for cranioplasty plate fasteners are generally regarded as biocompatible if handled properly (Refs. 1 through 4).

The Commissioner believes that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that a performance standard is necessary for this device because general controls will not provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. McFadden, J. T., "Neurosurgical Metallic Implants," *Journal of Neurosurgical Nursing*, 3:123-130, 1971.
2. McFadden, J. T., "Metallurgical Principles in Neurosurgery," *Journal of Neurosurgery*, 31:373-385, 1968.
3. McFadden, J. T., "Tissue Reactions to Standard Neurosurgical Metallic Implants," *Journal of Neurosurgery*, 36:598-603, 1972.
4. Timmons, R. L., "Cranial Defects and Their Repair," *in* "Neurological Surgery," Vol. 2, Edited by J. R. Youmans, W. B. Saunders Co., Philadelphia, PA, pp. 993-1008, 1973.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5360 as follows:

§ 882.5360 Cranioplasty plate fastener.

(a) *Identification.* A cranioplasty plate fastener is a screw, wire, or other article made of tantalum, vitallium, or stainless steel used to secure a plate to the patient's skull to repair a skull defect.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32944 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1089]

MEDICAL DEVICES

Classification of Lesion Temperature Monitors

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying lesion temperature monitors into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of lesion temperature monitors:

1. Identification: A lesion temperature monitor is a device used to monitor the tissue temperature at the site where a lesion (tissue destruction) is to be made when a surgeon uses a radiofrequency (RF) lesson generator and probe.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

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3. Summary of reasons for recommendation: The Panel recommends that the lesion temperature monitor be classified into class II (performance standards) because the surgeon uses the device with a radiofrequency lesion generator to destroy selectively, for therapeutic purposes, very small parts of a patient's brain, spinal cord, or other tissue. The Panel believes that the device needs to measure the temperature accurately and reliably because the surgeon relies on the lesion temperature monitor to detect the temperature of the tissue at the lesion site so that the surgeon can control the amount of destruction. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience.

5. Risks to health: Inappropriate sized lesions. A temperature indication that is inaccurate or imprecise may lead the surgeon to form lesions that are too small or too large. Forming a lesion that is too small may not have the desired therapeutic benefit, and forming a lesion that is too large may destroy normal tissue and cause an undesired neurological deficit in the patient.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the lesion temperature monitors be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5500 as follows:

§ 882.5500 Lesion temperature monitor.

(a) *Identification.* A lesion temperature monitor is a device used to monitor the tissue temperature at the site where a lesion (tissue destruction) is to be made when a surgeon uses a radiofrequency (RF) lesion generator and probe.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32945 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1090]

MEDICAL DEVICES

Classification of Central Nervous System fluid Shunts and Components

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying central nervous system fluid shunts and components into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification central nervous system fluid shunts and components:

1. Identification: A central nervous system fluid shunt is a device or combination of devices used to divert fluid from the brain or other part of the central nervous system to an internal delivery site or an external receptacle for the purpose of relieving elevated intracranial pressure or fluid volume (e.g., due to hydrocephalus). Components of a central nervous system shunt include catheters, valved catheters, valves, connectors, and other accessory components intended to facilitate use of the shunt or evaluation of a patient with a shunt.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that central nervous system fluid shunts and their components be classified into class II (performance standards) because there is sufficient information available to establish performance standards that will assure the safety and effectiveness of these devices. Shunts have been used for many years to treat hydrocephalus. Hydrocephalus is a condition, usually in children, characterized by an accumulation of cerebrospinal fluid (CSF) in the head. The CSF causes the head to enlarge and may produce brain damage by fluid pressure. The Panel believes that the characteristics of central nervous system fluid shunts and their components are reasonably well established and that the conditions being treated are reasonably well understood. Although the Panel believes that the materials that have been used in the device are generally regarded as safe, it recommends establishment of standards to assure consistency in the composition of the materials. In addition, the panel believes it is important for the physician to know the pressure-flow characteristics of the valves used in shunts, to compare available valves, and to select the correct valve for a particular patient. Accordingly, the Panel recommends that the manufacturers of shunt valves be required to state, in standard form, the pressure-flow characteristics of their valves and to use standard test procedures to obtain measurements of those characteristics. The panel believes that general controls will not provide sufficient control over the above characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of devices in this category, which includes internal, totally implanted shunts; external temporary devices that drain CSF to an external receptacle; and components of both internal and external shunts. The Panel recommends that internal and external shunts and their components be classified in a single classification regulation because the shunts share the same characteristics that should be addressed in performance standards and because the components are used with a shunt as a system. The Panel notes that a standard is being developed by the American Society for Testing and Materials (ASTM) and recommends that this standard, when completed, be adopted by the FDA.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with the relevant literature on these devices and on testimony and advice from Dr. Larry page, a Panel consultant. There has been extensive literature published on these devices in the 27 years of their clinical use. The published literature shows that although use of shunts is associated with death rates and mental retardation rates that may seem high, these rates are much lower than those for patients with untreated hydrocephalus. The death rate for patients with untreated hydrocephalus is 40 to 70 percent, compared with a death rate of 5 to 35 percent for patients treated with ventriculoatrial shunts (Ref. 1). The mental retardation rate among survivors with untreated hydrocephalus is 50 to 85 percent compared with a mental retardation rate of 20 to 50 percent among treated survivors (Ref. 1). The complications associated with these devices have been extensively reported in the literature and are well known to the Panel members.

5. Risks to health: (a) Abnormal intracranial pressure: Mechanical malfunctioning of the shunt or its components (e.g., blockage of the catheter or valve) may result in elevated intracranial pressure and the return of symptoms of hydrocephalus. (b) Tissue toxicity: Adverse tissue reactions may result if the shunt or component materials are not biocapatible. (c) Perforation of viscus: The tip of the catheter may puncture the bladder or other organs if the catheter material is too stiff. (d) Infection: Infection may result if the shunt or its components are not sterile or introduce contaminants into the patient.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the central nervous system fluid shunts and their components be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation to classify central nervous system fluid shunts and their components into class II (performance standards) and has obtained additional data and information on the safety and effectiveness of these devices. Shunting devices have been used for several decades to treat hydrocephalus and other conditions that result in an increased intracranial pressure because of an abnormal accumulation of fluid in the bentricles (cavities) of the brain. If untreated, this condition usually results in death or sever mental retardation of the patient.

Several methods of shunting have been used to relieve the pressure of excess cerebrospinal fluid (CSF). All methods consist of a catheter that diverts the CSF, either to an external bag (external shunt) or to the blood stream or another part of the body (internal shunt). An external shunt uses a catheter that drains the CSF from the ventricles of the brain into a colleciton bag outside the body and is used only for short-term applications. Internal shunts are, however, totally implanted catheters intended to be used for long-term (chronic) relief of hydrocephalus. The most popular methods of internal shunting are the ventriculoatrial shunt, which diverts CSF from the ventricles of the brain to the right atrium of the heart, where the CSF is released into the blood stream; and the ventriculoperitoneal shunt, which diverts CSF from the ventricles of the brain to the peritoneal cavity, where it is reabsorbed by the body. Internal shunts have also been used, though less frequently, to divert CSF from the subarachnoid space of the spine to the peritoneal cavity (lumboperitoneal shunt) and from the ventricles of the brain to the pleural cavity (ventriculopleural shunt), the ureter (ventriculoureteral shunt), and the thoracic lymph duct (ventriculolymphatic shunt).

A study by Milhorat, described above in the panel recommendation, shows that shunting has significantly reduced the mortality and mental retardation resulting from hydrocephalus (Ref. 1). Numerous other reports have similarly verified that various forms of shunting are effective in relieving the often disastrous effects of elevated CSF pressure.

The obvious and undeniable benefits of this treatment have, however, been accompanied by a large number of complications. The complications vary depending upon the shunting technique and the anatomical site to which the CSF is delivered. Complications common to most shunting techniques include obstruction or malfunction of the shunt, infection, and tissue reaction, e.g., formation of a fibrous sheath around the catheter or erosion of tissue over the shunt (Refs. 1, 5, and 7). Ventriculoatrial shunts have been associated with unique cardiopulmonary complications because of the placement of one end of the catheter in the blood stream. Among these complications are pulmonary emboli, caused by clotting at the catheter tip or by breakage or separation and release of the catheter into the blood stream (Refs. 1, 2, and 3), and perforation of the heart wall by the catheter tip (Refs. 1 and 3). In addition, glomerulonephritis (inflammation of the kidneys) has also been reported in patients with ventriculoatrial shunts (Ref. 4). Ventriculoperitoneal shunts also have been associated with unique complications, such as perforation of the bladder or other organs by the catheter tip (Refs. 8, 9, and 10), and development of inguinal (groin) hernias (Ref. 8), intra-abdominal cysts (Refs. 6 and 8), and ascites (CSF collection in the abdominal cavity) (Ref. 6). Lumboperitoneal shunts have been associated with scoliosis (deviation in the straightness of the spine), leg pain or atrophy, and restricted back movement (Refs. 11 and 12). There have been few reports on complications associated with ventriculopleural, ventriculoureteral, and ventriculolymphatic shunts because these methods are so rarely used. However, Milhorat believes that removal of a kidney, which must precede use of a ventriculoureteral shunt, is a procedure that presents undue risk (Ref. 1).

The Commissioner believes that premarket approval is unnecessary for these devices because there is sufficient information to establish a performance standard that will provide reasonable assurance of their safety and effectiveness. Although there are many complications associated with shunts, the Commissioner recognizes that shunts are generally used when no alternatives exist and that they have reduced the death and mental retardation rates associated with hydrocephalus. Moreover, the Commissioner doubts that requirement premarket approval of these devices will improve the complication rate associated with their use.

The Neurological Device Classification Panel recommended that all central nervous system fluid shunts, both internal and external, and their components be classified into class II (performance standards). although FDA is proposing to adopt this recommendation, the agency requests comments on whether it would instead classify each shunt component (e.g., catheters, valves, connectors, collection bags, etc.) separately from the classification of shunts. The Commissioner believes that it is possible that some of these components (e.g., collection bags for external shunts) could be classified more appropriately into class I.

The Commissioner also requests comments on whether the agency should classify shunts according to the technique used (internal or external) and the anatomical site to which the CSF is delivered, instead of classifying all shunts as a single product, as proposed. The Commissioner recognizes that, depending on the type of shunt used, there may be substantial differences in the number and severity of complications. In addition, there is much more information available on the more common shunt techniques (e.g., ventriculoatrial shunts) than is available on other less frequently used shunts (e.g. ventriculolymphatic shunts).

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be viewed by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Milhorat, H.H., "Hydrocephalus and the Cerebrospinal Fluid," Williams and Wilkins Co., Baltimore, 1972, pp. 177-223.

2. Ignelzi, R. J. and W. M. Kirsch, "Follow-up analysis of Ventriculoperitoneal and Ventriculoatrial Shunts for Hydrocephalus," *Journal of Neurosurgery*, 42:679-682, 1975.

3. Hougen, T.J., et al., "Pulmonary Valvular Dysfunction in Children with Ventriculovenous Shunts for Hydrocephalus: A Previously Unreported Complication," *Pediatrics*, 55:836-841, 1975.

4. McKenzie, S.A. and K. Hyden, "Two Cases of 'Shunt Nephritis'," *Pediatrics*, 54:806-808, 1974.

5. Becker, D. P. and F. E. Nulsen, "Control of Hydrocephalus by Valve-Regulated Venous Shunt: Avoidance of Complications in Prolonged Shunt Maintenance, "*Journal of Neurosurgery*, 28:215-226, 1968.

6. Parry, S.W., et al., "Abdominal Pseudocysts and Ascites Formation after Ventriculoperitoneal Shunt Procedures," *Journal of Neurosurgery*, 43:476-479, 1975.

7. Sugar, O. and O.T. Bailey, "Subcutaneous Reaction to Siliconc in Ventriculoperitoneal Shunts," *Journal of Neurosurgery*, 41:367-371, 1974.

8. Grosfield, J. L., et al., "Intraabdominal Complications Following Ventriculoperitoneal Shunt Procedures," *Pediatrics*, 54:791-796, 1974.

9. Robertson, J.S., et al., "Ventriculoperitoneal Shunting for Hydrocephalus," *British Medical Journal*, 2:289-292, 1973.

10. Hoffman, H.S., et al., "New Lumboperitoneal Shunt for Communicating Hydrocephalus," *Journal of Neurosurgery*, 44: 258-261, 1976.

11. Eisenberg, H. M., et al., "Lumboperitoneal Shunts: A Review of 34 Cases," *Journal of Neurosurgery*, 35:427-431, 1971.

12. Kushner, J., et al., "Kyphoscoliosis Following Lumbar Subarachnoid Shunts," *Journal of Neurosurgery*, 34:783-791, 1971.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5550 as follows:

§ 882.550 Central nervous system fluid shunt and components.

(a) *Identification.* A central nervous system fluid shunt is a device or combination of devices use to divert fluid from the brain or other part of the central nervous system to an internal delivery site or an external receptacle for the purpose of relieving elevated intracranial presssure or fluid volume (e.g., due to hydrocephalus). Components of a central nervous system shunt include catherters, valved catheters, valves, connectors, and other accessory components intended to facilitate use of the shunt or evaluation of a patient with a shunt.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc.78 32946 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1091]

MEDICAL DEVICES

Classification of Cranial Electrotherapy Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cranial electrotherapy stimulators into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of cranial electrotherapy stimulators:

1. Identification: A cranial electrotherapy stimulator is a device that applies electrical current to a patient's head to treat insomnia, depression, or anxiety.

2. Recommended classification: Class II (premarket approval). The Panel recommends that premarket approval for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that cranial electrotherapy stimulators be classified into class III (premarket approval) because satisfactory effectiveness has not been demonstrated. In addition, the Panel believes that it is not possible to establish an adequate performance standard for this device because the characteristics of the electrical current necessary for effectiveness are not known. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that the device present a potential unreasonable risk of illness or injury to the patient if the practitioner relies on the device, and it is ineffective in treating the patient's illness. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

At the Panel meeting of July 22-23, 1977, the Panel recommended that this device be classified into class II (performance standards) if it is used to treat situational anxiety related to alcohol and drug addiction and class III (premarket approval) if it is used to treat insomnia, depression, or other conditions. At that meeting, the Panel members stated that, although the published literature does not support the effectiveness of this device for any conditions, the evidence that the device is effective in treating situational anxiety related to alcohol or drug addiction is stronger than the evidence concerning treatment of other conditions for which the device has been prescribed. At a Panel meeting on January 13, 1978, however, the Panel reassessed its recommendation on cranial electrotherapy stimulators and recommended that the device be classified into class III (premarket approval) for all uses, including treatment of situational anxiety related to alcohol or drug addiction

because the Panel members believe that there has been no clear demonstration of the effectiveness of this device for treating any conditions.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on testimony presented to the Panel and on the results of a study performed by the National Research Council (NRC) on the safety and effectiveness of devices used for electroanesthesia and electrosleep (Ref. 1). Drs. Ray Smith and Timothy Sharma presented the results of their studies of cranial electrotherapy stimulation for detoxification of drug and alcohol addicts. These researchers stated that they believe this treatment to be more effective than other standard approaches used to treat alcohol or drug addiction. They maintained that there have been virtually no reports of hazards or injuries associated with the treatment. However, after reviewing the results of 88 published studies on cranial electrotherapy stimulation, the NRC concluded that the device has not been shown to be effective in treating any of the conditions for which it is prescribed (Ref. 1). The NRC report found, however, that the output current of the device is sufficiently low that there is little hazard to the patient from the current.

5. Risks to health: (a) Skin irritation: The electrodes or the conductive cream used with the electrodes may cause skin irritation. (b) Worsening of the condition being treated: If the device is not effective and the patient is not treated in a conventional manner, the patient's psychological condition may worsen.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the cranial electrotherapy stimulator be classified into class III (premarket appoval). The Commissioner believes that this device is for a use (treatment of insomnia, depression, or anxiety) which is of substantial importance in preventing impairment of human health. Furthermore, the device presents a potential unreasonable risk of illness or injury to the patient if the practitioner uses it instead of conventional therapy to treat severe psychological conditions. He concurs that insufficient information exists to determine that general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

"An Evaluation of Electroanesthesia and Electrosleep," National Research Council, FDA Contract 70-22, Task Order No. 20 (NTIS PB 241305).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5800 as follows:

§ 882.5800 Cranial electrotherapy stimulator.

(a) *Identification.* A cranial electrotherapy stimulator is a device that applies electrical current to a patient's head to treat insomnia, depression, or anxiety.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32947 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1092]

MEDICAL DEVICES

Classification of External Functional Neuromuscular Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is publishing for public comment a proposed regulation classifying external functional neuromuscular stimulators into class II (performance standards). The FDA is also publishing the recommendations of the Neurological Device Classification Panel and the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Administrative Proceedings Staff/Hearing Clerk's Office (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere is this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel and the Physical Medicine Device Classification Panel, FDA advisory committee, made the following recommendation with respect to the classification of external functional neuromuscular stimulators:

1. Identification: An external functional neuromuscular stimulator is an electrical stimulator that uses external electrodes for stimulating muscles in the leg and ankle of partially paralyzed patients (e.g., after stroke) to provide flexion of the foot and thus improve the patient's gait.

2. Recommended classification: Class II (performance standards). The Neurological Device Classification Panel recommends that establishing performance standards for this device be a low priority. The Physical Medicine Device Classification Panel recommends that establishing performance standards for this device be a high priority.

3. Summary of reasons for recommendation: The Physical Medicine Device Classification Panel and the Neurological Device Classification Panel recommend that external functional neuromuscular stimulators be classified into class II (performance standards) because the device applies an electrical current to the patient's body and both Panels believe that this current should be controlled to prevent injuring the patient. Both Panels also believe that the performance characteristics of the device must be controlled to assure that the device is safe and effective for its use. The Physical Medicine Device Classification Panel also recommends that the device not be used on patients with cardiac pacemakers and that caution be exercised when it is used on patients with anesthetized limbs. Both the Physical Medicine Device Classification Panel and the Neurological Device Classifi-

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cation Panel believe that general controls will not provide sufficient control over the above characteristics. Both Panels also believe that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information available to provide such assurance.

4. Summary of data on which the recommendation is based: The members of the Physical Medicine Device Classification Panel and the Neurological Device Classification Panel based their recommendation on their clinical experience with this device and with other external stimulators similar to this device.

5. Risks to health: The Physical Medicine Device Classification Panel identified the following risks to health: (a) Skin reactions: The conductive gel used for the electrodes may cause skin reactions. (b) Skin burns: The patient's skin may be burned if the output current level is excessive or if the electrodes are too small. (c) Ineffectiveness of treatment: If the current level of the stimulator is not sufficient or if the electrodes are not the proper size, the stimulation may be ineffective.

The Neurological Device Classification Panel identified the following risks to health: (a) Skin burns: The patient's skin may be burned if the output current is excessive or if the electrodes are too small. (b) Skin reactions: The patient's skin may be irritated at the electrode site because of the presence of the electrodes and the conductive gel.

PROPOSED CLASSIFICATION

The Commissioner agrees with the recommendation of the Neurological Device Classification Panel and the Physical Medicine Device Classification Panel and is proposing that the external functional neuromuscular stimulator be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5810 as follows:

§ 882.5810 External functional neuromuscular stimulator.

(a) *Identification.* An external functional neuromuscular stimulator is an electrical stimulator that uses external electrodes for stimulating muscles in the leg and ankle of partially paralyzed patients (e.g., after stroke) to provide flexion of the foot and thus improve the patient's gait.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Administrative Proceedings Staff/Hearing Clerk's Office (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32948 Filed 11-27-78; 8:45]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1093]

MEDICAL DEVICES

Classification of Implanted Cerebellar Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted cerebellar stimulators into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of implanted cerebellar stimulators:

1. Identification: An implanted cerebellar stimulator is a device used to stimulate electrically a patient's cerebellar cortex for the treatment of intractable epilepsy, spasticity, and some movement disorders. The stimulator consists of an implanted receiver with electrodes that are placed on the patient's cerebellum and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class III (premarket approval) because it is an implanted device that involves a substantial risk to the patient and there is not sufficient information available to establish a performance standard that will assure its safety and effectiveness. The Panel also believes that there is not sufficient information available on this device to show that general controls are sufficient to assure its safety and effectiveness. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on extensive testimony and data received by the Panel from investigators and clinicians who have used the device. Because there is much disagreement among investigators as to the safety and effectiveness of the device, the Panel initially had difficulty deciding whether the device should be recommended for classification into class II or class III. The results of experimental studies on animals to determine brain damage or other adverse effects caused by electrically stimulating the cerebellar cortex were reported to the Panel. Some investigators reported finding minimal or no brain damage caused by the stimulating current, while others reported distinct changes and damage to the cerebella of test animals. Investigators also reported results of studies concerning the effectiveness of the device in reducing the frequency of epileptic seizures and the degree of spasticity in patients. The investigators reported widely varying degrees of success in treating those disorders. The Panel concluded that insufficient information exists to establish a performance standard that would assure the safety and effectiveness of this device. A summary of the testimony and data presented to the Panel by each investigator is contained in the minutes of the Panel meetings of April 8-9, 1976 and July 22-23, 1977. The minutes of those meetings may be obtained from the Hearing Clerk, Food and Drug Administration, at the address given elsewhere in this document.

5. Risks to health: (a) Injury to neural tissue. The electrical current used for stimulation and the pressure that the electrodes exert on the brain tissue may cause injury to the brain. (b) Cerebrospinal fluid leakage: The fluid that surrounds the brain may leak out where the electrode wires pass through the skull. (c) Tissue toxicity: The surface material of the implanted device, lead wires, or electrodes may contain material that is not biocompatible.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that implanted cerebellar stimulators be classified into class III (premarket approval). The Commissioner believes that the implanted cerebellar stimulator presents a potential unreasonable risk of illness or injury to the patient because of the possibility of neural damage. Furthermore, the device is for uses (reducing the severity and frequency of epileptic seizures, or reducing spasticity due to cerebral palsy) which are of substantial importance in preventing impairment of human health. The Commissioner concurs with the Panel that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5820 as follows:

§ 882.5820 Implanted cerebellar stimulator.

(a) *Identification.* An implanted cerebellar stimulator is a device used to stimulate electrically a patient's cerebellar cortex for the treatment of intractable epilepsy, spasticity, and some movement disorders. The stimulator consists of an implanted receiver with electrodes that are placed on the patient's cerebellum and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32949 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1094]

MEDICAL DEVICES

Classification of Implanted Diaphragmatic/Phrenic Nerve Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted diaphragmatic/phrenic nerve stimulators into class III (premarket approval). The FDA is also publishing the recommendations of two FDA advisory committees concerning these devices. The Neurological Device Classification Panel and the Anesthesiology Device Classification Panel both recommend that implanted diaphragmatic/phrenic nerve stimulators be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after its publication in the FEDERAL REGISTER.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel and the Anesthesiology Device Classification Panel, FDA Advisory Committees, made the following recommendations with respect to the classification of implanted diaphragmatic/phrenic nerve stimulators:

1. Identification: An implanted diaphragmatic/phrenic nerve stimulator is a device that provides electrical stimulation of a patient's phrenic nerve to contract the diaphragm rhythmically and produce breathing in patients who have hyperventilation (a state in which an abnormally low amount of air enters the lungs) caused by brain stem disease, high cervical spinal cord injury, or chronic lung disease. The stimulator consists of an implanted receiver with electrodes that are placed around the patient's phrenic nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

2. Recommended classification: The Anesthesiology Device Classification Panel and the Neurological Device Classification Panel recommend that this device be classified into class III (premarket approval). Both Panels recommend that premarket approval for this device be a high priority.

3. Summary of reasons for recommendation: The Anesthesiology Device Classification Panel and the Neurological Device Classification Panel recommend that the implanted diaphragmatic/phrenic nerve stimulator be classified into class III (premarket approval) because the device is a life supporting implant that has been used by only a limited number of clinical investigators and is not a well-established medical procedure. Although the reported clinical results have been favorable, this device presents a serious risk of injuring the patient's phrenic nerve and thus causing permanent injury. At the Panel meeting of August 20-21, 1977, the Neurological Device Classification Panel recommended that this device be classified into class II (performance standards because the Panel believed that the device has been shown to be safe and effective. However, at the meeting of the Neurological Device Classification Panel on April 21, 1978, the Panel reassessed its previous recommendation on this device and recommended that it be classified into class III (premarket approval) instead because the clinical results available were limited to one company's device. The Panel did not believe that the results were sufficient to establish a performance standard for the device. The Panels do not believe that there is sufficient information to establish a performance standard that will provide reasonable assur-

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ance of the safety and effectiveness of the device. The Panels also believe that there is not sufficient information available on this device to show that general controls are sufficient to assure its safety and effectiveness. The device should, therefore, be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Neurological Device Classification Panel members based their recommendation on their clinical experience with this device and their knowledge of the medical literature published on the device. The Anesthesiology Device Classification Panel members based their recommendation on a lack of medical data on which to judge the safety and effectiveness of the device.

5. Risks to health: The Neurological Device Classification Panel identified the following risks to health from this device. (a) Respiratory arrest: If the device fails or if the stimulation becomes ineffective, the patient may stop breathing. (b) Tissue toxicity: The implanted stimulator, lead wires, or electrodes may contain material that is not biocompatible. (c) Injury to phrenic nerve: The patient's phrenic nerve may be injured by excessive electrical current, improper electrodes, or surgical trauma. The Anesthesiology Device Classification Panel identified the following risks to heaith: (a) Hypoventilation: The patient may not be able to breathe sufficiently if the device fails. (b) Hyperventilation: The patient may be forced by the device to breathe too rapidly if the rate control on the device fails.

Proposed Classification

The Commissioner agrees with the recommendations of the Anesthesiology Device Classification Panel and the Neurological Device Classification Panel and is proposing that the implanted diaphragmatic/phrenic nerve stimulator be classified into class III (premarket approval). The Commissioner believes that the device presents a potential unreasonable risk of illness or injury to the patient, because trauma to the patient's phrenic nerve due to placement of the electrode around the nerve may cause permanent injury that impairs breathing. Furthermore, the device is an implant that is for a life-supporting use (producing or aiding breathing). The act requries the Commissioner to classify an implant or a life-supporting device into class III unless the Commissioner determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the Commissioner has determined that premarket approval is necessary. Although the reported clinical results with this device have been favorable (Ref. 1), the Commissioner concurs with the Panels that insufficient information exists on this implanted life-supporting device to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that would provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

Glenn, W. W. L., "Diaphragm Pacing: Present Status," *Pace* 1:357-370, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5830 as follows:

§ 882.5830 Implanted diaphragmatic/phrenic nerve stimulator.

(a) *Identification.* An implanted diaphragmatic/phrenic nerve stimulator is a device that provides electrical stimulation of a patient's phrenic nerves to contract the diaphragm rhythmically and produce breathing in patients who have hyperventilation (a state in which an abnormally low amount of air enters the lungs) caused by brain stem disease, high cervical spinal cord injury, or chronic lung disease. The stimulator consists of an implanted receiver with electrodes that are placed around the patient's phrenic nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32950 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1095]

MEDICAL DEVICES

Classification of Implanted Intracerebral/Subcortical Stimulators for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted intracerebral/subcortical stimulators for pain relief into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of implanted intracerebral/subcortical stimulator for pain relief:

1. Identification: An implanted intracerebral/subcortical stimulators for pain relief is a device that applies electrical current to subsurface areas of a patient's brain to treat severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed within a patient's brain and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class III (premarket approval) because it is an implanted device. In addition, although the Panel considered recommending that the device be classified into class II, it concluded that there is not sufficient information available to establish that the device is safe and effective for treating pain. Although some investigators report that they have had success with this technique, the Panel members express doubt that the results could be replicated by others. The electrodes of this device must penetrate the brain, and the Panel believes that this surgery involves a substantial risk to the patient. Although the reported clinical results with these devices have been favorable, the Panel believes that sufficient information is not available to establish a performance standard for the device that will assure its safety and effectiveness. The Panel also believes that there is not sufficient information available on this device to show that general controls are sufficient to assure its safety and effectiveness. The device should, therefore, be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with this device and similar devices. In addition, the Panel members are familiar with the literature published on this device (Refs. 1, 2, and 3).

5. Risks to health: (a) Injury to neural tissue: The electrical current used for stimulation may damage the brain. (b) Hemorrhage or physical disruption of neural tissue: The insertion of the device electrodes may sever blood vessels and destroy brain tissue. (c) Tissue toxicity: The materials used in the implanted portion of this device may be toxic to brain or other tissues. (d) Cerebrospinal fluid leakage: The fluid which surrounds the brain may leak out around the connecting wires of the device that penetrate the skull.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that the implanted intracerebral/subcortical stimulator for pain relief be classified into class III (premarket approval). The Commissioner believes that this implanted device presents a potential unreasonable risk of illness or injury to the patient because of the possibility of neural damage. Furthermore, the device is for a use (treatment of severe intractable pain) which is of substantial importance in preventing impairment of human health. The Commissioner concurs with the Panel that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Pudenz, R. H., "Adverse Effects of Electrical Energy Applied to the Nervous System," *Neurosurgery* 1:190-191, 1977.

2. Adams, J. E. and Y. Hosobuchi, "Session on Deep Brain Stimulation: Technique and Technical Problems," *Neurosurgery* 1:196-199, 1977.

3. Richardson, D. E. and H. Akil, "Long Term Results of Periventricular Gray Self-Stimulation," *Neurosurgery* 1:199-202, 1977.

Therefore, under the Federal Food, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5840 as follows:

§ 882.5840 Implanted intracerebral/subcortical stimulator for pain relief

(a) *Identification.* An implanted intracerebral/subcortical stimulator for pain relief is a device that applies electrical current to subsurface areas of a patient's brain to treat severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed within a patient's brain and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32951 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1096]

MEDICAL DEVICES

Classification of Implanted Spinal Cord Stimulators for Bladder Evacuation

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted spinal cord stimulators for bladder evacuation into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATE: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of implanted spinal cord stimulators for bladder evacuation:

1. Identification: An implanted spinal cord stimulator for bladder evacuation is an electrical stimulator used to empty the bladder of a paraplegic patient who has a complete transection of the spinal cord and who is

unable to empty his or her bladder by reflex means or by the intermittent use of catheters. The stimulator consists of an implanted receiver with electrodes that are placed on the conus medullaris portion of the patient's spinal cord and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class III (premarket approval) because it is an implanted device, and there is not sufficient information available to establish a performance standard that will assure its safety and effectiveness. At the Panel meeting of August 20-21, 1977, the Panel recommended that this device be classified into class II (performance standards) because the device is similar in design to the implanted spinal cord stimulator for pain relief which the Panel recommended to be classified into class II. However, on April 21, 1978 the Panel reassessed its recommendation on implanted spinal cord stimulators for bladder evacuation and recommended that they be classified into class III (premarket approval) because the device has been successfully applied in only a small number of patients, and virtually all those patients were treated by one physician using a device manufactured by one company. Although the reported clinical results with those patients has been favorable, the Panel believes that there is not enough information to establish a performance standard for the device that will assure its safety and effectiveness. The Panel also believes that there is not sufficient information available on this device to show that general controls are sufficient to assure its safety and effectiveness. The device should, therefore, be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The panel members based their recommendation on information supplied by Dr. Blaine Nashold, one of the Panel members, who has been one of the primary individuals engaged in the development of the device. Dr. Nashold reported that he has implanted the device in a small group of paraplegic patients. Six of the 12 patients have been successfully emptying their bladders by this method for the past 5 years (Ref. 1).

Risks to health: (a) Injury to neural tissue: Tissue fibrosis may develop around the electrode on the spinal cord and cause a diminished response to the electrical stimulus. (b) Tissue toxicity: The implanted stimulator, lead wires, or electrodes may contain material which is not biocompatible. (c) Cerebrospinal fluid leakage: The fluid that surrounds the spinal cord might leak out around the receiver wires.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that implanted spinal cord stimulators for bladder evacuation be classified into class III (premarket approval). The Commissioner believes that the device presents a potential unreasonable risk of illness or injury, because of the possibility of neural damage. Furthermore, the Commissioner believes that this implanted device is for a use (bladder evacuation in paraplegic patients) which is of substantial importance in preventing impairment of human health. The act requires the Commissioner to classify an implant into class III unless the Commissioner determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the Commissioner has determined that premarket approval is necessary. The Commissioner concurs with the Panel that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Nashold, B. S., et al., "Operative Stimulation of the Neurogenic Bladder," Proceedings of the Symposium on the Safety and Clinical Efficacy of Implanted Neuroaugmentive Devices, *Neurosurgery*, 1:218-220, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 is Subpart F by adding New § 882.5850 as follows:

§ 882.5850 Implanted spinal cord stimulator for bladder evacuation.

(a) *Identification.* An implanted spinal cord stimulator for bladder evacuation is an electrical stimulator used to empty the bladder of a paraplegic patient who has a complete transection of the spinal cord and who is unable to empty his bladder by reflex means or by the intermittent use of catheters. The stimulator consists of an implanted receiver with electrodes that are placed on the conus medullaris portion of the patient's spinal cord and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32952 filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR PART 882]

[Docket No. 78N-1097]

MEDICAL DEVICES

Classification of Implanted Neuromuscular Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted neuromuscular stimulators into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III and the recommendation of the Orthopedic Device Classification Panel that the device be classified into class II. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. The effect of classifying a device into class II is to provide for future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel and the Orthopedic Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of implanted neuromuscular stimulators:

1. Identification: An implanted neuromuscular stimulator is a device that provides electrical stimulation to a patient's peroneal or femoral nerve to cause muscles in the leg to contract, thus improving the gait in a patient with a paralyzed leg. The stimulator consists of an implanted receiver with electrodes that are placed around a patient's nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver. The external transmitter is activated by a switch in the heel of the patient's shoe.

2. Recommended classification: The Orthopedic Device Classification Panel recommends that this device be classified into class II (performance standards) and that establishing a performance standard for this device be a high priority. The Neurological Device Classification Panel recommends that this device be classified into class III (premarket approval) and that premarket approval for the device be a high priority.

3. Summary of reasons for recommendation: The Orthopedic Device Classification Panel recommends that this device be classified into class II (performance standards) because the device uses materials that are implanted and should be controlled. This Panel believes that use of this device is contraindicated in patients with cardiac pacemakers because of the possibility that the stimulator may interfere with the operation of the pacemaker. The Orthopedic Device Classification Panel further recommends that the device be restricted to sale by or on the order of a physician. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel also believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

The Neurological Device Classification Panel recommends that the implanted neuromuscular stimulator be classified into class III (premarket approval) because the device is a surgical implant that has been used on only a limited number of patients. At the Panel meeting of August 20-21, 1977, the Neurological Device Classification Panel recommended that the device be classified into class II (performance standards) because the Panel at that time believed the device had been shown to be safe and effective. However, at the meeting of the Neurological Device Classification Panel on April 21, 1978, the Panel reassessed its previous recommendation on this device and recommended that it be classified into class III (premarket approval) instead because the clinical results available were limited to one company's device which had been used on only a few patients. The Neurological Device Classification Panel does not believe that there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Panel also believes that there is not sufficient information available on this device to show that general controls alone are sufficient to assure its safety and effectiveness. The device should, therefore, be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal knowledge of the device, the potential hazards associated with the device, the pertinent literature (Ref. 1), and their clinical experience with the device.

5. Risks to health: The Orthopedic Device Classification Panel identified the following risks to health: (a) Adverse tissue response: The materials used in the device may cause a toxic or adverse reaction in the surrounding tissue. (b) Infection: There is an increased risk of sepsis associated with the presence of a foreign object implanted in the body.

The Neurological Device Classification Panel identified the following risks to health: (a) Injury to the nerve: The presence of the electrode or the output current may injure the peroneal or femoral nerve. (b) Tissue toxicity: The implanted stimulator, lead wires, or electrodes may contain material that is not biocompatible.

Proposed Classification

The Commissioner agrees with the recommendation of the Neurological Device Classification Panel and is proposing that the implanted neuromuscular stimulator be classified into class III (premarket approval). The Commissioner does not agree with the Orthopedic Device Classification Panel that sufficient information is available on this device to establish a performance standard that will assure the safety and effectiveness of the device. The Commissioner notes that there are only limited clinical data available on this device, and most of the data are from one medical center using a device manufactured by one company. A recent publication states that only 31 patients have had the device implanted to improve their walking (Ref. 2). The Commissioner believes that the device presents a potential unreasonable risk of illness or injury to the patient, because of the possibility of nerual damage. Furthermore, the device is an implant for a use (improving the gait in a patient with a paralyzed leg) which is of substantial importance in preventing impairment of human health. The act requires the Commissioner to classify an implant into class III unless the Commissioner determines that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the Commissioner has determined that premarket approval is necessary. Therefore, the commissioner concurs with the Neurological Device Classification Panel that insufficient information exists on this implanted device to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and the Commissioner believes that insufficient information exists to establish a performance standard that would provide such assurance.

The following information has been placed in the office of the hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

References

1. National Academy of Sciences, "Clinical Evaluation of Rancho Los Amigos/Medtronic Implanted Neuromuscular Assist Device," Committee on Prosthetic Research and Development, In Press, 1976.

2. McNeal, D. R., et al., "Experience with Implanted Electrodes, " Proceedings of the symposium on the Safety and clinical Efficacy of Implanted Neuroaugmentive Devices, *Neurosurgery*, 1:228-229, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him 21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5860 as follows:

§ 882.5860 Implanted neuromuscular stimulator.

(a) *Identification.* An implanted neuromuscular stimulator is a device that provides electrical stimulation to a patient's peroneal or femoral nerve to cause muscles in the leg to contract, thus improving the gait in a patient with a paralyzed leg. The stimulator consists of an implanted receiver with electrodes that are placed around a patient's nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver. The external transmitter is activated by a switch in the heel in the patient's shoe.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals

may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32953 Filed 11-27-78; 8:45]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1098]

MEDICAL DEVICES

Classification of Implanted Peripheral Nerve Stimulators For Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted peripheral nerve stimulators for pain relief into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere is this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, on FDA advisory committee, made the following recommendation with respect to the classification of implanted peripheral nerve stimulators for pain relief:

1. Identification: An implanted peripheral nerve stimulator for pain relief is a device that is used to stimulate electrically a peripheral nerve in a patient to relieve severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed around a peripheral nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

2. Recommended classification: Class II (performance standards). The Panel recommends that performance standards for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) because the performance of the device should be controlled to avoid injury to the nerve that is stimulated and because the implanted materials used in the device should be required to be biocompatible. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that premarket approval is not necessary for this implanted device because a standard will provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal clinical experience with these devices and their familiarity with the relevant literature.

5. Risks to health: (a) Injury to neural tissue: The nerve that is stimulated may be damaged by the presence of the electrode or by the output current from the device. (b) Tissue toxicity: The implanted stimulator, lead wires, or electrodes may contain material that is not biocompatible.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the implanted peripheral nerve stimulator for pain relief be classified into class II (performance standards).

The Commissioner has reviewed the Panel recommendation to classify implanted peripheral nerve stimulators for pain relief into class II (performance standards) and has obtained additional data and information on the safety and effectiveness of the device. Electrical stimulation of peripheral nerves has been used to relieve chronic intractable pain, produced primarily by trauma or injury to nerves. The device consists of electrodes that are placed around a peripheral nerve in a patient and connected by lead wires to a receiver that is placed in a convenient spot just under the skin. The stimulating pulses are transmitted acress the skin to the receiver by an external radiofrequency transmitter and an antenna that is placed on the skin over the receiver.

The major benefit of using this device is that patients with chronic intractable pain may be able to reduce their pain to such an extent that they can reduce or eliminate the use of analgesic drugs. Several authors have reported that peripheral nerve stimulation provides significant relief to patients with chronic intractable pain. This technique has been reported to be effective in about 55 percent of the patients on whom it was attempted (Refs. 1, 2, 3, and 4). The most common nerves that are stimulated are the sciatic, ulnar, occipital, and femoral nerves. There have been few reports of complications involving this technique. Picaza (Ref. 1) reports that the most common complication in 37 patients followed for 12 to 46 months was tenderness at the receiver implantation site or at the electrode site. He also reports two cases of formation of neuroma (a small tumor on the nerve) at the electrode site. Picaza cautions, however, that implanted stimulators should be used only in those cases where continued stimulation is necessary for long periods of time, because patients often can obtain satisfactory relief by using external transcutaneous stimulation.

The Commissioner believes that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that a performance standard is necessary of this device because general controls will not provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be viewed by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Picaza, J. A., et al., "Pain Suppression: Chronic Effects," Proceedings of the symposium on the Safety and Clinical Efficacy of Implanted Neuroaugmentive Devices, *Neurosurgery*, 1:226-227, 1977.

2. Nashold, B. S. and J. L. Goldner, "Electrical Stimulation of Peripheral nerves for Relief of Intractable Chronic Pain," *Medical Instrumentation*, 9:224-225, 1975.

3. Erickson, D. and S. Chou, "Implantable Electrical Devices for pain Relief," *Minnesota Medicine*, 57:210-212, 1974.

4. Long, D. M., "Electrical Stimulation for Relief of Pain from Chronic Nerve Injury," *Journal of Neurosurgery*, 39:718-722, 1973.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5870 as follows:

§ 882.5870 **Implanted peripheral nerve stimulator for pain relief.**

(a) *Identification.* An implanted peripheral nerve stimulator for pain relief is a device that is used to stimulate electrically a peripheral nerve in a patient to relieve severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed around a peripheral nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32954 Filed 11-27-78; 8:45]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1099]

MEDICAL DEVICES

Classification of Implanted Spinal Cord Stimulators for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying implanted spinal cord stimulators for pain relief into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-30), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of implanted spinal cord stimulators for pain relief:

1. Identification: An implanted spinal cord stimulator for pain relief is a device that is used to stimulate electrically a patient's spinal cord to relieve severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed on the patient's spinal cord and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) because the performance of the device should be controlled to avoid injuring the patient's spinal cord and because the implanted materials used in the device should be required to be biocompatible. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that premarket approval is not necessary for this implanted device because a standard will provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal clinical experience with this device and their knowledge of the relevant literature.

5. Risks to health: (a) Injury to neural tissue: The patient's spinal cord may be damaged by the presence of the electrodes or by the output current from the device. (b) Tissue toxicity: The implanted stimulator, lead wires, or electrodes may contain material that is not biocompatible. (c) Cerebrospinal fluid leakage: The fluid which surrounds the spinal cord (cerebrospinal fluid) may leak out around the electrode lead wires.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the implanted spinal cord stimulator for pain relief be classified into class II (performance standards).

The Commissioner has reviewed the Panel's recommendation to classify implanted spinal cord stimulators for pain relief into class II (performance standards) and has obtained additional data and information on the safety and effectiveness of the device. Electrical stimulation of the spinal cord for relief of pain has been used by numerous clinicians since the technique was introduced in the 1960's. The stimulation apparatus consists of electrodes that are placed at the desired location on the patient's spinal cord and connected by wires to a receiver that is located in a convenient spot just under the skin. The stimulating pulses are transmitted across the skin to the receiver by an external radiofrequency transmitter and an antenna that is placed on the skin over the receiver. The major benefit of using this device is that patients with chronic intractable pain may be able to reduce their pain to such an extent that they are able to reduce or eliminate the use of analgesic drugs.

The placement of the device's electrodes on the spinal cord has been an important factor in the complication rates for this device. Electrodes are usually placed on the dorsal (back) side of the spinal cord either within the dura (the outer membrane surrounding the spinal cord), below the dura, or below the arachnoid membrane of the spinal cord (Ref. 1). These methods require major surgery to implant the electrodes. Recently, a technique has been used where the electrodes are inserted through a needle into the epidural (outside or on the dura) space, thus greatly reducing the necessary surgery (Refs. 1, 2, and 3).

The reported long-term, good-to-excellent results obtained with implanted spinal cord stimulators for treating pain has varied from about 17 percent (Ref. 4) to over 80 percent (Refs. 3 and 5). Generally, however, the device has been reported to be effective in about 40 to 60 percent of the patients treated (Refs. 1, 2, 6, 7, and 8). Nashold observed that effectiveness of the device in his group tended to decrease with time, while the level of stimulation required for effectiveness tended to in-

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crease with time (Ref. 7). Virtually all authors agree, however, that the key to successful application of the device is careful selection of the patients on whom it is used.

Complications or problems with spinal cord stimulation have been reported by several investigators. Fox lists 26 problems or comments that were reported to him in his survey of 10 neurosurgeons who used these devices (Ref. 1). Others have also reported a variety of problems. The complications reported include spinal cord compression or injury by the electrode, resulting in transient paralysis (Refs. 1, 2, 6, 8, and 9); leakage of cerebrospinal fluid around the lead wires (Refs. 1, 7, and 8); thickening of the arachn membrane of the spinal cord (Refs. 1 and 7); rejection of the implant or tissue reaction (Refs. 2 and 8); and infection (Ref. 1). Grillo, et al. reported one case where the patient was temporarily paralyzed when bleeding occurred beneath a subarachnoid electrode 18 months after it was implanted (Ref. 9).

The Commissioner believes that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that a performance standard is necessary for this device because general controls will not provide such assurance.

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

REFERENCES

1. Fox, J. L., "Problems Encountered with Implanted Electrodes for Dorsal Column Stimulation for Pain," *in* "Functional Electrical Stimulation," Edited by F. T. Hambrecht and J. R. Reswick, Marcel Dekker, Inc., New York, pp. 459-463, 1977.

2. Burton, C. V., "Safety and Clinical Efficacy," Proceedings of the Symposium on the Safety and Clinical Efficacy of Implanted Neuroaugmentive devices, *Neurosurgery*, 1:214-215.

3. North, R. B., et al., "Chronic Stimulation via Percutaneously Inserted Epidural Electrodes," Proceeding of the Symposium on the Safety and Clinical Efficacy of Implanted Neuroaugmentive Devices, *Neurosurgery, 1:215—218.*

4. Long, D. M. and D. E. Erickson, "Stimulation of the Posterior Columns of the Spinal Cord for relief of Intractable Pain," *Surgical Neurology*, 4:134-141, 1975.

5. Nielson, K. D., et al., "Phantom Limb Pain: Treatment with Dorsal Column Stimulation," *Journal of Neurosurgery*, 42:301-307, 1975.

6. Nashold, B. S. and H. Friedman, "Dorsal Column Stimulation for Control of Pain: Preliminary Report on 30 Patients," *Journal of Neurosurgery*, 36:590-597, 1972.

7. Nashold, B. S., "Dorsal Column Stimulation for Control of Pain: A Three-Year Follow-up," *Surgical Neurology*, 4:146-147, 1975.

8. Sweet, W. H. and J. G. Wepsic, "Stimulation of the Posterior Columns of the Spinal Cord for Pain Control: Indications, Technique and Results," *Clinical Neurosurgery*, 21:278-310, 1974.

9. Grillo, P. J., et al., "Delayed Intraspinal Hemorrhage after Dorsal Column Stimulation For Pain," *Archives of Neurology*, 30:105-106, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5880 as follows:

§ 882.5880 Implanted spinal cord stimulator for pain relief.

(a) *Identification.* An implanted spinal cord stimulator for pain relief is a device that is used to stimulate electrically a patient's spinal cord to relieve severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed on the patient's spinal cord and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class II (performance standards).

Interested persons may on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32955 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1100]

MEDICAL DEVICES

Classification of Transcutaneous Electrical Nerve Stimulators for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying transcutaneous electrical nerve stimulators for pain relief into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of transcutaneous electrical nerve stimulators for pain relief:

1. Identification: A transcutaneous electrical nerve stimulator for pain relief is a device used to apply an electrical current to electrodes on a patient's skin to treat pain.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that transcutaneous electrical nerve stimulators for pain relief be classified into class II (performance standards) because the patient may be injured if the device is used incorrectly or if the output current is excessive. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their extensive personal clinical experience with this device, data presented by experts in the use of the device, and a review of the relevant literature on the device. A summary of the literature reviewed was prepared by the Panel (Ref. 1). Users of transcutaneous electrical nerve stimulator devices have reported that long-term (1 year or more) effectiveness of this device in treating pain is about 25 to 30 percent for selected patients who have intractable chronic pain. The best results were obtained on patients who had chronic low back pain, phantom limb pain, and pain of osteoarthritis. The literature contains no reports of mortalities caused by this device.

5. Risks to health: (a) Burns. The patient's skin may be burned if the output current levels are excessive or if the electrodes are too small. (b) Skin reactions. The conductive cream or gel used with the electrodes or the presence of the electrodes on the skin may cause adverse skin reactions.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the transcutaneous electrical nerve stimulator for pain relief be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls by themselves are insufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Report on the Findings and Recommendations on Transcutaneous Electrical Nerve Stimulation for Pain Relief," prepared by the Panel on Review of Neurological Devices, Food and Drug Administration, February 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5890 as follows:

§ 882.5890 Transcutaneous electrical nerve stimulator for pain relief.

(a) *Identification.* A transcutaneous electrical nerve stimulator for pain relief is a device used to apply an electrical current to electrodes on a patient's skin to treat pain.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32956 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1101]

MEDICAL DEVICES

Classification of Preformed Craniosynostosis Strips

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying preformed craniosynostosis strips into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of preformed craniosynostosis strips:

1. Identification: A preformed craniosynostosis strip is a plastic strip used to cover bone edges of craniectomy sites (sites where the skull has been cut) to prevent the bone from regrowing in patients whose skull sutures are abnormally fused together.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II (performance standards) to assure that the material used in craniosynostosis strips is biocompatible and performs properly. The Panel believes that general controls will not provide sufficient control over these characteristics. Although preformed craniosynostosis strips are implanted devices, the Panel believes that premarket approval is not necessary to provide reasonable assurance of the safety and effectiveness of the device because there is sufficient information availabe to establish a standard that will provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their familiarity with this device and the literature related to biocompatibility.

5. Risks to health: (a) Risk of ineffective treatment: If the material does not maintain its structural integrity, it will fail to prevent the bone from growing back together. (b) Tissue toxicity: The material used in the device may cause adverse tissue reaction if it is not biocompatible.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that preformed craniosynostosis strips be classified into class II (performance standards).

The Commissioner has reviewed the Panel's recommendation to classify preformed craniosynostosis strips into class II (performance standard) and has obtained additional data and information on the safety and effectiveness of the device. Shillito provides a detailed explanation of the procedure and reports improvement in 74 percent of 519 infants (Ref. 1) He reported two deaths and an overall complication

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rate of 14 percent in that group. The more serious complications included wound sepsis, hematoma, tears in the dura, erosion through the scalp of the clips holding the plastic strip in place, septicemia, and permanent scarring of the forehead caused by the pressure of the surgical head rest. Polyethylene film and silicone rubber strips have been used in the treatment of craniosynostosis and are generally regarded as biologically compatible (Ref. 2).

The Commissioner agrees with the Panel that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of its safety and effectiveness. The Commissioner also agrees with the Panel that a performance standard is necessary for this device because general controls would not provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Shillito, J., Jr., "Craniosynostosis," *in* "Neurological Surgery," Vol. 1, Edited by J. R. Youmans, W. B. Saunders Co., Philadelphia, PA, pp. 608–627, 1973.

2. Lee, H. and K. Neville, "Handbook of Biomedical Plastics," Pasadena Technology Press, Pasadena, Calif., pp. 14-2 to 14-32.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5900 as follows:

§ 882.5900 Preformed craniosynostosis strips.

(a) *Identification.* A preformed craniosynostosis strip is a plastic strip used to cover bone edges of craniectomy sites (sites where the skull has been cut) to prevent the bone from regrowing in patients whose skull sutures are abnormally fused together.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32957 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1102]

MEDICAL DEVICES

Classification of Dura Substitutes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying dura substitutes into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological and Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of dura substitutes:

1. Identification: A dura substitute is a sheet of material that is used to repair the dura mater (the membrane surrounding the brain).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class II performance standards) because the material should be required to be biocompatible and to be able to maintain a seal to prevent cerebrospinal fluid (CSF) leakage. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that premarket approval is not necessary for this implanted device because a standard will provide reasonable assurance of the safety and effectiveness of the device and there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with these devices.

5. Risks to health: (a) Tissue reaction: The material used in the device may be toxic to surrounding tissue, or may adhere to neural tissue. (b) CSF leakage: If the material does not maintain a seal with the dura, or if defects in the material occur, the CSF may leak out.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the dura substitute be classified into class II (performance standards).

The Commissioner has reviewed the Panel's recommendation and has obtained additional data and information on the safety and effectiveness of this implanted device. Since the turn of the century, a wide variety of both natural and synthetic materials has been used to seal holes in the dura mater (Ref. 1). The natural materials have included both processed and unprocessed tissues. Numerous synthetic materials have been used. According to several authors, dura substitutes must have three basic qualities: biocompatibility; the ability to prevent tissue adhesions between the cerebral cortex and overlying soft tissue; and the ability to prevent cerebrospinal fluid (CSF) leakage (Refs. 1 through 3). CSF leakage has been reported to be a problem, especially with woven materials (Ref. 4). Tantalum foil has the disadvantages of being radiopaque and of being easily torn (Ref. 4). Silicone film dura replacement has been reported to have been associated with two cases of intracranial bleeding (Ref. 4). Infection also is an inherent risk with any operative procedure involving an implant such as the dura substitute.

The Commissioner believes that premarket approval is not necessary for this implanted device because there is sufficient information available to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that a performance standard is necessary for this device because general controls will not provide such assurance.

REFERENCES

The following information has been placed in the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Keener, E. B., "Regeneration of Dural Defects," *Journal of Neurosurgery*, 16:415-423, 1957.

2. Lee, J. F., et al., "Experimental Evaluation of Silicone Coated Dacron and Collagen Fabric Film Laminate as Dural Substitute," *Journal of Neurosurgery*, 27:558-564, 1967.

3. Abin, S. M., et al., "Nonsuture Sealing of a Dural Substitute Utilizing a Plastic Adhesive Methyl 2-Cyanoacrylate," *Journal of Neurosurgery*, 19:545-550, 1962.

4. Banerjee, T., et al., "Unusual Complications with Use of Silastic Dural Substitute," *American Surgeon*, 40:434-437, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5910 as follows:

§ 882.5910 Dura substitute.

(a) *Identification.* A dura substitute is a sheet of material that is used to repair the dura mater (the membrane surrounding the brain).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32958 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1103]

MEDICAL DEVICES

Classification of Electroconvulsive Therapy Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electroconvulsive therapy devices into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electroconvulsive therapy devices:

1. Identification: An electroconvulsive therapy device is a device used for treating severe psychiatric disturbances, e.g., severe depression, by inducing in the patient a major motor seizure by applying a brief intense electrical current to the patient's head.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that electroconvulsive therapy (ECT) devices be classified into class II (performance standards) because the devices must be capable of providing the correct amount of current to the patient to induce a seizure without unnecessarily injuring the patient. The Panel believes that general controls will not provide sufficient control over these characteristics. Although the use of this device involves a substantial risk to the patient, the Panel believes that the benefit of the treatment outweighs the risks involved if the patients are selected carefully and the devices are designed and used properly. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal familiarity with the use of this device and on information provided by Dr. Allen R. Grahn of the Utah Biomedical Test Laboratory. Dr. Grahn conducted a study under contract to the FDA on ECT devices and presented the results of his study to the panel (Ref. 1). Dr. Grahn's study was based on a review of the scientific literature, information supplied by ECT device manufacturers, and a survey of ECT users. He pointed out that the optimum electrical characteristics of ECT devices have not been determined but that a reliable therapeutic result may be achieved using a variety of device electrical designs. Dr. Grahn also stated that no controlled study has been performed that determines precisely the mortality associated with ECT treatments. However, estimates predict a mortality frequency that ranges from one death per 10,000 treatments to one death per 28,000 treatments (Ref. 1).

5. Risks to health: (a) Burns: Excessive electrical current or improperly designed electrodes may cause the patient's skin under the electrodes to be burned. (b) Pain: The patient is subjected to pain if the device fails to administer sufficient current to achieve a convulsive seizure. (c) Brain damage: Excessive or improper control of the applied electrical current may produce injury to the patient's brain. (d) Self-injury during seizure: Inadequate supportive drug treatment may allow the patient to be injured from unconscious violent movements during convulsions. (e) Aspiration: The patient may inhale foreign material, such as regurgitated stomach contents, if preventive procedures are not employed. (f) Adverse drug effects: The muscle relaxing and tranquilizing drugs that are a part of the procedure may hamper the patient's ability to breathe spontaneously. (g) Cardiac arrhythmia: The therapeutic convulsions may be accompanied by irregular heartbeat or cardiac arrest. (h) Memory loss: The patient may suffer amnesia after the treatment.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the electroconvulsive therapy devices be classified into class II (performance standards). The Commissioner believes that a performance

standard is necessary for this device because general controls by themselves are insufficient to control the risks to health described above. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

Grahn, Allen R., "Summary of Presentation to FDA Neurology Panel—Study of Electroconvulsive Therapy Device Safety and Efficacy," (Contract 223-74-5753, Task 22), October 15, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c. 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 is Subpart F by adding new § 882.5940 as follows:

§ 882.5940 Electroconvulsive therapy devices.

(a) *Identification.* An electroconvulsive therapy device is a device used for treating severe psychiatric disturbances (e.g., severe depression) by inducing in the patient a major motor seizure by applying a brief intense electrical current to the patient's head.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32959 filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1104]

MEDICAL DEVICES

Classification of Artificial Embolization Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying artificial embolization devices into class III (premarket approval). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of artificial embolization devices:

1. Identification: Artificial embolization devices are objects that are placed in a blood vessel to permanently obstruct blood flow to an aneurysm or other vascular malformation.

2. Recommendd classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that artificial embolization devices be classified into class III (premarket approval) because the devices are permanent implants and the patient may be seriously injured if the physician is not able to ensure that the devices go to the selected target site after release into the blood stream. The Panel believes that there is not sufficient information to establish a performance standard that will provide reasonable assurance of the safety and effectiveness of the device, nor is there enough information to show that general controls will provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the belief that there is insufficient clinical information which shows that artificial embolization devices are safe and effective for treating vascular malformations.

5. Risks to health: (a) Infarction of nervous tissue: The embolism can lodge in an unintended site after release into the blood stream. The embolism may then prevent blood from reaching healthy tissue and cause permanent damage to the nervous system. (b) Tissue toxicity: The material used in the device may produce a toxic reaction if it is not compatible with tissue or blood.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that the artificial embolization device be classified into class III (premarket approval). The Commissioner believes that the device presents a potential risk of death or serious injury to the patient if the physician is unable to control the emboli or thrombus-forming material. Furthermore, the device is for a use (treatment of vascular malformations) which is of substantial importance in preventing impairment of human health. Finally, the device is an implant, which the act requires to be classified into class III unless the Commissioner determines that premarket approval is necessary to provide reasonable assurance of the safety and effectiveness of the device. In this case, the Commissioner has determined that premarket approval is necessary.

The Commissioner has reviewed the Panel's recommendation and has obtained additional data and information on the safety and effectiveness of artificial embolization devices. Artificial embolization has been used to treat various patient conditions involving malformations of blood vessels or tumors in the brain or spinal cord. The most frequent method reported has been the use of radiopaque silicone spheres that are directed to the site where embolization is desired and released into the blood stream by means of a special catheter (Refs. 1 through 5). Various sizes and quantities of spheres are used depending on the size of the blood vessel to be blocked. Investigators have also used gelfoam (Ref. 1), polyurethane foam (Ref. 6), liquid silicone (Ref. 1), and small bits of muscle (Ref. 7) to serve as artificial emboli. Alksne has developed and used a technique for treating intracranial aneurysms where iron particles are injected into the aneurysm and held in place by a magnetic field until the blood clots and closes the aneurysm (Refs. 8 through 10).

The Commissioner concurs with the Panel that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard that will provide such assurance.

REFERENCES

The following information has been placed in the office of the Hearing Clerk (address above), Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Hilal, S. K., and J. W. Michelsen, "Therapeutic Percutaneous Embolization for Extra-Axial Vascular Lesions of the Head, Neck, and Spine," *Journal of Neurosurgery*, 43:275-287, 1975.

2. Luessenhop, A. J., and J. H. Presper, "Surgical Embolization of Cerebral Arteriovenous Malformations Through Internal Carotid and Vertebral Arteries," *Journal of Neurosurgery*, 42:443-451, 1975.

3. Pugatch, R. D., and S. M. Wolpert, "Transfemoral Embolization of an External Carotid-Cavernous Fistula," *Journal of Neurosurgery*, 42:94-97, 1975.

4. Kricheff, I. I., et al., "Transfemoral Catheter Embolization of Cerebral and Posterior Fossa Arteriovenous Malformations," *Neuroradiology*, 103:107-111. 1972.

5. Boulos, R., et al., "Value of Cerebral Angiography in the Embolization Treatment of Cerebral Arteriovenous Malformations," *Radiology*, 97:65-70, 1970.

6. Ohta, T., et al., "Closure of Carotid-Cavernous Fistula with Polyethylene Foam Embolus," *Journal of Neurosurgery*, 38:107-112, 1973.

7. Black, R., et al., "Carotid-Cavernous Fistula: A Controlled Embolus Technique for Occlusion of Fistula with Preservation of Carotid Blood Flow," *Journal of Neurosurgery*, 38:113-118, 1973.

8. Alksne, J. F., and R. W. Smith, "Iron-Acrylic Compound for Stereotaxic Aneurysm Thrombosis," *Journal of Neurosurgery*, 47:137-141, 1977.

9. Alksne, J. F., "Stereotactic Thrombosis of Intracranial Aneurysms," *New England Journal of Medicine*, 284:171-174, 1971.

10. Alksne, J. F., "Current Status of Metallic Thrombosis of Intracranial Aneurysms," *Progress in Neurological Surgery*, 3:212-229, 1969.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5950 as follows:

§ 882.5950 Artificial embolization device.

(a) *Identification.* Artificial embolization devices are objects that are placed in a blood vessel to permanently obstruct blood flow to an aneurysm or other vascular malformation.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32960 Filed 11-27-78; 8:45 am]

[4110-03-M]

[21 CFR Part 882]

[Docket No. 78N-1105]

MEDICAL DEVICES

Classification of Skull Tongs for Traction

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying skull tongs for traction into class II (performance standards). The FDA is also publishing the recommendation of the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by January 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

PANEL RECOMMENDATION

A proposal elsewhere in this issue of the FEDERAL REGISTER provides background information concerning the development of the proposed regulation. The Neurological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of skull tongs for traction:

1. Identification: Skull tongs for traction is an instrument used to immobilize a patient with a cervical spine injury (e.g., fracture or dislocation). The device is caliper shaped with tips that penetrate the skin. It is anchored to the skull and has a heavy weight attached to it that maintains, by traction, the patient's position.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that skull tongs for traction be classified into class II (performance standards) because the pressure that the tong tips exert on the skull may injure the patient if the tong tips are not designed properly. The Panel believes that the design of these devices is particularly important because of the possible serious consequences to the patient should the device slip out or penetrate the skull. The Panel believes that general controls will not provide sufficient control of these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their clinical experience with this device. Skull tongs for traction have been used clinically for several decades.

5. Risks to health: (a) Infection: Because the tips of the skull tongs penetrate the skin and must be left in place for a long period of time, infection is an inherent risk. (b) Necrosis: The pressure of the tong tips may kill skull or scalp tissue. (c) Neurological injury or death: If the device collapses or pulls out of the skull a significant injury to the spinal cord or death may result.

PROPOSED CLASSIFICATION

The Commissioner agrees with the Panel's recommendation and is proposing that skull tongs for traction be classified into class II (performance standards). The Commissioner believes that a performance standard is neces-

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sary for this device because general controls by themselves are not sufficient to control the risks to health. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 882 in Subpart F by adding new § 882.5960 as follows:

§ 882.5960 Skull tongs for traction.

(a) *Identification.* Skull tongs for traction is an instrument used to immobilize a patient with a cervical spine injury (e.g., fracture or dislocation). The device is caliper shaped with tips that penetrate the skin. It is anchored to the skull and has a heavy weight attached to it that maintains, by traction, the patient's position.

(b) *Classification.* Class II (performance standards). Interested persons may, on or before January 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated November 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-32961 Filed 11-27-78; 8:45 am]

federal register

TUESDAY, NOVEMBER 28, 1978
PART IV



DEPARTMENT OF ENERGY

Economic Regulatory Administration

CANADIAN ALLOCATION PROGRAM

Proposed Rulemaking and Public Hearing

V 43 N 229 NOV 28 1978

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 214]

[Docket No. ERA-R-78-23]

CANADIAN ALLOCATION PROGRAM

Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") is proposing to amend the Canadian Allocation Program ("CAP") to reflect current conditions in the Northern Tier Petroleum supply situation and to simplify the administration of the program. Since the inception of the CAP in 1976, the export level of Canadian crude oil has declined from 510,000 barrels per day (B/D) in 1976 to approximately 180,300 B/D for the present allocation period, resulting in a reduction in the number of refineries receiving allocations from 59 in 1976 to 10 in the present period. In addition, a number of priority refineries have been successful in decreasing their dependence on Canadian crude oil. In view of these changes, we have tentatively determined that the CAP should be revised to provide us with greater flexibility to ensure that the declining export level of Canadian crude oil is allocated equitably among northern tier refineries that are least able to replace their Canadian feedstocks. The proposed amendments also would eliminate the reporting requirements for those refineries that are no longer receiving allocations under the program.

DATES:

COMMENTS BY: January 26, 1979.

HEARING: 9:30 a.m.; January 25, 1979.

REQUESTS TO SPEAK BY: January 8, 1979.

ADDRESSES:

COMMENTS TO:

Public Hearing Management, Docket No. ERA-R-78-23, Economic Regulatory Administration, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461.

HEARING:

John C. Kluczynski Building, Room 3619, 230 S. Dearborn Street, Chicago, Illinois 60604.

REQUESTS TO SPEAK TO:

Public Hearing Management, Docket No. ERA-R-78-23, Economic Regulatory Administration, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert G. Gillette (Comment Procedures), Department of Energy, 2000 M Street, N.W., Room 2214B, Washington, D.C. 20461, (202) 254-3345.

William Webb (Office of Public Information, Department of Energy, 2000 M Street, N.W. Room B-110, Washington, D.C. 20461, (202) 634-2170.

Robert G. Bidwell, Jr. (Office of Fuels Regulation), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128-P Washington, D.C. 20461, (202) 254-9707.

Robert J. Kane (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Samuel M. Bradley (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 5138, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background:
A. Description of the Canadian Allocation Program.
B. Reasons for Reevaluation of the Program.
II. Proposed Amendments:
A. Definition of First Priority Refinery.
B. Adjustments to Base Period Volumes.
C. Allocation of Canadian Heavy Crude Oil.
D. Changes in Priority Designations.
E. Alternative Proposal to Establish Separate Classes of Priority Refineries for Canadian Light and Heavy Crude Oil.
F. Reporting Requirements.
III. Additional Comments Requested.
IV. Proposed Effective Date.
V. Comment Procedures.

I. Background

A. Description of Canadian Allocation Program

The Mandatory Canadian Crude Oil Allocation Regulations (10 CFR Part 214) were adopted by the Federal Energy Administration ("FEA") in response to the Canadian National Energy Board's ("NEB's") decision in 1974 gradually to phase out exports of crude oil to the United States. The program was intended to give the refiners that are most dependent on Canadian crude oil additional time to arrange for alternative crude oil delivery systems. The current CAP regulations provide for the allocation of Canadian light and heavy crude oil separately to priority classes of refineries and other facilities for calendar quarter allocation periods.

The classes of firms dependent upon Canadian crude oil sources and thereby eligible for allocations are distinguished by their current capability to replace Canadian crude oil with crude oil from other sources. First priority refineries are those which processed Canadian crude oil that constituted at least 25 percent of their base period crude oil runs to stills and that possess no current capability of replacing that Canadian crude oil due to a demonstrated lack of access to domestic pipelines or port facilities with adequate marine docking and storage facilities. The first priority category also includes all industrial facilities or utilities with no replacement capability, without regard to the 25 percent test. Second priority refineries are those industrial facilities, utilities and refineries that used Canadian crude oil during the base period but were not designated first priority.

For each allocation period, the ERA issues a number of Canadian crude oil rights for light and heavy crude oil, respectively, based on the volume of such crude oils included in a refiner's runs to stills or otherwise used by the particular firm during the base period of November 1, 1974 through October 31, 1975. The ERA first allocates the Canadian light crude oil to first and second priority refineries according to their use of light crude oil in the base period, with the base period volumes of first priority refineries being satisfied before any light crude oil is allocated to second priority refineries.

Canadian heavy crude oil is allocated according to a six-step procedure. In the first two steps, the ERA allocates Canadian heavy crude oil on a pro-rata basis to first priority refineries up to their total base period volumes of Canadian crude oil, less allocations of Canadian light crude oil. In the third step, heavy crude oil is allocated on a pro-rata basis to second priority refineries which processed heavy crude oil in the base period up to their base period use of such crude oil. In the fourth step, additional heavy crude oil is allocated on a pro-rata basis to first priority refineries with reference to their nominations for such crude oil. Any remaining heavy crude oil is allocated among second priority refineries with reference to their total base period volumes of Canadian crude oil, less any Canadian light and/or heavy crude oil allocated in the prior steps.[1]

[1] As originally adopted on January 30, 1976, the CAP regulations did not distinguish between Canadian light and heavy crude oil (41 FR 4716, January 30, 1976). The regulations were amended in response to Canada's decision to license the light and heavy crude oil streams separately for export and to increase the export volume for the heavy crude oils and were intended to facilitate the importation into the U.S. of

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The regulations as originally adopted prohibited the disposition by first priority refineries of Canadian crude oil except pursuant to barrel-for-barrel exchanges for other Canadian crude oil. In early 1978, the exchange provision was amended to permit first priority refineries dependent upon the diminishing supply of Canadian light crude oil to develop alternate supply sources through exchanges of Canadian heavy crude oil for non-Canadian crude oil (43 FR 6206, February 14, 1978). Second priority refineries are not prohibited from exchanging Canadian crude oil for non-Canadian crude oil.

B. Reasons for Reevaluation of the Program

We commenced our reevaluation of the CAP primarily because of the significant reductions in the export level of Canadian crude oil and the changes which have occurred in the crude oil supply situation of some priority refineries. Since the inception of the program in 1976, the export level of Canadian crude oil has declined from 510,000 B/D to approximately 180,300 B/D (comprised of 55,000 B/D of Canadian light crude oil and about 125,315 B/D of Canadian heavy crude oil) for the allocation period which began October 1, 1978.[2] As a result of the reduction in the export level of Canadian crude oil, especially Canadian light crude oil, and because a number of second priority refineries have been successful in replacing their Canadian feedstocks, the number of first and second priority refineries receiving allocations has declined from 59 in 1976 to 10 in the present allocation period. In this regard, in the last allocation period only one second priority refinery received an allocation, and that was due to an operational constraint. Similarly, the present allocation period has only three second priority refineries receiving allocations, and one of these was due to an operational constraint. First priority refineries also are receiving substantially smaller allocations of Canadian crude oil, particularly those refineries which historically processed Canadian light crude oil. Although two first priority refineries, Koch Refining Company's (Koch's) refinery at Pine Bend, Minnesota, and Ashland Oil, Inc.'s (Ashland's) refinery at St. Paul Park, Minnesota, now have greater access to non-Canadian crude oil than they did when the CAP was begun,[3] other first priority refineries remain substantially dependent upon Canadian crude oil.[4]

These changes in the petroleum supply situation in the Northern Tier have created several problems in the operation of the CAP. First, it appears that the definition of first priority refinery is no longer an accurate description of refineries that should be in that class, in that some refineries in the class, for example, the Koch and Ashland Minnesota refineries, now have considerable greater access to non-Canadian crude oil than other refineries in the class, in part for reasons not recognized in the definition. However, there may be uncertainty as to whether such refineries currently have the capability, especially at certain times of the year, to replace a sufficient percentage of their base period volume of Canadian crude oil to warrant changing their designation entirely to second priority refineries as defined in the current regulations.

The present provision governing adjustments to base period volumes does not provide sufficient flexibility to reduce allocations for priority refineries whose dependence on Canadian crude oil has decreased since the base period but who still qualify for first priority designation. Thus, although the regulations permit adjustments to a refinery's total base period volume of Canadian crude oil, they do not explicitly permit us to make separate adjustments to a refinery's base period volume of light or heavy crude oil, or to provide for automatic adjustments in a refinery's base period volume at certain times of the year to reflect seasonal changes in the refinery's access to non-Canadian crude oil. Nor do the regulations provide for automatic changes in a refinery's priority status to reflect seasonal changes in its access to non-Canadian crude oil. Such flexibility would be particularly appropriate with respect to the Koch and Ashland Minnesota refineries, which have the capability of receiving substantial shipments of non-Canadian crude oil by barge during the period April through October. In this regard, we have tentatively concluded that the present definition of first priority refinery should be revised to make clear that barging of crude oil on inland waterways is to be considered in determining a refinery's access to alternate sources of crude oil.

A second problem in the operation of the CAP is the reporting requirement in Subpart D of Part 214, which requires the large number of second priority refineries that no longer receive allocations of Canadian crude oil to continue reporting to us information regarding their crude oil supply situation. Third, as a result of the sharply declining export level of Canadian crude oil, a number of firms have urged us to restrict exchanges of Canadian crude oil to ensure that it is actually processed by those refineries which need it most. Finally, it appears that the present allocation procedures for Canadian heavy crude oil accord an undue preference to first priority refineries. As noted above, the first four steps of these procedures provide that Canadian heavy crude oil will be allocated to first priority refineries up to their nominations for such crude oil before any heavy crude oil is allocated to second priority refineries in excess of their base period use of Canadian heavy crude oil. Given the present export level for heavy crude oil, these procedures effectively ensure that no second priority refinery will receive an allocation in excess of its base period use of Canadian heavy crude oil.

II. Proposed Amendments

Set forth in this section is the substance of various proposals to amend the CAP regulations. We are requesting comments on whether these measures should be adopted, in light of current conditions in the Northern Tier. We may adopt one or more of these proposals, or any reasonable variation thereof that might be suggested by the comments or otherwise, which may be determined to be appropriate to accomplish the general objectives discussed above. In general, you are encouraged to provide your own analyses of the need for any revision to the CAP and the DOE proposals, and to support your views with appropriate data. you also are encouraged to recommend alternative approaches that would achieve the objectives of this rulemaking.

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the entire export level of Canadian heavy crude oil (42 FR 29295, June 8, 1977). When the export level of Canadian heavy crude oil began to decline, the allocation scheme for Canadian heavy crude oil was amended to accord a preference in the allocation of Canadian heavy crude oil to priority refineries that historically processed such crude oil. (43 FR 6206, February 14, 1978)

[2] This represents an increase over the 138,000 B/D for the July through September 1978 allocation period. In its *Crude Oil Supply and Requirements Report* released in September 1978 the NEB projected that light crude oil exports likely would remain at the 55,000 B/D level through 1981, while the export level for heavy crude oil would range about 107,000 to 117,000 B/D in 1979.

[3] In a notice of request for public comment (43 FR 13388, March 30, 1978) and at a public conference held May 31, 1978 (43 FR 20956, May 15, 1978), we announced that we were considering changing the priority designation of these refineries from first to second priority status. After consideration of all the comments, we determined that the evidence did not warrant reclassification of the Koch and Ashland refineries at that time.

[4] Consumers Power's Marysville, Michigan SNG facility; Continental Oil Company's Billings, Montana and Wrenshall, Minnesota refineries; Farmers Union's Laurel, Montana refinery; Exxon Company's Billings, Montana refinery; and Murphy Oil Corporation's Superior, Wisconsin refinery.

A. DEFINITION OF FIRST PRIORITY REFINERY

The first action proposed in this notice is an amendment to the definition of "first priority refinery" in § 214.21 to make clear that deliveries of non-Canadian crude oil by barge on inland waterways are to be considered in determining a refinery's access to alternative sources of crude oil. Although the access test in § 214.21 does not make express reference to such barge deliveries, we interpret the provision to require their consideration, since the underlying intent of the CAP regulations is to take account of all alternate sources of crude oil. However, in connection with the proceeding which we conducted concerning the reclassification of the Koch and Ashland Minnesota refineries to second priority status, Koch and Ashland contended that the definition of first priority refinery precludes consideration of barged crude oil. The proposed amendment would remove any ambiguity on this point.

B. ADJUSTMENTS TO BASE PERIOD VOLUMES

We are proposing to amend § 214.31(d) governing adjustments to base period volumes in several respects. First, for the reasons noted above, we are proposing to amend § 214.31(d) to permit us to adjust separately a refinery's base period volume of either Canadian light or heavy crude oil, as well as its total base period volume of Canadian crude oil as currently provided, to reflect changes in access to non-Canadian crude oil. In addition, § 214.31(d) would be modified to give us the flexibility to provide for automatic adjustments to a refinery's base period volume at certain times of the year to reflect seasonal variations in that refinery's access to non-Canadian crude oil. Although we do not propose specific regulatory language, we also invite comments on whether § 214.31(d) should be modified further to permit us to convert all or part of a refinery's base period volume of Canadian light crude oil to heavy crude oil in the event the refinery has converted light crude oil capacity existing in the base period to capacity for processing heavy crude oil.

We are also proposing to amend § 214.31(d) to provide that, in the event we reduced any first priority refinery's base period volume of Canadian light or heavy crude oil to reflect its access to non-Canadian crude oil, that refinery would be eligible for an allocation not only as a first priority refinery, to the extent of its adjusted base period volume, but also as a second priority refinery to the extent of the reduction in its based period volume. This proposal recognizes that although some first priority refineries, notably the Koch and Ashland Minnesota refineries, have the capability to replace a portion of their Canadian feedstocks with non-Canadian crude oil, some uncertainty exists as to whether such refineries currently have the capability to replace a sufficient volume of their base period use of Canadian crude oil to warrant changing their designation to second priority refineries.

The adjustments to base period volumes discussed above would be set forth in an allocation notice or in an appropriate order issued pursuant to Subpart G of 10 CFR Part 205 [Administrative Procedures and Sanctions]. The adjustments, which would be based on data reported to us pursuant to Subpart D of the CAP regulations and other information available to us, could be made effective at the beginning of or during an allocation period.

C. ALLOCATION OF CANADIAN HEAVY CRUDE OIL

For the reasons discussed above, we are proposing to amend the present procedures for allocating Canadian heavy crude oil to make the procedures more equitable for second priority refineries. Under the amendment, we would first issue rights for Canadian heavy crude oil on a pro rata basis to first priority refineries with reference to one-fourth of their respective base period volumes of such crude oil. In the second step, we would issue rights for Canadian heavy crude oil on a pro rata basis to all first priority refineries with reference to one-fourth of their respective total base period volumes of Canadian crude oil, less any rights issued in the prior steps for Canadian light and heavy crude oil. In the third and fourth steps, we would allocate Canadian heavy crude oil to second priority refineries in the same manner as in the first two steps for first priority refineries. We would allocate any remaining Canadian heavy crude oil on a pro rata basis to all first and second priority refineries with reference to their nominations. As is the case under the present procedures, in the event that the allocable supply of Canadian heavy crude oil exceeds the needs of first and second priority refineries, we would treat the surplus as outside the scope of the CAP.

D. CHANGES IN PRIORITY DESIGNATIONS

We are also proposing to amend § 214.34 to provide for automatic changes in the priority designation of any refinery to reflect seasonal changes in the refinery's access to non-Canadian crude oil. As in the case of base period volume adjustments, changes in priority designation would be based on data reported to us or other information available to the agency. Priority designation changes would be announced either in an allocation notice or an appropriate order and could be made effective at the beginning of or during an allocation period.

E. ALTERNATIVE PROPOSAL TO ESTABLISH SEPARATE CLASSES OF PRIORITY REFINERIES FOR CANADIAN LIGHT AND HEAVY CRUDE OIL

As an alternative to the proposed amendment to § 214.31(d) presented above providing for dual treatment of first priority refineries whose base period volumes are reduced, we are also soliciting comments on whether we should establish separate classes of priority refineries for the allocation of Canadian light and heavy crude oil, respectively. Under this alternative, for which we are not at this time proposing specific regulatory language but nevertheless could adopt as part of this rulemaking, a "first priority refinery" for the allocation of Canadian light crude oil would be defined as any refinery which (1) satisfies the present definition of first priority refinery, (2) processed Canadian light crude oil in the base period, and (3) is not capable of currently replacing 25 percent or more of the Canadian light crude oil that it processed in the base period with non-Canadian crude oil (other than through exchanges for Canadian crude oil) due to lack of access to non-Canadian crude oil delivered through a pipeline or over water by tanker or barge. Note that this 25 percent test is different from the 25 percent test in the present regulation, which provides that a first priority refinery is one whose crude oil runs to stills during the base period were constituted by at least 25 percent Canadian crude oil. "Second priority refinery" would be defined as any priority refinery other than a first priority refinery which processed Canadian light crude oil in the base period and which received an allocation of Canadian light crude oil in the period January 1, 1978 through December 31, 1978.

With respect to Canadian heavy crude oil, "first priority refinery" would be defined as any refinery which (1) satisfies the present definition of first priority refinery, (2) processed Canadian heavy crude oil in the base period, and (3) is not capable of currently replacing 25 percent of the volume of Canadian heavy crude oil that it processed in the base period. "Second priority refinery" would be defined as any refinery other than a first priority refinery which processed Canadian heavy crude oil in the base period and which received an allocation of Canadian heavy crude oil in the period January 1, 1978 through December 31, 1978.

This alternative proposal would retain the current allocation plan for Canadian light crude oil. However, Canadian heavy crude oil would be allocated in accordance with the proposed procedures set forth above.

The rationale for the 25 percent test in the alternative proposal is based on our conclusion that a current first priority refinery which can replace the specified percentage of either light or heavy crude oil is not sufficiently dependent upon the type of Canadian crude oil involved to require first priority status in order to avoid serious economic harm. The alternative proposal would effectively change the priority designation of the Koch and Ashland Minnesota refineries from first to second priority status in recognition of the fact that these refineries apparently have the capability to replace a significant volume of their Canadian feedstocks with non-Canadian crude oil delivered through the Williams Pipe Line Company pipeline and, from April through October each year, by barge on the Mississippi River. On the other hand, the alternative proposal recognizes that the remaining first priority refineries continue to be severely limited in their ability to replace their Canadian feedstocks. Further, this alternative would eliminate from the CAP the large number of second priority refineries that are no longer receiving allocations.

F. REPORTING REQUIREMENTS

The final action proposed in this notice is an amendment to Subpart D of the CAP regulations to eliminate the reporting requirements for second priority refineries which no longer receive allocations of Canadian crude oil. Apart from simplifying the administration of the CAP, this proposal will benefit a large number of second priority refineries which have not received allocations for some time.

II. ADDITIONAL COMMENTS REQUESTED

On February 8, 1978 (43 FR 6206, February 14, 1978), we adopted an amendment to § 214.31(g) governing exchanges and sales of Canadian crude oil to permit first priority refineries dependent upon the diminishing supply of Canadian light crude oil to develop alternate supply sources of non-Canadian crude oil through exchanges of Canadian heavy crude oil. Inasmuch as none of the first priority refineries have used this provision, and given the recent decline in the export level of Canadian heavy crude oil, it is not clear whether the regulations should continue to permit such exchanges. In addition, given the overall decline in the export level of both Canadian light and heavy crude oil, it also is not clear whether the other types of exchanges permitted by § 214.31(g) continue to be of value. Accordingly, we are requesting specific comment on the following possible revisions to § 214.31(g):

a. Prohibit exchanges so that Canadian crude oil would be required to be processed in the refinery to which it is allocated.

b. Prohibit exchanges of Canadian for non-Canadian crude oil.

c. Permit first priority refineries to make exchanges of Canadian crude oil for other Canadian crude oil only, and prohibit exchanges by second priority refineries.

d. Permit first priority refineries to make exchanges as presently provided in the regulations and restrict second priority refineries to exchanges of Canadian crude oil for other Canadian crude oil only.

We also request comments on whether we should amend the procedures for allocating Canadian heavy crude oil to provide that such crude oil would be allocated only to priority refineries which have the capability of receiving and processing it. Such an amendment may be appropriate in the event we determine, on the basis of the comments in this proceeding, to amend § 214.31(g) to prohibit exchanges of Canadian crude oil for non-Canadian crude oil. In addition, a number of refiners have commented to us that it is inconsistent with the CAP's underlying rationale of allocating "wet barrels"—crude oil which can be processed in the recipient refinery—to allocate Canadian heavy crude oil to refineries which do not have the capability to process or receive it.

IV. PROPOSED EFFECTIVE DATE

We intend to issue final regulations with respect to any amendments adopted in this rulemaking in February and make them effective April 1, 1979.

V. COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting data, views, or arguments with respect to the issues set forth in this Notice. Comments should be submitted to the address indicated at the beginning of this Notice and should be identified on the outside envelope with the designation "Revision of Canadian Allocation Program." Fifteen copies should be submitted. All comments that we receive will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue SW., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify separately any information or data you consider to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. PUBLIC HEARING

1. *Procedure to request participation.* The time and place for the public hearing are indicated in the "HEARING" section of this Notice. If necessary to present all testimony, the public hearing will be continued to 9:30 a.m. of the first business day following the hearing date shown above.

You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing. Since it may be necessary to limit the number of persons making such presentations, you should be prepared to describe your interest in this Proceeding, and why you are a proper representative of a group or class of persons that has such an interest, and to give a concise summary of your proposed oral presentation.

We will notify each person selected to be heard before 4:30 p.m., January 10, 1979. Persons scheduled to speak at the hearing must bring 50 copies of their statement to the location of the hearing on the day testimony is presented.

2. *Conduct of the hearing.* We reserve the right to limit the number of persons to be heard at the hearing if necessary in the interests of time, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those officials conducting the hearing, and there will be no cross-examination of persons presenting statement. Each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing. Such questions must be submitted to the same address indicated above for requests to speak, three days before the hearing. In addition, if you decide at a hearing to ask a question, you may submit the question, in writing, to the presiding officer. We will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing

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will be announced by the presiding officer.

A transcript of the hearing will be made, and we will retain the entire record of the hearing, including the transcript, which will be made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, we will notify all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellations or schedule changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact us on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

As required by section 7(a)(1) of the Federal Energy Administration Act of 1974, as amended, as copy of this Notice was submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

Pursuant to the requirement of Section 404 of the Department of Energy Organization Act, upon issuance a copy of this proposed rule will be forwarded to the Federal Energy Regulatory Commission for a determination by it, in its discretion, whether this proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to section 402 (a)(1), (b) and (c)(1) of that Act. The Commission will have until January 26, 1979, the date the public comment period closes, to make this determination.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires that a regulatory analysis be prepared for all significant regulations which will result in "an annual effect on the economy of $100 million or more" or will result in "a major increase in costs or prices for individual industries, levels of government or geographic regions." On the basis of our analysis of the impact of the regulations proposed in this notice on the refineries in the CAP and the market areas they serve, we have determined that the proposed regulations could potentially result in the redistribution of only a small volume of Canadian crude oil among participants in the CAP and, accordingly, will not result in an annual effect on the economy of $100 million and will not result in a major increase in costs or prices for any such refinery or the market areas they serve. Accordingly, a regulatory analysis is not required for this proposed rulemaking.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 1170, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 214 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., November 17, 1978.

HAZEL R. ROLLINS,
Deputy Administrator, Economic Regulatory Administration.

1. Section 214.1 is amended by revising paragraph (b) to read as follows:

§ 214.1 Scope.

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(b) *Applicability.* This part applies to all Canadian crude oil imported after April 1, 1979, except for (1) crude oil authorized for export by the Canadian National Energy Board for the period ending March 31, 1979, that was not actually imported into the United States by that date, (2) Canadian crude oil the export of which is not a factor in the calculations for the maximum export levels fixed by Canada, and (3) Canadian crude oil which ERA determines pursuant to § 214.31(b) is not subject to this part.

2. Section 214.21 is amended by revising the definition of "First priority refinery" to read as follows:

§ 214.21 Definitions.

• • • • •

"First priority refinery" means (i) a refinery (A) of which the crude oil runs to stills in the base period includes at least a 25 percent volume of Canadian crude oil, and (B) of which the volume of Canadian crude oil constituting at least 25 percent by volume of that refinery's crude oil runs to stills in the base period is not capable of currently being replaced with crude oil from sources other than Canada, by reason of a lack of access to crude oil (other than Canadian crude oil) delivered either by means of pipelines with adequate current surplus capacity or through port or barge facilities with adequate docking and storage facilities; or (ii) a facility other than a refinery that consumed or otherwise utilized Canadian crude oil in the base period and where the volume of Canadian crude oil is not capable of currently being replaced with crude oil from sources other than Canada or with alternative fuels by reason of a lack of access to crude oil (other than Canadian crude oil) or alternative fuels delivered either by means of pipelines with adequate current surplus capacity or through port or barge facilities with adequate docking and storage facilities.

3. Section 214.31 is amended by revising subparagraph (3) of paragraph (a) and paragraph (d) to read as follows:

§ 214.31 Allocation of Canadian light and heavy crude oil.

(a) *Basis for issuance of Canadian crude oil rights.* • • •

(3) *Canadian crude oil rights for heavy crude oil.* (i) ERA shall first issue a number of rights for Canadian heavy crude oil for first priority refineries on a pro rata basis with reference to (but not to exceed) one-fourth of their respective base period volumes of Canadian heavy crude oil (as adjusted under the provisions of paragraphs (c) and (d) of this section).

(ii) In the event that the allocable supply of Canadian heavy crude oil for a particular allocation period is greater than the total number of rights calculated under subparagraph (3)(i) of this paragraph, ERA shall issue a number of rights for Canadian heavy crude oil for first priority refineries on a pro rata basis with reference to (but not to exceed) one-fourth of their respective total base period volumes of Canadian crude oil (as adjusted under the provisions of paragraphs (c) and (d) of this section), less the number of rights for Canadian light and/or heavy crude oil issued under subparagraphs (2) and (3)(i) of this paragraph.

(iii) In the event that the allocable supply of Canadian heavy crude oil for a particular allocation period is greater than the total number of rights calculated under subparagraphs (3) (i) and (ii) of this paragraph, ERA shall issue a number of rights for Canadian heavy crude oil for second priority refineries on a pro rata basis with reference to (but not to exceed) one-fourth of their respective base period volumes of Canadian heavy crude oil (as adjusted under the provisions of paragraphs (c) and (d) of this section).

(iv) In the event that the allocable supply of Canadian heavy crude oil for a particular allocation period is greater than the total number of rights calculated under subparagraphs (3) (i) through (iii) of this paragraph, ERA shall issue a number of rights for Canadian heavy crude oil for second priority refineries on a pro rata basis with reference to (but not to exceed) one-fourth of their respective total base period volumes of Canadian crude oil (as adjusted under the provisions of paragraphs (c) and (d) of this section), less the number of rights issued for Canadian light and/or heavy crude oil issued under subparagraphs (2) and (3)(iii) of this paragraph.

(v) In the event that the allocable supply of Canadian heavy crude oil for a particular allocation period is greater than the total number of rights calculated under subparagraph (3)(i) through (3)(iv) of this paragraph, ERA shall issue a number of additional rights for Canadian heavy crude oil for first and second priority refineries on a pro rata basis with reference to their respective nominations for Canadian heavy crude oil to ERA for that allocation period pursuant to paragraph (h) of this section.

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(d) *Adjustments to base period volumes.* (1) Upon application filed with the ERA at least 45 days prior to the beginning of an allocation period, by a refiner or other firm that owns or controls a priority refinery, for purposes of issuances of Canadian crude oil rights under this subpart, the ERA may adjust that priority refinery's reported volume of Canadian light or heavy crude oil, or total volume of Canadian crude oil, included in its crude oil runs to stills or its volume of Canadian light or heavy crude oil, or total volume of Canadian crude oil, consumed or otherwise utilized in the base period to compensate for reductions in volume due to unusual or nonrecurring operating conditions (which shall not include routine shutdowns or turnarounds for normal maintenance or repairs).

(2) The ERA may at any time, for purposes of issuances of Canadian crude oil rights under this subpart and without application by the refiner or other firm concerned, adjust any base period volume referred to in subparagraph (1) of this paragraph if it determines that such volume is inaccurate or not representative of that refiner's or other firm's base period or current operating conditions, or to reflect any change in such priority refinery's access to crude oil from sources other than Canada. The ERA may provide that such adjustments to base period volumes shall become effective at specified times of the year to reflect seasonal changes in such priority refinery's access to crude oil from sources other than Canada.

(3) In the event that the ERA reduces any base period volume referred to in subparagraph (1) of this paragraph of any first priority refinery to reflect any change in such refinery's access to crude oil from sources other than Canada, such refinery will be eligible for an allocation under this section as a first priority refinery to the extent of its based period volume as so adjusted and as a second priority refinery to the extent of the reduction in its base period volume.

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§ 214.34 [Amended]

4. Section 214.34 is amended by revising paragraph (a) to read as follows:

• • • • •

(a) *Supplemental affidavits and changes in initial designation.* Refiners and other firms that own or control priority refineries shall correct any errors contained in affidavits filed pursuant to Subpart D of this part by filing a supplemental affidavit pursuant to § 214.41(b). Affidavits shall be so supplemented to reflect any changes in the access of the refiner or other firm to alternative sources of crude oil. Based on information set forth in any such supplemental affidavit or in any affidavit filed after February 10, 1976, the ERA may change its initial priority designation as to a refinery or other facility, may provide for changes in the priority designation as to a refinery or other facility at specified times of the year to reflect seasonal changes in such refinery's or facility's access to alternative sources of crude oil, may determine that a particular refinery or other facility is no longer eligible to receive Canadian crude oil rights under this part, or may make an initial priority designation as to that refinery or other facility. Any such action taken by the ERA under this paragraph (a) may be based, in whole or in part, on information available to the ERA from sources other than the affidavits filed pursuant to Subpart D of this part.

§ 214.41 [Amended]

5. Section 214.41 is amended by revising paragraph (d) to read as follows:

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(d) *Periodic reports.* (1) On or prior to the thirtieth day preceding each allocation period commencing after March 31, 1979, each refiner or other firm that owns or controls a refinery or other facility that is classified as a priority refinery and which received and allocation under this part for the preceding allocation period shall file with the ERA a report certifying, as to each such refinery or other facility, the estimated volume of Canadian crude oil not subject to this program and crude oil from sources other than Canada to be obtained by or for that refinery or other facility for that allocation period, with a specification as to the type of transaction or transactions involved in obtaining that crude oil.

(2) Within 30 days following the close of each allocation period, each refiner or other firm that owns or controls a priority refinery that received an allocation under this part for that allocation period shall file with the ERA a report certifying, as to each such refinery or other facility: (i) The actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery or other facility for the immediately preceding allocation period (specifying the portion thereof that was obtained through allocations under this program), and (ii) the actual volumes of crude oil from sources other than Canada included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery or other facility for the immediately preceding allocation period.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-05-M]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., Grain Reserve Program Supplement, Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Regulations Governing the Grain Reserve Program for 1976 and Subsequent Crops

MISCELLANEOUS AMENDMENTS

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule authorizes eligible 1978-crop corn to enter the Grain Reserve Program and provides storage payments on the quantity of grain actually measured in excess of the approved reserve loan amount. Continuing storage credit will be made available in any State where producers' prices are less than the state loan rate plus the difference between the national loan and release level. This rule also limits emergency release when inline storage can be found for wheat, sorghum, and barley.

It is desirable to allow 1978-crop corn to enter the Grain Reserve Program in order to attain the desired goals of the program. This will also benefit producers while market prices are depressed.

EFFECTIVE DATE: November 24, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Harold L. Jamison, ASCS, 202-447-7973.

SUPPLEMENTARY INFORMATION:

This rule also corrects inequity caused by the fact that the release level for a commodity is compared with the national average market price for the commodity. Accordingly, very high prices in one area (for example, the June 1978 barley prices) can trigger release from the reserve on a national basis even though prices received by farmers in other areas may be substantially below the release level. The weighting techniques used by Economics Statistics and Cooperative Service in determining national average prices were not fully understood at the time the Grain Reserve Regulations and Agreements were drafted. The change will also benefit CCC which intended to promote redemptions by farmers only if they could realize a profit on their local markets. The change will encourage producers in States with low price levels to keep their grain in the reserve rather than market it. This will allow more orderly marketing of reserve grain and prevent prices in such areas from falling even further below the release level. By keeping such grain in the reserve, the grain will not be marketed in competition with current crop grain, which would tend to drive current crop grain into the current loan program, with attendant costs to CCC. Since this rule will benefit producers wishing to enter eligible 1978-crop corn in the reserve while market prices are depressed, it is essential that these amendments become effective immediately since producers are now harvesting 1978-crop corn.

Accordingly, Mr. Ray Fitzgerald has determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest and, in accordance with the provisions of Executive Order 12044 (43 FR 12661, March 24, 1978), that it is not possible to publish these regulations in proposed form and allow 60 days for public comment.

Accordingly, 7 CFR Part 1421, Subpart—Regulations Governing the Grain Reserve Program for 1976 and Subsequent Crops is amended as follows:

1. Section 1421.531 is amended by revising paragraph (a) to read as follows:

§ 1421.531 Eligible commodities and length of loans.

(a) *Eligible commodities.* All eligible 1976 and 1977-crops barley, corn, oats, sorghum, and wheat, and 1978-crop corn are eligible for grain reserve loans in accordance with § 1421.532.

* * * * * *

2. Section 1421.532 is amended to read as follows:

§ 1421.532 Reserve quantities.

The Secretary will announce the quantity of wheat or feed grains he determines should be stored under this program to promote the orderly marketing of each commodity as far in advance of making loans as practicable. The Secretary may thereafter adjust such quantities in the event he finds that such adjustments are necessary in order to achieve orderly marketing. The quantity of wheat will not be less than 300,000,000 nor more than 700,000,000 bushels, except that such maximum quantity may be adjusted by the Secretary pursuant to an international agreement containing provisions relating to grain reserves. Notice of all such determinations will be published in the FEDERAL REGISTER.

3. Section 1421.533 is amended to read as follows:

§ 1421.533 Program availability.

Producers with farm or warehouse stored, 1976 or 1977 crop wheat or feed grain and 1978-crop corn loans (hereinafter called "regular loan(s)") may participate in the grain reserve program. A producer desiring to participate in the Grain Reserve Program shall file a request to participate not later than the regular loan maturity date for the grain the producer wishes to place in the program. The producer shall request the grain reserve loan at the county ASCS office which disbursed the regular loan. An approved cooperative marketing association shall request a grain reserve loan at the county ASCS office which disbursed the regular loan or at its servicing agent bank which disbursed the regular loan.

4. Section 1421.534 is amended by revising paragraph (b) to read as follows:

§ 1421.534 Eligibility requirements.

* * * * *

(b) *Commodities.* Eligibility of producers to place wheat and feed grains into the reserve program will be on a

first come, first serve basis. After the quantities established pursuant to § 1421.532 have been accomplished, the program will be closed to new applicants.

. . . . .

5. Section 1421.540 is amended by revising paragraphs (b) and (d) to read as follows:

§ 1421.540 Storage payments.

. . . . .

(b) Storage payments for farm stored grain reserve loans shall be based on the regular loan quantity, except that such payments can be based on the quantity measured for reserve loan when such measured quantity is more than the regular loan quantity.

. . . . .

(d) *Eligible storage credit.* Storage credit shall be allowed for the duration of the loan except that no storage credit shall be earned between the day following the second consecutive CCC announcement that the national average market price for the commodity is equal to or exceeds the release level and the date of a subsequent announcement by CCC that the market price is again below the release level. Except that credit will cease following the second consecutive CCC release announcement, except that, notwithstanding the provisions of paragraph 2 of the Farm Storage Grain Reserve Agreement (Form CCC-701) and the Warehouse Storage Grain Reserve Agreement (Form CCC-700), storage credits will continue to be earned by farmers if their States' mid-month average price received by farmers where the crop is stored (as announced by the Economics, Statistics, and Cooperatives Service) is less than such State's average loan level, plus the difference between the national average loan rate and the release level. Any unearned storage will be subtracted from any future storage payments or will be collected when the loan is redeemed or forfeited to CCC.

. . . . .

6. Section 1421.543 is amended as follows:

(a) By deleting the words "Statistical Reporting Service" in paragraph (a) wherever they appear; and substituting "Economics Statistics and Cooperatives Service."

(b) By amending paragraph (b)(1)(ii) to read as follows:

§ 1421.543 Release levels, redemption, requirements, and early redemption charges.

. . . . .

(b) *Redemption or voluntary forfeiture of commodity below release levels.* (1) • • •

(ii) *Emergency release.* In case of warehouse loans, if it is determined by CCC that storage space is no longer available and approved in-line storage for wheat, sorghum, and barley cannot be found, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and may retain earned storage payments. In the case of farm storage loans, if it is determined by CCC that there is insect infestation which cannot be controlled, the commodity is subject to damage by flood or fire, there is damage to the structure, the producer has lost control of the storage structure, or the commodity is going out of condition, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and retain earned storage payments.

. . . . .

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); sec. 110, 63 Stat. 1051, as amended (7 U.S.C. 1445e.)

NOTE: An economic impact analysis is available from Orville Overboe, P.O. Box 2415, Room 3619 South Building, Washington, D.C. 20013.

Signed at Washington, D.C., on November 24, 1978.

RAY FITSGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-33456 Filed 11-24-78; 4:53 pm]

[3410-05-M]

PART 1435—SUGAR

Subpart—Extended 1977 Crop Sugar Loans

TERMS AND CONDITIONS

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the terms and conditions under which the maturity dates of 1977 crop sugar loans may be extended. Sugar eligible for extension of loan maturity date is limited to that quantity outstanding under loan as of the maturity date specified in the Farm Storage Note and Security Agreement. The period of extension is until September 30, 1979, although Commodity Credit Corporation (CCC) may accelerate the maturity date. While properly maintained in extended loan status in approved storage, such sugar will earn storage payments at the rate of 0.3 cent per pound per year for raw cane sugar and 0.7 cent per pound per year for refined beet sugar. Processors may redeem all or any part of an extended loan at any time prior to its extended maturity date. After the extended maturity date, the processor may forfeit to CCC any unredeemed quantity. This rule is needed in order that 1977 crop sugar loans may be extended.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Laurence E. Acklind, ASCS, PSD, (202-447-5647), P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 902 of the Food and Agriculture Act of 1977 (Pub. L. 95-113, 91 Stat. 949, effective October 1, 1977) amended Section 201 of the Agricultural Act of 1949 to provide that the price of the 1977 and 1978 crops of sugar beets and sugarcane shall be supported through loans or purchases with respect to the processed products thereof.

On November 11, 1977, a final rule was published in the FEDERAL REGISTER (42 FR 58734) implementing a program effective as of November 8, 1977, to support prices in the marketplace for producers of 1977 crop sugar beets and sugarcane through nonrecourse loans made to sugar processors. The price support loan program for the 1977 crop was amended on May 17, 1978 (43 FR 21317), on August 23, 1978 (43 FR 37419), on August 30, 1978 (43 FR 38686), and on October 30, 1978 (43 FR 50409).

Indications are that, because of a lack of market opportunity, about 300,000 tons of sugar will not redeemed from loan by existing maturity dates. Extended loan maturity dates provide an additional option to processors, which offers advantages both to processors and to the government:

1. The processor can retain title to the sugar for a longer time and the opportunity for redemption and subsequent additional income to processors and producers will be enchanced.

2. Since a participating processor will have the opportunity for additional proceeds on the sugar at no risk (he can still forfeit at the end of the extended period), he will have additional incentive to construct or otherwise arrange for needed storage.

3. To the extent that duties and fees on sugar imports support the higher 1978 sugar loan rates, 1977 extended loans may be redeemed, and CCC will not have the burden of such sugar, which cannot be sold at less than 105 percent of the 1978 loan rate and which would probably have to be carried by CCC for some time.

4. To the extent that duties and fees do not support redemption of extended loans and such loans are ultimately forfeited, CCC will be no worse off than if title were taken earlier because, in any case, CCC will incur storage costs from the original maturity date. The responsibility for maintaining quantity and quality will remain with the processor during this period.

On November 2, 1978, a proposed rule for extending 1977 crop loans was published in the FEDERAL REGISTER (43 FR 51026). Interested persons were asked to comment on the proposal and were particularly requested to present data which would be useful in establishing storage payment rates applicable to sugar during the period it is in extended loan status.

Four comments were received on behalf of sugar processors, one from a beet growers' association, one from a State ASC Committee, and one from an interested private individual. All but the private individual supported the principle of loan extension. Three processor representatives and the grower's association offered additional suggestions.

The Amalgamated Sugar Company of Ogden, Utah, suggested that the processor should have the right to relocate subject sugar at the Government's expense. This is already permissible under existing regulations for loan sugar intended for eventual forfeiture; however, such relocation costs must be repaid, plus interest, for loan sugar redeemed.

The Rio Grande Valley Sugar Growers, Inc., of Santa Rosa, Texas, felt that the storage rate should equal or exceed the monthy loan interest charges outstanding from the prior loan period. The Nyssa-Nampa Beet Growers Association of Nyssa, Oregon, suggested that, in addition to actual storage costs, a one-time handling charge of 30 cents per hundredweight should be included in storage reimbursement. The Florida Sugar Marketing and Terminal Association, Inc., representing several Florida raw cane sugar processors with outstanding 1977 crop loan sugar, recommended, a storage rate of 0.75 cent per pound per year, of which 0.517 cent per pound represents costs of relocating loan sugar to alternate storage (transportation and loading-in and loading-out).

In response to the various suggestions for reimbursement of other costs, the Department does not believe that non-storage costs should be included in storage reimbursement. The intent of loan extension is only to permit processors to retain title and redemption rights to loan sugar for a longer period without, on average, incurring additional storage expense during the period of extension.

The private individual who opposed loan extension felt that the action represents continued subsidization and that the price of sugar should be permitted to go down. No specific objection was expressed to extending loans.

Only one respondent submitted storage costs for raw cane sugar. The Florida Sugar Marketing and Terminal Association, which is now in the process of relocating about 150,000 tons of loan sugar (indicated for forfeiture to CCC) to a new facility leased at Jacksonville, Florida, indicated that storage costs, analyzed in terms of average occupancy, will be slightly in excess of 0.233 cent per pound per year. The Department has also been informed by another person in Florida that he has offered to store sugar for a rate of 0.225 cent per pound per year. After consideration of this and other information available to the Department, which indicates somewhat higher storage costs, it has been determined that a storage reimbursement rate of 0.3 cent per pound for cane sugar, raw value, would be reasonable and is, therefore, adopted. Only the Nyssa-Nampa Beet Growers Association reported on the commercial cost of storing refined beet sugar. Their reported rate for traditional outside storage was 0.7 cent per pound per year, but the association stated that additional "non traditional storage could run as high as 1.0 cent per pound per year." Data regarding the cost to CCC of storing non-fat dry milk, which must be stored under conditions of controlled temperature and humidity similar to those required for refined sugar, indicates a simple average cost of 0.77 cent per pound per year. This data indicates that the recommended storage rate of 0.7 cent per pound per year for refined beet sugar is reasonable. It is accordingly adopted.

An approved final Impact Analysis Statement is available from Laurence E. Ackland, Room 5761, South Building, USDA, Washington, D.C. 20250.

Accordingly, Chapter XIV of Title 7 of the Code of Federal Regulations is amended by adding a new Subpart—Extended 1977 Crop Sugar Loans—to Part 1435 which reads as follows:

Subpart—Extended 1977 Crop Sugar Loans

Sec.
1435.45 General statement.
1435.46 Applicability of the regulations governing price support loans for 1977 crop sugar beets and sugarcane.
1435.47 Eligibility requirements.
1435.48 Period of extension.
1435.49 Storage payment.
1435.50 Commingling.
1435.51 Substitution.
1435.52 Loss or damage.
1435.53 Loss of storage payments.
1435.54 Applicable forms.

AUTHORITY: Secs. 201 and 401 *et seq.* of the Agricultural Act of 1949, as amended (7 U.S.C. 1446, 1421 *et seq.*).

Subpart—Extended 1977 Crop Sugar Loans

§ 1435.45 General statement.

(a) The regulations in this subpart set forth the terms and conditions for the extension of maturity dates for 1977 crop sugar price support loans evidenced by Farm Storage Note and Security Agreements and by Sugar Loan Addenda thereto.

(b) In order to obtain an extended 1977 crop sugar loan, a processor must file an application requesting an extended loan with the loan making office and have such application approved by that office. The extended loan granted under this subpart will be due on September 30, 1979, or such earlier date as CCC may make demand for payment. A producer may redeem his loan, or deliver the sugar covered by such loan to CCC, on the terms and conditions contained in this subpart.

(c) As used in the regulations in this subpart "CCC" means the Commodity Credit Corporation.

§ 1435.46 Applicability of the regulations governing price support loans for 1977 crop sugar beets and sugarcane.

The following sections of the regulations, as amended, governing the price support loan program for 1977 crop subarbeets and sugarcane shall also be applicable to extended 1977 crop sugar loans: §§ 1435.16; 1435.17; 1435.19; 1435.22(a), (b), (d), (f), and (g); 1435.23(a); 1435.24; and 1435.25.

§ 1435.47 Eligibility requirements.

(a) *Processor.* A processor shall be eligible to obtain a loan extension if the processor has eligible raw cane sugar or refined beet sugar under a 1977 price support loan.

(b) *Quantity.* The quantity eligible for extension of loan and for storage payment credit shall not exceed the loan balance outstanding upon the original maturity date of the loan.

(c) *Final dates.* The processor must apply for an extension of loan no later than November 30, 1978, for loans maturing on November 30, 1978, and no later than two weeks prior to the original maturity date of the loan for other loans.

(d) *Inspections.* Prior to approval for an extension of loan, the sugar shall be inspected by a representative of the loan-making office. An extension of loan will not be approved unless it is determined that the storage structure is eligible and the quality of the sugar is such that it can reasonably be expected to be stored with safety for the extended storage period.

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§ 1435.48 Period of extension.

The maturity date for all loans extended shall be September 30, 1979, or such earlier date as CCC may make demand for payment.

§ 1435.49 Storage payment.

(a) *Storage credit.* Credit will be given for each full day of storage beginning on the day following the original loan maturity date. Storage credit will cease, for the extended loan quantity involved, on (1) the date of loan repayment, (2) the date of approval for removal of loan collateral from storage for delivery to a buyer prior to repayment of the loan, (3) the date of occurrence of any loss or damage to be assumed by CCC, or (4) the date a shortage in loan collateral is determined, whichever is earlier.

(b) *Storage rate.* The payment rate shall be .0008219 cent per pound per day for extended cane loan sugar, raw value, receiving storage credit and .0019178 cent per pound per day for extended refined beet loan sugar receiving storage credit.

(c) *Frequency and method of storage payments.* Storage payments shall be made on a quarterly basis during the extended loan term. Final storage payments will be made at the time loan collateral is redeemed or upon settlement. Disbursement of storage payments will be made by means of sight drafts drawn on CCC and issued by the loan-making office.

§ 1435.50 Commingling.

(a) *When permitted.* The loan-making office may permit:

(1) A processor to commingle quantities of sugar which are under more than one extended loan.

(2) Two or more processors to commingle quantities of sugar under extended loan.

(3) Sugar under extended loan to be commingled with sugar under 1978 crop price support loan and sugar not under price support loan (including forfeited sugar owned by CCC).

(b) *Special conditions.* Notwithstanding any other provision governing extension of loans, if it is determined that the total quantity determined to be in a storage facility is less than the total loan collateral and CCC-owned sugar requied to be therein maintained, the shortage shall be proprated to each processor whose loan sugar is in the facility based on the ratio of that portion of his outstanding loan quantity which is represented to be in the facility to the total outstanding loan collateral contained in the storage facility. Any shortage of sugar attributed to a processor shall be considered to be, to the extent possible, from the loan with the earliest disbursement date.

§ 1435.51 Substitution.

Sugar of the same or a subsequent crop year may be substituted for existing extended loan collateral if the required quantity of extended loan collateral is maintained in approved storage space at all times and if prior permission for substitution is obtained from the loan-making office.

§ 1435.52 Loss or damage.

The processor is responsible for any loss in quantity or quality of sugar under loan, except that CCC will bear the loss, or its pro rata share of the loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC each of the following conditions: (a) The loss or damage occurred without fault or negligence on the part of the processor; (b) The processor gave the State committee immediate notice if the loss or damage resulted solely from an external cause such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (c) If the processor knew or should have known that the sugar was going out of condition or was in danger of going out of condition, the processor notified the loan-making office and confirmed such notice in writing; and (d) The processor made no fraudlent representation in the loan or loan extension documents or in obtaining or extending the loan.

§ 1435.53 Loss of storage payments.

Notwithstanding any other provisions concerning price support sugar loans, in no case will any storage payment for any quantity of sugar designated for extension of loan be made: (a) If the processor has made any false representation in the extension of the loan or in its settlement; or (b) If there has been unauthorized disposition of the commodity with intent to defraud on the part of the processor. If a processor received payment of any amount to which he is entitled, he shall refund such amount plus interest thereon promptly upon demand.

§ 1435.54 Applicable forms.

The forms for use in connection with extended sugar loans will be made available by the State committee.

Signed at Washington, D.C., on October 22, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-33390 Filed 11-24-78; 2:23 pm]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket Nos. ERA-R-77-3 and ERA-R-77-15]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendment To Allow Refiners To Allocate Increased Costs to Gasoline on a Greater Than Pro Rata Volumetric Basis; Suspension of Effective Date; Amendment to Permit the Passthrough by Service Station Operators of Costs for Vapor Recovery Systems and Increased Service Station Rents; Suspension of Effective Date

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Suspension of Effective date of Final Rules.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby provides notice that it is suspending the December 1, 1978 effective date of the final rules permitting refiners to allocate additional increased costs to the price of gasoline and retail dealers to pass through increased costs associated with installation of vapor recovery systems and rent increases. This action is being taken to provide the Federal Energy Regulatory Commission (FERC) with sufficient time to determine whether these amendments may significantly affect certain functions within its jurisdiction within the meaning of section 404(a) of the Department of Energy Organization Act. If the FERC determines that the rules may not significantly affect such functions, or if it fails to make any determination by December 20, 1978, the rules will become effective January 1, 1979.

DATES: Each rule will become effective January 1, 1979 unless the FERC determines that the amendment may significantly affect a function within its jurisdiction.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic regulatory Administration, 2000 M street, NW., Room B110, Washington, D.C. 20461, 202-634-2170.

Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Ben McRae (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION: On October 22, 1978, the ERA issued a final rule (43 FR 50388, October 27, 1978), effective December 1, 1978, which will permit refiners to allocate increased costs to gasoline on a greater than pro rata volumetric basis. On October 22, 1978, another final rule (43 FR 50662, October 30, 1978), also effective December 1, 1978, was issued to allow retail gasoline dealers to pass through rent increases and the costs of vapor recovery systems incurred since May 15, 1973. The operation of these rules and the requests made therein for further comments are explained in detail in the preambles to the rules.

Section 404(a) of the Department of Energy Organization Act (Pub. L. 95-91, "DOE Act") requires the Secretary of Energy to notify the FERC when he proposes to prescribe rules and regulations in the exercise of any function transferred to him under section 301 or 306 of DOE Act, including the petroleum pricing and allocation functions authorized by the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93-159, "EPAA"). Section 404(a) further provides in relevant part that

[I]f the Commission, in its discretion, determines within such period as the Secretary may prescribe, that the proposed action may significantly affect any function within the jurisdiction of the Commission pursuant to section 402(a)(1), (b), and (c)(1), the Secretary shall immediately refer the matter to the Commission, which shall provide an opportunity for public comment.

Subsequent to the activation of the DOE on October 1, 1977, the notices of proposed rulemaking (42 FR 9675, February 17, 1977 and 42 FR 22374, May 3, 1977) which culminated in the above-mentioned final rules were referred to the FERC for a determination of whether they may significantly affect a function within its jurisdiction, without prescribing a date certain on or before which the determination was required to be made. The final rules were issued by ERA notwithstanding that the Commission had not yet made any determination with respect to either proposed rule under section 404(a). These procedural omissions were subsequently brought to ERA's attention, and accordingly it is issuing this notice to suspend the December 1 effective date of both final rules in order to provide the FERC with sufficient time to make the necessary determinations under section 404(a).

Concurrent with the issuance of this notice, ERA is notifying the FERC that it will have until December 20, 1978 to determine whether the proposed rules may significantly affect a function within its jurisdiction. If the FERC determines by that date that either of the proposed rules may not significantly affect such a function, or if it fails to make a determination by that date, that rule will become effective on January 1, 1979. On the other hand, if the Commission determines that either rule may significantly affect a function within its jurisdiction, the ERA will immediately refer that proposed rule to the FERC as prescribed by section 404(a). In either event, prior to January 1, 1979 the ERA will provide the public with notice of the FERC's actions and whether the rules will become effective on January 1, 1979.

Issued in Washington, D.C., November 24, 1978.

HAZEL R. ROLLINS,
Acting Administrator, Economic Regulatory Administration.

[FR Doc. 78-33457 Filed 11-28-78; 8:45 am]

[6450-01-M]

SUBCHAPTER E—ALTERNATE FUEL

[Docket No. ERA-R-78-21]

PART 515—TRANSITIONAL FACILITIES

Clarifying Amendment to Interim Rule To Permit Classification of Certain Powerplants and Installations as Existing Facilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Clarifying amendment to interim rule.

SUMMARY: On November 16, 1978, the Economic Regulatory Administration (ERA) issued interim rules to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act"). The interim rules permit ERA to classify certain major fuel burning installations and powerplants which began substantial construction or acquisition after April 20, 1977, and before November 9, 1978, as existing facilities under the Act. The interim rules were made effective upon publication in the FEDERAL REGISTER and appear at 43 FR 54912 (November 22, 1978). ERA is now amending those interim rules in order to make clear that petitions filed with ERA pursuant to such interim rules must be filed no later than 15 days after the interim rules are made final following the close of the public comment period on January 15, 1979.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Barton House (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street NW., Washington, D.C. 20461, 202-254-3905.

(Department of Energy Organization Act, Pub. L. 95-96; Powerplant and Industrial Fuel Use Act; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 515 of Subchapter E, Chapter II, Title 10 of the Code of Federal Regulations is amended as follows to be effective immediately.

Issued in Washington, D.C., November 24, 1978.

HAZEL R. ROLLINS,
Acting Administrator, Economic Regulatory Administration.

1. Section 515.1(b) is deleted and the following is inserted in lieu thereof:

§ 515.1 Policy.

. . . . . .

(b) If you commenced acquisition or construction of your facility between April 20, 1977 and November 9, 1978 (the date of FUA's enactment), your facility is considered "new" under the act unless you petition ERA to be classified as "existing" no later than 15 days after the date these interim regulations are made final. These interim regulations, which are effective upon publication, will not be made final until after the close of the public comment period on January 15, 1979. If ERA determines that your facility meets the criteria for eligibility in §§ 515.3(a) or 515.4(a) below, your units will be categorized a "transitional facility" pending ERA's determination.

2. Section 515.28(b) is deleted and the following is inserted in lieu thereof:

§ 515.28 General filing requirements.

. . . . . .

(b) *When you submit*

You must submit your petition under the provisions of this Part no later than 15 days after the date these rules are made final.

[FR Doc. 78-33528 Filed 11-27-78; 2:40 pm]

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[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0155]

PART 226—TRUTH IN LENDING

Official Staff Interpretation; Suspension of Effective Date and Republication for Public Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Effective date of official staff interpretation suspended; its text reprinted for public comment.

SUMMARY: The Board is suspending the effective date of official staff interpretation FC-0155, regarding § 226.8(c) disclosures, published on October 17, 1978 (43 FR 47719) and is republishing it for public comment. The agency is taking this action in response to a request for public comment submitted in accordance with 12 CFR Part 226.1(d)(3). The letter requesting a comment period is published below and immediately precedes the text of the official staff interpretation.

DATES: The effective date of FC-0155 is suspended until further notice. Comments must be received on or before December 29, 1978.

ADDRESS: Comments (including reference to FC-0155) to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: (1) The effective date, November 16, 1978, of official staff interpretation FC-0155 is suspended in accordance with 12 CFR Part 226.1(d)(2)(ii). The text of the letter requesting the opportunity for public comment appears below. This interpretation will not go into effect until final action is taken. Notice of such action will be published in the FEDERAL REGISTER in approximately 60 days and will become effective upon publication.

(2) The text of official staff interpretation FC-0155 is republished for comment with the exception of language pertaining to its former effective date. Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(3) Interested persons are invited to submit relevant comments. All material should be submitted in writing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than December 29, 1978. Comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(4) After comments are considered, this official staff interpretation may be amended, may be rescinded or may remain unchanged. Final action regarding this official staff interpretation will appear in the FEDERAL REGISTER.

(5) Authority: 15 U.S.C. 1640(f).

FEDERAL TRADE COMMISSION,
BUREAU OF CONSUMER PROTECTION,
Washington, D.C., November 9, 1978.

Re: Federal Reserve Board Proposed Official Staff Interpretation No. FC-0155—Published 43 Fed. Reg. 47,719 (October 17, 1978.)

THEODORE E. ALLISON,
Secretary, Board of Governors of the Federal Reserve System, Washington, D.C.

DEAR MR. ALLISON: The Division of Credit Practices staff respectfully requests that the effective date of proposed Federal Reserve Board Official Staff Interpretation No. FC-0155 be suspended and that the interpretation be republished in the FEDERAL REGISTER for public comment, pursuant to Section 226.1(d)(2)(ii) of Regulation Z. The interpretation would permit creditors to combine or omit disclosures required by Section 226.8(c) which are "identical" or "inapplicable," in effect recodifying informal staff opinions in Public Information Letters No. 213 (December 16, 1969), 536 (September 23, 1971), and 740 (December 28, 1973). Accordingly, for example, in a transaction where there are no Section 226.8(c) (4) or (6) charges, a creditor would have three disclosure options: (1) combine the "unpaid balance of cash price," "unpaid balance," and "amount financed" into one composite disclosure; (2) combine any two of these terms into one disclosure and omit the third; or (3) disclose any one of these three terms and omit the other two.

In our opinion, public comment on this proposed interpretation would be appropriate for the following reasons:

(1) Since the proposed interpretation has the effect of reducing the number of required disclosures, thus "simplifying" compliance with the Truth in Lending Act, it is substantive and not interpretative in nature. Although we agree that compliance should be simplified and a reduction in the number of required disclosures considered, an official staff interpretation is not felt to be an appropriate vehicle for accomplishing this purpose. A substantial change in existing disclosure requirements should be effected through an amendment to Regulation Z or the Act itself.

(2) As written, the proposed interpretation would reduce the comparability of available terms, thus hampering the informed use of credit, contrary to the most basic purpose of the Truth in Lending Act. Key credit *terms*, such as the "amount financed," must be disclosed, even where corresponding *dollar amounts* are identical to other terms. To allow otherwise renders comparability a nullity. Further, we are aware of no other simplification proposal which would allow deletion of the "amount financed" from the required disclosures, nor can we think of any reason to do so. Where the "unpaid balance of cash price," "unpaid balance," and "amount financed," are the same, however, we would agree that there should be no requirement to disclose more than the "amount financed," using that term, for credit shopping purposes.

(3) Numerous courts have reached decisions contrary to this proposed interpretation (including at least one U.S. Court of Appeals and several district courts). Although the effect of such conflicts on the status of official staff interpretations is uncertain, one reasonable interpretation of Section 130(f) of the Truth in Lending Act is that there can be no "good faith" reliance on such an interpretation when a court has already determined that the position taken is invalid. If the Board wishes to change the interpretation given to Section 226.8(c) of Regulation Z, it should do so by regulation.

We will submit more detailed comments on the above issues following republication. Your consideration is appreciated.

Sincerely,

LEWIS H. GOLDFARB,
Assistant Director for Credit Practices.
GEORGE J. ZWEIBEL,
Attorney,
Division of Credit Practices.

12 CFR Part 226, FC-0155

§ 226.8(c)—Where disclosures required by § 226.8(c) are repetitive or inapplicable, the disclosure of such terms may be combined or omitted, for example, "unpaid balance," "unpaid balance of cash price," and "amount financed."

SEPTEMBER 21, 1978.

This is in response to your letter of * * *, requesting an offical staff interpretation of § 226.8(c) of regulation Z.

You state that your client, a publicly held corporation owning and operating health spa facilities, offers spa memberships to the public on credit. You indicate that your client imposes a charge for credit and makes credit sale disclosures pursuant to § 226.8(c).

Although disclosure of the "unpaid balance" is required by § 226.8(c)(5), your client omits this disclosure because no other charges, within the meaning of § 226.8(c)(4), are added to the "unpaid balance of cash price" and consequently, the "unpaid balance" would be identical to the "unpaid balance of cash price." You state that your client relies on the wording of § 226.8(c) that only applicable items need to be disclosed to justify omitting the disclosure of "unpaid balance." In addition, you note that public information letters 213, 536, and 740 support this position. These letters reason that where certain charges are omitted and required terms (for example, "cash price" and "amount financed") are identical in amount, the disclosure of one or more such terms may be inapplicable and the terms may be combined or omitted as appropriate. Letter 536 specifically approved omitting the term "unpaid balance" where there are no other charges to be disclosed pursuant to § 226.8(c)(4) and no prepaid finance charges or required deposit balances to be disclosed pursuant to § 226.8(c)(6).

You request that the staff issue an official interpretation reiterating these informal positions taken previously concerning omission of the term "unpaid balance." In particular, you ask whether it would be proper to make a single disclosure either combining the "unpaid balance of cash price" and the "amount financed" and omitting the "unpaid balance" or combining the "unpaid balance of cash price," the "unpaid balance," and the "amount financed" where there are no § 226.8(c) (4) or (6) charges. The staff believes that the positions taken in the letters previously cited are correct and that either of the combined disclosures which you suggest would be permissible.

However, as you note, there are at least two Federal district courts which apparently have reached decisions contrary to the opinion expressed in this letter. The effect of an official staff interpretation that is contrary to such decisions is uncertain. Therefore, the staff believes that the most prudent course is to follow the court decisions in those jurisdictions in which a court has addressed the issue.

This is an official staff interpretation of § 226.8(c) of regulation Z, issued in accordance with § 226.1(d)(2) of the regulation and limited in its application to the facts and issues discussed herein.

Although you enclosed a copy of your client's disclosure form with your letter, nothing here should be construed as either a review or approval of any portion of that form.

I trust this is responsive to your inquiry.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, November 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33450 Filed 11-28-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER 1—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

PART 259—GUIDE CONCERNING FUEL ECONOMY ADVERTISING FOR NEW AUTOMOBILES

Final Interim Guide Amendments

AGENCY: Federal Trade Commission.

ACTION: Notice of final interim guide amendment.

SUMMARY: The Federal Trade Commission herein amends on an interim basis its former Fuel Economy Guide. The amended Guide requires disclosure of the EPA "estimated mpg" whenever fuel economy representations are made. It permits the use of other fuel economy estimates, but requires that: (1) any such figures be accorded substantially less prominence than the "estimated mpg," and (2) such other figures be accompanied by certain additional information.

EFFECTIVE DATE: December 29, 1978.

ADDRESSES: Inquiries and requests for copies of the Guide should be directed to the Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Marylin Holmes, 202-724-1964.

SUPPLEMENTARY INFORMATION: On September 10, 1975, the Federal Trade Commission promulgated a Guide Concerning Fuel Economy Advertising for New Automobiles (40 FR 42003). The Commission issued a Guide instead of a trade regulation rule because of questions concerning Environmental Protection Agency test procedures and criticism that the EPA test results, primarily those relating to highway mileage, may overstate fuel economy.

The 1975 Guide required:

(1) Disclosure of EPA city and highway test results whenever fuel economy claims were made. This requirement applied to advertisements containing specific mileage figures and to those making more general claims like "saves gas" or "gas stingy engine." Both the city and the highway estimated fuel economy figures had to be disclosed in close conjunction with the other and with substantially equal prominence.

(2) Qualification of the EPA test results. The Guide required disclosure that the cited figures were estimates, and that actual mileage obtained by the consumer might be different, depending upon how and where the consumer drives, the condition of the car and its optional equipment.

(3) Identification of the advertised vehicle's engine size, transmission type, or fuel system, when the advertised vehicle was available in more than one configuration. The Guide required additional disclosures about the use of optional equipment or the absence of commonly-used equipment for cars not tested according to EPA requirements.

The Environmental Protection Agency recently changed its requirements for fuel economy disclosures on labels, issued pursuant to the Energy Policy and Conservation Act of December, 1975. Until this year, EPA had required disclosure of three figures: city, highway, and a number combining the two. Criticism of the non-city numbers, recognized by this Commission when the original Guide was promulgated, has persisted despite certain technical improvements in the test procedures. Studies conducted by the Environmental Protection Agency and the Department of Energy have indicated that the combined and highway figures overstate the experience of most ordinary drivers. On May 17, 1978, the Environmental Protection Agency published new interim label requirements, mandating the disclosure of a single "estimated mpg" figure beginning with 1979 model year automobiles (43 FR 21412).

Because of the change by EPA in its labeling requirements and the widespread public dissatisfaction with the highway estimates mandated by the original FTC Guide, the Commission, on August 4, 1978, published proposed interim amendments to the Guide (43 FR 34496) and invited public comment for one month. A total of twenty-one written comments were submitted and placed on the public record: nine from consumer groups, six from domestic and foreign automotive manufacturers, two from federal agencies, and four form individual consumers.

The notice published for comment in August, 1978, included three alternative approaches to disclosures in advertising. Common to all three were a requirement that "estimated mpg" figures be disclosed whenever fuel economy representations were made, and a prohibition on the use of non-EPA estimates.

SECTION A. PUBLISHED PROPOSALS

1. ALTERNATIVE A

The first published alternative would have prohibited the use of any non-"estimated mpg" figures (§ 259.2(d)), except that provision was made for advertising the incremental highway mileage improvement achieved by vehicles equipped with special highway-efficient features. The Commission believed that this approach might avoid any deception caused by inflated highway or combined figures, yet not discourage product developments affording highway fuel economy benefits.

2. ALTERNATIVE B

The second published proposal would have permitted use of highway or combined figures, but only if the "estimated mpg" was also disclosed and given substantially more prominence.

The original Guide issued in 1975, premised on an understanding that approximately half of consumers' driving

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is done on highways and half in the city, required that both numbers be disclosed in close conjunction and with substantially equal prominence. The Commission was particularly concerned that the highway number might appear in a headline, and the city estimate in a footnote or buried in lengthy body copy.

Recent studies casting additional doubt on the reliability of the combined and highway numbers as predictors of actual fuel economy suggest the 1975 Guide is inadequate to prevent deception. Unless the "estimated mpg" is emphasized, the higher numbers, presented with equal or greater prominence, are likely to deceive consumers.

3. ALTERNATIVE C

The third published alternative was based on a belief that according substantially greater prominence to the "estimated mpg" was necessary, but not sufficient, to avoid deception. This alternative (§ 259.2(d)(ii)–(iv)) would have required additional disclosures if advertisers chose to present the highway or combined numbers. Alternative C would have required a statement that the "estimated mpg" is the best number for comparing cars; and that the highway number does not represent freeway mileage, but rather is based on a nonstop trip, under dry, warm weather conditions, on flat roads, at an average speed of 48 mph, in a well-tuned vehicle. The combined number, if disclosed, would have triggered disclosures that the estimated mpg was to be used for comparison purposes, that the combined estimate was an average of two laboratory tests, weighted 55 percent city and 45 percent highway, and that the highway cycle simulates an open road trip, at an average speed of 48 mph, under dry, warm weather conditions.

SECTION B. PUBLIC COMMENTS

Although the comments the Commission received on the published proposals reflect a variety of opinions and sources, the majority agreed that the EPA numbers required by the original Guide contain certain deficiencies. Most commenters believe that the public benefits from orderly, uniform fuel economy representations, and that a significant conflict between the labels and advertising could undermine the government's efforts to help consumers conserve energy and make informed purchasing decisions.

Most industry members urged that the Guide permit the use of highway estimates, and suggested revisions to the proposed disclaimers. One manufacturer expressed a belief that advertisements must be as consistent as possible with labels to avoid consumer confusion, and so recommended banning the use of fuel economy numbers other than the "estimated mpg." Two automakers urged that the Guide, unlike all of the proposed alternatives, permit use of non-EPA figures in advertising, as had the original Guide. Finally, industry members urged that they be given some time to bring their advertising into conformance before the Guide's requirements took effect.

The consumer groups were generally in favor of a ban on highway estimates, believing the "estimated mpg" was more reliable and that a single number system would facilitate comparisons.

The Department of Energy stated that the primary problem with the EPA numbers is deficiencies in the test procedures. DOE recommended that the Commission adopt Alternative B, which entailed the least change from the present system and therefore would cause the least confusion. The Department of Transportation supported Alternative B, but suggested modifications resembling the disclaimers in Alternative C. The written opinions were helpful to the Commission in developing its final interim Guide. The specific determinations underlying the provisions of the amended Guide are described below. The Commission has decided to promulgate Alternative C, with certain changes.

SECTION C. GUIDE PROVISIONS

1. SCOPE OF THE GUIDE

In response to suggestions by two commenters, the scope of the Guide as applicable to express and implied claims has been clarified (see footnote 1). The Commission has determined that the Guide will apply to any representation which ordinary consumers would understand as referring to the fuel economy performance of the advertised vehicle.

2. DISCLOSURE OF THE "ESTIMATED MPG"

By requiring the disclosure of the "estimated mpg" (§ 259.2(a)(1)) and requiring that it be so identified rather than as the "city estimate" (unless certain requirements are met, § 259.2(d)), the Guide brings advertising into conformance with the new EPA labels.

3. THE DISCLAIMERS ACCOMPANYING THE "ESTIMATED MPG"

Like the EPA labeling regulation, the Guide requires a disclosure that the "estimated mpg" should be used for comparison purposes. In considering whether to warn consumers that their mileage might be "poorer" than or merely "different" from the "estimated mpg," the Commission considered the evidence that approximately 50% of the public has achieved or surpassed the city estimate in the past. Most comments submitted asserted that the proposed "poorer" disclosure would unduly denigrate the entire information system and discourage reliance on the "estimated mpg." The Commission agrees that advertisements should be permitted to state that actual mileage may "differ," even though this departs from the EPA's labeling disclaimers.

Instead of the original Guide's required disclosure that actual mileage may vary depending on vaguely defined conditions, the Commission has decided to require disclosure of three of the variables most likely to affect mileage performance: driving speed, trip length, and weather conditions. This is a departure from past advertising, the alternatives proposed, and present labeling requirements, but these new disclosures should help consumers adjust their expectations about the applicability of the EPA estimates.

4. ENGINE SIZE, TRANSMISSION TYPE, AND FUEL SYSTEM

The Guide, as amended, no longer requires the disclosure of the advertised vehicle's engine size, transmission type, or fuel system. Most ads, since 1975, have presented estimates for only the most economical vehicle configuration of the model advertised. The Commission has also noted that the engine size disclosures have tended to be unreadable. Therefore, the Commission has decided not to retain § 259.2(b) of the original Guide.

However, mileage estimates measured for vehicles with more efficient configurations should not be presented so as to give the impression that those numbers apply to less efficient versions of the same model. For example, if an advertisement states that two engine sizes are available for a given car put provides only one "estimated mpg," the ad should make clear the engine size to which the EPA estimate applies.

5. USE OF EPA HIGHWAY AND COMBINED ESTIMATES

On the basis of existing information, the Commission cannot conclude that the highway and combined estimates are so unreliable that their disclosure in advertising must be prohibited. However, the numbers are sufficiently questionable as predictors of actual fuel economy that the Commission has determined to place certain restrictions on their disclosure.

Advertisers may, at their option, disclose the highway and combined figures provided that (1) they accord the "estimated mpg" "substantially more prominence" than the other figures, (2) they place all EPA estimates in close proximity to each other, and (3) they include disclaimers designed to avoid deception. In response to requests for elaboration on the meaning of "substantially more prominence," the Commission has included footnote 3. The disclosures required by the final interim Guide are different from those proposed in Alternative C, in response to suggestions submitted by members of the public. The disclosures adopted are less extensive than those proposed, but should be adequate to protect consumers from the mistaken impression that they will achieve the highway or combined fuel economy in their own driving.

6. USE OF NON-EPA MILEAGE DATA

The original Guide permitted use of fuel economy figures not derived from EPA testing, if accompanied by certain disclosures. Because use of EPA numbers was Congressionally-mandated in the Energy Policy and Conservation Act after the original Guide was issued, the Commission expressed a belief when publishing the proposed amendments that non-uniform mileage information would confuse or mislead consumers and should not be allowed. Hence, none of the proposed alternatives would have permitted non-EPA figures.

Considering the question raised about the reliability of EPA highway and combined estimates, and in light of several comments it has received, the Commission has determined that non-EPA numbers should be permitted. While unreliable, improperly-qualified figures should not be used, the Commission does not want to discourage the development of new, more reliable methods of measuring fuel economy. Such methods might contribute so much to efforts to save energy so as to outweigh the benefits arising from a single uniform disclosure system. Therefore, the Guide permits non-EPA numbers, but requires inclusion of the "estimated mpg" and certain additional disclosures (§ 259.2(c)).

7. USE OF TERM "ESTIMATED CITY FUEL ECONOMY"

The Commission's Guide requires use of the "estimated mpg" designation, to conform to the new EPA labels, but permits use of the "city fuel economy" terminology, with certain limitations (§ 259.2(d)). It was suggested that the proposed amendments were unclear as to whether the former "city" designation could be used.

8. EFFECTIVE DATE

Because much of the advertising prepared for the 1979 model year may have already been developed, the Commission has determined to allow advertisers some flexibility in their advertisements disseminated soon after the amended Guide is published. Rather than establishing one specific date by which all advertising must conform, § 259.2(e) allows ads placed during the first thirty days after promulgation of the amended Guide to conform only to the old Guide provisions. This approach will not ensure that all ads will comply with the new Guide by a particular date. However, advertisers are encouraged to bring their ads into conformance as soon as possible, and to make any necessary changes in undisseminated ad copy that can be made.

SECTION D. THE GUIDE

Accordingly, the Commission hereby issues the following Guide, which amends Subchapter B, Guides and Trade Practice Rules, of 16 CFR, Chapter I, by revising part 259, to take effect December 29, 1978, as follows:

PART 259—GUIDE CONCERNING FUEL ECONOMY ADVERTISING FOR NEW AUTOMOBILES

Sec.
259.1 Definitions.
259.2 Advertising disclosures.

AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41-58).

§ 259.1 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) *"New automobile."* Any passenger automobile or light truck for which a fuel economy label is required under the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) or rules promulgated thereunder, the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser. The term "manufacturer" shall mean any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles. The term "dealer" shall mean any person, resident or located in the United States or any territory thereof engaged in the sale or distribution of new automobiles to the ultimate purchaser. The term "ultimate purchaser" means, for purposes of this part, the first person, other than a dealer purchasing in his or her capacity as a dealer, who is good faith purchases such new automobile for purposes other than resale, including a person who leases such vehicle for his or her personal use.

(b) *"Gas Mileage Guide."* The most recent publication of the U.S. Environmental Protection Agency (EPA) and/or the U.S. Department of Energy issued pursuant to Section 506(b) of the Energy Policy and Conservation Act (15 U.S.C. 2006(b)).

(c) *"Estimated mpg"* and *"estimated city fuel economy."* The gasoline consumption or mileage of new automobiles as determined in accordance with the test procedure employed and published by the U.S. Environmental Protection Agency as described in 40 CFR Part 86 (1977), and subsequent revisions; and expressed in miles-per-gallon, to the nearest whole mile-per-gallon as measured, reported, published, or accepted by the U.S. Environmental Protection Agency.

(d) *"Estimated highway fuel economy."* The gasoline consumption or mileage of new automobiles as determined in accordance with the highway test procedure employed by the U.S. Environmental Protection Agency as described in 40 CFR Part 600 (1977) and subsequent revisions; and expressed in miles-per-gallon, to the nearest whole mile-per-gallon, as measured, reported, or accepted by the U.S. Environmental Protection Agency.

(e) *"Estimated combined fuel economy."* The harmonic average of the "estimated mpg" and the estimated highway fuel economy" weighted 0.55 and 0.45, respectively.

(f) *"Vehicle configuration."* The unique combination of automobile features, as defined in 40 CFR Part 600.

§ 259.2 Advertising Disclosures.

(a) No manufacturer or dealer shall make any express or implied representation in advertising concerning the fuel economy of any new automobile [1] unless such representation is accompanied by the following clear and conspicuous disclosures:

(1) The "estimated mpg" of such automobile, with the U.S. Environmental Protection Agency identified as the source of such figures; and

(2) That the "estimated mpg" is to be used for comparison purposes, and that the actual fuel economy to be obtained by the consumer may be different and will depend upon the individual's driving speed, weather conditions, and trip length.[2]

[1] The Commission will regard as an express or implied fuel economy representation one which an ordinary consumer, upon considering the representation in the context of the entire advertisement, would understand as referring to the fuel economy performance of the vehicle or vehicles advertised.

[2] The Commission will regard the following disclosures as complying with § 259.2(a)(2):

For radio and television when the "estimated mpg" appears in the audio portion, the following audio disclosures will be sufficient: *"Remember:* Use this number for comparisons. The actual mileage *you* get may be different." or *"Remember: Compare* this estimate to the "estimated mpg" of other cars. The actual mileage *you* get may be different."

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(b) If an advertisement for a new automobile cites:

(1) The "estimated highway fuel economy" for the advertised vehicle, the advertisement must refer to that figure as the "estimated highway" mileage or "highway estimate," and must clearly and conspicuously disclose:

(i) The "estimated mpg" of the advertised vehicle, giving that figure substantially more prominence than the "estimated highway fuel economy" and placing the two figures in close conjuction with each other; [3]

(ii) That the "estimated mpg" is to be used for comparison purposes and that actual mileage may be different from the "estimated mpg," depending on the individual's driving speed, weather conditions, and trip length;

(iii) That actual highway mileage will probably be less than the "estimated highway fuel economy."

(2) The "estimated combined fuel economy" for the advertised vehicle, the advertisement must refer to that figure as the "estimated combined" mileage or the "combined estimate," and must clearly and conspicuously disclose:

(i) The "estimated mpg" of the advertised vehicle, giving that figure substantially more prominence than the "estimated combined fuel economy" and placing the two figures in close conjunction with each other;

(ii) That the "estimated mpg" is to be used for comparison purposes and that actual mileage may be different from the "estimated mpg," depending on the individual's driving speed, weather conditions, and trip length;

(iii) That the "estimated mpg" is more likely to reflect actual overall mileage than the "estimated combined fuel economy."

(c) Fuel economcy estimates derived from a non-EPA test may be disclosed provided that:

(i) The advertisement also discloses the "estimated mpg," includes the disclosures required by § 259.2(b)(1)(ii), and gives the "estimated mpg" substantially more prominence than any other estimate disclosed;

(ii) The source of the non-EPA test is clearly and conspicuously identified;

(iii) The driving conditions and variables simulated by the test which differ from those used to measure the "estimated mpg" are clearly and conspicuously disclosed. Such conditions and variables may include, but are not limited to, road or dynamometer test, average speed, range of speed, hot or cold start, and temperature; and

(iv) The advertisement clearly and conspicuously discloses any distinctions in vehicle configuration and other equipment affecting mileage performance (e.g. radial tires) between the automobiles tested in the non-EPA and "estimated mpg" EPA tests.

(d) No manufacturer or dealer shall represent that the "estimated mpg" is the "estimated city fuel economy" unless;

(i) The designation as "estimated mpg" is accorded prominence at least equal to the designation as "estimated city fuel economy" or similar terms; and

(ii) The designation as "estimated city fuel economy" or similar term is accompanied by the clear and conspicuous disclosure that fuel economy in heavy city traffic will be lower.

(e) All advertisement placed thirty days or later after publication of this Guide must comply with the foregoing provisions. All non-conforming ad copy which has been placed during the period, but which can be withdrawn and replaced with conforming advertisements without penalty, must be so withdrawn. For purposes of this section, ad copy can be withdrawn and replaced with conforming advertisements without penalty if applicable standard media deadlines or closing dates, as set by current rate cards, standard contracts or ordinary business practice, have not yet expired. In no case may a non-conforming ad appear five months after publication of this Guide.

Promulgated by the Federal Trade Commission, November 29, 1978.

CAROL M. THOMAS,
Secretary.

PARTIALLY DISSENTING STATEMENT OF COMMISSIONER DIXON ON GUIDE FOR FUEL ECONOMY ADVERTISING OF NEW CARS

While this matter presents many difficult issues, and the Commission has done its best to resolve them, I cannot support that part of the Guide for Fuel Economy Advertising of New Cars that permits the advertising of EPA in-city, combined, or highway miles per gallon figures. Our best evidence is that these figures do not comport with the mileage realized in actual driving, and so have led consumers to believe, mistakenly, that new automobiles will realize substantially greater mileage than those automobiles have been able to deliver. Even if the highway figure is considered to be a valid measure for comparing new cars (and I am told that there is serious question even as to this) that fact is likely to be of little comfort to the consumer who trades in his old car (the highway mileage of which he knows with certainty) for a new car that sports a highway figure in excess of that realized by the trade-in. The fact that these inflated, unsubstantiated mileage estimates can be touted as coming from one arm of the government (EPA), and will carry the endorsement of another (FTC) is likely only to compound further the misrepresentation, while eroding the natural skepticism of consumers that is peculiarly warranted with respect to fuel economy claims. Apparently recognizing these hazards, EPA does not permit the use of in-city, combined, or highway figures on stickers that the agency requires be affixed to new automobiles. I would not treat advertising differently.

Because miles per gallon figures realized in highway driving can be of considerable use for consumers who do much of their driving outside congested areas, I support that portion of the Guide that permits the advertising of highway figures derived from tests

Footnotes continued from last page

For television, when the "estimated mpg" appears only in the video portion: *"Remember:* Use this estimate for comparisons. *Your* mileage may be different, depending on your speed, trip length, and weather."

For print media only (other than roadside billboards): *"Remember: Compare* this *estimate* to the "estimated mpg" of other cars. You may get different mileage, depending on how fast you drive, weather conditions, and trip length."

For roadside billboards only: "Use for Comparisons. Get *Free* Gas Mileage Guide from dealer for details." or "Use for Comparisons. Actual mileage may be different."

[3] The Commission will regard the following as constituting "substantially more prominence":

For television only: If the "estimated mpg" and any other mileage estimate appear only in the visual portion, the "estimated mpg" must appear in numbers twice as large as those used for any other estimate, and must remain on the screen at least as long as any other estimate. If the "estimated mpg" appears in the audio portion, visual broadcast of the "estimated highway fuel economy" or the "estimated combined fuel economy" must be accompanied by the simultaneous, at least equally prominent, visual broadcast of the "estimated mpg." Each visual "estimated mpg" must be broadcast against a solid color background which contrasts easily with the color used for the numbers when viewed on both color and black-and-white televisions.

For radio and television when "estimated highway fuel economy" or "estimated combined fuel economy" are used in audio: The "estimated mpg" must be stated, both before and after each disclosure of the "estimated highway fuel economy" or the "estimated combined fuel economy" at least as audibly as each other estimate.

For print only: The "estimated mpg" must appear in clearly legible type at least twice as large as that used for the "estimated highway fuel economy" or the "estimated combined fuel economy." Alternatively, if the "estimated mpg" appears in type of the same size as the "highway" or "combined" estimate, it must be clearly legible and conspicuously circled. The "estimated mpg" must appear against a solid color, contrasting background. It may not appear in a footnote unless all references to fuel economy appear in a footnote. No reference to or citation of the "estimated highway fuel economy" or the "estimated combined fuel economy" may appear in the title of any advertisement.

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15348]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Filing and Disclosure Requirements Relating to Beneficial Ownership

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of an amendment to a rule which expands the classes of persons required to disclose beneficial ownership and related information of certain equity securities. The persons added by the amendment are those who own more than five percent of a class of certain equity securities and who are not required to file a statement under Section 13(d) of the Securities Exchange Act of 1934 because, for example: (a) Beneficial ownership of the securities was acquired prior to December 22, 1970; (b) beneficial ownership of not more than 2 percent of the class was acquired within a 12 month period; or (c) beneficial ownership was acquired in certain stock-for-stock exchanges. The amendment and actions related thereto implement the statutory authority recently granted to the Commission to close the gaps which exist in the present scheme for requiring disclosure of persons whose beneficial ownership exceeds 5 percent of a class of certain equity securities. Technical amendments to the rules and schedules governing the disclosure of beneficial ownership of certain equity securities are also adopted.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

John Granda, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1750.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of amendments to Rule 13d-1 (17 CFR 240.13d-1), Rule 13d-7 (17 CFR 240.13d-7), Schedule 13D (17 CFR 240.13d-101) and Schedule 13G (17 CFR 240.13d-102) under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975) and Pub. L. No. 95-213 (December 19, 1977)). Most of these amendments were proposed for comment in Securities Exchange Act Release No. 14693 (April 21, 1978) (43 FR 18501) in connection with the adoption of extensive amendments to Regulation 13D which became effective on May 30, 1978.[1] Among those proposals was Rule 13d-1(c) which closes the gaps in the existing scheme for reporting beneficial ownership of equity securities under Section 13(d) and thereby implements the authority granted to the Commission under Section 13(g) of the Exchange Act.

The amendments adopted today also: (1) Narrow the definition of equity security formerly set forth in Rule 13d-1(c) and now set forth in Rule 13d-1(d); (2) revise Rule 13d-7 to make clear that an additional filing fee is required for the next filing following an amendment to a Schedule 13D or Schedule 13G which reflects beneficial ownership of five percent or less; and (3) tailor more specifically the disclosure requirements in Schedule 13G for the persons who will be filing that schedule pursuant to Rule 13d-1(c).

I. BACKGROUND

Section 13(d) of the Exchange Act requires any person who acquires beneficial ownership of more than 5 percent of a class of certain equity securities to file a statement with the Commission reporting that acquisition and certain other information related to such person's ownership of those securities. Section 13(d) is not, however, an ownership reporting provision of general application. Its legislative history reveals that it was intended to provide information to the public and the affected issuer about rapid accumulations of its equity securities in the hands of persons who would then have the potential to change or influence control of the issuer.[2]

Because section 13(d) attempts to deal with the more limited concern of rapid shifts in control, acquisitions unrelated to that purpose were exempted therefrom. Thus, persons who acquire not more than 2 percent of a class of securities within a 12-month period are exempted by Section 13(d)(6)(B) from disclosing their ownership. Also Section 13(d) is keyed to making an "acquisition" of the requisite amount of securities. Thus, persons who acquired their ownership prior to the en-

conducted by the automobile companies. The Commission can help ensure the accuracy of these figures by insisting that they be substantiated adequately and that relevant conditions of the test be disclosed. Moreover, the companies themselves have a strong incentive to guarantee that any figures they use are not misleading, inasmuch as they must account to their customers for the accuracy of such figures, a restraint that does not exist where the government can be pointed to as the source of any deception.

The entire Commission is, of course, fully aware of the misleading nature of those figures EPA will not allow on labels, and has endeavored mightily to minimize this deception by requiring, in the case of the highway figure, a disclosure that the consumer is unlikely to realize in practice a figure so high. If advertisers were further required to disclose that the highway figure does not even uniformly overstate the mileage likely to be achieved in practice by different cars, then I would agree that a consumer who saw the figure and read and understood the disclosures would not be misled. However, I question whether any advertiser would be prepared to make such disclosures, which would be tantamount to an admission that the representation that triggered them was untrue. Our traditional response to misleading claims has been to prohibit them, not to hope that deception can be dispelled by a disclosure to the effect that a misrepresentation has occurred.

While the Commission believes that the usefulness of the highway figure in advertising outweighs the costs of its being misleading and I recognize the reasonableness of such a judgment, my own view is that the harm that results from permitting use of this misleading figure is likely to exceed the benefits. If the disclosures necessary to eliminate deception in a claim cannot be conveniently fitted into an advertisement, I am not aware that the law requires that the disclosures be trimmed back. In this case, it seems to me that consumers would on balance be better off to draw their estimates of highway mileage figures from a variety of print sources, wherein the infirmities and peculiarities of such figures can be accurately conveyed, rather than being subjected to misleading representations on television that are likely to invite reliance without further inquiry.

[FR Doc. 78-33471 Filed 12-28-78; 8:45 am].

[1] Securities Exchange Act Release No. 34-14692 (April 21, 1978) (43 FR 18484).

[2] S. Rep. No. 550, 90th Cong., 1st sess. 7 (1967); H.R. Rep. No. 1711, 90th Cong., 2nd sess. 8 (1968) and hearings on S. 510 before the Subcommittee on Securities of the Senate Committee on Banking and Currency, 90th Cong., 1st sess. (1976).

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actment of the 5-percent threshold on December 22, 1970 (Pub. L. 91-567) also are not subject to section 13(d). There also is an exemption from reporting acquisitions of securities acquired in a stock-for-stock exchange which is registered under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) because Congress apparently believed, at that time, that shareholders of the subject issuer would, through the receipt of the required prospectus, receive all the material facts necessary to make an informed decision whether to hold their stock or exchange it for the stock of the company making the exchange offer.[3]

Among the recommendations included in the final report prepared by the Commission pursuant to Section 12(m) of the Exchange Act [4] was that the gaps in Section 13(d), discussed above, be closed in order to establish a comprehensive system for disclosure of beneficial ownership of equity securities. The Commission's recommendation was implemented with the enactment of Section 13(g) of the Exchange Act on December 19, 1977.[5] Section 13(g)(1) requires any person who is directly or indirectly the beneficial owner of more than 5 percent of a class of equity securities specified in Section 13(d)(1) of the Exchange Act to send to the issuer and file with the Commission a statement setting forth, in such form and at such time as the Commission may, by rule, prescribe: Such person's identity, residence, citizenship, the number and description of the shares in which such person has an interest and the nature of such interest. Section 13(g)(1) taken literally would require disclosure of the prescribed information, as well as that which may be required pursuant to the Commission's general rulemaking authority thereunder, regardless of whether the persons subject thereto are also required to report similar ownership information under other sections of the Exchange Act. Section 13(g)(5), however, directs the Commission to take such steps as are necessary and appropriate in the public interest and for the protection of investors to achieve centralized reporting of the information, to avoid unnecessary duplicative reporting, and to minimize the compliance burden on persons required to report. Moreover, the legislative history is clear that Section 13(g) was intended to "supplement the current statutory scheme by providing legislative authority for certain additional disclosure requirements that in some cases could not be imposed administratively." [6] The principal effect of Section 13(g), therefore, is to provide the authority necessary to close the gaps previously described in the disclosure requirements under Section 13(d).[7]

[3] Section 13(d)(6)(A); See S. Rep. No. 550, 90th Cong., 1st sess. 3 (1967); H.R. Rep. No. 1711, 90th Cong., 2nd sess. 3 (1968).

[4] Final Report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities, 94th Cong., 2nd Sess. (Committee print 1976).

[5] Section 13(g) was added to the Exchange Act by the Domestic and Foreign Investment Disclosure Act of 1977 (the "Act") (Title II of Pub. L. No. 95-213). The Act also amended Section 13(d)(1) and Section 15(d) of the Exchange Act and added Section 13(h) to the Exchange Act.

[6] S. Rep. No. 114, 95th Cong., 1st sess. 13 (1977).

[7] *Id.*

A. REGULATION 13D-G AND RULE 13D-1(C)

In order to effectuate the Congressional purpose underlying Section 13(g), the Commission is adopting, substantially as proposed, the amendments published in Securities Exchange Act Release No. 14693 (April 21, 1978) (43 FR 18501). Thus, "Regulation 13D" is re-captioned "Regulation 13D-G" and a new paragraph (c) is being added to Rule 13d-1 within the existing paragraph (c) and the succeeding paragraphs redesignated accordingly.

Rule 13d-1(c) requires persons who own more than 5 percent of a class of security now specified in Rule 13d-1(d), and who are currently not required to file under Rule 13d-1(a), to file a statement on Schedule 13G containing the information applicable to such persons. Generally, persons who are not required to file under Rule 13d-1(a) but who would be required to file a Scheduled 13G pursuant to Rule 13d-1(c) are: (1) Those persons who acquired beneficial ownership of their securities prior to December 22, 1970, (2) those persons who acquired not more than 2 percent of a class of securities with a 12-month period, who are exempt from Rule 13d-1(a) by Section 13(d)(6)(B), and (3) those persons who acquired securities through a stock-for-stock exchange registered under the Securities Act, who are exempted from Rule 13d-1(a) by Section 13(d)(6)(A). Rule 13d-1(c) also would require any persons "otherwise" not required to report pursuant to Rule 13d-1(a) but who is a beneficial owner of more than 5 percent of a specified class of equity securities to report on Schedule 13G. A person could fall into this category if, for example, he acquired beneficial ownership of more than five percent of a class of securities which at the time of acquisition was not registered pursuant to Section 12(g) but which subsequently became registered. However, an exception has been added to Rule 13d-1(c) to indicate that the "or otherwise" language does not cover issuers who acquire their own securities. Thus, issuers who satisfy the exemption under Section 13(d)(6)(c) of the Exchange Act will not have to file a Schedule 13D or a Schedule 13G. In the Commission's view, requiring a report from an issuer in this context is not within the legislative purpose of Section 13(d) and Section 13(g).

One commentator suggested that Rule 13d-1(c) would be clearer if, instead of referring to particular bases for exemptions from Section 13(d), the Rule stated that it covered everyone who is not required to file under Section 13(d) but who has beneficial ownership of more than five percent of a class. The Commission has determined to retain the references to exemptions because it is more informative in that manner. For example, a person who does not appreciate the significance of acquiring securities prior to December 22, 1970 for purposes of Section 13(d) might not be aware of the obligation to file under Section 13(g) absent a reference to that fact.

A technical suggestion also offered by this commentator was to adopt a Rule under Section 13(g) in order to indicate that the Section had been implemented by the adoption of Rule 13d-1(c). The Commission believes that the fact that the Regulation in which the rule implementing Section 13(g) appears is captioned "Regulation 13D-G" provides adequate notice that the Section is operative.

Proposed Rule 13d-1(c) subjects persons it covers to all of the rules in Regulation 13D-G. Thus, the determination of whether a person is a beneficial owner for the purpose of Rule 13d-1(c) is governed by Rule 13d-3. Rule 13d-3(a) provides that a beneficial owner of a security includes any person who has or shares voting power and/or investment power with respect to such security. Voting power includes "the power to vote, or to direct the voting of such security" and investment power includes "the power to dispose, or to direct the disposition of such security." Under Rule 13d-3(d)(1)(i) a person is also deemed to be the beneficial owner of securities which he may acquire at any time within sixty days, subject to certain conditions. In addition, Rule 13d-3(c) provides that all securities beneficially owned by a person are to be aggregated in determining how may securities such persons owns, regardless of the nature of the beneficial ownership.

As indicated above, reporting under Rule 13d-1(c) and under regulation 13D-G generally is directed to obtaining ownership information from persons who have the potential to change or influence control of the issuer. The Commission believes that, while Section 13(g) is a disclosure provision of

more general application that Section 13(d), the possible affect on control is the aspect of beneficial ownership of greatest interest to issuers and investors in this context.[8] Accordingly, the traditional economic interests in securities, i.e., the right to receive dividends and the right to receive proceeds upon sale, have not been included as criteria for defining beneficial ownership for purposes of Regulation 13D-G.

The legislative history of Section 13(g) also stresses "the need to integrate and consolidate, wherever possible, the various reporting requirements of the Securities Exchange Act into a comprehensive system for gathering and disseminating information about ownership interests in public (sic) held companies." [9] Thus, Section 13(g)(5) directs the Commission to take such steps as it deems necessary or appropriate in the public interest: To achieve centralized reporting of information regarding ownership; to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report; and to tabulate and promptly make available the information contained in any report filed thereunder in a manner which will, in the view of the Commission, maximize the usefulness of the information.

Adoption of Rule 13d-1(c) as part of proposed Regulation 13D-G is the final major step in the accomplishment of the system contemplated by Congress for the reporting of beneficial ownership of the equity securities of public companies.

Regulation 13D-G should result in a minimum of duplication, although some duplication may be necessary to accomplish the differing regulatory objectives of the various sections of the Exchange Act requiring disclosure of ownership information. In order to minimize such duplication for persons who are required to report under Sections 13(f) and 13(g), such persons are permitted to respond to any of the items of Schedule 13G by incorporating in a report which is filed pursuant to Section 13(f).

In light of the objective of obtaining ownership information directed to the ability to change or influence control, it is not feasible to integrate the reports filed pursuant to Section 16(a) into the reporting system under Regulation 13D-G. Section 16 is a prophylactic provision designed to prevent the use of inside information by certain insiders to derive windfall profits on purchases and sales of the issuer's securities within a 6-month period. The overriding concern under Section 16 is with the economic incidents of ownership. Beneficial ownership is therefore defined differently for Section 16 and for Regulation 13D-G in order to achieve their separate purposes. Thus, consolidation of the ownership information under the two sets of reports would be a matter of mixing two distinct concepts. Further difficulty in joining the two reporting systems is presented by the fact that Section 16 has a 10-percent reporting threshold while Sections 13(d) and 13(g) have a 5-percent threshold.

The Commission believes that the compliance burden on persons required to file Schedule 13G is held to a minimum, since the information called for is essentially the minimum statutory requirement. Moreover, it is to be filed annually within 45 days after the end of the calendar year. The expense of consolidating the necessary ownership information is also held to a minimum since a determination need only be made as of the last day of the calendar year.

Registrants which are required to file periodic reports under Section 13 of the Exchange Act must set forth in Item 14 of their annual report on Form 10-K and in Item 5 of their proxy statement the information called for by Item 6 of Regulation S-K (17 CFR 220.20.6.). Item 6 requires disclosure of the name, address, number of shares owned, and the percent of the class represented by such shares for each person who beneficially owns more than 5 percent of a class of a registrant's voting securities. These registrants will be able to more accurately reflect such ownership information because all persons who own more than 5 percent of a class of an equity security specified in Rule 13d-1(d) will be required to send a copy of his Schedule 13D or Schedule 13G to the issuer. Shareholders, interested members of the public, and government agencies will therefore be able to consult the ownership information prepared by the registrant and filed in its annual report or proxy statement for the purpose of identifying the substantial beneficial owners of a particular issuer. If further information is necessary with respect to such ownership, the statements (Schedules 13D and 13G) upon which the issuer based its disclosure may be examined in the Commission's public files.

The Commission has also recently proposed for comment amendments to the "cover pages" for Schedules 13D, 13G, and 14D-1.[10] These proposals would require persons filing the schedules to abstract certain data from within the schedule in order to facilitate the entry of such data into the Commission's computer system. The release also describes and invites comments on proposed methods for collating information through computer and other systems to satisfy the Commission's obligation to tabulate and make promptly available ownership information. At present, two basic tabulations of beneficial ownership data are proposed, one being classified by issuer and showing the beneficial owners of over 5 percent of that issuer's stock, the other being a classification by reporting persons, i.e., for each reporting person it would give a list of companies in which such person had a reportable beneficial interest.

[8] "The touchstone of the national disclosure policy in this area is the concept of control or potential control." Final report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities, 94th Cong., 2d sess. (Committee print 1976), at 50 n. 13.

[9] S. Rep. No. 550, 90th Cong., 1st sess. 14 (1967).

[10] Securities Exchange Act Release No. 15317 (November 9, 1978).

B. RULE 13D-1(D)

The definition of the term "equity security," for purposes of Regulation 13D-G, formerly set forth in Rule 13d-1(c) is now set forth in Rule 13d-1(d). As adopted on May 30, 1978, the Rule excluded securities of a class of non-voting option, warrants, rights, convertible debt or convertible preferred securities. As a result, beneficial ownership of such securities does not, in and of itself, generate an obligation to file reports under Section 13(d) or Section 13(g). However, securities which might be acquired upon the exercise or conversion of such securities are not removed from the definition of the term "equity security" and would be includable in the calculation of the 5 percent threshold.

While amendments to former Rule 13d-1(c) were not proposed in Securities Exchange Act Release 14693, comments were received on the Rule as part of the comments on that Release. Although the commentators thought that the rule was an appropriate expression of the Congressional purpose underlying the Williams Act, they were of the view that it did not go quite far enough. It was noted in this regard that there are many small classes of preferred stock which are not convertible but which would not be excepted by the present definition and could therefore give rise to a reporting obligation. The logical extension of this view is that all non-voting securities should be removed from the definition of the term "equity security" since such securities do not carry with them the potential to change or influence control of an issuer. The Commission believes that this view is supported by the limited purpose of Sections 13(d) and 13(g). Accordingly, all non-voting securities have been excluded from the definition of "equity security" set forth in Rule 13d-1(d).

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C. RULE 13D-7

Rule 13d-7 establishes a uniform fee schedule for acquisition statements filed on Schedules 13D and 13G. It provides that the first schedule which is filed must be accompanied by a filing fee of $100. All amendments to that schedule reflecting an increase in ownership above 5 percent do not require an additional fee. However, as originally adopted, the rule provided that after an amendment to the schedule reporting beneficial ownership of *less than 5 percent* has been filed, the first schedule filed thereafter is treated as a new filing and must be accompanied by a filing fee of $100. The Rule inadvertently failed to specify that an additional fee would be generated if the first schedule filed thereafter reported beneficial ownership of five percent of a class as well as less than five percent of a class. This, of course, is based on the fact that Section 13(d) and Section 13(g) are triggered only if beneficial ownership of a class of securities exceeds five percent. Rule 13d-7 has therefore been amended to correct this oversight.

D. SCHEDULE 13G

1. *Item 2.* Because persons who may be filing under Rule 13d-1(c) may not have a business office, Item 2 of Schedule 13G has been amended to permit such persons to state their residence address.

2. *Item 6.* Two commentators objected to the requirement in Item 6 that the filing person must identify persons who have an interest exceeding five percent in a class of securities based on the right to receive, or the power to direct the receipt of, dividends or sales proceeds. One of the commentators believes the Commission lacks the authority to require this information. The other commentator was of the view that this information is not relevant under Section 13(g), particularly since these incidents of ownership have not been included as criteria for defining beneficial ownership. These commentators were also of the view that this requirement is an unwarranted invasion of privacy.

The Commission believes that Section 13(g)(1) and its legislative history indicate that the Commission has the authority necessary to require the disclosure required by Item 6. Thus, Section 13(g)(1)(B) provides that the Commission may require disclosure of "the nature of (the) interest" in the shares which the filing person beneficially owns. In describing the parallel term added to Section 13(d)(1), *viz.* "nature of such beneficial ownership," the Senate Report stated it that "could include such matters as whether the beneficial owner has the right to direct the voting of the securities, the receipt of dividends, the proceeds of sale or such other or different indicia of beneficial ownership as the SEC may prescribe." [11] When the incidents of ownership are split in the manner contemplated by Item 6, it seems clear that the term "nature of (the) interest" as well as the Commission's general rulemaking authority under Section 13(g) reaches the identification of the person owning more than five percent of the economic interests in the securities. The changes made by Conference Committee to the bill which was enacted do not, as suggested, indicate a different view. [12]

In defining beneficial ownership for purposes of Sections 13(d) and 13(g), the Commission did not include the right to receive or the power to direct the receipt of dividends or sales proceeds as bases for triggering a filing obligation thereunder. However, these incidents of ownership may be relevant as an item of disclosure in the Schedule which is filed by the person who has the power to vote or direct the vote or the power to dispose or to direct the disposition of the securities. The presence of the term "nature of [the] interest" in Section 13(g)(1)(B) as an item of disclosure which may be obtained and the description of the meaning of that term in the Senate Report evince a Congressional intent that disclosure concerning the economic incidents of ownership may be significant. The Commission has limited disclosure in this context to merely indicating whether someone other than the filing person has the right or power to receive dividends or sales proceeds and, where these incidents of ownership exceed five percent, identification of the owner. An identification of the person who is able to profit from the exercise of control through a block of this size may be relevant, for example, in assisting the Commission in determining the accuracy of the representations in the Schedule and compliance by such persons with their filing obligations.

Congress has decided the privacy issue in the context of Sections 13(d) and 13(g) by requiring certain disclosure from persons whose ownership exceeds five percent. Unlike Section 13(f)(3) of the Exchange Act, there is no provision in these Sections for withholding disclosure of securities owned by individuals.

3. *Items 7 and 8.* Item 7 has been bifurcated so that the specific requirement imposed thereby is dependent upon whether the person is filing pursuant to Rule 13d-1(b)(ii)(G) or Rule 13d-1(c). Thus, parent holding companies filing pursuant to Rule 13d-1(b)(ii)(G) are required to so indicate under Item 3(g) and attach an exhibit stating the identity and Item 3 classification of the relevant subsidiary. However, persons filing purusant to Rule 13d-1(c) need only file an exhibit identifying the relevant subsidiary. As suggested by one commentator, the classification of a subsidiary has no relevance for purposes of Section 13(g).

For the same reason, Item 8 has been similarly bifurcated. Thus, the exhibit required to be attached by the Item for a group filing pursuant to Rule 13d-1(c) need only identify the members of the group; the Item 3 classification does not have to be provided with respect to the members of the group.

4. *Item 10.* Item 10 has been amended to provide that the certification required thereby need only be provided by persons who file Schedule 13G pursuant to Rule 13d-1(b). Persons filing Schedule 13G pursuant to Rule 13d-1(c) are not required to include the certification because they are not required to satisfy the conditions set forth in the certification in order to use the Schedule.

II. POSSIBLE FUTURE ACTION

In view of the interpretive questions and concerns which have arisen under Regulation 13D as well as the experience gained by the Commission since it was last amended, it may be necessary to make certain minor or technical changes in some of the rules. In addition, certain commentators have stressed the need for a current listing of all Section 13(d)(1) securities showing the name of the issuer, the CUSIP number, and the number of outstanding shares. In this regard, these commentators noted that Section 13(f)(3) requires the Commission to make available to the public, for purposes of Section 13(f), a list of section 13(d) securities. The Commission fulfilled its 13(f) obligation by providing that Section 13(f) would apply only to securities listed on an exchange or quoted on NASDAQ and by publishing a list of these securities. Based on the experience with the list prepared for purposes of Section 13(f) as well as an examination of the feasibility of providing a comprehensive list of the securities specified in Section 13(d)(1), the Commission will determine whether to publish such a list.

[11] S. Rep. No. 114, 95th Cong., 1st Sess. 18 (1977).

[12] H.R. Rep. No. 831, 95th Cong., 1st Sess. 14 (1977). Sections 13(g)(1)(C) and 13(g)(1)(D) of the Senate bill were deleted in conference. *Id.* Section 13(g)(1)(c) authorized the Commission to obtain disclosure of "the time and manner of acquisition of such shares and subsequent transactions in such shares." It was deleted "to make clear that the (Commission) may not require extensive historical ownership and transaction information." *Id.* Section 13(g)(1)(D) authorized the Commission to obtain disclosure of "such other similar information as the Commission may, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors." It was deleted because it was "unnecessary in view of the Commission's general grant of rulemaking authority under Section 13(g)." *Id.*

III. CERTAIN FINDINGS

As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the amendments adopted herein would have on competition. The Commission has found that these amendments will not significantly burden competition and, in any event, has determined that any possible resulting competitive burden will be far outweighed by, and is necessary and appropriate to achieve, the benefits of this information to investors.

IV. AUTHORITY

The Commission hereby amends Rules 13d-1 and 13d-7 and Schedules 13D and 13G pursuant to the authority set forth in Sections 3(b), 13, and 23 of the Exchange Act. The Commission finds that these amendments have already been generally subject to comment as a result of the proposals published in Exchange Act Release No. 14693 (43 FR 18501) and are either technical in nature or less burdensome than previous requirements so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

V. TEXT OF AMENDED RULES AND SCHEDULES

17 CFR Part 240 is amended by revising Regulation 13D in the following respects:

REGULATION 13D-G

A. Section 240.13d-1 is amended to read as follows:

§ 240.13d-1 Filing of Schedules 13D and 13G.

(a) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is specified in paragraph (d) of this section, is directly or indirectly the beneficial owner of more than 5 percent of such class shall, within 10 days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, and to each exchange where the security is traded, and file with the Commission, a statement containing the information required by Schedule 13D (§ 240.13d-101). Six copies of the statement, including all exhibits, shall be filed with the Commission.

(b)(1) A person who would otherwise be obligated under paragraph (a) of this section to file a statement on Schedule 13D may, in lieu thereof, file with the Commission, within 45 days after the end of the calendar year in which such person became so obligated, six copies, including all exhibits, of a short form statement on Schedule 13G and send one copy each of such schedule to the issuer of the security at its principal executive office, by registered or certified mail, and to the principal national securities exchange where the security is traded: *Provided*, That it shall not be necessary to file a Schedule 13G unless the percentage of the class of equity security specified in paragraph (d) of this section beneficially owned as of the end of the calendar year is more than 5 percent: *And provided further*, That:

• • • • •

(c) Any person who, as of December 31, 1978, or as of the end of any calendar year thereafter, is directly or indirectly the beneficial owner of more than 5 percent of any equity security of a class specified in paragraph (d) of this section and who is not required to file a statement under paragraph (a) of this section by virtue of the exemption provided by Section 13(g)(6) (A) or (B) of the Act, or because such beneficial ownership was acquired prior to December 22, 1970, or because such person otherwise (except for the exemption provided by Section 13(d)(6)(c) of the Act) is not required to file such statement, shall, within 45 days after the end of the calendar year in which such person became obligated to report under this paragraph, send to the issuer of the security at its principal executive office, by registered or certified mail, and file with the Commission a statement containing the information required by Schedule 13G (§ 240.13d-102). Six copies of the statement, including all exhibits, shall be filed with the Commission.

(d) For the purpose of this regulation, the term "equity security" means any equity security of a class which is registered pursuant to Section 12 of that Act, or any equity security of any insurance company which would have been required to be so registered except for the exemption contained in Section 12(g)(2)(G) of the Act, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940; *Provided*, Such term shall not include securities of a class of non-voting securities.

(e) For the purpose of Sections 13(d) and 13(g), any person, in determining the amount of outstanding securities of a class of equity securities, may rely upon information set forth in the issuer's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Commission pursuant to this Act, unless he knows or has reason to believe that the information contained therein is inaccurate.

(f)(1) Whenever two or more persons are required to file a statement containing the information required by Schedule 13D or Schedule 13G with respect to the same securities, only one statement need be filed: *Provided*, That:

• • • • •

B. Section 240.13d-7 is amended to read as follows:

§ 240.13d-7 Fees for filing Schedules 13D or 13G.

The initial Schedule 13D or 13G filed by a person shall be accompanied by a fee of $100 payable to the Commission, no part of which shall be refunded. No fees shall be required with respect to the filing of any amended Schedule 13D or 13G: *Provided, however*, That once an amendment has been filed reflecting beneficial ownership of 5 percent or less of such class, an additional fee of $100 shall be paid with the next filing of that person which reflects ownership of more than 5 percent thereof.

C. Item 7 of Schedule 13D (§ 240.13d-101) is amended to read as follows:

§ 240.13d-101 Schedule 13D—Information to be included in statements filed pursuant to § 240.13d-1(a) and amendments thereto filed pursuant to § 240.13d-2(a).

• • • • •

Item 7. Material to be Filed as Exhibits. The following shall be filed as exhibits: Copies of written agreements relating to the filing of joint acquisition statements as required by Rule 13d-1(f) (§ 240.13d-1(f)) and copies of all written agreements, contracts, arrangements, understanding, plans or proposals relating to: (1) The borrowing of funds to finance the acquisition as disclosed in Item 3; (2) the acquisition of issuer control, liquidation, sale of assets, merger, or change in business or corporate structure, or any other matter as disclosed in Item 4; and (3) the transfer or voting of the securities, finder's fees, joint ventures, options, puts, calls, guarantees of loans, guarantees against loss or of profit, or the giving or withholding of any proxy as disclosed in Item 6.

D. Schedule 13G is amended to read as follows:

§ 240.13d-102 Schedule 13G information to be included in statements filed pursuant to § 240.13d-1 (b) and (c) and amendments thereto filed pursuant to § 240.13d-2(b).

• • • • •

Items 2, 7, 8, and 10 of § 240.13d-102 are amended to read as follows:

. . . . . .

2(a) Name of person filing:

_____

2(b) Address or principal business office or, if none, residence:

_____

2(c) Citizenship:

_____

2(d) Title of class of securities:

_____

2(e) CUSIP No.:

_____

. . . . . .

Item 7. Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on By the Parent Holding Company. If a parent holding company has filed this schedule, pursuant to Rule 13d-1(b)(ii)(G), so indicate under Item 3(g) and attach an exhibit stating the identity and the Item 3 classification of the relevant subsidiary. If a parent holding company has filed this schedule pursuant to Rule 13d-1(c), attach an exhibit stating the identification of the relevant subsidiary.

Item 8. Identification and Classification of Members of the Group. If a group has filed this schedule pursuant to Rule 13d-1(b)(ii)(H), so indicate under Item 3(h) and attach an exhibit stating the identity and Item 3 classification of each member of the group. If a group has filed this schedule pursuant to Rule 13d-1(c), attach an exhibit stating the identity of each member of the group.

. . . . . .

10. *Certification.* The following certification shall be included if the statement is filed pursuant to Rule 13d-1(b):

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were acquired in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired in connection with or as a participant in any transaction having such purposes or effect.

. . . . . .

(Secs. 3(b), 13(d)(1), 13(d)(2), 13(d)(5), 13(d)(6), 13(g)(1), 13(g)(2), 13(g)(5), 23; 48 Stat. 882, 894, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 88a; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; secs. 3, 10, 18, 89 Stat. 97, 119, 155; secs. 202, 203, 91 Stat. 1494, 1498, 1499; (15 U.S.C. 78c(b), 78m(d)(1), 78m(d)(2), 78m(d)(5), 78m(d)(6), 78m(g)(1), 78m(g)(2), 78m(g)(5), 78w).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 22, 1978.

[FR Doc. 78-33392 Filed 11-28-78; 8:45 am]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

[Docket No. RM79-4 Order 15]

PART 154—RATE SCHEDULES AND TARIFFS

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirements

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations relating to independent producer filing requirements to eliminate the requirement that producers file with the Commission a change in rate for each increase in rate resulting from the application of the inflation adjustment factor under the Natural Gas Policy Act of 1978 (NGPA). Without these amendments producers selling natural gas for which a maximum lawful price is established under section 104(b)(1)(A) or 106(a) of the NGPA would be required to make monthly rate change filings in order to collect those maximum lawful prices beginning December 1, 1978, or subsequent monthly inflation adjustments. Since the new maximum lawful prices are authorized by the NGPA, the Commission believes that the monthly filings are unnecessary, and is providing instead for a blanket filing for the maximum lawful price and escalations.

EFFECTIVE DATE: Immediately.

COMMENTS: December 1, 1978.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (Reference Docket No. RM79-4).

FOR FURTHER INFORMATION CONTACT:

Romulo Diaz, Office of the General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-3771.

SUPPLEMENTARY INFORMATION:

NOVEMBER 17, 1978.

Under sections 104 and 106(a) of the Natural Gas Policy Act of 1978 (NGPA), enacted on November 9, 1978, maximum lawful prices are prescribed for certain sales by producers of natural gas which is committed or dedicated to the interstate market as of November 8, 1978. Pursuant to section 101(b)(4)(C) of the NGPA, these maximum lawful prices will apply to deliveries of natural gas occurring on or after December 1, 1978, the first day of the first month following the date of enactment. Sections 104(b)(1)(A) and 106(a) of the NGPA permit these maximum lawful prices to escalate on a monthly basis in accordance with the inflation adjustment factor described in section 101(a) of the NGPA.

Under section 4 of the Natural Gas Act (NGA) and the Commission's current regulations in §§ 154.92 and 154.94, a producer selling natural gas under section 104(b)(1)(A) or 106(a) of the NGPA would not be permitted to collect the maximum lawful prices beginning December 1, 1978, unless he filed a change in rate pursuant to section 4(d) of the NGA and § 154.94 of the Commission's regulations. The maximum lawful prices under sections 104(b)(1)(A) and 106(a) of the NGPA increase each month in accordance with the inflation adjustment factor. Absent amendments to the Commission's regulations, a producer would be required to file a change in rate each month in order to charge and collect the additional increment in the maximum lawful price reflecting the inflation adjustment. Since these increases in price are authorized to be charged and collected by statute, the Commission believes that such monthly filings are unnecessary and that to continue to require them would impose needless administrative burdens and costs on both the producers and the Commission.

In order to provide an orderly transition from the producer rates currently in effect under the NGA to the new statutory pricing system prescribed under the NGPA for sales of dedicated natural gas, the Commission finds it necessary to amend its current regulations relating to producer filing requirements.

Under the amendments set forth herein, a producer that complies with the new blanket filing requirements would be permitted to charge and collect for each vintage or category of natural gas for which a just and reasonable price was in effect on April 20, 1977, the NGPA maximum lawful price for December 1, 1978, as well as the monthly inflation adjustment increases in subsequent months without having to make any further rate filings with the Commission. The blanket filing procedure implemented by this rulemaking will allow for a one-time filing and will relieve producers from current requirements, which, in the absence of this revision, would compel an estimated 200,000 filings per year.

An independent producer may file a blanket affidavit under which he may collect any maximum lawful price, including periodic escalations, which is applicable under section 104(b)(1)(A) or 106(a) of the NGPA and to which he is entitled on the basis of having qualified under the NGA for a base rate. (Section 104(b)(1)(A) of the NGPA permits collection of the just and reasonable rate in effect under the NGA on April 20, 1977, adjusted for inflation. Section 106(a) prescribes the rate for interstate rollover contracts.) "Base rate" is defined as a just and reasonable rate under the NGA applicable to a first sale of natural gas. A producer has established qualification for the base rate if he has made an initial rate filing or change of rate filing with the Commission under § 154.92 or § 154.94 of the regulations to collect such base rate, if collection of the filed rate is permissible under the applicable sales contract, and if the rate filing has taken effect. An initial rate filing takes effect when the filing has been accepted by the Commission. A rate change filing takes effect on the thirtieth day after the date of filing or any later effective date specified in the filing, unless such filing has been suspended or rejected.

A blanket affidavit covers both first sales listed in the affidavit for which qualification to collect the base rate has been established before the date of filing of the affidavit, and first sales for which qualification to collect the base rate is established after filing of the affidavit. In the latter case, the filing to establish the base rate must state that the sale will be covered by the blanket affidavit.

If a blanket affidavit filed before December 30, 1978, covers a first sale, it is effective with respect to deliveries, pursuant to that first sale, beginning on December 1, 1978. An affidavit filed on or after December 30, 1978, is effective with respect to deliveries, pursuant to a covered first sale, beginning on the date of filing of the affidavit. However, in neither case may an affidavit authorize collection of an NGPA rate prior to establishment of qualification to collect the base rate.

A blanket affidavit is deemed to be a notice of change of rate for purposes of section 4(d) of the NGA. The form of the affidavit is set out in the regulation. However, when the base rate for sales under a particular rate schedule changes, a rate change filing pursuant to § 154.94 will still be required before the new rate may be charged.

Certain natural gas which is committed or dedicated to the interstate market as of November 8, 1978, is subject to the interim collection provisions of section 503(e) of the NGPA. Under the amendments, the filing requirements imposed by that section shall satisfy any and all filing and notice requirements imposed by section 4(d) of the NGA and §§ 154.92 and 154.94 of the Commission's regulations. Section 503(e) of the NGPA indicates the intent of Congress to permit the prices prescribed in the NGPA and subject to the interim collection authority to become effective in accordance with the filing requirements imposed by that section. Therefore, to the extent that such filing requirements effect a waiver of the requirement in section 4(d) of the NGA and the Commission's regulations that publication be made thirty days prior to the effective date of such filing, good cause exists to waive such requirement.

Finally, § 157.40 of the regulations is amended herein to provide that small producers may charge the rate prescribed in sections 104(b)(1)(A) or 106(a) of the NGPA pursuant to the blanket certificate provided for in § 157.40(b).

The Commission is making this amendment effective upon the date of issuance of this order upon a finding that good cause exists to proceed without compliance with the notice, public procedure, and effective date provisions of 5 U.S.C. 553. The Commission is concerned that unless it makes these changes in its filing requirements immediately effective, producers will make unnecessary filings, under the previously established rules, between the date of enactment of the NGPA and the effective date of the new requirements. A delay in the effective date of these amendments would only lead to a disruptive transition from the pricing rules established under the NGA and those prescribed under the NGPA and result in needless administrative burdens and costs. For these reasons, the Commission has found it necessary to make these amendments effective upon the issuance of this order.

WRITTEN COMMENT PROCEDURES

Although these amendments are being made effective immediately, interested persons are invited to submit written comments, data, views or arguments with respect to the amendments. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to December 1, 1978, will be considered by the Commission, and if appropriate, further revisions will be made. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM79-4.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 154 and 157 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,
Secretary.

1. Section 157.40 is amended in paragraph (c) by adding a new subparagraph (6) to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

. . . . . .

(c) • • •

(6) All sales of natural gas by small producers for resale in interstate commerce which are subject to a maximum lawful price under section 104(b)(1)(A) or 106(a) of the Natural Gas Policy Act of 1978, shall be made at a price which does not exceed the applicable maximum lawful price under such section.

2. Section 154.94 is amended in the first sentence of paragraph (b) by striking out "Every" and inserting in lieu thereof the phrase "Except as provided in paragraphs (h) and (i) of this section, every", and is amended by adding new paragraphs (h) and (i), to read as follows:

§ 154.94 Changes in rate schedules.

. . . . . .

(h) *Blanket filing.*—(1) *General rule.* An independent producer may file a blanket affidavit under this paragraph under which he may collect any maximum lawful price (including periodic escalations) which is applicable under section 104(b)(1)(A) or 106(a) of the Natural Gas Policy Act of 1978 (NGPA), and to which he is entitled on the basis of having qualified under the Natural Gas Act (NGA) for a base rate. Such maximum lawful price may be collected only in accordance with this paragraph.

(2) *Base rate.* For purposes of this paragraph:

(i) *Definition.* "Base rate" means a just and reasonable rate under the

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NGA applicable to a first sale of natural gas.

(ii) *Establishment of base rate.* An independent producer has established qualification for a base rate if: (A) He has made a rate filing with the Commission under § 154.92 or the preceding paragraphs of this section to collect such base rate; (B) such rate filing has taken effect; and (C) collection of such rate is permissible under the applicable sales contract.

(iii) *Date of base rate.* An initial rate filing under § 154.92 to collect a base rate has taken effect if such filing has been accepted by the Commission. A rate change filing under the preceding paragraphs of this section to collect a base rate takes effect on the thirtieth day after the date of filing (or any later effective date specified in the filing), unless such filing has been suspended or rejected.

(3) *Sales covered by affidavit.* An affidavit under paragraph (1) covers:

(i) Any first sale for which qualification to collect the base rate has been established before the date of filing of the affidavit, if such first sale is listed in the affidavit, and

(ii) Any first sale for which qualification to collect the base rate is established on or after the date of filing of the affidavit, if the filing to establish the base rate states that upon establishment of qualification for the base rate, the first sale will be covered by such affidavit.

(4) *Effective date of coverage under affidavit.* (i) An affidavit filed before December 30, 1978, is effective with respect to deliveries, pursuant to a first sale, beginning at the later of December 1, 1978, or the date of qualification of such first sale for the base rate.

(ii) An affidavit filed on or after December 30, 1978, is effective with respect to deliveries, pursuant to a first sale, beginning at the later of the date of qualification of such first sale for the base rate or the date of filing of the affidavit.

(5) *Effect of affidavit.* An affidavit filed under this paragraph shall be deemed to be a notice of change of rate for purposes of section 4(d) of the NGA. A filing made under this paragraph does not constitute a waiver of the right to apply for a higher rate under sections 104(b)(2) or 106(c) of the NGPA.

(6) *Form.* Any affidavit filed under subparagraph (1) shall be subscribed in accordance with § 1.16(a) of this chapter (except that § 1.16(a)(1)(iv) shall not apply): The form for such affidavit appears as Appendix A to this section. Concurrently with any filing made under this paragraph, the filing party must serve each affected purchaser with a copy of the affidavit.

(i) *Interim Collections.* Compliance with the filing requirements imposed by section 503(e) of the NGPA shall be deemed to satisfy the requirements of paragraph (b) of this section and section 4(d) of the NGA for sales of natural gas subject to section 503(c) of the NGPA. The 30 day notice otherwise required by section 4(d) of the NGA is waived.

APPENDIX A TO § 154.94

BLANKET AFFIDAVIT FILING UNDER § 154.94(h)

———— (the affiant) certifies that he is ———— (exact legal title or capacity of the affiant) of ———— (filing party) and, that:

(1) Under 18 CFR 154.94(h) he is entitled, and intends, to collect a maximum lawful price (including periodic escalations) under section 104(b)(1)(A) or 106(a) of the Natural Gas Policy Act of 1978 (NGPA) for each of the sales identified in the form attached as Exhibit A to his affidavit; and

(2) He will notify the Commission that additional first sales are covered by this affidavit in accordance with the requirements of § 154.94(h).

The undersigned swears or affirms that with respect to each rate filing under 18 CFR 154.92 or 154.94 which is identified in Exhibit A and on which he relies to collect the applicable price under this affidavit, he has made a diligent inquiry of individuals with personal knowledge of the facts contained in such filing and has determined after such inquiry that all statements made in such filing are true and accurate to the best of his knowledge, information and belief concerning, among other things, the factors relating to the eligibility to charge the rates therein, and that he has examined the prices to be charged under the NGPA for sales covered by this affidavit and found them to be in accordance with sections 104(b)(1)(A) and 106(a) of the NGPA.

Signature ————————

EXHIBIT A

Respondent name and code ————————

Rate schedule No.	Buyer name	Applicable just and reasonable rate previously established under NGA	Applicable NGPA rate	Effective date of rate establishment

INSTRUCTIONS FOR COMPLETING EXHIBIT A

I. *General Instructions.* Exhibit A shall be attached to the affidavit filed pursuant to § 154.94(h)(1) to identify those sales that qualify for the maximum lawful price permitted under §§ 104 or 106(a) of the NGPA. Where necessary, the list may be continued on succeeding pages in the same form. An affidavit and Exhibit A thereto may be filed in conjunction with a qualifying initial service application and should be attached to the billing statement filed therewith.

II. *Specific Instructions. Respondent Name and Code:* Enter the name of the respondent and the code, if any, assigned to the respondent from the publication entitled Buyer/Seller Codes.

FERC Rate Schedule Number: Enter the rate schedule number assigned by the FERC. If none, enter the contract date.

Buyer Name: Enter the buyer name.

Applicable Just and Reasonable Rate Previously Established Under NGA: Enter the base rate (Mcf at 14.73 psia) reflected in Data Field 24 of the last Schedule 507 submitted for the vintage involved. Where the last Schedule 507 was submitted for initial billing statement purposes, enter the base rate reflected in Data Field 23 thereof.

Applicable NGPA Rate: Enter the maximum lawful MMBtu ceiling price (excluding taxes) for the vintage involved.

Effective Date of the Rate Establishment: Enter the proposed effective date of the NGPA rate.

[FR Doc. 78-33394 Filed 11-28-78; 8:45 am]

[1505-01-M]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-394]

CONFORMING AMENDMENTS REQUIRED BY THE "CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978"

Correction

In FR Doc. 78-30095 appearing on page 49784 in the issue of Wednesday, October 25, 1978 on page 49790 in the 1st column, § 148.102(b), the 8th line should read, "* * * acquired in these insular possessions * * *".

In § 148.110, the 4th line, should read, "* * * which are purchased in *and* shipped * * *".

On page 49791 in § 148.115(e), the next to the last line, and in § 148.116, the 8th and 10th line, the word "part" should read, "Part".

On page 49792, the amendatory language under Part 177 should read, "1. The heading of § 177.10 and § 177.10(a) are amended to read as follows:".

[4310-02-M]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

PART 112a—MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION AND SOCIOECONOMIC PROGRAMS

Final Rule; Correction

NOVEMBER 20, 1978.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule; correction notice.

SUMMARY: This document changes Part number 113 as it appeared in the FEDERAL REGISTER published at 43 FR 37175, August 22, 1978 to Part number 112a. The substantive provisions of the regulations are not changed by this correction.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Ramona L. Osborne, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C., 202-343-7387.

SUPPLEMENTARY INFORMATION: Beginning on page 37175 of the FEDERAL REGISTER (43 FR 37175) a new Part 113 to Subchapter J, Chapter I, Title 25 of the Code of Federal Regulations was published. Since Part 113 was assigned previously, Part number 112a is hereby assigned to correct the numbering for this final rule.

Accordingly, the following corrections to the FEDERAL REGISTER of Aug. 22, 1978 should be made:

Beginning on page 37175 and ending on page 37180, all references to Part 113 are to be corrected to read 112a and all sections thereof are to be corrected to read 112a, inclusively. The primary author of this document is Mary F. Asbill, Education Specialist, Office of Indian Education Programs, BIA, Washington, D.C. (202) 343-7387.

FORREST J. GERARD,
Assistant Secretary—Indian Affairs.

[FR Doc. 78-33368 Filed 11-28-78; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7573]

PART 301—REGULATIONS ON PROCEDURE AND ADMINISTRATION

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Disclosure of Returns and Return Information to and by Attorneys of the Department of Justice in Preparation for Proceeding of Investigation Involving Tax Administration; and to Delete Certain Existing Regulations Which Were Made Obsolete by the Tax Reform Act of 1976

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains a final regulation under section 6103(h)(2) of the Internal Revenue Code relating to disclosures of returns and return information to and by attorneys of the Department of Justice in preparation for proceedings or investigations involving tax administration. The regulation provides officers and employees of the Internal Revenue Service and the Department of Justice with guidance needed to comply with section 6103(h)(2) of the Code.

DATE: The regulation is effective as of November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

David E. Dickinson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3218, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 6, 1978, the Internal Revenue Service published in the FEDERAL REGISTER a notice of proposed rulemaking to amend the Regulations on Procedure and Administration (26 CFR Part 301) to provide rules under section 6103(h)(2) of the Internal Revenue Code of 1954, relating to disclosures of returns and return information to and by attorneys of the Department of Justice in preparation for proceedings or investigations involving tax administration. These regulations are identical to present § 404.6103 (h)(2)-1 of the Temporary Regulations on Procedure and Administration (26 CFR Part 404). In addition, the notice of proposed rulemaking proposed deletion of existing regulations issued under section 6103 of the Code prior to amendment of that section by the Tax Reform Act of 1976. These issued regulations have been made obsolete by reason of the amendments of section 6103.

One written comment on the proposed amendments was received, but no public hearing was requested or held. The written comment consisted of six individual member views forwarded by the Tax Section of the American Bar Association. Three members felt that the proposed amendments were consistent with the statutory requirements of section 6103. Two members, on the other hand, believed that the proposed amendments are inconsistent with the statutory requirement of section 6103 (i) (1) that a court order be obtained before returns or taxpayer return information are used in a nontax related criminal investigation. In the case of a joint title 26—title 18 investigation, the tax and nontax aspects are often so intertwined that they cannot, as a practical matter, be separated. Any effort to separate the nontax matter from the tax case for purposes of applying section 6103(i)(1) could seriously impair the effectiveness of either or both aspects of the joint investigation. It is believed that Congress did not intend to create overwhelming obstacles to the successful conduct of these joint investigations. Accordingly, the proposed amendments impose restrictions upon the use of tax data in joint title 26—title 18 investigations which properly balance the vital practical need to conduct these investigations jointly while at the same time providing suitable protection against unwarranted use of tax data in nontax criminal matters without the intervention of a federal district court.

A sixth individual member commented that the restrictions which the proposed amendments impose upon the use of tax data in joint title 26—title 18 investigations impose unnecessary burdens upon the Federal Government. It is believed, however, that these restrictions, burdensome or not, are consistent with Congressional policy to restrict the use of tax data in nontax related matters.

Accordingly, the proposed amendments are adopted by this Treasury decision with one technical change, that being deletion of § 404.6103(h)(2)-

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1 of the temporary regulations, which is identical to the proposed amendments being adopted.

DRAFTING INFORMATION

The principal author of this regulation is David E. Dickinson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendment to 26 CFR Part 301 as published in the FEDERAL REGISTER (43 FR 29132) on July 6, 1978, is adopted as set forth below:

This Treasury decision is issued under the authority contained in sections 6103(q) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1685, 68A Stat. 917; (26 U.S.C. 6103(q), 7805)).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: November 15, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Sections 301.6103(a), 301.6103 (a)-1, 301.6103 (a)-2, 301.6103 (a)-100, 301.6103 (a)-101, 301.6103 (a)-102, 301.6103 (a)-103, 301.6103 (a)-104, 301.6103 (a)-105, 301.6103 (a)-106, 301.6103 (a)-107, 301.6103 (a)-109, 301.6103(b), 301.6103 (b)-1, 301.6103 (c), 301.6103 (c)-1, 301.6103(d), 301.6103 (d)-1, 301.6103(e), 301.6103(f), and 301.6103 (f)-1 are deleted:

PAR. 2. The following new section is added after § 301.6102-1(d):

§ 301.6103(h)(2)-1 Disclosure of returns and return information (including taxpayer return information) to and by attorneys and other officers and employees of the Department of Justice in preparation for proceeding or investigation involving tax administration.

(a) *Disclosure of returns and return information (including taxpayer return information) to and by attorneys of the Department of Justice.* (1) Returns and return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3) of the Internal Revenue Code, shall, to the extent provided by subparagraphs (A), (B), and (C) of paragraph (2) of section 6103(h) and subject to the requirements of section 6103(h)(3), be open to inspection by or disclosure to attorneys of the Department of Justice (including United States attorneys) personally and directly engaged in, and for their necessary use in, preparation for any proceeding (or for their necessary use in an investigation which may result in such a proceeding) before a Federal grand jury of any Federal or State court in a matter involving tax administration (as defined in section 6103(b)(4)), including any such proceeding (or any such investigation) also involving the enforcement of a related Federal criminal statute which has been referred by the Secretary to the Department of Justice.

(2) Returns and return information (including taxpayer return information) inspected by or disclosed to attorneys of the Department of Justice as provided in paragraph (a)(1) of this section may also be used by such attorneys, or disclosed by them to other attorneys (including United States attorneys and supervisory personnel, such as Section Chiefs, Deputy Assistant Attorneys General, Assistant Attorneys General, the Deputy Attorney General, and the Attorney General), of the Department of Justice where necessary—

(i) In connection with preparation for any proceeding (or with an investigation which may result in such a proceeding) described in paragraph (a)(1), or

(ii) In connection with preparation for any proceeding (or with an investigation which may result in such a proceeding) described in paragraph (a)(1) which also involves enforcement of a specific Federal criminal statute other than one described in paragraph (a)(1) to which the United States is or may be a party, provided such matter involves or arises out of the particular facts and circumstances giving rise to the proceeding (or investigation) described in paragraph (a)(1) and further provided the tax portion of such proceeding (or investigation) has been duly authorized by or on behalf of the Assistant Attorney General for the Tax Division of the Department of Justice, pursuant to the request of the Secretary, as a proceeding (or investigation) described in paragraph (a)(1).

If, in the course of preparation for a proceeding (or the conduct of an investigation which may result in such a proceeding) described in subdivision (ii) of this subparagraph, the tax administration portion thereof is terminated for any reason, any further use or disclosure of such returns or taxpayer return information in such preparation or investigation with respect to the remaining portion may be made only pursuant to, and upon the grant of, a court order as provided by section 6103(i)(1)(A), provided, however, that the returns and taxpayer return information may in any event be used for purposes of obtaining the necessary court order.

(b) *Disclosure of returns and return information (including taxpayer return information) by attorneys of the Department of Justice.* (1) Returns and return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3) of the Code, inspected by or disclosed to attorneys of the Department of Justice as provided by paragraph (a) of this section may be disclosed by such attorneys to other persons, including, but not limited to, persons described in paragraph (b)(2), but only to the extent necessary in connection with the proper preparation for a proceeding (or in connection with an investigation which may result in such a proceeding) described in paragraph (a). Such disclosures may include, but are not limited to, disclosures—

(i) To properly accomplish any purpose or activity of the nature described in section 6103(k)(6) and the regulations thereunder which is essential to proper preparation for such proceeding (or to such investigation);

(ii) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from, the taxpayer to whom such return or return information relates (or such taxpayer's legal representative) or from any witness who may be called to give evidence in the proceeding; or

(iii) To properly conduct negotiations concerning, or obtain authorization for, settlement or disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding.

Disclosure of a return or return information to a person other than the taxpayer to whom such return or return information relates or such taxpayer's legal representative to properly accomplish any purpose or activity described in this paragraph should be made, however, only if such purpose or activity cannot otherwise properly be accomplished without making such disclosure.

(2) Among those persons to whom returns and return information may be disclosed by attorneys of the Department of Justice as provided by paragraph (a)(1) of this section are—

(i) Other officers and employees of the Department of Justice, such as personnel of an office, board, division, or bureau of such department (for example, the Federal Bureau of Investigation or the Drug Enforcement Administration), clerical personnel (for example, secretaries, stenographers, docket and file room clerks, and mail room employees) and supervisory personnel (such as supervisory personnel of the Federal Bureau of Investigation or the Drug Enforcement Administration);

(ii) Officers and employees of another Federal agency (as defined in section 6103(b)(9)) working under the direction and control of any such attorney of the Department of Justice; and

(iii) Court reporters.

§ 301.6103(h)(2)-1 [Deleted]

PARAGRAPH 3. Section 404.603(h)(2)-1 of the Temporary Regulations on Procedure and Administration under the Tax Reform Act of 1976 (26 CFR Part 404), published in the FEDERAL REGISTER (43 FR 29115) on July 6, 1978, is deleted.

[FR Doc. 78-33429 Filed 11-28-78; 8:45 am]

[6820-23-M]

Title 41—Public Contracts and Property Management

CHAPTER 5B—PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION

[PBS P 2800.6A CHGE 4]

PART 5B-1—GENERAL

Small Business Concerns

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation clarifies the duties, responsibilities, and procedures to be followed by contracting officers and Business Service Center personnel. This change updates this regulation and brings it into conformance with Pub. L. 95-89 dated August 4, 1977, which amended the Small Business Act of 1958. These changes are necessary to clarify and streamline the set-aside of procurements for the exclusive participation of small businesses.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Anthony G. Ratkus, Jr., Procurement Policy Review Staff, Office of Program Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202-566-1954.

The table of contents of Part 5B-1 is amended as follows:

Sec.
5B-1.701-8 Set-aside for small business.
5B-1.703 Determination of status as a small business concern.
5B-1.703-1 Representation by bidder or offeror.
5B-1.704-2 Program operations.
5B-1.706-1 [Reserved]
5B-1.706-5 Total set-asides.
5B-1.706-51 Class set-aside determinations.
5B-1.706-52 Determinations not to set-aside.
5B-1.706-53 Change of status of unrestricted or set-aside procurements.

Subpart 5B-1.7—Small Business Concerns

1. Section 5B-1.700 is revised to read as follows:

§ 5B-1.700 General.

This subpart implements and supplements FPR 1-1.7 by prescribing PBS procedures for implementing the GSA small business program, including unilateral set-asides.

2. Section 5B-1.701-8 is added to read as follows:

§ 5B-1.701-8 Set-aside for small business.

(a) *Clarification of class set-aside definition.* In further explanation of § 1-1.705-3(b), a class set-aside may consist of contracts for selected items or services or all contracts for like items or services when restricted to small business on a continuing basis, as opposed to a one-time basis.

(b) *Determining the set-aside status.* The fact that a particular contract is within a class set-aside does not mean that a procurement is automatically set aside without consideration of events which may have occurred since the last procurement. The contracting officer must determine if the circumstances justify excluding the procurement from being set-aside.

(c) *Class set-aside authority.* Except for construction contracts subject to provisions of § 5B-1.706 (b) and (c) small business class set-asides will normally be made on a unilateral basis by the contracting officer and documented in accordance with § 5B-1.706-51(a) using the format set forth therein. The Commissioner, PBS, may also establish class set-asides. It should be noted that § 1-1.706-2(c) requires that class set-aside determinations be reviewed at least annually and that they do not apply to any individual procurement for which small purchase procedures are to be used. The legal authorities for making small business set-asides are set forth in §§ 1-1.706-8 and 1-3.201. All GSA-initiated determinations to set aside shall be approved in accordance with current agency delegations of authority for procurement and contracting under section 302(c)(1) of the Federal Property and Administrative Services Act of 1949.

3. Section 5B-1.703 is added to read as follows:

§ 5B-1.703 Determination of status as a small business concern.

§ 5B-1.703-1 Representation by bidder or offeror.

If it is determined that a bidder on a procurement set-aside for small business has made a willful and knowing (i.e., not inadvertent or not in good faith) misrepresentation of its size status as a small business concern, the firm shall be placed on the Review List of Bidders maintained pursuant to § 5B-1.1251.

4. Section 5B-1.704-2 is revised to read as follows:

§ 5B-1.704-2 Program operations.

(a) Each procuring activity shall use its best efforts to identify procurements where a potential exists for increasing the small business share of contract awards. Whenever feasible, contracting officers shall seek the assistance of the Business Service Center (BSC) personnel and the Small Business Administration (SBA) procurement representatives in identifying qualified small business concerns for inclusion on the bidders mailing list.

(b) The Business Service Centers, with respect to the commodities and services identified pursuant to (a) of this § 5B-1.704-2 and with respect to small business concerns doing business in such commodities and services in their regional areas, are responsible for:

(1) Taking appropriate actions to publicize advance and current information about regional and national GSA business opportunities to the maximum extent practicable. (See Subpart 1-1.10.)

(2) Provide maximum advance and current information, assistance, and counseling of such nature, extent, and timeliness as to enable small business concerns to take full advantage of the available GSA business opportunities and to compete for contracts.

(3) Developing publications and public relations techniques to stimulate the interest and participation of small business concerns in GSA procurements. This activity will include, but not be limited to, the following:

(i) Arranging for and participating in meetings with business groups such as Chambers of Commerce, trade associations and similar organizations, State development corporations, Governors and Mayors' advisory groups, local business and civic organizations, and small business councils.

(ii) Developing, preparing, and distributing informational material designed to stimulate interest on the part of small business concerns.

(iii) Developing interest and cooperation on the part of trade publications and the local press, and other media.

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(c) Proposed PBS regulations and procedures affecting the operation of the small business program shall be developed through the office of the appropriate Assistant Commissioner. Material shall then be submitted to the Director, Procurement Policy Review Staff, who shall ensure that proper coordination is achieved with the Central Office, Public Services Division (Business Service Center Staff), which, in turn, will involve the Small Business Administration to the extent appropriate.

5. Section 5B-1.706 is revised to read as follows:

§ 5B-1.706 Procurement set-aside for small business.

(a) *General.* The Public Buildings Service, GSA, has primary responsibility for the initiation of small business set-asides of its procurements. Accordingly, procuring activities, to the maximum extent feasible, shall make unilateral small business set-asides on all procurements qualifying therefor, as provided in Subpart 1-1.7, and as required by the following paragraphs.

(b) *Construction contracts from $2,500 to $500,000.* Pursuant to an understanding with the SBA, every proposed procurement for construction, including alteration, maintenance, and repairs estimated to be in excess of $2,500 and under $500,000 shall be considered individually as though the SBA had initiated a set-aside request and shall be set-aside, except as otherwise provided in § 5B-1.706 (d) and (g).

(c) *Construction contracts from $500,000 to $1 million.* The Commissioner, PBS, has unilaterally established a class set-aside for PBS procurements of construction including alteration, maintenance, and repairs estimated to cost between $500,000 and $1 million. Such procurements shall be set-aside for small business except as otherwise provided in § 5B-1.706 (d) and (g).

(d) *Exemption of certain construction and repair contracts.* All separate construction contracts under a construction-management-phased construction project and contracts for repair of mechanical systems, such as elevators, steam generators, air-conditioners, or distributing systems, are exempt from the requirements of § 5B-1.706 (b) or (c). However, contracting officers shall review each such exempt procurement and initiate a small business set-aside where it appears that there would be sufficient competition to insure award at a reasonable price and set-aside is otherwise feasible.

(e) *Building service contracts in excess of $2,500.* Each procuring activity shall, to the maximum extent feasible, arrange for the making of small business set-asides on all contract actions which qualify therefor, as provided in Subpart 1-1.7. In the initiation of small business set-asides, procuring activities should give priority consideration to the establishment of class set-asides. Procuring activities shall periodically review individual set-asides to identify services suitable for class set-asides.

(f) *All other contracts.* All contracts other than those contracts subject to the provisions of § 5B-1.706 (b), (c), (d), and (e) are subject to set-aside in accordance with the provisions of § 1-1.706 and § 5B-1.706(a).

(g) *Procurement set-aside that is not feasible.* Where the contracting officer determines that a small business set-aside of a procurement is not feasible, the procedures defined in § 1-1.706 and § 5B-1.706-52 shall be followed.

6. Section 5B-1.706-51 is added to read as follows:

§ 5B-1.706-51 Class set-aside determinations.

Class set-aside determination shall be documented substantially in the format set forth herein and a copy shall be retained in the purchase history file or equivalent record covering the commodity or service involved.

SMALL BUSINESS CLASS SET-ASIDE DETERMINATION

In accordance with FPR 1-1.706, it is hereby determined that procurements by the (name of procuring activity) for the following procurement classes shall be set aside for small business concerns on a class basis. This determination shall be reviewed jointly by a Small Business Administration Procurement Center Representative and the procuring activity not later than 1 year after the above determination date. This determination does not generally apply to any individual procurement for which small purchase procedures are to be used and applies only to the procuring activity named above.

(List items or services)

The above format should be appropriately modified with respect to any class procurements proposed to be partially set-aside. It shall be signed by the contracting officer who is responsible for the contract involved and shall be approved by the Regional Commissioner, PBS.

7. Section 5B-1.706-52 is added to read as follows:

§ 5B-1.706-52 Determination not to set aside.

(a) When the contracting officer determines that, in his judgment, a particular procurement subject to § 5B-1.706 or to another GSA-initiated set-aside is unsuitable as a set-aside for small business participation, he shall document the reasons for his determination and shall notify the appropriate GSA Regional Director of Business Affairs or, in Central Office procurements, the Director, Procurement Policy Review Staff of his decision. GSA form 2689, Procurement Not Set Aside for Small Business, shall be used for this purpose. The officials designated above are responsible for the review of procurements not to be set aside (when feasible this review shall be conducted jointly with the Small Business Administration Procurement Center Representative). The designated reviewing officials are responsible for any necessary coordination with the Small Business Administration. When the Small Business Administration Procurement Center Representative does not agree to a proposed non-set-aside action, the procedures set forth in FPR 1-1.706-2 and 3 shall be followed instead of this § 5B-1.706-52.

(b) Reviews by officials designated in § 5B-1.706-52(a) shall be completed within 5 working days from the time they are notified by the contracting officer. If the contracting officer receives no response or objections within the 5-working-day period, he may assume concurrence by the reviewing official in his determination not to set aside the procurement for small business, and he may proceed to process the procurement on an unrestricted basis.

(c) If the reviewing official is able to identify additional small business firms (which the contracting officer was not aware of) who are capable of performing the contract, who are interested in bidding on it, and who have been contacted by the reviewing official to verify capability and interest, the extent of the additional competition should be taken into consideration by the contracting officer. Names obtained from registers or listings, without contact for verification, may not be considered in reviewing the contracting officer's determination. Contact for purposes of verifying capability and interest in bidding may be made orally (by telephone or in person) when necessary in order to complete a review within the 5-working-day time period. If the reviewing official identifies additional prospective sources, determined in accordance with provisions of this § 5B-1.706-52(c), and concludes that a contract should be set aside, contrary to the contracting officer's determination not to set it aside, the information obtained on these additional prospective sources shall be furnished to the contracting officer with the conclusions reached by the reviewing official.

(d) If there is disagreement between the reviewing official and the contracting officer concerning the initiation of a small business set-aside, the disagreement shall be referred as follows:

(1) In regional procurement actions, to the appropriate Division Director or, if the Division Director is the contracting officer, to the Regional Commissioner. In the event the disagreement is not resolved, referral shall be made to the Regional Administrator for decision.

(2) In Central Office procurement actions, to the appropriate Assistant Commissioner or, if the Assistant Commissioner is the contracting officer, to the Commissioner, PBS. If the disagreement is not resolved, referral shall be made to the Commissioner, PBS, for decision.

(e) Actions taken pursuant to this § 5B-1.706-52 shall be summarized in the contract file.

8. Section 5B-1.706.53 is added to read as follows:

§ 5B-1.706-53 Change of status of unrestricted or set-aside procurements.

(a) The determination not to make a set-aside shall not be changed (except when pursuant to an appeal by the Small Business Administration) once the solicitation is issued even if information subsequently becoming available discloses a basis for setting aside an unrestricted procurement. See § 1-1.706-3.

(b) A procurement set aside for exclusive participation by small business may be opened up to participation by all firms by:

(1) The issuance of an amendment to the solicitation and the publication in the Commerce Business Daily. In accordance with the provisions of § 1-1.1003-6;

(2) The notice shall describe the procurement and the fact that it has been changed to an unrestricted procurement; and

(3) The establishment of a new bid opening date, if necessary, under the requirement of § 5B-2.202-1.

(c) The contracting officer may remove a set-aside under circumstances where:

(1) It becomes apparent that there will not be adequate competition within the small business community; or

(2) An amendment is issued which will increase materially the scope or extent of the procurement which would diminish participation by small business.

(d) This determination shall be submitted for review in accordance with the procedures prescribed in § 5B-1.706-52 except when the review is completed within 2 working days.

Subpart 5B-1.12—Responsible Prospective Contractors

1. Section 5B-1.1204 is revised to read as follows:

§ 5B-1.1204 Determination of responsibility or nonresponsibility.

(a) When a contracting officer finds a bidder or offeror, who is a small business, to be nonresponsible, he shall refer the matter to the Small Business Administration for review and further action in accordance with §§ 1-1.708-1 through 1-1.708-3.

(b) When a bid or offer is rejected because of a determination by the contracting officer that the prospective contractor does not qualify as responsible, the contracting officer shall notify the prospective contractor by letter, setting forth the reasons for the rejection. This will provide opportunity, where applicable, for the correction of the offending practices prior to future offerings. The contracting officer shall send a copy of the letter, together with a copy of the determination to reject, to the Office of Investigations through the head of the procuring activity. He shall include a recommendation that the rejected bidder be or not be placed on the Review List in accordance with § 5B-1.1251. The head of the procuring activity shall determine the appropriate action required and so advise the Office of Investigations.

(c) For determination of responsibility in connection with equal opportunity in employment, see 5B-12.805-50.

2. Section 5B-1.1251 is amended to read as follows:

§ 5B-1.1251 Review list of bidders.

* * * * * *

(a) * * *

(1) When, after recommendation by the Office of Investigations, it is determined by the head of a procuring activity that a firm or individual is of questionable responsibility within purview of Subpart 1-1.12;

(2) When a bid is rejected because of a determination by the contracting officer that the bidder does not qualify as responsible and the Office of Investigations has been notified in accordance with § 5B-1.1204(a);

(3) When before investigation of the circumstances of a particular case, the Head of a procuring service or staff officer (or his designee) so requests, if such action has the concurrence of the appropriate legal counsel and the Office of Investigations; or

(4) When it is determined that a bidder on a small business set-aside procurement has made a willful and knowing (i.e., not inadvertent or not in good faith) misrepresentation of its size status as a small business concern.

* * * * * *

(c) * * *

(4) If award is made to a listed firm or individual, the contracting officer shall solicit the aid of the appropriate elements within GSA that may be of assistance in maintaining close surveillance over the performance of the contract. If derogatory information is developed during the life of the contract, the information shall be transmitted to the contracting officer and the appropriate Office of Investigations representative.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

Dated: November 1, 1978.

JAMES B. SHEA, Jr.,
Commissioner,
Public Buildings Service.

[FR Doc. 78-33369 Filed 11-28-78; 8:45 am]

[4110-08-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 66—NATIONAL RESEARCH SERVICE AWARDS

Predoctoral Training; Correction

AGENCY: Public Health Service, DHEW.

ACTION: Correction of Rules and Regulations.

SUMMARY: DHEW corrects the Regulation published in the FEDERAL REGISTER December 17, 1977 (42 FR 63390). In that publication, the definition of "predoctoral training" (42 CFR 66.102(k)) incorrectly included an earlier definition. Paragraph (k) of § 66.102 of Part 66 of Title 42 of the Code of Federal Regulations should read as set forth below.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lowell D. Peart, NIH Regulations Officer, National Institutes of Health, OA, DMP, Building 31, Room 3B11, 9000 Rockville Pike, Bethesda, Maryland 20014, 301-496-4606.

Paragraph (k) of § 66.102 of Part 66 of Title 42 of the Code of Federal Regulations should read as follows:

§ 66.102 Definitions.

* * * * * *

(k) "Predoctoral training" means training at the post-baccalaureate level in a program leading to the award of a doctor of philosophy of science, or equivalent degree; except that for purposes of Awards under the Minority Access to Research Careers program of the National Institute of General Medical Sciences "predoctoral training" also means training in a pro-

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gram leading to the award of a baccalaureate degree in science or equivalent degree.

Dated: November 21, 1978.

L. DAVID TAYLOR,
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-33395 Filed 11-28-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 0—COMMISSION ORGANIZATION

Editorial Amendments Concerning Current Location Addresses and Administrative Areas of the Field Operations Bureau's Field Installations

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Editorial amendments to § 0.121 of the Commission's rules to reflect current location addresses and administrative areas of the Field Operations Bureau's field installations. Changes are informational and procedural in nature. No prior notice required.

EFFECTIVE DATE: December 6, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Sylvia B. Sternstein, Attorney Advisor, Field Operations Bureau, Room 734, 1919 M Street NW., Washington, D.C. 20554, 202-632-7591.

Adopted: November 16, 1978.

Released: November 20, 1978.

Order. In the Matter of Editorial amendment of § 0.121 of the Commission's rules and regulations.

1. Section 0.121 of the Commission's rules is to be amended to reflect the current location addresses, and administrative areas of the Field Operations Bureau's field installations as set forth below.

2. The amendments are editorial, informational, and procedural in nature. The prior notice and effective date requirements of 5 U.S.C. 553 are therefore inapplicable.

3. Authority for their adoption is contained in Sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), and 303(r), and in § 0.231(d) of the rules and regulations, 47 CFR 0.231(d).

4. *Accordingly, it is ordered,* Effective December 1, 1978, that the rules and regulations are amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

R. D. LICHTWARDT,
Executive Director.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, § 0.121 is revised to read as follows:

§ 0.121 Location of Field Installations.

(a) Regional Offices are located at the following addresses:

Address of the Regional Director	States
Missouri, Kansas City 64133 Room 320 Brywood Office Tower 8800 E. 63rd Street	Arkansas Colorado Iowa Kansas Louisiana Mississippi Missouri Nebraska New Mexico North Dakota Oklahoma South Dakota Texas Wyoming
Washington, Seattle 98174 3090 Federal Building 915 Second Street	Alaska Idaho Montana Oregon Washington

(b) Field offices and suboffices are located at the following addresses:

Field Installations	States	Administrative Areas Counties
Alaska, Anchorage 99510 Federal Bldg., & U.S. Courthouse P.O. Box 2955, 4th & F Sts.	Alaska	All.
California, Long Beach 90807 Room 501, 3711 Long Beach Blvd. Special Enforcement Facility - Long Beach, Room 518	Arizona California	All counties. Imperial, Inyo, Kern, Los Angeles, Orange, Riverside San Bernardino, San Diego, San Luis Obispo, Santa Barbara and Ventura.
	Nevada	Clark. Other counties covered by San Francisco, CA office.
California, Los Mesa 92041 1/ (San Diego) 7840 El Cajon Blvd., Room 405		

1/ Indicates specialized office with no designated administrative area.

[6712-01-C]

Address of the Regional Director	States
California, San Francisco 94105 Room 537, 211 Main Street	American Samoa Arizona California Guam Hawaii Mariana Islands Midway Island Nevada Pacific Trust Territories & Commonwealth Swains Island Utah Wake Island
Georgia, Atlanta 30301 P.O. Box 1775, Room 2111 101 Marietta Tower	Alabama Florida Georgia North Carolina Puerto Rico South Carolina Tennessee Virginia Virgin Islands
Illinois, Chicago 60068 (Park Ridge) Room 306 Park Ridge Office Center 1550 N.W. Highway	Illinois Indiana Kentucky Michigan Minnesota Ohio Wisconsin
Massachusetts, Boston 02109 1500 Customhouse 165 State Street	Connecticut Delaware District of Columbia Maine Maryland Massachusetts New Hampshire New Jersey New York Pennsylvania Rhode Island Vermont West Virginia

Field Installations	States	Administrative Areas Counties
California, San Francisco 94111 323-A Customhouse, 555 Battery St.	California	All except those listed for Long Beach, CA.
	Nevada	All except Clark, which is covered by Long Beach, CA office.
	Utah	All counties.
Colorado, Denver 80202 Room 2925, The Executive Tower 1405 Curtis Street	Colorado	All counties.
	New Mexico	All counties.
	North Dakota	All counties.
	South Dakota	All counties.
	Wyoming	All counties.
District of Columbia, Washington 20554, Room 411, 1919 M St., N.W.	District of Columbia	All.
	Maryland	Charles, Montgomery, and Prince Georges.
	Virginia	Arlington, Fairfax, Loudoun, and Prince William; all others covered by Norfolk, VA.
Florida, Miami 33130 Room 919, 51 Southwest First Ave.	Alabama	Baldwin and Mobile; all others are covered by Atlanta, GA office.
	Florida	All counties.
Florida, Tampa 33602 1/ ADP Building, Room 601 1211 N. Westshore Blvd.		
Georgia, Atlanta 30309 Room 440, Massell Bldg., 1365 Peachtree St., N.E.	Alabama	All except Baldwin and Mobile which are covered by Miami, FL office.
	Georgia	All counties.
	South Carolina	All counties.
	Tennessee	All counties.
Georgia, Powder Springs 30073 Special Enforcement Facility P.O. Box 65		
Georgia, Savannah 31402 1/ Room 238, Federal Bldg., & Courthouse, P.O. Box 8004 (125 Bull Street)		
Hawaii, Honolulu 96850 Prince Kunio Federal Bldg., Room 7304, P.O. Box 50023 300 Ala Moana Blvd.	American Samoa	All.
	Guam	All.
	Hawaii	All.
	Mariana Islands	All.
	Midway Island	All.
	Pacific Trust Territories & Commonwealths	All.
	Swains Island	All.
	Wake Island	All.
Illinois, Chicago 60604 Federal Bldg., Room 3935 230 South Dearborn St.	Illinois	All counties.
	Indiana	All counties.
	Kentucky	All counties except those listed for Detroit, MI.
	Wisconsin	Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door Fond du Lac, Grant, Green, Iowa, Jefferson, Kenosha, Kewaunee, LaFayette, Manitowoc, Marinette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha, and Winnebago; all others are covered by St. Paul, MN office.
Louisiana, New Orleans 70130 829 F. Edward Hebert Federal Bldg., 600 South St.	Arkansas	All counties.
	Louisiana	All counties.
	Mississippi	All counties.
Maryland, Baltimore 21201 1017 Federal Bldg., 31 Hopkins Plaza	Delaware	Kent and Sussex.
	Maryland	All except those listed for Washington, D.C.
	West Virginia	All counties.
Maryland, Columbia 21045 Special Enforcement Facility - Laurel, P.O. Box 250		
Massachusetts, Boston 02109 1600 Customhouse, 165 State St.	Connecticut	All counties.
	Maine	All counties.
	Massachusetts	All counties.
	New Hampshire	All counties.
	Rhode Island	All counties.
	Vermont	All counties.

1/ Indicates specialized office with no designated administrative area.

Field Installations	States	Administrative Areas Counties
Michigan, Detroit 48226 1054 Federal Bldg., 231 W. LaFayette Special Enforcement Facility - Detroit - 1007 Federal Bldg.	Kentucky	Bath, Bell, Boone, Bourbon, Boyd, Bracken, Breathitt, Campbell, Carter, Clarke, Clay, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Greenup, Harlan, Harrison, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Madison, Magoffin, Martin, Mason, McCreary, Menifee, Montgomery, Morgan, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Scott, Wayne, Whitley, Wolfe, and Woodford, all others covered by Chicago, IL office.
	Michigan	All counties except those listed for St. Paul, MN.
	Ohio	All counties.
Minnesota, St. Paul 55101 691 Federal Bldg. & U.S. Courthouse, 316 N. Robert St.	Michigan	Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft; all others covered by Detroit, MI office.
	Minnesota	All counties.
	Wisconsin	All except those listed for Chicago, IL.
Missouri, Kansas City 64133 Room 320 Brywood Office Tower 8800 E. 63rd Street	Iowa	All counties.
	Kansas	All counties.
	Missouri	All counties.
	Nebraska	All counties.
Nebraska, Grand Island 68801 Special Enforcement Facility P.O. Box 1588		
New York, Buffalo 14202 1307 Federal Bldg., 111 West Huron Strett	New York	All except those listed for New York, N.Y.
New York, New York 10014 201 Varick Street	New Jersey	Bergen, Essex, Hudson, Hunterdon Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren; all others are covered by Philadelphia, PA office.
	New York	Albany, Bronx, Columbia, Delaware, Dutchess, Greene, Kings, Nassau-New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Schenectady, Suffolk, Sullivan, Ulster, and Westchester; all others are covered by Buffalo, N.Y. office.
Ohio, Cincinnati 45231 1/ 8620 Winton Road		
Oregon, Portland 97204 1782 Federal Office Bldg., 1220 S.W. 3rd Avenue	Idaho	All except those listed for Seattle, WA.
	Oregon	All counties.
	Washington	Clark, Cowlitz, Klickitat, Skamania and Wahkiakum; all others covered by Seattle, WA office.
Pennsylvania, Philadelphia 19106 11425 James A. Byrne Federal Courthouse, 601 Market Street	Delaware	New Castle.
	New Jersey	Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester Ocean, and Salem; all others covered by New York, N.Y. office
	Pennsylvania	All counties.
Pennsylvania, Monroeville 15146 (Pittsburgh) 1/ William Penn Highway		
Puerto Rico, Hato Rey 00918 (San Juan) 747 Federal Bldg.	Puerto Rico	All Counties.
	Virgin Islands	All.
Texas, Beaumont 77701 1/ Jack Brooks Federal Bldg., Room 323, 300 Willow Street		

1/ Indicates specialized office with no designated administrative area.

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(c) Monitoring stations are located at the following addresses:

Field Installations	States	Administrative Areas Counties
Alaska, Anchorage 99510 P.O. Box 2955		Maryland, Columbia 21045 (Laurel) P.O. Box 250
Arizona, Douglas 85607 P.O. Box 6		Michigan, Allegan 49010 P.O. Box 89
California, Livermore 94550 P.O. Box 311		Nebraska, Grand Island 68801 P.O. Box 1588
Florida, Ft. Lauderdale 33335 P.O. Box 22836		Puerto Rico, Sabana Seca 00749 P.O. Box 181
Georgia, Powder Springs 30073 P.O. Box 85		Texas, Kingsville 78363 P.O. Box 632
Hawaii, Waipahu 96797 P.O. Box 1035		Washington, Ferndale 98248 P.O. Box 1129
Maine, Belfast 04915 P.O. Box 470		
Texas, Dallas 75242 Earle Cabell Federal Bldg., U.S. Courthouse, Room 1367 1100 Commerce Street	Oklahoma Texas	All counties. All except those listed for Houston, TX.
Texas, Houston 77002 New Federal Office Bldg. 515 Rusk Avenue, Room 5636	Texas	Angelina, Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bexar, Blanco, Brazoria, Brazos, Brooks, Burleson, Caldwell, Calhoun, Cameron, Chambers, Colorado, Comal, De Witt, Dimmit, Duval, Edwards, Fayette, Fort Bend, Frio, Galveston, Gillespie, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kendall, Kenedy, Kerr, Kleberg, Kimble, Karnes, Lavaca, Lee, Liberty, La Salle, Live Oak, Madison, Matagorda, Maverick, McMullen, Medina, Montgomery, Nacogdoches, Newton, Nueces, Orange, Polk, Real, Refugio, Sabine, San Augustine, San Jacinto, San Patricio, Starr, Travis, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala; all others covered by Dallas, TX office.
Virginia, Norfolk 23502 Military Circle, 870 North Military Highway	North Carolina Virginia	All counties. All except those listed for District of Columbia.
Washington, Seattle 98174 3256 Federal Bldg., 915 Second Avenue	Idaho	Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone; all others covered by Portland, OR office.
	Montana Washington	All counties. All except those listed for Portland, OR.

[FR Doc. 78-33368 Filed 11-28-78; 8:45 am]

[6712-01-M]

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Broadcasting; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to reregulation of radio and broadcasting appearing in the FEDERAL REGISTER of October 4, 1978 at 43 FR 45842. The correction is necessary to add the word "news" to the appropriate subparagraphs.

EFFECTIVE DATE: November 16, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Steve J. Crane, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Released: November 17, 1978.

In the matter of Reregulation of Radio and TV Broadcasting.

In the above captioned Order FCC-78-681, released 10-16-78, and published in the FEDERAL REGISTER October 4, 1978 at 43 FR 45842, certain words were inadvertently omitted from § 73.1940(g)(1) (ii) and (iii), and should read as follows:

. . . . . .

(g) • • •

(i) • • •

(ii) Bona fide *news* interview.

(iii) Bona fide *news* documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary).

. . . . . .

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-33472 Filed 11-28-78; 8:45 am]

[6712-01-M]

PART 91—INDUSTRIAL RADIO SERVICES

Designation of 483.1375 MHz as a new Starting Point for Assigning Frequencies in the Business Radio Service in the Dallas/Fort Worth, Tex., Metropolitan Area in the 470–512 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This order amends the Business Radio Service frequency table by establishing a new starting point for assigning frequencies in the 470-512 MHz band in the Dallas/Fort Worth metropolitan area. The new starting point is 483.1375 MHz.

EFFECTIVE DATE: December 6, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Victor Tawil, Industrial and Public Safety Facilities Division, Safety and Special Radio Services Bureau, telephone 202-632-6497.

In the matter of the designation of 483.1375 MHz as a new starting point for assigning frequencies in the Business Radio Service in the Dallas/Fort Worth Texas, metropolitan area in the 470-512 MHz band. *Order.*

Adopted: November 16, 1978.

Released: November 24, 1978.

By the Chief, Safety and Special Radio Services Bureau:

1. In the Fifth Report and Order in Docket 18261 the Commission provided a flexible frequency assignment plan for the 470-512 MHz band frequencies available in Dallas and Houston, Texas, and Miami, Florida. *Land Mobile/UHF-TV Sharing Plan*, 48 FCC 2d 360 (1974). In Paragraph 12 of that Report and Order, the Commission said, "• • • since all of the frequencies are to be available in all eligible radio services, the frequencies in which the first assignments are to be made do not necessarily set out the boundaries for frequency availability in a particular radio service. A new starting frequency may be assigned by the staff for any of the various groups when the frequencies available to its sequence are exhausted. Also, should any group fail to use its assigned frequency, that base line may be moved." *Land Mobile/UHF-TV Sharing Plan, supra*, at p. 364.

2. The frequencies available in sequence in the Business Radio Service in Dallas/Fort Worth in the 470-512 MHz band are now occupied and are subtantially loaded. Therefore, in accordance with Paragraph 12 of the Report and Order in Docket 18261, an additional starting point is being established. That starting frequency will be 483.1375 MHz. Assignments will be made sequentially in ascending and descending order from this frequency until all available contiguous channels are occupied.

3. This action is taken pursuant to the authority contained in Section 4(i) of the Communications Act of 1934, as amended, and to authority delegated by the Commission in the *Fifth Report and Order* in Docket 18261 previously cited. The amendment to § 91.114 (f)(3) is for conformity with substantive matters which were previously decided in the *Fifth Report and Order* and which are being implemented herein. Therefore, compliance with the prior notice requirements prescribed by 5 U.S.C. 553 is unnecessary.

4. Accordingly, *it is ordered*, That effective December 6, 1978, § 91.114(f)(3) of the Commission's Rules is amended as shown below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

Part 91 of Chapter I of Title 47 of the Code of Federal Regulations is revised as follows:

Section 91.114(f)(3) is amended to read:

§ 91.111 Frequencies in the band 470–512 MHz.

. . . . . .

(f) • • •

(3) Base station frequencies for the Business Radio Service will be assigned serially beginning at 472.3625 MHz for Miami, 484.3625, 483.6125 and 483.1375 MHz for Dallas, and 489.6625 MHz and 490.3625 MHz for Houston and progressing, a channel at a time, upward and downward from those points. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned

. . . . . .

[FR Doc. 78-33413 Filed 11-28-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

[1 CFR Part 475]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

AGENCY: Presidential Commission on World Hunger.

ACTION: Proposed Rule.

SUMMARY: The following proposed regulations drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. The purposes of these regulations are to establish procedures by which an individual can determine if the Commission maintains a system of records which included a record pertaining to that individual and also to establish procedures for individual access to the records for purposes of review, amendment and/or correction.

DATE: Comments are due on or before December 20, 1978.

ADDRESS: Send comments to the Deputy Executive Director, Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Donald Harper, (202) 395-3505.

Signed this 21st day of November 1978.

DANIEL E. SHAUGHNESSY,
Deputy Executive Director.

It is proposed to add the following Part 475 to Title 1 of the CFR.

PART 475—PRIVACY ACT IMPLEMENTATION

Sec.
475.1 Purpose and scope.
475.2 Definitions.
475.3 Procedures for requests pertaining to individual records in a records system.
475.4 Times, places, and requirements for the identification of the individual making a request.
475.5 Disclosure of requested information to the individual.
475.6 Request for correction or amendment to the record.
475.7 Agency review of request for correction or amendment of the record.
475.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
475.9 Disclosure of record to a person other than the individual to whom the record pertains.
475.10 Fees.

AUTHORITY: 5 U.S.C. 552a: Pub. L. 93-579.

§ 475.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Presidential Commission on World Hunger hereafter known as the Commission maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 475.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 475.3 Procedures for requests pertaining to individual records in a records system.

An individual shall submit a request to the Director of Administrative and Fiscal Services to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Deputy Executive Director of the Commission which states the individual's desire to review his or her record.

§ 475.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Director of Administrative and Fiscal Services of the Commission pursuant to Section § 475.3 shall present the request at the Commission offices, 734 Jackson Place, N.W., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 475.5 Access to requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 475.6 Request for correction or amendment to the record.

The individual should submit a request to the Director of Administrative and Fiscal Services which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 475.4.

§ 475.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Director of Administrative and Fiscal Services will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 475.8 Appeal of an initial adverse agency determination on correction of amendment of the record.

An individual who disagrees with the refusal of the Director of Administrative and Fiscal Services to correct or to amend his or her record may submit a request for a review of such refusal to the Deputy Executive Director, Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. The Deputy Executive Director will, not later than thirty working days from the date on which the individual request such review, complete such review and make a final determination unless, for good cause shown, the Deputy Executive Director extends such thirty day period. If, after his or her review, the Deputy Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Deputy Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 475.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b)).

§ 475.10 Fees.

If an individual request copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc. 78-33347 Filed 11-28-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 437]

FOOD ADVERTISING (PHASE I)

Trade Regulation Rule

PUBLICATION OF STAFF REPORT ON PROPOSED TRADE REGULATION RULE

AGENCY: Federal Trade Commission.

ACTION: Publication of staff report.

SUMMARY: On March 22, 1978, the Director of the Bureau of Consumer Protection published in the FEDERAL REGISTER, 43 FR 11834, notice of publication of the Presiding Officer's report on Phase I of the proposed trade regulation rule on food advertising.

The Bureau of Consumer Protection's staff report which analyzes the evidence in Phase I of its rulemaking proceeding on food advertising and makes recommendations as to the final action which the Commission should take has now been made public and placed on Public Record No. 215.40.

DATE: The publication of the staff report commences the final 60-day comment period on both the staff report and the Presiding Officer's report. Comments will be accepted for the public record if received on or before January 29, 1979.

ADDRESSES: Requests for copies of the report should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments should be sent to: Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Melvin H. Orlans, 202-724-1511, Deputy Assistant Director for Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580 or Judith A. Neibrief, 202-724-1496, Attorney, Division of Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to § 1.13(g) of the Commission's rules of practice, the staff has made its report, containing its analysis of the record and its recommendations as to the form of the final rule, to the Commission. The report is now available for public comment under the Commission's rules of practice, § 1.13(h). Requests for copies of the report should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue N.W., Washington, D.C. 20580.

Comments will be accepted on both the staff report and the Presiding Officer's report (which has previously been made public) for a period of 60 days ending on January 29, 1979. Comments should be identified as "Comment on Presiding Officer and Staff Reports—Food Advertising TRR," and addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, and submitted, when feasible, in five copies.

The Commission cautions all concerned that the staff report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present views of the Commission or any individual member thereof.

Approved: November 24, 1978.

ALBERT H. KRAMER,
Director, Bureau of Consumer Protection.

[FR Doc. 78-33449 Filed 11-28-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1205]

POWER LAWN MOWERS

Brake-Clutch Reliability and Safety

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of comment period and announcement of oral presentation of comments.

SUMMARY: As part of its proceeding to develop a safety standard for power lawn mowers, the Commission had previously requested comment on data it had received concerning the reliability of brake-clutch mechanisms for power lawn mowers and on several questions it had concerning the reliability and safety of such mechanisms. The Commission had specified that the comments should be submitted by November 22, 1978. After considering requests from the Outdoor Power Equipment Institute and FMC Corporation for an extension of the comment period and for a public hearing, however, the Commission has decided to extend the period for receipt of written comment on this subject until December 15, 1978, and to provide an opportunity for the oral presentation of comments at 9:30 a.m., December 11, 1978.

DATES: Written comments limited to the reliability and safety of brake-clutch mechanisms for walk-behind rotary power lawn mowers must be received in the Office of the Secretary no later than December 15, 1978.

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An opportunity for the oral presentation of comments on the reliability and safety of brake-clutch mechanisms for walk-behind rotary power lawn mowers will be provided at 9:30 a.m., December 11, 1978. A summary of the testimony to be present must be filed with the Office of the Secretary no later than December 7, 1978, and persons desiring to give an oral presentation of comments must notify the Commission by December 6, 1978.

ADDRESSES: Comments and summaries of testimony should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 and entitled "Power Mower Brake-Clutch Reliability." All material which the Commission has that is revelant to the issue of brake-clutch reliability, including any comments that may be received on this issue, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor 1111-18th Street, NW., Washington, D.C. 20207, (202) 634-7700.

The oral presentation of comments will be held in the third floor conference room, consumer product Safety Commission, 1111-18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

William Kitzes, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301)492-6557.

SUPPLEMENTARY INFORMATION: On November 2, 1978, the Commission published a request for comment on data that the Commission's staff had received concerning the reliability and safety of brake-clutches for power lawn mowers and solicited responses to certain questions relating to the reliability and safety of these devices (43 FR 51038). This notice was in connection with the Commission's pending proceeding to develop a consumer product safety standard for power lawn mowers. A more detailed explanation of the background and reasons for the Commission's request is given in that notice.

After the publication of the request for comments, the Commission received requests from the Outdoor Power Equipment Institute (OPEI) and from FMC Corporation that the comment period be extended and that a public hearing be held concerning these issues. OPEI requested an extension of the comment period until December 22, 1978, and FMC requested that the comment period be "lengthened substantially."

The reasons given for the requests for an extension of the comment period are that the issues raised by the requests for comments are central to the standard development proceeding, that the materials on which comment is requested are lengthy and that the material is "inextricably intertwined with many other documents that * * * have a direct bearing on the very issues on which the public is asked to respond." No examples of such additional documents are given, and no explanation is made of the specific activities which the requesters feel would be necessary in order to respond to the request for comments. The Commission does not believe that there is any legal requirement to provide a longer comment period in this case. However, the Commission acknowledges that the issues are complex and OPEI may find it necessary to consult with its member companies in order to formulate any additional comments. Accordingly, in order to be sure that all points of view are fully expressed, the Commission has decided that an extension of the comment period is in order. However, in view of the fact that the persons requesting the extension were sent an advance copy of the materials that had been submitted to the Commission, because the materials had previously been publicly available, and because some of the materials had already been the subject of other comments that were submitted to the Commission, the Commission believes that an extension of 30 days is excessive. this is especially so since, as discussed below, the Commission is scheduling an opportunity for the oral presentation of comments. Therefore, the Commission is extending the period for the submission of written comments concerning the safety and reliability of brake-clutch mechanisms for walk-behind rotary power lawn mowers until December 15, 1978. Written submissions and any accompanying data or material, preferaby in five copies, must be received by that date in the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

The Commission has also decided that it would be in the public interest to allow the oral presentation of comments in this proceeding and has scheduled such a hearing for 9:30 a.m., December 11, 1978. In so doing, however, the Commission wishes to point out that it does not agree with the contention of OPEI that it is legally obligated to provide an opportunity for oral presentation of data, views, and arguments.

OPEI contends that section 9(a)(2) of the CPSA requires the Commission to schedule a public hearing on the issues on which comment was requested. This section provides that proposed consumer product safety rules shall be promulgated by notice and comment rulemaking (5 U.S.C. 533) "except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions."

There has already been an opportunity to present oral comments on the *proposal*, and there is nothing in the legislative history of section 9(a)(2) which indicates an intent that a request for additional comments on *data* received by the Commission would also invoke the requirement of section 9(a)(2).

Persons wishing to present oral comments must notify William Kitzes, Consumer Product Safety Commission, Washington, D.C. 20207 301-492-6557) by December 6, 1978, and must submit a summary of the data, views, and arguments to be presented to the Office of the Secretary by December 7, 1978.

Dated: November 22, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-33427 Filed 11-28-78; 8:45 am]

[6355-01-M]

[16 CFR Part 1306]

UNVENTED GAS-FIRED SPACE HEATERS

Proposed Withdrawal of Proposed Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Proposal to withdraw proposed ban.

SUMMARY: Based on information recently made available to the Commission, the Commission believes it is feasible to develop a consumer product safety standard addressing the hazard of carbon monoxide poisoning associated with unvented gas-fired space heaters. Since it appears that the public can be adequately protected by a standard, it is not necessary to ban these products, and the Commission therefore proposes to withdraw the proposal to ban unvented gas-fired space heaters which was published on February 14, 1978. At this time, the Commission affirms its belief that unvented gas-fired space heaters present an unreasonable risk of injury and announces that it intends to address this unreasonable risk by publishing a proposed safety standard for public comment. November 29, 1978, is the date on which the Commission is now obligated to either publish a final banning rule or withdraw the proposal to ban. Since the Commission wishes to obtain public comments on withdrawal of the proposed ban before the effective date of the withdrawal the Commission extends its decision date from November 29, 1978 to April 2, 1979.

DATE: Comments are due on or before December 29, 1978. Late received comments will be considered to the extent practicable.

ADDRESSES: Those who wish to comment on any aspect of this proposal to withdraw the proposed ban should address their comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Copies of the staff briefing package and related materials are available at the Office of the Secretary, 1111 18th St., N.W., 3rd. Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

George P. Anikis, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6453.

SUPPLEMENTAL INFORMATION:

BACKGROUND

On February 14, 1978 (43 FR 6235), the Commission published a proposal to declare that unvented gas-fired space heaters are banned hazardous products. The Commission had preliminarily determined that the hazard of carbon monoxide poisoning associated with these products presents an unreasonable risk of injury to the public. Based on information known to the Commission at that time, the Commission concluded that no feasible standard under the Consumer Product Safety Act (CPSA) could adequately protect the public from that unreasonable risk. Accordingly, as provided by section 8 of the CPSA (15 U.S.C. 2057), the Commission proposed that these heaters be banned.

Approximately 300 comments on the proposed ban were received from trade associations, distributors of liquid petroleum gas, manufacturers, retailers, individual consumers, consumer interest groups, and government officials. The majority of these comments were opposed to the proposed ban on the grounds that it would remove from the market a fairly inexpensive source of heat.

During the comment period, the Commission was advised that mandatory standards adopted by several foreign countries require that unvented gas-fired space heaters incorporate a sensing and control device that does not directly measure the presence of carbon monoxide but is designed to detect the depletion of oxygen in the living space and shut off the flow of gas to the space heater before carbon monoxide emissions can build up and create a hazardous atmosphere. Such a device, known as an oxygen depletion sensor (ODS) had not, to the Commission's knowledge, even been adopted for use on unvented gas space heaters produced by American manufacturers. In addition, a voluntary standard of the American National Standards Institute (ANSI) provides for an ODS, although the voluntary standard does not currently require the presence of ODS on heaters certified under that standard.

To acquire more knowledge of the ODS, the Commission requested the National Bureau of Standards (NBS) to perform a series of tests on the device. Since additional time was needed for completion of these tests, the Commission, as provided by section 9(a)(1) of the CPSA, extended until August 29, 1978, the time in which it would be required to either publish a final rule or withdraw the proposal to ban (43 FR 29011, July 5, 1978).

During this period, the Commission received information concerning an additional control device known as a temperature limiting device (TLD), which is purported to help avoid a hazardous build-up of carbon monoxide in the living space by shutting off the gas supply to the heater when a room temperature of 100°F. is reached. A temperature limiting device requirement for unvented gas-fired space heaters was adopted on July 26, 1978 by ANSI as part of the voluntary industry standard. However, since very little test data on this device was available, the Commission concluded that additional information was needed to determine the degree of safety afforded by the TLD when applied to unvented gas-fired space heaters. Therefore, the Commission requested that the National Bureau of Standards evaluate the performance and reliability of the TLD. Further, to assure sufficient time to conduct these investigations, analyze the results, and correlate this information with the data obtained previously on the oxygen depletion sensor, the Commission extended until November 29, 1978, the period in which it must either publish a final banning rule or withdraw the proposal to ban (43 FR 37713, August 24, 1978).

TEST EVALUATIONS

The results of the National Bureau of Standards' evaluation of the ODS show that the device repeatedly operated satisfactorily to shutdown unvented gas-fired space heaters when the room oxygen content was depleted to between 18.2 and 20.4 percent. Carbon monoxide concentrations at these levels of oxygen depletion ranged from 90 to 7 parts per million (ppm), with a mean concentration of 37 ppm. Deliberate changes to the heater air shutter and blockage of the ODS air ports to simulate burner and sensor maladjustment and abnormal conditions did not significantly affect the operation of the ODS. Additionally, the ODS operated satisfactorily when used with a variety of representative fuel gases in use in the United States, including propane, butane, and natural gases.

An NBS investigation of the TLD indicates that it appears to be inadequate to address the carbon monoxide poisoning/asphyxiation hazard under a variety of limited room ventilation and heat loss conditions. The results of these analyses show that high concentrations of carbon monoxide can exist at various levels of oxygen depletion in ventilated rooms and at temperatures below the shut-off point of TLD.

Complete copies of both NBS reports are available through the Office of the Secretary.

CONCLUSION

In requesting that the NBS test the oxygen depletion sensor and the temperature limiting device, the Commission wished to learn of the effectiveness of these sensing and control devices. In addition, the Commission wished to determine whether it would be feasible for American manufacturers of unvented gas-fired space heaters to attach such devices to their products. If these devices can be attached and function effectively, such a requirement could be incorporated in a product safety standard.

Upon review of the test results discussed here, the Commission now believes that a feasible consumer product safety standard for unvented gas-fired heaters can be implemented under the CPSA. Such a standard would require an ODS device which has the capability of detecting indirectly a hazardous atmosphere resulting from carbon monoxide emissions and shutting off the gas supply to the heater.

Since it presently appears that a standard can adequately protect the public from the unreasonable risk of injury due to carbon monoxide poisoning associated with unvented gas-fired space heaters, the Commission believes that it is not necessary to ban this product. Therefore, in accordance with section 9(a)(1)(B) of the CPSA, the Commission proposes to withdraw its proposal to ban these products, and solicits public comment on this proposal.

This withdrawal would mean only that the Commission does not intend to issue a final rule declaring that unvented gas-fired space heaters are banned hazardous products. The Commission continues to believe that these heaters present an unreasonable risk of injury from the hazard of carbon monoxide poisoning and that a consumer product safety rule addressed to this hazard is necessary to reduce or eliminate the risk.

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It appears to the Commission that an oxygen depletion sensor can help reduce or eliminate the unreasonable risk of injury arising from carbon monoxide poisoning associated with unvented gas-fired space heaters. Further, it appears that the oxygen depletion sensor described in the ANSI Z.21.11.2 voluntary industry standard entitled *Gas-Fired Room Heaters, Vol. II—Unvented Room Heaters*, would be adequate for the task of reducing or eliminating this risk. Parts of this standard could be adopted by the Commission as a mandatory standard.

Section 7(c) of the CPSA, as recently amended, provides that where the Commission determines there is a standard issued by a qualified agency, organization, or institution which would eliminate or reduce an unreasonable risk of injury if issued in whole, in part, or in combination with any other standard, the Commission may publish such a standard in whole, in part or in combination and with non-material modifications, as a proposed standard. The Commission believes that parts of the existing ANSI standard would meet these requirements.

Consequently, the Commission has directed its staff to prepare for Commission review and publication a draft proposed standard for public comment to incorporate the appropriate sections of the ANSI standard dealing with oxygen depletion sensors for unvented gas-fired space heaters. The Commission also directed its staff to prepare for Commission consideration at the same time, information on the following related matters: (1) health effects of carbon monoxide at various levels; (2) economic information on what effect the addition of oxygen depletion sensors would have on the manufacture of unvented gas-fired space heaters; (3) a precise definition of an oxygen depletion sensor; and (4) a discussion of the adequacy of cautionary labeling in the ANSI standard.

Accordingly, the Commission issues this proposal to withdraw its proposal (43 FR 6235) to ban unvented gas-fired space heaters.

In order to receive and evaluate comments on the proposal to withdraw the rule proposing to ban unvented gas-fired space heaters, the Commission for good cause as an administrative matter extends from November 29, 1978 to April 2, 1979, the period in which it must either publish a final banning rule or withdraw the proposal to ban.

Interested persons are invited to submit written data views or comments regarding this proposed withdrawal on or before December 29, 1978. Comments received after this date will be considered to the extent practicable. Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Dated: November 24, 1978.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-33454 Filed 11-28-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Parts 10, 11, 127, 132, 141, 142, 143, 144, 158, 159, and 173]

ENTRY OF MERCHANDISE AND LIQUIDATION OF ENTRIES

Proposed Rule

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: Pub. L. 95-410, the "Customs Procedural Reform and Simplication Act of 1978" made numerous changes in laws administered by the Customs Service relating to the entry of imported merchandise and the liquidation of entires. This document proposes to amend the Customs Regulations to establish new procedures needed to reflect these changes.

Some of the more significant proposed changes to the regulations are:

(1) To provide for a revised entry concept under which documentation necessary to obtain the release of merchandise would be the "entry". Additional documentation necessary to appraise and classify the merchandise and to collect accurate statistics, designated as the "entry summary", with estimated duties attached, would continue to be required with 10 working days after the time of entry.

(2) To provide that the applicable rate of duty on merchandis is the rate in effect at the time of entry.

(3) To ensure the collection of accurate and timely statistics on imported merchandise.

(4) To extend the Customs bonded warehousing period from 3 to 5 years.

(5) To provide for the marking of bulk containers of distilled spirits, wines, and malt liquors at the discretion of the district director.

(6) To provide time limitations for the liquidation of entries.

(7) To set forth a uniform time period of 1 year after the date of liquidation for reliquidation an entry to correct a clerical error, mistake of fact, or other inadvertance not amounting to an error in the construction of law if the error is adverse to the importer.

(8) To provide for a preliminary review of entry summary documentation by import specialists prior to the arrival of the merchandise within the port limits to expedite the processing of those entries.

DATE: Comments must be received on or before December 29, 1978.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Benjamin H. Mahoney, Entry Procedures and Penalties Division (202-566-5778); operational aspects—entry and liquidation; Herbert Geller, Duty Assessment Division (202-566-5307); operational aspects—warehousing: Harry W. Carnes, Inspection and Control Division (202-566-5607).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pub. L. 95-410 (92 Stat. 888), the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), made significant changes in the Customs laws relating to the entry of imported merchandise and the liquidation of entries.

PRIOR LAW AND PROCEDURES

Under the prior statutory scheme, an importer was required to file entry documents at the customhouse within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival at the port of destination in the case of merchandise transported in bond, unless a longer time was authorized (19 U.S.C. 1484(a)). Entry documentation consisted of the appropriate entry form, proper invoices, and evidence of the right to make entry. Estimated duties were deposited when the entry documents were filed (19 U.S.C. 1505). A Customs officer then examined the entry documents to determine whether the importer had the right to receive the merchandise and whether the documents contained information necessary to assess duties and collect statistics. He also examined the merchandise, and, after examination, authorized the importing carrier to deliver the merchandise to the importer under bond. The bond covered potential duties, taxes, and other charges which may have been incurred, and remained in effect until liquidation of the entry became final.

An alternative procedure, referred to as the "immediate delivery procedure", allowed for the immediate delivery of the merchandise under a special permit prior to filing the entry documents and payment of duty. The merchandise was examined before release to ensure that it conformed to the description on the invoice. Within 10 days after release, the importer was required to file the entry documents and deposit estimated duties. At that time, the entry documents were examined to determine the classification and value of the merchandise and to verify the statistical information provided concerning the merchandise.

The final determination of duties, or "liquidation", occurred after the release of the merchandise. There was no statutory or regulatory time limit on liquidation.

CHANGES IN CONCEPT

Most merchandise presently is released under the immediate delivery procedure before entry is made. The immediate delivery procedure in fact is an "exception" to the general requirement that entry shall be made and estimated duties deposited *before* release of merchandise. The Act eliminates the general requirement and provides that the filing of documents necessary to obtain the release of merchandise under 19 U.S.C. 1484(a) is the "entry".

As will be discussed more fully in the document, the entry of merchandise is a two-part process consisting of the filing of the documents necessary to determine whether merchandise may be released from Customs custody and filing the documents which contain information for duty assessment and statistical purposes.

1. This notice proposes that, with certain limited exceptions, the documentation formerly filed with an application for immediate delivery will continue to be required to obtain the release of merchandise, but now will be characterized as the "entry". The act of filing that documentation similarly will be considered "entering" the merchandise.

2. This notice also proposes that the documentation formerly characterized as the "entry" and required to be filed with estimated duties attached, within 10 working days after release of merchandise under the immediate delivery procedure, will be required within 10 working days after the "time of entry", as defined in proposed § 141.68, but will be designated as the "entry summary".

A detailed discussion by subject matter of the specific statutory changes and the related proposed amendments to the regulations follows.

SPECIFIC CHANGES TO LAW AND REGULATION

RATE OF DUTY

Section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), formerly set the applicable rate of duty on imported merchandise as the rate in effect when the entry, with estimated duties attached, was filed.

Section 101 of the Act amends 19 U.S.C. 1315(a) by establishing the date for determining the rate of duty in those cases in which duty may be paid after filing the documents necessary to secure release of imported merchandise from Customs custody. The rate of duty is that rate in effect at the "time of entry".

FILING ENTRY DOCUMENTS

Section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), formerly required that entry documents be filed at a customhouse within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival at the port of destination in the case of merchandise transported in bond, unless a longer time was authorized.

Section 102 of the Act amends 19 U.S.C. 1484(a) by providing that entry shall be made by filing that documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provides that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation, either when entry is made, or at any time within 10 working days thereafter. Either class of documentation may be filed at any place prescribed by regulation within the Customs district where the merchandise is released. Furthermore, section 102 provides for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

Customs is developing a computerized system designed to modernize and simplify the handling of imported merchandise. This system is referred to as the "Automated Merchandise Processing System" ("AMPS"). It is the purpose of AMPS to utilize computerization to expedite the paperwork that accompanies each commercial importation; for example, the bonding of importers, release of merchandise, payment of duties and taxes, and final disposition ("liquidation") of the transaction.

It is anticipated that AMPS will be implemented fully in the Baltimore region in 1979. Expansion to the eight remaining Customs regions is expected to occur during 1980, but may continue into 1981.

Because AMPS has not been implemented fully and because of limited resources, Customs at this time is unable to provide for entry documents to be filed at any place in the Customs district other than where now required. Therefore,

1. Documents necessary to obtain release of the merchandise shall continue to be filed at the customhouse or at the Customs location, approved by the district director, where the merchandise is to be released, and

2. Documents needed to enable Customs to classify and appraise the merchandise and to collect statistics shall continue to be filed either at the customhouse at the port where the merchandise is released or, with the approval of the district director, at a Customs station.

DEPOSIT OF ESTIMATED DUTIES

Before enactment of Pub. L. 95-410, section 505(a), Tariff Act of 1930, as amended (19 U.S.C. 1505(a)), generally required that estimated duties be deposited at the time of making entry.

Section 103 of the Act amends 19 U.S.C. 1505(a) to permit the payment of estimated duties either at the time of making entry or at a later time, as prescribed by regulation. However, estimated duties shall not be deposited later than 30 days after making entry.

For most entries, estimated duties now must be deposited within 10 days after release of the merchandise. Because the Act equates the filing of documents necessary to obtain release of the merchandise with "entry", Customs will continue to permit the deposit of estimated duties within 10 working days after the "time of entry". However, Customs is considering the possibility of requiring the deposit of estimated duties earlier than 10 working days after the "time of entry".

Accordingly, it is proposed to amend Parts 10, 11, 132, 141, 142, and 143, Customs Regulations (19 CFR Parts 10, 11, 132, 141, 142, and 143), to provide changes in the effective date of the rate of duty, the filing of entry documentation, and the time for deposit of estimated duties.

To better explain the concepts involved, the following discussion treats the various parts of the regulations which are amended out of sequence.

PROPOSED AMENDMENTS TO PARTS 142 AND 143

Part 142 would be completely revised. It would be divided into 3 subparts entitled "Entry Documentation", "Entry Summary Documentation", and "Special Permit for Immediate Delivery". The first two subparts would contain provisions relating to

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the release of merchandise under 19 U.S.C. 1484(a), and the third subpart would contain provisions relating to the release of merchandise under a special permit for immediate delivery under 19 U.S.C. 1448(b). Sections 143.1, 143.2, and 143.3, which relate to entry forms and bonds, would be deleted because proposed Part 142 would incorporate their provisions in modified form.

As previously noted, most merchandise presently is released under the immediate delivery procedure before entry is made. The immediate delivery procedure is under the law an "exception" to the general requirement that entry shall be made and estimated duties deposited *before* release of merchandise. The Act converts this "exception" into the general rule. Consequently, there is less need to utilize the immediate delivery procedure. It therefore is proposed to restrict the use of a special permit for immediate delivery to specified perishable goods, to merchandise withdrawn from warehouse for consumption, and to other merchandise for which Customs Headquarters authorizes its use. Most merchandise would be released under amended 19 U.S.C. 1484(a). The documentation needed for Customs to assess duties, collect statistics, and determine whether other legal requirements are met would have to be filed within 10 working days after the "time of entry" and would be designated the "entry summary". Estimated duties generally would have to be deposited at the time of filing of the "entry summary."

Entry Documentation

Proposed §§ 142.1 through 142.9, which comprise Subpart A, would contain the provisions relating to filing the "entry" documentation.

1. Proposed § 142.1 applies to Part 142 the definitions of the terms, "entry", "entry summary", "submission", "filing", and "presentation", set forth in § 141.0a.

2. Proposed § 142.2(a) would restate the 5 working day time limit for filing the entry documentation, and provide a means for extending that limit. Proposed § 142.9 would restate the provisions for the treatment of merchandise for which entry is not made timely. These provisions currently are set out in § 141.5.

Proposed § 142.2(b) would permit the submission, prior to arrival of the merchandise, of the entry or the entry summary when it serves as both entry and entry summary.

3. Proposed § 142.3(a) would specify the entry documentation required to secure release of merchandise. The importer would have to file the following:

(1) Customs Form 3461, appropriately modified, or 7533, appropriately modified and in duplicate,

(2) Evidence of the right to make entry,

(3) A commercial invoice or a substitute as authorized under § 141.83(d),

(4) A packing list, where appropriate, and

(5) Other documents required by Federal, state, or local agencies on particular shipments.

Customs Form 3461 is used currently as an application for a special permit for immediate delivery (i.e., for release before entry). Customs Form 7533 is an inward cargo manifest and could be substituted for Customs Form 3461 if the merchandise is imported from a contiguous country.

Proposed § 142.3(b) would provide that when the entry summary is filed at time of entry, that document would serve as both the entry and the entry summary and Customs Form 3461 or 7533 would not be required. Proposed § 142.3(c) would provide that the district director may require extra copies of the entry documentation.

4. Presently, Customs places entry numbers on the entry at the customhouse at the time the entry is filed. Proposed § 142.3a would provide a voluntary procedure whereby an importer or broker could obtain from the district director sufficient entry numbers for use at any port within the district during a fiscal year. These entry numbers would be placed on the entry and corresponding entry summary by the importer or broker before filing the entry or entry summary.

5. Proposed § 142.4 would provide that merchandise could not be released until a bond has been filed. The bond requirements would be the same as those currently provided by § 142.4 for merchandise release under a special permit for immediate delivery. However, it is proposed that a rider be attached to the bonds. The rider would contain language conforming to the Act and thereby would eliminate the need for new bond forms at this time. Proposed § 142.5 would contain the text of the bond rider.

6. Proposed § 142.6 would provide for filing the entry documentation and the release of merchandise from Canada or Mexico when the customhouse is closed by filing the entry documentation with the appropriate Customs officer. Currently, § 142.4(b) provides for the release of that merchandise under the immediate delivery procedure when the customhouse is closed.

7. Proposed § 142.7 would specify the contents of the commercial invoice or acceptable substitute required as part of the entry documentation under proposed § 142.3. The invoice or substitute document would be required to contain:

(1) An adequate description of the merchandise,

(2) The quantities of the merchandise,

(3) The values or approximate values of the merchandise, and

(4) The appropriate 5-digit item number from the Tariff Schedules of the United States (TSUS)—the invoice thus would be "rated."

Customs would assist the importer in ascertaining the TSUS item number if requested.

8. Proposed § 142.8 would provide for the examination or taking of samples before release of any merchandise from Customs custody.

Entry Summary Documentation

Proposed §§ 142.11 through 142.19, which comprise Subpart B, would contain the provisions relating to the filing of the "entry summary" documentation.

1. Proposed § 142.11 would prescribe the use of Customs Form 7501 (now used as the "entry") as the "entry summary" unless a different form is prescribed elsewhere in the regulations. The district director would be authorized to require additional copies of the entry summary.

2. Proposed §§ 142.12 and 142.13 would contain the time requirements for the filing of the entry summary. In most instances, the importer would have the option to file the entry summary at the "time of entry" or within 10 working days after the "time of entry". In addition, the importer could submit the entry summary for preliminary review before the arrival of the merchandise. After completion of Customs review of the entry summary, the entry summary would be returned to the importer for later filing. Estimated duties, if any, would have to be deposited in accordance with proposed § 141.101, Customs Regulations, which provides that estimated duties ordinarily would have to be deposited when the entry summary is filed. Estimated duties would be separated from the entry summary immediately after filing and would be deposited in the appropriate depository by Customs no later than the following business day.

3. Under proposed §§ 142.13 and 142.14, the importer could be required to file the entry summary and deposit any estimated duties before release of the merchandise, if he:

(1) Fails repeatedly to file an entry summary timely without justification;

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file an entry summary timely;

(3) Is substantially or habitually delinquent in the payment of Customs bills; or

(4) Has repeatedly filed entry summary documentation which is incomplete or which contains erroneous information.

There is a similar provision in current § 142.7, relating to the suspension of immediate delivery privileges.

4. Proposed § 142.15 provides for liquidated damages to be assessed for failure to file the entry summary timely. This provision would parallel present § 142.15 which provides for the assessment of liquidated damages for failure to make entry timely.

5. Proposed § 142.16 would set forth the documentation to accompany the entry summary. Under paragraph (a), if the entry documentation were filed before the entry summary, one copy of the entry document and the commercial invoice, or its substitute, would be returned to the importer after Customs authorizes release of the merchandise. These documents would be filed with the entry summary. In addition, Customs Form 5101, the Entry Record, and any documents required for that particular shipment, also would be filed with the entry summary. Under paragraph (b), if the entry summary were to be filed at time of entry, Customs Form 5101 and any documents required for that particular shipment would be required to accompany the entry summary, which would serve as both the entry and the entry summary.

6. Proposed § 142.17 would contain a new procedure allowing, under limited circumstances, one entry summary to cover multiple entries. The district director could permit this procedure to be used if all the merchandise has the same country of exportation, the same country of origin, the same air carrier or the same mode of land transportation, and the same consignee, and if:

(1) The time between the date of the first and last entries does not exceed 1 week,

(2) The entry summary if filed within 10 working days of the time of the first entry, and

(3) Each entry is identified separately on the entry summary by entry number.

However, this procedure would not be available to merchandise arriving by vessel, or to quota-class merchandise, prohibited merchandise, merchandise subject to restrictions which require processing and documentation more frequently than weekly, and merchandise subject to internal revenue tax.

7. Current § 142.14 provides that prohibited merchandise inadvertently released from Customs custody under a special permit for immediate delivery is exempt from the requirement of making entry under certain circumstances. Proposed § 142.18 would contain a similar provision rephrased to refer to the exemption from the requirement of filing an entry summary after the inadvertent release of prohibited merchandise at time of entry.

8. Current § 143.3 relates to the release of merchandise upon the filing of the entry documentation when no special permit for immediate delivery is requested. It provides that the merchandise cannot be released until an appropriate bond has been filed or the entry has been liquidated. Proposed § 142.19 would contain a similar provision rephrased to refer to the release of merchandise when the entry summary is filed at time of entry.

Special Permit for Immediate Delivery

Proposed §§ 142.21 through 142.29, which comprise Subpart C, would provide for special permits for immediate delivery.

1. Proposed § 142.21(a) would provide that an application for a special permit for immediate delivery may be filed for merchandise arriving from Canada or Mexico.

2. Proposed § 142.21(b) would provide that an application for a special permit also may be filed for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but removed from the area immediately contiguous to the border. This section would continue the procedures in present § 142.2(b)(2) relating to that type of merchandise.

3. Proposed §§ 142.21 (c) and (d) would state that the only other merchandise eligible for release under the immediate delivery procedure would be (1) merchandise released from warehouse to be followed by warehouse withdrawal for consumption, and (2) merchandise for which Customs Headquarters specifically gives its approval.

4. Proposed § 142.22(a) would continue the requirements under current §§ 142.2 and 142.6(a) relating to the documentation required to secure release of merchandise under the immediate delivery procedure.

5. Proposed § 142.23 would provide that a warehouse withdrawal for consumption, or an entry summary, when required, must be filed within 10 working days after authorization for the release of the merchandise, or any portion of the merchandise, under the immediate delivery procedure. Current § 142.11 provides this same general rule, but contains a different time limit for merchandise subject to tariff-rate quota. Inasmuch as it is proposed to eliminate the use of the immediate delivery procedure for that type of merchandise (see discussion of proposed amendments to Part 132, below), proposed § 142.23 need not refer to merchandise subject to a tariff-rate quota. In addition, current § 142.11 provides a time limit for the entry of merchandise subject to an absolute quota after its release is authorized by the Commissioner. This provision no longer is necessary because merchandise subject to an absolute quota may not be released under a special permit for immediate delivery. Therefore, proposed § 142.23, would not refer to that type of merchandise.

6. Proposed §§ 142.25 through 142.29 would contain the provisions now set forth in the following sections:

(1) Section 142.7, relating to suspension of immediate delivery procedures;

(2) Section 142.15, relating to failure to make entry timely;

(3) Section 142.14, relating to the elimination of the requirement to make entry for merchandise released under the immediate delivery procedure and later found to be prohibited; and

(4) Section 142.16, relating to the applicability of other provisions of the regulations to merchandise released under the immediate delivery procedure.

Proposed §§ 142.25 through 142.29 contain only stylistic and editorial changes from the current provisions. No substantive changes are made.

Proposed Amendments to Part 141

It is proposed to amend various sections of Part 141, relating to the filing of entry documentation and the deposit of estimated duties.

1. Proposed § 141.0a would define "entry", "entry summary", "submission", "filing", and "presentation".

"Entry" would mean the documentation required to secure release of merchandise from Customs custody or the act of filing that documentation.

"Entry summary" would mean the documentation needed by Customs to assess duties and collect statistics or merchandise and to determine whether other requirements of law or regulation are met.

"Submission" would mean the voluntary delivery to the appropriate Customs officer of entry summary documentation for preliminary review, or of entry documentation for other purposes, including the scheduling of examination of the merchandise to secure expeditious release.

"Filing" would mean:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)) to obtain release of the merchandise, or

(2) The delivery to Customs, together with the desposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine

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whether other requirements of law and regulation are met, or

(3) The delivery to Customs of the entry summary which would serve as both the entry and the entry summary together with the deposit of estimated duties.

"Presentation" would be used only in connection with quota-class merchandise and would be as defined in § 132.1(d), Customs Regulations.

2. It is proposed to reword § 141.61, relating to the preparation and completion of entry papers, to refer to the preparation and completion of the "entry" and "entry summary" documentation. Two substantive changes to current requirements also are proposed:

(1) The time within which to produce required statistical documents for which a bond has been given would be reduced. The importer would have 1 month from the date of entry or from the date of withdrawal from warehouse for consuption, instead of 2 months, to produce the documents. This change is necessary because the Act imposes strict requirements on the timely collection of statistical data. In addition, this section would state in detail the requirements of the general statistical headnotes of the Tariff Schedules of the United States Annotated.

(2) The requirement in current § 141.61(g) that the importer of cotton textiles from Hong Kong must include on his entry papers a cotton textile category number would be eliminated. This information no longer is needed on the entry papers because of a bilateral agreement between the United States and Hong Kong.

3. It is proposed to amend § 141.62, relating to the hours for filing entry and withdrawal documentation with Customs. Paragraphs (a) and (b) would be reworded and redesignated paragraphs (b)(1) and (b)(2)(i). New paragraph (a) would relate to the place of filing of documentation. It would provide that entries on Customs Forms 3461 or 7533, informal entries, and applications for special permits for immediate delivery may be filed, either at the customhouse or at the Customs location, approved by the district director, where the merchandise is to be released. However, entry summaries, withdrawals, and entries other than those on Customs Forms 3461 or 7533 would have to be filed at the customhouse at the port of entry unless the district director approves the filing of those documents at a Customs station. This requirement is needed because the AMPS system is not yet implemented and Customs therefore presently does not have the capability to provide for acceptance of that documentation elsewhere. Section 141.62(b)(2)(ii) would incorporate the current procedure in the regulations relating to overtime services for quota-class merchandise.

4. Section 141.63(a) would provide for the submission of entry summary documentation when it serves as both entry and entry summary, including quota-class merchandise, for preliminary review before arrival of the merchandise so as to expedite the processing of the documentation after it is filed.

Section 141.63(a) would provide for the submission of entry summary documentation for quota-class merchandise after the arrival of the merchandise so as to provide for an equitable determination of quota priority.

5. It is proposed to make conforming amendments to the following sections:

(1) Section 141.64, relating to review and correction of entry papers; and

(2) Section 141.67, relating to recall of entry papers by the importer.

6. Section 141.65, which provides that an importer may deposit duties before Customs reviews his entry and applies the rate of duty in effect on the date of deposit, would be deleted. That section no longer would be needed because the Act amends 19 U.S.C. 1315(a) to provide that for merchandise entered before the filing of an entry summary and deposit of estimated duties, the applicable rate of duty is that in effect at the time of entry.

7. It is proposed to amend § 141.68, relating to the "time of entry." Paragraph (a) would set forth the circumstances when the entry documentation is filed without an entry summary. In that case, the time of entry shall be:

(1) The time the appropriate Customs officer authorizes the release of the merchadise covered by the entry documentation filed in proper form;

(2) The time the entry documentation is filed in proper form if requested by the importer, on the entry documentation at the time of filing and the merchandise already has arrived within the port limits, or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

Paragraph (b) would set forth the circumstances when the entry summary serves as both an entry and an entry summary. In that case, the time of entry would be the time the entry summary is filed in proper form with estimated duties attached. Paragraph (c) would set forth the time of entry for quota class merchandise as the time of presentation of the entry summary in proper form, together with the deposit of estimated duties. Paragraph (d) would contain a provision that merchandise shall not be released, and the entry documentation or entry summary shall not be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade. Paragraphs (e) through (g) would continue the current rules as to time of entry for these special categories of entries: Informal mail entry; withdrawal from warehouse from consumption; appraisement entry; informal entry; combined entry for rewarehouse and withdrawal for consumption; and entry under carnet.

8. It is proposed to amend § 141.69, relating to applicable rates of duty, to conform to the amendments proposed for § 141.68.

9. Section 141.83 specifies the type of notice required for various shipments of merchandise and the information to be included on the required invoices. Because the Act requires Customs to improve the collection of statistical information, it is proposed to amend paragraphs (c) and (d) of § 141.83, which state what information a commercial invoice or its substitute must contain. The amended sections would require that the document substantiate the statistical information required by § 141.61(e) to be given on the entry, entry summary, or withdrawal documentation. Present paragraph (d) also lists 15 classes of merchandise excepted from the general requirement that a Special Customs Invoice or commercial invoice shall be required. Substituted documents, such as pro forma invoices, may be delivered as long as they contain the appropriate information. The exceptions under paragraphs (d)(3) and (d)(4) apply to merchandise free of duty or subject to a specific rate of duty and account for by far the largest volume of excepted merchandise. Because of the great volume of these importations, and because a Special Customs Invoice or commercial invoice is the best evidence as the accuracy of the statistical information, it is proposed to delete paragraphs (d)(3) and (d)(4) from the list of exceptions in § 141.83.

10. Section 141.86 sets out the contents and general requirements of invoices. It is proposed to amend paragraphs (a)(8) and (c), relating to information about charges and costs, to identify more clearly those charges and costs needed for statistical purposes.

11. Section 141.91 specifies the limited conditions under which importation will be allowed if a required invoice is not available and a waiver is not granted. It is proposed to amend that section to add the condition that information and documentation adequate for statistical purposes be submitted. In addition, to insure the timeliness of the collection of statistics, the appropriate bond would require the production of the required invoice within 1 month from the date of entry, instead of 6 months, if the invoice is needed for statistical purposes.

12. Section 141.92(a)(2) authorizes the district director to waive production of the rquired invoice if he is satisfied that examination of the merchandise and determination of duties may be made without the invoice. It is proposed to add that he also must be satisfied that the relevant statistics may be compiled without the invoice. It also is proposed to amend § 141.92(b), which requires certain documents to be filed before a waiver can be given, to provide for the filing of information needed by the district director for statistical purposes.

13. Section 141.101 provides that estimated duties shall be deposited at the time of making entry except in specific cases. It is proposed to add as a new exception merchandise released under an entry before the filing of an entry summary. In that case, estimated duties would have to be deposited at the time of the filing of the entry summary unless the merchandise is entered for warehouse.

Proposed Amendments to Part 132

It is proposed to amend Part 132, Customs Regulations, relating to import quotas. An import quota is a control on the quantity of merchandise which may be imported into the United States during a specified period. Customs administers two types of import quotas—absolute and tariff-rate. Under an absolute quota, the entry of merchandise subject to the quota is prohibited if the quota for the period has been filled. Under a tariff-rate quota, merchandise subject to the quota is assessed at a higher rate of duty upon entry if the quota for the period has been filled.

Under current procedures, merchandise subject to an absolute quota may not be released from Customs custody until an entry is made and estimated duties are deposited. The quota priority (precedence of one entry over another) and quota status (whether the merchandise is subject to quota control) are determined as of the time of presentation of the entry to Customs in proper form. Merchandise subject to a tariff-rate quota may be released under the immediate delivery procedure before entry and deposit of estimated duties. However, quota priority and status are determined either: (1) When Customs accepts the entry or, (2) when the entry is presented in proper form, if the merchandise is entered at the opening of the quota period.

It is proposed to amend the procedure with respect to merchandise subject to a tariff-rate quota by requiring (1) the presentation of the entry summary documentation and (2) the deposit of estimated duties, before the merchandise may be released. This change is needed because, under the Act, the presentation of the documents needed to obtain "release" of the merchandise is the "entry". Customs needs the information presented in the entry summary documentation before releasing the merchandise because that information enables Customs to determine the quota priority and status. Therefore, under this proposal, the procedures for release of both absolute quota and tariff-rate quota merchandise would be the same. Accordingly, it is proposed to amend § 132.14, Customs Regulations, to provide that quota merchandise would not be released under a special permit for immediate delivery or under an entry before the presentation of an entry summary with estimated duties attached.

It also is proposed to provide in § 132.14 for the assessment of liquidated damages if merchandise subject to quota were released inadvertently contrary to the provisions of that section. The district director would be authorized to cancel the claim for liquidated damages upon the deposit of a minimum of $25.

It further is proposed to add new § 132.11a, relating to the time of presentation of an entry for quota purposes. It is proposed to amend § 132.12 to set forth the preliminary review procedure for quota merchandise prior to the opening of the quota period. In addition, various other sections of Part 132 would be amended to conform to the changes made by the Act.

Proposed Amendments to Part 10

Conforming amendments also would be made to the following sections of Part 10, Customs Regulations, relating to entry requirements for articles conditionally free or subject to a reduced rate:

(1) Paragraphs (d), (g), and (h) of § 10.1, relating to domestic products exported and returned;

(2) Section 10.31(a), relating to temporary importations under bond; and

(3) Section 10.91, relating to wools and hair of the camel.

Warehouse and General Order Merchandise

Section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), provides a time limitation of 1 year from the date of importation for merchandise in "general order". Merchandise considered to be general order merchandise is described in section 490, Tariff Act of 1930, as amended (19 U.S.C. 1490), and § 127.1, Customs Regulations (19 CFR 127.1).

Sections 557 and 559, Tariff Act of 1930, as amended (19 U.S.C. 1557, 1559), formerly permitted merchandise to be kept in a Customs bonded warehouse at the owner's expense for a period up to 3 years after arrival of the merchandise in the United States.

Presidential Proclamation No. 2948, 64 Stat. c41 (1951), declaring a national emergency because of the Korean War, authorized the 1-year general order period and the 3-year warehouse period to be extended by an unlimited number of successive 1-year periods. The Presidential Proclamation was terminated as of September 14, 1978, by the National Emergencies Act (90 Stat. 1255).

Section 108 of the Act amends 19 U.S.C. 1557 and 1559 to permit merchandise to remain in a Customs bonded warehouse at the owner's expense for a period up to 5 years. There is no provision for an extension of time. Merchandise in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95-410, may remain in the warehouse for a period up to 5 years from that date.

Amendments to Parts 127 and 144

1. Several provisions of Parts 127 and 144 (19 CFR Parts 127, 144) provide for a 1-year general order, a 3-year warehousing period, and unlimited 1-year extensions. To conform the Customs Regulations to the Act, it is proposed to delete the references to extensions of the general order and warehousing periods which appear in §§ 127.4, 127.11, 127.12, 127.14, 144.5, 144.6, and 144.7 and to change the reference to a 3-year warehousing period in §§ 127.12 and 127.14 to 5 years.

2. Sections 127.3 and 144.6, which relate exclusively to extensions of the general order and the warehousing periods, respectively, would be deleted.

3. It is proposed to amend §§ 144.11 through 144.14 and 144.36(b), relating to procedures for warehouse entry and withdrawal, to conform to the new "entry" and "entry summary" requirements.

4. It is proposed to amend § 144.36(d) to provide that when merchandise is to be withdrawn from warehouse for transportation to another port of entry, the importer shall state on the transportation entry, Customs Form 7512, whether or not the merchandise is admissible for consumption and, if not, the reasons.

Under 19 U.S.C. 1557, it formerly was provided that estimated duties shall be deposited before merchandise could be withdrawn from warehouse for consumption. Section 103 amends 19 U.S.C. 1557 to authorize the withdrawal for consumption, without the payment of duties, of merchandise entered for warehouse, if the consignee or transferee is permitted to pay duties at a later time under the regulations to be prescribed pursuant to sec-

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tion 505, Tariff Act of 1930, as amended (19 U.S.C. 1505), by section 103 of the Act. However, until AMPS is fully operational, Customs will continue to require that estimated duties be deposited at the time of filing the warehouse withdrawal when merchandise is withdrawn for consumption. Therefore, no amendments to the Customs Regulations are being proposed at this time regarding this provision.

ABATEMENT OR REFUND OF DUTIES—WAREHOUSED MERCHANDISE

Section 563, Tariff Act of 1930, as amended (19 U.S.C. 1563), provides for an abatement or refund of duties:

(1) For the actual injury to, or destruction of, merchandise by fire or other casualty occurring in a bonded warehouse within 3 years from the date of importation, and

(2) For the voluntary abandonment by the importer to the Government of his merchandise in a bonded warehouse within 3 years from the date of importation.

Pub. L. 95-410 does not conform the 3-year period in 19 U.S.C. 1563 to the 5-year period for warehousing merchandise in amended sections 557 and 559, Tariff Act of 1930, as amended (19 U.S.C. 1557, 1559). Therefore, the provisions of 19 U.S.C. 1563 will continue to apply to merchandise in a bonded warehouse only for 3 years from the date of importation.

There thus will be no abatement or refund of duties for actual injury to, or destruction of, merchandise by fire or other casualty occurring after the 3-year period even though merchandise may remain in a bonded warehouse for 5 years under section 557 of the Tariff Act, as amended by Pub. L. 95-410.

Similarly, an importer may not abandon voluntarily to the Government merchandise in a bonded warehouse after the 3-year period has expired to secure an abatement or refund of duties. However, the merchandise may remain in the warehouse for 5 years, in which case it would be considered abandoned involuntarily to the Government under section 559 of the Tariff Act, as amended by Pub. L. 95-410, and treated as unclaimed merchandise under section 493, Tariff Act of 1930, as amended (19 U.S.C. 1493).

Accordingly, it is proposed to amend §§ 158.21a and 158.43, Customs Regulations, to reflect that an abatement or refund of duties for actual injury to, or destruction of, merchandise by fire or other casualty in a bonded warehouse, or for the voluntary abandonment of merchandise in a bonded warehouse to the Government, may be made only if the casualty takes place or the merchandise is voluntarily abandoned within 3 years from the date of importation. No change is proposed in § 127.12(b)(4), which sets forth the 3-year period for voluntarily abandoned warehouse merchandise.

MARKING OF BULK CONTAINERS OF DISTILLED SPIRITS, WINES, AND MALT LIQUORS

Section 11 of the Act of March 1, 1897 (19 U.S.C. 467), formerly required all bulk containers of imported distilled spirits, wines, and malt liquors to be inspected, marked, and stamped by Customs before release from Customs custody.

Section 201 of the Act eliminates the mandatory inspection, marking, and stamping requirements of 19 U.S.C. 467. The Act permits the Secretary to require by regulation any marks, brands, and stamps, or devices to be placed on any bulk container of imported distilled spirits, wines, and malt liquors as he determines to be necessary in the administration of the Federal laws applicable to those products.

Section 11.6, Customs Regulations, provides for the mandatory stamping of containers of distilled spirits, wines, and malt liquors imported in bulk. It is proposed to amend that section to provide that the district director, in his discretion, may require that bulk containers be marked or stamped in accordance with 19 U.S.C. 1467. He shall determine the acceptability of any marks, brands, stamps, or devices he requires, based on the nature, surface, and composition of the container.

LIQUIDATION

Liquidation is the final computation or ascertainment of duties due on imported merchandise. Prior to enactment of Pub. L. 95-410, there was no law requiring liquidation to be completed within a specific time period.

Section 209 of the Act adds a new section 504 to the Tariff Act of 1930. Subsection (a) of section 504 provides that an entry is deemed to be liquidated (i.e. liquidated by operation of law), if not actually liquidated within 1 year from:

1. The date of entry of the merchandise,

2. The date of final withdrawal of all the merchandise covered by a warehouse entry, or

3. The date of withdrawal from warehouse of merchandise for consumption if duties may be deposited after the filing of an entry or withdrawal from warehouse.

An entry deemed liquidated by operation of law is liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer, his consignee, or agent at the time of entry. Customs is not required to give notice of liquidation if an entry is liquidated by operation of law.

Subsection (b) permits extensions of the 1-year period for liquidation at the request of the importer for good cause shown or if Customs needs further information. Customs is required to give notice of the extension to the importer, his consignee, or agent.

Subsection (b) also provides for extensions if liquidation is suspended as required by statute or court order. Subsection (c) requires Customs to give notice of any suspension of liquidation required by statute or court order to the importer or consignee and to his authorized agent and surety.

Subsection (d) provides that an entry not liquidated at the expiration of 4 years from the applicable date set forth in subsection (a) shall be deemed liquidated unless the liquidation continues to be suspended as required by statute or court order. When the suspension is removed, the entry shall be liquidated within 90 days.

These amendments are limited to entries or withdrawals of merchandise for consumption made after March 31, 1979, 179 days after enactment, and do not include vessel repair entries or drawback entries.

Accordingly, it is proposed to amend Part 159, Customs Regulations (19 CFR Part 159), to reflect these changes.

AMENDMENTS TO PART 159

1. Proposed new § 159.11 would state the time limitations for liquidation. Paragraph (a) would set forth 2 of the 3 circumstances the Act specifies for entries deemed liquidated—1 year from date of entry, or 1 year from the date of final withdrawal of all merchandise covered by a warehouse entry.

As indicated in the legislative history of the Act, the third circumstance—1 year from the date of withdrawal from warehouse for consumption if duties may be deposited after the filing of an entry or withdrawal from warehouse—relates only to those entries to be covered by the AMPS system. When AMPS is implemented nationwide, warehouse withdrawals will be liquidated separately and not accumulated, as is now the case, until all merchandise covered by a warehouse entry is withdrawn. Because Customs will not yet be implementing that system, the third circumstance for entries deemed liquidated would not be included in the regulations at this time.

Paragraph (a) of proposed § 159.11 also would state that notice of limitation of entries deemed liquidated would be given on the bulletin notice of liquidation required under sections 159.9 and 159.10. Even though the Act does not require it, Customs believes that notice of entries deemed liquidated would be beneficial to the importing community and would not be unduly burdensome to Customs.

Paragraph (b) would state that the provisions relating to time limitations for liquidation would apply only to those entries or withdrawals for consumption made after March 31, 1979.

2. Proposed new § 159.12(a) would authorize the district director to grant an extension, not to exceed 1 year, of the time period for liquidation for any of the reasons specified in the Act. If the importer requests an extension, he would have to show good cause why it should be granted. "Good cause" would be demonstrated if the importer satisfies the district director that he needs more time to gather and present information which would affect the transaction, or that Customs is considering a question similar to one in issue.

3. Under proposed § 159.12 (b) and (c), the district director would be required to give written notice or any suspension or extension to the importer or consignee and his agent and surety.

4. Proposed § 159.12(d) would provide for additional extensions, not to exceed 1 year each, for the same reasons the initial extension is given.

5. Proposed § 159.12(e) would provide that the total time for extensions may not exceed 3 years.

6. Proposed § 159.12(f) would set out the statutory time limits on extensions of the period for liquidation.

7. Proposed § 159.12(g) would make clear that bulletin notice of liquidation would be given if an entry is liquidated after an extension expires or a suspension is removed.

8. It is proposed to amend § 159.9(c) relating to the date of liquidation on the bulletin notice. This section would provide that the date of liquidation for an entry deemed liquidated by operation of law would be the date of expiration of the period for liquidation. The bulletin notice would be posted or lodged in the customhouse within a reasonable time after liquidation, and the period within which a protest must be filed would run from the date of posting or lodging.

RELIQUIDATION TO CORRECT CLERICAL ERRORS

Section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), provides that a Customs officer may reliquidate an entry to correct a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of law if the error is adverse to the importer. However, this section formerly provided that the error must be brought to the attention of Customs within 1 year from the date of entry or transaction, or within 90 days after the date of liquidation reflecting that error if the liquidation was made more than 9 months after the date of entry.

Section 210 of the Act amends 19 U.S.C. 1520(c)(1) to provide that a clerical error, mistake of fact, or other inadvertence must be brought to the attention of the appropriate Customs officer within 1 year after the date of liquidation or exaction regardless of when liquidation occurs. In addition, the term "appraisement" is deleted from 19 U.S.C. 1520(c)(1) because the term "liquidation", also used in that statute, includes that action.

Accordingly, it is proposed to amend § 173.4(b), Customs Regulations (19 CFR 173.4(b)), by deleting the term "appraisement." It also is proposed to amend § 173.4(c) to reflect the time period for correction of a clerical error, mistake of fact, or other inadvertence. In addition, it is proposed to add a new paragraph (d) to § 173.4 to make it clear that the term "liquidation" as used in 19 U.S.C. 1520(c)(1) includes a reliquidation of an entry.

AUTHORITY

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66); section 11, 20 Stat. 342, as amended (19 U.S.C. 467); sections 315, 484, 505, 520(c)(1), 557, 559, 624, as amended, 46 Stat. 695, as amended, 722, as amended, 732, as amended, 739, as amended, 744, as amended, 759, 92 Stat. 888 (19 U.S.C. 1315, 1484, 1504, 1505, 1520(c)(1), 1557, 1559, 1624); Pub. L. 95-410 (October 3, 1978).

COMMENTS

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

The comment period is 30 days, instead of the 60 days ordinarily required by Executive Order 12044 of March 23, 1978 (43 FR 12661) because this proposal is designed to implement legislative changes made by Pub. L. 95-410, which generally will become effective either upon enactment or 60 or 180 days thereafter.

DRAFTING INFORMATION

The principal authors of this document were Benjamin H. Mahoney and Charles D. Ressin, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

PROPOSED AMENDMENTS

It is proposed to amend Parts 10, 11, 127, 132, 141, 142, 143, 144, 158, 159, and 173, Customs Regulations (19 CFR Parts 10, 11, 127, 132, 141, 142, 143, 144, 158, 159, 173) in the following manner:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. It is proposed to amend §§ 10.1 (d), (g) and (h) to read as follows:

§ 10.1 Domestic products; requirements on entry.

* * * * * *

(d) If the district director is satisfied, because of the nature of the articles, or production or other evidence, that the articles are imported in circumstances meeting the requirements of item 800.00 or 805.00, Tariff Schedules of the United States, and the related headnotes, he may waive the requirements for producing the documents specified in paragraphs (a) and (b) of this section except when Customs Form 3311 is used as an entry summary (as defined in § 141.0a(b) of this chapter) under paragraphs (g) or (h), or as an informal entry under paragraph (i).

* * * * * *

(g) *Aircraft and aircraft parts and equipment.* (1) In the case of aircraft and aircraft parts and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, by or for the account of an aircraft owner or perator and intended for use in his own aircraft operations, within or outside the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed by the entrant and supported by the entry documentation required by § 142.3 of this chapter. If the Customs officer is satisfied that the articles are products of the United States, that they have not been improved in condition or advanced in value while abroad, and that no drawback has been or will be paid, the other documents described in this section shall not be required, and no bond need be filed for their production.

(2) The entrant shall show on Customs Form 3311:

(i) The name and address of the aircraft owner or operator by whom or for whose account the articles are returned to the United States, in the block headed "Articles Returned To (Name and Address)",

(ii) The name of the importing vessel or conveyance,

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(iii) The date of its arrival,
(iv) A description of the articles,
(v) The value of the articles, and
(vi) That the articles are intended for use by the aircraft owner or operator in his own aircraft operations.

(3) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

(h) *Nonconsumable vessel stores and equipment.* (1) In the case of nonconsumable vessel stores and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed in duplicate by the entrant and supported by the entry documentation required by § 142.3 of this chapter. Before an entry summary on Customs Form 3311 may be accepted for nonconsumable vessel stores and equipment, the Customs officer shall be satisfied that:

(i) The articles are products of the United States,
(ii) The articles have not been improved in condition or advanced in value while abroad,
(iii) No drawback has been or will be paid, and
(iv) No duty equal to an internal revenue tax is payable under item 804.20, Tariff Schedules of the United States.

(2) The declaration of the foreign shipper described in paragraph (a)(1) of this section and the certificate of exportation described in paragraph (a)(3) of this section shall not be required in connection with an entry for nonconsumable vessel stores and equipment on Customs Form 3311.

(3) To satisfy the Customs officer that no drawback has been or will be paid on the articles in connection with their removal from the United States, the master of the vessel or other person having knowledge of the facts shall furnish a written declaration which may be made on the reverse side of Customs Form 3311 showing that the articles were:

(i) Exported as stores or equipment on a United States vessel or a vessel operated by the United States Government,
(ii) Not landed in a foreign country, except for any needed repairs, adjustments, or refilling and return to the vessel from which landed or,
(iii) For transshipment as stores or equipment to another vessel.

(4) The entrant also shall show:
(i) The name of the importing vessel,
(ii) The date of its arrival,
(iii) A description of the articles, and
(iv) The value of the articles.

(5) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

2. It is proposed to amend § 10.31(a) to read as follows:

§ 10.31 Entry; bond.

(a)(1) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under Schedule 8, Part 5C, Tariff Schedules of the United States (TSUS),[34] unless covered by an A.T.A. carnet as provided in Part 114 of this chapter, shall be made on Customs Form 3461 or 7533, supported by the documentation required by § 142.3 of this chapter. However, when § 10.36 or § 10.36a is applicable, or the aggregate value of the article is not over $250, the form prescribed for the informal entry of importations by mail, in baggage, or by other means, may be used. When entry is made on Customs Form 3461 or 7533, an entry summary, Customs Form 7501, shall be filed within 10 days after time of entry, in accordance with Subpart B, Part 142 of this chapter.

(2) If Customs Form 7501 is filed at time of entry, it shall serve as both the entry and entry summary, and Customs Form 3461 or 7533 shall not be required. Customs Form 7501 shall be in original only, except for entries under item 864.05, TSUS, which require a duplicate copy for statistical purposes. When articles are entered under an A.T.A. carnet, the importation voucher of the carnet shall serve as the entry.

(3) In addition to the data usually shown on a regular consumption entry summary, each temporary importation bond entry summary shall include:

(i) The TSUS item number under which entry is claimed,
(ii) A statement of the use to be made of the articles in sufficient detail to enable the district director to determine whether they are entitled to entry as claimed, and
(iii) A declaration that the articles are not to be put to any other use and that they are not imported for sale or sale on approval.

. . . . . .

3. It is proposed to amend § 10.91 to read as follows:

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel [82] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),[83] shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter before the merchandise shall be released, unless the merchandise is to be entered for warehouse. If the merchandise is to be entered for warehouse, the entry summary shall be made on Customs Form 7502 and filed with the entry documentation listed in § 142.3(b) of this chapter. In either case, Customs Form 7501 or 7502, as appropriate, shall serve as both the entry and the entry summary.

(b) When the entry summary is made on Customs Form 7501, it shall contain the following endorsement:

Above merchandise entered under bond for use in the manufacture of _____ (camel hair belting, felt or knit boots, floor coverings, heavy fulled lumbermen's socks, press cloth, papermakers' felts, or pressed felt for polishing plat and mirror glass) under the provision of item 306.00, Tariff Schedules of the United States.

The endorsement shall be signed by the obligor on the bond.

(c) When the merchandise is entered for warehouse, withdrawals for use in the manufacture of the articles enumerated shall be made on Customs Form 7506 in the name of the obligor on the bond.

(d) Wool or hair of the camel which has been released from Customs custody shall not be restored to a Customs status from which it thereafter could be entered or withdrawn under the provisions of item 306.00, TSUS.

PART 11—PACKING AND STAMPING; MARKING [1]

1. It is proposed to amend § 11.6 to read as follows:

§ 11.6 Distilled spirits, wines, and malt liquors in bulk.

(a) The district director, in his discretion, may require marks, brands, stamps, labels, or similar devices to be placed on any bulk container used for holding, storing, transferring, or conveying imported distilled spirits, wines, and malt liquors, in accordance with 19 U.S.C. 467.[2]

(b) Marks, brands, stamps, labels, or similar devices required by Federal, state, or local statute or regulation may be affixed, and Customs inspection, gauging, marking, or measurement may be done, at the place of unlading or other suitable place, unless the district director determines that inspection, gauging, marking, or measurement shall be done at a public store, warehouse, or other appropriate facility.

(c) Marks, brands, stamps, labels, or similar devices shall be permanent in nature and not subject to obliteration or removal as a result of handling or other conditions. The district director shall determine whether a mark, brand, stamp, label, or similar device is acceptable, based on the nature, surface, and composition of the container.

2. It is proposed to amend footnote 2 to Part 11 to read as follows:

[2] "The Secretary of the Treasury may by regulation require such marks, brands, and stamps or devices to be placed on any bulk container (including a pipeline) used for holding, storing, transferring or conveying imported distilled spirits, wines, or malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines, or malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on such containers. Any such container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand, stamp, or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America." (19 U.S.C. 467)

"Beverages in this subpart, containing over 24 percent of ethyl alcohol by volume when imported, are classed as spirits under item 168.52." (Schedule 1, part 12C, headnote 1, Tariff Schedules of the United States.)

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

§ 127.3 [Deleted]

1. It is proposed to amend Part 127 by deleting § 127.3.

2. It is proposed to amend § 127.4 to read as follows:

§ 127.4 General order period defined.

The general order period is that period of time during which general order merchandise, as defined in § 127.1, is not subject to sale. The general order period expires 1 year from the date of importation.

3. It is proposed to amend § 127.11 to read as follows:

§ 127.11 Unclaimed merchandise.

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for transportation in bond or for exportation) which remains in Customs custody for 1 year from the date of importation, or a lesser period for special merchandise as provide by §§ 127.28(c), (d), and (h), and without all estimated duties and storage and other charges having been paid, shall be considered unclaimed and abandoned.

(Sec. 491, 46 Stat. 726 as amended (19 U.S.C. 1491).)

4. It is proposed to amend § 127.12(a)(2) to read as follows:

§ 127.12 Abandoned merchandise.

(a) • • •
(1) • • •
(2) Any imported merchandise upon which any duties or charges are unpaid, remaining in a bonded warehouse beyond the 5-year warehouse period.

5. It is proposed to amend § 127.14(c)(1) to read as follows:

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

(c) • • •

(1) Merchandise upon which all duties and charges have been paid which remains in a bonded warehouse beyond the 5-year warehouse period.

PART 132—QUOTAS

1. It is proposed to amend § 132.1 by deleting paragraph (c) and by revising paragraph (d) to read as follows:

§ 132.1 Definitions.

. . . . . .

(d) *Presentation.* "Presentation" is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see § 141.0a(b)), or

(2) A withdrawal for consumption, with estimated duties attached.

. . . . . .

2. It is proposed to amend § 132.3 to read as follows:

§ 132.3 Observation of official hours.

An entry summary for consumption and withdrawal for consumption of quota-class merchandise shall be presented only during offical office hours, except as provided in §§ 132.12 and 141.62(b) of this chapter. For purposes of administering quotas, "official office hours" shall mean 8:30 a.m. to 5:00 p.m. in all time zones.

3. It is proposed to amend §§ 132.11(a) and (b) to read as follows:

§ 132.11 Quota priority and status.

(a) *Determination of quota priority and status.* Quota priority and status are determined as of the time of presentation of the entry summary for consumption, or withdrawal for consumption, in proper form in accordance with § 132.1(d).

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption which serves as both the entry and the entry summary, or by a withdrawal for consumption, which is not in proper form, or for which duties have not been attached or deposited in proper form, shall not be regarded as entered for purposes of quota priority and shall not acquire quota status. See §§ 141.4, 141.63, 141.68, 141.69, and 141.101 of this chapter.

4. It is proposed to amend Part 132 by adding new § 132.11a to read as follows:

§ 132.11a Time of presentation.

(a) *general rule.* Except as provided in paragraph (b) of this section, the time of presentation of an entry for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached, or

(2) A withdrawal for consumption, with estimated duties attached.

(b) *Before arrival of merchandise.* The entry summary for consumption, without estimated duties attached, may be submitted for preliminary review before the merchandise arrives within the limits of the port where entry is to be made. In that case, the time of presentation of the entry summary for consumption shall be the time estimated duties are deposited after the importing carrier arrives within the port limits.

5. It is proposed to amend § 132.12 to read as follows:

§ 132.12 Procedure on opening of potentially filled quotas.

(a) *Preliminary review before opening.* When it is anticipated that a quota will be filled at the opening of the quota period, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall not be presented before 12 noon Eastern Standard Time in all time zones. However, an entry summary for consumption, or withdrawal for consumption, for merchandise which has arrived within the Customs territory of the United States may be submitted for preliminary review without deposit of estimated duties within a time period before the opening approved by the district director. Submission of these documents before opening will not accord the merchandise quota priority or status.

(b) *Simultaneous presentation.* Special arrangements shall be made so that all entry summaries for consumption, or withdrawals for consumption, for quota merchandise may be presented at the exact moment of the opening of the quota in all time zones. All importers prepared to present entry summaries for consumption, or withdrawals for consumption, when the quota opens shall be given equal opportunity to do so. All entry summaries for consumption, or withdrawals for consumption, presented in proper form (including those submitted for review before opening of the quota period if accompanied by the de-

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posit of estimated duties) shall be considered to have been presented simultaneously.

(c) *Proration of quantities.* (1) The quantities on all entry summaries for consumption, or withdrawals for consumption, submitted simultaneously shall be prorated by Headquarters against the quota quantity admissible to determine the percentage to be allocated to each importer under the quota. Merchandise in excess of the quota shall be disposed of in accordance with § 132.5.

(2) In the event a quota is prorated, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall be returned to the importer for adjustment. The time of presentation for quota purposes, in that event, shall be the exact moment of the opening of the quota: *Provided*, That—

(i) An adjusted entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is deposited within 5 working days after Headquarters authorizes release of the merchandise, and

(ii) The importer takes delivery of the merchandise within 15 working days after release is authorized.

In no case, however, may the importer take delivery before he deposits estimated duties.

6. It is proposed to amend § 132.13(a) to read as follows:

§ 132.13 Quotas after opening.

(a) *Procedure prior to fulfillment.* To secure for each importer the rightful quota priority and status for his quota-class merchandise, and to close the quota simultaneously at all ports of entry—

(1) *Authorization before release.* The Commissioner of Customs may require that the authorization of Headquarters be obtained prior to the release of the merchandise. However, merchandise subject to a tariff-rate quota may be released before obtaining Headquarters authorization after the entry summary for consumption has been filed and estimated duties have been deposited with the district director at the over-quota rate.

(2) *Notation on entry papers.* The appropriate Customs officer shall note the exact date, hour, and minute of presentation on each entry summary for consumption, or withdrawal for consumption, and shall report these facts to Headquarters.

7. It is proposed to amend § 132.13(b) by deleting "or of official acceptance" in the first sentence.

8. It is proposed to amend the section heading and § 132.14 to read as follows:

§ 132.14 Special permits for immediate delivery; entry of merchandise prior to presenting entry summary for consumption; permits of delivery.

(a) *Effect of issuance of special permit for immediate delivery, or filing of entry documentation, before presentation of entry summary*—(1) *Requirements for release.* Quota-class merchandise shall not be released under a special permit for immediate delivery, or upon filing entry documentation, before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached.

(2) *Effect of inadvertent release.* Inadvertent release under a special permit for immediate delivery, or upon filing entry documentation, before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

(3) Procedures following inadvertent release.

(i) *Quota near fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is near fulfillment, the district director—

(A) May demand the return to Customs custody of the released merchandise in accordance with § 141.113 of this chapter, and

(B) Shall require the filing of the entry summary for consumption, or a withdrawal for consumption, with the estimated duties attached. If the demand is complied with, the district director may cancel the claim for liquidated damages under the entry bond upon the payment of a minimum of $25. If the entry summary for consumption, or the withdrawal for consumption with estimated duties attached is not filed timely, or if the merchandise is not redelivered to Customs custody within 30 days from the date of the demand, the district director may assess liquidated damages in an amount equal to the value of the merchandise, plus estimated duties. For tariff-rate quota merchandise, the estimated duties shall be computed at the over-quota rate.

(ii) *Quota not near fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption with estimated duties attached, and the quota is not near fulfillment, the district director shall require the timely filing of the entry summary for consumption with duties attached and may assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties. The district director may cancel liquidated damages upon the payment of a minimum of $25.

(b) *Permit of delivery.*—(1) *Effect of filing.* The issuance of a permit of delivery shall not accord the merchandise any quota priorities or status nor entitle it to any other quota benefit.

(2) *Time of issuance.*—(i) *Absolute quota merchandise.* A permit of delivery for merchandise subject to an absolute quota shall not be issued before a determination of the quota status of the merchandise.

(ii) *Tariff-rate quota merchandise.* A permit delivery for merchandise subject to a tariff-rate quota shall not be issued before a determination of the quota status of the merchandise unless estimated duties are deposited at the over-quota rate of duty.

§ 132.15 [Amended]

9. It is proposed to amend § 132.15 by substituting "141.68(c)" for "141.68(d)", and "presentation" for "acceptance".

PART 141—ENTRY OF MERCHANDISE

1. It is proposed to amend Part 141 to add a new § 141.0a, to read as follows:

§ 141.0a Definitions.

Unless the context requires otherwise or a different definition is prescribed, the following terms shall have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry.* "Entry" means that documentation required by § 142.2 of this chapter to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation.

(b) *Entry Summary.* "Entry summary" means any other documentation necessary to enable Customs to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission.* "Submission" means the voluntary delivery to the appropriate Customs officer of the entry summary documentation for preliminary review or of entry documentation for other purposes.

(d) *Filing.* "Filing" means:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation which shall serve as both the entry and the entry summary.

(e) *Presentation.* "Presentation" is used only in connection with quota-class merchandise and is defined in § 132.1(d) of this chapter.

§ 141.5 [Amended]

2. It is proposed to amend the first sentence of § 141.5 by inserting "or aircraft," after "vessel".

3. It is proposed to amend the first sentence of § 141.19(a), § 141.19(b)(1), and the first sentence of § 141.19(b)(2) to read as follows:

§ 141.19 Declaration of entry.

(a) *Declaration by consignee.* The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), shall execute the declaration specified in section 485(a), Tariff Act, of 1930, as amended (19 U.S.C. 1485(a)) on:

(1) The entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, or

(2) The rewarehouse or the bonded manufacturing warehouse entry.

The declaration need not be under oath. • • •

(b) *Declaration by agent of consignee*—(1) *Authorized agent with knowledge of the facts.* When entry is made in a consignee's name by an agent who has knowledge of the facts and who is authorized under a proper power of attorney by that consignee to make declarations in accordance with section 485(f), Tariff Act of 1930, as amended (19 U.S.C. 1485(f)), a declaration on the entry or entry summary executed by that agent is sufficient and no bond to produce a declaration of the consignee is required.

(2) *Other agents.* When entry is made in a consignee's name by an agent who does not meet the qualifications in paragraph (b)(1) of this section either:

(i) A declaration of the consignee on Customs Form 3347-A shall be filed with the entry documentation or entry summary or

(ii) A charge for the production of the declaration shall be made against the entry bond.

(3) • • •

• • • • •

4. It is proposed to amend § 141.20(a) to read as follows:

§ 141.20 Actual owner's declaration and superseding bond of actual owner.

(a) *Filing*—(1) *Declaration of owner.* A consignee in whose name an entry is made and who desires, under the provisions of section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to be relieved from statutory liability for the payment of increased and additional duties shall declare at the time of the filing of the entry summary or entry documentation, as provided in § 141.19(a), that he is not the actual owner of the merchandise, furnish the name and address of the owner, and file with the district director within 90 days from the time of entry (see § 141.68) a declaration of the actual owner of the merchandise acknowledging that the actual owner will pay all additional and increased duties. The declaration of owner shall be filed on Customs Form 3347.

(2) *Bond of actual owner.* If the consignee desires to be relieved from contractual liability for the payment of increased and additional duties voluntarily assumed by him under the single-entry bond which he filed in connection with the entry documentation and/or entry summary, or under his term bond against which the entry and/or entry summary is charged, he shall file a bond of the actual owner on Customs Form 7601 with the district director within 90 days from the time of entry.

• • • • •

5. It is proposed to amend § 141.61 to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(a) *Preparation.* (1) Entry and entry summary documentation shall be prepared on a typewriter, or with ink, indelible pencil, or other permanent medium. The entry summary shall be signed by the importer (see § 101.1(k)). Entries, entry summaries, and accompanying documentation shall be on the appropriate forms specified by the regulations and shall set forth clearly all required information. All copies shall be legible.

(2) An importer may omit from the entry summary for consumption, Customs Form 7501, the warehouse entry summary, Customs Form 7502, or the warehouse withdrawal for consumption, Customs Form 7505 or 7519, the marks and number of packages previously released or withdrawn.

(b) *"Signing of the entry".* The signing of the consignee's declaration on the entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, in accordance with § 141.19, shall be regarded as the "signing of the entry" required by section 484(d), Tariff Act of 1930, as amended (19 U.S.C. 1484(d)). For a rewarehouse or a bonded manufacturing warehouse entry, the signing of the consignee's declaration on the entry documentation shall satisfy 19 U.S.C. 1484(d).

(c) [Reserved]

(d) *Customs Form 5101.* An Entry Record, Customs Form 5101, shall be prepared by the importer, in triplicate, with carbon paper left in, and shall be filed with each consumption or warehouse entry summary and with each appraisement, vessel/aircraft repair, or drawback entry. The importer number shall be reported as follows:

(1) *Generally.* Except as provided in paragraph (d)(2) of this section, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. When the importer of record and the ultimate consignee are the same, the importer number shall be entered in both spaces provided on Customs Form 5101.

(2) *Exception.* In the case of a consolidated entry summary covering the merchandise of more than one ultimate consignee, the importer number shall be reported on Customs Form 5101, and the notation "consolidated" shall be made in the space provided for the importer number of the ultimate consignee.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number also shall be reported on Customs Form 5101. In this case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(e) *Statistical information*—(1) *Information required on entry summary or withdrawal form.*—(i) *Where form provides space.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the entry summary, Customs Form 7501 or 7502, the rewarehouse entry, Customs Form 7502 or 7519, the manufacturing warehouse entry, Customs Form 7521, or the withdrawal form, Customs Form 7505 or 7506, in the spaces provided. If a class or kind of merchandise from the same country of origin subject to the same statistical reporting number is included in more than one invoice, the information shall be combined and reported under one statistical reporting number.

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When consolidating information from several invoices under one reporting number, a work sheet itemizing the entered value of the merchandise from each invoice in the manner prescribed in paragraph (f)(1) of this section shall be attached to the appropriate form.

(ii) *Where form does not provide space.* In addition to the information required by paragraph (e)(1)(i) of this section, statistical information for which spaces are not provided on the appropriate form, shall be shown as follows:

(A) The name, the abbreviated designation or 4 digit code of the country of registry (flag) of the vessel expressed in terms of Annex 8, TSUSA, shall be placed in the block on the entry document for the name of the importing vessel or carrier.

(B) The notation "related" or "not related", as appropriate, shall be placed at the top of columns 3, 4, and 5 of Customs Forms 7501, 7502, 7505, 7506, and 7521, and in the top right hand portion of Customs Form 7519, to identify the transaction as one between a buyer and a seller who are related in any manner specified in section 402(g)(2), Tariff Act of 1930, as amended (19 U.S.C. 1401a(g)(2)), or as one between a buyer and a seller who are not so related.

(C)(1) The transaction value, charges, and equivalent value shall be listed on Customs Forms 7501, 7502, 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting number. These amounts shall be identified by placing (in the following order) PEXT (port of exportation transaction value), CHGS (aggregate cost of freight, insurance and all other charges), and EPEX (equivalent port of exportation value) in column 3 immediately below the entered value and to the left of each statistical value and charge.

(2) The transaction value, charges, and equivalent value shall be listed on Customs Form 7519 in the rate column with the descriptions (PEXT, CHGS, EPEX) immediately to the left of each statistical value and charge.

(3) In the case of related parties, if the district director is satisfied that the person filling the form cannot reasonably ascertain or estimate the equivalent port of exportation value (EPEX) that would exist had the transaction occurred between parties who were not related, he may permit that person to use the entered value adjusted, if necessary, to the port of exportation value, as provided for in subparagraph (xv), General Statistical Headnote 1(a), TSUSA, or any other value the district director considers appropriate. However, if the transaction value between related parties is higher than the entered value, the transaction value shall be used.

(2) *Responsibility.* The person filing the form is responsible for providing the information required by paragraph (e)(1) of this section. If the information required by subparagraph (xiv), (xv), and (xvi) General Statistical Headnote 1(a), TSUSA, cannot be obtained readily, the person filing the form shall provide reasonable estimates of the required information. The acceptance of an estimate for a particular transaction does not relieve the person filing the form from obtaining the necessary information for similar future transactions. The district director may require additional documentation to substantiate the statistical information required by paragraph (e)(1) of this section. The importer shall give an appropriate bond for the production of the required documentation within 1 month after the date of withdrawal or within 20 days after the date the entry summary is required to be filed, unless a reasonable extension of time is granted by the district director for good cause shown.

(3) *Estimates of statistical information.* When the person filing the form estimates any of the values or charges, as provided for in subparagraph (v), General Statistical Headnote 1(b), TSUSA, he shall place either "(estimate)" or "(est)" after the amount of each value or charge.

(4) *Rejection of form.* The district director shall reject a form for failure to provide required statistical information if the information is omitted or if the information provided clearly appears on its face, or is shown to the Customs officer, to be erroneous.

(5) *Penalty procedures; when not invoked.* Penalty procedures relating to erroneous statistical information shall not be invoked against any person who in good faith attempts to comply with the statistical requirements of the General Statistical Headnotes, TSUSA.

(f) *Value of each invoice.*—(1) *Single invoice.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers a single invoice, the invoice information shall be restated to show:

(i) Gross amount of the invoice;

(ii) Deduction of the aggregate amount of any non-dutiable charges involved in the amount;

(iii) Further deduction of the aggregate of any deductions from the invoice values to make entered values: and

(iv) Addition of the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to the invoice values to make entered values. The final amount in the summary computations shall represent the aggregate of the entered value of all the merchandise covered by the invoice. The required information shall be shown on a worksheet attached to the form of placed across columns (2a) or (2b) on Customs Forms 7501 and 7502, and in the same general location on Customs Forms 7305, 7306, 7310 and 7321.

(2) *Multiple invoices.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers multiple invoices, the information required to be restated by paragraph (f)(i) of this section for a single invoice shall be restated for each invoice. The final amount in the summary computation shall represent the aggregate of the entered values of all the merchandise on each of the multiple invoices. The required information shall be shown on an attached worksheet.

(ii) The worksheet also shall contain:

(A) A statistical reporting number restatement for the merchandise from each invoice subject to the same statistical reporting number from the same country of origin, and

(B) An aggregate total value which represents the entered values.

(iii) To permit the identification of the merchandise entered under each reporting number, each class or kind of merchandise from one country reported under a single statistical reporting number shall be coded identically on each invoice and on the worksheet.

2. It is proposed to amend § 141.62 to read as follows:

§ 141.62 Place and time of filing.

(a) *Place.* Entry, entry summary, or withdrawal documentation, other than that on Customs Forms 3461 or 7533, or informal entries, shall be filed at the customhouse unless the district director approves filing at a Customs station. Entries on Customs Form 3461 or 7533, informal entries, and applications for immediate delivery may be filed at the customhouse or at the customs location, approved by the district director, where the merchandise is to be released.

(b) *Time.*—(1) *Normal business hours.* Except as provided in paragraph (b)(2) of this section and in § 142.6 of this chapter, relating to entry of merchandise from Canada or Mexico when the customhouse is closed, entry, entry, summary, withdrawal documentation, and applications for special permits for immediate delivery shall be filed only when the customhouse is open for the general transaction of business as provided in § 101.6 of this chapter.

(2) *Overtime services*—(i) *Generally.* Except as provided in paragraph (b)(2)(ii) and in § 142.6 of this chapter,

entry, entry summary, and withdrawal documentation, and applications for special permits for immediate delivery may be filed when the customhouse is not open for the general transaction of business if:

(A) The person desiring to transact business has applied for and received authorization for overtime services on a reimbursable basis, as provided for in § 24.16 of this chapter, and

(D) Overtime services of Customs officers are available.

(ii) *Quota-class merchandise.* Overtime shall not be authorized for the presentation of entry summary documentation which serves as both the entry and entry summary or withdrawal documentation, for quota-class merchandise without Headquarters authorization. If Headquarters authorization is granted, the time of delivery the entry summary or withdrawal documentation, which the estimated duties attached, shall be the time of presentation for quota purposes. However, if an entry summary of withdrawal for quota-class merchandise is delivered inadvertently during overtime hours without Headquarters authorization, the time of presentation for quota purposes shall be the opening of business on the next business day.

3. It is proposed to amend § 141.63 to read as follows:

§ 141.63 Submission of entry summary documentation for preliminary review.

(a) *Before arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time before arrival of the merchandise as may be fixed by the district director——

(1) If the entry summary documentation will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b) of this chapter, or

(2) In the case of quota-class merchandise, if the entry summary for consumption will be presented at time of entry, as provided in § 132.11a of this chapter

Estimated duties shall not be accepted before arrival of the merchandise within the port limits.

(b) *After arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time after arrival of quota-class merchandise as may be fixed by the district director, if the entry summary for consumption will be presented at the opening of the quota period, as provided in § 132.12(a) of this chapter. Estimated duties shall not be accepted before the opening of the quota period.

4. It is proposed to amend § 141.64 to read as follows:

§ 141.64 Review and correction of entry and entry summary documentation.

Entry and entry summary documentation shall be reviewed before acceptance to ensure that all entry and statistical requirements are complied with and that the indicated values and rates of duty appear to be correct. If any errors are found, the entry and the entry summary documentation shall not be considered to have been filed in proper form and shall be returned to the importer for correction.

§ 141.65 [Deleted]

5. It is proposed to amend Part 141 by deleting § 141.65.

6. It is proposed to amend § 141.67 to read as follows:

§ 141.67 Recall of documentation.

The importer may recall the entry and entry summary documentation at any time before the effective time of entry set forth in § 141.68. The entry shall be considered canceled, and documents shall be returned to the importer.

7. It is proposed to amend § 141.68 to read as follows:

§ 141.68 Time of entry.

(a) *When entry documentation is filed without entry summary.* When the entry documentation is filed in proper form without an entry summary, the "time of entry" shall be:

(1) The time the appropriate Customs officer authorizes the release of merchandise covered by the entry documentation, or

(2) The time the entry documentation is filed, if requested by the importer on the entry documentation at the time of filing, and the merchandise already has arrived without the port limits; or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

(b) *When entry summary serves as entry and entry summary.* When an entry summary serves as both the entry documentation and entry summary, in accordance with § 142.3(b) of this chapter, the time of entry shall be the time the entry summary is filed in proper form with estimated duties attached.

(c) *Quota-class merchandise.* The time of entry for quota-class merchandise shall be the time of presentation of the entry summary or withdrawal for consumption in proper form, with estimated duties attached, as provided in § 132.11a of this chapter.

(d) *When merchandise has not arrived.* Merchandise shall not be authorized for release, nor shall an entry or an entry summary which serves as both the entry and entry summary be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade.

(e) *Informal mail entry.* The time of entry of merchandise under an informal mail entry, Customs Form 3419 or 5110-A, is the time the preparation of the entry documentation by a Customs employee is completed.

(f) *Withdrawal from warehouse for consumption.* The time of entry of merchandise withdrawn from warehouse for consumption (the process preparatory to the issuance of a permit for the release of the merchandise to or upon the order of the warehouse proprietor) is when:

(1) Customs Form 7505 is executed in proper form and filed together with any related documentation required by these regulations to be filed at the time of withdrawal, and

(2) Estimated duties, if any, required to be paid at the time of withdrawal have been deposited.

Unless the requirements of this paragraph and section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), including the deposit of estimated duties, if any, are completed within 60 days from the date of presentation of Customs Form 7505, the request for withdrawal shall be considered abandoned.

(g) *Appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet* The time of entry of merchandise under an appraisement entry, Customs Form 7500, an informal entry, Customs Form 5119-A, a combined entry for rewarehouse and withdrawal for consumption, Customs Form 7519, or an A.T.A. carnet issued under Part 114 of this chapter, shall be the time the specified form is executed in proper form and filed together with any related documents required by these regulations, and estimated duties, if any, have been deposited.

8. It is proposed to amend the introductory text and paragraph (a) of § 141.69 to read as follows:

§ 141.69 Applicable rates of duty.

The rates of duty applicable to merchandise shall be the rates in effect at time of entry, as specified in § 141.68, except as otherwise specifically provided for by Executive Order, and in the following cases:

(a) *Warehouse entries.* Merchandise entered for warehouse is dutiable at the rates in effect at the time with-

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drawal from warehouse for consumption is made in accordance with § 141.68(f).

9. It is proposed to amend the first sentence of § 141.81 to read as follows:

§ 141.81 Invoice for each shipment.

A special Customs invoice, a special summary invoice, or a commercial invoice shall be presented for each shipment of merchandise at the time the entry summary is filed, subject to the conditions set forth in these regulations. • • •

10. It is proposed to amend § 141.83(c) to read as follows:

§ 141.83 Type of invoice required.

• • • • •

(c) *Commercial invoice.* (1) A commercial invoice shall be filed for each shipment of imported merchandise not required by paragraph (a) to have a special Customs invoice and not exempted by paragraph (d) from both a special Customs invoice and a commercial invoice. The commercial invoice shall be prepared in the manner customary in the trade, contain the information required by §§ 141.86 through 141.89, and substantiate the statistical information required by § 141.61(e) to be given on the entry, entry summary, or withdrawal documentation.

(2) The district director may accept a copy of a required commercial invoice in place of the original. A copy other than a photostatic copy shall contain a declaration by the foreign seller, the shipper, or the importer that it is a true copy.

§ 141.83 [Amended]

11. It is proposed to delete subparagraph (3) and (4) of § 141.83(d) and to amend the introductory language to read as follows:

(d) *Special Customs or commercial invoice not required.* A special Customs invoice or a commercial invoice shall not be required in connection with the filing of the entry, entry summary, or withdrawal documentation for merchandise listed in this paragraph. The importer, however, shall present any invoice, memorandum invoice, or bill pertaining to the merchandise which may be in his possession or available to him. If no invoice or bill is available, a pro forma (or substitute) invoice, as provided for in § 141.85, shall be filed, and shall contain information adequate for the examination of merchandise and the determination of duties, and information and documentation which verify the information required for statistical purposes by § 141.61(e). The merchandise subject to the foregoing requirements is as follows:

• • • • • •

12. It is proposed to amend the introductory language of paragraph (a), paragraph (a)(8), and paragraph (c) of § 141.86 to read as follows:

§ 141.86 Contents of invoices and general requirements.

(a) *General information required on the invoice.* Each invoice of imported merchandise shall set forth the following information:

• • • • • •

(8) All charges upon the merchandise itemized by name and amount, including freight, insurance, commission, cases, containers, coverings, and cost of packing; and if not included above, all charges, costs, and expenses incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first United States port of entry. The cost of packing, cases, containers, and inland freight to the port of exportation need not be itemized by amount if included in the invoice price, and so identified. Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice; and

• • • • • •

(c) *Merchandise sold in transit.* If the merchandise is sold on the documents while in transit from the port of exportation to the port of entry, the original invoice reflecting the transaction under which the merchandise actually began its journey to the United States and the resale invoice shall be filed as part of the entry, entry summary, or withdrawal documentation. If the original invoice cannot be obtained, a pro forma invoice showing the values and transaction reflected by the original invoice shall be filed together with the resale invoice. If the entry, entry summary, or withdrawal documentation is filed by or for the account of the person who purchased the merchandise while in transit, a statement showing the price paid for each item by that purchaser also shall be filed.

13. It is proposed to amend the introductory language and paragraphs (c) and (d) of § 141.91 to read as follows:

§ 141.91 Entry without required invoice.

If a required invoice is not available in proper form at the time the entry or entry summary documentation is filed and a waiver is not granted in accordance with § 141.92, the entry or entry summary documentation shall be accepted only under the following conditions:

• • • • • •

(c) The invoices and other documents contain information adequate for the examination of merchandise, the determination of estimated duties, if any, and information and documentation adequate for statistical purposes; and

(d) The importer gives an appropriate bond for the required invoice, which must be delivered within 6 months after the date of the filing of the entry or entry summary documentation, unless the invoice is needed for statistical purposes. In that case, the invoice shall be produced within 20 days after the date the entry summary documentation is required to be filed, unless a reasonable extension of time is granted by the district director in accordance with § 141.61(e)(2).

14. It is proposed to amend §§ 141.92(c)(2) and (b)(4) to read as follows:

§ 141.92 Waiver of invoice requirements.

(a) *When waiver may be granted.* • • •

(2) The examination of merchandise, final determination of duties, and collection of statistics can be effected properly without the production of the required invoice.

(b) *Documents to be filed by importer.* • • •

(4) Any other information required by the district director for either appraisement or classification of the merchandise, or for statistical purposes.

15. It is proposed to amend § 141.101 by redesignating paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, by amending the introductory language and by adding a new paragraph (a) to read as follows:

§ 141.101 Time of deposit.

Estimated duties shall be deposited with the Customs officer designated to receive the duties at the time of the filing of the entry documentation or the entry summary documentation when it serves as both the entry and entry summary, except in the following cases:

(a) *Merchandise released under entry documentation.* In the case of merchandise released under the entry documentation listed in § 142.3 of this chapter before filing of the entry summary, deposit of estimated duties shall be made at the time the entry summary is filed unless the merchandise is entered for warehouse. If the merchandise is entered for warehouse, estimated duties shall be deposited in accordance with paragraph (b) of this section.

• • • • •

PART 142—ENTRY PROCESS

It is proposed to revise Part 142 to read as follows:

Sec.
142.0 Scope.

Subpart A—Entry Documentation

142.1 Definitions.
142.2 Time for filing entry.
142.3 Entry documentation required.
142.3a Assigned entry numbers.
142.4 Bond requirements.
142.5 Bond Rider.
142.6 Entry of merchandise from Mexico and Canada when the customhouse is closed.
142.7 Invoice requirements.
142.8 Examination of merchandise.
142.9 Failure to file entry timely.

Subpart B—Entry Summary Documentation

142.11 Entry summary form.
142.12 Time for filing or submission for preliminary review.
142.13 When entry summary must be filed at time of entry.
142.14 Delinquent payment of Customs bills.
142.15 Failure to file entry summary timely.
142.16 Entry summary documentation.
142.17 One entry summary for multiple entries.
142.18 Entry summary not required for prohibited merchandise.
142.19 Release of merchandise under the entry summary.

Subpart C—Special Permit for Immediate Delivery

142.21 Merchandise eligible for special permit for immediate delivery.
142.22 Application for special permit for immediate delivery.
142.23 Time limit for filing documentation after release.
142.24 Term special permit.
142.25 Suspension of immediate delivery privileges.
142.26 Delinquent payment of Customs bills.
142.27 Failure to file documentation timely.
142.28 Warehouse withdrawal or entry summary not required for prohibited merchandise.

Prohibited Merchandise: No Other Entry Filed

142.29 Other procedures applicable.

§ 142.0 Scope.

This part sets forth requirements and procedures relating to (a) the entry of merchandise, as authorized by section 484 Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

Subpart A—Entry Documentation

§ 142.1 Definitions.

For definitions of "entry", "entry summary", "submission", "filing", and "presentation", as these terms relate to the entry of merchandise, see § 141.0a of this chapter.

§ 142.2 Time for filing entry.

(a) *General rule: After arrival of merchandise.* Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing.

(b) *Before arrival of merchandise—*(1) *Entry.* The entry documentation required by § 142.3(a) may be submitted before the merchandise arrives within the limits of the port where entry is to be made, in which case the time of entry shall be the time specified in § 141.68(a).

(2) *When entry summary serves as entry.* The entry summary when it will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b), may be submitted for preliminary review in accordance with §§ 141.63(a) and 142.12(a)(2).

§ 142.3 Entry documentation required.

(a) *Contents.* Except as provided in paragraph (b) of this section, the entry documentation required to secure the release of merchandise shall consist of the following:

(1) *Entry.* Customs Form 3461 (appropriately modified), except that Customs Form 7533 (appropriately modified), in duplicate, may be used in place of Customs Form 3461 for merchandise imported from a contiguous country. The form used shall be prepared in accordance with § 141.61(a)(1) of this chapter.

(2) *Evidence of the right to make entry.* Evidence of the right to make entry, as set forth in § 141.11 of this chapter.

(3) *Commercial invoice.* A commercial invoice, except that in those instances listed in § 141.83(d) of this chapter where a commercial invoice is not required, a pro forma invoice or other acceptable documentation listed in that section may be submitted in place of a commercial invoice.

(4) *Packing list.* A packing list, where appropriate.

(5) *Other documentation.* Other documents which may be required by Customs or other Federal, state, or local agencies for a particular shipment.

(b) *Entry summary filed at time of entry.* When the entry summary is filed at time of entry, in accordance with § 142.12(a)(1) or § 142.13,

(1) Customs Form 3461 or 7533 shall not be required, and

(2) Customs Form 7501, 7502, or 3311, as appropriate (see § 142.11), shall serve as both the entry and the entry summary documentation: *Provided,* The additional documentation set out in paragraphs (a)(2), (3), (4), and (5) of this section and § 142.16(b) is filed.

(b) *Extra copies.* The district director may require additional copies of the entry documentation.

§ 142.3a Assigned entry numbers.

(a) *Request and authorization.* Upon the written request of an importer or broker, the district director shall assign sufficient entry numbers for use by the importer or broker at any port within the district during the fiscal year. Numbers shall be assigned in blocks of not less than 100. Additional requests and assignments may be made during the fiscal year if additional numbers are needed.

(b) *"Fiscal year" defined.* For purposes of this section, the initial "fiscal year" shall begin on October 3, 1978, and end on September 30, 1979. Thereafter, each fiscal year shall begin on October 1 and end on September 30.

(c) *Assigned entry number and its use.* The assigned entry number shall be a six-digit number preceded by the last two digits of the fiscal year and a space; for example, 79 1Q0001. The importer or broker shall place the assigned entry number on the entry and the corresponding entry summary documentation. The number shall be preprinted, stamped, typed or written legibly. Each number shall be used only once.

(d) *Report.* Within 30 days after the end of the fiscal year, each importer or broker to whom entry numbers have been assigned shall account in writing to the district director for each entry number which has not been used. Entry numbers assigned but not used during the fiscal year shall be cancelled.

(e) *Refusal to assign entry numbers: cancellation.* The district director may refuse to assign entry numbers to an importer or broker, or may cancel entry numbers previously assigned and remaining unused, if the importer or broker:

(1) Fails to account satisfactorily to the district director for any numbers assigned but not used, or

(2) Misuses numbers which have been assigned to him.

(f) *Alternative procedure.* If an importer or broker does not request assignment of entry numbers, or if the district director, in accordance with paragraph (e) of this section, refuses to assign entry numbers, or cancels

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entry numbers. previously assigned, the importer or broker shall obtain an entry number at the customhouse before his merchandise may be released. The entry number so obtained shall be placed on the entry and the corresponding entry summary documentation.

§ 142.4 Bond requirements.

Except as provided in § 10.101(d) of this chapter, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3, unless one of the following types of bonds, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in § 113.59(a) of this chapter, has been filed:

(a) *Single entry bond.* A single entry bond on Customs Form 7551, with the amount of the bond determined in accordance with § 113.14(g)(1) of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

(b) *Term bond.* A term bond on Customs Form 7553, with the amount of the bond determined in accordance with § 113.14(g)(2) of this chapter.

(c) *General term bond.* A general term bond on Customs Form 7595, with the amount of the bond determined in accordance with §§ 113.14(s) and 113.62 of this chapter.

§ 142.5 Bond Rider.

A bond rider in the following form shall be executed and attached to any entry bond provided for in § 142.4, utilized by an importer who makes entry under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484):

RIDER

(To be attached to all entry bonds)

Whereas certain merchandise which is described in a bond-dated , in the amount of , executed by , as principal, and , as surety, to which this rider relates has been imported at the port of , and entered at said port on entry No. , dated 19 , or the principal expects to enter merchandise during the period covered by a term bond to which this rider relates dated 19 , in the amount of , executed by , as principal, and , as surety.

Whereas the merchandise, in whole or in part, may be entered under the provisions of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), and duties deposited under the provisions of section 505(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1505(a)).

It is hereby expressly agreed by the principal and surety on the bond referenced above that the following condition, in addition to the conditions appearing in the bond, shall apply: And if where entry is made pursuant to section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the bounden principal, within the time prescribed in the Customs Regulations, shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics with respect to the merchandise, and (4) determine whether applicable requirements of law or regulation are met; and if the bounden principal, within the time prescribed in the Customs Regulations, shall deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon; or if, in the event of failure to file the documentation or to deposit duties and taxes, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise as to which there shall have been default, plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of the merchandise as determined by the district director, and that the decision of the district director as to the status of the merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation).

Witness our hands and seals this day of 19 .

(SEAL)
PRINCIPAL
(SEAL)
SURETY

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, certify that I am the * of the corporation named as principal in the rider; that , who signed the said rider on behalf of the principal, was then of said corporation; that I know this signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(CORPORATE SEAL)

(To be used when no power of attorney has been filed with the district director of Customs)

§ 142.6 Entry of merchandise from Mexico and Canada when the custom-house is closed.

If merchandise destined to places other than the port of arrival arrives from Canada or Mexico when the customhouse is closed, the entry documentation required by § 142.3 may be filed with the chief Customs officer on duty, and the merchandise may be released if the importer has on file in the customhouse a term bond in accordance with § 142.4(b) or (c). § 142.7 Invoice requirements.

(a) *Contents.* The commercial invoice, or the documentation acceptable in place of a commercial invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

(1) An adequate description of the merchandise.

(2) The quantities of the merchandise.

(3) The values or approximate values of the merchandise.

(4) The appropriate five-digit item number from the tariff Schedules of the United States. If the importer is uncertain of the appropriate tariff item number, Customs shall assist him at his request.

(b) *Information not required when filing entry.* In addition to the information specified in paragraph (a) of this section, the commercial invoice or substitute document filed with the entry documentation also may include any other invoice information required by §§ 141.66 through 141.89 of this chapter. However, if this information does not appear on the invoice or substitute document filed with the entry documentation, shall be included in the invoice or substitute document presented at the time the entry summary documentation is filed.

§ 142.8 Examination of merchandise.

No merchandise for which the entry documentation required by § 142.3 has been filed shall be released until it has been examined, or until adequate samples have been taken in the case of merchandise which is to be classified and appraised by means of samples, unless this requirement is waived by the district director in accordance with section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499).

§ 142.9 Failure to file entry timely.

Merchandise for which timely entry is not filed as required by § 142.2 shall be treated in accordance with § 4.37 and Part 127 of this chapter.

Subpart B—Entry Summary Documentation

§ 142.11 Entry summary form.

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for both merchandise formally entered for consumption, and formally entered under a temporary importation bond under § 10.31. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501, and the entry summary for warehouse entries shall be on Customs Form 7502.

(b) *Extra copies.* The district director may require additional copies of the entry summary.

§ 142.12 Time for filing or submission for preliminary review.

(a) *At option of importer—(1) Filing.* Except as provided in § 142.13, the importer may file the entry summary documentation at the time of entry in which case the entry summary, with estimated duties attached, shall serve as both the entry and the entry summary.

(2) *Submission for preliminary review.* If the importer intends to file the entry summary documentation at the time of entry, he may submit the entry summary documentation for preliminary review before arrival of the merchandise, in accordance with § 141.63(a) of this chapter. After preliminary review is completed, the entry summary shall be returned to the importer for filing in accordance with paragraph (a)(1) of this section.

(b) *When required.* If the importer is not required to file the entry summary documentation at the time of entry under the provisions of § 142.13, or if he does not elect to do so, the entry summary documentation shall be filed, with estimated duties attached, within 10 working days after the time of entry.

(c) *Estimated duties.* Estimated duties, if any, shall be deposited in accordance with the provisions of Subpart G of Part 141 of this chapter.

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director.* The district director may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer:

(1) Has failed repeatedly to file timely entry summary documentation without justification,

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages, shall petition for relief or pay the amount claimed and, in appropriate cases, file the entry summary documentation and deposit estimated duties, if any, or

(3) Has repeatedly filed entry summary documentation, which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer is substantially or habitually delinquent in the payment of Customs bills. See § 142.14.

(c) *Special classes of merchandise.* Entry summary documentation shall be presented with estimated duties attached, before release of quota-class merchandise (see Part 132), or filed at the time of entry before release of any other merchandise of a class designated by Headquarters.

(d) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.14 Delinquent payment of Customs bills.

The following procedure shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that he shall file the entry summary documentation with estimated duties attached, before his merchandise may be released from Customs custody in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, he shall be required to file the entry summary document with estimated duties attached, before his merchandise may be released in any Customs region. In either case, the entry summary shall serve as both the entry and the entry summary.

(b) *Removal or requirement by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the requirement shall be removed, and the importer need file only the entry documentation specified in § 142.3 to secure release of his merchandise.

(c) *Removal of requirement by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, he also shall be required to file the entry summary documentation, with estimated duties attached, in each Customs region. In this case, the entry summary shall serve as both the entry and the entry summary. This requirement shall remain in effect in each port of entry until notification is received from Headquarters that the requirement is removed and that the importer need submit only the entry documentation listed in § 142.3 to secure release of his merchandise.

§ 142.15 Failure to file entry summary timely.

If the entry summary documentation is not filed timely, the district director shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application to cancel liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* When the entry documentation is filed before the entry summary documentation, one copy of the entry document and the commercial invoice, or the documentation filed in place of a commercial invoice in the instances listed in § 141.83(d) of this chapter, shall be returned to the importer after Customs authorizes release of the Merchandise. The importer may use these documents in preparing the entry summary, Customs Form 7501, and shall file them with the entry summary documentation within the time period stated in § 142.15. The entry summary documentation also shall include Customs Form 5101 and any other documents required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515, unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

(b) *Entry summary filed at time of entry.* When the entry summary documentation is filed at time of entry, the documentation listed in § 142.3 shall be filed at the same time, except that Customs Form 3461 or 7533 shall not be required. The importer also shall file Customs Form 5101 and any additional invoice required for a particular shipment, such as a Special Customs invoice, Customs Form 5515.

§ 142.17 One entry summary for multiple entries.

(a) *Requirements.* Except as provided in paragraph (b) of this section, the district director may permit the filing of one entry summary document for merchandise the subject of separate entries if:

(1) The merchandise has the same country of exportation, and the same country of origin,

*May be executed by the secretary, assistant secretary, or other officer of the corporation.

(2) The merchandise arrives by the same air carrier or the same mode of land transportation,

(3) The merchandise is consigned to the same consignee,

(4) The time between the date of the first entry and the date of the last entry does not exceed 1 week,

(5) The entry summary document is filed within 10 working days from the date of the first entry, and

(6) Each entry is identified separately by entry number on the entry summary.

(b) *Merchandise not eligible.* One entry summary shall not be used for multiple entries of the following:

(1) Quota-class merchandise,

(2) Prohibited merchandise,

(3) Merchandise subject to restrictions which require processing and documentation more frequently than on a weekly basis,

(4) Merchandise for which liquidation has been withheld, and

(5) Merchandise subject to internal revenue tax.

(c) *Entry documentation not in proper form.* If an entry summary for multiple entries refers to entry documentation which is not in proper form, the entry summary and the entry documentation shall be returned for correction.

§ 142.18 Entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released at time of entry is later found to be prohibited, the district director shall demand its return to Customs custody in accordance with § 141.113 of this chapter, and an entry summary and the deposit of estimated duties, if any, shall not be required provided:

(1) An entry for exportation, Customs Form 7512, or an application to destroy the merchandise under Customs supervision is made within 10 days after the time of entry, and the exportation or destruction is accomplished promptly, or

(2) An entry for transportation and exportation, Customs Form 7512, is made within 10 days after the time of entry and domestic carriage of the merchandise does not conflict with the requirements of another Federal agency.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise as required by paragraph (a) shall be in accordance with §§ 158.41 and 158.45(c) of this chapter.

§ 142.19 Release of merchandise under the entry summary.

Merchandise, for which an entry summary serves as both an entry and an entry summary, shall not be released from Customs custody until an appropriate bond has been filed, or the entry has been liquidated, as follows:

(a) *Bond.* Merchandise not designated for examination may be released to, or upon the order of, the carrier if an entry bond is filed on Customs Form 7551, 7555, or 7595, in an amount determined in accordance with Part 113 of this chapter. Merchandise designated for examination may be released under the entry bond after examination has been completed if:

(1) It has been found to be truly and correctly invoiced,

(2) It is entitled to admission into the commerce of the United States, and

(3) Its release is not precluded by any law or regulation. If merchandise is entered by or on behalf of a United States Government department or agency, the stipulation prescribed in § 141.102(d) of this chapter shall be accepted in place of a bond.

(b) *After liquidation.* If a bond has not been filed in accordance with paragraph (a) of this section, the merchandise shall not be released before:

(1) The entry has been liquidated and the full amount of all duties and taxes due, including dumping or other special duties and charges, has been paid, or the right to free entry established,

(2) The district director determines that the merchandise may be admitted into the commerce of the United States, and

(3) All documents relating to the merchandise which are required by law or regulation have been filed.

Subpart C—Special Permit for Immediate Delivery

§ 142.21 Merchandise eligible for special permit for immediate delivery.

Merchandise may be released under a special permit for immediate delivery, in accordance with section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), in the following circumstances:

(a) *Contiguous countries.* At the discretion of the district director, merchandise from Canada or Mexico may be released under a special permit for immediate delivery provided the importer has on file one of the types of Customs bonds described in § 142.4. An entry summary shall be filed, and estimated duties shall be deposited, within the time period specified in § 142.23 for all merchandise from contiguous countries released under a special permit except for fresh fruits and vegetables for human consumption released under the provisions of paragraph (b) of this section.

(b) *Fresh fruits and vegetables.* (1) An application for a special permit for immediate delivery may be made for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but removed from the area immediately contiguous to the border.

(2) The application shall be supported by a term bond on Customs Form 7553, or a general term bond on Customs Form 7595 as prescribed in § 142.4, to which a rider in the following format has been added:

Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to Customs Forms 7553 and 7595.

In addition to the conditions appearing in the bond dated ————, in the amount of ———, executed by ————, as principal and ————, as surety, to which this stipulation relates, it is hereby expressly agreed by the principal and surety thereon that the following additional condition shall apply:

If, pursuant to section 448(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), and § 142.21(a) of the Customs Regulations, fresh fruits and vegetables have been released for immediate delivery from ———— to the importer's premises at ———— the produce shall be transported and stored in accordance with the regulations, and may be examined and disposed of according to § 138.11(b) of the Customs Regulations; the balance of the produce shall be entered for consumption, entered for transportation and exportation, or transported in bond under an entry for immediate transportation without appraisement. In the event of failure to make an appropriate entry or deposit the estimated duties due, when so required, the above-bounden principal shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise plus the charges and duties thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of such merchandise as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of ———, 19——.

———————— (Seal)
PRINCIPAL ————
———————— (Seal)
SURETY ————

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ————, certify that I am the ———— of the corporation named as principal in the rider; that ———— , who signed the said rider on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

———————— (Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

*May be executed by the secretary, assistant secretary, or other officer of the corporation.

(3) The fresh fruits and vegetables shall be transported to the importer's premises in the vehicles in which they crossed the border or, if transshipment is necessary in vehicles provided by the importer. The fresh fruits and vegetables may be examined at the importer's premises. Those portions without commercial value may be disposed of in accordance with the provisions of § 158.11(b) of this chapter, and the balance shall be entered for consumption or transported in bond under an entry for immediate transportation without appraisement or under an entry for transportation and exportation.

(c) *Release from warehouse followed by warehouse withdrawal for consumption.* At the discretion of the district director, merchandise may be released from warehouse under a special permit provided the importer has on file one of the types of Customs bonds provided for in § 142.4. The immediate delivery permit shall be annotated to state that a warehouse withdrawal for consumption will be filed for this merchandise.

(d) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), and (c), of this section provided an appropriate bond is on file.

§ 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery shall be made on Customs Form 3461 supported by the documentation provided for in § 142.3, except that a commercial invoice shall not be required. Instead of a commercial invoice, the importer may deliver to Customs a pro forma invoice, waybill, or other document setting forth an adequate description of the merchandise and the quantities, together with the values or approximate values when values are needed for the purpose of examination. If the merchandise is to be released under a term special permit, the documentation also shall show the term special permit number, as provided for in § 142.24.

(b) *Customs custody.* Merchandise for which a special permit for immediate delivery has been issued under § 142.21 shall be considered to remain in Customs custody until the filing of one of the following:

(1) An entry summary for consumption, with estimated duties attached;

(2) A warehouse withdrawal for consumption, with estimated duties attached;

(3) An entry for transportation and exportation, immediate transportation without appraisement, or direct exportation; or

(4) An application to destroy.

§ 142.23 Time limit for filing documentation after release.

The applicable documentation described in § 142.22(b) shall be filed, and estimated duties, if any, shall be deposited, within 10 working days after the merchandise or any part of the merchandise is authorized for release under a special permit for immediate delivery.

§ 142.24 Term special permit.

(a) *Conditions for issuance.* At the discretion of the district director, a term special permit for immediate delivery may be issued on Customs Form 5461, appropriately modified, for a class or classes of merchandise particularly described in the application for the permit, to be imported during a period not to exceed 1 year from the date of the permit.

(b) *Notation of value for each shipment.* When applying for the release of a shipment of merchandise under a term special permit for immediate delivery, the importer shall note a value for the shipment on the documentation presented. The value so noted shall not be less than the invoice value.

(a) *Authority of district director.* The district director may discontinue immediate delivery privileges if the importer:

(1) Has failed repeatedly to file the applicable Customs documentation set forth in § 142.22(b) timely without justification, or

(2) Has not taken prompt action to settle a claim for liquidation damages issued under § 142.27 for failure to file the application Customs documentation set forth in § 142.22(b) timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages, shall petition for relief or pay the amount claimed and, file the applicable documentation and deposit estimated duties, if any.

(b) *Authority of regional commissioner.* The regional commissioner may discontinue immediate delivery privileges if the importer is substantially delinquent in the payment of Customs bills. See § 142.26.

(c) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for the immediate release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.26 Delinquent payment of Customs bills.

The following procedures shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that his immediate delivery privileges have been suspended in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, the importer's immediate delivery privileges also shall be suspended in all Customs regions.

(b) *Reinstatement of privileges by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the suspension shall be removed, and the importer's immediate delivery privileges shall be reinstated.

(c) *Reinstatement of privileges by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, his immediate delivery privileges shall be suspended in all Customs regions. This suspension shall remain in effect in each port of entry until notification is received from Headquarters that the suspension is removed and that the importer's immediate delivery privileges have been reinstated.

§ 142.27 Failure to file documentation timely.

If the applicable Customs documentation set forth in § 142.22(b) is not filed within the time provided in § 142.23, the district director shall make an immediate demand for liquidated damages in the amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the damand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application for cancellation of liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.28 Warehouse withdrawal or entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released under a special permit for immediate delivery later is found to be prohibited, the district director shall demand its recall in accordance with § 141.115 of this chapter (applica-

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ble to the recall of merchandise released from Customs custody), and warehouse withdrawal or entry summary documentation and the deposit of estimated duties, if any, shall not be required provided:

(1) The merchandise is exported or destroyed under Customs supervision within the time limit for entry specified in § 142.25, or

(2) An entry for exportation or for transportation and exportation on Customs Form 7512, or an application to destroy the merchandise, is made within the specified time limit, and the exportation or destruction is accomplished promptly.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise required by paragraph (a) of this section shall be under the same procedures as exportation or destruction of prohibited merchandise covered by a consumption entry with remission or refund of duties. See §§ 158.41 and 158.45(c) of this chapter.

(c) *Notation on exportation entry.* An entry for exportation or for transportation and exportation of prohibited merchandise for which no entry summary for consumption has been filed shall be stamped or imprinted conspicuously with the legend:

PROHIBITED MERCHANDISE; NO OTHER ENTRY FILED

§ 142.29 Other procedures applicable.

Merchandise released under a special permit for immediate delivery shall be subject to the same procedures applicable to all other imported merchandise, unless specific procedures are set forth in this subpart.

PART—143 APPRAISEMENT AND INFORMAL ENTRIES

§§ 143.1—113.3 [Deleted]

It is proposed to delete § 143.1, 143.2, and 143.3.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. It is proposed to amend § 144.5 to read as follows:

§ 144.5 Period of warehousing.

(a) *Generally.* Except as provided in paragraph (b) of this section, merchandise shall not remain in a bonded warehouse beyond 5 years from the date of importation.

(b) *Exception.* For merchandise remaining in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95-410 (92 Stat. 888), any period of time the merchandise was in a bonded warehouse before that date shall be disregarded and the 5-year period shall commence on that date.

§ 144.6 [Deleted]

2. It is proposed to delete § 144.6.

3. It is proposed to amend § 144.7 to read as follows:

§ 144.7 Disposition of merchandise after expiration of warehousing period.

Merchandise remaining in a bonded warehouse after the expiration of the warehousing period shall be disposed of in accordance with § 127.14 of this chapter.

4. It is proposed to amend § 144.11 to read as follows:

§ 144.11 Form of entry.

(a) *Entry.* The documentation required by § 142.3 of this chapter shall be filed at the time of entry. If the warehouse entry summary, Customs Form 7502, is filed at time of entry, it shall serve as both the entry and the entry summary, and Customs Forms 3461 or 7533 shall not be required. If the warehouse entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by § 142.12 of this chapter. If merchandise is released before the filing of the warehouse entry summary, the importer shall have a bond on file, as prescribed by § 142.4 of this chapter.

(b) *Customs Form 7502.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on the Warehouse or Rewarehouse Entry, Customs Form 7502, appropriately modified, and shall include all of the statistical information required by § 141.61(e) of this chapter. The district director may require an extra copy or copies of the Warehouse or Rewarehouse Permit, Customs Form 7502-A, for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall deisignate on the warehouse entry summary, Customs Form 7502, the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

(d) *Specification list.* When packages which are not uniform in contents, quantities, values, or rates of duties are grouped together as one item on an entry summary, a specification list (original only) shall be furnished with the entry summary, showing separately opposite the marks or numbers of each package, the quantity of each class of merchandise, the entered value of each class, and the rates of duty claimed for each. However, a specification list is not needed if one withdrawal is to be filed for all the merchandise covered by the entry summary.

5. It is proposed to amend § 144.12 to read as follows:

§ 144.12 Contents of entry summary; estimated duties.

The entry summary, Customs Form 7502, shall show the value, classification, and rate of duty as approved by the district director at the time the entry summary is filed. However, no deposit of estimated duties shall be required until the merchandise is withdrawn for consumption.

6. It is proposed to amend § 144.13 to read as follows:

§ 144.13 Bond requirements.

(a) *Entry summary not filed at time of entry.* A bond on Customs Form 7551, 7553, or 7595 shall be required when the entry documentation is filed if the entry summary documentation is not filed at that time. When the entry summary is filed thereafter, as prescribed in § 142.13 of this chapter, a bond on Customs Form 755 or 7595 shall be required if a bond on Customs Form 7551 or 7553 is on file in support of the entry documentation. If a bond on Customs Form 7595 is on file in support of the entry documentation, that bond shall be sufficient to support the entry summary.

(b) *Entry summary filed at time of entry.* If the entry summary is filed at time of entry, the entry summary shall serve as both the entry and the entry summary, and a bond on Customs Form 7555 or 7595 shall be required.

7. It is proposed to amend § 144.14 to read as follows:

§ 144.14 Removal to warehouse.

When the entry summary, Customs Form 7502, and the appropriate bond have been filed, the merchandise shall be sent to the bonded warehouse, except for:

(a) Merchandise for which an immediate dock withdrawal is filed, or

(b) Packages designated for examination elsewhere than at the warehouse, which shall be sent to the warehouse after examination.

8. It is proposed to amend the first sentence of § 144.36(b) by substituting "entry summary, Customs Form 7502" for "warehouse entry".

9. It is proposed to amend § 144.36(d) to read as follows:

§ 144.36 Withdrawal for transportation.

* * * * *

(d) *Information required.* In addition to the statement of quantity required by § 144.32, Customs Form 7512 shall show the following information for the merchandise being withdrawn:

(1) The original entry number, date of entry, date of entry summary, and port at which filed;

(2) The name of the consignee at the port of destination;

(3) Any ascertained weight, gauge, or measure;

(4) The entered value of the merchandise;

(5) Estimated duties, if any;

(6) A statement that the merchandise is or is not admissible for consumption and the reason for non-admissibility, if applicable; and

(7) The statistical information required by § 141.61(d) of this chapter.

When the withdrawal is made after the merchandise has been rewarehoused, the rewarehouse entry number, date, and port at which filed also shall be shown.

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

1. It is proposed to amend Part 158 by adding a new § 158.12a to read as follows:

§ 158.12a Time period.

An abatement or refund of duties shall be made in the case of injury to, or destruction of, merchandise in a bonded warehouse as a result of accidental fire or other casualty only if the fire or casualty occurs within 3 years from the date of importation.

§ 158.27 [Amended]

2. It is proposed to amend § 158.27(b) by inserting "the entry summary (where appropriate)," after "entry".

3. It is proposed to amend § 158.43 by changing the heading of paragraph (c) to *"Abandonment."*, by adding a new subheading entitled *"Costs."* to the existing paragraph, by redesignating the existing paragraph as "(c)(1)", and by adding a new paragraph (c)(2) to read as follows:

§ 158.43 Abandonment or destruction of merchandise in bond.

* * * * *

(c) *Abandonment.*—(1) *Costs.* * * *

(2) *Time period.* The importer may abandon his warehoused merchandise voluntarily to the Government within 3 years from the date of importation.

4. It also is proposed to amend § 158.43 by changing the heading of paragraph (d) to "Destruction", by adding a new subheading entitled "Costs." to the existing paragraph, by redesignating the existing paragraph as "(d)(1)", and by adding a new paragraph (d)(2) to read as follows:

§ 158.43 Abandonment of destruction of merchandise in bond.

* * * * *

(d) *Destruction*—(1) *Costs.* * * *

(2) *Time period.* The importer may request destruction of his warehoused merchandise within 5 years from the date of importation.

PART 159—LIQUIDATION OF DUTIES

1. It is proposed to amend § 159.9(c) to read as follows:

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

* * * * *

(c) *Date of liquidation*—(1) *Generally.* The bulletin notice of liquidation shall be dated with the date it is posted or lodged in the customhouse for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated", with the date of liquidation, which shall be the same as the date of the bulletin notice of liquidation. This stamping shall be deemed the legal evidence of liquidation.

(2) *Exception: Entries liquidated by operation of law.* (i) Entries liquidated by operation of law at the expiration of the time limitations prescribed in section 504, Tariff Act of 1930, as amended (19 U.S.C. 1504), and set out in §§ 159.11 and 159.12, shall be deemed liquidated as of the date of expiration of the appropriate statutory period.

(ii) The bulletin notice of liquidation shall be posted or lodged in the customhouse within a reasonable period after each liquidation by operation of law and shall be dated as of the date of expiration of the statutory period.

(iii) A protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and Part 174 of this chapter shall be filed within 90 days from the date the bulletin notice of liquidation of an entry by operation of law is posted or lodged in the customhouse.

2. It is proposed to amend Part 159 by adding new §§ 159.11 and 159.12 to read as follows:

§ 159.11 Entries liquidated by operation of law.

(a) *Time limit generally.* Except as provided in § 159.12, an entry not liquidated within 1 year from the date of entry of the merchandise, or the date of final withdrawal of all merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer. Notice of liquidation shall be given on the bulletin notice of liquidation, Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3).

(b) *Applicability.* The provisions of this section and § 159.12 shall apply to the entries or withdrawals of merchandise for consumption made after March 31, 1979.

§ 159.12 Extension of time for liquidation.

(a) *Reasons*—(1) *Extension.* The district director may extend the 1-year statutory period for liquidation for an additional period not to exceed 1 year if:

(i) *Information needed by Customs.* Information needed by Customs for the proper appraisement or classification of the merchandise is not available, or

(ii) *Importer's request.* The importer requests an extension in writing before the statutory period expires and shows good cause why the extension should be granted. "Good cause" is demonstrated when the importer satisfies the district director that more time is needed to present to Customs information which will affect the pending action, or there is a similar question under review by Customs.

(2) *Suspension.* The 1-year liquidation period may be suspended as required by statute or court order.

(b) *Notice of extension.* If the district director extends the time for liquidation, as provided in paragraph (a)(1) of this section, he promptly shall notify the importer or the consignee and his agent and surety in writing that the time has been extended and the reasons for doing so.

(c) *Notice of suspension.* If the liquidation of an entry is suspended as required by statute or court order, as provided in paragraph (a)(2) of this section, the district director promptly shall notify the importer or the consignee and his agent and surety in writing of the suspension.

(d) *Additional extensions*—(1) *Information needed by Customs.* If an extension has been granted because Customs needs more information and the district director thereafter determines that more time is needed, he may extend the time for liquidation for an additional period not to exceed 1 year provided he issues the notice required by paragraph (b) of this section before termination of the prior extension period.

(2) *At importer's request.* If the statutory period has been extended for 1 year at the importer's request, and the importer thereafter determines that additional time is necessary, he may request another extension in writing before the original extension expires, giving reasons for his request. If the district director finds that good cause (as defined in paragraph (a)(1)(ii) of

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this section) exists, he shall issue a notice extending the time for liquidation for an additional period not to exceed one year.

(e) *Limitation on extensions.* The total time for which extensions may be granted by the district director may not exceed 3 years.

(f) *Time limitation*—(1) *Generally.* An entry not liquidated within 4 years from either the date of entry, or the date of final withdrawal for consumption of all the merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer, unless liquidation continues to be suspended by statute or court order.

(2) *Suspension of liquidation by statute or court order.* When liquidation of an entry continues to be suspended beyond the 4-year period specified in paragraph (f)(1) of this section due to a statute or court order, the entry shall be liquidated within 90 days after removal of the suspension.

(g) *Notice of liquidation.* If an entry is liquidated after an extension expires or a suspension is removed, notice of liquidation shall be given on the bulletin notice of liquidation, Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3).

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

It is proposed to amend the introductory language to § 173.4(b), to amend § 173.4(c) and to add a new § 173.4(d) to read as follows:

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

* * * * *

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended, may be made in any entry, liquidation, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence:

* * * * *

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section must be brought to the attention of the district director at the port of entry within 1 year after the date of liquidation or exaction.

(d) *"Liquidation" includes reliquidation.* "Liquidation" when used in section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), includes reliquidation of an entry.

ROBERT E. CHASEN,
Commissioner of Customs.

Approved: November 13, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-33391 Filed 11-28-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Tax Treatment of Certain Option Income of Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax treatment of certain option income of exempt organizations. Changes to the applicable tax law were made by the Act of September 3, 1976. The proposed regulations would apply to most, but not all, exempt organizations. They would provide exempt organizations with guidance needed to determine their unrelated business taxable income.

DATES: Written comments and requests for a public hearing must be delivered or mailed by Janurary 29, 1979. The amendments are proposed to be effective for options which lapse or terminate on or after January 1, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David Jacobson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3923).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 512(b) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1 of the Act of September 3, 1976 (90 Stat. 1201) and sections 1901(b)(8)(F) and 1951(b)(8)(A) of the Tax Reform Act of 1976 (90 Stat. 1794, 1839). The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF PROPOSED REGULATIONS

The amendment to section 512(b)(5) provides that gain from the lapse or termination of options occuring after December 31, 1975, will not constitute unrelated business taxable income to exempt organizations if it is in connection with the investment activities of such organizations. However, the amendment does not apply to organizations described in sections 501(c)(7) or 501(c)(9), or certain organizations described in section 501(c)(2). The amendment to the regulations would conform the regulations to the amendments to section 512(b)(5) and would define what is meant by termination of an option. The amendment would also conform the regulations to reflect changes made to section 5112(b) by the Tax Reform Act of 1976.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferable six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.511 [Deleted]

PARAGRAPH 1. Section 1.511 is deleted.

§ 1.511-2 [Amended]

PAR. 1A. Paragraph (a)(3)(iii) of § 1.511-2 is amended by deleting "section 512 (b) (16)", and inserting in lieu thereof "section 512(b)(14)".

§ 1.512 [Amended]

PAR. 2. Section 1.512(b) is deleted.

PAR. 3. Section 1.512(b)-1 is amended as follows:

1. Paragraph "(d)" is redesignated "(d)(1)" and paragraph (d)(2) is added as set forth below.

2. Paragraph (j)(1) is amended by deleting "educational institution (as defined in section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii))".

§ 1.511 [Deleted]

3. Paragraph (j)(1)(iii) is amended by deleting "section 512(b)(17)" and inserting in lieu thereof "section 512(b)(15)".

4. Paragraph (l)(5) is amended by deleting "section 512(b)(15)" each place that it appears, and inserting in lieu thereof "section 512(b)(13)".

§ 1.512(b)-1 Modifications.

* * * * *

(d) *Gains and losses from the sale, etc. of property.* * * *

There shall be excluded from the computation of unrelated business taxable income any gain from options to buy or sell securities (as that term is defined in section 1236(c)) which lapse or are terminated after December 31, 1975. An option is considered terminated when the organization's obligation under the option ceases by any means other than by reason of the exercise or lapse of such option. In order to exclude such income the organization must write the options in connection with its investment activities. Thus, if the organization writing the options takes an active role in this activity so that its option writing can be regarded as a trade or business or if securities upon which the options are written are held by the organization as inventory or for sale to customers in the ordinary course of a trade or business, the income from lapse or termination will not be exempt under the provisions of this paragraph. However, the exemption shall otherwise apply whether or not the organization owns the securities upon which the option is written; that is whether or not the option is "covered".

* * * * *

§ 1.514 [Amended]

PAR. 4. Section 1.514(b) is deleted.

§ 1.514(b)-1 [Amended]

PAR. 5. Paragraphs (b)(2)(ii) and example (3) of (b)(3) of § 1.514(b)-1 are amended by deleting "section 512(b)(15)" each place that it appears and inserting in lieu thereof "section 512(b)(13)".

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-33358 Filed 11-28-78 8:45 am]

[4830-01-M]

[26 CFR Part 1]

[CC:LR-1829]

INCOME TAX

Exemption From Taxation of Certain Cemetery Companies and Crematoria; Amendment of Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service. Treasury.

ACTION: Amendment of notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to a notice of proposed rulemaking which was published in the FEDERAL REGISTER on July 8, 1975 (40 FR 28613). That notice contains proposed income tax regulations under section 501(c)(13), relating to exempt cemetery companies and crematoria. The regulations would provide the public with the guidance needed to comply with these Acts. These regulations affect certain cemetery companies and crematoria that are exempt from taxation.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 29, 1979. The amendments are proposed to be effective for taxable years ending after November 28, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-1829), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Kyllikki Kusma of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to proposed Income Tax Regulations (26 CFR Part 1) under section 501(c)(13) of the Internal Revenue Code of 1954. These proposed amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

As proposed on July 8, 1975, the regulations under section 501(c)(13) recognized the exemption of cemetery companies and crematoria which issued preferred stock. Upon further consideration, it has been concluded that this rule is inconsistent with the requirement of section 501(c)(13) that no part of the net earnings of an organization otherwise described in that paragraph inure to the benefit of any private shareholder or individual. Accordingly, § 1.501(c)(13)-1(c) of the present notice is revised to provide that a cemetery company or crematorium which issues preferred stock is not exempt under section 501(c)(13). For cemetery companies and crematoria which have issued preferred stock in reliance upon the present notice or existing regulations, however, the revision of the notice would recognize the continued exempt status of such organizations if the preferred stock were issued prior to the date that these amendments are filed for publication with the FEDERAL REGISTER.

A second change made to the notice published in 1975 is the addition of a sentence to proposed § 1.501(c)(13)-1(a) to recognize the exempt status of mutual cemetery companies that limit their membership to a particular class of individuals, such as members of a family, as opposed to members of the general public. See *The John D. Rockefeller Family Cemetery Corporation*, 63 T.C. 355 (1974) (Acq., 1977-2 C.B. 2).

Finally, proposed § 1.501(c)(13)-1(d) is amended to make it clear that a cemetery company or crematorium which loses its exemption because of an outstanding equity interest can regain its exemption by retiring the equity interest or by converting it to a debt interest.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Kyllikki Kusma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, Both on matters of substance and style.

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PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.501 [Amended]

PARAGRAPH 1. Section 1.501(c)(13) is deleted.

PAR. 2. Paragraph (a) of proposed § 1.501(c)(13)-1, as published in the FEDERAL REGISTER on July 8, 1975 (40 FR 28613), is amended by adding at the end thereof a new sentence to read as follows:

§ 1.501(c)(13)-1 Cemetery companies and crematoria.

(a) *Nonprofit mutual cemetery companies.* • • • Further, the fact that a mutual cemetery company limits its membership to a particular class of individuals, such as members of a family, will not affect its status as mutual so long as all the other requirements of section 501(c)(13) are met.

PAR. 3. Paragraph (c) of proposed § 1.501(c)(13)-1, as published in the FEDERAL REGISTER on July 8, 1975 (40 FR 28613), is amended to read as follows:

§ 1.501(c)(13)-1 Cemetery companies and crematoria.

• • • • •

(c) *Preferred stock*—(1) *In general.* A cemetery company or crematorium is not exempt from income tax under section 501(c)(13) if it issues preferred stock on or after November 28, 1978.

(2) *Transitional rule.* In the case of preferred stock issued prior to November 28, 1978, a cemetery company or crematorium which issued such stock shall not fail to be exempt under section 501(c)(13) solely because it issued preferred stock which entitled the holders to dividends at a fixed rate, not exceeding the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, if its articles of incorporation require:

(i) That the preferred stock be retired at par as soon as sufficient funds available therefor are realized from sales, and

(ii) That all funds not required for the payment of dividends upon or for the retirement of preferred stock be used by the company for the care and improvement of the cemetery property.

For purposes of this subparagraph, the term "legal rate of interest" shall mean the rate of interest prescribed by law in the State of incorporation which prevails in the absence of an agreement between contracting parties fixing a rate.

PAR. 4. Paragraph (d) of proposed § 1.501(c)(13)-1, as published in the FEDERAL REGISTER on July 8, 1975 (40 FR 28613), is amended by revising the first sentence to read as follows:

§ 1.501(c)(13)-1 Cemetery companies and crematoria.

• • • • •

(d) *Sales to exempt cemetery companies and crematoria.* Except as provided in paragraph (c)(2) of this section (relating to transitional rule for preferred stock), a cemetery company or crematorium is not exempt from income tax if property is transferred to such organization in exchange for an equity interst so long as such equity interest remains outstanding and retains its character as an equity interest. • • •

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-33361 Filed 11-28-78; 8:45 am]

[4830-01-M]

[26 CFR Parts 1 and 53]

[LR-63-78]

INCOME AND EXCISE TAXES

Black Lung Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to operator's trusts for the payment of black lung benefits and excise taxes on acts of self-dealing and taxable expenditures. Changes in the applicable tax law were made by the Black Lung Benefits Revenue Act of 1977. The regulations would affect persons who are liable for the payment of benefits under Black Lung Acts.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 29, 1979. The amendments are proposed to be generally effective for taxable years beginning after December 31, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-63-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David A. Rood of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income and Excise Tax Regulations (26 CFR Parts 1 and 53) under sections 501(c)(21), 4951 and 4952 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to changes in the Internal Revenue Code made by sections 4 (a) and (c) of the Black Lung Benefits Revenue Act of 1977 (92 Stat. 15), and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

OPERATOR'S TRUST FOR THE PAYMENT OF BLACK LUNG BENEFITS

Section 501(c)(21) permits the establishment of a trust for the payment of liabilities under Black Lung Acts. The term "Black Lung Acts" means Part C of title IV of the Federal Coal Mine Health and Safety Act of 1969, and any State law providing compensation for disability or death due to pneumoconiosis. A trust that meets the requirements of section 501(c)(21) is exempt from the payment of income tax. Proposed §§ 1.501(c)(21)-1 and 1.501(c)(21)-2 apply to that section.

EXCISE TAXES ON ACTS OF SELF-DEALING AND TAXABLE EXPENDITURES

Under section 4951 a tax is imposed on acts that constitute prohibited transactions between a trust described in section 501(c)(21) and certain persons who are disqualified persons. Under section 4952 a tax is imposed on a trust described in section 501(c)(21) for acts that constitute taxable expenditures. These taxes are similar to taxes on foundation self-dealing and foundation taxable expenditures imposed by sections 4941 and 4945 of the Code. Accordingly, regulations and rulings interpreting sections 4941 and 4945 provide guidance to interpretation of sections 4951 and 4952. Proposed §§ 53.4951-1 and 53.4952-1 apply to sections 4951 and 4952.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is to be held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Mr. Larry E. Smith of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Parts 1 and 53 are as follows:

26 CFR PART 1

PARAGRAPH 1. Part 1 is amended by adding the following new sections §§ 1.501(c)(21)-1 and 1.501(c)(21)-2:

§ 1.501(c)(21)-1 Black lung trusts—certain terms.

(a) *Created or organized in the United States.* A trust is not "created or organized in the United States" unless it is maintained at all times as a domestic trust in the United States. For this purpose, section 7701(a)(9) limits the term "United States" to the District of Columbia and States of the United States.

(b) *Insurance company.* The term "insurance company" means an insurance, surety, bonding or other company whose liability for the kinds of claims to which section 501(c)(21)(A)(i) applies is as an insurer or guarantor of the liabilities of another.

(c) *Black Lung Acts.* The term "Black Lung Acts" includes any State law providing compensation for disability or death due to pneumoconiosis even though the State law compensates for other kinds of injuries. In such a case, section 501(c)(21) applies only to the extent that the liability is attributable to disability or death due to pneumoconiosis. For this purpose, the term "pneumoconiosis" has the same meaning as it has under federal law. See 30 U.S.C. 902.

(d) *Insurance exclusively covering such liability.* The term "insurance exclusively covering such liability" includes insurance that covers risk for liabilities in addition to the liabilities to which section 501(c)(21)(A)(i) applies. In such a case, payment for premiums may be made from the trust only to the extent of that portion of the premiums that has been separately allocated and stated by the insurer as attributable solely to coverage of the liabilities to which section 501(c)(21)(A)(i) applies.

(e) *Administrative and other incidental expenses.* The term "administrative and other incidental expenses" means expenditures that are appropriate and helpful to the trust making them in carrying out the purposes for which its assests may be used under section 501(c)(21)(B). The term includes any excise tax imposed on the trust under section 4952 (relating to taxes on taxable expenditures) and reasonable expenses, such as legal expenses, incurred by the trust in connection with an assertion against the trust of liability for a taxable expenditure. The term does not include an excise tax imposed on the trustee or on other disqualified persons under section 4951 (relating to taxes on self-dealing or under section 4953 (relating to tax on excess contributions to black lung benefit trusts) or any expenses incurred in connection with the assertion of these taxes other than expenses that are treated as part of reasonable compensation under section 4951(d)(2)(C). See §§ 53.4941 (d)-2(f)(3) and (d)-3(c) for interpretations of similar provisions under section 4941(d)(2)(E), relating to reasonable compensation for private foundation disqualified persons.

(f) *Public debt securities of the United States.* The term "public debt securities of the United States" means obligations that are taken into consideration for purposes of the public debt limit. See, for example, 31 U.S.C. 757b.

(g) *Obligations of a State or local government.* The term "obligations of a State or local government" means the obligations of a State or local governmental unit the interest on which is exempt from tax under section 103(a). See § 1.103-1(a).

(h) *Time or demand deposits.* The term "time or demand deposits" includes checking accounts, savings accounts, certificates of deposit or other time or demand deposits. The term does not include common or collective trust funds such as a common trust fund as defined in section 584.

§ 1.501(c)(21)-2 Trust instrument.

A trust does not meet the requirements of section 501(c)(21) if it is not established and maintained pursuant to a written instrument. The trust instrument must definitely and affirmatively prohibit a diversion or use of trust assets that is not permitted under section 501(c)(21)(B) or section 4953(c), whether by operation or natural termination of the trust, by power of revocation or amendment, by the happening of a contingency, by collateral arrangement, or by any other means. No particular form for the trust instrument is required. A trust may meet the requirements of section 501(c)(21) although the trust instrument fails to contain provisions the effects of which are to prohibit acts that are subject to section 4951 (relating to taxes on self-dealing), section 4952 (relating to taxes on taxable expenditures) or the retention of contributions subject to section 4953 (relating to tax on excess contributions to black lung benefit trusts).

26 CFR PART 53

PAR. 2. Part 53 is retitled and a new subpart L is added to read as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

• • • • •

Subpart L—Black Lung Benefit Trust Excise Taxes

§ 53.4951-1 Black lung trusts—taxes on self-dealing.

(a) *In general.* Section 4951 contains provisions that correspond to provisions of section 4941 (relating to taxes on foundation self-dealing) and section 4946 (relating to definitions and special rules). Regulations and rulings under these corresponding provisions apply to section 4951 where appropriate.

(b) *Transfer of property to trust.* A transfer of personal property without consideration to a trust for which a deduction is allowable under section 192 does not constitute a sale or exchange for purposes of section 4951 unless the property is subject to a mortgage or similar lien within section 4951(d)(2)(A). The transfer to a trust of a note or other evidence of indebtedness constitutes an extension of credit to the obligor for purposes of section 4951(d)(1)(B).

(c) *Deposits.* A time or demand deposit made with a bank or credit union that is a trustee or other disqualified person with respect to a trust constitutes a lending of money for purposes of section 4951(d)(1)(B) even though the deposit is of a kind generally authorized for investments by the trust.

(d) *Trustee.* The term "trustee" as used in section 4951(e)(5)(B) includes any person having powers or responsibilities with respect to a trust similar to those of trustees.

(e) *Misallocation of insurance premium.* Under section 501(c)(21)(A)(ii) and § 1.501(c)(21)-1(d), a trust may pay a portion of a premium for insurance which covers both black lung liabilities and other liabilities, so long as the requirements of section 501(c)(21)(A)(i) concerning allocation of the total premium are met. However, if an insurance company misallocates the total premium in a manner which benefits a disqualified person, the amount of misallocation constitutes a use of trust assets for the benefit of the disqualified person within section 4951(d)(1)(D). For these purposes, it is irrelevant whether the com-

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bination of insurance is sold under one policy or more than one policy.

(f) *Effective date.* Section 4951 applies with respect to acts that occur after December 31, 1977, in and for trust taxable years beginning after December 31, 1977.

§ 53.4952-1 Black lung trusts—taxes on taxable expenditures.

(a) *In general.* Section 4952 contains provisions that generally correspond to provisions of section 4945 (relating to taxes on taxable expenditures by private foundations) and section 4946 (relating to definitions and special rules). Regulations and rulings under these corresponding provisions apply to section 4952 where appropriate. See section 4952(e)(1) for the definition of "correction".

(b) *Unauthorized investments.* The term "taxable expenditure" in section 4952(d) includes an investment that is not authorized under section 501(c)(21)(B)(ii).

(c) *Effective date.* Section 4952 applies with respect to expenditures made after December 31, 1977, in and for trust taxable years beginning after December 31, 1977.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-33360 Filed 11-28-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Hearing and Proposed Rulemaking

AGENCY: U.S. Parole Commission.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: On October 11, 1978, the U.S. Parole Commission published in the FEDERAL REGISTER a proposed rule which would make changes in the offense severity examples and in the policy instructions contained in the Commission's paroling policy guidelines. The examples and policy instructions constitute the standards and rules by which the Commission evaluates the relative seriousness of each prisoner's offense behavior in determining when to set a release date. This notice announces a series of hearings to secure comment on the proposed changes.

DATES: Hearings will be held on December 4 and 5 in Atlanta, Georgia; December 7 in Englewood, Colorado, December 7 and 8 in Denver, Colorado; and December 14 and 15 in Washington, D.C.

ADDRESSES: The hearings will be held at the following locations at the times indicated:

DECEMBER 4 AND 5, 1978

9 a.m. to 5:30 p.m.—U.S. Department of Labor, First National Bank Building, 1375 Peachtree Street, Room 276, Seminar B, Atlanta, Georgia.

DECEMBER 4, 1978

6:30 p.m. to 9:30 p.m.—U.S. Penitentiary, Atlanta, Georgia.

DECEMBER 7 AND 8, 1978

9 a.m. to 5:30 p.m.—U.S. Courthouse, Courtroom C-204, 1929 Stout Street, Denver, Colorado.

DECEMBER 7, 1978

6:30 p.m. to 9:30 p.m.—Federal Correctional Institution, Englewood, Colorado.

DECEMBER 14 AND 15, 1978

9 a.m. to 5:30 p.m.—U.S. Courthouse, Courtroom 8, 3rd and Constitution Ave., N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Barbara Meierhoefer, Research Analyst, U.S. Parole Commission, telephone 202-724-3095.

SUPPLEMENTARY INFORMATION: The purpose of these hearings is to afford interested persons an opportunity to participate in the rulemaking process of the U.S. Parole Commission through the submission of written and oral presentations on the modification of the Agency's paroling policy guidelines (28 CFR 2.20). The Commission seeks comment not only on the proposed guideline amendments published October 11, 1978 (43 FR 46859-46867), but also solicits any other suggested improvements in the guidelines system.

Various participants and experts in the criminal justice and corrections field, Federal and State, have already expressed an intention to appear and comment at one of the hearings at the Federal court locations, and the Department of Labor. Other interested parties should contact the representative named above if they desire to speak at one of these hearings. The Commission will attempt to accommodate any other persons who appear at the locations previously indicated while the hearings are being conducted. For reasons of security, attendance and participation at hearings conducted in the federal institutions will be limited to the inmates thereof and Bureau of Prisons' officials and staff, along with accredited members of the press. All hearings will be conducted consistent with the procedures of the Government in the Sunshine Act (5 U.S.C. 552b).

Dated: November 21, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-33370 Filed 11-28-78; 8:45 am]

[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

[42 CFR Part 124]

REQUIREMENTS FOR PROVISION OF SERVICES TO PERSONS UNABLE TO PAY THEREFOR AND COMMUNITY SERVICE BY ASSISTED HEALTH CARE FACILITIES

Extension of Hearing Hours

AGENCY: Public Health Service, HEW.

ACTION: Extension of time for public hearing.

SUMMARY: This document announces an extension of the time for the public hearing to be held on the proposed rules establishing requirements for health care facilities assisted under Titles VI and XVI of the Public Health Service Act relating to compliance with their uncompensated service and community service assurances. In the proposed rules and notice of public hearing published on October 25, 1978 (43 FR 49954), it was stated that the public hearing would be held on December 5 and 6, 1978, between the hours of 9:00 a.m. and 5:00 p.m. In view of the number of requests for time to testify being received, it has been determined that the hearing hours should be extended. Accordingly, the public hearing scheduled for December 5 and 6 will be held between the hours of 9:00 a.m. and 6:00 p.m. on each day.

DATE: The public hearing will be held on December 5 and 6, 1978.

ADDRESS: The public hearing will be held at the Department Auditorium, HEW North Building, 330 Independence Ave., SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT

Albert T. Billingslea, Acting Director, Division of Facilities Compliance, Bureau of Health Facilities Financing, Compliance, and Conversion, Room 6-50, Center Building No. 1, 3700 East-West Highway, Hyattsville, MD. 20782, 301-436-6893.

Dated: November 18, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-33393 Filed 11-28-78; 8:45 am]

[4110-02-M]

Office of Education

[45 CFR Part 116d]

PROGRAM FOR MIGRATORY CHILDREN

Decision to Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner proposes to publish revisions to the recently-published final regulations for the program for migratory children under section 122 of Title I of the Elementary and Secondary Education Act. The revisions are required by the Education Amendments of 1978, the findings of a management audit of the program, additional program experience, and the Department's Operation Common Sense. The revised Title I Migrant Education Program regulations will:

(1) Clarify existing provisions that are still applicable;

(2) Reflect statutory changes with respect to parent advisory councils, coordination of migrant education activities, and adjustment of the formula count of children in summer-term projects; and

(3) Reflect proposed program management revisions with respect to the standards for the approval of State applications, implementation of the Commissioner's by-pass authority, implementation of the Commissioner's reallocation authority, and services to preschool children. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Mr. Vidal A. Rivera, Jr., Room 3523, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C., 20202. Telephone: 202-245-2222.

Dated: October 13, 1978.

(Catalog of Federal Domestic Assistance No. 13.429, Educationally Deprived Children—Migrants)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-33388 Filed 11-28-78; 8:45 am]

[4110-02-M]

[45 CFR Part 134]

INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES PROGRAM; IMPROVEMENT IN LOCAL EDUCATIONAL PRACTICES PROGRAM; GUIDANCE, COUNSELING, AND TESTING PROGRAM.

Decision To Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to publish a notice of proposed rulemaking for the Instructional Materials and School Library Resources Program; the Improvement in Local Educational Practices Program; and the Guidance, Counseling, and Testing Program, Title IV of the Elementary and Secondary Education Act of 1965, as amended, to implement the Education Amendments of 1978, and to recodify existing program regulations. The regulations govern the content of the State's plan for administering the programs, including the activities of the State advisory council, the criteria for distribution of funds, the participation of private school children, and the maintenance of State, local, and private school expenditures. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

For Part B—Instructional Materials and School Library Resources Program: Louise V. Sutherland (Room 3125B, ROB-3), 400 Maryland Ave., S.W., Washington, D.C. 20202, telephone (202) 245-2488.

For Part C—Improvement in Local Educational Practices Program: Allen J. King (Room 3010, ROB-3), 400 Maryland Ave., S.W., Washington, D.C. 20202, telephone (202) 245-2592.

For Part D—Guidance, Counseling, and Testing Program: Bryan T. Gray (Room 3010, ROB-3), 400 Maryland Ave., S.W., Washington, D.C. 20202, telephone (202) 472-1357.

Dated: November 1, 1978.

(Catalog of Federal Domestic Assistance Numbers: Part B—13.570 Libraries and Learning Resources; Part C—13.571 Educational Innovation and Support; Part D—Guidance, Counseling, and Testing)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-33387 Filed 11-28-78; 8:45 am]

[4110-02-M]

[45 CFR Part 160f]

WOMEN'S EDUCATIONAL EQUITY ACT

Decision To Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to develop regulations for the Women's Educational Equity Act (WEEA) Program as required to implement the Education Amendments of 1978.

Major provisions of the regulations will be to: (1) Establish new program priorities for the demonstration, developmental, and dissemination projects of national, statewide, or general significance; (2) implement those new activities authorized by the amendments which go into effect when the appropriation exceeds $15 million; (3) describe the nature and types of these awards for assistance in the operation of special programs of local significance to provide equal opportunities for both sexes, including activities related to achieving compliance with Title IX; (4) list the criteria for evaluating applications; (5) describe which costs are allowable under the awards and the amount which grantees must share with the Federal government; and (6) establish program priorities and principles for award decisions. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Dr. Mary Jane Smalley, Women's Program Staff, Room 2147, U.S. Office of Education, Washington, D.C. 20202, 202-245-2181.

Dated: October 11, 1978.

(Catalog of Federal Domestic Assistance No. 13.565, Women's Educational Equity Act)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-33389 Filed 11-28-78; 8:45 am]

[4110-02-M]

[45 CFR Part 166]

ADULT EDUCATION REGULATIONS

AGENCY: Office of Education, HEW.

ACTION: Notice of Intent To Develop Regulations.

SUMMARY: The Commissioner of Education is planning to develop proposed regulations to amend the regula-

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tions for the Adult Education Act. The proposed regulations will include revisions that are necessary to implement the program as required by the Education Amendments of 1978. The primary thrust of the amended regulations will be to expand the current delivery systems of adult education and to broaden the outreach of the program. The proposed regulations will also revise sections of the existing regulations in order to make them more understandable to the public. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Paul V. Delker, ROB 3, Room 5056, 7th and D Streets, S.W., Washington, D.C. 20202. (202) 245-2278.

(Catalog of Federal Domestic Assistance Program No. 13.400, Adult Education—Grants to States; No. 13. ——, Adult Education—Research, Development, Dissemination, Evaluation and Information Clearinghouse; No. 13. ——, Adult Education—Program for Adult Immigrants; and No. 13.579, Emergency Adult Education Program for Indochina Refugees)

Dated: November 1, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-33414 Filed 11-28-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 602]

EXEMPTION OF CERTAIN FINANCIAL INTERESTS

Proposed Amendment to Regulations

AGENCY: National Science Foundation.

ACTION: Proposed amendment to regulations.

SUMMARY: The National Science Foundation proposes to amend its regulations on standards of conduct for employees to add a general exemption from the operation of Section 208(a) of Title 18, U.S. Code, for certain financial interests arising from minor contracts to provide support services to members of the National Science Board in connection with their performance of Board functions.

DATES: Comments must be received on or before February 1, 1979.

ADDRESS: Comments should be addressed to General Counsel, National Science Foundation, Washington, D.C. 20550, Attn: Harriet E. Tucker, Esq., Conflicts-of-Interest Counselor.

FOR FURTHER INFORMATION CONTACT:

Miss Tucker, at the above address or 202-634-4257.

SUPPLEMENTAL INFORMATION: Section 208(a) of Title 18, United States Code, makes it a criminal offense for an officer or employee of the Executive Branch of the United States Government, including any special Government employee, to "participate personally and substantially as a Government officer or employee through decision, approval, disapproval, recommendations, the rendering of advice, investigation, or otherwise in a . . . contract . . . or other particular matter in which, to his knowledge, he [or an] organization in which he is serving as an officer or employee . . . has any financial interest." Section 208(b)(2) provides, however, that section 208(a) will not apply, "if, by general rule or regulation published in the Federal Register, the financial interests in question have been exempted . . . as being too remote or inconsequential to affect the integrity of . . . services" provided by the officer or employee. The Foundation proposes to amend its regulations to add such a general exemption for certain financial interests arising from minor contracts to provide support services to members of the National Science Board in connection with their performance of Board functions.

The National Science Board is the governing body of the National Science Foundation. The Board meets in the Washington, D.C., area several months each year, but only for two or three days each month. During the rest of the year its members are dispersed throughout the country at the univerities, corporations, or other institutions that are their principal places of employment.

Members of the Board are occasionally assigned tasks or responsibilities for it that require substantial efforts while it is not in session—while the members are away from the Foundation at their home institutions. This situation arises particularly often for Board officers and for members who take principal responsibility for preparation of major reports. In such circumstances the Board member may require professional, clerical, and administrative services to help with Board work at or near his or her place of business.

Since neither the National Science Board nor the Foundation has any significant permanent staff outside of Washington, these services must be obtained externally. They could be obtained through personal services contracts to individuals, but because of potential difficulties with business and administrative control, the Foundation has generally avoided such contracts wherever possible. The Foundation believes the public interest would be better served if it provided such support services to Board members through contracts with their home institutions. Such an institution would be reimbursed for the allowable salary costs and expenses of those who actually assist the member and for the usual, externally determined allowable overhead, but would receive no profit or fee. No compensation would be provided through the contract for time spent by the Board member.

In some circumstances, however, this arrangement could be construed to place the member in violation of section 208(a) of Title 18. The Foundation, believing the financial interests the member's home institution might have in such an arrangement too remote and inconsequential to affect the integrity of the services provided by the member to the Foundation, is proposing this amendment to its regulations to provide a general exemption for such cases, as permitted by section 208(b)(2) of Title 18.

The National Science Foundation therefore proposes to amend Part 602 of Chapter VI, Title 45, Public Welfare, by adding a new § 602.3.

Dated: November 21, 1978.

CHARLES H. HERZ,
General Counsel.

§ 602.3 Support services for performance of National Science Board tasks and responsibilities.

With the approval of the Director and the Chairman of the National Science Board and in accordance with other laws and regulations, the Foundation may contract with the home institution of a member of the National Science Board to provide professional, clerical, and administrative services in support of the member's personal efforts to carry out National Science Board tasks and responsibilities. The institution may receive reimbursement of all allowable costs, but no profit or fee. In such circumstances the Foundation finds that any financial interests the institution might have are too remote or inconsequential to affect the integrity of the services provided by the National Science Board member and therefore generally exempts them from the operation of section 208(a) and from the formal requirements of section 208(b)(1) of Title 18, United States Code.

(Section 208(b), Title 18, United States Code, and Section 11(a), National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(a)))

[FR Doc. 78-33470 Filed 11-28-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 67]

[Docket No. 21263; FCC 78-811]

COMMON CARRIERS BETWEEN THE UNITED STATES MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/VIRGIN ISLANDS

Integration of Rates and Services for the Provision of Communications

AGENCY: Federal Communications Commission.

ACTION: Federal-State Joint Board Memorandum Opinion and Order, Docket No. 21263.

SUMMARY: The Joint Board convened in this proceeding sets dates for filing comments and responsive pleading on the question of what changes, if any, should be made to the existing Separations formula to make it applicable to Alaska and Hawaii. The Joint Board also denies the State of Hawaii's petition for expedited consideration and motion for separate procedures.

DATES: Comments to be filed on or before February 5, 1979; Replies, on or before March 19, 1979; and Responses, on or before April 9, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau; (202) 632-7084.

In the matter of integration of rates and services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands; Memorandum Opinion and Order (See also 43 FR 30840, July 18, 1978).

Adopted: November 16, 1978.

Released: November 24, 1978.

By the Federal-State Joint Board:

1. Before the Joint Board for its consideration are: (a) the establishment of a pleading cycle to implement Phase II of our efforts; (b) the Petition for Expedited Consideration and Adoption of Separations Plan Proposed by State of Hawaii, filed June 9, 1978, by the State of Hawaii (State) and responsive pleadings thereto; and (c) the Motion to Establish Separate Procedures and Schedule for the Adoption of a Hawaii-Mainland Separations Plan, filed October 27, 1978, by the State. In *Memorandum Opinion and Order*, FCC 78-84, released January 31, 1978, the Joint Board adopted a two phase process, data collection and notice and comment, for the conduct of this proceeding and stated that the pleading schedule for the notice and comment phase would be established by separate order.

NOTICE AND COMMENT PROCEDURE

2. The responses to the Joint Board's data request have been filed or are scheduled to be filed in the near future. While some of the data may require updating, we believe that establishment of a pleading cycle at this time would be appropriate. The Joint Board is cognizant of the recent Federal Communications Commission, *Memorandum Opinion and Order*, FCC 78-693, which noted, *inter alia*, that the Joint Board should conclude its deliberations in the most expeditious manner. The Joint Board also recognizes that the studies undertaken in the data collection phase have enabled the parties to focus on the question before the Joint Board. Therefore, we believe that an expedited pleading period would comport with the public interest and would not offend any participant's due process rights.

3. The pleading cycle we are adopting is to permit all parties to advocate what changes, if any, should be made to the existing NARUC/FCC Separations Manual to make it applicable to Alaska and Hawaii. We emphasize that the comments should address the question of whether each of these locations should be treated the same as, or different from, Mainland points as well as the same or different among themselves. (*See Integration of Rates and Services*, 64 FCC 2d 1033 (1977)). Necessarily included in this question in what justification exists to support any advocated changes as well as adoption of the existing Manual without change. Recognizing that replies to initial comments may raise matters parties believe should be responded to, we are providing for an additional pleading to address any such matter. As discussed below, the pleadings should address both locations, separate pleadings for each location would be inappropriate.

PETITION FOR EXPEDITED CONSIDERATION

4. The State's Petition for Expedited Consideration and Adoption of Separations Plan Proposed by State of Hawaii seeks Joint Board consideration and recommendation to the Commission of modifications to the existing Manual. Alternatively, the State urges, as an interim measure, recommendation to the Commission of various mechanisms for separations and settlements for the period from January 1, 1979 to the adoption of a final plan for Hawaii. The State argues that such action is necessary since the final step of rate integration is scheduled for January 1, 1979. Moreover, the State contends, its proposed plan contains only minor modifications to the existing Manual for domestic traffic, and calls for full revenue and cost separations of Hawaiian Telephone Company's (HTC) international traffic. Thus, the State concludes, either adoption of its proposed plan or any of its proposed alternatives could and should be recommended immediately by the Joint Board.

5. By Order, FCC 78-480, released July 11, 1978, the Joint Board sought comments on whether the State's Petition should be considered as well as on the substance of the Petition. Responsive pleadings were filed by American Telephone and Telegraph Company (AT&T); HTC; RCA Alaskan Communications (Alascom); and the State. AT&T and HTC argued that the pleading was premature and should not be considered. Moreover, these parties argued that the State's proposed plan should not be adopted on substantive grounds. Alascom noted the State's proposal was filed outside the scope of the Joint Board's procedure. Further, Alascom contends that the proposal is confined to Hawaii and that it would be unfair and inappropriate to reach any determinations on the basis of the plan which could prejudge or cast a shadow over deliberations on Alaska separations. In reply, the State argued that adherence to a procedural schedule cannot take precedence over the carriers' commitment to rate integration on January 1, 1979, that the data submissions demonstrate that adoption of the State's proposal would not severely burden the carriers, and that arguments against the substance of its plan carry less weight than arguments for it, and thus, it should be considered.

6. As noted in paragraph 2, *supra*, the Commission has recently adopted an order which concerns our efforts. In paragraph 8 of that order, the Commission made clear ". . . that the Joint Board does not have a mandate to issue an interim separations methodology decision nor authority to recommend division of revenue or settlement agreements." Therefore, the interim solutions recommended by the State will not be considered by this Joint Board. The responsive pleadings raise many questions on the substance of the State's proposed plan. In addition, since the responsive comments were limited to the proposed plan, and were not designed to solicit each party's comments on what they would advocate, the Joint Board does not have a record upon which it can make a reasoned decision. While we have found the comments useful and will retain them as part of the record, we will deny the State's petition for expedited

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consideration. We further caution all parties that adherence to the Joint Board's procedural framework enables us to proceed in the most expeditious manner and that efforts outside this framework may tend to cause a diversion of effort and resultant delay.

MOTION TO ESTABLISH SEPARATE SCHEDULE

7. In support of its motion for separate procedures, the State avers that the Joint Board might adopt differing separations plans for Alaska and Hawaii, that Hawaiian separations issues have been the subject of more attention and substantive analysis, and thus, resolution of a seprations plan for Hawaii is more ripe for Joint Board action. Additionally, the State contends that proceeding in tandem with analysis of dissimilar Alaska and Hawaii issues would serve no purpose and result in increased delay and complexity. The State asserts that grant of its motion would comply with the Commission's directives and clearly serve the public interest. On November 7, 1978, Alascom filed a Statement supporting the State's motion. Alascom avers that both the circumstances affecting the two states and the schedules available to be followed for consideration of the issues respecting separations for the two states are sufficiently different, therefore no purpose would be served by having consolidated schedules, orders, and recommended decisions.

8. In an Opposition, filed November 9, 1978, AT&T argues that the record does not support the State's assumption that different procedures are required or that different separations procedures are contemplated. AT&T asserts that there is nothing to show more complexity in Alaska on the separations question and that the State's unauthorized pleadings and responses thereto cannot be considered equivalent to analysis or development of an adequate record on Hawaii separations issues. AT&T asserts that the Phase II notice and comment process can be completed on an expedited basis and that grant of the States motion will result in delay and duplicated effort. In its reply, filed November 13, 1978, the State avers that the uncontroverted differences between Alaska and Hawaii will result in extended study, thus, delaying a final decision for Hawaii. Further, the State argues, AT&T has offered no legitimate reason for not separating consideration of Alaska and Hawaii separations issues.

9. Grant of the State's motion would appear to result in duplicative effort and will be denied. It must be noted, however, that the State's proposition is correct that separate decisions for each of the points may be reached. Pending analysis of the material filed in Phase II, the Joint Board does not have a record to determine whether differing plans should be recommended to the Commission. The expedited schedule we are adopting will permit resolution of the question before us in the most expeditious manner. In the event we find that the record supports an earlier decision for either location, we will proceed with a separate initial decision. Likewise, at such time that it appears appropriate to adopt separate procedures so as not to delay our efforts, such procedures would be adopted. Our action herein in no matter indicates any predisposition to the argument concerning the similarity or dissimilarity between the points or the appropriate separations treatment of them.

10. Accordingly, *it is ordered*, That comments, replies, and responses to the questions set forth in paragraph 3 of this Memorandum Opinion and Order shall be filed in accordance with the following schedule:

Comments—no later than February 5, 1979;
Replies—no later than March 19, 1979;
Responses—no later than April 9, 1979.

11. *It is further ordered*, That all parties shall file an original and six copies of all pleadings with the Secretary, Federal Communications Commission and one copy with each of the State Commission members of this Joint Board. Copies of these filings shall be available for public inspection during regular business hours in the Commission's Reference Room at its headquarters at 1919 M Street NW., Washington, D.C. 20554.

12. *It is further ordered*, That the Petition for Expedited Consideration and Adoption of Separations Plan Proposed by State of Hawaii, filed June 9, 1978, by the State of Hawaii, is denied.

13. *It is further ordered*, That the Motion to Establish Separate Procedures and Schedule for the Adoption of a Hawaii-Mainland Separations Plan, filed October 27, 1978, by the State of Hawaii, is denied.

FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. TRICARICO,

Secretary.

[FR Doc. 78-33412 Filed 11-28-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

(BC Docket No. 78-355; RM-3055; FCC 78-770)

PART-TIME PROGRAMMING BY MINORITY GROUPS

Inquiry Concerning Petition for Issuance of Policy Statement or Notice of Inquiry by National Telecommunications and Information Administration

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: This Notice of Inquiry solicits comment on possible means for encouraging the part-time programming of existing broadcast stations by minority groups. Among the principal issues to be addressed are (i) whether existing operations (primarily, time brokerage and shared time) develop in similar or varying factual circumstances; (ii) the desirability of a new form of Commission authorization for such operations as against less regulatory oversight; and (iii) the amenability of such operations to television, where program production is considerably more expensive.

DATES: Comments must be received on or before January 22, 1979, and reply comments on or before February 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stanley P. Wiggins, Broadcast Bureau 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of petition for issuance of policy statement or notice of inquiry on part-time programming. Notice of inquiry.

Adopted: October 31, 1978.

Released: November 22, 1978.

By the Commission:

1. The Office of Telecommunications Policy (OTP) and Department of Commerce on January 31, 1978, filed with the Commission a "Petition for Issuance of Policy Statement or Notice of Inquiry" proposing a wide variety of actions to further the improved representation of minority groups in broadcasting. A separate document, *Memorandum Opinion and Order* in RM-3055, FCC 78-773, released November 22, 1978, reviews those proposals and related Commission actions as well as a variety of pending Commission proceedings which will consider specific NTIA proposals as part of broader inquiries. However, the suggestion by petitioner (since reconstituted as the National Telecommunications and Information Administration) that the Commission act to encourage part-time operation of broadcast facilities by minority entrepreneurs warrants independent inquiry. Accordingly, by this *Notice of Inquiry* the Commission solicits comment on the potential for further encouragement of such operations.

2. Any such part-time operation clearly holds out the prospect of diversified programming, improved minority employment opportunities, and the acquisition of operational experience by minority entrepreneurs. However, unlike outright station ownership, part-time operations do not require the substantial capital outlay and administrative costs initially involved in the purchase of an existing facility or in new construction. Such part-time operations are inherently more flexible in their response to economic difficulty: a time broker whose programming begins to lose support can abandon the effort with much less procedural delay than that which necessarily accompanies the sale of a station. Such operations are also a useful alternative to outright ownership in communities where audience interest in programming is inadequate to support a station primarily focussed on one segment or programming preference of the community.[1]

3. There are presently two basic approaches to such operations. As NTIA notes, the share-time license arrangements is well established but infrequently utilized because difficulties can arise in the actual licensing of two operators to the same facility. Far more common is the wholesale brokerage of broadcast program time to an independent program producer, with ultimate responsibility for the programming remaining in the licensee. Under this arrangement, the program producer commonly seeks out advertising for his specialized programming and provides personnel for program production as well.[2] The relative flexibility of the two approaches is reflected in the respective Commission regulations governing such operations. When the same frequency is shared by two licensees, each must independently justify its renewal and otherwise comply with the requirements on regular stations. In contrast, time brokerage contracts, though required to be kept available for public inspection by the station, are not routinely submitted to the Commission and require no particularized justification at renewal.[3]

4. Noting that the Commission has expressed concern that extensive time brokering may involve an improper delegation of program control by the licensee, and hence conflict with the public interest,[4] NTIA suggests the Commission reconsider these reservations regarding extensive time brokerage, at least with respect to minority entrepreneurs. One approach proposed, if the Commission is not content with its authority to sanction licensees whose brokerage practices are so extensive (and/or independent of managerial review) as the constitute an improper delegation of responsibility,[5] is the imposition of a secondary ascertainment obligation on the broker and his "registration by" the Commission—thus lightening the licensee's responsibility. This proposal illustrates a prime difficulty confronted by the Commission in attempting to develop incentives for such operations, while keeping them a matter of ultimate licensee responsibility. Because the extent of time brokerage is unknown—either in terms of the number of stations using such arrangements or the portion such programming represents of their daily broadcast schedule—we are unsure whether licensees in general are more likely to be encouraged to explore such shared operations by a general statement of Commission policy (and no active regulatory involvement in routine situations) or by more detailed evaluation of specific proposals, resulting in some form of Commission approval. It is also possible, of course, that time brokerage (and sharing) has reached its optimal level by the operation of market demand in the present absence of Commission incentives, and no further action is necessary or appropriate.

5. The comments submitted in response to the NTIA petition establish the positive contribution to program diversity that such use of time brokerage can generate, but do not fully describe the conditions for its growth. The American Association of Advertising Agencies urges exploration of such operations for the diversification of programming they offer. The National Radio Broadcasters Association suggests the creation of a new, hybrid Commission authorization involving "something in the nature of a combination of a share-time operation [normally requiring dual licensing] and a substantial time brokerage arrangement • • • such an authorization might consist of a lease arrangement whereby substantial amounts of broadcast time would be leased to minority groups or individuals subject to FCC approval. Such an authorization would in most cases involve time commitments greater than are involved in most time brokerage arrangements, but would permit the Commission to review the qualifications of the lessor."

6. The most detailed description of an existing operation, devoting 22½ hours on weekdays to brokered Spanish-language programming and substantial additional brokered programming on weekends, comes from the licensee of WOJO(FM) in Evanston, Illinois. Broadcast Communications, Inc. (BCI) has operated under such arrangements for many years, and asserts that in addition to the entrepreneurial experience gained by independent producers, the minority businesses of community advertisers also benefit in unique ways from such operation. In this latter regard, BCI states that it provides an affordable mass advertising device with an audience appropriate for these minority businesses. BCI asserts that time brokerage is the most readily attainable means to further minority ownership in light of the presently limited financial resources of minority groups, and the limited number of stations available for outright ownership. BCI also suggests, in line with NRBA's comments, that direct Commission licensing of time brokers could forestall any concern over diminished licensee control over programming. BCI itself has a Spanish-speaking program director who is responsible for supervision of Spanish-language programing.

7. The programing offered by BCI's station WOJO(FM) is oriented primarily to ethnic communities with language barriers for which radio is a peculiarly appropriate means of mass communication.[6] Apart from its avoid-

[1] Encouragement of minority ownership clearly furthers an important national policy which warrants consideration independently of programming proposals. Our point here is simply that where market conditions are inadequate to support a specialized station, partial operations which such a focus can be an independent goal from minority ownership.

[2] One extensive time-brokerage operation is discussed in more detail *infra* at paras. 6-8.

[3] A lack of apparent necessity for Commission inspection of time brokerage contracts led to the repeal of the requirement that they be filed with the Commission.

[4] See generally, *Order Concerning the Filing of Agreements Involving the Sale of Broadcast Time for Resale*, 33 F.C.C. 2d 654 (1972). But see *Cosmopolitan Broadcasting Corp. v. F.C.C.*, D.C. No. 76-2019, decided May 31, 1978, 43 R.R. 2d 113, S1. Op. at 32: "In determining whether the past programming of WHBI may have mitigated its derelictions of character, the Commission should therefore consider [on remand] whether denying Cosmopolitan's application for a license renewal will silence a unique outlet serving 'a specialized audience that would feel its loss.'" [Footnote omitted. Numerous intervenors representing a variety of ethnic communities evidenced their concern at the prospect of nonrenewal of WHBI's license. Some 68 percent of the station's operating schedule was time brokered for specialized programming in foreign languages.]

[5] *Master Broadcasting Co.*, 6 R.R. 621, 623 (1950).

[6] We note, however that the extensive brokered programming without adequate su-

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ance of any literacy problems in an unfamiliar language, radio's comparatively low production costs (as opposed to television) enable specialized programming to be broadcast to relatively small and culturally distinct groups. A monograph on WOJO(FM) programming, prepared for BCI by doctoral candidate Robert Slayton, states that brokered ethnic programs devote considerable time to reports on events of special interest in both the country of origin and within the ethnic conclave in the metropolitan area. Political commentaries may address concerns insignificant to the rest of the community, such as the workings of the Immigration and Naturalization Service. Feature programs and public service announcements serve to assuage homesickness, maintain separate cultures, and unify ethnic communities around important social and political causes.

8. The latter function of political organization is said to be of special importance for the Latino community in the Chicago area, whose members come from a variety of national backgrounds and frequently have organizational difficulties as a result. Slayton cites estimates of the Spanish-speaking population of Chicago ranging from a 1970 Census report of 247,343 or 7.3 percent of the overall population, to private estimates of 870,951 or 25 percent of the overall population (including illegal aliens).[7] As a group, the Spanish-speaking segment of Chicago occupies a significantly greater proportion of lower-paying jobs, and garners a significantly lower portion of business receipts, than do Chicago's Blacks.[8] Slayton states that the Latino community in Chicago places great reliance on radio because of its immediate impact and coverage, ready availability, and the absence of any Spanish-language daily newspaper as an alternative. Fewer Latinos are said to watch television than either non-Latino whites or Blacks, reflecting the ease and relative inexpensiveness of producing radio programming directed to their particular interests and problems.

9. There is no question that time brokerage arrangements can provide programming services that otherwise would not be available, and the Commission wishes to explore possible incentives to further encourage such efforts. It seems likely that, as with more conventional radio entertainment formats, such programming will begin on an experimental basis and after demonstrating its economic potential will become a more integral part of a station's operations. Rather than risk uninformed government interference with its development, we suggest the following general questions as guidelines for comment.

To what extent are the existing devices for such special programming utilized by stations, and (in the case of time brokering) how many hours are typically brokered?

Is there a typical factual situation apparent in such operations or do the circumstances underlying such arrangements resist such generalization?

Are there any groups interested in such operations which have been frustrated in attempts to develop such arrangements? If so, what appears to prevent implementation of such an interest?

Should some new form of Commission authorization, either NRBA's proposed hybrid or a variant, be created to encourage such operations?

Should a different incentive approach be adopted (if any is) with regard to television stations? Or are television production costs so high as to foreclose such operations?

If some new form of authorization is adopted, what standards should be used to distinguish situations calling for its exercise from those amenable to existing arrangements?

Should any incentives adopted for application to minority ownership be utilized in this context to foster partial operation by minority groups?

Should some recognition be accorded minority or female employment which results from (*e.g.*) time brokerage arrangements, even though such persons are not directly employed by the licensee?

Finally, if adoption of a new form of authorization is unnecessary or undesirable, are there less serious measures which might operate to encourage such operations—such as Commission guidelines for time brokerage arrangements?

We reiterate that these questions are suggestions rather than boundaries of the inquiry, and relevant facets of part-time operations should be noted even if not clearly falling under these questions. We are naturally most interested in the experience of licensees presently operating with some form of part-time operation, as such licensees are best qualified to suggest whether Commission incentives in this area might be helpful.

10. Pursuant to applicable procedures set forth in §§ 1.415 and 1.46 of the Commission's Rules, interested parties may file comments on or before January 22, 1979, and reply comments on or before February 23, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding.

11. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and 5 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. All filings made in this proceeding will be made available of examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-33411 Filed 11-28-78; 8:45 am]

Footnotes continued from last page

pervision which, among other issues, placed the license of Cosmopolitan Broadcasting's WHBI in jeopardy, was similarly oriented to linguistic minorities. *Supra* at note 4.

[7] Walton and Salces, *Political Organization of Chicago's Latino Community* (1977).

[8] While 1.7 percent of city workers are Latino as against their 7 to 23 percent representation in the population, some 23 percent of municipal jobs are held by Blacks who comprise 32.7 percent of the Chicago population. According to the 1972 Census figures cited by Slayton, the Chicago SMSA has 9,718 Black-owned businesses with gross receipts of nearly $534 million, while the 1,576 Latino-owned businesses earned gross receipts of only $70 million. The 17 largest Latino business in Chicago had combined 1975 sales of $22.1 million, just over half the sales of the single largest Black business firm in the city—Johnson Publishing Company, licensee of WJPC(AM).

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 226]

CRITICAL HABITAT OF ENDANGERED AND THREATENED FISH AND WILDLIFE

Proposed Determination of Critical Habitat for the Leatherback Sea Turtle

AGENCY: National Marine Fisheries Service.

ACTION: Proposed Designation of Critical Habitat.

SUMMARY: The National Marine Fisheries Service (NMSF) proposes to designate Critical Habitat for the leatherback sea turtle (*Dermochelys coriacea*) in waters adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands. The proposed action is being taken under the Endangered Species Act of 1973, as amended (the Act) to provide protection to sea turtles using these waters for courting, breeding, and as access to and from their nesting areas on Sandy Point Beach. Activities of Federal agencies in the proposed area must be reviewed in accordance with the provisions of the Act.

DATES: A public meeting on this proposed regulation will take place at 7:00 p.m., December 5, 1978. Requests for a public hearing must be received on or before January 15, 1979. Comments on the proposal must be received on or before January 29, 1979.

ADDRESSES: Submit comments, or a request for a public hearing, to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. The public meeting on this proposed regulation will be held at the Fort Frederick Museum, Fredricksted, St. Croix, the Virgin Islands (Tel: 809-772-2021).

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, (202) 634-7287.

SUPPLEMENTAL INFORMATION: The leatherback sea turtle is endangered throughout the world, and has been listed as endangered since 1970 (35 FR 19320). Though the leatherback spends most of its life at depths of 150 feet or greater, it must come ashore on sandy beaches to nest and lay eggs.

Courtship and mating are believed to occur in waters adjacent to nesting beaches just prior to the time of egg laying. Accordingly, much of the hope for the survival and recovery of the leatherback depends on the maintenance of suitable and undisturbed nesting beaches and protection of waters adjacent to those beaches.

During the early summer of 1977 the U.S. Fish and Wildlife Service (FWS) became aware of a newly discovered nesting aggregation of leatherback sea turtles occurring at the western end of the island of St. Croix, U.S. Virgin Islands. Personnel of the FWS, MNFS, U.S. Coast Guard, and Government of the Virgin Islands conducted observation on St. Croix during the month of June. In excess of 70 leatherback nests were discovered on the 0.8 mile by 0.1 mile strip of Sandy Point Beach during these observations. This area constitutes the only known beach under U.S. jurisdiction used extensively for nesting by the endangered leatherback. On March 23, 1978 (43 FR 12050) the FWS proposed to designate Sandy Point Beach on St. Croix as critical habitat for the leatherback sea turtle. The FWS published a final regulation on September 26, 1978 (43 FR 43688).

Pursuant to an agreement between the FWS and the NMFS, the FWS has jurisdiction over sea turtles on the land and the NMFS over sea turtles in the marine environment. These proposed regulations designate as Critical Habitat an area of the marine environment adjacent to a nesting beach previously designated as Critical Habitat by the FWS.

The exact area proposed as Critical Habitat is the body of water adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands, located up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42'12" North and 64°50'00" West (see chart below).

The Endangered Species Act Amendments of 1978 define the term "critical habitat" for a threatened or endangered species as follows:

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and

(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Since the area proposed as Critical Habitat is used by the leatherback for courting and mating activities and provides an access to and from its nesting beach, the NMFS believes the area is essential for the conservation of the leatherback sea turtle, and may require special management considerations. As such, these waters qualify for designation as Critical Habitat under the Endangered Species Act as amended.

As information becomes available additional areas may be proposed as Critical Habitat for this species.

EFFECT OF THE PROPOSED REGULATIONS

The major effect of designating this area as Critical Habitat will be to require any Federal agency that authorizes funds or carries out activites that might result in the destruction or adverse modification of the area to comply with Section 7 of the Act. At this time there are no known federal activities planned for this area.

Private activities are not directly affected by designating an area as Critical Habitat. Private activities in the Sandy Point Beach area include commercial and recreational fishing, boating, swimming, and diving. These activities, particularly if conducted at night when leatherbacks commonly come ashore to nest, may interrupt some nesting activities.

The Sandy Point Beach is privately owned. The NMFS is not aware of any current plans to develop this area privately.

PUBLIC NOTICE PROVISIONS

Notice of this proposed regulation will appear in the following newspapers:

Daily News (published in St. Thomas, V.I.)
Virgin Islands Post (published in St. Thomas, V.I.)
St. Croix Avis (published in St. Croix, V.I.)

The NMFS has also offered notice of this proposed regulation for publication in the following scientific journals:

Scientific American;
Science;
Nautilus Press publications.

NMFS has sent notice of this proposed regulation, accompanied by a copy of the environmental assessment prepared for this proposal, to the following local government officials:

Honorable Juan Luis, Governor of Virgin Islands, Office of the Governor, Government House, St. Thomas, V.I. 00801.

Virdin C. Brown, Commissioner, Department of Conservation and Cultural Affairs, Box 4340, St. Thomas, V.I. 00801.

David Benjamin, Deputy Commissioner, Department of Conservation and Cultural Affairs, Division of Parks and Recreation, 13-A Western Suburb, Chritiansted, St. Croix, V.I. 00820.

Office of Commmunity Services, Office of the Governor, P.O. Box 5138, St. Thomas, V.I. 00801.

A public meeting on this proposed regulation will be held at 7 p.m., December 5, 1978 at Fort Frederick Museum, Fredricksted, St. Croix, V.I. If requested, a public hearing will also be held on St. Croix. The time and place of this hearing will be announced if and when such a request is received.

Written public comments must be received on or before January 29, 1979. Comments are invited on the following topics:

The desirability of designating this area as Critical Habitat;

The potential economic impacts of this designation;

Other potential impacts of this designation.

Any final regulation will not take effect before the 60th day after the date on which the meeting or hearing is concluded, and if more than one public meeting or hearing is held, before the 60th day after the date on which the last such meeting or hearing is concluded. The primary author of this proposed rule is Mr. Richard B. Roe, Office of Marine Mammals and Endangered Species.

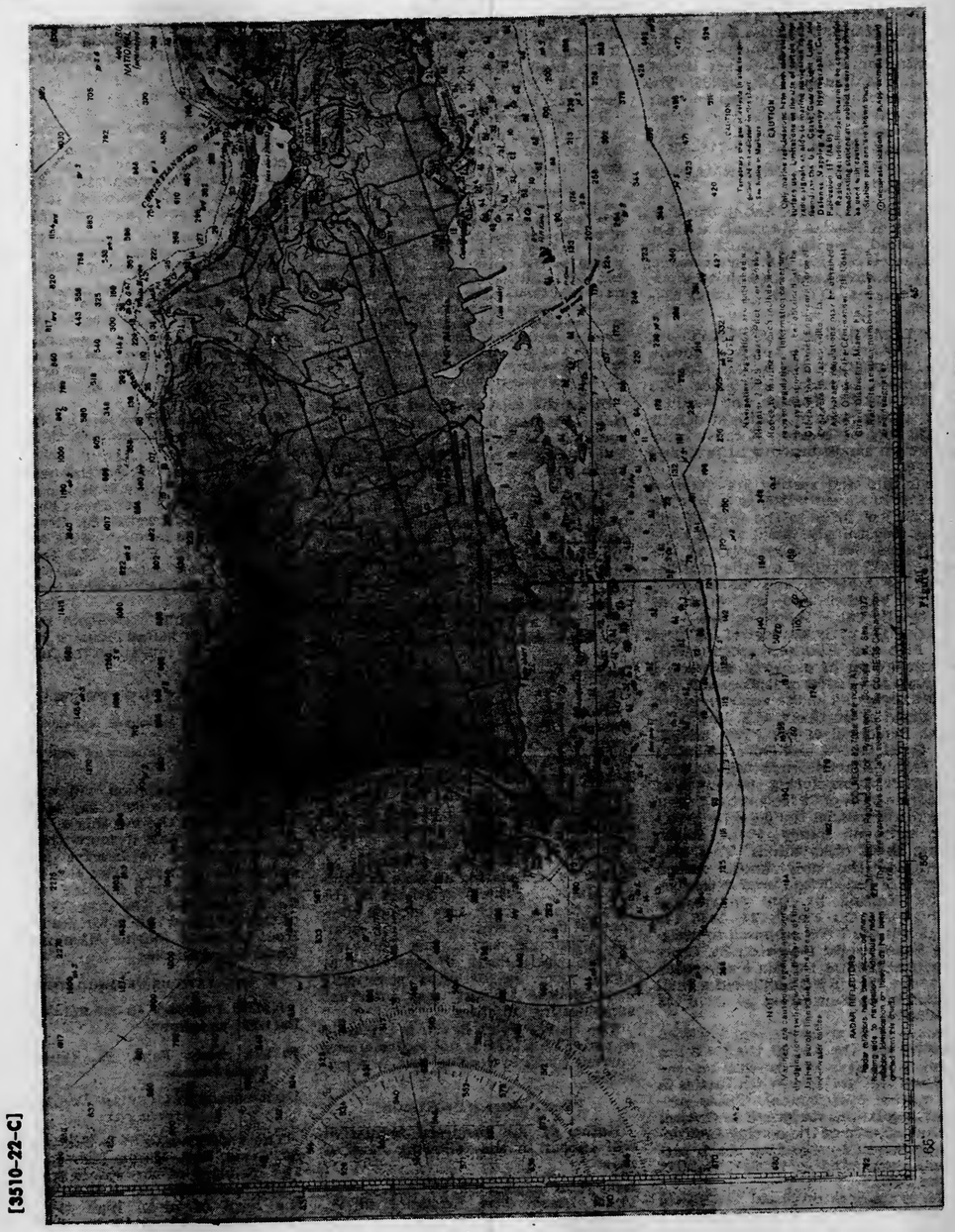
REGULATIONS PROMULGATION

NMFS proposes to amend 50 CFR Part 226 as follows:

§ 226.72 Sandy Point, St. Croix, U.S. Virgin Islands.

LEATHERBACK SEA TURTLE (*Dermochelys coriacea*)

The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17° 42' 12" North and 64° 50' 00" West.



[3510-22-C]

§§ 226.73–226.99 [Reserved]

Dated: November 24, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-33451 Filed 11-28-78; 8:45 am]

[3510-22-M]

[50 CFR Part 611]

SQUID FISHERIES OF THE NORTHWESTERN ATLANTIC

Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed amendment to preliminary fishery management plan.

SUMMARY: This amendment to the Preliminary Fishery Management Plan entitled "Squid Fisheres of the Northwestern Atlantic" (PMP), which was published on February 16, 1977, would reduce the estimate of U.S. harvesting capacity for long-finned squid (*Loligo pealei*) by 1,900 metric tons (mt) and increases the amount of long-finned squid allocated to the foreign fisheries (TALFF) by 1,900 mt.

DATE: Comments must be received on or before December 14, 1978.

ADDRESS: Send comments to the Assistant Administrator for Fisheries (F), National Oceanic and Atmospheric Administration, Washington, D.C. 20235. Please mark "Comments on Squid PMP, Attn. F36," on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT:

William G. Gordon, Director, Northeast Regional Office, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone: 617-281-3600.

SUPPLEMENTAL INFORMATION: In July 1978, in accordance with the 1978 Foreign Fishing Regulations, § 611.20(b), the optimum yield (OY) and U.S. harvesting capacity for long-finned squid (*Loligo pealei*) and short-finned squid (*Illex illecebrosus*) were reassessed. The reassessments indicated that for *Illex* squid the estimated U.S. harvesting capacity should be revised downward from 11,500 mt to 6,000 mt, and that the TALFF should then be increased by 5,500 mt from 23,500 mt to 29,000 mt. On July 20, 1978, amendments based on these reassessments were proposed for the PMP (43 Fr 31186). Following a public comment period of 15 days, amendments to the 1978 Foreign Fishing Regulations were published on August 11, 1978 (43 FR 35719).

Reassessments of OY and U.S. harvest capacity for long-finned (*Loligo*) squid were scheduled for September 1978, although the proposed amendment to the squid PMP published on July 20, 1978 (43 FR 31186), erroneously stated that the September reassessments would be for short-finned squid (*Illex*). The September reassessments indicated that the *Loligo* OY should remain at its present level, but that the estimate of U.S. harvest capacity could be reduced by 1,900 mt, from 25,000 mt to 23,100 mt.

The total harvest of Northwestern Atlantic squid as of August 31, 1978, is estimated to be 1,392.5 mt. Of this total 250.7 mt is *Illex*, 391.5 mt is *Loligo*, and the remaining 750.3 mt is both *Illex* and *Loligo*. The original estimate of domestic harvest for *Loligo* in 1978 was 25,000 mt. Although the National Marine Fisheries Service (NMFS) expects domestic fishermen to continue to harvest Northwestern Atlantic squid during 1978 and exceed the 1977 level of 2,430 mt, NMFS now does not expect the total domestic harvest of *Loligo* squid to exceed 23,100 mt. The surplus of 1,900 mt of *Loligo* obtained by revising the U.S. harvest estimate downward is available to be added to the 1978 TALFF, increasing it from 19,000 mt to 20,900 mt. Some of this 1,900 mt will be provided to foreign nations to augment their by-catch allocations, but most of it will be allocated among those nations still having a directed squid fishery.

This action involves no change in the OY for long-finned squid (*Loligo*). It does reduce the estimate of U.S. harvest capacity by 1,900 mt (from 25,000 mt to 23,100 mt) and allocates the surplus of 1,900 mt to foreign nations. The Assistant Administrator has determined that these changes should have no adverse impact on the U.S. squid fishery nor on future supplies of squid.

Good cause exists for implementing this amendment with only a 15-day public comment period. Any further delay will nullify this additional allocation to the foreign fleets for the following reasons: (1) several foreign nations are approaching their quotas on squid and they will have to stop fishing not only for squid but for other allocated fish species when they reach their squid quotas; and (2) failure to make surplus fishery resources available to foreign nations by early December would make it impossible for them to take advantage of the increased allocations for 1978.

The Assistant Administrator for Fisheries (Assistant Administrator), under a delegation of authority from the Secretary, has determined that an amendment to the PMP to reduce the 1978 estimate of U.S. harvest capacity for long-finned (*Loligo*) squid by 1,900 mt and to allocate the 1,900 mt additional surplus to foreign nations is necessary and appropriate to further the interest of wise utilization and management of the Northwestern Atlantic squid during the 1978 fishing season.

Signed at Washington, D.C. this 24th day of November, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

The PMP is revised as follows:

Section IV c as revised (42 FR 39130) is amended as follows:

. . . . . .

c. *Estimated Domestic Production Potential and Allowable Foreign Surplus.* The capacity of the United States to exploit squid in 1978 was estimated by NOAA, in consultation with members of the U.S. fishing industry, as 29,000 mt. Of this amount, 23,100 mt was of long-finned squid (*Loligo*), and 6,000 mt was of short-finned squid (*Illex*). This left 49,900 mt of both species as foreign surplus. Specific figures by species are given in Table 26.

TABLE 26 *Squid Optimum Yield and Allocations*

[In metric tons]

Species	Maximum sustainable yield	Optimum yield	U.S. capacity	Foreign surplus
Illex	40,000	35,000	6,000	29,000
Loligo	44,000	44,000	23,100	20,900

[FR Doc. 78-33408 Filed 11-28-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON GRANTS, BENEFITS, AND CONTRACTS

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States, to be held at 10:00 a.m., Thursday, December 14, 1978, at the National Aeronautics & Space Administration, 400 Maryland Avenue, S.W., Room 5092, Washington, D.C. 20546.

The Committee will meet to consider the comments on the report by Professor Peter W. Martin entitled "Procedures Used in Forming and Carrying our Federal-State Agreements under the Supplemental Security Income Program," and to consider revisions in its proposed recommendations.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting: any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Charles Pou, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

NOVEMBER 22, 1978.

[FR Doc. 78-33415 Filed 11-28-78; 8:45 am]

[6110-01-M]

COMMITTEE ON INFORMAL ACTION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10:00 a.m., Thursday, December 14, 1978, in Hearing Room B, Interstate Commerce Commission, 12th and Constitution Avenue, NW, Washington, D.C.

The Committee will meet to consider two ongoing studies: A study of federal agency assessment and mitigation of civil money penalties, and a study of agency exercise of prosecutional discretion in seeking criminal sanctions for violations of regulatory statutes.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

NOVEMBER 22, 1978.

[FR Doc. 78-33416 Filed 11-28-78; 8:45 am]

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

PRESCOTT NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Prescott National Forest Grazing Advisory Board will meet at 10 a.m. on December 20, 1978, at the Forest Supervisor's Office in Prescott, Arizona.

The purpose of this meeting is to elect officers and review items of mutual interest to grazing permittees and the Forest Service.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Arizona, telephone number 602-445-1762. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

JOHN W. BOHNING,
Acting Forest Supervisor.

NOVEMBER 20, 1978.

[FR Doc.78-33349 Filed 11-28-78; am]

[3410-11-M]

TONTO NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Tonto National Forest Grazing Advisory Board will meet January 5, 1979, at 10 a.m. at the office of the Forest Supervisor, Tonto National Forest, located at 102 South 28th Street, Phoenix, Arizona.

The purpose of this meeting is to cover the following agenda items:

1. Use of Range Betterment Funds authorized by Pub. L. 94-579—policy and distribution to date of meeting.
2. Discussion of allotment management plans (if applicable as of meeting date) upon which Forest Service and grazing permittees are not in full accord.
3. Discuss and plan spring field trip to view the results of selected range management plans.

The meeting will be open to the public. Persons who wish to attend should notify Bruce Hronek, Supervisor, Tonto National Forest, 102 South 28th Street, Phoenix, Arizona 85002, telephone 602-261-3205. Written statements may be filed with the Board before or after the meeting.

Oral statements may be made by public attendees when recognized by the Chair.

Dated: November 21, 1978.

WILLIAM E. PINT,
Acting Forest Supervisor.

[FR Doc. 78-33417 Filed 11-28-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

BRIAR CREEK WATERSHED, PENNSYLVANIA

Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Briar Creek Watershed, Columbia and Luzerne Counties, Pennsylvania.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concern a plan for watershed protection and flood prevention. About 80 percent of the land treatment measures and a multiple-purpose structure with flood prevention and recreation development have been installed. The remaining planned work of improvement is a single-purpose floodwater detention structure on Glen Brook, a tributary of the East Branch of Briar Creek.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement.

The draft environmental impact statement will be developed by Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Box 985, Federal Square Station, Harrisburg, Pennsylvania 17108; 717-782-2202.

(Catalog of Federal Domestic Assistance Progam No. 10.904, Watershed Protection and Flood Prevention Program—Pub. Law 83-566, (16 U.S.C. 1001-1008).)

Dated: November 22, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, Department of Agriculture.

[FR Doc. 78-33350 Filed 11-28-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

U.S. KNITTING MILLS, INC., ET AL.

Petitions by Five Producing firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from five firms: (1) U.S. Knitting Mills, Inc., 795 Main Avenue, Passaic, New Jersey 07055, a producer of fabrics and women's blouses, pants and skirts (accepted November 14, 1978); (2) Buddy Meyers, Ltd., 1290 Avenue of the Americas, New York, New York 10019, a producer of men's sport shirts (accepted November 14, 1978); (3) Farah Manufacturing Company, Inc., P.O. Box 9519, El Paso, Texas 79985, a producer of men's and boys' slacks, jeans, sportcoats and vests (accepted November 15, 1978); (4) Carmen J., Inc., 350 North 16th Street, Philadelphia, Pennsylvania 19103, a producer of slacks, skirts and other sportswear for women (amended petition accepted November 17, 1978); and (5) Wire Cloth Manufactures, Inc., 133 Kings Road, Madison, New Jersey 07940, A producer of extruder screens and wire cloth parts. The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on December 11, 1978.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-33418 Filed 11-28-78; 8:45 am]

[3510-25-M]

Foreign-Trade Zones Board

[Docket No. 12-78]

FOREIGN-TRADE ZONE—GREATER CINCINNATI AREA

Amended Application

Notice is hereby given that the Greater Cincinnati Foreign-Trade Zone, Inc., a non-profit Ohio corporation, has amended that part of its application, filed September 19, 1978 (43 FR 44875, 9-29-78), requesting approval for a general-purpose foreign-trade zone site in Campbell County, Kentucky, in the Cincinnati Customs port of entry area.

The amended part of the application concerns the proposed zone site to be operated by the H. J. Hosea and Sons Company at its warehouse/distribution complex in Wilder, Kentucky. The application originally proposed that the zone would be located on a 1.2 acre parcel with an existing warehouse. During the public hearing held by the examiners committee on October 19, 1978, the applicant indicated its desire to amend this to include a larger tract of 20.8 acres within the same facility, so that adequate space would be available to meet the expected demand for zone services. On November 2, 1978, this amendment was submitted by the applicant in writing.

Interested parties are invited to comment on the amendment. Comments should be submitted in writing to the Board's Executive Secretary, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230, and be postmarked no later than December 11, 1978.

Dated: November 22, 1978.

JOHN J. DA PONTE, JR.,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 78-33419 Filed 11-28-78; 8:45 am]

[3510-25-M]

Industry and Trade Administration

SUBCOMMITTEE ON EXPORT ADMINISTRATION OF THE PRESIDENT'S EXPORT COUNCIL

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976 (ed.)), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council (PEC) will be held on Wednesday, December 13, 1978, at 9:00 a.m., in room 6043 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On January 6, 1977, the Assistant Secretary for Administration approved the recharter and extension through December 31, 1978, of the Subcommittee, Pursuant to the provisions of Section 3 of Executive Order 11753 (December 20, 1973), as extended by Section 1(k) of Executive Order 11948 (December 20, 1976), and the Federal Advisory Committee Act.

The Subcommittee advises the Secretary of Commerce on matters pertinent to those portions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 *et seq.*) that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons. The Subcommittee meeting agenda has eight parts:

V 43 N 230 NOV 29 1978

GENERAL SESSION

1. Report on Secretary's Recent Trip to Moscow
Technology Export Control Functions of the Department of Defense
3. Critical Technologies List—A Status Report
4. Changes in Commerce Export Licensing Procedures
5. U.S. Reexport Controls: Policy and Practices
6. Extension of Export Administration Act
● Foreign Policy Controls and Foreign Availability
● Confidentiality Provisions
7. Other Business
● Reorganization of the President's Export Council and Future Role of the Subcommittee

EXECUTIVE SESSION

8. COCOM Developments
● Update on List Review
● Role of Technology

The General Session (agenda items one through seven) is open to the public. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item eight, the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 11, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act (Pub. L. 94-409), that the matters to be discussed in the Executive Session should be exempt form the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by Executive Orders 11652 and 12065 to be kept secret in the interest of the national defense or foreign policy. Materials to be reviewed and discusses by the Subcommittee during the Executive Session of the meeting have been properly classified under those Executive Orders. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close portions of the series of meetings of the Subcommittee on Export Administration of the President's Export Council is printed at 42 FR 3011 (January 14, 1977).

Copies of the minutes of the General Session will be available by calling Mr. Lawrence J. Brady, Deputy Director, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-4188.

For further information, contact Mr. Brady either in writing or by phone at the address or number shown above.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation.

[FR Doc. 78-33348 Filed 11-28-78; 8:45 am]

[3510-25-M]

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Tuesday, December 19, 1978, at 9:00 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41073).

Dated: November 24, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-33398 Filed 11-28-78; 8:45 am]

[3510-13-M]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARDS

Intent To Withdraw

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 16-69, "Types and Sizes of Forms for One-Way Concrete Joist Construction."

This withdrawal action is being proposed for the reason that PS 16-69 is adequately covered by the American National Standards Institute standard ANSI A48.1-1978, "Types and Sizes of Forms for One-Way Concrete Joist Construction," and duplication is inappropriate and not in the public interest.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234, on or before December 29, 1978. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: November 21, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-33354 Filed 11-28-78; 8:45 am]

[3510-13-M]

RECOMMENDED VOLUNTARY PRODUCT STANDARD

Circulation

In accordance with the provisions of § 10.5 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), the National Bureau of Standards is giving public notice and circulating for acceptance Recommended Voluntary Product Standard TS 222, "Bedding Products and Components (Mattresses, Foundations, Beds, Bed Frames, and Headboards)."

The purpose of this standard is to establish nationally recognized dimensional requirements for bedding products and components, and to provide producers, distributors, and users with a basis for common understanding of the characteristics of this product.

Copies of TS 222 may be obtained from Standards Development Services, National Bureau of Standards, Washington, D.C. 20234. Written comments concerning the standard should be submitted to Standards Development Services on or before January 15, 1979.

Dated: November 22, 1978.

THOMAS A. DILLON,
Acting Director.

[FR Doc. 78-33407 Filed 11-28-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Meeting Cancellation

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of cancellation of public meeting.

SUMMARY: Notice is hereby given that the scheduled meeting on December 5, 1978, through December 8, 1978, of the Gulf of Mexico Fishery Management Council as published in the FEDERAL REGISTER, Vol. 43, No. 216, page 51829, Tuesday, November 7, 1978, has been cancelled.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone: 813-228-2815.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-33409 Filed 11-28-78; 8:45 am]

[3510-22-M]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 95-265), will meet to: (1) review public comment on the Stone Crab Fishery Management Plan and to amend the plan as needed and (2) conduct other fishery management business.

DATES: The meeting will convene on Thursday, December 21, 1978, at 8:30 a.m. and adjourn at approximately 2:30 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the offices of the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director Gulf of Mexico Fishery Management Council Lincoln Center, Suite 881 5401 West Kennedy Boulevard Tampa, Florida 33609 Telephone: (813) 228-2815.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-33410 Filed 11-28-78; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are avaiable for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents &. Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service NTIS), Springfield Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Service Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,093,510: Xanthated Starch Amine Paper Additives; filed April 7, 1977; patented June 6, 1978; not available NTIS.

Patent 4,093,637: Alkyl 9,9(10,10)-Bis(Acyloxymethyl)Octadecanoates as Primary Plasticizers for Polyvinylchloride; filed January 31, 1977; patented June 6, 1978; not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street, S.W., Washington, D.C. 20590.

Patent 3,224,713: Landing Gear System; filed June 8, 1964; patented December 21, 1965; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent application 886,106: 3-Deazaadenosine as an Inhibitor of Adenosylhomocysteine Hydrolase with Antiviral Activity; filed March 13, 1978.

Patent application 886,465: Portable Instrument for Measuring Neutron Energy Spectra and Neutron Dose in a Mixed n-gamma Field; April 14, 1978.

Patent application 892,853: Capillary Cell Culture Device; filed April 3, 1978.

Patent application 895,082: Anti-Neoplastic Use of 1,4-Bis(Substituted Aminalkyl Amino)-Anthraquinones; filed April 10, 1978.

Patent application 912,946: Method of Producing Delayed Release of Sodium Fluoride; filed June 5, 1978.

Issued at Washington, DC on No-

Patent application 930,659: Optical Sensor of Plasma Constituents; filed August 2, 1978.

Patent 4,082,781: Synthesis of 2-Alkanoylamino-4-Nitrophenyl Phosphorylcholine-Hydroxide; filed June 4, 1976; patented April 4, 1978; not available NTIS.

[FR Doc. 78-33351 Filed 11-28-78; 8:45 am]

[3510-04-M]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

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Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 880,734: Automatic Astroposition Determination Apparatus; filed February 24, 1978.

Patent 4,053,712: Adaptive Digital Coder and Decoder; filed August 24, 1976; patented October 11, 1977; not available NTIS.

Patent 4,055,079: Cylinder Firing Indicator; filed August 9, 1976; patented October 25, 1977; not available NTIS.

Patent 4,056,852: Adjustable Helmet Suspension System; filed April 19, 1976; patented November 8, 1977; not available NTIS.

Patent 4,058,438: Rapid Universal Sensing Cell; filed October 28, 1976; patented November 15, 1977; not available NTIS.

Patent 4,059,052: Fuze Modulation System; filed February 21, 1957; patented November 22, 1977; not available NTIS.

Patent 4,062,126: Deadband Error Reduction in Target Sight Stabilization; filed November 8, 1976; patented December 13, 1977; not available NTIS.

Patent 4,062,598: Wedge Block Lock for Vehicle Track End Connectors; filed August 9, 1976; patented December 13, 1977; not available NTIS.

Patent 4,069,990: Ring-Wing Canard Spin-Up Control Mechanism; filed March 14, 1977; patented January 24, 1978; not available NTIS.

Patent 4,070,692: Video Digitizing System for Single Valued Functions; filed May 8, 1975; patented January 24, 1978; not available NTIS.

Patent 4,079,955: Locking Device; filed August 9, 1976; patented March 21, 1978; not available NTIS.

Patent 4,080,942: Metering Fuel by Compressibility; filed June 23, 1976; patented March 28, 1978; not available NTIS.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324

Patent application 893,867: Gun Projectile Sensor; filed April 6, 1978.

Patent application 904,850: Turbofan Augmentor Flameholder; filed May 11, 1978.

Patent application 904,964: Metallic Grating Spatial Filter for Directional Beam Forming Antenna; filed May 11, 1978.

Patent application 904,965: Gating Apparatus for Static Crossed Field Photomultipliers; filed May 11, 1978.

Patent application 905,063: Wing Pivot Assembly for Variable Sweep Wing Aircraft; filed May 11, 1978.

Patent application 910,996: A Planar Thin Film Edge Contact Metal Oxide-Metal Device; filed May 30, 1978.

Patent application 913,187: Low Contrast Measurement Apparatus; filed June 6, 1978.

Patent application 915,708: Attitude Indicator Comparator Warning System; filed June 15, 1978.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street, Washington, D.C. 20240.

Patent application 916,080: A Passive DABS-CAS Design; filed June 16, 1978.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 831,278: Range Division Multiplexing; filed September 2, 1977.

Patent application 861,156: Very Low Frequency Sonobuoy (VLF Sonobuoy) Assignment; filed December 16, 1977.

Patent application 890,891: Method for Optically Distorting Readout Reticles; filed March 28, 1978.

Patent application 894,283: Global Neutrino Communication System; filed April 7, 1978.

Patent application 902,128: Safe/Arm Firing Device; filed May 2, 1978.

Patent application 905,304: Sweeping Noise Blanker; filed May 12, 1978.

Patent 4,075,622: Variable-to-Block-with-Prefix Source Coding Technique; filed January 31, 1975; patented February 21, 1978; not available NTIS.

Patent 4,079,309: Method for Determining Changes in Earth Resistivity by Measuring Phase Difference Between Magnetic Field Components; filed September 3, 1976; patented March 14, 1978; not available NTIS.

Patent 4,081,214: Low Altitude Optical Altimeter; filed July 6, 1976; patented March 28, 1978; not available NTIS.

Patent 4,083,249: Hygrometer; filed January 17, 1977; patented April 11, 1978; not available NTIS.

Patent 4,084,512: Pressure Relief Construction for Controlled Combustion of Ordnance Items; filed October 18, 1976; patented April 18, 1978; not available NTIS.

Patent 4,084,781: Fabrication of Ablator Liners in Combustors; filed March 28, 1977; patented April 18, 1978; not available NTIS.

Patent 4,086,491: Direct Measurement of the Electron Beam of a Scanning Electron Microscope; filed February 4, 1977; patented April 25, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION. Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 928,130: A Phase Insensitive Ultrasonic Transducer; filed July 26, 1978.

Patent application 928,132: Microstrip Back-Fire Antenna; filed July 26, 1978.

Patent 3,775,570: Magneto-Optic Detection System with Noise Cancellation; filed February 25, 1972; patented November 27, 1973; not available NTIS.

[FR Doc. 78-33352 Filed 11-28-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN WOOL TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

Lifting of Embargo

NOVEMBER 24, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing charges to the level of restraint for women's, girls', and infants' wool suits in Category 444 from the Republic of Korea by 639 dozen for the agreement year which began on January 1, 1978.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978, (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: Pursuant to paragraph 11 of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, agreement has been reached to reduce by 639 dozen charges assessed against the level of restraint established for Category 444 during the twelve-month period which began on January 1, 1978. The reduction results from

agreement to apportion charges for 1977 overshipments in Category 444 to the levels for 1978 and 1979, in lieu of charging the full amount of the overshipment to the 1978 level.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 30, 1977, a letter dated December 27, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (42 FR 65246), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, including Category 444, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on January 1, 1978. In the letter published below the Commissioner of Customs is directed by the Chairman of the Committee for the Implementation of Textile Agreements to reduce the charges to the level of restraint previously established for Category 444 by 639 dozen.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

NOVEMBER 24, 1978

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, you are directed, effective on November 29, 1978, to deduct the following amount from charges made to the level of restraint established for Category 444 during the agreement year which began on January 1, 1978:

Category	*Reduction in charges*
444	639 doz.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-33452 Filed 11-28-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, REFINERY CAPABILITY TASK GROUP OF THE COMMITTEE ON REFINERY FLEXIBILITY

Meeting

Notice is hereby given that the Refinery Capability Task Group of the Committee on Refinery Flexibility of the National Petroleum Council will meet on Tuesday, December 12, 1978, at 9:00 a.m. in the Conference Room of National Petroleum Council, 1625 K Street, NW, Washington, DC, Suite 601. The Refinery Flexibility Committee was requested by the Secretary of Energy to undertake an analysis of factors affecting crude oil quality and availability and the capability of the refining industry to process such crudes into marketable products. The Task Group on Refinery Capability is responsible for assessing the ability of the refining industry to handle this processing. The tentative agenda for this meeting is as follows:

1. Review/summary of minutes of November 15, 1978 meeting.
2. Report on November 15, 1978 meeting of the Coordinating Subcommittee.
3. Review and adopt a form and procedure for a refinery survey.
4. Discuss the scope of work for a study of the competitive position of U.S. refineries under present system of controls.
5. Review information to be requested from the Oil Supply, Demand and Logistics Task Group.
6. Discuss future work plans and schedule future meetings.
7. Discuss any other matters pertinent to the overall assignment of the Task Group.

The meeting is open to the public. The Chairmen of the Task Group are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Mr. Gene Peer, U.S. Department of Energy, (202) 566-9179, prior to the meeting and reasonable provision will be made for their appearance on the agenda. Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Bldg., 1000 Independence Avenue, SW, Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person(s) may purchase a copy of the transcripts from the reporter.

Issued at Washington, DC, on November 22, 1978.

ALVIN L. ALM,
Assistant Secretary for Policy and Evaluation.

[FR Doc. 78-33355 Filed 11-28-78; 8:45 am]

[6450-01-M]

NATIONAL PETROLEUM COUNCIL, REFINERY CAPABILITY TASK GROUP OF THE COMMITTEE ON REFINERY FLEXIBILITY

Meeting

Notice is hereby given that the Refinery Capability Task Group of the Committee on Refinery Flexibility of the National Petroleum Council will meet on Wednesday, January 10, 1979 at 9:00 a.m. in the Conference Room of National Petroleum Council, 1625 K Street NW., Washington, D.C., Suite 601. The Refinery Flexibility Committee was requested by the Secretary of Energy to undertake an analysis of factors affecting crude oil quality and availability and the capability of the refining industry to process such crudes into marketable products. The Task Group on Refinery Capability is responsible for assessing the ability of the refining industry to handle this processing. The tentative agenda for this meeting is as follows:

1. Review/summary of minutes of December 12, 1978 meeting.
2. Report on status of refinery survey.
3. Discuss status and work program on study of refinery competitive position.
4. Discuss future work plans and schedule future meetings.
5. Discuss any other matters pertinent to the overall assignment of the Task Group.

The meeting is open to the public. The Chairmen of the Task Group are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Mr. Gene Peer, U.S. Department of Energy, 202-566-9179, prior to the meeting and reasonable provision will be made for their appearance on the agenda. Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Bldg., 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person(s) may purchase a copy of the transcripts from the reporter.

Act of 1978 on the proceeding, and to

continental Gas Pipe Line Corporation Louisiana to adjust its rates for

V 43 / 230 / NOV 29 1978

Issued at Washington, D.C., on November 22, 1978.

ALVIN L. ALM,
Assistant Secretary for Policy and Evaluation.

[FR Doc. 78-33356 Filed 11-28-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RP72-89 et al.]

COLUMBIA GAS TRANSMISSION CORP. et al:

Order Temporarily Suspending Curtailment Proceedings and Directing the Convening of Conferences

NOVEMBER 17, 1978.

In the matter of Columbia Gas Transmission Corporation (Docket No. RP72-89); El Paso Natural Gas Company (Docket No. RP72-6 (Ignition and Flame Stabilization)); Mississippi River Transmission Company (Docket No. RP73-6); Montana Dakota Utilities Company (Docket No. RP76-91); Texas Eastern Transmission Corporation (Docket No. RP71-130, et al.); Cities Service Gas Company (Docket No. RP75-62); El Paso Natural Gas Company (Docket No. RP72-6); Kansas-Nebraska Pipeline Company (Docket No. RP76-90); Lehigh Portland Cement Company v. Florida Gas Transmission Company (Docket No. RP75-79); Northern Natural Gas Company (Docket No. RP76-52 *et al.*).

The first five of the above-captioned dockets are presently awaiting decision by the Commission with respect to the establishment of permanent natural gas curtailment plans. In the other dockets administrative proceedings are on-going. All may be affected by the enactment of the Natural Gas Policy Act of 1978 (NGPA).[1]

The purpose of Title IV of the NGPA is to provide assurances that gas supplies used for certain essential agricultural uses and needed for essential industrial process or feedstock use generally will not be curtailed unless curtailment is required to protect enumerated high priority users. Section 401 directs the Secretary of Energy to issue a rule estabilishing that "to the maximum extent practicable" no essential agricultural use will be curtailed unless the gas is needed for high priority users; residences, small businesses, schools, or hospitals. Section 402 directs the Secretary to issue a rule prohibiting curtailment of any essential industrial process or feedstock use unless the gas is needed for high priority or essential agricultural uses. The two protective rules required by NGPA would be issued by the Secretary of Energy, while the Commission would be responsible for implementing and enforcing these regulations pursuant to Section 403 of the NGPA.

These legislative changes appear fundamentally to alter the nature of curtailment policy and practice. It is neither reasonable nor realistic, we adjudge, to continue adjudication of proposed curtailment plans until a fairly precise evaluation of the effects that NGPA requirements are likely to have on these proceedings has been completed. To move ahead, without first pausing to make the necessary examination, could result in substantial waste of administrative resources as well as the time and money of those parties who appear before us. Therefore, we have determined that it would be inappropriate for the Commission to rule on the five cases now pending before it. Where adjudicatory proceedings are going on before an Administrative Law Judge the same concerns apply with one addition. We have no desire to have hearings held and briefs filed when we are aware of the possibility that the proceedings may have to be duplicated in light of the NGPA.

Section 401 requires that the rule protecting essential agricultural uses from curtailment be effective within 120 days of enactment of NGPA. At that time parties will be in a better position to evaluate the impact of Title IV of NGPA on their proceedings. It is, therefore, appropriate to suspend all proceedings, including further hearings and briefs, in the above-captioned dockets for a period of 180 days effective on the date this order is issued.[2] Within 15 days of the effectiveness of the rules implementing Section 401, the Presiding Administrative Law Judge in each proceeding shall convene a conference to assess the impact of the NGPA on the status of each proceeding. The proceedings that are presently before the Commission are hereby remanded to the Presiding Administrative Law Judges for the purposes of this order. Following each conference, the Presiding Administrative Law Judge shall provide for the submittal of written comments by interested parties on the effect of the NGPA on the proceeding.

Within 20 days of the prehearing conference, the Presiding Administrative Law Judge, in each case, shall submit a report to the Commission discussing the impact of the NGPA on the proceeding. The report shall include a discussion of any comments submitted and the recommendations of the Presiding Administrative Law Judge as to the future course of the proceeding. The report should discuss, among other things, the following factors:

(1) The present status of the proceeding,

(2) The priorities of service included in the presently effective curtailment plan, any alternate plans proposed for adoption, and

(3) The major issues contested in the proceeding.

Within 30 days of the submission of these reports, the Commission will issue orders in each of the above-captioned dockets directing the future course of proceedings in a manner consistent with the requirements of the Natural Gas Act and the NGPA.[3]

We recognize, however, that specific issues in individual cases clearly may not be affected by the NGPA. It is appropriate that consideration of these issues not be unnecessarily delayed, if it is the judgment of the Administrative Law Judge that the case should go forward on such issues. We shall, therefore, provide a mechanism permitting such action. Specifically, the Administrative Law Judges, in those dockets not presently pending Commission decision, shall be free to file with the Commission at any time statements setting forth those issues which are unaffected by the NGPA and as to which administrative proceedings should promptly resume. Absent Commission objection within 10 days of the submittal of such a statement, the Administrative Law Judge shall be free to take such action as is necessary for the resumption of administrative proceedings with respect to those non-NGPA issues discussed in his statement to the Commission.

The Commission orders:

(A) The above-captioned proceedings are hereby suspended for a period of 180 days from the date of this order to permit each Presiding Judge, with the assistance of the parties and the Commission Staff, to prepare a report on the impact of the Natural Gas Policy Act of 1978 on the proceeding, and to permit the Commission to issue an order based upon each such report.

(B) Columbia Gas Transmission Corporation, Docket No. RP72-89, Mississippi River Transmission Company, Docket No. RP73-6, Montana-Dakota Utilities Company, Docket No. RP76-91, and Texas Eastern Transmission Corporation, Docket No. RP71-130, *et al.* are hereby remanded to the Presiding Administrative Law Judge in each proceeding for the limited purpose of permitting the preparation of the report described herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33377 Filed 11-28-78; 8:45 am]

[1] The curtailment proceeding in *United Gas Pipeline Company*, Docket No RP71-29, *et al.* (Phase II) shall not be affected by this order. The Commission in Opinion Nos. 32 and 32-A, issued October 31, 1978 and November 2, 1978, specifically remanded the proceeding to the Presiding Administrative Law Judge for a report on the effect on NGPA. The curtailment proceeding in *Transcontinental Gas Pipeline Corporation*, Docket No. RP72-99 also shall not be affected by this order. We shall issue an order detailing the procedures to be utilized on the Transco system at the time we address the settlement proposal recently filed by Transco in that docket.

[2] However, this order shall not preclude the filing at any time of settlement proposals in the above-captioned dockets. As a general matter, settlements are favored and should not be discouraged.

[3] To the extent that procedures similar to those specified herein have already been undertaken in individual dockets, the Presiding Administrative Law Judges are free to direct such future action as is consistent with the requirements of this order but which is not unnecessarily duplicative of action already taken.

[6740-02-M]

[Docket Nos. RP75-105 and RP76-94]

COLUMBIA GULF TRANSMISSION CORP.

Compilation of Restricted Service List

NOVEMBER 17, 1978.

At a recent hearing session in this proceeding, Commission Staff Counsel suggested the use of a restricted service list for the filing of briefs in this proceeding because there are only three active parties and the official service list is considerably longer. The Presiding Judge has told this office that he has no objection to this request.

All parties who desire to continue to receive briefs and other pleadings in this proceeding shall file with the Secretary their names and mailing addresses on or before November 28, 1978. The Secretary will then compile and serve a restricted service list for parties to use in serving such documents. The active parties, Staff, Columbia Gulf and the New York Public Service Commission, shall be automatically included on the list. The Commission will continue to serve on all parties on the current service list any official documents it issues.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33378 Filed 11-28-78; 8:45 am]

[6740-02-M]

[Docket No. RP76-148 (PGA79-1)]

GAS GATHERING CORP.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

NOVEMBER 20, 1978.

Take notice that Gas Gathering Corporation (GGC), on November 10, 1978, tendered for filing proposed changes in its F.E.R.C. Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would increase the rate charged Transco by 51.84007 cents per Mcf over those rates presently in effect. The proposed rates are proposed to be made effective on January 1, 1979. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to permit it to recover the balance of its Unrecovered Purchased Gas Cost Account as of September 30, 1978 through a six-month surcharge.

Also included in the filing are revised tariff sheets to conform GGC's PGA provision to Order No. 13 issued in Docket No. R-406, so as to permit monthly carrying costs on GGC's Unrecovered Purchased Gas Cost Account.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33379 Filed 11-28-78; 8:45 am]

[6740-02-M]

[Docket No. RP77-58 (TT79-1)]

MID LOUISIANA GAS CO.

Rate Increase Filing

NOVEMBER 20, 1978.

Take notice that on November 3, 1978, Mid Louisiana Gas Company (Mid Louisiana) filed revised tariff sheets incorporating a 1.86 cent per Mcf increase in jurisdictional rates. The proposed rate increase reflects the net of increases and decreases in costs incurred by Mid Louisiana for transportation, storage and compression of gas by others since settlement was reached among the parties to the rate proceeding in Docket No. RP77-58.

Mid Louisiana states that Article V of the Stipulation and Agreement in Docket No. RP77-58 provides for Mid Louisiana to adjust its rates for changes in transportation, storage and compression of gas performed by others with such adjustments in rates to become effective concurrently with PGA rate changes on either February 1 or August 1.

Mid Louisiana indicates that its tariff filing is not in technical compliance with the Stipulation and Agreement in Docket No. 77-58 since the effective date proposed is November 1, 1978, but states that it was unable to include increased transportation, storage and compression costs in its August 1, 1978, PGA filing due to the unusual and lengthy delay in approval of the Docket No. RP77-58 settlement and that the delay in the approval of the settlement has caused undue hardship to the Company.

Mid Louisiana has requested the necessary waivers to permit its November 3, 1978, filing to become effective on November 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

FR Doc. 78-33380 Filed 11-28-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-61]

MOUNTAIN FUEL RESOURCES, INC.

Motion To Have Suspended Tariff Sheets Go Into Effect

NOVEMBER 20, 1978.

Take notice that on November 15, 1978, Mountain Fuel Resources Inc. (Resources) filed a Motion to Place Tariff Sheet Into Effect, together with attached Tariff Sheet. Resources had filed on May 15, 1978, a revised tariff sheet proposing changes in its FERC Gas Tariff which would provide for an increase in jurisdictional revenues based upon sales volumes for the 12-month period ended December 31, 1977, as adjusted. Resources states that this tariff sheet was suspended by Commission Order, issued June 15,

1978 in this docket, and the use thereof deferred until November 16, 1978.

In the Motion, Resources moves to make effective the change in rates and charges in this proceeding on November 16, 1978, when the suspension period ends. Resources also filed an Agreement and Undertaking to comply with the terms and conditions of Section 154.67 of the Commission's Rules and Regulations under the Natural Gas Act. Resources requests waiver of the notice requirements of 18 CFR 154.22 and such other regulations as are required to permit the requested effective date on November 16, 1978.

Resources states that copies of its filing were served by mail on its sole jurisdictional customer, all parties to this proceeding and interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Persons presently parties to this proceeding need not file additional petitions to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33381 Filed 11-28-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-100 (PGA78-8)]

NATIONAL FUEL GAS SUPPLY CORP.

Further Extension of Time

NOVEMBER 16, 1978.

On November 8, 1978 National Fuel Gas Supply Corporation filed a motion for further extension of time for filing its case-in-chief and a request for a conference in this proceeding. The dates set by Commission order of September 29, 1978 were extended by notice issued October 27, 1978. The motion states that additional time is needed because of illness of National Fuel's counsel. The motion also requests an informal conference with Staff in order to define and narrow the issues involved in the case.

Upon consideration, an extension of time is granted to and including December 11, 1978 for National Fuel to file its case-in-chief. Staff shall file its statement of position on or before January 8, 1979. An informal conference of National Fuel, Staff and any interested persons will be held at 10:00 a.m. on November 29, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33382 Filed 11-28-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-53]

PUBLIC SERVICE CO. OF INDIANA, INC.

Proposed Tariff Change

NOVEMBER 20, 1978.

Take notice that Public Service Company of Indiana (PSCI) on November 13, 1978, tendered for filing pursuant to the Service Agreement between United Rural Electric Membership Corporation and PSCI a First Supplemental Agreement.

PSCI states that said Supplemental Agreement provides for a new delivery point designated as the Dallas-138 delivery point.

PSCI proposes an effective date of October 1, 1978, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon United Rural Membership Corporation, according to PSCI.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33383 Filed 11-28-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-54]

PUBLIC SERVICE CO. OF INDIANA, INC.

Proposed Tariff Change

NOVEMBER 20, 1978.

Take notice that Public Service Company of Indiana, Inc. (PSCI) on November 13, 1978, tendered for filing pursuant to the Service Agreement between Parke County Rural Electric Membership Corporation and PSCI a Second Supplemental Agreement.

PSCI states that said Supplemental Agreement provides for a new delivery point designated as the Marshall-138 delivery point.

PSCI proposes an effective date of October 1, 1978, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon Parke County Rural Electric Membership Corporation, according to PSCI.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.89, 1.10). All such petitions should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33384 Filed 11-28-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-133, PGA79-1]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheet

NOVEMBER 20, 1978.

Take notice that on November 15, 1978, United Gas Pipe Line Company (United) tendered for filing Forty-Seventh Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. This tariff sheet and supporting information are being filed 30 days before the effective date of January 1, 1979, pursuant to the Purchased Gas Adjustment Provisions set out in Section 19 of United's tariff.

Copies of the revised tariff sheet and supporting data are being mailed to United's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33385 Filed 11-28-78; 8:45 am]

[6450-01-M]

Office of Hearings and Appeals

APPLICATIONS FOR EXCEPTION AND STAY FILED BY ATLANTIC RICHFIELD CO. AND CONTINENTAL OIL CO.

Public Hearing

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of public hearing.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) gives notice of a public hearing to be held in Washington, D.C. to receive comments with respect to an Application for Exception and an Application for Stay filed by Atlantic Richfield Company (ARCO) and an Application for Exception filed by Continental Oil Company (Conoco). In these applications, ARCO and Conoco seek relief from their obligation under the provisions of 10 CFR 211.9 to supply motor gasoline to other refiners. The purpose of this hearing is to provide all refiners and any other interested persons an opportunity to make oral presentations regarding the specific impact of the exception relief requested.

DATES: Hearing: December 15, 1978, 9:30 a.m. Request to Speak: December 12, 1978.

ADDRESSES: Request to Speak: Debra Kidwell, Office of Public Hearing Management, Box WH, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461, 202-254-5201. Hearing Location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

COMMENTS AND FURTHER INFORMATION TO:

Thomas O. Mann, Acting Deputy Director, Office of Hearings and Appeals, 2000 M Street, N.W., Room 8014, Washington, D.C. 20461, 202-254-8606.

SUPPLEMENTARY INFORMATION: The Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, generally freeze the supplier/purchaser relationships for motor gasoline that were in effect during calendar year 1972. 10 CFR Sections 211.9 and 211.105(a). During 1972 ARCO and Conoco, as well as most other petroleum refiners, made spot sales and short-term contractual sales to other refiners. The regulations therefore require these firms to continue to supply other refiners, upon request, with the same volume of motor gasoline as they supplied during the corresponding month of 1972.

In their submissions to the Office of Hearings and Appeals, both firms indicate that other refiners have not generally purchased any gasoline from them since 1974. In its submissions ARCO states that it does not have sufficient supplies of motor gasoline to satisfy demand during November and December 1978. ARCO states that the resulting disruptions to small dealers would be alleviated if it were relieved of the requirement that it satisfy its base period supply obligation to four refiners. The refiners involved are Ashland Oil Company, Continental Oil Company, Kerr-McGee Refining Corporation, and Tenneco Oil Company.

In its Application for Exception, Conoco reports a problem in satisfying the demand for motor gasoline in the Rocky Mountain States. The Conoco situation arises, however, as a result of a fire and explosion that occurred on October 3, 1978, in a refinery that Conoco operates in Denver, Colorado. As is the situation with ARCO, Conoco also states small dealers within its distribution system will be adversely affected to a significant extent unless Conoco is relieved of its motor gasoline supply obligation to certain other refiners. The refiners involved in the Conoco proceeding are American Petrofina, Inc., Getty Oil Company, Standard Oil Company (Indiana), and Tenneco Oil Company.

On November 22, 1978, the Office of Hearings and Appeals issued a Stay which grants Conoco the relief it requests pending a decision on the underlying merits of the Application for Exception.

Since a number of firms understandably have views as to the desirability of granting an exception that relieves a refiner of its base period supply obligation to other refiners, a consolidated public hearing is being convened with respect to the ARCO Application for Stay and Application for Exception, and the Conoco Application for Exception.

Any party that wishes to make an oral presentation at the hearing should contact the individual whose name appears at the beginning of this notice. The Office of Hearings and Appeals reserves the right to limit the number of persons to be heard and to establish the procedures governing the conduct of the hearing. The Director of the Office of Hearings and Appeals or his designee will preside at these hearings.

At the hearings, representatives from ARCO and Conoco will be afforded an opportunity to make an initial statement. Following those statements, interested parties, including customers affected by the exception applications, will be permitted to make statements, subject to reasonable time constraints. If any person wishes to ask a question of any person who has made an oral presentation at the hearing, he or she may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for an answer.

At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearings will be made and may be purchased from the reporter. The entire record of the hearings will be retained by DOE and will be made available for inspection at the Office of Hearings and Appeals Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., Monday through Friday.

Issued in Washington, D.C., November 22, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

[FR Doc. 78-33397 Filed 11-24-78; 2:07 pm]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1015-6]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL HEALTH ADVISORY COMMITTEE

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the En-

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vironmental Health Advisory Committee of the Science Advisory Board will be held at 9:00 a.m. on December 19, 1978 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The principal purpose of the meeting will be (1) to discuss and take formal action on the report of the Committee's Study Group on Pentachlorophenol Contaminants (Draft dated December 1978); (2) to be briefed on and discuss progress reports of the Health Effects Research Review Group and the Committee's Study Group on Pesticide Tolerances; and (3) to be briefed on and discuss other Science Advisory Board activities and topics of current or future interest to the Committee.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. December 12, 1978. Please ask for Ms. Barbara Robinson or Mrs. Ilene Stein. The telephone number is 703-557-7720.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

NOVEMBER 22, 1978.

[FR Doc. 78-33357 Filed 11-28-78 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[RM-3030]

FM BROADCAST STATIONS

Table of Assignments, FM Broadcast Stations (Catonsville and Baltimore, Md.)

Memorandum opinion and order; Denial of Reconsideration on Denial of Petition for Rulemaking (see also 43 FR 41434, September 18, 1978).

Adopted: November 21, 1978.

Released: November 22, 1978.

By the Chief, Broadcast Bureau:

1. Key Broadcasting Corporation, licensee of WKTK(FM), Catonsville, Maryland, has petitioned the Commission for reconsideration of the decision taken by the Broadcast Bureau under delegated authority denying reassignment of WKTK(FM)'s Catonsville FM Channel 289 to Baltimore. Key had requested both reassignment of Channel 289 and modification of WKTK(FM)'s license to specify Baltimore as the community of license. The Bureau denied the petition on the ground that Catonsville's disappearance as a recognizable community had not been established, so that removal of the FM channel assigned there would deprive local residents of a broadcast service responsive to the particular needs of the community. In its petition for reconsideration Key proposes to submit a study of the attitudes held by persons residing in Catonsville regarding their "perceptions as to residence and community identity," and asks that in the meantime action on its petition for reconsideration be deferred.

2. We have carefully reviewed our original analysis of this matter, and believe it was properly decided. Without reiterating that determination here, we should point out that the instant petition offers no substantial basis for any allegation of error. Nonetheless, we are prepared to consider any subsequent submission of data on Catonsville residents' attitudes toward their community. However, we do not consider extension of the reconsideration period for supplemental submissions an appropriate use of Commission administrative procedures. The petition for reconsideration is designed to offer arguments in opposition to a particular action and is not conceived as a procedural device by which petitioners may attempt to remedy initial shortcomings in their petitions after a decision on the merits.

3. Accordingly, the petition for reconsideration will be denied. However, this action is entirely without prejudice to the submission of this data as part of a subsequent petition for rule making should petitioner consider this appropriate after review of its attitude research.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-33422 Filed 11-28-78; 8:45 am]

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Cancellation

MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 43 FR 202 on October 18, 1978, that meetings of the Federal Prevailing Rate Advisory Committee would be held on November 2, November 9, and November 30, 1978. Notice is hereby given that the meeting scheduled for November 30 has been cancelled.

JEROME H. MOSS,
Chairman, Federal
Prevailing Rate Advisory Committee.

NOVEMBER 28, 1978.

[FR Doc. 78-33577 Filed 11-28-78; 10:40 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

ALASKA BANCORPORATION

Proposed Retention and Acquisition of Shares of Alaska Bancshares, Inc.

Alaska Bancorporation, Anchorage, Alaska, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain and acquire voting shares of Alaska Bancshares, Inc., Anchorage, Alaska. Notice of the application was published in the following Alasaka newspapers: on September 6, 1978, in the *The Anchorage Daily Times*, a newspaper circulated in Anchorage; on September 8, 9 and 11, 1978, in the *Fairbanks Daily News-Miner*, a newspaper circulated in Fairbanks; and on September 17, 1978, in the *Peninsula Clarion*, a newspaper circulated in Kenai.

Applicant states that the subsidiary would engage in the activities of acting as agent or broker for the sale of credit-related life and accident and health insurance in connection with loans made by Applicant's indirect banking subsidiary, Alaska State Bank, Anchorage, Alaska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 22, 1978.

Board of Governors of the Federal Reserve System, November 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33433 Filed 11-28-78; 8:45 am]

[6210-01-M]

CAPITAL MANAGEMENT, INC.

Acquisition of Bank

Capital Management, Inc., Lincoln, Nebraska, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 15.8 percent or more of the voting shares of Broken Bow Enterprises, Inc., Broken Bow, Nebraska, a bank holding company. Applicant presently owns 4.9 per cent of the voting shares of Broken Bow Enterprises. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 22, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33434 Filed 11-28-78; 8:45 am]

[6210-01-M]

JACOMO BANCSHARES, INC.

Formation of Bank Holding Company

Jacomo Bancshares, Inc., Blue Springs, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.1 per cent of the voting shares (less directors' qualifying shares) of Bank of Jacomo, Blue Springs, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 21, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 21, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33435 Filed 11-28-78; 8:45 am]

[6210-01-M]

LAMB'S BANCORPORATION, LTD.

Formation of Bank Holding Company

Lamb's Bancorporation, Ltd., Michigan, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.1 per cent of the voting shares of Lamb's Bank of Michigan City, Michigan, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 20, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 20, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33436 Filed 11-28-78; 8:45 am]

[6210-01-M]

SAVINGS BANK SHARES, INC.

Formation of Bank Holding Company

Savings Bank Shares, Inc., Concord, New Hampshire, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93.83 per cent or more of the voting shares Franklin National Bank, Franklin, New Hampshire. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 22, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33437 Filed 11-27-78; 8:45 am]

[6210-01-M]

WEST PLAINS BANCSHARES, INC.

Formation of Bank Holding Company

West Plains Bancshares, Inc., West Plains, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of West Plains Bank, West Plains, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

West Plains Bancshares, Inc., West Plains, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to act as agent in the sale of credit life and accident insurance related to extensions of credit by West Plains Bank. Notice of the application was published on October 20, 1978, in the *West Plains Daily Quill*, a newspaper circulated in West

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Plains, Missouri. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produced benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 8, 1978.

Board of Governors of the Federal Reserve System, November 20, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33438 Filed 11-28-78; 8:45 am]

[6210-01-M]

CONSUMER ADVISORY COUNCIL

Meeting

Notice is hereby given that the Consumer Advisory Council will meet on Wednesday, December 6, and Thursday, December 7. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The December 6 session will begin at 1 p.m. and run until 6 p.m. The December 7 session will begin at 8:30 a.m. and conclude at 3:30 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the December 6-7 meeting of the Council will include consideration of the following topics:

1. *Legislative Recommendations.* Suggestions by Council members for legislative recommendations to be made by the Board of Governors in Board's annual reports to Congress on 1978 operations of Federal consumer credit laws.

2. *Consumer Education.* Consideration of Consumer Education Task Force draft of proposed report from Council to Board of Governors on actions the Board should take to improve consumer awareness of credit costs, terms, and use of credit.

3. *EFT Regulation.* Review of issues raised in drafting Board regulation to carry out two provisions, effective in February, 1979, of the newly enacted Electronic Fund Transfer Act, Section 909 dealing with consumer liability for unauthorized fund transfers and Section 911 dealing with issuance of EFT cards to consumers.

4. *Cost-Effectiveness Statements.* Consideration of the proposal calling for inclusion by Board of cost-effective statements in all regulations dealing with consumer credit.

5. *Monitoring of Agency and Court Decisions.* Proposal that the Board, within limits of its authority, resolve or seek to resolve conflicting interpretations of Federal consumer credit laws by various enforcement agencies or by courts, to achieve greater uniformity of application.

Other matters previously considered by the Council or initiated by Council members.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors, November 22, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33431 Filed 11-28-78; 8:45 am]

[6210-01-M]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on November 3, 1978, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $5 billion the limit on changes between Committee meetings in System Account holdings of U.S. Government and Federal Agency securities, effective immediately for the period ending with the close of business November 21, 1978.

NOTE: For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, November 7, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-33432 Filed 11-28-78; 8:45 am]

[4110-92-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

ADMINISTRATION FOR CHILDREN, YOUTH, AND FAMILIES CHILDREN'S BUREAU

Federal Shares and Allotment Percentages, Child Welfare Services State Grants

AGENCY: Office of Human Development Services, DHEW.

ACTION: Bi-annual publication of Federal shares and allotment percentages for States under the Child Welfare Services State Grants Program.

PURPOSE: Section 423 of the Social Security Act (42 U.S.C. 623) requires that the Secretary publish the Federal share and allotment percentages for each State under the Child Welfare Services State Grants every two years. These two percentages are used in the computation of the Federal grants awarded under the Program and the required State match each year.

DATES: The table indicates the percentages to be used for fiscal years 1980 and 1981.

FOR FURTHER INFORMATION CONTACT:

Mrs. Doris Lee, Child Welfare Services State Grants Division, Children's Bureau, Administration for Children, Youth, and Families, P.O. Box 1182, Washington, D.C. 20013, 202-472-4426.

SUPPLEMENTARY INFORMATION: The Federal share and allotment percentages for each State are determined on the basis of the inverse of per capita income in the State and the number of children (under the age of 21) compared to all States. The Federal share and allotment percentage for each State are as follows:

State	Federal share	Allotment percentage
Alabama	60.08	60.08
Alaska	33⅓	30.00
Arizona	53.73	53.73
Arkansas	61.18	61.18
California	43.72	43.72
Colorado	48.99	48.99
Connecticut	42.51	42.51
Delaware	44.64	44.64
District of Columbia	36.78	36.78
Florida	52.24	52.24
Georgia	57.02	57.02
Guam	66⅔	70.00
Hawaii	44.08	44.08
Idaho	56.35	56.35
Illinois	43.39	43.39
Indiana	51.28	51.28
Iowa	50.86	50.86
Kansas	49.18	49.18
Kentucky	57.88	57.88
Louisiana	58.38	58.38
Maine	58.86	58.86
Maryland	45.63	45.63
Massachusetts	48.23	48.23
Michigan	47.17	47.17
Minnesota	50.36	50.36
Mississippi	64.69	64.69
Missouri	53.07	53.07
Montana	55.45	55.45
Nebraska	51.48	51.48
Nevada	43.45	43.45
New Hampshire	53.52	53.52
New Jersey	42.70	42.70
New Mexico	58.52	58.52
New York	45.59	45.59
North Carolina	57.60	57.60
North Dakota	53.72	53.72
Northern Marianas	66⅔	70.00
Ohio	50.05	50.05
Oklahoma	55.06	55.06
Oregon	50.37	50.37
Pennsylvania	50.08	50.08
Puerto Rico	66⅔	70.00
Rhode Island	51.59	51.59
South Carolina	59.84	59.84
South Dakota	58.35	58.35
Tennessee	58.79	58.79
Texas	51.90	51.90
Utah	57.88	57.88
Vermont	58.10	58.10
Virgin Islands	66⅔	70.00
Virginia	50.86	50.86
Washington	46.32	46.32
West Virginia	57.41	57.41
Wisconsin	51.66	51.66
Wyoming	46.98	46.98

Dated: November 20, 1978.

BLANDINA C. RAMIREZ,
Commissioner for Children, Youth, and Families.

Approved:

ANNABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-33244 Filed 11-28-78; 8:45 am]

[4110-83-M]

Health Resources Administration

NURSING RESEARCH AND EDUCATION ADVISORY COMMITTEE

Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress: Nursing Research and Education Advisory Committee.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone 202-245-6791. Copies may be obtained from Ms. Delores Basco, Bureau of Health Manpower, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone 301-436-6204.

Dated: November 21, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-33420 Filed 11-28-78; 8:45 am]

[4110-83-M]

ALLIED HEALTH TRAINEESHIP GRANTS FOR ADVANCED TRAINING TRAINING INSTITUES

Application Anouncement for Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Traineeships for Advanced Training of allied Health Personnel (Training Institutes) are now being accepted under the authority of section 797 of the Public Health Service Act.

Section 797 authorizes traineeship grants to public and nonprofit entities offering programs for the advanced training of allied health personnel to enable them to serve in teaching, administrative or supervisory positions. Training institutes must be at least 2½ days in length and offer a minimum of 18 contact hours of instruction. Traineeships cover the cost of tuition and stipends for the trainees.

In fiscal year 1979, $2.5 million has been appropirated for this authority. Approximately $2 million of this amount is committed for continuation awards leaving about $500,000 for competitive awards for training institutes.

This announcement is limited to applications for training institutes as a competitive review cycle is not anticipated in fiscal year 1979 for grants under section 797 for long-term academic training.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-7360.

To be considered for fiscal year 1979 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than *January 19, 1979.*

Should additional programmatic information be required, please contact:

Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone (303) 436-6805.

Dated: November 16, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-33363 Filed 11-28-78; 8:45 am]

[4110-83-M]

PHYSICIAN ASSISTANT TRAINING PROGRAMS

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Physician Assistant Training Programs are now being accepted under the authority of section 783(a)(1) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484). A Notice of Proposed Rulemaking for section 783(a)(1) was published in the FEDERAL REGISTER on June 16, 1978.

Section 783 authorizes the award of grants to schools of medicine or osteopathy or other public or non-profit private entities to assist in meeting the cost of planning, developing, and operating or maintaining programs for the training of physician assistants. To receive support, programs must meet the requirements of section 701(7), Public Health Service Act, which were published as Interim-Final Regulations, in the FEDERAL REGISTER on August 30, 1977 (42 FR 43630).

Funding preference will be accorded approved applications with projects in which:

Substantial training experience is provided in a Health Manpower Shortage Area(s), as defined in section 332 of the PHS Act, or in an Area Health Education Center funded, at least in part, under section 781 of the Act; and/or

A program is established in a state which does not have such a program; and/or

A program is conducted in conjunction with other program(s) training primary care physicians in a manner which shares educational resources, and encourages the utilization of physician assistants by physicians.

Approximately $500,000 is expected to be available in fiscal year 1979 for competitive awards for Grants for Physician Assistant Training Programs under section 783(a)(1) of the Public Health Service Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-21), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, phone (301) 436-6098.

To be considered for fiscal year 1979 funding, applications must be received

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by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than January 5, 1979.

Should additional programmatic information be requested, please contact: Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland 20782, phone (301) 436-7350.

Dated: November 20, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-33440 Filed 11-28-78; 8:45 am]

[4110-83-M]

RESIDENCY TRAINING IN GENERAL INTERNAL MEDICINE OR GENERAL PEDIATRICS

Application Anouncement for Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Residency Training in General Internal Medicine or General Pediatrics are now being accepted under the authority of section 784 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 784 authorizes the award of grants to meet the costs of planning, developing and operating approved residency training programs in internal medicine or pediatrics which emphasize training for the practice of general internal medicine or general pediatrics and to assist participating residents who plan to practice general internal medicine or general pediatrics.

To receive support, programs must meet the requirements of the Interim-Final regulations, published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59500). Eligible applicants are schools of medicine and osteopathy.

In the funding of approved applications, preference will be given to projects in which:

(1) Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants and/or nurse practitioners.

(2) Coordination of administrative and educational resources is to be used by a program of general internal medicine and a program of general pediatrics included in a single project or application.

(3) Substantial portions of a project are conducted in health manpower shortage area(s), especially health manpower shortage area(s) which are also in a Standard Metropolitan Statistical Area, as defined by the Office of Management and Budget or are conducted in an area Health Education Center funded, at least in part, under section 781 of the Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants management Officer (D-28), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, phone 301-436-6564.

To be considered for fiscal year 1979 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than January 5, 1979. Approximately $3 million is expected to be available in FY 1979 for competitive grants.

Should additional programmatic information be desired, please contact: Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland 20782, phone 301-436-7350.

Dated: November 20, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-33441 Filed 11-28-78; 8:45 am]

[4110-83-M]

TRAINING OF U.S. CITIZEN FOREIGN MEDICAL STUDENTS

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Training U.S. Citizen Foreign Medical Students are now being accepted under the authority of section 782 of the Public Health Service Act.

Section 782 provides for grants to public or nonprofit private accredited schools of medicine and osteopathy to plan, develop, and operate training programs for U.S. citizens who were students in foreign medical schools before October 12, 1976 (1) to enable them to meet the requirements of enrolling in schools of medicine or osteopathy in the States as fulltime students with advanced standing; or (2) to train such students who have transferred from foreign medical schools and have enrolled in schools of medicine or ostepathy in the States as fulltime students with advanced standing. Final regulations governing section 782 were published in the FEDERAL REGISTER on August 18, 1978 (42 FR 36630).

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-27), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, phone 301-436-6564.

Approximately $200,000 is expected to be available for competing grants in FY 1979. To be considered for FY 1979 funding, applications must be received by the Grants Manpower Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than *January 5, 1979*. Grant support beyond September 30, 1981, will not be considered.

Should additional programmatic information be required, please contact: International Education Programs Section, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3-22, 3700 East-West Highway, Hyattsville, Maryland 20782, phone 301-436-6595.

Dated: November 20, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-33442 Filed 11-28-78; 8:45 am]

[4110-02-M]

Office of Education

PRESIDENT'S COMMISSION ON FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

Hearing

AGENCY: President's Commission on Foreign Language and International Studies.

ACTION: Notice of hearings.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing of the President's commission on Foreign Language and International Studies. It also describes the functions of the Commission. Notice of these hearings is required under the Federal Advisory Committee Act (5 U.S. Code, Appendix I Section 10(a)(2). This document is intended to notify the general public of its opportunity to attend.

DATE: December 12, 1978.

ADDRESS: The International House, 1414 East 59th Street, Chicago, Illinois 60637.

FOR FURTHER INFORMATION CONTACT:

Nan Bell, Staff Director, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036, 202-653-5817.

The President's Commission on Foreign Language and International Studies is established under Executive Order 12054 (April 21, 1978) and Section 9(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I). The Commission is directed to:

(A) Conduct such public hearings, inquiries, and studies as may be necessary to make recommendations to the President and the Secretary of Health, Education, and Welfare.

(B) The objectives of the Commission shall be to:

(1) Recommend means for directing public attention to the importance of foreign language and international studies for the improvement of communications and understanding with other nations in an increasingly interdependent world;

(2) Assess the need in the United States for foreign language and area specialists, ways in which foreign language and international studies contribute to meeting these needs, and the job market for individuals with these skills;

(3) Recommend what foreign language area studies programs are appropriate at all academic levels and recommend desirable levels and kinds of support for each that should be provided by the public and private sectors;

(4) Review existing legislative authorities and make recommendations for changes needed to carry out most effectively the Commission's recommendations.

The hearing will take place in Chicago on December 12 from 8:45 a.m. to 4:30 p.m. and will include the following agenda:

(1) Statement on background and mandate of the Commission;

(2) Statement on work and priorities of the Commission;

(3) Presentations on topics pertinent to the Commission mandate;

(4) Concurrent panel discussions on international education in the schools and colleges, foreign language education in the U.S., international exchanges, institutional language and area studies needs, and business and international trade needs.

The hearing will close with summaries of each panel's discussions. The hearing of the Commission and panel discussions will be open to the public. Records will be kept of the proceedings and will be available for public inspection at the office of the President's Commission on Foreign Language and International Studies, 1832 M Street, N.W., Suite 837, Washington, D.C. 20036.

Signed at Washington, D.C. on November 24, 1978.

NAN P. BELL,
Staff Director.

[FR Doc. 78-33359 Filed 11-28-78; 8:45 am]

[4110-07-M]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Pub. L. 92-463, that the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on Monday, December 11, 1978, from 9 a.m. to 5 p.m. in room 800 If the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. The meeting will be a continuation of the subject of social security disability benefits.

There will be a meeting of the Advisory Council's panel of actuaries and economists on Tuesday, December 12, 1978, from 9 a.m. to 12 p.m. in Room 507A, Hubert H. Humphrey Building. The panel will continue its review of the economic and actuarial assumptions used in social security cost projections.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the social security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT:

Mr. Lawrence H. Thompson, Executive Director of the Advisory Council, P.O. Box 17054, Baltimore, Maryland 21235. Telephone inquiries should be directed to Mr. Edward F. Moore, telephone number 301-594-3171.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807 Social Security Program.)

LAWRENCE H. THOMPSON,
Executive Director, Advisory Council on Social Security.

[FR Doc. 78-33402 Filed 11-28-78; 8:45 am]

[4110-85-M]

Public Health Service

INFLUENZA IMMUNIZATON GRANT PROGRAM

Delegation of Authority

Notice is hereby given that pursuant to the May 24, 1976 delegation of authority under Section 317 of the Public Health Service Act, as amended, by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health (41 FR 22117), the Assistant Secretary for Health delegated, effective August 31, 1978, to the Director, Center for Disease Control, with authority to redelegate, the authority to award only for the 1978 fiscal year influenza immunization grants to States and, with the concurrence of the State health authority, to political subdivisions or instrumentalities of the States. It was the intention of the Assistant Secretary for Health to include in the August 31, 1978 delegation, and effective November 8, 1978, the Assistant Secretary for Health made provision to so include, the authority to make technical revisions to those grants after the expiration of fiscal year 1978.

The May 24, 1976 delegation by the Assistant Secretary for Health to the Regional Health Administrators (41 FR 22117) has been superseded only insofar as it pertains to the authority herein cited as having been delegated to the Director, Center for Disease Control.

Dated: November 8, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-33353 Filed 11-28-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W-65822]

WYOMING

Application

NOVEMBER 20, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and related facilities consisting of a meter house and dehydrator for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 93 W.,
Sec. 2, lots 16 and 17;
Sec. 10, E½NE¼ and SW¼SE¼.

The proposed pipeline and related facilities will transport natural gas from the Federal No. 1-10 well located in the NE¼ of section 10 to a point of connection with a pipeline being constructed under right-of-way application W-64692 located in the SW¼ of section 2, all within T. 18 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

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Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33439 Filed 11-28-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[AA1921-188]

STEEL WIRE STRAND FOR PRESTRESSED CONCRETE FROM JAPAN

Determination of Injury

NOVEMBER 16, 1978.

On the basis of its investigation, the United States International Trade Commission (Commission) has unanimously determined (Commissioner Stern not participating) [1] that an industry in the United States is being injured by reason of the importation of steel wire strand for prestressed concrete from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On August 22, 1978, the United States International Trade Commission received advice from the Department of the Treasury that steel wire strand for prestressed concrete from Japan, with the exception of that produced by Kawatetsu Wire Products Co., Ltd., is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on August 29, 1978, the Commission instituted investigation No. AA1921-188 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the FEDERAL REGISTER of September 5, 1978 (43 FR 39454). On October 3, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaries, personal interviews, and other sources.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On August 22, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that steel wire strand for prestressed concrete from Japan, with the exception of that produced by Kawatetsu Wire Products Co., Ltd., is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. Accordingly, on August 29, 1978, the Commission instituted investigation No. AA1921-188 under section 201(a) of this act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,[2] by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of the information obtained in the investigation, we determine that an industry in the United States is being injured by reason of the importation of steel wire strand for prestressed concrete from Japan which the Secretary of the Treasury has determined is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Steel wire strand for prestressed concrete includes all steel wire strand, other than alloy steel, which has been stress-relieved and is suitable for use in prestressing concrete. Prestressed concrete is widely used in the construction of bridge girders, beams, pilings, railroad ties, and a variety of building products such as columns, roofs, and floors. In this determination, we considered the relevant domestic industry to consist of facilities in the United States devoted to the production of steel wire strand for prestressed concrete. Six U.S. firms currently produce such strand.

LTFV SALES

The Department of the Treasury examined sales of five Japanese manufacturers for the period June 1 through November 30, 1977. One of these companies, Kawatetsu Wire Products Co., Ltd., was excluded from Treasury's determination because its weighted average margin of 0.62 percent was considered minimal in relation to the total volume of its sales and because the firm gave formal assurances that it would make no future sales at LTFV. During the period examined by Treasury, 95.6 percent of the sales compared for the other four Japanese suppliers were at LTFV. The weighted average dumping margin for all the sales compared was 9.76 percent.

INJURY BY REASON OF LTFV SALES

The information obtained in the investigation clearly shows that the domestic industry producing steel wire strand for prestressed concrete is being injured by reason of LTFV sales. The domestic industry suffered a declining rate of capacity utilization, a decrease in shipments, an increase in inventories, a drop in employment, and a precipitous decline in profitability between 1974 and 1977.

The capacity utilization rate for facilities producing prestressed concrete strand in the United States fell by nearly one-half between 1974 and 1976 (from 89 to 44 percent) and improved only marginally in 1977 to 51 percent. U.S. producers' shipments fell from 120.4 million pounds in 1974 to 74.1 million pounds in 1975, or by 39 percent. Despite some recovery in the industry, shipments in 1977 were about 91.6 million pounds or 24 percent less than in 1974. Yearend inventories of steel wire strand for prestressed concrete were 39 percent higher in 1977 than in 1974. The average number of production and related workers engaged in the production of steel wire strand for prestressed concrete in 1977 was 278, 19 percent less than in 1974.

In 1974 and 1975, the domestic producers had net profits before taxes on their prestressed concrete strand operations of $6.0 million and $4.7 million, respectively. There was a precipitous decline in the financial performance of the domestic industry in 1976 and again in 1977. Net losses of $810,000 were reported in 1976; the industry's losses increased to $2.1 million in 1977. The ratio of net operating profit or loss to net sales for the prestressed concrete strand operations of the domestic producers dropped from a profit of about 20 percent in both 1974 and 1975 to a loss of 3 percent in 1976 and to an even greater loss of 7 percent in 1977, the year in which Treasury found sales of imports at LTFV. All five U.S. firms which produced strand in 1977 suffered losses on their prestressed concrete strand operations in that year.

There is a direct causal relationship between the injury to the domestic industry and LTFV imports from Japan. U.S. imports of steel wire strand for prestressed concrete from Japan increased from 139.1 million pounds in 1976 to 176.5 million pounds in 1977, the year in which Treasury found that imports from Japan were sold at LTFV. In both 1976 and 1977, 61 percent of apparent U.S. consumption was accounted for by imports of this product from Japan. U.S. producers cited sales of 66 million lineal feet (about 34 million pounds) of prestressed concrete strand as being lost as a result of these LTFV imports from Japan. The Commission confirmed that eight customers purchased 6 million lineal feet of Japanese strand during the period of Treasury's investigation (June-November 1977) because of the lower price of the Japanese product. An additional 10 companies also cited price as the principal reason for increasing the proportion of their total strand purchases from Japan in 1977.

Pricing data obtained by the Commission also established a causal link between LTFV imports from Japan and the injury suffered by the domestic industry. The price of U.S.-made prestressed concrete strand in the most popular size and grade fell by 31 percent between January-March 1975 and July-December 1977, from $198 to $137 per thousand lineal feet. Japanese strand, which had been selling at a premium over U.S. strand in January-March 1975, fell by about 40 percent in the same time period from $208 to $123 per thousand lineal feet. Japanese strand undersold U.S. strand in every quarter from October 1975 through June 1978. During July-December 1977, a period approximately the same as that covered by Treasury's investigation (June-November 1977), the price of imported strand from Japan was 11 percent below the price of domestically produced strand. This margin of underselling was nearly the same as the 9.8-percent weighted average dumping margin of the Japanese producers.

CONCLUSION

On the basis of the information obtained in the Commission's investigation, we conclude that an industry in the United States is being injured by reason of the importation of steel wire strand for prestressed concrete from Japan which the Secretary of the Treasury has determined is being, or is likely to be, sold at LTFV. Having so concluded, it is not necessary to address the issue of whether an industry is likely to be injured.

STATEMENT OF REASONS OF COMMISSIONER BILL ALBERGER

In order for the United States International Trade Commission to find in the affirmative in an investigation under the Antidumping Act, 1921, as amended, (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established [3] and the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of the information obtained in the investigation, I determine that an industry in the United States is being injured by reason of the importation of steel wire strand for prestressed concrete from Japan, which the Secretary of the Treasury has determined is being, or is likely to be, sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Steel wire strand for prestressed concrete includes all steel wire strand, other than alloy steel, which has been stress-relieved and is suitable for use in prestressing concrete. Prestressed concrete is widely used in the construction of bridge girders, beams, pilings, railroad ties, and a variety of building products such as columns, roofs, and floors. In this determination, I consider the relevant domestic industry to consist of facilities in the United States devoted to the production of steel wire strand for prestressed concrete. Six U.S. firms currently produce such strand.

LTFV SALES

The Department of the Treasury (Treasury) examined sales of five Japanese manufacturers for the period June 1 through November 30, 1977. One of these companies, Kawatetsu Wire Products Company, Ltd., was excluded from Treasury's determination because its weighted average margin of 0.62 percent was considered minimal in relation to the total volume of its sales and because the firm gave formal assurances that it would make no future sales at LTFV. During the period examined by Treasury, 95.6 percent of the sales compared for the other four Japanese suppliers were at LTFV. The weighted average dumping margin for all of the sales compared was 9.76 percent.

INJURY BY REASON OF LTFV SALES

U.S. imports—Imports from Japan dropped by more than 50 percent from 1974 to 1976, but 1977 Japanese imports jumped more than 25 percent over 1976 levels. In spite of this increase, 1977 ran 40 percent lower than 1974, the peak consumption year.

Production and shipments—Production of steel wire strand by U.S. producers dropped by 35 percent from 1974 to 1975, hitting a low for the 1974-77 period of 77.4 million pounds. 1976 production was up slightly over the previous year and 1977 showed nearly an 18 percent increase over 1976. This level, however, is some 23 percent under peak 1974 levels.

Shipments by U.S. producers followed a pattern relatively similar to production, peaking in 1974, then dropping by 39 percent to a period low in 1975 before climbing back to a level in 1977 that was 24 percent below 1974 figures.

Capacity utilization—The rate of capacity utilization of U.S. producers dropped from 89 to 44 percent between 1974 and 1976. 1977 showed an improvement with a 15 percent increase in capacity utilization over 1976. One producer has almost totally withdrawn from the market, and this has lowered utilization rates.

Inventories—Inventories of U.S. producers more than doubled from 1974 to 1975, dropped by more than 40 percent in 1976, and increased slightly in 1977.

Employment—The average number of production and related workers in 1977 was 278, 19 percent below 1974. This level is slightly up from 1976 and an upward trend in employment has continued into 1978.

Profits—U.S. producers moved from a strong profit picture in their wire strand operations in 1974 and 1975 to a loss in those operations in 1976 and 1977. In fact, profits were so strong in 1974 and 1975 that the four year average 1974-77 shows a net profit to net sales ratio of 7.8 percent. From a profit of $6 million in 1974, U.S. producers dropped to a loss of $2.1 million in 1977. The latter figure represents a net operating *loss* to net sales ratio of 7 percent during the year encompassing the period of Treasury's LTFV investigation (June-November 1977). These losses for wire strand operators occurred at a time when all U.S. manufacturing was showing a stable profit ratio. Early 1978 figures show profits returning to the industry.

Price—During July-December 1977, approximately the period of Treasury's investigation, Japanese strand prices ran 11 percent below those of U.S. producers. Treasury found the weighted average dumping margin for Japanese producers during this period to be 9.8 percent, thereby accounting almost totally for the margin of underselling. Prices for U.S. producers at the end of 1977 remained depressed at early 1976 levels, but have shown some

[1] Commissioner Stern did not participate in the decision because she did not assume her duties as a Commissioner until the preliminary investigation of the economic factors and legal issues in the case had been completed.

[2] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further because there is a domestic industry of six U.S. firms currently producing steel wire strand.

[3] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

20550, Telephone 202-632-5990. Anyone

and the above stated documents are

The name of the reviewer or review-

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slight upward movement in 1978. Pricing practices of Japanese producers had a strong influence on prices of other imported products, as well as domestic producers.

Lost sales—The Commission was able to confirm 8 incidents of sales lost to Japanese strand producers during the period of Treasury's LTFV investigation. In addition to these cases, 10 U.S. firms indicated they had increased their purchases of Japanese strand chiefly because of price.

Summary—Many of the economic factors in this investigation have followed a similar pattern in the 1974–77 period. Production, shipments, capacity utilization and employment peaked in 1974 before dropping significantly in 1975. Similarly, all of these factors have shown an upward trend in 1976, 1977 and continuing into 1978. Those factors do not, in my judgment, point to injury. However, domestic industry's poor financial performance in 1976 and 1977, the year during which LTFV sales occurred, the specific instances of lost sales to Japanese producers and the all but direct correlation between the weighted average margin of LTFV sales and the margin of underselling persuade me that the U.S. producers are suffering injury by reason of LTFV sales from Japan.

By order of the Commission:

Issued: November 24, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-33455 Filed 11-28-89; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Establishment of 1979 Aggregate Production Quotas

Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On October 5, 1978, a notice of the proposed aggregate production quotas for Schedule I and II controlled substances for 1979 was published in the FEDERAL REGISTER (43 FR 46085). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before November 3, 1978. Diamond Laboratories, Inc., of Des Moines, Iowa, Hoffman-La Roche, Inc. of Nutley, New Jersey and Mallinckrodt, Inc. of St. Louis, Missouri each submitted comments relative to the proposed quotas.

Relative to secobarbital, Diamond Laboratories, Inc. commented that during 1978, they withdrew a secobarbital-containing product from the market because of FDA action. The company hopes to re-enter the market during 1979 and requested that this fact be considered in establishing the 1979 aggregate production quota for secobarbital.

Relative to alphaprodine and levorphanol, Hoffman-La Roche, Inc. commented that based on their estimates of 1978 sales for these two substances, the proposed 1979 aggregate production quotas will be insufficient to meet legitimate 1979 needs. Hoffman-La Roche requested that the 1979 aggregate production quotas for alphaprodine and levorphanol be established at levels higher than those proposed.

Relative to Codeine (for sale), Mallinckrodt, Inc. expressed concern that the proposed 1979 aggregate production quota, which represents a substantial reduction from the 1978 aggregate production quota, appears to be unwarranted in light of their estimate that dispositions of codeine in 1979 will be equal to or greater than the 1978 level. In addition, Mallinckrodt is concerned that this proposed aggregate production quota will not provide for an adequate 1979 year-end inventory.

No specific requests for hearings were received. Pursuant to § 1303.11(c) of Title 21 Code of Federal Regulations, the Administrator of the Drug Enforcement Administration has deemed, in his sole discretion, that hearings relative to any of the above mentioned comments are not necessary.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that final aggregate production quotas for the Schedule I and II controlled substances listed below, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	*Established 1979 quota*
SCHEDULE I	
2,5-dimethoxyamphetamine	36,960,000
SCHEDULE II	
Alphaprodine	59,000
Amobarbital	7,498,000
Amphetamine	3,245,000
Anileridine	251,500
Cocaine	1,482,000
Codeine (for sale)	50,473,000
Codeine (for conversion)	2,962,000
Desoxyephedrine (2,213,000 g for the production of levodesoxyephedrine for use in a noncontrolled, nonprescription product, and 359,000 g for the production of methamphetamine)	2,572,000
Dihydrocodeine	1,023,000
Diphenoxylate	1,330,000
Ecgonine (for conversion)	1,000,000
Ethylmorphine	26,000
Fentanyl	2,000
Hydrocodone	1,163,000
Hydromorphone	122,000
Levorphanol	8,000
Meperidine	11,383,000
Methadone	1,456,000
Methadone intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane).	1,970,000
Methaqualone	16,023,000
Methylphenidate	1,632,000
Mixed alkaloids of opium	20,000
Morphine (for sale)	815,000
Morphine (for conversion)	59,571,000
Opium (tinctures, extracts, etc. expressed in terms of powdered opium)	2,334,000
Oxycodone (for sale)	1,838,000
Oxycodone (for conversion)	8,000
Oxymorphone	4,000
Pentobarbital	13,984,000
Phenmetrazine	3,084,000
Secobarbital	4,596,000
Thebaine (for sale)	2,660,000
Thebaine (for conversion)	1,617,000

DEA will review the above established quotas early in 1979 to take into consideration actual 1978 sales and actual December 31, 1978 inventories as well as other information which might be available to DEA. At that time, DEA will consider those comments received in response to the proposal of October 5, 1978.

This order is effective November 28, 1978.

Dated: November 21, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-33371 Filed 11-28-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR POLICY RESEARCH AND ANALYSIS AND SCIENCE RESOURCES STUDIES

Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis and Science Resources Studies.
Date and time: December 15—9 a.m. to 4:30 p.m.; December 16—9 a.m. to 1 p.m.
Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Mrs. Sharon Lemon, Division of Policy Research and Analysis, Directorate for Scientific, Technological and International Affairs, Room 1233, National Science Foundation, Washington, D.C. 20550. Telephone 202-632-5990. Anyone who plans to attend should contact Mrs. Lemon by December 11, 1978.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of Committee: To provide advice, recommendations, and oversight concerning program emphasis and directions of the Divisions of PRA and SRS.
Agenda: December 15, 1978: 9 a.m.—Plenary Session; 10:15 a.m.—Subcommittee Meetings; 2 p.m.—Subcommittee Meetings; 4:30 p.m.—Adjourn. December 16, 1978: 9 a.m.—Subcommittees' Reports; 10 a.m.—Recommendations on Constant Level Budget; 1 p.m.—Adjourn.

M. REBECCA WINKLER,
Committee Management Coordinator.

NOVEMBER 24, 1978.

[FR Doc. 78-33399 Filed 11-28-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-592-A And STN 50-593-A]

ARIZONA PUBLIC SERVICE CO., ET AL.; PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

NOVEMBER 29, 1978.

Arizona Public Service Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on July 28, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns additional ownership participants, Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water and Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California, for the Palo Verde Nuclear Generating Station, Units 4 and 5 located in Maricopa County, Arizona.

This additional Antitrust information was filed in connection with the Arizona Public Service Company's applications for construction permits and operating licenses for the Palo Verde Nuclear Generating Station, Units 4 and 5.

The original "Notice of Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses: Time for Submission of Views on Antitrusts Matters" was published in the FEDERAL REGISTER on May 8, 1978 (43 FR 19729).

A copy of the Arizona Public Service Company letter, dated July 28, 1978 and the above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attn: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have their views on the antitrust matters with respect to the Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water and Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California presented to the Attorney General should submit such views for consideration to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before January 22, 1979.

Dated at Bethesda, Md., this 13th day of November 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-32556 Filed 11-28-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 21, 1978. (44 U.S.C. 3509). The purposes of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information,

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census
Paint, Varnish, and Lacquer (Production and Sales)
M-28F
Monthly
Paint producers
3,600 responses; 1,200 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Statement Regarding Date of Birth
SSA-702
On occasion
Personnel having knowledge of facts surrounding date of birth of individuals claiming RSI benefits
50,000 responses; 8,334 hours
Reese B. F., 395-3211

Center for Disease Control
Childhood Lead Poisoning Prevention Program and Laboratory Lead Activity Quarterly Reports
CDC 7.21.1, 7.21.2
Quarterly
Lead poisoning program and laboratories
868 responses; 11,760 hours
Richard Eisinger, 395-3214

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary)
Damage Report
HUD-414
On occasion
FHA approved mortgagees
5,000 responses; 1,250 hours
Strasser, Arnold, 395-6132

BRENDA A. MAYBERRY,
Acting Budget and Management Officer.

[FR Doc. 78-33459 Filed 11-28-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the

NOV 29 1978

the Denver and Rio Grande Western

public received by the Office of Management and Budget on 11/20/78 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable; the frequency with with the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF THE TREASURY

Assistant Secretary (Enforcement and Operations)
Registration Form
Single-time
Consumer cooperatives & low-income community groups
2,000 responses; 1,000 hours
Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Evaluation of Interim National School Lunch Program (NSLP) Regulations and Demonstration Projects
FNS 1045-47 & 1094 to 2000
Single-time
Food service managers, students, parents, faculty
82,957 responses; 13,686 hours
Ellett, C. A., 395-6132

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service
Annual Report of Research Facility—Laboratory
Animal Welfare
VS 18-23
Annually
Users of animals for biomedical research
2,000 responses; 2,000 hours
Ellett, C. A., 395-6132

Food Safety and Quality Service
Request for Inspection of Unofficially Drawn Samples of Processed Food Products
FV-159
On occasion
Food processors, brokers and retailers
200 responses; 20 hours
Caywood, D. P., 395-3443

BRENDA A. MAYBERRY,
Acting Budget and Management Officer.

[FR Doc. 78-33460 Filed 11-28-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Proposal No. 05/05-0137]

NATIONAL CITY CAPITAL CORP.

Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1978)) by National City Capital Corporation, 623 Euclid Avenue, Cleveland, Ohio 44114, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors, and sole shareholder are:

Name, Address, Title and Relationship

Julian L. McCall, Director and Chairman of the Board, 623 Euclid Avenue, Cleveland, Ohio 44114.
Michael Sherwin, Director, President and General Manager, 623 Euclid Avenue, Cleveland, Ohio 44114.
Charles Robins, Director and Executive Vice President, 623 Euclid Avenue, Cleveland, Ohio 44114.
Edward B. Brandon, Director, 623 Euclid Avenue, Cleveland, Ohio 44114.
Gene F. Carpenter, Director, 623 Euclid Avenue, Cleveland, Ohio 44114.
William R. Robertson, Director, 623 Euclid Avenue, Cleveland, Ohio 44114.
David W. Hart, Secretary, 623 Euclid Avenue, Cleveland, Ohio 44114.
Thomas W. Owen, Treasurer, 623 Euclid Avenue, Cleveland, Ohio 44114.
William D. Ahonen, Assistant Secretary, 623 Euclid Avenue, Cleveland, Ohio 44114.
Richard M Arceci, Assistant Treasurer, 623 Euclid Avenue, Cleveland, Ohio 44114.
National City Corporation, Sole Shareholder, 623 Euclid Avenue, Cleveland, Ohio 44114, 100 percent of ownership.

National City Corporation is a bank holding company that has consolidated assets of approximately $3.6 billion. National City Corporation has banking subsidiaries in eight Ohio counties in northeastern Ohio and a large banking subsidiary in southwestern Ohio. Applicant expects that its affiliation with National City Corporation and its banking subsidiaries will generate many of the investment opportunities and also provide basic financial soundness.

The applicant will begin operations with a capitalization of $2.5 million and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 14, 1978, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Cleveland, Ohio 44114.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33427 Filed 11-28-78; 8:45 am]

[8025-01-M]

[Proposal No. 05/05-0136]

SUPER MARKET INVESTORS, INC.

Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1978)) by Super Market Investors, Inc., 11300 Burleigh Street, Wauwatosa, Wisconsin 53222 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

The proposed officers, directors, and sole shareholder are:

Name, Address, Title and Relationship

John W. Andorfer, President, Treasurer, General Manager and Director, 3159 North Knoll Terrace, Wauwatosa, Wisconsin 53222.
David H. Maass, Vice President, Secretary and Director, N70 W26423 Thousand Oaks Dr., Sussex, Wisconsin 53089.
Vincent R. Little, Director, 18675 Surrey Lane, Brookfield, Wisconsin 53005.
Robert S. Schwartz, Director, 3735 San Fernado Drive, Brookfield, Wisconsin 53005.
Gerald F. Lestina, Director, 36824 Laak Lane, Dousman, Wisconsin 53118.
Roundy's, Inc., 11300 Burleigh Street, Wauwatosa, Wisconsin 53222, 100 percent of ownership.

Roundy's Inc., is a Wisconsin corporation which operates a wholesale food distributor serving stores in Wisconsin and Illinois.

The Applicant proposes to begin operations with a capitalization of $300,000 and will be a source long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 14, 1978, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Milwaukee, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33428 Filed 11-28-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[No. 37046]

DENVER & RIO GRANDE WESTERN RAILROAD CO.

Petition for Permission to Cancel Obsolete Rates on Canned Goods

Decided November 14, 1978.

By petition filed September 27, 1978, the Denver and Rio Grande Western Railroad Company seeks permission to cancel certain obsolete rates on canned goods between Farmington, N. Mex., and Alamosa and Antonito, Colo.

The rates in issue, among others, were initially established by petitioner pursuant to conditions, prescribed by Division 3 in docket Nos. 24745 and 34843, *Denver & R.G.W.R. Co. Abandonment*, 334 I.C.C. 539 (1969), precedent to authorizing the abandonment of a portion of petitioner's lines. Petitioner specifically proposes to cancel all of the point-to-point rates on canned goods from origins and to destination specified under Section 3, Items 725 and 730, in Supplement 18 to its Freight Tariff 6372-N, ICC 1260. Section 3 of Supplement 18 is reproduced in the attached appendix.

In support, petitioner avers that it has not handled any traffic under the issue rates from 1973 to present, that the cancellation would constitute a convenience (tariff economy) to petitioner, and would not prejudice any prospective shippers of any such commodities in the future.

It appears that petitioner has made a prima facie case for granting the petition, provided there is no opposition to the sought cancellation. The Commission is therfore prepared to grant the petition unless good cause is shown why the issue rates should not be cancelled.

It is ordered:

Any interested persons who oppose the petitioner's request for permission to cancel the rates in issue are ordered to show cause why such permission to cancel should not be granted by filing, on or before December 29, 1978, statements in opposition, in docket No. 37046, addressed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

This decision shall be served on all parties to docket Nos. 24745 and 34843, and in order to give notice thereof to the general public, it shall be published in the FEDERAL REGISTER.

By the Commission, Division 2, Commissioners Stafford, Gresham, and Christian.

H.G. HOMME, Jr.,
Secretary.

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[7035-01-C]

APPENDIX

SUPPLEMENT 18 TO TARIFF 6372-N

SECTION 3

RATES IN CENTS PER 100 POUNDS

ITEM	COMMODITY, CL	FROM	TO	RATES	VIA ROUTES (SEE ITEM 1005)
725-A	CANNED GOODS or other articles as described in Item 120 of WTL Tariff 208-J, ICC A-4351, min wt 60,000 pounds. (See Item 115).	MP Crowley - - - CO	RGMW Arboles - - - CO	▼244	134
			Chama - - - NM Dulce - - - NM	240	
			Durango - - - CO Ignacio - - - CO Juanita - - - CO	▼244	
			Monero - - - NM	240	
730-A	CANNED GOODS or other articles as described in Item 120 of WTL Tariff 208-J, ICC A-4351, min wt 40,000 pounds, except as noted. (See Item 115).	BN Longmont - - CO CS Ft Collins - - CO Greeley - - - CO Longmont - - CO Loveland - - CO GWR Johnstown - - CO Longmont - - CO Loveland - - CO UP Ft Collins - - CO Greeley - - - CO Lupton - - - CO	RGMW Arboles - - - CO	▼253	30, 40, 118, 122, 126, 130, 163
			Chama - - - NM Dulce - - - NM	249	
			Durango - - - CO	▼253	
			Farmington - - NM	265, ⓜ255	
			Ignacio - - - CO Juanita - - - CO	▼253	
			Monero - - - NM	249	
		UP Brighton - - - CO	RGMW Arboles - - - CO	▼246	168
			Chama - - - NM Dulce - - - NM	243	
			Durango - - - CO	▼246	
			Farmington - - NM	265, ⓜ255	
			Ignacio - - - CO Juanita - - - CO	▼246	
			Monero - - - NM	243	

[FR Doc. 78-33291 Filed 11-28-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

AGRICULTURAL COOPERATIVE

Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

NOVEMBER 24, 1978.

The following Notices were filed in accordance with section 208(b)(5) of the Interstate Commerce Act provided for under 49 CFR 1047.23. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOp 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Interstate Motor Freight, Inc. (Complete Legal Name of Cooperative Association or Federation of Cooperative Associations); 800 S. McGarry Street, Los Angeles, California (Principal Mailing Address—Street No., City, State, and Zip Code); 800 S. McGarry Street, Los Angeles, California (Where Are Records of Your Motor Transportation Maintained—(Street No., City, State and Zip Code); Bernard Shapiro, 800 S. McGarry Street, Los Angeles, California (Person to Whom Inquiries and Correspondence Should Be Addressed—Name and Mailing Address).

(2) Knouse Foods Cooperative, Inc. (Complete Legal Name of Cooperative Association or Federation of Cooperative Associations); Peach Glen, Pennsylvania 17306 (Principal Mailing Address—Street No., City, State, and Zip Code); Peach Glen, Pennsylvania 17306 (Where Are Records of Your Motor Transportation Maintained—Street No., City, State, and Zip Code); William H. Horner, Peach Glen, Pennsylvania 17306 (Person to Whom Inquiries and Correspondence Should Be Addressed—Name and Mailing Address).

(3) Midwest Growers Cooperative Corporation (Complete Legal Name of Cooperative Association or Federation of Cooperative Associations): 7236 East Slauson Avenue, Los Angeles, California 90022 (Principal Mailing Address—Street No., City, State, and Zip Code); 7236 East Slauson Avenue, Los Angeles, California 90022 (Where Are Records of Your Motor Transportation Maintained—Street No., City, State, and Zip Code); William Buel, Dispatcher, 7236 East Slauson Avenue, Los Angeles, California 90022 (Person to Whom Inquiries and Correspondence Should Be Addressed—Name and Mailing Address).

(4) Missouri Farmers Association, Inc. (Complete Legal Name of Cooperative Association or Federation of Cooperative Associations); 201 South Seventh Street, Columbia, Missouri 65201 (Principal Mailing Address—Street No., City, State, and Zip Code); 201 South Seventh Street, Columbia, Missouri 65201 (Where Are Records of Your Motor Transportation Maintained—Street No., City, State, and Zip Code); Dale E. Bolander, 201 South Seventh Street, Columbia, Missouri 65201 (Person to Whom Inquiries and Correspondence Should Be Addressed—Name and Mailing Address).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33447 Filed 11-28-78; 8:45 am]

[7035-01-M]

[Notice 745]

ASSIGNMENT OF HEARINGS

NOVEMBER 24, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 123407 (Sub-454F), Sawyer Transport, Inc., now being assigned for hearing on February 6, 1979 (1 day), at Phoenix, Arizona in a hearing room to be later designated.

MC 136602 (Sub-7F), Arizona Western Transport, Inc., now being assigned for hearing on February 7, 1979 (3 days), at Phoenix Arizona in a hearing room to be later designated.

MC 111401 (Sub-528F), Groendyke Transport, Inc., now being assigned for hearing on February 12, 1979 (1 week), at Phoenix, Arizona in a hearing room to be later designated.

MC-F-13489, Ryder Truck Lines, Inc.—Purchase (Portion)—England Transportation Co., of Texas, and MC 2900 (Sub-325F), Ryder Truck Lines, Inc.—Purchase (Portion)—England Transportation, Co., of Texas, now being assigned for continued hearing on January 9, 1979 (4 days), at San Antonio, Texas at Menger Hotel & Motor Inn, 204 Alamo Plaza.

MC 26396 (Sub-186F), Popelka Trucking Co., Inc., now being assigned for hearing on January 9, 1979 (1 day), at Columbus, Ohio in a hearing room to be later designated.

MC 217 (Sub-19), Point Transfer, Inc., No. MC 45194, (Sub-17), Lattavo Brothers, Inc., now being assigned for hearing on January 10, 1979 (1 day), at Colombus, Ohio in a hearing room to be later designated.

MC 144969 (Sub-77F), Propane Transport, Inc., now being assigned for hearing on January 11, 1979 (2 days), at Columbus, Ohio in a hearing room to be later designated.

MC 141898 (MI), Roberts Cartage of Ohio, Inc., now being assigned for hearing on January 15, 1979 (1 week), at Cleveland, Ohio in a hearing room to be later designated.

MC 144285F, Bay Haven Marina, Inc., now being assigned for hearing on January 10, 1979 (3 days), at Lansing, Michigan in a hearing room to be later designated.

MC 123681 (Sub-34F), Widing Transportation, Inc., now assigned for hearing on January 22, 1979, at Portland, Oregon and will be held in Room 3086, Federal Building.

MC 114457 (Sub-425F), Dart Transit Company, now being assigned for Prehearing Conference on December 18, 1978, at the Interstate Commerce Commission Washington, D.C.

MC 48958 (Sub-153F), Illinois-California Express, Inc., No. MC 118159 (Sub-273F), National Refrigerated, Transport, Inc., now being assigned for hearing on December 13, 1978 (1 day), at Tax Court Room 330, U.S. Post Office and Courthouse Building, Bryan and Ervay Streets, Dallas, Texas.

MC 109397 (Sub-407F), Tri-State Motor Transit Co., now assigned for hearing December 11, 1978 at Phoenix, Arizona and will be held in Adams Hotel, Central and Adams.

MC 124947 (Sub-79), Machinery Transports, Inc., now assigned December 11, 1978 at Phoenix, Arizona and will be held at Adams Hotel, Central and Adams.

MC 143496 (Sub-1), United Coach Companies of Tidewater Inc., now assigned November 27, 1978 at Norfolk, Virginia is postponed indefinitely.

MC 140024 (Sub-112F), J. B. Montgomery, Inc., now assigned December 11, 1978 at Philadelphia, Pennsylvania is postponed indefinitely.

MC 117119 (Sub-619), Willis Shaw Frozen Express, Inc., now assigned December 11, 1978 at Denver, Colorado is postponed indefinitely.

MC-10163, *Clark Transfer, Inc., v. Consolidated Productions Inc.*, now assigned November 29, 1978 at Washington, D.C. is postponed to December 12, 1978 at Washington, D.C. at the offices of the Interstate Commerce Commission for pre-hearing conference.

MC 144622 (Sub-2F), Glenn Bros. Meat Co. Inc., now assigned November 29, 1978 at New York, New York is postponed indefinitely.

MC 2228 (Sub-69F), Merchants Fast Motor Lines, Inc., now assigned January 8, 1979 (3 weeks) at Phoenix, Arizona and will be held at Sheraton Airport Inn 2901 East Sky Harbor Boulevard.

MC 90870 (Sub-5F), Glen R. Reichmann, d.b.a. Reichmann Truck Service, now assigned January 22, 1979 (3 days) at Chicago, Illinois in a hearing room to be later designated.

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MC 106401 (Sub-44F), Johnson Motor Lines, Inc., now assigned December 6, 1978 at Jackson, Mississippi (3 days) in Grand Jury Room, U.S. Post Office and Courthouse Bldg., corner of Capitol and S.W. Sts.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33448 Filed 11-28-78; 8:45 am]

[7035-01-M]

[Docket No. AB-7 (Sub-38)]

STANLEY E. G. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO., DEBTOR

Abandonment Near Garden City-Bristol, in Clark and Day Counties, S. Dak.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided October 23, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, of a line of railroad known as the Bristol to Garden City Branch extending 28.8 miles from milepost 73.9 near Garden City northerly to milepost 102.7 near Bristol. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than December 14, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective January 15, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-33445 Filed 11-28-78; 8:45 am]

[7035-01-M]

[Docket No. AB-43 (Sub-30)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Waggoner and Glen Carbon in Montgomery, Macoupin, and Madison Counties, Il.; [1] Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on January 31, 1978, and the decision of the Commission, Division 2, served August 8, 1978, as modified, adopted the decision of the Administrative Law Judge entered on January 31, 1978, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978) and further that the applicant may discontinue its service over the line upon the effective date of the certificate of public convenience and necessity, but shall not physically abandon the line or any portion thereof until, upon proper application, this Commission approves discontinuance of the operation of the Illinois Terminal Railroad Company over the trackage, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of its line of railroad beginning at milepost 222.5 near Waggoner, IL, and extending to milepost 276.42 at Glen Carbon, IL, a distance of 53.92 miles in Montgomery, Macoupin and Madison Counties, IL.

A certificate of abandonment will not be issued to the Illinois Central Gulf Railroad Comapny based on the above-described finding of abandonment until final determination of the proceeding by the United States Court of Appeals. During the interim, however, the procedures specified in Section 1a (6) and (7) of the Act will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment 30 days after publication of this notice (December 29, 1978) unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquistion cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However, as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-33446 Filed 11-28-78; 8:45 am]

[7035-01-M]

[Notice No. 225]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 24, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

W-976 (Sub-4TA). By decision entered November 22, 1978, the Motor Carrier Board granted Lykes Bros. Steamship Co., Inc., New Orleans, LA, 90 day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of nuclear reactor components, from the port of New Orleans, LA, to the port of Longview, WA, via the Panama Canal, by self-propelled cargoliner vessel. A. F. Babin, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, LA 70130, for applicant. Any interested person may file a petition for reconsideration on or before December 19, 1978. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

MC 56664 (Sub-4TA), filed July 14, 1978, published in the FEDERAL REGISTER of October 16, 1978 and republished this issue. Applicant: C. W. KEITH TRANSFER & WAREHOUSE CO., 2100 S. 15th Avenue, Phoenix, AZ 85007. Representative: Charles R. Hallam, 3550 N. Central Avenue, Suite 1700, Phoenix, AZ 85012. By order entered————, the Motor Carrier Board granted applicant, 180 days temporary authority commencing to operate as a contract carrier, by motor vehicle over irregular routes transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods, commodities in bulk and those requiring special equipment, between Phoenix, AZ and Bagdad, AZ, for the the account of Cyprus Mines Corporation. Applicant was authorized to interline with other carriers at Phoenix, AR. Supporting shipper: Cyprus Bagdad Copper Company, P.O. Box 245, Bagdad, AZ 86321.

Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply. The purpose of this republication is to show that the authority granted broadens the commodity description to conform to the needs of the shipper and reduces the application from common carrier authority to contract carrier authority.

MC 145173TA (Republication), filed August 11, 1978, published in the FEDERAL REGISTER issue of October 13, 1978, and republished this issue. Applicant: BELDON LAMBIRTH, JR., d/b/a, L & S TRANSPORTATION, P.O Box 31534, Billings, MT 59104. Representative: Jeff Essman, 500 Midland Bank Bldg., 303 North Broadway, Billings MT 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite* (except in bulk), from Crook, Weston, Natrona, Washakie, and Big Horn Counties, WY, to points in Sacramento, Yolo, Kern, Colusa, Ventura, Los Angeles, Humboldt, Mendocino, Lake, Sonoma, Contra Costa, Monterey, Tehama, Fresno, San Luis Obispo, Santa Barbara, Sutter, San Joaquin, Merced, Glenn and Kings Counties, CA. Supporting shipper(s): Bill New, Pres., Northern Mud Sales & Service Co., Inc., 3400 Patton Way, P.O. Box 665, Bakersfield, CA 93308. Pete Smith, Chief Mud Inc., 6205 Dennen St., Bakersfield, CA 93307. John R. Farrow, Gen. Mgr., Calada Materials, 3501 Dock St., Terminal Island, Long Beach, CA 90731. Send protests to: D/S Paul J. Labane, ECC, 2602 First Ave., North Billings, MT 59101. The purpose of this republication is to indicate San Lous Obispo, Santa Barbara, Sutter, San Joaquin, and Merced Counties, CA, as destination counties in the authority sought, omitted in the FEDERAL REGISTER publication of October 13, 1978. Protests should be directed at those counties only.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33444 Filed 11-28-78; 8:45 am]

[1] This proceeding is pending review in the United States Court of Appeals for the Seventh Circuit, entitled *People of the State of Illinois, Illinois Commerce Commission et. al. v. Interstate Commerce Commission and United States of America*, No. 78-2393.

[7035-01-M]

[Finance Docket No. 28799F[1]]

SOUTHERN PACIFIC TRANSPORTATION CO.

Purchase (Portion)—Chicago, Rock Island & Pacific Railroad Co.

Decided: November 6, 1978.

Petition for waiver of ICC Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights, and Lease Procedures, 49 CFR 1111, granted.

Charles W. Brukett, Carol A. Harris and *Herbert A. Waterman*, for Southern Pacific Transportation Company.

Martin L. Cassell for Chicago, Rock Island and Pacific Railroad Company.

Nicholas G. Manos for William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company.

Southern Pacific Transportation Company (SP), and Chicago, Rock Island and Pacific Railroad Company (RI) filed a supplemental petition on September 29, 1978, pursuant to section 49 CFR 1100.99 of the ICC Revised Rules of Practice (Rules of Practice), seeking waiver of the requirements of Section 1111.2(b)(1)(ii) and clarification of section 1111.2(a)(8) of the ICC Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures (*Consolidation Procedures*).

In a prior petition SP and RI sought broad waiver of other requirements of the *Consolidation Procedures*. Petitioners were denied this waiver in Finance Docket No. 28799, *Southern Pacific Transportation Company-Purchase (Portion)-Chicago, Rock Island And Pacific Railroad Company*, decided August 16, 1978.

INFORMATION REQUIRED FOR THE EXHIBIT A-13, TABLE B

Section 1111.2(b)(1)(ii) of the *Consolidation Procedures* requires that applicants submit certain revenue carload interchange data in Exhibit A-13. As a separate table of Exhibit B applicants must show for each connecting line haul carrier at each major interchange point (5000 or more revenue carloads during the latest calendar year) the annual carloads handled between each origin destination state pair. Petitioners estimate that this material would comprise 750 pages and would be included in its entirety in every copy of the application.

For every interchange there are 48 possible origin-destination state combinations. Many of these pairs involve less than 100 revenue carloads per year, and would account for only a

[1] A copy of this decision will be filed in Ex. Parte No. 282 Sub-No. 1, *Railroad Consolidation Procedures*.

very small percent of the traffic flow in a transaction of this size according to the petitioners. Granting the requested waiver for state pairs of less than 100 carloads annually would reduce the size of the required table from 750 to less than 200 pages and would reduce petitioners' time and cost of distributing the contemplated application.

In *Burlington Northern, Inc.-Control & Merger-St. L.*, 354 I.C.C. 182, 187–8 (1977) we granted a similar request, and do so in this proceeding. Petitioners have presented sound reasons for waiving the requirements of Table B of Exhibit 13 for movements of less than 100 cars per year. The scope of the proposed transaction is sizable and it is our opinion that the requirements of section 1111.2(b)(ii) for state pairs of less than 100 carloads annually would not yield information that would aid the Commission or other parties in evaluating the proposed transaction.

The full requirements of section 1111.2(b)(ii) may still have relevance to smaller consolidation proposals, and therefore we will not amend the *Consolidation Procedures*.

THE MAP—SECTION 1111.2(a)(8)

Petitioners request clarification of the requirements of 49 CFR 1111.2(a)(8):

"a general or key map indicating clearly, in separate colors, or otherwise, on a suitable scale, preferably not smaller than 20 miles to the inch, the lines or lines of applicant, parts of the line or lines of each applicant in their true relation to each other, short line connections, other rail lines in the territory, and the principal geographic points of the region traversed. Whenever possible, this map should not be over 30 inches in its largest dimensions."

They believe that a map on this scale would not aid the Commission or parties in evaluating the transaction. They argue that though detail may be necessary in situations where the consolidations are small or overlapping, it would be of little use in a large scale end-to-end consolidation such as petitioners' proposed transaction.

Petitioners propose to submit a map drawn to a scale of 100 miles to the inch. The existing systems of SP, St. Louis Southern Western Railway Co. and RI would be designated in different colors. Routes of the principal competing carriers would be shown. The transaction here involves an extension of line in excess of 900 miles, and we see no reason for the detail that is required in section 1111.2(a)(8). Since this section does not make 20 miles to an inch a requirement, but rather a preferable minimum no formal waiver is required. Smaller transactions will, however require more detailed maps to allow accurate evaluation.

To notify the public this decision will be published in the FEDERAL REGISTER.

We find that this decision does not significantly affect the quality of the human environment.

It is ordered:

(1) Petitioners supplemental request for waiver 49 CFR 1111.2(b)(1)(ii) is granted; (2) Public notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, Federal Register, for publication; (3) This decision shall be effective on the date it is served.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-33453 Filed 11-28-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-181; Nov. 22, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Dockets 33112, 33283, Texas International-National Acquisition Case, and Pan American-National Acquisition Case. National Airlines motion to cancel or postpone airline industry merger policy seminars (Memo 8300, OGC).
3. Dockets 33107 and 33031, Petition of Aloha and Hawaiian Airlines for emergency exemption from Part 250 of the Board's new rules governing denied boarding compensation (DBC) and requiring the airlines to solicit volunteers for denied boarding. (Memo 8302, OGC).
4. Application of the Deregulation Act to Commuter/Certificated Joint Fares (OGC).
5. Docket 28178—World-Jet, Inc., d/b/a Silvas Air Lines, Certificate application for foreign charter authority (Memo 8304, OGC, BIA).
6. Docket 24847, Transavia Holland, B.V., Foreign Air Carrier Permit Renewal (Memo 8299, OGC).
7. Docket 31654, Aerolineas Dominicanas, S.A. Foreign Air Carrier Permit—(OGC).
8. Dockets 33112 and 33283, Petitions for Reconsideration of Order 78-8-150 (Memo 8114-I).
9. Docket 33400, Third-party complaint of Texas International Airlines against Pan American World Airways, Inc. and National Airlines, Inc., (Memo 8114-H, BCP).
10. Docket 32097, *Pittsburgh-Orlando-Daytona Beach Route Proceeding* (OGC).
11. Docket 31571, Northwest Alaska Service Investigation—Procedural Order (OGC).
12. Dockets 33477, 33647, 33840, 28337, 33850, 33839, 33847, 33848, 33856, 33855, 33854, 33837; *Texas/Great Lakes-Eastern Canada Service Case* Petitions for reconsideration, motions for consolidation and for intervention (Memo 8178-A OGC).
13. Dockets 25997, 28730, 28984, 28587, 28588, 29332, 29342, 31539, 31540, 31542, 32077, 32114, 32127, 32130, 33165, 33651, 33964; Applications for certificates; expanded issues in *Transatlantic Cargo Service Case*, Docket 30789; Dockets 32077, 32114, 32127, 32130, 32172, and 32857; Application for *pendente lite* exemption authority (BIA).
14. Docket 33616, Application of Laker Airways Limited to amend its foreign air carrier permit to allow its New York and Los Angeles route segment to London to be consolidated into a single route (Memo 8293, BIA, OGC).
15. Dockets 32686, 33210, 33464, 33587, 33640, 33637 and 33709, Applications of TIA, Braniff, World and Aeroamerica for exemption to serve various U.S.-Benelux, U.S.-Paris, U.S.-Germany, and U.S.-London markets; Docket 32523, Petition of World Airways for Reconsideration of Order 78-9-2 to add Los Angeles as a coterminal point to the exemption giving World authority to serve the terminal point Amsterdam, the Netherlands and various U.S. coterminal points (Memo 8303, BIA, BPDA, OGC, OEA, BCP).
16. Dockets 31929, 32732, 32914; Applications of Texas International Airlines, Inc., Braniff Airways, Inc., and United Air Lines, Inc. to serve various U.S.-Mexico routes (BIA, OGC, BALJ).
17. Dockets 32273, 32274, 32275; Trans World Airlines, Inc. (TWA) application for Certificate of Public Convenience and Necessity. Petitioner filed applications for TWA without apparent corporate authority (Memo 8044-A, BIA, OGC).
18. Request from the Department of State (DOS) for advice in the matter of consumer representation in international aviation negotiations (BIA).
19. Order 78-8-10, August 3, 1978, IATA Conditions of Carriage for Cargo. Motion for stay Memo 5710-C, BPDA, OGC, BIA).
20. Docket 32774, Norfolk's Petition for an Investigation of United's Service Cuts in the Norfolk-Washington Market (Memo 8290, BPDA, OCCR).
21. Docket 24353, Motion of Eastern for waiver of the first-class fares prescription of Orders 74-10-78 and 76-8-100 (Memo 4356-D, BPDA).
22. Docket 30777, IATA agreements proposing new U.S.-South Central America fare structure (Memo 8195-A, BPDA, BIA).
23. Docket 33276, Petition of TWA for reconsideration of the Board's suspension of transatlantic winter normal economy fare increases. The carrier argues the Board improperly used its suspension powers to get policy concessions on unbundling normal economy fares; investigation of the fares is futile and impossible without broader involvement; and unbundled fares are impractical, unacceptable to foreign governments, and financially ruinous (Memo 8137-A, BPDA, BIA).
24. Air Canada proposed tariff rule disclaiming liability for its negligence as to certain fragile, perishable and valuable articles included in baggage without its knowledge (Memo 5088-J, BPDA, BIA).
25. Petition of British Caledonian Airways, Limited for review of staff action denying its request for special tariff permission to file a one-way cargo charter charge from Houston to Singapore (Memo 8305, BPDA, BIA, OGC).
26. Proposal to publish a summary notice of those Board orders now published in the Federal Register (Memo 8306, OMD, OGC, OC, BPDA, BIA, ALJ and BCP).
27. Permission for subsidized air carriers to destroy subsidy records retained under Section 13 (e) of Part 249, "Preservation of Air Carrier Accounts, Records, and Memoranda," of the Board's Economic Regulations (Memo 8295, BAS).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2408-78 Filed 11-27-78; 3:50 pm]

[6210-01-M]

2

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 12 noon, Monday, December 4, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Appointment of new members to the Consumer Advisory Council.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: November 27, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-2406-78 Filed 11-27-78; 12:38 pm]

[7550-01-M]

3

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, December 6, 1978.

PLACE: Board Hearing Room, Eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

WEDNESDAY, NOVEMBER 29, 1978

V 43 N 230 NOV 29 78

1. Ratification of Board actions taken by notation voting during the month of November, 1978.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, 202-523-5920.

Date of notice: November 27, 1978.

[S-2405-78 Filed 11-27-78; 11:59 am]

[7600-01-M]

4

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2 p.m., December 7, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Patricia Bausell, 202-634-7015.

Dated: November 2, 1978.

[S-2404-78 Filed 11-27-78; 11:36 am]

[8240-01-M]

5

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: December 7, 1978, 9 a.m.

PLACE: Board Room, Room 2-500, fifth floor 955 L'Enfant Plaza North, SW., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

PORTIONS CLOSED TO THE PUBLIC (9 A.M.)

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware and Hudson Railway Company proprietary and financial information for monitoring and investment purposes.
4. Review of Missouri-Kansas-Texas Railroad Company proprietary and financial information.
5. Litigation report.

PORTIONS OPEN TO THE PUBLIC (11 A.M.)

6. Approval of minutes of the November 1, 1978 Board of Directors meeting; the November 2, 1978 Board of Directors meeting and November 15, 1978 meeting of the Executive Committee of the Board of Directors.
7. Report on Conrail monitoring.
8. Consideration of Conrail drawdown request for December 1978.
9. Contract Actions (extensions and approvals).

[S-2407-78 Filed 11-27-78; 3:39 pm]

federal register

WEDNESDAY, NOVEMBER 29, 1978
PART II

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

AGRICULTURAL CREDIT ACT OF 1978

Insured Farmer Program Loans; Operating, Farm Ownership, Soil and Water and Recreation Insured Loan Regulations; Revision

V 43 1230 NOV 29 1978

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

[FmHA Instruction 1904-C]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

Subpart C—Farmer Program Loans

REVISION

AGENCY: Farmers Home Adminisration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to insured Farmer Program loans. The intended effect of this action is to remove from Subpart C of Part 1904 regulations for all Farmer Program insured loans, except emergency loans. This action results from recent legislation and a general administrative restructuring of program regulations.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Jesse Joyner (202) 447-6257.

SUPPLEMENTARY INFORMATION: Section 1904.101(a) and (b) are amended and 1904.101 (c) is added in Subpart C of Part 1904, Chapter XVIII, Title 7, Code of Federal Regulations. Sections 1904.175 and 1904.180 and Exhibits A, B, E, and F are hereby deleted and reserved. These changes are being made so that Subpart C of Part 1904 will apply only to the Emergency Loan program. Regulations pertaining to the Operating, Farm Ownership, Individual Soil and Water, and Recreation loan programs are removed from Subpart C of Part 1904. They are now found in Subpart A of Part 1941 and Subparts A, B, and C of Part 1943 respectively.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These changes, however, are not published for proposed rulemaking since they are administrative in nature; Therefore, notice of proposed rulemaking and public procedure thereon are unnecessary. Accordingly, § 1904.175, § 1904.180, and Exhibits A, B, E, and F of Subpart C of Part 1904 are deleted and reserved and § 1904.101 of Subpart C of Part 1904 is amended and reads as follows:

§ 1904.101 Introduction.

(a) This subpart contains regulations for making Insured Emergency (EM) loans. EM loans may be made to farmers, ranchers, and aquaculture operators unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms. See Exhibit A of Subpart A of Part 1943 of this Chapter for making EM loans on unpatented public lands.

(b) This subpart no longer applies to the operating (OL), Youth (OL-Y), Farm Ownership (FO), Soil and Water Individual (SW), and Recreation (RL) loan programs. See Subpart A of Part 1941, and Subpart A, B, and C of Part 1943 of this Chapter for regulations for making OL, OL-Y, FO, SW, and RL loans.

(c) The EM loan program, like other Farmers Home Administration (FmHA) programs, is administered by the Administrator through a State Director serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities.

§§ 1904.175, 1904.180 and Exhibits A, B, E, and F [Reserved]

(7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10, Pub. L. 93-347, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: November 7, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-33099 Filed 11-28-78; 8:45 am]

[3410-07-M]

SUBCHAPTER L—LOAN AND GRANT MAKING

OPERATING, FARM OWNERSHIP, SOIL AND WATER AND RECREATION INSURED LOAN REGULATIONS

Redesignation and Revision

AGENCY: Farmers Home Administration.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) is redesignating and revising its Operating (OL), Farm Ownership (FO), Soil and Water (SW) and Recreation (RL) insured loan regulations. The intended effect is to provide separate regulations for each loan type, eliminate numerous cross-references, and incorporate provisions of the Agricultural Credit Act of 1978. This action is being taken as the result of legislation and an administrative restructuring of FmHA program regulations.

EFFECTIVE DATE: November 29, 1978. Comments are invited and must be received on or before January 29, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. James E. Lee, 202-447-4597.

SUPPLEMENTARY INFORMATION: FmHA amends its regulations for insured OL, FO, SW and RL loans by establishing new Subparts A and B of Part 1941 and Subparts A, B, and C of Part 1943, Chapter XVIII, Title 7, Code of Federal Regulations. These subparts replace portions of Subpart C of Part 1904 and Subpart C of Part 1921. The following are the major changes, by loan programs:

1. Operating (Subparts A and B of Part 1941).

(a) Section 1941.4 has been revised to include definitions of certain terms needed to implement provisions of the Agricultural Credit Act of 1978.

(b) Section 1941.12(a) has been revised to provide guidelines for making eligibility decisions on applications received from individuals with off-farm income.

(c) Section 1941.12(b) provides eligibility requirements for cooperatives, corporations, and partnerships.

(d) Section 1941.16 outlines loan purposes in detail and eliminates cross-references to guaranteed loan regulations.

(e) Section 1941.17 contains a new $100,000 loan limit as provided in the Agricultural Credit Act of 1978.

(f) Section 1941.18 establishes two levels of interest and provides guidelines for determining which interest rate is charged an applicant.

(g) Subpart B contains no substantive changes.

2. Farm Ownership (Subpart A of Part 1943).

(a) Section 1943.4 has been revised to include definitions of certain terms needed to incorporate provisions of the Agricultural Credit Act of 1978.

(b) Section 1943.12(a) has been revised to provide guidelines for making eligibility decisions on applications received from individuals having off-farm income.

(c) Section 1943.12(b) provides eligibility requirements for cooperatives, corporations, and partnerships.

(d) Section 1943.16 outlines loan purposes in detail and eliminates cross references to guaranteed loan regulations. Paragraph (b) and (c) include pollution control and energy saving measures as specific loan purposes for added emphasis.

(e) Section 1943.17 contains a new loan limit of $200,000 or the market value of the security, whichever is less. This is required by the Agricultural Credit Act of 1978.

(f) Section 1943.18(c) establishes two levels of interest and provides guidelines for determining which interest rate is charged to applicants.

(g) Section 1943.23 consists of general provisions which outline the regulatory requirements applicable to Farm Ownership loans.

3. Soil and Water (Subpart B of Part 1943).

(a) Section 1943.54 has been revised to include definitions of certain terms needed to incorporate provisions of the Agricultural Credit Act of 1978.

(b) Section 1943.62(b) provides eligibility requirements for cooperatives, corporations, and partnerships.

(c) Section 1943.66 outlines loan purposes in detail and eliminates cross references to guaranteed loan regulations. Paragraphs (a) and (b) include pollution control and energy saving measures as specific loan purposes for added emphasis.

(d) Section 1943.67 contains a new loan limit of $200,000 or the market value of the security, whichever is less. This is required by the Agricultural Credit Act of 1978.

(e) Section 1943.68(c) establishes interest rates based on the cost of borrowing money to the Government.

(f) Section 1943.69(c)(5) increases the amount that can be loaned when chattel security is the only type of security from $60,000 to $100,000.

(g) Section 1943.73 consists of general provisions which outline the regulatory requirements applicable to Soil and Water loans.

4. Recreation (Subpart C of Part 1943).

(a) Section 1943.104 has been revised to include definitions of certain terms needed to incorporate provisions of the Agricultural Credit Act of 1978.

(b) Section 1943.112(b) provides eligibility requirements for cooperatives, corporations, and partnerships.

(c) Section 1943.116 outlines loan purposes in detail and eliminates cross references to guaranteed loan regulations. Paragraph (b) includes pollution control and energy saving measures as specific loan purposes for added emphasis.

(d) Section 1943.117 contains a new loan limit of $200,000 or the market value of the security, whichever is less. This is required by the Agricultural Credit Act of 1978.

(e) Section 1943.118(c) establishes interest rates based on the cost of borrowing money to the Government.

(f) Section 1943.119(c)(5) increases the amount that can be loaned when chattel security is the only type of security from $60,000 to $100,000.

(g) Section 1943.123 consists of general provisions which outline the regulatory requirements applicable to Recreation loans.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules.

These regulations, however, are not being published for comment since the majority of the changes were made to restructure existing insured OL, FO, SW, and RL loan regulations and incorporate provisions of the Agricultural Credit Act of 1978. Therefore, public participation on these changes is unnecessary. Also, due to the demand for loans and the financial condition of farmers any delay in issuing these regulations would be contrary to the public interest.

"This document has been reviewed in accordance with FmHA Instruction 1901-G 'Environmental Impact Statements'. It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Policy Act of 1969, Pub. L. 91-190 and Environmental Impact Statement is not required."

PART 1921—APPROVAL AND CLOSING (INDIVIDUAL)

Subpart C—Closing Chattel Loans

§§ 1921.101-1921.150 [Reserved]

Accordingly, Subpart C of Part 1921 of this chapter is hereby deleted and reserved and Subparts A and B of Part 1941 and Subparts A, B, and C of Part 1943 of this chapter are added and read as follows:

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures, and Authorizations

Sec.
1941.1 Introduction.
1941.2 Objectives.
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1941.30 Committee certification.
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1941.32 Loan docket processing.
1941.33 Loan approval or disapproval.
1941.34 [Reserved]
1941.35 Actions after loan approval.
1941.36-1941.37 [Reserved]
1941.38 Loan closing.
1941.39-1941.41 [Reserved]
1941.42 Loan servicing.
1941.43-1941.49 [Reserved]
1941.50 State Supplements.

Exhibit A—Processing Guide—Insured Operating Loans

AUTHORITY: 7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

§ 1941.1 Introduction.

This Subpart contains regulations for making initial and subsequent insured Operating (OL) and Youth (OL-Y) loans. OL loans may be made to eligible farmers and ranchers and farm cooperatives, private domestic corporations and partnerships that will manage and operate not larger than family farms. Youth loans may be made to rural youth to conduct modest projects in connection with their participation in 4-H, Future Farmers of America and similar organizations. See Exhibit A of Subpart A of Part 1943 for making OL loans to entrymen on unpatented public lands.

§ 1941.2 Objectives.

The basic objective of the OL loan program is to provide the credit and management assistance necessary for farmers, ranchers and rural youth to conduct successful operations. Although many varieties of family farmers are eligible for this assistance, the primary objective of the OL program is to assist limited resource operators, new operators and low-income operators. Farmers Home Administration (FmHA) assistance enables family-farm operators to make efficient use of their land, labor and other resources, to improve their living conditions and to improve their economic situation to the extent that they can obtain credit elsewhere.

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§ 1941.3 Management assistance.

As provided in Subpart B of Part 1924 of this chapter, management assistance will be provided all borrowers to the extent necessary to achieve the objectives of the loan.

§ 1941.4 Definitions.

(a) *Approval official.* A field official who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA Office.

(b) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm.

(c) *Corporation.* For the purposes of this regulation, a private domestic corporation created and organized under the laws of the State(s) in which the entity will operate a farm.

(d) *Family farm.* A farm which:

(1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(2) Provides enough agricultural income by itself, including rented land, or together with any other dependable income to enable the borrower to:

(i) Pay necessary family and operating expenses;

(ii) Maintain essential chattel and real property; and

(iii) Pay debts.

(3) Is managed by:

(i) The borrower when a loan is made to an individual.

(ii) The members, stockholders or partners responsible for operating the farm when a loan is made to a cooperative, corporation or partnership.

(4) Has a substantial amount of the labor requirements for the farm and nonfarm enterprise provided by:

(i) The borrower and any family for a loan made to an individual.

(ii) The members, stockholders or partners responsible for operating the farm and the families of these members, stockholders or partners for a loan made to a cooperative, corporation or a partnership.

(5) May use a reasonable amount of full-time hired labor and seasonal labor during peakload periods.

(e) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock, including the production of fish under controlled conditions, for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term "farm" also includes any such land and improvements and facilities used in a nonfarm enterprise. It may also include a residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

(f) *Fish.* Any aquatic gilled animal commonly known as "fish", as well as mollusks or crustaceans, (or other invertebrates) produced under controlled conditions (that is, feeding, tending, harvesting and such other activities as are necessary to properly raise and market the products) in ponds, lakes, streams, or similar holding areas.

(g) *Limited resource applicant.* An applicant who is a farmer or rancher and is an operator of a small or family farm (a small farm is a marginal family farm) including a new operator, with a low income who demonstrates a need to maximize farm or ranch income. A limited resource applicant must meet the eligibility requirements for a farm ownership or operating loan but, due to low income, cannot pay the regular interest rate on such loans. Due to the complex nature of the problems facing this applicant, special help will be needed and more supervisory assistance will be required to assure reasonable prospects for success. The applicant may face such problems as underdeveloped managerial ability, limited education, low-producing farm due to lack of development or improved production practices and other related factors. The applicant will not have nor expect to obtain, without the special help and low-interest loan, the income needed to have a reasonable standard of living when compared to other residents of the community.

(h) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, or partnership.

(i) *Nonfarm enterprise.* Any business enterprise which provides income to supplement farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(j) *Partnership.* An entity consisting of individuals who have agreed to operate a farm. This entity must be recognized as a partnership by the laws of the State(s) in which the partnership will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(k) *Recreation enterprise.* An outdoor enterprise which generates income and supplements or supplants farm or ranch income.

(l) *Rural youth.* A person who has reached the age of 10 but has not reached the age of 21 and does not reside in any city or town with a population of more than 10,000 inhabitants.

(m) *Rural youth projects.* Modest projects initiated, developed, and carried out by rural youths participating in 4-H or Future Farmers of America or similar organizations. Projects must produce enough income to meet expenses and debt repayment.

(n) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral or security property shall be considered a reference to the term "security."

(o) *State or United States.* The United States itself, any of the fifty States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1941.5 [Reserved]

§ 1941.6 Credit elsewhere.

The applicant shall certify in writing on the appropriate forms, and the County Supervisor shall determine, that adequate credit elsewhere is not available to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near where the applicant resides for loans for similar purposes and periods of time.

(a) When, based on the County Supervisor's knowledge of other lender programs, the review of the application indicates there is no possibility for the applicant to obtain the credit needed from other lender(s), this conclusion and the basis for it will be recorded in the running record and further checks will not be necessary.

(b) If the County Supervisor questions whether the applicant is unable to obtain the credit needed from other agricultural lenders in the area, such lenders will be contacted and the findings recorded in the running record.

(c) If the County Supervisor receives letters or other written evidence from a lender(s) indicating that the applicant is unable to obtain satisfactory credit, this will be included in the loan docket.

(d) Applicants and borrowers will be encouraged to supplement operating loans with credit from other credit sources to the extent economically feasible and in accordance with sound management practices.

§1941.7 - 1941.9 [Reserved]

§1941.10 Veterans' preference.

The application on hand from a veteran as defined in Subpart A of Part 1801 of this Chapter (FmHA Instruction 410.1), will be given preference over the application of a nonveteran on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants. Veterans' preference will be determined at the county level.

§1941.11 Applications.

(a) Applications will be received and processed as provided in Subpart A of Part 1801 of this Chapter (FmHA Instruction 410.1).

(b) If the applicant is a cooperative, corporation, or partnership the following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders, or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or stock held in the cooperative or corporation by each or the percentage of interest held in the partnership by each.

(2) A current personal financial statement from each of the principal members of a cooperative, partners of a partnership or stockholders of a corporation. For this purpose, a principal is one owning or controlling as much as 10 percent of the ownership, stock or interest of a cooperative, corporation, or partnership. If no member, partner, or stockholder owns or controls as much as 10 percent, each member, partner, or stockholder will be considered as a principal. Any other member, partner or stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the cooperative, corporation or partnership will also be required to provide personal financial statements.

(3) A current financial statement from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative's or corporation's charter, or any partnership agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative, corporation, or partnership to apply for and obtain the desired loan and execute required debt, security and other instruments and agreements.

incurred for the purchase of real

should not exceed that which the bor- limited resource borrowers, as appro-

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(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, or partnership which may be pertinent to consideration of its application.

§ 1941.12 Eligibility requirements.

(a) An individual must: (1) Be a citizen of the United States (see § 1941.4(o) for the definition of "United States").

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation. (Except for youth loans).

(4) Need to rely on farm income and any other income to provide a level of living comparable with that considered reasonably adequate for the area. (Except for youth loans.) In making this determination, the County Committee should consider:

(i) Any special family circumstances such as size, health, and education.

(ii) The estimated typical income of reasonably successful residents in the area.

(iii) Whether the off-farm work will interfere with the successful operation of the farm.

(iv) That the guidelines listed in paragraphs (a)(4) (i), (ii) and (iii) of this section are provided to permit committees to use judgment on individual cases. They are not intended to prevent making loans to applicants who already have off-farm income that is typical of other reasonably successful residents in the area when that income will be reduced significantly or end not later than three full crop years after the loan is closed.

(5) Have the character (as related solely to debt repayment ability and reliability), managerial ability and industry necessary to carry out the proposed operation.

(6) Honestly try to carry out the conditions and terms of the loan.

(7) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(8) Be the owner-operator or tenant-operator of not larger than a family farm after the loan is closed (except for rural youths). In the case of a limited resource applicant see § 1941.4 (g).

(b) *A cooperative, corporation or partnership must.* (1) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time. This applies to the entity and all of its members, stockholders, or partners, as individuals.

(2) Be controlled by farmers or ranchers engaged primarily and directly in farming or ranching in the United States after the loan is made.

(3) Consist of members, stockholders, or partners who do not as individuals have an individual FO, SW, RL or OL loan and are not members of another entity or have an interest in another entity that has an FO, SW, RL or OL loan.

(4) If the members, stockholders, or partners holding a majority interest are related by marriage (that is, the legal union of a man and woman as husband and wife) or blood:

(i) They must be citizens of the United States (see § 1941.4 (o) for the definition of "United States").

(ii) They must have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(iii) They and the entity itself must have the character (as related solely to debt repayment ability and reliability), managerial ability and industry necessary to carry out the proposed operation.

(iv) They and the entity itself will honestly try to carry out the conditions and terms of the loan.

(v) At least one member, stockholder, or partner must operate the family farm.

(vi) The entity must operate the farm and be authorized to do so in the State(s) in which the farm is located.

(5) If the members, stockholders, or partners holding a majority interest are *not* related by marriage or blood:

(i) The requirements of paragraphs (b) (4) (i) through (iv) of this section must be met.

(ii) They and the entity itself must operate the family farm.

(iii) The entity must operate the farm and be authorized to do so in the State(s) in which the farm is located.

(6) If applying as a limited resource applicant, as defined in § 1941.4 (g):

(i) The requirements of paragraphs (b) (4) (i) through (iv) of this section must be met.

(ii) The entity and *all* the members, stockholders, or partners must operate a small or family farm and at least one member, stockholder, or partner must operate the farm.

(iii) The entity must be authorized to operate the farm in the State(s) in which the farm is located.

§ 1941.13 Rural youth.

If otherwise eligible, a rural youth who applies for an OL loan must be recommended by a project advisor such as a 4-H club advisor, vocational teacher, home economics teacher, county extension agent, or other organizational sponsor or advisor. In addition, a youth who has not reached the age of majority under State law must obtain a written recommendation from a parent or guardian. All recommendations will be filed with the application in the borrower case file.

§ 1941.14–1941.15 [Reserved]

§ 1941.16 Loan purposes.

Loans may be made for farm, forestry, recreation and nonfarm enterprises or modest rural youth projects for the following purposes, when such purposes are essential to the operation:

(a) Purchase of farm machinery and equipment, livestock, poultry, fur bearing and other farm animals, fish, birds, worms, bees, tools, and inventories, or to purchase an individual's undivided interest in such items.

(b) Payment of annual operating expenses.

(c) Payment of family living expenses.

(d) Refinancing debts incurred for any authorized operating loan purpose other than FmHA debts.

(e) Purchase of membership and stock in a farm purchasing, marketing, or service-type cooperative association, including a grazing association.

(f) Purchase and repair of essential home equipment.

(g) Purchase of a milk base or milk quota with or without cows.

(h) Not more than $7,500 in a fiscal year for real estate improvement or repairs. The following determinations must be made before an OL loan is made for real estate improvements.

(1) OL loans will not be needed year after year for this purpose.

(2) The applicant owns the farm or has tenure arrangements, including a compensation agreement, sufficient to obtain a reasonable return on the investment.

(i) Payments to a creditor. In any one year, OL funds used to make these payments cannot exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment and livestock under a prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is less.

(j) Purchase of a franchise, contract, or privilege when necessary to the operation of the planned enterprise.

(k) Partial payment for the purchase and construction of crop storage and drying facilities when the Commodity Credit Corporation, through the Agricultural Stabilization and Conservation Service (ASCS), is providing a part of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

§ 1941.17 Loan limitations.

The total outstanding insured OL principal balance may not exceed $100,000 at loan closing. Loans may not be made for the purchase of real estate, making principal payments on real estate, or refinancing any debts

incurred for the purchase of real estate. In addition, loans may not be made to pay land lease costs under any program other than cash rent.

§ 1941.18 Rates and terms.

(a) *Rates.* See part 1810 of this chapter (FmHA Instruction 440.1, Exhibit B) for the applicable interest rate. Exhibit B may be obtained from any FmHA Office. The lower rate may be established for a limited resource applicant subject to the following:

(1) An applicant will receive the lower rate provided:

(i) The applicant meets the conditions of the definition for a limited resource applicant set forth in § 1941.4 (g).

(ii) The Farm and Home Plan and/or Nonagricultural Enterprise Analysis, when appropriate, indicates that installments at the higher rate, along with other debts cannot be paid during the period of the plan.

(2) A lower interest rate borrower will be reviewed after three years from the date of the initial loan and every two years thereafter to determine the interest rate to be charged. The rate may increase in increments of whole numbers to the current rate for nonlimited resources borrowers.

(b) *Terms.* (1) The final maturity date for each loan cannot exceed 7 years from the date of the promissory note.

(2) Ordinarily, loan funds used to pay annual operating expenses or bills incurred for such purposes for the crop year being financed will be scheduled for payment on the first January 1 after the income from the year's operation is received. Under certain circumstances, these payments may be scheduled over longer periods. Circumstances which warrant an extended repayment schedule are factors such as establishing a new enterprise, developing a farm, purchasing feed while feed crops are being established or during recovery from disaster or economic reverses. Crops only are not sufficient security when repayment is scheduled over the longer period. The County Supervisor may use Form FmHA 440-9, "Supplementary Payment Agreement," for borrowers who receive substantial income from which payment is to be made before their installment due date.

(3) Advances for purposes other than annual operating expenses will be scheduled for payment over the minimum period necessary considering the applicant's ability to pay and the useful life of the security, but not in excess of 7 years.

(4) When conditions warrant, installments scheduled in accordance with paragraph (b)(2) of this section may include equal, unequal, or balloon installments. The amount ballooned should not exceed that which the borrower could reasonably expect to pay during a maximum additional 7-year period.

(c) *Consolidation, rescheduling and deferral—*(1) *General requirements.* All borrowers are expected to repay their OL loans according to the planned repayment schedule. However, circumstances may arise which will not permit borrowers to pay as scheduled. Loan approval officials are authorized to consolidate, reschedule or defer loans, up to the limitation on their approval set out in Subpart A of Part 1901 of this chapter. When the loan approval official determines that consolidation, rescheduling or deferral will assist in the orderly collection of an OL loan, the loan approval official may take such action, provided:

(i) The borrower meets the eligibility and security requirements for an initial loan as set forth in this Subpart;

(ii) Such action is not used in lieu of or to delay liquidation;

(iii) Such action is not taken to remove a delinquency;

(iv) Such action is not taken to circumvent FmHA's graduation requirements;

(v) The borrower's account is not being serviced by the Office of the General Counsel (OGC) or the U.S. Attorney, and there are no plans to have the account serviced by either of these offices in the near future;

(vi) The County Supervisor determines that the borrower is making satisfactory progress or will make satisfactory progress with revised repayment terms; and

(vii) The borrower is cooperating in servicing the account and is maintaining the security.

(2) *Consolidation and Rescheduling.* (i) Any OL loan in existence at the time another loan is made may be consolidated and rescheduled, except that a loan secured by real estate only will not be consolidated.

(ii) OL loans will be consolidated only with other OL loans. All outstanding OL loans may be consolidated so that only one note has to be serviced.

(iii) An OL loan may be rescheduled when it is in the best interests of the borrower and the government.

(iv) The amount of interest accrued at the time of consolidation will be added to principal.

(v) Consolidated and rescheduled loans will be repaid according to the borrower's repayment ability, but never in excess of seven years from the date of consolidation or rescheduling.

(vi) The interest rate for consolidation loans will be the current interest rate for OL loans made to regular or limited resource borrowers, as appropriate.

(vii) The notes which are consolidated will be retained in the borrower's case file.

(3) *Deferral.* Installments on OL loans may be deferred. the use of deferral authority will generally involve beginning farmers, applicants with limited income and resources and applicants who have had production and economic losses because of natural or economic conditions.

(i) *General requirements.* Deferred payments may be authorized if the following conditions exist:

(A) A Farm and Home Plan and, if appropriate, a Business Analysis-Nonagricultural Enterprise, show loan installments cannot be repaid according to schedule.

(B) A typical Farm and Home Plan and if appropriate, a Business Analysis-Nonagricultural Enterprise, for a full crop year following the deferral period indicate that full installments can be paid if normal conditions exist.

(C) If appropriate, a Long-time Farm and Home Plan is prepared.

(ii) *Scheduling and repaying deferred installments.* (A) Up to three installments may be deferred, but in no case will the deferral extend beyond the final due date of the note. Full payments will be scheduled at the earliest date the Farm and Home Plan indicates they can be paid.

(B) Borrowers will be advised that they are expected to make payments as soon as they have repayment ability, even though the deferral period has not expired.

(C) Borrowers will be advised that they are expected to repay all interest due on their loans. Partial payments of accrued interest will be scheduled annually during the deferral period on Form FmHA 1940-17, "Promissory Note." These annual payments of interest will be scheduled in accordance with repayment ability as indicated by the Farm and Home Plan. Deferred interest will not be capitalized.

(D) Installments of principal and interest to be paid after the deferral period will be calculated in accordance with the FMI for Form FmHA 1940-17.

§ 1941.19 Security.

Ordinarily, the security must be adequate in the opinion of the loan approval official to assure repayment of the loan. If the security alone is inadequate, then the applicant's repayment ability will also be considered by the loan approval official in determining whether the loan should be made except that the amount refinanced may not exceed the value of the security. Except as shown in paragraph (a) of this section the loan must be secured by a first lien on all property or

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products acquired, produced, or refinanced with loan funds and by any additional security needed. Such additional security may consist of the best lien obtainable on chattels, real estate or other property. In unusual cases, the loan approval official may require a cosigner or a pledge of security. Generally, a pledge of security is preferable to a cosigner.

(a) *Exceptions.* (1) A lien will not be taken on property that cannot be made subject to a valid lien.

(2) A lien will not be taken on subsistence livestock, household goods, and small tools and small equipment such as hand tools, power lawn mowers and other items of like type not needed for security purposes.

(3) A second lien is acceptable on the item(s) involved in financing under § 1941.16 (i) and (k).

(4) The government's lien may be subject to the lien of another creditor for amounts advanced or to be advanced for annual operating and family living expenses for the operating or crop year. The County Supervisor will determine if the creditor will be required to execute Form FmHA 441-13, "Division of Income and Nondisturbance Agreement," or a similar form approved by the Office of the General Counsel (OGC).

(5) When title to a livestock or crop enterprise is held by a contractor under a written contract or the enterprise is to be managed by the applicant under a share lease or share agreement, an assignment of all or part of the applicant's share of the income will be taken. A form approved by OGC will be used to obtain the assignment.

(6) A lien on feed crops does not have to be taken if the crops produced by the borrower are used to feed livestock, other than livestock being fed for market, and the loan is otherwise well secured.

(b) *Real estate.* The loan approval official may require a lien on all or part of the applicant's real estate as security. Such a lien will be taken only when chattel security is *not adequate* and the borrower has or will have substantial equity in the real estate during the life of the loan. Real estate security may be taken for a portion of a loan when a separate advance and promissory note evidences such portion. Real estate security will be considered as basic security *only* when more than $10,000 equity in the real estate is needed as security for refinancing. Under any other circumstances real estate will be considered as additional security. Form FmHA 427-1 (State), "Real Estate Mortgage for ———," will be used to obtain such a lien, unless a State supplement requires a different form.

(c) *Assignment on income in Uniform Commercial Code (UCC) States.* The County Supervisor will determine whether or not such an assignment will be taken. In UCC States, an assignment of livestock or crop income constitutes a security agreement on income. The share lease, share agreement, or contract will be described specifically as "Contract Rights" or "Contract Rights in Livestock or Crops," (or as "Accounts" or "Accounts in Livestock or Crops," if required by a State supplement), and so forth, in paragraph I(b) of the financing statement.

(d) *Assignment of crop insurance.* Assignment of all or a part of crop insurance proceeds will be taken to protect FmHA's interests if the County Supervisor finds such an assignment is necessary.

(1) Federal Crop Insurance, when available at reasonable rates, will be required if crops are the only security. To obtain an assignment of these proceeds, Form FC1-20, "Collateral Assignment," furnished by the local representative of the Federal Crop Insurance Corporation will be prepared. The assignment must be approved by the Federal Crop Insurance Corporation.

(2) An assignment of other crop insurance proceeds is not required when the crop insurance policy contains a standard mortgage clause naming FmHA as mortgagee or secured party.

(e) *Income from products and program payments.* Assignments and consents relating to income from products and program payments will be used when necessary to protect FmHA's interest as follows:

(1) Form FmHA 441-8, "Assignment of Proceeds from the Sale of Agricultural Products," for products or income in which FmHA does not have a security interest under UCC. Other forms approved by OGC may be used when this form is not adequate.

(2) Form FmHA 441-18, "Consent to Payment of Proceeds from Sale of Farm Products," for products or income, except dairy products, in which FmHA has a security interest under UCC.

(3) Form FmHA 441-25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," for dairy products in which FmHA has a security interest under UCC.

(4) Forms provided by ASCS will be used for assignment of incentive and other agricultural program payments.

(f) *Fixtures.* A security interest may be taken in fixtures. An item is generally considered a fixture if it is attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the item itself. When determined necessary by OGC, a State supplement will be issued to further explain the taking of a security interest in fixtures.

(1) A security interest taken in goods *before* they become fixtures has priority over real estate interest holders.

(2) A security interest taken in goods *after* they become fixtures is valid against all persons subsequently acquiring an interest in the real estate. However, it is not valid against persons who had an interest in the real estate when the goods become fixtures, unless they execute Form FmHA 440-26, "Consent and Subordination Agreement," or Form FmHA 440-6, "Severence Agreement."

(g) *Milkbase and grazing permits.* The advice of OGC will be obtained as to how to perfect a security interest when these items are financed or taken as security.

(h) *Stock in cooperative associations.* Loans only for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking security except as follows:

(1) An assignment, pledge, or other security interest in stock or other evidence of membership will be obtained, provided the security interest has value to FmHA. A security interest also may be taken in dividends to be paid on stock, memberships, or patronage, or in undivided profits and other retainages. The security interest will be in the form of an assignment, pledge, or other instrument and will be taken on forms and in the manner approved by the OGC. Stock certificates and similar collateral will be kept in the County Office. A notation will be made on Form FmHA 405-1, "Management System Card—Individual," showing that such security has been retained.

(2) In individual cases, loan approval officials may require a lien on crops or chattels as security for a loan made for the acquisition of a membership or stock if they determine that such action is necessary to protect the FmHA interest.

§§ 1941.20–1941.22 [Reserved]

§ 1941.23 General provisions.

(a) *Compliance requirements.* The following will apply as appropriate.

(1) Environmental impact assessments and statements. Subpart G of Part 1901 of this chapter should be referred to for these requirements. The State Farmer Program Staff should be consulted for assistance in preparing any required statements.

(2) Equal opportunity and nondiscrimination requirements. In accordance with Title V of Pub. L. 93-495, the Equal Credit Opportunity Act FmHA will not discriminate against any applicant on the basis of race, color, religion, sex, age, national origin or marital status with respect to any aspect of a credit transaction.

(3) National Historic Preservation Act of 1966. If a loan will affect any district, site, building, structure, or object that has been included in the National Register of Historic Places as maintained by the Department of Interior in accordance with the National Historic Preservation Act of 1966, or if the undertaking may affect properties having scientific, prehistorical, historical or archaeological significance the provisions of Subpart F of Part 1901 of this chapter will apply.

(4) Truth-in-lending. When an operating loan is $25,000 or less the provisions of Subpart I of Part 1901 of this chapter will apply.

(b) *Other considerations.* (1) FmHA employees will not guarantee repayment of advances from other credit sources, either personally or on behalf of applicants, borrowers, or FmHA.

(2) An applicant will be advised that compliance with all applicable special laws and regulations is required.

(3) An applicant receiving a loan for a nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtained public liability and property damage insurance.

(4) An applicant must have acceptable tenure arrangements. Unless the loan approval official determines otherwise, each applicant will obtain a satisfactory written lease. A copy of the lease will be filed in the County Office case file.

§ 1941.24 [Reserved]

§ 1941.25 Appraisals.

Real estate appraisals will be completed by an FmHA employee authorized to make farm appraisals. Chattel and real estate appraisals will be made on Forms FmHA 440-21, "Appraisal of Chattel Property," and FmHA 422-1, "Appraisal Report Farm-Tract," respectively, to determine market value and borrower equity in the following instances:

(a) A chattel appraisal is required when debts refinanced exceed $5,000 and in any case the County Supervisor determines advisable. When an appraisal is not required, an estimate of the market value of the chattels will be recorded in the running record.

(b) A real estate appraisal is required when more than $10,000 equity in the real estate is needed as security for refinancing. When an appraisal is not required, an estimate of the market value of the real estate will be recorded in the running record.

(c) An appraisal will be made if the loan approval official determines it is needed to evaluate the soundness of the loan.

§§ 1941.26–1941.28 [Reserved]

§ 1941.29 Relationship between FmHA loans, guaranteed loans and economic emergency loans.

(a) An eligible emergency loan (EM) applicant's total credit needs will be considered under the EM loan authorities.

(b) If an eligible OL loan applicant's operating credit needs can be met with an OL loan, an OL loan will be made, otherwise, an EE loan should be made. An OL loan and EE loan may be made to the same applicant or borrower.

(c) An insured OL will not be made to a borrower with an outstanding guaranteed OL loan.

(d) An insured loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(1) The circumstances resulting in the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government and the borrower.

(e) The total combined indebtedness of an EE, farm ownership (FO), soil and water (SW), recreation RL and operating loan may not exceed $650,000.

§ 1941.30 Committee certification.

The County Committee will certify an applicant's eligibility on Form FmHA 440-2 "County Committee Certification or Recommendation," before each loan is approved. In some instances the committee may want to interview the applicant or see the farm before making any recommendations. If a farm is situated in more than one State, County or parish, the loan will be processed and serviced in the State, County or parish where the applicant's residence on the farm is located. However, if the applicant's residence is not situated on the farm, the OL loan will be processed and serviced by the County Office serving the County in which the farm or a major portion of the farm is located, unless otherwise approved by the State Office.

§ 1941.31 [Reserved]

§ 1941.32 Loan docket processing.

See Exhibit A of this Subpart for the loan docket processing guide.

§ 1941.33 Loan approval or disapproval.

(a) *Loan approval authority.* Initial and subsequent loans may be approved as authorized by Subpart A of Part 1901 of this chapter: Provided the total insured operating loan principal balance at loan closing does not exceed $100,000.

(b) *Loan approval action.*

(1) The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket, the loan approval official will determine that:

(i) The County Committee has certified the applicant eligible,

(ii) Committee certification has been properly completed and signed by at least two members of the Committee,

(iii) Funds are requested for authorized purposes,

(iv) The proposed loan is sound,

(v) The security is adequate,

(vi) Necessary supervision is planned, and

(vii) All other pertinent requirements have been met or will be met.

(2) When approving the loan, the approval official will:

(i) Indicate on all copies of Form FmHA 440-1, "Request for Obligation of Funds," any conditions not required by FmHA regulations that must be met for loan closing;

(ii) Specify any special security requirements;

(iii) Indicate special conditions or agreements needed with prior lienholders when appropriate;

(iv) Indicate that approval is subject to satisfactory title evidence when required, if such evidence has not been obtained;

(v) Indicate any other special requirements; and

(vi) Sign the original and one copy of Form FmHA 440-1 and insert the title of the approval official.

(c) *Distribution of forms after loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved.

(1) These forms will be sent to the Finance Office:

Form FmHA 440-1 (copy).
When funds have been obligated, the Finance Office will send to the County Office the original and one copy of Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request."
Form FmHA 492-19, "Characteristics of Approved Applicants," (original) for initial loans only. If an initial FO or SW loan is approved at the same time, only one set of forms is required.

(2) The original of Form FmHA 440-1 and the remainder of the loan docket will be sent to the County Office.

(3) These forms will be sent to the State Office:

Form FmHA 440-1 (copy).
Form FmHA 492-19 (copy) for initial loans only. If an initial FO or SW loan is approved at the same time, only one set of forms is required.

(4) A signed copy of Form FmHA 440-1 will be sent to the borrower on the date of loan approval.

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(d) *Loan disapproval.* The following action will be taken when a loan is disapproved:

(1) The reasons for disapproval will be indicated on Form FmHA 440-1 by the loan approval official. The reasons may be in a letter or the running record if this form has not been completed. Suggestions of how to remedy the disapproval should be included.

(2) The County Supervisor will notify the applicant in writing of the action taken and include any suggestions that could result in favorable action when appropriate. In addition to sending out the written notice, the County Supervisor may personally discuss the action with the applicant. In that instance, the items covered in the discussion will be documented in the running record.

(3) Items furnished by the applicant during docket processing will be returned.

(4) The County Supervisor will notify any other interested parties of the disapproval.

§ 1941.34 [Reserved]

§ 1941.35 Actions after loan approval.

(a) *Requesting check.* When the County Supervisor is reasonably certain that the operating loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval by entering the amount needed in the appropriate block on Form FmHA 440-1. Loan funds may be scheduled for multiple advances, if appropriate. The amount of the initial advance will be shown on FmHA 440-1. Subsequent advances may be scheduled by using Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request." Each advance will be limited to an amount which can be used promptly, usually within sixty days from the date of check.

(b) *Cancellation of loan check, and/or obligation.* The County Supervisor will notify the State and Finance Offices of loan cancellation by using Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," and the appropriate FMI. If a check received in the County Office is to be cancelled, the check will be returned to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440-10. (See FmHA Instruction 102.1, a copy of which may be obtained from and FmHA Office.)

(c) *Cancellation of advances.* When an advance is to be cancelled the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA 440-10.

(2) When necessary, prepare and execute a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule. When it is not necessary to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440-10 the revised amount of the loan and the revised repayment schedule.

(d) *Increase or decrease in loan amount.* If it becomes necessary to increase or decrease the amount of the loan prior to closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing unless the change is minor and replacement forms can be promptly completed and submitted.

§ 1941.36-1941.37 [Reserved]

§ 1941.38 Loan closing.

Operating loans will be closed in accordance with Subpart B of Part 1941 of this Chapter.

§ 1941.39-1941.41 [Reserved]

§ 1941.42 Loan servicing.

Loans will be serviced in accordance with Subpart A of Part 1930 of this Chapter.

§§ 1941.43-1941.49 [Reserved]

§ 1941.50 State supplements.

State supplements will be issued as necessary to implement this subpart.

EXHIBIT A—PROCESSING GUIDE

INSURED OPERATING LOANS

This Exhibit outlines the basic steps involved in processing a loan application and identifies the FmHA forms which should be considered for use at each step.

Consult the appropriate Forms Manual Insert (FMI) for instructions for completion, distribution, and procedural references for each form.

APPLICATION PROCESSING

A. APPLICANT INTERVIEW

Review applicant's proposed plan of operation in view of authorized loan purposes and limitations on loans.

Begin running case record.

Provide applicant with FmHA forms to be completed and returned which are needed to determine eligibility. Be sure applicant understands the purposes of the forms and knows who must complete them.

Advise applicant of other information that must be given to FmHA.

When appropriate, have applicant contact other creditors as possible credit sources for financing, or participating in the financing, of the proposed operation.

The following FmHA forms will be made available to the applicant or will be used by the County Supervisor. Forms designated with an "x" are always required and those designated with an "*" are to be used when appropriate.

Form No.	Name	
410-1	Application for FmHA Services	(x)
410-5	Request for Verification of Employment.	(*)
410-8	Applicant Reference Letter	(*)
410-9	Statement Required by the Privacy Act.	(*)
410-10	Privacy Act Statement to References.	(*)
431-1	Long-Time Farm and Home Plan.	(*)
431-2	Farm and Home Plan	(x)
431-4	Business Analysis—Nonagricultural Enterprise.	(*)
440-32	Request for Statement of Debts and Collateral.	(*)
440-50	Crop-Share-Cash Farm Lease	(*)
440-51	Crop-Share-Cash Farm Lease (with Subordination Agreement).	(*)
440-52	Cash Farm Lease	(*)
440-53	Cash Farm Lease (with Subordination Agreement).	(*)
440-54	Livestock-Share Farm Lease	(*)
440-55	Livestock-Share-Farm Lease (with Subordination Agreement).	(*)
440-56	Annual Supplement to Farm Lease.	(*)

B. FIELD VISIT

Notify applicant of planned visit and its purpose.

Evaluate the resources available to the applicant and determine whether or not they adequately fulfill the requirements of the proposed plan of operation.

Obtain information needed to complete required appraisals (chattel and real estate).

Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.

Determine security requirements and record in running case record.

The following FmHA forms will be used as appropriate:

Form No.	Name	
440-21	Appraisal of Chattel Property	(*)
141-2	Notice of Visit or Meeting	(x)
422-1	Appraisal Report—Farm Tract	(*)
422-2	Supplemental Report—Irrigation, Drainage, Levee, and Minerals.	(*)
422-3	Map of Property	(*)
422-10	Appraiser's Worksheet—Farm Tracts for Study of Comparable Properties.	(*)
440-13	Report of Lien Search	(*)

C. ELIGIBILITY DETERMINATION

Obtain all needed application forms, and other information from the applicant; assist the applicant in completing these forms and in obtaining needed information, as necessary.

Request copy of deed or other evidence of title, when needed.

Schedule meeting with county committee, review application and determine eligibility.

Inform applicant of the results of committee action.

The following FmHA forms will be used as appropriate in accomplishing the above actions:

Form No.	Name	
403-1	Debt Adjustment Agreement	(*)
440-2	County Committee Certification or Recommendation.	(x)

DOCKET PREPARATION

Obtain all information from the applicant, prior lienholder(s), landlord(s), etc., needed for the loan docket to be prepared.

Check to make sure all security requirements have been met or will be met by loan closing.

Prepare a loan narrative, for running record.

The following FmHA forms will be completed and utilized as necessary in preparing the loan docket for approval:

Form No.	Name	
400-4	Nondiscrimination Agreement	(*)
427-8	Agreement with Prior Lienholder.	(*)
440-1	Request for Obligation of Funds.	(x)
440-4	Security Agreement (Chattels and Crops).	(x)
440-4A	Security Agreement (Crops)	(*)
440-6	Severance Agreement	(*)
440-9	Supplementary Payment Agreement.	(*)
440-25/440A25	Financing Statement	(x)
440-26	Consent and Subordination Agreement.	(*)
440-41	Disclosure Statement for Loans Secured by Real Estate.	(*)
440-41A	Disclosure Statement for Loans Not Secured by Real Estate.	(*)
440-43	Notice of Right to Rescind	(*)
440-46	Environmental Impact Assessment.	(*)
441-5	Subordination Agreement	(*)
441-7	OL-EM and Other Credit Analysis.	(x)
441-8	Assignment of Proceeds from the Sale of Agricultural Products.	(*)
441-10	Nondisturbance Agreement	(*)
441-12	Agreement for Disposition of Jointly Owned Property.	(*)
441-13	Division of Income and Nondisturbance Agreement.	(*)
441-17	Certification of Obligation to Landlord.	(*)
441-18	Consent to Payment of Proceeds from Sale of Farm Products.	(*)
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	(*)
492-19	Characteristics of Approved Applicants.	(*)

LOAN APPROVAL AND CLOSING

A. LOAN APPROVAL

File financing statement or chattel mortgage, and obtain a lien search.

Request preliminary title opinion when appropriate.

Record loan closing conditions in the running record.

Execute and distribute all forms necessary for loan approval.

B. LOAN CLOSING

Request needed legal services.

Arrange for loan closing by county office, escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

The following FmHA forms will be used by the County Office in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	
400-6	Compliance Statement	(*)
402-1	Deposit Agreement	(*)
402-2	Statement of Deposits and Withdrawals.	(*)
402-5	Deposit Agreement (NonFmHA Funds).	(*)
427-1 (State)	Real Estate Mortgage or Deed of Trust for ———.	(*)
427-5	Affidavit of Borrowers (or Transferees).	(*)
427-9	Preliminary Title Opinion	(*)
1940-17	Promissory Note	(x)

Supart B—Closing Loans Secured by Chattels

Sec.
1941.51 Purpose.
1941.52-1941.53 [Reserved]
1941.54 Promissory note.
1941.55-1941.56 [Reserved]
1941.57 Security instruments.
1941.58-1941.59 [Reserved]
1941.60 Purchase money security interest.
1941.61-1941.62 [Reserved]
1941.63 Lien search.
1941.64-1941.66 [Reserved]
1941.67 Additional requirements for perfecting security interests.
1941.68-1941.70 [Reserved]
1941.71 Fees.
1941.72-1941.74 [Reserved]
1941.75 Retention and use of security agreements.
1941.76-1941.78 [Reserved]
1941.79 Future advance and after-acquired property clauses.
1941.80-1941.83 [Reserved]
1941.84 Real estate security, title clearance and closing requirements.
1941.85-1941.87 [Reserved]
1941.88 Insurance.
1941.89-1941.91 [Reserved]
1941.92 Check delivery.
1941.93 [Reserved]
1941.94 Supervised bank accounts.
1941.95 [Reserved]
1941.96 Changes in use of loan funds.
1941.97-1941.100 [Reserved]

AUTHORITY: 7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development 7 CFR 2.70.

Subpart B—Closing Loans Secured by Chattels

§ 1941.51 Purpose.

This subpart prescribes Farmers Home Administration (FmHA) policies, procedures, and authorizations for closing insured loans secured by chattels. These loans are considered closed on the date the promissory note is executed.

§ 1941.52-1941.53 [Reserved]

§ 1941.54 Promissory Note.

(a) *Executing the note.* Form FmHA 1940-17, "Promissory Note," will be executed and dated following receipt of the loan check in the county office and prior to the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower.

(b) *Signatures.*—(1) *Individuals.* Only the applicant is required to sign the promissory note if a sound loan can be made based on the applicant's income and financial resources alone. If a sound loan cannot be made on this basis, and if the security is jointly owned by the applicant and someone whose income and financial resources are sufficient to allow a sound loan to be made, then this co-owner will sign the note. If a co-owner's income and financial resources are not sufficient to allow a sound loan to be made then a cosigner will sign the note. Any other signatures needed to assure the required security will be obtained as provided in State supplements. Persons who are minors (except a youth obtaining a youth loan), mental incompetents, or noncitizens will not execute a promissory note. Except when a person has only pledged property as security for a loan, the purpose and effect of signing a promissory note or other evidence of indebtedness for a loan made or insured by FmHA is to incur individual personal liability regardless of any State law to the contrary. A youth executing a promissory note shall incur full personal liability for the indebtedness evidenced by such note.

(2) *Cooperatives or corporations.* The appropriate officers will execute the note on behalf of the cooperative or corporation. Ordinarily, each principal member or stockholder will sign the note as an individual and will be personally liable for the debt. A principal member, stockholder or partner is one owning or controlling as much as 10 percent of the ownership, stock or interest of a cooperative, corporation or partnership. If no member, stockholder or partner owns or controls as much as 10 percent, each member, stockholder or partner will be considered as a principal. The State Director will determine when a principal member or stockholder does not have to sign the note.

(3) *Partnerships.* The note will be executed by the partnership as well as by all the partners as individuals.

§ 1941.55-1941.56 [Reserved]

§ 1941.57 Security instruments.

Security instruments referred to in this Subpart are financing statements, security agreements, chattel mortgages, and similar lien instruments. To obtain a security interest in chattels and crops in States which have adopted the Uniform Commercial Code (UCC), both a financing statement and a security agreement are required, although only the financing statement must be filed or recorded in public records. See paragraph (g) of this section

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for filing or recording instructions. In Louisiana a Chattel Mortgage and Crop Pledge or Crop Pledge, as appropriate, is required to obtain a security interest in chattels and crops.

(a) *Executing security instruments by borrowers.* State supplements will be issued, as necessary, to carry out the provisions of this paragraph. In order to close the loan and obtain the desired lien(s), security instruments will be executed by:

(1) Appropriate cooperative or corporation officials, on behalf of a cooperative or corporation; ordinarily the instruments will also be executed by all principal members of the cooperative, principal stockholders of the corporation who will sign as individuals. The State Director will determine when a principal member or stockholder does not have to sign the security agreement; This will only occur in a very few exceptional cases, such as when the principal member or stockholder is absent from the country or suffering from a legal disability.

(2) Appropriate partners, on behalf of a partnership; the instruments will also be executed by all partners, who also sign as individuals.

(b) *Undivided interests.* An applicant obtaining a loan to finance an undivided interest in security or to refinance debts on an undivided interest in such property will secure the loan with a lien on the undivided interest in the property. All individuals having an undivided interest in the security will execute Form FmHA 441-12, "Agreement for Disposition of Jointly-Owned Property", unless a written agreement to the same affect as this form has already been signed.

(c) *Security instrument forms.* (1) Form FmHA 440-25, "Financing Statement," or Form FmHA 440A-25, "Financing Statement (Carbon-Interleaved)"; and Form FmHA 440-4, "Security Agreement (Chattels and Crops)," or Form FmHA 440-4A, "Security Agreement (Crops)," will be used to obtain security interests in chattel property in States which have adopted the Uniform Commercial Code (UCC), unless a State supplement requires the use of other forms.

(2) Form FmHA 440-4 LA, "Chattel Mortgage and Crop Pledge (Louisiana)," or Form FmHA 440-4A LA, "Crop Pledge (Louisiana)," will be used in the State of Louisiana.

(3) Other forms will be used as provided in State supplements in Puerto Rico, Guam, American Samoa and the Northern Mariana Islands.

(d) *Taking security instruments*—(1) *Financing statement.* A financing statement is effective for 5 years from the date of filing and as long thereafter as it is continued by filing a continuation statement.

(i) *Initial loan.* A financing statement will be required for every initial loan except when a filed financing statement covering the applicants property is still effective, covers all types of chattel property that will serve as security for the initial loan, and describes the land on which crops and fixtures are or will be located.

(ii) *Subsequent loan.* A financing statement will not be required unless the filed financing statement is not effective, does not cover all types of chattel property that will serve as security for the subsequent loan, or does not describe the land on which crops or fixtures are or will be located. If the loan debt is being secured for the first time, however, the procedure for securing initial loans stated in paragraph (d)(1)(i) of this section will be followed.

(2) *Security Agreements*—(i) *Initial loan.* When an intitial loan is made to an applicant, including to a paid-in-full borrower, a new security agreement will be required in all cases. The security agreement will be executed not later than the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower.

(ii) *Subsequent loan.* An additional security agreement will be required if property which is to serve as security for the debt is not described either specifically or in the printed form of the previous security agreement, or if an additional agreement it is needed to obtain or maintain a security interest in crops.

(A) An additional security agreement may also be executed to reflect significant changes in security.

(B) An additional security agreement is not necessary if the existing security agreement covers all types of chattels that will serve as security for the subsequent loan, describes the land on which the crops or fixtures are or will be located, and was executed within 1 year before the crops which are offered as security became growing crops.

When determined necessary by OGC, a State supplement will be issued to further explain when a security agreement covering crops will be required.

(e) *Describing collateral in security instruments.* (1) Financing statements describe certain types of collateral. If items of collateral not covered in the printed form of the financing statement are to serve as security, they should be described by type or specifically identified.

(2) Generally, animals, birds, fish, etc., should be described by groups in the security agreement. The serial or other identification numbers of major items of equipment should be listed in the security agreement. If a security interest is to be taken in property such as inventory, supplies, recreation or other nonfarm equipment, or fixtures which cannot be readily described under the column headings of items 2 or 3 of Form FmHA 440-4, an appropriate description of such property will be inserted in item 2 or 3 below the other property, without regard to the column headings.

(3) The advice of the Office of the General Counsel (OGC) will be obtained as to how to describe in financing statements and security agreements items such as grazing permits, milk bases, and membership or stock in cooperative associations. The property to be described in security instruments should be reconciled with any existing security instruments and with Form FmHA 462-1, "Record of the Disposition of Security Property."

(4) After the initial security agreement is executed, and after the borrower obtains all the property which FmHA wants specifically described, by item, in the security agreement, a new security agreement will be executed.

(f) *Executing security instruments by County Office employees.* The County Supervisor and any County Office employee authorized by the County Supervisor may execute on behalf of the Government any legal instruments necessary to obtain or preserve security for loans. This includes financing statements, security agreements, chattel mortgages and similar lien instruments, as well as severance agreements, consent and subordination agreements, affidavits and acknowledgments.

(g) *Filing or recording security instruments.* (1) Ordinarily, in States which have adopted the UCC, financing statements may be delivered by hand or mailed to the filing officers for filing or recording when the loan is approved. However, when this is not practical, the financing statement may be filed at a later date, but not later than the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower. If crops or other property of the borrower are located or will be located in a State other than that of the borrower's residence, the County Office servicing the loan will contact the County Office in the other State for information as to the security instruments to be used and the place(s) of filing or recording in the other State. The financing statement will be filed or recorded as required by State supplements.

(2) Security agreements will not be filed or recorded unless required by State supplements. Form FmHA 440-4 LA or Form FmHA 440-4A LA will be filed or recorded in Louisiana as provided by State supplements.

§§ 1941.58–1941.59 [Reserved]

§ 1941.60 Purchase money security interest.

A purchase money security interest will take priority over an earlier perfected security interest if a security agreement is taken and a financing statement is filed before the purchaser receives possession of the property or within 10 days thereafter, subject to the following limitations:

(a) *Motor vehicles.* For motor vehicles required to be licensed, any action necessary to obtain perfection in the particular State, such as having the security interest noted on the certificate of title, must be taken before the purchaser receives possession or within 10 days. In some States, it is not necessary to file a financing statement to perfect a security interest in such motor vehicles; however, FmHA will always require both a security agreement and a financing statement. A State supplement will be issued, if necessary to set out the procedure for obtaining a lien on a motor vehicle, motorboat, or any special type of security.

(b) *Farm equipment.* A purchase money security interest in farm equipment costing $2,500 or less (other than fixtures or motor vehicles required to be licensed), will take priority over an earlier perfected security interest if a security agreement is obtained, even though a financing statement is not executed or filed. FmHA, however, will always file a financing statement. State supplements will be issued, as necessary, to further explain the requirements for complying with this section.

(c) *Inventory.* A purchase money security interest in inventory will take priority over an earlier perfected security interest, provided:

(1) A security agreement is taken and a financing statement is filed not later than the time the purchaser receives possession of the property, and

(2) Before the purchaser takes possession of the property, written notice is given to the party holding the earlier perfected interest that the purchase money creditor has acquired or expects to acquire a purchase money security interest in the inventory, which must by described by item or type. When determined necessary by OGC, a State supplement will be issued to further explain the requirements for perfecting a purchase money security interest in inventory.

(d) *Fixtures.* A security interest taken in goods before they become fixtures has priority over a security interest in the real estate to which they are attached. A security interest taken in goods after they become fixtures is valid against all persons later acquiring an interest in the real estate. It is not valid against persons who had an interest in the real estate when the goods become fixtures, unless they execute a consent disclaimer or Form FmHA 440-26, "Consent and Subordination Agreement," or Form FmHA 440-6, "Severance Agreement."

(e) *Crops.* A security interest taken in crops not more than 3 months before the crops are planted or otherwise become growing crops, has priority over an earlier perfected security interest, if the obligation underlying the earlier interest was due more than 6 months before the crops became growing crops.

§§ 1941.61–1941.62 [Reserved]

§ 1941.63 Lien search.

(a) *Required lien searches.* (1) A lien search will be obtained at a time that assures that the security instruments give the Government the required security, usually at the time the financing statement (mortgage or crop pledge in Louisiana) is filed or recorded. Lien searches may be obtained after the financing statement is filed, but never after the delivery of the loan check or the first withdrawal of loan funds from the supervised bank account. Form FmHA 440-13, "Report of Lien Search," or other lien search forms will be used.

(2) Under the UCC, lien searches are necessary in making subsequent loans if an additional financing statement is required; *i.e.*, when crops or fixtures to be taken as security are or will be located on land not described in the existing financing statement, or when property not covered by the financing statement is to be taken as security for the loan.

(3) Lien searches also may be obtained in connection with processing applications when the County Supervisor determines such searches are necessary on an individual case basis.

(4) Although a lien search is not always required for youths who are minors (as defined in State supplements), the County Supervisor may determine that a search is necessary to assure the Government obtains the required security interest.

(b) *Responsibility for obtaining lien searches.* (1) Applicants should obtain and pay for lien searches. FmHA County Office employees may make lien searches (at no cost to the applicant) in exceptional cases, such as when no other person is available to provide such a service, or when experience has shown that using the service available would lead to an undue delay in closing the loan and the delay would cause undue hardship to the borrower.

(2) The State Director will issue a State supplement setting forth the requirements for lien searches, including the records to be searched and the periods to be covered.

(3) The applicant should be informed of County Clerks, local attorneys or other persons who will conduct lien searches at a reasonable cost. The applicant will select the lien searcher. The cost of a lien search can be paid from the proceeds of loan checks.

§§ 1941.64–1941.66 [Reserved]

§ 1941.67 Additional requirements for perfecting security interests.

If necessary because of provisions in State statutes, leases, land purchase contracts, or real estate mortgages commonly in use, State Directors will issue State supplements which tell how to obtain a subordination agreement, certification of obligation to landlord, severance agreement, disclaimer, and consent and subordination agreement to perfect security interest.

(a) *Form FmHA 441-5, "Subordination Agreement."* This form will be used if a subordination agreement is required by FmHA on crops, livestock, farm equipment, or other chattels. If Form FmHA 441-5 is not legally sufficient, a form recommended by OGC will be used. The time to be covered by the subordination agreement generally will be equal to the repayment period of the loan or for the unexpired period of the lease if the borrower is a tenant, but as a minimum will be for the year for which the loan is made.

(b) *Form FmHA 441-17, "Certification of Obligation To Landlord."* This form may be used instead of obtaining a subordination agreement if:

(1) It appears that the applicant is not financially obligated to the landlord except for rent for the lease year and will not incur other obligations to the landlord during that year, and

(2) A State supplement authorizing the use of Form FmHA 441-17 in such cases has been issued.

(c) *Form FmHA 440-6, "Severance Agreement."* Form FmHA 440-6 will be completed when loan funds are used to purchase property or refinance debts on property that is or may become a fixture.

(1) State Directors will issue State supplements which specify when a severance agreement is required under State law, whether the severance agreement should be filed or recorded, and whether the spouse of the borrower and the spouse(s) of the other party(ies) of interest will be required to execute the severance agreement. These supplements will tell FmHA employees what actions to take to prevent the property from becoming part of the real estate. Directions for severing the property after it has become

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attached to the real estate will also be included.

(2) Severance agreements will be executed no later than the date the property purchased with loan funds is delivered to the farm. Where a loan is made to refinance debts on property, the severance agreement must be executed before the release of funds to the creditor.

(d) *Form FmHA 440-26, "Consent and Subordination Agreement."* Unless otherwise provided by a State supplement, this form rather than a severance agreement will be used in UCC States when a security interest is taken in property after it has become a fixture.

(1) If a debt on an item which has already become a fixture is being refinanced, consent and subordination agreements will be signed before releasing loan funds to the creditor. In all other cases in which a security interest is being taken on an item that already has become a fixture, consent and subordination agreements will be signed no later than the time of loan closing.

(2) Consent and subordination agreements will be taken only in those cases in which the fixture is placed on the real estate before the financing statement and security agreement covering the fixture have been executed, or before the financing statement is filed, or before the request for obligation of funds is signed by the loan approving official.

§ 1941.68–1941.70 [Reserved]

§ 1941.71 Fees.

The borrower will pay all fees for filing or recording financing statements, mortgages, or other legal instruments and will pay all notary and lien search fees incident to loan transactions. Payment will be made from personal funds or from the proceeds of the loan. Whenever FmHA employees accept cash to pay for filing or recording fees or for the cost of making a lien search, Form FmHA 440-12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is not received by the Government as a payment on the borrower's debt, but is accepted only for paying the recording, filing, or lien search fees on behalf of the borrower.

§ 1941.72–1941.74 [Reserved]

§ 1941.75 Retention and use of security agreements.

Original executed security agreements will not be altered or destroyed, and will remain in the case file when new security agreements are taken. Changes in security property will be noted *only* on the work copy. When an additional security agreement covering all collateral for the debt is taken, the work copy of the previous security agreement may be destroyed.

§ 1941.76–1941.78 [Reserved]

§ 1941.79 Future advance and after-acquired property clauses.

The future advance and after-acquired property clauses of security agreements will be considered valid in all respects in UCC States unless otherwise provided in a State supplement.

(a) *Future advance clause.* A properly prepared, executed, and filed or recorded FmHA financing statement and a properly prepared and executed FmHA security agreement give FmHA a security interest in the property described. This security interest covers future loans, advances, and expenditures, as well as any other FmHA debts evidenced by notes and any advances or expenditures for debts evidenced by such notes. However, when a borrower's indebtedness is paid in full, a new security agreement must be taken in all cases to secure an initial loan made following the payment in full.

(b) *After-acquired property clause.* After a security interest is acquired in certain property, any property (except fixtures) acquired which is of the same type as that described in the financing statement and security agreement will also serve as security for the debt. The after-acquired property clause in the security agreement will encumber crops grown on the land described in the security agreement and financing statement, provided the crops are planted or otherwise become growing crops within 1 year of the execution date of the security agreement, or within such other period as provided in a State supplement. FmHA after-acquired security interests take priority over other security interests perfected after the FmHA financing statement is filed, except as stated in § 1941.60.

(c) *State supplements.* A State supplement concerning future advance and after-acquired property clauses will set forth requirements for filing or recording security instruments in that State. This will assist County Supervisors in other States who request such information in accordance with § 1941.57(g). A State supplement will also be issued when OGC determines that it is needed to reflect any amendments made to a State's UCC.

§§ 1941.80–1941.83 [Reserved]

§ 1941.84 Real estate security, title clearance and closing requirements.

(a) *Basic security and additional security.* Real estate is considered "basic security" when the amount of the loan exceeds the equity in chattel security by more than $10,000, and is considered "additional security" in all other cases.

(1) *Basic Security.* Basic security is all equipment (including fixtures in UCC States), and foundation herds, and flocks which secure FmHA loans and which serve as the basis for the farming or other operation. Basic security includes any equipment or animals which are acquired to replace previously held equipment or animals. It includes animals sold as a result of the normal culling process, unless the borrower has replacements to maintain long range production levels, and animals or birds sold when a borrower plans to significantly reduce the level of livestock operation. It also includes real estate when more than $10,000 equity in the real estate is needed as security for refinancing.

(2) *Additional Security.* The term "additional security" includes all security property not considered basic security, and which is not normally sold in operating the farm or other business but which was taken as security in the early life of the loan or which was taken as security when the loan became inadequately secured.

(b) *Title clearance and closing requirements—(1) Loans over $10,000 (or EM or EE loans over $25,000).* When real estate is taken as basic security title clearance is required.

(2) *Other loans.* For loans of $10,000 or less, (or EM of EE loans of $25,000 or less), and loans for which real estate is taken as additional security only, a certification of ownership and verification of equity in real estate is required. Certification of ownership may be in the form of a notarized affidavit which is signed by applicant, names the record owner of the real estate in question and lists the balances due on all known debts against the real estate. Whenever the County Supervisor is uncertain of the record owner or debts against the real estate security, a title search will be required.

(3) When real estate is taken as basic security, title clearance and loan closing requirements will be carried out in accordance with Part 1807 of this chapter (FmHA Instruction 427.1).

(4) If any prior liens against the real estate offered as security contain provisions (such as future advance clauses not limited to a specific amount) that could jeopardize either the security position of the Government or the applicant's ability to meet the obligations of the prior liens and FmHA loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions.

(5) If a lien is to be taken on real estate which is already subject to a lien, and if State law allows a prior lienholder to foreclose on a loan

(under power of sale or otherwise) without notifying a junior lienholder of the foreclosure proceedings, the prior lienholders must agree, in writing, to give FmHA advance notice of all foreclosure proceedings and of any assignment of the mortgage.

(6) Each real estate lien will be taken on Form FmHA 427-1 (State), "Real Estate Mortgage for ——," unless a State supplement requires the use of another form.

(7) If the real estate offered as security is held under a purchase contract, the following conditions must exist:

(i) The applicant must be able to provide a mortgageable interest in the real estate.

(ii) The applicant and the purchase contract holder must agree in writing that any insurance proceeds received to compensate for real estate losses will be used only to replace or repair the damaged real estate. If necessary, the applicant will negotiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to either FmHA or the lender.

(iii) If a satisfactory contract of sale cannot be negotiated or if the purchase contract holder refuses to agree to apply the insurance proceeds toward the repair or replacement of the real estate and wants to retain some of the proceeds as an extra payment on the balance owed, the applicant will make every effort to refinance the existing purchase contract.

(iv) The purchase contract must not be subject to summary cancellation on default and must not contain any other provisions which might jeopardize either the Government's security position or the borrower's ability to repay the loan.

(v) The contract holder must agree, in writing, to give the Government notice of any breach by the purchaser, and must also agree to give the Government the option to rectify the conditions which amount to a breach within 30 days. The 30 days begin to run on the day the Government receives the written notice of the breach.

§ 1941.85–1941.87 [Reserved]

§ 1941.88 Insurance.

Insurance for property, public liability, and crops should be obtained before loan or at the time of closing.

(a) *Chattel property.* Borrowers should be encouraged to carry insurance on chattel property, including growing crops, which serves as security for a loan and on other chattel or real property, in order to protect themselves against losses resulting from hazards existing in an area. It is especially desirable that insurance be obtained by applicants who receive large loans and have considerable chattel property including feed, supplies, and inventory centrally stored over an extended period. Such insurance may be required by the loan approval official in individual cases or by a State supplement.

(b) *Real estate.* If essential insurable buildings are located on the property, or improvements are to be made to existing buildings, the applicant, when required, will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. Real property insurance will not be required when a real estate appraisal report shows that both the present market value of the land (after deducting the value of buildings) and the owner's equity in the land exceed the amount of the debt, including the debt for the loan being made. However, the applicant will be encouraged to carry insurance. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement of these is made, the proceeds will be used to replace or repair buildings, to apply to debts secured by prior liens, or to apply to the OL loan being made. *However, when only a crop lien is taken as security, the borrower will be required to carry Federal or other type of Crop Insurance during the repayment period of such loan(s), if such insurance is available.*

(c) *Public liability and property damage.* Borrowers, including youths, receiving loans for farm, recreational, or nonfarm enterprises should be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance, including insurance on a customer's property in the custody of the borrower.

(d) *Mortgage clause.* When insurance is required on property serving as security, Form FmHA 426-2, "Property Insurance Mortgage Clause (Without Contribution)," or a standard mortgage clause in general use in the area will be attached to or printed in the policy and will show the United States of America (Farmers Home Administration) as mortgagee or secured party.

§§ 1941.89–1941.91 [Reserved]

§ 1941.92 Check delivery.

The County Supervisor will receive and deliver loan checks. On receipt of a loan check, and after arrangements have been completed for loan closing, the applicant will be promptly notified on Form FmHA 440-8, "Notice of Check Delivery." Loan funds will be disbursed in accordance with Part 1803 of this chapter (FmHA Instruction 402.1).

§ 1941.93 [Reserved]

§ 1941.94 Supervised bank accounts.

If a supervised bank account is required, loan funds will be deposited following loan closing. Supervised bank accounts will be established in accordance with Part 1803 of this chapter (FmHA Instruction 402.1).

§ 1941.95 [Reserved]

§ 1941.96 Changes in use of loan funds.

(a) *Approval of changes.* County Supervisors, or their delegates, are authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The change is consistent with authorities, policies and limitations for making loans, and

(2) The change will not adversely affect either the workings of an ongoing operation or the Government's interest.

(b) *Recording changes.* When changes are made in the use of loan funds, the installments on Form FmHA 1940-17, "Promissory Note," will not be revised nor will a corrected Form FmHA 441-7, "OL-EM and other Credit Analysis," be prepared. When funds loaned for the purchase of capital goods are to be used for annual recurring production expenses, the funds will be repaid in accordance with the terms for such uses in Subpart A of this part. Appropriate changes with respect to the repayments will be made in Table K of Form FmHA 431-2, "Farm and Home Plan," and initialed by the borrower. Appropriate notations will be made in the "Supervisory and Servicing Actions" section of the Management System Card.

§§ 1941.97–1941.100 [Reserved]

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

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EXHIBIT A: Farmers Home Administration Loans to Entrymen on Unpatented Public Lands.

AUTHORITY: 7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development 7 CFR 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

§ 1943.1 Introduction.

This Instruction outlines the policies, procedures and authorizations for making Farm Ownership (FO) loans under the Consolidated Farm and Rural Development Act, as amended. It is the policy of this agency to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, marital status or national origin. Exhibit A provides instructions for making loans to entrymen on unpatented public lands.

§ 1943.2 Objectives.

The basic objectives of the Farmers Home Administration (FmHA) in making FO loans are to assist eligible applicants to become owner-operators of family farms, to make efficient use of land, labor and other resources, to carry on sound and successful operations on the farm, and to enable farm families to have a reasonable standard of living. The operations may include establishment or enlargement of nonfarm enterprises to supplement the farm income. These objectives will be accomplished through the extension of credit and supervisory assistance, recognizing the need for additional help to limited resource farmers.

§ 1943.3 Management assistance.

Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Subpart B of Part 1924 of this chapter. Such assistance consists of farm, home and nonfarm planning, recordkeeping; analyzing the farm and any nonfarm business; and giving management advice.

§ 1943.4 Definitions.

(a) *Approval official.* A field official who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA Office.

(b) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm.

(c) *Corporation.* For the purposes of this regulation, a private domestic corporation created and organized under the laws of State(s) in which the entity will operate a farm.

(d) *Family farm.* A farm which:

(1) Will produce agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence.

(2) Will provide enough agricultural income by itself, including rented land, or together with any other dependable income, to enable the borrower to:

(i) Pay necessary family and operating expenses;

(ii) Maintain essential chattel and real property; and

(iii) Pay debts.

(3) Is managed by:

(i) The borrower, when a loan is made to an individual.

(ii) The members, stockholders or partners responsible for operating the farm when a loan is made to a cooperative, corporation or partnership.

(4) Has a substantial amount of the labor requirements for the farm and nonfarm enterprise provided by:

(i) The borrower and any family for a loan made to an individual.

(ii) The members, stockholders or partners who are responsible for operating the farm, and the families of these members, stockholders or partners, for a loan made to a cooperative, corporation or partnership.

(5) May require a reasonable amount of full-time hired labor and seasonal labor during peakload periods.

(e) *Farm.* A tract or tracts of land, improvements and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock. This includes the production of aquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

(f) *Fish farming.* The production of fish, mollusks, or crustaceans (or other invertebrates) under controlled conditions in ponds, lakes, streams, or similar holding areas. This involves feeding, tending, harvesting and other activities as are necessary to properly raise and market the products.

(g) *Limited Resource applicant.* An applicant who is a farmer or rancher and is an owner or operator of a small or family farm (a small farm is a marginal family farm), including a new owner or operator, with a low income who demonstrates a need to maximize farm or ranch income. A limited resource applicant must meet the eligibility requirements for a farm ownership or operating loan, but due to low income, cannot pay the regular interest rate on such loans. Due to the complex nature of the problems facing this applicant, special help will be needed and more supervisory assistance will be required to assure reasonable prospects for success. The applicant may face such problems as underdeveloped managerial ability, limited education, low-producing farm due to lack of development or improved production practices and other related factors. The applicant will not have nor expect to obtain, without the special help and low-interest loan, the income needed to have a reasonable standard of living when compared to other residents of the community

(h) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation or partnership.

(i) *Market value.* The amount which a willing buyer would pay a willing but not forced seller in a completely voluntary sale.

(j) *Mortgage.* Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(k) *Nonfarm enterprise.* Any business enterprise, including recreation, which provides income to supplement farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(l) *Partnership.* An entity consisting of individuals who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(m) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral or security property shall be considered a reference to the term security.

(n) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1943.5 [Reserved]

§ 1943.6 Credit elsewhere.

The applicant shall certify in writing on the appropriate forms, and the County Supervisor shall determine, that adequate credit elsewhere is not available to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near where the applicant resides for loans for similar purposes and periods of time.

(a) When based on the County Supervisor's knowledge of other lender programs, the review of the application indicates there is no possibility for the applicant to obtain the credit needed from other lender(s), this conclusion and the basis for it will be recorded in the running record and further checks will not be necessary.

(b) If the County Supervisor questions whether or not the applicant is able to obtain the credit needed from other agricultural lenders in the area, such lenders will be contacted and the findings recorded in the running record.

(c) If the County Supervisor receives letters or other written evidence from a lender(s) indicating that the applicant is unable to obtain satisfactory credit, these will be included in the loan docket.

(d) Property and interest in property owned and income received by an individual applicant, a cooperative and its members as individuals, a corporation and its stockholders as individuals, and a partnership and its members as individuals will be considered and used by an applicant in obtaining credit from other sources.

§§ 1943.7-1943.9 [Reserved]

§ 1943.10 Preference.

Preference will be given as between applications on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants in the following cases:

(a) An application from a veteran as defined in Subpart A of Part 1801 of this chapter (FmHA Instruction 410.1) will be given preference over one from a nonveteran.

(b) An application for a loan for land purchase from an applicant who is (1) married or has a dependent family, or (2) an owner of livestock and farm implements necessary to successfully carry on farming operations, or (3) able to make downpayments will be given preference over one from an applicant who does not meet any of these criteria.

§ 1943.11 Receiving and processing applications.

(a) Applications for FO loans will be received and processed as outlined in Subpart A of Part 1801 of this chapter (FmHA Instruction 410.1).

(b) If the applicant is a cooperative, corporation, or partnership the following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders, or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation by each or the percentage of interest held in the partnership by each.

(2) A current personal financial statement from each of the principal members of a cooperative, partners of a partnership or stockholders of a corporation. For this purpose, a principal is one owning or controlling as much as 10 percent of the ownership, stock or interest of a cooperative, corporation, or partnership. If no member, partner, or stockholder owns or controls as much as 10 percent, each member, partner, or stockholder will be considered as a principal. Any other member, partner or stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the cooperative, corporation or partnership will also be required to provide personal financial statements.

(3) A current financial statement from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative's corporation's charter, or any partnership agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative, corporation, or partnership to apply for and obtain the desired loan and execute required debt, security and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, or partnership which may be pertinent to a consideration of its application.

§ 1943.12 Farm ownership loan eligibility requirements.

(a) *An individual must.* (1) Be a citizen of the United States (see § 1943.4 (n) for the definition of "United States").

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(4) Need to rely on farm income and any other income to provide a level of living comparable to that considered reasonably adequate for the area. In making this determination, the County Committee should consider:

(i) Any special applicant circumstances such as size of family, health, and education.

(ii) The estimated typical income of reasonably successful residents in the area.

(iii) Whether the off-farm work will interfere with the successful operation of the farm.

(iv) That the guidelines listed in paragraphs (a)(1) (i), (ii) and (iii) of this section are provided to permit county committees to use judgment on individual cases. They are not intended to prevent making loans to an applicant who already has off-farm income that is typical of other reasonably successful residents in the area when that income as shown by a typical year Farm and Home Plan, will be reduced or end not later than three full crop years after the loan is closed.

(5) Have the character (as related solely to debt repayment ability and reliability), managerial ability and industry to carry out the proposed operation.

(6) Honestly try to carry out the conditions and terms of the loan.

(7) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(8) Be the owner-operator of not larger than a family farm after the loan is closed (in the case of a limited resource applicant see § 1943.4 (g)).

(b) *A cooperative, corporation or partnership must.* (1) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time. This applies to the entity and all of its members, stockholders, or partners, as individuals.

(2) Be controlled by farmers or ranchers engaged primarily and direct-

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ly in farming or ranching in the United States after the loan is made.

(3) Consist of members, stockholders, or partners who do not as individuals have an individual FO, SW, RL or OL loan and are not members of another entity or have an interest in another entity that has an FO, SW, RL or OL loan.

(4) If the members, stockholders, or partners holding a majority interest are related by marriage (that is, the legal union of a man and woman as husband and wife) or blood:

(i) They must be citizens of the United States (see § 1943.4(n) for the definition of "United States").

(ii) They must have sufficient training or farming experience to assure reasonable prospects of success in the proposed operation.

(iii) They and the entity itself must have the character (as related solely to debt repayment ability and reliability), managerial ability and industry necessary to carry out the proposed operation.

(iv) They and the entity itself will honestly try to carry out the conditions and terms of the loan.

(v) At least one member, stockholder, or partner must operate the family farm.

(vi) The entity must own *and* operate the farm and be authorized to do so in the State(s) in which the farm is located.

(5) If the members, stockholders, or partners holding a majority interest are *not* related by marriage or blood:

(i) The requirements of paragraphs (b)(4) (i) through (iv) of this section must be met.

(ii) They and the entity itself must own *and* operate the family farm.

(iii) The entity must own *and* operate the farm and be authorized to do so in the State(s) in which the farm is located.

(6) If applying as a limited resource applicant, as defined in § 1943.4 (g):

(i) The requirements of paragraphs (b)(4) (i) through (iv) of this section must be met.

(ii) The entity and all the members, stockholders, or partners must own or operate a small or family farm and at least one member, stockholder, or partner must operate the farm.

(iii) The entity must be authorized to carry on the activities for which financial assistance is being sought.

§§ 1943.13–1943.15 [Reserved]

§ 1943.16 Loan purposes.

Loans that are consistent with all Federal, State and local environmental quality standards may be made to:

(a) Purchase or enlarge a farm, including any land for recreation or other nonfarm enterprise. This may include:

(1) Purchasing easements and rights-of-way needed to operate the farm or nonfarm enterprise.

(2) An applicant's portion of the cost of land which is being subdivided.

(3) Making a downpayment on the purchase of land under the following conditions:

(i) A deed is obtained by the borrower and the unpaid balance on the loan is secured by a note and mortgage or an acceptable land purchase contract or similar instrument.

(ii) The applicant can meet the loan terms under normal farm conditions.

(iii) The conditions and the requirements of any prior mortgage or contract meet the FO security requirements for taking a junior lien.

(iv) A purchase contract is signed which obligates the purchaser to pay the purchase price, gives the purchaser the rights of present possession, control, and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(b) Construct, buy, or improve buildings and facilities needed on the applicant's farm, including:

(1) The construction of an essential farm dwelling and service buildings of modest design and cost, including facilities and structures for nonfarm enterprise uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites, and modest rental housing. For dwelling improvement or construction, consideration may be given to additional space required for facilities used for food preparation and storage, vehicle storage, or laundry and office space, the size and cost of which will not exceed that owned by typical family farmers in the area.

(2) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes pollution control and energy saving devices.

(c) Provide land and water development, pollution control and energy saving measures, acquire water supplies and rights, and promote the use and conservation essential to the operation of the farm and any nonfarm enterprise facilities. This includes providing fencing, drainage and irrigation facilities, basic applications of lime and fertilizer, and facilities for land clearing. This also includes establishing approved forestry practices, fish ponds, trails and lakes; improving orchards; and establishing and improving permanent hay or pasture. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the farm when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development only when the total cost of the development and machinery or equipment would not exceed the cost of hiring someone to do the development work. Also, loan funds may be used to pay that part of the cost of facilities, improvements and "practices" which will be paid for in connection with participation in such programs as the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to FmHA.

(1) Funds may be used to pay for development costs on land owned with defective title (see § 1943.19 (b)) or on land in which the applicant owns an undivided interest, provided:

(i) The amount of loan funds used on such land is limited to $25,000;

(ii) There is adequate security for the loan; and

(iii) The tract with defective title or undivided interest is not to be included in the appraisal report.

(2) Funds may be used to pay for development costs on land leased by the applicant provided:

(i) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life;

(ii) A written lease provides for payment to the tenant or assignee of any unexhausted value of the improvement if the lease is terminated;

(iii) There is adequate security for the loan; and

(iv) The amount of loan funds used for improvements on leased land will not exceed $10,000.

(d) Refinance debts subject to the following:

(1) The applicant's present creditors will not furnish credit at rates and terms the applicant can meet.

(2) The County Supervisor, by contracting the appropriate lender, verifies and documents either in the running record or by letter from the lender, the need to refinance all secured debts and major unsecured debts. The unpaid balance on the debts to be refinanced will also be verified.

(3) FmHA debts, including FmHA guaranteed loans, will not be refinanced unless such refinancing is necessary to enable borrowers to continue farming. The State Director's consent is required before FO funds can be used to refinance other FmHA debts.

(e) Pay reasonable expenses incidental to obtaining, planning, closing and making the loan, such as fees for legal, architectural and other technical services, and first year insurance premiums, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development.

(f) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned or purchased acreage for such enterprise is not physically located on the farmland.

§ 1943.17 Loan limitations.

An FO loan will not be approved if:

(a) The borrower has outstanding FO, Soil and Water (SW) or Recreation (RL) loans, and making the requested loan will cause the borrower's total unpaid principal indebtedness to exceed the lesser of $200,000 or the market value of the farm or other security.

(1) The State Director or a Farmer Programs staff member may determine that the market value is different from the appraiser's recommended market value.

(2) The basis for changing the recommended market value must be documented in the comments section of the appraisal report and initialed by an employee who has been delegated authority to appraise farms.

(b) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation and nonfarm enterprise cannot be conducted due to the distance between tracts or due to inadequate rights-of-way or public roads between tracts.

(c) The limitation fund in § 1943.29 (d) is not exceeded.

§ 1943.18 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Deferred payments.* (1) Borrowers are expected to pay all interest that becomes due on their loans. However, if necessary, principal and interest payments may be deferred up to three installments from the date of the note. The deferral will never extend beyond the final due date of the note. An applicant will be expected to repay some interest each year beginning the first year and full payments will be scheduled at the earliest date the Farm and Home Plan indicates they can be paid. The applicant will be advised to make payments on the loan as soon as the applicant has repayment ability even though the deferral period has not expired. The use of deferral authority will generally involve beginning farmers, applicants with limited income and resources and applicants who have had production and economic losses because of natural or ecomomic conditions. Bearing in mind the above limitations, deferred payments may be authorized under the following conditions:

(i) The initial Farm and Home Plan Business Analysis-Nonagricultural Enterprise, when appropriate, show full installments cannot be paid during the deferred period; and

(ii) A Long-Time Farm and Home Plan is prepared, when appropriate, and

(iii) A typical Farm and Home Plan and Business Analysis-Nonagricultural Enterprise, when appropriate, for a full crop year following the deferred period indicates full installments can be paid under normal conditions.

(2) Deferred interest will not be capitalized. Installments after the deferral period will be calculated in accordance with FMI for Form FmHA 1940-17.

(c) *Interest rate to borrower.* See to FmHA Instruction 440.1, Exhibit B, for the applicable interest rate. This exhibit may be obtained from any FmHA Office. A lower rate is established in this exhibit for a limited resource applicant subject to the following:

(1) The applicant meets the conditions of the definition for a limited resource application set forth in § 1943.4(g).

(2) The Farm and Home Plan and Business Analysis-Nonagricultural Enterprise, when appropriate, indicate that installments at the higher rate, along with other debts, cannot be paid during the period of the plan

(3) A lower interest rate borrower will pay the initial interest rate for 3 years. At the end of 3 years, the interest rate will automatically be increased as provided in FmHA Instruction 440.1, Exhibit B which is available in all FmHA offices. The loan will then be reviewed by the County Supervisor every two years thereafter to determine the interest rate to be charged. Before deciding whether to change the interest rate or leave it unchanged, the County Supervisor should consider.

(i) The borrower's income and repayment record during the preceding years;

(ii) The projections shown on the most recent Farm and Home Plan, in light of the previous year's projected figures and actual figures;

(iii) Whether improved production practices have been or need to be implemented;

(iv) The borrower's progress as a farmer; and

(v) All other factors which the County Supervisor believes should be considered.

The rate may increase in increments of whole numbers to the current rate for borrowers who are not limited resource borrowers. Whenever it appears that the borrower has a substantial increase in income and repayment ability or ceases farming, either the interest rate may be increased to the then current rate for FO loans or the borrower will be graduated from the program as provided in § 1943.24(l).

§ 1943.19 Security.

(a) *General.* Each FO loan will be secured by real estate only or by a combination of real estate and chattels or other security.

(b) *Real estate security.* (1) A mortgage will be taken on the entire farm owned or to be owned by the applicant, including land in which the applicant owns an undivided interest, except a portion of the farm will be excluded when:

(i) The applicant's title to that part of the farm is defective, and cannot be cured at a reasonable cost provided:

(A) The Office of the General Counsel (OGC) determines the applicant's interest is of such nature that it is not mortgageable; and

(B) To include the land would complicate loan servicing or liquidation; and

(C) Any land on which title is defective will not be included in the appraisal of the farm whether or not it is described on the mortgage.

(ii) The present lienholder on that part of the farm will not permit a junior lien or State law will not recognize or permit a lien provided:

(A) The part excluded from the security is not included in the appraisal report, and

(B) OGC advice is obtained before excluding any real estate from the security or the conditions under which real estate can be excluded are outlined by a State supplement.

(iii) Soundness of the loan will not be affected if there is defective title or part of the farm is not included as security for the loan.

(2) When the farm alone will not provide enough security, other real estate owned by the applicant may also be taken as security.

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(3) Loans may be secured by a junior lien on real estate provided:

(i) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other costs needed to protect the security, or reasonable foreclosure costs), cancellation, summary forfeiture, or other clauses that may jeopardize the Government's interest or the applicant's ability to pay the FO loan unless any such undesirable provisions are limited, modified, waived or subordinated insofar as the Government is concerned.

(ii) Agreements are obtained from prior lienholders to give notice of foreclosure to FmHA whenever State law or other arrangements do not require such a notice. Any agreements needed will be obtained as provided in Part 1807 of this chapter (FmHA Instruction 427.1), except as modified by the "Memorandum of Understanding—FHA-FCA," Exhibit B of this Subpart.

(4) The designated attorney, title insurance company, or the OGC will furnish advise on obtaining security when a life estate is involved.

(5) Any loan of $10,000 or less may be secured by the best lien obtainable without title clearance or legal service as required in Part 1807 of this chapter (FmHA Instruction 427.1): *Provided*, The County Supervisor believes from a search of the county records that the applicant can give a mortgage on the farm. This exception to title clearance will not apply when:

(i) The loan is made simultaneously with that of another lender.

(ii) Land is to be purchased.

(iii) This provision conflicts with program regulations of any other FmHA loan being made simultaneously with the FO loan.

(6) The Departments of Agriculture and Interior have agreed that FmHA loans may be made to Indians and secured by real estate when title is held in trust or restricted status. When security is taken on real estate held in trust or restricted status:

(i) The applicant will request the Bureau of Indian Affairs (BIA) to furnish Title Status Reports to the County Supervisor.

(ii) BIA approval will be obtained on the mortgage after it has been signed by the applicant and any other party whose signature is required.

(c) *Chattel security.* Loans may be secured by chattels subject to the following conditions:

(1) There is not enough real estate security for the loan and the best lien obtainable on the farm has been taken.

(2) Taking a lien on chattels will not prevent the borrower from obtaining operating credit from other sources or the FmHA.

(3) Junior liens on chattels may be taken when there is enough equity in the property. However, when practical, a first lien on selected chattel items should be obtained.

(4) A first lien will be taken on equipment or fixtures bought with loan funds whenever such property cannot be included in the real estate lien and this additional security is needed to secure the loan.

(5) Chattel security will be obtained and kept effective as notice to third parties as provided in Subpart of A of Part 1941 and Subpart A of Part 1930 of this chapter.

(d) *Other security.* (1) Items such as land, buildings, fixtures, fences, water, water stock and facilities, other improvements, easements, rights-of-way, and other appurtenances that are considered part of the farm and usually pass with the farm in a change of ownership may be taken as additional security when needed. If any of these do not pass with a change of ownership, the County Supervisor will obtain advice from the designated attorney, title insurance company, or the OGC to properly identify such items and include them in an appropriate security instrument or assignment.

(2) Other property that cannot be converted to cash without jeopardizing the borrower's farm operation may be taken as additional security when needed. Examples of such security may include case value of insurance policies, stock, memberships or stock in associations or water stocks. Any property taken as additional security must have security value and be transferable. Advice will be obtained from the designated attorney, title insurance company, or the OGC on obtaining this security or assigmnent.

(e) *State supplements.* Each State will supplement this section to provide instructions on forms and other requirements to be met in order to obtain the required security. In each State where loans will be made to Indians holding title to land in trust or restricted status, FmHA and BIA will decide on a way to exchange necessary information, and the procedure to be followed will be set out in a State supplement.

§§ 1943.20–1943.22 [Reserved]

§ 1943.23 General provisions.

(a) *Flood or mudslide hazard areas.* Flood or mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. However, buildings will need to meet the standards set out in § 1943.24. The flood or mudslide hazard will be recognized in the appraisal report. When land development or improvements such as dikes, terrances, fences, and intake structures are planned to be located in special flool or mudslide prone areas, loan funds may be used subject to the following:

(1) The Corps of Engineers or the Soil Conservation Service (SCS) will be consulted concerning:

(i) Likelihood of flooding.

(ii) Probability of flood damage.

(iii) Recommendations on special design and specifications needed to minimize flood and mudslide hazards.

(2) FmHA representatives will evaluate the proposal and record the decision in the loan docket.

(b) *Civil rights.* The provisions of Subpart E of Part 1901 of this Chapter will be complied with on all loans made which involve:

(1) Funds used to finance nonfarm enterprises and recreation enterprises. Applicants will sign Form FmHA 400-4, "Nondiscrimination Agreement," in these cases.

(2) Any development financed by FmHA that will be performed by a contract or subcontract of more than $10,000.

(c) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archeological value, the provisions of Subpart F of Part 1901 of this chapter apply.

(d) *Environmental impact statements.* If FO loans are used in populated areas to finance a farm which has relatively large feedlots or holding facilities for livestock or fish or smaller feedlots or holding facilities which are likely to have an effect on the environment, the applicant will be requested to complete Form FmHA 449-10, "Applicant's Environmental Impact Evaluation."

(1) The County Supervisor will complete Form FmHA 440-46, "Environmental Impact Assessment," from information provided by the applicant in Form FmHA 449-10.

(2) The County Supervisor will forward a copy of the loan application, completed FmHA Forms 449-10 and 440-46, and any other information and docket material relevant to environmental considerations to the State Director. The State Director will determine whether an environmental impact statement should be prepared based on this submittal and any other available information.

(3) The provisions of Subpart G of Part 1901 of this chapter will be followed to the extent applicable for FO loans in making decisions on farm operations that may have significant impact on the environment.

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(e) *Truth in Lending—Real Estate Procedures Act.* Subpart I of Part 1901 of this chapter applies as follows:

(1) The provisions in § 1901.401 concerning Truth in Lending apply to any FO loan made to individuals if the amount of the loan is less than $25,000.

(2) The provisions of the Real Estate Procedures Act outlined in § 1901.406 apply when FO funds are used involving tracts of less than 25 acres, if:

(i) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(ii) The loan is secured by a first lien on the property where a dwelling is located.

(f) *Equal Credit Opportunity Act.* In accordance with Title V of Pub. L. 93-495, the Equal Credit Opportunity Act, the FmHA will not discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Programs Staff members will consult with SCS, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainge development. State supplements will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisition of water rights.

(ii) Define areas where development of ground water for irrigation is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations, and obtain any special licenses or permits needed for nonfarm, recreation, specialized or fish farming enterprises.

§ 1943.24 Special requirements.

(a) *Determining suitability of farms.* The County Supervisor is responsible for making a preliminary determination as to whether a loan can be made on the farm. This determination will be based on a personal inspection of the farm and an evaluation of such factors as productivity of the land; location, conditions, and adequacy of the buildings; approximate value of the farm; roads, schools, markets, or other community facilities; tax rates; and adequacy of the water supply. A decision also will be made on the suitability of the farm for a nonfarm enterprise facility or specialized farm operation, and development needed to make it a suitable farm.

(b) *Dwellings and other essential buildings.* (1) Buildings adequate for the planned operation of the farm, including any nonfarm enterprise, must be available for the applicant's use after the loan is made. The necessary buildings will be located on the applicant's farm. Exceptions to this requirement are when:

(i) The applicant already owns an adequate, decent, safe, and sanitary dwelling, suitable for the family's needs, and located close enough to the farm so the farm may be operated successfully it will not be necessary to provide a dwelling on the farm. A real estate lien will be taken on such dwelling.

(ii) The applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm, or the applicant occupies suitable buildings which the applicant will eventually inherit or be permitted to purchase from a relative.

(iii) The farm does not have an adequate dwelling and the applicant owns a suitable mobile home which will be used as the applicant's home, the applicant will not be required to build a dwelling. A mobile home will not be considered to add value to the farm but FO funds may be used to finance anchoring the home.

(2) When loan funds are needed for a dwelling and an applicant is eligible for a Rural Housing (RH) loan, it will be processed simultaneously with the FO loan. However, if a small amount is needed for dwelling improvements, FO funds may be used. Dwellings will meet the requirements for RH loans as provided in Subpart A of Part 1822 of this chapter (FmHA Instruction 444.1).

(c) *Land and facility development.* Development needed to make the farm and any nonfarm enterprise ready for a successful operation will be planned during loan processing. The plans should provide for completing the development at the earliest practicable date. Recommendations of representatives of the Forest Service, Soil Conservation Service, State Agricultural Extension Service, and State Planning and Development Agency or local planning groups should be included in the development plan and the Farm and Home Plan. In planning such development with the applicant, the County Supervisor will encourage the applicant to use any cost-sharing assistance that may be available through any source such as the Agricultural Stabilization and Conservation Service (ASCS) programs.

(d) *Insurance.* (1) Insurance will be obtained on buildings and other property as provided in Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1).

(2) See § 1943.23(a) for information about mudslide and flood insurance.

(3) Applicants receiving loans for nonfarm enterprises will be advised of the possibility of incurring liability and will be encouraged to obtain public liability and property damage insurance.

(4) Personal property insurance will be obtained to insure against chattel security losses caused by hazards customarily insured against in the area if the loss of such security would jeopardize the interests of the Government.

(e) *Income from other than owned acreage.* When loan soundness depends on income from other sources in addition to income from owned land, it will be necessary to determine that:

(1) There is reasonable assurance that any rented land which the applicant depends on will be available; and/or

(2) Any off-farm employment the applicant depends on is likely to continue.

(f) *Income from nonfarm enterprises.* Nonfarm enterprises will be analyzed to determine soundness.

(1) Form FmHA 431-4, "Business Analysis—Nonagricultural Enterprise" will be used to document nonfarm enterprises unless the applicant uses another suitable form.

(2) The net cash income from the nonfarm enterprise will be entered as nonfarm income in the Farm and Home Plan.

(g) *Other real estate and assets.* Other assets not used directly in the farming operation will be handled as follows:

(1) FO loans may be made when essential real estate is owned, either in whole or as an undivided interest, that will not be part of the farm provided:

(i) The real estate or interests therein furnish employment or income which is essential to the applicant's success.

(ii) Sale of the property will not eliminate the need for FmHA credit.

(iii) Retention of the real estate will not cause the operation to be larger than a family farm.

(2) An applicant will dispose of nonessential real estate or an undivided interest in real estate no later than loan closing. If this is not feasible, the applicant must agree by signing Form FmHA 443-17, "Agreement to Sell Nonessential Real Estate," to dispose of the property as soon after closing as possible. Under no circumstances may

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the property be held for more than three years after closing.

(3) The applicant must agree to use the proceeds from the sale of other real estate to:

(i) Pay costs and taxes connected with sale;

(ii) Reduce the FmHA debt or any prior lien;

(iii) Make essential capital purchases; or

(iv) Pay essential farm and home expenses.

(4) Real estate or an interest in real estate which is retained after loan closing, but which is not part of the farm will not be included in:

(i) The appraisal report.

(ii) The security instrument for the loan.

(iii) The total debt against the security.

(h) *Life estates.* When life estates are involved, loans may be made:

(1) To both the life estate holder and the remainderman, provided:

(i) Both have a legal right to occupy and operate the farm;

(ii) Both are eligible for the loan; and

(iii) Both parties sign the note and mortgage.

(2) To the remainderman only, provided:

(i) The remainderman has a legal right to occupy and operate the farm; and

(ii) The lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security.

(3) To the life estate holder only, provided:

(i) There is no legal restriction placed on a life estate holder who occupies and operates a farm; and

(ii) The lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

(i) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county or parish, the loan will be processed and serviced in the State, country or parish in which the borrower's residence on the farm is located. However, if the borrower's residence is not situated on the farm, the FO loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office.

(j) *Subdivision of large tracts of farmland into family farm units.* County Supervisors should investigate any large tract that is offered for sale to determine the feasibility of making FO loans to enable several applicants to acquire the tract. In considering the feasibility of a tract for subdivision into family farms, the following are some of the factors that must be considered:

(1) Productivity of the land and its suitability for operation as a family farm;

(2) Cost of the land and improvements;

(3) Accessibility to roads, markets, schools, rights-of-way, easements, and other services.

(4) Disposition or omission of any part of the tract that is not suitable; and

(5) The number of eligible applicants in the area.

(k) *Liens junior to the FmHA lien.* A loan will not be approved if a lien junior to the FmHA lien is likely to be taken simultaneously with or immediately subsequent to the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the FO loan, such as for a portion of the purchase price of the farm or money borrowed from others for payments on debts against the farm, unless the total debt against the security would be within its market value.

(l) *Graduation of FO borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms, comparable to those for loans for similar purposes and periods of time prevailing in the area the borrower will, upon request, apply for and accept such financing. A borrower paying a rate of interest less than the market rate will be expected to pay the current rate when able to do so.

§ 1943.25 Options, planning and appraisals.

(a) *Optioning land.* An applicant is responsible for obtaining options on real property bought. Form FmHA 440-34, "Option to Purchase Real Property" should be used if possible. Other forms may be used if acceptable to all parties concerned and to FmHA. When an FmHA form is not used, a provision should be included which makes the option contingent upon the FmHA making a loan to the buyer.

(1) The County Supervisor should advise the applicant to have an understanding with the seller on such items as:

(i) Land description and number of acres;

(ii) Buildings and fixtures included in the transaction. The applicant should determine the condition of property attached to the land and the working condition of any fixtures with movable parts;

(iii) Minerals and the effect any mineral reservation has on the land value and operating it as a farm;

(iv) Access to the land or any part of it;

(v) The party responsible for taxes and insurance; and

(vi) The party who will receive the income from the land during the crop year of the transaction.

(2) The applicant should decide if the applicant wants the option recorded and is responsible for paying any recording fees.

(3) Form FmHA 443-2, "Option for Pruchase of Farm-Land to be Subdivided" may be used if a large tract will be subdivided into separate farms.

(i) Assignment of the interest of the applicant in whose name the tract is obtained will be made to each applicant who will acquire one of the units.

(ii) Form FmHA 443-3, "Assignment of Interest in Option (Land to be Subdivided)" may be used.

(b) *Planning.* Farm and Home Plans and nonagricultural enterprise plans, when appropriate, will be completed as provided in Subpart B of Part 1924 of this chapter.

(c) *Appraisals.* (1) Real estate appraisals will be completed by an FmHA employee authorized to make farm appraisals when real estate is taken as security. Appraisals are not required if:

(i) The amount of the FmHA loan and any simultaneous loan is $10,000 or less, and

(ii) The loan approval official determines the loan is adequately secured without an appraisal, and

(iii) The County Supervisor indicates in the loan docket an estimate of the market value of the real estate to be given as security.

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1).

(3) The value of stock required to be purchased by Federal Land Bank (FLB) borrowers may be added to the recommended market value of the real estate, provided:

(i) An assignment is obtained on the stock, or

(ii) An agreement is obtained which provides that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan, or

(B) The stock refund check is made payable to the borrower and FmHA, or

(C) The stock refund check is made payable to the borrower and mailed to the County Supervisor.

(iii) The total of the stock value and the recommended market value of real estate is indicated in the comments section of the appraisal report.

(4) In the case of nonreal estate security the following items apply:

(i) Form FmHA 440-21, "Appraisal of Chattel Property," will be used.

(ii) The property which will serve as security will be described in sufficient detail so it can be identified.

(iii) Its current market value or, if appropriate, the current cash value will be determined.

§ 1943.26 Planning and performing farm development.

The development work will be planned and completed in accordance with Part 1804 of this chapter (FmHA Instruction 424.1). The provisions of Subpart E of Part 1901 will be met in connection with FO loans involving recreational enterprises and the construction of buildings.

§ 1943.27 Relationship with other lenders.

An applicant will be requested to obtain credit from another source when information indicates such credit is available. When another lender will not make a loan for the total needs of the applicant but is willing to participate with an FO loan, consideration will be given to a participation loan. FmHA employees may not guarantee, personally or for FmHA, repayment of advances made from other credit sources. However, lenders may be assured that lien priorities will be recognized.

§ 1943.28 FmHA loans simultaneous with other lenders.

(a) Subpart R of Part 2000 of this chapter, "Memorandum of Understanding FHA-FCA" (available in any FmHA Office) will serve as a guide in processing FO loans to be made simultaneously with loans by FLB to a common applicant. State Directors may work out agreements for simultaneous loans with long-term lenders other than FLBs for eligible loan purposes. such an agreement should prohibit future advances by the first mortgage holder except for taxes, property insurance, reasonable maintenance expenditures, and reasonable foreclosure costs, but should not prohibit subsequent FmHA loans. It should also cover items such as appraisal methods, title clearance, loan closing, the disbursement of funds and, when appropriate, advance notice of foreclosure. It may also cover other items considered necessary or advisable for a sound FmHA junior lien loan.

(b) The County Supervisor and the other lender's representative should maintain a close working relationship in processing loans to a mutual applicant or borrower. When an FO loan is made at the same time as a loan from another lender, that lender's lien will have priority over the FmHA lien unless otherwise agreed upon. The lender's lien priority can cover the following in addition to principal and interest: Advances for payment of taxes, property insurance, reasonable maintenance to protect the security, and reasonable foreclosure costs including attorney's fees.

§ 1943.29 Relationship with other FmHA loans, guaranteed or economic emergency loans.

(a) Insured FO loans may be made simultaneously with other FmHA loans or to borrowers presently in debt for FmHA loans only if loan limits will not be exceeded and all requirements of the loans involved will be met.

(b) An insured FO loan will not be made to a borrower with an outstanding guaranteed FO, SW, or RL loan and paragraph (d) of this section is not intended to override this policy.

(c) FO loans will be made when funds are available instead of Economic Emergency Loans (EE).

(d) Borrowers indebted to FmHA and/or an FmHA guaranteed lender for an EE loan may be considered for FO loan(s): *Provided*, The total outstanding principal indebtedness to FmHA and/or an FmHA guaranteed lender for the EE, and any FO, SW, RL and OL loans would not exceed $650,000.

§ 1943.30 County Committee certification:

The County Committee will certify that an applicant is eligible on Form FmHA 440-2, "County Committee Certification or Recommendation," before a loan is approved. In some instances the Committee may want to interview the applicant or see the farm before making any recommendations.

§ 1943.31 [Reserved]

§ 1943.32 Loan docket processing and forms.

(a) *Forms.* The following table is a guide on the forms needed and distribution:

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FmHA form No.	Name of form	Total number of copies	Signed by borrower	Loan docket	Copy for borrower
400-1	Equal Opportunity Agreement.	2	1-O	1-O	1-C
400-3	Notice to Contractors and Applicants.	3		1-C	1-C
400-4	Nondiscrimination Agreement.	2	2-O and C	1-O	1-C
400-6	Compliance Statement...	3		1-C	1-C
*403-1	Debt Adjustment Agreement.	[3]	1-O	1-O	1-C
410-1	Application for FmHA Services.	[1]	1-O	1-O	
410-8	Applicant Reference Letter.	1		1-O	
410-9	Statement Required by the Privacy Act.	2	2-O and C	1-C	1-O
410-10	Privacy Act Statement to References.	[12]		1-C	
422-1	Appraisal Report—Farm Tract.	1		1-O	
*422-2	Supplemental Report—Irrigation, Drainage, Levee, and Minerals.	1		1-O	
*422-10	Appraiser's Worksheet—Farm Tracts for Study of Comparable Properties.	1		1-O	
*424-1	Development Plan	[2]	1-O	1-O	1-C
*427-8	Agreement with Prior Lienholder.	[3]		1-O	1-C
*431-1	Long-Time Farm and Home Plan.	2	2-O and C	1-C	1-O
431-2	Farm and Home Plan	[1]	1-O	1-O	
*431-4	Business Analysis—Nonagricultural Enterprise.	2	1-O	1-C	1-O
440-1	Request for Obligation of Funds.	[4]	[11]2-O+C	3-O+2C	1-O
440-2	County Committee Certification or Recommendation.	1		1-O	
*440-9	Supplementary Payment Agreement.	2	1-O	1-O	1-C
*440-21	Appraisal of Chattel Property.	1		1-O	
*440-34	Option to Purchase Real Property.	[3]	2-O and C	1-O	1-C
*440-41	Disclosure Statement for Loans secured by Real Estate.	[2]	1-C	1-C	1-O
*440-42	Credit Sale Disclosure Statement.	[2]	1-C	1-C	1-O
*440-43	Notice of Right to Rescind.	[10]3	[9]1	1	2-O+1
440-45	Nondiscrimination Certificate (Individual Housing).	2	1-O	1-O	1-C
*440-46	Environmental Impact Assessment.	1		1-O	
**443-12	Farm Ownership and Individual Soil and Water Fund Analysis.	3		1-C	
*443-17	Agreement to Sell Nonessential Real Estate.	2	2-O and C	1-O	1-C
*449-10	Applicant's Environmental Impact Evaluation.	2	1-O	1-O	1-O
*492-19	Characteristics of Approved Applicants.	[3]		1-C	

[1] Signed copy of option previously delivered to the seller.
[2] In addition to the plan for first full crop year, the interim plan, if prepared, will be included in the docket.
[3] When the contract method is used, three copies of plans and specifications will be required.
[4] An extra copy will be prepared in connection with a loan to acquire land when the Bureau of Indian Affairs must take action to have a patent issued to the purchaser. After the loan is approved, a copy of the form will be sent to the Area Director of the Bureau of Indian Affairs so that the patent can be requested from the Bureau of Land Management.
[5] Signed copy to creditor.
[6] Copy to lienholder.
[7] Copy to State director.
[8] Record of applicant investigation, availability of other credit, and so forth, which remain with the docket.
[9] In right-to-rescind cases, original and sufficient copies for each person who has a right to rescind.
[10] Original and one copy to borrower, two copies to each other person who has a right to rescind. If the right to rescind is exercised, the person exercising the right will sign one copy of the form and return it to the county office.
[11] Applicant must sign and date this form.
[12] Signed by all sources of information concerning the applicant's character and credit. Original is retained by the person who supplies the information.

O=Original; C=Copy.
* When applicable.
** Not used when a credit sale is processed without a loan.

(b) *Other docket items.* The running record and correspondence pertaining to the loan application and docket will be included. Other items may include supplementary information to farm and home plans, nonfarm enterprises, and copies of mortgages, contracts, and deeds.

(c) *Verification of veterans' preference.* If the applicant has checked the veteran block, the County Supervisor, or other County Office employee will review the applicant's evidence of discharge or release to determine whether the applicant is entitled to veterans' preference.

(d) *Information on other credit.* The docket will include, by entries in the running record or by letters, information on the need to refinance secured and major unsecured debts. Also, information will be included which shows other credit is not available in the amount needed or is not available under repayment terms which the applicant can meet.

§ 1943.33 Loan approval or disapproval.

(a) *Loan approval authority.* Initial and subsequent loans may be approved as authorized by Subpart A of Part 1901 of this chapter: *Provided:*

(1) The total debt including the loan(s) being made (unpaid principal and past due interest) against the security will not exceed the market value of the security.

(2) No significant changes have been made in the development plan considered by the appraiser when real estate will be taken as security.

(b) *Loan approval action.* (1) The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket, the loan approval official will determine that:

(i) The County Committee has certified the applicant eligible,

(ii) The Committee certification has been properly completed and signed by at least two members of the Committee,

(iii) Funds are requested for authorized purposes,

(iv) The proposed loan is sound,

(v) The security is adequate,

(vi) Necessary supervision is planned, and

(vii) All other pertinent requirements have been met or will be met.

(2) When approving the loan, the approval official will:

(i) Indicate on all copies of Form FmHA 440-1, "Request for Obligation of Funds," any conditions not required by FmHA regulations that must be met for loan closing;

(ii) Specify any special security requirements;

(iii) Indicate special conditions or agreements needed with prior lienholders when appropriate;

(iv) Indicate that approval is subject to satisfactory title evidence when required, if such evidence has not been obtained;

(v) Indicate any other special requirements; and

(vi) Sign the original and one copy of Form FmHA 440-1 and insert the title of the approval official.

(c) *Distribution of forms after loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved.

(1) These forms will be sent to the Finance Office:

Form FmHA 440-1 (copy). When funds have been obligated, the Finance Office will send to the County Office the original and one copy of Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request."

Form FmHA 443-12, "Farm Ownership Individual Soil and Water Fund Analysis," (original).

Form FmHA 492-19, "Characteristics of Approved Applicants," (original) for initial loans only. If an initial Operating (OL) or SW loan is approved at the same time, only one set of forms is required.

(2) The original of Form FmHA 440-1 and the remainder of the loan docket will be sent to the County Office.

(3) These forms will be sent to the State Office.

Form FmHA 440-1 (copy)
Form FmHA 443-12 (copy)
Form FmHA 443-19 (copy) for initial loans only. If an initial OL or SW loan is approved at the same time only one set of forms is required.

(4) A signed copy of Form FmHA 440-1 will be sent to the borrower on the date of loan approval.

(d) *Loan disapproval.* The following action will be taken when a loan is disapproved:

(1) The reasons for disapproval will be indicated on Form FmHA 440-1 by the loan approval official. The reasons may be in a letter or the running record if this form has not been completed. Suggestions of how to remedy the disapproval should be included.

(2) The County Supervisor will notify the applicant in writing of the action taken and include any suggestions that could result in favorable action when appropriate. In addition to sending out the written notice, the County Supervisor may personally discuss the action with the applicant. In that instance, the items covered in the discussion will be documented in the running record.

(3) Items furnished by the applicant during docket processing will be returned.

§ 1943.34 Requesting title service and accepting option.

When the loan is approved, the following action will be taken:

(a) The County Supervisor will request the applicant to obtain title clearance as provided in Part 1807 of this Chapter (FmHA Instruction 427.1) when required, if this has not been done.

(b) The applicant will sign Form FmHA 440-35, "Acceptance of Option," and send the original to the seller if land is being acquired. A copy will be kept in the case folder. If land to be acquired will be subdivided the following action will be taken:

(1) Each assignee will sign Form FmHA 443-10, "Acceptance of Option by Assignee (Land to be Subdivided)."

(2) The buyer will sign Form FmHA 443-11, "Acceptance of Option by Buyer (Land to be Subdivided)."

(3) The originals of the forms will be mailed to the seller and copies retained in the County Office file.

(c) The applicant will arrange with the seller to take possession when land is being acquired. The following forms may be used if appropriate:

(1) Form FmHA 443-5, "Short-Term Lease of Optioned Land."

(2) Form FmHA 443-6, "Short-Term Lease (Between Purchaser and Seller)."

(3) Form FmHA 443-8, "Agreement (Between Seller, Purchaser, and Tenant)."

§ 1943.35 Action after loan approval.

(a) *Requesting check.* If real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval or if the County Super-

visor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval by entering the amount needed in the appropriate block of Form FmHA 440-1. If funds are not requested when the loan is approved, advances in the amount needed will be requested by using Form FmHA 440-57 in accordance with the Forms Manual Insert (FMI). The original Form FmHA 440-57 will be retained in the County Office and a copy sent to the Finance Office. The initial loan advance will be requested when loan approval conditions can be met, satisfactory title to real estate security can be provided, and a date has been set for loan closing.

(1) When all loan funds can be disbursed at, or within 30 days after, loan closing or if the amount of funds that cannot be disbursed does not exceed $5,000, the total amount of the loan will be requested in a single advance.

(2) When loan funds cannot be disbursed as outlined in paragraph (a)(1) of this section the amount needed to meet the immediate needs of the borrower will be requested by submitting a copy of Form FmHA 440-57 to the Finance Office. The amount of each advance should meet the needs of borrowers as much as possible, so that the amount in the supervised bank account will be kept at a minimum. The Finance Office will continue to supply Form FmHA 440-57 until the entire loan has been disbursed. The County Supervisor should tell the borrower to notify the County Office of amounts needed on a timely basis to avoid delays in receiving loan checks.

(b) *Handling loan checks.* (1) When the loan check or the borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or the borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with Part 1803 of this chapter (FmHA Instruction 402.1) as soon as possible, but in no case later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1, a copy of which may be obtained from any FmHA Office.

(3) When a check is returned and the loan will be closed at a subsequent date, another check will be requested in accordance with FmHA Instruction 102.1, a copy of which may be obtained as stated in paragraph (b)(2) of this section.

(c) *Cancellation of loan.* Loans may be canceled before loan closing as follows:

(1) The County Supervisor will notify the State and Finance Offices of loan cancellation by using Form FmHA 440-10. The County Office will send a copy of Form FmHA 440-10 to the designated attorney, escrow agent, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate that the loan has been canceled. If a check received in the County Office is to be canceled, the check will be returned to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440-10.

(2) Interested parties will be notified of the cancellation as provided in Part 1807 of this chapter (FmHA Instruction 427.1).

(d) *Cancellation of advances.* When an advance is to be canceled, the County Supervisor must take the following actions:

(1) Complete and distribute Form Fm HA 440-10 in accordance with the FMI.

(2) When necessary, prepare and execute a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule. When it is not possible to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440-10 the revised amount of the loan and the revised repayment schedule.

(e) *Increase or decrease in amount of loan.* If it becomes necessary to increase or decrease the amount of the loan prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office and reprocessed unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memorandum explaining the change will be attached to the revised forms and sent to the Finance Office.

§ 1943.36–1943.37 [Reserved]

§ 1943.38 Loan closing actions.

When a loan closing date has been agree upon, the County Supervisor will notify the borrower and the seller, if any, of the loan closing date. The following appropriate actions will be taken in connection with, and after loan closing.

(a) *Real estate mortgage loans.* When a loan is to be secured by a real estate mortgage, it will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHA Instruction 427.1) except as modified for loans of $10,000 or less in § 1943.19(b)(4).

(b) *Loans involving chattel or other nonreal estate security.* All chattel security instruments will be signed and filed as prescribed in Subpart B of Part 1941 of this Chapter for operating loans. The following forms will be used for chattel security:

(1) Form FmHA 440-15, "Security Agreement (Insured Loans to Individuals)."

(2) Form FmHA 440-25, "Financing Statement" or, when authorized, Form FmHA 440A25, "Financing Statement."

(3) State forms may be used if national forms are not legally acceptable. Such forms will require OGC and National Office clearance.

(c) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in the applicant's financial condition, the financial statement will be revised and initialed by the applicant and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper, the loan will not be closed. If a revised loan docket is needed to meet loan requirements or determine loan soundness, it will be developed and submitted to the appropriate loan approval official.

(d) *Loan approval conditions.* The County Supervisor will inform the applicant of any loan approval conditions that need to be met. These conditions will usually be included in the notice informing the applicant of the loan closing date. The loan will not be closed if the applicant is unable to meet loan approval conditions.

(e) *Change in the use of funds planned for refinancing.* (1) County Supervisors are authorized to:

(i) Transfer funds planned to be used for refinancing specific debts to other debts when there is a need to do so and

(ii) Transfer funds planned to be used for other purposes to pay small deficiencies in estimates for refinancing debts providing there are sufficient remaining funds to complete any land purchase and planned development.

(2) A revised docket will be developed when:

(i) The total amount of debts to be refinanced has increased in such an amount that planned loan purposes cannot be carried out and

(ii) The applicant is unable to make up any deficiencies from other resources.

(f) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be reduced will be assigned and disposed of in accordance with Subpart A of Part 1872 (FmHA Instruction 465.1), including provisions for written consent of any prior lienholder. Authority may be given by the State Director to refrain from taking an assignment in cases where the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting sources such as income from bonus payments or annual delay rentals. Such income will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1).

(1) For assignment of income, Form FmHA 443-16, "Assignment of Income from Real Estate Security," will be used, except if it is legally inadequate in a State it may be adapted to the State with the approval of the OGC or an authorized State form may be used instead.

(2) The County Supervisor, upon the advice of the designated attorney, escrow agent, title insurance company, or the OGC, as appropriate, may require acknowledgment and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(3) At the time form FmHA 443-16 is executed, appropriate notations will be made on Form FmHA 405-1, "Management System Card-Individual," to insure that the proceeds, or the specified portion of the proceeds assigned to FmHA from the transactions, are remitted at the proper time.

(g) *Preparation of the note.* Form FmHA 1940-17, "Promissory Note," will be used and completed in accordance with the FMI.

(1) Separate notes will be prepared for any other FmHA loan made simultaneously with the FO loan. The notes will be completed as provided in the appropriate loan regulation and FMI.

(2) All FmHA notes to be secured by real estate can be described in the same mortgage.

(3) When a loan is closed in December with an installment due on the following January 1, that installment should be collected at loan closing.

(4) The promissory note will be signed as follows:

(i) When loans are made to an individual, the note will be executed in accordance with Part 1807 of this chapter (FmHA Instruction 427.1).

(ii) When a loan is made to a cooperative or a corporation, by:

(A) The official(s) authorized to obtain the loan; and

(B) The individual(s) holding a majority interest in the cooperative or corporation, as individuals.

(iii) When a loan is made to a partnership by all partners in the partnership.

(h) *Supplementary payment agreement.* Form FmHA 440-9, "Supplementary Payment Agreement," should be used for each applicant who regularly (such as weekly, monthly, or quarterly) receives substantial income from an off-farm source, a nonfarm enterprise, or from farming.

(i) *Obtaining insurance.* The applicant will be informed of the insurance requirements set forth in §1943.24 (d).

(j) *Effective time of loan closing.* An FO loan is considered closed when the mortgage is filed for record.

(k) *Distribution of documents after loan closing.* The County Supervisor should review the forms and closing actions. Corrective action should be taken when necessary.

(1) Real estate mortgage.

(i) When the original recorded instrument is returned to County Office:

(A) File the original in County Office file, and

(B) Give a copy to the borrower.

(ii) When the original is retained by recorder:

(A) File a conformed copy in county office file, and

(B) Give a conformed copy to the borrower.

(iii) The County Supervisor will provide copies that may be needed in some cases for interested third parties.

(2) Deeds.

(i) Give the original to borrower, and

(ii) Retain one copy to file.

(3) Title insurance policies.

(i) File the Mortgagee title policy in the county office file, and

(ii) Give the Owner's title policy, if one is obtained, to the borrower.

(4) Water stock certificates or similar collateral will be retained in the county office file.

(5) Abstracts of title.

(i) Return to the borrower, except that when they were obtained from a third party with understanding they will be returned, the abstracts will be sent to the third party. A memorandum receipt will be obtained when abstracts are delivered to the third party.

(ii) Form FmHA 140-4, "Transmittal of Documents" will be used and a receipted copy kept in the County Office. The FMI should be followed for preparing this form.

§ 1943.39–1943.41 [Reserved]

§ 1943.42 Servicing.

FO loans will be serviced in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1). Chattel security for FO loans will be serviced in accordance with Subpart A of Part 1930 of this chapter.

§ 1943.43 Subsequent FO loans.

A subsequent FO loan is a loan made to a borrower who is currently in debt for an FO loan.

(a) A subsequent loan may be made for the same purposes and under the same conditions as an initial loan.

(b) The subsequent loan will be processed in the same manner as an initial loan except that a new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(1) Subsequent loan funds will be used to purchase land or the mortgage will include additional land that is not presently covered by the FmHA real estate mortgage.

(2) The County Supervisor or loan approval official requests a new appraisal report.

(3) The latest appraisal report on the farm is over two years old.

(4) The physical characteristics of the farm have changed significantly.

(5) The subsequent loan will be over $10,000.

(6) There have been significant changes in the market value of real estate in the area within the last two years.

(c) When a new appraisal is not made, an employee authorized to make farm appraisals will provide an estimate of the value of the security. This value will be inserted, dated, and initialed in the comments section of the latest appraisal report.

(d) A new real estate mortgage will not be necessary provided:

(1) All the land which will serve as security for the loan is described on the present real estate mortgage, and

(2) The real estate mortgage has a future advance clause and a State supplement provides authority for using such a clause, and

(3) The required lien priority is obtained with the existing mortgage and future advance clause.

§ 1943.44 Subordinations.

Subordinations in favor of other lenders will be processed in accordance with Subpart A of Part 1872 of this chapter. (FmHA Instruction 465.1).

§ 1943.45–1943.49 [Reserved]

§ 1943.50 State supplements.

State supplements will be issued as necessary to implement this subpart.

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ATTACHMENTS: EXHIBIT A

FARMERS HOME ADMINISTRATION LOANS TO ENTRYMEN ON UNPATENTED PUBLIC LANDS

I *GENERAL:* This Exhibit provides additional policies and procedures applicable to (1) insured Farmers Home Administration (FmHA) loans to homestead and desertland entrymen which are to be secured by real estate, and (2) taking of real estate mortgages on entries to secure Farm Ownership, Soil and Water, Individual Recreation, Operating, Emergency, Single Family Housing, and Farm Labor Housing loans in connection with loan making and servicing.

A *Authority.* The authorizations contained in this Exhibit clarify security and servicing for loans to entrymen and are based on Public Law 361. Attachment 1 is a Memorandum of Understanding between the Department of the Interior and the Department of Agriculture and outlines the general procedures to be followed when loans are made to entrymen. Reference to Guaranteed Loans in the Memorandum of Understanding is not applicable.

B *Cooperation Between the Department of Agriculture and the Department of the Interior.* The extension of financial assistance and taking of real estate mortgages authorized in paragraph I A will be facilitated through the cooperation of the FmHA, the Bureau of Land Management (BLM), and the Bureau of Reclamation (BR), as provided in the Memorandum of Understanding.

C *Special Policies Applicable to Dwellings, Land Improvement and Ownership.* An FmHA loan will not be made to an applicant who lacks the capital or who cannot obtain credit to provide (1) any required habitable dwellings within the statutory period specified in pargraph I D for the establishment of residence, and (2) land development sufficient for success but in no case less than that necessary to meet the entry requirements. The Notice of Allowance of Entry is adequate to meet the ownership requirement until the patent is issued.

D *Patent Requirements.* All entrymen will be expected to keep in contact with appropriate officials of the BLM, and BR and comply with pertinent laws and regulations of these Agencies relating to the issuance of patents for homestead or desertland entries. When applicable, reclamation proof must be filed by the borrower at the earliest possible date. Likewise, FmHA personnel concerned with making and securing FmHA loans to entrymen should acquaint themselves with BLM and BR representatives and keep informed of their regulations relating to the issuance of patents for homestead or desertland entries, including but not limited to the following:

1 RESIDENCE AND DEVELOPMENT REQUIREMENTS. A homestead entryman must established residence upon the tract entered within 6 months after date of the entry unless an extension of time is allowed and must maintain a residence there for 3 years. The entryman should notify the authorized officer of the BLM upon establishing residence. When an FmHA loan is made for any purpose, the requirements of the applicable FmHA regulations must be met. Likewise any residense or development requirements of BLM or BR will be met.

2 FINAL PROOF. Specific requirments for final proof for homestead entrymen is found in 43 CFR 2515.7 and final proof for desertland entrymen is found in 43 CFR 2521.6.

a Homestead Entryman: Final proof must be filed within 5 years from the date of allowance of entry. A patent will not be issued until the entryman has submitted final proof. Final proof must show that (1) a habitable dwelling is on the land at the time proof is submitted, (2) residence requirements have been met, (3) the improvements are of such character as to show good faith, and (4) the entryman is a citizen of the United States. When the entryman is ready to submit final proof the entryman should notify the BR and request instructions regarding the procedure to be followed.

b Desertland Entryman: Final proof must be made within 4 years from the date of entry. General requirements of the BLM that must be met include: (1) Filing a map at the initiation of the entry showing the method of irrigation and the proposed source of water supply, (2) an annual expenditure for 3 years of not less than $1 for each acre in the necessary development of the land, (3) filing a map at the end of the third year showing the character and extent of improvements, and (4) yearly proof of expenditures containing statements of two or more credible witnesses who have knowledge that the expenditures were made.

The County Supervisor should consult the BLM official for any additional requirements of the entryman such as preparing a notice of intention to make final proof, publication of final proof and submission of final proof.

3 RECLAMATION PROOF. Reclamation proof for homestead entryman may be submitted with, or at any time after, the submission of homestead proof. In additon to the final homestead proof mentioned in paragraph I D 2, the filing of reclamation proof is required as a condition for obtaining a patent to any entry within a reclamation project. Reclamation proof must show reclamation and cultivation of at least one-half of the irrigable area in the entry for 2 years immediately preceding the date of submission of proof and the payment of all reclamation charges due at that time. Reclamation proof, in proper form, must be submitted to the official in charge of the project accompanied by the payment of final homestead commissions.

II *LOAN PROCESSING:* When making an FmHA loan to be secured by the entryman's land, existing FmHA policies, procedures, and loan authorities applicable to the particular type of loan will be met, except as follows:

A *Applications.* 1 APPLICATIONS FROM ENTRYMEN NOT IN A FEDERAL RECLAMATION PROJECT. An application for an FmHA loan from an entryman with respect to public land not within a Federal reclamation project will be considered only after the entryman has selected a farm and received the Notice of Allowance of Entry from BLM. The original or a copy of the document showing allowance of entry must be attached to Form FmHA 410-1, "Application for FmHA Services."

2 APPLICATIONS FROM ENTRYMEN IN A FEDERAL RECLAMATION PROJECT. An application for an FmHA loan from an entryman with respect to public land within a Federal reclamation project will not be considered until after the entryman has received a Certificate of Eligibility from BR and has selected a farm. If at the time of making application the entryman has received the Notice of Allowance of Entry from BLM, he will attach the original or a copy of such document to Form FmHA 410-1. If the entryman has not received the Notice of Allowance of Entry, a copy of the Certificate of Eligibility must be attached to the FmHA application. However, the docket will not be approved until the original or a copy of the document showing Notice of Allowance of Entry has been received from the applicant and placed in the loan docket.

3 SUPPLEMENTAL INFORMATION ON APPLICANT. At the time of making application for an FmHA loan to be secured by real estate, the entryman may be requested to authorize the FmHA to obtain from BLM or BR any available information concerning the entryman's application for homestead, desertland, or reclamation entry for use by the FmHA in determining the entryman's eligibility for the loan as provided in the Memorandum of Understanding.

B *Special Items in Development of Loan Dockets for Loans to be Secured by the Entryman's Land.* Loan dockets for loans to entrymen will be prepared and distributed in accordance with the applicable FmHA regulations, except as modified by this paragraph.

1 DEVELOPMENT PLAN. An extra copy of Form FmHA 424-1, "Farm Development Plan" will be prepared and sent to BLM in each case. When the entryman's farm is located in a Federal reclamation project, any development items listed on Form FmHA 424-1 must be consistent with the overall plans for development of the reclamation project. Consequently, when Form FmHA 424-1 provides for the leveling of land or the installation of farm distribution and surface drainage systems another extra copy will be prepared and sent to the Reclamation Project Officer as soon as the County Supervisor determines that there is a reasonable likelihood that the loan will be made. If Form FmHA 424-1 conflicts with the overall BR plans for the development of the Federal reclamation project, officials of the BR will so advise the County Supervisor. The processing of the loan will not be delayed while awaiting such advice from BR but the FmHA loan will not be closed until Form FmHA 424-1 is revised to make it consistent with the BR plans. The County Supervisor will advise the Project Officer or Authorized Officer in writing whenever changes are made in the plans approved by the FmHA.

C *Title Clearance.* 1 The entryman applicant will be required to furnish and pay for a certified statement prepared by a qualified title examiner or abstractor or as otherwise required by a State supplement which will include finding with respect to any outstanding land leveling contracts and any other claims of any kind on record against the entry. This certified statement will be included in the loan docket. Where there is an outstanding land leveling contract, the applicant's copy of such contract also will be included in the loan docket and returned to the borrower when the loan is closed.

2 The State Director, upon advice from the Office of the General Counsel, will inform the County Supervisor regarding the acceptable form of certified statement required in paragraph II C 1.

D *Loan Closing.* Except as provided by this Exhibit, FmHA loans will be closed in accordance with the applicable FmHA regulation.

1 REAL ESTATE MORTGAGE FORMS. Whenever the entry is located within a Federal reclamation project two extra copies of Form FmHA 427-1, "Real Estate Mortgage," will be prepared. If the entry is not within a Federal reclamation project, one extra copy of the real estate mortgage will be prepared. After the loan has been closed, a conformed copy of the real estate mortgage will be sent to BLM and, if the entry is located in a Federal reclamation project, a conformed copy of the mortgage also will be sent to the BR. The entyman's serial number which appears on the original document showing Notice of Allowance of Entry will be typed on the original, and the conformed copies of the Mortgage for BLM and BR will indicate the date and place of recordation and the book and page numbers.

2 COUNTY OFFICE RECORD OF ALLOWANCE OF ENTRY. When the loan is closed a copy will be made of the original document showing Notice of Allowance of Entry for the borrower's county office case folder, unless a copy was funished. The County Supervisor will sign the following certification which will be typed on this copy:

"I hereby certify that this is an exact copy of the Notice of Allowance of Entry issued by the BLM to _____ (Entryman's Name) residing at _____ (Entryman's Address)

"_____
County Supervisor

When the original document showing allowance of entry is furnished, it will be returned to the borrower.

3 ENTRIES REQUIRED ON MANAGEMENT SYSTEM CARDS. Upon closing the loan, the County Supervisor will enter a notation on the borrower's Management System Card (Form FmHA 405-1) as to the date when the borrower must submit final proof to the BLM in fulfillment of the requirements to obtain a patent. If residence has not been established, a notation also will be made on the Management System Card of the date such residence must be commenced. It will be the responsibility of the County Supervisor to follow through to see that the borrower completes these actions.

III MORTGAGE ON REAL ESTATE FOR ADDITIONAL SECURITY. When it is deemed advisable to take a mortgage on the homestead or desertland entry as additional security or to otherwise protect the interests of the FmHA, a real estate mortgage will be taken on such entry. The mortgage will be taken as authorized in Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1). In such a case, a copy of the real estate mortgage will be sent to BLM and, if the farm is located in a Federal reclamation project, a copy of the mortgage also will be sent to the BR.

IV *DEFAULT AND DISPOSAL OF UNITS:* The County Supervisor will coordinate with the local BLM and BR representatives and keep the State Director currently advised on any cases in default or where default is anticipated. The State Director will be guided by Attachment I and advice of the Office of the General Counsel in fulfilling FmHA's responsibilities for disposal of any units on which a patent has not been issued. Units on which a patent has been issued will be serviced by applicable FmHA procedures.

EXHIBIT A

ATTACHMENT I

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF THE INTERIOR RELATING TO FINANCIAL ASSISTANCE BY THE FARMERS HOME ADMINISTRATION TO ENTRYMEN ON PUBLIC LANDS

PART I—PURPOSE AND DEFINITIONS

A. *Purpose.* The purpose of this memorandum is to outline the general procedure to be followed by the Farmers Home Administration (FHA), the Bureau of Land Management (BLM), and the Bureau of Reclamation (BR), when FHA extends financial assistance to entrymen on unpatented public lands, including public land in reclamation projects.

B. *Definitions.* Unless otherwise indicated in this memorandum:

(1) The term "unit" will be used to describe an adequate family farm, less than adequate family farm, a portion of a farm or any other tract of land.

(2) The term "FHA" also includes its insured lenders and guaranteed lenders.

(3) The term "outstanding balance" includes (a) the unpaid indebtedness under the FHA mortgage, (b) any unpaid costs owed to BR for construction by it of a special distribution system to serve a unit where such costs have been allocated to the unit as a separate item, and (c) any portion of an SW association loan made by FHA for construction of a domestic water system to serve the unit and secured by a lien on the unit. It does not include any portion of an SW association loan made by the FHA for construction of a domestic water system to serve the unit and not secured by a lien on the unit, nor project construction costs charged to the unit.

(4) Pub. L. 361, 81st Congress (7 U.S.C. 1006a and 1006b), is referred to as "Pub. L. 361." It applies to Farm Ownership (FO), Operating (OL), Soil and Water Conservation (SW) loans made to individuals and Recreation (RL) loans to individuals under the Consolidated Farm and Rural Development Act of 1972 (7 U.S.C. 1921) and prior laws. It does not apply to Emergency (EM) loans made under that act or prior laws, nor to Housing (RH) loans made under Title V of the Housing Act of 1949 (42 U.S.C. 1471), or to any other loans made or administered by FHA.

(5) Pub. L. 419 (86 Stat. 675) amended Pub. L. 361 to add desertland entrymen as eligible for the same loans as indicated in (4) abbve.

(6) The term "Project Officer" refers to the BR Officer who may properly hold the requisite responsibility for the project or area in question.

(7) The term "authorized officer" refers to the BLM Officer to whom has been delegated the required responsibility for the area in question.

(8) The term "County Supervisor" means County Supervisor for FHA.

(9) The term "State Director" means State Director for FHA.

PART II—GENERAL PROVISIONS

A. FHA regulations will govern making and servicing FHA loans, including the taking of mortgages as additional security for existing FHA loans.

B. In connection with applications for FHA loans or credit sales to eligible applicants, the Project Officer of BR or the authorized officer of BLM, upon written request of the County Supervisor, will furnish the following:

1. Written consent to make the applicant an FHA loan or to secure an existing FHA loan.

2. Any information which BR or BLM has concerning the applicant, provided, in the case of BR information, the request has the following authorizations attached to it:

Date————, 19—

I hereby authorize the Bureau of Reclamation to make available to the Farmers Home Administration any information the Bureau may have concerning my transactions with it. This information may be used by the Farmers Home Administration in determining my eligibility and qualifications for a loan, and is to be treated as confidential.

(Type name of applicant below signature)

signed _____
(applicant)

signed _____
(spouse)

3. A statement of account, showing the applicant's outstanding balance if there is a debt owed to BR (principal balance, accrued unpaid interest, and daily interest accrual rate, any other charges and any unpaid special distribution system costs, and the amount, delinquent).

4. A report on any development and residence requirements which have not been completed and on eligibility of the unit for water, including full information on the status of any excess land.

5. Advice as to whether the applicant is in default because of failure to pay water charges, or because of breach of any other agreements with the Bureau of Reclamation.

C. A homestead or desertland entryman on public land not in a reclamation project may apply to the County Supervisor for an FHA loan when his entry has been allowed. The original or a copy of the Notice of Allowance of Entry from BLM must be attached to the application for a loan from FHA. Upon request of the County Supervisor, the authorized officer will furnish any information that office has with respect to the applicant entryman.

An applicant for a homestead on a reclamation project likewise may apply to the County Supervisor for an FHA loan when he has received from the BR a Certificate of Eligibility and has selected a unit. A copy of the Certificate of Eligibility must be attached to the application for a loan from the FHA unless the unit has been entered, in which case the Notice of Allowance of Entry will be attached to the application for a loan. Each application for such a loan filed by an entryman will be processed in substantially the same manner as other application of a similar character, including the preparation of the loan docket, certifications by the FHA County Committee, and approval by the duly authorized loan approving official. If any conflict exists between the development plans of FHA and BR or BLM, the difference must be reconciled prior to loan closing. A copy of the Notice of Allowance of the Entry will be required in the loan docket before a loan is closed.

D. Upon closing of a loan to an entryman, when real estate security is taken, the

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County Supervisor will send copies of the real estate mortgage to the authorized officer of BLM, and to BR if appropriate. The County Supervisor will indicate on the mortgage the date such instrument was filed for record and the entryman's homestead or desertland entry serial number. Copies of these instruments will serve as notification to BLM or BR that a loan has been made by FHA and may be used in connection with the servicing of such loans as indicated herein.

PART III—LOAN SERVICING

A. If the entryman-borrower repays his indebtedness in full to FHA before a patent is issued to him by BLM, the County Supervisor will promptly notify the BLM authorized officer of the release of the mortgage lien.

B. When final homestead or desertland entry proof or homestead proof and reclamation proof submitted by an entryman-borrower is accepted by the BLM and a patent is issued before BLM is notified of the full repayment of the indebtedness to FHA, the patent issued will make reference to the FHA mortgage as follows:

"This patent is issued subject to the rights of the United States under a certain mortgage or deed of trust executed by —— and ———— under date of ————, 19 ——, recorded in Book ——, Page ———— of the records of the Recorder of Deeds for ————."

In such cases, if the patent is issued to a person other than the mortgager or the purchaser at foreclosure of the mortgage, there shall also be inserted after the recital of recordation of the mortgage the following words: "Which the patentee assumes and agrees to pay."

C. Upon issuance of the patent to the entryman-borrower, the authorized officer of BLM will notify the State Director that the patent has been issued and mailed to the entryman-borrower. Upon such notification, the County Supervisor will advise the entryman-borrower to record the patent promptly in the real estate records in the county in which his unit is located, and will check the records to determine that the recordation has been accomplished. The issuance of the patent will terminate any further relationship between BLM and FHA insofar as the entryman-borrower is concerned.

D. In the event that an entryman-borrower has not submitted Final Proof within the statutory period from the date of allowance of his entry, BLM will send to the County Supervisor a copy of the Notice of Expiration of the statutory period of entry when it is mailed to the entryman-borrower. The copy of the notice will be used by the County Supervisor in urging the entryman-borrower to submit final proof with appropriate explanation of his failure to do so before the expiration of the statutory period.

PART IV—DEFAULTS

When an entryman-borrower is in default in the terms of his mortgage to FHA, in complying with requirements to obtain a patent, or in meeting the requirements to make reclamation proof, the following procedures will apply:

A. *Default on Mortgage.* BLM will issue a decision canceling any entry upon which there is an FHA mortgage when so requested in writing by the State Director. FHA may request a cancellation whenever any default occurs in the terms, conditions, covenants, and obligations contained in the mortgage. Included among the terms, conditions, covenants, and obligations in the mortgage taken by FHA will be the provision that the entryman-borrower must comply with the legal and administrative regulations for the issuance of a patent and, if the entry is located in a reclamation project, with the legal and administrative regulations for making reclamation proof.

1. The State Director will furnish the authorized officer of BLM with an explanation of the need for cancellation. When the entry is located in a reclamation project, the State Director also will notify the BR Regional Director and furnish him with an explanation of the need for cancellation.

2. The BR Regional Director may request the State Director to reconsider the necessity for cancellation of the entry when (a) BR can furnish information which may not have been considered by FHA, (b) there is an outstanding contract between BR and the entryman borrower for the repayment of charges for land leveling, or (c) the entryman-borrower has not made reclamation proof. If such a request is made, a copy will be furnished to the BLM which shall suspend action on the FHA request until further notified by the FHA. Ordinarily, BR will not request a reconsideration of the necessity for cancellation unless there appears to be a reasonable basis upon which a solution can be worked out so that the entryman-borrower may retain possession of his unit.

3. If BR does not ask the State Director to reconsider his request to cancel within 30 days, BLM will issue a decision cancelling the entry.

4. If BR asks for a reconsideration of the request to cancel, it will furnish the State Director immediately new information which it believes should be considered by FHA in reaching a decision. When FHA has reached a final decision, it will notify the BLM and the BR of the decision reached. Within 30 days after receiving notice of the final decision of the State Director that the entry should be canceled, BLM will notify the entryman-borrower of the cancellation of his entry in accordance with the usual procedure. A copy of the notice of the cancellation will be mailed to the State Director at the same time.

B. *Default in Meeting Entry Requirments.* If BLM proposes to take any action toward cancellation of an entryman-borrower's entry, it will notify the State Director and the BR Regional Director if the unit is located in a reclamation project, in writing at least 30 days before any action is commenced. The notification will be accompanied by an explanation as to why cancellation will be made. Within the 30-day period either or both FHA and BR may present any new information for the consideration of the BLM in reaching a decision to, or not to, cancel the entry. When BLM has reached a final decision, it will inform the State Director and the BR Regional Director.

C. *Default in Meeting Reclamation Requirements.* In the event BR intends to recommend cancellation of an entryman-borrower's entry, the Superintendent of the Reclamation Project will notify the State Director in writing at least 30 days before such recommendation is to be submitted to BLM for cancellation. The notification will be accompanied by an explanation as to why cancellation of entry is to be requested. FHA may request a reconsideration of BR's intended recommendation to cancel within the 30-day period and will furnish any new information which it believes should be considered by BR when reaching a final decision. When BR has reached a final decision, it will notify the State Director.

PART V—DISPOSAL OF UNITS AFTER CANCELLATION OR RELINQUISHMENT

After cancellation or relinquishment of an entry upon land on which FHA holds a mortgage, such land shall be opened to reentry only to persons eligible for an original entry, and eligible for an FHA loan unless the FHA Loan is paid in full. Any unit disposed of hereunder shall be subject to the outstanding balance owed to FHA and BR, or to that portion of the outstanding balance as agreed upon by the FHA and BR or BLM, as appropriate, if the entryman is eligible for an FHA loan.

A. *One Year Limit.* Under Pub. L. 361, BLM or BR can permit a new entry only during one year after cancellation or relinquishment of the old entry where the FHA mortgage is subject to Pub. L. 361 (FO, OL, and SW). In other cases such as RH and EM, the one-year limitation does not apply, but BLM or BR will nevertheless arrange for a new entry within the one-year period if it is practicable to do so.

B. *Custody and Expenses.* While BLM or BR has disposal authority it will assume custodial responsibility for the unit, but the County Supervisor and the Project Officer will determine the actions necessary to protect the interests of both FHA and BLM or BR. Any expenses incurred for protection of FHA's interest will be paid by FHA and added to the mortgage debt.

C. *Disposal of Units.*—1. *Within a Reclamation Project.* As soon as possible, after cancellation or relinquishment, FHA will make an appraisal to determine the value of the property and will report its findings to BR on appropriate FHA appraisal forms. The State Director and the BR Regional Director after receipt of the report by BR will jointly participate in determining the amount of indebtedness owed to the United States which shall be required in accordance with the existing law to be paid and the terms under which repayment will be made.

a. BR will, thereafter, for that particular unit, proceed to inform the public of the availability of the unit in accordance with its established procedures. However, before BR issues a Certificate of Eligibility to any applicant for re-entry it will submit to the County Supervisor (a) a list of the names of the applicants who can qualify for a Certificate of Eligibility and the order in which such applicants shall be considered, and (b) the information submitted by each of the qualified applicants in support of his application for the entry.

b. The County Supervisor and the County Committee will examine the list and the information to determine which of the applicants are eligible for an FHA loan. The list of any documentary information furnished will be returned to BR with a written statement setting forth the names in the list which are eligible for FHA assistance. Upon receiving such information from FHA, BR will proceed to select, in accordance with established procedures, from among the applicants determined to be eligible for a Certificate of Eligibility and an FHA loan, one applicant but not to exceed two alternate applicants, to whom the unit may be awarded upon qualifying to assume the indebtedness.

c. BR will issue a Certificate of Eligibility to the selected applicant. The Certificate of Eligibility will be sent to the FHA County Supervisor who will instruct the applicant to file his Certificate of Eligibility and application for entry with BLM which will issue a Notice of Allowance of Entry if the applicant is qualified to make entry. The applicant will be allowed to occupy the unit when he has received the Notice of Allowance of Entry and has completed arrangements to assume the required amount of indebtedness owed to FHA or to refinance such indebtedness. FHA will send a copy of the assumption agreement or note and mortgage, if any, executed by the new occupant to BR and BLM.

d. FHA may permit an eligible person to whom the unit is awarded to assume that part of the indebtedness determined to be within the value of the property.

2. *Units Not Within a Reclamation Project.* As soon as possible, after cancellation or relinquishment, FHA will make an appraisal to determine the value of the property and to determine the amount of indebtedness owed on FHA loans that is to be paid by the new entryman. The FHA will report the amount of the FHA debt to be assumed to the BLM.

a. The BLM will, thereafter, for that particular entry, proceed to inform the public of the availability of the land in accordance with its established procedures. BLM will, following the opening of the land to application, submit to the County Supervisor (a) a list of the names of the applicants who can qualify for the allowance and the order in which such applicants shall be considered, and (b) the information submitted by each of the applicants in support of his application.

b. Thereafter the FHA will select from the list the first applicant for the entry who can qualify for an FHA loan.

c. FHA will then notify BLM of the applicant selected. The authorized Officer will, as soon as possible after notification, issue the Notice of Allowance. The Allowance of Entry or an attachment thereto will show that entry is conditioned upon payment or assumption of the FHA debt. A copy of appropriate notice will be mailed to the State Director.

d. Upon receipt of the Notice of Allowance of Entry by the applicant, FHA will instruct him to occupy the unit and will complete arrangements for him to assume or refinance the indebtedness or the part thereof determined to be within the value of the property. FHA will send a copy of the assumption agreement or note and the mortgage, if any, executed by the new occupant to BLM.

e. FHA may permit an eligible person to whom the unit is awarded to assume that part of the indebtedness determined to be within the value of the property.

D. *Disposal of Units By Farmers Home Administration.* 1. If no entry is allowed within one year after cancellation or relinquishment of a prior entry on which FHA holds a mortgage and the property was security for an FHA loan subject to Pub. L. 361 even though it also was security for a loan not subject to that law, FHA will dispose of the unit in accordance with the FHA regulations. If the unit is located on a reclamation project, such disposition shall be subject, however, to outstanding reclamation charges on the land due the United States.

2. If the property cannot be sold immediately, the FHA will arrange for a lease or caretaker agreement as necessary to protect the Government's interests.

3. When FHA prepares to sell a unit, it will also advise BLM or BR, as appropriate, of the name of the purchaser and will request issuance of a patent to the purchaser. If the unit is in a reclamation project, BR will furnish, as soon as possible to FHA, information concerning any outstanding reclamation charges on the land due the United States.

4. The sale may be for cash or on credit. In the event the sale is on credit, FHA will furnish a copy of the mortgage to BLM or BR, as appropriate, which shall make reference, in any patent issued thereafter, to the outstanding mortgage of FHA.

This memorandum of understanding supersedes the earlier memorandum of understanding signed on February 17, 1950, and March 25, 1950, respectively, by the Secretaries of Agriculture and Interior.

Approved:

JACK O. HORTON,
Assistant Secretary of the Interior.

Date: October 22, 1974.

Approved:

WILLIAM ERWIN,
Assistant Secretary of Agriculture.

Date: December 16, 1974.

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

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Exhibit A—Memorandum of Understanding Between the Bureau of Reclamation, Department of the Interior and the Farmers Home Administration, Department of Agriculture.

AUTHORITY: 7 U.S.C. 1989; 5 U.S.C 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development 7 CFR 2.70.

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

§ 1943.51 Introduction.

This Subpart outlines the policies, procedures, and authorizations for making Soil and Water (SW) loans under the Consolidated Farm and Rural Development Act, as amended. It is the policy of this Agency to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, marital status, age or national origin. See Exhibit A of Subpart A of this part for making SW loans to entrymen on unpatented public lands. See Subpart R of Part 2000 of this chapter for the Memorandum of Understanding between the Farm Credit Administration (FCA) and the Farmers Home Administration (FmHA).

§ 1943.52 Objectives.

The basic objectives of the SW loans are to encourge and facilitate the improvement, protection, and proper use of farmland by providing financing for soil conservation, water development, conservation, and use; forestation; drainage of farmland; the establishment and improvement of permanent pasture; pollution abatement and control; and other related measures consistent with all Federal, State and local environmental quality standards. Achieving these objectives should help farmers to make needed land-use adjustments and should lessen the impact of adverse weather conditions on farming operations.

§ 1943.53 Management assistance.

Supervision will be provided borrowers to the extent necessary to achieve loan objectives and protect the Government's interests, in accordance with Subpart B of Part 1924 of this chapter.

§ 1943.54 Definitions.

(a) *Approval official.* A field official who has been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in tables available in any FmHA office.

(b) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the

supply or right cannot be purchased

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profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm.

(c) *Corporation.* For the purposes of this regulation, a private domestic corporation created and organized under the laws of the State(s) in which the entity ill operate a farm.

(d) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock. This includes the production of aquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as a part of the farm in the local community.

(e) *Fish farming.* The production of fish, mollusks, or crustaceans (or other invertebrates) under controlled conditions in ponds, lakes, streams, or similar holding areas. This involves feeding, tending, harvesting and other activities as are necessary to properly raise and market the products.

(f) *Indefinite parole.* To verify that applicants other than citizens are legally admitted to the U.S. on indefinite parole, such applicants must provide their Form I-94, "Immigrants on Indefinite Parole" card.

(g) *Leasehold.* A right to use farm property for a specific period of time under conditions provided for in a lease agreement.

(h) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation or partnership.

(i) *Mortgage.* Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(j) *Partnership.* An entity consisting of individuals who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(k) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral or security property shall be considered a reference to the term security.

(l) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico., The Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1943.55 [Reserved]

§ 1943.56 Credit elsewhere.

The applicant shall certify in writing on the appropriate forms, and the County Supervisor shall determine, that adequate credit elsewhere is not available to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near where the applicant resides for loans for similar purposes and periods of time.

(a) When based on the County Supervisor's knowledge of other lender programs, the review of the application indicates there is no possibility for the applicant to obtain the credit needed from other lender(s), this conclusion and the basis for it will be recorded in the running record and further checks will not be necessary.

(b) If the County Supervisor questions whether the applicant is unable to obtain the credit needed from other agricultural lenders in the area, such lenders will be contacted and the findings recorded in the running record.

(c) If the County Supervisor receives letters or other written evidence from a lender(s) indicating the applicant is unable to obtain satisfactory credit, these will be included in the loan docket.

(d) Property and interests in property owned and income received by an individual applicant, a cooperative and its members as individuals, a corporation and its stockholders as individuals, and a partnership and its members as individuals will be considered and used by an applicant in obtaining credit from other sources.

§§ 1943.57–1943–59 [Reserved]

§ 1943.60 Preference.

An application on hand from a veteran as defined in Subpart A of Part 1801 of this chapter (FmHA Instruction 410.1) will be given preference over an application from a non-veteran on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants.

§ 1943.61 Receiving and processing applications.

(a) Applications will be received and processed in accordance with Subpart A of Part 1801 of this chapter (FmHA Instruction 410.1).

(b) If the applicant is a cooperative, corporation, or partnership the following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders, or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation by each or the percentage of interest held in the partnership by each.

(2) A current personal financial statement from each of ths principal members of a cooperative, partners of a partnership or stockholders of a corporation. For this purpose, a principal is one owning or controlling as much as 10 percent of the ownership, stock or interest of a cooperative, corporation, or partnership. If no member, partner, or stockholder owns or controls as much as 10 percent, each member, partner, or stockholder will be considered as a principal. Any other member, partner or stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the cooperative, corporation or partnership will also be required to provide personal financial statements.

(3) A current financial statement from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative or corporation's charter, or any partnership agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors, members or stockholders authorizing specified officers of the cooperative, corporation, or partnership to apply for and obtain the desired loan and execute required debt, security and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, or partnership which may be pertinent to a consideration of its application.

§ 1943.62 Soil and water loan eligibility requirements.

(a) *An individual must.* (1) Be a citizen of the United States (see § 1943.54 (1) for the definition of "United States"), legally admitted as a permanent resident of the United States or on indefinite parole.

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have the character (as related solely to debt repayment ability and reliability), managerial ability and industry to carry out the proposed operation.

(4) Honestly try to carry out the conditions and terms of the loan.

(5) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(6) Be the owner or operator of a farm after the loan is closed.

(7) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the operator to obtain reasonable returns on the improvements to be made with the SW loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

(b) *A cooperative, corporation or partnership must.* (1) Have the character (as related solely to debt repayment ability and reliability), management ability and industry to carry out the proposed operation; and

(2) Honestly try to carry out the conditions and terms of the loan.

(3) Consist of members, stockholders or partners holding a majority interest who are citizens of the United States (see § 1943.54 (1) for the definition of "United States"), legally admitted as permanent residents of the United States or on indefinite parole *and* who meet the requirements of paragraphs (b) (1) and (2) of this section.

(4) Be authorized to own and/or operate a farm in the State(s) in which the farm is located.

(5) Be unable to obtain sufficient credit elsewhere, either as an entity or as individual members, stockholders or partners, to finance actual needs at reasonable rates and terms taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time.

(6) Be controlled by individuals engaged primarily and directly in farming or ranching in the United States after the loan is made.

(7) Be the owner or operator of the farm after the loan is made.

(8) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the applicant to obtain reasonable returns on the improvements made with the loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

(9) Consist of members, stockholders or partners who do not as individuals have an FO, SW, RL, or OL loan and are not members of another entity that has an FO, SW, RL, or OL loan.

§ 1943.63–1943.65 [Reserved]

§ 1943.66 Loan purposes.

Loans that are consistent with all Federal, State and local environmental quality standards may be made to:

(a) Pay costs for construction, materials, supplies, equipment, and services related to land and water development, use, conservation; and energy saving measures related to soil and water conservation, such as:

(1) Terraces, dikes, reservoirs, ponds, tanks, cisterns, liquid and solid waste disposal facilities, wells, pipelines, pumping and irrigation equipment, ditches and canals for drainage, waterways, and erosion control structures.

(2) Drainage of land which is part of an operating farm unit.

(3) Land clearing.

(4) Sodding, subsoiling, land leveling, liming and fencing.

(5) Fertilizer and seed used in connection with a soil conservation practice or to establish or improve permanent vegetation.

(6) Forestation for sustained yield and tree planting for erosion control or shelter belt purposes.

(7) Gasoline, oil, and equipment rental or hire connected with establishing or completing the development.

(8) Reasonable expenses incidental to obtaining, planning, closing and making the loan, such as fees for legal, engineering or other technical services and first year insurance premiums which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(9) Purchase or repair of special-purpose equipment such as terracing, land leveling and ditching equipment, provided:

(i) Such equipment is needed and will facilitate the completion or maintenance of the planned improvement, and

(ii) The cost of the equipment plus the other costs related to improvement will not be more than if performed by a contractor or by another method.

(b) Pay the costs of meeting Federal, State or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including construction, modification, or relocation of the farm or farm structures if necessary to comply with such pollution abatement requirements.

(c) Acquire a source of water to be used on land the applicant owns, will acquire, or operates including:

(1) The purchase of water stock or membership in an incorporated water users association.

(2) The acquisition of a water right through appropriation, agreement, permit, or decree.

(3) The acquisition of water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(i) The value of the land without the water supply or right is only an incidental part of the total price, and

(ii) The water supply will be transferred to, and used more effectively on, other land owned or operated by the applicant.

(d) Refinance debts subject to the following:

(1) The debts were incurred for authorized SW loan purposes.

(2) All development or repair work conforms to FmHA standards or those standards will be met with the SW loan.

(3) The applicant's present creditors will not furnish credit at rates and terms the applicant can meet.

(4) The County Supervisor, by contacting the appropriate lender, verifies and documents, either in the running record or by letter from the lender, the need to refinance all secured debts and major unsecured debts. The unpaid balance on the debts to be refinanced will be verified.

(e) Purchase land or an interest therein for sites or rights-of-way and easements upon which a water or drainage facility will be located.

(f) Pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs administered by agencies such as the Agricultural Stabilization and Conservation Service or the Soil Conservation Service only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the Farmers Home Administration (FmHA).

(g) Provide water supply facilities for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

(h) Pay costs of land and water development, use, and conservation essential to the applicant's farm, subject to the following:

(1) Such a loan may be made on land with defective title owned by the applicant (see § 1943.69 (b)) or on land in which the applicant owns an undivided interest providing:

(i) The amount of funds used on such land is limited to $25,000,

(ii) There is adequate security for the loan, and

(iii) The tract is not included in the appraisal report.

(2) Such a loan may be made on land leased by the applicant providing:

(i) The terms of the lease are such that there is reasonable assurance the

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applicant will have use of the improvement over its useful life.

(ii) A written lease provides for payment to the tenant or assignee any unexhausted value of the improvement if the lease is terminated.

(iii) There is adequate security for the loan.

§ 1943.67 Loan limitations.

An SW loan will not be approved if:

(a) The borrower has outstanding SW, Farm Ownership (FO) or Recreation (RL) loans, and making the requested loan will cause the borrower's total unpaid principal indebtedness to exceed the lesser of $200,000 or the market value of the farm or other security.

(1) The State Director or a Farmer Programs staff member may determine the market value is different from the appraiser's recommended market value.

(2) The basis for changing the recommended market value must be documented in the comments section of the appraisal report and initialed by an employee who has been delegated authority to appraise farms.

(b) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation and nonfarm enterprise cannot be conducted due to the distance between tracts or due to inadequate rights-of-way or public roads between tracts.

(c) The limitation found in § 1943.79 (c) is not exceeded.

§ 1943.68 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Deferred payments.*—(1) *General policy and conditions.* Borrowers are expected to pay all interest that becomes due on their loans. However, if necessary, principal and interest payments may be deferred up to three installments from the date of the note. The deferral will never extend beyond the final due date of the note. An applicant will be expected to repay some interest each year beginning the first year and, bearing in mind the above limitations, full payments will be scheduled at the earliest date the Farm and Home Plan indicates they can be paid. The applicant will be advised to make payments on the loan as soon as the applicant has repayment ability even though the deferral period has not expired. The use of deferral authority will generally involve beginning farmers, applicants with limited income and resources and applicants who have had production and economic losses because of natural or economic conditions. Deferred payments may be authorized under the following conditions:

(i) The initial Farm and Home Plan and Business Analysis-Nonagricultural Enterprise, when appropriate, show full installments cannot be paid during the deferred period; and

(ii) A long-time Farm and Home Plan is prepared, when appropriate; and

(iii) A typical Farm and Home Plan and Business Analysis-Nonagricultural Enterprise, when appropriate for a full crop year following the deferred period indicates full installments can be paid under normal conditions.

(2) *Scheduling installments.* Annual installments will be scheduled in accordance with repayment ability as indicated on Table K of the Farm and Home Plan, Form FmHA 431-2. Deferred interest will not be capitalized. Installments after the deferred period will be calculated in accordance with the FMI for Form FmHA 1940-17.

(c) *Interest rate to borrower.* See Exhibit B of FmHA Instruction 440.1 for the applicable interest rate. This exhibit may be obtained from any FmHA office.

§ 1943.69 Security.

(a) *General.* Each SW loan will be secured by real estate, chattels, other security, leaseholds, or a combination of these.

(b) *Real estate security.* (1) A mortgage will be taken on the entire farm to be improved which is owned by the applicant, including land in which the applicant owns an undivided interest, except a portion of the farm will be excluded when:

(i) The applicant's title to that part of the farm is defective, and cannot be cured at a reasonable cost, provided:

(A) The Office of the General Counsel (OGC) determines the applicant's interest is of such nature that it is not mortgageable; and

(B) To include the land would complicate loan servicing or liquidation; and

(C) Any land on which title is defective will not be included in the appraisal of the farm whether or not it is described on the mortage.

(ii) The present lienholder on that part of the farm will not permit a junior lien or State law will not recognize or permit a lien provided:

(A) The part excluded from the security is not included in the appraisal report; and

(B) OGC advice is obtained before excluding any real estate from the security or the conditions under which real estate can be excluded are outlined by a State supplement.

(iii) Soundness of the loan will not be affected if there is defective title or part of the farm is not included as security.

(2) When the farm alone will not provide enough security, other real estate owned by the applicant may also be taken as security.

(3) Loans may be secured by a junior lien on real estate provided:

(i) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other costs needed to protect the security, or reasonable foreclosure costs), cancellation, summary forfeiture, or other clauses that may jeopardize the Government's interest or the applicant's ability to pay the SW loan unless any such undesirable provisions are limited, modified, waived or subordinated insofar as the Government is concerned.

(ii) Agreements are obtained from prior lienholders to give notice of foreclosure to FmHA whenever State law or other arrangements do not require such a notice. Any agreements needed will be obtained as provided in Part 1807 of this chapter (FmHA Instruction 427.1).

(4) The designated attorney, title insurance company, or OGC will furnish advice on obtaining security when a life estate is involved.

(5) Any loan of $10,000 or less may be secured by the best lien obtainable without title clearance or legal services as required in Part 1807 of this chapter (FmHA Instruction 427.1): *Provided,* The County Supervisor believes from a search of the county records that the applicant can give a mortgage on the farm. This exception to title clearance will not apply when:

(i) The loan is made simultaneously with that of another lender.

(ii) This provision conflicts with program regulations of any other FmHA loan being made simultaneously with the SW loan.

(6) The Departments of Agriculture and Interior have agreed that FmHA loans may be made to Indians and secured by real estate when title is held in trust or restricted status. When security is taken on real estate held in trust or restricted status:

(i) The applicant will request the Bureau of Indian Affairs (BIA) to furnish Title Status Reports to the County Supervisor.

(ii) BIA approval will be obtained on the mortgage after it has been signed by the applicant and any other party whose signature is required.

(c) *Chattel security.* Loans may be secured by chattels subject to the following conditions:

(1) Real estate security is inadequate to secure the loan or is not available at all.

(2) Taking a lien on chattels will not prevent the borrower from obtaining operating credit from other sources or the FmHA.

(3) Junior liens on chattels may be taken when there is enough equity in the property. However, when practical, a first lien on selected chattel items should be obtained.

(4) A first lien will be taken on equipment or fixtures bought with loan funds whenever such property cannot be included in the real estate lien and this additional security is needed to secure the loan.

(5) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loan. No other security need be required if the stock represents the right to receive water and is transferable separately from the land, provided:

(i) There is a market for the stock.

(ii) The purchase price is no greater than the price at which stock in the water company is normally sold.

(6) If secured by chattels only, the loan cannot be over $100,000 and must be scheduled for repayment within 20 years or the useful life of the security, whichever is less.

(7) Chattel security will be obtained and kept effective as notice to third parties as provided in Subpart A of Part 1930 and Subpart B of Part 1941 of this chapter.

(d) *Other security.* (1) Items such as land, buildings, fixtures, fences, water, water stock and facilities, other improvements easements, rights-of-way, and other appurtenances that are considered part of the farm and usually pass with the farm in a change of ownership may be taken as additional security when needed. If any of these do not pass with a change of ownership, the County Supervisor will obtain advice from the designated attorney, title insurance company of OGC to properly identify such items and include them in an appropriate security instrument or assignment.

(2) Other property that cannot be converted to cash without jeopardizing the borrower's farm operation may be taken as additional security when needed. Examples of such security may include cash value of insurance policies, stock, memberships or stock in associations or water stocks. Any property taken as additional security must have security value and be transferable. Advice will be obtained from the designated attorney, title insurance company or the OGC on obtaining this security or assignment.

(e) *Loans secured by leaseholds.* A loan may be secured by a mortgage on the leasehold if it has negotiable value and is able to be mortgaged, subject to the following:

(1) The unexpired term of the lease should extend beyond the repayment period of the loan for a period sufficient to ensure the objectives of the loan will be achieved. If the loan repayment period is equal to or greater than the period covered by the lease, the borrower must provide other security to secure the loan or the lessor must agree in writing to compensate the borrower for any unexhausted value of the improvements when the lease expires or is terminated.

(2) The lessor must have good and marketable title to the real estate, which may be subject to a prior lien, or the lessor must have signed a contract to purchase the real estate. The contract to sell and the lien instruments must not contain convenants, such as short redemption periods or rights to cancel, which may jeopardize the Government's security. Any provisions which may jeopardize the Government's security must be limited, modified, waived or subordinated in favor of the Government.

(3) With respect to achieving the purpose of the loan, obtaining adequate security, and being able to service the loan and enforce its rights, the Government, as holder of a mortgage upon a lease or leasehold interest, must be in a position substantially as good as if it held a second mortgage on the real estate. Besides the lessor's consent to the SW mortgage on the leasehold interest, FmHA should consider whether or not:

(i) There is reasonable security of tenure. The borrower's interest should not be subject to summary forfeiture or cancellation.

(ii) The right to foreclose the SW mortgage and sell without restrictions would adversely affect the salability or market value of the security.

(iii) FmHA has a right to bid at a foreclosure sale or to accept voluntary conveyance in lieu of foreclosure.

(iv) FmHA has the right, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell it for cash or credit. In case of a credit sale, the FmHA should take a vendor's mortgage with rights similar to those under the original SW mortgage.

(v) The borrower has the right, in the event of default or inability to continue with the lease and the SW loan, to transfer the leasehold, subject to the SW mortgage, to an eligible transferee who will assume the SW debt.

(vi) Advance notice will be given to FmHA of the lessor's intention to cancel, terminate or foreclose upon the lease. Such advance notice should be long enough to permit FmHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interest, the market value of the leasehold interest and, if litigation is involved, to refer the case with a report of the facts to the United States Attorney for appropriate action.

(vii) There are express provisions covering the question of FmHA's obligation to pay unpaid rental or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during FmHA's occupancy or ownership, pending further servicing or liquidation.

(viii) There are any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(ix) Any other provisions are necessary to obtain an interest which can be mortgaged.

(4) A State supplement will be issued in any State in which real estate or chattel liens may be taken on leasehold interests in farmland and recorded so as to protect the mortgagee.

(5) The following language or similar language which, in the opinion of OGC or the designated attorney, is legally adequate, will be inserted on the lien instrument:

"All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ——, 19—— , created and established by a certain Lease dated ——, 19 —— , executed by —— as lessor(s), recorded on ——, 19 —— , in Book ——, page —— of the —— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:" (To be inserted just before the legal description.)

This additional covenant will be inserted in the mortgage:

"Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish without the Government's written consent, any of the Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect."

(f) *State supplements.* Each State will supplement this section to provide instructions on forms to be completed and other requirements to be met in order to obtain the required security. In each State where loans will be made to Indians holding title to land in trust or restricted status, FmHA and BIA will decide on a way to exchange necessary information, and the procedure to be followed will be set out in a State supplement.

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§ 1943.70–1943.72 [Reserved]

§ 1943.73 General provisions.

(a) *Flood and mudslide hazard areas.* Flood and mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) will be complied with when loan funds are used to construct, modify, or relocate buildings in such areas. This will not prevent making loans on farms when the farmstead is located in a flood or mudslide prone area and if funds are not included in the loan for building improvements. However, the hazard will need to be noted in the appraisal report. When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

(1) The Corps of Engineers or the Soil Conservation Service (SCS) will be consulted concerning:

(i) Likelihood of flooding.

(ii) Probability of flood damage.

(iii) Recommendations on special design and specifications needed to minimize flood and mudslide hazards.

(2) FmHA representatives will evaluate the proposal and record the decision in the loan docket.

(b) *Civil Rights.* The provisions of Subpart E of Part 1901 of this Chapter will be complied with on all loans made which involve any development financed by FmHA that will be performed by a contract or subcontract of more than $10,000.

(c) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archaeological value, the provisions of Subpart F of Part 1901 of this chapter apply.

(d) *Environmental impact statements.* If SW loans are used in densely populated areas to finance a farm which has relatively large feedlots or holding facilities for livestock or fish or smaller feedlots or holding facilities which are likely to have an effect on the environment, the applicant will be requested to complete Form FmHA 449-10, "Applicant's Environmental Impact Evaluation."

(1) The County Supervisor will complete Form FmHA 440-46, "Environmental Impact Assessment," from information provided by the applicant in form FmHA 449-10.

(2) The County Supervisor will forward a copy of the loan application, completed FmHA Forms 449-10 and 440-46, and any other information and docket material relevant to environmental considerations to the State Director. The State Director will determine whether or not an environmental impact statement should be prepared based on this submittal and any other available information.

(3) The provisions of Subpart G of Part 1901 of this Chapter will be followed to the extent applicable for SW loans in making decisions on farm operations that may have a significant impact on the environment.

(e) *Truth in Lending—Real Estate Procedures Act.* The provisions of Subpart I of Part 1901 of this chapter concerning Truth in Lending apply to any SW loan made to an individual if the amount of the loan is $25,000 or less.

(f) *Equal Credit Opportunity Act.* In accordance with Title V of Pub. L. 93-495, the Equal Credit Opportunity Act, the FmHA will not discriminate against any applicant on the basis of sex or marital status, with respect to any aspect of a credit transaction.

(g) *Compliance with Special Laws and Regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations governing construction; diverting, appropriating, and using water including use for domestic purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Programs Staff members will consult with SCS, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. State supplements will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisition of water rights.

(ii) Define areas where development of ground water for irrigation is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations, and will obtain any special licenses or permits needed for nonfarm, recreation, specialized or fish farming enterprises.

§ 1943.74 Special requirements.

(a) *Land development.* When possible, recommendations for land development will be obtained from the Forest Service, State Agricultural Extension Service, and the Soil Conservation Service and included in the development plan, and in the farm and home plans. In planning such development with the applicant, the County Supervisor will encourage the applicant to use any cost-sharing assistance that may be available through any source such as the Agricultural Stabilization and Conservation Service (ASCS) programs.

(b) *Technical assistance.* Applicants are responsible for obtaining all the technical assistance required in connection with an SW loan, such as that needed to plan, construct, or establish the improvement or facility to be financed.

(c) *Loans for irrigation purposes.* Evidence or documentation of the following should be obtained when loan funds are to be used for irrigation purposes:

(1) The land to be irrigated is suitable for irrigation.

(2) The applicant has a right to use water for irrigation.

(3) The water is suitable to use for irrigation and is available in sufficient quantities to irrigate a specified amount of land.

(4) If irrigation specialists have prepared any feasibility studies, copies of these studies have been submitted to FmHA.

(d) *Insurance.* (1) Insurance will be obtained on buildings and other property as provided in Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1) when the loan is secured by real estate.

(2) See § 1943.73(a) for information about mudslide and flood insurance.

(3) Chattel security should be insured against hazards customarily insured against in the area if the loss of such security would jeopardize the interests of the Government.

(e) *Life estates.* When life estates are involved, loans may be made:

(1) To both the life estate holder and the remainderman, provided:

(i) Both have a legal right to occupy and operate the farm; and

(ii) Both are eligible for the loan; and

(iii) Both parties sign the note and mortgage.

(2) To the remainderman only: *Provided:*

(i) The remainderman has a legal right to occupy and operate the farm; and

(ii) The lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security.

(3) To the life estate holder only, provided:

(i) There is no legal restriction placed on a life estate holder who occupies and operates a farm; and

(ii) The lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

(f) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county, or parish, the loan will be processed and serviced in the State, county, or parish in which the borrower's residence on the farm is located. However, if the residence is not situated on the farm, the loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office.

(g) *Liens junior to the FmHA lien.* A loan will not be approved if a lien junior to the FmHA lien is likely to be taken simultaneously with or immediately subsequent to the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the SW loan, unless the total debt against the security would be within its market value.

(h) *Graduation of SW borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms, comparable to those for loans for similar purposes and periods of time prevailing in the area the borrower will, upon request, apply for and accept such financing.

§ 1943.75 Options, planning and appraisals.

(a) *Options.* An applicant is responsible for obtaining options on real property. Form FmHA 440-34, "Option to Purchase Real Property," may be used. Other forms may be used if acceptable to all parties concerned and to FmHA. When an FmHA form is not used, a provision should be included which makes the option contingent upon FmHA making a loan to the buyer.

(b) *Planning.* Farm and Home Plans and nonagricultural enterprise plans, when appropriate, will be completed as provided in Subpart B of Part 1924 of this chapter.

(c) *Appraisals.* (1) Real estate appraisals will be completed by an FmHA employee authorized to make farm appraisals when real estate is taken as security. Appraisals are not required if:

(i) The amount of the FmHA loan and any simultaneous loan is $10,000 or less; and

(ii) The loan approval official determines the loan is adequately secured without an appraisal; and

(iii) The County Supervisor indicates in the loan docket an estimate of the market value of the real estate to be given as security.

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1).

(3) The value of stock required to be purchased by Federal Land Bank (FLB) borrowers may be added to the recommended market value of the security, provided:

(i) An assignment is obtained on the stock, or

(ii) An agreement is obtained which provides that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan, or

(B) The stock refund check is made payable to the borrower and FmHA, or

(C) The stock refund check is made payable to the borrower and mailed to the County Supervisor.

(iii) The total of the stock value and the recommended market value of real estate is indicated in the comments section of the appraisal report.

(4) In the case of nonreal estate security, the following items apply:

(i) Form FmHA 440-21, "Appraisal of Chattel Property," will be used.

(ii) The property which will serve as security will be described in sufficient detail so it can be identified.

(iii) Its current market value or, if appropriate, the current cash value will be determined.

§ 1943.76 Planning and performing development.

The development work will be planned and completed in accordance with Part 1804 of this chapter (FmHA Instruction 424.1).

§ 1943.77 Relationship with other lenders.

(a) An applicant will be requested to obtain credit from another source when information indicates such credit is available. When another lender will not make a loan for the total needs of the applicant but is willing to participate with an SW loan, consideration will be given to a participation loan. FmHA employees may not guarantee, personally or for FmHA, repayment of advances made from other credit sources. However, lenders may be assured that lien priorities will be recognized.

(b) The County Supervisor and the other lender's representative should maintain a close working relationship in processing loans to a mutual applicant or borrower. When an SW loan is made at the same time as a loan from another lender, that lender's lien will have priority over the FmHA lien unless otherwise agreed upon. The lender's lien priority can cover the following in addition to principal and interest: Advances for payment of taxes, property insurance, reasonable maintenance to protect the security, and reasonable foreclosure costs including attorney's fees.

§ 1943.78 [Reserved]

§ 1943.79 Relationship with other FmHA loans guaranteed or economic emergency loans.

(a) Insured SW loans may be made simultaneous with other FmHA loans or to borrowers presently in debt on FmHA loans, only if the loan limits involved will not be exceeded and all requirements of the loans involved will be met.

(b) If an applicant is eligible for an SW loan and Economic Emergency (EE) loan for the same purposes and the SW loan will meet the needs of the applicant, it will be the policy to process the SW loan, provided loan funds are available. If the SW loan will not meet the *total* needs of the applicant, it will normally be the policy to process an EE loan only.

(c) Borrowers indebted to FmHA and/or an FmHA guaranteed lender for an EE loan may be considered for SW loan(s): *Provided,* The total outstanding principal indebtedness to FmHA and/or an FmHA guaranteed lender for the EE and any SW, RL, FO, and OL loans would not exceed $650,000.

(d) An insured SW loan will not be made to a borrower with an outstanding guaranteed FO, SW or RL loan, and paragraph (c) of this section is not intended to override this policy.

§ 1943.80 County Committee certification.

The County Committee will certify that an applicant is eligible on Form FmHA 440-2, "County Committee Certification or Recommendation," before a loan is approved. In some instances the Committee may want to interview the applicant or see the farm before making any recommendations.

§ 1943.81 [Reserved]

§ 1943.82 Loan docket processing.

(a) *Forms.* The following table is a guide to the forms needed and shows how they are distributed.

FmHA form No.	Name of form	Total number of copies	Signed by borrower	Loan docket	Copy to borrower
400-1	Equal Opportunity Agreement.	2	1-O	1-O	1-C
400-3	Notice to Contractors and Applicants.	3		1-C	1-C
400-4	Nondiscrimination Agreement.	2	2-O and C	1-O	1-C
400-6	Compliance Statement	3		1-C	1-C
*403-1	Debt Adjustment Agreement.	*3	1-O	1-O	1-C
410-1	Application for FmHA Services.	*1	1-O	1-O	
410-8	Applicant Reference Letter.	1		1-O	
410-9	Statement Required by the Privacy Act.	2	2-O and C	1-C	1-O

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FmHA form No.	Name of form	Total number of copies	Signed by borrower	Loan docket	Copy to borrower
410-10	Privacy Act Statement to References.	[12]2		1-C	
*422-1	Appraisal Report Farm Tract.	1		1-C	
*422-2	Supplemental Report—Irrigation, Drainage, Levee, and Minerals.	1		1-O	
*422-10	Appraiser's Worksheet Farm Tracts for Study of Comparable Properties.	1		1-O	
*424-1	Development Plan	[2]2	1-O	1-O	1-C
*427-8	Agreement with Prior Lienholder.	[3]3		1-O	1-C
*431-1	Long-Time Farm and Home Plan.	2	2-O and C	1-C	1-O
431-2	Farm and Home Plan	[1]1	1-O	1-O	
*431-4	Business Analysis—Nonagricultural Enterprise.	2	1-O	1-C	1-O
440-1	Request for Obligation of Funds.	[4]4	[11]2-O and C	1-O	1-C
440-2	County Committee Certification or Recommendation.	1		1-O	
*440-9	Supplementary Payment Agreement.	2	1-O	1-O	1-C
*440-21	Appraisal of Chattel Property.	1		1-O	
*440-34	Option to Purchase Real Property.	[13]	2-O and C	1-O	1-C
*440-41	Disclosure Statement for Loans Secured by Real Estate.	[2]2	1-C	1-C	1-O
*440-42	Credit Sale Disclosure Statement.	*2	1-C	1-C	1-O
*440-43	Notice of Right to Rescind.	[16]3	*1	1	2-O and C
440-45	Nondiscrimination Certificate (Individual Housing).	2	1-O	1-O	1-C
*440-46	Environmental Impact Assessment.	1		1-O	
**443-12	Farm Ownership and Individual Soil and Water fund Analysis.	3		1-C	
*449-10	Applicant's Environmental Impact Evaluation.	2	1-O	1-O	1-C
*492-19	Characteristics of Approved Applicants.	[7]3		1-C	

[1]Signed copy of option previously delivered to the seller.
[2]In addition to the plan for first full crop year, the interim plan, if prepared, will be included in the docket.
[3]When the contract method is used, three copies of plans and specifications will be required.
[4]Signed copy to creditor.
[5]Copy to lienholder.
[6]Copy to State director.
[7]Records of applicant investigation, availability of other credit, and so forth, which remain with the docket.
[8]In right-to-rescind cases, original and sufficient copies for each person who has a right to rescind.
[9]Original and one copy to borrower, two copies to each other person who has a right to rescind. If the right to rescind is exercised, the person exercising the right will sign one copy of the form and return it to the county office.
[10]Applicant must sign and date this form.
[11]Signed by all sources of information concerning the applicant's character and credit. Original is retained by the person who supplies the information.
[12]Signed by all sources of information concerning the applicant's character and credit. Original is retained by the person who supplies the information.

O=Original; C=Copy.
*When applicable.
**Not used when a credit sale is processed without a loan.

(b) *Other docket items.* The running record and correspondence pertaining to the loan application and docket will be included. Other items may include supplementary information to farm and home plans; nonfarm enterprises; and copies of mortgages, contracts, and deeds.

(c) *Verification of veterans' preference.* If the applicant has checked the veteran block, the County Supervisor, or other County Office employee will review the applicant's evidence of discharge or release to determine whether the applicant is entitled to veterans' preference.

(d) *Information on other credit.* The docket will include, by entries in the running record or by letters, information on the need to refinance secured and major unsecured debts. Also, information will be included which shows other credit is not available in the amount needed or is not available under repayment terms which the applicant can meet.

§ 1943.83 Loan approval or disapproval.

(a) *Loan approval authority.* Initial and subsequent loans may be approved as authorized by Subpart A of Part 1901 of this chapter, provided:

(1) Section 1943.67(a), containing loan limitations, is not violated.

(2) No significant changes have been made in the development plan considered by the appraiser when real estate will be taken as security.

(b) *Loan approval action.* (1) The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket, the loan approval official will determine that:

(i) The County Committee has certified the applicant eligible,

(ii) The Committee certification has been properly completed and signed by at least two members of the Committee,

(iii) Funds are requested for authorized purposes,

(iv) The proposed loan is sound,

(v) The security is adequate,

(vi) Necessary supervision is planned, and

(vii) All other pertinent requirements have been met or will be met.

(2) When approving the loan, the approval official will:

(i) Indicate on all copies of Form FmHA 440-1, "Request for Obligation of Funds," any conditions not required by FmHA regulations that must be met for loan closing;

(ii) Specify any special security requirements; and

(iii) Indicate special conditions or agreements needed with prior lien holders, when appropriate; or

(iv) Indicate that approval is subject to satisfactory title evidence when required, if such evidence has not been obtained;

(v) Indicate any other special requirements; and

(vi) Sign the original and one copy of Form FmHA 440-1 and insert the title of the approval official.

(c) *Distribution of forms after loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved.

(1) the following forms will be sent to the Finance Office:

(i) Form FmHA 440-1 (copy).

(ii) When funds have been obligated the Finance Office will send to the County Office an original and one copy of Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request."

(iii) Form FmHA 443-12, "Farm Ownership and Individual Soil and Water Fund Analysis," (original).

(iv) Form FmHA 442-19, "Characteristics of Approved Applicants," (original) for initial loans only. If an initial Operating Loan (OL) or FO loan is approved at the same time, only one set of forms is required.

(2) The original of Form FmHA 440-1 and the remainder of the loan docket will be sent to the County Office.

(3) The following forms will be sent to the State Office:

(i) Form FmHA 440-1 (copy).

(ii) Form FmHA 443-12 (copy).

(iii) Form FmHA 492-19 (copy) for initial loans only. If an initial FO or OL loan is approved at the same time, only one set of forms is required.

(4) A signed copy of Form FmHA 440-1 will be sent to the borrower on the date of loan approval.

(d) *Loan disapproval.* The following action will be taken when a loan is disapproved:

(1) The reason(s) for disapproval will be indicated on form FmHA 440-1 by the loan approval official. The reason(s) may be in a letter or the running record if this form has not been completed. Suggestions which could remedy the reasons for disapproval should be included.

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(2) The County Supervisor will notify the applicant in writing of the action taken and include any suggestions that could result in favorable action when appropriate. In addition to sending out written notice, the County Supervisor may personally discuss the action with the applicant. In that instance, the items covered in the discussion will be documented in the running record.

(3) Items furnished by the applicant during docket processing will be returned.

§ 1943.84 Requesting title service.

When the loan is approved and real estate will serve as security, the County supervisor will request the applicant to obtain title clearance as provided in Part 1807 of this chapter (FmHA Instruction 427.1), when required, if this has not been done. If an option is involved, the applicant will sign and send to the seller Form FmHA 440-35, "Acceptance of Option," or other suitable forms.

§ 1943.85 Action after loan approval.

(a) *Requesting check.* If real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval or if the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval by entering the amount needed in the appropriate block of Form FmHA 440-1. If funds are not requested when the loan is approved, advances in the amount needed will be requested by using form FmHA 440-57 in accordance with the Forms Manual Insert (FMI). The original Form FmHA 440-57 will be retained in the County Office and a copy sent to the Finance Office. The initial loan advance will be requested when loan approval conditions can be met, satisfactory title to real estate security can be provided, and a date has been set for loan closing.

(1) When all loan funds can be disbursed at, or within 30 days after loan closing or if the amount of funds that cannot be disbursed does not exceed $5,000, the total amount of the loan will be requested in a single advance.

(2) When loan funds cannot be disbursed as outlined in paragraph (a)(1) of this section, the amount needed to meet the immediate needs of the borrower will be requested by submitting a copy of Form FmHA 440-57 to the Finance Office. The amount of each advance should meet the needs of the borrower as much as is possible, so the amount in the supervised bank account will be kept to a minimum. The Finance Office will continue to supply Form FmHA 440-57 until the entire loan has been disbursed. The County Supervisor should tell the borrower to notify the County Office of amounts needed on a timely basis to avoid delays in receiving loan checks.

(b) *Handling loan checks.* (1) When the loan check or the borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or the borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with Part 1803 of this chapter (FmHA Instruction 402.1) as soon as possible, but in no case later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1, a copy of which may be obtained from any FmHA Office.

(3) When a check is returned and the loan will be closed at a subsequent date, another check will be requested in accordance with FmHA Instruction 102.1, a copy of which may be obtained as stated in paragraph (b)(2) of this section.

(c) *Cancellation of loan.* Loans may be cancelled before loan closing as follows:

(1) The County Supervisor will notify the State and Finance Offices of loan cancellation by using Form FmHA 440-10. The County Office will send a copy of Form FmHA 440-10 to the designated attorney, escrow agent, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate the loan has been cancelled. If a check received in the County Office is to be cancelled, the check will be returned to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of form FmHA 440-10.

(2) Interested parties will be notified of the cancellation as provided in Part 1807 of this chapter (FmHA Instruction 427.1).

(d) *Cancellation of advances.* When an advance is to be cancelled the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA 440-10 in accordance with the FMI.

(2) When necessary, prepare and execute a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule. When it is not possible to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440-10 the revised amount of the loan and the revised repayment schedule.

(e) *Increase or decrease in amount of loan.* If it becomes necessary to increase or decrease the amount of the loan prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office and reprocessed unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memorandum explaining the change will be attached to the revised forms and sent to the Finance Office.

§ 1943.86-1943.87 [Reserved]

§ 1943.88 Loan closing actions.

When a loan closing date has been agreed upon, the County Suprvisor will notify the borrower of the loan closing date. The following appropriate actions will be taken in connection with, and after, loan closing:

(a) *Real estate mortgage loans.* When a loan is to be secured by a real estate mortgage, it will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHA Instruction 427.1) except as modified for loans of $10,000 or less in paragraph § 1943.69(b)(5).

(b) *Loans involving chattel or other nonreal estate security.* All chattel security instruments will be signed and filed as prescribed in Subpart B of Part 1941 of this Chapter for Operating loans. The following forms will be used for chattel security:

(1) Form FmHA 440-15, "Security Agreement (Insured Loans to Individuals)."

(2) Form FmHA 440-A25, "Financing Statement" or, when authorized, Form FmHA 440-25, "Financing Statement".

(3) State forms may be used if national forms are not legally acceptable. Such forms will require OGC and National Office clearance.

(c) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in the applicant's financial condition, the financial statement will be revised and initialed by the applicant and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears the loan would be unsound or improper, the loan will not be closed. If a revised loan docket is needed to meet loan requirements or determine loan soundness, it will be developed and submitted to the appropriate loan approval official.

(d) *Loan approval conditions.* The County Supervisor will inform the applicant of any loan approval conditions that need to be met. These conditions will usually be included in the notice informing the applicant of the loan closing date. The loan will not be closed if the applicant is unable to meet loan approval conditions.

(e) *Change in the use of funds planned for refinancing.* (1) County Supervisors are authorized to:

(i) Transfer funds planned to be used for refinancing specific debts to other debts when there is a need to do so; and

(ii) Transfer funds planned to be used for other purposes to pay small deficiencies in estimates for refinancing debts, providing there are sufficient remaining funds to complete any land purchase and planned development.

(2) A revised docket will be developed when:

(i) The total amount of debts to be refinanced has increased in such an amount that planned loan purposes cannot be carried out; and

(ii) The applicant is unable to make up any deficiencies from other resources.

(f) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be reduced will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1), including provisions for written consent of any prior lienholder. Authority may be given by the State Director to refrain from taking an assignment in cases where the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting sources such as income from bonus payments or annual delay rentals. Such income will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1).

(1) For assignment of income, Form FmHA 443-16, "Assignment of Income from Real Estate Security," will be used, except, if it is legally inadequate in a State, it may be adapted to that State with the approval of the OGC or an authorized State form may be used instead.

(2) The County Supervisor, upon the advice of the designated attorney, escrow agent, title insurance company, or the OGC, as appropriate, may require acknowledgement and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(3) At the time Form FmHA 443-16 is executed, appropriate notations will be made on Form FmHA 405-1, "Management System Card—Individual," to insure the proceeds, or the specified portion of the proceeds assigned to FmHA from the transactions are remitted at the proper time.

(g) *Preparation of the note.* Form FmHA 1940-17, "Promissory Note," will be used and completed in accordance with the FMI.

(1) Separate notes will be prepared for any other FmHA loan made simultaneously with the SW loan. The notes will be completed as provided in the appropriate loan regulation and FMI.

(2) All FmHA notes to be secured by real estate can be described in the same mortgage.

(3) When a loan is closed in December with an installment due on the following January 1, that installment should be collected at loan closing.

(4) The promissory note will be signed as follows:

(i) When a loan is made to an individual, the note will be executed in accordance with Part 1807 of this chapter (FmHA Instruction 427.1).

(ii) When a loan is made to a cooperative or a corporation, the note will be executed by:

(A) The official(s) authorized to obtain the loan; and

(B) The individual(s) holding a majority interest in the cooperative or corporation, as individuals.

(iii) When a loan is made to a partnership, the note will be executed by all partners in the partnership.

(h) *Supplementary payment agreement.* Form FmHA 440-9, "Supplementary Payment Agreement," should be used for each applicant who regularly (such as weekly, monthly, or quarterly) receives substantial income from an off-farm source, a nonfarm enterprise, or from farming.

(i) *Obtaining insurance.* The applicant will be informed of the insurance requirements set forth in § 1943.74(d).

(j) *Effective time of loan closing.* An SW loan is considered closed when the mortgage is filed for record.

(k) *Distribution of documents after loan closing.* The County Supervisor should review the forms and closing actions. Corrective action should be taken when necessary.

(1) Real estate mortgages:

(i) When the original recorded instrument is returned to the County Office:

(A) File the original in County Office file, and

(B) Give a copy to borrower.

(ii) When the original is retained by recorder:

(A) File a conformed copy in county office file, and

(B) Give a conformed copy to borrower.

(iii) The County Supervisor will provide copies that may be needed in some cases for interested third parties.

(2) Deeds:

(i) Give the original to borrower, and

(ii) Retain one copy to file.

(3) Title insurance policies:

(i) File the Mortgagee title policy in the county office file, and

(ii) Give the owner's title policy, if one is obtained, to the borrower.

(4) Water stock certificates or similar collateral will be retained in the county office file.

(5) Abstracts of title:

(i) Return to the borrower, except when they were obtained from a third party with the understanding they would be returned, the abstracts will be sent to the third party. A memorandum receipt will be obtained when abstracts are delivered to the third party.

(ii) Form FmHA 140-4, "Transmittal of Documents" will be used and a receipted copy kept in the County Office. The FMI should be followed for preparing this form.

§§ 1943.89-1943.91 [Reserved]

§ 1943.92 Servicing.

SW loans will be serviced in accordance with Subpart A of Part 1872 of this Chapter (FmHA Instruction 465.1). Chattel security for SW loans will be serviced in accordance with Subpart A of Part 1930 of this chapter. Bureau of Reclamation (BR) loans made during the period August 19, 1977, through September 30, 1977, will be serviced in the same manner as Soil and Water loans. See Exhibit A, "Memorandum of Understanding Between the Bureau of Reclamation, Department of Interior, and the Farmers Home Administration, Department of Agriculture" for additional information on these loans.

§ 1943.93 Subsequent SW loans.

A subsequent SW loan is a loan made to a borrower who is currently in debt for an SW loan.

(a) A subsequent loan may be made for the same purposes and under the same conditions as an initial loan.

(b) The subsequent loan will be processed in the same manner as an initial loan except a new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(1) Subsequent loan funds will be used to purchase land or the mortgage will include additional land not pres-

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ently covered by the FmHA real estate mortgage.

(2) The County Supervisor or loan approval official requests a new appraisal report.

(3) The latest appraisal report on the farm is over two years old.

(4) The physical characteristics of the farm have changed significantly.

(5) The subsequent loan will be over $10,000.

(6) There have been significant changes in the market value of real estate in the area within the last two years.

(c) When a new appraisal is not made, an employee authorized to make farm appraisals will provide an estimate of the value of the security. This value will be inserted, dated, and initialed in the comments section of the latest appraisal report.

(d) A new real estate mortgage will not be necessarily provided:

(1) All the land which will serve as security for the loan is described on the present real estate mortgage; or

(2) The real estate mortgage has a future advance clause and a State supplement provides authority for using such a clause; or

(3) The required lien priority is obtained with the existing mortgage and future advance clause.

§ 1943.91 Subordinations.

Subordinations in favor of other lenders will be processed in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1).

§§ 1943.95–1943.99 [Reserved]

§ 1943.100 State supplements.

State supplements will be issued as necessary to implement this Subpart.

ATTACHMENT: EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN THE BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR AND THE FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

Whereas, under section 8 of the 1977 Drought Emergency Act (P.L. 95-18), hereafter referred to as "the Act," the Bureau of Reclamation (BR) is authorized to make loans to irrigators for the purpose of undertaking construction, management, conservation activities, or the acquisition and transportation of water, which can be expected to have an effect in mitigating losses and damages resulting from the 1976-1977 drought period;

Whereas, the Farmers Home Administration (FmHA) has an existing soil and water program (SW) authorized by section 304 of the Consolidated Farm and Rural Development Act for loans to individuals that accomplish purposes similar to those in the Act;

Whereas, it is more efficient and in the best interests of the United States, and in accordance with section 6 of the Act, for BR to procure the services of FmHA pursuant to the terms of the Economy Act of 1932 (31 U.S.C. 686) to make and service loans to individual irrigators as authorized by the Act

Now therefore the parties agree:

1. For purposes of this Memorandum the term "irrigators" shall mean any person or legal entity who holds a valid existing water right for irrigation purposes within the Federal reclamation projects. Federal reclamation projects means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956, as amended.

2. FmHA shall make and service loans to individual irrigators as authorized by the Act pursuant to its SW program and applicable FmHA regulations except as modified hereby.

3. The loans shall be only for the purposes relating specifically to irrigation and set forth in FmHA Instruction 443.2, IVA1, A8, B1, B2, and C. The loans shall be interest free. Loans for water acquisition and transportation shall be repaid over a period not to exceed 5 years. Other loans shall be repaid over a period not to exceed 5 years except such loans which generate benefits which are usable beyond 1977 shall be repaid within a period which shall be the shorter of the estimated useful life of the facilities or the reasonable payment capacity of the irrigator but in no event to exceed 40 years. All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977.

4. Services rendered by FmHA pursuant to this Memorandum of Understanding shall be on a nonreimbursable basis to the irrigator. For services rendered, BR shall pay to FmHA a charge of 5 percent of principal of each loan. BR directs that FmHA disburse such service charge to itself directly upon the closing of each loan.

5. Three million dollars shall be transferred to FmHA by Standard Form 1151, which amount shall be available for construction, management, and conservation activities. An additional sum of $5 million may be made available upon request of FmHA for the acquisition and transportation of water.

6. *Monthly Report:* FmHA shall submit a Standard Form 133, "Report on Budget Execution", in accordance with OMB Circular A-34, to the Bureau of Reclamation, Washington, D.C. 20240, attention code 370.

7. *Accomplishment:* FmHA shall submit to the Bureau of Reclamation, Washington, D.C. 20240, attention code 400, a complete report on expenditures and accomplishments under this Memorandum on January 16, 1978. Date of June 29, 1977.

Bureau of Reclamation, Department of the Interior.

R. KEITH HIGGINSON,
Commissioner.

Dated: July 15, 1977.

Farmers Home Administration, Department of Agriculture.

MARTY HOLLERAN,
for Gordon Cavanaugh,
Administrator.

ATTACHMENT

AMENDATORY-MEMORANDUM OF UNDERSTANDING BETWEEN THE BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR AND THE FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

WHEREAS, the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA) consummated a Memorandum of Understanding on July 15, 1977, whereby BR would procure the services of FmHA pursuant to the terms of the Economy Act of 1932 (31 U.S.C. 686) to make and service loans to individual irrigators as authorized by section 8 of the 1977 Drought Emergency Act (Pub. L. 95-18); and

WHEREAS, item 3 of that Memorandum of Understanding provides in part that all loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977; and

WHEREAS, Pub. L. 95-107, enacted on August 17, 1977, amends Pub. L. 95-18 to accomplish, among other things, an extension of the time for completing construction activities under the authorities of Pub. L. 95-18 from November 30, 1977, to January 31, 1978.

NOW THEREFORE the parties agree that the date November 30, 1977, in the last sentence of item 3 of the Memorandum of Understanding executed by BR on June 29, 1977, and FmHA on July 15 1977, be revised to January 31, 1978, so that the sentence will read, "All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by January 31, 1978."

Date of September 6, 1977.

Bureau of Reclamation, Department of the Interior.

R. KEITH HIGGINSON,
Commissioner.

Farmers Home Administration, Department of Agriculture.

GORDON CAVANAUGH,
Administator.

SEPTEMBER 7, 1977.

Subpart C—Insured Recreation Loan Policies, Procedures, and Authorizations

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1943.150 State supplements.

AUTHORITY: 7 U.S.C. 1989; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development 7 CFR 2.70.

Subpart C—Insured Recreation Loan Policies, Procedures and Authorizations

§ 1943.101 Introduction.

This subpart outlines the policies, procedures, and authorizations for making Recreation (RL) loans under the Consolidated Farm and Rural Development Act, as amended. It is the policy of this agency to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, marital status, age or national origin. See Exhibit A of Subpart A of this part for making RL loans to entrymen on unpatented public lands. See Subpart R of Part 2000 of this chapter for the Memorandum of Understanding between Farm Credit Administration (FCA) and Farmers Home Administration (FmHA).

§ 1943.102 Objectives.

The basic objectives of RL loans are to assist eligible farm and ranch owners or tenants to convert all or a portion of the farms or ranches they own or operate to outdoor income-producing recreation enterprises, which will supplement or supplant farm or ranch income and permit carrying on sound and successful operations. These objectives will be accomplished through the extension of credit and management assistance.

§ 1943.103 Management assistance.

Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Subpart B of Part 1924 of this chapter. Such assistance consists of farm, home, and nonfarm planning; recordkeeping; analyzing the farm and any nonfarm business; and giving management advice.

§ 1943.104 Definitions.

(a) *Approval official.* A field official who has been delegated loan and grant approval authorities within applicable loans programs, subject to the dollar limitations contained in tables available in any FmHA office.

(b) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm.

(c) *Corporation.* For the purposes of this regulation, a private domestic corporation created and organized under the laws fo the State(s) in which the entity will operate a farm.

(d) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which is used or will be used in the production of crops or livestock. This includes the production of acquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as a part of the farm in the local community.

(e) *Fish farming.* The production of fish, mollusks, or crustaceans (or other invertebrates) under controlled conditions in ponds, lakes, streams or similar holding areas. This involves feeding, tending, harvesting and other activities as are necessary to properly raise and market the products.

(f) *Leasehold.* A right to use property for a specific period of time under conditions provided for in a lease agreement.

(g) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation or partnership.

(h) *Market value.* The amount which a willing buyer would pay a willing but not forced seller in a complete voluntary sale.

(i) *Mortgage.* Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(j) *Partnership.* Any entity consisting of individuals who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm and must be authorized to own both real and personal property and to incur debts in its own name.

(k) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral or security property shall be considered a reference to the term security.

(l) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1943.105 [Reserved]

§ 1943.106 Credit elsewhere.

The applicant shall certify in writing on the appropriate forms, and the County Supervisor shall determine, that adequate credit elsewhere is not available to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near where the applicant resides for loans for similar purposes and periods of time.

(a) When based on the County Supervisor's knowledge of other lender programs, the review of the application indicates there is no possibility for the applicant to obtain the credit needed from other lender(s), this conclusion and the basis for it will be recorded in the running record and further checks will not be necessary.

(b) If the County Supervisor questions whether the applicant is unable to obtain the credit needed from other agricultural lenders in the area such lenders will be contacted and the findings recorded in the running record.

(c) If the County Supervisor receives letters or other written evidence from a lender(s) indicating that the applicant is unable to obtain satisfactory credit, these will be included in the loan docket.

(d) Property and interests in property owned and income received by an individual applicant, a cooperative and its members as individuals, a corporation and its stockholders as individuals, and a partnership and its members as individuals will be considered and used by an applicant in obtaining credit from other sources.

§§ 1943.107–1943.109 [Reserved]

§ 1943.110 Preference.

An application on hand from a veteran as defined in Subpart A of Part 1801 of this Chapter (FmHA Instruction 410.1) will be given preference over an application from a nonveteran on file at the same time when it appears that available funds will be inadequate to meet the needs of all applicants.

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§ 1943.111 Receiving and processing applications.

(a) Applications will be received and processed in accordance with Subpart A of Part 1801 of this chapter (FmHA Instructions 410.1).

(b) If the applicant is a cooperative, corporation, or partnership the following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders, or partners showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation by each or the percentage of interest held in the partnership by each.

(2) A current personal financial statement from each of the principal members of a cooperative, partners of a partnership or stockholders of a corporation. For this purpose, a principal is one owning or controlling as much as 10 percent of the ownership, stock or interest of a cooperative, corporation, or partnership. If no member, partner, or stockholder owns or controls as much as 10 percent, each member, partner, or stockholder will be considered as a principal. Any other member, partner or stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the cooperative, corporation or partnership will also be required to provide personal financial statements.

(3) A current financial statement from the cooperative, corporation, or partnership itself.

(4) A copy of the cooperative or corporation's charter, or any partnership agreement, any articles of incorporation and bylaws, a certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative, corporation, or partnership to apply for and obtain the desired loan and execute required debt, security and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation or partnership which may be pertinent to a consideration of its application.

§ 1943.112 Recreation loan eligibility requirements.

(a) *An individual must.* (1) Be a citizen of the United States (see § 1943.104(1) for the definition of "United States").

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have the character (as related solely to debt repayment ability and reliability) managerial ability, and industry to carry out the proposed operation.

(4) Honestly try to carry out the conditions and terms of the loan.

(5) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(6) Be an owner or operator engaged in farming at the time the application is filed.

(7) Be the manager and operator of the recreation enterprise after the loan is closed.

(8) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the applicant to obtain reasonable returns on the improvements made with the loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

(b) A cooperative, corporation or partnership must:

(1) Have the character (as related solely to debt repayment ability and reliability), management ability and industry to carry out the proposed operation.

(2) Honestly try to carry out the conditions and terms of the loan.

(3) Consist of members, stockholders or partners holding a majority interest who are citizens of the United States (see § 1943.104 (1) for the definition of "United States") and who meet the requirements of paragraphs (b) (1) and (2) of this section.

(4) Be authorized to own and/or operate the farm in the State(s) in which the farm and the recreation enterprise are located.

(5) Be unable to obtain sufficient credit elsewhere, either as an entity or as individual members, stockholders or partners, to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time.

(6) Be an owner or operator engaged in farming at the time the application is filed.

(7) Be the manager and operator of the recreation enterprise after the loan is closed and at least one member, stockholder or partner must actively participate in the operation of the enterprise.

(8) Consist of members, stockholders or partners who do not as individuals have an FO, SW, RL or OL loan and are not members of another entity that has an FO, SW, RL or OL loan.

(9) If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the applicant to obtain reasonable returns on the improvements made with the loan. In addition, the lease or separate agreement should provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease.

§§ 1943.113–1943.115 [Reserved]

§ 1943.116 Loan purposes.

Loans that are consistent with all Federal, State and local environmental quality standards may be made to:

(a) Purchase land needed for an outdoor recreation enterprise. This may include:

(1) Purchasing easements and rights-of-way needed to operate the enterprise.

(2) Making a down payment on the purchase of land under the following conditions:

(i) A deed is obtained by the borrower and the unpaid balance on the loan is secured by a note and mortgage or an acceptable purchase contract or similar instrument.

(2) Making a downpayment on the purchase of land under the following conditions:

(i) A deed is obtained by the borrower and the unpaid balance on the loan is secured by a note and mortgage or an acceptable purchase contract or similar instrument.

(ii) The applicant can meet the loan terms under normal farm conditions.

(iii) The conditions and the requirements of any prior mortgage or contract meet the security requirements for taking a junior lien set out in § 1943.119(b)(2) of this Subpart.

(iv) A purchase contract is signed which obligates the purchaser to pay the purchase price, gives the purchaser the rights of present possession, control, and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(b) Pay the costs of meeting Federal, State or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities including construction, modification, or relocation of the farm or farm structures if necessary to comply with such pollution abatement requirements.

(c) Construct, buy, or improve buildings and facilities needed for the applicant's outdoor recreation enterprise, including:

(1) The construction of essential buildings of modest design and cost including facilities and structures such as docks, fish hatcheries, shooting blinds, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, and campsites.

(2) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of essential service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes provisions for pollution control and energy saving devices.

(3) The purchase and/or installation of water and sewage systems, other equipment, including pollution control and energy saving devices necessary to operate the recreation enterprise(s), provided the items upon installation become part of the real estate or customarily pass with the farm when it is sold.

(d) Provide land and water development, needed for the applicant's outdoor recreation enterprise. This includes providing fencing; drainage and irrigation facilities, basic applications of lime and fertilizer; and facilities for tree planting, land clearing and landscaping. It also includes establishing and improving permanent vegetation, and facilities for fish ponds, trails and lakes. Loan funds may be used to acquire water supplies and rights, and promote conservation and efficient use of these supplies and rights. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the land when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development only when the total cost of the development and machinery or equipment would not exceed the cost of hiring someone to do the development work. Also, loan funds may be used to pay that part of the cost of facilities, improvements, and practices which will be paid for in connection with participation in programs such as the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to FmHA.

(1) Funds may be used for development costs on land owned with a defective title (see § 1943.119(b)(1)(i)) or on land in which the applicant owns an undivided interest: *Provided:*

(i) The amount of loan funds used on such land is limited to $25,000;

(ii) There is adequate security for the loan; and

(iii) The tract of land is not included in the appraisal report.

(2) Funds may be used for development costs on land leased by the applicant: *Provided:*

(i) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life;

(ii) A written lease provides for payment to the tenant or assignee any unexhausted value of the improvement if the lease is terminated;

(iii) There is adequate security for the loan; and

(iv) The amount of loan funds used for improvement on leased land will not exceed $10,000.

(e) Refinance secured and unsecured debts subject to the following:

(1) The applicant's present creditors will not furnish credit at rates and terms the applicant can meet.

(2) The County Supervisor, by contacting the appropriate lender, verifies and documents, either in the running record or by letter from the lender, the need to refinance all secured debts and major unsecured debts. The unpaid balance on the debts to be refinanced will be verified.

(3) FmHA debts, including FmHA guaranteed loans, will not be refinanced unless such refinancing is necessary to enable the borrower to continue farming. The State Director's consent is required before RL funds can be used to refinance other FmHA debts.

(f) Pay reasonable expenses incidental to obtaining, planning, closing, and making the loan, such as fees for legal, architectural, other technical services and first year insurance premiums which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development.

§ 1943.117 Loan limitations.

An RL loan will not be approved if:

(a) The borrower has outstanding RL, Soil and Water (SW), or Farm Ownership (FO) loans, and making the requested loan will cause the borrower's total unpaid principal indebtedness to exceed the lesser of $200,000, or the market value of the farm or other security.

(1) The State Director or a Farmer Programs staff member may determine that the market value is different from the appraiser's recommended market value.

(2) The basis for changing the recommended market value must be documented in the comments section of the appraisal report and initialed by an employee who has been delegated authority to appraise farms.

(b) The noncontiguous character of a farm contining two or more tracts is such that an efficient farming operation or recreation enterprise cannot be conducted due to the distance or inadequate rights-of-way or public roads between tracts.

(c) The limitation found in § 1943.129(c) is not exceeded.

§ 1943.118 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Deferred payments*—(1) *General policy and conditions.* Borrowers are expected to pay all interest that becomes due on their loans. However, if necessary, principal and interest payments may be deferred up to three installments from the date of the note. The deferral will never extend beyond the final due date of the note. An applicant will be expected to repay some interest each year beginning the first year and, bearing in mind the above limitations, full payments will be scheduled at the earliest date the Farm and Home Plan indicates they can be paid. The applicant will be advised to make payments on the loan as soon as the applicant has repayment ability even though the deferral period has not expired. The use of deferral authority will generally involve beginning farmers, applicants with limited income and resources and applicants who have had production and economic losses because of natural or economic conditions. Deferred payments may be authorized under the following conditions:

(i) The initial Farm and Home Plan and Business Analysis-Nonagricultural Enterprise, when appropriate, show full installments cannot be paid during the deferred period;

(ii) A long-time Farm and Home Plan is prepared, when appropriate; and

(iii) A typical Farm and Home Plan and Business Analysis-Nonagricultural Enterprise, when appropriate for a full crop year following the deferred period indicates full installments can be paid under normal conditions.

(2) *Scheduling installments.* Annual installments will be scheduled in accordance with repayment ability as indicated on Table K of Form FmHA 431-2, "Farm and Home Plan". Deferred interest will not be capitalized. Installments after the deferred period will be calculated in accordance with the FMI for Form FmHA 1940-17.

(c) *Interest rate to borrower.* See Exhibit B of FmHA Instruction 440.1 for the applicable interest rate. This ex-

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hibit may be obtained from any FmHA Office.

§ 1943.119 Security.

(a) *General.* Each RL loan will be secured by real estate only or by a combination of real estate and chattels or other security, including leaseholds.

(b) *Real estate security.* (1) A mortgage will be taken on the entire farm owned or to be owned by the applicant including land in which the applicant owns an undivided interest, except a portion of the farm will excluded when:

(i) The applicant's title to that part of the farm is defective, and cannot be cured at a reasonable cost, provided:

(A) The Office of the General Counsel (OGC) determines the applicant's interest is of such nature that it is not mortgageable;

(B) To include the land would complicate loan servicing or liquidation; and

(C) Any land on which title is defective will not be included in the appraisal of the farm whether or not it is described on the mortgage.

(ii) The present lienholder on that part of the farm will not permit a junior lien or State law will not recognize or permit a lien provided:

(A) The part excluded from the security is not included in the appraisal report; and

(B) OGC advice is obtained before excluding any real estate from the security or the conditions under which real estate can be excluded are outlined by a State supplement.

(iii) Soundness of the loan will not be affected if there is defective title or part of the farm is not included as security for the loan.

(2) Loans may be secured by a junior lien on real estate provided:

(i) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other cost needed to protect the security, or reasonable foreclosure costs), cancellation, summary forfeiture, or other clauses that may jeopardize the Government's interest or the applicant's ability to pay the RL loan unless any such undesirable provisions are modified, limited, waived, or subordinated insofar as the Government is concerned.

(ii) Agreements are obtained from prior lienholders to give notice of foreclosure to FmHA whenever State law or other arrangements do not require such a notice. Any agreements needed will be obtained as provided in Part 1807 of this chapter (FmHA Instruction 427.1).

(3) The designated attorney, title insurance company, or OGC will furnish advice on obtaining security when a life estate is involved.

(4) Any loan of $10,000 or less may be secured by the best lien obtainable without title clearance or legal services as required in Part 1807 of this chapter (FmHA Instruction 427.1): *Provided,* The County Supervisor believes from a search of the county records that the applicant can give a mortgage on the farm. This exception to title clearance will not apply when:

(i) The loan is made simultaneously with that of another lender.

(ii) Land is to be purchased.

(iii) This provision conflicts with program regulations of any other FmHA loan being made simultaneously with the RL loan.

(c) *Loans to Indians on trust land.* The Departments of Agriculture and Interior have agreed that FmHA loans may be made to Indians and secured by real estate when title is held in trust or restricted status. When security is taken on real estate held in trust or restricted status:

(1) The applicant will request the Bureau of Indian Affairs (BIA) to furnish Title Status Reports to the County Supervisor.

(2) BIA approval will be obtained on the mortgage after it has been signed by the applicant and any other party whose signature is required.

(d) *Chattel security.* Loans may be secured by chattels subject to the following conditions:

(1) Real estate security is inadequate to secure the loan or is not available at all.

(2) Taking a lien on chattels will not prevent the borrower from obtaining operating credit from other sources or the FmHA.

(3) Junior liens on chattels may be taken when there is enough equity in the property. However, when practical, a first lien on selected chattel items should be obtained.

(4) A first lien will be taken on equipment or fixtures bought with loan funds whenever such property cannot be included in the real estate lien and this additional security is needed to secure the loan.

(5) If secured by chattels only, the loan cannot be over $100,000 and must be scheduled for repayment within 20 years or the useful life of the security, whichever is less.

(6) Chattel security will be obtained and kept effective as notice to third parties as provided in Subpart A of Part 1930 and Subpart B of Part 1941 of this chapter.

(e) *Other security.* (1) Items such as land, buildings, fixtures, fences, water, water stock and facilities, other improvements, easements, rights-of-way, and other appurtenances are considered part of the farm and usually pass with the farm in change of ownership may be taken as additional security when needed. If any of these do not pass with a change of ownership, the County Supervisor will obtain advice from the designated attorney, title insurance company, or OGC to identify such items and include them in appropriate security instruments or assignments.

(2) Other property that cannot be converted to cash without jeopardizing the borrower's farm operation may be taken as additional security when needed. Examples of such security may include cash value of insurance policies, stock, memberships or stock in associations or water stocks. Any property taken as additional security must have security value and be transferrable. Advice will be obtained from the designated attorney title insurance company, or OGC on obtaining this security or assignment.

(f) *Loans secured by leaseholds.* A loan may be secured by a mortgage on the leasehold if it has negotiable value and is able to be mortgaged, subject to the following:

(1) The unexpired term of the lease should extend beyond the repayment period of the loan for a period sufficient to ensure that the objectives of the loan will be achieved. If the loan repayment period is equal to or greater than the period covered by the lease, the borrower must provide other security to secure the loan or the lessor must agree in writing to compensate the borrower for any unexhausted value of the improvements when the lease expires or is terminated.

(2) The lessor must have good and marketable title to the real estate which may be subject to a prior lien, or the lessor must have signed a contract to purchase the real estate. The contract to sell and the lien instruments must not contain covenants, such as short redemption periods or rights to cancel, which may jeopardize the Government's security. Any provisions which may jeopardize the Government's security must be limited, modified, waived or subordinated in favor of the Government.

(3) With respect to achieving the purpose of the loan, obtaining adequate security, and being able to service the loan and enforce its rights, the Government, as holder of a mortgage upon a lease or leasehold interest must be in a position substantially as good as if it held a second mortgage on the real estate. Besides the lessor's consent to the RL mortgage on the leasehold interest, FmHA should consider whether or not:

(i) There is reasonable security of tenure. The borrower's interest should not be subject to summary forfeiture or cancellation.

(ii) The right to foreclose the RL mortgage and sell without restrictions would adversely affect the salability or market value of the security.

(iii) FmHA has a right to bid at a foreclosure sale or to accept voluntary conveyance in lieu of foreclosure.

(iv) FmHA has the right, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell it for cash or credit. In case of a credit sale, the FmHA should take a vendor's mortgage with rights similar to those under the original RL mortgage.

(v) The borrower has the right, in the event of default or inability to continue with the lease and the RL loan, to transfer the leasehold, subject to the RL mortgage, to an eligible transferee who will assume the RL debt.

(vi) Advance notice will be given to FmHA of the lessor's intention to cancel, terminate or foreclosure upon the lease. Such advance notice should be long enough to permit FmHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior ipterest, the market value of the leasehold interest and, if litigation is involved, to refer the case with a report of the facts to the United States Attorney for appropriate action.

(vii) There are express provisions covering the question of FmHA's obligation to pay unpaid rental or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during FmHA's occupancy or ownership, pending further servicing or liquidation.

(viii) There are any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(ix) Any other provisions are necessary to obtain an interest which can be mortgaged.

(4) A State supplement will be issued in any State in which real estate or chattel liens may be taken on leasehold interests in farmland and recorded so as to protect the mortgagee.

(5) The following language or similar language which, in the opinion of OGC or the designated attorney, is legally adequate, will be inserted on the lien instrument:

"All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ————, 19——, created and established by a certain Lease dated ————, 19——, executed by ———— as lessor(s), recorded on ————, 19——, in Book ————, page —— of the ———— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:" (To be inserted just before the legal description.)

This additional covenant will be inserted in the mortgage:

"Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish without the Government's written consent, any of the Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect."

(g) *State supplements.* Each State will supplement this section to provide instructions on forms to be completed and other requirements to be met in order to obtain the required security. In each State where loans will be made to Indians holding title to land in trust or restricted status, FmHA and BIA will decide on a way to exchange necessary information, and the procedure to be followed will be set out in a State supplement.

§ 1943.120–1943.122 [Reserved]

§ 1943.123 General provisions.

(a) *Flood and mudslide hazard areas.* Flood and mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms if the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. The hazard will be noted in the appraisal report. When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, loan funds may be used subject to the following:

(1) The Corps of Engineers or the Soil Conservation Service (SCS) will be consulted concerning:

(i) Likelihood of flooding.

(ii) Probability of flood damage.

(iii) Recommendations on special design and specifications needed to minimize flood and mudslide hazards.

(2) FmHA representatives will evaluate the proposal and record the decision in the loan docket.

(b) *Civil rights.* The provisions of Subpart E of Part 1901 of this Chapter will be complied with on all loans using RL funds.

(c) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archaeological value, the provisions of Subpart F of Part 1901 of this chapter apply.

(d) *Environmental impact statements.* If RL loans are used to finance an operation which is likely to have an effect on the environment, the applicant will be requested to complete Form FmHA 449-10, "Applicant's Environmental Impact Evaluation."

(1) The County Supervisor will complete Form FmHA 440-46, "Environmental Impact Assessment," from information provided by the applicant in Form FmHA 449-10.

(2) The County Supervisor will forward a copy of the loan application, completed FmHA Forms 449-10 and 440-46, and any other information and docket material relevant to environmental considerations to the State Director. The State Director will determine whether or not an environmental impact statement should be prepared based on this submittal and any other available information.

(3) The provisions of Subpart G of Part 1901 of this chapter will be followed to the extent applicable for RL loans in making decisions on operations that may have a significant impact on the environment.

(e) *Truth in Lending—Real Estate Procedures Act.* The provisions of Subpart I of Part 1901 of this Chapter applies as follows:

(1) The provisions in § 1901.401 concerning Truth in Lending apply to any RL loan made to an individual if the amount of the loan is less than $25,000.

(2) The provisions of the Real Estate Procedures Act outlined in § 1901.406 apply to any applicant when RL funds are used and less than 25 acres of land are involved, if:

(i) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(ii) The loan is secured by a first lien on the property where a dwelling is located.

(f) *Equal Credit Opportunity Act.* In accordance with Title V of Pub. L. 93-495, the Equal Credit Opportunity Act, the FmHA will not discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations including those governing building construction; diverting, appropriating, and using water including use for domestic or recreational enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Programs Staff members will consult with the SCS, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. State supple-

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ments will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisition of water rights.

(ii) Define areas where development of ground water for irrigation is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations and obtain any special licenses or permits required by State or local laws or regulations for operating a recreation enterprise.

§ 1943.124 Special requirements.

(a) *Land, building and facility development.* Adequate land resources and development needed to make the recreation enterprise ready for a successful operation will be provided at the outset in connection with each loan. Recommendations of representatives of the Forest Service, Soil Conservation Service, State Agricultural Extension Service, and State Planning and Development Agency or local planning groups should be obtained and included in the development plan as well as the Farm and Home Plan. In planning such development with the applicant, the County Supervisor will encourage the use of any cost-sharing assistance that may be available through any source such as the Agricultural Stabilization and Conservation Service (ASCS) programs.

(b) *Technical assistance.* Applicants are responsible for obtaining all the technical assistance required in connection with an RL loan, such as that needed to plan, construct, or establish the improvement or facility to be financed.

(c) *Insurance.* (1) Insurance will be obtained on buildings and other property as provided in Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1).

(2) See § 1943.123 (a) for information about flood and mudslide insurance.

(3) Applicants receiving RL loans will be advised of the possibility of incurring liability and will be encouraged to obtain public liability and property damage insurance.

(4) Chattel security should be insured against losses caused by hazards customarily insured against in the area if the loss of such security would jeopardize the interests of the Government.

(d) *Life estates.* When life estates are involved, loans may be made:

(1) To both the life estate holder and the remainderman: *Provided:*

(i) Both have a legal right to occupy and operate the farm; and

(ii) Both are eligible for the loan; and

(iii) Both parties sign the note and mortgage.

(2) To the remainderman only: *Provided:*

(i) The remainderman has a legal right to occupy and operate the farm; and

(ii) The lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security.

(3) To the life estate holder only, provided:

(i) There is no legal restriction placed on the life estate holder who occupies and operates a farm; and

(ii) The lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

(e) *Farm or residence situated in different counties.* If a farm is situated in more than one State, county, or parish, the loan will be processed and serviced in the State, county, or parish in which the borrower's residence on the farm is located. However, if the borrower's residence is not situated on the farm, the RL loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office.

(f) *Liens junior to the FmHA lien.* A loan will not be approved if a lien junior to the FmHA lien is likely to be taken simultaneously with, or immediately subsequent to, the loan closing to secure any debt the borrower may have at the time of loan closing or any debt that may be incurred in connection with the RL loan, such as for a portion of the purchase price of the property or money borrowed from others for payments on debts against the property, unless the total debt against the security would be within its market value.

(g) *Graduation of recreation loan borrowers.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or priviate credit source at reasonable rates and terms, comparable to those for loans for similar purposes and periods of time prevailing in the area the borrower will, upon request, apply for and accept such financing.

§ 1943.125 Options, planning and appraisals.

(a) *Options.* An applicant is responsible for obtaining options on real property. Form FmHA 440-34, "Option to Purchase Real Property" should be used if possible. Other forms may be used if acceptable to all parties concerned and to FmHA. When an FmHA form is not used, a provision should be included which makes the option contingent upon the FmHA making a loan to the FmHA making a loan to the buyer.

(1) The County Supervisor should advise the applicant to have an understanding with the seller on such items as:

(i) Land description and number of acres;

(ii) Buildings and fixtures included in the transaction. The applicant should determine the condition of property attached to the land and the working condition of any fixtures with movable parts;

(iii) Minerals and the effect any mineral reservation has on the land value and operating it as a farm or recreation enterprise.

(iv) Access to the land or any part of it;

(v) The party responsible for taxes and insurance; and

(vi) The party who will receive the income from the land during the crop year of the transaction.

(2) The applicant will decide if the option should be recorded and will be responsible for paying any recording fees.

(b) *Planning.* Form FmHA 431-4, "Business Analysis—Nonagricultural Enterprise," or other suitable forms and Farm and Home Plans, when appropriate, will be completed as provided in Subpart B of Part 1924 of this chapter.

(c) *Appraisals.* (1) Real estate appraisals will be completed by an FmHA employee authorized to make farm appraisals when real estate is taken as security. Appraisals are not required if:

(i) The amount of the FmHA loan and any simultaneous loan is $10,000 or less; and

(ii) The loan approval official determines the loan is adequately secured without an appraisal; and

(iii) The County Supervisor indicates in the loan docket an estimate of the market value of the real estate to be given as security.

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this chapter. (FmHA Instruction 422.1).

(3) The value of stock required to be purchased by Federal Land Bank (FLB) borrowers may be added to the recommended market value of the real estate provided:

(i) An assignment is obtained on the stock, or

(ii) An agreement is obtained which provides that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan, or

(B) The stock refund check is made payable to the borrower and FmHA, or

(C) The stock refund check is made payable to the borrower and mailed to the County Supervisor.

(iii) The total of the stock value and the recommended market value of real estate is indicated in the comments section of the appraisal report.

(4) In the case of nonreal estate security the following items apply:

(i) Form FmHA 440-21, "Appraisal of Chattel Property," will be used.

(ii) The property which will serve as security will be described in sufficient detail so it can be identified.

(iii) Its current market value or, if appropriate, the current cash value will be determined.

§ 1943.126 Planning and performing development.

The development work will be planned and completed in accordance with Part 1804 of this chapter (FmHA Instruction 424.1). The provisions of Subpart E of Part 1901 will be met on all recreation loans.

§ 1943.127 Relationships with other lenders.

(a) An applicant will be requested to obtain credit from another source when information indicates such credit is available. When another lender will not make a loan for the total needs of the applicant but is willing to participate with an RL loan, consideration will be given to a participation loan. FmHA employees may not guarantee, personally or for FmHA, repayment of advances made from other credit sources. However, lenders may be assured that lien priorities will be recognized.

(b) The County Supervisor and the other lender representative should maintain a close working relationship in processing loans to mutual applicants or borrowers. When an RL loan is made at the same time as a loan from another lender, that lender's lien will have priority over the FmHA lien unless otherwise agreed upon. In addition to principal and interest, the lender's lien priority can cover advances for payment of taxes, property insurance, reasonable maintenance to protect the security, and reasonable foreclosure costs including attorney's fees.

§ 1943.128 [Reserved]

§ 1943.129 Relationship with other FmHA loans, guaranteed or economic emergency loans.

(a) Insured RL loans may be made simultaneously with other FmHA loans, or to borrowers presently in debt on FmHA loans only if the loan limits involved will not be exceeded and all requirements of the loans involved will be met.

(b) If an applicant is eligible for an RL loan and an Economic Emergency (EE) loan for the same purposes and the RL loan will meet the needs of the applicant, it will be the policy to process the RL loan, provided loan funds are available. If the RL loan will not meet the *total* needs of the applicant, it will normally be the policy to process an EE loan only.

(c) Borrowers indebted to FmHA and/or an FmHA guaranteed lender for an EE loan may be considered for RL loan(s): *Provided,* The total outstanding principal indebtedness to FmHA and/or and FmHA guaranteed lender for the EE and any FO, SW and OL loans would not exceed $650,000.

(d) An insured RL loan will not be made to a borrower with an outstanding guaranteed FO, SW or RL loan, and paragraph (c) of this section is not intended to override this policy.

§ 1943.130 County Committee certification.

The County Committee will certify that an applicant is eligible on Form FmHA 440-2, "County Committee Certification or Recommendation" before a loan is approved. In some instances the Committee may want to interview the applicant or see the farm before making any recommendations.

§ 1943.131 [Reserved]

§ 1943.132 Loan docket processing.

(a) *Forms.* The following table is a guide to the forms needed and shows how they are distributed:

FmHA form No.	Name of form	Total number of copies	Signed by borrower	Loan docket	Copy to borrower
400-1	Equal Opportunity Agreement.	2	1-O	1-O	1-C
400-3	Notice to Contractors and Applicants.	3		1-C	1-C
400-4	Nondiscrimination Agreement.	2	2-O and C	1-O	1-C
400-6	Compliance Statement	3		1-C	1-C
*403-1	Debt Adjustment Agreement.	*3	1-O	1-O	1-C
410-1	Application for FmHA Services.	*1	1-O	1-O	
410-8	Applicant Reference Letter.	1		1-O	
410-9	Statement Required by the Privacy Act.	2	2-O and C	1-C	1-O
410-10	Privacy Act Statement to References.	*2		1-C	

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FmHA form No.	Name of form	Total number of copies	Signed by borrower	Loan docket	Copy to borrower
422-1	Appraisal Report Farm Tract.	1		1-O	
*422-2	Supplemental Report—Irrigation, Drainage, Levee, and Minerals.	1		1-O	
*422-10	Appraiser's Worksheet—Farm Tracts for Study of Comparable Properties.	1		1-O	
*424-1	Development Plan	[2]2	1-O	1-O	1-C
*427-8	Agreement with Prior Lienholder.	[4]3		1-O	1-C
*431-1	Long-Time Farm and Home Plan.	2	2-O and C	1-C	1-O
*431-2	Farm and Home Plan	[1]1	1-O	1-O	
431-3	Family Budget	[2]2	2-O and C	1-C	1-O
*431-4	Business Analysis—Nonagricultural Enterprise.	2	1-O	1-C	1-O
440-1	Request for Obligation of Funds.	[4]4	[11]2-O+C	1-O	1-C
440-2	County Committee Certification or Recommendation.	1		1-O	
*440-9	Supplementary Payment Agreement.	2	1-O	2-O and C	1—C
*440-21	Appraisal of Chattel Property.	2		1-O	
*440-34	Option to Purchase Real Property.	[3]3	2-O and C	1-O	1-C
*440-41	Disclosure Statement for Loans Secured by Real Estate.	[2]2	1-C	1-C	1-O
*440-42	Credit Sale Disclosure Statement.	[2]2	1-C	1-C	1-O
*440-43	Notice of Right to Rescind.	[13]3	[7]1	1	2-O+1
*440-46	Environmental Impact Assessment.	1		1-O	
**443-18	Recreation Loan Fund Analysis.	3		3-O and 2C	1-C
*443-17	Agreement to Sell Nonessential Real Estate.	2	2-O and C	1-O	1-C
*449-10	Applicants Environmental Impact Evaluation.	2	1-O	1-O	1-C

[1]Signed copy of option previously delivered to the seller.
[2]In addition to the plan for first full crop year, the interim plan, if prepared, will be included in the docket.
[3]When the contract method will be used, three copies of plans and specifications will be required.
[4]An extra copy will be prepared in connection with a loan to acquire land when the Bureau of Indian Affairs must take action to have a patent issued to the purchaser. After the loan is approved, a copy of the form will be sent to the Area Director of the Bureau of Indian Affairs so that the patent can be requested from the Bureau of Land Management.
[5]Signed copy to creditor.
[6]Copy to lienholder.
[7]Copy to State Director.
[8]Record of applicant investigation, availability of other credit, and so forth, which remain with the docket.
[9]In right-to-rescind cases, original and sufficient copies for each person who has a right to rescind.
[10]Original and one copy to borrower, two copies to each other person who has a right to rescind. If the right to rescind is exercised, the person exercising the right will sign one copy of the form and return it to the county office.
[11]Applicant must sign and date this form.
[12]Signed by all sources of information concerning the applicant's character and credit. Orginial is retained by the person who supplies the information.

O—Original; C—Copy.
*When applicable.
**Not used when a credit sale is processed without a loan.

(b) *Other docket items.* The running record and correspondence pertaining to the loan application and docket will be included. Other items may include supplementary information about the recreation enterprises, copies of mortgages, contracts, and deeds.

(c) *Verification of veterans' preference.* If the applicant has checked the veteran block, the County Supervisor, or other County Office employee will review the applicant's evidence of discharge or release to determine whether the applicant is entitled to veteran's preference.

(d) *Information on other credit.* The docket will include, by entries in the running record or by letters, information on the need to refinance secured and major unsecured debts. Also, information will be included which shows other credit is not available in the amount needed or is not available under repayment terms which the applicant can meet.

§ 1943.133 Loan approval or disapproval.

(a) *Loan approval authority.* Initial and subsequent loans may be approved as authorized by Subpart A of Part 1901 of this chapter provided:

(1) Section 1943.117(a), containing loan limitations, is not violated.

(2) No significant changes have been made in the development plan considered by the appraiser when real estate will be taken as security.

(b) *Loan approval action.* (1) The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket, the loan approval official will determine that:

(i) The County Committee has certified the applicant eligible,

(ii) The Committee certification has been properly completed and signed by at least two members of the Committee,

(iii) Funds are requested for authorized purposes,

(iv) The proposed loan is sound,

(v) The security is adequate,

(vi) Necessary supervision is planned, and

(vii) All other pertinent requirements have been met or will be met.

(2) When approving the loan, the approval official will:

(i) Indicate on all copies of Form FmHA 440-1, "Request for Obligation of Funds," any conditions not required by FmHA regulations that must be met for loan closing;

(ii) Specify any special security requirements;

(iii) Indicate special conditions or agreements needed with prior lien holders, when appropriate;

(iv) Indicate that approval is subject to satisfactory title evidence when required, if such evidence has not been obtained;

(v) Indicate any other special requirements; and

(vi) Sign the original and one copy of Form FmHA 440-1 and insert the title of the approval official.

(c) *Distribution of forms after loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved.

(1) The following forms will be sent to the Finance Office:

(i) Form FmHA 440-1 (copy).

(ii) When funds have been obligated the Finance Office will send to the County Office an original and one copy of Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request."

(iii) Form FmHA 443-12 (original).

(iv) Form FmHA 449-19 (original) for initial loans only. If an inital OL or SW loan is approved at the same time, only one set of forms is required.

(2) The original of Form FmHA 440-1 and the remainder of the loan docket will be sent to the County Office.

(3) The following forms will be sent to the State Office:

(i) Form FmHA 440-1 (copy).

(ii) Form FmHA 443-12 (copy).

(4) A signed copy of Form FmHA 440-1 will be sent to the borrower on the date of loan approval.

(d) *Loan disapproval.* The following action will be taken when a loan is disapproved:

(1) The reason(s) for disapproval will be indicated on Form FmHA 440-1 by the loan approval official. The reason(s) may be in a letter or the running record if this form has not been completed. Suggestions which could remedy the reason(s) for disapproval should be included.

(2) The County Supervisor will notify the applicant in writing of the action taken and include any suggestions that could result in favorable action when appropriate. In addition to sending out the written notice the County Supervisor may personally discuss the action with the applicant. In that instance, the items covered in the discussion will be documented in the running record.

(3) Items furnished by the applicant during docket processing will be returned.

§ 1943.134 Requesting title service and accepting option(s).

When a loan is approved, and real estate will serve as security, the following actions will be taken:

(a) The County Supervisor will request the applicant to obtain title clearance as provided in Part 1807 of this chapter (FmHA Instruction 427.1), when required, if this has not been done.

(b) If an option is involved, the applicant will sign Form FmHA 440-35, "Acceptance of Option" and send the original to the seller. A copy will be kept in the case folder.

(c) The applicant will arrange with the seller to take possession. The following forms may be used if appropriate:

(1) Form FmHA 443-5, "Short-Term Lease of Optioned Land."

(2) Form FmHA 443-6, "Short-Term Lease (Between Purchaser and Seller)."

(3) Form FmHA 443-8, "Agreement (Between Seller, Purchaser, and Tenant)."

§ 1943.135 Action after loan approval.

(a) *Requesting check.* If real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval or when the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval by entering the amount needed in the appropriate block of Form FmHA 440-1. If funds are not requested when the loan is approved, advances in the amount needed will be requested by using Form FmHA 440-57 in accordance with the Forms Manual Insert (FMI). The original Form FmHA 440-57 will be retained in the County Office and a copy sent to the Finance Office. The initial loan advance will be requested when loan approval conditions can be met, satisfactory title to real estate security can be provided, and a date has been set for loan closing.

(1) When all loan funds can be disbursed at, or within 30 days after, loan closing or if the amount of funds that cannot be disbursed does not exceed $5,000, the total amount of the loan will be requested in a single advance.

(2) When loan funds cannot be disbursed as outlined in paragraph (a)(1) of this section, the amount needed to meet the immediate needs of the borrower will be requested by submitting a copy of Form FmHA 440-57 to the Finance Office. The amount of each

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advance should meet the needs of the borrower as much as possible, so that the amount in the supervised bank account will be kept at a minimum. The Finance Office will continue to supply Form FmHA 440-57 until the entire loan has been disbursed. The County Supervisor should tell the borrower to notify the County Office of amounts needed on a timely basis to avoid delays in receiving loan checks.

(b) *Handling loan checks.* (1) When the loan check or the borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or the borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with Part 1803 of this chapter (FmHA Instruction 402.1) as soon as possible, but in no case later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1, a copy of which may be obtained from any FmHA ofice.

(3) When a check is returned and the loan will be closed at a subsequent date, another check will be requested in accordance with FmHA Instruction 102.1, a copy of which may be obtained as stated in paragraph (b)(2) of this section.

(c) *Cancellation of loan.* Loans may be cancelled before loan closing as follows:

(1) The County Supervisor will notify the State and Finance Offices of loan cancellation by using Form FmHA 440-10. The County Office will send a copy of Form FmHA 440-10 to the designated attorney, escrow agent, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate that the loan has been cancelled. If a check received in the County Office is to be cancelled, the check will be returned to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440-10.

(2) Interested parties will be notified of the cancellation as provided in Part 1807 of this Chapter (FmHA Instruction 427.1).

(d) *Cancellation of advances.* When an advance is to be cancelled, the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA 440-10 in accordance with the FMI.

(2) When necessary, prepare and execute a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule. When it is not possible to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440-10 the revised amount of the loan and the revised repayment schedule.

(e) *Increase or decrease in amount of loan.* If it becomes necessary to increase or decrease the amount of the loan prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office and reprocessed unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memorandum explaining the change will be attached to the revised forms and sent to the Finance Office.

§ 1943.136–1943.137 [Reserved]

§ 1943.138 Loan closing actions.

When a loan closing date has been agreed upon, the County Supervisor will notify the borrower and the seller, if any, of the loan closing date. The following appropriate actions will be taken in connection with and after loan closing.

(a) *Real estate mortgage loans.* When a loan is to be secured by a real estate mortgage, it will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHA Instruction 427.1) except as modified for loans of $10,000 or less in § 1943.119(b)(4).

(b) *Loans involving chattel or other nonreal estate security.* All chattel security instruments will be signed and filed as prescribed in Subpart B of Part 1941 of this chapter and for operating loans. The following forms will be used for chattel security:

(1) Form FmHA 440-15, "Security Agreement (Insured loans to Individuals)."

(2) Form FmHA 440-25, "Financing Statement," or when authorized, Form FmHA 440A25, "Financing Statements".

(3) State forms may be used if national forms are not legally acceptable. Such forms will require OGC and National Office clearance.

(c) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in the applicant's financial condition, the financial statement will be revised and initialed by the applicant and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper, the loan will not be closed. If a revised loan docket is needed to meet loan requirements or determine loan soundness, it will be developed and submitted to the appropriate loan approval official.

(d) *Loan approval conditions.* The County Supervisor will inform the applicant of any loan approval conditions that need to be met. These conditions will usually be included in the notice informing the applicant of the loan closing date. The loan will not be closed if the applicant is unable to meet loan approval conditions.

(e) *Change in the use of funds planned for refinancing.* (1) County Supervisors are authorized to:

(i) Transfer funds planned to be used for refinancing specific debts to other debts when there is a need to do so; and

(ii) Transfer funds planned to be used for other purposes to pay small deficiencies in estimates for refinancing debts, providing there are sufficient remaining funds to complete any land purchase and planned development.

(2) A revised docket will be developed when:

(i) The total amount of debts to be refinanced has increased in such an amount that planned loan purposes cannot be carried out: and

(ii) The applicant is unable to make up any deficiencies from other resources.

(f) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be reduced will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1), including provisions for written consent of any prior lienholder. Authority may be given by the State Director to refrain from taking an assignment in cases where the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting sources such as income from bonus payments or annual delay rentals. Such income will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1).

(1) For assignment of income, Form FmHA 443-16, "Assignment of Income from Real Estate Security," will be used, except if it is legally inadequate in a State it may be adapted to that State with the approval of the OGC or an authorized State form may be used instead.

(2) The County Supervisor, upon the advice of the designated attorney, escrow agent, title insurance company, or the OGC, as appropriate, may require acknowledgement and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(3) At the time Form FmHA 443-16 is executed, appropriate notations will be made on Form 405-1, "Management System Card—Individual," to insure that the proceeds, or the specified portion of the proceeds assigned to FmHA from the transactions are remitted at the proper time.

(g) *Preparation of the note.* Form FmHA 1940-17, "Promissory Note" will be used and completed in accordance with the FMI.

(1) Separate notes will be prepared for any other FmHA loan made simultaneously with the RL loan. The notes will be competed as provided in the appropriate loan regulation and FMI.

(2) All FmHA notes to be secured by real estate can be described in the same mortgage.

(3) When a loan is closed in December with an installment due on the following January 1, that installment should be collected at loan closing.

(4) The promissory note will be signed as follows:

(i) When a loan is made to an individual, the note will be executed in accordance with Part 1807 of this chapter (FmHA Instruction 427.1).

(ii) When a loan is made to a cooperative or a corporation, the note will be executed by:

(A) The official(s) authorized to obtain the loan; and

(B) The individual(s) holding a majority interest in the cooperative or corporation, as individuals.

(iii) When a loan is made to a partnership, the note will be executed by all partners in the partnership.

(iii) When a loan is made to a partnership, the note will be executed by all partners in the partnership.

(h) *Supplementary payment agreement.* Form FmHA 440-9, "Supplementary Payment Agreement," should be used for each applicant who regularly (such as weekly, monthly, or quarterly) receives substantial income from an off-farm source, a nonfarm enterprise, or from farming.

(i) *Obtaining insurance.* The applicant will be informed of the insurance requirements set forth in § 1943.124.

(j) *Effective time of loan closing.* An RL loan is considered closed when the mortgage is filed for record.

(k) *Distribution of documents after loan closing.* The County Supervisor should review the forms and closing actions. Corrective action should be taken when necessary.

(1) Real estate mortgages:

(i) When the original recorded instrument is returned to County Office:

(A) File the original in County Office file, and

(B) Give a copy to borrower.

(ii) When the original is retained by recorder:

(A) File a conformed copy in county office file, and

(B) Give a conformed copy to borrower.

(iii) the County Supervisor will provide copies that may be needed in some cases for interested third parties.

(2) Deeds:

(i) Give the original to borrower, and

(ii) Retain one copy to file.

(3) Title insurance policies:

(i) File the Mortgagee title policy in the county office file, and

(ii) Give the owner's title policy, if one is obtained, to the borrower.

(4) Water stock certificates or similar collateral will be retained in the county office file.

(5) Abstracts of title:

(i) Return to the borrower, except that when they were obtained from a third party with the understanding that they would be returned, the abstracts will be sent to the third party. A memorandum receipt will be obtained when abstracts are delivered to the third party.

(ii) Form FmHA 140-4 "Transmittal of Documents" will be used and a receipted copy kept in the County Office. The FMI should be follow for preparing this form.

§ 1943.139–1943.141 [Reserved]

1943.142 Servicing.

Recreation loans will be serviced in accordance with Subpart A of Part 1872 (FmHA Instruction 465.1). Chattel security for RL loans will be serviced in accordance with Subpart A of Part 1930 of this chapter.

§ 1943.143 Subsequent recreation loans.

A subsequent recreation loan is a loan made to a borrower who is currently in debt for a recreation loan.

(a) A subsequent loan may be made for the same purposes and under the same conditions as an initial loan.

(b) The subsequent loan will be processed in the same manner as an initial loan except that a new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(1) Subsequent loan funds will be used to purchase land or the mortgage will include additional land that is not presently covered by the FmHA real estate mortgage.

(2) The County Supervisor or loan approval official requests a new appraisal report.

(3) The latest appraisal report on the farm is over two years old.

(4) The physical characteristics of the farm have changed significantly.

(5) The subsequent loan will be over $10,000.

(6) There have been significant changes in the market value of real estate in the area within the last two years.

(c) When a new appraisal is not made, an employee authorized to make farm appraisals will provide an estimate of the value of the security. This value will be inserted, dated, and initialed in the comments section of the latest appraisal report.

(d) A new real estate mortgage will not be necessary provided:

(1) All the land which will serve as security for the loan is described on the present real estate mortgage; or

(2) The real estate mortgage has a future advance clause and a State supplement provides authority for using such a clause; or

(3) the required lien priority is obtained with the existing mortgage and future advance clause.

§ 1943.144 Subordinations.

Subordinations in favor of other lenders will be processed in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1).

§ 1943.145–1943.149 [Reserved]

§ 1943.150 State supplements.

State supplements will be issued as necessary to implement this subpart.

(7 U.S.C 1989; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development 7 CFR 2.70.)

Dated: November 7, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-33099 Filed 11-28-78; 8:45 am]

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federal register

WEDNESDAY, NOVEMBER 29, 1978
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

PROFESSIONAL STANDARD REVIEW

California PSRO Area; Clarification and Redesignation

San Marino El Monte of Pioneer Mesa border; then westerly along

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[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 460—PROFESSIONAL STANDARDS REVIEW

California PSRO Area Redesignation

AGENCY: Health Care Financing Administration (HCFA), DHEW.

ACTION: Final Regulation.

SUMMARY: This regulation redesignates PSRO Area XXII of California to include postal zone 90067. The revision will permit initiation of PSRO review in Century City Hospital, located within a zone inadvertently omitted from the original designation of PSRO areas. This regulation also provides clarifying language indicating that the city, community, and postal zone boundaries which were in effect in 1974, and not currently existing boundaries, are being used to describe the limits of PSRO areas XVIII through XXV.

DATE: The amendment is effective on November 29, 1978.

FOR FURTHER INFORMATION, CONTACT:

Ann Flurry, 301-443-6477.

SUPPLEMENTARY INFORMATION: Professional Standards Review Organizations are independent physician organizations mandated under Title XI, Part B of the Social Security Act to review the medical necessity, appropriateness, and quality of health care services funded through the Medicare, Medicaid, and Maternal and Child Health programs. Specific PSRO areas must be designated before review activities can be undertaken.

REDESIGNATION OF AREA XXII

California PSRO Area designations, published on March 18, 1974 at 39 FR 10207, used postal zones, unincorporated communities and counties to establish the PSRO boundaries, but inadvertently omitted postal zone 90067. Therefore, on November 10, 1977, we published a Notice (42 FR 58544) proposing to designate postal zone 90067 as part of California PSRO Area XXII. This would place Century City Hospital under the review authority of the PSRO for Area XXII.

Eleven comments were received, all of which objected to the proposed designation and recommended instead that postal zone 90067, and particularly Century City Hospital, be included in Area XXV. The basis for their recommendation was their belief that Century City Hospital is a part of the medical service area of Area XXV rather than Area XXII.

In support of their position, they stated that 48 percent of the physicians on the Century City Hospital staff are members of the Area XXV PSRO; and that the patterns of practice at Century City Hospital are the same as those in Area XXV.

However, we found that more than half of the Century City Hospital staff are members of the Area XXII PSRO; that the hospital is linked more closely to medical institutions in Area XXII than in area XXV, specifically the UCLA Hospital, a regional medical center, and Brotman Memorial Hospital; and that the PSRO in Area XXII has been working closely with Century City Hospital for three years, anticipating that we would confirm our original intent to include postal zone 90067 in Area XXII.

On the basis of the latter information, we have decided to include postal zone 90067 in PSRO Area XXII. This will also achieve a better balance of total number of physicians in the two areas. There are already approximately 1500 more physicians in Area XXV than in area XXII.

CLARIFICATION OF PERMANENT BOUNDARIES FOR AREAS XVIII THROUGH XXV

Areas XVIII through XXV were designated by city, community, and postal zone boundaries which were in effect in 1974, but the original regulation did not indicate that this was the date that the boundaries were fixed. Postal zones and community boundaries have changed since 1974. These changes have created confusion as to the correct PSRO area boundaries. To eliminate this confusion, the regulation now expressly states that the PSRO boundaries are those which were in effect in 1974 and will remain fixed regardless of subsequent changes in postal zones or communities.

Because we believe it is desirable to initiate PSRO review promptly in any area where review has not yet been possible, we are adopting the amendment to be effective immediately.

A detailed description of the boundaries of California Areas XVIII through XXV is being published today as Part III. Copies of Part III may be obtained from HCFA.

42 CFR 460.7 is amended by revising the introductory statement and Area XXII to read as follows:

§ 460.7 California.

Twenty-eight Professional Standards Review Organization areas are designated in California. Areas XVIII through XXV are designated by city, community, and postal zone boundaries as in effect in 1974. All other areas are designated by counties. The boundaries for PSRO Areas XVIII through XXV will remain fixed, unless specifically revised through rulemaking, even though the 1974 boundaries for postal zones or other community areas may change. Therefore, detailed specifications of these PSRO Areas have also been prepared and are available upon request from HCFA.

* * * * *

AREA XXII

Culver City	Palms
Malibu	Playa del Rey
Marina del Rey	Santa Monica
Mar Vista	Sawtelle
Ocean Park	Venice
Pacific Palisades	Westwood

Los Angeles Postal Zones:

90034	90066
90049	90067
90064	90073

* * * * *

(Sec. 1102, 1152, Social Security Act (42 U.S.C. 1302, 1320c-1).)

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Approved: November 20, 1978.

HALE CHAMPION,
Acting Secretary.

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[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PROFESSIONAL STANDARDS REVIEW

Clarification of California PSRO Area Designations

AGENCY: Health Care Financing Administration (HCFA), DHEW.

ACTION: Notice.

SUMMARY: This notice provides a detailed description of the boundaries for California PSRO Areas XVIII through Area XXV, using street names and city and county borders. Publication of this detailed description will lessen existing confusion concerning PSRO area boundaries in Los Angeles and surrounding communities.

FOR FURTHER INFORMATION, CONTACT:

Ann Flurry, 301-443-6477.

SUPPLEMENTARY INFORMATION: Professional standards Review Organizations are independent physician organizations mandated under Title XI, Part B of the Social Security Act to review the medical necessity, appropriateness, and quality of health care services funded through the Medicare, Medicaid, and Maternal and Child Health programs. Specific PSRO areas must be designated before review activities can be undertaken.

California PSRO area designations, published on March 18, 1974 at 39 FR 10207, used postal zones, unincorporated communities and counties, as they existed in 1974, to establish the PSRO boundaries. A complete list of the California area designations appears at 42 CFR 460.7. Since the original publication of these area designations, the boundaries of the postal zones and unincorporated communities have changed frequently. If PSRO area boundaries followed these frequent changes, it would disrupt PSRO review activities. It is necessary, therefore, to retain the boundaries as they existed in 1974 and to provide a precise description of the areas. The detailed descriptions of California PSRO Areas XVIII through XXV are set forth below.

A final rule redesignating California PSRO Area XXII to include postal zone 90067 is published today at 43 FR

CALIFORNIA PSRO AREAS XVIII THROUGH XXV

AREA XVIII

The cities and communities of:

Altadena	Tujunga
La Vina	Verdugo City
Pasadena	Alhambra
San Marino	El Monte
South Pasadena	Garvey
Eagle Rock	Monterey Park
Glendale	Rosemead
La Canada	San Gabriel
La Crescenta	South San Gabriel
Montrose	Temple City
Sunland	Wilmar

The precise boundaries of this area are as follows:

Beginning at the intersection of the City of Monterey Park, the City of Montebello, and the unincorporated Los Angeles County border; thence running generally westerly and northerly along the Monterey Park side of the City of Monterey Park/unincorporated Los Angeles County border to its intersection with the City of Los Angeles border; then easterly along the City of Monterey Park side of the City of Monterey Park/City of Los Angeles border to its intersection with the City of Alhambra border; then northerly along the City of Alhambra side of the City of Alhambra/City of Los Angeles border to its intersection with the southern boundary line of the City of South Pasadena; then westerly and northerly along the City of South Pasadena side of the City of South Pasadena/City of Los Angeles border to its intersection with York Blvd.; then westerly along the northern side of York Blvd. to its intersection with Verdugo Road; then northerly along the eastern side of Verdugo Road to its intersection with the City of Glendale/City of Los Angeles border; then generally westerly along the City of Glendale side of the City of Glendale/City of Los Angeles border to its intersection with the City of Burbank border; then northeasterly along the City of Glendale side of the City of Glendale/City of Burbank border to the northern most point of this joint boundary line; then running westerly along the City of Los Angeles side of the City of Los Angeles/City of Burbank border to its intersection with Glen Oaks Blvd.; then following the eastern side of Glen Oaks Blvd. to its intersection with Sunland Blvd.; then north and northeasterly along the eastern side of Sunland Blvd. to its intersection with Foothill Blvd.; thence northwesterly along the eastern side of Foothill Blvd. to its intersection with Big Tujunga Canyon Road; then northeasterly along the southern side of Big Tujunga Canyon Road to its intersection with Angeles Forest Highway; then south along the western side of Angeles Forest Highway to its intersection with Angeles Crest Highway; then easterly along the southern side of Angeles Crest Highway to its intersection with Highway 39; then southerly along the western side of Highway 39 to its intersection with the City of Azusa; then generally westerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Azusa border to its intersection with the City of Duarte border; then northerly and westerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Duarte border to its intersection with the City of Monrovia border; then westerly and southerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Monrovia border to its intersection with the City of Arcadia border; then westerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Arcadia border to its intersection with the City of Sierra Madre border; then westerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Sierra Madre border to its intersection with the City of Pasadena border; then southerly along the City of Pasadena side of the City of Pasadena/City of Sierra Madre border to its intersection with the City of Arcadia border; then southerly along the City of Pasadena side of the City of Pasadena/City of Arcadia border to its intersection with the unincorporated Los Angeles County border; then southerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Arcadia border to its intersection with the Temple City border; then easterly along the Temple City side of the Temple City/City of Arcadia border to its intersection with the unincorporated Los Angeles County border; then southerly along the Temple City side of the Temple City/unincorporated Los Angeles County border to its intersection with the City of El Monte border; then easterly along the City of El Monte side of the City of El Monte/unincorporated Los Angeles County border to its intersection with the City of Arcadia border; then easterly along the City of El Monte side of the City of El Monte/City of Arcadia border to its intersection with the San Gabriel River; then southwesterly along the western side of the San Gabriel River to its intersection with the City of Pico Rivera/unincorporated Los Angeles County border; then southwesterly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Pico Rivera border to its intersection with the City of Montebello border; then northeasterly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Montebello border to its intersection with the City of Rosemead border; then northwesterly along the City of Rosemead side of the City of Rosemead/City of Montebello border to its intersection with the unincorporated Los Angeles County border; then generally northerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Montebello border to its intersection with the City of Monterey Park border; then westerly along the City of Monterey Park/City of Montebello border to its intersection with the unincorporated Los Angeles County border, the point of beginning.

AREA XIX

The cities and communities of:

Avalon	Wilmington
Dominguez	Harbor City
Hawaiian Gardens	Palos Verdes Estates
Lakewood	Palos Verdes Peninsula
Long Beach	San Pedro
Los Alamitos	
Terminal Island	

The precise boundaries of this area are as follows:

Beginning at the Pacific Ocean at its intersection with Western Avenue; then generally running north along the eastern side of Western Avenue to its intersection with Palos Verdes Drive North; then easterly along the southern side of Palos Verdes Drive North to its intersection with Vermont Avenue; then north on the eastern side of Vermont Avenue to its intersection with the Pacific Coast Highway; then west

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along the northern side of Pacific Coast Highway to its intersection with Western Avenue; then north along the eastern side of Western Avenue to its intersection with Sepulveda Blvd.; then southeasterly along the southern side of Sepulveda Blvd. to its intersection with Vermont Avenue; then following north along the eastern side of Vermont Avenue to its intersection with Alondra Blvd.; then easterly along the southern side of Alondra Blvd. to its intersection with the City of Carson/City of Compton border; then following the City of Carson side of the City of Carson/City of Compton border to its intersection with the unincorporated Los Angeles County border; then following the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Compton border to its intersection with the City of North Long Beach border; then following the City of North Long Beach side of the City of North Long Beach/City of Compton border to its intersection with the City of Paramount; then following the City of North Long Beach side of the City of North Long Beach/City of Paramount border to its intersection with the City of Bellflower border; then following the City of North Long Beach side of the City of North Long Beach/City of Bellflower border to its intersection with the City of Lakewood border; then following the City of Lakewood side of the City of Lakewood/City of Bellflower border to its intersection with the City of Cerritos border; then following the City of Lakewood side of the City of Lakewood/City of Cerritos border to its intersection with the Los Angeles County/Orange County border; then following generally south along the Los Angeles County side of the Los Angeles County/Orange County border to its intersection with the Pacific Ocean, the point of beginning. The Island of Catalina is also within the Area.

AREA XX

The cities and communities of:

Agoura	Littlerock
Calabasas	Palmdale
Canoga Park	Pearblossom
Chatsworth	Quartz Hill
Encino	Burbank
Granada Hills	Mission Hills
Hidden Hills	North Hollywood
Newhall	Olive View
Northridge	Pacoima
Reseda	Panorama City
Saugus	San Fernando
Sherman Oaks	Sepulveda
Tarzana	Studio City
Van Nuys	Sun Valley
Woodland Hills	Sylmar
Lancaster	Toluca Lake

The precise boundaries of this area are as follows:

Beginning at the Los Angeles County/Ventura County border at Little Syeamore Canyon Road; thence running generally north and northeasterly along the Los Angeles County side of the Los Angeles County/Ventura County border to its intersection with the Kern County border line; then easterly along the Los Angeles County side of the Los Angeles County/Kern County border to its intersection with the San Bernardino County border; then southwesterly along the Los Angeles County side of the Los Angeles County/San Bernardino County border to its intersection with Angeles Crest Highway (State Highway 2); then westerly along the northern side of Angeles Crest Highway to its intersection with Angeles Forest Highway; then north and generally northwesterly along the eastern side of Angeles Forest Highway to its intersection with Big Tujunga Canyon Road; then following northwesterly on the northern side of Big Tujunga Canyon Road to the intersection with Foothill Blvd.; then southeasterly along the southwest side of Foothill Blvd. to its intersection with Sunland Blvd.; then south and southwesterly along the western side of Sunland Blvd. to its intersection with Glen Oaks Blvd.; then following south on the western side of Glen Oaks Blvd. to its intersection with the City of Burbank; then running north and northeasterly along the City of Burbank side of the City of Los Angeles/City of Burbank border to its intersection with the City of Glendale border; then south along the City of Burbank side of the City of Burbank/City of Glendale border to its intersection with the City of Los Angeles border; then running southwesterly along the City of Burbank side of the City of Burbank/City of Los Angeles border to the intersection with Barham Blvd.; then south along the western side of Barham Blvd. to its intersection with Hollywood Freeway (State Highway 101); then running southeasterly along the western side of Hollywood Freeway (State Highway 101) to its intersection with Mulholland Drive; then running south and southwesterly along the northern side of Mulholland Drive to its intersection with Mulholland Highway; then running south and southwesterly along the northern side of Mulholland Highway to its intersection with Little Sycamore Canyon Road; then running north along the eastern side of Little Sycamore Canyon Road to its intersection with the Ventura County/Los Angeles County border, point of beginning.

AREA XXI

The cities and communities of:

Commerce	Duarte
Hacienda Heights	Glendora
La Mirada	La Puente
East Los Angeles	Monrovia
Los Nietos	Rowland Heights
Montebello	Sierra Madre
Norwalk	Valinda
Pico Rivera	West Covina
Sante Fe Springs	Claremont
Whittier	La Verne
Arcadia	Pomona
Azusa	San Dimas
Baldwin Park	Walnut
Covina	

The precise boundaries of this area are as follows:

Beginning at the intersection of Long Beach Freeway and Randolph Street/City of Commerce/City of Bell Gardens border; thence running north along the eastern side of Long Beach Freeway to its intersection with Atlantic Boulevard; then following the southeastern side of Atlantic Blvd. to its intersection with the City of Commerce border; then along the City of Commerce side of the City of Commerce/City of Vernon border to its intersection with the City of Los Angeles border; then along the City of Commerce side of the City of Commerce/City of Los Angeles border to its intersection with the unincorporated Los Angeles County border; then along the City of Commerce side of the City of Commerce/unincorporated Los Angeles County border to its intersection with the Long Beach Freeway; then north along the eastern side of the Long Beach Freeway to its intersection with the unincorporated Los Angeles County/City of Monterey Park border; then east along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Monterey Park border to its intersection with the City of Montebello border; then following the City of Montebello side of the City of Montebello/City of Monterey Park border to its intersection with the unincorporated Los Angeles County border; then following the city of Montebello side of the City of Montebello/unincorporated Los Angeles County border to its intersection with the City of Rosemead border; then following the City of Montebello side of the City of Montebello/City of Rosemead border to its intersection with the unincorporated Los Angeles County border; then following the City of Montebello/unincorporated Los Angeles County border to its intersection with the City of Pico Rivera border; then following the city of Pico Rivera side of the City of Pico Rivera/unincorporated Los Angeles County border to its intersection with the San Gabriel River; then north and northeasterly along the eastern side of the San Gabriel River to its intersection with the City of El Monte/City of Arcadia border; then following the City of Arcadia side of the City of Arcadia/City of El Monte border to its intersection with the unincorporated Los Angeles County border; then following the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of El Monte border to its intersection with the Temple City border; then following the unincorporated Los Angeles County side of the unincorporated Los Angeles County/Temple City border to its intersection with the city of Arcadia border; then following the City of Arcadia side of the City of Arcadia/Temple City border to its intersection with the unincorporated Los Angeles County border; then following the City of Arcadia side of the City of Arcadia/unincorporated Los Angeles County border to its intersection with the City of Pasadena border; then following the City of Arcadia side of the City of Arcadia/City of Pasadena border to its intersection with the city of Sierra Madre border; then following the City of Sierra Madre side of the City of Sierra Madre/City of Pasadena border to its intersection with the unincorporated Los Angeles County border; then following the City of Sierra Madre side of the City of Sierra Madre/unincorporated Los Angeles County border to its intersection with the City of Arcadia border; then following the City of Arcadia side of the City of Arcadia/unincorporated Los Angeles County border to its intersection with the City of Monrovia border; then following the City of Monrovia side of the City of Monrovia/unincorporated Los Angeles County border to its intersection with the City of Duarte border; then following the City of Duarte side of the City of Duarte/unincorporated Los Angeles County border to its intersection with the City of Azusa border; then following the City of Azusa side of the City of Azusa/unincorporated Los Angeles County border to its intersection with Highway 39; then north along the eastern side of Highway 39 to its intersection with Angeles Crest Highway; then east on the southern side of Angeles Crest Highway to its intersection with the San Bernardino County/Los Angeles County border; then south on the Los Angeles County side of the Los Angeles County/San Bernardino County border to its intersection with the Orange County border; then following west and southwesterly along the Los Angeles County side of the Los Angeles County/Orange County border to its intersection with the City of Cerritos/City of La Mirada border; then following the City of La Mirada side of the City of La Mirada/City of Cerritos border to its intersection with the City of Sante Fe Springs border; then following the City of Sante Fe Springs side of the City of Sante Fe Springs/City of Cerritos border to its intersection with the City of Norwalk border; then following the City of Norwalk side of the City of Norwalk/City of Cerritos border to its intersection with the City of Artesia border; then following the City of Norwalk side of the City Of Norwalk/City of Artesia border to its intersection with the City of Cerritos border; then following the City of Norwalk side of the City of Norwalk/City of Cerritos border to its intersection with the unincorporated Los Angeles County border; then following the City of Norwalk side of the City of Norwalk/unincorporated Los Angeles County border to its intersection with the City of Cerritos border; then following the City of Norwalk side of the City of Norwalk/City of Cerritos border to its intersection with the City of Bellflower/Cerritos border at the San Gabriel River; then north along the eastern side of the San Gabriel River to its intersection with the City of Pico Rivera/City of Downey border; then following the City of Pico Rivera side of the City of Pico Rivera/City of Downey border to its intersection with the City of Commerce border; then following the City of Commerce side of the City of Commerce/City of Downey border to its intersection with the City of Bell Gardens; then following the City of Commerce side of the City of Commerce/City of Bell Gardens border to its intersection with the Long Beach Freeway (State Highway 7), and Randolph Street, the point of beginning.

AREA XXII

The cities and communities of:

Culver City	Palms
Malibu	Playa del Rey
Marina del Rey	Santa Monica
Mar Vista	Sawtelle
Ocean Park	Venice
Pacific Palisades	Westwood

Los Angeles Postal Zones:

90034	90066
90049	90067
90064	90073

The precise boundaries of this area are as follows:

Beginning at the Pacific Ocean at the Los Angeles County/Ventura County border; then running north and north-easterly along the Los Angeles County side of the Los Angeles County/Ventura County border to its intersection with Little Sycamore Canyon Road; then running southeasterly along the southern side of Little Sycamore Canyon Road to its intersection with Mulholland Highway; then generally following easterly along the southern side of Mulholland Highway to its intersection with Mulholland Drive; then running generally easterly along the southern side of Mulholland Drive to its intersection with Benedict Canyon Road; then running generally southeasterly along the western side of Benedict Canyon Road to its intersection with the City of Los Angeles/City of Beverly Hills border; then southeasterly along the City of Los Angeles side of the City of Los Angeles/City of Beverly Hills border to its intersection with Beverwil Drive; then south along the western side of Beverwil Drive to its intersection with the Cresta Drive; then easterly along the southern side of Cresta Drive to its intersection with Beverly Drive; then running south along the western side of Beverly Drive to its intersection with Sawyer Street; then easterly along the southern side of Sawyer Street to its intersection with Fairfax Avenue; then south along the western side of Fairfax Avenue to its intersection with the Culver City/City of Los Angeles border; then following the Culver City side of the Culver City/City of Los Angeles border to its intersection with the unincorporated Los Angeles County border; then south along the Culver City side of the Culver City/unincorporated Los Angeles County border to its intersection with La Cienega Boulevard; then south along the western side of La Cienega Boulevard to its intersection with Centinela Avenue; then westerly along the northern side of Centinela Avenue to its intersection with the unincorporated Los Angeles County border; then running westerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Los Angeles border to its intersection with the Culver City border; then running northwesterly along the Culver City side of the Culver City/City of Los Angeles border to its intersection with the unincorporated Los Angeles County border; then running westerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Los Angeles border to its intersection with the Marina Del Rey Channel; then following southwesterly along the northern side of the Marina Del Rey Channel to its intersection with the Pacific Ocean, the point of beginning.

AREA XXIII

The cities and communities of:

Gardena	Bell
Hermosa Beach	Bellflower
Lomita	Bell Gardens
Manhattan Beach	Willowbrook
Palos Verdes	El Segundo
Redondo Beach	Hawthorne
Compton	Inglewood
Downey	Lawndale
Home Gardens	Lennox
Huntington Park	Maywood
Lynwood	Paramount
Torrance	South Gate
Artesia	Rolling Hills

Los Angeles Postal Zones:

90009	90045

The precise boundaries of this area are as follows:

Beginning at the Pacific Ocean at its intersection with the southern side of the Marina Del Rey Channel, thence running northeasterly along the City of Los Angeles side of the City of Los Angeles/Marino Del Rey Channel to its intersection with the unincorporated Los Angeles County border; then following south along the City of Los Angeles side of the City of Los Angeles/unincorporated Los Angeles County border to its intersection with Centinela Avenue; then southeasterly along the southern side of Centinela Avenue to its intersection with La Cienega Blvd.; then north along the eastern side of La Cienega Blvd. to its intersection with the northwest most point of the City of Los Angeles/City of Inglewood border; then east and southeasterly along the City of Inglewood side of the City of Inglewood/City of Los Angeles border to its intersection with the unincorporated Los Angeles County border; then south along the City of Inglewood side of the City of Inglewood/unincorporated Los Angeles County border to its intersection with the City of Hawthorne border; then running east and south along the City of Hawthorne side of the City of Hawthorne/unincorporated Los Angeles County border to its intersection with El Segundo Blvd.; then easterly along the southern side of El Segundo Blvd. to its intersection with Vermont Avenue; then south along the western side of Vermont Avenue to its intersection with Rosecrans Avenue; then easterly along the southern side of Rosecrans Avenue to its intersection with Central Avenue; then north along the eastern side of Central Avenue to its intersection with El Segundo Blvd.; then east along the southern side of El Segundo Blvd. to its intersection with Mona Blvd.; then north on the eastern side of Mona Blvd. to its intersection with Imperial Highway; then east on the southern side of Imperial Highway to its intersection with Alameda Street; then north on the eastern side of Alameda Street to its intersection with Slauson Avenue; then east along the City of Huntington Park side of the City of Huntington Park/City of Vernon border to its intersection with the unincorporated Los Angeles County border; then east and north along the City of Huntington Park side of the City of Huntington Park/unincorporated Los Angeles County border to its intersection with the City of Vernon border; then following the City of Huntington Park side of the City of Huntington Park/City of Vernon border to its intersection with the City of Maywood border; then north along the City of Maywood side of the City of Maywood/City of Vernon border to its intersection with Slauson Avenue; then easterly along the southern side of Slauson Avenue to its intersection with Long Beach Freeway (State Highway 7); then south along the western side of Long Beach Freeway to its intersection with the City of Bell Gardens/City of Commerce border; then easterly along the City of Bell Gardens side of the City of Bell Gardens/City of Commerce border to its intersection with the City of Downey border; then following the City of Downey/City of Commerce border to its intersection with the City of Pico Rivera border; then following the City of Downey side of the City of Downey/City of Pico Rivera border to its intersection with the San Gabriel River; then south along the western side of the San Gabriel River to its intersection with the City of Norwalk/City of Bellflower/City of Cerritos border; then east along the City of Cerritos side of the City of Cerritos/City of Norwalk border to its intersection with the unincorporated Los Angeles County/City of Norwalk border; then following the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Norwalk border to

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its intersection with the City of Cerritos border; then following the City of Cerritos side of the City of Cerritos/City of Norwalk border to its intersection with the City of Artesia border; then following the City of Artesia side of the City of Artesia/City of Norwalk border to its intersection with the City of Cerritos border; then following the City of Cerritos side of the City of Cerritos/City of Norwalk border to its intersection with the City of Sante Fe Springs border; then following the City of Cerritos side of the City of Cerritos/City of Sante Fe Springs border to its intersection with the City of La Mirada border; then following the City of Cerritos side of the City of Cerritos/City of La Mirada border to its intersection with the City of Buena Park border; then following the City of Cerritos side of the City of Cerritos/City of Buena Park border to its intersection with the City of La Palma border; then generally southwesterly along the City of Cerritos side of the City of Cerritos/City of La Palma border to its intersection with the unincorporated Orange County border; then following the City of Cerritos side of the City of Cerritos/unincorporated Orange County border to its intersection with the City of La Palma border; then following westerly along the City of Cerritos side of the City of Cerritos/City of La Palma border to its intersection with the City of Lakewood border; then west and northwesterly along the City of Cerritos side of the City of Cerritos/City of Lakewood border to its intersection with the City of Bellflower border; then following the City of Bellflower side of the City of Bellflower/City of Lakewood border to its intersection with the City of North Long Beach border; then following the City of Bellflower side of the City of Bellflower/City of North Long Beach border to its intersection with the City of Paramont border; then following the City of Paramont side of the city of Paramont/City of North Long Beach border to its intersection with the City of Compton border; then following the City of Compton side of the City of Compton/City of North Long Beach border to its intersection with the unincorporated Los Angeles County border; then following the City of Compton side of the city of Compton/unincorporated Los Angeles County border to its intersection with the City of Carson; then following the City of Compton side of the City of Compton/City of Carson border to its intersection with Alondra Blvd.; then westerly along the northern side of Alondra Blvd. to its intersection with Vermont Avenue; then south along the western side of Vermont Avenue to its intersection with Sepulveda Blvd.; then northwesterly along the northern side of Sepulveda Blvd. to its intersection with Western Avenue; then southerly along the western side of Western Avenue to its intersection with the Pacific Coast Highway; then east along the southern side of the Pacific Coast Highway to its intersection with Vermont Avenue; then south along the western side of Vermont Avenue to its intersection with Palos Verdes Drive North; then west along the northern side of Palos Verdes Drive North to its intersection with Western Avenue; then south along the western side of Western Avenue to its intersection with the Pacific Ocean, the point of beginning.

AREA XXIV

The cities and communities of:

Los Angeles Postal Zones:

90006	90003
90026	90008
90057	90011
90012	90037
90015	90043
90017	90044
90013	90047
90014	90056
90021	90059
90023	90061
90031	90062
90032	90004
90033	90005
90039	90007
90042	90010
90053	90016
90054	90018
90055	90019
90058	90020
90063	90035
90001	90051
90002	90065

The precise boundaries of this area are as follows:

Beginning on La Cienega Blvd. at its intersection with the City of Inglewood/City of Los Angeles border; then following north along the eastern side of La Cienega Blvd. to its intersection with the Culver City/unincorporated Los Angeles County border; then following the unincorporated Los Angeles County side of the unincorporated Los Angeles County/Culver City/Los Angeles County border to its intersection with the City of Los Angeles border; then following the City of Los Angeles side of the City of Los Angeles/City of Los Angeles border to its intersection with Fairfax Avenue; then north along the eastern side of Fairfax Avenue to its intersection with Sawyer Street; then running west along the northern side of Sawyer Street to its intersection with Beverly Drive; then north along the eastern side of Beverly Drive to its intersection with Cresta Drive; then westerly along the northern side of Cresta Drive to its intersection with Beverwil Drive; then north along the eastern side of Beverwil Drive to its intersection with the City of Beverly Hills/City of Los Angeles border; then running east along the City of Los Angeles side of the City of Los Angeles/City of Beverly Hills border to its intersection with Olympic Blvd.; then running easterly along the southern side of Olympic Blvd. to its intersection with Highland Avenue; then north along the eastern side of Highland Avenue to its intersection with Melrose Avenue; then east along the southern side of Melrose Avenue to its intersection with Hoover Street, then north along the eastern side of Hoover Street to its intersection with Myra Avenue; then generally north along the eastern side of Myra Avenue to its intersection with Fountain Avenue; then generally east along the southern side of Fountain Avenue to its intersection with Hyperion Avenue; then generally running northeasterly along the eastern side of Hyperion Avenue to its intersection with the Golden State Freeway (State Highway 5); then north along the eastern side of Golden State Freeway (State Highway 5) to its intersection with the Ventura Freeway (134); then east along the South side of the Ventura Freeway to its intersection with the City of Glendale border; then following along the City of Los Angeles side of the City of Los Angeles/City of Glendale border to its intersection with Verdugo Road; then south along the western side of Verdugo Road to its intersection with York Blvd.; then east along the southern side of York Blvd. to its intersection with the City of South Pasadena border; then south and easterly along the City of Los Angeles side of the City of Los Angeles/City of South Pasadena border to its intersection with the City of Alhambra border line; then southerly along the City of Los Angeles side of the City of Los Angeles/City of Alhambra border to its intersection with the City of Monterey Park, then west along the City of Los Angeles side of the City of Los Angeles/City of Monterey Park to its intersection with the unincorporated Los Angeles County border; then south along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Monterey Park border to its intersection with the Long Beach Freeway (7), then south along the western side of Long Beach Freeway to its intersection with the City of Commerce; then west along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Commerce border to its intersection with the City of Los Angeles border; then south along the City of Los Angeles side of the City of Los Angeles/City of Commerce border to its intersection with the City of Vernon; then generally east along the City of Vernon side of the City of Vernon/City of Commerce border to its intersection with Atlantic Blvd., then southwesterly along the northwestern side of Atlantic Blvd. to its intersection with Slauson Avenue; then west along the northern side of Slauson Avenue to its intersection with the City of Vernon/City of Maywood border; then west and south along the City of Vernon side of the City of Vernon/City of Maywood border to its intersection with the City of Huntington Park; then following the City of Vernon side of the City of Vernon/City of Huntington Park border to its intersection with the unincorporated Los Angeles County border; then south and west along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Huntington Park border to its intersection with the City of Vernon; then west along the City of Huntington Park to its intersection with Alameda Street; then south along the western side of Alameda Street to its intersection with Imperial Highway; then west along the northern side of Imperial Highway to its intersection with Mona Blvd.; then south along the western side of Mona Blvd. to its intersection with El Segundo Blvd.; then west along the northern side of El Segundo Blvd. to its intersection with Central Avenue; then south along the western side of Central Avenue to its intersection with Rosecrans Avenue; then west along the northern side of Rosecrans Avenue to its intersection with Vermont Avenue; then north along the eastern side of Vermont Avenue to its intersection with El Segundo Blvd.; then west on the northern side of El Segundo Blvd. to its intersection with the unincorporated Los Angeles County/City of Hawthorne border; then generally northerly along the unincorporated Los Angeles County side of the unincorporated Los Angeles/City of Hawthorne border to its intersection with the City of Inglewood, then north along the unincorporated Los Angeles County side of the unincorporated Los Angeles County/City of Inglewood border to its intersection with the City of Los Angeles border; then north and west along the City of Los Angeles/City of Inglewood border to its intersection with La Cienega Blvd., the point of beginning.

AREA XXV

The cities and communities of:

Beverly Hills Los Angeles Postal Zones:

90027	90046
90028	90048
90029	90068
90036	90069
90038	

The precise boundaries of this area are as follows:

Beginning at the southwestern corner of the City of Beverly Hills/City of Los Angeles border, thence running generally north and northwesterly along the City of Beverly Hills side of the City of Beverly Hills/City of Los Angeles border to its intersection with Benedict Canyon Drive; then running northwest along the eastern side of Benedict Canyon Drive to its intersection with Muiholland Drive; then running east along the southern side of Mulholland Drive to its intersection with Hollywood Freeway 101; then running northwesterly along the eastern side of Hollywood Freeway 101 to its intersection with Barham Blvd.; then running north and northeasterly along the eastern side of Barham Blvd. to its intersection with the Los Angeles River; at the City of Los Angeles/City of Burbank border; then running generally east along the City of Los Angeles side of the City of Los Angeles/City of Burbank border to the City of Glendale border; then running east and southeasterly along the City of Los Angeles side of the City of Los Angeles/City of Glendale border to its intersection with Ventura Freeway and the Los Angeles River; then running southeasterly along the western side of the Los Angeles River to its intersection with Hyperion Avenue; then running southwesterly along the western side of Hyperion Avenue to its intersection with Fountain Avenue; then running west along the northern side of Fountain Avenue to its intersection with Myra Avenue; then running southwesterly along the western side of Myra Avenue to its intersection with Hoover Street; then running south on the western side of Hoover Street to its intersection with Melrose Avenue; then running west on the northern side of Melrose Avenue to its intersection with Highland Avenue; then running south along the western side of Highland Avenue to its intersection with Olympic Blvd.; then running west along the northern side of Olympic Blvd. to its intersection with the City of Beverly Hills/City of Los Angeles border; then running west along the City of Beverly Hills side of the City of Beverly Hills/City of Los Angeles border to the southwestern most corner, the point of beginning.

(Sec. 1102, 1152, Social Security Act (42 U.S.C. 1302 and 1320c-1).

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Approved: November 20, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-33196 Filed 11-28-78; 8:45 am]

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WEDNESDAY, NOVEMBER 29, 1978
PART IV



DEPARTMENT OF STATE

SECURITY INFORMATION REGULATIONS

Implementation of E.O. 12065

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[4710-11-M]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER A—GENERAL

[Departmental Regulation 108.760]

PART 9—SECURITY INFORMATION REGULATIONS

Implementation of E.O. 12065 of June 28, 1978

AGENCY: Department of State.

ACTION: Final rule; request for comments.

SUMMARY: These regulations revise security information regulations for the Department of State, the Agency for International Development (AID), and the International Communication Agency (ICA). The revisions are necessary to conform to E.O. 12065 of June 28, 1978, entitled National Security Information.

DATES: Effective date: December 1, 1978. Comments must be received on or before December 31, 1978.

ADDRESSES: Send comments to:

Hodding Carter III, Assistant Secretary of State for Public Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520;

For AID: James W. McCulla, Director, Office of Public Affairs, Agency for International Development, 2201 C Street NW., Washington, D.C. 20523;

For ICA: Michael Pistor, Director, Office of Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Avenue NW., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT:

Ely Maurer, Assistant Legal Adviser, Department of State, 2201 C Street NW., Washington, D.C. 20520, telephone 202-632-2682.

Barbara Ennis, Director, Freedom of Information Staff, Bureau of Public Affairs, 2201 C St. NW., Washington, D.C. 20520, telephone 202-632-0772.

William Larson, Division of Domestic Operations, Office of Security, 2201 C St. NW., Washington, D.C. 20520, telephone 202-632-0327.

Arnold Dadian, Chief, Public Inquiries Staff, AID, Washington, D.C. 20523, telephone 202-632-1805.

Charles Jones, Jr., Freedom of Information/Privacy Act Coordinator, Office of Congressional and Public Liaison, ICA, 1750 Pennsylvania Avenue NW., Washington, D.C. 20547, telephone 202-724-9103.

Regulations dealing with internal procedures will be published in the Foreign Affairs Manual. Copies of these regulations are available upon written request to the Freedom of Information Staff, Room 2811, Department of State, 2201 C St. NW., Washington, D.C. 20520.

Dated: November 1, 1978.

BEN H. READ,
Under Secretary for Management, Department of State.

Dated: November 1, 1978.

HERBERT BECKINGTON,
Auditor General, Agency for International Development.

Dated: November 2, 1978.

JAMES D. ISBISTER,
Associate Director for Management, International Communication Agency.

Part 9 of Title 22, CFR is revised to read as set forth below.

The regulations implement Executive Order 12065, dated June 28, 1978 (43 FR 28949, July 3, 1978) entitled "National Security Information", hereinafter referred to as the Order.

PART 9—SECURITY INFORMATION REGULATIONS

Sec.

9.1 General policy.
9.2 Implementation and review responsibilities.
9.3 Responsibility for safeguarding classified information.
9.4 Classification.
9.5 Criteria for classification.
9.6 Classification authority.
9.7 Prohibitions.
9.8 Classification designations.
9.9 Duration of classification.
9.10 Derivation classification.
9.11 Classification guides.
9.12 Declassification and downgrading.
9.13 Transferred material.
9.14 Systematic review declassification guidelines.
9.15 Scheduling for systematic review.
9.16 Mandatory review.
9.17 Appeals.
9.18 Schedule of fees.
9.19 Determinations in certain disputed cases.
9.20 Challenges to classification.

Appendix A—Definitions.

AUTHORITY: E.O. 12065, National Security Regulations of June 28, 1978 (43 FR 28949, July 3, 1978); Information Security Oversight Office Directive No. 1 (43 FR 46280, October 5, 1978).

§ 9.1 General policy.

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act (5 U.S.C. 552) and in the current public information policies of the executive branch.

(a) *Safeguarding national security information.* Within the Federal Government there is some information which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation.

(b) *Exemption from public disclosure.* This information, hereinafter referred to as classified information, is expressly exempted from compulsory public disclosure by 5 U.S.C. 552(b)(1).

(c) *Scope.* To balance the public's interest in access to government information with the need to protect certain national security information from disclosure, these regulations identify the information to be protected, prescribe classification, downgrading, declassification, and safeguarding procedures to be followed, and establish education, monitoring and sanctions systems to insure their effectiveness.

(d) *Limitation.* The requirement to safeguard information and material in the interest of national defense and the conduct of foreign relations in no way implies an indiscriminate license to restrict information from the public. It is important that the citizens of the United States have the fullest possible access, consistent with national security, to information concerning the policies and programs of their Government.

§ 9.2 Implementation and review responsibilities.

Executive Order 12065 requires the establishment of agency committees with authority to act on all suggestions and complaints with respect to each agency's administration of its information security program.

(a) Each agency committee will have responsibility for the following additional functions:

(1) To establish and monitor policies and procedures within its agency to prevent overclassification, to ensure the orderly and effective declassification of agency documents, and to facilitate the release of information, keeping in mind that the need to protect information should be balanced against the public interest in disclosure;

(2) To serve as a forum for systematic review of proposed classified disclosures of an exceptional nature bearing upon issues of concern to the Congress and the public;

(3) To recommend to the agency head any needed guidelines for classification and declassification;

(4) To administer a program to encourage agency personnel to challenge, through mandatory review and other appropriate procedures, those classification decisions they believe to be improper;

(5) To consider and decide such other questions concerning classification and declassification as may from time to time be referred to the Committee;

(6) To protect from unauthorized disclosure properly classified information and intelligence, including intelligence sources and methods, bearing upon important aspects of national defense and foreign policy; and

(7) To provide guidance concerning corrective or disciplinary action in unusually important cases involving unauthorized disclosure or refusal to declassify.

(b) *Department of State.* Within the Department of State, these functions will be performed by an oversight committee to be named subsequently.

(c) *Agency for International Development.* Within the Agency for International Development these functions will be performed by the AID Security Information Committee (ASIC). It shall be chaired by the Auditor General, shall include the Director, Office of Security, as Secretary, and shall consist of the following members of the AID senior staff or their alternates: Assistant Administrator, Bureau for Program and Management Services; Assistant Administrator, Bureau for Asia; Director, Office of Public Affairs; the Executive Secretary; and the General Counsel.

(d) *International Communication Agency.* Within the International Communication Agency, these functions will be performed by the Committee on Public Information Policy (CPIP). The Committee is composed of the Director, Office of Congressional and Public Liaison, who Chairs the Committee, Director, Office of Security, Associate Director, Management, Associate Director, Programs, and the General Counsel.

(e) *Reports to the Information Security Oversight Office.* The agency oversight committee shall provide information or reports to the Information Security Oversight Office as the Director of that office may find necessary to carry out that office's responsibilities under the Order.

§ 9.3 Responsibility for safeguarding classified information.

(a) *Primary.* The specific responsibility for the maintenance of the security of classified information rests with each person having knowledge or physical custody thereof, *no matter how obtained.*

(b) *Individual.* Each employee is responsible for becoming familiar with and adhering to all security regulations.

(c) *Supervisory.* The ultimate responsibility for safeguarding classified information rests upon each supervisor to the same degree that the supervisor is charged with functional responsibility for the organizational unit. While certain employees may be assigned specific security responsibilities, such as Top Secret Control Officer or Unit Security Officer, it is nevertheless the basic responsibility of supervisors to ensure that classified material entrusted to their organizational units is handled in accordance with the procedures prescribed in these regulations. Each supervisor should ensure that no one employee is assigned unreasonable security repsonsibilities in addition to usual administrative or functional duties.

(d) *Organizational.* The Offices of Security in State and AID are responsible for physical, procedural and personnel security in their respective agencies. The Office of Communications in the Department of State is responsible for communications security (COMSEC). In the Department of State a committee, to be named subsequently, will be responsible for general oversight of the policy aspects of the program of classification, declassification, and relase to the public, of information. For AID, the offices of Public Affairs and the General Counsel, working with the AID Security Information Committee, are responsible for these matters. For ICA, the offices of Congressional and Public Liaison and the General Counsel are responsible for policy aspects of the Order.

§ 9.4 Classification.

General policy. Documents or other material are to be classified only when protecting the national security requires that the information they contain be withheld from public disclosure. Information may not be classified to conceal violations of Law, inefficiency, or administrative error, or to prevent embarrassment to a person, organization or agency, or to restrain competition. No material may be classified to limit dissemination, or to prevent or delay public release, unless it falls within one of the three classification designations listed in § 9.8.

§ 9.5 Criteria for classification.

With the exception of the Atomic Energy Act of 1954, as amended, these regulations are the only basis for classifying information in the agencies named herein. To be eligible for classification, information or material must meet two requirements. (a) First, it must deal with one of the following criteria:

(1) Military plans, weapons, or operations;

(2) Foreign government information;

(3) Intelligence activities, sources or methods;

(4) Foreign relations or foreign activities of the United States;

(5) Scientific, technological, or economic matters relating to the national security;

(6) United States Government programs for safeguarding nuclear materials or facilities; or

(7) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President or the head of an agency, or by officials designated by the President in accordance with Section 1-201 of the Order.

(b) Second, an official with original classification authority must determine that unauthorized disclosure of the information or material can reasonably be expected to cause at least identifiable damage to the national security. Unauthorized disclosure of foreign government information, or the identity of confidential foreign sources, is presumed to cause at least identifiable damage to the national security.

(c) Determinations of categories of information related to national security which require classification as noted in paragraph (a)(7) of this section shall be reported to the Director of the Information Security Oversight Office by the agency involved.

§ 9.6 Classification authority.

(a) In the Department of State authority for original classification of information as "Top Secret" may be exercised only by the Secretary of State and may be delegated to such principal subordinates as the Secretary may designate in writing, by position or by name, on the basis of their frequent need to exercise such authority. Normally, these will not be below the level of Deputy Assistant Secretary in the Department or of chief of mission abroad.

(b) Authority for original classification of information as "Secret" may be exercised by officials with Top Secret authority, the Administrator of AID, and the Director of ICA, and may be delegated to such subordinate officials as officials with top Secret authority and the Administrator of AID may designate in writing, by position or by name, on the basis of their frequent need to exercise such authority. Normally, these will not be below the level of office director, section head (in a mission abroad), country public affairs officer, or equivalent.

(c) Authority for original classification of information as "Confidential" may be exercised by officials with Top Secret or Secret classification authority and may be delegated to such subordinate officials as officials with Top Secret authority, the Administrator of AID and the Director of ICA may designate in writing, by position or by

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name, on the basis of their frequent need to exercise such authority.

(d) Delegated original classification authority at any level may not be redelegated.

(e) In the absence of an authorized classifier, the person designated to act for that official may exercise the classifying authority.

(f) The Office of Security in each agency shall maintain a current listing, by classification designation, of the positions or officials carrying original classification authority. The Office shall also carry out periodic reviews of the number of officials to whom original classification authority has been delegated, to ensure that such delegations have been held to a minimum, and to ensure that officials so designated have a continuing need to exercise such authority.

§ 9.7 Prohibitions.

(a) A reference to classified documents which does not disclose classified information may not be classified or used as a basis for classification.

(b) No documents originated on or after December 1, 1978, may be classified after the agency has received a request for them under the Freedom of Information Act or under these regulations unless the documents were inadvertently or erroneously not classified at the time of origination. Such documents may be classified if classification of the information is consistent with these regulations, and is authorized by the head or deputy head of the agency personally, in writing, on a document-by-document basis. The same provisions shall apply to documents originated before December 1, 1978, but in such a case the chairman of the agency review committee referred to in § 9.2 or an official with Top Secret classification authority may personally authorize classification.

(c) Once declassified and released to the public by an agency a document may not be reclassified. This provision shall apply even if the original declassification and release were inadvertent or erroneous.

(d) Subject to paragraph (b) of this section any unclassified document may be classified or a classified document may be raised to a higher classification, if such classification is consistent with these regulations and if the information has not been released to the public.

§ 9.8 Classification designations.

(a) Only three (3) designations of classification are authorized: "Top Secret", "Secret", "Confidential". If there is reasonable doubt about which designation should be given to information or whether it should be classified, the least restrictive treatment should be chosen.

(1) *Top Secret.* Information may be classified "Top Secret" if its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. The classification "Top Secret" should be used with the utmost restraint. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security.

(2) *Secret.* Information may be classified "Secret" if its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. The classification "Secret" should be used sparingly. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security.

(3) *Confidential.* Information may be classified "Confidential" if its unauthorized disclosure could reasonably be expected to cause identifiable damage to the national security. The word "identifiable" is used to assure that the damage is more than insignificant

No other classification designation is authorized or shall have force.

(b) *Foreign government information.* (1) If classified by the foreign government, shall either retain its original classification or be assigned a United States classification designation which will insure a degree of protection equivalent to that required by the entity that furnished the information.

(2) Foreign government information, if not given a specific classification by the foreign government, will be assigned an appropriate classification dependent on the sensitivity of the subject matter and the degree of damage its unauthorized disclosure could reasonably be expected to cause to the national security.

§ 9.9 Duration of Classification.

(a) Except as permitted below, information or material which is classified after December 1, 1978, shall be marked at the time of classification with the date for declassification, or for review for declassification, no more than 6 years later.

(b) Only the Secretary of State, the Administrator of AID, The Director of ICA, or an official with Top Secret classification authority may classify information for more than 6 years from the date of the original classification. This authority shall be used sparingly. In such a case, a declassification date or event or date for review for declassification shall be set. This date or event shall be as early as national security permits and shall be no more than 20 years after original classification, and no more than 30 years after original classification for foreign government information.

(c) In determining whether to assign a duration of classification for a stated period beyond 6 years, the guiding principle is the anticipated sensitivity of the information for that stated period. Such an assignment by an original classification authority referred to in the preceding paragraph may be based on the continued need of protection of the information during the stated period for any of the following reasons:

(1) The disclosure of foreign government information during the stated period would contravene either the expectation, express or implied, of a foreign government or a joint arrangement with a foreign government, that the information would be kept in confidence.

(2) The disclosure of the information during the stated period would reveal information specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources and methods.

(3) The disclosure of information revealing a system, plan, installation, project or specific foreign relations matter during the stated period would disclose information essential to the national security.

(4) The disclosure of the confidential foreign source during the stated period would put in jeopardy the source or the source's family, prejudice future access to the source or impair the government's ability to obtain information from other foreign sources in the future.

(d) The agency may establish guidelines to provide additional reasons for assigning a duration of classification beyond 6 years.

§ 9.10 Derivative classification.

(a) Derivative classification is the responsibility of those who only reproduce, extract, restate, paraphrase or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide.

(1) Officials who apply such derivative classification shall respect original classification decisions. Such officials need not have original classification authority. They should also determine whether the derivative document retains the earlier basis for classification. If extracting, paraphrasing or summarizing has removed the earlier basis for classification, the derivative document shall not be classified or shall be assigned a lower classification, as the case may be. If the derivative document does retain the earlier basis for classification, the office creating it shall assign the original classification to it.

(2) A new document that derives its classification from information classified on or after the effective date of the Order shall be marked with the declassification date or event, or the date for review, assigned to the source information.

(b) A new document that derives its classification from information classified under prior Orders shall be treated as follows:

(1) If the source text bears a declassification date or event 20 years or less from the date of origin, that date or event shall be carried forward on the new material.

(2) If the source text bears no declassification date or event or is marked for declassification beyond 20 years, the new document shall be marked with a date for review for declassification at 20 years from the date of original classification of the source material.

(3) If the source text is foreign government information bearing no date or event for declassification or is marked for declassification beyond thirty years, the new document shall be marked for review for declassification at thirty years from the date of original classification of the source text.

(4) If there is no source document, but derivative classification is being performed on the basis of a classification guide issued pursuant to § 9.11, the provisions of the classification guide as to markings shall be followed.

§ 9.11 Classification guides.

Classification Guides used to direct derivative classification shall, as far as practicable, be unclassified. They shall be written and organized to facilitate the identification and uniform classification of information requiring the protection of classification under these regulations.

(a) Classification guides shall specifically identify the information to be classified. Each classification guide shall specifically indicate how the designations, time limits, markings and other requirements under these regulations are to be applied to the information.

(b) Each classification guide shall be approved in writing by an agency head listed in § 9.6 or an official with Top Secret classification authority. Such approval constitutes an original classification decision.

(c) Classification guides shall be kept current and shall be reviewed at least every two years. Each agency shall maintain a list of all classification guides in current use.

§ 9.12 Declassification and downgrading.

(a) *Declassification general.* Declassification of classified information shall be given emphasis comparable to that accorded to classification. The determination to declassify information shall not be made on the basis of the level of classification assigned, but on the loss of the sensitivity of the information with the passage of time, and with due regard for the public interest in access to official information. At the time of review, any determination not to declassify shall be based on a determination that despite the passage of time since classification release of information reasonably could still be expected to cause at least identifiable damage to the national security.

(b) *Authority to declassify or downgrade.* The authority to declassify or downgrade national security information or material shall be exercised as follows:

(1) Classified information or material may be declassified or downgraded by the official authorizing the original classification, if that official is still serving in the same position; by a successor in the same position; or by a supervisory official of either.

(2) The agency head shall designate additional officials at the lowest practicable echelons to exercise declassification and downgrading authority.

(3) If the Director of the Information Security Oversight Office determines that information is classified in violation of the Order, the Director may require the agency that originated the classification to declassify it. Any such decision by the Director may be appealed to the National Security Council. The appeal shall be forwarded by the chairperson of the agency review committee. The information shall remain classified until the appeal is decided, or until one (1) year from the date of the Director's decision, whichever comes first.

(c) *Downgrading.* Information classified under prior Orders and marked for automatic downgrading shall be downgraded without notification to holders. Classified information not marked for automatic downgrading may be downgraded by the originator or other authorized officials when such action is considered appropriate. Notice of downgrading shall be provided to the holder of the record copy. Other holders of the information shall be notified to the extent that such action is practicable.

§ 9.13 Transferred material.

In the case of classified information or material officially transferred together with a transfer of function, the receiving agency shall be deemed to be the originating agency for all purposes, including downgrading and declassification. In the case of classified information not so transferred, but originated in an agency which has ceased to exist, each agency in possession shall be deemed the originating agency for all purposes, including downgrading and declassification. The agency in possession shall consult with any other agency having an interest in the subject matter before downgrading or declassifying.

§ 9.14 Systematic review declassification guidelines.

(a) *U.S. Government originated information.* By June 1, 1979, the agency head shall, after appropriate intra-agency consultations, in consultation with the Archivist of the United States and after review by the Information Security Oversight Office, issue declassification guidelines which shall be applicable to 20-year old United States Government originated information of permanent value under his or her jurisdiction which remains classified. Those guidelines shall specifically identify those limited categories of information which cannot be automatically declassified but must be reviewed item-by-item to determine whether there is a need for continued protection beyond 20 years. Information which has not been declassified earlier and which is not identified in the guidelines as requiring item-by-item review, shall be automatically declassified at the end of the 20th full calendar year from its date of origin. The guidelines shall be authorized for use by the Archivist of the United States, and may be authorized by the agency head for use by other agencies having custody of the information contained therein. The guidelines shall be reviewed at least every other year and revised as necessary. Only an agency head, in writing, may authorize the continued classification of information beyond 20 years. In cases where information is exempted from declassification at 20 years, a date shall be determined for declassification, or for further review for declassification. This date shall be no more than 10 years later. The agency head alone may seek a waiver from this 10 year review period in accordance with procedures to be established by implementing directive.

(b) *Foreign government information.* (1) Foreign government information is exempt from automatic declassification at 6 years and from systematic review at 20 years. Unless declassified earlier, such information shall be re-

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viewed for declassification at 30 years in accordance with section 3-3 of the Order and the guidelines developed by December 1, 1979 by the agency head in consultation with the Archivist of the United States and, where appropriate, with the foreign government or international organization concerned. Foreign government information or material will be automatically declassified at 30 years unless it is withheld from declassification under those guidelines by an agency head. A date no more than 10 years later shall then be set for further review. An agency head alone may seek a waiver of the 10 year review period, in accordance with the procedures of the implementing directive.

(2) The guidelines for declassification of foreign government information will be reviewed every 2 years. Those guidelines shall be authorized for use by the Archivist of the United States. The agency head may also authorize their use by other agencies having custody of the information.

§ 9.15 Scheduling for systematic review.

Classified information constituting permanently valuable records of the Government as defined by 44 U.S.C. 2103 and information in the possession and control of the Administrator of General Services pursuant to 44 U.S.C. 2107 and 2107 Note shall be reviewed for declassification as it becomes 20 years old. However, in view of the backlog, transition to systematic review at 20 years shall be implemented as rapidly as practicable and shall be completed no more than 10 years from December 1, 1978. Each agency head shall order the review of all security classified records 20 years old or older which are held in storage areas by the agency, or in Federal Records Centers. Records which are found to be unscheduled for some future disposition shall be scheduled immediately, in consultation with the Archivist of the United States. This scheduling shall be accomplished by December 1, 1980.

§ 9.16 Mandatory review.

All information classified under the Order or prior orders, except as noted in paragraph (j) of this section shall be subject to review for declassification upon request of a member of the public, a government employee, or an agency.

(a) For the request to be entertained, it must describe the material sufficiently to enable the agency having custody to locate it with a reasonable amount of effort. Whenever a request does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided, or the scope of the request is narrowed, no further action will be taken.

(b) A request for classified information under the Order, which is identified as specifically so intended, will be processed in accordance with these regulations. In such a case, however, the exemptions of the Freedom of Information Act and any other exemptions under applicable law may be invoked by the agency to deny material on grounds other than classification.

(c) Requests may be addressed to: (1) The Department of State, 2201 C Street, NW., 20520. (A more specific address will be provided later.) The envelope should be clearly marked MANDATORY REVIEW REQUEST: (2) Director, Office of Public Affairs for AID; and (3) Director, Office of Congressional and Public Liaison for ICA. These offices are hereafter referred to as the receiving offices.

(d) Requests for declassification under the Order shall be acted upon within 60 days from the date on which the request reaches the appropriate receiving office. The receiving office shall promptly acknowledge receipt of the request.

(e) Subject to paragraph (i) of this section, the agency receiving the request, if it is also the originating agency, shall determine whether the information or any reasonably segregable portion of it no longer requires protection. If so, the agency shall promptly make such information available to the requester, unless withholding it is otherwise warranted under applicable law. If the information may not be released, in whole or in part, the agency shall give the requester a brief statement of the reasons, a notice of the right to appeal the determination to the agency review committee, and notice that such an appeal must be filed with the review committee within 60 days.

(f) When an agency receives a request for information in a document which is in its custody, but which was classified by another agency, it shall refer the request to the appropriate agency for review, together with a copy of the document containing the information requested, where practicable. The receiving agency shall also notify the requester of the referral, unless the association of the reviewing agency with the information requires protection. The reviewing agency shall review a document in coordination with any other agency involved with the classification or having a direct interest in the subject matter. The reviewing agency shall respond directly to the request in accordance with the pertinent procedures described above and, if requested, shall notify the referring agency of its determination.

(g) (1) Requests for declassification of classified documents originated by an agency but in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 Note, shall be referred by the Archivist to the agency of origin for processing and for direct response to the requests. The Archivist will inform requesters of such referrals.

(2) During the transition period from declassification at 30 years to declassification at 20 years, all requests for classified United States Government originated information over 20 years old and foreign government information over 30 years old not previously declassified and transferred to the Archives will be processed according to the agency's normal procedures.

(h) In response to a request for a classified document in its possession, an agency may not refuse to confirm the existence or non-existence of the document unless the fact of its existence or non-existence would itself be classifiable.

(i) In the case of requests for documents containing foreign government information, the agency receiving the request, if it is also the agency which initially received the foreign government information, shall determine whether the foreign government information in the document may be declassified and released in accordance with agency policies or guidelines, consulting with other agencies of subject matter interest as necessary. If the agency receiving the request is not the agency which received the foreign government information, it shall refer the request to the latter agency, which shall take action on the request. In those cases where available agency policies or guidelines do not apply, consultation with the foreign originator through appropriate channels may be advisable prior to final action on the request.

(j) Information less than 10 years old which was originated by the President, by the White House staff, or by committees or commissions appointed by the President, or by others acting on behalf of the President, including such information in the possession and control of the Administrator of General Services pursuant to 44 U.S.C. 2107 or 2107 Note, is exempted from mandatory review for declassification. Requests for mandatory review of information more than 10 years old of the origin described shall be processed in accordance with procedures developed by the Archivist of the United States. These procedures will provide for consultation with agencies having primary subject matter interest. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest will be notified promptly of the Director's decision on such appeals and

may further appeal to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the Director's decision, whichever comes first.

(k) If any agency makes a request on behalf of a member of the public, the request shall be considered as a request by that member of the public and handled accordingly.

(l) The processing of requests by the receiving office in the Department shall be as follows:

(1) The receiving office shall record the request, and arrange for search and review of the documents. The documents will be reviewed for declassification in accordance with these regulations or any applicable guidelines. If the documents remain classified and are not to be released, in whole or in part, the reviewing office will also prepare a letter informing the requester as described in paragraph (e) of this section. The letter to the requester shall be signed by the agency head or by an officer of at least deputy assistant secretary level or equivalent. The receiving office shall record disposition of the case and forward the letter of denial to the requester.

(2) If any request requires obtaining the views of other agencies, the receiving office shall arrange coordination of review with such other agencies.

(3) When all documents involved in the request are declassified and released, the receiving office will send a release statement, to the requester, and shall inform the requester of any fees due before releasing documents.

(4) In the case of documents of agency origin requested by a Presidential Library on behalf of a member of the public, if there is a partial denial, the letter will advise the requester as described in paragraph (e) of this section, but the requester will be referred to the Archivist for copies of the released document, with portions excised. The receiving office will transmit such documents, with portions marked to be excised, to Archives which will transmit them with portions excised to the Presidential Library for its records and for use in the case of further similar requests.

(m) The receiving office shall also be the office for receiving requests from other agencies seeking the views of the Department as to declassification of documents originated by such other agencies but involving information of primary subject matter interest to the Department. The receiving office will transmit the documents to the reviewing area for a determination as to declassification and will coordinate the reply of the Department to the requesting agency.

(n) In considering requests for mandatory review, the agency may decline to review again any request for material which has been recently reviewed and denied, except insofar as the request constitutes an appeal under § 9.17.

(o) The receiving office in the Department of State shall forward to the National Security Council (NSC) the Department's recommendations concerning those documents which the Department reviews on behalf of the NSC, together with the documents in the case, for final action by the NSC.

(p) For AID refer to Handbook 18, Part III, Chapter 10.

(q) For ICA refer to Manual of Operations and Administration, Part III, Section 524.

§ 9.17 Appeals.

(a) *Department of State.* (1) The Assistant Secretary for Public Affairs is designated to receive appeals for denials of documents by the Department of State and to act as Chairman of the Department's appeals review panel to be specified in final publication. (See § 9.2(e).) Such appeals shall be addressed to:

The Assistant Secretary of State for Public Affairs, Department of State, 2201 C Street, NW., Washington, D.C. 20520. The appeal must be received in the Office of the Assistant Secretary within 60 days of the date of the original denial letter or the final release of documents, whichever is later.

(2) Appeals shall be decided within 30 days of their receipt by the Assistant Secretary.

(i) If the decision is to declassify the documents in entirety, the reviewing office shall so inform the requester and shall send the documents to the requester.

(ii)(A) If the recommendation of the reviewing office is to continue to deny the documents in entirety the receiving office shall supply a memorandum, cleared with its legal adviser, explaining its reasons for denial, for submission to the appeals review panel, together with a proposed letter of denial for signature by the chairman of the review panel. This letter shall be addressed to the requester. It shall contain a justification for the denial in terms of the two requirements set forth in § 9.5.

(B) The appeals review panel shall vote in writing to uphold or reverse the decision of the reviewing office. The panel's decision shall be communicated in writing to the requester by a letter from its chairman.

(3) If the recommendation of the reviewing office is to declassify a portion of the denied material, it shall supply a memorandum, cleared with its legal adviser, explaining its reasons for partial denial, for submission to the appeals review panel, together with a proposed letter of denial for signature by the Chairman of the panel. This letter shall be addressed to the requester. It shall contain a justification for the partial denial in terms of the two requirements set forth in § 9.5. The reviewing bureau's memorandum, with the proposed letter of denial and the documents denied, shall be submitted to the appeal review panel. The panel shall vote in writing to uphold or reverse the recommendation of the reviewing office. The board's decision shall be communicated in writing to the requester by a letter from its chairman. The chairman shall include with the letter those portions of the documents which have been declassified, unless fees are still to be collected from the requester.

(b) *For AID.* Procedures for appealing denials issued by the Agency for International Development appear in AID Handbook, 18 Part III, Chapter 10.

(c) *For ICA.* Procedures are found in the Agency's Manual of Operations and Administration, Part III, Section 524, and in Title 22, Code of Federal Regulations, Chapter V, Part 503.

§ 9.18 Schedule of fees.

For State, see 22 CFR 6.14. *For AID,* see 22 CFR 212.35. *For ICA* (USIA), see 22 CFR 503.6c.

§ 9.19 Determinations in certain disputed cases.

(a) Information that continues to meet the legal requirements for classification under Section 1-3 of the Order at the time of review for declassification is presumed to require continued protection and may be withheld from disclosure under the Order and Section 552(b)(1) of the Freedom of Information Act. However, as stated in Section 3-303 of the Order, it is government policy to consider the public interest in disclosure when information is reviewed for declassification. In some cases, the need to protect information that continues to meet the requirements of classification may be outweighed by the public interest in disclosure of information. When such a question arises, the authority reviewing the information shall refer the question to the relevant Top Secret authority in the Department of State, or the Director, Office of Public Affairs in AID, or the Director, ICA, to make a policy determination whether the public interest in disclosure outweighs the damage to the national security that might reasonably be expected from the disclosure. In making such determination, that authority shall respect the intent of the Order to protect foreign government information and confidential foreign sources. That authority shall also consult with other officials in the agency as the circumstances warrant.

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(b) In the Department of State, if such a case is appealed by the requester of the information after receiving a notice of denial, the case shall be referred to the appeals review panel in accordance with the Department's appeal procedures. If the panel should decide that the case raises a question as to whether the need to protect information that continues to meet the requirements of classification is outweighed by the public interest in disclosure, the question shall be referred to a principal officer for determination.

(c) Address appeals for AID to the Director, Office of Public Affairs; for ICA to the Director, Office of Congressional and Public Liaison.

§ 9.20 Challenges to classification.

(a) A government employee, where there is reasonable cause to believe that a document is classified unnecessarily, improperly, or for an inappropriate period of time, is encouraged to and shall have the right to challenge such classification.

(b) The challenger shall prepare a statement giving the reasons to support such a challenge, and may submit a request to the office or bureau of origin for a review of the document under the mandatory declassification procedures of the agency, expect that the agency shall reach a determination in 30 days instead of 60 days. If the reviewing office or bureau agrees with the challenger, rectifying changes shall be made on the face of the document. The office of the record holder and other holders should be notified of the changes to the extent practicable. If the reviewing office disagrees with the challenger, the challenger may appeal within 60 days to the appeals review panel which shall make its decision within 30 days of receipt of the appeal.

(c) If the challenger wishes to remain anonymous, an officer designated by the chairman of the appeals review panel shall act as the challenger's agent.

APPENDIX A—DEFINITIONS

For the purpose of these security regulations, the following definitions of terms shall apply:

Agency. A federal agency including department, agency, commission, etc. as defined in 5 U.S.C. 552(e).

Classification. The determination that certain information requires protection against unauthorized disclosure in the interest of national security, coupled with the designation of the level of classification: Top Secret, Secret or Confidential.

Classification authority. The authority vested in an official of an agency to originally classify information or material which is determined by that official to require protection against unauthorized disclosure in the interest of national security. It is also the authority to prolong classification.

Classification guides. Documents issued in an exercise of authority for original classification that include determinations with respect to the proper level and duration of classification of categories of classified information.

Classified information. Information or material, herein collectively termed information, that is owned by, produced for or by, or under the control of the United States Government, and that has been determined pursuant to Executive Order 12065 or prior orders to require protection against unauthorized disclosure, coupled with the designation of the level of classification.

Classifier. An individual who makes a classification determination and applies a security classification to information or material. A classifier may either be a classification authority or may assign a security classification based on a properly classified source or a classification guide.

Code room. The designated and restricted area in which cryptographic operations are conducted.

Communications security. Measures designated to protect information during electrical transmission or associated processing.

Communications security material. All material associated with the security of telecommunications. The term used to cover both cryptographic and noncryptographic items.

Compromise. Loss of security enabling unauthorized access to classified information. Affected material is not automatically declassified.

Courier. A U.S. citizen employee of the Department of State whose chief function is to transport diplomatic pouches across international frontiers between the Department and posts and between posts.

Cryptographic material. All COMSEC material bearing the marking "CRYPTO" or otherwise designated as incorporating cryptographic information.

Custodian. An individual who has possession of or is otherwise charged with the responsibility for safeguarding and accounting for classified information.

Declassification. The determination that particular classified information no longer requires protection against unauthorized disclosure in the interest of national security. Such determination shall be by specific action or automatically after the lapse of a requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

Declassification event. An event which would eliminate the need for continued classification.

Decontrol. The authorized removal of an assigned administrative control designation.

Derivative classification. A determination that information is in substance the same as information currently classified coupled with the designation of the level of classification.

Document. Any recorded information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps; charts; paintings; drawings; engravings; sketches; working notes and papers; reproductions of such things by any means or process; and sound, voice or electronic recordings in any form.

Downgrading. The determination that particular classified information requires a lesser degree of protection or no protection against unauthorized disclosure than currently provided. Such determination shall be by specific action or automatically after lapse of the requisite period of time or the occurrence of a specified event. If such determination is by specific action, the material shall be so marked with the new designation.

Foreign government information. "Foreign government information" is: (a) Information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence, or (b) information, requiring confidentiality, produced by the United States pursuant to a written joint arrangement with a foreign government or international organization of governments. A written joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record of the joint arrangement.

Formerly restricted data. Information removed from the Restricted Data category upon determination jointly by the Department of Energy and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information subject to the restrictions on transmission to other countries and regional defense organizations that apply to Restricted Data.

Information security. Safeguarding information against unauthorized disclosure; or, the result of any system of administrative policies and procedures for identifying, controlling, and protecting from unauthorized disclosure, information the protection of which is authorized by executive order or statute.

Intelligence method. The method which is used to provide support to an intelligence source or operation, and which, if disclosed, is vulnerable to counteraction that could nullify or significantly reduce its effectiveness in supporting the foreign intelligence or foreign counterintelligence activities of the United States, or which would, if disclosed, reasonably lead to the disclosure of an intelligence source or operation.

Intelligence source. A person, organization, or technical means which provides foreign intelligence or foreign counter-intelligence and which, if its identity or capability is disclosed, is vulnerable to counteraction that could nullify or significantly reduce its effectiveness in providing foreign intelligence or foreign counterintelligence to the United States. An "intelligence source" also means a person or organization which provides foreign intelligence or foreign counterintelligence to the United States only on the condition that its identity remains undisclosed.

International organization. An organization of governments.

National security. The national defense and foreign relations of the United States.

Nonrecord material. Extra and/or duplicate copies that are only of temporary value, including shorthand notes, used carbon paper, preliminary drafts, and other material of similar nature.

Office of security. The offices which have been disignated in State, AID, and ICA to administer their respective security programs.

Official information. That information or material which is owned by, produced for or by, or under the control of the United States Government.

Order, the Executive Order 12065 dated June 28, 1978 (43 FR 28949, July 3, 1978) entitled "National Security Information".

Original classification. An initial determination that information requires protection against unauthorized disclosure in the interest of national security, and a designation of the level of classification.

Original classifier. An authorized individual in the executive branch who initially determines that particular information requires a specific degree of protection against unauthorized disclosure in the interest of national security and applies the classification designation "Top Secret", "Secret", or "Confidential."

Paraphrasing. A restatement of text in different phraseology without alteration of its meaning.

Post security officer. A U.S. citizen employee of the Foreign Service who is designated to perform security functions. At Posts where Regional Security Officers are located, they will be assigned this duty.

Presidential appointees. Former officials of the Department of State who held policy positions and were appointed by the President, by and with the advise and consent of the Senate, at the level of Ambassador, Assistant Secretary of State, or above. It does not include persons who merely received assignment commissions as Foreign Service Officers, Foreign Service Reserve Officers, Foreign Service Staff Officers and employees.

Record material. All books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the U.S. Government in connection with the transaction of public business and preserved or appropriated by an agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, or other activities of any agency of the Government, or because of the informational data contained therein.

Regional security officer. A professionally trained officer who has been designated to administer the security program for a specific area or post.

Restricted area. A specifically designated and posted area in which classified information or material is located or in which sensitive functions are performed, access to which is controlled and to which only authorized personnel are admitted.

Restricted data. All data (information) concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the Restricted Data category pursuant to section 142 of the Atomic Energy Act. (See section 11w, Atomic Energy Act of 1954, as amended; 42 U.S.C. 2014(y).)

Security classification designations. Refers to "Top Secret", "Secret", and "Confidential" designations on classified information or material.

Sensitive intelligence information. Such intelligence information, the unauthorized disclosure of which would lead to counteraction (a) jeopardizing the continued productivity of intelligence sources or methods which provide intelligence vital to the national security, or (b) offsetting the value of intelligence vital to the national security.

Unit security officer. A U.S. citizen employee who is a nonprofessional security officer designated with a specific or homogeneous working unit to assist the Office of Security in carrying out functions prescribed in these regulations.

Unauthorized disclosure. The compromise of classified information by communication or physical transfer to an unauthorized recipient. It includes the unauthorized disclosure of classified information in a newspaper, journal, or other publication where such information is traceable to an agency because of a direct quotation or other uniquely identifiable fact.

United States and its territories. The 50 States; the District of Columbia, the Commonwealth of Puerto Rico, the Territories of Guam, American Samoa, and the Virgin Islands; the Trust Territory of the Pacific Islands; the Canal Zone; and the Possessions, Midway and Wake Islands.

Upgrading. The determination that particular unclassified or classified information requires a higher degree of protection against unauthorized disclosure than currently provided. Such determination shall be coupled with a marking of the material with the new designation.

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WEDNESDAY, NOVEMBER 29, 1978
PART V



DEPARTMENT OF COMMERCE

Office of Federal Statistical Policy and Standards

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STANDARD METROPOLITAN STATISTICAL CLASSIFICATION

Revised Criteria

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[3510-26-M]

DEPARTMENT OF COMMERCE

Office of Federal Statistical Policy and Standards

STANDARD METROPOLITAN STATISTICAL CLASSIFICATION

AGENCY: Office of Federal Statistical Policy and Standards, Department of Commerce.

ACTION: Notice of Proposed Revised Criteria for Establishing Standard Metropolitan Statistical Areas.

SUMMARY: This document proposes changes in criteria and typology for designating and defining standard metropolitan statistical areas. This notice contains three items in addition to this introductory statement: (1) the text of the proposed revised criteria; (2) a detailed statement on the background of the definition of the metropolitan statistical area and of the rationale for the proposed changes; and (3) appendices listing *potentially* affected counties and areas.

INTRODUCTION

The proposed new criteria are the result of the most recent periodic review of the definitional structure under which standard metropolitan areas are identified for Federal statistical purposes. These definitions must be based on objective criteria which, so far as possible, are formulated to define each area, irrespective of their regional location or population size.

A periodic review of the criteria is necessary to ensure the objectivity and consistency of the criteria and that relevant data are used. To this end, such reviews of the criteria have been conducted by the Federal Committee on Standard Metropolitan Statistical Areas (SMSA's) prior to each Decennial Census of Population since the official metropolitan areas were first established in the late 1940's. Once the revised criteria become final, they will be used in conjunction with the 1980 Decennial Census of Population results to determine the specific boundary definitions for each metropolitan statistical area, probably in early 1982.

In the Federal Committee on Standard Metropolitan Statistical Areas' initial proposal of revised criteria, which was published in the FEDERAL REGISTER on June 22, 1978, changes to the criteria were proposed in response to complaints and comments made to the Committee by Federal agencies and the public since the 1970 Census. This second revision of the proposed criteria (published below) differs from the first in several respects, reflecting the substantial volume of public comment and suggestions received in response to the June proposal. The comment period on these proposed revised criteria will be open until January 29, 1979. In addition, notice was recently given in the FEDERAL REGISTER for a hearing to be held on December 15, 1978. After the public comments are received and reviewed, the final criteria will be published in the FEDERAL REGISTER.

THE NATURE OF CURRENT PROPOSALS

The most significant change since the June proposal is the provision of systematic recognition of the major component portions of the largest metropolitan complexes as distinct areas for Federal statistics. Further, it is proposed that the existing set of consolidated metropolitan statistical areas would be expanded to provide standard statistical recognition of major metropolitan complexes. Recognition of both component and consolidated statistical areas would retain twelve existing SMSA's which, under both the existing criteria and the June proposal, would have failed to qualify as separate areas. Under existing criteria these areas would have been merged with neighboring areas after the 1980 Census.

The revised proposed criteria increase the consistency with which various areas are treated by using the Bureau of the Census defined "urbanized area" as the basis for determining those areas which are large enough to qualify for recognition as metropolitan statistical areas. It is also proposed that the Census "urbanized areas" be used as the basis for a consistent determination of the specific area to which commuting is measured, in determining the outer boundaries of each metropolitan area. (The Bureau of the Census defines the "urbanized areas" in detail at the time of each Decennial Census of Population, following precise criteria relating to the density of population and urban development around cities. Thus urbanized areas provide a more consistent basis for identifying the size and extent of major population concentrations than the previously used limits of incorporated cities or individual localities.)

The new proposal also redefines the specific thresholds of commuting, population density, percentage urban, and similar objective measures that determine the qualification of outlying counties as parts of metropolitan statistical areas. The revisions are designed to ensure that qualifying counties are basically metropolitan in character.

Other adjustments in the criteria involve the identification of the central cities within each area, rules for determining a title for the area, and simplification of terminology by adopting "metropolitan statistical area" as the basic term.

The metropolitan statistical areas are established and defined strictly as a statistical standard for use in ensuring consistent statistics. However, in recent years the SMSA definitions have been adopted for many additional uses. There has been an increasing tendency for Federal agencies to apply the definitions of SMSA's in the implementation of their nonstatistical programs. The Federal Committee on Standard Metropolitan Statistical Areas is concerned about this trend because the definitions established for statistical purposes may not always be appropriate when applied to other programs, and because a change in the statistical definition of an area may have an unintended negative impact locally if program users do not take these changes into account. The Committee and the Office of Federal Statistical Policy and Standards are working closely with the Federal agencies involved to eliminate any detrimental effects that might result from the establishement of revised statistical criteria and definitions for metropolitan areas. (A report on present uses of SMSA designation in Federal programs is available from the Office of Federal Statistical Policy and Standards.)

ADDRESS: Send comments to: Joseph W. Duncan, Director, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230. All comments, materials, questions, etc., in response to this proposal will be available for public inspection during normal business hours, 8:30 a.m. to 5:00 p.m., in Room 702, 2001 "S" Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Suzann Evinger, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 673-7965.

Note.—The Department of Commerce has determined that this proposal is not a significant regulation requiring preparation of a regulatory analysis under Executive Order No. 12044.

JUANITA M. KREPS,
Secretary.

CRITERIA FOR DESIGNATION AND DEFINITION OF METROPOLITAN STATISTICAL AREAS

(REVISED DRAFT)

Basic Criteria

1. Each metropolitan statistical area:
(a) Must include a city of 15,000 or more inhabitants which, with surrounding densely settled territory has an urbanized area[1] population of at least 50,000; and
(b) Must have a total population of at least 100,000.

[1] As defined by the U.S. Bureau of the Census.

2. Four levels of metropolitan statistical areas are recognized on the basis of total population as of the last national census:
Level A—Metropolitan statistical areas of 1 million or more.
Level B—Metropolitan statistical areas of 250,000 to 1 million.
Level C—Metropolitan statistical areas of 100,000 to 250,000.
Level D—Metropolitan statistical areas of less than 100,000.[2]
Level A metropolitan statistical areas may be further subdivided into component metropolitan statistical areas as specified in Criteria 10 through 13.

Central Counties [3]

3. Included in the metropolitan statistical area and designated as control counties are those counties which:
(a) Have at least 5,000 population in the central city(ies) of the metropolitan statistical area (as defined in Criterion 6), or,
(b) Have 50.00% or more of their population in the urbanized area[1] of the principal central city.

Outlying Counties [4]

4. An outlying county will be included in a metropolitan statistical area if any one of the following three combinations of conditions is met:
(a) At least 40.00% of the employed workers residing in the county commute to the central county(ies) (as defined in Criterion 3), *and* the population density is at least 40 persons per square mile.
(b) At least 30.00% of the employed workers commute to the central county(ies), plus any *one* of the following conditions:
(1) Population density is at least 60 persons per square mile.
(2) At least 35.00% of the population is urban.
(3) At least 10.00% (or 5,000) of the population lives within the urbanized area of the principal central city of the metropolitan statistical area.
(c) At least 15.00% of the employed workers commute to the central county(ies)[5] plus any *two* of the following conditions:
(1) Population density is at least 60 persons per square mile.
(2) At least 35.00% of the population is urban.
(3) Population growth between the last two decennial censuses is at least 20.00%.
(4) At least 10.00% (or 5,000) of the population lives within the urbanized area of the principal central city of the metropolitan statistical area.

Area Titles

5. The title of a metropolitan statistical area includes:
(a) The name of the city with the largest population in the metropolitan statistical area.
(b) The names of up to two additional cities, with eligibility determined as follows:
(1) Each additional city with a population of at least 250,000.
(2) A city of 15,000 to 250,000 population, provided it is at least one-third as large as the principal central city of the metropolitan statistical area, has an employment/residence ratio of at least 0.8, and has outcommuting of less than 50.00% of its resident employed workers.
(c) Area titles that include the names of more than one city will start with the name of the largest city and list other cities in order of their population according to the most recent national census.
(d) In addition to city names, the area titles contain the name of each State into which the metropolitan statistical area extends.

Central Cities

6. Recognized as the central city(ies) of the metropolitan statistical area are:
(a) Each city qualifying for the area title under Criterion 5.
(b) Each other city with a population of at least 25,000, an employment/residence ratio of at least 0.8, and outcommuting of less than 50.00% of its resident employed workers.

Merger of Adjacent Metropolitan Statistical Areas

7. Two adjacent metropolitan statistical areas qualifying under Criteria 1 and 3 through 6 will be included in the same metropolitan statistical area if their combined population is 1 million or more and all of the following conditions are met:
(a) At least 75.00% of the population of each metropolitan statistical area is urban.
(b) The commuting interchange [6] between the two metropolitan statistical areas is equal to:
(1) At least 15.00% of the employed workers residing in the smaller metropolitan statistical area, or
(2) At least 10.00% of the employed workers residing in the smaller metropolitan statistical area, *and*
((a)) The urbanized area of a central city of one metropolitan statistical area is contiguous with the urbanized area of a central city of the other metropolitan statistical area, *or*
((b)) A central city in one metropolitan statistical area shares the same urbanized area with a central city in the other metropolitan statistical area.

8. If two adjacent counties contain separate urbanized areas[1] whose largest central cities are within 25 miles of each other (downtown to downtown), they will be included in the same metropolitan statistical area unless there is definite evidence that the two cities are not closely integrated with one another socially and economically—for example, if the sum of the number of workers commuting between their two counties is less than 15.00% of the employed workers residing in the smaller county.

Loss of Designation or Transfer to Another Metropolitan Statistical Area

9. (a) Changes in status, level, and definition of established metropolitan statistical areas and central cities will be made immediately after national census data become available to provide the basis for the change in accordance with Criteria 1 through 8. However, a metropolitan statistical area designated on the basis of national census data according to criteria in effect at the time of designation will not be disqualified on the basis of having a total population of less than 100,000.[7]
(b) A county can be transferred from one metropolitan statistical area to another on the basis of data from a national census in cases in which (1) the application of Criterion 1 or Criterion 8 would lead to the designation of a new metropolitan statistical area, or (2) the application of Criterion 3 or Criterion 4 shows greater integration with a different metropolitan statistical area.

Component Metropolitan Statistical Areas

Within each Level A metropolitan statistical area outside New England, one or more component metropolitan statistical areas may be designated and titled, as follows:

10. A single county may be designated a component metropolitan statistical area if it meets all four of the following requirements:
(a) Has at least 100,000 population;
(b) Contains no part of the principal central city of the Level A metropolitan statistical area;
(c) Is 75.00% or more urban; *and*
(d) Has 66.66% or more of its resident workers working within the county.

11. Pairs of counties, each county of which meets Criteria 10(a) through 10(c), may be designated a single component metropolitan statistical area if they meet all five of the following requirements:
(a) Each county has 50.00% or more of its resident workers working within the county;
(b) They have commuting interchange[6] amounting to at least 20.00% of the employed workers residing in the smaller county;
(c) The smaller county does not have greater commuting interchange with any other county in the Level A metropolitan statistical area, other than those containing the principal central city;
(d) There is other evidence that the two counties are closely linked economically and socially; *and*
(e) The pair taken together has 66.66% or more of its resident workers working within

[2] Areas previously recognized as standard metropolitan statistical areas but not currently qualified on the basis of metropolitan statistical area population; retained under Criterion 9.

[3] Throughout the criteria the term "county" includes county equivalents (e.g., parishes in Louisiana). In Virginia, where most cities of more than 15,000 population are independent of any county, the criteria generally treat as included in a county any independent cities derived primarily from it. In New England, metropolitan statistical areas are defined in terms of cities and towns instead of counties; see Criteria 15-21.

[4] Refers to non-central counties qualifying for inclusion in the metropolitan statistical area. Such counties must be directly contiguous to a central county or to an outlying county already qualified for inclusion. See also footnote 3.

[5] Also accepted as meeting this commuting requirement are:
(a) The number of persons working in the county who live in the central county(ies) is equal to at least 15.00% of the employed workers living in the county, or
(b) The sum of the number of workers commuting to and from the central county(ies) is equal to at least 20.00% of the employed workers living in the county.

[6] The commuting interchange between two areas is the sum of the number of workers who live in either of the two areas and work in the other.

[7] All such areas will become Level D metropolitan statistical areas (see Criterion 2). This provision does not apply to metropolitan statistical areas designated on the basis of current population estimates, which will lose their designation if they fail to qualify in the national census following designation.

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the pair. Such pairs can further merge as one component metropolitan statistical area with single (unpaired) counties meeting Criteria 10(a) through 10(d), or with other pairs meeting Criteria 11(a) through 11(e), provided commuting interchange amounts to 20.00% of the employed workers residing in the smaller county or pair and is supported by other evidence of close economic and social ties.

12. Other counties in the Level A metropolitan statistical area will be added to a component metropolitan statistical area as defined by Criteria 10 and 11 if:

(a) Commuting from the county to the qualifying county or pair is greater than 15.00% and greater than to any other qualifying county or pair; or

(b) The only physical link with the rest of the Level A metropolitan statistical area is through the qualifying county or pair.

13. If a Level A metropolitan statistical area has one or more component metropolitan statistical areas designated:

(a) The Level A metropolitan statistical area is designated a consolidated metropolitan statistical area;

(b) All counties not included in a component metropolitan statistical area under Criteria 10 through 12 together comprise a component metropolitan statistical area whose largest central city is the largest city of the Level A (consolidated) metropolitan statistical area.

14. Component metropolitan statistical areas are titled in either of two ways:

(a) Using the names of up to three cities in the component metropolitan statistical area that qualify as central cities of the Level A (consolidated) metropolitan statistical area under Criterion 6, following the rules of Criterion 5 for selection and sequencing; or

(b) Using the names of up to three counties in the component metropolitan statistical area, sequenced in order from largest to smallest population.

Special Provisions For New England

In New England, the cities and towns are administratively more important than the counties, and a wide range of data is compiled locally for these minor civil divisions. Therefore, cities and towns are the units used in defining metropolitan statistical area. The units used are much smaller than the counties used to define metropolitan statistical areas in other States, and the definitions are based primarily on population density and commuting.

As a basis for measuring commuting and determining which cities and towns could qualify for inclusion in a metropolitan statistical area, a *central core* is first defined for each urbanized areas,[1] consisting essentially of all contiguous cities and towns that have at least 50.00% of their population in the urbanized area, provided they have a specified degree of integration with the rest of the central core and are not more integrated with another central core.

To permit a systematic implementation of the criteria on commuting, *Principal core cities* are identified following criteria like those used to identify metropolitan statistical area central cities (Criterion 6), and the central core is defined with respect to these cities.

15. For purposes of measuring commuting, a *central core* is defined in each urbanized area, comprising

(a) The largest city in the urbanized area, termed a *principal core city;*[2]

(b) Contiguous cities and towns that have at least 50.00% of their population within the urbanized area or in a contiguous urbanized area, provided at least 15.00% of the employed workers residing in the city or town work in the principal core city(ies);[3]

(c) Contiguous cities and towns that have at least 50.00% of their population within the urbanized area or in a contiguous urbanized area, provided at least 15.00% of the employed workers residing in the city or town work in the principal core city(ies) or in cities and towns qualifying for the central core under Criterion 15(b).[10]

16. A "principal core city" for purposes of Criterion 15 is any city meeting Criteria 15 (b) or (c) for inclusion in the central core which also meets Criterion 6 for recognition as the central city.[11]

17. A city or town adjacent to a central core as defined by Criterion 15 will be included in its metropolitan statistical area[12] if

(a) It has a population density of at least 60 persons per square mile and at least 30.00% of the employed workers living in the city or town work in the central core; *or*

(b) It has a population density of at least 100 persons per square mile and at least 15.00% of the employed workers living in the city or town work in the central core.[13]

18. The potential metropolitan statistical area defined by Criteria 15, 16, and 17 qualifies as a metropolitan statistical area provided it meets Criterion 1. Determination of the title and central cities of the metropolitan statistical area is made according to Criteria 5 and 6.[14]

New England Component Metropolitan Statistical Areas

Within each Level A metropolitan statistical area in New England,[15] one or more component metropolitan statistical areas may be designated and titled. In order to designate a component metropolitan statistical area, there must first be defined a *component central core.*

19. (a) A component central core is defined for each city in the metropolitan statistical area (other than the principal central city) that has a total population of at least 15,000, an employment/residence ratio of at least 0.8, and outcommuting of less than 50.00% of its resident employed workers. A city so qualifying is termed a *component core city.*

(b) Included in the component central core will be any additional city or town that meets all three of the following requirements:

(a) At least 50.00% of its population lives in the urbanized area[1] containing the component core city or in a contiguous urbanized area; *and*

(2) At least 5.00% of its employed workers work in the component core city together with other cities and towns already qualified for the component central core; *and*

(3) The commuting interchange[4] with the component core city or other cities and towns already qualified for the component central core is at least 20.00%,[16] and is less than the commuting interchange with any other component central core or with the largest city of the metropolitan statistical area.

(c) The component central core defined by Criteria 19 (a) and (b) as a whole must have outcommuting of less than 50.00% of its resident labor force, and there must be other evidence that the communities making up the component central core are closely linked economically and socially.

(d) Adjacent component central cores defined under Criteria 19 (b) and (c) may be merged[17] as a single component central core provided

(1) The component core city of one component central core qualifies for inclusion in the other component central core under Criterion 19(b), or the component central core defined around one component core city qualifies as a whole for inclusion in the other component central core; *and*

(2) There is other evidence that the communities are closely linked economically and socially.

20. A contiguous city or town adjacent to a component central core as defined by Criterion 19 will be included in its component metropolitan statistical area[18] if:

(a) It is included within the Level A metropolitan statistical area; and

[4] A central core may include more than one principal core city; see Criterion 16.

[5] Also accepted as meeting this commuting requirement are:

(a) The number of persons working in the city or town who live in the principal core city(ies) is equal to at least 15.00% of the employed workers living in the city or town; *or*

(b) The sum of the number of workers commuting to and from the principal core city(ies) is equal to at least 20.00% of the employed workers living in the city or town.

[10] Cities and towns are also included in the central core if they are completely surrounded by cities and towns that qualify for inclusion in that core.

[11] Recognition of a principal core city(ies) is necessary to provide a basis for applying the criteria of integration, and does not necessarily result in recognition as a central city once the entire extent of the metropolitan statistical area is determined.

[12] Provided that the metropolitan statistical area as ultimately defined qualifies for recognition under Criterion 1.

[13] Also accepted as meeting this commuting requirement are:

(a) The number of persons working in the city or town who live in the central core is equal to at least 15.00% of the employed workers living in the city or town; or

(b) The sum of the number of workers commuting to and from the central core is equal to at least 20.00% of the employed workers living in the city or town.

[14] Because detailed commuting data are available to reflect degree of integration at the subcounty level in New England, the provisions of Criterion 8 are not normally applied to New England metropolitan statistical areas.

[15] Including the Connecticut portion of the New York metropolitan statistical area.

[16] Local opinion is considered before making a decision if the commuting interchange is at least 15.00% with each of two component central cores (and is also greater than the interchange with the principal central city of the Level A metropolitan statistical area.

[17] Local opinion is consulted before making a decision to merge component central cores that otherwise qualify for separate recognition.

[18] Provided that the component metropolitan statistical area is ultimately defined qualifies for recognition under Criterion 21.

(b) At least 15.00% of its employed workers work in the component central core; and

(c) The commuting interchange with the component central core is greater than with the principal central city of the Level A metropolitan statistical area.

21. (a) A potential component metropolitan statistical area defined by Criteria 19 and 20 qualifies as a component metropolitan statistical area provided it has a total population of at least 75,000 and contains at least one city or town in addition to its component core city.

(b) If a Level A metropolitan statistical area has one or more component metropolitan statistical areas designated, the Level A metropolitan statistical area is designated a consolidated metropolitan statistical area, and all cities and towns not included in a component metropolitan statistical area under Criteria 19, 20, and 21(a) together comprise a component metropolitan statistical area whose largest central city is the largest city of the Level A (consolidated) metropolitan statistical area.

(c) Each component metropolitan statistical area is titled using the names of up to three cities in the component metropolitan statistical area that qualify as central cities of the Level A metropolitan statistical area under Criterion 6, following the rules of Criterion 5 for selection and sequencing.

[1] Urbanized areas are defined by the Bureau of the Census on the basis of the most recent decennial census. Each urbanized area must have a population of at least 50,000.

[2] Also accepted as meeting this commuting requirement are:

(a) The number of persons working in the city or town who live in the principal core city(ies) is equal to at least 15.00% of the employed workers living in the city or town; *or*

(b) The sum of the number of workers commuting to and from the principal core city(ies) is equal to at least 20.00% of the employed workers living in the city or town.

[3] Also accepted as meeting this commuting requirement are:

(a) The number of persons working in the city or town who live in the principal core city(ies) is equal to at least 15.00% of the employed workers living in the city or town; *or*

(b) The sum of the number of workers commuting to and from the principal core city(ies) is equal to at least 20.00% of the employed workers living in the city or town.

[4] Because detailed commuting data are available to reflect degree of integration at the subcounty level in New England, the provisions of Criterion 8 are not normally applied to New England metropolitan statistical areas.

[5] Provided that the metropolitan statistical area as ultimately defined qualifies for recognition under Criterion 1.

[6] Also accepted as meeting this commuting requirement are:

(a) The number of persons working in the city or town who live in the central core is equal to at least 15.00% of the employed workers living in the city or town; or

(b) The sum of the number of workers commuting to and from the central core is equal to at least 20.00% of the employed workers living in the city or town.

[7] Recognition of a principal core city(ies) is necessary to provide a basis for applying the criteria of integration, and does not necessarily result in recognition as a central city once the entire extent of the metropolitan statistical area is determined.

[8] Cities and towns are also included in the central core if they are completely surrounded by cities and towns that qualify for inclusion in that core.

[9] A central core may include more than one principal core city; see Criterion 16.

[10] Local opinion is consulted before making a decision to merge component central cores that otherwise qualify for separate recognition.

[11] Including the Connecticut portion of the New York metropolitan statistical area.

[12] Local opinion is considered before making a decision if the commuting interchange is at least 15.00% with each of two component central cores (and is also greater than the interchange with the principal central city of the Level A metropolitan statistical area.

[13] Provided that the component metropolitan statistical area is ultimately defined qualifies for recognition under Criterion 21.

(b) At least 15.00% of its employed workers work in the component central core; and

(c) The commuting interchange with the component central core is greater than with the principal central city of the Level A metropolitan statistical area.

21. (a) A potential component metropolitan statistical area defined by Criteria 19 and 20 qualifies as a component metropolitan statistical area provided it has a total population of at least 75,000 and contains at least one city or town in addition to its component core city.

(b) If a Level A metropolitan statistical area has one or more component metropolitan statistical areas designated, the Level A metropolitan statistical area is designated a consolidated metropolitan statistical area, and all cities and towns not included in a component metropolitan statistical area under Criteria 19, 20, and 21(a) together comprise a component metropolitan statistical area whose largest central city is the largest city of the Level A (consolidated) metropolitan statistical area.

(c) Each component metropolitan statistical area is titled using the names of up to three cities in the component metropolitan statistical area that qualify as central cities of the Level A metropolitan statistical area under Criterion 6, following the rules of Criterion 5 for selection and sequencing.

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Appendix A

CURRENT SMSA COUNTIES THAT WOULD PROBABLY NOT QUALIFY FOR INCLUSION IN A METROPOLITAN STATISTICAL AREA UNDER THE PROPOSED NEW CRITERIA

(Note: Counties are listed by State, in geographic order. Not included are a number of additional counties that would not qualify on the basis of 1970 data but appear likely to qualify by 1980 on available information on growth trends since 1970.)

County	State	SMSA
Herkimer	NY	Utica-Rome
Adams	PA	York
Susquehanna	PA	Binghamton, NY-PA
Ottawa	OH	Toledo
Preble	OH	Dayton
Putnam	OH	Lima
Van Wert	OH	Lima
Clay	IN	Terre Haute
Marshall	IN	South Bend
Posey	IN	Evansville
Sullivan	IN	Terre Haute
Tipton	IN	Kokomo
Vermillion	IN	Terre Haute
Wells	IN	Fort Wayne
Clinton	IL	St. Louis, MO-IL
Menard	IL	Springfield
Oceana	MI	Muskegon-Norton Shores-Muskegon Heights
St. Croix	WI	Minneapolis-St. Paul, MN-WI
Andrew	MO	St. Joseph
Christian	MO	Springfield
Ray	MO	Kansas City
Butler	KS	Wichita
Jefferson	KS	Topeka
Osage	KS	Topeka
Cecil	MD	Wilmington, DE-NJ-MD
Appomattox	VA	Lynchburg
Charles City	VA	Richmond
Craig	VA	Roanoke
New Kent	VA	Richmond
Powhatan	VA	Richmond
Wirt	WV	Parkersburg-Marietta, WV-OH

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County	State	SMSA
Brunswick	NC	Wilmington
Currituck	NC	Norfolk-Virginia Beach-Portsmouth, VA-NC
Madison	NC	Asheville
Bryan	GA	Savannah
Effingham	GA	Savannah
Lee	GA	Albany
Twiggs	GA	Macon
Baker	FL	Jacksonville
Nassau	FL	Jacksonville
Wakulla	FL	Tallahassee
Marion	TN	Chattanooga
Sequatchie	TN	Chattanooga
Baldwin	AL	Mobile
Limestone	AL	Huntsville
Stone	MS	Biloxi-Gulfport
Benton	AR	Fayetteville-Springdale
Little River	AR	Texarkana, TX-AR
Grant	LA	Alexandria
McClain	OK	Oklahoma City
Mayes	OK	Tulsa
Sequoyah	OK	Fort Smith, AR-OK
Callahan	TX	Abilene
Hardin	TX	Beaumont-Port Arthur-Orange
Jones	TX	Abilene
Waller	TX	Houston
Wise	TX	Dallas-Fort Worth
Douglas	CO	Denver
Gilpin	CO	Denver
Teller	CO	Colorado Springs
Sandoval	NM	Albuquerque

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Appendix B

NONMETROPOLITAN COUNTIES THAT WOULD PROBABLY QUALIFY FOR INCLUSION IN A METROPOLITAN STATISTICAL AREA UNDER THE PROPOSED NEW CRITERIA

(Note: Counties are listed by State, in geographic order. Counties marked with an asterisk (*) do not qualify for inclusion on the basis of 1970 data but would probably qualify by 1980 based on growth trends since 1970.)

County	State	MSA
Greene*	NY	Albany-Schenectady-Troy
Hunterdon	NJ	New York Consolidated MSA
Ocean	NJ	New York Consolidated MSA
Sussex	NJ	New York Consolidated MSA
Wyoming*	PA	Northeast Pennsylvania
Brown*	OH	Cincinnati, OH-KY-IN
Mason*	IL	Peoria
Cass	NE	Omaha, NE-IA
Calvert	MD	Washington, DC-MD-VA
Frederick*	MD	Washington, DC-MD-VA
Pleasants*	WV	Parkersburg-Marietta, WV-OH
Davie*	NC	Greensboro--Winston-Salem--High Point
Lincoln*	NC	Charlotte-Gastonia
Bartow*	GA	Atlanta
Coweta*	GA	Atlanta
Spalding	GA	Atlanta
Carter*	KY	Huntington-Ashland, WV-KY-OH
Grainger*	TN	Knoxville
Sevier*	TN	Knoxville
Franklin*	AL	Florence
Madison*	MS	Jackson
Lonoke*	AR	Little Rock-North Little Rock
Plaquemines*	LA	New Orleans
St. Charles	LA	New Orleans
Logan*	OK	Oklahoma City
Bastrop*	TX	Austin
Kendall*	TX	San Antonio
Lampasas*	TX	Killeen-Temple
Yamhill	OR	Portland, OR-WA

Appendix C
CONSOLIDATED AND COMPONENT
METROPOLITAN STATISTICAL AREAS

Consolidated MSA	Number of Counties 1/	Population 1970	Component MSA	Number of Counties 1/	Population 1970
Boston, MA-NH*	(156)	3,762,799	Boston, MA	(98)	2,752,815
			Brockton, MA	(10)	169,898
			Lawrence-Haverhill,MA-NH	(21)	261,067
			Lowell, MA-NH	(9)	219,560
			Lynn, MA	(5)	143,927
			Salem, MA	(13)	215,532
Chicago, IL-IN-WI*	9	7,730,231	Aurora-Elgin, Il	1	251,005
			Chicago, IL	4	6,345,304
			Gary-Hammond, IN	2	633,367
			Kenosha, WI	1	117,917
			Waukegan, IL	1	382,638
Cincinnati, OH-KY-IN*	9	1,637,693	Cincinnati, OH-KY-IN	8	1,411,486
			Hamilton-Middletown, OH	1	226,207
Cleveland-Akron, OH*	7	3,000,276	Akron, OH	2	679,239
			Cleveland, OH	4	2,064,194
			Lorain-Elyria, OH	1	256,843
Dallas-Fort Worth, TX	10	2,358,292	Dallas, TX	6	1,555,950
			Fort Worth, TX	4	802,342
Denver, CO*	5	1,227,529	Boulder, CO	1	131,889
			Denver, CO	4	1,095,640
Detroit, MI*	7	4,665,493	Ann Arbor, MI	2	293,070
			Detroit, MI	5	4,372,423

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Consolidated MSA	Number of Counties 1/	Population 1970	Component MSA	Number of Counties 1/	Population 1970
Hartford, CT*	(48)	985,576	Bristol, CT	(3)	69,878
			Hartford, CT	(36)	710,421
			Middletown, CT	(5)	60,008
			New Britain, CT	(4)	145,269
Houston, TX*	6	2,154,843	Galveston-Texas City, TX	1	169,812
			Houston, TX	5	1,985,031
Los Angeles-Long Beach, CA*	5	9,972,037	Anaheim-Santa Ana, CA	1	1,420,386
			Los Angeles-Long Beach, CA	1	7,032,075
			Oxnard-Ventura, CA	1	376,430
			Riverside, CA **	1	459,074
			San Bernardino, CA **	1	684,072
Miami, FL*	2	1,887,892	Fort Lauderdale, FL	1	620,100
			Miami, FL	1	1,267,792
Milwaukee, WI*	5	1,574,526	Milwaukee, WI	4	1,403,688
			Racine, WI	1	170,838
Minneapolis-St. Paul, MN	9	1,930,805	Minneapolis, MN	5	1,214,302
			St. Paul, MN	4	716,503
New York-Newark-Jersey City, NY-NJ-CT	22	17,384,426	Bergen-Passaic, NJ **	2	1,358,794
	(8)		Jersey City, NJ	1	609,266
			Middlesex-Somerset-Hunterdon, NJ **	3	851,903
			Monmouth-Ocean, NJ **	2	667,849
			Nassau-Suffolk, NY **	2	2,553,030
			Newark, NJ	4	1,934,084
			New York, NY	5	7,894,862
			Norwalk, CT	(4)	127,516
			Rockland, NY **	1	229,903
			Stamford, CT	(4)	206,419
			Westchester-Putnam, NY **	2	950,800

Consolidated MSA	Number of Counties 1/	Population 1970	Component MSA	Number of Counties 1/	Population 1970
Philadelphia, PA-NJ-DE*	11	5,568,084	Camden-Burlington-Gloucester, NJ **	3	952,104
			Montgomery, PA **	1	623,799
			Philadelphia, PA	4	3,242,011
			Trenton, NJ	1	303,968
			Wilmington, DE-NJ	2	446,202
Pittsburgh, PA*	4	2,401,245	Beaver, PA **	1	208,418
			Pittsburgh, PA	3	2,192,827
San Francisco-Oakland-San Jose, CA	8	4,423,314	Oakland, CA	2	1,631,573
			San Francisco, CA	3	1,477,946
			San Jose, CA	1	1,064,714
			Vallejo-Fairfield-Napa, CA	2	249,081
Seattle, WA*	3	1,832,896	Seattle, WA	2	1,421,869
			Tacoma, WA	1	411,027
Tampa-St. Petersburg, FL	3	1,088,549	St. Petersburg, FL	1	522,329
			Tampa, FL	2	566,220

Component MSA	Number of Counties	Population 1970	Consolidated MSA In Which Included
Akron, OH	2	679,239	Cleveland-Akron, OH *
Anaheim-Santa Ana, CA	1	1,420,386	Los Angeles-Long Beach, CA *
Ann Arbor, MI	2	293,070	Detroit, MI *
Aurora-Elgin, IL	1	251,005	Chicago, IL-IN-WI*
Beaver, PA **	1	208,418	Pittsburgh, PA *
Bergen-Passaic, NJ **	2	1,358,794	New York-Newark-Jersey City,NY-NJ-CT
Boston, MA	(98)	2,752,815	Boston, MA-NH *
Boulder, CO	1	131,889	Denver, CO *
Bristol, CT	(3)	69,878	Hartford, CT *
Brockton, MA	(10)	169,898	Boston, MA-NH *
Camden-Burlington-Gloucester, NJ **	3	952,104	Philadelphia, PA-NJ-DE *
Chicago, IL	4	6,345,304	Chicago, IL-IN-WI *
Cincinnati, OH-KY-IN	8	1,411,486	Cincinnati, OH-KY-IN *
Cleveland, OH	4	2,064,194	Cleveland-Akron, OH *
Dallas, TX	6	1,555,950	Dallas-Fort Worth, TX
Denver, CO	4	1,095,640	Denver, CO *
Detroit, MI	5	4,372,423	Detroit, MI *
Fort Lauderdale, FL	1	620,100	Miami, FL *
Fort Worth, TX	4	802,342	Dallas-Fort Worth, TX
Galveston-Texas City, TX	1	169,812	Houston, TX *
Gary-Hammond, IN	2	633,367	Chicago, IL-IN-WI *
Hamilton-Middletown, OH	1	226,207	Cincinnati, OH-KY-IN *
Hartford, CT	(36)	710,421	Hartford, CT *
Houston, TX	5	1,985,031	Houston, TX *
Jersey City, NJ	1	609,266	New York-Newark-Jersey City,NY-NJ-CT
Kenosha, WI	1	117,917	Chicago, IL-IN-WI *
Lawrence-Haverhill, MA-NH	(21)	261,067	Boston, MA-NH *
Lorain-Elyria, OH	1	256,843	Cleveland-Akron, OH *
Los Angeles-Long Beach, CA	1	7,032,075	Los Angeles-Long Beach, CA *
Lowell, MA-NH	(9)	219,560	Boston, MA-NH *
Lynn, MA	(5)	143,927	Boston, MA-NH *
Miami, FL	1	1,267,792	Miami, FL *
Middlesex-Somerset-Hunterdon, NJ **	3	851,903	New York-Newark-Jersey City, NY-NJ-CT

Component MSA	Number of Counties	Population 1970	Consolidated MSA In Which Included
Middletown, CT	(5)	60,008	Hartford, CT *
Milwaukee, WI	4	1,403,688	Milwaukee, WI *
Minneapolis, MN	5	1,214,302	Minneapolis-St. Paul, MN
Monmouth-Ocean, NJ **	2	667,849	New York-Newark-Jersey City, NY-NJ-CT
Montgomery, PA **	1	623,799	Philadelphia, PA-NJ-DE *
Nassau-Suffolk, NY **	2	2,553,030	New York-Newark-Jersey City, NY-NJ-CT
Newark, NJ	4	1,934,084	New York-Newark-Jersey City, NY-NJ-CT
New Britain, CT	(4)	145,269	Hartford, CT *
New York, NY	5	7,894,862	New York-Newark-Jersey City, NY-NJ-CT
Norwalk, CT	(4)	127,516	New York-Newark-Jersey City, NY-NJ-CT
Oakland, CA	2	1,631,573	San Francisco-Oakland-San Jose, CA
Oxnard-Ventura, CA	1	376,430	Los Angeles-Long Beach, CA *
Philadelphia, PA	4	3,242,011	Philadelphia, PA-NJ-DE *
Pittsburgh, PA	3	2,192,827	Pittsburgh, PA *
Racine, WI	1	170,838	Milwaukee, WI *
Riverside, CA **	1	459,074	Los Angeles-Long Beach, CA *
Rockland, NY **	1	229,903	New York-Newark-Jersey City, NY-NJ-CT
St. Paul, MN	4	716,503	Minneapolis-St. Paul, MN
St. Petersburg, FL	1	522,329	Tampa-St. Petersburg, FL
Salem, MA	(13)	215,532	Boston, MA-NH *
San Bernardino, CA **	1	684,072	Los Angeles-Long Beach, CA *
San Francisco, CA	3	1,477,946	San Francisco-Oakland-San Jose, CA
San Jose, CA	1	1,064,714	San Francisco-Oakland-San Jose, CA
Seattle, WA	2	1,421,869	Seattle, WA *
Stamford, CT	(4)	206,419	New York-Newark-Jersey City, NY-NJ-CT
Tacoma, WA	1	411,027	Seattle, WA *

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Component MSA	Number of Counties	Population 1970	Consolidated MSA In Which Included
Tampa, FL	2	566,220	Tampa-St. Petersburg, FL
Trenton, NJ	1	303,968	Philadelphia, PA-NJ-DE *
Vallejo-Fairfield-Napa, CA	2	249,081	San Francisco-Oakland-San Jose, CA
Waukegan, IL	1	382,638	Chicago, IL-IN-WI *
Westchester-Putnam, NY **	2	950,800	New York-Newark-Jersey City, NY-NJ-CT
Wilmington, DE-NJ	2	446,202	Philadelphia, PA-NJ-DE *

(Note: This list is based on 1970 commuting and other data and hence is tentative pending availability of 1980 data. Certain Component Metropolitan Statistical Areas are listed with 1970 populations below the levels required by the criteria because they have passed these limits according to recent population estimates.)

* For convenience, these Component Metropolitan Statistical Areas have been with titles based on county rather than city names (see Criterion 14).

** For convenience, titles of Consolidated Metropolitan Statistical Areas have been listed using only names of cities over 250,000. No final rules for Consolidated Metropolitan Statistical Area titles have yet been developed.

1/ Numbers in parentheses refer to New England cities and towns.

Appendix D
CHANGES IN NEW ENGLAND
METROPOLITAN STATISTICAL AREAS

Additions

According to 1970 data on commuting to the newly defined central cores, the following cities and towns would qualify to be added to metropolitan statistical areas or consolidated metropolitan statistical areas. (For titles and makeup of component metropolitan statistical areas, see Appendix C and text.) To determine whether the population density requirements are met, the 1980 density was estimated by projecting 1970-75 estimated population growth to 1980. When 1980 commuting data become available, undoubtedly some additional cities and towns will qualify for inclusion. Places listed are towns unless designated as cities.

Boston Consolidated MSA, MA-NH	Additions in MA: Bolton, Boxborough, Carver, Dunstable, Essex, Gloucester city, Groton, Hopedale, Hopkinton, Hudson, Ipswich, Littleton, Mansfield, Marlborough city, Maynard, Mendon, Middleborough, Milford, Newbury, Newburyport city, Plymouth Plympton, Raynham, Rockport, Rowley, Southborough, Stow Additions in NH: Danville, East Kingston, Sandown
Bridgeport, CT	Ansonia city, Oxford, Seymour
Fitchburg-Leominster, MA	Ashburnham, Ashby
Hartford-New Britain-Bristol Consolidated MSA, CT	East Haddam, Middlefield, Middletown city
Lewiston-Auburn, ME	Greene, Mechanic Falls, Poland, Sabattus (Webster)
Manchester, NH	Auburn, Candia, Raymond
Nashua, NH	Hollis, Litchfield
New Bedford, MA	Rochester
New Haven-Meriden, CT	Durham, Killingworth
New London-Norwich, CT-RI	Additions in CT: North Stonington, Salem

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New York Consolidated MSA, NY-NJ-CT	Addition in CT: Ridgefield
Pittsfield, MA	Hinsdale, Richmond, West Stockbridge
Portland, ME	Buxton, Hollis, North Yarmouth, Standish
Providence-Pawtucket, RI-MA	Additions in RI: Exeter, Foster, Glocester
Springfield-Chicopee, MA	Huntington, Montgomery, Russell
Waterbury, CT	Bethlehem, Morris
Worcester, MA	Douglas, Princeton, Rutland

Deletions

A few cities and towns would no longer qualify for inclusion in a metropolitan statistical area, based on 1970 commuting data to the central core as redefined. In many cases, 1980 data will probably show an increase in commuting such that the place will continue to qualify.

Fitchburg-Leominster, MA	Shirley
Manchester, NH	Derry
New Bedford, MA	Lakeville
New London-Norwich, CT-RI	Hopkinton, RI
Pittsfield, MA	Stockbridge
Portland, ME	Freeport, Saco city
Springfield-Chicopee, MA	Hadley, Warren
Worcester, MA	Berlin, Webster

Transfers

Based on 1970 commuting data and the redefined central cores, several towns would be transferred from one SMSA to another. In a few cases, however, 1980 commuting data may confirm the present SMSA affiliation.

Town	From	To
Cheshire, CT	Waterbury	New Haven-Meriden
Redding, CT	Danbury	New York Consolidated MSA

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Somers, CT	Springfield-Chicopee	Hartford-New Britain-Bristol Consolidated MSA
Southbury, CT	Waterbury	Bridgeport

Possible Additional Changes

Not reflected in the draft criteria and listings is a further proposal under consideration by the Federal Committee on SMSA's. This proposal would recognize the importance of commuting to cities smaller than the size cutoff required for recognition as an MSA. Based on 1970 data, the five New England towns listed below have a higher level of commuting to a nonmetropolitan city than they do to the metropolitan statistical area central core with which they qualify according to the present draft criteria. If the commuting to the nonmetropolitan city were recognized, these towns would not be included in any metropolitan statistical area.

Town	MSA with which qualified under draft criteria	Nonmetropolitan city with which commuting ties are stronger than to MSA
Allenstown, NH	Manchester	Concord
Pembroke, NH	Manchester	Concord
Raynham, MA	Boston Consolidated MSA	Taunton
Jamestown, RI	Providence-Pawtucket	Newport
Portsmouth, RI	Fall River, MA-RI	Newport
Harwinton, CT	Hartford-New Britain-Bristol Consolidated MSA	Torrington

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RATIONALE FOR THE CRITERIA FOR DEFINING METROPOLITAN STATISTICAL AREAS

PREFACE

During the first round of public review and comment on the proposed changes in the criteria for defining metropolitan statistical areas, there were a number of individuals who requested fuller information relative to the statistical concept of a metropolitan area and the background of the official definitions. This statement outlines the history of this concept in Federal statistics, states the rationale for each portion of the criteria, and explains how the new proposal differs from the criteria now in effect. Mention is also made of some additional items still under consideration by the Committee and of the effects of the criteria changes on availability of statistical data.

BACKGROUND

The interest in developing a consistent definition of metropolitan areas dates back more than a century. The existence of suburban areas outside the limits of important cities was noted in census and statistical publications almost from the time of the first U.S. census in 1790.

Metropolitan areas, defined to include suburbs with their central cities, were first officially defined for census purposes in 1910; from that census through 1940, the term used was "metropolitan district." These areas were established in order to permit accurate comparisons of important urban centers across the country, unaffected by the varying extent of central city boundaries.

A review of the census publications of the 1910–1930 period makes it clear that in concept the metropolitan districts were single concentrations (some with multiple centers) of dense urban development, larger than a stated size, with strong internal commuting ties and weak ties to any other densely developed areas. They were not intended to represent broad regions such as trading or newspaper-circulation areas, which would normally be much larger; nor, on the other hand, were they supposed to be limited to the built-up urbanized area.[1]

In the 1930 census, the concept was described as constituting the 'greater' city," and beginning in that year, the definition required a central city of 50,000 or more. It may be noted that a number of other countries independently began to define their own metropolitan areas during the same 1910–1940 period. Definitions adopted in other countries similarly have stressed high population density, commuting ties, and low proportion of population involved in agriculture.[2]

The metropolitan districts defined in the censuses from 1910 through 1940 were intended primarily for the presentation of data from the census. They were defined in terms of townships and similar county subdivisions, which made it difficult for other Federal, State, local, and private statistical groups to compile related data for them. As a consequence, by World War II several Federal agencies had developed alternative metropolitan area definitions, usually in terms of whole counties. Sometimes these county combinations were based as closely as possible on the Census Bureau metropolitan districts; sometimes they were based on other information. Often the various definitions did not agree with one another.

As a result, shortly before the 1950 census, a decision was made to define a set of "standard metropolitan areas" (SMA's) for presenting Federal statistics. Since the new areas were to be used by all Federal statistical agencies and not just for census purposes, the task of defining them was assigned to the Bureau of the Budget (later renamed the Office of Management and Budget), acting with the advice of a newly formed interagency committee. (This original assignment was reinforced by the Budget and Accounting Procedures Act of 1950 which, in Section 103, assigned the Bureau of the Budget responsibility for statistical policy. In October 1977 that responsibility was assigned by President Carter to the Department of Commerce, where it is implemented by the Office of Federal Statistical Policy and Standards (OFSPS).)

To maximize the range of statistical data that could be made available for the SMA's, it was agreed to define them in terms of entire counties. Although it was recognized that this would lead to some inaccuracies in definition, this disadvantage was felt to be outweighed by the large amount of related data that could be made available by county but not by smaller subcounty units. However, an exception to the county building-block approach was made for New England. Here the subcounty units—the cities and towns—have always had great local importance and a wide range of statistics available, while at the same time the counties have been relatively unimportant as governmental units. For example, in Connecticut and Rhode Island the counties no longer function as active governmental units.

The establishment of the SMA's in 1950 represented a change of technique, not of concept, for defining metropolitan areas. The concept embodied in the SMA definition continued to be that of a large concentration of dense urban development, with strong internal commuting ties and weak ties to any other densely developed areas. The original published criteria issued for defining the SMA's in 1950 reflected this by stressing commuting as the main criterion of integration of the outlying parts of the metropolitan area with its center or chief city. The rule adopted then was that if an outlying county had at least 15 percent of its resident workers working in the central county, it qualified for inclusion. The specific 15 percent cutoff was selected primarily on the basis of examination of available data for specific areas. With certain exceptions (which are discussed in a later section), it has proved satisfactory in that counties included in metropolitan areas by this criterion have been generally accepted as properly qualified.

From their inception, the official SMA's (renamed standard metropolitan statistical areas—SMSA's—in 1959) were defined according to specific published criteria. These criteria have dealt chiefly with how large a city had to be to have a metropolitan area defined, and how to decide which counties, if any, adjacent to the city's county should be included in its metropolitan area. The criteria have also mentioned, but in less detail, other issues such as rules for determining which cities in the metropolitan area are "central cities" and which should be included in the area title; how to decide whether two cities in adjacent counties, each of which could qualify for a separate metropolitan area, should be defined as two separate areas or as one; and what to do if the qualification status of a metropolitan area changed over time, for example, if new commuting data showed that a formerly independent area had come to qualify for inclusion in a neighboring area.

Changes in the official criteria have been made at the time of each census since 1950. None of these changes have involved significant deviations from the basic metropolitan area concept. Several modifications have been made over time in the rules for determining how large a city must be to have a metropolitan area defined. Through 1950, a city of 50,000 or more had always been required, but subsequent changes have gradually relaxed the rules somewhat, permitting areas to be defined around smaller cities under certain specified conditions.

Other changes have been made to reflect changing national conditions and the availability of new statistical data for use in the definition process. For example, the 1950 rules specified that a county must have less than 25 percent of its workers engaged in agriculture. However, with a rapidly decreasing proportion of the population engaged in farming, this rule is now subject to elimination because there are practically no counties still affected by it. Although commuting was the main measure of integration between outlying and central counties in the 1950 criteria, there were no national data available on the subject at that time. The commuting data used for the definitions in the 1950's were mostly taken from surveys by State and local employment agencies, which were not always entirely comparable with one another in their coverage and approach. Consequently, the data base was much improved in this respect after a question on place of work was included in the 1960 census.

In the 1950 and 1960 criteria, references were made to other measures of integration, such as the volume of telephone calls between outlying counties and the central county, circulation patterns of central-city daily newspapers, customer service and delivery areas of department stores, and the extent of locally established planning areas. However, these alternative measures were dropped from the criteria after national commuting data became available. This was not so much because their were poor indicators but because it was difficult to obtain nationally comparable data on them. Throughout the history of the SMA's and SMSA's, the use of statistical data available for only a few areas has been avoided in the criteria because there would be not way to provide comparable definitions for other areas for which the specified data were not available.

In 1977, the Federal Committee on standard Metropolitan Statistical Areas and OFSPS began reevaluating the current criteria and considering modifications that might be introduced at the time of the 1980 census. The Committee wanted to determine whether any improvements could be made in the criteria so that they would more closely reflect the basic metropolitan area concept. Over the ensuing two years, much of the Committee discussion was based on comments the members had received from users of the SMSA's, in their own or other Federal agencies or elsewhere in the country.

As noted earlier, in 1977 the responsibility for defining SMSA's was transferred from OMB to the new established Office of Federal Statistical Policy and Standards in the Department of Commerce. The OFSPS published a first set of proposed criteria for public comment in the May 1978 *Statistical Reporter* and in the FEDERAL REGISTER for June 22, 1978 (Vol. 43, No. 121).[3] Comments on the proposals were received from several hundred individuals, representing about 50 SMSA's. After reviewing these comments, the Committee has developed a revised criteria proposal for defining metropolitan statistical areas. In preparing the revised proposal, the Committee decided to follow the general outlines of the main proposal published in June, rather than either of the alternative options A and B that were published at the same time. Although some groups and individuals indicated they favored one or the other of these alternatives, they constituted a small minority of all those who commented.

THE PROPOSED NEW CRITERIA

As revised, the proposed criteria include the following changes from the criteria now in effect.[4]

[1] See Richard L. Forstall and Philip N. Fulton, "The Official SCSA/SMSA Definition: Concept and Practice," *Statistical Reporter*, October 1976, and the various sources cited there.

[2] See International Urban Research, *The World's Metropolitan Areas*, Berkeley and Los Angeles: University of California Press, 1959, pp. 6–15.

[3] The general and New England criteria were also published in the *Statistical Reporter* issues of May 1978 and August 1978, respectively.

[4] The substantive changes made in the criteria since the version published in the FEDERAL REGISTER in June include:

Criteria for defining component metropolitan statistical areas within (consolidated) metropolitan statistical areas of 1,000,000 or more (Criteria 10–14 and 19–21);

Changes in number and nomenclature of levels, from "Major" and "Local" to A, B, C, and D (Criterion 2);

Changes in qualification rules, including requirement that metropolitan statistical areas established in the future must have a total population of at least 100,000 (Criterion 1); provision that areas already existing will not be disqualified simply because they have less than 100,000 population (Criterion 9);

Recasting of the rules for qualifying outlying counties to recognize as one of the criteria of metropolitan character a 10 percent involvement with the main city's urbanized area (Criteria 4(b) and (c));

For counties with at least 40 percent commuting to the central counties, reduction of the required criteria of metropolitan character to a population density of at least 40 persons per square mile (Criterion 4(a));

Special provision for counties associated with independent cities (footnote 3);

Development of separate rules for determining central cities and metropolitan statistical area titles; cities of 15,000 to 25,000 qualify as central cities if they qualify for the metropolitan statistical area title (criteria 5 and 6).

Except for the addition of criteria for recognizing component metropolitan statistical areas in New England (Criteria 19–21), the New England criteria have not been substantively changed from those published in the *Statistical Reporter* in August, but have been renumbered (Criteria 9–12 in the *Statistical Reporter* are 15–18 in the new version).

Qualification (present Criterion 1; proposed Criterion 1).—The rules for permitting a city to qualify for recognition as a metropolitan statistical area have been modified to require a city of at least 15,000, that is located in a Bureau of the Census defined urbanized area of at least 50,000 and with a total population of at least 100,000 in the metropolitan area defined by the criteria. The lowering of the city size criterion (which is currently 25,000) would qualify a few new metropolitan areas. These would consist of a relatively small city which is surrounded by an extensive urbanized area whose total population is as large or larger than the urbanized areas of some cities already recognized for SMSA's. The requirement for a city of at least 15,000 is included to avoid the possibility of qualifying a densely populated area (for example a large military base) that does not contain at least a small city. The cutoff of 15,000 population has appeared in the criteria for a number of years as the lower limit for qualification as a central city other than the principal central city.

The level of 50,000 required for the urbanized area represents an updating of the requirement for a city of 50,000 that has appeared in the criteria since 1930. Adoption of the Census Bureau's urbanized area for this rule represents a more standard approach. The urbanized areas are defined on a consistent basis nationwide at the time of each national census, and consequently represent the larger urban concentrations more consistently than do corporate city areas, whose boundaries tend to vary widely from region to region because of differing practices on annexation.

The cutoff of 100,000 for total metropolitan population would disqualify several existing SMSA's that are below that limit. However, these areas will not be dropped simply because their populations remain under 100,000, provided they did qualify for separate recognition under the criteria in effect at the time they were established.

The overall effect of the changes in the size requirements will make it somewhat more dificult for additional small areas to qualify as metropolitan statistical areas. This change was adopted because the Committee felt that, now as in the past, the metropolitan area concept was intended to identify the Nation's *larger* urban centers.

Outlying Counties (present Criteria 2 and 3; proposed Criterion 4).—The rules for determining which outlying counties should be included in the metropolitan area have been made somewhat more restrictive. However, these rules are generally similar to the corresponding criteria now in effect. The intent is to include all counties that reach the 15 percent commuting level provided they also demonstrate a given level of "metropolitan character". The rules used to determine "metropolitan character" are all based on regularly available census data and are designed to exclude counties that are very rural or sparsely populated. A majority of the Committee believes that such rural counties should not be included in metropolitan areas even if their commuting ties with the central county are very high.

As in the current criteria, counties with very high commuting links to the central county or counties are included without having to meet as many other requirements as counties with lower levels of commuting. However, even counties with the highest levels of commuting (over 40 percent) must still have a population density of at least 40 persons per square mile to qualify.

Counties with between 30 and 40 percent commuting must meet one of three rules indicative of metropolitan character, such as a relatively high population density, or a significant percentage of the population classified as urban (that is, living in urbanized areas or in places of 2,500 or more population). Counties with between 15 and 30 percent commuting must meet two of four requirements; these are similar to those just mentioned, but also include a high percentage population increase between the last two censuses, a measure that gives recognition to rapid-growth suburban fringe areas.

The effect of the changes in the criteria for outlying counties is to exclude 61 counties now included in SMSA's. A list of these counties is given in Appendix A. This list is based on 1970 commuting data; after 1980 census data become available in 1981-2, the new data may show that some of these counties are in fact qualified under the revised criteria. In any case, no counties will actually be dropped from metropolitan areas until the 1980 census results are tabulated.

Although a fairly large number of counties would possibly be affected by this change in the rules, their total 1970 population is only about 1.25 million or less than 1 percent of the current SMSA total. Their total area of 36,837 square miles represents over 7 percent of the current SMSA total, reflecting the fact that these are relatively sparsely settled counties on the outer edges of the metropolitan areas.

Central Counties (Footnote 5 in present criteria; proposed Criterion 3).—The rules for defining the central core area of each metropolitan area have been modified. This central area must be identified in order to determine the area to which commuting from outlying counties is measured. Originally, the central area comprised only the county or counties containing the central city or cities. However, this produced arbitrary results in several areas where the central city constitutes a separate county by itself (for example, Philadelphia, Denver, San Francisco). The central area in such cases was much smaller than for cities such as Chicago or Los Angeles that are located in a large county. Here, again, the proposed new rules introduce greater consistency by adopting the Bureau of the Census urbanized area as the basis for determining the central counties. Those counties with at least half their population in the urbanized area will now qualify.

It should be noted that only the central core is used to determine whether any additional counties (termed "outlying counties" in the criteria) qualify for inclusion in the metropolitan area. Any commuting to these outlying counties does *not* qualify further counties for inclusion—the commuting must be to the central core counties.

The effect of the change in the central core rules is to add about 8 counties to SMSA's because their level of commuting to the central core would now be over 15 percent—in other words, they had less than 15 percent commuting to the central county or counties as previously defined, but more than 15 percent once additional counties were treated as central counties. A list of these counties based on 1970 commuting data appears in Appendix B, together with

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about 20 additional counties likely to be added to metropolitan statistical areas by 1980 based on this or other criteria.

This criterion also includes a rule that qualifies for inclusion in the central core any county containing at least 5,000 population in a central city. The main purpose of this rule is to provide for situations where a central city is located in more than one county. Such counties are not included automatically as central counties if the population of the central city portion is small (less than 5,000). However, counties containing smaller portions of central cities usually do qualify under other criteria for inclusion in the metropolitan area itself.

Central Cities and Titles (present Criterion 4; proposed Criteria 5 and 6).—The rules for identifying the central cities within each metropolitan area have been modified, and have been separated from the rules for titling the area. Central cities are commonly regarded as relatively large communities, with a denser population and a higher concentration of economic activties than more recently developed outlying or "suburban" areas. As such, central cities have numerous common characteristics and problems, and the central city/suburban distinction is important in many statistical presentations, permitting users to compare the respective central cities with one another separately from the respective suburban areas.

The largest city in each metropolitan area is always recognized as a central city, of course. Ever since the establishment of the SMA's in the 1950 census, the identification of any additional central cities has been made essentially on the basis of their being at least one-third the size of the area's largest city. However, a review of commuting and other data for all of the existing central cities has shown that certain commuting measures identify the cities of central character much more precisely than the present rule. Consequently, the Committee proposes to adopt a new rule based on two commuting requirements: at least 50 percent of the residents [5] of the city must work within the city (that is, must not commute to work somewhere else), and the ratio of the number of persons working in the city to the number of residents [5] must be at least 0.8 (in other words, there must be at least 80 local jobs per 100 local residents).

The chief effect of this rule is to identify certain smaller places as central cities because they have central-city characteristics, even though their populations are considerably smaller than that of the main city. There are quite a few of these smaller central-type cities, especially in certain larger metropolitan areas. Examples include Cambridge, Lynn, and Waltham near Boston, Niagara Falls in the Buffalo area, Pontiac in the Detroit area, Aurora and Joliet in the Chicago area, and Berkeley and Pasadena in California. At the same time, some cities now listed as central cities would no longer be so treated because their commuting data indicate that they have a relatively high level of outcommuting, or that they provide jobs for relatively few of their own residents, or both—in other words, that they resemble suburban areas more closely than they do other central cities.

In determining titles for metropolitan statistical areas, the existing maximum of three cities has been retained in the proposed criteria, to avoid unduly cumbersome titles. This means that for the first time some places would be classified as central cities although not actually named in the title of the metropolitan statistical area.

Levels (proposed Criterion 2).—During the discussions of the Federal Committee on SMSA's, it became clear that there is a wide range of opinions about how large an urban area must be to deserve classification as "metropolitan".

Although the official metropolitan criteria have recognized urban centers as small as 50,000 ever since 1930, there are many users who believe that a much higher cutoff should be established. Although the Committee decided to make the rules for qualification a little more stringent (as described above), it did not seriously consider changing to a much higher cutoff level, because this would have had the effect of disqualifying many existing metropolitan areas, including some that have been recognized ever since 1950. Instead, the Committee decided to identify four levels of metropolitan areas, using the total metropolitan population as the basis. The cutoff for these levels have been set at 1,000,000, 250,000, and 100,000.

Many studies have demonstrated that larger urban centers typically carry on numerous economic and social functions that are rare or absent in smaller cities. Essentially all cities large enough to be recognized for metropolitan area status have sizable department stores and daily newspapers, banks of more than local importance, a junior college, and scheduled airline service (although this may be through an airport shared with a neighboring metropolitan center). However, only the largest metropolitan cities have many headquarters of major corporations, a Sunday newspaper with regional circulation, a wide range of specialized medical facilities, a major university, and a major-league athletic team. Above the one million level, most metropolitan cities have all of these functions, and the significance of this particular size has some degree of public recognition. A study conducted by the Committee showed that the level of 250,000 corresponds approximately to the level at which most metropolitan centers typically acquire wide regional influence, including such functions as large banks and Sunday newspapers, regional branches of major national firms, and several hospitals. The 100,000 level was included because it is proposed as the future cutoff for qualification as an SMSA.

After considerable discussion, the four levels have been identified simply as Level A, Level B, Level C, and Level D rather than assign them names (such as Major Metropolitan Areas), since none of the specific sets of terms proposed appeared to have wide support. The Committee is particularly interested in receiving suggestions for names for identifying the levels.

The Committee believes that there are many situations in which it is desirable to look at statistics for metropolitan areas broken down into size categories, and that the identification of levels of metropolitan areas will also aid users who may wish to limit a study to the largest areas, or to focus on a smaller or a middle-size group of areas.

Besides these changes affecting terminology, the Committee decided to simplify the basic designation by dropping the word "standard", thus reducing the basic term to three words, "metropolitan statistical area". In this discussion, the present abbreviations, SMSA, has generally been used in referring to the areas as defined now or at a past date, but "metropolitan statistical area" is generally used in references to the effects of the new criteria.

Component Areas and Consolidated Areas (present Criterion 8; proposed Criteria 7-8 and 10-14). As mentioned earlier, the official criteria for identifying and defining metropolitan areas have proved generally quite satisfactory since they were first developed in 1950; most subsequent changes in the criteria have been largely in the nature of correcting details. Probably the major exception to this general statement involves the treatment of situations where sizable neighboring cities might or might not be treated as one metropolitan area.

In the existing criteria, Criterion 8 has provided for consideration of a range of factors in determining whether or not to treat adjacent centers as parts of a single area.[6] However, in practice Criterion 8 has been applied primarily to instances where pairs of smaller cities, each of which qualified for recognition as an SMSA, regarded themselves as constituting a single metropolitan area, although their urbanized areas were still separate and intercommuting, had not reached the 15 percent level. In such cases the Committee has sometimes merged the areas under Criterion 8 without insisting that the commuting requirement be met. However, Criterion 8 has rarely if ever been used by itself as the basis for separating cities that did qualify to be included in a single area through having substantial commuting interchange.

In some of the largest metropolitan complexes, sizable urban centers of independent origin are sometimes completely connected by urban development, so that there is no visible break between them. Within such physically continuous urban areas, the different parts are typically linked by large volumes of commuting; sometimes, however, the *percentages* of commuters are relatively low. For example, in both 1960 and 1970 a strict application of the 15 percent commuting rule would have separated Oakland from San Francisco and St. Petersburg from Tampa, although these well-recognized twin city pairs have long been treated as single metropolitan areas in official statistics.

In the past, reflecting the underlying concept of a single concentration of dense urban development, the criteria have usually treated cities that were in a single urbanized area as parts of a single metropolitan area. However, beginning in the late 1950's, some cities included within major urbanized areas achieved recognition as centers of separate SMSA's, typically on the basis that their commuting ties to the area's main city were below the 15 percent cutoff. The separate recognition of these areas has introduced a nonstandard aspect into the metropolitan area system, because not all cases with less than 15 percent commuting have been separated, while at the same time a few areas with *more* than 15 percent commuting have been given separate recognition although the criteria did not provide for it.

In giving recognition in these instances, the Committee was in fact recognizing that the largest metropolitan areas may be regarded from two aspects. From one point of view, the entire urbanized area and the counties with heavy commuting thereto constitute a single large metropolitan area, which for convenience may be referred to as the "greater" area. For many statistical purposes, this approach provides the best comparability with other metropolitan areas around the country since, like them, it encompasses the entire continuously urbanized area within a single statistical boundary. This approach also conforms quite closely to the metropolitan area concept as reflected in the metropolitan districts of 1910-40 and the SMA's and SMSA's of 1950-70.

From another point of view, however, the separate components of many large metropolitan areas constitute important metropolitan entities in their own right. Although the component area usually has considerable commuting to the urbanized area's main city, a majority of its workers work locally. Often the component area's population is large enough to support a wide range of local functions and services, comparable in most respects to those of a free-standing metropolitan area elsewhere in the country. This may be especially true where the component area was originally an independent urban center, whose close affiliation to the larger nearby city is a recent development. In such a case, although an increasing volume of intercommuting may have strengthened the relationship of the component center to the larger center, often these ties have not greatly altered the basic local pattern of services and activities for which the smaller city remains an important center.

These and similar points were made by many local officials and members of the public who commented on the first set of proposed criteria after their publication in June. Although these proposals did not directly address the question of possible component areas, they left unaltered the provisions of the existing criteria (Criterion 5) that calls for SMSA's to be merged with others if two successive national censuses show that commuting between their central cores exceeds the 15 percent cutoff level in either direction. Under this criterion, 11 existing SMSA's would be merged with others in 1980. Most of these 11 areas did qualify under the official criteria at some time in the past.

The general tenor of the comments received by the Committee from these existing SMSA's subject to merger was that they should continue to be separately recognized in Federal statistics, and that if the commuting data did not support the separate recognition, the use of this measure should be re-examined.

After further discussion, the Committee concluded that only by recognizing two tiers of areas could the metropolitan area system meet, in a standard fashion, the needs of those whose emphasis is on the component level of area as well as those whose need is for data on the "greater" level. The revised proposals do this by providing that within any "greater" metropolitan area of one million or more population, component metropolitan statistical areas may be recognized if certain criteria are met relating to commuting, total population, and percentage urban. If the "greater" area has any component metropolitan statistical areas that qualify, it becomes a consolidated metropolitan statistical area, composed of two or more component metropolitan statistical areas. All other metropolitan statistical areas (those of less than one million, and those over that size but within which no component areas qualify under the rules) are designated simply metropolitan statistical areas.

This approach also incorporates directly into the metropolitan statistical area framework the standard consolidated statistical areas (SCSA's), first established at the time of the 1960 census and currently defined according to criteria published in 1975. To provide a systematic basis for arriving at standard definitions, the new criteria incorporate the existing SCSA criteria into those that determine the overall extent of the "greater" metropolitan area. The result is to establish "greater" metropolitan areas that typically combine all counties involved in a single urbanized area, plus those counties with the qualifying level of commuting to the central core. The use of the SCSA rules also combines as single "greater" areas certain neighboring MSA's that have separate urbanized areas but a substantial commuting interchange.

Once these "greater" areas have been defined, provided there is a total population over 1,000,000, the rules for identifying component metropolitan statistical areas are applied. These rules for components have three effects. First, not surprisingly they result in qualifying as component metropolitan statistical areas all instances of currently qualifying SMSA's that would have qualified as separate metropolitan statistical areas but were merged through the application of the SCSA rules.[7] Second, the component rules also qualify as component metropolitan statistical areas all 11 of the current SMSA's that were due to be merged with others after 1980.[7] Third, several component metropolitan statistical areas are qualified under the proposed rules that have not previously received separate recognition. In effect, these are areas that have as much or more independence from the main center of their "greater" metropolitan area as the various areas mentioned in the two preceding sentences.

Some of these new component areas are smaller cities located within large metropolitan complexes but retaining a high degree of independence from a period when they were functionally more separate; examples are Lynn and Salem in the Boston area, Kane County (Aurora-Elgin) and Will County (Joliet) in the Chicago area, and Beaver County in the Pittsburgh area.[8] Also on the list of new component areas are St. Paul, Oakland, and St. Petersburg, which have hitherto not been given recognition except in combination with Minneapolis, San Francisco, and Tampa, respectively. Fort Worth, which was a separate SMSA until combined with Dallas in 1973, also appears for separate recognition as a component area. In each case, of course, the "greater" area, as a consolidated metropolitan statistical area, would continue to provide data for Minneapolis-St. Paul, San Francisco-Oakland-San Jose, Tampa-St. Petersburg, and Dallas-Fort Worth. A list of all consolidated and component areas that would qualify using 1970 commuting data appears in Appendix C.

Loss of Designation (present Criterion 5; proposed Criterion 9).—How quickly to reflect a change in the status of an area or county on the basis of new data is another one of the points on which many comments have been received by the Committee. For most purposes involving current statistical applications, a definition based on the most up-to-date information is undoubtedly preferable. However, since some metropolitan areas have now been officially identified for almost 30 years, the issue of geographic continuity also arises; changes in definitions can prove awkward for many users, unless statistical series can be made available for past dates based on new areal definitions. The committee is also aware that the very wide uses to which the official metropolitan area definitions have been applied has resulted in their being employed to determine boundaries for local councils of government, planning agencies, and a variety of other purposes. Many users assume that if the official metropolitan area definitions change, these local boundaries must be changed also—an assumption that may be both undesirable and unwarranted.

The Committee's conclusion, as embodied in the proposed criteria, is that changes justified by the criteria should be made immediately, with one exception—that existing metropolitan statistical areas will not be disqualified simply because their population is less than 100,000, assuming they qualified as metropolitan statistical areas at some past date under the criteria then in effect.

To deal with the problem described by many users of securing comparable statistical data, the Committee and OFSPS intend to request the Bureau of the Census to prepare a range of statistical data for the new definitions from past censuses. Consideration is also being given to applying the new criteria to 1970 and 1960 data to produce definitions of metropolitan statistical areas, consolidated metropolitan statistical areas and component metropolitan statistical areas as they would have been defined at those dates had the new rules been in effect.

New England Criteria (present Criteria 6 and 7; proposed Criteria 15-21). Because the New England criteria are applied to cities and towns rather than to entire counties, the delimitation of New England metropolitan statistical areas is somewhat more complex than for the metropolitan statistical areas in other regions. The size levels required for qualification are no different for New England (Criterion 1), but the definition of the central core for the purpose of

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[5] In the application of the criteria, "resident" is limited to persons working, and excludes residents who were not in the labor force or for other reasons not working at the time of the census. Workers whose place of work was not reported are also excluded, to avoid any bias toward the residence side in the employment/residence ratio.

[6] Criterion 8(b) has limited such action to cities within 20 miles of one another; the proposed criteria retain this provision but change the distance measure to 25, measured from city center to city center rather than from city limits to city limits as hitherto. Use of city limits as the basis has introduced considerable arbitrary bias because of the wide variation in annexation practices from region to region.

[7] In a few cases, the boundaries of the present SMSA's would be enlarged or otherwise changed.

[8] Not surprisingly, some of the cities that would qualify under the proposed new rules for identifying central cities, described earlier, are located in areas that would qualify as component metropolitan statistical areas under the component criteria. In each set of rules, the commuting measures tend to reflect a relatively high degree of independence from other cities in general and from the main city of the "greater" area in particular.

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measuring commuting from outlying areas must have special rules. These rules for defining the central core represent the main change in the New England criteria made by the Committee (other than the addition of new rules for identifying component metropolitan statistical areas in New England as in the other States).

The new rules for the central core (Criteria 15 and 16), like those for defining the central counties in the main criteria (Criterion 3), are based primarily on the Bureau of the Census urbanized area—cities and towns with more than half their population in the urbanized area of a city are included in that city's central core, except for a few places whose commuting ties with that city and its immediate environs are relatively weak. The New England central cores defined by these rules are generally comparable to the central counties defined by the main criteria in other States, but tend to be somewhat smaller in extent because they exclude the outlying portions of counties that would be included in a non-New England State.

The criteria for including additional cities and towns in a New England metropolitan statistical area have been altered slightly, to permit towns with a population density between 60 and 100 per square mile to qualify if they have at least 30 percent of their workers commuting to the central core.

The expansion of several central cores and the change in criteria for outlying cities and towns, based on 1970 data, would result in a number of additional communities being added to existing SMSA's. These are listed in Appendix D, which also lists 11 places that would be deleted and four towns that would be transferred from one metropolitan statistical area to another. In addition, because of the changes in the central city criteria, Holyoke, MA; Warwick, RI; and West Haven, CT, would no longer qualify as central cities.

Component and Consolidated Metropolitan Statistical Areas in New England. (Criteria 19-21).—The main effect of the revised core rules described above is to enlarge somewhat the central cores of certain New England Metropolitan statistical areas. By itself, this would have the result of merging serveral existing SMSA's with others. However, under the newly developed criteria for component areas, these areas would continue to be recognized as separate component metropolitan statistical areas. The component rules for New England follow the same general approach as those for component areas in other regions. The rules for defining the component central core are designed to include all of the consolidated metropolitan statistical area's central core that is more closely related to the component core city than to the consolidated area's main city.

In some cases two or more adjacent groups of communities qualify as separate component areas but also qualify to be combined under the rules. The proposed criteria leave open the decision as to whether or not such areas should be merged; local opinion on each side of the question would be an important factor in reaching a decision. Likewise, local opinion would be sought to determine to which of two component central cores a given place should be assigned if it has substantial commuting interchange with each. This reflects a recognition on the part of the Committee that commuting, while probably the best single indicator generally available, is not the only measure deserving consideration in deciding "borderline" situations.

Under these rules, Boston and Hartford-New Britain-Bristol would become consolidated metropolitan statistical areas, and the Norwalk and Stamford SMSA's would become component metropolitan statistical areas in the New York Consolidated Metropolitan Statistical Area. The new criteria would also result in the merger of the New Haven and Meriden areas as a single New Haven-Meriden Metropolitan Statistical Area.

At the same time, these criteria would result in component areas being defined for several additional New England areas. Within the Boston Consolidated metropolitan Statistical Area, the Brockton Component Metropolitan Statistical Area would include all of the existing Brockton SMSA plus Abington and Hanson. (These two towns were transferred from the Brockton SMSA to the Boston SMSA in 1973, but under the component rules have more commuting to the Brockton component core than to Boston proper.) For Lowell, the component metropolitan statistical area would include all of the present Lowell SMSA plus Dunstable. The Lawrence-Haverhill Component Metropolitan Statistical Area would include the existing SMSA plus Danville, East Kingston, and Sandown in New Hampshire.

Lynn and four neighboring towns (Lynnfield, Nahant, Saugus, and Swampscott) would also qualify as a Component Metropolitan Statistical Area. So would Salem and 12 adjacent cities and towns (Beverly, Danvers, Essex, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Rowley, Topsfield, and Wenham). The Lynn and Salem areas could also qualify to be a single Lynn-Salem Component Metropolitan Statistical Area, if local opinion favored such a combination.

A potential problem not specifically addressed by the criteria so far involves a situation that occurs to the north of the Lynn and Salem areas, where four communities, Gloucester, Rockport, Newbury and Newburyport, qualify for inclusion in the Boston Consolidated Metropolitan Statistical Area but not for either the Lynn or Salem component areas. These four places are isolated from the remainder of the Boston area balance, which under the criteria would constitute the Boston Component Metropolitan Statistical Area.

The criteria would also establish a new component area in the Hartford-New Britain-Bristol Consolidated Metropolitan Statistical Area. Besides the New Britain and Bristol component metropolitan statistical areas, each of which would correspond to the existing SMSA, there would also be a Middletown Component Metropolitan Statistical Area, including Cromwell, East Haddam, East Hampton, and Middlefield.

Also in Connecticut, Norwalk and Stamford would qualify for component status within the New York consolidated area. These two areas could also qualify to be combined as a single Stamford-Norwalk Component Metropolitan Statistical Area if local opinion supported such a merger.

Many of these New England changes involve nomenclature—for example, redesignation of existing SMSA's as component metropolitan statistical areas—rather than major boundary changes. However, the new criteria would also provide separate statistical recognition to the Lynn, Salem, and Middletown areas. In addition, the changes would serve to increase consistency between the treatment of New England metropolitan areas and those of other States, and therefore would be in keeping with the Committee's general intention of establishing a standard set of areas suitable for statistical comparisons across the country.

Additional items still under consideration by the Committee.—Certain additional criteria modifications have been suggested by Committee members or by those who commented on the first draft proposal. The Committee has not yet reached a decision on these points. The suggested modifications, which would involve relatively few areas, are as follows:

1. Whether to provide for some local option in cases where a county qualifies about equally under the criteria for each of two metropolitan statistical areas.

2. Whether a county should be qualified on the basis of total commuting to two separate metropolitan statistical areas.

3. Whether to provide for some local option in the selection of an areal or regional name for a metropolitan statistical area instead of the names of the central cities.

4. Whether to provide that a county should be excluded from a metropolitan statistical area if its commuting to the central county(ies) can be shown to be primarily to areas outside the urbanized area proper.

5. Some further modifications in the rules for area titles.

6. Whether to recognize commuting to a nonmetropolitan city in defining New England metropolitan statistical areas (see Appendix D).

7. Whether any special provisions should be made for defining metropolitan statistical areas in Puerto Rico.

In addition to these points, the Committee is taking steps to prepare a listing of instances where an important city or urban concentration is included in a metropolitan statistical area simply because it is located within a large county, other portions of which have high commuting to the central county(ies) of the metropolitan statistical area. Typically, if such a place were located in a separate county, it would not be included in the metropolitan statistical area. The Committee believes this listing will be of value to users who want to give such areas separate recognition.

The Committee is also giving serious consideration to designating some additional types of standard areas for Federal statistical purposes (for example, substate planning districts).

Effects of Criteria Changes on Availability of Statistical Data.—From the comments made on the first criteria proposal, it is evident that many users assume that much statistical information is available for counties included in metropolitan areas that is not available for nonmetropolitan counties. This point has been raised in particular by counties that might no longer be included in a metropolitan statistical area after 1980 under the proposed criteria for outlying counties.

However, this concern may often be exaggerated. In population and housing census publications, most data that appear for SMSA's are also given for every county; the exceptions are certain very detailed cross-classifications for the larger SMSA's that are not published for smaller SMSA's or individual counties, although available at cost in unpublished form.

Certain types of census data have tradtionally been provided primarily for metropolitan areas because that was the source of most of the demand for them. The prime example is the census tract reports. However, plans for the 1980 tract reports are well under way at the Bureau of the Census, and are unlikely to reflect any changes in SMSA's that result from the new criteria, other than perhaps the recognition of some newly established areas. Specifically, for counties now in SMSA's who have already had a 1980 census tract plan approved by the Bureau, the tract data will be published as part of the appropriate SMSA tract report, irrespective of whether the county would still qualify for the SMSA under the proposed criteria revisions.

For 1980 as in the past, some nonmetropolitan counties have regularly arranged to be tracted. In 1970, data for these nonmetropolitan tracts were either published in the reports for adjacent SMSA's or made available at cost in unpublished form. In 1980, the Bureau is considering publishing the data for all tracted areas. In any case, a county that ceases to be metropolitan after 1980 can arrange to continue to be tracted.

The economic censuses (censuses of business and manufacturers) taken by the Census Bureau regularly provide more data on SMSA's than on individual counties. The same is true of some sample surveys at both the Federal and State levels. The difference in coverage is not due to the area's metropolitan or nonmetropolitan status, but results from the size of its total population or business volume. The rules developed to protect the confidentiality of individual survey responses and business census reports often preclude the publication of detail for areas with relatively small numbers of people or business establishments. Therefore, larger counties and larger SMSA's usually have more data published than smaller areas. Also, when a choice must be made between publishing data for an SMSA or for one of its component counties, the SMSA, as the larger area, is normally preferred. However, there may sometimes be more data published in the business censuses for a large nonmetropolitan county than for a small county in an SMSA.

Whether an SMSA contains more than one county may affect the range of data published. Single-county SMSA's in general have little if any more published data than the single county would have by itself, although the coverage may appear in a different section of the report, under a metropolitan rather than a nonmetropolitan heading. For an SMSA comprising two (or more) large counties, most data on each of the counties are usually published separately. Recognition as an SMSA also produces totals for the two-county combinations; most of these totals can also be obtained by combining the published data for the separate counties.

For an SMSA containing one large and one or more small counties, the SMSA totals may include considerable data that are also published for the large member county but not for the smaller ones. Again, however, the data available for the larger county, and for the SMSA itself, will not greatly exceed what would be available for a nonmetropolitan county of the same size.

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WEDNESDAY, NOVEMBER 29, 1978
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

COUNCIL ON ENVIRONMENTAL QUALITY

NATIONAL ENVIRONMENTAL POLICY ACT

Implementation of Procedural Provisions; Final Regulations

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[3125-01-M]

Title 40—Protection of Environment

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

NATIONAL ENVIRONMENTAL POLICY ACT—REGULATIONS

Implementation of Procedural Provisions

AGENCY: Council on Environmental Quality, Exective Office of the President.

ACTION: Final regulations.

SUMMARY: These final regulations establish uniform procedures for implementing the procedural provisions of the National Environmental Policy Act. The regulations would accomplish three principal aims: to reduce paperwork, to reduce delays, and to produce better decisions. The regulations were issued in draft form in 43 FR 25230–25247 (June 9, 1978) for public review and comment and reflect changes made as a result of this process.

EFFECTIVE DATE: July 30, 1979. (See exceptions listed in § 1506.12.)

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

1. Purpose

We are publishing these final regulations to implement the procedural provisions of the National Environmental Policy Act. Their purpose is to provide all Federal agencies with efficient, uniform procedures for translating the law into practical action. We expect the new regulations to accomplish three principal aims: To reduce paperwork, to reduce delays, and at the same time to produce better decisions which further the national policy to protect and enhance the quality of the human environment.

The Council on Environmental Quality is responsbile for overseeing Federal efforts to comply with the National Environmental Policy Act ("NEPA"). In 1970, the Council issued Guidelines for the preparation of environmental impact statements (EISs) under Executive Order 11514 (1970). The 1973 revised Guidelines are now in effect. Although the Council conceived of the Guidelines as non-discretionary standards for agency decisionmaking, some agencies viewed them as advisory only. Similarly, courts differed over the weight which should be accorded the Guidelines in evaluating agency compliance with the statute.

The result has been an evolution of inconsistent agency practices and interpretations of the law. The lack of a uniform, government-wide approach to implementing NEPA has impeded Federal coordination and made it more difficult for those outside government to understand and participate in the environmental review process. It has also caused unnecessary duplication, delay and paperwork.

Moreover, by the terms of Executive Order 11514, the Guidelines were confined to Subsection (C) of Section 102(2) of NEPA—the requirement for environmental impact statements. The Guidelines did not address Section 102(2)'s other important provisions for agency planning and decisionmaking. Consequently, the environmental impact statement has tended to become an end in itself, rather than a means to making better decisions. Environmental impact statements have often failed to establish the link between what is learned through the NEPA process and how the information can contribute to decisions which further national environmental policies and goals.

To correct these problems, the President issued Executive Order 11991 on May 24, 1977 directing the Council to issue the regulations. The Executive Order was based on the President's Constitutional and statutory authority, including NEPA, the Environmental Quality Improvement Act, and Section 309 of the Clean Air Act. The President has a constitutional duty to insure that the laws are faithfully executed (U.S. Const. art. II, sec. 3), which may be delegated to appropriate officials. (Title 3 U.S.C., Sec. 301). In signing Executive Order 11991, the President delegated this authority to the agency created by NEPA, the Council on Environmental Quality.

In accordance with this directive, the Council's regulations are binding on all Federal agencies, replace some seventy different sets of agency regulations, and provide uniform standards applicable throughout the Federal government for conducting environmental reviews. The regulations also establish formal guidance from the Council on the requirements of NEPA for use by the courts in interpreting this law. The regulations address all nine subdivisions of Section 102(2) of the Act, rather than just the EIS provision covered by the Guidelines. Finally, as mandated by President Carter's Executive Order, the regulations are

> "* * * designed to make the environmental impact statement more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives."

2. Summary of Major Innovations in the Regulations

Following this mandate in developing the new regulations, we have kept in mind the threefold objective of less paperwork, less delay, and better decisions.

A. Reducing Paperwork

These regulations reduce paperwork requirements on agencies of government. Neither NEPA nor these regulations impose paperwork requirements on the public.

i. *Reducing the length of environmental impact statements.* Agencies are directed to write concise EISs (§ 1502.2(c)), which normally shall be less than 150 pages, or, for proposals of unusual scope or complexity, 300 pages (§ 1502.7).

ii. *Emphasizing real alternatives.* The regulations stress that the environmental analysis is to concentrate on alternatives, which are the heart of the process (§§ 1502.14, 1502.16); to treat peripheral matters briefly (§ 1502.2(b)); and to avoid accumulating masses of background data which tend to obscure the important issues (§§ 1502.1, 1502.15).

iii. *Using an early "scoping" process to determine what the important issues are.* A new "scoping" procedure is established to assist agencies in deciding what the central issues are, how long the EIS shall be, and how the responsibility for the EIS will be allocated among the lead agency and cooperating agencies (§ 1501.7). The scoping process is to begin as early in the NEPA process as possible—in most cases, shortly after the decision to prepare an EIS—and shall be integrated with other planning.

iv. *Using plain language.* The regulations strongly advocate writing in plain language (§ 1502.8).

v. *Following a clear format.* The regulations recommend a standard format intended to eliminate repetitive discussion, stress the major conclusions, highlight the areas of controversy, and focus on the issues to be resolved (§ 1502.10).

vi. *Requiring summaries of environmental impact statements.* The regulations are intended to make the document more usable by more people (§ 1502.12). With some exceptions, a summary may be circulated in lieu of the environmental impact statement if the latter is unusually long (§ 1502.19).

vii. *Eliminating duplication.* Under the regulations Federal agencies may prepare EISs jointly with State and local units of government which have "little NEPA" requirements (§ 1506.2). They may also adopt another Federal agency's EIS (§ 1506.3).

viii. *Consistent terminology.* The regulations provide uniform terminology for the implementation of NEPA (§ 1508.1). For instance, the CEQ term "environmental assessment" will replace the following (nonexhaustive) list of comparable existing agency procedures: "survey" (Corps of Engineers), "environmental analysis" (Forest Service), "normal or special clearance" (HUD), "environmental analysis report" (Interior), and "marginal impact statement" (HEW) (§ 1508.9).

ix. *Incorporation by reference.* Agencies are encouraged to incorporate material by reference into the environmental impact statement when the material is not of central importance and when it is readily available for public inspection (§ 1502.21).

x. *Specific comments.* The regulations require that comments on environmental impact statements be as specific as possible to facilitate a timely and informative exchange of views among the lead agency and other agencies and the public (§ 1503.3).

xi. *Simplified procedures for making minor changes in environmental impact statements.* If comments on a draft environmental impact statement require only minor changes or factual corrections, an agency may circulate the comments, responses thereto, and the changes from language in the draft statement, rather than rewriting and circulating the entire document as a final environmental impact statement (§ 1506.4).

xii. *Combining documents.* Agencies may combine environmental impact statements and other environmental documents with any other document used in agency planning and decisionmaking (§ 1506.4).

xiii. *Reducing paperwork involved in reporting requirements.* The regulations will reduce the paperwork involved in reporting requirements as summarized below. In comparing the requirements under the existing Guidelines and the new CEQ regulations, it should be kept in mind that the regulations cover Sections 102(2)(A) through (I) of NEPA, while the Guidelines cover only Section 102(2)(C) (environmental impact statements). CEQ's new regulations will also replace more than 70 different existing sets of individual agency regulations. (Under the new regulations each agency will only issue implementing procedures to explain how the regulations apply to its particular policies and programs (§ 1507.3).)

Existing requirements (Applicable guidelines sections are noted)	New requirements (Applicable regulations sections are noted)
Assessment (optional under Guidelines on a case-by-case basis; currently required, however, by most major agencies in practice or in procedures) Sec. 1500.6.	*Assessment* (limited requirement: not required where there would not be environmental effects or where an EIS will be required) Secs. 1501.3, .4.
Notice of intent to prepare impact statement Sec. 1500.6.	*Notice of intent* to prepare EIS and commence scoping process Sec. 1501.7.
Quarterly list of notices of intent Sec. 1500.6.	Requirement abolished.
Negative determination (decision not to prepare impact statement) Sec. 1500.6.	*Finding of no significant impact* Sec. 1501.4.
Quarterly list of negative determinations Sec. 1500.6.	Requirement abolished.
Draft EIS Sec. 1500.7	*Draft EIS* Sec. 1502.9.
Final EIS Sec. 1500.6, .10	*Final EIS* Sec. 1502.9.
EISs on non-agency legislative reports ("agency reports on legislation initiated elsewhere") Sec. 1500.5(a)(1).	Requirment abolished.
Agency report to CEQ on implementation experience Sec. 1500.14(b).	Requirement abolished.
Agency report to CEQ on substantive guidance Secs. 1500.6(c), .14.	Requirement abolished.
Record of decision (no Guideline provision but required by many agencies' own procedures and in a wide range of cases generally under the Administrative Procedure Act and OMB Circular A-95, Part I, Sec. 6(c) and (d), Part II, Sec. 5(b)(4)).	*Record of decision* (brief explanation of decision based in part on EIS that was prepared; no circulation requirement) Sec. 1505.2.

B. Reducing Delay

The measures to reduce delay are listed below.

i. *Time limits on the NEPA process.* The regulations encourage lead agencies to set time limits on the NEPA process and require that time limits be set when requested by an applicant (§§ 1501.7(b)(2), 1501.8).

ii. *Integrating EIS requirements with other environmental review requirements.* Often the NEPA process and the requirements of other laws proceed separately, causing delay. The regulations provide for all agencies with jurisdiction over a proposal to cooperate so that all reviews may be conducted simultaneously (§§ 1501.7, 1502.25).

iii. *Integrating the NEPA process into early planning.* If environmental review is tacked on to the end of the planning process, then the process is prolonged, or else the EIS is written to justify a decision that has already been made and genuine consideration may not be given to environmental factors. The regulations require agencies to integrate the NEPA process with other planning at the earliest possible time (§ 1501.2).

iv. *Emphasizing interagency cooperation before the EIS is drafted.* The regulations emphasize that other agencies should begin cooperating with the lead agency before the EIS is prepared in order to encourage early resolution of differences (§ 1501.6). We hope that early cooperation among affected agencies in preparing a draft EIS will produce a better draft and will reduce delays caused by unnecessarily late criticism.

v. *Swift and fair resolution of lead agency disputes.* When agencies differ as to who shall take the lead in preparing an EIS, or when none is willing to take the lead, the regulations provide a means for prompt resolution of the dispute (§ 1501.5).

vi. *Preparing EISs on programs and not repeating the same material in project specific EISs.* Material common to many actions may be covered in a broad EIS, and then through "tiering" may be summarized and incorporated by reference rather than reiterated in each subsequent EIS (§§ 1502.4, 1502.20, 1502.21, 1508.28).

vii. *Legal delays.* The regulations provide that litigation, if any, should come at the end rather than in the middle of the process (§ 1500.3).

viii. *Accelerated procedures for legislative proposals.* The regulations provide accelerated, simplified procedures for environmental analysis of legislative proposals, to fit better with Congressional schedules (§ 1506.8).

ix. *Categorical exclusions.* Under the regulations, categories of actions which do not individually or cumulatively have a significant effect on the human environment may be excluded from environmental review requirements (§ 1508.4).

x. *Finding of no significant impact.* If an action has not been categorically excluded from environmental review under § 1508.4, but nevertheless will not significantly affect the quality of the human environment, the agency will issue a finding of no significant impact as a basis for not preparing an EIS (§ 1508.13).

C. Better Decisions

Most of the features described above will help to improve decisionmaking. This, of course, is the fundamental purpose of the NEPA process the end to which the EIS is a means. Section 101 of NEPA sets forth the substantive requirements of the Act, the policy to be implemented by the "action-forcing" procedures of Section 102. These procedures must be tied to their intended purpose, otherwise they are indeed useless paperwork and wasted time.

i. *Recording in the decision how the EIS was used.* The new regulations re-

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quire agencies to produce a concise public record, indicating how the EIS was used in arriving at the decision (§ 1505.2). This record of decision must indicate which alternative (or alternatives) considered in the EIS is preferable on environmental grounds. Agencies may also discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. Agencies should identify those "essential considerations of national policy", including factors not related to environmental quality, which were balanced in making the decision.

ii. *Insure follow-up of agency decisions.* When an agency requires environmentally protective mitigation measures in its decisions, the regulations provide for means to ensure that these measures are implemented and monitored (§ 1505.3).

iii. *Securing more accurate, professional documents.* The regulations require accurate documents as the basis for sound decisions. As provided by Section 102(2)(A) of NEPA, the documents must draw upon all the appropriate disciplines from the natural and social sciences, plus the environmental design arts (§ 1502.6). The lead agency is responsible for the professional integrity of environmental documents and requirements are established to ensure this result, such as special provisions regarding the use of data provided by an applicant (§ 1506.5). A list of people who helped prepare documents, and their professional qualifications, shall be included in the EIS to encourage professional responsibility and ensure that an interdisciplinary approach was followed (§ 1502.17).

The regulations establish a streamlined process, and one which has a broader purpose than the Guidelines they replace. The Guidelines emphasized a single document, the EIS, while the regulations emphasize the entire NEPA process, from early planning through assessment and EIS preparation through decisions and provisions for follow-up. They are designed to gear means to ends—to ensure that the action-forcing procedures of Section 102(2) of NEPA are used by agencies to fulfill the requirements of the Congressionally mandated policy set out in Section 101 of the Act. Furthermore, the regulations are uniform, applying in the same way to all Federal agencies, although each agency will develop its own procedures for implementing the regulations. With these new regulations we seek to carry out as faithfully as possible the original intent of Congress in enacting NEPA.

3. Background

The Council was greatly assisted by the hundreds of people who responded to our call for suggestions on how to make the NEPA process work better. In all, the Council sought the views of almost 12,000 private organizations, individuals, State and local agencies, and Federal agencies. In public hearings which we held in June 1977, we invited testimony from a broad array of public officials, organizations, and private citizens, affirmatively involving NEPA's critics as well as its friends.

Among those represented were the U.S. Chamber of Commerce, which coordinated testimony from business; the Building and Construction Trades Department of the AFL-CIO, which did so for labor; the National Conference of State Legislatures, for State and local governments; and the Natural Resources Defense Council, for environmental groups. Scientists, scholars, and the general public were also represented.

There was broad consensus among these diverse witnesses. All, without exception, expressed the view that NEPA benefited the public. Equally widely shared was the view that the process had become needlessly cumbersome and should be streamlined. Witness after witness said that the length and detail of EISs made it difficult to distinguish the important from the trivial. The degree of unanimity about the good and bad points of the NEPA process was such that at one point an official spokesperson for the oil industry rose to say that he adopted in its entirety the presentation of the President of the Sierra Club.

After the hearings we culled the record to organize both the problems and the solutions proposed by witnesses into a 38-page "NEPA Hearing Questionnaire." The questionnaire was sent to all witnesses, every State governor, all Federal agencies, and everyone who responded to an invitation in the Federal Register. We received more than 300 replies, from a broad cross section of groups and individuals. By the comments we received from respondents we gauged our success in faithfully presenting the results of the public hearings. One commenter, an electric utility official, said that for the first time in his life he knew the government was listening to him, because all the suggestions made at the hearing turned up in the questionnaire. We then collated all the responses for use in drafting the regulations.

We also met with every agency of the Federal government to discuss what should be in the regulations. Guided by these extensive interactions with government agencies and the public, we prepared draft regulations which were circulated for comment to all Federal agencies in December, 1977. We then studied agency comments in detail, and consulted numerous Federal officials with special experience in implementing the Act. Informal redrafts were circulated to the agencies with greatest experience in preparing environmental impact statements.

At the same time that Federal agencies were reviewing the early draft, we continued to meet with, listen to, and brief members of the public, including representatives of business, labor, State and local governments, environmental groups, and others. Their views were considered during this early stage of the rulemaking. We also considered seriously and proposed in our regulations virtually every major recommendation made by the Commission on Federal Paperwork and the General Accounting Office in their recent studies on the environmental impact statement process. The studies by these two independent bodies were among the most detailed and informed reviews of the paperwork abuses in the impact statement process. In many cases, such as streamlining intergovernmental coordination, the proposed regulations go further than their recommendations.

On June 9, 1978 the regulations were proposed in draft form (43 FR at pages 25230-25247) and the Council announced that the period for public review of and comment on the draft regulations would extend for two months until August 11, 1978. During this period, the Council received almost 500 written comments on the draft regulations, most of which contained specific and detailed suggestions for improving them. These comments were again broadly representative of the various interests which are involved in the NEPA process.

The Council carefully reevaluated the regulations in light of the comments we received. The Council's staff read and analyzed each of the comments and developed recommendations for responding to them. A clear majority of the comments were favorable and expressed strong support for the draft regulations as a major improvement over the existing Guidelines. Some comments suggested further improvements through changes in the wording of specific provisions. A smaller number expressed more general concerns about the approach and direction taken by the regulations. In continuing efforts to resolve issues raised during the review, staff members conducted numerous meetings with individuals and groups who had offered comments and with representatives of affected Federal agencies. This process continued until most concerns with the proposals were alleviated or satisfied.

When, after discussions and review the Council determined that the comments raised valid concerns, we altered the regulations accordingly. When we

decided that reasons supporting the regulations were stronger than those for challenging them, we left the regulations unchanged. Part 4 of the Preamble describes section by section the more significant comments we received, and how we responded to them.

4. Comments and the Council's Response

PART 1500—PURPOSE, POLICY AND MANDATE

Comments on § 1500.3: Mandate. Section 1500.3 of the draft regulations stated that it is the Council's intention that judicial review of agency compliance with the regulations not occur before an agency has filed the final environmental impact statement, causes irreparable injury, or has made a finding of no significant impact. Some comments expressed concern that court action might be commenced under this provision following a finding of no significant impact which was only tentative and did not represent a final determination that an environmental impact statement would not be prepared.

The Council made two changes in response to this concern: First, the word "final" was inserted before the phrase "finding of no significant impact." Thus, the Council eliminated the possibility of interpreting this phrase to mean a preliminary or tentative determination. Second, a clarification was added to this provision to indicate the Council's intention that judicial review would be appropriate only where the finding of no significant impact would lead to action affecting the environment.

Several comments on § 1500.3 expressed concern that agency action could be invalidated in court proceedings as the result of trivial departures from the requirements established by the Council's regulations. This is not the Council's intention. Accordingly, a sentence was added to indicate the Council's intention that a trivial departure from the regulations not give rise to an independent cause of action under law.

PART 1501—NEPA AND AGENCY PLANNING

Comments on § 1501.2: Apply NEPA early in process. Section (d)(1) of § 1501.2 stated that Federal agencies should take steps to ensure that private parties and State and local entities initiate environmental studies as soon as Federal involvement in their proposals can be foreseen. Several commenters raised questions concerning the authority of a Federal agency to require that environmental studies be initiated by private parties, for example, even before that agency had become officially involved in the review of the proposal.

The Council's intention in this provision is to ensure that environmental factors are considered at an early stage in the planning process. The Council recognizes that the authority of Federal agencies may be limited before their duty to review proposals initiated by parties outside the Federal government officially begins. Accordingly, the Council altered subsection (d)(1) of § 1501.2 to require that in such cases Federal agencies must ensure that "[p]olicies or designated staff are available to advise potential applicants of studies or other information foreseeably required by later Federal action." The purpose of the amended provision is to assure the full cooperation and support of Federal agencies for efforts by private parties and State and local entities in making an early start on studies for proposals that will eventually be reviewed by the agencies.

Comments on § 1501.3: When to prepare an environmental assessment. One commenter asked whether an environmental assessment would be required where an agency had already decided to prepare an environmental impact statement. This is not the Council's intention. To clarify this point, the Council added a sentence to this provision stating that an assessment is not necessary if the agency has decided to prepare an environmental impact statement.

Comments on § 1501.5: Lead agencies. The Council's proposal was designed to insure the swift and fair resolution of lead agency disputes. Section 1501.5 of the draft regulations established procedures for resolving disagreements among agencies over which of them must take the lead in preparing an environmental impact statement. Under subsection (d) of this section, persons and governmental entities substantially affected by the failure of Federal agencies to resolve this question may request these agencies in writing to designate a lead agency forthwith. If this request has not been met "within a reasonable period of time," subsection (e) authorizes such persons and governmental entities to petition the Council for a resolution of this issue.

Several comments objected to the phrase "within a reasonable time" because it was vague, and left it uncertain when concerned parties could file a request with the Council. The comments urged that a precise time period be fixed instead. The Council adopted this suggestion and substituted 45 days for the phrase "within a reasonable period of time." With this change, the regulations require that a lead agency be designated, if necessary by the Council, within a fixed period following a request from concerned parties that this be done.

Several commenters suggested that the Council take responsibility for designating lead agencies in every case to reduce delay. These commenters recommended that all preliminary steps be dropped in favor of immediate Council action whenever the lead agency issue arose.

The Council determined, however, that individual agencies are in the best position to decide these questions and should be given the opportunity to do so. In view of its limited resources, the Council does not have the capability to make lead agency designations for all proposals. As a result of these factors, the Council determined not to alter this provision.

Several commenters opposed the concept of joint lead agencies authorized by subsection (b) of this section, particularly where two or more of the agencies are Federal. These commenters expressed doubt that Federal agencies could cooperate in such circumstances and stated their view that the environmental review process will only work where one agency is given primary responsibility for conducting it.

In the Council's judgment, however, the designation of joint lead agencies may be the most efficient way to approach the NEPA process where more than one agency plays a significant role in reviewing proposed actions. The Council believes that Federal agencies should have the option to become joint lead agencies in such cases.

Comments on § 1501.6: Cooperating agencies. The Council developed proposals to emphasize interagency cooperation before the environmental impact statement was prepared rather than comments on a completed document. Section 1501.6 stated that agencies with jurisdiction by law over a proposal would be required to become "cooperating agencies" in the preparation of an EIS should the lead agency request that they do so. Under subsection (b) of this provision, "cooperating agencies" could be required to assume responsibility for developing information and analysis within their special competence and to make staff support available to enhance the interdisciplinary capability of the lead agency.

Several comments pointed out that principal authority for environmental matters resides in a small number of agencies in the Federal government. Concern was expressed that these few agencies could be inundated with requests for cooperation in the preparation of EISs and, if required to meet these requests in every case, drained of resources required to fulfill other statutory mandates.

The Council determined that this was a valid concern. Accordingly, it added a new subsection (c) to this sec-

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tion which authorizes a cooperating agency to decline to participate or otherwise limit its involvement in the preparation of an EIS where existing program commitments preclude more extensive cooperation.

Subsection (b)(5) of this section provided that a lead agency shall finance the major activities or analyses it requests from cooperating agencies to the extent available funds permit. Several commenters expressed opposition to this provision on grounds that a lead agency should conserve its funds for the fulfillment of its own statutory mandate rather than disburse funds for analyses prepared by other agencies.

The same considerations apply, however, to cooperating agencies. All Federal agencies are subject to the mandate of the National Environmental Policy Act. This provision of the regulations allows a lead agency to facilitate compliance with this statute by funding analyses prepared by cooperating agencies "to the extent available funds permit." In the Council's view, this section will enhance the ability of a lead agency to meet all of its obligations under law.

Section 1501.7: Scoping. The new concept of "scoping" was intended by the Council and perceived by the great preponderance of the commenters as a means for early identification of what are and what are not the important issues deserving of study in the EIS. Section 1501.7 of the draft regulations established a formal mechanism for agencies, in consultation with affected parties, to identify the significant issues which must be discussed in detail in an EIS, to identify the issues that do not require detailed study, and to allocate responsibilities for preparation of the document. The section provided that a scoping meeting must be held when practicable. One purpose of scoping is to encourage affected parties to identify the crucial issues raised by a proposal before an environmental impact statement is prepared in order to reduce the possibility that matters of importance will be overlooked in the early stages of a NEPA review. Scoping is also designed to ensure that agency resources will not be spent on analysis of issues which none concerned believe are significant. Finally, since scoping requires the lead agency to allocate responsibility for preparing the EIS among affected agencies and to identify other environmental review and consultation requirements applicable to the project, it will set the stage for a more timely, coordinated, and efficient Federal review of the proposal.

The concept of scoping was one of the innovations in the proposed regulations most uniformly praised by members of the public ranging from business to environmentalists. There was considerable discussion of the details of implementing the concept. Some commenters objected to the formality of the scoping process, expressing the view that compliance with this provision in every case would be time-consuming, would lead to legal challenges by citizens and private organizations with objections to the agency's way of conducting the process, and would lead to paperwork since every issue raised during the process would have to be addressed to some extent in the environmental impact statement. These commenters stated further that Federal agencies themselves were in the best position to determine matters of scope, and that public participation in these decisions was unnecessary because any scoping errors that were made by such agencies could be commented upon when the draft EIS was issued (as was done in the past) and corrected in the final document. These commenters urged that scoping at least be more open-ended and flexible and that agencies be merely encouraged rather than required to undertake the process.

Other commenters said that the Council had not gone far enough in imposing uniform requirements. These commenters urged the Council to require that a scoping meeting be held in every case, rather than only when practicable; that a scoping document be issued which reflected the decisions reached during the process; and that formal procedures be established for the resolution of disagreements over scope that arise during the scoping process. These commenters felt that more stringent requirements were necessary to ensure that agencies did not avoid the process.

In developing § 1501.7, the Council sought to ensure that the benefits of scoping would be widely realized in Federal decisionmaking, but without significant disruptions for existing procedures. The Council made the process itself mandatory to guarantee that early cooperation among affected parties would be initiated in every case. However, § 1501.7 left important elements of scoping to agency discretion. After reviewing the recommendations for more flexibility on the one hand, and more formality on the other, and while making several specific changes in response to specific comments, the Council determined that the proper balance had been struck in Section 1501.7 and did not change the basic outline of this provision. The Council did accept amendments to make clear that scoping meetings were permissive and that an agency might make provision for combining its scoping process with its environmental assessment process.

Comments on § 1501.8: Time limits. Reducing delay and uncertainty by the use of time limits is one of the Council's principal changes. Section 1501.8 of the draft regulations established criteria for setting time limits for completion of the entire NEPA process or any part of the process. These criteria include the size of the proposal and its potential for environmental harm, the state of the art, the number of agencies involved, the availability of relevant information and the time required to obtain it. Under this section, if a private applicant requests a lead agency to set time limits for an EIS review, the agency must do so provided that the time limits are consistent with the purposes of NEPA and other essential considerations of national policy. If a Federal agency is the sponsor of a proposal for major action, the lead agency is encouraged to set a timetable for the EIS review.

Several commenters objected to the concept of time limits for the NEPA process. In their opinion, the uncertainties involved in an EIS review and competing demands for limited Federal resources could make it difficult for agencies to predict how much time will be required to complete environmental impact statements on major proposals. These commenters were concerned that time limits could prompt agencies to forego necessary analysis in order to meet deadlines. In their view, the concept of time limits should be dropped from the regulations in favor of more flexible "targets" or "goals" which would be set only after consultation with all concerned parties.

On the other side of the question, the Council received several comments that the provision for time limits was not strict enough. These comments expressed concern that the criteria contained in the draft regulations were vague and would not serve effectively to encourage tight timetables for rapid completion of environmental reviews. The Council was urged to strengthen this section by including definite time limits for the completion of the EIS process in every case or by providing that CEQ itself set such limits for every environmental review, and by setting time limits for the establishment of time limits.

A primary goal of the Council's regulations is to reduce delays in the EIS process. The Council recognizes the difficulties of evaluating in advance the time required to complete environmental reviews. Nevertheless, the Council believes that a provision for time limits is necessary to concentrate agencies' attention on the timely completion of environmental impact statements and to provide private applicants with reasonable certainty as to how long the NEPA process will take. Section 1501.7(c) of the regulations

allows revision of time limits if significant new circumstances (including information) arise which bear on the proposal or its impacts.

At the same time, the Council believes that precise time limits to apply uniformly across government would be unrealistic. The factors which determine the time needed to complete an environmental review are various, including the state of the art, the size and complexity of the proposal, the number of Federal agencies involved, and the presence of sensitive ecological conditions. These factors may differ significantly from one proposal to the next. The same law that applies to a Trans-Alaska pipeline may also apply to a modest federally funded building in a historic district. In the Council's judgment, individual agencies are in the best position to perform this function. The Council does not have the resources to weigh these factors for each proposal. Accordingly, the Council determined not to change these provisions of § 1501.8 of the regulations.

PART 1502—ENVIRONMENTAL IMPACT STATEMENT

Comments on Section 1502.5: Timing. Several commenters noted that it has become common practice in informal rulemaking for Federal agencies to issue required draft environmental impact statements at the same time that rules are issued in proposed form. These commenters expressed the view that this procedure was convenient, time-saving and consistent with NEPA, and urged that the regulations provide for it. The Council added a new subsection (d) to § 1502.5 on informal rulemaking stating that this procedure shall normally be followed.

Comments on section 1502.7: Page limits. A principal purpose of these regulations is to turn bulky, often unused EISs into short, usable documents which are in fact used. Section 1502.7 of the draft regulations provided that final environmental impact statements shall normally be less than 150 pages long and, for proposals of unusual scope or complexity, shall normally be less than 300 pages. Numerous commenters expressed strong support for the Council's decision to establish page limits for environmental impact statements.

Several commenters objected to the concept of page limits for environmental impact statements on grounds that it could constrain the thoroughness of environmental reviews. Some said that the limits were too short and would preclude essential analysis; others contended that they were too long and would encourage the inclusion of unnecessary detail. One commenter proposed a "sliding scale" for page limits; another suggested that a limitation on the number of words would be more effective than a limitation on the number of pages. A number of commenters urged that page limits be simply recommended rather than established as standards that should normally be met.

The usefulness of the NEPA process to decisionmakers and the public has been jeopardized in recent years by the length and complexity of environmental impact statements. In accordance with the President's directive, a primary objective of the regulations is to insure that these documents are clear, concise, and to the point. Numerous provisions in the regulations underscore the importance of focusing on the major issues and real choices facing federal decisionmakers and excluding less important matters from detailed study. Other sections in the regulations provide that certain technical and background materials developed during the environmental review process may be appended but need not be presented in the body of an EIS.

The Council recognizes the tension between the requirement of a thorough review of environmental issues and a limitation on the number of pages that may be devoted to the analysis. The Council believes that the limits set in the regulations are realistic and will help to achieve the goal of more succinct and useful environmental documents. The Council also determined that a limitation on the number of words in an EIS was not required for accomplishing the objective of this provision. The inclusion of the term "normally" in this provision accords Federal agencies latitude if abnormal circumstances exist.

Others suggested that page limits might result in conflict with judicial precedents on adequacy of EISs, that the proverbial kitchen sink may have to be included to insure an adequate document, whatever the length. The Council trusts and intends that this not be the case. Based on its day-to-day experience in overseeing the administration of NEPA throughout the Federal government, the Council is acutely aware that in many cases bulky EISs are not read and are not used by decisionmakers. An unread and unused document quite simply cannot achieve the purpose Congress set for it. The only way to give greater assurance that EISs will be used is to make them usable and that means making them shorter. By way of analogy, judicial opinions are themselves often models of compact treatment of complex subjects. Departmental option documents often provide brief coverage of complicated decisions. Without sacrifice of analytical rigor, we see no reason why the material to be covered in an EIS cannot normally be covered in 150 pages (or 300 pages in extraordinary circumstances).

Comments on § 1502.10: Recommended format. Section 1502.10 stated that agencies shall normally use a standard format for environmental impact statements. This provision received broad support from those commenting on the draft regulations.

As part of the recommended format, environmental impact statements would be required to describe the environmental consequences of a proposed action before they described the environment that would be affected. Many commenters felt that these elements of the EIS should be reversed so that a description of the environmental consequences of a proposal would follow rather than precede a description of the affected environment. The commenters stated their view that it would be easier for the reader to appreciate the nature and significance of environmental consequences if a description of the affected environment was presented first. The Council concurs in this view and adopted the suggested change.

Comments on § 1502.13: Purpose and need. This section of the draft regulations provided that agencies shall briefly specify—normally in one page or less—the underlying purpose and need to which the agency is responding in proposing alternatives for action. Many commenters stated that in some cases this analysis would require more than one page. The Council responded to these comments by deleting the one page limitation.

Comments on § 1502.14: Alternatives including the proposed action. Subsection (a) of this section of the draft regulations provided, among other things, that agencies shall rigorously explore and objectively evaluate all reasonable alternatives. This provision was strongly supported by a majority of those who commented on the provision.

A number of commenters objected to the phrase "all reasonable alternatives" on the grounds that it was unduly broad. The commenters suggested a variety of ways to narrow this requirement and to place limits on the range and type of alternatives that would have to be considered in an EIS.

The phrase "all reasonable alternatives" is firmly established in the case law interpreting NEPA. The phrase has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed. Accordingly, the Council determined not to alter this subsection of the regulations.

Subsection (c) requires Federal agencies to consider reasonable alternatives not within the jurisdiction of the lead agency. Subsection (d) requires consideration of the no action alternative. A

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few commenters inquired into the basis for these provisions. Subsections (c) and (d) are declaratory of existing law.

Subsection (e) of this section required Federal agencies to designate the "environmentally preferable alternative (or alternatives, if two or more are equally preferable)" and the reasons for identifying it. While the purpose of NEPA is better environmental decisionmaking, the process itself has not always successfully focused attention on this central goal. The objective of this requirement is to ensure that Federal agencies consider which course of action available to them will most effectively promote national environmental policies and goals. This provision was strongly supported in many comments on the regulations.

Some commenters noted that a wide variety of decisionmaking procedures are employed by agencies which are subject to NEPA and recommended flexibility to accommodate these diverse agency practices. In particular, the commenters recommended that agencies be given latitude to determine at what stage in the NEPA process—from the draft EIS to the record of decision—the environmentally preferable alternative would be designated.

The Council adopted this recommendation and deleted this requirement from the EIS portion of the regulations (§ 1502.14), while leaving it in § 1505.2 regarding the record of decision. Nothing in these regulations would preclude Federal agencies from choosing to identify the environmentally preferable alternative or alternatives in the environmental impact statement.

Comments on § 1502.15: Environmental consequences. Subsection (e) of this section requires an environmental impact statement to discuss energy requirements and conservation potential of various alternatives and mitigation measures. One commenter asked whether the subsection would require agencies to analyze total energy costs, including possible hidden or indirect costs, and total energy benefits of proposed actions. The Council intends that the subsection be interpreted in this way.

Several commenters suggested that the regulations expressly mention the quality of the urban environment as an environmental consequence to be discussed in an environmental impact statement. The Council responded by adding a new subsection (g) to this section requiring that EISs include a discussion of urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures. Section 1502.15 has been renumbered as § 1502.16.

Comments on § 1502.17: List of preparers. Section 1502.17 provided that environmental impact statements shall identify and describe the qualifications and professional disciplines of those persons who were primarily involved in preparing the document and background analyses. This section has three principal purposes: First, Section 102(2)(A) of NEPA requires Federal agencies to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment." The list of preparers will provide a basis for evaluating whether such a "systematic interdisciplinary approach" was used in preparing the EIS. Second, publication of a list of preparers increases accountability for the analyses appearing in the EIS and thus tends to encourage professional competence among those preparing them. Finally, publication of the list will enhance the professional standing of the preparers by giving proper attribution to their contributions, and making them a recognized part of the literature of their disciplines. This provision received broad support from those commenting on the regulations.

Some commenters felt that a list of preparers would be used as a list of witnesses by those challenging the adequacy of an EIS in court proceedings. However, this information would ordinarily be available anyway through normal discovery proceedings.

Section 1502.17 was also criticized for failing expressly to mention expertise and experience as "qualifications" for preparing environmental impact statements. The Council added these two terms to this section to insure that the term "qualifications" would be interpreted in this way.

Some commenters suggested that the list of preparers should also specify the amount of time that was spent on the EIS by each person identified. These commenters felt that such information was required as a basis for accurately evaluating whether an interdisciplinary approach had been employed. While the Council felt there was much to be said for this suggestion, it determined that the incremental benefits gained from this information did not justify the additional agency efforts that would be required to provide it.

Comments on § 1502.19: Circulation of the environmental impact statement. If an EIS is unusually long, Section 1502.19 provided, with certain exceptions, that a summary can be circulated in lieu of the entire document. Several commenters suggested that private applicants sponsoring a proposal should receive the entire environmental impact statement in every case in view of their interest and probable involvement in the NEPA process. The Council concurs and altered this provision accordingly.

Comments on § 1502.20: Tiering. Section 1502.20 encouraged agencies to tier their environmental impact statements to eliminate repetitive discussions and to focus on the actual issues ripe for decision at each level of environmental review. Some commenters objected to tiering on grounds that it was not required by NEPA and would add an additional unauthorized layer to the environmental review process.

Section 1502.20 authorizes tiering of EISs; it does not require that it be done. In addition, the purpose of tiering is to simplify the EIS process by providing that environmental analysis completed at a broad program level not be duplicated for site-specific project reviews. Many agencies have already used tiering successfully in their decisionmaking. In view of these and other considerations, the Council determined not to alter this provision.

Comments on § 1502.22: Incomplete or unavailable information. Section 1502.22 provided, among other things, that agencies prepare a worst case analysis of the risk and severity of possible adverse environmental impacts when it proceeds with a proposal in the face of uncertainty. This provision received strong support from many commenters.

Several commenters expressed concern that this requirement would place undue emphasis on the possible occurence of adverse environmental consequences regardless of how remote the possiblity might be. In response, the Council added a phrase designed to ensure that the improbability as well as the probability of adverse environmental consequences would be discussed in worst case analyses prepared under this section.

Section 1502.22 stated that if information is essential to a reasoned choice among alternatives and is not known and the costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement. Some commenters inquired into the meaning of the term "costs." The Council intends for this word to be interpreted as including financial and other costs and adopted the phrase "overall costs" to convey this meaning.

PART 1503—COMMENTING

Comments on § 1503.1: Inviting comments. Section 1503.1 set forth the responsibility of Federal agencies to solicit comments on environmental impact statements. Several commenters observed that may Federal

agencies solicit comments from State and local environmental agencies through procedures established by Office of Management and Budget Circular A-95 and suggested that the Council confirm this approach in the regulations. The Council adopted this suggestion by adding an appropriate paragraph to the section.

Comments on § 1503.2: Duty to comment. Section 1503.2 set forth the responsibilities of Federal agencies to comment on environmental impact statements. Several commenters suggested reinforcing the requirement that Federal agencies are subject to the same time limits as those outside the Federal government in order to avoid delays. The Council concurred in this suggestion and amended the provision accordingly. The Council was constrained from further changes by the requirement of Section 102(2)(C) of NEPA that agencies "consult with and obtain" the comments of specified other agencies.

Comments on § 1503.3: Specificity of comments. Section 1503.3 of the draft regulations elaborated upon the responsibilities of Federal agencies to comment specifically upon draft environmental impact statements prepared by other agencies. Several commenters suggested that cooperating agencies should assume a particular obligation in this regard. They noted that cooperating agencies which are themselves required independently to evaluate and/or approve the proposal at some later stage in the Federal review process are uniquely qualified to advise the lead agency of what additional steps may be required to facilitate these actions. In the opinion of these commenters, cooperating agencies should be required to provide this information to lead agencies when they comment on draft EISs so that the final EIS can be prepared with further Federal involvement in mind.

The Council adopted this suggestion and amended § 1503.3 through the addition of new subsections (c) and (d). The new subsections require cooperating agencies, in their comments on draft EISs, to specify what additional information, if any, is required for them to fulfill other applicable environmental review and consultation requirements, and to comment adequately on the site-specific effects to be expected from issuance of subsequent Federal approvals for the proposal. In addition, if a cooperating agency criticizes the proposed action, this section now requires that it specify the mitigation measures which would be necessary in order for it to approve the proposal under its independent statutory authority.

Comments on § 1504.3: Procedure for referrals and response. Several commenters noted that § 1504.3 did not establish a role for members of the public or applicants in the referral process. The Council determined that such persons and organizations were entitled to a role and that their views would be helpful in reaching a proper decision on the referral. Accordingly, the Council added subsection (e) to this section, authorizing interested persons including the applicant to submit their views on the referral, and any response to the referral, in writing to the Council.

Subsection (d) of this section provided that the Council may take one of several actions within 25 days after the referral and agency responses to the referral, if any, are received. Several commenters observed, however, that this subsection did not establish a deadline for final action by the Council in cases where additional discussions, public meetings, or negotiations were deemed appropriate. These commenters expressed concern that the absence of a deadline could lead to delays in concluding the referral process. The Council concurred. Accordingly, the Council added subsection (g) to this section which requires that specified actions be completed within 60 days.

Several commenters noted that the procedures established by Section 1504.3 may be inappropriate for referrals which involve agency determinations required by statute to be made on the record after opportunity for public hearing. The Council agrees. The Council added subsection (h) to this section requiring referrals in such cases to be conducted in a manner consistent with 5 U.S.C. 557(d). Thus, communications to agency officials who made the decision which is the subject of the referral must be made on the public record and after notice to all parties to the referral proceeding. In other words, ex parte contacts with agency decisionmakers in such cases are prohibited.

PART 1505—NEPA AND AGENCY DECISIONMAKING

Comments on Section 1501.1: Agency decisionmaking procedures. Some commenters asked whether this or other sections of the regulations would allow Federal agencies to place responsibility for compliance with NEPA in the hands of those with decisionmaking authority at the field level. Nothing in the regulations would prevent this arrangement. By delegating authority in this way, agencies can avoid multiple approvals of environmental documents and enhance the role of those most directly involved in their preparation and use. For policy oversight and quality control, an environmental quality review office at the national level can, among other things, establish general procedures and guidance for NEPA compliance, monitor agency performance through periodic review of selected environmental documents, and facilitate coordination among agency subunits involved in the NEPA process.

Comments on § 1505.2: Record of decision in those cases requiring environmental impact statements. Section 1505.2 provided that in cases where an environmental statement was prepared, the agency shall prepare a concise public record stating what its final decision was. If an environmentally preferable alternative was not selected, § 1505.2 required the record of decision to state why other specific considerations of national policy overrode those alternatives.

This requirement was the single provision most strongly supported by individuals and organizations commenting on the regulations. These commenters stated, among things, that the requirement for a record of decision would be the most significant improvement over the existing process, would procedurally link NEPA's documentation to NEPA's policy, would relate the EIS process to agency decisionmaking, would ensure that EISs are actually considered by Federal decisionmakers, and was required as sound administrative practice.

As noted above, the Council decided that agencies shall identify the environmentally preferable alternative and the reasons for identifying it in the record of decision. *See* Comments on § 1502.14. The Council's decision does not involve the preparation of additional analysis in the EIS process; it simply affects where the analysis will be presented.

Some commenters objected to the concept of a public record of decision on actions subject to NEPA review. In the Council's opinion, however, a public record of decision is essential for the effective implementation of NEPA. As previously noted, environmental impact statement preparation has too often become an end in itself with no necessary role in agency decisionmaking. One serious problem with the administration of NEPA has been the separation between an agency's NEPA process and its decisionmaking process. In too many cases bulky EISs have been prepared and transmitted but not used by the decisionmaker. The primary purpose of requiring that a decisionmaker concisely record his or her decision in those cases where an EIS has been prepared is to tie means to ends, to see that the decisionmaker considers and pays attention to what the NEPA process has shown to be an environmentally sensitive way of doing things. Other factors may, on balance, lead the decisionmaker to decide that other policies outweigh the environmental ones, but at least

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the record of decision will have achieved the original Congressional purpose of ensuring that environmental factors are integrated into the agency's decisionmaking.

Some commenters expressed the opinion that it could be difficult for Federal agencies to identify the environmentally preferable alternative or alternatives because of the multitude of factors that would have to be weighed in any such determination and the subjective nature of the balancing process. By way of illustration, commenters asked: Is clean water preferable to clean air, or the preservation of prime farmland in one region preferable to the preservation of wildlife habitat in another?

In response, the Council has amended the regulations to permit agencies to identify more than one environmentally preferable alternative, regardless of whether they are "equally" preferable, as originally proposed. Moreover, the "environmentally preferable alternative" will be that alternative which best promotes the national environmental policy as expressed in Section 101 of NEPA and most specifically in Section 101(b). Section 101(a) stresses that the policy is concerned with man and nature, to see that they exist in productive harmony and that the social, economic, and other requirements of present and future generations of Americans are fulfilled. Section 101(c) recognizes the need for a healthy environment and each person's responsibility to contribute to it. Section 101(b) contemplates Federal actions which will enable the Nation to fulfill the responsibilities of each generation as trustee for the environment for succeeding generations; to attain the widest range of beneficial uses of the environment; to preserve important historic, cultural and natural aspects of our national heritage; and to accomplish other important goals. The Council recognizes that the identification of the environmentally preferable alternative or alternatives may involve difficult assessments in some cases. The Council determined that the benefits of ensuring that decisionmakers consider and take account of environmental factors outweigh these difficulties. To assist agencies in developing and determining environmentally preferable alternatives, commenters on impact statements may choose to provide agencies with their views on this matter.

Several commenters expressed concern that the regulations did not authorize Federal agencies to express preferences based on factors other than environmental quality. In the opinion of these commenters, this emphasis on environmental considerations was misplaced and not consistent with the factors that agencies are expected to consider in decisionmaking.

The Council responded to these comments by reference to the statute, recognizing that Title II of NEPA and especially Section 101 clearly contemplate balancing of essential considerations of national policy. We provided that agencies may discuss preferences they have among alternatives based on relevant factors, including economic and technical considerations and agency statutory mission. Agencies should identify those considerations, including factors not related to environmental quality, which were balanced in making the decision. Nothing in the final regulations precludes Federal agencies from choosing to discuss these preferences and identifying these factors in the environmental impact statement.

Some commenters objected to the word "overrode" in this provision. The language of the Act and its legislative history make clear that Federal agencies must act in an environmentally responsible fashion and not merely consider environmental factors. NEPA requires that each Federal agency use "all practicable means and measures" to protect and improve the environment "consistent with other essential considerations of national policy." Section 101(b). The Council determined to tie this provision of the regulations to NEPA's statutory provision in place of the "overrode" language.

Several commenters expressed concern that the phrase "national policy" would not allow agencies to refer to state and local policies in the record of decision. "National policy" is the phrase used by Congress in NEPA. However, in many cases specific statutory provisions require that Federal agencies adhere to or pay heed to State and local policies.

Finally, some commenters expressed concern that the requirement for a concise record of decision would involve additional agency efforts. The intention is not to require new efforts, but to see that environmental considerations are built into existing processes. Preparing such decision records is recognized as good administrative practice and the benefits of this requirement outweigh the difficulties of building environmental considerations into the decisionmaking process.

Subsection (c) of § 1505.2 states that for any mitigation adopted a monitoring and enforcement program where applicable shall be adopted and summarized in the record of decision. One commenter asked what the term "summarized" was intended to mean in this context. The Council intends this word to be interpreted as requiring a brief and concise statement describing the monitoring and enforcement program which has been adopted.

Comments on § 1505.3: Implementing the decision. Section 1505.3 provides for mitigation of adverse environmental effects. Several commenters expressed concern that this provision would grant broad authority to the lead agency for mandating that other agencies undertake and monitor mitigation measures without their consent. This is not the Council's intention and the language of the provision does not support this interpretation.

PART 1506—OTHER REQUIREMENTS OF NEPA

Comments on §1506.1: Limitations on actions during NEPA process. Section 1506.1 placed limitations on actions which can be taken before completion of the environmental review process because of the possibility of prejudicing or foreclosing important choices. Some commenters expressed concern that these limitations would impair the ability of those outside the Federal government to develop proposals for agency review and approval. Accordingly, the Council added a new paragraph (d) to this section which authorizes certain limited activities before completion of the environmental review process.

Comments on § 1506.2: Elimination of duplication with State and local procedures. This section received strong support from many commenters. Several commenters sought clarification of the procedures established by this section. It provides for coordination among Federal, State and local agencies in several distinct situations. First, subsection (a) of this section simply confirms that Federal agencies funding State programs have been authorized by Section 102(2)(D) of NEPA to cooperate with certain State agencies with statewide jurisdiction in conducting environmental reviews. Second, subsection (b) provides generally for Federal cooperation with all States in environmental reviews such as joint planning processes, joint research, joint public hearings, and joint environmental assessments. Third, subsection (c) specifically provides for Federal cooperation with those States and localities which administer "little NEPA's." The Federal agencies are directed to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements. Approximately half the states now have some sort of environmental impact statement requirement either legislatively adopted or administratively promulgated. In these circumstances, Federal agencies are required to cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws. Finally, subsection (d) provides that Federal agencies generally shall in environmental impact statements discuss any inconsistency between a proposed action and any approved State or local plan or laws, regardless of whether the latter are Federally sanctioned.

Comments on § 1506.3: Adoption. Section 1506.3 authorized one Federal agency to adopt an environmental impact statement prepared by another in prescribed circumstances, provided that the statement is circulated for public comment in the same fashion as a draft EIS. Several commenters stated their view that recirculation was unnecessary if the actions contemplated by both agencies were substantially the same. The Council concurs and added a new paragraph (b) which provides that recirculation is not required in these circumstances.

Comments on § 1506.4: Combining documents. Section 1506.4 provided for the combination of environmental documents with other agency documents. Some commenters expressed the view that this section should enumerate the types of agency documents which could be combined under this provision. The Council concluded that such a list was not necessary and that such matters were better left to agency discretion. Thus, agencies may choose to combine a regulatory analysis review document, an urban impact analysis, and final decision or option documents with environmental impact statements.

Comments on § 1506.5: Agency responsibility. NEPA is a law which imposes obligations on Federal agencies. This provision is designed to insure that those agencies meet those obligations and to minimize the conflict of interest inherent in the situation of those outside the government coming to the government for money, leases or permits while attempting impartially to analyze the environmental consequences of their getting it. § 1506.5 set forth the responsibility of Federal agencies for preparing environmental documents, and addressed the role of those outside the Federal government. As proposed, subsection (b) of this section provided that environmental impact statements shall be prepared either by Federal agencies or by parties under contract to and chosen solely by Federal agencies. The purpose of this provision is to ensure the objectivity of the environmental review process.

Some commenters expressed the view that requiring Federal agencies to be a formal party to every contract for the preparation of an environmental impact statement was not necessary to ensure objectivity so long as the contractor was chosen solely by Federal agencies. These commenters contended that a requirement for formal Federal involvement in all such contracts could cause delay. The Council concurs and deleted the phrase "under contract" from this provision.

Several commenters noted that the existing procedures for a few Federal programs are not consistent with § 1506.5. The Council recognizes that this provision will in a few cases require additional agency efforts where, for example, agencies have relied on applicants for the preparation of environmental impact statements. The Council determined that such efforts were justified by the goal of this provision.

Several commenters expressed concern that environmental information provided by private applicants would not be adequately evaluated by Federal agencies before it was used in environmental documents. Other commenters wanted to insure that applicants were free to submit information to the agencies. Accordingly, the Council amended subsection (a) to allow receipt of such information while requiring Federal agencies to independently evaluate the information submitted and to be responsible for its accuracy. In cases where the information is used in an environmental impact statement, the persons responsible for that evaluation must be identified in the list of preparers required by § 1502.17.

Several commenters expressed the view that applicants should be allowed to prepare environmental assessments. These commenters noted that the number of assessments prepared each year is far greater than the number of environmental impact statements; that such authority was necessary to ensure environmental sensitivity was built into actions, which while ultimately Federal were planned outside the Federal government; that assessments are much shorter and less complex than EISs; and that it would be considerably less difficult for Federal agencies independently to evaluate the information submitted for an environmental assessment than for an environmental impact statement.

The Council concurs and has added a new subsection (b) to this section which authorizes the preparation of environmental assessments by applicants. The Council intends that this provision enable private and State and local applicants to build the environment into their own planning processes, while the Federal agency retains the obligation for the ultimate EIS. The Council emphasizes, however, that Federal agencies must independently evaluate the information submitted for environmental assessments and assume responsibility for its accuracy; make their own evaluation of environmental issues; and take responsibility for the scope and content of environmental assessments.

Comments on § 1506.6: Public involvement. Subsection (b)(3) of this section listed several means by which Federal agencies might provide notice of actions which have effects primarily of local concern. Several commenters urged that such notices be made mandatory, rather than permissive; other commenters felt these methods of public notice should not be listed at all. Some commenters suggested that additional methods be included in this subsection; others urged that one or more methods be deleted.

Subsection (b) of this section required agencies to provide public notice by means calculated to inform those persons and agencies who may be interested or affected. Paragraph 3 of the subsection merely identified alternative techniques that might be used for this purpose at the local level. Paragraph 3 is not intended to provide an exhaustive list of the means of providing adequate public notice. Nor are the measures it lists mandatory in nature. On the basis of these considerations, the Council determined not to alter this provision.

As proposed, subsection (f) of this section required Federal agencies to make comments on environmental impact statements available to the public. This subsection repeated the existing language on the subject that has been in the Guidelines since 1973 (40 CFR 1500.11(d)) relative to the public availability of comments. On the basis of comments received, the Council altered this provision to state that intra-agency documents need not be made available when the Freedom of Information Act allows them to be withheld.

Several commenters observed that subsection (f) did not establish limitations on charges for environmental impact statements as the Council's Guidelines had. Accordingly, the Council incorporated the standard of the Guidelines into this subsection. The standard provides that such documents shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs incurred.

Comments on § 1506.8: Proposals for legislation. Section 1506.8 established modified procedures for the preparation of environmental impact statements on legislative proposals. Except in prescribed circumstances, this section provided for the transmittal of a single legislative EIS to the Congress and to Federal, State and local agencies and the public for review and comment. No revised EIS is required in such cases.

A few commenters objected to these procedures and urged that draft and final environmental impact statements be required for all legislative proposals. These commenters said that the

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conventional final environmental impact statement, including an agency's response to comments, was no less important in this context than in a purely administrative setting.

However, the Council views legislative proposals as different from proposed actions to be undertaken by agencies, in several important respects. Unlike administrative proposals, the timing of critical steps (hearings, votes) is not under the control of the administrative agency. Congress will hold its hearings or take its votes when it chooses, and if an EIS is to influence those actions, it must be there in time. Congress may request Federal agencies to provide any additional environmental information it needs following receipt of a legislative EIS. Administration proposals are considered alongside other proposals introduced by members of Congress and the final product, if any, may be substantially different from the proposal transmitted by the Federal agency. Congress may hold hearings on legislative proposals and invite testimony on all aspects of proposed legislation including its environmental impacts. On the basis of these considerations, the Council determined that it would be overly burdensome and unproductive to require draft and final legislative environmental impact statements for all legislation, wherever it originates.

Several commenters also expressed concern about the requirement that the legislative environmental impact statement actually accompany legislative proposals when they are transmitted to Congress. These commenters noted that such proposals are often transmitted on an urgent basis without advance warning. Accordingly, the Council amended this section to provide for a period of thirty days for transmittal of legislative environmental impact statements, except that agencies must always transmit such EISs before the Congress begins formal deliberations on the proposal.

Comments on § 1506.10: Timing of agency action. Subsection (c) of this section provided that agencies shall allow not less than 45 days for comments on draft environmental impact statements. Several commenters felt that this period was too long; others thought it too short.

The Council recognizes that a balance must be struck between an adequate period for public comment on draft EIS's and timely completion of the environmental review process. In the Council's judgment, 45 days has proven to be the proper balance. This period for public comment was established by the Guidelines in 1973, and the Council determined not to alter it. Subsection (e) of this section authorizes the Environmental Protection Agency to reduce time periods for agency action for compelling reasons of national policy.

Comments on § 1506.11: Emergencies. Section 1506.11 provided for agency action in emergency circumstances without observing the requirements of the regulations. The section required the Federal agency "proposing to take the action" to consult with the Council about alternative arrangements.

Several commenters expressed concern that use of the phrase "proposing to take the action" would be interpreted to mean that agencies consult with the Council before emergency action was taken. In the view of these commenters, such a requirement might be impractical in emergency circumstances and could defeat the purpose of the section. The Council concurs and substituted the phrase "taking the action" for "proposing to take the action." Similarly, the Council amended the section to provide for consultation "as soon as feasible" and not necessarily before emergency action.

PART 1507—AGENCY COMPLIANCE

Comments on § 1507.2: Agency capability to comply. Section 1507.2 provided, among other things, that a Federal agency shall itself have "sufficient capability" to evaluate any analysis prepared for it by others. Several commenters expressed concern that this could be interpreted to mean that each agency must employ the full range of professionals including geologists, biologists, chemists, botanists and others to gain sufficient capability for evaluating work prepared by others. This is not the Council's intention. Agency staffing requirements will vary with the agency's mission and needs including the number of EIS's for which they are responsible.

Comments on § 1507.3: Agency procedures. Subsection (a) of § 1507.3 provided that agencies shall adopt procedures for implementation of the regulations within eight months after the regulations are published in the FEDERAL REGISTER. Several commenters noted that State and local agencies participating in the NEPA process under certain statutory highway and community development programs would also require implementing procedures but could not finally begin to develop them until the relevant Federal agencies had completed this task. Accordingly, the Council amended this provision to allow such state and local agencies an additional four months for the adoption of implementing procedures.

Several commenters suggested that agencies with similar programs should establish similar procedures, especially for the submission of information by applicants. The Council concurs and added a new sentence to subsection (a) stating that agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants.

Several commenters suggested that a committee be established to review agency compliance with these regulations. Under subsection (a), the Council will review agency implementing procedures for conformity with the Act and the regulations. Moreover, the Council regularly consults with Federal agencies regarding their implementation of NEPA and conducts periodic reviews on how the process is working. On the basis of these considerations, the Council determined that a committee for the review of agency compliance with NEPA should not be established.

PART 1508—TERMINOLOGY AND INDEX

Comments on § 1508.8: Effects. Several commenters urged that the term "effects" expressly include aesthetic, historic and cultural impacts. The Council adopted this suggestion and altered this provision accordingly.

Comments on § 1508.12: Federal agency. Several commenters urged that States and units of general local government assuming NEPA responsibilities under Section 104(h) of the Housing and Community Development Act of 1974 be expressly recognized as Federal agencies for purposes of these regulations. The Council adopted this suggestion and amended this provision accordingly.

Comments on § 1508.14: Human environment. In its proposed form, § 1508.14 stated that the term "human environment" shall be interpreted comprehensively to include the natural and physical environment and the interaction of people with that environment. A few commenters expressed concern that this definition could be interpreted as being limited to the natural and physical aspects of the environment. This is not the Council's intention. *See* § 1508.8 (relating to effects) and our discussion of the environment in the portion of this Preamble relating to § 1505.2. The full scope of the environment is set out in Section 101 of NEPA. Human beings are central to that concept. In § 1508.14 the Council replaced the work "interaction" with the work "relationship" to ensure that the definition is interpreted as being inclusive of the human environment.

The only line we draw is one drawn by the cases. Section 1508.14 stated that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. A few commenters sought further explanation of this provision. This provision reflects the

Council's determination, which accords with the case law, that NEPA was not intended to require an environmental impact statement where the closing of a military base, for example, only affects such things as the composition of the population or the level of personal income in a region.

Comments on § 1508.16: Legislation. Section 1508.16 defined legislation to exclude requests for appropriations. Some commenters felt that this exclusion was inappropriate. Others noted that environmental reviews for requests for appropriations had not been conducted in the eight years since NEPA was enacted. On the basis of traditional concepts relating to appropriations and the budget cycle, considerations of timing and confidentiality, and other factors, the Council decided not to alter the scope of this provision. The Council is aware that this is the one instance in the regulations where we assert a position opposed to that in the predecessor Guidelines. Quite simply, the Council in its experience found that preparation of EISs is ill-suited to the budget preparation process. Nothing in the Council's determination, however, relieves agencies of responsibility to prepare statements when otherwise required on the underlying program or other actions. (We note that a petition for certiorari on this issue is now pending before the Supreme Court.) This section was renumbered as § 1508.17.

Comments on § 1508.17: Major Federal action. Section 1508.17 of the draft regulations addressed the issue of NEPA's application to Federal programs which are delegated or otherwise transferred to State and local government. Some commenters said that the application of NEPA in such circumstances is a highly complicated issue; that its proper resolution depends on a variety of factors that may differ significantly from one program to the next and should be weighed on a case-by-case basis; and that agencies themselves should be accorded latitude in resolving this issue, subject to judicial review. The Council concurs and determined not to address this issue in this context at the present time. This determination should not be interpreted as a decision one way or the other on the merits of the issue.

Section 1508.17 also stated that the term "major" reinforces but does not have a meaning independent of the term "significantly" in NEPA's phrase "major Federal action significantly affecting the quality of the human environment." A few commenters noted that courts have differed over whether these terms should have independent meaning under NEPA. The Council determined that any Federal action which significantly affects the quality of the human environment is "major" for purposes of NEPA. The Council's view is in accord with *Minnesota PIRG v. Butz*, 498 F. 2d 1314 (8th Cir., 1974).

Section 1508.17 was renumbered as § 1508.18.

Comments on § 1508.22: Proposal. Section 1508.22 stated that a proposal exists when an agency is "actively considering" alternatives and certain other factors are present. Several commenters expressed the view that this phrase could be interpreted to mean that a proposal exists too early in planning and decisionmaking, before there is any likelihood that the agency will be making a decision on the matter. In response to this concern, and to emphasize the link between EISs and actual agency decisions, the Council deleted the phrase "actively considering" and replaced it with the phrase "actively preparing to make a decision on" alternatives. The Council does not intend the change to detract from the importance of integrating NEPA with agency planning as provided in § 1501.2 of the regulations.

This section was renumbered as § 1508.23.

OTHER COMMENTS

Comments on the application of NEPA abroad. Several commenters urged that the question of whether NEPA applies abroad be resolved by these regulations. However, the President has publicly announced his intention to address this issue in an Executive Order. The Executive Order, when issued, will represent the position of the Administration on that issue.

Comments on the role of Indian tribes in the NEPA process. Several commenters stated that the regulations should clarify the role of Indian Tribes in the NEPA process. Accordingly, the Council expressly identified Indian Tribes as participants in the NEPA process in §§ 1501.2(d)(2), 1501.7(a)(1), 1502.15(c) and 1503.1(a)(2)(ii).

Comments on the Council's special environmental assessment for the NEPA regulations. The Council prepared a special environmental assessment for these regulations and announced in the preamble to the draft regulations that the document was available to the public upon request. Some commenters expressed the view that it did not contain an adequate evaluation of the effects of the regulations. For the reasons set out in the assessment, and the preamble to the proposed regulations, the Council confirmed its earlier determination that the special environmental assessment did provide an adequate evaluation for these procedural regulations.

Comments on the President's authority to issue Executive Order 11991 and the Council's authority to issue regulations. A few commenters questioned the authority of the President to issue Executive Order 11991, and the authority of the Council to issue the regulations. The President is empowered to issue regulations implementing the procedural provisions of NEPA by virtue of the authority vested in him as President of the United States under Article II, Section 3 of the Constitution and other provisions of the Constitution and laws of the United States. The President is empowered to delegate responsibility for performing this function to the Council on Environmental Quality under Section 301 of Title 3 of the United States Code and other laws of the United States.

Comments on the responsibilities of Federal agencies in the NEPA process. Agency responsibilities under the regulations often depend upon whether they have "jurisdiction by law" or "special expertise" with respect to a particular proposal. Several commenters noted that these terms were not defined in the regulations and could be subject to varying interpretations. Accordingly, the Council added definitions for these terms in §§ 1508.15 and 1508.26.

Comments on the role of State and areawide clearinghouses. At the request of several States, the Council recognized the role of state and areawide clearinghouses in distributing Federal documents to appropriate recipients. *See* e.g. §§ 1501.4(e)(2), 1503.1(2)(iii), and 1506.6(b)(3)(i).

Comments on the concept of a national data bank. When the Council issued the proposed regulations, it invited comment on the concept of a national data bank. The purpose of a data bank would be to provide for the storage and recall of information developed in one EIS for use in subsequent EISs. Most commenters expressed reservations about the idea on grounds of cost and practicality. The Council, while still intrigued by the concept did not change its initial conclusion that the financial and other resources that would be required are beyond the benefits that might be achieved.

Comments on Federal funding of public comments on EISs. The Council also invited comment on a proposal for encouraging Federal agencies to fund public comments on EISs when an important viewpoint would otherwise not be presented. Several commenters supported this proposal on grounds that it would broaden the range and improve the quality of public comments on EISs. Others doubted that the expenditure of Federal funds for this purpose would be worthwhile. Some felt that Congress should decide the question. The Council determined not to address the issue of Federal funding for public comments on EISs in the regu-

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lations, but to leave the matter to individual agencies' discretion.

5. REGULATORY ANALYSES

The final regulations implement the policy and other requirements of Executive Order 12044 to the fullest extent possible. We intend agencies in implementing these regulations to minimize burdens on the public. The determinations required by Section 2(d) of the Order have been made by the Council and are available on request.

It is our intention that a Regulatory Analysis required by Section 3 of the Order be undertaken concurrently with and, where appropriate, integrated with an environmental impact statement required by NEPA and these regulations.

6. CONCLUSION

We could not, of course, adopt every suggestion that was made on the regulations. We have tried to respond to the major concerns that were expressed. In the process, we have changed 74 of the 92 sections, making a total of 340 amendments to the regulations. We are confident that any issues which arise in the future can be resolved through a variety of mechanisms that exists for improving the NEPA process.

We appreciate the efforts of the many people who participated in developing the regulations and look forward to their cooperation as the regulations are implemented by individual agencies.

CHARLES WARREN,
Chairman.

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PART 1500—PURPOSE, POLICY, AND MANDATE

Sec.
1500.1 Purpose.
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AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970 as amended by Executive Order 11991, May 24, 1977).

§ 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement Section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

§ 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

§ 1500.3 Mandate.

Parts 1500–1508 of this Title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (NEPA or the Act) except where compliance would be inconsistent with other statutory requirements. These regulations are issued pursuant to NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.) Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977). These regulations, unlike the predecessor guidelines, are not confined to Sec. 102(2)(C) (environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has made a final finding of no significant impact (when such a finding will result in action affecting the environment), or takes action that will result in irreparable injury. Furthermore, it is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action.

§ 1500.4 Reducing paperwork.

Agencies shall reduce excessive paperwork by:

(a) Reducing the length of environmental impact statements (§ 1502.2(c)), by means such as setting appropriate page limits (§§ 1501.7(b)(1) and 1502.7).

(b) Preparing analytic rather than encyclopedic environmental impact statements (§ 1502.2(a)).

(c) Discussing only briefly issues other than significant ones (§ 1502.2(b)).

(d) Writing environmental impact statements in plain language (§ 1502.8).

(e) Following a clear format for environmental impact statements (§ 1502.10).

(f) Emphasizing the portions of the environmental impact statement that are useful to decisionmakers and the public (§§ 1502.14 and 1502.15) and reducing emphasis on background material (§ 1502.16).

(g) Using the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (§ 1501.7).

(h) Summarizing the environmental impact statement (§ 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (§ 1502.19).

(i) Using programs, policy, or plan environmental impact statements and tiering from statements of broad scope to those of narrower scope, to eliminate repetitive discussions of the same issues (§§ 1502.4 and 1502.20).

(j) Incorporating by reference (§ 1502.21).

(k) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(l) Requiring comments to be as specific as possible (§ 1503.3).

(m) Attaching and circulating only changes to the draft environmental impact statement, rather than rewriting and circulating the entire statement when changes are minor (§ 1503.4(c)).

(n) Eliminating duplication with State and local procedures, by providing for joint preparation (§ 1506.2), and with other Federal procedures, by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(o) Combining environmental documents with other documents (§ 1506.4).

(p) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental impact statement (§ 1508.4).

(q) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment and is therefore exempt from requirements to prepare an environmental impact statement (§ 1508.13).

§ 1500.5 Reducing delay.

Agencies shall reduce delay by:

(a) Integrating the NEPA process into early planning (§ 1501.2).

(b) Emphasizing interagency cooperation before the environmental impact statement is prepared, rather than submission of adversary comments on a completed document (§ 1501.6).

(c) Insuring the swift and fair resolution of lead agency disputes (§ 1501.5).

(d) Using the scoping process for an early identification of what are and what are not the real issues (§ 1501.7).

(e) Establishing appropriate time limits for the environmental impact statement process (§§ 1501.7(b)(2) and 1501.8).

(f) Preparing environmental impact statements early in the process (§ 1502.5).

(g) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(h) Eliminating duplication with State and local procedures by providing for joint preparation (§ 1506.2) and with other Federal procedures by providing that an agency may adopt ap-

propriate environmental documents prepared by another agency (§ 1506.3).

(i) Combining environmental documents with other documents (§ 1506.4).

(j) Using accelerated procedures for proposals for legislation (§ 1506.8).

(k) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment (§ 1508.4) and which are therefore exempt from requirements to prepare an environmental impact statement.

(l) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment (§ 1508.13) and is therefore exempt from requirements to prepare an environmental impact statement.

§ 1500.6 Agency authority.

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

PART 1501—NEPA AND AGENCY PLANNING

Sec.

1501.1 Purpose.
1501.2 Apply NEPA early in the process.
1501.3 When to prepare an environmental assessment.
1501.4 Whether to prepare an environmental impact statement.
1501.5 Lead agencies.
1501.6 Cooperating agencies.
1501.7 Scoping.
1501.8 Time limits.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609, and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May, 24 1977).

§ 1501.1 Purpose.

The purposes of this part include:

(a) Integrating the NEPA process into early planning to insure appropriate consideration of NEPA's policies and to eliminate delay.

(b) Emphasizing cooperative consultation among agencies before the environmental impact statement is prepared rather than submission of adversary comments on a completed document.

(c) Providing for the swift and fair resolution of lead agency disputes.

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly.

(e) Providing a mechanism for putting appropriate time limits on the environmental impact statement process.

§ 1501.2 Apply NEPA early in the process.

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Each agency shall:

(a) Comply with the mandate of section 102(2)(A) to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment," as specified by § 1507.2.

(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.

(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.

(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.

(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.

(3) The Federal agency commences its NEPA process at the earliest possible time.

§ 1501.3 When to prepare an environmental assessment.

(a) Agencies shall prepare an environmental assessment (§ 1508.9) when necessary under the procedures adopted by individual agencies to supplement these regulations as described in § 1507.3. An assessment is not necessary if the agency has decided to prepare an environmental impact statement.

(b) Agencies may prepare an environmental assessment on any action at any time in order to assist agency planning and decisionmaking.

§ 1501.4 Whether to prepare an environmental impact statement.

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which:

(1) Normally requires an environmental impact statement, or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement.

(e) Prepare a finding of no significant impact (§ 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.

(1) The agency shall make the finding of no significant impact available to the affected public as specified in § 1506.6.

(2) In certain limited circumstances, which the agency may cover in its procedures under § 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or

(ii) The nature of the proposed action is one without precedent.

§ 1501.5 Lead agencies.

(a) A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§ 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

(1) Magnitude of agency's involvement.

(2) Project approval/disapproval authority.

(3) Expertise concerning the action's environmental effects.

(4) Duration of agency's involvement.

(5) Sequence of agency's involvement.

(d) Any Federal agency, or any State of local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(1) A precise description of the nature and extent of the proposed action;

(2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified above in paragraph (c) of this section.

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

§ 1501.6 Cooperating agencies.

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process (described below in § 1501.7).

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b) (3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council.

§ 1501.7 Scoping.

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§ 1508.22) in the FEDERAL REGISTER except as provided in § 1507.3(e).

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.

(b) As part of the scoping process the lead agency may:

(1) Set page limits on environmental documents (§ 1502.7).

(2) Set time limits (§ 1501.8).

(3) Adopt procedures under § 1507.3 to combine its environmental assessment process with its scoping process.

(4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

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(c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

§ 1501.8 Time limits.

Although the Council has decided that prescribed universal time limits for the entire NEPA process are too inflexible, Federal agencies are encouraged to set time limits appropriate to individual actions (consistent with the time intervals required by § 1506.10). When multiple agencies are involved the reference to agency below means lead agency.

(a) The agency shall set time limits if an applicant for the proposed action requests them: *Provided*, That the limits are consistent with the purposes of NEPA and other essential considerations of national policy.

(b) The agency may:

(1) Consider the following factors in determining time limits:

(i) Potential for environmental harm.

(ii) Size of the proposed action.

(iii) State of the art of analytic techniques.

(iv) Degree of public need for the proposed action, including the consequences of delay.

(v) Number of persons and agencies affected.

(vi) Degree to which relevant information is known and if not known the time required for obtaining it.

(vii) Degree to which the action is controversial.

(viii) Other time limits imposed on the agency by law, regulations, or executive order.

(2) Set overall time limits or limits for each constituent part of the NEPA process which may include:

(i) Decision on whether to prepare an environmental impact statement (if not already decided).

(ii) Determination of the scope of the environmental impact statement.

(iii) Preparation of the draft environmental impact statement.

(iv) Review of any comments on the draft environmental impact statement from the public and agencies.

(v) Preparation of the final environmental impact statement.

(vi) Review of any comments on the final environmental impact statement.

(vii) Decision on the action based in part on the environmental impact statement.

(3) Designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.

(c) State or local agencies or members of the public may request a Federal Agency to set time limits.

PART 1502—ENVIRONMENTAL IMPACT STATEMENT

Sec.

1502.1 Purpose.
1502.2 Implementation.
1502.3 Statutory Requirements for Statements.
1502.4 Major Federal Actions Requiring the Preparation of Environmental Impact Statements.
1502.5 Timing.
1502.6 Interdisciplinary Preparation.
1502.7 Page Limits.
1502.8 Writing.
1502.9 Draft, Final, and Supplemental Statements.
1502.10 Recommended Format.
1502.11 Cover Sheet.
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1502.19 Circulation of the Environmental Impact Statement.
1502.20 Tiering.
1502.21 Incorporation by Reference.
1502.22 Incomplete or Unavailable Information.
1502.23 Cost-Benefit Analysis.
1502.24 Methodolgy and Scientific Accuracy.
1502.25 Environmental Review and Consultation Requirements.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1502.1 Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

§ 1502.2 Implementation.

To achieve the purposes set forth in § 1502.1 agencies shall prepare environmental impact statements in the following manner:

(a) Environmental impact statements shall be analytic rather than encyclopedic.

(b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.

(c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA and with these regulations. Length should vary first with potential environmental problems and then with project size.

(d) Environmental impact statements shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.

(e) The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker.

(f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (§ 1506.1).

(g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

§ 1502.3 Statutory requirements for statements.

As required by sec. 102(2)(C) of NEPA environmental impact statements (§ 1508.11) are to be included in every recommendation or report. On proposals (§ 1508.23). For legislation and (§ 1508.17). Other major Federal actions (§ 1508.18). Significantly (§ 1508.27). Affecting (§§ 1508.3, 1508.8). The quality of the human environment (§ 1508.14).

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts or proposals which are related to each other closely enough to be, in effect, a single course of action shall

be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20), and other methods listed in §§ 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

§ 1502.5 Timing.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§ 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize of justify decisions already made (§§ 1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

(b) For applications to the agency appropriate environmental assessments or statements shall be commenced no later than immediately after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

(d) For informal rulemaking the draft environmental impact statement shall normally accompany the proposed rule.

§ 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7).

§ 1502.7 Page limits.

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of § 1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

§ 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

§ 1502.9 Draft, final, and supplemental statements.

Except for proposals for legislation as provided in § 1506.8 environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances, or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

§ 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

(a) Cover sheet.

(b) Summary.

(c) Table of Contents.

(d) Purpose of and Need for Action.

(e) Alternatives Including Proposed Action (secs. 102(2)(C)(iii) and 102(2)(E) of the Act).

(f) Affected Environment.

(g) Environmental Consequences (especially sections 102(2)(C) (i), (ii), (iv), and (v) of the Act.

(h) List of Preparers.

(i) List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent.

(j) Index.

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(k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, as further described in §§ 1502.11–1502.18, in any appropriate format.

§ 1502.11 Cover sheet.

The cover sheet shall not exceed one page, It shall include:

(a) A list of the responsible agencies including the lead agency and any cooperating agencies.

(b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.

(c) The name, address, and telephone number of the person at the agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA under § 1506.10).

The information required by this section may be entered on Standard Form 424 (in items 4, 6, 7, 10, and 18).

§ 1502.12 Summary.

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

§ 1502.13 Purpose and need.

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§ 1502.15) and the Environmental Consequences (§ 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

§ 1502.15 Affected environment.

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

§ 1502.16 Environmental consequences.

This section forms the scientific and analytic basis for the comparisons under § 1502.14. It shall consolidate the discussions of those elements required by secs. 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of sec. 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in § 1502.14. It shall include discussions of:

(a) Direct effects and their significance (§ 1508.18).

(b) Indirect effects and their significance (§ 1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See § 1506.2(c).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under § 1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(h) Means to mitigate adverse environmental impacts (if not fully covered under § 1502.14(f)).

§ 1502.17 List of preparers.

The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement (§§ 1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages.

§ 1502.18 Appendix.

If an agency prepares an appendix to an environmental impact statement the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (§ 1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request.

§ 1502.19 Circulation of the environmental impact statement.

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in § 1502.18(d) and unchanged statements as provided in § 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

(a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.

(b) The applicant, if any.

(c) Any person, organization, or agency requesting the entire environmental impact statement.

(d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.

§ 1502.20 Tiering.

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (§ 1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Sec. 1508.28).

§ 1502.21 Incorporation by reference.

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.

(a) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence.

§ 1502.23 Cost-benefit analysis.

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with sec. 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision.

§ 1502.24 Methodology and scientific accuracy.

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

§ 1502.25 Environmental review and consultation requirements.

(a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.) the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), and other environmental review laws and executive orders.

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate.

PART 1503—COMMENTING

Sec.
1503.1 Inviting Comments.
1503.2 Duty to Comment.
1503.3 Specificity of Comments.
1503.4 Response to Comments.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1503.1 Inviting comments.

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

(ii) Indian tribes, when the effects may be on a reservation; and

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(iii) Any agency which has requested that it receive statements on actions of the kind proposed.

Office of Management and Budget Circular A-95 (Revised), through its system of clearinghouses, provides a means of securing the views of State and local environmental agencies. The clearinghouses may be used, by mutual agreement of the lead agency and the clearinghouse, for securing State and local reviews of the draft environmental impact statements.

(3) Request comments from the applicant, if any.

(4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

(b) An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under § 1506.10

§ 1503.2 Duty to comment.

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in § 1506.10. A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment.

§ 1503.3 Specificity of comments.

(a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences.

§ 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (§ 1502.19). The entire document with a new cover sheet shall be filed as the final statement (§ 1506.9).

PART 1504—PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY

Sec.
1504.1 Purpose.
1504.2 Criteria for Referral.
1504.3 Procedure for Referrals and Response.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1504.1 Purpose.

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public.

§ 1504.2 Criteria for referral.

Environmental referrals should be made to the Council only after concerted, timely (as early as possible in the process), but unsuccessful attempts to resolve differences with the lead agency. In determining what environmental objections to the matter are appropriate to refer to the Council, an agency should weigh potential adverse environmental impacts, considering:

(a) Possible violation of national environmental standards or policies.
(b) Severity.
(c) Geographical scope.
(d) Duration.
(e) Importance as precedents.
(f) Availability of environmentally preferable alternatives.

§ 1504.3 Procedure for referrals and response.

(a) A Federal agency making the referral to the Council shall:

(1) Advise the lead agency at the earliest possible time that it intends to refer a matter to the Council unless a satisfactory agreement is reached.

(2) Include such advice in the referring agency's comments on the draft environmental impact statement, except when the statement does not

contain adequate information to permit an assessment of the matter's environmental acceptability.

(3) Identify any essential information that is lacking and request that it be made available at the earliest possible time.

(4) Send copies of such advice to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final environmental impact statement has been made available to the Environmental Protection Agency, commenting agencies, and the public. Except when an extension of this period has been granted by the lead agency, the Council will not accept a referral after that date.

(c) The referral shall consist of:

(1) A copy of the letter signed by the head of the referring agency and delivered to the lead agency informing the lead agency of the referral and the reasons for it, and requesting that no action be taken to implement the matter until the Council acts upon the referral. The letter shall include a copy of the statement referred to in (c)(2) below.

(2) A statement supported by factual evidence leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

(i) Identify any material facts in controversy and incorporate (by reference if appropriate) agreed upon facts,

(ii) Identify any existing environmental requirements or policies which would be violated by the matter,

(iii) Present the reasons why the referring agency believes the matter is environmentally unsatisfactory,

(iv) Contain a finding by the agency whether the issue raised is of national importance because of the threat to national environmental resources or policies or for some other reason,

(v) Review the steps taken by the referring agency to bring its concerns to the attention of the lead agency at the earliest possible time, and

(vi) Give the referring agency's recommendations as to what mitigation alternative, further study, or other course of action (including abandonment of the matter) are necessary to remedy the situation.

(d) Not later than twenty-five (25) days after the referral to the Council the lead agency may deliver a response to the Council, and the referring agency. If the lead agency requests more time and gives assurance that the matter will not go forward in the interim, the Council may grant an extension. The response shall:

(1) Address fully the issues raised in the referral.

(2) Be supported by evidence.

(3) Give the lead agency's response to the referring agency's recommendations.

(e) Interested persons (including the applicant) may deliver their views in writing to the Council. Views in support of the referral should be delivered not later than the referral. Views in support of the response shall be delivered not later than the response.

(f) Not later than twenty-five (25) days after receipt of both the referral and any response or upon being informed that there will be no response (unless the lead agency agrees to a longer time), the Council may take one or more of the following actions:

(1) Conclude that the process of referral and response has successfully resolved the problem.

(2) Initiate discussions with the agencies with the objective of mediation with referring and lead agencies.

(3) Hold public meetings or hearings to obtain additional views and information.

(4) Determine that the issue is not one of national importance and request the referring and lead agencies to pursue their decision process.

(5) Determine that the issue should be further negotiated by the referring and lead agencies and is not appropriate for Council consideration until one or more heads of agencies report to the Council that the agencies' disagreements are irreconcilable.

(6) Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency).

(7) When appropriate, submit the referral and the response together with the Council's recommendation to the President for action.

(g) The Council shall take no longer than 60 days to complete the actions specified in paragraph (f) (2), (3), or (5) of this section.

(h) When the referral involves an action required by statute to be determined on the record after opportunity for agency hearing, the referral shall be conducted in a manner consistent with 5 U.S.C. 557(d) (Administrative Procedures Act).

PART 1505—NEPA AND AGENCY DECISIONMAKING

Sec.
1505.1 Agency decisionmaking procedures.
1505.2 Record of decision in cases requiring environmental impact statements.
1505.3 Implementing the decision.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1505.1 Agency decisionmaking procedures.

Agencies shall adopt procedures (§ 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

(a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).

(b) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment and assuring that the NEPA process corresponds with them.

(c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.

(d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.

(e) Requiring that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.

§ 1505.2 Record of decision in cases requiring environmental impact statements.

At the time of its decision (§ 1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, including that required by OMB Circular A-95 (Revised), part I, sections 6 (c) and (d), and part II, section 5(b)(4), shall:

(a) State what the decision was.

(b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and

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state how those considerations entered into its decision.

(c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.

§ 1505.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring.

PART 1506—OTHER REQUIREMENTS OF NEPA

Sec.

1506.1 Limitations on actions during NEPA process.
1506.2 Elimination of duplication with State and local procedures.
1506.3 Adoption.
1506.4 Combining documents.
1506.5 Agency responsibility.
1506.6 Public involvement.
1506.7 Further guidance.
1506.8 Proposals for legislation.
1506.9 Filing requirements.
1506.10 Timing of agency action.
1506.11 Emergencies.
1506.12 Effective date.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1506.1 Limitations on actions during NEPA process.

(a) Until an agency issues a record of decision as provided in § 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:

(1) Have an adverse environmental impact; or

(2) Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate environmental impact statement; and

(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance. Nothing in this section shall preclude Rural Electrification Administration approval of minimal expenditures not affecting the environment (*e.g.* long leadtime equipment and purchase options) made by non-governmental entities seeking loan guarantees from the Administration.

§ 1506.2 Elimination of duplication with State and local procedures.

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

§ 1506.3 Adoption.

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify.

§ 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.

§ 1506.5 Agency responsibility.

(a) *Information.* If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (§ 1502.17). It is the intent of this subparagraph that acceptable work not be redone, but that it be verified by the agency.

(b) *Environmental assessments.* If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.

(c) *Environmental impact statements.* Except as provided in §§ 1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under § 1501.6(b), a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency.

§ 1506.6 Public involvement.

Agencies shall: (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the FEDERAL REGISTER and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the *102 Monitor*. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations including small business associations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public.

(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.

(f) make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

§ 1506.7 Further guidance.

The Council may provide further guidance concerning NEPA and its procedures including:

(a) A handbook which the Council may supplement from time to time, which shall in plain language provide guidance and instructions concerning the application of NEPA and these regulations.

(b) Publication of the Council's Memoranda to Heads of Agencies.

(c) In conjunction with the Environmental Protection Agency and the publication of the 102 Monitor, notice of:

(1) Research activities;

(2) Meetings and conferences related to NEPA; and

(3) Successful and innovative procedures used by agencies to implement NEPA.

§ 1506.8 Proposals for legislation.

(a) The NEPA process for proposals for legislation (§ 1508.17) significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement which can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(b) Preparation of a legislative environmental impact statement shall conform to the requirements of these regulations except as follows:

(1) There need not be a scoping process.

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(2) The legislative statement shall be prepared in the same manner as a draft statement, but shall be considered the "detailed statement" required by statute; *Provided*, That when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by §§ 1503.1 and 1506.10.

(i) A Congressional Committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

(ii) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C. 1271 et esq.) and the Wilderness Act (16 U.S.C. 1131 et seq.)

(iii) Legislative approval is sought for Federal or federally assisted construction or other projects which the agency recommends be located at specific geographic locations. For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration a draft statement shall accompany the Prospectus or the 11(b) Report of Building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

(iv) The agency decides to prepare draft and final statements.

(c) Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction.

§ 1506.9 Filing requirements.

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, D.C. 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and § 1506.10 below.

§ 1506.10 Timing of agency action.

(a) The Environmental Protection Agency shall publish a notice in the FEDERAL REGISTER each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under § 1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraph (a) of this section for a final environmental impact statement. An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published. This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. An agency engaged in rulemaking under the Administrative Procedures Act or other statute for the purpose of protecting the public health or safety, may waive the time period in paragraph (b)(2) of this section and publish a decision on the final rule simultaneously with publication of the notice of the availability of the final environmental impact statement as described in paragraph (a) of this section.

(c) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently. However, subject to paragraph (d) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see § 1507.3(d).) Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days. When the Environmental Protection Agency reduces or extends any period of time it shall notify the Council.

§ 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

§ 1506.12 Effective date.

The effective date of these regulations is July 30, 1979, except that for agencies that administer programs that qualify under sec. 102(2)(D) of the Act or under sec. 104(h) of the Housing and Community Development Act of 1974 an additional four months shall be allowed for the State or local agencies to adopt their implementing procedures.

(a) These regulations shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effective date. These regulations do not apply to an environmental impact statement or supplement if the draft statement was filed before the effective date of these regulations. No completed environmental documents need be redone by reasons of these regulations. Until these regulations are applicable, the Council's guidelines published in the FEDERAL REGISTER of August 1, 1973, shall continue to be applicable. In cases where these regulations are applicable the guidelines are superseded. However, nothing shall prevent an agency from proceeding under these regulations at an earlier time.

(b) NEPA shall continue to be applicable to actions begun before January 1, 1970, to the fullest extent possible.

PART 1507—AGENCY COMPLIANCE

Sec.
1507.1 Compliance.
1507.2 Agency Capability to Comply.
1507.3 Agency Procedures.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1507.1 Compliance.

All agencies of the Federal Government shall comply with these regulations. It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by § 1507.3 to the requirements of other applicable laws.

§ 1507.2 Agency capability to comply.

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability to evaluate what others do for it. Agencies shall:

(a) Fulfill the requirements of Sec. 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on the human environment. Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.

(b) Identify methods and procedures required by Sec. 102(2)(B) to insure that presently unquantified environmental amenities and values may be given appropriate consideration.

(c) Prepare adequate environmental impact statements pursuant to Sec. 102(2)(C) and comment on statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.

(d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. This requirement of Sec. 102(2)(E) extends to all such proposals, not just the more limited scope of Sec. 102(2)(C)(iii) where the discussion of alternatives is confined to impact statements.

(e) Comply with the requirements of Sec. 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.

(f) Fulfill the requirements of sections 102(2)(F), 102(2)(G), and 102(2)(I), of the Act and of Executive Order 11514, Protection and Enhancement of Environmental Quallty, Sec. 2.

§ 1507.3 Agency procedures.

(a) Not later than eight months after publication of these regulations as finally adopted in the FEDERAL REGISTER, or five months after the establishment of an agency, whichever shall come later, each agency shall as necessary adopt procedures to supplement these regulations. When the agency is a department, major subunits are encouraged (with the consent of the department) to adopt their own procedures. Such procedures shall not paraphrase these regulations. They shall confine themselves to implementing procedures. Each agency shall consult with the Council while developing its procedures and before publishing them in the FEDERAL REGISTER for comment. Agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

(b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:

(1) Those procedures required by §§ 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4.

(2) Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (§ 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order tht the unclassified portions can be made available to the public.

(d) Agency procedures may provide for periods of time other than those presented in § 1506.10 when necessary to comply with other specific statutory requirements.

(e) Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by § 1501.7 may be published at a reasonable time in advance of preparation of the draft statement.

PART 1508—TERMINOLOGY AND INDEX

Sec.
1508.1 Terminology.
1508.2 Act.
1508.3 Affecting.
1508.4 Categorical Exclusion.
1508.5 Cooperating Agency.
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1508.28 Tiering.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1508.1 Terminology.

The terminology of this part shall be uniform throughout the Federal Government.

§ 1508.2 Act.

"Act" means the National Environmental Policy Act, as amended (42 U.S.C. 4321, et seq.) which is also referred to as "NEPA."

§ 1508.3 Affecting.

"Affecting" means will or may have an effect on.

§ 1508.4 Categorical exclusion.

"Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment

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and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in § 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

§ 1508.5 Cooperating agency.

"Cooperating Agency" means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in § 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

§ 1508.6 Council.

"Council" means the Council on Environmental Quality established by Title II of the Act.

§ 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

§ 1508.8 Effects.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

§ 1508.9 Environmental assessment.

"Environmental Assessment":

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by sec. 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

§ 1508.10 Environmental document.

"Environmental document" includes the documents specified in § 1508.9 (environmental assessment), § 1508.11 (environmental impact statement), § 1508.13 (finding of no significant impact), and § 1508.22 (notice of intent).

§ 1508.11 Environmental impact statement.

"Environmental Impact Statement" means a detailed written statement as required by Sec. 102(2)(C) of the Act.

§ 1508.12 Federal agency.

"Federal agency" means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

§ 1508.13 Finding of no significant impact.

"Finding of No Significant Impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

§ 1508.14 Human Environment.

"Human Environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (§ 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

§ 1508.15 Jurisdiction By Law.

"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

§ 1508.16 Lead agency.

"Lead Agency" means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement.

§ 1508.17 Legislation.

"Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

§ 1508.18 Major Federal action.

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§ 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

§ 1508.19 Matter.

"Matter" includes for purposes of Part 1504:

(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in Section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies.

§ 1508.20 Mitigation.

"Mitigation" includes:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

§ 1508.21 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of Section 2 and Title I of NEPA.

§ 1508.22 Notice of intent.

"Notice of Intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

§ 1508.23 Proposal.

"Proposal" exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

§ 1508.24 Referring agency.

"Referring agency" means the federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality.

§ 1508.25 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (§§1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequencies together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct. (2) Indirect. (3) Cumulative.

§ 1508.26 Special expertise.

"Special expertise" means statutory responsibility, agency mission, or related program experience.

§ 1508.27 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significant varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect

may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

§ 1508.28 Tiering.

"Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

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[3195-01-M]

Title 3—The President

PROCLAMATION 4609

Bill of Rights Day Human Rights Day and Week, 1978

By the President of the United States of America

A Proclamation

Two great events in the history of human liberty will be commemorated in December: the ratification, on December 15, 1791, of the Bill of Rights of the Constitution of the United States, and the adoption, on December 10, 1948, of the Universal Declaration of Human Rights by the United Nations General Assembly.

The anniversary of the Bill of Rights reminds us that our Nation is a continuing experiment in human freedom. Because of the Bill of Rights, we have been able to weather 187 years of tumultuous social and technological change without losing our fundamental liberties. Indeed, those liberties have actually expanded in scope, and have grown to encompass a steadily larger proportion of our people. We can be proud of what we have achieved. But we cannot be complacent, for too many Americans are still denied a fair opportunity to enjoy the rights and rewards of our society. That is why Bill of Rights Day should be a day of rededication as well as of commemoration.

This year, we mark the 30th anniversary of the Universal Declaration of Human Rights.

The Declaration is the cornerstone of a developing international consensus on human rights. It is also the authoritative statement of the meaning of the United Nations Charter, through which member nations undertake to promote, respect and observe human rights and fundamental freedoms for all, without discrimination. A long and difficult road must be travelled before the reality of human rights in the world matches the words of the Declaration. The Declaration will light that road and give strength to all who follow it.

The Universal Declaration is the heart of a body of important United Nations human rights documents: the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of All Forms of Racial Discrimination, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights. The United States signed the Genocide Convention in 1948 and the Racial Discrimination Convention in 1966. I signed the other two Covenants on October 4, 1977. I hope that the United States Senate will soon approve the Genocide Convention at last, and will undertake early hearings to permit our Nation's adherence to the three remaining instruments. There could be no more appropriate gesture to mark the anniversary of the Universal Declaration.

I also signed the American Convention on Human Rights on June 1, 1977. I am proud that since then, eleven nations of the Americas have ratified it, thus bringing it into force.

The great and noble struggle to realize the rights of all men and women goes on. In the face of injustice and oppression, human beings continue to sacrifice and strive for justice and for human dignity.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim December 10, 1978, as Human Rights Day and December 15, 1978, as Bill of Rights Day, and call on all Americans to observe Human Rights Week beginning December 10, 1978. Let us reaffirm our dedication to the promise of this Nation for all citizens. And let us renew our efforts as members of the world community on behalf of the human rights of all people everywhere.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of November, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-33744 Filed 11-29-78; 11:18 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1610-01-M]

Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER G—STANDARDS FOR WAIVER OF CLAIMS FOR ERRONEOUS PAYMENT OF PAY

PART 92—PROCEDURE

Referral of Claims for Collection or Litigation

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: This Amendment of Part 92 of Title 4, Code of Federal Regulations, concerns the waiver of claims of the United States against individuals dealing with erroneous payments of pay and allowances. The purpose of this provision is to preclude the referral of claims to the Attorney General once an application for waiver had been received. The amendment will clarify ambiguous language which could be construed as requiring all such claims be considered for waiver prior to referral to the Attorney General even if an application for waiver had not been made.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

James C. Farley, Jr., U.S. General Accounting Office, Claims Division, Room 5045, 441 G Street, NW., Washington, D.C. 20548 (202) 275-5088.

SUPPLEMENTARY INFORMATION: Claims of the United States are often referred to the Attorney General for litigation when administrative collection actions by the various agencies and the General Accounting Office are unsuccessful.

Part 92 of Title 4 of the Code of Federal Regulations relates to the waiver of claims of the United States against individuals arising out of erroneous payments of pay and allowances. These regulations were issued pursuant to the authority contained in 5 U.S.C. 5584, 10 U.S.C. 2774, and 32 U.S.C. 716, which authorize the head of an agency or the Comptroller General of the United States to waive claims of the United States in appropriate circumstances.

The purpose of 4 CFR 92.8(b) was to preclude the referral of claims to the Attorney General once an application for waiver had been received. The provision was introduced into the regulations to avoid any delays or interruption once a determination has been made to proceed with litigation. However, although the intent is clear, the language of the provision could be construed as requiring all such claims be considered for waiver prior to referral to the Attorney General even if an application for waiver had not been made. Accordingly, 4 CFR 92.8(b) is being revised to preclude this unintended construction of the regulation.

Accordingly, 4 CFR 92.8(b) is amended as follows:

§ 92.8 Referral of claims for collection or litigation.

* * * * *

(b) No claim for the recovery of an erroneous payment of pay and allowances, which is under consideration for waiver shall be referred to the Attorney General unless the time remaining for suit within the applicable limitation does not permit such waiver consideration prior to referral.

ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc. 78-33594 Filed 11-29-78; 8:45 am]

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Regulation 442]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 1-7, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on November 28, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that prices for navel oranges are moderating with an increase in the supplies available.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these reg-

ulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.742 Navel Orange Regulation 442.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 1, 1978, through December 7, 1978, are established as follows:

(1) District 1: 1,200,000 cartons;

(2) District 2: Unlimited movement;

(3) District 3: Unlimited movement;

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 29, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-33745 Filed 11-29-78; 11:18 am]

[3410-02-M]

PART 981—ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule would reduce the weight obligation of almond material that handlers—those regulated by the marketing order for California almonds—must deliver to non-human consumption outlets for quality control. This rule applies only to the 1978-79 crop year, and is intended to augment the very short existing supplies of California almonds.

DATES: Effective July 1, 1978 to June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: Notice was published in the November 3, 1978, FEDERAL REGISTER (43 FR 51405) to amend Subpart—Administrative Rules and Regulations (7 CFR 981.442-981.474) by revising §§ 981.442. Two comments were received.

The subpart is issued under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR 981) regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The rule is based on a recommendation of the Almond Board of California.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year and to establish rules and regulations necessary and incidental to the administration of this provision.

Section 981.442 specifies the procedures for implementing § 981.42. In lieu of the two percent tolerance specified in § 981.42, § 981.442(a)(4) currently provides that the quantity of inedible kernels in each variety in excess of one and one-half percent of the kernel weight received, constitutes a handler's weight obligation to be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. The proposal was to revise § 981.442(a)(4) for the 1978-79 crop year so that the quantity of inedible kernels in each variety in excess of three percent, instead of the current one and one-half percent, would constitute a handler's weight obligation.

In its October 13, 1978, meeting, the Almond Board of California said that the change was needed primarily to allow more almonds to be shipped to the trade. The Board believes the 1978 crop will be less than the previous forecast of 205,000,000 pounds (kernel weight basis). When compared with last year's crop of 313,000,000 pounds, the current estimate of 1978 production represents a severe shortage of almonds. The Board noted that with a tolerance of three percent there would be no significant reduction in the quality of almonds offered to the public as a result of its proposed change.

Of the two comments, one person opposed the proposal and one favored it. The person opposing the proposal indicated that any relaxation in the tolerance could result in the marketing of seriously damaged almond kernels which could pose a marketing problem. He also expressed concern that a "one time only" relaxation of the tolerance opens the door in the future to similar changes when "special" conditions exist, and may become permanent. "The gravest concern", however, is that the "change has not been handled on an equal basis" because the large handler is in the best position to benefit by the change, and small handlers operated on the assumption that the one and one-half percent tolerance would not be changed. They incurred higher labor costs of sorting to that tolerance, and now have pickouts from the graded kernels which they cannot now blend back into the finished product without additional cost, thus they are at a competitive disadvantage. The commentator also contended that the Board was being operated to benefit the large handler.

The other commentator urged adoption of the rule change and stressed that seriously damaged rejects for the 1978 production which could cause a marketing problem, can and are being, sorted from the good product and disposed of in non-human consumption channels regardless of any tolerance change. Also, the change would make more almonds available to the trade and thus augment the returns to at least 70 to 75 percent of all almond growers.

Much of the damage in the 1978 production is cosmetic in nature in that the kernels are lightly damaged or surface damaged. Based on the Board discussions and the comment favoring the change, it would appear that a relaxation of the tolerance would not result in (1) any appreciable diminution in the quality of the almonds marketed during the remainder of the 1978-79 crop year, and (2) an unacceptable product which would pose marketing problems. Indications are that handlers are sorting out those kernels with more serious damage. In addition, the 1978 production is small in comparison to demand, and it is estimated that the change would make several million more pounds of almonds available for disposition by handlers. It is recognized, as pointed out in the comment in opposition to the change, that some handlers may have processed their receipts of 1978 crop almonds on the basis of the one and one-half percent tolerance, and may be unable to fully avail themselves of the more liberal tolerance without incurring additional cost. However, for the reasons stated previously, the change in the tolerance results from circumstances probably unique to the 1978 crop of almonds, and would be of benefit to a majority of the almond industry, and therefore should be adopted as soon as possible.

Therefore, after consideration of all relevant matter presented, including that in the notice, the comments received, the recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The 1978-79 crop year began July 1, 1978, and this rule change is applicable for that crop year; (2) this regulation reduces a restriction on handlers; and (3) immediate establishment of this rule is necessary so that handlers and growers may avail themselves of it as soon as possible.

Therefore, § 981.442(a)(4) is revised to read as follows:

§ 981.442 Quality control.

(a) * * * (4) *Disposition obligation.* The weight of inedible kernels in excess of one and one-half percent of the kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligation, except that for the 1978-79 crop year ending June 30, 1979, this percentage shall be three percent. If a variety other than Peerless is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

* * * * *

Dated: November 27, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 78-33583 Filed 11-29-78; 8:45 am]

[3410-02-M]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Expenses of the California Date Administrative Committee, and Rate of Assessment for 1978-79 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1978-79 crop year, to be collected from handlers to support activities of the California Date Administrative Committee which locally administers the Federal marketing order covering domestic dates produced or packed in Riverside County, California.

DATES: Effective October 1, 1978, through September 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

§ 987.323 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the California Date Administrative Committee during the 1978-79 crop year, will amount to $27,550.

(b) The rate of assessment for said year payable by each handler in accordance with § 987.72 is fixed at 7 cents per hundredweight on all assessable dates.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular crop year shall apply to all assessable dates handled from the beginning of such year which began October 1, 1978. To enable the Committee to meet crop year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: November 27, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 78-33584 Filed 11-29-78; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 426.1]

PART 1806—INSURANCE

Subpart A—Real Property Insurance

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning real property insurance. The intended effect of this action is to eliminate any suggestion of sexual bias.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Agnes M. Copeland, 202-447-4572.

SUPPLEMENTARY INFORMATION: Section 1806.2(b)(7) of Part 1806 of Chapter XVIII, Title 7, Code of Federal Regulations is amended. The purpose of this amendment is to require that the property insurance policy include the names of all borrowers who are owners of the property being insured. Since this is an amendment of a procedural rule, publication in prior rulemaking format is unnecessary.

Accordingly, § 1806.2, paragraph (b)(7) is amended to read as follows:

§ 1806.2 Companies and policies.

* * * * *

(b) Insurance policies. * * * (7) *Name and location.* The policy should contain names of all the borrowers who are owners of the property being insured, and it will be returned for correction if it does not do so. The location of the property should be so described in the policy that the property can easily be identified. The complete legal description of the property by metes and bounds is not required. Any deviation from the requirements of this paragraph must first be cleared with the National Office.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 442; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority for Rural Development, 7 CFR 2.70; delegations of authority by Director OEO 29 FR 14764, 33 FR 9850)

V 43 1 231 NOV 30 78 UMI

Dated: November 17, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-33585 Filed 11-29-78; 8:45 am]

[3410-10-M]

SUBTITLE A—OFFICE OF SECRETARY OF AGRICULTURE

[Amdt. 3]

PART 16—LIMITATION ON IMPORTS OF MEAT

Section 204 Import Regulations; Restrictions on the Importation of Meat From Australia and Nicaragua

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The regulations set forth in this Subpart are amended to limit imports of certain meats from Australia and Nicaragua to no more than 766.2 million and 59.5 million pounds, respectively, during calendar year 1978. Such action is necessary to carry out the 1978 restraint program, including agreements entered into by the United States with Australia and Nicaragua pursuant to Section 204 of the Agricultural Act of 1956 limiting the export from Australia and Nicaragua and the importation into the United States of certain meats.

EFFECTIVE DATE: November 30, 1978. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

John E. Riesz (FAS), 202-447-7217, Dairy, Livestock and Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of these regulations.

These regulations establish quantitative restrictions applicable to meat imported from Australia and Nicaragua which may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly, at the level of 766.2 million and 59.5 million pounds, respectively, during calendar year 1978.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.O. 12044.

EFFECTIVE DATE

Meat released under the provisions of section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery)) prior to November 30, 1978, shall not be denied entry.

Subpart A, Section 204 Import Regulations, of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended to add § 16.5 "Quantitative Restrictions" which reads as follows:

§ 16.5 Quantitative restrictions.

(a) Imports from Australia. During calendar year 1978, no more than 766.2 million pounds of meat, exported from Australia in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20, may be entered or withdrawn from warehouse for consumption in the United States, whether such meat was shipped directly or indirectly, from Australia to the United States.

(b) Imports from Nicaragua. During calendar year 1978, no more than 59.5 million pounds of meat, exported from Nicaragua in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20, may be entered or withdrawn from warehouse for consumption in the United States, whether such meat was shipped directly or indirectly, from Nicaragua to the United States.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733).)

Issued at Washington, D.C. this 28th day of November 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-33740 Filed 11-29-78; 10:58 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 322—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN OF CITIZEN PARENTS

PART 323—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN ADOPTED BY UNITED STATES CITIZENS

Implementation of Sec. 7 of Pub. L. 95-417 Elimination of Residence Requirement for Naturalization of Adopted Alien Children

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rulemaking order amends the regulations of the Immigration and Naturalization Service regarding residence requirements for adopted alien children to comply with recently enacted legislation. Effective October 5, 1978, section 323 of the Immigration and Nationality Act was repealed. The regulatory amendments set forth in this order are necessary and intended to bring our regulations into compliance with the repeal of section 323.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, telephone: 202-376-8373.

SUPPLEMENTARY INFORMATION: This final rulemaking order amends the regulations of the Immigration and Naturalization Service by revising 8 CFR 322.1, and by revoking 8 CFR Part 323 and 8 CFR 323.11. The reason for this action is the repeal by the Congress of section 323 of the Immigration and Nationality Act in Pub. L. 95-417 (92 Stat. 918), effective October 5, 1978. Before its repeal by section 7 of Pub. L. 95-417, section 323 of the Immigration and Nationality Act required an alien adopted child to reside with the adoptive parents in the United States for two years before the child would be eligible for naturalization. This two year residence requirement was not applicable to natural born children. Section 323 also required 1 year physicial presence by the adopted child in the United States prior to the filing of the petition for naturalization. Section 7 of Pub. L. 95-417 repeals section 323 of the Immigration and Nationality Act. In so doing, it makes an adopted child eligible for naturalization immediately following his adoption and lawful admission for permanent residence, thus abolishing the distinction between adopted and natural born children as regards eligibility for naturalization. These children will now be naturalized under the provisions of section 322 of the Act and 8 CFR Part 322.

In the light of the foregoing Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as set forth below.

PART 322—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: CHILDREN OF CITIZEN PARENTS

1. § 322.1 is revised as set forth below:

§ 322.1 Petition.

An application to file a petition for naturalization under section 322 of the Act in behalf of a child shall be submitted on Form N-402. The petition for naturalization shall be filed on Form N-407, in duplicate. A child under this part is not required to establish any particular period of residence in a state.

PART 323 [REVOKED]

2. 8 CFR Part 323 and 8 CFR 323.11 are hereby revoked.

(Sec. 7 of Pub. L. 95-417, 92 Stat. 918; sec. 103; 8 U.S.C. 1103. Interpret or apply secs. 322 and 332; 8 U.S.C. 1433 and 1443.)

These amendments are published pursuant to 5 U.S.C. 552 as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary and would be impractical in this instance because Sec. 323 of the Immigration and Nationality Act was repealed by sec. 7 of Pub. L. 95-417 which became effective October 5, 1978.

Dated: November 24, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-33588 Filed 11-29-78; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Codes and Standards for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Effective rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulation, "Codes and Standards," to clarify certain ambiguities to avoid misinterpretations of provisions which deal with requirements for in service inspection of nuclear power plants. These clarifications should result in more expeditious reviews and processing of in service inspection programs by the NRC.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. A. Taboada, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-443-5999).

SUPPLEMENTARY INFORMATION: In applying Section 50.55a, "Codes and Standards," of the Commission's regulations 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," to current licensing actions, some confusion has resulted because of ambiguities that existed in the language. The amendments set forth below modify the language of § 50.55a to clarify the ambiguities.

Since the amendments are clarifications of regulations currently in effect and do not impose a burden to anyone applying the regulation, the Commission has found that good cause exists for omitting general notices of proposed rulemaking and public procedure thereon as unnecessary and for making the rule effective immediately without the customary 30-day waiting period.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

1. In § 50.55a of 10 CFR Part 50, paragraphs (g)(4)(iii) and (g)(4)(iv) are amended by deleting the words "tests of pumps and valves for assessing operational readiness" and substituting therefor the words "tests to verify operational readiness of pumps and valves whose function is required for safety"; and paragraph (g)(6)(i) is amended by deleting the words "impractical and may grant such relief" and substituting therefor the words "impractical. The Commission may grant such relief and may impose such alternative requirements".

(Secs. 103, 104, 161i, Pub. L. 83-703; 68 Stat. 936, 937, 948 (42 U.S.C. 2133, 2134, 2201(i)).)

Dated at Bethesda, Md., this 9th day of November, 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-33608 Filed 11-29-78; 8:45 am]

[1505-01-M]

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Miscellaneous Amendments

Correction

In FR DOC. 78-31528 appearing at page 52201 in the issue for Thursday, November 9, 1978, make the following change:

On page 52202, under the heading, "PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS" amendatory paragraph no. 4, fourth line, "212-337-5000" should be corrected to read "215-337-5000".

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 78-ASW-52; Amdt. 39-3356]

PART 39—AIRWORTHINESS DIRECTIVES

Aircraft Parts and Development Corp. (Callair) A-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Aircraft Parts and Development Corporation (Callair) A-9 Series Airplanes by changing the applicability to apply to all Aircraft Parts and Development Corporation (Callair) A-9 Series Airplanes that have the wing struts carry-through tube running through the hopper. The amendment is needed because the FAA has determined that any of these aircraft that have the wing struts carry-through tube running through the hopper are susceptible to corrosion and possible failure of the wing struts carry-through tube to which the AD is directed and the FAA has determined that the applicability call-out of

Issued in Kansas City, Missouri on

the existing AD relative to Serial Numbers 1451 and up equipped with hoppers, P/N 13733, does not include all such aircraft.

DATES: Effective date: December 8, 1978. Compliance required as indicated.

ADDRESSES: The applicable service information may be obtained from persons or offices noted in this AD.

FOR FURTHER INFORMATION CONTACT:

Milton G. Martin, Airframe Section, ASW-212, Engineering and Manufacturing Branch, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3299, 43 FR 43292, AD 78-20-6, which currently requires inspections of wing struts carry-through tube and replacement as necessary on Aircraft Parts and Development Corporation (Callair) A-9 Series Airplanes (Serial Numbers 1451 and up) equipped with P/N 13733 hoppers. After issuing Amendment 39-3299, the FAA has determined that the applicability to Serial Numbers 1451 and up and to aircraft that have the P/N 13733 hoppers does not include all of these aircraft which have the wing struts carry-through tube running through the hopper and which are susceptible to corrosion and possible failure of the carry-through tube. Therefore, the FAA is amending Amendment 39-3299 by making the AD applicable to all Aircraft Parts and Development Corporation (Callair) A-9 Series Airplanes that have the wing strut carry-through tube running through the hopper.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending Amendment 39-3299, 43 FR 43292, AD 78-20-06, as follows:

(1) By revising applicability statement to read: "AIRCRAFT PARTS AND DEVELOPMENT CORPORATION (CALLAIR). Applies to Models A-9, A-9A, and A-9B Airplanes which have the wing struts carry-through tube running through the hopper, certificated in all categories (Airworthiness Docket No. 78-ASW-52)."

(2) By revising the first sentence of the compliance paragraph to read, "Compliance required within the next 25 hours' time in service after the effective date of this AD except that aircraft added by Amendment 39-3356 must comply within the next 25 hours' time in service from the effective date of such amendment." By deleting the reference to "P/N 13733" in the second sentence.

(3) By deleting paragraph (a) in its entirety.

(4) By revising paragraph (b) to read as follows:

(b) Remove the hopper top and inspect for a fiberglas wrapped carry-through tube. The main carry-through tube if located in the hopper is located 25 inches aft of the hopper forward bulkhead and six inches below the hopper surface. Visually inspect the fiberglas wrapping for cracks.

This amendment becomes effective December 8, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Fort Worth, Texas, on November 17, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-33425 Filed 11-29-78; 8:45 am]

[4910-13-M]

[Docket No. 76-CE-32-AD; Amendment 39-3357]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 99 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters existing Airworthiness Directive (AD) 77-05-01, Amendment No. 39-2843, applicable to Beech 99 series airplanes by excluding those airplanes on which the wing and wing center section have been modified in accordance with Beech Kit No. 99-4023-1S. This amendment will reduce the present burden on owners/operators of affected airplanes without compromising safety.

EFFECTIVE DATE: November 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: This amendment alters Amendment 39-2843 (42 FR 12163 through 12166), AD 77-05-01, applicable to Beech 99 series airplanes. The AD currently requires repetitive inspections of the wing front spar lower cap, associated components and wing remaining structure for cracks, accomplishment of appropriate corrective action if cracks are discovered and replacement of the spar caps when their fatigue life limits are attained. Subsequent to issuance of AD 77-05-01, Beech has developed and made available Wing and Carry-through Structural Modification Kit Number 99-4023-1S which includes structurally improved (1) wing outboard panels front spar, (2) carry-through front spar lower cap and, (3) carry-through rear spar lower cap reinforcement. The FAA has determined that the requirements made mandatory by AD 77-05-01 are no longer necessary to assure continued wing structural integrity after Beech Kit Number 99-4023-1S is installed. Therefore, the agency is altering Amendment 39-2843 by amending the AD applicability statement to exclude those airplanes which have Beech Kit Number 99-4023-1S installed.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the FEDERAL REGISTER.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39-2843 (42 FR 12163 through 12166), AD 77-05-01 of Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

(1) Delete the existing applicability statement and in its place add the following new applicability statement: "BEECH. Applies to all 99 (Serial Numbers U-1 and UP) series airplanes with 3,000 or more hours time-in-service except those airplanes which have Beech Wing Modification Kit No. 99-4023-1S installed."

This amendment becomes effective November 17, 1978.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri on November 17, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-33266 Filed 11-29-78; 8:45 am]

[4910-13-M]

[Docket No. 78-NW-22-AD; Amdt. 39-3355]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This airworthiness directive (AD) requires inspections for interference between the escape slide girt bar and the mid-cabin galley door on Boeing Model 727 airplanes identified in the AD. The need for this AD was revealed when one operator experienced difficulty in opening the door during an emergency evacuation. Subsequent inspection by the operator revealed the problem existed on 38 out of 57 airplanes checked.

DATES: Effective date December 1, 1978.

ADDRESS: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT:

William M. Perrella, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. Telephone (206) 767-2516.

SUPPLEMENTAL INFORMATION: During an evacuation of a Boeing Model 727 passenger airplane, a flight attendant could not open the mid-cabin galley door. The door became jammed before she could complete the rotary motion of the operating handle. When two passengers assisted in operating the handle, the door was successfully opened and the escape slide deployed. Subsequent investigation revealed that the escape slide girt bar interfered with the door, preventing the door from completing its initial inward motion. The girt bar floor brackets had been modified per Boeing Service Bulletin 727-25-126, Revision 1. This modification called for the replacement of aluminum floor brackets with improved steel brackets. These steel brackets, when installed on the airplane, increased the height of the engaged girt bar by approximately 0.25 inch. This results in a possible interference between the door and girt bar. If the door is not rigged properly or has worn parts, interference is probable. Interference can also occur with the aluminum brackets. Subsequent inspections by the operator revealed that 38 out of 57 of their airplanes had this problem. Since this condition is likely to exist or develop on other 727 and 727-100 series passenger airplanes, and on Model 727-51C airplanes, the airworthiness directive is being issued to require inspections of mid-cabin galley door operation with girt bar installed.

The technical aspects of this rule were coordinated with the Boeing Commercial Airplane Company and the operators through the Air Transport Association (ATA) prior to issuance.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Air Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

BOEING: Applies to Boeing Model 727 and 727-100 series passenger airplanes, and Model 727-51C airplanes operating in the passenger mode. To detect possible interference between the mid-cabin galley door and the emergency escape slide girt bar, accomplish the following:

A. Within the next 300 flight hours time-in-service after the effective date of this AD or prior to January 1, 1979, whichever occurs first, unless accomplished within the last 1200 flight hours time-in-service, inspect the mid-cabin galley door for interference with the girt bar in accordance with Boeing Alert Service Bulletin 727-25-A247.

B. Doors with interference are to be reworked prior to further passenger flight in accordance with Boeing Alert Service Bulletin 727-25-A247.

C. Repeat inspections at intervals not to exceed 1,500 flight hours time-in-service or one (1) year from the last inspection, whichever occurs first.

D. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1973.)

Issued in Seattle, Washington, on November 17, 1978.

J. H. TANNER,
Acting Director,
Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 78-33268 Filed 11-29-78; 8:45 am]

[4910-13—M]

[Docket No. 75-WE-54-AD; Amdt. 39-3352]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-6 and DC-7 Series Airplanes Including Military Models

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) by providing relief to operators for aircraft modified for unpressurized flight. This amendment is needed because the FAA has determined that the repetitive inspection schedule specified in the AD may be extended when certain conditions are met.

DATE: Effective December 1, 1978.

ADDRESSES: The applicable service information may be obtained from:

McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

V 4 3 / 2 3 1 NOV 30 78

Rules Docket in Room 916, FAA 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6315.

SUPPLEMENTARY INFORMATION: Amendment 39-402, AD 67-13-02, requires repetitive external and internal inspections of fuselage structure in the area of the crew door on McDonnell Douglas DC-6 and 7 series airplanes. After issuing Amendment 39-402, the FAA has determined that certain repetitive inspections required by the AD may be discontinued upon completion of the required initial inspections and repairs for cracks, provided that the cabin pressurization system is deactivated and alternate inspections are accomplished.

The FAA, with the concurrence of the airplane manufacturer, has determined that since the high stress levels associated with pressurization and relatively rapid crack growth no longer exist in these aircraft, operated unpressurized, neither does the hazard of rapid decompression. Therefore a minimum level of safety can be maintained with a less restrictive inspection requirement. Modification of the pressurization system to take advantage of the relief provided by this amendment must be approved by the Chief, Aircraft Engineering Division, FAA Western Region, because of the special considerations necessary for extended unpressurized operations.

This AD has always been applicable to the military models of the DC-6, but some confusion has existed, therefore, the applicability is being clarified by adding the phrase—"including military models."

Similar amendments are also being made to AD's 54-23-01 and 67-05-02.

Since this amendment provides an alternate means of compliance and a clarification and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending Airworthiness Directive 67-13-02 as follows:

I. Amend the applicability statement by adding the following: • • • including military models.

II. Add new paragraphs (i), (j) and (k) as follows:

(i) Aircraft modified for unpressurized operations by a modification approved by the Chief, Aircraft Engineering Division, FAA Western Region in which the initial External and Internal inspections and required repair of cracks has been accomplished may:

(1) At intervals not to exceed 200 hours' time in service, in lieu of the repetitive inspection intervals of paragraph (g), inspect the areas specified in paragraph (c)(2) in accordance with an FAA approved maintenance program.

(2) Restoration of the cabin pressurization system to operational status negates the relief provided by paragraph (i).

(j) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(k) Special flight permits may be used in accordance with FAR 21.197 and 21.199 to operate airplanes without differential pressure, to a base for the accomplishment of inspections required by this AD.

This amendment become effective December 1, 1978.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, California on November 15, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-33255 Filed 11-29-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-16-AD; Amdt. 39-3353]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-6 Series Airplanes Including Military Models

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) by providing relief to operators for aircraft modified for unpressurized flight. This amendment is needed because the FAA has determined that the repetitive inspection schedule specified in the AD may be extended when certain conditions are met.

DATE: Effective December 1, 1978.

ADDRESSES: The applicable service information may be obtained from:

McDonnell Douglas Corporation, 3855 Lakewood Blvd., Long Beach, California 90846, Attn: Director, Publications and Training, C1-750, (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: This amendment amends Airworthiness Directive 54-23-01, which requires repetitive inspections and repair of failures of the fuselage structure in the propeller plane areas unless rework is accomplished in accordance with appropriate Douglas service bulletins. After issuing AD 54-23-01, the FAA has determined that certain repetitive inspections required by this AD may be discontinued after completion of the required initial inspections and rework, provided that the cabin pressurization system is deactivated and alternate inspections are accomplished.

The FAA, with the concurrence of the airplane manufacturer, has determined that since the high stress levels associated with pressurization and relatively rapid crack growth no longer exist in these aircraft, operated unpressurized, neither does the hazard of rapid decompression. Therefore, a minimum level of safety can be maintained with a less restrictive inspection requirement. Modification of the pressurization system to take advantage of the relief provided by this amendment must be approved by the Chief, Aircraft Engineering Division, FAA Western Region, because of the special considerations necessary for extended unpressurized operations.

This AD has always been applicable to the military models of the DC-6, but some confusion has existed, therefore, the applicability is being clarified by adding the phrase—"including military models."

Similar amendments are also being made to AD's 61-05-02 and 67-13-02.

Since this amendment provides an alternate means of compliance and clarification and imposes no additional burden on any person, notice of public procedure hereon are unnecessary, and the amendment may be made effective in less than thirty days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending Airworthiness Directive 54-23-01 as follows:

I. Amend the applicability statement by adding the following: • • • including military models.

II. Amend the last line of paragraph 3 as follows: • • • items 1, 2 and 4 may be discontinued.

III. Add new paragraphs 4, 5 and 6 as follows:

4.(a) Aircraft modified for unpressurized operations by a modification approved by the Chief, Aircraft Engineering Division, FAA Western Region, and in which the initial inspections and rework, if required, have been accomplished in accordance with paragraphs 1 and 2 may:

(b) At intervals not to exceed 200 hours' time in service, in lieu of the time intervals of paragraphs 1 and 2, inspect the area specified by paragraph 1(a) in accordance with an FAA approved maintenance program.

(c) If any skin cracks or evidence of structural softness is found, paragraph 1(c) must be accomplished.

(d) Restoration of the cabin pressurization system to operational status negates the relief provided by paragraphs 4(a) and 4(b).

5. Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

6. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes without differential pressure, to a base for the accomplishment of inspections required by this AD.

This amendment becomes effective December 1, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, California on November 15, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-33256 Filed 11-29-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-17-AD; Amdt. 39-3354]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-6 Series and DC-7 Series Airplanes Including Military Models

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) by providing relief to operators for aircraft modified for unpressurized flight. This amendment is needed because the FAA has determined that the repetitive inspection schedule required by this AD may be discontinued when certain conditions are met.

DATES: Effective date December 1, 1978.

ADDRESSES: The applicable service information may be obtained from:

McDonnell Douglas Corporation, 3855 Lakewood Blvd., Long Beach, California 90846, Attention: Director, Publications and Training, C1-750, (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Amendment 259 of Part 507, AD 61-05-02 requires repetitive inspection of the emergency exit door hinges unless hinges are replaced with an improved type in accordance with appropriate Douglas Service Bulletins.

After issuing AD 61-05-02 the FAA has determined that certain requirements of the repetitive inspections required by this AD may be discontinued after completion of the initial inspections provided that the cabin pressurization system is deactivated and alternate inspections are accomplished.

The FAA, with the concurrence of the airplane manufacturer, has determined that since the high stress levels associated with pressurization and relatively rapid crack growth no longer exist in these aircraft, operated unpressurized, neither does the hazard of rapid decompression. Therefore a minimum level of safety can be maintained with a less restrictive inspection requirement. Modification of the pressurization system to take advantage of the relief provided by this amendment must be approved by the Chief, Aircraft Engineering Division, FAA Western Region, because of the special considerations necessary for extended unpressurized operations.

This AD has always been applicable to the military models of the DC-6, but some confusion has existed, therefore the applicability is being clarified by adding the phrase—"including military models."

Similar amendments are also being made to AD's 54-23-01 and 67-13-02.

Since this amendment provides an alternate means of compliance and a clarification and imposes no additional burden on any person, notice and public procedure hereon are not necessary and the amendment may be made effective in less than thirty days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending Airworthiness Directive 61-05-02 as follows:

I. Amend the applicability statement by adding the following: • • • including military models.

II. Add new paragraphs (e), (f), and (g) as follows:

(e) Aircraft modified for unpressurized operations by a modification approved by the Chief, Aircraft Engineering Division, FAA Western Region, and in which the initial inspections required by paragraph (a), (b), (c), or (d) of this AD have been accomplished, may substitute the following in lieu of the use of a dye penetrant in accomplishing the inspections required by paragraphs (a), (b), (c), or (d):

1. At intervals not to exceed 200 hours' time in service, perform a visual inspection of all emergency exit door hinges and door skin recesses for cracks in accordance with an FAA approved maintenance program.

2. This adjusted inspection requirement does not void the requirement to replace the hinges in accordance with paragraph (b).

3. Restoration of the cabin pressurization system to operational status negates the relief provided by paragraph (e).

(f) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes without differential pressure, to a base for the accomplishment of inspections required by this AD.

This amendment becomes effective December 1, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Los Angeles, California on November 15, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-33260 Filed 11-29-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-CE-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and Transition Area at Kansas City, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this amendment is to alter the control zone and the transition area at Kansas City, Missouri Downtown Airport since the airport name has been changed from Kansas City Municipal Airport, to update the description of the control zone and to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Kansas City, Missouri Downtown Airport utilizing a VOR, a navigational aid.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F, Section 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) is to alter the control zone and transition area at Kansas City, Missouri Downtown Airport. The City of Kansas City, Missouri has changed the name of the airport from Kansas City Municipal Airport to Kansas City, Missouri Downtown Airport. In addition, the existing control zone description needs to be updated. Finally, to enhance airport usage by providing additional instrument approach capability to the airport, a new instrument approach procedure has been developed utilizing a VOR, a navigational aid. These conditions require alteration of the control zone and transition area at Kansas City, Missouri Downtown Airport. The intended effect of the control zone action is as stated above. The intended effect of the transition area action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DISCUSSION OF COMMENTS

On pages 38415 and 38416 of the FEDERAL REGISTER dated August 28, 1978, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Kansas City, Missouri. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposals to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), is amended, effective 0901 GMT February 22, 1979, by altering the following control zone:

KANSAS CITY, MO.

Within a 5-mile radius of the Kansas City Downtown Airport (latitude 39°07'20.7" N., longitude 94°35'30" W.) within 1.5 miles each side of the Riverside, Missouri VOR 043° radial extending from the 5-mile radius zone to 6 miles northeast of the VOR, within 1.5 miles each side of the Riverside, Missouri VOR 219° radial extending from the 5-mile radius zone to 6 miles southwest of the VOR, and within 2 miles each side of the Riverside, Missouri VOR 013° radial extending from the 5-mile radius zone to 10.5 miles north of the VOR, excluding that area which overlies the Kansas City, Missouri International Airport control zone.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 GMT February 22, 1979, by altering the following transition area:

KANSAS CITY, MO.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Kansas City Downtown Airport (latitude 39°07'20.7" N., longitude 94°35'30" W.) within 4.5 miles each side of the Riverside VOR 212° radial extending from the 10-mile radius area to 12.5 miles southwest of the Downtown Airport, within a 9.5-mile radius of the Sherman AAF (latitude 39°22'15" N., longitude 94°54'45" W.) within an 8.5-mile radius of the Kansas City International Airport (latitude 39°17'50.8" N., longitude 94°42'54.6" W.) within 5 miles each side of the Runway 19 ILS localizer north course extending from the 8.5-mile radius area to 25 miles north of the Wyandotte LOM, within 5 miles each side of the Kansas City VORTAC 096° radial extending from the 8.5-mile radius area to 11.5 miles east of the VORTAC, and within 5 miles each side of the Runway 1 ILS localizer south course extending from the 8.5-mile radius area to 11 miles south of the Wyandotte LOM.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri November 15, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-33264 Filed 11-29-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-CE-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Transition Area—Kirksville, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Kirksville, Missouri to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Clarence Cannon Memorial Airport, which is based on a new localizer and outer marker being installed at the airport.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Clarence Cannon Memorial Airport, Kirksville, Missouri is being established based on a localizer and outer marker navigational aids being installed at the airport. The establishment of an instrument approach procedure based on these navigational aids entails alteration of the transition area at and above 700 feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection. The intended effect of this action is to ensure segregation of aircraft using the new instrument approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DISCUSSION OF COMMENTS

On pages 38416 and 38417 of the FEDERAL REGISTER dated August 28, 1978, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Kirksville, Missouri. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440) is amended, effective 0901 GMT February 22, 1979, by altering the following transition area:

KIRKSVILLE, MO.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Clarence Cannon Memorial Airport (latitude 40°05'33" N., longitude 92°32'41" W.), within 3 miles each side of the Kirksville, Missouri VORTAC 320° radial extending from the 6½-mile radius area to 8 miles northwest of the VORTAC, and within 5 miles each side of the 180° bearing from the Clarence Cannon Memorial Airport extending from the 6½-mile radius area to 13½ miles south of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri November 15, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-33263 Filed 11-29-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 77-GL-23]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of a Jet Route and Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments extend two federal airways and one jet route identified as V-148, V-345 and J-89 and realign a segment of Federal Airway V-177. A review of the airway structure in the vicinity of Duluth, Minn., indicated a need for these changes in the airway and jet route structures. These actions provide for the safe and efficient use of the navigable airspace.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 11, 1977, the FAA published for comment a proposal to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to extend three federal airways and one jet route identified as V-148, V-224, V-345 and J-89, and also modify a segment of Federal Airway V-177 (42 FR 40711). Subsequent to the publication of the proposal, the Marquette, Mich., VORTAC, an air navigation aid, was accidentally destroyed by fire. For this reason the proposal to extend V-224 is omitted from these amendments and any airspace action predicated on a new VORTAC will be the subject of separate airspace dockets. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The three comments received expressed no objections to the actions contained herein. These actions are the same as proposed in the notice with the exception of the extension of V-224. Sections 71.123 and 75.100 were published in the FEDERAL REGISTER on January 3, 1978 (43 FR 307 and 714).

THE RULE

These amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) make the following changes: (1) Extends V-148 from over Minneapolis, Minn., VOR direct to Hayward, Wis., TVOR direct to the Ironwood, Mich., VOR. This action will provide a nonradar route between Minneapolis, Minn., and Ironwood, Mich.; (2) extends V-345 from over Eau Claire, Wis., VOR via the 357°(M) radial and the Hayward, Wis., TVOR 178°(M) radial to the Hayward TVOR, direct to the Ashland, Wis., TVOR. This action will provide a nonradar route between Eau Claire and Ashland, Wis.; (3) extends J-89 from over Duluth, Minn., VOR direct to the Winnipeg, Manitoba, Canada, VOR. This action will provide a direct route between Duluth and Winnipeg; (4) deletes the existing segment of V-177 from the intersection of the Duluth, Minn., VOR 131°(M) radial and the Wausau, Wis., VOR 316°(M) radial to the Wausau VOR and redesignates the existing west alternate (V-177W) between Duluth and Wausau via Hayward, Wis., as V-177. This action will improve and help to expedite the movement of IFR traffic.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 and § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (43 FR 307 and 714) and amended (43 FR 19212 and 39754) is further amended, effective 0901 GMT, February 22, 1979, as follows:

1. In § 71.123: a. Under V-148 "Minn." is deleted and "Minn.; Hayward, Wis.; to Ironwood, Mich." is substituted therefor.

b. Under V-177 "Duluth, Minn., including a west alternate via Hayward, Wis.;" is deleted and "Hayward, Wis.; Duluth, Minn.;" is substituted therefor.

c. Under V-345 "to Eau Claire" is deleted and "Eau Claire; INT of Eau Claire 001° and Hayward, Wis., 181° radials; Hayward; to Ashland, Wis." is substituted therefor.

2. In § 75.100: Under J-89 ", to Duluth, Minn." is deleted and "; Duluth, Minn.; to Winnipeg, Manitoba, Canada. The portion within Canada is excluded." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 21, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-33265 Filed 11-29-78; 8:45 am]

[4910-13-C]

[4910-13-M]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 18460; Amdt. No. 95-282]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t., December 28, 1978. [Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 25 FR 6489 and Paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.]

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on November 20, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc. 78-33267 Filed 11-29-78; 8:45 am]

[4910-13-C]

§95.48 GREEN FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
King Salmon, Alas. NDB	Kachemak, Alas. NDB	6000

§95.299 RED FEDERAL AIRWAY 99
is amended to read in part:

FROM	TO	MEA
Iliamna, Alas. VOR	Kachemak, Alas. NDB	6000

§95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
Ardmore, Okla. VOR	Oklahoma City, Okla. VOR	3000
Kwang INT, Calif.	Camarillo, Calif. VOR	3600
Ginna INT, Calif.	Camarillo, Calif. VOR	4000
Lynchburg, Va. VOR	Casanova, Va. VOR	6000
Mulla INT, N.J.	Yardley, Pa. VOR	5000

§95.1001 DIRECT ROUTES—U.S.
is amended to read in part:

Pottstown, Pa. VOR	Boyer INT, Pa.	5000
		MAA-7000

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

Surfs INT, Colo.	Kiowa, Colo. VOR E-bound only	10000
Union INT, S.C. *2200—MOCA	Charlotte, N.C. VOR	*3000

Panama Routes

FROM	TO	MEA
Amber 1 is amended to read:		
Mala INT, R.P. *2100—MOCA	Taboga Island, R.P. NDB	*3000
Taboga Island, R.P. NDB	Bagre INT, R.P.	5000
Bagre INT, R.P. *1200—MOCA	Bufeo INT, R.P.	*5000
Amber 2 is amended to read:		
Tucuri INT, R.P.	Punta Brava INT, R.P.	9000
Punta Brava INT, R.P. *6000—MOCA	Taboga Island, R.P. NDB	*7000
Taboga Island R.P. NDB *7500—Rio Hato INT, SW-bound **2700—MOCA	*Rio Hato INT, R.P.	**5000
Rio Hato INT, R.P. *4400—MOCA	Santiago INT, R.P.	*11000
Santiago INT, R.P. *5800—MOCA	Cantu INT, R.P.	*11000
Cantu INT, R.P. *2800—MOCA	David, R.P. NDB	*11000
David, R.P. NDB *2100—MOCA	Porton INT, R.P.	*15000
Amber 9 is amended to read:		
Roca INT, R.P. *2100—MOCA	Taboga Island, R.P. NDB	*3000
Taboga Island, R.P. NDB *3900—MOCA	Morales INT, R.P.	*5000
Morales INT, R.P. *1200—MOCA	Watson INT, R.P.	*3000
Watson INT, R.P.	San Andres, Columbia NDB	1500
San Andres, Columbia NDB	Mora INT, R.P.	1500
Mora INT, R.P. *1200—MOCA	Pollera INT, R.P.	*3000
Amber 12 is amended to read:		
Lenguoda INT, R.P. *1200—MOCA	Carpa INT, R.P.	*3000
Carpa INT, R.P. *2100—MOCA	Taboga Island, R.P. NDB	*3000
Taboga Island, R.P. NDB *3900—MOCA	Morales INT, R.P.	*5000
Morales INT, R.P. *1200—MOCA	Watson INT, R.P.	*3000
Watson INT, R.P.	San Andres, Columbia NDB	
San Andres, Columbia NDB *1400—MOCA	Oliver INT, R.P.	*3000
Green 4 is amended to read:		
Taboga Island, R.P. NDB	Pompano INT, R.P.	4000
Pompano INT, R.P. *1200—MOCA	Bajala INT, R.P.	*4000
Red 7 is amended to read:		
Taboga Island, R.P. NDB	Aguja INT, R.P.	6000
Blue 8 is added to read:		
Taboga Island, R.P. NDB	Marina INT, R.P.	5000
Marina INT, R.P. *1200—MOCA	Dixon INT, R.P.	*3000
Blue 10 is amended to read:		
Cupe INT, R.P.	La Palma, R.P. VOR	9000
La Palma, R.P. VOR	Taboga Island, R.P. NDB	3000
Taboga Island, R.P. NDB	Mako INT, R.P.	5000
Mako INT, R.P. *1200—MOCA	Colby INT, R.P.	*3000
Blue 11 is amended to read:		
Taboga Island, R.P. NDB	Concha INT, R.P.	5000
Concha INT, R.P. *1200—MOCA	Crawford INT, R.P.	*3000
V-3 is amended to read in part:		
Taboga Island, R.P. VOR	Charrera INT, R.P.	2700
V-11 is amended to read in part:		
David, R.P. VOR *4000—MCA Lorenzo INT, E-bound	*Lorenzo INT, R.P.	3000
Lorenzo INT, R.P.	Santinga, R.P. VOR	4000
Santinga, R.P. VOR	Bejuco INT, R.P.	5000
*Bejuco INT, R.P. *3800—MCA Bejuco INT, SW-bound	Taboga Island, R.P. VOR	2100
V-11A is amended to read in part:		
David, R.P. VOR *6000—MCA Corchita INT, E-bound	*Corchita INT, R.P.	2000
Corchita INT, R.P. *10500—MCA Madera INT, E-bound	*Madera INT, R.P.	6000
Madera INT, R.P.	Ciri INT, R.P	10500
Ciri INT, R.P. *3800—MCA La Mitra INT, SW-bound	*La Mitra INT, R.P.	6000
La Mitra INT, R.P.	Taboga Island, R.P. VOR	2100
V-12 is amended to read in part:		
Bocas Del Toro, R.P. VOR	Gorda INT, R P	1500
Gorda INT, R.P.	Santa Cruz INT, R.P.	6000
V-13 is amended to read in part:		
Santiago, R.P. VOR *3000—MRA	*Chitre INT, R.P.	2500
V-14 is amended to read:		
Taboga Island, R.P. VOR	Diego INT, R P	2100
Diego INT, R.P.	La Palma, R.P. VOR	3000
V-15 is amended to read:		
David, R.P. VOR *5000—MCA Das Rias INT, NE-bound	*Das Rias INT, R.P.	2500
Das Rias INT, R.P. *9000—MCA Sambrero INT, NE-bound	*Sombrero INT, R.P.	5000
Sombrero INT, R.P.	Reyna INT, R.P	9000
Reyna INT, R.P.	Garzon INT, R.P.	5000
Garzon INT, R.P.	Bocas Del Toro, R.P. VOR	2500

§95.6004 VOR FEDERAL AIRWAY 4

§95.6081 VOR FEDERAL AIRWAY 81

V 4 3 / 2 3 1 N 0 3 0 7 8 (MI)

V-16 is amended to read:

Bocas Del Toro, R.P. VOR	Dora INT, R.P.	1500
Dora INT, R.P.	Arenosa INT, R.P.	7000
Arenosa INT, R.P.	Tocumen, R.P. VOR	3000
Tocumen, R.P. VOR	*Mulatupo INT, R.P.	9500
*9500–MRA		
Mulatupo INT, R.P.	La Palma, R.P. VOR	6000

V-17 is amended to read:

David, R.P. VOR	*Rincom INT, R.P.	2500
*6000–MCA Rincom INT, N-bound		
Rincom INT, R.P.	*Nance INT, R.P.	6000
*9600–MCA Nance INT, N-bound		
Nance INT, R.P.	*Mango INT, R.P.	9600
*9600–MCA Mango INT, S-bound		
Mango INT, R.P.	*Lobo INT, R.P.	6000
*6000–MCA Lobo INT, S-bound		
Lobo INT, R.P.	Bocas Del Toro, R.P. VOR	2500

V-18 is amended to read:

Tocumen, R.P. VOR	La Palma, R.P. VOR	4000
La Palma, R.P. VOR	Jaque INT, R.P.	8000

V-19 is amended to read:

David, R.P. VOR	Caiba INT, R.P.	3000
Caiba INT, R.P.	Santiago, R.P. VOR	3500
Santiago, R.P. VOR	Rio Hato INT, R.P.	2500
Rio Hato INT, R.P.	*Chame INT, R.P.	3700
*3200–MCA Chame INT, SW-bound		
Chame INT, R.P.	Taboga Island, R.P. VOR	2100

V-20 is amended to read in part:

Punta Cocos INT, R.P.	*Jaque INT, R.P.	10000
*10000–MRA		

V-24 is amended to read:

Punta Cocos INT, R.P.	La Palma, R.P. VOR	3000

V-29 is amended to read:

Bocas Del Toro, R.P. VOR	Tigre INT, P.R.	1500
Tigre INT, R.P.	Masueta INT, R.P.	5000
Masueta INT, R.P.	France, C.Z. VOR	3000
France, C.Z. VOR	Mandinga INT, R.P.	8000

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J-889R is added to read:						
Nowell, Alas. W/P	79	10	Nowell	085/265 to COP	18000	45000
Arise, Alas. W/P				085/265 to Arise		
Arise, Alas. W/P	70				18000	45000
Konks, Alas. W/P				086/266 to Konks		
Konks, Alas. W/P	116	40	Konks	086/266 to COP	18000	45000
Killa, Alas. W/P				088/268 to Killa		

§95.5500 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J-997R is added to read:						
Nowell, Alas. W/P	79	10	Nowell	092/272 to COP	18000	45000
Tonts, Alas. W/P				092/272 to Tonts		
Tonts, Alas. W/P	219	120	Tonts	092/272 to COP	18000	45000
Dunks, Alas. W/P				096/276 to Dunks		
Dunks, Alas. W/P	131	47	Dunks	098/278 to COP	18000	45000
Holli, Alas. W/P				101/281 to Holli		
Holli, Alas. W/P	188	135	Holli	105/285 to COP	18000	45000
Mocha, Alas. W/P				108/288 to Mocha		

§95.6004 VOR FEDERAL AIRWAY 4 is amended to read in part:

FROM	TO	MEA
Flems INT, Wyo.	Libel INT, Colo.	12000
Libel INT, Colo.	Cager INT, Colo.	10000
*Cager INT, Colo.	Denver, Colo. VOR	7200
*7800–MCA Cager INT, N-bound		
Flems INT, Wyo.	Luske INT, Colo.	
Via N alter.	Via N alter.	10000
Denver, Colo. VOR	Byers INT, Colo.	8500
Byers INT, Colo.	Thurman, Colo. VOR	8000

§95.6005 VOR FEDERAL AIRWAY 5 is amended to delete:

FROM	TO	MEA
Alms, Ga. VOR	Vienna, Ga. VOR	
Via W alter.	Via W alter.	2000
Vienna, Ga. VOR	Macon, Ga. VOR	
Via W alter.	Via W alter.	2000
Macon, Ga. VOR	Norcross, Ga. VOR	
Via W alter.	Via W alter.	*4500
*3200–MOCA		MAA–7000
Norcross, Ga. VOR	Nello INT, Ga.	
Via W alter.	Via W alter.	5400
		MAA–7000

§95.6006 VOR FEDERAL AIRWAY 6 is amended to read in part:

FROM	TO	MEA
Cincinnati, Ohio VOR	Mason INT, Ohio	2800

§95.6007 VOR FEDERAL AIRWAY 7 is amended to read in part:

FROM	TO	MEA
Ft. Myers, Fla. VOR	Rinse INT, Fla.	
Via E alter.	Via E alter.	2000

§95.6008 VOR FEDERAL AIRWAY 8 is amended to read in part:

FROM	TO	MEA
Kremmling, Colo. VOR	*Surfs INT, Colo.	15300
*13300–MCA Surfs INT, W-bound		
Surfs INT, Colo.	Denver, Colo. VOR	9500
Denver, Colo. VOR	Akron, Colo. VOR	8000
Sprit INT, Neb.	Grand Island, Neb. VOR	
Via S alter.	Via S Alter.	*5000
*3700–MOCA		
Traci INT, Colo.	Paces INT, Colo.	
Via S Alter.	Via S alter.	*11000
*9700–MOCA		
Paces INT, Colo.	Gleno INT, Colo.	
Via S alter.	Via S alter.	13000

§95.6019 VOR FEDERAL AIRWAY 19 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Wenny INT, Colo.	7000
Wenny INT, Colo.	Nunns INT, Colo.	8500

§95.6068 VOR FEDERAL AIRWAY 68 is amended to read in part:

FROM	TO	MEA
Junction, Tex. VOR	Dossy INT, Tex.	3800
Dossy INT, Tex.	Curds INT, Tex.	*4000
*3300–MOCA		
Curds INT, Tex.	San Antonio, Tex. VOR	3500

§95.6081 VOR FEDERAL AIRWAY 81 is amended to read in part:

FROM	TO	MEA
Colorado Springs, Colo. VOR	Vince INT, Colo.	11000
Vince INT, Colo.	Foles INT, Colo.	10000

§95.6085 VOR FEDERAL AIRWAY 85 is amended to read in part:

FROM	TO	MEA
Drake INT, Colo.	*Benam INT, Colo.	11500
*15000–MCA Benam INT, NW-bound		

§95.6089 VOR FEDERAL AIRWAY 89 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Wenny INT, Colo.	7000
Wenny INT, Colo.	Nunns INT, Colo.	8500

§95.6121 VOR FEDERAL AIRWAY 121 is amended to read in part:

FROM	TO	MEA
Mobil INT, Ore.	Monte INT, Ore.	
Via N alter.	Via N alter.	
	SW-bound	8000
	NE-bound	10000
Monte INT, Colo.	Redmond, Ore. VORTAC	
Via N alter.	Via N alter.	10000

§95.6132 VOR FEDERAL AIRWAY 132 is amended to read in part:

FROM	TO	MEA
Rayme INT, Colo.	Akron, Colo. VORTAC	6600

§95.6160 VOR FEDERAL AIRWAY 160 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Rayme INT, Colo.	*9000
*7000–MOCA		
Rayme INT, Colo.	Sidney, Neb. VOR	7000

§95.6171 VOR FEDERAL AIRWAY 171 is amended to read in part:

FROM	TO	MEA
Alexandria, Minn. VOR	Storr INT, Minn.	*3500
*2900–MOCA		

§95.6198 VOR FEDERAL AIRWAY 198 is amended to read in part:

FROM	TO	MEA
Junction, Tex. VOR	Dossy INT, Tex.	3800
Dossy INT, Tex.	Curds INT, Tex.	*4000
*3300–MOCA		
Curds INT, Tex.	San Antonio, Tex. VOR	3500

§95.6207 VOR FEDERAL AIRWAY 207 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Wenny INT, Colo.	
Via W alter.	Via W alter.	7000
Wenny INT, Colo.	Int. 221 M rad Gill VOR & 352 M rad Denver VOR	
Via W alter.	Via W alter.	8500
Int. 221 M rad Gill VOR & 352 M rad Denver VOR	Gill, Colo. VOR	
Via W alter.	Via W alter.	
	SW-bound	8500
	NE-bound	7000

§95.7002 JET ROUTE NO. 2 is amended to delete:

FROM	TO	MEA
Alms, Ga. VOR	Vienna, Ga. VOR	
Via W alter.	Via W alter.	2000
Vienna, Ga. VOR	Macon, Ga. VOR	
Via W alter.	Via W alter.	2000
Macon, Ga. VOR	Norcross, Ga. VOR	
Via W alter.	Via W alter.	*4500
*3200–MOCA		MAA–7000
Norcross, Ga. VOR	Nello INT, Ga.	
Via W alter.	Via W alter.	5400
		MAA–7000

§95.7006 JET ROUTE NO. 6 is amended to read in part:

FROM	TO	MEA
Cincinnati, Ohio VOR	Mason INT, Ohio	2800

§95.7007 JET ROUTE NO. 7 is amended to read in part:

FROM	TO	MEA
Ft. Myers, Fla. VOR	Rinse INT, Fla.	
Via E alter.	Via E alter.	2000

§95.7008 JET ROUTE NO. 8 is amended to read in part:

FROM	TO	MEA
Kremmling, Colo. VOR	*Surfs INT, Colo.	15300
*13300–MCA Surfs INT, W-bound		
Surfs INT, Colo.	Denver, Colo. VOR	9500
Denver, Colo. VOR	Akron, Colo. VOR	8000
Sprit INT, Neb.	Grand Island, Neb. VOR	
Via S alter.	Via S Alter.	*5000
*3700–MOCA		
Traci INT, Colo.	Paces INT, Colo.	
Via S Alter.	Via S alter.	*11000
*9700–MOCA		
Paces INT, Colo.	Gleno INT, Colo.	
Via S alter.	Via S alter.	13000

§95.7019 JET ROUTE NO. 19 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Wenny INT, Colo.	7000
Wenny INT, Colo.	Nunns INT, Colo.	8500

§95.7068 JET ROUTE NO. 68 is amended to read in part:

FROM	TO	MEA
Junction, Tex. VOR	Dossy INT, Tex.	3800
Dossy INT, Tex.	Curds INT, Tex.	*4000
*3300–MOCA		
Curds INT, Tex.	San Antonio, Tex. VOR	3500

§95.7081 JET ROUTE NO. 81 is amended to read in part:

FROM	TO	MEA
Colorado Springs, Colo. VOR	Vince INT, Colo.	11000
Vince INT, Colo.	Foles INT, Colo.	10000

§95.7085 JET ROUTE NO. 85 is amended to read in part:

FROM	TO	MEA
Drake INT, Colo.	*Benam INT, Colo.	11500
*15000–MCA Benam INT, NW-bound		

§95.7089 JET ROUTE NO. 89 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Wenny INT, Colo.	7000
Wenny INT, Colo.	Nunns INT, Colo.	8500

§95.7121 JET ROUTE NO. 121 is amended to read in part:

FROM	TO	MEA
Mobil INT, Ore.	Monte INT, Ore.	
Via N alter.	Via N alter.	
	SW-bound	8000
	NE-bound	10000
Monte INT, Colo.	Redmond, Ore. VORTAC	
Via N alter.	Via N alter.	10000

§95.7132 JET ROUTE NO. 132 is amended to read in part:

FROM	TO	MEA
Rayme INT, Colo.	Akron, Colo. VORTAC	6600

§95.7160 JET ROUTE NO. 160 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Rayme INT, Colo.	*9000
*7000–MOCA		
Rayme INT, Colo.	Sidney, Neb. VOR	7000

§95.7171 JET ROUTE NO. 171 is amended to read in part:

FROM	TO	MEA
Alexandria, Minn. VOR	Storr INT, Minn.	*3500
*2900–MOCA		

§95.7198 JET ROUTE NO. 198 is amended to read in part:

FROM	TO	MEA
Junction, Tex. VOR	Dossy INT, Tex.	3800
Dossy INT, Tex.	Curds INT, Tex.	*4000
*3300–MOCA		
Curds INT, Tex.	San Antonio, Tex. VOR	3500

§95.7207 JET ROUTE NO. 207 is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Wenny INT, Colo.	
Via W alter.	Via W alter.	7000
Wenny INT, Colo.	Int. 221 M rad Gill VOR & 352 M rad Denver VOR	
Via W alter.	Via W alter.	8500
Int. 221 M rad Gill VOR & 352 M rad Denver VOR	Gill, Colo. VOR	
Via W alter.	Via W alter.	
	SW-bound	8500
	NE-bound	7000

§95.6220 VOR FEDERAL AIRWAY 220
is amended to read in part:

FROM	TO	MEA
McCook, Neb. VOR	Sprit INT, Neb.	*5000
*4000—MOCA		
Sprit INT, Neb.	Kearney, Neb. VOR	*5000
*3700—MOCA		
Flats INT, Colo.	Keann INT, Colo.	8500
Keann INT, Colo.	Wiggi INT, Colo.	9500

§95.6293 VOR FEDERAL AIRWAY 293
is amended to read in part:

FROM	TO	MEA
Twin Falls, Ida. VOR	Goode INT, Ida.	6000
*6200—MCA Twin Falls VOR, S-bound		
Goode INT, Ida.	*Torin INT, Ida.	6600
*8700—MCA Torin INT, NW-bound		
Torin INT, Ida.	Derso INT, Ida.	
	NW-bound	11500
	SE-bound	9200
Derso INT, Ida.	McCall, Ida. VOR	11700

§95.6321 VOR FEDERAL AIRWAY 321
is amended to read in part:

FROM	TO	MEA
Albany, Ga. VOR	Abbott ING, Ga.	2000
Abbott INT, Ga.	*Prest INT, Ga.	2500
*5000—MCA Prest INT, NW-bound		

§95.6328 VOR FEDERAL AIRWAY 328
is amended to read in part:

FROM	TO	MEA
Kremmling, Colo. VOR	Shrew INT, Colo.	17000
Shrew INT, Colo.	*Byson INT, Colo.	16000
*13900—MCA Byson INT, SW-bound		
Byson INT, Colo.	*Troze INT, Colo.	13000
*9600—MCA Troze INT, SW-bound		

§95.6356 VOR FEDERAL AIRWAY 356
is amended to read:

FROM	TO	MEA
Cheyenne, Wyo. VOR	Gill, Colo. VOR	8500
Gill, Colo. VOR	Wiggi INT, Colo.	7500

§95.6361 VOR FEDERAL AIRWAY 361
is amended to read in part:

FROM	TO	MEA
*Luske INT, Colo.	Cheyenne, Wyo. VOR	9000
*10300—MCA Luske INT, SW-bound		

§95.6362 VOR FEDERAL AIRWAY 362
is amended by adding:

FROM	TO	MEA
Alma, Ga. VOR	Vienna, Ga. VOR	2000
Vienna, Ga. VOR	Macon, Ga.	2000
Macon, Ga. VOR	Norcross, Ga. VOR	*4500
*3000—MOCA		
Norcross, Ga. VOR	Nello INT, Ga.	4900
Nello INT, Ga.	*Hoche INT, Ga.	5600
*4000—MCA Hoche INT, SE-bound		
Noche INT, Ga.	Chattanooga, Tenn. VOR	3000
Chattanooga, Tenn. VOR	Shelbyville, Tenn. VOR	*4000
*3300—MOCA		
Shelbyville, Tenn. VOR	Nashville, Tenn. VOR	*3000
*2500—MOCA		
Nashville, Tenn. VOR	Bridy INT, Tenn.	3000
Bridy INT, Tenn.	Bowling Green, Ky. VOR	*3000
*1500—MOCA		

§95.6506 VOR FEDERAL AIRWAY 506
is amended to read in part:

FROM	TO	MEA
Kodiak, Alas. VOR	Baily DME Fix, Alas.	*6000
*4900—MOCA		
Baily DME Fix, Alas.	Bruce DME Fix, Alas.	*#10000
*9700—MOCA		
#MEA is established with a gap in navigation signal coverage		
*Bruce DME Fix, Alas.	King Salmon, Alas. VORTAC	**5000
*7000—MCA Bruce DME Fix, E-bound		
**4400—MOCA		

§95.7002 JET ROUTE NO. 2 is amended to delete:

FROM	TO	MEA	MAA
New Orleans, La. VORTAC	Crestview, Fla. VORTAC	18000	45000

§95.7002 JET ROUTE NO. 2 is amended by adding:

FROM	TO	MEA	MAA
New Orleans, La. VORTAC	Semmes, Ala. VORTAC	18000	45000
Semmes, Ala. VORTAC	Crestview, Fla. VORTAC	18000	45000

§95.7010 JET ROUTE NO. 10 is amended to read in part:

FROM	TO	MEA	MAA
Gunnison, Colo. VORTAC	Acree INT, Colo.	18000	45000
Acree INT, Colo.	Shrew INT, Colo.	18000	45000
Denver, Colo. VORTAC	North Platte, Neb. VORTAC	18000	45000

§95.7017 JET ROUTE NO. 17 is amended to read in part:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	Rapid City, S.D. VORTAC	21000	45000

§95.7034 JET ROUTE NO. 34 is amended to delete:

FROM	TO	MEA	MAA
Bellaire, Ohio VORTAC	Jefeo INT, W. VA.	18000	45000
Jefeo INT, W.VA.	Int 108 M rad Bellaire VORTAC & 073 M rad Front Royal VORTAC	23000	45000

§95.7034 JET ROUTE NO. 34 is amended by adding:

FROM	TO	MEA	MAA
Bellaire, Ohio VORTAC	Martinsburg, W.VA. VORTAC	18000	45000

§95.7060 JET ROUTE NO. 60 is amended to read in part:

FROM	TO	MEA	MAA
Grand Junction, Colo. VORTAC	Denver, Colo. VORTAC	19000	45000

§95.7073 JET ROUTE NO. 73 is amended to read in part:

FROM	TO	MEA	MAA
Tallahasse, Fla. VORTAC	LaGrange, Ga. VORTAC	18000	45000
LaGrange, Ga. VORTAC	Nashville, Tenn. VORTAC	18000	45000

§95.7080 JET ROUTE NO. 80 is amended to read in part:

FROM	TO	MEA	MAA
Grand Junction, Colo. VORTAC	Denver, Colo. VORTAC	19000	45000

§95.7099 JET ROUTE NO. 99 is amended to read:

FROM	TO	MEA	MAA
Augusta, Ga. VORTAC	Knoxville, Tenn. VORTAC	18000	45000
Knoxville, Tenn. VORTAC	Louisville, Ky. VORTAC	18000	45000

§95.7114 JET ROUTE NO. 114 is amended to read in part:

FROM	TO	MEA	MAA
Denver, Colo. VORTAC	Int. 046 M rad Denver VORTAC & 249 M rad North Platte VORTAC	18000	45000
Int 046 M rad Denver VORTAC & 249 M rad North Platte VORTAC	O'Neill, Neb. VORTAC	#25000	45000

#MEA is established with a gap in navigation signal coverage

Aviation Administration, 800 Inde- safety in air commerce, I find that

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§95.7130 JET ROUTE NO. 130 is amended to read in part:

FROM	TO	MEA	MAA
Int 075 M rad Grand Junction VORTAC & 243 M rad Kiowa VORTAC	Byson INT, Colo.	18000	45000

§95.7157 JET ROUTE NO. 157 is amended to read in part:

FROM	TO	MEA	MAA
Keann INT, Colo.	Scottsbluff, Neb. VORTAC	18000	45000

§95.7172 JET ROUTE NO. 172 is amended to read in part:

FROM	TO	MEA	MAA
Keann INT, Colo.	Sidney, Neb. VORTAC	18000	45000

2. By amending Sub-part D as follows:

§95.8003 FEDERAL AIRWAY CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE	FROM
V-81 is amended by adding:			
Colorado Springs, Colo. VOR	Denver, Colo. VOR	17	Colorado Springs
V-134 is amended to read in part:			
Grand Junction, Colo. VOR	Denver, Colo. VOR	120	Grand Junction
V-170 is amended by adding:			
Pullman, Mich. VOR	Solem, Mich. VOR	61	Pullman

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE	FROM
J-24 is amended by adding:			
Hugo, Colo. VORTAC	Hays, Kans. VORTAC	80	Hugo
J-60 is amended by adding:			
Grand Junction, Colo. VORTAC	Denver, Colo. VORTAC	120	Grand Junction
J-80 is amended by adding:			
Grand Junction, Colo. VORTAC	Denver, Colo. VORTAC	120	Grand Junction
J-116 is amended by adding:			
Meeker, Colo. VORTAC	Denver, Colo. VORTAC	77	Meeker
J-523 is amended to delete:			
Seattle, Wash. VORTAC	Neah Bay, Wash. NDB	40	Seattle

[4910-13-M]

[Docket No. 18462; Amdt. No. 1125]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washinton, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective February 22, 1979*

Beckley, WV—Raleigh County Memorial, VOR/DME Rwy 01, Original

* * * *Effective January 25, 1979*

Bermuda Dunes, CA—Bermuda Dunes, VOR Rwy 29, Orig., cancelled
Auburn IN—Auburn-DeKalb, VOR Rwy 9 Amdt. 5
Auburn, IN—Auburn-DeKalb, VOR-A, Amdt. 6
New Castle, IN—New Castle-Henry County Municipal, VOR Rwy 27, Amdt. 4
Allegan, MI—Padgham Field, VOR Rwy 28, Amdt. 6
Manistee, MI—Manistee County-Blacker, VOR Rwy 9, Amdt. 5
Manistee, MI—Manistee County-Blacker, VOR Rwy 27, Amdt. 5
Monroe, MI—Custer, VOR Rwy 20, Amdt. 3
South Haven, MI—South Haven Municipal, VOR Rwy 22, Amdt. 5

* * * *Effective January 11, 1979*

Winslow, AZ—Winslow Muni., VOR Rwy 11, Amdt. 1
West Memphis, AR—West Memphis, Muni., VOR/DME-A, Amdt. 2
Waterville, ME—Waterville Robert LaFleur, VOR/DME Rwy 5, Amdt. 2
Laurel, MS—Hesler-Noble Field, VOR Rwy 13, Amdt. 9
Charlotte, NC—Douglas Muni., VOR Rwy 36R, Orig.
Charlotte, NC—Douglas Muni., VOR Rwy 36R, Amdt. 8, cancelled
Butler, PA—Butler-Graham, VOR-A, Amdt. 4
Ponce, P.R—Mercedita, VOR Rwy 29, Amdt. 6
Spartanburg, SC—Spartanburg-Downtown Memorial, VOR Rwy 17, Amdt. 6
Chattanooga, TN—Lovell Field, VOR Rwy 32, Amdt. 12
Dumas, TX—Dumas Muni., VOR/DME-A, Amdt. 2
Stratford, TX—Stratford Field, VOR/DME-A, Amdt. 2
Big Piney, WY—Big Piney Municipal, VOR Rwy 31, Amdt. 2

* * * *Effective December 28, 1978*

Alpena, MI—Phelps Collins, VOR Rwy 12 (TAC), Amdt. 8
Alpena, MI—Phelps Collins, VOR Rwy 18 (TAC), Amdt. 9
Alpena, MI—Phelps Collins, VOR Rwy 36 (TAC), Amdt. 10

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• • • *Effective November 30, 1978*

Norfolk, NE—Karl Stefan Memorial, VOR Rwy 1, Amdt. 2
Norfolk, NE—Karl Stefan Memorial, VOR Rwy 13, Amdt. 2
Norfolk, NE—Karl Stefan Memorial, VOR Rwy 19, Amdt. 1
Norfolk, NE—Karl Stefan Memorial, VOR Rwy 31, Amdt. 6

• • • *Effective November 21, 1978*

Gaylord, MI—Otsego County, VOR Rwy 9, Amdt. 1, cancelled

• • • *Effective November 9, 1978*

Hopedale, MA—Hopedale-Draper, VOR-A, Amdt. 4

The FAA published an amendment in docket no. 18454, amdt. no. 1124 to Part 97 of the Federal Aviation Regulations (Vol. 43 FR No. 222 Page 53420; dated November 16, 1978) under § 97.23 effective December 28, 1978, which is hereby amended as follows: Gaylord, Miotsego County VOR Rwy 9 Amdt. 2 Is Rescinded.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • *Effective December 28, 1978*

Chattanooga, TN—Lovell Field, LOC Rwy 2, Amdt. 1, cancelled
Springfield, VT—Springfield State-Hartness, LOC-A, Amdt. 2
Springfield, VT—Springfield State-Hartness, LOC/DME Rwy 5, Original

• • • *Effective November 30, 1978*

Norfolk, NE—Karl Stefan Memorial, LOC Rwy 1, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • *Effective February 22, 1979*

Vernon, TX—Wilbarger County, NDB Rwy 20, Original
Osceola, WI—Osceola Municipal, NDB Rwy 28, Amdt. 5

• • • *Effective January 25, 1979*

Adrian, MI—The Lenawee County, NDB Rwy 5, Amdt. 4
Utica, MI—Berz-Macomb, NDB Rwy 22, Amdt. 1
West Branch, MI—West Branch Community, NDB Rwy 27, Amdt. 3
New Castle, IN—New Castle-Henry County Municipal, NDB Rwy 9, Amdt. 2
New Castle, IN—New Castle-Henry County Municipal, NDB Rwy 27, Amdt. 2

• • • *Effective January 11, 1979*

Reidsville, GA—Reidsville, NDB Rwy 11, Amdt. 2
Spirit Lake, IA—Spirit Lake Municipal, NDB Rwy 34, Original Waterville, ME—Waterville Robert LaFleuer, NDB Rwy 16, Amdt. 4
Spirit Lake, IA—Spirit Lake Municipal, NDB-A, Amdt. 8
Laurel, MS—Hesler-Noble Field, NDB Rwy 13, Amdt. 2
Greensboro, NC—Greensboro-High Point Winston Salem Regional, NDB Rwy 14, Amdt. 12
Butler, PA—Butler-Graham, NDB-B, Amdt. 2
Bennettsville, SC—Bennettsville, NDB-B, Rwy 6, Amdt. 1
Olney, TX—Olney Muni., NDB Rwy 17, Amdt. 1

• • • *Effective December 28, 1978*

Iliamna, AK—Iliamna, NDB Rwy 35, Amdt. 2
Alpena, MI—Phelps Collins, NDB Rwy 36, Amdt. 3
Omaha, NE—Eppley Airfield, NDB Rwy 14R, Amdt. 20
Springfield, VT—Springfield State-Hartness, NDB-A, Amdt. 2

The FAA published an amendment in Docket No. 18428, Amdt. No. 1123 to Part 97 of the Federal Aviation Regulations (Vol. 43 FR No. 215 Page 51614; dated November 6, 1978) under § 97.27 effective December 14, 1978, which is hereby amended as follows: Vivian, IA—Vivian, NDB Rwy 9, Amdt 1. Correct state code to read "LA".

The FAA published an amendment in Docket No. 18454, Amdt. No. 1124 to Part 97 of the Federal Aviation Regulations (Vol. 43 FR No. 222 Page 53420; dated Thursday, November 16, 1978) under § 97.27 effective January 11, 1979 which is hereby amended as follows: Cheraw, SC—Cheraw Muni., NDB Rwy 25 Amdt. 1 is rescinded.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • *Effective January 11, 1979*

Augusta, GA—Bush Field, ILS Rwy 17, Amdt. 2
Greensboro, NC—Greensboro High Point Winston Salem Regional, ILS Rwy 14, Amdt. 14
Philadelphia, PA—Philadelphia International, ILS Rwy 9R, Amdt. 2
Galveston, TX—Scholes Field, ILS Rwy 13, Amdt. 3

• • • *Effective December 28, 1978*

Alpena, MI—Phelps Collins, ILS Rwy 36, Amdt. 3
Omaha, NE—Eppley Airfield, ILS Rwy 14R, Original
Omaha, NE—Eppley Airfield, ILS Rwy 14R, Amdt. 19, cancelled
Omaha, NE—Eppley Airfield, ILS Rwy 32L, Amdt. 1
Chattnooga, TN—Lovell Field, ILS Rwy 2, Original

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • *Effective January 11, 1979*

Chattanooga, TN—Lovell Field, RADAR-1, Amdt. 6

6. By amending § 97.33 RNAV SIAPs identified as follows:

• • • *Effective January 11, 1979*

Madison, GA—Madison Muni., RNAV Rwy 14, Amdt. 1, cancelled
Butler, PA—Butler-Graham, RNAV Rwy 25, Original
Philadelphia, PA—Philadelphia Int'l, RNAV Rwy 17, Amdt. 2
Philadelphia, PA—Philadelphia Int'l, RNAV Rwy 35, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on November 24, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc. 78-33424 Filed 11-29-78; 8:45 am]

[3510-07-M]

Title 15—Commerce and Foreign Trade

CHAPTER I—BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

PART 30—FOREIGN TRADE STATISTICS

Miscellaneous Amendments

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: The following amendments are made to the regulations published in the FEDERAL REGISTER of March 3, 1976 (41 FR 9134).

1. The FEDERAL REGISTER notice of October 27, 1977 (42 FR 56604) eliminated use of the Shipper's Export Declaration Correction Form in favor of a procedure whereby corrections to the Shipper's Export Declarations could be effected by use of a "Correction Copy" of the originally filed Shipper's Export Declaration. However, some of the sections of the Foreign Trade Statistics Regulations still contain obsolete references to the Shipper's Export Declaration Correction Form. Such obsolete references are being replaced by this amendment.

2. FTSR Letter No. 116 dated December 13, 1977, provided for the reporting of shipments from Puerto Rico to the United States in terms of the commodity classifications in the January 1978 edition of Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States,* instead of Schedule P, *Commodity Classification for Reporting Shipments from Puerto Rico to the United States,* as had been the case previously. However, references to requirements for reporting in terms of Schedule P were not eliminated from the Foreign Trade Statistics Regulations. These references are being changed by this amendment.

3. When the 1978 edition of Schedule B was introduced, instructions were issued to provide that where net quantity information is not required to be reported on the Shipper's Export Declaration, an "X" (instead of a dash (—)) should be entered in the net quantity column. This change is being appropriately incorporated into the Foreign Trade Statistics Regulations by this amendment.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233 301-763-5342.

SUPPLEMENTARY INFORMATION: These changes are being made to incorporate into the Foreign Trade Statistics Regulations certain changes in reporting requirements which already exist as a matter of practice.

In accordance with the rulemaking provisions of the Administrative Procedures Act, 5 U.S.C. 553, the Bureau finds that notice and opportunity for interested persons to submit written comments (either before or after the promulgation of this amendment) would serve no public interest. These regulations are issued under the authority of title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 FR 42765.

1. The second sentence of the first paragraph of § 30.7 is amended by the deletion of the reference to Schedule P so that as amended, the second sentence of the first paragraph of § 30.7 now reads:

§ 30.7 Information required on Shipper's Export Declarations.

• • • (See § 30.92 for information as to the statistical classification Schedules B, C-E, and D referred to in this section • • •)

• • • • •

2. The penultimate sentence of § 30.7(h) is amended to eliminate the reference to the Shipper's Export Declaration Correction Form (Form FT-7403), so that as amended the penultimate sentence of § 30.7(h) now reads as follows:

• • • • •

§ 30.7 Information required on Shipper's Export Declarations.

• • • • •

(h) • • • Where optional ports of unloading are named on the Shipper's Export Declaration under the permissible conditions, a photocopy, carbon, or other legible copy of the originally filed Shipper's Export Declaration indicating the actual port of unloading shall be filed by the exporter or his agent with the Customs Director as soon as the actual port of unloading is known to the exporter. (See § 30.16 of these regulations.) • • •

• • • • •

3. In § 30.7(l)(1), the second sentence, "(For shipments from Puerto Rico to the United States, Schedule P, *Commodity Classification for Reporting Shipments from Puerto Rico to the United States,* is substituted for Schedule B.)," is deleted.

4. The fourth sentence of § 30.7(n) is amended to read as follows:

§ 30.7 Information required on Shipper's Export Declarations.

• • • • •

(n) • • • If neither Schedule B nor an applicable validated license specifies a unit of quantity for the item, net quantity is not required to be reported, and an "X" should be entered in the "net quantity" column on the Shipper's Export Declaration.

5. The third sentence of § 30.22(c) is amended to eliminate the reference to the Shipper's Export Declaration Correction Form (Form FT-7403), so that as amended, the third sentence of § 30.22(c) now reads:

§ 30.22 Requirements for the filing of Shipper's Export Declarations by departing carriers.

• • • • •

(c) • • • If the statistical copy of the declaration has been transmitted by the Director to the Bureau of the Census at the time of such notification, the Director will require the exporter (or his agent) to file a "Correction Copy" of the originally filed Shipper's Export Declaration as described in § 30.16 of these regulations • • •

§ 30.92 [Amended]

6. The last paragraph of § 30.92, *"Schedule P—Commodity Classification for Reporting Shipments from Puerto Rico to the United States.* Free from the Bureau of the Census, Washington, D.C. 20233," is hereby deleted.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

I concur:

RICHARD J. DAVIS,
Assistant Secretary,
Department of the Treasury.

[FR Doc. 78-33481 Filed 11-29-78; 8:45 am]

[1505-01-M]

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, BUREAU OF TRADE REGULATIONS

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Commodity Control List

Correction

In FR Doc. 78-26955 appearing at page 43450 in the issue of Tuesday, September 26, 1978 on page 43451, the first entry, in the table under "Validated license required", the entry now reading "SX" should have read "SZ".

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

PART 154—RATE SCHEDULES AND TARIFFS

Final Regulation Requiring Jurisdictional Pipelines To Elect Either Adoption of PGA Clauses or General Section 4 Rate Filings To Recover Changes in the Cost of Purchased Gas

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This final rule requires natural gas pipeline companies to elect for three year periods whether to recover changes in purchased gas cost through a purchased gas adjustment provision (PGA Clause) or a general section 4 rate filing. The regulation is necessary in order to reduce the financial and administrative burden associated with the frequency of filings for changes in purchased gas cost. The

cost other than those which are in- from including changes in purchased the PGA because the surcharge does

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effect of this regulation is to prevent companies which choose to include a PGA clause in their tariff from recovering changes in purchased gas cost in a section 4 filing. It also prohibits a company which chooses to recover changes in purchased gas costs in general section 4 rate filings from recovering changes in purchased gas cost through a PGA clause.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

MaryJane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-4283.

Regulations of the Federal Energy Regulatory Commission (Commission) under the Natural Gas Act permit the inclusion of a purchased gas adjustment provision (PGA clause) in natural gas pipeline companies' tariffs under certain specified conditions. PGA clauses were originally permitted to avoid frequent consideration of rate increase filings caused by the constantly rising cost of purchased gas. (See Orders 452 & 452-A, 47 FPC 1049 (1972) and 47 FPC 1510 (1972) respectively.) However, the number and frequency of PGA filings reached such a magnitude that they imposed an undue financial and administrative burden upon the pipeline companies, their customers, the Commission staff, the state Commissions and ultimate consumers. In Order No. 13, the Commission took action to reduce this burden by limiting the filing of future PGA rate changes to two per year and prescribing semi-annual filing dates for each pipeline company (43 FR 50167, October 27, 1978). The intended reduction in filings, however, would not be accomplished if pipeline companies responded to the order by including changes in purchased gas cost in general section 4 rate filings. The Commission therefore proposed a regulation in Docket No. RM79-1 to require jurisdictional pipeline companies to elect, for periods of three years whether to reflect changes in purchased gas cost in the PGA clause or in general section 4 rate filings under § 154.63 (43 FR 50191, October 27, 1978).

Interested parties were invited to submit comments on the proposed rule by November 20, 1978. Six timely comments were received from seven natural gas pipeline companies;[1] three late comments were also received. All parties supported the proposed rule, except the jointly filing pipelines. Specific points raised in the comments have been incorporated in the final regulation.

[1] A joint filing was made by two pipelines.

Other comments are discussed in the summary of the final regulation.

SUMMARY OF THE FINAL REGULATION

The regulation adopted today amends 18 CFR 154.38(d)(4) to require each interstate pipeline company to make an election whether to recoup all changes in purchased gas cost pursuant to its PGA clause or pursuant to a general section 4 rate filing. The election is binding for a three year period.

A company which selects the PGA option will not be permitted to include changes in purchased gas cost in general section 4 rate filings made during the period that the PGA option is in effect. However, a company which elects the PGA option, if confronted with severe financial consequences due to the election, may request a waiver from the Commission and file a general section 4 rate increase which includes changes in purchased gas cost.

Only one interested party challenges the Commission's authority to require an election of this type. It asserts that the Commission may not limit the rights of a natural gas pipeline company under the Natural Gas Act to file a general section 4 rate increase. Nothing in the election rule limits the right of any company to file a section 4 rate increase. The choice between section 4 and PGA treatment for purchased gas cost for each option period is exclusively at the discretion of the company. Furthermore, a company which chooses the PGA option may make section 4 filings to reflect changes in all costs other than purchased gas cost. Therefore in the Commission's view the election procedure in no way limits a company's section 4 rights.

The Natural Gas Act does not require that the Commission provide for PGA clauses and no pipeline has a statutory right to collect purchased gas cost through a PGA clause. However, the Commission believes that a company which chooses the PGA election is adequately protected even though it foregoes the right to file a section 4 rate increase to reflect changes in purchased gas cost. Specifically, the PGA procedure allows the annualization of changes occurring during the 12 month historical test period including significant changes in purchase patterns. Moreover, amounts in the deferred account reflecting unrecovered purchased gas cost may now include carrying charges. Most importantly, if a company finds that the carrying charges are insufficient to protect its financial integrity, it may seek a waiver from the Commission which would allow it to include changes in purchased gas cost in a section 4 rate filing notwithstanding its currently effective PGA clause.

A. ELECTION PROCEDURE.

Natural gas pipeline companies may elect once every three years which method will govern their method of recovery of changes in purchased gas costs for the three year period designated the "election period." Comments suggested that the election procedure should be detailed more fully in the regulations. The final rule has been modified accordingly.

Companies need not notify the Commission of their election. Any company with an effective PGA clause in its tariff on December 1, 1978, will be deemed to have chosen the PGA option. However, for this first election period a company with a PGA clause in effect on December 1, 1978, which chooses the non-PGA option must notify the Commission of its non-PGA option on or before December 1 but has until December 15 to file conforming tariff sheets with a proposed effective date of January 1, 1979. Thereafter if a different option is chosen for a subsequent election period, tariff sheets necessary to implement the option must be filed by December 1 preceding the election period beginning on January 1. Any company which does not file amended tariff sheets reflecting a changed option will be deemed to have chosen to continue the option of the previous election period.

B. EFFECT OF THE ELECTION.

A company which has selected the PGA option shall file for changes in its purchased gas cost exclusively through its PGA clause for the entire election period. It may not file tariff sheets eliminating the effectiveness of its PGA clause during that period. Nor may it include changes in its purchased gas cost in any general section 4 filing during that election period unless it has received a waiver from the Commission.

The final rule has been clarified to assure that any company which chooses the PGA option for the first election period, beginning January 1, 1979, may not include changes in its purchased gas cost in any general section 4 filing during December 1978. The Commission has determined that this restriction is essential to the fundamental purpose of the rule. It will avoid numerous section 4 filings by companies electing the PGA option and will provide an orderly pass-through of the increases in purchased gas cost.

C. PURCHASED GAS COST COVERED BY THE ELECTION

The rule provides that any company which elects the PGA option may not include in a general section 4 rate filing any changes in purchased gas

cost other than those which are included in rate adjustments filed pursuant to a PGA clause. The proposed rule failed to reflect the amendment to purchased gas cost adopted in Order 567, —— F.P.C. —— (1977). That order specified that with respect to pipeline production, only those purchased gas costs which qualify for and are being afforded area or nationwide rate treatment may be included in the PGA.

The final rule includes the change adopted in Order 567 and, in addition, allows for the inclusion of pipeline production which is not subject to an area or nationwide rate but is treated as though it were produced by an independent producer.

It was also suggested by one pipeline that the definition be amended to include new pipeline supplies (contractual daily delivery obligations) in the PGA without prior Commission approval. This proposition was previously addressed and rejected by the Commission in Order 452-A. No change in circumstances has been presented which would warrant a modification of the Commission policy expressed in Opinion 452-A. Accordingly, the definition is not being modified to include new pipeline supplies (contractual daily delivery obligations) prior to Commission approval.

D. WAVIERS

It is the intent of the Commission that companies electing the PGA option not file section 4 rate increases to reflect changes in purchased gas cost included in the PGA clause. However, the Commission recognizes that there may be a few isolated and unforeseeable instances where the pipeline (1) is unable to arrange for financing of the balances being carried in the deferred account (Account 191) or (2) is not able to earn its overall rate of return last allowed by the Commission because of the magnitude of the balances in the deferred account (Account 191) and a significant difference between the costs of financing the deferred amounts and the carrying charges allowed pursuant to § 154.38(d)(4)(iv)(c). In those cases, a waiver may be requested when the company files a section 4 rate case to include changes in purchased gas cost. If the waiver is granted, then changes in purchased gas cost would be included in the section 4 proceeding. If the waiver is denied, the tariff sheets filed with the section 4 proceeding will be rejected and new tariff sheets, excluding changes in purchased gas cost will have to be filed.

Several parties have commented that the grounds for waiver are too narrow. However it is the Commission's intention that those companies choosing the PGA option be prevented from including changes in purchased gas cost in a general section 4 rate filing except under the most unusual circumstances.

Thus, the waiver standards are intended to provide relief only in very extraordinary cases. Moreover, the Commission believes that, in light of the flexibility allowed in PGA filings, including the newly promulgated provision allowing carrying charges, that the grounds for waiver, as promulgated, are appropriate.

One party commented that the standards for waiver were not sufficiently delineated in the proposed rule. The final rule sets forth the second test in more detail. The second test is two-fold. First the company must show that it is unable to earn its allowed rate of return. The allowed rate of return would include a rate established in a settled case which was submitted to and approved by the Commission as well as in a rate case in which the Commission had a fully litigated record upon which to base its final decision on the rate of return issue. Second, if a company is not meeting its allowed rate or return, it must then show that its not doing so is due to the magnitude of the balances in the deferred account (Account 191) and that finance charges substantially exceed carrying charges. This difference is a function of both interest rates and the volumes of gas covered by the PGA.

E. INTERACTION BETWEEN THE PGA CLAUSE AND SECTION 4 FILINGS

The rule specifically provides that changes in purchased gas cost covered by a PGA may not be included in a section 4 rate filing. Consequently the conforming amendments to § 154.63 have been adopted with the changes discussed herein. Pursuant to the final rule, § 154.63, a company which makes a section 4 rate filing shall reflect the "total system weighted average current unit cost of gas" as reflected in its currently effective PGA clause. This language merely clarifies that the "unit cost" used in the proposed rule was intended to be a single unit cost reflecting all changes in purchased gas cost reflected in the PGA tariff rates.

The comments raised several points concerning section 4 rate filings by companies which select the PGA option which merit comment.

First, under the PGA option, companies are allowed both to annualize gas purchase cost and to reflect changes in supply patterns. Hence in making a section 4 filing a company which has selected the PGA option must calculate a single total system weighted average current unit cost of gas from data contained in its currently effective PGA clause. This unit figure excludes any surcharge collected under the PGA because the surcharge does not reflect current cost of purchased gas. In filing a section 4 rate increase the company may make adjustments in purchase and sales volumes but it may not adjust the total system weighted average current unit cost of gas reflected in the effective PGA to reflect estimated changes in purchase patterns. Consequently, the company in estimating the total adjusted costs must multiply the PGA unit cost by the projected purchased gas volumes.

Second, several companies suggested that for § 154.63 filings the PGA unit cost be the one effective at the time the section 4 filing is made, rather than the PGA rate last approved by the Commission as contemplated in the proposed rulemaking. The suggestion has been adopted in the final rule. This will allow use of the most current PGA rate and yet will not result in the overcharge of any customer because the PGA adjustment which has been set for hearing, but made effective, is subject to refund.

Third, one party is concerned that the Commission may no longer permit amendments to general section 4 rate case suspended rates to reflect PGA adjustments occurring during the suspension period. The concern is unfounded. The Commission does not intend to modify its existing policy with respect to PGA adjustments occurring during the suspension period in a section 4 rate case.

Finally, one party has suggested that because of the exclusion of changes in purchased gas cost from a section 4 filing by a company which has chosen the PGA option, such a company will have no mechanism by which to establish a new base cost of purchased gas. Section 154.38(d)(4)(vi) has no provision for the establishment of a base cost of purchased gas, but it does require establishment of base tariff rates. The rule promulgated today provides that every company which elects the PGA option shall include in its restated base tariff rates filed either pursuant to § 154.38(d)(4)(vi) or § 154.63 its total system weighted average current unit cost of gas reflected in its currently effective PGA rate adjustment. The effective total system weighted average current unit cost of gas represents a company's base cost of purchased gas.

FINDINGS

(1) For the reasons set forth, the Commission finds that it is appropriate and in the public interest in administering the Natural Gas Act to adopt these amendments;

(2) For good cause as more fully described herein, the Commission finds that notice and comment on those provisions of the amendment adopted today which were not included in the

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proposed rule are impracticable and contrary to the public interest;

(3) In view of the purpose, intent and effect of the amendments, good cause exists for making them effective on December 1, 1978.

(Natural Gas Act (15 U.S.C. 717 *et seq.*) Administrative Procedure Act (5 U.S.C. 553), Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*), and E.O. 12009, 42 FR 46267.)

CONCLUSION

In consideration of the foregoing, Part 154, Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below, effective December 1, 1978.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

1. Section 154.38 is amended in subparagraph (4) of paragraph (d) by revising the introductory language and by adding a new subdivision (ix) to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(d) *Statement of rate.* * * *

(4) A natural gas pipeline company may flow through changes in its cost of purchased gas [1] pursuant to a purchased gas adjustment clause (PGA clause). The proposed clause must be filed with the Commission and shall not be effective until approved by the Commission. No request for approval of a PGA clause will be considered unless the proposed clause meets the terms and conditions specified in subdivisions (i) through (viii) of this subparagraph. Any PGA clause approved by the Commission is subject to the conditions in subdivision (ix) of this subparagraph.

* * * * *

[1] For the purposes of this paragraph, purchased gas cost represents the cost of wellhead purchases, field line purchases, plant outlet purchases, transmission line purchases, and pipeline production that qualifies for and is being afforded area or nationwide rate treatment or is otherwise being afforded rate treatment as though the gas were being produced by an independent producer. Nonconcurrent exchange transactions may be reflected as a cost of purchased gas. If a company has underground storage, the cost of purchased gas included in Accounts 800, 801, 802, and 803, and where applicable, Account 806, shall be debited or credited to reflect the net injections or withdrawals from underground storage. This adjustment shall be prorated between pipeline and producer supply. New pipeline supplies (contractual daily delivery obligations) and liquified natural gas, synthetic natural gas, gas from coal gasification, and pipeline production when priced on a cost of service basis pursuant to Commission authorization shall not be reflected in a PGA clause without prior Commission approval.

(ix) *Election of a PGA clause.* A natural gas pipeline company shall elect once every three years whether to recover all changes in purchased gas costs either through general rate filings made under § 154.63 or through filings made under a PGA clause prescribed in this paragraph.

(*a*) *Procedure for election.* For purposes of this paragraph, "election period" means a three year calendar period commencing on January 1, of every third year. The first election period commences on January 1, 1979. The election for an election period must be made on or before the first day of the December preceding the new election period and is binding for the entire election. Any company which has a PGA clause in its tariff on December 1, 1978, shall be considered to have elected to recover its changes in purchased gas cost exclusively through the PGA clause. However, such a company with a PGA clause in its tariff on December 1, 1978 which chooses not to use the PGA clause must notify the Commission by December 1, 1978 that it has elected not to recover any of its changes in purchased gas cost under a PGA clause. It shall file revised tariff sheets eliminating the PGA clause from its tariff, by December 15, 1978 to become effective January 1, 1979. Waiver of the notice requirements in § 154.22 is hereby granted to permit such conforming tariff sheets to become effective January 1, 1979. Any company which elects the PGA clause option pursuant to this paragraph may terminate its PGA clause effective as of the next election period by filing revised tariff sheets eliminating the PGA clause from its tariff. Such tariff sheets must be filed on or before December 1, preceding a new election period to become effective on the first January 1 of the new election period. If a company does not make such a filing, it shall be considered to have elected to renew its PGA clause option for the new election period. A company which has chosen the non-PGA option for an election period may file revised tariff sheets implementing the PGA clause option for the next election period. Such tariff sheets must be filed on or before the December 1 preceding a new election period to make the PGA clause effective on the first January 1 of that election period.

(*b*) *PGA clause option.* Any company which has elected the PGA clause option for the first election period, beginning on January 1, 1979, may not include any changes in purchased gas cost in a general section 4 rate filing made under § 154.63 and which is filed in December 1978. Thereafter, during an election period for which a company has elected the PGA option, it shall file for changes in its purchased gas cost exclusively through its PGA clause. The company may not file tariff sheets eliminating its PGA clause from its effective tariff during the election period and may not include any changes in its purchased gas cost in a general section 4 rate filing made under § 154.63, during the election period for which the PGA clause is in effect: *Provided, however,* That a company may request the Commission for a waiver of the election and if granted may include changes in purchased gas cost in a general section 4 rate filing made under § 154.63.

To receive a waiver, the company must demonstrate that (*1*) it is unable to arrange for financing of the balances being carried in the deferred account (Account No. 191), or (*2*) is not able to earn its overall rate of return last allowed by the Commission because of the magnitude of the balances in the deferred account (Account No. 191) and a significant difference between the costs of financing the deferred amounts and the carrying charges allowed under paragraph (d)(4)(iv)(c) of this section.

(*c*) *Non-PGA option.* During an election period for which the company has elected the non-PGA option, a company shall file for changes in purchased gas cost exclusively in a general section 4 rate filing made under § 154.63. The company may not file tariff sheets to include a PGA clause in its effective tariff during that election period.

2. Section 154.63 is amended by revising subparagraphs (3) and (4) of paragraph (b) and by revising Schedule H(1)-3 of paragraph (f) to read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof

* * * * *

(b) *Material to be submitted.* * * *

(3) *Major rate increase.* Class A companies (as defined in Subchapter F, Uniform System of Accounts for Natural Gas Companies, of this chapter) shall submit, in addition to the material required by subparagraph (1) of this paragraph, Statements A to M inclusive and O and P described in paragraph (f) of this section. Class B, C, and D companies, defined as above, shall file only Statements L, M, N, O, and P. Statement P, which is required to be submitted by all classes of companies, may be furnished not later than 15 days after the date of the filing. A natural gas company filing another major increase in rates or charges within a period of twelve months after the date of filing of Statements A through M and O and P or after the end of the test period used therein including the period of adjustments shown on Statements A through M may submit for such other increase Statements L, M, and N in lieu of Statements A through M if the proposed new rate increase is filed to compensate only for an increase in the cost of purchased gas and there has been no material change in the company's facilities, sales volumes, and cost of service other than cost of purchased gas since such prior rate increase was filed. However, pipelines with Commission approved PGA clauses conforming to § 154.38(d)(4) shall not be permitted to include changes in purchased gas cost in filings made under this subparagraph unless they have received a waiver of their PGA election under § 154.38(d)(4). A pipeline with an effective Commission approved PGA clauses shall reflect in any filing made pursuant to this subparagraph the total system weighted average current unit cost of purchased gas reflected in the pipeline's latest effective PGA rate adjustment, unless the pipeline has received a waiver of its PGA election under § 154.38(d)(4).

(4) *Minor rate increase or rate decrease.* Only Statement L through N need be filed in addition to the material required by subparagraph (1) of this paragraph. (Statements L through N are not required to make effective rate changes or tariff provisions ordered by the Commission). A pipeline with an effective Commission approved PGA clause conforming to § 154.38(d)(4) shall not be permitted to include changes in purchased gas costs in rate filings made pursuant to this subparagraph unless the pipeline has received a waiver of its PGA election under § 154.38(d)(4). A pipeline with an effective Commission approved PGA clause shall reflect in any filing made under this subparagraph the total system weighted average current unit cost of purchased gas reflected in the pipeline's latest effective PGA rate adjustment, unless the pipeline has received a waiver of its PGA election under § 154.38(d)(4). However, the pipeline may adjust the purchased gas volumes.

* * * * *

(f) *Description of statements.* * * *

Schedule H(1)-3, a schedule showing either: (a) In the case of a pipeline which has a Commission approved PGA clause in its tariff, its total system weighted average current unit cost of purchased gas reflected in the pipeline's latest effective PGA rate adjustment. However, the pipeline may adjust its purchased gas volumes as provided in (b) hereof; or (b) in the case of a pipeline which does not have a Commission approved PGA clause in its tariff or in the case of a pipeline which has a Commission approved PGA clause but obtains a waiver of its PGA clause election under § 154.38(d)(4), the total annual cost of gas purchased for the 12 months of actual experience, the adjustments thereto, and the total adjusted cost for test period, with the data grouped by States and producing areas and detailed by contract or rate schedule designation, field, volumes in Mcf at a common pressure base and price in total for the contracts or rate schedules under which actual or adjusted volumes exceed 1,000,000 Mcf annually. Field purchases under rate schedules where the actual or adjusted volumes are less than 1,000,000 Mcf annually may be grouped by field or producing area. Purchases from pipelines in any volume shall be shown in full detail by rate schedule including splits between demand and commodity charges.

In the event adjustments are made to the volumes of gas taken from any source during the 12 months of actual experience, a detailed explanation and data in support of the adjusted volumes shall be furnished. No adjustments are to be made to reflect the attachment of new gas supplies unless both the filing company and the supplier have each obtained the required permanent or temporary certificates of public convenience and necessity and the necessary facilities by both are or will have been in operation during the test period.

In the event the adjustments to volume aggregate more than 10 percent of the total volume of gas purchased during the 12 months of actual experience, and are due to change in gas purchase pattern or additional gas supply, the minimum take-or-pay-for quantities for each source of supply, applicable at the end of the test year period, and the reasons for making such adjustments shall be submitted.

If the company purchases and sells gas under exchange agreements, the method of recording on books, total gross volumes exchanged, net dollar amounts involved and details of each major exchange shall be submitted.

[FR Doc. 78-33589 Filed 11-29-78; 8:45 am]

[6740-02-M]

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

[Order No. 526-E; Docket No. RM74-16]

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Order To Postpone Certain Filing Dates of Required Schedules

NOVEMBER 22, 1978.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order to postpone certain filing dates of required Form 40 schedules.

SUMMARY: Order No. 526-E of the Federal Energy Regulatory Commission amends Order No. 526-D (Docket No. RM74-16) with regard to the filing date of Form 40 Schedules for Report Year 1977, deferring that date until further notice. In addition, the order suspends, until further notice, the filing of Form 40 for report years subsequent to 1977. This action is being taken to prevent duplicate reporting pending OMB approval of the Energy Information Administration's proposed Form EIA-23.

EFFECTIVE DATE: November 22, 1978.

FOR FURTHER INFORMATION CONTACT:

John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-4296.

On July 31, 1978, this Commission issued its Order No. 526-D (Docket No. RM74-16) which amended § 260.13(d) of its regulations to extend the filing date for Form No. 40 schedules for Report Year 1977 from September 1, 1978 to December 1, 1978. This order modifies Order 526-D to suspend until further notice the filing date for Report Year 1977. In addition, this order also postpones until further notice that part of § 260.13(d) (as amended) of the Commission's regulations respecting the filing of Form No. 40 for report years following 1977.[1]

Currently, the Office of Management and Budget (OMB) is reviewing Energy Information Administration (EIA) Form EIA-23, a new form designed to require similar information now required by Form No. 40. In addition, the OMB has determined that it will not consider FPC Form No. 40, transmitted to the OMB for clearance on June 12, 1978, unless events occur that would prevent or materially delay the implementation of Form EIA-23.

Pending the approval and implementation of Form EIA-23, or in the alternative OMB approval of FPC Form No. 40, the Commission has determined that there is a need to postpone the current December 1, 1978 filing deadline of FPC Form No. 40 for 1977 data. This determination is based upon the potential for the duplication of effort which may come about should the proposed Form EIA-23 be approved in the near future. For the same reason, the filing deadlines for data collected in years following 1977 should also be postponed. Balanced against this potential duplication is the need of the Commission for the data which Form No. 40 and Form EIA-23 are designed to collect. Accordingly, the Commission today orders that the filing requirements of Form No. 40 for 1977 and subsequent years be postponed until further Commission order. Upon approval of either FPC Form 40 or Form EIA-23, the Commission will expect filings to be made of data collected during 1977 and subsequent years to which this order applies.

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

This order does not affect filings required for years prior to 1977.

The Commission finds: (1) On its own motion, and for the reasons stated above, that the required filing dates for 1977 and subsequent years' reporting of Form No. 40 as set forth in the Commission's regulations should be modified as set forth herein.

(2) The modification so made, to postpone these filing dates, is to minimize the potential for duplicative reporting pending action by the OMB.

(3) That for the reasons given above, and in that this order relieves a restriction previously imposed to the extent of postponing filing dates, good cause exists to dispense with notice and public procedures (5 U.S.C. § 553(b) (1977)); and this order may therefore be made effective immediately (5 U.S.C. § 553(d) (1977)).

The Commission orders: (A) The requirements of Section 260.13(d), Part 260, Subchapter G of Chapter I, Title 18 of the Code of Federal Regulations (as set forth in Order No. 526-C, issued February 17, 1978, and amended by Order No. 526-D, issued July 21, 1978) respecting the filing dates of FPC Form No. 40 for the calendar year ending December 31, 1977 and subsequent reporting years are postponed until further order by the Commission.

(B) The effective date of this order shall be the date of issuance.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33670 Filed 11-29-78; 8:45 am]

[4110-07-M]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

Effects of Annual Wage Reporting

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: The Social Security Amendments of 1976 amended the Social Security Act to ease the tax reporting burden on the Nation's private-sector employers. Those amendments allowed employers to submit their reports of the wages paid to their employees on an annual, rather than a quarterly, basis. However, the annual wage report still had to reflect the wages paid to an employee in each calendar quarter. The Social Security Amendments of 1977 further eased this reporting burden by eliminating the need to break the wages down on a quarterly basis. Under these statutory amendments, most provisions of the Social Security Act are now based upon annual, rather than quarterly, wages. Most of the changes made by these amendments to the regulations describe how much money an individual has to earn in a year to become "covered" under the social security program. In addition, Congress directed the Secretary to define the term "the average of the total wages," which will be used, among other things, to determine the increase from year to year in the amount of a person's income subject to social security taxes.

EFFECTIVE DATE: November 30, 1978.

Comments: Although these rules are being published without Notice of Proposed Rule Making, consideration will be given to any comments about the rules received in writing on or before January 29, 1979.

ADDRESSES: Written comments may be submitted to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

FOR FURTHER INFORMATION CONTACT:

Ms. Dorothy E. Algea, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-5587.

SUPPLEMENTARY INFORMATION:

1. INTRODUCTION

These rules reflect changes required by sections 351 and 353 of the Social Security Amendments of 1977 (Pub. L. 95-216, approved December 20, 1977). In certain sections, technical material has been removed and the language has been clarified. Some provisions that apply to past periods have been deleted, but will be used where appropriate in matters involving those periods.

2. DESCRIPTION OF CHANGES

The following sections of the regulations have been revised:

Section 404.408 is amended to show the new formula for computing average current earnings. The section also defines "the average of the total wages" as required by Section 224(f)(2)(B) of the Social Security Act. This term is used in the formula for determining average current earnings. The material on determining average current earnings has also been changed to show that estimates of annual earnings will not be used for years beginning after 1977. In deleting the latter material, some rules which applied in years before 1973 were also deleted to make the section easier to read.

Section 404.1008 is amended to change from a quarterly to a yearly basis the standard for determining whether work for a group of farm operators is covered for social security purposes.

Section 404.1018 is deleted because the provision of law on which this regulation was based has been deleted. A similar provision of law was enacted and is reflected in a new regulation § 404.1027(w) which is explained below.

Section 404.1019 is amended by deleting the reference to "calendar quarter." The shift to reporting wages on an annual (rather than quarterly) basis makes the change necessary.

Section 404.1025a is amended to show a change from a quarterly to a yearly basis in the standard for determining whether the coverage exclusion applies.

Section 404.1026 is amended to change from $50 a calendar quarter to $100 a calendar year the standard for determining whether pay for (a) work not in the course of the employer's trade or business, or (b) services performed by home workers is excluded from wages.

Section 404.1027 is amended in several places:

(a) Paragraph (l) is revised by deleting references to services not in the course of the employer's trade or business. The standard applicable to that work was changed and is now shown in § 404.1027(v). The standard applicable to domestic service was not changed.

(b) Paragraph (o) is amended by shifting from $50 a calendar quarter to $100 in a calendar year the standard for determining whether pay for services performed by home workers is excluded from wages.

(c) Paragraph (q) currently reflects the old rule that additional wages of $300 a calendar quarter are deemed to a member of a uniformed service regardless of the amount of basic pay. This paragraph is being amended to reflect the new rule that additional wages of $100 will be deemed for each $300 of basic pay paid to a person in service in a calendar year. The new rule also limits to $1,200 the maximum amount that may be deemed in a calendar year. There will be no effect on a person who serves on active duty throughout the calendar year.

(d) Paragraph (v) is added to reflect a rule which was formerly in § 404.1027(l). It is also being amended to change from $50 a calendar quarter to $100 in a calendar year the standard for determining whether pay for services not in the course of the employer's trade or business is excluded from wages.

(e) A new paragraph (w) is being added which applies to employees of nonprofit organizations exempt from income tax under Section 501 of the Internal Revenue Code of 1954. It reflects a new rule showing that remuneration is excluded from wages unless the employee is paid $100 or more in a calendar year. The former rule which was in § 404.1018 showed that the services were not covered if the employee did not earn wages of $50 or more in a calendar quarter.

Section 404.1049 defines "the average of the total wages" as required by law. The term is used, among other things, to determine the increase from year to year in the amount of a person's income which is subject to social security taxes. Previously the term "the average of the total wages" was based upon those wages subject to social security taxes. It has been statutorily changed to include all wages reported to the Internal Revenue Service for income tax purposes. We have also changed this regulation to reflect the new technical procedures set out in the law for figuring whether an increase in the amount of a person's income subject to social security taxes is required.

The following table lists the amended sections of the regulations and the sections of Pub. L. 95-216, the Social Security Amendments of 1977, causing the change:

20 CFR	*Pub. L. 95-216*
404.1008	351(a)(1) and (2)
404.1018	351(a)(3)(B)
404.1019	351(a)(3)(B)
404.1025a	351(a)(1)
404.1026	351(a)
404.1027(l)	351(a)(1) and (2)
404.1027(o)	351(a)(1) and (2)
404.1027(q)	353(d)
404.1027(v)	351(a)(1) and (2)
404.1027(w)	351(a)(3)(A)
404.1049	353(e)

4. PUBLICATION OF FINAL RULE WITHOUT NOTICE OF PROPOSED RULEMAKING

The Secretary for good cause finds that issuing these rules with notice and public procedure is both unnecessary and impracticable as the statutory changes which these amendments reflect are very specific and leave little to the discretion of the Secretary, and, under the terms of the statute, most have been in effect since January 1978.

(Secs. 205, 209, 210, 224, 229, 230, and 1102 of the Social Security Act; 53 Stat. 1368, as amended; 49 Stat. 625, as amended; 64 Stat. 494, as amended; 79 Stat. 406, as amended; 81 Stat. 833, as amended; 86 Stat. 417, as amended; and 49 Stat. 647, as amended; (42 U.S.C. 405, 409, 410, 424, 429, 430, and 1302), as amended by Pub. L. 95-216, approved December 20, 1977)

(Catalog of Federal Domestic Assistance Program No: 13.803, Social Security—Retirement Insurance.)

Dated: August 16, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: November 20, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.408 is amended by revising paragraph (c)(3) and (j)(2) to read as follows:

§ 404.408 Reduction of benefits based on disability on account of receipt of workmen's compensation.

* * * * *

(c) *Amount of Reduction.* * * *

(3) *Average current earnings defined* (i) Beginning January 1, 1979, and individual's "average current earnings" for purposes of this section mean the largest of:

(A) The average monthly wage (determined under section 215(b) of the Act as in effect prior to January 1979) used for purposes of computing the individual's disability insurance benefit under section 223 of the Act;

(B) One-sixtieth of the total of the individual's wages and earnings from self-employment, without the limitations under section 209(a) and 211(b)(1) of the Act (see paragraph (c)(3)(ii) of this section), for the 5 consecutive calendar years after 1950 for which the wages and earnings from self-employment were highest; or

(C) One-twelfth of the total of the individual's wages and earnings from self-employment, without the limitations under sections 209(a) and 211(b)(1) of the Act (see paragraph (c)(3)(ii) of this section), for the calendar year in which the individual had the highest wages and earnings from self-employment during the period consisting of the calendar year in which the individual became disabled and the 5 years immediately preceding that year. Any amount so computed which is not a multiple of $1 is reduced to the next lower multiple of $1.

(ii) *Method of determining calendar year earnings in excess of the limitations under sections 209(a) and 211(b)(1) of the Act—(a) In General.* For the purposes of paragraph (c)(3)(i) of this section, the extent by which the wages or earnings from self-employment of an individual exceed the maximum amount of earnings creditable under sections 209(a) and 211(b)(1) of the Act in any calendar year after 1950 and before 1978 will ordinarily be estimated on the basis of the earnings information available in the records of Administration. (See Subpart I of this part.) If an individual provides satisfactory evidence of his actual earnings in any year, the extent, if any, by which his earnings exceed the limitations under sections 209(a) and 211(b)(1) of the Act shall be determined by the use of such evidence instead of by the use of estimates.

* * * * *

(j) *Redetermination of benefits.* * * *

(2) *Average current earnings.* In making the redetermination required by paragraph (j)(1) of this section, the individual's "average current earnings" (as defined in paragraph (c)(3) of this section) is deemed to be the product of his average current earnings as initially determined under paragraph (c)(3) of this section and:

(i) The ratio of the average of the total wages (as defined in § 404.1049) of all persons for whom wages were reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the redetermination is made, to the average of the total wages of all persons reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability); and (ii) In any case in which the reduction was first computed before 1978, the ratio of the average of the taxable wages reported to the Secretary of Health, Education, and Welfare for the first calendar quarter of 1977 to the average of the taxable wages reported to the Secretary of Health, Education, and Welfare for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding two sentences which is not a multiple of $1 is reduced to the next lower multiple of $1.

* * * * *

2. § 404.1008 [Amended]

Section 404.1008(e)(5)(iii) is amended by substituting "year" for "quar-

performed for a corporation do not

contribution and benefit base was en-

SUMMARY: This rule amends 21 CFR

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ter" in the third sentence of the paragraph.

3. § 404.1018 [Deleted]

Section 404.1018 is deleted.

4. § 404.1019 [Amended]

Section 404.1019(c) is amended by deleting the phrase "in the calendar quarter".

5. § 404.1025a [Amended]

Section 404.1025a is amended by deleting "calendar quarter" and substituting "calendar year".

6. Section 404.1026 is amended by revising paragraph (b)(3)(i) to read as follows:

§ 404.1026 Wages.

* * * * *

(b) *When paid and received.* * * *

(3)(i) The first $100 of cash remuneration paid, either actually or constructively, by an employer to an employee in a calendar year for either service not in the course of the employer's trade or business or service performed by certain home workers (see § 404.1004(d)(1)(iii)) is deemed paid by the employer to the employee at the time that the sum of the cash payment totals $100 for the year. The first $50 of cash remuneration paid, either actually or constructively, by an employer to an employee in a calendar quarter for domestic service in the employer's private home is deemed paid by the employer to the employee at the time that the sum of the cash payments total $50 for the quarter.

* * * * *

7. In § 404.1027, the heading of paragraph (l) is revised, paragraphs (l)(1) and (l)(2) are revised, the heading of paragraph (l)(3) is revised, paragraphs (o) and (q) are revised, and new paragraphs (v) and (w) are added to read as follows:

§ 404.1027 Exclusions from wages.

* * * * *

(l) *Cash payments after 1954 for domestic service.*—(1) *The standard.* The term "wages" does not include cash remuneration paid by an employer in any calendar quarter after 1954 to an employee for domestic service in a private home of the employer unless the cash remuneration paid in that calendar quarter is $50 or more.

(2) *How evaluation is made.* The quarter in which wages are paid is important. The quarter in which the employee works and earns the wages is not important. To count toward the $50 amount, payment must be made in cash (including check(s) or other monetary mediums of exchange). (See paragraph (i) of this section for types of payment that do not count as cash.) The standard applies to services performed as a domestic. If an employer pays an employee for performing other work, the cash pay for the nondomestic work does not count toward the $50 domestic service pay required for the remuneration to count as wages. The standard ($50 or more in a calendar quarter) applies to each employer when an employee performs domestic services for more than one employer in a calendar quarter. The wages paid by all employers for domestic services may not be combined to decide whether the employee has been paid $50 or more in a calendar quarter. Also, the standard applies to each employee when an employer has two or more domestic employees during a calendar quarter. Noncash pay for domestic service does not count as wages regardless of the amount of cash pay.

(3) *Rounding dollar amount reported.* * * *

* * * * *

(o) *Payments to certain home workers.*—(1) *The standard.* The remuneration paid by an employer to a home worker is not "wages" unless the cash pay in a calendar year amounts to $100 or more, where the home worker is an employee under the conditions described in § 404.1004(d)(1)(iii).

(2) *How evaluation is made.* To count toward the $100 amount, payment must be made in cash (including check(s) or other monetary mediums of exchange). (See paragraph (i) of this section for types of payment that do not count as cash.) The standard applies to the year in which the home worker is paid. It does not apply to the year in which the home worker performed the services and earned the pay. The standard is applied to each employer where the worker performs services as a home worker for two or more employers. Similarly, the standard applied to each home worker where one employer has two or more home workers performing those services. Where the standard of cash pay of $100 or more to an employee in a calendar year is met, then all of the pay (cash and noncash for services performed as a home worker) in that year from that employer is wages. This provision does not apply when the individual performing services as a home worker is an employee under the common-law test (see § 404.1004(c)).

* * * * *

(q) *Payments to members of the uniformed services after December 31, 1977.* The "wages" of a member of the uniformed services (as defined in section 210(m) of the Act) includes only the individual's basic pay plus the wages deemed paid to the individual under this section. For calendar years beginning after December 31, 1977, a person in service is deemed to have been paid additional wages of $100 for each full unit of $300 of basic pay paid in a calendar year. The maximum amount of additional wages that may be deemed to a person under this section in a calendar year is $1,200. No wages may be deemed for units of basic pay which are less than $300.

(2) *Basic Pay.* "Basic pay" means the monthly pay prescribed by section 201(a), 201(e), 201(f), or 508 of the Career Compensation Act of 1949, as amended, as may be appropriate, for a member of the uniformed service on active duty, or on active duty for training. (Servicemen's and Veterans' Survivor Benefits Act; Pub. L. 84-881, sections 102(10) and 401, approved August 1, 1956.)

* * * * *

(v) *Service not in course of employer's trade or business*—(1) *The standard.* After December 31, 1977, the term "wages" does not include cash pay of less than $100 paid in a calendar year by an employer to an employee for services not in the course of the employer's trade or business.

(2) *How evaluation is made.* The standard of $100 in a calendar year applies to when the remuneration is paid to the employee. The standard does not apply to when the worker performed services and earned the pay. To count toward the $100 amount, payment must be in cash (including check(s) or other monetary mediums of exchange). (See paragraph (i) of this section for types of payment that do not count as cash.) The standard applies to each employer when an employee performs services not in the course of the employer's trade or business for two or more employers. Also, where the employer has two or more employees, the standard applies to each employee. In applying the standard, cash remuneration is disregarded when it is for any other type of service performed by the employee for the employer. The noncash remuneration an employer pays an employee for services not in the course of the employer's trade or business is not counted as wages even if the employer has paid the employee cash wages of $100 or more in the calendar year for services of that type. (This provision does not apply to domestic services or to services on a farm, as described in § 404.1008(e)(6).)

(3) *Definition.* The term "services not in the course of the employer's trade or business" means services that do not promote or advance the trade or business of the employer. Services performed for a corporation do not come within the definition.

(w) *Nonprofit, income-tax exempt, organizations*—(1) *The standard.* After December 31, 1977, the term "wages" does not include remuneration of less than $100 paid in a calendar year by an employer to an employee if the employer is an organization exempt from income tax under section 101 of the Internal Revenue Code of 1939 or sections 501 (other than an organization described in section 401) or 521 of the Internal Revenue Code of 1954..

(2) *How evaluation is made.* This standard applies to the year in which remuneration is paid. It does not apply to the year in which the individual works and earns the pay. To compute the $100 amount, both cash and noncash remuneration are counted. The standard applies to each employer where an employee renders services for two or more nonprofit, income-tax exempt, organizations during a calendar year. Similarly, the standard applies to each employee where a nonprofit, income-tax exempt, organization has two or more employees. In applying the standard, the tax-exempt status of the employer and not the nature or place of the employee's services is controlling.

8. Section 404.1049 is revised to read as follows:

§ 404.1049 Contribution and benefit base after 1977.

(a) *Method of determining contribution and benefit base (maximum creditable remuneration) after 1977.* Unless otherwise reflected in § 404.1027(a), the contribution and benefit base as determined under section 230 of the Act with respect to remuneration paid after (and taxable years beginning after) any calendar year after 1977 for which an automatic cost-of-living increase in old-age, survivors, and disability insurance benefits is effective, is the larger of:

(1) The contribution and benefit base in effect for the calendar year in which the determination of the contribution and benefit base is being made; or

(2) The amount determined by: (i) Multiplying the contribution and benefit base which is in effect for the calendar year in which the determination of the contribution and benefit base is being made by the ratio of:

(A) The average of the total wages (see paragraph (b) of this section) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the determination is being made; to

(B) The average of the total wages reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made, and (ii) rounding the result of the multiplication: (A) To the next higher multiple of $300 where the result is a multiple of $150 but not of $300, or (B) to the nearest multiple of $300 in any other case.

(b) *The average of the total wages.* As used in this subpart, "the average of the total wages" (the average wage) means:

(1) For years after 1977, all remuneration reported as wages on Form W-2 to the Internal Revenue Service for all employees for income tax purposes, divided by the number of wage earners. The term includes remuneration for services not covered by social security and remuneration for covered employment in excess of that which is subject to FICA contributions.

(2) For the years 1951 through 1977, four times the amount of average taxable wages that were reported to the Social Security Administration for the first calendar quarter of each year for Social Security tax purposes. For years prior to 1973, these average wages will be determined from a sampling of these reports. The average wage amounts for 1951-1977 will then be adjusted to make the amounts comparable to those computed by using W-2 data reported to IRS for income tax purposes.

[FR Doc. 78-33193 Filed 11-29-78; 8:45 am]

[6560-01-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[FRL 1016-1; FAP 7H5167/R41]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Magnesium Phosphide

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR 193 and 561 by establishing food and feed additive tolerances for residues of the fumigant phosphine resulting from application of magnesium phosphide. The regulations were requested by Phostoxin Sales, Inc. This rule establishes maximum permissible levels for residues of phosphine from magnesium phosphide application to processed food and animal feeds.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460 (202-755-3915).

SUPPLEMENTARY INFORMATION: On October 27, 1977, notice was given (42 FR 56643) that Phostoxin Sales, Inc., 2221 Poplar Blvd., PO Box 469, Alhambra, CA 98102, had filed a petition (FAP 7H5167) with the EPA. This petition proposed that 21 CFR 193 and 561 be amended by establishing regulations permitting residues of the fumigant phosphine in or on processed food and animal feeds from treatment with magnesium phosphide at 0.01 part per million (ppm) and 0.1 ppm, respectively. No comments were received by the Agency in response to this notice of filing. (A related document establishing tolerances for residues of phosphine on a variety of raw agricultural commodities from application of magnesium phosphide appears elsewhere in today's FEDERAL REGISTER.)

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included acute and subacute inhalation studies of phosphine on various animal species. No chronic toxicity data for phosphine residues have been reviewed because such studies are deemed unnecessary for the following reasons:

(1) An acceptable daily intake (ADI) cannot be determined for phosphine since a chronic-feeding study for a gas is difficult if not impossible to achieve.

(2) Only extremely small quantities of residues remain on treated food after aeration.

(3) The small quantities of residues that remain would be further reduced through routine follow-up procedures, such as, processing and cooking.

No data have been reported in previous petitions, nor in this one, regarding the transfer of residues resulting from the proposed use to meat, milk, poultry, and eggs. Because phosphine is a highly reactive and fugitive gas, residues of phosphine are not expect-

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ed in meat, milk, poultry, and eggs as delineated in 40 CFR 180.6(a)(3). An adequate analytical method (colorimetry) is available for enforcement purposes. Tolerances have previously been established (40 CFR 180.225) for residues of phosphine resulting from the use of aluminium phosphide on a variety of raw agricultural commodities at levels ranging from 0.1 ppm to 0.01 ppm. No regulatory action is pending against continued registration of phosphine, nor is any additional information needed.

The proposed tolerances are adequate because of the very low probability of actual exposure to toxicologically significant quantities of phosphine gas from the application of magnesium phosphide.

The pesticide is considered useful for the purpose for which tolerances are sought. Therefore, the regulations establishing tolerances of 0.1 ppm on animal feeds and 0.01 ppm on processed foods by amending 21 CFR 193 and 561 are being promulgated as proposed. Accordingly food and feed additive regulations are established as set forth below.

Any person adversely affected by this regulation may, on or before January 2, 1979 file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective November 30, 1978, 21 CFR 193 and 561 are amended as set forth below.

(Sec. 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)))

Dated: November 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

1. Part 193, Subpart A, is amended by adding the new § 193.255 to read as follows:

§ 193.255 Magnesium phosphide.

The food additive magnesium phosphide may be safely used in accordance with the following prescribed conditions:

(a) It is used to generate phosphine in the fumigation of processed foods.

(b) To assure safe use of the additive, it is used in compliance with the label and labeling conforming to that registered with the U.S. Environmental Protection Agency. The labeling shall bear a warning to aerate the finished food for 48 hours before it is offered to the consumer. A further warning shall state that under no condition should the formulation containing magnesium phosphide be used so that it or its unreacted residues will come in contact with any processed food.

(c) Residues of phosphine in or on processed foods do not exceed 0.01 part per million.

2. Part 561 is amended by adding the new section 561.265 to read as follows:

§ 561.265 Magnesium phosphide.

The feed additive magnesium phosphide may be safely used in accordance with the following prescribed conditions:

(a) It is used to generate phosphine in the fumigation of animal feeds.

(b) To assure safe use of the additive, it is used in compliance with the label and labeling conforming to that registered with the U.S. Environmental Protection Agency. The labeling shall bear a warning to aerate the finished feed for 48 hours before use. A further warning shall state that under no condition should the formulation containing magnesium phosphide be used so that it or its unreacted residues will come in contact with any processed feed.

(c) Residues of phosphine in or on animal feeds do not exceed 0.1 part per million.

[FR Doc. 78-33468 Filed 11-29-78; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-47]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Area, Buffalo, N.Y.; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final Rule, Correction.

SUMMARY: In FR Doc. 78-22336 published in the FEDERAL REGISTER of August 10, 1978, (43 FR 35480), the section heading for the Buffalo, N.Y. Special Anchorage area was incorrectly printed as § 110.84a. On page 35480, third column, of the FEDERAL REGISTER dated August 10, 1978 the section number is corrected to read "§ 110.84b".

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Howard E. Snow, Project Manager, Office of Marine Enivronment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building 400 Seventh Street, SW., Washington, D.C. 20590, (202-426-1934).

Dated: November 24, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 78-33527 Filed 11-29-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 976-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Massachusetts State Implementation Plan (SIP) which extends the expiration date of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof," from July 1, 1978 to July 1, 1979 in the Metropolitan Boston Intrastate Air Quality Control Region (AQCR). The regulation, which temporarily relaxed the sulfur limitations for fossil fuels burned by large sources in the Metropolitan Boston Intrastate AQCR, was previously approved by EPA in FEDERAL REGISTER notices published on December 5, 1975 and August 22, 1977. No other provisions of the regulation are changed.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Deborah Ikehara, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On June 22, 1978, the Regional Administrator published in the FEDERAL REGISTER (43 FR 26757) a notice of proposed rulemaking proposing approval of a revision to the Massachusetts State Implementation Plan. The SIP revision, submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) on April 20, 1978, changes the expiration date of Regulation 5.1, "Sulfur Content of Fuels and Control Thereof," from July 1, 1978 to July 1, 1979 for the Metropolitan Boston Intrastate Air Quality Control Region.

Regulation 5.1 was first approved as a temporary revision to the Massachusetts SIP on December 5, 1975 (40 FR 56889). The regulation permits fossil fuel utilization facilities located in the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, and Watertown having an energy input capacity of two and one-half billion Btu per hour or greater to burn fossil fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0% sulfur content residual fuel oil by weight). All other sources located in these cities and towns are continuing to burn fossil fuel with a sulfur content not in excess of 0.28 pounds per million Btu heat release potential (approximately equivalent to 0.5% sulfur content residual fuel oil by weight), in accordance with the original SIP regulation. For other towns in the AQCR, facilities having an energy input capacity of one hundred million Btu per hour or greater are permitted to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2% sulfur content residual fuel oil by weight), and other sources are limited to burning fossil fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0% sulfur content residual fuel oil by weight), in accordance with the original SIP regulation.

A SIP revision approved by the Administrator on August 22, 1977 (42 FR 42218) extended the effective period of Regulation 5.1 from July 1, 1977 to July 1, 1978.

The additional one-year extension being approved today gives the regulation an effective period of 3 years and 7 months, from December 5, 1975 to July 1, 1979.

No other provisions of the regulation are changed. All sources must be reviewed by the Massachusetts Department and be granted a permit prior to burning the higher sulfur-content fuel. Approval is contingent on a demonstration by the source of its ability to comply with applicable regulations, including the particulate emission limitations (compliance to be determined by emission testing) and the opacity regulations. In no case would a source be allowed to continue burning higher sulfur content fuel if its particulate emissions exceed the regulatory limits of the SIP. Any violation of applicable state regulations or of the National Ambient Air Quality Standards (NAAQS) within the area of impact of a source will result in revocation of the permit and a mandatory return by that source to a lower sulfur fuel.

The Eastman Gelatin facility in Peabody, Massachusetts was required to convert back to the lower sulfur content fuel because of contributions by that source to recorded violations of the NAAQS for total suspended particulates (TSP); consequently, the source must continue burning 1.0% sulfur content oil during the period of the extension.

Analyses performed by the Massachusetts Department indicate that other sources burning higher sulfur content fuel have had negligible impact on TSP violations. There have been no violations of the NAAQS for sulfur dioxide (SO_2) in the Metropolitan Boston Intrastate AQCR since the regulation has been in effect.

During the 30-day public comment period following the FEDERAL REGISTER proposal, comments were received from 2 sources, both of which are affected by the revision. They supported EPA's proposed approval.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

(Sec. 110(a), Clean Air Act, as amended. (42 U.S.C. 7410).)

Dated: November 14, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. In § 52.1120(c), subparagraph (6) is amended by inserting "and April 20, 1978" after the date "April 1, 1977".

[FR Doc. 78-33465 Filed 11-29-78; 8:45 am]

[6560-01-M]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 1016-2; PP 7E1973/R183]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2,6-Dichloro-4-Nitroaniline

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide 2,6-dichloro-4-nitroaniline on endive (escarole).

The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the fungicide on endive (escarole).

EFFECTIVE DATE: Effective on November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460. (202/755-4851).

SUPPLEMENTARY INFORMATION: On September 11, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 40249) in response to a pesticide petition (PP 7E1973) submitted to the Agency by the Interregional Research Project No. (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and Agricultural Experiment Station of New York. This petition proposed that 40 CFR 180.200 be amended by the establishment of a tolerance for residues of the fungicide 2,6-dichloro-4-nitroaniline in or on the raw agricultural commodity endive (escarole) at 10 parts per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.200 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before January 2, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Room M-3708, 401 M St., SW, Washington, DC 20460. Such objections should be submitted and should specify both provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issue for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on November 30, 1978, Part 180, Subpart C, § 180.200 is amended by adding a tolerance for residues of 2,6-dichloro-4-nitroaniline on endive (escarole) at 10 ppm as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Dated: November 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.200 is revised in its entirety by editorially reformatting the section into an alphabetized columnar listing and alphabetically inserting the new tolerance of 10 ppm on escarole (endive) as follows:

§ 180.200 2,6-dichloro-4-nitroaniline; tolerances for residues.

Tolerances are established for residues of the fungicide 2,6-dichloro-4-nitroaniline in or on the following raw agricultural commodities:

Commodity	Parts per million
Apricots	20
Beans, snap	20
Blackberries	15
Boysenberries	15
Carrots (POST-H)	10
Celery	15
Cherries, sweet (PRE- & POST-H)	20
Cottonseed	0.1
Cucumbers	5
Endive (escarole)	10
Garlic	5
Grapes	10
Lettuce	10
Nectarines	20
Onions	5
Peaches	20
Plums (fresh prunes) (PRE- & POST-H)	15
Potatoes	0.25
Raspberries	15
Rhubarb	10
Sweet potatoes	10
Tomatoes	5

Unless otherwise specified, the tolerances prescribed in this section provide for residues from preharvest application only.

[FR Doc. 78-33469 Filed 11-29-78; 8:45 am]

[6560-01-M]

[FRL 1015-8; PP 7F1985/R182]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Magnesium Phosphide

AGENCY: Office of Pesticide Programs, Envifonmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fumigant phosphine resulting from application of magnesium phosphide. The regulation was requested by Phostoxin Sales, Inc. This rule establishes maximum permissible levels for residues of phosphine on a variety of raw agricultural commodities.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460 (202/755-3915).

SUPPLEMENTARY INFORMATION: On October 27, 1977, notice was given (42 FR 56643) that Phostoxin Sales, Inc., 2221 Poplar Blvd., PO Box 469, Alhambra, Calif. 98102, had filed a pesticide petition (PP 7F1985) with the EPA.

This petition proposed that 40 CFR 180 be amended to establish tolerances for residues of the fumigant phosphine from the use of magnesium phosphide in or on the raw agricultural commodities almonds, barley, Brazil nuts, cashews, cocoa beans, coffee beans, corn, cottonseed, dates, filberts, millet, oats, peanuts, pecans, pistachio nuts, popcorn, rice, rye, sorghum, soybeans, sunflower seed, walnuts, and wheat at 0.1 part per million (ppm).

No comments were received in response to this notice of filing. (A related document establishing food and feed additive regulations for residues of phosphine appears elsewhere in today's FEDERAL REGISTER.)

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included acute and subacute inhalation studies of phosphine on various animal species. No chronic toxicity data for phosphine residues have been reviewed because such studies are deemed unnecessary for the following reasons:

(1) An Acceptable daily intake (ADI) cannot be determined for phosphine since a chronic-feeding study for a gas is difficult if not impossible to achieve.

(2) Only extremely small quantities of residues remain on treated food after aeration.

(3) The small quantities of residues that remain would be further reduced through routine follow-up procedures, such as, processing and cooking.

No data have been reported in previous petitions, nor in this one, regarding the transfer of residues resulting from the proposed use to meat, milk, poultry, and eggs. Because phosphine is a highly reactive and fugitive gas, residues of phosphine are not expected in meat, milk, poultry, and eggs as delineated in 40 CFR 180.6(a)(3). An adequate analytical method (colorimetry) is available for enforcement purposes. Tolerances have previously been established (40 CFR 180.225) for residues of phosphine resulting from the use of aluminium phosphide on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 0.1 ppm. No regulatory action is pending against continued registration of phosphine, nor is any additional information needed. The proposed tolerances are adequate because of the very low probability of actual exposure to toxicologically significant quantities of phosphine gas from the application of magnesium phosphide.

The pesiticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.1 ppm on the above raw agricultural commodities established by amending 40 CFR 180 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before January 30, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Room M-3708, 401 M Street, SW., Washington, D.C. 20460. Such objections should be submitted and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on November 30, 1978, Part 180 is amended as set forth below.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2).)

Dated: November 22, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180 is amended by adding the new section 180.375 to read as follows:

§ 180.375 Magnesium phosphide; tolerances for residues.

Tolerances are established for residues of the fumigant phosphine in or on the following raw agricultural commodities from postharvest treatment with magnesium phosphide:

Commodity	Parts per million
Almonds	0.1
Barley	0.1
Brazil nuts	0.1
Cashews	0.1
Cocoa beans	0.1
Coffee beans	0.1
Corn	0.1
Corn, pop	0.1
Cottonseed	0.1
Dates	0.1
Filberts	0.1
Millet	0.1
Oats	0.1
Peanuts	0.1
Pecans	0.1
Pistachio nuts	0.1
Rice	0.1
Rye	0.1
Sorghum	0.1
Soybeans	0.1
Sunflower seeds	0.1
Walnuts	0.1
Wheat	0.1

[FR Doc. 78-33467 Filed 11-29-78; 8:45 am]

[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-162; Amdt. No. 173-122]

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Metric Equivalence for Quantity Limitations

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This amendment authorizes, for quantity limitations that are now specified by U.S. liquid measure or avoirdupois weight in 49 CFR, Parts 171-178, the use of metric measures on an equivalent basis and up to and including one liter per quart and 500 grams per pound. The amendment permissively extends to quantities of 110 gallons or less and 1000 pounds or less. This amendment is issued to facilitate conversion to metric measurements utilized domestically and internationally in the packaging and transportation of various commodities, including materials classed by the Department as hazardous materials.

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking on this subject was published in the FEDERAL REGISTER on June 29, 1978 (43 FR 28216). The Notice was based on a petition received from the Manufacturing Chemists Association requesting revision to section 173.26(a) of the Department's Hazardous Materials Regulations to facilitate conversion to metric measurements in the transportation of hazardous materials. In setting forth the proposal, the Materials Transportation Bureau (the Bureau) expressed the view that the changes proposed would have no adverse effect on the safe transportation of hazardous materials and would be of considerable assistance to shippers converting to systems of metric measurement for both domestic and international purposes, and that the proposed change to the regulations, if adopted, would not impose any additional costs on packaging manufacturers or shippers since use of the provisions of section 173.26 is optional.

The comments received ranged from full support of the proposed amendment, to total objection. Many commenters pointed out that the symbol (rather than abbreviation) for a milliliter is mL rather than ml, and a change has been made accordingly. Several commenters failed to note that application of section 173.26(a) is permissive rather than mandatory. One commenter stated: "Although 1 quart may be rounded to 1 litre, in fact, 1 quart equates to .946 352 9 litre (Standard for Metric Practice ASTM E 380-76E). Therefore, all present U.S. liquid volume measures will be increased by 5.7 percent. This percent increase is unacceptable for packages exceeding 1 gallon." The commenter did not indicate why the increase is unacceptable and apparently missed the point that the application of the regulation is optional. If his particular industry group finds its use unacceptable, they should not use it. The same commenter said:

> This stated "increase" in measure will put the petroleum industry in conflict with, among others, CFR-49 178.116-2 which states: "Minimum actual capacity of containers shall be not less than rated (marked) capacity plus 4 percent." I select this "rated capacity" since the DOT-17E specification was the illustration used in Notice No. 78-9. But this will hold for nearly all rated capacities over the current regulation which reads: "1 gallon for liquids and 10 pounds for solids." As the size of the container increases, the absolute percent will remain constant but the actual discrepancy in gallons will increase. Under accepted conversion standards, there would be 5.9 gallons less in a container at 110 U.S. gallons than the stated metric equivalent under the proposed rule making.

It is not clear 1what the accepted conversion standards are that are alluded to by the commenter. However, if his concern is in regard to a reduction in safety because of a change in outage, it should be noted that four percent of 220 L is 8.8 L while four percent of 208 L (approximately 55 gallons) is 8.32 L. Therefore, a 220 L drum will require greater minimum outage than a 208 L drum.

The commenter did not illustrate an unsafe condition that would be created by the proposal. However, we accept his comment for further study concerning the validity of all the outage requirements considering recently adopted filling restrictions set forth in various shipping sections of the regulations, such as section 173.116(b) for flammable liquids.

Two commenters, associated with aviation, expressed opposition to the proposal based on the confusion that would be created by the use of metric measurements and the possibility that it would contribute to possible overloading of aircraft. In responding to the comments, we assume the commenters are referring primarily to the information contained in the shipping documents. For many years, the regulations have authorized the display of metric quantity measurements on shipping documents. At the present time, section 172.202(a)(4) does not preclude weight being entered in kilograms and volume and liters, and many shipments, particularly those in international commerce, are presently shipped and documented using metric measurement. The Bureau believes that it has become necessary for all persons involved in commerce to become acquainted with metric measurements whether hazardous materials are involved or not. Consistent with this view, the Department of Transportation is entering into an effort to familiarize its enforcement personnel with the metric equivalents that are authorized by this amendment.

One commenter pointed out that the conversion factor should not be applicable to radioactive materials since different conditions could be produced relative to the original analysis and would, therefore, require new criticality and radiation evaluations. The commenter has raised a point that was overlooked in preparation of the proposal. It was not intended that § 173.26 apply to regulations containing specific conversions such as § 173.396, or § 178.24a which specifies the requirements for DOT Specification 2E. Therefore, the word "only" has been added to the first sentence of the rule in two places to limit its application to those regulations containing only limitations specified in U.S. liquid measures or avoirdupois weight.

A commenter recommended that the Bureau clarify that the purposes of this rulemaking are to make it possible to manufacture, mark, and test "metric capacity" containers and state that the new rule does not mandate that a 5-gallon pail must be made to hold 20 liters nor 55-gallon drums made to hold 220 liters. The commenter's request has merit. A literal interpretation of the proposal may result in a conclusion that the only basis for utilization of metric quantities would be at specifically one liter per quart or 500 grams per pound. This was not intended. It was the Bu-

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reau's intent that metric equivalents up to the limitations specified in the proposal may be utilized and the first sentence of the rule has been modified to indicate that metric units may be substituted on an equivalent basis and up to and including one liter per quart and 500 grams per pound. This same commenter requested that the language of § 173.26 be adjusted to reflect that changes in steel thicknesses are not required for the equivalent metric sizes. The Bureau does not consider such an additional provision to be necessary since there is no implication in the rule to indicate such a requirement. For example, § 178.116–6 contains a table indicating marked capacities in gallons. This amendment permits the conversion of the gallons entries to metric equivalents on the basis of one liter per quart. Therefore, the 10-gallon entry may be considered to read "40 liters" without any change to the minimum thicknesses specified. Tables of this type were taken into account during development of the proposal. The Bureau considers that the performance tests specified are sufficient to maintain overall container integrity and that puncture resistance continues to be accomplished through the specification of minimum thicknesses.

The United States Environmental Protection Agency submitted comments stating:

> Administratively, the change is small and EPA certainly encourages the utilization of the metric system whenever and wherever feasible. However, without more evidence than is presented in the notice of proposed rulemaking, EPA must seriously question the wisdom of this proposal from a public health and environmental quality viewpoint.
>
> In the existing regulations the maximum quantities eligible for substitution are 1 gallon of liquids and 10 pounds of solids. The allowable 5 and 10 percent, respectively, increases allowed by conversion to metric measurements at these levels would indeed be insignificant. However, when the maximum limits are raised to 110 gallons of liquids and 1,000 pounds of solids, the difference between the United States measurement system and the metric system conversions specified becomes significant, viz., 6 gallons for liquids and 100 pounds for solids. Considering the variety of hazardous materials and containers eligible under this regulation it does not appear to be a simple matter. In the event of an accidental release and under certain circumstances it seems possible that such increases could significantly affect public health and the environment. EPA believes that more thought and analysis needs to be completed prior to proceeding further under this docket.

The Bureau does not agree that further thought and analysis is needed concerning this rulemaking. At its inception, full consideration was given to the increases being authorized and the preamble to Notice 78–9 contained a reference to the Bureau's agreement with the petitioner that such a provision would have a negligible effect on safety. The Bureau continues to agree with the petitioner and believes that the adoption of the amendment contained herein will have no significant effect on the safe transportation of hazardous materials. It should be noted that when metric measurements are used, packagings must be tested accordingly. This means that a DOT Specification 17E drum marked "220 L" must meet the test requirements specified in section 178.116–12 at 98 percent of its increased capacity and not based on 55 gallons, or approximately 208 liters capacity. The same holds true for other specifications for which test requirements are specified. The Bureau is satisfied that the conversion limitations permitted by this amendment will not have any significant impact on safety from the standpoint of public health or environmental quality, considering all the limitations and conditions specified in the regulations.

The primary drafter of this document is Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration.

In consideration of the foregoing, Title 49 Code of Federal Regulations, Part 173 is amended as follows:

In § 173.26 the Heading and paragraph (a) are revised to read as follows:

§ 173.26 Quantity limitations and metric measurements.

(a) When quantity limitations are specified in this subchapter only by U.S. liquid measure for 110 gallons or less, or only by avoirdupois weight for 1,000 pounds or less, quantities measured in metric units may be substituted on an equivalent basis and up to and including one liter per quart and 500 grams per pound. When metric measurements are used, specification packagings must be marked to indicate their use and must be tested accordingly. Symbols for metric markings are L for liter, mL for milliliter, kg for kilogram, and g for gram.

* * * * *

(49 U.S.C. 1803, 1808; 49 CFR 1.53(e))

NOTE.—The Materials Transportation Bureau has determined that this final regulation will not have a major economic impact under the terms of Executive Order 12044 and Department of Transportation implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on November 17, 1978.

L. D. SANTMAN,
Director, Materials Transportation Bureau.

[FR Doc. 78-33220 Filed 11-29-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 222—ENDANGERED FISH OR WILDLIFE

PART 227—THREATENED FISH AND WILDLIFE

Emergency Regulations Declaring the Port Canaveral Navigation Channel a Restricted Fishing Area; Correction

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Temporary emergency regulations; correction.

SUMMARY: This document corrects emergency regulations declaring the Port Canaveral Navigation Channel a restricted fishing area appearing in the FEDERAL REGISTER of Wednesday, November 22, 1978 at 43 FR 54639.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, 202-634-7461.

In FR Doc. 78-32796 appearing at page 54639 in the issue for Wednesday, November 22, 1978, in the third column of page 54640, line 3 of the last paragraph now reading "1 and April 1 the use of any trawl gear * * *", should have read "1 and April 1 the use of any commercial trawl gear * * *".

Dated: November 24, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-33730 Filed 11-29-78; 10:09 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[1505-01-M]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 416]

PEA CROP INSURANCE

Regulations for the 1979 and Succeeding Crop Years

Correction

In FR Doc. 78-31940, appearing on pages 52723 through 52728, in the issue of November 14, 1978, the following four corrections should be made:

1. In § 416.5 *Creditors,* appearing on page 52725 in the first column, the third line should read "by virtue of a lien, mortgage, garnish."

2. In § 416.5 *Creditors,* appearing on page 52725 in the center column, the last line should read "policy set forth in § 416.8."

3. In § 416.8 *The policy,* subsection 7(c), appearing on page 52727 in the table entitled "Adjustments for Unfavorable Insurance Experience," the first line in the second section thereof has been omitted and should be inserted to read as follows:

"1.10-1.19 100 100 100 103 104 106 108 110 110 111 115"

4. In § 416.8 *The policy,* subsection 9(c), appearing on page 52727 in the center column, the third line should read "indemnity is to be claimed on any unit of green."

[3410-02-M]

Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-383]

RUBY SEEDLESS GRAPES GROWN IN CALIFORNIA

Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public Hearing On Proposed Rulemaking.

SUMMARY: The hearing is being held to consider a proposed marketing agreement and order regulating the handling of Ruby Seedless grapes grown in California. The principal proposals to be considered would: (1) Establish a Ruby Seedless Grape Committee of producers and a public member to assist the Secretary of Agriculture in administering the proposed program; (2) authorize quality, container and pack regulations; and (3) authorize the committee to establish and carry out market research and development projects and promotion research. Other proposals included relate mainly to administrative procedures and provisions.

DATES: The hearing will be held February 1-2, 1979, at the location listed under address below.

ADDRESS: The hearing will be held in the California Room of the Reedley Community Center, 100 N. East Avenue, Reedley, Calif.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at Reedley, Calif., at 9:00 a.m., local time in the California Room, Reedley Community Center, 100 N. East Avenue, Reedley, Calif., with respect to a proposed marketing agreement and order regulating the handling of Ruby Seedless grapes grown in California. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The public hearing is for the purpose of:

(a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof;

(b) Determining whether the handling of Ruby Seedless grapes grown in the proposed production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determining whether there is a need for a marketing agreement or order regulating the handling of Ruby Seedless grapes grown in such area; and

(d) Determining whether provisions specified in the proposal or some other provisions appropriate to the terms of the Agricultural Marketing Agreement Act of 1937, as amended, will tend to effectuate the declared policy of the act.

A proponent group of California Ruby Seedless grape producers submitted, and requested the hearing on the proposed marketing agreement and order, the provisions of which are as follows (the sections identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed marketing order):

DEFINITIONS

§ ——.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department who is or who may hereafter be authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ ——.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.).

§ ——.3 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ ——.4 Production area.

"Production area" means the State of California.

§ ——.5 Grapes.

"Grapes" means all strains of Ruby Seedless grapes grown in the production area.

§ ——.6 Producer.

"Producer" is synonymous with grower and means any person engaged in a proprietary capacity in the production of grapes for the fresh market.

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§ ——.7 Handle.

"Handle" is synonymous with "ship" and means to sell, consign, deliver, or transport grapes or cause grapes to be sold, consigned, delivered, or transported in the current of commerce between any point within the production area and any point outside thereof, or within the production area. The term "handle" also means to deliver grapes to a refrigerated storage warehouse for storage purposes, either within the production area or outside thereof. The term "handle" shall not include the sale of grapes on the vine or the transportation of grapes from a vineyard, or a packing shed within the production area, to a packing shed within the production area.

§ ——.8 Handler.

"Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting grapes owned by another person) who handles grapes.

§ ——.9 Fiscal year.

"Fiscal year" is synonymous with crop year and means the 12 month period beginning April 1 of any year and ending on March 31 of the following year, both dates inclusive, or such other period as the committee, with the approval of the Secretary, may prescribe.

§ ——.10 Committee.

"Committee" means the Ruby Seedless Grape Committee established pursuant to § ——.20.

§ ——.11 District.

"District" means the State of California, or such subdivisions thereof as may be prescribed pursuant to § ——.31(k).

§ ——.12 Pack.

"Pack" means (a) to place grapes into containers for shipment to market as fresh grapes and to deliver containers of grapes to a packing platform or shed or to a vehicle for transportation to market or storage, or (b) to place grapes into a shipping container in a packing shed: *Provided*, That, when used in and with respect to §§ ——.51 to ——.55, inclusive, such term shall mean the specific arrangement, weight, grade or size, including the uniformity thereof, of the grapes within a container.

§ ——.13 Container.

"Container" means a box, lug, crate, carton, or any other receptacle used in packing grapes for shipment as fresh grapes and includes the dimensions, capacity, weight, marking, and any pads, liners, lids, and any or all appurtenances thereto or parts thereof. The term applies, in the case of grapes packed in consumer packages, to the master receptacle and to any and all packages therein.

§ ——.14 Part and subpart.

"Part" means the Order Regulating the Handling of Ruby Seedless Grapes Grown in California and all rules and regulations and supplementary orders issued thereto. The aforesaid Order Regulating the Handling of Ruby Seedless Grapes Grown in California shall be a "subpart" of such part.

ADMINISTRATIVE BODY

§ ——.20 Establishment and membership.

There is hereby established a Ruby Seedless Grape Committee consisting of 9 members, each of whom shall have an alternate who shall have the same qualifications as the member. Producer members and their alternates shall be growers in the production area or employees of such growers. One member and alternate shall be a public member who shall meet the eligibility requirements set forth in § ——.22. The Secretary, on recommendation of the committee, may change the number of members on the committee.

§ ——.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years beginning on April 1 of an odd numbered year and ending on March 31 of an odd numbered year. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ ——.22 Eligibility.

Each producer member of the committee shall, at the time of selection and during the term of office, be a producer in the district for which selected. The public member of the committee, at the time of selection and during the term of office, shall not have a direct financial interest in or be closely associated with the production, processing, financing or marketing (except as consumers) of Ruby Seedless grapes.

§ ——.23 Nominations.

(a) *Initial members.* Nominations for each of the initial members, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by the committee responsible for promulgation of this part. Such nominations may be made by means of a meeting or meetings of the growers in the production area. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in § ——.20.

(b) *Successor members.* (1) The committee shall hold or cause to be held, not later than February 15 of each odd numbered year, a meeting or meetings of growers in each district for the purpose of designating nominees for successor members and alternate members of the committee. These meetings shall be supervised by the committee which shall prescribe such procedure as shall be reasonable and fair to all persons concerned.

(2) Only growers who are present at each such nomination meeting, or who are represented by duly authorized representatives approved by the committee, may participate in the nomination and election of nominees for members and their alternates. Each grower in attendance, or authorized representative of a grower, shall be entitled to cast only one vote, regardless of the number of business units the grower may represent, for each nominee to be selected.

(3) A particular grower, including officers or employees of such growers, shall be eligible for membership as member or alternate to fill only one position on the committee.

(4) The committee may appoint a subcommittee to select nominees for the public member and alternate member positions on the committee. The committee shall prescribe such procedure for the selection and voting for each candidate as shall be fair to all persons concerned.

§ ——.24 Selection.

From the nominations made pursuant to § ——.23, or from other qualified persons, the Secretary shall select the nine members of the committee and an alternate for each such member.

§ ——.25 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § ——.23, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § ——.20.

§ ——.26 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with

the Secretary promptly after being notified of such selection.

§ ——.27 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in § ——.23 and § ——.24. If the names of the nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in § ——.20.

§ ——.28 Alternate members.

An alternate member shall act in the place of the member during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act for the member until a successor for such member is selected and has qualified. In the event that neither the member or that member's alternate are able to attend a committee meeting, the member or committee members present may designate any other alternate to serve in such member's place at that meeting provided such action is necessary to secure a quorum.

§ ——.30 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ ——.31 Duties.

The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine compensation and to define the duties of each;

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a competent public accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to grapes;

(i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;

(j) To submit to the Secretary such available information as he may request;

(k) With the approval of the Secretary, to divide the production area into districts, and to redefine such districts, and, further, to apportion the representation on the committee among the districts or to reapportion such representation among the districts.

§ ——.32 Procedure.

(a) Six members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require the concurring vote of the majority of those present: *Provided*, That actions of the committee with respect to expenses and assessments, or recommendations for regulations pursuant to §§ —.50 to ——.55 shall require at least six concurring votes.

(b) The committee may vote by telephone, telegraph, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided*, That voting other than in an assembled meeting shall require two-thirds affirmative vote of the committee in order to constitute approval. If an assembled meeting is held, all votes shall be cast in person. Recommendations for regulation pursuant to §——.50 and recommendations for assessments pursuant to §——.41 may be made only at an assembled meeting.

§ ——.33 Expenses and compensation.

The members of the committee, and alternates when acting as members, shall serve without compensation but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: *Provided*, That the committee at its discretion may request the attendance of one or more alternates at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

§ ——.34 Annual report.

The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

EXPENSES AND ASSESSMENTS

§ ——.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in §——.41

§ ——.41 Assessments.

(a) Each person who first handles grapes shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person during a fiscal year in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such year and to accumulate and maintain a reserve fund equal to approximately one fiscal year's expenses. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later findings by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all grapes handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal year before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assess-

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ments in advance, and may also borrow money for such purpose.

(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the period of time prescribed shall be subject to the interest or late payment charge, or both.

§ ——.42 Accounting.

If, at the end of a fiscal year the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal years as a reserve: *Provided,* That funds already in the reserve do not exceed approximately one fiscal year's expenses. Such reserve funds may be used (a) to cover any expenses authorized by this part and (b) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal year or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That, to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

RESEARCH

§ ——.45 Marketing research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of grapes. The expense of such projects shall be paid by funds collected pursuant to § ——.41.

REGULATIONS

——.50 Marketing policy.

Each season prior to making any recommendations pursuant to §——.51, the committee shall submit to the Secretary a report seeting forth its marketing policy for the ensuing marketing season. such marketing policy report shall contain information relative to:

(1) The estimated total production of grapes within the production area;

(2) The expected general quality of grapes in the production area;

(3) The expected demand conditions for grapes;

(4) The expected shipments of grapes produced in the production area;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) Other factors having a bearing on the marketing of grapes; and

(8) The type of regulations expected to be recommended during the marketing season.

§ ——.51 Recommendation of committee.

(a) Whenever the committee deems it advisable to regulate the handling of grapes in the manner provided in § ——.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for Ruby Seedless grapes during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request. The committee shall promptly give adequate notice to the handlers and growers of any such recommendation submitted to the Secretary.

§ ——.52 Establishment of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of grapes whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit during any period or periods the shipments of any particular grade, size, quality, maturity, or pack, or any combination thereof, of grapes grown in the production area;

(2) Limit the shipment of grapes by establishing in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of grapes.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give notice thereof to handlers.

§ ——.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § ——.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee, or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of grapes in order to effectuate the declared policy of the act, he shall modify, suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ ——.54 Special purpose shipment.

(a) Except as otherwise provided in this section, any person may without regard to the provisions of §§ ——.41, ——.51, ——.52, and ——.54 and the regulations issued thereunder, handle grapes (1) for consumption by charitable institutions; (2) for distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information the Secretary may relieve from any or all requirements, under or established pursuant to §§ ——.41, ——.51, ——.52, and ——.54, the handling of grapes for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § ——.45), or in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent grapes handled under provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle grapes pursuant to this section, and that such application be accompanied by a certification by the intended purchaser or receiver that the grapes will not be used for any purpose not authorized by this section.

§ ——.55 Inspection and certification.

(a) Whenever the handling of any variety of grapes is regulated pursuant to §§ ——.52 or ——.53, each handler who handles grapes shall, prior thereto, cause such grapes to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation: *Provided,* That inspection and certification shall not be required for grapes which previously have been so inspected and certified if such prior inspection was performed within such period as may be established pursuant to paragraph (b) of this section. Promptly after inspection and certification, each such handler shall submit or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such grapes. The committee may, with the approval of the Secretary, prescribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided,* That all shipments made under such waiver shall comply with all regulations in effect.

(b) The committee may, with the approval of the Secretary, establish a period prior to shipment during which the inspection required by this section must be performed.

(c) The committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata share of such costs.

REPORTS

§ ——.60 Reports.

(a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of grapes as follows:

(1) The name of the shipper and the shipping point;

(2) The car or truck license number (or name of the trucker), and identification of the carrier;

(3) The date and time of departure;

(4) The number and type of containers in the shipment;

(5) The destination;

(6) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal years, such records of the grapes received and disposed of by such handler as may be necessary to verify the reports such handler submits to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided,* That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

MISCELLANEOUS PROVISIONS

§ ——.61 Compliance.

Except as provided in this part, no person shall handle grapes, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle grapes except in conformity with the provisions of this part and the regulations issued under this part.

§ ——.62 Right of the Secretary.

The members of the committee (including successors and alternates) and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ ——.63 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § ——.64.

§ ——.64 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers: *Provided,* That such majority has, during the current marketing season, produced more than 50 percent of the volume of grapes which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of April subsequent to the announcement thereof by the Secretary.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ ——.65 Proceedings after termination.

Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and

(3) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ ——.66 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not:

his date of permanent residence mination of admissibility shall be the provisions of § 235.6. The alien

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(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part; or

(b) Release or extinguish any violation of this part, or

(c) Affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ ——.67 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ ——.68 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as agent or representative in connection with any of the provisions of this part.

§ ——.69 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States:

(a) To exercise any powers granted by the act or otherwise; or

(b) In accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ ——.70 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ ——.71 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ ——.72 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. • • •

§ ——.73 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. • • •

§ ——.74 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of Ruby Seedless grapes in the same manner as is provided for in this agreement. • • •

Copies of this notice may be obtained from the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, or from Charles Fuqua, USDA-AMS, Federal Building, 1130 "O" Street, Room 3114, Fresno, California 93721.

Signed at Washington, D.C., on November 24, 1978.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-33511 Filed 11-29-78; 8:45 am]

[4410-10-M]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 235]

ADJUSTMENT OF STATUS FOR CERTAIN ALIENS PAROLED INTO THE UNITED STATES AS REFUGEES PRIOR TO SEPTEMBER 30, 1980

Implementation of Pub. L. 95-412

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rule Making proposes amendments to the regulations of the Immigration and Naturalization Service. These proposed regulations are necessary and intended to implement recently enacted legislation. The first amendment will enable an eligible alien paroled into the United States as a refugee prior to September 30, 1980 to adjust his status to that of a lawful permanent resident after he has resided in the United States for two years. The second amendment will permit an eligible alien paroled into the United States as a refugee prior to September 30, 1980 who has acquired lawful permanent residence status under some other statutory provision to have his date of admission for permanent residence recorded as of the date of which he was initially paroled into the United States as a refugee.

DATES: Representations must be received on or before January 30, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536. Telephone: (202) 376-8373

SUPPLEMENTARY INFORMATION: It is proposed to amend 8 CFR 235.9(e); to add a new 8 CFR 235.9(f) and to revise existing 8 CFR 235.9(f) and redesignate it as 8 CFR 235.9(g). The proposed amendments are necessary to implement section 5 of Pub. L. 95-412 which was approved by the President on October 5, 1978.

Section 5 of Pub. L. 95-412 provides that "Notwithstanding any other provision of law, any refugee, not otherwise eligible for retroactive adjustment of status, who was or is paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Nationality Act before September 30, 1980, shall have his status adjusted pursuant to the provisions of section 203(g) and (h) of that Act."

Under this new law, an alien who was paroled into the United States as a refugee prior to September 30, 1980, may, after having resided in the United States for a period of two years, have his status adjusted to that of a lawful permanent resident. This legislation makes aliens who were paroled into the United States as refugees eligible for adjustment of status to permanent resident under the same conditions as refugees who came into this country as conditional entrants who have resided in this country for two years. It is proposed to revise 8 CFR 235.9(e) and redesignate 8 CFR 235.9(f) as 8 CFR 235.9(g), and revise it, to implement this aspect of the legislation.

It is also proposed to add a new 8 CFR 235.9(f) to the regulations to provide that an alien paroled into the United States as a refugee prior to September 30, 1980 who has already adjusted his status to that of a lawful permanent resident may apply to have

his date of permanent residence "rolled back" and recorded as of the date the person was initially paroled into the United States as a refugee.

There are currently two statutory provisions under which an alien who was paroled into the United States as a refugee and subsequently adjusted his status may apply to have his date of admission for permanent residence "rolled back" and recorded as of the date of his initial parole into the United States as a refugee. The first provision is included in section 2 of the Cuban Refugee Adjustment Act of 1966, Pub. L. 89-732, 80 Stat. 1161, and the second is included in section 103 of the Indochinese Refugee Adjustment Act of 1977, Pub. L. 95-145, 91 Stat. 1223. These two groups are the only refugee parolees currently eligible for this benefit. The Congress enacted section 5 of Pub. L. 95-412 to provide this same "roll back" benefit to all refugee parolees paroled into the United States prior to September 30, 1980 for the purpose of removing the inequity in the current law under which certain refugee parolees are eligible for a "roll back" of their date of admission for permanent residence while other refugee parolees for whom specific refugee adjustment legislation has not been enacted, are not eligible. This provision of law and regulation will provide refugee parolees generally the same eligibility for a "roll back" of their date of admission for permanent residence as has been provided to Cuban and Indochinese refugees by specific legislation, provided they have been paroled into the United States as refugees prior to September 30, 1980.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as set forth below:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. It is proposed to revise § 235.9(e) and to add a new paragraph (f) as set forth below.

§ 235.9 Conditional entries.

• • • • •

(e) *Inspection of conditional entrant and refugee parolee as to admissibility for permanent residence.* Each alien who has been (i) admitted under section 203(a)(7) as a conditional entrant; or (ii) paroled under section 212(d)(5) of the Act as a refugee prior to September 30, 1980, who is not otherwise eligible for retroactive adjustment of status to permanent resident; shall be required to appear before an immigration officer two years following conditional entry or parole. If over 14 years of age, such conditional entrant or parolee shall be interrogated under oath by an immigration officer and a determination of admissibility shall be made in accordance with sections 235 and 236 of this chapter. Except as provided in Parts 245 and 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under section 212(g), (h), or (i) of the Act, insofar as they relate to the excludability of an alien in the United States.

(f) *Request to roll back permanent residence date by permanent resident who was paroled into the United States as a refugee.* A request by a permanent resident who was originally paroled into the United States as a refugee before September 30, 1980 to roll back his/her date of acquiring permanent residence to the date of original parole as a refugee shall be made in writing to the district director having jurisdiction over the applicant's place of residence. The request shall be accompanied by the Alien Registration Card, Form I-151 or I-551, issued to the applicant in connection with his/her acquiring permanent resident status together with three identical color photographs taken within the past thirty days. The photographs must comply with the requirements for an ADIT card. These requirements may be obtained from any office of the Immigration and Naturalization Service. The decision on the request shall be made by the district director. No appeal shall lie from the district director's decision. If the request is approved, the applicant will be furnished replacement Alien Registration Card bearing the date as of which the lawful admission for permanent residence has been recorded.

• • • • •

§ 235.9 [Amended]

2. It is proposed to redesignate existing § 235.9(f) as § 235.9(g). It is proposed to revise redesignated § 235.9(g) by amending the first, second and seventh sentences as set forth below.

• • • • •

(g) *Termination of conditional entrant or refugee parole status.* Whenever a district director has reason to believe that a conditional entrant under section 203(a)(7) or an alien paroled under section 212(d)(5) before September 30, 1980 as a refugee, whose status has not otherwise been terminated or changed, is or has become inadmissible to the United States under any provision of section 212(a) of the Act (except section 212(a)(20), he shall, in the case of a parolee, comply with § 212.5(b) of this chapter, and thereafter serve on either class of alien Form I-122, Notice to Alien Detained for Hearing Before Immigration Judge, in accordance with the provisions of § 235.6. The alien shall be referred for a hearing before an immigration judge in accordance with the provisions of sections 235, 236, and 237 of the Act and of this chapter. • • • An appeal shall lie from the decision of the immigration judge in accordance with the provisions of § 236.7 of this chapter.

3. Also in redesignated § 235.9(g), in the third sentence change "special inquiry officer" to read "immigration judge"; in the fifth sentence change "a special inquiry officer" to read "an immigration judge"; in the sixth sentence change "special inquiry officer" to read "immigration judge".

(Sec. 103; 8 U.S.C. 1103; and sec. 5 of Pub. L. 95-412, 92 Stat. 909)

PUBLIC COMMENTS INVITED

In accordance with the provisions of section 553 of Title 5 of the United States Code, interested persons are invited to submit relevant data, views and arguments concerning these proposed rules to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, DC 20536, on or before January 30. 1979. Plese submit all representations in writing, in duplicate.

Dated: November 24, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-33586 Filed 11-29-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-EA-70]

PROPOSED EXTENSION OF VOR FEDERAL AIRWAY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend V-214 from Martinsburg, W. Va., to Baltimore, Md., via the intersection of the Martinsburg 101° and the Baltimore 308° magnetic radials. This route is presently used as a vector route. Designation of this route as an airway would reduce flight planning and communication time required for its use.

DATES: Comments must be received on or before December 26, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-70, Federal Aviation Administration, Fed-

proposed in conjunction with the al- FOR FURTHER INFORMATION Part 71 of the Federal Aviation Regu-

eral Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before December 26, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would extend V-214 from Martinsburg to Baltimore via the INT of Martinsburg 094°T(101°M) and Baltimore 300°T(308°M) radials. This route is presently used as a departure route to the west and northwest. By designating the route as an airway, the route description would be made shorter and the time required for flight planning and radio communications reduced.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) as follows:

Under V-214, "Martinsburg, W. Va." is deleted and "Martinsburg, W. Va.; INT Martinsburg 094° and Baltimore, Md., 300° radials to Baltimore." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 16, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-33257 Filed 11-29-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Docket No. 78-SO-65]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Alteration of Transition Area, Chester, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will alter the existing Chester, South Carolina, Transition Area and will lower the base of controlled airspace south of Chester Municipal Airport from 1200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A public use instrument approach procedure has been developed for the Chester Municipal Airport, and the additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

DATE: Comments must be received on or before: January 8, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before January 8, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Chester, South Caroline, Transition Area. This action will provide controlled airspace protection for IFR operations at the Chester Municipal Airport. The NDB Runway 35 standard instrument approach procedure utilizing the Chester (nonfederal) nondirectional radio beacon is proposed in conjunction with the alteration of this Transition Area.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following to the existing Chester, South Carolina, Transition Area:

. . . within 3 miles each side of the 163° bearing from the Chester RBN (Lat. 34°46'56"N., Long. 81°11'48"W.) from the 7-mile radius area to 8.5 miles south of the RBN. . .

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on November 16, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-33258 Filed 11-29-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Docket No. 78-SO-70]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Alteration of Transition Area, Morristown, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will alter the existing Morristown, Tennessee, Transition Area and will lower the base of controlled airspace southwest of the Moore-Murrell Airport from 1200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A new public use instrument approach procedure has been developed for the Moore-Murrell Airport, and the additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before January 8, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before January 8, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Morristown, Tennessee, Transition Area. This action will provide controlled airspace protection for IFR operations at Moore-Murrell Airport. The NDB Runway 5 standard instrument approach procedure utilizing the Murrell (nonfederal) nondirectonal radio beacon is proposed in conjunction with the alteration of this transition area.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Regulations (14 CFR 71) by altering the Morristown, Tennessee, Transition Area as follows:

". . . within 4.5 miles northwest and 9.5 miles southeast of the 239° bearing from the Morristown RBN (latitude 36°11'10" N., longitude 83°22'00" W.), extending from the 9.5-mile radius area to 18.5 miles southwest of the RBN . . ." would be deleted, and

". . . within 4.5 miles northwest and 9.5 miles southeast of the 228° bearing from the Murrell RBN (latitude 36°07'18" N., longtitude 83°27'30" W.), extending from the 9.5-mile radius area to 18.5 miles southwest of the RBN . . ." would be substituted therefor.

(Section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on November 17, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-33259 Filed 11-29-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 239]

[Release Nos. 33-5998, IC-10482; File No. S7-763]

SHORT FORM FOR REGISTRATION OF SECURITIES

Proposed Amendments to Disclosure Form

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for public comment proposed amendments to the short form (Form S-16) for the registration of securities under the Securities Act of 1933 (the "Securities Act") which would: (1) Deem the effective date of documents incorporated by reference into registration statements on that form to be the date of the document's initial filing with the Commission; (2) Deem a statement in a document incorporated by reference into a registration statement on that form not to be part of the registration statement if the statement has been modified or superseded in the registration statement or subsequently filed documents which are incorporated by reference; and (3) Provide that the making of a modifying or superseding statement shall not

have been expressed by underwriters

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be deemed an admission that the modified or superseded statement constituted a violation of the Federal securities laws. Since the adoption of amendments to the short form to permit its use for primary offerings by certain issuers, if subject to a firm commitment underwriting, many underwriters have expressed concern regarding their potential liability under the Securities Act with respect to documents incorporated by reference into the registration statement. The proposed amendments are intended to accommodate certain of these concerns with the policies underlying Section 11 of the Securities Act.

DATES: Comments should be submitted on or before January 22, 1979.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-763. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

John A. Granda (202-755-1750), or Steven Paggioli (202-376-8090), Office of Disclosure Policy and Proceedings, Division of Corporation Finance. Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing for comment amendments to Items 7 of Form S-16 (17 CFR 239.27) under the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). The amendments are intended to address certain concerns raised by underwriters with respect to their potential liability under Section 11 of the Securities Act for documents filed pursuant to the Securities Act or the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) which are incorporated by reference into a registration statement on Form S-16. A new paragraph (e) which is proposed to be added to Item 7 would, for purposes of Section 11(a) of the Securities Act only, deem the effective date of a document incorporated by reference into an S-16 registration statement to be the date of initial filing with the Commission. New paragraph (f) which is proposed to be added to Item 7 would: (1) Deem a statement in a document incorporated by reference pursuant to that item not to be part of the registration statement to the extent that it has been superseded or modified by certain subsequent disclosure; and (2) Provide that the making of a modifying or superseding statement shall not be deemed an admission that the modified or superseded statement, when made, constituted a violation of the Securities Act, the Exchange Act, the Public Utility Holding Company Act of 1935 (the "Holding Company Act") (15 U.S.C. 79a et seq.), or the Investment Company Act of 1940 (the "Investment Company Act") (15 U.S.C. 80a et seq.).

I. Background

On April 11, 1978, the Commission adopted amendments to Form S-16, a form for the registration of certain securities under the Securities Act.[1] Those amendments for the first time permitted use of Form S-16, a relatively simpler and shorter registration form, for the registration of certain primary offerings of securities, provided, *inter alia*, that such offerings are made pursuant to a firm commitment underwriting.[2] Form S-16 embodies the concept of the integration of the registration provisions of the Securities Act with the reporting requirements of the Exchange Act. Issuers permitted to use Form S-16 are required to file periodic reports under the Exchange Act containing information about their business, management and financial operations. Since these reports are generally available, the form requires only limited further disclosure concerning the offering; the basic disclosure regarding the issuer is included through the incorporation by reference of the Exchange Act reports into the registration statement.[3]

These provisions of Form S-16 are a reflection of the Commission's endeavor to further integrate the Securities Act and Exchange Act.[4] As noted by the Advisory Committee on Corporate Disclosure (the "Advisory Committee") in its final report, a continuous, coordinated, and integrated disclosure system for companies subject to the securities acts should reduce registration costs and thus the costs of raising capital, facilitate timely access to the capital markets, make more meaningful the periodic reporting requirements of the Exchange Act and eliminate needless duplication of disclosure, which results in increased costs to investors.[5]

A. Underwriters' Concerns With Liabilities Under Section 11 of the Securities Act

In Release 33-5923, the Commission noted that the incorporation by reference of Exchange Act documents into registration statements on Form S-16 should result in an improvement in the quality of disclosure in the Exchange Act filings due to the increased care in preparation of these reports which would result from concern about liability under the Securities Act for the content of Exchange Act filings that are so incorporated. In addition, the Commission had previously noted that the participation of underwriters in certain primary offerings would provide further protection for investors in light of underwriters' obligations under the federal securities laws.[6] However, significant concerns

[1] Securities Act Release No. 5923 (April 11, 1978) (43 FR 16672).

[2] *Id.*

[3] Item 7 of Form S-16 requires the incorporation by reference of the following documents filed pursuant to the Exchange Act:

(a) The issuer's latest annual report filed pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 or the latest prospectus filed pursuant to Rule 424(b) or (c) under the Securities Act of 1933, which contains certified financial statements for the issuer's latest fiscal year for which such statements have been filed;

(b) All other reports filed pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 since the end of the fiscal year covered by the annual report or prospectus referred to in (a) above;

(c) The issuer's definitive proxy statement or information statement, if any, filed pursuant to Section 14 of the Securities Exchange Act of 1934 in connection with the latest annual meeting of its stockholders, and any definitive proxy or information statements so filed in connection with the latest annual meeting of its stockholders, and any definitive proxy or information statements so filed in connection with any subsequent special meetings of its stockholders;

(d) If the class of securities to be offered is registered under Section 12 of the Securities Exchange Act of 1934, the description of such class of securities which is contained in a registration statement filed under such Act, including any amendment or reports filed for the purpose of updating such description. In addition, all documents subsequently filed pursuant to Sections 13, 14 or 15(d) of the Exchange Act prior to the termination of the offering are deemed to be incorporated by reference into the prospectus and to be a part thereof from the date of filing.

[4] See Securities Act Release No. 5906 (February 15, 1978).

[5] See generally Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission ("Report"), House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess., Committee Print 95-29 at 420-469.

[6] Securities Act Release No. 5879 (November 2, 1977) (42 FR 58677). Congress, in enacting the express civil liability provisions of the federal securities laws, established specific liability for underwriters and other principal participants in a distribution of securities, in recognition of their greater obligation to the public because of their importance in the distributive process; their ability to obtain information from the registrant; and the reliance placed on these persons by public investors. *See, e.g.*, H.R. Rep. No. 85, 73rd Cong. 1st Sess. (1933) at 9, wherein it is noted with respect to Section 11 of the Securities Act of 1933 that "the duty of care to discover varies in its de-

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have been expressed by underwriters regarding subjection of Exchange Act filings to the different and more stringent liability standards of the Securities Act.[7] Generally, under the Securities Act, the various participants in the registration process, including officers, all directors, experts, and underwriters, are responsible for omissions or misstatements in a registration statement unless after reasonable investigation they had reasonable ground to believe and did believe that at the time of effectiveness of the registration statement it was not misleading.[8] Section 18 of the Exchange Act, on the other hand, imposes liability with respect to reports and documents filed under such Act upon persons responsible for the filing who make or cause to be made a misstatement and who act in bad faith or have knowledge of the misrepresentation.

Underwriters have been concerned particularly about exposure to liability under Section 11 of the Securities Act because of misleading statements or omissions in reports filed under the Exchange Act and incorporated by reference into a Securities Act registration statement on Form S-16. Because underwriters have not participated in the preparation of the annual, quarterly, and current reports, and proxy material filed under the Exchange Act, they have not had the opportunity to pursue the "due diligence" procedures which would generally be performed in connection with the preparation of a Securities Act registration statement. Without conducting such procedures a question is raised as to whether the underwriters could sustain the burden of proof that they had conducted a "reasonable investigation," and had "reasonable ground to believe" that the registration statement contained no untrue statement of material fact or omitted to state material facts required to be stated therein as necessary to make statements therein not misleading.

A further basis for underwriter concern is that Section 11 imposes liability if any part of the registration statement is untrue or misleading "when such part becomes effective." However, the various Exchange Act documents which are incorporated by reference into the registration statement may not be accurate after their filing dates. Accordingly, liability might be asserted based on information in Exchange Act documents incorporated by reference which has become materially outdated.

A related problem is the reluctance of issuers to accept an underwriter's recommendation that disclosure be made which corrects, clarifies, or otherwise modifies earlier disclosure in an Exchange Act document incorporated by reference. Such reluctance appears to be primarily attributable to concern that the subsequent disclosure may be viewed as an admission that the prior document was materially false or misleading in some respect. This, in turn, could lead to suits involving trading transactions in securities of the issuer occurring prior to the later disclosure.

Because some issuers apparently view the full "due diligence" investigation attendant to preparation of a registration statement on Form S-1 or S-7 as canceling out the savings in costs and time achieved through the use of Form S-16, it has been suggested that underwriters are pressured to dispense with such investigations.[9] Such pressure makes it more difficult for underwriters to conduct the type of review, inquiry and verification of previously filed reports which they feel is necessary to satisfy their statutory obligations.

B. Recent Approaches to the Issue of Liability for Incorporated Documents

The subject of liability imposed on persons participating in the preparation of documents incorporated by reference into 1933 Act registration statements is not new. the Commission's special disclosure study group that first recommended the adoption of the short registration form in 1969 also suggested the adoption of a rule providing that, under certain circumstances, a broker acting as a statutory underwriter in connection with a secondary offering on an exchange would be deemed to have made a reasonable investigation and to have reasonable grounds to believe the statements made in a registration statement or the documents incorporated by reference if he had read the registration statement and the documents and was not aware of any false or misleading statements.[10]

More recently, the drafters of the American Law Institute's proposed Federal Securities Code have addressed this issue in the Code's counterpart provision to Section 11 of the Securities Act. Section 1704(g) of the proposed code provides that, in determining what constitutes reasonable investigation or care and reasonable ground for belief, relevant circumstances include whether, with respect to a fact or document incorporated by reference, the particular defendant had any responsibility for the fact or document at the time of the filing from which it was incorporated.[11] The commentary to this provision states that it is intended to reconcile the two conflicting goals of "* * * furthering the S-16 concept, which makes it impossible to ignore the underwriter's practical problems with respect to material incorporated in an offering statement and subsequent reports and * * * nondilution of the underwriter's standard of care, which is essential to the credibility of the offering statement."[12] Similarly, the approach taken by the Advisory Committee in its recommended rule, based substantially on the ALI proposal, provides that the fact of incorporation by reference may be taken into account in determining liability for the incorporated documents.[13]

The Corporate Finance Committee of the Securities Industry Association ("SIA") filed a rulemaking petition with the Commission on May 3, 1978

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mands upon participants in security distribution with the importance of their place in the scheme of distribution and with the degree of protection the public has a right to expect * * *. For those whose moral responsibility to the public is particularly heavy, there is a correspondingly heavier legal liability—the persons signing the registration statement, the underwriters, the directors of the issuer, the accountants, the engineers, appraisers and other professionals preparing and giving authority to the prospectus—all these are liable to the buyer not only if they cannot prove they did not know of the flaw in the information offered to the public but also if they cannot prove that they could not have found that flaw 'after reasonable investigation' and that they had reasonable ground to believe * * * that such statement was true or that there was no such omission."

[7] See comments available in File No. S7-725. See also the rulemaking petition filed May 3, 1978 by the Corporate Finance Committee of the Securities Industry Association and the Commission's letter of response dated May 26, 1978 from George A. Fitzsimmons, Secretary.

[8] This is the "due diligence" standard of Section 11(b)(3) of the Securities Act.

[9] *See* "Current Issues and Developments in the Duties and Liabilities of Underwriters and Secruities Dealers, 33 Bus. Law. 335, 348-58 (1977); "Special Disclosure Problems: The Use of Form S-16," PLI Seventh Annual Institute on Securities Regulation, 243, 247-50, 262-64 (Mundheim & Fleischer, eds. 1977).

[10] "Report and Recommendations to the Securities and Exchange Commission from the Disclosure Policy Study, Disclosure to Investors, A Reappraisal of Administrative Policies under the 1933 and 1934 Acts" (March 1969) (hereinafter "Wheat Report") at 98-112. Of course, the broker would receive only the customary commission on the sale and would not have the economic incentive to conduct a due diligence inquiry. Also since the transaction would be on an exchange, the public would not be placing any special reliance on the broker's role in the transactions.

[11] Section 1704(g) *Federal Securities Code, The American Law Institute* 570 (Proposed Official Draft, March 15, 1978) *as amended* (Supp. July 15, 1978). It should be noted that the Code premises the reduction in underwriter liability on the imposition of Section 11 type liability on inside directors for annual reports.

[12] *Federal Securities Code,* (Tentative Draft No. 2) (March, 1973), p. 104. The substantive provision remains the same in the Revised Proposed Official Draft.

[13] Report at 454-55.

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requesting that the Commission: (1) Adopt a rule relating to underwriters' liability with respect to registration statements on Form S-16; and (2) pending the adoption of such a rule, suspend the effectiveness of General Instruction A-1 of Form S-16 until September 30, 1978 or adopt an emergency temporary rule relating to underwriters' liability with respect to registration statements on Form S-16.[14] The temporary rule proposed by the SIA provides that, in determining what constitutes reasonable investigation or care and reasonable ground for belief, relevant circumstances include, with respect to information or documents incorporated by reference into a registration statement on Form S-16, the fact that the underwriter had no responsibility for the information or document at the time of the filing from which it was incorporated.[15] This approach is, of course, similar to that taken by the Advisory Committee and in the ALI proposal[16] and was prompted by substantially the same concerns.

C. VIEWS OF THE COMMISSION

Although the Commission's experience to date with Form S-16 as amended in Release No. 5923 has not indicated specific instances of practical problems in connection with the use of the form for underwritten primary offerings,[17] the Commission is mindful of the concerns articulated by the investment banking community and others.

The Commission believes that in order to establish a defense underwriters must review carefully the documents incorporated by reference into registration statements on Form S-16 to assure that these documents, together with the prospectus, contain no false and misleading information and that the facts disclosed in these documents have changed materially as of the date of incorporation. However, as previously indicated,[18] the Commission believes that a court would consider all circumstances surrounding an underwriter's position with respect to information contained in documents incorporated by reference into a Form S-16 registration statement, including the presence or absence of responsibility for material contained therein at the time of filing as well as any other circumstances inherent in the type of offering that would legitimately affect an underwriter's ability to discharge its "due diligence" obligation under the Securities Act.

The Commission has considered the desirability of proposing for comment a rule of the type recommended by the SIA and others and has determined not to propose such a rule. The Commission is reluctant to promulgate a rule setting forth the factors to be considered in connection with the specific statutorily created civil liabilities and defenses of Section 11. It is difficult to state in advance and in abstract terms all of the circumstances which might affect the reasonableness of an underwriter's inquiry.[19] Moreover, the effect of such a rule on underwriter liability and their due diligence obligations is unclear. In such circumstances the Commission believes that it should proceed cautiously so that the investor protection afforded by the present level of underwriter investigation and verification will not be diminished. Courts will, of course, continue to have the opportunity to consider and develop in particular factual contexts other possible relevant circumstances as factors in the determination of what constitutes reasonable investigation and reasonable ground for belief regarding information contained in Securities Act registration statements.[20]

There are, however, appropriate steps that can be taken which would recognize and respond to the concerns arising from the unique position in which underwriters are placed with respect to documents incorporated by reference in a registration statement on Form S-16. By structuring the proposals to deal directly with the concerns discussed above, the consequences of their adoption can be more clearly evaluated. The proposals being published for comment are intended to accomodate the concerns of underwriters with the policies underlying Section 11 of the Securities Act.

II. SYNOPSIS OF PROPOSED AMENDMENTS[21]

A new paragraph (e) is proposed to be added to Item 7 of Form S-16. Under that paragraph the effective date of a document incorporated by reference pursuant to Item 7, for purposes of determining liability under Section 11, would be deemed to be the date of the document's initial filing with the Commission. This provision attempts to address the concern described in the previous section with respect to the fact that liability under Section 11 is based on disclosure as of the effective date of the registration statement whereas the disclosure in documents incorporated by reference speaks as of their respective filing dates.

In light of this proposal the manner in which Section 11 might be applied to disclosures incorporated or actually included in a prospectus on Form S-16 must be assessed from several vantages. Even if proposed Item 7(e) were adopted, the disclosures incorporated by reference (i.e., those required to be incorporated and which have not been superseded or modified) still would be subject to scrutiny to determine whether they met the Section 11 standards at the time such disclosure was filed and whether the underwriter conducted a due diligence investigation adequate to establish the defense.

A separate but related inquiry would arise in connection with interim events (i.e., events occurring between the date the incorporated document was filed and the effective date of the Form S-16). Presently, Item 8(a) of Form S-16 requires disclosure in the prospectus of any material changes in the issuer's affairs which were not previously reported under the Exchange Act and which have occurred since the end of the latest fiscal year for which certified financial statements were incorporated. The thrust of the provision is simply to impose a further disclosure obligation with respect to material interim events.

Taken together, the two concepts discussed above result in the possibility that a material misstatement of other omission as specified in Section 11 might be found to exist for either of two reasons: First, because the incorporated document, when filed contained false or misleading statements or omissions; or second, because subsequent material events occurred but were not discloses, causing incorporated disclosures to be misleading. As to each of these two possibilities, an underwriter would be required to conduct a reasonable investigation to establish a defense.

New paragraph (f) which is proposed to be added to Item 7 embodies the concept that the totality of the disclosure in a registration statement should be determinative. Paragraph (f) would address the incorporation by reference problem by permitting, under certain circumstances, the removal of statements made in documents incorporated by reference from the application of the Securities Act. This would be accomplished by deeming a document incorporated by reference not to be part of the registration statement if it has been superseded or modified by disclosure in the S-16 prospectus or a subsequent document filed with the Commission and incorporated by reference. A statement in a document incorporated by reference would be deemed to be modified or superseded for this purpose to the extent that a statement in the S-16 prospectus or in any other subsequently filed document which is incorporated by reference modifies or replaces such statement. The modifying or superseding statement may, but need not, state that it has modified or superseded a prior statement or include any other information set forth in the document which is not so modified or superseded.

Item 7 as proposed to the amended would provide underwriters with a vehicle to correct, clarify or modify disclosure made in an earlier Exchange Act document which is being incorporated by reference pursuant to Item 7. The Commission believes that efforts to make disclosure to investors more meaningful and accurate are to be encouraged and is therefore proposing the amendments as a means of furthering this goal.

The present resistance by issuers to such disclosure, as described in the previous section, is expected to be alleviated by providing in Item 7(f) that the making of a modifying or superseding statement shall not be deemed an admission that the modified or superseded statement, when made, constituted a violation of the Securities Act, the Exchange Act, the Holding Company Act, or the Investment Company Act. The focus of any litigation would thereby be directed to the substance of the controversy and away from the issue of whether the making of a subsequent statement which is inconsistent with previous information filed in documents incorporated by reference is alone an admission of liability.

III. TEXT OF PROPOSED AMENDMENTS

Form S-16 (17 CFR 239.27) is proposed to be amended to read as follows:

§ 239.27 Form S-16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

Item 7. Incorporation of Certain Documents by Reference.

* * * * *

(e) *Effective Date of Documents Incorporated by Reference.* (i) For purposes of determining pursuant to Section 11(a) of the Act only when a document incorporated by reference pursuant to this Item 7 "became effective," the effective date shall be the date of the document's initial filing with the Commission.

(ii) For all other purposes under the Act, including Section 13, the effective date shall be the effective date of the registration statement.

(f) *Modified or superseded documents.* Any statement contained in a document incorporated or deemed to be incorporated by reference shall be deemed to be modified or superseded for purposes of the prospectus to the extent that a statement contained in the prospectus or in any other subsequently filed document which also is or is deemed to be incorporated by reference modifies or replaces such statement.

The modifying or superseding statement may, but need not, state that it has modified or superseded a prior statement or include any other information set forth in the document which is not so modified or superseded. The making of a modifying or superseding statement shall not be deemed an admission that the modified or superseded statement, when made, constituted an untrue statement of a material fact; a statement false or misleading with respect to any material fact; an omission to state a material fact necessary to make a statement not misleading; or the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course or business or artifice to defraud, as those terms are used in the Act, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, or the rules and regulations thereunder.

Any statement so modified shall not be deemed in its unmodified form to constitute part of the registration statement or prospectus for purposes of the Act. Any statement so superseded shall not be deemed to constitute a part of the registration statement or the prospectus for purposes of the Act.

* * * * * *

(Secs. 6, 7, 10, 11, 12(2), 17(a), 19(a), 48 Stat. 78, 81, 82, 84, 85; secs. 205, 206, 209, 48 Stat. 906, 907, 908; secs. 8, 9, 10, 68 Stat. 685, 686; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 3(b), 9, 10(b), 14(a), 23, 48 Stat. 882, 889, 891, 895, 901; sec. 8, 49 Stat. 1379; sec. 203(a), 49 Stat. 704; secs. 5, 10, 78 Stat. 569, 570, 88a; secs. 3, 18, 89 Stat. 97, 155; secs. 16(a), 20(a), 49 Stat. 829, 883; secs. 30(d), 34(b), 38(a), 54 Stat. 836, 840, 841; (15 U.S.C. 77f, 77g, 77j, 77k, 77l(2) 77g(a), 77s(a), 78c(b), 78i, 78j(b), 78n(a), 78w, 79p(a), 79t(a), 80a-29(d), 80a-33(b), 80a-37(a)))

STATUTORY AUTHORITY

The foregoing action is taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10, 11, 12(2), 17(a) and 19(a) thereof; the Securities Exchange Act of 1934, particularly sections 3(b), 9, 10(b), 14(a), 18, and 23 thereof; the Public Utility Holding Company Act of 1935, particularly sections 16(a) and 20(a) thereof; and the Investment Company Act of 1940, particularly sections 30(d), 34(b) and 38(a) thereof.

By the Commission

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 17, 1978.

[FR Doc. 78-33512 Filed 11-29-78; 8:45 am]

[14] The Commission responded to the portion of the petition recommending the adoption of a temporary rule or the suspension of the effectiveness of General Instruction A-1 of Form S-16 in a letter dated May 26, 1978 from George A. Fitzsimmons, Secretary. In a letter dated June 26, 1978, the SIA submitted a proposed permanent rule regarding underwriter liability for incorporated documents to assist the staff in their deliberations.

[15] The text of that rule is as follows: In determining whether an underwriter has made a reasonable investigation, exercised care or had a reasonable ground for belief under the [Securities] Act with respect to a registration statement on Form S-16, relevant circumstances include (1) the type of registrant, (2) the type of security, (3) the type of underwriting arrangement, the role of the underwriter and the accessibility to information with respect to the registrant and (4) with respect to information or a document incorporated by reference, the fact (if such is the case) that the underwriter had no responsibility with respect to the information or document at the time of the filing from which it was incorporated.

[16] The SIA petition recognizes that the recommendations of the Advisory Committee and the ALI proposal go beyond the problems of underwriters which it is addressing.

[17] Since the date of the amendments, upwards of thirty primary underwritten offerings have been filed on Form S-16 covering debt securities in a principal amount of over $1.4 billion and equity securities with an aggregate offering price of approximately $463 million. In addition, Form S-16 has been used for four underwritten secondary offerings of equity securities with an aggregate offering price of approximately $38 million. The amount of all securities offered for cash in primary offerings during the period from April through September 1978 totaled $24,310,017,000. The amount of all securities offered for cash in secondary offerings during that period totaled $1,135,617,000.

[18] See the Commission's letter dated May 26, 1978 from George A. Fitzsimmons to the Corporate Finance Committee of the Securities Industry Association.

[19] In this regard, it should be noted that previous attempts to define or standardize the elements of underwriters' due diligence obligations have not been successful. For example, the Commission's public investigation into the "hot issues" securities markets revealed a wide variation in the nature and extent of due diligence performed by underwriters. See Securities Act Release No. 5275, July 26, 1972, 37 FR 16011. Accordingly, the Commission determined to request the National Association of Securities Dealers ("NASD") to consider the establishment of appropriate standards regarding underwriter inquiry respecting first-time public offerings, among other things. On March 14, 1973, in the NASD's Notice to Members No. 73-17, that Association proposed a new Rule of Fair Practice regarding this area. Proposed New Article III, Section 35 would have required every member engaged in investment banking activities as a managing underwriter to establish and maintain written procedures that it would be required to follow in its inquiry and investigation of an issuer for which it is acting in a distribution. Sixteen areas of inquiry would have been required to be included in these procedures. This Rule proposal was superseded by the NASD's Notice to Members No. 75-33, April 25, 1975, which contained a proposed policy statement of the NASD Board of Governors concerning due diligence requirements for public offerings of securities. That policy statement set forth general guidelines for performance of an underwriter's due diligence obligation. After circulation for comment, the proposed policy statement was withdrawn.

[20] *See Feit* v. *Leasco Data Processing Equipment Corp.* 332 F. Supp. 544 (E.D.N.Y. 1971) and *Escott* v. *BarChris Construction Corp.* 283 F. Supp 643 (S.D.N.Y. 1968).

[21] This synopsis is included in order to assist interested persons in their understanding of the amendments proposed herein. However, attention is directed to the actual text of the proposed amendments for a more complete understanding.

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 76-104]

ANCHORAGE GROUNDS AND SPECIAL ANCHORAGE AREAS

Newport Harbor, Newport, R.I.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Newport, Rhode Island, The Coast Guard is proposing to revise the anchorage regulations by disestablishing two anchorage grounds and establishing three special anchorage areas in Newport Harbor, Newport, Rhode Island. This amendment is being considered because the existing anchorage areas are not adequate for the increased number of transient pleasure craft and do not permit these vessels to anchor without lights. This proposal is intended to provide sufficient anchorage areas for pleasure craft in this vicinity and to permit these vessels to anchor without displaying anchor lights.

DATES: Comments must be received on or before January 16, 1979.

ADDRESSES: Comments should be submitted to and are available for examination at the office of the Commander, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Howard E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-1934.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writers name and address, identify this notice (CGD 76-104) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. All comments received will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are Lieutenant Commander H. E. Snow, Project Manager. Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF REGULATIONS

It is proposed to disestablish two anchorage areas in Newport Harbor, Newport, Rhode Island. Anchorage Area "F" (33 CFR 110.145(a)(6)) would be disestablished because it is close to areas of commercial vessel operation where the maneuvering of large vessels might endanger the anchored small craft. Anchorage Area "G" (33 CFR 110.145(a)(7)) would be disestablished because ⅓ of the area within the anchorage has been taken up by floating docks. Also, a marina is being planned for the remaining area of this anchorage, so that there would be no place for anchoring within the described area.

Three special anchorages are being proposed in order to compensate for the disestablishment of anchorage "F" and "G". The areas proposed are far enough away from the area in which large vessels operate to provide safe anchoring for small craft. Also, vessels anchored in special anchorage areas are not required to carry or display anchor lights. These anchorages are well removed from any channels and traffic traversing the harbor. Providing adequate special anchorage areas in the harbor would encourage vessels presently anchoring elsewhere to use these safer locations. Because local charts would show the anchorage locations, in addition to their publication in the Code of Federal Regulations, transient boats are expected to utilize these safe locations during the summer months.

An Environmental Assessment was completed in August 1978 which determined that there would be no impact on the quality of the human environment.

This regulation has been reviewed under DOT Notice 78-1 "Improving Government Regulations" (43 FR 9582) and a Draft Evaluation has been prepared and is available for public inspection at the Project Manager and Commander, First Coast Guard District addresses indicated above.

In consideration of the foregoing it is proposed to amend Part 110 of Title 33 as follows:

1. By adding a new § 110.46 to read as follows:

§ 110.46 Newport Harbor, Newport, Rhode Island.

(a) Area No. 1. The waters of Brenton Cove south of a line extending from latitude 41°28'50" N., longitude 71°18'58" W.; to latitude 41°28'45" N., longitude 71°20'08" W.; thence along the shoreline to the point of beginning.

(b) Area No. 2. The waters east of Goat Island beginning at a point bearing 090°, 245 yards from Goat Island Shoal Light; thence 007°, 505 yards; thence 054°, 90 yards; thence 086°, 330 yards; thence 122°, 90 yards; thence 179°, 290 yards; thence 228°, 380 yards; thence 270°, 250 yards to the point of beginning.

(c) Area No. 3. The waters north of Goat Island Causeway Bridge beginning at Newport Harbor Light; thence 023° to the southwest corner of Anchorage E; thence 081° following the southerly boundary of Anchorage E to the shoreline; thence south along the shoreline to the east foot of the Goat Island Causeway Bridge; thence west following Goat Island Causeway Bridge to the shoreline of Goat Island; thence north following the east shore of Goat Island to the point of beginning.

2. By deleting from § 110.145 subparagraphs (a)(6) and (a)(7).

§ 110.145 Narragansett Bay, Rhode Island.

(a) • • •

(6) [Deleted].

(7) [Deleted].

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); Sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2)).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended and OMB Circular A—107.

Dated: November 24, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-33529 Filed 11-29-78; 8:45 am]

[4910-14-M]

[33 CFR Part 110]

[CGD 77-143]

SPECIAL ANCHORAGE AREA

Jacobs Nose Cove, Elk River, Md.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the Chesapeake Isle Civic Association, the Coast Guard is proposing to establish a special anchorage at Jacobs Nose Cove, Elk River, Maryland. The designation of Jacobs Nose Cove as a special anchorage is needed to accommodate existing and anticipated increases of recreational boating in this area. It would enhance navigational safety in the area by encouraging pleasure craft to anchor in the cove in lieu of anchoring in the Lower Elk River.

DATES: Comments must be received on or before: January 16, 1979.

ADDRESSES: Comments should be submitted to and are available for examination at the Office of the Commander (mps), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23705.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Howard E. Snow, Project Manager, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590 (202-426-1934).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writer's name and address, identify the notice (CGD 77-143) and the specific section of the proposal to which the comment applies, and give the reason for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. A public hearing on this subject was held on 19 April 1977 and is available for public inspection at the addresses indicated above. There was no opposition to this proposal presented at this hearing. No additional public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATION

The Chesapeake Isle Civic Association Development is adjacent to Jocobs Nose Cove, Elk River, Md., and consists of 300 private home lots. To date, 52 homes have been constructed. The association owns and maintains a 150 foot pier at this location. The area is presently used for anchoring as many as 75 pleasure craft which belong to members of the association or guests. The depth of water in this area (1-4 ft.) precludes the mooring of most vessels in excess of 65 feet in length.

This rule would allow anchoring of small craft without requiring that they display anchor lights. This cove is a natural harbor well removed from any channels and traffic traversing the area. Establishment of a special anchorage would encourage vessels presently anchoring in the river to use this out of the way anchorage. Because local charts would show the anchorage location in addition to its publication, an additional 50 transient boats are expected to utilize this safe location during the summer months.

It was proposed that rules governing the placement of mooring bouys in this special anchorage be made a part of this regulation. The placement of mooring bouys in an anchorage area requires a permit from the U.S. Army Corps of Engineers. Therefore these regulations do not address this issue.

An Environmental Impact Statement was filed with the Environmental Protection Agency on November 28, 1977 (42 FR 62183) indicating no forseeable significant impact on the quality of the human environment.

This regulation has been reviewed under DOT Notice 78-1 "Improving Government Regulations" (43 FR 9582) and a Draft Evaluation has been prepared and is available for public inspection at the Project Manager address indicated above.

In consideration of the foregoing, Part 110 of Title 33 Code of Federal Regulations would be amended by adding § 110.71 to read as follows:

§ 110.71 Jacobs Nose Cove, Elk River, Maryland.

The water area of Jacobs Nose Cove, on the west side of the mouth of Elk River, Maryland, comprising the entire cove south of Jacobs Nose as defined by the shoreline and a line bearing 046°-226° true across the entrance of the cove tangent to the shore on both the north and south sides.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655 (g)(1)(B)), 49 CFR 1.46 (c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement Under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: November 24, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-33530 Filed 11-29-78; 8:45 am]

[49-1014-M]

[33 CFR Part 117]

[CGD 78-134]

DRAWBRIDGE OPERATION REGULATIONS

New River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the Florida East Coast (FEC) Railway the Coast Guard is considering changing the regulations governing the FEC railroad bridge across New River, mile 2.5, Fort Lauderdale, to allow automatic operation of the draw. This proposal is being made in an effort to relieve the bridge owner of the burden of having a person constantly available to open the draw. The draw is presently required to open on signal.

DATE: Comments must be received on or before January 2, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Seventh Coast Guard District, 51 S.W. First Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will foward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

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DISCUSSION OF THE PROPOSED REGULATIONS

Construction of the FEC railroad bridge was completed on 3 March 1978. Its equipment for automated operation is similar to that used for the FEC bridges at Jay Jay, Jupiter, Stuart, and Port Mayaca, Florida. These bridges have operated for several years with a minimum of mechanical problems, therefore, the Coast Guard feels that the FEC bridge across the New River should be considered for automated operation as well.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new § 117.445a immediately after § 117.445 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.445a New River, mile 2.5, Ft. Lauderdale, Fla., automatic operation Florida East Coast Railway bridge.

(a) The bridge is not manned by a regular attendant.

(b) The span is normally in an open position. There are signs on both upstream and downstream sides of the bridge with a digital clock showing the time remaining until the bridge starts down. Adjacent to the clocks, there are standard traffic lights with three colors: red, amber and green.

(c) When the bridge is in an open position, the green light is displayed. When a train approaches the bridge, the signal changes to a flashing yellow light, the bridge siren sounds four blasts every minute on the minute for six minutes, and the time clock begins to count down.

(d) When the time clock reaches zero, the signal light changes to red and the bridge lowers and locks, provided that installed scanning equipment reveals nothing under the bridge.

(e) After the train has cleared, the bridge opens and the signal light returns to green.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: November 17, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-33342 Filed 11-29-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1016-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: In response to several requests for an extension of time for the filing of comments on the proposed amendment to the federally promulgated Ohio State Implementation Plan for sulfur dioxide, the comment period is extended to December 29, 1978. The proposal was published on pages 43729 thru 43736 of the FEDERAL REGISTER of September 27, 1978.

DATES: Comments must be received on, or before, December 29, 1978.

ADDRESSES: Comments should be submitted to: Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The technical support documents and dockets for this proposal (5A-78-1 and 5A-78-2) are on file at the above address and at: Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. They may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Debra Costello, Environmental Protection Assistant, Air Program Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 at 312-353-2205.

Issued on November 22, 1978.

JOHN MCGUIRE,
Regional Administrator.

[FR Doc. 78-33462 Filed 11-29-78; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 1016-8]

COMMONWEALTH OF PENNSYLVANIA

Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Pennsylvania Department of Environmental Resources has submitted amendments to Article XVIII, Rules and Regulations of the Allegheny County Health Department, and proposes that they be reviewed and processed as a revision of the Pennsylvania State Implementation Plan (SIP) applicable to Allegheny County. The revisions amend the Air Pollution Emergency Episode Regulations of Article XVIII. The revisions are designed to provide flexibility to deal with localized air pollution episodes. The amendments make provision for declaring localized Third Stage Alerts and for instituting curtailment action in the exact area(s) affected. In addition, the amendments provide for declaring localized incidents where persistent winds cause high pollution levels and set forth specific actions, including ordering source curtailments, to be taken by the Bureau. Other changes include authorizing the Director of the Allegheny County Health Department, rather than the County Commissioners, to declare Third Stage Alerts and provisions designed to make the regulations more consistent with federal guidelines.

DATE: Comments must be submitted on or before January 2, 1979.

ADDRESSES: Copies of the proposed SIP revision and accompanying support documentation are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch (3AH10), Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Israel Milner.

Bureau of Air Quality and Noise Control, Department of Environmental Resources, Commonwealth of Pennsylvania, P.O. Box 1467, Harrisburg, Pennsylvania 17120.

Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Streets SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Israel Milner, Manager, Plans Management Group, Air Programs Branch, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106; telephone 215-597-8174.

SUPPLEMENTARY INFORMATION: On May 15, 1978, the Pennsylvania Department of Environmental Resources submitted to the Regional Administrator, EPA, Region III, amendments to Article XVIII, Rules and Regulations of the Allegheny Health Department, and requested that they be reviewed and processed as a revision of the Pennsylvania State Implementation Plan (SIP) applicable to Allegheny County.

The proposed amendments affect Section 1800 (Definitions) and Section 1813 (Air Pollution Emergency Episode Regulations) of Article XVIII.

In November, 1975, a localized emergency episode occurred in the Liberty Borough—Clairton area of Allegheny County. Existing regulations required extensive county-wide actions even though emergency conditions occurred in only a small portion of the county. The amended regulations will provide the flexibility to declare localized Third Stage Alerts and for instituting curtailment actions in the exact area(s) affected. The amendments also provide for declaring localized incidents where persistent winds cause high pollution levels, and provide guidance on specific actions to be taken in the case of wind-induced pollution incidents.

A public hearing on the proposed amendments was held on February 17, 1978 at the Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

The public is invited to submit to the address stated above, comments on whether the amendments to Allegheny County Article XVIII should be approved as a revision of the Pennsylvania SIP. The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

(Authority: 42 U.S.C. 74010.)

Dated: November 14, 1978.

JACK SCHRAMM,
Regional Administrator.

[FR Doc. 78-33473 Filed 11-29-78; 8:45 am]

[40 CFR Part 228]

[ERL 984-8]

OCEAN DUMPING

Proposed Designation of Sites

AGENCY: Evironmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate as EPA approved Ocean Dumping Sites the existing sewage sludge dump site located in the New York Bight Apex and an alternate ocean dumping site in the New York Bight for the dumping of sewage sludge in the event that the existing site cannot safely accommodate any more sewage sludge.

DATES: Comments must be received on or before January 29, 1979.

ADDRESSES: Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), EPA, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. T. A. Wastler, 202-245-3051.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Santuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.).

The purpose of this notice is to provide the public an opportunity to comment on the proposed designation as an EPA Approved Ocean Dumping Site of the existing sewage sludge dump site located in the New York Bight Apex. It is also intended to provide opportunity to comment on the designation as an Approved Ocean Dumping Site of an alternate sewage sludge dump site farther offshore.

The location of the existing sewage sludge dump site is approximately 20 kilometers (11 nautical miles) equidistant from the Long Island (New York) and New Jersey coasts, positioned approximately in a rectangle with coordinates as follows:

40°22'30" N. to 40°25'00" N.
73°41'30" W. to 73°45'00" W.

The existing sewage sludge dump site currently occupies an area of approximately 22.7 square kilometers (6.6 square nautical miles). Water depths within this area average 27 meters (90 feet). The site was selected in 1924 and was used, with minor changes as to its location, for the disposal of sewage sludges and soluble industrial wastes. This site is presently used exclusively for sludges from sewage treatement plants and domestic septic tanks.

The proposed alternate sewage sludge dump site is located approximately 61 kilometers (33 nautical miles) south of Long Island, approximately 111 kilometers (60 nautical miles) east of New Jersey, and approximately 111 kilometers (60 nautical miles) southeast of the New York Harbor entrance, positioned approximately in a square with coordinates as follows:

40°10'30" N. to 40°13'30" N.
72°40'30" W. to 72°43'30" W.

The alternate site occupies an area of approximately 31 square kilometers (9 square nautical miles). Water depths within this area average 55 meters (180 feet).

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (hereafter "NEPA") requires that Federal agencies prepare Environmental Impact Statements (EIS's) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions.

The EPA has prepared a Draft EIS entitled "Environmental Impact Statement on the Ocean Dumping of Sewage Sludge in the New York Bight." The draft EIS was made available to the Council on Environmental Quality on March 5, 1976, and a notice of availability for public review and comment was published in the FEDERAL REGISTER on March 12, 1976 (41 FR 10702). The public comment period on this Draft EIS closed May 3, 1976.

Alternative methods for the disposal of sewage sludge generated in the New York-New Jersey Metropolitan Area considered in the EIS were:

1. Land-based technology; e.g., incineration, pyrolysis, composting, trenching, sale as soil conditioner or fertilizer, land reclamation, etc.;

2. Use of the existing ocean dump site (no action) pending implementation of land-based alternatives;

3. Immediate use of an alternate ocean dump site until implementation of land-based alternatives; and

4. Continued use of the existing ocean dump site and future use of an alternate site pending implementation of land-based alternatives.

In 1974 EPA proposed that a new ocean dump site be designated for use until sludge dumping could be replaced by environmentally, technically, and economically viable land-based disposal methods. EPA took this step as a precaution against any possible public health effects that might result from overtaxing the existing dump site.

Based on the information reported in the Draft EIS, EPA made a preliminary decision not to go ahead with the proposed action. Instead, EPA recommended: (1) continued use of the existing dump site; (2) development and implementation of a comprehensive mon-

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itoring program for the existing dump site; and (3) designation of an alternate dump site that can be used if the monitoring program indicates that the existing site cannot safely accommodate any more sewage sludge.

The alternate site offers the following advantages over other sites studied in the New York Bight:

1. It is located in a deep section. Thus, because of its greater depth, there will be a low potential for resuspension of bottom sediments due to surface and/or internal waves and wind-driven currents. In addition, nearby deeper troughs of the Long Island Shelf Valley will act as potential traps for sludge contaminants, inhibiting the bottom transport of contaminants into adjacent areas.

2. It is distant from the Long Island and New Jersey shorelines and from the Hudson Shelf Valley and outside of prevailing coastal currents which influence the Long Island beaches. Thus, it is an optimum location with a very low potential for transport of contaminants to either the coastal areas or the Hudson Shelf Valley.

3. It has neither significant commercial benthic biological resources (shellfish) nor known potential mineral resources (oil and gas, sand and gravel).

4. Oceanographic studies, including those of the National Oceanic and Atmospheric Administration (NOAA) and The Raytheon Company, provide a data base for future trend assessments.

On May 31 and June 1, 1977, EPA conducted a public hearing in Toms River, New Jersey (Toms River Hearing), to gather information and to obtain public comment on the possible relocation of sewage sludge dumping farther offshore (42 FR 23163). The findings and conclusions on proposals to relocate sewage sludge dumping in the Mid-Atlantic Bight were issued by EPA on March 1, 1978. This decision included the following determination: " • • • that sewage sludge dumping • • • should not be relocated at the present time: however, efforts should begin immediately to designate the 60-mile [alternate] site for the disposal of New York/New Jersey sewage sludge in the event such sludge cannot be dumped at the New York Bight [existing] site for public health reasons prior to December 31, 1981."

A Final EIS has been prepared based on an evaluation of comments received on the Draft EIS, of the findings and conclusions of the Toms River Hearing, and of additional information received pertinent to this proposed action. This EIS was released to the public on October 6, 1978. No administrative action will be taken until the evaluation of all available information has been completed and no sooner than January 29, 1979.

A detailed description of the criteria for determining the circumstances under which sewage sludge dumping would be relocated farther offshore has been prepared by EPA. Basically, the Criteria for Relocation are a two-pronged assessment of ambient water quality conditions during the peak summer months. The assessment includes sampling and evaluation of microbiological parameters and dissolved oxygen depletion rates, both of which can be related to existing water quality standards. EPA reserves the option, however, to require the assessment of additional water quality parameters as conditions warrant.

A copy of the Final EIS containing, at Appendix E, the Criteria for Relocation is available for inspection at the EPA Region II Library, Room 1002, 26 Federal Plaza, New York, New York, and at the EPA Public Information Reference Unit, Room 2922 Waterside Mall, 401 M Street SW., Washington, D.C.

The designation of the existing sewage sludge dump site and the alternate sewage sludge dump site as EPA Approved Ocean Dumping Sites is being published as proposed rulemaking. Management authority on both sites will be delegated to the Regional Administrator of EPA Region II.

Interested persons may participate in this rulemaking by submitting written comments on or before January 29, 1979 to the Oil and Special Materials Control Division (WH-548), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: T. A. Wastler, Chief, Marine Protection Branch.

Although this proposed site designation may have substantial local impacts in the vicinity of the dump sites and to those who use them, we have determined that this proposed rule is not a "significant" regulatory action within the meaning of Executive Order 12044, Improving Government Regulations (March 23, 1978).

AUTHORITY: 33 U.S.C. Sections 1412 and 1418.

Dated: November 14, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding to § 228.12(b) two sewage sludge dump sites for Region II as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

• • • • • •

(b) • • •

(4) Sewage Sludge Site—Region II.
Location: Latitude—40°22'30" N. to 40°25'00" N.:
Longitude: 73°41'30" W. to 73°45'00" W.
Size: 22.7 square kilometers (6.6 square nautical miles).
Depth: 27 meters (90 feet).
Primary Use: Sewage sludge.
Period of Use: Until December 31, 1981.
Restriction: Desposal shall be limited to sewage sludge generated by those permittees holding ocean dumping permits which were issued and effective February 15, 1978. Disposal of other wastes at this site is not permitted until adequate studies of the probable impacts of those wastes on the site have been completed.

(5) Alternate Sewage Sludge Site—Region II.
Location: Latitude—40°10'30" N. to 40°13'30" N.:
Longitude: 72°40'30" W. to 72°43'30" W.
Size: 31 square kilometers (9 square nautical miles).
Depth: 55 meters (180 feet).
Primary Use: Sewage sludge.
Period of Use: Until December 31, 1981.
Restriction: Disposal of sewage sludge at this site shall take place only upon a finding by EPA that the existing site cannot safely accommodate any more sewage sludge without endangering public health or degrading coastal water quality. Disposal of other wastes at this site is not permitted until adequate studies of the probable impacts of those wastes on the site have been completed.

[FR Doc. 78-33464 Filed 11-29-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Gen. Docket No. 78-369; FCC 78-801]

RADIO FREQUENCY (RF) INTERFERENCE TO ELECTRONIC EQUIPMENT

Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: This Notice of Inquiry solicits comments from consumers, equipment manufacturers, economists, engineers and government agencies on the problem of radio frequency (RF) interference to electronic equipment. Among the principal issues to be addressed are: i) consumer interest in the problem and whether consumers would be willing to pay for less susceptible electronic equipment; ii) alternative regulatory approaches for solution to the problem; iii) equipment design methods, the effects of the marketplace in developing less susceptible equipment, and related cost impacts; iv) economic issues and impact of regulation on competitive equipment supply and industry structure; and v) engineering questions related to characterizing the radio frequency environment, measurement methods and testing procedures.

DATES: Comments must be received by May 1, 1979, and reply comments by July 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Frank Rose, Office of Chief Engineer, (202) 632-7093 or Erika Jones, Consumer Assistance Office, (202) 632-7000, or the local FCC field office.

Adopted: November 14, 1978.

Released: November 21, 1978.

By the Commission: Commissioner White absent.

In the matter of radio frequency (RF) interference to electronic equipment.

INTRODUCTION

1. This inquiry has been instituted to obtain information, views and recommendations from diverse groups regarding radio frequency interference to electronic equipment. We are specifically requesting interested parties to comment on matters of technical feasibility, operational efficiency, economic impact, and consumer impact.

2. Data accumulated in this proceeding will form the basis for a Commission decision which focuses on our continuing goal of electromagnetic compatibility (EMC). The Commission believes that a cooperative effort between consumers, equipment manufacturers and the FCC is essential to achieving this goal of electromagnetic compatibility (EMC).[1]

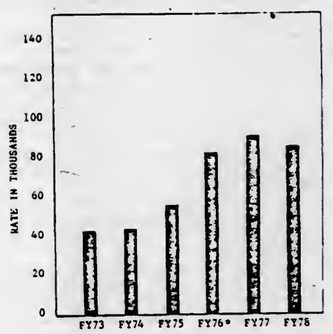
HISTORICAL BACKGROUND

3. Over the past several years, tremendous growth has occurred in the field of communications. Particularly, the explosive growth in the use of two-way radio for personal and business communications has contributed to the greatly increased number of interference complaints received at the FCC. Many of these interference complaints concern radio frequency (RF) emissions which are intercepted by electronic equipment not designed or intended to receive the signals. This growth of interference is illustrated on the following page.

[1] a) Section 303(g) of the Communications Act of 1934, as amended, states in part that the Commission shall ". . . generally encourage the larger and more effective use of radio in the public interest."

b) EMC is the capability of an electronic device to perform its intended function without responding adversely to unwanted electromagnetic signals.

INTERFERENCE COMPLAINTS RECEIVED



*(Transition quarter data excluded)

4. The most common category of interference complaints received by the Commission's Field Operations Bureau (FOB) involved signals from CB, Amateur, Broadcast, Land Mobile, electrical devices, etc., interfering with home electronic entertainment equipment. These complaints represent 73% of all interference complaints received by FOB. Home electronic entertainment equipment includes AM/FM radio, TV, tape recorders, electronic organs, telephones, stereo/hi-fi systems, video games, and other equipment commonly found in the home.[2] Additionally, air navigational aids, heart pacemakers, ekg equipment, truck braking systems and explosive devices are other types of health and safety electronic equipment which might malfunction because of interference from transmitters or other radio frequency devices.

5. FCC studies [3] indicate that a high percentage of these interference complaints involved deficiencies in the design and installation of the receiving equipment (when the transmitting equipment met all FCC technical requirements). Often, the addition of filters or shieldings to the affected equipment will eliminate the interference.

[2] The Electronic Industries Association estimates that in 1977, 14 million television sets, 52 million radios, and 4 million phonographs were sold in the United States.

[3] During Fiscal Year 1976, Field Operations Bureau conducted a study of interference to television associated with CB radio transmissions. Results of that study were published in July 1977 under the title, "The Extent and Nature of Television Reception Difficulties Associated with CB Radio Transmission." FCC/FOB/PD&E 77-02 (July 1977).

6. As the Commission has few rules and regulations governing the design and/or installation of the receiving equipment, an information brochure, "How to Identify and Resolve Radio-TV Interference," was published by the Field Operations Bureau of the FCC in May 1977, to assist the public in resolving interference. The booklet is available for $1.50 through the Government Printing Office (GPO Stock No. 004-000-00345-4).

7. Additionally, the Commission, through its rules and regulations, has acted to improve transmitter standards for compatibility with home electronic equipment. For example:

a. Stringent technical standards have been adopted for new CB transmitters to reduce undesired signals capable of causing interference;

b. The Commission's Office of Chief Engineer has an equipment authorization program which requires a check of the technical standards of a particular line of equipment before it can be sold. Selected equipment samples are also tested;

c. The Commission has imposed rules making it illegal to manufacture or sell certain linear amplifiers, such as those which might be used to boost the output power of CB sets in violation of Commission Rules and have often been responsible for creating interference.

d. In cases when it appears that the CB transmitter is the cause of interference to home electronic equipment, the Commission now can require the operator to install a "low-pass filter" in the CB equipment. This has the effect of reducing interference by lowering spurious emissions of the transmitter. The licensee also faces the possibility of "quiet hours."[4]

8. As a result of the increasing numbers of interference problems reported both to the Commission and to Congress, several bills have been introduced in the House and Senate.[5] These bills basically look toward giving the FCC the authority to establish certain required standards for home electronic entertainment equipment (TVs, AM/FM radios, etc.).

9. However, government regulation may not be the solution that is most in the public interest. It is clear that increased immunity to interference will result in higher cost to produce home electronic entertainment equipment. Greater immunity will require more

[4] Operation of an amateur or citizens station may temporarily be restricted to certain specified hours when interference is caused to radio and television broadcast receivers of good engineering design.

[5] HR8079, HR8496, 95th Session S. 864 (1978).

sophisticated design, additional components, and increased testing; all of which will increase equipment production cost. The magnitude of this increase will depend upon the immunity standards prescribed.

10. If immunity standards are imposed by government regulation, the increased cost of achieving them will fall on all purchasers of home electronic entertainment equipment. It is quite conceivable that some consumers, given a choice, would prefer the less protected equipment at a lower cost. Some consumers may not experience interference at their location or may prefer to cope with the interference in other ways. An alternative to government regulation would be the provision of information to consumers on the interference immunity of various grades of equipment so that consumers could select the equipment which best met their individual needs. This might be done voluntarily by manufacturers and retail dealers or by a government requirement for equipment labeling which indicated the interference immunity of the product.

11. Therefore, prior to adopting or supporting government regulation to eliminate the problem of interference, the Commission needs to further define the extent, nature and economics of the problem, and interest. To accomplish this, we seek answers to the questions put forth below. We have grouped the questions according to several general categories for the convenience of responding parties, but all are welcome and encouraged to respond to any or all phases of this inquiry.[6]

Consumer Issues

12. The FCC recognizes the problem encountered by consumers in dealing with interference to their home electronic equipment (TVs, radios, stereos, telephone, and electronic organs, etc.). We consider it critical that consumers comment on this inquiry, and, therefore, we seek answers to the following.

- ☐ How serious is the problem of interference to consumers?
- ☐ What do consumers know about the technical reasons for interference and common solutions to the problem?
- ☐ Are consumers aware that interference may be caused by deficiencies in receiver and other home entertainment design, rather than by deficiencies in transmitter design?
- ☐ What information is presently available to consumers about interference and where is it obtained?
- ☐ Is better or more technical information about interference desired by consumers?

If so, how much are consumers willing to pay for this information?

- ☐ Can consumers or consumer groups test equipment for susceptibility to interference, and would it be feasible to devise simple tests for the consumer to do this?
- ☐ How significant a factor is interference for consumers when purchasing a TV, radio, stereo, etc.?
- ☐ Would consumers prefer:

Equipment manufactured to be less susceptible to interference prior to purchase, or

To be provided add-on filtering devices after purchase of equipment if equipment does receive interference? (It must be understood that correction after manufacturing may be more costly and may or may not be effective.)

- ☐ Would consumers be willing to accept increased costs for equipment manufactured with less susceptibility to interference?
- ☐ For consumers who have equipment already receiving interference from a transmitter (CB, Amateur, etc.), where filters added to their equipment, and if so, did the filters resolve the problem?
- ☐ Was information received on how to install filters and was it adequate?
- ☐ What information do consumers feel they need in order to make an intelligent decision about products and their potential susceptibility to interference?
- ☐ Would consumers prefer voluntary solutions from manufacturers versus government mandated solutions or no change?
- ☐ To what extent have consumers been involved in other consumer-oriented, voluntary or government programs (e.g., the labeling of the energy efficiency of air conditioners) and how successful have these programs been?

Equipment Manufacturing Issues

13. Manufacturers of equipment (transmitting and receiving) will clearly be deeply involved in commenting on any decisions proposed as a result of this inquiry. Therefore, we request comments on the following questions, and any additional information pertinent to this inquiry.

- ☐ How serious do manufacturers consider radio frequency interference to home electronic equipment and is it a serious enough problem to warrant government intervention or implementation of a self-regulatory program?
- ☐ What would be advantages, disadvantages, of:

A government regulated program?

A self-regulated program?

- ☐ Should any regulatory program prescribe specific components and equipment design which would be required to be incorporated in the product to eliminate interference?

Alternatively, should any regulatory program only prescribe general levels of immunity to interference?

- ☐ What would be the costs[7] involved in administering:

A government regulated program?

Explicit technical standards?

Information on immunity to interference?

A self-regulated program?

- ☐ What would be the relationship between improved interference immunity, equipment performance and equipment costs?
- ☐ Are there any current self-regulatory programs (such as labeling) that can be adapted to the consumer electronics area? If so, how effective have these programs been?
- ☐ To what extent would government intervention affect:

Diversity of equipment supply?

Other aspects of the industry structure?

- ☐ What equipment design methods are currently used for providing equipment with immunity to interference?

To what extent are they effective?

What are the costs to provide this immunity?

Are costs volume dependent or volume independent?

What performance features were affected, if any?

- ☐ Did the market place influence the decision to incorporate immunity features and to what extent?

Do product advertisements feature interference immunity design as a selling feature?

If so, does this influence consumer purchasing decisions and to what extent?

- ☐ What other measures should be taken to provide effective electromagnetic shielding?
- ☐ Would manufacturers prefer:

To provide consumers with adequate information about the level of immunity to interference of their equipment?

Equipment to be manufactured with less susceptibility to RF interference?

To provide consumers with adequate add-on devices after purchase of equipment?

- ☐ What are the relative merits of design solutions incorporated at the time of manufacture versus modifications after point of sale?
- ☐ To what extent have current retrofit solutions, such as filters, been successful in eliminating interference?
- ☐ If interference immunity designs are incorporated into equipment, what performance features might suffer?

[6] The Commission recently instituted an inquiry examining *TELEVISION RECEIVER EQUIPMENT GRADING*, BC Docket No. 78-307, FCC 78-865 (Released October 20, 1978). The issues in the Television Receiver Equipment Grading inquiry are related to some of the issues addressed here, but are more narrowly focused.

[7] These costs might include completing registration forms or other paperwork, testing for compliance, or other administrative costs.

- ☐ Do manufacturers presently have any interference awareness programs?

General consumer awareness programs which might serve as a model for an interference awareness program?

What are costs and benefits of such consumer awareness programs?

- ☐ If all newly manufactured electronic equipment were required to be immune to interference after some specific date, how long would it take until these new pieces of equipment became a significantly large part of equipment in use in the marketplace?

Economic Issues

14. We feel it is critical that the economic issues be considered in this inquiry. We would hope to receive responses specifically directed to the following questions, as well as other portions of the inquiry, from industry, government, consumers and the general public.

- ☐ What cost impact would there be in implementing:

A self-regulated program?

A government regulated program. (Taking into account such items as establishing standards, testing, enforcing regulations, administrative costs.)

A program requiring the provision of information?

A program requiring specific levels of interference immunity?

A program requiring specific electronic circuits?

- ☐ Based on current, similar programs, what costs are involved in disseminating consumer information by both government and non-government groups?
- ☐ What economic impact might be expected to the equipment manufacturing industry if:

A self-regulated program were implemented?

A government regulated program were implemented?

- ☐ If increased costs are incurred through self-regulated or government regulated programs:

Who should "pay" for increased costs?

How should any increased costs be apportioned between receiving/transmitting device owners, transmitting/receiving device manufacturers, government, retailers, wholesalers, or any others involved in the manufacture, distribution and sale chain of receiving/transmitting equipment?

What method of cost apportionment is more or less economically efficient than others?

- ☐ Would any competitive advantages accrue to a particular group under a:

Self-regulated program?

Government regulated program?

- ☐ What additional equipment manufacturing costs could be expected?

Would they be volume dependent or volume independent?

- ☐ What is the cost and availability of testing and measuring electronic equipment for susceptibility to electromagnetic interference?
- ☐ What impact will alternative regulatory programs have upon:

Diversity of equipment supply?

Competition in the electronic equipment manufacturing industry?

Other aspects of industry structure?

Rate of innovation and technological change in the industry?

- ☐ Is it more economically efficient to manufacture all equipment to be immune to interference, thereby imposing unneeded costs on consumers who are not troubled by interference, or to impose relatively higher costs only on those consumers who are directly troubled by interference?

Government

15. We are seeking the advice and assistance of other government agencies charged with consumer protection responsibilities. In particular, we seek the views of the Federal Trade Commission, Department of Commerce, Department of Health, Education, and Welfare, the Environmental Protection Agency and state and local consumer agencies on the question of consumer protection standardization and testing discussed in this inquiry. We particularly seek answers to the following questions:

- ☐ Has any other government agency implemented a similar consumer-oriented, self-regulated program or government regulated program?

How successful have the programs been?

How costly were those progrms to operate?

What incentives were offered to implement any self-regulated program?

Would these incentives depend upon a particular group being assigned program management responsibility?

What factors were considered by the agency to decide between self-regulation and government regulation?

- ☐ Should any voluntary, self-regulated program to monitored by some government agency and to what extent?
- ☐ Do other government agencies have overlapping jurisdiction in this area?
- ☐ What types of inter-agency cooperative arrangements would this require?
- ☐ What assistance can be provided by other government agencies in modeling a testing procedure to determine equipment susceptibility to RF interference?
- ☐ Are there on-going government consumer awareness programs that might be adapted to a program to deal with radio frequency interference?
- ☐ What costs might accrue to government, consumers, manufacturers and others from any consumer awareness proposals?
- ☐ Do other consumer protection laws provide possible alternatives for assisting consumers in resolving the interference problem? (Laws such as "Truth in Labeling" and others.)

To what extent can these consumer protection laws be used to monitor an industry self-regulatory approach?

Engineering Issues

16. Any program adopted as a result of this inquiry will succeed only if it is technically sound. Therefore, we seek answers to the questions listed below regarding the electromagnetic environment. We request information and comments to enable us to examine this problem from many views, and any responses should not be thought of as limited to these questions.

- ☐ How may we characterize the radio frequency environment? (A bulletin describing the radio environment and established "immunity grades" in Canada is attached as Appendix A. Would a similar plan serve the interest of the U.S. public? If so, to what extent?)
- ☐ Should the FCC or another agency/group have the responsibility for modeling or determining the environment?
- ☐ What type of electronic equipment should be included in any plan evolved from this inquiry?
- ☐ Should the envorinment be characterized differently for different types of electronic equipment?

How can this be accomplished?

- ☐ Is measurement of the environment necessary?

What should be the complexity of such measurements?

What methods of measurement should be considered?

What different measurement methods would be needed for different types of equipment?

- ☐ What measurement data are there presently available which would be appropriate to this inquiry? (Although data may already have been informally submitted to the Commission, such data should still be filed with comments to this inquiry.)
- ☐ What will be the costs of these measurements? (This should be in terms of both initial capital outlay and continuing operating costs.)
- ☐ What problems might be expected with measurement reliability and repeatability?
- ☐ What means should be used to determine the environment? What agency or group, in addition to the FCC, should be involved in the effort?
- ☐ Would severity and probability of interference be confined to certain ge-

ographic and operational areas? If so, where might these areas be?

□ What types of measurement and testing procedures now exist?

What others might be necessary?

□ What special problems might be caused by the cumulative effect of many transmitter signals arriving at a single electronic device?

□ What technical methods now exist to protect electronic equipment from interference?

Can interference rejection features be maintained or improved without hindering equipment performance or future innovations?

□ What are the advantages and disadvantages of initial design versus retrofit?

□ What are the advantages and disadvantages of requiring explicit electronic designs vs requiring explicit levels of immunity from interference?

□ To what extent would designs which increase the level of immunity to interference affect other performance characteristics of electronic entertainment equipment and the possibility of future technological changes and improvements in equipment design?

INFORMATION ON COMMENTS

17. *Who should file comments?* We urge consumers, equipment manufacturers, service technicians, government agencies, economists, engineers, licensees, and all other interested parties to participate in this Inquiry. You may participate by sending information and opinions that are relevant to the questions listed in this Inquiry.

18. *How will this information be used?* The comments we receive will be used to evaluate the issues we have discussed above. The FCC will take action as appropriate after all interested parties are given an adequate opportunity to comment.

19. *How comments should be prepared.* Your comments must clearly show this docket number "General Docket No. 78-369", at the top of the first page. Please label your responses so that it will be clear which question is being answered. If your comments are general, and not related to a specific question, please state the issue being addressed.

20. *How many copies should be sent.* Section 1.419 of the Rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include 7 additional copies. The FCC will fully consider all comments.

21. *Where to send comments.* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

22. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M St., N.W., Washington, D.C. The FCC is open weekdays between 8:00 and 5:30 p.m. You can reply to comments submitted by another party by following the same procedure as you do for commenting.

23. *Deadline for filing Comments.* Comment must be received by May 1, 1979. Replies to comments must be received by July 1, 1979.

24. *The source of our legal authority.* Sections 4(i), 302, 303 (f), (g), (r), and (s), 330, and 403 of the Communications Act gives the FCC the authority to conduct this Inquiry. Accordingly, the FCC ORDERS that this Inquiry is INSTITUTED.

25. *Person to contact for additional information:* Frank Rose, Office of Chief Engineer (202) 632-7093 or Erika Jones, Consumer Assistance Office, (202) 632-7000.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

GOVERNMENT OF CANADA, DEPARTMENT OF COMMUNICATIONS

APPENDIX A

ELECTROMAGNETIC COMPATIBILITY ADVISORY BULLETIN

Immunity of Electrical/Electronic Equipment Intended To Operate in the Canadian Radio Environment (0.014-10,000 MHz)

Release Date: September 1, 1977

Telecommunication Regulatory Service

FOREWORD

The rapidly increasing use of radio services, particularly by the transportation and service industries (land mobile radio) and by the general public (general radio service) has led to dramatic increases in the proliferation of high level electromagnetic fields in urban areas (Annex I). Radio and electrical/electronic equipment operating in these areas suffers degradation in its performance due to the presence of such high level electromagnetic fields. This causes consumer dissatisfaction and many complaints arise which, upon investigation have occurred because the equipment is insufficiently immune to the radio environment in which it operates.

There are two sources of electromagnetic energy in the radio environment:

(i) natural and man-made noise

(ii) signals from radio transmitters.

The natural noise is uncontrollable. The Department has regulations to control man-made noise because of its effect on the performance of communication systems. It also specifies limits for power, bandwidth and out-of-band emissions for signals from radio transmitters.

Normally, the electromagnetic field levels due to radio transmitters are much higher than the levels due to noise sources and these signals are the major cause of performance degradation of electical/electronic equipment operating in urban areas.

1. *Purpose*

This bulletin describes the radio environment which may be encountered in typical Canadian urban and suburban communities, so that electrical/electronic equipment may be designed and manufactured which will meet its performance objectives in this environment. There is a need to increase the immunity of electrical/electronic equipment to electromagnetic fields, in order to reduce the performance degradation of such equipment. This document addresses that need.

2. *Scope*

This advisory bulletin applies to the design of all equipment, systems, and devices that will be affected by, or will respond to, electromagnetic energy in the radio frequency range from 0.014 to 10,000 MHz (Annex II). It is not intended to apply to the design of the frequency response of communication receivers in the immediate vicinity of their intended pass-bands. Specification of this parameter is the subject of the stringent requirements of the spectrum sharing and equipment type approval constraints invoked by the Department on receipt of an application for a radio station license. This bulletin notwithstanding, the Department may specify, through regulation under the Radio Act, limits which must be met by radio receivers as a prerequisite to their sale and use in Canada.

3. *Radio Environment*

By "radio environment" we mean the combined effect of the radio emissions that are created at any given location by normally operating authorized transmitters. It has the dimension of field strength and varies with frequency band, geographical location and time.

A great number of factors interact to determine the field strength which may be encountered in a given situation, and so it is not possible to forecast accurately the signal levels in each particular circumstance. It is possible, however, to predict the range of field-strength levels likely to be encountered in populated areas since the normally operating transmitter powers, the attenuation and the typical distances to devices usually interfered with are known.

The authorized services, the radiated powers, the usual transmitter-receptor distances corresponding to populated areas, and calculated field strength are shown in the following table:

Service	Frequency Range (MHz)	Effective Radiated Power (dBW)	Usual Range of Separation Distances	Consequent Range of Field Strengths (Volts Per Meter)
LF Communications & Navaids	0.014-0.5	54	5-20 km	0.25-1.0
AM Broadcast	0.5-1.6	47-50	0.5-2 km	0.2-6.0
HF Amateur	1.8-30	30	20-100 m	3.0-15.0
HF Communications	1.6-30	40	4-20 km	0.001-0.25
General Radio	27-27.5	11	10-100 m	0.3-3.3
VHF Amateur	50-225	30-39	100-500 m	0.35-5.0
Communications Fixed & Mobile	30-470	17-21	40-200 m	0.2-1.5
TV-VHF	54-216	50-55	0.5-2 km	1.0-7.3
FM-Broadcast	88-108	50	0.25-1 km	2.0-8.3
TV-UHF	470-890	67	0.5-3 km	1.0-3.0
Radar	1000-10,000	90-97	2-20 km	0.1-90

The maximum fields to which the equipment may be subjected are shown in Figure 1:

The actual field strength levels will vary depending on many parameters such as occupancy, power, time, distance, propagation conditions, directivity, etc., but a range between 1 and 20 V/m can be expected to occur for most of the frequency bands.

It should be noted that the field intensity is expressed in absolute terms, independent of bandwidth. This is done because on the one hand, for the maximization of spectrum use, the emissions of radio transmitters are limited as far as practicable to the minimum bandwidth necessary to convey the communication involved. On the other hand, the frequency response characteristics of unintended receptors are, in the vast majority of cases, relatively broadband. Combining these factors, it is likely that a receptor's rejection of an emission is nearly constant over the bandwidth of the emission. Therefore, it is assumed that the unwanted response of a receptor is independent of the emission bandwidth of the transmitter.

On the basis of this description of the usual Canadian radio environment three grades for radio environment immunity have been derived. These are illustrated in Figure 2 in terms of field intensity vs. frequency. Three plots are included labelled "GRADE 1", "GRADE 2" and "GRADE 3". "GRADE 1" means that an electronic device which is immune to field intensities of this level is likely to experience performance degradation in the radio environment of populated areas. "GRADE 2" means that a device with this level of immunity is unlikely to experience degradation in the same radio environment. "GRADE 3" means that an electronic device which is immune to fields of this level should experience performance degradation only in very arduous circumstances. The immunity grade appropriate to a particular device would be dependent upon the application of the device. For example, medical monitoring equipment and video games would be unlikely to merit the same degree of immunity.

4. *Interpretation*

The Department recognizes the importance of a probability factor as applying to the time and geography dependence of the radio environment, but no attempt has been made to take account of it in this document other than as follows:

4.1 The dimension of time has been taken into account only to the extent that the transmitter in question is assumed to be operating at the same time as the electrical/electronic devices in its vicinity.

4.2 The greatest amount of radio energy emitted today is in population centres or very close by. This is due to the fact that radio is used to serve people and as a consequence radio facilities are concentrated in populated areas. For the same reasons, the affected devices are similarly distributed. It is because of this concentration of both emitters and receptors that this analysis is limited to populated areas. However, one must not assume that high levels of radio energy will not be found in unpopulated areas; often high powered transmitters operated for special communication purposes, e.g. transoceanic communications, are deliberately located in such areas.

4.3 A set of field measurements to provide statistical data with regard to the probability of encountering high field strengths will be performed by the Department.

5. *Implementation*

5.1 Current application. The observance of the immunity grades in this bulletin is not mandatory. It is recommended that designers, manufacturers, distributors and retailers ensure that radio and electronic equipment of all kinds is designed to operate in the radio environment described by this document.

It is being left to designers to determine how best to ensure that their equipment is reasonably immune to degradation in this radio environment and how best to confirm this by measurement.

Nonetheless, the Department stresses that if Canadians are to enjoy effective use of the radio spectrum and satisfactory performance from electrical/electronic equipment simultaneously, there is a real need to have the electrical/electronic devices be immune to the radio environment.

5.2 Future action. The Department intends to work, with the cooperation of the industry and the manufacturers, toward the implementation of a voluntary standard of immunity which will ensure that electronic equipment will operate effectively in today's radio environment. As a first step, the Department will be initiating a dialogue with the manufacturers with a view to establishing immunity measurement techniques which are standard throughout the industry. When this goal is achieved manufacturers whose equipment meets this standard will be encouraged to say, "This equipment complies with the (GRADE 1, GRADE 2, GRADE 3) standard of radiation immunity established in cooperation with the Department of Communications".

Issued under the authority of the Minister of Communications.

JOHN DE MERCADO,
Director General, Telecommunication Regulatory Service.

V 4 3 / 2 3 1 N 0 3 0 7 8 V

[6712-01-C]

EMCAB-1

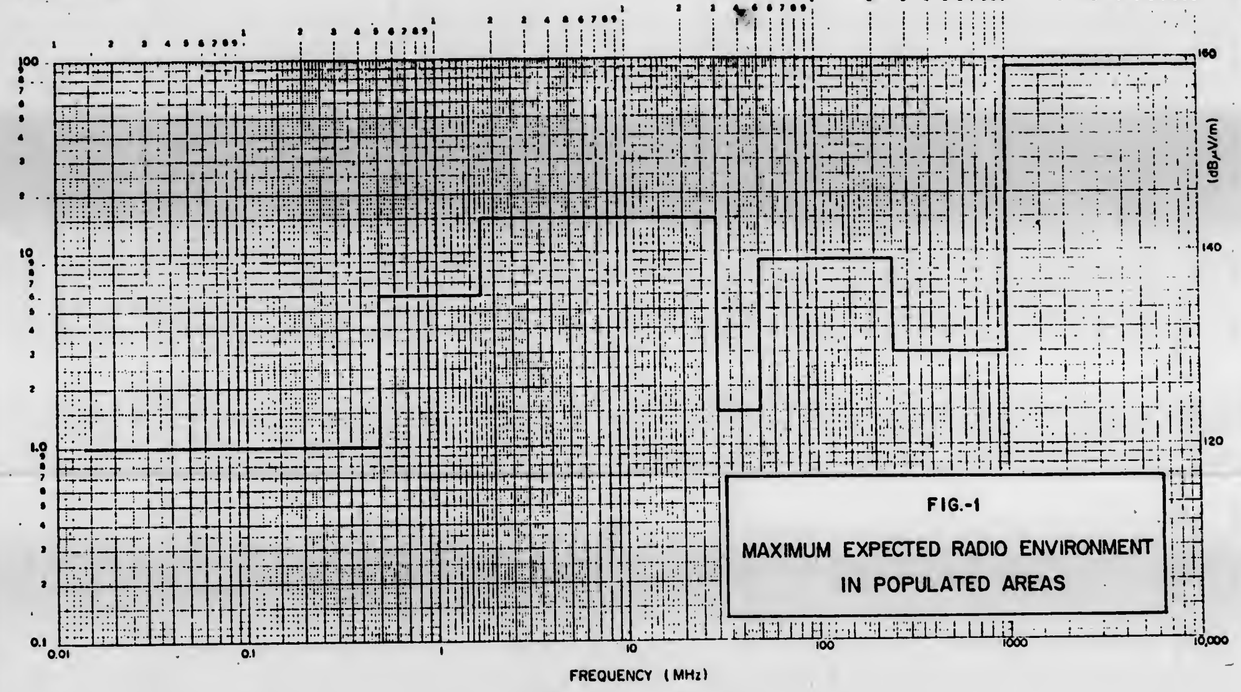


FIG.-1

MAXIMUM EXPECTED RADIO ENVIRONMENT IN POPULATED AREAS

EMCAB-1

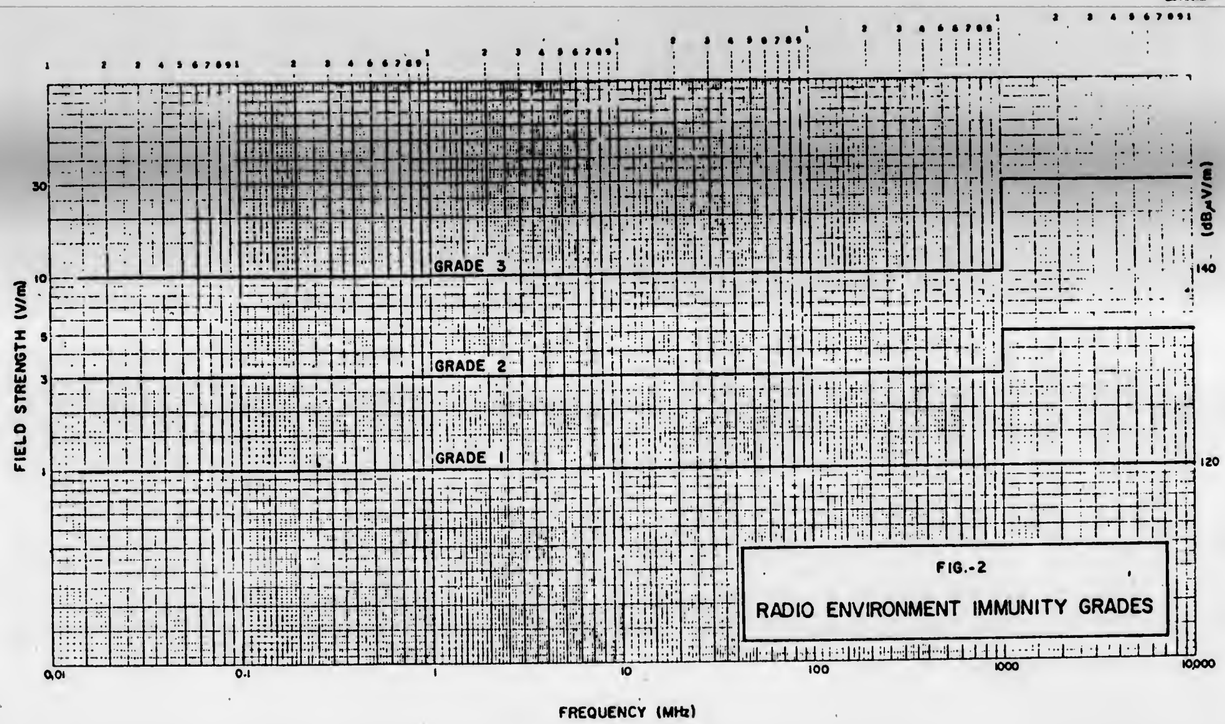


FIG.-2

RADIO ENVIRONMENT IMMUNITY GRADES

THE RADIO ENVIRONMENT

As a measure of the ubiquity of radio emitters, the following statistics (as at March 31, 1977) are provided:

Licensed Stations (non-broadcast)

In Canada there were approximately 828,386 radio licences* in force. The following list gives the number of stations in terms of the major user categories:

Land mobile	245,324
General radio service	491,651
Government	101,663
Amateur	16,573
Aeronautical	15,814
Maritime	14,705
Experimental	1,120

The annual growth rate in the number of stations has typically been between 10 and 20% for the past several years, and in most cases is not expected to change radically in the near future. In the specific case of GRS systems, however, projections suggest that this annual increase will be about 100-120% over the next few years, saturating at a likely level of some 3-4 million stations.

Licensed Stations (Broadcast)

There are: 760 TV stations; 425 AM stations; and 288 FM stations.

SUSCEPTIBLE EQUIPMENT

The electronic equipment which may be susceptible to radio frequency energy is not limited to communication receivers or equipment. The following list, by no means exhaustive, is representative of the types of equipment subject to malfunction due to susceptibility to rf field.

Broadcast receivers (AM, FM, TV)	Digital timers
Audio systems (Home & Commerical)	Computers
Video games	Electro-explosive devices
Closed circuit video system	Radio controlled models
Telephone switching equipment	Measuring equipment
Electronic calculators	Process control devices
Heart pacemakers	Vehicle ignition
Medical monitoring equipment	Vehicle brakes
Medical test equipment	Photographic
Metal detectors	Manufacturing
Prosthetic devices	Elevators
Computer terminal equipment	Power distribution
Electronic sensors	CATV Systems
Telephone distribution systems	Cameras

[FR Doc. 78-33367 Filed 11-29-78; 8:45 am]

*Not all radio stations (eg. some government stations) are issued licences. Therefore, the number of stations exceeds the number of licences in force.

[6712-01-M]

[47 CFR Parts 63 and 64]

[CC Docket No. 78-219]

REVISION OF PROCESSING POLICIES FOR WAIVERS OF THE TELEPHONE COMPANY-CABLE TELEVISION "CROSS OWNERSHIP RULES"

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communicatons Commission.

ACTION: Grant of Requests for Extension of Time in CC Docket No. 78-219 ("Revision of the Processing Policies for Waivers of the Telephone Company—Cable Television Cross-Ownership Rules: Sections 63.54 and 64.601 of the Commission's Rules and Regulations").

SUMMARY: FCC extends time for filing opposition comments from November 1, 1978, to November 30, 1978, and provides for reply comments which are to be due January 5, 1979.

DATES: Comments must be received on or before November 30, 1978 and Reply Comments must be received on or before January 5, 1979.

ADDRESSES: Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Richard O. Pullen, Common Carrier Bureau, 202-632-6440.

SUPPLEMENTARY INFORMATION:

[CC Docket No. 78-219]

Adopted: October 27, 1978.

Released: November 17, 1978.

In the matter of revision of the processing policies for waivers of the telephone company-cable television "cross-ownership rules", §§ 63.54 and 64.601 of the Commission's rules and regulations. Order [See 43 FR 47576].

By the Chief, Common Carrier Bureau:

1. The Commission, by the Chief of the Common Carrier Bureau acting pursuant to delegated authority, has before it Requests for Extension of Time filed on October 27, 1978 by the National Telephone Cooperative Association (NTCA), and on October 30, 1978 by the Minnesota Mining and Manufacturing Company (3M). Both request that the time for filing opposition comments in this proceeding be extended from November 1, 1978, to November 30, 1978. In addition, NTCA requests a waiver of Section 1.46 of the Commission's Rules which requires such requests to be made within seven days prior to the established filing deadline. The requests are unopposed.

2. NTCA requests the extension because it discovered October 27 that its comments, although timely filed, had been routed incorrectly within the Commission so not to have been publicly available for the preparation of oppositions by other parties to this proceeding. Moreover, NTCA believes that extra time is needed to analyze the technical and economic data submitted by other parties, particularly those of The National Cable Television Association. The other petitioner, the 3M Company, desires extra time to respond to allegations concerning the capability, cost, and practicality of its newly introduced Communication Systems ("CS"), a subject which the company did not expect to be raised by the comments to this rulemaking.

3. Although the Commission does not routinely grant extension of time requests, we believe that good cause has been shown for a waiver of rule Section 1.46, and for a reasonable extension of time. In addition to avoiding prejudice to parties which might have been unable to obtain NTCA's comments, an extension will permit better analysis of the complex cost and technical studies submitted. Indeed, since this rulemaking is unusually complex, we believe that we should use this Order as an opportunity to explicitly provide for reply comments under rule Section 1.415(d).

4. Accordingly, pursuant to the delegated authority of rule §§ 0.291 and 0.303(c)(f), it is ordered that NTCA's waiver request is granted, and that a thirty day extension of time is permitted so that opposition comments will be due on or before November 30, 1978. It is further ordered that reply comments will be due on or before January 5, 1979.

JACK D. SMITH,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-33590 Filed 11-29-78; 8:45 am]

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 171, 172, 173, and 176]

[Docket No. HM-166; Notice 78-11]

SHIPMENT OF HAZARDOUS MATERIALS BY WATER

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The materials Transportation Bureau is proposing to amend the regulations pertaining to the shipment of hazardous materials by vessel. The proposals involve relatively minor changes with respect to preparation of dangerous cargo manifest; requirements for cargo inspection; specific requirements for certain materials regulated for water shipments only; and several other miscellaneous changes. A proposal to re-state Subpart F of Part 176, Special Requirements for Barges, is also contained in this notice. These proposals are based upon either a petition for rulemaking or on the initiative of the Bureau in an effort to clarify, simplify or eliminate existing regulations relating to water shipments.

DATE: Comments by January 29, 1979.

ADDRESS: Send comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, (202) 755-4962.

SUPPLEMENTARY INFORMATION: This document is anticipated to be the first of a series of notices and amendments to incorporate changes in the hazardous materials regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 102.31 or on the Bureau's own initiative. It is expected that each notice and corresponding amendment will be grouped generally by subject area (e.g., shipment of hazardous materials by vessel) and will be published in the FEDERAL REGISTER under this docket number on a continuing basis. The petitions to be considered in this docket are those which seek to effect various miscellaneous changes, to clarify an ambiguously written rule, to eliminate unnecessary regulations and duplications, or to authorize new shipping alternatives which are non-controversial and which do not require extended periods of time for public participation.

Each proposed rule in this notice is based upon either: (1) A petition for rulemaking submitted by the public and upon data and analysis supplied by the petitioner, or (2) the Bureau's own initiative to clarify, simplify, or eliminate existing regulations relating to water shipments. The proposals are summarized under the subject headings listed below.

1. *Dangerous Cargo Manifest—IMCO Hazard Class Entry.* The preparation of a dangerous cargo manifest, list or stowage plan is required for all carriers of hazardous materials by water. This document must contain certain information in accordance with § 176.30 including the classification of each hazardous material aboard the vessel. Carriers are given the option of using the hazard class designated by the Hazardous Materials Table in 49 CFR 172.101 or the hazard class designated by the Inter-Governmental Maritime Consultative Organization's (IMCO) Dangerous Goods Code.

The regulations do not presently describe the manner in which the IMCO class entry should be made on the manifest. Because of the manner in which hazardous materials are classified by IMCO, the Bureau believes that the requirement for this entry on the manifest should be more precisely stated to adequately convey the hazard of the material on board the vessel.

There are nine classifications used by IMCO for hazardous materials. Of these nine, five classes (Classes 1, 3, 4, 5 and 6) are further subdivided into divisions. The class number or class name alone for these classes (except Class 3) may not accurately convey the precise hazard of the substance. For example, Class 4 contains three divisions of hazardous materials, each of which presents its own peculiar hazard: Class 4.1—Flammable solids, Class 4.2—Substances liable to spontaneous combustion, Class 4.3—Substances emitting flammable gases when wet. It is proposed that the division number or division name be used as the hazard class entry on the dangerous cargo manifest.

Another problem in this regard is encountered with IMCO Class 2, Gases. Although this class is not divided into divisions, it includes three distinct types of gases—Nonflammable, Flammable, and Poisonous—each requiring a different label. Again, the class number or name alone does not communicate the distinction between the different gases.

Consequently, this docket proposes to amend § 176.30(a)(5)(ii) to require the water carrier using the IMCO classifications to clearly indicate the hazard of a material on the dangerous cargo manifest by entering the class and division name or number for Classes 1, 4, 5, and 6 and to identify the entry for Class 2 gases by adding "Flammable gas," "Nonflammable gas" or "Poison gas," as appropriate.

2. *Dangerous Cargo Manifest—Manned and Unamanned Barges.* The responsibility for the preparation of the dangerous cargo manifest (§ 176.30) is that of the master of the vessel or his authorized representative. For barge shipments, however, this line of responsibility is lost due to the nature of barge operations. For barges, whether manned or unmanned, the responsibility for the preparation of the dangerous cargo manifest should rest with the individual who has the responsibility for loading the barge with hazardous materials. This individual is normally the person in charge of the barge for manned barge operations. However, for unmanned barge operations the individual loading the barge is the shipper himself or his authorized representative. For this reason, the Bureau believes that the shipper should be held responsible for preparation of a dangerous cargo manifest, lost or stowage plan for unmanned barges and should assign a specific individual for that purpose.

In addition, MTB is proposing that the dangerous cargo manifest be kept in a readily available location on the barge, whether manned or unmanned, and that a copy of the document be furnished to the person in charge of the towing vessel. This requirement is necessary to insure that all concerned parties are aware of the hazardous cargo and its location and to aid emergency response personnel.

3. *Special Requirements for Barges.* Subpart F of Part 176 prescribes special requirements for barges. This part of the water carrier regulations has remained basically unchanged since 1941 and no longer adequately reflects the current usage of barges transporting hazardous materials. Subpart F also contains extraneous information that is not necessary or appropriate in these regulations to insure the safe transportation of hazardous materials by water.

Section 176.96 in Subpart F presently classifies barges into Classes A, B, C, D, or E barges depending primarily upon the material of construction. It also includes detailed diagrams of each type of barge. The classification of barges is then used in Table III of § 176.999 to determine which barges are authorized to carry which classes of hazardous materials. MTB believes both of these relatively lengthy regulations can be terminated and replaced with the simple requirement that all barges carrying any class of hazardous materials be constructed of steel unless other materials of construction are approved specifically by the Commandant, United States Coast Guard (USCG). This would reflect actual practice where most barges carrying hazardous materials today are constructed of steel.

New provisions are also being proposed in Subpart F to accommodate the loading and unloading of barges containing Class A explosives, nitro carbo nitrate, and certain ammonium nitrates aboard barge carrying vessels without the permits required by § 176.100 and 176.415.

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4. *Cargo Inspection.* It is proposed to specify more clearly the cargo inspection requirements of water carriers contained in § 176.39(a). Paragraph (a) now requires an inspection of each hold or compartment containing hazardous materials at certain times during a voyage but makes no reference to freight containers, barges or hazardous materials stowed "on deck." The Bureau proposes to re-state this paragraph specifically including these items during cargo inspection because of the increasing traffic of freight containers and barges aboard cargo vessels. However, the new requirement does not require the freight container or barge to be opened during inspection.

5. *Motor Vehicles or Mechanical Equipment Powered by Internal Combustion Engines Using Combustible Liquid Fuel.* A motor vehicle or item of mechanical equipment powered by an internal combustion engine is excepted from the hazardous materials regulations when shipped by water if the fuel tank is empty, the engine is run until stalled for lack of fuel, both battery cables are disconnected, and no hazardous material is stowed in the vehicle. If any of these conditions is not met, the vehicle or equipment is regulated as an ORM-C by water and must be carried in compliance with the requirements in § 176.905.

A major exporter of such mechanical equipment has petitioned the Bureau to allow up to 110 gallons of fuel in the fuel tank and delete the requirement to run the engine until stalled if the internal combustion engines are of a type that employ combustible liquid fuel rather than flammable liquid fuel. The petitioner argues that internal combustion engines shipped separate from a vehicle body are regulated only if the engines employ flammable liquid fuel as specified in § 173.120(b). The petitioner also argues that running the engine until stalled for lack of fuel for each and every vehicle causes numerous operational problems during loading and unloading at port areas.

The Bureau believes there is some merit to the argument that internal combustion engines employing combustible liquid fuel are no more hazardous when mounted in a vehicle chassis then when shipped separately. Therefore in order to qualify for an exception from the hazardous materials regulations, it is proposed to delete the requirement to run the engine until stalled if combustible liquid fuels are utilized. It is also being proposed to allow up to 110 gallons of combustible liquid fuel in the fuel tanks.

6. *Permit Requirements for Nitro Carbo Nitrate.* Permits from the USCG are required by § 176.415 before certain packages of nitro carbo nitrate and ammonium nitrates are loaded or unloaded at any waterfront facility in the United States. One such package that presently requires a permit is "nitro carbo nitrate in rigid containers with non-combustible inside packagings." It is proposed to authorize the loading and unloading of this package without the requirement of a permit. This was previously authorized for over 15 years under the Coast Guard regulations in 46 CFR prior to the consolidation of the hazardous materials regulations in Docket HM 103/112. The proposed amendment would rectify an oversight of Docket HM 103/112.

7. *Exceptions Authorized by § 176.11.* There have been numerous requests for interpretation of the requirements of § 176.11(a) from the Bureau. It is proposed to re-state this paragraph to clearly specify that water carriers may accept and transport hazardous materials (import, export, or passing through the U.S. between foreign ports) that are packaged, marked, labeled, classed, described, certified, and placarded in accordance with either IMCO or DOT requirements or any combination of the two. The important point to be made more explicit is that the package does not have to be prepared either completely in accordance with IMCO *or* completely in accordance with DOT. The hazardous material must be packaged, marked, labeled, classed, described, certified, and placarded as required; however, these *individual requirements* may be met by using either DOT or IMCO regulatory requirements. This exception, of course, applies only under the conditions specified in § 176.11(a).

8. *Miscellaneous proposals.* Several other miscellaneous changes pertinent to water shipments are being proposed by this notice. Two such proposals involve changes to proper shipping names in § 172.101 to more adequately identify commodities which are regulated for water shipments only.

Lead dross was previously defined by 46 CFR 146.27-100 as "the scrap, dross, or waste from sulfuric acid tanks. It is a mixture of metallic lead, lead sulfate and free sulfuric acid." It is the presence of sulfuric acid that causes this commodity to be hazardous. Lead dross is regulated under 49 CFR as an ORM-C. The IMCO Code regulates lead dross as a hazardous material, but only if the mixture contains more than 3% free acid. MTB is proposing to de-regulate lead dross which contains 3% or less free acid to be consistent with IMCO requirements since this commodity is regulated by water only.

"Metal borings, turning, shavings or cuttings" represents another group of materials regulated by water only. The Coast Guard has monitored the shipment of these materials for some time and contends that the shipping name is too broad since it includes nonferrous metals and stainless steel metals which are not self-heating. The Coast Guard maintains that there have been no known incidents where there has been spontaneous heating or a fire associated with the shipment of stainless steel borings or nonferrous metals. Consequently, MTB believes it appropriate that only ferrous metals (excluding stainless steel) be included in 49 CFR as regulated hazardous materials for water shipment.

A miscellaneous change to § 176.100 is being proposed to require the permit for unloading or loading Class A explosives to be obtained from the Captain of the Port rather than from the nearest Coast Guard District Commander as the regulations now state.

Finally, MTB is proposing to standardize the exceptions relating to import and export shipments of explosives in §§171.12(b) and (d) and 176.11(a). These paragraphs allow certain DOT requirements to be met by equivalent IMCO requirements for most hazardous materials except explosives and radioactive materials. However, § 171.12(b) refers only to Class A explosives while §§ 171.12(d) and 176.11(a) refer to "explosives" generally. The Bureau believes the proper reference in all cases should be to "Class A or B explosives."

Primary drafters of these proposals are John C. Allen, Office of Hazardous Materials Regulation, Exemptions and Regulations Termination Branch, Lt. Larry H. Gibson, United States Coast Guard, Cargo and Hazardous Materials Division, and Evan C. Braude of the Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173 and 176 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.12, paragraphs (b) and (d) would be revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) The requirements of § 171.2 with respect to classification and labeling notwithstanding, a hazardous material (other than Class A or B explosives or radioactive materials) which is classed and labeled in accordance with the IMCO Code and being imported into or exported from the United States or passing through the United States in the course of being shipped between places outside the United States, may be offered and accepted for transportation and transported within the United States it is otherwise offered, accepted, and transported in accordance with this subchapter. When a material is transported within the United States by air, highway, or rail under an IMCO class, the entry on the shipping paper required by § 172.202(a)(2) must include a class set forth in this subchapter that most appropriately corresponds to the IMCO class. For example, according to IMCO, the description and class for ethylene oxide is "Ethylene Oxide, 2" or "Ethylene Oxide, Gas 2". While ethylene oxide in domestic transportation would be classed a flammable liquid, the class in this subchapter that most appropriately corresponds to the IMCO class is "flammable gas". The proper entry would therefore be "Ethylene Oxide, Flammable Gas" or "Ethylene Oxide, 2 Flammable Gas."

* * * * *

(d) Section 171.2 notwithstanding, a hazardous material (other than Class A or B explosives or radioactive materials) being imported into or exported from the United States or passing through the United States in the course of being shipped between places outside the United States may be offered and accepted for transportation and transported by motor vehicle within a single port area (including contiguous harbors) when packaged, marked, classed and labeled in accordance with the IMCO Code, if the hazardous material is offered and accepted in accordance with the requirements of Subparts C and F of Part 172 of this subchapter pertaining to shipping papers and placarding. (See § 176.11 for exceptions applicable to vessels.)

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 171.101, the Hazardous Materials Table would be amended by revising the entries for "Lead dross" and "Metal borings, shavings, turnings or cuttings "to read as follows:

[4910-60-C]

§ 172.101 Hazardous Materials Table

(1)	(2)	(3)	(4)	(5)	(6)		(7)		
				Packaging	Maximum net quantity in one package		Water shipments		
				(a)	(a)	(b)	(a)	(b)	(c)
	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	Exceptions	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
	(Change)								
W	Lead dross or scrap containing 3 percent or more free acid.	ORM-C	None	173.505	-	-	1,2	1,2	Segregation same as for corrosive materials.
W	Metal borings, shavings, turnings, or cuttings (ferrous metals only, except stainless steel).	ORM-C	None	173.505	-	-	1,2	1,2	Keep dry, not permitted if temperature of material is 45° or above 130°F.

PART 173—SHIPPERS—GENERAL REQUIREMENT FOR SHIPMENTS AND PACKAGINGS

3. In § 173.1010, the section heading would be revised and paragraph (a) would be deleted and replaced with an unlettered paragraph to read as follows:

§ 173.1010 Lead dross or scrap containing 3 percent or more free acid.

Lead dross or scrap containing 3 percent or more free acid, when offered for transportation by water, must be prepared for shipment in compliance with § 173.510 and must be packaged in steel barrels or drums or wooden barrels, boxes, or kegs.

4. In § 173.1025, the section heading and the section would be revised to read as follows:

§ 173.1025 Ferrous metal borings, shavings, turnings, or cuttings (excluding stainless steel).

Ferrous metal borings, shavings, turnings, or cuttings, other than stainless steel, when offered for transportation by water, must be prepared for shipment in compliance with § 173.510 and must be packaged in a metal barrel or drum.

PART 176—CARRIAGE BY VESSEL

5. In § 176.11, paragraph (a) would be revised to read as follows:

§ 176.11 Exceptions.

(a) A hazardous material being imported into or exported from the United States, or passing through the United States in the course of being shipped between places outside the United States, may be offered and accepted for transportation and transported by vessel when the requirements of the IMCO Code are substituted for the corresponding requirements of this subchapter with respect to either packaging, marking, labeling, classification, description, certification or placarding. All hazardous materials must otherwise be stowed and carried in accordance with this Part.

(1) Hazardous materials prepared in compliance with the above requirements may also be offered and accepted for transportation and transported by a motor vehicle used in connection with the discharge or loading of a vessel and not operating on a public street or highway.

(2) This exception does not apply to the following:

(i) A hazardous material classed as Explosive A or B, or Radioactive material, or

(ii) A material which is a hazardous material under this subchapter, but which is not a hazardous material under the provisions of the IMCO Code.

* * * * *

6. In § 176.30, the introductory text of paragraph (a), and paragraphs (a)(5)(ii), (c) and (d) would be revised; paragraph (e) would be added to read as follows:

§ 176.30 Dangerous cargo manifest.

(a) Except as provided in paragraph (d), the master of a vessel transporting hazardous materials or his authorized representative shall prepare a dangerous cargo manifest, list, or stowage plan. This document may not include a material which is not subject to the requirements of 49 CFR or the IMCO Code. This document must be kept in a designated holder on or near the vessel's bridge. It must contain the following information:

* * * * *

(5) * * *

(ii) The Inter-Governmental Maritime Consultative Organization's Dangerous Goods Code as follows:

(A) For classes 3, 7, 8 and 9, either the class named or numerical designation of the class must be used.

(B) For Classes 1, 4, 5, and 6, either the division name of numerical designation of the division must be used.

(C) For Class 2, the class name or numerical designation of the Class must be accompanied by the description "Flammable gas," "Nonflammable gas" or "Poison gas," as appropriate.

* * * * *

(c) The master, or a licensed deck officer designated by the master and attached to the vessel, or in the case of a barge, the person in charge of the barge, shall acknowledge the correctness of the dangerous cargo manifest, list, or stowage plan by his signature.

(d) For barges, manned or unmanned, the requirements of this section apply except for the following:

(1) In the case of a manned barge, the person in charge of the barge shall prepare the dangerous cargo manifest.

(2) In the case of an unmanned barge, the shipper is responsible for the preparation of a dangerous cargo manifest, list, or stowage plan and must designate an individual for that purpose.

(3) For all barges, manned or unmanned, the dangerous cargo manifest must be on board the barge in a readily accessible location and a copy must be furnished to the person in charge of the towing vessel.

(e) Each carrier who transports or stores hazardous materials on a vessel shall retain a copy of the dangerous cargo manifest, list, or stowage plan for at least one year, and shall make that document available for inspection in accordance with § 176.36(b).

7. In § 176.39 paragraph (a) would be revised to read as follows:

§ 176.39 Inspection of cargo.

(a) *Manned vessels.* The master of a vessel transporting hazardous materials shall cause an inspection of each hold, compartment or deck space (on deck and under deck) in which hazardous materials are stowed to be made after stowage is complete, and at least once every 24 hours thereafter, weather permitting, to ensure that the cargo is in a safe condition and that no damage caused by shifting, spontaneous heating, leaking, sifting, wetting, or other cause has been sustained by the vessel or its cargo since loading. However, freight containers or individual barges need not be opened. A vessel's holds equipped with smoke or fire detecting systems having an automatic monitoring capability need not be inspected except after stowage is complete and after periods of heavy weather. The master shall cause an entry to be made in the vessel's deck log book for each inspection of the hazardous materials performed.

* * * * *

8. Subpart F of Part 176 would be deleted, and a new Subpart F would be added to read as follows:

Subpart F—Special Requirements of Barges

Sec.
176.95 Application.
176.96 Materials of construction.
176.97 Prohibition of dump scows.
176.98 Stowage of hazardous materials on board barges.
176.99 Permit requirements for certain hazardous materials.

Subpart F—Special Requirements for Barges

§ 176.95 Application.

Except as provided in this subpart, the requirements prescribed elsewhere in this subchapter for vessels are applicable to the transportation of packaged hazardous materials on board barges.

§ 176.96 Materials of construction.

Unless otherwise approved by the Commandant, U.S. Coast Guard (GMHM, Washington, D.C., 202-426-1577) only barges constructed of steel are permitted to carry hazardous materials.

§ 176.97 Prohibition of dump scows.

Dump scows are barges having cargo carrying compartments of the hopper type and fitted with a bottom dump or a side dump. This type of barge is prohibited from the carriage of any class of hazardous materials.

§ 176.98 Stowage of hazardous materials on board barges.

A material for which "on deck" stowage only is required by Column (7) of the Hazardous Materials Table (§ 172.101 of this subchapter) may be stowed "under deck" on unmanned barges.

§ 176.99 Permit requirements for certain hazardous materials.

The permits required by §§ 176.100 and 176.415 for loading, unloading, and handling Class A Explosives, nitro carbo nitrate, and certain ammonium nitrates must be obtained when these materials are loaded on, unloaded from, or handled on board a barge or barge carrying vessel. However, a barge loaded with these materials being placed on, removed from, or handled on board a barge carrying vessel is not subject to these permit requirements.

9. Section 176.100 would be revised to read as follows:

§ 176.100 Permit for Class A explosives.

Before a shipment of Class A explosives may be discharged from, loaded on, handled, or restowed on board a vessel at any place in the United States, its territories, or its possessions (except the Panama Canal Zone), the carrier must obtain a permit from the nearest Captain of the Port. Exceptions to this permit requirement may be given only by the Captain of the Port or his authorized representative.

10. In § 176.415, paragraph (b)(6) would be added and paragraph (c)(2) would be revised to read as follows:

§ 176.415 Permit requirements for nitro carbo nitrate and certain ammonium nitrates.

* * * * * *

(b) * * *

(6) Nitro carbo nitrate in a rigid container with non-combustible inside packaging.

(c) * * *

(2) If the material is ammonium nitrate (organic coated) in rigid metal drums with non-combustible inside packagings, an ammonium nitrate mixture containing more than 60 percent ammonium nitrate, or ammonium nitrate-phosphate, in rigid containers with combustible inside packagings, it must be loaded or unloaded at a facility removed from congested areas or high value or high hazard industrial facilities;

* * * * * *

11. In § 176.905 paragraph (a) would be revised to read as follows:

§ 176.905 Motor vehicles or mechanical equipment powered by internal combustion engines.

(a) A motor vehicle or any mechanized equipment powered by an internal combustion engine is subject to the requirements of this subchapter when carried as cargo on a vessel if the engine or fuel tank contains fuel or if either battery cable is connected. Such vehicles or equipment are excepted from the requirements of this subchapter if the following requirements are met:

(1) For a motor vehicle or mechanical equipment having an internal combustion engine employing fuel classed as flammable by this subchapter, the fuel tank is empty, the engine is run until it stalls for lack of fuel, both battery cables are disconnected, and no hazardous material is stowed in the vehicle or equipment, or

(2) For motor vehicle or mechanical equipment having an internal combustion engine employing liquid fuel classed as combustible by this subchapter, the fuel tank contains 110 gallons of fuel or less, both battery cables are disconnected and no hazardous material is stowed in the vehicle or equipment.

* * * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) of App. A to Part 106).

NOTE.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on November 17, 1978.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-33284 Filed 11-29-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 260]

STANDARDIZATION OF FISHERY PRODUCTS

Request for Information and Comments

Correction

In FR Doc. 78-32064, appearing at page 53047 in the issue of Wednesday, November 15, 1978, make the following changes:

1. On page 53048, second column, eighth paragraph, second line, "specificatins" should be corrected to read "specifications".

2. On page 53048, second column, under the heading, "Date Labeling For Perishable Fresh Fish and Fresh Fish Fillets." second paragraph, ninth line, "meetng" should be corrected to read "meeting".

3. On page 53048, third column, second complete paragraph, first sentence, "Full" should be corrected to read "Pull".

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PLENARY SESSIONS

Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in plenary session on Thursday, December 14, 1978, at 1:45 p.m., and on Friday, December 15, 1978, at 9:45 a.m., in hearing room B of the Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C.

The Conference will consider the following matters:

1. A proposed recommendation on Federal agency interaction with private standard-setting organizations in health and safety regulation.

2. A proposed recommendation on judicial review of benefits decisions of the Veterans' Administration.

Plenary sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations and supporting reports, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, D.C. 20037, telephone 202-254-7020.

RICHARD K. BERG,
Executive Secretary.

NOVEMBER 27, 1978.

[FR Doc. 78-33578 Filed 11-29-78; 8:45 am]

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

GRAIN RESERVE PROGRAM

Suspension of Immediate Entries of 1978 Crop Corn Into the Grain Reserve Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Suspension of Immediate Entries of 1978 Crop Corn Into the Grain Reserve Program.

SUMMARY: The Secretary has determined that goals for feed grains in the reserve program will be reached and, therefore, immediate entry of 1978 crop corn into the Grain Reserve Program will be suspended after November 30, 1978.

EFFECTIVE DATE: Close of business in county ASCS offices on November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas A. VonGarlem, (202) 447-7954, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 110 of the Agricultural Act of 1949, as amended, provides that the Secretary shall determine the quantity of feed grains to be stored under provisions of the Feed Grain Reserve Program. The Secretary, on August 9, 1978, announced the Department had set a reserve goal of 670 million bushels (corn equivalent) of feed grains including 500-575 million bushels of corn and 40-60 million bushels of sorghum. It was further announced at that time that this quantity included feed grains acquired by CCC through the price support loan program. At that time, CCC held an inventory of three million bushels (corn equivalent) of feed grains. The latest available data indicates that 675 million bushels (corn equivalent) of feed grains are in the farmer-owned reserve program, and 70 million bushels of feed grains in CCC's inventory, for a total of 745 million bushels.

At the time the Secretary announced the feed grain reserve goal, it was anticipated that this goal would result in the orderly marketing of feed grain stocks then held by producers and stocks yet to be harvested in 1978. Current data shows that major terminal market prices, adjusted to reflect prices received by farmers, remained near $2.00 per bushel between August 1978 and November 22, 1978. The Economics, Statistics, and Cooperative Service (ESCS) monthly prices in September 1977 averaged $1.60 and increased to $1.98 in September 1978. It is anticipated that prices will increase after harvest and neither feed grains outside the reserve nor those yet to be marketed, will cause a substantial price deterioration if the eligibility for immediate entry of 1978 crop corn is closed at this time.

NOTICE: In view of the foregoing, it is hereby determined that the goal for the farmer-owned feed grain reserve, announced August 9, 1978, will be achieved without further entry of 1978 crop corn, and therefore, no further 1978 crop corn will be eligible for immediate entry into the farmer-owned reserve after November 30, 1978, until further notice.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); sec. 110, 63 Stat. 1051, as amended (7 U.S.C. 1445e).)

Signed at Washington, D.C. on November 27, 1978.

RAY FITZGERALD,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-33533 Filed 11-27-78; 2:53 am]

[3410-11-M]

Forest Service

BRIDGER-TETON NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Bridger-Teton National Forest Grazing Advisory Board will meet 10:00 a.m., January 25, 1979 in the Conference Room of the Forest Supervisor's Office, Forest Service Building, 340 North Cache Street, Jackson, Wyoming. The purpose of this meeting is to discuss election of officers, rules for public participation, utilization of range betterment funds, development of allotment management plans and future meetings.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor Reid Jackson, Box 1888, Jackson, Wyoming 83001. Telephone (307) 733-2752. Written statements may be filed with the board before or after the meeting.

The board has established the following rules for public participation: None.

REID JACKSON,
Forest Supervisor.

NOVEMBER 22, 1978.

[FR Doc. 78-33474 Filed 11-29-78; 8:45 am]

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[3410-11-M]

FOREST SERVICE

HOODOO-FISHER PLANNING UNIT

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Statement for implementation of land management guidelines proposed for Hoodoo-Fisher Planning Units No. 24 and 25.

Hoodoo-Fisher is presently being managed under the Multiple Use Plan for the Libby and Fisher River Ranger Districts. Forty-four percent of the Unit has been disignated for optimized timber production, twenty-one percent is involved in the RARE II process, and twelve percent lies within the Cabinet Mountains Wilderness Area. Some provision has been made for viewing and big game winter range.

In formulating new guidelines for this Unit, input from other government agencies and from public organizations and individuals has been solicited. Issues of primary concern are the need for protection of grizzly bear and other wildlife habitat; preservation of the scenic quality of the Unit; off-road vehicle use in portions of the Unit adjacent to the Cabinet Mountains Wilderness Area; and the question of wilderness designation for Cabinet Face East Roadless Area (RARE II No. 671).

The Draft Environmental Statement for the Hoodoo-Fisher Planning Unit is scheduled for completion by February 1979, with a 60-day minimum review period. The Final Environmental Statement is scheduled for filing with the Environmental Protection Agency in September 1979.

Comments on the Notice of Intent or on management proposals for the Unit should be sent to Floyd J. Marita, Forest Supervisor, Kootenai National Forest, Libby, Montana 59923.

JAMES E. REID,
Acting Deputy Regional Forester.

NOVEMBER 22, 1978.

[FR Doc. 78-33538 Filed 11-29-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 34041; Order 78-11-57]

ALLEGHENY AIRLINES, INC.

Order to Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 97

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realine the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in certain minor markets, listed in the attached Appendix A, where Allegheny holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Allegheny as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Allegheny's operations in the markets listed in Appendix A is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Allegheny's certificate for Route 97 so as to remove operating restrictions in the markets listed in Appendix A;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.[4]

We shall publish this order in the FEDERAL REGISTER.[5]

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33565 Filed 11-29-78; 8:45 am]

[6320-01-M]

[Docket No. 34042; Order 78-11-58]

AMERICAN AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 4

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realign the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in the Rochester, N.Y.-San Diego market, a minor market where American holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on American as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on American's operations in the Rochester, N.Y.-San Diego market is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending American's certificate for Route 4 so as to remove operating restrictions in the Rochester, N.Y.-San Diego market;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-33566 Filed 11-29-78; 8:45 am]

[6320-01-M]

[Docket No. 34043, Order 78-11-59]

BRANIFF AIRWAYS, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 9

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realine the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in the Atlanta-Des Moines, Des Moines-Ft. Lauderdale and Des Moines-Tampa markets, minor markets where Braniff holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Braniff as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Braniff's operations in the Atlanta-Des Moines, Des Moines-Ft. Lauderdale and Des Moines-Tampa markets is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Braniff's certificate for Route 9 so as to remove operating restrictions in the Atlanta-Des Moines, Des Moines-Ft. Lauderdale and Des Moines-Tampa markets;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections to-

[1] A minor market is one which generates fewer than 20 true O & D plus interline connecting passengers per day, or 7,300 per year. The traffic volume and Allegheny's current authority in each market are set forth in Appendix A to this order.

[2] We further tentatively find and conclude that Allegheny is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] Appendices filed as part of the original document.

[5] All members concurred.

[1] Since this market generated 6,710 true O&D plus interline connecting passengers for calendar year 1975, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that American is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Borad's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] Since these markets generated 7,240, 3,120 and 6,730 true O & D plus interline connecting passengers, respectively, for calendar year 1975, they each meet the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Braniff is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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gether with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-33567 Filed 11-29-78; 8:45 am]

[6320-01-M]

[Docket No. 34044; Order 78-11-60]

DELTA AIR LINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 24

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realine the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in the Asheville-Greensboro and Dayton-Memphis markets, minor markets where Delta holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Delta as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Delta's operations in the Asheville-Greensboro and Dayton-Memphis markets is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Delta's certificate for Route 24 so as to remove operating restrictions in the Asheville-Greensboro and Dayton-Memphis markets;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-33568 Filed 11-29-78; 8:45 am]

[6320-01-M]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION

[Docket No. 33363]

Cancellation of Hearing

The hearing on the application of Miami Air Lease, Inc., set for 27 November 1978 (43 F.R. 47764, 10/17/78), is canceled for good cause shown.

Dated at Washington, D.C., November 22, 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-33575 Filed 11-29-78; 8:45 am]

[6320-01-M]

[Docket No. 34045; Order 78-11-61]

FRONTIER AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 73

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realign the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in the Grand Junction-Memphis market, a minor market where Frontier holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Frontier as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Frontier's operations in the Grand Junction-Memphis market is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Frontier's certificate for Route 73 so as to remove operating restrictions in the Grand Junction-Memphis market;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-33569 Filed 11-29-78; 8:45 am]

[6320-01-M]

[Docket No. 34046; Order 78-11-62]

HUGHES AIR CORP., D.B.A. HUGHES AIRWEST

Order To Show Cause Regarding. Amendment of Certificate of Public Convenience and Necessity for Route 76

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realign the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in certain minor markets, listed in the attached Appendix A, where Hughes Airwest holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Hughes Airwest as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Hughes Airwest's operations in the markets listed in Appendix A is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Hughes Airwest's certificate for Route 76 so as to remove operating restrictions in the markets listed in Appendix A;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, or conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] Since these markets generated 1,820 and 7,230 true O & D plus interline connecting passengers, respectively, for calendar year 1975, they each meet the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Delta is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] Since this market generated 430 true O&D plus interline connecting passengers for calendar year 1975, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Frontier is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] A minor market is one which generates fewer than 20 true O & D plus interline connecting passengers per day, or 7,300 per year. The traffic volume and Hughes Airwest's current authority in each market are set forth in Appendix A to this order, which is filed as part of the original document.

[2] We further tentatively find and conclude that Hughes Airwest is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and,

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-33570 Filed 11-29-78; 8:45 am]

[6320-01-M]

NATIONAL AIRLINES, INC.

[Docket No. 34047; Order 78-11-63]

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Routes 31 and 39

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realign the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in certain minor markets, listed in the attached Appendix A, where National holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on National as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on National's operations in the markets listed in Appendix A is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending National's certificate for Routes 31 and 39 so as to remove operating restrictions in the markets listed in Appendix A;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, or conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33571 Filed 11-29-78; 8:45 am]

[6320-01-M]

NORTH CENTRAL AIRLINES, INC.

[Docket No. 34048; Order 78-11-64]

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 86

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realign the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in certain minor markets, listed in the attached Appendix A, where North Central holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on North Central as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on North Central's operations in the markets listed in Appendix A is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending North Central's certificate for Route 87 so as to remove operating restrictions in the markets listed in Appendix A;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-33572 Filed 11-29-78; 8:45 am]

[6320-01-M]

PIEDMONT AVIATION, INC.

[Docket No. 34049; Order 78-11-65]

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity For Route 87

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realine the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in the Asheville-Columbus and Baltimore-Richmond markets, minor markets where Piedmont holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Piedmont as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions of Piedmont's operations in the Asheville-Columbus and Baltimore-Richmond markets is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Piedmont's certificate for Route 87 so as to remove operating restrictions in the Asheville-Columbus and Baltimore-Richmond markets;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part of parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-33573 Filed 11-29-78; 8:45 am]

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[1] A minor market is one which generates fewer than 20 true O & D plus interline connecting passengers per day, or 7,300 per year. The traffic volume and National's current authority in each market are set forth in Appendix A to this order which is filed as part of the original document.

[2] We further tentatively find and conclude that National is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] A minor market is one which generates fewer than 20 true O & D plus interline connecting passengers per day, or 7,300 per year. The traffic volume and North Central's current authority in each market are set forth in Appendix A to this order which is filed as part of the original document.

[2] We further tentatively find and conclude that North Central is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] Since these markets generated 1,390 and 1,890 true O. & D. plus interline connecting passengers, respectively, for calendar year 1975, they each meet the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Piedmont is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All members concurred.

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket Nos. 28755, etc.; Order 78-11-56]

UNITED AIR LINES, INC.

Order To Show Cause Regarding, Route Realignment and Restriction Removal

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By application and petition filed January 14, 1976, and by amended application and petition filed January 6, 1977, United Air Lines, Inc., has requested the Board to issue an order directing all interested persons to show cause why United's certificates of public convenience and necessity for Routes 1, 14, 34 and 51 should not be amended to realign its existing 19 domestic segments into two linear segments (one of which includes a mainland-Hawaii segment)[1] and to eliminate certain conditions which United claims are no longer required for competitive reasons and which impede the carrier's operating flexibility.[2] United has also requested a waiver of Part 312 of the Board's Procedural Regulations, which requires the filing of an environmental evaluation.

In support of its applications, United submits that: its route system is burdened by numerous segment and route junction stop requirements and certificate conditions; relief from these restrictions would facilitate increased scheduling flexibility, better crew and equipment utilization and improved service to the public, without any significant impact on competing carriers; and its submission conforms with the Board's realignment guidelines, with some minor proposed changes.

Answers in general support were filed by the Kansas City parties,[3] the Muskegon County Airport Committee, the Norfolk Port and Industrial Authority, the Grand Rapids parties,[4] the Colorado parties,[5] the Peninsula Airport Commission, and the Las Vegas parties.[6] Answers in general opposition were filed by the State of Maryland and the Port of Oakland. Answers in partial opposition and/or partial support were filed by the Niagara Frontier Transportation Authority and the Buffalo Area Chamber of Commerce, the Philadelphia parties,[7] and the Rochester Area Chamber of Commerce, Inc. The Iowa Department of Transportation filed a petition for leave to intervene.

The following local service carriers filed specific objections to United's proposal as it affects individual markets, as well as a variety of general objections directed to the question of realigning the route systems of trunkline carriers: Allegheny Airlines, Frontier Airlines, North Central Airlines, Piedmont Aviation,[8] and Texas International Airlines.[9]

Answers were also filed by Air California, Air Wisconsin, American Airlines, Braniff Airways, Continental Air Lines, Delta Air Lines, Eastern Air Lines, Northwest Airlines, Trans World Airlines, and Western Air Lines.

United filed a reply, addressing the objections raised by the other parties.

As stated in the recent Continental, Ozark, Delta, and Western route realignments,[10] it is our policy to realign the route systems of the certificated scheduled carriers to maximize the opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate conditions which serve no useful purpose, impair meaningful market development, and inhibit significant improvement in the carrier's economic performance. These objectives are equally applicable to trunk and local service carriers.[11]

We tentatively conclude that United's proposed realignment, as modified by this order, conforms with the Board's policy and objectives discussed above and that substantial public service and carrier benefits will result from the realigned route system. The proposed realignment will offer United the potential for significant improvement in operating efficiency and will permit it to provide improved service to the traveling public.

Several of the local service carriers object to United's petitions on the general grounds that our realignment of trunk carriers, through show-cause procedures, is unwise. These carriers and other parties also express concern that the award of improved authority to United in minor and monopoly markets will create dormant authority in those markets which will serve to discourage attempts by other carriers to enter the affected markets. They suggest that any improvement in authority to United could retard needed service expansion, contrary to the public interest. To remedy this alleged harm of the realignment program, several civic parties[12] suggest that the Board adopt a policy that, if any particular route authority awarded in a realignment is not used during a 12-month period and another carrier seeks that authority, an award of operating rights on that particular route be made to the latter carrier and the incumbent's rights be deleted automatically.

[1] A map showing the realigned system as proposed by this order is set forth in appendix A. The realigned system consists of the two linear segments proposed by United and a third segment on which nonstop service between Cleveland and San Diego was authorized after United's amended application was filed. United's certificate for its international Route 57 is unaffected by the applications and petitions.

[2] On June 29, 1976, United filed an application and show-cause petition in Docket 29462 for amendment of its certificate of public convenience and necessity for route 1 to remove a long-haul restriction which restricted United's nonstop service between Boston and Chicago to flights originating or terminating at Omaha or a point west thereof. By Order 76-8-3, dated August 2, 1976, the Board deferred action on United's restrictions removal application for consideration in its route realignment proceeding. We have considered in this proceeding United's application in Docket 29462 and its application in Docket 33213, dated August 17, 1978, which requested removal of the same restriction, and we have decided that a long-haul restriction on nonstop service between Boston and Chicago should be retained. However, we have modified the restriction so that it can be satisfied by service to any point on United's route beyond either Chicago or Boston. In view of this action, we will dismiss United's applications in Dockets 29462 and 33213.

[3] The City of Kansas City and the Chamber of Commerce of Greater Kansas City.

[4] The City of Grand Rapids, the Grand Rapids Area Chamber of Commerce, and the County of Kent, Michigan.

[5] The City and County of Denver, and the Public Utilities Commission of the State of Colorado.

[6] Clarke County, Nevada, the Greater Las Vegas Chamber of Commerce, the City of Las Vegas, the Nevada Resort Association, and the Las Vegas Convention/Visitors Authority.

[7] The City of Philadelphia and the Greater Philadelphia Chamber of Commerce.

[8] In its answer filed March 7, 1977, to United's route realignment petition, Piedmont indicated that it was filing a concurrent application for nonstop authority in a number of markets where United was requesting such authority. Piedmont requested that its application, which was filed in Docket 30585, be considered contemporaneously with United's request. American filed an answer opposing consolidation of Piedmont's application with United's petition for route realignment. Piedmont's application has not been consolidated with this proceeding, and American's interest in certain markets named in Piedmont's application has been considered in both American's and United's route realignment proceedings. American's interest in certain other markets will be considered when Piedmont's application is processed. We note that Piedmont has not requested an expedited hearing on its application.

[9] Additionally, all eight local service carriers filed a motion requesting a stay of further procedural steps on trunkline realignment applications for purposes of receiving written and oral argument on certain alleged legal and policy issues concerning trunk realignments. This motion was denied in the Western realignment proceeding by Order 77-11-74, November 17, 1977, at 4-13. See also, Order 78-4-109, April 19, 1978, at n. 6, for a fuller history of this motion.

[10] Orders 78-7-91, 78-6-4, 78-4-109, and 77-11-74, making final Order 76-5-101.

[11] Orders 78-7-91 at 3, 78-6-4 at 2, and 78-4-109 at 4-5.

[12] The Las Vegas Parties and the Muskegon County Airport Committee.

In addition, several carriers have raised the *Ashbacker*[13] doctrine as a bar to the Board's individual consideration of requests by United for improved authority in specific markets.

It will suffice here to say that we have rejected these contentions in the past and reject them here, and we refer to out *Delta* order[14] for a full discussion of these issues.[15]

Air California objects to the grant of nonstop authority in certain intra-California markets it currently serves.[16] We have chosen not to grant United unrestricted nonstop authority in these markets, based on the realignment guidelines. In the *Western* and *Delta* realignment proceedings, *supra*, we developed guidelines for deciding what improvements in authority are warranted in particular types of markets, and our reasons are discussed at length in those decisions. We have applied those guidelines here, and we do not feel that the record supports any alterations or exceptions to them in this case.[17]

Finally, United has requested a waiver of the requirements of Part 312 of the Board's Procedural Regulations, which require the filing of an environmental evaluation. In support of this request, United asserts that it can reasonably be expected that United will institute service which meets the needs of the traveling public in the most efficient manner from which the Board can assume that grant of United's amended application will not have a negative impact upon the environment. Further, United indicates that at this time it is not proposing additional service as a result of its proposals.

We will waive the requirement that United file an environmental evaluation. Further, we tentatively conclude that the action we propose here will not constitute a major action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA).[18]

The proposed restriction removals for Allegheny, American, Braniff, Delta, Frontier, Hughes Airwest, National, North Central, Piedmont, and Western (in separate orders to show cause) will enable those carriers to operate more efficiently and will not constitute either major Federal actions within the meaning of NEPA or major regulatory actions within the meaning of the Energy Policy and Conservation Act.

We further conclude that United is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed economic analysis. If an evidentiary hearing, complete with the opportunity for oral cross-examination, is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending United's certificates for Routes 1, 14, 34, and 51 in the manner set forth in the accompanying proposed certificate (Appendix B);

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than December 27, 1978, file with us and serve upon all persons listed in Appendix I, a statement of objections, together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.[19]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to us for final action;

5. We grant the motion of the Iowa Department of Transportation for leave to intervene;

6. We grant United's application for a waiver of Part 312;

7. We dismiss United's applications in Dockets 29462 and 33213 to remove a long-haul restriction on its nonstop service between Boston and Chicago; and

8. We shall serve a copy of this order upon all persons listed in Appendix I.[20]

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[21]
Secretary.

[FR Doc. 78-33563 Filed 11-29-78; 8:45 am]

[13] *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1945).

[14] Delta Realignment Proceeding, Order 76-4-109 at 5-8.

[15] In addition, by Pub. L. 95-504, Congress enacted a new section 401(d)(5) of the Federal Aviation Act which provides procedures by which authority can be awarded quickly to carriers seeking to provide service in markets in which dormant authority exists.

[16] These markets are Ontario-Oakland, Ontario-San Diego, San Diego-San Jose, and San Jose-Sacramento.

[17] The objections of other carriers as they apply to specific markets and the proposed improvements in United's authority are set forth in detail in Appendices C through H, attached to this order.

[18] We further tentatively conclude that this action will not constitute a major regulatory action within the meaning of the Energy Policy and Conservation Act and does not require an energy statement pursuant to Part 313 of our Procedural Regulations.

[19] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and we will entertain no further motions, requests, or petitions for reconsideration of this order.

[20] Appendices A through I are filed as a part of the original document.

[21] All Members concurred.

[6320-01-M]

[Docket Nos. 32528, 32574; Order 78-11-54]

UNITED AIR LINES, INC., AND BRANIFF AIRWAYS, INC.

Application for Amendments of Certificate of Public Convenience and Necessity; Order To Show Cause; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

Order 78-11-54, November 16, 1978, inadvertently granted Braniff's motion in Docket 32574 to consolidate its application into Docket 32528. (Our dismissal of United's application in Docket 32528 automatically closed the docket.) We should have denied Braniff's motion to consolidate its application into Docket 32528 and indicated that it is in Docket 32574 that we shall consider all objections to our proposed amendments of the certificates of Braniff, Continental, Frontier and TWA.[1]

Accordingly, Ordering Paragraphs 1 and 3 of Order 78-11-54, page 54676, November 22, 1978, should read:

"1. We direct all interested persons to show cause, in docket 32574, why we should not issue an order making final the tentative findings and conclusions stated here and amending (1) Braniff's certificate for Route 9 so as to authorize nonstop transportation between Kansas City and Denver; (2) Continental's certificate for Route 29 so as to

[1] 43 FR 54675, November 22, 1978.

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delete condition (6); (3) Frontier's certificate for Route 73, so as to delete the long-haul restriction on flights between Denver and Kansas City; and (4) TWA's certificate for Route 2 so as to delete condition (19);

"3. We deny Braniff Airways' motion (Docket 32574) to consolidate its application into Docket 32528;".

Dated: November 22, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33564 Filed 11-29-78; 8:45 am]

[6320-01-M]

[Docket No. 34050; Order 78-11-66]

WESTERN AIRLINES, INC.

Order To Show Cause Regarding Amendment of Public Convenience and Necessity for Route 19

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1978.

By Order 78-11-56, issued concurrently with this order, we have proposed to realign the route system of United Air Lines in a manner which would, among other things, give United unrestricted authority in certain minor markets listed in the attached Appendix A where Western holds restricted authority.[1] As explained in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Western as well as United will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-11-56, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Western's operations in the markets listed in Appendix A is consistent with the public convenience and necessity and our policy of removing restrictions that serve no useful purpose and are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Western's certificate for Route 19 so as to remove operating restrictions in the markets listed in Appendix A;

2. We direct any interested persons objecting to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here, no later than December 27, 1978, to file with the Board and serve upon all persons listed in Appendix I of Order 78-11-56, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than January 11, 1979;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final actions; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-11-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-53574 Filed 11-29-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL WHOLESALE TRADE

Consideration; Withdrawal of Previously Published Document

The Bureau of the Census, Commerce Department, notice document appearing at page 53051 in the FEDERAL REGISTER of Wednesday, Novemer 15, 1978 is hereby withdrawn in its entirety and is replaced by the following correct Bureau of the Census, Commerce Department document.

[1505-01-M]

SURVEY OF RETAIL SALES AND INVENTORIES

Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1979 the Annual Retail Trade Survey, which has been conducted each year since 1951 (except 1954) under title 13, United States Code, section 182, 224, and 225. This survey is conducted to collect data covering year-end inventories and annual sales of retail trade establishments. This survey, which would provide data for 1978, is the only continuing source available on a comparable classification and a timely basis for use as a benchmark for developing retail inventory estimates.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and that the data are not publicly available from nongovernment or other governmental sources.

Such a survey, if conducted, shall begin not earlier than December 31, 1978.

Reports will be required only from a selected sample of firms operating retail establishments in the United States, with probability of selection based on their sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey will receive consideration if submitted in writing to the Director of the Bureau of the Census on or before December 31, 1978.

Dated: November 9, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-32109 Filed 11-14-78; 8:45 am]

[3510-25-M]

Industry and Trade Administration

[45-1 (Amendment 4); Transmittal No. 244]

BUREAU OF TRADE REGULATION

Organization and Function Order

This order amends ITA Organization and Function Order 45-1 of December 4, 1977, as amended (42 FR 64716, 43 FR 13599, 43 FR 29345, 43 FR 31426), as follows:

Section 3.11 is added to read:

.11 The Director, Statutory Import Programs Staff, may redelegate any power or function conferred by this delegation. The Director is authorized, notwithstanding the reservation of rulemaking authority to the DAS, to sign documents for publication in the FEDERAL REGISTER making editorial and other nonsubstantive changes to rules and regulations.

Effective date: November 8, 1978.

FRANK A. WEIL,
Assistant Secretary
for Industry and Trade.

STANLEY J. MARCUSS,
Deputy Assistant Secretary
for Trade Regulation.

[FR Doc. 78-33475 Filed 11-29-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: National Advisory Committee for the Flammable Fabrics Act.

SUMMARY: This notice announces a meeting of the National Advisory Committee on Monday, December 18, 1978 from 10:00 a.m. to 4 p.m., and Tuesday, December 19, 1978 from 9:30 a.m. to 4 p.m. The meeting on December 18 will be held at the National Bureau of Standards (NBS) in Gaithersburg, Maryland. On December 19, the meeting will be held in Room 2008, New Executive Office Building, 17th and H Streets NW., Washington, D.C.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sadye E. Dunn, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207 (202-634-7700).

SUPPLEMENTARY INFORMATION: The National Advisory Committee provides advice and recommendations on Commission proposals and plans to reduce the frequency and severity of burn injuries involving flammable fabrics. The meeting on Monday, December 18 will be devoted to an orientation session primarily for the benefit of new committee members combined with a tour of the NBS fire facilities with emphasis on textile flammability.

On Tuesday, December 19, the meeting will be devoted to discussion of a proposed upholstered furniture flammability standard. The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the National Advisory Committee should notify the Office of the Secretary (see address above) by December 11, 1978. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the committee may be allowed by the presiding officer.

Dated: November 27, 1978.

SADYE E. DUNN,
Secretary, Consumer
Product Safety Commission.

[FR Doc. 78-33534 Filed 11-29-78; 8:45 am]

[3710-92-M]

DEPARTMENT OF DEFENSE

Department of the Army

HARBOR OF REFUGE PROJECT AT PORT ONTARIO, N.Y.

Intent To Prepare a Draft Environmental Impact Statement (DEIS)

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: Notice is hereby given of the Corps of Engineers, Buffalo District, decision to prepare DEIS for a proposed project at Port Ontario, New York. The proposed project will provide for a harbor of refuge in the Mexico Bay region of Lake Ontario at the mouth of the Salmon River.

DATE: DEIS will be released for public review on or before January 15, 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by:

Colonel Daniel D. Ludwig, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

By authority of the Secretary of the Army:

Dated: NOVEMBER 21, 1978.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 78-33477 Filed 11-29-78; 8:45 am]

[3710-92-M]

PROPOSED PLASTICS PLANT AT SAVERTON, MO.

Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a draft Environmental Impact Statement (DEIS).

SUMMARY: Borg-Warner Chemicals, a division of the Borg Warner Corporation of Parkersburg, West Virginia, proposes to construct a (ABS) Plastics Plant at Saverton, Missouri. The proposed plant site is located at Saverton, Ralls County, Missouri adjacent to the Mississippi River. Borg-Warner has applied for a Department of the Army permit for a barge docking facility and an outfall structure which are part of the proposed plant. This permit application is being processed under Section 10 of the River and Harbor Act of 1899 and Section 404 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1344).

Notice is hereby given of the Corps of Engineers, Rock Island District, assumption of "lead agency" responsibility for Federal action and the decision to prepare a DEIS for the proposed plastics plant. The DEIS will cover all aspects of plant construction and operation.

DATE: DEIS will be released for public review on or before November 30, 1978.

[1] A minor market is one which generates fewer than 20 true O & D plus interline connecting passengers per day, or 7,300 per year. The traffic volume and Western's current authority in each market are set forth in Appendix A to this order which is filed as part of the original document.

[2] We further tentatively find and conclude that Western is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

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ADDRESS: Questions regarding the proposed action and the Environmental Impact Statement should be directed to: F. W. Mueller, Jr., Colonel, Corps of Engineers, District Engineer, Rock Island District, Corps of Engineers, Clock Tower Building, Rock Island, Illinois 61201.

By authority of the Secretary of the Army:

Dated: November 21, 1978

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 78-33476 Filed 11-29-78; 8:45 am]

[3810-700-M]

Office of the Secretary

IMPROVING GOVERNMENT REGULATIONS

Agenda of Significant Regulatory Activity

The Department of Defense, under E.O. 12044, "Improving Government Regulations," requires publication of a semiannual agenda of those regulations selected for review or development during the subsequent six month period. This publication containes the Defense Department's initial agenda and its procedures for implementing this requirement and subsequent agenda publication requirements.

AGENDA PUBLICATION PROCESS

The organizations within the Department of Defense, affected under the provisions of E.O. 12044, will submit their semiannual agendas through their respective component heads to the Deputy Assistant Secretary of Defense (Administration) for review and presentation to the Secretary of Defense for approval at least 30 days prior to agenda publication dates of 30 Nov. and 31 May of each year.

AGENDA REQUIREMENTS

Future agendas will include: 1. the regulations being reviewed or developed, 2. the legal basis for each regulation under consideration (if applicable), 3. the purpose of each regulation under development, 4. whether or not a regulatory analysis will be required, 5. the status or those regulations previously published, and 6. the component and knowledgeable official processing the regulation. The following initial agenda is published for review. Public comments are invited prior to the dates indicated.

SEMIANNUAL AGENDA OF REGULATIONS

The following regulation is currently under development:

A proposed significant regulation, "Determinations of Active Duty and Discharge; Civilian or contractual Personnel," was originally published as a proposed rule on September 13, 1978 (53 FR 40884) to implement the provisions of section 401 of Pub. L. 95-202, The G.I. Bill Improvement Act of 1977.

This act directs the Secretary of Defense to determine if civilian employment or contractual service rendered by groups to the Armed Forces of the United States shall be considered active duty and, if the finding is affirmative, it shall issue each member of such group a discharge under honorable conditions if the service of each member so warrants.

For further information contact Captain Mary C. Pruitt, USAF, telephone 202-694-5204 or 694-5074.

The following regulations appearing in Chapter I, Title 32, of the CFR are now under review. They do not require regulatory analysis.

For further information contact Margarete S. Healy, telephone 202-797-411.

32 CFR 43a. Indebtedness of Military Personnel. Published as a proposed regulation in the FEDERAL REGISTER April 26, 1978 (43 FR 17838); public comment period extended (43 FR 23001). Now in final preparation. Estimated completion date: January 1979. It will be republished in final form shortly thereafter.

32 CFR 67. Allocation of Reserve Forces Units to Local Communities. Published in the FEDERAL REGISTER on December 11, 1971 (36 FR 23626). A revision is scheduled to be published in December 1978.

32 CFR 75. Conscientious Objectors. Published in the FEDERAL REGISTER on November 23, 1971 (36 FR 22231). A revised version is now under review. Estimated publication date: February 1979.

32 CFR 89 Civilian Pay Allotments. Published in the FEDERAL REGISTER on March 30, 1978 (33 FR 5216) and a change on November 25, 1971 (36 FR 22576). It is now being formally recoordinated and will be reissued. Estimated publication date: May 1979.

32 CFR 157. Certification for Access to Scientific and Technical Information Published in the FEDERAL REGISTER on October 13 1965 (30 FR 13008). It is now being recoordinated, reviewed, and will be reissued. Estimated publication date: July 1979.

32 CFR 159. Information Security Program. Published in the FEDERAL REGISTER on August 3, 1976 (37 FR 15624), and a revision on May 23, 1974 (39 FR 18228). It was again revised, and the revision's publication in the FEDERAL REGISTER is imminent.

32 CFR 168. Engineering and Technical Service Management and Control. Published in the FEDERAL REGISTER on September 6, 1967 (32 FR 12718). It is scheduled for review and reissue. Estimated publication date: September 1979.

32 CFR 169. Commercial or Industrial Activities. Published in the FEDERAL REGISTER on August 31, 1967 (32 FR 12607), it was revised and republished on March 22, 1969 (34 FR 14184). It is now under revision and awaiting publication of the revised OMB Circular A-76 on which it is based. Estimated publication date: 180 days after publication of OMB Circular A-76.

32 CFR 169a. Commercial or Industrial Activities—Operation of. Published in the FEDERAL REGISTER on September 1, 1967 (32 FR 12675); an amendment was published on May 23, 1969 (34 FR 8108); another amendment on May 30, 1979 (34 FR 8355); and a revision republished on August 18, 1971 (36 FR 15747). It is awaiting publication of the revised OMB Circular A-76, after which it will again be revised. Estimated publication date: 180 days after publication of the OMB Circular A-76.

32 CFR 177. Emergency Requirements, Allocations, Priorities, and Permits for DoD use of domestic Civil Transportation. Published in the FEDERAL REGISTER on August 8, 1968 (33 FR 12314), it was reissued July 5, 1978. It will be republished in the FEDERAL REGISTER in December 1978.

32 CFR 179. Use of Contractor and Government Resources for Maintenance of material. Published in the FEDERAL REGISTER on August 31, 1971 (36 FR 17417), a revision is now in preparation and must be formally coordinated within DoD components. Estimated publication date: November 1979.

32 CFR 195. Configuration Management. Published in the FEDERAL REGISTER on September 14, 1968 (33 FR 13017), it is now being reviewed for reissuance. Estimated publication date: June 1979.

32 CFR 217. Use of Off-Road Vehicles on DoD Lands. A proposed rule appeared in the FEDERAL REGISTER on March 7, 1973 (38 FR 6186) and the final rule including an amendment was published on April 7, 1978 (43 FR 14650). Another amendment will be published in January 1979.

32 CFR 239. Administration and Operation of the Homeowners Assistance Program. Published in the FEDERAL REGISTER on February 3, 1968 (33 FR 2565); a new Appendix appeared in the FEDERAL REGISTER on November 7, 1969 (34 FR 18031). The entire document is again under revision. Estimated publication date: June 1979.

32 CFR 252. DoD Offshore Military Activities Program. Published in the FEDERAL REGISTER on December 4, 1963 (28 FR 12868) and a revision on November 28, 1968 (33 FR 17784). Another revision is now being formally

coordinated and will be published in the FEDERAL REGISTER mid-1979.

32 CFR 293. Control and Protection of "For Official Use Only" Information. Published in the FEDERAL REGISTER on March 16, 1968 (33 FR 4618); it is being revised and will be republished. Estimated FEDERAL REGISTER published date: December 1979.

DEPARTMENT OF THE ARMY

Currently there is only one new regulation appropriate for inclusion in the semiannual agenda of significant regulations. This regulation would fall outside the criteria if strictly interpreted, however, we feel that it may be of sufficient interest to the public to fall within the intent of E.O. 12044. The proposed regulation concerns an "Advanced Concepts Committee" which, if and when established, will review, evaluate, and comment on unsolicited proposals received by the Department of the Army from individuals, academic institutions, and industry pertaining to concepts for use of advanced technology or new uses of existing technology. (Additional information may be obtained from Dr. Charles H. Church, ODCSARDA, telephone 695-3718).

In addition, the Army has established an Editorial Control Division in the Adjutant General Center in January 1978 to reduce the comprehension level of Army administrative publications and reduce the number of pages in all publications by at least 10 percent. This program is also being conducted in other areas of Army regulations and publications. Reductions to date have been significant with more planned. Questions or comments in this area may be addressed to J. B. Hudson, Office of the Administrative Assistant, OASA, or call OX 7-6900.

The following regulations contained in Chapter V, Title 32, are under review. All 32 and 33 CFRs are being revised to reflect new policies, to include changes in procedures and new requirements and also increase their readability in accordance with E.O. 12044. They do not require regulatory analysis. For further information, contact, Ms. Marian G. Spittle, telephone 202-693-0631.

32 CFR 513. Indebtedness of Military Personnel. Revision cannot be completed until revised DoD Directive 1344.9 is received.

32 CFR 542. Schools and Colleges. Revision complete—Revised draft in Office of the General Counsel for the Department of Defense (OGC) awaiting review.

32 CFR 552. Acquisition of Real Property and Interests Therein. Revision is ready for submission to OGC for review.

32 CFR 552. Military Reservations and National Cemeteries. Revision complete—Revised draft in OGC awaiting review.

32 CFR 562. Reserve Officers Training Corps. Revision complete—Revised draft in OGC for review.

32 CFR 564. Medical Care for Army National Guard Members. Revision is ready for submission to OGC for review.

32 CFR 564. Deceased Personnel Care and Disposition of Remains. Revision complete—Revised draft in OGC awaiting review.

32 CFR 571. Recruiting and Enlistments. Revision is ready for submission to OGC for review.

32 CFR 574. United States Soldiers' and Airman's Home. Revision Complete—Revised draft in OGC awaiting review.

32 CFR 575. Admission to the United States Military Academy. Revision complete—Revised draft in OGC awaiting review.

For information concerning the following regulations contact: Mr. Curtis L. Clark, telephone 202-693-5070.

33 CFR 320. General Regulatory Policies. Regulation will be changed to incorporate expanded applicability of nationwide permits and more expeditious handling of permit processing by the elimination of duplication of effort among concerned Federal agencies. We are currently negotiating Memoranda of Agreement/Memoranda of Understanding (MOA/MOU) with Federal agencies to accomplish the latter. Estimate of time for revision is 6-8 months.

33 CFR 321. Permits for Dams and Dikes in Navigable Waters of the United States. Regulation was reviewed and deemed adequate as written; however, pending legislation regarding Sec. 10 of the Rivers and Harbors Act of 1899 may refine changes to this regulation and 33 CFR 322.

33 CFR 322. Permits for Structures of Work in or Affecting Navigable Waters of the United States. Same as 33 CFR 320.

33 CFR 323. Permits for Discharges of Dredged or Fill Material into Waters of the United States. Same as 33 CFR 320.

33 CFR 324. Permits for Ocean Dumping of Dredged Material. Regulation will be revised to reduce the tenure of permits to a period of three years. Should be revised in six months.

33 CFR 325. Processing of Department of the Army Permits. Same as 33 CFR 320 plus the incorporation of provisions of the Preservation of Historical and Archaeological Data Act.

33 CFR 326. Enforcement. Regulation may require revision as a result of MOA/MOU negotiations mentioned with 33 CFR 320, above. Revision is estimated at eight months.

33 CFR 327. Public Hearings. Regulation has been reviewed. Revision is needed to clarify timing of public hearings based on MOA/MOU negotiations mentioned in 33 CFR 320.

33 CFR 328. Harbor Lines. Has been reviewed and no changes are required.

33 CFR 329. Definition of Navigable Waters of the United States. Has been reviewed and no changes are required.

36 CFR 327 (EC 1130-2-159). Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers. Regulation has been reviewed and revised to clarify and simplify the regulations for use by the general public regarding public use and to clarify enforcement procedures.

36 CFR 327 (ER 1130-2-411). Regulation of Scaplane Operations at Civil Works Water Resource Development Projects. Reviewed; determined no changes required.

DEPARTMENT OF THE NAVY

Currently there are no new regulations being processed within the Navy Department appropriate for inclusion in the semiannual agenda. The following regulations are under review and revision under E.O. 12044 and their status is submitted for public comment. None reported fall under the regulatory analysis requirements. For further information contact: Ms. Alcinda Wenberg, 202-695-1921. The following regulations under title 32, CFR, Chapter VI are reported as follows:

32 CFR 705. Public Affairs Regulations. Reviewed for update of inclusion of procedural and organizational changes. Expected completion date of revision is 31 December 1978.

32 CFR 715. Support of Dependents and Paternity Complaints. Recommended for deletion from the Code of Federal Regulations at this time; duplicated by other service regulations; final determination on inclusion versus exclusion pending review by Navy General Counsel.

32 CFR 716. Death Gratuity. Reviewed for ease of understanding and clarity. No significant changes recommended. Draft revision under review within Navy General Counsel office.

32 CFR 718. Missing Persons Act. Reviewed for ease of understanding and clarity and updating. Draft revision under review by Navy General Counsel.

32 CFR 725. Disposition of Cases Involving Physical Disability. Under revision due to change in basic requirements.

32 CFR 729. Navy and Marine Corps Military Personnel Security Program. Recommended for deletion. Covered by other DoD regulations.

32 CFR 730. Administrative Discharges and Related Matters Concerning Separations from the Naval Service. In revision process for reduction in verbiage and ease of understanding.

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32 CFR 744. Policies and Procedures for the Protection of proprietary Rights in Technical Information Proposed For Release to Foreign Governments. Being reivsed to comply with basic policy and procedural changes at the Secretary of Defense level.

32 CFR 751. Personnel Claims Regulations. Revision and update completed. Appeared in FEDERAL REGISTER 13 June 1978.

DEPARTMENT OF THE AIR FORCE

Currently there are several new regulations being processed within the department which have not yet completed their initial coordination stage. Publication of these regulations will occur for review and public comment upon completion of this initial drafting process. This report contains the update or previous regulations published under E.O. 12044. While awaiting public comment on the initial publication, the department has completed a partial review of the regulations with emphasis toward brevity and clarity, with the results as indicated. For further information and comments contact Ms. Carol M. Rose, telephone 202-697-1861.

The following regulations under title 32, CFR, Chapter VII, are reported as follows:

32 CFR 806. Air Force Freedom of Information Act Program. This regulation was rewritten and approved by the Air Force writing service. It was reduced by 21 percent.

32 CFR 806b. Air Force Privacy Act Program. This regulation was revised and approved by the Air Force writing service. It was reduced by 35 percent.

32 CFR 813. Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material. This regulation was rewritten and approved by the Air Force writing service. It was reduced by 70 percent.

32 CFR 818a. Personnel Commercial Affairs. This regulation was revised and approved by the Air Force writing service as complying with the plain English program. It was reduced by approximately 20 percent.

32 CFR 825a. Gifts to the Department of the Air Force. This regulation was rewritten and approved by the Air Force writing service as complying with our plain English program. It has been reduced by approximately 35 percent.

32 CFR 835. Support of Non-Governmental Test and Evaluation. This regulation was revised and approved by the Air Force writing service. It was reduced by approximately 20 percent.

32 CFR 837. Support of Non-Government Organizations. This regulation was rewritten and simplified on 20 December 1977. It was reviewed and approved by the Air Force writing service as complying with the plain English program and was reduced by 28 percent.

32 CFR 920. Standards of Conduct. This regulation was rewritten and approved by the Air Force writing service. It was reduced by 34.5 percent.

By Authority of the Secretary of Defense.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

NOVEMBER 24, 1978.

[FR Doc. 78-33400 Filed 11-29-78; 8:45 am]

[3810-70-M]

IMPROVING GOVERNMENT REGULATIONS

DOD Implementation

AGENCY: Department of Defense.

ACTION: Notice of implementation of Executive Order No. 12044.

SUMMARY: This draft report is published to implement the President's Executive Order 12044, "Improving Government Regulations."

DATE: The public is invited to provide comments on this plan prior to March 1, 1979.

ADDRESS: Department of Defense, Office of the Deputy Assistant Secretary of Defense (Administration), Pentagon, Room 3E843, Washington, D.C. 20301.

GENERAL INFORMATION CONTACT: For general information relating to overall program contact Colonel Peter H. Karalus, 202-695-4281.

SPECIFIC INFORMATION CONTACT: For information on specific regulations contact the appropriate agency or individual listed.

SUPPLEMENTARY INFORMATION: The Department of Defense has reviewed Executive Order 12044, "Improving Government Regulations," March 24, 1978, to determine the extent of its application to the DoD and the actions required to comply with its provisions. Section 6(b)(2), which excludes "regulations issued with respect to a military or foreign affairs function of the United States," would appear to exempt most of the DoD from the Order's coverage. Notwithstanding this exclusion, a comprehensive review of DoD Directives, and other issuances which outline basic Defense policies, was initiated to determine if any had a major impact on, or required significant action by the public. Following this review, it was determined that the primary purpose of most DoD issuances is to disseminate internal policy or management guidance.

However, some of them regulate, or impact on, public activities. Consistent with the President's desire that Federal regulations be made simpler and less burdensome on the public, and that the public be allowed to participate in their development, the DoD in its review will include all issuances which have a significant effect on the public.

PREFACE

By law, the Secretaries of the military departments have responsibility for the preparation and control for their respective departments under sections 3012(G), 5031 and 8012(F) of title 10, U.S. Code. The Secretary of Defense is responsible for the preparation and control of regulations which are applicable to all DoD components. Accordingly, these officials are responsible for implementing the provisions of Executive Order 12044 as required by this plan. Coordination and oversight of the plan for all DoD components, as required under the provisions of Executive Order 12044, will be accomplished in the Office of the Deputy Assistant Secretary of Defense (Administration).

REPORT

As required by the Executive Order, the following four areas are addressed.

1. *Process for development of regulations.*—Each regulation is drafted by the DoD components having the responsibility for the program which is being addressed. It is then staffed within the DoD, and also with other departments or agencies that may be affected by the regulation, for compliance with policy and procedural requirements. Throughout this drafting and coordination process, the heads of DoD components involved are kept appraised of its progress and made aware of any substantive changes to the basic plan. Final review of the regulation is conducted by the head of the component tasked with the responsibility and authority to approve or disapprove the regulation. Major policy decisions and resolution of differences during the drafting or review process are made by that official.

To comply with the provisions under Executive Order 12044, this drafting process will now include in its early stages, and again prior to final approval, an opportunity for the public or other interested agencies to make comments and provide an input to the plan before final publication. The FEDERAL REGISTER will be the primary means to inform the public of what regulations are currently being reviewed or processed. In addition, so as not to limit the degree or scope of public awareness, every effort will be made to publicize significant regulations in local newspapers, conduct

meetings with interested individuals and groups, or any other means deemed appropriate. The public is encouraged to contact directly the individual responsible for the regulation to facilitate timely response. In most instances, at least 60 days will be given the public to provide comments, however, appropriate notification will be made if the period for public comment must be shortened. After comments have been received and analyzed, they will be considered in revising the regulation, as appropriate. In addition, prior to publishing the final version, meetings will be held with interested groups or individuals to insure maximum participation by appropriate parties. Following publication, several means will be used to insure maximum understanding. These include press releases, public information meetings, and individual contacts.

The Deputy Assistant Secretary of Defense (Administration) has been assigned responsibility for coordinating the DoD plan for compliance with Executive Order 12044. In this capacity, the DADS (Administration) will keep the Secretary of Defense informed of the status of significant regulations within the Defense Department and the degree of compliance by all concerned with the provisions of Executive Order 12044. Where questions arise throughout this process concerning significant regulations which cannot be resolved within the DoD component concerned, final authority will rest with the Secretary of Defense. In addition to his/her overall responsibilities, the DASD (Administration) will prepare the consolidated semiannual agenda of significant regulations under the development or review, and presented to the Secretary of Defense for review and approval. The approved agenda will be published by the DASD (Administration) along with the schedule showing the times during the coming fiscal year when the semiannual agenda will be published.

The following heads of the DoD components are responsible for reviewing and approving significant regulations and for accomplishing regulatory analyses as appropriate: The Secretary of Defense, Secretaries of the Military Departments, and Directors of the Defense Agencies. Their actions will be governed by the following minimum criteria for approving significant regulations:

The proposed regulation is needed;

The direct and indirect effects of the regulation have been adequately considered;

Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

Public comments have been considered and an adequate response has been prepared;

The regulation is written in plain English and is understandable to those who must comply with it;

An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

The name, address and telephone number of a knowledgeable agency official is included in the publication; and

A plan for evaluating the regulation after its issuance has been developed.

The criteria for determining what regulations are considered significant and which require regulatory analysis are outlined in sections 2 and 3 of this plan. Although approval authority for significant regulations rests with the heads of the DoD components indicated, the Secretary of Defense will be kept informed of the status of all significant regulations through the DoD components' submissions of their semiannual reports which ultimately comprise the DoD semiannual reports which will appear in the FEDERAL REGISTER. Periodic reviews and meetings will be conducted under the cognizance of the DASD (Administration) with personnel within the cognizant DoD components in order to insure uniformity of compliance with the Executive Order and this plan.

2. CRITERIA FOR DETERMINING SIGNIFICANT REGULATIONS

Significant agency regulations will be those which meet any of the following tests:

a. Regulations which substantially and directly impact on the public, State or local governments, or other federal agencies.

b. Regulations which require, or would require, regulatory analysis.

c. Regulations which would require submissions by the public in order to obtain information, services, or funds or other resources.

d. Regulations which would govern recurring interaction between the public and DoD (such as the conduct of business on military installations).

3. CRITERIA FOR IDENTIFYING REGULATIONS REQUIRING REGULATORY ANALYSIS

Regulatory analysis will be conducted on those regulations which meet any of the following tests:

a. Regulations which would have an annual effect on the economy of $100 million or more.

b. Regulations which would have a major increase in costs for individual industries, levels of government or geographic regions.

c. Regulations which would have a major financial, environmental, or social impact on those segments of the affected public.

Heads of DoD shall establish procedures for developing regulatory analysis and provide an opportunity for public comment. Each analysis shall contain a statement of the problem, reasons why it was selected for analysis, a description of the major alternative ways considered in problem solution, an analysis of the economic consequences of each alternative and rationale for choosing the selected alternative. When giving public notice on a proposed regulation, an explanation of the regulatory approach selected as favored and a brief description of other alternatives will be included. Information will also be provided to indicate how the public may obtain a copy of the draft regulatory analyis. Additionally, a final analysis will be prepared and made available to the public when the final regulations are published.

4. CRITERIA FOR SELECTION OF EXISTING REGULATIONS TO BE REVIEWED AND LIST OF REGULATIONS FOR INITIAL REVIEW

Any regulation which qualifies as significant under the criteria of section 2 will be reviewed. Those regulations currently being reviewed are:

Office of the Secretary of Defense

32 CFR 43a—Indebtedness of Military Personnel.
32 CFR 67—Allocation of Reserve Forces Units to local Communities.
32 CFR 75—Conscientious Objectors.
32 CFR 157—Certification for Access to Scientific and Technical Information.
32 CFR 159—Information Security Program.
32 CFR 168—Engineering and Technical Service—Management and Control.
32 CFR 169—Commercial or Industrial Activities.
32 CFR 169a—Commercial or Industrial Activities—Operation of.
32 CFR 177—Emergency Requirements, Allocations, Priorities, and Permits for DoD use of Domestic Civil Transportation.
32 CFR 179—Use of Contractor and Government Resources for Maintenance of Material.
32 CFR 195—Configruation Management.
32 CFR 217—Use of Off-road Vehicles on DoD Lands.
32 CFR 239—Administration and Operation of the Homeowners Assistance Program.
32 CFR 252—DoD Offshore Military Activities Program.
32 CFR 293—Control and Protection of "For Official Use Only" Information.

Commission's jurisdiction, should file

are various recreational areas located

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Department of the Army

32 CFR 513—Indebtedness of Military Personnel.
32 CFR 542—Schools and Colleges.
32 CFR 552—Acquisition of Real Property and Interests Therein.
32 CFR 552—Military Reservations and National Cemeteries.
32 CFR 562—Reserve Officers' Training Corps.
32 CFR 564—Medical Care for Army National Guard Members.
32 CFR 564—Deceased Personnel Care and Disposition of Remains.
32 CFR 571—Recruiting and Enlistments.
32 CFR 574—United States Soldiers' and Airmen's Home.
32 CFR 575 Admission to the United States Military Academy.
33 CFR 320—General Regulatory Policies.
33 CFR 321—Permits for Dams and Dikes in Navigable Waters of the United States.
33 CFR 322—Permits for Structures or Work in or Affecting Navigable Waters of the United States.
33 CFR 323—Permits for Discharges fof Dredged or Fill Material into Waters of the United States.
33 CFR 324—Permits for Ocean Dumping of Dredged Material.
33 CFR 325—Processing of Department of Army Permits.
33 CFR 326—Enforcement.
33 CFR 327—Public Hearings.
33 CFR 328—Harbor Lines.
33 CFR 329—Definition of Navigable Waters of the United States.
36 CFR 327 (EC 1130-2-159)—Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers.
36 CFR 327 (ER 1130-2-411)—Regulation of Seaplane Operations at Civil Works Water Resource Development Projects.

Department of the Navy

32 CFR 705—Public Affairs Regulations.
32 CFR 715—Support of Dependents and Paternity Complaints.
32 CFR 716—Death Gratuity.
32 CFR 718—Missing Persons Act.
32 CFR 725—Disposition of Cases Involving Physical Disability.
32 CFR 730—Administrative Discharges and Related matters Concerning Separations from the Naval Service.
32 CFR 744—Policies and Procedures for the Protection or Proprietary Rights in Technical Information Proposed for Release to Foreign Governments.
32 CFR 751—Navy Personnel Claims.

Department of the Air Force

32 CFR 806—Air Force Freedom of Information Act Program.
32 CFR 806b—Air Force Privacy Act Program.
32 CFR 813—Schedule of Fees for Copying, Certifying and Searching Records and Other Documentary Material.
32 CFR 818a—Personal Commerical Affairs.
32 CFR 825a—Gifts to the Department of the Air Force.
32 CFR 835—Support of Non-Governmental Test and Evaluation.
32 CFR 837—Support of Non-Government Groups
32 CFR 888—Enlistment in the United States Air Force
32 CFR 920—Standards of Conduct.

In addition to the regulations covered under the Order, the DoD is currently in the process of revising its procurement regulations, even though they are excluded from coverage. The Department believes that this is a particularly important effort when placed within the context of the President's overall objectives in both the regulatory process and control of inflationary regulations.

Subsequent review of regulations identified as "significant" will be conducted, with full public notification, in accordance with the provisions of Executive Order 12044.

By Authority of the Secretary of Defense.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

NOVEMBER 24, 1978.

[FR Doc. 78-33401 Filed 11-29-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP72-15]

CITIES SERVICE GAS CO.

Petition To Amend

NOVEMBER 21, 1978.

Take notice that on November 7, 1978, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP72-15 a petition to amend the order of November 1, 1971 (46 FPC 110),[1] as amended, issued in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the use of an additional delivery point for the exchange of natural gas between Arkansas Louisiana Gas Company (Arkla) and Petitioner, and an extension in the term of an existing exchange agreement, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of November 1, 1971 in the instant docket, Petitioner was authorized to exchange up to 10,000 Mcf of natural gas per day with Arkla pursuant to the terms of an exchange agreement dated June 11, 1971, until such time as Arkla constructed the necessary facilities to connect gas production in Hemphill County, Tex., to its pipeline system or for a period of 2 years, which ever was the lesser. It is further indicated that by subsequent amendments, additional delivery points were added to the original exchange agreement and the term of the agreement was extended to March 31, 1978.

Petitioner states that presently this exchange is out of balance and that it owes approximately 6,200,000 Mcf of gas. This condition is a result of Arkla's inability to take the necessary volumes of gas into its system at the currently certificated delivery points, it is said.

Petitioner indicates that in order to alleviate this situation and to facilitate the balancing of their respective exchange accounts, it and Arkla have entered into a further amendment to the existing exchange agreement, dated August 29, 1978, whereby an existing point of interconnection between Petitioner and Arkla at Jane, Mo., is added as an additional delivery point from Petitioner to Arkla and the term of the agreement is extended to March 31, 1983, and from year to year thereafter unless terminated by either party.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33540 Filed 11-29-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1978 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02-M]

[Docket No. RP78-52]

CONSOLIDATED GAS SUPPLY CORP.

Motion To Track the Decrease in the Statutory Federal Income Tax Rate

NOVEMBER 20, 1978.

Take notice that on November 13, 1978 the Public Service Commission of the State of New York (New York) filed a motion in the subject docket requesting various forms of relief relating to the reduction in the Federal income tax rate which is to occur on January 1, 1979. That reduction, from 48 percent 46 percent, has been directed by Congress in Pub. L. 95-600. New York moves the Commission to take the following action:

(1) Summary disposition of the Federal income taxes to be included in Consolidated Gas Supply Corporation's (Consolidated) cost-of-service for purposes of determining rates in the captioned proceeding;

(2) Similar action in *all* pending pipeline rate cases; and

(3) The institution of show cause proceedings pursuant to section 5 of the Natural Gas Act against all pipelines which do not have pending rate change applications or effective settlement agreements that require rate adjustments for changes in the statutory tax rate.

New York argues that, in every case in which a pipeline such as Consolidated uses a 48 percent tax rate in the cost of service calculation for rates which will be effective after January 1, 1979, the Commission should summarily require the pipeline to reduce the rate used to calculate its tax expense. New York asserts that summary dispostion is proper because the issue is one of law and policy which requires no ventilation or factual development through a hearing.

Copies of New York's motion are on file at the Commission's Office of Public Information.

Any person desiring to comment upon New York's motion, as it relates to Consolidated, should file a petition to intervene, protest, or answer with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8, 1.10, and 1.12 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10, and 1.12). Any peson desiring to comment upon New York's motion, as it relates to any other pipeline company subject to the Commission's jurisdiction, should file a protest or answer pursuant to sections 1.10 or 1.12 of the Commission's regulations, in this docket, at the above-mentioned location; in such cases, intervention in the RP78-52 proceeding is unnecessary. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to any proceeding. All filings are due on or before December 8, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33541 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Project No. 785]

CONSUMERS POWER CO.

Application for License (Major)

NOVEMBER 21, 1978.

Take notice that on April 8, 1977, an application was filed by the Consumers Power Company (correspondence to: Mr. Paul A. Perry, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201) for a major license for the Calkins Bridge Project No. 785. The project is currently operating under an existing license which will expire on April 10, 1980. The project is located on the Kalamazoo River in Allegan County, Michigan.

The Calkins Bridge Project No. 785 consists of: (1) a 1,330-foot long and 42-foot high dam comprising 1,100 feet of earth embankment and a 230-foot long concrete powerhouse, fishway, spillway section, having six steel tainter gates; (2) a 1,550 acre reservoir at normal pool elevation of 615.0 msl; (3) a powerhouse containing three hydroelectric generating units with a total installed capacity of 2,550 kW; and (4) all other facilities and interests appurtenant to the operation of the project.

The Applicant currently estimates fair value at the end of the license term to be approximately equal to the net investment of $303,982 and states that it is unable to determine, in the absence of a detailed Federal takeover plan, an estimate of severance damages. However, the Applicant states that the current annual replacement cost for power generated at the project would be approximately $405,000.

According to the application, primary recreational use of project lands and waters is confined to viewing the reservoir, boating and canoeing, and limited fishing due to poor water quality. The project is not suited for intensive land-based recreational use due to limited amounts of land within the project boundary. In addition, there are various recreational areas located near or adjacent to the project.

Access to the project waters is provided by three boat ramps. No future recreational development is proposed.

The Applicant utilizes the power output of the Calkins Bridge Project No. 785 as part of its generating system supplying electric utility service in Michigan.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 22, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33553 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-415]

DUKE POWER CO.

Reference of Settlement Agreement

NOVEMBER 20, 1978.

Take notice that on October 19, 1978 Presiding Administrative Law Judge William L. Ellis referred to the Commission for approval, disapproval or other appropriate action, a settlement agreement entered into by the various parties in the rate case in the above-noted docket, which was set for hearing by the Commission's order of June 30, 1978.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before December 1, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33542 Filed 11-29-78; 8:45 am]

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[6740-02-M]

[Docket No. RP78-12]

EAST TENNESSEE NATURAL GAS CO.

Certification of Settlement Agreement

NOVEMBER 20, 1978.

Take notice that on November 7, 1978, the Presiding Administrative Law Judge certified to the Commission a settlement agreement resolving certain issues in the above-referenced docket. The judge noted that "East Tennessee and the Staff have agree to file comments with respect to one dispute remaining among the parties" and that establishment of dates for initial and reply comments was requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Comments will be entertained only on the merits of the settlement agreement and not on reserved issues. Initial comments will be filed with the Commission on or before December 8, 1978, and reply comments will be filed on or before December 29, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33543 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP74-50-1, et al.]

FLORIDA GAS TRANSMISSION CO. (BASIC MAGNESIA, INC., ET AL)

Extension of Time

NOVEMBER 17, 1978.

On November 13, 1978, Commission Staff Counsel file a motion for an extension of time for the filing of briefs opposing exceptions to the initial decision issued in this proceeding on September 27, 1978. The motion states that Staff Counsel has been assigned to work on Commission regulations implementing the Natural Gas Policy Act of 1978 and therefore will not be able to meet the current filing deadline. The motion also states that none of the participating parties objects to the request with the exception of Florida Cities, whose counsel was out of town and could not be reached. Gardinier, Inc. filed a letter supporting Staff's motion on November 14, 1978, requesting that the extension be granted for all parties.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 18, 1978, for all parties to file briefs opposing exceptions to the initial decision in this proceeding.

On October 30, 1978, Florida Cities filed a motion for leave to file their brief on exceptions out of time. The motion states that Florida Cities' courier did not arrive at the Commission's offices until a few minutes after 5:00 p.m. on October 27, 1978, the final day for filing briefs, and that "the Secretary's office refused to accept it." Under Section 0.4 of the Commission's Rules of Practice and Procedure filings received after 5:00 p.m. are deemed filed on the next regular business day. Florida Cities states that service of their brief was made on October 27, 1978 and no party was therefore, prejudiced by the late filing. Florida Cities' motion is granted.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33544 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-10]

IOWA SOUTHERN UTILITIES CO.

Application

NOVEMBER 20, 1978.

Take notice that on November 8, 1978, Iowa Southern Utilities Company (Applicant) filed an application for an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of $15,000,000 principal amount of First Mortgage Bonds. Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

The Bonds will be dated January 1, 1979, and mature January 1, 2009, and will bear interest at a rate to be determined by competitive bidding pursuant to the Commission's Regulations. It is anticipated bids will be opened January 9, 1979. The proceeds from the issuance of the Bonds will be used to repay bank loans and short-term notes issued in the form of commercial paper and to finance in part the Applicant's construction program for 1979, the principal part of which is for the Applicant's 33% ownership share in a 675,000 kilowatt turbine generator at the Ottumwa Generating Station near Ottumwa, Iowa.

Any person desiring to be heard or to make any protest with reference to the application should on or before November 30, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33545 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Intervention Project No. 2800]

LAWRENCE HYDROELECTRIC ASSOCIATES

Notice Granting Interventions

NOVEMBER 21, 1978.

On June 30, 1977, Lawrence Hydroelectric Associates ("applicant" or "LHA") filed an application for major license to install and operate hydroelectric generating facilities at the Essex Co. Dam on the Merrimack River within the city of Lawrence, Mass. The proposed project has been designated FERC project No. 2800.

Public notice of the application was given with March 27, 1978, as the last day for filing protests or petitions to intervene. The following organizations and governmental bodies filed petitions to intervene:

Andover Village Improvement Society and Merrimac Paper Co., Inc. and Aquamac Corp. on March 24, 1978; Massachusetts Municipal Wholesale Electric Co. and Merrimack Valley Building Trades Council on March 27, 1978; New England Power Co., town of Andover, and town of Metheun on March 28, 1978; and Lawrence P. LeFebre, mayor, on behalf of the city of Lawrence on March 29, 1978 and amended April 7, 1978.

Applicant responded on April 10, 1978, to the petitions filed by Merrimac Paper Co. and Aquamac Corp. (jointly referred to as "Merrimac Paper") and Massachusetts Municipal Wholesale Electric Co. (MMWEC). On April 24, 1978, the town of Metheun filed a response to certain matters raised in the petition filed by Merrimac Paper.

The Andover Village Improvement Society (AVIS) states that it is a privately supported, nonprofit, charitable society which acquires land in Andover, Mass. for conservation and recreational use by the public without charge. AVIS, being the owner and lessee of lands adjacent to the proposed project, is concerned with the possible impacts the proposed hydroelectric facilities may have upon the public's use and enjoyment of those lands. AVIS seeks to intervene to insure that adequate provisions are included in the license to assure that its lands will not be adversely affected by the proposed project.

Merrimac Paper Co., Inc. and Aquamac Corp. state in their joint petition that they are among the small businesses that are located on the north and south canals which run downstream from the Essex Co. Dam; that they are the owners of certain water rights associated with the Merrimack River; and that the construction and operation of a hydroelectric facility could jeopardize their rights and affect the operation of their businesses. Applicant responded to the joint petition on April 10, 1978.

On October 27, 1978, Merrimac Paper Co. and Aquamac Corp. filed notice of withdrawal of their petition to intervene. As reasons for withdrawal, the petitioners state that the claims and concerns raised in the petition to intervene have been satisfied by the execution of an agreement among the petitioners and applicant.

Massachusetts Municipal Wholesale Electric Co. (MMWEC) states that it is a public corporation and political subdivision of the State of Massachusetts; that it was established as a planning agency for the development of bulk power requirements; and that it is authorized to finance, own and operate power facilities as well as to sell, transmit, and deliver electric power to its member municipalities. MMWEC further states that it has been in negotiation with applicant with respect to acquisition and use of the output of the proposed project. MMWEC alleges that it has an interest in the licensing proceedings for project No. 2800 and that interest is not adequately represented by the existing parties.

The Merrimack Valley Building Trades Council (council) states that it represents 9,000 men in the Merrimack Valley. The council added that it supports the project because it will help the economy of Merrimack Valley by lowering the cost of electricity, beautifying Merrimack River, and aiding the growth of industry. The Merrimack Valley Building Trades Council then requested the Commission to (1) permit the council to intervene and (2) promptly issue a license to the applicant.

The New England Power Co. (NEPCO) is a Massachussets corporation whose principal business is generating, purchasing, transmitting, and selling electric energy at wholesale quantities. NEPCO had been negotiating with applicant respecting the purchase of electricity on a cost of service basis. NEPCO alleges that the terms and conditions of any license obtained by applicant may have an effect on the availability, reliability and cost of power proposed to be sold to NEPCO.

On October 27, 1978, applicant filed with the Commission copies of a power contract dated October 25, 1978, between Lawrence Hydroelectric Associates and New England Power Co.

The town of Andover, a municipal corporation in Essex County, Mass., is located south of the city of Lawrence, on the south bank of the Merrimack River. The town of Andover draws water from the Merrimack River for numicipal water supply purposes. The town states that it seeks intervention to insure that adequate safeguards are contained in any license issued to prevent the degradation of the town's water supply and to prevent the flooding of town property.

The town of Metheun, a municipal corporation in Essex County, Mass., is located on the north bank of the Merrimack River. In its petition the town states as the grounds for intervention that it owns land on the bank of the Merrimack River and draws from the river for its municipal water supply.

The final petition to intervene in the proceedings upon FERC project No. 2800 was filed by Mayor Lawrence P. LeFebre on behalf of the city of Lawrence, Mass.The mayor states that the city of Lawrence has a substantial interest in the continued maintenance and sound management of the impounded water behind the Essex Company Dam, that impoundment being the source of the city's water supply. The mayor then requested the Commission to permit the city to intervene and to promptly issue a license to applicant.

Participation by the Andover Village Improvement Society, the Merrimack Valley Building trades Council, and the Massachusetts Municipal Wholesale Electric Co. may be in the public interest. Their timely petitions to intervene should be granted. Merrimac Paper Co. and Aquamac Corp. also filed a timely joint petition to intervene; however, joint petitioners have informed the Commission that the issues raised in their petition have been addressed. Therefore, Merrimac Paper Co. and Aquamac Corp. will be permitted to withdraw their joint petition. The petitions of New England Power Co., town of Andover, town of Metheun, and Mayor LeFebre on behalf of the city of Lawrence were filed either one or two days after the deadline for such filings; however, their participation in these proceedings may be in the public interest.

Pursuant to § 3.5(a) of the Commission's rules of practice and procedure (18 CFR 3.5(a)), Andover Village Improvement Society, Massachusetts Municipal Wholesale Electric Co., Merrimack Valley Building Trades Council, New England Power Co., town of Andover, Mass., town of Metheun, Mass., and Mayor Lawrence P. LeFebre on behalf of the city of Lawrence, Mass. are permitted to intervene in this proceeding subject to the Commission's rules. Participation of the intervenors shall be limited to matters affecting their respective petitions to intervene as set forth in this order. Admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33554 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-63]

LONE STAR GAS CO., A DIVISION OF ENSERCH CORP.

Application

NOVEMBER 21, 1978.

Take notice that on November 7, 1978, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP79-63 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed gas purchase facilities would not exceed $3,000,000, with the cost of no single project to exceed $750,000, which costs Applicant would finance from working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commis-

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sion's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33555 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-64]

NORTHERN NATURAL GAS CO., DIVISION OF ENRON CORP.

Application

NOVEMBER 21, 1978.

Take notice that on November 7, 1978, Northern Natural Gas Company, Division of Enron Corporation (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-64 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed gas purchase facilities would not exceed $3,000,000, with the cost of no single project to exceed $750,000, which costs Applicant would finance from working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33556 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-65]

NORTHERN NATURAL GAS CO., DIVISION OF ENRON CORP.

Application

NOVEMBER 21, 1978.

Take notice that on November 7, 1978, Northern Natural Gas Company, Division of Enron Corporation (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-65 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed gas purchase facilities would not exceed $3,000,000, with the cost of no single project to exceed $750,000, which costs Applicant would finance from working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33557 Filed 11-29-78; 8:45 am]

sion's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33546 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-64]

LONE STAR GAS CO., A DIVISION OF ENSERCH CORP.

Application

NOVEMBER 21, 1978.

Take notice that on November 7, 1978, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP79-64 an application pursuant to Section 7(b) of the Natural Gas Act and Section 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon during the calendar year 1979, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the Application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sale measuring, regulating and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of natural gas during the last year of service.

The application states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement that the customer has no further need for service would be filed with the Commission, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33547 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-68]

MOUNTAIN FUEL SUPPLY CO.

Application

NOVEMBER 21, 1978.

Take notice that on November 9, 1978, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. 79-68 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange and sale of natural gas produced from the Wamsutter No. 1-36 (No. 1-36) well located in Sweetwater County, Wyoming, with and to Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant has a 50 percent working interest in the No. 1-36 well, and that this well is distant from Applicant's existing transmission system.

In order to make the natural gas produced from the No. 1-36 well available to Applicant's system, Applicant requests authorization of an exchange of up to 6,000 Mcf per day of natural gas with CIG, and the sale, at the highest allowable Commission price, including adjustments permitted or required, of up to 25 percent of the volumes of gas so delivered by Applicant to CIG, pursuant to a June 20, 1978, gas purchase and exchange agreement between Applicant and CIG.

It is stated that, pursuant to this agreement, CIG would gather at the wellhead Applicant's portion of the natural gas produced from the No. 1-36 well, at a cost to Applicant of 4.0 cents per Mcf, and that CIG would concurrently deliver thermally equivalent natural gas volumes to Applicant at an existing point of interconnection near Green River, Wyoming, minus that portion of Applicant's natural gas that CIG purchases. The agreement further provides, it is stated, that delivery of natural gas by CIG to Applicant may be accomplished by decreasing the volumes that Applicant would otherwise by required to deliver to CIG under other gas purchase and exchange agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33548 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Project No. 2861]

ROBERT W. SHAW

Application for Preliminary Permit

NOVEMBER 21, 1978.

Take notice that on July 24, 1978, an application was filed by Mr. Robert W. Shaw (correspondence to: Mr. Robert W. Shaw, 4 Parsons Street, Colebrook, New Hampshire 03576) for a preliminary permit for the Pontook Hydroelectric Project No. 2861, to be located on the Androscoggin River in the Town of Dummer, Coos County, New Hampshire.

The Applicant seeks a 36-month preliminary permit for the purpose of studying the feasibility of constructing a project which would utilize an existing dam and reservoir on the Androscoggin River.

The proposed project would consist of: (1) an existing 15-foot-high, 360-foot-long concrete gravity dam; (2) an existing reservoir with a storage capacity of 1,200 acre-feet at normal high water elevation of 1,163 feet (msl); (3) a new headgate structure leading into a new 5,000-foot-long canal; (4) a new 695-foot-long, 6-foot-diameter penstock; and (5) a new powerhouse with three generating units with a total installed capacity of 1,500 kW and an estimated average annual generation of 12,000,000 kWh.

The Applicant proposes that the power developed would be sold to the Public Service Company of New Hampshire.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 22, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33555 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP73-89 (PGA79-1) and RP77-6]

SEA ROBIN PIPELINE CO.

Filing of Revised Tariff Sheets

NOVEMBER 20, 1978.

Take notice that on November 15, 1978, Sea Robin Pipeline Company (Sea Robin) tendered for filing and the following revised tariff sheets with the Federal Energy Regulatory Commission:

Original Volume No. 1

Nineteenth Revised Sheet No. 4
Original Sheet No. 4-A

Original Volume No. 2

Sixth Revised Sheet No. 39
Second Revised Sheet No. 39-A
Seventh Revised Sheet No. 64
Ninth Revised Sheet No. 96
Seventh Revised Sheet No. 97
Third Revised Sheet No. 150
Third Revised Sheet No. 151
Second Revised Sheet No. 176
Second Revised Sheet No. 197
Second Revised Sheet No. 218
Second Revised Sheet No. 240
Third Revised Sheet No. 264
Second Revised Sheet No. 288
Second Revised Sheet No. 289
Second Revised Sheet No. 314
Second Revised Sheet No. 315
Second Revised Sheet No. 340
Second Revised Sheet No. 357
Second Revised Sheet No. 365
Second Revised Sheet No. 390
Second Revised Sheet No. 391
Second Revised Sheet No. 416
Second Revised Sheet No. 417
Second Revised Sheet No. 446
Second Revised Sheet No. 447

These tariff sheets and supporting information are being filed 30 days before the effective date of January 1, 1979, pursuant to the Purchased Gas Cost Adjustment provisions set out in Section 1 of Sea Robin's tariff and in compliance with Federal Energy Regulatory Commission (Commission) orders issued May 11, 1978 and July 12, 1978, at Docket No. RP77-6.

Original Sheet No. 4-A is being filed to reflect the currently effective rates for all of Sea Robin's transportation customers on a single tariff sheet.

Sea Robin states that these revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested State commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions, or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33549 Filed 11-29-78; 8:45 am]

or a protest with the Federal Energy

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[6740-02-M]

[Docket Nos. RP72-74, RP74-6, et al.]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

NOVEMBER 21, 1978.

Take notice that on November 6, 1978, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Seventh Revised Sheet Nos. 61, 63, 64, 67, 71, 78 and 82, and Sixth Revised Sheet Nos. 72, 74 and 75.

Southern states that the Audit Committee has examined data relating to claims of error or misclassification of requirements in the Index of Requirements as provided in the Stipulation and Agreement which was approved in the Commission's Opinion No. 5, Opinion and Order Approving Settlements Prescribing Permanent Curtailment Plan, issued November 17, 1977. According to Southern, the revised tariff sheets represent changes to the Index which the Audit Committee recommends be included in the effective Index of Requirements, together with changed Rate Schedules for both the City of Raleigh, Mississippi, and the Town of Livingston, Alabama.

Southern avers that the data supporting the proposed changes in the Index of Requirements has been approved by the Audit Committee and that prior approval by the Commission of the other changes has been received. Southern, therefore, proposes that the enclosed tariff sheets be made effective December 15, 1978.

Copies of the filing were served on the company's jurisdictional customers, interested state commissions, and parties of record in the above-entitled proceedings.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard, or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) on or before November 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules. Persons that have previously filed a notice or petition for intervention in any of these proceedings need not file additional notices or petitions to become parties with respect to the instant filing. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33556 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-76]

SUN OIL CO.

Amended Petition for Special Relief

NOVEMBER 21, 1978.

Take notice that on October 5, 1978, Sun Oil Company (Sun) II North Park East, Suite 800, Dallas, Texas, 25231 filed an amendment to its petition for special relief on October 5, 1978 requesting a rate of 85.98¢ per Mcf at 14.73 psia for the sale of gas to Transwestern Pipeline Company from the Manse Wood Gas Unit, Well No. 1, Beaver County, Oklahoma.

Sun originally filed on July 3, 1978 for a rate of 87.67¢ per Mcf at 14.73 psia for the sale of this gas to Transwestern Pipeline Company. Sun states that this rate would allow Sun to repair a leak in the well casing and pull stuck tubing from the well.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 13, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33550 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-67]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Application

NOVEMBER 21, 1978.

Take notice that on November 9, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-67, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the Valley Natural Gas Company (Valley), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Valley has arranged, pursuant to a precedent agreement, dated February 4, 1977, to purchase volumes of liquefied natural gas (LNG) from Distrigas of Massachusetts Corporation (DOMAC). It is further stated that Valley and the Boston Gas Company (Boston) have agreed, pursuant to a precedent agreement, dated December 20, 1977, for Boston to receive the LNG from DOMAC, whereupon Boston will release equivalent volumes of natural gas to Applicant for delivery to Valley.

Pursuant to an Agreement between Valley and Applicant dated November 6, 1978, Applicant requests authorization to transport this natural gas during each "winter period" (November 1 through March 31) from an existing interconnection of Applicant's and Boston's facilities, to Applicant's existing Pawtucket Sales Meter States located in Providence County, Rhode Island, in an amount not to exceed 440 Mcf per day, the total in any winter period not to exceed 66,400 Mcf, unless the actual volume of contracted demand gas which Valley has purchased from Applicant during a winter period is less than ninety-eight percent of Valley's full purchase entitlement volumes from Applicant, in which case the maximum amount of natural gas which could be transported in the next winter period would go up according to a formula contained in an agreement between Valley and Applicant, dated November 6, 1978.

It is stated that the rate structure would include a volume charge of 12.41 cents per Mcf plus a minimum annual bill and an added volume charge determined under a contractual formula.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to

become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33551 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-41]

TEXAS EASTERN TRANSMISSION CORP.

Practice and Procedure; Intent To Act

NOVEMBER 20, 1978.

The Commission has before it an October 19, 1978, pleading filed by the Municipal Defense Group (MDG) requesting clarification, or in the alternative rehearing, of the Commission's October 10, 1978, "Order Granting Rehearing for Further Consideration and Granting Stay". The Commission intends to issue an order on MDG's request in the near future. Therefore, the motion of MDG shall not be deemed denied under Section 1.12(e) of the Commission's Rules.

The Commission orders: The Municipal Defense Group "Petition for Clarification or in the Alternative for Rehearing" shall not be deemed denied under Section 1.12(e) of the Commission's Rules.

By Direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33552 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Project No. 2857]

VANCEBURG ELECTRIC LIGHT, HEAT & POWER SYSTEM AND THE CITY OF VANCEBURG, KY.

Application for Preliminary Permit

NOVEMBER 21, 1978.

Public notice is hereby given that on June 29, 1978, an application for a preliminary permit was jointly filed by the Vanceburg Electric Light, Heat and Power System and the City of Vanceburg, Kentucky, for the proposed Newburgh Locks and Dam Project No. 2857, to be located on the Ohio River in Henderson County, Kentucky, near the cities of Owensboro and Henderson, Kentucky, and Evansville and Boonville, Indiana. Correspondence regarding the application should be sent to: Mr. Philip P. Ardery, Brown, Todd & Heyburn, 1600 Citizens Plaza, Louisville, Kentucky 40202.

The proposed project would affect navigable waters, 72.6 acres of lands of the United States under control of the U.S. Army Corps of Engineers, and a Government dam.

The proposed project would consist of: (1) a powerhouse on the Kentucky side of the Corps of Engineers Newburgh Dam with generating units having an estimated installed capacity of about 55,000 kW, the number, size and type of which will be determined in the course of the proposed study; (2) step-up transformers; (3) a substation; (4) a transmission line to the East Kentucky Power Cooperative, Inc. transmission system; (5) various recreational facilities; and (6) all other facilities and interests appurtenant for operation of the project. The Applicants estimate the cost of construction as $88,700,000.

The Applicants intend to coordinate the project output with Projects Nos. 2245 and 2614 for which licenses have been issued by the Commission and with Project No. 2739 (Medahl) for which an application is pending before the Commission. The output of the project will be used to meet the Applicants' system load requirements and any excess energy will be sold to East Kentucky Power Cooperative, Inc.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977)). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 22, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33557 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Project No. 2858]

VANCEBURG ELECTRIC LIGHT, HEAT & POWER SYSTEM AND THE CITY OF VANCEBURG, KY.

Application for Preliminary Permit

NOVEMBER 21, 1978.

Public notice is hereby given that on June 29, 1978, an application for a preliminary permit was jointly filed by the Vanceburg Electric Light, Heat and Power System and the City of Vanceburg, Kentucky, for the proposed Uniontown Locks and Dam Project No. 2858. The project would be located on the Ohio River in Union County, Kentucky, approximately 3.5 river miles downstream from Uniontown, Kentucky, near the cities of Morganfield and Henderson, Kentucky, Mt. Vernon and Evansville, Indiana, and Shawneetown, Illinois. The proposed project would affect navigable waters, about 49.3 acres of lands of the United States under control of the U.S. Army Corps of Engineers, and a Government dam. Correspondence regarding the application, should be sent to: Mr. Philip P. Ardery, Brown, Todd & Heyburn, 1600 Citizens Plaza, Louisville, Kentucky 40202.

According to the application, the proposed project would consist of: (1) a powerhouse on the Kentucky side of the Corps of Engineers Uniontown Dam with generating units having an estimated installed capacity of 65,000 kW, the number, size and type of which will be determined in the course of the proposed study; (2) step-up transformers; (3) a substation; (4) a transmission line to the East Kentucky Power Cooperative, Inc. transmission system; (5) a proposed recreational development; and (6) all other

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facilities and interests appurtenant for operation of the project. The Applicants estimate the cost of construction as $106,000,000.

The Applicants intend to coordinate the project output with Projects Nos. 2245 and 2614 for which licenses have been issued by the Commission and with Project No. 2739 (Meldahl) for which an application is pending before the Commission. The output of the project will be used to meet the Applicants' system load requirements and any excess energy will be sold to East Kentucky Power Cooperative, Inc.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977)). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 19, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33558 Filed 11-29-78; 8:45 am]

[6740-02-M]

[Project No. 2859]

VANCEBURG ELECTRIC LIGHT, HEAT & POWER SYSTEM AND THE CITY OF VANCEBURG, KY.

Application for Preliminary Permit

NOVEMBER 21, 1978.

Public notice is hereby given that on June 29, 1978, an application for a preliminary permit was jointly filed by the Vanceburg Electric Light, Heat and Power System and the city of Vanceburg, Ky., for the proposed Smithland Locks and Dam Project No. 2859. The project would be located on the Ohio River in Livingston County, Ky., approximately 1.0 river miles upstream from the mouth of the Cumberland River, near the cities of Paducah, Smithland, and Calvert City, Ky., and Brookport and Metropolis, Ill. The project would affect navigable waters, about 75.0 acres of lands of the United States under control of the U.S. Army Corps of Engineers, and a Government dam. Correspondence regarding the application should be sent to: Mr. Philip P. Ardery, Brown, Todd & Heyburn, 1600 Citizens Plaza, Louisville, Ky. 40202.

According to the application, the proposed project would consist of: (1) a powerhouse on the Kentucky side of the Corps of Engineers Smithland Dam with generating units having an estimated installed capacity of 120,000 kW, the number, size and type of which will be determined in the course of the proposed study; (2) step-up transformers; (3) a substation; (4) a transmission line to the East Kentucky Power Cooperative, Inc. transmission system; (5) a proposed recreational development; and (6) all other facilities and interests appurtenant for operation of the project. The Applicants estimate the cost of construction as $191,400,000.

The Applicants intend to coordinate the project output with Projects Nos. 2245 and 2614 for which licenses have been issued by the Commission and with Project No. 2739 (Meldahl) for which an application is pending before the Commission. The output of the project would be used to meet the Applicants' system load requirements; any excess energy would be sold to East Kentucky Power Cooperative, Inc.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permitee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 22, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33559 Filed 11-29-78; 8:45 am]

[6450-01-M]

Office of Energy Technology

WESTERN NEW YORK NUCLEAR SERVICE CENTER OPTIONS STUDY

Release of Report; Public Conference; and Informational Public Hearing

The Department of Energy (DOE) will release for public review and comment the report on the results of the DOE Western New York Nuclear Service Center Study (West Valley, New York) on November 24, 1978.

To assist the public in its review, the DOE and Congressman Stanley N. Lundine will co-sponsor an informational conference to be held on Saturday, December 16, 1978, at 9:30 a.m. in the West Valley Central School Auditorium, West Valley, New York.

The conference is for the purpose of presenting to the public the results of the DOE study, including:

- Explanation of the range of alternatives and associated costs for the disposition and/or continued used of all or part of the center.
- Recommendation on the allocation of responsibilities and an analysis of how this recommendation was formulated.

There will be question/answer sessions and other discussion periods in which the public is invited to participate.

For further information on this session, contact:

Dr. Goetz K. Oertel, Acting Director, Division of Waste Products, Office of Nuclear Waste Management, Mail Station B-107, U.S. Department of Energy, Washington, D.C. 20545.

In addition, an informational public hearing will be held in the Buffalo area on January 13, 1979, for the purpose of soliciting comments on the study report. The time and location of this hearing will be announced at a later date.

The public will have 90 days from release of the report in which to submit their written comments regarding the study to the Department of Energy. These comments are to be received by Dr. Goetz Oertel at the above address postmarked no later than February 16, 1979. All written comments as well as comments received at the January 13 hearing will be submitted as an addendum to the report submitted to Congress.

Copies of the report can be obtained by writing:

Mr. Robert Low, Regional Representative, U.S. Department of Energy, Region II, New York State Regional Office, 26 Federal Plaza, New York, N.Y. 10007.

Issued in Washington, D.C., November 24, 1978.

ROBERT D. THORNE,
Assistant Secretary for Energy Technology.

[FR Doc. 78-33576 Filed 11-27-78; 4:05 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1016-3; PP 7G1900/T174]

PESTICIDE PROGRAMS

Establishment of Temporary Tolerances

Stauffer Chemical Co., Western Research Center, 1200 S. 47th St., Richmond, CA 94804 has submitted a pesticide petition (PP 7G1900) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for combined residues of the insecticide *0, 0*-dimethyl *0*-(4-nitro-m-tolyl) phosphorothioate and its metabolites *0, 0*-dimethyl *0*-(4-nitro-m-tolyl) phosphate and 3-methyl-4-nitrophenol in or on fresh alfalfa, alfalfa hay, fresh pasture grass, and pasture grass hay at 10.0 parts per million (ppm) and in milk, meat, fat and meat by-products of cattle, goats, horses, sheep, and hogs at 0.01 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Stauffer Chemical Co., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire February 16, 1979. Residues not in excess of 10 ppm remaining in or on fresh alfalfa, alfalfa hay, fresh pasture grass, and pasture grass hay and 0.01 ppm in milk, meat, fat and meat by-products of cattle, goats, horses, sheep and hogs after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. William Miller, Project Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, D.C. 20460 (202/755-9315)

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].)

Dated: November 21, 1978.

HERBERT S. HARRISON,
Acting Director, Registration Division.

[FR Doc. 78-33461 Filed 11-29-78; 8:45 am]

[6560-01-M]

[CAA (207) Docket No. 1; FRL 1017-3]

CHRYSLER CORPORATION

Issuance of Recall Order

On December 8, 1976, the Administrator of the Environmental Protection Agency ordered Chrysler Corporation to submit a plan to remedy an emissions nonconformity in Chrysler's 1975 F-B2-C and F-LA2L-C, CII, and CIII engine families (comprised of vehicles equipped with 360 and 400 cubic inch displacement engines, 2 barrel carburetors and catalytic converters). This recall order was issued pursuant to section 207(c)(1) of the Clean Air Act.

Chrysler contested this recall order at a formal adjudicatory hearing. On February 10, 1978, Administrative Law Judge Edward B. Finch, hearing examiner, issued an initial decision affirming the Administrator's recall determination and an order directing Chrylser to submit a plan to remedy the nonconformity in the subject vehicles. Chrysler filed a notice of appeal of Judge Finch's decision to the Administrator on February 14, 1978.

Notice is hereby given that the Administrator, by decision and order dated November 20, 1978, has upheld the decision of Judge Finch and ordered Chrylser to submit a plan for remedying the nonconformity in the subject vehicles. As stated in the decision, the Administrator found that the determinations therein are of nationwide scope or effect.

The decision and order of the Administrator is on file in the hearing clerk's office at the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., room 3709. The Administrator's order directing Chrysler to submit a plan to remedy the emissions nonconformity is set forth below.

Dated: November 24, 1978.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

U.S. ENVIRONMENTAL PROTECTION AGENCY BEFORE THE ADMINISTRATOR

In the Matter of Chrysler Corporation, *Respondent* [CAA (207) Docket No. 1].

ORDER

Findings having been made that a substantial number of vehicles in Chrysler's 1975 F-B2-C and F-LA2L-C, CII, and CIII engine families (comprised of vehicles equipped with 360 and 400 cubic inch displacement (CID) engines, 2 barrel carburetors and catalytic converters) do not conform to the 1975 Federal emission standard of 15 grams per vehicle mile for carbon monoxide (CO), (40 CFR 85.075-1(a)(1)(i)(b)), although properly maintained and used, when in actual use throughout their useful life, it is hereby ordered that Chrysler Corporation submit a plan for remedying the nonconformity to the Administrator in accordance with 40 CFR 85.1803 within 30 days from the date of this order.

Dated: November 20, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-33587 Filed 11-29-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

NATIONAL CITY CORP.

Formation of Bank Holding Co.

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The Huron County Banking Company, N.A., Norwalk, Ohio. The factors that are considered in acting on the application

other companies who are currently

the Public Health Service Act, as

HMO applications must have been

V 43 1 231 NOV 30 78

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 22, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office on or before January 2, 1979 and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33506 Filed 11-29-78; 8:45 am]

[6210-01-M]

TEXAS AMERICAN BANCSHARES, INC.

Acquisition of Bank

Texas American Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Citizens National Bank of Denison, Denison, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 22, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office on or before January 2, 1979 and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 22, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33507 Filed 11-29-78; 8:45 am]

[4110-86-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

ANNUAL REPORTS

Availability of Filing

Notice is hereby given that pursuant to Section 13 of Public Law 92-463 (5 U.S.C. Appendix I), Annual Reports for the following Center for Disease Control Committees have been filed with the Library of Congress:

Coal Mine Health Research Advisory Committee
Safety and Occupational Health Study Section
Immunization Practices Advisory Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, HEW North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone 202-245-6791.

Dated: November 24, 1978.

WILLIAM C. WATSON, Jr.,
Director,
Center for Disease Control.

[FR Doc. 78-33522 Filed 11-29-78; 8:45 am]

[4110-35-M]

Health Care Financing Administration

MEDICARE AND MEDICAID CONTRACTING

Comment Period Extended

Pursuant to the notice appearing in the FEDERAL REGISTER on November 1, 1978 (page 50970) regarding the report on Medicare and Medicaid contracting, the period for public comment has been extended to December 15, 1978.

Dated: November 22, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

[FR Doc. 78-33520 Filed 11-29-78; 8:45 am]

[4110-35-M]

PHARMACEUTICAL REIMBURSEMENT BOARD

Maximum Allowable Cost Limits for Certain Drugs; Extension of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: The comment period for amoxicillin 250 and 500 mg tablets and amoxicillin oral suspension 125 mg per 5 cc is hereby extended until January 2, 1979. The comment period for erythromycin (base) 250 mg tablets, hydrochlorothiazide HCl 25 mg and 50 mg tablets is extended until further notice.

DATE: End of comment period for amoxicillin January 2, 1979. The comment period for erythromycin (base) and hydrochlorothiazide will remain open until further notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-472-3820.

SUPPLEMENTARY INFORMATION: On August 31, 1978 the Pharmaceutical Reimbursement Board (Board) announced proposed MAC limits and a public hearing on October 18 and 19, for erythromycin (base) 250 mg tablets (see 43 FR 40547-8). On October 17, 1978, we announced that the hearing was rescheduled for November 1 and 2, 1978. (See 43 FR 47792). On September 12, 1978, we announced proposed MAC limits and a public hearing on November 1 and 2, for hydrochlorothiazide 25 and 50 mg tablets (See 43 FR 40547-8).

On October 27, 1978, FDA informed us that, "in light of the data we have recently received through the Board from Upjohn and directly from Merck regarding the quality of marketed hydrochlorothiazide and erythromycin products, we are advising the Board to delay MAC limits on these drugs until FDA has had an opportunity to fully evaluate the data presented in writing and at the scheduled hearings. This recommendation for a delay does not affect the recommendations on any of the other drugs in MAC Group 5, including erythromycin stearate."

On the basis of FDA's advice, we are leaving the record open and extending the comment period for erythromycin 250 mg tablets and hydrochlorothiazide HCl 25 and 50 mg tablets. When we have received FDA's evaluation of the Upjohn and Merck submissions, we will publish a notice in the FEDERAL REGISTER indicating that the record will close 15 days after that publication. Our current expectation is that we will publish this notice shortly after the first of the year.

In reference to the amoxicillin drugs, on August 31, 1978, we announced proposed MAC limits and a public hearing on October 18 and 19 for the amoxicillin drugs (See 43 FR 47792). During the comment period Beecham Inc., submitted a written comment which claimed that Beecham was the sole owner of the U.S. patents covering amoxicillin, and that with the exception of one other firm, all other companies who are currently distributing amoxicillin in the United States are doing so without authorization from Beecham to manufacture or sell amoxicillin. In order to resolve the issues raised by Beecham, we are leaving the record open and extending the comment period for amoxicillin 250 mg and 500 mg capsules and amoxicillin oral solution 125 mg and 250 mg per 5 cc until January 2, 1979.

Dated: November 22, 1978.

PETER RODLER,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 78-33531 Filed 11-29-78; 8:45 am]

[4110-85-M]

Public Health Service

HEALTH MAINTENANCE ORGANIZATIONS

Applications

AGENCY: Public Health Service, HEW.

ACTION: Notice inviting applications for financial assistance.

SUMMARY: This notice sets forth requirements for submission of applications for financial assistance by eligible organizations proposing to develop a health maintenance organization (HMO) or expand a qualified HMO.

ADDRESSES: Application forms and instructions may be obtained by writing the Regional Health Administrator in the appropriate Regional Office of the Department of Health, Education, and Welfare at the addresses set forth at 45 CFR 5.31(b).

FOR FURTHER INFORMATION CONTACT:

Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301-443-4106.

SUPPLEMENTARY INFORMATION: Notice is hereby given that eligible organizations may submit applications for financial assistance for the development and initial operation of HMO's, and for their significant expansion, under title XIII of the Public Health Service Act (42 U.S.C. 300e et seq.). The last notice of this type was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7708-9).

PROJECTS NOT CURRENTLY FUNDED UNDER TITLE XIII

New applications may be submitted at any time to the appropriate Department of Health, Education, and Welfare (DHEW) Regional Office by eligible organizations proposing to develop an HMO or expand a qualified HMO under sections 1303, 1304, and 1305 of the Public Health Service Act, as amended, and 42 CFR part 110. The Department may, at a later date, set priorities for funding HMO feasibility applications (section 1303 of the act). If priorities are established, they will be published in the FEDERAL REGISTER. Eligible organizations are encouraged to submit their applications as soon as possible.

It is anticipated that a 120-day review period will be required between receipt of the application in the HEW Regional Office and final disposition. All applicants will be notified of the final action on their applications, and awards will be made as soon as possible by the appropriate HEW Regional Office.

PROJECTS CURRENTLY FUNDED UNDER TITLE XIII

The Department wishes to respond to the different rates of progress of HMO feasibility, planning, and initial development projects, and to their different beginning dates of initial operations. Therefore, applications will be accepted and considered on a individual basis for continuation funding or for funding of subsequent levels of progress as completion of the appropriate activities under the previously funded project is demonstrated. Applications for continuation funding or for funding of subsequent levels may be submitted either for development of HMO's in the first instance or for the significant expansion of qualified HMO's. It is estimated that a 120-day review period will be required between the receipt and final action on each of these applications. Therefore, applications must be submitted to the appropriate DHEW Regional Office at least 120 days prior to the anticipated date of award.

OFFICE OF MANAGEMENT AND BUDGET—CIRCULAR NO. A-95 REQUIREMENT

It should be noted that applicants requesting Federal financial assistance under title XIII of the Public Health Service Act are subject to the Office of Management and Budget Circular No. A-95 requirements in addition to the application requirements of title XIII and 42 CFR part 110. Any agency of State or local government or any organization or individual undertaking to apply for assistance for a project thereto under a Federal program covered by the OMB circular A-95 will be required to notify both the State and areawide planning and development clearinghouse in the jurisdiction where the project is to be located, of its intent to apply for assistance at such time as it determines it will develop an application. Clearinghouses may take a total of 60 days to consider the applicant's notification of intent or completed application or both. All HMO applications must have been submitted for clearinghouse comments before a competitive review is made by DHEW of the application. Applicants are advised to submit such notifications and completed applications at the earliest possible date in order to be able to meet the schedule for grant review.

HEALTH SYSTEMS AGENCY OR STATE HEALTH PLANNING AND DEVELOPMENT AGENCY REVIEW AND COMMENTS

Applicants are required to submit their applications to the appropriate Health Systems Agency (HSA) or State Health Planning Agency (SHPDA) for review and comment in accordance with the requirements of title XIII of the Public Health Service Act and 42 CFR § 110.204. If the HSA of SHPDA elects to exercise its review and comment function, it may take up to 60 days to submit its comments and recommendations regarding the application.

Dated: November 22, 1978.

HOWARD R. VEIT,
Director, Office of Health Maintenance Organizations.

[FR Doc. 78-33478 Filed 11-29-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[4310-84]

MONTANA

Wilderness Inventory

NOVEMBER 22, 1978.

Notice is hereby given that the Bureau of Land Management is conducting wilderness inventories on certain public lands in Montana. The inventories, which will follow the guidelines established by the Bureau, are the first step in the wilderncss review process on public lands.

These inventories are being conducted in the following project areas in advance of the statewide inventory in order to meet time commitments previously established for the projects: Northern Tier Pipeline Corridor—Butte and Miles City Districts.

Public meetings are being scheduled in the following communities in order to analyze draft wilderness inventory maps and narratives prepared for the affected areas:

Jordan—December 6, 11 a.m.-7 p.m., VFW Hall.
Terry—December 7, 7 p.m.-9 p.m., Prairie County District Grazing Office.
Missoula—December 7, 7:30 p.m.-10 p.m., Missoula City-County Library.
Ovando—December 13, 7:30 p.m.-10 p.m., Ovando School Gymnasium.

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FOR FURTHER INFORMATION CONTACT:

George H. Neuburg, District Manager, Miles City District Office, BLM, P.O. Box 940, Miles City, Montana 59301.

Jack McIntosh, District Manager, Butte District Office, BLM, 220 North Alaska, P.O. Box 308, Butte, Montana 59701.

EDWIN ZAIDLICZ,
State Director.

[FR Doc. 78-33480 Filed 11-29-78; 8:45 am]

[4310-84-M]

[NM 35272, 35279, 35284 and 35285]

NEW MEXICO

Applications

NOVEMBER 20, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 34, NW¼SW¼.
T. 30 N., R. 9 W.,
Sec. 30, lot 4.
T. 30 N., R. 10 W.,
Sec. 9, lots 3 and 4;
Sec. 15, lot 5;
Sec. 25, lots 10, 15 and 16.

These pipelines will convey natural gas across 0.784 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 78-33485 Filed 11-29-78; 8:45 am]

[4310-84-M]

[U-41356, U-41357]

UTAH

Application

NOVEMBER 22, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 24 E.,
Secs. 5, 6 and 7.

The needed rights-of-way are a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

DELL T. WADDOUPS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33524 Filed 11-29-78; 8:45 am]

[4310-84-M]

[U-41685]

UTAH

Application

NOVEMBER 22, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 24 E.,
Secs. 17, W½NE¼.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah, 84532.

DELL T. WADDOUPS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33536 Filed 11-29-78; 8:45 am]

[4310-84-M]

[U-41355]

UTAH

Application

NOVEMBER 22, 1978.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 24 E.,
Sec. 31, E½NW¼; S½NE¼

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, UT 84532.

DELL T. WADDOUPS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33537 Filed 11-29-78; 8:45 am]

[4310-84-M]

WESTERN LEG OF ALASKA NATURAL GAS TRANSMISSION SYSTEM

Wilderness Inventory in California; Meeting

NOVEMBER 24, 1978.

The Bureau of Land Management will hold a public meeting January 3, 1979, on the Wilderness Inventory of the California portion of the Western Leg of the Alaska Natural Gas Transmission System. the meeting will be held from 7:30 to 9 p.m., Wednesday, January 3, 1979, at the Redding District Office, 355 Hemsted Drive, Redding, Calif. 96001.

The purpose of the meeting is to inform the public, answer questions, and accept written comments on (1) the findings of the inventory of the wilderness values associated with the Western Leg of the Alaska Natural Gas Transmission System in California and (2) the State Director's proposed decision concerning the wilderness values associated with the California portion of the Western Leg of the Alaska Natural Gas Transmission System. Detailed maps and narrative evaluations of the inventoried areas will be available at the meeting.

Written comments adding factual information to the wilderness inventory and commenting on the proposed decision will be accepted at the meeting. Comments will be accepted throughout a 60-day comment period initiated by publication of the Inventory and announcement of the proposed decision expected to be November 30, 1978.

For further information write the District Manager, 355 Hemsted Dr., Redding, Calif. 96001 or phone 916-246-5325.

The complete inventory and detailed maps and photographs may be reviewed at the Redding District Office, 355 Hemsted Dr., Redding, Calif. 96001, during normal business hours (7:45 a.m. to 4:30 p.m.) Monday through Friday.

STANLEY D. BUTZER,
District Manager.

[FR Doc. 78-33523 Filed 11-29-78; 8:45 am]

[4310-84-M]

WILDERNESS INVENTORY

Commencement and Availability of Handbook

AGENCY: Colorado State Office, Bureau of Land Management, Interior

ACTION: Notice

SUMMARY: This notice announces the commencement of the statewide wilderness inventory in Colorado and the availability of the Wilderness Inventory Handbook to guide the wilderness inventory process. The inventory, to identify the roadless areas of 5000 acres or more of contiguous public land with wilderness characteristics as wilderness study areas, is the first step in the wilderness review process. The next step of the review process will be studies to determine which of these areas will be recommended as suitable or nonsuitable for wilderness disignation by Congress as part of the National Wilderness Preservation System. The Wilderness Inventory Handbook is available form the State and District Offices.

ADDRESSES: Bureau of Land Management, Colorado State Office, Rm. 700, Colorado State Bank Bldg., Denver, Colorado 80202; Bureau of Land Management, Canon City District, 3080 East Main Street, Canon City, Colorado 81212; Bureau of Land Management, Craig District, 455 Emerson Street, P.O. Box 248, Craig, Colorado 81625; Bureau of Land Management, Grand Junction District, 764 Horizon Drive, Grand Junction, Colorado 81502; Bureau of Land Management, Montrose District, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81401.

FOR FURTHER INFORMATION CONTACT:

Public Affairs at the Colorado State Office at the above address or call 303/837-4481.

Dated: November 20, 1978.

CHARLES W. LUSCHER,
Acting Colorado State Director, Bureau of Land Management.

[FR Doc. 78-33479 Filed 11-29-78; 8:45 am]

[4310-84-M]

[W-65472]

WYOMING

Application

NOVEMBER 20, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 12¾ inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R 93 W.,
Sec. 20.
T. 18 N., R. 94 W.,
Secs. 20, 22 and 24.
T. 18 N., R. 95 W.,
Secs. 20, 22 and 24.

The proposed pipeline will extend from a well located in the SW¼ of section 13, T. 18 N., R. 96 W., Sweetwater County, Wyoming to a point of connection with an existing gathering line located in the SW¼ of section 21, T. 18 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their names and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Mineral Operations.

[FR Doc. 78-33486 Filed 11-29-78; 8:45 am]

[4310-84-M]

[W-65821]

WYOMING

Application

NOVEMBER 20, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4¼ inch O.D. pipeline and related facilities consisting of a meter house and dehydrator for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 93 W.,
Sec. 2, lots 7, 8 and 10;
T. 19 N., R. 93 W.,
Sec. 34, SE¼ SW¼ and S½SE¼.

The proposed pipeline will transport natural gas from the Sun Federal #1-34 well located in the SE¼SW¼ of section 34, T. 19 N., R. 93 W., to a point of connection on a pipeline being constructed under right-of-way application W-64692 in lot 10, section 2, T. 18 N., R. 93 W., all within Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33525 Filed 11-29-78; 8:45 am]

[4310-84-M]

[C-070338 Amendment]

WYOMING

Application

NOVEMBER 21, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyoming filed an application to amend their existing right-of-way, C-070338 to relocate a portion of their existing 10-inch pipeline for the purpose of transporting crude oil and other synthetic liquid fuels across the following described public lands:

NO 30 78

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 58 N., R. 100 W.,
sec. 23, S½NE¼ and NW¼SE¼.

The proposed 10-inch pipeline will replace and relocate a portion of the existing pipeline and will transport crude oil and other synthetic fuels from a point on their existing 10-inch pipeline located in the NW¼SE¼ to a point located in the SE¼SE¼ of section 24, all within T. 58 N., R. 100 W., Park County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-33526 Filed 11-28-78; 8:45 am]

[4310-10-M]

Office of the Secretary

[INT FES 78-36]

SILVER CITY, OWYHEE COUNTY, IDAHO

Availability of Final Environmental Statement

Pursuant to Section 102 (2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the disposition of the historic mining town of Silver City, Idaho. A limited number of copies of the final statement are available upon request to Boise District Office, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702 and Idaho State Office, Bureau of Land Management, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724.

The final environmental statement incorporates comments on the draft environmental statement which was made available to the public on April 28, 1978. The draft statement was the subject of a public hearing in Boise, Idaho, on May 25, 1978.

Public reading copies will be available at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, Telephone: 202-343-5717.
Idaho State Office, Bureau of Land Management, Federal Building, 550 W. Fort Street, Boise, Idaho 83724, Telephone: 208-384-5717.
Boise District Office, Bureau of Land Management, 230 Collins Road, Telephone: 208-384-1582.
Coeur d' Alene District Office, Bureau of Land Management, 1808 N. Third Street, Coeur d' Alene, Idaho 83814, Telephone: 208-667-2561.
Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: 208-522-7460.

Dated: November 24, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

[FR Doc. 78-33505 Filed 11-29-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

NATIVE AMERICAN CHURCH

Notice to Special Exempt Persons

SUMMARY: The purpose of this notice is to inform all interested parties of a proposed meeting, the purpose of which is to establish means for the legitimate distribution of peyote to members of the Native American Church. Title 21, Section 1307.31 of the Code of Federal Regulations specifically exempts members of the Native American Church from the registration requirement under the Controlled Substances Act for the use of peyote in bona fide religious ceremonies. Both the Drug Enforcement Administration and the Native American Church are aware of past difficulties caused by unauthorized persons obtaining sacramental peyote from authorized distributors. This problem results from the difficulty in identifying bona fide church members. Therefore, the Drug Enforcement Administration has sent the following letter of invitation to all known legitimate branches of the Native American Church or their representatives to discuss procedures which can be implemented to prevent unauthorized persons from obtaining peyote and thereby ensuring that adequate amounts of it will be available for legitimate prayer services:

Dear ————: As you are aware from our past conversations, there has been a problem of unauthorized persons obtaining sacrament peyote from authorized distributors due to the difficulty of identifying bona fide church members. Many members of the various branches of the Native American Church have asked The Drug Enforcement Administration to assist in preventing these nonchurch members from obtaining the peyote since this creates a shortage of peyote for legitimate prayer services and its misuse by these persons harms the Church's image. The Drug Enforcement Administration has suggested a standard order authorization be used by all bona fide branches of the Church. The Drug Enforcement Administration would endorse the order as the only order by which authorized distributors could release the peyote to church custodians. Those seeking to misuse the peyote would not have access to the standard order format.

Therefore, the Drug Enforcement Administration has been invited by Mr. Emerson Jackson, Native American Church of North America, to call together representatives of all known legitimate branches of the Native American Church to discuss this distribution method. Mr. Jackson has tentatively scheduled a meeting and prayer service at the Omaha Tribal Cultural Building, Macy, Nebraska, on December 15, 1978, at 10:00 AM. The Drug Enforcement Administration, along with the Native American Church of North America, would like to invite you, or a senior representative, to attend this meeting, so all branches of the church and the Drug Enforcement Administration may mutually agree upon a procedure to protect the sacramental peyote from those seeking to misuse it. Please direct your response to my attention by November 30, 1978. If you should have any questions, please feel free to contact me at 202-633-1321.

Sincerely,

RONALD W. BUZZEO,
Chief, Compliance Division.

Any interested party seeking information regarding the meeting should contact: Mr. Ronald W. Buzzeo, Chief, Compliance Division, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, 1405 Eye Street, N.W., Room 518, Washington, D.C. 20537, 202/633-1321.

Dated: November 24, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-33582 Filed 11-29-78; 8:45 am]

[4410-18-M]

Law Enforcement Assistance Administration

RESEARCH GRANT PROGRAM

Solicitation

The National Institute of Law Enforcement and Criminal Justice (NILECJ) announces a competitive research grant program aimed at developing a fuller understanding of the knowledge utilization process in criminal justice. The goal of this research program is to contribute to the improvement of NILECJ's efforts to promote the effective transformation of the results of criminal justice research and development into criminal justice policy and practice.

The solicitation asks for the submission of preliminary proposals rather than formal applications. Proposals will be reviewed by a panel designated by NILECJ. Requests for formal applications will be based on the results of this review process in accordance with the criteria set forth in the solicitation.

In order to be considered, all preliminary proposals must be received by January 31, 1979. Formal applications will be invited in March. Grant award is planned for May, 1979 with funding support not to exceed $350,000 for the two-year period. NILECJ's intent to support the research program for three additional years is described in the solicitation.

Further information and copies of the solicitation can be obtained by contacting: Frank Shults, Model Program Development Division, Office of Development, Testing and Dissemination, NILECJ, 633 Indiana Avenue, NW., Washington, D.C. 20531, (301) 492-9090.

BLAIR G. EWING,
Acting Director, NILECJ.

[FR Doc. 78-33482 Filed 11-29-78; 8:45 am]

[3510-12-M]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting on Thursday and Friday, December 14-15, 1978. The sessions will be open to the public and will be held in Room 416, Page Building Number 1, 2001 Wisconsin Avenue, N.W., Washington, D.C. The session on Thursday will begin at 9:00 a.m.; the Friday session at 8:00 a.m.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local government, industry, science, and other appropriate areas, was established by the Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

THURSDAY, DECEMBER 14, 1978

9 a.m.—Plenary Session (Room 416, Page Bldg. 1) Meeting Plans, Chairman.
9:30 a.m.—Working Group Sessions, R&D Panel (Room 401, Page Bldg. 2), Dr. J. Knauss. Ocean Use Panel (Room 416, Page Bldg. 1), Coastal Zone Management Legislation, Dr. E. Murphy.
12 Noon—Lunch.
1 p.m.—Working Group Sessions (continued), R&D Panel (Room 401, Page Bldg. 2), Dr. J. Knauss. Reorganization Panel (Room 416, Page Bldg. 1), Mr. M. Dubs.
5 p.m.—Adjourn.

FRIDAY, DECEMBER 15, 1978

8 a.m.—Plenary Session (Room 416, Page Bldg. 1), Future Plans, Chairman.
9 a.m.—CZM Act Amendments, Dr. E. Murphy.
10 a.m.—Reorganization Study, Mr. M. Dubs.
12 Noon—Lunch.
1 p.m.—Plenary Session (Room 416, Page Bldg. 1), Reorganization Study (continued), Mr. M. Dubs.
3 p.m.—Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, N.W. (Room 434, Page Building 1), Washington, D.C. 20235. The telephone is (202) 254-8412.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc. 78-33710 Filed 11-29-78; 8:45 am]

[4410-01-M]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

CORRECTION OF MEETING NOTICE

Notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures will hold a public meeting on Thursday, December 7, 1978, rather than on Friday, as previously indicated in FR Doc. 78-32749 November 22, 1978, at 43 FR 54705. The meeting will begin at 9:30 a.m. in Room 2141, Rayburn House Office Building, Independence and South Capitol Streets, SW., Washington, D.C.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 78-33509 Filed 11-29-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-321]

GEORGIA POWER CO. ET AL.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to delete the existing Appendix B Environmental Technical Specifications (ETS) and adopt the ETS approved for Hatch Unit 2 which were issued by the Commission June 13, 1978.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than has already been predicted and described in the Commission's Final Environmental Statement for Hatch Unit 2.

For further details with respect to this action, see (1) the application for amendment dated June 7, 1978, (2) Amendment No. 61 to License No. DPR-57, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library,

Parker Street, Baxley, Georgia 31513. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of November 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-33497 Filed 11-29-78; 8:45 am]

[7590-01-M]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D5, "Safety Guide on Man-Induced Events," has been developed. The Working Group, consisting of Mr. K. Guenther, Federal Republic of Germany; Mr. V. Ramachandran, India; Mr. J. F. Costello and Mr. J. O'Brien (U.S. Nuclear Regulatory Commission), United States of America, developed the initial draft of this Safety Guide from an IAEA collation during meetings on November 15-26, 1976 and October 24-28, 1977. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Design which met in September 1978, and we are soliciting public comments on this modified draft. Comments on this draft received by January 15, 1979 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md. this 17th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-33498 Filed 11-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-320]

METROPOLITAN EDISON CO., ET AL. (THREE MILE ISLAND NUCLEAR STATION, UNIT NO. 2)

Order

NOVEMBER 21, 1978.

The evidentiary hearing on the aircraft crash probability issue will commence at 9:00 a.m. on Monday, December 11, 1978 in the Majority Caucus Room of the Pennsylvania House of Representatives, Main Capitol Building, Harrisburg, Pennsylvania.

All parties shall promptly acknowledge receipt of this notice by letter to the Secretary to the Board. In addition, each party shall inform the Secretary, no later than December 4, 1978 of the name(s) of the counsel or other representative who will appear at the hearing on its behalf.

It is so ordered.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-33490 Filed 11-29-78; 8:45 am]

[7590-01-M]

[Docket No. PRM-20-12]

PAN AMERICAN WORLD AIRWAYS, INC.

Filing of Petition for Rulemaking

Notice is hereby given that Pan American World Airways, Inc., by letter dated October 17, 1978, has filed with the Nuclear Regulatory Commission a petition for rulemaking to amend the Commission's regulation "Standards for Protection Against Radiation," 10 CFR Part 20.

The petitioner requests the Commission to amend the definition of "radiation area" in 10 CFR 20.202(b)(2). The petitioner states that:

I submit that the present definition and requirements for labeling of a radiation area may not be appropriate in view of 10 CFR 20.105, "Permissible Levels of Radiation in Unrestricted Areas."

In 10 CFR 20.105, it is implied that restrictions may be necessary in any area where radiation levels could exceed either 2 mRem in an hour, 100 mRem in 7 consecutive days or is likely to exceed 500 mRem in a year.

In 10 CFR 20.202(b)(2), a radiation area is defined as "any area accessible • • • that a major portion of the body could receive in any one hour a dose in excess of 5 mRem, or in any 5 consecutive days a dose in excess of 100 mRem." Also, a radiation area is required to be appropriately posted with a warning (10 CFR 20.203(b)).

The petitioner proposes that 10 CFR 20.202(b)(2) be amended to read as follows:

"Radiation area" means any area accessible to personnel in which there exists radiation, originating in whole or in part within licensed material, at such levels that a major portion of the body could receive in any one hour a dose in excess of 2 mRem, or in any 7 consecutive days a dose in excess of 100 mRem, or is likely to receive a dose in excess of 500 mRem in any calendar year.

The petitioner offers the following basis or justification for the requested amendments:

1. Under present requirements, an area may require restriction due to the presence of radiation, but that area may not necessarily be required to be posted with a warning. Any area which is restricted because of the presence of an increased hazard level should be posted with a sign that will warn or instruct any individual entering the area of the hazard involved. This should be consistent with OSHA 29 CFR 1910.145(a), (b), (c).

2. This proposition better illustrates the close interrelationship between a restricted area and a radiation area. It simplifies understanding of this interrelationship by removing unnecessary complicating differences between the two definitions.

3. The proposed change would provide, as a byproduct, more complete posting and, thus, be consistent with the spirit of 10 CFR 19.12.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC. A copy of the petition may be obtained by writing the Division of Rules and Records at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, on or before January 29, 1979.

Dated at Washington, D.C. this 24th day of November 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-33491 Filed 11-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications by: (1) revision of the specification as a result of Safety Relief Valve regrouping and setpoint changes; (2) revision of the specification to reflect reactor refueling using the General Electric 8x8R fuel; and (3) revisions to reflect miscellaneous minor changes to correct editorial errors in the current specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 18, 1978, (2) Amendment No. 43 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego County. Office Building, 46 East Bridge Street, Oswego, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of November, 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-33499 Filed 11-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to reflect the installation of the Analog Transmitter/Trip Unit System (ATTUS).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 10, 1978, (2) Amendment No. 42 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oswego County Office Building, 46 East Bridge Street, Oswego, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of November 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-33500 Filed 11-29-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Diesel-generator units have been widely used as the power source for the onsite electric power systems for supplying essential loads when offsite power sources are not available. Regulatory Guide 1.9, Revision 1, "Selection, Design, and Qualification of Diesel-Generator Units Used as Onsite Electric Power Systems at Nuclear Power Plants," describes a method acceptable to the NRC staff for ensuring that diesel-generator units intended for use as onsite power sources in nuclear power plants be selected with

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sufficient capacity and be qualified for this service.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.9, Revision 1, will, however, be particularly useful in evaluating the need for an early revision if received by January 26, 1979.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5.U.S.C. 552(a))

Dated at Rockville, Maryland this 21st day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-33503 Filed 11-29-78; 8:45 am]

[7590-01-M]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977, the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 5.4.2.1 (Steam Generator Materials) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1974 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements along are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 5.4.2.1 is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

(5 U.S.C. 552(a)).

Dated at Bethesda, Md. this 20 day of November 1978.

For the Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-33504 Filed 11-29-78; 8:45 am]

[7590-01-M]

[PRM-2-5]

STATE OF NEW HAMPSHIRE

Filing of Petition for Rule Making

Notice is hereby given that the State of New Hampshire through its Office of the Attorney General, by letter dated October 31, 1978, has filed with the Nuclear Regulatory Commission a petition for rule making. The petitioner requests the Nuclear Regulatory Commission to conduct a joint proceeding with the Council on Environmental Quality, Environmental Protection Agency, Secretary of the Army, Secretary of the Interior, Secretary of State, and Secretary of Transportation, to adopt rules designed to achieve efficiency in the grant or denial of all licenses required for the construction and operation of nuclear power facilities. The petitioner states that the results sought by its petition include, but are not limited to the following:

1. The designation of the Nuclear Regulatory Commission as the sole depository for all applications for all licenses or other federal authorizations required for the construction and operation of nuclear power facilities, and all documents related to such applications.

2. The conduct of a single, joint, consolidated, hearing on such applications for all agencies involved, including the compilation of a single record, when a hearing is required. The "hearing" to include all processing of an application on an after its filing.

3. The establishment of a joint decision making procedure, to be employed after the compilation of a record, wherein all involved agencies will participate, and render a joint decision disposing of all issues raised, specifying all limitations on the conduct of the applicant, and specifying all design changes required of the applicant in order to accommodate the needs of all agencies involved in the licensing process.

4. The development and publication of more detailed requirements for the form and content of all applications required for the construction and operation of such facilities.

5. The widest popular notice of the making of such applications at the time of tendering and at the time of filing of such applications. Such notice to include printed notices in local and regional newspapers, and local and regional radio and television broadcasts, in addition to personal notice to executive officers of local and State governmental units.

6. The requirement that the involvement by persons other than the applicant and the licensing agency in the processing of such applications be commenced at the outset, or not at all.

7. The requirement that the issues and the positions of all involved persons be determined and fixed at an early stage of the processing of applications.

8. The designation of firm deadlines for all stages of the processing of such applications, and the provision of an automatic result, favorable to the applicant, if the agency has not acted to complete a stage of the processing at the deadline for that stage.

9. The establishment of a fixed period of time for the total processing of such applications, and the provision of an automatic result, favorable to the applicant, if the agency has not issued a final order by the expiration of the fixed period.

10. The provision of safeguards regarding results numbered 8 and 9, to include:

(a) That the time consumed by the applicant in responding to agency requests for data shall not be included in such fixed periods; and

(b) That the agencies shall automatically make those findings of fact and conclusions of law necessary to support the granting of licenses to the applicant; and

(c) That such fixed periods shall not commence to run until an application, completed in accordance with agency rules, has been filed by the applicant.

11. Uncontested applications which nevertheless require a hearing be sent directly to the agency head (the joint decision making group) for approval after the applicant and agency staff have resolved any differences.

12. Require that the Advisory Committee on Reactor Safeguards review the application at the same time as the staff, and that the committee report its findings at a time certain, without reservation of issues for further consideration.

13. When a contested application is referred to an administrative law judge, or an Atomic Safety Licensing Board (the joint presiding officer) for initial decision, the application shall not be returned to the staff of the agency. All data shall be received by the presiding officer, and evaluated in the initial decision.

14. Elimate the Atomic Safety Licensing Appeal Board.

15. Provide for the applicant to prepare a draft environmental impact statement based upon its environmental report, and the comments and the data submitted regarding that report. Further provide for the agency staff to evaluate that draft, make any changes deemed desirable by the staff, and issue the resulting draft as its own. Further provide, that, if the staff does not issue a draft statement by a date certain, the draft prepared by the applicant shall be circulated as the staff's draft environmental impact statement.

16. Provide a fixed period for the completion of a final environmental impact statement, with an express grant of authority to the applicant to apply to a court for an order compelling the issuance of such a statement within a time certain. Further provide for no opposition to such an order.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of the petition may be obtained by writing the Division of Rules and Records at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or before January 29, 1979.

Dated at Washington, D.C. this 24th day of November 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-33493 Filed 11-29-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-259, 50-260, and 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR-33, Amendment No. 41 to Facility Operating License No. DPR-52 and Amendment No. 18 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

Amendment No. 18 changes the Technical Specifications to incorporate the limiting conditions for operation associated with the initial 2000 megawatt days per tonne (MWD/t) fuel exposure during the second fuel cycle for Unit No. 3. The amendments also incorporate minor changes in the test setups to be used to test certain primary containment isolation and check valves.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 3, 1978, as supplemented by letter dated October 20, 1978, (2) Amendment No. 45 to License No. DPR-33, Amendment No. 41 to License No. DPR-52, and Amendment No. 18 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of November 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-33501 Filed 11-29-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-566, 50-567]

TENNESSEE VALLEY AUTHORITY (YELLOW CREEK NUCLEAR PLANT, UNITS 1 AND 2)

Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of November 9, 1978, oral argument on the appeal of the NRC staff from the February 3, 1978 partial initial decision of the Licensing Board in this construction permit proceeding will be heard at *10:00 a.m. on Wednesday, December 6, 1978*, in the Commission's public hearing room on the 5th floor of the East West Towers Building, 4350 East West Highway, Bethesda, Maryland.

For the Atomic Safety and Licensing Appeal Board.

Dated: November 22, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-33492 Filed 11-29-78; 8:45 am]

[7590-01-M]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to permit operation with a modified ECCS recirculation cooling subsystem and deletes the provisions of the Technical Specifications which will not be required for operation of the facility with the modified ECCS subsystem.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

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The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 6, 1978 (Proposed Change No. 160) and a supplement thereto dated August 22, 1978, (2) Amendment No. 52 License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of November, 1978.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-33502 Filed 11-29-78; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-48]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability

Aviation Safety Recommendations Nos. A-78-84 through A-78-89.—On March 1, 1978, a Continental Airlines DC-10 crashed off the end of runway 6R at Los Angeles International Airport after two tires suddenly blew out on the left main gear at an airspeed slightly below V_1. Although the crew promptly rejected the takeoff before V_1 was attained and used all of the available deceleration devices, the aircraft overran the end of the wet, grooved 10,285-foot runway at 68 knots.

The National Transportation Safety Board believes that this accident illustrates a number of shortcomings in the certification of aircraft and in the training of aircrews to effectively accomplish rejected takeoffs under the most critical conditions of speed, weight, runway condition, and the reasons for initiating rejected takeoffs.

In the recommendation letter forwarded November 17 to the Federal Aviation Administration, the Safety Board notes that 14 CFR Part 25, "Airworthiness Standards: Transport Category Airplanes," defines the certification requirements for normal and rejected takeoffs (RTO). The associated takeoff speeds and accelerate-stop distances are predicated on recognition of an engine failure at V_1 on a smooth, dry, and hard-surfaced runway. The Board states that these requirements do not address the accident conditions of failed tires and wet runway surfaces, each of which may add a considerable stopping distance increment to that presently required to be demonstrated during certification.

Further, the Board notes that in contrast to the dry runway RTO certification stopping requirement, 14 CFR Part 121 provides an operational safety stopping margin for landings on wet runways. A landing aircraft is required to stop on a dry runway within 60 percent of the effective runway length. The runway length used for this calculation is increased by 15 percent for wet or slippery conditions. In effect, Part 121 establishes a wet runway length that is more than twice the distance demonstrated for stopping the aircraft during dry runway certification tests. However, even though Part 121 provides for corrections to takeoff weights, distances, and flightpaths required by density altitude, wind, and runway slope during normal and rejected takeoffs, it does not similarly require corrections for the added stopping distance required by rejected takeoffs initiated by engine or tire failures on wet or slippery runways.

Accordingly, the Safety Board recommends that the Federal Aviation Administration:

Review and revise the accelerate-stop criteria required to be demonstrated during aircraft certification and used during operations to insure that they consider the effects of wet runway conditions and the most frequent and critical causes of rejected takeoffs. (A-78-84)

Evaluate, with industry, the British Civil Aviation Authority wet runway normal and rejected takeoff requirements for applicability as a U.S. standard. (A-78-85)

Revise Advisory Circular 121-14 to provide guidance on (1) programming aircraft simulators to account for the degradation of aircraft deceleration performance on wet runways during landings and rejected takeoffs and (2) installing instrumentation to enable evaluation of pilot performance during RTO's on critical length runways, particularly the response times in activating stopping devices and the level of brake application to insure that such performance is compatible with a minimum-distance stop. (A-78-86)

Insure that pilot training programs include appropriate information regarding optimum rejected takeoff procedures at maximum weights, on wet and dry runways, and at speeds at or near V_1, and for rejected takeoffs which must be initiated as a result of engine or tire failures. (A-78-87)

Encourage operators of turbine engine-powered aircraft to include in flight manuals the maximum use of aircraft deceleration devices when at RTO is initiated at or near decision speed (V_1) on wet or dry runways of critical length. (A-78-88)

Develop and publish an Advisory Circular, or include in other appropriate documents available to air carrier and other pilots, general accelerate-stop performance data for RTO's on wet runways necessitated by engine and tire failures. Emphasize the need for maximum braking procedures when an RTO is required at high gross weights and speeds. (A-78-89)

Each of the above recommendations is designated "Class II—Priority Action."

Pipeline Safety Recommendations Nos. P-78-66 and P-78-67.—At 12:02 a.m., c.d.t., on August 4, 1978, propane that had vaporized and spread widely from a ruptured 8-inch liquefied petroleum gas (LPG) pipeline owned by the MidAmerica Pipeline System (MAPCO) was ignited by an unknown source in a rural area near Donnellson, Iowa. The intense fire killed two persons and critically burned three others as they fled their homes; one of the critically burned persons later died. A farmhouse and six buildings were destroyed, and two adjacent homes were damaged.

MAPCO extends from west Texas to Conway, Kans., where it forms two branches—one extending to Minneapolis, Minn., and the other to Janesville, Wisc.—more than 5,000 miles of multiple lines from 4 inches to 12 inches in diameter. The section of pipeline involved in this accident extended from Birmingham Junction, Iowa, to Farmington, Ill.—116 miles. Although the line was not operating when it failed, it was under a static pressure of over 1,200 psig at the rupture.

Safety Board investigation of this accident is continuing; a probable cause has not yet been determined. During the public hearing which the Board recently conducted, safety problems were identified which require MAPCO's prompt attention. The company's emergency procedure plan was found to be obsolete. Lists of individuals to be contacted included people who had died. The leak was finally isolated, not due to company procedures, but because a local resident acted resourcefully. It was also noted that the volunteer fire departments responding to the emergency had never received any instruction on handling LPG emergencies; MAPCO's emergency plan calls for such instruction and education of local emergency response units.

Accordingly, the Safety Board on November 20 recommended that MidAmerica Pipeline system:

Update the list of individuals who should be contacted to close specific valves in the event of an emergency and institute a procedure to assure that the list is updated at least annually. (P-78-66)

Conduct periodic training for public emergency response agencies along the route of its pipelines. As a minimum, this training should be conducted annually and be sufficient to inform emergency response agencies of the properties of the various products transported, the expected behavior of each product when released to the atmosphere, the locations of shutdown valves, the residents designated to operate each valve, and other information necessary for emergency response personnel to take effective actions and minimize losses. (P-78-67)

Each of these two recommendations is designated "Class I—Urgent Action."

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-78-18 through A-78-20.—Letter of November 16 from the Federal Aviation Administration responds to the Safety Board's October 5 letter commenting on FAA's response dated September 11 (see 43 FR 46089, October 5, 1978). The recommendations called for more detailed information about mountain pass routes to be depicted on sectional charts. The Board's recommendation letter cited several fatal crashes which occurred when pilots became trapped in box canyons while attempting to cross mountain passes.

The Board on October 5 was pleased to note that FAA is taking positive action to depict the exact location of the Center Basin Canyon on the San Francisco Sectional Chart indicating dangerous terrain. Also, the Board commended FAA's action in putting a special notice in the Airman's Information Manual concerning avoidance of the East/West mountain pass/route between Fresno and Independence, Calif., and noted the proposed alternate action to remove all mountain pass routes presently shown on visual navigation charts. The Board considered these actions—when completed—and the excellent educational articles on the safety aspects of mountain flying in the August 1978 issue of *FAA General Aviation News* as fulfilling the intent of recommendations A-78-18 and A-78-19. Accordingly, A-78-18 was placed in "Open-Acceptable Action" status and A-78-19 was classified as "Open-Acceptable Alternate Action," pending completion of the planned actions.

Further, the Board considered FAA's response to A-78-20 indicating that charts will be reviewed to determine the clarity of depiction of the elevation of mountain pass routes as a logical first step, and agreed that such information should be clearly depicted. However, the Board believes that clarity of depiction would achieve only part of the intent of this recommendation. Depiction of the altitude of mountain passes should be conspicuously different from critical elevation values in order to avoid confusing these two types of information. Such depiction might necessitate the use of a different type style/size/color, or some other uniquely distinguishing characteristic. In light of this amplification of the intent of A-78-20 and FAA's response, the Board on October 5 classified the Recommendation as "Open-Unacceptable Action."

FAA's November 16 response reports that a proposal has been submitted to the Interagency Air Cartographic Committee to depict mountain pass elevations on visual charts in a box located adjacent to the pass symbol. The symbol size used to depict mountain passes will be increased and the chart legend will be modified to indicate that boxed elevations represent the elevation of mountain passes. FAA believes that these actions will prevent any confusion between pass elevations and spot elevations.

With reference to recommendations A-78-18 and A-78-19, FAA reports that the November 2 San Francisco sectional chart has been amended as follows:

1. A caution note adjacent to the Center Basin Canyon is depicted.
2. The Kearsarge Pass mountain route between Fresno and Independence, Calif., has been removed.

FAA believes that recommendations A-78-18 and A-78-19 should be reclassified as closed, based on the above completed actions.

A-78-75.—Letter of November 15 from the American Association of Airport Executives provides further comments on preservation of accident debris at airports. The Association's initial comments on this recommendation were made on November 1 (43 FR 55022, November 24, 1978). The Association suggests a joint Safety Board/airport management discussion regarding the closing of a runway due to an accident occuring on or near that runway. Many airports serving scheduled air carriers are essentially one-runway airports, at least for air carrier usage, and the loss of that runway for extended periods of time often results in serious dislocations of schedules and service to the communities served by the airport.

Highway

H-78-51.—Federal Highway Administration on October 25 responded to one of two recommendations issued to the agency last July 19 following investigation of the tractor-cargo-tank semitrailer accident which occured near Beattyville, Ky., September 24, 1977. The truck, transporting 8,200 gallons of gasoline, rounded a sharp curve, crossed over a rough railroad track in front of an approaching train, slid off the road, and overturned as it struck a nearby building. The gasoline ignited and seven persons died as a result; six buildings and 16 parked cars were destroyed. The recommendation called for expediting implementation of the findings of FHWA's study, "Analysis of Cargo-Tank Integrity in Rollovers."

In response, FHWA reports that findings of this research project indicate need for:

1. Collection of cargo tank damage data.
2. Cost-effective methods of reducing leakage occurring in overturns from cargo tank openings.
3. Review and revision of in-service cargo tank requalification requirements, presently contained in the Hazardous Materials Regulations.
4. Clarification and improvement of Federal regulatory requirements governing automatic shutoff valves, excess flow valves, fitting protection, and cargo tank anchoring requirements.
5. Static and dynamic tests of cargo tanks to determine performance and failure modes in overturn accidents for various components, including the effect of abrasion.
6. Special performance and compliance requirements for cargo tank motor vehicle fuel systems.

FHWA states that Finding 1 would require specially trained accident investigation teams to conduct on-scene activities, but, because of the present workload and resource limitation, it is not possible to deploy Federal personnel to collect such data. However, FHWA is forwarding this finding to its new task force which is now studying FHWA's safety information needs.

Findings 2, 3, and 4 of the research report indicate that almost half of the spillage in overturn accidents emanates from dome covers, vents, and other fill covers. There was also a definite indication that motor carrier maintenance practices and cargo tank inspections for requalification as a specification container need further examination. FHWA says that these findings were combined into a new research project titled "Cost-Effective Methods of Reducing Leakage Occurring in Overturn of MC 306 and Similar Type Liquid-Carrying Cargo Tanks, initiated last April. Its objectives are to:

1. Assess existing specifications for manhole covers, fill covers, and other product retention items, and identify specific items which represent potential leakage points in overturn accidents.
2. Assess present maintenance practices and requalification requirements as they

efforts to provide information through working closely with EPA to ensure Inquiries Section, National Transportation

affect a cargo tank's continuing product retention capability.

3. Develop engineering recommendations to improve cargo tank product retention capabilities that can be incorporated into the cargo tank specification and requalification requirements of the Federal Hazardous Materials Transportation Regulations.

4. Develop test procedures and engineering drawings for a simulator capable of testing manhole covers and other product retention devices in overturn situations.

This research will be conducted for 12 months under a contract awarded September 27. Results of this project, and other information collected and analyzed by FHWA during this period, will form the basis of a review of the regulatory requirements for the various product containment valves and devices on cargo tanks indicated in Findings 2, 3, and 4 of the Analysis of Cargo Tank Integrity in Rollovers study.

FHWA states that static and dynamic testing of cargo tanks, referenced in Finding 5, is a highly complex technical process. Such testing will be included in FHWA's future research program, planned for FY 1980; funds have been requested in FHWA Budget Estimates.

With respect to Finding 6 and the regulatory requirements covering fuel systems, FHWA reports that an analysis was conducted in 1971 and 1972 following investigation of other highway accidents involving fuel systems. That analysis revealed that fuel systems were not a major factor in accident causation and that additional studies were not needed. There is no current evidence which warrants reopening of that study, FHWA stated.

H-78-56.—On November 15 the Commissioner, Division of Motor Vehicles, Commonwealth of Virginia, responded to the Safety Board's October 31 letter commenting on the Commissioner's initial reponse of August 23 (see 43 FR 44577, September 28, 1978). The recommendation, resulting from investigation of the July 21, 1977, collision of a heavy dump truck with an automobile near Chantilly, Va., concerned Virginia's provision for obaining a Class A driver's license endorsement with a statement that the applicant has had at least 500 miles operating experience in the vehicle which he intends to operate.

The Safety Board's October 31 response noted that the Commissioner had undertaken a review and evaluation of criteria and techniques used in testing and licensing classed vehicle operators. The Board also expressed interest in Virginia's classed learner's permit program discussed in the Commissioner's August 23 response. However, in talking with each of the five Northern Virginia branch offices recently, the Board found three that knew of this policy, one that said it could be obtained only if the applicant was enrolled in an approved trucking school, and one that did not know of the policy at all. The Board asked how many Class A learner's permits are issued in a given year as compared to the number of Class A endorsements issued.

The Board is concerned that an applicant might obtain a classed license through a fraudulent statement of experience, as no proof of this experience is required by Virginia. The Board further believes that operating in an off-the-road work environment is vastly different from driving a loaded, heavy truck in traffic with all the hazards and distractions present in these surroundings. The 500-mile experience rule should be considered for in-traffic, on-the-road experience only. The Board's letter of last August 1 issuing the recommendation also addressed the fact that a Class A endorsement is a weight endorsement and not a vehicle-type endorsement. Many different types of heavy trucks with different operating characteristics are covered by this endorsement, the Board noted, and the Commissioner was asked to tighten this aspect of classed license endorsements.

The Commissioner's response of November 15 expressed regret for the inaccurate information received by the Safety Board during its recent investigation, and reported that a special bulletin containing requirements and procedures for issuance of classed learner's permits is being prepared for distribuiton to the Board and to all Virginia Division of Motor Vehicles branch offices to insure that information furnished is consistent with policies and procedures. The Commissioner was unable to provide the Safety Board with the statistical data requested with reference to Class A learner's permits since this information is not available through Virginia's automated system. The Commissioner reports that the National Highway Traffic Safety Administration in cooperation with the American Association of Motor Vehicle Administrators has recently published guidelines for model State classified licensing program which is now being reviewed.

Intermodal

I-78-10 through I-78-12.—Letter of November 13 from the Research and Special Programs Administration (RSPA), U.S. Department of Transportation, is in response to three of six recommendations forwarded to the Department of Transportation on June 29 following the Safety Board's 3-day en banc hearing on railroad derailments and the carriage of hazardous materials. The hearing was prompted by the increasing number of derailments nationwide, especially those involving the release of hazardous materials from DOT 112A/114A "jumbo" tank cars. Witnesses from the railroad industry, tank car builders and operators, shippers, State and local officials, firefighters, labor representatives, and the public testified at that hearing, held last April. (See 43 FR 30149, July 13, 1978.)

RSPA in response reports that in September, DOT's Hazardous Materials Transportation Task Force completed a review of the Department's hazardous materials regulatory, enforcement, training, and emergency response programs. The final report of the Task Force contained six recommendations for improvements in these program areas, and the Secretary has directed that action begin immediately to implement those recommendations. Several of the recommendations and related program initiatives are responsive to the Safety Board's recommendations I-78-10 through I-78-12, RSPA notes. The recommendations requested DOT to:

Supply the leadership to establish an adequate nationwide hazardous materials emergency response network able to meet all facets of hazardous materials emergency response needs, using existing State and private resources whenever possible. (I-78-10)

Encourage States to upgrade hazardous materials emergency handling capabilities, including State or regional one-call notification systems that will serve the needs of local public safety officials in significant hazardous materials transportation emergencies; and support development of guidelines by which States can evaluate their programs. (I-78-11)

Incorporate requirements imposed on shippers and carriers by Environmental Protection Agency Hazardous Materials regulations in 49 CFR Parts 100 through 179, to assure that these regulations are complete and do not contain contradictions or gaps. (I-78-12)

Concerning recommendation I-78-10, RSPA reports that DOT has directed the U.S. Coast Guard to develop an implementation plan for expanding the present Departmental emergency response center and integrating it with existing private industry emergency response systems. RSPA notes that Coast Guard has an excellent communications center and emergency response system which currently focus on responding to emergencies involving spills of oil or hazardous substances into or upon navigable water and adjoining shorelines. Also, private industry emergency response systems perform an important service in linking shippers and carriers when a chemical transportation emergency occurs.

Further, RSPA notes that Coast Guard's National Response Center (NRC) provides the appropriate mechanism for a "single telephone number" response system which complements rather than replaces private industry efforts to provide information through the Chemical Transportation Emergency Center (CHEMTREC) to emergency personnel at the scene of a hazardous materials incident. Whereas notifying CHEMTREC is strictly voluntary, RSPA says that consideration will be given to mandating notification to NRC of a hazardous materials incident through regulation. Such notification is already required under the Federal Water Pollution Control Act for oil spills and hazardous substances spills in water. Through this 24-hour communications capability, DOT can help ensure that proper local authorities are notified and that industry resources are brought promptly to bear on a hazardous materials transportation incident. DOT will coordinate with the Environmental Protection Agency (EPA), the Safety Board, other Federal, State, and local government units and industry organizations involved with hazardous materials safety issues.

In response to I-78-11, RSPA says that DOT is keenly aware of the need for improving community planning and communications relating to emergency response forces so that transportation emergencies involving all types of hazardous materials can be handled more effectively. In this regard, the National Fire Protection Association (NFPA), under DOT contract, has completed the development of a 20-hour, self-standing course consisting of slides, tapes, instructor's guide and student workbooks for training of all types of emergency services personnel. The course stresses the importance of defining roles and responsibilities of the various concerned response groups and places particular emphasis on the communications and overall command aspects. Add-on sessions to provide in-depth training on particular materials are now being developed. RSPA reports that the training course is presently available to the emergency organizations and local jurisdictions providing emergency response services. To date, approximately 1,400 course units have been delivered, and NFPA has conducted a series of seminars through the country. DOT has provided a complimentary course package to each State and the District of Columbia. Through such training courses, RSPA said, DOT directly encourages States to strengthen their emergency response systems and capabilities. DOT also recognizes and encourages the development of local hazardous materials response teams and Statewide communications networks. Expansion of NRC will significantly improve communications with appropriate State and local authorities.

With reference to recommendation I-78-12, RSPA reports that DOT is working closely with EPA to ensure compatible regulations, and the two agencies have been cooperating in this regard for several years. The agencies have together issued notices pertaining to hazardous wastes and have held joint hearings on the proposals. The importance of complementary regulations under separate but related statutes is clearly recognized. RSPA notes that one of the recommendations arising from the Task Force study requires RSPA/MTB to ensure that DOT continues its efforts to make EPA's lists of hazardous substances and wastes and DOT's classification of hazardous materials as compatible as practicable.

RSPA states that at the request of EPA, DOT's initial efforts were in the area of regulating hazardous wastes. Completion of that effort will expand DOT requirements to cover hazardous waste transporters in a manner to mesh with and support EPA's standards for generators and storage, treatment, or disposal sites. Submitted with RSPA's letter are copies of two notices of proposed rulemaking published by the Materials Transportation Bureau in the FEDERAL REGISTER under Dockets HM-145 and HM-145A, the latter explaining DOT's current position concerning regulation of the transportation of hazardous wastes. DOT and EPA are accelerating joint efforts to publish a notice pertaining to hazardous substances subject to section 311 of the Federal Water Pollution Control Act. Proposals in this area will be dovetailed with those made for hazardous wastes, RSPA notes. Rulemaking notices will be issued in early 1979.

I-78-13.—The Safety Board on November 2 inquired of the Environmental Protection Agency as to the status of this recommendation, also issued last June 29 in connection with the Board's hearing on railroad derailments and the carriage of hazardous materials. The recommendation asked EPA to assist DOT in assuring that hazardous materials regulations issued by DOT are in agreement with EPA's hazardous materials regulations.

EPA on November 9 indicated that the original recommendation letter had apparently been lost in the mail but that a copy has now been submitted to the Deputy Assistant Administrator for Program Integration and Information in the Office of Toxic Substances for review and, in cooperation with other EPA offices concerned with the Transportation of hazardous materials, for preparation of a reply.

NOTE: The above notice reports Safety Board recommendation letters recently released and responses received. Single copies of these letters in their entirety are available without charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

NOVEMBER 27, 1978.

[FR Doc. 78-33535 Filed 11-29-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

OMB CIRCULAR NO. A-102

Exemption From Financial Reporting Provisions

This notice offers interested parties an opportunity to comment on a Department of Transportation request for an exemption from the financial reporting provisions contained in Attachment H to OMB Circular No. A-102. The exception would cover programs administered by the Federal Highway Administration and the National Highway Traffic Safety Administration's Community Highway Safety Program.

The Circular provides for two standard billing forms, one for construction projects, the other for nonconstruction projects. The exception, if approved, would authorize DOT to require grantees to submit interim summary grant billings on a DOT voucher form supported by a computer listing of project amounts. Final billings would also be submitted on a DOT summary voucher form supported by computer listings of detailed costs incurred under each project. The request states that computerized billing systems are now implemented in all States, and that, therefore, DOT would be getting the same information the grantee uses for its day-to-day management needs.

The Office of Management and Budget has, as yet, made no decisions with respect to the proposed exception. All interested parties are encouraged to make their views known. Comments should be submitted to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received on or before December 31, 1978. For further information concerning this matter, please call John Lordan at (202) 395-6823.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-33487 Filed 11-29-78; 8:45 am]

The first closing will be on or about

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15342; File No. SR-BSPS-78-4]

BRADFORD SECURITIES PROCESSING SERVICES, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 6, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The proposed rule change is the opening of branch facilities in five cities as follows: Cleveland, Ohio; Minneapolis, Minnesota; Philadelphia, Pennsylvania; Atlanta, Georgia; and Milwaukee, Wisconsin. These branch offices are similar to the branch offices approved by the Commission in Rel. No. 34-12915 dated October 12, 1976, Rel. No. 34-13511 dated May 6, 1977, and Rel. No. 13876 dated August 19, 1977.

The basis and purpose of the foregoing proposed rule change are as follows:

The current facilities in these cities are operated and managed by Bradford National Clearing Corporation ("BNCC") as facilities manager for corporation. BNCC has given notice of its intention to cease acting as facilities manager for the corporation. This rule change changes the nature of the facilities in these cities to branch offices of the corporation. Because of the importance of transactions effected by brokers, dealers and others with offices in these areas, it is important that the corporation continue to have facilities there to render its services. Therefore, the purpose of this rule change is to insure present and potential customers timely clearance of securities transactions in these locations.

These facilities will help to provide for the continued prompt and accurate clearance of security transactions in the regional locations. It will allow for any participant in the corporation to utilize these facilities for the prompt and accurate clearance of its securities transactions.

Verbal comments received from our existing customers and potential customers indicate a continued need for our services in these cities.

BSPS is of the opinion that opening these branch offices will not impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before, December 21, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 17, 1978.

[FR Doc. 78-33517 Filed 11-29-78; 8:45 am]

[8010-01-M]

[Release No. 20782; 70-6221]

LOWELL GAS CO. AND CAPE COD GAS CO.

Proposed Sale of First Mortgage Bonds to Institutional Investors Pursuant to a Private Offering; Request for Exemption From Competitive Bidding

NOVEMBER 17, 1978.

NOTICE IS HEREBY GIVEN that Lowell Gas Company ("Lowell"), 95 East Merrimack Street, Lowell, Massachusetts 01853, and Cape Cod Gas Company ("Cape Cod"), P.O. Box 1360, Hyannis, Massachusetts 02601, gas utility subsidiaries of Colonial Gas Energy System ("Colonial"), a registered holding company, have filed a joint-declaration and an amendment thereto pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 50(a)(5) promulgated thereunder regarding the private placement of $4,900,000 of Lowell's first mortgage bonds and $3,150,000 of Cape Cod's first morgage bonds with institutional lenders at an interest rate of 11% per annum. All interested persons are referred to the declaration for a complete statement of the proposed transactions.

On October 7, 1977, Colonial filed an application for exemption under Section 3(a)(1) of the Act. (File No. 31-763). Its application for exemption is pending. Pursuant to a Stipulation in that proceeding dated January 26, 1978, entered into by Colonial and the division of Corporate Regulation pending the development of a plan of financial simplification or recapitalization by Colonial appropriate to the requirements for exemption under Section 3(a)(1), Colonial has registered as a public utility holding company under Section 5(a) for the limited purpose of complying with the provisions of Sections 6, 7, and 12(b) of the Act.

In a separate proceeding (File No. 70-6177), Colonial is seeking authorization to issue and sell cumulative convertible preferred stock ("Preferred Stock") through a negotiated sale to underwriters who will make a public offering thereof. The aggregate public offering price will be approximately $5,550,000. Colonial proposes to use the net proceeds derived from the sale of the Preferred Stock to purchase common stock of its public utility subsidiaries, Lowell and Cape Cod, for an aggregate purchase price of approximately $3,100,000 and to redeem 212,500 outstanding shares of its existing preferred stock at a redemption price of $1,700,000 plus an amount equal to the dividends accrued thereon. Any balance of such net proceeds will be added to Colonial's working capital. Lowell and Cape Cod are also seeking authorization in that filing to issue and sell such common stock to Colonial. They contemplate using the proceeds from the sales of the subsidiary common stock and $7,650,000 of the proceeds from the sale of proposed bond issues, a total of $10,750,000, to reduce subsidiary bank debt from the present $18,035,000 to approximately $7,285,000. The proposed sale of bonds is dependent upon the additional $3,100,000 investment in the subsidiary common stock.

The gas subsidiaries' capital structure, as of September 30, 1978, and pro forma, is shown in the following table.

(000's omitted)

	Lowell				Cape Cod			
	Actual		Pro Forma		Actual		Pro Forma	
	Amount	%	Amount	%	Amount	%	Amount	%
Long-term debt*	$20,833	42.10	$25,733	52.00	$12,151	42.98	$14,901	52.70
Notes payable Banks	11,210	22.65	6,310	12.75	6,825	24.14	4,075	14.42
Total debt	$32,043	64.75	$32,043	64.75	$18,976	67.12	$18,976	67.12
Preferred stock	4,554	9.20	4,554	9.20	1,560	5.52	1,560	5.52
Common equity	12,888	26.05	12,888	26.05	7,734	27.36	7,734	27.36
Total Capitalization	$49,485	100.00	$49,485	100.00	$28,270	100.00	$28,270	100.00

* Lowell and Cape Cod's existing mortgage bonds are held by institutional investors.

Almost all of the short-term debt of Lowell and Cape Cod has been advanced under revolving lines of credit pursuant to separate credit agreements (collectively, the "Credit Agreements") dated January 1, 1976, as amended, with Chase Manhattan Bank (N.A.), Union National Bank, Shawmut Bank of Boston, N.A., State Street Bank & Trust Company, and Bay Bank Middlesex, N.A. Under the Credit Agreements, the maximum principal amounts of loans which may be outstanding at any one time shall not exceed $11,800,000 in the case of Lowell and $7,250,000 in the case of Cape Cod. The full amounts committed thereunder were borrowed and the loans were to mature June 30, 1978.

Lowell also owed $1,750,000 of the same maturity under a $3,500,00 supplement to the bank credit agreement. Lowell and Cape Cod repaid $1,750,000 and $250,000, respectively, on June 30, 1978. Pursuant to authorization of the Commission in a separate proceeding (HCAR No. 20612), Lowell and Cape Cod amended the Credit Agreements to extend their term to June 30, 1980, and to provide for loans in the maximum aggregate principal amount of $11,800,000 for Lowell and $7,000,000 for Cape Cod. The lines of credit under the Credit Agreements provide a revolving fund for seasonal gas storage needs plus interim construction credit pending periodic permanent financing.

Each company's bonds will be issued under that company's indenture of mortgage and deed of trust, as amended and supplemented, and will be of equal rank with the outstanding bonds. The bonds will mature December, 1993, and will be subject to sinking funds, commencing December, 1981, which will result in the payment by Lowell and Cape Cod of $4,361,000 and $2,802,000, respectively, on their bonds prior to maturity. Lowell and Cape Cod may, at their option, retire an additional amount of their respective bonds at par in each of the years of the mandatory sinking funds up to an aggregate amount of 25 percent of the issue. This right will be non-cumulative and bonds redeemed through such optional prepayment at par will be applied against mandatory sinking fund payment obligations in the inverse order of maturity. The bonds will have an average life of ten years and will not be redeemable for five years nor refundable for an additional five years in anticipation of borrowings having a lower effective interest cost or a shorter weighted average life than that remaining on the bonds.

Lowell and Cape Cod propose to sell the indicated principal amounts of their first mortgage bonds to the following institutional investors on two closing dates:

	Lowell		Cape Cod	
	First Closing	Second Closing	First Closing	Second Closing
New England Mutual Life Insurance Company	$2,500,000	$500,000	$1,650,000	$350,000
Teachers Insurance & Annuity Association of America - College Retirement Equities Fund	1,150,000	200,000	700,000	200,000
Berkshire Life Insurance Company	550,000	-	250,000	-
	$4,200,000	$700,000	$2,600,000	$550,000

The first closing will be on or about December 15, 1978. The second closing is expected to be in February, 1979. Delivery of $700,000 in aggregate principal amount of Lowell's bonds and $550,000 in aggregate principal amount of Cape Cod's bonds, respectively, will be deferred until the second closing, to permit Lowell and Cape Cod to comply with debt-equity ratio limitation provisions of their respective indentures. Gas company earnings include a seasonal factor and are lower in those quarters when the seasonal demand for gas is low and increase during the winter heating season as the gas is sold. It is contemplated that the anticipated increased earnings in the peak winter months will result in increased retained earnings. Deferral of delivery of a portion of the bonds to a date when retained earnings are expected to be higher would enable the companies to comply with the debt-equity ratio limitation provisions of their indentures.

Cape Cod proposes to use $400,000 of the proceeds from the sale of its bonds to refund its outstanding Series J First Mortgage Bonds and the remaining $2,750,000 of proceeds will be used to reduce its bank debt. Lowell will use the proceeds from the sale of its bonds to reduce its bank debt. The proposed bond issues will make available a total of $7,650,000 to be applied toward the reduction of subsidiary bank debt. The terms of the bonds were negotiated in the absence of Commission authorization to enter into such negotiations. Lowell and Cape Cod are requesing an exemption from competitive bidding under Rule 50(a)(5) alleging that compliance with Rule 50(b) is not appropriate to aid the Commission to determine whether the fees, commissions, or other remuneration to be paid directly or indirectly in connection with the issue, sale, or distribution of such securities are reasonable, or whether any term or condition of such issue or sale is detrimental to the public interest or the interest of investors or consumers. The companies state that no fees, commissions, or remunerations are to be paid in connection with the proposed transactions, except filing fees and legal fees of the companies and the insurance companies which will be filed by further amendment. They further state that a public offering is inappropriate because the size of the issues, the size of the companies, and the fact that they are relatively unknown in the security markets tend to make a public sale expensive and difficult. The companies discussed the proposed bond issues with seven insurance companies, including the three insurance companies named above who agreed to purchase the bonds.

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The other four insurance companies declined to make an offer. Three investment banking firms were also contacted, of which one made an offer to place the bonds on comparable terms. The high commission requested, however, made that proposal more costly. The companies state that the high costs of a public offering and the lack of interest by many underwriters and investors in small issues and small companies makes the competitive bidding requirements of Rule 50(b) inappropriate. The Massachusetts Department of Public Utilities has jurisdiction over the proposed issue and sale of bonds by Lowell and Cape Cod. No state or federal commission, other than this Commission, has jurisdiction over such proposed issue and sale of bonds.

Notice is further given that any interested person may, not later than December 11, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended, or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33514 Filed 11-29-78; 8:45 am]

[8010-01-M]

[Release No. 20788; 70-5936]

MIDDLE SOUTH UTILITIES, INC. AND ARKANSAS-MISSOURI POWER CO.

Second Post-Effective Amendment Regarding Issuance and Sale of Short-Term Notes by Subsidiary Company and Acquisition Thereof by Holding Company

NOVEMBER 22, 1978.

NOTICE IS HEREBY GIVEN that Arkansas-Missouri Power Company ("Ark-Mo"), 225 Baronne Street, New Orleans, Louisiana 70112, a subsidiary company of Middle South Utilities, Inc. ("Middle South"), 405 West Park Street, Blytheville, Arkansas 72315, a registered holding company, and Middle South have filed with this Commission a second post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated December 28, 1976, and December 29, 1977 (HCAR Nos. 19826 and 20349), Ark-Mo was authorized to issue and sell to Middle South from time to time through December 31, 1978, and Middle South was authorized to acquire, up to $2,100,000 of Ark-Mo's unsecured short-term promissory notes of a maturity of not more than twelve months. Presently, $2,100,000 of such notes are outstanding, with a maturity of December 31, 1978.

Ark-Mo now proposes to extend such $2,100,000 of short-term borrowings for one year. The proposed notes will be in the form of unsecured promissory notes payable not more than twelve months from the date of issuance (and in any event maturing not later than December 31, 1979) and will bear interest at a rate per annum equivalent to ¼ of 1% above the commercial loan rate in effect at Manufacturers Hanover Trust Company from time to time. The notes will, at the option of Ark-Mo, be prepayable in whole or in part at any time without premium or penalty. The net proceeds to be received by Ark-Mo from the issuance and sale of the notes proposed will be applied to the payment at maturity of Ark-Mo's presently outstanding borrowings from Middle South. It is stated that Ark-Mo presently intends to repay the notes from the proceeds of permanent financing or from funds otherwise available to Ark-Mo from its operations.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions and that no special or separate expenses are expected to be incurred.

Notice is further given that any interested person may, not later than December 18, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33513 Filed 11-29-78; 8:45 am]

[8010-01-M]

[Release No. 20781; 70-6080]

MONONGAHELA POWER CO., ET AL.

Post-Effective Amendment Relating to Proposed Issuance and Sale of Short-Term Notes to Banks and to Commercial Paper Dealers

NOVEMBER 17, 1978.

In the Matter of Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554; THE POTOMAC EDISON COMPANY, Downsville Pike, Hagerstown, Maryland 21740; THE WEST PENN POWER COMPANY, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Notice is hereby given that Monongahela Power Company ("Monongahela"), the Potomac Edison Company ("Potomac"), and West Penn Power

Company ("West Penn"), each a wholly-owned electric utility subsidiary of Allegheny Power System, Inc. ("Allegheny"), a registered holding company, have filed a post-effective amendment to their application in this proceeding pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 50(a)(5) promulgated thereunder regarding the proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated December 28, 1977 (HCAR No. 20343), the above subsidiaries of Allegheny were authorized to borrow funds during the period ending June 30, 1979, through the issuance and sale of short-term notes to banks and commercial paper to dealers in commercial paper in an aggregate amount not to exceed $50,000,000 in the case of Monongahela, $48,000,000 in the case of Potomac, and $50,000,000 in the case of West Penn. Jurisdiction was reserved with respect to that portion of the borrowings requested by West Penn in excess of $50,000,000.

Applicants now seek authorization to increase the amount of such notes and commercial paper which may be issued and sold by Monongahela and Potomac, respectively. Authorization is being sought to permit Monongahela and Potomac to issue up to $52,000,000 and $50,000,000, respectively, of short-term notes and commercial paper outstanding at any one time.

The banks from which such borrowings are effected and the maximum amount of the borrowings to be outstanding from each bank remain as follows:

Citibank, N.A	$40,000,000
The Chemical Bank	30,000,000
Mellon Bank, N.A	55,000,000
Pittsburgh National Bank	7,500,000
Manufacturers Hanover Trust Co	60,000,000
Irving Trust	5,000,000
Chase Manhattan Bank, N.A	2,500,000
	$200,000,000

The maximum amount of such borrowings at any one time outstanding would not, when taken together with any commercial paper than outstanding, be in excess of $52 million in the case of Monongahela, $50 million in the case of West Penn, and $50 million in the case of Potomac.

It is stated that the proposed increase in short-term financings has been necessitated by cash outlays greater than anticipated due to delays in obtaining rate relief requested.

In all other respects the proposed transactions remain the same. It is stated that the State Corporation Commission of Virginia has jurisdiction over the issuance and sale by Potomac of the short-term debt. It is further stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 12, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as now amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33515 Filed 11-29-78; 8:45 am]

[8010-01-M]

[File No. 500-1]

POWER-TRAIN, INC.

Suspension of Trading

NOVEMBER 20, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Power-Train, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. on November 20, 1978 through November 29, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33516 Filed 11-29-78; 8:45 am]

[8010-01-M]

PRIVACY ACT OF 1974

Modification of an Existing System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of modification of system of records No. SEC-4, Acquisition, Tender Offer, and Solicitation Records Filed under the Securities Exchange Act of 1934-SEC.

SUMMARY: The Securities and Exchange Commission proposes to modify an existing system of records that was previously identified in the notices published in the FEDERAL REGISTER, 41, FR 41553-41554, on September 22, 1976, as system No. SEC-4 Acquisition, Tender Offer, and Solicitation Records Filed under the Securities Exchange Act of 1934. This proposed modification is being published for public comment.

DATES: This amendment will become effective on January 2, 1979, unless comments are received on or before that date that would result in a contrary or changed determination.

ADDRESS: Comments on the modification to this system of records should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. Any comments received will be available for public inspection and copying in the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Julie Allecta, Office of the General Counsel, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C., 202-755-1335.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission proposes to modify the type of information maintained in this system of records to include information on beneficial ownership that may be required to be filed with the Commission pursuant to section 13(g) of the Securities Exchange Act of 1934, as amended in 1977, 15 U.S.C. 78m(g). The Commission further proposes to enter into a computer system certain information that is contained in this system of records, and the Commission proposes to amend its schedules 13D, 13G and

fined in section 21(g) of the Securities

Policies and practices for storing, retriev-

For the Commission, by the Office

14D-1 to facilitate such computerization. This modification will supplement and enhance the Commission's ability to analyze, compile and retrieve information, and it will enable the Commission to form a data basis with which the Commission can fulfill its obligations under section 13(g)(5) of the Securities Exchange Act of 1934, as amended 1977, 15 U.S.C. 78m(g)(A) to the effect that:

The Commission shall take such steps as it deems necessary or appropriate in the public interest or for the protection of investors (A) to achieve centralized reporting of information regarding ownership, (B) to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report, and (C) to tabulate and promptly make available the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State agencies and the public.

Under the proposed modification, access to information in this system will be expanded through the development of computer programs designed to compile and analyze information contained in this system of records into two basic tabulations, one being classified by the issuer of the security owned, acquired, or solicited, the other being classified by the name of the reporting person. The Commission anticipates that additional programs may be developed to compile and analyze this data by other classifications. The proposed modification will enable the public to take advantage of this expanded access.

SEC–4 (as proposed)

System name:

Beneficial Ownership, Acquisition, Tender Offer and Solicitation Records Filed under the Securities Exchange Act of 1934–SEC.

System location:

Securities and Exchange Commission, Washington, D.C. 20549.

Categories of individuals covered by the system:

Records contain information on certain persons who own beneficially more than 5 percent of any equity security of a class specified in Section 13(d)(1) of the Securities Exchange of Act 1934 and on persons making a tender offer to acquire more than 5 percent of such equity securities.

Categories of records in the system:

The records contain the initial information and changes regarding beneficial ownership of the equity securities of certain issuers, as well as information on tender offers. The records also contain other relevant material informations such as the individual beneficial owner's name, citizenship, relationship to the issuer, role in transaction, and social security or tax identification number (when provided on a voluntary basis).

Authority for maintenance of the system:

Title 15, United States Code, Sections 78m and 78n.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

These records and the information contained in these records may be used for the following purposes:

1. By the SEC staff to verify information contained in other filings and in preparing no-action letters.

2. To respond to requests for information from members of Congress and the public concerning beneficial owners, tender offers, acquisitions, or solicitations of securities.

3. By SEC personnel for purposes of investigating possible violations of the Federal securities laws.

4. Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a "routine use," to the appropriate agency whether Federal, State, local, foreign or a securities self-regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

5. When considered appropriate, records in this system may be referred to a bar association or similar Federal, State or local licensing authority for possible disciplinary action.

6. A record from this system of records may be disclosed as a "routine use" to a Federal, State or local governmental authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

7. A record from this system of records may be disclosed to a Federal, State or local governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

8. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

9. In any proceeding where the Federal securities laws are in issue or in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.

10. To prepare, on a periodic basis, for public inspection tabulations of beneficial ownership, classfied variously by issuer, reporting persons, and in any other manner deemed necessary and appropriate. Tabulations of various types may also be prepared from time to time upon specific requests therefor.

11. In connection with investigations or disciplinary proceedings by a State securities regulatory authority or by a securities self-regulatory organization involving one or more of its members.

In connection with their regulatory and enforcement responsibilities mandated by the Federal securities laws (as defined in section 21(g) of the Securities Exchange Act of 1934, 15 U.S.C. 78u(g), or state or foreign laws regulating securities or other related matters, records in this system of records may be disclosed to national securities exchanges and national securities associations that are registered with the Commission, the Municipal Securities Rulemaking Board, the Securities Investor Protection Corporation, the federal banking authorities, including, but not limited to, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, state securities regulatory or law enforcement agenices or organizations, or regulatory or law enforcement agencies of a foreign government.

Records in this system may be disclosed as a routine use to any trustee, receiver, master, special counsel, or other individual or entity that is appointed by a court of competent jurisdiction, or as a result of an agreement between the parties in connection with litigation or administrative proceedings involving allegations of violations of the Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g) or the Commission's rules of practice, 17 CFR 202.1 et seq. or otherwise, where such trustee, receiver, master, special counsel or other individual or entity is specifically designated to perform particular functions with respect to, or as a result of, the pending action or proceeding or in connection with the administration and enforcement by the Commission of the Federal securities laws or the Commission's Rules of Practice.

Records in this system may, in the discretion of the Commission's staff, be disclosed to any person during the course of any inquiry or investigation conducted by the Commission staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

A record or information in this system may be disclosed to any person with whom the Commission contracts to reproduce, by typing, photocopy or other means, any record within this system for use by the Commission and its staff in connection with their official duties or to any person who is utilized by the Commission to perform clerical or stenographic functions relating to the official business of the Commission.

Records or information in records contained in this system may be disclosed to members of advisory committees that are created by the Commission or by the Congress to render advice and recommendations to the Commission or to the Congress, to be used solely in connection with their official designated functions.

Records or information in the records in this system may be disclosed as routine use to any person who is or has agreed to be subject to the Commission's Rules of Conduct, 17 CFR 202.735-1 et seq., and who assists in the investigation by the Commission of possible violations of Federal securities laws (as defined in section 21(g) of the Securities Exchange Act of 1934. 15 U.S.C. 78u(g)), in the preparation or conduct of enforcement actions brought by the Commission for such violations, or otherwise in connection with the Commission's enforcement or regulatory functions under the Federal securities laws.

Disclosure may be made to a congressonal office from the record of an individual in respone to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Records are maintained in hard copy form and on magnetic tape and cards.

Retrievability:

Hard copy records are accessed by name and/or file number assigned to issuer. Computer tabulations derived from data contained in the hard copy records are accessed by issuer or by name of reporting individual; more specialized methods of accessing records may be developed upon request.

Safeguard:

All records contain public information and are available through Public Reference Section. Records are maintained in central records office to which access is limited to authorized personnel. That office is locked at night and the building where the records are maintained has a 24 hour security guard.

Retention and disposal:

While no formal schedule exists, these records periodically are sent to a Federal Records Center for storage.

System manager(s) and address:

Records Officer, Securities and Exchange Commission, 1100 L Street, N.W., Washington, D.C. 20549.

Notification procedure:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Public Reference Room at 1100 L Street, N.W., Washington, D.C. or by mail addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549.

Record access procedures:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact or address their inquiries to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549.

Contesting record procedures:

See Record access procedures above.

Record source categories:

Information is from public reports that are required by statute to be filed with the Commission.

For the Commission, by the Office of General Counsel, pursuant to delegated authority.

NOVEMBER 21, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33508 Filed 11-29-78; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/133]

SHIPPING COORDINATING COMMITTEE—SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The Working Group on Standards of Training and Watchkeeping of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on Tuesday, December 19, 1978 in Room 8334 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to discuss the future work program of the IMCA Subcommittee on Standards of Training and Watchkeeping in preparation for the meeting of the Subcommittee commencing January 22, 1979 in London, England.

Requests for further information should be directed to Captain D.E. Hand, U.S. Coast Guard (G-MVP/82), Washington, D.C. 20590, telephone number (202) 426-1500.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

NOVEMBER 21, 1978.

[FR Doc. 78-33483 Filed 11-29-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD (78-136)]

VAPOR CONTROL SEMINAR

Location Change

The Vapor Control Seminar (43 FR 48752 dated 19 October 1978) was scheduled to be held in Room 8236, NASSIF Building, 400 Seventh Street, S.W., Washington, D.C. 20590. This has been changed. The new site for the seminar is the 7th floor auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. The time and date of the seminar, 9 a.m. December 6, 1978, have not been changed.

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Issued in Washington, D.C., on November 27, 1978.

W. D. MARKLE, Jr.,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-33532 Filed 11-29-78; 8:45 am]

[4910-06-M]

Federal Railroad Administration

[FRA General Docket No. H-75-4]

LOCOMOTIVE INSPECTION TEST PROGRAM

Supplemental Report and Order

The Federal Railroad Administration (FRA) previously granted a waiver of compliance to the Port Authority Trans Hudson Corporation (PATH) to permit the initiation of a limited test program concerning the utilization of different inspection requirements for certain types of electrically powered multiple unit passenger cars. The report and order granting the waiver and describing the test program was published in the FEDERAL REGISTER on April 21, 1976 (41 FR 16680).

In granting this waiver the Railroad Safety Board (Board) of the FRA, which has been delegated the authority to determine whether granting such a waiver is appropriate, established terms and conditions under which that test program was to be conducted. The terms and conditions established by the Board basically provided for a thirty-six (36) month test effort broken into three phrases which allowed PATH to make gradual incremental increases in the time interval required for the performance of the inspection activity required by 49 CFR 230.451(a).

The test program has now entered its third and final phase during which the interval for conducting the required inspections has been increased to 60 days. This final phase was effectively initiated on August 1, 1978.

In reviewing the test data obtained to date, the Board has determined that it is appropriate to modify one of the conditions established in the initial report and order. That condition involves the maximum duration of the testing effort which by the terms of the initial report and order is limited to only a thirty-six month test program.

The modification, which the Board believes is appropriate, will permit the testing effort to be continued for an additional six month period. Such increased duration will permit the FRA to obtain operational data for an entire calendar year while the equipment is being operated with a sixty (60) day inspection interval. As a consequence, the data being obtained will reflect complete seasonal weather changes and will assist in making a comparative anaylsis of the data obtained during phase two of the test program. Finally, the increased duration will provide the Board with a period of time to evaluate the test data in terms of possible future courses of action regarding the appropriate inspection period interval for self-propelled, electrically powered, multiple unit passenger cars used in rapid transit type operations.

Consequently, the Board hereby modifies its initial report and order and authorizes the Associate Administrator for Safety to permit the test to be conducted for a period not to exceed forty-two (42) months.

(Sec. 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR § 1.49(n).)

Issued in Washington, D.C. on November 22, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-33518 Filed 11-29-78; 8:45 am]

[4910-06-M]

NEWBURGH & SOUTH SHORE RAILWAY CO., ET AL.

Petitions for Waiver of Rules Requiring Rear End Marking Devices; Notice of Public Hearing

The Federal Railroad Administration (FRA), as required by 45 U.S.C. 431(c) and in accordance with 49 CFR 211.41, issued a public notice that several railroads had submitted waiver petitions to FRA requesting temporary or permanent waivers of compliance with 49 CFR Part 221 (Rear End Marking Devices—Passenger Commuter and Freight Trains). That public notice was published in the FEDERAL REGISTER on August 15, 1978 (43 FR 36153).

In that public notice FRA advised that waiver petitions had been filed by the following railroads: (1) Newburgh and South Shore Railway Company (FRA Waiver Docket RSRM-78-1); (2) Birmingham Southern Railroad (FRA Waiver Docket RSRM-78-2); (3) Chessie System (FRA Waiver Docket RSRM-78-3); (4) Illinois Central Gulf Railroad (FRA Waiver Docket RSRM-78-4); (5) Chicago, South Shore and South Bend Railroad (FRA Waiver Docket RSRM-78-5); and (6) Southern Railway System (FRA Waiver Docket RSRM-78-6). The precise nature of these waiver requests is described in the public notice which also contained a brief discussion of the facts involved in each proceeding.

FRA invited interested persons to participate in these proceedings by submitting written data, views or comments. The notice also indicated that a public hearing would be provided in connection with these waiver petitions if requested by an interested person. FRA has received such a request and consequently is scheduling a public hearing prior to taking action on these waiver petitions.

The Railroad Safety Board (Board) of the FRA, which has been delegated the responsibility for determining whether to grant such waivers of compliance, will conduct the requested public hearing on December 12, 1978. The public hearing will be held in Room 3201 of the Trans Point Building, located at 2100 Second Street in Washington, D.C. and will begin at 10:00 a.m.

The hearing will be an informal one and will be conducted by a representative designated by the Board. The hearing will be conducted in accordance with the provisions of § 211.25 of the FRA Rules of Practice (49 CFR 211.25) and will not be an adversary proceeding. The Board's representative will make an opening statement outlining the scope of the hearing and will announce any additional procedures, if necessary, at the start of the hearing.

(Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431); § 1.49(n) of the regulation of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C. on November 22, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-33521 Filed 11-29-78; 8:45 am]

[4910-06-M]

[FRA Waiver Petition Docket HS-78-11]

VERMONT RAILWAY CO.

Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and § 211.9, notice is hereby given that the Vermont Railway Company (VTR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the VTR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The VTR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-78-11, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before December 29, 1978 will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64(a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C. on November 20, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-33519 Filed 11-29-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP78-7; Notice 2]

GENERAL MOTORS CORP.

Petition for Determination of Inconsequential Noncompliance

This notice terminates the docket on the petition by General Motors Corp. of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.301-75, *Fuel System Integrity*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety. The docket is terminated because the petitioner has decided to conduct a notification and remedy campaign covering the vehicles in issue.

Notice of the petition was published on June 12, 1978, and an opportunity afforded for comment (43 FR 25405).

On May 4, 1978, NHTSA informed GM, pursuant to section 152(a) of the Act, that it had made an initial determination that the 1977 Chevette failed to conform to fuel system integrity requirements, and that it had scheduled a public proceeding on this matter. Within 30 days of its receipt of notice GM filed a petition for inconsequentiality under the provision of 49 CFR 555.4(c).

NHTSA's initial determination affected the entire 1977 model run of approximately 136,000 vehicles. GM stated the problem accurately in its petition: "It is our understanding that the NHTSA concern is possible fuel spillage which might occur as a result of contact of the Chevette pan hard rod retainer with the fuel tank during the 30 m.p.h. rear moving barrier test prescribed by the standard." GM's petition criticized NHTSA's initial test results and introduced its own results as evidence of compliance with the standard. However, subsequent NHTSA tests supported the initial determination and on November 6, 1978, GM announced that it was recalling all 1976 and 1977 Chevettes to remedy the fuel system problem. This action by GM has mooted a decision on its petition to be relieved of the obligation to notify and remedy the noncompliance with Standard No. 301-75.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 22, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-33484 Filed 11-29-78; 8:45 am]

[4910-59-M]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE, TASK FORCE ON MOTORCYCLE-MOPEDS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee's Task Force on Motorcycle-Mopeds. This meeting will be held from 2:00 to 5:00 p.m. on January 11, 1979 in Room 2230, DOT Headquarters Building, 400 Seventh Street, S.W., Washington, D.C.

The Task Force will hear a review of the status of the Motorcycle Accident Factors Study being carried out by the University of Southern California for the U.S. Department of Transportation. Professor Hugh H. Hurt, principal investigator of the study, will present his preliminary findings. Professor Hurt has analyzed detailed data of 900 motorcycle accidents. The goal of the study is to determine the causes of motorcycle accidents, the causes of injuries, the severity of the injuries and effective methods of reducing accidents, deaths and injuries. The study is scheduled for completion next fall.

Following the review by Professor Hurt, the Task Force, whose Chairperson is Dr. Basil W. Scott, New York Deputy Commissioner for Vocational Rehabilitation, will review the status of Moped Safety and Safety Regulations.

The public is invited to attend and is encouraged to participate in the question and answer period following Dr. Hurt's presentation. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., Washington, D.C., 20590, telephone 202-426-2872.

Issued on November 22, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-33262 Filed 11-29-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 746]

ASSIGNMENT OF HEARINGS

NOVEMBER 27, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as

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promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 123048 (Sub-No. 395), Diamond Transportation System, Inc., No. MC 114211 (Sub-No. 367F), Warren Transport, Inc. and No. MC 119641 (Sub-No. 150F), Ringle Express, Inc., now assigned for hearing on December 5, 1978, at Washington, D.C., are postponed to December 12, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 96324 (Sub-No. 25F), General Delivery, Inc., now assigned January 10, 1979, at Pittsburgh, Pennsylvania is postponed indefinitely.

No. MC 113678 (Sub-No. 733F), Curtis, Inc., now assigned for December 4, 1978, at San Francisco, California is canceled and application dismissed.

No. MC 3062 (Sub-No. 41), Inman Freight System, Inc., now being assigned for continued hearing on December 20, 1978, at the Offices of Interstate Commerce Commission, Washington, D.C.

No. MC 144041 (Sub-No. 15F), Downs Transportation Co., Inc., now being assigned for continuing hearing on January 11, 1979, at the Offices of Interstate Commerce Commission, Washington, D.C.

No. MC 144821F, Freedom Freightways Inc., now being assigned for Prehearing Conference on January 15, 1979, at the Offices of Interstate Commerce Commission, Washington, D.C.

No. MC-F 13656, W. J. Digby—Purchase—Cycles Limited, now being assigned for hearing on January 17, 1979, at the Offices of Interstate Commerce Commission, Washington, D.C.

No. MC 30844 (Sub-No. 615F), Kroblin Refrigerated Express, Inc., now being assigned for hearing on January 23, 1979, at the Offices of Interstate Commerce Commission, Washington, D.C.

No. MC 135237 (Sub-No. 3F), East Penn Trucking Company, now being assigned for hearing on January 24, 1979, at the Offices of Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33579 Filed 11-29-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28640 (Sub-No. 1)]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. REORGANIZATION

Application of Gary E. Stoefen, et al. for Authorization of Bondholders Protective Committee

Gary E. Stoefen, Lance, S. Nelson and R. Jerry Scheel Constituting the Protective Committee for First Mortgage Bondholders of Southern Indiana Railway Company, represented by Jesse J. Holland, 208 South LaSalle Street, Chicago, IL 60604 hereby give notice that on the 11th day of September, 1978, they filed with the Interstate Commerce Commission at Washington, D.C. an application under section 77(p) of the Bankruptcy Act requesting authority to solicit from holders of First Mortgage Bonds of the Southern Indiana Railway Company due January 1, 1994, proxies or authorizations to represent and act for such bondholders in the proceedings for the reorganization of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

The above-named members of the Committee represent, respectively, three institutional investors who sponsored formation of the Committee-Modern Woodmen of American, Central Life-Assurance Company and Aid Association for Lutherns. The combined principal amount of the First Mortgage Bonds held by the three institutional investors is $1,828,000 or 33.44% of the $5,466,000 total principal amount outstanding.

Interested persons may participate as parties in the hearing to be held before the Commission required by section 77(p) of the Bankruptcy Act. In order to be considered a party, a written statement should be submitted which shall include the person's position, e.g. party protestant, or party in support, of the requested authorization, the interest of the person in the reorganization proceeding, and a request for oral hearing if one is desired. Such submissions shall indicate the proceeding designation Finance Docket No. 28640 (Sub-No. 1) and an original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C., 20423, not later than 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Persons submitting written statements to the Commission shall, at the same time serve copies of such statements upon the applicant and upon the Clerk, United States District Court for the Northern District of Illinois, Eastern Division, 209 South Dearborn Street, Chicago, IL 60606.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-33581 Filed 11-29-78; 8:45 am]

[1505-01-M]

[Decisions Volume No. 28]

DECISION-NOTICE

Correction

In FR Doc. 78-25769 appearing on page 41128 in the issue of Thursday, September 14, 1978, on page 41136, the first full paragraph, the first line now reading "MC 139495 (Sub-37F)" should read, "MC 139495 (Sub-371F), • • •".

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

NOVEMBER 22, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by December 11, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 4405 (Sub-E60), (correction), filed June 4, 1974, published in the FEDERAL REGISTER issues of December 17, 1975 and May 18, 1977, and republished, as corrected, this issue. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Representative: Roger D. Smith (address same as above). Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection herewith, between points in Washington, on the one hand, and on the other, points in Missouri and East St. Louis, IL, restricted against the transportation of traffic between those points in Washington, east of Benton, Douglas, Grant and Okanogan Counties, on the one hand, and on the other, those in Missouri in and west of Mercer, Grundy, Livington, and Carroll Counties, and those in Clay and Day Counties. The purpose of this filing is to eliminate the gateway of points in OK, TX, NM and NV.

Note.—The purpose of this republicate is to state the correct gateway.

MC 107012 (Sub-E238), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1) From points in AL, to points in ID, MT, ND, OR, SD, and WA. (2) From points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleborne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa Counties, AL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Tehama, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe, Counties, NV; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT; and points in WY. (3) From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell Counties, AL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Medera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT; and points in WY. (4) From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston Counties, AL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT; (5) From points in De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Fransisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt Counties, CO; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Persing, Storey, Washoe Counties, NV; Beaver, Iron, Washington, Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, UT; Wasatch, Weber Counties, UT; and points in WY. (6) From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington, Wilcox Counties, AL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity Counties, CA; Churchill, Douglas, humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Park, Teton, Yellowstone National Park, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY. (Gateway eliminated: Chicago, IL).

MC 107012 (Sub-E239), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, Crated* 1.) From points in AZ, to points in VA. 2.) From points in Cochise, Gila, Graham, Greenlee, Counties, AZ, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, Warren Counties, NC. 3.) From points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, Counties, AZ, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, Warren Counties, NC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. 4.) From points in Yuma, Counties, AZ, to points in NC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E241), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, Crated* 1.) From points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Counties, AR, to points in Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Counties, MT; Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Divide, McKenzie, Williams, Counties, ND; Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Counties, WA. 2.) From points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Counties, AR, to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah,

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Lewis, Nez Perce, Shoshone, Counties, ID; Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Counties, MT; to points in ND; Benton, Clackamass, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Counties, OR; and points in WA. 3.) From points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Praire, Pulaski, Saline, White, Counties, AR, to points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Counties, MT; Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Counties, WA. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E 242), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1) From points in CA, to points in NC, and VA. (2) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity Counties, CA, to points in AL, FL, and GA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Talahatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; points in SC and TN. (3) From points in Inyo, Fresno, Kings, Tulare Counties, CA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Bolusia Counties, FL; points in GA; SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. (5) From points in Carendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg Counties, SC. (6) From points in Imperial, Riverside, San Diego Counties, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Willlamsburg, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, York Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. (7) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla Counties, FL; points in GA and SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Vuren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Somner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (4) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura Counties, CA, to points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. (5) From points in San Bernardino County, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg Counties, SC. (6) From points in Imperial, Riverside, San Diego Counties, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Willlamsburg, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, York Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. (7) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla Counties, FL; points in GA and SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (Gateway eliminated: Chicago, IL).

MC 107012 (Sub-E244), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representaives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* 1.) From points in CO to points in VA. 2). From points in Garfield, Mesa, Moffat, Rio Blanco, Routt Counties, CO, to points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceloa, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla Counties, FL; points in GA and SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, Mc Minn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (Gateway eliminated: Chicago, IL).

White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. 3). From points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller Counties, CO, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia Counties, FL; Banks, Barrow, Butts, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Gascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, Mc Duffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, To Ware, War, Wayne, Wheeler, Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty, Screven Counties, GA, to points in NC; SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. 4). From points in Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel Countries, CO., to points in NC; SC; Anderson, Blout, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. 5). From points in Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Klowa, Las Animas, , Lincoln, Otero, Prowers, Pueblo Counties, CO, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir. New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanley, Stokes, Union, vance, Wake, Warren Counties, North Carolina; Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. 6). From Kit carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia Counties, FL; to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; and points in UT and WY. 3.) From points in Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie Counties, FL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; and points in UT and WY. 4.) From points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington Counties, FL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity Counties, CA; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Box Elder, Cache,

Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Somner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (4) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura Counties, CA, to points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. (5) From points in San Bernardino County, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg Counties, SC. (6) From points in Imperial, Riverside, San Diego Counties, CA, to points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Willlamsburg, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, York Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN. (7) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, suwannee, Taylor, Wakulla Counties, FL; points in GA: NC: SC: Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, Mc Minn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren,

Assumption, East Baton Rouge, East Rockingham, Rowan, Stanly, Stokes, tuck, Dare, Edgecombe, Gates, Hali-

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Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY. 5.) From points in Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla Counties, FL; to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesme, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier, Wayne Counties, UT; and points in WY. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E247), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, Crated* 1.) From points in GA, to points in ID, MT, ND, OR, SD, WA, and WY. 2.) From points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Counties, GA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesme, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier, Wayne Counties, UT; and points in WY. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E247), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, Crated* 1.) From points in GA, to points in ID, MT, ND, OR, SD, WA, and WY. 2.) From points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Counties, GA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo, Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma, Counties, CO; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe, Counties, NV; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesme, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier, Wayne, Counties, UT. 3.) From points in Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, To Ware, Ware, Wayne, Wheeler, Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty, Screven, Counties, CA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo, Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma, Counties, CO; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe, Counties, NV; and points in UT. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E248), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New household appliances, crated* (1) from points in ID, to points in AL, FL, GA, NC, SC, and VA. (2) From points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Counties, ID, to points in Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba; Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha, Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Graninger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley, Counties, TN. (3) From points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, Counties, ID, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Counties, AR; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension,

Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, LaFourche, Livingston, Orleans, Plaquemines, Pointe Coupe, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA; and points in MS and TN. (4) From points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Power Counties, ID, to points in Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E251), filed July 7, 1977. Applicant NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, Crated* (1) From points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Counties, KS, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, Warren, Counties, NC; and points in VA. (3) From points in Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Counties, KS, to points in Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie Counties, Florida; Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake Warren Counties, NC; points in SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Granger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN; and Points in VA. (4) From points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson Counties, KS, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake Warren Counties, NC; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York, Albamarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King And Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah, Warren Counties and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, Harrisonburg, Winchester, VA. (5) From points in Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPerson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer, Washington Counties, KS, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake Warren, Counties, NC; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York, Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William,

son, Kitsap, Mason, San Juan, Chelan, Pulaski, Roanoke, Rockbridge, Rus-

Otero, Sierra, Socorro, Colfax, Har-

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Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah, Warren Counties and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, Harrisonburg, Winchester, VA. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E253), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1.) From points in KY, to points in ID, MT, ND, OR, and WA. (2.) From points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford Counties, KY, to points in AZ; CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; points in NV; McKinley, Rio Arriba, San Juan Counties, NM; points in SD, UT, and WY. (3.) From points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren Counties, KY, to points in AZ; CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; points in NV; McKinley, Rio Arriba, San Juan Counties, NM; points in SD, UT and WY. 4.) From points in Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe Counties, KY, to points in AZ; CA; CO; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS; points in NV; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, Union Counties, NM; Beaver, Cimarron, Texas Counties, Oklahoma; points in SD; UT; and WY. 5.) From points in Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Oswley, Perry, Pike, Whitley Counties, KY; to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, Yuma Counties, Arizona; points in California; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; points in NV; McKinley, Rio Arriba, San Juan Counties, NM; points in SD; UT; WY. 6.) From points in Ballard, Caldwell, Calloway, Carlisle, Crittendon, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union, Webster Counties, KY, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra, Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonama, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E254), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, Crated* (1) From points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Counties, LA, to points in Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Counties, MT; Barnes, Cass, Dickey, Kidder, La Moure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie, Williams, Counties, ND; Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Counties, WA. (2) From points in Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Counties, LA, to points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Counties, ND. (3) Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Counties, LA, to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, Counties, ID; Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Counties, MT; points in ND; Ferry, Linclon, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish, Whatcom, Counties, WA. (4) From points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA, to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, Counties, ID; points in MT; ND; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Counties, OR; Campbell, Corson, Dewey, Edmunds, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Counties, SD; and points in WA. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E281), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., PO Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New household appliances, crated,* (1) from points in VA, to points in AZ, CA, CO, ID, MT, NV, ND, OR, SD, UT, WA, and WY. (2) From points in Arlington, Caroline, Culpepper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Clarke, Frederick, Greene, Loudon, Madison, Page, Rappahannock, Rockingham, Shenandoah, Warren Counties, and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Harrisonburg, Winchester, VA, to points in KS; NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, Stephens Counties, OK. (3) From points in Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazwell, Washington, Wise, Wythe Counties, and the Cities of Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston, Staunton, VA, to points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, Kansas; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidaglo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, Union Counties, NM, Beaver, Cimarron, Texas Counties, OK. (4) From points in Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York Counties, and the Cities of Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, VA, to points in KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidaglo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, Union Counties, NM; Alfalfa, Beckam, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas Counties, OK. (5) From points in Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George Counties, and the Cities of Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, VA; to points in KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidaglo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, Union Counties, NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas Counties, OK. (6) From points in Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George Counties, and the Cities of Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, VA; to points in KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidaglo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, Union Counties, NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas Counties, OK. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E282), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New household appliances, crated* (1) from points in WA, to points in AL, FL, GA, MS, NC, SC, TN and VA. (2) From points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Adams, Asotim, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman, Counties, WA, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Counties, AR; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA. (3) From points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Counties, WA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East, Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint

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Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA. (4) From points in Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Counties, WA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Praire, Pulaski, Saline, White, Counties, AR; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA. (5) From points in Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish, Whatcom, Counties WA, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Counties, AR; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E284), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (address same as above). *New Household Appliances, Crated* (1) From points in WY, to points in GA, NC, SC, and VA. (2) From points in Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte Counties, WY, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, DeKalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; Charlotte, De Soto, Glades, Mardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alchua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla Counties, FL; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Rickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (3) From points in Park, Teton, Yellowstone, National Park Counties, WY, to points in AL, FL; Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (4) From points in Lincoln, Sublette, Sweetwater, Uinta Counties, WY, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Talladoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, DeKalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; to points in FL; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (6) From points in Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY, to points in AL, FL; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. The purpose of this filing is to eliminate the gateway of Chicago, Illinois.

MC 107012 (Sub-E376), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Kitchen Cabinet Sinks, Uncrated* (1) From points in Clark and Lincoln Counties, NV, to points in Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblin, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN. (2) From points in Esmeralda, Eureka, Lander and Nye Counties, NV, to points in De Kalb, Jackson, Limestone, Madison, Marshall, and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter and Volusia Counties, FL; points in GA; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (5) From points in Fremont, Hot Springs, Natrona Counties, WY, to points in AL, FL; Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (6) From points in Eiko and Whitepine Counties, NV, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Grenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; points in GA; Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E377), filed may 16, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Kitchen Cabinet Sinks, Uncrated,* (1) From points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotan, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake and Warren Counties, NC; points in VA. (2) From points in McKinley, Rio Arriba and San Juan Counties, NM, to points in NC; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marl-

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boro, Richland, Sumter, Clarendon, Dillion, Florence, Georgetown, Horry, Marion, Williamsburg, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN; points in VA. (3) From points in Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt Counties, NM, to points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah and Warren Counties and Independent cities of: Harrisonburg and Winchester, VA. From points in Colfax, Harding, Mora, Taos and Union Counties, NM, to points in Beaufort, Bertie, Camden, Chowan Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake and Warren Counties, NC; points in VA. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E378), filed May 16, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., PO Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Kitchen Cabinet Sinks, Uncrated,* (1) From points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Countires, NC, to points in Yuma County, AZ; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; McKinley, Rio Arriba and San Juan Counties, NM. (2) From points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC, to points in AZ; points in CO; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron and Texas Counties, OK. (3) From points in Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, and Yuma Counties, AZ; points in CO; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; McKinley, Rio Arriba and San Juan Counties, NM. (4) From points in Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, and Wayne Counties, NC, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, and Yuma Counties, AZ; points in CO; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee Wabaunsee, Wyandotte, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Staton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM; Beaver, Cimarron and Texas Counties, OK. (Gateway eliminated: St. Charles, IL.)

MC 107012 (Sub-E379), filed May 16, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Kitchen Cabinet Sinks, Uncrated.* (1) From points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope and Stark Counties, ND,

to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana parishes, LA. (2) From points in Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele and Traill Counties, ND, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independece, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA. (3) From points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Divide, McKenzie and Williams Counties, ND, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA. (Gateway eliminated: St. Charles, IL.)

MC 107515 (Sub-E673), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road, N.E., Atlanta, GA 30326. 1. *FROZEN FOODS, FRESH AND CURED MEATS and such commodities* as are classified as DAIRY PRODUCTS in the appendix to the report in *Modification of Permits—Packing House Products,* 46 M.C.C. 23, *FRESH FRUITS AND VEGETABLES, and MEAT PRODUCTS AND MEAT BY-PRODUCTS* as described in parts A and B of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 766 (except in bulk), in vehicle, equipped with mechanical refrigeration, FROM Memphis, TN TO points in ME, NH, VT, MA, CT, RI, NJ, DE, DC, MD, NC, and SC; points in FL on and east of US Hwy 319; points in WV on and east of US 219; points in PA on and east of aline commencing at the PA-WV stateline and extending over PA 281 to jct. US Hwy 219, thence over US Hwy 219 to jct. PA 56, thence over PA Hwy 56 to jct. PA Turnpike thence over PA Turnpike to jct. US Hwy 522, thence over US Hwy 522 to jct. US Hwy 15, thence over US Hwy 15 to NY-PA stateline; and points in NY on or east of a line commencing at the PA-NY stateline and extending over US Hwy 15 to jct. NY Hwy 13, thence over NY Hwy 13 to jct. US Hwy 20, thence over US Hwy 20 to jct. NY Hwy 12, thence over NY Hwy 12 to jct. NY Hwy 26, thence over NY hwy 26 to jct. NY Hwy 3A, thence over NY Hwy 3A to jct. NY Hwy 411, thence over NY Hwy 411 to jct. NY Hwy 26, thence over NY Hwy 26 to jct. NY Hwy 37, thence over NY Hwy 37 to International Boundary Line at Ogdensburg, NY. 2. *FROZEN FOODS, FRESH AND CURED MEATS and such commodities as are classified as DAIRY PRODUCTS* in the appendix to the report in *Modification* of Permits—Parking House Products, 46 MCC 23, and FRESH FRUITS AND VEGETABLES (except in bulk) in vehicle equipped with mechanical refrigeration, (A) FROM points in TN (except McMinnville, TN and that portion of Davidson County, TN formerly known as the City of Nashville), TO points in FL on or east of US Hwy 319, (B) FROM points in that portion of TN on or west of a line beginning at the TN-MS stateline and extending along US Hwy 45 to jct. US Hwy 45W, thence along US Hwy 45W to jct. TN 5, thence along TN Hwy 5 to the TN-KY stateline (except McMinnville, TN and that portion of Davidson County, TN formerly known as the city of Nashville, TO points in SC, ME, VT, NH, CT, RI, MA, NJ, and DE; that portion on NC on or east of Interstate Hwy 85; that portion of VA on, south or east of a line beginning at the VA-NC stateline and extending along US Hwy 501 to jct. US Hwy 360, thence along US Hwy 360 to the Chesapeake Bay at or near Reedville, VA; points in MD and VA on the Del-Mar-Va Peninsula; that portion of PA on, south or east of a line beginning at the VA-NC stateline and extending along US Hwy 501 to jct. US Hwy 360, thence along US Hwy 360 to the Chesapeake Bay at or near Reedville, VA; points in MD and VA on the Del-Mar-Va Peninsula; that portion of PA on, south or east of US Hwy 202; and that portion to jct. Interstate 87, thence along Interstate Hwy 87 to NY Hwy 9-N, thence along NY Hwy 9-N at or near Elizabethtown, NJ to jct. NY Hwy 73, thence along NY Hwy 73 to jct. NY Hwy 86, thence along NY Hwy 86 to jct. NY Hwy 30, thence along NY Hwy 30 to the United States-Canada border. (C) FROM points in that portion of TN on, east or south of a line beginning at the GA-TN stateline and extending along Interstate Hwy 75 to jct. US Hwy 64, thence along US Hwy 64 to jct. US Hwy 51, thence along US Hwy 51 to jct. TN Hwy 59, thence along TN Hwy 59 to the Mississippi River (except from McMinnville, TN and that portion of Davidson County, TN formerly known as the City of Nashville), TO points in SC on, south or east Interstate Hwy 85; that portion of NC on, south or east of US Hwy 20; that portion of VA on, south or east of a line beginning at the VA-NC stateline and extending along US Hwy 360

MC 114868 (Sub-E26), filed August 1, sentative: H. E. Newlon, Jr., (same as of Nashville,) (11) between points in

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to jct. Interstate Hwy 95; thence long Interstate Hwy 95 to the VA-DC stateline Washington, D.C.; that portion of MD on, south or east of US Hwy 1; that portion of PA on, south or east of a line beginning at the MD-PA stateline and extending along US Hwy 222 to jct. PA Hwy 61; thence along PA Hwy 61 to jct. PA Hwy 42, thence along PA Hwy 42 to jct. US Hwy 220, thence along US Hwy 220 to the NY-PA stateline; and, that portion of NY on, south or east of NY Hwy 14; and points in DE, NJ, CT, RI, MA, NH, VT, and ME. (D) FROM points in that portion of TN on or west of a line beginning at the KY-TN stateline and extending along TN Hwy 109 to jct. Hwy 40, thence along Interstate Hwy 40 to jct. US Hwy 231, thence along US Hwy 231 to jct. US Hwy 41, thence along US Hwy 41 to the GA-TN stateline (except those points in Davidson County, TN formerly known as the City of Nashville and McMinnville) TO points in SC; that portion of NC on, south or east of Interstate Hwy 85; that portion of VA on or south of a line beginning at the NC-VA stateline and extending along Interstate Hwy 85 to jct. Interstate Hwy 95, thence along Interstate Hwy 95 to jct. US Hwy 360, thence along US Hwy 360 to the Chesapeake Bay; points in VA and MD on the Del-Mar-Va Peninsula; that portion of PA on or east of US Hwy 1; that portion of NJ on, south or east of a line beginning at the PA-NJ stateline and extending along US Hwy 1 to jct. NJ Hwy 17, thence along NJ Hwy 17 to the NY-NJ stateline; NY, NY, and points in Westchester, Nassau, and Suffolk Counties, NY; points in CT on, south or east of CT Hwy 15; that portion of MA on, south or east of a line at the CT, MA stateline and extending along MA Hwy 15 to jct Interstate Hwy 90, thence along Interstate Hwy 90 to jct. Interstate Hwy 290, thence along Interstate Hwy 290 to jct. Interstate Hwy 495, thence along Interstate Hwy 495 to jct. Interstate Hwy 95 to the MA, NH stateline; Portsmouth, NH; and ME, DE and RI. (E) FROM points in TN on or south of US hwy 11 and US Hwy 11E (except from McMinnville, TN and that portion of Davidson County, TN formerly known as the City of Nashville), TO points in TX; points in OK on or west of a line commencing at the AR-OK stateline and extending over OK 3 to jct. OK Hwy 39, thence over OK Hwy 39 to jct. US Hwy 177, thence over US Hwy 177 to jct. Interstate Hwy 44, thence over Interstate Hwy 44 to jct. Interstate Hwy 35, thence over Interstate Hwy 35 to the OK-KS stateline; points in KS on or west of US Hwy 281; points in NE on or west of US Hwy 183. (F) FROM points in TN on, south or east of a line commencing at the GA-TN stateline and extending along US Hwy 11 to jct. Interstate Hwy 75, thence along Interstate Hwy 75 to jct. TN Hwy 33, thence along TN Hwy 33 to jct. US Hwy 25E, thence over US Hwy 25E to the KY-TN-VA stateline (except from McMinnville, TN and that portion of Davidson County, TN formerly known as the City of Nashville) TO points in TX. (G) FROM Chattanooga, TN TO points in TX; points in OK on or west of a line commencing at the AR-OK stateline and extending along US Hwy 70 to jct. Indian Nation Turnpike, thence over Indian Nation Turnpike to jct. OK Hwy 3, thence over OK Hwy 3 to jct. OK Hwy 9, thence over OK Hwy 9 to jct. US Hwy 177, thence over US Hwy 177 to OK-KS stateline; points in KS on or west of US Hwy 81; points in NE on or west of a line commencing at the KS-NE stateline and extending over US Hwy 81 to jct. US Hwy 20, thence along US Hwy 20 to NE-IA stateline at Sioux City, IA, and extending along US Hwy 75 to MN-IA stateline; points in MN on, north or west of a line commencing at the MN-IA stateline and extending along MN Hwy 60 to jct. US Hwy 169, thence over US Hwy 169 to jct. Interstate Hwy 494, thence over Interstate Hwy 494 to jct. US Hwy 94, thence along Interstate Hwy 94 to MS-WI stateline at or near Lakeland, MN; and Superior, WI. (H) From points in TN on or east of US Hwy 41 (except McMinnville and points in Davidson County formerly known as the City of Nashville) to Brownsville, TX. 3. *Non-dairy food dressing, non-dairy cream substitute and cocoa mix*, (except in bulk) in vehicles equipped with mechanical refrigeration, from Jonesboro, TN to destinations located in No. 2(E) above. 4. *Pizza pie ingredients and foodstuffs, meats, meat products, meat by-products* used in the production and sale of pizza pies (except in bulk) in vehicles equipped with mechanical refrigeration. From plantsite of Pepe's Pizza, Div. of Wholesale Pizza Co. at Nashville, TN to destination points in 2(D) above, restricted to the transportation of shipments originating at the plantsite of Pepe's Pizza, a division of Wholesale Pizza Company at Nashville, TN. 5. *Meats, meat products and meat by-products* as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except in bulk), in vehicles equipped with mechanical refrigeration. From Union City, Humboldt, and Jackson, TN. To destination territory described in 2(B) above. 6. *Frozen foods, fresh and cured meats and such commodities as are classified as dairy products* in the appendix to the report in *Modification of Permits—Packing House Products*, 46 MCC 23, and *fresh fruits and vegetables* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in TN on or east of a line commencing at TN-AL stateline and extending along US Hwy 431 to jct. TN Hwy 96, thence over TN Hwy 96 to jct. TN Hwy 48, thence over TN Hwy 48 to jct. TN Hwy 13, thence over TN Hwy 13 to jct. US Alt. Hwy 41, thence over US Alt. Hwy 41 to the KY-TN stateline, (except from McMinnville and points in Davidson County formerly known as the City of Nashville). To points in FL. 7. *Fresh and cured meats, and such commodities as are classified as dairy products* in the appendix to the report in *Modification of Permits—Packing House Products*, 46 MCC 23 and *fresh fruits and vegetables* (except in bulk), in vehicles equipped with mechanical refrigeration, (A) from Chattanooga, TN and points in Bradley, Hamilton, Grundy, Marion, Sequatch, Bledsoe, White, Cumberland, Overton and Jackson Counties, TN to points in GA on, south or east of a line commencing at the AL-GA stateline and extending over US Hwy 29 to jct. US Hwy 78, thence over US Hwy 78 to jct. GA Hwy 72, thence along GA Hwy 72 to GA-SC stateline, and points in Fulton, Douglas, Gwinnett, and Cobb Counties, GA. (B) From points in TN on or east of US Hwy 127 except those points east of a line beginning at the NC-TN stateline, and extending over US Hwy 25 to jct. US Hwy 25E, thence over US Hwy 25E to the KY-TN stateline, to points in GA on, south or east of a line commencing at the AL-GA stateline and extending over GA Hwy 34 to jct. US Hwy 29, thence over US Hwy 29 to Atlanta, thence over Interstate Hwy 20 to jct. US Hwy 441, thence over US Hwy 441 to jct. US Hwy 80, thence over US Hwy 80 to Atlantic Ocean at Savannah Beach, and points in DeKalb, Gwinnett, Cobb, Fulton, Douglas, Henry and Rockdale Counties, GA. (C) From points in TN west of US Hwy 127 and East of Interstate Hwy 65, (except McMinnville and that portion of Davidson County formerly known as the City of Nashville, TN). To points in GA on, south or east of a line commencing at the AL-GA stateline and extending over Interstate Hwy 85 to jct. Interstate Hwy 20, thence over Interstate Hwy 20 to the GA-SC stateline, and points in Fulton, Cobb, DeKalb, Gwinnett, Rockdale and Douglas Counties, GA. Restriction: The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. The purpose of this application is to eliminate the gateway of Doraville (Atlanta) GA.

MC 114868 (Sub-E26), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr., (same as above). *Household goods*, (1) between points in CT, on the one hand, and, on the other, points in IN (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); (2) between points in CT, on the one hand, and, on the other, points in IL (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); (3) between points in CT, on the one hand, and, on the other, points in KY (Gateway—points in KY within 125 miles of Nashville); (4) between points in CT, on the one hand, and, on the other, points in MD (Gateway—Washington, DC); (5) between points in CT, on the one hand, and, on the other, points in MO (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); (6) between points in CT, on the one hand, and, on the other, points in NC (Gateways—Washington, DC, and points in TN and KY within 125 miles of Nashville); and (7) between points in CT, on the one hand, and, on the other, points in OH (Gateway—Washington, DC).

MC 114868 (Sub-E27), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr., (same as above). *Household goods*, (1) between points in DE, on the one hand, and, on the other, points in IN (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); (2) between points in DE, on the one hand, and, on the other, points in IL (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); (3) between points in DE, on the one hand, and, on the other, points in MD (Gateway—Washington, DC); (4) between points in DE, on the one hand, and, on the other, points in KY (Gateway—points in KY within 125 miles of Nashville); (5) between points in DE, on the one hand, and, on the other, points in NC (Gateways—Washington, DC, points in TN and KY within 125 miles of Nashville); (6) between points in DE, on the one hand, and, on the other, points in MN (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); (7) between points in DE, on the one hand, and, on the other, points in MO (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); and (8) between points in DE, on the one hand, and, on the other, points in OH (Gateway—Washington, DC).

MC 114868 (Sub-E34), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr., (same as above). *Household goods*, (1) between points in NC, on the one hand, and, on the other, points in IL (Gateway—Washington, DC); (2) between points in NC, on the one hand, and, on the other, points in TN (Gateway—points in TN within 125 miles of Nashville); (3) between points in NC, on the one hand, and, on the other, points in MO (Gateways—Washington, DC, and points in KY within 125 miles of Nashville); (4) between points in NC, on the one hand, and, on the other, points in KY (Gateway—points in KY within 125 miles of Nashville); (5) between points in NC, on the one hand, and, on the other, points in IN within 10 miles north of the Ohio River (Gateway—points in KY within 125 miles of Nashville); and (6) between points in NC, on the one hand, and, on the other, points in MD (Gateway—Washington, DC).

MC 114868 (Sub E50), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr. *Household goods*, (1) between points in AL, on the one hand, and, on the other, points in MA. (Gateway—points in AL within 125 miles of Nashville). (2) between points in AL, on the one hand, and, on the other, points in MI. (Gateway—points in TN within 125 miles of Nashville.) (3) between points in AL, on the one hand, and, on the other, points in MN. (Gateway—points in AL within 125 miles of Nashville.) (4) between points in AL, on the one hand, and, on the other, points in DC. (Gateway—points in AL within 125 miles of Nashville.) (5) between points in AL, on the one hand, and, on the other, points in CT. (Gateway—points in AL and TN within 125 miles of Nashville.) (6) between points in AL, on the one hand, and, on the other, points in DE. (Gateway—points in AL and TN within 125 miles of Nashville.) (7) between points in AL, on the one hand, and, on the other, points in IL. (Gateway—points in AL within 125 miles of Nashville.) (8) between points in AL, on the one hand, and, on the other, points in IN. (Gateway—points in AL and TN within 125 miles of Nashville.) (9) between points in AL north and west of a line beginning at the AL-GA State line extending along trunk Hwy 46 to junction AL Hwy 27, then along AL Hwy 27 to junction AL Hwy 134, then along AL Hwy 134 to junction AL Hwy 85, then along AL Hwy 85 to junction AL Hwy 27, then along AL Hwy 27 to the AL-FL State line, on the one hand, and, on the other, points in VA. (Gateway—points in AL within 125 miles of Nashville.) (10) between points in AL, on the one hand, and, on the other, points in MD. (Gateway—points in AL and TN within 125 miles of Nashville.) (11) between points in AL, on the one hand, and, on the other, points in KY. (Gateway—points in TN within 125 miles of Nashville.) (12) between points in AL, on the one hand, and, on the other, points in MO. (Gateway—points in AL and TN within 125 miles of Nashville.) (13) between points in AL, on the one hand, and, on the other, points in NJ. (Gateway—points in AL within 125 miles of Nashville.) (14) between points in AL north and west of a line beginning at the AL-GA State line extending along US Hwy 78 to junction I Hwy 20, then along I Hwy 20 to junction US Hwy 31, then along US Hwy 31 to junction AL Hwy 25, then along AL Hwy 25 to junction AL Hwy 139, then along AL Hwy 139 to junction AL Hwy 22, then along AL Hwy 22 to junction AL Hwy 41, then along AL Hwy 41 to junction AL Hwy 21, then along AL Hwy 21 to the AL-FL State line, on the one hand, and, on the other, points in NC. (Gateway—points in TN and AL within 125 miles of Nashville.) (15) between points in AL, on the one hand, and, on the other, points in NY. (Gateway—points in AL and KY within 125 miles of Nashville and Washington, DC.) (16) between points in AL, on the one hand, and, on the other, points in OH. (Gateway—points in AL within 125 miles of Nashville.) (17) between points in AL, on and north of AL Hwy 10, on the one hand, and, on the other, points in OK. (Gateway—points in AL within 125 miles of Nashville.) (18) between points in AL, on the one hand, and, on the other, points in PA. (Gateway—points in AL and TN within 125 miles of Nashville.) (19) between points in AL north of a line beginning at the AL-GA State line extending along US Hwy 78 to junction trunk Hwy 93, then along trunk Hwy 93 to junction trunk Hwy 20, then along trunk Hwy 20 to junction trunk Hwy 26, then along trunk Hwy 26 to junction AL Hwy 53, then along AL Hwy 53 to junction trunk Hwy 8, then along trunk Hwy 8 to junction I Hwy 65, then along I Hwy 65 to junction US Hwy 278, then along US Hwy 278 to junction US Hwy 78, then along US Hwy 78 to the AL-MS State line, on the one hand, and, on the other, points in TX. (Gateway—points in AL within 125 miles of Nashville.) (20) between points in AL north of a line beginning at the AL-GA State line extending along I Hwy 59 to junction US Hwy 82, then along US Hwy 82 to the AL-MS State line, on the one hand, and, on the other, points in SC west of a line beginning at the SC-NC State line extending along I Hwy 85 to junction US Hwy 29, then along US Hwy 29 to the SC-GA State line. (Gateway—points in AL within 125 miles of Nashville.) (21) between points in AL, on the one hand, and, on the other,

points in RI. (Gateway—points in AL and KY within 125 miles of Nashville and Washington, DC.) (22) between points in AL, on the one hand, and, on the other, points in WI. (Gateway—points in AL and TN within 125 miles of Nashville.) (23) between points in AL, on the one hand, and, on the other, points in WV. (Gateway—points in AL and TN within 125 miles of Nashville.)

MC 123407 (Sub-E493), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Adhesive cement and materials, ingredients and accessories used in the installation thereof* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of Permalastic Products Company located in Wayne County, MI, to points in WA, OR, CA, NV, ID, UT, AZ, WY, CO, NM, KS, TX, OK, and points in Atchison, Nodaway, Holt, Andrew, Buchanan, Platte, Jackson, Clay, Clinton, DeKalb, Gentry, Worth, Harrison, Daviess, Caldwell, Ray, Lafayette, Pettis, Saline, Carroll, Livingston, Grundy, Mercer, Putnam, Sullivan, Linn, Charlton, Howard and Cooper Counties, MO. (Gateway eliminated: Fairplay, WI.)

MC 123407 (Sub-E498), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, US Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials used in the manufacture and distribution of windows, doors, and building woodwork* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, CA, ID, WY, CO, UT, NV, to Columbus, OH. (Gateway eliminated: Dubuque, IA.)

MC 125433 (Sub-E58), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, (same as above). *Pipe* (except iron and steel and commodities in bulk), (1) between points in CO on, south and west of a line beginning at the CO-UT State line extending along US Hwy 6 to junction CO Hwy 133, then along CO Hwy 133 to junction CO Hwy 135, then along CO Hwy 135 to junction US Hwy 50, then along US Hwy 50 to junction US Hwy 550, then along US Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the CO-UT State line extending along US Hwy 6 to junction CO Hwy 133, then along CO Hwy 133 to junction US Hwy 6, then along US Hwy 6 to junction US Hwy 24, then along US Hwy 24 to junction US Hwy 285, then along US Hwy 285 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction US Hwy 187, then along US Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (2) between points in CO on and within a line beginning at the CO-NM State line extending along US Hwy 550 to junction US Hwy 50, then along US Hwy 50 to junction CO Hwy 135, then along CO Hwy 135 to junction CO Hwy 133, then along CO Hwy 133 to junction US Hwy 6, then along US Hwy 6 to junction US Hwy 24, then along US Hwy 24 to junction US Hwy 285, then along US Hwy 285 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction US Hwy 187, then along US Hwy 187 to junction US Hwy 89, then along US Hwy 89 to junction US Hwy 14, then along US Hwy 14 to junction US Hwy 16, then along US Hwy 16 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (3) between points in CO on, south and east of a line beginning at the CO-NM State line extending along US Hwy 285 to junction US Hwy 24, then along US Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction I Hwy 80, then along I Hwy 80 to junction US Hwy 30N, then along US Hwy 30N to junction US Hwy 189, then along US Hwy 189 to junction US Hwy 89, then along US Hwy 89 to the WY-MT State line; and (4) between points in CO on and north a line beginning at the CO-UT State line extending along US Hwy 6 to junction US Hwy 191, then along US Hwy 191 to junction WY Hwy 9, then along WY Hwy 9 to junction US Hwy 24, then along US Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points WY on and west of a line beginning at the WY-UT State line extending along I Hwy 80 to junction US Hwy 189, then along US Hwy 189 to junction US Hwy 187, then along US Hwy 187 to junction US Hwy 89, then along US Hwy 89 to the WY-MT State line. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E59), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles* as described in Appendix V to the Commission's report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), (1) between points in CO on, south and west of a line beginning at the CO-UT State line extending along US Hwy 6 to junction CO Hwy 133, then along CO Hwy 133 to junction CO Hwy 135, then along CO Hwy 135 to junction US Hwy 50, then along US Hwy 50 to junction US Hwy 550, then along US Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the CO-WY State line extending along WY Hwy 430 to junction US Hwy 187, then along US Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (2) between points in CO on and within a line beginning at the CO-NM State line extending along US Hwy 550 to junction US Hwy 50, then along US Hwy 50 to junction CO Hwy 135, then along CO Hwy 135 to junction CO Hwy 133, then along CO Hwy 133 to junction US Hwy 6, then along US Hwy 6 to junction US Hwy 24, then along US Hwy 24 to junction US Hwy 285, then along US Hwy 285 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction US Hwy 187, then along US Hwy 187 to junction US Hwy 89, then along US Hwy 89 to junction US Hwy 14, then along US Hwy 14 to junction US Hwy 16, then along US Hwy 16 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (3) between points in CO on, south and east of a line beginning at the CO-NM State line extending along US Hwy 285 to junction US Hwy 24, then along US Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction I Hwy 80, then along I Hwy 80 to junction US Hwy 30N, then along US Hwy 30N to junction US Hwy 189, then along US Hwy 189 to junction US Hwy 89, then along US Hwy 89 to the WY-MT State line; and (4) between points in CO on and north of a line beginning at the CO-UT State line extending along US Hwy 6 to junction CO Hwy 9, then along CO Hwy 9 to junction US Hwy 24, then along US Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-UT State line extending along I Hwy 80 to junction US Hwy 189, then along US Hwy 189 to junction US Hwy 187, then along US Hwy 187 to junction US Hwy 89, then along US Hwy 89 to the WY-MT State line. (Gateway eliminated: points in UT.)

MC 141969 (Sub-E34) (Correction), filed April 13, 1978, published in the FEDERAL REGISTER July 26, 1978, and republished as corrected this issue. Applicant: NOBLE TRANSPORT INC., 1555 Tremont Place, Denver, CO 80217. Representative: Richard P. Kissinger, Suite 140, Cherry Creek Center, 360 South Monroe, Denver, CO 80209. (A) *Iron and steel articles*, as described in Appendix V to the report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209: (7) between points in AZ on and north and east of a line beginning at the AZ-CA State line extending along I Hwy 10 to junction US Hwy 95, then along US Hwy 95 to junction unmarked hwy near Dome, AZ, then along unmarked hwy to junction I Hwy 8 at Liguita, AZ, then along I Hwy 8 to junction AZ Hwy 85, then along AZ Hwy 85 to the US-MX International Boundary line, on the one hand, and, on the other, points in OR (Gateway eliminated: points in UT.)

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33580 Filed 11-29-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Volume No. 126]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

NOVEMBER 23, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION; OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before January 2, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

[1]Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

MC 103926 (Sub-46M1F) (notice of filing of petition to modify certificate), filed October 4, 1978. Petitioner: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: Wm. H. Driskell, (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 103926 Sub 46 issued February 22, 1977, authorizing transportation, over irregular routes, of: *Cranes and parts, attachments, and accessories therefor*, from the facilities of FMC Corporation, at or near Bowling Green, KY, to points in AL, AR, FL, GA, LA, MS, NC, SC, TN, TX, and VA. RESTRICTION: The operations authorized herein are restricted to the transportation of traffic originating at the facilities of FMC Corporation, at or near Bowling Green, KY. By the instant petition, petitioner seeks to add Lexington, KY as an additional origin point of FMC Corporation.

MC 115162 (Sub-217M1F) (notice of filing of petition to modify certificate), filed October 12, 1978. Petitioner: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 115162 Sub 217 issued November 22, 1971 authorizing transportation, over irregular routes, of *Fire brick, fire clay, and bonding mortar*, from points in Audrain and Callaway Counties, MO, to points in AL, FL, GA, MS, LA, and TX.

By the instant petition, petitioner seeks to modify the above authority to read: (1) *Fire brick, fire clay, bonding mortar, furnace and kiln lining, refractory products and commodities* incidental to the installation thereof (except commodities in bulk, in tank vehicles), from points in Audrain and Callaway Counties, MO, to points in AL, FL, GA, MS, LA and TX, and (2) *materials and supplies* used in the manufacture of fire brick, fire clay, bonding mortar, furnace and kiln lining, refractory products and commodities incidental to the installation thereof (except commodities in bulk, in tank vehicles), from points in AL, FL, GA, MS, LA, and TX, to points in Audrain and Callaway Counties, MO.

MC 115162 (Sub-376 M1F) (notice of filing of petition to modify certificate), filed October 12, 1978. Petitioner: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate, (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 115162 Sub 376 issued July 11, 1978, authorizing transportation, over irregular routes, of *Fire brick, fire clay, furnace* or *kiln lining, refractory products* and *commodities* incidental to the installation thereof (except commodities in bulk, in tank vehicles), in *materials* and *supplies* used in the manufacture and production of *fire brick, fire clay, furnace* or *kiln lining*, refractory products and commodities incidental to the installation thereof (except commodities in bulk, in tank vehicles), (a) between points in Audrain and Callaway Counties, MO, on the one hand, and, on the other points in AR, TN, NC, SC, KY, MD, and VA, restricted to traffic originating at or destined to the facilities of A. P. Green Refractories Company, and (b) between Thermo, TX, on the one hand, and, on the other, points in AL, AR, GA, FL, LA, MO, KY, MS, TN, NC, SC, and VA. By the instant petition, petitioner seeks to modify the above authority by eliminating the restriction.

MC 126102 (Sub-3 M1F) (notice of filing of a petition to remove or delete restrictions in permit), filed October 2, 1978. Petitioner: ANDERSON MOTOR LINES, INC., 116 Washington Street, Plainville, MA 02762. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. Petitioner Holds a motor *contract carrier* permit in MC 126102 (Sub-3) issued December 7, 1970, authorizing transportation, over irregular routes, of *such commodities* as are sold in drug, chain, discount and departmnet stores (except commodities in bulk, in tank vehicles) (a) between the warehouses of Zayre Corp. in FL, GA, OH, and IL, on the one hand, and, on the other points in MA, NH, PA, IL, WI, MN, KY, MD, SC, ME, RI, OH, IN, MI, TN, VA, GA and FL, and (b) between the warehouses of Zayre Corp. in MA, on the one hand, and, on the other, points in PA, IL, WI, MN, KY, MD, SC, OH, IN, MI, TN, VA, GA and FL. The operations authorized are restricted (1) against the transportation of traffic from points in FL, GA, and SC to points in MA other than from warehouses of Zayre Corp.: (2) against the transportation of new furniture from points in Lycoming, Northumberland and Montour Counties, PA; and (3) are limited to a service to be performed under a continuing contract, or contracts, with Zayre Corp. of Framingham, MA. by the instant petition, petitioner seeks to modify the above Permit by deleting the restrictions set forth in (1) and (2), above.

MC 135811 (M1F) (notice of filing of petition to modify permit), filed Octo-

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ber 12, 1978. Petitioner: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Theodore Polydoroff, 1307 Dolley Madison Boulevard, Suite 301, McLean, VA 22101. Petitioner holds a motor *contract carrier* permit in MC 135811 issued August 8, 1977, authorizing transportation, as pertinent, over irregular routes, of (a) *Welders, welding products and parts, materials, equipment and supplies* used in connection therewith, and (b) *materials and supplies* used in the manufacture of welding products, between points in the United States (except AK and HI) RESTRICTION: The service authorized herein is subject to the following conditions: The operations authorized under part (a) are restricted to the transportation of shipments originating at or destined to the plant sites and warehouses of Chemetron Corporation. The operations authorized under part (a) are restricted against the transportation of commodities in bulk and commodities which because of size and weight require the use of special equipment. The operations authorized under part (a) are limited to a transportation service to be performed, under a continuing contract, or contracts, with Chemetron Corporation. By the instant petition, petitioner seeks to modify the above authority by adding compounds to part (a) of the commodity description so that it reads: "*Welders, welding products* and *parts, materials, equipment* and *supplies* used in connection therewith, and *compounds.*"

MC 139893 (Sub-5 M1F) (notice of filing of petition to modify certificate), filed October 10, 1978. Petitioner: THAMES VALLEY BRICK & BUILDING PRODUCTS LTD., P.O. Box 314, Chatham, ON, Canada N7M 5K4. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, NW., Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 139893 Sub 5, issued June 6, 1977, authorizing transportation of lumber, from ports of entry on the United States-Canada Boundary line located in MI to points in IL, IN, KY, MD, MI, OH, PA, VA, WV, WI, and DC, restricted to the transportation of shipments originating at the facilities of Green Forest Lumber, Ltd.. at or near Chatham, Ontario, Canada. By the instant petition, petitioner seeks to modify the restriction to read: "restricted to the transportation of shipments originating at the facilities of Greeen Forest Limber Ltd. in the Province of Ontario, Canada.

MC 143785 (M1F), (Notice) of filing of petition to add contracting shippers), filed October 5, 1978. Petitioner: B & W TRANSPORTATION, INC., 24 Collins Avenue, Randolph, MA 02363. Representative: David M. Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Petitioner holds a motor *contract carrier* Permit in MC 143785 issued June 13, 1978, authorizing transportation, over irregular routes, of beer, from South Volney and Fulton, NY, to points in Massachusetts east of Worcester County, restricted to service to be performed under a continuing contract(s) with Burke Distributing Corp. of Randolph, MA. By the instant Petition, Petitioner seeks to add Merrimack Valley Distributing Co. and J. J. Taylor Distributing Company, Inc. as contracting shippers.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original, and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 19193 (Sub-No14F) (second republication), filed March 13, 1978, published in the FEDERAL REGISTER issues of April 27, 1978 and October 5, 1978, and republished this issue. Applicant: LAFFERTY TRUCKING CO., a corporation, 703 Beale Avenue, Altoona, PA 16601. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. A decision of the Commission, Review Board Number 1, decided October 11, 1978, and served October 16, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses and in connection therewith, *equipment, materials, and supplies*, used in the conduct of such business, between points in Ashtabula, Columbiana, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Manhoning, Ottawa, Portage, Sandusky, Stark, Summit, and Trumbull Counties, OH, and Baltimore, MD, on the one hand, and, on the other, points in Garrett, Allegany, and Washington Counties, MD, in Greene, Washington, Fayette, Westmoreland, Armstrong, Clarion, Forest, Elk, McKean, Cameron, Clinton, Lycoming, Union, Snyder, Juniata, Perry, Dauphin, Cumberland, Franklin, Fulton, Bedford, Somerset, Cambria, Indiana, Jefferson, Clearfield, Centre, Blair, Huntingdon, and Mifflin Counties, PA, and Monongalia, Marion, Taylor, Preston, Barbour, Randolph, Tucker, Grant, Mineral Hampshire, Morgan, and Hardy Counties, WV, under a continuing contract or contracts with The Great Atlantic & Pacific Tea Company, Inc., of Montvale, NJ, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 114211 (Sub-333), (republication), filed December 5, 1977, published in the FEDERAL REGISTER issue of February 2, 1978, and republished this issue. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Daniel Sullivan, Suite 1600, 10 South La Salle, Chicago, IL 60604. A Decision of the Commission, Review Board Number 2, decided September 29, 1978, and served November 8, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Such commodities* as are dealt in or used by agricultural equipment dealers (except commodities in bulk), between points in the United States (except AK, HI, and IA), on the one hand, and, on the other, points in Butler County, IA; and (2) *equipment, materials, and supplies* used in the manufacture of the commodities described in (1) above (except commodities in bulk), from points in the United States (except AK, HI, and IA), to points in Butler County, IA, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of A. L. Buseman Industries, in Butler County, IA, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description and add a restriction.

MC 139495 (Sub-318F) (republication), filed February 16, 1978, published in the FEDERAL REGISTER issue of March 23, 1978, and republished this issue. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. A Decision of the Commission, Review Board Number 1, decided October 30, 1978, and served November 3, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Household appliances*, from the facilities of SCM Proctor-Silex, at Baltimore, MD, to points in AR, AZ, CA, CO, ID, IA, KS, LA, MN, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 140852 (Sub-3F) (republication), filed February 6, 1978, published in the FEDERAL REGISTER issue of March 9, 1978, and republished this issue. Applicant: C. W. MITCHELL, INC., d.b.a. MITCHELL TRANSPORT, a corporation, 4401 North Westshore Boulevard, Tampa, FL 33684. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. A Decision of the Commission, Review Board Number 1, decided October 30, 1978, and served November 3, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Breading preparations*, from Chicago, IL, to points in FL, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 141033 (Sub-35) (republication), filed January 26, 1978, published in the FEDERAL REGISTER issue of March 9, 1978, and republished this issue. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, CA 91749. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. A Decision of the Commission, Review Board Number 3, decided September 28, 1978, and served October 26, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Automotive parts and accessories* (except commodities in bulk and those which by reason of size or weight require the use of special equipment), from Burbank, CA, to points in the United States in and east of MN, IA, MO, AR, and TX; and (2) *materials, equipment and supplies* used in the manufacture of automobile parts and accessories (except commodities in bulk and those which by reason of size or weight require the use of special equipment), from points in the United States in and east of MN, IA, MO, AR, and TX, to Burbank, CA restricted to the transportation of shipments originating at or destined to the facilities of Total Performance Products, Inc., at Burbank, CA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of TX as an origin State in part (2) above, and add a restriction.

MC 144237 (republication), filed January 26, 1978, published in the FEDERAL REGISTER issue of March 23, 1978, and republished this issue. Applicant: EUGENE T. FALBO, d.b.a. MOUNTAIN VIEW TOURWAYS, R.D. No. 1, Box 46, Latrobe, PA 15650. Representative: John A. Pillar, 205 Ross Street, Pittsburg, PA 15219. A Decision of the Commission, Review Board Number 1, decided October 2, 1978, and served October 10, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations beginning and ending at points in Unity and Derry Townships, Westmoreland County, PA, and extending to points in the United States (including AK, but excluding HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate PA as the State in which Unity and Derby Townships are located.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 147(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly

affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 121626 (Sub-4F), filed April 14, 1978, and previously noticed in the FEDERAL REGISTER issues of August 10, 1978, and September 28, 1978, and republished as corrected this issue. Applicant: BAYVIEW TRUCKING, INC., 7800 Florin-Perkins Road, Sacramento, CA 95828. Representative: Ann M. Pougiales, 100 Bush Street, 21st floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Such merchandise* as is dealt in by grocery and food business houses, and (b) *commodities* otherwise exempt under section 203(b)(6) of the Interstate Commerce Act when transported in the same vehicle with the commodities described in (a) above, in vehicles equipped with mechnaical refrigeration, between points in CA, on the one hand, and, on the other, points in El Dorado, Nevada, Placer, and Sierra Counties, CA, and Carson City, Douglas, and Washoe Counties, NV.

NOTE.—Common control may be involved. This republication conforms to applicant's request for authority. (Hearing site: San Francisco, CA, or Reno, NV).

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-13748F (amendment) (KSS Transportation Corp.—purchase—K.N.K. Transco, Inc.), published in the October 5, 1978 issue of the FEDERAL REGISTER. Please exclude that part of the notice beginning with "Vendee is authorized" and substitute the following: Approval of the transaction will result in dual operations as vendee is authorized to operate as a contract carrier for Beatrice Foods Co. between Metuchen, North Brunswick, Newark and Linden, NJ on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Other carriers under common control with vendee are James J. Gallery, Inc., and Haul-Away, Inc. James J. Gallery, Inc. is a motor common carrier of foodstuffs between Boston and Watertown, MA. on the one hand, and several points in MA, ME, NH, VT and RI. Haul-Away, Inc. is a motor contract carrier for Beatrice Foods Co., transporting travel trailers, camping trailers and related items between Cerritos, CA and Versailles, OH on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Beatrice Foods Co. is seeking to reacquire control of these carriers in another Section 5 proceeding filed September 21, 1978. Reacquisition of such control will result in the common control of additional carriers. These carriers are Tropicana Transportation Corp., a contract carrier in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, DC, AZ and CA and states between AZ and FL as states of traversal, and Solar Rest, Inc., a contract carrier from Union City, PA and Trenton, NJ to AL, AR, CT, DE, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI and DC. No duplicating authority or split of authority is involved. Application for temporary authority under Section 210a(b) has been filed.

MC-F-13791F. Authority sought for purchase by PACE MOTOR LINES, INC., 132 West Dudleytown Road, Bloomfield, CT 06002, of the operating rights of ROBERT PACELLI d.b.a. TIP TOP TRUCKING, INC., 33 Enfield Street, Enfield, CT 06082, of control of such rights through the transaction. Applicants' attorney: John E. Fay, 630 Oakwood Avenue, Suite 127, West Hartford, CT 06110. Operating rights sought to be transferred: *General commodities*, except those in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, *commodities in bulk, commodities requiring special equipment, and those injurious of contaminating to other lading*, over irregular routes, between Springfield, MA, on the one hand, and, on the other, points and places in Hampden County, MA, as a common carrier, Vendee presently holds authority from this Commission under Certificate No. MC-9268, and is authorized to operate as a *common carrier* within the States of CT, MA, RI, NY and NJ. Application has been filed for temporary authority under section 210a(b).

MC-F-13792F. Authority sought for purchase by PACE MOTOR LINES, INC., 132 West Dudleytown Road, Bloomfield, CT 06002, of the operating rights of TORINO PACELLI d.b.a. HAMPDEN TRUCKING CO., 1 Charles Street, Springfield, MA, of control of such right through the transaction. Representative: John E. Fay, 630 Oakwood Avenue, Suite 127, West Hartford, CT 06110. Operating rights sought to be transferred: *General commodities* as a *common carrier* over irregular routes between all points and places in the Commonwealth of MA. Vendee is authorized to operate as a common carrier within the States of CT, MA, RI, NY and NJ. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 9268 (Sub-17F) is directly related.

MC-F-13796F. Authority sought for purchase by CENTRAL FREIGHT LINES, INC., 5601 West Waco Drive, Waco, TX 76703, the operating rights of W. L. HARDY, d.b.a. MOTORWAY EXPRESS, P.O. Box 175, Pearsall, TX 78061, and for acquisition by W. W. Callan, Sr., of Waco, TX, of control of the rights through the purchase. Applicant's attorney: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Operating rights sought to be purchased: *General commodities*, as defined by the Commission (except those of unusual value, high explosives, household goods as defined by the Commission, commodities in bulk, commodities, requiring special equipment, and those injurious or contaminating to other lading), as a *common carrier*, over regular routes, as described in Certificate of Public Convenience and Necessity in Docket No. MC-121460 (Sub-No. 1): Between Pearsall, TX, and San Antonio, TX, serving the intermediate points of Lytle, Natalia, Devine, and Moore, TX: From Pearsall, TX, over U.S. Hwy 81 to San Antonio and return over the same route; and *General commodities*, as a *common carrier*, over regular routes, as described in Certificate of Registration in Docket No. MC-121460 (Sub-No. 2): From Pearsall to San Antonio via Devine: Between San Antonio, TX, and the following points: (1) Balcones Heights over U.S. Hwy 87; (2) Castle Hills over U.S. Hwy 281 and Northwest Loop 13; (3) Olmos Park over U.S. Hwy 81; (4) Alamo Heights over U.S. Hwy 81; (5) Terrell Hills over U.S. Hwy 81; (6) Kelly Air Force Base over U.S. Hwy 81; (7) Lackland Air Force Base over U.S. Hwy 90; (8) Longhorn Portland Cement Company plant over U.S. Hwy 81 and Weidner Road; (9) all points and places located on or adjacent to Loop 13, over Loop 13; Between Moore, TX, and the plant site of Frio-Tex Oil & Gas Company: From the junction of U.S. Hwy 81 and unnumbered county road at Moore, TX, over said unnumbered county road approximately six (6) miles to the plant site of Frio-Tex Oil & Gas Company, returning over the same route, serving no intermediate points; and Between

U.S. Hwy 81 and the plant site of Frio-Tex Oil & Gas Company: Fron the junction of U.S. Hwy 81 and unnumbered county road adjacent to the intersection of U.S. Hwy 81 and TX Hwy 76, over said unnumbered county road and other access roads to the plant site of Frio-Tex Oil & Gas Company, returning over the same route, serving no intermediate points. Transferee is authorized to operate as a common carrier in TX. Application has not been filed for temporary authority under section 210a(B).

MC-F-13801F. Authority sought for purchase by BE-MAC TRANSPORT CO., INC., 7400 North Broadway, St. Louis, MO 63147, a porton of the operating rights of TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247, and for acquisition by L. E. Hoff, of Cleveland, OH, of control of the rights through the purchase. Applicant's attorney: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Operating rights sought to be purchased: (1) The following described portion of Certificate of Public Convenience and Necessity No. MC-116004, Sub 13: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over regular routes: Between Tulsa, OK and Henryetta, OK, serving the intermediate point of Okmulgee, OK: From Tulsa over U.S. Hwy 66 to Sapulpa, OK, then over Alternate U.S. 75 (formerly portion of U.S. Hwy 75) to junction U.S. Hwy 75, then over U.S. Hwy 75 to Henryetta, and return over the same route. (2) The following described Certificate of Public Convenience and Necessity No. MC-116004, Sub 28: Regular routes: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Dallas, TX, and Henryetta, OK, serving no intermediate points. From Dallas over U.S. Hwy 75 to Atoka, OK, then over U.S. Hwy 69 to junction Indian Nation Turnpike, and then over Indian Nation Turnpike to Henryetta, and return over the same route. Transferee is authorized to operate as a *common carrier* in OK, MO, IL, IN, and MI.

MC-F-13803F. Authority sought by SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106, to control through ownership, capital stock of SPECTOR FREIGHT SYSTEM OF CANADA, LTD., 1608 The Queens Way, Toronto, ON, Canada M8Z 1V6. Applicants' Attorney, Edward G. Bazelon, 30 South LaSalle Street, Chicago, IL 60603. Operating rights of SPECTOR FREIGHT SYSTEM OF CANADA, LTD., sought to be controlled are as a *common motor carrier* in interstate or foreign commerce, over regular routes, transporting: *General commodities*, with the usual exceptions, between International Boundary at the Detroit River at or near Detroit, MI and Detroit, MI. SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, is authorized to operate as a *common motor carrier* in AL, AR, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WI, and District of Columbia. Application has not been filed for temporary authority under section 210a(b).

MC-F-13807F. Authority sought for purchase by CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, N.C. 28021, of a portion of the operating rights of NATIONAL TRANSIT CORP., 4401 Stecker, P.O. Box 610, Dearborn, MI 48121, and for acquisition by C. GRIER BEAM, also of Cherryville, NC, of control of the rights through the purchase. Applicant vendee's attorney: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Street NW., Washington, D.C. 20004; applicant vendor's attorney: Charles F. Rodgers, P.O. Box 1409, Fairfield, NJ 07006. Operating rights sought to be purchased: (A) Base Certificate MC-6945: *General commodities*, except those of unusual value, Classes A and B explosives, loose bulk commodities (other than metal scraps), and commodities requiring special equipment, over regular routes; Between Bay City, MI, and Pontiac, MI, serving all intermediate points, from Bay City over U.S. Hwy. 23 to Saginaw, MI, thence over U.S. Hwy. 10 to Pontiac, MI and return over the same routes. (B) Base Certificate MC-6945: *General commodities*, except those of unusual value, Classes A and explosives, loose bulk commodities (other than metal scraps), and commodities requiring special equipment, over regular routes: Between Wapakoneta, OH and Indianapolis, IN, serving Wapakoneta and the junction of Indiana Hwys. 67 and 232 approximately 5 miles east of Anderson, IN, for purposes of joinder only, from Wapakoneta over U.S. Hwy, 33 to junction Ohio Hwy. 29, thence over Ohio Hwy. 29 to the Ohio-Indiana State Line, thence over Indiana Hwy, 67 to Anderson, IN, thence over Indiana Hwy. 32 to Noblesville, IN, and thence over Indiana Hwy. 37 to Indianapolis, and return over the same route. Restriction: Restricted against the transportation of traffic orginating at or destined to a point in IN, on the one hand, and on the other, originating at or destined to a point in IN, OH, MI, IL, Louisville, KY, Davenport, IA, and the commercial zone of Cincinnati, OH. (C) MC-6945 (Sub-No. 11): *General commodities* except those of unusual value, explosives, livestock, commodities in bulk, and those requiring special equipment, over regular routes, between Muncie, IN and Indianapolis, IN: From Muncie over Indiana Hwy. 67 to Indianapolis and return over the same route. Service is authorized to and from the off-route point of Fort Benjamin Harrison, IN with no service at intermediate points. Between junction Indiana Hwys. 232 and 67 at a point approximately five miles east of Anderson, IN., and junction Indiana Hwys. 9 and 67 approximately four miles south of Anderson: from junction Indiana Hwys. 232 and 67 over Indiana Hwy. 32 to junction Indiana Hwy. 9, and then over Indiana Hwy. 9 to junction Indiana Hwy. 67 and return over the same route. Service is authorized to and from the intermediate point of Anderson, IN. Vendee is authorized to operate pursuant to Certificate No. MC-2253 and subs as a *common carrier* of general and specified commodities in the States of AL, CT, DE, DC, FL, GA, IL, IN, KY, MD, MA, MI, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV and WI. Application has been filed for temporary authority under Section 210a(b)

NOTE.—MC-2253 (Sub-No. 89F) is directly related.

MOTOR CARRIER OF PASSENGERS

MC-F-13809F. Authority sought for purchase by EVERGREEN TRAILS, INC., d.b.a. EVERGREEN TRAILWAYS 666 Stewart Street, Seattle, WA 98101, of a portion of the operating rights of BREMERTON-TACOMA STAGES, INC., d.b.a. CASCADE TRAILWAYS, 7th Avenue & Stewart Street, Seattle, WA 98101, and for acquisition by ELWOOD L. ARNESON, 1936 Westlake Avenue., Seattle, WA, of control of such rights through the transaction. Applicants' representative: Lawrence E. Lindeman, Suite 1032, 425 13th Street NW., Washington, D.C. 20004. Operating rights sought to be transferred: MC: 28339 (Sub-Nos. 8 and 9) authorizing transportation of passengers and their baggage (1) in round-trip sightseeing and pleasure tours, in special operations, as a *common carrier*, over irregular routes, beginning and ending at points in Mason, Thurston, Pierce, Kitsap, Clallam, and Jefferson Counties, WA, and extending to points in the United States (except HI); and (2) in charter operations, beginning and ending at points in Clallam and Jefferson Counties, WA, and extending to points in the United States (except HI). Vendee

of Woonsocket, SD, and Fort Thomp-

weight or size, and those injurious or

Falls and Brainerd; and Brainerd, MN.

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is authorized in MC-107638 to operate as a *common carrier* beginning and ending points in King and Snohomish Counties, WA, and extending to points in the United States (except HI). Application has not been filed for temporary authority under section 210a(b).

MC-F-13812F. Authority sought for control and merger by K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623, of the operating rights and properties of ON TIME DELIVERY, INC., South Main Street, Lyndonville, NY 14098, and for acquisition by KENT, L. JOHNSON, of Rochester, NY 14623, of control of such rights through the merger. Applicants' attorneys: S. Michael Richards/Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. Operating rights sought to be controlled and merged: *Specified commodities* as a *common carrier* over irregular routes in the States of CT, MA, MD, NJ, PA, OH, NY and DC, as more fully described in Certificate MC-2165 and Subs thereto. Vendee is authorized to operate as a *common carrier*, over irregular routes, transporting malt beverages (except in bulk), from Pabst, GA to Dayton, OH as described in Certificate MC-143127 and as a *contract carrier*, over irregular routes, transporting specified commodities in the states of GA, SC, NC, TN, WV, MN, WI, MI, IL, OH, PA, MD, NJ, NY, CT, MA, and RI, as more fully described in Permit MC-138991 and Subs thereto. Approval of the transaction will not result in splitting of operating authority or duplicating authority. Dual operations are involved. Application has not been filed for temporary authority under section 210a(b).

MC-F-13814F. Authority sought for purchase by G.M.W., INC., 965 Eustis Street, St. Paul, MN 55114, of a portion of the operating rights of GLENDENNING MOTORWAYS, INC., P.O. Box 43947, St. Paul, MN 55164, and for acquisition by WILLIAM L. ALVEY, MINNESOTA-WISCONSIN TRUCK LINES, INC., and GENESIS II, INC., 965 Eustis Street, St. Paul, MN 55114, of control of such rights through the transaction. Transferee's attorney: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Transferor's attorney: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402. Operating rights sought to be transferred: *Common carrier* over regular routes: *General commodities* except those of unusual value, and except dangerous explosives, and commodities in bulk, between Sioux City, IA, and Parkston, SD: Service is not authorized to or from intermediate points. Service is authorized to and from the off-route points of Armour, Corsica, Delmont, and Stickney, SD. General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between St. Pau, MN, and Chicago, IL: Between points in WI as follows: From Eau Claire over U.S. Hwy 53 to Chippewa Falls, thence over WI Hwy 29 to Abbotsford; from Marshfield over WI Hwy 13 to Ashland; from Eau Claire over U.S. Hwy 53 to Galesville; form Hudson over WI Hwy 35 to Prairie du Chien; from LaCrosse over U.S. Hwy 16 to Tomah; from Racine over WI Hwy 20 to junction U.S. Hwy 45; from Kenosha over Wisconsin Highway 50 to junction U.S. Hwy 45; return over these routes to the above-specified origin points. Service is authorized to and from the intermediate points of Woodstock, IL, Waukesha, Madison, Mauston, Eastman, Tomah, and LaCrosse, WI, those on U.S. Hwy 16 between Tomah and LaCrosse, and those north or west of Tomah or LaCrosse; to and from the off-route points of West Allis, Wauwatosa, Rusk, Mondovi, Roberts, Baldwin, Woodville, Thorpe, Strum, Neillsville, Alma Center, Arcadia, Coon Valley, Westby, and Viroqua, WI, and Hastings, Stillwater, and St. Paul Park, MN, and to and from intermediate and off-route points in the Chicago, IL, Commercial Zone as defined in *Chicago, IL, Commercial Zone*, 1 M.C.C. 673, without restriction; and to and from the intermediate point of Milwaukee, WI, except for traffic moving from or to Chicago. Between St. Paul, MN, and Mitchell, SD: Return over these routes to St. Paul. Service is authorized to and from the off-route points of South St. Paul, Invergrove, West St. Paul, Newport, North St. Paul, Columbia Heights, Robbinsdale, St. Louis Park, Hopkins, Richfield, Red Rock, McCarron's Lake, Fort Snelling, and State Fair Grounds, MN. Between Winthrop, MN, and Brookings, SD: Between Brookings, SD, and junction of SD Hwy 34 and 37: Between Arlington, SD, and junction SD Hwy 38, and U.S. Hwy 16, approximately 12 miles east of Mitchell, SD: Between Sioux Falls, SD, and junction U.S. Hwy 77 and SD Hwy 34 (Lone Tree, S.Dak.): Between Stanley Corners, SD, and Yankton, SD: Between Vermillion, SD, and Pumpkin Center, SD: Between Sioux Falls, SD, and Vermillion, SD: Service is authorized to and from all intermediate points on the above-specified routes, except Beresford, SD. Between St. Paul, MN, and Fargo, ND: Return over these routes to St. Paul. Service is authorized to and from the intermediate point of Moorhead MN. Between Chicago, IL, and Minneapolis, MN: Service is authorized to and from all intermediate points in MN. Between Winthrop, MN, and Brookings, SD: Between Brookings, SD, and junction of SD Hwys 34 and 37: Between Arlington, SD, and junction SD Hwy 38, and U.S. Hwy 16, approximately 12 miles east of Mitchell, SD: Between Sioux Falls, SD, and junction U.S. Hwy 77 and SD Hwy 34 (Lone Tree, S.Dak.): Between Stanley Corners, SD, and Yankton, SD: Between Vermillion, SD, and Pumpkin Center, SD: Between Sioux Falls, SD, and Vermillion, SD: Service is authorized to and from all intermediate points. Between Waukegan, IL, and junction of IL Hwy 173 and U.S. Hwy 41: Service is authorized to and from all intermediate points. Between Waukegan, IL, and junction of IL Hwy 120 and U.S. Hwy 41: Service is authorized to and from all intermediate points. Between Duluth, MN, and Eau Claire, WI: Service is authorized to and from the intermediate points of Solon Springs, Minong, Lampson, Trego, Spooner, Sarona, Haugen, Rice Lake, Chetek, New Auburn, Bloomer, Eagleton, Superior, and Chippewa Falls, WI. Between Junction of SD Hwys 37 and 34 approximately three miles east of Woonsocket, SD, and Fort Thompson, SD: Service is authorized to and from the intermediate points of Woonsocket, Wessington Springs, Gann Valley, and Shelby Store, SD, and the off-route point of Virgil, SD. Between junction of South Dakota Hwy 37 and unnumbered highway approximately twelve miles north of Mitchell, SD, and Lane, SD. Service ia authorized to and from the intermediate points of Letcher, Cuthbert, Forestburh, and Alpena, SD. Between Newcastle, NE, and Sioux City, IA. Service is authorized to and from the intermediate and off-route points in Nebraska within 20 miles of Newcastle. Between Newcastle, NE, and Yankton, SD. Service is authorized to and from the intermediate and off-route points in Nebraska within 20 miles of Newcastle. Between Salem, SD, and Sioux Falls, SD. Service is not authorized to and from the intermediate points. General commodities with the above-specified exceptions, for operating convenience only, between Dubuque, IA, and Waterloo, IA: Between junction U.S. Hwy 10 and U.S. Hwy 61 and Wisconsin Dells, WI. Between Rockford, IL, and junction Wisconsin Hwy 13 and Wisconsin Hwy 73: Between Minneapolis, and St. Paul, MN, and Ashland, WI. Between Chippewa Falls, WI, and junction WI Hwy 29 and U.S. Hwy 12: Between Madison, WI, and junction U.S. Hwy 18 and U.S. Hwy 52: between Beloit, WI, and Evansville, WI. Between Milwaukee, WI, and junction WI Hwy 36 and U.S. Hwy 45: Between Milwaukee, WI. and junction Milwaukee County Truck Hwy A and U.S. Hwy 45: Between Racine, WI, and junction WI Hwy 11 and U.S. Hwy 45: between Delavan, WI, and junction WI Hwy 50 and U.S. Hwy 45: Return over these routes. Service is not authorized to or from intermediate points. General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, and commodities in bulk. Service is authorized to and from Southwest Fargo, West Fargo, and Union Stockyards, ND, as off-route points in connection with said carrier's authorized regular-route operations. Between Albert Lea, MN, and Fairmont, MN. Service is authorized to and from the intermediate point of Blue Earth, MN. Between Rochester, MN, and junction U.S. Hwy 63 and 16, for operating convenience only: Service in not authorized to or from intermediate points. General commodities, except those of unusual value, and except commodities in bulk, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities requiring special equipment, other than those requiring special handling because of weight or size, and those injurious or contaminating to other lading. Between St. Paul, MN, and Moorhead, MN. Between Duluth, MN, and Motley, MN. Service is authorized to and from the intermediate points of Elk River, Big Lake, Becker, Clear Lake, St. Cloud, Sauk Rapids, Sartel, Watab, Royalton, Little Falls, Darling, Randall, Cushing, Lincoln, and Motley, MN, restricted to pick-up and delivery of shipments originating at or destined to points other than Minneapolis, St. Paul, Hopkins, St. Louis Park, Edina, Richfield, Mendota, Oxboro, Wayzata, Stillwater, South St. Paul, Newport, North St. Paul, White Bear Lake, Columbia Heights, Bayport, and Robbinsdale, MN; Wadena, MN, restricted to pick-up and delivery of shipments originating at or destined to points other than Detroit Lakes and Duluth, MN, and those between Detroit Lakes and Duluth; Detroit Lakes, MN, and points between Detorit Lakes and Wadena, MN, restricted to pick-up and delivery of shipments originating at or destined to points other than Wadena and those between Detroit Lakes and Wadena; Motley, MN, and points between Motley and Wadena, MN, restricted to pick-up and delivery of shipments, originating at or destined to points other than Duluth and Wadena, and those between Duluth and Wadena; Duluth and points between Duluth and Motley, restricted to pick-up and delivery of shipments originating at or destined to points other than those between Duluth and Wadena; and all other intermediate points without restriction. Between Moorhead, MN, and St. Cloud, MN, for use as a connecting route only: Service is not authorized between the termini or to or from intermediate points. Between Evansville, MN, and junction U.S. Hwy 52 and U.S. Hwy 59, for use as a connecting route only: Service is not authorized between the termini or to or from intermediate points. Between Duluth, MN, and Grand Forks, ND: Service is authorized to and from intermediate points between Bemidji, MN, and Grand Forks, ND, without restriction; and Bemidji and Duluth, MN, and points between Bemidji and Duluth, restricted to pick-up and delivery of shipments originating at or destined to points other than Bemidji and Duluth, and those between Bemidji and Duluth, except that dairy products destined to Duluth and points beyond Duluth eastbound may be picked up at Bemidji. Between Little Falls, MN, and Brainerd, MN: Service is authorized to and from intermediate points between Little Falls and Brainerd, restricted to pick-up and delivery of shipments originating at or destined to points other than Little Falls and Brainerd, and those between Little Falls and Brainerd; and Brainerd, MN, restricted to pick-up and delivery of shipments originating at or destined to points other than St. Paul, MN, and those between Brainerd and St. Paul; and the site of Camp Ripley Reservation as an off-route point subject to the restrictions herein applicable to the intermediate points. Between Cass Lake, MN, and junction U.S. Hwy 210 and U.S. Hwy 371 (West of Brainerd): Service is authorized to and from all intermediate points. Between St. Vincent, MN, and the boundary of the United States and Canada: Return over this route to St. Vincent, MN. Service is authorized to all intermediate points. Between Moorhead, MN, and the boundary of the United States and Canada: Return over these routes to Moorhead: Service is authorized to and from all intermediate points. Between Climax, MN, and Warren, MN: Service is authorized to and from all intermediate points. Between Glyndon, MN, and Ada, MN: Service is authorized to and from all intermediate points. Between Crookston, MN, and junction U.S. Hwy 75 and MN Hwy 81: Service is authorized to and from all intermediate points. Between Detroit Lakes, MN, and Erskine, MN: Service is not authorized to or from intermediate points. Between Eldred, MN, and Fisher, MN: Service is authorized to and from all intermediate points. Between Wadena, MN, and Bemidji, MN: Service is not authorized to or from intermediate points. Service is authorized to and from the off-route points of Delorme, Lockhart, Averill, Borup, Terrebonne, Oslo, Brooks, Bronson, Roseau, Newfolden, Perley, Lengby, Cloquet, Oklee, Plummer, lake Itasdca, Gentilly, Robbinsdale, St. Louis Park, Hopkins, Edina, Richfield, Mendota, Oxboro, Wayzata, Stillwater, South St. Paul, Goodridge, Grygla, Newport, North St. Paul, White Bear Lake, Columbia Heights, Bayport, Fort Snelling, West St. Paul, State Fairgrounds, Red Rock, McCarron's Lake, Invergrove, Minnesota Transfer, and Shoreham, MN, those within 15 miles of Shoreham, and those in Itasca State Park, MN. Between Thief River Falls, MN, and junction U.S. Hwy 2 and MN Hwy 32: Service is authorized to and from all intermediate points. Between St. Paul, MN, and junction U.S. Hwy 210 and U.S. Hwy 61, as follows, for use as connecting points only: Service is not authorized between the termini or to or from intermediate points. Irregular routes: General commodities, except those of unusual value, and except household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between Minneapolis, and St. Paul, MN, on the one hand,

and, on the other, Fridley, MN, and the Twin City Ordnance Plant, near New Brighton in Mounds View Township, Ramsey County, MN. Meat, packing-house products, peanut butter, salad dressing, relishes, cheese, eggs, and butter, from South St. Paul, MN, to points and places in that part of IA east and north of a line beginning at the Minnesota-Iowa State line near Mona, IA, and extending along U.S. Hwy 218 to Waterloo, thence along U.S. Hwy 20 to Dubuque, including points and places on the indicated portions of the hwys specified, and those in that part of Wisconsin bounded by a line beginning at the Wisconsin-Minnesota State line near Grantsburg, WI. and extending along WI Hwy 70 to Spooner, thence along U.S. Hwy 53 to Chippewa Falls, thence along WI Hwy 29 to junction unnumbered hwy near Curtiss, thence along unnumbered hwy to junction WI 64, thence along WI Hwy 64 to junction WI Hwy 97, thence along WI Hwy 97 to Marshfield, thence along WI Hwy 13 to junction WI Hwy 73, thence along WI Hwy 73 to junction WI Hwy 95, thence along WI Hwy 95 to Merrillan, thence along U.S. Hwy 12 to Sauk City, thence along WI Hwy 78 to Argyle, thence along WI Hwy 81 to Monroe, thence along WI 69 to the Wisconsin-Illinois State line, thence along the Wisconsin-Illinois, Wisconsin-Iowa, and Wisconsin-Minnesota State lines to points of beginning, including points and places on the indicated portions of the hwys specified and those points and places in WI on U.S. Hwy 2 between Superior and Ashland, WI Hwy 13 between Ashland and Medford, WI Hwy 102 between Chelsea and Rib Lake, and WI Hwy 86 between Ogema and Spirit Falls. From St. Paul, MN, to Eleva, Elkmound, Glenwood City, Rib Lake, and Spencer, WI. From Winona, MN, to points and places in that part of WI bounded by a line beginning at LaCrosse and extending along U.S. Hwy 16 to Tomah, thence along U.S. Hwy 12 to Sauk City, thence along WI Hwy 78 to Argyle, thence along WI Hwy 81 to Monroe, thence along WI Hwy 69 to the WI-IL State line, thence along the WI-IL, WI-IA, and WI-MN State lines to point of beginning, including points and places on the indicated portions of the hwys specified. Catalogs, from Crookston, MN, and Grand Forks and Fargo, ND, to points and places in that part of MN west and north of a line beginning at International Falls, MN, and extending along U.S. Hwy 71 to Bemidji, MN, thence along U.S. Hwy 2 to Cass Lake, MN, thence along U.S. Hwy 371 to Little Falls, MN, and thence along MN Hwy 27 to Browns Valley, MN, including points and places on the indicated portions of the hwys specified. Dairy products, eggs, and poultry, from Portage, Chaseburg, Disco, Ferryville, Grantsburg, and Warrens, WI, points and places in that portion of IA east and north of a line beginning at the MN-IA State line near Mona and extending along U.S. Hwy 218 to Waterloo, thence along U.S. Hwy 20 to Dubuque, including points on the indicated portions of the hwys specified, points and places in that portion of MN bounded by a line beginning at Elbow Lake and extending easterly through Ashby, Brandon, Millerville, Parkers Prairie, Eagle Bend, Browerville, Randall, Topeka, Fort Ripley, Shephard, Vineland, Wahkon, and McGrath, MN, to junction U.S. Hwy 61 and MN Hwy 66 east of Finlayson, thence along U.S. Hwy 61 to North Branch, thence along MN Hwy 95 to Taylors Falls, thence along the St. Croix River to the MS River, thence along the MS River to the MN-IA State line, thence along the MN-IA State line to junction U.S. Hwy 59, and thence along U.S. Hwy 59 to the points of beginning including points and places on the indicated portions of the hwys specified, to Chicago, IL. From Amery, Falun, Lawton, Eureaka, Volga, Deer Park, Range, Lykens, Milltown, St. Croix Falls, and Fox Creek, WI, to Chicago, IL. From points and place in that portions of MN bounded by a line beginning at Elbow Lake and extending easterly through Ashby, Brandon, Millerville, Parkers Prairie, Eagle Bend, Browerville, Randall, Topeka, Fort Ripley, Shephard, Vineland, Waukon, and McGrath, MN, to junction U.S. Hwy 61 and MN Hwy 95 to Taylors Falls, thence along the St. Croix River to the MS River, thence along the MS River to the NM-IA State line, thence along the MN-IA State line to junction U.S. Hwy 59, and thence along U.S. Hwy 59 to the point of beginning, including points and places on the indicated portions of the hwys specified, to Milwaukee, WI. Livestock, from farms within 15 miles of Parkston, SD, to Sioux City, IA. Return with no transportation for compensation except as otherwise authorized to the above-specified origin points. Regular and irregular routes: General commodities, except dangerous explosives, and except household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between MN, St. Paul, South St. Paul, Invergrove, West St. Paul, Newport, North St. Paul, Columbia Heights, Robbinsdale, St. Louis Park, Hopkins, Edina, Richfield, Red Rock, McCarron's Lake, Fort Snelling and State Fair Grounds, MN. The authority specified immediately above is to be construed as granting only authority to serve additional intermediate or off-route points in connection with said carrier's existing operations when over regular routes and as an extension of existing operations when over irregular routes, and should not be understood to duplicate any authority which said carrier may otherwise hold. General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practice of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, over an alternate regular route for operating convenience only, between junction U.S. Hwy 12 and unmarked town road (formerly U.S. Hwy 12) west of Eau Claire, WI, in the town of Union, Eau Claire County, WI, and junction U.S. Hwy 12 and U.S. Hwy 53, east of Eau Claire: Service is not authorized to or from intermediate points. General commodities, except those of unusual value, dangerous explosives, household goods ad defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment. Service is authorized to and from Cadahy, Fox Point, Greendale, West Milwaukee, Shorewood, and Whitefish Bay, WI, as off-route points in connection with said carrier's otherwise authorized regular-route operations to and from Milwaukee. Grain and seeds, in bulk, over irregular routes, from points and places in Minnehaha, McCook, Hanson, Davison, Jerauld, Sanborn, Miner, Lake, Moody, Brookings, Kingsbury, and Beadle Counties, SD, and points and places in that part of MN west of a line extending northerly from the MN-IA State line along U.S. Hwy 65 to Minneapolis, thence northerly along U.S. Hwy 10 to Little Falls, thence northerly along U.S. Hwy 371 to Cass Lake, thence westerly along U.S. Hwy 2 to Erskine, thence northerly along U.S. Hwy 59 to the Thief River Falls, thence westerly along MN Hwy 1 to Warren, and thence northerey along U.S. Hwy 75 to the Boundary of the United States and Canada, and from Fargo, West Fargo, and Grand Forks, ND, to Minneapolis, St. Paul, Port Cargill, Savage, and Duluth, MN, and Superior, WI, with no transportation for compensation on return except as otherwise authorized. General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading, over regular routes, between Montevideo, MN, and Clara City, MN: Between the junction of U.S. Hwy 212 and MN Hwy 23 (near MN Falls, MN) and junction of MN Hwy 23 and 7 (near Maynard,

MN): Return over these routes. Service is authorized to and from all intermediate points. The above-specified commodities, over alternate regular routes for operating convenience only, between Madelia, MN, and Worthington, MN: Between Ivanhoe, MN, and Lake Benton, MN: Between Marshall, MN, and Pipestone, MN: Between Redwood Falls, MN, and junction of U.S. Hwys 71 and 14 (near Sanborn, MN): Between New Ulm, MN, and Madelia, MN: Between Pipestone, MN, and Lone Tree, SD: Between Durand, WI, and Fairchild, WI: Between Mondovi, WI, and Eau Claire, WI: Between Wabasha, MN, and Nelson, WI: Between Winona, MN, and Bluff Siding, WI: Between junction U.S. Hwys 10 and 61 (near Hastings, MN) and Durand, WI: Return over these routes. Service is not authorized to or from intermediate points. Service is authorized to and from points in the Minneapolis-St. Paul, MN, commercial zone as defined by the Commission, and Scotchlite, MN, as intermediate or off-route points in connection with the said carriers presently authorized regular-route operations to or from Minneapolis and St. Paul, restricted to the transportation of such commodities as said carrier is authorized to transport in such operation. The authority granted herein, to the extent it duplicates any authority herefore granted to or now held by said carriers, shall not be construed as conferring more than one operating right. Horse meat, fish and by-products thereof for animal consumption, over irregular routes, from Duluth, MN, and Superior, WI, to points and places in Dane, Jefferson, Waukesha, Milwaukee, Rock, Walworth, Racine, and Kenosha Counties, WI, McHenry and Lake Counties, IL, and those in that part of Cook County, IL, comprised of Barrington, Hanover, Palatine, Wheeling, Northfield, Schaumberg, Elk Grove, Maine, and Niles Townships, with no transportation for compensation or return except as otherwise authorized. General commodities, except those of unusual value, and except commodities in bulk, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, comodities requiring special equipment (other than those requiring special handling because of weight or size), and those injurious or contaminating to other lading, over an alternate regular route for operating convenience only, between junction U.S. Hwy 61 and MN Hwy 23 and Duluth, MN: Service is not authorized to or from intermediate points and service is not authorized at junction of U.S. Hwy 61 and MN Hwy 23 execpt for the purpose of tacking such alternate route to said carrier's presently authorized alternate route over U.S. Hwys 61 and 210 between St. Paul and Duluth, MN. General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, over an alternate route for operating convenience only in connection with carrier's presently authorized regular-route operations, between Madison, WI, and Milwaukee, WI: Service is not authorized to or from intermediate points. Service at Madison and Milwaukee is authorized solely for the purpose of tacking or joining such alternate route to presently-authorized regular route operations between St. Paul, MN, and Chicago, IL. General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Service is authorized to and from Wrenshall, MN, as an off-route point, in connection with carrier's otherwise authorized regular route operations to and from Duluth, MN, as set forth in Certificate No. MC-43475, dated December 30, 1946. Regular routes: General commodities, except Class A and B explosives, commodities of unusual value, commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment, between Duluth, MN, and Walker, MN, serving the intermediate point of Aitkin, MN, and all intermediate points between Aitkin and Walker: Between Walker, MN, and South St. Paul, MN; serving all intermediate points except those on U.S. Hwy 169 north of MN, and serving the off-route point of Breezy Point, MN: Between Aitkin, MN, and Garrison, MN, serving no intermediate points: Between Crosby, MN, and Walker, MN, serving all intermediate points: Between Emily, MN, and junction MN Hwys 34 and 84, serving all intermediate points and the off-route points of Manhattan Beach and Cross Lake, MN: Between Backus, MN, and Pontoria, MN, serving all intermediate points: Between Motley, MN, and Akely, MN, serving all intermediate points: Regular routes: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Marshall, MN, and Minneapolis, MN, serving the intermediate points of Green Valley and Cottonwood, MN, the intermediate and off-route points in the Minneapolis-St. Paul, MN. Commercial Zone as defined by the Commission, and the off-route point of Chemolite, MN (formerly known as Scotchlite, MN): Eggs and poultry, between Marshall, MN, and Minneota, MN, serving no intermediate points: Regular routes: General commodities, except those of unusual value, Class A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment other than those requiring special handling because of size or weight. Serving the site of the United States Air Force Base located approximately 20 miles northwest of Grand Forks, ND, and points within five miles thereof, as off-route points in connection with carrier's regular route operations to and from Grand Forks, over U.S. Hwy 2. Regular route: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Hudson, WI, and Eau Claire, WI, serving the intermediate point of Menomonie, WI, and the off-route points of Baldwin, Elk Mound, Hammond, Hersey, Knapp, Roberts, Rusk, Wilson, and Woodville, WI: Regular route: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Serving Portage, IN, as an off-route point in connection with carrier's regular route operations to and from Chicago, IL. Regular routes: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Junction U.S. Hwy 212 and MN Hwy 5 near Norwood, MN, and junction MN Hwy 5 and MN Hwy 22 at Gaylord, MN, serving the intermediate points of Arlington, Green Isle, and Hamburg, MN: Regular routes: Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except liquid commodities in bulk, in tank vehicles. Serving the plant site of Swift & Co., at Rochelle, IL, as an off-route point in connection with carrier's regular route operations to and from Chicago, IL. Restriction: The service authorized herein is restricted to the transportation of shipments originating at, or destined to the plant site of Swift & Co., at Rochelle, IL. Irregular routes: Potatoes and potato products, from Barnesville, MN, to points in that part of IL on and north of U.S. Hwy 30, with no transportation for compensation on return except as otherwise authorized. Regular routes: General commodities, except Classes A and B explosives, household goods as

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defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plant site of the Eastman Kodak Company at Oak Brook, IL, as an off-route point in connection with carrier's regular-route operations authorized herein. Restriction: No service shall be rendered between the named plant site, on the one hand, and, on the other, points in Lake and Porter Counties, IN, nor between the name plant site, on the one hand, and, on the other, points in IL except those in St. Clair and Madison Counties, IL. General commodities, except those of unusual value, Classes A and B explosives, household good as defined by the Commission, commodities in bulk, and those requiring special equipment, Serving the plant site of the Midwest Steel Corporation, at Portage, IN, as an off-route point in connection with carrier's regular-route operations authorized herein to and from Chicago, IL. Serving Cudahy, Fox Point, Greendale, Sherwood, Wauwatosa, West Allis, West Milwaukee, and Whitefish Bay, WI, as off-route points in connection with carrier's regular-route operations authorized herein to and from Milwaukee, WI. General commodities, from Duluth, MN, to Madison and Jefferson, WI, serving the intermediate point of WI Dells, WI, for delivery only: From Monroe, WI, to Beloit, IL, for operating convenience only, serving no intermediate points or between the termini: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Duluth, MN, and Chicago, IL, serving all intermediate points between Duluth, MN, and Eau Claire, WI, including Eau Claire, and the off-route points of Shell Lake, Carronett, Cumberland, and Barron, WI,: Between Duluth, MN, and Ashland, WI, serving all intermediate points; Between Duluth, MN, and Hurley, WI, serving all intermediate points and the off-route point of Montreal, WI: Between Duluth, MN, and Milwaukee, WI, serving all intermediate points between Duluth, MN, and Abbotsford, WI, including Abbotsford and Green Bay, WI, and the off-route points of Boyd, Longwood, and Edson, WI, and those within two miles of WI Hwy 29 and between Thorp and Stanley, WI: between Eau Claire, WI, and Minneapolis, MN, serving all intermediate points between Eau Claire and Menomonie, including Menomonie, and the off-route points of St. Paul, South St. Paul, Invergrove, West St. Paul, Newport, North St. Paul, Columbia Heights, Robbinsdale, St. Louis Park, Hopkins, Edina, Richfield, Red Rock, McCarron Lake, Fort Snelling, and State Fair Grounds, MN: Between Ladysmith, WI, and Prentice, WI, serving all intermediate points, and the off-route point of Kennan, WI: Between St. Paul, MN, and Ashland, WI, for operating convenience only, serving no intermediate points: Between Turtle Lake, WI, and Ladysmith, WI, for operating convenience only, serving no intermediate points: Between Ashland, WI, and Abbotsford, WI, serving all intermediate points, and the off-route points of North York, Morse, Rib Lake, Dorchester, Milan and Curtiss, WI: Between Hurley, WI, and Mellen, WI, serving all intermediate points: Between Marshfield, WI, and Plainfield, WI, serving all intermediate points: Between Coloma, WI, and Milwaukee, WI, serving all intermediate points: Between Madison, WI, and Janesville, WI, serving all intermediate points: Between Hurley, WI, and Wakefield, MI, serving all intermediate points: Between Hurley, WI, and Stevens Point, WI, serving all intermediate points: Between Evansville, WI, and Harvard, IL, serving no intermediate points: Between Emerald Grove, WI, and Belvidere, IL, serving no intermediate points: Between Rockford, IL, and Chicago, IL, serving no intermediate points: Serving Wrenshall, MN, as an off-route point in connection with carrier's regular route operations to and from Duluth, MN, as authorized herein above. The authority granted herein above includes the right to operate over any combination of the routes described regardless of whether the routes have a common point of service. Such commodities that are restricted to those that carrier is authorized herein above to transport in such operations to or from Minneapolis and St. Paul, MN: Serving points in the Minneapolis-St. Paul, MN, Commercial Zone, as defined by the Commission, and Chemolite Siding (formerly Scotchlite), MN, as intermediate or off-route points in connection with the said carrier's regular-route operations authorized herein above to or from Minneapolis and St. Paul. General commodities, except those of unsual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving points in the Chicago IL, Commercial Zone (except Chicago) as defined by the Commission, as intermediate and off-route points in connection with carrier's regular-route operations authorized herein above to and from Chicago. Between Trego, WI, and junction U.S. Hwy 63 and 2, near Ashland, WI, serving all intermediate points, and the off-route point of Benoit, WI: Between Duluth, MN, and Proctor, MN, serving all intermediate points: Rice Lake, WI, and Cumberland, WI, for operating convenience only, serving no intermediate points, and serving Cumberland for the purpose of joinder only: Between Barron, WI, and junction WI Hwys 48 and 25, for operating convenience only, serving no intermediate points and serving the termini for the purpose of joinder only: Between junction U.S. Hwy 53 and WI and Hwy 77, near Minong, WI, on the one hand, and, on the other, junction WI Hwy 77 and WI Hwy 13, near Gildden, WI, serving the termini for the pruposeof joinder only: Alternate routes for operating convenience only: General commodities, except those of unusual value, A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: Between junction WI Hwy 13 and U.S. Hwy 8 and junction U.S. Hwy 51 and U.S. Hwy 8, in connection with carrier's regular-route operations over U.S. Hwy 51 and U.S. Hwy 8 as authorized herein, serving no intermediate points: Between junction U.S. Hwy 12 and unnumbered hwy west of Eau Claire, WI, in the Town of Union, Eau Claire County, WI, and the junction of U.S. Hwys 12 and 53, east of Eau Claire, serving no intermediate points: Between junction U.S. Hwy 141 and WI Hwy 57 and juncton WI Hwy 144 and U.S. Hwy 141, serving no intermediate points: Between junction U.S. Hwys 10 and 12, near Fairchild, WI, on the one hand, and, on the other, junction U.S. Hwy 10 and WI Hwy 13, south of Marshfield, WI, with service at the termini for the purpose of joinder only: Between Plainfield, WI, on the one hand, and, on the other, Wautoma, WI, with service at the termini for the purpose of joined only: Between Whitewater, WI, on the one hand, and, on the other, junction U.S. Hwys 12 and 14, near Chicago, IL, with service at the termini for the purpose of joinder only: Between Plover, WI, on the one hand, and, on the other, WI Rapids, WI, with service at the termini for the purpose of joinder only: Between WI Rapids, WI, on the one hand, and, on the other, the southern junction WI Hwys 13 and 73, apprximately six miles south of WI Rapids, with service at the termini for the purpose of joinder only: Between Superior, WI, on the one hand, and, on the other, junction WI Hwy 35 and U.S. Hwy 8, near St. Croix Falls, WI, with service at the termini for the purpose of joinder only: Between junction U.S. Hwy U.S. 8 and WI Hwy Ill, near Catawba, WI, and junction WI Hwy Ill and 13, serving no intermediate points: Between Janesville, WI, and Beloit, WI, serving no intermediate points: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk,

and those requiring special equipment, in connection with carrier's regular-route operations authorized herein: Between Mauston, WI, and junction of WI Hwys 82 and 13, serving no intermediate points, and serving the termini for joinder purposes only: Between WI Dells, WI, and junction WI Hwys 13 and 73, serving no intermediate points:, and serving the junction of WI Hwys 13 and 73 for joinder purposes only: Between Marshfield, WI, and junction WI Hwys 29 and 97, serving no intermediate points, and serving the junction WI Hwys 29 and 97 for joinder purposes only: Between junction WI Hwys 29 and 97 and junction WI Hwys 64 and 97, serving no intermediate points, and serving the termini for joinder purposes only: Between Merrill, WI, and junction WI Hwys 64 and 13, serving no intermediate points, and serving junction WI Hwys 64 and 13 for joinder purposes only: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, Between Chicago, IL, and the junction of Eden's Expressway (north of Lake Avenue) and U.S. Hwy 41, in connection with carrier's operations over U.S. Hwy 41, authorized herein, serving no intermediate points: Irregular routes: General commodities, except those of unusual value, household goods as defined by the commission, commodities in bulk, and those requiring special equipment, between Minneapolis and St. Paul, MN, on the one hand, and, on the other, the site of the Town City Ordnance Plat in Mounds View Township, Ramsey County, MN. Animal feeds, from Duluth, MN, to points in Dane, Jefferson, Waukesha, Milwaukee, Rock, Walworth, and Kenosha Counties, WI, those in McHenry and Lake Counties, IL, and Barrington, Hanover, Palatine, Wheeling, Northfield, Schaumberg, Elk Grove, Main, and Niles Townships in Cook County, IL, with no transportation for compensation on return except as otherwise authorized. Irregular routes: Printing paper, From Brainerd and Cloquet, MN, to points in that part of WI on and east of U.S. Hwy 51, with no transportation for compensation on return except as otherwise authorized. Equipment, and materials and supplies (except in bulk) used by paper mills: From points in that part of WI on and east U.S. Hwy 51, (except Appleton, WI) to Brainerd and Cloquet, MN, with no transportation for compensation on return except as otherwise authorized. Alltermate routes for operating convenience only: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment): Between Junction MN Hwy 68 and U.S. Hwy 14 at Sleepy Eye, MN, and junction MN Hwy 68 and U.S. Hwy 71, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between junction Minnesota Hwy 68 and U.S. Hwy 71, and junction MN Hwys 68 and 19, just north of Milroy, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between Morgan, MN, and Redwood Falls, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between Gaylord, MN, and Nicollet, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between St. Peter, MN, and Nicollet, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between St. Peter, MN, and junction MN Hwys 22 and 111 near New Sweden, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between junction U.S. Hwy 169 and MN Hwy 93 near Le Sueur, MN, and Gaylord, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between Belle Plaine, MN, and Green Isle, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between Warren, MN, and Thief River Falls, MN, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between St. Hilaire, MN, and junction U.S. Hwy 75 and Polk County Road 21, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: Between junction U.S. Hwy 75 and Polk County road 21, and junction Polk County Road 21 and Minnesota Hwy 220, in connection with carrier's presently authorized regular-route operations, serving no intermediate points and serving the termini for joinder only, except as otherwise authorized: irregular routes: General commodities, except household goods, commodities in bulk, and commodities which because of size or weight require special equipment, between points in IL in Lake, Cook (except Elgin, IL) Du Page, and Will Counties. Irregular routes: Benetonite clay, in bags, from Burnett, MN, to points in WI, and points in that part of IL on and north of a line beginning at the IL–IN State line, and extending west along U.S. Hwy 30 to junction Interstate Hwy 80 at or near Joliet, IL, thence west along interstate Hwy 80 to junction Interstate Hwy 280, thence west along Interstate Hwy 280 to Rock Island, IL; and Equipment, materials and supplies used in the mining and processing bentonite clay (except commodities in bulk and those which because of size or weight require the use of special equipment). From the destination territory specified above, to Burnett, MN. Irregular routes: Foodstuffs (except in bulk), from the facilities of International Co-op, Inc. at or near Grand Forks, ND, to points in MN, WI and IL, with no transportation for compensation on return except, as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the above described orgin. Regular routes: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Serving Lake Nebagamon, WI, as an off-route point in connection with carrier's regular-route operations over U.S. Hwy 2 between Duluth, MN, and Hurley, WI. G.M.W., Inc. holds no authority from this Commission. However it is controled by Minnesota-Wisconsin Truck Lines, Inc. Minnesota-Wisconsin Truck Lines, Inc. is a regular route motor common carrier authorized to transport general commodities, with usual exceptions, in the states of MN, ND and WI. Application has been filed for temporary authority under Section 210a(b). (Hearing site: St. Paul, MN.)

MC-F-13815F. Authority sought for purchase by CHIPPEWA MOTOR FREIGHT, INC., P.O. Box 269, Eau Claire, WI 54701, of a portion of the operating rights of GLENDENNING MOTORWAYS, INC., P.O. Box 43947, St. Paul, MN, 55164, and for acquisition of control of such rights by LEWIS INDUSTRIES, INC., 510 Northwestern Bank Building, Sioux Falls, SD, 57102, through the purchase. Applicant's attorneys: Carl L. Steiner, 39 South La Salle Street, Chi-

Authority is sought to operate as a

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cago, IL, 60603 and William S. Rosen, 630 Osborn Building, St. Paul, MN, 55102. Operating rights sought to be transferred are as a *common carrier* over regular routes as follows: Regular Routes: General commodities, except those of unusual value, and except dangerous explosives, and commodities in bulk, between Sioux City, IA, and Parston, SD: From Sioux City over U.S. Hwy 77 to junction SD Hwy 50, then over SD Hwy 50 to junction SD Hwy 37, and then over SD Hwy 37 to Parkston, and return over the same route. Service is not authorized to or from intermediate points. Service is authorized to and from the off-route points of Armour, Corsica, Delmont, and Stickney, SD. General commodities, except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between St. Paul, MN, and Mitchell, SD: From St. Paul over City streets to Minneapolis, MN, then over U.S. Hwy 212 to Glencoe, MN, then over MN Hwy 22 to Gaylord, MN, then over MN Hwy 19 to Winthrop, MN, then over MN Hwy 15 to New Ulm, MN, then over U.S. Hwy 14 via Brookings, SD, to Huron, SD, and then over SD Hwy 37 to Mitchell; between Winthrop, MN, and Brookings, SD: From Winthrop over MN Hwy 19 to the MN-SD State line, then over unnumbered hwy, via White, SD, to junction U.S. Hwy 77, and then over U.S. Hwy 77 to Brookings, and return over the same route. Between Brookings, SD, and junction of SD Hwy 34 and 37: From Brookings over U.S. Hwy 77 to junction SD Hwy 34, then over SD Hwy 34, via Howard, SD, to junction SD Hwy 37, and return over the same route. Between Arlington, SD, and junction SD Hwy 38, and U.S. Hwy 16, approximately 12 miles east of Mitchell, SD: From Arlington over U.S. Hwy 81 to Salem, SD, then over SD Hwy 38 to junction U.S. Hwy 16, approximately 12 miles east of Mitchell, SD, and return over the same route. Between Sioux Falls, SD, and junction U.S. Hwy 77 and SD Hwy 34 (Lone Tree, SD): From Sioux Falls over U.S. Hwy 77 to junction SD Hwy 34 (Lone Tree, SD) near Colman, SD, and return over the same route. Between Stanley Corners, SD, and Yankton, SD: From Stanley Corners over U.S. Hwy 81 to Yankton, and return over the same route. Between Vermillion, SD, and Pumpkin Center, SD: From Vermillion over SD Hwy 19 to Pumpkin Center, and return over the same route. Between Sioux Falls, SD and Vermillion, SD: From Sioux Falls over U.S. Hwy 77 to junction SD Hwy 50, then over SD Hwy 50 to Vermillion, and return over the same route. Service is authorized to and from all intermediate points on the above-specified routes except Beresford, SD. Between St. Paul, MN and Fargo, ND: From St. Paul over U.S. Hwy 52 to Fargo: Between junction of SD Hwys 37 and 34 approximately three miles east of Woonsocket, SD, and Fort Thompson, SD: From junction of SD Hwys 34 and 37 approximately three miles east of Woonsocket over SD Hwy 34 to junction SD Hwy 45, then over SD Hwy 45 via Gann Valley, SD, to junction unnumbered hwy, then over unnumbered hwy to junction SD Hwy 47, then over SD Hwy 47 to Fort Thompson, and return over the same route. Service is authorized to and from the intermediate points of Woonsocket, Wessington Springs, Gann Valley, and Shelby Store, SD, and the off-route point of Virgil, SD. Between junction of SD Hwy 37 and unnumbered hwy approximately twelve miles north of Mitchell, SD, and Lane, SD: From junction of SD Hwy 37 and unnumbered hwy approximately twelve miles north of Mitchell, over unnumbered hwy via Letcher and Cuthbert, SD, to Forestburg, SD, then over SD Hwy 34 to Woonsocket, SD, then over unnumbered hwy via Alpena, SD, to Lane, and return over the same route. Service is authorized to and from the intermediate points of Letcher, Cuthbert, Forestburg, and Alpens, SD. Between Newcastle, NB, and Sioux City, IA: From Newcastle over NE Hwy 12 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Sioux City, and return over the same route. Service is authorized to and from intermediate and off-route points in NE within 20 miles of Newcastle. Between Newcastle, NE, and Yankton, SD: From Newcastle over NE Hwy 12 to junction NE Hwy 15, then over NE Hwy 15 to junction U.S. Hwy 81, and then over U.S. Hwy 81 to Yankton, and return over the same route. Service is authorized to and from intermediate and off-route points in NE within 20 miles of Newcastle. Betwen Salem, SD, and Sioux Falls, SD: From Salem over U.S. Hwy 81 to junction U.S. Hwy 16, then over U.S. Hwy 16 to Sioux Falls, and return over the same route. Service is not authorized to or from intermediate points. Chippeway Motor Freight, Inc. is authorized to operate as a common carrier between points in MN, WI, IL, IN, IA and OH. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Chicago, IL.)

MC-F-13816F. Authority sought for control by AMERICAN NATURAL RESOURCES CO., One Woodward Avenue, Detroit, MI 48226, of GARRETT FREIGHTLINES, INC., P.O. Box 4048, Pocatello, ID 83201, through a stock exchange. Representatives: Roland Rice, Suite 501, 1111 E Street NW., Washington, DC 20004 and Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. Operating rights sought to be controlled: *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over regular routes, generally betwen St. Paul, MN, Denver, CO and Albuquerque, NM on the east, the Canadian border on the north, the Pacific Ocean on the west, and the Mexican border on the south. Service is authorized over numerous routes within this area and to many points, including routes in the States of MN, ND, MT, ID, WA, OR, CA, AZ, NV, UT, NM, and CO. Irregular route limited commodity operation is authorized in the named states and in WY, SD, WI, and MI. The aforementioned summary embraces generally the commodities and territory involved but does not intend to define precisely the scope of seller's authority. American Natural Resources Company is not a carrier but, with Commission approval, controls two carriers. It owns the stock of Associated Freightways, which, in turn, owns the stock of a carrier, Associated Truck Lines, Inc., (MC-69833) Subs thereunder, which is authorized to operate as a common carrier in the States of IL, IN, KY, MI, OH, PA, WV, WI, and MO. Applicant also owns the stock of ANR Express Transport Company which, in turn, owns the stock of Graves Truck Line, Inc., of Salina, KS, (MC-53965 and Subs thereunder) which is authorized to operate as a *common carrier* in the States of CO, TX, KS, OK, MO, NE, and IA. Application has not been filed for temporary authority under section 210a(b).

MC-F-13819F. Authority sought for purchase by LEWIS TRUCK LINES, INC., P.O. Box 642, Lisbon, ND 58054, of the outstanding capital stock and for merger of Crawford Freight Line, Inc., P.O. Box 1554, Aberdeen, SD 57401, into Lewis Truck Lines, Inc., and for control of operating rights and other assets by Robert M. Lewis, also of P.O. Box 642, Lisbon, ND 58054. Representatives: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58102, and A. R. Crawford, P.O. Box 1554, Aberdeen, SD 57401. Operating rights sought to be acquired: *General commodities* (with the usual exceptions) over specified routes between Aberdeen, SD, and Mobridge, SD, and other intermediate points as set forth more fully in MC-85955 and subs thereunder. Vendee is authorized to operate as a common carrier in ND, SD and MN. Application has been filed for temporary authority under Section 210a(b).

MC-F-13821F. Authority sought for purchase by ALASKA WEST EXPRESS, INC., 3001 Peger Road, Fairbanks, Alaska 99701, of the operating rights of Pioneer Alaska Express, Inc., P.O. Box 815, Fairbanks, Alaska 99707, and control of such rights through purchase by Lynden Transport, Inc., 5615 West Marginal Way S.W., Seattle, Washington 98106. Transferee's representative John R. Sims, Jr., 915 Pennsylvania Building, 425—13th Street, NW., Washington, DC 20004; Transferor's representative John M. Stern, Jr., P.O. Box 1672, Anchorage, AK 99510. Operating rights sought to be purchase: *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk*, as a common carrier, over irregular routes, between points in Alaska, except points in the Alaska panhandle south of Haines, AK. Transferee holds no authority from the Interstate Commerce Commission; however, Lynden Transport holds both regular route and irregular route authority for the transportation of general commodities over certain routes and between certain points in Alaska. Application for temporary authority under Section 210a(b) has been filed. (Hearing site: Seattle, WA.)

MC-F-13823F. Authority sought for purchase by SAMUEL J. LANSBERRY, INC., PA State Hwy. 970 (P.O. Box 58), Woodland, PA 16881, of a portion of the operating rights of Lott Motor Lines, Inc., W. Cayuga Street (P.O. Box 751) Moravia, NY 13118, and for acquisition by Samuel J. Lansberry, R. D. Woodland, PA 16881, of control of such rights through the purchase. Representatives: William A. Chesnutt, 1776 F Street, NW., Washington, DC 20006 and E. Stephen Heisley, 666 Eleventh street, NW., Washington, DC 20001. Operating rights sought to be purchased: Certificate No. MC-78687 (Sub-No. 31) issued February 28, 1972 authorizing transportation as a common carrier, over irregular routes, of *coal* from points in Centre County, PA, to points in NY. Vendee is authorized to operate as a motor common carrier under certificates Nos. MC-129124 (Sub-Nos. 1, 13 and 15) transporting *coal, clay* and *gannister rock* to, from or between points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT and VA. Application has not been filed for temporary authority under section 210a(b). (Hearing site: Washington, DC.)

MC-F-13825F. Authority sought by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025, to purchase the operating rights of DADSON, INC., d.b.a. BILL'S CANNONBALL EXPRESS, Anderson, MO, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., 601 California Street, San Francisco, CA 94108, of control of such rights through the purchase. Applicant's attorney: Thomas E. Acey, Jr., 1660 L Street, NW., Washington, DC 20036. Operating rights sought to be transferred (now held under Certificate of Registration No. MC-121726): general commodities, except commodities in bulk, explosives, and household furnishings from residential property to residential property, between all points within the counties of Jasper, Newton, and McDonald, MO, and between those counties, on the one hand, and all points in Barry County, MO, on the other hand. Temporary authority under Section 210a(b) has been requested. The foregoing irregular-route authorities will be tacked only at regular-route points in MO authorized to vendee. Vendee operates as a common carrier in all states except HI.

NOTE.—MC-42487 (Sub-No. 888F) is directly related.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and conservation Act of 1975.

MC 2253 (Sub-89F), filed November 13, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: Edward G. Villalon, Suite 1032, Pennsylvania Building, Pennsylvania Avenue & 13th Street, NW, Washington, DC 20004. Authority is sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: (1) Between Wapakoneta, OH and Indianapolis, IN, serving Wapakoneta and the junction of IN Hwys 67 and 232 approximately 5 miles east of Anderson, IN for purposes of joinder only: From Wapakoneta over U.S. Hwy 33 to junction OH Hwy 29, then over OH Hwy 29 to the OH-IN State line, then over IN Hwy 67 to Anderson, IN, then over IN Hwy 32 to Noblesville, IN, then over IN Hwy 37 to Indianapolis, and return over the same route. (2) Between Muncie, IN and Indianapolis, IN, serving no intermediate points but serving the off-route point of Fort Benjamin Harrison, IN: From Muncie over IN Hwy 67 to Indianapolis, and return over the same route. (3) Between junction IN Hwys 232 and 67 at a point approximately 5 miles east of Anderson, IN, and junction IN Hwys 9 and 67 approximately 4 miles south of Anderson, serving the intermediate point of Anderson: From junction IN Hwys 232 and 67 over IN Hwy 232 to junction IN Hwy 32, then over IN Hwy 32 to junction IN Hwy 9, then over IN Hwy 9 to junction IN Hwy 67, and return over the same route. (4) Serving Anderson, Indianapolis, and Muncie, IN as intermediate or off-route points in conjunction with carrier's regular route operations. Restriction: Restricted against the transportation of traffic originating at or destined to a point in IN, on the one hand, and, on the other, originating at or destined to a point in IL, IN, MI, OH, Louisville, KY, Davenport, IA, and the commercial zone of Cincinnati, OH.

NOTE.—This application is directly related to *Carolina Freight Carriers Corporation—Purchase (Portion)—The National Transit Corporation*, MC-F-13807F. The purpose of part (4) of the application is to give notice that applicant proposes to serve Anderson, Indianapolis, and Muncie, IN as intermediate or off-route points in conjunction with carrier's regular route operations. MC-F-13807F is published in a previous section of this FR issue.

MC 9268 (Sub-17F), filed October 18, 1978. Applicant: PACE MOTOR LINES, INC., 132 West Dudleytown Road, Bloomfield, CT 06002. Representative: John E. Fay, 630 Oakwood Avenue, Suite 127, West Hartford, CT 06110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, liquid commodities in bulk, and commodities requlring spe-

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cial equipment), between points in MA. (Hearing site: Hartford or new Haven, CT.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity and is directly related to MC-F-13792F published in a previous section of this FR issue.

MC 42487 (Sub-888F), filed November 14, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION, 175 Linfield Drive, Men o Park, CA 94025. Representative: Thomas E. Acey, Jr., Suite 1000, 1660 L Street, NW., Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* (except commodities in bulk, household goods as defined by the Commission, Classes A and B explosives, commodities of unusual value, and livestock) (1) between points in Jasper, Newton, and McDonald Counties, MO; and (2) between points in Jasper, Newton, and McDonald Counties, MO, on the one hand, and, on the other, points in Barry County, MO, restricted in (1) and (2) above against the transportation of animal feed originating at the plantsites of Ragland Mills, Inc., at Neosho, MO, and Doane Feed Products, Inc., at Joplin, MO, and further restricted against the transportation of roofing material originating at the plantsite of Tamco Products, Inc., at Joplin, MO. (Hearing site: Washington, DC, or Kansas City, MO.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity and is a directly related matter to a Section 5 finance proceeding docketed MC-F-13825F and published in a previous section of this FR issue. Common control may be involved.

MC 108835 (Sub-45F) (correction), filed September 13, 1978, previously noticed in the FEDERAL REGISTER issue of October 5, 1978. Applicant: HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, MN 55104. Representative: Donald A. Morken, 1000 First National Bank Bldg., Minneapolis, MN 55402. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General Commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment) (1) between points in IL on and east of a line beginning at the WI-IL boundary, then along IL Hwy 2 to its junction with IL Hwy 26, then along IL Hwy 26 to its junction with IL Hwy 71, then along Il Hwy 71 to its junction with U.S. Hwy 51, then along U.S. Hwy 51 to its junction with IL Hwy 17, then along Il Hwy 17 to its junction with the IL-IN State line, and (2) between points in (1) above, on the one hand, and, on the other, points in IL. (Hearing site: Chicago, IL.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity. This matter is directly related to a section 5(2) finance proceeding docketed MC-F-13735F, published in a previous section of this FR issue. The purpose of this republication is to correct the territorial description in (1) above.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

South Carolina Docket No. 78-341-T, filed July 17, 1978. Applicant: JAMES E. BEARDEN, d.b.a. BEARDEN TRUCKING CO., P.O. Box 1703, Greenville, SC 29602. Representative: Robert L. Stoddard, P.O. Box 5178, Spartanburg, SC 29304. Certificate of Public Convenience and Necessity sought to operate a freight service, over irregular routes, as follows: Transportation of: *Commodities in general* (except any commodities or products in bulk in tank trucks; Classes A and B explosives and Classes A, C and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., agent, tariff No. 10, MC-ICC No. 11, PSCS No. 11, supplements thereto or reissues thereof, as defined in Motor Truck Rate Bureau, agent, household goods tariff, motor freight tariff No. 8-C, SCPSC-MF No. 79, supplements thereto or reissues thereof), between Greenville, SC on the one hand, and, on the other, points in South Carolina within 50 miles of Greenville, SC, and between Spartanburg, SC on the one hand, and, on the other, points in SC within 50 miles of Spartanburg, SC, restricted to traffic having prior or subsequent movement by rail. Intrastate, interstate and foreign commerce authority sought. Hearing: Columbia, SC, in South Carolina Public Service Commission, P.O. Box 11649; time and date not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Box 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 78-401-T, filed August 30, 1978. Applicant: GREENWOOD TRANSFER & STORAGE COMPANY, INC., Route 11, Staunton Bridge Rd., Greenville, SC 29611. Representative: W. Thomas Vernon, 1428 Richland Street, Columbia, SC 29201. Certificate of Public Convenience and Necessity sought to operate a freight service, over irregular routes, as follows: Transportation of: *Fertilizer and fertilizer materials, cotton seed, cotton seed meal, and cotton seed hulls:* Betweeen points and places in Spartanburg County, and between points and places in Spartanburg County and points and places in South Carolina. *Cotton in bales:* Between points and places in Spartanburg County, and between points and places in Spartanburg County and points and places in South Carolina. *Limestone and stone:* Between points and places in South Carolina. *Commodities in general* (except any commodities or products in bulk tank trucks; Classes A and B explosives and Classes A, C and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., agent, tariff No. 10, MF-ICC No. 11, PSCSC No. 11, supplements thereto or reissues thereof; and household goods and related articles, as defined in Motor Truck Rate Bureau, agent, household goods tariff, motor freight tariff No. 8-C SCPSC-MF No. 79, supplements thereto or reissues thereof): Between points and places in South Carolina. *Cotton waste, rayon waste and bagging:* Between points and places in South Carolina. *Textile machinery, textile machinery parts, textile materials, textile supplies, and textile goods:* Between points and places in South Carolina. *Iron and scrap iron:* Between points and places in South Carolina. *Plastic materials and plastic waste materials:* Between points and places in South Carolina. *Corrugated or uncorrugated paper products and waste paper products:* Between points and places in South Carolina. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Box 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-33443 Filed 11-29-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6740-02-M]

1

NOVEMBER 27, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 1:30 p.m.; November 28, 1978.

PLACE: 825 North Capitol Street NE., Hearing Room A, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will continue consideration of Docket No. RM79-3; regulations implementing the Natural Gas Policy Act of 1978.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, 202-275-4166.

[S-2411-78 Filed 11-28-78; 11:16 am]

[6570-06-M]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Thursday, November 30, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

OPEN TO THE PUBLIC

1. Recommended Procedures for the Office of Appeals and Review.
2. Report on Commission Operations by the Executive Director.

CLOSED TO THE PUBLIC

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, 202-634-6748.

This Notice Issued November 22, 1978.

[S-2414-78 Filed 11-28-78; 3:13 pm]

[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2414-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Thursday, November 30, 1978.

CHANGE IN THE MEETING: The time of the meeting is changed to 2 p.m. (Eastern Time), Thursday, November 30, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, 202-634-6748.

This notice issued November 28, 1978.

[S-2417-78 Filed 11-28-78; 3:36 pm]

[6730-01-M]

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 24, 1978, 43 FR 55055.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m.; November 29, 1978.

CHANGES IN THE MEETING: Addition of the following item to the Closed Session:

1. Discussion of meeting of Consultative Shipping Group

[S-2415-78 Filed 11-28-78; 3:36 pm]

[6730-01-M]

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m.; December 6, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 10118-4: Modification of the Atlantic Steamship Energy Conservation Agreement to extend its term for an additional three years.
2. Notice of Intent to Make an Environmental Assessment in Docket No. 78-32: Pacific Westbound Conference—Equalization and Absorption Rules and Practices.
3. Docket No. 77-13: First International Development Corporation v. Ships Overseas Services, Inc.—Consideration of the record.
4. Docket No. 77-27: Trailer Marine Transport Corporation General Increase in Rates—Docket No. 77-28: Gulf Caribbean Marine Lines, Inc., General Increase in Rates—Consideration of the record.
5. Docket No. 77-43: Agreement No. 10286—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2416-78 Filed 11-28-78; 3:36 pm]

[7035-01-M]

6

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, December 5, 1978.

PLACE: Hearing Room "C", Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. New Procedures for Identifying and Handling Important Cases (Fitzwater, Chandler).

2. Discussion of Ex Parte No. 346, *Rail General Exemption Authority* (Fitzwater, Rosenak).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-2418-78 Filed 11-28-78; 3:56 pm]

[4910-58-M]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, December 7, 1978 [NM-78-40].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Pipeline Accident Report*—The Gas Service Company, natural gas pipeline rupture and fire, Kansas City, Mo., June 12, 1978.

2. *Highway Accident Report*—Osterkamp Trucking, Inc., truck/full trailer and Dodge van collision, Scipio, Utah, August 26, 1978.

3. *Railroad Accident Report*—St. Louis Southwestern Railway Company freight train derailment and rupture of vinyl chloride tank car at Lewisville, Ark., March 29, 1978.

4. *Railroad/Highway Grade Crossing Accident Report*—Seaboard Coast Line/Amtrak passenger train/pickup truck collision, Plant City, Fla., October 2, 1977.

5. *Discussion* of Blue Signal Protection of Workmen, Railroad Operating Rules.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-2413-78 Filed 11-28-78; 2:44 pm]

[7590-01-M]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 4, 1978.

PLACE: Chairman's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

MONDAY, DECEMBER 4

1:30 p.m.—Briefing by executive branch on nonproliferation matters (approximately 1 hour) (closed—exemption 1).

2:30 p.m.—Affirmation session (approximately 5 minutes) (public meeting): (a) 145b Waiver for Employment.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

NOVEMBER 27, 1978.

[S-2412-78 Filed 11-28-78; 11:55 am]

[7710-12-M]

9

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

NOTICE OF COMMITTEE MEETING

The Committee on Audit of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:00 on Tuesday, December 5, 1978, in the main conference room, second floor, Room 2143, Houston Sectional Center, 401 Franklin Street, Houston, Texas. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

The Committee will review with representatives of the Postal Service's outside auditors the Postal Service's Balance Sheet and Financial Statements for FY 1978.

This Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9:00 A.M. on the same day. A report of the Committee is on the agenda for the Board meeting.

LOUIS A. COX,
Secretary.

[S-2409-78 Filed 11-28-78; 11:16 am]

[7710-12-M]

10

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

NOTICE OF MEETING

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9:00 A.M. on Tuesday, December 5, 1978, in the main conference room, second floor, Room 2143, Houston Sectional Center, 401 Franklin Street, Houston, Texas. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

AGENDA

1. *Minutes of the Previous Meeting.*

2. *Remarks of the Postmaster General* (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the occurrence of a recent Congressional hearing, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. *Schedule of Board Meetings for 1979* (The Board will discuss meeting dates for 1979. Although the Bylaws of the Board provide that regular meetings will be held on the first Tuesday of each month, they also provide that the Chairman, or the Board, may vary the time of meetings.)

4. *Report of the Regional Postmaster General* (Mr. Symbol, Regional Postmaster General will report on postal conditions in the Southern Region.)

5. *Report of the Audit Committee on FY 1978 Financial Statement* (Mr. Holding, as Chairman of the Audit Committee of the Board, will report to the members on the meeting of the Audit Committee (which is to be held immediately preceding the meeting of the Board) with representatives of the Postal Service's outside auditors concerning the Service's Balance Sheet and Financial Statements for FY 1978.)

6. *Review of the Postal Service Budget Program* (Mr. Biglin, Senior Assistant Postmaster General for Finance, will present the Postal Service's budget for FY 1980 as it is proposed for transmission to the OMB and the Congress.)

7. *Review of the Annual Comprehensive Statement to the Congress* (Public Law 94-421 amended 39 U.S.C. § 2401 to require the Postal Service to present a "Comprehensive Statement" to the Legislative and Appropriations Committees of the Congress having cognizance over postal matters. The Comprehensive Statement is to be presented concurrently with the Service's annual budget submission. The Comprehensive Statement is to describe the plans, policies, and procedures of the Postal Service designed to comply with the policies of the Postal Reorganization Act; postal operations generally; and financial summaries and projections. The Comprehensive Statement is on the Board's agenda because approval of the annual Comprehensive Statement is included in the list of matters that the Board has reserved for its own decision. Mr. Finch, Assistant Postmaster General for Government Relations will present a draft of the Statement.)

8. *Capital Investment Projects:*

(a) *Detroit, Michigan* (Mr. Biglin will present a proposed project for the purchase of the Main Post Office at Detroit, which is currently leased by the Postal Service.)

(b) *Stamford, Connecticut* (Mr. James V. Jellison, Regional Postmaster General, Northeast Region, will present a proposed project for a new General Mail Facility and Vehicle Maintenance Facility at Stamford, Connecticut.)

9. *Proposed filing with the Postal Rate Commission for express mail metro service.* (Mr. Ulsaker, Senior Assistant Postmaster General, Administration Group, will present for Board review a proposed filing with the Postal Rate Commission to change the Domestic Mail Classification Schedule under 39 U.S.C. § 3623 to include a new express mail metro service.)

10. *Temporary classification change proposal for Electronic computer Originated Mail Service* (ECOM service) (Under the Postal Reorganization Act (39 U.S.C. § 3641(e)), if the Postal Rate Commission does not transmit a recommended decision on a change in the Mail Classification Schedule to the Governors of the Postal Service within ninety days after the Postal Service has submitted to the Commission a request for such a recommended decision, the Postal Service, upon ten days notice in the FEDERAL REGISTER, may place into effect temporary changes in the Mail Classification Schedule in accordance with proposed changs under consideration by the Commission. The Postal Service requested a recommended decision on September 8, 1978, to change the Domestic Mail Classification Schedule to include a new Electronic Computer Originated Mail Service. It does not appear that the Postal Rate Commission will transmit its recommended decision on this matter within ninety days after September 8. The Board will consider the question of whether the Postal Service should place the proposal into effect on a temporary basis.)

LOUIS A. COX,
Secretary.

[S-2410-78 Filed 11-28-78; 11:16 am]

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V 43 231 NO 30 78

federal register

THURSDAY, NOVEMBER 30, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

EPA

REGULATORY AGENDA

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 983-5]

AGENDA OF REGULATIONS

AGENCY: Environmental Protection Agency.

ACTION: Agenda of Regulations.

SUMMARY: Four times a year the Agency publishes a summary of the significant regulatory actions under development to help assure that interested parties have an early opportunity to participate in shaping our regulations. We call the summary our Agenda of Regulations.

FOR FURTHER INFORMATION CONTACT: For information about any particular item on the Agenda contact the individual identified as the contact person for that item. For general information about public participation in the regulatory process contact:

Chris Kirtz, (PM-223), Standards and Regulations Evaluation Division, Environmental Protection Agency, 401 M Street, SW Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: On March 23, 1978, President Carter signed Executive Order 12044, *Improving Government Regulations*, which directed all executive agencies to adopt procedures to improve existing and future regulations. One procedure which the Order required all agencies to adopt was the publication twice a year of a list of significant regulations which are under development or review. The Order also directed that the Agenda provide the following information about the potential regulations:

- A brief description
- A citation of its statutory authority
- Its status
- The name and phone number of a knowledgeable official
- Whether we will prepare a regulatory analysis due to the regulation's potentially major economic consequences
- Whether the listed item is an existing regulation which we are reevaluating

The Order also directed that the Agenda provide the status of all items listed on the previous Agenda.

EPA's previous Regulatory Agenda was published April 6, 1978.

COVERAGE

We have tried to list all significant actions which are going through the Agency's formal regulation development process, but we may have inadvertently omitted a few. Appearance or nonappearance in the Agenda carries with it no legal significance.

Executive Order 12044 gave general guidelines on determining what regulations were significant and which, therefore, should be included on the Agenda. It directed each agency to develop specific criteria for identifying significant regulations. We will describe our criteria for determining significant regulations in our final report responding to the Executive Order. I will be signing this report soon, and you will be able to obtain copies of it from Philip Schwartz (PM-223), Washington, D.C., 20460.

The Agency's formal process of regulation development starts when an Assistance Administrator sends a notice form to the Administrator and other senior management. This form notifies all EPA offices that a regulation is about to be prepared and allows these offices to plan their participation.

Different events might trigger the start of the Agency's formal regulation development process. The most common event is the passage of new legislation. Other common triggers include new scientific studies; advances in technology; petitions for rulemaking sent in from outside EPA; judicial documents such as court orders and consent agreements; and simply, operating experience with a particular regulation which may suggest ways that we can improve it.

EXPLANATION OF INFORMATION IN THE AGENDA

The Agenda lists prospective regulatory actions authorized by the following laws:

- the Clean Air Act (CAA)
- the Motor Vehicle Information and Cost Savings Act (MVICSA)
- the Safe Drinking Water Act (SDWA)
- the Noise Control Act (NCA)
- the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
- the Atomic Energy Act (AEA)
- the Public Health Service Act (PHSA)
- the Resource Conservation and Recovery Act (RCRA)
- the Toxic Substances Control Act (TSCA)
- the Federal Water Pollution Control Act as amended by the Clean Water Act (CWA)

The first column of the Agenda provides the following information about each regulation:

- A citation from the Code of Federal Regulations
- A short title
- A citation of statutory authority
- A description, including whether the item is an existing regulation which we are reevaluating

If the regulation may have economic consequences large enough to require a regulatory analysis, an asterisk (*) appears at the beginning of the entry.

The second column lists the date we proposed a regulation in the FEDERAL REGISTER or the month in which we expect to propose it.

The third column lists the date we published a final regulation or the month in which we expect to publish the final regulation.

The fourth column provides the name, address, and phone number of whom to contact for each regulation.

DOUGLAS M. COSTLE,
Administrator.

NOVEMBER 20, 1978.

MAJOR EPA REGULATIONS UNDER CONSIDERATION

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN AIR ACT			
We are developing the following seven items under the authority of secs. 108 and 109 of the CAA which direct the Administrator to establish national Ambient Air Quality Standards (NAAQS). To write a NAAQS for any pollutant, we first prepare a criteria document which contains the latest scientific knowledge on the kind and extent of public health and welfare problems caused by the presence of the pollutant in the air. If we revise the criteria document, we may find it necessary to also change the NAAQS. A National Primary Ambient Air Quality Standard defines the Maximum amount of an air pollutant which the Administrator of EPA determines is compatible with an adequate margin of safety to protect the public health. A National Secondary Ambient Air Quality Standard defines levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.			
40 CFR 50 **Review of NAAQS for Photochemical Oxidants.* CAA 108. The proposed regulation would change the existing primary, health-based standard to 0.10 ppm for a 1-hour average from the existing 0.08 ppm standard. The secondary, welfare-based standard would remain at 0.08 ppm for 1-hour average. The pollutant we control would be changed from photochemical oxidants to ozone, which is the principal measurable ingredient in photochemical oxidants.	June 22, 1978	December 1978	Joe Padgett (MD-12). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5204, FTS 8-629-5204.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN AIR ACT			
40 CFR 50 **NAAQS for Lead.* CAA 108. EPA proposed an ambient lead standard of 1.5 micrograms per cubic meter averaged over 30 days. Public reaction has been mixed. Federal agencies and public interest groups support the proposal. Industry argues that: (1) the health data and analyses do not support the standard, (2) large parts of the secondary lead and foundry industries are *Technically* unable to comply, and (3) plant closures for economic and technical reasons will result from enforcement of the standard.	Dec. 14, 1977	Oct. 5, 1978	Do.
40 CFR 50 **Review of NAAQS for Carbon Monoxide.* CAA 108. The health basis for control of this pollutant will we reviewed. This requires preparation of an updated criteria document and analysis of whether or not NAAQS should be revised.	September 1979	February 1980	Do.
40 CFR 50 **Review of NAAQS for Sulfur Oxides.* CAA 108. A review of the health basis for control of this pollutant will require preparation of an updated criteria document and analysis of whether or not NAAQS should be revised.	May 1980	December 1980	Do.
40 CFR 50 **Review of Long Term NAAQS for Nitrogen Dioxide* CAA 108. The NAAQS for nitrogen dioxide is undergoing review. ORD will complete a revised criteria document by January 1979. Under the CAA amendments, the criteria and the decision to revise the standard must address both the long-term effects of NO2, and effects associated with other nitrogen species in the air, particularly nitrates, and nitric acid aerosol.	January 1979	June 1979	Do.
40 CFR 50 **Review of NAAQS for Particulates.* CAA 108. A review of the health basis for control of this pollutant will require preparation of an updated criteria document and analysis of whether or not NAAQS should be revised.	May 1980	December 1980	Do.
40 CFR 50 **Development of Short Term NAAQS for Nitrogen Dioxide.* CAA 109. The Clean Air Act Amendments of 1977 require proposal and promulgation of a 1-3 hour standard for NO2 unless EPA finds that such a standard is not necessary to protect the public health.	January 1979	June 1979	Do.
We are developing performance standards to control emissions from the following industries under sec. 111(b) of the CAA. This section requires that the Administrator develop New Source Performance Standards (NSPS) for stationary sources which significantly contribute to air pollution. The NSPS are based on the best system of continuous emission reduction which has been adequately demonstrated. The standards would apply to both new sources and existing sources which are modified after approval of the regulation.			
40 CFR 60 **NSPS—Fossil Fuel Steam Generators (Revision).* CAA 111. Revised standards are being proposed for utility boilers for control of SO2, NOx and particulates. The revised NSPS will apply to any fossil-fueled utility boiler with a heat input of 250 million Btu/hour or greater. The NSPS will require a percent removal of sulfur dioxide and will include an emission ceiling and an emission floor.	Sept. 19, 1978	March 1979	Don Goodwin (MD-13). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5271, FTS 8-629-5271.
40 CFR 60 *NSPS—Petroleum Liquid Storage Vessels.* CAA 111. This is a revision of 1974 NSPS. The revised standard will propose the use of double seals rather than single seals on floating roofs. The standard, as currently being developed, will essentially eliminate one of two types of seals currently in use.	May 18, 1978	....do	Do.
40 CFR 60 *NSPS—Glass Manufacturing.* CAA 111. This regulation will address the problem of emissions from new glass manufacturing furnaces. The Governor of New Jersey requested that EPA develop national standards.	February 1979	December 1979	Do.
40 CFR 60 *NSPS—Internal Combustion Engines.* CAA 111. These regulations will require the application of best demonstrated control technology to control emissions from stationary internal combustion engines. It will also require States to act under sec. 111(d) to regulate these compounds from existing sources.	December 1978	....do	Do.
40 CFR 60 *NSPS—Sulfur Recovery in Natural Gas Fields.* CAA 111. This regulation will control emissions of total reduced sulfur compounds.	July 1979	May 1980	Do.
40 CFR 60 *NSPS—Non-Metallic Minerals.* CAA 111. Particulate emissions from quarrying operations and related facilities will be controlled.	January 1979	December 1979	Do.
40 CFR 60 *NSPS—Organic Solvent Metal Cleaning.* CAA 111. This rule will control evaporative emissions from metal cleaning and degreasing operations.	March 1979	January 1980	Do.

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MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN AIR ACT			
40 CFR 60 *NSPS—Surface Coating Operations for Auto Assembly Plants.* CAA 111. Evaporative emissions from coating operations in the auto and light truck industry will be controlled.	February 1979	...do	Do.
40 CFR 60 *NSPS—Synthetic Organic Chemical manufacturing.* CAA 111. Selection of a degree of control of emission from manufacture of over 100 major organic chemicals is to be made. A series of standards will be proposed.	March 1979	...do	Do.
40 CFR 60 *NSPS—Can Coating.* CAA 111. This regulation will establish emission standards for volatile organic emissions from can coating operations.	November 1979	September 1980	Do.
40 CFR 60 *NSPS—Pressure Sensitive Tapes and Labels Coating.* CAA 111. This regulation will establish emission standards for volatile organic emissions from pressure sensitive tapes and label operations.	January 1980	November 1980	Do.
40 CFR 60 *NSPS—Metal Furniture Surface Coating.* CAA 111. This regulation will establish emission standards for volatile organic emissions from metal furniture operations.	December 1978	December 1979	Do.
40 CFR 60 *NSPS—Lead Battery Manufacturing.* CAA 111. This regulation will establish emission standards for lead and sulfuric acid mist emissions from lead battery manufacturing facilities. The action on H2S04 will key the requirement that States regulate existing sources under sec. 111(d).	April 1979	February 1980	Do.
40 CFR 60 *NSPS—Gas Turbines.* CAA 111. This regulation will establish limitations on oxide of nitrogen emissions from stationary gas turbines.	Oct. 3, 1977	February 1979	Do.
40 CFR 60 *NSPS—Industrial Boilers.* CAA 111. This regulation will control the emissions of particulates, NOx and SO2.	October 1980	August 1981	Do.
40 CFR 60 *NSPS—Phosphate Rock.* CAA 111. This regulation will control the emission of particulates.	May 1979	March 1980	Do.
40 CFR 60 *Aluminum Plant Flouride Control—Existing Plants.* CAA 111(d). These are guidelines for State control of flouride emissions from existing aluminum plants.	January 1979	November 1979	Do.
40 CFR 60 *Guidelines for Existing Kraft Pulp Mills.* CAA 111(d). These are guidelines to control sulfur (odors) from existing Kraft pulp mills will allow States flexibility in establishing controls.	Feb. 23, 1978	January 1979	Do.
40 CFR 60 *List of New Source Performance Standards.* CAA 111(f). The 1977 Clean Air Act requires the Administrator to list the categories of major stationary sources that are not already controlled by NSPS. He must then issue standards for these categories within 4 years.	Aug. 31, 1978	May 1979	Do.
We are developing emission standards for hazardous air pollutants under sec. 112 of the CAA. This section requires that the Administrator develop National Emission Standards for Hazardous Air Pollutants (NESHAPS) for emissions which cause or contribute to air pollution which results in an increase in mortality, or an increase in serious or incapacitating illness. The standards would apply to both new sources and existing sources.			
40 CFR 61 *NESHAPS: Asbestos-Iron Ore Beneficiation.* CAA 112. This regulation would establish limits on asbestos emissions from iron ore beneficiation facilities.	September 1979	July 1980	Don Goodwin (MD-13). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5271, FTS 8-629-5271.
40 CFR 61 *NESHAPS: Vinyl Chloride Amendments.* CAA 112. The proposed regulations have called for increased control of existing sources, stringent control of new sources, and a zero emission goal.	June 7,1977	Indeterminate	Do.
40 CFR 61 *NESHAPS: Handling and Storage.* CAA 112. This regulation would control the handling and storage of benzene and benzene-rich liquids.	August 1979	June 1980	Do.
40 CFR 61 *NESHAPS: Gasoline Distribution Systems.* CAA 112. This regulation would control benzene emissions from major marketing sources such as bulk terminals, bulk plants, and service stations.	Indeterminate	Indeterminate	Do.
40CFR 61 *NESHAPS—Refinery Sources.* CAA 112. This regulation would control the emission of benzene from point sources as well as from fugitive sources (pumps, valves, etc.) and waste disposal.	September 1979	November 1980	Do.
40 CFR 61 *NESHAPS—Maleic Anhydride.* CAA 112. This regulation would control the emission of benzene in the manufacture of maleic anhydride.	January 1979	November 1979	Do.
40 CFR 61 *NESHAPS—Ethyl Benzene.* CAA 112. This regulation would control the emission of benzene in the manufacture of ethyl benzene.	March 1979	January 1980	Do.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN AIR ACT			
40 CFR 61 *NESHAPS—Styrene.* CAA 112. This regulation would control the emission of benzene in the manufacture of styrene.	June 1979	April 1980	Do.
40 CFR 61 *NESHAPS: Asbestos Released from Crushed Stone.* CAA 112. Use of crushed serpentine rock for roadway surfacing may release significant quantities of asbestos. A monitoring program is under way and results indicate standards will be proposed.	May 1980	March 1981	Do.
40 CFR 61 *NESHAPS: Coke Oven Emission-Charging Operations.* CAA 112. The regulation would define coke oven emissions as a hazardous air pollutant. Charging operations would be regulated first. Regulations on top side leaks would follow.	December 1978	September 1979	Do.
40 CFR 61 *NESHAPS: Arsenic.* CAA 112. A health risk assessment is being conducted. If i is determined that arsenic emissions (primarily from copper smelters) are a hazardous air pollutant, then emission standards would be proposed.	December 1979		Joe Padgett (MD-12). Environmental Protection Agency, Research Triangle Park, N.C. 27711 919-541-5204, FTS 8-629-5204.
40 CFR 57 *Primary Nonferrous Smelter Orders.* CAA 119. These regulations will establish the substantive requirements of initial primary nonferrous smelter orders (NSO's) and the procedures to be used in issuing them. NSO's will allow certain copper, lead, and zinc smelters to delay compliance with the requirements for constant control of sulfur dioxide emissions and let them use tall stacks and supplementary control systems to meet ambient standards.	December 1978	April 1979	Judith Larsen (EN-341). Environmental Protection Agency, Washington, D.C. 20460, 202-755-2583.
40 CFR 56 *Noncompliance Penalties.* CAA 120. EPA is required to establish a penalty program to start collecting money from polluters after mid-1979 in an amount equal to the money the polluter saves by failing to obey the law.	...do	Undetermined	Bob Homiak (EN-341). Environmental Protection Agency, Washington, D.C. 20466, 202-755-2542.
40 CFR 51 *Tall Stack Regulation.* CAA 123. The regulations will specify what height stacks may be given credit for dispersion under State implementation plans.	November 1978	April 1979	Dick Rhoads (MD-15). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5251, FTS 8-629-5251.
40 CFR 51.240 *Regulations Providing for State/Local Consultation.* CAA 121. The regulations will ask the States to provide a satisfactory process of consultation with local governments, elected officials, and Federal land managers. The regulations will also require the States to choose a lead planning organization to coordinate the State Implementation Plan revisions for oxidants (smog) and carbon monoxide.	May 18, 1978	December 1978	John Hidinger (AW-445). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0481.
1979 Listing of Radioactive Pollutants. CAA 122. Determine whether radioactive pollutants shall be classified as 108, 111, or 112 pollutants or none of these categories.	August 1980	Undetermined	William A. Mills (AW-460). Environmental Protection Agency, Washington, D.C. 20460, 703-557-0704.
40 CFR 51 *Emission Offset Policy Regulations.* CAA 129. These regulations address the issue of whether and to what extent the national ambient air quality standards established under CAA restrict or prohibit growth of major new or expanded air pollution sources. These proposed revisions reflect the public comments (including four public hearings on the December 21 ruling and the changes required by CAA Amendments of 1977).	Dec. 21, 1976	November 1978	Kent Berry (MD-11). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5343, FTS 8-629-5343.
40 CFR 51 and 52 *Prevention of Significant Deterioration (PSD).* Set II. CAA 186. These regulations will insure that areas which are in compliance with hydrocarbon, carbon monoxide, photochemical oxidant, and nitrogen oxide standards will remain in compliance.	December 1979	October 1980	Dick Rhoads (MD-15). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5251, FTS 8-629-5251.
Visibility Protection. CAA 167(a). EPA is required to prepare a report to Congress and guidelines which require SIP's to address visibility problems.	October 1979	August 1980	Joe Padgett. Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5204, FTS 8-629-5204.
40 CFR 85 *Requirements to Build Demonstration Cars Meeting 0.4 Gram/Mile NOx Standard.* CAA 202. All manufacturers with a least a 0.5 pct share of the U.S. passenger car market will have to build research vehicles which meet the 0.4 grams nitrogen dioxide per mile research objective. This regulation will be published in interim-final form.	December 1978	July 1979	Karl Hellman. Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, Mich. 48105, 313-668-4246.
40 CFR 86 *Light-Duty Diesel Particulate Standards.* CAA 202. EPA is required to set particulate standards for mobile sources starting in 1981. The regulation will contain 1981 standards and more stringent standards for 1983 and later model years.	...do	July 1979	Merrill Korth. Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, Mich. 48105, 313-668-4290.

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MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN AIR ACT			
40 CFR 86 *Heavy-Duty Diesel Particulate Standards.* CAA 202. Although required by CAA for 1981 models, there is no test procedure available that can be used as the basis for a standard. A 1983 model year is targeted.	December 1980	August 1980	Do.
40 CFR 86 *Test Procedures for Measuring Heavy Duty Evaporative Emissions.* CAA 202(a). The Clean Air Act requires that a test procedure be promulgated which will require measurement of evaporative emission from the vehicles as a whole. EPA will promulgate test procedure and standards.	December 1978	August 1980	Mike Leiferman. Environmental Protection Agency, Ann Arbor, Mich. 48105, 313-668-4271.
40 CFR 86 *Heavy-Duty Evaporative Emission Standards.* CAA 202(a). Standards will apply to heavy-duty gasoline vehicles and will control emissions due to evaporation of gasoline beginning in model year 1981.	January 1979	August 1980	Do.
40 CFR 86 *Light-Duty Truck Emission Standards (Up to 8500 lbs. Gross Vehicle Weight Rating—GVWR).* CAA 202(a). CAA requires standards for 6,000-8,500 lb trucks that represent a 90 percent reduction in HC and CO from baseline for 1983. Standards are expected to be equivalent in stringency to 1981 passenger car standards and are expected 1 year ahead of CAA deadline, i.e. 1982 model year. The same standards will also be applied to trucks under 6,000 lb GVWR.	....do	August 1979	William Houtmann. Environmental Protection Agency, Ann Arbor, Mich. 48105, 313-668-4272.
40 CFR 86 *HC and CO Emission Standards for Heavy Duty Vehicles (Over 8,500 Pounds).* CAA 202(a)(3). The CAA requires EPA to establish emission standards for engines for heavy-duty vehicles over 8,500 pounds. Standards for HC and CO are a 90 percent reduction from baseline emissions for 1983 model year. EPA is in the process of developing a new test procedure for measuring exhaust emissions and measurements of baseline emissions.	December 1978	December 1979	Chet France. Environmental Protection Agency, Ann Arbor, Mich. 48105, 313-668-4338.
40 CFR 86 *NOx Emission Standard for Heavy Duty Vehicles (Over 8,500 Pounds).* CAA 202(a)(3). The CAA requires EPA to establish emission standards for heavy-duty vehicles (over 6,000 lbs. GVWR). A 75 percent reduction for NOx beginning with 1985 model year. EPA is in the process of developing a new test procedure for measuring exhaust emissions and must then measure baseline emissions.	December 1979	September 1980	Do.
Fill Pipe Standards. CAA 202(a)(5). At such time as phase II vapor recovery regulations are promulgated, EPA is required to set standards for vehicle refueling orifices and associated parts of the fuel system to provide effective connection between the fill pipe and vapor recovery refueling nozzles. The effective model is to be determined on the basis of lead time required for design and production of the required systems. The type of fill pipe needed depends of whether phase II or on-board HC control is selected by EPA.	September 1979	June 1980	Ernie Rosenberg (AW-455). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0596.
On-Board Hydrocarbon Technology. CAA 202(a)(6). Under this section EPA is required to determine whether onboard HC controls are feasible and more desirable than Phase II: Vapor Recovery, taking into consideration such factors as fuel economy, costs, admininstrative burdens, equitable distribution of. costs and safety. If found feasible and desirable, onboard HC control standards are to be set by EPA, with such lead time as is needed for implementation. In issuing such regulations, EPA is required to consult with the Department of Transportation regarding the safety of the controls.	September 1979	June 1980	Paul Stolpman (AW-443). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2484.
40 CFR 86 *Interim High Altitude Requirements.* CAA 202(a), (f). The regulations will set requirements .or car to meet the standards at high altitude for 1981-83.	December 1978	August 1979	William Houtmann. Environmental Protection Agency, Ann Arbor, Mich. 48105, 313-668-4272.
40 CFR 85 *Importation of Motor Vehicles and Motor Vehicle Engines.* CAA 203. The regulation attempts to improve the effectiveness and administration of EPA's program to prevent importation of vehicles and engines which fail to conform to Federal emission standards.	December 1978	July 1979	Tom Preston (EN-340). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0944.
40 CFR 86 *Regulations Defining Certificate of Conformity.* CAA 206(a). The regulations will identify the components and specifications that are a required part of motor vehicle certification; the parameters of allowable deviation of parts; and the specifications for the certification tests.	Dec. 23, 1974	March 1979	Do.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN AIR ACT			
40 CFR 86 *Selective Enforcement Auditing of Motorcycles.* CAA 206(b). The regulation will establish a program for testing motorcycles at the assembly line to assure compliance with emission standards.	Holding		Frank Slaveter (EN-338). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0596.
40 CFR 86 *Selective Enforcement Auditing of Heavy Duty Engines and Vehicles.* CAA 206(b). The regulation will establish a program for testing heavy duty engines and vehicles at the assembly line to assure compliance with emission standards.	December 1978	February 1979	Do.
40 CFR 86 *Engine Parameter Adjustment Regulations.* CAA 206(b). This regulation will limit the adjustment parameters of emissions-related controls on vehicles to ensure that after the vehicles pass certification tests, they are not readjusted in the field by dealerships or service stations to improve their driveability at the cost of increased emissions.	Oct. 21, 1977	November 1978	Ron Kruse. Environmental Protection Agency, Ann Arbor, Mich. 48105, 313-668-4317.
40 CFR 86 *1984 High Altitude Standards.* CAA 206(f). These regulations will require all vehicles to meet standards at all altitudes beginning with 1984 models.	May 1981	May 1982	Ernie Rosenberg (AW-455). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0596.
40 CFR 86 *Penalties for Noncomplying Heavy-Duty Engines and Vehicles.* CAA 206(g). This regulation would allow heavy-duty engine or vehicle manufacturers to sell vehicles or engines exceeding the standards if they pay a noncompliance penalty. They still would not be sold, however, if they exceed an upper limit.	December 1978	February 1979	Frank Slaveter (EN-338). Environmental Protection Agency, Washington, D.C. 20460, 202-755-1572.
40 CFR 86 *Emission Control Warranty.* CAA 207(a)(1). The regulations activate a manufacturer's warranty that becomes enforceable if the vehicle exceeds emission standards as a result of defects present at the time of sale.	December 1978	June 1979	Rick Friedman (EN-340). Environmental Protection Agency, Washington, D.C. 20460, 202-426-4690.
40 CFR 86 *Aftermarket Parts Certification.* CAA 207(a)(2). The regulation establishes guidelines so aftermarket parts manufacturers can certify that their parts do not degrade emissions.	January 1979	August 1979	David Feldman (EN-340). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0297.
40 CFR 86 *Short Test for Emission Warranties.* CAA 207(b). The regulation establishes procedures for tests of emissions from light duty trucks and light duty vehicles to be performed in conjunction with inspection/maintenance programs.	May 25, 1977	January 1979	Dick Nash. Environmental Protection Agency, Ann Arbor, Mich. 48105, 313-668-4412.
40 CFR 85 *Emission Control (Performance) Warranty.* CAA 207(b)(2). This regulation specifies performance warranty requirements based on short-cycled emissions test for in-use vehicles. It was proposed in May 1977 and is now being reproposed to take the Clean Air Act Amendments into account.	November 1978	April 1979	David Feldman (EN-340). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0297.
40 CFR 79.6 *Fuels and Fuel Additives Protocols for Testing.* CAA 211. The protocols will help determine effects of fuels and fuel additives on public health and emission control devices.	January 1979	May 1979	Matt Bills (RD-680). Environmental Protection Agency, Washington, D.C. 20460, 202-426-4452.
40 CFR 86 *High Altitude Performance Adjustments.* CAA 215. EPA is required to set procedures by which manufacturers must have adjustments to their cars for high altitude operation approved.	February 1979	February 1980	Ernie Rosenberg (AW-455). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0596.
40 CFR 86 *Turbine Aircraft Gaseous Emissions Retrofit and Modification of 1973 Standards.* CAA 231. This regulation will propose, and for some classes of aircraft, repropose emission standards for large aircraft to reduce HC, NOx, and CO.	Mar. 24, 1978	September 1979	William Houtmann. Environmental Protection Agency, Ann Arbor, Mich. 48105, 313-668-4272.
40 CFR 56 *Regional Consistency.* CAA 301. EPA is required to provide for consistent implementation of the Clean Air Act by the various EPA Regional Offices.	January 1979	Undetermined	Darryl Tyler (MD-13). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5251, FTS 8-629-5425.
40 CFR 51, 52, 53, 58, and 60 *Monitoring Regulations.* CAA 319. These regulations will revise the requirements for State and local air pollution monitoring for purposes of State implementation plans and for reporting air quality data to EPA.	Aug. 7, 1978	January 1979	Robert Neligan (MD-14). Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5447, FTS 8-629-5447.
THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT (MVICSA)			
40 CFR 85 *Testing Retrofit Devices for Fuel Economy Performance.* MVICSA 511. The regulation provides for EPA evaluation of claims by a manufacturer that it has produced a fuel economy retrofit device.	Aug. 10, 1977	December 1978	Ernie Rosenberg (AW-455). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0596.

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MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN WATER ACT (Federal Water Pollution Control Act as amended by the Clean Water Act Amendments of 1977)			
40 CFR 35(F) *State Management Assistance.* CWA 101(b)/205. States may use up to 2 percent of their title II allotment or $400,000 whichever is greater, to finance the administration of sec. 201, 203, 208, 212, 402, and 404 programs.	Apr. 25, 1978, interim final	Sept. 27, 1978	Joe Easley (WH-547). Environmental Protection Agency, Washington, D.C. 20460, 202-426-4445.
7 CFR 634 *Agricultural Cost Sharing.* CWA 208(j).). The Department of Agriculture will provide grants covering up to 59 percent of costs to install best management practices for water quality management. The program will be imple-by the USDA. The regulations will be promulgated by USDA with EPA concurrence.	June 22, 1978	To be determined	Joe Krivak (WH-585) Environmental Protection Agency, Washington, D.C. 20460, 202-755-7000.
40 CFR 35 *Water Quality Management Regulations.* CWA 106, 208, 303(e). These regulations revise and update the water quality management regulations previously issued under 40 CFR 130 and 131.	Sept. 12, 1978	January 1979	Linda Eichmiller (WH-554). Environmental Protection Agency, Washington, D.C. 20460, 202-755-6065.
40 CFR 35.15 *State 208 Regulatory Programs for Dredge and Fill Materials.* CWA 208(b)(4). These regulations will authorize States to establish regulatory programs for the discharge of dredge and fill material to supplement State 404 permit programs.	January 1979	July 1979	Joe Krivak. Environmental Protection Agency, Washington, D.C. 20460, 202-755-7000.
40 CFR 233 *Modification of Secondary Treatment Requirements for Marine Dischargers.* CWA 301(h). The 1977 amendments of the Clean water Act allow EPA to modify the treatment requirements for existing ocean dischargers from Publicly Own Treatment Works (POTW's) in regard to the required degree of removal of Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), and pH. Applicants are required to meet eight specific 301(h) criteria in addition to any other applicable criteria of the Act. The receipt of modification would not relieve a POTW from compliance with performance standards which EPA will later publish to reflect Best Practicable Wastewater Treatment Technology (BPWTT). This rule establishes the criteria which EPA will apply and the procedures it will follow in its evaluation of application for a modification.	Apr. 25, 1978	December 1978	Tom O'Farrell (WH-551). Environmental Protection Agency, Washington, D.C. 20460, 202-426-8976.
40 CFR 124 *Extension of Pollution Control Deadlines for Publicly Owned Treatment Works and Other Point Sources Planning to Discharge to Those Publicly Own Treatment Works.* CWA 301(j). This regulation establishes criteria which EPA and NPDES States will use in reviewing requests for 301(i) extensions from the July 1, 1977, treatment requirements.	May 16, 1978, interim final	Will be incorporated into NPDES program regulations 40 CFR 122 to 125.	Ed Kramer (EN-336). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.
40 CFR 125 *Requirements for Application for 301 (c) and (g) Variances.* CWA 301(j)X1XB). These regulations require discharges desiring 301 (c) and (g) variances to file initial applications by Sept. 25, 1978, or 270 days after promulgation of BAT limitations whichever is later.	Sept. 13, 1978, interim final	January 1979, will be incorporated into NPDES program regulations 40 CFR 122 to 125.	Scott Siesinger (EN-336). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.

Effluent guidelines representing best available treatment technology, new source performance standards, and pretreatment standards are being developed for the following industries to comply with the Act and a court order mandating control of certain toxic substances in industrial effluents. CWA 301, 304, 306, and 307.

40 CFR 420	*Iron and Steel Manufacturing*	November 1979	May 1980	Ernst Hall (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2576.
40 CFR 435	*Petroleum Refining*	March 1979	October 1979	Robert Dellinger (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2497.
40 CFR 429	*Timber Products Processing*	May 1979	December 1979	John Riley (WH-552). Environmental Potection Agency, Washington, D.C. 20460, 202-426-5554.
40 CFR 423	*Steam Electric Power Plants*	do	do	John Lum (WH-552). Environmental Protection Agency, Washington, D.C. 20460 202-426-4617
40 CFR 425	*Leather Tanning and Finishing*	January 1979	August 1979	William Sonnett (WH-552). Environmental Protection Agency, Washington, D.C. 20460 202-426-2440.
40 CFR 421	*Nonferrous Metals Manufacturing*	August 1979	March 1980	Patricia Williams (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2586.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN WATER ACT			
40 CFR 46 *Paint and Ink Formulation*	September 1979	April 1980	Richard Gigger (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2583.
40 CFR 448 *Printing and Publishing Services*	November 1979	June 1980	Do.
40 CFR 440 *Ore Mining and Dressing*	do	July 1980	Gail Coad (WH-586). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2503.
40 CFR 434 *Coal Mining*	December 1979	June 1980	William Telliard (WH-586). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2726.
40 CFR 414 *Organic Chemicals Manufacturing*	January 1980	August 1980	Paul Parenthold (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2497.
40 CFR 415 *Inorganic Chemicals Manufacturing*	September 1979	April 1980	Walter Hunt (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2724.
40 CFR 410 *Textile Mills*	May 1979	December 1979	James Gallup (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2554.
40 CFR 416 *Plastics and Synthetic Material*	January 1980	August 1980	Paul Fahrenthold (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2497.
40 CFR 430 *Pulp and Paper*	February 1980	do	Bob Dellinger (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2554.
40 CFR 428 *Rubber Processing*	June 1979	January 1980	Do.
40 CFR 417 *Soap and Detergents Manufacturing*	July 1980	July 1981	Sammy Ng (WH-586). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2503.
40 CFR 444 *Auto and Other Laundries*	December 1979	July 1980	Richard Gigger (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2583.
40 CFR 456 *Miscellaneous Chemicals—Adhesives and Sealants.*	February 1980	August 1980	Elwood Forsht (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2707.
40 CFR 457 *Miscellaneous Chemicals—Explosives Manufacturing.*	December 1979	July 1980	Elwood Martin (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2440.
40 CFR 454 *Miscellaneous Chemicals—Gum and Wood.*	August 1979	March 1980	Richard Williams (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2555.
40 CFR 455 *Miscellaneous Chemicals—Pesticides*	March 1980	October 1980	George Jett (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2497.
40 CFR 439 *Miscellaneous Chemicals—Pharmaceuticals.*	December 1979	July 1980	Joe Vitalis (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2497.
40 CFR 413 *Electroplating*	March 1980	October 1980	Maurice Owens (WH-586). Environmental Protection Agency, Washington, D.C. 20460, 202-755-1331.
40 CFR 459 *Machinery and Mechanical Products—Photographic Equipment and Supplies.*	February 1980	August 1980	Ernst Hall (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2576.
40 CFR 433 *Machinery and Mechanical Products—Mechanical Products.*	August 1980	March 1981	Do.
40 CFR 469 *Machinery and Mechanical Products—Electrical and Electronic Components.*	March 1980	October 1980	Do.
40 CFR 464 *Machinery and Mechanical Products—Foundry Operations.*	October 1979	May 1980	Do.
40 CFR 468 *Machinery and Mechanical Products—Copper and Copper Alloy Products.*	April 1980	November 1980	Do.
40 CFR 461 *Machinery and Mechanical Products—Battery Manufacturing.*	March 1980	October 1980	Do.
40 CFR 465 *Machinery and Mechanical Products—Coil Coating.*	August 1979	March 1980	Do.
40 CFR 463 *Machinery and Mechanical Products—Plastics Processing.*	October 1980	May 1981	Do.
40 CFR 466 *Machinery and Mechanical Products—Porcelain Enamel.*	October 1979	May 1980	Ernst Hall (WH-552). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2576.
40 CFR 467 *Machinery and Mechanical Products—Aluminum Forming.*	March 1980	October 1980	Do.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN WATER ACT			
40 CFR 124 and 125 *Veto Modification.* CWA 301(b)(a), 304(1), 307(a), 402(b), 501(a). This regulation revises existing regulations to conform to the requirements in the NRDC versus Train Consent Decree June 8, 1976 and to clarify the procedures under which EPA will exercise its power to object to (veto) State issued NPDES permits.	Jan. 6, 1978	May 23, 1978	Ed Kramer (EN-336). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.
40 CFR 125 *Substantive Criteria for 301(c) and (g) Variances from BAT Requirements.* CWA 301 (c) and (g). This criteria will establish information necessary for assessment of economic and environmental variance requests.	January 1979	Will be incorporated into NPDES program regulations 40 CFR 122 to 125.	Do.
40 CFR 130.17 *"Revision of Water Quality Standards Regulation (Part 130.17).* CWA 303. This regulation will amend the existing regulation covering State Water Quality Standards to establish requirements regarding States adopting standards for toxic pollutants when EPA has issued national ambient water quality criteria for those pollutants. One effect of this amendment will be that dischargers (both municipal and industrial) may have to install treatment technology beyond that required by Best Available Wastewater Treatment Technology (BPWTT) or Best Available Technology (BAT) guidelines.	March 1979	March 1980	Ken Maekenthun (WH-585). Environmental Protection Agency, Washington, D.C. 20460, 202-755-6100.
40 CFR *Quality Criteria for Water; Volume II.* CWA 304(a). Ambient water quality criteria will be established for 65 pollutants.	(29 pollutants) March 1979 (36 pollutants) July 1979	September 1979 December 1979	Do.
40 CFR 400 to 469 *Secondary Industry Review.* CWA 304(b). This regulation will provide for promulgated of Best Practicable Conventional Pollutant Control Technology (BTC) for certain subcategories of the "secondary industries" industries not covered by the NRDC Settlement Agreement. For other subcategories, Best Available Technology (BAT) limits will be suspended. The methodology that will be used for BCT for secondary industries will also be applied to BCT for primary industries at the time that BAT regulations are established.	Aug. 23, 1978	April 1979	Dave Fege (WH-586). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2617.
40 CFR 125 *Criteria and Standards for Imposing Best Management Practices for Ancillary Industrial Activities.* CWA 304(e). This regulation will indicate how "best management practices" for on-site industrial activities may be imposed in NPDES permits to prevent release of toxic and hazardous pollutants to surface waters.	Sept. 1, 1978	Will be incorporated into NPDES program regulations 40 CFR 122 to 125.	Ed Kramer (EN-336). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.
General Pretreatment Regulations for Existing and New Sources of Pollution. CWA 307(b)(1). This regulation establishes requirements and procedures for a general pretreatment program including development of State and local programs.		June 26, 1978	Steve Heare (WH-586). Environmental Protection Agency, Washington, D.C. 20460, 202-755-6885.
40 CFR 117 *Revision of Hazardous Substances Discharge Regulations.* CWA 311. As a result of amendments of sec. 311, pts. 117 and 119 will be withdrawn and pt. 118 revised, principally to clarify which dischargers will be subject to the provisions of sec. 311.	November 1978	December 1978	Colburn T. Cherney (A-131). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0760.
40 CFR *Oil Spill Liability.* CWA 311(q). This rule will establish maximum limits of liability for fixed non-transportation related facilities which may face cleanup liabilities under sec. 311.	September 1979	June 1980	Joseph Lewis (WH-585). Environmental Protection Agency, Washington, D.C. 20460, 202-245-0581.
40 CFR 140 *Marine Sanitation Devices.* CWA 312. These rules will establish secondary treatment or equivalent for ships navigating the Great Lakes.			Jonathan Amson (WH-585). Environmental Protection Agency, Washington, D.C. 20460, 202-245-3036.
40 CFR 140 *Drinking Water Intake Zone Exemptions.* CWA 312. These regulations, which will establish guidance for State no-discharge prohibitions for drinking water intake zones, are a part of the Marine Sanitation Devices regulations.			Do.
40 CFR 35 *Clean Lakes.* CWA 314. These rules will establish procedures for administering grants to the States for the purpose of restoring lakes.	December 1978	February 1979	Robert Johnson (WH-585). Environmental Protection Agency, Washington, D.C. 20460, 202-472-3400.
40 CFR 151 *Hazardous Substances Pollution Prevention for Facilities Subject to Permitting Requirements.* CWA 402. This proposed regulation sets forth requirements for Spill Prevention Control and Countermeasure Plans for nontransportation related facilities which handle hazardous substances and are subject to NPDES permits.	Sept. 1, 1978	February 1979	Thomas J. Charlton (WH-548). Environmental Protection Agency, Washington, D.C. 20460, 202-245-3045.
40 CFR *NPDES Program.* CWA 402. This regulation revises, updates, clarifies, and reorganizes existing NPDES regulations.	Aug. 21, 1978	January 1979	Ed Kramer (EN-336). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.
40 CFR 124 *Veto Modification.* CWA 402. These regulations will establish the use of short-term permits as the preferred mechanism for assuring compliance with NRDC Consent Decree.	May 23, 1978		Do.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE CLEAN WATER ACT (Federal Water Pollution Control Act as amended by the Clean Water Act Amendments of 1977)			
40 CFR 231 *Ocean Discharge Criteria.* CWA 403(c). These guidelines pertain to discharges to the ocean. They are based on prevention of environmental degradation of waters of the territorial seas, the contiguous zone, and the oceans. Both industrial and municipal dischargers would have to meet these criteria.	April 1979	December 1979	Tom O'Farrell (WH-551). Environmental Protection Agency, Washington, D.C. 20460, 202-426-8976.
40 CFR 230 *Guidelines to Protect the Aquatic Environment, Including Wetlands, From the Discharge of Dredged or Fill Material.* CWA 404(b)(1). These guidelines must be considered in the issuance of individual and general permits, in the preparation of Environmental Impact Statements (EIS's) for Federal activities specifically authorized by the Congress, and in preparation of Best Management Practices (BMP's) under the State 208(b)(4)(B) program. Failure to comply with these guidelines justifies denial of permit applications and return of State permit programs to the Corps of Engineers. Sept. 5, 1975, interim-final guidelines are being revised and expanded by this effort.	January 1979	July 1979	John Crowder (WH-585). Environmental Protection Agency, Washington, D.C. 20460, 202-472-3400.
40 CFR 123 *Procedural Regulations Concerning State Qualifications for Assuming the Section 404 Permit Program.* CWA 404(g). Certain requirements that must be met for States to assume permitting authority under sec. 404(g) such as codification of State laws and certifications by the State attorney general are similar to NPDES requirements. Therefore, the appropriate parts of sec. 404(g) have been included in the proposed revision of existing regulations for NPDES in pt. 123.	Oct. 21, 1978	December 1978	Office of Water Enforcement. Environmental Protection Agency, Washington, D.C. 20460, 202-755-0440.
40 CFR 127 *Procedural Regulations for Exercising the 404(c) Veto.* CWA 404(c). These regulations will establish the procedures for preventing the discharge of dredged or fill material into a defined area of the waters of the United States.	January 1979	July 1979	John Crowder. Environmental Protection Agency, Washington, D.C. 20460, 202-472-3400.
40 CFR 126 *Substantive Regulations Concerning State Implementation of Section 404 Permit Program.* CWA 404(g), (h). States may propose for approval by the Administrator of EPA a sec. 404 program in lieu of the Federal for permitting the discharge of dredge or fill material in certain waters of the United States. These regulations described the components of a State permit program that will be minimally acceptable to the Administrator.	January 1979	July 1979	Do.
40 CFR 258 *Sewage Sludge Disposal.* CWA 405 and RCRA 4004. These regulations are to assure that municipal sludge is managed in a manner that will protect public health and the environment and that valuable resources are conserved through beneficial utilization where practicable.	July 1979	August 1980	Bruce Weddle (WH-564). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9120.
THE SAFE DRINKING WATER ACT			
40 CFR 141 *"Control of Organic Chemical Contaminants in Drinking Water.* SDWA 1412. The first part of this regulation sets a maximum contaminant levels for trihalomethanes and the second part establishes a required treatment techniques for synthetic organic chemicals.	Feb. 9, 1978	January 1979	Joe Cotruvo (WH-550). Environmental Protection Agency, Washington, D.C. 20460, 202-472-5016.
40 CFR 141 *Technical Amendments to the National Interim-Primary Drinking Water Regulations.* SDWA 1412. These regulations will be adjustments to the previously published National Interim-Primary Drinking Water regulations.	December 1978	April 1979	Do.
40 CFR 143 *National Secondary Drinking Water.* SDWA 1412(C). These regulations will be nonenforceable guidelines on esthetic drinking water quality.	Mar. 31, 1977	February 1979	Frank Bell (WH-550). Environmental Protection Agency, Washington, D.C. 20460, 202-472-6820.
40 CFR 146 *Underground Water Source Protection Program Grants.* SDWA 1443(b). This regulation would set forth requirements for underground injection control grants.	Aug. 31, 1976	Oct. 12, 1978	Tom Belk (WH-550). Environmental Protection Agency, Washington, D.C. 20460, 202-426-3934.
40 CFR 148 *Underground Water Source Protection Program.* SDWA 1421(a). These regulations are intended to protect groundwater drinking supplies from contamination caused by improper underground injection of fluids. The vast majority of injection practices occurs in the oil and gas industry. States can apply for primary enforcement authority if they meet the minimum criteria specified in the regulations. The regulations can require a permit program to ensure that a case-by-case determination is made.	January 1979 (reproposal)	May 1979	Do.

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MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE NOISE CONTROL ACT			
40 CFR 205 *Light Duty Motor Vehicles.* NCA 5. This action will result in a decision regarding whether or not light duty vehicles are or are not a major noise source. If they are found to be, then resulting noise emission and/or noise labeling standards will be prepared.	Work plan under development		William Roper (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7747.
40 CFR 205 *Buses.* NCA 5/8. This regulation will set noise emission standards for new inter-State, inner-city, and schoolbuses.	Sept. 12, 1977	June 1979	Do.
40 CFR 204 *Truckmounted Solid Waste Compactor.* NCA 5/6. The regulations sets noise emission standards for solid waste compactors.	Aug. 26, 1977	June 1979	Kenneth Feith (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-2710.
CFR 206, 207 *Lawnmowers.* NCA 5/6. The regulation sets noise emission standards for new lawnmowers.	October 1979	October 1980	Henry Thomas (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7743.
40 CFR 204 *Pavement Breakers and Rock Drills.* NCA 5/6. The regulation sets noise emission standards for new pavement breakers and rock drills.	June 1979	June 1980	Kenneth Feith (AW—490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-2710.
40 CFR 204 *Truck Transported Refrigeration Units.* NCA 5/6. The regulation sets noise emission standards for new truck transport refrigeration units.	Developmental work halted pending analysis of regulatory alternatives.		Do.
40 CFR 204 *Wheel and Crawler Tractors.* NCA 5/6. The regulation sets a noise emission standard for new wheel and crawler tractors.	July 11, 1977	June 1978	Henry Thomas (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7743.
40 CFR 205 *Motorcycles.* NCA 5/6. This regulation sets noise emission standards for motorcycles and replacement exhaust systems.	Feb. 15, 1978	October 1979	William Roper (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7747.
40 CFR 211 *Labeling: Hearing Protectors.* NCA 8. The regulation requires the labeling of hearing protectors.	June 22, 1977	January 1979	Henry Thomas (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7743.
40 CFR 211 *Labeling: General.* NCA 8. The regulation establishes general labeling provisions.	....do	....do	Do.
40 CFR 210 *Administrative Hearing Procedures.* NCA 11. These procedures will apply to hearings for the issuance of remedial orders under sec. 11(d) of the Act. As mandated, these are adjudicatory hearings under the Administrative Procedure Act, 5 U.S.C. 554.	Aug. 3, 1978	December 1978	Jim Kerr (EN-387). Environmental Protection Agency, Washington, D.C. 20460, 706-557-7419.
40 CFR 203 *Low Noise Emission Products.* NCA 15. This regulation allows a determination of when a product is a low noise emission product and whether it is suitable for special consideration in Federal purchasing.	May 27, 1977	May 1979	Henry Thomas (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7743.
40 CFR 205 *Interstate Rail Carriers.* NCA 17. This regulation sets noise emission standards for railroad "facilities." EPA has prepared this regulation as a result of a successful lawsuit brought by the Association of American Railroads which said EPA's regulations setting noise emission standards for locomotives and cars failed to address the related problem of noise from facilities such as railroad yards. The Court ordered EPA to adopt final regulations controlling railroad facilities—everything in addition to the cars and locomotives.	December 1978	February 1979	William Roper (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7747.
40 CFR 201 *Special Local Conditions.* NCA 17(c)2/18(c)2. The regulation establishes procedures permitting adoption by a State or otherwise preempted State and local rail and motor carrier noise regulations when necessitated by special local conditions..	Nov. 29, 1976		Henry Thomas (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7743.
40 CFR 202 *Interstate Motor Carrier.* NCA 18. This action will update the noise emission standards for interstate motor carriers to reflect increased knowledge about available noise abatement technology.	Work plan under development		William Roper (AW-490). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7747.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT			
40 CFR 162 **Pesticide Registration Guidelines:* *Introduction.* FIFRA 3. This subpart B (will become A) includes the general purposes of all of the guidelines, degree of flexibility in requirements and in interim data usage, definition of terms used throughout the guidelines, and requirements for retention of data and test samples at laboratories.	July 10, 1978	April 1979	Bill Preston (TS-769). Environmental Protection Agency, Washington, D.C. 20460, 703-557-7351.
Experimental Use Permits. FIFRA 3. This subpart A (will become subpart C) specifies the data that must be submitted in support of an application for an experimental use permit.			Do.
Chemistry Requirements. FIFRA 3. This subpart D covers data submission requirements relating to chemistry of pesticide products' active ingredients and their formulation components and manufacturing impurities. (Chemical study requirements dealing with environmental fate of pesticides may be included here or be moved to a new subpart.).	July 10, 1978	April 1979	Do.
Hazard Evaluation: Wildlife and Aquatic Organisms. FIFRA 3. This subpart E outlines the data submission requirements for studies of pesticide effects on birds, wild mammals, fish, and other aquatic animals.	....do	May 1979	Do.
Hazard Evaluation: Humans and Domestic Animals. FIFRA 3. This subpart F delineates the data submission requirements for studies of pesticide effects in laboratory animals involving oral, dermal, and inhalation uptake routes, acute, subchronic, anbd chronic exposures, and including local or systemic injury and maladies such as oncogenic, teratogenic, mutagenic, and neurotoxic effects.	Aug. 22, 1978	June 1979	Do.
Product Performance. FIFRA 3. This subpart G specifies the data submission requirements that registrants must submit to demonstrate that the prospective pesticide product will control the pests or control undesired growth or behavior as specified in label claims.	December 1978	August 1979	Do.
Label Development. FIFRA 3. This subpart H describes all essential parts of a pesticide product label, how labeling and label statements must comply with the Act, and how claims and directions must correspond to evidence presented or on hand in data on efficacy and safety.	March 1979	October 1979	Do.
40 CFR 162 *Pesticide Use Restrictions.* FIFRA 3. This regulation will classify pesticide uses for restricted use..	December 1978	January 1979	Walt Waldrop (TS-770). Environmental Protection Agency, Washington, D.C. 0460, 202-755-7014.
Conditional Registration Regulation. FIFRA 3(c)(7) (A) and (B). This interim/final regulation would establish procedures for conditional registration of pesticide products which are identical or substantially similar to those currently registered or new uses of existing pesticide products.		February 1979	Bob Rose (TS-767). Environmental Protection Agency, Washington, D.C. 20460, 202-426-2510.
Conditional Registration Regulation. FIFRA 3(c)(7)(C). This regulation provides for the conditional registration of new chemicals when certain data are missing.	July 1979		Do.
40 CFR 162.9, 173 *Registration Data Compensation.* FIFRA 3(C)(1)(D). These rules provide for compensation when one pesticide registrant relies on test data generated by another registrant.	June 21, 1977	February 1979	Ed Gray (A-132). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0846.
40 CFR 172 *State Experimental Use Permits.* FIFRA (5)f. The regulation defines the scope of State jurisdiction to allow experimental uses of pesticides.	Sept. 30, 1975, interim final		Phil Gray (TS-770). Environmental Protection Agency, Washington, D.C. 20460, 202-755-7014.
40 CFR 165 *Storage and Disposal Practices (Prohibition).* FIFRA 19. These rules will prohibit dangerous or environmentally unsound pesticide storage practices.	Oct. 15, 1974	Will not be issued	John Lehman (WH-565). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9185.
40 CFR 162 *State Registration to Meet Special Local Needs* FIFRA 24(c). This part defines the scope of State jurisdiction over the registration of pesticides.	Sept. 3, 1975	March 1979	Phil Gray (TS-770). Environmental Protection Agency, Washington, D.C. 20460, 202-755-7014.
40 CFR 162.18 *Pesticide Special Packaging Regulations.* FIFRA 25. The rule prescribes when and what form of child-proof packaging is required.	Feb. 16, 1977	December 1978	Maureen Grimmer (TS-766). Environmental Protection Agency, Washington, D.C. 20460, 202-755-8030.
40 CFR 162 *Exemption of New Human Drugs.* FIFRA 25(c)(2). This part would exempt from FIFRA pesticides that are also new drugs regulated by FDA.	Oct. 13, 1978	....do	Dave Brandewein (TS-766). Environmental Protection Agency, Washington, D.C. 20460, 202-755-8037.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE ATOMIC ENERGY ACT			
Protective Action Guidelines for Nuctear Emergencies. AEA 274(h). This is a guidance for emergency response plans in the event of a nuclear accident, i.e. effluent release from a nuclear reactor.	September 1979	February 1980	Jim Hardin (AW-460) Environmental Protection Agency, Washington, D.C. 20460, 703-557-8610.
Guidance for Occupational Radiation Exposure. AEA 274(h). This guidance will update existing (1960) radiation occupational exposure limits for workers at Federal facilities and those facilities inspected by Federal agencies.	January 1979	June 1979	Luis Garcia (AW-460). Environmental Protection Agency, Washington, D.C. 20460, 703-557-8224.
Transuranic Elements. AEA 274(h). This guidance to Federal agencies establishes dose rate limits for persons exposed to transuranium elements in the general environment. The final guidance is to be signed by the President.	Nov. 3, 1977	January 1979	Gordon Burley (AW-460). Environmental Protection Agency, Washington, D.C. 20460, 703-557-8610.
**Environmental Standards for High-Level Radioactive Wastes.* AEA 274(h). The regulation will set standards for release of radioactivity to the environment as a result of storage of waste isotopes.	January 1979	July 1979	Jim Martin (AW-460). Environmental Protection Agency, Washington, D.C. 20460, 703-557-8927.
Environmental Criteria for Radioactive Wastes. AEA 274(h). The criteria are general guidance as to what constitutes radioactive waste and factors to be considered in evaluating disposal modes and sites.	November 1978	April 1979	Harry Pettengill (AW-460). Environmental Protection Agency, Washington, D.C. 20460, 703-557-8927.
Florida Phosphate Tailings. PHSA 301. A 1975 commitment to the Governor of Florida by the Administrator requries EPA to establish guidelines as to what to do (1) about existing houses on uranius "contaminated" land; (2) about new construction on such land.	January 1979	July 1979	Joe Fitzgerald (AW0460). Environmental Protection Agency, Washington, D.C. 20460, 703-557-8224.
THE RESOURCE CONSERVATION AND RECOVERY ACT			
40 CFR 241 *Guidelines for Solid Waste Management Landspreading Practices.* RCRA 1008(a). These are nonregulatory technical guidelines on landscaping practices for the beneficial use of solid waste as soil conditioner and plant nutrient.	.....	.....	Bruce Weddle (WH-564). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9130.
40 CFR 250 *Hazardous Wasle Criteria—Identification and Listing.* RCRA 3001. These regulations define those wastes that will be controlled under the nationwide hazardous waste management program. Criteria are provided for identifying characteristics of hazardous waste and for listing hazardous waste. The selected characteristics are: ignitability, corrosiveness, reactivity, and toxicity. Testing procedures are included for determination of whether a waste meets the described characteristics. The regulation also lists certain hazardous wastes or processes which are presumed to generate hazardous wastes. Also, means are provided for demonstration of noninclusion in the subtitle C system.	January 1979	January 1980	Alan Corson (WH-565). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9187.
40 CFR 250 **Standards for Generators of Hazardous Wastes.* RCRA 3002. This regulation establishes national standards for generators of hazardous wastes, covering such items as recordkeeping, containerization and labeling, waste identification, and reporting. This regulation also contains provisions for a hazardous waste manifest system.	....do	....do	Harry Trask (WH-565). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9187.
40 CFR 250 *Standards for Transporters of Hazardous Wastes.* RCRA 3003. These national standards make transporters of hazardous wastes responsible for shipping only properly labeled containers and only to permitted facilities.	Apr. 28, 1978	....do	Do.
40 CFR 250 **Standards for Hazardous Waste Treatment, Storage and Disposal Facilities.* RCRA 3004. The standards establish technical performance standards for hazardous waste management facilities, relative to operating practices, location, and design. The contain provisions for protection of surface water, ground water, and air quality.	January 1979	....do	John Schaum (WH-565). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9200.
40 CFR 250 *Permit Regulations for Hazardous Waste Treatment, Storage, and Disposal Facilities.* RCRA 3005. This regulation establishes a permit program to assure uniform control by States (or EPA) over hazardous waste management facilities.	....do	....do	Sam Morekas (WH-564). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9120.

MAJOR EPA REGULATIONS UNDER CONSIDERATION—Continued

Name and description of regulation	Proposal date in FEDERAL REGISTER	Final date in FEDERAL REGISTER	Contact person and address
THE RESOURCE CONSERVATION AND RECOVERY ACT			
40 CFR 250 *Guidelines for State Hazardous Waste Programs.* RCRA 3006. These guidelines are to assist States in the development of their own hazardous waste regulatory programs. The guidelines also specify minimum requirements States must meet in order to be authorized by EPA to implement their hazardous waste programs.	Feb. 1, 1978	January 1979	Dan Derkics (WH-565). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9190.
40 CFR 250 *Notification System for Hazardous Waste Generators, Transporters, Storers, Treaters, and Disposers.* RCRA 3010. The regulation describes the one-time notification requirement for generators, transporters, treaters, storers, and disposers of hazardous waste, which will bring them to the attention of the persons administering RCRA's hazardous waste program.	July 11, 1978	August 1979	Timothy Fields (WH-565). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9206.
40 CFR 256 *Guidelines for State Solid Waste Programs.* RCRA 4002(b). These guidelines are to assist States in the development and implementation of solid waste management programs.	Aug. 28, 1978	June 1979	George Garland (WH-565). Environmental Protection Agency, 202-755-9125.
40 CFR 257 *Criteria for Classification of Solid Waste and Disposal Facilities.* RCRA 4004(a). These criteria provide a basis against which solid waste land disposal facilities can be evaluated in order to determine probability of adverse effects on health or the environment.	Feb. 6, 1978	July 1979	Kenneth Shuster (WH-564). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9116.
Guidelines for Federal Procurement Practices. RCRA 6002(e). These guidelines will assist Federal agencies to comply with the RCRA's requirement that procured materials be composed of the highest percentage of recovered materials practicable:			Stephen Lingle (WH-563). Environmental Protection Agency, Washington, D.C. 20460, 202-755-9140.
Utilization of Fly Ash and Slag	April 1979	July 1979	
Use of Recycled Paper in Paper Products	June 1979	September 1979	
Use of Waste in Construction Products	July 1979	October 1979	
THE TOXIC SUBSTANCE CONTROL ACT			
40 CFR 740 to— **Testing of Chemical Substances and Mixtures.* TSCA 4. These regulations require testing of chemical substances that may present an unreasonable risk to human health or the environment, or are produced in substantial quantities but are not supported by adequate test data. EPA is preparing two testing regulations: on cogenicity testing and environmental fate testing.	December 1978	Mar. 1979, 749	Norbert Page (TS-792). Environmental Protection Agency, Washington, D.C. 20460, 202-755-6841.
40 CFR 720 *Premanufacture Notification.* TSCA 5. This regulation will establish the procedure whereby a company will notify EPA of its intent to manufacture a new chemical. The regulation will prescribe the required premanufacture notification form, describe the procedure for EPA review, and contain testing guidelines.	December 1978	April 1979	Blake Biles (TS-794). Environmental Protection Agency, Washington, D.C. 20460, 202-755-5482.
40 CFR 761 *PCB's Manufacture and Distribution.* TSCA 6. This regulation bans the manufacturing and distribution of PCBs and products containing PCBs.	June 7, 1978	January 1979	Peter Principe (TS-794). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0920.
Control of Polybrominated Biphenyls. TSCA 6. The regulation would control the use of polybrominated biphenyls.	January 1979	July 1979	Lucy Sibold (TS-794). Environmental Protection Agency, Washington, D.C. 20460, 202-755-8963.
Chlorofluorocarbon Emissions. TSCA 6. This regulation would apply to nonaerosol uses of chlorofluorocarbons.	To be determined		Ferial Bishop (TS-794). Environmental Protection Agency, Washington, D.C. 20460, 202-755-8963.
40 CFR 730 *Reporting on Substances Recommended for Testing.* TSCA 8(d). The regulation requires reporting of existing health and safety studies for chemical categories as recommended for testing.	May 1979	December 1979	Ed Brooks (TS-793). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0932.
40 CFR 720 *Records of Adverse Reaction.* TSCA 8(c). The regulation requires industry to keep records of allegations of significant adverse health and environmental reactions to its chemical products.	March 1979	October 1979	Do.
40 CFR *Procedures for Export Notification.* TSCA 12(b). These rules tell exporters how and when to submit export notifications.	December 1978	May 1979	Do.
40 CFR 22 *Consolidated Rules of Practice Governing the Assessment of Civil Penalties.* TSCA 16. These rules would be promulgated under the authority of FIFRA 14, RCRA 3008, Marine Protection Research and Sanctuaries Act (MPRSA) 105, CAA 211, and TSCA 16.	Aug. 4, 1978, interim final	October 1979	Terrell Hunt (EN-342). Environmental Protection Agency, Washington, D.C. 20460, 202-755-0970.

[FR Doc. 78-33253 Filed 11-29-78; 8:45 am]

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federal register

THURDAY, NOVEMBER 30, 1978
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PROTECTION OF HUMAN SUBJECTS

Institutional Review Board; Report and Recommendations of National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

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[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PROTECTION OF HUMAN SUBJECTS

Institutional Review Boards: Report and Recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

AGENCY: Department of Health, Education, and Welfare.

SUMMARY: Basic regulations governing the protection of human subjects involved in research, development, and related activities supported or conducted by the Department through grants and contracts were published in the FEDERAL REGISTER on May 30, 1974 (39 FR 18914). At that time it was indicated that notices of proposed rulemaking would be developed to provide additional protection for subjects of research.

On July 12, 1974, the National Research Act (Pub. L. 93-348) was signed into law, thereby creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the charges to the Commission was to study the Institutional Review Board mechanism. The Commission was further required to make such recommendations to the Secretary as it determined appropriate to assure that biomedical and behavioral research conducted or supported under programs administered by him met the requirements respecting informed consent identified by the Commission. Pursuant to Section 202(a)(2) of that Act, the Commission has transmitted its Report and Recommendations regarding IRBs to the Secretary. Pursuant to Section 205 of the Act, the Secretary is required to publish the Report and Recommendations as received from the Commission and is taking that action in this issue of the FEDERAL REGISTER. The Department has not yet completed its final review of this report. The Department will be evaluating the Report during the comment period.

Written comments, data, views, arguments and inquiries concerning the Recommendations of the Commisson may be sent to the Office for Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. To facilitate analysis of the comments, it would be appreciated if they were arranged by Recommendation number. Additional copies of this notice may be obtained by writing to the same address. All comments received will be available for inspection at Room 303, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland, weekdays (Federal holidays excepted) between the hours of 9 a.m. and 4:30 p.m. To assure full consideration, all comments should be submitted on or before January 29, 1979. After receipt and review of such comments, it is the intent of the Department to issue final rules, taking into consideration this Report and Recommendations and relevant comments submitted.

Dated: November 7, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 20, 1978.

HALE CHAMPION,
Acting Secretary.

THE NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

INSTITUTIONAL REVIEW BOARDS: REPORT AND RECOMMENDATIONS

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NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

SEPTEMBER 1, 1978.

REPORT AND RECOMMENDATIONS: INSTITUTIONAL REVIEW BOARDS

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2. A Study of the Performance of Institutional Review Boards.
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4. Federal Policies for the Protection of Human Subjects.

INTRODUCTION

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research was established under Pub. L. 93-348 to develop ethical guidelines for the conduct of research involving human subjects. To date, the Commission has issued reports with recommendations for the protection of several categories of research subjects, including the human fetus, prisoners, children, and those institutionalized as mentally infirm. These recommendations have been directed to the Secretary of Health, Education and Welfare with respect to research conducted, supported or regulated by DHEW, and to Congress with respect to research not subject to regulation by DHEW.

In the present report, the Commission considers the performance of Institutional Review Boards (IRBs), which are required to review all research involving human subjects that is conducted at institutions receiving funds for such research from DHEW under the Public Health Service Act. IRBs or similar bodies are required also to review research regulated by DHEW under the Federal Food, Drug, and Cosmetic Act, and most research involving human subjects that is conducted or supported by other departments and agencies. This review of proposed research by IRBs is the primary mechanism for assuring that the rights of human subjects are protected. Thus, the Commission's previous recommendations regarding particular categories of research subjects are intended ultimately to be carried out by IRBs, by establishing conditions and requirements that IRBs should determine to have been satisfied before approving research. The Commission now turns its attention to the IRB mechanism itself, to evaluate its performance and recommend steps to improve the review process.

The legislative mandate to study IRBs is set forth in the charge to the Commission to consider "[m]echanisms for evaluating and monitoring the performance of Institutional Review Boards * * * and appropriate enforcement mechanisms for carrying out their decisions" (section 202(a)(1)(B)(v) of Pub. L. 93-348). In addition, the Commission is directed "to determine the need for a mechanism to assure that human subjects in * * * research not subject to regulation by [DHEW] are protected" (section 202(a)(3)). (Following its study of IRBs, the Commission has recommended that IRBs be employed as the mechanism to assure protection of human subjects in non-DHEW research.)

Although IRBs were not required by law until the passage of Pub. L. 93-348 in 1974, they had already been in existence for many years at most of the 500 institutions where they now operate. However, there was little current, systematic information about IRBs when the Commission began its consideration of their performance. The Commission therefore undertook a substantial effort to develop information about the performance of IRBs, the research they review, and the strengths and weaknesses of this mechanism.

The Commission supported an extensive survey of IRB members, investigators and research subjects at a sample of 61 institutions, including medical schools, hospitals, universities, prisons, institutions for the mentally ill and retarded, and research organizations. The background, development and administration of the present DHEW regulations governing IRBs were examined. Three public hearings were held at which federal officials, representatives of IRBs, investigators and other concerned persons presented their views on IRBs. The National Minority Conference on Human Experimentation, convoked by the Commission to assure that viewpoints of minorities would be heard, made recommendations to the Commission that pertained to IRBs. The Commission also reviewed several papers prepared under contract on such topics as informed consent, evaluation of risks and benefits, issues that arise in particular kinds of research (such as social experimentation or deception research), and the legal aspects of IRB operation. A substantial amount of correspondence on IRBs was received and reviewed by the Commission. In addition, a survey was made of the standards and procedures for the protection of human subjects in research conducted or supported by federal departments and agencies. Finally, the Commission conducted public deliberations to develop its recommendations on IRBs.

Following the recommendations on IRBs set forth at the outset of this report are chapters on the existing regulatory system at DHEW, the Commission-sponsored survey of IRBs and the research reviewed by them, legal aspects of IRB operation, and the Commission-conducted survey of standards and procedures for the protection of human subjects in research conducted or supported by federal departments and agencies. An appendix to this report contains the final report of the survey of IRBs, which was conducted by the Survey Research Center at the University of Michigan; summaries of all testimony presented to the Commission at its three hearings on IRBs; descriptions of the protective standards and procedures at federal departments and agencies; and a contracted paper on the operation of IRBs. Other relevant papers, on such topics as informed consent and risk-benefit assessment, will be included in the appendix to the Commission's forthcoming report on the basic ethical principles that should underlie the conduct of research involving human subjects.

* * * * *

Definitions. For purposes of this report:

1. *Scientific research* is a formal investigation designed to develop or contribute to generalizable knowledge.

Comment: A research project generally is described in a protocol that sets forth explicit objectives and formal procedures designed to reach those objectives. The protocol may include therapeutic and other activities intended to benefit the subjects, as well as procedures to evaluate such activities. Research objectives range from understanding normal and abnormal physiological or psychological functions or social phenomena, to evaluating diagnostic, therapeutic or preventive interventions and variations in services or practices. The activities or procedures involved in research may be invasive or noninvasive and include surgical interventions; removal of body tissues or fluids; administration of chemical substances or forms of energy; modification of diet, daily routine or service delivery; alteration of environment; observation; administration of questionnaires or tests; randomization; review of records, etc.

2. *Human subject* is a person about whom an investigator (professional or student) conducting scientific research obtains (1) data through intervention or interaction with the person, or (2) identifiable private information.

Comment: "Intervention" includes both physical procedures by which data are gathered (e.g., venipuncture), and manipulations of the subject or the subject's environment that are performed for research purposes. "Interaction" includes communication or interpersonal contact between investigator and subject. "Private information" includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (e.g., a medical record). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

RECOMMENDATIONS

The ethical conduct of research involving human subjects requires a balancing of society's interests in protecting the rights of the subjects and in developing knowledge that can benefit the subjects or society as a whole. The elements that must be considered in this balancing of interests are identified and analyzed in the Commission's separate report on the basic ethical principles that should underlie the conduct of research involving human subjects. In the recommendations that follow, the Commission expresses its judgment about the ways in which those elements ought to be brought to bear on research practices, so that a reasonable and ethical balance of society's interests may be attained.

The Commission's deliberations begin with the premise that investigators should not have sole responsibility for determining whether research involving human subjects fulfills ethical standards. Others, who are independent of the research, must share this responsibility, because investigators are always in positions of potential conflict by virtue of their concern with the pursuit of knowledge as well as the welfare of the human subjects of their research.

The Commission believes that the rights of subjects should be protected by local review committees operating pursuant to federal regulations and located in institutions where research involving human subjects is conducted. Compared to the possible alternatives of a regional or national review process, local committees have the advantage of greater familiarity with the actual conditions surrounding the conduct of research. Such committees can work closely with investigator to assure that the rights and welfare of human subjects are protected and, at the same time, that the application of policies is fair to the investigators. They can contribute to the education of the research community and the public regarding the ethical conduct of

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research. The committees can become resource centers for information concerning ethical standards and federal requirements and can communicate with federal officials and with other local committees about matters of common concern.

The Commission further believes that institutions receiving federal support for the conduct of research involving human subjects should be governed by uniform federal regulations applicable to the review of all such research, whether it is supported by one federal department or another, or is not federally supported. The regulations should also apply to research conducted intramurally by federal departments and to research conducted by private organizations that is otherwise subject to federal regulations (e.g., research conducted to meet the regulatory requirements of the Food and Drug Administration).

The Institutional Review Boards (IRBs) that have existed for some years at institutions that conduct research involving human subjects have been closely examined by the Commission. The Commission finds on the basis of its study that IRBs play an essential role in the protection of human subjects. However, the existing system may be improved. The following recommendations are made to strengthen, simplify and broaden the coverage of this system.

Recommendation (1) (A) Federal law should be enacted or amended to authorize the Secretary of Health, Education, and Welfare to promulgate regulations governing ethical review of all research involving human subjects that is subject to federal regulation.

(B) Federal law should be enacted or amended to provide that each institution which sponsors or conducts research involving human subjects that is supported by any federal department or agency or otherwise subject to federal regulations, and each federal department or agency which itself conducts research involving human subjects, shall give assurances satisfactory to the Secretary of Health, Education, and Welfare that all research involving human subjects sponsored or conducted by such institution, or conducted by such department or agency, will be reviewed by and conducted in accordance with the determinations of a review board established and operated in accordance with the regulations promulgated by the Secretary under the authority recommended in paragraph (A) of this recommendation.

(C) Federal law should be enacted or amended to provide that all research involving human subjects sponsored or conducted by an institution that receives funds from any federal department or agency to provide health care or conduct health-related research shall be subject to federal regulation regarding the review and conduct of such research, as provided under paragraphs (A) and (B) of this recommendation.

(D) Federal law should be enacted or amended to authorize and approriate funds to support the operation of institutional Review Boards by direct cost funding.

Comment: (A) Recommendation (1)(A) would establish DHEW as the single cognizant agency for the promulgation of regulations relating to the protection of human research subjects. Such regulations, dealing with the composition, functions and procedures of IRBs, would apply to all entities that receive financial support from the federal government to conduct research involving human subjects. Entities conducting such research to fulfill federal regulatory requirements (*e.g.*, of the Food and Drug Administration or the Environmental Protection Agency) would be covered by the same regulations. Thus, all entities under federal jurisdiction would be subject to a single set of regulations relating to review of research invlovving human subjects, without regard to the particular federal department(s) that support or regulate their research. An alternative to the enactment of federal law might be the issuance by the President of an executive order establishing DHEW as the single cognizant agency for the promulgation of regulations to protect human subjects.

Implementation of Recommendation (1)(A), by law or executive order, is necessary to assure government-wide uniformity in the review requirements that are imposed on entities subject to federal regulation. A survey by the Commission has shown that virtually all federal agencies with policies for the protection of human subjects currently adopt DHEW standards and procedures to a substantial degree. However, there are many variations arising out of differences in wording, imposition of additional requirements, introduction of minor changes, etc. Establishing DHEW as the sole authority for the issuance of regiations in this area would not substantially change current practice but would reduce the burden on IRBs to interpret and apply the regulations to which they are subject. Moreover, uniformity would assure a minimum level of protection to human subjects of research, no matter which federal agency is supporting the research or which entity is conducting it.

Recommendation (1)(A) accords with Recommendation No. 9 (Education) of the Commission on Federal Paperwork, which reads as follows:

> Cognizance for regulations in the specific area of the protection of human subjects should be assigned to the Department of Health, Education, and Welfare, acting with the advice and consent of an appropriate interagency committee.
>
> No agency other than HEW should be permitted to paraphrase, interpret or particularize these regulations • • • [I]n the regulations for a controversial subject of this nature there should be a mechanism for the Federal Government to speak with one voice.

As the Paperwork Commission noted, DHEW has been preeminent and has served as the lead agency in the field of protecting human subjects. Establishing sole, government-wide responsibility in DHEW for the promulgation of regulations in this area will prevent unnecessary duplication of effort within the government and by the regulated entities as well.

(B) Recommendation (1)(B) would establish DHEW as the single cognizant agency for the accreditation of all IRBs, including IRBs established by nonfederal entities and IRBs that are established within federal departments and agencies. DHEW would also carryout compliance and educational activities to assure that the quality of performance of all IRBs is high. Although some nonfederal entities may receive support for research involving human subjects from federal departments other than DHEW, the Commission recommends centralization of accreditation and compliance responsibility in DHEW as a means of promoting uniform treatment and administrative efficiency. Similarly, the Commission recommends that DHEW accredit and review the compliance of IRBs established by other federal intities, to assure uniform review, throughout government, of proposed research involving human subjects. As an alternative to enactment of law, recommendation (1)(B) might be accomplished by the issuance of an executive order.

Establishment of DHEW as the sole authority for accreditation and compliance activities would recognize that department's initiation of the requirements of IRBs and its extensive experience in supervising their operation. As with the promulgation of regulations (Recommendation (1)(A)), centralizing authority to conduct these activities would also assist in standardizing the review of research with human subjects and reducing the burden on nonfederal IRBs that is imposed by federal enforcement activities.

If such centralization is not accomplished by law or executive order, the Commission suggests that other federal departments and agencies recognize DHEW accreditation and compliance activities, and that DHEW accept such responsibility whether or not it supports research at the same entities. It should be noted that accreditation and compliance are structural matters, relating to the composition, functions and procedures of IRBs (see the following recommendations); DHEW does not regulate substantive decision-making, which is the responsibility of the IRBs alone. Thus, centralization in DHEW should not be considered an intrusion of that department into the proper jurisdiction of other federal agencies.

Should it prove unfeasible to centralize in DHEW accreditation and compliance activities for IRBs established within other federal departments and agencies, the Commission favors centralization of such activities in DHEW at least with respect to all IRBs that are established by nonfederal entities, notwithstanding their federal sources of support for research involving human subjects. This would accomplish the goal of reducing the burden on such IRBs that is imposed by multiple-agency enforcement activities, and would at least partially accomplish the goal of assuring uniform review of human subjects research in which the government is involved.

Recommendation (1)(B) does not require that each entity establish a single IRB. An entity may establish more than one IRB to meet special needs; however, each IRB must satisfy the regulatory requirements.

Research need not be reviewed, in some instances, by an IRB located in the entity where the research is to be conducted. While it is generally desirable for an entity at which research involving human subjects is conducted to establish an IRB, it may be appropriate for several small institutions in close proximity to establish a single IRB to serve those institutions. Similarly, it may be appropriate for an institution at which only a small amount of research involving human subjects is conducted to arrange for review of all such research by an IRB at a neighboring institution. Where an investigator is associated with more than one entity or the research will be conducted at more than one entity, review by one IRB (generally at the entity most substantially involved with the research) should satisfy statutory and regulatory requirements. Other entities that are involved with the research may also require review by their IRBs, however. In such instances, IRBs should give priority to consideration of protocols that are receiving multiple review, in order to reduce the extended time period that such review may otherwise entail.

Recommendation (1)(B) also does not require that IRB review precede application for a grant or contract, although such review should always precede the initiation of research involving human subjects. Since many proposals submitted to the government are never funded or conducted, a requirement that IRB review and approval precede any consideration for funding by the government may place an unnecessary burden on IRBs and subject them to undesirable time pressures. On the other hand, IRB review prior to application for funding may resolve or eliminate problems that could jeopardize funding, and being asked to review projects that have already been approved for funding also may place IRBs under inappropriate pressures. On balance, review prior to or within a specified time after submission of applications, as is presently required by DHEW, appears most appropiate.

(C) Recommendation (1)(C) would extend the requirement of IRB review to entities conducting human subjects research that is not federally supported or otherwise subject to federal regulation at present, if the entities receive federal support to provide health care or conduct health-related research.

(D) Recommendation (1)(D) would require that at least a portion of the funds necessary to support the operation of IRBs be directly provided rather than reimbursed through the indirect cost mechanism. Direct cost funding would help to assure that IRBs are adequately supported to carry out their responsibilities and, in addition, would highlight the significant role played by IRBs. It would be appropriate for such funding to provide at least a portion of the salary of the IRB chairman or of the cost of administrative support for the IRB. Recognition of IRBs by providing earmarked funds for their operation would complement the compliance and education activities of DHEW in promoting quality performance by IRBs. Direct cost funding should not, however, be accomplished by reducing the amount of funds appropriated for the conduct of research.

The Commission does not take a position on the question of whether federal support should be provided for all review activities of IRBs or only the review of research for which support is being sought from the government. Since an institution is required by federal law to assure the review of all research involving human subjects if the institution applies for federal support to conduct any such research, it may be argued that all review activities should be the financial responsibility of the government. It may also be argued, however, that the review of nonfederally funded research is the proper obligation of the institution to the prospective subjects, and hence the financial responsibility of the institution.

Recommendation (2) (A) Federal law should be enacted or amended to authorize the Secretary of Health, Education, and Welfare to establish a single office to carry out the following duties:

(i) Accreditation of Institutional Review Boards based upon the submission of assurances containing descriptions of their membership, authority, staff, meeting facilities, review and monitoring procedures and provisions for recordkeeping;

(ii) Compliance activities, including site visits and audits of Institutional Review Board records, to examine the performance of the Boards and their fulfillment of institutional assurances and regulatory requirements; and

(iii) Educational activities to assist members of Institutional Review Boards in recognizing and considering the ethical issues that are presented by research involving human subjects.

(B) Federal law should be enacted or amended to authorize an appropriate funds to support the duties described in paragraph (A) of this recommendation.

Comment: Recommendation (2) requires that DHEW consolidate and expand its accreditation and compliance activities to provide within the federal government a single supervising authority for all IRBs that are required under Recommendation (1) to review research involving human subjects. In addition, this DHEW office should conduct educational activities to assist IRB members in discharging their review responsibilities. The Commission suggests that the office be established outside of any subdivision of DHEW and that funds be appropriated to support its operation.

Institutions should be required to submit information such as the following to enable accreditation determinations to be made:

- The names and qualifications of members of the IRB and the process by which members are selected;
- The resources (*e.g.* meeting room, staff, office facilities, release of IRB members from other responsibilities) that will be devoted to the review function;
- The general operating procedures of the IRB, and the number and types of proposals that are expected to be reviewed by it;
- Expedited review procedures, if any, and the categories of research for which such procedures will be used; and
- Procedures to assure that all research involving human subjects conducted by or at the institution will be reviewed by an IRB and, if approved, will be conducted in accordance with any restrictions or conditions imposed by the IRB.

Site visits, audits of IRB records, and other compliance activities should be conducted routinely to assure continuing quality control of the perform-

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ance of IRBs. The compliance effort should be aimed at educating, improving performance of IRBs, and providing needed advice. Where necessary, however, failure by investigators, institutions or IRBs to meet their responsibilities should be subject to sanctions ranging from warnings to loss of IRB accreditation and consequent ineligibility to receive federal funds for research involving human subjects or refusal by a regulatory agency to accept data.

DHEW should develop materials to assist in the orientation of new members of IRBs and mechanisms for dissemination of information about ethical issues and key IRB decisions to promote uniform treatment of similar protocols. Caution should be exercised, however, to avoid usurping the IRBs' decision-making authority. The accreditation and compliance, as well as the educational, functions of DHEW should be aimed at assuring and promoting the effective operation of IRBs, but not as a forum or mechanism for questioning the substantive decisions of IRBs. DHEW should assure that IRBs have appropriate authorities, membership, and rules and standards of operation, and that useful materials are provided for the information of IRB members; these functions should not include any activities intended directly to influence or alter IRB decisions.

The generation of information about the various topics in its mandate has been essential to the operation of the Commission. Similarly, a program of research in the ethical issues that arise in research involving human subjects would greatly assist the compliance and educational activities of DHEW in this area.

Recommendation (3) The Secretary of Health, Education, and Welfare should require by regulation that an Institutional Review Board:

(A) Consist of at least five men and women of diverse backgrounds and sufficient maturity, experience and competence to assure that the Board will be able to discharge its responsibilities and that its determinations will be accorded respect by investigators and the community served by the institution or in which it is located;

(B) Include at least one member who is not otherwise affiliated with the institution;

(C) Have the authority to review and approve, require modifications in, or disapprove all research involving human subjects conducted at the institution;

(D) Have the authority to conduct continuing review of research involving human subjects and to suspend approval of research that is not being conducted in accordance with the determinations of the Board or in which there is unexpected serious harm to subjects;

(E) Maintain appropriate records, including copies of proposals reviewed, approved consent forms, minutes of Board meetings, progress reports submitted by investigators, reports of injuries to subjects, and records of continuing review activities;

(F) Be provided with meeting space and sufficient staff to support its review and recordkeeping duties;

(G) Be authorized and directed to report to institutional authorities and the Secretary any serious or continuing noncompliance by investigators with the requirements and determinations of the Board;

(H) Be provided with protection for members in connection with any liability arising out of their performance of duties on the Board.

Comment: (A) IRB members should be appointed by a governing body or chief executive officer of the institution, who should consult widely to find persons who will serve on the IRB with distinction and commitment. The IRB should include persons who are familiar with the ethical issues in research involving human subjects. The IRB should also include persons with the scientific competence necessary to analyze accurately and thoroughly the risks and benefits of the types of proposals generally reviewed by the IRB, since this analysis is essential to the review process. To assure the IRB's access to such expertise, yet guard against self-interest influencing or appearing to influence IRB determinations, at least one-third but no more than two-thirds of the IRB members should be scientists, including members of the disciplines in which research is customarily reviewed by the IRB. The expertise of IRB members should be supplemented, when necessary, by the use of consultants.

In its deliberations, it is desirable that the IRB show awareness and appreciation of the various qualities, values and needs of the diverse elements of the community served by the institution or in which it is located. A diverse membership will enhance the IRB's credibility as well as the likelihood that its determinations will be sensitive to the concerns of those who conduct or participate in the research and other interested parties.

If an IRB regularly reviews research that has an impact on a broad category of vulnerable subjects (*e.g.*, residents of an institution for the retarded), the IRB should include persons who are primarily concerned with the welfare of those sugjects (*e.g.*, parents of retarded children). The IRB should establish formal or informal consultation with community and other bodies that have interests in areas affected by or involved in the conduct of proposed research.

The institution should provide suitable orientation to new IRB members, in order to familiarize them with the purpose and authority of the IRB, the standards it applies, the ethical and legal principles that apply to research involving human subjects, and the main ethical dilemmas that arise in research. IRB members should be appointed for a fixed term of at least a year and should not be removed during this term except for good cause. An IRB's membership should be relatively stable from year to year in order to enhance the experience of the IRB and to introduce stability into standards applied by the IRB. Some degree of turnover of members and chairman is desirable, however, as a way both of exposing more members of the institution to the issues considered by the IRB and of introducing into the IRB a variety of viewpoints.

The institution should encourage service on the IRB and indicate the importance of such service by giving IRB members appropriate relief from other duties, by giving recognition for service on the IRB (*e.g.*, in decisions regarding promotions) and by providing remuneration to nonemployees.

(B) A member of the immediate family of a person who is affiliated with the institution should not be appointed to serve as the unaffiliated member of an IRB.

(C) Institutional support is necessary for the successful operation of an IRB and can be expressed most directly in rules, procedures, etc. that are formally adopted by the institution to assure that the IRB is lawfully established and that all research invoiving human subjects will be reviewed and conducted in accordance with its determinations.

(D) The IRB should adopt procedures for the continuing review of approved research, such as examination of records, requiring reports from investigators, soliciting information from subjects, and observing the recruitment of subjects and conduct of the research. As a basic requirement, all investigators should be directed to report immediately to the IRB any substantial changes in the research activity, unanticipated problems, or adverse reactions by subjects. In research that presents more than minimal risk to subjects (*i.e.*, more than the risk of harm or discomfort that is normally encountered in the daily lives, or in the routine medical or psychological examination, of normal persons) or involves vulnerable subjects (*e.g.*, children, institutionalized or hospitalized persons), investigators should be required, in addition, to make periodic reports to the IRB on the progress of the research. The frequency of

such periodic reports should depend upon the degree of risk presented to subjects, but at a minimum should be on an annual basis.

The justification for undertaking some studies rests, in part, on uncertainty about the relative safety and efficacy of alternative therapies. New knowlege, however, is continually being developed, and uncertainties that play a role in prompting a study may be reduced over time as new information is developed in the study or elsewhere. Subjects should not be excluded from known benefits simply because those benefits were unknown or uncertain at the time the research began. An important aspect of the continuing review of research, particularly in studies that involve the evaluation of a therapeutic procedure for a chronic condition, is to assure that subjects are not excluded from the benefits of newly developed knowledge by continuing in a protocol after the superiority of a particular therapy for their condition has been demonstrated.

At the discretion of the IRB, the consent process or the research itself may be observed on a sample or routine basis, subjects may be interviewed about their experience in research, and research records (including consent forms) may be reviewed. Also at the discretion of the IRB, investigators may be required to provide subjects with a form on which they can report to the IRB their experiences in research. The form could be given to subjects at the time consent is obtained and be completed by subjects who wish to do so during or after their participation.

Observation of the consent process or conduct of research is both a difficult and delicate task. The designation of staff or members of the IRB to observe research activities can impose a substantial strain on the limited resources of the IRB. Further, such observation may intrude on confidential relationships or the privacy of individual subjects. IRBs should take these factors into account when determining appropriate means for continuing review of a protocol, and alternatives such as investigator reporting requirements should be considered. However, certain research will warrant observation to assure the protection of subjects, and in such cases IRBs have an obligation to take suitable measures.

In cases in which the investigator is responsible for the care of the subjects, the IRB may require that a neutral person, not otherwise associated with research or the investigator, be present when consent is sought, to explain the research to prospective subjects, or to observe the conduct of the research. The involvement of a physician or therapist as an investigator may have significant advantages for patients and make available to them new forms of therapy. However, research interests may compromise the therapist's sound judgments regarding therapeutic goals. The involvement of a neutral third party may reduce the possibility of such a conflict of interest occurring, particularly in research that presents more than minimal risk. Such a person may be designated to play a role in informing subjects of their rights and the details of protocols, assuring that there is continuing assent to participation, determining the advisability of continued participation, receiving complaints from subjects, and bringing grievances to the attention of the IRB as part of its continuing review of research.

(E) Records regarding research protocols reviewed by IRBs should be retained for five years after completion of the research. Minutes should be in sufficient detail to show the basis of actions taken by the IRB.

(F) An IRB should have an identifiable meeting space and designated staff to support its function. Although the staff may be part-time, their effort should be identified and placed on a continuing basis.

(G) Any knowledge of serious or continuing noncompliance by investigators with the requirements and determinations of the IRB should be transmitted by the IRB to institutional authorities and to the Secretary of Health, Education, and Welfare. Institutions should take such steps as are necessary and appropriate to assure compliance by all investigators with IRB requirements and determinations.

(H) Protection against liability arising out of their performance of duties on the IRB may be provided to members in any of several ways, including sovereign immunity, insurance, indemnification by the institution, or specific provisions of state law. The institution should assure that such protection is provided either by law or by means of institutional arrangements.

Recommendation (4) The Secretary of Health, Education, and Welfare should require by regulation that all research involving human subjects that is subject to federal regulation shall be reviewed by an Institutional Review Board and that the approval of such research shall be based upon affirmative determinations by the Board that:

(A) The research methods are appropriate to the objectives of the research and the field of study;

(B) Selection of subjects is equitable;

(C) Risks to subjects are minimized by using the safest procedures consistent with sound research design and, whenever appropriate, by using procedures being performed for diagnostic or treatment purposes;

(D) Risks to subjects are reasonable in relation to anticipated benefits to subjects and importance of the knowledge to be gained;

(E) Informed consent will be sought under circumstances that provide sufficient opportunity for subjects to consider whether or not to participate and that minimize the possibility of coercion or undue influence;

(F) Informed consent will be based upon communicating to subjects, in language they can understand, information that the subjects may reasonably be expected to desire in considering whether or not to participate, generally including:

(I) That an Institutional Review Board has approved the solicitation of subjects to participate in the research, that such participation is voluntary, that refusal to participate will involve no penalties or loss of benefits to which subjects are otherwise entitled, that participation can be terminated at any time, and that the conditions of such termination are stated;

(II) The aims and specific purposes of the research, whether it includes procedures designed to provide direct benefit to subjects, and available alternative ways to pursue any such benefit;

(III) What will happen to subjects in the research, and what they will be exected to do;

(IV) Any reasonably foreseeable risks to subjects, and whether treatment or compensation is available if harm occurs;

(V) Who is conducting the study, who is funding it, and who should be contacted if harm occurs or there are complaints; and

(VI) Any additional costs to subjects or third parties that may result from participation;

(G) Informed consent will be appropriately documented, unless the Board determines that written consent is not necessary or appropriate because (I) the existence of signed consent forms would place subjects at risk, or (II) the research presents no more than minimal risk and involves no procedures for which written consent is normally required;

(H) Notwithstanding the requirements of paragraphs (E), (F) and (G) above, informed consent is unnecessary (I) where the subjects' interests are determined to be adequately protected in studies of documents, records or pathological specimens and the importance of the research justifies such invasion of the subjects' privacy, or (II) in studies of public behavior where the research presents no more than minimal risk, is unlikely to cause embarrassment, and has scientific merit;

(I) There are adequate provisions to protect the privacy of subjects and to

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maintain the confidentiality of data; and

(J) Applicable regulatory provisions for the protection of fetuses, pregnant women, prisoners, children and those institutionalized as mentally infirm will be fulfilled.

Comment: (A) Subjects should not be exposed to risk in research that is so inadequately designed that its stated purpose cannot be achieved. It must be recognized, however, that equally rigorous standards of scientific methodology are not suitable in all disciplines or necessarily appropriate for all research purposes. Not all research is intended to provide a definitive test of a hypothesis, and much research, such as research done by students, has modest aims. The Commission's statements in previous reports that all research should be scientifically sound should be interpreted as requiring that the proposed methods be suited to the discipline and the objectives of the research.

(B) The proposed involvement of hospitalized patients, other institutionalized persons, or disporportionate numbers of racial or ethnic minorities or persons of low socioeconomic status should be justified.

(C) Materials or information that are obtained for diagnostic or therapeutic purposes should be used whenever possible: *Provided,* Such use will not unjustifiably increase the burdens of the ill. Where appropriate, screening should be employed to eliminate from participation in research persons who would be at particularly high risk. The number of subjects exposed to risk in research should be no larger than required by considerations of scientific soundness.

(D) The possible harms and benefits from proposed research involving human subjects may not be quantifiable but should be evaluated systematically to assure a reasonable relation between the harms that are risked and the benefits that may be anticipated for the subjects or the gains in knowledge that may result from the research. This evaluation should include an arrayal of alternatives to the procedures under review and the possible harms and benefits associated with each alternative.

The evaluation of possible harms in relation to expected benefits or gains in knowledge may provide sufficient grounds on which to disapprove proposed research, when this relation is found to be unreasonable. This would be the case, for example, where research includes an intervention that presents a high degree of risk to subjects and no great likelihood of producing direct benefit to them, or where an alternative to the intervention would present less risk but the same likelihood of benefit. Even when, as in most cases, the relation between possible harms and benefits or gains in knowledge is not found to be unreasonable, the evaluation will serve an important purpose of exposing fully the ethical and other issues that may be involved and thereby aiding in decision making by all parties concerned. The evaluation aids the IRB not only in judging whether it is reasonable to invite the participation of subjects in the research, but also in determining whether the information that will be given to subjects is sufficient for their own determination whether or not to participate.

In evaluating risks and benefits to subjects, an IRB should consider only those risks and benefits that may result from the conduct of the research. For example, the risks and benefits of therapies that subjects would receive even if not participating in the research should not be considered as risks and benefits of the research. (However, the risks and benefits of established therapies provide a point of comparison for the risks and benefits of new therapies that are the object of research.) The possible long-range effects of applying knowledge gained in the research (*e.g.,* the possible effects of the research on public policy affecting a segment of the population) should not be considered as among those research risks falling within the purview of the IRB, although such consequences may be relevant to a policy decision by an institution as to the desirability of approving the research at that institution. The IRB may advise institutional authorities in such cases.

As risk increases and, similarly, as the vulnerability of patients increases (by virtue of illness, institutionalization, etc.), it becomes more important to evaluate risks of harm and possible benefits and to require a reasonable relation between them. In effect, the IRB should assume more of the burden of determining whether subjects ultimately should be allowed to participate. In research that does not present significant risk to subjects, however, an IRB should not prevent an investigator from inviting subjects to participate in research because of its judgment that the research appears to be of marginal scientific importance or does not include an intervention that may benefit the subjects. Also, if the prospective subjects are normal adults, the primary responsibility of the IRB should be to assure that sufficient information will be disclosed in the informed consent process, provided the research does not present an extreme case of unreasonable risk.

(E) Circumstances in which prospective subjects might be coerced or unduly influenced should be avoided in the consent process. The need for concern about coercion or undue influence will depend upon the nature of the particular studies and the amount of risk they present. Protective steps may include the following:

* Providing subjects with an interval of time (consistent with the nature of the protocol) in which to weigh risks and benefits, consider alternatives, and ask questions or consult with others;
* Avoiding, whenever possible, seeking consent in physical settings in which subjects may feel coerced or unduly influenced to participate;
* Avoiding, whenever possible, seeking consent when subjects are in a vulnerable emotional state;
* Limiting remuneration to payment for the time and inconvenience of participation and compensation for any injury resulting from participation; and
* If students in a course will be requested to participate in research, assuring that this is understood at the outset and that reasonable alternatives are offered.

(F) Informed consent requires that all information relevant to a decision regarding participation be properly communicated to subjects. The information must be presented in a manner likely to result in its being understood. Thus, for example, medical or technical terms should be explained in lay language when they must be used. Written statements should be straightforward and easily readable. The specific information to be communicated should include those items that it is reasonable to expect that the subjects would want to know in making a decision regarding particpation in the research. While Recommendation (4)(F) contains a list of topics about which it can generally be presumed that subjects would want to be informed, it should be recognized that no such list is wholly adequate for this purpose. Thus, there may be research in which it is not reasonable to expect that subjects would want to be informed of some item on the list (*e.g.,* 1who is funding the research). More frequently, it can be expected that research will involve an element that is not on the list but about which it can be expected that subjects would want to be informed. Such information should, of course, be communicated to subjects. In addition, the investigator should indicate to subjects that questions are appropriate and be prepared to answer such questions. The investigator should also indicate whether the results of the research will be made available to subjects.

In some research there is concern that disclosure to subjects or providing an accurate description of certain information, such as the purpose of the

research or the procedures to be used, would affect the data and the validity of the research. The IRB can approve withholding or altering such information provided it determines that the incomplete disclosure or deception is not likely to be harmful in and of itself and that sufficient information will be disclosed to give subjects a fair opportunity to decide whether they want to participate in the research. The IRB should also consider whether the research could be done without incomplete disclosure or deception. If the procedures involved in the study present risk of harm or discomfort, this must always be disclosed to subjects. In seeking consent, information should not be withheld for the purpose of eliciting the cooperation of subjects, and investigators should always give truthful answers to questions, even if this means that a prospective subject thereby becomes unsuitable for participation. In general, where participants have been deceived in the course of research, it is desirable that they be debriefed after their participation.

(G) As a rule it is desirable that there be documentation of consent to provide the investigator with evidence thereof and the subjects with a readily available source of information about the research. However, consent forms should not be considered the only method by which information about the research is communicated to subjects. Usually an oral presentation will be an effective method of communicating with subjects. The documentation of consent (*i.e.,* the consent form) should never be confused with the substance of informed consent.

Because a consent form documents an agreement between two parties, both the subject and the investigator should retain a copy. The form should contain the address and phone number of the investigator and indicate how to contact the IRB.

In some studies of illegal or stigmatizing characteristics or behavior, subjects would be placed at risk by the creation of documents linking them with the research. The most secure method of protecting confidentiality of subjects in such studies is to create no written record of their identity, since such records may be vulnerable to subpoena. Confidentiality assurances are available from the Department of Justice and the Department of Health, Education, and Welfare that may effectively protect such documents from subpoena in certain studies of illegal behavior or drug abuse. When such protection is not available in studies in which a breach of confidentiality may be harmful to subjects, and subjects might prefer that ther be no documentation linking them with the research, the IRB may waive the requirement for documentation of consent in the interest of protecting the subjects.

In other studies, the requirement for documentation may place an undue burden on the research while adding little protection to the subjects. Such burdens might include a negative impact on the validity of a survey sample or introduction of an element that is incongruent with the social relationships involved in the research (*e.g.,* in anthropological research). For research that would be burdened by a requirement of written documentation of consent, such documentation may be waived: *Provided,* That the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context. (For example, a physical intrusion into the body may generally require written consent, whether or not the intrusion is performed for purposes of research.) In many cases (*e.g.,* a survey using mailed questionnaires) it would be appropriate for the investigator to provide subjects with a written statement regarding the research, but not to request their signature. In other cases (*e.g.,* a telephone survey) an oral explanation might be sufficient, because subjects can readily terminate their involvement in the research.

In all research, but particularly when a short form or no written consent will be used, it is important for the IRB to review the investigator's plans regarding information that is to be provided orally.

(H) In studies of documents, records or pathological specimens, where the subjects are identified, informed consent may be deemed unnecessary but the IRB must assure that subjects' interests are protected. (If the subjects are not identified or identifiable, the research need not be considered to involve human subjects.) The Privacy Protection Study Commission concluded that medical records can legitimately be used for biomedical or epidemiological research, without the individual's explicit authorization.

"*Provided,* That the medical-care provider maintaining the medical record:

"(i) Determines that such use or disclosure does not violate any limitations under which the record or information was collected;

"(ii) Ascertains that use of disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which use of disclosure is to be made;

"(iii) Determines that the importance of the research or statistical purpose for which any use of disclosure is to be made is such as to warrant the risk to the individual from additional exposure of the record or information contained therein;

"(iv) Requires that adequate safeguards to protect the record or information from unauthorized disclosure be established and maintained by the user or recipient, including a program for removal or destruction of identifiers; and

"(v) Consents in writing before any further use of redisclosure of the record or information in individually identifiable form is permitted."

The IRB should assure that such conditions exist before approving proposed research in which documents, records or pathology specimens are used for research purposes without explicit consent, and that the importance of the research justifies such use.

When the conduct of research using documents, records or pathology specimens without explicit consent is anticipated, incoming patients or other potential subjects should be informed of the potential use of such materials upon admission into the institution or program in which the materials will be developed, and given an opportunity to provide a general consent or to object to such research. The IRB should scrutinize with care any proposal to isolate and use materials about persons with particular problems or conditions, to assure compliance with the foregoing provisions regarding the use of private information.

Other situations in which informed consent might not be necessary arise in field research in the social sciences. Sometimes in such research, purely observational methods are supplemented by interaction with the persons being studied and therefore come within the Commission's definition of research involving human subjects. An IRB may waive the informed consent requirement in such research when it finds a number of factors to be present. The behavior to be studied must in some sense be public, *e.g.,* responses of businesses or institutions to members of the public, or social behavior in public places. Nondisclosure must be essential to the methodological soundness of the research, and must be justified by the importance or scientific merit of the research. Further, the research must present no more than minimal risk and be unlikely to cause embarrassment to the subjects.

(I) When proposed research involves the collection of data that might be harmful to subjects if disclosed to third parties in an individually identifiable form, the IRB should be particularly attentive to the adequacy of provisions to protect the confidentiality of the data. Depending upon the degree of sensitivity of the data, appropriate methods for protecting the confidentiality of the data may include the coding or removal of identifiers as soon as possible, limitation of access to the data, or the use of locked file cabinets. IRBs should be aware of the general vulnerability of research data to subpoena, particularly in stud-

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ies that collect data that would put subjects in legal jeopardy if disclosed. When the identity of subjects who may have committed crimes or abused drugs is to be recorded in a research investigation, the IRB should see that the study, if it is eligible, is conducted under the appropriate assurances of confidentiality available from the Department of Health, Education, and Welfare and the Department of Justice.

(J) The Commission has transmitted recommendations for regulatory guidelines governing the conduct of research involving various subject populations with reduced capacity to give informed consent. IRBs should assure that research involving these populations complies with the guidelines that are adopted by DHEW.

Recommendation (5) The Secretary of Health, Education, and Welfare should require by regulation that an Institutional Review Board shall review proposed research at convened meetings at which a majority of the members of the Board are present and that approval of such research shall be reached by a majority of those members who are present at the meeting; *Provided, however,* That the Secretary may specifically approve expedited review procedures adopted by an Institutional Review Board for carefully defined categories of research that present no more than minimal risk. The Secretary should require, futher, that an Institutional Review Board inform investigators of the basis of decisions to disapprove or require the modification of proposed research and give investigators an opportunity to respond in person or in writing.

Comment: To require that IRB determinations be made by unanimous vote might result in a serious retardation of the review process, would place excessive power in the hands of single members, and would create an incentive for mitigating the diversity of viewpoints represented on the IRB.

Since discussion among IRB members is an important element in the successful functioning of an IRB, *all* members of the IRB should receive a copy of each research protocol and IRB determinations should be made in convened meetings of a respresentative quorum of the members. However, IRBs that review large amounts of research may find that certain categories of research recur with some regularity, present no more than minimal risk to subjects, and present no serious ethical issue requiring IRB deliberation. The IRB should be permitted to define categories of such research that would receive expedited, rather than full review, thereby enabling it to concentrate its attention on research that presents more serious issues. These categories should be subject to DHEW approval before the expedited procedure can be used.

Expedited review should be carried out by the IRB chairman or by an experienced reviewer designated by the chairman. The review should assure that the research in fact falls into a defined category of research not requiring full IRB review and that the research involves no violation of the basic ethical principles governing research involving human subjects. The reviewer should have authority to approve the research if it meets the conditions specified by the IRB, to request that the investigator bring the research into conformity with the specified conditions, or to refer the proposal to the IRB for full review. When there is any problem regarding informed consent, reduction of risk, etc., the research should be referred to the IRB for full review. Investigators should always be able to request full IRB review. Records of each expedited review, including the protocol, should be maintained as part of the IRB's records and be available for inspection by any member of the IRB. All members of the IRB should receive prompt notice of protocols approved by expedited review, and any member should be able to demand that the research be reviewed by the full IRB.

The following list provides some examples of research procedures for which expedited review procedures may be appropriate. It should always be remembered, however, that a study may entail more than minimal risk to subjects even though it involves procedures that ordinarily present no more than minimal risk. For example, a minimal risk procedure may be used in combination with more serious interventions, the subjects may be particularly vulnerable to harm from ordinarily harmless procedures, or data may be collected that could be harmful to the subjects if disclosed. For these reasons, care should be taken in defining and using categories of research for expedited review, and the reviewer should be alert for elements in particular proposals that require full IRB review.

Among the procedures for which expedited review (subject to the caveats described) may be appropriate are:

(A) Collection (in a nondisfiguring manner) of hair, nail clippings and deciduous teeth;

(B) Collection for analysis of excreta and external secretions including sweat, saliva, placenta expelled at delivery, umbilical cord blood after the cord is clamped at delivery, and amniotic fluid at the time of artificial rupture of the membranes prior to or during labor;

(C) Recording of data from adults through the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amount of energy into the subject or an invasion of the subject's privacy. Such procedures include weighing, electrocdardiogram, electroencephalogram, thermography, detection of natural occurring radioactivity, diagnostic echography, and electroretinography;

(D) Collection of blood samples by venipuncture, in amounts not exceeding 450 milliliters in a six-week period, from subjects 18 years of age and over who are not anemic, pregnant or in a seriously weakened condition;

(E) Collection of both supra- and subgingival plaque. *Provided,* The procedure is no more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques;

(F) Voice recordings made for research purposes such as investigations of speech deficits;

(G) Moderate exercise by healthy volunteers;

(H) The use of survey research instruments (interviews or questionnaires) and psychological tests, interviews and procedures that are part of the standard battery of assessments used by psychologists in diagnostic studies and in the evaluation of judgmental, perceptual, learning and psychomotor processes: *Provided,* That the subjects are normal volunteers and that the data will be gathered anonymously or that confidentiality will be protected by procedures appropriate to the sensitivity of the data;

(I) Program evaluation projects that entail no deviation for subjects from the normal requirements of their involvement in the program being evaluated or benefits related to their participation in such program; and

(J) Research using standard protocols or noninvasive procedures generally accepted as presenting no more than minimal risk, even when done by students.

Expedited review procedures may also be used to review minor changes in previously approved research.

The expedited review procedures to be used and the specific categories of research to which they will be applied must be adopted by the IRB and specifically approved by the accreditation office established by the Secretary of Health, Education, and Welfare. The IRB's authority to use such expedited review procedures should be revoked if an audit shows a pattern or improper application of such procedures.

Although the Commission has not recommended that IRBs be required to meet in public, it supports the principle of open meetings. The public generally should have access to IRB meetings, limited only by local law or

a decision of the IRB to close a meeting in order to discuss personal or proprietary information. Public access to meetings should not necessarily extend to the documents that will be discussed at the meetings. IRBs should make provision to consider requests by investigators to close meetings or portions of meetings at which their research proposals will be discussed.

The Commission has not recommended a mechanism for appeal from IRB determinations, since it believes that an IRB should have the final word at its institution regarding the ethical acceptability of proposed research involving human subjects. When there is disagreement in an area that may be outside the expertise of an IRB, however, the use of outside consultants is to be encouraged. Also, when there is disagreement over the application of regulations or guidelines issued by the Department of Health, Education, and Welfare, the accreditation and compliance office described in Recommendation (2) should provide expeditious clarification or interpretation upon request by an IRB. Should an institution wish to establish an appeals process, the Commission suggests that it be restricted to investigation of prejudice or unfairness and that the appeals board not be given authority to conduct a secondary review of the protocol or to reverse the IRB decision.

Chapter 1. Existing Mechanisms for Applying Ethical Guidelines to Research Involving Human Subjects

The problem of applying general rules and guidelines to specific cases, and the use of groups to make such decisions when questions of public interest or societal values are at stake, has a very long history. A system of a "multidisciplinary" nature can be found as early as the sixth century B.C., when Solon replaced the old Athenian court system with one in which all citizens—including the lowest class—could participate.(1) They were chosen by lot to sit in panels as judges and preside over what amounted to both the lower courts and the court of appeal. In Anglo-American law, the jury is a prototypic body for deciding how broad rules apply to individual cases. Both Solon's court system and the jury are extensions of political democracy to questions of criminal and civil responsibility.

A jury of peers, picked at random from the citizenry, is of course not the sole means available for applying rules to situations. A quite different approach, though also stated in terms of "peers," has characterized the history of some professions. The medical profession, for example, has traditionally professed concern with assuring that individual practitioners deliver care which is both necessary and of high quality. The origin of the professionally-controlled licensure mechanism in 19th century American medicine can be seen in these terms, although it has also been interpreted as part of the effort to establish professional monopoly.(2) Thus, it is widely held that a defining characteristic of a profession is a high degree of control over its own work.(3) The actual performance of professionals has also been subject to the review of peers, at least under some circumstances. Examples range from editorial boards of professional journals to tissue review or medical audit committees in hospitals to DHEW study sections. In recent years, the actual performance of physicians has come under the broader scrutiny of Professional Standards Review Organizations (PSROs), established in connection with the federal government's payments under the Medicare, Medicaid, and Maternal and Child Health programs.(4) None of these review procedures, however, was established for the express purpose of making decisions in the face of ambiguous or conflicting social values.

Human Subjects Review Procedures. Any useful set of ethical principles, guidelines or rules will require interpretation when applied to particular situations. In research involving human subjects, the desirability of bringing to bear on such interpretations the judgment of individuals other than the research investigator has come to be widely recognized and is the basis of present regulatory approaches to the protection of human subjects.

The first formal review procedures for protection of subjects apparently were established in 1953, when a document called "Group Consideration of Clinical Research Procedures Deviating from Accepted Medical Practice or Involving Unusual Hazard" was issued in connection with the opening of the Clinical Center at the National Institutes of Health.(5) This document showed particular concern with the issues of how much risk to subjects was justifiable and what aspects of a study must be disclosed to subjects. More importantly it introduced the idea that the resolution of such issues on any particular project should be subjected to group consideration, although primary responsibility was seen as remaining with the investigator.(6) These original guidelines have undergone several revisions and continue to pertain to the "intramural programs" at NIH.

The Development of the Institutional Review System. The use of the Institutional Review Board (IRB) as a regulatory mechanism for research supported by DHEW derives from the Public Health Service (PHS) review requirements initiate in 1966 by the Surgeon General.(7) (Two surveys conducted in the early 1950s showed that some institutions had some type of review procedure prior to the Surgeon General's requirements, although such procedures were hardly uniform or universal.(8)) In his memorandum establishing the institutional review requirement, the Surgeon General issued the following statement of general policy:

> Public Health Service support of clinical research and investigation involving human beings should be provided only if the judgment of the investigator is subject to prior review by his institutional associates to assure an independent determination of the protection of the rights and welfare of the individual or individuals involved, of the appropriateness of the methods used to secure informed consent, and of the riskes and potential medical benefits of the investigation.(9)

This statement, it can be noted, explicitly assumed that the requirement pertained to biomedical research, although a "clarification" issued by the Surgeon General later in the same year extended applicability to behavioral research. The initial requirement was limited to PHS-supported research, and was seen as supplementing the internal review system that had evolved since 1947 for evaluating the scientific quality of research proposals.

A number of administrative changes in the PHS review requirements were made in the years following the Surgeon General's memorandum. The most significant change was a shift from the initial procedure under which a description of the review procedure was submitted with each proposal to a system of general assurances of institution compliance with the requirements, under which an institution sought one approval for procedures that would be applied to the review of any proposal within the IRB's jurisdiction. In 1971, the well-known *Institutional Guide to DHEW Policy on Protection of Human Subjects*(10) was published, establishing the PHS requirements as DHEW policy. Applicability was confined to studies "in which subjects may be at risk," and, though no longer limited to PHS, remained confined to research supported by DHEW. However, the *Institutional Guide* stated that if the Secretary judges that an institution has failed to discharge its responsibilities for the protection of "individuals in its care," whether or not DHEW funds are involved, the Secretary "may question whether the institution and the individuals concerned should remain eligible to receive future DHEW funds for activities involving human subjects." Administration of

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the policy remained in the Institutional Relations Section of the Division of Research Grants, NIH. Throughout, the *Institutional Guide* provided more detail and direction than had earlier PHS statements.

DHEW REGULATIONS FOR PROTECTION OF HUMAN SUBJECTS (45 CFR PART 46)

Regulations for protection of human subjects were issued by DHEW on May 30, 1974 (45 CFR Part 46).(*11*) These regulations, as subsequently amended (March 13, 1975 and August 8, 1975),(*12*) currently govern the system of Institutional Review Boards. The applicability of the regulations is stated to be "to all Department of Health, Education, and Welfare grants and contracts supporting research, development, and related activities in which human subjects are involved" (sec. 46.101). Elsewhere, the regulations quote section 212(a) of the National Research Act (Pub. L. 93-348), which provides:

> The Secretary shall by regulation require that each entity which applies for a grant or contract under this Act for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant or contract assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an 'Institutional Review Board') to review biomedical and behavioral research involving human subjects conducted at or sponsored by such entity in order to protect the rights of the human subjects of such research.

The regulations provide no clarification of the apparent inconsistency between this statement and the regulations' own statement of "applicability."

The regulations indicate that safeguarding the rights and welfare of "subjects at risk" is primarily the responsibility of an institution that receives DHEW support for such research. To this end, the following DHEW policy is stated:

> [N]o activity involving human subjects to be supported by DHEW grants and contracts shall be undertaken unless an Institutional Review Board has reviewed and approved such activity, and the institution has submitted to DHEW a certification of such review and approval * * * (§ 46.102(a)).

Specifically, the regulations require IRB review of proposed research to determine whether "subjects will be placed at risk," and, if so, whether:

> (1) [t]he risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;
> (2) The rights and welfare of any such subjects will be adequately protected;
> (3) Legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part. (Sec. 46.102(b)).

When an IRB finds that risk is involved in research, the regulations also require that it "review the conduct of the activity at timely intervals" (§ 46.102(d)). Amendments published August 8, 1975, gave IRBs additional responsibilities in the review of research involving fetuses, pregnant women of human *in vitro* fertilization. (*13*) These amendments were issued to incorporate the recommendations of the National Commission for the Protection of Human Subjects.

With regard to the composition of IRBs, the regulations require the following:

> The Board must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the institution. The Board must be sufficiently qualified through the maturity, experience, and expertise of its members and diversity of its membership to insure respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the Board must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The Board must therefore include persons whose concerns are in these areas. (Sec. 46.106(b)).

The regulations also specify that no member shall be involved in the review of an activity in which he has a conflicting interest, except to provide information; that no Board shall consist entirely of persons associated with the institution; and that no Board shall consist entirely of members of a single professional group.

General and Special Assurances. Recipients or prospective recipients of DHEW support research involving "subjects at risk" must provide "written assurance acceptable to DHEW that they will comply with DHEW policy." This assurance "shall embody a statement of compliance with DHEW requirements for initial and continuing Institutional Review Board review of the supported activities" and "a set of implementing guidelines, including identification of the Board and a description of its review procedures * * *" (§ 46.104(a)). No grant or contract involving human subjects at risk can be made unless the investigator is affiliated with or sponsored by an institution which assumes such responsibility.

Research may be conducted under two types of assurances—general and special. A general assurance describes the "review and implementation procedures applicable to all DHEW-supported activities conducted by an institution" (§ 46.105(a)). That is, the general assurance describes established procedures that will be brought into play repeatedly, and thus is typically submitted by institutions in which DHEW-supported research involving human subjects is recurrent. A special assurance, on the other hand, is the mechanism used when a proposal is submitted by an institution that does not have an approved general assurance, and describes the "review and implementation procedures applicable to a single activity or project" for which support is sought (§ 46.105(b)).

For general assurances, the "implementing guidelines" submitted by the institution must contain a "statement of principles which will govern the institution in the discharge of its responsbilities for protecting the rights and welfare of subjects. This may include appropriate existing codes or declarations, or statements formulated by the institution itself" (§ 46.105(a)). This statement is consistent with DHEW's view of the regulations as specifying procedures but not constituting an ethical code.

As of August 1, 1977, 534 institutions had an acceptable general assurance on file with DHEW. A substantial minority of these institutions were restricted in the types of studies that they were approved to review; most of these institutions were restricted from reviewing either medical or "Investigational New Drug" studies, or "behavioral" studies. Approximately 350 special assurances annually are approved. Since many projects run for several years, as many as 1,000 special assurances may be in effect at one time.

The regulations state that failure to comply with the regulations may result in early termination of awards or may affect the evaluation of subsequent applications or proposals (§ 46.121). The sanction of terminating a grant or contract due to noncompliance with the DHEW policy has not been used since the DHEW regulations were issued in May 1974.

A Note on Regulations for Education Research. DHEW regulations for protection of human subjects (45 CFR Part 46) do not apply to the National Institute of Education (NIE) and the U.S. Office of Education (OE). (*15*) The General Education Provisions Act gives to the Director of NIE and the Commissioner of Education authority to issue their own regulations, subject to the approval of Congress. (*16*) 45 CFR Part 46 has not been adopted for education research because some of the provisions therein are seen by the Education Division as inappropriate to the research conducted under its auspices. (*17*) NIE regulations do prohibit the use of data collection instruments "which constitute unnecessary or offensive intrusion of privacy through inquiries regarding such matters as religion, sex, race, or politics." (*18*) They also require parental consent of each respondent prior to the use of such instruments, although the Director of NIE may grant a waiver of this requirement. (*19*) NIE also requires that subjects be protected "from physical, psychological, or sociological harm, in accordance with the specific provisions of the Department's policy on the treatment of human subjects." (*20*) The provisions cited therein refer in turn to provisions of the DHEW Grants Administration Manual. (*21*) Similarly, OE grant and contract regulations also incorporate the DHEW Grants Administration Manual. (*22*) This Manual, in turn, requires approved assurances, IRB review, and informed consent procedures that are nearly identical to those of the DHEW regulations (45 CFR Part 46). Thus, though the citations are circuituous, a system similar to that of the rest of DHEW appears to be required within the Education Division. (*23*)

DHEW IMPLEMENTATION OF REGULATIONS FOR PROTECTION OF HUMAN SUBJECTS

Responsibility for monitoring the composition and function of IRBs is assigned to the Office for Protection from Research Risks (OPRR) in the Office of the Director, NIH. This office reviews both general and special assurances as they are submitted, and either approves or disapproves them or requires modifications of the composition or procedures of the IRBs.

Negotiations for approval of an assurance are initiated with the submission by an institution of a statement of compliance and implementing procedures. The assurance may be submitted voluntarily by the institution or requested by OPRR. For a special assurance, OPRR's review is generally limited to the composition of the IRB and its findings with respect to the proposal involved. For a general assurance, OPRR determines whether the composition of the IRB is proper, whether the procedures for meetings and review are adequate, and whether there is an appropriate statement of adherence to an ethical code. In making these judgments, OPRR determines whether the members of the IRB are properly diverse with respect to background, affiliation, training and academic rank, as the regulations require. There is no specific regulatory requirement for including racial or ethnic minorities or women, but OPRR attempts to see that they are included. OPRR also reviews the applicant institution's statement regarding the manner of appointment of members to the IRB, the quorum requirement and voting procedures, and whether the IRB has regularly scheduled meetings. In addition, OPRR reviews the proposed methods for monitoring ongoing research projects and procedures for record-keeping and for notifying the responsible parties in case of unexpected complications.

Staff members of OPRR make approximately 30-40 site visits per year in the process of negotiating assurances. At such visits, they review the operating procedures of the IRBs and examine the IRBs' files.

REVIEW OF RESEARCH PROPOSALS

DHEW regulations provide that "[n]otwithstanding any prior review, approval, and certification" by an applicant institution, all applications and proposals "involving human subjects at risk" submitted to DHEW shall be evaluated by the Secretary for compliance with the regulations. Both Departmental employees and outside experts or consultants may be used. This evaluation "may take into account, among other pertinent factors, the apparent risks to subjects, the adequacy of protection against these risks, the potential benefits of the activity to the subjects and to others, and the importance of the knowledge to be gained" (45 CFR 46.115(a)). The means by which this is done varies within the department, and differs for grants and contracts.

Review of Grant Proposals. All applications received by NIH or ADAMHA are reviewed by DHEW staff to determine whether or not human subjects are involved, regardless of the initial determination by the applicant's IRB. (When errors of omission are identified, OPRR is advised and the responsible IRB is then requested to take appropriate action.) Grant applications are then reviewed by an Initial Review Group (generally called a "study section"), which provides scientific review of the research design and the competence and experience of the principal investigator. The study sections are composed of recognized authorities in specialized areas of research. Statutory and administrative guidelines require selection from various geographic areas, rotation of membership and the inclusion of women and other minority representatives.

The DHEW Grants Administration Manual (Chapter 1-40-20-B) stipulates that:

> Review groups may (a) recommend disapproval if the hazards are so grave as to be unacceptable; (b) recommend approval without restrictions when the subject's rights and welfare are not infringed; (c) recommend approval but record expressions of concern to be communicated to the institution sponsoring the project or activity; or (d) recommend approval contingent on limitation of the scope of the work or the elimination of objectionable procedures involving human subjects.

Any decision short of unqualified approval must be communicated to the official of the sponsoring institution who signed the proposal and to the principal investigator. In addition, if the review group finds undue hazards to subjects or if it questions the ethical probity of a research proposal, the matter is referred to OPRR for further review. In most cases, OPRR writes to the IRB involved to call attention to the objections raised by the reviewers.

OPRR does not require that consent forms be submitted to DHEW with research proposals. (In fact, the present Director of that office has discouraged the practice on the grounds that study sections have no legal staff competent to assess consent forms and procedures, and there is insufficient staff at OPRR and the Office of the General Counsel to perform this job.) By contrast, ADAMHA requires its review groups to assure that the consent procedures for each project are adequate; thus, in many cases, the ADAMHA study sections review consent forms as part of the review process.

Once a grant application has been recommended for approval by a study section, it must undergo final review and approval by one of 14 National Advisory Councils. Each institute of the NIH and ADAMHA has such a council, which is required by law to include lay and public members in addition to scientific members with the appropriate expertise for the areas served by the council. The councils receive a summary of findings and the recommendations of the study sections and, on the basis of their own review and discussion, advise the appropriate departmental official whether or not the research should be supported. (The official is not required to follow the advice of the council and may in fact be unable to support all the proposals which have been approved; however, no project may be funded following disapproval of the Advisory Council.)*

DHEW components other than NIH and ADAMHA have procedures which are similar, if not identical to, those outlined above. Some rely primarily on staff review supplemented by "outside opinions" of consultants, reviewers or "field readers." Others rely on in-house committees, particularly for review and approval of contracts.

Thus, the present system involves several reviews of a research grant supported by DHEW: first by an IRB, next by DHEW staff, study section and Advisory Council, and finally continuing review by the IRB. These reviews are intended to complement each other.

* Some institutes permit funding of small grants (with direct costs under $35,000) without the review and approval of a National Advisory Council or Board.

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Review of Contract Proposals. The DHEW regulations for protection of human subjects also apply to research conducted under contract. Under DHEW procurement regulations (41 CFR 3-4.55) the judgment as to the need for IRB review is to be made by the agency supporting the research and specified in the Request for Proposal. The diversity within DHEW regarding review procedures for contract proposals probably exceeds that of grant review procedures. Within NIH, all contracts involving human subjects in "nontherapeutic research" must be reviewed and approved by the Medical Board of the NIH Clinical Center. Projects involving "therapeutic research" are reviewed by committees of varying composition within the various institutes.

FOOTNOTES

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2. Richard H. Shryock, *Medical Licensing in America, 1650-1965,* Baltimore: Johns Hopkins Press, 1975; Jeffrey L. Berlant, *Profession and Monopoly: A Study of Medicine in the United States and Great Britain,* Berkeley: University of California Press, 1966, particularly Chapter 5.
3. Eliot Freidson, *Profession of Medicine: A Study in the Sociology of Applied Knowledge,* New York: Dodd, Mead, 1970.
4. P.L. 92-603, Title XI, Part B, Section 1151. More generally see Richard H. Egdahl and Paul M. Gertman (eds.), *Quality Assurance in Health Care,* Germantown, Md.: Aspen Systems, 1976.
5. Mark Frankel, *The Public Health Service Guidelines Governing Research Involving Human Subjects: An Analysis of the Policy-Making Process,* Washington, D.C.: George Washington University Program of Policy Studies in Science and Technology, 1972, p. 9.
6. *Ibid.,* p. 11.
7. The background of this development is described in Frankel, *op. cit.,* and in William J. Curran, "Government Regulation of the Use of Human Subjects in Medical Research: The Approach of Two Federal Agencies," *Daedalus,* Vol. 98, 1969, pp. 542-594.
8. The first was done by Louis G. Welt, "Reflections on the Problems of Human Experimentation, "*Connecticut Medicine,* Vol. 25, 1961, pp. 75-79. The second, conducted by the Boston University Law-Medicine Research Institute, is described by Curran, *op. cit.,* pp. 546-548.
9. Surgeon-General, "Memo to Heads of Institutions Conducting Research with Public Health Service Grants," February 8, 1966.
10. DHEW, *The Institutional Guide to DHEW Policy on Protection of Human Subjects,* DHEW Publication No. (NIH) 72-102, December 2, 1972.
11. DHEW, Protection of Human Subjects, 45 CFR Part 46, 39 FR 18917, May 30, 1974.
12. DHEW, Protection of Human Subjects: Technical Amendments, 45 CFR Part 46, 40 FR 11854, March 13, 1975.
13. DHEW, Protection of Human Subjects: Fetuses, Pregnant Women, and *In Vitro* Fertilization, 45 CFR Part 46, 40 FR 33526, August 8, 1975.
14. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, Research on the Fetus: Report and Recommendations, Washington, D.C.: DHEW, 1975. (DHEW Publication No. (OS) 76-127).
15. Caspar W. Weinberger, Secretary, DHEW, in Introduction to DHEW Regulations for Protection of Human Subjects, 45 CFR Part 46, 39 FR 18917, May 30, 1974.
16. General Education Provisions Act, secs. 408(a)(6)(c) and 431.
17. Thomas K. Glennan, Jr., Director, National Institute of Education, in introductory comments to the Institute's General Provisions for Research and Development Grants, 45 CFR Part 74, published as regulations in 39 FR 38992, November 4, 1974.
18. 45 CFR Part 74, § 1410.1(c), 39 FR 39006, November 4, 1974.
19. 45 CFR Part 74, § 1410.1(f), 39 FR 39006, November 4, 1974.
20. 45 CFR Part 74, § 1410.2 39 FR 39006, November 4, 1974, citing Title 41, Subpart 3, § 4.55 of the Code of Federal Regulations.
21. Chapter 1-40, DHEW Grants Administration Manual.
22. Memorandum from Mary Moore, Office of the Assistant Secretary for Education, June 7, 1976.
23. *Ibid.*

CHAPTER 2. A STUDY OF THE PERFORMANCE OF INSTITUTIONAL REVIEW BOARDS

In preparation for its deliberations on mechanisms for protecting human subjects, the Commission recognized the importance of developing systematic information about the performance of Institutional Review Boards (IRBs). Although IRBs play a key role in the existing system for protecting human subjects, only superficial information about IRBs was available from DHEW, and existing studies were either dated, of limited depth, or based on the experience of single, selected IRBs.* The Commission therefore contracted with the Survey Research Center of the University of Michigan for a systematic survey of a representative sample of IRBs.

This study focused on review procedures and research projects at a probability sample of 61 institutions drawn from the more than 420 institutions with general assurances approved by DHEW. The study covered research reviewed by IRBs at these institutions between July 1, 1974 and June 30, 1975. Approximately 3,900 persons were interviewed, including more than 2,000 research investigators whose proposals had been reviewed, over 800 members or persons especially knowledgeable about the IRBs in the sample, and almost 1,000 subjects or third persons who consented on their behalf.**

IRBs exist in a number of distinctive institutional environments. Medical schools (and universities that share IRBs with medical schools) accounted for 59 percent of the research reviewed by IRBs in the sample. Universities (with IRBs separate from those for medical schools) and hospitals accounted for 18 percent and 15 percent, respectively. Most of the remaining research was conducted in institutions for the mentally infirm, although some was conducted in research institutions or in dental or nursing schools.

Approximately 60 percent of the studies reviewed by IRBs was biomedical, most frequently involving the administration of drugs or the study of samples of bodily fluids or tissues. Investigators in many of these studies reported that the major intervention (e.g., the administration of a drug) would have occurred even if the patient had not been involved in the study. Behavioral research—most frequently using interviews, questionnaires, testing or observation—accounted for about one-third of the research reviewed by IRBs; about a fifth of the behavioral research entailed the study of an intervention such as social or psychological therapy, behavior modification techniques or educational innovations. The remaining small fraction of the research reviewed by IRBs (about six percent) involved secondary analyses of data or the study of bodily fluids or tissues that had been obtained for other purposes.

IRBs face greatly varying work loads. An IRB at a small institution may not receive even a single proposal in a given year, while IRBs in major medical schools or universities receive hundreds of proposals for review. The average IRB reviews 43 proposals per year. The number of members on IRBs in the sample ranged from 5 to 55, with an average of 14. IRBs in the

*Bernard Barber *et al., Research on Human Subjects: Problems of Control in Medical Experimentation,* Russell Sage Foundation, New York, 1973; Dale H. Cowan, Human Experimentation: The Review Process in Practice, *Case Western Reserve Law Review,* Vol. 25, No. 3, 1975, pp. 533-564; Bradford H. Gray, An Assessment of Institutional Review Committees in Human Experimentation, *Medical Care,* Vol. 13, No. 4, 1975, pp. 318-328; Sherry E. Marcy, *A Systems Study of a University Committee for Protection of Human Subjects of Experimentation,* Unpublished Master's Thesis, Yale University School of Public Health, 1974; Kenneth Melmon *et al.,* Emerging Assets and Liabilities of a Committee on Human Welfare and Experimentation, *New England Journal of Medicine,* Vol. 282, No. 8, 1970, pp. 427-431; Eugene J. Millstein, *The DHEW Requirements for the Protection of Human Subjects: Analysis and Impact at the University of California,* Research Management Improvement Project, University of California, Berkeley, 1974.

**In addition to its reports on the performance of IRBs, the Survey Research Center made separate reports on research involving prisoners, research involving children, and research involving those institutionalized as mentally infirm. Those reports are summarized in the Commission reports on those respective topics.

sample met as few as two and as many as 51 times per year, with an average of 10 meetings per year. The average IRB expended 760 member-hours per year on IRB work; this figure ranged as high as 5,000 member-hours for one IRB. IRBs spend an average of almost one hour per proposal in meetings, and the total number of member-hours per proposal (including time spent outside of meetings) averaged 38 hours and ranged as high as 270 hours at one IRB.

Composition of IRBs. The majority of IRB members in the sample were biomedical scientists (50 percent) or behavioral scientists (21 percent); about 30 percent did not identify themselves as biomedical or behavioral scientists. This latter group included administrators, lawyers, nurses, members of the clergy and others. Biomedical researchers, behavioral researchers, full-time administrators and "community representatives" were each found on approximately 90 percent of the IRBs. About three-fourths of the IRBs included a lawyer; this was particularly characteristic of IRBs in medical schools and occurred least frequently (in fewer than one-third of the IRBs) at institutions for the mentally infirm. All IRBs included at least one member who was not otherwise affiliated with the institution. The membership of half of the IRBs was reported to include racial or ethnic minorities. Eighty-eight percent of the IRBs included women. Three-fourths of IRB members were asked to serve (only five percent said they sought membership), and fewer than five percent said that they had had any special training for their role, although most said they had received a briefing or some written instructions (e.g., the DHEW regulations).

A diversity in attitudes and concerns is associated with the diversity of membership on IRBs. There were differences among biomedical scientists, behavioral and social scientists, and other IRB members regarding the issues that they reported raising for discussion, the matters about which they believed that other members perceived them to be expert, and the emphasis that they reported placing on different aspects of research proposals. Nonscientists generally reported themselves to be less active and less influential than other IRB members. Nevertheless, almost all IRB members indicated that viewpoints of all members were sought and considered in IRB decisions, and almost 90 percent of IRB members expressed satisfaction with their accomplishments on the IRB.

Policies and Procedures of IRBs. Although there are a few common denominators among IRBs—almost all reported discussing proposals in convened meetings, and most review all research, regardless of funding source—the diversity of their policies and procedures is striking. About two-thirds of the IRBs had a procedure to screen out proposals that did not need attention from the IRB. About half of the IRBs assigned proposals to individual members for intensive review, and about one-fourth of the IRBs reported delegating some responsibility to subcommittees for similar purposes. Half of the IRBs required that proposals be submitted on standard forms, and most of the others provided investigators with some instructions regarding the submission of proposals. About half of the IRBs took formal votes on all proposals, and almost all took formal votes on at least some occasions. Two-thirds of the IRBs accepted majority approval as satisfactory; one-fourth required unanimity. More than half of the IRBs said that their meetings were open to nonmembers. More than one-fourth of the IRBs said that investigators always attend the meetings at which their porposals are discussed, and more than 80 percent of the IRBs reported that this happened at least occasionally.

One-fifth of the IRBs reported that approved proposals are routinely subjected to further review. Thirteen percent of the IRBs reported that rejected proposals were automatically reviewed a second time. half of the IRBs had provisions for investigators to appeal IRB dicisions.

IRB Involvement After Final Review. Most IRBs approved some projects with the stipulation that they be reviewed again after periods ranging from one month to three years, but usually after one year. When an ongoing project was submitted for review, four-fifths of the boards required that information be provided concerning such matters as the progress of the research, changes in the original protocol, tentative results, the number of active subjects and refusals to participate, consent forms and subject-related problems. Only half of the boards reported having either a formal or informal policy regarding the reporting of injuries to subjects. In most of these IRBs, investigators were supposed to notify the IRB in the event of injuries to subjects; a few IRBs reported that research was to be halted or reviewed again if injuries occured. Forty percent of the Boards had a policy regarding treatment of or compensation for injuries to subjects.

More than one-third of the Boards had, at some time, designated someone to observe the manner in which projects were conducted; half of these Boards said that this was done routinely, and the others reported that projects were observed only under certain circumstances, such as when there was particular risk, when children were involved or when there had been problems in the past.

Over 80 percent of the IRB members felt that it was likely or certain that their IRB would learn of the existence of research involving human subjects that had not been reviewed or that was being conducted in way that was substantially different from the manner approved by the IRB. Respondents from universities felt least certain of this. One-fourth of the IRBs had become aware of the conduct of such research in the previous year. In such situations, IRBs were reported to have intervened to require research to be reviewed or to have called the matter to the attention of institutional authorities.

IRB Modifications of Research Proposals. Information provided by investigators indicated that more than half of the proposals reviewed by IRBs were modified, either by requests for additional information or by substantive modifications. Most modifications occurred as a result of the formal review process, although some projects were modified as a result of informal contacts between investigators and IRB members. IRBs sought more information about almost one-third of the proposals submitted for review, and they required modifications regarding informed consent in one-fourth of the proposals. Modifications regarding scientific design, subject selection, risks and discomforts, and confidentiality were each made in three to four percent of proposals.

IRBs varied markedly in the percentage of proposals that they modify. Modifications in every proposal were reported for 14 percent of the IRBs, while at 22 percent of the IRBs no more than one-third of the investigators reported that the IRB had required modification in their proposals. IRBs also varied in the variety of modifications they make. For 19 percent of the IRBs, only one type of modification in proposals was reported, while seven percent of IRBs made all six types identified in the survey (*i.e.,* modifications regarding consent, risks, scientific design, subject selection, confidentiality and "other" modifications). The median number of types of modifications by IRBs was 2.5.

Risks and Benefits of Research Approved by IRBs. More than half (55 percent) of the projects for which information was available were expected by the investigators to be of benefit to the research subjects. There was little difference in this regard between biomedical projects and projects that involved a behavioral intervention, although the nature (medical or psychological) of the benefits differed. Fewer than one-third of the behavioral pro-

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jects that did not involve the study of an intervention were expected to benefit subjects.

Estimates of the probability and magnitude of the possible harms to subjects were also provided by investigators. One-fourth of the investigators judged their projects to be without risk, and another fourth judged their research to have no more than a "very low" probability of "minor" complications. About half of the research involved more risk—at least a "low" probability of minor complications or a "very low" probability of serious complications. Table 1 shows that as the assessed risk of projects increased, so did the likelihood that the projects would benefit subjects; provisions for treatment of injuries to subjects and the actual occurence of injuries to subjects also were most likely to be found in studies in which the investigator's assessment of risk was relatively high.

These estimates of risk should not be treated as objective assessments of the degree of risk present in research. The assessment of independent raters would undoubtedly differ in some cases from the assessment of investigators themselves. That is, after all, one rationale for the review process. Nevertheless, the validity in the aggregate of the investigators' estimates of the riskiness of their research receives some confirmation from the fact that injuries to subjects were more likely to be reported in studies in which risks were assessed as relatively high (see Table 1). Table 1 also shows that as the risk of projects increased, so did the likelihood that the projects would benefit the subjects. Only about one-third of the "no risk" projects were expected to benefit subjects, while at the other end of the risk scale, 80 percent of the projects were expected by the investigators to benefit subjects.

TABLE 1.—*Risk, Benefit, and Availability of Treatment for Harmful Effects*

[Percent of projects]

Relative risk level*	Expected by investigator to benefit subjects	Harmful effects reported	Treatment reported available
No risk (N=710)	34	0	14
Very low risk (N=446)	52	1	31
Low risk (N=459)	63	3	52
Moderate risk (N=483)	80	12	61

*As assessed by investigators.

Overall, harm to subjects was reported in three percent of the projects. These harms were generally considered trivial or only temporarily disabling. Three investigators reported fatal effects; in each of two projects one subject died and in one project three subjects died. Each of these projects involved cancer research, and in two of the projects some subjects were in near terminal condition at the time of their participation in the research.

In three projects, the investigator reported that a breach of confidentiality had occurred which had harmed or embarrassed a subject; most investigators reported having some procedure to protect subjects' confidentiality, but in more than ten percent of the projects no such procedures were reported.

There were some indications that IRBs which review relatively risky research are more careful in their reviews. For example, a more comprehensive set of issues was reportedly discussed during the review of proposals, and the rate of modification of proposals was greater, in IRBs that review more relatively high risk research. This correspondence between risk and performance occurs in medical schools and hospitals, but not in universities. Thus, it appears that in some IRBs the allocation of energy may not be related to the degree of risk in the projects under review.

Selection of Subjects in Projects Approved by IRBs. By and large, IRBs accepted investigators' plans for selection of subjects. However, changes were required in three percent of the projects, usually by limiting or restricting the sample in some way. "Patients" served as subjects in 76 percent of the projects approved by IRBs in medical schools and in 86 percent of projects in hospitals. In almost half of these projects, the subjects were the investigator's own patients. Patients were subjects in only 17 percent of the projects in universities (and 66 percent of projects in other institutions). University projects most frequently involved college students (37 percent) as subjects. Subjects in most research were selected because of a specific condition or characteristic. For patients, their disease was usually a selection criterion; in research in universities, the most common selection criteria were demographic characteristics such as age or educational situation. Persons identified as patients served as subjects in three-fourths of the projects expected to benefit subjects and in half of the other studies. Persons selected from the general population were more likely to be participants in projects not expected to benefit subjects than in projects expected to provide such benefits.

Projects in which investigators reported relatively high proportions of (1) males, (2) persons between 41 and 64 years of age, and (3) high or middle income persons were more likely than other projects to be above average in risk. Overall, although more investigators described their subjects as "low income" persons than as "high income" persons, there was no evidence that low income persons were particularly likely to be selected either for relatively risky research or for research that was not expected to benefit subjects. Projects involving substantial proportions of children or older people were more likely to be expected to benefit the subjects than were projects that drew more heavily on 19 to 40-year-olds.

Informed Consent. Informed consent is the focus of considerable activity by IRBs; yet it clearly remains a problem. According to investigators, IRBs required changes regarding the obtaining of consent in one-fourth of the projects they approved. Virtually all of these changes pertained to the content of consent forms—most commonly through the addition of materials—rather than the way in which consent was obtained; in fewer than one percent of the studies did IRBs require changes regarding the timing of the consent process, who obtained consent, the setting in which consent would be obtained, or the presence of a witness.

Investigators reported that informed consent was obtained in almost 90 percent of the projects. Usually such consent was obtained in writing. The major reasons cited for not obtaining consent were that the return of questionnaries implied consent, that only routine procedures or treatments were being used, or that the study was based exclusively upon existing records, data or materials gathered for other purposes.

Principal investigators had either exclusive or shared responsibility for obtaining consent in 70 percent of projects, and someone other than the persons seeking and giving consent was present when consent was sought in about half of the projects. In two-thirds of the studies expected to benefit subjects directly, investigators reported that the benefits to others in the future or to scientific knowledge

were mentioned in about half of the projects. In projects not expected to benefit subjects directly, benefits to others and benefits to scientific knowledge were each reportedly emphasized in the consent process in about half of the studies; direct benefits to subjects were reportedly given emphasis in about one-fifth of these studies. Principal investigators generally reported that the participation of subjects was *requested* when consent was obtained. Investigators *recommended* participation in 35 percent of the projects expected to benefit subjects, and in seven percent of the projects not expected to benefit subjects.

In 15 percent of the studies, investigators reported that some information was withheld from subjects. This occurred most frequently (29 percent) in studies conducted in universities and least frequently (12 percent) in projects conducted in medical schools, and as often in projects expected to benefit subjects as in other studies. The reason given for withholding information was usually to eliminate sources of bias in the study or because it was believe that the subject would not understand the information. The information not disclosed usually pertained to the purpose of specific procedures in the study or to the identity of the medication or treatment being used with particular subjects (as in double-blind research designs). In a few projects (two percent) investigators reported that subjects were given information that was untrue. Most of these projects were conducted in universities. The false information usually concerned the purpose of the procedures used in the study, and the reasons again pertained to the avoidance of bias in the data.

Subjects were paid in a few studies (seven percent of the studies expected to benefit subjects and 20 percent of other studies). These payments tended to be small—usually under ten dollars—but ranged as high as one or two hundred dollars in rare instances.

Despite the general use of consent forms and the evidence of IRB concern regarding such forms, concent forms tended to be inadequate, according to an analysis of the content and readability of the actual forms used in the research. On an index composed on six consent elements mentioned in DHEW regulations (45 CFR 46.103(c))—the purpose of the research, the procedures involved, the risks, the benefits, a statement that subjects are free to withdraw from the research, and an invitation to ask questions—only 18 percent of the forms were complete or nearly complete. Twenty-one percent of the forms from hospitals and medical schools were complete or nearly so, while this was true of less than 10 percent of the forms from universities and other institutions. Descriptions by investigators of the topics covered in oral explanations added only negligibly to the information that was transmitted to subjects.

Some elements received more coverage than others in consent forms. The procedures of the research were not mentioned in 10 percent of the forms; the purpose was not mentioned in 23 percent; neither the presence nor the absence of benefits to the subjects was mentioned in 45 percent. Risk was not mentioned in 30 percent of the forms, and 70 percent of these forms were in studies that were described by investigators as entailing at least a very low probability of minor harm to subjects. Even in consent forms in which these various elements were mentioned, fewer than half of the forms provided a detailed description. In some cases, these topics were mentioned only in statements saying "I certify that I have been informed of the purpose, procedures, and risks and benefits of this study." A statement regarding withdrawal from the study was not present in 22 percent of the consent forms; however, many of these may have been from studies in which the active participation of subjects ended quickly. An offer to answer questions appeared in more than half of the consent forms. A description of alternative treatments might have been expected in studies that were expected to be of benefit to subjects; however, this occurred in fewer than 20 percent of the cases. Similarly, consent forms from projects described by investigators as including an "experimental" element might have been expected to mention this. About 60 percent of the consent forms from such projects, however, did not call attention to the experimental nature of the project through the use of words such as "experiment," "research" or "investigation."

A "reading ease score" was computed for each consent form, using a standard measure, the Flesch Readability Yardstick.* Consent forms tended to be written in academic or scientific language that may be difficult for the layman to understand. Descriptions of the procedures used in the research tended to be somewhat more readable than descriptions of the purpose or risks of the research; but overall, no more than 15 percent of the consent forms were in language as simple as is found, for example, in *Time* magazine. In more than three-fourths of the consent forms, fewer than ten percent of the technical or medical terms were explained in lay language. It is questionable whether many subjects would find most consent forms very useful to them in making decisions regarding participation in research. No information is available on the degree to which the difficult language of the consent forms is mitigated by oral explanations in simpler terms.

No relationship was found between the completeness and readability of consent forms. There was no tendency for the more complete consent forms to be either more or less difficult to read than were the less complete consent forms.

Comparisons were made of the pre- and post-review versions of consent forms from the same projects to attempt to elucidate why IRBs required many modifications in consent forms, yet approved forms that were frequently incomplete and difficult to read. No significant difference was found on the average readability or completeness scores between consent forms as submitted to the IRBs and the consent forms as approved by the IRBs. This was true even on consent forms changed by the IRBs. Furthermore, an examination of forms as submitted for review showed no significant differences (in the expected direction) between those for which modification was requested by the IRBs and those for which no modification was requested. That is, the less readable and less complete forms were no more likely to elicit a request for modification than were the relatively readable and complete forms.

The Performance of Institutional Review Boards. The present study included examination of differences among IRBs in the extent to which each (a) is comprehensive in its discussions of proposals, (b) has procedures to monitor the progress of research, (c) makes modifications in proposals to improve the protection of the rights and welfare of human subjects, (d) approves readable and complete consent forms, (e) is judged by IRB members to do a good job, and (f) is viewed positively by investigators.

Although a high score on any particular measure may not indicate an effective IRB, one that scores high on all of these aspects could presumably be judged to be effective, and an IRB that scores low on all of these aspects is presumably ineffective. However, no such patterns among the criteria emerged in the analysis of the data. Instead, it was found that an IRB's score on one of the measures tended to be unrelated to its score on the other measures. Thus, for example, there was no relationship between evaluations of an IRB by its members and by evaluations by the investigators whose research it reviews. Overall, four-fifths

*Rudolf Flesch, A New Readability Yardstick, *Journal of Applied Psychology*, Vol. 18, No. 3, June 1948, pp. 221-233. The "reading-ease score" is based on word length, i.e., the average number of syllables per 100 words, and sentence length, i.e., the average number of words per sentence.

of the specific indicators of performance showed no relationship to each other; of the few relationships found, almost as many were negative as were positive.

There were, however, some findings of interest regarding the relationship of the measures of performance. IRBs that most frequently made modifications in consent forms tended to approve the most complete consent forms. However, this appears to be an indirect effect of the IRBs' attention to consent forms, because the consent forms submitted to these IRBs were also more complete than those submitted to other IRBs. No similar effect regarding readability was found, nor was there any evidence of improvement (regarding readability or completeness) on consent forms as a direct result of changes required by the IRB.

There was also evidence that the Boards which make the most common types of modifications in proposals tend to receive lower evaluations from investigators. Thus, IRBs that made frequent requests for more information from investigators were evaluated in less positive terms by investigators. Similarly, at institutions where IRBs made relatively frequent modifications concerning consent, investigators more frequently disagreed with the statement that the IRB protects the rights and welfare of human subjects. These findings suggest that there may be a trade-off between IRB activity and investigator acceptance, particularly when investigators do not see a link between the IRBs' actions and the protection of subjects. Clear trade-offs among the measures of performance occurred infrequently, however.

IRBs whose work load included a large proportion of biomedical research tended to rank relatively high on many (though not all) criteria of performance. For example, they tended to make more modifications regarding consent and risk in proposals, they more often monitored projects, and they reported their discussions as relatively more comprehensive. On the other hand, they were more likely to approve research in which no provisions were made to protect the confidentiality of the data and to approve less readable, though more complete, consent forms.

In general, the procedures, policies and composition of IRBs showed relatively little relationship to the various measures of performance. Again, no consistent pattern emerged. Thus, for example, IRBs that assigned proposals to individuals or subcommittees for intensive review tended to make a greater variety of modifications in the proposals they reviewed. However, they did not make more frequent modifications, nor did they rank high on any other measure of performanced. IRBs for which approved proposals were subject to a subsequent review made more modifications regarding risk and scientific design than did other Boards, but they were no more likely than others to make other modifications in proposals (e.g., regarding consent) and they were less likely to monitor the actual conduct of the research.

The various measures of performance showed almost no relationship to either the presence of particular types of persons on the IRB or the overall heterogeneity of membership.

The operation of the review process was viewed more favorably than unfavorably by most research investigators and IRB members (see Table 2). However, a substantial minority, particularly of the investigators, felt that the review procedure is an unwarranted intrusion on the investigator's autonomy, that the IRB gets into inappropriate areas, that it makes judgments it is not qualified to make, and that it has impeded research. The problem (from a list of ten problems) most frequently indicated by Board Members was getting members together for meetings. More than one-fourth of the IRB members indicated as problems the need for rapid action to meet deadlines imposed by funding agencies, the lack of precise DHEW guidelines, and the time spent unnecessarily reviewing research with little risk.

Attitudes of Research Subjects. Investigators who found it appropriate to cooperate in this aspect of the research sent letters to their subjects indicating that the Survey Research Center wished to interview them about their experience in research. Only those subjects who returned a post card indicating willingness to be interviewed were contacted. This procedure was employed to protect the privacy of the subjects of the research under study, and it complicated the inherent difficulties of contacting such a sample. Thus, a true probability sample of research subjects was not obtained, and the sample cannot be considered representative. Furthermore, periods of up to a year had elapsed since some subjects' participation. These data, therefore, must be interperted with caution.

Most subjects or third parties recalled giving consent for participation, but one out of ten indicated that it was not understood that they were to be involved in "research." The majority, however, felt that they had been given clear, sufficient and accurate information about the project in which they participated. The single most prevalent reason for subjects' participation was the expectation of medical, psychological or educational benefits. Almost all of the respondents (98 percent) felt that participation was voluntary; most felt positively about the experience; and two-thirds felt that they (or the subject) benefited directly. Thirteen percent, however, said that they had experienced unexpected difficulties. About 70 percent said they would be very willing to participate in a similar study again.

Subjects and third parties who consented on their behalf offered a number of suggestions and comments, including the desirability (expressed by 19 percent) for additional information about the research and the need (expressed by 11 percent) for more care or courtesy on part of investigators in their treatment of subjects.

Summary. To summarize briefly the study's findings, IRBs are quite active in the review of proposed research. They modify over half the proposals reviewed. They are very concerned with informed consent and require modifications regarding informed consent in one-fourth of the proposals reviewed. There is a clear tendency for IRBs to approve research in which risk is related to benefits to subjects. On the negative side, IRBs' attention to the issue of informed consent is almost exclusively confined to consent forms, with IRBs having little other impact on the process by which consent is obtained. Nevertheless, consent forms were frequently deficient in content and tended to be difficult for the average layman to understand. Furthermore, no evidence was found that IRBs help to improve consent forms. Forms that are difficult to understand when first submitted to IRBs are no more understandable after they pass the review. Neither are they more complete.

IRB members and investigators were virtually unanimous in agreeing that the IRBs at their institutions help to protect the rights and welfare of human subjects, and most agreed that the procedures are reasonably efficient and even that they have had the effect of improving the scientific quality of research. There are some serious criticisms of IRBs as well, particularly from among social and behavioral researchers. Nonetheless, researchers as well as IRB members seem to recognize the need for the review of research, to accept the legitimacy of IRBs, and to be prepared to play a role in supporting the work of IRBs.

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Table 2

Attitudes of Different Types of Investigators and Review Committee Members Toward the Review Procedure and Committees

	Percent Agreeing with Each Statement					
	Review Board Members			Research Investigators		
	Biomedical Sciences (N=370)*	Behavioral & Social Sci. (N=135)*	Other (N=220)*	Biomedical Sciences (N=940)*	Behavioral & Social Sci. (N=395)	Other (N=180)
The human subjects review procedure has protected the rights and welfare of human subjects --at least to some extent.	99%	99%	99%	99%	96%	98%
The review procedure has improved the quality of scientific research done at this institution--at least to some extent.	78	62	70	69	55	83
The review procedure runs with reasonable efficiency--at least to some extent.	99	96	99	96	94	94
The review procedure is an unwarranted intrusion on an investigator's autonomy--at least to some extent.	13	11	6	25	38	23
The review committee gets into areas which are not appropriate to its function--at least to some extent.	39	24	27	50	49	39
The review committee makes judgments that it is not qualified to make--at least to some extent.	28	21	20	43	49	25
The review procedure has impeded the progress of research done at this institution--at least to some extent	26	30	22	43	54	36

* N's are approximate since non-response varied from item to item.

conferred may have little significance

CHAPTER 3. LEGAL ASPECTS OF INSTITUTIONAL REVIEW BOARDS

While the courts have not been directly involved, a number of legal issues—including questions related to federal spending power, academic freedom, due process, tort liability, and open meetings and records—are relevant to the operation of IRBs.

Federal Spending Power. An IRB is created by the institution in which it operates. The institution selects the members and invests the IRB with authority to review research according to standards adopted by the institution. To obtain federal research funds, however, the institution must conform the composition, structure and duties of its IRB to DHEW regulations issued pursuant to the National Research Act (1974),(*1*) which directed DHEW to require that any institution receiving support must establish an IRB to review "research involving subjects conducted at or sponsored by the institution." Despite some ambiguity in the Act and in regulations implementing this directive,(*2*) DHEW requires IRB review of all research involving human subjects, whether or not federally funded. Although the power of Congress to regulate nonfunded activities through the funding power has been challenged in other contexts, it has not yet been definitively settled.(*3*) If the courts restrict Congress' power to regulate nonfunded activities as a condition of federal funding, however, it is likely that they will permit regulation of nonfunded activities when reasonably related to the purpose of the federal spending.(*4*)

If the purpose of research support by DHEW is to promote ethically conducted research involving human subjects, it could be argued that application of the regulations to all such research, whatever the funding source, reasonably advances protection of subjects in the DHEW-funded research. Requiring the same rules for all research in a given category might make the institution generally more aware of problems in protecting subjects and overseeing research, and might induce greater awareness, commitment and consistency in ethical concerns among investigators, all of which would enhance ethical conduct of federally funded research. While it could also be argued that review of all research is not essential to the protection of subjects in funded research and in some cases might even undermine that goal,(*5*) the condition appears closely enough related to the purpose of assuring ethically conducted research in the funded program to satisfy a rational relation test.(*6*)

Academic Freedom and Free Inquiry. Some have argued that the requirement of prior review and approval by an IRB violates constitutional rights of academic freedom and free inquiry. This question has not been specifically addressed by the courts, nor has a constitutional right to do research been recognized. Yet there is good reason to believe that if a case arose, the Supreme Court would recognize a First Amendment "right to research."(*7*) Such constitutional protection would not be precluded because research contains elements of conduct.(*8*) It would be anomalous if the publication and reading of a scientific article could not be prohibited, but the research that must occur before it were published could be.

If research is within the ambit of the First Amendment, then the government cannot regulate or restrict it on the basis of the ideas or knowledge sought (its "content"), but only on the basis of the manner in which the research is carried out. Thus, the state may not interfere with the researcher's choice of the end or topic of research, but may regulate only the methods used in the research, in order to protect interests in health, order and safety with which unrestricted research might conflict. Such restrictions are valid if they are reasonably related to protection of nonspeech interests and are not so vague and overbroad that they chill the exercise of protected speech. Thus, the state may restrict research methods to protect the health or autonomy of subjects, or the safety of the surrounding community, even if, in some instances, the restrictions prevent the research altogether. It could not, however, ban a study on the ground that the knowledge sought was undesirable unless it presented a clear and present danger of substantive harm within the state's power to prevent. Moreover, the clear and present danger test is a strict one, and requires that the harm from the knowledge sought be both imminent and substantial;(*9*) public offense or dislike for particular knowledge would not satisfy the test.

The IRB review process is essentially a system regulating the manner of conducting research in order to protect the interests of subject—interests which are independent of the knowledge sought or the uses to which it will be put. The researcher remains free to investigate the topic, as long as he uses methods that will not harm subject interests that the state or institution may validly protect.

Where the IRB system is imposed on researchers as a condition of employment, matriculation or receipt of research funds, the same constitutional limitations will not apply. Neither the government nor a university has a legal obligation to support research of any particular kind, nor hire researchers in any particular area.(*10*) Research allocation decisions may be based on an assessment that the research is important, acceptable to the community, or meets some other reasonable purpose of public spending. Thus, an institution may empower the IRB to apply both content and manner restrictions to research that it funds, whether or not such a system would be constitutional if directly imposed by the state on nonfunded research.

However, in imposing restrictions, the institution may restrict research only if it follows its own goverance procedures, which are usually incorporated into the investigator's contract of employment with the institution. Failure to follow those procedures may bar the institution from imposing sanctions on an investigator who fails to comply with IRB requirements. It may also technically invalidate institutional assurances, because the IRB would lack authority to do what it is assuring it will do.(*11*)

The need to observe governance procedures incorporated in employment contracts also applies to research in nonacademic settings, such as hospitals and private firms. Hospitals and health care institutions may regulate research conducted by their staff and on their premises, within the limits of the contractual relationship with research staff. If hospital by-laws allocate authority over these decisions to the medical staff or board of directors, then regulation can occur only if formally voted by these bodies. Private research firms or organizations may also be bound by contractual arrangements with staff.

Due Process. When an IRB modifies or disapproves research protocols, the liberty or property interests of investigators may be sufficiently affected to bring to bear the procedural due process rights developed by the Supreme Court in recent years for persons adversely affected by governmental decisions.(*12*) Since these rights attach only when there is "state action," they bind only those IRBs located in public institutions.(*13*) Unlike First Amendment rights, they probably cannot be withheld or waived as a condition of funding.(*14*) IRBs in private institutions are not presently required to recognize these rights unless they are independently a part of their rules, regulations or by-laws and hence part of a researcher's contract with the institution, or required by state law.(*15*)

Once the threshold of governmental action affecting a liberty or property interest is crossed, the question then arises of what process is due the investigator. The IRB must of course act reasonably in applying criteria for protection of subjects, and it ordinarily cannot impose conditions or act on considerations not reasonably related to subject protection or other valid in-

stitutional concerns. Beyond a right to nonarbitrary action, the courts repeatedly emphasize the flexible or contextually relative nature of due process, finding different elements required in the particular circumstances of different decision-making contexts. However, the minimum required in any context is "some kind of notice and some kind of hearing"—notice that adverse action may be taken and its basis, and a chance to respond before a deprivation occurs.(*16*)

In the ordinary case of initial or continuing review, it should be constitutionally adequate if an IRB that plans to disapprove or require modifications in research informs the investigator of this possibility, with reasons, and of the opportunity to request reconsideration and personally appear before the IRB at its next meeting. In fact a recent case involving academic dismissal from medical school(*17*) suggests that as long as the investigator has had the opportunity to present a written response to the IRB's decision, no formal hearing may be required. Such procedural safeguards as a right to counsel, cross-examination of adverse witnesses, burden of proof, and other elements of due process might be required in particular cases where an institution is imposing sanctions for unethical conduct or noncompliance with IRB conditions, but they probably are not required of IRBs in the ordinary course of initial and continuing review. Nothing, of course, prevents an institution or DHEW from requiring the IRB to extend procedural safeguards beyond the legal minimum. Due Process has never been held to include a right to appeal from an adverse governmental decision, civil or criminal.

Tort Liability. IRB members may be personally liable to subjects and investigators for "malpractice" or negligence in discharging their IRB functions. At the present time, few IRB members have been sued, though members of other medical peer review committees occasionally have been.(*18*) However, the possibility may affect the recruitment of IRB members, the scope of review, and the need to develop other systems of accountability.

On the principle that one who undertakes to protect others must act responsibly, IRB members could be liable if they did not exercise reasonable care in carrying out review. This might occur if their approval led to a research activity and injuries that would not have occurred if a reasonable person, confronted with the same information, would have placed conditions on the research that would have prevented the injury. Thus, an injured subject could allege negligence by IRB members in assessing the risks and benefits of proposed research, or in approving consent procedures not reasonably likely to assure legally effective consent. Negligence may also exist if continuing review of research is so perfunctory that subjects suffer preventable injuries or if the IRB knowingly permits evasion or noncompliance with the review process.

An investigator may also sue individual IRB members for negligent or malicious review that damages the investigator's legally protected interests. For example, if an investigator lost a research grant or otherwise suffered damages as a result of IRB decisions not taken in good faith, in timely fashion or with reasonable care, the investigator could claim tortious interference with business or contractural relations, though recovery would probably depend upon establishing malice or gross negligence. An investigator might also claim defamation against persons reporting incorrect information about his or her qualifications or conduct of research to an IRB, or against IRB members who convey such information to other IRB members.

In all these situations the law will probably hold IRB members to a standard of due care in assessing the risks, benefits and procedures for protecting the rights and welfare of subjects and interests of investigators. If failure to exercise due care in reviewing or monitoring research is causally related to a subject's or an investigator's injuries, then personal liability may be found. An IRB member will, of course, have the ordinary defenses of lack of negligence and causation. If the use of ordinary, reasonable care in decision-making can be established, there would be no liability. Even a lack of ordinary care will not lead to liability unless the plaintiff can establish that it proximately caused the injury; if the injury would have occurred even though the IRB had taken proper action, there is no liability. In jurisdictions where the doctrines of sovereign or charitable immunity protect the institution from the liability for actions of its IRB, IRB members could escape personal liability if they were deemed to be working as institutional officers in their IRB roles.

In some states IRB members may also have a defense based on statutes(*19*) that provide immunity for the decisions of medical peer review committees. These statutes were enacted to encourage thorough peer review by protecting members from suit. While they do not appear intended to include IRBs, their language in some instances may be broad enough to justify an argument that IRBs functioning as official hospital or medical staff committees are covered. But even if IRBs functioning in hospitals were held to be within such statutes, the immunity conferred may have little significance. Nonhospital based IRBs (the vast majority), and in many cases lay members of such committees, are not covered. Moreover, they generally provide immunity only against strict liability and may offer little protection against suits based on negligence. While it is conceivable that some courts would apply these statutes to claims of negligence against IRB members, the limited scope of protection they provide and the uncertainty of their coverage suggest that they will have little impact on the potential liability of IRB members.

In most jurisdictions, an IRB member or other person sued by an investigator for defamation may also have a defense of qualified privilege for statements made to the IRB in good faith without malice.(*20*) Since the purpose of the privilege is to encourage socially useful information, it would probably apply to statements relevant to the IRB's function of protection subjects. A qualified privilege may also be established by having the investigator agree as a condition of employment to waive any claim against persons who provide the IRB information about the investigator's qualifications or conduct of research, a procedure often used in applications for hospital staff privileges.(*21*)

Although liability for negligent IRB activities may be justified as a means to encourage IRB members to act responsibly, the possibility of liability may pose problems. While suits by investigators or subjects against IRBs have been extremely rare, some people may not serve on an IRB if they know that they risk suit. This fear could be minimized if institutions insured IRB members against liability. Where institutional employee status is necessary for insurance coverage, nonemployee IRB members, such as community members, could be made employees or agents of the institution for that purpose (this would not change their community status for purposes of meeting the DHEW membership requirements).(*22*) Since insurance against personal liability should eliminate reluctance to serve on IRBs, it may be unnecessary to provide immunity from all suits.

Compliance with IRB review requirements could possibly affect the tort liability of investigators who injure subjects in research that is unreviewed or not in compliance with IRB restrictions. In negligence *per se* jurisdictions, violation of IRB rules could be taken as evidence of negligence. In other jurisdictions, the widespread use of IRBs in the research community may create a standard of care for the conduct of all research. In both cases an injured subject would have to establish causation—that IRB

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review would have averted the injury of lead to a different decision on consent.

Compliance with IRB review and approval conditions, however, will not necessarily shield researchers from liability. Approved procedures may be negligently carried out. In addition, while IRB approval may indicate whether research itself, in light of risks to subjects, is negligent, it would not foreclose a subject's claim that both the IRB and research have been negligent in reviewing and conducting the research at all. Nor is an IRB's view of adequate disclosure in the consent process determinative if state law requires more complete disclosure.

Public Access to IRB Meetings. Institutions vary in the openness of their IRB meetings. Although federal open meeting laws are not applicable, IRBs functioning in state, county or municipal institutions may not be legally free to decide whether their meetings shall be open or closed. State "sunshine" laws may require public access to IRB meetings, since IRBs may be considered public or governmental bodies within these statutes.(*23*) They are created by and function as instrumentalities of public institutions, such as state universities and hospitals, to which open meeting laws clearly apply. As subunits of governmental agencies, these IRBs would appear to be covered in some states. Whether they qualify depends on the wording of particular statutes and how courts confronted with the question will interpret them.

An IRB that is covered by a state open-meeting law must provide access to meetings to all members of the public, including investigators, subjects, subject representatives, and the press. As a corollary, the IRB must also give prior public notice of the time and place of its meetings. However, IRBs may generally hold closed sessions for certain matters, usually of a disciplinary or personnel nature.(*24*) An IRB, for example, could meet in executive session to decide whether to hire a particular staff person, recommend new members, or discuss an investigation or disciplinary action against a particular investigator. There might also be an exception if open consideration of a protocol involved discussion of the investigator's competence or jeopardized proprietary or patent interests.

Retention and Confidentiality of IRB Records. IRB review of research generates a variety of documents, including research protocols, consent forms, conditions of approval, requests for reapproval or changes in protocols, reports of adverse effects and continuing review, minutes of meetings, correspondence with investigators, and the like. Section 46.119(a) of the DHEW regulations requires retention of "copies of all documents presented or required for initial and continuing review" by the IRB. State laws requiring maintenance and retention of patient records for varying lenghts of time are not applicable to IRB records, even when the IRB functions in a hospital or medical school, for these laws pertain only to the patient's medical record and not the the records of hospital governance or peer review committees. (*25*) Thus, research activities carried out on hospital patients must be made part of the patient's chart and retained in this form as long as hospital records in that jurisdiction are retained.

In general, IRB records are not confidential unless they identify individual subjects who are patients; however, § 46.119(b) of the DHEW regulations prohibits disclosure of IRB records that identify particular subjects. Beyond these limitations, the institution of IRB may choose to make IRB records available to the public, the press or other investigators, except possibly where researchers could claim a confidential relation.(*26*) A more common practice is for institutions to treat IRB records as nonpublic documents. However, an institution's authority to withhold IRB records may be limited. IRBs in public institutions may, under open meeting and public records statutes, be required to make their records available, even though federal policy may permit the same protocol to be withheld until a project is funded.(*27*) Open-meeting laws generally require public access to the minutes of meetings as well as the meetings themselves. It is unclear, however, whether access to the minutes includes access to all written materials provided to IRB members, such as protocols and reports of monitoring, or merely the record of formal votes.

Whether or not a public IRB is covered by a state open meeting law, it may have an obligation to disclose protocols and other IRB materials under public records or state freedom of information statutes, which are often different in origin and coverage than sunshine laws. An IRB might not be a "state agency" or "governing body" for open meeting purposes, but may be a "public agency" or "local agency" for public records laws. If covered by these statutes, the IRB would also probably have to disclose protocols and other reports used or recieved by an IRB in the course of its business. While some "public records" may be exempted from disclosure if they meet statutory exemptions, as might occur with IRB monitoring of particular investigators or if patent or proprietary rights would be threatened, protocols of proposed research will probably not fit those exceptions and would have to be revealed.

Records of IRBs located in both public and private institutions may be subpoenaed in suits brought by subjects against investigators or by injured research subject who is suing the investigator (but not the IRB) would be able to discover and admit into evidence IRB records pertaining to conditions or restrictions which the IRB placed on proposed research. If the material sought from the IRB concerns its evaluation or assessment of how an investigator has carried out authorized research, however, the records probably would be held to be privileged.(*28*) Most states exempt such records from disclosure in order to encourage full and candid discussion of activities reviewed, a privilege likely to extend to IRB records as well.

FOOTNOTES

1. 42 U.S.C. 289L-3(a). The regulations now contained in 45 CFR Part 46 were first issued on May 30, 1974, 39 FR 18917, before passage of the act, and have been supplemented with provisions for research with pregnant women and fetuses. 45 CFR § 46.201-46.211. 40 FR 33528, August 8, 1975.

2. *See, e.g.*, 45 CFR 46.101(a), 46.102(a), 46.105(2).

3. For a discussion of this question and the Buckley Amendment, *see* Comment, "The Federal Conditional Spending Power: A Search for Limits," 70 *Northwest L. Rev.* 293, 310-321 (1975). It has also been raised in connection with Title IX of the Education Amendments of 1972, 20 U.S.C. 1232g.

4. *Id.* at 298-302. *See also United States v. Butler*, 297 U.S. 1 (1936); *Steward Machine Co. v. Davis*, 301 U.S. 548 (1937).

5. It might undermine that goal if review of nonfederally funded research was so time-consuming that the IRB could not give proper attention to federally funded research. Or the hostility engendered in investigators by such a requirement could undermine the efficacy of review of DHEW-funded research.

6. Since the facilities, devices, and even ideas used in non-funded research may have at some point been in interstate commerce, and the results of the research, if published or disseminated to others, might enter commerce, an alternative basis for upholding Section 212(a) would be as an exercise of the commerce power. (This justification would not apply if an investigator or institution could show that nonfederally funded research had no contact at all with interstate commerce.) Given the judicial tendency to interpret broadly interstate commerce, it would be difficult to show that the regulation did not affect interstate commerce. *See, e.g., Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964); *Fry v. United States*, 421 U.S. 542 (1975).

7. *See* Robertson, "The Scientists' Right to Research: A 'Constitutional Analysis,'" *Univ. So. Calif. L. Rev.* (1978) (in press).

8. *United States v. O'Brien*, 391 U.S. 367 (1968).

9. *See generally, Schenck v. United States*, 249 U.S. 47 (1919); *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

10. *Stewart Machine Co. v. Davis*, 301 U.S. 548 (1937); *Maryland Public Interest Research v. Elkins*, 565 F.2d 864 (4th Cir. 1978).

45 CFR 46.104(b).

Board of Regents v. Roth, 408 U.S. 564 (1972); *Goldberg v. Kelley*, 397 U.S. 254 (1970); *Goss v. Lopez*, 419 U.S. 565 (1975). *See also, Board of Regents v. Horowitz*, 98 S.Ct. 948 (1978).

13. Unless there were a sufficient nexus between the state and the private entity to constitute state action under recent Supreme Court decisions. *See Moose Lodge No. 1070 v. Irvis*, 407 U.S. 163 (1972); *Jackson v. Metropolitan Edison Co., 419 U.S. 345 (1975).*

14. Otherwise the state could eliminate all procedural due process protections in hiring and other contexts by making waiver of due process a condition of the grant or benefit. *See Arnett v. Kennedy*, 416 U.S. 134 (1974); *Bishop v. Wood*, 426 U.S. 341 (1976).

15. *See, e.g., Greisman v. Newcomb Memorial Hospital*, 192 A.2d 817 (N.J., 1963).

16. *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Dixon v. Love*, 428 U.S. 406 (1977); Mashaw, "The Supreme Court's Due Process Calculus for Administrative Adjudicating in *Mathews v. Eldridge*: Three Factors in Search of a Theory," 44 *U. Chi. L. Rev.* 28 (1976).

17. *Board of Curators v. Horowitz*, 98 S.Ct. 948 (1978). *See also Mathews v. Eldridge*, 424 U.S. 319 (1976), in which a personal hearing prior to termination of social security disability benefits was not required. The value of that additional protection, given the narrowness of the issue and the opprotunity of the applicant to present his case in writing, was held not to justify the cost of providing the hearing.

18. *See, e.g., Purcell v. Zimbelman*, 500 P.2d 335 (Ariz. (1972). The chairman of the University of Maryland Medical School's IRB has been sued for approving research projects with jail inmates that did not provide for adequate informed consent. *Baily v. Mandel*, Civil Action No. K-74-110 (D.C. Md. 1974). *See also Nielsen v. Regents of the University of California*, Civil No. 665-049 (Superior Court of California, County of San Francisco, filed September 11, 1973), where an IRB member sued other IRB members to enjoin them from "approving, aiding, or abetting" a research project involving children.

19. For a general account of these statutes, *see* Reed Hall, "Hospital Committee Proceedings and Reports: Their Legal Status," 1 *Amer. J. Law and Med.* 245 (1975).

20 *Id.* at 254-258 and cases cited.

21. The standard disclaimer in many applications for hospital privileges is most likely immune from attack as unconscionable. *See* Hall, note 19 *supra; cf. Tunkl v. Regents of University of California*, 60 Cal.2d 92, 383 P.2d 441 (1963).

22. 45 CFR 46.106(b)(2).

23. *See generally*, D. Wickman, "Let the Sun Shine In," 68 *Northwestern L. Rev.* 480 (1973); *McLarty v. Board of Regents*, 200 S.E.2d 116 (Ga. 1973); *Cathcart v. Anderson*, 630 P.2d 313 (Wash. 1975).

24. *See generally*, Wickman, note 23 *supra* at 483-486. Not all state statutes provide for exceptions. *See, e.g.*, Fla. Stat. § 286.011 (1975).

25. Aspen Systems Corporation, *Hospital Law Manual*, pp. 2-5, 1977. Since an exhaustive survey of hospital record requirements in every state has not been made and individual states might now or in the future require retention of hospital peer review committee records, individual hospital-based IRBs should consult regulations applicable to them.

26. It is not clear whether under state law such a right would exist.

27. *See* National Commission for the Protection of Human Subjects, *Disclosure of Research Information Under the Freedom of Information Act*, DHEW Publication No. (OS) 77-0003, April 1977, pp. 7-15.

28. *See generally* on immunity of hospital committee records from discovery and admissibility, Hall, note 19 *supra;* Jacobs *et al.*, "Objection Overruled: The Fear That Quality Review Documents are Discoverable or Admissible in Court is Unfounded," *Quality Review Bulletin*, Jan./Feb. 1976, p. 28; *Bredice v. Doctors' Hospital, Inc.*, 50 F.R.D. (D.C. 1970).

CHAPTER 4, FEDERAL POLICIES FOR THE PROTECTION OF HUMAN SUBJECTS

Introduction. A survey of the policies, regulations, etc. for the protection of human research subjects at the various departments and agencies of the Federal government was conducted by the Commission's staff in 1975 and updated at the end of 1977. In the first phase, 61 federal departments and agencies* were queried to determine whether they conduct or support research involving human subjects and, if so, what policies or regulations are in force to protect the subjects. Twenty departments and agencies other than DHEW reported that they conduct or support research involving human subjects.** Four of these have components that operate under their own policies for the protection of human subjects, and, accordingly, the survey reports on 28 federal entities that conduct or support research involving human subjects outside the regulatory authority of DHEW.

As a result of the update, in which agencies were given the opportunity to comment on summaries of their original responses and to provide any revised materials, it is believed that the survey covers all federal policies and regulations for the protection of human research subjects in effect on January 1, 1978.

Summary. It is clear that DHEW has been preeminent in the area of protection of human subjects of research. Almost all the other agencies that have formal policies or regulations governing such research follow (to a greater or lesser extent) the standards and procedures of DHEW; roughly half of these agencies impose additional requirements. The degree to which the other federal agencies monitor implementation and compliance varies, however; and nine agencies conducting or supporting research with human subjects have no formal policies to assure the protection of human subjects. Thus, the degree of protection afforded subjects of federally funded research varies from nonexistent to standards that exceed those imposed by DHEW. The norm, however, is substantial conformity with present DHEW regulations.

Of the 19 federal entities other than DHEW that have formal policies or regulations governing research with human subjects, 17 adopt DHEW standards and procedures to a substantial degree, and most of these cite DHEW regulations or policy as a reference. Among these 17 are four that follow DHEW regulations strictly, eight that follow DHEW regulations but impose some additional requirements (regarding composition of review boards, standards of review, or provisions for selection of subjects or informed consent) and five that have policies similar to those of DHEW without adopting DHEW regulations specifically and in their entirety. In a few instances, there is a different standard for triggering the provisions of the regulations.

Approximately one-third of the government entities that support or conduct research with human subjects have no formal policies or procedures to protect such subjects; however, most of the research supported by those agencies consists of questionnaires and surveys (activities about which there is presently no uniform understanding with respect to the nature and extent of protective mechanisms that should be applied). Only two agencies—the Law Enforcement Assistance Administration (LEAA) and the Department of Housing and Urban Development (HUD)—support research involving active intervention in the lives or behavior of subjects and have no formal policies or procedures for reviewing the ethical acceptability of such research or for assuring the adequacy of informed consent.

Findings. Twenty federal departments or agencies, other than DHEW, reported that they conduct or support biomedical or behavioral research with human subjects. Four of these (the departments of Commerce, Defense, Justice and Transportation) have separate subsidiary components that operate under their own policies or regulations for the protection of human subjects. Thus, there are a total of 28 federal entities that regulate the conduct or support of research with human

*Of the 77 federal agencies listed in the *U.S. Government Manual*, 16 were excluded as highly unlikely to conduct or support research with human subjects. Such agencies included, for example, the Federal Property Council, the American Revolution Bicentennial Commission, the Farm Credit Administration, and the Overseas Private Investment Corporation.

**In 1975, 21 agencies reported that they conduct or support research with human subjects; however, two of these were subsequently combined in the Department of Energy, reducing the number of agencies that conduct such research to 20.

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subjects outside the authority of DHEW.

Of the 28 federal entities, nine have no formal policies or regulations for the protection of human subjects. Three of these are within the Department of Transportation, which is in the process of developing departmental regulations in this area. Four others are involved primarily in survey research entailing no intervention in the lives or activities of the subjects: the Civil Service Commission, the Commission on Civil Rights, the Internal Revenue Service and the United States Information Agency. Although their activities fall within the Commission's definition of research with human subjects, it should be noted that data gathering, in and of itself, has not universally been considered "research with human subjects." Since the Privacy Act of 1974 sets forth conditions for maintaining confidentiality of data and the Office of Management and Budget reviews the appropriateness of all questionnaires sent out by federal agencies, there would appear to be minimal risk presented to respondents of such surveys. Real concern is raised only with respect to the remaining two agencies that lack formal policies, LEAA and HUD. Both of these agencies support behavioral or social research involving systematic changes or interventions in people's lives for the purpose of determining the effects of an intervention or comparing the effects of one intervention with those of another. This clearly constitutes research with human subjects. LEAA states on the record that it does support behavioral research involving human subjects***; HUD states that it does not. This problem is explored more fully, below.

Three departments have review procedures designed to assure technological soundness of the research and safety of the subjects, but have no review of ethical acceptability of research *per se*. The National Oceanic and Atmospheric Administration and the Federal Aviation Administration require technical review, safety provisions, fitness standards and medical supervision.(*1*) Similarly, although the Navy adopts DHEW standards and procedures for its intramural research, it requires of contractors only that they make adequate safety provisions and conform to the ethical standards of the American Medical Association.(*2*)

Five agencies have formal policies or regulations that are substantially similar to, but not entirely consistent with, those of DHEW. For example, the Bureau of Prisons requires local review by a board composed of two prison officials, a research analyst, a psychologist, an inmate, a representative of the employees union and a representative of the community. Although the consent provisions adopted by the Bureau are those of DHEW, the review standards differ. Proposals are reviewed for relevance to the mission of the Bureau, potential benefits to mankind, professional standing of the investigator, and assurance that the research will not adversely affect ongoing programs. The Bureau also requires all research involving inmates to be approved by the Director of Prisons, and it absolutely prohibits medical experimentation and drug testing. The Bureau is "guided by" the Nuremberg Code and states that it relies on the investigators to protect the rights and lives of subjects. (*3*) Similarly, the National Aeronautics and Space Administration (NASA) adopts the review standards and consent provisions of DHEW, but the IRBs that review research consist entirely of NASA personnel, primarily staff physicians and scientists. In one research center, a representative from the office of general counsel is also included; in the other research center, a personnel officer is included. Following review by the IRB, all research proposals must receive the approval of the installation's medical officer, general counsel and safety officer before being forwarded to the director of the installation for final review and approval. (*4*) Other agencies that follow DHEW standards or procedures with some variation include: the clinical investigation program of the Air Force, the Bureau of Standards, and the Agency for International Development.

Four agencies adopt DHEW regulations by reference, with no additions or modifications: The Consumer Product Safety Commission, the Department of Energy, the National Academy of Sciences, and the National Science Foundation. Eight agencies adopt DHEW provisions br reference but add various other provisions relating to applicability, IRB composition, review standards, consent procedures and selection of subjects. For example, the Environmental Protection Agency (EPA) exempts from its regulations opinion polls and questionnaires, projects involving merely collection of blood, urine, mothers' milk or nonviable fetal tissue, and medical observations that are not preceded by purposeful exposure to chemcials or environmental conditions under investigation. (EPA is developing a different set of regulations to govern such activities.) EPA also prohibits testing for possible carcinogenic effects on human subjects.

With regard to IRB composition, the Army and the Air Force require that the IRB include a lawyer and a clergyman; the Air Force adds that there should be three lay members of the IRB but that the chairman should be a physician. The draft Intelligence Community Directive contains the provision that no more than one-half of the members of an IRB may be members of the Intelligence Community.

Some agencies impose review standards additional to those of DHEW, including: prior animal studies, use of minimal number of subjects and avoidance of unnecessary physical and mental discomfort (Army, Navy and Air Force); performance of adequate physical and psychological examinations before, during and after participation in research, and provision of compensation that will be commensurate with the risk involved but not so excessive as to constitute undue inducement (National Highway Traffic Safety Administration). With respect to informed consent, the Army, Navy and Air Force require the consent procedure to be witnessed in all cases, and the Red Cross requires investigators to inform subjects of any abnormalities discovered during the conduct of the research but to keep such information confidential unless specifically released from that requirement by the donor (subject) or the donor's legal representative. The Army, Navy and Air Force also have special consent provisions for children and the mentally disabled.

In addition, the Department of Agriculture requires that selection of subjects be made without regard to sex, race, color, religion or national origin unless these characteristics are factors to be studied, and it specifically excludes pregnant and lactating women from studies involving food additives or chemicals not recognized as safe by the Food and Drug Administration (FDA), EPA or the Animal and Plant Health Inspection Service. Similarly, the Army and Navy (but not the Air Force clinical investigation program) exclude prisoners from participation in research; the Navy also excludes the institutionalized mentally infirm. The Air Force aerospace research program excludes children, prisoners, the mentally incompetent and females (unless there is resonable assurance that there is no concomitant pregnancy and methods adopted for contraception assure against increased risk).

Miscellaneous provisions include requirements that investigators conform to the provisions of the Privacy Act of 1974 and, in some instances, that such fact be disclosed on the consent form. Several agencies require debriefing following research involving incomplete disclosure, the Veterans Administration provides a mechanism for appeal from an IRB's decision, and the Army, Navy and Air Force specifically provide for treatment of injuries arising as a consequence of participation in research. Finally, a number of agencies specifically apply their regulations to research conducted outside the United States and require that such research conform, in addition, to the legal and ethical standards of the country in which the research will be conducted.

Problems Identified. As the preceding discussion makes clear, the protection of human subjects in federally funded research is far from uniform despite the great number of agencies that substantially follow the standards and procedures of DHEW. The extent of protection ranges from nonexistent to a plethora of requirments imposed in addition to those of DHEW regulations. Just as the lack of formal policies and regulations is a serious problem, so too is the confusion that may result from the many variations presented by agencies that have imposed manifestly reasonable but diverse additions or modifications to the DHEW standards. An IRB that reviews projects funded by different agencies must face the difficult task of satisfying multiple (and perhaps incompatible) requirements regarding applicability of the regulations, IRB composition, review standards, consent procedures, selection of subjects and so forth. To do so requires referral to the funding agency's particular provisions after first identifying the source of support for each proposed project. The administrative burden imposed thereby can be immense; and the problem is compounded by the fact that some projects receive support from two or more federal agencies.

Another problem arises from the lack of a uniform definition of "research with human subjects." Thus, when federal agencies conduct or support social experimentation, they may not consider it necessary to apply procedures for the protection of human subjects. For example, HUD submitted a number of printed materials to the Commission describing its housing allowance "experiments" in which subjects are selected according to predetermined criteria, assigned to different "treatment groups" according to the research "design," and followed for a period of years through periodic interviews and inspections to determine the different effects on the recipients' behavior of the various housing allowance schemes under study. (*5*) Nevertheless, despite the fact that HUD describes the "experiments" in terms of a systematic intervention into people's lives in order to gather data by which to answer specific questions, the department stated in response to the Commission's inquiry that HUD has "never sponsored any human subject or biomedical studies." (*6*)

Similarly, in 1975 Medicaid recipients successfully challenged an experiment (supported by DHEW) designed to assess the effects of requiring a copayment for medical care, on the grounds that it had not been reviewed by an IRB (*Crane v. Mathews* (*7*)). The Secretary of Health, Education, and Welfare argued that the project was not "research with human subjects" and that therefore the review requirements were not applicable. the court disagreed and stopped the project pending review and approval by an IRB.*

These examples suggest that the term "research with human subjects" is not uniformly understood. A uniform definition would be helpful to Federal agencies that may be unsure as to whether certain programs which they support fall within the category of activities to which procedures for the protection of human subjects should apply.

Another problem is the lack of central coordination of research activities in some departments, and the absence of high-level staff sufficiently knowledgeable to supervise the protection of human subjects in projects conducted or supported by various components of the department. For example, EPA reported in 1975 that "it is the policy of the Environmental Protection Agency to comply fully with the policies and practices established by the Department of Health, Education, and Welfare to protect human subjects in our research program." (*9*) This statement, however, apparently referred only to research conducted under the auspices of EPA's Environmental Research Center at Research Triangle Park, North Carolina. It appears that other components of EPA also supported research involving human subjects, but without the constraints imposed upon the research conducted at Triangle Park. It was recently revealed (*10*) that a contract with a Mexican gynecological hospital to study the effects of ingesting a massive amount of fungicide narrowly missed being put into effect. The original plan had been to conduct the tests in the U.S., but the IRB that reviewed the protocol found the risks excessive. It was reported that EPA staff therefore agreed with the contractor to conduct the tests in a Mexican gynecological hospital, but a fortuitous review prevented approval of the contract. EPA has since forbidden the testing of carcinogens on human subjects under its auspices and has required that all future EPA research comply with DHEW regulations for the protection of human subjects. (*11*)

Similarly, although DHEW regulations "are applicable to all Department of Health, Education, and Welfare grants and contracts supporting research, development, and related activities in which human subjects are involved," (*12*) implementation of the regulations is not uniform within the Department. For example, the Education Division (which includes the National Institute of Education (NIE), the Office of Education (OE) and the National Center for Education Statistics) takes the position that it is not subject to the Department's regulations because it has statutory authority to write its own regulations. (*13*) Therefore, present NIE and OE regulations require that research conducted or supported by the components of the Education Division comply with the DHEW *Grants Administration Manual* Chapter 1-40 and the DHEW Procurement Rules. (*14*) These both require IRB review only when the investigator determines that the research subjects will be at risk (as was the case in earlier DHEW policy). The Center for Disease Control (CDC) also follows the old Institutional Guide to DHEW Policy, in which IRB review is not triggered unless the investigator determines that the subjects of his or her research will be at risk. (The Commission has been advised that CDC's policies will be updated "in the near future" to incorporate the provisions of current DHEW regulations and the Commission's recommendations on research involving children. (*15*)

The regulations of FDA governing research regulated by that agency in the course of approving applications for new drug investigations and licensing, differ from the regulations governing research supported by DHEW in that IRB review is required by FDA only when the subjects of the research are institutionalized, or when the investigator already is "affiliated with an institution which agrees to assume responsibility for the study." (*16*) Investigators lacking such affiliation apparently may conduct research with human subjects without such review. (The Commission has been informed that FDA is drafting proposed regulations that would extend the requirement for IRB review to all human experimentation under its regulatory jurisdiction, thus conforming to regu-

***LEAA specifically prohibits the use of its funds for biomedical research except for projects generally recognized and accepted as not involving physical or psychological risk to subjects, and specifically approved by the Office of Administration after consultation with DHEW.

*An IRB subsequently reviewed the project and determined that the subjects would be at risk of physical harm as a result of being required to pay for necessary medical care. The IRB further determined that the benefits of the proposed research did not outweigh the risks and that the research design was "so seriously inadequate that it would be very unlikely to provide any accurate or reliable information upon which to base policy decisions regarding Medicaid copayments." It therefore disapproved the project.

THURSDAY, NOVEMBER 30, 1978

lations governing research conducted or supported by DHEW.) FDA regulations also permit a waiver of the consent requirement if the investigators "deem it not feasible or in their professional judgment contrary to the best interests" of the subjects. (*17*) This is explained as applying to cases in which (1) the communication of information to obtain consent would seriously affect the patient's well-being or (2) the patient is in a coma or is otherwise incapable of giving consent, his representative cannot be reached, and it is imperative to administer a drug without delay. (*18*)

In summary, most of the departments and agencies of the federal government that have formal policies or regulations governing research with human subjects follow the standards and procedures of DHEW, at least to some extent. However, the nature and extent of the deviations from the DHEW regulations are such that the protection of human subjects in federally funded research is far from uniform, and the administrative burden of implementing diverse sets of standards is unnecessarily great. Further, some agencies have no policies or regulations governing such research because, in large measure, there is confusion regarding the kinds of activities to which such regulations should apply.

FOOTNOTES

1. National Oceanic and Atmospheric Administration, Department of Commerce, NOAA Diving Regulations, *NOAA Diving Manual*, Appendix C, U.S. Government Printing Office, Washington, D.C., 1975; Federal Aviation Administration Order 9950.3A (December 6, 1974).

2. Office of Naval Research, Code 600 Memorandum No. 97A (27 March 1974).

3. Bureau of Prisons, Draft revision of October 1967 Policy Statement 6110.1, to be published in Spring 1978; Policy Statement 3700.3 (June 10, 1977).

4. NASA, Management Instruction 7100.8 (February 2, 1972); Ames Management Manual 7170-1 (as revised March 19, 1969); Ames Memorandum 74/200 (December 11, 1974); Johnson Space Center Management Instruction 7100.8A (March 29, 1977).

5. Department of Housing and Urban Development, *The Experimental Housing Allowance Program* (1974); *Second Annual Report of the Experimental Housing Allowance Program* (1974); and *Experimental Housing Allowance Program: Initial Impressions and Findings* (1975).

6. Letter (Nov. 18, 1977) to the Commission's Staff Director from Patricia M. Worthy, Deputy Assistant Secretary for Regulatory Functions, Department of Housing and Urban Development.

7. 417 F. Supp. 532 (N.D. Ga. 1976).

8. Clarification Statement Regarding the Georgia Department of Human Resources Human Research Review Board's Review of the Proposal Entitled "Recipient Cost-Participation in Medicaid Reform," Russell J. Bent, Chair.

9. Letter (Oct. 20, 1975) from Roy E. Albert, M.D., Acting Deputy Assistant Administrator for Health and Ecological Affairs, Environmental Protection Agency.

10. Bob Wyrick, "EPA Officials Devised Cancer Tests on People," *Washington Post*, June 22, 1977.

11. Environmental Protection Agency, Order 1000.17, October 25, 1977.

12. 45 CFR 46.101.

13. General Education Provisions Act, 20 U.S.C. 1221e(3).

14. 45 CFR 100a.263; 45 CFR Part 1400.

15. Letter (Feb. 6, 1976) from David J. Sencer, M.D., then Director, CDC; telephone communication (Nov. 14, 1977) from Bruce Dull, M.D., Assistant Director of Program, CDC.

16. 21 CFR 312.1(a)(2) 10C; FDA *Compliance Program Guidance Manual*, transmittal 77-39, March 15, 1977.

17. 21 CFR 310.102(a).

18. *Id.*, subsections (f) and (g).

[FR Doc. 78-33292 Filed 11-29-78; 8:45 am]

federal register

THURSDAY, NOVEMBER 30, 1978
PART IV



ENVIRONMENTAL PROTECTION AGENCY

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS—CLEAN WATER ACT

Allotment of Fiscal Years 1978–1979 Appropriation

under Section 205(b) of the Act (see

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1014-8]

PART 35—STATE AND LOCAL ASSISTANCE

Subpart E—Grants for Construction of Treatment Works—Clean Water Act

ALLOTMENT OF FISCAL YEARS 1978—1979 APPROPRIATION

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This amendment to the construction grant regulations published on September 27, 1978 (43 FR 44022), allots to the States the $4.2 billion appropriated for fiscal year 1979 by Pub. L. 95-392 for the municipal wastewater treatment works construction grant program. The conference report on the Appropriations Act indicates Congress intended EPA to implement Section 205(e) of the Clean Water Act (the Act), which establishes a one-half of one percent allotment floor for all States except American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands. We have based this allotment on that provision. This amendment also provides an allotment for the Northern Mariana Islands as authorized in Section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands (Pub. L. 94-241).

DATES: This rule is effective November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold P. Cahill, Director, Municipal Construction Division (WH-547), Environmental Protection Agency, Room 1219 East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, phone 202-426-8986.

SUPPLEMENTARY INFORMATION:

Allotment and implementation of Section 205(e) for Fiscal Year 1979. As required under Section 205(c) of the Clean Water Act, on January 10, 1978, EPA allotted authorizations under Section 207 of the Act for construction grants for Fiscal Years 1978 through 1981. The amounts allotted are shown in § 35.910-8. Under Section 207 of the Act, all such authorizations are subject to the amounts actually appropriated. In Title II of the Independent Agencies Appropriation Act of 1979 (Pub. L. 95-392, September 30, 1978), Congress appropriated $4.2 billion for Fiscal Year 1979. This amendment to the regulations establishes allotments based on the amount actually appropriated. The amendment reflects adjustments which were necessary to accommodate the requirements of Section 205(e) of the Act, discussed below.

The Clean Water Act contains two authorizations for construction grants: An overall authorization in Section 207 to cover allotments of funds among all the States under Section 205(c), and a specific additional authorization in Section 205(e) to provide an allotment floor of one-half of one percent for 12 States whose allotment ratios under Section 205(c) are less than that amount. The legislative history of the Appropriations Act indicates that Congress intended the $4.2 billion to cover provisions of Section 205(e) of the Act, as well as the allocations under Section 205(c).

Since both the 205(c) allotments and the 205(e) amounts must come from the single appropriation of $4.2 billion under the Appropriations Act, we determined that the only way to accomplish Congress' intent mathematically was to divide the single appropriation into an amount of $4,141,807,602 for basic allotments under Section 205(c), and an amount of $58,192,398 to meet the minimum allotments under Section 205(e). Those amounts are determined as follows:

1. Total amount necessary to implement 205(e) based on Clean Water Act authorization of $4,500,000,000: $63,225,000. This amount was determined by adding the differences between the 205(c) allotments and one-half of one percent of the 205(c) authorization for the 12 States with allotments of less than one-half of one percent.

($4.5 billion) (.005)=$22,500,000.

2. Relationship of total amount necessary to 205(c) authorization.

$$\frac{\$4,563,225,000}{\$4,500,000,000} = 1.01405$$

3. Since the total appropriation was less than $4,563,225,000 a base 205(e) amount must be determined. This can be done by dividing the $4.2 billion appropriated by 1.01405.

$$\frac{\$4,200,000,000}{1.01405}$$

= $4,141,807,602 for 205(c)

4. The balance is available for 205(e)

$$\begin{array}{r} \$4,200,000,000 \\ -4,141,807,602 \\ \hline 58,192,398 \end{array}$$ for 205(e)

Thus, no State will receive less than one-half of one percent of $4,141,807,602, or $20,709,000 (except for American Samoa, Guam, the Trust Territory of the Pacific Islands the Northern Mariana Islands, and the Virgin Islands, which are authorized a lower amount by law).

Allotment to Northern Mariana Islands. Pub. L. 94-241 established the Northern Mariana Islands (NMI), previously a part of the Trust Territory of the Pacific Islands (TTPI), as a separate Commonwealth of the United States. On January 9, 1978, NMI became eligible for a separate allotment for wastewater treatment construction grants. Since nine percent of the total need of the TTPI is for needs in the area that is now NMI, the TTPI allotment is divided between the NMI and TTPI on that basis. NMI is allotted $570,300 and TTPI is allotted $5,766,700.

Allotment of Fiscal Year 1978 Appropriation. Since the 1978 appropriation and allotments were the same as the authorizations in the Clean Water Act and § 35.910-8, EPA did not publish a separate regulation allotting the Fiscal Year 1978 funds. However, since we must publish an allotment regulation for 1979, the omission of a 1978 allotment regulation would leave a gap in the historical record of allotments. Therefore, we are also publishing a new § 35.910-9 which completes the record.

Effective Date. This rule allots the FY 1979 construction grant appropriation in accordance with the Appropriation Act and is essentially a technical amendment to the construction grant regulations. Therefore, notice and public comment is unnecessary, and good cause exists to make the regulation effective immediately.

Dated: November 28, 1978.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 35 Subpart E is amended by adding new §§ 35.910-9 and 35.910-10 to read as follows:

§ 35.910-9 Allotment of Fiscal Year 1978 appropriation.

(a) Pub. L. 95-240 appropriated $4.5 billion. These allotments are available until expended but must be obligated by September 30, 1979. After that date unobligated balances will be reallotted under Section 205(b) of the Act (see § 35.910-2(b)).

(b) These sums were allotted to the States as shown in § 35.910-8(b).

§ 35.910-10 Allotment of Fiscal Year 1979 appropriation.

(a) Title II of Pub. L. 95-392 appropriated $4.2 billion. These allotments are available until expended but must be obligated by September 30, 1980. After that date, unbligated balances will be reallotted under Section 205(b) of the Act (see § 35.910-2(b)).

(b) The allotments were computed by applying the percentages in § 35.910-8(a) and (b) to the funds appropriated for FY 1979 and rounding to the nearest hundred dollars.

(c) The $4.2 billion are allotted as follows:

State	Allotments from funds appropriated under Pub. L. 95-372
Alabama	$53,189,100
Alaska	20,709,000
Arizona	32,128,000
Arkansas	31,117,400
California	329,323,400
Colorado	38,050,800
Connecticut	45,858,100
Delaware	20,709,000
District of Columbia	20,709,000
Florida	158,904,600
Georgia	80,425,600
Hawaii	32,836,300
Idaho	20,709,000
Illinois	215,187,900
Indiana	114,637,000
Iowa	53,648,800
Kansas	36,460,300
Kentucky	60,545,000
Louisiana	52,290,300
Maine	31,042,900
Maryland	115,047,000
Massachusetts	122,357,300
Michigan	171,081,500
Minnesota	77,414,600
Mississippi	40,009,900
Missouri	103,367,100
Montana	20,709,000
Nebraska	22,800,700
Nevada	20,709,000
New Hampshire	36,489,300
New Jersey	147,924,700
New Mexico	20,709,000
New York	439,897,200
North Carolina	82,040,900
North Dakota	20,709,000
Ohio	267,788,800
Oklahoma	38,431,900
Oregon	53,735,800
Pennsylvania	180,649,100
Rhode Island	21,752,800
South Carolina	48,732,500
South Dakota	20,709,000
Tennessee	64,140,000
Texas	180,723,600
Utah	20,709,000
Vermont	20,709,000
Virginia	81,187,700
Washington	73,260,300
West Virginia	74,150,800
Wisconsin	80,777,700
Wyoming	20,709,000
American Samoa	2,551,400
Guam	3,081,500
Northern Mariana Islands	570,300
Puerto Rico	48,600,000
Trust Territory of Pacific	5,766,700
Virgin Islands	1,565,600
Total	4,200,000,000

[FR Doc. 78-33723 Filed 11-29-78; 9:16 am]

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January–December 1978

EDITORIAL NOTE: 5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Certain amendments (Pub. L. 93-502, November 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the calendar year 1978 in order to notify the public of the availability of these indexes for sale or public inspection or both.

FOR FURTHER INFORMATION CONTACT:

Doris O'Keefe, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408 (202-523-3187).

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Agriculture, Rural Electrification Administration.	Index of current REA publications: Electric Program, as of Apr. 3, 1978, with supplement thereto updating the index to Dec. 31, 1978. An alphabetic and numerical index of REA electric program bulletins, staff instructions, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250. No charge.	Director, Information Services Division, Rural Electrification Administration. U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250.
Do	Index of current REA publications: Telephone as of Mar. 28, 1978, with supplement thereto updating the index to Dec. 31, 1978. An alphabetic and numerical index of REA telephone program bulletins, staff instructions, contract forms, specifications, sections of the Telephone Engineering and Construction and Telephone Operations manuals, and the rules and regulations of the Rural Telephone Bank.	do	Do.
Department of Defense, Department of the Air Force.	Numerical index of departmental forms (AFR 0-9). Apr. 7, 1978. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation. Shelf stock. $2.79 per copy; reproduced copies, $5.95 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	DADF at nearest Air Force installation.
Do	Guide to indexes, catalogs, and lists of departmental publications (AFR 0-1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, $2.05 per copy; reproduced copies $2 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Numerical Index of standard publications and recurring periodicals (AFR 0-2). Apr. 7, 1978. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force Installation. Shelf stock, $2.75 per copy; reproduced copies $5.75; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Miscellaneous Air Force and other Government agency publications (AFR 0-16), July 24, 1978. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, $2.04 per copy; reproduced copies, $2.20 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Publications Numbering Systems (AFR 5-4). February 15, 1974. Contains subject series and description guide and alphabetical list of subjects.	DADF at nearest Air Force installation. Shelf stock $2.15 per copy, reproduced copies $2.45 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Disposition of Air Force documentation (AFM 12-50). Oct. 1, 1960. Pt. 2 consists of decision logic tables which provide for disposition of documentation created or accumulated by all Air Force activities. Attachment 3 is an index to the tables, arranged alphabetically by title of the record.	DADF at nearest Air Force installation. Shelf stock will not be used. Pt. 2 is voluminous, therefore, only tables pertaining to requested records will be reproduced. $2 for 1st 6 pages, plus $0.05 for each additional page. Checks payable to: AFO (name of base furnishing copies).	Do.
Department of Defense, Department of the Army, TAGCEN, Army Publications Directorate.	DA pamphlet 310-1 Index of administrative publications (regulations, circulars, pamphlets, posters, general orders, joint chiefs of staff publications.) Oct. 1978.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $1.44. Make checks payable to: Treasurer of United States.. In addition to the indicated prices of the indexes, there is a $2 charge for each order, regardless of the size of the order. For example, if DA Pamphlet 310-1 is ordered, add $2 to the price of $1.44. If all the pamphlets are ordered, add $2 to total price of $13.90.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314.
Do	DA pamphlet 310-2: Index of blank forms, August 1978.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $1.55. Make checks payable to: Treasurer of United States.	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	DA pamphlet 310-3: Index of doctrinal, training, and organizational publications (field manuals, reserve officer's training corps manuals, training circulars. Army training programs, Army subject schedules, Army training tests, firing tables and trajectory charts, tables of distribution and allowances). Basic dated Sept. 1978.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $1.33. Make checks payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-4: Index of technical manuals, technical bulletins, supply manuals (types 7, 8, and 9), supply bulletins, and lubrication orders. October 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $6.52. Make checks payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-6: Index of supply catalogs and supply manuals. Basic dated July 1978 w/change 1, Oct.1978.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $1.95. Make checks payable to: Treasurer of United States.	Do.
	DA pamphlet 310-7: Index of Equipment Modification Work Orders, May 1978.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: $1.11. Make checks payable to: Treasurer of United States.	Do.
Defense Civil Preparedness Agency.	Publications Catalog, MP-20: A listing of publications and other printed matter on the U.S. Civil Defense program available to the public. Contains a brief resume of each one and provides information on where to obtain.	U.S. Army Publications Center, Civil Preparedness Branch, 2800 Eastern Blvd. (Middle River), Baltimore, Md. 21220. No charge.	DCPA Headquarters, Room 1D511, Pentagon Bldg., Washington, D.C. 20301 or DCPA regional offices as shown at app. C, pt. 1813, ch. XVIII,title 32, CFR.
Do	DCPA manual 5450.2: Index of DCPA instructions and manuals, a listing both numerical and subjective, of the Agency instructions announcing policy, outlining programs, and prescribing internal operating procedures.	.....do	Do.
Defense Communications Agency.	1. DCA circulars and notices: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA circulars and notices. Those circulars, notices, and changes published during the period July 1-Dec. 31, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those publications which have been canceled or replaced since July 1, 1977 by a publication of a different number. Publications superseded by a revised issue bearing the same number are not included. Enclosure 2 is an alphabetical listing of current DCA circulars. Enclosure 3 is an alphabetical listing of current DCA Notices..	Defense Communications Agency, Washington, D.C. 20305. No Charge.	Defense Communications Agency, 8th St. and South Courthouse Rd., Arlington, Va. 22204.
	2. DCA instructions: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA instructions. Those instructions and changes published during the period Apr. 1-Sept. 30, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those instructions which have been canceled or replaced by an instruction of a different number since Apr. 1, 1977. Enclosure 2 is an alphabetical listing of current DCA instructions.	.....do	Do.
Defense Logistics Agency (Headquarters).	DLAH 5025.1, Part I, Defense Logistics Agency Index of Publications, Aug. 1978, provides an alphabetical listing of DLA and DoD publications applicable to the Defense Logistics Agency.	HQ DLA (DASC-IP), Bldg. 8, Door 26, Cameron Station, Alexandria, Va. 22314. Price: $.91 plus $2.00 handling fee per order. Payable to: Defense Logistics Agency.	HQ DLA, Attn: DLA-XAR, Room 5A119, Cameron Station, Alexandria, Va. 22314
Do	DLAH 5025.1, Part III, Index of Federal Catalog System Publications, July 1978, provides a numerical listing of Cataloging Handbooks, Federal Item Identification Guides, Identification Lists,Master Cross-Reference Lists, and related publications.	Defense Logistics Services Center, Attn: DLSC-AP, Federal Center, Battle Creek, Mich. 49016. Price: $.56 plus $2.00 handling fee per order. Payable to: Defense Logistics Services Center.	Defense Logistics Services Center, Attn: DLSC-TD. Room 1-9-7, Federal Center, Battle Creek, Mich. 49016
Do	DLAH 5025.6, Index of Forms, August 1978, is a listing of DLA and DoD forms used by DLA.	HQ DLA (DASC-IP), Bldg. 6. Door 26, Cameron Station, Alexandria, Va. 22314. Price: $.58 plus $2.00 handling fee per order. Payable to: Defense Logistics Agency.	HQ DLA, Attn: DLA-XAR, Room 5A119, Cameron Station, Alexandria, Va. 22314
Defense Logistics Agency, Defense General Supply Center.	Index of publications: Current listing of policy statements, regulations, handbooks, manuals, directives, letters, supplements, procedures, and clause manual.	Commander, Defense General Supply Center, Attention: DGSC-B, Richmond, Va. 23297 Reproduced copies $2. Treasurer of the United States.	Public Affairs Officer, Defense General Supply Center, Richmond, Va. 23297.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Energy, Bonneville Power Administration.	BPA Manual Index dated Nov. 5, 1975, 33 pages. Policy, procedural, and directives material indexed by subject and BPA Manual chapter number.	The public may review the index, obtain a copy of the index without charge, or secure further information concerning the contents of the records listed by contacting Bonneville Power Administration's Public Information Office, 1002 NE. Holladay St., Portland, Oreg. 97232, or the Washington, D.C. office, Forrestal Bldg., 1000 Independence Ave., SW., Washington, D.C. 20585..	Bonneville Power Administration Offices listed in previous column or BPA Area and District Offices at the following: 919 NE. 19th Ave., Portland, Oreg. 97208; 415 First Ave. N., Seattle, Wash. 98109; U.S. Courthouse, Spokane, Wash. 99201; West 101 Poplar St., Walla Walla, Wash. 99362; U.S. Federal Bldg., 211 E. 7th St., Eugene, Oreg. 97401; Highway 2E, Box 758, Kalispell, Mont. 59901; U.S. Federal Bldg., 301 Yakima St., Wenatchee, Wash. 98801; and 531 Lomax St., Idaho Falls, Idaho 83401.
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA).	Administrative Guidelines Manual, Jan. 1, 1973. Provides guidance to personnel responsible for regulatory decisions. Contains regulatory tolerances and guidance, and authorization for direct action by the field in areas of seizure, citation, and prosecution.	Available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va. 22161. Accession No. NTISUB/D/248 Price Code: A00 ($50.00).	Supervisor, Public Records and Documents Center (HFC-18), Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do	NCTR Manual for Advanced Course for Investigators: Bio-Research Monitoring, Nonclinical Studies (two-week course conducted at the Center for Toxicological Research by FDA staff).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857 $33.50. Checks payable to Food and Drug Administration..	Do
Do	Bureau of Foods Staff Manual Guide. Primarily concerned with the preparation of and review of documents within the Bureau of Foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $10. Checks payable to Food and Drug Administration.	Do.
Do	Bureau of Drugs staff manual guide. Primarily concerned with the preparation of and review of documents within the Bureau of Drugs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $21.50. Checks payable to Food and Drug Administration.	Do.
Do	Compliance Policy Guides. Provides a system for the issuing, filing, and retrieval of all official statements of FDA compliance policy.	Available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va., 22161. Accession No. PB 271 176/AS Price Code: E12 ($25.00). For subscription service, order: Accession No. NTISUB/C/154 Price: $100.00.	Do.
Do	Compliance Program Guidance Manual. Provides general guidance to the field as to how certain industries will be inspected, sampled, etc., during a fiscal year. Programs within this manual assign the number of inspections or samples to be done within a specific industry. Over 3,000 pages.	Supervisor, Public Records and Documents Center (HFC-18, 5600 Fishers Lane, Rockville, Md. 20852. 10 cents per page. (Suggest before ordering to request transmittal checklist to ascertain programs needed.) Checks payable to Food and Drug Administration.	Do.
Do	Drug autoanalysis manual. Provides content uniformity test specifications in USP XVII and MFX II. Provides assurance of homogeneity within a single lot for a safe and effective drug supply. Specifications are for all tablet monographs where the active ingredient is present in low quantities (usually 50 mg or less).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	ERDO data code manual. Lists computer code information for programs management system project (PMS) which is used for reporting project information into the program oriented data system (PODS).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.
Do	Field management directives. Used by the field staff to transmit FDA field policy in the areas of operations management, planning and budget guidance, program management, and State program management which gives policy information.	.....do	Do.
Do	Food additives analytical manual. Presents a compilation of analytical methodology for additives authorized for use. Compilation consists of methods for additives which can be used only as permitted in foods for human consumption and in feeds and drinking water of animals or treatment of food-producing animals.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Hazard Analysis and Critical Control Point—A System for Inspection of Food Processors. Explains the hazard analysis and critical control point procedure. Used for overseeing industry's processing practices in order to provide the consumer with the best assurances possible of quality control in processing foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $131.95. Checks payable to Food and Drug Administration.	Do.
Do	Inspector Operations Manual. Provides FDA personnel with standard operating inspectional and investigational procedures. Contains instructions needed by operating inspectors and investigators. Contains authorities, objectives, responsibilities, policies, and guides.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.

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Do	Inspector Training Manual. Basic training manual for food and drug inspectors and inspection technicians to provide the field with uniform approach to the administration of basic training.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.
Do	Inspector's Manual for State Food and Drug Officials. Divided into 2 parts: (1) Operations manual with information applicable to sample collection, inspections, and investigations in all fields of food and drug work: (2) commodities manual divided into specific types of food commodities. Manual for official use of State and local food and drug enforcement officers only.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $85. Checks payable to Food and Drug Administration.	Do.
Do	Inspector's Technical Guide. To provide a medium for making all FDA inspectors aware of selected technical information not previously available on a broad scale.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $8.30. Payable to Food and Drug Administration.	Do
Do	Laboratory Operations Manual. Provides day-to-day guide for laboratory directors and supervisors. Reflects the science advisor program and district laboratory relationships with BDAC field offices and disposition of consumer complaint samples.	Supervisor, Public Records and Docmuents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $17.50. Checks payable to Food and Drug Administration.	Do.
Do	Pesticide Analytical Manual. Brings together the procedures and methods used in the FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites.	Available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va., 22161. Accession No: NTISUB/C/117 Price: $50.00. To order Volumes separately:Vol. 1-NTISUB/C/118 Price: $25.00 Vol. 11-NTISUB/C119 Price: $35.00.	Do.
Do	Quantity of contents compendium. Used to measure acceptable levels of shrinkage in food containers. Manual divided into 2 parts: (1) Contains procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents; (2) contains information on sampling where special techniques are required.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do	Regulatory Procedures Manual. Provides guidance on regulatory policy and supporting processing procedures.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $85. Checks payable to Food and Drug Administration.	Do.
Do	Staff Manual Guides—Organization and Delegations. Contains directives issued by the Food and Drug Administration to establish policy, organization, procedures or responsibilities in the administrative area. Used to issue continuing instructions or information and remains in effect until rescinded or superseded.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. Vol. I, $60; Vol. II, $60; Vol. III, $30. Checks payable to Food and Drug Administration.	Do.
Do	Supervisory Inspectors Guide. Designed to furnish supervisory inspectors with guidlines to assist them in performing their duties.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $28.50. Checks payable to Food and Drug Administration.	Do.
Do	Index to Administrative Staff Manuals. Current listing of all staff manuals with indexes and/or table of contents and costs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $20. Checks payable to Food and Drug Administration.	Do.
Do	Statements of policy and interpretations adopted by FDA and not published in the FEDERAL REGISTER.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $5.90. Payable to Food and Drug Administration.	Do.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	A written description of the general preventive medicine residency program, dated Apr. 29, 1976. Residency assignments, qualifications, appointments, and supervision, as outlined in this document.	Center for Disease Control, Attention: Assistant Director for Program, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Assistant Director for Program, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Staff publications booklet: An annual bibliographical listing of contributions made by the CDC staff to medical and scientific literature during the previous year.	Center for Disease Control, Attention: Director, Office of Information, Atlanta, Ga 30333. No charge for 1 copy.	Center for Disease Control, Office of Information, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Minutes of meetings and annual reports of following public advisory committees: Coal Mine Health Research Advisory Committee, Safety and Occupational Health Study Section. Immunization Practices Advisory Committee, Medical Laboratory Services Advisory Committee.	Center for Disease Control, Attention: Director, Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Morbidity and mortality weekly reports. In addition to providing informational morbidity and mortality data on diseases, these reports prescribe policies and interpret policies relative to prevention of diseases as well as health requirements that are covered by regulations.	Center for Disease Control, Attention: Director, Bureau of Epidemiology, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Epidemiology, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Final Report of the Drinking Water Disinfection ad hoc Advisory Committee, dated Mar. 1, 1977. Recommendations to the Secretary, Health, Education, and Welfare, the Assistant Secretary for Health, and the Director, Center for Disease Control, on the merits of chlorine and ultraviolet light as a means of disinfecting water in program areas over which the CDC has jurisdiction or technical responsibility.	do	Do.
Do	Annual report to Congress regarding smoking and health.	Center for Disease Control, Attention: Director, Bureau of Health Education, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Health Education, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	"Current Items". This publication from the Bureau of Laboratories is directed generally to heads of State or local laboratories. The publication includes technical procedures and informational data.	Center for Disease Control, Attention: Director, Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	National Institute for Occupational Safety and Health (NIOSH) policy memorandum, dated Sept. 11, 1974 on trade secret information.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857. No charge for 1 copy.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857.
Do	"NIOSH Policy Letter", dated Nov. 5, 1973 regarding reimbursement to an employer for financial loss (production time: pay) incurred as a result of a NIOSH research project.	do	Do.
Do	The President's report on occupational safety and health, annual report for 1974. This report covers programs of the Department of Labor, Department of Health, Education, and Welfare; and the Occupational Safety and Health Review Commission for calendar year 1974. It contains results of the 1st full year of occupational injury and illness survey.	do	Do.
Do	The Federal coal mine health program in 1974. This is a report of health activities under the Federal Coal Mine Health and Safety Act of 1969. NIOSH Publication No. 77-143.	do	Do.
Do	The Division of Training, National Institute for Occupational Safety and Health, Center for Disease Control, announcement of courses that are available to the public.	do	Do.
Do	The National Institute for Occupational Safety and Health current intelligence bulletin. This current bulletin alerts members of the occupational health community, government, labor, and industry to new information on potential occupational health hazards.	do	Do.
Do	NIOSH Publications Catalog, 1970-1977. Lists availability of publications from the National Institute for Occupational Safety and Health. NIOSH Publication No. 77-207.	do	Do.
Do	Proposed interim program guidelines for venereal disease control, dated March 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Venereal disease review criteria, dated Dec. 10, 1971.	do	Do.
Do	Recommended treatment schedules for syphilis, dated 1976.	do	Do.
Do	Gonorrhea, CDC recommended treatment schedules, dated 1974.	do	Do.
Do	Commentary on national strategies to control gonorrhea, dated July 1975.	do	Do.
Do	Updated guidelines concerning patients with penicillinase-producing *Neisseria gonorrhoeae* (PPNG), dated August 1977.	do	Do
Do	Summary Report on Influenza Virus Vaccine use, dated Feb. 7, 1977.	do	Do.
Do	Summary Report of Conference on Influenza Vaccine Activity for 1977-78, dated Mar. 21, 1977.	do	Do.
Do	Briefing and discussion on influenza A/USSR/1977 (H1N1)—Summary, dated Dec. 22, 1977.	do	Do.
Do	Influenza virus vaccine workshop—Summary report and conclusions, dated Jan. 12, 1978.	do	Do.
Do	Conference on influenza A/USSR/1977 (H1N1)—Summary report, dated Jan. 30, 1978.	do	Do.
Do	Guidelines for assessing immunity levels, dated November 1973.	do	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Immunization Against Disease, 1972 handbook.	do	Do.
Do	Guidelines for application immunization Project Grants, dated December 1977.	do	Do.
Do	Public Health Service recommendations for Counting Reported Tuberculosis Cases, dated January 1977.	do	Do.
Do	Preventive therapy of tuberculosis infection dated February 1975.	do	Do.
Do	Memorandum dated Nov. 7, 1975, regarding duration of preventive therapy with isoniazid.	do	Do.
Do	Guidelines for prevention of TB transmission in hospitals, dated September 1974.	do	Do.
Do	Equipment and procedures for erythrocyte protoporphyrin (EP) analysis as a screening method for pediatric lead poisoning, dated Feb. 3, 1975.	do	Do.
Do	Urban rat survey—guidelines for classroom use and field training of inspectors who serve in community rodent control programs, dated March 1974.	do	Do.
Do	Urban rat control project grants program guidelines for applicants, dated 1975.	do	Do.
Do	Procedures for collecting rats for anticoagulant resistance evaluation, Urban Rat Control, dated Mar. 29, 1977.	do	Do.
Do	Guidelines for grant applications. Childhood lead poisoning control, dated Mar. 14, 1974.	do	Do.
Do	Increased lead absorption and lead poisoning in young children. A statement by the Center for Disease Control, dated March 1975.	do	Do.
Do	The "Training Bulletin," which is published every 18 mo. This document lists each of the headquarters, field, or home-study courses that are available through the auspices of CDC during that time period. Specific information is presented that identifies prerequisites for attendance and describes the nature of each course.	Center for Disease Control, Attention: Director, Bureau of Training, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Training, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final denials, revocations, suspensions and limitations of licenses, and letters of exemptions to laboratories subject to the Clinical Laboratories Improvement Act of 1967.	Center for Disease Control, Attention: Bureau of Laboratories, Atlanta, Ga 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Facilities Engineering and Construction Manual, ch. CDC: 3-335, dated May 1, 1972. This issuance provides rules and regulations covering CDC buildings and grounds. It applies to CDC employees and also to visitors, solicitors, etc.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-57, dated Nov. 13, 1970. This issuance provides policy and procedures to CDC employees for claims including those against CDC or against CDC employees as a result of their official duties.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-1, dated Sept. 30, 1970. This issuance provides policy and procedures for conferences including those cosponsored by CDC and an organization other than a Federal agency.	do	Do.
Do	Administrative issuance. Manual Guide—ADP Systems No. CDC-1, dated Apr. 22, 1971. This issuance specifies the type of information for CDC organizations to furnish CDC computer systems office for determination as to whether a contract should be entered into with an outside source to perform the ADP services or whether the work can be performed within the Center.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74-9, dated June 20, 1974. This issuance specifies rates for the Center to pay for blood.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-75.3, dated May 12, 1972. This issuance specifies CDC delegations of authority for publication of advertisements, notices, or proposals.	do	Do.

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Do	Administrative issuance. Manual Guide—Printing Management No. CDC-6, dated Nov. 5, 1969. This issuance provides CDC policies and procedures for procurement of CDC authored articles which are to be published in private journals and briefly mentions publishers' services, e.g., setting of type, sending proofs, etc.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administrative Issuance No. 406, dated Sept. 3, 1974. This issuance describes contents and documentation needed for research and technical services contract requests for NIOSH.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-3.6, dated Sept. 21, 1970. This issuance prescribes CDC policies and procedures for small purchases particularly through use of imprest funds, and briefly mentions vendors' role.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 77-13, dated Sept. 30, 1977. This issuance provides instructions to CDC employees for obtaining typewriter repair service and lists individual companies under contract to make repairs.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74-1, dated Jan. 16, 1974. This issuance specifies CDC policies and procedures on unauthorized commitments and for obtaining approval for such commitments.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-52, dated Mar. 12, 1973. This issuance provides policies and procedures for handling public inquiries to CDC during nonwork hours.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-16, dated Mar. 6, 1969. This issuance provides CDC policies and procedures for obtaining clearance of CDC authored manuscripts, publications, etc., and includes policy on responding to requests from the press, etc.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 72-3, dated Feb. 9, 1972. This issuance provides policies and general guidelines to CDC employees on giving assurances of confidentiality in obtaining information from the public.	do	Do.
Do	Administrative issuance. Manual Guide—Personal Property Management No. CDC-2, dated Apr. 17, 1969. This issuance provides CDC policies and procedures for producing, maintaining, shipping, and storing exhibits and includes procedures for production of exhibits by commercial contractors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-19, dated Mar. 18, 1974. This issuance provides policy to CDC employees for distribution of cultures of microbial agents and of vectors to non-CDC persons.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-2, dated Dec. 15, 1975. This issuance provides policy on the need for and use of hazard warning signs that applies to CDC employees and also to visitors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC-3, dated June 18, 1973. This issuance provides policies on and procedures for handling compressed gases in cylinders. It applies to CDC employees and also certain policies and procedures apply to vendors.	do	Do.
Do	Administrative issuance. Personnel Guides for Supervisors, chapter IV, CDC Guide 7-2, dated Mar. 12, 1963, but still current. This issuance provides CDC policies and procedures for handling complaints on employee indebtedness.	do	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Administrative issuances. Manual Guide—General Administration No. CDC-5, dated Apr. 8, 1971 and National Institute for Occupational Safety and Health Administrative Issuance No. 2, dated Mar. 4, 1974. These issuances provide policies and procedures for making CDC and NIOSH facilities available to guest researchers.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-61, dated Apr. 26, 1973. This issuance provides CDC policies and procedures for providing to students work experiences which relate to the CDC mission and to the educational objectives of the students.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health unnumbered memorandum, dated Mar. 4, 1974. This issuance provides NIOSH policy on loan of property to non-Federal persons or institutions.	do	Do.
Do	Administrative issuances. Manual Guide—General Administration No. CDC-11, dated June 8, 1973 and National Institute for Occupational Safety and Health policy memorandum, dated June 25, 1973. These issuances provide policies and procedures for the protection of the individuals who are participating or involved in research investigations of the Center and of NIOSH, respectively.	do	Do.
Do	Administrative issuance. Manual Guide—Travel CDC-10, dated Dec. 26, 1972. This issuance provides CDC policy and procedures for employees renting automobiles for official travel and mentions services provided by the car rental contractors and of the conditions of the contracts.	do	Do.
Do	Administrative issuances. Manual Guide—Travel No. CDC-2 dated Jan. 14, 1974 and Correspondence Manual Chapter 10-40, dated Oct. 1, 1974. These issuances provide instructions to CDC employees for making reservations on common carriers and for picking up the tickets. They list the airlines and their telephone numbers.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-63, Privacy Act, dated Nov. 23, 1976. This issuance provides to CDC employees guidance on carrying out requirements of the act.	do	Do.
Do	Administrative issuance. CDC general memorandum No. 75-10. Freedom of Information Act, dated July 25, 1975. This issuance provides general information to CDC employees on major provisions of the act, procedures for responding to requests for information under the act, and brief data to the CDC employees on the Privacy Act.	do	Do.
Do	Administrative issuance. CDC general memorandum No. 75-2, civil defense, dated Apr. 2, 1975. This issuance provides information on the civil defense capacity and equipment of the CDC facilities in the Atlanta area that are officially designated to be used as public shelter areas under the national fallout shelter program.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandums, parking at Clifton Rd. facilities, dated July 14, 1975 and Jan. 20, 1976. These issuances provide policy for CDC employees and visitors parking at the Clifton Rd. facilities, Center for Disease Control.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, directory of licensed day-care facilities in the Metropolitan Atlanta area, dated Mar. 15, 1976. This issuance provides a listing of these facilities.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Administrative issuance. CDC unnumbered memorandum, injury compensation, dated Sept. 15, 1975. This issuance provides procedures for CDC employees to follow to document on-the-job traumatic injuries, including submission of reports from attending physicians.	do	Do.
Do	Administrative issuance. Manual guide—general administration No. CDC-8, soliciting, vending, and displaying or distributing commercial advertising within CDC, dated Apr. 23, 1975. This issuance provides policy for soliciting, vending, and commercially advertising on property occupied by CDC.	do	Do.
Do	Administrative issuance. Personnel guide for supervisors, Ch. III, CDC guide 1-2, commercial employment offices, dated Jan. 7, 1976. This issuance provides policy on using commercial employment offices for recruiting personnel.	do	Do.
Do	Administrative issuance, personnel guide for supervisors, ch. III, CDC guide 1-9, dated Feb. 26, 1976. This issuance provides policies, responsibilities, and procedures for the selective placement program for handicapped employees and disabled veterans.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administration, issuance No. 6, dated Apr. 15, 1976. This issuance provides policies and procedures for keeping interested governmental, labor, and management groups informed on the initiation and progress of NIOSH field studies.	do	Do.
Do	Administrative issuance, National Institute for Occupational Safety and Health Administration issuance No. 8, dated Oct. 30, 1975. This issuance provides procedures for maintenance of minutes of NIOSH meeting with representatives of nongovernmental groups.	do	Do.
Do	Recommendations of the Public Health Service Advisory Committee on Immunization Practices, such as: general recommendations on immunization, BCG vaccines, cholera vaccine, diphtheria and tetanus toxoids and pertussis vaccine, immune globulins for protection against viral hepatitis, perspectives on the control of viral hepatitis, type B, influenza vaccine, measles outbreak control, measles vaccine, meningococcal polysaccharide vaccines, mumps vaccine, plague vaccine, pneumococcal polysaccharide vaccine, poliomyelitis prevention, rabies, rubella vaccine, smallpox vaccine, typhoid vaccine, typhus vaccine, and yellow fever vaccine.	Center for Disease Control, Attention: Director, General Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, General Services Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration (HEW/PHS/HRA).	HRA index of policy documents as required by Public Law 90-23 (Freedom of Information). July 1, 1973 through June 30, 1978. The HRA FOIA index is a listing of the following HRA documents: HRA policy, information, and instruction memoranda; supplements and circulars to the Federal personnel and HEW staff manuals; Federal regulations; delegations of authority; organization and functions statements; programmatic circulars, memoranda, instructions, notices, guides, guidelines, and operating manuals used by HRA components.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10-44, Center Building, 3700 East-West Highway, Hyattsville, Md., 20782. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Check payable to DHEW-Health Resources Administration.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10-44, Center Building, 3700 East-West Highway, Hyattsville, Md., 20782 (301)436-8988.
Department of Health, Education, and Welfare, Public Health Service, Health Services Administration (HEW/PHS/HSA).	HSA Freedom of Information Act (FOIA) Index: March 1975 to June 30, 1978. The HSA, FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of June 30, 1978. The respective bureau level indexes are listed as follows:.	Office of Communications and Public Affairs, DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md. 20857. Checks payable to DHEW/Public Health Service. Mail to HSA Collection Officer, DHEW/PHS/HSA, Room 16-36, 5600 Fishers Lane, Rockville, Md. 20857. Fees charged for research and reproduction of information is based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E).	Office of Communications and Public Affairs, DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md. 20857.

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	OA—OFFICE OF THE ADMINISTRATOR OCPA—Public Affairs Management System Manual; OPEL—HSA forward plan, fiscal year 1979–83; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to DHEW manuals; HSA Circulars; OM/OFS—policy decisions and opinion. BMS—BUREAU OF MEDICAL SERVICES Division of Hospitals and Clinics Operations Manual; BMS supplements to DHEW manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; BMS circulars; Contract Physician's Guide; Division of Hospitals and Clinics circular memoranda."Emergency Medical Service Systems Program Guidelines"; "HMO Policy Management Bulletin". IHS—INDIAN HEALTH SERVICES IHS circulars; IHS supplements to DHEW manuals; IHS Operations Manual; General Counsel opinions. BCHS—BUREAU OF COMMUNITY HEALTH SERVICES BCHS administrative guide system; BCHS Operations Manual.		
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist—July 6, 1976. Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	In accordance with fee schedule in 43 CFR 2, App. A. Checks payable to Bureau of Mines.	Chief, Organization and Management Staff, Columbia Plaza Office Bldg., 2401 E St. NW., Washington, D.C. 20241.
Department of Transportation, Federal Highway Administration.	Opinions and final orders of the Federal Highway Administration in regard to the regulation of toll bridges: 1968–78; 1 page listing of opinions and final orders regarding regulation of toll bridges issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590.
Do	Cease and desist and driver disqualification final orders by the Federal Highway Administrator: 1969–78; 10-page listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier, and date notice of investigation was mailed.	....do	Do.
Do	Cross reference index of current Federal Highway Administration directives as of Sept. 30, 1978. The index is alphabetical by subject. Within each subject applicable Federal Highway Administration orders, notices, and manuals are identified (in some cases manuals may be also identified by the applicable volume or other subordinate breakdown). The index is computerized and updated quarterly.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590..	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington D.C. 20590; Federal Highway Administration Regional Offices (for location see 49 CFR pt.7); Federal Highway Administration Division Offices. (For location see 49 CFR pt. 7.)
Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.	The Director, Bureau of Alcohol, Tobacco, and Firearms (ATF) has determined that publication of the ATF Index of Materials required by the Freedom of Information Act is unnecessary and impracticable for the reason that the Index is changing continually and that items listed are of interest to relatively few potential users. The index is entitled, "Index of Materials Required by the Freedom of Information Act, ATF P 1200.3"and covers the period of July 1967–March 1978. The Index consists of the following: Final Opinions of the Director, Statements of Policy and Interpretations Index, and Administrative staff manuals and instructions to staff..	Office of the Assistant to the Director (Disclosure). Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226. Price $2.00. Make check payable to the Bureau of Alcohol, Tobacco, and Firearms.	Freedom of Information Act Reading Room, Room 1315, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Ave. NW., Washington, D.C. 20226. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS: North Atlantic Regional Office, 6 World Trade Center, Room 620, New York, N.Y. 10048. Mid-Atlantic Regional Office, Room 310, 2 Penn Center Plaza, Philadelphia, Pa. 19102. Southeast Regional Office, 3835 Northeast Expressway, Room 201, Atlanta, Ga. 30340.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
			Central Regional Office, Federal Office Bldg., Room 6510–A, 550 Main St., Cincinnati, Ohio 45202. Midwest Regional Office, 230 S. Dearborn St., 15th floor, Chicago, Ill. 60604. Southwest Regional Office, Main Tower, 1200 Main St., Room 335, Dallas Tex. 75202. Western Regional Office, 525 Market St., 34th floor, San Francisco, Calif. 94105.
Department of the Treasury, Office of the Secretary.	Index of Selected Records: July 1967 to Dec. 1976; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, $1.50, Treasury of the United States.	Treasury Department Library, Room 5010 Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
(U.S.) Arms Control and Disarmament Agency.	Index to notices, instructions, regulations, and other ACDA records.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451. No charge.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451.
Civil Service Commission (CSC).	Index to Civil Service Commission information. Period covered: February 1975 to November 1978. A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject.	Distribution Unit, Room B–431, U.S. Civil Service Commission, 1900 E St. NW., Washington, D.C. 20415. Free.	Commission Library or any Commission office, including regional and area offices.
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of additions and deletions to the procurement list: (a) Procurement List 1979 incorporates all additions and deletions through Nov. 13, 1978 (b) Current index Nov. 1978—Dec. 1978.	Order from: Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 N. 14th St., Suite 610, Arlington, Va. 22201. Price: 10¢ per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped. (703) 557–1145
Council on Environmental Quality.	Part I—GUIDELINES/REGULATIONS (i) 1970 Interim Guidelines (ii) 1971 Guidelines (iii) 1972 Recommendations for Improving Agency NEPA Procedures, May 16, 1972 (iv) 1973 Guidelines, August 1, 1973 (v) 1977 Interim Guidance to Federal Agencies on Referrals to the Council of Proposed Federal Actions Found to be Environmentally Unsatisfactory, August 11, 1977 (vi) 1978 Final regulations for implementation of procedural provisions of the National Environmental Policy Act, Nov. 29, 1978.. Part II—MEMORANDA TO HEADS OF AGENCIES (i) Revised CEQ Guidelines on Environmental Impact Statements Prepared under sec. 102(2)(C) of the National Environmental Policy Act, April 23, 1971 (ii) Revision of agency procedures for preparation of environmental impact statements, August 2, 1973 (iii) Implementation of Pub. L. 94–83 (sec. 102(2)(D) of NEPA, as amended, Sept. 15, 1975 (iv) Memorandum concerning Aberdeen & Rockfish Railroad Co. v. SCRAP (SCRAP case), Nov. 26, 1975 (v) Environmental Impact Statements (format, use, and length), Feb. 10, 1976 (vi) Analysis of impacts on prime and unique farmland in environmental impact statements, Aug. 30, 1978 (vii) Memorandum on Kleppe v. Sierra Club and Flint Ridge Development Co. v. Scenic Rivers Association of Oklahoma (recent Supreme Court decisions), Sept. 16, 1976 (viii) Applying the EIS requirement to environmental impacts abroad, Sept. 24, 1976 (ix) Environmental review pursuant to sec. 1424(e) of the Safe Drinking Water Act of 1974 and its relationship to the National Environmental Policy Act of 1969, Nov. 19, 1976 (x) Application of the National Environmental Policy Act to Federal activities abroad, Jan. 19, 1978 (xi) Implementation of Executive order 11988 on Floodplain management and Executive order 11990 on Protection of wetlands, March 12, 1978..	Available from the Council on Environmental Quality.	Public Affairs Office, Council on Environmental Quality, Executive Office of the President, 722 Jackson Pl., NW, Washington, D.C. 20006 (202)633–7005).

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	Part III--OTHER MEMORANDA TO AGENCIES (i) Memorandum from General Counsel to agency NEPA liaison on decision of D.C. Circuit in Calvert Cliffs' case construing requirements of sec. 102(2)(C) of NEPA, July 30, 1971 (ii) Memorandum from General Counsel to agency NEPA liaison on agency NEPA procedures: An outline of Some of the Issues, Dec. 3, 1971 (iii) Memorandum from General Counsel to agency NEPA liaison on extracts from important court decisions interpreting NEPA, Dec. 3,1971 (iv) Legal report on delegation by Federal agencies of responsibility for preparation of environmental impact statements, Sept. 5, 1974 (v) Memorandum from the Chairman to NEPA liaisons and General Counsels on the transfer of environmental impact statement receipt and filing from CEQ to EPA, Oct. 28, 1977..		
	Part IV--CURRENT POLICY POSITIONS (i) Speech by Chairman Warren on water policy, Mar. 26, 1977 (ii) Speech by Member Speth on nuclear power, Sept. 29, 1977 (iii) Speech by Member Speth on cancer policy, Oct. 12, 1977 (iv) Speech by Chairman Warren on NEPA reform, Feb. 10, 1978 (v) Speech by Chairman Warren on endangered species, Feb. 17, 1978 (vi) Testimony by Member Speth, Subcommittee on Energy and the Environment, House Committee on Interior and Insular Affairs on reprocessing of nuclear fuel. Apr. 27, 1977. (vii) Testimony by Member Speth, Subcommittee on Environmental Pollution, Senate Committee on Environment and Public Works on TSCA. July 20, 1978. (viii) Testimony by Member Speth, Subcommittee on Energy, Nuclear Proliferation and Federal Services, Senate Committee on Governmental Affairs on NEPA, Nuclear Waste Management and S. 2189. July 26, 1978. (ix) Speech by Member Yarn on inflation and environmental regulation, Oct. 23, 1978.		
	Part V--PREDECISION REFERRALS TO CEQ UNDER SECTION 309, CLEAN AIR ACT AND NEPA (i) CEQ's response to HUD/Lake Alma proposal (Georgia) June 1977 (ii) CEQ's response to DOT's proposal on the West Side Highway Project (New York) July, 1977 (iii) CEQ's response to the U.S. Army Corps of Engineers' proposal on the Wando River Marine Terminal (South Carolina) Oct. 1977 (iv) CEQ's response to DOT's proposal on the County Trunk Highway "Q" (Wisconsin), Feb. 1978 (v) CEQ's response to the DOI and USDA proposal on the Foothills Project (Colorado), Mar. 1978 (vi) CEQ's response to U.S. Army Corps of Engineers proposal on the Packer River Terminal (Minnesota), Jan. 1978 (vii) CEQ's response to EPA's negative declaration on the Sturgeon Bay (Wisconsin) project, May 1978 (viii) CEQ's response to the U.S. Army Corps of Engineers proposal on the Fire Island and Mantauk Point Project..		
	Part VI--GENERAL INFORMATION (i) CEQ publications list (ii) NEPA Hearing questionaire, Aug. 8, 1977 (iii) 20 Questions and Answers explaining the NEPA section 102 environmental impact statement process, 102 Monitor, V. 1, No. 10 (Nov. 1971) (iv) Memorandum of implementation of the agreement between the USA and the USSR on cooperation in the field of environmental protection of May 23, 1972, 102 Monitor, V. 2, No. 9, (Oct. 1972) (v) Environmental programs and employment, 102 Monitor, V. 5, No. 4 (May 1975) (vi) CEQ paper "Pollution Control and Employment", Feb. 1976 (vii) CEQ proposed regulations for implementing procedural provisions of the National Environmental Policy Act (June 9, 1978).		

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Equal Employment Opportunity Commission.	Index to Commission Decisions Unpublished.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. Price: 25¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. 20506.
Do	Index to Commission Decisions, Published.		Library, Equal Employment Opportunity Commission or district office addresses at 29 C.F.R. 1610.4.
Do	Index to Equal Employment Opportunity Commission Orders.	See above. Price: 15¢; Payable to: U.S. Treasurer.	Do.
Do	Index to Compliance Manual (Table of Contents).	See above. Price: $3. Payable to: U.S. Treasurer.	Do.
Do	Index to General Counsel Manual (Table of Contents).	See above, Price: 45¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St. NW, Washington, D.C. 20506.
Farm Credit Administration.	Index of FCA Information Materials; Jan. 1, 1977-Sept. 30, 1978 (1) Publications (those available in supply); (2) news releases issued since Jan. 1, 1972; (3) biographies of FCA officials; (4) speeches by FCA officials; (5) FCA regulations and clarification letters; (6) research reports; (7) FCA Administrative and Personnel Handbook; (8) Directory of the FCA and Farm Credit Districts; (9) Monthly statistics on farm credit bank lending (list of tables); (10) FCA orders; and (11) FCA organization charts.	Public Affairs Division, Farm Credit Administration, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20578. Payable to: Farm Credit Administration. Single copies free of charge for items 1, 3, 4, 6, 8, and 11. Copies of all others available at 10¢ per page.	Mr. Roland W. Olson, Director of Public Affairs, Farm Credit Administration, Washington, D.C. 20578.
Federal Reserve System, Board of Governors.	Card index to Board actions of the type that are made available to the public under the Freedom of Information Act from July 4, 1967 to date.		May be inspected in Freedom of Information Office, Room B-1122, Main Board Bldg., 20th and C Sts. NW.
Do	Microfilm copies of above index covering period July 4, 1967 to Dec. 31, 1977. Subsequent years to be microfilmed.	Order from Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Checks payable to Board of Governors of the Federal Reserve System. $13.25 a roll.	Freedom of Information Office, Room B-1122, Main Board Bldg., 20th and C St. NW. (202) 452-3684.
Do	Hard copy bound index for:		
	1967	...do.[1]	Do.
	1968-74	...do.[2]	Do.
	Copies for additional years in preparation.		
Do	Individual copy of the card index	Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Charge not to exceed the direct cost of duplication.	Do.
Do	Weekly index published and distributed to the public providing identifying information as to any matter issued, adopted or promulgated by the Board from the first week in January 1975 to date (H.2 release).	Publications Services, Division of Administative Services, Board of Governors of the Federal Reserve System. Washington, D.C. 20551. (Mailing list maintained; no charge for current copies.).	Do.
Federal Trade Commission ...	Bound volumes of all FTC decisions, volumes 1-89, initial decisions of administrative law judges; Commission decisions in adjudicative proceedings; significant orders and opinions; consent orders; advisory opinions; and compliance advice; from March 1915 to June 1977. (Index of contents in each volume.).	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents, $9-17 each (some volumes out of print).	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580. 202-523-3598. Copying charge $.12 per page (assessed only for amounts over $10)
Do	Bound volume of Advisory Opinions, June 1962 to December 1968, index included, containing requests for advice concerning proposed actions and Commission responses. (Advisory Opinions also included in volumes of decisions listed above.).	Same as above. $2.25 each	Do.
Do	Enforcement statements pertaining to a specific industry or Commission policy, continuous from July 1967.	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580, 202-523-3598. Checks: Treasury of the U.S. Copying charge $.12 per page (assessed only for amounts over $10).	Do.
Do	Trade Regulation Rules, interpretive rules and general statements of policy with respect to unfair or deceptive acts or practices in or affecting commerce, index for specific rulemaking proceedings, continuous from July 1967.	...do	Do.
Do	Application for reimbursement for participation in trade regulation rulemaking proceedings, continuous from 1976.	...do	Do.
Do	Current operating and administrative manuals; statements of general procedures and policies, rules of practice for adjudicative proceedings, nonadjudicative procedures, and miscellaneous rules; governing statutes.	...do	Do.
Do	Freedom of Information Act access requests and responses, continuous from March 1973.	...do	Do.

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Do	Letters closing investigations after facts disclosed indicate corrective action not required in the public interest, continuous from March 1974.	do	Do.
Do	Applications from former members and employees to appear or participate in a proceeding or investigation, and Commission's responses, continuous from January 1969.	do	Do.
Do	Staff opinion letters issued by staff in response to requests for advice, continuous from May 1962.	do	Do.
Do	Index of proceedings in adjudicative matters pending before the Commission, current cases.	do	Do.
Do	Petitions submitted requesting action by the Commission, continuous from 1971.	do	Do.
Do	Index to publications available, including pamphlets, buyers' guides, industry guides, reports (e.g., quarterly financial, economic and staff in specific matters, annual, et cetera).	do	Do.
Do	News releases and other public announcements, continuous from 1969.	do	Do.
Do	Motions to limit or quash investigational subpoenas, continuous from June 1962.	do	Do.
Do	Motions to limit or quash orders requiring access or requiring a special report or answers to specific questions, continuous from November 1975.	do	Do.
Do	Announcements of meetings, summaries of matters discussed, and minutes of open meetings, continuous from March 1977.	do	Do.
Do	Proposed consent orders, analyses, and relevant documents submitted by respondent or proposed respondent, during 60-day comment period.	do	Do.
Do	Outside contacts, correspondence, meetings, information associated with Commission proceedings, continuous from April 1974.	do	Do.
Do	Current record of final votes of each member of the Commission in every agency proceeding, continuous from 1973.	do	Do.
Do	Assurances of voluntary compliance submitted by proposed respondents under investigation, 1965 to 1974.	do	Do.
Do	Digests of consumer complaints, quarterly from Oct. 1977.	do	Do.
General Services Administration (GSA).	GSA Freedom of Information Act index; July 4, 1967 through Mar. 31, 1978. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect a member of the public.	GSA, Director of Information (AV), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18 and F Sts. NW., Room 1033, Washington, D.C. 20405. Business service centers: Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109. Region 2: 26 Federal Plaza, New York, N.Y. 10007. Region 3: 7 and D Sts. SW., Washington, D.C.20407. Region 4: 1776 Peachtree St. NW., Atlanta, Ga. 30309. Region 5: 230 South Dearborn St., Chicago, Ill. 60604. Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131. Region 7: 819 Taylor St., Fort Worth, Tex. 76102. Region 8: Building 42, Denver Federal Center, Denver, Colo. 80225. Region 9: 525 Market St., San Francisco, Calif. 94105. Region 10: GSA Center, Auburn, Wash. 98002.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Brochure: Falcon Dam and powerplant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.
Do	Water Bulletins: containing data for 1 yr. covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, sources of river flow, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas—for years 1931 through 1975.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902. Price: $3.50 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902.
Do	Water Bulletins: Containing data for 1 yr. covering flow of Colorado River and other western boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1975.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above). Price: $2.50 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above).
National Science Foundation (NSF).	Index of NSF circulars, manuals, and bulletins in effect as of July 10, 1978. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars—convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals—provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins—used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. $0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 1242, 1800 G St. NW., Washington, D.C. 20550.
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Do	Publications of the National Science Foundation. An index by topical classification, as of December, 1978, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 78-83).	NSF Publications Section, Room 235, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 1242, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) room 531, 1800 G St. NW., Washington, D.C. 20550.

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Do	NSF Grant Policy Manual. A compendium of basic NSF grant policies and procedures for use by the grantee community and NSF Staff. The Manual implements OMB Circular No. A-110, which is directed toward standardizing and simplifying the various accountability and reporting requirements among Federal granting agencies. (NSF publication 77-47)..	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038-000-81001-4. Unit price: $12.00.	NSF Division of Grants and Contracts, Room 201, 1800 G St. NW., Washington, D.C. 20550.
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, April 4, 1967 through Dec. 31, 1978. Chronological listing (by date of service) of decisions after hearings on appeal involving airman or air safety certificates.	Copies of indexes and checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594..	Chief, Public Inquiries Section, Room 808-F, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room 808-G
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Office of Management and Budget (OMB).	Index to BOB/OMB bulletins, July 4, 1967 to Sept. 30, 1978. Keyword index of OMB bulletins.	Office of Management and Budget. No fee.	Velma N. Baldwin, Assistant to the Director for Administration.
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Postal Rate Commission	Postal Rate Commission Index, from 1971 to Sept. 30, 1978; Opinions and Recommended Decisions, Advisory Opinions and Orders having a precedential value.	Information Officer of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C. 20268.
Renegotiation Board	Index of documents, vols. 1, 2, and 3, 1967 to present: Agreements, modification agreements, clearances after assignment, clearances after reassignment, clearances without assignment, clearance agreements, letters not to proceed, final orders, regional board opinions, orders, modification orders, special accounting agreements, interpretations, general orders, administrative orders that affect the public, memoranda of decision, statements of facts and reasons, summaries of facts and reasons, decisions on applications for stock item exemption, decisions on new durable productive equipment exemption, and decisions on applications for commercial exemption.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446. $0.15 per page.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446, Room 4310. Telephone: 202-254-7019.
Selective Service System	1. Index to Selective Service Regulations and Directives, 1948 to 1972. 2. Index to Selective Service Regulations and Registrants Processing Manual, 1972 to present. 3. General Index to Reconciliation Service Manual. 4. Registrant Information Bank Guide Index 1972 to present.	National Headquarters Selective Service System, 600 E Street NW., Washington, D.C. 20435. Prices: (1) $2; (2) $2; (3) $.10; (4) $.10. Make checks payable to: Selective Service System.	Records Manager, National Headquarters Selective Service System, 600 E Street NW., Washington, D.C. 20435, telephone 202-724-0419.
Tennessee Valley Authority..	Index to general administrative releases; covers period through June 1978; index to TVA organization bulletins. TVA codes and TVA instructions.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902. Price: $2.00 Checks payable to: Tennessee Valley Authority.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902.

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This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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(n) removed; (p) added	13491
(q) added	14637
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(r) through (t) added	16967
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(u) added	21635
(v) added	22667
(s) revised	39953
(q) revised	48989
(p) revised	50157
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(y) added	51382
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(a) revised	59055
213.3384 (l)(5) through (7) added	2167
(a)(13) added	3253
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(a)(14) added	4963
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(b)(19) revised	6914
(l)(5) revised	7199
(a)(17) and (m)(3) revised	9781
(a)(9) and (47) revised	12292
(d)(3) revised	14001
(a)(31) added	18641
(h) added	20953
(a)(45) added	22001
(b)(23) revised	22667
(a)(69) revised	25076
(a)(6) revised	27775
(a)(14) revised	28429
(b)(21) revised	31309
(m)(3) revised	39951

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(b)(15) revised	49525
213.3386 (f) added	2816
(g) added	36592
213.3389 Added	21635
213.3394 (a)(2) revised	3254
(d)(6) added	2816
(h)(10) added	4586
(h)(11) added	8149
(d)(7) added	9782
(a)(29) revised	11143
(a)(14) added	32115
(d)(7) revised; (j) added	45549
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213.3396 (a)(3) added	16305
(b) heading and (1) revised	18641
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(b)(1) added	51381
213.3399 (d) added	58539
297.117 (a) revised; (b)(3) added	46505
300.103 (c) revised	38310
300.401 (Subpart D) Removed	51753
300.501—300.502 (Subpart E) Removed	51753
302 Authority citation revised	4904
302.101 (c) introductory text and (a) revised	2378
302.103 Revised	2378
302.501—302.503 (Subpart E) Added	2378
315.201 (c)(1) revised	34428
315.603 (a)(1) and (2) introductory texts, (2)(i) and (b) revised	34428
315.605 Heading, (a), and (b) revised	20954
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315.701 (b), (c), and (d) introductory texts, (c)(2), and (f) revised; (c)(3) and (4) added	34428
315.703c Added	14002
315.806 (b)(1) revised	5794
316.301 Revised	34429
316.302 (c) introductory text revised; (c)(4) added	27775
(c) introductory text revised	34429
330 Authority revised	2379
330.201 (e)(2) revised	2378
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338.201 Removed; eff. 1-11-79	60857
338.301 (Subpart C) Removed	8149
353.102 (a) revised	2379
353.301 Revised	2379
353.302 (b) revised	2379
353.307 Redesignated as 353.308 and revised; new 353.307 added	2379
353.308 Redesignated from 353.307 and revised	2379
353.401 (a)(3) added; (b) revised	2379
511.201 (b) amended	1473
534.202 (b) amended	1473
539.201—539.204 (Subpart B) Heading revised	46288
539.204 Added	46288
550.361 Revised	60857
550.1001—550.1002 (Subpart J) Added	46288
591.201—591.213 (Subpart B) Appendix amended	12293
713.201—713.235 Redesignated as 29 CFR 1613.201—1613.235	60901
713.241—713.283 Redesignated as 29 CFR 1613.241—1613.283	60901
713.271 (a)(1) and (2), and (b)(1) and (2) amended; (b) introductory text revised	52695
713.301—713.302 (Subpart C) Redesignated as 29 CFR 1613.301—1613.302 (Subpart C)	60901
713.401 (Subpart D) Heading and section revised	12295
713.501—713.521 (Subpart E) Redesignated as 29 CFR 1613.501—1613.521 (Subpart E)	60901
713.601—713.643 (Subpart F) Redesignated as 29 CFR 1613.601—1613.643 (Subpart F)	60901
713.701—713.710 (Subpart G) Added	12295
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772.301—772.312 (Subpart C) Heading revised	60858
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772.302—772.305 Nomenclature change	60858
772.306 (a) revised	5794
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871.401 (c) revised	32736
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890.203 (a) redesignated as (a)(1) and amended; (a)(2) added	52461
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890.301 (d)(1) revised	50671
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890.302 (e) added	52460
890.305 Revised	52460
890.503 (c)(4) revised	52460
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890.604 Removed	35018
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1.41 Amended	6205
2.15 (a)(1) revised; (a)(2)(x) added	1289
2.17 (a)(3)(xxi) removed; (b)(28) revised	1289
(b)(28) revised	14005
2.19 (a) revised; (b), (c), and (e) removed	3254
(f)(9) added	8252
2.20 (a) added; (b) and (c) removed	3256
2.21 (d)(28) added	15135
(a)(32) removed	23983
(a) redesignated as (b); new (a) added	31309
(d)(1) revised	31310
2.22 (a) redesignated as (b)	31310
2.23 (f) added	22001
2.25 (b) revised; (c) and (f) removed	6057
(c) added; (g) revised	13053
(e)(10)(xviii) and (xix) removed; (f) added	22329
(h)(1) revised	22001
(a)(3)(xi) removed	28979
(h)(2) and (3) removed	41371
2.27 (a)(3) and (4) and (c) revised; (a)(7) through (11) and (16) removed; (a)(12) through (15) redesignated as (a)(7) through (10)	13053
(c) correctly designated	16967
(f) and (g) added	20217
(b)(12) added	37419
(b)(13) added	45340
(e) revised	56204
(b)(14) added	56637
2.29 (c)(10) added	28979
2.37 Added	23983
2.50 (a)(3)(xxi) removed	1289
2.51 (a)(28) revised	1289

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(a)(28) revised 14005
2.57 Revised 3256
2.58 Removed 3256
2.59 Removed 3256
2.60 (b)(9) added 39953
2.61 Removed 3256
2.62 (a)(11) added 8252
2.63 Redesignated from 2.64 31310
2.64 Redesignated as 2.63; new 2.64 added 31310
2.65 (a)(32) removed 23983
(a) introductory text amended 31310
2.68 (a)(16) added 15135
(a)(1) revised; (a)(17) and (18) added 31310
2.70 (a)(15) through (27) added 11689
2.71 Removed 11689
2.75 Revised 6058
2.76 Removed 6059
Added 22329
2.77 Added 20781
2.78 (a)(10)(xviii) and xix) removed 22330
(a)(11) and (12) removed 41371
2.79 Removed 6059
2.80 (a)(9) revised 22001
(a)(1) and (2) removed; (a)(13) through (21) added 41371
2.84 (a)(3) and (4) revised; (a)(7) through (11), (16) and (b) removed; (a)(12) through (15) redesignated as (a)(7) through (10) 13054
2.85 (a)(13) added 37419
(a)(14) added 56637
2.86 Added 20217
(a)(4) added 56204
2.92 (a)(1) revised; (a)(2)(xl) added 1290
6.15—6.33 (Subpart) Appendix I amended 18536, 50999
6.15—6.32 (Subpart) Appendix I revised 54908
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6.16 Revised 18536, 50999
6.20 Revised 54902
6.21 Revised 54902
(q) corrected 60427
6.22 Revised 54903
6.23 Revised 54903
6.24 Revised 54903
6.25 Revised 54903
(b)(4) removed 60427
6.26 Revised 54904
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6.31 Revised 54906
6.32 Revised 54907
6.33 Removed 54902
6.50—6.59 (Subpart) Added 32737
11.1—11.18 (Subpart A) Subpart and Appendexes removed 60858
14 Removed 60859
15.51 Revised 34755
16.4 Revised 969
16.5 Removed 969
Added 56014
(c) added 56205
(a), (b), and (c) amended 58801
17.8 (c)(1)(ii) interpretation added 27981
20.1 Amended 5497
20.7 Revised 5497

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26.71 (a) revised 16307
Revised 52019
26.72 Revised 16309
26.353 (c)(4) added 2816
26.905 Revised 2817
27.93 Amended; eff. 8-1-79 29263
29.123 Revised 9585
Revised 59469
29.3050 Revised 45341
29.9251 Revised 9585
Revised 59469
29.9403 (b) and (d) revised 16309
46.45 Revised 4964
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47 Authority citation correctly added 59470
47.5 Revised 30787
47.47—47.56 Revised 30788
47.57—47.66 Revised 30789
47.67—47.68 Revised 30790
53.18 (a) amended 45979
68.42c Revised 31881
102.2 (t) and (u) redesignated as (u) and (v); (q), (r), and new (u) revised; new (t) added 14006
Authority citation correctly added 60427
102.44 Revised 14006
Authority citation correctly added 60427
102.57 Revised 14006
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102.61 (c) removed; (d) through (f) redesignated as (c) through (e) 14006
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102.63 Revised 14006
Authority citation correctly added 60427
102.67 (b) revised 14006
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102.80 Revised 14006
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102.91 Revised 14006
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180.5 (a)(4) added 9782

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210.2 (h-1) through (h-6) redesignated as (h-2) through (h-7); new (h-1) added 60860
210.8 (d) removed 60860
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210.10 (a)(4) revised 25991
210.14 (b) and (c) added 60861
210.17 (a) revised; interim; eff. 7-1-79 59823
210.19a Revised 60861
210.19b Added; interim 37168
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215.2 (e-2) and (k-1) added; (k) and (x) revised 1059
215.7 (d)(1) and (2) revised 1059
215.8 (b) revised; (c) removed; (d) redesignated as (c) 1060
215.9 (b) revised 1060
215.10 (a) and (f) revised; (c) amended 1060
215.11 (c)(1) amended; (c)(3) added 1060
215.13 (a) revised; interim; eff. 7-1-79 59825
215.13a (a), (b), (c), and (d) introductory text revised; (e) amended 1060
215.16 (b) and (g) amended 1060
220.15 (a) revised; interim; eff. 7-1-79 59825
225 Revised 4040, 13022
225.2 (gg) added 32738
225.18a Added 32738
226 Appendix revised 25130
226.4 (d) added 37979
226.27 (f) added 37980
227 Added 12297
227.5 (d) and (e) redesignated as (e) and (f); new (d), (g), and (h) added 25133
227.30 (c) amended; (d) and (e) redesignated as (f) and (g); new (d), (e), and (f)(3) through (6) added 25133
227.31 Added 25133
227.36 Added 25133
227.37 Added 25134
227.41—227.44 Added 25134
227 Appendix added 25131
230.14 (a) revised; interim; eff. 7-1-79 59826
230 Appendix amended 5794
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235.1 Revised 37172
235.2 (b) and (l) revised; (k) removed; (p-1) added; interim 37172
235.3 (a) revised 37172
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235.5 Revised 37172
235.6 (a), (b), and (c) revised; (f) removed 37172
235.7 (a) amended 37173
235.11 (a) revised 37173
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240.2 (d) revised; (l-1) added 12300
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240.8 Text designated as (a) and amended; (b) added 12301
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246.4 (d) and (e) introductory texts, (d)(3), (e)(3) and (4) amended; (f) and (g) headings added 23985
246.7 (d), (e)(7), and (g) amended 23985
246.8 (d) note amended 23985
(d)(3)(i) amended 58542
246.9 (d)(3) amended 23985
246.10 (a), (b), (d)(3)(ii) and (iii) amended 23985
(a) amended 29264
246.17 Heading and (b) heading revised; (a) and (b)(2) amended; (c) and (d) redesignated as (c)(1) and (c)(2); new (c) introductory text added 23985
246.26 (e)(6) amended 23986
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250.3 (n-1) revised---------- 20955
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250.4 (b) (2) and (3) amended; (b) (5) revised; (h) added- 39073
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250.6 (r) amended---------- 20955
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270 Redesignated as 271 and revised ---------- 47882
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271 Redesignated in part as 272 through 280 and revised----- 47884
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271.2 Redesignated as 271.11; new 271.2 added---------- 43273
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271.7 (e) revised---------- 22669
271.10 (c) (1) (i) revised; (c) (1) (ii) amended---------- 29264
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272 Redesignated as Part 278 and revised---------- 43274
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273 Redesignated as Part 279 and revised---------- 43279
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273.10 Appendix A added-------- 54203
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274 Redesignated as 280; new 274 redesignated in part from 271 and revised---------- 47927
275 Redesignated as 277--------- 47927
275.10 (c) (1) (ii) and (d) (3) suspended; (c) (1) (i), (d) (1) and (4) amended---------- 35646
277 Redesignated from 275------ 47934
278 Redesignated from Part 272 and revised---------- 43274
279 Redesignated from Part 273 and revised---------- 43279
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301.48-3 (a) introductory text revised; (b) removed; footnotes 5 and 6 removed------ 40529

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301.52-2a Amended ---------- 25135
301.64-2b Revised ---------- 15607
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319.28 (b) (5) removed---------- 13491
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653 Added ---------- 58079
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701.12 Redesignated as 701.10 and revised; new 701.12 redesignated from 701.11 and amended ---------- 8784
701.13 Heading and (b) revised; (d) removed; (c) redesignated as (d); new (c) added- 8784
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726.11 Undesignated center heading and section revised	4972
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728.1 (c) amended	28430
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905.146 Added	9455
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905.147 Added	9456
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171.6 Revised; eff. 6-20-79	60021
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177.1350 (a)(5) added	29287
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178.3400 (c) amended	58557
178.3570 (a)(3) amended	54928
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314.8 (a)(5)(xi) added	37989
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314.12 (c) added; eff. 6-20-79	60022
314.110 (a)(9) added; eff. 6-20-79	60022
314.111 (a)(8) amended; (a)(9) added; eff. 6-20-79	60022
314.115 (c)(6) added; eff. 6-20-79	60022
330.10 (c) added; eff. 6-20-79	60022
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430.4 (a)(45) added	55382
430.5 (a)(62 and (b)(62) added	20976
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430.6 (b)(64) added	20976
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14–19.108 Heading added 59842
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1034.1344 Added 51404
1039 Added 58189
1048 Waiver 58376
1056.19 (e) compliance date extended 46548, 51805
1056.40 Added 59501
1062 Heading revised 59387
1062.2 Added 59387
1100.98 (e)(1) introductory text and (f) revised 57257
1100.247 (i) amended; (e)(9), (k), (l), and (m) added 50911
(e)(9) and (k) introductory text revised; (l)(4) added; (m) amended 60277
(e)(9), (i), (k), (l), (m) effective date stayed 60278
1100 Appendix A amended 59506
1102 Schedule A revised 57905

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1121.22 (c) revised 45588
1121.32 (d)(1) revised 45588
1200.2 Authority citation correctly added 50684
1201 Authority citation correctly added 50684
1202 Authority citation correctly added 50684
1205 Authority citation correctly added 50684
1206 Authority citation correctly added 50684
1207 Authority citation correctly added 50684
Corrected 46974
1208 Authority citation correctly added 50684
1209 Authority citation correctly added 50684
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1211 Authority citation correctly added 50684
1240 Authority citation correctly added 50684
1241 Authority citation correctly added 50684
1241.12 Heading revised; existing text designated as (a); (b) added 60474
1249.4 Reinstated 46974
1249.5 Reinstated 46974
1249.6 Reinstated 46975
1249.11 Reinstated 46975
1249.12 Reinstated 46975
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1331.6 Revised 55252

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10.22 Table amended 45370
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17.12 Table revised 58048
17.95 (c) amended 45759
18.4 Removed 45372
18.11 Introductory text revised 45372
18.51—18.59 (Subpart F) Revised 45372
20.104 Table corrected 45588
20.105 (c) table and (d) tables and text corrected; footnote 14 revised 45589
20.107 (c) corrected 45590
20.109 Table corrected 45590
21.29 (k) corrected 57606
26.34 Amended 45374, 48649
32.11 Amended 49540
32.12 Amended 46030, 46032, 46548, 49985, 51025
32.21 Amended 49540
32.22 Amended 47196, 47977, 49985
32.31 Amended 47528
32.32 Amended 46029, 48649, 50184
33.5 Amended 45869, 54099, 54639, 54933, 54934, 55410, 55411, 57258, 58190, 59507, 59845, 60278, 60930
96 (Subchapter H and Part) Added 60257

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

216.24 (d) interpretation 46975
222.1 Revised 54640

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222.31 (Subpart D) Added 54640
227.71 (g) and (h) amended; (i) added 54640
227.72 (e)(2) added 54640
(e)(2) corrected 56044
(e)(2) revised 57147
258.1—258.9 (Subpart A) Subpart heading added 45870
258.20—258.28 (Subpart B) Added 45870

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351.33 (d) revised 47529
351.34 (a)(1)(iii) amended; tables 1 and 2 revised 47529
351.35 Revised 47532
351.36 (a)(1) and (2) revised; (a)(3) added 47532
351.38 Revised 47532
351.71 (e) and (f) added 47532
351.72 Amended 47532
351.74 (a)(1) revised 47532

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611 Revised 59293
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(c) table I amended; (c) table I footnotes 4 through 9 revised 54638
611.22 Revised 57148
(c) added 59508
(d) added 60172
611.50 (d)(2) added 60930
611.91 Revised 59076

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611.92 (b) table I amended 51637
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(b)(1) introductory text table I revised; (b)(1)(ii) added; (b)(2)(ii)(D) amended 56243
611.93 (b) table I amended 50442, 54638, 58191
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651 Revised 45874
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651.24 (d) revised 58570
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652 Temporary regulation 50443, 54252, 59388
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652.7 (a)(1) revised; eff. 10–1 to 12–31–78 46033
(a)(1) revised; eff. 1–1 to 3–31–79 59389
652.9 Revised 54639
653 Added 60476
671 Added 57150
672 Added 52717
672.20 (a) table I revised; (c) added 56241

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Table 1 is in the CFR Index and finding aids revised as of July 1, 1977. Additions from July 1977 through June 1978 are in the June 1978 List of CFR Sections Affected.

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. All January, February, and March dates are in 1979.

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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS
(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT
AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SEA—Science and Education Administration
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT
Census—Census Bureau
EAB—Bureau of Economic Analysis
EDA—Economic Development Administration
FTZB—Foreign-Trade Zones Board
ITA—Industry and Trade Administration
MA—Maritime Administration
MBEO—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT
AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DCAA—Defense Contract Audit Agency
DIA—Defense Intelligence Agency
DIS—Defense Investigative Service
DLA—Defense Logistics Agency
EC—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT
BPA—Bonneville Power Administration
ERA—Economic Regulatory Administration
EIA—Energy Information Administration
ERO—Energy Research Office
ETO—Energy Technology Office
FERC—Federal Energy Regulatory Commission
OHADOE—Hearings and Appeals Office, Energy Department

SERA—Southeastern Power Administration
TVA—Tennessee Valley Authority

JUSTICE—JUSTICE DEPARTMENT
LEAA—Law Enforcement Assistance Administration
NIJ—National Institute of Justice
OJJDP—Office of Juvenile Justice and Delinquency Prevention
PRA—Parole Regulation Administration

CEQ—Council on Environmental Quality
NRC—Nuclear Regulatory Commission
OMB/FPPO—Federal Procurement Policy Office
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant Director

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SEPA—Southeastern Power Administration
SWPA—Southwestern Power Administration
WAPA—Western Area Power Administration

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

AC—Aging Federal Council
ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
ESNC—Educational Statistics National Center
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
MSI—Museum Services Institute
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals, Interior Department
RB—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

FEDERAL REGISTER

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMR—Office of Hazardous Materials Regulations
OPSR—Office of Pipeline Safety Regulations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office
SS—Secret Service

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
FCA—Farm Credit Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/OFR—Office of the Federal Register
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/OFR—Office of the Federal Register
GSA/PBS—Public Buildings Service
ICA—International Communications Agency
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
MB—Metric Board
MWSC—Minimum Wage Study Commission
MWSC—Minimum Wage Study Commission
NACEO—National Advisory Council on Economic Opportunity
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH—National Foundation for the Arts and the Humanities
NLRB—National Labor Relations Board

FEDERAL REGISTER

NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OMB—Office of Management and Budget
OMB/FPPO—Federal Procurement Policy Office
OMB/FPRS—Federal Property Resources Service
OMB/FPPO—Federal Procurement Policy Office
OPIC—Overseas Private Investment Corporation
OSTP—Office of Science and Technology Policy
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

rules and regulations

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505-01-M]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1977/1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1977 and 1978. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $400 domestic, $100 additional for foreign mailing.

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1-59	5.75
60-199	6.75
200-1199	5.75
1200-end	3.75
15	5.75
16 Parts:	
0-149	5.00
150-999	4.75
1000-end	5.25

CFR Unit (Rev. as of Apr. 1, 1978):

Title	Price
17	$8.25
18 Parts:	
150-end	5.00
20 Parts:	
1-399	3.50
400-499	5.00
500-end	4.50
21 Parts:	
1-99	4.00
100-199	6.00
200-299	2.75
300-499	5.75
500-599	5.00
600-1299	4.25
1300-end	4.50
22	5.50
23	5.00
24 Parts:	
0-499	8.25
25	5.50
26 Parts:	
1 (§§ 1.0-1.169)	5.75
1 (§§ 1.301-1.400)	4.00
1 (§§ 1.401-1.500)	4.75
1 (§§ 1.501-1.640)	4.75
1 (§§ 1.641-1.850)	4.75
1 (§§ 1.1201-end)	8.50
2-29	4.75
40-299	5.50
300-499	4.75
600-end	3.00

CFR Unit (Rev. as of July 1, 1977):

Title	Price
28	$4.25
29 Parts:	
0-499	5.75
500-1899	6.00
1900-1919	6.00
1920-end	4.50
30	6.00
31	5.75
32 Parts:	
1-39 (V. I) (Rev. 7/1/76)	4.75
(V. II) (Rev. 7/1/76)	7.50
(V. III) (Rev. 7/1/76)	5.25
40-399	6.25
400-589	5.00
590-699	4.00
700-799	8.25
800-999	5.75
1000-1399	2.75
1400-1599	4.25
1600-end	2.75
32A	3.75
33 Parts:	
1-199	7.00
200-end	5.30
34	1.70
35	4.00
36	4.50
37	3.00
38	6.00
39	3.50
40 Parts:	
0-49	4.25
50-59	5.75
60-99	5.00
100-399	4.75
400-end	5.75
41 Chapters:	
1-2	5.25
3-6	5.50
7	2.75
8	2.30
9 (Rev. 9/26/77)	5.00
10-17	4.25
19-100	4.50
101-end	5.75
CFR INDEX & finding aids	4.75

CFR Unit (Rev. as of Oct. 1, 1977):

Title	Price
42 Parts:	
1-399	$5.50
400-end	4.75
43 Parts:	
1-999	4.00
1000-end	6.00
44 [Reserved]	
45 Parts:	
1-99	4.25
100-149	5.50
150-199	4.75
200-499	3.50
500-end	6.00
46 Parts:	
1-29	3.00
30-40	3.25
41-69	4.50
70-89	3.25
90-109	3.00
110-139	3.00
140-165	4.75
166-199	3.75
200-end	6.00
47 Parts:	
0-19	5.75
20-69	5.25
70-79	5.00
80-end	6.00
48 [Reserved]	
49 Parts:	
1-99	3.00
100-199	8.25
200-999	8.75
1000-1199	4.50
1200-1299	8.00
1300-end	4.25
50	5.50

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Positions on the staff of the Council on Wage and Price Stability and positions in member agencies of the Council which are needed to carry out those agencies' anti-inflation

program responsibilities are excepted

William Bohling, 202-632-4533.

action will result in centralized coordi-

§ 2.86 Chairman, World Food and Agricultural Outlook and Situation Board.

FOR FURTHER INFORMATION CONTACT:

[3410-08-M]

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program responsibilities are excepted under Schedule A because it is impracticable to examine for them. With establishment of this more general authority, Schedule A authority under § 213.3199(r)(l), which covered only positions on the staff of the Council, is simultaneously revoked.

EFFECTIVE DATE: November 21, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3102(kk) is added and § 213.3199(r) is revoked as set out below:

§ 213.3102 Entire Executive Civil Service.

• • • • •

(kk) Until September 30, 1979, positions at grades GS-15 and below on the staff of the Council on Wage and Price Stability, and positions in agencies which are members of the Council, when such positions are needed to carry out the agencies' responsibilities under the anti-inflation program.

• • • • •

§ 213.3199 Temporary Boards and Commissions.

• • • • •

(r) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-33365 Filed 11-30-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The positions of Deputy Director, Division of Research Grants and Humanist Administrator, Summer Seminars/Summer Stipends Program, Division of Fellowships are no longer excepted under Schedule A because it is practicable to examine for them; however, the positions are excepted under Schedule B because it is not practicable to hold a competitive examination for them.

EFFECTIVE DATE: August 14, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3182(b)(8) is amended and (b)(24) is revoked and 213.3282(b) (24) and (25) are added as set out below:

§ 213.3182 National Foundation on the Arts and the Humanities.

• • • • • •

(b) *National Endowment for the Humanities.* • • •

(8) Until September 30, 1980, two Program Officers, Division of Research and Stipends.

• • • • • •

(24) (Revoked)

• • • • • •

§ 213.3282 National Foundation on the Arts and the Humanities.

• • • • • •

(b) *National Endowment for the Humanties* • • •

(24) Until September 30, 1980, one Deputy Director, Division of Research Grants.

(25) Until September 30, 1980, one Humanist Administrator, Summer Seminars/Summer Stipends Program, Division of Fellowships.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-33364 Filed 11-30-78; 8:45 am]

[3410-01-M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Delegation of Authority for Remote Sensing Activities

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: Authority is delegated to the Director of Economics, Policy Analysis and Budget and to the Chairman, World Food and Agricultural Outlook and Situation Board to provide technical assistance, coordination, and guidance in matters relating to satellite remote sensing activities. This action will result in centralized coordination of remote sensing activities in USDA. The Chairman will also serve as or designate someone to serve as Executive Secretary of the USDA Remote Sensing Coordinating Committee.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

James L. Fulton, Office of the Deputy Administrator for Management, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250,Telephone: 447-7392.

Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.27 is amended by revising paragraph (e) to read as follows:

§ 2.27 Delegations of Authority to the Director of Economics, Policy Analysis and Budget.

• • • • •

(e) *Related to remote sensing.* (1) Provide technical assistance, coordination, and guidance to Department agencies in planning, developing, and carrying out satellite remote sensing activities to assure full consideration and evaluation of advanced technology.

(2) Coordinate administrative, management, and budget information relating to the Department's remote sensing activities including:

(i) Inter- and Intra-agency meetings, correspondence, and records;

(ii) Budget and management tracking systems; and

(iii) Inter-agency contacts and technology transfer.

(3) Designate the Executive Secretary for the Remote Sensing Coordinating Committee.

• • • • •

Subpart K—Delegations of Authority by the Director of Economics, Policy Analysis and Budget

2. Section 2.86 is amended by adding a new paragraph (a)(4) to read as follows:

§ 2.86 Chairman, World Food and Agricultural Outlook and Situation Board.

(a) • • •

(4) *Related to remote sensing.* (i) Provide technical assistance, coordination, and guidance to Department agencies in planning, developing, and carrying out satellite remote sensing activities to assure full consideration and evaluation of advanced technology.

(ii) Coordinate administrative, management, and budget information relating to the Department's remote sensing activities including:

(*a*) Inter- and intra-agency meetings, correspondence, and records;

(*b*) Budget and management tracking systems; and

(c) Inter-agency contacts and technology transfer.

(iii) Serve as or designate the Executive Secretary for the Remote Sensing Coordinating Committee.

• • • • •

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subpart C:

Dated: November 18, 1978.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart K:

Dated: November 18, 1978.

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

[FR Doc. 78-33684 Filed 11-30-78; 8:45 am]

[3410-10-M]

[Amdt. 4]

PART 16—LIMITATION ON IMPORTS OF MEAT

Section 204 Import Regulations; Restrictions on the Importation of Meat From New Zealand

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The regulations set forth in this Subpart are amended to limit imports of certain meats from New Zealand to no more than 314.8 million pounds, during calendar year 1978. Such action is necessary to carry out the 1978 restraint program including the agreement entered into by the United States with New Zealand pursuant to section 204 of the Agricultural Act of 1956 limiting the export from New Zealand and the importation into the United States of certain meats.

EFFECTIVE DATE: December 1, 1978. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

John E. Riesz (FAS), 202-447-7217, Dairy, Livestock and Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

This regulation establishes quantitative restrictions applicable to meat imported from New Zealand which may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly, at the level of 314.8 million pounds during calendar year 1978.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.O. 12044.

EFFECTIVE DATE

Meat released under the provisions of Section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery)) prior to December 1, 1978, shall not be denied entry.

Subpart A, Section 204 Import Regulations, of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended to add paragraph (c) to § 16.5, "Quantitative Restrictions" which reads as follows:

§ 16.5 Quantitative restrictions.

• • • • •

(c) Imports from New Zealand. During calendar year 1978, no more than 314.8 million pounds of meat, exported from New Zealand in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20, may be entered or withdrawn from warehouse for consumption in the United States, whether such meat was shipped directly or indirectly, from New Zealand to the United States.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733).)

Issued at Washington, D.C., this 28th day November 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-33741 Filed 11-30-78; 8:45 am]

[3410-08-M]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 403—PEACH CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes the procedure for insuring peaches under revised regulations, effective with the 1979 and succeeding crop years, which are designed to more nearly reflect the intent of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), as it relates to the cost of production protection provided by the insurance. Under the revised regulations, the production costs are reflected in the dollar amount of insurance based on both the expected production and the actual amount of fruit at harvest time. The fruit is valued based upon market price and the intent of these revised regulations is to relate the amount of insurance directly to the cost or production, and to relate the value of production directly to the dollar amount of insurance. These revised regulations are designed to more adequately cover the costs of production and reflect the true value of the production.

DATES: Effective December 1, 1978. Comments will be accepted until January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: The current peach crop insurance program, now offered by the Federal Crop Insurance Corporation in certain counties in Alabama, Arkansas, Georgia, and South Carolina is operating unsatisfactorily from the standpoint of grower participation and insuring experience. In 1971, there were 304 peach crop insurance contracts. In 1978, there are 161 such contracts. In the 8 years from 1971 through 1978, loss ratios on peach crop losses exceeded 1.00 in 6 of the 8 years, indicating a need for review and possible changes in order to assure a continuation of the peach crop insurance program. There are currently 17 contracts in Arkansas, 14 in Georgia, and 130 in South Carolina, with 111 of this number located in Spartanburg County. Due to the relatively small

number of peach crop insureds, it was

403.41 Premium rates and amounts of insurance

ducers of the affected States prior to

date for the filing of applications. To extend the closing date for acceptance

contract. This application, the insurance policy, endorsements, and the county actu-

volving not more that $5,000 finds (a) that an agent or employee of the Cor-

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number of peach crop insureds, it was possible for the Corporation to review the necessary changes in the regulations, appearing below, with a large number of growers in these States. Considerable time was spent with producers researching the revised peach crop insurance policy and evaluating the previous insuring experience under the old regulations. In the discussions, two proposed policies were reviewed. Selection was based on the policy which most adequately serves the needs of producers. Such policy is contained in the peach crop insurance regulations outlined below. The current peach crop insurance regulations were printed in the FEDERAL REGISTER on September 30, 1975 (40 FR 44823), and became effective for the 1976 crop year. These current regulations do not consider the value of the remaining production, dealing only with a percent of loss basis for adjustment purposes. It is possible for a crop with a high percentage of loss to still return to the grower substantial returns if the value of the fruit is high.

The value of the remaining production is taken into consideration under the revised regulations which more nearly reflect the intent of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.). Under the revised regulations, production costs are reflected in the dollar amount of insurance based on both the expected production and the actual amount of fruit at the time of harvest. The fruit is valued based upon the market price and the intent is that the amount of insurance relates directly to the cost of production and the value of production is related directly to the dollar amount of insurance. It is felt that the revised regulations more adequately cover the production costs and reflect the true value of production.

Under the provisions of the peach crop insurance policy, the cancellation date, that date by which a policyholder must notify the Corporation of his desire to cancel his crop insurance coverage for a particular crop year, has been established as November 30. Any regulations that are promulgated herein, or any amendments thereto, must be placed on file in the Corporation's office for the county 15 days prior to such cancellation date, or November 15, in order to be effective for that crop year.

The Board of Directors of the Federal Crop Insurance Corporation has found and determined that there would not be enough time to follow the procedure for notice and public participation and still have the regulations on file in sufficient time to be effective for the coming 1979 crop year. In addition, the Board is mindful of the considerable time and research involved in discussions with peach producers of the affected States prior to the decision to revise the peach crop insurance regulations. The Corporation will provide all current peach insureds a copy of the revised peach policy along with the rates and levels of coverage and a complete written explanation of the changes.

Because of the November 15 deadline, it is hereby found and determined that compliance with the notice and public participation procedure, provisions of 5 U.S.C. 553 is impractical, unnecessary, and contrary to the public interest.

Similarly, it is hereby found in accordance with the provisions of Executive Order 12044 (43 FR 12661, March 24, 1976), that it is not possible to publish these regulations in proposed form and allow 60 days for public comments. However, in an effort to assure an opportunity for public comment in the rule making process as it relates to the insuring of peaches, the Corporation will accept written comments, views, and data on the revised Peach Crop Insurance regulations for a period of 60 days. Such comments, views, and data will be given serious consideration for use in future amendments to such regulations. The public is requested to forward any written comments, views, or data to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, by not later than January 30, 1979, in order to be sure of consideration.

Such comments, views, and data that are received in response to this invitation will be available for public inspection in the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday (7 CFR 1.27(b)).

Adopted by the Board of Directors on October 20, 1978.

FINAL RULE

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), 7 CFR Part 403, the Peach Crop Insurance Regulations for the 1976 and Succeeding Crop Years, as amended, which shall remain in full force and effect for the 1978 crop year, are hereby amended effective for the 1979 and succeeding crop years to read as set forth below.

The provisions of this subpart shall apply, until amended or superseded to all continuous peach crop insurance contracts as they relate to the 1979 and succeeding crop years.

Subpart—Regulations for the 1979 and Succeeding Crop Years

Sec.
403.40 Availability of peach crop insurance.
403.41 Premium rates and amounts of insurance.
403.42 Application for insurance.
403.43 Public notice of indemnities paid.
403.44 Creditors.
403.45 Good faith reliance on misrepresentation.
403.46 The contract.
403.47 The policy.

AUTHORITY: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1979 and Succeeding Crop Years

§ 403.40 Availability of peach crop insurance.

Peach crop insurance shall be offered for the 1979 and succeeding crop years under the provisions of § 403.40 through § 403.47 in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from a list of counties approved by the Board of Directors of the Corporation for peach crop insurance. The counties designated by the Manager shall be published by appendix to this section.

Counties designated by the Manager for Peach Crop Insurance effective for the 1979 crop year are:

ALABAMA

Chilton

ARKANSAS

Cross	Lee
Johnson	St. Francis

SOUTH CAROLINA

Aiken	Greenville
Allendale	Lexington
Barnwell	Spartanburg
Chesterfield	York
Edgefield	

§ 403.41 Premimum rates and amounts of insurance.

The Manager shall establish premium rates and the amounts of insurance per acre which shall be shown on the county actuarial table on file in the office for the county. Such premium rates and amounts of insurance may be changed from year to year.

§ 403.42 Application for insurance.

(a) Application for insurance may be submitted by any person to cover such person's insurable share in peaches as landlord, owner-operator, tenant, or sharecropper, at the office for the county on or before the closing date which shall be the January 10 of the year for which application for insurance is made of the Corporation.

(b) The Corporation reserves the right to discontinue the taking of applications in any county upon its determination that the insurance risk involved is excessive prior to the closing

date for the filing of applications. To extend the closing date for acceptance of applications in any county, by publishing a notice in the FEDERAL REGISTER, upon his determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period the Corporation will immediately discontinue the acceptance of applications.

(c) Application for initial insurance shall be made on the following form:

U.S. DEPARTMENT OF AGRICULTURE, FEDERAL CROP INSURANCE CORPORATION

APPLICATION FOR FEDERAL CROP INSURANCE FOR 19—— AND SUCCEEDING CROP YEARS

Name and address: _____

_____

_____

ZIP code: _____.
Contract No.: _____
County: _____
State: _____
Identification No.: _____

A. The undersigned applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called the "Corporation"), hereby applies to the Corporation for insurance on his share (for cotton, peanut and tobacco insurance, on his share-cropper or share tenant shares as specified in paragraph B below) in the crops stated below that are insurable crops planted on insurable acreage as shown on the applicable county actuarial table of the Corporation for the above-stated county. The applicant elects each plan of insurance, amount of insurance, or price at which indemnities shall be computed, shown below which in each case shall be an electable plan, amount, or price, as provided on the applicable county actuarial table on file in the Corporation's office for the above county. The premium rates and production guarantees shall be those shown on the applicable county actuarial table for each crop year.

Crops: _____
Elections _____
(A): _____
(P): _____

B. Applicable only to cotton, peanut and tobacco: If the applicant intends too insure only the shares of his share-croppers or share tenants who have no insurance on the crop with the Corporation "(SC-Int.)" shall be entered following the name of the crop. If the applicant intends to insure both his individual share and the shares of his share-croppers or share tenants "(Comb. Int.)" shall be entered following the name of the crop. Insurance for sharecroppers and share tenants shall be provided in accordance with the regulations of the Corporation (7 CFR 401, 103(b)).

C. Upon acceptance of this application by the Corporation, the contract shall be in effect for the first crop year specified above, except on any crop on which the time for the filing of applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This application, the insurance policy, endorsements, and the county actuarial tables shall constitute the contract. Any changes in the contract shall be on file in the Corporation's office for the county at least 15 days prior to the applicable cancellation date.

D. This application, when executed by a person as an individual, shall not cover his share in a crop produced by a partnership or other legal entity.

The applicant is a _____ (type of entity).

All natural persons in whose behalf this application is made are over 18 years of age —— (yes or no).

E. Premium Note: In consideration hereof, the insured promises to pay to the order of the Corporation each crop year of the contract the annual premiums. It is agreed that any amount due the Corporation by the insured may be deducted from any indemnity payable to the insured and when not prohibited by law, from any loan or payment otherwise due the insured under any program administered by the United States Department of Agriculture.

Witness to signature: _____
Signature of applicant: _____
Date: _____, 19——.
Code: _____.
Address of office for county: _____

_____

Phone: _____.
Location of farm(s) or headquarters: _____

_____

Phone: _____.

§ 403.43 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at the county courthouse a listing of the indemnities paid in the county.

§ 403.44 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in sections 12 and 13 of the policy set forth in § 403.47.

§ 403.45 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the insurance contract whenever an insured person under any contract of crop insurance entered into under these regulations has suffered a loss to a crop which is not insured, or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, because of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation and the Board of Directors of the Corporation or the Manager in cases involving not more that $5,000 finds (a) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (b) that said insured person relied thereon in good faith, and (c) that to deny said insured's claim for indemnity would not be fair and equitable, such insured person shall be entitled to such indemnity the same as if otherwise entitled thereto.

§ 403.46 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the peach crop which is provided in and covered by the policy when insurance is accepted on the peach crop by the Corporation pursuant to a duly submitted application. Any changes made in the contract shall not affect the continuity from year to year.

§ 403.47 The policy.

The provisions of the Peach Insurance Policy for the 1979 and succeeding crop years are as follows:

U.S. DEPARTMENT OF AGRICULTURE

PEACH INSURANCE POLICY

(This is a continuous contract. Refer to Section 18.)

FEDERAL CROP INSURANCE CORPORATION

Subject to the regulations of the Federal Crop Insurance Corporation (herein called "Corporation") and in accordance with the terms and conditions set forth in this policy, the Corporation upon acceptance of a person's application does insure such person's peach crop against unavoidable loss of production due to causes of loss insured against that are specified in this policy. No term or condition of the contract shall be waived or changed on behalf of the Corporation except in writing by a duly authorized representative of the Corporation.

TERMS AND CONDITIONS

1. *Meaning of terms.* For the purposes of insurance on peaches the terms:

(a) "Actuarial table" means the forms and related material approved by the Corporation which are on file for public inspection in the office for the county, and which show the applicable amounts of insurance, premium rates, insurable acreage, and related information regarding peach crop insurance in the county.

(b) "Contract" means the accepted application, this policy, and the actuarial table.

(c) "County" means the county shown on the application and any additional insurable land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period within which the peach crop is normally grown and

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shall be designated by the calendar year in

ported by or for the insured's spouse or

(1) All acreage of peaches (including a des-

Amount of Insurance Table

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shall be designated by the calendar year in which the peach crop is normally harvested.

(e) "Harvest" means picking of peaches from the tree or from the ground either by hand or machine for the purpose of marketing.

(f) "Loss ratio" means the ratio of indemnity(ies) paid to premium(s) earned.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" or "Insured" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the share of the insured as landlord, owner-operator, or tenant in the insured peach crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share on the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the peach crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of peaches in the county on the date insurance attaches for the crop year (1) in which the insured has a 100 percent share, (2) which is owned by one person and operated by the insured as a tenant, or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peach crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county, or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from drought, earthquake, flood, freeze, frost, hail, hurricane, lightning, tornado, wind, and an insufficient number of hours of chilling temperature to effectively break the dormant period occurring within the insurance period, subject, however, to any exception, exclusions, or limitations with respect to such causes of loss that are set forth on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) disease or insect infestation, (2) the neglect or malfeasance of the insured, any member of his household, his tenants or employees, (3) failure to follow recognized good farming practices, (4) the backing up of water by any governmental or public utilities dam or reservoir project, (5) split pits and misshapen fruit regardless of the cause, or (6) any cause not specified as an insured cause in this policy as limited by the actuarial table.

3. *Crop and acreage insured.* (a) The peaches insured shall be of a variety established as adapted to the area and not shown as non-insurable on the actuarial table.

(b) The acreage insured for each crop year shall be that acreage of peaches in the county (1) in which the insured has a share at the time insurance attaches, (2) shown as insurable on the actuarial table, and (3) reported by the insured or as determined by the Corporation, whichever the Corporation shall elect:

Provided, That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) on which the trees have not reached the 4th growing season after being set out or (2) having a minimum expected production of less than 100 bushels per acre on the date insurance attaches.

4. *Responsibility of insured to report acreage, share, and expected production.* (a) Not later than January 10 each year, the insured shall submit to the Corporation at the office for the county on a form prescribed by the Corporation a report showing the following:

(1) All acreage of peaches (including a designation of any acreage to which insurance does not attach) in which the insured has a share, (2) the insured's share therein, and (3) the expected production per acre from such acreage. If the insured does not have a share in any acreage of peaches for any year, he shall submit a report so indicating. Any acreage report submitted by the insured shall be binding upon the insured and shall not be subject to change by the insured.

(b) If the insured does not submit an acreage report on or before January 10, the Corporation may elect to determine by units the insured acreage, share, expected production per acre or declare the insured acreage on any unit(s) to be "zero."

5. *Amount of insurance per acre and prices for computing indemnities.* (a) At the time application for insurance is made, the applicant shall elect either a High, Medium, or Low dollar level of insurance from those shown on the actuarial table. If the insured has not elected a level or the level elected is not shown on the actuarial table for the crop year, the applicable level under the contract, and which the insured shall be deemed to have elected, shall be the level provided on the actuarial table for such purpose: *Provided*, That the level of insurance for peaches intended for processing as determined by the Corporation shall not exceed the Medium level. The insured may, with the consent of the Corporation, change the level elected for any crop year on or before the closing date for submitting applications for that crop year.

(b) The dollar amount of insurance per acre for each crop year shall be determined as shown in the following Amount of Insurance Table. (1) For the purpose of computing premium, the dollar amount of insurance per acre shall be the amount corresponding with the expected production (as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect), and the applicable level of insurance as shown in Columns A and B. (2) For the purpose of determining any indemnity, where the amount of fruit remaining on the trees at the time of harvest is less than the expected production, the dollar amount of insurance shall be the amount shown in Columns C through H opposite the applicable level of insurance shown in Column B.

Amount of Insurance Table

Dollar Amount of Insurance Per Acre Based Upon Expected Production and Dollar Level of Insurance Per Acre at the Time Insurance Attaches		Dollar Amount of Insurance Per Acre Based Upon Bushels of Fruit Remaining on the Trees At the Time of Harvest					
Col. A	Col. B.	Col. C	Col. D	Col. E	Col. F	Col. G	Col. H
Expected Production (Bus.)	Levels of Insurance	200 or More Bu.	150 to 199 Bu.	100 to 149 Bu.	50 to 99 Bu.	10 to 49 Bu.	0 to 9 Bu.
300 or More	High $800	$800	$720	$640	$560	$480	$400
	Med. 600	600	540	480	420	360	300
	Low 400	400	360	320	280	240	200
250 - 299	High $700	$700	$630	$560	$490	$420	$350
	Med. 525	525	475	420	370	315	265
	Low 350	350	315	280	245	210	175
200 - 249	High $600	$600	$540	$480	$420	$360	$300
	Med. 450	450	405	360	315	270	225
	Low 300	300	270	240	210	180	150
150 - 199	High $500	$500	$500	$440	$375	$315	$250
	Med. 375	375	375	330	280	235	190
	Low 250	250	250	220	190	155	125
100 - 149	High $400	$400	$400	$400	$335	$265	$200
	Med. 300	300	300	300	250	200	150
	Low 200	200	200	200	165	135	100

(c) The price per bushel for computing indemnities shall be determined by the Corporation as follows: (1) The price for fresh fruit shall be based upon the applicable average FOB shipping point price per ¾ bushel carton of U.S. Extra #1 two-inch peaches (if not available, the next larger size for which a price is available) as reported by the Market News Service of the Department of Agriculture for the seven consecutive market days commencing with the day harvest starts for the variety as determined by the Corporation: *Provided*, That such price shall never be less than $4.00 per ¾ bushel carton. (2) The price for peaches which are intended for processing as determined by the Corporation, shall be the price per bushel received by the insured: *Provided*, That such price shall never be less than $2.00 per bushel.

6. *Annual premium.* (a) The annual premium is earned and payable at the time insurance attaches and shall be determined by multiplying the insured acreage times the amount of insurance per acre (based on the expected production when the insurance attaches) times the applicable premium rate, times the insured's share at the time insurance attaches, and applying the premium adjustment herein provided.

(b) For premium adjustment purposes, only the years during which premiums were earned subsequent to the 1978 crop year shall be considered.

(c) The premium shall be adjusted as shown in the following table:

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(d) If there is no break in the continuity

insured acres: *Provided*, That if the premi-

year. Any transfer shall be made on a form

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ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

Loss Ratio Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio Through Previous Crop Year	Number of Loss Years Through Previous Year														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.10 - 1.19	100	102	104	106	108	110	112	114	116	118	120	122	124	126	128
1.20 - 1.39	100	104	108	112	116	120	124	128	132	136	140	144	148	152	160
1.40 - 1.69	100	108	116	124	132	140	148	156	164	172	180	188	196	204	212
1.70 - 1.99	100	112	122	132	142	152	162	172	182	192	202	212	222	232	242
2.00 - 2.49	100	116	128	140	152	164	176	188	200	212	224	236	248	260	272
2.50 - 3.24	100	120	134	148	162	176	190	204	218	232	246	260	274	288	300
3.25 - 3.99	105	124	140	156	172	188	204	220	236	252	268	284	300	300	300
4.00 - 4.99	110	128	146	164	182	200	218	236	254	272	290	300	300	300	300
5.00 - 5.99	115	132	152	172	192	212	232	252	272	292	300	300	300	300	300
6.00 - Up	120	136	158	180	202	224	246	268	290	300	300	300	300	300	300

[3410-08-C]

FEDERAL REGISTER, VOL. 43, NO. 232—FRIDAY, DECEMBER 1, 1978

(d) If there is no break in the continuity of participation, any premium adjustment applicable under subsection (c) of this section shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured in operating only the same farm or farms, if such person had previously actively participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(e) If there is a break in the continuity of participation, any reduction in premium earned under subsection (c) of this section shall not thereafter apply; however, any increase in premium shall apply following a break in continuity.

(f) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

7. *Insurance period.* Insurance on insured acreage shall attach on January 10 and shall cease in the same calendar year upon the earlier of (1) harvest or (2) September 15.

8. *Notice of damage or loss.* Any notice of damage or loss shall be given in writing by the insured to the Corporation at the office for the county. The Corporation shall reject any claim for indemnity if any of the requirements of this section are not met.

(a) Notice shall be given for each damage to the peaches from an insured cause of loss within seven days after such damage becomes apparent, giving the date, cause, and estimated extent of such damage: *Provided,* That if an indemnity is to be claimed, the insured shall notify the office for the county immediately if the damage occurs within the seven-day period before harvest commences or during harvest. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of the insured prevent compliance with the provisions of this subsection.

(b) Any insured acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

(c) There shall be no abandonment to the Corporation of any insured peach crop.

9. *Claim for indemnity.* (a) Any claim for indemnity on any unit shall be submitted to the Corporation on a form prescribed by the Corporation. It shall be a condition precedent to the payment of any indemnity that the insured (1) establish that any loss has been directly caused by one or more of the causes insured against during the insurance period for which the indemnity is claimed and (2) furnish any other information regarding the loss as may be required by the Corporation.

(b) The amount of indemnity for any unit shall be determined by subtracting the dollar value of production from the dollar amount of insurance and multiplying the remainder by the insured share. The dollar value of production is obtained by multiplying the total production to be counted by the applicable price for computing indemnities provided in subsection 5(c). The dollar amount of insurance is obtained by multiplying the applicable dollar amount per acre determined in accordance with the provisions of subsections 5 (a) and (b) times the insured acres: *Provided,* That if the premium computed on the acreage as determined by the Corporation and share, is more than the premium computed on the acreage and share, the amount of indemnity shall be computed on the determined acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and subject to adjustment for wind and hail damage to fruit, shall include all harvested production and any appraisals made by the Corporation for unharvested production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without prior written consent of the Corporation. The production to be counted shall not be less than the expected production per acre at the time insurance attached for any acreage of peaches which is abandoned, put to another use without prior written consent of the Corporation, not inspected by the Corporation prior to the completion of harvest or damaged solely by an uninsured cause.

(d) The Corporation reserves the right to delay final appraisal of any damage until the extent of damage can be determined.

(e) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

10. *Payment of indemnity.* (a) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damage in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(b) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

11. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

12. *Collateral assignment.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

13. *Transfer of insured share.* If the insured transfers all or any part of the insured share during the crop year, upon approval by the Corporation, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the transferor for the current crop year. Any transfer shall be made on a form prescribed by the Corporation.

14. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made and shall execute all papers required and take appropriate action to secure such rights.

15. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all peaches produced on each unit in which the insured has a share, including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

16. *Forms.* Copies of forms referred to in the contract are available at the office for the county.

17. *Contract changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 18.

18. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding the crop year for which the cancellation is to become effective.

(b) The contract will terminate if (1) any amount due the Corporation is not paid on or before the termination date for of the calendar year immediately following the crop year of the indebtedness: *Provided,* That the date of payment for premium deducted from any indemnity claim shall be the date the insured signs such claim, or when deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved or (2) the insured has not complied with a request by the Corporation for satisfactory arrangements for payment of the premium for the following crop year.

(c) Following are the cancellation and termination dates:

State	Cancellation date	Termination date for indebtedness
All States.....	Nov. 30	Jan. 10

(d) The contract will terminate if no premium is earned for three consecutive years.

(e) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches

for any crop year, the contract shall contin-

Signed at Washington, D.C., on No-

specified weeks. The committee re-

SUMMARY: The hourly rates for overtime or holiday work incurred

(84 Stat. 1633, 21 U.S.C. 1053)

ing certain live warmblooded animals under the Animal Welfare Act pub-

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for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership, unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

(f) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (b), (c), (d), and (e) of this section, the contract shall continue in force for each succeeding crop year.

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. 840.

Dated: November 9, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: November 28, 1978.

Approved by:

BOB BERGLAND,
Secretary.

[FR Doc. 78-33683 Filed 11-30-78; 8:45 am]

[3410-05-M]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1979 Crop Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

FINAL RULE; CORRECTION

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to extra-long staple cotton and the apportionment of national acreage allotments to the States appearing in the FEDERAL REGISTER of October 20, 1978 at 43 FR 48990.

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS) 202-447-7873.

In FR Doc. 78-29546 appearing at page 48990 of October 20, 1978, the second line of § 722.560 is corrected by deleting 000,000 and substituting 114,965 therefor.

Signed at Washington, D.C., on November 22, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-33678 Filed 11-30-78; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 175; Lemon Regulation 174, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

SUMMARY: Final rule.

ACTION: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period December 3-9, 1978, and increases the quantity of such lemons that may be so shipped during the period November 26-December 2. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective December 3, 1978, and the amendment is effective for the period November 26-December 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on November 28, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues good on all sizes but slightly easier on 200's.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.475 Lemon Regulation 175.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 3, 1978, through December 9, 1978, is established at 240,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

§ 910.474 [Amended]

Paragraph (a) of § 910.474 Lemon Regulation 174 (43 FR 54934) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period November 26, 1978, through December 2, 1978, is established at 240,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated:

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service

[FR Doc. 78-33851 Filed 11-30-78; 11:22 am]

[3410-37-M]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2859—INSPECTION OF EGGS AND EGG PRODUCTS

Fees and Charges

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The hourly rates for overtime or holiday work incurred under the mandatory egg products inspection service are changed to reflect salary increases for inspectors.

EFFECTIVE DATE: December 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Ashley R. Gulich, Food Safety and Quality Service, United States Department of Agriculture, Room 3944 South Building, Washington, D.C. 20250, Phone: (202) 447-3506.

SUPPLEMENTARY INFORMATION: Under the mandatory egg products inspection program the first 40 hours of an inspector's charges are paid by the Federal Government. Users of the Service are charged only for work performed in overtime, on holidays, or on certain appeal inspections. The Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*) requires that the costs of inspection for such services as overtime and holiday work be recovered from the users. Fees for these services have not been adjusted since November 1976. Since that time, there have been two general salary increases for Federal employees and some State employees, as well as increases in other costs to provide services. To recover costs for service, the hourly rates for overtime and holiday inspection work are increased from $10.60 to $12.00 per hour.

Therefore, pursuant to the authority of the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*) § 2859.126 and § 2859.128(a), (7 CFR Part 2859) are amended to read as follows:

§ 2859.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $12.00 to cover the cost thereof.

§ 2859.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Service therefor at an hourly rate of $12.00 to cover the cost thereof.

* * * * *

(84 Stat. 1633, 21 U.S.C. 1053)

It has been determined that in order to cover these increased costs of the services, the hourly fees charged in connection with the performance of the services must be increased as soon as practicable as provided herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Food Safety and Quality Service.

The Egg Products Inspection Act requires that fees recovered from users of the mandatory egg products inspection program for overtime and holiday work cover the costs for such services. Increased revenues are urgently needed to meet the costs of these services as presently being performed. Therefore, Sydney J. Butler has determined that this document represents an emergency situation requiring immediate program action without a notice and comment period. Further, these amendments have not been classified "significant" and an impact analysis is not required since the amendments are mandated by statute.

Accordingly, pursuant to the authority in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to these amendments are impracticable and contrary to the public interest and good cause is found for making these amendments effective before January 2, 1979.

Done at Washington, D.C. on: November 27, 1978.

SYDNEY J. BUTLER,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 78-33680 Filed 11-30-78; 8:45 am]

[3410-34-M]

Title 9—Animal and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—ANIMAL WELFARE

PART 3—STANDARDS

Revision of Standards for the Transportation and the Handling, Care, and Treatment in Connection Therewith of Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Certain Other Warmblooded Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the transportation standards governing certain live warmblooded animals under the Animal Welfare Act published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31556-31571) and on May 16, 1978 (43 FR 21160-21167). The amendments contained herein concern changes in the allowable minimum and maximum air temperatures surrounding dogs, cats, guinea pigs, hamsters, rabbits, nonhuman primates and certain other warmblooded animals when transported in commerce. They also contain a new procedure for measuring the air temperature surrounding live animals being transported in commerce which replaces the "ambient temperature" provisions of the present transportation standards. In connection with such new procedure, the range of allowable air temperatures for animals being transported in commerce takes into consideration the differences between the air temperature occurring inside the animal shipping container and the air temperature surrounding such container. The revisions contains herein are the result of petition for reconsideration which were received by the Department and which made new facts and evidence available that appeared to warrant such action.

DATE: Effective date January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301) 436-8271.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Department published a notice of proposed rulemaking containing changes and additions to Part 3 of Subchapter A, Chapter 1, Title 9 of the Code of Federal Regulations (42 F.R. 47964-47968) which provided for (1) a change in the minimum allowable air temperature from 7.2°C. (45°F.) to 1.7°C. (35°F.) for dogs, cats, hamsters, rabbits, and certain other warmblooded animals when transported in commerce, (2) a change in the maximum allowable air temperature from 35°C. (95°F.) to 29.5°C. (85°F.) for all warmblooded animals under the Animal Welfare Act when transported in commerce, and (3) a new procedure for measuring the air temperature surrounding live animals transported in commerce wherein the air temperature is measured and read outside the animal shipping container at a distance not to exceed .91 meters (3 feet) from the external walls of such container.

A total of 839 comments were received representing many interest groups, i.e., air carriers, pet shop

their objections on an anthropomor-

peratures when shipping an animal

of 23.9°C. (75°F.) for more than 4

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owners and operators, humane groups, pet animal dealers, veterinarians, hobby breeders, individual pet owners and concerned citizens. Many of the comments raised questions or provided information which warranted some changes in the proposed amendments to the standards. Certain editorial changes were also made for clarification.

Discussion of Major Proposed Items and Comments

Method for measuring the air temperature surrounding live animals transported in commerce

The present transportation standards (9 CFR 3.18, 3.42, 3.67, 3.92, and 3.118) cite a minimum and maximum ambient temperature within primary enclosures used to transport certain warmblooded animals. Criticism of these standards, because they require the insertion of a thermometer into the shipping container to measure the ambient temperature and may result in possible injury to contained animals, prompted the Department to propose a safer and more practical procedure for measuring the air temperature surrounding animals during transportation. Consequently, the Department proposed that the air temperature be measured and read outside the primary enclosure (shipping container) which contains the live animal at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level paralleled to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such enclosure.

Carriers and several other persons commenting on the proposed method for measuring air temperature indicated their agreement with the proposal as being practical and easy for carrier personnel to accomplish, as well as being safe for the contained animals. On the other hand, two comments criticized the proposed method as far too subjective and less accurate in reflecting the actual temperature impacting the contained animals. It was indicated that the proposed method did not take into consideration factors such as direct sunlight, construction of the shipping container, etc., which could affect the temperature within a shipping container. However, the effect of all these interrelated factors has yet to be sufficiently evaluated relative to a warmblooded animal's physiological response to temperature extremes. In addition, inexpensive temperature measuring devices which would not require thrusting some part of such devices into the animal's shipping container are not readily available and there is a reluctance on the part of carrier or intermediate handler employees to get too near an animal whose disposition toward strangers is unknown. The Department is therefore amending §§ 3.16, 3.40, 3.65, 3.90, and 3.116 to reflect the new method of measuring and reading the air temperature outside primary enclosures (shipping containers) containing live animals.

Allowable maximum air temperature

In proposing to change the method of measuring the air temperature around warmblooded animals confined in shipping containers, the Department recognized that there is a difference between the air temperature which immediately surrounds an animal within a shipping container and the temperature of the air surrounding the outside of such container. Physiological data indicates that warmblooded animals adjust to their environment through an elaborately developed heat-regulating system to maintain a relatively constant body temperature. However, as the temperature of the surrounding air approaches the level of the animal's body temperature, the animal will experience discomfort and, after a period of time, death. Scientific data also indicates that as the temperature outside an animal shipping container rises, the differential between the temperature inside the shipping container and the temperature of the outside environment increases. Information also available to the Department indicates that when the air temperature which surrounds the animal shipping container within 3 feet of such container, reaches 29.5°C. (85°F.) the air temperature surrounding the animal inside the shipping container will reach approximately 35°C. (95°F.). Based on this information, the Department proposed that carriers and intermediate handlers not allow the air temperatures which surround the animal shipping container in animal holding areas of terminal facilities to exceed 20.5°C. (85°F.). Further, the Department proposed to require that auxiliary ventilation be used when the temperature reaches 23.9°C. (75°F.).

Comments from air carriers indicated that the existing allowable maximum air temperature standards, i.e., air temperature shall not exceed 29.5°C. (85°F.) for more than 4 hours and never exceed a maximum of 35°C. (95°F.), have not resulted in a hazardous or detrimental environment for animals maintained in carriers' animal holding areas. Furthermore, comments indicated that air carriers have not been advised by either shippers or the public of instances where the temperatures in carriers' facilities which contained live warmblooded animals have exceeded the present standards for allowable maximum air temperatures. Several shippers of animals expressed the fear of air carriers refusing to accept animal shipments when the outside atmospheric temperature reaches 75°F. because the carriers would not have temperature controlled areas in their terminal facilities. The Department received no comments or information which refuted the basic available data indicating that subjection of warmblooded animals to temperatures higher than 95°F. is inhumane. It believes that the proposed standard for the allowable maximum temperature (29.5°C. or 85°F.) outside the shipping container is necessary considering the temperature which immediately surrounds the confined animal inside a shipping container. Therefore, it is provided herein that carriers and intermediate handlers shall not allow the air temperature which is measured and read outside the animal container or primary enclosure (within 0.91 meters (3 feet) of the external walls of such enclosure) to exceed 29.5°C. (85°F.) for all warmblooded animals covered by the Act. Further, it is also provided that auxiliary ventilation must be used when the temperature reaches 23.9°C. (75°F.).

Allowable minimum air temperature

The present transportation standards provide that the ambient air temperature and the temperature surrounding live warmblooded animals transported in commerce shall not be allowed to fall below 7.2°C. (45°F.). An exception is provided for USDA licensees or registrants and U.S. Government Departments, agencies, or instrumentalities wherein a certificate executed by a licensed veterinarian may be furnished to carriers or intermediate handlers indicating that an animal presented for transportation (with the exception of guinea pigs) is acclimated to air temperatures lower than 7.2°C. (45°F.). Many individuals, other than USDA licensees or registrants and representatives of the U.S. Government agencies, felt that their dogs and cats and certain other warmblooded animals were not adversely affected by air temperatures down to 35°F. Based on empirical information, as well as on a certain amount of scientific data, the Department proposed to provide for a minimum allowable air temperature of 1.7°C. (35°F.) surrounding dogs, cats, hamsters, rabbits, and certain other warmblooded animals, with the exception of guinea pigs and nonhuman primates, when transported in commerce.

A majority of individuals who submitted comments, many of whom are pet owners, vehemently objected to the lowering of the allowable minimum air temperature surrounding warmblooded animals, mostly basing

their objections on an anthropomorphic response, i.e., a human would be uncomfortable and eventually freeze in a 35°F. environment; therefore, animals will also be uncomfortable and eventually freeze under the same conditions. Other comments disagreed with the proposal because it lacked certain qualifying criteria, such as (1) restriction on the time an animal could be subjected to temperatures as low as 35°F., (2) consideration for the physical differences between animal breeds, e.g., long-haired animals versus short-haired animals, relative to their ability to adjust to colder environments, and (3) allowances for differences between the less developed thermoregulatory mechanisms of young animals and the well developed mechanisms of adult animals. Hobby breeders decried the discrimination of not being allowed to present a certificate of acclimation to lower temperatures to carriers when shipping long-haired, adult dogs or cats which are acclimated to colder temperatures.

The Department's proposed amendments to the standards for allowable minimum air temperatures apply to all dogs (*Canis familiaris*), all cats (*Felis catus*), and other warmblooded animals affected by the Act and do not give consideration to breed differences or age differences. There is no available scientific data which evaluates the individual ability of the many various breeds of dogs, cats, and other animals to tolerate various temperatures lower than 45°F. or which indicates the pathological effect of such low temperatures on the animals. In addition, those scientific experiments which have involved certain breeds of animals and the effect of temperature extremes utilized adult animals rather than young or immature ones. Consideration for these animal breed and age differences would create complicated requirements wherein carriers and intermediate handlers would have to recognize breeds of animals and differentiate animals by age. Such requirements would be impractical, if not impossible.

The Department feels that additional scientific evaluation of the effects of cold temperatures on those warmblooded animals covered by the Animal Welfare Act must be made and has already initiated action to derive this needed information. In the meantime, the proposed change of the allowable minimum air temperature from 7.2°C. (45°F.) to 1.7°C. (35°F.) shall not be implemented in this rulemaking.

The Department acknowledges the validity of the complaints from hobby breeders and individual pet owners who are presently not afforded the opportunity to present to carriers a certificate of acclimation to lower temperatures when shipping an animal which is known to be so acclimated. The Department will therefore consider providing such an option to all pet owners through a certificate of acclimation to lower temperatures executed by an "accredited" veterinarian in future rulemaking. An "accredited" veterinarian is a licensed veterinarian who has been officially authorized by the Deputy administrator of the Department's Veterinary Services to perform certain functions in connection with programs and laws which the Department administers.

Accordingly, the standards (9 CFR 3.1 *et seq.*) are amended in the following respects:

1. The Table of Contents cited in Part 3—STANDARDS is amended by deleting §§ 3.18, 3.42, 3.67, 3.92, and 3.118.

§ 3.11 [Amended]

2. Section 3.11(c) of the standards (9 CFR 3.11(c)) is amended by deleting the section number 3.18 in the phrase, "• • • prescribed in §§ 3.16 and 3.18." and inserting the section number "3.17" in its place.

3. Section 3.16 of the standards (9 CFR 3.16) is revised to read as follows:

§ 3.16 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.7 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live dogs or cats shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live dogs and cats when the air temperature within such animal holding area is 23.9°C. (75°F.) or higher. The air temperature around any live dog or cat in any animal holding area shall not be allowed to fall below 7.2°C. (45°F.) nor be allowed to exceed 29.5°C. (85°F.) at any time: *Provided, however,* That no live dog or cat shall be subjected to air temperatures around any such dog or cat in excess of 23.9°C. (75°F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live dog or cat shall be measured and read outside the primary enclosure which contains such dog or cat at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.17 [Amended]

4. Section 3.17(a)(1) of the standards (9 CFR 3.17(a)(1)) is amended to read as follows:

(a) • • • (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live dogs and cats from the direct rays of the sun and such live dogs or cats shall not be subjected to surrounding air temperatures which exceed 29.5°C. (85°F.), and which shall be measured and read in the manner prescribed in § 3.16 of this Part, for a period of more than 45 minutes.• • •

5. Section 3.17(a)(3) of the standards (9 CFR 3.17(a)(3)) is amended to read as follows:

(a) • • • (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live dogs and cats when the outdoor air temperature falls below 10°C. (50°F.), and such live dogs or cats shall not be subjected to surrounding air temperatures which fall below 7.2°C. (45°F.), and which shall be measured and read in the manner prescribed in § 3.16 of this Part, for a period of more than 45 minutes unless such dogs or cats are accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.11(c).

• • • • • •

§ 3.18 [Deleted]

6. Section 3.18 of the standards (9 CFR 3.18) is deleted.

§ 3.35 [Amended]

7. Section 3.35(c) of the standards (9 CFR 3.35(c)) is amended by deleting the section number "3.42" in the phrase, "• • • prescribed in §§ 3.40 and 3.42." and inserting the section number "3.41." in its place.

8. Section 3.40 of the standards (9 CFR 3.40) is revised to read as follows:

§ 3.40 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate

handler wherein live animal ship-

or hamsters shall not be subjected to

§ 3.66 [Amended]

lated by means of fans, blowers, or an

§ 3.92 [Deleted]

§ 3.117 [Amended]

V 4 3 / 2 3 2

handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.31 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live guinea pigs or hamsters shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live guinea pigs and hamsters when the air temperature within such animal holding area is 23.9°C. (75.°F.) or higher. The air temperature around any live guinea pig or hamster in any animal holding area shall not be allowed to fall below 7.2°C. (45°F.) nor be allowed to exceed 29.5°C. (85°F.) at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live guinea pig or hamster shall be measured and read outside the primary enclosure which contains such guinea pig or hamster at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and measured on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.41 [Amended]

9. Section 3.41(a)(1) of the standards (9 CFR 3.41(a)(1)) is amended to read as follows:

(a) * * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live guinea pigs and hamsters from the direct rays of the sun and such live guinea pigs or hamsters shall not be subjected to surrounding air temperatures which exceed 29.5°C. (85°F.), and which shall be measured and read in the manner prescribed in § 3.40 of this Part, for a period of more than 45 minutes. * * *

10. Section 3.41(a)(3) of the standards (9 CFR 3.41(a)(3)) is amended to read as follows:

(a) * * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live guinea pigs and hamsters when the outdoor air temperature falls below 10°C. (50°F.), and such live guinea pigs or hamsters shall not be subjected to surrounding air temperatures which fall below 7.2°C. (45°F.), and which shall be measured and read in the manner prescribed in § 3.40 of this Part, for a period of more than 45 minutes.

* * * * *

§ 3.42 [Deleted]

11. Section 3.42 of the standards (9 CFR 3.42) is deleted.

§ 3.60 [Amended]

12. Section 3.60(c) of the standards (9 CFR 3.60(c)) is amended by deleting the section number "3.67" in the phrase, "* * * prescribed in §§ 3.65 and 3.67" and inserting the section number "3.66." in its place.

13. Section 3.65 of the standards (9 CFR 3.65) is revised to read as follows:

§ 3.65 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.56 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live rabbits shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live rabbits when the air temperature within such animal holding area is 23.9°C. (75°F.) or higher. The air temperature around any live rabbit in any animal holding area shall not be allowed to fall below 7.2°C. (45°F.) nor be allowed to exceed 29.5°C. (85°F.) at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live rabbit shall be measured and read outside the primary enclosure which contains such rabbit at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.66 [Amended]

14. Section 3.66(a)(1) of the standards (9 CFR 3.66(a)(1)) is amended to read as follows:

(a) * * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live rabbits from the direct rays of the sun and such live rabbits shall not be subjected to surrounding air temperatures which exceed 29.5°C. (85°F.), and which shall be measured and read in the manner prescribed in § 3.65 of this Part, for a period of more than 45 minutes. * * *

15. Section 3.66(a)(3) of the standards (9 CFR 3.66(a)(3)) is amended to read as follows:

(a) * * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live rabbits when the outdoor air temperature falls below 10°C. (50°F.), and such live rabbits shall not be subjected to surrounding air temperatures which fall below 7.2°C. (45°F.), and which shall be measured and read in the manner prescribed in § 3.65 of this Part, for a period of more than 45 minutes unless such rabbits are accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.60(c).

* * * * *

§ 3.67 [Deleted]

16. Section 3.67 of the standards (9 CFR 3.67) is deleted.

§ 3.85 [Amended]

17. Section 3.85(c) of the standards (9 CFR 3.85(c)) is amended by deleting the section number "3.92" in the phrase, "* * * prescribed in §§ 3.90 and 3.92." and inserting the section number "3.91." in its place.

18. Section 3.90 of the standards (9 CFR 3.90) is revised to read as follows:

§ 3.90 Terminal facilities

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.81 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live nonhuman primates shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live nonhuman primates when the air temperature within such animal holding area is 23.9°C. (75.°F.) or higher. The air temperature around any live nonhuman primate in any animal holding area shall not be allowed to fall below 7.2°C. (45°F.) nor be allowed to exceed 29.5°C. (85°F.) at any time: *Provided, however,* that no live nonhuman primate shall be subjected to surrounding air temperatures which exceed 23.9°C. (75°F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live nonhuman primate shall be measured and read outside the primary enclosure which contains such nonhuman primate at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.91 [Amended]

19. Section 3.91(a)(1) of the standards (9 CFR 3.91(a)(1)) is amended to read as follows:

(a) * * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live nonhuman primates from the direct rays of the sun and such live nonhuman primates shall not be subjected to surrounding air temperatures which exceed 29.5°C. (85°F.), and which shall be measured and read in the manner prescribed in § 3.90 of this Part, for a period of more than 45 minutes. * * *

20. Section 3.91(a)(3) of the standards (9 CFR 3.91(a)(3)) is amended to read as follows:

(a) * * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live nonhuman primates when the outdoor air temperature falls below 10°C. (50°F.) and such live nonhuman primates shall not be subjected to surrounding air temperatures which fall below 7.2°C. (45°F.), and which shall be measured and read in the manner prescribed in § 3.90 of this Part, for a period of more than 45 minutes unless such nonhuman primates are accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.85(c).

* * * * *

§ 3.92 [Deleted]

21. Section 3.92 of the standards (9 CFR 3.92) is deleted.

§ 3.111 [Amended]

22. Section 3.111(c) of the standards (9 CFR 3.111(c)) is amended by deleting the section number "3.118" in the phrase, "* * * prescribed in §§ 3.116 and 3.118." and inserting the section number "3.117." in its place.

23. Section 3.116 of the standards (9 CFR 3.116) is revised to read as follows:

§ 3.116 Terminal facilities.

Carries and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.116 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live animals shall be provided with fresh air by means of windows, doors vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live animals when the air temperature within such animal holding area is 23.9°C. (75.°F.) or higher. The air temperature around any live animal in any animal holding area shall not be allowed to fall below 7.2°C. (45°F.) nor be allowed to exceed 29.5°C. (85°F.) at any time: *Provided, however,* That no live animal shall be subjected to surrounding air temperatures which exceed 23.9°C. (75°F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live animal shall be measured and read outside the primary enclosure which contains such animal at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.117 [Amended]

24. Section 3.117(a)(1) of the standards (9 CFR 3.117(a)(1)) is amended to read as follows:

(a) * * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live animals from the direct rays of the sun and such live animals shall not be subjected to surrounding air temperatures which exceed 29.5°C. (85°F.), and which shall be measured and read in the manner prescribed in § 3.116 of this Part, for a period of more than 45 minutes. * * *

25. Section 3.117(a)(3) of the standards (9 CFR 3.117(a)(3)) is amended to read as follows:

(a) * * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live animals when the outdoor air temperature falls below 10°C. (50°F.) and such live animals shall not be subjected to surrounding air temperatures which fall below 7.2°C. (45°F.), and which shall be measured and read in the manner prescribed in § 3.116 of this Part, for a period of more than 45 minutes unless such animals are accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.111(c).

* * * * *

(Secs. 12 and 13, 90 Stat. 418 and 419, 7 U.S.C. 2142 and 2143; 37 FR 28477, 28646; 38 FR 19141.)

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon such good cause that further notice and other public participation with respect to the revision are impracticable and unnecessary.

Done at Washington, D.C., this 29th day of November, 1978.

NOTE.—This rule has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations", and has been designated "significant". An approved Final Impact Analysis Statement has been prepared and is available from the Animal Care Staff, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, telephone Area Code (301) 436-8271.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-33789 Filed 11-30-78; 8:45 am]

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[3410-34-M]

in Colorado; Calhoun County in Flor-

Iowa, Adair, Allamakee, Audubon,

inson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin,

Dade, De Soto, Duval, Escambia, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton,

Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washing-

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[3410-34-M]

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Maryland, Room 805, (301) 436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Highlands County in Florida.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Jefferson County in Tennessee.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Mesa County in Colorado; Calhoun County in Florida; Miami County in Kansas; and Quay County in New Mexico.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Jefferson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union.

Florida. Baker, Bay, Calhoun, Citrus, Dixie, Franklin, Holmes, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Johnson, Kane, Kankakee, Kendall, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wasbash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Sac, Scott, Shelby, Sioux, Story, Tama, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Coffey, Comanche, Decatur, Doniphan, Douglas, Edwards, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Johnson, Kearny, Kingman, Kiowa, Labette, Lane, Logan, Marion, Marshall, Meade, Miami, Mitchell, Ness, Norton, Osborne, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Seward, Shawnee, Sheridan, Sherman, Smith, Stanton, Stevens, Thomas, Trego, Wallace, Washington, Wichita, Woodson, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Cheyenne, Dakota, Deuel, Dodge, Douglas, Perkins, Thurston.

New Mexico. Catron, Colfax, De Baca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Quay, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance, Union.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Bandera, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specified Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladege, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Woodruff, Yell.

Florida. Alachua, Bradford, Brevard, Broward, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Escambia, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Hillsborough, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia, Washington.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren. Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bonneville, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Jo Daviess, Knox, Massac.

Iowa. Adams, Appanoose, Guthrie, Page, Ringgold, Taylor, Wayne.

Kansas. Allen, Atchison, Barton, Butler, Cloud, Cowley, Crawford, Dickinson, Elk, Ellis, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Leavenworth, Lincoln, Linn, Lyon, McPherson, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Ottawa, Reno, Rice, Russell, Sedgwick, Stafford, Sumner, Wabaunsee, Wilson.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Dixon, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, Eddy, Lea, Mora, Roosevelt, San Miguel, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Jefferson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris,

This regulation has not been designated as significant under Executive Order No. 13 and makes some clarifying

current rate of interest on pipeline refunds prescribed by the Commission

for Canadian supplier increases accrued in its Account 191 resulting

ed in the pipeline company's Account 191. Accordingly, the revised

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Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder, Garfield.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Highlands, Okeechobee.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause if found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22nd day of November 1978.

This regulation has not been designated "significant" under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations."

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-33685 Filed 11-30-78; 8:45 am]

[1505-01-M]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Amendment of Labor Standards for Construction Projects

Correction

In FR Doc. 78-33046 appearing at page 54924 in the issue of Friday, November 24, 1978, on page 54925, in the first column, preceding the date line, the following amendment was inadvertently deleted and should be inserted to read as follows: "Accordingly, EDA amends 13 CFR Part 309 by deleting subsections (d) and (e) from § 309.6."

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

PART 154—RATE SCHEDULES AND TARIFFS

Modification of Purchased Gas Cost Adjustment Clause Regulations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order No. 13-A issued in Docket No. R-406.

SUMMARY: Order amending Order No. 13 which amended the Federal Energy Regulatory Commission's purchased gas cost adjustment clause regulations to limit to two a year the number of purchased gas cost adjustment rate filings an interstate pipeline may make and to allow these pipelines to accrue and collect carrying charges on amounts carried in their deferred purchased gas costs accounts. Order No. 13-A denies rehearing of Order No. 13 and makes some clarifying modifications to that order.

EFFECTIVE DATE: Effective on January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles E. Bullock, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202)—275-4232.

On October 18, 1978, as amended by Errata Notice issued October 20, 1978, the Commission issued Order No. 13 which amended the purchased gas adjustment (PGA) clause regulations contained in § 154.38(d)(4) of the regulations to limit the number of PGA filings made by natural gas pipeline companies and to permit the collection of carrying charges accrued on balances carried in Account 191, Unrecovered Purchased Gas Costs. On November 3, 1978, the Public Service Commission of the State of New York (New York) filed an application for rehearing and clarification of Order No. 13. On November 17, 1978, Midwestern Gas Transmission Company (Midwestern) and Western Gas Interstate Company (Western) each filed an application for rehearing of Order No. 13. For the reasons stated below, the Commission shall grant in part and deny in part the applications for rehearing of Order No. 13. In addition, the Commission shall make some clarifying modifications to Order No. 13.

New York argues that Order No. 13 continues to treat the flow-through of pipeline supplier rate increases on a discriminatory basis from the flow-through of pipeline supplier refunds. Specifically, New York alleges that while carrying charges are permitted on positive balances in the deferred account, which result when the pipeline has undercollected its purchased gas costs, there are no similar interest provisions should negative balances occur, which result when the pipeline has overcollected its purchased gas costs. New York is particularly concerned about the alleged lack of interest provisions when negative balances result when a pipeline receives a lump sum refund from one of its pipeline suppliers resulting from the resolution of that pipeline supplier's general section 4 rate case.

New York's concerns are unfounded. Section 154.38(d)(4)(iv)(*b*) of the Regulations [1] provides for carrying charges on positive balances as well as interest amounts on negative balances at the

[1] New York correctly points out that the entire clause (iv) was erroneously referred to in Order No. 13 (mimeo p. 18, line 10) and in the Errata Notice (mimeo, p. 1, lines 2 and 5) as § 154.38(d)(4)(vi) rather than § 154.38(d)(4)(iv). That error will be corrected in this order.

current rate of interest on pipeline refunds prescribed by the Commission. Thus no discrimination will result between the treatment of positive and negative balances accrued in the deferred account.[2]

Finally, New York urges that the Commission substantially modify Order No. 13 to provide that pipeline supplier refunds received by a pipeline be flowed through within 30 days of the date they are received if they exceed $10,000,000 or 1% of the purchasing pipeline's jurisdictional revenues for the last calendar year, whichever is lower, in a manner consistent with the pattern of payment of the excess charges. New York argues that the distributor and direct industrial customers of a pipeline supplier making refunds from its general section 4 rate increase filing receive refunds sooner than the customers of that pipeline supplier's pipeline purchasers because the refunds are credited to the pipeline purchasers' Accounts 191. In addition, New York is concerned that the customers of the pipeline purchasers who receive the effect of these refunds may not receive them in proportion to the amount of excess charges they actually paid, subject to refund.

The Commission shall not adopt New York's suggested modification to Order No. 13. The alleged discrimination between the direct industrial and distributor customers versus the pipeline purchaser customers of a pipeline supplier is taken into account by the carrying charge and interest provisions governing balances in the pipeline purchaser's Account 191. Thus, the customers of the pipeline supplier will be adequately compensated for the time value of the refunds received by the pipeline purchaser from the pipeline supplier and placed in the pipeline purchaser's Account 191. In any event, New York's proposal to require all pipeline supplier refunds above a certain level to be flowed through on a lump sum, as-billed basis is beyond the scope of the Notice of Rulemaking in this docket. However, the Commission shall continue to monitor this issue and to determine whether future amendments to the PGA clause regulations are necessary.

Midwestern argues for a special exemption for its Northern Division to permit the simultaneous flow-through of major increases in its Canadian supplier rates. Midwestern indicates that it is willing to agree to a once a year PGA rate adjustment date (January 1) for Canadian supplier increases accrued in its Account 191 resulting from the fact that monthly payments are made to its Canadian supplier in Canadian, rather than U.S. dollars and the fact that volumes are purchased on a Btu, rather than an Mcf basis.[3] However, it alleges that it is concerned about the financial impact which may result from its having to carry a large increase in purchased gas costs in its Account 191 for any length of time.

Midwestern's request shall not be granted. Midwestern, like other pipelines, will be permitted to accrue and collect carrying charges on amounts carried in its Account 191. To the extent carrying charges do not adequately protect Midwestern, it may file a general section 4 rate increase case to reflect, among other things, changes in purchased gas costs if it can demonstrate the need for waiver, as described in more detail in Order No. *16* issued this day in Docket No. RM79-1.

Western requests that its adjustment dates be changed from February 1 and August 1 *to* May 1 and November 1 so that it may better track changes in purchased gas costs flowed through by its major suppliers, El Paso Natural Gas Company (El Paso) and Colorado Interstate Gas Company (CIG) which have adjustment dates of April 1 and October 1; and October 1, respectively. For good cause shown, Western's request shall be granted.

For purposes of clarification, the Commission notes that filings made during the effectiveness of a pipeline's old PGA clause shall be governed by the *filing* dates in their old PGA clause even if the proposed effective date occurs after the pipeline's old PGA clause has expired. Similarly, filings made on or after the date the new PGA clause becomes effective shall be made in accordance with the procedures (including adjustment dates) prescribed by the new PGA clause.

Section 154.38(d)(4)(iv)(*b*) erroneously required that *all* pipelines must utilize Account 731.1 in conjunction with Account 191. The Uniform System of Accounts provides that only Class C and D pipelines use Account 731.1 and that Class A and B pipelines should use Account 805.1 in conjunction with Account 191. Section 154.38(d)(4)(iv)(*b*) will be amended to correct this error.

Order No. 13 also erroneously eliminated the requirement contained in the old § 154.38(d)(4)(iv)(*b*) of the PGA regulations which prescribed instructions for calculation of the surcharge to recover amounts accumulated in the pipeline company's Account 191. Accordingly, the revised § 154.38(d)(4)(iv) promulgated in Order No. 13 shall be amended in this order to reinstate those instructions.

For purposes of clarification, we shall republish the amendments to § 154.38(d)(4) as promulgated in Order No. 13 and the Errata Notice, as amended in the instant order.

(Natural Gas Act (15 U.S.C. 717c, g, i and o), Administrative Procedure Act (5 U.S.C. 553), Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*), and E.O. 12009, 42 F.R. 46267.

In consideration of the foregoing, Part 154, Chapter I of Title 18, The Code of Federal Regulations is amended as set forth below, to become effective January 1, 1979.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

1. Section 154 is amended in subparagraph (4) paragraph (d) by revising subdivision (iv) and by adding a new subdivision (viii) to read as follows:

§ 154.38 Composition of rate schedule.

* * * * * * *

(d) *Statement of rate.* * * *

(4) * * *

(iv)(*a*) Rate changes which reflect both the current cost of purchased gas and a revised surcharge to clear the amounts accrued in the deferred account for both producer and pipeline suppliers shall be computed and filed not more frequently than semi-annually. The PGA clause shall specify dates of adjustment as follows:

JANUARY 1, AND JULY 1

Alabama-Tennessee Natural Gas Company
East Tennessee Natural Gas Company
Chattanooga Gas Company, a Division of Jupiter Industries, Inc.
Granite State Gas Transmission, Inc.
Midwestern Gas Transmission Company
Sea Robin Pipeline Company
Southern Natural Gas Company
South Georgia Natural Gas Company
Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
Tennessee Natural Gas Lines, Inc.
United Gas Pipe Line Company
Distrigas of Massachusetts Corporation
Gas Gathering Corporation

FEBRUARY 1, AND AUGUST 1

Lawrenceburg Gas Transmission Corporation
Mid Louisiana Gas Company
National Fuel Gas Supply Corporation
Texas Eastern Transmission Corporation
Texas Gas Transmission Corporation
Utah Gas Service Company

MARCH 1, AND SEPTEMBER 1

Algonquin Gas Transmission Company
Columbia Gas Transmission Corporation
Consolidated Gas Supply Corporation
Eastern Shore Natural Gas Company

[2] New York also alleges that in promulgating the new § 154.38(d)(4)(iv), the Commission erroneously did not delete the first paragraph of the old clause (iv). New York is correct and this error shall be corrected. The new clause (iv) was intended as a replacement for *all* of the language in the old clause (iv).

[3] Midwestern states that it has no objection to the January 1 and July 1 adjustment dates prescribed for it insofar as they affect flow-through of purchased gas costs by its Southern Division.

D E 1 7 8 UMI

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND

data and information submitted to

feed containing monensin. Ingestion of

the Internal Revenue Code of 1954 (40

Mississippi River Transmission Corporation
Natural Gas Pipeline Company of America
North Penn Gas Company
Panhandle Eastern Pipe Line Company
Transcontinental Gas Pipe Line Corporation
Trunkline Gas Company

APRIL 1, AND OCTOBER 1

Arkansas Louisiana Gas Company
El Paso Natural Gas Company
Florida Gas Transmission Company
Mountain Fuel Supply Company
Northwest Pipeline Corporation
Oklahoma Natural Gas Gathering Corporation
Pacific Interstate Transmission Company
Raton Natural Gas Company
Southwest Gas Corporation
Transwestern Pipeline Company

APRIL 23, AND OCTOBER 23

Cities Service Gas Company
Commercial Pipeline Company, Inc.

MAY 1, AND NOVEMBER 1

Kentucky-West Virginia Gas Company
McCulloch Interstate Gas Company
Western Gas Interstate Company
Michigan Wisconsin Pipe Line Company
Montana-Dakota Utilities Company
Valley Gas Transmission, Inc.
Great Lakes Gas Transmission Company

OCTOBER 1

Colorado Interstate Gas company
Northern Natural Gas Company (Peoples Division)

NOVEMBER 1

Inter-City Minnesota Pipelines Ltd., Inc.

JUNE 1, AND DECEMBER 1

Louisiana-Nevada Transit Company
Mountain Fuel Resources, Inc.
South Texas Natural Gas Gathering Company
Western Transmission Corporation
Texas Gas Pipe Line Corporation

DECEMBER 1

Kansas-Nebraska Natural Gas Company

DECEMBER 27

Northern Natural Gas Company

(b) To assure recovery of all purchased gas costs, the Commission has prescribed deferred purchased gas cost accounts. For Class A and B natural gas companies, the deferred account is "Account 191, Unrecovered purchased gas costs," 18 CFR Part 201, Balance Sheet Accounts, 191 and is used in conjunction with "Account 805.1, Purchased gas cost adjustments," 18 CFR Part 201, Balance Sheet Accounts, 805.1. For Class C and D natural gas companies, the deferred account is "Account 191, Unrecovered purchased gas costs," 18 CFR Part 204, Balance Sheet Accounts, 191 and is used in conjunction with "Account 731.1, purchased gas cost Adjustments," 18 CFR Part 201, Balance Sheet Accounts, 731.1. Pipelines using deferred accounting procedures shall be subject to the provisions of these accounts. In order to qualify for carrying charges, the company is required to adopt the principles of interperiod income tax allocation in connection with the balances recorded in the unrecovered purchased gas cost account.

(c) Carrying charges shall be computed based on the ending balances in Account 191, exclusive of accumulated interest each month. Interest will not be compounded. The rate for computation of carrying charges shall be the current rate of interest on pipeline refunds established by the Commission. Carrying charges shall be debited to Account 191 if the ending balance in Account 191 for the month is positive and shall be credited to Account 191 if the ending balance is negative. The carrying charges shall be computed monthly on the net balances in Account No. 191 and the related amounts in Account Nos. 283 or 190, as appropriate, as of the end of the immediately preceding month.

(d) After the initial 6-month period following the effectiveness of the PGA clause and after the company has chosen to maintain an unrecovered purchase gas cost account (Account No. 191) the company shall adjust its rate(s), either positively or negatively, to include a surcharge to recover or return the balance which has accumulated in the unrecovered purchase gas cost account (Account No. 191) in the preceding 6-month period. This procedure will be followed in each succeeding 6-month period.

• • • • •

(viii) Pipelines must file tariff sheets pursuant to this part to conform their existing PGA clauses on or before December 1, 1978, which shall become effective as of January 1, 1979. After January 1, 1979, a pipeline shall not be permitted to track changes in purchased gas costs under a PGA clause unless the PGA clause in effect at that time conforms to the rule promulgated in Order No. 13, as modified by Order No. 13-A.I40[FR Doc. 78-33675 Filed 11-30-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Monensin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co., providing for the use of monensin in a liquid feed supplement.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly and Co., P.O. Box 1750, Indianapolis, IN 46206, filed a supplemental NADA (95-735V) providing for the use of monensin in a liquid feed supplement. The liquid supplement must be thoroughly mixed with grain and/or roughage before feeding to cattle being fed in confinement for slaughter.

Complete feeds containing 5 to 30 grams (g) of monensin per ton, when manufactured from dry supplements containing not more that 1,200 g of monensin per ton are not required to comply with the ministerial requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)). Because the drug level in the liquid supplement is the same as in the dry supplement, and the drug is used for manufacturing and identical complete feed, the waiver of the requirements of section 512(m) of the act applies to liquid as well as dry feed supplements. The basis of the waiver of the requirements of section 512(m) of the act for dry supplements was published in the FEDERAL REGISTER of December 16, 1975 (40 FR 58289).

Approval of this supplement does not consititute reaffirmation of the safety of residues resulting from use of this drug.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support this approval is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.355 is amended by adding paragraph (c)(3), revising paragraph (d)(3), adding paragraph (d)(5), and revising paragraph (f)(3)(i)(b) to read as follows:

§ 558.355 Monensin

• • • • •

(c) • • •

(3) Liquid feed supplements contain 80 to 120 percent of the labeled amount of monensin activity.

(d) • • •

(3) Complete cattle feeds manufactured from dry or liquid feed supplements that contain not more than 1,200 grams of monensin per ton and that comply with the provisions of paragraph (f)(3) of this section are not required to comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

• • • • •

(5) Liquid feed supplements shall bear an expiration date of 8 weeks after its date of manufacture.

• • • • •

(f) • • •
(3) • • •
(i) • • •

(b) *Limitations.* Feed only to cattle being fed in confinement for slaughter. Feed continuously in complete feed at a rate of 50 to 360 milligrams of monensin per head per day; as monensin sodium. Complete feeds may be manufactured from monensin liquid feed supplements. The liquid supplements contain a minimum of 20 percent molasses in combination with any of the following feed ingredients or their equivalents: condensed fermentation solubles, whey, ammonium polyphosphate, sodium hydroxide, phosphoric acid, fat, sulfuric acid, attapulgite clay, water, urea, vitamins, and/or minerals; a pH of 4.3 to 6; agitate the supplement until homogenous prior to use; mix thoroughly with grain and/or roughage prior to feeding. Do not allow horses or other equines access to feed containing monensin. Ingestion of monensin by horses has been fatal.

• • • • •

Effective date. This regulation shall be effective December 1, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: November 21, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33404 Filed 11-30-78; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7574; final draft of 4-20-78]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Modification of requirements for depositing certain employment taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the requirements for the deposit of certain employment taxes. These regulations affect certain employers who, because of noncompliance with employment tax procedures, are required to file employment tax returns monthly.

EFFECTIVE DATE: The regulations are effective with respect to aggregate amounts of taxes (as defined in paragraph (a)(1)(iii) of § 31.6302(c)-1) that are undeposited on or after January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

John M. Coulter, Jr., of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3346).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 27, 1975, the FEDERAL REGISTER published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 6302 of the Internal Revenue Code of 1954 (40 FR 27240). A public hearing was held on October 22, 1975. After consideration of all comments regarding the proposed amendments, a portion of those amendments is adopted by this Treasury decision.

EXPLANATION OF PROVISION ADOPTED

Under previous regulations, an employer who, because of noncompliance with employment tax procedures, was required to file monthly rather than quarterly employment tax returns was excepted from the general deposit requirement. Unless notified by the district director to make deposits pursuant to a special two-banking-day rule, such an employer needed only to pay the tax by the date on which the monthly return was due—a distinct advantage for a taxpayer who would otherwise fall within the quarter-monthly deposit rules. This Treasury decision corrects this by restricting this exception to the general deposit requirement to cases in which the employer falls within the more stringent two-banking-day requirements.

EXPLANATION OF PROVISIONS NOT ADOPTED

The notice of proposed rulemaking contained an amendment to the employment tax deposit requirements which was designed to ease the administrative burden on small businessmen resulting from the existing requirements relating to depositing those taxes. A substantial number of comments were received in response to those proposed new rules, and a public hearing was held at which a number of issues were raised. For example, an organization of accountants opposed the proposed elimination of the requirement that employers having undeposited taxes of $200 or more at the end of a month deposit those taxes during the following month. The accountants felt that many small businessmen would use these funds for other business purposes and be unable to pay them over when due. Others suggested that the change from the present system of monthly deposits for small businesses to a system where less frequent deposits are required, with the deposit requirement determined by reference to the dollar liability that accumulates and not by reference to a fixed calendar date, would actually make compliance more difficult for these small businesses. Accordingly, it has been concluded that the existing regulations should be retained. It should be noted, however, that alternative solutions to the problem are currently under active consideration.

Under the amendment as proposed, the quarter-monthly employment tax deposit requirements to which larger

Baltimore, Kansas City, Missouri Kansas Department of Health and En-

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employers are subject were revised to eliminate the 90-percent exception. In view of the fact that many larger employers do not have the data to make timely quarter-monthly deposits with 100-percent accuracy, this Treasury decision does not remove the 90-percent "safe-haven" provision.

DRAFTING INFORMATION

The principal author of this regulation was John M. Coulter, Jr., of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENT TO THE REGULATIONS

Accordingly, the amendments proposed to paragraph (a)(1)(i) and (ii) of § 31.6302 (c)-1 of the Employment Tax Regulations (26 CFR Part 31) are withdrawn. Paragraph (b)(1) of such section is amended to read as follows:

§ 31.6302 (c)-1 Use of Government depositories in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

* * * * *

(b) *Exceptions*—(1) *Monthly returns.* The provisions of this section are not applicable with respect to taxes for the month in which the employer receives notice from the district director that returns are required under § 31.6011 (a)-5 (or for any subsequent month for which such a return is required), if those taxes are also required to be deposited under the separate accounting procedures provided in § 301.7512-1 of this chapter (Regulations on Procedure and Administration) (which procedures are applicable if notification is given by the district director of failure to comply with certain employment tax requirements). In cases in which a monthly return is required under § 31.6011 (a)-5 but the taxes are not required to be deposited under the separate accounting procedures provided in § 301.7512-1, the provisions of this section shall apply except that paragraph (a)(1)(iv) shall not authorize the deferral of any deposit to a date after the date on which the return is required to be filed.

* * * * *

This Treasury decision is issued under the authority contained in sections 6302 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 775, 917; 26 U.S.C. §§ 6302, 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: November 15, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 78-33430 Filed 11-30-78; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Mailing of Books by Publishers and Distributors at the Library Rate

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule clarifies and adds certain definitions and conditions to section 135.26(c) of the Postal Service Manual concerning the mailing of books by publishers and distributors to schools, colleges, universities and libraries at the fourth-class library rate of postage. The rule clarifies that books may not be returned to publishers and distributors at the library rate and that the mailing of books to libraries under the rule is limited to books sent to public libraries. The rule also defines the term distributor, specifies that books mailed pursuant to the rule must be addressed to the qualifying institution, and sets forth the circumstances in which books sent to certain bookstores are considered to be sent to schools, colleges, or universities within the meaning of the rule.

EFFECTIVE DATE: December 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Grayson M. Poats, 202-245-4602.

SUPPLEMENTARY INFORMATION: On February 17, 1978, the Postal Service published for comment in the FEDERAL REGISTER proposed amendments to § 135.26(c) of the Postal Service Manual as described above (43 FR 6972). Interested persons were invited to submit written comments concerning the proposed amendments by March 20, 1978.

The Postal Service received 8 written and 2 telephonic comments in response to its February 17 notice. Seven commenters objected to 135.26(c)(4), which would not permit the return of books to publishers or distributors at the library rate. However, we find no intent on the part of Congress to extend the fourth-class library rate to include books returned to publishers or distributors by schools, colleges, universities or libraries. The clear language of Pub. L. 94-421 provides the library rate only for books mailed *from* a publisher or distributor *to* a school, college, university, or library. Several commenters expressed the opinion that books were presently being returned to publishers at the library rate and that adoption of § 135.26(c)(4) would result in an unwarranted rate increase for those materials. Books have never been mailable to publishers or distributors at the library rate. Persons who have made such mailings have done so improperly. The rule we are adopting does not affect the level of postage rates in any way; it only clarifies and defines the scope of materials eligible to be mailed at the library rate.

Three commenters objected to the limitation of the mailing of books by publishers and distributors to public libraries. They favored the inclusion of business, commercial, industrial and private libraries as eligible recipients of books mailed at the library rate. There is no evidence, however, to indicate that Congress intended by the enactment of Pub. L. 94-421 to expand eligibility for the library rate to libraries other than public libraries. Accordingly, we have retained the limitation on eligible mailings to those sent to public libraries. One commenter requested that the Postal Service define the term "public library" as it is used in the library rate regulations. We believe that this proposal has merit and are considering the publication in the near future of a proposed definition of "public library."

In view of the considerations discussed above, the Postal Service hereby adopts the proposed amendments of 135.26c of the Postal Service Manual without change.

PART 135—FOURTH CLASS

In 135.2 revise .26c to read as follows:

135.2 Classification

* * * * *

.26 Fourth-Class Library Rate.

* * * * *

c. Books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books, when mailed from a publisher or distributor to a school, college, university, or public library, may be mailed at the library rate. For purposes of this subsection—

(1) A distributor is an agent, business firm or similar organization whose business is the sale, resale, shipment, or reshipment of books.

(2) Books must be addressed to the qualifying institution. An individual recipient may only be noted with an attention line.

(3) Books may be mailed to bookstores which are owned, operated and controlled by schools, colleges, or universities, including separately incorporated, nonprofit bookstores owned by those institutions.

(4) Books may not be returned to a publisher or distributor by a school, college, university or public library.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2))

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-33600 Filed 11-30-78; 8:45 am]

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 997-4]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Empire District Electric Co., Riverton, Kans.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to the Empire District Electric Company, Riverton, Kansas. The Order requires the company to bring air emissions from its electric power generating plant at Riverton, Kansas into compliance with certain regulations contained in the federally-approved Kansas State Implementation Plan (SIP). Empire District Electric Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry F. Rompage, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, 816/374-2576.

ADDRESSEES: The Delayed Compliance Order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: Environmental Protection Agency (EPA) Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Missouri 64108.

SUPPLEMENTARY INFORMATION: On August 14, 1978, the Regional Administrator of EPA's Region VII Office published in the FEDERAL REGISTER, 43FR35958, a notice setting out the provisions of a proposed delayed compliance order for Empire District Electric Company, Riverton, Kansas. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. One comment and request for a public hearing was received in the Regional Office in response to the proposal notice. The commentors are presently involved in litigation with Empire.

The commentors wished to bring to the attention of Environmental Protection Agency (EPA) that ambient monitor recordings in the area of Empire's Riverton plant showed five twenty-four hour periods during which the national primary standard of 365 micrograms per cubic meter of air for sulfur dioxide (SO_2) was exceeded. Under the Kansas State Implementation Plan (SIP) the twenty-four hour concentration for (SO_2) must exceed 2100 micrograms per cubic meter of air to constitute an air pollution emergency and 1600 micrograms per cubic meter of air to constitute an air pollution warning. The highest concentration recorded was 881 micrograms per cubic meter of air. Therefore, these five recorded excursions above the standard were not of a magnitude and duration to be considered an imminent and substantial endangerment to health or welfare. The information concerning the five excursions above the standard were previously known to EPA and were considered in making the decision to initiate an enforcement action against Empire.

The commentors also submitted nine statements from individual members of families residing in near proximity to the Empire Riverton plant. These statements expressed a personal belief that they and members of their families were suffering eye irritation and respiratory distress and paint damage to houses and automobiles attributable to emissions from Empire Riverton. These statements were dated June 6, 1977, and were presented previously at public hearings held by the Kansas Department of Health and Environment (KDHE) prior to the Department taking state action. EPA employees were present at these hearings. Also included was a June 1978 statement from a doctor who examined a nine year old area resident. He stated he could not conclude that the child's eye irritation and respiratory distress and allergies were attributable to Empire's Riverton emissions.

Because all this information was available to EPA prior to making its decision to propose issuance of a Delayed Compliance Order (DCO) to Empire, and because the commentors did not present any new evidence or information to be raised at a public hearing, it has been determined that the holding of a public hearing is not justified. None of the comments indicated that the source could achieve compliance more expeditiously than the date for compliance set in the proposed DCO. There was no evidence presented of an imminent and substantial endangerment to health or welfare that would justify an enforcement action under the Section 303 emergency provisions of the Clean Air Act. Therefore, after a review of the comments submitted, it has been determined the comments do not establish significant public interest to justify the holding of a public hearing. Further, it has been determined that the holding of a public hearing would only serve to delay the taking of effective enforcement action.

It is the mandate and intent of the EPA to bring sources into compliance in the most expeditious manner for the protection of the public health and welfare. After considering all the enforcement options available to him, the Administrator has determined that Empire qualifies for a DCO, that it is in the public interest to take the most expeditious means to ensure that Empire achieves compliance with the SIP at Riverton, that the most expeditious means is through the issuance of a DCO pursuant to Section 113(d) of the Clean Air Act, that other enforcement options available such as a civil action under Section 113(b) would possibly result in compliance at a date later than that proposed for final compliance in the DCO, and that it is not in the public interest to delay by taking a less expeditious enforcement action.

Therefore, and in consideration of the comments received on the proposed Order, a delayed compliance order effective this date is issued to Empire District Electric Company by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places Empire District Electric Company on a schedule to bring its Units Nos. 7 and 8 at

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Riverton into compliance as expeditiously as practicable with Kansas Air Pollution Emission Control Regulation 28-19-31C, a part of the federally-approved Kansas State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Empire District Electric Company to delay compliance with the SIP regulations covered by the Order until June 30, 1979. The company is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Empire District Electric Company on a schedule for compliance with the applicable requirement(s) of the Kansas State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: November 16, 1978.

DOUGLAS M. COSTLE,
Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.210:

§ 65.210 Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act.

• • • • • •

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
•	•	•	•	•	•
Empire District Electric Co.	Riverton, Kans..	Docket No. VII-78-DCO-6.	Aug. 14, 1978.	KS Regulation 28-19-31C.	June 30, 1979.

2. The text of the order is as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION VII

1735 Baltimore

Kansas City, Missouri 64108

[Docket No. VII-78-DCO-6]

In the matter of The Empire District Electric Company, Riverton, Kansas.

Proceeding under section 113(d)(1) of the Clean Air Act, as amended.

ORDER

The following ORDER is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* (hereinafter the Act). This ORDER contains a schedule of compliance, interim requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing and thirty (30) days' notice to the State of Kansas has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

On December 16, 1975, The Empire District Electric Company (prior to the issuance by the Environmental Protection Agency of the hereinafter mentioned section 113 Order of December 23, 1975) acknowledged its Units Nos. 7 and 8 were exceeding the levels specified in Kansas Air Pollution Control Regulations 28-19-31A (Particulates) and 28-19-31C (Sulfur), Indirect Heating Equipment Emissions—Emission Limitations, a part of the applicable Kansas Implementation Plan. The company also then waived the opportunity to confer under 42 U.S.C. 1857c-8(a)(4) (now 42 U.S.C. 7413(a)(4)) and the Environmental Protection Agency duly issued its Order on December 23, 1975, under section 113(a)(1), then 42 U.S.C. section 1857c-8(a)(1), specifying compliance schedules as to sulfur and as to particulates.

Pursuant to such 1975 section 113 Order, the company's particulate emissions were reduced below the level specified in Regulation 28-19-31A for Units Nos. 7 and 8 in July, 1977, and the company is not in violation of the schedule of such 113 Order as to sulfur. Units Nos. 7 and 8 continue to emit sulfur in excess of the level specified in Regulation 28-19-31C when burning coal. This determination is based on calculations using fuel data submitted by the company on April 26, 1978.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule set forth in this ORDER is expeditious as practicable, and that the terms of this ORDER comply with section 113(d) of the Act. *Therefore, it is ordered:*

I. That The Empire District Electric Company shall comply with the Kansas Implementation Plan Regulation 28-19-31C in accordance with the following schedule on or before the dates specified therein.

A. Units Nos. 7 and 8.

1. December 31, 1978—Completion of coal availability and supply study.

2. January 31, 1979—Acquisition of tentatively selected coal for test burns.

3. April 30, 1979—Completion of test burns and evaluations.

4. May 15, 1979—Enter contract for low sulfur coal.

5. June 30, 1979—Achieve final compliance with Kansas Regulation 28-19-31C.

II. That The Empire District Electric Company shall comply with the following interim requirements which are determined to be a reasonable and practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section I, above), and will avoid any imminent and substantial endangerment to the health of persons and is required to comply with Regulation 28-19-31C insofar as Empire District is able to so comply during the period the ORDER is in effect:

A. Average monthly sulfur emissions shall not exceed 3.05 pounds per million BTU.

B. Sulfur emissions shall not exceed 3.15 pounds per million BTU at any time.

III. That The Empire District Electric Company shall comply with the following emission monitoring and reporting requirements on or before the dates specified below:

A. Emission monitoring

1. A proximate analysis must be conducted on a composite sample collected from the coal fired in Units 7 and 8 each week.

2. The results of each weekly proximate analysis shall be submitted to Environmental Protection Agency, Region VII (EPA), Director of Enforcement, no later than fifteen (15) days after the end of each month.

3. The Company shall within ninety (90) days after the effective date of this Order, operate at least two continuous ambient sulfur dioxide monitors according to methods and locations to be approved by EPA.

B. Reporting requirements

1. No later than ten (10) days after any date for achievement of an incremental step or final compliance, specified in this ORDER, Empire District Electric Company shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, Empire District shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

2. All submittals and notifications to EPA pursuant to this ORDER shall be made to the Director, Enforcement Division, EPA Region VII, 1735 Baltimore, Kansas City, Missouri 64108, 816-374-2576.

IV. Nothing herein shall affect any responsibility of Empire District Electric Company to comply with State or local regulations as modified by any applicable State variance.

V. Empire District Electric is hereby notified that your failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure Empire District will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This ORDER shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator (or his delegatee, as appropriate) determines on the record, after notice and hearing, that an inability to reduce the sulfur emissions to or below the level specified in Kansas Regulation 28-19-31C no longer exists.

VII. Violation of any requirement of this ORDER shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to section 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this ORDER, after notice and opportunity for a public hearing, and subsequent enforcement of Kansas Regulation 28-19-31C in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This ORDER is effective immediately.

Dated: November 16, 1978.

DOUGLAS M. COSTLE,
Administrator, U.S. Environmental Protection Agency.

CONSENT

The Empire District Electric Company agrees that the foregoing is a reasonable means by which to attain the sulfur emission level of Kansas Regulation 28-19-31C, and consents to and agrees to abide by all the terms of the Order (paragraphs I thru VIII, both inclusive) when issued, but the Company does not in any way hereby admit to any legal violation of such Regulation (or any other Regulation or statute, State or Federal).

Dated: November 18, 1978.

The Empire District Electric Company:

A. R. PUFFINBARGER,
Senior Vice President, Promotion.

[FR Doc. 78-33466 Filed 11-30-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 78-218; FCC 78-714]

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

Spanish International Network; Request for Authorized User Status Under the Communications Satellite Act of 1962

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action requires the international common carriers to end the rotational arrangements under which international television transmission service is currently provided. It also changes Commission policy to permit the Communications Satellite Corporation to provide television transmission service to the public directly. These actions are designed to permit more flexibility and customer choice in obtaining international television transmission service.

DATES: Communications Satellite Corporation shall file an application under Section 214 of the Communications Act of 1934 (47 U.S.C. 214) for authority to provide direct television service on or before March 16, 1979. American Telephone and Telegraph Co., Western Union International, Inc., ITT World Communications, Inc., and RCA Global Communications, Inc. shall file applications under Section 214 for authority to remove conditions on their certificates authorizing and requiring rotational arrangements for television service.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Joel S. Winnik, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-632-7265).

REPORT AND ORDER

Adopted: October 5, 1978.

Released: November 16, 1978.

In the matter of Spanish International Network, request for authorized user status under the Communications Satellite Act of 1962, CC Docket No. 78-218.

1. In this *Report and Order* we consider changes in our policy and changes in the certificates of various carriers in order to permit more efficient international television program transmission services. This rulemaking grew out of a petition filed by Spanish International Network [1] which questioned whether the current arrangement for providing television service meet public needs. Spanish International sought status as an authorized user under the Communications Satellite Act of 1962 so that it could obtain satellite transmission services directly from Communications Satellite Corporation (Comsat).[2] Interested parties were given an opportunity to file comments and reply comments on this petition. Based on these comments, the Commission adopted *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, FCC 78-515, released July 31, 1978 which reviewed the current arrangements for international television program transmission and proposed changes in our policy to permit Comsat to serve television transmission customers directly.

2. Public Notice of this proceeding was given in the FEDERAL REGISTER on August 2, 1978. Interested parties were given until September 1, 1978 to file comments and until September 11, 1978 to file reply comments.[3] The pleadings filed with respect to the Spanish International petition were to be incorporated into this proceeding.

3. Comments were filed in support of the proposed policy change by Public Broadcasting Service; National Public Radio; the Department of Justice; the Department of Defense; the National Telecommunications and Information Administration; Comsat; the three major television networks—American Broadcasting Companies, Inc., CBS, Inc. and National Broadcasting Company, Inc.—filing jointly; the European Broadcasting Union (which purchases telecommunications services for its members including European broadcasting organizations); the Hughes Television Network; Home Box Office, Inc. (a supplier of pay television programming); Robert Wold Inc. (a supplier and distributor of television programming); Telemundo, Inc. (licensee of WKAQ-TV, San Juan, P.R.); Visions, Ltd. (a television program distributor in Anchorage, Alaska); the Air Transport Association of America and Aeronautical Radio, Inc. (which supplies world-wide telecommunications services to the nation's airlines) filing jointly; and Spanish International. Most of these entities are existing or prospective users of international television program transmission services.

4. Comments in opposition to our proposals were filed by Western Union International, Inc. (WUI), RCA Global Communications, Inc. (RCA Globcom) ITT World Communications

[1] Spanish International is a domestic corporation involved primarily in the distribution of Spanish language programming to affiliated U.S. broadcasters. Its Magna Verda division is engaged in closed-circuit and other broadcast related telecasts of important special events on a hemisphere-wide basis such as this years World Cup Soccer matches.

[2] Although Spanish International originally sought declaratory ruling that it was an authorized user, we stated the following: The Commission cannot find that television comes within the "unique or exceptional" standard as it was intended to be applied in the Authorized User Decision • • • (However,) its petition is broad enough to be considered as a request for waiver for the policy for itself, and a petition to change the policy as it applies to other similarly situated television customers • • • Therefore, we will consider Spanish International's petition as a request for waiver and a petition for rulemaking. (43 FR at 33943.)

The *Authorized User Decision*, 4 F.C.C. 2d 421 (1966) recon. 6 F.C.C. 2d 593 (1967), referred to is discussed more fully in the following paragraphs of this *Report and Order*.

[3] See 43 FR 40541, September 12, 1978.

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Inc. (ITT Worldcom); and American Telephone and Telegraph Company (AT&T). These are the entities which currently provide international television transmission service and which would compete with Comsat if direct service were permitted.[3]

5. Due to the technical characteristics of the television signal, international television transmission may be provided only through satellites. These satellites, which also carry a substantial portion of the world's telephone, telex and private line traffic, are owned by the International Telecommunications Satellite Consortium (INTELSAT). Pursuant to the Communications Satellite Act of 1962, (47 U.S.C. § 701 *et* seq.), Comsat is established as the U.S. signatory to the INTELSAT agreements and is designated as the U.S. operating entity to participate in INTELSAT satellite operations. The general public, however, does not purchase television service from Comsat directly. Instead, under policies established in the Commission's *Authorized User Decision*, 4 FCC 2d at 435–436, service is provided by the international carriers. These carriers do not compete in the provision of international television services. Instead, they take turns providing the service, alternating weekly. *STA For TV Service Via Satellite* 1 FCC 2d 82, 89–90 (1965).

6. International television program transmission service consists of two segments, (1) the satellite channel, and (2) the facilities which bring the signal to the customer's location. The satellite channel and all of the required earth station facilities are provided by Comsat. The international carriers purchase Comsat's service and resell it to the public, together with entrance channel facilities located between the earth station and AT&T's operating center in New York. In addition to providing facilities, the international carriers also monitor signal quality and arrange the foreign end of the service. The domestic entrance channel facilities are owned by AT&T but they are shared by the joined television carriers. If AT&T is the carrier-of-the-week, the signal is connected at AT&T's operating center to facilities separately obtained by the customer which reach the customer's network pick-up point. If one of the other carriers is the carrier-of-the-week, the signal is switched from AT&T's operating center over local loops to the other carrier's operating center and then over other local loops back to the AT&T operating center. At this point, it is interconnected to facilities obtained by the customer which reach the customer's network pick-up point. Comsat charges $1,500 per hour for the satellite circuit. The carriers charge the customer $2,340 per hour for their service.

7. The parties filing in support of our proposed change in policy believe that giving users the option to purchase service directly from Comsat will permit higher quality service, more suitable to their needs, at a potentially lower cost. The international carriers argue that the proposed direct service is impermissible as a matter of law. Moreover, they argue it has not been shown that the public will benefit from direct service, even if legal. They also propose that as an alternative to direct service, the Commission should consider ending the carrier-of-the-week arrangements.

TENTATIVE CONCLUSIONS IN THE NOTICE

8. In our *Memorandum Opinion and Order and Notice of Proposed Rulemaking* we tentatively concluded that direct television service would serve the public interest and would promote the purposes and policies of the Satellite Act. We believed that the public might benefit because of the added flexibility and lower costs that television users would obtain. We further felt that competition in the provision of this service would lead to improved service and would serve as a regulatory tool to encourage cost-based pricing.

9. The evidence before us indicated that the purchase of satellite channels directly from Comsat would provide television service users with complete flexibility in arranging the domestic portion of the service. Some television users stated that they would establish domestic satellite earth stations near the Comsat international earth station so that the signal could be transmitted via the domestic satellite system directly to customer locations. Television service users could also construct private terrestrial facilities on a single or shared use basis, or lease common carrier terrestrial facilities on a single or shared use basis to and from the Comsat earth station. The example of the Public Broadcasting System cited in the *Notice* demonstrated the flexibility which direct service would provide. The Public Broadcasting Service's network control center is located in Washington, D.C. Under the current arrangements, international television programming received at Comsat's earth station at Etam, West Virginia is switched through New York City and then back to Washington for distribution over the Public Broadcast Service's domestic satellite network. If direct service were permitted, the Public Broadcasting Service could transmit the signal directly from a domestic terminal located at Etam to its affiliates or it could obtain terrestrial facilities to carry the signal to its Washington network control center.

10. In addition to the flexibility that would be afforded users by Comsat's entry we also postulated in the *Notice* that additional competition could encourage carriers to provide service more efficiently and economically, and could serve as a regulatory tool to ensure that the international carriers provide satellite channels at or near their cost.

CARRIER-OF-THE-WEEK ARRANGEMENTS

11. After release of the proposed rule changes, the international carriers each proposed or requested that the Commission consider ending the carrier-of-the-week arrangements so that international television transmission could be provided among themselves on a competitive basis. They suggested the possibility that the provision of television transmission service by the international carriers on a competitive basis will meet the same public interest objectives as would the direct provision of service by Comsat. WUI states that "competition among the existing, but eligible, providers of overseas television service will inevitably lead to dramatic service improvements and cost reductions. This being the end which the Commission has apparently sought in this proceeding, WUI feels there is no longer any need to 'tinker' with the *Authorized User* policy." WUI Comments, September 1, 1978, page 20.

12. We agree that elimination of the carrier-of-the-week arrangement would create competition among the international carriers and that this competition would likely provide many of the same public benefits as permitting Comsat to service television users directly.[4] Competition between the international carriers is likely to encourage the carriers to provide more efficient service and to pass on any efficiency savings in terms of lower rates. The competitive environment should stimulate the carriers to make available service options attractive to the television users. It is likely to create flexibility in the availability of entrance channels or in the choice of ancillary features such as quality control functions and the arrangements of the foreign end of the service. More flexibility in service arrangements or the benefits of lower rates resulting from competition between the carriers can inure to the public in the form of increased international television programming.

13. The circumstances which justified our original authorization of the carrier-of-the-week arrangements no longer apply. These arrangements were instituted when the Commission first considered applications from the carriers to utilize the communications satellite system in the Atlantic basin. *AT&T et al.* 38 F.C.C. 1315 (1965). Each of the international carriers sought authority to provide television program transmission service individually. However, ITT Worldcom challenged the application of AT&T, claiming that television should be considered a record service and that television would replace in substantial degree other forms of record services provided by the international carriers. *Id.* at 1319. ITT Worldcom's assertion was considered significant because under the *TAT-4 Decision* 37 FCC 1151, 1159–61 (1964), AT&T was generally prohibited from providing record services to overseas points. The Commission stated that it wanted to subject these issues to further study, and, therefore, withheld action on these applications. *AT&T et al.*, 38 FCC at 1319–1320. Instead, the Commission authorized Comsat to provide service to the major television networks directly. *Order and Authorization*, 38 FCC 1314 (1965). In deferring action on the applications the Commission stated that it would seek comment from the carriers upon a plan submitted by WUI proposing a joint service offering. After the international carriers sought reconsideration of the order authorizing Comsat's direct service, the Commission adopted, on a temporary basis the joint-service plan which authorized the carrier-of-the-week arrangements. *STA For TV Service Via Satellite*, supra, 1 FCC 2d at 89–90. This arrangement permitted the Commission to study further the concerns raised by ITT Worldcom and television service. Furthermore, it alleviated a concern expressed by RCA Globcom that AT&T would obtain a competitive advantage because of its virtual monopoly of domestic television transmission facilities. Four years later the Commission formally authorized the carrier-of-the-week authorizations. *AT&T et al.*, 18 FCC 2d 402 (1969).[5]

14. Later, in *Public Broadcasting Service et al.*, 63 FCC 2d 707, 721 (1977), the Commission held that "the provision of television service has never been considered to be, nor treated as, a record communications service." ITT Worldcom's prediction that television service would replace existing record services never materialized. Circumstances have also changed with regard to AT&T's status as a domestic television carrier. Carriers other than just AT&T now provide television service pursuant to competitive policies established in *Specialized Common Carrier Decision*, 29 FCC 2d 870 (1971), *aff'd Sub. nom. Washington Utilities and Transportation Commission* v. *FCC*, 513 F2d 1142 (9th Cir. 1975), *cert. denied* 423 U.S. 836 (1975); *Domestic Satellite Proceeding*, 22 FCC 2d 86 (1970), *aff'd sub. nom. Network Project* v. *FCC*, 511 F2d 786 (DC Cir. 1975); and *Resale and Shared Use*, 60 FCC 2d 21 (1976), *recon. granted in part* 62 FCC 2d 588 (1977), *aff'd American Telephone and Telegraph Co.* v. *FCC*, 572 F.2d 17 (2nd Cir. 1978).[6]

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A. LEGAL AUTHORITY

15. While eliminating the rotational arrangements will encourage competition between the carriers and this is likely to result in some flexibility for television service users, we must still consider whether permitting television users to purchase the satellite circuit directly from Comsat provides additional public interest benefits to television users. First, however, we consider the international carriers' contentions that the provision of direct television service by Comsat is not permitted by the Communications Act of 1962.

16. The question as to whether the Commission has the statutory authority to authorize direct service was considered and settled in the *Authorized User Decision*. In that proceeding the Commission considered what it specifically recognized to be two separate questions: (1) "The extent to which, as a matter of law, entities in the United States other than communications common carriers can be authorized under the Communications Satellite Act of 1962 to obtain telecommunications services directly from Comsat" and (2) "the extent to which, as a matter of policy, such entities should be authorized to obtain services" 4 FCC 2d at 421. The Commission concluded that, as a matter of law, the Satellite Act empowers the Commission to authorize Comsat to provide service to entities other than common carriers. 4 FCC 2d at 427. This finding, based on the comprehensive and detailed legal briefs and comments submitted in the *Authorized User* proceeding and the Commission's own investigation into all relevant sections of the Act, including consideration of the legislative history of these sections, has been the foundation of Commission decision-making for over twelve years. Now, when the Commission proposes to change its policy as to when direct service *should* be permitted, these carriers seek to relitigate the issue of the Commission's statutory authority to authorize Comsat to provide the direct service.

17. The plain language of the Satellite Act, 47 U.S.C. 735 (a) and (b),[7]

[3] On September 27, 1978, ITT Worldcom requested that the Commission accept an unauthorized pleading alleging that Comsat's provision of television service directly to users would violate the anti-trust laws. ITT Worldcom alleged that the additional pleading was required because it did not have time to adequately brief the issues raised in this proceeding. ITT Worldcom has had four opportunities to address the issues in this proceeding and it had more than four weeks to develop its initial comments on the Commission's proposals. Therefore ITT Worldcom is denied permission to file the unauthorized pleading. We believe, however, that this order does address the concerns the pleading would raise.

[4] AT&T and ITT Worldcom suggest that the Commission should require another series of pleadings on the question of whether the carrier-of-the-week arrangements should be eliminated. However, the carrier-of-the-week arrangements were brought into question in Spanish International's original petition and all parties have addressed the matter. We believe that any additional pleadings would be repetitive and cause unnecessary delay. We, therefore, decline to accept the suggestion that additional pleadings are required.

[5] The certificates authorizing the carriers to provide service in accordance with these arrangements are limited in term and can be terminated after notification by the Commission. *AT&T, et al, supra*, 18 FCC 2d at 404, 406–407.

[6] ITT Worldcom has protested the proposed new rule arguing that television transmission service should be considered a record service and subject to the gateway provisions of Section 222 of the Communications Act of 1934. 47 U.S.C. 222. These provisions restrict the domestic record services of carriers defined as international telegraph carriers to a limited number of gateway cities. 47 U.S.C. 222(a)(5). This provision means that an international telegraph carrier such as ITT Worldcom cannot provide an international telegraph operation, such as telex, beyond its authorized gateway city. If the message is destined for the hinterland, ITT Worldcom must interconnect with a domestic carrier authorized to serve that point. *See e.g. International Record Carriers Scope of Operation*, 58 F.C.C. 2d 250 (1976). ITT Worldcom argues that Comsat should be defined as an international telegraph carrier for the purpose of offering a retail television service. Even if Comsat cannot be so defined, ITT Worldcom believes that fairness and evenhandedness of regulation requires that Comsat be subject to the same gateway limitations as international telegraph carriers. However, section 222 only applies to record services, and it is clear that television service is not a record service. See *Public Broadcasting System, supra*. We do not have cause to reconsider the *Public Broadcasting System* holding. Therefore, neither ITT Worldcom nor Comsat are restricted by section 222 in the provision of television service. Consequently, no carrier suffers a competitive disadvantage in the provision of television transmission service by virtue of gateway limitations.

[7] (a) In order to achieve the objectives and to carry out the purposes of this Act, the corporation is authorized to—

• • • • •

(2) Furnish, for hire, channels of communication to United States communications common carriers and to other authorized entities, foreign and domestic, . . .

(b) Included in the activities authorized to the corporation for accomplishment of the purposes indicated in subsection (a) of this section, are, among others not specifically named—

• • • • •

(4) To contract with authorized users, including the United States Government, for the services of the communications satellite system; . . .

closely authorizes Comsat to furnish

18. Mr. Newton M. Minow, then

also stated that since, in his view, the

tion within any class" (47 U.S.C.

deal directly with users "in only those

carriers further argue that the Satel-

clearly authorizes Comsat to furnish channels to "authorized entities" other than common carriers and to contract with authorized users for satellite services. The Act itself does not explicitly define "authorized user" nor does it in any other way limit the Commission's discretion in deciding who may be an authorized user. Basic rules of statutory construction require that full effect is to be given every clause and word of a statute so that no clause, sentence, or word will be rendered superfluous, void or of no significance. *United States* v. *Menasche* 348 U.S. 528, 538–39 (1955); *Perko* v. *United States* 204 F. 2d 446, 449 (8th Cir. 1953), *cert. denied*, 346 U.S. 832. It is clear from the language of the Act and the application of these principles of statutory construction that direct access to Comsat's service is not limited to common carriers. Moreover, as the *Authorized User Decision* makes clear, the legislative history of the Act fully supports the legal authority of the Commission to authorize Comsat to provide direct service to noncarrier entities. On February 7, 1962 President Kennedy submitted a proposal to Congress, calling for the establishment of a privately-owned communications satellite corporation. The President's letter of transmittal accompanying this proposal states that the bill sets forth "purposes and powers of the new corporation (which) would include furnishing for hire, channels of communications to authorized users, including the U.S. Government." S. Rep. No. 1584 87th Cong. 2nd Sess. 28 (1962). After hearings on the bill, Senator Pastore, from the Senate Committee on Commerce, delivered the Committee report on the bill:

> It will be the purpose of the corporation to plan, initiate, construct, own, manage, and operate, in conjunction with foreign governments and business entities, a commercial communications satellite system, including satellite terminal stations when licensed therefore by the Federal Communications Commission. It will also be its purpose to furnish for hire channels of communication to United States communications common carriers who, in turn, will use such channels in furnishing their common carrier communications services to the public. *Provision is also made whereby the corporation may furnish such channels for hire to other authorized entities, foreign and domestic.* S. Rep. No. 1584, 87th Cong. 2nd Sess. 10–11, (1962)[8] [Emphasis added]

[8]Notwithstanding the language in the statute and the committee report, there is evidence in the legislative history which may suggest that Comsat was not intended to provide service directly to the public. In his closing statement, just prior to passage of the bill, Senator Pastore stated:

> The satellite corporation and the carriers will not be competing in the same market. No one, either the proponents of H.R. 11040 or the advocates of Government ownership has proposed that the satellite entity should go into competition with the existing carriers in serving the general public directly. To the contrary the satellite corporation under H.R. 11040 will serve mainly the carriers.

(108 *Cong.* Rec. 16920) On the other hand, the Commission read Senator Pastore's statement and on the language in S. Rept. No. 1584, to mean only that "Comsat was and is intended to serve primarily as a common carrier's common carrier". 4 FCC 2d at 428. As we have indicated this interpretation did not mean that Comsat must serve common carriers exclusively. On the contrary, the Commission stated:

> Comsat can thus be authorized to serve noncarriers directly. But it does not follow, as some of the noncarriers appear to contend, that such authorization is to be left unregulated—that Comsat and the noncarriers are free to contract as they wish. Were that the case, Comsat could readily become, to a very substantial extent, a common carrier dealing directly with the public. (4 FCC 2d at 4238)

Under the Commissions 1966 interpretation it could authorize direct service in its discretion so long as the authorization did not nullify Comsat's role as primarily a carrier's carrier:

> In the process of issuing authorizations to Comsat as a common carrier and reviewing its tariffs, the Commission is required, under the public interest standard, to take into account and specify the conditions under which Comsat can depart from its primary role as a common carrier's carrier and provide service directly to the public. Further, it is the Commission's responsibility to issue regulations or policy statements to insure that authorized users have nondiscriminatory access to the system. (4 FCC 2d at 429) (Footnote omitted)

We have reviewed the legislative history again and we have doubts that Congress intended to restrict Comsat's role to being primarily a carrier's carrier. Nevertheless, we need not disavow the Commission's earlier conclusion in *Authorized User* about Comsat's status as primarily a carrier's carrier. Even assuming *arguendo* that Congress intended Comsat to be primarily a carrier's carrier, an authorization enabling Comsat to provide television transmission service directly would be fully consistent with that intent. Comsat's television revenues account for less than 2% of its overall operating revenues. (1977 TV revenues: $2,525,535, 1977; overall revenues: $168,187,373, *Statistics of Common Carriers*, to be published January, 1979).

[9]Hearings on S. 2814 before the Senate Committee on Commerce, 87th Cong., 2nd Sess. at page 116 (1962). See also, Hearings on H.R. 10115 before the House Committee on Interstate and Foreign Commerce, 87th Cong. 2nd Sess. at page 408 (1962). (Although Congress rejected Minow's amendment to limit the definition of authorized user, it did adopt his amendment granting the Commission broad authority to develop rules and regulations to address changing circumstances. 47 U.S.C. 721(c)(11).)

18. Mr. Newton M. Minow, then Chairman of the Federal Communications Commission, had specifically pointed out to both Senate and House committees that the authorized user provisions in the President's bill—in precisely the same language as in the version that was ultimately enacted would permit Comsat to provide direct service to private users in addition to common carriers. Chairman Minow even submitted corrective language which would have permitted direct service only to authorized United States communications common carriers and foreign entities, removing entirely any eligibility for other "authorized users" as now appears in Section 305(b)(4) of the Satellite Act. The Committees each focused on the situation described by Chairman Minow. However, the Committees chose to make no changes in the legislation's authorized user language.[9] Mr. Minow also stated that since, in his view, the proposed legislation did not contemplate a satellite corporation which would be a common carrier serving the public directly, it should not be subject to the requirements of the Communications Act of 1934 applicable to common carriers generally:

> Since the Corporation will not function as a conventional common carrier, we believe that it would be impractical to place it under a regulatory scheme devised for such carriers. Unlike those carriers, the Corporation will not furnish service to the general public. Its undertaking rather, will be to furnish channels of communications to relatively few users; namely, common carriers and their foreign counterparts, who do serve the general public. For these and other reasons, certain sections of the Communications Act relating to common carriers may not be germane to the Corporation, while at the same time the unique status of the Corporation requires singular measures not now present in the act. (Hearings on H.R. 10115 before the House Committee on Interstate and Foreign Commerce, 87th Cong., 2nd Sess. at 407 (1962).)[10]

However, Congress could not have agreed with Mr. Minow's view of Comsat as exclusively a carrier's carrier because it later adopted a provision which subjected Comsat to all of the common carrier provisions of the Communications Act of 1934, except where those provisions were inconsistent with the Satellite Act.

19. In the *Authorized User* proceeding the international carriers contended that the Satellite Act contains no standards pursuant to which the Commission might authorize access by a non-carrier entity. The Commission disagreed, finding that the Satellite Act and the Communications Act of 1934, 47 U.S.C. 151, *et seq.* which is expressly incorporated into the Satellite Act, does provide guidelines for making determinations of this kind. 47 U.S.C. 741, 4 FCC 2d at 426. The provisions require that the Commission act in accordance with the standard of public convenience, interest, or necessity in granting radio licenses (47 U.S.C. 307(a)); "prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class" (47 U.S.C. 303(b)); study new uses for radio and generally encourage the larger and more effective use of radio in the public interest (47 U.S.C. 303(g)); and make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with laws, as may be necessary to carry out the provisions of the act (47 U.S.C. 303(r)). The Satellite Act itself requires that "it is the intent of Congress that all authorized users shall have nondiscriminatory access to the system" and "that the corporation created under this act be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public" 47 U.S.C. 701(c). The Commission is directed to "make rules and regulations to carry out the provisions of this act" (47 U.S.C. 721 (c)(11)).

[10]Mr. Minow reiterated his restrictive view of the proposed legislation throughout the course of the hearings. See e.g., Hearings on S. 2814 before the Senate Commerce Committee, 87th Cong., 2nd Sess. at pages 65, 71 and 115. (1962); Hearings on H.R. 11040 before Senate Committee on Foreign Relations, 87th Cong. 2nd Sess., at page 20. (1962); Letter, dated July 26, 1962 from Mr. Minow to the Honorable Mike Mansfield, printed at 108 Cong. Rec. 14900 (1962).

20. Congress was well aware that satellite telecommunications was in its infancy, and it provided broad standards to be followed by the Commission in guiding its growth, rather than rigid or detailed criteria for regulation. Therefore, we have determined that our judgment in this area must be based upon an evaluation of the often changing situation and the Congressional concern with the public interest in: (1) Encouraging wider and more effective use of radio techniques; (2) assuring that competition is maintained and strengthened in the provision of communication services to the public; (3) assuring that access to the satellite system shall be available to all authorized users on a nondiscriminatory and equitable basis; and (4) assuring that the benefits of new technology shall be reflected in service made available to the public through both improvements in the quality of service and the realization of all possible economies. The standards established by the Communications Act for authorizing carriers to provide service to the public are applicable to satellite services as well as other telecommunication services. 4 FCC 2d at 426–427. Under these guidelines it is clear that the Commission can "authorize Comsat to afford access to the satellite system by non-carrier entities upon a proper finding that such access would serve the public interest and comport with the purposes and policies of the Satellite Act." 4 FCC 2d at 428.

21. Having concluded that, as a matter of law, the Commission has the authority and obligation to exercise its discretion to determine whether to permit direct service, the Commission then considered, applying the facts before it, what policy it should develop in determining whether direct service proposals are in the public interest. We concluded that, as a matter of policy, Comsat would be authorized to deal directly with users "in only those instances where the requirement for satellite service is of such an exceptional or unique nature that the service must be tailored to the peculiar needs of the customer and, therefore, cannot be provided within the terms and conditions of a general public tariff offering." 4 FCC 2d at 431. The rationale for this policy was grounded in the Commission's concern that if Comsat provided the leased channel services which were sought by a number of the petitioners in the *Authorized User* proceeding, there was the potential that it would siphon off this business from the carriers. The Commission was concerned that this would force rate increases by the carriers for basic telephone and telex services in order to meet their revenue requirements. Since the direct service would benefit only a few large users to the potential detriment of the vast majority of users, it was believed that, under the circumstances, allowing competition for leased channel service between Comsat and the international carriers would be in derogation of the Satellite Act's objective to make the benefits of lower satellite communications rates available to all users. 4 FCC 2d at 433. Thus the Commission decided to limit Comsat's direct service to exceptional or unique circumstances.

22. The international carriers now claim that the Commission can never change this policy or waive its requirements. It is, however, proper for the Commission to modify or even reverse a prior decision. *See e.g. FCC* v. *WOKO*, 329 U.S. 223, 227–28 (1946); *Aspen Institute* 55 F.C.C. 2d 697 (1975) *aff'd sub nom. Chisholm* v. *FCC*, 538 F. 2d 349 (D.C. Cir. 1976) *cert. denied* 429 U.S. 890 (1976).[11] The international carriers further argue that the Satellite Act itself requires this policy. However, the "exceptional or unique" standard is not found within the terms of the Satellite Act. On the contrary, it is clear that Congress intended the Commission to be guided by the broad standards contained in the Act's regulatory scheme, rather than rigid and detailed criteria. The application of these broad standards and the conclusion that the Commission must use its informed discretion in applying them is fully supported by the legislative history of the Act. This is made clear by the following colloquy between Deputy Attorney General Katzenbach, who was principally responsible for drafting the legislation and steering it through Congress, and Senator Kefauver before the Senate Committee on Anti-trust and Monopoly:

> Senator KEFAUVER. While we are off on another subject I have been alarmed about the idea that we are talking only about voice communication. That is what A.T.&T. is engaged in largely.
>
> Suppose we want to use this system for direct television, navigation, weather, meteorology, or if they wanted to send IBM data, or somebody else wants to send data over this system, or to use it from plane to plane. What right is the Government going to have to dictate that it has to be used on some reasonable terms for these other purposes?
>
> Mr. KATZENBACH. Well, sir, there are provisions in the bill, in the administration proposal, which guarantee—the provisions themselves don't guarantee, but which tell the Federal Communications Commission to guarantee equitable access to all authorized users. Now as Dr. Welsh said——
>
> Senator KEFAUVER. Who are the authorized users?
>
> Mr. KATZENBACH. People licensed by the FCC.
>
> . . . . . .
>
> Mr. KATZENBACH. They would all come under FCC jurisdiction, sir, because as soon as you are using these facilities, as soon as you are using the radio spectrum, you are under FCC jurisdiction.
>
> Senator KEFAUVER. But you are forcing them to make a deal with one of the communications carriers, and what if they don't want to make a deal with a communications carrier?
>
> Mr. KATZENBACH. Then they have to get into the business themselves, sir. And I suppose if that is a practicable way of doing it, then that is what should be done. But these are responsibilities as to who is to be licensed for what purposes, which are given to the Federal Communications Commission." (*Hearings on S. Res. 258 Before the Subcommittee on Antitrust and Monopoly of*

[11]In the *Aspen Institute* case, the Commission reversed a statutory interpretation that had existed for more than ten years, and exempted from the equal time requirements of the Communications of 1934 (47 U.S.C. 315) candidates' press conferences and debates between political candidates. The Court of Appeals in *Chisholm* affirmed the Commission's reversal of its policy. In *Chisholm* the court stated that when an agency changed an established policy it should indicate that a policy is being changed and it should follow "the rule of law." (538 F. 2d 364). In a related case where the Court of Appeals also confirmed that the FCC acted properly in reversing its equal time policy, the court stated that to change policy the Commission must "provide a reasoned basis for its action, fully explaining the course it has taken in light of relevant legal and policy issues." (*United Church of Christ* v. *FCC*. No. 76-1878 (Slipsheet p. 13) (D.C. Cir., decided Sept. 11, 1978).) The Court further stated that the Commission must meet the requirements of "a reasoned opinion explaining its action, and [allow] * * * interested groups who were not parties to the proceeding * * * an opportunity to comment on the matter before the agency." (*Id.* at 15.) (See also, e.g., *Greater Boston Television Corporation* v. *FCC*, 444 F. 2d 841, 851-52 (D.C. Cir., 1970), *cert. denied*, 403 U.S. 923 (1971); *Pinellas Broadcasting Co.* v. *FCC*. 230 F. 2d 204, 206, 234 (D.C. Cir.), *cert. denied*, 350 U.S. 1007 (1956).) The Commission in this rulemaking involving Spanish International's petition has carefully followed these directions of the courts.

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the Senate Committee on the Judiciary, 87th Cong., 2d sess., pt. 1, at 55-56 (1962).) [12]

23. Moreover, the legislative history supports the conclusion that the Commission's discretion to permit direct service is not limited to situations where Comsat would not compete with the carriers.[13] When Congress was considering the various proposals for privately-owned satellite systems, there was considerable discussion as to whether the earth stations should be owned by the common carriers or by Comsat. *See e.g.* S. Rep. No. 1584, 87th Cong., 2nd Sess. 12 (1962). The issues of earth station ownership and direct service are inextricably related because if Comsat did not obtain an ownership interest, direct service to non-carrier entities would be effectively prohibited since users would still have to obtain access to the satellite system through the international carriers. H.R. 11040, when reported out of the House Committee on Interstate and Foreign Commerce, left the question of who should own the earth stations to the Commission's discretion. However, the bill also contained language expressing a preference for common carrier ownership of the stations. H.R. 11040, section 201(c)(7), 87th Cong., 2nd Sess. (1962). The Committee report explained these provisions as follows:

> It is not the intent of the committee that these provisions limit in any way the Commission in determining what meets the public interest, convenience, and necessity. It is, however, the intent of the committee that in exercising its licensing functions in this respect and in determining who is to be licensed, the Commission shall give consideration to all relevant factors, including such things as the amount and nature of the communications services which are being rendered and which are to be rendered by individual communications common carriers, * * * *the need for effective competition among the corporation and carriers* in rendering such services, and any other factors which * * * might bear upon the public interest, convenience, and necessity. (H.R. Rep. No. 1636, 87th Cong., 2d Sess. 12 (1962) (Emphasis added.))

As adopted, the preference for common carrier ownership was removed and the Commission was given complete discretion in developing earth station ownership policies to consider such factors as the need for effective competition among the corporation and the carriers in providing telecommunications services. 47 U.S.C. 721 (c)(7).

B. PUBLIC INTEREST ANALYSIS

24. Given this descretion, we shall now determine whether provision of direct television service by Comsat would serve the public interest. In the provision of the satellite channel the international carriers provide nothing more than the transparent channel supplied by Comsat. While many users may require the end-to-end service provided by the international carriers, there is no operational reason why a user should have to go through an international carrier to obtain only the satellite channel. In fact, requiring the user to go through this extra layer only creates a greater potential for service mix-ups than if the service was ordered directly from the entity which actually provides it. This is a particular concern in international television transmission where news and special events programming requires immediate availability and quick and efficient processing of service orders and changes. The television users allege that in the past there have been service mix-ups and delays. While the international carriers dispute the facts of the particular instances described, the extra service layer clearly creates the potential for service errors. Given the fact that the international carriers do not provide any satellite service in addition to the service provided by Comsat, there is no operational necessity for the user to be required to be subjected to this potential. Therefore, if the user does not desire end-to-end service or desires to be served directly through a special purpose earth station, it makes operational sense to give him the option to purchase the satellite service directly from Comsat.

25. Comsat's entry would have additional benefits in the sense that it would provide a useful regulatory benchmark. Comsat would provide to direct users only the transparent satellite channel terminating at the U.S. earth station rather than end-to-end service. To the extent that Comsat's costs of providing service to the carriers is the same as the service it provides to television users directly, it will have to charge similar rates to the carriers and direct users. If the international carriers are to remain competitive with Comsat in providing this channel, their charges will have to reflect its true cost. If, on the other hand, Comsat's costs for providing direct service are higher than its costs of providing this channel to the carrier, the direct users rates will at least serve as an upper limit for the prices charged by the carriers.[14]

26. We believe that authorizing Comsat to provide direct service to television users is consistent with the rationale of the *Authorized User Decision*. Since we originally expressed this belief in the *Notice*, The carriers have not provided any evidence which would lead us to change our tentative conclusion. As indicated in paragraph 21, *supra*, in the *Authorized User Decision* the Commission found that permitting Comsat to provide direct service could divert leased channel revenues from the international carriers to Comsat, necessitating rate increases for the other public services of the carriers such as message telephone service or telex. This was determined to be a "detriment to the vast majority of users for the apparent benefit of a few large users" 4 F.C.C. 2d at 433, in derogation of the policy of the Satellite Act because the Act requires that the benefits of lower satellite rates be made available to all users. On its face, this rationale would be also applicable to television transmission service. However closer analysis reveals that permitting direct service to television users has little possibility of creating such public detriments. This service accounts for less than one percent of the international carriers' revenues. As stated in the *Notice*, the international carriers report only marginal profits or losses in providing the service. Consequently, there is no basis for concluding that there would be any adverse effect on the other services provided by the international carriers even if all television revenues were diverted to Comsat. On the contrary, the fact that some carriers have experienced losses in providing the service suggests that the current arrangements burden public services rather than prevent a burden on those services as the *Authorized User Decision* intended.

27. Therefore, we find that the public interest will be served by permitting television program transmission users to obtain satellite service directly from Comsat. Such a policy is consistent with the Satellite Act's mandate that "care and attention * * * be directed toward * * * the reflection of the benefits of this new technology in both quality of services and charges for such services." 47 U.S.C. 701(b).

FEASIBILITY OF COMPETITION

28. As set forth by the U.S. Supreme Court in *F.C.C.* v. *RCA Communications, Inc.* 346 U.S. 86, 96-97 (1953), the criteria for authorizing additional competition are two-fold: (a) There must be grounds for reasonable expectation that competition may have some beneficial effect; and (b) competition must be reasonably feasible. The earlier sections of this order demonstrate that there are reasonable grounds to conclude that the additional competition provided by eliminating the rotational arrangements and the provision of direct service by Comsat may be reasonably expected to have some beneficial effect. We shall now consider whether competition is reasonably feasible.

29. There is a range of opinion among the carriers pleading in this proceeding as to the degree of competition which is reasonably feasible in the provision of international television transmission service. WUI assumes that competition among the four international carriers is reasonably feasible and has requested authority to withdraw from the rotational arrangement. AT&T, ITT Worldcom and RCA Globcom, to varying degrees, suggest that the Commission may wish to explore this possibility. Thus, none of these four carriers assert affirmatively that competition among themselves is not feasible,[15] but all question the feasibility of the added competition which would be provided by Comsat.

30. As pointed out by ITT Worldcom in its comments, the Commission established its basic formula for determining the feasibility of additional competition in *Mackay Radio Telegraph Co., Inc.*, 28 FCC 231 (1960). The Commission there stated:

> It appears to us that feasibility of competition depends on whether there is sufficient traffic to support the addition of another competing direct circuit and upon the effect of the opening of such circuit upon the applicant as well as all other carriers providing service to the public. (28 FCC at 239)

We would note at the outset that there is a significant difference between the factual situations present in both the *Mackay* and *RCA* cases and the instant situation. In both of the former cases, the Commission was being asked to approve the establishment of entirely new direct high frequency radio circuits to points where other carriers already had established such circuits. The applicant carrier was proposing to incur the capital costs of the transmitting and receiving equipment necessary to establish the duplicating high frequency radio circuit with which it proposed to compete. Authorization of the new circuit had the potential to decrease the revenue generated by the capital investment that the existing carrier or carriers had made in like facilities in order to provide the existing circuits. This was particularly true if the new entrant diverted significant amounts of existing traffic from the present carrier and no new traffic was generated. Finally, there was a significant question of whether authorization of a duplicating direct circuit which may not be fully utilized was an efficient allocation of the scarce high frequency radio spectrum. (*See e.g. Mackay*, 28 FCC at 233-35, 243-44)

31. Neither the abolition of the rotational arrangement nor Comsat's direct provision of television service from the existing earth stations involves the construction of duplicate satellites or satellite earth stations or the use of additional frequencies or capacity in the existing satellites. This will not require substantial new capital investments or put substantial existing capital investment at risk. The basic difference will be in which carrier will make use of largely commonly-used existing facilities and how that carrier is selected. This difference can best be demonstrated by a comparison of facilities use under the present rotational plan and that which will occur if the rotational plan is abolished and Comsat is permitted to provide direct service from the existing earth stations.

32. As indicated in paragraph 6, *supra*, all of the carriers lease the satellite and terrestrial facilities for the period the customer desires service. These facilities can be leased for periods as small as ten minutes. In the case of AT&T, it owns the terrestrial circuits it leases to the customer. If the rotational arrangement is obolished, exactly the same facilities will be used in the same manner. The sole difference will be that the carrier providing the service will be determined by the customer rather than the calendar. Comsat, will still lease the same satellite capacity from INTELSAT and, in turn, lease it and the same earth station capacity to the customer-chosen carrier. The same terrestrial circuits and operating office equipment will be used in the same manner. Since competition will determine which carrier is selected, the amount of time that the terrestrial circuits are leased by AT&T to an IRC rather than to the ultimate customer will change. Likewise, the use made of, and the revenue generated by, each carrier's investment in equipment associated with television service at its operating office could shift among the carriers.

33. If Comsat is permitted to provide direct service from the existing earth stations, the same earth station and satellite facilities will be used. Comsat would either lease this capacity to one of the international carriers or directly to the customer. The impact of Comsat's provision of television service on the international carriers would be the same as if AT&T were to obtain the customer; they would not derive revenues on their investment in the equipment in their operating offices used for the provisions of television service from the customer. The effect on AT&T could be to further alter the amount of time it leases the terrestrial circuitry to another carrier rather than the ultimate customer.

34. Another potential effect that would occur on AT&T if a customer or a carrier should seek to establish additional transmission facilities to the earth stations is that AT&T's terrestrial facilities between the earth station and a carrier's operating office will not be utilized. However, construction of any such facilities would require Commission authorization and would not be certified if found to be detrimental to the public interest.

35. It is clear from the foregoing that elimination of the rotational arrangement and permission for Comsat to provide television transmission and reception service directly to customers from the existing earth stations will not require duplication of facilities or substantial additional capital investment, or put substantial existing capital investments at risk. The only facilities put at the risk of reduced use is the equipment at the operating offices of WUI, ITT Worldcom and RCA Globcom dedicated to television service. While none of these carriers nor provided us with the dollar amount invested in such equipment, we would expect that the amount is comparatively small, namely, an investment in signal quality control equipment and a limited switching ability. AT&T may also run this risk. However, since it will still provide most of the terrestrial television circuitry, AT&T should still be able to utilize most of this equipment, even if Comsat provides the satellite link to the customer. Likewise we would expect any additional investment by Comsat to be small. Indeed, since Comsat already provides the satellite portion of television service to the carriers, it may well already have all of the required equipment.

36. RCA asserts that the carriers will not be able to effectively compete with Comsat because Comsat would be supplier of satellite circuits both to the carriers and to direct users. It asserts that it could not cover its own costs of overhead and still meet the Comsat rate. This conclusion is apparently based on the Commission's statement in the *Notice* that, "presumably, Comsat would charge its customers—whether television users or international carriers—the same rate for satellite service." (*Notice*, p. 7) This statement assumed that Comsat's costs of serving the carriers are the same as its costs of serving television users directly. However, as discussed in the next section, the carriers allege that Comsat's costs in serving users directly should exceed its costs of serving carriers. On further consideration of our original presumption, we find it questionable whether Comsat could, in

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[12] *See also*, colloquy between Sen. Wiley and Mr. Minow (Hearings on H.R. 11040 before Senate Committee on Foreign Relations, 87th Cong., 2nd Sess. at p. 50 (1962); footnote 9, *supra*.)

[13] But see footnote 8, *supra*.

[14] As discussed in the section of this decision on cross-subsidization, *infra*, the carriers assert that Comsat's costs in serving users directly should be higher than its costs of serving carriers.

[15] Presumably those carriers urging further proceedings to determine whether the rotational arrangement should be abolished would not rule out such a finding, however.

and the fact that the carriers already time-shared, satellite facilities and the 307 and 403 of the Communications

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a tariff proceeding, cost-justify serving both types of customers at the same rate.

37. Even if the carriers obtain the satellite circuit at the same rate as direct users and must include their overhead costs of obtaining that circuit in the rate at which they resell it, they would have countervailing competitive advantages over Comsat which are likely to mitigate the effect of this price differential. Most importantly, Comsat would be authorized to provide only the transparent channel rather than end-to-end service. The international carriers, on the other hand, can provide end-to-end service. For users desiring the option of contracting with only one carrier to fully arrange all aspects of the service, this complete service is likely to prove quite attractive.

38. The international carriers have further advantages over Comsat. The carriers have been in the international television service market for years. Presumably they have developed working relationships with their customers which may be sustained despite Comsat's entry.

39. In the event that Comsat can justify the same rate for both carriers and television users and the carriers have to include the overhead costs in the resale price, we believe that the customer should be able to decide for itself whether any premium paid to obtain service from the international carriers is worth the price. As we have stated, the overhead costs are extra costs associated only with the reselling of Comsat's satellite circuit and are not necessary to the provision of service. It is not in the public interest to burden users with these costs if the user does not believe that the costs are balanced by the countervailing benefits. We believe that compelling the customers to deal with the carriers rather than providing them with the options of obtaining service in the way that best meets their needs would not be protecting competition but, rather, would be protecting competitors.

Price Discrimination and Cross-Subsidization

40. Several of the international carriers assert that the Commission needs more information to make a well-reasoned evaluation of whether Comsat should be permitted to offer international television service directly to users. Specifically, these carriers argue that Comsat should file with the Commission its proposed rules and regulations for television services as well as its costs of providing service and resultant proposed charges to users. The carriers' claim that the Commission needs this information for several reasons. First, it is asserted by ITT that if Comsat serves users as well as carriers, it will have an incentive to predatorily and unfairly charge high rates to the latter and lower rates to the former. Furthermore, both ITT and WUI assert that if Comsat were to provide service directly to the user, it would be an entirely different service than Comsat provides to the carriers, thus mandating a different rate. WUI claims that while Comsat only provides the carriers with a basic satellite channel, direct service to users would force Comsat to also provide coordination of the alignment of foreign and domestic facilities, scheduling of programs, quality control and conditioning of the television signal, maintenance and testing of all circuits, technical coordination of all segments of the transmission path, and billing, accounting and customer relations. ITT adds that extra costs to be borne by Comsat would include the cost of marketing to direct users and the cost of uncollectables. ITT further states that if Comsat were to provide service to users at the same rate it charges the carriers, it would have to cover its costs for these other functions by illegal subsidization from other services. ITT believes that this concern increases the need for Comsat to file an informal tariff.

41. While the carriers argue extensively about possible predatory pricing by Comsat, their arguments are simply speculative. The concerns of the carriers should more appropriately be raised after Comsat has filed its tariff for direct use. It is then that any attempts at predatory or unfair pricing will surface and be disposed of. Furthermore, at this juncture, we are only considering Comsat's provision of satellite service. In light of this, we believe that it would be very difficult for Comsat to engage in predatory pricing without detection by the Commission.

42. Other than the need to prevent illegal pricing, which will be handled within the context of specific authorizations, the carriers have not raised, and we do not see any other reasons, to require Comsat to file an informational tariff. Comsat's costs to provide service and the resulting prices it charges have little or no relationship to whether Comsat should be permitted to enter the market. If, as ITT and WUI assert, Comsat's costs and charges are higher to users than to carriers, the carriers should be able to offer a cheaper rate to users than Comsat itself can. If this is the case, the user will have to decide whether obtaining service directly from Comsat is worth the premium it must pay to do so. We emphasize, however, that this is precisely why we belive it is in the public interest to permit Comsat's entry into the market; the customer will be afforded more flexibility of choice.[16]

[16] In addition to requesting that Comsat submit this tariff information WUI requests that the Commission hold an evidentiary hearing and oral argument to consider the issues raised. However, as we have stated, the question as to whether Comsat's rates involve predatory pricing is more appropriately addressed in an evidentiary proceeding after the tariff actually is filed. An investigation into whether Comsat would engage in predatory pricing and the effect of such pricing would involve speculation. The other issues in this proceeding involve policy considerations, the determination of which would not be furthered by cross-examination in an evidentiary hearing. The two sets of both comments and replies in this proceeding have provided adequate opportunity to define and address all the issues raised. We, therefore, see no need either for an evidentiary hearing or oral argument and WUI's request is denied.

Carrier Capital Investment in Space Segment

43. The international carrier pleadings in this proceeding contain a variety of assertions that if Comsat is permitted to provide television service directly to the public, the carriers should be permitted to deal directly with INTELSAT, lease television capacity in the satellite and earth stations on a cost basis, or acquire a capital investment in the space segment. We believe that carrier ownership of INTELSAT space segment and direct carrier-INTELSAT arrangements are prohibited by the Communications Act Satellite Act of 1962. However, we do not believe that capital investment, other than ownership, in the nature of indefeasible right of user is prohibited by law.[17] Further, there may be public benefits which flow from permitting carrier capital acquisition of satellite circuits. One potential benefit could be increased price competition in the provision of the basic satellite channel.

44. We emphasize, however, that even without the right of capital acquisition, the carriers are not placed at any competitive disadvantage vis-a-vis Comsat. They will be able to purchase the satellite channel at or below the rate Comsat charges to direct users. While the carriers may not then be able to incorporate a profit into their price to the users of the satellite channel, under the Commission's rate base regulation carriers are not entitled to earn a profit on leased facilities. *Communications Satellite Corporation*, 56 FCC 2d 1101, 1119 (1975). *See also Earth Station Ownership* 5 FCC 2d 812 (1966). Thus, the situation would not change.

45. Given the complexity of determining available capacity in a satellite system which varies with the manner in which the satellite is configured, the concomitant complexity of making that determination in earth stations and the fact that the carriers already have an ownership interest in the earth stations, consideration of such a capital investment policy will inherently reflect that complexity. This is particularly true in the case of the television transmission capacity which is shared on a varying time basis. Given the fact that the carriers have provided no detailed proposals on how such capital acquisition might be effectuated and the extreme complexity of such a consideration, we believe that this matter is better addressed in a more comprehensive proceeding. As indicated in the *Notice*, the Commission will soon issue a *Notice of Inquiry* which will re-evaluate the entire *Authorized User Decision* in terms of actual operating experience since the decision's adoption. In this inquiry the Commission will also examine the carrier's capital investment proposals in addition to earth station ownership policies and policies concerning special purpose earth stations.

[17] See Sections 102(c) and 305(a)(1) of the Satellite Act. Indefeasible right of user is a capital investment interest in which the owner does not obtain rights in management or control of the facility.

Assurance of Equitable Access

46. As is alluded to in the carrier pleadings in this proceeding, there is a potential that Comsat, as both the operator of the satellite television transmission facilities and a competitor for the provision of those facilities to the public, could place itself in a favored position. The Satellite Act requires that the Commission shall:

> insure that all present and future authorized carriers shall have non-discriminatory use of, and equitable access to, the communications satellite system and satellite terminal stations under just and reasonable charges, classifications, practices, regulations, and other terms and conditions and regulate the manner in which available facilities of the system and stations are allocated among such users thereof; (47 U.S.C. 721(c)(2)).

The Commission has taken particular care in past decisions to assure that this responsibility has been carried out. For example, we note that the first authorization granted to AT&T to lease satellite circuits was conditioned on the premise that AT&T make its facilities between New York and the then sole earth station at Andover, Maine "* * * available to all international carriers and other authorized users of the satellite system on fair and nondiscriminatory terms and assure equitble access thereto." *AT&T et. al.* 38 FCC at 1318. We shall condition the authorization granted to Comsat to provide direct television service on its provision of fair and nondiscriminatory terms and equitable access to the satellite system television capacity for all authorized carriers and users. Because of the fact that television service is, and will continue to be, provided on commonly used, time-shared, satellite facilities and the fact that the demand for international television is often created by fast breaking newsworthy events of international importance, we shall further require that Comsat describe fully in its application for authority to provide direct television service, the procedures by which it will effectuate this condition. Such procedures, at a minimum, must assure that all requests for television service whether by carriers or customers be handled on a chronological basis. Carriers and customers alike must have equal access to contact Comsat to place orders. Comsat must maintain an up-to-date log of all requests for television service showing the carriers or customer, name of the person making the request, the time and date the request was made, the time during which service was requested and, the specific service requested. Finally, Comsat must retain such logs for one year in order to allow Commission inspection should a controversy arise.

47. In view of the above, we find the public interest will be served by permitting competition among the carriers and Comsat in the provisions of international television program transmission service. We therefore grant Spanish International's request for a waiver of our "unique and exceptional" policy in the *Authorized User* decision (4 FCC 2d at 431, 435-36) as it applies to its reception of international television programming from Comsat, and we grant Spanish International's petition to change this policy as it applies to other similarly situated television customers. Thus, the "unique and exceptional" policy is not applicable to television customers, and they are authorized users under our *Authorized User* decision and may receive direct service from Comsat. In other respects, the *Authorized User* decision and our "unique and exceptional" policy are not modified by this decision.

48. *Accordingly, it is hereby ordered*, That the Communications Satellite Corporation shall within 120 days of the release of this order make application under Sections 214 and 309 of the Communications Act to provide satellite television services directly to user at U.S. earth stations.

49. *It is further ordered*, That the American Telephone and Telegraph Company, Western Union Internation, Inc., ITT World Communications, Inc., and RCA Global Communications, Inc. shall 60 days thereafter make application under Section 214 of the Communications Act to remove conditions authorizing and requiring rotational arrangements for television service.

50. Authority for this action is contained in Section 4(i), 4(j), 201(b), 303, 307 and 403 of the Communications Act of 1934, as amended, and Sections 102(c), 201(c)(2), 305(a), 305(b) and 401 of the Communications Satellite Act of 1962.

51. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM TRICARICO,
Secretary.

[FR Doc. 78-33677 Filed 11-30-78; 8:45 am]

[6712-01-M]

[BC Docket No. 78-73; RM-2949]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Prescott, Ariz.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a second Class A FM channel to Prescott, Arizona in response to a petition filed by Southwest Broadcasting Company. The channel provides an opportunity to bring a needed additional aural broadcast service to the community.

EFFECTIVE DATE: January 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—(Proceeding Terminated)

Adopted: November 21, 1978.

Released: November 22, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Prescott, Arizona), BC Docket No. 78-73, RM-2949.

1. The Commission has before it the *Notice of Proposed Rule Making*, 43 FR 8815, proposing the assignment of Channel 280A to Prescott, Arizona, as its second FM assignment. Petitioner, Southwest Broadcasting Company, has filed supporting comments reaffirming its intention to file for the channel, if assigned.

2. Prescott (pop. 13,039),[1] seat of Yavapai County (pop. 36,733) is located

[1] Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

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SUMMARY: Part 221 establishes re-

The FRA is now adding Appendix C

Appendix C—*Schedule of Civil Penalties*

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in west central Arizona, approximately 113 kilometers (70 miles) northwest of Phoenix. It presently receives service from full-time AM Station KYCA, licensed to petitioner, AM Station KNOT (full-time) and Station KNOT-FM (Channel 252A).

3. Petitioner states that, according to the 1976 Arizona Statistical Review, Prescott's population is currently estimated at 17,000, which represents an increase of almost 25% over the 1970 U.S. Census data. We are told that tourism, manufacturing, ranching and mining comprise the major industries. Petitioner asserts that the population and economic trends for Prescott and Yavapai County indicate a rapid and continuing expansion of both population and economy.

4. Preclusion would occur affecting four Arizona communities [2] with populations greater than 1,000. Of the four communities, Kingman has an AM and FM station and Wickenburg has an AM station and an FM assignment. Williams and Bagdad have no FM assignments, but petitioner states that alternate FM channels are available for assignment to these communities, if the need should arise. Since other channels are available, the preclusion is not an impediment to the proposed assignment.

5. In a *Roanoke Rapids/Anamosa* study, petitioner shows that 3,998 persons in a 1,303 square kilometer (503 square miles) area would receive a second FM service and a second nighttime aural service from a station operating on the requested channel.

6. Upon careful consideration of the proposal, we believe that Channel 280A should be assigned to Prescott, Arizona. The channel would provide for an FM station which could render a second service as well as second nighttime service to a significant area. It would also provide the community with an opportunity to develop a needed second local FM broadcast service.

7. Mexican concurrence in this assignment has been obtained.

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules; *it is ordered*, That effective January 4, 1979, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the community listed below:

City: Prescott, Arizona; Channel No. 252A, 280A.

9. *It is further ordered*, That this proceeding is terminated.

[2] Williams (pop. 2,386); Wickenburg (pop. 2,698); Kingman (pop. 7,312); Bagdad (pop. 2,079).

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-33713 Filed 11-30-78; 8:45 am]

[6712-01-M]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The frequency 123.1 MHz is improperly designated in one section of our rules as a maritime distress frequency when it is not. Another section of our rules is entitled "Frequencies for use in distress," when it also contains provisions relating to search and rescue operations. We are amending our rules to clear up these inconsistencies. This action will accomplish this amendment.

EFFECTIVE DATE: December 11, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: November 24, 1978.

Released: November 27, 1978.

Order. In the matter of editorial Amendment of §§ 83.233 and 83.352 of the Commission's rules.

1. Section 83.233 (Frequencies for use in distress.) designates the frequency 123.1 MHz as a distress frequency in the band 118 to 136 MHz. Actually 123.1 MHz is a frequency for Search and Rescue (SAR) activities that is available for assignment to ship stations for scene of action SAR operations between ships and aircraft. Therefore, 123.1 MHz should not be listed under § 83.233 of our rules and we are deleting 123.1 MHz from this section.

2. The title of § 83.352 "Frequencies for use in distress." does not accurately reflect the contents of this section. Section 83.352 also contains rules regarding SAR operations. We are therefore amending the title of § 83.353 to correctly reflect its contents.

3. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone 202-632-7197.

4. Authority for this amendment is contained in Section 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendment is editorial in nature the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

5. In view of the above: *It is ordered*, That the rule amendment set forth is adopted effective December 11, 1978.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

Part 83—Stations on Shipboard in the Maritime Services.

1. In § 83.233, the table is amended to read as follows:

§ 83.233 Frequencies for use in distress.

• • • • •

Frequency band	Emission	Carrier frequency
• • • • •		
116 to 136 MHz	A2, A3, A9	121.5 MHz
156 to 162 MHz	F3	156.8 MHz
• • • • •		

• • • • •

2. The title of § 83.352 is amended to read as follows:

§ 83.352 Frequencies for use in distress and search and rescue operations.

• • • • •

[FR Doc. 78-33712 Filed 11-30-78; 8:45 am]

[4910-06-M]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSRM-1, Notice No. 6]

PART 221—REAR END MARKING DEVICES—PASSENGER, COMMUTER, AND FREIGHT TRAINS

Schedule of Penalties

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Amendment to final rule.

SUMMARY: Part 221 establishes requirements for the installation of rear end marking devices on passenger, commuter, and freight trains. The purpose of this notice is to amend Part 221 by the addition of a new appendix which sets forth the schedule of civil penalties that are applicable to any violation of this Part.

DATES: This amendment is effective December 15, 1978.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

Principal Program Person: John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-9178.

Principal Attorney: Lawrence I. Wagner, Office of the Chief Counsel, Fedefal Railroad Administration, Washington, D.C. 20590, 202-426-8836.

SUPPLEMENTARY INFORMATION: Section 5(b) of the Federal Railroad Safety Authorization Act of 1976 (Pub. L. 94-348) required the Secretary of Transportation ("Secretary") to issue such rules as may be necessary to require that "the rear car of all passenger and commuter trains shall have one or more highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility;" and "the rear car of all freight trains shall have highly visible markers during periods of darkness or whenever weather conditions restrict clear visibility".

On January 11, 1977, FRA published a final rule prescribing the requirements for the installation of a rear end marking device for use on passenger, commuter, and freight trains (42 FR 2321). The rule establishes performance standards for marking devices and requires that the Federal Railroad Administrator ("Administrator") approve devices that are to be installed.

On December 8, 1977, FRA amended Part 221 by the addition of Appendix A which set forth the specific procedures by which railroads subject to this Part are to obtain approval of the marking devices to be used on passenger, commuter, and freight trains (42 FR 62002). This amendment also postponed, from January 1, 1978 to July 1, 1978, the date by which trains that are subject to Part 221 must be equipped with approved marking devices.

On August 17, 1978, FRA further amended Part 221 by the addition of Appendix B which identified the specific devices that had been approved by FRA as of July 26, 1978 (43 FR 36447). Appendix B became effective on August 25, 1978.

The FRA is now adding Appendix C to Part 221, a penalty schedule applicable to violations of the Part, in accordance with the requirements of section 209 of the Federal Railroad Safety Act of 1970 ("Safety Act"), 45 U.S.C. 438. Section 209(b) provides, in pertinent part, that "[t] he Secretary shall • • • make applicable to any railroad safety rule, regulation, order, or standard issued under this title a civil penalty for violation thereof • • • in such amount, not less than $250 nor more than $2,500 as he deems reasonable." The Secretary has delegated his responsibilities under the Safety Act to the Administrator (49 CFR 1.49(n)).

The penalty schedule in Appendix C is based on the seriousness of the violation. The basic penalty ranges from $500 to $1,000 depending on the section of Part 221 which is violated. The penalty for intentional violation (a violation caused by the knowing and willful failure of the carrier, its offices or agents to comply with the provisions of Part 221) ranges between $1,000 and $2,500 depending upon the section violated. As provided for in section 221.7 (49 CFR 221.7), the Administrator specifically reserves the authority to assess the maximum penalty of $2,500 as well as the authority to assess the minimum penalty of $250 for any specific violation.

As authorized by section 209 of the Safety Act, FRA will attempt to settle violation claims administratively, using procedures similar to those established under the Federal Claims Collection Act (31 U.S.C. 951-953), before transmitting the case to the Attorney General. (See H.R. Rep. No. 1194, 91st Cong., 2nd Sess. (1970)). In no case will a claim be compromised for less than $250; each day the violation continues constitutes a separate offense, pursuant to the provisions of section 209 of the Safety Act.

The addition of Appendix C constitutes a statement of policy by the FRA. In accordance with the provisions of section 533 of the Administrative Procedure Act (5 U.S.C. 533), notice and public procedure are not required and this amendment may be made effective in less than 30 days after publication. Furthermore, FRA has evaluated the addition of this Appendix in accordance with the Department of Transportation's existing and proposed policies for the evaluation of regulatory impacts, discussed in the FEDERAL REGISTER on June 1, 1978 (43 FR 23925), and has concluded that this Appendix will have no measurable regulatory impact.

In light of the foregoing, Title 49 CFR, Chapter II, Part 221 is amended, effective December 15, 1978, as follows:

1. 49 CFR Part 221 is amended by adding a new Appendix C as follows:

APPENDIX C—*Schedule of Civil Penalties*

	Violation	Intentional violation [1]
Section 221.13:		
(a) Marking device (train not equipped)	500	1,000
(b) Marking device (failure to display)	1,000	2,500
(c) Marking device (improper location)	750	1,500
Section 221.15:		
(a) Marking device:		
Unapproved device	500	1,000
Improper intensity, beam width, color, flash rate	500	1,000
(b) Train crew test	500	1,000

[1] For the purpose of this schedule, an intentional violation is the knowing and willful failure of a carrier of its officers or agents to comply with the provisions of this part. The Administrator reserves the authority to assess the maximum penalty of $2,500 for a violation of any section or subsection contained in part 221.

(Sec. 209, 84 Stat. 975 (45 U.S.C. 438); Sec. 1.49(n) of the Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).)

Issued in Washington, D.C. on November 27, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-33682 Filed 11-30-78; 8:45 am]

[4910-06-M]

[FRA State Rail Docket No. 1; Notice No. 2]

PART 270—RAIL BANKING UNDER SECTION 810 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Repeal of Part

AGENCY: Federal Railroad Administration ("FRA"), Department of Transportation ("DOT").

ACTION: Repeal of final rule.

SUMMARY: FRA is repealing 49 CFR Part 270 which sets forth the interim procedures to be utilized by the Federal Railroad Administrator ("Administrator") in acquiring interests in rail properties to be included in the rail bank established under section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 ("Act").

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Larry A. Friedman, 426-7737.

SUPPLEMENTARY INFORMATION: Section 810 required the Secretary to establish a rail bank consisting of interests in certain lines of railroad in order to preserve them for future use. Interim regulations were issued on April 6, 1978 (43 FR 14472) and public comment invited. The President re-

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either result in overfishing or disrup-

Some commentors indicated that the

priority access to the resources by ves-

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cently signed into law Pub. L. No. 95-607, the Local Rail Services Assistance Act of 1978. Section 109 of that Act repeals section 810.

Accordingly, Part 270 of Title 49 is deleted.

Dated: November 28, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-33681 Filed 11-30-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

PART 672—GROUNDFISH OF THE GULF OF ALASKA

Final Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: Final regulations are promulgated to implement two amendments to the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska. The first amendment establishes new total allowable levels for foreign fishing (TALFF's) and reserves applicable to vessels of the United States and foreign nations fishing for groundfish in the fishery conservation zone in the Gulf of Alaska. Procedures and criteria are established to apportion reserves to the TALFF's.

Final regulations are also promulgated to implement an amendment to the FMP to permit foreign longline fishermen to take the entire Chirikof TALFF (and any apportioned reserves in that fishing area) for Pacific cod in that portion of the Chirikof fishing area west of 157° W longitude.

EFFECTIVE DATE: December 1, 1978, except that regulations relating to the restriction on the take of Pacific cod west of 157° W longitude (611.92(b)(1) are effective on January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry Rietze, Director, Alaska Region, National Marine Fisheries Service, P. O. Box 1668, Juneau, Alaska 98802 Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

I. HISTORY OF THE AMENDMENTS

On August 28, 1978, the North Pacific Fishery Management Council (the Council) adopted an amendment to the Fishery Management Plan for Groundfish of the Gulf of Alaska. This amendment increased the amount of pollock held in reserve to 133,800 metric tons, with appropriate increases in the reserves of species taken incidental to fishing for pollock. The purpose of the amendment was to assure that an adequate supply of fish was available for potential harvest by U.S. vessels in joint venture operations involving sale of U.S.-caught fish to foreign processing vessels at sea. The amendment superseded the specifications of Total Allowable Level of Foreign Fishing (TALFF), domestic harvesting capacity and reserve established by the FMP, as amended, but retained a fishing year ending October 31, 1979. The amendment was approved by the Assistant Administrator on September 22, 1978, and the amendment and proposed implementing regulations were published for public comment on October 6, 1978 (43 FR 46349).

On June 29, 1978, the Council submitted an amendment to the FMP which would allow foreign longline vessels to harvest the Pacific cod TALFF and apportioned reserves of the entire Chirikof fishing area in the directed longline fishery west of 157° W longitude. This amendment supersedes a provision of the original FMP that restricted the Pacific cod harvest in the Chirikof fishing area west of 157° W longitude to 40% of the TALFF. This amendment was approved by the Assistant Administrator for fisheries on September 8, 1978, and the amendment and proposed implementing regulations were published for public comment on October 13, 1978 (43 FR 47222).

For a more complete explanation of the relation of these amendments to the FMP, see 43 FR 52709, November 14, 1978, (Groundfish of the Gulf of Alaska—Final Regulations).

II. MANAGEMENT-MEASURES ESTABLISHED

The regulations implementing the amendment relating to reserves state the amounts of fish set aside as reserve, and establish a procedure for apportioning amounts of fish from this reserve to the TALFF's during the fishing year. In order to assure that any portion of the reserve that will not be harvested by U.S. fishermen is made available to foreign fisheries in an expeditious manner, the proposed regulations provide that 25 percent of the initial reserve will be allocated to the TALFF every 2 months (bimonthly), beginning January 2, 1979, unless it is determined by the NMFS Regional Director that United States fishing vessels will harvest all of the remaining reserve during the remainder of the plan year. If such a determination is made, the Regional Director will withhold from apportionment to the TALFF's all or part of the scheduled apportionment of the reserve.

A determination that the remaining reserves will be harvested by United States fishing vessels would be based on consideration of: (1) reported U.S. catches and effort by species and area; (2) projected U.S. catch and effort by species and area; and (3) projected and utilized processing capacity of United States fish processors. Interested persons are afforded an opportunity to submit comments up to 15 days prior to the time of making each determination. If, on the basis of such a determination, the Regional Director withholds all or a portion of the scheduled bimonthly apportionment to the TALFF's, and the subsequent performance of United States fishing vessels fails to achieve the anticipated harvest levels, then the amount of fish previously withheld is to be made available for apportionment to TALFF's on the next bimonthly date.

Although there is reference in the plan amendment to a "Special Joint Venture reserve", previously established reserve amounts and the "Special Joint/Venture" reserves are considered one reserve and are treated as one reserve in the regulation.

This amendment is a response to the problem of accurately predicting U.S. harvesting capacity when new fishing arrangements such as joint ventures are being initiated. By establishing reserve amounts of fish which will subsequently be available for harvest by U.S. fishermen or by vessels of foreign nations, depending on the level of U.S. harvest, the possibility of overfishing or of disruption of foreign fisheries in mid-season is diminished and there is greater assurance that optimum yield (OY) will be achieved.

Alternative solutions to the uncertainty in estimating U.S. harvesting capacity in this situation would involve establishing either: (1) a high initial U.S. capacity estimate with lower TALFF's; or (2) a low U.S. capacity with higher TALFF's. If the first alternative were employed, and in-season data subsequently indicated that U.S. vessels would not harvest the entire amount specified as U.S. harvesting capacity, the specifications of U.S. capacity and the TALFF's could be changed only by the time consuming process of amending the FMP and the interest of achieving optimum yield would not be fulfilled. If the second alternative—establishing U.S. harvesting capacity at a low level and TALFF commensurately high—were used, then high U.S. harvests would

either result in overfishing or disruption of foreign fishing depending upon whether or not foreign fishing were abruptly curtailed. Either result appears to be contrary to the purposes and policy of the Act which state that where practicable, plans should be implemented to avoid disruption of fishing.

The chosen course of action, by allowing flexibility depending on anticipated and reported harvest by U.S. vessels, is consistent with National Standard One of the Fishery Conservation and Management Act of 1976 ("the Act") that overfishing be prevented and National Standard 6 of the Act, that ". . . conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches" (Section 1851(a) (1) and (6) of the Act).

The amendment relating to the Chirikoff fishing area TALFF for Pacific cod allows all of the Pacific cod TALFF in the Chirikoff fishing area to be taken in one part of the Chirikoff fishing area.

III. MAJOR ISSUES; MODIFICATIONS FROM PROPOSED REGULATIONS

IV. RESPONSE TO COMMENTS

Several comments were received on the proposed regulations relating to reserve levels. These comments were received from a variety of interested parties and related to the timing and mechanism of the reserve release; the level of reserve, U.S. harvest capacity, U.S. processing capacity and OY for sablefish; the level of reserve and U.S. harvest capacity for Pacific cod, and other issues. No comments on the amendment relating to Pacific cod harvests in the Chirikoff fishing area were received. Comments are summarized and responded to by issue.

A. TIMING AND MECHANISM OF THE RESERVE RELEASE

Commentors were concerned that release of reserves would begin in January, and pointed out that joint venture operations will start in the coldest months, in the shortest daylight hours, and in the roughest seas of the year. U.S. fishermen would be using new techniques and gear and would require time to learn to use this equipment effectively. Commentors were concerned that "no input from the North Pacific Council is provided for prior to the Regional Director making his decision." One commentor stressed that the Act encourages the development of underutilized U.S. fisheries including bottomfish off Alaska and that this deserves special consideration. Background data indicating the scope and progress of the proposed joint venture operations was provided. Some commentors indicated that the reserves should be released in an expeditious and orderly manner to allow effective planning of foreign fleet operations. One comment indicated that properly managed reserves are not inconsistent with full utilization of fishery resources.

Response: The reserves and the mechanism to release the reserves were designed to achieve full utilization of the fishing resources yet allow domestic fishermen priority access to the resource. It is possible that initial joint venture operations, especially in the winter months, may experience lower catch rates than would operations under more favorable conditions. Factors such as weather, hours of daylight, seasonal catch rates, learning experience, alternative summer fisheries, and other factors may be considered by the Regional Director in making the determination whether or not, and to what extent, reserves should be released to TALFF. The total reserve level was recommended by the Council based in part upon representations by joint venture interests that fishing under joint venture permits would begin in September of 1978, and that fishing would continue even during winter months. The January 2 date for consideration of release of 25 percent of the reserves is not considered unreasonable. The early date will increase the likelihood of full utilization of available resources if it is determined that joint venture harvests will not reach the amounts formerly anticipated. The determination would be made in part on the basis of at least four months of experience with joint venture operations.

The procedures for release allow the North Pacific Council and members of the general public an opportunity to comment before decisions are made concerning the amount of reserve to be released. The Council has indicated its intention to provide recommendations to the Regional Director on these determinations. Moreover, in an October 3, 1978, letter from the Assistant Administrator for Fisheries, NOAA, to the Chairman of the Council, the Assistant Administrator ". . . anticipated active Council (and public) involvement in making the . . . determinations . . ." and ". . . hoped that the Council would make a particular effort to ensure that any Council meeting at which such recommendations will be discussed receives extensive notice." Concerned parties are encouraged to provide the Council, as well as the Regional Directors, with data and views relating to the determination.

The FCMA does encourage development of underutilized fisheries and this amendment is designed to give priority access to the resources by vessels of the United States.

However, the amounts of established reserves represent optimistic estimates of the amount of fish which joint venture operations will harvest during the fishing year. It is therefore considered reasonable, in view of the competing interest of optimum utilization of available resources and the demonstrated ability of foreign vessels to harvest these resources, to periodically reassess the ability of joint venture operations to harvest and fully utilize the resource.

It is noted that the January 2 release date provides more than "one month lead time". Permits for joint venture operations were issued on June 8, 1978, and operations could have begun on that date. Thus, the "lead time" has been almost seven months.

B. RESERVE LEVELS AND OTHER MATTERS RELATING TO SABLEFISH

Several interested parties stated that the reserve for sablefish was excessively high based on historical incidental catch experience of foreign fishing fleets and suggested lower reserves (less than one percent in one case, 250 metric tons in another case).

Commentators question the validity of the U.S. capacity estimate for sablefish and pointed out that U.S. catches in 1978 will probably be only about 25 percent of the domestic annual harvest (DAH) estimated in the FMP. Thus, the sablefish reserve is said not to be necessary because incidental catches of sablefish by joint venture operations can be accommodated by the amount of fish specified as DAH. Commentators further stated that DAH should be set at more realistic levels when there is a reserve available to accommodate unexpected U.S. harvests.

Comments were received indicating that the OY for sablefish was too high and that the Council has announced its intent to reexamine this OY.

One comment concerned the level of sablefish reserve in relation to U.S. processing capacity, and contended that domestic processing capacity is sufficient to process the entire sablefish OY.

Response: Protection of the sablefish resource is not the purpose of the reserve provisions except to the extent that the provisions help assure that overfishing will not result if U.S. capacity is underestimated. The amount of the reserve is relevant to achieving OY, but not to the question of whether or not the specification of OY for sablefish is adequate to prevent overfishing. Although an incidental effect of establishing a reserve may be to assure that the amount of the OY is not completely taken early in the

The time required to give notice for,

(5) The OY for pollock can be in-

Response: By allowing for possible

regulations (43 FR 52709, November

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season—thus giving the Council an opportunity to examine new data and take appropriate action—the reserve mechanism is primarily designed to assure that the resources available for harvest, up to the limit of OY, are apportioned between U.S. and foreign vessels in a manner consistent with the Act. Establishing reserves to account for incidental harvest of sablefish by joint venture operations does not increase the OY for sablefish, nor do the reserve provisions authorize any harvest in excess of OY amounts. TALFF's have been lowered to the extent that reserves are increased. The OY remains the same.

This amendment does not change the specification of domestic capacity. If the Council determines that domestic capacity has increased, the TALFF's would be lowered proportionately. If U.S. processors have, and will utilize, the capacity to process *all* United States harvested fish from the Alaska groundfish fishery, then the Secretary must deny an application from a foreign vessel to receive U.S. harvested fish (see Section 204(b)(6)(B)(i) of the Act, as amended by Pub. L. 95-354—August 28, 1978).

Because reserve amounts are taken from the TALFF's, the incidental catches allowed for joint venture operations do not impinge upon the prerogatives of U.S. vessels not engaged in joint venture operations.

With regard to the contention that the DAH is too high, several responses are relevant: (1) during part of 1978 foreign fishing was permitted in areas where U.S. vessels could fish, but have not, because of fear of gear conflict with foreign vessels (these regulations were not modified until July, 1978.) Thus, some increase in U.S. catch can be anticipated as a result of this change; (2) 1978 was an excellent year for salmon and some effort that would be expected to be directed to sablefish was directed towards salmon; (3) U.S. fishing for sablefish in the Gulf of Alaska has been growing steadily; (4) there are some recent indications of a decline in availability of sablefish and the high DAH may coincidentally provide some interim protection until the OY can be reexamined and changed appropriately; (5) the DAH level is not the subject of this amendment, although commentors are encouraged to point out to the Secretary and the Council possible problem areas in an FMP.

In response to indications that the OY for sablefish is too high we note, as did some commentators, that the Council is addressing this subject.

The amounts of the incidental catches allowed in joint ventures, which are reflected in increased reserves, are of interest to foreign nations because in this amendment these amounts are taken from the TALFF's. There in no prohibition on trawling for sablefish in the Gulf of Alaska. However, to the extent that the reserves are set higher than required by U.S. vessels engaged in joint venture operations, available resources may go unutilized.

While the reserve mechanism itself is designed to avoid this result, the incidental catches allowed in joint ventures also reflect an attempt to assess the amounts of incidental catch reasonably required to allow harvest of the pollock resource by U.S. vessels. The rate permitted both in permits and reserve specifications was based on incidental catch rates of foreign trawl vessels fishing for pollock. Because of inexperience in using new gear, different vessel size and the necessity of learning new fishing techniques, it was considered that U.S. incidental catch rates would probably exceed the highest rates reported by foreign vessels, and the base rate was adjusted accordingly.

Until data from joint venture operations are available, the incidental catch of participating U.S. vessels is a matter of conjecture. The number arrived at was a good faith effort to balance the uncertainties of a new fishing effort against possible underutilization. The reserve mechanism, and selective release of unutilized reserve amounts, help assure that balance.

C. COMMENTS ON PACIFIC COD RESERVES AND DAH

Comments on the Pacific cod reserves stated that the reserve level may be overestimated based on historic incidental catch levels. Commentors also stated that the DAH may be overestimated, based on indications that the level of harvest by U.S. vessels during 1978 is about 5 percent of 1978 specification of DAH, and U.S. harvest may therefore be about 15,000 metric tons less than anticipated. Commentators state that, in this situation, there is no need for a reserve, and that DAH should be lowered.

Response: These comments warrant thorough analysis and further consideration. It may be that the justification for the Pacific cod reserve levels and the DAH should be reviewed in light of recent catch statistics. If these specifications are overestimated, the alternatives available to the Secretary appear to be: (1) to hold hearings; (2) to withdraw the regulations and reject the amendment or the plan (thus reverting to the TALFF and reserve levels in the original FMP or revert to the Preliminary Management Plan (PMP) if the plan is rejected); or (3) to promulgate final regulations knowing that the amendment might contain an inadequate specification for Pacific cod in the light of new information.

The time required to give notice for, conduct and analyze the results of hearings would mean further delay and confusion. Delay in implementing this amendment may also result in a complete prohibition of foreign fishing because of the risk that the FMP could not be revised and effective in time to allow fishing by January 1. The potential costs of these delays are considered to be high. Rejecting the amendment and implementing the original FMP is not acceptable because the Pacific cod DAH is in the original FMP. An extension of the PMP management regime would not allow for high reserve to foster U.S. groundfish development. Thus, it is considered to be in the national interest to implement the reserves and DAH for Pacific cod as specified. The reserve release provisions at least assure that any unutilized Pacific cod will be available for harvest by foreign nations.

The Council is being notified of these comments received on Pacific cod and is being requested to analyze these comments and other available information and take appropriate action. If the Council finds it appropriate to make adjustments in the reserve level or DAH, these adjustments can be implemented so that foreign fleets will have an opportunity to harvest any increases in 1979.

D. OTHER COMMENTS

Miscellaneous comments were received as follows:

(1) The reporting requirements for joint venture operations are too restrictive.

Response: The reporting requirements are not the subject of these regulations.

(2) If the reserves are released, the allocation should go to the Republic of Korea.

Response: Allocations are the responsibility of the Department of State. It is noted that the comment was transmitted to the Department of State.

(3) High levels of incidental catch by trawl fishermen will harm halibut stocks.

Response: The FMP imposes stringent limitations on incidental catch of halibut by U.S. vessels during those periods when the likelihood of incidental halibut catch is the greatest. These restrictions apply to U.S. vessels fishing in joint venture operations.

(4) The estimate of U.S. catch per vessels day of up to 50 tons per boat is overestimated.

Response: This factor will be reassessed by the Regional Director during the season and reserves will be released should it be determined that the reserves will not be harvested by U.S. vessels.

(5) The OY for pollock can be increased.

Response: No new data was presented to indicate the need for a reassessment.

In addition to the comments received during the comment period on the proposed regulation, several comments were received on the reseves originally established by the FMP prior to amendment (see 43 FR 52709). These comments are listed and responded to below:

A. The reserve is contrary to the applicable governing international fishery agreement (GIFA) which requires TALFF to be determined at the start of the year.

Response: Initial TALFF's are determined at the start of the year. The reserve is designed to avoid lowering TALFF in mid-season and consequent disruption of foreign fishing.

B. Adequate provision for expansion of domestic fishing has been made in the specification of domestic annual harvest (DAH) capacity.

Response: The possibility of joint ventures is not considered in the specification of DAH.

C. Reserves should be apportioned at the earliest possible date. If domestic catch is less than DAH, the remaining amount of fish must be allocated to foreign nations.

Response: The reserve release mechanism is designed to provide early release. To change DAH requires a plan amendment.

D. Procedures must be developed for apportionment of the reserve. The uncertainty of the operation of the reserve provision could act to inhibit domestic fishermen.

Response: This amendment provides such procedures.

E. The 20% reserve should not be applied to all species.

Response: The Regional Director can selectively release reserves as appropriate.

F. Foreign countries will have difficulty in adjusting to mid-year reallocation of reserve, thus leaving some portion of stocks unharvested.

Response: By allowing for possible early release of specified amounts at specific times, it is hoped that foreign nations will be more able to adjust.

G. DAH should be reviewed in mid-year for appropriate reallocation to the TALFF's.

Response: The Council can and should review DAH, whenever appropriate.

V. MODIFICATION FROM PROPOSED REGULATIONS

Several modifications were made to the proposed regulations in order to clarify the language and the procedures by which reserves would be apportioned.

The word "allocation" was changed to "apportion" throughout the text to assure that there would be no confusion with the function of the Department of State to divide the TALFF into national "allocations".

A new sub-section was added which requires publication in the FEDERAL REGISTER of amounts of apportioned reserves and response to comments received.

Sub-sections were renumbered and headings added to conform to organization of Part 672 and § 611.92 (see 43 FR 52709).

In addition, several technical errors in the specifications of reserve, DAH and TALFF amounts were discovered. The level of the sablefish reserve in the Southeast fishing area was incorrectly calculated, as were the TALFF's for sablefish in the fishing areas. The net impact of the corrections is to raise the sablefish TALFF in each fishing area in order to conform to the specification of total TALFF, to reduce the reserve in the Southeast fishing area and to raise the sablefish reserve in the other fishing areas. The reserve for squid was raised by 100 metric tons to conform to the plan amendment. Column totals and row totals in Table I of 672.20 and 611.92 were changed to reflect these corrections.

VI. OTHER MATTERS

As previously stated in the preamble to the Gulf of Alaska groundfish FMP regulations (43 FR 52709, November 14, 1978), the 30-day "cooling off period" required by 5 U.S.C. section 553 for the amendment that establishes new reserves and TALFF's is being reduced to avoid the uncertainty and disruption that would result from changing the specifications of TALFF and reserve after the first month of the fishing year.

The regulations will not be reprinted in total in the FEDERAL REGISTER at this time. The North Pacific Fishery Management Council has indicated its intention to reprint regulations applicable to U.S. vessels and copies of 50 CFR 672 therefore will be available from the Council. 50 CFR 611.92 will be reprinted in conjunction with the rest of 50 CFR 611 on or about January 1, 1979.

The Assistant Administrator for Fisheries, NOAA, under delegation of authority from the Secretary of Commerce, has determined that these regulations and amendment to the FMP for Groundfish of the Gulf of Alaska are consistent with the National Standards, the other provisions of the Act, and other applicable law and do not require a Regulatory Analysis under Executive Order 12044. Negative declarations of an environmental impact for these amendments have been filed with the Environmental Protection Agency.

(16 U.S.C. section 1801 *et seq.*)

Signed at Washington, D.C. this 27th day of November 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

(A) Title 50, Part 672 is revised as follows:

(1) 50 CFR 672.20 is amended by revising Table I of paragraph (a) and by adding a new paragraph (c) as follows:

§ 672.20 General limitations.

(a) • • •

TABLE I.—*Optimum Yield and Reserves*

[Metric tons]

FISHING AREAS

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock	OY	57,000	54,400	40,800	12,500	4,100	168,00
	Reserve	45,200	43,100	32,400	9,900	3,200	133,800
Pacific cod	OY	9,600	4,100	15,300	4,300	1,500	34,800
	Reserve	2,730	1,150	4,420	1,270	430	10,000
Flounder	OY	10,400	2,700	12,000	6,400	2,000	33,500
	Reserve	3,000	800	3,500	1,800	600	9,700
Pacific ocean perch (POP)	OY	3,700	2,700	5,200	7,900	6,500	25,000
	Reserve	900	900	1,600	2,500	2,000	7,900
Other rockfish	OY	300	200	600	3,400	3,100	7,600
	Reserve	100	100	300	1,600	1,400	3,500
Sablefish	OY	2,100	1,400	2,400	3,400	3,700	13,000
	Reserve	700	600	900	1,200	700	4,100

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TABLE I.—*Optimum Yield and Reserves*—Continued

[Metric tons]

Species		Fishing Areas					
		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Atka mackerel	OY	4,400	3,600	15,900	1,000	8	24,900
	Reserve	1,000	800	3,500	200	0	5,500
Squid	OY	400	400	400	400	400	2,000
	Reserve	200	200	200	200	200	1,000
Other species*	OY	4,400	3,600	5,600	2,100	1,100	16,200
	Reserve	1,300	1,000	1,500	600	300	4,700

* Includes all stocks of finfish except: (1) those listed above; and (2) salmon, steelhead trout, and Pacific halibut.

• • • • •

(c) *Reserves.*—(1) *Apportionment of reserve amounts.* As soon as practicable after each of the following dates, the Regional Director shall apportion to Total Allowable Level of Foreign Fishing (TALFF) twenty-five (25) percent of the reserve amount, set out in Table I of this section, for each species in each fishing area: January 2, March 2, May 2, and July 2.

(2) *Determination.*—(i) *General.* Before making the apportionment described in paragraph (c)(1) of this section, the Regional Director shall determine whether or not to apportion to the TALFF's all or part of the amounts described in paragraph (c)(1) of this section. The Regional Director may withhold all or part of the 25 percent reserve amount if he determines that the amount concerned, when added to unapportioned reserve amounts, will be harvested by vessels of the United States during the remainder of the fishing year.

(ii) *Factors.* The determination whether or not to withhold all or part of the reserve amounts described in paragraph (c)(2) of this section shall be based upon consideration of the following factors:

(A) Reported U.S. catch and effort by species and area compared to previously projected U.S. harvesting capacity;

(B) Projected U.S. catch and effort by species and areas for the remainder of the fishing year;

(C) Amounts of fish already purchased or processed by U.S. processors during the fishing year, compared to previously projected processing capacity of U.S. processors; and

(D) Projected processing capacity, and utilization of capacity, by U.S. processors for the remainder of the fishing year.

(iii) *Public comment.* (A) Comments may be submitted to the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest reserve amounts during the remainder of the fishing year. (Address: NMFS, P.O. Box 1668, Juneau, Alaska 99802).

(B) Comments must be submitted no later than 15 days prior to the dates specified in paragraph (c)(1) of this section.

(C) The Regional Director shall consider any timely comments filed in accordance with this subsection, in making the determination specified in paragraph (c)(2)(i) of this section.

(D) The Regional Director shall compile, in aggregate form, the most recent available reports on: (*1*) level of catch and effort by vessels of the United States fishing subject to this Part; and (*2*) amounts of fish processed by U.S. fish processors. This data shall be available for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(iv) *Procedure.* As soon as practicable after each of the dates stated in paragraph (c)(1) of this section, the Regional Director shall publish in the FEDERAL REGISTER: (A) the final amounts of reserves to be apportioned to the TALFF's; (B) the reasons for the determination that vessels of the United States will, or will not, harvest the amounts available for apportionment to the TALFF's; and (C) responses to any comments received.

(v) *Add-on.* If vessels of the United States fail to harvest any part of a 25 percent apportionment which has been withheld by the Regional Director pursuant to paragraph (c)(2) of this section, the unharvested amount shall be added to the amount of reserves available for apportionment to the TALFF's on the next apportionment date.

• • • • •

(B) Title 50, Part 611 is revised as follows:

§ 611.20 [Amended]

(1) 50 CFR 611.20(c), Table I is amended in the "Gulf of Alaska" portion only as follows:

(1) Change the lines beginning "006", "002", "003", "008", "001", "005", "012", "007", "001", "099", to read as follows:

Species code	Species	Ocean area	Initial TALFF	U.S. capacity review date
006	Cod, Pacific	Gulf of Alaska	[1] 9,300	Jan. 2 Mar. 2 May 2 July 2
002, 003	Flounders, including yellowfin sole.	do	[1] 16,600	Do.
008	Mackerel, Atka	do	[1] 19,300	Do.
011	Perch, Pacific Ocean (POP)	do	[1] 16,000	Do.
005	Pollock	do	[1] 20,200	Do.
012	Rockfishes other than POP	do	[1] 2,100	Do.
007	Sablefish	do	[1] 4,900	Do.
001	Squid	do	[1] 1,000	Do.
099	Other species	do	[1] 11,000	Do.

(2) Delete footnote 2, and substitute new footnote 2 as follows: [2] Annual TALFF period is Nov. 1 through Oct. 31.

(3) Delete footnote 3 and substitute new footnote 3 as follows: [3] Does not include an amount held in reserve.

(4) Delete and reserve footnote 4 at end of table I.

(2) 50 CFR 611.92 is amended by revising Table I at the end of paragraph (b)(1), and by adding new paragraph (b)(1)(ii) as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

• • • • •

(b) • • •

(1) • • •

TABLE I.—*Gulf of Alaska Groundfish Fishery: TALFF and reserve [1] by Species and Fishing Area for 1978–79*

[Metric tons]

Species		Fishing Areas [2]					
		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock	TALFF	7,000	6,700	5,000	1,500	800	20,800
	Reserve	45,200	43,100	32,400	9,900	3,200	133,800
Pacific cod [3]	TALFF	2,870	1,150	4,080	1,130	370	9,300
	Reserve	2,730	1,150	4,420	1,270	430	10,000
Flounders	TALFF	5,200	1,300	5,900	3,200	1,000	16,600
	Reserve	3,000	800	3,500	1,800	600	9,700
Pacific Ocean perch (POP)	TALFF	1,700	1,700	3,400	5,000	4,200	16,000
	Reserve	800	800	1,600	2,500	2,000	7,800
Other rockfishes [4]	TALFF	100	100	100	900	800	2,100
	Reserve	100	100	300	1,800	1,400	3,500
Sablefish	TALFF	1,300	800	1,400	1,400	0	4,900
	Reserve	700	800	900	1,200	700	4,100
Atka mackerel	TALFF	3,400	3,800	12,300	800	0	19,300
	Reserve	1,000	800	3,500	200	0	5,500
Squid	TALFF	200	200	200	200	200	1,000
	Reserve	200	200	300	200	200	1,000
Other species [5]	TALFF	3,000	2,500	3,300	1,400	800	11,000
	Reserve	1,300	1,000	1,500	600	300	4,700

[1] The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.
[2] See fig. 3 of app. II to sec. 611.9 for description of fishing areas.
[3] Of the total Pacific cod TALFF, only 2,730 metric tons may be caught west of 157° W. longitude.
[4] The category "other rockfishes" includes all rockfishes other than Pacific Ocean perch.
[5] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

(i) • • •

(ii) *Reserves.*—(A) *Apportionment of Reserve Amounts.* As soon as practicable after each of the following dates, the Regional Director shall apportion to the TALFF's twenty-five (25) percent of the reserve amount set out in Table I of this section for each species in each fishing area: January 2, March 2, May 2, and July 2.

(B) *Determination.*—(*1*) *General.* Before making the apportionment described in paragraph (b)(1)(ii)(A) of this section, the Regional Director shall determine whether or not to apportion to the TALFF's all or part of the amounts described in paragraph (b)(1)(ii)(A) of this section. The Regional Director may withhold all or part of the 25 percent reserve amount if he determines that the amount concerned, when added to unapportioned reserved amounts, will be harvested by vessels of the United States during the remainder of the fishing year.

(*2*) *Factors.* The determination whether or not to withhold all or part of the reserve amounts shall be based upon consideration of the following factors:

(*i*) Reported U.S. catch and effort by species and area, compared to previously projected U.S. harvesting capacity;

(*ii*) Projected U.S. catch and effort by species and area for the remainder of the fishing year;

(*iii*) Amounts of fish already purchased or processed by U.S. processors during the fishing year, compared to previously projected processing capacity of U.S. processors; and

(*iv*) Projected processing capacity and utilization of capacity by U.S. processors for the remainder of the fishing year and.

(*3*) *Public Comment.* (*i*) Comments may be submitted to the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest reserve amounts during the remainder of the fishing year. (Address: NMFS, P.O. Box 1668, Juneau, Alaska 98802.)

(*ii*) Comments must be submitted no later than 15 days prior to the dates specified in paragraph (b)(1)(ii)(A) of this section.

(*iii*) The Regional Director shall consider any timely comments filed in accordance with this section, in making the determination specified in paragraph (b)(1)(ii)(B)(*1*) of this section.

(*iv*) The Regional Director shall compile, in aggregate form, the most recent available reports on: (*a*) level of catch and effort by vessels of the United States fishing in the Alaska groundfish fishery; and (*b*) amounts of fish processed by U.S. fish processors. This data shall be available for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(*4*) *Procedure.* As soon as practicable after each of the dates specified in paragraph (b)(1)(ii)(A) of this section the Regional Director shall publish in the FEDERAL REGISTER: (*i*) the final amounts of reserves to be apportioned to the TALFF's; (*ii*) the reasons for the determination that vessels of the United States will, or will not, harvest the amounts available for apportionment to the TALFF's; and (*iii*) responses to comments received.

(*5*) *Add-on.* If vessels of the United States fail to harvest any part of a 25 percent apportionment which has been withheld by the Regional Director pursuant to paragraph (b)(1)(ii)(B) of this section, the unharvested amount shall be added to the amount of reserves available for apportionment to the TALFF's on the next apportionment date.

• • • • •

§ 611.92 [Amended]

(3) Section 611.92(b)(2)(ii)(D) is amended as follows: delete "[Reserved] metric tons of Pacific cod • • •" and substitute "The amount of Pacific cod stated in footnote three of Table I (§ 611.92(b)(1))".

[FR Doc. 78-33609 Filed 11-28-78; 11:52 am]

[3410-37-M]

[3410-03-M]

20705. All written submissions made pursuant to this notice will be made

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-15-M]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revisions of REA Specification PE-22 for Aerial and Underground Telephone Cable, REA Specification PE-23 for Direct Burial Telephone Cable (Air Core), REA Specification PE-39 for Filled Telephone Cables and REA Specification PE-54 for Filled Buried Wire

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: REA proposes to issue a File With for REA Bulletin 345-13 to announce an addendum to REA Specification PE-22 for Aerial and Underground Telephone Cable, a File With for REA Bulleting 345-14 to announce an addendum to REA Specification PE-23 for Direct Burial Telephone Cable (Air Core), a File With for REA Bulletin 345-67 to announce an addendum to REA Specification PE-39 for Filled Telephone Cables and a File With for REA Bulletin 345-70 to announce an addendum to REA Specification PE-54 for Filled Buried Wire. These addenda are needed to include electrical attenuation requirements which have not been covered in the existing specifications. The effect of this action will provide telephone wire and cable which will have more predictable electrical characteristics that will enhance the electrical transmission properties of telephone plant used in REA telephone borrower systems.

DATE: Public comments must be received by REA no later than: January 30, 1979.

ADDRESS: Persons interested in the revisions of REA Specifications PE-22, PE-23, PE-39, and PE-54 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue File Withs for REA Bulletins 345-13, 345-14, 345-67, and 345-70. Copies of the proposed addenda to REA Specifications PE-22, PE-23, PE-39, and PE-54 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The attenuation requirements covered in these addenda become effective on April 1, 1979, and on January 1, 1980, where noted.

Copies of the addenda will be furnished by REA upon request. Questions concerning the addenda may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

Dated: November 24, 1978.

C. R. BALLARD,
Assistant Administrator, Telephone.

[FR Doc. 78-33668 Filed 11-30-78; 8:45 am]

[3410-37-M]

Food Safety and Quality Service

[7 CFR Part 2852]

FROZEN GREEN BEANS AND FROZEN WAX BEANS

Proposed United States Standards for Grades; Extension of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice Extending Time for Comments on Proposed Rule.

SUMMARY: This notice extends the period for comments to the proposed rule, published October 17, 1978 (43 FR 47755), to revise the United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans.

DATE: Comments must be received on or before February 1, 1979.

ADDRESS: Comments in duplicate should be sent to: Executive Secretariat, FSQS, Room 3167-South, U.S. Department of Agriculture, Washington, D.C. 20250, Attention: Ann Langlois. Comments will be available for public inspection at the same address during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT:

Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4693).

SUPPLEMENTARY INFORMATION: The original intention was to give interested parties at least 60 days in which to make comments regarding the proposed rule to revise the United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans.

The proposal was not published in time to allow this full comment period. Therefore, the comment period is extended another 60 days from the publication of this notice.

Adjusted AQL's for the critical defects of the whole and sliced lengthwise styles are also included for comment during the extension. The AQL for Grade A is adjusted from 0.10 to 0.25; the AQL for Grade B is adjusted from 0.25 to 0.65; the AQL for Grade C is adjusted from 1.0 to 2.5. These adjustments will bring the quality of the whole and sliced lengthwise styles in line with the cut, short cut and mixed styles.

Done at Washington, D.C., on November 27, 1978.

SYDNEY J. BUTLER,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 78-33663 Filed 11-30-78; 8:45 am]

[3410-37-M]

[7 CFR Part 2852]

GRAPEFRUIT JUICE

Proposed United States Standards for Grades; Extension of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice Extending Time for Comments on Proposd Rule.

SUMMARY: This notice extends the period for comments to the proposed rule, published June 3, 1978 (43 FR 28511), to revise the United States Standards for Grapefruit Juice.

DATE: Comments must be received on or before June 1, 1979.

ADDRESS: Comments in duplicate should be sent to: Executive Secretariat, FSQS, Room 3167-South, U.S. Department of Agriculture, Washington, DC 20250, Attention: Ann Langlois. Comments will be available for public inspection at the same address during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT:

Thomas E. Crider, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202-447-4693).

SUPPLEMENTARY INFORMATION: The comments received as a result of the proposal indicate that additional time is needed, and warranted, for all interested parties to give further consideration to the proposal and to submit new or additional comments, data, and arguments. Also, as a result of the numerous comments received and the nature of the comments, the Florida Citrus Processors' Association has requested that the Florida Citrus Commission conduct a nationwide consumer preference study to evaluate the importance of the role color plays in the overall marketing of grapefruit juice.

Done at Washington, D.C. on November 27, 1978.

SYDNEY J. BUTLER,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 78-33662 Filed 11-30-78; 8:45 am]

[3410-03-M]

Science and Education Administration[1]

[9 CFR Parts 445 and 447]

NATIONAL POULTRY IMPROVEMENT PLAN AND AUXILIARY PROVISIONS

AGENCY: Science and Education Administration, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given, under the administrative procedure provisions of 5 U.S.C. 553, that the Department of Agriculture has under consideration proposed amendments to the National Poultry Improvement Plan and Auxiliary Provisions which were recommended by the 1978 Conference of representatives of the poultry industry and State Agencies which cooperate in the administration of the Plan. Included in these proposed amendments is a new program to recognize States which have attained a certain level in their efforts to control and eliminate *Mycoplasma gallisepticum* in turkey breeding flocks. Also, amendments are proposed which reduce the amount of blood testing necessary to monitor chicken breeding flocks for *Mycoplasma gallisepticum* and *Mycoplasma synoviae* under the official control program for the diseases caused by these two organisms. Another amendment is proposed which requires all poultry, baby poultry, or hatching eggs shipped through the United States Postal Service to have a label showing that the product meets the requirements of the U.S. Pullorum-Typhoid Clean classification or an equivalent State program. This amendment is proposed as one step in the Department's effort to locate and stop the dispersion of poultry which may be infected with *Salmonella pullorum* or *Salmonella gallinarum* (typhoid). The General Conference Committee of the National Poultry Improvement Plan would also be expanded to include a member-at-large who is an industry person elected by all voting State delegates to the Plan Conference.

DATE: Comments must be received on or before January 2, 1979, effective date would be date published in FEDERAL REGISTER as a final rule, except as noted.

ADDRESS: Send comments to Dr. James W. Smith, Animal Physiology and Genetics Institute, building 173, BARC-East, Beltsville, Maryland 20705. All written submissions made pursuant to this notice will be made available for public inspection at the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Raymond D. Schar at 301-344-2227.

SUPPLEMENTARY INFORMATION: The National Poultry Improvement Plan is a cooperative State-Federal program through which new technology can be effectively applied to the improvement of poultry breeding stock and hatchery products through the control of hatchery-disseminated diseases. The provisions of the program are changed from time to time to conform with the development of the industry and to utilize new information as it becomes available. These provisions are changed based on recommendations initiated at the biennial National Plan Conference by the official delegates representing participating flockowners, breeders, and hatcherymen from all cooperating States.

Pursuant to section 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429), it is proposed to amend Parts 445 and 447 of Title 9, Chapter IV, Subchapter A, Code of Federal Regulations, to incorporate such recommended amendments and to make incidental changes for clarity and consistency.

PART 445—NATIONAL POULTRY IMPROVEMENT PLAN

1. Section 445.2 would be revised by adding a new paragraph to read as follows:

§ 445.2 Administration.

* * * * *

(e) The cooperating Official State Agency shall concur with the Service in its request to the U.S. Postal Service that no mail shipments of poultry, exhibition poultry, baby poultry, game birds, or hatching eggs, shall be made into or within the State unless the product qualifies as U.S. Pullorum-Typhoid clean or as equivalent to this classification under a State supervised program. The status of the product shall be stated on each carton, box, or bundle of boxes by a unique label or marking which has been approved by the Official State Agency and the Service.[2]

2. Section 445.4 would be revised by adding a new paragraph to read as follows:

§ 445.4 General provisions for all participants.

* * * * *

[1] 9 CFR chapter IV is currently designated Agricultural Research Service. A document in a future Federal Register will redesignate this chapter Science and Education Administration.

[2] Effective date: January 1, 1980.

(v) All persons performing poultry

ed by the official delegates of the re-

Jeffrey L. Steele, Esq., Office of the

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(e) Each shipment of products from primary breeding flocks intended for subsequent use in breeding flocks within the United States, shall be identified by a properly executed and distributed NPIP Form 15, Report of Sales of Hatching Eggs, Chicks, and Poults.

3. Section 445.10 would be revised by adding a new paragraph to read as follows:

§ 445.10 Terminology and classification; flocks, products, and States.

• • • • •

(i) *U.S. Mycoplasma Gallisepticum Clean State, Turkeys.* (See § 445.44(c).)

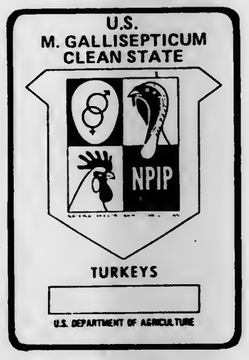


Figure 10

4. Section 445.14(b) would be amended by adding a new subparagraph to read as follows:

§ 445.14 Blood testing.

• • • • •

(b) • • •

(4) Any drug, for which there is scientific evidence of masking the test reaction or hindering the bacteriological recovery of Mycoplasma organisms, shall not be fed or administered to poultry within three weeks prior to a test or bacteriological examination upon which a Mycoplasma classification is based.

5. Section 445.23 would be amended by revising introductory paragraph (c)(1)(ii) and (ii)(*a*) and by revising (e)(1)(ii) to read as follows:

§ 445.23 Terminology and classification; flocks and products.

• • • • •

(c) • • •

(1) • • •

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and a sample comprised of 50 percent of the birds in the flock, with a maximum of 200 birds and a minimum of 30 birds per flock, has been tested for M. gallisepticum as provided in § 445.14(b) when more than four months of age: *Provided,* That to retain this classification, the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least two percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds per pen, whichever is greater, shall be tested; or

• • • • •

(e) • • •

(1) • • •

(ii) It is a multiplier breeding flock which originated as U.S. M. Synoviae Clean chicks from primary breeding flocks and a sample of one percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds, has been tested for M. synoviae as provided in § 445.14(b) when more than four months of age: *Provided,* That to retain this classification, a random sample of at least one percent of the birds, with a maximum of 60 birds and a minimum of 30 birds, shall be tested at intervals of not more than 90 days: *And provided further,* That a sample of less than one percent may be tested at any one time, provided that a minimum of 30 birds per flock, with a minimum of 15 birds per pen, whichever is greater, is tested each time and a total of at least one percent of the birds, or a maximum of 60 birds, is tested within each 90-day period.

• • • • •

6. Section 445.33 would be amended by revising introductory paragraph (c)(1)(ii) and (ii)(*a*) and by revising (e)(1)(ii) to read as follows:

§ 445.33 Terminology and classification; flocks and products.

• • • • •

(c) • • •

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and a sample comprised of 50 percent of the birds in the flock, with a maximum of 200 birds and a minimum of 30 birds per flock, has been tested for M. gallisepticum as provided in § 445.14(b) when more than four months of age: *Provided,* That to retain this classification, the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least two percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds per pen, whichever is greater, shall be tested; or

• • • • •

(e) • • •

(1) • • •

(ii) It is a multiplier breeding flock which originated as U.S. M. Synoviae Clean chicks from primary breeding flocks and a sample of one percent of the birds in the flock, with a maximum of 100 birds and a minimum of 30 birds, has been tested for M. synoviae as provided in § 445.14(b) when more than four months of age: *Provided,* That to retain this classification, a random sample of at least one percent of the birds, with a maximum of 60 birds and a minimum of 30 birds, shall be tested at intervals of not more than 90 days: *And provided further,* That a sample of less than one percent may be tested at any one time, provided that a minimum of 30 birds per flock, with a minimum of 15 birds per pen, whichever is greater, is tested each time and a total of at least one percent of the birds, or a maximum of 60 birds, is tested within each 90-day period.

• • • • •

7. Section 445.44 would be amended by adding a new paragraph to read as follows:

§ 445.44 Terminology and classification; States.

• • • • •

(c) *U.S. M. Gallisepticum Clean State, Turkeys.* (1) A State will be declared a U.S. M. Gallisepticum Clean State, Turkeys when it has been determined by the Service that:

(i) No M. gallisepticum is known to exist nor to have existed in turkey breeding flocks in production within the State during the preceding 12 months;

(ii) All turkey breeding flocks in production are classified as U.S. M. Gallisepticum Clean or have met equivalent requirements for M. gallisepticum control under official supervision;

(iii) All turkey hatcheries within the State handle products which are classified as U.S. M. Gallisepticum Clean or have met equivalent requirements for M. gallisepticum control under official supervision;

(iv) All shipments of turkey products other than those classified as U.S. M. Gallisepticum Clean, or equivalent, into the State are prohibited;

(v) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all turkey specimens that have been identified as being infected with M. gallisepticum;

(vi) All reports of M. gallisepticum infection in turkeys are promptly followed by an investigation by the Official State Agency to determine the origin of the infection;

(vii) All turkey flocks found to be infected with M. gallisepticum are quarantined until marketed under supervision of the Official State Agency.

(2) Discontinuation of any of the conditions described in paragraph (c)(1) of this section, or if repeated outbreaks of M. gallisepticum occur in turkey breeding flocks described in paragraph (c)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing.

8. Section 445.52 would be amended by adding a new paragraph to read as follows:

§ 445.52 Participation.

• • • • •

(b) Hatching eggs produced by primary breeding flocks shall be fumigated according to the procedures described in § 447.25(a) of this chapter: *Provided,* That alternative sanitizing procedures may be used with the approval of the Official State Agency in each specific instance and with the general concurrence by the Service in the policy adopted by the Official State Agency.

PART 447—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

9. Section 447.43(a) would be amended and paragraphs (b) and (c) would be revised to read as follows:

§ 447.43 General Conference Committee.

(a) The General Conference Committee shall consist of the Assistant Secretary of Agriculture for Conservation, Research, and Education, or his designee, one member-at-large who is a participant in the National Poultry Improvement Plan and who shall be designated as vice chairman, and one member to be elected, as provided in paragraph (b) of this section, from each of the following regions:

• • • • •

(b) The regional Committee members and their alternates will be elected by the official delegates of the respective regions and the member-at-large will be elected by all official delegates. There shall be at least two nominees for each position, and the voting shall be by secret ballot.

(c) Three regional members shall be elected at each Plan Conference. All members shall serve for a period of four years, subject to the continuation of the Committee by the Secretary of Agriculture, and may not succeed themselves. When there is a vacancy for the member-at-large position, the General Conference Committee shall make an interim appointment and the appointee shall serve until the next Plan Conference at which time an election will be held.

• • • • •

§ 447.45 [Amended]

10. Section 447.45 would be amended by deleting the third sentence.

Done at Washington, D.C., this 24th day of November 1978.

RALPH J. MCCRACKEN,
Acting Director,
Science and Education.

[FR Doc. 78-33607 Filed 11-30-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-15355; File No. S7-654]

SECURITIES CONFIRMATIONS

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: The Commission is extending the time for comment on proposed rulemaking to require securities dealers to disclose on customer confirmations the mark-up or mark-down or similar remuneration received in a "riskless" principal transaction in debt securites. The comment period currently expires on December 1, 1978.

DATES: Comments must be received on or before January 15, 1979.

ADDRESSES: Interested persons should submit three copies of their written views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and should refer to File No. S7-654. All submissions will be made available for public inspection in the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Jeffrey L. Steele, Esq., Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-7587.

SUPPLEMENTARY INFORMATION: On October 6, 1978, the Commission issued Securities Exchange Act Release No. 15220 [1] announcing proposed Rule 15c2-12 and proposed amendments to Securities Exchange Act Rule 10b-10 (17 CFR 240.10b-10). Rule 10b-10 prescribes confirmation delivery and disclosure requirements applicable to brokers and dealers effecting transactions in securites for or with customers.[2] The proposed amendment to Rule 10b-10 would require brokers and dealers trading with customers as principal to disclose the amount of any mark-up or mark-down or similar remuneration received in a "riskless" principal transaction in debt securities other than municipal securities. Proposed Rule 15c2-12 would establish an analogous confirmation disclosure requirement for transactions in municipal securities.

The Commission has received a number of requests to extend the comment period. In view of the complexity and possible impacts of the rulemaking proposal, the Commission has determined to extend the comment period until January 15, 1979.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

NOVEMBER 27, 1978.

[FR Doc. 78-33599 Filed 11-30-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 175 and 189]

[Docket No. 78N-0112]

2-NITROPROPANE

Proposed Removal Farm Food Additive Use

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the food additive regulations by deleting provisions for use of 2-nitropropane as a component of adhe-

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[1] 43 FR 47538 (1978).

[2] The adoption of Rule 10b-10 was announced by the Commission in Securities Exchange Act Release No. 13508 (May 5, 1977), 42 FR 25318 (1977). In Securities Exchange Act Release No. 15219 (Oct. 6, 1978), 43 FR 47495 (1978), the Commission announced the adoption of amendments to Rule 10b-10.

Dated: November 22, 1978.

not be scheduled before November 24,

[4310-02-M]

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sives intended to contact food and by listing it as a substance prohibited from addition to human food. This action is taken because the Commissioner of Food and Drugs, having evaluated available data, has concluded that 2-nitropropane is a carcinogen in test animals.

DATES: Comments by January 2, 1979. The Commissioner of Food and Drugs expects to issue final regulations based on this proposal no later than March 1, 1979, which shall be effective upon publication.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Section 175.105 provides for the use of 2-nitropropane as a component of food-packaging adhesives under certain prescribed conditions. FDA has received a report by the Department of Health, Education, and Welfare/National Institute for Occupational Safety and Health (HEW/NIOSH) entitled "Chronic Inhalation Exposure of Rats and Rabbits to Nitromethane and 2-Nitropropane." A synopsis of the report is contained in the NIOSH "Current Intelligence Bulletin: 2-nitropropane" dated April 25, 1977. This bulletin states:

In an inhalation study conducted by Huntingdon Research Center under a NIOSH contract (HEW/NIOSH Project No. 210-75-0039), Sprague-Dawley male rats and New Zealand White male rabbits were exposed to commercial grade [ca. 94.5% pure] 2-nitropropane for seven hours per day, five days per week. One group of fifty rats and fifteen rabbits was exposed to 207 ppm 2-nitropropane; a second group of the same size was exposed to 27 ppm, while group was maintaned as a control. Ten rats from each group were killed after exposure periods of two days, ten days, one month, three months, and six months. Liver neoplasms, described as hepatocellular carcinoma or hepatic adenoma, were observed in all ten rats killed after six months of exposure to 207 ppm 2-nitropropane. No tumors were observed in any other animals in this study, including controls. However, hepatocellular hypertrophy, hyerplasia, and necrosis were reported in rats exposed to 207 ppm 2-nitropropane for three months. In addition, elevated liver weights were found in rats exposed to 207 ppm 2-nitropropane for one, three, and six months. Liver histopathology, as well as the liver weights, of rats exposed to 27 ppm 2-nitropropane did not differ from controls.

Copies of the HEW/NIOSH report and the "Current Intelligence Bulletin: 2-nitropropane" have been placed on public display at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Having evaluated the available data, the Commissioner concludes that the HEW/NIOSH report demonstrates that 2-nitropropane is a carcinogen in test animals. He recognizes that the test was done by inhalation, but the data show that the tumor site is not the lung but the liver, which would indicate systemic absorption. In view of this, he finds that permitting continued use of 2-nitropropane as a food additive is no longer warranted. The Commissioner therefore proposes to amend the food additive regulations to delete provisions for use of 2-nitropropane as a component of fool-packaging adhesives, and to list 2-nitropropane as a substance prohibited from addition to human food. The Commissioner expects to issue the final regulation prohibiting the use of 2-nitropropane as a food additive no later than March 1, 1979, which shall be effective upon publication under section 409(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348 (c)).

The Commissioner is not aware of any data showing that 2-nitropropane used as a food additive is a human carcinogen. He advises that only small amounts of 2-nitropropane remain in food-packaging adhesives from its regulated use. Furthermore, only a small amount of 2-nitropropane could migrate into food from food-packaging adhesives. Therefore, the Commissioner concludes that the potential risk to the public health is not sufficient to require removal from the market of food-contact articles containing 2-nitropropane or the issuance of a public warning against the use of these products. Consequently, the Commissioner is of the opinion that the public health would be adequately served by permitting the use of existing stocks of products containing 2-nitropropane that were manufactured prior to the effective date of the final regulation but prohibiting any future use of 2-nitropropane as a food additive.

Accordingly, the FDA is proposing to amend § 175.105 *Adhesives* (21CFR 175.105), by deleting the use of 2-nitropropane currently permitted in this section, and to amend Part 189, *Substances prohibited from use in human food* (21 CFR Part 189), by adding a new section covering 2-nitropropane.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 175 and 189 of Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

§ 175.105 [Amended]

1. In Part 175, § 175.105 *Adhesives* is amended by deleting the item "2-nitropropane" from the substances listed in paragraph (c)(5).

2. In Part 189, Subpart D is amended by adding a new section to read as follows:

§ 189.310 2-Nitropropane.

(a) 2-Nitropropane is the chemical $C_3H_7NO_2$ [Chemical Abstracts Registry Service No. 79-46-9]. It is a synthetic chemical, classified as a flammable liquid, and it is not found in natural products at levels detectable by the official methodology. It has been used in the solvent systems for adhesives.

(b) Food containing any added levels of 2-nitropropane is deemed to be adulterated in violation of the act, based upon an order published in the FEDERAL REGISTER of (insert date of publication of final order in the FEDERAL REGISTER).

Interested persons may, on or before January 2, 1979, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Excutive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-33403 Filed 11-30-78; 8:45 am]

[4110-03-M]

[21 CFR Part 352]

[Docket No. 78N-0038]

SUNSCREEN DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Proposed Rulemaking; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: This document extends to December 15, 1978, the comment period on the proposal to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) suncreeen drug products. The action is being taken to allow more time for the collection and assessment of data to provide for more meaningful comments on the issue.

DATE: Written comments by December 15, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fisher Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 25, 1978 (43 FR 38206), the Commissioner of Food and Drugs issued a proposal to establish conditions for the safety, effectiveness, and labeling of sunscreen drug products for over-the-counter (OTC) human use. The proposed rule, based on the recommendations of the Panel on Review of Topical Analgesic including antirheumatic, otic, burn, and sunburn treatment and prevention drugs is part of the Food and Drug Administration's ongoing review of OTC drug products. Interested persons were given until November 24, 1978 to comment on the proposal.

In response to the proposal, the Cosmetic, Toiletry and Fragrance Association, Inc., on behalf of its members, requested an extension of the comment period. The association requested a 21-day extension so as to be able to develop a response to the proposal at an association meeting that could not be scheduled before November 24, 1978.

The Commissioner has considered the request and finds that an extension of the comment period is in order.

Accordingly, the comment period is extended to December 15, 1978. Comments may be seen in the office of the Hearing Clerk, Food and Drug Administration, at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 24, 1978.

WILLIAM F. RANDOLPH
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-33510 Filed 11-30-78 8:45 am]

[4110-03-M]

[21 CFR Parts 436 and 446]

[Docket No. 78N-0257]

TETRACYCLINE

Revised Standard Response Line Concentrations; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule; Correction.

SUMMARY: In FR Doc. 78-26951 appearing at page 44864 in the FEDERAL REGISTER for Friday, September 29, 1978, the following corrections are made on page 44865 in § 436.106(a):

1. The fourth column of the table is corrected by listing "Distilled water" for the items "Methacycline" and "Rolitetracycline."

2. The seventh column of the table is corrected by listing "Distilled water" for the items "Chlortetracycline," "Demeclocycline," "Doxycycline," "Methacycline," "Minocycline," "Oxytetracycline," "Rolitetracycline," and "Tetracycline."

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

Dated: November 21, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-33423 Filed 11-30-78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 32a]

ADULT EDUCATION

NOVEMBER 20, 1978.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: It is proposed to add a new Part 32a to Subchapter E, Chapter 1 of Title 25 of the Code of Federal Regulations. These regulations have been prepared as a result of a legislative intent that the Bureau of Indian Affairs operate an educational program for Indian adults. These regulations will govern the administration of programs of Adult Education within the Bureau of Indian Affairs.

DATE: Comments must be received on or before January 2, 1979.

ADDRESSES: Mail written comments to: Assistant Secretary—Indian Affairs, Attn: Director of Indian Education Programs, 1951 Constitution Ave. NW., Washington, D.C. 20245. Deliver hand carried comments to: Assistant Secretary—Indian Affairs, Attn: Director of Indian Education Programs, 18th and C Sts. NW., Department of the Interior, Room 3512, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mary F. Asbill, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Sts. NW., Department of the Interior, Room 3518, Washington, D.C., Telephone 202-343-7387.

SUPPLEMENTARY INFORMATION: Monies have been appropriated, identified and allotted to Bureau Area Offices since Fiscal Year 1955. These rules are being proposed to give guidance to the administration of those funds. The rules will insure that the Bureau Adult Education Program will provide educational opportunities and learning experiences for adult Indians to enable them to gain skills needed to improve their ability to function as individuals and as members of families and communities.

The authority for the Assistant Secretary to issue these rules is contained under the Act of April 30, 1908, (35 Stat. 72). This notice is published in exercise of authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

It has been determined that these proposed regulations are not a major federal action within the scope of the

(c) "Indian" means a person who is a [6560-01-M]

Dated: November 21, 1978.

The Further Notice of Inquiry in the

ADDRESSES: Send comments to: The

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National Environmental Policy Act of 1969, 42 U.S.C. 4223(2)(c).

The primary author of this document is Mary F. Asbill, Education Specialist, Office of Indian Education Programs, Bureau of Indian Affairs, Washington, D.C., 202-343-7387.

It is proposed to add a new Part 32a to Subchapter E, Chapter 1 of Title 25 of the Code of Federal Regulations to read as follows:

PART 32a—ADULT EDUCATION

Sec.
32a.1 Purpose and scope.
32a.2 Definitions.
32a.3 Annual program planning.
32a.4 Contracting Adult Education Program funds.
32a.5 Annual program reports.

AUTHORITY: the Act of April 30, 1908, 35 Stat. 72, 25 U.S.C. 295.

§ 32a.1 Purpose and Scope.

This Part governs the expenditure of funds appropriated for the Adult Education programs of the Bureau of Indian Affairs. It gives guidance to educational opportunities and learning experiences for adult Indians which are designed to improve their ability to function as individuals and members of communities.

This Part applies to all Bureau Adult Education programs whether operated under contract or otherwise; except as otherwise provided for by law or regulation.

§ 32a.2 Definitions.

As used in this Part:

(a) "Assistant Secretary" means the Assistant Secretary—Indian Affairs, Department of the Interior or his authorized representative.

(b) "Adult Education" means programs that will enable adults to: (1) become functionally literate; (2) pass the General Equivalency Diploma test or otherwise raise their levels of educational achievement; (3) obtain employment or to improve their employment status through education and training; and (4) enable them to meet other individual educational and/or training needs or interests.

(c) "Adult Student" is a person who is 16 years of age or older and is not already enrolled in a formal education program.

(d) "Indian Tribe" means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(e) "Indian" means a person who is a member of an Indian tribe.

§ 32a.3 Annual program planning.

For each Fiscal Year, the Area, Agency or Tribal contractor responsible for establishing classes or programs for adult Indians will develop a written plan which will encompass the following:

(a) An annual needs assessment which will be conducted within the community or communities where Bureau Adult Education programs are to be funded. This annual assessment will determine the types of programs needed by community members, the number of students wishing to enroll, and the time and or day most desired for programs to be held.

(b) Establish priorities for types of programs;

(c) Program objectives to be met;

(d) Resources to be used (staff, materials, facilities and funds);

(e) Activities to meet program objectives; and

(f) Scheduled evaluation of activities.

This annual plan shall be on file in the originating office and in the bureau of Indian Affairs Area Director's office. For contracting purposes, the annual plan shall become a part of the negotiated contract.

§ 32a.4 Contracting Adult Education Program funds.

Contracts for Adult Education Program funds will follow all appropriate rules and regulations including those contained in 25 CFR Subchapter Y Part 271 (Pub. L. 93-638, Indian Self-Determination and Education Assistnce Act of 1975).

§ 32a.5 Annual program reports.

All Adult Education programs funded under this Part will make an annual report to the Director, Office of Indian Education Programs, BIA. Reporting forms and instructions will be available in each Bureau Area and Agency office.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821. The Assistant Secretary—Indian Affairs has determined that the provisions of Executive Order 11821 do not apply.

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 78-33679 Filed 11-30-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 50]

[FRL 985-6]

REVIEW OF THE CARBON MONOXIDE AIR QUALITY STANDARD

Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: On April 30, 1971, the Environmental Protection Agency published in the FEDERAL REGISTER (36 FR 8186) a National Ambient air Quality Standard for carbon monoxide. That standard was republished on November 25, 1971 and transferred to Part 50 of Title 40 of the Code of Federal Regulations (36 FR 22384, 40 CFR § 50.8). Both the primary (health-based) and secondary (welfare-based) standards were set at 40 milligrams per cubic meter (35 ppm) maximum 1-hour and 10 milligrams per cubic meter) (9 ppm) maximum 8-hour, concentrations not to be exceeded more than once per year. The scientific, technical, and medical basis for these standards are contained in the current air quality criteria document for carbon monoxide. This document (AP-62) was published by the U.S. Department of Health, Education, and Welfare in March 1970.[1]

Pursuant to the provisions of Sections 108 and 109(d) of the Clean Air Act, as amended, EPA is now reviewing, updating, and revising the AP-62 criteria document for carbon monoxide. Upon completion of this process, a draft of the revised document will be available for review by interested members of the public and will be submitted to EPA's Science Advisory Board for review. A FEDERAL REGISTER notice will announce its availability, which is anticipated by late November. In addition, as EPA develops issue papers relating to the standard review, the public will also be given notice through the FEDERAL REGISTER of the status and availability of these papers. The public will be provided opportunity to comment through public forums and/or written comments.

FOR FURTHER INFORMATION CONTACT:

Joseph Padgett at Environmental Protection Agency, Strategies and Air Standards Division (MD-12), Research Triangle Park, North Carolina 27711; telephone (919) 541-5204.

[1] Not published in the FEDERAL REGISTER. Copies are available at the EPA Library (MD35), Research Triangle Park, N.C. 27711.

Dated: November 21, 1978.

DOUGLAS COSTLE,
Administrator.

[FR Doc. 78-33463 Filed 11-30-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21049; RM-2749]

COMMERCIAL TELEVISION NETWORK PRACTICES AND ABILITY OF STATION LICENSEES TO SERVE THE PUBLIC INTEREST

Further Notice of Inquiry; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum (Correction).

SUMMARY: This action corrects errors that occurred in the heading of the Further Notice of Inquiry concerning Commercial Television Network Practices, FR Doc. 78-30279, published in the FEDERAL REGISTER on October 26, 1978, at 43 FR 50126.

DATES: Comments must be received on or before December 1, 1978 and reply comments must be received on or before December 15, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Rebecca A. Brown, Rules Office, Telephone: 202-632-7024.

Released: November 24, 1978.

In the matter of Commercial Television Network Practices and Ability of Station Licensees to Serve the Public Interest, Docket No. 21049, (RM-2749).[1]

[1] See 43 FR 50126, October 26, 1978.

The Further Notice of Inquiry in the above entitled matter, (FCC 78-736, released October 20, 1978), is modified by the following corrections:

(a) Adding "(RM-2749)" directly underneath "Docket No. 21049" in the heading;

(b) Amending the caption to read "Commercial Television Network Practices and Ability of Station Licensees to Serve the Public Interest."

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-33695 Filed 11-30-78; 8:45 am]

[6712-01-M]

[47 CFR Part 97]

[Gen. Docket No. 78-250]

ADMINISTRATION OF TELEGRAPHY EXAMINATIONS TO HANDICAPPED APPLICANTS FOR OPERATOR LICENSES IN THE AMATEUR RADIO SERVICE

Order extending time for filing comments and reply comments

AGENCY: Federal Communications Commission.

ACTION: Order Extending Time to File Comments.

SUMMARY: The FCC is inquiring into the administration of its telegraphy examinations to handicapped persons who apply for amateur radio licenses. The comment period ends November 30, 1978. Mr. Norman Kaplan has petitioned to extend the comment period. The comment period is being extended to encourage as wide a participation in the proceeding as possible.

DATES: The comment period is extended to March 30, 1979. The reply comment period is extended to April 30, 1979.

ADDRESSES: Send comments to: The Secretary, FCC, 1919 "M" Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Cassler, Personal Radio Division, Safety and Special Radio Services Bureau, 202-634-6620.

SUPPLEMENTARY INFORMATION: See attached document.

Adopted: November 21, 1978.

Released: November 24, 1978.

In the matter of the administration of telegraphy examinations to handicapped applicants for operator licenses in the Amateur Radio Service, Gen Docket No. 78-250.[1]

1. On August 24, 1978, the Commission released a Notice of Inquiry into the administration of telegraphy examinations to handicapped applicants for operator licenses in the Amateur Radio Service. Comments were due no later than November 30, 1978. Reply comments were due no later than December 29, 1978.

2. A petition to extend the comment period to March 30, 1979 was submitted by Mr. Norman Kaplan of the Disabled American Veterans, North Miami Beach, Florida. Mr. Kaplan cites the need for as many handicapped persons to participate in the proceeding as possible. Because of the special nature of this proceeding, we agree with petitioner.

3. Accordingly, the Commission, by the Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority granted to him by § 0.331 orders that the comment period and the reply comment period in General Docket No. 78-250 are extended to March 30, 1979, and April 30, 1979, respectively.

CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-33714 Filed 11-30-78; 8:45 am]

[1] See 43 FR 37729, August 24, 1978.

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FOR FURTHER INFORMATION

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

1978 WHEAT AND BARLEY CROPS

Determinations Regarding the Proclamation of National Program Acreages

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Determination of National Program Acreages for the 1978 Crops of Wheat and Barley.

SUMMARY: This notice is to proclaim a revised national program acreage for the 1978 crops of wheat and barley in order to determine the program allocation factor for these commodities. This action is taken in accordance with applicable provisions of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977. The provisions of the 1949 Act, as amended, authorize the Secretary of Agriculture, based on latest information, to revise the national program acreage which he initially proclaims by August 15 (for wheat) and November 15 (for barley) of each calendar year for the crop harvested in the next succeeding calendar year.

DATE: December 1, 1978.

ADDRESSES: Production Adjustment Divison, ASCS-USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Bruce R. Weber (ASCS), 202-447-7987.

SUPPLEMENTARY INFORMATION: The need for this notice is to revise the 1978-crop barley and wheat national program acreages first proclaimed for the purpose of determining the national allocation factor for such commodities as authorized in Sections 105A(d)(1) and 107A(d)(1) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 (hereinafter referred to as the "Act"). These provisions authorize the Secretary to revise the national program acreage which he initially proclaimed for any crop year for the commodity for the purpose of determining the allocation factor if he determines that such revision is necessary based upon the latest available information. The Secretary has determined that the 1978-crop wheat and barley national program acreages shall be revised based on the latest available information. Therefore, it is essential that this decision be made effective as soon as possible since the proclamation of the revised national program acreages is required as soon as such decision is made. This decision directly affects other decisions to be made by the Secretary on November 30, 1978; therefore, it is impracticable and contrary to the public interest to comply with the 30-day effective date requirement of 5 U.S.C. 553 and the 60-day public comment period requirement of Executive Order 12044. Therefore, this notice of determination shall become effective upon date published in the FEDERAL REGISTER.

NOTICE OF DETERMINATIONS

1. *Revised National Program Acreage for 1978-Crop Wheat.* It is hereby proclaimed that the final national program acreage for the 1978 crop of wheat shall be 58.8 million acres. The revised national program acreage is based on the following data:

(a) Estimated domestic consumption, 1978-79 (million bushels)	770
(b) Plus estimated exports, 1978-79 (million bushels)	1,150
(c) Minus estimated imports, 1978-79 (million bushels)	−2
(d) Minus adjustment to decrease stocks to desired level (million bushels)[1]	−76
(e) Divided by national weighted average farm program yield (bushels/acre)	31.3
(f) Equals: 1978 national program acreage (million acres)	58.8

[1]Desired carryover of U.S. wheat stocks is equal to 7.5 percent of world consumption of wheat. Such consumption during the 1977-78 marketing year is estimated to be 398.8 million metric tons (MMT) (399.0×0.075=29.9 MMT×36.74 (bushel conversion factor)=1,100 million bushels (desired level of U.S. carryover wheat stocks)). 1977-78 carryover wheat stocks were 1,176 million bushels resulting in a 76 million bushel stock adjustment.

2. *Revised National Program Acreage for 1978-Crop Barley.* It is hereby proclaimed that the final national program acreage for the 1978 crop of barley shall be 7.5 million acres. The revised national program acreage is based on the following data:

(a) Estimated domestic consumption, 1978-79 (million bushels)	347
(b) Plus estimated exports, 1978-79 (million bushels)	40
(c) Minus estimated imports, 1978-79 (million bushels)	−10
(d) Minus adjustment to decrease stocks to desired level (million bushels)[1]	−21
(e) Divided by national weighted average farm program yield (bushels/acre)	47.6
(f) Equals: 1978 national program acreage (million acres)	7.5

[1]Desired carryover of U.S. feed grain stocks is equal to 5.7 percent of world consumption of coarse grains. Such consumption during the 1977-78 marketing year is estimated to be 688.0 million metric tons (MMT) (688.0×0.057=39.2 MMT (desired level of U.S. feed grain carryover stocks)). The barley component of the feed grain total has been determined to be 160 million bushels (3.2 MMT×45.93 (bushel conversion factor). 1977-78 carryover barley stocks were 171 million bushels resulting in a 21 million bushel stock adjustment.

NOTE.—It has been determined that this document does contain a major proposal requiring preparation of an Impact Analysis Statement. The Impact Analysis Statement will be available from Bruce R. Weber (ASCS), 202-447-7987 after December 15, 1978.

NOTE.—The ASCS, to meet requirments of the National Environmental Policy Act (P.L. 91-190, 45 U.S.C. 4321 et seq.), has determined that the impact on the human environment is not significantly different from the impact discussed in an Environmental Impact Statement filed for the initial announcement of the 1978 program, and therefore no additional statement is necessary.

Signed at Washington, D.C., on November 24, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 78-33488 Filed 11-30-78; 8:45 am]

[3410-15-M]

Rural Electrification Administration

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare a draft environmental impact statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a request from Alabama Electric Cooperative (AEC), P.O. Box 550, Andalusia, Alabama, 36420, (AC 205-222-2571) to use REA guaranteed loan funds which would provide financing for AEC's obtaining a leasehold interest in properties in Alabama containing coal reserves presently being mined. AEC proposes to have the existing mining company continue to mine for AEC's account under proposed contractual arrangements subject to REA approval. The properties involved are located in Lamar, Winston, Marion and Franklin Counties. It is anticipated that the coal will be transported by barge on the Black Warrior and Tombigbee Rivers and/or by railroad to power plants owned by AEC.

AEC as part of its ongoing search for sources of coal for its power plants has explored viable alternatives for obtaining coal supply and their environmental impacts to determine the most effective, economical and environmentally acceptable arrangements for obtaining reliable sources of coal to meet its needs.

REA will consider the need for the supply of coal and the environmental effects resulting from the proposed contractual arrangements described above, as well as the environmental effects of other alternatives.

Interested persons are invited to submit comments, questions and/or recommendations which may be helpful in preparing the draft environmental impact statement. Comments should be forwarded to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C., 20250. Additional information may be obtained from AEC at the address shown above.

Any loan or loan guarantee which may be made pursuant to AEC's application to REA will be subject to, and release of funds contingent upon REA's reaching satisfactory conclusions with respect to, environmental effects. Final action will be taken only after compliance with environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 27th day of November, 1978.

ROBERT W. FERAGEN,
Administrator, Rural Electrification Administration.

[FR Doc. 78-33606 Filed 11-30-78; 8:45 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

REVISION TO QUALIFICATION STANDARD

Land Surveying Series, GS-1373

AGENCY: U.S. Civil Service Commission.

ACTION: Notice.

SUMMARY: The Civil Service Commission has revised the basic requirements for qualification as a land surveyor within the Federal service. The changes will facilitate the procurement of qualified candidates at grade levels GS-5 through GS-15 for land surveyors for the Federal service.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald G. Brauer, Chief, Science and Engineering Occupations Section, Standards Division, Bureau of Policies and Standards, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5612.

SUPPLEMENTARY INFORMATION: The current qualification requirements were published in 1970 before the present level of consistency in registration requirements among the Boards of Registration in the States, Territories, and the District of Columbia was reached. Consistency in requiring subject matter intensive written examinations has now been achieved which allows the substitution of successful completion of the examinations for the currently required credit hours.

LAND SURVEYING SERIES, GS-1373

BASIC REQUIREMENTS FOR ALL POSITIONS GS-5 THROUGH GS-15

Add alternative C.

C. Alternatives as described in paragraphs A or B, except that the requirement of up to 30 semester hours, including the 6 semester hours of surveying, may be satisfied by a current registration as a land surveyor in a State, Territory, or the District of Columbia, obtained by written examination. Such registration must have been obtained under conditions outlined in the National Council of Engineering Examiners Unified Model Law for Registration of Surveyors. Candidates wishing to be considered under this alternative must show evidence of registration based on successful completion of the written examinations. Registrations granted prior to adoption of the Uniform Law by the State, Territory, or District of Columbia are not acceptable under this option.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-33489 Filed 11-30-78; 8:45 am]

6325-01-M]

IMPROVING COMMISSION REGULATIONS

Report on Implementation of Executive Order 12044

AGENCY: United States Civil Service Commission.

ACTION: Notice of Final Report on Implementation of Executive Order 12044.

SUMMARY: The Civil Service Commission published its draft report on implementation of Executive Order 12044, "Improving Government Regulations" for public comment on May 23, 1978 (43 FR 22157). The Commission received only one response to its draft report. This response was favorable and raised no major issues. Accordingly, the Commission has adopted its draft report as its final report on implementation of Executive Order 12044. This report outlines:

(1) A description of the process for developing regulations;

(2) The changes made to comply with the order;

(3) Proposed criteria for defining significant regulations;

(4) Reasons for not establishing criteria for determining which regulations require regulatory analyses;

(5) Proposed criteria for selecting existing regulations for review.

FOR FURTHER INFORMATION CONTACT:

Nathaniel L. Brown, Civil Service Commission, Bureau of Policies and Standards, 1900 E Street NW., Washington, D.C. 20415, (202-632-5623).

The Civil Service Commission's regulatory process is described in the appendix. The following changes have been made to comply with the Executive order. The Commission has:

(1) Developed a procedure to provide an opportunity for early participation by interested parties;

(2) Developed proposed criteria for identifying significant regulations;

(3) Established a requirement that proposed significant regulations are to be published in the FEDERAL REGISTER for public comment in addition to its current practice of obtaining comments from Federal agencies, labor organizations, and other interested parties directly;

(4) Developed a procedure for publishing a semiannual agenda of regulations in the FEDERAL REGISTER; and

(5) Developed proposed criteria for selecting exisitng regulations for review.

These changes are described in the appendix.

REGULATORY ANALYSIS

Section 3(a) of the Executive order requires that each agency establish criteria for determining which regulations require regulatory analysis. The Commission is the central personnel agency of the executive branch of the Government. The Commission, as directed or authorized by statute or by order of the President, serves as the personnel management staff agency of the President. In this capacity, the Commission develops and issues regulations for personnel management operations in executive agencies. The Commission does not believe it likely that a statute, Executive order or civil

the Issuance System Manager an

[3510-13-M]

ance of the Department's announced intentions as set forth in the public

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service rule would make it necessary for the Commission to issue regulations that would so affect the general economy as to make a regulatory analysis appropriate. However, the Commission may, at its discretion, prepare a regulatory analysis on any proposed regulation. Consequently specific criteria for determining which regulations require regulatory analysis are not established.

REVIEW OF EXISTING REGULATIONS

The Commission has established criteria for review of existing regulations. Those criteria are described in section 4 of the appendix. The Commission will publish a list of existing regulations for review in the FEDERAL REGISTER on December 1, 1978.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

APPENDIX—PROCEDURES FOR DEVELOPING, SIMPLIFYING AND REVIEWING REGULATIONS

1. PURPOSE. The purposes of this chapter are to establish policy and objectives for simplifying and improving the quality of regulations; prescribe procedures for issuing new regulations and for reviewing existing regulations; and to assign responsibility for ensuring that the objectives of Executive Order 12044 are achieved. The requirements of this chapter do not apply to regulations that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines. In these cases, the initiating office shall include, for publication in the FEDERAL REGISTER, a statement of the reasons why it is impractical or contrary to the public interest for that office to follow the requirements of this chapter. Such a statement shall include the name of the official responsible for this determination.

2. POLICY. It is the policy of the Commission that regulations shall be as clear and simple as possible and shall be developed through a process which ensures that:

a. The need for and purposes of the regulations are clearly established;

b. The regulations are clear, precise, and understandable;

c. The regulations have been coordinated with all offices which have a program interest in them;

d. An opportunity exists for early participation and comment by Federal agencies and other interested parties;

e. Relevant issues are considered and analyzed;

f. Compliance costs, paperwork and other burdens on those who may be affected are minimized; and

g. Comments are considered and an adequate response is prepared.

3. RESPONSIBILITIES OF THE INITIATING OFFICES. a. "Initiating office" means each Commission office or organization which has responsibility for developing regulations for issuance by the Commission.

b. The head of each initiating office has primary responsibility for:

(1) Preparing a brief summary, early in the regulatory process, for the Commission on the issues and alternatives involved in the matter requiring regulation;

(2) Developing proposed regulations in accordance with the policy stated in this chapter;

(3) Ensuring that the public has an early and meaningful opportunity to participate in the development of regulations through a variety of ways;

(4) Ensuring that the public is given at least 60 days to comment on significant regulations unless circumstances require a shorter review period;

(5) Providing a brief statement of the reasons for a shorter time period when it is not possible to give the public at least 60 days to comment on significant regulations;

(6) Establishing and carrying out a systematic procedure for reviewing and revoking or revising existing regulations; and

(7) Informing the Commission on proposed or final regulations of the:

(a) Reason and legal authority for the regulation;

(b) Objective(s) of the regulation;

(c) Relevant issues involved and the alternatives explored for achieving the objectives of the regulation;

(d) Probable reporting requirements; and

(e) Opportunities for interested parties to participate in the regulatory process.

4. REVIEWING EXISTING REGULATIONS. a. Each initiating office shall establish procedures for periodically reviewing all their existing regulations and revoking or revising those regulations which it determines are not achieving their intended purpose.

b. In identifying existing regulations for review and possible revocation or revision and in determining the order in which they are to be reviewed, each initiating office shall consider:

(1) The nature and extent of complaints or suggestions about operations under the regulations;

(2) The continued need for the regulation;

(3) the need for eliminating conflicts and inconsistencies in its own regulations or those of other initiating offices;

(4) The length of time since the regulations have been evaluated or the degree to which the factors resulting in a need for regulation have changed;

(5) The burdens imposed on those directly or indirectly affected by the regulations; and

(6) The need to simplify or clarify the language of the regulations.

5. SIGNIFICANT REGULATIONS. Each initiating office shall use the following criteria in identifying which regulations are significant regulations.

a. A significant regulation is a regulation in which:

(1) A statute, Executive order or civil service rule to be implemented provides substantial discretion to the Commission over the practices, procedures or standards for achieving what is required;

(2) The coverage of State or local governments or individuals is on a national basis; or

(3) There is a substantial or recurring reporting requirement.

(b) Editorial changes to significant regulations such as a change in an office address, references cited, or changes made to simplify or clarify the language are not themselves significant regulations. However, an amendment which changes a practice, procedure, or standard of significant regulations may itself be a significant regulation.

c. When a regulation does not meet the criteria for a significant regulation, the initiating office shall include a statement to that effect at the time the regulations are proposed.

d. The Commission shall approve proposed or final significant regulations for publication in the FEDERAL REGISTER for public comment or adoption. In approving proposed or final significant regulations for public comment or adoption, the Commission will consider, as appropriate, whether:

(1) The proposed regulation is needed;

(2) The direct and indirect effects of the regulation have been adequately considered;

(3) Alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) Public comments have been considered and an adequate response has been prepared;

(5) The regulation is written in plain English and is understandable to those who must comply with it;

(6) An estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(7) The name, address and telephone number of a knowledgeable official is included in the publication; and

(8) A plan for evaluating the regulation after its issuance has been developed.

6. SEMIANNUAL AGENDA OF SIGNIFICANT REGULATIONS. a. Each initiating office shall submit to the Issuance System Manager an agenda of significant regulations under development or review by May 1 and November 1 of each year.

b. The agenda shall describe the regulations being considered, the reason and legal basis for the action being taken, and the status of regulations previously listed on the agenda.

c. Each item on the agenda shall include the name and telephone number of a knowledgeable official.

d. The agenda also shall include existing regulations scheduled for review.

e. The Issuance System Manager shall prepare the regulatory agenda and submit it to the Commission for consideration and approval.

f. The Executive Assistant to the Commissioners shall publish the regulatory agenda in the FEDERAL REGISTER by June 1 and December 1 of each year.

7. PROCESS FOR DEVELOPING SIGNIFICANT REGULATIONS. The following is a brief description of the process for developing and issuing significant regulations. the items listed are the minimum steps necessary for compliance with Executive Order 12044.

a. Prior to developing draft regulations the initiating office prepares a brief summary early in the regulatory process to the Commission on the issues and alternatives involved in the matter requiring regulation.

b. The initiating office discusses the problems, statute, civil service rule, or Executive order with appropriate IAG Committees, labor organizations, or other interested parties for suggestions and recommendations.

c. The initiating office prepares draft regulations and circulates them among Commission offices and appropriate IAG Committees who have a program interest for comments and suggestions.

d. The initiating office forwards the draft regulations to the Commission for consideration and approval to publish in the FEDERAL REGISTER for public comment and additional consultation with Federal agencies, State and local governments as appropriate, labor organizations, or other interested parties.

e. The initiating office forwards the final version of the regulations with its response to the major issues raised in the public comments to the Commission for approval and publication in the FEDERAL REGISTER as final regulations.

[FR Doc. 78-33722 Filed 11-30-78; 8:45 am]

[3510-13-M]

DEPARTMENT OF COMMERCE

National Bureau of Standards

SIMPLIFIED PRACTICE RECOMMENDATION

Intent to Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Simplified Practice Recommendation R 3-60, "Metal Lath (Expanded and Sheet) and Metal Plastering Accessories."

It has been tentatively determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of R 3-60 is adequately covered by the American Society for Testing and Materials' standard ASTM C 847-77, "Standard Specification for Metal Lath" and the American National Standard Institute's standard ANSI A42.4-1967, "Specifications for Interior Lathing and Furring."

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234, on or before January 2, 1979. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: November 28, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-33673 Filed 11-30-78; 8:45 am]

[3510-13-M]

[COMM REQ 294 & 315]

VOLUNTARY PRODUCT STANDARD ACTION OF WITHDRAWAL

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of Voluntary Product Standard PS 3-66, "TFE-Fluorocarbon (Polytetrafluoroethylene) Resin Skived Tape."

This withdrawal action is being taken for the reason that PS 3-66 is adequately covered by the American Society for Testing and Materials' standard ASTM D 3308, "Standard Specification for TFE-Fluorocarbon Resin Skived Tape," and duplication is inappropriate and not in the public interest. This action is taken if further-ance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of September 8, 1978, (43 FR 40050) to withdraw this standard.

The effective date for the withdrawal of this standard will be January 30, 1978. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: November 27, 1978.

ERNEST AMBLER,
Director.

[FR Doc 78-33601 Filed 11-30-78; 8:45 am]

[3510-12-M]

National Oceanic and Atmospheric Administration

ENVIRONMENTAL IMPACT STATEMENT PREPARED ON PROPOSED WASHINGTON COASTAL MANAGEMENT PROGRAM AMENDMENT NO. 1

Public Hearing

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) Prepared on the Proposed Washington Coastal Management Program Amendment No. 1: Deletion of the Evans Policy Statement.

The hearing schedule is:

DECEMBER 19, 1978

Peninsula College, Little Theatre, 1502 East Laurisden, Port Angeles, Washington. This hearing will begin promptly at 7:00 p.m.

DECEMBER 20, 1978

Federal Building, South Auditorium, 4th Floor, 915 2nd Avenue, Seattle, Washington. This hearing will be held in two sessions, from 1:30 p.m. until 4:00 p.m. and from 7:00 p.m. until 10:00 p.m.

The views of interested persons and organizations on the adequacy of the impact statement and/or the Amendment to the Washington Coastal Management Program are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone: 202/632-5231), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a

By order of the Maritime Subsidy

17th and G Streets, NW., Washington,

persons who may have an interest in

The petitions were filed pursuant to

Staff has used the above costs along

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first-come, first-served basis, and should be limited to ten minutes in order to assure that all views can be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

As part of his review of the Amendment to the Washington Coastal Management Program, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to, and received by OCZM on or before January 31, 1979. As part of the procedures leading toward approval of this amendment, a Final Environmental Impact Statement will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines which reflect his consideration of these comments. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: November 28, 1978.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 78-33660 Filed 11-30-78; 8:45 am]

[3510-03-M]

Maritime Administration

RECONSTRUCTION OF FOUR MA DESIGN C5-S-75A CARGO VESSELS TO MA DESIGN C8-S-75C FULL CONTAINERSHIP VESSELS

Computation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of Section 501 (a) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign cost of the reconstruction of four MA Design C5-S-75a cargo vessels to MA Design C8-S-75c full containership vessels.

Any person, firm or corporation having any interest (within the meaning of Section 501(a)) in such computations may file written statements by the close of business on December 12, 1978, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, N.W., Washington, D.C. 20230.

Dated: November 28, 1978.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 33711 Filed 11-30-78; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Regulations

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Semiannual agenda of significant regulations under development or review.

SUMMARY: Pursuant to Section 2 of Executive Order 12044, the Committee is not planning to issue or review any significant regulations during the period December 1, 1978 through May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. C. W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201, Telephone: 703/557-1145.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-33672 Filed 11-30-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

UPHOLSTERED FURNITURE FLAMMABILITY

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission staff has recommended that the Commission publish a proposed safety standard to address the possible hazards of ignition of upholstered furniture by cigarettes. Before deciding whether to propose a flammability standard, the Commission will hold a meeting to hear the views of representatives of the upholstered furniture industry, as well as of any other interested persons on the staff briefing package.

DATES AND ADDRESSES: The meeting will be on December 20, 1978 beginning at 9:30 a.m., at Room 2008 of the New Executive Office Building, 17th and G Streets, NW., Washington, D.C.

Any persons wishing to make presentations should contact Richard A. Danca, Office of the Secretary, Third floor, 1111-18th Street, NW., Washington, D.C., 202-634-7700 by December 13, 1978.

Copies of the staff briefing package are available at the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT:

L. James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6453.

SUPPLEMENTARY INFORMATION: On September 15, 1977, the Commission found, preliminarily, that a mandatory standard is necessary to protect the public from the unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage, associated with the cigarette ignition of upholstered furniture. Prior to reaching this decision, the Commission had reviewed (1) a draft proposed mandatory standard developed by the National bureau of Standards and submitted by Commission staff, (2) voluntary action proposals submitted by industry associations, and (3) a petition from the state of California (FP 77-2) that the Commission adopt the California upholstered furniture flammability standards as the national standard. At that time, FP 77-2 had not yet been evaluated by the staff as the California standard was still undergoing revision.

Upon making its preliminary finding, the Commission directed the staff to revise the draft standard in order to reduce the number and frequency of tests called for in the standard and to reduce the testing costs. The staff was directed to present briefing materials for such a revised standard, to evaluate voluntary action proposals by industry, and to evaluate petition FP 77-2.

The staff has recently completed these tasks and has submitted a briefing package to the Commission on upholstered furniture flammability. The staff recommends that the Commission publish the draft standard in the briefing package.

During the development of the briefing package, various industry groups have requested meetings to discuss issues regarding regulation of upholstered furniture flammability. Pursuant to these requests, the Commission has decided to hold a public meeting to hear the views of industry before deciding what action to take regarding cigarette ignition of upholstered furniture. The Commission is also interested in hearing the views of any other

persons who may have an interest in the issue.

Under the Flammable Fabrics Act and the Administrative Procedure Act which govern the issuance of regulations concerning flammable fabrics, the Commission is not required to provide an opportunity for oral presentations of views before a standard is proposed. However, the Commission believes it would be beneficial to hold a public meeting for the purpose of hearing the views of industry members and any other interested persons, including small businesses and consumers or representatives of consumer groups, before deciding on whether to publish the revised standard submitted by its staff, as a proposed standard.

Therefore, the Commission will hold a public meeting on December 20, 1978 from 9:30 a.m. to 5:00 p.m., in Room 2008, New Executive Office Building, 17th and G Streets, NW., Washington, D.C. for the purpose of hearing views on a possible upholstered furniture flammability standard. Those who wish to speak on the contents of the briefing package should advise Richard A. Danca, Office of the Secretary, Consumer Product Safety Commission, 1111-18th Street, NW., Washington, D.C. 20207 202-634-7700 before December 13, 1978 of the amount of time needed.

Time will be allotted by the Office of the Secretary depending on the number of requests received. The Commission requests that comments at the meeting focus on the contents of the staff briefing package, which is available at the Office of the Secretary.

Dated: November 29, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-33812 Filed 11-30-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RI77-108, RI78-48, RI78-62]

JOHN P. BOOTH & ASSOCIATES ET AL.

Order Granting Petition for Special Relief

NOVEMBER 22, 1978.

On June 23, 1977, John P. Booth & Associates (Booth) and on April 6, 1978, Sun Oil Company (Sun) filed petitions for special relief in Docket Nos. RI77-108 and RI78-48, respectively. On May 1, 1978 Atlantic Richfield Company (Atlantic) filed a petition for special relief in Docket No. RI78-62. The petitions were filed pursuant to Section 2.76 of the Commission's General Policy and Interpretations. All petitions requested a rate of 67¢/Mcf for gas sold to Northern Natural Gas Company (Northern) from the following wells: Bick No. 1, E. McMinimy No. 1, McMinimy No. 1, Swayze No. 1. The subject wells are located in Clark County, Kansas.

Booth, a small producer and operator of the property, owns a 40.0% net working interest. Sun, a large producer, owns a 13.6% net working interest in the property. Atlantic Richfield Company, a large producer, owns the remaining 29.8% net working interest in the property.

Booth and Sun amended their petitions on May 2, 1978. Atlantic amended its petition on May 22, 1978. The amended petitions request a rate of 58¢ plus applicable ad valorem taxes.

Booth's sale of gas is being made under a contract dated June 14, 1961, pursuant to a small producer certificate issued in Docket No. CS72-0371. Sun's sale of gas is made under a separate contract dated September 14, 1961, on file as Sun's FERC Gas Rate Schedule No. 395. Atlantic's sale is covered by two contracts dated August 18, 1961, and June 12, 1961, on file as Atlantic's FERC Gas Rate Schedule No. 462 and No. 234, respectively. The requested rate is contractually authorized under all contracts. Booth is currently collecting 35¢/Mcf while Sun and Atlantic are collecting 29.5¢/Mcf.

The petitioners propose to install a rental compressor at an estimated cost of $22,622.[1] Installation of compression will enable the production of the estimated 438,820 Mcf of gas remaining to be recovered over the next five years.

Booth filed data in support of the petition on the following dates: August 29, 1977, September 30, 1977, December 12, 1977, February 27, 1978, which has been clarified and refined through recent telephone conversations between staff and the working interest owners in regard to the project costs and proposed investment.

Staff has reviewed the detail filed in support of the proposed investment of $22,622, and, based thereon, finds the estimate to be acceptable. Staff has reviewed the applicants' annual estimated expenses of $31,176, and finds them to be reasonable. A 5% annual inflation factor was applied in projecting total estimated production expenses of $177,968 for the remaining productive life.

[1] Reflects site preparation cost, including a road, as well as compressor installation expense. The estimated cost excludes annual rental expense.

Staff has used the above costs along with the 365,445 Mcf of reserves, attributable to 100% of the net working interest in a traditional cost study.[2] The results of this analysis indicate that 58¢ per Mcf plus ad valorem tax will be required to allow the working interest owners to recover all costs associated with this project over its 5 year life including a 15% rate of return. Thus, the requested rate is cost supported.

Notices of the several petitions were issued and published in the FEDERAL REGISTER (Booth issued July 12, 1977, published in the FEDERAL REGISTER July 20, 1977 (42 FR 37237); Sun issued May 23, 1978, published in the FEDERAL REGISTER May 31, 1978 (43 FR 23644); Atlantic issued July 17, 1978, published in the FEDERAL REGISTER July 24, 1978 (43 FR 31964); Booth, Sun and Atlantic amendment issued September 25, 1978, published in the FEDERAL REGISTER October 5, 1978 (43 FR 46074)). No protests or petitions to intervene were filed in response to the notices.

We conclude, after studying the data submitted and the Staff's analysis thereof, that it is in the public interest to grant special relief to petitioners.

The Commission orders:

(A) The petitions of John P. Booth & Associates, Atlantic Richfield Company and Sun Oil Company, as amended are granted;

(B) John P. Booth & Associates, Sun Oil Company, and Atlantic Richfield Company be authorized to collect a total rate of 58¢/Mcf at 14.40 psia, including adjustments, plus applicable ad valorem taxes for the sale of the subject gas effective upon the date of the Commission order herein or date of completion of the proposed work, whichever is later, subject to the conditions set forth in paragraphs (C) and (D), below;

(C) Booth must file a statement signed by Northern Natural Gas Company that work has been completed to its satisfaction within 30 days of the effective date specified in paragraph (B) above;

(D) Booth, Sun, and Atlantic shall separately file a Notice of Independent Producer Rate Change in Docket No. CS72-0371, FERC Gas Rate Schedule No. 395, and FERC Gas Rate Schedules No. 462 and 234 respectively, within 30 days of the date of the order herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[2] See Appendix A, attached hereto.

SCHEDULE A.—Certificate and Rate Schedule Information for Hassie Hunt Exploration Co.

V 43/232 DEC 1 78 UMI

Sun Oil Co., Docket No. RI78-48, Atlantic Richfield Co., Docket No. RI78-62, John P. Booth & Associates, Docket No. RI77-108, Wells: Bick No. 1, East McMinimy No. 1, McMinimy No. 1, Swayze No. 1, Sitka Unit, Clark County, Kans.

[Unit cost of gas]

Line No. and item	Amount
1. Net working interest volumes:	
2. Gas—Mcf at 14.40 lb/in ²[1]	365,445
3. Liquids—bbl	0
4. Cost of production:	
5. Return on rate base[2]	$10,538
6. D.D. & A.[3]	22,622
7. Production expense[4]	177,968
8. Regulatory expense[5]	365
9. Total cost of production	211,493
10. Unit cost of gas (cents per/Mcf):	
11. Cost of production[6]	57.87
12. Production tax[7]	.09
13. Total unit cost[8]	57.96

[1]Net working interest volumes.
[2]Line 12 of sheet 3 times 0.15 times 5-year productive life.
[3]Line 8 of sheet 2.
[4]Estimated first year operating expense for four wells is $32,206 and includes $18,000 for compressor rental. The first year operating expense is escalated 5 pct per year.
[5]0.1 cent per Mcf.
[6]Line 9 divided by line 2.
[7]0.09 cent per Mcf.
[8]Excludes ad valorem taxes.

[Investment and depreciation]

Line No. and item	Amount
1. Investment:	
2. Remaining net book value	$0
3. Compressor installation costs	22,622
4. Total investment	22,622
5. Less salvage	0
6. Depreciable cost	22,622
7. Depreciation per unit[1]	0.061902

[1]Line 6 divided by 365,446 Mcf.

Sun Oil Co., Docket No. RT78-48, Atlantic Richfield Co., Docket No. RT78-62, John P. Booth & Associates, Docket No. RI77-108, Wells: Bick No. 1, East McMinimy No. 1, McMinimy No. 1, Swayze No. 1, Sitka Unit, Clark County, Kans.

[Average annual investment and annual rate base]

Line No. and year (a) and (b)	Annual N.W.I. production (Mcf) (c)	Beginning of year investment (d)	Depreciation[1] (e)	End of year investment (f)	Average investment[2] (g)
1. Average investment:					
2. 1	103,827	$22,622	$6,427	$16,195	$19,409
3. 2	84,533	16,195	5,233	10,962	13,579
4. 3	69,142	10,962	4,280	6,682	8,822
5. 4	61,878	6,682	3,830	2,852	4,767
6. 5	46,065	2,852	2,852	0	1,426
7. Total	365,445		22,622		48,003
8. Average annual investment[3]					9,601
9. Annual rate base:					
10. Average annual investment					9,601
11. Average annual working capital allowance[4]					4,449
12. Total annual rate base					14,050

[1]Column (c) times line 7 of sheet 2.
[2](Column (d) plus column (f)) divided by 2.
[3]Column (g) of line 7 divided by 5-yr productive life.
[4]0.125 times line 7 of Sheet 1 divided by 5-yr productive life.

[FR Doc. 78-33560 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket Nos. G-4420, et al.]

Hassie Hunt Exploration Co.

CORPORATE NAME CHANGE

NOVEMBER 22, 1978.

Notice is hereby given that all certificates, rate schedules and pending applications and proceedings listed in the attached Schedule A are redesigned to reflect the corporate name change from Hassie Hunt, Incorporated to Hassie Hunt Exploration Company, effective January 1, 1978.

KENNETH F. PLUMB,
Secretary.

SCHEDULE A.—*Certificate and Rate Schedule Information for Hassie Hunt Exploration Co.*

Name certificate filed under	Certificate docket No.	Field	Area	Purchaser
Rate schedule No.:				
3 Hassie Hunt, Inc	G-4420	Maxie	Acadia Parish, La	Transcontinental Gas P/L Corp.
4 do	G-4421	Lisbon	Claiborne Parish, La	Texas Eastern Transmission Corp.
6 do	G-4421	Sligo	Bossier Parish, La	Texas Gas Transmission Corp.
7 do	G-4421	do	do	Arkansas Louisiana Gas Co.
13 do	G-4421	Cotton Valley	Webster Parish, La	United Gas Pipeline Co.
18 do	G-10010	Longstreet	DeSoto Parish, La	Arkansas Louisiana Gas Co.
19 do	G-14109	Rosseau	LaFourche Parish, La	Transcontinental Gas P/L Corp.
20 do	G-14303	Maxie	Acadia Parish, La	Texas Gas Transmission Corp.
23 do	G-18967	Sugar Creek	Claiborne Parish, La	Arkansas Louisiana Gas Co.
24 do	G-19249	South Pass, block 24	Plaquemines Parish, La	Tennessee Gas Pipeline Co.
25 do	G-20172	Sugar Creek	Claiborne Parish, La	Texas Gas Transmission Corp.
26 do	G-19115	Alta Loma	Galveston County, Tex	Natural Gas P/L Co. of America
29 do	CI-61-645	North Rosseau	LaFourche Parish, La	Texas Gas Transmission Corp.
30 do	CI-62-591	North Puckett	Pecos County, Tex	El Paso Natural Gas Co.
31 do	CI-63-606	Sugar Creek	Claiborne Parish, La	Texas Gas Transmission Corp.
32 do	CI-64-581	Cotton Valley	Webster Parish, La	Do.
33 do	CI-64-577	do	do	Do.
34 do	CI-65-882	North Rosseau	LaFourche Parish, La	Do.
35 do	CI-65-598	Eugene Island	Offshore, Louisiana	Michigan Wisconsin P/L Corp.
36 do	CI-67-138	Thibodaux	LaFourche Parish, La	Transcontinental Gas P/L Corp.
37 do	CI-69-722	Northeast Lisbon	Claiborne Parish, La	Texas Eastern Transmission Corp.
38 do	CI-69-783	do	do	Texas Gas Transmission Corp.
39 do	CI-70-980	do	do	Texas Eastern Transmission Corp.
40 do	CI-72-424	North Puckett	Pecos County, Tex	El Paso Natural Gas Co.
41 do	CI-72-542	West Cameron	Offshore, Louisiana	Michigan Wisconsin P/L Co.
43 do	CI-74-529	do	do	Do.

SCHEDULE A.—*Certificate and Rate Schedule Information for Hassie Hunt Exploration Co.*

Name certificate filed under	Certificate docket No.	Field	Area	Purchaser
Rate schedule No.:				
44 do	CI-75-272	Sugar Creek	Claiborne Parish, La	Arkansas Louisiana Gas Co.
46 do	CI-78-160	Pavillion	Fremont County, Wyo	Montana Dakota Utilities
Formerly HHEC rate schedule No. 1.	CI-77-260	Ship Shoal blocks 290/291	Offshore, Louisiana	Michigan Wisconsin P/L Co.

[FR Doc. 78-33561 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. E-7738]

BOSTON EDISON CO.

Extension of Time

NOVEMBER 24, 1978.

On November 17, 1978, the Department of Justice filed a motion for extension of the schedule for submitting briefs to the Commission in this proceeding. The motion states that the Department has found the price squeeze issue to be more complex and the solution more difficult than originally anticipated. On November 17, 1978, the Massachusetts Towns filed an answer stating that they have no objection to an extension of time if only granted to the Justice Department. The Towns also oppose an extension of the date for reply briefs so that Commission disposition will not be delayed.

Upon consideration, notice is hereby given that the briefing schedule is extended as follows for all parties:

Initial Briefs, on or before November 24, 1978.

Reply Briefs, on or before December 29, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33630 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-551]

CITIES SERVICE GAS CO.

Petition to Amend

NOVEMBER 22, 1978.

Take notice that on November 13, 1978, Cities Service Gas Company, (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77-551 a petition to amend the order issued November 23, 1977, in said docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) so as to authorize an increase in the total cost limitations provided by said order, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The Commission's order of November 23, 1977, authorized the construction, at a cost not to exceed $300,000, of certain natural gas facilities for miscellaneous rearrangements in the calendar year of 1978. It is stated in the instant petition that, due to three highway projects being completed in calendar year 1978, the necessary expenditures for miscellaneous rearrangements will be approximately $1,000,000. Consequently, Petitioner seeks a waiver of the total cost limitations for budget-type certificates for miscellaneous rearrangements pursuant to Section 157.7(c)(2)(ii) of the Commission's Regulations to permit an increase in those limitations from $300,000 to $1,000,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33631 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. RP79-4]

CITIES SERVICE GAS CO.

Order Accepting for Filing and Suspending Rate Increase Subject to Conditions

NOVEMBER 22, 1978.

On October 23, 1978, Cities Service Gas Company (Cities) filed revised tariff sheets[1] under Section 4(e) of the Natural Gas Act designed to increase jurisdictional annual revenues by $22,245,595. The increased rates are predicated on a test period based on actual costs for the twelve months ending July 31, 1978, as adjusted for known changes in costs which are expected to be incurred by the end of the test period on April 30, 1979. Cities proposes a November 23, 1978 effective date.

Public notice of the filing was issued on October 25, 1978, providing for protests or petitions to intervene to be filed on or before November 9, 1978. Petitions to intervene were filed by parties listed in Appendix A. All have demonstrated an interest in the proceeding which justifies their participation. Accordingly, intervention to all parties listed is hereby granted.

In the proposed rates, Cities has reflected increases in operating costs, taxes and the rate of return. Cities has used the *United* method of rate design, but has classified and allocated its costs according to the *Seaboard* method. The company has reflected costs of facilities recently certificated by order issued October 16, 1978 in Docket No. CP78-459, including net costs of $13,986,968 from plant additions which may not be in service before the new rates take effect. In addition, the proposed rates and the underlying cost of service for the test period reflect a weighted average cost of purchased gas of 66.23¢ per Mcf and a GRI Funding Unit of 1.2 mills per Mcf.

Based upon a review of Cities filing, the Commission finds that the proposed higher rates sought in this filing have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Cities' proposed rate increase for filing, suspend its effectiveness for five months until April 23, 1979, at which time it may become effective subject to refund, and subject to the conditions stated below, and set the matter for hearing.

In Opinion No. 24, the Commission directed Cities to classify and allocate costs according to the *United* methodology, and specifically rejected the

[1]Fourth Revised Sheet No. 6 to Original Volume No. 1, First Revised Sheet No. 91 to Original Volume No. 2 of Cities FERC Gas Tariff.

North Capitol Street, N.E., Washing-

will be permitted to collect the 3.5 mills per Mcf GRI funding unit in transferred AGA coal gasification pro-jects are eliminated from the pipe-

Seaboard method employed by the company in this filing.[2]

The *United* formula gives greater weight to the annual volumes of gas a pipeline has available for sale than the physical capacity of a pipeline. Use of the *United* method more closely relates a customer's cost responsibility to his use of the pipeline's facilities when there is significant underutilization of a pipeline's capacity. In Opinion 24, the Commission found significant curtailment on an annual basis, and a heavy reliance on storage withdrawals to meet peak demand on Cities' system. Even where lines downstream of Cities storage facilities continue to be used at near full capacity, this results in significant underutilization of capacity, particularly upstream of Cities storage facilities.

Cities' filing reflects continuing curtailment on an annual basis, and dependence on large storage withdrawals to meet peak demand. All the factors which prompted the Commission to apply the *United* formula in Opinion No. 24 continue to prevail in this filing. No significant difference of material fact or changed circumstances have been shown to set this filing apart from Cities prior filing. No useful purpose would be served by relitigating this issue in this docket.[3] It is appropriate, therefore, to summarily dispose of this issue on the merits without proceeding to an evidentiary hearing. Cities is directed to file revised tariff sheets reflecting the *United* method of cost classification and cost allocation.

As it is Commission policy [4] to allow into rate base only the costs of facilities which are used and useful to the ratepayers, Cities cannot include the costs of its recently certificated plant additions if they are not in service by the time the proposed rates go into effect. Consequently, acceptance of the present tariff sheets reflecting the cost of these facilities is specifically conditioned upon Cities' filing of revised tariff sheets to eliminate costs associated with any facilities not in service on or before April 30, 1979.

Cities has indicated that it will file revised tariff sheets to reflect a change in purchase gas cost and to include the 1979 GRI Funding Unit of 3.55 mills per Mcf. To avoid double recovery of costs, the Commission has ordered that companies eliminate from rates certain AGA costs that are being covered through GRI payments.[5] If any related expenses are included in its test period cost of service, Cities should reflect resulting reductions to R & D in its revised tariff sheets. These revised tariff sheets should also reflect the actual balance of advance payments as of April 30, 1979.

The Commission orders:

(A) Subject to the conditions of Ordering Paragraph (B), Cities Service proposed Fourth Revised Sheet No. 6 to Original Volume No. 1 and First Revised Sheet No. 91 to Original Volume No. 2 of Cities FERC Gas Tariff are accepted for filing, and suspended for five months until April 23, 1979 at which time they may become effective subject to refund.

(B) Cities shall file revised tariff sheets to reflect: (1) the *United* method of cost classification, allocation and rate design; (2) the elimination of those costs associated with facilities not in service on or before April 30, 1979; (3) the current cost of purchased gas reflected in Cities' most recent PGA filing prior to the effective date of the proposed rates; (4) the actual balance of advance payments as of April 30, 1979; and (5) the effective GRI Funding Unit on the effective date of the increased rates and any resulting reduction in R&D costs as per Opinion No. 30.

(C) Staff shall serve top sheets on or before February 26, 1979.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d) shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(E) The petitioners to intervene listed in Appendix A to this order shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided,* however, that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

1. Union Gas System Inc.
2. Midwest Gas Users Association
3. City of Springfield, Missouri and the Board of Public Utilities of Springfield, Missouri
4. City Group Gas Defense Association
5. Colorado Interstate Gas Company
6. The Gas Service Company
7. Arkansas Louisiana Gas Company
8. Kansas State Corporation Commission

[FR Doc. 78-33632 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-13]

EL PASO ELECTRIC

Application

NOVEMBER 24, 1978.

Take notice that on November 14, 1978, El Paso Electric Company (Applicant), filed an application with the Federal Energy Regulatory Commission (Commission) seeking authority pursuant to Section 204 of the Federal Power Act to issue up to 2,000,000 shares of common stock no par value (New Common Stock). The Applicant is a Texas corporation, with its principal business office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico in an area in the Rio Grande Valley extending approximately 110 miles northwesterly from El Paso to the Caballo Dam in New Mexico and approximately 120 miles southeasterly from El Paso to Van Norn with a population of approximately 536,000 of whom 400,000 reside in metropolitan El Paso.

The Applicant presently proposes to issue and sell up to 2,000,000 shares of New Common Stock at competitive bidding in accordance with the Commission's regulations. The Applicant expects to invite bids on or about January 15, 1979, and to receive bids on or about January 23, 1979.

The proceeds from the sale of the New Common Stock will be used to reduce outstanding short-term debt incurred for construction purposes. the short-term debt is expected to aggregate approximately $56 million at the time of sale and prior to the application of the proceeds. For the purpose of financing its construction program through 1981, the Company estimates that approximately $320 million, in addition to the proceeds from the sale of the New Common Stock, will be required from outside sources.

Any persons desiring to be heard or to make any protest with reference to said application should, on or before December 7, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33633 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Order Granting Rehearing

NOVEMBER 22, 1978.

On October 23, 1978, Tennessee Gas Pipeline Company, a division of Tenneco, Inc. (Tennessee) petitioned for rehearing or, in the alternative, clarification of Opinion No. 30,[1] issued September 21, 1978. In Opinion No. 30, the Commission approved the Gas Research Institute's 1979 research and development program and stated that jurisdictional members of the Gas Research Institute (GRI) would be permitted to collect a general funding unit of 3.5 mills per Mcf of "funding service" volumes in 1979.

In its Opinion, the Commission noted [2] that certain interstate pipeline members of GRI are currently collecting through their underlying rates amounts associated with the American Gas Association (AGA) Utility Research and Coal Gasification Programs. GRI will assume responsibility for funding these coal gasification programs in 1979.[3] Since GRI is funded through a surcharge to pipeline company rates, it appeared that a double recovery of funding for the transferred projects would occur if pipelines were permitted to collect the GRI surcharge without revising underlying pipeline rates.

To eliminate this duplication of funding, the Commission's staff had recommended that those pipeline companies that are currently funding the AGA projects be required to file revised tariff sheets to reduce base tariff rates to reflect the lowered expense of contributing to AGA. California supported staff's recommendation. No other party commented on this point.

In response to staff's recommendation, the Commission stated: [4] The Commission hereby puts jurisdictional pipeline companies on notice that they will be permitted to collect the 3.5 mills per Mcf GRI funding unit in 1979 only upon the condition that the costs of funding the transferred AGA projects are eliminated from their base tariff rates by the filing of revised tariff sheets.

Tennessee submits that this condition would appear to disallow the flow-through of costs incurred for funding the AGA coal gasification projects through December 31, 1978.

Tennessee explains that AGA operates its R&D programs on a fiscal year basis from July through June, and it bills its members after December to recover program costs. Payments to AGA are, therefore, made during the last six months of the AGA fiscal year. For the fiscal year July, 1977 through June, 1978, for example, both AGA's billing to Tennessee and Tennessee's payment to AGA were made in March, 1978. Since GRI will assume administration of AGA's R&D projects as of January 1, 1979, in 1979 AGA will, according to Tennessee, bill its members only for coal gasification project costs incurred during the period July, 1978 through December, 1978.

Tennessee explains further that every six months it files tariff sheets tracking its R&D costs. Due to the delay in recovery under each tracking filing, Tennessee says it will not fully recover amounts already paid to AGA until June 30, 1979. The 1979 payment to AGA, if made before March 30, 1979, will be recovered over the fiscal year beginning July 1, 1979. Thus, Tennessee's R&D tracking filings would not reflect a downward adjustment for the elimination of payments to AGA for transferred coal gasification projects until July 1, 1980. Yet, no double recovery of funding for the transferred coal gasification projects would occur.

Accordingly, Tennessee asks that the Commission grant rehearing of Opinion No. 30 or, alternatively, to clarify the Opinion to provide that while jurisdictional pipeline companies may collect the 1979 GRI funding unit only if the costs of funding the transferred AGA projects are eliminated from base tariff rates, such condition shall not apply to payments made to AGA on or after January 1, 1979 for coal gasification project costs incurred prior to January 1, 1979. The Commission finds that Tennessee has shown good cause to grant rehearing and to modify Opinion No. 30 as requested.

The Commission orders:

(A) Tennessee's October 23, 1978 petition for rehearing of Opinion No. 30 shall be granted.

(B) Opinion No. 30 shall be modified to provide that a jurisdictional pipeline may collect the 1979 GRI funding unit of 3.5 mills per Mcf only upon the condition that the costs of funding transferred AGA coal gasification projects are eliminated from the pipeline's base tariff rates: *Provided, however,* That such condition shall not apply so as to require elimination of payments actually made to AGA on or after January 1, 1979 for coal gasification project costs incurred by AGA prior to January 1, 1979 until such payments have been recovered through jurisdictional rates.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33634 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Gas Research Institute Adjustment to Rates and Charges

NOVEMBER 24, 1978.

Take notice that on November 16, 1978, Natural Gas Pipeline Company of America (Natural) submitted as part of its FERC Gas Tariff, Third Revised Volume No. 1, Thirty-Sixth Revised Sheet No. 5, to be effective January 1, 1979.

Natural states that the revised tariff sheet reflects the GRI adjustment related to the Gas Research Institute's 1979 Research and Development Program as approved by Commission Opinion No. 30 (RP78-76) issued September 21, 1978.

Copies of this filing have been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33635 Filed 11-30-78 8:45 am]

[1] *Cities Service Gas Company,* Opinion No. 24, issued August 29, 1978 in Docket No. RP74-4 (slip Opinion 7-15) Rehearing denied in Opinion No. 24-A, issued October 31, 1978.

[2] See; Section 154.63(e)(2)(ii) of the Regulations.

[3] *Panhandle Eastern Pipeline Company* v. *F.P.C.* 236 F.2d 606 (3rd Cir. 1956); See also: *Citizens of Allegan County, Inc.* v. *FPC* 414F.2d 1125 (D.C. Cir. 1969).

[4] *Gas Research Institute,* Opinion No. 30, issued September 21, 1978 in Docket No. RP78-76, at p. 31.

[1] *Gas Research Institute,* Docket No. RP78-76, "Opinion and Order Approving the Gas Research Institute's 1979 Research and Development Program", Opinion No. 30, issued September 21, 1978.

[2] *Ibid,* at 31 (mimeo ed.).

[3] The projected 1979 level of funding is $18.7 million.

[4] *Ibid.*

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[6740-02-M]

[Docket Nos. ER76-469 and ER76-508]

IDAHO POWER CO.

Compliance Filing

NOVEMBER 24, 1978.

Take notice that Idaho Power Company (Company) tendered, on November 8, 1978, a filing in purported compliance with Commission Opinion Nos. 809 and 809-A.

The Company states that all parties of record have been served with copies of this filing.

Any person desiring to be heard or to protest said application should file a petition to intervene, protest or comment with the Federal Energy Regulatory Commission, 825 North Capitol, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions, protests or comments should be filed on or before December 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this submittal are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33636 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-14]

IOWA SOUTHERN UTILITIES CO.

Application

NOVEMBER 24, 1978.

Take notice that on November 8, 1978, Iowa Southern Utilities Company (Applicant) filed an application with the Commission pursuant to Section 204 of the Federal Power Act and Part 34 of the Commission's regulations, for authorization to negotiate for the private placement of up to $15,000,000 of short-term First Mortgage Bonds or Debentures. Applicant is incorporated under the laws of the State of Delware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

The proceeds from the sale of Bonds will be used as part of the external capital requirements for 1979 to finance Company's construction program.

Any person desiring to be heard or to make any protest with reference to the application should on or before December 7, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33637 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-62]

LONE STAR GAS CO., A DIVISION OF ENSERCH CORP.

Application

NOVEMBER 22, 1978.

Take notice that on November 7, 1978, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP79-62 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000, which cost Applicant would finance from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33638 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-58]

METROPOLITAN EDISON CO.

Proposed Tariff Change

NOVEMBER 24, 1978.

Take notice that Metropolitan Edison Company (Met-Ed), on November 13, 1978, tendered for filing increased rates for all-requirements service to Hershey Electric Company and the Borough of Kutztown, Pennsylvania, served at transmission voltage under rate "RT", and to the Boroughs of Goldsboro, Lewisberry, and Royalton, Pennsylvania, served at distribution voltage under rate "RP". Met-Ed states that also tendered for filing are increased rates for partial requirements and wheeling service to Allegheny Electric Cooperative, Inc. Met-Ed further states that, based on the calendar year 1979 test period, the proposed rates would produce $3,637,945 in additional revenues from all-requirements customers and $1,134,552 in additional revenues from Allegheny.

Met-Ed requests an effective date of January 12, 1979, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Met-Ed's affected jurisdictional customers and the Pennsylvania Public Utility Commission, according to Met-Ed.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest or comment with the Federal Energy Regulatory Commission, 825 North Capitol, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of

Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests or comments should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33639 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CI65-781]

MOBIL OIL CORP.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 22, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI65-781 D, Jan. 30, 1974.....	Mobil Oil Corp., 3 Greenway Plaza East, Houston, Tex. 77046.	Cities Service Oil Co., Northwest Lovedale Field, Harper County, Okla.	(1)	.....

[1] Mobil proposes that its certificate be terminated and its rate schedule canceled.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 78-33629 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-44]

NEW ENGLAND POWER CO.

Order Accepting Compliance Filing

NOVEMBER 22, 1978.

On September 19, 1978, the New England Power Company (NEPCO) filed an unexecuted Power Contract for System Power Unreserved with the Town of Hudson (Hudson) in compliance with Ordering Paragraph (A) of the Initial Decision in this docket, issued July 13, 1978.[1]

This filing modifies an unexecuted Power Contract between NEPCO and Hudson filed with this Commission on November 3, 1977 which purported to effectuate the terms of a Letter Agreement between the parties dated January 13, 1977. The Letter Agreement, *inter alia*, summarized the charges, terms and conditions under which NEPCO would supply System-Power Unreserved to NEPCO and included the following provision:

"It is understood that the price for the capacity set forth above, *including transmission* (emphasis added), is firm at $53.00 per kilowatt year through October 31, 1978. Thereafter, the company reserves the right to adjust the price for said capacity on a cost of service basis. The price for energy will be at the Company's actual monthly system average production cost (fuel only)."

The final paragraph of the Letter Agreement provided that the parties would proceed to develop, based on such letter agreement, a formal agreement for the supply of System Power Unreserved, "including appropriate additional detailed provisions". The charges specified for System Power Unreserved under the Power Conract of November 3, 1977 were the sum of the following:

(1) A demand charge of $47.00 per kW-year.

(2) A Pool Transmission Facilities transmission charge of $6.00 per kW-year.

(3) A subtransmission charge as provided in NEPCO's FPC Electric Tariff, Original Volume No. 1, or in any superseding subtransmission tariff (at the time of filing equal to $1.20 per kW-year).

(4) An energy charge equal to the fuel cost allocable to energy delivered under the Power Contract.

NEPCO reserved the right to file unilaterally for an increase in charges on a "cost of service basis" after October 31, 1978.

The July 13, 1977 Initial Decision found the Letter Agreement to be a le-

[1] This decision was made final by the Commission's Notice of Final Decision issued September 5, 1978.

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gally binding contract between the parties. In addition, the judge ruled that the Power Contract "to the extent that it provides for a subtransmission (connector) charge (T–1 rate) is unjust and unreasonable". Ordering Paragraph (A) directed NEPCO to revise its filing to conform with the above findings and conclusion. The revised Power Contract filed September 19, 1978 differs from the original contract only in that it eliminates the subtransmission charge.

Notice of NEPCO's compliance filing was issued on September 27, 1978, with comments, protests or petitions due on or before October 13, 1978.

On October 12, 1978, Hudson filed a "Protest and Petition to Reject Compliance Filing." In its petition Hudson contends that, although the Revised Power Contract would result in the same level of charges for NEPCO's sales of System Power-Unreserved to Hudson as contemplated in the Initial Decision, the restatement of $53.00 per kW-year demand charge as the sum of a $47.00 per kW-year capacity charge plus a $6.00 per kW-year transmission charge constitutes an impermissible deviation from the terms of the Letter Agreement. Specifically, Hudson asserts that the differentiated statement of costs taken together with NEPCO's reservation of the right to unilaterally adjust such charges after October 31, 1978 would permit NEPCO to adjust either component of the demand charge to Hudson regardless of the level of system average costs. Hudson requests the Commission to reject the Revised Power Contract and order NEPCO to amend such contract to state the demand charge as $53.00 per kW-year, thereby eliminating the splitting of such demand charge into separate components.

On October 26, 1978, NEPCO filed a "Response of New England Power Company to Protest and Petition to Reject Compliance Filing". In their response, NEPCO argues that, in including the separate cost components in the Revised Contract, NEPCO was merely incorporating in the contract the details of the items which constitute the price term agreed upon. In addition, NEPCO asserts that Hudson is fully protected by the fact that any attempt by NEPCO to increase the rate at issue must be cost justified in all respects.

As stated in the Initial Decision, under the 1977 Letter Agreement the Company can adjust the price for "'all transmission' on a cost of service basis after October 31, 1978." Until such adjustment has been made and approved by the Commission, the contract must conform with the findings in the Initial Decision, as affirmed by Commission Notice issued September 5, 1978. Specifically, the revised contract must conform with the finding that the contract filed November 3, 1977, to the extent that it provides for a subtransmission (connector) charge (T–1 rate), is unjust and unreasonable.

It appears that NEPCO's filing conforms with the Commission's decision in this matter in that the subtransmission charged has been eliminated from the Revised Power Contract. Accordingly, Hudson's motion to reject the compliance filing is denied and the Revised Power Contract is accepted for filing to become effective May 2, 1977.

The Commission orders:

(A) The Petition to reject the Compliance Filing filed by the Town of Hudson is hereby denied.

(B) The Revised Power Contract for System Power-Unreserved between NEPCO and the Town of Hudson filed September 19, 1978 is accepted for filing as of May 2, 1977. This acceptance for filing does not constitute approval of any service, rate, charge classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the above-designated rate schedule; nor shall such acceptance be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted against NEPCO.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33640 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-57]

NEW ENGLAND POWER CO.

Filing

NOVEMBER 24, 1978.

Take notice that New England Power Company (NEP) on November 13, 1978, tendered for filing proposed amendments to the presently effective demand charge for the sale of System Power Unreserved power to various parties.

NEP states that the proposed amendments are filed in accordance with Paragraph E of Schedule III—C of its FERC Electric Tariff, Original Volume Number 2 and Article VI of Power Contracts between NEP and Fitchburg Gas & Electric Co., the Town of Hudson, Mass. and the Village of Lyndonville, Vt. that provide for a unilateral filing by NEP in order to adjust the rate set forth in the agreements on a cost of service basis.

NEP further states that the present rate has been in effect, without change, since November 1, 1975.

NEP requests an effective date of January 12, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33641 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-509]

NORTHERN INDIANA PUBLIC SERVICE

Order Accepting for Filing and Suspending Proposed Increase, Granting Interventions, Denying Motions To Reject, Instituting Procedures

NOVEMBER 22, 1978.

On July 27, 1978, Northern Indiana Public Service Company (NIPSCO) tendered for filing [1] proposed changes in its FERC electric service tariff (Third Revised Volume No. 1). The proposed changes would increase revenues for jurisdictional sales and service by $8,380,952 to its eight municipal customers (Towns) [2] and its 12 cooperative customers [3] (Cooperatives). The proposed increases are based on the projected twelve (12) month period ending December 31, 1978.[4]

Public notice of NIPSCO's filing was issued on August 1, 1978 with responses due on or before August 11, 1978.

On August 11, 1978, the Towns filed a document entitled "Petition of the Towns of Bremen, Indiana, *Et Al*, For Leave To Intervene, Motion To Reject Rate Filing, And, In The Alternative, Complaint And Request For Suspension Of Rate Schedule And Hearing." In addition to their request for intervenor status, the Towns raise a number of objections to NIPSCO's filing in support of their Motion to reject or, in the alternative, request for a 5 month suspension. The objections are summarized as follows:

(1) NIPSCO's failure to supply certain support data (such as comparative billing data, supporting calculations and work papers) is in violation of Section 35.13(b)(1) and Section 35.13 (4)(iii) of the Commission's Regulations.

(2) The existence of a price discrimination between NIPSCO's proposed VA–1 Wholesale Rates and its Retail Rates 624 (approved by the Public Service Commission of Indiana on September 28, 1977) adversely affects Bremen's ability to serve its (Bremen's) present retail customers and attract new customers located in the service area common to NIPSCO and Bremen. (Price Squeeze)

(3) NIPSCO's use of a beginning and end of year method instead of the 13-monthly average plant balances method in computing its rate base is inconsistent with Commission precedent.

(4) NIPSCO has not supplied adequate support data for use of a new 3.36% depreciation expense rate.

(5) NIPSCO's use of the Average and Excess Demand Method for demand allocation purposes is improper.

(6) NIPSCO's method of allocating general plant is inconsistent with Commission precedent.

The Cooperatives, on August 11, 1978, filed a document entitled "Motion to Reject, and Petition to Intervene." In that document, the Cooperatives request intervenor status and raise certain issues in addition to those issues propounded by the Towns:

(1) Projected O&M Expenses.

(2) Preparation of Period II data.

(3) Excessive overall rate of return of 9.29% and excessive rate of return on common equity of 12.50%.

(4) Inclusion of certain environmental facilities in the rate base.

(5) Purchase power expenses.

(6) Mismatch of fuel revenues and expenses.

(7) Land held for future use.

The City of Rensselaer (Rensselaer) on August 11, 1978, filed a protest and petition to intervene. In support of its pleading, Rensselaer states that, because it has previously proposed to receive service[5] under Rates VA–1 and VA–5,[6] it will be directly affected by NIPSCO's proposed rate increases.

On September 6, 1977, the Towns moved to file a supplement to their pleading within 10 days after NIPSCO has filed its responses to Staff's deficiency letters. Further, the Towns ask that the Commission not take any action with respect to NIPSCO's filing (as completed by NIPSCO's submittal of additional information in response to Staff's deficiency letters) until the Towns file and the Commission has had an opportunity to review such supplement.[7]

On October 5, 1978, the Cooperatives filed a supplement to their August 11, 1978 pleading. In that supplement, the Cooperatives essentially reiterate in more detail the arguments raised in their prior pleading. Additionally, the Cooperatives object to NIPSCO's failure to synchronize the interest expense used to compute NIPSCO's income tax liability with the interest expense used to compute its weighted cost of capital for rate of return purposes. The Cooperatives also emphasize NIPSCO's use of stale Period I data. Specifically, the Cooperatives argue that § 35.13(b)(4)(iii) precludes the use of Period I data when that data is more than 7 months old. According to the Cooperatives, the period from December 31, 1977 (the last day of NIPSCO's Period I data) to September 13, 1978 (the date NIPSCO filed additional data in response to Staff's first deficiency letter) represents a 44 day stale period. The Cooperatives' computation is in error. Section 35.13(4)(iii) in pertinent part reads:

(iii) The statement of the cost of service should contain unadjusted system costs for the most recent twelve consecutive months for which actual data are available (Period I) including return, taxes, depreciation, and operating expenses, and an allocation of such costs of the service rendered: *Provided, however*, That the last day of the 12 months of actual experience shall not be more than seven months prior to the date of tender for filing of the proposed notice of change in rates and charges.

Computing the 7 month rule consistent with the above provision, 7 months from December 31, 1977 to July 27, 1978 (the date of NIPSCO's *tender* for filing) is less than 7 months.

DISCUSSION

We note that NIPSCO has not explained how it has functionalized its general plant. In *Minnesota Power & Light Company*, Opinion No. 20, issued August 3, 1978 in Docket Nos. E-9499, *et al.*, we held that general plant should be allocated on the basis of labor ratios. Further, we held that labor ratios should be used in allocating general plant in succeeding cases. In subsequent orders,[8] we indicated that the use of labor ratios in functionalizing general plant was a "general rule" and held that the burden on the applicant was "to show that the labor ratios are unreasonable as applied to the company, not merely that its alternative method might be reasonable." NIPSCO bears this same burden in the instant case.

We also note that the present VA–11 Rate (and all of the proposed Rates) contain a future gross revenue tax adjustment clause. NIPSCO will be re-

[1] NIPSCO's submittal of additional data in response to two Secretary's deficiency letters (dated August 17, 1978 and October 6, 1978, respectively) completed its filing on October 23, 1978.

[2] The municipal customers (Towns) are the Towns of Bremen, Winamac, Walkerton, Argos, Brookston, Kingsford Heights, Etna Green, and Chalmers, Indiana.

[3] The cooperative customers (Cooperatives) are Wabash Valley Power Association, Inc. ("Wabash"), Carroll County Rural Electric Membership Corporation, Fulton County Rural Electric Membership Corporation, Jasper County Rural Electric Membership Corporation, Kankakee Valley Rural Electric Membership Corporation, Kosciusko County Rural Electric Membership Corporation, Marshall County Rural Electric Membership Corporation, Newton

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County Rural Electric Membership Corporation, Noble County Rural Electric Membership Corporation, LaGrance County Rural Electric Membership Corporation, Steuben County Rural Electric Membership Corporation, Warren County Rural Electric Membership Corporation, and White County Rural Electric Membership Corporation.

[4] See, Appendix A for a description of the present and proposed rates.

[5] Although Rensselaer is not presently served by NIPSCO, Rensselaer requested service under the VA–1 and VA–5 Rates in the ER78–266 proceeding. See, *Northern Indiana Public Service Company*, Docket No. ER78–236, (Order issued April 6, 1978).

[6] The VA–5 Rate is for municipal customers who desire service but are not located on the Company's electrical supply lines which are suitable and adequate for supplying the service requested. NIPSCO does not currently provide any service under Rate VA–5. At present, Rensselaer is the only municipal system within NIPSCO's service area to which the VA–5 rate would apply. Rates VA–1 and VA–5 are virtually identical. However, VA–5 differs from VA–1 in that VA–5 contains a surcharge provision which would cover the costs of adding such additional facilities as NIPSCO finds necessary to serve Rensselaer. Rate VA–5 also would require that the City sign an "all-requirements" contract with NIPSCO, which is not required under Rate VA–1. See, *Northern Indiana Public Service Company*, Docket No. ER78–236 (Order issued April 6, 1978).

[7] The Towns have informed the Director of the Office of Electric Power Regulation by letter dated October 2, 1978 about the continuing deficiencies of the July 27, 1978 filing as modified by NIPSCO's response to the Secretary's first deficiency letter. In any event, we believe the Towns' motion is unnecessary inasmuch as the Commission has 30 days (from the date the filing is *completed*) to suspend or reject the filing. During this interval, any party may amend or supplement its pleading within the limitation of § 1.11 of the Commission's Regulations. As of this date, the Towns have not filed a supplement to their August 11, 1978 pleading.

[8] *Pennsylvania Electric Company*, Docket No. ER78–494 (Order issued September 27, 1978); *Public Service Company of Indiana*, Docket No. ER78–513 (Order issued August 25, 1978). *Public Service Company of Colorado*, Docket No. ER78–507 (Order issued October 4, 1978).

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quired to file supporting data as speci-

pendent on the outcome of the ER78-

vene in this proceeding subject to the

tion of such issue in ER78-236 pro-

[6740-02-M]

mentioned in the October 3, 1978 amendment, pursuant to a gas gather-

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quired to file supporting data as specified in Section 35.13 of the Commission's Regulations prior to the implementation of the future gross revenue tax adjustment clause.

Additionally, we are of the opinion that the language of present and proposed availability clauses for the VA-11 Rate [9] and the VA-5 Rate [10] are unduly restrictive in that the availability clauses, on their face, prevent further wholesaling of power and energy purchased under the respective rate schedules. In a recent order,[11] the Commission, after examining an availability clause which contained similarly worded language, stated:

> Such a provision may unduly restrict the electric operation of purchasers under the tariff. In addition, this provision may be unduly discriminatory in that other agreements filed by Empire with the Commission do not contain a similar provision. In the recent order approving settlement in *Gulf States Utilities Company*, Docket No. ER76-816 (issued October 20, 1978), this Commission established a per se rule against direct resale prohibition, such as the one here, finding such provisions to be unduly restrictive and anticompetitive. Accordingly, we will direct Empire to remove the offending resale prohibition. However, recognizing the Company's legitimate need for orderly power supply planning, we will declare these restrictive provisions null and void and of no legal effect ninety (90) days from the date of issuance of this order. This time period will allow Empire to refile substitute tariff provisions appropriate for system planning.

We believe the above discussion is germane to our examination of the Va-11 and VA-5 availability clauses in the instant docket. Accordingly, we shall declare the restrictive language in availability clauses for the VA-11 and VA-5 Rates null and void and of no legal effect ninety (90) days from the date of the issuance of this order. NIPSCO shall file within ninety days of the issuance of this order a revised rate schedule excluding such restrictive language.

Inasmuch as the identical surcharge provision applicable to the VA-5 Rate (Which NIPSCO proposes to charge Rensselaer for the construction of facilities to provide service to Rensselaer) is subject to litigation in the ER78-236 proceeding, our determination of the justness and reasonableness of this surcharge will be made dependent on the outcome of the ER78-236 proceeding. Also, we shall direct the Presiding Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing Towns' request for data necessary to present their *prima facie* showing on the price squeeze issue.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission shall deny the Cooperatives' and Towns' motions to reject, and shall accept the submittal for filing and suspend the proposed November 23, 1978, effective date [12] after which the rates and services will go into effect on January 23, 1979, subject to refund.

Rensselaer, Cooperatives and Towns shall be entitled to intervene in this docket and may raise at hearing all of the issues alleged in their petitions to intervene, including additional cost of service issues which Petitioners have reserved the right to raise after a more thorough review of NIPSCO's filing.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rate increase submitted for filing by NIPSCO, establish procedures for that hearing, and that the proposed rate increase be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justnesss and reasonableness of the rate increase proposed by NIPSCO in this docket.

(B) Pending the hearing and decision thereon, the proposed increased rates and charges by NIPSCO originally submitted on July 27, 1978, are hereby accepted for filing, suspended for two months, and the use thereof deferred until January 23, 1979, when they shall become effective, subject to refund.

(C) Rensselaer, Cooperatives and Towns are hereby permitted to intervene in this proceeding subject to the rules and Regulations of the Commission; *Provided, however,* that participation by such intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) The Federal Energy Regulatory Commission Staff shall serve top sheets in this proceeding on or before March 22, 1978.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held within 10 days of the issuance of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(F) The Presiding Judge shall convene a prehearing conference within 15 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Strteet, N.E., Washington, D.C. 20426, for the purpose of hearing petitioners' request for data required to present their case, including a *prima facie* showing, on the price squeeze issue. NIPSCO shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the Cooperatives shall file their case-in-chief of the price squeeze issue within 30 days after the Company's response.

(G) The Towns' and Cooperatives' motions to reject, and in the alternative, suspend for 5 months are hereby denied.

(H) The future gross tax adjustment clause in NIPSCO's filing shall remain inoperative pending the filing of supporting data as specified in § 35.13 of the Regulations.

(I) Within 90 days of the date of issuance of this order, NIPSCO shall file a revised rate schedule excluding the restrictive language contained in the availability clause for the VA-5 and VA-11 Rate. This order is without prejudice to NIPSCO to file within that ninety day period appropriate tariff provisions in accordance with the discussion in the body of this order. Such refiling shall be subject to Commission review and approval.

(J) The reasonableness of the surcharge provision applicable to the VA-5 rate shall depend upon the resolution of such issue in ER78-236 proceeding.

(K) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33642 Filed 11-30-78; 8:45 am]

[9] The language of the VA-11 availability clause reads: Available only to non-profit rural electric membership corporations, organized under the "Rural Electric Membership Corporation Act" of Indiana, for purchases of electric energy to be used solely for retail sale to ultimate users.

[10] The language of the VA-5 availability clause in pertinent part reads: Available to municipals [Towns] * * * for their own use and for distribution and retail sales to ultimate users supplied service direct by the municipal system.

[11] *Empire District Electric Company*, Docket No. ER78-591 (Order issued October 27, 1978).

[12] Since NIPSCO has not changed its initial request for an effective date of September 1, 1978, the filing will be assigned an effective date of November 23, 1978 (30 days after NIPSCO completed its filing).

[6740-02-M]

[Docket No. ER79-58]

NORTHERN STATES POWER CO.

Filing

NOVEMBER 24, 1978

Take notice that Northern States Power Company (Northern States) on November 13, 1978, tendered for filing Supplement No. 2, dated November 6, 1978, to the Interconnection and Interchange Agreement, dated September 16, 1977, with the City of LeSueur, Minnesota.

Northern States indicates that Supplement No. 2 terminates Supplement No. 1 and amends Article IV of the Interconnection and Interchange Agreement deleting sections no longer needed because LeSueur has agreed to purchase its power and energy requirements from Northern States.

Northern States further indicates that Supplement No. 2 adds a new §4.09 *Services to be Rendered*, providing the following Service Schedules:

"A-1," Load Pattern Power,
"C," Emergency and Scheduled Outage Energy.
"E," Economy Energy,
"H," Peaking Power.

Northern States proposes an effective date of December 20, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33643 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-263]

NORTHWEST PIPELINE CORP.

Petition To Amend

NOVEMBER 22, 1978.

Take notice that on November 9, 1978 Northwest Pipeline Corporation (Petitioner), 315 East Second Street South, Salt Lake City, Utah 84111, filed in Docket No. CP77-263 a petition to amend the Commission's order issued December 6, 1977, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation and exchange of natural gas with RMNG Gathering Company (RMNG) from additional acreages in Garfield County, Colorado and in Grand County, Utah, and to authorize the delivery of the natural gas to RMNG at additional delivery points, pursuant to an exchange agreement of February 2, 1977 (Exchange Agreement), as amended, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of December 6, 1977, Petitioner was authorized to sell to and exchange natural gas with RMNG pursuant to the Exchange Agreement. It is further indicated that Petitioner filed its first petition to amend the Commission's order on May 25, 1978, and its second petition to amend the order on August 7, 1978, in conjunction with exchange agreement amendments dated September 12, 1978, February 20, 1978, June 21, 1978, and July 18. Petitioner's first two amendments, which requested authority for the transportation of natural gas from additional acreages and delivery points, are both pending further action by the Commission.

By the instant petition to amend the Commission's order, Petitioner requests authority to exchange natural gas with RMNG pursuant to four additional amendments to the exchange agreement as amended, dated October 3, 4, 5, and 6, 1978.

The petition stated that the October 3, 1978 amendment adds three new delivery points in Garfield County, Colorado; that the October 4, 1978 amendment adds additional acreages in Garfield County, Colorado, and Grand County, Utah, that would be subject to the Exchange Agreement; that the October 5, 1978, amendment adds to new delivery points in Garfield County, Colorado and one new delivery point in Grand County, Utah; and that the October 6, 1978 amendment adds one new delivery point in Garfield County, Colorado.

It is stated that Petitioner has arranged with Colorado Interstate Gas Company for the transportation or purchase of natural gas from the wells mentioned in the October 3, 1978 amendment, pursuant to a gas gathering and transportation agreement of March 16, 1976, as amended October 12, 1978; that Petitioner has agreed with the Southwest Gas Corporation (Southwest) for the transportation or purchase of the volumes of natural gas which Southwest has available from the wells mentioned in the October 5, 1978 amendment, pursuant to a Gas Purchase, Gathering and Transportation Agreement dated September 12, 1978; and that Petitioner is presently negotiating with Walter S. Fees, a small producer, for the purchase of natural gas from the well mentioned in the October 6, 1978 amendment.

It is stated that the additional volumes of natural gas delivered by Petitioner to RMNG for transportation and exchange pursuant to the above described October amendments would be redelivered to Petitioner at the existing RMNG exchange meter located on Petitioner's main line. RMNG would not have the right to purchase any of this natural gas, it is asserted. It is stated that the additional volume of natural gas from these wells would be 1,200 Mcf per day. It is stated that a transportation rate of 8.0 cents per Mcf would be charged for these volumes. it is further stated that Petitioner would construct any necessary jurisdictional facilities to connect these additional wells to delivery points on RMNG's gathering system pursuant to the gas-purchase budget-type authorization issued Petitioner on September 30, 1977 in Docket No. CP77-507.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33644 Filed 11-30-78; 8:45 am]

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sion's Rules. All persons who have taken, but will not serve to make prot-

Act (18 CFR 157.10). All protests filed intervene or a protest in accordance would eliminate any reference to cer-

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[6740-02-M]

[Docket No. CP78-348]

NORTHWEST PIPELINE CORP.

Amendment

NOVEMBER 22, 1978.

Take notice that on November 9, 1978, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-348 an amendment to its application filed pursuant to Section 7(c) of the Natural Gas Act in the instant docket to provide for the transportation for Colorado Interstate Gas Company (CIG) of natural gas from three additional wellheads and for blanket authority to add further wellhead delivery points from CIG to Applicant all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

The application in this proceeding sought authorization to transport up to 5,000 Mcf per day of natural gas for the account of CIG from seven wells located in Garfield County, Colorado, based on a three-part rate schedule. Further, it is indicated that the agreement between the parties, dated March 16, 1978, provides that Applicant may purchase up to 25 percent of the gas received from CIG at a price equal to that paid by CIG for such gas.

Applicant asserts that the blanket authorization requested would permit the timely connection of volumes of gas available to CIG and, in the future would eliminate the need to file for Commission authorization each time an additional well is developed.

It is stated that the rate structure contained in the agreement dated March 16, 1978 remains unchanged for the transportation and purchase of natural gas from the additional wells.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33645 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-55]

OHIO POWER CO.

Filing

NOVEMBER 20, 1978.

Take notice that American Electric Power Service Corporation (AEP) on November 13, 1978 tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio), Supplement No. 6 dated October 16, 1978 to the Interconnection Agreement dated January 1, 1952, between Ohio and Ohio Edison Company, designated Ohio Rate Schedule FPC No. 25.

AEP states that Section 1 of Supplement No. 6 provides for an increase in the Demand Charge for Short Term Power from $0.60 to $0.70 per kilowatt per week. AEP further states that Section 2 of Supplement No. 6 provides for an increase in the transmission charge for third party Short Term Power Transactions from $0.15 per kilowatt per week to $0.175 per kilowatt per week. AEP indicates that since the use of Short Term Power cannot be accurately estimated for the twelve months period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this supplement for such period. AEP further indicates that Exhibit I which was included with the filing of this Supplement, demonstrates that the increase in revenues which would have resulted had the Supplement been in effect during the twelve month period ending August 1978, would have been $654,154.72 (i.e., from $20,297,682.77 to $20,951,837.49) for sale.

AEP proposes an effective date of October 23, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Ohio Edison Company and the Public Utilities Commission of Ohio, according to AEP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33646 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-619]

PANHANDLE EASTERN PIPE LINE CO.

Petition To Amend

NOVEMBER 22, 1978.

Take notice that on November 14, 1978, Panhandle Eastern Pipe Line Company (Petitioner), 3000 Bissoret, Houston, Texas 77001, filed a petition in Docket No. CP77-619 pursuant to Section 7(c) of the Natural Gas Act, to amend the order of the Commission issued May 2, 1978 in said docket, to authorize Petitioner to utilize presently owned compressor facilities and thus avoid purchasing new compressor facilities, all as is more fully set forth in the petition which is on file with the Commission and open for public inspection.

It is stated that the order of May 2, 1978 authorized Petitioner to construct a 150.4 mile pipeline, and install 15,600 compressor horsepower facilities. Petitioner states that it can save $455,000 in facilities costs if the Order is amended to authorize Petitioner to (1) relocate 1270 compressor horsepower presently located at the Denison II Compressor Station to the Poling Compressor Station, Carson County, Texas; (2) relocate 1000 compressor horsepower presently located at the Masterson Compressor Station to the Griffith Compressor Station, Moore County, Texas; (3) relocate 600 compressor horsepower from the Richland Compressor Station to the Hanes Compressor Station, Cimmarron County, Oklahoma; and (4) install 1800 compressor horsepower of new facilities at the Masterson Compressor Station, Moore County, Texas. It is stated that these modifications in the Order would result in an additional 70 compressor horsepower for the pipeline.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearng therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33647 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-75]

PANHANDLE EASTERN PIPE LINE CO.

Application

NOVEMBER 22, 1978.

Take notice that on November 14, 1978, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-75 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compressors, pipelines and related facilities in Greeley, Hamilton and Kearny Counties, Kansas, necessary to connect new supplies of natural gas, all as more fully set forth in the application filed with the Commission and open for public inspection.

It is stated that Applicant has agreed with Dernick, Land and Company, Remuda Corporation, and Sam A. Kinard to purchase natural gas to be produced from approximately 30,000 acres in the aforementioned Kansas counties; that in order to connect these natural gas volumes with Applicant's existing pipeline system, additional pipelines, compressors, and related facilities are necessary; and that the cost of these facilities is estimated to be $4,383,000, all of which would be financed with funds available to Applicant.

Specifically, it is stated that the following facilities would be required:

(1) A compressor station located in Hamilton County, Kansas, equipped with 1400 compressor horsepower;

(2) 18.5 miles of 4-inch pipeline, 15.5 miles of 6-inch pipeline, and 15.5 miles of 8-inch pipeline in Greeley and Hamilton County, Kansas;

(3) 12.5 miles of 8-inch high pressure discharge pipe in Hamilton and Kearny Counties, Kansas.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33648 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket Nos. ER78-460 and ER78-483]

POTOMAC EDISON CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Denying Motions, Granting Intervention, Providing for Hearing, and Establishing Price Squeeze Procedures

NOVEMBER 22, 1978.

On June 26, 1978, pursuant to Section 205 of the Federal Power Act, the Potomac Edison Company (Potomac) submitted for filing a proposed rate increase applicable to six wholesale customers. The proposed rates represent an increase to these wholesale customers of approximately $989,507 for the twelve month period succeeding the proposed effective date of July 25, 1978.[1] Additionally, the filed tariff would eliminate any reference to certain former customers of Potomac located in Pennsylvania whose service requirements were transferred to West Penn Power Company as of January 1, 1977. In support of its filing, Potomac relied on increases in the cost of capital, labor, materials and supplies since it last increased its rate to thse wholesale customers.[2]

On July 11, 1978, Potomac submitted for filing under Section 206 of the Act the same rate representing an increase of $264,346 based on the same test period applied to the Town of Front Royal, Virginia. Potomac did not request an effective date for the proposed filing, which was designated Docket No. ER78-483.[3]

With these separate filings, Potomac would have bifurcated what is essentially one rate case, involving a request for $1,253,853 in increased wholesale revenues for the twelve months ending December 31, 1977. Potomac's action was significant in light of our Regulations in that each portion of its bifurcated submission represented an increase of less than one million dolars, for which our Regulations require only Period I test data, whereas, considered as a whole, the proposed rate increase exceeds that dollar threshold and require Period II data as well. Potomac did not submit a complete request for an increased rate until July 11, 1978, the date of its Front Royal submission.

On August 14, 1978, Potomac filed a Motion for Rehearing and Reconsideration of the Commission's July 31, 1978 letter order.[4] Potomac asserts,

[1] Potomac's ease-in-chief, which is based on a test period consisting of the twelve months ended December 31, 1977, indicates increased revenues of approximately $999,846, or 18.44%, for that period.

[2] Notice of the filing was issued on July 6, 1978, with protests or petitions to intervene due on or before July 14, 1978. On July 10 and July 14, respectively, Potomac's cooperative and municipal customers filed petitions to intervene. The issues raised in these petitions will be discussed *infra*.

On July 14, 1978, the Honorable Charles McC. Mathias, Jr., United States Senator, submitted comments on behalf of Cities. These comments will be treated as a protest and considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestant a party to these proceedings. 16 CFR 1.1(b).

An untimely notice of intervention, filed on July 17, 1978, by the Public Service Commission of Maryland requests suspension of Potomac's proposed rates, alluding to the potential effect of the rate increases upon various public service companies subject to that Commission's jurisdiction and upon ultimate consumers within the State of Maryland.

[3] Notice of the filing was issued on July 19, 1978, with protests or petitions to intervene due on or before July 28, 1978. On July 26, 1978, the Town of Front Royal, Virginia, filed a petition to intervene and raised issues which will be discussed *infra*.

[4] By notice dated November 9, 1978, the Secretary indicated that, pursuant to Section 1.34(c) of the Commission's Rules and

Footnotes continued on next page

("Cooperatives") jointly filed a pro-

nancial burden. With respect to the ef-

On October 16, 1978, Front Royal

filing and under identical rates. Be-

error has occurred the Commission is

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inter alia, that it was error to consolidate the proceedings. According to Potomac, the filing in Docket No. ER78-460 does not involve fixed rate contracts and is, therefore, subject to Section 205 of the Act, whereas the filing in Docket No. ER78-483 has been characterized as a fixed rate contract and, therefore, the increase in rates covered by such contract is subject to Section 206 of the Act. Potomac alleges that consolidation of the dockets would somehow confuse, complicate and lengthen the regulatory process. To the contrary, we have determined that consolidation was necessary because identical rates and test data are at issue regarding similarly situated wholesale customers. The burden of proof is on the applicant to demonstrate the justness and reasonableness of each proposed increase. No new facts or arguments were raised in the Company's motion that provide a basis for reconsidering an original order. Accordingly, Potomac's motion for reconsideration is herein denied.

By submittals filed September 28, 1978, and October 25, 1978, Potomac cured the deficiencies and completed its filing.[5] The consolidated application involves a proposed rate increase of $1,303,928 (16.46%) for the twelve month period succeeding July 1, 1978. The consolidated filing would apply to one investor-owned utility, two cooperative customers, and four municipal customers.[6]

Notice of the consolidated filing was issued on October 5, 1978, with comments, protests or petitions to intervene due on or before October 16, 1978.

On October 12, 1978, Old Dominion Electric Cooperative, Inc., Shenandoah Valley Electric Cooperative, Inc., and BARC Electric Cooperative, Inc. ("Cooperatives") jointly filed a protest, petition to intervene, and request for a five month suspension and hearing.[7]

The Cooperatives challenge Potomac's 15.26% requested rate of return on common equity as unjustified and in excess of the return on common equity approved by the Commission in Opinion No. 13.[8] However, the cited opinion does not quantify a particular return that must be used in all cases. This issue is properly the subject of a full evidentiary hearing which we shall herein order.

Cooperatives also object to (a) an adjustment to test year expenses to normalize the effect of a recent increase in the West Virginia Business and Occupation Tax which is currently subject to judicial challenge by Potomac and other utilities; (b) a cost of service adjustment for annualized wage and salary increases during the 1977 test year, allegedly without corresponding revenue and productivity data; (c) an asserted failure to adhere to the "rolled-in" transmission allocation method; and (d) a possible exaggeration of losses as reflected in the development of demand and energy allocation factors. These issues can only be determined after an evidentiary hearing.

Further, Cooperatives protest the Company's request that the Commission waive its notice requirements to permit an effective date of June 21, 1978.[9] The Cooperatives contend that retroactive effectiveness for the Period II and other data filed September 28 would place an unreasonable burden upon the Cooperatives. In particular, Cooperatives in Virginia are regulated by the Virginia Corporation Commission and it would be impossible for them to recover any retroactive wholesale increase from their retail customers. They would impose upon them an unjust and unreasonable financial burden. With respect to the effective date, the Company has not shown good cause pursuant to Section 35.11 to waive the Commission's notice requirements. We will, therefore, deny Potomac's request for a June 21, 1978 or a July 25, 1978 effective date.

As a corollary to their arguments concerning retroactive effectiveness, Cooperatives claim that the Company's Period I data are more than seven months old and therefore stale under Section 35.13 of our Regulations. However, Section 35.13 of the Regulations speaks to the "date of tender for filing" and not to the date on which the filing is considered complete. Potomac's submittals were tendered within the prescribed seven month period for Period I data.

On October 16, 1978, a Supplemental Protest, Petition to Intervene and Request For Five Month Suspension was filed by the Cities of Hagerstown, Thurmont and Williamsport, Maryland ("Cities"), which are wholesale customers subject to Potomac's proposed rate increase.[10] In support of their request for a five month suspension, Cities raised several of the same issues raised by Cooperatives. In addition, Cities question the propriety of a transfer of property between Potomac and its affiliate, West Penn Power. Cities further maintain that the proposed wholesale rates, being substantially in excess of Potomac Edison's comparable retail rates, give rise to a "price squeeze." *Conway Corp.* v. *F.P.C.*, 510 F. 2d 1264 (1975), *aff'd*, 426 U.S. 271 (1976). Pursuant to the policy set forth in Order no. 563, and in Section 2.17 of our Regulations, we shall herein provide for the initiation of price squeeze procedures. Finally, Cities protest the company's request for a retroactive effective date.[11]

Footnotes continued from last page

Regulations, Potomac's Motion for Reconsideration was denied by operation of law. We have since determined that Section 1.34 does not apply to Motions for Reconsideration. Potomac's motion, therefore, cannot be denied by operation of law pursuant to that section and is properly denied by the Commission's order herein.

[5] On September 28, 1978, the Company submitted Period II data (for the 12 month period ending June 30, 1979), a revised Statement M (Schedules 1 and 2) and Statement N (Schedule 1) of Period I of the initial filing and additional testimony, requesting the Commission "to waive any applicable requirements, not already complied with, in its Rules and Regulations in connection with this submittal and to permit the proposed rate to become effective as originally requested on June 21, 1978 and July 7, 1978, by the Company.

Potomac's September 28, 1978 filing, however, failed to include comparative revenues with the Period II data. The Company was notified of the deficiency by Commission letter dated October 16, 1978 and provided such data in its October 25, 1978 filing.

[6] *See* Attachment No. 1 for designations.

[7] On July 10, 1978, Cooperatives had filed a protest and Petition to Intervene and Request For Five Month Suspension and Hearing based upon Potomac's June 26, 1978 filing in ER78-460. All of the issues raised in the July 10th petition were again raised in the October 12th petition, except for the challenge of Potomac's inclusion of Accumulated Job Development Tax Credit (AJDTC) in the Company's capital structure as a component from Common Equity. Potomac removed AJDTC from its capital structure in its September 28, 1978 submittal of Period II data.

[8] *Idaho Power Company*, Docket No. ER76-469 and ER76-508, issued May 5, 1978.

[9] In its original submittal in Docket No. ER78-460 dated June 21, 1978, but not received by the Secretary until June 26, Potomac requested an effective date of July 25, 1978. In subsequent filings it requested an effective date of June 21, 1978. Since we intend to deny any waiver of our notice requirements, there is no need to resolve this inconsistency in pleadings.

[10] On July 14, 1978, Cities filed a protest, Petition to Intervene, motion to Reject and Motion for Maximum Suspension Period in Docket No. ER78-460. In support of their motion to reject, Cities argued that the Commission should consider the filings in Docket Nos. ER78-460, and 483 together and require Potomac to submit Period II data as required by Section 35.13. The Commission's July 31, 1978 consolidation letter requiring Period II data has effectively granted this motion. Many of the arguments raised by Cities in favor of the maximum suspension period are included in their supplemental Petition and will be discussed in connection with that pleading. In addition, Cities take issue with Potomac's inclusion of a tax adjustment in its proposed fuel adjustment clause as well as certain tariff provisions pertaining to minimum load and power factors and minimum bills. Again, these are matters appropriately left to resolution in the hearing process.

[11] Cities filed a Protest and Motion to Reject the Company's request on November 13, 1978. In it, they again protest a retroactive effective data and argue in favor of rejecting the entire filing based on defective period I data.

On October 16, 1978, Front Royal filed a Protest, Petition to Intervene, and Motion to Reject.[12] Front Royal contends that the Period II data submitted by Potomac are deficient in that the Company has failed to provide a "full explanation of the basis of each of the estimated figures" as required under Section 35.13. We would simply note that by letter dated October 16, 1978 we require the Company to file additional data in support of its Period II figures. Upon receipt of that data on October 25, 1978, we determined that the filing was complete.

In addition, Front Royal questions the method by which the AFUDC rate was determined and the appropriateness of the 45-day working cash allowance in this case. Front Royal also raises questions as to the effect of the Allegheny Power system reorganization on the proposed rate increase. Again, these issues are properly the subject of an evidentiary hearing. Finally, Front Royal reserves the right to allege price squeeze after comparing Potomac's wholesale and retail rates.

On November 6, 1978, Potomac filed its response to its wholesale customers' interventions. Potomac noted that while all of the cost-of-service issues may require investigation, there is no basis for a five-month suspension.

We find that participation by the Petitioners, Cities, Cooperatives and Front Royal in this proceeding may be in the public interest. Accordingly, the Commission will grant the Petitioners' interventions pursuant to Section 1.8(d) of our Regulations.

With respect to those rates to the six wholesale customers subject to Section 205, our review of the filing indicates that the proposed rates have not been shown to be just and reasonable. We therefore will suspend the proposed rates and charges for one day and permit them to become effective subject to refund on November 26, 1978.

In connection with the assignment of an effective date, we note that the Commission did not issue an order within the thirty day period prescribed by Section 205(d) of the Act. We maintain, however, that this does not limit our power to suspend the proposed rates under the following analysis. Potomac filed its proposed rates for six of its wholesale customers under Section 205 on June 26, 1978. Two weeks later and *before* the passage of the thirty days, Potomac submitted a Section 206 filing for Front Royal, a seventh wholesale customer taking a service identical to one of the services involved in the Section 205 filing and under identical rates. Because the Commission made the determination that the July 11, 1978 filing was essentially a part of the June 26, 1978 filing, the thirty day period can be deemed to have commenced when the entire submittal was tendered; *viz.*, on July 11, 1978. We repeat that the Company should not be permitted to subvert the purposes underlying Section 35 of our Regulations by bifurcating what is essentially one rate case. Thus, the Commission's July 31, 1978 letter consolidating the two sets of filings and requiring additional data was issued within the thirty day period.

Even if we considered the two filings as wholly independent of one another, there is an additional legal basis for the exercise of the Commission's suspension power in this case. The letter consolidating the two dockets and citing deficiencies in the filings was prepared and approved by the Commission at a public meeting on July 26, 1978. Aside from minor editorial revisions, the letter was to be issued as approved by the Commission at its July 26th meeting. No member of the Commission requested that the letter be returned for additional approval before issuance. The letter was then delivered to the Office of the Secretary with instructions that it be issued by July 27, 1978, *i.e.*, within the thirty day period. The letter, however, was not issued until July 31, 1978. Thus, failure to issue the order within the thirty days resulted from a mere clerical error and did not result from a change in policy decision by members of the Commission.

It is well established that an administrative agency has an inherent power to correct mistakes resulting from oversight or inadvertence. *American Trucking Associations* v. *Frisco Transportation*, 358 U.S. 133, (1958). In *Frisco*, the Supreme Court held that the Interstate Commerce Commission had the power to correct a certificate which originally contained certain limitations but, as a result of an inadvertent clerical error, was issued without such limitations. The Court emphasized, however, that this power extends only to reopening prior proceedings to correct a mistake and not to modify a certificate to execute a policy change or newly developed policies. Chief Justice Warren, speaking for the Court, pointed out that the Commission's enabling act provides that:

"The Commission shall conduct its proceedings under any provision of law in such manner as will best conduce to the proper dispatch of business and to the ends of justice." This broad enabling statute, in our opinion, authorized the correction of inadvertent ministerial errors. To hold otherwise would be to say that once an error has occurred the Commission is powerless to take remedial steps. This would not, as Congress provided, "best conduce to the ends of justice." In fact, the presence of authority in administrative officer tribunals to correct such errors has long been recognized—probably so well recognized that little discussion has ensued in the reported cases. 358 U.S. at 145, 79 S. Ct. at 177, 3 L. Ed. 2d at 181.[13]

In suspending the proposed rate increase subject to the Section 205, the Commission is acting in accordance with a decision made at a public meeting to issue a letter order consolidating the two dockets and citing deficiencies. The Commission, in suspending the effective date of the new rate at this time, is, therefore, acting "to correct [the Secretary's] mistake" and not attempting to "execute a policy change or newly developed policies." *Frisco, supra.* This action is consistent with and, indeed, required by our legislative mandate to regulate electric utility companies engaged in interstate commerce in such a way as to promote the public interest. Clearly, the public interest is best served in this case by preventing the customers from being the innocent victims of a clerical mistake, permitting the rates to become effective after one day suspension, subject to refund, and allowing the parties to litigate the issue of the reasonableness of the proposed rates. We do not mean to suggest that the general public interest standard can be invoked to override the more specific policy mandates of Section 205. We are simply saying that, where the Commission has made a clear decision to exercise its discretionary power, this power cannot be vitiated through a mere clerical error.

With respect to those rates filed for the Town of Front Royal, the Commission has determined that an investigation under Section 206 should be instituted. The proposed rate is accepted for filing, then, to become effective for Front Royal as modified on the date of a final order.

The Commission orders:

[12] On July 26, 1978, Front Royal filed a protest and petition to Intervene in Docket No. ER78-483. The arguments raised in that petition were incorporated into the October 16, 1978 petition.

[13] In *Wiley* v *United States*, 245 F. Supp. 669, (E.D. Ill. 1965) the court was faced with a similar situation in that the ICC's certificate granted broader authority than the evidence justified. Stating that the "case should be considered as one in which the Commission does have the power to revoke or modify a certificate," *Id.* at 667, the court held that although the certificate is the final step in the administrative process, the Commission has power to revoke wholly or partially, without resort to Section 212(a), certificates issued as a result of inadvertence or mistake. The distinction, as viewed by the Illinois court, is one between conscious policy and, as in *Frisco*, "error in the administrative process of fashioning [a] certificate." *Id.* at 676. *See*, also *Strickland Transportation Co.* v. *United States*, 274, F. Supp. 921 (N.D. Texas 1967).

D E 1 7 8 UMI

(A) The Cooperatives' Cities', and

By the Commission.

State Park, which would be constructed during the second five year period,

gather gas to West Delta Block 133 through its crude oil pipeline which

working interest share[2] of natural gas produced from the J.O. Brooks #1

(B) Sidwell is authorized to collect a total rate of 69.44¢ per Mcf at 14.65

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(A) The Cooperatives' Cities', and Front Royal's Motions to Reject the filing are hereby denied.

(B) Potomac's Motion for Reconsideration of the Commission's July 31, 1978, letter is hereby denied.

(C) Waiver of the Commission's notice requirements is hereby denied.

(D) The filings subject to Section 205 are accepted for filing and suspended for one day to become effective November 26, 1978, subject to refund. The filing subject to Section 206 is set for investigation under that section and the proposed rate is accepted for filing to become effective for Front Royal as modified on the date of a final order.

(E) Pursuant to Section 2.17 of the Commission's Regulations, we hereby order initiation of price squeeze procedures.

(F) The petitioners, the Cities, Cooperatives, and the Town of Front Royal, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene: *and provided further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Potomac Edison Company.

(H) The staff shall serve top sheets in this proceeding on or before February 1, 1979.

(I) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The designated Law Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33649 Filed 11-30-78; 8:48 am]

[6740-02-M]

[Project No. 2305]

SABINE RIVER AUTHORITY OF TEXAS AND SABINE RIVER AUTHORITY, STATE OF LOUISIANA

Application for Approval of Revised Recreation Plan

NOVEMBER 21, 1978.

Take notice that an application was filed May 24, 1978, by the Sabine River Authority, State of Louisiana (correspondence to: Mr. R. D. Morgan, Chief Engineer, Sabine River Authority of the State of Louisiana, P.O. Box 44155 Capitol Station, Baton Rouge, Louisiana 70804) under the Federal Power Act, 16 U.S.C. §§ 791a-825r, for approval of revised plans for recreational development at the constructed Toledo Bend Project, FERC No. 2305. The Authority is, with the Sabine River Authority of Texas, a joint licensee of the project, located on the Sabine River in Newton, Sabine, and Shelby Counties, Texas, and Sabine and De Soto Parishes, Louisiana. The project occupies lands of the Sabine National Forest.

The revised recreation plan proposed by the Authority is for the Louisiana portion of the project. A revised plan is also being proposed by the Sabine River Authority of Texas for the Texas portion of the project. A separate notice will be issued for that plan when the filing is completed.

The received plan of the Sabine River Authority, State of Louisiana calls for transferring the responsibility for recreational development now vested with it to the Louisiana State Parks and Recreation Commission (La SPARC). The present recreation plan for the project approved some 16 recreational areas on the Louisiana shore. La SPARC would trade land in these areas to acquire land to develop two major state parks to be known as North and South Toledo Bend Parks, under two consecutive five year programs. It is anticipated that the North Toledo Bend State Park would be constructed during the first five year period, would consist of approximately 1,000 to 1,200 acres, and would be located on the northern half of the reservoir. The park would offer water-related recreational opportunities such as swimming, boating, skiing, and fishing, as well as facilities for activities usually available in large state parks including camping grounds, hiking trails, playgrounds and cabins. The South Toledo Bend State Park, which would be constructed during the second five year period, would be a 1,200-acre facility near the project dam. Striped bass fishing is already established. Other recreational opportunities would be similar to those described for the North Toledo Bend Park. The estimated cost for both parks is 9.7 million dollars.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 2, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33650 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CI79-115]

SHELL OIL CO.

Limited-Term Certificate Application

NOVEMBER 22, 1978.

Take notice that on November 3, 1978, Shell Oil Company (Shell), P.O. Box 2099, Houston, Texas 77001, filed in Docket No. CI79-115 an application for a limited-term certificate of public convenience and necessity with pregranted abandonment authority requesting that Applicant be authorized to sell in interstate commerce, for resale, natural gas produced by Applicant from Mississippi Canyon Block 311 Field, Offshore Louisiana to Florida Gas Transmission Company, pursuant to the provisions of Section 7 of the Natural Gas Act, as amended, and Section 2.70 of the Commission's Rules of Practice and Procedure.

Applicant states that it is seeking a limited-term certificate of public convenience and necessity for a term from the date of initial delivery of gas to Florida at Southern's facilities in West Delta Block 133 until such time as both Shell and Florida are prepared to deliver and receive the subject gas at the Mississippi Canyon Block 311 Platform "A" facility, or until such time as Shell no longer has the capacity to gather gas to West Delta Block 133 through its crude oil pipeline, whichever is earlier.

Any person desiring to be heard or to make any protest with reference to said application, on or before December 13, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33651 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-83]

SIDWELL OIL & GAS, INC.

Special Relief; Order Granting Petition for Special Relief and Permitting Intervention

NOVEMBER 22, 1978.

On July 28, 1978, Sidwell Oil and Gas, Inc. (Sidwell) filed a petition for special relief in Docket No. RI78-83 pursuant to Section 2.76 of the Commission's General Policy and Interpretations. Sidwell, a small producer,[1] requested a rate of 69.44¢ per Mcf at 14.65 p.s.i.a. for the sale of its 75% working interest[2] of natural gas produced from the L.O. Brooks #1 Well, Section 224, Block 2, GH & H Survey, Farwell Creek (Morrow Lower) Field, Hansford County, Texas. The gas is sold to Panhandle Eastern Pipe Line Company (Panhandle).

PROCEDURAL HISTORY

Notice of Sidwell's petition for special relief was issued September 15, 1978 (43 Fed. Reg. 43363). A timely petition to intervene was filed October 2, 1978 by Panhandle.

PROPOSAL

Under the terms of its March 15, 1971 gas purchase contract with Panhandle, Sidwell currently collects a rate of 40.05¢ per Mcf at 14.65 p.s.i.a. Panhandle has agreed by contract amendment dated May 19, 1978 to pay Sidwell the rate authorized by the Commission.

Sidwell proposes to purchase and install a pumping unit at the well in order to remove Lower Morrow formation water. Water encroachment is causing a decline in natural gas production from the well. The total installation cost is $31,777, of which $23,833 is assigned to Sidwell's 75% working interest. It is estimated that such new investment will result in the production of an additional 114,455 Mcf of reserves[3] over the remaining production life of 3.75 years.

COST ANALYSIS

Staff's analysis indicates that Sidwell's remaining net book investment, based on its 75% working interest, is $11,591. Operating expenses over the remaining 3.75 years of productive life are estimated at $19,559. Operating expense is based on a first year expense of $4,865 for the 75% working interest, escalated at an annual rate of 5% over the remaining life of the project. Sidwell's share of estimated reserves is 80,476 Mcf.

Using the above data and traditional Commission methodology, Staff prepared a cost study to determine what rate will provide both recovery of costs and a 15% rate of return. The results show that the requested rate is cost-supported.

The Commission has reviewed Staff's analysis and concluded that the requested rate is cost-supported and that it is in the public interest to grant Sidwell's petition for special relief.

The Commission orders: (A) The petition for special relief of Sidwell Oil and Gas, Inc. in Docket No. RI78-83 is hereby granted.

(B) Sidwell is authorized to collect a total rate of 69.44¢ per Mcf at 14.65 p.s.i.a. for the sale of gas from the L.O. Brooks #1 Well, Section 224, Block 2, GH & H Survey, Farwell Creek (Morrow Lower) Field, Hansford County, Texas to Panhandle Eastern Pipe Line Company, effective on the date of this order or the date the proposed work is completed, whichever is later, subject to the condition set forth in paragraph (C) below.

(C) Within 30 days of the effective date of this order, as defined in ordering paragraph (B), Sidwell must file a statement signed by Panhandle Eastern Pipe Line Company that the proposed pumping unit has been installed to its satisfaction.

(D) Panhandle Eastern Pipe Line Company (Panhandle) is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene and *Provided, further,* that the admission of Panhandle in the manner provided shall not be construed as recognition by the Commission that Panhandle might be aggrieved because of any order or orders entered in this proceeding, and that Panhandle agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33652 Filed 11-30-78; 8:45 am]

[6740-02-M]

[Docket No. CP75-376]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Application To Amend

NOVEMBER 22, 1978.

Take notice that on June 14, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P. O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-376 an application to amend the Commission's order of December 2, 1975, issued pursuant to Section 7(c) of the Natural Gas Act in said docket so as to authorize the rendition of natural gas service to Manchester Gas Company (Manchester) under a new Gas Sales Contract providing for a revised Daily Volume Limit (DVL) for a Manchester delivery point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.[1]

[1]Small producer certificate issued August 12, 1971 in Docket No. CS71-124.

[2]The remaining 25% of the working interest is owned by Texaco and is not covered by this petition.

[3]Sidwell's share of these reserves is approximately 80,476 Mcf.

[1]This proceeding was commenced before the FPC. By joint regulation of October 1,

Footnotes continued on next page

It is stated that initially Bush would

sion, 825 North Capitol Street, N.E., for special relief was warranted be-

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Applicant states it was granted certificate authorization by the Federal Power Commission's Order, issued December 2, 1975, among other things, to serve Manchester under Applicant's Rate Schedule CD–6 in lieu of Applicant's Rate Schedules G–6 and to render such service with revised DVLs by delivery points. Accordingly, Applicant states it is now serving Manchester under its Rate Schedule CD–6 and the terms and conditions of an associated Gas Sales Contract (Contract) between the parties dated July 24, 1975, which provides for the sale and delivery by Applicant of a contracted demand of 7,570 Mcf of natural gas per day.

Applicant asserts that pursuant to the December 2, 1975 order Applicant and Manchester executed such Contract which provides for the following DVLs by delivery points:

(1) Manchester Delivery Point, 7,248 Mcf.
(2) Hooksett Delivery Point, 322 Mcf.

Applicant asserts that by letter dated April 19, 1978, Manchester requested that Applicant change the DVL for the Manchester delivery point from 7,248 Mcf per day to 7,570 Mcf per day. Manchester asserted that gas was available during the 1977–78 winter at the Hooksett delivery point, which because of the DVL restriction at the Manchester delivery point, could not be made available instead at the Manchester delivery point where it was needed. If Manchester had been able to utilize at the Manchester delivery point gas available to the Hooksett delivery point, Manchester could have reduced its use of propane-air for peak shaving requirements by 16,906 Mcf, which corresponds to 43,956 gallons of propane at a savings of $64,580.92 to its customers, it is said.

Applicant states that the increase in the DVL for the Manchester delivery point would provide Manchester with operational flexibility between its two delivery points, and further states that although the total of the proposed DVL's would exceed Manchester's contracted demand of 7,570 Mcf per day, Manchester would not be entitled to take on any day a total of more than 7,570 Mcf at its two delivery points.

Applicant states it is agreeable to such a change in service for Manchester and, accordingly, Manchester and Applicant have entered into a Precedent Agreement dated June 5, 1978 which would provide, among other things, for the execution, upon receipt of Commission authorization, of a new Gas Sales Contract providing for a revised DVL for the Manchester delivery point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 14, 1978, file with the Federal energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33653 Filed 11-30-78; 8:45 am]

[6740–02–M]

[Docket No. CP78–53]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Amendment To Application

NOVEMBER 22, 1978.

Take notice that on November 7, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) P. O. Box 2511, Houston, Texas 77001, filed in Docket No. CP78–53 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to authorize the receipt of natural gas from an additional source of supply, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that on October 31, 1977, Applicant filed an application in the instant docket seeking authorization to transport in interstate commerce volumes of natural gas for high priority industrial uses, and that pursuant to the Commission's order of December 27, 1977, in the instant docket Applicant was granted temporary authorization to transport up to 400 Mcf per day of natural gas for W. G. Bush & Company (Bush), which gas was to be produced by Louisiana Land & Exploration Company, *et al.* (LL&E), from a well in Tyler County, Texas. Applicant states that it is presently transporting and delivering such volumes of gas to West Tennessee Public Utility District (West Tennessee), for the account of Bush pursuant to the above authorization and to a transportation contract between Applicant, West Tennessee, and Bush, dated December 27, 1977, which contract is on file in Applicant's FERC Gas Tariff, Sixth Revised Volume No. 2, as Rate Schedule T–58.

It is stated that the production from the LL&E well has declined from a total production of 400 Mcf per day to a total production of approximately 130 Mcf of gas per day in August 1978, and that production during September 1978 averaged 99 Mcf per day. It is further stated that as a result of such declining production, Bush has arranged to purchase additional gas supplies, for the remainder of the term ending February 7, 1980, for which authorization herein has been granted, from Raine Oil & Gas, dba John W. Raine, (Raine), from the West Lake Arthur Field, Jefferson Davis Parish, Louisiana. Consequently, Applicant, West Tennessee, and Bush have entered into a precedent agreement dated October 31, 1978, and, upon receipt of the requested authorization, said companies will execute a contract which contract would supersede the December 27, 1977, contract and would provide for an additional receipt point by Applicant. Applicant indicates that it would receive, in addition to volumes for the related fuel and use requirements, volumes of gas for the account of Bush at an additional point of receipt at the interconnection of the facilities of Applicant and those of Phillips Petroleum Company (Phillips), in Jefferson Davis Parish, Louisiana, and would deliver such volumes to West Tennessee at Applicant's existing Sardis Sales Meter Station Delivery Point to West Tennessee, for the account of Bush. Combined deliveries from LL&E and Raine would not exceed 400 Mcf per day, it is stated.

The amendment states that Bush would pay applicant each month for volumes of gas received at both receipt points and transported hereunder: (1) a demand charge to be determined by multiplying $1.17 by the maximum daily quantity, less any demand charge credit provided therein, if applicable; and (2) a volume charge equal to 14.22 cents per Mcf multiplied by (a) the total of the daily volumes delivered during such month or (b) the number of days in said month multiplied by 66–2/3 percent of the maximum daily quantity, whichever is greater, less any applicable annual minimum bill credit as provided therein, which rate is a negotiated rate based on Applicant's system average haul cost applied to the mileage for the Jefferson Davis Parish receipt point. Further, Applicant would receive each day for its fuel and use requirements a volume of natural gas equal to 6.09 percent of the volume transported for such day, it is said.

Footnotes continued from last page
1977 (10 CFR 1000.1), it was transferred to the FERC.

It is stated that initially Bush would pay Raine a price of $1.89 per Mcf for the subject gas. It is further stated that the gas is produced from onshore areas and that absent the present arrangements, Raine would sell the gas herein to the intrastate market. Consequently, approval of the transportation arrangement proposed would make additional gas available to the interstate market which Raine states would not otherwise be sold in the interstate market, it is stated.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33654 Filed 11-30-78; 8:45 am]

[6740–02–M]

[Docket No. RP79–9]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition for Waiver of Commission Regulations

NOVEMBER 22, 1978.

On November 13, 1978, Transcontinental Gas Pipe Line Corporation (Transco) filed a Petition for Waiver of Commission Regulations pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.7). Transco seeks waiver of the regulation concerning the 5 year period for rate base treatment of advance payments (18 C.F.R. Part 201, Account 166(F)).

Transco states that due to a blowout and the resultant loss of a drilling well and platform, Transco Exploration Company (Exploration) requested Transco to seek waiver of the relevant regulation. Exploration's outstanding balance effected is $1,866,502.93 (Block A–563) and $149,917.56 (Block A–564).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33655 Filed 11-30-78; 8:45 am]

[6740–02–M]

[Docket No. RI77–25]

WOODS EXPLORATION & PRODUCING CO. ET AL.

Special Relief; Order Granting Special Relief and Permitting Intervention

NOVEMBER 22, 1978.

BACKGROUND

On January 10, 1977, Woods Exploration and Producing Company, *et al.* (Woods), a small producer, filed a petition for special relief in Docket No. RI77–25 pursuant to Section 2.76 of the Commission's General Policy and Interpretations. Woods initially requested authorization to charge and collect a total rate of 70.72¢/Mcf for the sale of gas produced from six wells[1] located in the East Bernard Field, Wharton County, Texas. The subject gas is being sold to Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., (Tennessee) under a gas sales contract dated April 18, 1960, pursuant to a small producer certificate issued in Docket No. CS71–270. Woods amended its petition in the subject docket on June 23, 1978, requesting a rate of 79.828¢/Mcf.

Woods proposed to install plunger lifts and stopcocks on each of the six wells, perform workovers on four of the wells, and add a third stage of compression. Petitioner and staff were in disagreement with regard to both cost and reserve estimates. During the period of time in which staff and Woods were attempting to resolve their differences, it became necessary to perform the proposed work in order to avoid losing the productive capability of the wells. Staff believes the performance of the proposed work before Commission approval of the petition for special relief was warranted because if the work had not been performed production from the majority of the wells would have been lost and attempts to restore production, if successful, would have been more costly.

Notices of the initial and amended petitions were issued on January 28, 1977, and August 8, 1978, respectively and were published in the FEDERAL REGISTER on February 8, 1977, and August 16, 1978 (42 Fed. Reg. 7996, 43 Fed. Reg. 36322). Tennessee filed an untimely petition to intervene in reference to the initial petition stating neither opposition, nor support for the subject petition.

DISCUSSION

An informal conference was held on January 25, 1978, (notice issued January 10, 1978 published in the FEDERAL REGISTER on January 24, 1978, (43 Fed. Reg. 3310). Subsequently, on April 11 and 24, 1978, Woods supplied staff with all invoices in support of the remedial work, current operating expenses and all the reserve data requested by staff.

Based on the data and invoices supplied by Woods, staff has determined that there is no remaining book investment and that total new capital investment amounted to $43,654. It is anticipated that this expenditure will enable the recovery of the remaining estimated 1,631,314 Mcf of salable reserves over the estimated thirteen year productive life. Staff has examined invoices on current operating expenses and historical operating expenses, and estimates future expenses will total $941,479 over the estimated remaining productive life.

Staff employed the above costs and reserves in a traditional cost study which provides for recoupment of all costs including a 15% rate of return. The results of this study, indicate that the rate is justified.

The Commission finds: (1) The requested rate is cost supported and special relief would, therefore, be in the public interest.

(2) The participation of Tennessee Gas Pipeline Company in this proceeding may be in the public interest.

The Commission orders: (A) The petition for special relief, as amended, filed by Woods Exploration and Producing Company, *et al.*, is hereby granted;

(B) Woods Exploration and Producing Company is authorized to charge and collect a total rate of 79.828 cents per Mcf at 14.65 psia for sales of natural gas produced from the Matusek Well No. 1, the A. T. Leveridge Well No. 2, the Roberts Well No. 1, the A. M. Wallace Well No. 1, the J. A. Wallace Well No. 1, and the H. M. Leveridge Well No. 1 to Tennessee Gas Pipeline Company effective as of the date

[1] The six wells are: Matusek No. 1, A. T. Leveridge No. 2, D. Roberts No. 1, A. M. Wallace No. 1, J. A. Wallace No. 1 and H. M. Leveridge No. 1.

Dated: November 24, 1978.

For the following reasons, I believe

given that a meeting of the Federal Prevailing Rate Advisory Committee

1900 E Street, NW., Washington, D.C. 20415 (202–632–9710).

Dated: November 21, 1978.

TERENCE HARVEY,

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of this order, subject to the condition set forth in paragraph (C) below;

(C) Within 30 days of the date of this order, Woods must file an amended contract signed by Woods Exploration and Producing Company and Tennessee Gas Pipeline Company providing for the payment of the rate approved.

(D) Tennessee Gas Pipeline Company is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* that the admission of Tennessee in the manner provided shall not be construed as recognition by the Commission that Tennessee might be aggrieved because of any order or orders entered in this proceeding, and that Tennessee agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-33656 Filed 11-30-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1017-4]

NATIONAL AIR POLLUTION CONTROL TECHNIQUES ADVISORY COMMITTEE

Renewal

In accordance with section 14 of the Federal Advisory Committee Act (Pub. L. 92-463) the U.S. Environmental Protection Agency announces the renewal of the National Air Pollution control Techniques Advisory Committee. It has been determined that renewal of this advisory committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the National Air Pollution Control Techniques Advisory Committee through December 1, 1980, unless otherwise sooner terminated, will be filed at the Library of Congress.

FOR FURTHER INFORMATION CONTACT:

Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0866.

Dated: November 24, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-33592 Filed 11-30-78; 8:45 am]

[6560-01-M]

[FRL 1017-5]

RHODE ISLAND DRINKING WATER

Determination of Primary Enforcement Responsibility

This public notice is issued under section 1413 of the Safe Drinking Water Act as amended and 40 CFR 142, National Interim Primary Drinking Water Regulations Implementation.

A submission, dated October 19, 1977, has been received from the Director of the Rhode Island Department of Health requesting a determination that that agency qualifies for primary enforcement responsibility for public water systems in the State of Rhode Island, in accordance with the provisions of the Act.

On February 15, 1978 I determined that the Rhode Island Department of Health met all conditions of the Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Rhode Island.

My preliminary determination was published at 43 FR 18611 on May 1, 1978 and opportunity was given to request a public hearing or to submit written comments on the State's application. Such a request was subsequently received and a public hearing was convened on July 19, 1978 in Providence, Rhode Island.

Comments received from 10 individuals at the public hearing centered around four principal concerns:

a) Lack of coordination between the Health Department and other State programs having responsibility for or impact on water supply quality (E.G. highway construction, land use planning, and waste disposal);

b) Inadequate monitoring and protection of existing and potential water supply sources, particularly in the areas of toxic chemicals and sanitary landfill leachates;

c) The reluctance or inability of the Health Department to take timely, forceful action to bring about necessary improvements in local water supply operations. A key issue here was the adequacy and availability of necessary surveillance and legal personnel; and

d) The Health Department's generally unresponsive attitude toward meaningful public involvement in agency decisionmaking.

For the following reasons, I believe the Health Department has adequately responded to these comments:

a) A detailed written reply to each of the concerns raised by the two principal organizations appearing at the July 19 hearing has been submitted to the Regional Administrator;

b) A public participation consultant has been hired to advise the Department, and particularly the water supply program, on ways to better inform the public of agency findings and actions and involve them in regulatory policy-making;

c) A full-time public participation coordinator is being employed on the staff of the Water Supply Division;

d) Two additional sanitary engineers are being hired in the Water Supply Division to provide increased surveillance of and technical assistance to local water supply operations;

e) The Health Department maintains a legal counsel and assistant which are available to assist the Water Supply Division in developing and interpreting regulations and carrying out enforcement actions;

f) Additional laboratory equipment has been purchased to support the Department's ongoing survey of organic chemicals (particularly the trihalomethanes) in public water systems throughout the State and to permit more efficient storage and retrieval of all water supply testing results;

g) A contract is being negotiated to develop capability within the Health Department to determine the carcinogenic potential of raw and finished drinking waters across the State; and

h) A contract is being negotiated to evaluate the Department's interactions with other State and Regional agencies having water supply responsibilities and to recommend ways to improve communications and increase coordination with such agencies.

Therefore, I am affirming my determination that the Rhode Island Department of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Rhode Island.

Dated: November 22, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator.

[FR Doc. 78-33591 Filed 11-30-78; 8:45 am]

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Prevailing Rate Advisory Committee will be held on:

THURSDAY, DECEMBER 21, 1978

The meeting will convene at 10 a.m., and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Civil Service Commission thereon.

The scheduled meeting will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning the meeting may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202-632-9710).

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

NOVEMBER 27, 1978.

[FR Doc. 78-33598 Filed 11-30-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[NADA 35-775V]

BIO-NEERING INTERNATIONAL, INC.

Bio-Dex 100; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine withdraws approval of a new animal drug application (NADA) providing for an iron hydrogenated dextran injectable used in baby pigs for iron deficiency anemia. The sponsor, Bio-Neering International, Inc., requested this action.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Bio-Neering International, Inc., 930 Thompson Drive, Florissant, MO 63031, is sponsor of NADA 35-775V, which provides for the intramuscular use of iron hydrogenated dextran for baby pigs for the prevention and treatment of iron deficiency anemia. The application was originally approved March 17, 1967. On May 16, 1978, the agency requested submission of additional information concerning the application. In response by letter of June 23, 1978, the firm indicated that it is no longer in business and requested that the NADA be withdrawn.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 35-775V and all supplements thereto for Bio-Neering International Bio-Dex 100 is hereby withdrawn, effective December 1, 1978.

Dated: November 21, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33375 Filed 11-30-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0231; DESI 11641]

CHLORPROPAMIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Announcement

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice classifies chlorpropamide as an effective oral hypoglycemic agent and sets forth the conditions for marketing the drug for this indication.

DATES: Bioavailability supplements to approved new drug applications (NDA's) due on or before May 30, 1979. Other supplements due on or before January 30, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 11641, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): division of Metabolism and Endocrine Drug Products (HFD-130), Rm. 14B-04, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for guidelines on conducting bioavailability studies: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426), each holder of a new drug application

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data must provide substantial evidence

case such drug is intended for use in

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that became effective prior to October 10, 1962, was requested to submit to the Food and Drug Administration (FDA) reports containing the best data available in support of the effectiveness of each such product for the claimed indications. That information was needed to facilitate a determination by FDA, with the assistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962. Because the holder of the new drug application described below did not submit the information requested by the July 9, 1966 notice, the drug was not reviewed by NAS-NRC.

NDA 11-641; Diabinese Tablets containing 100 milligrams or 250 milligrams chlorpropamide per tablet; Pfizer Laboratories, Division of Pfizer, Inc., 235 East 42d St., New York, NY 10017.

After again being invited to submit data, the firm did so on September 11, 1970. The data and all available information were reviewed by FDA and found to provide substantial evidence of the drug's effectiveness as an oral hypoglycemic agent.

Labeling for oral hypoglycemic drugs is presently undergoing revision. Proposed labeling was published in the FEDERAL REGISTER of July 7, 1975 (40 FR 28587), and when this labeling is finalized, the indications stated below may have to be revised.

As stated in the FEDERAL REGISTER of August 23, 1977 (42 FR 42311), the provision of 21 CFR 320.22(c) waiving bioavailability data for certain drugs does not necessarily apply to drug products first announced as effective in DESI notices published after January 7, 1977. As this is the first notice announcing that chlorpropamide is effective, chlorpropamide tablets have also been reviewed for actual or potential bioequivalence problems. It has been determined that chlorpropamide tablets should be added to the list of drugs for which bioavailability data are not waived.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indication set forth in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in tablet form suitable for oral adminstration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

(Name of drug) is indicated in uncomplicated diabetes millitus of the stable, mild or moderately severe, nonketotic, maturity-onset type that cannot be completely controlled by diet alone.

3. *Marketing status.* a. Marketing of such drug products that are the subject of a new drug application approved prior to October 10, 1962, may be continued provided that, on or before January 30, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

In addition, to permit full approval of such application on the basis of effectiveness, as well as safety, the holder of the application is required to supplement its application on or before May 30, 1979. To provide evidence demonstrating the in vivo bioavailability of the drug. Guidelines on conducting bioavailability studies are available from the Division of Biopharmaceutics.

b. Marketing of such drug products that are not now the subject of a new drug application may not lawfully occur prior to the approval of an abbreviated new drug application (21 CFR 314.1(f)) for such products. Applications for these products shall contain evidence to demonstrate the bioavailability of the drug. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: November 21, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-33372 Filed 11-30-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0376]

INTERNATIONAL NUTRITION, INC.

Pig Ration Ban-250, Custom Mix Feed Medicated; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This is a notice of opportunity for hearing on a proposal by the Director, Bureau of Veterinary Medicine, to refuse to approve an application for an animal feed bearing or containing a new animal drug sponsored by International Nutrition, Inc. The Director proposes to refuse approval because the animal feed would contain new animal drugs in a combination that has not been approved.

DATES: A written appearance requesting a hearing must be submitted by January 2, 1979. Data and analysis upon which a request for hearing relies must be submitted by January 30, 1979.

ADDRESS: Written appearances and data and analysis to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William B. Bixler, Bureau of Veterinary Medicine (HFV-220), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION: International Nutrition, Inc., 6664 "L" Street, Omaha, NE 68117, is a manufacturer of animal feeds and is registered under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) for manufacturing medicated feeds. The firm filed an application (C105-694V) under section 512(m)(1) of the act (21 U.S.C. 360b(m)(1)) dated June 4, 1976 for approval of Pig Ration Ban-250, an animal feed bearing or containing in combination the following drugs:

Banminth Premix-48 (pyrantel tartrate 48 grams per pound).
Aureo SP-250 (chlortetracycline 20 grams per pound; sulfamethazine 4.4 percent; procaine penicillin 10 grams per pound).

In a letter dated July 15, 1976, the application was returned to the applicant in accordance with § 558.4(c)(2) (21 CFR 558.4(c)(2)) on the grounds that no regulation has been promulgated under section 512(i) of the act upon which the approval must rely under section 512(m)(1)(B) of the act.

The application was refiled by letter dated November 22, 1976, again requesting approval of the combination of new animal drugs on the grounds that: (1) Regulations have been published under section 512(i) of the act for each of the drugs, and (2) data included in a master file were incorporated by reference purporting to demonstrate, among other things, that Banminth does not interfere with the antibacterial activity of ASP-250 and that the anthelmintic activity of Banminth is not diminished by the presence of ASP-250 in swine feeds. For the purpose of approval under section 512(m)(1)(B) of the act, the firm cites § 558.125 *Chortetracycline, procaine penicillin, and sulfamethazine* (21 CFR 558.145) and § 558.485 *Pyrantel tartrate* (21 CFR 558.485) as regulations published under section 512(i) of the act. The firm contends that the new animal drug regulatory structure in the act permits the manufacture and sale of an animal feed containing two distinct new animal drugs, each of which is the subject of a regulation reflecting an approved new animal drug application, so long as the safety and effectiveness of each component in the new combination is appropriately supported in the finished feed. It contends that this is true even when, as in this case, each of the new animal drugs is the subject of a separate new animal drug regulation.

The Director of the Bureau of Veterinary Medicine agrees that combinations of new animal drugs are approvable on the basis of regulations established for each drug, provided, however, that the regulations specifically cross-reference one another to authorize the combination. The Director also agrees that authorization of these combinations must be based on the safety and effectiveness of each component in the new combination. The data must provide substantial evidence of effectiveness and safety, including data showing the combination to be safe and effective for the animal and data to establish the absence of unsafe residues of the drugs and their metabolites from the edible products of treated animals. No specific authorization has been established under section 512(i) for combining pyrantel tartrate with chlortetracycline-sulfamethazine-penicillin.

The applicant argues that appropriate data on safety and effectiveness under section 512(m) have been submitted and that the data provide an adequate basis for approval of such combinations. The Director does not agree that the statute contemplates the submission of data under section 512(m) regarding the safety and effectiveness of new animal drug premixes. The statute provides for submitting the information under section 512(b) of the act and for an approval granted for an application filed under section 512(b) to result in publication of a regulation under section 512(i) of the act. No application has been filed under section 512(b) of the act for the requested combination of new animal drugs and consequently no regulation has been published under section 512(i) as a basis for approval of the requested combination through an application filed under section 512(m) of the act.

In enacting the Animal Drug Amendments of 1968, Congress introduced a unique procedure for the approval of an application for manufacturing an animal feed bearing or containing a new animal drug. Before a new animal drug can be approved for use in manufacturing a medicated feed, an application must be filed with the Bureau of Veterinary Medicine under section 512(b) of the act, which provides that the following information be included:

(1) [F]ull reports of investigations which have been made to show whether or not such drug is safe and effective for use;

(2) a full list of the articles used as components of such drug;

(3) a full statement of the composition of such drug;

(4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug;

(5) such samples of such drug and of the articles used as components thereof, of any animal feed for use in or on which such drug is intended, and of the edible portions or products (before or after slaughter) of animals to which such drug (directly of in or on animal feed) is intended to be administered, as the Secretary may require;

(6) specimens of the labeling proposed to be used for such drug, or in case such drug is intended for use in animal feed, proposed labeling appropriate for such use, and specimens of the labeling for the drug to be manufactured, packed, or distributed by the applicant;

(7) a description of practicable methods for determing the quantity, if any, of such drug in or on food, and any substance formed in or on food, because of its use; and

(8) the proposed tolerance or withdrawal period or other use restrictions for such drug if any tolerance or withdrawal period or other use restrictions are required in order to assure that the proposed use of such drug will be safe.

Upon approval of any animal drug application, a regulation is published under section 512(i) of the act, which section provides as follows:

(i) When a new animal drug application filed pursuant to subsection (b) is approved the Secretary shall by notice, which upon publication shall be effective as a regulation, publish in the FEDERAL REGISTER the name and address of the applicant and the conditions and indications of use of the new animal drug covered by such application, including any tolerance and withdrawal period or other use restrictions and, if such new animal drug is intended for use in animal feed, appropriate purposes and conditions of use (including special labeling requirements) applicable to any animal feed for use in which such drug is approved, and such other information, upon the basis of which such application was approved, as the Secretary deems necessary to assure the safe and effective use of such drug. • • •

Before an animal feed bearing or containing a new animal drug can be approved, an application must be filed with the Bureau of Veterinary Medicine under section 512(m)(1) of the act, which provides the following:

(m)(1) Any person may file with the Secretary an application with respect to any intended use or uses of an animal feed bearing or containing a new animal drug. Such person shall submit to the Secretary as part of the application (A) a full statement of the composition of such animal feed, (B) an identification of the regulation or regulations (relating to the new animal drug or drugs to be used in such feed), published pursuant to subsection (i), on which he relies as a basis for approval of his application with respect to the use of such drug in such feed, (C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed, (D) specimens of the labeling proposed to be used for such animal feed, and (E) if so requested by

Four copies of all submissions under Stat. 345-347 (21 U.S.C. 360b(e))),

[4110-08-M]

It is concluded that under the condi-

[4310-70-M]

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the Secretary, samples of such animal feed or components thereof.

The procedures in section 512 of the act require that a new animal drug (singly or in combination) be approved as safe and effective as demonstrated by substantial evidence before the drug can be the subject of an application for its use in the manufacture of a medicated animal feed.

Therefore, notice is given to the above-listed firm and to any other interested persons who may be adversely affected that the Director gives opportunity for a hearing under section 512(m)(2)(B) on a proposal to issue an order under section 512(m)(3)(A) of the act, refusing to approve medicated feed application C105-694V on the ground that there is not in effect a regulation under section 512(i) of the act (identified in that application) on the basis of which the application may be approved.

If the applicant or any other interested person elects to exercise the right to an opportunity for hearing under section 512(m)(3)(A) of the act and § 514.200 of the regulations (21 CFR 514.200), that a person must file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, a written appearance requesting a hearing and giving the reason why the application should be approved.

The failure of the applicant to file a timely written appearance and a request for hearing as required by § 512.200 constitutes an election not to take advantage of the opportunity for hearing, and the Director of the Bureau of Veterinary Medicine will summarily enter a final order refusing to approve the application.

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing.

If it conclusively appears from the face of the information and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

Four copies of all submissions under this notice must be filed with the Hearing Clerk, Food and Drug Administration. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice may be seen in the office of the Hearing Clerk (FFA-305), Food and Drug Administration, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512(m), 82 Stat. 348-350 (21 U.S.C. 360b(m))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: November 21, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33374 Filed 11-30-78; 8:45 am]

[4110-03-M]

[NADA 65-145V]

MERCK SHARP & DOHME

Dihydrostreptomycin; Withdrawal of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine withdraws approval of new animal drug application (NADA) providing for the certification of nonsterile dihydrostreptomycin sulfate veterinary. The sponsor, Merck Sharp & Dohme, requested this action.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, is the sponsor of NADA 65-145V, which provides for the certification of nonsterile dihydrostreptomycin sulfate veterinary. By letter dated February 3, 1978, the firm requested that approval of NADA 65-145V be withdrawn because the drug is no longer being marketed, and waived opportunity for a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is hereby given that approval of NADA 65-145V and all supplements thereto is hereby withdrawn, effective December 1, 1978.

Dated: November 21, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33373 Filed 11-30-78; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF C. I. VAT YELLOW 4 FOR POSSIBLE CARCINOGENICITY

Availability

C. I. vat yellow 4, (CAS 128-66-5) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Divison of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of C. I. vat yellow 4, a commercial formulation containing dibenzo(b,def)chrysene-7,14-dione, for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of C. I. vat yellow 4 include use as a dyestuff in wool, silk and synthetic fibers, as a paper pigment, and as a military smokescreen and signaling agent.

It is concluded that under the conditions of this bioassay, the formulated product containing C. I. vat yellow 4 was not carcinogenic for male or female Fisher 344 rats or for female B6C3F1 mice, but was carcinogenic for male B6C3F1 mice, causing an increased incidence of lymphomas.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: November 1, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-33109 Filed 11-30-78; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF PIPERONYL SULFOXIDE FOR POSSIBLE CARCINOGENICITY

Availability

Piperonyl sulfoxide (CAS 120-62-7) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Divison of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade piperonyl sulfoxide for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an insecticide enhancer.

It is concluded that under the conditions of this bioassay, technical-grade piperonyl sulfoxide was not carcinogenic for male or female Fischer 344 rats or for female B6C3F1 mice, but was carcinogenic for male B6C3F1 mice, producing an increased incidence of hepatocellular carcinomas.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: November 1, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-33110 Filed 11-30-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF SULFISOXAZOLE FOR POSSIBLE CARCINOGENICITY

Availability

Sulfisoxazole (CAS 127-69-5) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of sulfisoxazole for possible carcinogenicity was conducted by administering the chemical by gavage to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an antimicrobial drug.

It is concluded that under the conditions of this bioassay, sulfisoxazole was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: November 1, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-33108 Filed 11-30-78; 8:45 am]

[4110-12-M]

Office of the Secretary

[Contract No. HEW-100-78-0031]

PANEL STUDY OF INCOME DYNAMICS

Contract Award

Pursuant to Section 606 of the Community Services Act of 1974 (Pub. L. 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-78-0031 to the Regents of the University of Michigan, 260 Research Administration Building, Ann Arbor, Michigan, 48105, to continue the "Panel Study of Income Dynamics" for the eleventh year. The purpose is to continue the annual interviews with a sample of about 6000 heads of households. The study analyzes the changing welfare of these families and individuals through the years, with particular emphasis on jobs, income and family structure in the lower income population. The study has become the best source of predicting the number of people who may become eligible for some income-tested program over future time period, as opposed to the number of people eligible for a current program. The analyses help in estimating the causes for and methods of escape from poverty as well as the relationship of government programs to changing welfare. The estimated cost of this contract is $786,000 and intended completion date is October 31, 1978.

Dated: November 27, 1978.

HENRY AARON,
Assistant Secretary for Planning and Evaluation.

[FR Doc. 78-33612 Filed 11-30-78; 8:45 am]

[4310-70-M]

DEPARTMENT OF THE INTERIOR

National Park Service

EVELYN HILL, INC.

Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before January 2, 1979, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Evelyn Hill, Inc., authorizing it to continue to provide concession facilities and services for the public at Statue of Liberty National Monument for a period of approximately ten (10) years from January 1, 1978.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Statue of Liberty National Monument, Liberty Island, New York, New York 10004.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants, Evelyn Hill, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Evelyn Hill, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Evelyn Hill, Inc., (as determined by the Secretary) is submitted, Evelyn Hill, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Evelyn Hill, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be submitted on or before January 2, 1979, to be considered and evaluated.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for informa-

tion as to the requirements of the pro-

1601, 1611 (Supp. V, 1975)), for the

ment EIN 8b G on the south shore of Fish Bay, northeasterly to public lands. The

Two Moon Bay. The easement is ten (10)

and shall be recorded therewith. A copy of the agreement is located in the

which is subject to the discretion of the State Director and not reserved

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tion as to the requirements of the proposed contract.

Dated: November 21, 1978.

IRA J. HUTCHISON,
Acting Director,
National Park Service.

[FR Doc. 78-33610 Filed 11-30-78; 8:45 am]

[4310-31-M]

Geological Survey

KNOWN RECOVERABLE COAL RESOURCE AREA

West Glendive, Mont.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1975 (P.L. 94-377, August 4, 1976), Federal lands within the State of Montana have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(26) MONTANA

West Glendive (Montana) Known Recoverable Coal Resource Area; March 29, 1978; 299,394 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, MS 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated November 22, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-33605 Filed 11-30-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

[AA-6703-A and A-6703-B]

ALASKA NATIVE CLAIMS SELECTION

On May 21 and November 8, 1974, The Tatitlek Corporation, for the Native village of Tatitlek, filed selection applications AA-6703-A and AA-6703-B, respectively, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Tatitlek area, including lands within the Chugach National Forest (Proclamation, July 23, 1907, as amended).

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

This decision approves approximately 7,110 acres of national forest lands for conveyance to The Tatitlek Corporation, for a cumulative total of approximately 63,879 acres. This does not exceed the 69,120 acres permitted under Sec. 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, located within Chugach National Forest and selected pursuant to Sec. 12(a), aggregating approximately 7,110 acres, is considered proper for acquisition by The Tatitlek Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

COPPER RIVER MERIDIAN, ALASKA
(UNSURVEYED)

T. 12 S., R. 7 W.,
Secs. 12 and 13 (fractional), all.
Containing approximately 955 acres.

T. 13 S., R. 7 W.,
Sec. 3 (fractional), all;
Sec. 10 (fractional), all;
Sec. 11, all;
Sec. 17 (fractional), all;
Sec. 21, all;
Sec. 28, all.
Containing approximately 3,405 acres.

T. 11 S., R. 8 W.,
Secs. 11 and 12 (fractional), all;
Secs. 13 and 14, all;
Sec. 24, all.
Containing approximately 2,750 acres.
Aggregating approximately 7,110 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6703-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 8a D9 G) An easement one hundred (100) feet in width for a proposed road from log transfer dock and public use easement EIN 8b G on the south shore of Fish Bay northeasterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 8b G) A log transfer dock and public use easement upland of the mean high tide line in Sec. 13, T. 12 S., R. 7 W., Copper River Meridian, on the south shore of Fish Bay. The easement is ten (10) acres in size and is used for camping, vehicle use, staging and as a log transfer dock.

c. (EIN 9 D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purpose, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

d. (EIN 14a G) An easement one hundred (100) feet in width for a proposed road from log transfer dock and public use easement EIN 14b G on the south shore of Galena Bay southeasterly to public lands. This road roughly follows Millard Creek and includes a southerly branch roughly following Copper Creek. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

e. (EIN 14b G) A log transfer dock and public use easement upland of the mean high tide line in Sec. 11, T. 11 S., R. 8 W., Copper River Meridian, on the south shore of Galena Bay near the mouth of Millard Creek. The easement is ten (10) acres in size and is used for camping, vehicle use, staging and as a log transfer dock.

f. (EIN 19a G) An easement one hundred (100) feet in width for a proposed road from log transfer dock and public use easement EIN 19b G on the east shore of Irish Cove southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

g. (EIN 19b G) A log transfer dock and public use easement upland of the mean high tide line in Sec. 3, T. 13 S., R. 7 W., Copper River Meridian, located just south of the north section line on the east shore of Irish Cove. The easement is ten (10) acres in size and is used for camping, staging and vehicle use.

h. (EIN 20a G) An easement one hundred (100) feet in width for a proposed road from log transfer dock and public use easement EIN 20b G on the east shore of Two Moon Bay southeasterly, to where it branches in Sec. 28, T. 13 S., R. 7 W., Copper River Meridian, then continues on to public lands to the south and east. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN 20b G) A log transfer dock and public use easement upland of the mean high tide line in Sec. 17, T. 13 S., R. 7 W., Copper River Meridian, on the east shore of Two Moon Bay. The easement is ten (10) acres in size and is used for camping, vehicle use, staging and as a log transfer dock.

j. (EIN 41 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al. v. Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (Supp. V, 1975)), that, as to the portion of the above-described lands located within the boundaries of a national forest (a) until December 18, 1976, the sale of any timber from such lands is subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture and (b) until December 18, 1983, such lands shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

5. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Chugach Natives, Inc., The Tatitlek Corporation and other Chugach village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for The Tatitlek Corporation, serialized AA-6073-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The Tatitlek Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 64,277 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 50,923 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above will be granted to Chugach Natives, Inc. when conveyance is granted to The Tatitlek Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks in both the ANCHORAGE TIMES and THE CORDOVA TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until January 2, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If The Tatitlek Corporation or Chugach Natives, Inc. objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is to be taken, the adverse parties to be served are:

The Tatitlek Corporation, P.O. Box 758, Cordova, Alaska 99574.
Chugach Natives, Inc., 912 East 15th Avenue, Anchorage, Alaska 99501.

SUE A. WOLF,
Chief, Branch of
Adjudication.

[FR Doc. 78-33658 Filed 11-30-78; 8:45 am]

[4310-84-M]

[AA-6649-A through AA-6649-D]

ALASKA NATIVE CLAIMS SELECTION

The Atxam Corporation filed village selection applications AA-6649-A, June 13, 1974; AA-6649-B, November 13, 1974; AA-6649-C, December 13, 1974 and AA-6649-D, December 18, 1974, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Aleutian Islands area, including lands within the Aleutian Islands National Wildlife Refuge (Executive Order (EO) 1733).

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

This decision approves approximately 66,165.04 acres of national wildlife refuge lands for conveyance to the Atxam Corporation, for a cumulative total of approximately 66,165.04 acres.

D E 1 7 8 UMI

93 S., R. 178 W., Seward Meridian, northerly to public lands. The usage of roads and

Act of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(g) (Supp. V,

this decision is being published once in the FEDERAL REGISTER and once a

V 4 3 / 2 3 2 DE 1 7 8 UMI

This does not exceed the 69,120 acres permitted under section 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 89,156.04 acres, is considered proper for acquisition by the Atxam Corporation, and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

LANDS WITHIN THE ALEUTIAN ISLANDS NATIONAL WILDLIFE REFUGE (EO 1733)

U.S. Survey 2015, Lot 2, situated on the southwesterly shore of Nazan Bay at Atka, Akta Island, Alaska.

Containing .04 acre.

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 92 S., R. 175 W.
Sec. 3 (fractional), all;
Sec. 4, all;
Secs. 5 to 10 (fractional), inclusive, all;
Secs. 30 and 31 (fractional), all.

Containing approximately 2,675 acres.

T. 91 S., R. 176 W.
Secs. 5, 8, and 9, all;
Secs. 15 and 16, all;
Secs. 21, 22, and 27, all;
Secs. 28, 29, and 32 (fractional), all;
Secs. 33 to 36, inclusive, all.

Containing approximately 8,390 acres.

T. 92 S., R. 176 W.
Secs. 1, 2, and 3 (fractional), all;
Sec. 4, all;
Secs. 5, 6, and 7 (fractional), all;
Secs. 8 and 9, all;
Secs. 10 to 13 (fractional), inclusive, all;
Sec. 15 (fractional), all;
Secs. 16 to 21, inclusive, all;
Sec. 22 (fractional), excluding U.S. Survey 2015;
Secs. 23 to 26 (fractional), inclusive, all;
Secs. 27 to 35, inclusive, all;
Sec. 36 (fractional), all.

Containing approximately 17,100 acres.

T. 93 S., R. 176 W.
Secs. 7 to 10 (fractional), inclusive, all;
Secs. 13 to 25 (fractional), inclusive, all;
Sec. 36 (fractional), all.

Containing approximately 5,220 acres.

T. 91 S., R. 177 W.
Secs. 2, 3, and 4 (fractional), all;
Secs. 9, 10, and 11 (fractional), all;
Secs. 14 and 15 (fractional), all;
Secs. 22, 23, and 24 (fractional), all.

Containing approximately 2,980 acres.

T. 92 S., R. 177 W.
Secs. 11 to 15 (fractional), inclusive, all;
Sec. 20, all;
Secs. 21 and 22 (fractional), all;
Secs. 23 to 26, inclusive, all;
Sec. 27 (fractional), all;
Secs. 28 and 29, all;
Sec. 30 (fractional), all.

Containing approximately 8,020 acres.

T. 93 S., R. 177 W.
Secs. 1 and 2 (fractional), all;
Secs. 3 to 6, inclusive, all;
Sec. 9, all;
Sec. 10 (fractional), all;
Sec. 11, all;
Sec. 12 (fractional), all;
Secs. 15 to 21 (fractional), inclusive, all;
Sec. 30 (fractional), all.

Containing approximately 7,716 acres.

T. 93 S., R. 178 W.
Secs. 13 and 14, all;
Secs. 15, 16, and 17 (fractional), all;
Sec. 18, all;
Secs. 19 to 23 (fractional), inclusive, all;
Sec. 24, all;
Secs. 25, 26, and 27 (fractional), all.

Containing approximately 5,374 acres.

T. 93 S., R. 179 W.
Secs. 21 to 27 (fractional), inclusive, all;
Sec. 32 (fractional), all;
Secs. 33 and 34, all;
Secs. 35 and 36 (fractional), all.

Containing approximately 5,305 acres.

T. 94 S., R. 179 W.
Secs. 1 and 2 (fractional), all;
Sec. 3, all;
Secs. 4, 5, and 7 (fractional), all;
Secs. 9, 10, and 11 (fractional), all;
Secs. 14 to 20 (fractional), inclusive, all;
Sec. 30 (fractional), all.

Containing approximately 3,385 acres.

Aggregating approximately 66,165.04 acres within the Aleutian Islands National Wildlife Refuge (EO 1733).

LANDS OUTSIDE THE ALEUTIAN ISLANDS NATIONAL WILDLIFE REFUGE (EO 1733)

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 52 S., R. 73 W.
Secs. 21 to 24, inclusive, all;
Sec. 25, excluding Mineral Survey 306;
Secs. 26, 27, and 28, all;
Secs. 33 and 34, all;
Sec. 35, excluding Mineral Survey 305;
Sec. 36, excluding Mineral Survey 306.

Containing approximately 7,638 acres.

T. 54 S., R. 78 W.
Secs. 1 to 6 (fractional), inclusive, all;
Secs. 7 to 10, inclusive, all;
Secs. 11 and 12 (fractional), all;
Secs. 13 to 17, inclusive, all.

Containing approximately 8,473 acres.

T. 53 S., R. 79 W.
Secs. 21, 22 and 26 (fractional), all;
Sec. 27, all;
Secs. 28, 29 and 32 (fractional), all;
Secs. 33 and 34, all;
Secs. 35 and 36 (fractional), all.

Containing approximately 4,100 acres.

T. 78 S., R. 124 W.
Portions of land on Unalaska Island, excluding any offshore islands, rocks and pinnacles within the following protracted description:
Sec. 1, all;
Secs. 2, 3, and 4 (fractional), all;
Sec. 9 (fractional), all;
Sec. 11, all.

Containing approximately 2,780 acres.

Aggregating approximately 22,991 acres *outside* the Aleutian Islands National Wildlife Refuge (EO 1733).

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to section 17(b) of the Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6649-EE are reserved to the United States and subject to further regulation thereby:

a. (EIN 2 D9) An easement for an existing access trail fifty (50) feet in width from the village of Atka northwesterly to Korovin Bay. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 4 C4) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

c. (EIN 5 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

d. (EIN 7a D9) A fishery management and public use easement upland of the mean high tide line in Sec. 3, T. 54 S., R. 78 W., Seward Meridian, on the south shore of Canoe Bay. The easement is one (1) acre in size and is used for camping, vehicle use and for fishery management purposes.

e. (EIN 7c D9) A bush airstrip easement two hundred and fifty (250) feet in width and three thousand (3,000) feet in length. Located in Sec. 5, T. 54 S., R. 78 W., Seward Meridian. This size is minimum for public safety.

f. (EIN 7d D9) An easement for an existing access trail twenty-five (25) feet in width from airstrip easement EIN 7c D9 northerly to the shore of Canoe Bay. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

g. (EIN 8 E) An easement for an existing access trail twenty-five (25) feet in width from easement EIN 2 D9 northeasterly along the north shore of Nazan Bay. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

h. (EIN 9 E) An easement for a proposed access trail twenty-five (25) feet in width from the northeast end of Vasilief Bay in T. 93 S., R. 178 W., Seward Meridian, northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN 10 E) An easement for a proposed access trail twenty-five (25) feet in width from the northwest end of Vasilief Bay in T. 93 S., R. 179 W., Seward Meridian northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

j. (EIN 11 E) An easement for a proposed access trail twenty-five (25) feet in width from airstrip easement EIN 7c D9 in T. 54 S., R. 78 W., Seward Meridian southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

k. (EIN 12 E) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 14 E (EIN 7 C4, Sand Point) at the head of Canoe Bay northeasterly along the left bank of Four Bear Creek to public lands. the usage of roads and trails will be controlled by applicable State or Federal law or regulation.

l. (EIN 13 E) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 14 E (EIN 7 C4, Sand Point) at the head of Canoe Bay southeasterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

m. (EIN 14 E) A one (1) acre site easement upland of the mean high tide line in Sec. 12, T. 54 S., R. 78 W., Seward Meridian on the eastern shore of Canoe Bay and the left bank of Four Bear Creek at its junction with Canoe Bay River. The site is for camping, staging and vehicle use.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al v. Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. Grazing lease A-060872 to The Alaska Offshore Marine Services, Inc. on Unalaska Island within T. 78 S., R. 124 W., Seward Meridian, under the act of March 4, 1927 (44 Stat. 1452; 48 U.S.C. 471, 471a and 471o);

4. The naval airspace reservation of Executive Order 8680 dated February 14, 1941;

5. Requirements of section 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(g) (Supp. V, 1975)), that (a) the above-described lands which were within the boundaries of the Aleutian Islands National Wildlife Refuge on December 18, 1971, remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States;

6. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

7. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, the Atxam Corporation and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Atxam Corporation, serialized AA-6649-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The Atxam Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 89,156.04 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 3,003.96 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above, excluding those lands which have been withdrawn by EO 1733 and which are reserved thereby as a national wildlife refuge, shall be granted to The Aleut Corporation when conveyance is granted to the Atxam Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance. Section 12(a)(1) provides that when a village corporation selects the surface estate of lands within a national wildlife refuge system, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by section 11(a) within the region.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until January 2, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Atxam Corporation or The Aleut Corporation objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is to be taken, the adverse parties to be served are:

Atxam Corporation, Atka Rural Branch, Atka, Alaska 99502.
The Aleut Corporation, 833 Gambell Street, Anchorage, Alaska 99501.

SUE A. WOLF,
Chief, Branch of Adjudication.

[FR Doc. 78-33659 Filed 11-30-78; 8:45 am]

[4310-84-M]

Commission hearing scheduled. The

any exclusion order, cease and desist

the Commission no later than the

FEDERAL REGISTER pursuant to 5 U.S.C. 552a(e)(4).

substances; (d) Applicants for DEA registration and their responsible em-

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[4310-84-M]

NEVADA

Amendment of Notice of Realty Action—Sale

On November 9, 1978, a NOTICE was pulbished in the FEDERAL REGISTER, Thursday, November 9, 1978, at pages 52292-52293, stating that certain public lands in Nevada would be sold at public auction on December 13, 1978. Included in the sale procedure was a provision that for each parcel, the highest bidder will be required to pay full bid price immediately at the sale.

A protest has been received suggesting that, because of the high values of lands involved, many parties would not be able to arrange for financing prior to the sale. Therefore, the NOTICE is amended as follows:

1. The requirement that the highest bidder be required to pay the full bid price immediately at the sale is deleted.

2. The highest bidder will be required to submit a nonrefundable deposit of one-fifth of the full bid price immediately at the sale. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full bid price within 30 days shall result in cancellation of the sale of the parcel, and the deposit shall be forfeited and disposed of as other receipts of sale.

ARNOLD E. PETTY,
Acting Associcate Director.

NOVEMBER 28, 1978.

[FR Doc 78-33661 Filed 11-30-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-3]

DOXYCYCLINE

Notice of Commission Hearing on Relief, Bonding, and the Public Interest

Recommendation of "violation" issued. In connection with the Commission's investigation under section 337 of the Tariff Act of 1930 of alleged unfair methods of competition and unfair acts in the importation and sale of doxycycline in the United States, the presiding officer recommended on October 16, 1978, that the Commission grant complainant's motion for summary determination as to all issues and determine that there is a violation of section 337. Interested persons may obtain copies of the presiding officer's recommendation by contacting the Office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Commission hearing scheduled. The Commission will hold a hearing beginning at 10 a.m., e.s.t., on Tuesday, February 6, 1979, in the Commission's Hearing Room (Room 331), 701 E Street N.W., Washington, D.C. 20436. The purpose of the hearing is for the Commission to receive oral presentations concerning appropriate relief, bonding, and the public interest in the event that the Commission determines that there is a violation of section 337. This hearing will be held on one day only in order to facilitate the completion of this investigation within time limits under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for the hearing follows.

Oral presentations on relief, bonding, and the public interest. A party to the investigation, an interested agency, a public-interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* In the event that the Commission finds a violation of section 337, it can issue (1) an order which could result in the exclusion from entry of doxycycline into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of doxycycline. During the course of the investigation, the question was raised as to whether the Commission could issue both an order that would exclude foreign-produced doxycycline from entry into the United States and an order that would require respondents to cease and desist from sales of foreign-produced doxycycline already imported into the United States (see the presiding officer's Recommended Determination, finding of fact No. 7, p. 7). The Commission is interested in receiving information on all three alternatives.

2. *Bonding.* In the event that the Commission finds a violation of section 337 and orders some form of relief, that relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period, the doxycycline, which is the subject of this investigation, would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.* In the event that the Commission finds a violation of section 337 and orders some form of relief, the Commission must consider the effect of that relief upon the public interest. Accordingly, the Commission is interested in the effect of any exclusion order, cease and desist order, granted either alternatively or together, upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States and (4) U.S. consumers.

A party to the Commission's investigation, an interested agency, a public-interest group, or any interested person wishing to make an oral presentation concerning relief, bonding, and the public interest will be limited to no more than 30 minutes. Participants will be permitted an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainant, respondents, interested agencies, public-interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing. If you wish to appear at the Commission's hearing, you must file a written request to appear with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.s.t.) on Wednesday, January 10, 1979. Your written request must indicate whether your oral presentation will concern relief, bonding, the public interest, or a combination of these.

Written submissions to the Commission. The Commission requests that written submissions be filed prior to the hearing in order to focus the issues and facilitate the orderly conduct of the hearing.

1. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These written submissions will be very useful to the Commission in the event that it determines that there is a violation of section 337 and that relief should be granted.

Written comments and information concerning relief, bonding, and the public interest shall be submitted as follows. First, complainant shall file a detailed proposed Commission action, including a proposed determination of bonding, a proposed order granting relief, a discussion of how this order will be enforced, and a discussion of the effect of its proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, with the Secretary to the Commission no later than the close of business on Tuesday, December 26, 1978. Second, other parties, interested agencies, public-interest groups, and other interested members of the public shall file written comments and information concerning the action which complainant has proposed, any available alternatives, and the advisability of any Commission action in light of the public-interest considerations listed above no later than the close of business on Monday, January 22, 1979.

2. *Written report on the public-interest factors to be submitted by the Commission investigative staff.* The Commission's investigative staff will file and serve upon all parties a formal report on the public-interest factors to be considered by the Commission together with the staff's recommendations and conclusions no later than January 22, 1979.

Additional information. The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. If you wish to submit a document (or a portion thereof) to the Commission in confidence, you must request *in camera* treatment. Your request should be directed to the Chairman of the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept the submission in confidence or return the submission to you. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the FEDERAL REGISTER of May 2, 1973 (38 FR 10837), and the Notice of Reactivation was published in the FEDERAL REGISTER of February 21, 1978 (43 FR 7273).

Issued: November 27, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-33604 Filed 11-30-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[AAG/A Order No. 19-78]

PRIVACY ACT OF 1974

Amended System of Records

On Thursday, April 27, 1978, notice of the existence of a system of records maintained by the Drug Enforcement Administration entitled "Investigative Reporting and Filing System" JUSTICE/DEA-008 was published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552a(e)(4).

Notice is hereby given that pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Drug Enforcement Administration, Department of Justice, proposes to further refine this system. The new system (Investigative Reporting and Filing System) will provide for the automated retrieval of certain demographic and administrative data relating to confidential sources of information. This capability will provide management with the ability to meet internal requirements for review of confidential sources of information and better enable management to assess the effectiveness of the use of confidential sources of information.

The amended system notice is reprinted below. Changes have been italicized.

Appropriate reports have been filed with Congress and the Office of Management and Budget.

Dated: November 20, 1978.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

JUSTICE/DEA-008

System name:

Investigative Reporting and Filing System.

System location:

Drug Enforcement Administration; 1405 I Street, N.W.; Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.[1]

Categories of individuals covered by the system:

A. Drug offenders
B. Alleged drug offenders
C. Persons suspected of drug offenses
D. Confidential informants
E. Defendants
F. Witnesses
G. Non-implicated persons with pertinent knowledge of some circumstance or aspect of a case or suspect.

These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need for recall will exist. In the regulatory portion of the system, records are maintained on the following categories of individuals: (a) Individuals registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970; (b) Responsible officials of business firms registered with DEA; (c) Employees of DEA registrants who handle controlled substances or occupy positions of trust related to the handling of controlled substances; (d) Applicants for DEA registration and their responsible employees.

[1] Published at 43 FR 44718 on September 28, 1978.

Categories of records in the system:

The investigative Reporting and Filing System includes, among other things, a system of records as defined in the Privacy Act of 1974. Individual records, i.e., items of information on an individual, may be decentralized in separate investigative file folders. Such records, as well as certain other records on persons and subjects not covered by the Act, are made retrievable and are retrieved by reference to the following subsystems.

A. The Narcotics and Dangerous Drugs Information System (NADDIS) consists of two centralized automated indices and machine records on subjects cited in and extracted from investigative reports. The two indices represent a name index and a number index which are used to access one or more specific records for examination. The system serves as both an index to the more voluminous written reports upon which it is based and as an autonomous means for developing investigative leads and aids in selecting source materials for studies of a strategic nature. The system is accessible by telecommunications by appropriately equipped DEA headquarters and field offices. Records which comprise the system are also accessed by special computer runs. These runs are typically generated from selection criteria which cannot be utilized (input) via the telecommunications equipment. Bulk products generated via off-line runs may be formatted on computer tape, in printout or on microfiche depending on the needs of the user.

Direct references to the discrete file folders in which the source reports are filed are provided within each record. Therefore, the NADDIS records point to the more comprehensive manual reports maintained centrally at Headquarters. Records are retrievable by name and by certain identifying numbers in the on-line mode and by virtually any record data element in the off-line mode.

B. The Confidential Source Subsystem within the Investigative Reporting and Filing System consists of demographic and administrative data concerning: (a) persons who under the specific direction of a DEA agent, with or without the expectation of payment or other valuable consideration, furnish information regarding drug trafficking, or perform other lawful services; and (b) persons who furnish information to DEA on an occasional basis.

The information contained in this subsystem is extracted directly from investigative files and confidential informant files contained in the system.

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identified from field office indices are years. Records in general files are re- cedure the effect of which is to fix,

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This subsystem contains no names. The subsystem consists of alphanumeric identifiers coupled with demographic and administrative data concerning the confidential source. The subsystem serves primarily as an administrative tool to enable DEA management to perform periodic revivs of confidential sources required by DEA guidelines and regulations, to enable DEA to maintain more effective management controls over the expenditure of funds to confidential sources and to enable DEA to more systematically assess the performance of particular confidential sources. In addition, the system will generate statistical reports which will assist DEA management in evaluating the overall effectiveness of the utilization of confidential sources of information.

The system is accessed by designated ADP terminals on the strictest need to know basis.

C. Manual name indices covering regional and district investigative activities are maintained by DEA field offices. A residual card index is retained by DEA headquarters that predates the automated central index. The items of information on the manual index records are extracted only from investigative reports and point to the more comprehensive information in pertinent investigative file folders. The records in the field office indices are subsets of the central automated and manual indices. Records are retrievable by name only by this manual technique. Four basic categories of files are maintained within the Investigative Reporting and Filing System. DEA does not maintain a dossier type file in the traditional sense on an individual. Instead, the files are compiled on separate investigations, topics and on a functional basis for oversight and investigative support, (a) Criminal Investigative Case Files; (b) General Investigative Files, Criminal and Regulatory; (c) Regulatory Audit and Investigative Files; (d) Confidential Informant Files.

The basic document contained in these files is a multipurpose report of investigation (DEA-6) in which investigative activities and findings are rigorously documented. The reports pertain to the full range of DEA criminal drug enforcement and regulatory investigative functions that emanate from the Comprehensive Drug Prevention and Control Act of 1970. Within the categories of files listed above, the general file category includes preliminary investigations of a criminal nature, certain topical or functional aggregations and reports of preregistrant inspections/investigations. The case files cover targeted conspiracies, trafficking situations and formal regulatory audits and investigations. Frequently the criminal drug cases are the logical extension of one or more preliminary investigations. The distinction between the case file and general file categories, therefore, is based on internal administrative policy and should not be construed as a differentiation of investigation techniques or practices. These files, except for Confidential Informant Files, contain also adopted reports received from other agencies to include items that comprise, when indexed, individual records within the meaning of the Act. The central files maintained at DEA Headquarters include, in general, copies of investigative reports and most of the supporting documents that are generated or adopted by DEA Headquarters and field offices.

Authority for maintenance of the system:

This system is established and maintained to enable DEA to carry out its assigned law enforcement and regulatory functions under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513), Reorganization Plan No. 2 of 1973, and to fulfill United States obligationsunder the Single Convention on Narcotic Drugs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system may be used as a data source or reference facility for numerous summary, management and statistical reports produced by the Drug Enforcement Administration. Only on rare occasions do such reports contain identifiable individual records. Information contained in this system is provided to the following categories of users as a matter of routine use for law enforcement and regulatory purposes: (a) Other federal law enforcement and regulatory agencies; (b) State and local law enforcement and regulatory agencies; (c) Foreign law enforcement agencies with whom DEA maintains liaison; (d) The Department of Defense and Military Departments; (e) The Department of State; (f) U.S. intelligence agencies concerned with drug enforcement; (g) The United Nations; (h) Interpol; (i) To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: (a) To federal agencies for national security clearance purposes and to federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; (b) To the Office of Management and Budget upon request in order to justify the allocation of resources; (c) To State and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; (d) To the news media for public information purposes; and (e) To respondents and their attorneys for purposes of discovery, formal and informal in the course of an adjudicatory, rulemaking, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspection conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Administration regulations include detailed instructions for the preparation, adoption, handling, dissemination, indexing of individual records, storage, safeguarding of investigative reports and the accounting of disclosure of individual records.

Storage:

1. The Headquarters central files and the field office subsets of the Investigative Reporting and Filing System are maintained in standard file folders. Standard formats are employed. Manual indices are maintained using standard index record formats.

2. The Narcotics and Dangerous Drugs information subset is stored electronically on the Department of Justice computer center separate from DEA Headquarters.

Retrievability:

Access to individual records is gained by reference to either the automated or manual indices. Retrievability is a function of the presence of items in the index and the matching of names in the index with search argument names or identifying numbers in the case of the automated system. Files identified from field office indices are held by the field office and Headquarters. Files identified from the automated index may not be held by the interested office, but the originators of such files are identified. In addition a number of telecommunication terminals have been added to the existing network.

Safeguards:

The Investigative Reporting and Filing System is protected by both physical security methods and dissemination and access controls. Fundamental in all cases is that access to investigative information is limited to those persons or agencies with a demonstrated and lawful need to know for the information in order to perform assigned functions.

1. Physicial security when investigative files are attended is provided by responsible DEA employees. Physical security when files are unattended is provided by the secure locking of material in approved containers or facilities. The selection of containers or facilities is made in consideration of the sensitivity or National Security Classification, as appropriate, of the files and the extent of security guard and/or surveillance afforded by electronic means.

2. Protection of the automated index is provided by physical, procedural and electronic means. The Master file resides on the Department of Justice computer center and is physically attended or guarded on a full-time basis. Access or observation to active telecommunications terminals is limited to those with a demonstrated need to know for retrieval information. Surreptitious access to an unattended terminal is precluded by a complex signon procedure. The procedure is provided only to authorized DEA employees. For certain terminals, access is further restricted by cryptological equipment.

3. An automated log of queries is maintained for each terminal. Improper procedure results in no access. Terminals are signed-off after use. The terminals are otherwise located in locked facilities after normal working hours.

4. The dissemination of investigative information on an individual outside the Department of Justice is made in accordance with the routine uses as described herein or otherwise in accordance with the conditions of disclosure prescribed by the Act. The need to know of the recipient is determined in both cases by DEA as a prerequisite of the release.

Retention and disposal:

Records contained within this system except for those in general files are retained for fifty-five (55) years. Records in general files are retained for twenty (20) years. System manager(s) and address:

Assistant Administrator for Enforcement; Drug Enforcement Administration; 1405 I Street, NW., Washington, D.C. 20537.

Record source categories:

(a) DEA personnel; (b) Cooperating individuals; (c) Suspects and defendants; (d) Federal, State and local law enforcement and regulatory agencies; (e) Other federal agencies; (f) Foreign law enforcement agencies; (g) Business records by subpoena; (h) Drug and chemical companies; (i) Concerned citizens.

Systems exempted from certain provisions of the Act:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4) (G) and (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the FEDERAL REGISTER.

[FR Doc. 78-33657 Filed 11-30-78; 8:45 am]

[4410-01-M]

Antitrust Division

UNITED STATES V. GOLDEN GATE SPORTFISHER'S, INC.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16 (b)-(h), that a proposed consent judgment and competitive impact statement as set out below have been filed with the United States District Court for the Northern District of California in *United States* v. *Golden Gate Sportfisher's, Inc.*, Civil No. 78-1608 WWS. The complaint in this case alleges that the defendant, an association of charter sportfishing boat owners, combined with co-conspirators to fix, maintain and stabilize the prices which the members of the association charge to carry passengers in California in violation of Section 1 of the Sherman Act.

The proposed judgment prohibits defendant from entering into any agreement to fix the prices charged by sportfishing boats for carrying passengers and from recommending that its members or any other person use or adhere to any price. It also forbids defendant to attempt to influence its members or any other person regarding prices or to put into effect any procedure the effect of which is to fix, maintain or stabilize the price to be charged for passage on sportfishing boats.

Public comment is invited within the statutory 60 day comment period. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Office, Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102.

Dated: October 26, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Golden Gate Sportfishers, Inc.*, Defendant.

Civil No. C78-1608 WWS.

Filed: October 26, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendant, Golden Gate Sportfishers, Inc., by their respective attorneys, that:

1. The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16] and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this or any other proceeding.

Dated: October 6, 1978.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* Robert B. Ross; William E. Swope; Charles F. B. McAleer; Anthony E. Desmond, *Attorneys, Department of Justice.*

For the Defendant: John Connell, *Attorney for Defendant.*

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Golden Gate Sportfishers, Inc.*, Defendant.

Civil No. C78-1608 WWS.

Filed: October 26, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on July 19, 1978, and defendant, Golden Gate Sportfishers, Inc., having appeared by its counsel.

and both parties by their respective attor-

VI

APPENDIX A

terstate. Many of the fishing trips result in

U.S.C. § 16(b)1], any persons wishing to

ment or business activity provided by

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and both parties by their respective attorneys having consented to the making and entry of this Final Judgment without admission by any party in respect to any issue;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against the defendant under Section I of the Sherman Act [15 U.S.C. § 1].

II

As used in this Final Judgment:

(A) "Defendant" means defendant Golden Gate Sportfishers, Inc.;

(B) "Person" means any individual, partnership, corporation, association, firm, or any other business or legal entity;

III

The provisions of this Final Judgment shall apply to the defendant and to each of its officers, directors, agents, employees, chapters, successors and assigns, and to all other persons, including members of the defendant, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is enjoined and restrained from directly or indirectly:

(A) Entering into, adhering to, maintaining, or furthering any contract, agreement, understanding, plan or program, to fix, establish, or maintain prices charged by sportfishing boats to carry passengers.

(B) Advocating, suggesting, urging, inducing, compelling, or in any other manner influencing or attempting to influence members of the defendant and/or any other person to use or adhere to any price to be charged for passage on sportfishing boats;

(C) Policing, urging, coercing, influencing, or attempting to influence in any manner any member or any other person, or devising or putting into effect any procedure (including but not limited to picketing) the effect of which is to fix, maintain, or stabilize prices to be charged by members or any other persons for passage on sportfishing boats.

V

Defendant is ordered and directed:

(A) Within 60 days after entry of this Final Judgment to serve a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, upon each of those persons who are or have been officers or members of defendant at any time since January 1, 1977.

(B) To serve a copy of this Final Judgment together with a letter identical in text to that attached to this Final Judgment as Appendix A, upon all of its future members at such time as they become members;

(C) To file with this Court and serve upon the plaintiff within sixty (60) days after the date of entry of this Final Judgment an affidavit as to the fact and manner of compliance with subsection A of this Section V.

VI

(A) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents, in the possession or under the control of defendant, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, directors, agents, partners, members, or employees of defendant, who may have counsel present, regarding any such matters.

(B) Defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

VII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

VIII

Entry of this Final Judgment is in the public interest.

Dated: ————

United States District Judge.

APPENDIX A

Re: Final Judgment in *United States* v. *Golden Gate Sportfishers, Inc.*, Civil No. C78-1608 WWS

Dear Sir: Enclosed herewith is a copy of a Final Judgment entered ————, 1978, in *United States* v. *Golden Gate Sportfishers, Inc.*, Civil No. C78-1608 WWS. The terms of the Final Judgment require that a copy of said Judgment as well as this letter be served upon you. You should read the terms of the Final Judgment carefully and note that you as a member of the association are bound by its provisions. The purpose of this letter is to enable you to better understand those provisions.

The essence and intent of the Final Judgment is that you should make your own pricing and profit decisions without consulting with any other sportfishing boats or organization of such boats. This includes not only the price of passage, but also any discounts, or concessions in the charges for rental fishing equipment, tackle, or bait. Prices should not be a subject of agreement. Nor should you attempt to influence the prices charged by others, whether such influence be in the form of persuasion or coercion.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Golden Gate Sportfishers, Inc.*, Defendant.

Civil No. C78-1608 WWS.

October 26, 1978.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. §§ 16(b)(h), P.L. 93-528 (December 21, 1974)], the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDING

On July 19, 1978, the United States filed a civil complaint under Section 4 of the Sherman Act [15 U.S.C. § 4] alleging that defendant Golden Gate Sportfishers, Inc., violated Section 1 of the Sherman Act [15 U.S.C. § 1]. The complaint alleges a combination and conspiracy in unreasonable restraint of interstate commerce, the substantial terms of which were that the defendant and various coconspirators agreed to raise and fix the prices which members of the defendant charge to carry passengers.

II

PRACTICES AND EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

The defendant Golden Gate Sportfishers, Inc., is an association of licensed captains and boat owners engaged in carrying sportfishermen on fishing trips. The association's 130 members are located in California from Crescent City near the Oregon border to Morro Bay in Southern California. Most of the members are located in the San Francisco Bay area. Many customers are from States other than California and they reserve passage using interstate telephone calls and letters. Out of state passengers that pay with credit cards and checks cause paperwork and funds to be transferred interstate. Many of the fishing trips result in passengers being carried outside the jurisdictional waters of California.

The Government contends that beginning sometime prior to February 1977, the defendant and its members combined and conspired to raise the prices charged by members for carrying passengers on fishing trips. The Government would have shown at trial that for many years defendant and its members established prices by holding meetings at which the prices for passage were agreed upon. The effects of this combination and conspiracy, the Government contends, were that prices were fixed at noncompetitive levels and that competition among members of the defendant was restricted, thus depriving the customers of the benefits of free and open competition in the sale of passage for fishing trips.

III

EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment expressly requires the defendant to serve all of its present members and all of its future members with copies of the judgment. Defendant is prohibited by the consent judgment from having any agreement or understanding concerning the prices charged for fishing trips by members or any other person. Further, the defendant is prohibited from suggesting or publishing a recommendation of prices to be charged by members or others for fishing trips. The defendant may not attempt to influence the price charged by members or others, or to police the prices charged by members or others.

To assist the defendant's members in understanding and abiding by all the provisions of the consent judgment, the defendant is required to accompany its service of the judgment on each member with a letter, the text of which is appended to the judgment, which explains those provisions.

IV

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies that they would have had were the proposed consent judgment not entered. However, pursuant to Section 5(a) of the Clayton Act [15 U.S.C. § 15(a)], as amended, this judgment may not be used as *prima facie* evidence in private litigation.

V

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the defendant, which provides that the United States may withdraw its consent to the proposed judgment at any time until the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed consent judgment provides for the Court's retention of jurisdiction of this action in order, among other reasons, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for the modification of the final judgment.

As provided by Section 2(b) of the *Antitrust Procedures and Penalties Act* [15 U.S.C. § 16(b)(1)], any persons wishing to comment upon the proposed judgment may, for a sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Attention Anthony E. Desmond, Chief, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102. The Department of Justice will file with the Court and publish in the FEDERAL REGISTER such comments and its response to them. In evaluating any and all such comments, the Department will determine whether there is any reason for withdrawal of its consent to the proposed judgment.

VI

ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT CONSIDERED BY THE UNITED STATES

An alternative to the proposed Consent Judgment considered by the Department of Justice was a full trial on the merits. It was determined that such a trial involving substantial expense to the United States as well as the commitment of manpower, was not warranted since the equitable remedies set forth in the proposed Consent Judgment will be effective to restore competition in sportfishing businesses on the California coast. Moreover, the remedies set forth in the proposed Consent Judgment provide for all the relief requested in the Complaint.

VII

DETERMINATIVE DOCUMENTS

Since there are no materials or documents which were determinative in formulating a proposal for a consent judgment, none are being filed by the plaintiff pursuant to Section 2(b) of the *Antitrust Procedures and Penalties Act* [15 U.S.C. § 16(b)].

Dated: October 26, 1978.

ANTHONY E. DESMOND,
Attorney, Department of Justice.

[FR Doc. 78-33628 Filed 11-30-78; 8:45 am]

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 28th day of November 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications Received During the Week Ending Nov. 24, 1978

must be filed with the Office of Stand-

and children's shirts, sweaters, jackets, blouses, skirts, slacks and shorts

creased in each year from 1975 through 1977.

many customers decreased their purchases from Alleen, Incorporated and

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Applications Received During the Week Ending Nov. 24, 1978

Name of applicant and location of enterprise	Principal product or activity
Williams and Isbell, Inc., Bowling Green, Ky	Motel and restaurant.
American Orange Corp., Wauchula and Arcadia, Fla	Process fresh oranges into frozen concentrated orange juice and frozen single strength orange juice.
Gold & White, Inc., Lamar and Monroe Counties, Ga	Shopping center.
Troupco Enterprises, Inc., LaGrange, Ga	Hotel.
Hudson Shipbuilders, Inc., Jackson County, Miss	Construction of new vessels both fishing and oil-field support type.
The Steinthal Corp., Roxboro, N.C	Manufacture of parachutes and related items.
Southern Minnesota Beet Sugar Cooperative, Renville, Minn.	Manufactured beet sugar.
Burnstad Bros. Inc., Tomah, Wis	Retail supermarket products and dry goods department store.
Olympic Sea Foods Co., Charleston, Oreg	Sea food processing plant.
Holiday Inn of Edinburg, Edinburg, Tex	Motor hotel.
Colonial Manor of Linn, Mo., Linn, Mo	Nursing home patient care.

[FR Doc. 78-33694 Filed 11-30-78; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-80-C]

EASTERN ASSOCIATED COAL

Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, 1728 Koppers Building, Pittsburgh, Pennsylvania 15219, has filed a petition to modify application of 30 CFR 75.305 (weekly examinations of return airways) to its Federal No. 1 Mine in Marion County, W.Va. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

(1) The petition pertains to certain return airways projecting through extensive abandoned areas of the mine.

(2) The slate roof of these areas has so deteriorated as to cause massive roof falls which render safe travel virtually impossible.

(3) The return airways, although fallen and unsafe for travel, allow sufficient flow of air to effectively ventilate the affected areas of the mine.

(4) It is exceedingly hazardous to conduct weekly ventilation and methane tests in the entries of the return airways.

(5) As an alternative, the petitioner outlines a proposed use of an air quality monitoring system using eleven check points.

(6) The petitioner states that this alternative will provide no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before January 2, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33717 Filed 11-30-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-54-M]

PORTLAND-MONSON SLATE CO.

Petition for Modification of Application of Mandatory Safety Standard

The Portland-Monson Slate Co., Monson, Maine, 04464, has filed a petition to modify application of 30 CFR 57.11-50 (escapeways) to its No. 5 Mine in Piscataquis County, Maine.

The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

(1) The mine exists in very competent rock which requires no support.

(2) Because the mine is extremely wet and there are no combustibles in the shaft or tunnels, the potential for fire is minimal.

(3) In lieu of a second shaft opening to the surface, the petitioner proposes to construct a refuge chamber as outlined in 30 CFR 57.11-52.

(4) The petitioner states that this alternative will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before January 2, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available at that address.

Dated: November 20, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33716 Filed 11-30-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3421, etc.]

AILEEN, INC. ET AL.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-3421: Abilene, Texas Textile Plant; TA-W-3422: Strasburg, Virginia Sewing Plant; TA-W-3423: Brookneal, Virginia Sewing Plant; TA-W-3421: Culpeper, Virginia Sewing Plant; TA-W-3425: Edinburg, Virginia Textile Plant; TA-W-3426: Flint Hill, Virginia Sewing Plant; TA-W-3426A: Flint Hill, Virginia Cutting Plant; TA-W-3427: New Market, Virginia Sewing Plant; TA-W-3428: Victoria, Virginia Sewing Plant; TA-W-3428A: Monterey, Virginia Sewing Plant; TA-W-3429: Woodstock, Virginia Cutting Plant (formerly located in Edinburg); TA-W-3429A: Woodstock, Virginia Warpknit Plant; TA-W-3430: Woodstock, Virginia Shipping Facility.

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3421-3430: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on March 28, 1978 in response to a worker petition received on March 20, 1978 which was filed on behalf of workers and former workers producing women's, misses' and children's sportswear at the following plants and facilities of Aileen, Incorporated: Abilene, Texas; Strasburg, Virginia; Brookneal, Virginia; Culpeper, Virginia; Edinburg, Virginia; the Flint Hill, Virginia Sewing Plant; New Market, Virginia; the Victoria, Virginia Sewing Plant; the Woodstock, Virginia Cutting Plant; and the Woodstock, Virginia Shipping Facility. The investigation was expanded to include the following Aileen, Incorporated facilities: the Flint Hill, Virginia Cutting Plant, the Monterey, Virginia Sewing Plant, and the Woodstock, Virginia Warpknit Plant. The investigation revealed that the garments produced at Aileen, Incorporated included women's, misses' and children's shirts, sweaters, jackets, blouses, skirts, slacks and shorts.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205-15206). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Aileen, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers at the Culpeper, Virginia Sewing Plant; the New Market, Virginia Sewing Plant and the Monterey, Virginia Sewing Plant and without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The investigation revealed that employment of production workers at the Culpeper, the New Market, and the Monterey, Virginia Sewing Plants increased in 1977 compared to 1976 and increased in the first seven months of 1978 compared to the same period in 1977. At each of these three plants, average quarterly employment increased in every quarter compared to the same quarter of the previous year beginning with the first quarter in 1977 and continuing through the second quarter of 1978.

With respect to workers at the Abilene, Texas Textile Plant; the Strasburg, Virginia Sewing Plant; the Brookneal, Virginia Sewing Plant; the Edinburg, Virginia Textile Plant; the Flint Hill, Virginia Sewing Plant; the Flint Hill, Virginia Cutting Plant; the Victoria, Virginia Sewing Plant; the Woodstock, Virginia Cutting Plant; the Woodstock, Virginia Warpknit Plant; and the Woodstock, Virginia Shipping Facility all of the group eligibility requirements of Section 222 of the Act have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased from 1975 to 1976, from 1976 to 1977, and in the first half of 1978 compared to the first half of 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased from 1975 to 1976, from 1976 to 1977 and in the first half of 1978 compared to the first half of 1977. The ratio of imports to domestic production increased in each year from 1975 through 1977.

U.S. imports of women's, misses' and children's coats and jackets increased on an absolute basis and relative to domestic production from 1975 to 1976 and from 1976 to 1977.

U.S. imports of women's, misses' and children's skirts increased absolutely and relatively from 1975 to 1976 and then decreased in 1977. The absolute level of imports and the import to domestic production ratio in 1977 were higher than the averages for the period 1973 through 1976. Imports increased in the first half of 1978 compared to the first half of 1977.

U.S. imports of women's, misses' and children's sweaters increased in each successive year from 1973 through 1976. In 1977, imports of sweaters were 9.0 percent above the average level of imports for the years 1973 through 1976. In the first quarter of 1978, imports increased compared to the first quarter of 1977. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 through 1975 time period.

A Departmental survey of customers of Aileen, Incorporated indicated that many customers decreased their purchases from Aileen, Incorporated and increased purchases of imported women's, misses' and children's sportswear from 1976 to 1977 and in the first half of 1978 as compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's, misses' and children's sportswear produced at Aileen, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In acordance with the provisions of the Act, I make the following certification:

All workers of the following facilities of Aileen, Incorporated engaged in employment related to the production of women's, misses' and children's sportswear who became totally or partially separated from employment on or after the indicated impact date and before any indicated termination date are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Investigation No.	Plant location	Impact date	Termination date
TA-W-3421	Abilene, Tex., textile plant	Mar. 15, 1977	None.
TA-W-3422	Strasburg, Va., sewing plant	do	Do.
TA-W-3423	Brookneal, Va., sewing plant	do	Oct. 1, 1977.
TA-W-3425	Edinburg, Va., textile plant	do	None.
TA-W-3426	Flint Hill, Va., sewing plant	do	Do.
TA-W-3426A	Flint Hill, Va., cutting plant	Aug. 13, 1977	Do
TA-W-3428	Victoria, Va., sewing plant	Mar. 15, 1977	Oct. 1, 1977.
TA-W-3429	Woodstock, Va., cutting plant	do	Do.
TA-W-3429A	Woodstock, Va., warpknit plant	Aug. 26, 1977	None.
TA-W-3430	Woodstock, Va., shipping facility	Mar. 15, 1977	Jan. 1, 1978.

I further determine that all workers at the Culpeper, Virginia Sewing Plant, the New Market, Virginia Sewing Plant and the Monterey, Virginia Sewing Plant are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-33718 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3823]

AMERICAN BILTRITE, INC., TRENTON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3823: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 12, 1978 in response to a worker petition received on June 2, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing floor tile at the Trenton, New Jersey plant of American Biltrite, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of American Biltrite, Inc., its customers, the U.S. Department of Commerce, the U.S. International

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Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of vinyl floor coverings increased absolutely in value from $6.86 million in 1976 to $9.84 million in 1977, and increased from $4.44 million in the first half of 1977 to $7.01 million in the first half of 1978. The ratio of imports to domestic production increased from 0.92 percent in 1976 to 1.21 percent in 1977, and increased from 1.19 percent in the first half of 1977 to 1.57 percent in the first half of 1978.

Imports of smooth surface tile (which includes ceramic, mosaic and cork) increased in value from $55.84 million in 1976 to $86.65 million in 1977, and increased from $42.35 million in the first half of 1977 to $68.51 million in the first half of 1978.

The Trenton, New Jersey plant of American Biltrite, Inc., ceased production and laid off all but a few workers in February 1978.

American Biltrite began purchasing imported vinyl floor tile from Taiwan and Canada in March 1978. These imports are like the lower-priced vinyl tile formerly produced at the subject plant in Trenton, New Jersey. In addition, the company began importing "luxury" vinyl from the English licensee of American Biltrite in June 1978.

Several major purchasers of vinyl floor tile from American Biltrite who were surveyed purchase imported flooring products. Some of these customers reduced purchases of vinyl floor tile from the company while increasing purchases of imported flooring products in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with vinyl floor tile produced at the Trenton, New Jersey plant of American Biltrite, Inc., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Trenton, New Jersey plant of American Biltrite, Inc., who became totally or partially separated from employment on or after June 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33702 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3672]

AMERICAN GIRL COAT CO., INC., NEW BRUNSWICK, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3672: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and children's coats at American Girl Coat Company, Incorporated, New Brunswick, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of American Girl, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of customers of American Girl in 1976, 1977 and the first quarter of 1978. A manufacturer that accounted for a significant portion of American Girl's sales in 1976 reduced purchases from American Girl and increased purchases of imported ladies' coats in 1977 compared to 1976. This manufacturer went out of business in late 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' coats and children's coats produced at American Girl Coat Company, Incorporated, New Brunswick, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of American Girl Coat Company, Incorporated, New Brunswick, New Jersey who became totally or partially separated from employment on or after April 25, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33704 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3814]

ARONICA SPORTSWEAR INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3814: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1978 in response to a worker petition received on May 26, 1978 which was filed by the International Garment Workers Union on behalf of workers and former workers of Aronica Sportswear Incorporated, New York, New York, formerly producing ladies' coats, blazers, dresses, and some skirts. The investigation revealed that the plant primarily produced women's skirts.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Aronica Sportswear Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

United States imports of women's, misses' and children's skirts declined from 791 thousand dozen in 1976 to 654 thousand dozen in 1977. The ratio of imports to domestic production fell from 14.2 in 1976 to 10.2 in 1977.

The Aronica Sportswear, Incorporated went out of business September 21, 1977.

Conclusion

After careful review, I determine that all workers of Aronica Sportswear Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33705 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3742]

ASARCO, INC., EAST HELENA, MONT.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 23, 1978 in response to a worker petition received on May 19, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in converting slag to zinc at the East Helena, Montana plant of ASARCO, Incorporated.

Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-34). No public hearing was requested and none was held.

During the course of the investigation, it was determined that in the period of possible coverage, there were no involuntary separation of workers at the ASARCO plant in East Helena, Montana. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 27th day of November 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33698 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3359]

BORDENTOWN INDUSTRIES, INC., BORDENTOWN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3359: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 20, 1978 in response to a worker petition received on February 3, 1978 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing ladies' sportswear at Bordentown Industries, Incorporated, Bordentown, New Jersey. The investigation revealed that until late 1976 Bordentown produced ladies' raincoats and jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14776-77). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bordentown Industries, Incorporated, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased in 1975 compared to 1976. Imports increased in 1976 compared to 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased from 1975 to 1976 and from 1976 to 1977. Imports increased in the first quarter of 1977 compared to the first quarter of 1978.

A survey by the Department revealed that customers of Bordentown terminated purchases of women's jackets and raincoats in 1977 compared to 1976 and increased purchases of imports. The firm attempted to change product lines and obtain other customers but was not able to make the transition.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sportswear, jackets and raincoats produced at Bordentown Industries, Incorporated, Bordentown, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bordentown Industries, Incorporated, Bordentown, New Jersey who become totally or partially separated from employment on or after July 2, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-33696 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3447]

F & A FASHIONS, LONG BRANCH, N.J.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 30, 1978 in response to a worker petition received on February 24, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing children's coats at F & A Fashions, Long Branch, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

Due to the short term of operation of F & A Fashions and to the seasonality of the children's coat industry, there is not sufficient information in this case upon which to base a determination. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 22d day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33699 Filed 11-30-78; 8:45 am]

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[4510-28-M]

[TA-W-4306]

FARWELL MANUFACTURING, INC., FARWELL, MICH.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 30, 1978 in response to a worker petition received on October 27, 1978 which was filed on behalf of workers and former workers producing moldings for small automobiles (upper and lower inside windows) at the Farwell, Michigan plant of Farwell Manufacturing, Incorporated.

Notice of investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The petitioners requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 27th day of November 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33706 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3638]

JOLEE FASHIONS, INC., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3638: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies's garments at Jolee Fashions, Incorporated, Passaic, New Jersey. The investigation revealed that the plant primarily produces women's unlined shirt jackets, dresses, skirts, blouses and vests.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Jolee Fashions, its customers (manufacturers), customer of the manufacturers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

During 1976 and through October in 1977 Jolee Fashions produced women's unlined shirt jackets. In November 1977 Jolee Fashions shifted production to women's dresses, skirts, blouses and vests, when the only manufacturer Jolee was working for, ceased purchasing shirt jackets from the subject firm.

The Department conducted a survey of the principal manufacturers for which Jolee Fashions worked in 1976 and 1977. None of the manufacturers surveyed purchased imported ladies' shirt jackets, dresses, skirts, blouses or vests. A survey was conducted of the customers of one manufacturer, whose sales declined during the period under consideration. None of the customers surveyed decreased purchases from the manufacturer and increased purchases of imported ladies' shirt jackets during the period under investigation.

CONCLUSION

After careful review, I determine that all workers of Jolee Fashions, Incorporated, Passaic, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33703 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-4009]

L. N. GROSS CO., NEW YORK, N.Y.

Certification Regarding Eligibiliy To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4009: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 26, 1978 which was filed on behalf of workers and former workers selling ladies' sweaters and ladies' knitted sportswear at the New York, New York sales office of L. N. Gross Company. The investigation revealed that L. N. Gross is an apparel manufacturer involved in the production through contractors, of the garments it sells.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35131). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of L. N. Cross Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased from 1975 to 1976. In 1977, imports of sweaters increased 9.0 percent over the average level of imports for the years 1973 through 1976. In the first quarter of 1978, imports increased compared to the first quarter of 1977. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 to 1975 time period.

U.S. imports of women's, misses' and children's blouses and shirts increased from 1976 to 1977. Imports increased in the first six months of 1978 compared to the first six months of 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased from 1976 to 1977. Imports increased in the first six months of 1978 compared to the first six months of 1977.

U.S. imports of women's, misses' and children's coats and jackets increased from 1976 to 1977.

U.S. imports of women's, misses' and children's skirts increased from 1975 to 1976 and then decreased in 1977. The absolute level of imports and the imports to domestic production ratio in 1977 were higher than the averages for the period 1973 to 1976. Imports increased in the period January through June 1978 compared to the same period in 1977.

U.S. imports of women's, misses' and children's dresses increased in the period January through June, 1978 compared to the same period in 1977.

L. N. Gross Company is an apparel manufacturer that designs and supervises the production by contractors of ladies' knitted sweaters and ladies' knitted sportswear, such as T-shirts, slacks, jackets, skirts and dresses. A Departmental survey of the customers of L. N. Gross Company revealed that several customers increased their purchases of imported ladies' sweaters, blouses and sportswear and decreased purchases from L. N. Gross from 1976 to 1977 and during the first six months of 1978 compared to the first six months of 1977.

L. N. Gross Company increased its company imports of ladies' sweaters and ladies' knitted sportswear on an absolute basis and as a proportion of total sales in the first seven months of 1978 as compared to the same period in 1977. Workers in the New York sales office are not involved in the design and supervision of the imported products.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sweaters, dresses, skirts, blouses, jackets and slacks sold at the New York, New York sales office of L. N. Gross Company contributed importantly to the decline in sales and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the New York, New York facility of L. N. Gross Company who became totally or partially separated from employment on or after July 24, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33700 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-4028]

MIDWEST FOOTWEAR CO., INC., SULLIVAN, MO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4028: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 2, 1978 in response to a worker petition received on July 31, 1978 which was filed on behalf of workers and former workers producing women's dress and casual shoes at Midwest Footwear Company, Incorporated, Sullivan, Missouri.

The Notice of Investigation was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35759-60). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Midwest Footwear Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

On July 7, 1976 the Department issued a certification of eligibility to apply for adjustment assistance for workers at Midwest Footwear (TA-W-656). The period of certification expired on July 7, 1978.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of "Women's and Misses' Nonrubber Footwear, Except Athletic" declined from 218.9 million pairs in 1976 to 204.4 million pairs in 1977, and increased from 107.6 million pairs in the first six months of 1977 to 111.4 million pairs in the first six months of 1978. The ratio of imports to domestic production of Women's and Misses' Nonrubber Footwear, Except Athletic increased from 127.6 percent in 1976 to 134.6 percent in 1977, and declined from 137.9 percent in the first six months of 1977 to 135.9 percent in the first six months of 1978.

A customer survey conducted by the Department revealed that customers reduced purchases from Midwest Footwear and increased purchases of imported women's shoes in the first eight months of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dress and casual shoes produced at Midwest Footwear Company, Incorporated, Sullivan, Missouri contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Midwest Footwear Company, Sullivan, Missouri who became totally or partially separated from employment on or after July 8, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33701 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-4051]

PHELPS DODGE CORP., SAFFORD, ARIZ.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4051: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 8, 1978 in response to a worker petition received on August 7, 1978 which was filed on behalf of workers and former workers developing a copper mine at the Safford, Arizona Branch of Phelps Dodge Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634-38635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Phelps Dodge Corporation, *American Metal Market*, the American Bureau of Metal Statistics, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that the workers at Safford are developing a mine for the eventual production of copper. Mine development is integrated into the company's production of copper, coming, as it does, after copper exploration and before copper production.

The mine development program at Safford, Arizona is part of the Western Operations of Phelps Dodge Corporation. Workers at four facilities of the Western Operations have been certified as eligible to apply for trade adjustment assistance: The Morenci, Arizona Branch (TA-W-2423), the New Cornelia Branch, Ajo, Arizona (TA-W-2421), the Douglas Reduction Works, Douglas, Arizona (TA-W-2420) and the Western General Offices, Douglas, Arizona (TA-W-3108). Production of copper at three of these certified facilities comprised the pre-

ponderance of total copper production lose money or at best, break even. the

worker adjustment assistance as pre- Department survey, however, revealed concerning support for research on

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ponderance of total copper production by the Western Operations in 1976, 1977 and the first eight months of 1978.

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and to 391 thousand short tons in 1977. Imports increased from 164 thousand short tons in the first six months of 1977 to 327 thousand short tons in the first six months of 1978.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976 and to 22.2 percent in 1977. The ratio increased from 15.0 percent in the first six months of 1977 to 35.9 percent in the first six months of 1978.

The level of imports of copper is affected by the differential between the domestic producers price for copper and the price established by trhe LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the domestic producers price, the demand for imported copper increases. During the last nine months of 1977 and the first six months of 1978, the average LME price had fallen almost 8 cents per pound below the average domestic producers price.

The major factor contributing to depressed prices has been an oversupply of imported and domestic copper, as evidenced by U.S. inventory levels for refined copper. U.S. inventories of refined copper were higher in every month of 1977, except December, when compared to the same month in 1976. Inventories in December 1977 were less than one percent below December 1976 levels. In the first six months of 1978, inventories surpassed levels in the same months of 1977, with the exception of March which was only marginally below the same month in the previous year. The abundant supply of copper stocks in the forseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. consequently, in 1977 and in the first half of 1978, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased in 1977 compared to 1976 and doubled in the first half of 1978 compared to the same period in 1977.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. Estimated costs of production at Phelps Dodge's major producing facilities are equal to or above the domestic producers' price for copper, causing the company to lose money or at best, break even. the depressed market price for copper caused by increased imports has reduced Phelps Dodge Corporation's profit level. As a result the corporation has instituted budget cuts, including cutbacks in the mine development program at Safford.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined copper produced by Phelps Dodge Corporation contributed importantly to the total or partial separation of workers of the mine development program at Safford Branch, Safford, Arizona. In accordance with the provisions of the Act, I make the following certification:

All workers of Phelps Dodge Corporation, Safford Branch, Safford, Arizona who became totally or partially separated from employment on or after July 31, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-33708 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3993]

ROCKWELL INTERNATIONAL, ROCKWELL-DRAPER DIVISION, TUPPER LAKE, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3993: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 18, 1978 which was filed on behalf of workers and former workers producing bobbin blanks, loom skids, boxing material, and semi-finished loom parts at the Tupper Lake, New York plant of Rockwell International in the Rockwell-Draper Division. The investigation revealed that lumber was a secondary product at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33840-41). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Rockwell International, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Machinery Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of all power looms increased relative to domestic production from 133.4 percent in 1976 to 206.2 percent in 1977. The ratio of imports to domestic production increased from 168.4 percent in the first half of 1977 to 385.0 percent in the first half of 1978.

Production of bobbin blanks and other wooden loom component blanks at Tupper Lake was part of the integrated production of weaving looms at Rockwell's Hopedale, Massachusetts plant. Retail customers decreased their purchases of weaving looms from Rockwell during the past two years, while increasing their import purchases of that product (TA-W-2197).

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with weaving looms produced by Rockwell contributed importantly to the decline in sales or production of bobbin blanks and wooden loom part blanks at the Tupper Lake, New York plant and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Tupper Lake, New York plant of Rockwell International's Draper Division who became totally or partially separated from employment on or after February 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-33787 Filed 11-30-78; 8:45 am]

[4510-28-M]

[TA-W-3244]

WARNER GEAR DIVISION OF BORG-WARNER CORP., MUNCIE, IND.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3244: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 23, 1978 in response to a worker petition received on February 10, 1978 which was filed by the United Automobile Workers of America on behalf of workers and former workers producing transmissions at the Muncie, Indiana plant of the Warner Gear Division of Borg-Warner Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Warner Gear Division, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

With respect to workers producing transmissions for light trucks, marine and industrial vehicles, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Warner Gear produces transmissions on order, therefore sales are equal to production. Sales of transmissions for light trucks, marine and industrial vehicles increased from 1976 to 1977 and increased in the first quarter of 1978 compared to the first quarter of 1977.

With respect to workers producing passenger car manual transmissions, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of manual transmissions for passenger cars and light trucks increased from 1976 to 1977. A Department survey, however, revealed that from 1976 to 1977 customers did not replace passenger car manual transmissions purchased from Warner Gear with imported transmissions.

CONCLUSION

After careful review, I conclude that all workers of the Muncie, Indiana plant of the Warner Gear Division of Borg-Warner Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33697 Filed 11-30-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

AD HOC SUBCOMMITTEE FOR THE REVIEW OF THE CONTROLLED ECOSYSTEM POPULATIONS EXPERIMENT (CEPEX) OF THE ADVISORY COMMITTEE FOR OCEAN SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: *Ad Hoc* Subcommittee for the Review of the Controlled Ecosystem Populations Experiment (CEPEX) of the Advisory Committee for Ocean Sciences.

DATE AND TIME: 19 December 1978; 9:00 A.M. to 5:30 P.M.

PLACE: National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550, Room 643.

TYPE OF MEETING: Closed.

CONTACT PERSON:
Dr. Bruce Malfait, Acting Head, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202)632-7356.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research on CEPEX.

AGENDA: To review and evaluate proposed research for the CEPEX project during 1979 and 1980 as part of the recommendation process for awards.

REASON FOR CLOSING: The review process includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

NOVEMBER 28, 1978.

[FR Doc. 78-33715 Filed 11-30-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this date November 27, 1978, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Special nuclear material in kilograms: Total element	Special nuclear material in kilograms: Total isotope	End-use	Country of ultimate destination
Transnuclear, Inc., Nov. 13, 1978, Nov. 14, 1978 XSNMO1412.	93.3 pct enriched uranium.	19.398	18.098	Fuel for HFR reactor	Netherlands.
Transnuclear, Inc., Nov. 13, 1978, Nov. 14, 1978, XSNMO1413.	3.25 pct enriched uranium.	34,801	1,131.033	Reload fuel for Unterwester unit I.	West Germany.

[FR Doc. 78-33624 Filed 11-30-78; 8:45 am]

The Commission has made appropri-

Louise Lingo, 1918 Broken Bow, No. Little

[7590-01-M]

[Docket No. 11000213]

GENERAL ATOMIC CO.

Application for Facility Export License

Please take notice that General Atomic Company, San Diego, California, has submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a TRIGA Mark I research reactor with a thermal power level of 100 kilowatts to the Government of Morocco and that the issuance of this license is under consideration by the Nuclear Regulatory Commission.

No license authorizing export of the reactor will be issued until the Nuclear Regulatory Commission determines that the export is within the scope of and consistent with the terms of an agreement for cooperation arranged pursuant to Section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(a) The export complies with the requirements of the Act and the Commission's regulations set forth in 10 CFR, Chapter 1, and

(b) The reactor proposed to be exported is a utilization facility as defined in the Act and the Commission's regulations.

Unless on or before January 2, 1979, a request for hearing is filed with the Nuclear Regulatory Commission, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of the Office of International Programs may, upon making the determinations and findings noted above, cause to be issued to General Atomic Company a facility export license and cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Nuclear Regulatory Commission will issue a notice of hearings or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 17th day of November, 1978.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 78-33625 Filed 11-30-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-522 and 50-523]

PUGET SOUND POWER & LIGHT CO., ET AL. (SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2)

Reconstitution of Board

Samuel W. Jensch, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Jensch has retired and therefore is unable to continue his service on this Board.

Accordingly, Valentine B. Deale, Esq., whose address is 1001 Connecticut Avenue, N.W., Washington, D.C. 20036 is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 27th day of November 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-33626 Filed 11-30-78; 8:45 am]

[7590-01-M]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. & SAN DIEGO GAS AND ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (SO-1), the facility, located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to: (1) reduce the maximum allowable rate for pressurizer heatup from 195°F/hour to 100°F/hour, (2) increase the maximum allowable rate for pressurizer cooldown from 195°F/hour to 200°F/hour, and (3) delete the provisions of the Respiratory Protection Program (Section 6.12).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 30, 1977 (Proposed Change No. 68), (2) Amendment No. 38 to License No. DPR-13 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of November, 1978.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-33627 Filed 11-30-78; 8:45 am]

[18010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15350; SR-DTC-78-5]

THE DEPOSITORY TRUST CO.

Order Approving Proposed Rule Change

NOVEMBER 22, 1978.

On March 24, 1978, and by Amendment No. 1 submitted April 5, 1978, The Depository Trust Company ("DTC"), 55 Water Street, New York, New York 10041, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would authorize the European Options Clearing Corporation ("EOCC") to become a pledgee in DTC. The proposed rule change would enable an EOCC clearing member who has sold an option on a United States security on the European Options Exchange to satisfy its margin obligations to EOCC by directing a DTC participant bank (with whom the EOCC clearing member has a correspondent relationship) to effect a book-entry movement of underlying securities from the participant's account to the EOCC pledgee account. In addition, an EOCC clearing member could satisfy an exercise notice by directing its DTC participant correspondent bank to move securities by book-entry to the account of another DTC participant bank acting for the exercising EOCC clearing member. EOCC would be able to release securities from their pledgee status by communication to DTC.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14656, April 12, 1978) and by publication in the FEDERAL REGISTER (43 FR 16579, April 19, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-DTC-78-5 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-33602 Filed 11-30-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 03/04-0081]

CAPITAL INVESTMENT CO. OF WASHINGTON

Approval of Application for Transfer of Control of Licensed Small Business Investment Company

On September 20, 1978, a notice was published in the FEDERAL REGISTER that an application had been filed with the Small Business Administration pursuant to (13 CFR 107.701(1978)) for transfer of control of the Capital Investment Company of Washington (CICW), a District of Columbia corporation, and a Federal Licensee under the Small Business Investment Act of 1958, as amended, with its office to be located at 1010 Wisconsin Avenue, NW., Washington, D.C. 20007, to Iona Corporation, a Delaware corporation.

Interested parties were given until the close of business on October 5, 1978, to submit written comments on the application to SBA and no written comments were received.

SBA has been informed that the conditions imposed by the SBA relative to the proposed transfer of control (which were set forth in the notice published in the FEDERAL REGISTER on September 20, 1978, mentioned above) have been met. Accordingly, notice is hereby given that having considered the application and all pertinent information, the SBA approves the transfer of control of CICW effective November 15, 1978.

Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: November 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33615 Filed 11-30-78; 8:45 am]

[8025-01-M]

[Application No. 06/06-5207]

CAPITAL-MANAGEMENT SERVICES, INC.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Capital-Management Services, Inc. (applicant) with the Small Business Administration pursuant to 13 CFR 107.102 (1978).

The officers and directors are as follows:

Louise Lingo, 1918 Broken Bow, No. Little Rock, Arkansas 72116, President and Director.

Mahesh Kapadia, 813 Koehler, Sherwood, Arkansas 72116, Vice President and Director.

George S. Ivory, Jr., #17 Lakeside Drive, Little Rock, Arkansas 72204, Secretary and Director.

C. W. Tracy, Rt. 1, Box 648, Benton, Arkansas 72015, Treasurer and Director.

David L. Hale, 2823 North Pierce, Little Rock, Arkansas 72207, General Manager and Director.

Robert Byrns, P. O. Box 808, Cabot, Arkansas 72023, Director.

C. C. Jones, 1715 W. 35th Street, North Little Rock, Arkansas 72116, Director.

The applicant will maintain its principal place of business at 4801 North Hills Boulevard, North Little Rock, Arkansas 72116. It will begin operations with $152,500 of private capital derived from the sale of 305 shares of stock to the officers and directors listed above.

The applicant will conduct its operations principally in the State of Arkansas.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Notice is hereby given that any person may, not later than December 18, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in North Little Rock, Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

V 43/232 DEC 1 78 UMI

Dated: November 24, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33616 Filed 1-30-78; 8:45 am]

[8025-01-M]

[Application No. 05/05-5134]

CONTROL DATA COMMUNITY VENTURES FUND, INC.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661, *et. seq.*), has been filed by Control Data Community Ventures Fund, Inc. (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1978).

The officers, directors, and stockholders are as follows:

Philip J. Bifulk, 2108 Timmy Street, St. Paul, Minnesota 55120, President and Director.
Eugene L. Baker, 5409 Malibu Drive, Edina, Minnesota 55436, Vice President and Director.
Edward E. Strickland, 5935 Christmas Lake Road, Excelsior, Minnesota 55331, Secretary, Treasurer and Director.
David M. Noer, 1200 Wine Spring Land, Baltimore, Maryland 21204, Director.
George F. Fray, 105 Belmore Road, Lutherville, Maryland 21093, Director.
Commercial Credit Company, 100% Stockholder.

The applicant, a Delaware corporation, will maintain an office at 8100 34th Avenue South, Bloomington, Minnesota 55420, and will begin operations with $502,500 of paid-in capital and paid in surplus derived from the sale of 10,000 shares of common stock to the Commercial Credit Company.

The applicant will operate within the investment policies § 107.101(c) of the regulations. The applicant anticipates being both equity and loan oriented in its investment decisions and policy. Applicant will establish a broad, flexible financing policy intended to meet the various and diverse requirements of prospective applicants across the full range of such small business concerns.

Applicant anticipates achieving a major portion of its return through growth in its equity investments, and to the extent practicable will emphasize equity investments in qualifying small business concerns with attractive growth potentials.

Applicant intends to offer management consulting services to its clients and other small business concerns. Consulting services will be performed by applicant's officers, directors and employees, and will include general business and accounting systems analysis. The consulting services will be offered independently of applicant's financing program.

Commercial Credit Company, applicant's parent corporation, is also the parent corporation, of Control Data Capital Corporation, another licensee.

Applicant has no present plans of operations which relate to applicant's affiliated companies. Applicant does not anticipate participation financings by applicant and affiliated companies, and does not anticipate management services provided by applicant's affiliated companies in conjunction with financing by applicant. However, it is possible that small concerns financed by applicant may be associated with one or more of applicant's affiliated companies as suppliers or customers or otherwise. In any such event, should it occur, applicant's financing would be independent of any such association. Some of applicant's affiliated companies provide consulting services to businesses. It is possible that customers of such affiliated companies may also receive financial assistance from applicant. In any such event, applicant's financing would be independent of any consulting services provided, and to the extent such consulting services were deemed by the SBA to be "management services" under § 107.601 of the applicable SBA Regulations, compliance with such regulations would be provided.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than December 18, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Bloomington, Minnesota.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 17, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33617 Filed 11-30-78; 8:45 am]

[8025-01-M]

EASTERN SEABOARD INVESTMENT CORP. ET AL.

License Revocations

Notice is hereby given that the corporations listed below, each licensed by the Small Business Administration (SBA) to operate solely as small business investment companies (SIBCs) under the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.), were defendents in civil actions brought by SBA. The complaint in each action alleged among other matters violations of the Act and the SBA Regulations promulgated thereunder. In each action the court determined and adjudged that the respective corporation had violated, or failed to comply with, the Act and the Regulations.

Name	Location	Date licensed	License No.
Eastern Seaboard Investment Corp.	Springfield, Mass.	Dec. 20, 1963	01/01-0060
Growth SBIC	Coronado, Calif.	June 11, 1971	09/07-0085
Intermountain Capital Corp. of Utah	Salt Lake City, Utah	May 31, 1963	08/11-0020
Investcal SBIC	Beverly Hills, Calif.	Sept. 20, 1960	09/14-0012

Section 308(d) of the Act provides that the license of an SBIC may be forfeited if such company is determined and adjudged by a court of the United States to have violated the provisions of the Act.

Pursuant to the above authority, and subsequent to the determination and adjudication of the Court in each voted case, SBA hereby revokes the licenses of the corporations identified above and accordingly, all powers, privileges, rights and franchises heretofore derived from such licenses have been forfeited.

(Catalogue of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc 78-33623 Filed 11-30-78; 8:45 am]

[8025-01-M]

[License No. 05/05-0130]

FEDERATED CAPITAL CORP.

Issuance of a Small Business Investment Company License

On July 28, 1978, a notice was published in the FEDERAL REGISTER (43 FR 32908) stating that an application had been filed by Federated Capital Corporation, 20000 West Twelve Mile Road, Southfield, Michigan 48076, with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)) for a license as a small business investment company.

Interested parties were given until close of business August 14, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0130 on November 14, 1978, to Federated Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, of Small Business Investment Companies.)

Dated: November 24, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33618 Filed 11-30-78; 8:45 am]

[8025-01-M]

[License No. 05/05-0129]

P. R. PETERSON VENTURE CAPITAL CORP.

Issuance of a Small Business Investment Company License

On July 20, 1978, a notice was published in the FEDERAL REGISTER (43 FR 31253) stating that an application had been filed by P. R. Peterson Venture Capital Corporation, 3726 Oregon Avenue South, St. Louis Park, Minnesota 55426, with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)) for a license as a small business investment company.

Interested parties were given until close of business August 21, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0129 on September 12, 1978, to P. R. Peterson Venture Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, of Small Business Investment Companies.)

Dated: November 20, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33619 Filed; 11-30-78 8:45 am]

[8025-01-M]

[License No. 06/06-0205]

RICE COUNTRY CAPITAL, INC.

Filing of Application for Approval of a Conflict of Interest Transaction Between Associates

Notice is hereby given, pursuant to Section 107.1004(e) of the Regulations governing small business investment companies (13 CFR 107.1004 (1978)), of a request for approval of a conflict of interest transaction between Rice Country Capital, Inc. (Licensee), P.O. Box 215, Eagle Lake, Texas 77434, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and an Associate.

Licensee was licensed by SBA on November 1, 1978. It has two classes of stock authorized: (1) Class A Voting common which is owned 100 percent by The First National Bank (the Bank), 100 Commerce, Eagle Lake, Texas 77434; and (2) Class B Non-Voting common of which the Bank owns approximately 20 percent. None of the other Class B shareholders owns as much as 10 percent.

It is proposed that Licensee provide financial assistance to Mr. Steve K. Balas to purchase a tractor. Mr. Balas is the son-in-law of Mr. J. R. Thomas, a director and Class B shareholder of the Licensee. As such, Mr. Balas is considered to be an Associate of the Licensee as defined by § 107.3(e) of SBA's rules and regulations.

The proposed financing falls within the purview of § 107.1004(b)(1) of the regulations and requires a written exemption from SBA. SBA is considering a request for such exemption.

Notice is further given that any person may, not later than December 18, 1978, submit to SBA in writing, comments on the proposed transaction. Any such communication should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Eagle Lake, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33620 Filed 11-30-76; 8:45 am]

[8025-01-M]

[License No. 06/06-0178]

TAX INVESTMENTS CONCEPTS, INC.

Notice is hereby given, pursuant to Section 107.1004(e) of the Regulations governing small business investment companies (13 CFR 107.1004 (1978)), of a request for approval of a conflict of interest transaction between Tax Investments Concepts, Inc. (Licensee), 2200 Classen Boulevard, Oklahoma City, Oklahoma 73106, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. et seq.), and an Associate.

Licensee was licensed on September 10, 1975. It is owned by approximately 12 shareholders with William Daniel, Sr., president of Licensee, owning 100 percent of the Class A Voting Stock. Mr. Daniel also owns approximately 51 percent of Jones, Penn & Company, which provides bookeeping services to the portfolio concerns of Licensee. Pursuant to the provisions of § 107.3(f) of the Regulations, this bookkeeping concern is deemed to be an Associate of Licensee.

It is proposed that Licensee provide financial assistance to Forrest W. Olson, Jr., to form his own accounting firm under the name of Olson & Company. Mr. Olson is the president of Jones, Penn & Company. As such, pursuant to the provisions of § 107.3(c) of the Regulations, Mr. Olson is also deemed to be an Associate of Licensee.

Therefore, the proposed financing falls within the purview of § 107.1004(b)(1) of the Regulations and

small business concerns which will

Internal Revenue Service Building.

[4510-29-M]

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requires a written exemption from SBA. SBA is considering a request for exemption.

Notice is further given that any person may, not later than December 18, 1978, submit to SBA in writing, comments on the proposed transaction. Any such communication should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Oklahoma City, Oklahoma.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 17, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33621 Filed 11-30-78; 8:45 am]

[8025-01-M]

[Proposed License No. 09/09-0226]

WEST COAST VENTURE CAPITAL

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (CFR 107.102 (1978)) by West Coast Venture Capital, a limited partnership, 20700 Valley Green Drive, Cupertino, California 95014, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. et seq).

THE PROPOSED GENERAL PARTNER AND LIMITED PARTNERS OWNING 10 OR MORE PERCENT OF THE PARTNERSHIP CAPITAL

GENERAL PARTNER

West Coast Venture Capital, Inc., 20700 Valley Green Drive, Cupertino, California 95014.
Gary W. Kalbach, President, Director and General Manager, 11701 Putter Way, Los Altos, California 94022 (100 percent).
Carl Berg, Secretary and Director, 37 Barry Lane, Atherton, California 94025.
Ralph Rodriguez, Vice President and Director, 14578 Carnelian Glen Court, Saratoga, California 95050.
Roger L. Mosher, Assistant Secretary and Director, 6 Bergesen Court, Atherton, California 94025.

LIMITED PARTNERS

Carl Berg, 37 Barry Lane, Atherton, California 94025 (38.0 percent).
Ralph Rodriguez, 14578 Carnelian Glen Court, Saratoga, California 95050 (11.8 percent).
John A. Sobrato, 94 Isabella Avenue, Atherton, California 94025 (11.8 percent).

The Applicant will begin operations with initial private capital of $850,000. The Limited Partners will make a subsequent contribution of $425,000, on or before two years from date of approval of the application. The Applicant will establish a broad financing policy in order to meet the diverse requirements of small business concerns in need of financing. The Applicant recognizes the need for both equity investments and loans, but will emphasize equity investments, with particular interest toward start-up situations. In addition to investments, the Applicant intends to render management services to clients, if necessary.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and regulations), and (3) whether the proposed licensing would be in the furtherance of the purpose of the Act.

Notice is hereby given that any person may not later than December 18, 1978 submit written comments to the Deputy Associate Administrator, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Cupertino, California.

(Catalog of Federal Domestic Programs No. 59.011, Small Business Investment Companies)

Dated: November 22, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33622 Filed 11-30-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1546]

ALASKA

Declaration of Disaster Loan Area

The cities of Craig and Wrangell, which lie within the political subdivision known as Judicial District No. 1, in Alaska, constitute a disaster area because of damage caused by wind, heavy rain and seawaves which occurred on November 1, 1978. Applications will be processed under the provisions of Public Law 94-305. Interest rate will be 7⅜ for this disaster declaration. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 25, 1979, and for economic injury until the close of business on August 24, 1979, at: Small Business Administration, District Office, Suite 200, Anchorage Legal Center, 1016 West Sixth Avenue, Anchorage, Alaska 99501, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 24, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-33613 Filed 11-30-78; 8:45 am]

[8025-01-M]

[Application No. 09/09-5232]

CALIFORNIA COASTAL EQUITIES, INC.

Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. *et seq.*), has been filed by California Coastal Equities, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102(1978).

The officers, directors and stockholders of the applicant are as follows:

Kewmars Tabatabay, President, Director, 420 Paseo Del Mar, Palos Verdes Estates, California 90274.
Harold V. Sullivan II, Secretary, Treasurer, Director, 1704 Dalton Road, Palos Verdes Estates, California 90274.
K.A.R. Investments, 100 percent Stockholder, 2780 Lomita Boulevard, Torrance, California 90505.

Mr. Tabatabay owns 66⅔ percent of K.A.R. Investments and Mr. Sullivan owns the remaining 33⅓ percent.

The applicant, a California Corporation, with its principal place of business at 2780 Lomita Boulevard, Torrance, California 90505, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 500,000 shares of common stock.

The applicant will conduct its activities principally in the State of California, and in other areas within the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, not later than January 18, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Torrance, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 17, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33614 Filed 11-30-78; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

TREASURY SMALL BUSINESS ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92-263, notice is hereby given that a meeting of the Treasury Small Business Advisory Committee will be held on December 12 and 13, 1978 at the Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, D.C. and the Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C.

On Tuesday, December 12, the Subcommittees on Capital Formation, Tax Policy and Tax Administration will meet from 10:00 A.M. to 12:30 P.M. in rooms 4426, 4125 of the Main Treasury Building and Room 3313 of the Internal Revenue Service Building, respectively. On December 12, from 2:00 P.M. to 5:30 P.M., the Subcommittee on Capital Formation will meet in room 4426 of the Main Treasury Building and the Subcommittees on Tax Policy and Tax Administration will meet jointly in Room 3313 of the Internal Revenue Service Building. The Committee as a whole will reconvene in room 4121 of the Main Treasury Building on Wednesday, December 13 at 9:30 A.M. and will meet until approximately 12:30 P.M.

The Committee was formed to provide a means of communication between the small business community and Treasury officials on numerous economic issues, including capital formation, tax policy, tax administration, and governmental regulations. The Capital Formation Subcommittee will address issues relating to general problems encountered by small businesses in seeking equity capital, specific institutional investor problems in investing in small businesses, and proposed ERISA changes to encourage pension funds to invest in small businesses; the Tax Policy Subcommittee will focus on topics including accumulated earnings tax, carryover basis and additional death tax, simplified LIFO, and estimated tax; and the Tax Administration Subcommittee agenda will include an update on IRS small business workshops, appeal procedures, and the negative withholding provisions of the Revenue Act of 1978 and their impact on small businesses. The Tax Policy Subcommittee and Tax Administration Subcommittee will jointly consider certain recommendations on ERISA.

The meeting will be open to the public. A limited number of seats will be available on a first come, first serve basis. In order to facilitate admittance, persons interested in attending are asked to call 566-3887 so that confirmation of space and access procedures can be provided.

Interested persons may file a written statement with the Committee before, during or after the meeting. The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting. Persons interested in making oral statements are asked to call 566-3887 before 5:00 P.M. on December 11.

Minutes of the meeting will be available on request from the Treasury Small Business Advisory Committee thirty days after the meeting.

Inquires may be directed to Paul L. Lee, Executive Assistant to the Deputy Secretary, Department of the Treasury, Main Treasury Building, Room 3325, 15th and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone (202) 566-3887.

Dated: November 27, 1978.

ROBERT CARSWELL,
Deputy Secretary.

[FR Doc. 78-33674 Filed 11-30-78; 8:45 am]

[4510-29-M]
[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 78-16]

EMPLOYEE BENEFIT PLANS

Exemption From the Prohibitions Respecting a Transaction Involving the Allen and O'Hara Employees' Profit-Sharing Trust

AGENCIES: Department of the Treasury/Internal Revenue Service; Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables Allen and O'Hara, Inc. (the Employer) to purchase an office building owned by North Little Rock Professional Building, Inc. (the Corporation), a corporation which is wholly-owned by the Allen and O'Hara Employees' Profit Sharing Trust (the Trust).

FOR FURTHER INFORMATION CONTACT:

Timothy Smith, Prohibited Transactions and Projects Section Employee Plans Technical Branch, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attn: E:EP:PT:1, 202-566-6761. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On October 3, 1978, notice was published in the FEDERAL REGISTER (43 FR 45664) of the pendency before the Internal Revenue Service and the Department of Labor (the Agencies) of an exemption from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code and from the provisions of section 406(a), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for a transaction described in the application submitted by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Internal Revenue Service (the Service). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to this exemption. No public comments and

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no requests for a hearing were received by the Service.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with subsection (a)(1)(B) of the Act, nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code and section 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978, (43 FR 22319).

EXEMPTION

In accordance with section 4975(c)(2) of the Code and section 408(a) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Agencies make the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of the participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26 and ERISA Procedure 75-1.

The taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code and the restrictions of section 406(a) and section 406(b)(1) and 406(b)(2) of the Act shall not apply to the transaction involving the sale of the North Little Rock Professional Building from the Corportation to the Employer for $375,000, in cash, provided that the sale price is not less than the fair market value of the property.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 22nd day of November, 1978.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-33495 Filed 11-27-78; 12:13 pm]

[4830-01-M]
[4510-29-M]

[Applications No. D-293, 294]

MAJESTIC PAINT CENTERS, INC. EMPLOYEES' RETIREMENT TRUST AND THE YENKIN MAJESTIC EMPLOYEES' RETIREMENT PLAN

Proposal to Grant an Exemption for Transactions

AGENCIES: Department of the Treasury/Internal Revenue Service; Department of Labor.

ACTION: Proposal for an exemption.

SUMMARY: This notice contains a proposal for an exemption from certain prohibited transactions provisions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). This exemption, if granted, would permit the Yenkin Majestic Employees' Retirement Plan and the Majestic Paint Centers, Inc., Employees' Retirement Trust (the Plans) to make a loan to the Yenkin Majestic Paint Corporation and the Majestic Paint Centers, Inc. (Yenkin/Majestic).

DATES: Written comments and requests for a public hearing must be received by the Internal Revenue Service (the Service) on or before January 2, 1979.

ADDRESS: All written comments and all requests for a hearing (preferably six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT:2, Applications No. D-293, 294.

FOR FURTHER INFORMATION CONTACT:

Charles Scalera of the Prohibited Transactions Staff of the Employee Plans Division, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: E:EP:PT:2) (202-566-3045). This is not a toll free number.

SUPPLEMENTARY INFORMATION: Yenkin/Majestic and the Plans have requested an exemption from the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code. These applications were filed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

SUMMARY OF REPRESENTATIONS

The applications contain representations with regard to the pending exemption which are summarized below. Interested persons are referred to the applications and supporting documents on file with the Service and the Department of Labor (the Department) for a complete statement of the representations of the Applicants.

1. Yenkin/Majestic are Ohio corporations engaged in the manufacture of paints and paint by-products. Yenkin/Majestic maintain the Plans which have approximately 89 participants. Among the trustees of the Plans are Merom Brachman and Bernard K. Yenkin who are officers and shareholders of Yenkin/Majestic.

2. Yenkin/Majestic and the Plans have requested an exemption for certain equipment loan transactions in the amount of $160,000 between the Plans and Yenkin/Majestic (the trucking loans) and also for an additional $60,000 loan for the purchase of latex emulsion equipment.

3. Prior to July 1, 1974, it had been an established practice for the Plans to enter into equipment purchase loans with Yenkin/Majestic.

4. The collateral securing these loans generally consisted of the following: Chattel mortgages or equivalent security interest in trucking equipment including tractors, trailers, and tank wagons.

5. As a result of these transactions the Plans have never experienced any defaults or losses.

6. The loans generally have provided greater returns to the Plans than the return that has been available from alternative investment opportunities.

7. The proposed loans will bear an interest rate of not less than one-half (½) to one (1) percent above interest rates charged by area banks for transactions involving loans on similar equipment. These loans will be for a term of thirty-six (36) months vs. forty-eight (48) months allowed by area banks.

8. Each loan will be represented by a cognovit promissory note and will be secured by the equipment financed. The trucking loans will be secured by the following types of equipment: a) Diesel-powered over-the-road three axle tractors such as used by the national commercial cross-country trucking lines, with such tractor/trailer units capable of pulling loaded trailers or tankwagons in a total weight range of eighty thousand pounds; b) Liquid transport two-axle stainless steel tankwagons for all-weather interstate movement of chemicals, such as used by commercial bulk-tanker carriers and having capacity to haul product in the load range of sixty-five hundred/seven thousand gallons; c) Box-type enclosed two-axle trailers capable of interstate movement of normal forty thousand pound loads of bulk or finished goods such as moved by commercial trucking lines, and including trailers with cooling units used for hauling of perishables. Security agreements and U.C.C. financing statements will be executed by Yenkin/Majestic and the Plans will be filed with the recorder's office, Franklin County, Ohio, and the office of the Secretary of State of Ohio.

9. The security agreements which will be filed will contain warranties by Yenkin/Majestic to the effect that they have full right, title and interest to the collateral securing the loan with the exception of the security interest granted to the Plans and that they shall keep the collateral free from any adverse lien or claim.

10. Prior to the Plans making a trucking loan, the Plans' trustees will obtain a statement from a local bank that such bank would provide financing to Yenkin/Majestic for the specific item of equipment the Plans propose to finance and which sets forth the terms of such financing.

11. The ratio of fair market value of the collateral securing the trucking loans will always be in excess of 150 percent of the loan balance.

12. Appraisals on the emulsion equipment from USS Chemicals and The Sherwin-Williams Company establish that its value is in excess of $100,000.00.

13. Insurance against loss or damage to the colleteral from fire or other hazards will be procured and maintained by Yenkin/Majestic until the loan is repaid. The insurance policy will contain a Loss Payable clause which will provide for payment to the Plans as their interests may appear.

14. If a piece of equipment is damaged and its collateral value is diminished, the loan and mortgage will be paid off according to the rule of 78.

15. In addition to a guarantee executed by Yenkin/Majestic, three major shareholders of Yenkin/Majestic have represented that they will immediately repay to the Plans, in accordance with a guarantee they will execute, the outstanding balance and accrued interest due on any money loaned by the Plans in the event the loan is more than 30 days in arrears or Yenkin/Majestic fails to comply with any terms or conditions of the loan.

16. The Plans contained total assets or $1,080,000.00 as of March 1977. The amounts of the loans will represent less than 21 percent of each of the Plans' total assets.

17. As noted above, the applications represent that the proposed loan transactions are in the interest of the Plans and their participants and protective of the rights of participants and beneficiaries because the proposed loans will provide higher yields and greater security than is otherwise available to the Plans through alternative investments.

NOTIFICATION OF INTERESTED PERSONS

Upon publication by the Internal Revenue Service and the Department of Labor of the proposal for an exemption sought herein, notice of the pending exemption will be disseminated to all active and retired participants and their beneficiaries within ten (10) days of the publication of it in the FEDERAL REGISTER.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code to which the exemption does not apply, including any prohibited transaction provisions to which the exemption does not apply, and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interests of participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption contained herein does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department and the Service must find that the exemption is administratively feasible, in the interest of the Plans and its participants and beneficiaries, and protective of the rights of the participants and beneficiaries of the Plans;

(4) The pending exemption, if granted, is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

WRITTEN COMMENTS AND HEARING REQUEST

Pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, the Department and the Service are required to offer an opportunity for a public hearing where a pending exemption relates to section 406(b) of the Act and section 4975(c)(1) (E) or (F) of the Code. Any interested person may submit a written request that a hearing be held relating to the pending exemption. Such written request must be received by the Service on or before January 2, 1979 and should state the reasons for such person's request for a hearing and the nature of such person's interest in the pending exemption.

All interested persons are also invited to submit written comments on the pending exemption contained herein. In order to receive consideration such comments must be received by the Service on or before January 2, 1979.

trustees of the fund, pursuant to sec-

assets of the Fund. Participating plans

the maintenance of a prohibition against self-dealing on the part of the

tions and transitional rules. Further-more, the fact that a transaction is

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All written comments and all requests for a hearing (preferably six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: E:EP:PT:2 (D-293, 294). The applications for exemption referred to herein, all such comments relating thereto, and, all requests for a hearing will be available for public inspection at the Internal Revenue Service National Office Reading Room, Room 1565, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, and at the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

PROPOSED EXEMPTION

Based upon the applications referred to above, the Service and the Department have under consideration the granting of the requested exemption, under authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722, whereby the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the equipment loans described above provided that the loan is no less favorable to the Plans than a loan which could be obtained in an arm's-length transaction with an unrelated party.

The pending exemption, if granted, will be subject to the express conditions that the material facts and representatives contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 22nd day of November, 1978.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-33494 Filed 11-27-78; 12:13 pm]

[4510-29-M]
[4830-01-M]

[Application No. D-485]

SMITH BARNEY REAL ESTATE FUND

Proposed Exemption for Certain Transactions

AGENCIES: Department of the Treasury/Internal Revenue Service Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This dodcument contains a notice of pendency before the Department of Labor and the Internal Revenue Service (the Agencies) of a proposed exemption from the prohibited transaction restrictions imposed by the Employee Retirement Income Security Act of 1974 (the Act) and from certain excise taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt loan to the Smith, Barney Real Estate Fund (the Fund) from lenders who are fiduciaries or other service providers with respect to the qualified plans participating in the Fund. The proposed exemption, if granted, would affect the Fund, participants and beneficiaries of the individual plans participating in the Fund, and certain other fiduciaries or other service providers with respect to those participating plans.

DATE: Written comments must be received by the Internal Revenue Service on or before December 29, 1978.

ADDRESS: All written comments (at least six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attn: E:EP:PT. The application for exemption and all comments relating thereto will be available for public inspection at the Internal Revenue Service National Office Reading Room, Room 1567, 1111 Constitution Avenue, NW., Washington, D.C. 20224 and at the Public Documents Room of Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Timothy Smith of the Internal Revenue Service (202-566-6761). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of a proposed exemption from the restrictions of section 406(a)(1) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (B), (C), and (D) of the code. The proposed exemption was requested in an application filed by the trustees of the fund, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Agencies for the complete representations of the applicants.

The fund is a group trust formed for the purpose of providing qualified pension and profit-sharing plans with a medium for pooling a portion of their funds for investment in real estate and interests in real estate. By letter dated November 24, 1975, the Internal Revenue Service determined that the Fund met the requirements of section 401(a) of the code, and was exempted from Federal income tax under section 501(a) of the Code. The Fund is in the process of becoming operational.

The applicant has represented that a number of the plans expected to participate in the Fund will have several trusts, that many of these trusts will be trusteed by, or receive other services from, banks and insurance companies based in or near New York City, and these same banks and insurance companies are major real estate lenders that are the Fund's primary source of financing. The applicant expects that many of the lenders on which the Fund expects to rely for financing or which already hold mortgages on properties which the fund would like to acquire will be disqualified persons or parties in interest because of their position as fiduciaries or other service providers of plans which participate in the Fund. The applicant represents that the decision of a plan to participate in the Fund will be solely within the control of a fiduciary who is independent of any entiry which is or may become a lender to the Fund and that these lenders will not be plan fiduciaries with respect to any plan assets invested in the Fund. The applicant also represents that these lenders will have no influence with regard to the disposition of plan assets invested in the Fund or in the management of the Fund.

The plan fiduciary responsible for overall management of a plan initiates a plan's participation in the Fund. In relation to a paricipating plan the Fund occupies a position equivalent to that of every other trust created under than plan. The trustees of any other trust created under a participating plan have no authority over the

assets of the Fund. Participating plans acquire interests in the Fund that may not be assigned, transferred, pledged or otherwise encumbered by the plans. A plan's interest in the Fund may be liquidated if the plan notifies the trustees of the Fund and tenders the interest for redemption. Except in unusual circumstances, the Fund invests only in income producing properties. It is anticipated that the Fund's investments will be primarily in multifamily residential properties, shopping centers, office buildings and other commercial properties. The Fund intends to diversify its investments geographically and will consider areas throughout the continental United States.

In order to enable the Fund to diversify its investments and to increase its potential return on investments, the Fund is empowered to borrow part or all of the purchase price of acquired property and to grant recourse or nonrecourse mortgages to secure the borrowings. The Fund is also empowered to assume existing mortgages and to acquire property subject to existing mortgages. Loans negotiated by the Fund will be sought on a competitive basis from as large a number of potential lenders as possible. With respect to assumed loans, the Fund must accept the mortgages as previously established, and may not influence or negotiate the terms. The Fund must rely on mortgage financing and other loans in connection with its real estate acquisition in order to most effectively serve the interests of the plans. Financing enables the Fund to maintain liquidity and thus remain in a position both to avail itself of new real estate investment opportunities and to facilitate the redemption of interests of participating plans. Financing of acquisitions also permits the Fund to diversify its investments to protect against large losses due to adverse conditions in a particular segment of the country or of the economy. The Fund also anticipates the acquisition of assumed loans when the mortgages bear economically favorable rates of interest. In addition, the Fund may wish to purchase attractive properties with reasonable mortgages that do not permit prepayment or that contain harsh prepayment penalty provisions.

The applicant suggested that the exemption contain the condition that a loan would be exempt provided the lender is not a trustee under any pension plan owning more than 20% of the units in the fund outstanding during the time of the loan. The Agencies chose not to incorporate this condition in the exemption for two reasons. A substantive prohibition against a lender's exercise of any influence with respect to any plan assets invested in the Fund is more consistent with the maintenance of a prohibition against self-dealing on the part of the lender, and, even if the Agencies chose to apply an objective percentage test, the focus of the test would be on the aggregate percentage of ownership of all plans trusteed by the lender and not on the percentage of ownership of any one plan.

The applicant also suggested that in the case of a loan negotiated by the Fund, the exemption contain the condition that the outstanding principal amount of all loans to the Fund from any one lender may not exceed 30% of the outstanding principal amount of all loans to the Fund from all lenders immediately after the loan. The Agencies chose not to incorporate this limitation because of its uncertain benefits and because the interests of the plans and their participants and beneficiaries are adequately protected by the prohibition against a lender's exercise of any influence with respect to any plan assets invested in the Fund.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other disqualified person or party in interest from certain other provisions of the Code and the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fuduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(E) or (F) of the Code, and section 406(b) of the Act;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code and section 408(a) of the Act, the Agencies must find that the exemption is administratively feasible, in the interests of the plan and its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(4) The proposed exemption, if granted, will be supplemental to and not in derogation of, any other provisions of the Code and the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 F.R. 22319).

WRITTEN COMMENTS

All interested persons are invited to submit written comments on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the addresses set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Agencies are considering granting the requested exemption under the authority of section 4975(c)(2) of the code and section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75-1 and Rev. Proc. 75-26.

SECTION I—*Definitions.* For purposes of this exemption:

(a) A lender is an insurance company qualified to do business in a State or a bank or similar financial institution supervised by the United States or a State.

(b) An affiliate of a lender is—

(1) Any person directly or indirectly controlling, controlled by or under common control with the lender ("control") means the power to exercise a controlling influence over the management or policies of a person other than an individual);

(2) Any officer, director, partner or employee of the lender or any relative of such persons (the term "relative" means a relative as that term is defined in section 3(15) of the Act, or a "member of the family" as that term is defined in section 4975(e)(6) of the Code, or a brother, sister or spouse of a brother or a sister);

(3) Any corporation or partnership of which any person described in subparagraph (b)(2) is an officer, director, or partner unless that person described in that paragraph exercises no control to cause a plan maintained by the corporation or partnership to participate in the Fund.

SECTION II—Effective upon granting this exemption, the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (B), (C), and (D) of the Code and the restrictions of section 406(a) of the Act shall not apply to loans to the Fund from lenders who may be disqualified persons or parties in interest solely because of their position as a fiduciary or other service provider to qualified plans participating in the Fund, or because of a relationship to the fiduciary or other service provider de-

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will be no significant effect on the

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scribed in section 4975(e)(2)(G), (H), or (I), of the Code or section 3(14)(G), (H), or (I), of the Act. If a loan is exempt, transactions ancillary to the loan, such as the appraisal of the property held as security, the transfer in trust of property to secure the loan and the payment of interest, shall also be exempt. The exemption shall be subject to the following conditions:

(a) The lender and any of its affiliates shall have no discretionary responsibility nor exercise any influence over the management or disposition oa a plan's assets invested in the Fund. A plan's participation in the Fund must be be solely within the control of a fiduciary independent of the lender and its affiliates. If a lender violates this condition, liability for the excise taxes imposed upon disqualified persons participating in the prohibited transaction resulting from a subsequent non-exempt loan from that lender to the Fund will be borne by that lender.

(b) The terms of a loan are as favorable to the Fund as an arm's-length transaction with unrelated party would be.

(c) The Fund will maintain or cause to be maintained, for a period of six years from the date of each loan, the records necessary to enable the duly authorized employees of the Agencies, any employer or employees covered by a participating plan, any employee organization any of whose members are covered by a participating plan and any participant or beneficiary of a plan participating in the fund, to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the Fund's fiduciaries, the records are lost or destroyed prior to the end of such six-year period; and (2) no lender shall be subject to the taxes imposed by section 4975(a) and (b) of the Code or the civil penalty which may be assessed under section 502(i) of the Act merely because the records are not maintained or are not available for examination as required.

The pending exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 22nd day of November, 1978.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-33496 Filed 11-27-78; 12:13 pm]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ART ADVISORY PANEL OF THE COMMISSIONER OF INTERNAL REVENUE

Availability of Report on Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Availability of Report on Closed Meetings of the Art Advisory Panel.

SUMMARY: The Report is now available.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V 1975), *as amended by* Government in the Sunshine Act, Pub. L. No. 94-409, section 5(c), 90 Stat. 1247 (1976); section 8d(3) of the Office of Management and Budget (OMB) Circular No. A-63 (3-27-74), as supplemented, and section 12b of the Department of Treasury Directive 10-08.E (9-2-77): A report summarizing the closed meeting activities of the Art Advisory Panel during 1977, has been prepared. A copy of this report has been filed with the Assistant Secretary of Treasury for Administration and is now available for public inspection at: Internal Revenue Service, Freedom of Information Reading Room, Room 1565, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

FOR FURTHER INFORMATION CONTACT:

Tom Hartnett, T:C:E:A, 1111 Constitution Avenue, NW., Room 5240, Washington, D.C. 20224, telephone 202-566-4427—(Not a toll free telephone number).

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-33709 Filed 11-30-78; 8:45 am]

[4830-01-M]

TAX BASE FOR EXCISE TAX—MOTOR VEHICLE INDUSTRIES

New Determination of Constructive Sale Price

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of new determination of constructive sale price for motor vehicle industries.

SUMMARY: Because of a change in the law concerning the method of computing constructive sale price, the Internal Revenue Service would appreciate information comparing prices at which trucks and tractors are sold at retail with the prices of such vehicles sold at other than retail.

DATE: Written comments should be mailed or delivered by December 15, 1978.

ADDRESS: Written comments should be mailed or delivered to Chief, Wage, Excise, and Administrative Provisions Branch (T:I:WEA), Internal Revenue Service, room 5203, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Baer, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, telephone 202-566-4606 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: Effective January 1, 1979, under Pub. L. 95-458, the established retail price and the cost floor limitation currently used for retail sales of trucks, tractors, trailers and semi-trailers will no longer be factors in arriving at the tax base. Instead the constructive sale price for excise tax purposes will be a percentage of the actual sales price. In general, the percentage will be based on the highest price manufacturers and producers ordinarily sell such items at wholesale.

Separate sales of automotive parts or accessories are not affected by this provision.

Because of the change in the law, the Internal Revenue Service would appreciate information concerning the proper percentage to be established for segments of the motor vehicle industry. In particular, information is wanted comparing prices at which trucks and tractors are sold at retail with trucks and tractors sold at other than retail.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

Dated: November 29, 1978.

JOHN L. WITHERS,
Assistant Commissioner, Technical.

[FR Doc. 78-33781 Filed 11-30-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 28, 1978.

This application for long-and-short haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 18, 1978. FSA No. 43633, Trans-Continental Freight Bureau, Agent's No. 529, requests authority for reduced rates on wheat from Colorado, Kansas, Nebraska and Wyoming points on the Union Pacific to Pacific Coast Ports for export. The rates are in Supp. 60 to its Tariff 29-P, ICC 1958, to become effective December 16, 1978. Grounds for relief—Motor/Rail and market competition.

By the Commission

H. G. HOMME, Jr.,
Secretary.

[FR Doc 78-33692 Filed 11-30-78; 8:45 am]

[7035-01-M]

[Notice No. 747]

ASSIGNMENT OF HEARINGS

NOVEMBER 28, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 139482 (Sub-No. 58F), New Ulm Freight Lines, Inc., now being assigned for hearing on January 10, 1979, (1 day), at New York, NY, in a hearing room to be later designated.

No. MC 144622 (Sub-No. 2F), Glenn Bros. Meat Co., Inc., now being assigned for hearing on January 11, 1979, (1 day), at New York, NY, in a hearing room to be later designated.

No. MC 71593 (Sub-No. 10F), Forwarders Transport, Inc., now being assigned for hearing on January 12, 1979, (1 day), at New York, NY., in a hearing room to be later designated.

No. MC 143869 (Sub-No. 1), Douglas Express, Inc., now assigned December 11, 1978, at Atlanta, Georgia is canceled and application dismissed.

No. MC 144296F, Lewis Bus Lines, Inc., now assigned for hearing December 6, 1978, at Augusta, Georgia is canceled and application dismissed.

No. MC 35628 (Sub-No. 397F), Interstate Motor Freight System, now assigned January 9, 1979, at Lansing, Michigan is canceled and transferred to Modified Procedure.

No. MC 116110 (Sub-No. 18), P.C. White Truck Line, Inc., now being assigned for continued hearing on November 27, 1978, (1 week), at Birmingham, Alabama, at Kahler Plaza Hotel, 800 20th Street South.

No. MC 99610 (Sub-No. 27), Ross Neely Express, Inc., now being assigned for continued hearing on December 7, 1978, (2 days), at Birmingham, Alabama, Room 430, Federal Building, 1800 5th Avenue North.

No. MC 77972 (Sub-No. 30), Merchants Truck Line, Inc., No. MC 97310 (Sub-No. 25) Sharron Motor Lines, Inc., No. MC 99610 (Sub-No. 27), Ross Neely Express, Inc., No. MC 116110 (Sub-No. 18), P.C. White Truck Line, Inc., now being assigned for continued hearing on February 5, 1979, (1 week), at Atlanta, Georgia at Room 305, 1252 West Peachtree Street N.W.

No. MC 109173 (Sub-No. 4F), Delta Bus Company, now assigned for hearing on January 15, 1979, at Lansing, Michigan is canceled and application dismissed.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33686 Filed 11-30-78; 8:45 am]

[7035-01-M]

[Notice No. 226]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 24, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 10875 (Sub-45TA), filed August 8, 1978. Applicant: BRANCH MOTOR EXPRESS CO., 114 Fifth Avenue, New York, NY 10011. Representative: G. G. Heller (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Paper and paper products*, serving the plant site of Alabama Kraft Company, at or near Mahrt, AL, as an off-route point in connection with applicant's authorized routes, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Mead Corporation, Courthouse Plaza Northeast, Dayton, OH 45463. SEND PROTESTS TO: Maria B. Kejss, Trans. Assistant, 26 Federal Plaza, New York, NY 10007.

MC 26396 (Sub-210TA), filed October 30, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Lumber, lumber products and wood products*, from Lewistown, MT., to points in the states of WY, CO, ND, SD, NE, KA, OK, MN, IA, MO, AR, WI, IL, IN, KY, AND TN, FOR 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Eunice G. Russ Traffic Manager, Brans S. Corporation, Southwest Airport Road, Corvallis, OR. 97330. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602 First Avenue North, Billings, MT. 59101.

MC 35890 (Sub-51TA), filed October 27, 1978. Applicant: BLODGETT FURNITURE SERVICE, INC., 5650 Foremost Drive SE., Grand Rapids, MI 49508. Representative: Ronald C. Nesmith, P.O. Box 4403, Chicago, IL 60680. *Carpets, rugs, carpet padding and articles used in the manufacture, sale and distribution of carpets, rugs and carpet padding* from the facilities of General Felt Industries, Inc., and subcontractors for General Felt Industries, Inc., at or near Eddystone, Fairless Hills, and Philadelphia, PA; Camden and Trenton, NJ; Ft. Wayne, IN; Shelbyville, TN; Dallas, TX; Columbus and Tupelo, MS; and Los Angeles, CA; to points in the United

Williams, Trans. Asst., ICC, Federal under a continuing contract or con- PROTESTS TO: William L. Hughes,

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States (except AK and HI), for 180 days. SUPPORTING SHIPPER(S): General Felt Industries, Inc., Park 80 Plaza West-One, Saddle Brook, NJ 07662. SEND PROTESTS TO: C. R. Flemming, DS, I.C.C., Rm 225 Federal Bldg., Lansing, MI 48933.

MC 103993 (Sub-941TA), filed October 18, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same as above). *Lumber and lumber products*, from Detroit and Port Huron, MI, and their commercial zones, to points in the states of OH, PA, IL, IN, KY, TN, WI, IA, NE, KS, MN, MD, WV and WM, for 180 days. RESTRICTED to traffic originating at the storage facilities of Green Forest Lumber Ltd., at or near Windsor and Chatham, Ontario, Canada. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Green Forest Lumber Ltd., 250 Merton Street, Toronto, Ontario, Canada M4S 2Y6. SEND PROTESTS TO: J. H. Gray, District Supervisor, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 112962 (Sub-13TA), filed October 30, 1978. Applicant: CRUPPER TRANSPORT CO., INC. 25 South Third, Kansas City, KS 66118. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Tanks, grain bins and related equipment, materials and supplies* between the facilities of Butler Manufacturing Co. at Kansas City, MO and points in the states of CO, IA, IL, KS, MN, NE, ND, OK, SD and WI, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Butler Mfg. Co., 7400 E. 13th Street, Kansas City, MO 64126. SEND PROTESTS TO: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 113434 (Sub-117TA), filed October 18, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Miss Wilhelma Boersma, 1600 First Federal Building, Detroit, MI 48226. *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith materials and supplies used in the conduct of such business*, except commodities in bulk, from the facilities of Fostoria Distribution Service Company at or near Fostoria, OH to points in MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Fostoria Distribution Service Company, P.O. Box D, Fostoria, OH 44830. SEND PROTESTS TO: C. R. Flemming, District Supervisor, 225 Federal Building, Lansing, MI 48933.

MC 113666 (Sub-139TA), filed October 18, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick, Vice President (same as above). *Plastic pellets*, in bulk, in tank vehicles, from Donora, PA to Buffalo and Lockport, NY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Polycom, Inc., Donora Industrial Park, Washington Street, Donora, PA 15033. SEND PROTESTS TO: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 114045 (Sub-513TA), filed October 18, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same as above). *Drugs, medicines, toilet preparations and health care items*, from Washington, DC and Easton, MD to San Leandro, CA, for 180 days. SUPPORTING SHIPPER(S): Burton, Parsons & Co., Inc., 120 Westhampton Avenue, Washington, DC 20027. SEND PROTESTS TO: Opal M. Jones, Trans. Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 114890 (Sub-84TA), filed October 30, 1978. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Dr., Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. *Fertilizer and ingredients*, in bulk, in tank vehicles, from Walnut Ridge, AR, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Frit Industries, Inc., P.O. Box 850, Ozark, AL 36360. SEND PROTESTS TO: P. E. Binder, DS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115162 (Sub-436TA), filed October 18, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same as above). *Plastic articles, including plastic bags, shrink film and poly tubes* (except commodities in bulk, in tank vehicles) from Mexico, MO to points in states of AL, TX, FL, NJ, LA, GA, NC, SC, TN, KY, PA, NY, MS and VA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mexico Plastic Company, 2000 W. Boulevard, Mexico, MO 65265. SEND PROTESTS TO: Mabel E. Holston, Trans. Asst., Room 1616, 2121 Building, Birmingham, AL 35203.

MC 115517 (Sub-9TA), filed October 18, 1978. Applicant: B & L TRUCKING CO., INC., Route 4, Albemarle, NC 28001. Representative: Joshua J. Morton, Jr., P.O. Box 267, Albemarle, NC 28001. *Pipe, pipe fittings and insulation used in building brick kilns, hospitals, school buildings and commercial buildings* from Albemarle, NC, point or origination, to the states of CO, CA, TX, AL, WA, and IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lorch Plumbing & Heating Co., Inc., P.O. Box 1339, Albemarle, NC 28001. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 115654 (Sub-118TA), filed October 27, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 939 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Such commodities as are dealt in by grocery and food business houses* from Blue Ash, OH, to points in KY and WV, for 180 days. SUPPORTING SHIPPER(S): General Foods Corp., 250 North Street, White Plains, NY 10625. SEND PROTESTS TO: Glenda Kuss, Trans. Asst., ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 117730 (Sub-31TA), filed October 27, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Hospital supplies and drugs*, in vehicles equipped with mechanical refrigeration, from the facilities of Abbott Laboratories at North Chicago, IL, to King of Prussia, PA, Jersey City, NJ, Baltimore, MD, Buffalo and Albany, NY and Dedham, MA, for 180 days. SUPPORTING SHIPPER(S): Abbott Laboratories, 1400 Sheridan Road, North Chicago, IL 60064. SEND PROTESTS TO: Lois M. Stahl, Trans. Asst., ICC, 219 South Dearborn Street, Rm 1386, Chicago, IL 60604.

MC 119726 (Sub-146TA), filed October 27, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 E. Washington Street, Indianapolis, IN 46204. *Rubber and plastic articles, and combined rubber and plastic articles and materials, supplies, and equipment used in the manufactur of the above named commodities* (except in bulk) from the plantsite of Entek Corporation of America, at or near Irving, TX, to those States in and east of KS, NE, ND, OK, SD, and TX, and from the above destination states to the plantsite of Entek Corporation of America at or near Irving, TX, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Entek Corporation of America, 104 County Line Road, Irving, TX 75060. SEND PROTESTS TO: Beverly J.

Williams, Trans. Asst., ICC, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Rm 429, Indianapolis, IN 46204.

MC 125916 (Sub-6TA), filed October 25, 1978. Applicant: NORWOOD TRANSPORTATION, INC., 2330 South 7200 West, Magna, UT 84044. Representative: Macoy A. McMurray, Suite 800, Beneficial Life Tower, 36 South State Street, Salt Lake City, UT 84111. *Pumice*, in bulk, from the Wrights Creek Mine near Malad, ID, to Salt Lake City, UT., and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hess Pumice Products, 643 North 300 West, Malad, ID. (J. Marvin Hess, Co-Owner). SEND PROTESTS TO: Lyle D. Helfer DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 126118 (Sub-106TA), filed October 27, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). *Synthetic rubber*, from Beaumont, TX and its commercial zone to hot Springs, AR and its commercial zone, for 180 days. Common control may be involved. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Alliance Rubber Co., P.O. Box 730, Hot Springs, AR 71901. SEND PROTESTS TO: Max H. Johnston, DS, ICC, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126196 (Sub-11TA), filed October 25, 1978. Applicant: BALCHOWSKE TRUCK LINE, INC., Route 1, Fairmont, MN 56031. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Feed and feed ingredients; and grain, soybean, and seed products and by-products* (except commodities in bulk, in tank vehicles) from the facilities of Archer Daniels Midland Company located at or near Red Wing, MN to points in CO, IL, IA, KS, MO, NE, ND, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Archer Daniels Midland Company, P.O. Box 1470, Decatur, IL 62525. SEND PROTESTS TO: Delores A. Poe, Trans. Assistant, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 129991 (Sub-3TA), filed October 27, 1978. Applicant: JENSEN TRUCKING CO., INC., P.O. Box 402, American Fork, UT 84003. Representative: Jack L. Jensen (same as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel-fabricated and raw*, from Spanish Fork, UT, to points in TX, NM, CO, WY, MT, ID, AZ, CA, NV, WA and OR, under a continuing contract or contracts with Kirby Building Systems, for 180 days. SUPPORTING SHIPPER(S): Kirby Building Systems, 1550 N. Kirby Dr., Spanish Fork, UT. SEND PROTESTS TO: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 133566 (Sub-125TA), filed October 27, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Beinhauer & Rouhana, One World Trade Center, Suite 4959, New York, NY 10048. *Sand*, in packages, from Brooklyn, NY., to points in Indiana, Ohio, Illinois, and MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Amstar, 1251 Avenue of the Americas, New York, NY. 10020. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN. 46802.

MC 133883 (Sub-7TA), filed October 27, 1978. Applicant: GERALD N. EVENSON, INC., 835 1st Street Southwest, Pelican Rapids, MI 56572. Representative: Gene P. Johnson, P.O. Box 2471, Fargo ND 58108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen boxed meat*, (1) from Chicago, IL to Ames, IA, Rochester and St. Cloud, MN, Fargo, Grand Forks, Minot and Bismarck, ND, Aberdeen, Mitchell and Rapid City, SD and Billings, MT and (2) from Portland, OR to Chicago, IL, under a continuing contract or contracts with Kloster Dakota Franchising, Inc., for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Kloster Dakota Franchising, Inc., 1407 24th Avenue South, Grand Forks, ND 58201. SEND PROTESTS TO: Ronald R. Mau, DS, RM 268 Federal Bldg. and U.S. P.O., 657 2nd Avenue North, Fargo, ND 58102.

MC 134082 (Sub-15TA), filed October 18, 1978. Applicant: K. H. TRANSPORT, INC., 4796 Linthicum Road, Dayton, OH 21036. Representative: Chester A. Zyblut, Esq., 366 Executive Building, Washington, DC 20005. (a) *Foodstuffs*, from the facilities of McCormick & Company, Inc., Baltimore and Cockeysville, MD to points in AL, LA, TN, TX, MO, MS, and (b) *materials, equipment and supplies used in the manufacture, preparation and sale of foodstuffs*, from points in IL, WI, IN and OH TO THE FACILITIES OF McCormick & Company, Inc., Baltimore and Cockeysville, MD, for 180 days. SUPPORTING SHIPPER(S): John W. Highfield, Mgr., Corporate Distribution, McCormick & Company, Inc., 414 Light Street, Baltimore, MD 21202. SEND PROTESTS TO: William L. Hughes, District Supervisor, 1025 Federal Building, Baltimore, MD 21201.

MC 134404 (Sub-40TA), filed October 27, 1978. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass tubs and shower stalls*, from the facilities of Facetglas, Inc. at or near Martinsburg, WV and Rock Hill, SC to points in MI, OH and PA; and (2) *equipment, materials and supplies* (except in Bulk) used in the manufacture and distribution of fiberglass tubs and shower stalls, between the facilities of Facetglas, Inc. at or near Martinsburg, WV, Rock Hill, SC and Richmond, MI, under a continuing contract or contracts with Facetglas, Inc. for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Facetglas, Inc., 10 Blackwell, Rock Hill, SC 29730. SEND PROTESTS TO: Robert E. Johnston, DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 134724 (Sub-6TA), filed October 18, 1978. Applicant: BIG RIG REFRIGERATION, INC., 8998 L Street, Suite 232, Omaha, NE 68127. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products*, from Palamera Beef Corp., at Omaha, NE to points in MA, NJ, NY and PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Palamera Beef Corp., 25th & Z Streets, Omaha, NE 68107. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135070 (Sub-16TA), filed October 27, 1978. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gallyn Larsen, 521 South 14th Street, Lincoln, NE 68501. *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Sanna Division of Beatrice Foods Co., at or near Menomonie, Careron, Vesper, Wisconsin Rapids and Eau Claire, WI, to points in AR, KS, LA, MO, OK and TX, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Sanna Division of Beatrice Foods Co., 2801 West Beltline Hwy, Madison, WI 53713. SEND PROTESTS TO: Haskell E. Ballard, DS, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135197 (Sub-16TA), filed October 19, 1978. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, MO 63461. Representative: Robert Leeser (same as above). *Animal*

and poultry feed and feed ingredients,

SEND PROTESTS TO: G. H. Fauss,

ville and Belledeau, LA to Hoopeston

TRACT CARRIER CORP., P.O. Box 206, US Hwy 20, Sioux City, IA 51102.

TESTS TO: Mabel E. Holston, Trans. Asst., Room 1616-2121 Building, Bir-

Newark, Heath, OH, Kalkaska and Mt. Pleasant, MI, Black Lick and Corry,

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and poultry feed and feed ingredients, except in bulk, from facilities of American Cyanamid Co., in Chattanooga, TN to facilities of American Cyanamid Co., in Rosemont, IL, Kansas City, MO, St. Louis, MO, St. Paul, MN and Cincinnati, OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. SEND PROTESTS TO: Vernon V. Coble, District Supervisor, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 135197 (Sub-18TA), filed October 30, 1978. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, MO 63461. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. *Dry bulk fertilizer*, from the plantsite and storage facilities of Chevron Chemical Co. at or near Ft. Madison, IA, to all points in IL and MO, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Chevron Chemical Co., P.O. Box 282, Ft. Madison, IA 52627. SEND PROTESTS TO: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 135281 (Sub-11TA), filed October 18, 1978. Applicant: LANGLEY TRUCKING COMPANY, Route 4, P.O. Box 61, Elizabethtown, KY. 42701. Representative: William L. Willis, 708 McClure Building, Frankfort, KY. 40601. (1) *Stone*, in dump vehicles, form points in Clark, Estill, Fayette, Jessamine, Madison, Rockcastle, and Scott Counties, KY., to points in Butler and Hamilton Counties, OH. (2) *Sand*, in dump vehicles, from points in Butler and Hamilton Counties, OH, to points in Clark, Estill, Fayette, Jessamine, Madison, Rockcastle, and Scott Counties, KY., 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (4) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Linda H. Sypher DS, 426 Post Office Bldg., Louisville, KY. 40202.

MC 136384 (Sub-12TA), filed October 30, 1978. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same as applicant). *Roofing and roofing products* from the facilities of Johns-Manville Corp., Savannah, Chatham County, GA to points in TN and VA, for 180 days. SUPPORTING SHIPPER(S): Johns-Manville Sales Corp., 3300 Holcomb Bridge, RD., Norcross, GA 30092. SEND PROTESTS TO: G. H. Fauss, Jr., ICC, Box 35008, 400 West Bay St., Jacksonville, FL 32202.

MC 136640 (Sub-14TA), filed October 27, 1978. Applicant: ROBERT L. ALLEN D/B/A, R. ALLEN TRANSPORT, P.O. Box 415, Pocomoke City, MD 21851. Representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from Hallwood, VA, to points in IA, KS, MN, NE, ND and SD, under a continuing contract or contracts with John W. Taylor Packing Co., for 180 days. SUPPORTING SHIPPER(S): John W. Taylor Packing Co., Hallwood, VA 23359. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., 600 Arch St., Rm 3238, Philadelphia, PA 19106.

MC 138762 (Sub-28TA), filed October 18, 1978. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard Streeter, 1729 H Street, NW, Washington, DC 20006. *Cement*, in bulk and in bags, from the facilities of Aetna Cement Corporation at or near Essexville, MI to ports of entry on the International Boundary line between the U.S. and Canada located in MI; restricted to traffic in foreign commerce for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Lake Ontario Cement Limited, 2 Carlton Street, Toronto, ON, Canada M5B 1J6. SEND PROTESTS TO: District Supervisor Paul J. Labane, 2602 First Avenue North, Billings, MT 59101.

MC 138882 (Sub-170TA), filed October 18, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Cans, fibreboard set up* from the facilities of Sonoco Products Company located at Hartsville, SC to the facilities and warehouse of Anderson-Clayton, Inc., located at or near Jacksonville, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sonoco Products Company, P.O. Box 160, Hartsville, SC 29550. SEND PROTESTS TO: Mabel E. Holston, Trans. Assistant, Room 1616—2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-171TA), filed October 25, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Canned goods*, except frozen and in bulk, from the facilities of the Joan of Arc Co., at or near Turkey, NC to points in ME, VT, NH, MA, CT, RI, NJ, PA, NY, OH, MI, IL and WI; and from St. Francisville and Belledeau, LA to Hoopeston and E. Peoria, IL; Maryville, WI; Foxboro, MA; Fostoria, OH and Mechanicsburg, PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Joan of Arc Company, Inc., 2231 West Altorfer Drive, Peoria, IL 61614. SEND PROTESTS TO: Mabel E. Holston, Trans. Assistant, Room 1616—2121 Building, Birmingham, AL 35203.

MC 139906 (Sub-19TA), filed October 18, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Granular insulating material, in bags*, from Santa Ana, CA and its commercial zone, to points in the United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. SUPPORTING SHIPPER(S): American Gilsonite Company, 1150 Kennecott Building, Salt Lake City, UT 84133. SEND PROTESTS TO: District Supervisor L. D. Helfer, 5301 Federal Building, Salt Lake City, UT 84138.

MC 140033 (Sub-73TA), filed October 18, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Winkle and Wells, 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Dialysis machines and related medical products*, (1) from McAllen, TX to Toledo, OH and Cinnaminson, NJ and (2) from Cinnaminson, NJ to Toledo, OH, Atlanta, GA, Miami and Tampa, FL, New Orleans, LA, Houston and Dallas, TX, and Costa Mesa, CA, for 180 days. SUPPORTING SHIPPER(S): Erika, Inc., One Erika Place, Rockleigh, NJ 07864. SEND PROTESTS TO: Opal M. Jones, Trans. Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140493 (Sub-2TA), filed October 27, 1978. Applicant: R & J INDUSTRIES, INC., 6 Pompton Avenue, Cedar Grove, NJ. 07009. Representative: Lawrence E. Lindeman, Suite 1032 Pa., Bldg., Pa., Avenue & 13th St., N.W., Washington, D.C. 20004. *Scrap metal*, between Elizabeth, NJ, Wilmington, DE, and Baltimore, MD, on the one hand, and, on the other, Fairless Hills, Morrisville, Easton and Conshohocken, PA, Claymont, New Castle, DE, and Pulaski, VA., for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): American Can Co., and its subsidiaries, American Lane, Greenwich, CT. 06830. SEND PROTESTS TO: Robert E. Johnston DS, ICC, 9 Clinton Street, Newark, NJ. 07102.

MC 140829 (Sub-146TA), filed October 18, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. *Agricultural herbicides, insecticides and fungicides* (except in bulk, in tank vehicles), from St. Gabriel, LA to points in the state of IL, IN, IA, NE, and WI, restricted to traffic originating at the named origin and destined to points in the named destination states, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Robert F. Casper, Manager, Domestic Traffic Operations, Ciba-Geigy Corporation, Ardsley, NY 10502. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 141773 (Sub-8TA), filed October 27, 1978. Applicant: THERMO TRANSPORTI INC., 156 East Market Street, Indianapolis, IN 46204. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by; motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Franklin Park, IL, Indianapolis, IN, Youngstown, OH, Phillipsdale, RI, Aliquippa, Farrell and Sharon, PA, the International Boundary Line at Detroit, MI and Niagra Falls, NY, to the plantsite and warehouse facilities of Omark Industries, Inc. at or near Portland, OR, restricted to service to be performed under a contract or continuing contracts with Omark Industries, Inc. and in vehicles equipped with merchanical temperature control, for 180 days. SUPPORTING SHIPPER(S): Omark Industries, -Inc., 9701 McLaughlin Blvd., Portland, OR 97222. SEND PROTESTS TO: Beverly J. Williams, Trans. Asst., ICC, Federal Bldg. & U.S. Courthouse, 46 East Ohio Street, Rm 429, Indianapolis, IN 46204.

MC 142484 (Sub-3TA), filed October 18, 1978. Applicant: STRINGFELLOW TRANSPORTATION COMPANY, INC., 724 3rd Avenue North, Birmingham, AL 35203. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated forest products and lumber mill products and lumber*, between the facilities of Walker Williams Lumber Company, Inc., at Hatchechubbee, AL on the one hand, and, on the other, points in AL, FL, GA, KY, MS and TN, under a continuing contract or contracts with Walker Williams Lumber Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Walker Williams Lumber Company, P.O. Box 170, Hatchechubbee, AL 36858. SEND PROTESTS TO: Mabel E. Holston, Trans. Asst., Room 1616-2121 Building, Birmingham, AL 35203.

MC 142672 (Sub-35TA), filed October 18, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Food products*, from the facilities of Campbell Soup Company, at or near Napoleon, OH to Paris, TX, for 180 days. SUPPORTING SHIPPER(S): Campbell Soup Company, East Maumee Avenue, Napoleon, OH 43545. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142672 (Sub-36TA), filed October 18, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Such commodities* as are dealt in or used by wholesale and retail discount and variety stores, from points in the states of GA, FL, NC, NJ, NY, PA and SC to the facilities of Wal-Mart Stores, Inc., at or near Bentonville and Searcy, AR, for 180 days. SUPPORTING SHIPPER(S): Wal-Mart Stores, Inc., P.O. Box 116, Bentonvile, AR 71712. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142715 (Sub-18TA), filed October 18, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, St. Paul, MN 55101. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. (1) *Paper and paper products, cellulose products, and textile softeners*; and (2) *materials, supplies and equipment used in the manufacture and distribution of the commodities listed in (1) above* between Green Bay, WI, on the one hand, and, on the other, points in ND, SD, NE, KS, OK, TX, MN, IA MO, AR LA, MI, IL, IN, KY, TN, MS, AL, GA, OH and NC, for 180 days. SUPPORTING SHIPPER(S): Proctor & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 142848 (Sub-7TA), filed October 27, 1978. Applicant: JAMES A. POSHARD & SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Sand*, in bulk, in dump vehicles, from Ottawa, Rockton, Troy Grove, OR, Utica and Wedron, IL, to Youngstown, Wooster, Newark, Heath, OH, Kalkaska and Mt. Pleasant, MI, Black Lick and Corry, PA, Glenville and Beckley, WV, Prestonsburg, KY, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Dowell Division of Dow Chemical U.S.A., 6230 Busch Blvd., Suite 204, Columbus, OH 43229. SEND PROTESTS TO: Beverly J. Williams, Trans. Asst., ICC Federal Building and U.S. Courthouse, 46 East Ohio Street, Rm 429, Indianapolis, IN 46204.

MC 143387 (Sub-3TA), filed October 27, 1978. Applicant: ASSOCIATED COURIERS, INC., 3309 Lighfoot, St. Charles, MO 63301. Representative: Warren W. Wallin, 10 S. LaSalle St., Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radioactive pharmaceuticals, radioactive isotopes and medical testing kits*, between Maryland Heights, MO, on the one hand, and, on the other, points in AR, IA, MN, ND, SD and Memphis, TN under a continuing contract or contracts with Mallinckrodt, Inc., for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Mallinckrodt, Inc., Box 10172 Lambert Field, St. Louis, MO 63045. SEND PROTESTS TO: P. E. Binder DS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144827 (Sub-13TA), filed October 27, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, P.O. Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). *Such merchandise as is dealt in by department stores and advertising materials* from New York, NY and its commercial zone to Chicago, IL, Indianapolis, IN, Cincinnati, OH, Oklahoma City, OK, and Memphis and Nashville, TN, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Service Merchandise Company, Inc., 2968 Forster Creighton Drive, Nashville, TN 37204. SEND PROTESTS TO: Floyd A. Johnson, DS, ICC, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 144842 (Sub-2TA), filed October 27, 1978. Applicant: CLIFFORD L. RIGGINS, d.b.a. RIGGINS TRUCKING, 1004 Maple Street, Springdale, AR 72764. Representative: Nancy Pyeatt, 815 15th Street N.W., Washington, DC 20005. *Frozen foods*, from the facilities of Mrs. Paul's Kitchens, Inc., at Philadelphia and Doylestown, PA, Braddock, NJ and Crisfield, MD, to Los Angeles, Anaheim, Vernon, San Francisco, Milpaitas, and Richmond, CA; Chicago, Elk Grove Village, North Lake, and Milan, IL; South Bend, Fort Wayne, Indianapolis and Evansville,

Except as otherwise specifically on the International Boundary line be- *duit and fittings* (except commodities

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IN; Lexington, Louisville, and Brooks Station, KY; Detroit Lavonia, Warren, Lansing, Grand Rapids, Flint, Saginaw and Bay City, MI; Kansas City, St. Louis, Bridgeton, Hazelwood, and Springfield, MO; Dallas, Irving, Garland Fort Worth, Lufkin, Houston, Lubbock, El Paso and San Antonio, TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mrs. Paul's Kitchens, Inc., 5830 Henry Avenue, Philadelphia, PA 19128. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144859 (Sub-2TA), filed October 27, 1978. Applicant: SCOTT PALLETS, INC., Box 341, Amelia, VA 23002. Representative: Calvin F. Major, 200 West Grace Street, Richmond, VA 23220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting; *Wire and nails*, from points in OH and PA to points in MO, under a continuing contract or contracts with American Nail Corporation, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): American Nail Corporation, 13743 Rider Trail, Earth City, MO 63045. SEND PROTESTS TO: Paul D. Collins, DS, Rm 10-502, Federal Bldg., 400 North Eighth Street, Richmond, VA 23240.

MC 145047 (Sub-1TA), filed September 20, 1978. Applicant: VASQUEZ TRANSPORTATION CO., P.O. Box 837, Kearney, NE 68847. Representative: Raul O. Vasquez (same as above). (1) *Aluminum and poly vinyl chloride pipe, and accessories therefor, aeration tubing and accessories*, from Kearney, NE, to points in CO, ND, SD, ID, MO, MS, MT and WY; and (2) *Iron and* steel articles, from Chicago, IL and its commercial zone to Beatrice, Columbus, Fremont, Grand Island, Hastings, Kearney, Lincoln and Omaha, NE, and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Lloyd A. Wilkie, General Manager, Ace Irrigation and Manufacturing Co., P.O. Box 1887, Kearney, NE 68847. R. B. Smith, Administrative Assistant, Mars Steel Corporation, 15 Spinning Wheel Road, Hinsdale, IL 60521. SEND PROTESTS TO: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 145152 (Sub-14TA), filed October 25, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Candy*, from Chicago, IL to Bentonville and Searcy, AR, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-16TA), filed October 30, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Candy and confectionery*, from the facilities of Queen Anne Candy Company, at or near Hammond, IN, to points in AZ, CA, CO, NM and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Queen Anne Candy Company, P.O. Box 948, Hammond, IN 46325. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 145560 (Sub-1TA), filed October 27, 1978. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, irregular routes, transporting: *Bathroom rug sets, bedspreads, drapes and accessories therefor* (except in bulk), from the facilities of Lawtex Industries, Inc., located at or near Dalton and Calhoun, GA, and Piedmont, AL to the facilities of Lawtex Industries, Inc., located at or near Cerritos, CA, under a continuing contract or contracts with Lawtex Industries, Inc., for 180 days. SUPPORTING SHIPPER(S): Lawtex Industries, Inc., P.O. Box 1328, Dalton, GA 30720. SEND PROTESTS TO: Mabel E. Holston, Trans. Asst., ICC, Rm 1616, 2121 Bldg., Birmingham, AL 35203.

MC 145566 (Sub-1TA), filed October 27, 1978. Applicant: B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53145. Representative: Terry Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Shipments of heavy and specialized commodities or articles requiring special equipment or special handling outside the scope of certificate of general commodities motor common carriers* from the facilities of Tait/Bio-Shafts, Inc., Oconomowoc, WI, on the one hand, and, to all points in the state of CA on the other, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Tait/Bio Shafts, Inc., 5656 N. Frontier Road, Oconomowoc, WI 53066. SEND PROTESTS TO: Gail Daugherty, Trans. Asst., ICC, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, WI 53202.

MC 145598 (Sub-1TA), filed October 27, 1978. Applicant: QUICK AIR FREIGHT, INC., Cargo Bldg., Port Columbus Airport, Columbus, OH 43219. Representative: E. H. van Deusen, 220 West Bridge Street, Dublin, OH 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities mining machinery parts, and equipment and supplies used in the manufacture or repair of mining machinery*, between points in AL, AR, CO, GA, IL, IN, KY, MI, NJ, NC, ND, OH, PA, SC, TN, UT, VA and WV, under a continuing contract or contracts with Jeffrey Mining Machinery Division, Dresser Industries, Inc., for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Jeffrey Mining Machinery Division, Dresser Industries, Inc., P.O. Box 1879, Columbus, OH 43216. SEND PROTESTS TO: Frank L. Calvary, DS, ICC, 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Bldg., Columbus, OH 43215.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-33687 Filed 11-30-78; 8:45 am]

[7035-01-M]

[Notice No. 227]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 24, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 1977 (Sub-30TA), filed October 26, 1978. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe Street, Denver, CO 80216. Representative: Leslie R. Kehl Jones, Meiklejohn, Kehl & Lyons 1660 Lincoln St., Suite 1600 Denver, CO 80264. *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which, because of size or weight, require special handling or use of special equipment): Between Denver, CO on the one hand, and, on the other, Pocatello, Blackfoot, and Idaho Falls, ID and points in UT within a 50-mile radius of Salt Lake City, UT, for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): Statement of applicant. Tacking and interlining sought at Boise, Pocatello and Idaho Falls, ID, and Denver, CO. SEND PROTESTS TO: Roger Buchanan, District Supervisor, 492 U.S. Customs House, Denver, CO 80202.

MC 24784 (Sub-15TA), filed October 26, 1978. Applicant: BARRY, INC., 463 South Water Olathe, IS 66061. Representative: Arthur J. Cerra 2100 Ten Main Center P.O. Box 19251 Kansas City, MO 64141. (1) *Roofing material*, except commodities in bulk, from the facilities of Owen-Corning Fiberglas Corp., at or near Kansas City, MO to points in the commercial zones of Casper, Cheyenne and Laramie, WY and Colorado Springs, Denver and Pueblo, CO, under continuing contracts with AAA Wholesale, Inc., for 180 dsays. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): AAA Wholesale, Inc., Denver, CO 80216. SEND PROTESTS TO: District Supervisor John V. Barry, RM. 600, 911 Walnut St., Kansas City, MO 64106.

MC 26396 (Sub-207TA), filed October 26, 1978. Applicant: POPELKA TRUCKING CO., d/b/a The Waggoners, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. (1) *Brick*, from ports of entry on the International Boundary line between the U.S. and Canada located in MT to points in the State of MT; and (2) stone and stone products from Livingston and Gardiner, MT to ports of entry on the U.S.-Canada International Boundary Line in the State of MT, for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): D. D. Paterson, Regional Sales Mgr., IXL Industries, Box 70, Medicine Hat, AB, Canada. Joe Forzley Sales, Inc., P.O. Box 2870, Great Falls, MT 59403. SEND PROTESTS TO: District Supervisor Paul J. Labane, 2602 First Avenue North, Billings, MT 59101.

MC 40978 (Sub-45TA), filed October 26, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., 3321 Business 141 South, Sheboygan, WI 53081. Representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *New furniture*, from 1) Sturgis, MI to points in IL; and from 2) Monroe, MI, to points in IL, MN, WI, and the Upper Peninsula of MI, for 180 days. SUPPORTING SHIPPER(S): Glabman Paramount, 303 St. Joseph Street, Sturgis, MI, 49091; Harter Corp., Prairie Ave., Sturgis, MI, 49091; LA-Z-BOY Chair Company, 1284 N. Telegraph Rd., Monroe, MI. SEND PROTESTS TO: Gail Daugherty, Transportation Assistant, 619 U.S. Courthouse & Federal Bldg., 517 E. Wisconsin Ave., Milwaukee, WI, 53202.

MC 40978 (Sub-46TA), filed October 26, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., 3321 Business 141 South, Sheboygan, WI 53081. Representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *New furniture* and *cabinets* from Archbold, Bedford, Celina, Lancaster, Swanton, and Youngstown, OH, to points in IL, MN, WI and the Upper Peninsula of MI, for 180 days. SUPPORTING SHIPPER(S): Sauder Woodworking Co., 502 Middle St., Archbold, OH 43502; The Taylor Chair Company, 75 Taylor St., Bedford, OH 44146; Mersman Tables, 500 West Wayne St., Celina, OH 45822; Riviera Products, 3200 Old Columbus Road, Lancaster, OH, 43130; The Pilliod Cabinet Co., 105 Woodland Ave., Swanton, OH; G.F. Business Equipment, Inc., 32 E. Dennick Ave., Youngstown, OH 44501. SEND PROTESTS TO: Gail Daugherty, Transportation Assistant, 619 U.S. Courthouse & Federal Bldg., 517 E. Wisconsin Ave., Milwaukee, WI 53202.

MC 43716 (Sub-36TA), filed October 17, 1978. Applicant: BIGGE DRAYAGE CO., 10700 Bigge Street, San Leandro, CA 94577. Representative: Edward Hegarty, LOUGHRAN & HEGARTY, 100 Bush Street, San Francisco, CA 94104. *Plastic pipe, conduit and fittings* (except commodities in bulk), from the facilities of Carlon Division, Indian Head, Inc., at or near Paramount, CA, to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Carlon Division, Indian Head, Inc., 8622 Compton Boulevard, Paramount, CA 90723. SEND PROTESTS TO: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 48441 (Sub-27TA), filed October 26, 1978. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. *Paper, paper products and plastic articles* from the facilities of Brown Co., at Kalamazoo, and Parchment, MI, and from the facilities of Georgia Pacific Corp. at Kalamazoo, MI to points in IL and points in MO on and east of a line beginning at the MS River near Winfield following State Hwy. M-47 west and south to Jct State Hwy M-32, near Weingarten, MO, then east on State Hwy M-32 to MS River near St. Genevieve, MO for 180 days. An underlying ETA seeking up to 90 days authority. SUPPORTING SHIPPER(S): George N. Weegar, Manager of Freight Rates, Brown Co., 243 E. Paterson, Kalamazoo, MI 49007; James H. Cox, Traffic Manager, Georgia Pacific Corp., 2425 King Hwy, Kalamazoo, MI 49003. SEND PROTESTS TO: Lois M. Stahl, Transportation Assistant, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 52704 (Sub-184TA), filed October 18, 1978. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", Lafayette, AL 36862. Representative: Archie B. Culbreth, Suite 202-2200 Century Parkway, Atlanta, GA 30345. (1) *Containers, container components and ends and container closures*, from the facilities of Sonoco Products Co., at or near Hartsville, SC to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX and VA, and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above*, to the facilities of Sonoco Products Co., at or near Hartsville, SC, restricted against the handling of commodities in bulk, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sonoco Products Co., North 2nd Street, Hartsville, SC. SEND PROTESTS TO: Mabel E. Holston, Trans. Asst., Room 1616, 2121 8th Avenue North, Birmingham, AL 35203.

MC 55889 (Sub-50TA), filed October 26, 1978. Applicant: AAA COOPER TRANSPORTATION, P.O. Box 2207, Dothan, AL 36302. Representative:

for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING sentative: George L. Hirschbach, P.O. Box 417, Sioux City, IA. *Such Com-* TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987.

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Kim D. Mann, Suite 1010-7101Wisconsin Avenue, Washington, DC 20014. *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) Between Atlanta, GA and Birmingham, AL; from Atlanta over U.S. Hwy. 78 to Birmingham (also over Interstate Hwy 20) and return over the same routes, serving no intermediate points, but serving points in the commercial zones of Atlanta and Birmingham. (2) Between Atlanta, GA and Montgomery, AL serving Opelika, AL and points in its commercial zone as intermediate points; from Atlanta over U.S. Hwy. 29 to junction with U.S. Hwy. 80, then over U.S. Hwy. 80 to Montgomery (also over Interstate Hwy 85), and return over the same routes, serving no intermediate points except Opelika, AL and points in its commercial zone, and serving points in the commercial zones of Atlanta and Montgomery, for 180 days. Applicant intends to tack the authority here applied for to authority presently held by it. An underlying ETA seeks 90 days authority. There are approximately (123) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at field office named below. SEND PROTESTS TO: Mabel E. Holston, Transportation Assistant, Rm. 1616-2121 Bldg., Birmingham, AL 35203.

MC 56244 (Sub-66TA), filed October 26, 1978. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17108. Representative: John M. Musselman, Rhoads, Sinon & Hendershot, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. (1) *Foodstuffs* (except commodities in bulk and frozen foods) and pet foods, from Jessup, MD to points in OH and points in PA on and west of Interstate Hwy 79 and on and north of Interstate Hwy 76, for 180 days. SUPPORTING SHIPPER(S): Castle & Cooke, Inc., P.O. Box 3928, San Francisco, CA 94119. SEND PROTESTS TO: District Supervisor Charles F. Myers, P.O. Box 869 Federal Square Station, Harrisburg, PA 17108.

MC 59264 (Sub-69TA), filed October 18, 1978. Applicant: SMITH & SOLOMON TRUCKING CO., How Lane, New Brunswick, NJ 08903. Representative: Herbert Burstein, Esq., 2373, One World Trade Center, New York, NY 10048. *Container, metal cans and ends* from the facilities of Ball Corporation in or near Williamsburg, VA to commercial zone of Philadelphia, PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ball Corporation, 345 South High Street, Muncie, IN 47302. SEND PROTESTS TO: Robert E. Johnston, District Supervisor, 9 Clinton Street, Newark, NJ 07102.

MC 60177 (Sub-1TA), filed October 19, 1978. Applicant: POST & DANLEY TRUCK LINE, INC., P.O. Box 646, Fort Scott, KS 66701. Representative: John L. Richeson, P.O. Box 7, Ottawa, KS 66067. *Cereal malt beverages in cans or bottles*, from facilities of Anheuser-Busch, Inc., ST. Louis MO, to points in Bourbon and Linn Counties, KS, for 180 days. An uderlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Fort Scott Beverage, 16 S. Hill, Fort Scott, KS 66701. SEND PROTESTS TO: M. E. Taylor, District Supervisor, 101 Litwin Building, Wichita, KS 67202.

MC 63387 (Sub-7TA), filed October 26, 1978. Applicant: STANLEY STANLEY, d.b.a. ACME EXPRESS, 607 Frelinghuysen Avenue, Newark, NJ 07114. Representative: Thomas F. X. Foley, Esq., State Highway 34, Colts Neck, NJ 07722. (1) *Steel bars*, and *materials and supplies* used in the manufacture of steel bars, between the plantsite of Wycoff Steel Division of Ampco-Pittsburgh, Corp., at Newark. NJ, on the one hand, and, on the other, Baltimore, Elkton, Hampstead, Maryland, Hegins, Hummeltown, Jessup, Lancaster, Pottsville, Throop, West Pittston, Womelsdorf, PA, Binghampton, Elmira, Horscheds, Ilion, Jamestown, Liverpool, Painted Post, Palmyra, Rochester, Syracuse, Utica, Webster, NY, for 180 days. SUPPORTING SHIPPER(S): Wycoff Steel Division, Ampco Pittsburgh Corporation 722 Frelinghuysen Avenue, Newark, NJ 07114. SEND PROTESTS TO: District Supervisor Joel Morrows, 9 Clinton Street, Newark, NJ 07102.

MC 95540 (Sub-1051TA), filed October 26, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. *Frozen foods* (1) From the facilities of Pet, Inc., located at or near Chambersburg, PA to points in FL, GA, MS, NC, SC, and TN; (2) from the facilities of Pet, Inc., at or near Benton Harbor and Hart, MI to points in AL, FL, GA, LA, MS, NC, SC, and TN and (3) from the facilities of Pet, Inc. at or near Frankfort, MI to points in AL, FL, GA, NC, SC, and TN (except Memphis) for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pet, Inc., Frozen Food Division, 400 South Fourth St., St. Louis, MO 63102. SEND PROTESTS TO: Donna M. Jones, Transportation Assistant, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 98952 (Sub-59TA), filed October 26, 1978. Applicant: GENERAL TRANSFER CO., 2880 North Woodford Street, Decatur, IL 62526. Representative: Paul E. Steinhour, 918 E. Capitol Avenue, Springfield, IL 62701. (1) *Foodstuffs, candy or confectionery* in mechanically refrigerated equipment, except in bulk, from Carol Stream, IL and points within the Chicago, IL Commercial Zone to St. Louis, MO. Restricted to the plantsites and storage facilities of E. J. Brach and Sons and Standard Brands, Inc., restricted to traffic originating at named origin and destined to named destinations, for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): Joseph C. Kelly, Asst. Traffic Mgr., E. J. Brach & Sons, Division of American Home Products Corp., 4656 West Kinzie Street, Chicago, IL 60644. Thomas J. Brown, Traffic Mgr., Standard Brands Confectionery, Div. of Standard Brands, Inc., 3401 Mt. Prospect Rd., Franklin Park, IL 60131. SEND PROTESTS TO: Charles D. Little, District Supervisor, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 106401 (Sub-57TA), filed October 26, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Thomas G. Sloan, P.O. Box 31577, Charlotte, NC 28231. Authority sought to operate as a common carrier, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment serving the facilities of American Paper Tube Co., at or near Port Gibson, MS as an off-route point in connection with applicant's existing regular-route authority between Atlanta, GA and Ft. Worth, TX restricted to traffic moving to, from, or through Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Paper Tube Company, P.O. Box 627, Port Gibson, MS 39150. SEND PROTESTS TO: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 107295 (Sub-893TA), filed October 26, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Richard D. Vollmer, P.O. Box 146, Farmer City, IL 61842. (1) *Printed matter*, and *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture and distribution of printed matter, between Indianapolis, IN, and Versailles and Lexington, KY,

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for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): Edwin R. Reimer, Jr., General Traffic Mgr., Rand McNally & Company, 8255 N. Central Park Avenue, Skokie, IL 60076. SEND PROTESTS TO: Charles D. Little, District Supervisor, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 114194 (Sub-207TA), filed October 26, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Representative: Donald D. Metzler, 8003 Collinsville Road, East St. Louis, IL 62201. (1) *Corn Flour and Corn Grits*, in bulk, also *corn meal*, in bulk, from Paris, IL to Boston, MA, Buffalo, NY, Cincinnati, Cleveland, and Toledo, OH, Detroit, MI, Elkhart and Evansville, IN, Jamaica, NY, Louisville, KY, Pittsburgh and Wilkes-Barre, PA, and Totowa, NJ, for 180 days. SUPPORTING SHIPPER(S): Frank B. Tatara, Vice President, Transportation, Illinois Cereal Mills, Inc., 616 S. Jefferson St., Paris, IL 61944.

MC 115322 (Sub-152TA), filed October 26, 1978. Applicant: REDWING REFRIGERATED, INC., 9831 South Orange Avenue, P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. (1) *Canned and Preserved Foodstuffs*, from points in Cattaraugus, Wayne, Genesee, Livingston, Ontario Counties, NY, to points in AL, DE, FL, GA, MD, NC, SC, TN, VA, WV, and DC, for 180 days. SUPPORTING SHIPPER(S): Distribution Service Division, Curtis Burns, Inc., Lent Avenue, Leroy, NY 14482. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 116763 (Sub-451TA), filed October 26, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira, North West Street, Versailles, OH 45380. (1) Transporting *such commodities as are manufactured, processed, distributed, or dealt in by manufacturers or converters of paper and paper products*, except commodities in bulk, from Chillicothe and Schooleys, OH and Kingsport and Gray, TN, to FL, for 180 days. SUPPORTING SHIPPER(S): The Mead Corporation, M. E. Flynn, Traffic Analyst, Motor Courthouse Plaza, N.E., Dayton, OH 45463. SEND PROTESTS TO: District Supervisor Paul J. Lowry, 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH 45202.

MC 117686 (Sub-224TA), filed October 26, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA. *Such Commodities* as are dealt in by wholesale, retail and chain grocery and food business houses (except frozen and commodities in bulk), from points in AZ and CA to the facilities of Fairway Foods, Inc., at Fargo, ND, and Northfield, MN, for 180 days. SUPPORTING SHIPPER(S): Edward M. Viska, Vice President—Perishables & Institutional Food Services, Fairway Foods, Inc., 1111 West Fifth Street, Northfield, MN 55057. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 117730 (Sub-30TA), filed October 26, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. (1) *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *Articles* described in Sections B and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 when moving in mixed loads with articles listed in (1) above, all moving in mechanically refrigerated equipment, from the facilities of Oscar Mayer & Co., Inc. at Davenport, IA to St. Louis, IL and all points in St. Louis County, MO, Madison and St. Clair Counties, IL, for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): Dale N. Gillings, Traffic Manager, Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. SEND PROTESTS TO: Lois Stahl, Transportation Assistant, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 118127 (Sub-26TA), filed October 26, 1978. Applicant: HALE DISTRIBUTING CO., INC., 914 South Vail Avenue, Montebello, CA 90640. Representative: George Carl Pezold, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main Street, P.O. Box Z, Huntington, NY 11743. (1) *Frozen foods* in temperature controlled trucks (Applicant does not seek to transport commodities in bulk, in tank vehicles), from VA to CA, CO, IL, IN, MO, OH, and TX, for 180 days. An underlying ETA seeks 90 authority. SUPPORTING SHIPPER(S): LeSorbet, In., 428 Hume Avenue, Alexandria, VA 22301. SEND PROTESTS TO: Irene Carlos, Transportation Assistant, Rm. 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 118202 (Sub-96TA), filed October 26, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Plastic bottles* and *containers* (1) from Winona, MN to points in IL, IN, IA, MI and WI; and (2) from Steamwood and Yorkville, IL; the Chicago, IL Commercial Zone; Ligonier, IN, Iowa City and Monroe, IA; Kansas City and St. Louis, MO; Bloomfield and Mays Landing, NJ; New York, NY; and New Berlin and Green Bay, WI to Winona, MN, for 180 days. SUPPORTING SHIPPER(S): Technigraph Corporation, 850 West 3rd Street, Winona, MN 55987. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, 414 Federal Bldg. and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119439 (Sub-10TA), filed October 26, 1978. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733. 3501 S. Federal Bldg., Fort Pierce, FL 33450. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. (1) *Petroleum and petroleum products*, in containers, from Edison, NJ to points in FL, for 180 days. There is no environmental impact involved in this application. SUPPORTING SHIPPER(S): Burmah Castrol Corporation, 30 Executive Avenue, Edison, NJ 08817. SEND PROTESTS TO: Donna M. Jones, Transportation Assistant, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 119656 (Sub-52TA), filed October 26, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Printed matter and supplies* used in the maufacture, sale and distribution of printed matter (except commodities in bulk) between Indianapolis, IN, on the one hand, and, on the other, Versailles and Lexington, KY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Edwin R. Riemer, Jr., General Traffic Manager, Rand McNally & Company, 8255 North Central Park Avenue, Skokie, IL 60076. SEND PROTESTS TO: Lois M. Stahl, Transportation Assistant, 219 South Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 121664 (Sub-41TA), filed October 26, 1978. Applicant: HORNADY BROS. TRUCK LINE, P.O. Box 846, Monoreville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35233. (1) *Pipe, fittings, valves, hydrants, castings, accessories*, and *parts*, from McWane Pipe Company in Jefferson County, AL and Union Foundry in

Calhoun County, AL to points in AL,

MC 127705 (Sub-66TA), filed Octo-

Heisley, 805 McLachlen Bank Bldg.,

sor, Rm. 212, 145 East Amite Bldg.,

Supervisor, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

JOHNSTON & MICHAEL A. JOHNSTON, d.b.a. Johnston Trucking, P.O.

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Calhoun County, AL to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, VA, WV, for 180 days. SUPPORTING SHIPPER(S): J. C. Harper, Inc., for McWane Cast Iron Pipe Co., Inc., P.O. Box 3332-A, Birmingham, AL 35205. SEND PROTESTS TO: Mabel E. Holston, Transportation Assistant, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 124078 (Sub-898TA), filed October 26, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. (1) *Fertilizer,* from the facilities of Brunswick River Terminal, Inc., at or near Brunswick, MO to points in AR, IL, IA, KS, KY, MO, OK and TN for 180 days. SUPPORTING SHIPPER(S): Brunswick River Terminal, Inc., P.O. Box 235, Brunswick, MO 65236, William P. Jackson. SEND PROTESTS TO: Gail Daugherty, Transportation Assistant, U.S. Federal Bldg. and Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, WI 53202.

MC 124774 (Sub-108TA), filed October 26, 1978. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. (1) *Feed supplements,* from Pearl River, NY and its commercial zone to St. Louis, MO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Cyanamid, Berdan Avenue, Wayne, NJ 07470. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 124947 (Sub-120TA), filed October 26, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. (1) *Extruded or injection molded rubber and plastic products,* (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of extruded or injection molded rubber and plastic products, (1) from the facilities of the Entek Corporation of America at Irving, TX to points in the United States, excluding AK, and HI; and (2) from points in the United States, excluding AK and HI to Irving, TX, for 180 days. SUPPORTING SHIPPER(S): Entex Corporation of America, 104 County Line Road, Irving, TX 75060. SEND PROTESTS TO: District Supervisor L. D. Helfer, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 127705 (Sub-66TA), filed October 26, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. (1) *Glass containers, accessories, equipment, materials and supplies* used in the manufacture thereof, from the facilities of Brockway Glass Co., Inc. at Clearfield and Jefferson Counties, PA, to St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Brockway Glass Company, Inc., McCullough Avenue, Brockway, PA 15824. SEND PROTESTS TO: J. H. Gray, District Supervisor, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 128652 (Sub-16TA), filed October 26, 1978. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. (1) *Pre-cut houses,* knocked down, from Minneapolis, MN to points in AR, CO, IA, IL, IN, KS, MI, MO, MT, ND, NE, OK, SD, WI and WY; and (2) *Materials, equipment and supplies* used in the manufacture of pre-cut houses from the above states to Minneapolis, MN, under a continuing contract(s) with Capp Homes Division, Evans Products, for 180 days. SUPPORTING SHIPPER(S): Capp Homes Division, Evan Products, 3355 Hiawatha Avenue, Minneapolis, MN 55406. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, 414 Federal Bldg. and U.S. Court House, 110 South 4th St., Minneapolis, MN 55401.

MC 133778 (Sub-1TA), filed October 26, 1978. Applicant: ROBERT W. LAUSCH, d.b.a. R. W. LAUSCH, Route 1, Box 25, Chanute, KS 66720. Representative: John L. Richeson, P.O. Box 7, Ottawa, KS 66067. (1) *Dogs and dog racing equipment,* between points in NH, VT, RI, CT, AL & WV, for 180 days. SUPPORTING SHIPPER(S): There are approximately (8) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Wade Mayfield, Chanute, KS, Charles Grimm, Seabrook, NH 03874, Marshall Rae, New Mkt., NH. SEND PROTESTS TO: M. E. Taylor, District Supervisor, 101 Litwin Bldg., Wichita, KS 67202.

MC 134183 (Sub-10TA), filed October 26, 1978. Applicant: CHARLES ZUMSTEIN, d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street N.W., Washington, DC 20001. (1) *Pet foods,* (except commodities in bulk, from the facilities of Iams Food Co., at Lewisburg, OH, to points in the US east of the Mississippi River, under continuing contracts with Iams Foods Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Iams Food Co., Clayton L. Mathile, Vice President, 3622 Delphos Ave., Dayton, OH 45417. SEND PROTESTS TO: District Supervisor Pual J. Lowry, 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH 45202.

MC 134477 (Sub-283TA), filed October 26, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. (1) *Candy and confectionery* and *cough drops,* from the facilities of Luden's, Inc., at or near Reading, PA to points in CO, IL, IN, IA, KS, KY, MN, MO, NE, ND, OH, SD, TN, and WI, for 180 days. SUPPORTING SHIPPER(S): Luden's Inc., 200 North 8th Street, Reading, PA. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, 414 Federal Bldg. and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135519 (Sub-6TA), filed October 26, 1978. Applicant: ANTHONY G. AYALA, d.b.a. QUEEN CITY TRUCKING, 7808 South 208th, Kent, WA 98031. Representative: Ronald P. Erickson, 2120 Pacific Bldg., Seattle, WA 98104. *Aluminum products,* from Columbia Falls, MT to Seattle, WA, under continuing contract(s) with Teller Metal Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Teller Metal Company, 3407 W. 6th St., Suite 801, Los Angeles, CA 90020. SEND PROTESTS TO: Hugh H. Chaffee, District Supervisor, 858 Federal Bldg., Seattle, WA 98174.

MC 135895 (Sub-29TA), filed October 26, 1978. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. (1) *Paper and paper articles,* and *equipment, materials and supplies* used in the manufacture and distribution of paper and paper articles between the facilities of Scott Paper Company at or near Mobile, AL, on the one hand, and, on the other, points in AR, FL, GA, LA, MS, NC, OK, SC, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Scott Paper Company, Scott Plaza 1, Philadelphia, PA 19113. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

MC 136605 (Sub-73TA), filed October 11, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). *Coal,* in bags (restricted against coal in bulk), from points in the State of Utah to points in the States of WY, and MT, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Wyo-Ben Supply, 3044 Hesper Road, Billings, MT 59104. SEND PROTESTS TO: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138553 (Sub-2TA), filed October 26, 1978. Applicant: M & N GRAIN COMPANY, Box P, Business 71 South, Nevada, MO 64772. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. *Hides* and *Pelts* (1) from Belmond and Waterloo, IA, Columbus, OH and Texarkana, TX; to Butler, MO, (2) from Butler, MO, to Hartland, ME and Buffalo, NY, (3) from Columbus, OH to Danversport, MA, Hartland, ME, and Milwaukee, WI, (4) from Great Bend, KS to Manchester, NH, Laredo, TX and Los Angeles, CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cox Hide Co., Butler, MO 64730. SEND PROTESTS TO: District Supervisor John V. Barry, Rm. 600, 911 Walnut St., Kansas City, MO 64106.

MC 138627 (Sub-43TA), filed October 26, 1978. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Lumber* and *lumber products,* from Weston and Crook Counties, WY to points in AR, IL, IN, IA, MI, MN, MO, and WI, for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): Timber Wholesalers, Inc., Box D, Clara City, MN 56222. SEND PROTESTS TO: Herbert W. Allen, District Supervisor, 518 Federal Bldg., Des Moines, IA 50309.

MC 142449 (Sub-2TA), filed October 26, 1978. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 130 East Washington Avenue, Indianapolis, IN 46204. (1) *Iron and steel, items of iron and steel manufacture,* and *electric motors* (5 lbs. or more) Between Bluffton, IN, on the one hand, and, on the other, Chicago, IL, and IL points in the Chicago Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Franklin Electic Company, 400 East Spring Street, Bluffton, IN 46714. SEND PROTESTS TO: J. H. Gray, District Supervisor, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 142888 (Sub-6TA), filed October 26, 1978. Applicant: COX TRANSFER, INC., P.O. Box 168, Eureka, IL 61530. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. (1) *Glass containers* from the facilities of Midland Glass Co., Inc. at Terre Haute, IN to Goodfield and Pekin, IL, restricted to traffic originating at the facilities of Midland Glass Co., Inc., at Terre Haute, IN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): B. Stein, Director of Transportation, Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. SEND PROTESTS TO: Lois Stahl, Transportation Assistant, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 143031 (Sub-8TA), filed October 26, 1978. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY, AND EARNEST STEWART MURPHY, d.b.a. MURPHY & SONS, Rt. 2, Box 139, Spring City, TN 37381. Representative: H. Stan Guthrie, Suite 500, Dome Bldg., Chattanooga, TN 37402. (1) *Scrap steel,* from the facilities of Dayton Products at Dayton, TN to the facilities of Nicroloy in Heidelburg, PA. (2) *Raw steel* from the facilities of Washington Steel Corporation, Washington, PA and from the facilities of Allegheny Ludlum Corp., New Castle and West Linchburg, PA to the facilities of Dayton Products, Inc., Dayton, TN, under a continuing contract with Dayton Products, Inc., for 180 days. An underlying ETA seeking 90 authority. SUPPORTING SHIPPER(S): Dayton Products, Inc., 1616 N. Broadway, Dayton, TN 37321. SEND PROTESTS TO: Glenda Kuss, Transportation Asst., Suite A-422—U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143775 (Sub-26TA), filed October 26, 1978. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale AZ 85301. Representative: Michael R. Burke, 6601 W. Orangewood, Glendale AZ 85301. (1) *Candy and materials, supplies, and equipment* used in the manufacture, sale and distribution thereof, from South Saint Paul, MN, and points within its commercial zone to points in the United States, (except AK, HI, and MN), for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S) Pearson Candy Company, 2140 W. 7th St., South St. Paul, MN 55116. SEND PROTESTS TO: District Supervisor Andrew V. Baylor, Rm. 2020 Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 144844 (Sub-1TA), filed October 26, 1978. Applicant: ARTHUR E. JOHNSTON & MICHAEL A. JOHNSTON, d.b.a. Johnston Trucking, P.O. Box 325, Spearfish, SD 57783. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. (1) *Lumber and Lumber Products,* from Spearfish and Whitewood, SD and Huylett, Osage and Newcastle, WY to points in IL, IA, KS, MN, MO, NE, ND, SD, TX and WI, for 180 days. SUPPORTING SHIPPER(S): Timber Wholesalers, Clara City, MN 56222. SEND PROTESTS TO: James Hammond, District Supervisor, Rm. 455 Federal Bldg., Pierre, SD 57501.

MC145106 (Sub-9TA), filed October 26, 1978. Applicant: EDINA CARTAGE CO., 1000 Taylor Ave., Flat River, MO 63601. Representative: E. Stephen Heisley, 666 Eleventh St. N.W., No. 805, Washington, D.C. 20001. (1) *Needles, syringes, blood collection tubes, and materials, equipment and supplies* used in the manufacture and distribution thereof (except commodities in bulk), from the facilities of Monoject, Div. of Sherwood Medical Industries, at or near Norfolk, NE, to Decatur, GA, Lyoth, CA, Mechanicsburg, PA, Memphis, TN, and New Brunswick, NJ, under a continuing contract(s) with Sherwood Medical Industries, for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): Monoject, Division of Sherwood Medical, U.S. Highway 81 South, Norfolk; NE 68701. SEND PROTESTS TO: District Supervisor P. E. Binder, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 145195 (Sub-1TA), filed October 18, 1978. Applicant: DEEJAY TRANSPORTATION, INC., P.O. Box 651, Horace, ND 58407. Representative: Charles E. Johnson, 418 E. Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. (1) *Dump truck hoists and truck gravel boxes,* from Peoria, IL and Kansas City, MO, and (2) *truck axles and truck suspension systems and iron and steel articles,* from Eaton, CO, Kansas City, MO, and Minneapolis, St. Paul and Willmar, MN, and (3) *truck suspension systems,* from Dearborn, MI, and Orange City, IA, to the facilities of Red River Manufacturing at or near West Fargo, ND, for 180 days. Restriction: Restricted to the transportation of traffic destined to Red River Manufacturing at West Fargo, ND. An underlying ETA seeks 90 days authority. Supporting shipper(s): Red River Manufacturing, Box 732, West Fargo, ND 58078. Send protests to: District Supervisor Ronald R. Mau, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145509 (Sub-1TA), filed October 26, 1978. Applicant: JOHN E. GREEN, d/b/a JOHN E. GREEN TRUCKING,

3401 Eastside Road, Ukiah, CA 95482.

[7035-01-M]

days. An underlying ETA seeking 90

PORTING SHIPPER(S): The Larsen

TESTS TO: Donna M. Jones Trans. Asst., ICC, Monterey Building, Suite

Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK 73102.

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3401 Eastside Road, Ukiah, CA 95482. Representative: John E. Green, 3401 Eastside Road, Ukiah, CA 95482. (1) *Lumber and Wood Products (including Flakeboard) and Wood Pulp* from the plants and facilities of Louisiana-Pacific Corporation in Humboldt County, CA to the plants and facilities of Louisiana-Pacific Corporation in Mendocino and Sonoma Counties in CA, under continuing contract(s) with Louisiana-Pacific Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Louisiana-Pacific Corporation, P.O. Box 158, Samoa, CA 95564. Send protests to: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145551 (Sub-1TA), filed October 26, 1978. Applicant: SUNSHINE TRANSPORTATION SYSTEM, INC., 2200 South Avenue, Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. (1) *Such commodities* as are dealt in or used by compounders and packagers of lubricants, (a) from Council Bluffs, IA and points in NE, to points in SD, MN, WI, IA, IL, MO, KS, CO, KS, CO, WY, NE, IN, GA and ID; and (b) from points in NE, AR, TX, LA, MO, GA, KS, MN, and IL, to Council Bluffs, IA and St. Paul, MN. (2) *Tallow*, from the facilities of Iowa Beef Processors, Inc., at or near West Point and Dakota City, NE; Denison and Fort Dodge, IA; Luverne, MN; and Emporia, KS, to points in TX and LA, for 180 days. RESTRICTION: All service to be furnished under contract with McCollister & Company, Iowa Beef Processors, Inc., and Metalcote Grease & Oil Company. SUPPORTING SHIPPER(S): McCollister & Co., Box 587, 2200 South Avenue, Council Bluffs, IA; Metalcote Grease & Oil Company, P.O. Box 16435, St. Paul, MN 55116; and Iowa Beef Processors, Inc., Dakota City, NE 68731. SEND PROTESTS TO: Caroll Russell, District Supervisor, Suite 620, 110 N. 14th St., Omaha, NE 68102.

MC 145625TA, filed October 26, 1978. Applicant: DUTCHLAND TRUCKING, INC., 1051 Center Avenue, Oostburg, WI 53070. Representative: Nancy J. Johnson, 4506 Regent St., Suite 100, Madison, WI 53705. (1) *Cheese* and *cheese products* from the facilities of Tolibia Cheese, Inc., at or near Fond du Lac and Oostburg, WI and Sebeka, MN to points in Houston, Dallas, Austin and Fort Worth, TX, and points in their respective Commercial Zones as defined by the Commission; and (2) *cheese, cheese products*, and *butter*, when moved in mixed shipments with *cheese* and *cheese products*, from the facilities of Frigo Cheese Corp., located at or near Lena, WI to Arlington, TX, for 180 days. An underlying ETA seeking 90 days authority. SUPPORTING SHIPPER(S): Tolibia Cheese, Inc., 45 E. Scott Street, Fond du Lac, WI 54935, Frigo Cheese Corp., P.O. Box 158, Lena, WI 54139. SEND PROTESTS TO: Gail Daugherty, Transportation Assistant, U.S. Federal Bldg., & Courthouse, 517 East Wisconsin Avenue, RM. 619, Milwaukee, WI 53202.

MC 145655TA, filed October 26, 1978. Applicant: TYSON FOODS, INC., 2210 Oaklawn, P.O. Drawer E, Springdale, AR 72764. Representative: Michael H. Mashburn, 111 Holcomb, P.O. Box 869, Springdale, AR 72764. (1) *General commodities*, except those of unusual value, dangerous explosives, household goods as defined in the Practices of Motor Carriers of Household Goods 17 MCC 467, *commodities in bulk*, commodities requiring special equipment and those injurious to or contaminating to other lading, from points in CA, FL, IL, MA, NC, NJ, NY, OH, PA, SC, TX, and VA to Bentonville and Searcy, AR, under continuing contracts with Wal-Mart Stores, Inc., for 180 days. SUPPORTING SHIPPER(S): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 145657TA, filed October 26, 1978. Applicant: H AND W TRANSPORT COMPANY, South Mair Street, Cedartown, GA 30125. Representative: Frank W. Quinn, Trend/Roxbury Carpet, Inc., Redmond Road, P.O. Box 162, Rome, GA 30161. (1) *Carpets, carpeting, carpet remnants or rugs, carpet backing material, carpet yarn, fiber, paper, cores, and other material used in the manufacturing of carpet*, but does not include transport in bulk or tank vehicles, from the Seaboard Coastline Railroad T.O.F.C. ramp facility in Cedartown, GA, on the one hand, to and from the W.W.G. Industries manufacturing facilities in Rome, GA and Plainville, GA, on the other hand, under continuing contracts with Trend/Roxbury Carpet, Inc., Division of W.W.G. Industries, Inc., for 180 days. Supporting shipper(s): Trend/Roxburg Carpet, Inc., Division of W.W.G. Industries, Inc., Redmont, Rd., P.O. Box 162, Rome, GA 30161. SEND PROTESTS TO: Sara K. Davis, Transportation Assistant, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-33688 Filed 11-30-78; 8:45 am]

[7035-01-M]

[Notice No. 223]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 21, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 16503 (Sub-10TA), filed October 18, 1978. Applicant: GUEX TRUCKING, P.O. Box 359, Shawano, WI 54166. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Brillion, Cambria, Cedar Grove, Fond du Lac, Ft. Atkinson, Green Bay, Hortonville, and Waldo, WI to points in AL, FL, GA, KS, MO and NE, under a continuing contract or contracts with The Larsen Company of Green Bay, WI, for 180 days. An underlying ETA seks 90 days authority. SUPPORTING SHIPPER(S): The Larsen Company, P.O. Box 1127, Green Bay, WI 54305. SEND PROTESTS TO: Gail Daugherty, Trans. Assistant, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 19311 (Sub-51TA), filed October 24, 1978. Applicant: CENTRAN TRANSPORT, INC., 34300 Mound Road, Sterling Heights, MI 48077. Representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48033. *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), serving the plantsites of the Ford Motor Company and Hessco Corporation at or near Louisville, KY, as off-route points in connection with otherwise authorized regular route operations, restricted to traffic moving or to Alma, MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): C. E. Richards, Supervisor, Trans. Analysis Section, Ford Motor Company, One Parkland Blvd., Parklane Towers-East, Suite 200, Dearborn, MI. 48126. SEND PROTESTS TO: Tim Quinn DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd. Detroit, MI. 48226.

MC 22509 (Sub-9TA), filed October 19, 1978. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. *Metal containers and container ends*, from Chicago, IL and LaPorte, IN to points in KS, NE and OK, for 180 days. SUPPORTING SHIPPER(S): National Can Corporation, 8101 West Higgins Road, Chicago, IL 60631. SEND PROTESTS TO: Vernon V. Coble, District Supervisor, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 25798 (Sub-341TA), filed October 24, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. *Frozen foods*, from the facilities of Pet, Incorporated, Frozen Food Division, at Allentown, Chambersburg and Waynesboro, PA., and Martinsburg and Ranson, WV., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and TN., for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pet, Incorporated, Frozen Foods Divisions, P.O. Box 392, St. Louis, MO. 63166. SEND PROTESTS TO: Donna M. Jones Trans. Asst., ICC, Monterey Building, Suite 101, 8410 N.W., 53rd Terrace, Miami, FL. 33166.

MC 49387 (Sub-54TA), filed October 11, 1978. Applicant: ORSCHELN BROS. TRUCK LINES, INC., Highway 24 East, P.O. Box 658, Moberly, MO 65270. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO. 65101. *General commodities*, (except those of unusual value, Classes A & B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment and those injurious or contaminating to other lading), between Moberly, MO., and points in Randolph, Macon and Chariton Counties, Mo., on shipments having a prior or subsequent interstate movement, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Associated Electric Cooperative, Inc., P.O. Box 1000, Moberly, MO. 64270. SEND PROTESTS TO: Vernon V. Coble DS, ICC, 600 Federal Office Bldg., 911 Walnut Street, Kansas City, MO. 64106.

MC 71902 (Sub-93TA), filed October 11, 1978. Applicant: UNITED TRANSPORTS, INC., 4900 N. Santa Fe Avenue, P.O. Box 18547, Oklahoma City, OK 73154. Representative: Eric L. Spitler, 4900 N. Santa Fe Avenue, Oklahoma City, OK. 73154. *New imported agricultural tractors*, with or without attachments; in secondary truckaway service, each weighing less than 5000 pounds, from the site of the Hinomotor Tractor Sales, U.S.C., Inc., facilities in Grayson County, TX., to points in Arkansas, Louisiana, Mississippi, Oklahoma and TX., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hinomoto Tractor Sales, U.S.A., Inc., P.O. Box 1341, Denison, TX. 75020. SEND PROTESTS TO: Connie Stanley Trans. Asst., Room 240 Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK. 73102.

MC 71902 (Sub-95TA), filed October 11, 1978. Applicant: UNITED TRANSPORTS, INC., P.O. Box 18547, 4900 N. Santa Fe Avenue, Oklahoma City, OK. 73154. Representative: Eric L. Spitler, 4900 N. Santa Fe Avenue, Oklahoma City, OK 73154. *New, imported agricultural tractors, with or without attachments*, in secondary truckaway service, each weighing less than 5000 pounds, from Harris County, TX, to points in Oklahoma and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hinomoto Tractor Sales, U.S.A., Inc., P.O. Box 1341, Denison, TX 75020. SEND PROTESTS TO: Connie Stanley Trans. Asst., Room 240 Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 105375 (Sub-80TA), filed October 5, 1978. Applicant: DAHLEN TRANSPORT, INC., 1680 Fourth Avenue Newport, MN 55055. Representative: Joseph A. Eschenbacher, Jr., 1680 Fourth Avenue Newport, MN 55055. *Such commodities* as are dealt in by retail gasoline/general merchandise stores, (except commodities in bulk), from the facilities of Ashland Oil, Inc., at Bloomington, MN, to points in Illinois, Iowa, Michigan, Minnesota, Missouri, Montana, North Dakota, Ohio, South Dakota and WI; and such commodities as are dealt in by retail gasoline/general merchandise stores, and material, parts and supplies needed for the conduct of such businesses, (except commodities in bulk), from points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota and WI, to facilities of Ashland Oil, Inc., located in Illinois, Iowa, Minnesota, North Dakota, South Dakota and WI, for 180 days. SUPPORTING SHIPPER(S): Ashland Petroleum Company, P.O. Box 391, Ashland, KY 41101. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Bldg., & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 106674 (Sub-351TA), filed October 24, 1978. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. *Acrylonitrile*, (in bulk, in tank vehicles), from Lima, OH, to Marseilles, IL; Washington, West Virginia, Midland and Wyandotte, Mich., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Vistron Corporation, 313 Midland Building, Cleveland, OH 44115. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 107295 (Sub-887TA), filed October 11, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, 100 S. Main Street, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Laundry machine parts*, between Fairfield, IA, and Frankfort, IN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): J. H. Sellars Materials Manager, The Dexter Company, 501 North 8th, Fairfield, IA 52556. SEND PROTESTS TO: Charles D. Little District Supervisor, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 108380 (Sub-97TA), filed October 23, 1978. Applicant: JOHNSTON'S

FUEL LINERS, INC., 808 Birch

ties, VA., to points in AL, AR, GA, LA,

cial Blvd., Fort Lauderdale, FL 33308.

MC 126118 (Sub-103TA), filed Octo-

South 49th West Avenue, Tulsa, OK 74107. *Automotive parts and materials*

ver Way, Portland, Or 97211. Repre-

sentative: Philip G. Skofstad, P.O. Box

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FUEL LINERS, INC., 808 Birch Street, Box 100, Newcastle, WY. 82701. Representative: Truman A. Stockton, Jr., The 1650 Grant St., Bldg., Denver, CO. 80203. *Coal,* from Sheridan County, WY., to Yellowstone County, MT., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Great Western Sugar Co., 1500 16th Street, Denver, CO. 80202 SEND PROTESTS TO: Paul A. Naughton DS, ICC, Room 105 Federal Building & Court House, 111 South Wolcott Street, Casper, WY. 82601.

MC 112713 (Sub-221TA), filed October 11, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7 70, 10990 Rae Avenue, Shawnee Mission, KS. 66207. Representative: John M. Records (same address as applicant). *General commodities,* (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities of unusual value and those requiring special equipment), Serving the facilities of Wag-Aero, Inc., at Lyons, WI., as an off-route point in connection with carriers otherwise authorized operations, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Wag-Aero, Inc., Lyons, WI. 53148. SEND PROTESTS TO: John V. Barry DS, ICC, Room 600, 911 Walnut Street, Kansas City, MO. 64106.

MC 114284 (Sub-78TA), filed October 11, 1978. Applicant: FOX-SMYTHE TRANSPORTATION COMPANY, P.O. Box 82307 Stockyard Station, 1700 South Portland Avenue, Oklahoma City, OK. 73108. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS. 66603. *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and skins and commodities in bulk), from the facilities utilized by John Morrell & Co., at or near Sioux Falls, SD., to points in Texas and OK., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., 208 South LaSalle Street, Chicago, IL. 60604. SEND PROTESTS TO: Connie Stanley, Trans. Asst., Room 240 Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK. 73102.

MC 116763 (Sub-442TA), filed October 11, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH. 45380. Representative: Gary J. Jira (same address as applicant). *Foodstuffs,* (except commodities in bulk, in tank vehicles and frozen foods), from Frederick, Shenandoah and Rockingham Counties, VA., to points in AL, AR, GA, LA, MS, SC, TN, and TX., for 180 days. SUPPORTING SHIPPER(S): (1) National Fruit Products, Co., R. L. Stotler Director of Traffic & Distribution, P.O. Box 2040, Winchester, VA. 22601. (2) Bowman Apple Products Co., Inc., W. P. Mahler Asst., General Manager, P.O. Box 247, Mt. Jackson, VA. 22842. (3) Shenandoah Apple Cooperative, Inc., Robert E. Taylor, Distribution Manager, P.O. Box 435, Winchester, VA. 22601. SEND PROTESTS TO: Paul J. Lowry, DS, ICC, 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH. 45202.

MC 116763 (Sub-443TA), filed October 11, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Such commodities* as are used, distributed or dealt in by distributors or supply outlets of brick, masonry and tile (except commodities in bulk, in tank vehicles), from points in the United States, (except Alaska, Hawaii and WI), to WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hockers Brick & Tile Co., Inc., William Martin GM, 2870 South Broadway, Green Bay, WI 54303. SEND PROTESTS TO: Paul J. Lowry DS, ICC, 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH 45202.

MC 117689 (Sub-17TA), filed October 5, 1978. Applicant: LEO H. SEARLES, d/b/a L. H. SEARLES, South Worcester, NY 12197. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. *Ice cream, ice cream products, ice confections, ice mix confections,* (all except in bulk), in vehicles equipped with mechanical refrigeration, (A) From Lancaster, PA; Chicopee, MA; Richmond Hill (Queens County), NY; and Suffield, CT; TO Norfolk, VA; Baltimore and Gaithersburg, MD; New Haven and East Haven, CT; Worcester, Brockton, Charlestown, Lowell and Hyannis, MA; Toledo, OH; Romulus, MI; Lakewood and Mt. Holly, NJ; and Huntingdon Valley, PA; (B) From Philadelphia, PA, to New Haven, CT; Charlestown and Brockton, MA; (C) From Dunkirk, NY; Green Bay, WI; Ocala, FL; Baltimore, MD; Huntingdon Valley, Allentown and Lancaster, PA, to Boston, MA, for 180 days. SUPPORTING SHIPPER(S): International Ice Cream Corp., 492 Rutherford Avenue, Boston, MA 02129. SEND PROTESTS TO: Robert A. Radler DS, P.O. Box 1167, Albany, NY 12201.

MC 118159 (Sub-293TA), filed October 11, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Expanded cellular foam rubber,* from Baltimore, MD, to Action, Beverly, Boston, Stoughton, Norwood, Peabody, Salem, Haverhill, Newburyport, Lawrence, Lowell, Worcester, and Gilbertville, MA; and Peace Dale, Wakefield, Providence, Johnston and Summerville, RI, for 180 days. SUPPORTING SHIPPER(S): Wm. T. Burnett & Co., Inc., 1500 Bush Street, Baltimore, MD 21230. SEND PROTESTS TO: Connie Stanley, Trans. Asst., Room 240, Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 119793 (Sub-13TA), filed October 16, 1978. Applicant: DEWEY L. WILFONG, dba D & W TRUCK LINES, 200 First Street, P.O. Box 427, Parsons, WV 26287. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Fire place logs,* from Fairless Hills, PA and Trenton, NJ to points in the United States in and east of MN, IA, MO, AR and LA, under a continuing contract or contracts with DuraFlame, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): DuraFlame, Inc., P.O. Box 49, Stockton, CA 95201. SEND PROTESTS TO: J. A. Niggemyer, District Supervisor, 416 Old Post Office Building, Wheeling, WV 26003.

MC 123255 (Sub-178TA), filed October 4, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same as above). *Foodstuffs* (except in bulk), (1) from Sturgis, MI, Columbus, OH and Altavista, VA to East Hartford, CT, Windsor Locks, CT, Edison, NJ, Elizabeth, NJ, Jersey City, NJ, Buffalo, NY, New York, NY, Schenectady, NY, Syracuse, NY, Foxboro, MA, Norwood, MA, Pawtucket, RI, Woonsocket, RI, Rutland, VT, and Milwaukee, WI; and (2) from Altavista, VA to Ft. Wayne, IN, Indianapolis, IN, Chicago, IL, Peoria, IL, Baltimore, MD, Halethorpe, MD, Landover, MD, Detroit, MI, Hamtramck, MI, Livonia, MI, Sturgis, MI, Cincinnati, OH, Cleveland, OH, Columbus, OH, King of Prussia, PA, Philadelphia, PA, Pittsburgh, PA, Scranton, PA, Shiremanstown, PA, Somerset, PA, and Milwaukee, WI, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Ross Laboratories/Div. of Abbott Labs, 625 Cleveland Avenue, Columbus, OH 43216. SEND PROTESTS TO: Frank L. Calvary, District Supervisor, 220 Federal Building and U. S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 126118 (Sub-103TA), filed October 19, 1978. Applicant: CRETE CARRIER CORPORATION, P. O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). *Malt beverages,* from Baltimore, MD, Latrobe, PA, and their commercial zones, and Lehigh County, PA to points in GA, for 180 days. NOTE: Common control may be involved. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): W. E. Laite, President, Bill Laite Distributing Co., 1998 Waterville Road, Macon, GA 31206. James L. Tito, Vice President, Latrobe Brewing Co., 119 Jefferson Street, Latrobe, PA 15650. Greg Trauth, Distribution Manager, The F. & M. Schaefer Brewery Co., 3 Park Avenue, New York, NY 10016. SEND PROTESTS TO: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 127840 (Sub-78TA), filed October 12, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Chicago, IL. 60438. Representative: William H. Towle, 180 N. LaSalle Street, Chicago, IL. 60601. *Chemicals,* (in bulk, in tank vehicles), from Wichita, KS., to Danbury, CT., and Deepwater, NJ., for 180 days. SUPPORTING SHIPPER(S): William F. Kelly Senior Traffic Specialist, Abbott Laboratories, 14th Sheridan Road, North Chicago, IL. 60064. SEND PROTESTS TO: Lois Stahl Trans. Asst., 219 South Dearborn Street, Room 1386, Chicago, IL. 60604.

MC 128095 (Sub-21TA), filed October 11, 1978. Applicant: PARKER TRUCK LINE, INC., Westmoreland Drive, P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *New furniture,* (1) From the facilities of Pilliod of Alabama at or near Selma, AL, to points in FL, GA, KY, LA, MO, MS, TN, and TX; (2) from the facilities of Pilliod Cabinet Co., Inc., at or near Swanton, OH, to points in the states of AL, GA, IL, IN, IA, KY, LA, MO, MS, TN and WV; and (3) from the facilities of Pilliod of Carolina at or near Nichols, SC, to points in AL, GA, LA, MO, MS, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Pilliod Cabinet Company, 105 Woodland Avenue, Swanton, OH. 43558. SEND PROTESTS TO: Floyd A. Johnson DS, ICC, 100 North Main Bldg., Suite 2006, 100 North Main Street, Memphis, TN. 38103.

MC 129032 (Sub-58TA), filed October 11, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 40 West Avenue, Tulsa, OK 74107. Representative: Jerry D. Garland, 6015 South 49th West Avenue, Tulsa, OK 74107. *Automotive parts and materials and supplies used in the manufacturing of automotive parts,* between the facilities of Ford Motor Company in the state of Mich., on the one hand, and on the other, St. Louis, MO; Kansas City, MO, and St. Paul, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ford Motor Company, One Parkland Blvd., Parkland Towers East, Suite 200, Dearborn, MI 48126. SEND PROTESTS TO: Connie Stanley Trans., Asst., Room 240 Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 133689 (Sub-235TA), filed October 19, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs* (except in bulk) from Minneapolis, MN and points in Minneapolis/St. Paul commercial zone as defined by the Commission to Geneva and Niagara Falls, NY; Columbus, Toledo and Cleveland, OH and points in their commercial zone as defined by the Commission; Mechanicsburg, Pittsburgh, Harrisburg and Philadelphia, PA and points in their commercial zones as defined by the Commission, for 180 days. SUPPORTING SHIPPER(S): Nabisco, Inc., East Hanover, NY 07936. SEND PROTESTS TO: Delores A. Poe, Trans. Assistant, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134355 (Sub-4TA), filed October 23, 1978. Applicant: THETFORD TRANSPORT LIMITED, 1829 N Smith Boulevard, Thetford Mines, QUE G6G 5T2. Representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H. Street NW, Washington, DC 20006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Asbestos in bags,* from ports of entry on the International Boundary Line between the United States and Canada located at Derby Line, VT and Champlain and Rouses Point, NY to points in MA, CT, NY, NJ, PA and VA, restricted to transportation originating at Thetford Mines and Black Lake, QUE for Lake Asbestos of Quebec, Ltd., for 180 days under a continuing contract or contracts with Lake Asbestos of Quebec, Ltd. SUPPORTING SHIPPER(S): Lake Asbestos of Quebec, Ltd., Black Lake, QUE. SEND PROTESTS TO: District Supervisor Ross J. Seymour, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 134592 (Sub-15TA), filed October 11, 1978. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING, 10360 N. Vancouver Way, Portland, Or 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR. 97030. *Malt beverages,* from Van Nuys, Los Angeles and Fairfield, CA, to Everett, WA.; and (2) *Wine,* from Rutherford, St. Helena, Sonoma, Union City, Menlo Park, Saratoga, San Jose, Lodi, Livermore and Madera, CA, to Everett, WA., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Bay Distributing Co., 3302 Smith St., P.O. Box 1025, Everett, WA. (2) Friendly Distributors, Inc., 2202 Wall St., Everett, WA. 98201. (3) Crown Distributing Co., Inc., 3326 Paine St., Everett, WA. 98201. SEND PROTESTS TO: R. V. Dubay DS, ICC, 114 Pioneer Courthouse, Portland, OR. 97204.

MC 135007 (Sub-69TA), filed October 18, 1978. Applicant's: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk) from the facilities of Minden Beef Co., located at or near Minden, NE to New York, NY, under a continuing contract or contracts with Minden Beef Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): William E. Mahar, Manager, Minden Beef Company, P.O. Box 70, Minden, NE 68959. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, 110 No. 14th Street, Omaha, NE 68102.

MC 135797 (Sub-153TA), filed October 24, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR. 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR. 72745. *Appliances, and parts, supplies and accessories for appliances,* from the facilities of the Maytag Company at or near Newton, IA, to points in AR, LA, MS, OK AND TX., for 180 days. SUPPORTING SHIPPER(S): Maytag Company, 403 West 4th Street North, Newton, IA. 50208. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR. 72201.

MC 136220 (Sub-61TA), filed October 11, 1978. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, Ok. 74601. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK. 73112. *Aluminum dross, aluminum scrap and smelting residue,* (in

bulk, in dump vehicles), from points in

over irregular routes, transporting: (1)

ware, District of Columbia, Florida,

from Detroit, MI, and its commerical zone, to West Chicago, IL, under a

TIGER TRANSPORTATION, INC.,

Stores, Inc., for 180 days. Applicant

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bulk, in dump vehicles), from points in and east of TX, KS, NE, SD, AND ND, to Sapulpa and Checotah, OK, for 180 days. SUPPORTING SHIPPER(S): Teller Metal Company, 12115 Lackland Road, St. Louis, MO. 63141. SEND PROTESTS TO: Connie Stanley Trans. Assit., Room 240 Old Post Office & Court House Building, 215 N.W., 3rd, Oklahoma City, OK. 73102.

MC 136605 (Sub-74TA) filed October 11, 1978. applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (Same address as applicant). *Metal building covering, parts, components, and accessories used in the installation thereof,* from the facilities of Gifford-Hill and Company located at or near Brooklyn Park, MN and Hopkins, MN, to points in the United States in and west of the states of Wisconsion, Illinois, Missouri, Oklahoma, and TX, (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER(S): Gifford-Hill and Company, 7920 Powell Road, Hopkins, MN 55343. SEND PROTESTS TO: Paul J. Labane District Supervisor, ICC, 2602 First Avenue North, Billings, MT. 59101.

MC 136605 (Sub-75TA), filed October 11, 1978. Applicant: DAVIS BROS., DIST., INC.; P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (Same address as applicant). *Furnaces, house heating hot air parts, components, and accessories used in the installation thereof,* from the facilities of Mammoth Division, Lear Siegler, Inc., at or near Minneapolis, MN, to points in the United States in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and TX, (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER(S): Lear Siegler/Mammoth Division, 13120-B County Road 6, Minneapolis, MN 55441. SEND PROTESTS TO: Paul J. Labane District Supervisor, 2602 First Avenue North, Billings, MT 59101.

MC 138198 (Sub-8TA), filed October 4, 1978. Applicant: SPD TRUCK LINE, INC., Opalena at Cottage, Abilene, KS 67410. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by wholesale or retail discount or variety stores, (1) from points in Arkansas, Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, Texas and WY, to points in Minn.; and (2) from points in Minnesota, to Colorado, Iowa, Kansas, Nebraska, New Mexico, South Dakota, Texas and Wyo., under a continuing contract or contracts, with Duckwall-Alco Stores, Inc., for 180 days. Applicant states it does not intend to tack or interline. SUPPORTING SHIPPER(S): Duckwall-Alco Stores, Inc., 401 Cottage Street, Abilene, KS 67410. SEND PROTESTS TO: DS Thomas P. O'Hara, ICC, 256 Federal Bldg., & U.S. Courthouse, 4344 S.E., Quincy, Topeka, KS 66683.

MC 139457 (Sub-9TA), filed October 18, 1978. Applicant: G. L. SKIDMORE, dba JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* from the facilities of Campbell Soup at or near Napoleon, OH to the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, under a continuing contract or contracts with Campbell Soup (Texas) Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Campbell Soup Company, Paris, TX. SEND PROTESTS TO: Opal M. Jones, Trans. Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140024 (Sub-132TA), filed October 11, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Representative: John F. DeCock (same address as applicant). *Canned and preserved foodstuffs,* from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in CO, KS and NE, for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: Roger L. Buchanan, District Supervisor, ICC, 721-19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 142220 (Sub-3TA), filed October 18, 1978. Applicant: BAKER TRUCKING CORPORATION, INC., 4600 Brazil Street, Los Angeles, CA 90029. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Office furniture and accessories,* from Port Huron, MI to Tustin, CA, under a continuing contract or contracts with Bismac International, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Bismac International, Inc., 379 Dundas Street, London, Ontario, Canada N6B 1V5. SEND PROTESTS TO: Irene Carlos, Trans. Assistant, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143236 (Sub-22TA), filed October 11, 1978. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth E. Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. *Commodities* as dealt in by retail departments stores and including *materials, supplies and equipment,* (except in bulk), between the facilities and/or vendors of Famous-Barr Company at or near Jersey City, NJ, New York, NY, on the one hand, and on the other hand, facilities of Famous-Barr in or near St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Famous-Barr Company, 601 Olive Street, St. Louis, MO 63101. SEND PROTESTS TO: Robert E. Johnston DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 143636 (Sub-3TA), filed October 11, 1978. Applicant: RON SMITH TRUCKING, R. R. 3, Arcola, IL 61910. Representative: Douglas G. Brown, INB Center, Suite 555, 1 N. Old State Capitol Plaza, Springfield, IL 62701. *Sand, gravel and aggregates,* from, to and between Parke and Vigo Counties, IN., on the one hand, and, on the other, Douglas County, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Herman Bade Owner Herman Bade & Sons, Villa Grove, IL 61956. (2) D. Dale Cornwell Plant Manager, Tuscola Builders Supply Co., Tuscola, IL 61953. SEND PROTESTS TO: Charles D. Little, District Supervisor, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 144239 (Sub-5TA), filed October 4, 1978. Applicant; J. L. T. CORPORATION, 233 Green Village Road, Green Billage, NJ. 07935. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ. 07076. Authority sought to operate at a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cheesecake,* in vehicles equipped with mechanical refrigeration, from the facilities of Mother's Kitchen, Inc., at Delran, NJ., to points in the United States, including Alaska, under a continuing contract or contracts with Mother's Kitchen, Inc., located at Delran, NJ., for 180 days. SUPPORTING SHIPPER(S) Mother's Kitchen, Inc., 1829 Underwood Blvd., Unit 5, Delran, NJ. 08075. SEND PROTESTS TO: DS Joel Morrows, ICC. 9 Clinton Street, Newark, NJ. 07102.

MC 144449 (Sub-2TA), filed October 20, 1978. Applicant: A&A MOVING AND STORAGE, dba, A&A CONTRACT CARRIERS, 414 Blue Smoke Court West, Fort Worth, TX 76101. Representative: Stephen B. Jurbala, 2355 Stemmons, Suite 1000, Dallas, TX 75207. Authority sought to operate at a *contract carrier,* by motor vehicle,

over irregular routes, transporting: (1) *Retail store supplies, office equipment and office supplies,* and (2) *equipment, materials, and supplies used in the manufacture of the commodities in (1) above,* except the transportation of such commodities in bulk, between facilities of Pitney Bowes and/or its warehousing contractors in Newtown, Danbury and Stamford, CT, and Pitney Bowes and/or its vendor facilities in the states of New York, Georgia, South Carolina, North Carolina and Texas, under a continuing contract or contracts with Pitney Bowes, for 180 days. NOTE: Applicant holds contract carrier authority in No. MC-144449 and subnumbers thereunder. If a hearing is deemed necessary, applicant requests that it be held at Dallas or Fort Worth, TX. Applicant intends to tack the authority here applied for to another authority held by it. SUPPORTING SHIPPER(S): Louis Szabo, Manager-Domestic Transportation, Pitney Bowes, Walnut and Pacific Streets, Stamford, CT. SEND PROTESTS TO: Trans. Assistant Martha A. Powell, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 144798 (Sub-2TA), filed October 17, 1978. Applicant: JAMES W. BERG AND JOHN W. BERG, dba, DUTCH LINE, 2120 Harbor Street, Pittsburg, CA 94565. Representative: Raymond A. Greene, Jr., of HANDLER, BAKER & GREENE, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate at a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Liquid paraffin wax,* in bulk, in tank equipment, between Richmond, CA and Scappoose, OR, under a continuing contract or contracts with Neu-Glo Candles, Incorporated, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Neu-Glo Candles, Incorporated, P.O. Box 599, Scappoose, OR 97056. SEND PROTESTS TO: District Supervisor, A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145277 (Sub-1TA), filed October 4, 1978. Applicant: P & P TRUCKING COMPANY, INC., 106 Teaneck Road, Ridgefield Park, NJ. 07660. Representative: Arthur Liberstein, Michael Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ. 07006. Authority sought to operate at a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Flavoring syrup compounds and beverage preparations,* (except commodities in bulk), and materials and supplies used in the manufacture thereof, restricted to traffic moving in refrigerated equipment, between Louisville, KY., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and WI., under a continuing contract, or contracts, with Pepsi Cola Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pepsi Cola Company, Purchase, N.Y. 10577. SEND PROTESTS TO: DS Joel Morrows, ICC, 9 Clinton St., Newark, N.J. 07102.

MC 145384 (Sub-11TA), filed October 11, 1978. Applicant: ROSE-WAY, INC., 1814 E. Euclid, Des Moines, IA 50313. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Lumber, plywood and particleboard,* from Medford, Roseburg and Albany, OR., and Anacortes, Tacoma and Ridgefield, WA, to points in IA, IL, IN, MI, MN, OH and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Greenwood Forest Products, Inc., 8285 SW., Nimbus Avenue, Beaverton, OR. 97005. SEND PROTESTS TO: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145462 (Sub-1TA), filed October 18, 1978. Applicant: HOLLIS E. LOWE, d.b.a. LOWE TRUCKING COMPANY, 6639 Abington Pike, Richmond, IN 47374. Representative: Russell H. Schussler, 400 First National Bank Building, Richmond, IN 47374. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Castings* from Havana, IL and Sparta, MI to Richmond, IN; and (2) *borings* from Richmond, IN to Havana, IL, under a continuing contract or contracts with Dana Corporation, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dana Corporation, 1400 Dana Parkway, Richmond, IN 47374. SEND PROTESTS TO: Beverly J. Williams, Trans. Assistant, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 145502 (Sub-1TA), filed October 11, 1978. Applicant: COYNE MOTOR SERVICE, INC., 9212 South Parkside, Oak Lawn, IL 60453. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Printing inks,* (in bulk, in tank vehicles), from West Chicago, IL, to points in MI, MN, MO, OH, OK, WV, and WI, and (2) *Oils* used in the manufacture of printing inks, (in bulk, in tank vehicles), from Detroit, MI, and its commerical zone, to West Chicago, IL, under a continuing contract or contracts with Central Ink and Chemical Company, West Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Richard E. Breen, GM, Central Ink and Chemical Co., 1100 N. Harvester Road, West Chicago, IL 60185. SEND PROTESTS TO: Lois M. Stahl, Trans. Asst., ICC, 219 South Dearborn St., Room 1386, Chicago, IL 60604.

MC 145576TA, filed October 20, 1978. Applicant: HAYES REYNOLDS WRECKER SERVICE, INC., Route 7, Box 270, North Wilkesboro, NC 28659. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. (1) *Wrecked and disable tractors, wrecked and disabled trilers (other than those designed to be drawn by passenger vehicles), wrecked and disable trucks, and wrecked and disabled buses,* from points in AR, CT, DE, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, NE, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, WV, WI, and the DC, to points in Forsyth and Wilkes Counties, NC; (2) *Replacement vehicles* for the vehicles named in (1) above, from points in Forsyth and Wilkes Counties, NC, to the origin points as described in (1) above; (3) *Wrecked and disabled tractors, wrecked and disabled trailers* (other than those designed to be drawn by passenger vehicles), *wrecked and disabled trucks, and wrecked and disabled buses,* from points in the United States (except AK, HI and NC), to points in Wilkes County, NC; and (4) *Replacement vehicles* for the vehicles named in (3) above, from points in Wilkes County, NC, to the origin points as described in (3) above, for 180 days. RESTRICTION: Restricted to a transportation service performed by use of wrecker equipment and lowboy semitrailers. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Holly Farms Poultry Industries, Inc., P.O. Box 88, Wilkesboro, NC 28697. McLean Trucking Company, P.O. Box 213, Winston-Salem, NC 27102. G. G. Parsons Trucking Co., P.O. Box 1085, North Wilkesboro, NC 28659. SEND PROTESTS TO: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlottee, NC 28205.

MC 145582 TA, filed October 19, 1978. Applicant: DENMARK TRUCKING, INC., 730 Main Street, P.O. Box 1274, Greenville, MS 38701. Representative: Harold H. Mitchell, Jr., Wynn & Bogen, Attorneys at Law, 120 South Poplar Street, P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Beer and malt beverages and containers* (except com-

of the filing of the application is pub-

MC 95876 (Sub-256TA), filed Octo-

NJ, on the one hand, and, on the other, points in MN, under a continu-

Federal Building and U.S. Court House, 110 South 4th Street, Minne-

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modities in bulk) between the facilities of the Anheuser Busch Brewery at or near St. Louis, MO and points in MS, under continuing contracts with Anderson Beverage Co., Riverside Distributors, Inc., and Charley Peyton Distributors, Inc.; and (2) *Metal wire products and hinges; molded rubber and metal products; and kitchen cabinets, laminated products and materials, supplies, and component parts of kitchen cabinets and vanity cabinets* between points in MO, IL, and TN, under continuing contracts with Hager Hinge & Sons Co., Inc., Moeller Manufacturing Co., Inc., and Ampco Division of Chromalloy, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 145587 TA, filed October 11, 1978. Applicant: MD TRUCKING CORPORATION, 1221 East Costilla Avenue, Littleton, CO. 80122. Representative: Fred E. Day, Jr., 1221 East Costilla Avenue, Littleton, CO. 80122. *Petroleum products,* (in bulk), *gasoline and diesel fuels,* from Sinclair, Wyo., and Rock Springs, Wyo., to Grand, Moffat and Routt Counties, CO., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Reynolds Oil Co., P.O. Box 337, Kremmling, CO. 80459. (2) Weston Oil Co., P.O. Box A, Toponas, CO. 80479. SEND PROTESTS TO: Roger L. Buchanan DS, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO. 80202.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-33689 Filed 11-30-78; 8:45 am]

[7035-01-M]

[Notice No. 224]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

November 21, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 41406 (Sub-96TA), filed October 31, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammona, IN 46323. Representative: Wade H. Bourdon, 7105 Kennedy Avenue, Hammond, IN 46323. *Steel pipe,* from the facilities of Bull Moose Tube Company at Gerald, MO, to points in Arkansas, Illinois, Indiana, Iowa, Nebraska, Kansas, Oklahoma, Michigan and OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Charles E. Emmenegger, Jr., Manager-Scheduling & Purchasing, Bull Moose Tube Company, P.O. Box 214, Gerald, MO 63037. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 61825 (Sub-86TA), filed October 24, 1978. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone, Roy Stone Transfer Corporation, P.O. Box 385, Collinsville, VA 24078. *Glass,* from Ottawa, IL, to points in the states of Alabama, Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, New Jersey, New York and OH, for 180 days. SUPPORTING SHIPPER(S): Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43635. SEND PROTESTS TO: Paul D. Collins DS, Room 10-502 Federal Building, 400 N. 8th Street, Richmond, VA 23240.

MC 78400 (Sub-67TA), filed October 24, 1978. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO. 63101. *Educational books, pamphlets, and periodicals,* (1) Between the facilities of Scholastic Magazine Company at Englewood Cliffs, NJ., on the one hand, and on the other, Jefferson City and St. Louis, MO.; and (2) from Menasha, WI., Buffalo and New York, N.Y., Dresden, TN; Chicago, IL., and St. Cloud, MN.,; to the facilities of Scholastic Magazine Company at Englewood Cliffs, NJ., and Jefferson City, MO., for 180 days. SUPPORTING SHIPPER(S): Scholastic Magazine Company, 50 West 44th Street, New York, N.Y. 10036. SEND PROTESTS TO: P. E. Binder District Supervisor, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO. 63101.

MC 93649 (Sub-24TA), filed October 31, 1978. Applicant: GAINES MOTOR LINES, INC., 1816 9th Avenue Drive, N.E., P.O. Box 1549, Hickory, NC 28601. Representative: Edward G Villalon, 1032 Penn., Bldg., PA., Avenue & 13th St., N.W., Washington, D.C. 20004. *Textiles and textile products,* (1) from points in N.C., and S.C., to points in DE and RI; and (2) from points in PA., to points in NC., and SC., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (22) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Terrell Price District Supervisor, 800 Briar Creek Road, Room CC516. Mart Office Bldg., Charlotte, NC. 28205.

MC 94350 (Sub-418TA), filed October 24, 1978. Applicant: TRANSIT HOMES, INC., P.O. Box 1638, Greenville, SC 29602. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. *Cotton module builders,* from points in Hanford, CA., and Big Spring, TX., to points in California, Arizona, New Mexico and TX., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cotton Machinery Co., Inc., 1870 Catalina Court, Livermore, CA. 94550. SEND PROTESTS TO: E. E. Strotheid DS, ICC, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

MC 95876 (Sub-256TA), filed October 31, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, P.O. Box 1377, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Building board, insulating board and wallboard,* from Florence, KY., to points in Illinois, Iowa, Minnesota and WI., for 180 days. SUPPORTING SHIPPER(S): Grefco, Inc., a wholly owned subsidiary of General Refractories Company, 50 Monument Road, Bala Cynwyd, PA 19004. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 105501 (Sub-32TA), filed October 31, 1978.Applicant: TERMINAL WAREHOUSE COMPANY, INC., 1851 Raddison Road, Northeast, Blaine, MN. 55434.Representative: Joseph J. Dudley, W-1260 First National Bank Bldg., St. Paul, MN. 55101.*Sugar,*(except in bulk, in bags), from Drayton, ND, to Minneapolis-St. Paul, NM., and points in its commercial zone,for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Crystal Sugar Company, 101 3rd Street North, Moorhead, MN. 56560.SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN. 55401.

MC 111401 (Sub-532TA), filed October 11, 1978.Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK. 73701.Representative: Victor R. Comstock, P.O. Box 632, Enid, OK. 73701.*Petroleum naphtha,*(in bulk, in tank vehicles), from Cyril, OK, to points in LA,for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Drake Petroleum Company, 6231 N. Pulaski Road, Chicago, IL. 60646.SEND PROTESTS TO: Connie Stanley Trans. Asst., Room 240 Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK. 73102.

MC 112016 (Sub-14TA), filed October 11, 1978.Applicant: BENMAR TRANSPORT & LEASING CORP., 405 Third Avenue, Brooklyn, N.Y. 11215.Representative: Eugene M. Malkin, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a*contract carrier,*by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount department stores and *equipment, materials and supplies* used in the conduct of such business, (except commodities in bulk and foodstuffs), between New York, NY, and Secaucus, NJ, on the one hand, and, on the other, points in MN, under a continuing contract or contracts, with Jubilee Shops, Inc., of Secaucus, NJ, for 90 days.An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Jubilee Shops, Inc., 80 Enterprise Ave., Secaucus, NJ. 07094.SEND PROTESTS TO: Maria B. Kejss Trans. Asst., ICC, 26 Federal Plaza, New York, NY 10007.

MC 113908 (Sub-452TA), filed October 11, 1978.Applicant: ERICKSON TRANSPORT, INC., 2105 E. Dale Street, P.O. Box 3180 Glenstone Station, Springfield, MO. 65804.Representative: B. B. Whitehead, (same address as applicant).*Flour,*(in bulk, in tank vehicles), from Minneapolis, MN., to Springfield, MO,for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kraft, Inc., Chicago, IL.SEND PROTESTS TO: John V. Barry DS, Room 600, 911 Walnut Street, Kansas City, MO. 64106.

MC 114301 (Sub-99TA), filed October 31, 1978. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, MD. 21921. Representative: Maxwell A. Howell, 1511 K St., N.W., Washington, D.C. 20005. *Solar salt,* (in pneumatic tank vehicles), from Baltimore, MD., to points in the State of DE., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): L. P. Girven GTM, Watkins Salt Company, P.O. Box 150, Watkins Glen, NY. 14891. SEND PROTESTS TO: William L. Hughes District Supervisor, ICC, 1025 Federal Building, Baltimore, MD. 21201.

MC 114301 (Sub-100TA), filed October 31, 1978. Applicant: DELAWARE EXPRESS, CO., P.O. Box 97, Elkton, MD. 21921. Representative: Maxwell A. Howell, 1511 K St., N.W., Washington, D.C. 20005. *Feed ingredients,* (except in bulk), from Baltimore, MD., to Elkton, NC., for 180 days, SUPPORTING SHIPPER(S): Patrick Carr Secretary-President, Getkin Associates, Inc., 1701 Swede Road, Norristown, PA. 19401. SEND PROTESTS TO: William L. Hughes District Supervisor, ICC, 1025 Federal Bldg., Baltimore, MD. 21201.

MC 114457 (Sub-447TA), filed October 24, 1978. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN. 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN. 55114. *Canned and bottled foodstuffs,* from Cade and Lozes, LA., to points in IL, IN, IA, KY, MI, MN, MO, OH and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA. 70560. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN. 55401.

MC 115841 (Sub-650TA), filed October 11, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN. 37919. Representative: D. R. Beeler (Same address as applicant). *Frozen foods,* from the facilities of Flowers Industries, located at or near Fountain Inn, SC, to points in the states of AL, MI, OH, TX, MI, MO, KS, WI, NE, CO, GA, PA, OK, AR, and AZ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Flowers Industries, Old Laurens Road, Fountain Inn, SC. 29644. SEND PROTESTS TO: Glenda Kuss Trans. Asst., ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN. 37203.

MC 116763 (Sub-449TA), filed October 24, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Such commodities as are dealt in by manufacturers and distributors of plastic products,* (except commodities in bulk, in tank vehicles), from Nicholasville, KY, to points in GA and MO for 180 days. SUPPORTING SHIPPER(S): Plastic Products Division, Hoover Universal, Thomas E. Gould Corporate Traffic Manager, Route 2, Tri Port Road, Georgetown, KY 40324. SEND PROTESTS TO: Paul J. Lowry District Supervisor, ICC, 5514-B Federal Bldg., 550 Main Street, Cincinnati, OH 45202.

MC 118202 (Sub-93TA), filed October 11, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Eugene A. Schultz, P.O. Box 406, Winona, MN 55987. *Canned and preserved food stuffs,* (except commodities in bulk), from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Pittsburgh, PA, to points in CO, KS, MN, MO, NE, ND, SD and WI, for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 118831 (Sub-168TA), filed October 24, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller III, P.O. Box 7007, High Point, NC 27264. *Dry terephthalic acid,* (in bulk, in tote bins or hopper type vehicles), from Berkeley County, SC, to points in the US, in and east of

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TX, OK, KS, NE, SD and ND, for 180

MC 123407 (Sub-509TA), filed Octo-

Illini Beef Packers at Joslin, IL., to points in Virginia, North Carolina,

Amstar Corporation in Chicago, IL, on

Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138741 (Sub-60TA), filed October 31, 1978. Applicant:

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TX, OK, KS, NE, SD and ND, for 180 days. An underlying ETA Seeks 90 days authority. SUPPORTING SHIPPER(S): Amoco Chemicals Corporation, 200 E. Randolph Drive, Chicago, IL 60601. SEND PROTESTS TO: Archie W. Andrews DS, ICC, P.O. Box 26896, 624 Federal Building, 310 New Bern Avenue, Raleigh, NC 27611.

MC 119654 (Sub-62TA), filed October 11, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Pulpboard and fiberboard*, from the facilities of the Alton Box Board Company at or near Alton, IL, to Aurora, IN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Alton Box Board Company, 401 Alton St., Alton, IL 62002. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne St., Suite 113, Fort Wayne, IN 46802.

MC 119689 (Sub-19TA), filed October 11, 1978. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad Street, Pittsburgh, PA 15222. Representative: William J. Lavelle, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Castor oil*, (in bulk, in tank vehicles), from Baltimore, MD, and New York, NY, and points in their commercial zones, to Dover, OH, for 180 days. SUPPORTING SHIPPER(S): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. SEND PROTESTS TO: John J. England District Supervisor, ICC, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 119726 (Sub-145TA), filed October 24, 1978. Applicant: N.A.B., TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Plastic articles*, (except in bulk), *and materials, supplies, and equipment* used in the distribution of plastic articles, from the plantsite and warehouse facilities of Amoco Chemical Corporation at or near Monroe, GA, to points in the states of North Carolina, South Carolina, Florida, Alabama, Tennessee, Virginia, and W. Va, and from points in the above named destination states to the plantsite and warehouse facilities of Amoco Chemical Corporation at or near Monroe, GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Amoco Chemicals Corporation, 200 E. Randolph Drive, Chicago, IL 60601. SEND PROTESTS TO: Beverly J. Williams, Trans. Asst., ICC, Federal Bldg., & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 123407 (Sub-509TA), filed October 24, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). *Roofing tile*, from Belvidere, IL, to points in Illinois, Indiana, Iowa, Ohio, and WI, for 180 days. SUPPORTING SHIPPER(S): Raleigh Architectural Roof Systems, Inc., 307 S. Oak Street, Forreston, IL 61030. SEND PROTESTS TO: Lois Stahl, Trans. Asst., ICC, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 123778 (Sub-43TA), filed October 11, 1978. Applicant: JALT CORP., d/b/a UNITED NEWSPAPER DELIVERY SERVICE, 802 Raritan Center, Edison, NJ 08817. Representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, irregular routes, transporting: *Magazine parts, sections and inserts*, from East Greenville, PA, to Old Saybrook, CT, Edison, NJ, and Glenn Dale, MD, under a continuing contract or contracts, with Time, Incorporated, Time & Life Bldg., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Time, Incorporated, Time & Life Bldg., Rockefeller Center, Room 3170, New York, NY 10020. SEND PROTESTS TO: Robert E. Johnston, District Supervisor, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 124896 (Sub-73TA), filed October 25, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne & Ralston Streets, Wilson, NC. 27893. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL. 60068. *Foodstuffs*, other than in bulk, from the facilities of Buitoni Food Corporation at S. Hackensack, N.J., to Birmingham and Montgomery, AL; Jacksonville, Miami, Orlando, Pompano Beach, St. Petersburg, and Tampa, FL; Atlanta, GA; Fayetteville, Charlotte, Pineville, and Raleigh, N.C.; Greenville, Charleston, S.C.; Memphis and Nashville, TN., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Buitoni Foods Corporation, 450 Huyler Street, S. Hackensack, N.J. 07606. SEND PROTESTS TO: Archie W. Andrews DS, ICC, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

MC 124896 (Sub-74TA), filed October 31, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Corner Thorne & Ralston Streets, Wilson, N.C. 27893. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL. 60068. *Meats*, from the facilities of Illini Beef Packers at Joslin, IL., to points in Virginia, North Carolina, South Carolina, Georgia and AL., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Illini Beef Packers, Inc., P.O. Box 245, Joslin, IL. 61254. SEND PROTESTS TO: Archie W. Andrews District Supervisor, ICC, P.O. Box 26896, 624 Federal Building, 310 New Bern Avenue, Raleigh, N.C. 27611.

MC 126899 (Sub-122TA), filed October 11, 1978. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3156, Paducah, KY. 42001. Representative: William L. Willis, 708 McClure Building, Frankfort, KY. 40601. (1) *Malt beverages and related advertising materials*, from Evansville, IN., and Newport, KY., to St. Louis, MO; and (2) *empty malt beverage containers, pallets and rejected shipments of malt beverages*, from St. Louis, MO., to Evansville, IN., and Newport, Ky., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): G. Heileman Brewing Company, Inc., 925 South Third Street, La Crosse, WI. 54601. SEND PROTESTS TO: Floyd A. Johnson District Supervisor, ICC, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN. 38103.

MC 129410 (Sub-9TA), filed October 24, 1978. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, IL. 60014. Representative: Martin J. Kennedy, Sparks & Gertzman, 180 North LaSalle Street, Chicago, IL. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid corn products*, (in tank type vehicles), between the plantsites of Clinton Corn Processing Co., at Chicago, IL., and Clinton, IA., on the one hand, and points in the United States, on the other, under a continuing contract or contracts, with Clinton Corn Processing Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Allen D. Sloan Traffic Manager, Clinton Corn Processing Company, 1251 Beaver Channel Parkway, P.O. Box 340, Clinton, IA. 52732. SEND PROTESTS TO: Lois Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL. 60604.

MC 129410 (Sub-10TA), filed October 24, 1978. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, IL 60014. Representative: Martin J. Kennedy, Sparks & Gertzman, 180 North LaSalle Street, Suite 1916, Chicago, IL 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sweeteners*, (in bulk, in tank vehicles), between the plantsite and facilities of

Amstar Corporation in Chicago, IL, on the one hand, and points and places in Indiana, Kentucky, Michigan and OH, on the other, under a continuing contract or contracts, with Amstar Corporation, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Edward Zglobicki Dist., Traffic Manager, Amstar Corporation, 2905 South Western Avenue, Chicago, IL 60608. SEND PROTESTS TO: Lois Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133655 (Sub-126TA), filed October 11, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308.*Cheese*, from Newman Grove, NE., to to points in Connecticut, Illinois, Kansas, Minnesota, Missouri, New Jersey, New York, Ohio and PA, for 180 days. SUPPORTING SHIPPER(S): Newman Grove Creamery Co., Box 338, Newman Grove, NE 68758. SEND PROTESTS TO: Haskell E. Ballard DS, ICC, Box F-13206 Federal Building, Amerillo, TX 79101.

MC 133966 (Sub-55TA), filed October 24, 1978. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. (1) *Metal containers*, with or without lids, from Hanover Township, PA, to Albert Lea, MN, Bowling Green, OH; Chicago, IL; Cincinnati and Columbus, OH; Detroit, MO; Kansas City, MO; Louisville, KY; Milwaukee, WI; Newark, NJ, and New York, NY, and their commercial zones; and (2) *Products* used in the manufacturing, distribution, and sales of metal containers, with or without lids, from Bryan, OH, Chicago, IL, and Elizabeth, NJ, to Hanover Township, PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Bertels Can Company, Hanover Industrial Estates, Wilkes-Barre, PA 18703. SEND PROTESTS TO: Paul J. Kenworthy District Supervisor, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 135797 (Sub-153TA), filed October 24, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. *Appliances, and parts, supplies and accessories for appliances*, from the facilities of the Maytag Company at or near Newton, IA, to points in Arkansas, Louisiana, Mississippi, Oklahoma and TX, for 180 days. SUPPORTING SHIPPER(S): Maytag Company, 403 West 4th Street North, Newton, IA 50208. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134477 (Sub-280TA), filed October 24, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul MN. 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. 55118. *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring the use of special equipment), which at the time are moving on bills of lading of freight forwarders under Part IV of the Interstate Commerce Act, from the facilities of Acme Fast Freight, Inc., at North Haven, CT; Boston and Springfield, MA; Baltimore, MD; North Bergan, NJ; New York, N.Y.; and Philadelphia, PA., to Chicago, IL; St. Paul, MN; St. Louis, MO; and Milwaukee, WI., for 180 days. SUPPPORTING SHIPPER(S): Acme Fast Freight, Inc., 2335 New Hyde Park Road, New Hyde Park, N.H. 11040. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN., 55401.

MC 134531 (Sub-15TA), filed October 24, 1978. Applicant: AGGREGATE HAULERS, INC., Route 2, Box 559-A, West Columbia, S.C. 29169. Representative: Burt W. Lanier, Route 2, Box 559-A, West Columbia, S.C. 29169. *Aggregates, unprocessed sand, processed dry sand, gravel and crushed stone*, from points in S.C., to points in North Carolina, Georgia and TN., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Pennsylvania Glass Sand, Corp., P.O. Box 84, Cayce, SC. 29033. (2) Columbia Silica Sand, Co., P.O. Box 1519, Columbia, SC. 29202. (3) Becker Sand & Gravel Company, P.O. Box 848, Cheraw, S.C. 29520. SEND PROTESTS TO: E. E. Strotheid DS, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC. 29201.

MC 138144 (Sub-38TA), filed October 31, 1978. Applicant: FRED OLSON CO., INC., 6022 W. State Street, Milwaukee, WI. 53213. Representative: Wm. D. Brejcha, 10 S. LaSalle Street, Chicago, IL. 60603. *Precast concrete*, from the facilities of the Marley Cooling Tower Co., at or near Muscatine, IA., to Kenosha, WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Marley Cooling Tower, Co., P.O. Box 558, Muscatine, IA. 52761. SEND PROTESTS TO: Gail Daugherty Trans. Asst., ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI. 53202.

MC 138741 (Sub-60TA), filed October 31, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL. 60435. Representative: Tom B. Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO. 64068. *Materials* used in the installation of wallboard, from the facilities of Rapid Supply, a division of Grand Rapids Gypsum Co., Inc., at or near Cleveland, OH., to points in Illinois, Indiana, Michigan and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Don Draugelis Traffic Manager, Grand Rapids Gypsum Co., Inc., 201 Monroe Avenue, Grand Rapids, MI. 49502. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL. 60604.

MC 138824 (Sub-17TA), filed October 24, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53142. Representative: Paul J. Maton, 10 S. LaSalle St., Suite 1620, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts, supplies and materials*, incidental to the manufacturing of automobiles, from points in AR, IL, IN, IA, KY, GA, MI, MO, OH, PA, TN, and WI, to the facilities of American Motors Corp., in Kenosha and Racine, Co., in WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Motors Corp., 5626 25th Avenue, Kensoha, WI 53140. (Richard L. Oechler) SEND PROTESTS TO: Gail Daugherty, Trans. Asst., ICC, U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 140024 (Sub-131TA), filed October 11, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO. 80022. Representative: John F. DeCock (same address as applicant). *Plastic trays*, from Downingtown, PA, to Richmond and Logan, UT., including points in the commercial zones of destinations named, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pepperidge Farm, Incorporated, 595 Westport Avenue, Norwalk, CT. 06856. SEND PROTESTS TO: Roger L. Buchanan, District Supervisor, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO. 80202.

MC 141921 (Sub-29TA), filed October 24, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03108. Representative: John A. Sykas (same address as applicant). *Confectionery*, (except in bulk, in tank vehicles), from the facilities of Schraffts at

Woburn and Charlestown, MA, to

Max Gorenstein District Supervisor, ICC, 150 Causeway Street, Boston,

Bananas, in boxes, in straight or mixed shipments with exempt agricul-

sufficient to place interested persons on notice of the proposed transfer.

MC 144926 (Sub-3TA), filed October

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Woburn and Charlestown, MA, to points in PA, WV, OH, KY, IN, MI, WI, IL, MI, IA, MN, SD, NE, KS, CO, and UT, for 180 days. SUPPORTING SHIPPER(S): Schraffts, 529 Main Street, Charlestown, MA. 02129. (Attn: Jack Downes Distribution Manager). SEND PROTESTS TO: Ross J. Seymour, District Supervisor, ICC, Room 3, 6 Loudon Road, Concord, NH. 03301.

MC 141921 (Sub-28TA), filed October 24, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03108. Representative: John A. Sykas (same address as applicant). *Frozen prepared foodstuffs,* (except in bulk, in tank vehicles), from the facilities of Kitchens of Sara Lee at Deerfield, IL., and New Hampton, IA, to points in NH, MA, NY, NJ, PA, CT, RI, VT, DE, ME, MD, VA, and the DC, for 180 days. SUPPORTING SHIPPER(S): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, IL 60015. (Attn: Richard Szynal, Traffic Manager). SEND PROTESTS TO: Ross J. Seymour, District Supervisor, ICC, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 142439 (Sub-2TA), filed October 24, 1978. Applicant: TRUCKING SERVICES, INC., 26400 Van Born Road, Dearborn Heights, MI. 48123. Representative: Edwin M. Snyder, 22375 Haggerty Road, Northville, MI. 49167. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Particle board or composition board,* from the International Boundary between Canada and the United States at Detroit, MI., to Indiana, Michigan and OH., restricted to movements for the account of MacMillan Bloedel Building Materials, further restricted to traffic in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): H. M. Belis Transportation Coordinator, McMillan Bloedel Building Materials, P. O. Box 608, Thunder Bay, Ontario, Canada. SEND PROTESTS TO: Tim Quinn District Supervisor, ICC, 604 Federal Bldg., & U. S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI. 48226.

MC 142559 (Sub-62TA), filed October 11, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH. 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH. 43215. *Buildings K.D., and building materials, parts and supplies,* (except commodities in bulk), between Niles, OH., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER(S): Robco Products, Inc., 950 Summit Street, Niles, OH. 44446. SEND PROTESTS TO: Mary Wehner DS, ICC, 731 Federal Bldg., 1240 East Ninth Street, Cleveland, OH. 44199.

MC 142715 (Sub-17TA), filed October 11, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank Bldg., South St. Paul, MN. 55101. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN. 55402. *Meat, meat products, meat by-products and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities utilized by John Morrell & Co., at St. Paul, MN., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and TN., for 180 days. SUPPORTING SHIPPER(S): John Morrell & Co., 208 South La Salle St., Chicago, IL. 60604. SEND PROTESTS TO: Delores A. Poe Trans. Asst ICC, 414 Federal Building and U.S. Court House, 110 South 4th St., Minneapolis, MN. 55401.

MC 143436 (Sub-18TA), filed October 24, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN. 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN. 46224. *Such merchandise* as is dealt in by retail and wholesale grocery houses, retail chain department stores and drug states and advertising and display materials in vehicles equipped with mechanical refrigeration, from the facilities of Warner-Lambert Co., located at or near Elk Grove Village, IL., to points in IN., restricted to shipments originating at the named origin point and destined to the named destination and further restricted against the transportation of commodities in bulk, for 180 days. SUPPORTING SHIPPER(S): Warner-Lambert Company, 201 Tabor Road, Morris Plains, NJ. 07450. SEND PROTESTS TO: Beverly J. Williams Trans. Asst., ICC, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN. 46204.

MC 144819 (Sub-2TA), filed October 31, 1978. Applicant: C & N TRANSPORT, INC., 220 N.E. 46th, P.O. Box 82609, Oklahoma City, OK. 73108. Representative: C. L. Phillips, 1411 N. Classen, Oklahoma City, OK. 73106. *Meat,* from Huron, S. Dak., to points in TX., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Armour Fresh Meat Company, 111 W. Clarendon, Phoenix, AZ. 85077. SEND PROTESTS TO: Connie Stanley Trans. Asst., Room 240, Old Post Office Bldg., 215 N.W., 3rd Street, Oklahoma City, OK. 73102.

MC 144926 (Sub-3TA), filed October 24, 1978. Applicant: E. E. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND. 58701. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58108. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Limerock,* from Duluth, MN, to the facilities of Minn-Dak Farmers Cooperative, Inc., at or near Wahpeton, N. Dak., under a continuing contract or contracts, with Minn-Dak Farmers Cooperative, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Minn-Dak Farmers Cooperative, Inc., Suite 219, 400 S. County Road 18, Minneapolis, MN. 55426. SEND PROTESTS TO: Ronald R. Mau District Supervisor, Room 268 Federal Building & U.S. Post Office, 657 2nd Avenue North, Fargo, N. Dak. 58102.

MC 145267 (Sub-3TA), filed October 11, 1978. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ. 08360. Representative: Mark D. Russell 734-15th St., N.W., Suite 406-9 Walker Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, supplements, additives, materials and supplies* used in the manufacture and promotion of animal feeds, (except in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL., Indianapolis and Terre Haute, IN; Hutchinson, KS; Sherburne, NY and Columbus, OH., on the one hand, and, on the other, points in the United States, (excluding Alaska and Hawaii), under a continuing contract or contracts with Kal Kan Foods, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA. 90058. SEND PROTESTS TO: John P. Lynn Trans. Specialist, ICC, 428 East State Street, Room 204, Trenton, NJ. 08608.

MC 145545 (Sub-1TA), filed October 31, 1978. Applicant: CENTURY REEFER SERVICE, 8 Main Street, Salisbury, MA. 01950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, D.C. 20005. *Drilling, hoisting, and compressor parts and accessories,* (except commodities which, because of size or weight, require the use of special equipment), from Claremont, NH., to Michigan City, IN., and Elk Grove Village, IL., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Joy Manufacturing, A Division of Joy Machinery Company, River Road, Claremont, NH. 03743. SEND PROTESTS TO:

Max Gorenstein District Supervisor, ICC, 150 Causeway Street, Boston, MA. 02114.

MC145585 (Sub-1TA), filed October 24, 1978. Applicant: S. HOWARD BUS COMPANY, 399 Bank Street, Fall River, MA 02720. Representative: Arthur M. White, 281 Pleasant Street, Framingham, MA 01701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle, between Fall River, MA., on the one hand, and, on the other, the manufacturing plant of Danal Jewelry Co., Providence, RI., under a continuing contract or contracts, with Danal Jewelry Company, for 180 day. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Danal Jewelry Company, 387 Charles Street, Providence, RI. 02904. SEND PROTESTS TO: Gerald H. Curry District Supervisor, 24 Weybosset Street, Room 102, Providence, RI. 02903.

MC145617TA, filed October 24, 1978. Applicant: MID-NORTHERN TRANSFER CO., Box 141, Grand Ridge, IL 61325. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* from Streator, IL., to Chicago, Kankakee and Peoria IL., restricted to traffic orginating at the facilities of Thatcher Glass Mfg., Co., Division of Dart Industries, at Streator, IL., for 180 days. SUPPORTING SHIPPER(S): James F. Rehr, Asst., General Traffic Manager, Thatcher Glass Manufacturing, Co., Division of Dart Industries, P.O. Box 265, Elmira, NY. 14902. SEND PROTESTS TO: Lois Stahl, Trans. Asst., ICC, 219 S. Dearborn Street, Room 1386, Chicago, IL. 60604.

MC145621TA, filed October 24, 1978. Applicant: FLOYD GARRETT, P.O. Box 533, Fernandina Beach, FL 32034. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Wood chips,* from points in GA., on and south of U.S. Highway 80 to Fernandina Beach, FL., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Container Corporation of America, 500 East North Avenue, Carol Stream, IL. 60187. SEND PROTESTS TO: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL. 32202.

MC145626TA, filed October 24, 1978. Applicant: MOUNTAIN MOTORS LIMITED, P.O. Box 159, Bloomington, CA 92316. Representative: Vincent Maniaci, P.O. Box 159, Bloomington, CA 92316. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting; (1) *Bananas,* in boxes, in straight or mixed shipments with exempt agricultural products, and (2) *empty cardboard banana boxes,* from San Francisco, Oakland and Los Angeles Harbors, CA., to all points and places within and including 25 miles of the city limits of Phoenix and Tucson, AZ., under a continuing contract or contracts, with Harbor Banana Distributors, Inc., for 180 days. SUPPORTING SHIPPER(S): Harbor Banana Distributors, Inc., 1420 Panorama Drive, Long Beach, CA. 90802. SEND PROTESTS TO: Irene Carlos Trans. Asst., ICC, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, CA. 90012.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-33690 Filed 11-30-78; 8:45 am]

[7035-01-M]

[Notice No. 136]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before January 2, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77861, filed September 22, 1978. Transferee: GORDON McFADDEN LIMITED, Muirkirk, Ontario, Canada NOL 1XO. Transferor: McFadden Trucking Limited, Box 96, Rodney, Ontario, Canada NOL 2 CO. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MD 48013. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC-142116 issued April 10, 1978: Fertilizer and fertilizer ingredients (except anhydrous ammonia), in bulk (except in tank vehicles) and bags, between the ports of entry on the United States-Canada Boundary line located on the St. Clair and Detroit Rivers, on the one hand, and, on the other, points in Indiana, Michigan, and Ohio. Transferee holds no Commission authority and does not seek Section 210a(b) temporary authority.

MC-FC-77898, filed October 6, 1978. Transferee: NORMA BJORNSON, BJORNSON TRUCK SERVICE, R.F.D. No. 2, Ellsworth, WI 54011. Transferor: Arthur B. Bjornson, Bjornson Truck Service, R.F.D. No. 2, Ellsworth, WI 54011. Representative: John G. Nestingen, Attorney at Law, Baldwin, WI 54002. By order of November , 1978, the Motor Carrier Board approved the transfer to transferee the operating rights in Certificate No. MC-5019, issued July 18, 1978, to transferor authorizing the transportation of malt beverages, over regular routes, from Duluth, MN to Ellsworth, WI, serving no intermediate points and empty containers on return; agricultural commodities and feed, between points in the villages of Elmwood, Spring Valley, and Ellsworth, WI, on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, and Red Wing, MN; livestock, agricultural commodities, farm machinery, lumber, logs, firewood, feed, seed, and groceries, between points in the towns of El Paso, Gilman, Rock Elm, Ellsworth, Martell, and Spring Lake, Pierce County, WI, not including the villages specified above, on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, and Red Wing, MN; and livestock, from South St. Paul, MN to Whitehall, WI. Petitions for reconsideration may be filed by any interested person within 20 days. SEND PETITIONS FOR RECONSIDERATION TO: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

MC-FC-77907, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Repre-

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sentative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77908, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77909, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77910, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77911, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77912, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77913, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77914, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77915, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77916, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77917, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77918, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77919, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77920, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77921, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77922, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77923, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77924, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77925, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77926, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77927, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77928, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77929, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77930, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77931, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77932, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77933, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77934, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77935, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77936, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77937, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77938, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77939, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77940, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77941, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77942, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77943, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77944, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77945, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77946, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77947, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77948, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77949, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77950, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77951, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77952, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77953, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77954, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77955, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77956, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77957, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77958, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77959, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esq., NE, NM and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section

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sentative: G. Timothy Armstrong, Esquire, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought for purchase by transferee of that portion of the operating rights of transferor set forth in Certificate of Registration No. MC-121637 (Sub-No. 2), issued April 4, 1978, as follows: General commodities, with exceptions, over specified routes, between Tulsa, OK and the Oklahoma-Kansas State Line, serving the intermediate points of Ponca City, Newkirk, Pawhuska, and Burbank, OK. Transferee presently holds no authority from this Commission. Application for temporary authority under Section 210a(b) has not been filed.

MC-FC-77915, filed October 27, 1978. Transferree: PAUL F. MANNING, d/b/a M. J. Manning, 180 Spring Street, Springfield, MA, 01101. Transferor: Paul F. Manning and Katherine V. Manning (James A. Kronholm-Executor), a partnership, d/b/a M. J. Manning, same address as transferee. Representative: David M. Marshall, Esq., Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA, 01103. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-68455 issued February 24, 1941, as follows: general commodities, with certain exceptions, between Springfield, MA, on the one hand, and, on the other, points in Massachusetts within 15 miles of Springfield; Electrical supplies between Springfield MA, and points within ten miles of Springfield, on the one hand, and, on the other, points in Hartford and Tolland Counties, CT. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77917, filed October 31, 1978. Transferee: BROWN'S DAY & NIGHT WRECKER SERVICE, INCORPORATED, 2817 N.W. 38th, Oklahoma City, OK 73112. Transferor: Jackie R. Smithson, Sr., Dba Jack's Wrecker Service, 5913 South Broadway, Oklahoma City, OK 73108. Representative: William P. Parker, Esq., 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, OK 73112. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-134390 Sub 1, issued September 13, 1978, as follows: Wrecked or disabled motor vehicles (except trailers designed to be drawn by passenger automobiles) from points AR, CO, KS, LA, MO, NE, NM, and TX to Oklahoma City, OK; and replacement vehicles for wrecked or disable motor vehicles, by use of wrecker equipment only, from Oklahoma City, OK to points in AR, CO, KS, LA, MO, NE, NM, and TX. Transferee presently holds no authority from this Commission. Application for temporary authority under Section 210a(b) has not been filed.

MC-FC-77927 filed November 6, 1978. Transferee: TROWMAR TRANSPORT, INC., 14 Beech Street, Corinth, NY 12822. Transferor: Ashline Trucking, Inc., same address as transferee. Transferee's Representative: Bertrand F. Gould, 8 Elk Street, Albany, NY 12207. Transferor's Representative: W. Norman Charles, P.O. Box 724, Glenn Falls, NY 12801. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC-119407 and MC-119407 (Sub-No. 6), issued May 13, 1960, and April 15, 1974, respectively, as follows: lumber from Poland, NY, and points in Essex, Hamilton, and Warren Counties, NY, to points in CT, MA, NH, NJ, NY, PA, and VT and from South Colton, NY, and points in Fulton and Saratoga Counties, NY, to points in CT, MA, NH, NJ, PA, and VT. Transferee holds no authority from this Commission but is affiliated with W. M. Girvan, Inc., an authorized motor contract carrier holding authority under Permit No. MC-14107. Application has been filed for temporary authority under Section 210a(b).

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33691 Filed 11-30-78; 8:45 am]

[7035-01-M]

[No. 36807]

DENVER & RIO GRANDE WESTERN RAILROAD CO.

Abandonment Between Farmington, N.M., and Alamosa and Antonito, Colo.

Decided November 17, 1978.

In a petition filed December 27, 1977, the Denver and Rio Grande Western Railroad Company (D&RGW) requested permission to cancel certain rates on gypsum wallboard, plaster, and related products published as items 520-Series and 650-Series in D&RGW Freight Tariff 7286-G, I.C.C. 1221. These rates affect shipments from Sigurd, UT, and Adobe, Co, to Chama Azotea, Monero, Amargo, Lumberton, Dulce, Navajo, Cedar Hill, Inca, Aztec, Flora Vista and Farmington, NM., and Juanita, Gato, Arboles, Ignacia, Oxford, Florida, Falfa, Durango, Posta and Bondad, CO. All of the above are points served by Rio Grande Motor Way, Incorporated, which is a wholly owned subsidiary of D&RGW. The petition was originally filed under Finance Docket Number 24745, in which the Commission permitted D&RGW to abandon its rail service between Alamosa and Farmington. This petition was separated and renumbered.

D&RGW alleges that since January 1, 1973, it has not moved any shipments of gypsum wallboard and related articles between the aforementioned points. It requests that the rates for the movement of these items be considered obsolete and that permission to cancel be granted. The parties to Finance Docket No. 24745 and the general public will be given an opportunity to show cause why these rates whould not be cancelled.

This decision does not significantly affect the quality of the human environment and is not a major action under the Energy Policy and Conservation Act or 1975.

It is ordered:

A copy of this decision shall be served on the parties to Finance Docket No. 24745 and the Director, Office of the Federal Register, for publication.

Any interested persons who oppose the petitioner's request for permission to cancel the rates in issue are ordered to show cause why such permission to cancel should not be granted by filing within 30 days after publication of this decision in the FEDERAL REGISTER, statements in opposition, in Docket No. 36807, addressed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

By the Commission, Division 1, Commissioners Brown, Gresham, and Clapp.

H. G. HOMME, JR.,
Secretary

[FR Doc 78-33693 Filed 11-30 -78; 8:45 am]

[7035-01-M]

[Ex Parte No. 357]

INCREASED FREIGHT RATES AND CHARGES NATIONWIDE—8 PERCENT

Oral Argument

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Oral Argument.

SUMMARY: The ICC has decided to hold oral argument on the rail general rate increase proposed in Ex Parte No. 357.

TIME AND PLACE: The oral argument will be held at 9:00 a.m., Wednesday, December 6, 1978, in Hearing Room B, Interstate Commerce Commission Building, 12th Street and Constitution Avenue, N.W., Washington, D.C. Parties who plan to participate should inform the ICC by letter (Room 5342, Washington, D.C. 20423) as soon as possible, but no later than December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Interstate Commerce Commission, Washington, D.C. 20423. Phone No.: (202) 275-7693.

SUPPLEMENTARY INFORMATION: By petition and verified statements filed November 1, 1978, United States railroads sought to increase freight rates and charges generally by 8 percent within and between Eastern, Southern, and Western Territories. Exceptions from the general level of 8 percent were proposed on a number of commodities, with the intended result of a revenue yield of 8.3 percent above present levels. The ICC granted the requested authority to file a master tariff in a decision served November 6, 1978.

In the oral argument, one hour will be allocated for the carriers' presentation, any portion of which may be reserved for rebuttal. Protestants and other interested parties will be allocated a total of two hours. Matters already of record in the pleadings shall not be repeated. To the extent possible, the parties are requested to consolidate their positions and fairly apportion the time between various interests. If agreement cannot be reached, the ICC will make such apportionment.

Parties are invited to address all relevant issues in Ex Parte No. 357.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33611 Filed 11-30-78; 8:45 am]

PLACE: 825 North Capitol Street NE.,

Branch Office Application—Wolverine Fed-

Dated: November 29, 1978.

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6335-01-M]

1

NOVEMBER 28, 1978.

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Tuesday, December 12, 1978, 9 a.m. to 5:30 p.m. Wednesday, December 13, 1978, 9 a.m. to 1:15 p.m.

PLACE: Departmental Auditorium, Constitution Avenue, between 12th and 14th Streets NW., Washington, D.C.

STATUS: Open to public.

MATTERS TO BE CONSIDERED: Consultation with police officials, academicians, experts in criminology, representatives of Federal agencies, police unions and civil rights organizations on the current state of police/community relations, the role of the police in society, recruiting and training, firearms policies and the use of deadly force, regulating police discretion, performance evaluation, police discipline and remedies for police misconduct.

CONTACT PERSON FOR MORE INFORMATION:

Barbara Brooks, Public Affairs Unit, 202-254-6697.

[S-2421-78 Filed 11-29-78; 11:24 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., December 5, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Report on Interpretative Letters-Policy, Procedures and Priorities; 2. Expedited Adjudicatory Proceedings; and 3. Chicago Board of Trade Petition for removal of Speculative Trading Limits.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2427-78 Filed 11-29-78; 3:27 pm]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., December 5, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Commission review of staff decision to deny petition for confidential treatment.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2428-78 Filed 11-29-78; 3:27 pm]

[6351-01-M]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., December 8, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2429-78 Filed 11-29-78; 3:27 pm]

[6715-01-M]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, December 6, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Matters, Compliance, Personnel.

DATE AND TIME: Thursday, December 7, 1978 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:
Setting of dates for future meetings.
Correction and approval of minutes.

Draft regulations for Presidential Primary Matching Fund, Title II, Code of Federal Regulations, Subchapter C.
Earmarked contributions.
Outreach program for Presidential candidates.
Final fiscal year 1978 management report.
First fiscal year 1979 management report.
Audit program for 1978 elections.
Appropriations and budget.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public:

Any matters not concluded on December 6, 1978.

PERSONS TO CONTACT FOR INFORMATION:

Ms. Sharon Snyder, Press Office, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2433-78 Filed 11-29-78; 3:40 pm]

[6740-02-M]

6

NOVEMBER 27, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 9 a.m., November 29, 1978.

PLACE: 825 North Capitol Street NE., Hearing Room A, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will continue consideration of Docket No. RM79-3; regulations implementing the Natural Gas Policy Act of 1978.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, telephone 202-275-4166.

[S-2420-78 Filed 11-29-78; 11:24 am]

[6720-01-M]

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 228, page 55310, November 27, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., November 29, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting: Consideration of Proposed Amendment to Community Reinvestment Act Regulation.

No. 199, November 29, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2430-78 Filed 11-29-78; 3:27 pm]

[6720-01-M]

8

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., December 5, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings & Loan Association of Cocoa, Cocoa, Fla.
Branch Office Application—Biscayne Federal Savings & Loan Association, Miami, Fla.
Branch Office Application—Wolverine Federal Savings & Loan Association, Midland, Mich.
Branch Office Application—Provident Federal Savings & Loan Association of Riverside, Riverside, Calif.
Satellite Office Application—Collective Federal Savings & Loan Association, Egg Harbor City, N.J.
Branch Office Application—Uptown Federal Savings & Loan Association, Chicago, Ill.
Consideration of Proposed Merger—Conservative Savings & Loan Co., Cincinnati, Ohio, into Thrift Savings & Loan Co., Norwood, Ohio.
Limited Facility Branch Office Application—Heritage Federal Savings & Loan Association, Daytona Beach, Fla.
Consideration of Amendment of Charter (Change of Name)—First Federal Savings & Loan Association of Cedar Falls, Cedar Falls, Iowa.
Consideration of Designation of Lawrence B. Muldoon as Supervisory Agent-Holding Company Regulations.
Applications for Bank Membership and Insurance of Accounts—Northwest Savings & Loan Association, Redmond, Oreg.
Application for Permission to Organize a New Federal—Harold Fontenot, et al., Opelousas, La.
Consideration of regulations partially implementing the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRICA).
Branch Office Application—Branch Office Application—Home Federal Savings & Loan Association of San Francisco, San Francisco, Calif.

No. 200, November 29, 1978.

Announcement is being made at the earliest practicable time.

RONALD A. SNIDER,
Assistant Secretary.

[S-2431-78 Filed 11-29-78; 3:27 pm]

[6210-01-M]

9

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 55311, November 27, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Following 10 a.m. open portion, Wednesday, November 29, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on November 13, 1978).

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: November 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2423-78 Filed 11-29-78; 3:27 pm]

[6210-01-M]

10

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, December 6, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO CONSIDERED:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Final action on the proposed simplification of Reports of Condition and Income for small banks. (Proposed earlier for public comment: Docket No. R-0183).
2. Proposed interpretation of Regulation Q (Interest on Deposits) regarding the withdrawal of interest earned on time deposit funds.

DISCUSSION AGENDA

1. Proposed amendment to Regulation Q (Interest on Deposits) modifying the early withdrawal penalty rule primarily as it applies to Individual Retirement and Keogh Accounts. (Proposed earlier for public comment: Docket No. R-0172).
2. Recommendations for changes in Reserve Bank and Treasury operating procedures regarding eligible collateral under the Treasury tax and loan investment program.
3. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling 202-452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board 202-452-3204.

Dated: November 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2424-78 Filed 11-29-78; 3:27 pm]

[7905-01-M]

11

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9:30 a.m., December 8, 1978.

PLACE: Board's meeting room on the

Chairman, Williams and Commis-

Access to investigative files by Federal,

The members of the TVA Board voted to approve the above findings

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PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Ill. 60611.

STATUS: The entire meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

(1) Appeal from referee's denial of disability annuity application, Thomas J. Zornes.
(2) Appeal from referee's denial of disabled widow's annuity, Ruby Hoskins.
(3) Appeal from referee's denial of disability annuity application, Clarence D. Corrello.
(4) Appeal of Kenneth J. Martin under the Railroad Unemployment Insurance Act.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM No. 312-751-4920, FTS No. 387-4920.

[S-2432-78 Filed 11-29-78; 3:27 pm]

[8010-01-M]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 55056, November 24, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, November 20, 1978.

CHANGES IN MEETING: Deletion/addition of items; new meeting.

The following additional item will be considered at the closed meeting to be held on Tuesday, November 28, 1978 at 10 a.m.:

Regulatory matter regarding financial institutions.

The following items will not be considered at the closed meeting to be held on Tuesday, November 28, 1978 at 10 a.m.:

Institution of injunctive action.
Institution and settlement of injunctive action.

The following additional items will be considered at the closed meeting to be held on Wednesday, November 29, 1978, immediately following the open meeting at 9:30 a.m.:

Access to investigative files by Federal, State or self-regulatory authorities.
Institution of injunctive action.

The following item will be considered at the closed meeting to be held on Friday, December 1, 1978, at 9:30 a.m.:

Institution and settlement of administrative proceeding of an enforcement nature.

Chairman Williams and Commissioners Loomis, Evans, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

NOVEMBER 29, 1978.

[S-2422-78 Filed 11-29-78; 11:24 am]

[8010-01-M]

13

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 4, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Tuesday, December 5 at 3:30 p.m. and on Wednesday, December 6, 1978 at 10 a.m. A closed meeting will be held on Wednesday, December 6 immediately following the open meeting at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, December 5, 1978, at 3:30 p.m., will be:

Meeting with officials of the Bank Administration Institute to discuss their current activities. For further information, please contact George A. Fitzsimmons at 202-755-1160.

The subject matter of the open meeting scheduled for Wednesday, December 6, 1978, at 10 a.m., will be:

Consideration of a request for approval of the application of Daniel J. Claridy allowing him to become associated with Rooney, Pace Inc., a registered broker-dealer, in a nonsupervisory capacity with adequate supervision. For further information, please contact David P. Tennant at 202-376-2036.

The subject matter of the closed meeting scheduled for Wednesday, December 6, 1978, immediately following the open meeting at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal order of investigation.
Freedom of Information Act appeals.
Litigation matter.
Regulatory matters regarding financial institutions.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive actions.
Subpoena enforcement action.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Mark B. Goldfus at 202-755-1129.

NOVEMBER 27, 1978.

[S-2425-78 Filed 11-29-78; 3:27 pm]

[8120-01-M]

14

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 55563, November 28, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m. (c.s.t.), Thursday, November 30, 1978.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Auditorium, TVA's National Fertilizer Development Center, Muscle Shoals, Ala.

STATUS: Open.

CHANGES IN MATTERS TO BE CONSIDERED: The following item is added to the previously announced agenda:

C—PURCHASE AWARDS

7. Rejection of bids received in response to Invitation No. 72-823875 for gas ducts and hoppers for electrostatic precipitators for the Cumberland Steam Plant. Recommends rejection of all bids received and negotiation on an emergency basis of the requirement.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved:

S. DAVID FREEMAN.

RICHARD M. FREEMAN.

[S-2419-78 Filed 11-29-78; 11:24 am]

[8240-01-M]

15

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: December 7, 1978, 9 a.m.

PLACE: Board Room, Room 2-500, Fifth Floor, 955 L'Enfant Plaza North SW., Washington, D.C. 20595

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 29, 1978, 43 FR 55838.

CHANGE IN THE MEETING: Addition of the following item to the open session:

Consideration of D&H request.

[S-2426-78 Filed 11-29-78; 3:27 pm]

FRIDAY, DECEMBER 1, 1978
PART II

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FRIDAY, DECEMBER 1, 1978
PART II

FEDERAL HOME LOAN MORTGAGE CORPORATION

PRESIDENTIAL COMMISSION ON WORLD HUNGER

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Policies and practices for storing, retrieving, accessing, retaining, and

Service, and to derive a Registered Holder Profile which is used for

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[6720-01-M]

FEDERAL HOME LOAN MORTGAGE CORPORATION

(No: MC 78-36)

PRIVACY ACT OF 1974

Systems of Records, Annual Publication

OCTOBER 26, 1978.

AGENCY: Federal Home Loan Mortgage Corporation.

ACTION: System of records—republication.

SUMMARY: This notice complies with the Privacy Act of 1974 (5 U.S.C. sec. 552a).

EFFECTIVE DATE: Effective upon publication.

FOR FURTHER INFORMATION CONTACT: Diana G. Browne, Assistant General Counsel, Federal Home Loan Mortgage Corporation, 1700 G Street, NW, Washington, DC 20552 (202/789-4732).

SUPPLEMENTARY INFORMATION:

The Federal Home Loan Mortgage Corporation is required under Section 552a (e)(4) of the Privacy Act of 1974 to republish annually its systems of records. The notice of the Corporation's record systems was published for effect at 42 Federal Register, p. 64931, et seq. (December 29, 1977).

Two record systems, FHLMC-I and FHLMC-III, containing information on Corporation employees and potential candidates for employment, respectively, have been amended to indicate that such systems are maintained in the Corporation's Regional Offices and Underwriting Offices as well as in the Washington Office. FHLMC-II has been amended to indicate that the routine use of corporate employee salary cards includes the calculation of employee pensions and the furnishing of information to the Corporation's insurance carriers and to the Internal Revenue Service. A new record system, FHMLC-VI, containing information on garnishments of employees' salaries, has been added. Addresses on all record systems have been changed as a result of the move of the Corporation's principal office.

FHLMC—1

System name: Corporate Employee Files.

System location: Office of Personnel, Federal Home Loan Mortgage Corporation, 1700 G Street, NW, Washington, DC 20552; Office of Regional Vice President-Administration, Northeast Regional Office, 2001 Jefferson Davis Highway, Arlington, Virginia 22202; Office of Regional Vice President-Administration, Atlanta Regional Office, Peachtree Center-Cain Tower Building, 229 Peachtree St, NE, Suite 2600, Atlanta, Georgia 30303; Office of Regional Vice President-Administration, Chicago Regional Office, 111 East Wacker Drive, Suite 1515, Chicago, Illinois 60601; Dallas Regional Office, 12700 Park Central Place, Suite 1800, Dallas, Texas 75251; Los Angeles Regional Office, 3435 Wilshire Blvd., Suite 1000, Los Angeles, California 90010; Office of Underwriting Office Manager, Denver Underwriting Office, 8301 East Prentice, Englewood, Colorado 80110; Office of Underwriting Office Manager, Seattle Underwriting Office, 600 Stewart Street, Suite 2000, Seattle, Washington 98101; Office of Underwriting Office Manager, San Francisco Underwriting Office, 600 California Street, San Francisco, California 94108; Office of Underwriting Office Manager, Newport Beach Underwriting Office, 1400 North Bristol Street, Suite 260, Newport Beach, California 92660.

Categories of individuals covered by the system: All present and former employees.

Categories of records in the system: Employment applications and/or resumes, forms recording personnel actions, employee evaluations, memos for the record and other routine personnel information on identified individuals.

Authority for maintenance of the system: 12 U.S.C. sec. 1452(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide data in determining current employment status of employee, history of personnel actions, evaluation of performance and to assist in determining what, when and whether future personnel actions should be taken. Users are the Office of Personnel, the Office of the Regional Vice President-Administration (in the case of Regional Office employees), the Office of the Underwriting Office Manager (in the case of Underwriting Office employees), supervisory personnel at levels above the employee on whom the record is maintained and the employee himself. These records also may be reviewed by the Legal Department in connection with certain personnel actions, and by the Internal Auditor and his staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy records.

Retrievability: By employee name.

Safeguards: Records are stored in locked cabinets and can only be viewed upon request to the Director of Personnel or the Personnel Administrator in the Washington Office, to the Regional Vice President—Administration in the appropriate Regional Office, and to the Underwriting Office Manager in the appropriate Underwriting Office.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director of Personnel, Federal Home Loan Mortgage Corporation, 1700 G Street, NW, Washington, DC 20552; Office of the Regional Vice President—Administration in each FHLMC Regional Office (see addresses above); Office of the Underwriting Office Manager in each FHLMC Underwriting Office (see addresses above).

Record source categories: The individual on whom file is maintained the supervisor, the Director of Personnel, the Regional Vice President—Administration (in the case of Regional Office employees), and the Underwriting Office Manager (in the case of Underwriting Office employees).

FHLMC—II

System name: Corporate Employee Current Salary Cards.

System location: Finance Department, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552.

Categories of individuals covered by the system: All present employees.

Categories of records in the system: Current salary, dependent status, number of tax exemptions, age and date of hire, and information regarding various types of deductions from salaries.

Authority for maintenance of the system: 12 U.S.C. sec. 1452(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to make salary payments to employees, to calculate employee pensions, to make reports to the Internal Revenue Service and to provide information to the Corporation's insurance carriers in connection with the provision of insurance benefits to employees. Used by the Corporate Treasurer, the Supervisor of Accounts Payable, the Payroll Clerk, the Director of Personnel and the Legal Department. These records also may be reviewed by the Internal Auditor and his staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy records.

Retrievability: By employee name.

Safeguards: Records are stored in locked card file and can be obtained through Accounts Payable Supervisor.

Retention and disposal: Cards are destroyed as they become out of date or upon termination of employment.

System manager(s) and address: Supervisor of Accounts Payable, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552.

Record source categories: Employee files.

FHLMC—III

System name: Potential Candidates for Employment.

System location: Office of Personnel, Federal Home Loan Mortgage Corporation, 1700 G Street, NW, Washington, DC 20552; Office of Regional Vice President—Administration in each FHLMC Regional Office (see addresses above); Office of Underwriting Office Manager in each FHLMC Underwriting Office (see addresses above).

Categories of individuals covered by the system: Potential candidates for employment.

Categories of records in the system: Employment applications, resumes, referral letters and memos.

Authority for maintenance of the system: 12 U.S.C. sec. 1452(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to evaluate qualifications of potential candidates by the Director of Personnel, the Regional Vice President—Administration (in the case of candidates in a Regional Office), the Underwriting Office Manager (in the case of candidates in an Underwriting Office) and supervisors. These records also may be reviewed by the Internal Auditor and his staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy records are stored in file folders.

Retrievability: By candidate name.

Safeguards: Access is gained through a request to the Director of Personnel or the Personnel Administrator, to the Regional Vice President—Administration in the appropriate Regional Office or to the Underwriting Office Manager in the appropriate Underwriting Office.

Retention and disposal: Files are retained one year and destroyed unless candidate is hired. If candidate is hired, file becomes part of employee records.

System manager(s) and address: Director of Personnel, Federal Home Loan Mortgage Corporation, 1700 G Street, NW, Washington, DC 20552; Office of Regional Vice President—Administration in each FHLMC Regional Office (see addresses above); Office of Underwriting Office Manager in each FHLMC Underwriting Office (see addresses above).

Record source categories: These records are normally submitted by the individual seeking employment. Some records could come from individuals or employment agencies sponsoring the application.

FHLMC—IV

System name: Corporate Employee Conflict of Interest Files.

System location: Office of Personnel, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552.

Categories of individuals covered by the system: All present and former employees.

Categories of records in the system: Annual conflict of interest statements submitted by employees, and memoranda concerning such annual statements.

Authority for maintenance of the system: 12 U.S.C. sec. 1452(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide data to determine if employee has any interest which conflicts with proper performance of duties with the Federal Home Loan Mortgage Corporation. Users are the Legal Department and the Personnel Department. In instances where personnel action may be warranted, users also may include supervisory personnel at levels above the employee on whom the record is maintained. These records also may be reviewed by the Internal Auditor and his staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy records are stored in file folders.

Retrievability: By employee name.

Safeguards: Records can only be viewed upon request to the Director of Personnel.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director of Personnel, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552.

Record source categories: The individual on whom the file is maintained, and in some instances members of the Legal Department and supervisory personnel above the level of the employee on whom the record is maintained.

FHLMC—V

System name: Net Yield Debt Side.

System location: Department of Marketing and Department of Accounting, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552; Department of Systems, Federal Home Loan Mortgage Corporation, 311 First Street, N.W., Washington, D.C. 20001.

Categories of individuals covered by the system: All present and former holders of FHLMC Participation Certificates.

Categories of records in the system: The list of registered holders of Participation Certificates, the monthly payment record, and copies of remittance checks.

Authority for maintenance of the system: 12 U.S.C. sec. 1452(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to make monthly remittances to investors, to make reports to the Internal Revenue Service, and to derive a Registered Holder Profile which is used for statistical purposes by the Marketing Department and has in the past been provided to the Federal Reserve. (While the list of holders is used to derive the Registered Holder Profile, the profile itself identifies holders by category only, and not by name, and therefore does not constitute a part of a record system.) A copy of the list of holders is provided each month to Loan Accounting, which is responsible for determining the dollar amounts of the checks to the holders, and to Accounts Payable, which is responsible for mailing the checks. Users are the Marketing, Accounting, and Systems Departments. These records may also be reviewed by the Internal Auditor and his staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Investor lists and monthly payment records are hard copy. Copies of remittance checks are on microfilm.

Retrievability: By investor name.

Safeguards: Only members of the Loan Accounting and Accounts Payable Departments and those members of the Marketing Department who work in processing have access to the investor lists and monthly payment records. Access to remittance checks records may be obtained through a request to the Director of the Systems Department.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director of Processing, Director of Sales Accounting and Supervisor of Accounts Payable, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552; Director of Systems Development, Federal Home Loan Mortgage Corporation, 311 First Street, N.W., Washington, D.C. 20001.

Record source categories: The individual on whom the information is maintained.

FHLMC—VI

System name: Corporate Employee garnishments.

System location: Legal Department and Department of Accounting, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552.

Categories of individuals covered by the system: Employees and former employees whose salaries are or have been subject to an order of garnishment.

Categories of records in the system: The garnishment order served on the Corporation, internal memoranda indicating the manner in which the deductions from salary are to be made; and the records of deductions which have been made.

Authority for maintenance of the system: 12 U.S.C. sec. 1452(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Legal Department to determine and advise Accounts Payable as to the amount to be deducted from each payroll check. Accounts Payable uses this information in making salary payments to employees. Users are the Legal Department, the Supervisor of Accounts Payable, the Payroll Clerk and the Director of Personnel. These records may also be reviewed by the Internal Auditor and his staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy records are stored in file folders.

Retrievability: By employee name.

Safeguards: Access gained through a request to the General Counsel.

Retention and disposal: Records are stored indefinitely.

System manager(s) and address: General Counsel and Supervisor of Accounts Payable, Federal Home Loan Mortgage Corporation, 1700 G Street, N.W., Washington, D.C. 20552.

Record source categories: Order of garnishment.

By the Board of Directors.

J. J. Finn,
Secretary.

[FR Doc. 78-33386 Filed 11-30-78; 8:45 am]

reporting of an investigation of an employee, the letting of a con-

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[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Privacy Act of 1974

Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Public Law 93-479, 4 U.S.C. 552a, the Presidential Commission on World Hunger, hereafter known as the Commission, hereby publishes for comment those systems of records subject to the Privacy Act of 1974 which are maintained by the Commission. Any person interested in commenting on the routine use of the system notices may do so by submitting comments in writing to the Director of Administrative and Fiscal Services, 734 Jackson Place, N.W., Washington, D.C. 20006. Comments should be submitted on or before January 1, 1979. The Commission's procedures for access to records in the systems are contained in 1 CFR Part 475.

Dated at Washington, D.C. on November 21, 1978.

Daniel E. Shaughnessy,
Deputy Executive Director.

PCWH—1

System name: Payroll Records—Presidential Commission on World Hunger.

System location: General Services Administration, Region 3 Office; copies held by the Commission. (GSA holds records for the Presidential Commission on World Hunger under contract.)

Categories of individuals covered by the system: Employees and Members of the Commission.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health records; requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C. "Money and Finance", generally. Also, Executive Order 12078, September 5, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 4416, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Director of Administrative and Fiscal Services, 734 Jackson Place, N.W., Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Director of Administrative and Fiscal Services, 734 Jackson Place, N.W., Washington, D.C. 20006.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel, including among others, GSA liaison staff and finance personnel; and Commission administrative staff.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAS P 1820.2).

System manager(s) and address: Director of Administrative and Fiscal Services, 734 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure: Refer to Commission access regulations contained in 1 CFR Part 475.

Record access procedures: Refer to Commission access regulations contained in 1 CFR Part 475.

Record source categories: The subject individual; the Commission.

PCWH—2

System name: General Financial Records—Presidential Commission on World Hunger.

System location: General Services Administration, Central Office; copies held by the Commission. (GSA holds records for the Presidential Commission on World Hunger under contract).

Categories of individuals covered by the system: Employees and members of the Commission.

Categories of records in the system: SF-1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C. "Money and Finance", generally; also Executive Order 12078, dated September 5, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building; released only to authorized personnel including among others, GSA liaison staff and finance personnel; and Commission administrative staff.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

System manager(s) and address: Director of Administrative and Fiscal Services, 734 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure: Refer to Presidential Commission on World Hunger access regulations contained in 1 CFR Part 475.

Record access procedures: Refer to Presidential Commission on World Hunger in 1 CFR Part 475.

Contesting record procedures: Refer to Presidential Commission on World Hunger access regulations contained in 1 CFR Part 475.

Record source categories: The subject individual; the Commission.

PCWH—3

System name: General Informal Personnel Files—Presidential Commission on World Hunger.

System location: Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006.

Categories of individuals covered by the system: Commission members staff and consultants, past and present.

Categories of records in the system: Copies of: Personnel qualifications statements, personnel action requests and notifications, oaths of office, consultant and/or expert certifications, delegations of authority, background information for security clearances (non-sensitive and critical-sensitive), statements of employment and financial interests, training materials and correspondence with members of the Commission.

Authority for maintenance of the system: Title 5, U.S.C. "Government Organization and Employees", generally. Also Executive Order 12078, September 5, 1978.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Manual.

Safeguards: Stored in lockable file cabinets, released only to authorized personnel, including among others, GSA liaison staff and Commission administrative staff.

Retention and disposal: Retained until no longer needed, then discarded.

System manager(s) and address: Director of Administrative and Fiscal Services, 734 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure: Refer to Presidential Commission on World Hunger access regulations contained in 1 CFR Part 475.

Contesting record procedures: Refer to Presidential Commission on World Hunger access regulations contained in 1 CFR Part 475.

Record source categories: The subject individual; the Commission.

Appendix—Presidential Commission On World Hunger

In the event that a system of records maintained by this Commission to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, or local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement or a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc. 78-33405 Filed 11-30-78; 8:45 am]

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FRIDAY, DECEMBER 1, 1978
PART III



DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

gether with any modifications issued ment of Labor, Employment Stand-

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[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determination in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wage determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISION

New Hampshire.—NH78-2164.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arizona:	
AZ78-5114	Aug. 11, 1978.
AZ78-5115; AZ78-5116	July 28, 1978.
Georgia:	
GA78-1077	Sept. 8, 1978.
GA78-1088; GA78-1089	Oct. 13, 1978.
Idaho:	
ID78-5120	Sept. 8, 1978.
Illinois:	
IL 78-2106	Oct. 20, 1978.
IL78-2113	Oct. 10, 1978.
IL78-2123; IL78-2128; IL78-2138	Oct 27. 1978.
Massachusett:	
MA78-2079	Sept. 22, 1978.
New Jersey:	
NJ78-3009	Apr. 21, 1978.
Pennsylvania:	
PA78-3017	May 5, 1978.
PA78-3044; PA78-3045	May 12, 1978.
PA78-3090	Oct. 27, 1978.
PA78-3128	Sept. 9, 1978.
PA78-3129	Sept. 16, 1978.
Tennessee:	
TN78-1049	May 19, 1978.
TN78-1058; TN78-1060	July 7, 1978.
TN78-1090; TN78-1091	Oct. 20, 1978.
Texas:	
TX78-4082; TX78-4084; TX78-4085; TX78-4087	Aug. 25, 1978.
TX78-4096	Sept. 22, 1978.
TX78-4114	Oct. 20, 1978.
Utah:	
UT78-5128	Oct. 6, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL78-1031 (AL78-1095)	Apr. 7, 1978.
Connecticut:	
CT78-3055 (CT78-2160); CT78-3056 (CT78-2161)	July 28, 1978.
CT78-3135 (NY78-3097)	Oct. 14, 1978.
Delaware:	
CT77-3135 (CT78-3097)	Do.
Illinois:	
IL78-2050 (IL78-2144)	Mar. 24, 1978.
Indiana:	
IN78-2030 (IN78-2163)	Mar. 10, 1978.
Kentucky:	
KY77-1122 (KY78-1099); KY77-1124 (KY78-1098); KY77-1125 (KY78-1101)	Sept. 30, 1977.
KY77-1134 (KY78-1100)	Nov. 11, 1978.

Maine:	
CT77-3135 (NY78-3097)	Oct. 14, 1977.
Maryland:	
CT77-3135 (NY78-3097)	Do.
Massachusetts:	
CT77-3135 (NY78-3097)	Do.
New Hampshire:	
CT77-3135 (NY78-3097)	Do.
New Jersey:	
CT77-3135 (NY78-3097)	Do.
New York:	
CT77-3135 (NY78-3097)	Do.
NY78-3034 (NY78-3095)	Apr. 14, 1978.
Pennsylvania:	
CT77-3135 (NY78-3097)	Oct. 14, 1977.
Rhode Island:	
CT77-3135 (NY78-3097)	Do.
Texas:	
TX78-4078 (TX78-4115)	Aug. 11, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

NONE

Signed at Washington, D.C., this 24th day of November 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

[FR Doc. 78-33426 Filed 11-30-78; 8:45 am]

[4510-27-C]

NEW DECISION

STATE: New Hampshire
DECISION NO.: NH78-2164
DESCRIPTION OF WORK: Highway Construction (and airport runway and taxiway construction, but does not include bridges over navigable water; tunnels; buildings in highway rest areas; and railroad construction).

COUNTIES: Statewide
DATE: Date of Publication

Belknap County, New Hampshire

Highway Construction:

1-NH-3-B

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.09	.45	.30		.01
Cement Masons	8.49	.75	.50		.01
Laborers	6.16	.60	.70		.10
Truck Drivers	5.50				
Power Equipment Operators:					
Asphalt Paver	9.20	1.10	1.00	a	.03
Backhoe	7.18				
Bulldozer	6.50				
Front End Loader	7.66				
Mechanic	7.39				
Roller	8.85				

Carroll County, N.H.

Highway Construction

2-NH-3-B

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.09	.45	.30		.01
Laborers	6.76	.60	.75		.10
Truck Drivers:					
2 axle	4.71	.55	.25		
3 axle	4.94	.55	.25		
Power Equipment Operators:					
Asphalt Paver	9.20	1.10	1.00	a	.03
Asphalt Roller	9.20	1.10	1.00	a	.03
Backhoe	9.32	1.10	1.00	a	.03
Bulldozer	8.865				
Front End Loader	9.32	1.10	1.00	a	.03
Grader	8.865				
Mechanic	8.53	.75	.60	a	
Roller, Self-Powered	8.865	1.10	1.00	a	.03

CHESHIRE CO., N.H.:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.09	.45	.30		.01
Ironworkers	9.20	.70	1.00		.02
Laborers:					
Laborer	5.25	.50	.45		.10
Air Tool Operator	5.75	.50	.45		.10
Truck Drivers:					
3 axle	5.44	.55	.40		
Power Equipment Operators:					
Asphalt Paver	6.05				
Asphalt Roller	6.78				
Bulldozer	7.90	.45	.60	a	.05
McCarthy Drill Operator	7.35	.45	.60	a	.05
Front End Loader, up to 3/4 yd.	7.35	.45	.60	a	.05
Front End Loader, 3/4-4 yds	8.10	.45	.60	a	.05
Grader	8.10	.45	.60	a	.05
Mechanic	7.90	.45	.60	a	.05
Roller, Self-Powered	6.78				

Coos County, New Hampshire

Highway Construction:

4-NH-3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.45	.55	.50		.01
Ironworkers	9.20	.70	1.00		.02
Laborers	5.91	.50	.45		.10
Truck Drivers:					
3 axle	4.94	.45	.25		
Earth Moving Equipment	5.17	.45	.25		
Power Equipment Operators:					
Asphalt Paver	8.85				
Backhoe	8.93	1.10	.80	a	.02
Bulldozer	8.53	.75	.60	a	
Front End Loader	8.93	1.10	.80	a	.02
Grader	8.67				
Mechanic	8.81	1.10	.80	a	.02
Roller, Self-Powered	8.53	.75	.60	a	
Shovel	8.65	.75	.60	a	

GRAFTON COUNTY:

6-NH-3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.95	.65	.50		.01
Ironworkers	9.20	.70	1.00		.02
Laborers	5.91	.50	.45		.10
Truck Drivers:					
3 axle	4.94	.45	.25		
Earth Moving Equipment	5.17	.45	.25		
Power Equipment Operators:					
Asphalt Paver	8.85				
Backhoe	8.93	1.10	.80	a	.02
Bulldozer	8.53	.75	.60	a	
Front End Loader	8.93	1.10	.80	a	.02
Grader	8.67				
Mechanic	8.81	1.10	.80	a	.02
Roller, Self-Powered	8.53	.75	.60	a	
Shovel	8.65	.75	.60	a	

Hillsboro County, New Hampshire

Highway Construction:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.09	.45	.30		.01
Cement Masons	8.31				
Ironworkers	9.20	.70	1.00		.02
Laborers:					
Laborer	5.91	.50	.45		.10
Driller	7.06	.50	.45		.10
Pipelayer	6.56	.50	.45		.10
Pneumatic Tool Operator	5.00	.40	.40		.05
Truck Drivers:					
2 axle	5.21	.55	.40		
3 axle	5.53				
Dump, Trailer Truck	5.67	.55	.40		
Earth Moving Equipment	5.67	.55	.40		
Power Equipment Operators:					
Asphalt Paver	8.30	.80	.75	a	.05
Asphalt Roller	7.82				
Backhoe	9.60				
Crane	9.90				
McCarthy Drill	7.60	.55	.70	a	.05
Front End Loader (3/4 - 4 yds.)	7.91				
Front End Loader (over 4 yds)	9.80				
Gradall	8.75	.80	.75	a	.05
Grader	8.50	.80	.75	a	.05
Mechanic	8.33				
Oiler	6.90	.80	.75	a	.05
Roller, Self-Powered	7.63				
Scraper	8.50	.80	.75	a	.05
Shovel	9.15	.85	.75	a	.05

Rockingham Co.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Carpenters	6.78					
Cement Masons	8.19	.55	.40		.01	
Ironworkers	9.70	.70	1.00		.02	
Laborer	6.23					
Truck Driver, 3 axle	4.80					
Power Equipment Operators:						
Backhoe	8.30	.55	.60		.03	
Bulldozer	9.20	1.10	1.00		.03	
Crane	9.32	1.10	1.00		.03	
Front End Loader	8.93	1.10	1.00		.03	
Gradall	9.32	1.10	1.00		.03	
Grader	9.20	1.10	1.00		.03	
Mechanic	8.95					
Paver	7.00					
Rollers	8.49					

Merrimack Co.

7-NH-3-B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.45	.55	.50		.01
Ironworkers	9.70	.70	1.00		.02
Laborers	5.91	.50	.45		.10
Piledrivermen	8.80	.65	.50		.01
Truck Drivers:					
3 axle	4.94	.45	.25		
Special Earth Moving Equipment	5.67	.55	.40		
Power Equipment Operators:					
Asphalt Paver	8.15	.45	.60	a	.05
Asphalt Roller	8.15	.45	.60	a	.05
Backhoe	9.60				
Bulldozer	10.05				
Crane	8.75	.80	.75	a	.05
McCarthy Drill	8.15	.85	.75	a	.05
Front End Loader (3/4 - 4 yd)	8.30	.80	.75	a	.05
Front End Loader (over 4 yd)	10.25				
Grader	8.50	.80	.75	a	.05
Mechanic	8.30	.80	.75	a	.05
Roller, Self-Powerod	8.30	.80	.75	a	.05

Strafford Co., N.H.

Highway Construction

9-NH-3-B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.09	.45	.30		.01
Cement Masons	7.92				
Laborers:					
Laborer	5.91	.50	.45		.10
Pipelayer	6.41	.60	.70		.10
Truck Drivers:					
2 axle	4.71	.55	.25		
3 axle	4.94	.55	.25		
Earth Moving Equipment	5.17	.55	.25		
Power Equipment Operators:					
Asphalt Paver	8.53	.75	.60	a	
Asphalt Roller	8.81	1.10	.80	a	.02
Backhoe	8.93	1.10	.80	a	.02
Bulldozer	8.81	1.10	.80	a	.02
Front End Loader	8.93	1.10	.80	a	.02
Gradall	8.93	1.10	.80	a	.02
Roller, Self-Powered	8.81	1.10	.80	a	.02

SULLIVAN COUNTY

10-NH-3-B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$ 7.09	.45	.30		.01
Cement Masons	7.65	.45	.40		.01
Electricians	9.00				
Ironworkers	8.65	.55	.90		.01
Laborers:					
Laborer	5.91	.50	.45		.10
Air Tool Operator	6.31	.50	.45		.10
Blaster	6.41	.50	.45		.10
Truck Drivers:					
2 axle	4.71	.55	.25		
3 axle	4.94	.55	.25		
Earth Moving Equipment	5.17	.55	.25		
Power Equipment Operators:					
Asphalt Paver	7.90	.45	.60	a	.05
Asphalt Roller	7.025	.45	.60	a	.05
Backhoe	8.35	.45	.60	a	.05
Bulldozer	7.90	.45	.60	a	.05
Front End Loader (under 3/4 yd)	7.35	.45	.60	a	.05
Front End Loader (over 4 yd)	8.10	.45	.60	a	.05
Gradall	8.35	.45	.60	a	.05
Grader	8.35	.45	.60	a	.05
Mechanic	6.43				
Roller, Self-Powered	7.35	.45	.60	a	.05

FOOTNOTES:

New Year's Day; Washington's Birthday; Memorial Day; Fourth of July; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; Christmas Day.

DECISION #AZ78-5114 - Mod. #5
(43 FR 35828 - August 11, 1978)
Statewide Arizona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Gallup Area - Apache County north of Hwy. #66:					
Electricians	$14.10	.60	3% + .70		1/2%
Cable Splicers	14.69	.60	3% + .70		1/2%
Add:					
Marble Workers - Phoenix Area	10.99	.65	.70		.19
Change:					
Sheet Metal Workers:					
Zone Bases: From the Administration Building or City Hall in Douglas and Tucson:					
Zone A (0-22 miles)	10.30	3% +1.14	1.91		.04
Zone B (22-45 miles)	11.25	3% +1.14	1.91		.04
Zone C (Over 45 miles)	12.80	3% +1.14	1.91		.04
Terrazzo Workers; Tile Setters: Phoenix Area	10.79	.65	.90		.16

DECISION #AZ78-5115 - Mod. #5 (43 FR 33018 - July 28, 1978) Maricopa County, Arizona	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Marble Workers	$10.99	.63	.70		.19
Change:					
Painters:					
Zone A: 0-40 miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases:					
Brush; Roller; Tapers; Sandblaster (Nozzleman); Sandblaster (Pot tender)	10.19	.60	.40		.08
Spray; Paperhangers	10.44	.60	.40		.08
Creosote Applier	10.52	.60	.40		.08
Swing Stage: Brush, Sandblaster Spray	10.59	.60	.40		.08
	10.84	.60	.40		.08
Zone B: 41-60 miles from Court House in Phoenix:					
Brush; Roller; Tapers; Sandblaster (Nozzleman); Sandblaster (Pot tender)	11.19	.60	.40		.08
Spray; Paperhangers	11.44	.60	.40		.08
Creosote Applier	11.52	.60	.40		.08
Swing Stage: Brush, sandblaster Spray	11.59	.60	.40		.08
	11.84	.60	.40		.08
Zone C: 61 miles and over from Court House in Phoenix:					
Brush; Roller; Tapers; Sandblaster (Nozzleman); Sandblaster (Pot tender)	12.44	.60	.40		.08
Spray; Paperhangers	12.69	.60	.40		.08
Creosote Applier	12.77	.60	.40		.08
Swing Stage: Brush, sandblaster Spray	12.84	.60	.40		.08
	13.09	.60	.40		.08
Add:					
Terrazzo Workers; Tile Setters	10.79	.65	.90		.16
DECISION #AZ78-5116 - Mod. #5 (43 FR 33014 - July 28, 1978) Pima County, Arizona					
Change:					
Sheet Metal Workers:					
Zone A (0-22 miles from Tucson)	$10.30	3%+$1.14	$1.91		.04
Zone B (22-45 miles from Tucson)	11.25	3%+ 1.14	1.91		.04
Zone C (Over 45 miles from Tucson)	12.80	3%+ 1.14	1.91		.04

DECISION #GA78-1077 - Mod. #3 (43 FR 40174 - September 8, 1978) Clayton, DeKalb, & Fulton Counties, Georgia	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$10.70	1.05	1.10		.02
Lathers	9.35	.40	.35		.05
DECISION #GA78-1088 - Mod. #1 (43 FR 47426 - October 13, 1978) Chatham County, Georgia					
CHANGE:					
Boilermakers	$10.70	1.05	1.10		.02
Plasterers	7.25				
DECISION #GA78-1089 - Mod. #1 (43 FR 47427 - October 13, 1978) Richmond County, Georgia					
CHANGE:					
Boilermakers	$10.70	1.05	1.10		.02
Laborers:					
Building & Construction laborers	5.10	.20			.10
Power & air tool operators, concrete or clay pipe layers, & wipers, mortar makers, & power buggy operators	5.25	.20			.10
Powderman, wagon drill operators, tool room tenders, tunnel laborers, shaft laborers, burners, acetylene (demolition work), slip form workers (steel or wood, screw or jack type), potman, creosote materials handler, steel form setter (on grade), chimney or stack workers	5.30	.20			.10

DECISION #I078-5120 - Mod. #3 (43 FR 40176 - September 8, 1978) Statewide Idaho	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers:					
Remaining Counties and Idaho County (south half)	$12.11	.77	$1.37		
Plumbers:					
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, Shoshone Counties	13.94	.85	1.26	1.25	.12
Roofers:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:					
Roofers; Kettlemen	$9.95	.65	.30	.50	
Roofers working with coal tar and pitch products	11.95	.65	.30	.50	
Sheet Metal Workers:					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton Counties	11.77	.87	.57		.09

DECISION #IL78-2106-Mod. #1 43 FR 49167 - October 20, 1978 Pulton, Hancock, McDonough & Schuyler Counties, Illinois	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators:					
Remainder of Counties					
Group 5	10.76	.45	.80		.05
DECISION #IL78-2113 - Mod #1 43 FR 50303 - October 10, 1978 Christian, Dewit, Macon, Moultrie, Piatt, and Shelby Counties, Illinois					
Change:					
Bricklayers & Stonemasons:					
Macon, Moultrie, Piatt and Shelby Counties.	11.55	.60	1.00		.005
Laborers:					
Staunton & Vicinity					
Common	11.20		.60		.035
All Brick and Plaster Mason Tender	11.70		.60		.035
Workmen Cuting and Burning w/a Torch; Men working on the Bottom of Sewer Trenches, etc.	11.45		.60		.035
Dynamite Men	12.80		.60		.035
TILE - TERRAZZO - MARBLE WORKERS:					
Macon and Shelby Counties	11.25	.60	1.00		.005
Piatt County	11.25	.60	1.00		.005
DECISION #IL78-2123+ Mod. #1 43 FR 50308 - October 27, 1978 Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
Change:					
Bricklayers:					
Rock Island and Mercer Co.	11.40	.55	1.00		.04

MODIFICATIONS P. 6

DECISION #IL78-2128 -Mod. #1
43 Fr 50323 - October 27, 1978
Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne Counties, IL.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Remainder of Counties: Bricklayers, Stonemasons, Bricklayers, Pointer-caulker-Cleaners, Marble - Tile - Terrazzo workers	11.20		.75		
Glaziers:					
Clark & Edgar Counties	13.29				
IRONWORKERS:					
Coles, Cumberland, Douglas & Edgar Counties	11.55	.65	1.00		.08

DECISION No. IL78-2138-MOD#1
43 FR 50328 - October 27, 1978
Boone, Dekalb, Dupsge, Kane, Kendall, Lake, McHenry, and Will Counties, Illinois

Change:					
Cement Masons: Kane, Kendall, McHenry and Dekalb, Counties.	12.10	.75	.80		

DECISION NO. MA78-2079- Mod #2
(43 FR 43155- Sept. 22, 1978)
Barnstable County, Massachusetts

Change:					
Description of Work to include Residential construction					

MODIFICATIONS P. 7

DECISION #NJ78-3009 - Mod. #6
(42 FR 17223 - April 21, 1978)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Area covered by Bricklayers, Stonemasons, Cement Masons, & Plasterers:					
Zone 2: Bergen (Remainder of County) County					
Zone 3: Bergen (Wallington, part of East Patterson, Garfield, Lodi, North Arlington, and part of Lyndhurst,) Morris (Pompton Plains, Pequannock, Lincoln Park, Kinnelon, Butler, & Riverdale), Passaic, and Sussex (that portion north of a line along Route #521 from Dingmans Ferry to Tuttles Corner, then along Route #206 to Lafayette, then along North Church Rd. to.Route #23, then along Route #23 to Passaic County line) Counties					
Change:					
Bricklayers, Stone Masons, Cement Masons, & Plasterers:					
Zone 4:					
Cement Masons	11.70	.75	1.00		.05
Plasterers	11.70	.75	1.00		.05
Electricians & Cable Splicers:					
Zone 2	13.40	7%	6%+.75		.02
Laborers, Building Construction:					
Zone 4	8.50	.80	.40		.07
Zone 12	8.40	.70	.60		.07
Zone 14	8.25	.70	.60		.07
Line Construction:					
Zone 12					
Linemen, cable splicers, hole digging equipment, trucks with winch or pole or steel handling trucks without winch	13.37	13%	7%		3/4%
Groundman winch operator	12.47	13%	7%		3/4%
Pipefitters:					
Bergen & Hudson Counties and the city of Passaic in Passaic County	11.80	1.00	1.50	1.00	.25
Soft Floor Layers	10.74	6%	5%+.50		.02

MODIFICATIONS P. 8

DECISION #PA78-3017 - Mod. #6
(43 FR - May 5, 1978)
Carbon, Monroe County, including Tobyhanna Army Depot, and Pile County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Elevator Contractors	$11.27	.895	.89	c+d	.03
Elevator Constructors Helpers	7.89	.895	.89	c+d	.03
Elevator Constructors helpers Probationary	5.635				
Boilermakers	13.775	1.075	1.00		.02
Power Equipment Operators:					
Monroe County including Tobyhanna Army Depot, and Pile County:					
Group 1	12.39	7%	10.3%	a	1.8%
Group 2	12.10	7%	10.3%	a	1.8%
Group 3	11.22	7%	10.3%	a	1.8%
Group 4	10.45	7%	10.3%	a	1.8%
Group 5	9.97	7%	10.3%	a	1.8%
Group 6	9.05	7%	10.3%	a	1.8%
Group 7	12.64	7%	10.3%	a	1.8%
Group 7-A	12.89	7%	10.3%	a	1.8%
Group 7-B	13.14	7%	10.3%	a	1.8%

DECISION #PA78-3044 - Mod. #4
(43 FR 20711 - May 12, 1978)
Luzerne County, Pennsylvania

Change:					
Marble Setters Remainder of County	$10.25		.75		
Elevator Constructors	11.27	.895	.89	c+d	.03
Elevator Constructors Helpers	7.89	.895	.89	c+d	.03
Elevator Constructors Helpers Probationary	5.635				
Boilermakers	13.775	1.075	1.00		.02
POWER EQUIPMENT OPERATORS:					
Group 1	12.39	7%	10.3%	k	1.8%
Group 2	12.10	7%	10.3%	k	1.8%
Group 3	11.22	7%	10.3%	k	1.8%
Group 4	10.45	7%	10.3%	k	1.8%
Group 5	9.97	7%	10.3%	k	1.8%
Group 6	9.05	7%	10.3%	k	1.8%
Group 7	12.64	7%	10.3%	k	1.8%
Group 7-A	12.89	7%	10.3%	k	1.8%
Group 7-B	13.14	7%	10.3%	k	1.8%

MODIFICATIONS P. 9

DECISION #PA78-3045 - Mod. #6
(43 FR 20714 - May 12, 1978)
Lackawanna, Susquehanna, Wayne, and Wyoming Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$13,775	1.075	1.00		.02
Elevator Constructors	11.27	.895	.89	a+b	.03
Elevator COnstructors Helpers	7.89	.895	.89	a+b	.03
Elevator Constructors Helpers Probationary	5.635				
POWER EQUIPMENT OPERATORS:					
Group 1	12.39	7%	10.3%	a	1.8%
Group 2	12.10	7%	10.3%	a	1.8%
Group 3	11.22	7%	10.3%	a	1.8%
Group 4	10.45	7%	10.3%	a	1.8%
Group 5	9.97	7%	10.3%	a	1.8%
Group 6	9.05	7%	10.3%	a	1.8%
Group 7	12.64	7%	10.3%	a	1.8%
Group 7-A	12.89	7%	10.3%	a	1.8%
Group 7-B	13.14	7%	10.3%	a	1.8%

DECISION #PA78-3090 - Mod. #2
(43 FR 50357 October 27, 1978)
Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania

Change:					
POWER EQUIPMENT OPERATORS:					
HEAVY CONSTRUCTION Lackawanna, Susquehanna, Wyoming Pike, Wayne, Monroe, and Luzerne Counties:					
Group 1	$12.39	7%	10.3%	a	1.8%
Group 2	12.10	7%	10.3%	a	1.8%
Group 3	11.22	7%	10.3%	a	1.8%
Group 4	10.45	7%	10.3%	a	1.8%
Group 5	9.97	7%	10.3%	a	1.8%
Group 6	9.05	7%	10.3%	a	1.8%
Group 7	12.64	7%	10.3%	a	1.8%
Group 7-A	12.89	7%	10.3%	a	1.8%
Group 7-B	13.14	7%	10.3%	a	1.8%

MODIFICATIONS P. 10

DECISION #PA77-3126 - Mod. #6
(42 FR 45622 - September 9,1977)
Lycoming County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers	$12.105	1.14	1.36		.03

DECISION #PA77-3129 - Mod #7
(42 FR 46903 - September 16, 1977)
Northumberland County, Pennsylvania

Change:					
Ironworkers	$12.105	1.14	1.36		.03

MODIFICATIONS P.11

DECISION #TN78-1049 - Mod. #2
(43 FR 21829 - May 19, 1978)
Statewide, Tennessee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Shelby County	$10.78	.90	3% + .50		½ of 1%
All Remaining Counties	7.26				

DECISION #TN78-1058 - Mod. #4
(43 FR 29464 - July 7, 1978)
Hamilton, Marion, Polk, and Rhea Counties, Tennessee

CHANGE:					
Boilermakers	$10.70	1.05	1.10		.02
Bricklayers, Stone masons, Marble masons, Tile setters, & Terrazzo workers:					
All Counties except Polk County	10.85	.55	.30		
Electricians:					
Wiremen	10.40	.70	9%		1%
Cable splicers	10.65	.70	9%		1%
Laborers:					
Group A	6.80	.25	.30		
Group B	6.90	.25	.30		
Group C	7.00	.25	.30		
Group D	7.10	.25	.30		
Group E	7.15	.25	.30		
Group F	7.45	.25	.30		
Group G	7.50	.25	.30		
Free Air Shafts & Tunnels -					
Group H	7.20	.25	.30		
Group I	7.35	.25	.30		
Group J	7.60	.25	.30		
Lathers	9.95				
Line construction:					
Linemen, operators of hole digging equipment tractor with winch	10.40	.70	9%		½ of 1%
Cable splicers	10.65	.70	9%		½ of 1%
Truck without winch	9.19	.70	9%		½ of 1%
Groundmen	7.65	.70	9%		½ of 1%
Power Equipment Operators:					
Group A	9.40	.35	.35		.10
Group B	8.60	.35	.35		.10
Group C	8.00	.35	.35		.10
Group D	7.70	.35	.35		.10
Plumbers & Pipefitters	11.00	.45	.50		.08

MODIFICATIONS P 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TN78-1060 - Mod. #2 (43 FR 29467 - July 7, 1978) Davidson County, Tennessee					
CHANGE:					
Boilermakers	$10.70	1.05	1.10		.02
DECISION #TN78-1090 - Mod. #1 (43 FR 49205 - October 20, 1978) All of Knox & Monroe Counties, and that portion of Anderson & Roane Counties which comprise the Oak Ridge Energy Research & Development Administration site, Tennessee					
CHANGE:					
Boilermakers	$10.70	1.05	1.10		.02
Laborers:					
Construction laborers	6.02	.20	.20		.01
Form setter & stripper, pipe layer, asphalt raker, jackhammer op., air tool op., vibrator op., chain saw op., barco tamp op., mortar mixer, plasterer tender, all power driven tool op., hod carrier, power buggy, yarner, potman, snakeman, grademan, & flagman	6.17	.20	.20		.01
Acetylene burner	6.20	.20	.20		.01
Wagon drill operator	6.32	.20	.20		.01
Powderman	6.52	.20	.20		.01
Caisson hole man	6.82	.20	.20		.01
Concrete gun op., nozzleman	6.72	.20	.20		.01

MODIFICATIONS P. 13

DECISION #TN78-1091 - Mod. #1
(43 FR 49207 - October 20, 1978)
Shelby County, Tennessee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$10.70	1.05	1.10		.02
Electricians:					
Wiremen & electronic technicians	11.08	.90	3% + .50		½ of 1%
Cable splicers	11.18	.90	3% + .50		½ of 1%
Line Construction:					
Linemen	10.78	.90	3% + .50		½ of 1%
Cable splicers	10.88	.90	3% + .50		½ of 1%
Special equipment operators	8.09	.90	3% + .50		½ of 1%
Groundmen	5.39	.90	3% + .50		½ of 1%
Painters:					
Commercial	9.70	.50	.50		.075
Industrial, spray, & sandblast	9.95	.50	.50		.075
Plasterers	10.65				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4082 - Mod. #5 (43 FR 38278 - August 25, 1978) Brazos County, Texas					
Change: Electricians	$12.25	.55	10%		.06
DECISION #TX78-4084 - Mod. #5 (43 FR 38281 - August 25, 1978) Galveston & Harris Cos., Texas					
Change: Electricians - Harris Co.	12.25	.55	10%		.06
DECISION #TX78-4085 - Mod. #3 (43 FR 38283 - August 25, 1978) Travis County, Texas					
Change: Electricians & cable splicers	11.50		8%		.8%
Line Construction:					
Linemen	11.56	.60	3%		1/2%
Groundmen	6.36	.60	3%		1/2%
Groundmen (1st year)	5.78	.60	3%		1/2%
DECISION #TX78-4087 - Mod. #4 (43 FR 38285 - August 25, 1978) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randell, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
Change:					
Electricians:					
Zone 1 - Electricians	11.08	.60	3%+.25		1/2%
Cable splicers	12.19	.60	3%+.25		1/2%
Line Construction - Zone 2:					
Lineman	11.08	.60	3%+.25		1/2%
Cable splicers	12.19	.60	3%+.25		1/2%
Groundman:					
More than 1 year experience	7.29	.60	3%+.25		1/2%
Less than 1 year experience	6.39	.60	3%+.25		1/2%
Op.-hole digger, lino truck	8.48	.60	3%+.25		1/2%
Flat bed truck driver	6.39	.60	3%+.25		1/25

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4096 - Mod. #6 (43 FR 43242 - September 22, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Electricians - Zone 1	$10.00	.60	3%		1/4%
Zone 2	11.50		8%		.8%
DECISION #TX78-4114 - Mod. #2 (43 FR 49208 - October 20, 1978) Lubbock County, Texas					
Change:					
Cement masons	8.15				
Electricians - Electricians	10.70	.60	3%		1/10%
Cable splicers	10.95	.60	3%		1/10%
Line construction:					
Linemen	10.70	.60	3%		1/10%
Plumbers & steamfitters	10.30	.50	.45		.04
DECISION #UT78-5128 - Mod. #2 (43 FR 46480 - October 6, 1978) Statewide Utah					
Change:					
Asbestos Workers	$12.11	.77	$1.37		
Ironworkers:					
Fence Erectors; Ornamental; Reinforcing; Structural	11.35	.70	1.25		.05
Painters:					
Remaining part of State:					
Brush; Roller	10.20	.51	.30		.02
Brush (swing stage); Brush (steel and bridge); Spray, Sandblaster; Steeplejack	10.50	.51	.30		.02
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	10.75	.51	.30		.02
Wallcovering Hanger	10.45	.51	.30		.02
Refrigeration and Air Conditioning	11.50	.66	1.00		.06

STATE: Alabama COUNTIES: *See below
DECISION NO.: AL78-1095 DATE: Date of Publication
Supersedes Decision No.: AL78-1031 dated April 7, 1978, in 43 FR-14840
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories)

*Counties: Lawrence, Limestone, Morgan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.86	.45	.60		.05
Bricklayers:					
Bricklayers, Marble masons, Stonemasons, Pointers, Cleaners, Caulkers	10.10				
Carpenters:					
Carpenters, & Soft floor layers	8.10	.40	.30		.03
Millwrights	8.74	.40	.30		.03
Piledrivermen	8.50	.40	.30		.03
Cement masons	9.35				
Electricians:					
Electricians, linemen	10.60	.50	3%+.45		1%
Cable splicers	10.85	.50	3%+.45		1%
Groundmen	8.55	.50	3%+.45		1%
Elevator Constructors	9.14	.445	.29	4%+a+b	.02
Ironworkers:					
Ornamental, reinforcing, structural	9.305	.60	.60		.08
Laborers (Lawrence County):					
Laborers, mason tenders, plasterers' tenders	5.90	.30	.45		
Air tool operators (jackhammer, vibrator, mortar mixers, pipelayers	6.10	.30	.45		
Laborers (Limestone & Morgan Counties):					
Laborers, mason tenders	5.21	.31	.45		
Air tool operator (jackhammer, vibrator), mortar mixer	5.46	31	.45		
Plasterers & Troweling machine operator	9.60				
Plumbers, pipefitters, steamfitters:					
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 Rt. 20 to Wheeler Lake including Moulton & Wren, excluding Bankhead National Park), Limestone Co. & Morgan Co	10.80	.55	.55		.15

AL78-1095 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers, steamfitters:					
Lawrence Co., (Remaing portion)	10.70	.50	.60		.08
Roofers	8.35		.20		.10
Sheet metal workers	10.05	.69	.82		.09
Terrazzo workers & tile setters	9.85				

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business less than 5 years.

SUPERSEDES DECISION

STATE: COUNNECTICUT COUNTIES: *SEE BELOW
DECISION NUMBER: CT78-2160 DATE: DATE OF PUBLICATION
Supersedes Decision No.: CT78-3055 dated, July 28, 1978 in 43 FR 33023
DESCRIPTION OF WORK: Building Construction (including residential), heavy (excluding tunnel construction) and highway construction

AL78-1095 (Cont'd)

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	9.98	.40	.40		
GROUP B	8.64	.60	.40		
GROUP C	7.92	.40	.40		

GROUP A - Backhoe, bulldozer, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, gradall, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking machine, piledriver, post hole digger, scraper (pull type & self prop.) shovel, sweeper, tractor (spec. equip.), trenching machine, well point & winch truck operators

GROUP B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ½ cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 ton crane & over outboard motor boat (when used for towing), paving machine, portable hoist "Buck hoist type", post hole digger mounted on farm type tractor & walk behind type trenching machine operators

GROUP C - Air compressor (port.) conveyor, fireman stationary equip., oiler, outboard motor boat & pump operators

Oiler driver - additional $.10 per hour

All cranes, derricks & gantry operators operating such equipment with an overall height of 150', including jibs; all scraper operators - additional $.25 per hour.

*Fairfield, Litchfield and Windham Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fairfield Co.; Litchfield Co. Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, & Thomaston; Windham Co.: Ashford, Chaplin, Eastford, Hampton, Scotland & Windham	$11.84	.75	1.16		
Litchfield Co.: Canaan, Colbrook Norfolk, N. Canaan & Salisbury; Windham Co.: Woodstock	10.65	.94	1.25		.01
Windham Co.: Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling & Thompaon	10.63	1.25	1.33		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS: Cement Masons; Finishers; Marble Masons; Plasterers, Stonemasons; Terrazzo Workers; Tile Setters (Building Construction):					
Fairfield Co.: Shelton	10.30	.75	.75		
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Stratford & Trumbull	10.15	.75	.75		
Fairfield Co.: New Canaan, Norwalk, Ridgefield, Weston, Westport & Wilton	10.30	.75	.75		
Fairfield Co.: Darien & Stamford	10.72	.83	.25		.02
Fairfield Co.: Greenwich	10.75	.55	.55		
Fairfield Co.: Bethel, Brookfield Danbury, New Fairfield, Newtown Redding & Sherman; Litchfield Co.: Bridgewater, Kent, New Milford & Roxbury	10.10	.75	.75		.02

DECISION NO. CT78-2160

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS (CONT'D):					
Litchfield Co.: Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester	9.80	.75	.75		
Windham Co.	10.30	.75	.75		.03
Litchfield Co.: Plymouth, Thomaston, Watertown, & Woodbury	10.05	.75	.75		.03
BRICKLAYERS (Heavy & Highway Construction):					
Except Towns of Darien, Greenwich & Stamford	9.60	.75	.75		b
Darien & Stamford	9.93	.83	.25		b
Greenwich	10.00	.55	.55		b
CARPENTERS; Millwrights; Piledrivermen & Soft floor layers (Building Construction):					
Fairfield Co.: Greenwich	10.10	.85	.65		.05
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	10.25	.90	.65	c	a
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford & Wilton; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, North Canaan, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester & Woodbury					
Commercial	10.10	.90	.65		.10
Residential	6.90	.90	.65		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Litchfield Co.: Harwinton, Plymouth, Thomaston & Watertown	10.20	.90	.65		.05
Windham Co.	10.25	.90	.65		.03
CARPENTERS (Heavy & Highway Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton Stratford, Trumbull, Weston & Westport	10.05	.90	.65	f	e
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norwalk, Wilton, Redding, Ridgefield, Sherman, Stamford & Litchfield Co.: Remainder of Co.	10.05	.90	.65	f	.10
Fairfield Co.: Greenwich	10.05	.90	.65	f	.10
Litchfield Co.: Harwinton, Plymouth, Thomaston & Watertown	10.05	.90	.65		.05
Windham Co.:	10.05	.90	.65	f	.03
ELECTRICIANS:					
Fairfield Co.: Norwalk (E. of Five Mile River), Weston, Westport & Weston Building Construction	10.85	.68	3%+.30	6%	4%
Fairfield Co.: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newton, Redding Ridgefield, Shelton, Sherman, Stratford & Trumbull; Litchfield Co.: Bridgewater & New Milford Building construction	11.05	1.10	3%+.30		4%
Residential construction	5.65	1.10	3%+.20		4%
Fairfield Co.: Darien, Greenwich, New Canaan & Stamford	12.00	6%+e	9%%	10%	.06
Litchfield Co.: Plymouth Building Construction	10.91	1.00	3%+.40		4% 4%
Windham Co.: Building construction	11.30	1.50	3%+1.10		½
Litchfield Co.: Rem. of Co.	10.70	1.22	3%+.60	g	1/8%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				
GLAZIERS:					
Fairfield Co.: Greenwich	11.20	.66	1.66	.67	.01
Fairfield Co.: Rem of Co.; & Litchfield Co.	9.83	.95	.47	j	.01
Windham Co.	11.81	.84	.55	k	
IRONWORKERS: Ornamental; Reinforcing; Structural; and Precast concrete erection	12.25	.75	1.45	1	.08
LATHERS:					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston, Westport & Wilton	10.00	.50	.40		.01
Fairfield Co.: Greenwich, New Canaan, Norwalk & Stamford	9.26	.50	.20	.75	.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield Newton & Shetman; Litchfield Co.: Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford N. Canaan, Plymouth, Roxbury, Thomaston, Torrington Warren, Washington, Watertown & Woodbury	9.90	.50	.30		.01
Litchfield Co.: Barkhamsted, Colebrook, New Hartford, Norfolk & Winchester; Windham Co.: Chaplin, Hampton, Scotland & Windham	9.90	.50	.30		.01
Windham Co.: Danielson	9.99	.65	.75		.01
LINE CONSTRUCTION:					
Fairfield Co.: Darien, Greenwich, New Canaan, Stamford & that portion of Norwalk, w. of Five Mile River					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Railroad Construction					
Lineman	$10.71	6%	9½%	10%	.02+½%
Dynamite Man	9.53	6%	9½%	10%	.02+½%
Boring Machine Operator	9.32	6%	9½%	10%	.02+½%
Compressor Operator	8.67	6%	9½%	10%	.02+½%
Driver Groundman	8.14	6%	9½%	10%	.02+½%
Groundman	7.28	6%	9½%	10%	.02+½%
Underground Railroad Construction					
Lineman	13.26	6%	9½%	10%	.02+½%
Equipment Operator	12.20	6%	9½%	10%	.02+½%
Dynamite Man & Transitman	11.80	6%	9½%	10%	.02+½%
Mechanic	11.54	6%	9½%	10%	.02+½%
Heavy Driver Groundman	10.87	6%	9½%	10%	.02+½%
Driver Groundman	10.21	6%	9½%	10%	.02+½%
Groundman	9.68	6%	9½%	10%	.02+½%
Fairfield Co.: Rem. of Co.; Litchfield Co.: & Windham Co. Cross County Transmission Lines and Railroads					
Linemen, Cable Spilcer & Dynamite Man	9.98	.70	3%+.50	p	
Heavy Equipment Operator	9.02	.70	3%+.50	p	
Equipment Operator, Tractor Trailer Driver, Field Mechanic	8.46	.70	3%+.50	p	
Material Man	8.37	.70	3%+.50	p	
Groundman Truck Driver	7.53	.70	3%+.50	p	
Groundman, Experienced	6.70	.70	3%+.50	p	
Groundman, Inexperienced	5.91	.70	3%+.50	p	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Norfolk, Stamford & Weatport	8.45	1.26	1.54	1.00	
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers:					
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.	8.75	.50	.65		
PAINTERS:					
Bridge:					
Structural steel	13.00				
Spray	16.50				
Sandblasting or power tools	14.00				
Fairfield Co.: Greenwich					
Brush; Structural steel; paperhangers; Tapers	9.25	.20	.75	.30	
Spray	13.88	.20	.75	.30	
Fairfield Co.: Bridgeport, Easton, Fairfield, Southport, Stratford and Trumbull					
Brush	9.15	.50	.65	r	
Spray	11.65	.50	.65	r	
Taper	9.54	.50	.65	r	
Fairfield Co.: Darien, Stamford, New Canaan, Norwalk, Weston, Westport & Wilton					
Brush	9.25	.50	.75		.01
Roller, paperhangers, tapers epoxy	9.75	.50	.75		.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield, Sandy Hook & Sherman; Litchfield Co.: New Milford					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brush, Roller	10.85	.50	.50	r	
Steel	11.95	.50	.50	r	
Paperhangers; Tapers	10.85	.50	.50	r	
Epoxy	12.35	.50	.50	r	
Residential	9.10	.50	.50	r	
Fairfield Co.: Byram					
Brush	9.15	.60	1.30	.40	
Spray	10.15	.60	1.30	.40	
Steel & Swing stage & boatswain Chair	10.45	.60	1.30	.40	
Drywall taper	9.95	.60	1.30	.40	
Fairfield Co.: Monroe & Shelton					
Brush	10.75	.50	.80	s	.01
Hand roller; Paperhangers	11.25	.50	.80	s	.01
Structural steel, epoxy, polyester	11.75	.50	.80	s	.01
Spray	14.75	.50	.80	s	.01
Windham Co.: Willimantic & Windham					
Brush; Tapers	10.30	.60	.70		.01
Paperhangers	11.25	.60	.70		.01
Riding steel; steamcleaning; sandblasting; tanks; towers; & Hazardous work	11.10	.60	.70		.01
Spray	13.45	.60	.70		.01
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, New Hartford, New field, N. Canaan, Plymouth, Salisbury, Sharon, Terryville, Torrington, Warren, Winchester & Winsted					
Brush; Roller; Taping	9.95	.80	.45		
Spray; High	12.40	.80	.45		
Epoxy	10.20	.80	.45		
Paperhanging	10.45	.80	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Windham Co., except Willimantic & Windham					
Brush	10.30	.50	.70		.01
Paperhangers	11.25	.50	.70		.01
Sign	11.25	.50	.70		.01
Taping	11.25	.50	.70		.01
Roller	10.80	.50	.70		.01
Structural Steel	11.10	.50	.70		.01
Spraying oil paint	13.45	.50	.70		.01
Spraying epoxy	15.98	.50	.70		.01
PLUMBERS: Windham Co.: Windham	10.31	1.10	1.09+.30		.10
PLUMBERS; Steamfitters: Fairfield Co.: Greenwich	10.50	.60	.70		.02
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford & Trumbull	11.09	.75	.70	4%	.01
Fairfield Co.: Georgetown, Norwalk, S. Norwalk, Weston, Westport & Wilton	9.50	.75	.50	.36	.02
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield & Sherman; Litchfield Co.: Bridgewater & New Milford	11.20	.75	.70	.50	.02
Fairfield Co.: Darien, New Canaan & Stamford	10.55	.75	.70	4%	.02
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Falls Village, Goshen, Harwinton, Kent, Lakeville, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Winchester & Winstead	10.70	.75+.13	.70	t	.05
Litchfield Co.: Bethlehem, New Preston Plymouth (incl. Terryville), Roxbury, Thomaston, Washington, Watertown & Woodsbury	10.70	.75+.13	.70	t	.05
Windham Co., except Windham	12.62	.60	.70	u	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: Fairfield Co., except that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich; Litchfield Co.: Bethlehem, Bridgewater, Kent New Milford, Roxbury, Washington & Woodbury	10.15	1.05	.45		
Litchfield Co.: Bantam, Canaan, Colebrook, Cornwall, Cornwall Bridge, E. Canaan, Falls Village, Gaylordsville, Goshen Lakeside, Litchfield, Marbledale, Morris, New Hartford, New Preston, Norfolk, Northfield, Oakville, Prequabuck, Pine Meadow Pleasant Valley, Plymouth, Riverton, Salisbury, Sharon, S. Kent, Taconic, Terryville, Thomaston, Torrington, Washington Depot, Watertown, W. Cornwall, W. Goshen, Winchester Center & Winsted; Windham Co.					
Composition	9.30	.525	.70	.55	
Slate & tile	9.80	.525	.70	.55	
Fairfield Co.: that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich					
Slate & Tile	9.65	1.79	2.65	.65	
SHEET METAL WORKER: Fairfield Co.; Litchfield Co.	11.50	1.28	1.04		.02
Windham Co.	11.30	.70	.86		.05
SPRINKLER FITTERS	11.75	.75	1.05		.08
STEAMFITTERS: Windham Co.: Windham	10.77	1.36	1.31		.13
TILE SETTERS' HELPERS: Fairfield Co.: Darien, Greenwich, Stamford, Norfolk & Westport	7.90	.50	1.27		

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.

FOOTNOTES:

a. 7 paid holidays: A, C, D, E, F, Decoration Day & Good Friday.
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holiday: B, C. D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D and E.
e. $7.00 per day
f. 3 paid holidays: B, C, and D.
g. The last 4 regular working hours prior to Christmas shall be paid half day.
h. 6 paid holidays: A through F
i. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
j. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
l. The last 4 hours on Christmas Eve is a pid half day if employee has worked 5 consecutive days prior to Christmas Eve.
m. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is availabel for work the day preceding and following the holiday.
n. 1% of the gross electrical labor payroll.
o. Employer contributes $1.50 per day to a supplemental unemployment fund.
p. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays.
q. 1 paid holiday: ½ day pay on Labor Day.
r. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday.
s. 4 paid holidays: B, C, D and E providing the employee works the day before and the after the holiday.
t. 2 paid holidays: B and D and half day paid holiday the Friday after Thanksgiving and the last working day before Christmas and Good Friday paid half day.
u. 1 paid holiday: D
y. 3% of gross earnings to SASMI

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Building Construction) Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver & Setting Stone	11.77	.90	.85	a	.10
Dragline; Forklift - over 5' lift; Front end loader - 7cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, motive power or operation); Koehring scooper loader and/or hoe; master mechanic; shovel; & tower crane	11.65	.90	.85	a	.10
Maintenance engineer	11.55	.90	.85	a	.10
Central mix operator; Coleman loader and screeing plant or similar equipment; combination hoe and loader over ½ yd; Conveyors - regardless of motive power; Front end loader 3cy. up to 7 cy.; Joy drill limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; pumperete machine; rock boring machine; vibratory hammer; welder & well digger	11.28	.90	.85	a	.10
Compressor battery operator	10.45	.90	.85	a	.10
Asphalt spreader	11.05	.90	.85	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.99	.90	.85	a	.10
Combination hoe and loader machine; concrete mixer - 5 bags over; Front end loader under 3 cy.; powerstone spreader	10.94	.90	.85	a	.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air and steam valve	10.17	.90	.85	a	.10
Compressor; generator; pump and well point; welding machine	10.06	.90	.85	a	.10
Fork lift not over 4'; & Steam Jenny	10.83	.90	.85	a	.10
Mechanical heater	9.89	.90	.85	a	.10
Roller	10.72	.90	.85	a	.10
Dinky machine; power pavement breaker	10.55	.90	.85	a	.10
Fireman (High pressure	9.67	.90	.85	a	.10
Oiler	9.18	.90	.85	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
LABORERS (Heavy and Highway Construction):					
Laborers	7.95	.60	.75		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; Mason tenders; pipelayers; pneumatic drill operators; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.20	.60	.75		.10
Air track operators; block paver; curb setters	8.45	.60	.75		.10
Blasters	8.70	.60	.75		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction)					
Laborer	$7.95	.60	.75		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and Precast Erectors	8.20	.60	.75		.10
Air track ops, block pavers; and curb setters	8.45	.60	.75		.10
Blasters	8.70	.60	.75		.10
Open air caisson, cylindrical work and boring crews:					
Top man	7.95	.60	.75		.10
Bottom man	9.45	.60	.75		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS 1	11.80	.90	.85	a	.10
CLASS 2	11.64	.90	.85	a	.10
CLASS 3	11.29	.90	.85	a	.10
CLASS 4	11.09	.90	.85	a	.10
CLASS 5	10.93	.90	.85	a	.10
CLASS 6	10.73	.90	.85	a	.10
CLASS 7	10.51	.90	.85	a	.10
CLASS 8	9.58	.90	.85	a	.10
CLASS 9	9.69	.90	.85	a	.10
CLASS 10	10.07	.90	.85	a	.10
CLASS 11	10.43	.90	.85	a	.10
CLASS 12	9.21	.90	.85	a	.10
CLASS 13	10.00	.90	.85	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					

CLASSIFFICATIONS: POWER EQUIPMENT OPERATORS

CLASS 1: Erecting and handling structural steel; front end loader (7cy. or over)
CLASS 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; lighter derrick; paver (concrete); derrick (stiff leg and guy); steel pile sheeting; koehring loader (skooper) master mechanic
CLASS 3: Drill (joy heavy weight champion or equivalent); side boom; loader (euclid); mucking machine; pumpcrete; rock and earth boring machine; Post hole digger; well digger; & hammer (vibratory); central mix; combination hoe & loader (over ½ yd)
CLASS 4: Asphalt spreader
CLASS 5: Front end loader (3yds. or over); Grader; power stone spreader; combination hoe and loader
CLASS 6: Asphalt roller; bulldozer; carryall; maintenance engineer; concrete mixer (5 bags and over); Welder
CLASS 7: Front end loader (under 3yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine
CLASS 8: Compressor; pump
CLASS 9: Fireman (high pressure)
CLASS 10: Well point system
CLASS 11: Compressor battery
CLASS 12: Oiler
CLASS 13: Batch plant; bulk cement plant

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Survey Crew					
Chief of Party	$10.06	.90	.85	a	.10
Ass't Chief of Party	9.34	.90	.85	a	.10
Instrument Man	8.63	.90	.85	a	.10
Rodman & Chainman	6.46	.90	.85	a	.10
TRUCK DRIVERS (Building, Heavy and Highway Construction)					
CLASS 1	7.91	.74	.725	a	
CLASS 2	8.01	.74	.725	a	
CLASS 3	8.11	.74	.725	a	
CLASS 4	8.06	.74	.725	a	
CLASS 5	8.16	.74	.725	a	
CLASS 6	8.21	.74	.725	a	

CLASSIFICATIONS: TRUCK DRIVERS

CLASS 1: Two axle trucks; helpers
CLASS 2: Three axle trucks; two axle ready mix
CLASS 3: Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4: Three axle ready-mix
CLASS 5: Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and simi-trailer (including Euclids)
CLASS 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

SUPERSEDEAS DECISION

STATE: CONNECTICUT COUNTIES: *SEE BELOW
DECISION NUMBER: CT78-2161 DATE: DATE OF PUBLICATION
Supersedes Decision No. CT78-3056, dated July 28, 1978 in 43 FR 33033
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy (excluding tunnel construction) and highway construction:

*Hartford, Middlesex, New Haven *New London, and Tolland Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS: Hartford Co.: Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, E. Hartford, E. Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, S. Windsor, W. Hartford, Wethersfield & Windsor; Middlesex Co.; New Haven Co.: New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lyme, Salem, Sprague & Waterford; & Tolland Co.: Andover, Bolton, Columbia, Conventry, Ellington, Hebron, Mansfield, Tolland, Vernon & Willington	$11.84	.75	1.16		
Hartford Co.: E. Granby, Enfield, Granby, Hartland, Suffield & Windsor Locks; Tolland Co.: Somers, Stafford & Union	10.65	.94	1.25		.01
New London Co.: Griswold, Ledyard, Lisbon, N. Stonington, Preston, Stonington & Voluntown	10.63	1.25	1.33		.02
BOILERMAKERS	11.30	.95	10%		
BRICKLAYERS:; Cement masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers & Tile setters (Building Construction): Hartford Co.: Avon, Bloomfield, Burlington, Enfield, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Rocky Hill, Simsbury					

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS (CONT'D): S. Windsor, Suffield, Thompsonville, W. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Andover, Bolton, Columbia Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon & Willington	$10.30	.75	.75		
Hartford Co.: Berlin, New Britain, Newington, & Southington; New Haven Co.: Meriden, Wallingford, Cheshire (North of Route 68)	10.15	.75	.75		.03
Hartford Co.: Canton	9.80	.75	.75		
Middlesex Co.: & New London Co.	10.30	.75	.75		.03
New Haven Co.: Bethany, Branford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Brandford, N. Haven, Orange, W. Haven, Woodbridge, Rem. of Milford & Cheaire	10.30	.75	.75		
New Haven Co.: Ansonia, Derby, Oxford, Seymour & Southbury	9.80	.75	.75		.03
Hartford Co.: Bristol,& Plainville; New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck, Prospect, Waterbury & Wolcott	10.05	.75	.75		.03
New Haven Co.: Milford (West of Indian River to the Orange Town line)	10.15	.75	.75		.03
BRICKLAYERS (Heavy & Highway Construction)	9.60	.75	.75	b	
CARPENTERS: MILLWRIGHTS; PILEDRIVERMEN: RESILIENT FLOOR LAYERS (Building Construction) Hartford Co.: Hartford, West Hartford, Avon, Farmington, Simsbury, Bloomfield, Windsor, East Granby, Granby, Windsor Locks, Suffield, Enfield, East Windsor, South Windsor, East Hartford, Man-					

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
cheater, Glastonbury, Rocky Hill, Wethersfield, Hartland; Tolland Co.: Stafford, Somers, Tolland, Ellington, Bolton Vernon	10.35	.90	.65		.05
Hartford Co.: New Britain, Newington, Berlin, Southington Plainville, Burlington, Canton, Bristol; New Haven Co.: Meriden, Wallingford, New Haven, East Haven, Brandord, Guilford, Madison, North Branford, North Haven, Hamden, West Haven, Orange (east of Orange Center Road and North of Route 1; also north of Route 1 and east of the Oyster River), Cheshire, Waterbury, Wolcott, Middlebury, Southbury, Naugatuck, Prospect, Bethany Beacon Falls, Woodbridge; Middlesex Co.	10.20	.90	.65		.05
New Haven Co.: Milford, Oxford, Derby, Seymour, Ansonia, Orange (that part west of Orange Center Rd. and south of Route 1, and that part south of Route 1 and West of the Oyster River	10.25	.90	.65	c	e
New London Co.: Tolland Co.: Mansfield, Union, Willington, Coventry, Hebron, Columbia, Andover	10.25	.90	.65		.03
CARPENTERS (Heavy & Highway Construction): New Haven Co.: Ansonia, Derby, Milford, Orange (W. of Orange Center Road & S. of Rte #1 & W. of the Oyster River), Oxford & Seymour	10.05	.90	.65	f	e
Hartford Co.; Middlesex Co.: & New Haven Co.: Remainder of Co.; Tolland Co.: Bolton, Ellington, Somers, Stafford, Tolland & Vernon	10.05	.90	.65	f	.05

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS CONT'D): New London Co.; Tolland Co.: Andover, Columbia, Conventry, Hebron, Manafield, Union & Willington	10.05	.90	.65	f	.03
ELECTRICIANS: New Haven Co.: Milford	11.05	1.10	3%+.30		½%
Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville & Southington	10.91	1.00	3%+.40		½%
Hartford Co.: Suffield & Enfield (portion of Thompsonville West of George Washington Road and North of Hazard Ave)	10.45	.75	3%+.30		.03
Hartford Co.: Hartland; New Haven Co.: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury & Wolcott	10.70	1.22	3%+.60	h	1/8%
Hartford Co.: Rem. of Co.; Middlesex Co.: Cromwell, Middlefield, Middletown & Portland; New London Co.: Bozrah Colchester, Franklin, Lisbon, Montville, N. Stonington, Norwich, Griswold, Lebanon, Ledyard, (except Submarine Base) Preston, Salem, Sprague, Stonington & Voluntown & Tolland Co.	11.30	1.50	3%+1.10		½%
Middlesex Co.: Remainder of County New Haven Co.: Reaminder of Co.; ford; New London Co.: E. Lyme, New London, Fishers Island Sound Old Lyme, Groton, Waterford & Ledyard (Submarine Base Only	10.91	1.00	3%+.40		½%
ELEVATOR CONSTRUCTORS	10.35	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.245	.545	.35	4%+i+j	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.175				

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DECISION No. CT78-2161	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
New Haven Co., except Wallingford	9.83	.95	.47	k	.01
Hartford Co.; Middlesex Co.; New Haven Co.; Wallingford; New London Co.; & Tolland Co.	11.81	.84	.55	l	
IRONWORKERS:					
Ornamental; Reinforcing; Structural and Precast concrete erection	12.25	.75	1.45	m	.08
LATHERS:					
Hartford Co.: Bristol, Southington; New Haven Co.: Beacon Falls, Bethany, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury & Wolcott	9.90	.35	.50		.01
Hartford Co.: Avon, Berlin, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, S. Windsor, W. Hartford, Windsor & Windsor Locks; Middlesex Co.: Cromwell, E. Haddam, E. Hampton, Middlefield, Middletown & Portland; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Grofton, Lebanon, Lisbon, Lyme, Salem, Sprague & Waterford; Tolland Co.: Andover, Bolton, Columbia, Coventry, Hebron, Mansfield & Vernon	9.90	.50	.30		.01
Hartford Co.: Broad Brook, Enfield, Hazardville, Melrone, Suffield, Thompsonville & Warehouse Point; Tolland Co.: Crystal Lake, N. Somers, Somers, Straffold, Stafford Springs, Straffordville & Union	9.40	.45	.25		.01

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DECISION NO. CT78-2161	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (CONT'D):					
Middlesex Co.: Chester, Clinton, Deep River, Durham, Essex, Haddam, Killingworth, Old Saybrook & Westbrook; New Haven Co.: Ansonia, Branford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, New Haven, N. Branford, N. Haven, Orange, Seymour, Wallingford, W. Haven & Woodbridge	10.00	.75	.50		.01
LEADBURNERS	9.25	.35		n	.01
LINE CONSTRUCTION:					
Linemen	11.42	.70	3%+.50	o	
Equipment operators	10.69	.70	3%+.50	o	
Driver groundmen	8.37	.70	3%+.50	o	
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; & Tile setters' helpers	8.75	.50	.65		
PAINTERS:					
Bridge and Highway	13.00				
Structural steel	13.00				
Sandblastings or power tools	14.00				
Spray	16.50				
New Haven Co.: Milford (up to Gulf Street)					
Brush	9.15	.50	.65	p	
Taping	9.54	.50	.65	p	
Spray	11.65	.50	.65	p	
Hartford Co.: Avon, Bloomfield, Broad Brook, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Simsbury, S. Windsor, Suffield, S. Manchester, W. Hartford, W. Simsbury, Wethersfield, Windsor, & Windsor Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Coventry, Ellington, Herbron, Mansfield, Rockville, Strafford, Somers, Tolland,					

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DECISION NO. CT78-2161	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Union, Vernon, & Willington					
Brush; Tapers	10.20	.95	.70		
Paperhangers	10.70	.95	.70		
Riding steel; steamcleaning; Sandblasting; Tank; Towers, & Hazardous work	10.78	.95	.70		
Spray	13.70	.95	.70		
Hartford Co.: Berlin, Bristol, Burlington, E. Berlin, Forestville, Hartland, Kensington, Milldale, New Britain, Newington, Plainville, Plantsville, Southington, & Unionville; New Haven Co.: Cheshire, Guildord Madison, Meriden, & Wallingford; Middlesex Co.: Chester, Clinton, Cromwell, Deep River, Durham, E. Haddam, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Killingworth, Middlefield, Middletown, Moodus, Norfolk, Portland, Saybrook, & Westbrook					
Brush; Roller; Taping	9.95	.80	.45		
Spray	12.40	.80	.45		
Epoxy	10.20	.80	.45		
Paperhanging	10.45	.80	.45		
Work over 60' & Boatswain chair; Open Steel	14.43	.80	.45		
Swing stage 40 - 60'	10.95	.80	.45		
New Haven Co.: Ansonia, Beacon, Falls, Derby, Oxford, & Seymour					
Brush	10.75	.50	.80	q	.01
Hand roller; Paperhangers	11.25	.50	.80	q	.01
Structural steel, epoxy polyester	11.75	.50	.80	q	.01
Spray	14.75	.50	.80	q	.01
New Haven Co.: Bethany, Branford, E. Haven Hamden, Milford, (s. on Gulf Street & n. on North Street, New Haven, N. Bradford, N. Haven, Orange, W. Haven, Woodbridge, & Woodmont					

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DECISION NO. CT78-2161	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Brush; Sandblasting	9.45	.50	.60		.02
Tapers	9.80	.50	.60		.02
Paperhangers	9.95	.50	.60		.02
Spray	12.10	.50	.60		.02
Structural steel	9.70	.50	.60		.02
New Haven Co.: Middlebury, Naugatuck, Prospect, Roxbury, Southbury, Thomaston, Washington, Waterbury, Watertown, Wolcott, & Woodbury					
Brush	9.20	.50	.70		
Paperhanger & Tapers	9.45	.50	.70		
Spray	14.18	.50	.70		
New London Co.: Norwich					
Brush	10.30	.60	.70		.01
Paperhangers	11.25	.60	.70		.01
Sign	11.25	.60	.70		.01
Taping	11.25	.60	.70		.01
Roller	10.80	.60	.70		.01
Structural steel	11.10	.60	.70		.01
Spraying oil paint	13.45	.60	.70		.01
Spraying epoxy	15.98	.60	.70		.01
PLUMBERS:					
Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, Windsor, Locks Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Wampton, Haddam, Maromas (Atomic River Project) Middlefield, Middletown & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, &					

DECISION NO. CT78-2161	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Willington	10.31	1.10	1.39		.10
PLUMBERS: Steamfitters: New Haven Co.: Milford Hartford Co.: Southington; Middlesex Co.: Durham; New Haven Co.: Cheshire, Meriden & Wallingford	11.09	.75	.70	.44	.01
Hartford Co.: Berlin, Bristol, E. Berlin, Kensington, New Britain, & Plainville	10.35	.75	.70	r	.03
Middlesex Co.: Clinton, Killingworth, S Westbrook; New Haven Co.: Branford, Derby, E. Haven, Orange, W. Haven, & Woodbridge	11.00	.75	.70	s	.03
Middlesex Co.: Essex, Ivoryton,, Old Saybrook, & Saybrook; New London Co.: Bozrah, Colchester, E. Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Voluntown, & Waterford	11.18	.75	.70	t	.02
New Haven Co.: Ansonia, Beacon Falls, Bethany, Naugatuck, Oxford, Prospect, & Seymour	12.62	.60	.70	u	.05
New Haven Co.: Middlebury, Southbury, S. Britain, Waterbury & Wolcott	10.70	.88	.70	v	.05
Hartford Co.: Hartland	10.70	.88	.70	v	.05
ROOFERS: New Haven Co.: Ansonia, Beacon Falls, Bethany, Branford, Derby E. Haven, Guilford, Hamden, Madison, Milford, Middlebury, Naugatuck, New Haven, N. Branford, N. Haven, Orange, Oxford, Seymour, Union City, W. Haven, & Woodbridge	10.15	1.05	.45		
Hartford Co.; Middlesex Co.; New Haven Co.: Cheshire, Meriden, Prospect, Wallingford, & Wolcott; New London Co.; & Tolland Co. Composition	9.30	.525	.70	.55	
Slate, Tile	9.80	.525	.70	.55	

DECISION NO. CT78-2161	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	11.30	.70	.86		.05
SPRINKLER FITTERS	11.75	.75	1.05		.08
STEAMFITTERS: Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, & Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Haromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Conventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, & Willington	10.79	1.36	1.31		.13

DECISION NO. CT78-2161

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 7 paid holidays: A through F, and Good Friday.
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C. D, and Good Friday. Employee must be employed 14 consecutive days immediately prior to the holiday.
d. 3 paid holidays: C, D, and E
e. $.50 per worker per year
f. 3 paid holidays: B, C, and D
h. The last 4 regular working hours prior to Christmas Day shall be paid half day.
i. 6 paid holidays: A through F
j. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Columbus Day
l. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day
m. The last 4 hours on CHristmas Eve is a paid half day if employee has worked 5 consecutive days prior to CHristmas Eve
n. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Xmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
o. 9 paid holidays: A through F Washington's Birthday, Good Friday and a floating holiday pre year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
p. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
q. 4 paid holidays: B, C, D, and E providing the employee works the day before and the dat after the holiday
r. 1 paid holiday: D
s. Paid holidays: D, and the Friday after Thanksgiving is a paid half day, and December 24, provided it falls on a working day, is a paid half day
t. 3½ paid holidays: C, D, E, and the half day Friday after Thanksgiving
u. 1 paid holidays: D
v. 2 paid holidays: B, D & half day paid holiday the Friday after Thanksgiving and the last working day before CHristmas, & Good Friday paid half day.

DECISION NO. CT78-2161	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (BUILDING CONSTRUCTION) Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & Setting stone	11.77	.90	.85	a	.10
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation); Koehring scooper loader and/or hoe; master mechanic; shovel; & tower crane	11.65	.90	.85	a	.10
Maintenance engineer	11.55	.90	.85	a	.10
Central mix operator; Coleman loader and screening plant or similar equipment; combination hoe and loader over ½ yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.; High pressure portable boiler; Joy drill - limited to joy heavy weight champion or equivalent; mucking machines; post hoe digger; pumpcrete machine; rock boring machine; vibratory hammer; welder; & Well digger	11.28	.90	.85	a	.10
Compressor battery operator	10.45	.90	.85	a	.10
Asphalt spreader	11.05	.90	.85	a	.10
Bulldozer; Carry-all operators; Grader; & Scraper pan	10.99	.90	.85	a	.10
Combinationhoe and loader machine; concrete mixer - 5 bags or over; front end loader under 3 cy.; powerstone spreader	10.94	.90	.85	a	.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D)					
Air and steam valve	10.17	.90	.85	a	.10
Compressor; generator; pump and well point; welding machine	10.06	.90	.85	a	.10
Fork lift not over 4'; & Steam Jenny	10.83	.90	.85	a	.10
Mechanical heater	9.89	.90	.85	a	.10
Roller	10.72	.90	.85	a	.10
Dinky machine; Power pavement breaker	10.55	.90	.85	a	.10
Fireman (High pressure)	9.67	.90	.85	a	.10
Oiler	9.18	.90	.85	a	.10
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
LABORERS (Heavy and Highway Construction):					
Laborers	7.95	.60	.75		.10
Acetylene burners; Asphalt raker; chain saw operator; concrete & power buggy operators; Concrete saw operator; fence & guard rail erectors; Form setters; Hand operated vibratory compactor operators; Mason tenders; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.20	.60	.75		.10
Air track operator; block pavers; curb setters	8.45	.60	.75		.10
Blasters	8.70	.60	.75		.10

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DECISION NO. CT78-2161

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction)					
Laborer	7.95	.60	.75		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powder men & wagon drill operators and Precast Erectors	8.20	.60	.75		.10
Air track ops, block pavers; and curb setters	8.45	.60	.75		.10
Blasters	8.70	.60	.75		.10
Open air caisson, cylindrical work and boring crew:					
Top man	7.95	.60	.75		.10
Bottom man	9.45	.60	.75		.10

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DECISION NO. CT78-2161

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (HEAVY & HIGHWAY CONSTRUCTION)					
Class 1	11.80	.90	.85	a	.10
Class 2	11.64	.90	.85	a	.10
Class 3	11.29	.90	.85	a	.10
Class 4	11.09	.90	.85	a	.10
Class 5	10.93	.90	.85	a	.10
Class 6	10.73	.90	.85	a	.10
Class 7	10.51	.90	.85	a	.10
Class 8	9.58	.90	.85	a	.10
Class 9	9.69	.90	.85	a	.10
Class 10	10.07	.90	.85	a	.10
Class 11	10.43	.90	.85	a	.10
Class 12	9.21	.90	.85	a	.10
Class 13	10.00	.90	.85	a	.10
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Class 1: Erecting and handling structural steel; front end loader (7 cy. or over)
Class 2: Piledriver; Power shovel and crane; dragline; gradline; gradall; trenching machine; lighter derrick; paver (concrete); derrick (stiff leg and guy); Steel pile sheeting; koehring loader (skooper); master mechanic
Class 3: Drill (Joy heavy weight champion or equivalent); Side boom; loader (Euclid); Mucking machine; Pumpcrete; ROck and earth boring machine; post hole digger; well digger; & hammer (vibratory); central mix; combination hole & loader (over ½ yd)
Class 4: Asphalt
Class 5: Front end loader (3 yds. or over); grader; power stone spreader; combination hoe and loader
Class 6: Asphalt roller; bulldozer; carryall; maintenance engineer; concrete mixer (5 bags and over); welder
Class 7: Front end loader (under 3 yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine
Class 8: Compressor; pump
Class 9: Fireman (high pressure)
Class 10: WEll point system
Class 11: Compressor battery
Class 12: Oiler
Class 13: Batch plant; Bulk cement plant

SUPERSEDEAS DECISION

STATE: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Rhode Island
DECISION NUMBER: NY78-3097 DATE: Date of Publication
Supersedes Decision No. CT77-3135 dated October 14, 1977, in 42 FR 55410
DESCRIPTION OF WORK: All dredging on the Atlantic Coast from the Canadian Border to the southerly border of the State of Maryland and tributary waters emptying into the Atlantic Ocean, the Chesapeake and Delaware Canal, Baltimore City and Baltimore County, Maryland.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dipper and Clamshell Dredges:					
Operator	10.60	.73	.60	7%+a	
Engineer	10.51	.73	.60	7%+a	
Craneman	10.28	.73	.60	7%+a	
Maintenance engineer	10.11	.73	.60	7%+a	
Welder	9.95	.73	.60	7%+a	
Mate	9.40	.73	.60	7%+a	
Fireman and oiler	8.57	.73	.60	7%+a	
Deckhand, handyman and tug deckhand	8.33	.73	.60	7%+a	
Scowman	8.22	.73	.60	7%+a	
Hydraulic Dredges:					
Leverman	10.40	.73	.60	7%+a	
Engineer and derrick operator	10.28	.73	.60	7%+a	
Maintenance engineer	10.11	.73	.60	7%+a	
Boilerman; dredge carpenter; dredge blacksmith; electricians and welders	9.95	.73	.60	7%+a	
Spider barge operator	9.84	.73	.60	7%+a	
Mate	9.40	.73	.60	7%+a	
Fireman and oiler	8.57	.73	.60	7%+a	
Tug deckhand	8.33	.73	.60	7%+a	
Deckhand; handyman and shoreman	8.22	.73	.60	7%+a	
Tug Boats over 400 H. P: (with master or captain having license endorsed for 200 miles off shore)					
Tug engineer	9.90	.73	.60	7%+a	
Tug Deckhand	8.38	.73	.60	7%+a	
Tug Boats over 400 H. P. (without master or captain having license endorsed for 200 miles off shore)					
Tug engineer	9.47	.73	.60	7%+a	
Tug deckhand	8.33	.73	.60	7%+a	
Drill Boats:					
Engineers	11.37	.73	.60	b	
Blasters	11.51	.73	.60	b	
Fireman	10.97	.73	.60	b	
Driller, welders or machinists	11.38	.73	.60	b	
Oilers	10.76	.73	.60	b	

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DECISION NO. CT78-2161

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Survey Crew					
Chief of Party	10.06	.90	.85	a	.10
Ass't Chief of Party	9.34	.90	.85	a	.10
Instrument Man	8.63	.90	.85	a	.10
Rodman & Chainman	6.46	.90	.85	a	.10
TRUCK DRIVERS (Building, Heavy & Highway Construction)					
CLASS 1	7.91	.74	.725	a	
CLASS 2	8.01	.74	.725	a	
CLASS 3	8.11	.74	.725	a	
CLASS 4	8.06	.74	.725	a	
CLASS 5	8.16	.74	.725	a	
CLASS 6	8.21	.74	.725	a	

CLASSIFICATION : TRUCK DRIVERS

CLASS 1: Two axle trucks; helpers
CLASS 2: Three axle trucks; two axle ready mix
CLASS 3: Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4: Three axle ready-mix
CLASS 5: Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and simi-trailer (including Euclids)
CLASS 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

DECISION NO. NY78-3097

FOOTNOTES:

a. Holidays: A through F, Plus Washington's Birthday and Veterans' Day.

b. Holidays: A through F, plus Washington's Birthday and Veterans' Day; 6½ days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation as set forth above will receive one day's vacation with pay for each full 20 days of service in one calendar year.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Illinois
DECISION NO: IL78-2144
Supersedes Decision No. IL78-2050, dated March 24, 1978 in 43 FR 12578
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: See Below
DATE: Date of Publication

ILL-HH-9

COUNTIES: Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union and Williamson	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
Randolph County	$11.11	.60	.90		.06
Remainder of District #9	10.25	.50	.50		.05
CEMENT MASONS:					
Alexander, Jackson, Perry, Pulaski, Randolph & Union Counties	10.35	.30			
Remainder of Counties	10.65				
ELECTRICIANS:					
Red Bud Township in Randolph County	12.73	4%	3%+.65	6%	½ of 1%
Remainder of Randolph Co. & District #9	12.50	.40	13%		1%
IRONWORKERS:					
Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Union, Williamson, Saline (SW of Eldorado)	10.75	.55	.75		.05
Perry & Randolph Counties	12.10	.55	1.05		
LABORERS:					
Randolph County:					
Heavy	10.20	.60	1.00		.035
Highway	10.30	.60	1.00		.035
Remainder of District #9	8.70	.40	.30		.035
LINEMEN:					
Red Bud Twps. in Randolph Co:					
Linemen	13.35	4%	3%		.25%
Groundmen Equipment Operator	11.60	4%	3%		.25%
Groundmen-Truck Drivers with & Without Winch	9.43	4%	3%		.25%
Pick-Up-Jeeps	8.79	4%	3%		.25%
Groundmen	8.73	4%	3%		.25%
Remainder of Randolph County & District #9:					
Linemen & Digging Machine Opr	12.29	.45	9%		.25%
Groundman Equipment Operator					
Class 1	10.50	.45	9%		.25%
Class 2	9.40	.45	9%		.25%
Groundman:					
Class "A"	7.83	.45	9%		.25%
1st 6 Months	7.49	.45	9%		.25%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Franklin County: Williamson Co. (Marion & Vicinity):					
Brush	9.45				
Industrial	10.20				
Alexander, Johnson & Pulaski Cos:					
Industrial	9.74				
Bridges	11.76				
Spray	10.36				
Saline, Gallatin, Hardin & Pope Counties:					
Brush	6.90				
Structural Steel	7.15				
Spray	7.25				
Jackson, Perry & Randolph Cos:					
Brush	9.00				
Industrial	10.90				
Union County:					
Brush	8.75				
Industrial	9.25				
Massac County:					
Brush & Roller	7.60	.40			
Bridges; Brush & Spray	10.45	.40			

DECISION NO. IL78-2144

ILL-2-PEO-1-2-3

POWER EQUIPMENT OPERATORS: PERRY & RANDOLPH COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.52	.87	1.51		.05
GROUP II	10.19	.87	1.51		.05
GROUP III	9.54	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.97	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more (whore oiler or firemen is not required) Hydrualic backhies, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas) concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machines, Drills (other than derrick type) 1-dum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Stright tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boats oprs., (under 25', conveyors) (1), distribution pors., on trucks, siphones or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

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ILL-17-PEO-1-2-3

POWER EQUIPMENT OPERATORS REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Class 1	$11.30	.40	.60		.035
Class 2	10.35	.40	.60		.035
Class 3	10.10	.40	.60		.035
Class 4	9.80	.40	.60		.035
Class 5	9.10	.40	.60		.035
Class 6	10.35	.40	.60		.035
Class 7	10.10	.40	.60		.035
Class 8	9.60	.40	.60		.035
Class 9	9.00	.40	.60		.035
Class 10	9.00	.40	.60		.035
RIVER WORK and LEVEE WORK ON MISSISSIPPI and OHIO RIVERS					
Class 11	11.40	.40	.60		.035
Class 12	9.50	.40	.60		.035

POWER EQUIPMENT OPERATORS:

Class 1: Apsco or equal spreading machine; Backhoe; Backfiller; Boom or which cat; Bituminous mixplace machine; Backsmith; Bituminous surfacing machine; Bulldozer; Crane; Shovel; Dragline; Truck crane; Piledriver; Concrete finishing machine or spreader machine; Concrete breaker; Concrete or pumperete pumps; Dinky or standard locomotive; Drill well; Elevating grader; Forklifts; Rubber-tired; Flex-plane; Gradall; Hf-lift, handblade, power; Hoists, tugger type; Hoist, (2 drums) or over one; Guy-derrick; Hyster mechanic; Motor patrol; Mixer 21 cu. ft. or over; Push cat; Pulls snd scrapers; Pumps; 2 well points; P&H pulverizer or pulverizer equal to pugmill; Rubber-tired farm type tractor with bull-dozer or hi-lift (over 1/2 yd.), Rubber-tired tractor w/auger; Skimmer scoops; Seaman tiller; Spreader, Jersey; Tract-air used w/drill or Hi-lift; Trenching machine, or ditching machine; Wood chipper with tractor; Self-propelled roller w/10 ft. blade; Concrete pumps; Equipment greader

Class 2: Roller, self-propelled, Power subgrader; Elevator operator

Class 3: Rubber-tired farm type tractor w/bull dozer or hi-lift (1/2 yd. or less)

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POWER EQUIPMENT OPERATORS (Cont'd)

Class 4: Pump, one well point; All tract type tractors, pulling any type roller or disc.

Class 5: Oiler; All wheel type tractors, Oiler on 30 Hp ditches and over; Oiler, Hydra-crane with 15 ton lifting capacity or more and cranes similar to Hydra-crane w/15 ton capacity and more

Class 6: Air compressor w/valve driving piling air compressors, two (220 cu. ft. capacity or over); Air track drills, air track drill w/compressor; Automatic bins scales w/compressor or generator; Pipeline boring machine; Bulk cement plant w/separate compressor bulk float power operator; Concrete saws, (two); Hydra-lift (single motor); Straw mulcher blower w/spout

Class 7: Backend man on bituminous surfacing machine; Boom or winch truck; Cet wagon w/or without dump; Conveyors, two; Chip spreader, self-propelled concrete saw, on self-propelled; Form grader; Hesters, (motor driven); Hoist, 1 drum; Truck crane oiler; Vibrator, self-propelled.

Class 8: Air track drill (one); Belt drag machine, Power boom, Mechanical; Plasterer applicator; Tract-air

Class 9: Air compressor (220 cu. ft. capacity or over), one; Air compressor under (220 cu. ft.) two; Automatic bins, bulk cement plant w/built in compressor, running of same motor or electric motor; Firemen or switchmen; Form tamper, self-propelled; Light plants (two); Welding machine (two); Pumps (two); or combination or 2 pumps, Light plants, welding machines, air compressor (under 200 cu. ft.); Mud jacks or wood chipper; Mixers, less than 21 cu. ft., Motor mixer w/skip or pump; Pipeline track jack

Class 10: Air compressor, under 220 cu. ft. capacity (one); Conveyor (one); Conveyor operator on self-propelled chip spreader; Heater (one); Motor driven; Light plant (one) pump (one); Welding machine (one) Ulmac or equal spreader

RIVER WORK and LEVEE WORK on MISSISSIPPI and OHIO RIVERS

Class 11: Crane, shovel, dragline 4 yards or more, scraper, 18 yards, struck or over, dredge, derrick and piledriver, push boat operator, mechanic or 4 yards machine or over, Engine man on dredge, Levee man on dredge

Class 12: Oiler on crane, dragline, shovel, 4 yard machine or over; Oiler on dredge

DECISION NO IL78-2144

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2, 3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

56382 NOTICES
56380 NOTICES
56383 NOTICES
56381 NOTICES

SUPERSEDEAS DECISION

STATE: Indiana
DECISION NUMBER: IN78-2163
Supersedes Decision No. IN78-2030 March 10, 1978 in 43 FR 10169
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: *See Below
DATE: Date of Publication

*Statewide, except Lake, LaPorte, Porter, and St. Joseph Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Jasper, Newton, and Starke Counties	$12.78	.65	.67		.05
Elkhart County	10.38	.70	.70		.05
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south and north running through Jessup, Rosedale, Carbondale, and Poland), Putnam, Vermillion (north of the south city limits of Summit Grove), and Warren Counties	11.15	.70	.50		.08
Remaindor of State of Indiana	10.23	.60	.60		.05
CEMENT MASONS:					
Adams, Allen, Dekalb, Noble, Steuben, and Whitley Counties	10.50	.75			.01

DECISION NO. IN78-2163

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (CONT'D)					
Benton (Eastern 2/3), Carroll, Cass, Clinton, Fountain (Eastern ½), Howard, Jasper (Southern 2/3), Miami, Montgomery, Newton (Southeastern 2/3), Tippecanoe, Warren (Eastern 2/3), & White Cos.	$10.00	.60	.75		
Jasper (Northeastern portion of Co. west to, but not incl. Wheatfield), Pulaski (Northern 2/3 of Co.), & Starke Cos.	10.72	.80	1.00		.03
Marshall, Fulton, Pulaski (S 1/3)	9.66	.60	.80		.04
Blackford, Delaware, Grant, Huntington, Jay, Randolph, Wabash, & Wells Cos.	9.95	.60	.80		
Elkhart, Kosciusko, & LaGrange Cos.	11.38		.30		.02
Boone, Hamilton (Southern ½ of Co., north to the new Rte. Indiana Hwy #32 incl. Noblesville), Hancock (southern & western part, north to but not incl. Wilkinson & east to, but not incl. Fortville), Hendricks, Johnson, Marion & Morgan (northern ½ of Co.) Cos.	10.36	.70	.75		.04
Crawford, Dubois, Perry, Posey, Spencer, Vanderburgh, & Warrick Cos.	10.60	.65	.55		
Greene & Sullivan Cos.	11.05	.50	.90		.01
Newton (Northern 1/3)	11.43	.85	.55		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
Daviess, Gibson, Knox, Martin & Pike Cos.	$ 9.35	.70	.80		
Dearborn, Ohio, Ripley, & Switzerland Cos.	7.50				
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	10.00				
Clay, Owen (extreme western part of Co.), Parke, Putnam, Vermillion, & Vigo Cos.	10.20	.60	.25		
IRONWORKERS:					
Adams, Allen, Blackford, Dekalb, Delaware (northeastern 1/3 of Co.), Grant (excluding s/w portion), Huntington, LaGrange (eastern ½ of Co.), Noble, Steuben, Wabash, Wells, & Whitley Cos.	11.80	.90	1.45		.02
Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos.	11.45	.90	1.33		.03
Jasper (Northern ½ of Co.), & Newton Cos.	12.72	.90	1.66		.09
Clark, Crawford, Floyd, Harrison Jackson (southern ½ of Co.), Jefferson, Jennings (southern ½ of Co.), Lawrence (southern 2/3 of Co.), Martin (eastern ½ of Co.), Orange, Scott, & Washington Cos.	11.75	.90	1.15		.06
Marion Co.	11.40	.90	1.70		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (Cont'd):					
Bartholomew, Boone (southeastern ½ of Co.), Brown, Clinton (eastern 1/3 of Co.), Decatur (western ½ of Co.), Delaware (southern 2/3 of Co.) Grant (S/W Portion), Hamilton, Hancock, Hendricks, Henry, Howard, Jackson (northern ½ of Co.), Jennings (northern ½ of Co.), Johnson, Lawrence (northeastern 1/6 of Co.), Madison, Monroe, Morgan, Owen, Putnam (eastern ½ of Co. excluding Greencastle), Rush, Shelby, & Tipton Cos.	11.55	.90	1.70		.05
Benton, Boone (northwestern ½ of Co.), Carroll, Cass, Clinton (western 2/3 of Co.), Fountain, Jasper (southern ½ of Co.), Miami, Montgomery, Tippecanoe, Warren, & White Cos.	11.54	.90	1.25		.02
Fayette, Jay, Randolph, Union, & Wayne Cos.	10.96	.90	1.25		.04
Clay, Daviess, Greene, Knox, Lawrence (northwestern 1/6 of Co.), Parke, Putnam (western ½ of Co. incl. Greencastle), Sullivan, Vermillion, & Vigo Cos.	11.30	.90	2.05		.10
Dearborn, Decatur (eastern ½ of Co.), Franklin, Ohio, Ripley & Switzerland Cos.	12.33	.90	1.20		.03
PAINTERS:					
Adams, Allen, Dekalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (northern ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	9.25	.50	.65		.12
Sandblasters; Spray	10.25	.50	.65		.12

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Bartholomew, Decatur, Jackson & Jennings Cos.:					
Brush; Roller; & Steel	$ 9.45	--	.50		
Spray	10.45		.50		
Benton, Clinton, Fountain, Montgomery, Putnam, Tippecanoe, & Warren Cos.:					
Brush; Roller	10.75				
Structural Steel	11.00				
Sandblasting	11.75				
Spray	14.02				
Blackford, Cass, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, & Wells (to the south city limits of Bluffton) Cos.:					
Brush	9.10		.60		
Spray	9.85		.60		
Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan (north ½ of Co.) & Shelby Cos.:					
Brush	10.43	.78	.34		
Spray	11.43	.78	.34		
Brown, Monroe, Morgan (excluding north ½ of Co.) & Owen Cos.:					
Brush	8.90			.30	
Structural Steel	9.65			.30	
Spray	9.90			.30	
Carroll, Jasper, Newton, & White Cos.:					
Brush	11.55	.64	.50		.05
Sandblasting; Sign; & Spray	12.30	.64	.50		.05
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Washington Cos.:					
Brush	9.02	.35	.20		.03
Spray	9.47	.35	.20		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Daviess, Gibson, & Knox Cos.:					
Brush up to 30'	9.80	.45			
Brush over 30'	10.60	.45			
Spray up to 30'	10.80	.45			
Spray over 30'	11.60	.45			
Dearborn, Ohio, Ripley & Switzerland Cos.:					
Brush; roller; wallwashing; Drywall taping & finish; paperhanging & vinyl; seamless floors & finishing floors; sanding	10.50				
Sandblasting & Steam clean	11.25				
Spray; Epoxy	11.00				
Tanks, elevators, bridges, Steeples over 40 ft.	11.60				
Dubois, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Cos.:					
Brush	10.80	.65	.30		
Spray	11.80	.65	.30		
Elkhart, Kosciusko, Marshall, Pulaski & Starke Cos.:					
Brush	9.59		.40		$15.00p/yr
Drywall taping & finish; Paperhangers; Spray & Vinyl	9.59		.40		15.00p/yr
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	8.85				
Sandblasting; Spray	9.85				
Structural Steel; Scaffold over 30 ft.	9.10				
Lawrence, Martin, & Orange Cos.:					
Brush; & Structural Steel	8.50				
Parke, & Vermillion Cos.:					
Brush	10.15			.25	
Spray	11.65			.25	
Sullivan, & Vigo Cos.:					
Brush	10.00			.25	
Spray	11.00			.25	

DECISION NO IN78-2163

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Sullivan, & Vigo Cos.: (Cont'd)					
Structural steel up to 30'	$10.25			.25	
Structural steel 30' to 100'	11.00			.25	
Structural steel over 100'	12.00			.25	

LABORERS: HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 7.60	.70	.50		.09
GROUP 2	7.75	.70	.50		.09
GROUP 3	7.80	.70	.50		.09
GROUP 4	7.90	.70	.50		.09
GROUP 5	8.45	.70	.50		

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

1 of 3

DECISION NO. IN78-2163
POWER EQUIPMENT OPERATORS
(Heavy & Highway Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$10.87	.55	.65		.08
GROUP II	9.60	.55	.65		.08
GROUP III	9.10	.55	.65		.08
GROUP IV	8.16	.55	.65		.08
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke Counties:					
GROUP I	10.27	.95	.85		.08
GROUP II	9.00	.95	.85		.08
GROUP III	8.50	.95	.85		.08
GROUP IV	7.56	.95	.85		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vandorburgh, Warrick, & Washington Counties:					
GROUP I	10.97	.50	.60		.08
GROUP II	9.70	.50	.60		.08
GROUP III	9.20	.50	.60		.08
GROUP IV	8.26	.50	.60		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	10.77	.55	.75		.08
GROUP II	9.50	.55	.75		.08
GROUP III	9.00	.55	.75		.08
GROUP IV	8.06	.55	.75		.08

POWER EQUIPMENT OPERATORS 2 of 3

Group 1: Air Compressors in Manifold with throttle valve; Asphalt Plant Engineer; Auto Grade or similar type machine; Auto Patrol; Backhoe on Farm type Tractor, 45 H.P. and over; Ballast Regulator (R. R.); Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Bull Dozer; Caisson Drilling Machine; Cherry Picker - 15 ton or over; Chip Spreader; Concrete Mixer 21 cu. ft. or over; Core Drilling Machine; Crane or Derrick with any attachment including clamshell, dragline, shovel, backhoe, etc.; Dredge Engineer; Dredge Operator; Drilling Machine on which the drill is an integral part; Earth Mover - rubber tired (paddle wheel, 619, 631, TS-24 or similar type); Earth Mover, rubber tired - tandem (50 cents per hour additional for each bowl); Elevating Grader; Fork Lift (10 ton or over); P.C.C. Formless Paver; Oradall; Gravel Processing Plant (Portable); Operator of Guard Rail Post Driver; Highlift Shovel - 1-1/2 cu. yd. or over; Hoist (2 drums and over); Helicopter - Crew; Hydraulic Boom Truck; Keystone (Skimmer Scoop); Loader - self-propelled (Belt-chain Wheel); Locomotive Operator; Mucking Machine; Panel Board Concrete Plant (Central Mix type); Paver-Hetherington; Pile Driver - Skid or Crawler; Road Paving Mixer; Rock Breaking Plant; Rock Crushing Plant (portable); Roller - Asphalt, Waterbound Macadam; Bituminous Macadam, Brick Surface; Roller with Dozer Blade; Root Rake, Tractor Mounted; Self-propelled Widener; Stump Remover, Tractor Mounted; Surface Heater and Planer; Tandem Push Tractor (50 cents per hour additional); Tractor - Boom, Winch or Hoe Head; Tractor - Push; Tractor Mounted Spreader; Tree Mover; Trench Machine (over 24"); Tug Boat Operator; Well Drilling Machine; Winch Truck with A-Frame; Tractor with scoop

Group 2: Air Compressor with throttle valve or Clever Brooks type combination; Backfiller; Back Hoe on Farm type Tractor, under 45 H.P.; Bull Float; Cherry Picker under 15 ton; Chip Spreader (self-propelled); Concrete Pump; Concrete Mesh Depressor - independently operated; Concrete Spreader - power driven; End Loader under 1-1/2 cu. yd.; Excavating Loader - portable; Finishing Machine and Bull Float; Gunite Machine; Head Greaser; Mechanic; Mesh or Steel Placer; Multiple Tamping Machine (R.R.); P.C.C. Concrete Belt Placer; Pull Grader - power control; Refrigerating Machine - freezing operation; Ross Carrier; Sheepfoot Roller (self-propelled); Tamper - Multiple Vibrating - Asphalt, Waterbound Macadam, Bituminous Macadam, Brick Surface; Trench Machine 24" and under; Tube Float; Welder

POWER EQUIPMENT OPERATORS (Cont'd) 3 of 3

Group 3: Assistant Plant Engineer; Base Paver (Jersey or similar type machine); Concrete Finishing Machine; Concrete Mixer - less than 21 cu. ft.; Curb Machine; Farm Tractor - including farm tractor with all attachments except backhoe and including high lift and loaders of 1 cu. yd. capacity or less; Firemen (on boiler); Hoist (one drum); Operator, 5 pieces of minor equipment; Paving Breaker; Power Broom, self-propelled; Roller (Earth and Sub-base material); Slurry Seal Machine; Spike Machine (R.R.); Tamper - Multiple Vibrating - Earth and Sub-base material); Throttle Valve; Throttle Valve and Fireman combination on horizontal or upright boiler; Tractaire with Drill; Tractor - 50 H.P. or over; Well Point System; Widener (Apsco or similar type)

Group 4: Air Compressor; Assistant to Engineer - Oiler; Automatic Dry Batch Plant; Bituminous Distributor; Bituminous Patching Tamper; Belt Spreader; Broom and Belt Machine; Chair Cart (self-propelled); Coleman Type Screen; Conveyor (portable); Deck Hand; Digger Post Hole (power-driven); Fork Lift - under 10 ton; Form Grader; Form Tamper (motor driven); Generator; Greaser Helper; Hetherington Driver; Hetherington Helper; Hydra Seeder; Mechanics Helper; Machanical Heater; Operator 1 thru 4 pcs. of minor equipment; Outboard or Inboard Motor Boat; Power Curing Spraying Machine; Power Saw - Concrete (power driven); Pug Mill; Pull Broom (power type); Seaman Tiller; Straw Blower or Brush Mulcher; Striping Machine, Paint (motor driven); Sub-grader; Tractaire; Tractor (below 50 H.P.); Truck Crane Oiler - Driver; Spreader; Water Pump; Welding Machine - 2 of 300 amps or over

LABORERS: SEWER, TUNNEL, & WATER CONSTRUCTION 1 of 2

	ZONE 2	ZONE 2A	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP 1	$7.80	$7.60	$7.60	$7.60	$7.80
GROUP 2	7.95	7.75	7.75	7.75	7.95
GROUP 3	8.00	7.80	7.80	7.80	8.00
GROUP 4	8.10	7.90	7.90	7.95	8.10
GROUP 5	8.20	8.00	8.00	8.00	8.20
GROUP 6:					
A.	8.00	7.80	7.80	7.80	8.00
B.	8.15	7.95	7.95	7.95	8.15
C.	8.60	8.40	8.40	8.40	8.60
D.	8.10	7.90	7.90	7.90	8.10

Fringe Benefits Payments			
H & W	Pensions	Vacation	Education and/or Appr. Tr.
$.70	.50		.09

ZONES

ZONE 1: Jasper, Lake, LaPorte, Newton, Porter, & Starke Counties (Excluded from this schedule)

ZONE 2: Elkhart & St. Joseph Counties

ZONE 2A: Kosciusko, LaGrange, & Marshall Counties

ZONE 3: Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Madison, Miami, Montgomery, Noble, Pulaski, Randolph, Rush, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties

ZONE 4: Marion & Shelby Counties

ZONE 5: Bartholomew, Brown, Clark, Clay, Crawford, Daviess, Dearborn, Decatur, Dubois, Floyd, Fountain, Franklin, Gibson, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Johnson, Knox, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Ripley, Scott, Spencer, Sullivan, Switzerland, Vanderburgh, Vermillion, Vigo, Warren, Warrick, & Washington Counties

LABORERS

GROUP 1: Chainman; Construction laborer; Continuous steel rod or mat installer; Fence erector; Grade checker; Guard rail erector; Joint man (mortar, mastic & all other types); Lighting installer (permanent & temporary); Lineman for automatic grade maker or paving machine; Manhole erector; Mortar man; Multi-plate erector; Rip-rap laborer, incl. all materials; Road marking & delineation laborer; Rodman; Sandblaster man; Setting & placing of all pre-stressed & precast concrete products; Spraying of epoxy, curing compound or like material; Survey crew helper; Temporary waterline installer; Top laborer; Wire mesh layer

GROUP 2: Air tool, power tool, & power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Cement handler (bulk or bag cement); Chain saw man; Concrete conveyor assembly man; Concrete puddler; Concrete rubber; Concrete saw operator - non riding type; Core drill operator; Hand blade operator; Hydro seeder man; Motor driven Georgia buggy operator; Power driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Sealer applicator for asphalt, toxic; Side rail setter - for sidewalks, side ditches, radii & pavements, etc.; Sign installation, including supporting structures; Spreader box tender; Straw blower man; Subsurface drain & culvert pipe layer; Transverse & longitudinal hand bull float man

GROUP 3: Horizontal boring & jacking man; Jackman & sheetman; Pipe grade man; Wench & windlass operator

GROUP 4: Conduit installer; Cutting torch burner; Lazer beam aligner; Manual operated welder; Sewer pipe layer; Water line installer

GROUP 5: Air track & wagon drillman; Concrete finisher; Dynamite & powder man

GROUP 6:
A. Bottom man; Concrete man
B. Concrete headman
C. Miner or header man
D. Mucker & Tunnel laborer

Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Counties

POWER EQUIPMENT OPERATORS: TUNNEL AND SEWER CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.30	.40	.40		.05
GROUP II	9.20	.40	.40		.05
GROUP III	8.80	.40	.40		.05
GROUP IV	8.00	.40	.40		.05

CLASSIFICATIONS

GROUP I
Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II
A frame truck; Batcher plant (automatic dry batch); Bonding machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or tamper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic in shop; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Shop mule; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III
Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Minor equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV
Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties

POWER EQUIPMENT OPERATORS 1 of 2

Tunnel & Sewer Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.65	.55	.75		.08
GROUP II	11.55	.55	.75		.08
GROUP III	11.35	.55	.75		.08
GROUP IV	8.00	.55	.75		.08

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes; Draglines; Derricks; Electric Overhead Cranes; Shovels; Gradall; Mechanics; Repair and Maintenance of all Equipment; Tractor Highlift; Fork lifts; Tournadozer; Mixer over 14S Capacity; Tournamixer; Two Drum Machine or Two Cage Hoists; Cableways; Tower Machines; Motor Patrol; Boom Tractor; Boom or Winch Truck; Truck Crane; Tournapull; Tractor operating Scoops; Bulldozer; Push Tractor; Finishing Machine on Asphalt; Large Rollers & Rollers on Asphalt; Gravel, Macadam and Brick Surface; Ross Carrier or similar Machine; Gravel Processing Machine; Asphalt Plant Engineer or Pug Mill; Two Air Compressors; Hetherington Paver Operator; Farm Tractor with half Yard bucket and/or Back Hoe Attachment; Trench Machines cutting over 24"; Dredging Equipment; Central Mix Plant Engineer; CMI or similar type Machine; Concrete Spreader; Cherry Picker; Standard or Dinkey Locomotives; Scoopmobiles; Euclid Loader; Soil Cement Machines; Back Filler; Elevating Machine; Power Blade; Asphalt Plant Engineer; Well Drilling Machines; Paint Machine; Pipe Cleaning Machines; Pipe Wrapping Machine; Pipe Bending Machine; Apsco Paver; Boring Machine; Tractor Without Winch; Head Equipment Greasers; Barber Green Loaders; Formless Paver; Well Point System Hydra Ax; Resco Concrete Saw; Marine Scoops; Brush Mulcher; Brush Burner; Mesh Placer; Tree Mover; Helicopter Crew (3); Pile Driver Skid or Crawler; Stump Remover; Root Rake; Tug Boat Operator; Refrigerating Machine Freezing Operator; Chair Cart - Self Propelled; Hydra Seeder; Straw Blower; Concrete Mixers with Skip; all one Drum Hoists with Tower or Boom; Dredge Engineer; Dredge Operator; Rock Spreader; Truck or Skid Mounted Tower Crane; Engine or Rock Crusher Plant; Boiler Operator; Concrete Plant Engineer; Loaders; Hydra Crane Caissons; Shaft or any similar type Drilling Machine; Concrete Curb Machine - Self Propelled; Winch or Hydraulic Boom Truck

GROUP IV Mixers 14S capacity or less; Trench Machine cutting 24" and under; Farm Tractor with less than half yard bucket and other Attachments except Back Hoe; Truck Crane Oiler; Power Subgrader; Bull Float; Form Grader; Finishing Machine; Pavement Breaker; Rock Crushers; One Drum Machine; One Air Compressor; Concrete Pump; Gunite Machine; Air Taggers; Truck Crane Drivers; House Elevators when used for hoisting Material; Two to Four Generators or Welding Machine; Mechanized Heaters irrespective of Motor Power when used for temporary heat; Small Rollers on Earth; Engine Tenders; Firemen; Wagon Drill; Flexplane; Conveyor; Two to Four Water Pumps; Siphon and Pulsometer; Switchman on Paint Pots; Fireman on Asphalt Plants; Distributor Operator on Trucks; Tampers; Power Broom; Post Hole Digger; Self-propelled Concrete Saw; Striping Machine (Motor Driven); Form Tamper; Seaman Tiller; Bulk Cement Plant Equipment Greaser; Track Jack; Mud Jack; Operator to do Winter Repair Work in Shop between November 1st and March 1st; Concrete Buggies motor driven; Oilers; Barrel Type Mixer; One Welding Machine or One Water Pump; Air Valves or Steam Valves from Plant; Concrete Mixers without Skip; Curing Machine; Concrete & Blacktop Curb Machine; Deck Hands

Cranes with booms from 149 ft. to 199 ft. including jib. receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

56390 NOTICES
56388 NOTICES
NOTICES 56391
NOTICES 56389

Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties

POWER EQUIPMENT OPERATORS Sewer, Tunnel, & Water Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	10.25	.40	.45		.08
GROUP B	9.15	.40	.45		.08
GROUP C	7.91	.40	.45		.08

CLASSIFICATIONS

GROUP A: A-Frame winch truck; air compressor 900 cu. ft. and over; air tugger; auto-grade (CMI); auto patrol; backhoe; ballast regulator (RR); batcher plant (electric control concrete); bending machine (pipe); bituminous plant; bituminous mixer travel plant, bituminous paver, roller; bulldozer; cable way; Chicago boom; clamshell; concrete mixer (21 cu. ft. or over); concrete paver; concrete pump (trete); crane; craneman; crusher plant; derrick; derrick boat; dinkey; dope pots (pipeline); Dragline; dredge operator; dredge engineer; drill operator; elevating grader; elevator; Ford hoe, (or similar type equipment); forklift; formless paver; gantry crane; gradeall; grademan; grout pump; helicopter crew; Hetherington paver; highlift; hoist; hopto; hough loader (or similar type); hydro crane; hydro hammer; locomotive crane; locomotive; mechanic; mobile mixer; motor crane; mucking machine; multiple tamping machine (RR); overhead crane; pile driver; pulls; push dozer; push boats; roller (sheepfoot); Ross carrier; scoop; shovel; side boom; swing crane; tail boom; tar machine (pipeline); throttle valve; tower crane; trench machine, welder heavy duty; truck mounted concrete pump and drill; well point; whirleys

GROUP B: Air compressor (up to 900 cu. ft.); brakeman; hull float; concrete mixer (over 10S and under 21S); concrete spreader or puddler; deck engine; electric vibrator Kompactor (earth or rock); finishing machine; fireman; greaser (on grease facilities servicing heavy equipment); material pump; motor boats; portable loader; post hole digger; power broom; rock roller; roller-wobble wheel (earth and rock); spike machine (RR); seaman tiller; spreader rock; sub-grader; tamping machine; welding machine; widener (Apsco or similar type)

GROUP C: Bituminous distributor; cement gun; concrete saw; conveyor; deck hand oiler; drill helpers; earth roller; form grader; generator; guard rail driver; heater; oiler; paving joint machine; steam Jenny; Truck crane oiler; vibrator; water pump

Jasper, Newton, Pulaski, & Starke Counties

POWER EQUIPMENT OPERATORS Tunnel & Sewer Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$12.40	1.00	1.00		.05
Class II	11.90	1.00	1.00		.05
Class III	10.35	1.00	1.00		.05
Class IV	9.35	1.00	1.00		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; boring machine (mining machine); caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket over ½ cu. yd.; combination tugger hoist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete pump w/boom (truck mounted); concrete tower; cranes, all; cranes, hammerhead tower; creter crane; derricks, all; derricks, traveling; forklift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoist, two tugger one floor; hydraulic boom truck; locomotive, all; motor patrol; mucking machine; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, ½ cu. yd. and under; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoist, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150; combination - small equipment operator; forklift - under 10 tons; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5); winches 4 electric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

Benton, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wabash, Wayne, & White Counties

POWER EQUIPMENT OPERATORS: TUNNEL AND SEWER CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$11.70	.55	.65		.09
GROUP II	10.75	.55	.65		.09
GROUP III	9.05	.55	.65		.09
GROUP IV	8.05	.55	.65		.09

CLASSIFICATIONS

GROUP I
Air compressor (pressurizing shafts, tunnels & divers); Air tugger; Auto patrol; Back filler; Backhoe; Boom cat; Boring machine; Bull dozer; Caisson drilling machine; Cherry picker; Compactor (with dozer blade); Concrete mixer (dual drum); Concrete plant; Concrete pump; Crane with all attachments; Crane - electric overhead; Derrick; Dual purpose truck (pitman type); Ditching machine (18" and over); Dredge; Elevators (when hoisting material or tools); Fork lift; Formless paver; Generator (power for welders or compressors); Gradall; Helicoptor; Helicoptor winch operator; High lift - front end loader; Hoist; Locomotive and/or dinky engine; Mechanic on job site; Mucking machine; Panel board concrete plant; Pile driver; Push cat; Scoop & tractor; Scraper - rubber tired; Spreader - tractor mounted; Straddle carrier - ross type; Sub base finish machine (C.M.I. or similar); Tower crane; Tractor with backhoe (1/2 yard and over); Trench box - power driven; Tunnel shield; Welder (craft)

GROUP II
A frame truck; Batcher plant (automatic dry batch); Bending machine - Power driven; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boatman; Bull float; Compactor or tamper - self-propelled; Concrete mixer (21 cu. ft. or over); Concrete spreader - power driven; Ditching machine (less than 18"); Drilling machine; Finish machine & bull float; Finishing machine; Fireman - Pile driving and boilers; Gunite machine; Head greaser; Mechanic; Mesh depresser - mesh placer; P.C.C. concrete belt placer; Roller - asphalt, Stone & sub base; Rotary drill; Sheepsfoot roller - self-propelled; Spreader or base paver-self-propelled; Sub grader; Throttle valve with air compressor or boiler; Tractor with backhoe (under 1/2 yard); Tractor - high lift - farm type; Tractor - industrial type; Tractor with winch; Well points; Winch truck

GROUP III
Air compressor (210 cu. ft. & over); Bituminous distributor; Chair cart; Concrete curing machine; Concrete saw; Dope pot - power agitated; Flex plane; Form grader; Hydrohammer; Jacks - hydraulic - power driven; Miner equipment operator 2,3,4, or 5; Paving joint machine; Post hole digger; Roller - earth; Throttle valve; Track jack - power driven; Tractor - farm type; Truck crane driver

GROUP IV
Air compressor (less than 210 cu. ft.); Concrete mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical heater; Oiler; Power broom; Pump; Welding machine; Helpers

Statewide, except Clark, Crawford, Dearborn, DuBois, Floyd, Fountain, Gibson, Harrison, Jackson, Jefferson, Miami (Peru & Grissom AFB), Perry, Pike, Posey, Scott, Spencer, Switzerland, Vanderburgh, Vermillion, Warren, Warrick, Washington, & Clinton (Frankfort) Counties

LINE CONSTRUCTION EXCLUSIVE OF CALUMET AREA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Technicians	$10.57	.45	3%		.5%
Equipment Operators 1	8.26	.45	3%		.5%
Equipment Operators 2	9.56	.45	3%		.5%
Equipment Operators 3	10.04	.45	3%		.5%
Equipment Operators 4	10.57	.45	3%		.5%
Powderman and Equipment Mechanic	8.07	.45	3%		.5%
Senior Groundman Truck Driver w/w	6.90	.45	3%		.5%
Groundman Truck Driver with winch	6.63	.45	3%		.5%
Groundman Truck Driver w/o winch	5.81	.45	3%		.5%
Senior Groundman after 5 years	6.62	.45	3%		.5%
Senior Groundman after 12 months	6.44	.45	3%		.5%
Groundman 0-12 months	5.45	.45	3%		.5%
CALUMET AREA					
Linemen; Technicians	10.90	.45	3%		.5%
Equipment Operators 1	8.34	.45	3%		.5%
Equipment Operators 2	9.63	.45	3%		.5%
Equipment Operators 3	10.11	.45	3%		.5%
Equipment Operators 4	10.90	.45	3%		.5%
Powderman and Equipment Mechanic	8.14	.45	3%		.5%
Senior Groundman Truck Driver w/w	7.02	.45	3%		.5%
Groundman Truck Driver with winch	6.71	.45	3%		.5%
Groundman Truck Driver w/o winch	5.89	.45	3%		.5%
Senior Groundman after 5 years	6.75	.45	3%		.5%
Senior Groundman after 12 months	6.56	.45	3%		.5%
Groundman 0-12 months	5.55	.45	3%		.5%

Clark, Floyd, Harrison, Jackson, Jefferson, Scott, & Washington Cos. LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Line truck driver; Mechanized equipment operators	$13.30	.50	3%+.60		

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LINE CONSTRUCTION

Crawford, DuBois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Line truck operators; Hole digger; Steel handling cable splicer	$13.05	.50	3%+.60		½%
GROUNDMAN	11.69	.50	3%+.60		½%
TRUCK DRIVER	12.00	.50	3%+.60		½%
Fountain, Vermillion, & Warren Counties					
LINEMEN; Groundman equipment operator	12.12	.50	3%+.50		½%
GROUNDMAN TRUCK DRIVER W/WINCH	9.86	.50	3%+.50		½%
GROUNDMAN TRUCK DRIVER WO/WINCH	9.22	.50	3%+.50		½%
GROUNDMAN	8.73	.50	3%+.50		½%

LINE CONSTRUCTION

Clinton (Frankfort only) & Miami (Peru & Grissom AFB) Cos.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Heavy equipment operators "A"	$11.53	.45	3%		½%
CABLE SPLICERS	12.52	.45	3%		½%
HEAVY EQUIPMENT OPERATORS "B"	9.28	.45	3%		½%
POWDERMAN; Equipment mechanic	9.07	.45	3%		½%
SENIOR GROUNDMAN - truck driver with winch	7.60	.45	3%		½%
GROUNDMAN - truck driver with winch	7.27	.45	3%		½%
SENIOR GROUNDMAN AFTER 5 YEARS	7.25	.45	3%		½%
SENIOR GROUNDMAN AFTER 12 MONTHS	7.03	.45	3%		½%
GROUNDMAN - truck driver without winch	7.27	.45	3%		½%
GROUNDMAN 0 to 12 MONTHS	6.02	.45	3%		½%

DECISION NO. IN78-2163

Dearborn & Switzerland Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Up to & including 18 mi. radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operator all mechanized equipment operators	$12.90	.70	3%+.60		.5%
Groundmen	9.68	.70	3%+.60		.5%
Over 18 up to & including 21 mi radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	13.20	.70	3%+.60		.5%
Groundmen	9.90	.70	3%+.60		.5%
Over 21 up to & including 25 mi radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	13.30	.70	3%+.60		.5%
Groundmen	9.98	.70	3%+.60		.5%
Over 25 mi radius of Hamilton Co., Court House, Cincinnati, Ohio					
Linemen; Operators all mechanized equipment operators	13.45	.70	3%+.60		.5%
Groundmen	10.09	.70	3%+.60		.5%

DECISION NO.: KY78-1098

STATE: KENTUCKY

COUNTIES: ANDERSON, BATH, BOURBON, BOYD, BOYLE, BRACKEN, BRECKINRIDGE, BULLITT, CARROLL, CARTER, CLARK, ELLIOTT, FAYETTE, FLEMING, FRANKLIN, GALLATIN, GRAYSON, GRANT, GREENUP, HARDIN, HARRISON, HENRY, JEFFERSON, JESSAMINE, LARUE, LEWIS, MADISON, MARION, MASON, MEADE, MERCER, MONTGOMERY, NELSON, NICHOLAS, OLDHAM, OWEN, ROBERTSON, ROWAN, SCOTT, SHELBY, SPENCER, TRIMBLE, WASHINGTON, & WOODFORD

Supersedeas Decision No. KY77-1124, dated September 30, 1977, in 42 FR 53044.

DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK:

HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$10.94	.50	.40		.01
CARPENTERS	10.23	.60	.60		.05
CEMENT MASONS	9.48	.90	.60		.04
ELECTRICIANS (OUTSIDE):					
Linemen & Cable splicers	12.40	.50	3% + .40		½ of 1%
Groundmen	7.69	.50	3% + .40		½ of 1%
IRONWORKERS	11.45	.90	1.45		.06
MILLWRIGHTS	11.75	.50	.65		.05
PAINTERS:					
Brush & Roller	9.02	.35	.20		.03
Sandblasting	9.37	.35	.20		.03
Spray	9.47	.35	.20		.03
Bridge Work - work on bridges over navigable water shall carry a premium of $2.00 added to the base rate.					
PILEDRIVERMEN	9.66	.30	.30		
PIPEFITTERS	12.69	.64	1.15		.09
PLUMBERS	12.78	.65	1.04		.10
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY78-1098

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.07	.35	.47		
GROUP 2	8.32	.35	.47		
GROUP 3	8.37	.35	.47		
GROUP 4	8.97	.35	.47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping and seeding, planters & tree-trimmers; sign guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, flagmen, rip-rap & grouters, dredging laborers, right of way laborers, wrecking & demolition laborers, drill helper, & all hand digging and hand back filling.

GROUP 2 - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheel barrow, sand blaster & concrete chippers, green concrete cutting, brickmason tenders & mortar mixers, pipe layers, joint maker, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, surface grinderman, hand operated grouter & grinder machine, operator & deckhand scow man, burner & welder.

GROUP 3 - Powderman and blasters, side rail setters - including rail paved ditches tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air tact driller (all types), grout pump operator.

GROUP 4 - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air) Caisson workers (free air).

DECISION NO. KY78-1098

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION:					
CLASS A	$10.80	.50	.60		.05
CLASS B	8.33	.50	.60		.05
CLASS C	7.63	.50	.60		.05
CLASS D	11.05	.50	.60		.05

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader.

CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, Whirley oiler, tract-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun coveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill and caisson drill helper (track or skid mounted).

CLASS D - Oporators on cranes with booms one hundred fifty feet (150') and over (including jib).

DECISION NO. KY78-1098

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HIGHWAY CONSTRUCTION:					
CLASS A	$ 9.50	.50	.60		.05
CLASS B	7.55	.50	.60		.05
CLASS C	7.80	.50	.60		.05
CLASS D	7.16	.50	.60		.05

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grads-all, hoist (two or mors drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" and over), maching machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (ons drum or buck hoist), welding machine, form grader, grout pump, roller (rook), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

DECISION NO. KY78-1098

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck helper & warehousemen, & mobile batch truck helper	$ 8.10	a	b		
Driver - 3 tons and under, greaser, tire changer, & mechanic helper	8.21	a	b		
Driver - over 3 tons, semi-trailer or pole-trailer (when used to pull building materials and equipment), dump truck tandem axle, truck mechanic, & distributor	8.39	a	b		
Driver - mixer trucks (ALL TYPES)	8.42	a	b		
Driver - Euclid & other heavy earth moving equipment & low boy, winch truck & A-frame truck (when used to transport materials), fork lift (when used to transport building materials), and pavement breakers	8.49	a	b		

FOOTNOTES:

a. Employer contribution of $21.00 per week per employee who has been employed a minimum of 20 work days within any 90 consecutive day period for that employer.

b. Employer contribution of $20.00 per week per employee who has been employed a minimum of 20 work days within any 90 consecutive day period for that employer.

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: ALLEN, BALLARD, BUTLER, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, DAVIESS, EDMONSON, FULTON, GRAVES, HANCOCK, HENDERSON, HICKMAN, HOPKINS, LIVINGSTON, LOGAN, LYON, McCRACKEN, McLEAN, MARSHALL, MUHLENBERG, OHIO, SIMPSON, TODD, TRIGG, UNION, WARREN, AND WEBSTER.

DECISION NO.: KY78-1099 DATE: DATE OF PUBLICATION

Supersedes Decision No. KY77-1122, dated September 30, 1977, in 42 FR 53040.

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 9.15	.45	.30		
CEMENT MASONS	*8.40	.85	.35		.05
*Cement mason working on a swinging scaffold shall receive an additional 25¢ per hour when working up to 50ft. and an additional 25¢ per hour for each additional 50ft. or a portion thereof.					
ELECTRICIANS (OUTSIDE):					
Linemen	12.10	.50	3%		1% of 1%
Cable splicers	12.35	.50	3%		1% of 1%
Groundmen	8.87	.50	3%		1% of 1%
IRONWORKERS	12.30	.55	1.05		.045
MILLWRIGHTS	9.90	.45	.30		
PAINTERS:					
Brush & Roller	9.45	.45			
Sandblast & Power tools	10.00	.45			
BRIDGE WORK - Brush, Roller, Spray, & Sandblast	10.45	.45			
When there is a FREE FALL beginning at the point of: 40' to 80' + 50¢ per hour over the base rate of work classification; 80' to 120' + 75¢ per hour over the base rate of work classification; Over 120' + $1.00 per hour over the base rate of work classification.					
PILEDRIVERMEN	9.40	.45	.30		
PLUMBERS & PIPEFITTERS	11.90	.60	.65		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY78-1099

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP 1	$ 8.07	.35	.47		
GROUP 2	8.32	.35	.47		
Group 3	8.37	.35	.47		
GROUP 4	8.97	.35	.47		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping and seeding, planters & tree-trimmers, sign guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, flagmen, rip-rap & grouters, dredging laborers, right of way laborers, wrecking & demolition laborers, drill helper, & all hand digging and hand back filling.

GROUP 2 - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheel barrow, sand blaster & concrete chippers, green concrete cutting, brickmason tenders & mortar mixers, pipe layers, joint maker, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, surface grinderman, hand operated grouter & grinder machine, operator & deckhand scow man, burnor & welder.

GROUP 3 - Powderman and blasters, side rail setters - including rail paved ditches, tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air track driller (all types), grout pump operator.

GROUP 4 - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), Caisson workers (free air).

DECISION NO. KY78-1099

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION:					
CLASS A	$10.80	.50	.60		.05
CLASS B	8.33	.50	.60		.05
CLASS C	7.63	.50	.60		.05
CLASS D	11.05	.50	.60		.05

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader.

CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, Whirley oiler, tract-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun covsyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill and caisson drill helper (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') and over (including jib).

DECISION NO. KY78-1099

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HIGHWAY CONSTRUCTION:					
CLASS A	$ 9.50	.50	.60		.05
CLASS B	7.55	.50	.60		.05
CLASS C	7.80	.50	.60		.05
CLASS D	7.16	.50	.60		.05

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" and over), muching machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

DECISION NO. KY78-1099

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck helper & warehousemen, & mobile batch truck helper	$ 8.37		a		
Driver - 3 tons & over, greaser, tire changer & mechanic helper	8.42		a		
Truck mechanics	8.65		a		
Driver - over 3 tons, semi-trailer (when used to pull building matsrials or equipment), dump truck, tandem axle, distributor, & mixer trucks (ALL TYPES)	8.72		a		
Driver - Euclid & other heavy earth moving equipment and low boy, winch truck & A-frame truck (when used in transporting materials), fork lift (when used to transport building materials), & pavement breakers	8.73		a		

FOOTNOTE:

a. Employer contribution of $31.00 per week per employee who has been employed a minimum of 20 work days within any 90 consecutive day period for that employer.

SUPERSEDEAS DECISION

STATE: KENTUCKY

DECISION NO.: KY78-1100

COUNTIES: ADAIR, BARREN, BELL, BREATHITT, CASEY, CLAY, CLINTON, CUMBERLAND, ESTILL, FLOYD, GARRARD, GREEN, HARLAN, HART, JACKSON, JOHNSON, KNOTT, KNOX, LAUREL, LAWRENCE, LEE, LESLIE, LETCHER, LINCOLN, McCREARY, MAGOFFIN, MARTIN, MENIFEE, METCALFE, MONROE, MORGAN, OWSLEY, PERRY, PIKE, POWELL, PULASKI, ROCKCASTLE, RUSSELL, TAYLOR, WAYNE, WHITLEY, WOLFE.

DATE: DATE OF PUBLICATION

Supersedes Decision No. KY77-1134, dated November 11, 1978, in 42 FR 58926,

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$10.10	.35	.35	.25	
CARPENTERS	8.60	.35	.35	.25	
CEMENT MASONS	8.45	.35	.35	.25	
ELECTRICIANS (OUTSIDE):					
Linemen & cable splicers	12.65	.50	3%		½ of 1%
Groundmen	9.49	.50	3%		½ of 1%
IRONWORKERS:					
Reinforcing	8.50	.35	.35	.25	
Structural	8.70	.35	.35	.25	
MILLWRIGHTS	9.11	.50	.30		
PAINTERS:					
Brush, roller, & spray	10.30	.35	.35	.25	
PILEDRIVERMEN	8.25	.35	.35	.25	
PLUMBERS	12.27	.35	.35	.25	
SHEET METAL WORKERS	10.15	.35	.35	.25	
TRUCK DRIVERS:					
Truck helper & warehousemen	6.90	.35	.35	.25	
Driver, winch truck & A-frame truck (when used in transporting materials)	7.00	.35	.35	.25	
Driver, distributor, dump truck tandem axle, & semi-trailer or pole-trailer	7.10	.35	.35	.25	
Driver, mixer truck (ALL TYPES)	7.15	.35	.35	.25	
Truck mechanic	7.20	.35	.35	.25	
Driver, 3 tone & under, & tire changer	7.23	.35	.35	.25	
Driver, pavement breaker	7.25	.35	.35	.25	
Driver, over 3 tone	7.44	.35	.35	.25	
Driver, Euclid and other heavy earth moving equipment and low boy	8.01	.35	.35	.25	
Greaser on grease facilities	8.05	.35	.35	.25	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY78-1100

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, flagmen	$ 6.65	.35	.35	.25	
Hand blade operator & batch truck dumper, deck hand or scow man	6.90	.35	.35	.25	
Power Driven Tool Operator of the following: wagon drill, chain saw, jack hammer, concrete saw, sand blaster, concrete chipper, pavement breaker, vibrator, power wheelbarrow, power buggy, sewer pipe layer, bottom men, dry cement handler, concrete rubber, mason tender	7.00	.35	.35	.25	
Asphalt lute & rakermen, side rail setter	7.05	.35	.35	.25	
Gunnite nozzleman; gunnite operator	7.15	.35	.35	.25	
Tunnel laborers (free air)	7.20	.35	.35	.25	
Tunnel mucker (free air)	7.25	.35	.35	.25	
Tunnel miner, blaster & driller (free air)	7.60	.35	.35	.25	
Drill operator of percussion type drills which are both powered and propelled by an independent air supply	7.95	.35	.35	.25	
Powdermen	8.15	.35	.35	.25	
Caisson workers	8.15	.35	.35	.25	

DECISION NO. KY78-1100

POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$10.80	.50	.60		.05
CLASS B	8.33	.50	.60		.05
CLASS C	7.63	.50	.60		.05
CLASS D	11.05	.50	.60		.05

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader.

CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, Whirley oiler, tract-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun coveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill and caisson drill helper (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') and over (including jib).

DECISION NO. KY78-1100

POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 9.50	.50	.60		.05
CLASS B	7.55	.50	.60		.05
CLASS C	7.80	.50	.60		.05
CLASS D	7.16	.50	.60		.05

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, rotary drill (5" and over), muching machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hbist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post drivor.

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: BOONE, CAMPBELL, KENTON, & PENDLETON

DECISION NUMBER: KY78-1101

DATE: DATE OF PUBLICATION

Supersedes Decision No. KY77-1125, dated September 30, 1977, in 42 FR 53046.

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$12.20	.60	.65		.075
CEMENT MASONS	11.38	.60	.30		.02
ELECTRICIANS (OUTSIDE):					
Linemen	12.50	.70	3% + .60		½ of 1%
Groundmen	9.375	.70	3% + .60		½ of 1%
IRONWORKERS:					
Reinforcing	11.53	1.70	1.20		.02
Structural	12.33	.90	1.20		.03
PAINTERS:					
Brush & roller	12.25		.25		
Spray	12.65		.25		
Sandblasting, hoppertender, & waterblasting	12.90		.25		
BRIDGE WORK: (when highest point of clearance is 60 ft. or more)					
Brush, roller, & spray	13.24		.25		
Sandblasting, hoppertender, & waterblasting	13.90		.25		
PILEDRIVERMEN	12.20	.60	.65		.075
PLUMBERS	12.82	1.05	1.20		.07
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY78-1101

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.77	.70	.70		.10
GROUP 2	8.895	.70	.70		.10
GROUP 3	8.97	.70	.70		.10
GROUP 4	9.12	.70	.70		.10
GROUP 5	9.42	.70	.70		.10

GROUP 1 - Laborers (construction), plant laborers or yardmen, right-of-way laborers, landscape laborers, utility men or handymen, joint setter, flagmen, carpenter helper, waterproofing laborers, slurry seal, seal coating, surface treatment or road mix laborers, riprap laborers or grouter, asphalt laborers, dump man (batch trucks), guardrail and fence installer, mesh handler and placers, concrete curing applicator, scaffold erector.

GROUP 2 - Asphalt raker, concrete puddler, kettleman (pipeline), all machine driven tools (gas, electric, air), mason tenders, mortar mixer, sheeting and shoring man, surface grinder man, power buggy and wheelbarrow (power).

GROUP 3 - Form setter, bottom man, welder helper (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), oar pusher (without air), underground man (working in sewer and waterline, cleaning and repairing and reconditioning), tunnel laborer (without air), and caisson, cofferdam (below 25 ft. deep), air track and wagon drill.

GROUP 4 - Blaster and powder man, muckers, wrencher (mechanical joint and utility pipeline), yarner, top landsr.

GROUP 5 - Curb setter, and cutter, miner (without air), concrete crew in tunnels, utility pipeline tapper, gunnite nozzleman, waterline caulker.

DECISION NO. KY78-1101

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MASTER MECHANICS	$12.04	.66	1.00		.11
CLASS A	11.79	.66	1.00		.11
CLASS B	11.67	.66	1.00		.11
CLASS C	10.63	.66	1.00		.11
CLASS D	10.20	.66	1.00		.11
CLASS E	8.14	.66	1.00		.11

CLASS A - Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer & tower, concrete plants (over 4 yds. capacity), concrete pumps, cranes (all types, including A-frame, boom truck, cherry picker), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator hoist or winch), hoes (all types), hoisting engines or shaft or tunnel work, hoisting engines, industrial type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator class A mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), Rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shedder, trench machines (over 24" wide), truck mounted concrete pumps tug boat, tunnel machine, wheel excavator.

CLASS B - Asphalt paver, automatic subgrader machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - Dirt), lead grease man, maintenance operators Class B, power grader, power scoops & scrapers, push cat, trench machines (24" wide & under).

CLASS C - Air compressors on tunnel work (low pressure), asphalt plant, locomotive (narrow gauge), mixers, concrete (more than 1 bag capacity), mixers, side loader (1 bag capacity), power boilers over 15 lbs. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers (asphalt, utility operator - small equipment), welding machines & generators.

CLASS D - Backfillers, bar, joint & mesh installing machines, batch plant, bull floats, burlap & curing machines, compressors (portable - sewer, heavy & highway), concrete plant (capacity 4 yds. & under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill (highway with integral power), farm type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenches, hydro seeders, plant mixers, post driver, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled subgraders, steam fireman, survey instrument man, tractor (pulling sheepfoot roller or grader), vibratory compactors (with integral power), Boring machine operators (48" or less), hydro hammer, pavement breaker.

CLASS E - Drum fireman (asphalt plant, helpers, inboard-outboard motor boat-launch, oil heaters (asphalt plants), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tire repairmen.

DECISION NO. KY78-1101

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck helper & warehousemen, & mobile batch truck helper	$ 8.28	a	b		
Driver - 3 tons and under, greaser, tire changer, & mechanic helper	8.39	a	b		
Driver - over 3 tons, semi-trailer or pole trailer (when used to pull building materials & equipment), dump truck tandem axle, truck mechanic, & distributor	8.57	a	b		
Driver - mixer trucks (all types)	8.60	a	b		
Driver - Euclid & other heavy moving equipment & low boy, winch truck & A-frame truck (when used in transporting materials), fork lift truck (when used to transport building materials), & pavement breakers.	8.67	a	b		

FOOTNOTES:

a. Employer contribution of $25.00 per week per employee who has been employed a minimum of 20 work days within any 90 consecutive day period for that employer.

b. Employer contribution of $9.00 per week per employee who has been employed a minimum of 20 work days within any 90 consecutive day period for that employer.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ONEIDA
DECISION NO.: NY78-3095 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY78-3034 dated April 14, 1978 in 43 FR 16077
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$12.78	.90	.43		.06
Boilermakers	11.80	1.05	10%		.02
Bricklayers, Cement Masons, Pointers, Caulkers, Cleaners, Plasterers and Stone Masons, Building:	10.35	.50	.90		
Cement Masons, (Heavy & Highway)	9.60	.50	.90		
Carpenters, (Building):					
Carpenters & Soft Floor Layers	9.45	.60	.55	a	.03
Piledrivermen & Millwrights	9.70	.60	.55	a	.03
Carpenters, (Heavy and Highway)	10.065	.50	.50	a	.03
Electricians:					
Verona and Vienna Twps. west of State Highway 13:					
Electricians	12.70	.77	3%+.95		.05
Cable Splicers	13.55	.77	3%+.95		.05
Remainder of County:					
Electricians	11.65	.80	3%+.60		.07
Cable Splicers	12.75	.80	3%+.60		.07
Elevator Constructors	11.18	.745	.56	b+c	.025
Elevator Constructors' Helper	7.83	.745	.56	b+c	.025
Elevator Constructors' Helpers (Prob)	5.59				
Glaziers:					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Lee, Rome City, Ava, Western, Floyd, Boonville and Steuben	10.00	.80			.01
Remainder of County	8.435	.175	.30		
Ironworkers:					
Structural, Ornamental, Reinforcing, Machinery Mover, Rigger, Rodmen, Fence Erector and Stone Derrickman	10.27	1.11	1.02		.04
Sheeters	10.52	1.11	1.02		.04
Sheeters, Bucker-up	10.395	1.11	1.02		.04

DECISION NO. NY78-3095

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, (Building):					
Twps. of Forestport, Remsen, Trenton, Marcy, Deerfield, Whitestown, New Hartford, Kirkland, Marshall, Paris, Bangerfield, Bridgewater and the City of Utica:					
Laborers	7.50	1.15	.90	d	
Pipelayers, mortar mixers (hand or machine), motor buggy operator, (walk behind), power high lift	7.65	1.15	.90	d	
Blasters, form setters and motor buggy rider type	8.00	1.15	.90	d	
Wagon drill operator	7.90	1.15	.90	d	
Remainder of County:					
Laborers, Common	7.825	.60	.65	e	
All rock drilling equipment	8.225	.60	.65	e	
Blasters	8.425	.60	.65	e	
Vibrator op., chain saw op., air or electric tool op., gas buggy op., acetylene torch op. on demolition work, pipelayers, scaffold builders; mortar mixer, pavement breaker op.	8.025	.60	.65	e	
Lathers	8.93	.65	.40		.01
Lead Burners	10.75	.40	.25	f	.01
Marble Setters, Terrazzo Workers & Tile Setters	9.07	.50	.90		
Marble, Tile, Terrazzo Finishers	8.30	.50			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Rome City, Ava, Western, Floyd, Boonville and Steuben:					
New Construction:					
Brush and Roller	11.62	.80	.50	g	
Paperhangers, Vinyl Hangers and Tapers	12.20	.80	.50	g	
Metalizing	13.77	.80	.50	g	
Steel, Working with picks, Bosun Chair, Window Jacks, Swing Stage, Safety Belts, Steeple Jack, Spray, Sandblasting, Steamcleaning, Epoxy, Bridge and Hydroblasting	12.31	.80	.50	g	
Repaint Work:					
Brush and Roll	9.84	.80	.50	g	
Paperhangers, Vinyl Hangers and Tapers	10.43	.80	.50	g	
Metalizing	12.01	.80	.50	g	
Steel, working with picks, Bosun Chair, Window Jacks, Swing Stage, Safety Belts, Steeple Jack, Spray, Sandblasting, Steamcleaning, Epoxy, Bridge and Hydroblasting	10.54	.80	.50	g	
Remainder of County:					
Brush	8.70	.175	.30		
Spray	9.30	.175	.30		
Sandblasting	9.70	.175	.30		
Paper and Vinyl Hangers, Epoxy, Steel, Taping, Swing Stage, Bosun Chair and Monkey Suit	8.95	.175	.30		
Plumbers and Steamfitters	11.26	.89	1.36		.05
Roofers	11.60	1.00	1.35		
Sheet Metal WOrkers	10.655	.60	.80		.07
Sprinkler Fitters	12.31	.75	1.05		.08

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Welders - receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: B and D provided the employee is on the payroll the week before and the week after the holiday.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F, Day after Thanksgiving.

d. Holidays: B and D provided the employee works the day immediately before and the work day immediately following the holiday.

e. Holidays: A through E, plus 2 hours off with pay on Election Day for the purpose of voting, provided the employee works the day before the holiday and the day after the holiday.

f. Holidays: A through F; Washington's Birthday and Good Friday, X-mas Eve, providing employee has worked 30 full days the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

g. Holidays: C, D, and E.

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Twps of Florence, Camden, Annsville, Lee, Ava, Boonville, Western, Steuben, Vienna, Rome, Floyd, Westmoreland, Vernon, Augusts and Verona

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 8.54	.60	.65	a	
CLASS B	8.74	.60	.65	a	
CLASS C	8.94	.60	.65	a	
CLASS D	9.14	.60	.65	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

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LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of County:					
CLASS A	$ 7.49	1.30	.90	a	
CLASS B	7.69	1.30	.90	a	
CLASS C	7.89	1.30	.90	a	
CLASS D	8.09	1.30	.90	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

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Line Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricial Overhead and Underground Distribution Work:					
Lineman and Technicians	$10.50	1.00	3%+.75	a	3%
Cable Splicers	13.70	1.00	3%+.75	a	3%
Groundman Digging Machine Operator and Groundman Dynamiteman	9.45	1.00	3%+.75	a	3%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer units)	8.40	1.00	3%+.75	a	3%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced)	7.825	1.00	3%+.75	a	3%
All Overhead Transmission Line Work and Lighting For Athletic Fields:					
Lineman and Technicians	11.85	1.00	3%+.75	a	3%
Groundman Digging Machine Operator, Groundman Dynamiteman	10.665	1.00	3%+.75	a	3%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit)	9.48	1.00	3%+.75	a	3%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced)	8.8875	1.00	3%+.75	a	3%
All Pipe Type Cable Installations:					
Lineman and Groundman Equipment Operator	12.45	1.00	3%+.75	a	3%
Cable Splicer	13.695	1.00	3%+.75	a	3%
Groundman Truck Driver, Groundman (experienced)	9.3375	1.00	3%+.75	a	3%

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LINE CONSTRUCTION (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sub-station, Switching Structures (when not part of the line), Traffic Signals, Street Lighting and Electrical, Telephone or CATV Commercial Work:					
Linemen and Technicians	12.45	1.00	3%+.75	a	3%
Cable Splicers	13.695	1.00	3%+.75	a	3%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor-trailer unit)	9.96	1.00	3%+.75	a	3%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced	9.3375	1.00	3%+.75	a	3%
Groundman Dynamiteman, Groundman Digging Machine Operator	11.205	1.00	3%+.75	a	3%
Telephone and other Communication Systems, both overhead and underground:					
Linemen and Installer Repairmen	8.34	.40	3%+.25	a	1%
Splicers	8.89	.40	3%+.25	a	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	a	1%
Groundman	5.72	.40	3%+.25	a	1%
Groundman Truck Driver	6.82	.40	3%+.25	a	1%
Groundman Dynamiteman	6.60	.40	3%+.25	a	1%

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day F-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.73	1.05	1.05	a	.15
GROUP II	10.37	1.05	1.05	a	.15
GROUP III	9.36	1.05	1.05	a	.15
GROUP IV	8.46	1.05	1.05	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: A through F, providing the employee works the day before and the dat after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

Group I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel.

Group II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lobs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

Group III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class 1	$11.78	1.05	.75	a	.15
Class 2	11.18	1.05	.75	a	.15
Class 3	11.18	1.05	.75	a	.15
Class 4	12.47	1.05	.75	a	.15
Class 5	12.28	1.05	.75	a	.15
Class 6	13.78	1.05	.75	a	.15
Class 7	12.78	1.05	.75	a	.15
Class 8	12.28	1.05	.75	a	.15

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing employee has worked 5 consecutive working days before and the working day after the holiday.

POWER EQUIPMENT OPERATORS: Building Construction

Class 1: Asphalt and blacktop roller; Automated concrete spreader (CMI or equivalent); Automated fine grade machine (CMI); Backhoe; Belt placer; Blacktop spreader (such as Barber Greene and BlawKnox); Blacktop Plant (automated); Blast or rotary drill (truck or cat mounted); Boom truck; Cableway; Caisson auger; Carry-all-scraper-self loading; Central Mix plant (automated); Cherry picker over five (5) ton capacity; Compressors; Pump; Generator or welding machine (when used in a battery of not more than four (4); Crane, Crusher-Rock; Derrick; Diesel power unit; Dragline; Dredge; Dual drum paver; Elevating grader (self-propelled or towed); Elevator hoist - two cage; Excavator - all purpose - hydraulically operated; Fork lift (factory rating 15 ft. or more); Front end loader (4 c.y. and over); Gradoll; Grader (power); Head tower (Saur man or equal); Hoist (2 or 3 drums); Locomotive; Maintenance engineer; Maintenance welder; Mine hoist; Mucking machine or mole; Overhead crane fixed permanent; Pile driver; Quarry Master or equivalent; Refrigeration equipment - for soil stabilization; Shovel; Side boom; Slip form paver; Straddle buggy (Ross carrier, Lumber carrier) Tractor drawn belt type loader (Euclid loader); Trenching machine (digging capacity of over 4 ft. depth); Truck crane operator; Tunnel shovel; Vibro or sonic hammer controls (when not mounted in proximity to the rig operator)

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Class 2: "A" Frame truck; Blacktop plant (non-automatic); Boring machine; Bulldozer; Cago hoist; Carry-all scraper; Central mix plant (non-automated); Cherry picker five (5) tons and under; Compressor (315 c.f. and over); Concrete paver (single drum over 16S); Concrete pump; Core boring machine; Drill rigs-tractor mounted; Elevator - as a material hoist; Fork lift (factory rating less than 15 ft.); Front end loader (under 4 cu. yds.); Gunnite machine; High pressure boiler (15 lbs. and over); Hoist (one drum); Hydraulic breaking hammer (Drop hammer); Kolman plant loader (screening gravel); Maintenance grease man; Mixer for stabilized base - self-propelled (seaman mixer); Monorail machine; Parapet concrete or pavement grinder; post hole digger (truck or tractor mounted); Power sweeper (Wayne or similar); Pump 4" and over; Pump-crete or squeeze-crete; Road widener (front end of grader or self-propelled); Shell winder (motorized); Snorkel (overhead arms); Roller; Trenching machine (digging capacity of 4 ft. or lesse); Tugger hoist; vibro tamp; Well drill; Well point system (submersible pumps when used in lieu of well-point system); Winch (motor driven); Winch cat; Winch truck

Class 3: Compressor (under 315 cu. ft.); Concrete paver or mixer (under 16S); Concrete pavement spreaders and finishers (not automated); Conveyor (over 12 ft.); Electric submersible pump (4" and over); Farm tractor with or without accessories; Fine grade machine (not automated); Fireman; Form tamper; Generator (2,500 watts and over); Hydraulic pump; Mechanical heaters - more than two (2) mechanical heaters or any mechanical heater or heaters whose combined output exceeds 640,000 BTU per hour (manufacture's rating); Mulching machine; Oiler; Power driven welding machine - 300 amp. and over (other than all electric); One welding machine under 300 amp. will not require an engineer unless in a battery); Power heaterman (hay drier) Pump (under 4"); Revinius widner (road widener); Steam cleaner or Jenny; Tractor with or without towed accesaories, post driver (truck or tractor mounted)

Class 4: Master Mechanic

Class 5: Tower Crane

Class 6: Crane or Derrick with a boom length over 300 ft. including jib

Class 7: Crane or Derrick with a boom length over 150 ft. including jib, and on a piledriver with leads or boom length of over 100 ft.

Class 8: Quad 9 bulldozer or multibowl scraper

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TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$8.51	.83	.75	a	
CLASS 2	8.56	.83	.75	a	
CLASS 3	8.61	.83	.75	a	
CLASS 4	8.76	.83	.75	a	
CLASS 5	8.91	.83	.75	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through f, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatcher.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (rosa) carrier.

CLASS 5
Off- highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.

DECISION NO.: TX78-4115 DATE: Date of Publication

Supersedes Decision No. TX78-4078, dated August 11, 1978, in 43 FR 35881.

DESCRIPTION OF WORK: Building Construction (does not include single family houses and garden type apartments up to and including 4 stories) and also does not include Dallas-Fort Worth Regional Airport. (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.83	.50	.76		.03
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
ZONE 1 - Grayson County	9.60				
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	10.20	.45	.50		.04
ZONE 3 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	9.35	.45	.50		.04
CARPENTERS:					
ZONE 1 - Grayson County:					
Carpenters	10.23	.50	.40		.005
Millwrights	10.63	.50	.40		.005
Piledrivermen	10.73	.50	.40		.005
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
Carpenters	10.40	.55	.40		.04
Millwrights	10.64	.50			.04
CEMENT MASONS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	9.645	.40	.60		
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	9.485	.55	.60		.01
ELECTRICIANS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.:					
Electricians	11.13	.60	7%		7/10%
Cable splicers	11.38	.60	7%		7/10%
ZONE 2 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Cos.:					
Electricians	11.03	6%	7%		1%
Cable splicers	12.13	6%	7%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.91	.745	.35		.02
Helpers	70%JR	.745	.35		.02
Helpers (Probationary)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS: Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	$ 9.34	.40	.55		.025
IRONWORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto (excluding northwest corner), Rockwall, Tarrant & Wise (excluding northwest 1/2) Cos.	9.65	.55	1.15		.07
ZONE 2 - Palo Pinto (northwest corner) & Wise (northwest 1/2)	9.255	.55	1.00		.10
LABORERS:					
ZONE 1 - Grayson County:					
GROUP 1 - Unskilled laborers	6.42	.275	.30		
GROUP 2 - Air tool operator (jackhammer, vibrator), mason tenders & mortar mixers, pipelayers	6.67	.275	.30		
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.:					
GROUP 1	6.32	.275	.40		.02
GROUP 2	6.47	.275	.40		.02
GROUP 3	6.57	.275	.40		.02
GROUP 4	6.72	.275	.40		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - All hand digging dirt work and backfilling; firing of salamanders, loading and unloading of materials to and from hoist or cages; loading and unloading of tools and equipment; wheeling, placing and pouring of concrete; all excavation; handling of lumber, steel, cement; distribution of all materials; flagging trucks; miscellaneous job clean-up; wrecking and razing of buildings and all structures; cleaning and clearing of all debris; handling of broken concrete or other damaged or undamaged materials; removing, moving, handling and greasing of forms, wrecking forms; storing materials to storage place; slip form jacks, scaffold builders, checking materials and tools in and out of receiving lots and sheds; tool house men; landscaper; asphalt ironer and raker; waterproofing tender; dumper; spotter; concrete pumpcrete pipe (handling and laying); carpenter tender

GROUP 2 - All power tool and equipment operators (gas, electric or air); cutting torch man; concrete grademan; power buggy operator; wagon drill operator, well driller, drilling rig tender; cement finisher tender; metal pan and steel form men; handling creosoted materials; liquid acids or like materials when injurious to health, eyes, skin or clothes; all newly developed equipment which replaces wheelbarrows or buggies previously used by laborers, scale men on batch plants; concrete flagman

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GROUP 3 - Concrete & clay pipe (handling & laying); mason handler; scaffold builder; mason tender; hod carriers mortar mixers; lather tenders, plaster tenders; water pump operators up to 4 inches; cement mason tenders; mortar mixers; hod carriers; dry mixers; tank cleaning; all pipe doping, treating & wrapping, including all men working with dope, mortar & plaster mixing machines, grout machines; pump crete machines, gunite mixing machines, including placing & cleaning of pipe & conduits used in placing of concrete, handling & placing of gunite materials from stockpiles, screening sand, running sand dryer & loading & operating sand blaster, except nozzle, conveying, stocking & handling of all materials for brick masons, lathers, cement finishers, plasterers; ditch work over 6 ft. & cleaning out drill piers

GROUP 4 - Sand blaster, blaster powderman; Gunite worker; gunite worker; gunite nozzleman & terrazzo grinder

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$10.98				.04
LINE CONSTRUCTION:					
Linemen; Linemen operators	12.15		3%		1/2%
Cable splicers	13.37		3%		1/2%
Groundman, 1st 6 months	7.29		3%		1/2%
Groundman, 2nd 6 months	7.90		3%		1/2%
Groundman, 1 year & over	8.51		3%		1/2%
MARBLE, TILE & TERRAZZO WORKERS: Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	9.70		.30		
MARBLE & TILE FINISHERS: Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	7.40				
PAINTERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Brush	9.525	.45	.50		.04
GROUP 2 - All wall covering work: Paper, fabric, sheeting, flexwood, etc.	9.775	.45	.50		.04
GROUP 3 - Amos tools operator	9.65	.45	.50		.04
GROUP 4 - Structural steel, stage work, bosun chair, spray gun, sandblasting & window jacks, fire escapes	9.90	.45	.50		.04
ZONE 2 - Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
GROUP 1	10.545		.20		.12
GROUP 2	10.795		.20		.12
GROUP 3	11.795		.20		.12

DECISION NO. TX78-4115

GROUP 1 - Brush
GROUP 2 - Spray, Wallcovering; Pressure roller; Sandblasting; Structural steel; Bosun Chair, Window jack & window sill; stage; fire escape; steel storage tanks; stilts; mittens; ames tools, drywall finishing
GROUP 3 - Steeple jack (radio and TV towers, smoke stacks, chimneys and water towers, and similar facilities and flag poles atop buildings located closer to the edge of the building than the height of the pole); Toxic material rate (creosote, coal tar products or similar materials injurious to the skin)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	$ 9.44	.45		.50	.03
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	10.41				.01
PLUMBERS & STEAMFITTERS	10.23	.43	1.00		.10
ROOFERS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Slate & tile	9.215				
GROUP 2 - Composition and built-up roofing, damproofing & bituminous waterproofing	9.065				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.:					
GROUP 1 - Slate, tile, asbestos roofing & siding	9.165				.05
GROUP 2 - Composition, built-up, damp & water proofing, kettlemen	9.015				.05
SHEET METAL WORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Rockwall, Tarrant & Wise Cos.	10.425	.50	.66		.105
ZONE 2 - Palo Pinto Co.	10.56				.07
SOFT FLOOR LAYERS	9.58	.40	.40		.03
SPRINKLER FITTERS	11.60	.75	1.05		.00
TRUCK DRIVERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	4.25				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Dallas County:					
GROUP 1	$ 8.265	.40	.90		
GROUP 2	9.60	.40	.90		
GROUP 3	10.00	.40	.90		

POWER EQUIPMENT OPERATORS (ZONE 1) CLASSIFICATION DEFINITIONS

GROUP 1 - Oilers
GROUP 2 - Air compressor, water pumps, welding machines (2 to 6 machines) & generators; Blade grader, towed; Flex plane; Form grader; Concrete mixer, less than 14 cu. ft.; Pulsometer; Wagon drill operator; Conveyor; Hoist, single drum; Scraper, 3 cu. yd. or less; Bob cat with loader; All other equipment of similar nature coming under the light equipment class, when power operated
GROUP 3 - Heavy duty mechanic; Asphalt mixer operator on job; Blade grader, self-propelled; Bull clam; Backfiller; Bulldozer & all cat type tractors; Backhoe; Concrete mixers, over 14 cu. ft.; Crusher operator on job; Concrete batch plant operator; Clam shell; Cranes (all types); Truck mounted or crawler requires oiler including groves (hydraulic) or similar type over 12½ ton capacity; Escalated rate on crane and derricks booms: .01c per hour, per foot over 90' including jib; draglines; derricks, power operated (all types); DW-10 caterpillar, S-8 Euclid and similar tractors; Elevating grader, self-propelled; Foundation drilling machines (all); Forklifts, used in handling machinery on construction; Gradeall; Hoist, motor driven, 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Pile drivers; Pumcrete machines; Pneumatic rollers, self-propelled; Shovels, power operated; Scrapers, over 3 cu. yds.; Scoopmobile; Trenching machine, all types; Winch trucks, when pole and winch is used; Water well drilling machines, used on construction; Well point pump; Welding machines (7 to 13 machines); All other equipment of similar nature coming under heavy equipment class, when power operated

DECISION NO. TX78-4115

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2 - Collin, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	$ 8.065	.40	1.00		.10
GROUP 2	9.40	.40	1.00		.10
GROUP 3	9.80	.40	1.00		.10

POWER EQUIPMENT OPERATORS (ZONE 2) CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated
GROUP 3 - Ford Tractor or like with any attachments (except blade and mower on rear); Drilling Machines (all types); Sconpmobilas; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hoist, motor driven, 2 drums or more; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

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BOOK 2 OF 2 BOOKS

FRIDAY, DECEMBER 1, 1978
PART IV

DEPARTMENT OF STATE

Office of the Secretary

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

Conservation Zone of the United produced herewith. Individual vessel

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[4710-09-M]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 641]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the FEDERAL REGISTER.

Applications have been received from the Governments of Mexico, Korea and the Polish People's Republic for fishing during 1979 and are reproduced herewith. Individual vessel applications for fishing during 1978 and 1979 have been received from foreign nations and are summarized herein.

If additional information regarding any application is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: 202-634-7265).

Dated: November 22, 1978.

JAMES A. STORER,
Director, Office of Fisheries Affairs.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
South Korea:			
*Book Neung, factory ship	KS-79-0079	GOA	2
Ill Woo No. 58, cargo/transport vessel	KS-79-0091	GOA	3
Mexico:			
Cielsa XI, medium stern trawler	MX-79—0012	NWA	1
Cielsa XII, medium stern trawler	MX-79—0013	NWA	1
Diamante, medium stern trawler	MX-79—0014	NWA	1
Quemado, medium stern trawler	MX-79—0018	NWA	1
Ria De Pontevedra, medium stern trawler	MX-79—0020	NWA	1
Teucro, medium stern trawler	MX-79—0025	NWA	1
Campa De Torres, medium stern trawler	MX-79—0032	NWA	1
Costa De Normandia, medium stern trawler	MX-79—0033	NWA	1
Conchita Pelayo, medium stern trawler	MX-79—0034	NWA	1
Santa Mar, medium stern trawler	MX-79—0037	GOA	1
Clara Mar, medium stern trawler	MX-79—0038	GOA	1
Albarino, medium stern trawler	MX-79—0039	GOA	1
Albero, small stern trawler	MX-79—0040	GOA	1
Mar Del Cabo, large stern trawler	MX-79—0045	WOC	1
Cielsa XIII, medium stern trawler	MX-79—0047	NWA	1
Cielsa XIV, medium stern trawler	MX-79—0048	NWA	1
Cielsa XV, medium stern trawler	MX-79—0049	NWA	1
Kormex 1, medium stern trawler	MX-79—0052	GOA, WOC	1
Kormex 2, medium stern trawler	MX-79—0053	GOA, WOC	1
Kormex 3, medium stern trawler	MX-79—0054	GOA, WOC	1
Kormex 5, large stern trawler	MX-79—0055	GOA, WOC	1
Kormex 6, medium stern trawler	MX-79—0056	GOA, WOC	1
Alpes, medium stern trawler	MX-79—0057	NWA	1
Mar Del Coral, medium stern trawler	MX-79—0058	GOA	1
Mar De Galicia, medium stern trawler	MX-79—0059	GOA	1
Poland:			
Zulawy, cargo transport	PL-78-0041	GOA	3
Saturn, large stern trawler	PL-79-0056	GOA, WOC, BSA	1

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic billfishes and sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean.
BSA	Bering Sea and Aleutian Islands trawl, longline and herring gillnet	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	New England and Mid-Atlantic.
NWA	Northwest Atlantic	Western Pacific.
SMT	Seamount groundfish (Pacific Ocean)	North Pacific.
SNL	Snails (Bering Sea)	Pacific.
WOC	Washington, Oregon, California trawl	

Activity codes specify categories of fishing operations applied for as follows:

Activity code and fishing operations
1—Catching, processing, and other support.
2—Processing and other support only.
3—Other support only.

[FR Doc. 78-33577 Filed 11-30-78; 8:45 am]

FRIDAY, DECEMBER 1, 1978

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FRIDAY, DECEMBER 1, 1978
PART V

CIVIL SERVICE COMMISSION

REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT, JANUARY 1, 1979 THROUGH JUNE 30, 1979

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[6325-01-M]

CIVIL SERVICE COMMISSION

CIVIL SERVICE COMMISSION REGULATIONS

Scheduled for Review or Development, January 1, 1979, Through June 30, 1979

The following Civil Service Commission regulations are scheduled for review or development during the six month period from January 1, 1979, through June 30, 1979. The majority of the changes will result from enactment of the Civil Service Reform Act of 1978 (CSRA). Revisions which involve only the adoption of conforming language, e.g., the title Civil Service Commission to Merit System Protection Board or Office of Personnel Management, are not listed.

Comments or inquiries on this schedule should be referred to Beverly M. Jones, Issuance System Manager, Bureau of Policies and Standards, 202-632-6593.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[6325-01-C]

CFR or Other Authority	Title	Brief Description	Knowledgable Official
5 CFR 1 through 9	Civil Service Rules	Coverage and Definitions; Appointment through the Competitive System, Noncompetitive Aquisition of Status, Prohibited Practices, Regulations, Investigation, and Enforcement, Exceptions from the Competitive Service, General Prohibitions, Appointments to Overseas Positions, Executive Assignment System for Positions in Grades GS-16, 17, 18, of the General Schedule. Will be revised to reflect CSRA.	Cynthia Field 202/632-5623
5 CFR 151	Political Activity of State or Local Officers or Employees	Under CSRA, some of the political activity functions will be transferred to the Special Counsel of MSPB. The corresponding regulations will be transferred and incorporated into new Special Counsel regulations being drafted. In view of time constraints resulting from prescribed activation date for Reform legislation as January 11, 1979, it appears that a 30-day notice and comment period will be followed (E.O. 12044 section 6(b)(6)).	Mr. Lynn R. Collins 202/632-7600
5 CFR 213	Excepted Service	General provisions and identification of positions in Schedules A, B, and C. Will be revised to conform with new requirements in CSRA.	Tracy Spencer 202/632-4533
5 CFR 293	Personnel Records and Files	Extensive revisions to implement internal reorganization (establishment of MSPB, OPM) and CSRA.	Len Kilkelley 202/632-4467 Bill Lynch 202/254-9778
5 CFR 294	Availability of Official Information	Will be revised to reflect current judicial interpretations of the provisions of the Freedom of Information Act (5 U.S.C. 55).	Donald J. Biglin 202/632-6161
5 CFR 297	Protection of Privacy in Personnel Records	Extensive revisions to implement internal reorganization, the CSRA, and changes necessitated by two years experience with the Privacy Act.	Len Kilkelley 202/632-4467 Bill Lynch 202/254-9778
5 CFR 300	Employment (General)	Employment practices, Commission approval in filling positions in GS-16 and above, obligated positions, time-in-grade restrictions. Will be revised to conform to new requirements in CSRA.	Morton I. Horvitz 202/632-6817
5 CFR 300.103(c)	Employment practices; basic requirements; equal employment opportunity.	Clarification of the non-applicability of the technical validation standards of the Uniform Guidelines on Employee Selection Procedures in appeals that are not discrimination cases.	Hugh E. Wallace 202/632-6251 Ken Brown 202/632-5442
5 CFR 302	Employment in the Excepted Service	Eligibility standards processing applications, and selection in accepted service. To be revised to conform with new requirements in CSRA.	Tracy Spencer 202/632-4533
5 CFR 315	Career and Career-Conditional Employment	Requirements for overall career and career-conditional appointment, transfer, and conversion system, and probationary period. To be revised to conform with CSRA requirements.	Morton I. Horvitz 202/632-6817
5 CFR 315, Subpart G	Conversion to Career or Career-Conditional Employment From Other Types of Employment	Will be revised to include regulations on the conversion of Presidential Management Interns into the career service.	Morton I. Horvitz 202/632-6817
5 CFR 316	Temporary and Term Employment	Purpose, authorizes for TAPER temporary and term (one to four years) employment. Retention and separation of employees. To be revised to conform with CSRA requirements.	Morton I. Horvitz 202/632-6817
5 CFR 330	Recruitment, Selection and Placement (General)	Reemployment priority lists, Displaced Employee Program, positions restricted to preference eligibles, restrictions to protect competitive principles, prohibited practices. To be revised to conform with CSRA requirements.	Morton I. Horvitz 202/632-6817
5 CFR 332	Recruitment and Selection Through Competitive Examination	General provisions, period of competition and eligibility, consideration for appointment. Will be revised to conform to CSRA. Specific changes not yet identified.	Morton I. Horvitz 202/632-6817
5 CFR 334	Temporary Assignments of Employees Between Executive Agencies and States, Local Governments and Institutions of Higher Education	These mobility regulations were revised for other reasons and published in the Federal Register on November 14, 1978. We plan to incorporate the comments that we receive from the November 14 publication of the mobility regulations along with the changes necessitated by Section 602 of the CSRA. Regulations will be published early in 1979. Those regulations will probably be made effective upon publication pending comment.	Miriam Ershkowitz 202/632-5373

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CFR or Other Authority	Title	Brief Description	Knowledgable Official
5 CFR 337	Examining System	General provisions, including weight assigned to given subjects, addition of preference eligible points, credit for military service and credit for voluntary service. Will be revised to conform to CSRA requirements.	Morton I. Horvitz 202/632-6817
5 CFR 338	Qualification Requirements (General)	Citizens and members-of-family requirement. Will be revised to conform to CSRA requirements.	Morton I. Horvitz 202/632-6817
5 CFR 339	Qualification Requirements (Medical)	Clarification of authority to regulate fitness for duty examinations in the Federal service.	Craig Pettibone 202/632-4682
5 CFR 351.501	Reduction-in-Force	Tenure groups and subgroups, competitive service. Will be revised to conform with new requirements in CSRA.	Ted Dow Tom Gleanon 202/632-5623
5 CFR 410.502	Acquisition of trainiog from non-Government facilities	Under 5 U.S.C. 4118(b)(1), OPM must prescribe general policies governing the acquisition of training from non-Government facilities. We are redrafting them to (1) ready them for publication in the Federal Acquisition Regulation of OFPP as well as in title 5 of the Code of Federal Regulations, (2) allow employees a role in selecting training facilities if they pay part of the costs of the training, (3) establish a simpler and less costly procedure for acquiring short-term training than is available under general procurement regulations, and (4) ensure that contracting officers observe the special statutory restrictions of chapter 41 of title 5, United States Code on the acquisition of training and regulations issued thereunder.	Michael Miller 202/632-5684
5 CFR 410.503	General restrictions, training through non-Government facilities	Pursuant to an explicit directive in the Government employees training law (5 U.S.C. 4118(b)), this regulation prohibits the use of non-Government training for promotion if there exists an already qualified person. We would provide an exemption from this prohibition if the employee is being trained in a program covered by 5 U.S.C. 5364. The new section 5364 of the code provides for remedial actions for employees who have suffered a no-fault loss of grade. One of the actions is to allow priority placement. Removing the restriction on the use of non-Government facilities for promotion for this group of employees will facilitate priority placement. The Office of Personnel Management has the authority to exempt a class of employees from a prohibition of the training law if it is in the public interest.	Constance Guitian 202/632-7647
5 CFR 430	Performance Evaluation and Rating	General provisions, performance ratings, and performance rating appeals. Will be revised to conform with requirements in CSRA. (See also 5 CFR 432, Reductions in Grade and Removals Based on Unacceptable Performance.)	Mary Sugar 202/632-5623
5 CFR 432	Reductions in Grade and Removals Based on Unacceptable Performance	New regulations to conform to requirements established by CSRA.	Wilma Lehman 202/632-5623
5 CFR 531, Subpart B and 5 CFR 539	Determining Rate of Basic Pay Conversions Between Pay Systems	Changes in pay setting when employees change pay systems, regulated pursuant to 5 U.S.C. 5334.	James N. Woodruff 202/632-6553
5 CFR 531, Subpart C	Pay Adjustments for Supervisors	Revised regulations on pay adjustments for GS supervisors of wage employees, pursuant to 5 U.S.C. 5333.	James N. Woodruff 202/632-6553
5 CFR 531, Subpart D	Within-Grade Increases	Simplify and clarify procedures and standards for granting quality increases and withholding within-grade increases, pursuant to 5 U.S.C. 5335-5336.	James N. Woodruff 202/632-6553
5 CFR 532	Pay Under Prevailing Rate Systems	Develop comprehensive new regulations for Federal Wage System, pursuant to 5 U.S.C. 5343.	James N. Woodruff 202/632-6553
5 CFR 536	Grade and Pay Retention	Regulations to implement Title VIII of the Civil Service Reform Act of 1978. Because of a statutory deadline, it is anticipated that a period for public comment will not be feasible in this case.	James N. Woodruff 202/632-6553
5 CFR 540	Merit Pay	New regulations to implement Title V of the Civil Service Reform Act of 1978.	James N. Woodruff 202/632-6553
5 CFR 550, Subpart B	Pay From More Than One Position	Revised regulations on dual compensation.	Morton I. Horvitz 202/632-6817
5 CFR 550, Subpart C	Allotments and Assignments for Federal Employees	Changes to increase delegation of appropriate flexibility to agencies, pursuant to 5 U.S.C. 5525 and 5527.	James N. Woodruff 202/632-6553
5 CFR 550, Subpart H	Back Pay	Regulations to implement section 702 of the Civil Service Reform Act of 1978.	James N. Woodruff 202/632-6553

CFR or Other Authority	Title	Brief Description	Knowledgable Official
5 CFR 550, Subpart J	Adjustment of Work Schedules for Religious Observances	New regulations. Consider final regulations to implement Title IV of the Federal Employees Flexible and Compressed Work Schedules Act of 1978. (Interim regulations already issued.)	James N. Woodruff 202/632-6553
5 CFR 550, Subpart K	Installment Deductions for Indebtedness Because of Erroneous Payment	New regulations to revise former OMB regulations on installment deductions, pursuant to 5 U.S.C. 5514.	James N. Woodruff 202/632-6553
5 CFR 551	Pay Administration Under the Fair Labor Standards Act	New regulations to implement the Fair Labor Standards Act in the Federal Government. (Existing Subpart B will not be revised as part of this action.)	James N. Woodruff 202/632-6553
5 CFR 591, Subpart A	Uniforms and Uniform Allowances	Revise former OMB regulations on uniforms and uniform allowances for Federal employees, pursuant to 5 U.S.C. 5901-5903.	James N. Woodruff 202/632-6553
5 CFC 591, Subpart D	Allowances for Physicians	New regulations to implement Federal Physicians Comparability Allowance Act of 1978.	James N. Woodruff 202/632-6553
5 CFR 620, Subpart D	Flexitime	New regulations to implement the Federal Employees Flexible and Compressed Work Schedules Act of 1978.	James N. Woodruff 202/632-6553
5 CFR 713	Equal Opportunity	On implementation of Reorganization Plan No. 1 of 1978, the Equal Employment Opportunity Commission (EEOC) will assume responsibility for most of the areas now covered by 5 CFR 713. We have been informed that EEOC does not plan immediate changes in the system for processing discrimination complaints as regulated in 5 CFR 713. There are other elements of existing 5 CFR 713 regulations covering the organization and administration of agency EEO programs in which both OPM and EEOC have legitimate interests and for which both agencies have some responsibility. We will consult with EEOC to determine how revision of the regulations should be handled or alternatively to draft new language and submit it to EEOC for concurrence.	Jim Scott 202/632-6889
5 CFR 733	Political Activity of Federal Employees	Under CSRA, some of the political activity functions will be transferred to the Special Counsel of MSPB. The corresponding regulations will be transferred and incorporated into new Special Counsel regulations. In view of time constraints resulting from prescribed activation date for Reform legislation as January 11, 1979, it appears that a 30-day notice and comment period will be followed (E.O. 12044 section 6(b)(6)).	Mr. Lynn R. Collins 202/632-7600
5 CFR 735	Employee Responsibilities and Conduct	Requires revision to conform with the Ethics in Government Act of 1978, some of whose provisions become effective January 1, 1979. We are preparing draft regulations. In view of the short-term statutory deadline, the exception in E.O. 12044 section 6(b)(6), shortening the public comment process, will have to be invoked. Prior to the establishment of the Office of Government Ethics in OPM and the selection of the Director, determinations will be made by the General Counsel.	David Reich 202/632-5421
5 CFR 754	Adverse Actions by the Commission	Scope, notice of proposed action, answer, decision, and appeal rights. Will be revised to conform with new CSRA requirements.	Wilma Lehman 202/632-5623
5 CFR 772	Appeals to the Commission	Will be revised to reflect changes resulting from enactment of CSRA. (Primary responsibility for regulations will transfer from CSC to Merit System Protection Board, January 11, 1979.)	Jim Sugiyama 202/254-6234
5 CFR 831.107 Subpart A	Retirement; Administration and General Provisions	The reorganization of the CSC will require revision of all retirement and insurance regulations having to do with appeals, with basic appeals procedures going to MSPB. Provisions defining appealable decisions, reconsideration of decisions, and permitting correction of errors - which are now intertwined with appeals procedures - will remain the responsibility of OPM. (Includes regulations listed from 5 CFR 831.107 through 5 CFR 891.105).	Craig Pettibone 202/632-4682
5 CFR 831, Subpart K	Prohibition on Payments of Annuities		
5 CFR 831 Subpart L	Disability Retirement on Application of an Agency and Disability Retirement Appeals		
5 CFR 831, Subpart M	Collection and Claims Against Annuity		
5 CFR 870.205	Regular life insurance; coverage; appeals		
5 CFR 871.206	Optional life insurance; coverage; appeals		
5 CFR 890.103	Federal Employees Health Benefits Program; Employee appeals, corrections, and adjustments		

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CFR or Other Authority	Title	Brief Description	Knowledgable Official
5 CFR 890.104	FEHBP; Legal actions		
5 CFR 891.105	Retired Federal employees health benefits; appeals		
5 CFR 831, Subpart B	Retirement; coverage	Major review of all retirement and insurance regulations governing exclusion of less than full-time employees from coverage under the benefits programs. (Includes 5 CFR 831 Subpart B; 5 CFR 870.201; and 5 CFR 890.102.)	Craig Pettibone 202/632-4682
5 CFR 870.201	Regular life insurance; coverage		
5 CFR 890.102	Federal Employees Health Benefits Program; coverage		
P.L. 95-256	Elimination of Age 70 Mandatory Retirement	New revised regulations to implement recent amendments to the retirement law.	Craig Pettibone 202/632-4682
P.L. 95-366	Former Spouse--Recognition of Community Property Court Order	New revised regulations to implement recent amendments to the retirement law.	Craig Pettibone 202/632-4682
P.L. 95-437	Part-time career Employment proration of health benefits contributions	New revised regulations to implement recent amendments to the retirement law.	Craig Pettibone 202/632-4682
5 CFR 930, Subpart B	Appointment, Pay, and Removal of Administrative Law Judges	Revisions to indicate that removal of ALJs (Section 930.221 to Section 930.234) will be shared between OPM and MSPB. The law has also expanded the types of adverse actions (see Section 7521 of the reform package). Appropriate revisions will be made to 930.214, 930.202(b) along with 930.221 and 930.227.	Joseph A. Norris 202/632-4638
5 CFR 1001	Regulations Governing Employees of the Civil Service Commission	Will require revision to conform with the Ethics in Government Act of 1978. (See 5 CFR 735 for details.)	David Reich 202/632-5421
ADDITIONAL NEW REGULATIONS			
P.L. 95-454, Civil Service Reform Act, Title IV	New regulations to implement Title IV of the Reform Act, which establishes the Senior Executive Service	A variety of sections in 5 CFR will be amended to include appropriate references to the Senior Executive Service (SES). The new regulations will (a) cover the full range of operations under the SES, and (b) effect the conversion of positions and incumbents to SES. Specific areas which will be regulated: position management, appointment and placement systems, pay systems, performance evaluation, executive development, removal from SES for other than disciplinary reasons, leave accrual, and discontinued service retirement.	Sally Greenberg Jack Vincent 202/632-4648
P.L. 95-454 (CSRA) Section 310	Minority Recruitment Progam	New regulations. (To be developed after consultations with EEOC.)	Jim Scott 202/632-6889

[FR Doc 78-33721 Filed 11-30-78; 8:45 am]

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federal register

FRIDAY, DECEMBER 1, 1978
PART VI



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

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SUPPLEMENTAL MINE MAP REQUIRED FOR SMALL OPERATORS

Proposed Rulemaking

DATES: Written comments must be

Dated: November 28, 1978.

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[4310-05-M]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Part 715]

SUPPLEMENTAL MINE MAP REQUIRED FOR SMALL OPERATORS

Proposed Rulemaking

AGENCY: Office of Surface Mining and Enforcement, United States Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement is seeking comments on the following proposed rule amending 30 CFR 715.11(c) to require additional information in mine maps submitted by small operators. The proposed amendment requires small operators to submit mine maps showing the furthest extent of areas mined as of the termination date of small operator exemptions, which will occur on or before January 1, 1979. This regulation is necessary both to protect the small operators and to enforce the Act. The added mine map feature is necessary to avoid penalizing small operators for noncompliance with the full interim regulatory program on those areas mined during the period of the exemption. Secondly, effective enforcement of the Act requires the regulatory authority to know exactly which mining operations are not covered by the small operator's exemption. The present mine map required in § 715.11(c) does not provide the needed delineation of areas mined during the period of a small operator's exemption.

DATES: Written comments must be received on or before January 2, 1979, 5:00 p.m. A public hearing will be held at 9:00 a.m. on December 20, 1978, if requested in writing.

ADDRESSES: Written comments or requests for a hearing must be mailed or hand delivered to: Mine Map Comments, Administrative Record Room 120, Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, where they will be available for public inspection. The public hearing, if properly requested, will be held in Room 7229, U.S. Department of the Interior, 18th & C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Byron Swift, Division of Surface Mining, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240; 202-343-4671.

GAO Review

As this regulation imposes reporting requirements, it must be submitted to GAO for their clearance before it becomes final.

4 CFR Part 10. Specific comments concerning the reporting obligations imposed are welcomed, and would greatly assist the Office in determining whether the requirement should be modified. Particularly useful information would be estimates of costs and of time spent in compliance, as well as whether other Federal agency reporting requirements are being duplicated. It is therefore proposed to amend 30 CFR 715.11(c) in the manner set forth below.

Dated: November 28, 1978.

JOAN M. DAVENPORT,
Assistant Secretary,
Energy and Minerals.

In § 715.11(c), the existing paragraph is redesignated (1), and a new paragraph (2) is added. As revised, § 715.11(c) reads as follows:

§ 715.11 General obligations.

* * * * * *

(c) *Mine maps.* * * *

(2) In addition to the requirements of paragraph (c)(1) of this section, any person conducting surface coal mining and reclamation operations pursuant to a small operator's exemption shall submit before March 1, 1979 or within two months after the expiration of the exemption, whichever is earlier, two copies of an accurate map of each mine showing the permit area at a scale of 1:6000 or larger. The map shall show, as of January 1, 1979 or the expiration date of the exemption, whichever is earlier, the lands from which coal has not yet been removed, the lands and structures which have been used or disturbed to facilitate mining, and the lands which have not been disturbed; these areas may be shown in a revision of the mine map submitted under paragraph (c)(1) of this section. One copy shall be submitted to the State Regulatory Authority and one copy to the appropriate Regional Director, OSM.

(The rule is promulgated under the authority of the Surface Mining Control and Reclamation Act of 1977, (the "Act"), §§ 201, 501 30 U.S.C. §§ 1211, 1251.)

[FR Doc. 78-33727 Filed 11-30-78; 8:45 am]

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FRIDAY, DECEMBER 1, 1978
PART VII



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

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AGE DISCRIMINATION

Regulations, Public Hearings

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[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 90]

AGE DISCRIMINATION REGULATIONS

AGENCY: Office of the Secretary, HEW.

ACTION: Proposed rules.

SUMMARY: The Department of Health, Education, and Welfare proposes *general regulations* to carry out the provisions of the Age Discrimination Act of 1975, as amended (Act). After the Secretary issues final general regulations, each federal agency which provides federal financial assistance must publish proposed and then final *specific regulations*. Therefore, the *general regulations* are designed to guide the development of *specific regulations* by each appropriate agency.

The Age Discrimination Act of 1975 applies to *persons of all ages* and to all programs and activities receiving federal funds, not just to the elderly or solely to HEW programs. While the Act prohibits discrimination on the basis of age in programs or activities receiving federal funds, it permits some distinctions based on age.

DATES: Comments must be received on or before February 28, 1979. [For list of public hearings on this proposed rule, see FR Doc. 78-33743 in this part of this FEDERAL REGISTER.]

ADDRESS: Send comments to: Ms. Bayla F. White, Director, Age Discrimination Task Force, Office of the General Counsel, HEW, Room 716-E, 200 Independence Avenue, S.W., Washington, D.C., 20201, (202) 245-6284.

FOR FURTHER INFORMATION CONTACT:

Ms. Bayla White (202) 245-6284.

SUPPLEMENTARY INFORMATION:

GENERAL INFORMATION

BACKGROUND

In November 1975 Congress enacted the Age Discrimination Act (42 U.S.C. 6101, *et seq.*) as part of the Amendments to the Older Americans Act (Pub. L. 94-135). At that time, the express purpose of the Act was to prohibit unreasonable discrimination based on age in programs and activities receiving federal financial assistance, including revenue sharing funds under the State and Local Fiscal Assistance Act of 1972. However, the Act was also designed to permit federally assisted programs and activities, and recipients of federal funds, to continue to use: (1) some age distinctions, and (2) "reasonable factors other than age." The Act applies to persons of all ages.

Prior to the enactment of any regulations, the Act required the Commission on Civil Rights to conduct a study of age discrimination in federally funded programs and activities. The Commission transmitted its study to the President and the Congress on January 10, 1978. (Copies of the study are available from the Commission.) The Act also required each affected federal agency to respond to the Commission's findings or recommendations. (The response of each agency is available directly from that federal agency.)

After the receipt of the report of the Commission on Civil Rights and the federal agency responses to that report, the Congress considered amendments to the Age Discrimination Act of 1975. In October 1978, Congress amended the Act (Pub. L. 95-478). Among other things, Congress struck the word "unreasonable" from the statement of purpose clause. Therefore, the purpose of the Act now is to prohibit discrimination based on age in programs and activities receiving federal financial assistance, not unreasonable age discrimination. However, the Congress retained the exceptions to the prohibition against age discrimination. Thus, the Act still permits the use of: (1) some age distinctions, and (2) "reasonable factors other than age." The Act continues to apply to persons of all ages.

Under the 1975 version of the Act, no regulations could become effective before January 1, 1979. Moreover, the Secretary of HEW was required to publish proposed and then final *general regulations*, and thereafter the head of each agency which provides federal financial assistance was required to publish proposed and then final *specific regulations*. While the 1978 amendments changed the effective date of regulations from January 1, 1979 to July 1, 1979, they retained the provision for the publication of general regulations by HEW, and specific regulations by each agency which provides federal financial assistance, including HEW.

As the first step of its obligation to issue general regulations, on March 2, 1978, the Department published a Notice of Intent to Issue Age Discrimination Regulations (43 FR 8756). As the second step, the Department is issuing this notice of proposed rulemaking.

ORGANIZATION OF THE PROPOSED GOVERNMENT-WIDE REGULATIONS

These proposed regulations are divided into five subparts. Subpart A contains general provisions. Subpart B covers the basic question of what is age discrimination under the Act, and sets forth the prohibitions against age discrimination and the exceptions to those prohibitions. Subpart C describes the responsibilities of the federal agencies. Subpart D describes the responsibilities of recipients, and contains the minimum requirements for the establishment of compliance, investigation, conciliation and enforcement procedures by federal agencies. Subpart E provides for a comprehensive review of the general regulations and the specific regulations issued under the Act. The results of these reviews will be published in the FEDERAL REGISTER 30 months after the effective date of the regulations.

DISCUSSION OF MAJOR ISSUE: DISCRIMINATION ON THE BASIS OF AGE

In enacting the Age Discrimination Act, Congress expressed concern that some programs and activities receiving federal financial assistance may be discriminating against persons on the basis of age. For example, denying reimbursement for dental services to persons over a certain age, or restricting access to training opportunities solely because of age may constitute age discrimination. Moreover, some age distinctions may be based on nothing more than stereotypes and misconceptions about the abilities and needs of persons of different ages.

On the other hand, Congress did not prohibit the use of all age distinctions. Undoubtedly, this is a recognition of the fact that many age distinctions are rational and necessary in our society. For example, age based State compulsory school attendance requirements, or requiring that children under the age of 6 be accompanied by adults when entering a museum, or special housing arrangements for the elderly, or reduced bus fare for school children or the elderly, all may be permissable age distinctions which reflect efforts to meet the needs of particular age groups.

The passage of the Age Discrimination Act provides an opportunity to reexamine the use of age distinctions in federal programs and to eliminate those which result in discrimination against particular age groups. Because age distinctions in federally assisted programs are numerous and reflect many policy considerations, the task of prescribing general regulations on age discrimination is a difficult one. Moreover, other than the specific statutory exceptions to the prohibition against age discrimination, the Act and its legislative history provide little guidance concerning congressional intent regarding which age distinctions are permissible.

Despite the complexity and difficulty of the issues involved, and the lack of clear congressional guidance, the Department has proceeded, as required by the Act, to develop proposed general regulations. However, in publishing these regulations, we are asking everyone with an interest in the matter to let us know which age distinctions seem rational and necessary and which are based on nothing more than stereotypes and misconceptions about the abilities and needs of persons of different ages. The Department specifically requests the public to identify uses of age which might not be prohibited by these regulations, but should be prohibited. The public is also requested to identify practices which may be prohibited by these regulations, but should not be prohibited.

SECTION ANALYSIS

Each section of the proposed rules is set out below, followed in some instances by a brief discussion and specific questions to which the public is encouraged to respond. The public is requested to specify the number of the section in the proposed regulations to which their comments refer. It should be noted that the examples used in the section analysis do not reflect the final legal opinions of the Department. They are designed to obtain public comment on the Department's proposed interpretations of the Age Discrimination Act.

Subpart A—General

§ 90.1 *What is the purpose of the Age Discrimination Act of 1975?*

Text of the proposed rule:

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance. The Act is also designed to permit federally assisted programs and activities, and recipients of federal funds, to continue to use age distinctions and factors other than age which are reasonable in light of the purposes of the Act.

This paragraph states the purpose of the Age Discrimination Act. The Act applies to persons of all ages. It is designed to prohibit age discrimination and to permit the use of: (1) some age distinctions, and (2) "reasonable factors other than age." In this regard, it is unlike Title VI of the Civil Rights Act of 1964 which contains no qualifications on its prohibition against discrimination on the basis of race, color, or national origin.

§ 90.2 *What is the purpose of these regulations?*

Text of the proposed rule:

(a) The purpose of these regulations is to state general, government-wide rules for the implementation of the Age Discrimination Act of 1975, as amended, and to guide each agency in the preparation of agency-specific age discrimination regulations.

(b) These regulations apply to each federal agency which provides federal financial assistance to any program or activity.

These rules are *general regulations* designed to implement the Age Discrimination Act of 1975, as amended. They will guide the preparation of *specific regulations* by each agency which provides federal financial assistance to programs or activities.

§ 90.3 *What programs and activities does the Age Discrimination Act of 1975 cover?*

Text of the proposed rule:

(a) The Age Discrimination Act of 1975 applies to any program or activity receiving federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 *et seq.*).

(b) The Age Discrimination Act of 1975 does not apply to:

(1) An age distinction contained in that part of a *Option #1* Federal statute, State statute, or local statute or ordinance; or federal, State, or local regulation which: or *Option #2* Federal statute, State statute, or local statue or ordinance which: or *Option #3* Federal statute or State statute which: or *Option #4* Federal statute which:

(i) Provides any benefits or assistance to persons based on age; *or*

(ii) Establishes criteria for participation in age-related terms; *or*

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (CETA), as amended.

The Age Discrimination Act of 1975, as amended covers some programs but excludes others from its coverage. For example, the Act covers any program or activity receiving federal financial assistance, including the State and Local Fiscal Assistance Act of 1972, the so-called Revenue Sharing Act. However, the Act does not cover programs or activities "established under authority of any law" which provide benefits on the basis of age or in age-related terms. Nor does it generally cover employment practices or labor-management joint apprenticeship training programs.

PROGRAMS OR ACTIVITIES "ESTABLISHED UNDER AUTHORITY OF ANY LAW"

The Act does not cover programs or activities "established under authority of any law" which provide benefits on the basis of age or in age-related terms. Thus, age distinctions which are "established under authority of any law * * *" are not prohibited by the Act.

The Department is faced with the difficult task of interpreting the phrase "established under authority of any law." Congress did not provide guidance on the meaning of this phrase; neither the reports of the House and Senate committees nor the record of floor debate contain any discussion of this statutory language.

Under the rules of statutory construction, it is possible to interpret the phrase "established under authority of any law" in many ways. Four alternative versions are included for comment in this proposed rule. There are two overriding issues in the interpretation of this phrase: (a) whether to include age distinctions contained in regulations; and (b) whether to include age distinctions enacted by State and local legislative bodies.

Before we discuss the four alternative interpretations of the phrase "established under authority of any law," we should mention some examples of age distinctions contained in statutes and regulations. Examples include:

(1) Federal laws establishing age criteria for eligibility for services in various programs such as section 706(a)(2) of the Older Americans Act which authorized nutrition projects for individuals 60 or older.

(2) State laws imposing age limitations regarding who may qualify for a driver's license.

(3) State statutes which allow the State, in the administration of its criminal justice system, to provide for different treatment of juveniles in terms of procedures, confinement, and other punishments.

(4) City or county ordinances which grant favorable property tax or utility rate treatment to the elderly.

(5) A local transit authority regulation which provides reduced bus fares for school children.

The way in which we interpret the phrase "established under authority of any law" will determine which of these examples will be covered by the Act. The options concerning the interpretation of the phrase present progressively narrower interpretations. An age distinction which falls within any one of the options discussed below will not be prohibited by the Act.

Under the first option, "established under authority of any law" is interpreted in a very broad manner to include Federal, State, and local statutes and ordinances and Federal, State, and local regulations. Although the line between local statutes and ordinances on the one hand and local regulations on the other is often difficult to draw, this first option is intended to afford equal deference to all officially-established age distinctions. Under

These definitions are intended to

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this option, age distinctions which condition eligibility for participation in federally assisted programs and are contained in either a law enacted by a general purpose legislative department of government or in a regulations established under the basic minimum procedureal requirements for public notice and comment would not be covered by the Act. Thus, this option would grant an automatic exemption to age distinctions in *all* federal, State, and local statutes and regulations.

Under the second option, "any law" refers to federal, State, and local statutes and ordinances. Therefore, an age distinction contained in a regulation would not automatically be granted an exemption from the Act. Rather, to be exempted, it would have to be explicitly based on age distinctions contained in a statute or ordinance, or it would have to fall within one of the exceptions to the Act set forth in § 90.14.

The third option presented would exempt those age distinctions contained in federal or State statutes, but would not grant an automatic exemption to age distinctions found in local statutes or ordinances, or in federal, State, or local regulations. This option recognizes that there may be important differences between federal and State legislative bodies on the one hand, and local legislative councils on the other, which justify different treatment under these regulations. Moreover, local units of government are creatures of the State. Under this option, an age distinction which is contained in local statutes or ordinances, or federal, State or local regulations would be exempt from the coverage of the Act only if it is explicitly based on an age distinction contained in a federal or State statute, or is exempted by one of the exceptions in section 90.14.

The fourth option presented would exempt only those age distinctions in federal statutes. This is the most restrictive interpretation of the options. Again, under this interpretation, age distinctions contained in State or local statutes or ordinances or in federal regulations would not be granted an automatic exemption, but would be exempt from the coverage of the Act only if the age distinction is explicitly based on a federal statute or is exempted by one of the exceptions in section 90.14.

As we said at the outset of this discussion of options for the interpretation of the phrase "established under authority of any law," there are two overriding issues which must be confronted: a) whether to include age distinctions contained in regulations; and b) whether to include age distinctions enacted by State and local legislative bodies. The Department seeks the broadest possible comment on the four options set forth and on the issues which must guide the interpretation of the phrase "established under authority of any law." With respect to the inclusion of regulations within the phrase, some argue that federal, State, or local administrators of federally funded programs should not be permitted to impose age distinctions which are not authorized by a legislative body. Yet, we know very little about age distinctions imposed by regulations. Some may be very reasonable and beneficial. The public is asked to comment on specific examples of age distinctions imposed by regulations and not authorized by statute or ordinance which should be protected in the interpretation of "any law," and thus exempted from coverage under the Act.

With respect to State and local statutes or ordinances, some argue that limitations on the use of federal funds which are based on age should only be authorized by Congress. They contend that federal administrators and State and local governments should not deny access to federally aided services on the basis of age unless Congress has authorized the limitation or restriction. But, we know only a little about age distinctions used in federally supported programs which are imposed by State or local legislatures, and many of these appear to be reasonable. These include compulsory school attendance requirements, driver's license limitations, juvenile court systems, etc. Should federal funds to education, driver safety programs, or State law enforcement be put in doubt until a decision is made whether these age distinctions fall within one of the statutory exceptions in § 90.14?

The Department has also considered other options in addition to the four set forth in the text of the proposed rule—for example, exempting federal, State, and local statutes, and federal regulations. The Department is leaning toward Option #3 which would interpret the phrase "established under authority of any law" to mean federal statutes or State statutes. Comments are invited not only on the various interpretations described but also on other reasonable interpretations. Which interpretation would be the most effective in preventing age discrimination, but still preserve some flexibility for State and local governmental units, consistent with the intent and purpose of the Act?

EMPLOYMENT DISCRIMINATION

Generally, the Age Discrimination Act of 1975 does not cover employment discrimination. The Age Discrimination in Employment Act of 1967, which is administered by the Department of Labor, will continue to be the principal tool for addressing age discrimination in employment practices for persons between the ages of 40 and 70. Included under the coverage of the Age Discrimination Act, however, are public service employment programs funded under the Comprehensive Employment and Training Act.

The Department wishes to avoid overlapping jurisdiction between the Age Discrimination Act of 1975 and the Age Discrimination in Employment Act of 1967. However, we also want to make certain that all employment related programs and activities receiving federal financial assistance are covered by *either* the Age Discrimination Act or the Age Discrimination in Employment Act. We therefore propose that these regulations cover any program or activity, such as the College Work Study Program (42 U.S.C. 2751, *et seq.*) and the Work Incentive Program (42 U.S.C. 630, *et seq.*) which could be characterized as either the provision of federal financial assistance or an employment practice, unless that practice is clearly covered by the Age Discrimination in Employment Act. For example, the employment of staff such as doctors, nurses, administrators, by a large private hospital is clearly covered by the Age Discrimination in Employment Act and would not be covered by the Age Discrimination Act.

We solicit comments identifying specific areas of overlap and also specific problems, if any, which might be created by our interpretation of this exemption.

§ 90.4 *How are the terms in these regulations defined?*

Text of the proposed rule:

As used in these regulations, the term:

"Act" means the Age Discrimination Act of 1975, as amended, (Title III of Public Law 94-135).

"Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using an age or age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons").

"Agency" means a federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(a) funds;

(b) services of federal personnel; or

(c) real and personal property or any interest in or use of property, including:

(1) transfers or leases of property for less than fair market value or for reduced consideration; and

(2) proceeds from a subsequent transfer or lease of property if the federal share of its fair market value is not returned to the Federal Government.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee but excludes the ultimate beneficiary of the assistance.

"Secretary" means the Secretary of Health, Education, and Welfare.

The above definition section warrants no discussion here. However, public comments or suggested additions to the list are welcome and will be considered.

Subpart B—What is Age Discrimination?

§ 90.11 *Purpose of this subpart.*

Text of the proposed rule:

The purpose of this subpart is to set forth the prohibitions against age discrimination and the exceptions to those prohibitions.

No discussion is necessary on this section, but public comments are welcome and will be considered.

§ 90.12 *Rules against age discrimination.*

Text of the proposed rule:

The rules stated in this section are limited by the exceptions contained in sections 90.13, 90.14, and 90.15 of these regulations.

(a) *General rule:*

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

(b) *Specific rules:*

A recipient may not, in any program or activity receiving federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program of activity receiving federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving federal financial assistance.

(c) *Reservation:*

The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

The Age Discrimination Act of 1975, as amended, contains a prohibition against age discrimination. However, this prohibition is limited by the exceptions discussed below in §§ 90.13, 90.14, and 90.15. It should be remembered that this prohibition is also limited in another way. That is, age distinctions which are "established under authority of any law" are not covered by the Act and hence do not fall within the prohibtion against age discrimination. [See discussion of § 90.3]

Section 90.12 sets forth the prohibition against age discrimination. The *general rule* containing the prohibition on age discrimination is based directly on section 303 of the Age Discrimination Act. The *specific rule* which interpret the prohibition depart from the list of express prohibitions of discrimination found in regulations for Title VI of the Civil Rights Act of 1964 (45 CFR Part 80) in that they do not include an absolute prohibition on separate or different treatment on the baisis of age. As a general rule, separate or different treatment which denies or limits services from, or participation in, a program receiving federal financial assistance would be prohibited by these regulations. On the other hand, if a program or activity qualifies for an exception, the fact that it limits service through separate of different treatment on the basis of age would not invalidate it. Similarly, separate or different treatment designed to meet the special needs of persons in a particular age group may qualify for an exception under these regulations.

§ 90.13 *Definition of "normal operation" and "statutory objective."*

Text of the proposed rule:

The terms "normal operation" and "statutory objective" are important to an understanding of the statutory exceptions to the prohibition against age discrimination. Therefore, for purposes of §§ 90.14 and 90.15, the terms "normal operation" and "statutory objective" shall have the following meaning:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in a statute [or reasonably inferred from its provisions or legislative history.]

These definitions are intended to further define the meaning of some of the key terms in §§ 90.14 and 90.15.

"Normal operation" is defined in a way that does not require a program to make significant changes in its operation that would impair achievement of its objectives. At the same time, a change that merely disturbs administrative routine or convenience would be required.

We have set forth alternative interpretations of "statutory objective." In one alternative, "statutory objective" is defined to include any purpose either expressly stated in the statute or reasonably inferred from its provisions or legislative history. This is the Department's preferred interpretation. The other alternative definition limits "statutory objective" to any purpose expressly stated in the statute. The mere fact that an administrative action has a worthy program purpose would not by itself bring it within either definition.

§ 90.14 *Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.*

Text of the proposed rule:

A recipient is permitted to take an action, otherwise prohibited by § 90.12, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics (e.g., maturity);

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are difficult, costly, or otherwise impractical to measure directly.

Section 90.14 implements two statutory exceptions to the general prohibition on age discrimination contained in § 90.12 of the regulations. According to § 304(b)(1)(A) of the Act, use of an age distinction is permitted if it is necessary to the normal operation of a program or activity, or if it is necessary to achieve any statutory objective of a program or activity. Paragraphs (a) thru (d) of § 90.14 set forth rules for determining whether the use of an age distinction is necessary to the normal operation or the achievement

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of any statutory objective of a program or activity.

To qualify for an exception within this section: (a) an age distinction must be used as a proxy for, or as a measure of, some other (non-age) characteristic (such as phyiscal maturity or susceptibility to certain kinds of diseases); (b) the *other* characteristic must be necessary for "normal operation" or for the achievement of a "statutory objective;" (c) the other characteristic can be reasonably approximated by age; and (d) it is impractical to use the other characteristic directly (because, for example, it would be too difficult to determine physical maturity on an individual basis).

The Department has had difficulty identifying any age distinction which is not being used as an approximation for or a measure of some other characteristic. The Department requests the public to identify instances where age is not used as a proxy, directly or indirectly, for another characteristic.

In determining whether an age distinction qualifies for one of the exceptions, it may be relevant that as a matter of policy the age distinction is not rigidly applied but permits a person, upon a proper showing of the necessary characteristic to participate in the activity or program even though he or she would otherwise be barred by the age distinction. Thus, *other things being equal,* an age distinction is more likely to qualify under one of the statutory exceptions if it provides for flexibility rather than automatically barring all those who do not meet the age requirement.

The following examples illustrate how the exceptions contained in § 90.14 of the regulations might be applied.

AGE AS A FACTOR NECESSARY TO THE NORMAL OPERATION OF A PROGRAM OR ACTIVITY

(1) The Head Start Program, 42 U.S.C. 2928, provides comprehensive health, nutritional, educational, social and other services for children who have not reached compulsory school age, but does not specify a lower age limit for participation. The nature of this preparation requires that children who participate have attained a certain level of phyiscal, emotional, and mental maturity. While it is difficult and expensive to measure emotional, intellectual and physical maturity, age 3 appears to be reasonably related to this level of maturity. Therefore, the policy of generally limiting Head Start participants to children who have attained age 3 would appear to be allowed under this exception. By limiting participation in Head Start to those children who have reached age 3, a recipient of federal funds may be reasonably taking age into account as a factor necessary to the normal operation of the Head Start program. Unless significant program changes are made, enrollment of children who are younger than 3 years of age may impair a recipient's ability to provide Head Start preparation for those children who have reached a required level of maturity.

(2) Many recreation programs use age distinctions in establishing different sports leagues. For example, football and soccer leagues often involve three or more groupings for children of different ages. The purpose of these distinctions is to equalize competition (and sometimes to promote safety) by grouping children of like coordination, size, strength, social maturity, and experience. Age is an indicator of physical maturation of children. By placing a child or adult in his or her appropriate age group in a sports league, a recipient of federal funds may be reasonably taking age into account as a factor necessary to the normal operation of a sports league. Unless significant program changes are made, admission of a 10 year old child into a football grouping of 18 year old teenagers may impair a recipient's ability to meet its objectives of equalizing competition and promoting safety. The Department invites comments on this issue.

AGE AS A FACTOR NECESSARY TO ACHIEVE A STATUTORY OBJECTIVE OF A PROGRAM OR ACTIVITY

(1) Title XIX of the Social Security Act authorizes an Early and Periodic Screening, Diagnosis and Treatment program (EPSDT) for the detection and prevention of disease in children. The use of a "periodicity" schedule under this program which provides for a higher frequency of examinations for younger than for older children would be permissible if it could be shown that the schedule served to achieve the statutory objectives of detecting and preventing disease and of serving the best medical interests of Title XIX beneficiaries.

(2) A breast cancer screening program funded under section 409 of the Public Health Service Act could limit its services by age to women over 50 years old. This would appear to be permissible because age is a proven indicator of the risk of breast cancer, and the objective of the program is the prevention, diagnosis and treatment of cancer.

(3) Section 222(d)(1) of the Social Security Act requires that payment from the Trust Fund for the cost of vocational rehabilitation services for disabled individuals receiving benefits from the Disability Insurance Trust Fund be "based upon the effect that the provision of such services would have upon the Trust Fund." Disabled individuals are by law taken off the Disability Insurance Trust Fund rolls at age 65. To achieve the statutory objective of savings to the Trust Fund, individuals who are selected should have the potential to work long enough after the completion of their rehabilitation to create a savings to the Trust Fund. It is difficult to predict this potential on an individual basis and there is evidence that age is related to this potential. The Department solicits comments on whether a policy of generally limiting payments for most types of vocational rehabilitation services to individuals who have not yet reached a certain age [e.g. 62] would appear to be allowed under this exception.

One last question needs to be addressed with respect to the exceptions contained in § 90.14. Under what circumstances can organizations which are designed to serve particular age groups, and which are often recipients or used by recipients to administer or conduct some federally assisted programs, continue to use age distinctions? Some of the organizations, for example, Junior Chambers of Commerce, or senior citizen's clubs may restrict membership or service by age. Under these proposed regulations, if these organizations receive federal financial assistance, they can continue to impose age restrictions if they are able to quality for an exception as defined in section 90.14. The Department invites comments on whether the regulations should contain additional clarification or alternative tests for this type of organization.

§ 90.15 *Exceptions to the rules against age discrimination. Reasonable factors other than age.*

A recipient is permitted to take an action otherwise prohibited by § 90.12 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. However, the factor must bear a [rational/direct/substantial/necessary] relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

This exception refers to a situation in which a distinction is based on some factor other than age (such as poverty, physical strength or health status) and produces participation rates or other effects which differ among particular age groups. Under this exception, differential age *effects* standing alone do not constitute discrimination. Even in the complete absence of age discrimination, colleges, day care centers, parks, and virtually all institutions may exhibit wide variations in the proportions served of each age. However, variations in the proportions

of persons served of each age, standing alone, do not constitute age discrimination.

The Department has set forth alternative interpretations of this exception. However, we believe that Congress intended this exception to be a less rigorous one, particularly because the statute does not require that factors other than age be "necessary" to anything, but only that they be "reasonable." Therefore, the Department's preferred interpretation is: "bears a rational relationship" to statutory objectives or normal program operations. This interpretation would employ a test similar to the "rational relationship" test applied by the courts to many classifications challenged under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Use of the word "direct" or "substantial" or "necessary" would result in a stricter reading of this exception. Hence, many "factors other than age" having a differential impact on persons of particular ages might not be permitted to continue under a stricter interpretation of the exception.

The Department requests comment on which interpretation of this exception should be adopted?

The following examples illustrate this exception:

(1) Some training programs may use standard physical fitness tests as a factor for selecting participants in certain public service employment jobs which require physical stamina. Although use of such a test may have a disproportionate adverse effect on the basis of age, the physical fitness test if rationally (or substantially or directly) related (or if necessary) to the individual's ability to participate in the particular jobs involved, would appear to be allowed under this exception.

(2) Colleges often use test scores to determine eligibility for admission. Use of test scores may favor younger applicants over older applicants because, on the average, younger people are more used to being tested. However, since test scores may predict academic success, test scores may bear a "rational," "substantial," or "direct" relationship to the selection of qualified students. On the other hand, their use may not be strictly "necessary" to the selection of qualified students.

THE EXCEPTIONS AND COST-BENEFIT CONSIDERATIONS

One of the critical questions which must be addressed with respect to the interpretation of the statutory exceptions to the general prohibition against age discrimination is whether cost-benefit considerations can justify age distinctions or "reasonable factors other than age." A cost-benefit consideration is one which reflects a balancing of the costs associated with any particular action and the benefits to society which may result from the action. In its study of age discrimination in federally funded programs and activities, the Civil Rights Commission reported that some program administrators justify imposing age restrictions simply because funds are limited and not all eligible persons can be served. For example, a program administrator might contend that it is appropriate to use the limited funds available in an adult literacy program for persons under 25 years of age because they will live longer and thus will be better able to repay society for the cost of the literacy program.

A cost-benefit consideration would not by itself either disqualify or justify the use of an age distinction, for the age distinction would have to be justified as necessary to the normal operation or achievement of a statutory objective of the program. To be valid, the distinction would have to come within one of the specific exceptions contained in §§ 90.14 and 90.15. Use of a factor other than age would be evaluated based on its relationship to these operations and objectives, and would not be allowed or disallowed simply because it reflects cost-benefit considerations.

Several examples will illustrate these principles. The use of a periodicity schedule in the EPSDT program (see example under "age as a factor necessary to achieve a statutory objective of a program or activity") reflects an age-sensitive cost-benefit consideration, but would appear to be justified because it can be shown that such a schedule enhances the attainment of the statutory objective of prevention of disease.

A more difficult example is that of a medical school which does not accept applicants over a certain age because of the high cost of medical education and the more limited period of active medical service that can be expected from an older medical school graduate. This age limitation, however, would appear to violate the Act, since the age distinction is probably not necessary to the school's normal operation or to a statutory objective. Denial of research awards to persons over age 70 would likewise appear to be prohibited, since it is not necessary to the normal operation of a research program. If the desired aim of the program is to prevent project disruption through retirement, that aim can be achieved without resort to an age limitation by simply requiring the investigator to remain for the duration of the project as a condition of the award.

While cost-benefit considerations may be reflected in "reasonable factors other than age" (§ 90.15), those factors would not be allowed or disallowed simply because they reflect cost-benefit considerations. For example, the Vocational Rehabilitation program might take into account the likelihood of physical therapy succeeding with stroke victims in determining the future employment potential of applicants for services. However, the program probably could not deny services on the grounds that employers are likely to discriminate. Similarly, a decision to limit a new vaccine in short supply to those most physically vulnerable and hence most likely to develop the disease would probably be justified even though it tends to favor aged persons and infants over teenagers and adults.

The Department invites comments on these principles and the specific situations to which they might apply, including the examples cited above and other examples. It particularly seeks any alternative formulations which might better specify the appropriate role of cost-benefit considerations in justifying age distinctions or actions based upon reasonable factors other than age.

SERVICES RENDERED UNDER AGE-TARGETED PROGRAMS

Federal funds sometimes support similar programs for the general population and for a specific age group. One of the more difficult questions posed by the presence of age-specific programs *and* general programs is how or whether the presence of the age-specific program affects the obligation of the general program to seek out and serve those eligible for the special program. For example, to what extent (if any) does the existence of a federally funded senior citizens legal aid program relieve the neighborhood legal services program of the obligation to serve the elderly? May a general hospital receiving federal funds curtail its services to children on the grounds that a federally-funded pediatric program exists at a nearby neighborhood health center? Or, if there is a nutrition program under Title VI of The Older Americans Act in an area, what is the obligation of a nutrition program under Title XX of the Social Security Act which serves the same area? Can the program refuse to serve those eligible for the Title VII program (i.e. those over 60)? Does a general program fulfill its obligation by referring applicants to the age-specific program? Can the general program launch outreach efforts targeted on those not eligible for the age-specific program? As the regulations are currently drafted, these practices are sanctioned only if, and to the extent, they meet one of the exceptions in

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§ 90.14. Public comments are solicited on this issue.

§ 90.16 *Burden of proof.*

Text of proposed rule:

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 90.14 and 90.15 is on the recipient of federal financial assistance.

This rule is proposed in the belief that the recipient (rather than the complainant) is the party most knowledgeable about its program or activity, the normal operation of the program or activity, and any statutory objective by which it might be governed. The recipient is best able to demonstrate that an age distinction or factor other than age is entitled to an exception under §§ 90.14 or 90.15.

Subpart C—What Are the Responsibilities of the Federal Agencies?

§ 90.31 *Issuance of regulations.*

Text of the proposed rule:

(a) The head of each agency which extends Federal financial assistance to any program or activity shall publish proposed and final age discrimination regulations in the FEDERAL REGISTER to:

(1) Carry out the provisions of Section 303 of the Age Discrimination Act of 1975; *and*

(2) Provide for appropriate investigative, conciliation, and enforcement procedures.

(b) Each agency shall publish its proposed agency age discrimination regulations no later than 90 days after the publication date of the final general, government-wide age discrimination regulations.

(c) Each agency shall publish final agency regulations no later than 120 days after publication of proposed agency age discrimination regulations.

(d) Agency age discrimination regulations shall be consistent with these general, government-wide age discrimination regulations and shall not become effective until they meet all requirements of the Act.

(e) Each agency shall include in its regulations a provision governing the operation of an alternate funds disbursal procedure as described in § 90.47 of these regulations.

(f) Each agency shall publish an appendix to its final age discrimination regulations containing a list of each age distinction provided in a federal statute or regulation which affects the agency's programs of federal financial assistance.

Subpart C describes the responsibilities of federal agencies. Section 90.31 concerns responsibilities for the issuance of agency-specific age discrimination regulations. Among other provisions, these agency regulations must contain appropriate investigative, conciliation and enforcement procedures. They must also include a provision allowing for the distribution of federal agency funds to another entity in the event that a recipient is found to have violated the Act. According to the 1978 amendments to the Act, the head of each agency has discretion to award funds to another organization after an administrative law judge or a hearing examiner or a court has found a recipient to be in violation of the Act.

Moreover, in order that recipients of federal financial assistance and the public might learn which age distinctions are authorized by federal statutes or regulations, each agency is required to append to its final age discrimination regulations a list of all age distinctions contained in statutes or regulations which govern the agency's programs of federal financial assistance. The purpose of the appendix is to let the public know what age distinctions exist in statutes and regulations. This appendix will not constitute agency approval or disapproval of the age distinctions contained in its regulations.

The Age Discrimination Act requires that the proposed regulations of each agency must be published 90 days after the publication date of the general regulations. The final specific regulations of each agency must be published no later than 120 days after the publication of the proposed agency age discrimination regulations. In light of the fact that all agencies granting financial assistance have been represented on the Federal Interagency Task Force on Age Discrimination, and have been consulted regularly on the drafting of these proposed general regulations, these time frames appear reasonable. They are designed both to ensure ample opportunity for public participation in the agency regulations drafting process and to ensure that the age discrimination regulations are issued promptly. Under the terms of the statute, the Act becomes effective only upon issuance of these specific agency regulations. These agency regulations must be consistent with the general regulations.

The 1978 amendments to the Act require HEW to approve the regulations of other agencies before they become effective. The Department is concerned that it may not have the necessary knowledge of other agency program to carry out this approval provision effectively. We are also concerned over the fact that HEW is placed in the position of evaluating the efforts of other co-equal departments of government. Therefore the Department is considering proposing legislation to modify this requirement. Comment is invited on the advisability of proposing such legislation and what substitute provisions, if any, should be proposed.

§ 90.32 *Review of agency policies and administrative practices.*

Text of the proposed rule:

(a) Each agency shall conduct a review of age distinctions it imposes on its recipients by regulations, policies, and administrative practices. The purpose of this review is to identify how age distinctions are used by each federal agency and whether those age distinctions are permissible under the Act and implementing regulations. Age distinctions used by a federal agency in its regulations, policies, or administrative practices are permissible if they are based on an explicit age distinction in a federal statute or are covered by at least one of the exceptions to the rules against age discrimination in section 90.14.

(b) No later than 12 months from the date the agency publishes its final regulations, the agency shall publish, for public comment, a report in the FEDERAL REGISTER containing for its programs:

(1) The results of the review conducted under paragraph (a) of this section;

(2) A list of the age distinctions contained in regulations which are to be continued;

(3) A list of the age distinctions not contained in regulations but which will be adopted by regulation in order to remain in use;

(4) The justification for each age distinction to be continued; and

(5) A list of the age distinctions to be eliminated.

(c) An agency may not continue an existing age distinction, nor impose a new age distinction, 12 months after the publication of its age discrimination regulations, unless the age distinction is adopted by regulation under the Administrative Procedure Act.

This section of the proposed regulations requires each agency to review its regulations, policies, and administrative practices which govern the programs to which it provides assistance. Each agency shall identify age or age-related terms used in its programs which are permissible under the Act and under the agency's own age discrimination regulations. The results of the review must be reported in the FEDERAL REGISTER for public comment no later than 12 months from the date the agency publishes its final regulations. However, the agencies are encouraged to complete this report as soon as possible after the issuance of their final regulations. The report must contain the results of the review, and a list of the age distinctions to be continued and those to be eliminated. All age distinctions to be continued

thereafter must be imposed by regulation and must be authorized either by a federal statute or by one of the exceptions in § 90.14. This means that if an agency intends to continue to use an age distinction previously imposed by administrative fiat or contained in a policy manual, it must include that age distinction as part of a regulation published in the FEDERAL REGISTER. this review, required by section 90.32, is designed to have each agency examine closely its own practices. The question to be asked is not simply what is the agency doing, but whether the age distinctions are permissible at all.

The Department is requiring this review of agency regulations, policies, and administrative practices so that recipients and subrecipients of federal financial assistance will know which age distinctions may be used in their own programs or activities. Moreover, this review will enable recipients to complete the self-evaluations required under § 90.43(c) of these regulations.

§ 90.33 *Interagency cooperation.*

Text of the proposed rule:

Where two or more agencies provide federal financial assistance to a recipient or class of recipients, their regulations shall provide for a single compliance and enforcement procedure. their regulations shall also designate one of the agencies as the sole agency for all compliance and enforcement purposes with repsect to those recipients, except the ordering of termination of funds and the notification of the appropriate committees of Congress.

The purpose of this proposed rule is to stimulate public comment with respect to eliminating the possibility that recipients will receive conflicting instructions and directives from different federal agencies on matters of compliance and enforcement. It is proposed that federal agencies which administer programs to a recipient or class of recipients for similar or related purposes designate one of the agencies as the "lead agency." The lead agency would have responsibility for all compliance and enforcement activities with respect to a particular class of recipients (e.g., educational isntitutions; neighborhood health centers), except for the actual termination of funds and the notification to Congress of that termination. Under the Act, only the agency administering funds may terminate them. Therefore, the termination of funds and notification to Congress would remain the responsibility of each federal agency. the use of a lead agency procedure means that a recipient would deal only with one agency for enforcement. However, it also means that the primary enforcement agency would have to be familiar with the operation of other agencies' programs in order to enforce the Age Discrimination Act.

The Department solicits comments on the wisdom and feasibility of this proposed rule. Should this proposed rule be retained in the final general, government-wide age discrimination regulations? Is there a need for coordination of compliance and enforcement activities under the Act? Will the lead agency approach provide the needed coordination? What specific classes of recipients should be grouped for assignment to a lead agency? Which agency should be designated the lead agency for specific classes of recipients? Will the lead agency concept be too difficult and confusing to implement?

§ 90.34 *Agency reports.*

Text of the proposed rule:

Each agency shall submit to the Secretary not later than December 31 of each year, beginning in 1979, a report which:

(a) Describes in detail the steps taken during the preceding fiscal year to carry out the Act;

(b) Contains data on the frequency, type, validity, and resolution of compliants and on compliance reviews sufficient to analyze the agency's progress in reducing age discrimination in its programs;

(c) Contains data directly relevant to the extent of any pattern or practice of age discrimination which the agency has identified in any of its programs, and to progress toward eliminating it; and

(d) Contains evaluative or interpretive information which the agency determines is useful in analyzing agency progress in reducing age discrimination in its programs.

(e) Contains such other data as the Secretary may require. The 1978 amendments to the Age Discrimination Act added a new section 308 on reporting requirements. Section 308 provides:

(a) Not later than December 31 of each year (beginning in 1979), the head of each federal department or agency shall submit to the secretary of Health, Education, and Welfare a report (1) discribing in detail the steps taken during the preceding fiscal year by such department or agency to carry out the provisions of section 303; and (2) containing specific data about program participants or beneficiaries, by age, sufficient to permit analysis of how well the department or agency is carrying out the provisions of section 303.

(b) Not later than March 31 of each year (beginning in 1980), the Secretary of Health, Education, and Welfare shall compile the reports made pursuant to subsection (a) and shall submit them to the Congress, together with an evaluation of the performance of each department or agency with respect to carrying out the provisions of section 303.

No other civil rights statute contains a comparable requirement. This provision raises two areas of concern. First, it requires HEW to evaluate co-equal departments of government regarding enforcement of the Age Discrimination Act in their programs. The Department does not have the detailed familiarity with the hundreds of programs operated by other agencies necessary to reach accurate conclusions about the presence or extent of age discrimination.

Second, the statutory requirement for submitting data on participants by age "sufficient" to permit analysis of compliance with the Act could involve, depending upon how it is interpreted, an extraordinarily expensive data collection burden, involving the collection of multiple measures of participation from hundreds of federal programs involving perhaps 100,000 recipients of federal funds. Moreover, these data, even where they exist, would not necessarily be useful in identifying patterns of age discrimination. Disparities in rates of participation by age among the many federal assistance programs may be due to many causes other than age discrimination, including differences in needs and desires among different age groups, different program objectives, and the effects of the many other programs available to similar age groups.

To identify patterns of age discrimination much additional data, such as ages of eligible beneficiaries in each recipient's area of service and the effects upon demand for services of other programs in the area, would be needed. These data are not now routinely available nationally (and rarely locally), can be expensive to collect, and still may not be sufficient to identify or measure age discrimination.

The Community Health Centers program, which provides ambulatory health care for persons without financial or physical access to private medical care, illustrates both the complexity of the problem and the potential for expensive data collection. Each center's utilization is affected by many factors, including its location in relation to housing and transportation, its location in relation to other health providers, the varying need for health care among different age groups, and the availability of financing for private health care for certain age groups provided by programs such as Medicare and Medicaid.

Which age groups use a health center will also be influenced by services it offers and which services are available from other sources. For example, if a State has especially large

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and active Maternal and Child Health and Early and Periodic Screening, Diagnosis and Treatment programs, then the proportion of children served in its community health centers may be lower than in otherwise comparable centers in another State. Similarly, if a local hospital has a glaucoma testing program, then a nearby center might decide to refer patients to this service rather than offer it directly. This practice may result in a reduction in the number of older persons served.

There are many different indicators to describe the utilization of a health center: total number of persons served; number of persons who use the center regularly; number who use each service; amount spent per client; and, "success" rates. An analysis of these indicators could show different patterns of participation, by age, since different age groups have different needs for health services. The cost of collecting all the relevant data by age could easily reach $20,000 (or more) per year per center. There are about 570 such centers; the total cost for this *one program* could therefore reach $10 million dollars annually. Even with these data, it is doubtful that any firm conclusions about age discrimination could be reached, since many other factors could account for variations in the age of clients within and among the centers.

In view of these problems, the Department is proposing a targeted approach to data collection and analysis, both to maximize the opportunity to measure and analyze actual progress in complying with the Act and to minimize unnecessary data collection. That approach consists of five elements.

First, each agency must describe the steps taken to implement the Act. This report is to be prepared annually. Second, the Department proposes to require that complaint data be extensively analyzed. Complaint data, particularly when supplemented by other sources of compliance information, can serve to identify systematic patterns of discrimination, as well as isolated cases of discrimination. For example, even though only a fraction of those eligible to participate in a particular program file complaints follow-up on even one complaint could expose a pattern or practice of discrimination of a particular type which a comprehensive reporting system would never detect. Not only can the analysis of complaint data (supplemented by compliance reviews and in-depth investigations, as appropriate) be more effective than massive reporting systems, it would involve minimal cost, since the complaint process is a necessary enforcement step which would already exist.

Third, the Department proposes that each agency collect, where necessary, data on particular recipients linked to particular patterns or practices of discrimination revealed by complaints, compliance reviews, or in-depth investigations. For example, if it were found that health centers in a particular region of the country were discriminatorily denying a particular service needed by elderly persons, a narrow, specific reporting requirement could be levied to measure progress in providing the service to the elderly.

Fourth, the proposed approach gives each agency authority to collect additional information which the agency believes is useful in reporting its progress in reducing age discrimination. This could include, depending on the circumstances, sample surveys, one day data collections, special evaluation studies, data gathered as part of in-depth compliance reviews, and analysis of data already collected under existing reporting and evaluation systems. Finally, under the proposed rule, the Secretary may specify additional data requirements whenever the situation warrants.

The Department solicits public comment not only on the proposed approach to data collection, but also on other alternatives such as the following:

(a) Would a requirement for submission of the self-evaluation required of recipients employing 15 or more employees under section 90.43(c), and the review by the agency of the recipient's self-evaluation report and of age distinctions be useful in meeting the new reporting requirement?

(b) Would age-specific data generated by federal monitoring under section 90.48, and by additional evaluation studies which HEW or other agencies may determine are necessary, meet the new reporting requirement?

(c) If it were deemed necessary to institute in-depth, program-wide data collection requirements covering not only overall national participation by age, but also eligibility and services provided by each recipient, should such requirements be limited to those programs found to be engaging in age discrimination?

(d) Would it be possible or productive to focus on existing program participation reported on clients, and analyze the data to identify gross disparities in participation by age among recipients within each program to identify *possible* areas of age discrimination for appropriate follow-up?

(e) Should each agency be allowed discretion to use whichever of the above options or other methods it believes would be suitable and useful to evaluate its overall or program-by-program progress?

In commenting on the proposed regulations, the alternatives listed above, and any other alternatives, the Department requests that the public focus on what kinds of data would be sufficient to measure compliance with the prohibition against age discrimination, how that data can be gathered at the least cost, and whether the Department should seek changes in the provisions of Section 308 itself.

If, after comments on these and any other alternatives, the Department concludes that the requirements it then proposes to impose on other federal agencies are (together with the costs imposed by these regulations) likely to create national costs of $100 million or more in any year, the Department anticipates preparation of a Regulatory Analysis as required by Executive Order 12044.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 90.41 *What is the purpose of this Subpart?*

Text of the proposed rule:

This subpart sets forth requirements for the establishment of compliance, investigation, conciliation, and enforcement procedures by agencies which extend federal financial assistance.

§ 90.42 *What responsibilities to recipients and agencies have generally to ensure compliance with the Act?*

Text of the proposed rule:

(a) A recipient has primary responsibility to ensure that its programs and activities are in compliance with the Age Discrimination Act and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and to afford access to its records to the extent required by agencies to determine whether it is in compliance with the Act.

(b) An agency has responsibility to attempt to secure recipient compliance with the Act by voluntary means. This may include the use of the services of appropriate federal, State, local, or private organizations. An agency also has the responsibility to enforce the Age Discrimination Act when a recipient fails to elimnate violations of the Act.

No discussion is warranted on the above two sections. However, public comments are welcome and will be considered.

§ 90.43 *What responsibilities do recipients and agencies have specifically to ensure compliance with the Act?*

Text of the proposed rule:

(a) *General.* An agency and a recipient each have responsibilities for establishing and carrying out procedures to ensure compliance with the Age Discrimination Act.

(b) *Written notice, technical assistance, and educational materials.* Each agency extending federal financial assistance to recipients shall:

(1) Provide written notice to each recipient of its obligations under the Act. The notice shall include a requirement that where the recipient initially receiving funds makes the funds available to a sub-recipient, the recipient must notify the sub-recipient of its obligations under the Act.

(2) Provide technical assistance, where necessary, to recipients to aid them in complying with the Act.

(3) Make available educational materials setting forth the rights and obligations of beneficiaries and recipients under the Act.

The provisions of § 90.43(b) are intended to make certain that federal agencies make available to recipients adequate information regarding requirements, procedures, and rights under the Act and under agency regulations. Each recipient has the responsibility to inform its subrecipients about compliance with the Act. The educational materials described in § 90.43(b)(3) must outline not only the rights and obligations of recipients, but also of beneficiaries. They should also inform beneficiaries about the regulations and indicate how to file an age discrimination complaint.

Text of the proposed rule:

(c) *Self-evaluation.* (1) Each agency extending federal financial assistance to recipients employing 15 or more persons shall require each recipient to complete a written self-evaluation of its compliance under the Act within 18 months of the effective date of the agency regulations.

(2) Each recipient's self-evaluation shall identify and justify those age distinctions imposed by the recipient.

(3) Each recipient shall take corrective and remedial action whenever a self-evaluation indicates a violation of the Act.

(4) Each recipient shall make the self-evaluation available on request to the agency and to the public for a period of 3 years following its completion.

Self-evaluation imposes upon recipients a primary responsibility for ensuring compliance with the Act. It is envisioned that these evaluations will be simple and straight-forward. Detailed legal analysis or empirical research will rarely, if ever, be necessary. Any single age distinction can normally be analyzed in a page or less. Where no age distinctions are imposed, the self-evaluation need merely state this fact. The Department also believes that the requirement to complete the self-evaluation should be uniform across federal agencies in order to avoid imposing conflicting and multiple requirements upon recipients.

The proposed rules require each recipient to identify and justify those age distinctions which it imposes. However, the Department expects each recipient to consult the review of agency regulations, policies and administrative practices required under § 90.32 of these regulations before completing its written self-evaluation. Each recipient must make certain that it is not using any age distinction unless that distinction is "established under authority of any law," or authorized by the regulations of the federal agency providing the federal assistance, or unless that distinction falls within one of the exceptions contained in § 90.14. The Department proposes an 18 month period for the self-evaluation so that the federal agency review of is regulations, policies and administrative practices, due within one year after the publication of final agency age discrimination regulations, will be available to recipients. It should be noted that the written self-evaluation does not have to be completed until 18 months after the effective date of the agency's final age discrimination regulations.

The Department solicits comments on the following major questions regarding self-evaluation:

- Are self-evaluations useful and will they have their intended effect?
- What should a self-evaluation consist of?
- Is it reasonable to require written self-evaluations from those recipients who employ 15 or more persons? Should the Department use some other cutoff number instead of 15 which was used in the regulations implementing section 504 of the Rehabilitation Act of 1973?

Text of the proposed rule:

(d) *Complaints.* (1) *Receipt of complaints.*

(i) A procedure for the filing of complaints with the agency;

(ii) A review of complaints to assure that they fall within the jurisdiction of the Act and contain all information necessary for further processing;

(iii) Notice to the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure; and

(iv) Notice to the complainant and the recipient (or their representative) of their right to contact the agency for information and assistance regarding the complaint resolution process.

(2) *Prompt resolution of complaints.* Each agency shall establish procedures for the prompt resolution of complaints. These procedures shall require each recipient and complainant to participate actively in efforts toward speedy resolution of the complaint.

(3) *Mediation of complaints.* Each agency shall promptly refer all complaints to a mediator.

(i) The agency shall require the participation of both the recipient and the complainant in the mediation process.

(ii) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation stage, they shall reduce the agreement to writing. The mediator shall notify the referring agency that a settlement has been reached. No further action shall be taken based on that complaint unless it appears that the complainant or recipient is failing to comply with the agreement.

(iii) The mediator and the parties to the mediation shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator or party to a mediation shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator and the parties to the mediation, except as required by law.

The procedures outlined in § 90.43(d) concern the processing of complaints alleging either specific instances or patterns or practices of age discrimination. The proposed rule requires the complaint to be filed with the agency which extends federal financial assistance to the recipient against whom an accusation of age discrimination is made. The Department considered a procedure that would have allowed complaints to be filed directly with the recipients of federal financial assistance. However, the Department decided that Federal agencies would not be able to keep track of complaints under this procedure. In fact, an agency might not even know that an age discrimination complaint had been filed against one of its recipients.

These proposed regulations would allow for a complaint to be filed with an agency by an individual or a class of individuals similarly situated. In filing a complaint, an aggrieved individual may seek assistance from a representative of his or her choice or an interested outside organization. The Department invites comments with respect to the appropriateness of this filing procedure.

The introduction of mediation as the first step in the resolution of age discrimination complaints is an attempt to apply established techniques of informal dispute resolution to a federal administrative enforcement process. The purpose of this innovation is to provide faster and more creative resolution of complaints through informal methods of dispute resolution. This, in turn, will mean less delay in resolving

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justified complainant grievances and less resort to formal administrative enforcement procedures. Formal administrative enforcement processes are often too slow to meet a complainant's needs, burdensome on the recipient, and incapable of addressing the problem giving rise to the dispute in the most effective manner.

The proposed mediation process is an effort to achieve compliance with the Act while avoiding the harmful effects of bureaucracy, paperwork, excessive formalism, and reliance on the adversary process. These factors have led to a large backlog of cases under other civil rights statutes and thus denied swift and fair resolution of charges of discrimination. There are several major elements of the process. First, the process will be supervised by a trained mediator. We are proposing that the mediator have the authority to terminate the mediation if the process appears to have broken down. The mediation will last either for 60 or 90 days. [See § 90.43(d)(4).] Public comment is invited on the issue of whether 60 or 90 days is a more appropriate length of time to carry out mediation.

Second, participation in mediation is mandatory for both the complainant and the recipient. At the initial meeting with the mediator, the rights and responsibilities of the recipient and complainant, and the requirements of the law will be explained.

Third, the objective of the mediation is to obtain a resolution of the complaint which is satisfactory to both the complainant and the recipient. Experience with mediation in other areas indicates that even the most intransigent parties are often capable of arriving at satisfactory solutions to their problems if they will only make the initial attempt to overcome the communication and other barriers between them. The solution accepted by both parties may be more or less than could be required by a court or an administrative hearing, but must be acceptable to both parties.

Fourth, to the extent possible under law, mediators are to observe a policy of confidentiality with respect to the mediation process. The complainant and the recipient each must be confident that, in working towards a mutual settlement of their dispute, they are in no way prejudicing their rights under the formal enforcement process. This is particularly the case in the event that one of them should decide that the formal administrative process must be followed.

The mediation process offers advantages to both the complainant and the recipient. Complainants are protected and supported in their effort to achieve resolution of their complaint. Both complainants and recipients can avoid formal, legalistic, time-consuming federal agency investigative and enforcement processes.

To further the goal of efficient resolution of complaints, the Department and the Office of Management and Budget are considering assigning the administration of the mediation process for all federal agencies to the Federal Mediation and Conciliation Service. The Service would recruit and train mediators either from among its own staff or from the community. This would allow utilization of the Service's experience and resources in the mediation field. The alternative would be to have each federal agency design and staff its own mediation process. If the alternative is adopted, complainants and recipients could not look to a single and consistent source for the mediation of complaints under the Age Discrimination Act.

Use of the Federal Mediation and Conciliation Service to manage the mediation process for all agencies would also assure: that uniform standards are applied in the recruitment and training of mediators; that there is consistency in the handling of complaints; and that there can be a comprehensive and coherent evaluation of the mediation process.

An unresolved question raised by the use of a mediation process for age discrimination complaints is what should be done with "multiple" complaints. That is, what complaint handling procedures should be used if an age discrimination complaint also alleges a violation of another anti-discrimination law, for example Title VI of the Civil Rights Act of 1964. [Title VI prohibits discrimination on the basis of race, color, or national origin by recipients of Federal financial assistance.]

Should a multiple complaint of this nature be handled under the existing Title VI procedures or age discrimination procedures? It seems excessively complicated to process each claim of discrimination under separate procedures, but consideration should also be given to this alternative. The Department welcomes comment on the most effective method for handling this type of complaint. It would also be valuable to have the benefit of any experiences which might indicate the incidence of age discrimination complaints being coupled with discrimination complaints under other civil rights authorities.

After 30 months, the Department would evaluate the government-wide experience under the mediation process in accordance with section 90.61 of these regulations. At that time we would examine a number of questions, including: How many complaints were referred to mediation? How many complaints were resolved during the mediation process? How much time did it take to resolve a complaint through mediation? Were the complainant and the recipient satisfied with the solution? Are complaints resolved faster through the use of mediation? Did the solutions accepted by both parties meet the requirements of law with respect to the prohibition against age discrimination?

The Department solicits comments on the following major questions raised by its proposed informal resolution procedure:

- How effective is the mediation process likely to be and how can it be made more effective? Should it be tried on an experimental basis for 30 months? The Department specifically requests suggestions on alternative means of effectively settling disputes.
- What burdens, if any, does it place on the complainant and the recipient? What can be done to ease the burdens?
- What are the problems associated with obtaining suitable mediators and how can these problems be solved?
- Should the mediation step be mandatory?
- Is it reasonable to expect complainants and recipients to pay their own expenses in connection with the mediation process?
- What existing sources of funds or volunteer assistance are available from State and local governments and private organizations to reduce any cost burden for individual complainants and recipients?
- Should one agency manage the mediation process, or should some or all agencies develop their own mediation capacities?
- Is the Federal Mediation and Conciliation Service using specially trained staff and community mediators, an appropriate and acceptable agency to manage the mediation process for all Federal agencies?

Text of the proposed rule:

(4) *Federal initial investigation.* each agency shall investigate complaints unresolved after mediation.

(i) Not more than 60/90 days after the agency receives the complaint, the mediator shall refer a still unresolved complaint to the referring agency for initial investigation.

(ii) As part of the initial investigation, the agency shall use informal fact finding methods including joint or individual discussions with the complainant and recipient to establish the facts, and, if possible, resolve the complaint to the mutual satisfaction of the parties. The agency may seek the assistance of any involved State or State program agency.

The first step in the formal enforcement process is initial investigation. Experience indicates that many discrimination complaints can be informally resolved prior to full-scale investigation. It is anticipated that this step will not be excessively time consuming and that adding a federal enforcement presence (in cases where mediation has not been successful) will improve the prospects for complaint resolution.

The investigation of the complaint will begin, during the initial investigation step, to establish the basis for a finding of compliance or noncompliance. However, in keeping with the statutory requirement that the agency seek voluntary compliance, and consistent with the regulations' objective of avoiding excessive paperwork and bureaucratic procedure, the agency should encourage informal settlement through voluntary compliance by a recipient or voluntary withdrawal of the complaint. When informal settlement is not possible or appropriate, the agency will proceed to formal investigation.

Text of the proposed rule:

(5) *Formal investigation, conciliation, and hearing.* If the agency cannot resolve the complaint during the early stages of the investigation, it shall:

(i) Complete the investigation of the complaint.

(ii) Attempt to achieve voluntary compliance satisfactory to the agency, if the investigation indicates a violation.

(iii) Arrange for enforcement as described in § 90.46, if necessary.

If the matter is not resolved during the initial investigation the agency must formally investigate the complaint. If a full-scale investigation indicates that the complaint is valid, the agency must still attempt to persuade the recipient to comply voluntarily with the Act. If voluntary compliance cannot be obtained, enforcement, as provided for by § 90.46, must begin. The Department invites comments on whether there should be a specified time period for initial investigation, such as 60 or 120 days, after which formal investigation, conciliation and enforcement would be mandatory.

§ 90.44 *Compliance reviews.*

Text of the proposed rule:

(a) Each agency may provide in its regulations for the conduct of compliance reviews, pre-award reviews, and other similar procedures which permit the agency to investigate, and correct, violations of the Act without regard to its procedures for handling complaints.

(b) If a compliance review or pre-award review indicates a violation of the Act, the agency shall attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, the agency shall arrange for enforcement as described in § 90.46.

The complaint process is not the only method by which an agency may enforce the Act. The agency may also use compliance reviews, pre-award reviews, and other similar methods. Depending on a variety of factors, including the relative effectiveness of the methods adopted, complaints may represent either a larger or smaller element of the overall agency enforcement process. Should these compliance reviews be made mandatory or should they remain optional with each agency as now proposed?

§ 90.45 *Information requirements and prohibition against intimidation or retaliation.*

Text of the proposed rule:

An agency shall provide in its regulations a requirement that the recipient:

(a) Provide to the agency information necessary to determine whether the recipient is in compliance with the Act.

(b) Permit reasonable access by the agency to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether a recipient is in compliance with the Act.

(c) May not engage in acts of intimidation or retaliation against any person who:

(1) Attempts to assert a right protected by the Act; or

(2) Cooperates in any investigation, hearing, or other part of the agency's investigation, conciliation, and enforcement process.

Traditionally, there has been much dissatisfaction with the paperwork burden imposed on recipients. The Department desires to avoid placing unnecessary burdens on recipients with respect to compliance and enforcement procedures. Accordingly, there is no requirement in these proposed regulations that each recipient of federal financial assistance submit a general assurance of compliance with the Act. Even without the assurance, the legal obligation of a recipient remains unchanged. In addition, as discussed in § 90.34, the Department is proposing a targeted approach to data collection. This approach should limit data collection to those data which are most likely to identify violations of the Act and to indicate what progress is being made toward the elimination of those violations. Every effort is being made to comply with the Congressionally mandated requirement that certain data be collected. Every effort also will be made to collect data useful in eliminating age discrimination. Finally, a concerted effort will be made to keep the cost of the data collection as inexpensive as possible.

§ 90.46 *What further provisions must an agency make in order to enforce its regulations after an investigation indicates that a violation of the Act has been committed?*

Text of the proposed rule:

(a) Each agency shall provide for enforcement of its regulations through:

(1) Termination of a recipient's federal financial assistance under the program or activity involved where the recipient has violated the Act or the agency's regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an impartial hearing examiner or an administrative law judge. Therefore, cases which are settled in the mediation process, or prior to the hearing before an impartial hearing examiner or an administrative law judge, will not involve termination of a recipient's federal financial assistance.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by agency regulations under the Act.

(ii) Use of any requirement of or referral to any federal, State, or local government agency which will have the effect of correcting a violation of the Act or implementing regulations.

(b) Any termination under section 90.46(a)(1) shall be limited to the particular recipient and particular program or activity receiving federal financial assistance or portion thereof found to be in violation of the Act or agency regulations. No termination shall be based in whole or in part on a finding with respect to any program or activity of the recipient which does not receive federal financial assistance.

(c) No action under paragraph (a) of this section may be taken until:

(1) The head of the agency involved has advised the recipient of its failure to comply with the regulations involved and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the head of the agency involved has sent a written report of the circumstances and grounds of the action to the committees of Congress having legislative jurisdiction over the federal program or activity involved. A report shall be filed whenever any action is taken under paragraph (a) of this section.

(d) An agency may defer granting new federal financial assistance to a recipient when termination proceedings under § 90.46(a)(1) are initiated.

(1) New federal financial assistance includes all assistance administered by or through the agency for which an application or approval, including renewal or continuation of existing activities, or authorization of new activities, is required during the deferral period. New federal financial assistance does not include assistance approved prior to the beginning of termi-

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nation proceedings or to increases in funding as a result of changed computation of formula awards.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing under § 90.46(a)(1). A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the agency. A deferral may not continue for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

Section 90.46 reflects a number of requirements with regard to termination of federal financial assistance. These include a requirement that termination take place only after notice and opportunity for a hearing, a finding on the record of a violation of the Act, a determination that compliance cannot be obtained by voluntary means, and the expiration of 30 days following an appropriate report to the Congress. Termination under the Act must be limited in its scope to the particular program or activity or portion thereof receiving federal financial assistance and may not be based on a finding with respect to any program or activity which does not receive assistance.

A report must also be sent to Congress whenever an agency enforces the Act by "other means authorized by law." These other means include an option to refer a matter, after investigation and conciliation efforts, to the Department of Justice with a recommendation to seek court enforcement of the terms and conditions of the receipt of federal financial assistance that are established by the Act.

Section 90.46(d) of the regulations provides that an agency may defer approval of new federal financial assistance during the time period when administrative hearings are taking place to enforce the Act. The purpose of this provisions is to avoid further commitments of federal financial assistance until the question of the recipient's compliance is resolved. A second purpose is to minimize the disruption which might occur if a new funding commitment were made and then, shortly thereafter, terminated as a result of the administrative hearing.

Section 90.46(d) contains two provisions protecting recipients in the event that action is deferred on their application for new federal financial assistance. First, deferral does not apply to federal financial assistance which is already due recipients under commitments made prior to the beginning of the hearing process. The flow of funds under existing commitments continues. Second, § 90.46(d)(2) places time limits on how long a deferral may last in order to prevent a deferral from becoming the equivalent of a termination because of agency imposed delays in the administrative hearing process.

§ 90.47 *Alternate funds disbursal procedure.*

Text of the proposed rule:

Whenever an agency withholds funds from a recipient pursuant to its regulations issued under § 90.31, the head of the agency may disburse the funds so withheld directly to any public or non-profit private organization or agency, or State or political subdivision of the State. These alternate recipients must demonstrate the ability to achieve the goals of the federal statute authorizing the program or activity while complying with the agency's regulations issued under this Act.

This section implements the language of a 1978 amendment. No further discussion is warranted on this section. However, public comments are welcome and will be considered.

§ 90.48 *Federal monitoring role.*

Text of the proposed rule:

Each agency shall have responsibility for monitoring the effectiveness of the compliance and enforcement program established by its regulations and shall take necessary corrective action.

Federal agencies are required to see that the entire compliance and enforcement effort, including that part carried out by the recipient, is operating effectively and to take corrective action when it is not.

§ 90.49 *Remedial and affirmative action by recipients.*

Text of the proposed rule:

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which the agency may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, both recipients may be required to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

In the case of a formal finding of past discrimination, appropriate remedial action is a necessary part of an enforcement program. This section authorizes agencies to require remedial action when it is called for after a finding of discrimination. It also permits recipients voluntarily to take affirmative action to overcome the effects of conditions which have limited program participation on the basis of age.

§ 90.50 *Exhaustion of administrative remedies.*

Text of the proposed rule:

(a) The agency shall provide in its regulations that a complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the agency has made no finding with regard to the complaint; or

(2) The agency issues any finding in favor of the recipient.

(b) If the agency issues a finding in favor of the recipient as described in § 90.50(a)(2), the agency shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right, under Section 305(e) of the Act to bring a civil action for legal or equitable relief that will effect the purposes of the Act; and

(3) Inform the complainant:

(i) That a civil action can only be brought in an United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, the head of the granting agency, and the recipient;

(iv) That the notice shall state: the alleged violation of the Act; the relief requested; the court in which the action will be brought; and whether or not attorney's fees are demanded in the event the complainant prevails;

and

(v) That no action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

(c) The agency shall cooperate with the court and the parties to facilitate a fair resolution of the action. To the extent possible under the law, the agency shall observe a policy of confidentiality regarding the mediation process described in § 90.43(d)(3).

The 1978 amendments to the Act permit persons to file a private civil action to enforce the Act. The Act spells out the conditions under which a civil action can be brought. If a complainant exhausts the administrative remedies under § 90.50(a), the complainant may file a civil action in federal court even while the agency continues the investigation process. The provision of attorney's fees to successful complainants implements a statu-

tory requirement. Federal agencies will be required to cooperate fully in informing complainants of this right and facilitating fair resolution of these enforcement actions.

Subpart E—Future Review of Age Discrimination Regulations

Text of the proposed rule:

§ 90.61 *Review of general regulations.*

The Secretary shall review the effectiveness of these regulations in securing compliance with the Act. As part of this review, 30 months after the effective date of these regulations, the Secretary shall publish a notice of opportunity for public comment on the effectiveness of the regulations. The Secretary will assess the comments and publish the results of the review and assessment in the FEDERAL REGISTER.

§ 90.62 *Review of agency regulations.*

Each agency shall review the effectiveness of its regulations in securing compliance with the Act. As part of this review, 30 months after the effective date of its regulations, each agency shall publish a notice of opportunity for public comment on the effectiveness of the agency regulations. Each agency shall assess the comments and publish the results of the review in the FEDERAL REGISTER.

Sections 90.61 and 90.62 are included in the proposed general regulations as part of the President's attempt to reform the regulatory process. Under section 4 of Executive Order 12044, agencies are required to "periodically review their existing regulations." This periodic review will help agencies determine whether the regulations are achieving the objectives for which they were designed.

Under § 90.61, the Secretary must review the general age discrimination regulations 30 months after they become effective and under § 90.62, federal agencies must review their specific age discrimination regulations 30 months after they become effective. The public will be given an opportunity to comment on both the review of general regulations and the review of specific agency regulations.

Comment is invited on whether 30 months is a sufficient period of time in which to determine whether the general age discrimination regulations and the specific agency age discrimination regulations are effective.

REGULATORY ANALYSIS—COMPLIANCE COSTS

Section 3 of Executive Order 12044 *Improving Government Regulations*, requires a regulatory analysis for "significant" regulations which "may have major economic consequences for the general economy, for individual industries, geographical regions or level of governments." The Department has concluded that a regulatory analysis is not required for these proposed regulations.

The Department has made every effort to minimize burdens of compliance with these proposed regulations and has prepared preliminary estimates of the costs. The principal burdens of the proposed regulations include the following elements:

Enforcement. Based on previous federal experience with complaints of discrimination, the Department anticipates 300-700 complaints annually, which may generate up to several million dollars annually in enforcement costs to recipients. (Similar costs for federal agencies might also be as much as several million dollars annually.) Non-federal enforcement costs are expected to affect less than 1% of the 90-100,000 recipients.

Self-evaluations. Self-evaluations will affect *all* of the approximately 70-80,000 recipients with 15 or more employees. However, self-evaluations are limited to the small portion of all policies and procedures which involve age distinctions created by recipients, and for most recipients should require no more than a day or two of staff time. Even so, one-time costs to recipients may total approximately $16-18 million nationally for self-evaluations.

Service Costs. Ending age discrimination may increase program service costs. There are no currently known types of noncompliance which would cost recipients significant sums to correct. Any such costs would be imposed only on those recipients discriminating on the basis of age.

Reporting. Developing detailed age specific participation and related data could involve costs of thousands of dollars for any single recipient and millions of dollars annually for any single program. However, as discussed in section 90.34, the Department is proposing a targeted approach which it believes will limit data collection to those data which are most likely to identify violations of the Act and measure progress toward their elimination. As a result, recipients which do not discriminate will not ordinarily be required to invest in new data reporting and total national costs are likely to be minimal.

As indicated earlier, the Department has concluded that a regulatory analysis for these proposed regulations is not required under Executive Order 12044. However, because of the possibility that cost burdens may exist of which the Department is currently unaware, and because there are alternatives which are substantially more costly, the Department invites comments which identify any significant costs recipients may encounter in complying with the requirements of the Act and these regulations.

Dated: November 27, 1978.

FRANK PETER S. LIBASSI,
General Counsel, Department of Health, Education, and Welfare.

Dated: November 28, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary, Department of Health, Education, and Welfare.

The Department of Health, Education, and Welfare proposes to add Part 90 to Title 45 of the Code of Federal Regulations, as set forth below:

PART 90—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.
90.1 What is the purpose of the Age Discrimination Act of 1975?
90.2 What is the purpose of these regulations?
90.3 What programs and activities does the Age Discrimination Act of 1975 cover?
90.4 How are the terms in these regulations defined?

Subpart B—What is Age Discrimination (Standards for Determining Discriminatory Practices)

90.11 Purpose of this subpart.
90.12 Rules against age discrimination.
90.13 Definitions of "normal operation" and "statutory objective."
90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.
90.15 Exceptions to the rules against age discrimination. Reasonable factors other than age.
90.16 Burden of proof.

Subpart C—What Are the Responsibilities of the Federal Agencies?

90.31 Issuance of regulations.
90.32 Review of agency policies and administrative practices.
90.33 Interagency cooperation.
90.34 Agency reports.

Subpart D—Investigation, Conciliation and Enforcement Procedures

90.41 What is the purpose of this Subpart?
90.42 What responsibilities do recipients and agencies have generally to ensure compliance with the Act?
90.43 What responsibilities do recipients and agencies have specifically to ensure compliance with the Act?
90.44 Compliance reviews.
90.45 Information requirements and prohibition against intimidation or retaliation.
90.46 What further provisions must an agency make in order to enforce its regulations after an investigation indicates that a violation of the Act has been committed?
90.47 Alternate funds disbursal procedure.
90.48 Federal monitoring role.

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90.49 Remedial and affirmative action by recipients.
90.50 Exhaustion of administrative remedies.

Subpart E—Future Review of Age Discrimination Regulations

90.61 Review of general regulations.
90.62 Review of agency regulations.

AUTHORITY: *Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.*

Subpart A—General

§ 90.1 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance. The Act is also designed to permit federally assisted programs and activities, and recipients of federal funds, to continue to use age distinctions and factors other than age which are reasonable in light of the purposes of the Act.

§ 90.2 What is the purpose of these regulations?

(a) The purpose of these regulations is to state general, government-wide rules for the implementation of the Age Discrimination Act of 1975, as amended, and to guide each agency in the preparation of agency-specific age discrimination regulations.

(b) These regulations apply to each federal agency which provides federal financial assistance to any program or activity.

§ 90.3 What programs and activities does the Age Discrimination Act of 1975 cover?

(a) The Age Discrimination Act of 1975 applies to any program or activity receiving federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 *et seq.*).

(b) The Age Discrimination Act of 1975 does not apply to:

(1) An age distinction contained in that part of an *Option #1* Federal statute, State statute, or local statute or ordinance; or Federal, State, or local regulation which: or *Option #2* Federal statute, State statute, or local statute or ordinance which: or *Option #3* Federal statute or State statute which: or *Option #4* Federal statute which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (CETA), as amended.

§ 90.4 How are the terms in these regulations defined?

As used in these regulations, the term:

"Act" means the Age Discrimination Act of 1975, as amended, (Title III of Public Law 94-135).

"Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth. "Age distinction" means any action using an age or age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages (for example, "children," "adult," "older persons").

"Agency" means a federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(a) funds;

(b) services of federal personnel; or

(c) real and personal property or any interest in or use of property, including:

(1) transfers or leases of property for less than fair market value or for reduced consideration; and

(2) proceeds from a subsequent transfer or lease of property if the federal share of its fair market value is not returned to the Federal Government.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee but excludes the ultimate beneficiary of the assistance.

"Secretary" means the Secretary of the Department of Health, Education, and Welfare.

Subpart B—What is Age Discrimination?

(STANDARDS FOR DETERMINING DISCRIMINATORY PRACTICES)

§ 90.11 Purpose of this subpart.

The purpose of this subpart is to set forth the prohibitions against age discrimination and the exceptions to those prohibitions.

§ 90.12 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in sections 90.13, 90.14, and 90.15 of these regulations.

(a) *General rule:* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

(b) *Specific rules:* A recipient may not, in any program or activity receiving federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving federal financial assistance.

(c) *Reservation:* The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 90.13 Definitions of "normal operation" and "statutory objective."

The terms "normal operation" and "statutory objective" are important to an understanding of the statutory exceptions to the prohibition against age discrimination. Therefore, for purposes of §§ 90.14 and 90.15, the terms "normal operation" and "statutory objective" shall have the following meaning:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in a statute [or reasonably inferred from its provisions or legislative history.]

§ 90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by § 90.12, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics (e.g., maturity);

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are difficult, costly, or otherwise impractical to measure directly.

§ 90.15 Exceptions to the rules against age discrimination. Reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by § 90.12 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. However, the factor must bear a [rational/direct/substantial/necessary] relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 90.16 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 90.14 and 90.15 is on the recipient of federal financial assistance.

Subpart C—What are the Responsibilities of the Federal Agencies?

§ 90.31 Issuance of regulations.

(a) The head of each agency which extends federal financial assistance to any program or activity shall publish proposed and final age discrimination regulations in the Federal Register to:

(1) Carry out the provisions of section 303 of the Age Discrimination Act of 1975; *and*

(2) Provide for appropriate investigative, conciliation, and enforcement procedures.

(b) Each agency shall publish its proposed agency age discrimination regulations no later than 90 days after the publication date of the final general, government-wide age discrimination regulations.

(c) Each agency shall publish final agency regulations no later than 120 days after publication of proposed agency age discrimination regulations.

(d) Agency age discrimination regulations shall be consistent with these general, government-wide age discrimination regulations and shall not become effective until they meet all requirements of the Act.

(e) Each agency shall include in its regulations a provision governing the operation of an alternate funds disbursal procedure as described in § 90.47 of these regulations.

(f) Each agency shall publish an appendix to its final age discrimination regulations containing a list of each age distinction provided in a federal statute or regulation which affects the agency's programs of federal financial assistance.

§ 90.32 Review of agency policies and administrative practices.

(a) Each agency shall conduct a review of age distinctions it imposes on its recipients by regulations, policies, and administrative practices. The purpose of this review is to identify how age distinctions are used by each federal agency and whether those age distinctions are permissible under the Act and implementing regulations. Age distinctions used by a federal agency in its regulations, policies, or administrative practices are permissible if they are based on an explicit age distinction in a federal statute or are covered by at least one of the exceptions to the rules against age discrimination in § 90.14.

(b) No later than 12 months from the date the agency publishes its final regulations, the agency shall publish, for public comment, a report in the FEDERAL REGISTER containing its programs:

(1) The results of the review conducted under paragraph (a) of this section;

(2) A list of the age distinctions contained in regulations which are to be continued;

(3) A list of the age distinctions not contained in regulations but which will be adopted by regulation in order to remain in use;

(4) The justification for each age distinction to be continued; and

(5) A list of the age distinctions to be eliminated.

(c) An agency may not continue an existing age distinction, nor impose a new age distinction, 12 months after the publication of its age discrimination regulations, unless the age distinction is adopted by regulation under the Administrative Procedure Act.

§ 90.33 Interagency cooperation.

Where two or more agencies provide federal financial assistance to a recipient or class of recipients, their regulations shall provide for a single compliance and enforcement procedure. Their regulations shall also designate one of the agencies as the sole agency for all compliance and enforcement purposes with respect to those recipients, except the ordering of termination of funds and the notification of the appropriate committees of Congress.

§ 90.34 Agency reports.

Each agency shall submit to the Secretary not later than December 31 of each year, beginning in 1979, a report which:

(a) Describes in detail the steps taken during the preceding fiscal year to carry out the Act;

(b) Contains data on the frequency, type, validity, and resolution of complaints and on compliance reviews sufficient to analyze the agency's progress in reducing age discrimination in its programs;

(c) Contains data directly relevant to the extent of any pattern or practice of age discrimination which the agency has identified in any of its programs, and to progress toward eliminating it; and

(d) Contains evaluative or interpretative information which the agency determines is useful in analyzing agency progress in reducing age discrimination in its programs.

(e) Contains such other data as the Secretary may require.

Subpart D—Investigation, Conciliation and Enforcement Procedures

§ 90.41 What is the purpose of this Subpart?

This subpart sets forth requirements for the establishment of compliance, investigation, conciliation, and enforcement procedures by agencies which extend federal financial assistance.

§ 90.42 What responsibilities do recipients and agencies have generally to ensure compliance with the Act?

(a) A recipient has primary responsibility to ensure that its programs and activities are in compliance with the Age Discrimination Act and shall take steps to eliminate violations of the Act. A recipient also has responsibility to maintain records, provide information, and to afford access to its records to the extent required by agencies to determine whether it is in compliance with the Act.

(b) An agency has responsibility to attempt to secure recipient compliance with the Act by voluntary means. This may include the use of the services of appropriate federal, State local, or private organizations. An agency also has the responsibility to enforce the Age Discriminatin Act when a recipient fails to eliminate violations of the Act.

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§ 90.43 What responsibilities do recipients and agencies have specifically to ensure compliance with the Act?

(a) *General.* An agency and a recipient each have responsibilities for establishing and carrying out procedures to ensure compliance with the Age Discrimination Act.

(b) *Written notice, technical assistance, and educational materials.* Each agency extending federal financial assistance to recipients shall:

(1) Provide written notice to each recipient of its obligations under the Act. The notice shall include a requirement that where the recipient initially receiving funds makes the funds available to a sub-recipient, the recipient must notify the sub-recipient of its obligations under the Act.

(2) Provide technical assistance, where necessary, to recipients to aid them in complying with the Act.

(3) Make available educational materials setting forth the rights and obligations of beneficiaries and recipients under the Act.

(c) *Self-evaluation.* (1) Each agency extending federal financial assistance to recipients employing 15 or more persons shall require each recipient to complete a written self-evalution of its compliance under the Act within 18 months of the effective date of the agency regulations.

(2) Each recipient's self-evaluation shall identify and justify those age distinctions imposed by the recipient.

(3) Each recipient shall take corrective and remedial action whenever a self-evaluation indicates a violation of the Act.

(4) Each recipient shall make the self-evaluation available on request to the agency and to the public for a period of 3 years following its completion.

(d) *Complaints.* (1) *Receipt of complaints.* Each agency shall establish a complaint processing procedure which includes the following:

(i) A procedure for the filing of complaints with the agency;

(ii) A review of complaints to assure that they fall within the jurisdiction of the Act and contain all information necessary for further processing;

(iii) Notice to the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure; and

(iv) Notice to the complainant and the recipient (or their representative) of their right to contact the agency for information and assistance regarding the complaint resolution process.

(2) *Prompt resolution of complaints.* Each agency shall establish procedures for the prompt resolution of complaints. These procedures shall require each recipient and complainant to participate actively in efforts toward speedy resolution of the complaint.

(3) *Mediation of complaints.* Each agency shall promptly refer all complaints to a mediator.

(i) The agency shall require the participation of both the recipient and the complainant in the mediation process.

(ii) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation stage, they shall reduce the agreement to writing. The mediator shall notify the referring agency that a settlement has been reached. No further action shall be taken based on that complaint unless it appears that the complainant or recipient is failing to comply with the agreement.

(iii) The mediator and the parties to the mediation shall protect the confidentially of all information obtained in the course of the mediation process. No mediator or party to a mediation shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator and the parties to the mediation, except as required by law.

(4) *Federal initial investigation.* Each agency shall investigate complaints unresolved after mediation.

(i) Not more than 60/90 days after the agency receives the complaint, the mediator shall refer a still unresolved complaint to the referring agency for initial investigation.

(ii) As part of the initial investigation, the agency shall use informal fact finding methods including joint or individual discussions with the complainant and recipient to establish the facts, and, if possible, resolve the complaint to the mutual satisfaction of the parties. The agency may seek the assistance of any involved State or State program agency.

(5) *Formal investigation, conciliation, and hearing.* If the agency cannot resolve the complaint during the early stages of the investigation, it shall:

(i) Complete the investigation of the Complaint.

(ii) Attempt to achieve voluntary compliance satisfactory to the agency, if the investigation indicates a violation.

(iii) Arrange for enforcement as described in § 90.46, if necessary.

§ 90.44 Compliance reviews.

(a) Each agency may provide in its regulations for the conduct of compliance reviews, pre-award reviews, and other similar procedures which permit the agency to investigate, and correct, violations of the Act without regard to its procedures for handling complaints.

(b) If a compliance review or pre-award review indicates a violation of the Act, the agency shall attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, the agency shall arrange for enforcement as described in § 90.46.

§ 90.45 Information requirements and prohibition against intimidation or retaliation.

Each agency shall provide in its regulations a requirement that the recipient:

(a) Provide to the agency information necessary to determine whether the recipient is in compliance with the Act.

(b) Permit reasonable access by the agency to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether a recipient is in compliance with the Act.

(c) May not engage in acts of intimidation or retaliation against any person who:

(1) Attempts to assert a right protected by the Act; or

(2) Cooperates in any investigation, hearing, or other part of the agency's investigation, conciliation, and enforcement process.

§ 90.46 What further provisions must an agency make in order to enforce its regulations after an investigation indicates that a violation of the Act has been committed?

(a) Each agency shall provide for enforcement of its regulations through:

(1) Termination of a recipient's federal financial assistance under the program or activity involved where the recipient has violated the Act or the agency's regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an impartial hearing examiner or an administrative law judge. Therefore, cases which are settled in the mediation process, or prior to the hearing before an impartial hearing examiner or an administrative law judge, will not involve termination of a recipient's federal financial assistance.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by agency regulations under the Act.

(ii) Use of any requirement of or referral to any federal, State, or local government agency which will have the effect of correcting a violation of the Act or implementing regulations.

(b) Any termination under section 90.46(a)(1) shall be limited to the particular recipient and particular program or activity receiving federal financial assistance or portion thereof found to be in violation of the Act or agency regulations. No termination shall be based in whole or in part on a finding with respect to any program or activity of the recipient which does not receive federal financial assistance.

(c) No action under paragraph (a) of this section may be taken until:

(1) The head of the agency involved has advised the recipient of its failure to comply with the regulations involved and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the head of the agency involved has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the federal program or activity involved. A report shall be filed whenever any action is taken under paragraph (a) of this section.

(d) An agency may defer granting new federal financial assistance to a recipient when termination proceedings under § 90.46(a)(1) are initiated.

(1) New federal financial assistance includes all assistance administered by or through the agency for which an application or approval, including renewal or continuation of existing activities, or authorization of new activities, is required during the deferral period. New federal financial assistance does not include assistance approved prior to the beginning of termination proceedings or to increases in funding as a result of changed computation of formula awards.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing under § 90.46(a)(1). A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the agency. A deferral may not continue for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 90.47 Alternate funds disbursal procedure.

Whenever an agency withholds funds from a recipient pursuant to its regulations issued under section 90.31, the head of the agency may disburse the funds so withheld directly to any public or non-profit private organization or agency, or State or political subdivision of the State. These alternate recipients must demonstrate the ability to achieve the goals of the federal statute authorizing the program or activity while complying with the agency's regulations issued under this Act.

§ 90.48 Federal monitoring role.

Each agency shall have responsibility for monitoring the effectiveness of the compliance and enforcement program established by its regulations and shall take necessary corrective action.

§ 90.49 Remedial and affirmative action by recipients.

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which the agency may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, both recipients may be required to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

§ 90.50 Exhaustion of administrative remedies.

(a) The agency shall provide in its regulations that a complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the agency has made no finding with regard to the complaint; or

(2) The agency issues any finding in favor of the recipient.

(b) If the agency issues a finding in favor of the recipient as described in § 90.50 (a)(2), the agency shall:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right, under Section 305(e) of the Act, to bring a civil action for legal or equitable relief that will effect the purposes of the Act; and

(3) Inform the complainant:

(i) That a civil action can only be brought in an United States district court for the district in which the recipient is found or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, the head of the granting agency, and the recipient;

(iv) That the notice shall state: the alleged violation of the Act; the relief requested; the court in which the action will be brought; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That no action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

(c) The agency shall cooperate with the court and the parties to facilitate a fair resolution of the action. To the extent possible under the law, the agency shall observe a policy of confidentially regarding the mediation process described in § 90.43(d)(3).

Subpart E—Future Review of Age Discrimination Regulations

§ 90.61 Review of general regulations.

The Secretary shall review the effectiveness of these regulations in securing compliance with the Act. As part of this review, 30 months after the effective date of these regulations, the Secretary shall publish a notice of opportunity for public comment on the effectiveness of the regulations. The Secretary will assess the comments and publish the results of the review and assessment in the FEDERAL REGISTER.

§ 90.62 Review of agency regulations.

Each agency shall review the effectiveness of its regulations in securing compliance with the Act. As part of this review, 30 months after the effective date of its regulations, each agency shall publish a notice of opportunity for public comment on the effectiveness of the agency regulations. Each agency shall assess the comments and publish the results of the review in the FEDERAL REGISTER.

[FR Doc. 78-33742 Filed 11-30-78; 8:45 am]

[4110-12-M]

[45 CFR Part 90]

AGE DISCRIMINATION REGULATIONS

Public Hearings

AGENCY: Office of the Secretary, HEW.

ACTION: Proposed rules, notice of public hearings.

SUMMARY: The Department of Health, Education, and Welfare will conduct public hearings on the proposed general, government-wide regulations to carry out the provisions of the Age Discrimination Act of 1975, as amended. The Act applies to persons of all ages. It prohibits discrimination on the basis of age in programs or activities receiving Federal financial as-

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sistance. However, the Act permits some distinctions based on age. The proposed regulations contain government-wide standards. The oral and written comments received at the hearings will be considered in the drafting of the final regulations.

DATES: Public hearings will be held in 10 cities and the District of Columbia. See Supplementary Information section for the dates of each hearing.

ADDRESSES: See Supplementary Information section for the address of each hearing.

FOR FURTHER INFORMATION CONTACT:

See Supplementary Information section for the person to contact in Washington, D.C. and in each region.

SUPPLEMENTARY INFORMATION: The schedule of hearings is set forth below. The date, time and location of the hearing is provided, as well as the name and address of the person to contact for further information.

WASHINGTON, D.C.

January 16 and 17, 1979, 9:30 a.m.-5:30 p.m., Department of Health, Education, and Welfare Auditorium, 330 Independence Avenue SW., *Washington, D.C.*

Contact: Ms. Bayla F. White, Director, Age Discrimination Task Force, Office of the General Counsel, Room 716E, 200 Independence Avenue SW., Washington, D.C. 20201. Telephone 202-245-6284.

REGION I (BOSTON)

February 5, 1979, 11 a.m.-8 p.m., John F. Kennedy Federal Building, Room 2003A, Government Center, *Boston, Massachusetts.*

Contact: Mr. Charles Vann, Staff Assistant to the Principal Regional Official, DHEW Regional Office, Room 2411, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203. Telephone 617-223-6831.

REGION II (NEW YORK)

January 30, 1979, 11 a.m.-8 p.m., Federal Office Building, Room 305, 26 Federal Plaza, *New York, New York.*

Contact: Ms. Stanlee Joyce Stahl, Executive Assistant to the Principal Regional Official, DHEW Regional Office, Room 3835, 26 Federal Plaza, New York, New York 10007. Telephone 212-264-4602.

REGION III (PHILADELPHIA)

January 26, 1979, 9 a.m.-7 p.m., Gold Room, Allegheny County Court House, Grant and Forbes Street, *Pittsburgh, Pennsylvania.*

Contact: Mr. Paul Cushing, Executive Assistant to the Principal Regional Official, DHEW Regional Office, P.O. Box 13716, Philadelphia, Pennsylvania 19101. Telephone 215-596-6492.

REGION IV (ATLANTA)

January 22, 1979, 9 a.m.-9 p.m., Atlanta City Council Chambers, 68 Mitchell Street NW., *Atlanta, Georgia.*

Contact: Mr. A. B. Albritton, Director, Public Affairs, DHEW Regional Office, Suite 1403, 101 Marietta Tower, Atlanta, Georgia 30323. Telephone 404-221-2311.

REGION V (CHICAGO)

January 23, 1979, 9 a.m.-7 p.m., 17th Floor Conference Room, DHEW Regional Office Building, 300 South Wacker Drive, *Chicago, Illinois.*

Contact: Ms. Marian H. Miller, Regional Program Director, Administration on Aging, DHEW Regional Office, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606. Telephone 312-353-3141.

REGION VI (DALLAS)

February 2, 1979, 9 a.m.-7 p.m., South Ballroom, 2nd Floor, Southland Center, 2117 Live Oak St., *Dallas, Texas.*

Contact: Mr. John Stokes, Regional Attorney, DHEW Regional Office, Suite 1330, 1200 Main Tower Bldg., Dallas, Texas 75202. Telephone 214-767-3465.

REGION VII (KANSAS CITY)

January 31, 1979, 2 p.m.-8 p.m., Federal Office Building, 601 East 12th Street, *Kansas City, Missouri.*

Contact: Mr. Steve Glorioso, Director, Public Affairs, DHEW Regional Office, Room 612, 601 East 12th Street, Kansas City, Missouri 64106. Telephone 816-374-3436.

REGION VIII (DENVER)

February 1, 1979, 12 noon-9 p.m., Federal Office Building, Room 1083, 1961 Stout Street, *Denver, Colorado.*

Contact: Ms. Norma Jones, Consultant for Public Affairs, DHEW Regional Office, Room 11037, Federal Office Building, 19th and Stout Streets, Denver, Colorado 80294. Telephone 303-837-2694.

REGION IX (SAN FRANCISCO)

January 24, 1979, 9 a.m.-7 p.m., State Auditorium, 107 South Broadway, *Los Angeles, California.*

Contact: Ms. Sharon Fujii, Special Assistant to the Principal Regional Official, DHEW Regional Office, Room 443, 50 United Nations Plaza, San Francisco, California 94102. Telephone 415-556-2650.

REGION X (SEATTLE)

January 29, 1979, 9 a.m.-7 p.m., Federal Office Building, Rooms 380 and 390, 915 Second Avenue, *Seattle, Washington.*

Contact: Mr. Andrew Young, Regional Attorney, DHEW Regional Office, 1321 Second Avenue, Mail Stop 624, Arcade Plaza Building, Seattle, Washington 98101. Telephone 206-442-0470.

These hearings are being held to solicit views and experience of individuals and organizations with respect to issues raised by the proposed regulations. Requests to present statements at the hearing should be made in writing to the above addresses and should include the name, address, and telephone number of the participant and organizations represented, if any, as well as the issues upon which the person wishes to be heard. Each participant will have an opportunity to submit a written statement and other data for the record. In the event that time does not permit all interested persons to make oral presentations, persons will be selected to assure that all points of view are fairly represented. The hearings will be conducted in an informal manner.

Persons who are unable to attend the hearings may submit statements in writing to: Ms. Bayla F. White, Director, Age Discrimination Task Force, Office of the General Counsel, Room 716E, 200 Independence Avenue, S.W., Washington, D.C. 20201. 202-245-6284.

Dated: November 27, 1978.

FRANK PETER S. LIBASSI,
General Counsel, Department of Health, Education, and Welfare.

Dated: November 28, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary, Department of Health, Education, and Welfare.

[FR Doc. 78-33743 Filed 11-30-78; 8:45 am]

federal register

FRIDAY, DECEMBER 1, 1978
PART VIII



FEDERAL ENERGY REGULATORY COMMISSION

NATURAL GAS POLICY ACT OF 1978

Interim Regulations

[6740-02-C]

TITLE 18 - CONSERVATION OF POWER AND WATER RESOURCES

CHAPTER I - FEDERAL ENERGY REGULATORY COMMISSION

[DOCKET NO. RM79-3]

SUBCHAPTER A - GENERAL RULES

PART 2 - GENERAL POLICY AND INTERPRETATIONS

SUBCHAPTER E - REGULATIONS UNDER THE NATURAL GAS ACT

PART 157 - APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

SUBCHAPTER H - REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 270 - RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

PART 271 -- CEILING PRICES

PART 273 - COLLECTION AUTHORITY; REFUNDS

PART 274 - DETERMINATIONS BY JURISDICTIONAL AGENCIES

PART 275 - COMMISSION DETERMINATIONS AND COMMISSION REVIEW OF JURISDICTIONAL AGENCY DETERMINATIONS

PART 276 - REPORTS

SUBCHAPTER I - OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 284 - CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS

INTERIM REGULATIONS IMPLEMENTING THE NATURAL GAS POLICY ACT OF 1978

AGENCY : Federal Energy Regulatory Commission.

ACTION : Interim Regulations.

SUMMARY: The Natural Gas Policy Act of 1978 (NGPA), enacted November 9, 1978, takes effect with respect to certain first sales of natural gas delivered on or after December 1, 1978. The new statutory provisions relating to pricing of natural gas and other issues must, therefore, be implemented by regulation by that date. These regulations implement certain provisions of the NGPA, and are issued as interim regulations.

PUBLIC HEARINGS: Dates and locations to be announced.

DATE : Written comments by January 31, 1979, except as otherwise noted. Effective December 1, 1978, except as otherwise noted.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C. 20426 (Reference Docket No. RM79-3)

FOR FURTHER INFORMATION CONTACT:

Romulo L. Diaz, Jr.
Office of the General Counsel
Federal Energy Regulatory Commission
825 North Capitol Street, N. E.
Washington, D. C. 20426
(202) 275-3771

or

Howard Kilchrist
Office of Pipeline and Producer Regulation
Federal Energy Regulatory Commission
825 North Capitol Street, N. E.
Washington, D. C. 20426
(202) 275-4539

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I. INTRODUCTION

On November 9, 1978, the Natural Gas Policy Act of 1978 (NGPA) was signed into law. By passage of the NGPA, Congress has mandated a new legislative framework for the regulation of most facets of the natural gas industry. The new law affects sales, transmission and distribution of natural gas. The previously controlling federal regulatory statute, the Natural Gas Act (NGA) has in many respects been limited, replaced or superseded by the NGPA, although it continues to be of significance with respect to gas previously dedicated to interstate commerce.

A primary effect of the NGPA is the substitution of a series of specific statutory maximum price levels applicable to discrete types of "first sales" of natural gas for the previously established system of price regulation of interstate sales of natural gas which had been grounded in a cost-based methodology. An important distinction between producer regulation under the NGA and the NGPA is the expansion of the Federal Energy Regulatory Commission's (Commission) jurisdictional scope to encompass not only sales made in interstate commerce but in intrastate commerce as well. Under the NGPA, all first sales of natural gas are controlled by the maximum statutory ceiling rates and as a result, it is unlawful for any person to sell

natural gas at a price in excess of the statutory maximum regardless of whether the sale occurs in the inter- or intrastate market.

The Commission wishes to call specific attention to the provisions of section 101(b)(9) of the NGPA. The Congress, by that provision, emphasizes and makes clear that the maximum lawful prices under the NGPA are ceiling prices and do not supersede or nullify the effectiveness of any contractual agreement to pay a lower price. Therefore, the Commission cautions producers not to assume entitlement to any NGPA ceiling price which is higher than their contract prices.

The Commission is directed to administer essentially all of the NGPA and is authorized to perform any and all acts and to prescribe and issue such rules and orders as it finds necessary or appropriate to carry out its functions under the NGPA. On November 13, 1978, the Commission proposed interim regulations as the first step in implementing the NGPA. These interim regulations, contained in this notice, mark the second step in carrying out the basic responsibilities for implementation and administration of the Act and provide a mechanism for transition from the NGA regulating regime to the NGPA scheme.

The NGPA is divided into six titles:

I. Pricing
   A. Price Controls Applicable to Sales of Natural Gas
   B. Decontrol of Certain Natural Gas Prices
II. Incremental Pricing
III. Additional Authorities and Requirements
   A. Emergency Authorities
   B. Other Authorities and Requirements
IV. Natural Gas Curtailment Policies
V. Administration, Enforcement, and Review
VI. Coordination with the Natural Gas Act, Effect on State Laws

The interim regulations prescribed here do not implement all titles under the NGPA. Rather, the regulations propose to deal with those areas demanding the most expeditious treatment.

This first group of regulations is designed to set in motion the new scheme for pricing of first sales of natural gas and to provide mechanisms for implementation of provisions of the NGPA covering certain arrangements for transportation of natural gas. However, before setting out in detail a full description of the specific regulations proposed, a summary of the most salient features of the NGPA, the effect on regulation under the NGA, and a capsule

description of the implementing regulations and corollary modifications of regulations under the NGA, may be useful.

THE LEGISLATIVE SCHEME OF THE NGPA

The nature and scope of Commission regulation of producer sales under the NGPA has been substantially transformed from utility-type regulation of a limited market to what is essentially price regulation of an entire national market. Under the scheme set up by the NGPA, there exist two major categories of first sales: those requiring a prior determination of eligibility to be made by a jurisdictional federal or state agency (within the meaning of the NGPA) before collection of the maximum lawful price and those not explicitly requiring such a determination. A decision as to whether a first sale falls into a category requiring a determination is fundamental. A decision to seek a determination triggers quite different regulatory consequences than a decision not to seek a determination.

Although under certain provisions the Commission may be called upon to return to the cost-based, just and reasonable methodology within the meaning of the NGA in establishing rates in excess of the NGPA ceiling prices, the basic administration of the pricing provisions of the NGPA will be undertaken from an entirely different perspective.

The Commission will no longer inquire into producer costs or set permissible rates of return for producers. Instead, the Commission's focus will center on whether geological information, production history, field records, prior contractual relationships and information of a similar nature support the categorization for pricing purposes claimed by producers.

Another crucial factor in anticipating what regulatory treatment will be accorded producer sales of natural gas is whether gas is "committed or dedicated" for purposes of NGA regulation. The limitations on NGA regulation as a result of enactment of the NGPA will be addressed in another section of this preamble. However, the distinction between gas which is deemed to be subject to continuing regulation under the NGA and gas which falls solely within the NGPA regulatory format is significant and affects both pricing and nonpricing regulation of producer matters.

For categories of gas requiring a prior determination by a federal or state agency, the Commission's function is more in the nature of an appellate body, reviewing, on a substantial evidence basis, the factual determinations of the appropriate jurisdictional agency with the right of disapproval in the event the initial determination is not adequately substantiated. The Commission rules reflect

this role and prescribe the basic and minimum factual foundation necessary to meet its review responsibilities without directly interposing the Commission into the procedural functioning of the jurisdictional agency. The review process of initial determinations begins when notice is received of a jurisdictional agency's determination with the appropriate supporting material specified in Part 274 of the proposed regulations. In the absence of a reversal, the determination of the jurisdictional agency becomes final and no longer subject to review unless based on any untrue statement of material fact or upon any omission of material fact which omission was misleading.

Categories of first sales explicitly requiring that a determination as to qualification to collect the maximum lawful price be made by either a jurisdictional federal or state agency are:

- section 102 which sets a maximum lawful price for first sales of new natural gas (gas produced from a new lease on the Outer Continental Shelf (OCS) or certain new onshore wells) and gas produced from any old OCS lease which was from a reservoir discovered after July 27, 1976;

- Section 103 which sets a maximum price for first sales of new onshore production wells;
- Section 107 which sets a maximum lawful price for first sales of high-cost natural gas including gas produced from geopressurized brine, coal seams, Devonian shale or gas produced under other conditions the FERC determines to present "extraordinary" risks or costs; and
- Section 108 which sets the maximum lawful price for first sales of stripper well natural gas.

An essential element in the regulatory system established with respect to categories requiring a prior determination is the provision for interim collection procedures by producers awaiting a final determination or the outcome of a review of such determination. The Commission has a concomitant power to require refunds from the producer if the gas eventually qualifies for a lower price. Section 503(e) sets out this collection and refunding procedure.

Part 273 of the regulations states the prerequisites for interim collection. First, the Commission has established a "transitional rule" to permit the collection by producers of the section 109 price if a producer files

for a determination by March 1, 1979. Additional rules are established for interim collection pending and following a state or federal agency determination.

Those first sales of natural gas not requiring a prior determination to be made by a jurisdictional federal or state agency are tied to previously existing contractually set prices or price levels established by the Federal Power Commission or this Commission. First sales not requiring a prior determination under the NGPA are:

- section 104 which incorporates by reference the just and reasonable rates established under the NGA for first sales of gas committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA;
- section 105 which establishes maximum lawful prices for first sales under existing contracts of natural gas not previously committed or dedicated to interstate commerce;
- section 106 which establishes maximum lawful prices for first sales under interstate and intrastate rollover contracts; and
- section 109 which establishes the maximum lawful price for first sales of natural gas

from the Prudhoe Bay in Alaska and categories of gas not otherwise covered by other sections of the NGPA.

The Commission has general administrative and enforcement authority under the NGPA and the NGA to order refunds in cases where the maximum lawful price level has been improperly exceeded.

EFFECT OF THE NGPA UPON CONTINUED NGA REGULATION

Natural gas which remains committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA, or which is not specifically exempted from the jurisdictional consequences of commitment or dedication by the NGPA, remains subject to all the non-price regulatory requirements of the NGA. An important aspect of continued NGA regulation is the requirement that a producer file an abandonment application with the FERC pursuant to section 7(b) of the NGA before terminating service to the interstate market or before abandonment of facilities used to render interstate service. Additionally, although price regulation of first sales by producers of gas committed or dedicated is now governed by the NGPA, sections 104 and 106(a) are grounded in previously established rates under the NGA. As a result, producers wishing to establish their

right to collect under these sections will be required to make a filing under their rate schedules under the NGA. The Commission has amended its previously existing filing requirements to provide new procedures governing these rate increase filings.

If gas is not committed or dedicated to interstate commerce as defined in section 2(18) or is exempted from the jurisdiction of the NGA under section 601(a)(1)(B) as high cost natural gas, new natural gas, or natural gas produced from any new onshore production well, the prior framework of utility-type regulation under the NGA no longer applies.

If natural gas sales are freed from the requirements of the NGA, several adjuncts to NGA regulation are obviated. First, there is no longer any necessity for a producer to seek certification of the sale as serving the public convenience and necessity. The replacement for this requirement under the NGPA is limited to the prior determination mechanism, where applicable, and the pricing limits established in the NGPA. New sales of such gas in interstate commerce no longer require certification as a prerequisite to commencement of deliveries. Nor does the requirement for abandonment authorization before termination of deliveries of natural gas exist with respect to natural gas no longer

subject to NGA regulation. In the case of first sales of natural gas not previously committed or dedicated to interstate commerce or exempted from NGA regulation, tariff filings and rate increase applications are dispensed with. (Of course, specific requirements for filing to establish the right to collect the maximum lawful price levels exist under the regulations and annual reporting will be required under the NGPA in many instances. However, the nature of these filings, which are in many cases one-time notification type filings is quite different from the rate filings previously required under the NGA.)

For natural gas which on the date of enactment was committed or dedicated but which is exempted from the NGA under section 601(a)(1) of the NGPA, there are substitute mechanisms for NGA section 7(b) abandonment authorization. These substitute provisions, intended to provide a degree of certainty to purchasers dependent upon a predictable natural gas supply, are found in section 315 of the NGPA. The Commission has not attempted to implement these sections in the initial implementing regulations. It is our intent to do so in the near future. That section gives the Commission dual authority to establish by rule or order the minimum duration of any contract (other than an existing contract) for the purchase of natural

gas and to require by rule the right of first refusal with respect to any gas committed or dedicated to interstate commerce before the date of enactment if such gas is high cost gas, new natural gas or natural gas produced from any new, onshore production well.

Indirectly, NGA regulation is affected by the operation of section 601(b) and (c) of the NGPA. Section 601(b) provides that any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if such amount does not exceed the maximum lawful ceilings established by the NGPA or if there is no maximum lawful price applicable by reason of elimination of price controls. Section 601(c), the guaranteed passthrough provision, states that the Commission may not deny, or condition, the grant of any certificate under section 7 of the NGA based upon the amount paid in any sale of natural gas if the amount paid meets the standards of section 601(b) and is, therefore, by statutory fiat, just and reasonable. Additionally, the Commission may only deny the recovery by any interstate pipeline of any amount paid with respect to the purchase of natural gas under section 601(b) to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds.

Finally, included in the implementing regulations are provisions covering certain transportation arrangements by both interstate and intrastate pipelines. Provision is made for intrastate pipeline sales and for the assignment of natural gas excess to their requirements. Also, the Commission has revised its regulations previously applicable to emergency transactions and revised the procedure and the standards for emergency sales of natural gas for this winter's heating season.

GENERAL OUTLINE OF IMPLEMENTING REGULATIONS

The interim regulations add two new subchapters to the Commission's regulations in Chapter I of Title 18. New Subchapter H (Parts 270 through 276) contains the new producer regulations under the NGPA. Part 270 sets forth general rules applicable to the entire subchapter. Maximum lawful prices under NGPA sections 102 through 109 are implemented in Part 271. Part 273 provides for interim collections and refunds, while determinations of eligibility by state and federal agencies and Commission review of those determinations are provided for under Parts 274 and 275. Finally, Part 276 covers reports.

New Subchapter I will cover regulations under the NGPA other than those relating to producer regulation. The interim regulation prescribed today includes only

Part 284, which implements the Commission's authority under sections 311(a) (relating to certain pipeline transportation of natural gas) and 312 (relating to assignment of intrastate pipeline's contractual right to receive surplus natural gas). Regulations relating to other authorities of the Commission will be added later under Subchapter I.

II. SUMMARY OF PROPOSED REGULATIONS

PART 270

Part 270 prescribes rules and definitions that apply to Subchapter H. Subpart A contains the general rules and definitions, and Subpart B contains special rules which relate to sales made under particular conditions.

The general rules of § 270.101 relate to the application of the maximum lawful price provisions of the NGPA. This section makes it unlawful for any person to sell natural gas at a first sale price which is greater than the highest maximum lawful price permitted under Part 271. Thus, if more than one maximum lawful price is applicable to a first sale, the "highest" maximum lawful price may be obtained.

This section also describes the categories of natural gas for which prior determinations by jurisdictional agencies must be made in order to establish the maximum lawful price. In addition, this section reflects the statutory rule that the pricing provisions of Part 271 do not supersede or nullify contract provisions which establish prices below the applicable maximum lawful price. It also provides that collection of a first sale price under Subchapter H is subject to any refund obligation as may be applicable. The refund provision has been modified from the proposal to

recognize the fact that refund obligations may arise as a result of provisions other than those in Part 273.

Comments on the proposed regulations requested additions to the general rules. One comment suggested a rule to protect confidential data submitted pursuant to these new regulations. The Commission, in response to this concern, has added a rule to Subpart B of Part 275 concerning the confidentiality of materials submitted to it as part of a determination by a jurisdictional agency.

Section 270.102 contains definitions. Paragraph (a) provides that unless further defined, terms defined in the NGPA have the same meaning for purposes of these regulations as they do under the NGPA.

The definitions provided under paragraph (b) include basic terms used throughout the regulations and particular terms, such as "production in commercial quantities," "crude oil," "surface location," "intrastate contract," "successor to an intrastate contract," and "intrastate rollover contract," used in more than one subpart. Two of these definitions differ from those which were first proposed: that for "Btu," and that for "production in commercial quantities."

The definition of "Btu," found in clause (2) of paragraph (b), has been amended to conform it to § 270.204. This was done in response to those comments which pointed out a discrepancy between these two sections.

In addition to several minor clarifying changes, the term "production in commercial quantities" has been amended in two major respects. First, in response to those comments which noted the Commission's omission of any reference to the rebuttable presumption in section 102(c)(3) of the NGPA, a citation to a new § 271.204(e), which embodies that presumption, has been included. Also in response to comments, the definition has been modified to make clear that the information in clauses (A) to (E) inclusive, of § 270.102(b)(4)(iii), may be considered evidence of production for beneficial economic use. However, the Commission wishes to point out that these enumerated clauses are not conclusive as to the matter; evidence to show the contrary may be presented by an applicant for a determination.

Several comments proposed that this section be expanded to include certain other terms, including "local distribution company," "intrastate sales," and "first sale." The Commission has determined that definition of these terms is not required at this time.

The table of names and addresses of the jurisdictional agencies has been moved from Part 270 to the new Subpart E of Part 274. In addition, several corrections have been made in the table.

The special rules of Subpart B apply to first sales of natural gas subject to differing maximum lawful prices, resales covered by first sale pricing regulations, sales of natural gas attributable to pipeline or distributor production, and the measurement of Btu content of natural gas.

Section 270.201 provides that the maximum lawful price for a first sale of natural gas produced from wells, properties, or reservoirs which have different applicable maximum lawful prices will be the weighted average of the maximum lawful prices applicable to each well, property or reservoir. The weighted average will be based upon the volumes of gas contributed by each such well, property or reservoir.

Section 270.202 applies to "resellers." The section provides that one who purchases natural gas at a first sale and subsequently resells the gas in a transaction which is also a first sale may collect a maximum lawful price which is the higher of either: (1) the maximum lawful price

which would apply to such a sale under Part 271 if it were not a resale; or (2) the maximum lawful price which was applicable to the transaction in which the reseller purchased the natural gas. A rule similar to § 270.201 applies to any sale by a reseller of volumes purchased subject to different maximum lawful prices.

Paragraph (c) of the rule contains two provisions applicable to allowances under Subpart K of Part 271. First, the reseller may collect the applicable maximum lawful price on his sale plus any allowances permitted by the Commission under the provisions of Subpart K of Part 271. Second, if the reseller's maximum lawful price is determined under § 270.202(a)(2) by reference to the maximum lawful price of the person selling to him, the reseller may pass through any Subpart K allowances which the person selling to him collected. In addition, under § 270.202(d), a reseller may apply to the Commission for adjustment relief pursuant to section 502(c) of the NGPA, to the extent the application of the reseller provisions results in hardship, inequity, or an unfair distribution of burdens.

Section 270.202 also spells out the manner in which the interim collection rules apply to resellers and sets out rules respecting reporting and record retention. With regard to reporting requirements, it should be pointed out that

resellers must make reports of their first sales under Part 276 in the same manner as other first sellers.

Significant modifications in the reseller rule as proposed were made in response to comments received by the Commission, in particular in its treatment of allowances under Subpart K of Part 271. The comments pointed to the possibility of a reseller's being "squeezed" between applicable prices at which he purchased and those at which he could sell. These comments suggested that the Commission explicitly provide for allowances such as the current gathering allowances permitted to interstate production and those afforded producers under Subpart K of Part 271. In addition, suggestions were made that the regulation provide for some form of margin protection to resellers. While the Commission declines to go so far as to guarantee existing margins, we believe that, as presently constructed, this regulation meets the concerns expressed by those who commented upon the proposed rule. The result, especially with the changes made respecting reseller allowances and passthrough of allowances, and with the provision for adjustments under section 502(c) of the NGPA, should provide for equitable treatment of resellers. It should be noted that changes in Subpart K of Part 271 have also been made.

Section 270.203 relates to pipeline and distributor production. Section 2(21)(B) of the NGPA provides that a sale of natural gas by a pipeline or distributor (or an affiliate thereof) is not a first sale unless the sale is "attributable to volumes of natural gas produced" by such pipeline or distributor (or an affiliate thereof). Section 270.203 describes the circumstances under which a sale of natural gas will be considered to be a first sale of natural gas attributable to volumes produced by a pipeline or distributor. To the extent a sale is comprised exclusively of production volumes from identifiable wells, properties, or reservoirs which are owned by the pipeline or distribution company or affiliate thereof making the sale, then it is attributable to volumes of natural gas produced by that pipeline or distributor.

For example, if a pipeline sells to a particular customer production volumes from a well which it owns, the volumes are commingled with system supply, and equivalent volumes are withdrawn for delivery to that customer, then the transaction would be a sale comprised of production volumes from a particular well, and thus a first sale.

In order to prevent circumvention of this rule, a provision is made pursuant to the Commission's authority under section 2(21)(A)(v) of the NGPA, that mixed-volume

sales comprised of both production volumes from identifiable wells, properties, or reservoirs owned by the pipeline or distributor/seller and of other production volumes will be considered as a first sale, unless one of the two exclusions under the rule applies. The first exclusion provides that if the rate at which such natural gas is sold by the pipeline or distributor is regulated under the NGPA or subject to regulation by a state agency under state law, then the sale will not be considered to be a first sale by reason of the "circumvention rule." (To qualify for the state regulation exemption, the sale must be subject to regulation by a state agency empowered by state statute to establish, modify or set aside the rate for the sale.) The second exclusion provides that the sale will not be considered as a first sale if, on application to the Commission, a determination has been made not to so treat the sale.

The effect of § 270.203 on sales made by an interstate pipeline of volumes of natural gas produced by it, is to continue resale rate regulation under the provisions of the NGA.

While some comments were received calling the Commission's attention to intracorporate transfers, the Commission will not specifically deal with this question without receiving further comment. Unless the Commission otherwise

provides, intracorporate transactions by interstate pipelines will continue to receive the treatment presently accorded them under the NGA.

The Commission should note at this point the relationship of section 602(a) of the NGPA to the attribution and circumvention rules set out in § 270.203. Section 602(a) states that nothing in the NGPA limits the authority of a state to establish or enforce a maximum lawful price for the first sale of natural gas produced in the state, provided the price set does not exceed any appropriate maximum lawful price under Title I of the NGPA.

Comments were received that indicate certain states have authorized their regulatory body to set or impute a price on the basis of fair value or reasonable market price for the sale or transfer to an intrastate pipeline by its producing affiliate or production department. These state-set values may be below the applicable NGPA ceiling price.

Nothing in § 270.203 or the NGPA precludes a state agency from establisning a ceiling price for a sale of gas by an intrastate pipeline affiliate to an intrastate pipeline at a rate which is lower than the NGPA ceiling price. Likewise, a state agency may impute a price for

an intracorporate transaction involving intrastate pipeline production which is lower than the NGPA ceiling price. Some comments received by the Commission interpreted the proposal as one which, contrary to the NGPA, worked to exclude all sales of pipeline-produced natural gas from the provisions of the NGPA. Others interpreted the proposed rule as one which would continue, where applicable, cost-of-service regulation subject to the maximum lawful pricing provisions of the NGPA. Still others, notably intrastate producer pipelines, pointed out cases where state regulation does not take the form of cost-of-service or average cost regulation.

We disagree with those comments that concluded that the Commission is without authority to determine the extent to which sales by pipelines and distribution companies are "attributable" to production by these entities, or their affiliates. Under a broad reading of this section, arguably all sales of natural gas by pipelines and distribution companies would be "first sales" where any volume of natural gas was produced by that pipeline, distribution company or an affiliate. Under such a reading, a substantial portion of retail sales by pipelines and distribution companies would be subject to the provisions of the NGPA. Moreover

under such a broad reading of the "first sale" definition, it could be asserted that the provisions of the NGA would not apply to jurisdictional sales by interstate pipelines by reason of section 601 of the NGPA.

Applying the provisions of Title I of the NGPA, particularly section 104, to "first sales" by interatate pipelines under such a broad reading would entail a major restructuring of pipeline regulation under the NGA. Retail sales by intrastate pipelines and distribution companies, which are traditionally regulated by the states, would also be subject to the provisions of Title I of the NGPA and the Commission's authority. Such incongenous results were clearly not intended by the legislative draftman.

For these reasons we have concluded that sales by pipelines and distribution companies should only be considered to be "attributable" to production by pipeline distributors where the sale is of production from identifiable wells, properties or reservoirs owned by such pipelines (or distributor or affiliates thereof) to an identifiable purchaser. In order to prevent circumvention of this rule by pipelines or distributors who sell volumes of production by others together with volumes produced by them, the Commission has found it necessary to exercise its authority under section 2(21)(A)(v) of the NGPA, to

impose first sale price regulation on these "mixed" sales where the price is not otherwise subject to regulation or where the Commission affirmatively finds that first sale regulation is unnecessary.

Section 270.205 incorporates discussion at page 83 of the Statement of Managers which relates to the effect of establishment of ceiling prices under the NGPA on indefinite price escalator clauses in existing contracts. As discussed there, the mere establishment of NGPA ceiling prices will not trigger these clauses. The special rule is consistent with that discussion which is equally applicable to existing intrastate and interstate contracts. The phrase "indefinite price escalator clause" is defined for purposes of this special rule by reference to the definition in Section 105(b)(3)(B). Good cause exists to incorporate this special rule in the interim regulations given the uncertainty that would result absent a provision which provides guidance to the parties to those contracts.

PART 271 - SUBPART A

Subpart A of Part 271 sets out, in summary tables, the pricing provisions applicable to certain categories of first sales of natural gas delivered in the months of Decemoer 1978 and January 1979. It also provides the method and the inflation adjustment factors to be used for calculating maximum lawful prices for those categories of natural gas for which prices cannot be derived from tne summary tables. These latter categories are ones for which maximum lawful prices must be calculated by the seller.

Section 271.102 sets out the methodology by which certain maximum lawful prices are to be calculated. The procedure involves adjustment for inflation and requires only simple multiplication. The price for a given month is calculated by multiplying (1) the price which was allowed for the sale of natural gas delivered in the preceding month, by (2) a single adjustment factor which is published by the Commission. The adjustment factor, referred to as the "monthly equivalent of the annual inflation adjustment factor" in the NGPA, and "inflation adjustment" in the interim regulation, is computed by the Commission under the method of calculation prescribed by

section 101(a) and (b) of the NGPA. The inflation adjustment for each month after April 1, 1977, appears in Table III in § 271.102. This adjustment will be published by the Commission at least 5 days before the beginning of any month for which the factor will apply.

The first price from which all maximum lawful prices under § 271.102 are to be calculated is referred to as a "base price." This price varies according to the category of natural gas for which a calculation is to be made. Once this price is known the calculation can proceed, montn-to-month, until the applicable monthly maximum lawful price is determined.

By way of example, assume that a calculation is to be to be made to determine the December 1978, maximum lawful price for natural gas subject to § 271.402(d)(1) for which a just and reasonable rate of $1.00 was in effect on April 20, 1977. First the "base month" and "base price" must be determined. These are determined under §271.102(d) to be April 1977, and $1.00 respectively. Second, a calculation for May 1978, is made. This is done by multiplying $1.00 by 1.00636, the inflation adjustment for May 1977, as presented in the table accompanying § 271.102(c). The result, rounded to the nearest mill, is $1.006. Next, the process is repeated for June 1978 by multiplying the $1.006

figure by 1.00636, the inflation adjustment for June. The product, again rounded to the nearest mill, is $1.012. This figure is then multiplied by the inflation adjustment for July 1977 (1.00431) and so on through the monthly iterations. The result should be a price of $1.115 for the month of November 1978. At this point, the maximum lawful price applicable for deliveries made in December 1978, can be determined. This is done by multiplying the November figure of $1.115 by 1.00581, the factor which applies for December. The result is a maximum lawful price of $1.121 for deliveries made during December 1978.

This example is chosen to illustrate the calculation which § 271.402 will require of some sellers. Sellers subject to either the § 271.502 or § 271.602 pricing provisions will be entitled to prices based on the contract price per MMBtu on November 9, 1978, or in the case of rollover contracts, the month in which the rollover occurs. In either event, only a single multiplication need be made to determine the next month's maximum lawful price.

PART 271 - SUBPART B

Subpart B of Part 271, which implements section 102 of the NGPA, establishes a maximum lawful price for "new natural gas" and for "natural gas produced from a new OCS reservoir on an old OCS lease." These terms are defined by reference to the NGPA.

Section 271.204(a) is a special rule for vertical measurement of the 1,000 foot distance between completion locations necessary for certain determinations under this subpart. The rule also clarifies the measurement methodology for completions made by perforation and for "open-hole" completions.

Section 271.204 also provides special rules regarding the statutory terms "capable of producing in paying quantities," "commercially producible," "suitable facilities," and "production in commercial quantities."

Comments suggested the term "reservoir" be defined in § 271.203. Section 270.102(a) of the regulations provide that the NGPA statutory definitions are incorporated by reference in the regulations. The term reservoir is defined in section 2(6) of the NGPA.

Comments suggested several modifications to the special rules in § 271.204. Specifically, comments directed toward § 271.204(a) suggested an alternate method of measuring

vertical depth, viz. from the lowest perforation point in the marker well to the highest perforation point in the new well completion location. Further comments suggested that measurement of open-hole completions should be from the total depth of the marker well to the highest point of the new well reservoir. The Commission has considered this suggestion and has decided for reasons of ease of measurement and consistency, not to change the special rule. However, in response to some comments, the rule regarding vertical measurements has been changed to make clear that for open-hole completions, measurements are from the highest elevation point of the reservoir "within the well bore."

Several comments sought modification of the special rule regarding "commercially producible" arguing that section 102(d)(2)(B)(ii) of the NGPA requires a determination based upon the producing characteristics of the reservoir. The Commission has found no basis for concluding that the term "commercially producible" has a meaning different from "production in commercial quantities." The latter term is defined in § 270.102(b)(4) of the regulations.

Other comments suggested that the language in § 271.204(d), which provides that suitable facilities were in existence if such facilities were "substantially installed and additional facilities necessary for such production and delivery were readily available," should be deleted or modified. It is the Commission's position that the statutory term "suitable facilities" includes facilities which were installed or substantially installed, if any additional facilities necessary for production and delivery were readily available. However, the section has been modified, in response to comments, to make clear that unless suitable facilities were actually in place, such facilities will not be considered to be "readily available" unless the additional facilities could have been installed in time to allow production and delivery to commence prior to April 20, 1977.

Finally, in response to other comments, § 271.204(d) has been modified to reflect the statutory provisions that facilities installed solely for purposes of sales under section 6 of the Emergency Natural Gas Act of 1977, or for the purposes of 60-day emergency sales are not "suitable facilities" within the meaning of section 102 of the Act.

PART 271 - SUBPART C

Subpart C of Part 271 implements section 103 of the NGPA and establishes a maximum lawful price for first sales of natural gas from new, onshore production wells. Section 271.303 defines a "new, onshore production well" in accordance with the statutory definition in section 103(c), as one spudded on or after February 19, 1977, which complies with applicable well-spacing requirements, and is outside an existing proration unit. Wells which do not comply with applicable well-spacing requirements or are drilled within an existing proration unit do not qualify for the new, onshore production well price unless the requirements of the special rule set out in § 271.304 are met. Section 271.304 makes clear that if a jurisdictional agency grants a waiver of well-spacing requirements prior to commencement of surface drilling, the new well is deemed to satisfy applicable well-spacing requirements.

The special rule in § 271.305 is divided into two parts. The first part, paragraph (b) of § 271.305, provides that for wells spudded after December 31, 1978, the requirements of section 103(c)(3) of the NGPA can only be satisfied if the juriadictional agency finds that the

well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit, which portion of the reservoir cannot be effectively and efficiently drained by any existing well within the proration unit. Such a finding must involve a redefinition or alteration of the proration unit, or an exception to otherwise applicable well-spacing requirements.

Paragraph (c) of the rule recognizes that some wells drilled between February 19, 1977, and January 1, 1979, may qualify for the price established in section 103. The rule permits such wells to qualify if the agency which authorized the drilling of the new well explicitly or implicitly made the finding, prior to commencement of the drilling of the well, that the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit, which portion of the reservoir could not be effectively and efficiently drained by any existing well within the proration unit. Similar treatment is accorded certain wells for which drilling permits are issued prior to January 1, 1979.

Numerous comments requested that the applicability of the special rule in § 271.305 be clarified. The special rule only applies to a second well drilled in

an existing proration unit. If there is no proration unit in existence and applicable to the reservoir, or if there is no well drilled in the existing proration unit to the reservoir, the special rule does not apply. Paragraph (a) of the special rule regarding the applicability of the rule has been revised to clarify this point.

Several comments requested a transition period during which jurisdictional agencies may develop procedures necessary to make the explicit finding required by § 271.305(b). The Commission recognizes the need to permit a sufficient transition period. Paragraph (b) now applies to "wells spudded after December 31, 1978," and paragraph (c) now applies to "wells spudded on or after February 19, 1977, and before January 1, 1978."

Many comments questioned whether the finding that tne new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit must be made prior to the commencement of drilling. Comments stated that this requirement would cause drilling delays or make it impossible to obtain a new, onshore production well determination for wells drilled prior to the date of

enactment. The Commission believes that the statute requires that the necessary finding be made prior to the commencement of drilling. Consequently, this aspect of the special rule in § 271.305 remains unchanged.

PART 271 - SUBPART D

Subpart D of Part 271 implements sections 104 and 106(a) of the NGPA. These sections prescribe the maximum lawful price for the first sale of natural gas which was committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate under the NGA was in effect. Under section 104, the maximum lawful price is the just and reasonable rate for each vintage of gas established by the Commission as of April 20, 1977, as adjusted monthly for inflation from that date forward. Just and reasonable rates established by the Commission after April 20, 1977, constitute the ceiling rates under section 104 and are not generally adjusted for inflation. Section 106(a) prescribes the maximum lawful price for rollover contracts executed after November 9, 1978.

The interim regulations set forth the maximum lawful price applicable to each vintage of gas and define the various vintages of gas established by the Commission's national or area rate opinions. Rules for calculating the maximum lawful price applicable to natural gas for which a nonvintage just and reasonable rate was not previously established under special relief and optional procedures are also included in this subpart.

Section 271.402(a) of Subpart D includes a table of maximum lawful prices for each vintage of previously committed or dedicated natural gas. Transition from the Natural Gas Act prices to the NGPA prices affects two of the prices included therein differently from other categories. First, the price established in section 106(a) of the NGPA for sales by small producers of rollover contract gas is less than the rate such producers would have received for the same category of gas under the Natural Gas Act. Pursuant to § 157.40(c)(1) of this chapter, small producers were entitled, under the Natural Gas Act, to 130% of the maximum base rate established by the Commission for replacement contracts. Thus, for replacement contracts entered into prior to November 9, 1978, section 104 of the NGPA, which is keyed to the rates previously established by the Commission, prescribes a rate reflecting this 30% differential for sales by small producers. However, for contracts rolling over on or after November 9, 1978, section 106(a) prescribes a rate of 54 cents per MMBtu, as adjusted for inflation from April 20, 1977, for both large and small producers. As a result of this anomaly, a small producer who executed a replacement contract prior to November 9, 1978, would be entitled to a rate of 77.1 cents per MMBtu as of December 1, 1978, whereas a small producer who executed a rollover contract on or after

November 9, 1978, would be entitled, under section 106(a), to a rate of 60.3 cents per MMBtu.

In order to prevent a small producer from receiving a rate under the NGPA lower than that to which he would be entitled under the Natural Gas Act, the Commission finds it necessary to invoke our authority under section 106(c) of the NGPA. This section provides that the Commission may prescribe a maximum lawful price higher than would otherwise be applicable under section 106 if such higher rate is determined to be just and reasonable within the meaning of the Natural Gas Act. The Commission finds, pursuant to this section, that the rate previously established by the Commission for small producer replacement contract gas is just and reasonable within the meaning of the Natural Gas Act, and should be made applicable to small producer sales of rollover contract gas. The price so determined is 70.2 cents per MMBtu as of December 1, 1978. This price may be increased, in accordance with Opinion Nos. 770, et seq. and Opinion Nos. 742, et seq., by an amount not to exceed 1.3 cents per MMBtu per annum commencing on January 1, 1979, and the first day of every year thereafter for the term of the contract dedicating the subject gas for sale in interstate commerce.

We note that this price is still not identical to the 77.1 cents per MMBtu price prescribed in the table for small producer sales of replacement contract gas. The price in the table was determined by adjusting for inflation the April 20, 1977, price of 68.9 cents per MMBtu established by the Commission for replacement contract gas. We invite the submission of data, views and arguments on or before December 15, 1978, regarding the question whether, under the standard set forth in section 106(c), the 70.2 cents per MMBtu rate applicable to small producer rollover contracts should be found not just and reasonable, and the just and reasonable rate should be raised to the 77.1 cents per MMBtu rate as adjusted for inflation in months following December 1978.

One commenting party argues that the Commission has exceeded its authority in raising the small producer rollover contract rate to 70.2 cents per MMBtu. The comment alleged that by not mentioning small producers in section 106(a), Congress intended to eliminate the small producer differential for rollover contract gas. We disagree. The Commission believes the intent of Congress, as expressed in sections 104 and 106(a) of the NGPA, was to key the price of previously committed or dedicated gas to the prices previously determined by the Commission to be

just and reasonable under the Natural Gas Act. Accordingly, we believe that the failure of section 106(a) to mention small producers was inadvertent rather than intentional. In any event, the Congress clearly provided the Commission with the authority, under section 106(c), to prescribe a just and reasonable rate for small producers selling rollover contract gas which is higher than that provided in section 106(a).

A second transition problem exists regarding the large producer rate for rollover contracts prescribed in section 106(a). Such rate is determined by applying the inflation adjustment factor to an April 1977 rate of 54 cents per MMBtu in order to arrive at a December 1, 1978, rate of 60.3 cents per MMBtu. However, the large producer rate for replacement contracts was 53 cents as of April 20, 1977, which when adjusted for inflation translates to a rate of 59.3 cents per MMBtu as of December 1, 1978. Again, we note that the only difference between a replacement contract and rollover contract is that the latter is executed on or after November 9, 1978. In view of this disparity in treatment for the same types of sales of natural gas, we invite the submission of data, views and arguments on or before December 15, 1978, regarding the question whether, under

the standard set forth in section 104(b)(2), the large producer replacement contract rate of 59.3 cents per MMBtu should be found not just and reasonable, and the just and reasonable rate should be raised to the 60.3 cents per MMBtu rate for large producer rollover contracts.

Under § 271.402(d)(2) of these regulations, any "just and reasonable" rate established by the Commission for a sale of natural gas after April 20, 1977, and prior to November 9, 1978, is the maximum lawful price applicable to such sale if higher than the otherwise applicable price prescribed in § 271.402(a) or (d)(1). As to producer applications under the optional procedure regulation set forth in § 2.75 of this chapter, a "just and reasonable" rate is that rate established by the Commission in its final order on such applications. However, the holder of a certificate issued by the Commission under the optional procedure was required to waive the right to receive the applicable national and area rates and other rights under section 4 of the Natural Gas Act and regulations thereunder, we do not believe that the inflation adjustment should apply to rates established under the optional procedure.

Under § 271.403 of these regulations, we have provided a special rule regarding a carrying charge adjustment for advance payments. In Opinion No. 770-A, the Federal Power

Commission recognized that capital generated through the advance payment program was no longer required to bring additional gas supplies to the interstate market. The Commission noted that the rate level set forth in that opinion was designed to achieve the capital formation objective. Accordingly, the Commission found that as to additional advance payments made after the issuance of that opinion, it would be inequitable to require consumers also to pay the carrying charges on these amounts.

The Commission determined that producers who accept advance payments after the date of the opinion should reduce the rate prescribed therein for post-1974 gas which was committed under any further advance payments by the cost of the advances borne by consumers.

Because of these same considerations, we have provided in § 271.403 for the same adjustment in the rates charged by producers for post-1974 gas. Producers subject to this carrying charge rule would be required to reduce their rates by 83 cents per MMBtu for all deliveries made pursuant to the applicable advance payment agreement until the total amounts so deducted equal the amounts collected by the purchasing pipeline from its customers as a result of including the applicable advance payments in their rate base.

Several parties commented that § 271.402(a) should include a reference to the minimum rate of 18 cents per Mcf prescribed by § 2.56b(b) of this chapter. These parties also stated that this 18 cents per Mcf minimum rate be adjusted for inflation as provided for in section 104(b)(1)(A).

We agree that the 18 cents per Mcf minimum rate should be included in the table of rates set forth in § 271.402(a) and should be adjusted for inflation as provided in section 104(b)(1)(A). Accordingly, we have added a new category to the table of rates set forth in § 271.402(a) which is entitled "minimum rate gas." Also, we have added a new subparagraph (9) to § 271.402(c) which defines this term.

Several comments were received regarding the "small producer" definition set forth in § 271.402(c)(9). One comment suggested that the definition be expanded to include a crossreference to § 157.40, the current regulation governing sales made by small producers. Specifically, this comment requested that it be made clear that the small producer rates established under sections 104 and 106(a) should only be applicable to sales from "small producer reserves" as defined in § 157.40. In order to clarify this matter, we have deleted the definition of small producer and, in its place, provided a definition of "small

producer sales" which references the requirements of § 157.40 under which such sales may qualify for the small producer rate.

One comment recommended that we amend the definition of small producer to permit the small producer exemption to apply even where the producer is a director of a class A pipeline company and the producer makes no sales to such pipeline company. This prohibition against affiliation with a class A pipeline company was incorporated in the current small producer regulations set forth in § 157.40 as promulgated by Order No. 568. __/ On rehearing of Order No. 568, the issue presented in this comment was raised. Since this issue is more appropriately raised in the context of Order No. 568, we shall address it on rehearing of that order.

Finally, a comment was received recommending that small producers be defined by reference to the level of sales in both the inter- and intrastate markets, because the NGPA abolished this distinction between the markets. However, the small producer definition set forth in § 271.402(c)(9) is only applicable to sales of natural gas which was previously committed or dedicated to interstate commerce, and the maximum lawful prices established for such gas are based

__/ Order Amending and Clarifying Small Producer Regulations, Docket No. RM76-15, issued July 14, 1977.

on the just and reasonable rates previously established by the Commission. Accordingly, the small producer exemption which is provided for under the Commission's current pricing regulations and which is based solely on the level of interstate sales, should be maintained. To include intrastate sales in the exemption rule would mean that certain producers would receive a rate under the NGPA lower than that to which they would be entitled under the Natural Gas Act, a result clearly not intended under sections 104 and 106(a).

One party indicated that the term "replacement contract" as used in § 271.402(c)(4) should be clarified in that it may be confused with the term "successor to an existing contract" under section 2(14) of the NGPA. No further clarification in the regulations need be made because the two terms are distinguishable on their face. First, "successor to an existing contract" means a contract executed on or after November 9, 1978, whereas a "replacement contract" refers only to contracts executed prior to that date. Also, a replacement contract also differs from a "successor to an existing contract" in that it refers only to contracts for the sale of natural gas which was previously subject to an existing contract which expired by its own terms.

PART 271 - SUBPART E

Subpart E of Part 271 implements section 105 of the NGPA by setting forth the procedure for determining the maximum lawful price for first sales of natural gas under existing, or successors to existing, intrastate contracts. No prior Commission approval is required in order to collect the maximum lawful prices established in this subpart. Persons making sales under existing intrastate contracts need only file reports as provided in Part 276. "Existing intrastate contracts" are defined in § 270.102(b)(8) to be any intrastate contracts for the first sale of natural gas in existence on November 8, 1978.

Although throughout the proposed regulations the reference is to intrastate contracts, it should be noted that these provisions apply to contracts which govern the sale of natural gas which was not committed or dedicated to interstate commerce on November 8, 1978, (the day before the date of enactment of the NGPA). Included in this category is any gas which was sold in interstate commerce under an emergency sale, a limited term certificate, and certain direct sales for which specific transportation certificates had been issued by the Commission.

Under Subpart E of the proposed regulations, the maximum lawful prices depend upon the relationship that existed on November 9, 1978, between the price under the terms of the existing intrastate contract and the new natural gas price. Under § 271.502(a), if the existing intrastate contract price was less than the new natural gas price, then the maximum lawful price will be, pursuant to section 105(b)(1) of the NGPA, the lower of the new natural gas price of $2.060 per MMBtu or the price under the terms of the existing intrastate contract on November 9, 1978, (as such price may be changed from time to time in accordance with contract terms in effect on November 9, 1978). Under § 271.502(b), if the existing intrastate contract price exceeded the new natural gas price of $2.060 per MMBtu on November 9, 1978, then the maximum lawful price will be the higher of the new natural gas price or the existing intrastate contract price limited to escalation by the monthly equivalent of the annual inflation adjustment factor.

The term "contract price" is defined in § 271.504 to mean the price per MMBtu charged for deliveries of natural gas occurring on November 9, 1978, or the price that would have been charged had deliveries occurred on that date.

Comments were received from various parties concerning our use of the phrase "contract price" in § 271.502(a)(1). They asserted that its use in that paragraph caused confusion as to whether future contractually authorized fixed or indefinite price escalator clauses, including price redetermination provisions, operate to effect price increases. The commentors fear that an interpretation more restrictive than required by the legislation would apply in the case of § 271.502(a)(1). One commentor therefore suggested that § 271.502(a)(1) be revised to track the statutory language in section 105(b)(1)(A) of the NGPA to refer to the "price under the terms of the existing contract." We agree and we have revised § 271.502(a)(1) to track the appropriate statutory language. This change should allay the apprehensions of those commentors who feared that fixed or indefinite price escalator clauses in contracts were abrogated by § 271.502(a)(1).

One comment suggested adding a new section which would provide, inter alia, that the mere establishment of ceiling prices under the NGPA shall not trigger indefinite price escalator clauses in existing intrastate contracts. Only prices actually paid for sales actually made under the NGPA would trigger such clauses. This is similar to language at page 83 of the Joint Explanatory Statement of the Committee on Conference and reflects, in our opinion, the general intent of Congress with respect to sales under all existing contracts, whether inter- or intrastate. Accordingly as discussed above, we have added a new section 270.205 which provides that the establishment of maximum lawful prices under the NGPA shall not trigger "indefinite price escalator provisions," as defined in the NGPA in either existing intrastate or interstate contracts.

A comment suggested that § 271.502(a)(2) should be revised to allow the § 271.802 stripper well maximum lawful price to apply, instead of the new natural gas price, in any case where there is no contract price for such month or when prices for life-of-well contracts are established from time to time by price lists published by the buyer. We do not find merit in this suggestion. Section 105(b)(1)(B) is quite specific and only provides for the new natural gas rate. However, we have altered the language of § 271.502(a) slightly in order to make clear that that section applies in any case where there is no contract price established on November 9, 1978.

Another comment asserted that the previous language of § 271.504, respecting take-or-pay clauses, may lead to undue burdens where the purchaser has not made payments under a

take-or-pay clause or where the parties to the contract have not calculated the volumes to be taken under such clause. It was suggested that the last sentence of § 271.504, dealing with take-or-pay clauses, should either be eliminated or revised. We concur and have established a special provision in paragraph (b) of § 271.505 concerning the effect of take-or-pay clauses which incorporates the commentor's suggested revision. However, we wish to emphasize that this rule is to apply only with respect to the determination of "contract price" on November 9, 1978. It does not apply with respect to any other date (except to the extent the maximum lawful price is determined by reference to the contract price on such date).

Another comment sought clarification of the right to collect a contract price under § 271.502 that exceeds the new natural gas price solely because of the inclusion of contractually authorized payments for state severance taxes allowed under § 110 of the NGPA. No modification of Subpart E is required. The rules for determining adjustments for state severance taxes are found in Subpart K of this part.

Uncertainty was also expressed as to whether regulations under Subpart K would cause a roll-back of the contract price to less than $1.00 per MMBtu in a case where

it exceeds $1.00 per MMBtu because of reimbursement for state severance taxes. No such "roll-back" would occur if the severance tax provision was in the existing intrastate contract and effective as of November 9, 1978. No revision of Subpart E is required to reflect that fact.

Subpart E sets forth a special rule limiting the effects of modifications of contract terms executed after November 9, 1978. Section 271.505 has been revised to provide in paragraph (a)(1) that no such modification may have the effect of requiring the purchaser to bear any production-related costs which were allocated to the seller under the terms of the existing contract. We have also added a new paragraph (b) which clarifies that paragraph (a) does not preclude contract modifications in the limited circumstance in which a purchaser who was not a party to the existing intrastate contract agrees to bear responsibility to pay for increased production-related costs. The costs contemplated in this new paragraph are those necessary to enable the new purchaser to take delivery of the natural gas subject to the existing contract. We have made this revision in response to a comment pointing out that a new pipeline purchaser may have to install facilities to permit deliveries into its system which would be prohibited under a literal reading of this section. Paragraph (a)(2) of

§ 271.505 stipulates that no such modification may provide for an earlier date for deliveries than that provided for in the existing contract.

The previous paragraph (b) of § 271.505, which has now been deleted, provided that no modifications to existing successors to existing intrastate contracts may alter the terms of such contract to provide for a higher price. It was suggested that there was an ambiguity created by paragraph (b) respecting the right of parties to amend existing intrastate contracts where the sales under those contracts otherwise qualify for maximum lawful prices under another subpart of Part 271, and as to whether amendments relating to state severance taxes or production-related costs allowed under § 110 of NGPA are not considered part of the ceiling price. We have deleted the former paragraph (b) of § 271.505 that would have precluded such modifications and have restricted the scope of that section to Subpart E. The Commission wishes to study the matter further before specifying the latitude parties have to effect bilateral modifications to the terms of contracts in existence on November 9, 1978, and invites further comments thereon. Interpretation of contracts remains an initial responsibility of parties thereto.

PART 271 - SUBPART F

Subpart F of Part 271 implements section 106(b) of the NGPA. Subpart F applies to first sales of natural gas under intrastate rollover contracts, and sets forth the procedure for determining the maximum lawful price applicable to such sales.

Tables are provided in the regulation for the prices permitted to be charged under section 106(b)(1) and section 106(b)(2). As is the case with sales qualifying under Subpart E, persons who sell gas pursuant to intrastate rollover contracts may collect the maximum lawful prices without prior Commission approval. Reporting requirements with respect such sales are found in Part 276.

The maximum lawful price under Subpart F for first sales of natural gas under section 106(b)(1) of the NGPA is the higher of (a) the maximum price under the expired intrastate contract in the month of expiration as escalated by the monthly equivalent of the annual inflation adjustment factor, or (b) $1.00 per MMBtu escalated from April 1977 by the same inflation adjustment. Section 271.602(b) provides for the maximum lawful price for natural gas which may be charged for a certain state or an Indian tribe's natural gas production interests under section 106(b)(2) of the NGPA.

Subpart F also contains a special rule similar to the rule in § 271.505. Section 271.604 provides that no intrastate rollover contract may have the effect of shifting to the purchaser, production-related costs which were allocated to the seller under the expired contract.

We received one comment asserting that § 271.505 as proposed might have an adverse effect on interstate pipelines seeking to gain intrastate natural gas. The commentor suggested that § 271.505 should not operate to preclude intrastate rollover contracts from requiring the purchaser to bear costs of installing facilities necessary for the purchaser to take physical delivery of the gas. We have added a new paragraph (b) to this section which provides that a new purchaser may agree to incur increased production-related costs if such costs are necessary for the purchasef to take delivery of the natural gas. We deleted paragraph (b) of the previous draft which related to modifications of delivery dates after having concluded that such a restriction is unnecessary.

One comment asserted that Subpart F may not permit persons making final sales under intrastate rollover con-

tracts to collect severance taxes, borne by the seller and allowed under section 110 of the NGPA, in addition to the maximum lawful price.

The rule is not intended to restrict the collection of contractually authorized maximum lawful prices for which sales otherwise qualify. However, where the contract is silent as to payment of state severance taxes, the seller shall be presumed to be obligated to pay these taxes.

Finally, a comment requested a clarification of the effect of Subparts E and F in cases where sales were being made on November 9, 1978, pursuant to limited term or emergency sales contracts. As the November 15, 1978, notice stated, natural gas sold in interstate commerce under such contracts is excluded from the definition of "committed or dedicated to interstate commerce" under section 2(18) of the NGPA. Accordingly, the maximum lawful prices of Subparts E and F may apply to such sales.

PART 271 - SUBPART G

Subpart G of Part 271 implements section 107 (a) of the NGPA, which applies to first sales of natural gas from deep high-cost natural gas wells. It contains a special rule in § 271.704 clarifying the method of determining the depth of a well.

Section 107 of the Act authorizes the Commission to establish incentive prices for gas from geopressurized brine, occluded natural gas from coal seams, and gas from Devonian shale. It also authorizes the Commission to establish incentive prices for gas produced under other conditions as the Commission determines present extraordinary risks or costs.

This interim regulation does not attempt to implement the provisions of section 107 except as that section specifies prices for deep high-cost gas wells. Practical considerations have precluded our undertaking that effort at this time.

Comments suggested that the special rule in § 271.704, which provides the method of measurement to be used in this subpart, is "inapplicable to offshore wells." It was requested that for offshore wells the measurement be made from the floor of the drilling rig rather than from the surface of the ground. As written, the regulation reflects what the Commission believes to be the appropriate point

from which to measure the depth of the well. However, the Commission specifically requests additional comments with supporting data on the appropriate point from which to measure the 15,000 foot depth for offshore production.

PART 271 - SUBPART H

Subpart H of Part 271 implements section 108 of the NGPA, which is applicable to first sales of natural gas produced from stripper wells. This subpart contains definitions of terms used in section 108, and prescribes several special rules intended to assist in implementation.

Section 108 of the NGPA provides a maximum lawful price for stripper well natural gas, and prescribes a definition for stripper well gas. According to the general rule prescribed in section 108(b)(1) of the statute, natural gas is stripper well natural gas if, during the 90-day production period preceding the date on which application is made for a determination, the well produced nonassociated natural gas at its maximum efficient rate of flow and did not exceed an average of 60 Mcf per production day. Natural gas may qualify as stripper well natural gas regardless of the spud date for the producing well. Section 108(b)(2) also provides that a well may, after initial qualification, continue to qualify as a stripper well if production exceeds 60 Mcf per day during any 90-day production period, so long as the increased production is determined to have resulted from the application of recognized enhanced recovery techniques.

Section 271.803 of Subpart H defines "recognized enhanced recovery techniques" and "nonassociated natural gas." The definition of "recognized enhanced recovery techniques" includes processes or equipment which increase the ultimate recovery of gas from a well and excludes techniques or equipment necessary for normal well maintenance, repair or replacement.

The definition of "nonassociated natural gas" would permit a stripper well to qualify under this subpart if it produces crude oil in volumes which do not exceed specific limits. The rule provides for a sliding-scale ratio of natural gas to crude oil production. If a well produced an average volume of between 50 and 60 Mcf of gas per production day in the 90-day production period, it would qualify as a stripper well, provided that it produced no more than 1 barrel of crude oil during the same period. If, on the other hand, a well produced an average volume of between 30 and 50 Mcf per production day, it would qualify if crude oil production did not exceed 2 barrels per production day. Wells below 30 Mcf would qualify if crude oil production did not exceed 3 barrels per day.

Section 271.804 sets forth special rules which interpret and apply terms used in the NGPA. Section 271.804(a) and (b) concern the methodology for measurement of production from a well. Section 271.804(a) states that the volumetric basis for determining the rate of production from a single well is the total volume of gas produced from all producing intervals of the well.

Section 271.804(b) applies when the wells are not individually metered. In this circumstance, jurisdictional agencies may average rates of production in order to determine whether particular wells are stripper wells. For example, if six wells were attached to a single meter, and the meter showed deliveries averaging 360 Mcf per production day or less, presumptively all wells would qualify. If, on the other hand, deliveries from the six wells averaged 370 Mcf per production day, then presumptively, none of the wells would qualify. In either case, alternative evidence may be offered in rebuttal to establish qualification or the lack of qualiffcation.

Section 271.804(d) is a rule applying the statutory requirements with respect to "maximum efficient rate of flow" (MER). The section sets forth the statutory requirement. It also provides that a well is presumed to have produced at its MER during the 90-day production period if it produced

an average volume of 60 Mcf or less per production day during a 12-month period ending concurrently with the 90-day production period upon which the determination is based. There may, however, be situations in which a 12-month production history is not available. In such situations, the jurisdictional agency may look to other types of evidence, such as flow tests, which would measure the production capability of a well, or it may defer making the determination for a time necessary to acquire and submit a 12-month production history. If the agency defers the determination, the applicant would, if contractually entitled, be able to collect the stripper well price subject to refund.

The special rules contained in § 271.804(d) are designed to create a presumption upon which the jurisdictional agency may rely to determine that the well for which a determination is sought produced at its maximum efficient rate of flow during the 90-day production period upon which the application is based. This presumption is not exclusive, however. If results of well flow tests or other tests designed to determine the production capability of a well are available, the jurisdictional agency may rely on such results or other substantial evidence to make the factual finding that the well produced at its maximum efficient rate of flow.

Section 271.804(e) is a special rule which permits wells to retain stripper status despite increases in production above the 60 Mcf per day level, provided the increase is attributable to seasonal fluctuations. Jurisdictional agencies may make the determination that a well is seasonally affected on the basis of production history over a 24-month period if production from the well has not and cannot reasonably be expected to have exceeded an average of 60 Mcf per day for any 12-month period.

Section 271.805 is a rule implementing section 108(b)(2) of the NGPA. The rule disqualifies wells which, subsequent to the jurisdictional agency determination, produce quantities of gas in excess of the amounts permitted by the law and this subpart.

This rule provides for a reporting mechanism to monitor the continued qualification of the well. Both the operator of the well and the purchaser of the gas are obligated to report any increase in gas production above an average of 60 Mcf per production day for any 90-day production period. Unless the operator receives a determination from a jurisdictional agency that the increase was due to the application of recognized enhanced recovery techniques, or is determined to be seasonally affected, he may no longer collect the stripper price for the well. If the operator files a petition

for a determination that the increase in production results from enhanced recovery techniques or seasonal fluctuations, continued collection of the stripper well price shall be made subject to refund for deliveries made after the last day of the applicable 90-day or 12-month production period.

Most of the comments on this section were addressed to the proposed definition of "nonassociated natural gas." Many of the comments were made by persons from the Appalachian area -- Ohio, West Virginia, Pennsylvania, and Kentucky. Comments from the State of New Mexico also expressed concern over the definition of "nonassociated natural gas."

With only one exception, all of the parties concluded that the Commission's proposed definition of "nonassociated natural gas" was too restrictive. More specifically, they suggested that to base eligibility under this subpart on the showing that the well produced an average of one barrel of oil or less per production day for a 90-day production period will exclude many marginal wells in the Appalachian area from qualifying as stripper wells.

These comments asserted that the "one-barrel" limitation will result in the premature plugging and abandonment of marginal gas wells in the area which in turn could result in a permanent loss of reserves. It was argued that the

definition was unduly restrictive and was neither required nor contemplated by the law.

As is noted above, the Commission has decided to expand its definition of "nonassociated natural gas" so as to permit, in certain instances, a higher crude oil-to-natural gas production ratio than was originally proposed. The new definition uses a "sliding scale" which permits greater crude oil production as gas production declines. This approach is predicated in part on the economics of producing oil and gas from a marginal gas well. The new definition recognizes the limited revenues from marginal wells and attempts to provide a reasonable incentive to preserve this production. The Commission believes that the definition is a reasonable one, and is of the type contemplated by the authority given it in section 501(b) of the NGPA.

It was suggested that the proposed special rule which requires the total volume of natural gas produced from the well be utilized for purposes of calculating the average rate of production, regardless of whether the well is completed in more than one interval (§ 271.804(a)), be deleted. In support of this recommendation, it was argued that the proposed definition was contrary to the statutory intent of maintaining production from economically marginal wells.

In several instances, the NGPA clearly distinguishes between the terms "completion location" and "well." The terms are separately defined in section 2 of the NGPA. In sections 102 and 107 the distinction between "completion location" and "well" is clearly the basis for several determinations. However, section 108 provides that the stripper well natural gas classification can only be obtained for production from a "well." Unlike other sections, no mention is made of a "completion location" within a well. Accordingly, we have not adopted this recommendation.

One comment recommended that the special rule on "seasonally affected wells" (§ 271.804(e)) should be deleted because section 108 does not provide a statutory predicate for such a rule. The Commission disagrees. Production from a well often varies as a result of the pressure differentials created by temperature fluctuations. A rule that ignores this occurrence would place an undue administrative burden on producers, states and the Commission. Many wells would have to go through the qualification and disqualification process each year. For these wells the Commission believes that once a well qualifies as a stripper well, the provision permitting it to remain qualified as long as production does not exceed 60 Mcf per production day on a yearly basis, where

the well is determined to be seasonally affected, is both practical and within the spirit and intent of the law. The Commission believes that the practical result of not providing this exception to the 60-Mcf-per-production-day rule requires this exercise of its rulemaking authority under section 501(a) of the NGPA.

It was also proposed that §§ 271.804, 271.805, and 271.806 be amended to delete references to "90-day production period" and to insert in its place the phrase, "3-month production period." It was argued that this change will greatly simplify the administration of the regulations. It was further argued that because production records are kept on a monthly basis rather than a daily basis, it is impossible to calculate the 90-day production period figure required by section 108 of NGPA.

The Commission has incorporated the statutory language in its regulations. The Commission recognizes that production records and billing statements are often kept on a monthly basis. Consequently, the Commission believes that reasonable assumptions premised upon such records, which attempt to calculate average production per production day for the 90-day production period upon which the application is based, will provide the jurisdictional agency with sufficient evidence upon which a determination may be made.

Several comments requested that we define "recognized enhanced recovery techniques" with greater specificity. Some comments suggested that the proposed definition should be drafted to specifically exclude wellhead compression techniques.

The Commission believes that the term "recognized enhanced recovery techniques" should not be more explicitly defined until more experience has been gained as to what specific equipment and processes should be included. It is anticipated that the Commission will identify specific enhanced recovery techniques in the future. In the interim, the Commission will address the question of whether enhanced recovery techniques have been applied on a case-by-case basis. After some experience, the Commission will determine whether general rules are either necessary or desirable.

It was pointed out that the determination as to what constitutes enhanced recovery techniques under § 271.803(a) should be left to jurisdictional agencies and not to the Commission. This suggestion is contrary to the statutory requirement of section 108(b)(2). This section requires that the Commission provide a rule for continued qualification of nonassociated natural gas where such natural gas is produced from a well when production from such well exceeds 60 Mcf per production day as a result of the application of enhanced recovery techniques.

The rule promulgated by the Commission to implement this section relies on the expertise of both the jurisdictional agencies and the Commission. This reliance is required at this time since the question of whether enhanced recovery techniques have been applied will often turn upon factual considerations.

Finally, the Commission was asked to require that all flow tests be made by employees of jurisdictional agencies or independent engineers certified by a jurisdictional agency. At this time, we find that this requirement is unnecessary.

PART 271 - SUBPART I

Subpart I of Part 271 implements section 109 of the NGPA by setting a maximum lawful price for "other categories of natural gas," that is, for first sales of natural gas that are not covered by any maximum lawful price under any other subpart of Part 271. [Emphasis supplied.]

Section 109 of the NGPA presents an important question of interpretation. The portion of section 109(a) which precedes paragraph (1) limits section 109's application to "natural gas which is not covered by any maximum lawful price under any other section of this subtitle." [Emphasis supplied.] However, paragraph (1) of section 109(a) specifically includes natural gas "produced from any new well not otherwise qualifying for a higher maximum lawful price." [Emphasis supplied.] The question presented is whether the general language in section 109(a) is intended to limit the scope of the examples which follow (so that new wells which qualified for a lower price under another section of the NGPA would be excluded from section 109), or whether the specific examples override the general statement of the scope of section 109 (so that new wells otherwise subject to a maximum lawful price which is lower than the section 109 price nonetheless would be eligible for the higher section 109 price).

In this regard, it should be noted that the portion of section 109(a) which precedes paragraphs (1) through (4) introduces those paragraphs with the word "including." Under general rules of construction therefore, it would appear that paragraphs (1) through (4) are qualified and controlled by the general statement of applicability which limits section 109 to first sales not covered by any maximum lawful price. For this reason, the Commission is of the view that the first interpretation is correct and has incorporated that interpretation in the regulations implementing section 109. A special rule in § 271.904 provides that the maximum lawful price in this subpart applies to a first sale of natural gas described in paragraphs (1), (2), (3), or (4) of section 109 (a) only if that first sale is not covered by any other maximum lawful price in the NGPA.

Several comments were received which argue that the interpretation of section 109(a) which is reflected in the regulations is wrong. These comments state that the specific examples set forth in section 109(a)(1) through (4) are intended as additions to the general category set forth in the portion of section 109(a) which precedes

paragraph (1). We specifically invite further comments on this issue.

Finally, a comment was submitted recommending that § 271.904(a) contain a reference to § 273.201 in order to help eliminate confusion over the right of the producer initially to apply for the section 109 price under the interim collection regulations. The recommendation is in error in that natural gas which qualifies for the interim rate under § 273.201 must also be the subject of an application for a determination under Subparts B, C, G, or H of Part 271. The natural gas subject to the price established in § 271.904(a) under section 109 of the NGPA cannot, by definition, qualify under those subparts.

PART 271 - SUBPART K

Subpart K of Part 271 of the Commission's interim regulations implements section 110 of the NGPA. That section permits a first sale price of natural gas to exceed the applicable maximum lawful price for that sale to the extent necessary to recover state severance taxes borne by the seller. It also permits a first sale price of natural gas to exceed the applicable maximum lawful price for that sale to the extent necessary to permit the recovery of allowances for certain production-related costs which are a component of just and reasonable rates established under the NGA and certain production-related costs for natural gas not subject to just and reasonable rates under the NGA, if such costs are borne by the seller, and allowed by the Commission.

Section 271.1101(a) incorporates the definition of "state severance tax" contained in section 110(c) of the NGPA. This definition includes most types of production taxes, including ad valorem taxes which are based upon the amount of production. Therefore, the Commission believes it is unnecessary to specifically include the various types of severance taxes in the definition. Subparagraph (2) of paragraph (a) of § 271.1101 incorporates the statutory exclusion of taxes, which were enacted on or after December 1, 1977, and which do not apply equally to natural gas produced for

delivery to interstate commerce and gas produced but not so delivered.

Section 271.1102 states that the maximum lawful price applicable to a first sale of natural gas will not be deemed to be exceeded, if the first sale price exceeds the maximum lawful price only to the extent necessary to recover state severance taxes borne by the seller. Paragraph (b) of § 271.1102 acknowledges that the just and reasonable rates applicable to natural gas produced from the Permian Basin area already include a specific allowance for state severance taxes. Therefore, those amounts are excluded from the provisions of the section so as not to permit double-recovery by the seller of State severance taxes for production in the Permian Basin which is subject to the Permian Basin area rate. State severance taxes actually paid by the seller in excess of 2.6 cents per Mcf for large producers and 3.05 cents per Mcf for small producers will be permitted to be recovered under paragraph (a) of § 271.1102 (so long as such taxes are paid by the seller).

Section 271.1103 contains a requirement that sellers retain records verifying the amount of state severance taxes borne by the seller for transactions in which the maximum lawful price is exceeded as a result of the addition of amounts necessary to recover state severance taxes.

Section 271.1104 provides that an applicable maximum lawful price for a first sale may be exceeded to the extent necessary to recover certain allowances permitted under the Natural Gas Act. These allowances include the area-wide gathering allowances and the allowances permitted for the delivery of offshore natural gas currently described under Part 2 of the Commission's regulations. While references to both the national rates for sales from wells commenced on or after January 1, 1973 (§ 2.56a) and those from wells commenced prior to that date (§ 2.56b) are given, these allowances are identical. The two references were supplied to make it clear that persons who were receiving such allowances, under either provision, will continue to receive them if they are qualified. Qualifications for these allowances are set forth in paragraph (b). To receive these allowances for a first sale of natural gas the seller must (1) be selling natural gas which was committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate was in effect on that date; and (2) must meet the applicable requirements of §§ 2.56a(d), 2.56b(e), 2.56a(e), or 2.56b(f) of this chapter.

Several comments, particularly those dealing with the problems of resellers, requested the inclusion of what is now § 271.1104. The Commission believes that while the allowances are based on cost data supplied several years

ago, such allowances should be permitted inasmuch as they were permitted for rates previously set by the Commission. It would serve no regulatory purpose to require sellers making first sales under these previously established just and reasonable rates to apply for such allowances under § 271.1105 when such gathering allowances, as permitted in Part 2 of this chapter, have already been deemed just and reasonable.

Section 271.1105 establishes a procedure under which the Commission will consider applications for amounts to be collected in addition to maximum lawful prices to the extent necessary to recover certain production-related costs.

Paragraph (b) of § 271.1105 precludes the filing of any application for such an allowance if the natural gas subject to the first sale was committed or dedicated to interstate commerce as of November 8, 1978, and was subject to a just and reasonable rate in effect at that time. It also precludes applications with respect to natural gas subject to an existing intrastate contract, successor to an existing intrastate contract, or an intrastate rollover contract.

Several comments focused on the exclusions in this section. The exclusion of committed or dedicated natural gas is not an attempt on the part of the Commission to decide the issues now before the Commission on rehearing in

Phillips Petroleum Company, Docket No. CI77-412, et al. Instead, the exclusion of natural gas for which a just and reasonable rate was established by the Commission on or before November 8, 1978, from the operation of § 271.1105 reflects the Commission's intention to reserve these issues for decision in the Phillips case rather than in the interim regulations.

The subsequent and separate order in the Phillips rehearing will set out the Commission's policy in this regard. The exclusion of natural gas sold intrastate subject to existing contract obligations reflects a similar view: namely, that the existing contract provisions reflect the allocation of costs of production as they were contemplated by the parties at the time the contract was negotiated. These provisions, and more importantly any change in such provisions, would change the price actually paid for the natural gas subject to the existing contract. The NGPA in sections 105 and 106(b) establishes a pricing mechanism which relies upon the prices and the contractual terms as they relate to price as such prices and terms were in existence on the date of enactment of the NGPA. It would be contrary to the intent of Congress to permit a change in such prices and terms that would have the effect of increasing the total costs borne by the purchaser for acquiring the

very same commodity as he was acquiring for a lower price before date of enactment. This would also be contrary to the intent of this provision and the NGPA and would unnecessarily complicate the implementation of sections 105 and 106(b) of the NGPA. The Commission believes that the exclusion contained in § 271.1105(b)(2) is consistent with Congressional intent to establish maximum lawful prices for such contracts by reference to the terms and conditions as they relate to the allocation of production-related costs as they were in existence on the date of enactment.

The interim regulations provide, in paragraph (c), that applications to the Commission will be considered for costs of gathering, liquifaction or transportation only if those latter activities occur off the lease from which the natural gas was produced. It is the intent of the Commission that the costs of gathering, liquifaction, or transportation should only be permitted to the extent that they are not activities normally performed in the production of natural gas. The Commission believes that costs of gathering, liquifaction, and transportation when performed on-the-lease are activities normally performed by a producer in production of natural gas. Where such costs for activities performed on-the-lease are extraordinary, a seller may seek an

adjustment pursuant to section 502(c) of the NGPA to prevent special hardship, inequity, or an unfair distribution of burdens. Such relief is specifically recognized in § 271.1106.

The regulation does differ from the notice of proposed rulemaking in that the term "off-lease" has been revised to read "off of the lease from which the natural gas was produced." This change was made in response to a comment in the proposed regulation that the original language would unfairly impact upon operations where such activities were performed for one producer by another producer but off of the lease from which the natural gas was produced.

Paragraph (d) sets out certain quality standards for natural gas. Only applications for recovery of that portion of costs necessary to bring gas to a quality greater than specified in the standards will be considered under this section. This section provides an exception to this rule for transactions involving direct sales to end users. With respect to the pipelines, the Commission has determined after a review of existing contractual terms and data filed with the Commission, the standards specified are those which are normally required for pipeline quality natural gas. The Commission does not have sufficient data to draw the same conclusions with regard to direct sales to end users. The Commission requests further comment on these standards.

A substantial number of comments were received on this section. Some comments argued that section 110 of the NGPA addresses only costs relating to the production of natural gas. It was argued that, to the extent costs such as those enumerated under this section are incurred after production, the Commission lacked authority to regulate them under section 110. Second, it was argued that all costs, those respecting processing and treating, as well as those for such activities as gathering and transportation, should be treated together. Third, the method used to identify the minimum quality standards was questioned. It was submitted that such requirements, as set down by the Commission, overlooked the extraordinary costs which may be required to meet the stated conditions. Fourth, it was argued that no minimum standards should be set; that the Commission should merely permit a dollar-for-dollar passthrough of these and similar costs. Finally, the point was raised that if such standards are to be set, they should be made uniformly applicable and they should be based upon area-wide requirements determined after the gathering of more detailed data.

The Commission believes that section 110 of the NGPA does not require that all costs for compressing, gathering, processing, treating, liquifaction, or transportation must be treated together and dealt with identically. Indeed, this reading of section 110 is inconsistent with the fact that the

different types of costs are indeed incurred at different times and locations. Treating all such costs as a group is impossible as a practical matter and could not have been intended by the Congress. To restrict the applicability of section 110 to costs borne only by the producers and only to the extent necessary to bring natural gas to the surface of the ground would work a hardship on other "sellers" subject to maximum lawful prices. This result is clearly contrary to section 110 which refers to costs "borne by the seller".

The Commission has provided regulations to permit recovery of costs relating to certain gathering, liquifaction, transportation, and compression under § 271.1105(c). The Commission has also provided for the recovery of costs relating to certain conditioning and treating under § 271.1105(d). These separate provisions are warranted since the costs are similarly incurred during the production cycle.

Several comments were specifically directed to the provisions of § 271.1105(d). These comments argued that the Commission is establishing minimum standards of quality and that the Commission does not have the requisite authority. The Commission disagrees with these comments. First, the Commission is addressing the issue of which costs will be allowed to be added-on to the statutorily specified maximum prices. Section

110(a)(2) specifically states that costs for processing and treating, among other things may be recovered only to the extent "allowed for, by rule or order," of the Commission. The statute does not require the Commission to automatically permit the recovery of all such costs, but leaves to the discretion of the Commission whether to grant the authority to the sellers to recover such costs. In exercising such discretion, the Commission may attach such terms and conditions as it deems appropriate so long as they are not contrary to statutory intent or arbitrary and capricious. On the basis of the discussion set forth in this preamble, the Commission believes that the terms and conditions imposed by these regulations are necessary and appropriate to carry out the intent of Congress in enacting the NGPA.

Standards for determining when the Commission will entertain applications for a determination that the maximum lawful price has not been exceeded as a result of the addition of certain production-related costs are required in order to assure that natural gas for which the maximum lawful prices set by the NGPA are paid is that commodity which is of relatively uniform value to the purchaser. When a price is charged and collected for a specific commodity, such a product is normally deemed to have certain basic qualities which define the item being purchased. The

Commission does not believe that Congress, when setting the maximum lawful prices for natural gas, did not anticipate that the sellers would bear normal costs of production in making this commodity useful to the purchaser. The maximum lawful prices were designed to permit the sellers to recoup such costs. Section 110 recognizes that some sellers may incur abnormally high costs of production and permits recovery of those costs in circumstances where the Commission finds such recovery to be warranted.

The statute envisioned that the Commission could perform these responsibilities either by rule or on a case-by-case basis. Recognizing the differences in production cost that may occur, the Commission, through these regulations, is utilizing both rulemaking and particularized orders to implement section 110.

Section 271.1100(b) excludes from the operation of § 271.1104, § 271.1105, and § 271.1106, natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the system approved under the Alaska Natural Gas Transportation Act of 1976 (ANGTA). Prudhoe Bay is a new and unique producing area for which there is no history of industry practice relative to the bearing of production-related costs. Therefore, a separate rule under the provisions of ANGTA for natural gas from that producing area

is required and will be promulgated by the Commission in the immediate future.

This exclusion received some comment. One comment, while agreeing that natural gas produced from Prudhoe Bay should be treated differently from that produced in more conventional settings, evidenced a concern that it would not be so treated. Instead, it was feared, the Commission would seek to apply to this natural gas such standards as were set forth in Subpart K. In addition, the same comment raised the question of how natural gas produced from areas similar to that of Prudhoe Bay would be treated. Both of these concerns turned upon the view that as proposed, the regulation did not touch upon a typical situation of costs for production or transportation. A second comment took issue with the Commission's consideration of separate costs associated with the Prudhoe Bay effort. The gravemen of this comment was two-fold: first, that excepting Prudhoe Bay gas resulted in continued uncertainty as to the Commission's treatment of this natural gas; second, that a rulemaking under ANGTA, as opposed to the NGPA, was neither warranted nor proper.

The failure to except other, similar production areas (as for example the North slope), was intentional. It is envisioned that to the extent such other areas evidence

particular characteristics which require special treatment, either more data will be available whereby they can be properly treated, or they can be considered under § 271.1106. Prudhoe Bay requires special consideration, for in that case data is available to assist the Commission in considering the questions attendant to maximum lawful pricing provisions. As already mentioned, these questions are to be dealt with by a special rulemaking.

The issue as to which statute applies for purposes of providing for Prudhoe Bay is, like the issue of the actual treatment of production-related and similar costs for this production area, best addressed within the setting of the proposed rulemaking. Suffice it to say that the Commission believes that its authority under section 110 of the NGPA is broad enough to make special provisions and exceptions as between regions if good cause can be found. Considering the state of production from Prudhoe Bay, the Commission is of the opinion that the exception is, at this stage, required.

PART 273

The purpose of Part 273 is the establishment of procedures for the interim collections authorized by section 503(e) of the NGPA. Section 503(e) permits interim collection, subject to refund, of those prices for certain categories of natural gas for which a determination of eligibility is made by a jurisdictional agency and is subject to review by the Commission. These categories are new gas and certain OCS gas (as defined in section 102 of the NGPA), gas from new onshore production wells (section 103), high-cost natural gas (section 107) and stripper well natural gas (section 108).

Description of the regulations. Part 273 is divided into three subparts: general provisions, interim and retroactive collection provisions, and the procedures for refund guarantees and refund payments.

Subpart A which contains general provisions has not been revised. Few comments on this subpart were received. Section 273.101 states that eligibility under these regulations to collect a maximum lawful price for a particular category of gas does not give a seller the right to collect a price which is higher than that permitted by the sales contract. Section 273.102 defines a "final determination" for purposes of this part as a determination of eligibility

by the jurisdictional state or federal agency which is no longer subject to review and reversal by the Commission or the courts except pursuant to section 503(d)(1) of the NGPA. Section 273.103 requires each seller to file an annual report of any collections and refunds under this part.

One comment noted that the annual report requirement would be burdensome to small intrastate producers. Another comment suggested that this report replace the specific filing requirements of Subpart B for each first sale. The Commission believes that specific filings and the annual report are necessary to monitor collections and refunds under this part. Prior to the end of the first reporting period, on December 31, 1979, the Commission will issue a rule specifying the form and scope of the annual report.

Subpart B of Part 273 provides the specific rules for interim collections and for retroactive collections where the maximum lawful price established by a final determination exceeds the price collected on an interim basis. Section 273.201 establishes a transitional rule which is limited to first sales from new wells. It was suggested that the eligibility for interim collections under § 273.201 be broadened to include first sales of natural gas, in a new reservoir that is produced from an old well or is stripper

well natural gas. The limitation to new wells is taken directly from section 503(e)(1) of the NGPA and applies the definition of new wells found in section 2(3) of the NGPA. It will not be modified. Sales of stripper gas or new gas from an old well may qualify for interim collections under § 273.202 and for retroactive collections under § 273.204.

Under the regulations proposed for comment, the transitional rule would have terminated on March 1, 1979. The interim regulations have been revised to permit collections under this provision to continue until the jurisdictional agency issues a determination of eligibility. A seller may collect, subject to refund, the price determined under section 109 of the NGPA, if an application for determination is submitted to the jurisdictional agency by March 1, 1979. This price may be charged and collected beginning on the date on which the seller completes the filing requirements under this section and ending on the date of notice to the Commission of a determination by the jurisdictional agency for the well from which the sale is being made. One comment requested a grace period allowing full interim collections for December 1978 if the filing required under this section is submitted by December 31, 1978. This modification of the statutory scheme will not be adopted. The retroactive collection procedure under § 273.204 may be available

to recoup charges and collections which cannot be made immediately because of delayed compliance with the filing requirements.

To qualify for the transitional collection authority, the proposed regulation stated that a seller must file with the Commission a sworn statement that the sale is being made from a new well which is eligible for the price to be collected, and that the seller has filed an application for determination with the jurisdictional agency or will do so by March 1, 1979. Two comments noted that some jurisdictional agencies do not permit filings to be made by sellers who are not actually operating the well. Therefore, the filing requirements have been modified to permit a sworn statement that the seller will cause an application to be submitted, on or before March 1, 1979, by a person authorized to do so by the rules of the jurisdictional agency. A seller who cannot make that sworn statement in good faith may substitute a sworn statement by a person eligible to file a timely application.

After an application for determination has been filed, a seller may use the procedure established by § 273.202 to collect, subject to refund, the maximum lawful price for which the sale is believed to be eligible, for a period of

up to eighteen months (or twelve months where collections under this section begin on or after May 1, 1979). Alternatively, if the application for determination was filed by March 1, 1979, the seller may continue to collect the price specified in § 273.201(a) until the Commission receives notice of the determination by the jurisdictional agency.

The proposed § 273.202 rule has been modified to some extent. To qualify for interim collection authority under § 273.202, a seller must fulfill certain filing requirements, by submitting a sworn statement of eligibility, a duplicate of FERC Form 121 accompanying the application for determination, and either a statement certifying that a portion of the amounts collected under this procedure will be placed in escrow or secured by surety bond or a release from this obligation executed by the purchaser.

The authorization to make interim collections of the price for which the sale is believed to be eligible terminates on the date on which the Commission receives a notice that a determination of eligibility has been made, or after eighteen months (or twelve months where collections under the section begin on or after May 1, 1979) where no determination has been made. After such termination, the seller may not use this procedure again for this sale or any other

sales from the same well. Where a determination has not been made within eighteen months and the authority to collect a price under this section ends, a seller may use § 273.201 to collect the price authorized by that section; but only where the application for determination was filed on or before March 1, 1979. Otherwise, the seller will be limited to collection of the applicable maximum lawful price specified in Subparts D, E, F, or I of Part 271. After an initial determination is made, § 273.203 can be used to collect the price established by that determination.

Three significant questions were posed by the comments on the proposed § 273.202. In addition, there was one suggestion that each of the items to be filed under paragraph (c) are not needed. Many comments requested deletion of the proposed condition in paragraph (a) that collections cannot begin under this section until the appropriate jurisdictional agency has filed with the Commission an undertaking to diligently consider and decide applications and the report on procedures to be used by the agency, as required by § 274.105. These comments argue that this qualifying condition is unlawful or inequitable, chiefly because compliance is beyond any seller's control. The comments recommend that sellers be permitted to make interim collections under this section after an appropriate filing with this Commission.

Section 503(e)(2) of the NGPA provides that the price sought in an application for determination can be charged and collected upon filing of an application. The Commission believes that it is particularly important that higher prices dependent on determinations of eligibility should not be charged and collected, subject to refund, until a jurisdictional agency has undertaken to consider these applications and has established procedures to make determinations that on these applications. Moreover, collections under this section should not continue if a jurisdictional agency is not actively proceeding to make specific determinations.

To better express our intent, the proposed § 273.202(a) will be changed in two respects. First, this condition will be restated as a requirement that no filing to charge and collect a maximum lawful price under this section may be submitted to this Commission until the jurisdictional agency to which the application for determination has been made has filed the report and undertaking required by § 274.105. As noted in the discussion of Subpart A of Part 274, the form of the undertaking has been modified to require the jurisdictional agency to state that it will take such steps as are reasonably necessary or appropriate to perform its functions under Part 274. Second, unless a jurisdictional agency has notified the Commission by March 1, 1979, that it is actively

processing the applications for determinations, then authority to make interim collections under this section will be suspended with respect to deliveries made during the period from March 1, 1979, until the date on which the jurisdictional agency gives notice that the applications are being processed. During this suspension period, collections under § 273.201 will be permitted if an application was submitted to such agency by March 1, 1979. A similar change is made in § 273.204 so that later retroactive collections will also be suspended and not permitted over the same period.

One comment has also addressed two of the other paragraphs within § 273.202. First, it is argued that the limitation of interim collections under this section to no more than eighteen or (twelve) months should be deleted as "unreasonable and inequitable", again because termination of interim collections under this section could result from inaction by a jurisdictional agency beyond the control of any seller. The Commission does not believe that this limitation is unreasonable or unnecessary. The Commission will consider a revision of this rule if it proves to be unworkable or if substantial hardships result. In any event, retroactive collections under § 273.204 or additional interim collections under § 273.201 may be available in such circumstances.

There is a final suggestion that paragraph (d) of § 273.202 should be modified to permit successive interim collections of the maximum lawful price for stripper natural gas; for example, where there is a determination that a well is not a stripper well under section 108 of the NGPA, but another application for determination is properly submitted after a change in the level or character of production from that well. This suggestion will not be adopted. Upon a final and later determination that a well qualifies as a stripper well, the seller may be eligible to use the provisions of § 273.304 to collect retroactively the maximum lawful price for stripper natural gas, plus carrying charges back to the date on which the later application was filed.

When the jurisdictional agency issues its determination of eligibility for the well from which the sale is being made, § 273.203 authorizes interim collection, subject to refund, of the price established by that initial determination. Within 15 days after interim collection begins under this section, a notice of collections must be filed with this Commission and the jurisdictional agency and also served upon the purchasers. There are no other filing requirements under this section. The Commission will not adopt the suggestions that these limited requirements should be deleted as unnecessary. The authority to collect the price

established by the initial determination of eligibility ends when that determination has been reviewed and becomes final. If the Commission does not approve or reverse an initial determination, but makes a final finding that the determination should be remanded to the jurisdictional agency for further consideration, then the seller may continue to collect the price established by the remanded determination for up to six months during reconsideration by such agency.

When a determination of well eligibility becomes final, a seller may immediately collect the price established there for all future sales from that well under the authority of the applicable section of Title I of the NGPA and Part 271 of these regulations. Section 273.204 of this part authorizes the retroactive collection of that finally determined price for all first sales of gas delivered after the application for determination was filed. If this application is filed by March 1, 1979, then retroactive collections may be made for gas delivered on or after December 1, 1978. However, as previously explained, retroactive collections cannot be made for first sales of gas delivered during the period in which a jurisdictional agency is not actively considering the applications for determination that have been submitted. Unless the Commission receives written notification by March 1, 1979,

that the jurisdictional agency is then making determinations, later retroactive collections of the finally determined price will not be authorized for the period from March 1, 1979, until the jurisdictional agency gives notice to the Commiasion that determinations are being made.

Althougn recognizing that section 501 of the NGPA empowers the Commission to impose conditions on retroactive collections, one comment stated that the "cut-off" of complete retroactive collections, (where the application for determination has not been filed by March 1, 1979) is unreasonable. Otherwise, it continued, producers lacking immediate engineering assistance will be precluded from retroactively collecting the finally-determined price from December 1, 1978 until the date of application for a determination (if filed after March 1, 1979) and thus suggested that the minimum acceptable "cut-off" would be July 1, 1979.

The Commission believes that the current "cut-off" of March 1, 1979, reflects a reasonable balancing of the sellers need for sufficient time to prepare applications against the burden to be placed on purchasers and their consumers by the accrual of large sums for later retroactive collection. Interstate pipelines commented that retroactive collections "could have substantial adverse repercussions" for them and for their customers.

We should also provide a clarification that the period of retroactive collections is based upon the filing date of a complete application for determination, in compliance with Subpart B of Part 274 and the applicable regulations of the jurisdictional agency receiving the application. Where an application is rejected, either by the jurisdictional agency or after an initial determination by this Commission that the application does not conform to these regulations, then retroactive collections will be authorized from the date on which a conforming application is refiled (or December 1, 1978, if the conforming application is refiled by March 1, 1978).

Conversely, there was one comment that any provision for retroactive collections would be unlawful, because there is no explicit authorization within section 503(e) of the NGPA. In our opinion, a retroactive collection rule is not inconsistent with the statutory language and is mandated by the Statement of Managers and the floor debate on the statute. We have attempted to establish reasonable limitations and conditions on these collections.

Many comments were directed to the qualifying conditions proposed in § 273.304(b); and the interim regulations will reflect several modifications. The proposed

subparagraph (1) of § 273.304(b) stated that "[r]etroactive collections may be made only to the extent and in the manner specified by the applicable sales contract (or amendment thereto). . . ." The Commission does not agree with this comment that some explicit statement of this principle is unnecessary although the specific wording has been changed. As that comment recognizes, no price or amount authorized by any of these regulations may actually be collected from the purchaser unless there is sufficient contractual authorization for the payment. Also, we will not accept the other suggestion that a single method for such payments should be mandated, believing that this question should be left to the discretion of the parties within the limits provided by the sales contract and any later amendments. Thus, we will not require that all retroactive amounts must be collected immediately after a determination becomes final or over a period equal to the time during which this obligation accrued. The seller will be required to file a concurrence by the purchaser in the method and amount of retroactive collections.

Proposed subparagraph (2) of § 273.304(b) would have required "full compliance" with all applicable regulations of the Commission as a condition upon any retroactive collections. This requirement has been deleted. The

comments reflected substantial confusion about the scope of this subparagraph and argued that it is "overly broad", particularly because of the uncertainties and difficulties which the comments were anticipates during the initial implementation of these regulations. This deletion will not limit our ability to enforce compliance with the NGPA and these regulations.

Similarly, the scope and intent of subparagraph (3) of the proposed § 273.304(b) will be clarified. Subparagraph (2) of § 273.304 in the interim regulations will state that a seller may not collect a retroactive amount from a purchaser for any sale, until the seller has refunded to that purchaser any amounts due to be refunded to such purchaser for any other sale under the NGPA and this subchapter of the Commission's regulations. Compliance with any separate obligation to refund amounts collected under section 4 of the NGA (rather than under the NGPA) will be monitored and enforced using the Commission's existing producer regulations in Part 154.

Finally, the proposed regulations stated that carrying charges on the amount to be collected retroactively would be permitted "only to the extent agreed upon by the parties" to the sales contract. The interim regulations, § 273.304(b)(4), have been revised to require that any agreement of the parties

which provides for carrying charges must be reduced to writing and then filed with the Commission. There were no comments on this provision, except for one question: whether an interstate pipeline is entitled under section 601(c)(2) of the NGPA to guaranteed pass-through to its customers of any carrying charges paid under this section. Consideration of this question is not required at this time. It may be addressed by rule or in specific cases, after carrying charges have been paid by interstate pipelines. We should explain now that section 601(c)(2) of the NGPA does not guarantee automatic pass-through of charges to interstate pipelines under the interim collection provisions. Interim collections will necessarily precede final determination of the maximum lawful price for such sales. Therefore, interim collections cannot be deemed just and reasonable under section 601(b) and thus cannot qualify for guaranteed pass-through to pipeline customers under section 601(c)(2).

In some instances, the provisions of this part will be used to collect interim prices for first sales of natural gas which was committed or dedicated to interstate commerce on November 8, 1978, the day before the date of enactment of the NGPA. Under section 601(a)(1)(B) of the NGPA, sales of committed or dedicated gas will be subject to the Commission's jurisdiction under the Natural Gas Act, particularly to the filing requirements for making a rate

change, until a final determination that such gas qualifies as high-cost gas, new gas, or gas produced from a new onshore production well. The relationship between the filing requirements of these NGPA regulations and Part 154 of the regulations under the NGA is discussed in the Commission's final rule amending § 154.94(h) of Part 154, issued November 17, 1978 in Docket No. RM79-4, as Order No. 15. Under the final rule, in the case of interim collections for first sales of gas which remain subject to the requirements of the NGA, full compliance with the filing requirements of this part and the other regulations under the NGPA will also satisfy the additional filing requirements under section 4(e) of the NGA and Part 154 of the Commission's regulations. Thus, a seller which makes the filing required by § 273.202(c) may collect the price specified in the application for determination of eligibility without submitting the prior notice of rate change required by § 154.94 of the Commission's regulations under the NGA.

Subpart C of this part establishes procedures to assure that any interim collections will be refunded as necessary and for the actual payment of refunds with interest after a final determination that a first sale does not qualify for a price already collected under this part. Section 273.301 establishes a general obligation upon each seller to refund

any collections which are not authorized by the NGPA and these regulations, if ordered to do so by the Commission at any time. For example, a determination can be reconsidered and modified after it becomes final, if it was based on an untrue or misleading statement of material fact in the application for determination. As a result of that modification, additional refunds could be ordered even though the seller would have already discharged any specific refund obligations under § 273.302 and the prior final determination.

Section 273.302 sets out specific procedures for refund assurance and payment. A seller's potential liability to refund any interim collections must first be secured by the filing of a written undertaking to make refunds using one of the forms set out in § 273.302(b). A seller must file a series of refund undertakings covering collections for sales from the wells identified in an appendix to each successive undertaking, or one blanket undertaking which is a general agreement to make all refunds which may be required under the NGPA.

Interim collections that are made under § 273.202 pending an initial determination of eligibility and the proper price are subject to a further requirement providing additional refund assurance. Section 273.302 of the proposed regulations required the seller to secure

by surety bond or to place in escrow the portion of the price collected under § 273.202 which exceeds the maximum lawful price determined under section 109 of the NGPA (for sales from new wells) or the maximum lawful price under sections 104, 105 or 106 of the NGPA (for sales from old wells).

This provision was opposed by comments from a variety of persons. These comments argued that a mandatory escrow provision would be unduly burdensome to producers and costly to consumers who would receive a lower rate of interest on escrowed refunds. A corporate guarantee or undertaking to make refunds should be sufficient, according to these comments, because this simple procedure has been used successfully by the Commission to provide ample assurance of refunds under the NGA. In response to these many comments, the proposed § 273.302(c) has been modified to require in the m interim regulations that a portion of interim collections under § 273.202 must be secured by a surety bond or placed in escrow, unless the purchaser by written agreement releases the seller from this requirement for additional refund assurance. Thus, the Commission will accept initially a judgment by the purchaser on the seller's ability to make future refunds; but, in specific cases under subparagraph (b)(3) of this section, additional refund assurance may be ordered

by the Commission at any time for any interim collections under Subpart B.

Other provisions of § 273.302 require each seller to maintain full records of the amounts that are collected subject to refund, and to make the actual refunds by cash or check within forty-five days after the applicable determination of eligibility becomes final. There is no provision for any other method to discharge a refund obligation, such as by work-offs, commitment of additional reserves to each purchaser, or reduction of the price charged for future deliveries. Permission to use an alternative refund method will be granted only in exceptional cases.

PARTS 274 AND 275

General. Under certain sections of the NGPA, eligibility for the maximum lawful price established by the NGPA Act is initially determined by the state or federal agency with regulatory jurisdiction over the production of natural gas. Jurisdictional agency determinations are subject to review by the Commission.

Jurisdictional agencies are authorized to make the determinations with respect to:

(1) new natural gas under section 102(c) of the NGPA;

(2) certain gas from the OCS under section 102(d);

(3) new, onshore production, defined in section 103(c);

(4) high-cost natural gas defined in section 107(c); and

(5) stripper well natural gas defined in section 108(b).

The purpose of Subparts B, C, G, and H, of Part 271, is to reflect the statutory criteria for qualification for the maximum lawful prices for the categories of gas noted above and to establish rules necessary to clarify or implement those provisions. Subpart B of Part 274 of the regulations contains the filing requirements which apply to applications for determinations filed with jurisdictional agencies. Subpart A of Part 274 of the regulations applies

to the procedures by which jurisdictional agencies make initial determinations and give notice of these determinations to the Commission. Subpart B of Part 275 of the regulations prescribes the method by which the Commission will review those determinations. Each of these provisions is summarized below.

PART 274 - SUBPART A

Subpart A of Part 274 prescribes procedures by which jurisdictional agencies make determinations pursuant to and in accordance with the NGPA. This subpart provides that the procedures applicable to the determinations by the agency shall be those procedures prescribed by State law to make the determinations under the NGPA or comparable determinations. In addition, this subpart contains a rule concerning the manner in which a jurisdictional agency must notify the Commission that it has made a final determination of eligibility.

Section 274.102 provides that a determination is made once it is "administratively final" before the jurisdictional agency. If, for example, a state agency's decisions are normally subject to rehearing under its usual procedures, the determination is not final until the period for rehearing expires or rehearing is sought and denied.

Section 274.104 provides that a jurisdictional agency must notify the Commission within 15 days after making a determination and prescribes the manner in which the jurisdictional agency shall give the notice. The notice must include: (1) a list of participants in the proceeding and any person who submitted or sought to submit written comments; (2) a statement indicating whether the matter was opposed before the jurisdictional agency; (3) the information set forth in § 275.105 as applied to the determination in question, unless the jurisdictional agency has filed a report with the Commission in accordance with § 274.105; (4) a copy of the application and a copy or description of other material in the record upon which the determination was made; and (5) an affirmative finding that the information described in the applicable filing requirements is contained in the notice.

The final regulations differ from the proposed regulations in three respects. First, the requirement that the agency submit to the Commission a copy of the FERC form submitted to the agency by the applicant has been deleted. The final rule requires the application to be filed whenever an affirmative determination is made, and the FERC form is part of the application. The rule also differs from the proposal by not requiring the jurisdictional agency to submit to the Commission a copy of the complete record; instead the

agency must submit the application and either a copy or a description of the materials in the record, in addition to the application, upon which it relied in making the determination. This change was made in response to two comments which indicated that the necessity to file the complete record would be unduly burdensome, requiring the copying and transmittal of large amounts of technical data for a single application. Upon reconsideration, the Commission has determined that it will be able to fulfill its review obligation by looking to the application and if necessary, procuring other materials described as being in the record upon which the agency relied.

The third change is reflected in a new subparagraph (5) in § 274.103. This subparagraph requires that the jurisdictional agency make an affirmative finding that the information required to be filed with an application has been forwarded to the Commission. If some of that information was in the files of the jurisdictional agency, copies of the relevant portions of the files must be forwarded to the Commission as part of the notice.

Several comments requested that the Commission add a provision to protect the confidentiality of material submitted under § 274.104, which material may include trade

secrets or other sensitive information. The Commission agrees and, accordingly, has added a provision to protect such material in § 275.206.

Section 274.105 provides an option to the procedures prescribed in § 274.104. If an agency chooses to adopt the § 274.105 option, it may file with the Commission a report in which it undertakes to make the necessary determinations and which includes a description of the procedures which it would follow in making them. The jurisdictional agency would then be relieved of the obligation to describe its procedures in each case.

Two comments requested the Commission to add provisions to Part 274 governing certain aspects of the proceedings before the jurisdictional agencies. One comment suggested that the Commission require the jurisdictional agencies to hold full adjudicatory hearings on delegated determinations and allow gas consuming states to participate as a party in interest to the hearings as of right. The other comment suggested that the Commission adopt procedures allowing distribution companies and state commissions and agencies to intervene and have the rights of full parties in interest in hearings held in gas producing states, and that the Commission's "Rules of Practice and Procedure" be made applicable to the

hearings before commissions and agencies in other states. The Commission has rejected these suggestions because it does not believe that it has the statutory authority to determine the nature of the proceedings before the jurisdictional agencies. Section 503(c)(3) of the NGPA states:

> Determinations of a Federal or State agency referred to in subsection (a)(1) shall be made in accordance with the procedures generally applicable to such agency for the making of such determinations or comparable determinations under the provisions of Federal or State law, as the case may be, pursuant to which they exercise their regulatory jurisdiction. The Commission may prescribe the form and content of filings with a Federal or State agency in connection with determinations made under this section.

The Statement of Managers indicates that questions regarding procedures followed by the jurisdictional agencies are to be reviewed directly by the state or federal court having jurisdiction to hear such appeals in accordance with applicable state or federal law. S. Rep. No. 95-1126, 95th Cong., 2d Sess. 119(1978). Since Congress specifically provided that proceedings before the jurisdictional agencies were to be in accordance with their generally applicable procedures and that review was to be by the courts, the Commission lacks the statutory authority to prescribe the procedures suggested in the comments. In

view of the Commission's lack of authority, comments concerning proceedings before jurisdictional agencies should be directed to those agencies.

PART 274 - SUBPART B

Subpart B of Part 274, prescribes the filing requirements which must be met by an applicant to obtain a determination from a jurisdictional agency.

Section 274.201 sets forth general rules applicable to all applications, including persons who may file for a determination, the persons who must sign the filing, and the requirement that an applicant give notice of the filing to purchasers.

A number of comments suggested changes in § 274.201(b) with respect to who may file. Several comments requested that the operator be designated as the responsible person. Other comments stated that designating the operator as the responsible person would be too limiting. Concern over non-operating interests was also expressed.

After consideration of these comments, the Commission determined that this is a matter best left to the jurisdictional agency. Accordingly, the section has been revised to provide that the application may be submitted by that person whom the jurisdictional agency identifies as eligible to make filings.

Comments addressing § 274.201(c) indicated that requiring the signature of a "responsible officer of the corporation" was too limiting. The Commission agrees and has modified this section to permit a "responsible official of the corporation" to attest to the application. It should also be noted that this section has been modified to delete the attestation requirement.

One comment requested that § 274.201(e), "Notice to Purchasers," be expanded to include notice to all working interest owners. Although the Commission has decided not to expand the notice requirements in this manner, it notes that such a requirement might be imposed by the jurisdictional agency. Also the applicant may want to give such notice as a prudent business practice.

Section 274.201(e), as proposed, required that the applicant provide the purchaser(s) with a copy of the application. Upon further consideration, it has been determined that the purpose of this paragraph can be served by requiring only that the applicant provide the purchaser with a copy of FERC Form No. 121.

One comment requested the addition to the general provisions of a section allowing the filing of simultaneous multiple applications for determinations. Permitting these filings appears to the Commission to be desirable;

there is clear legislative history that such filings were comtemplated under the NGPA. However, since this matter involves procedures of jurisdictional agencies, whether such filings will be permitted is a matter which is better left to the discretion of such agencies.

One comment suggested that the purchaser should be required to play a larger role in the regulatory scheme by concurring in a producer application for a determination with regard to a sale of at least 1,000,000 Mcf per year. The Commission recognizes the merits of a procedure which would involve the monitoring of applications by purchasers. Although this type of program will not be adopted at this time, purchasers are encouraged to participate in the determination process to the extent permitted by the jurisdictional agency.

Several comments suggested that the Commission recognize the problem of confidentiality which was not addressed in the proposed regulations. The Commission agrees that this problem should be addressed and has included such a regulation in § 275.206. Since this rule was not previously proposed, the Commission is particularly interested in comments on the procedures contained in this rule.

Section 274.202 sets forth filing requirements for a determination that gas qualifies as new natural gas under section 102 of the NGPA. The regulations require an applicant to present evidence substantiating, to the extent practicable, each element of proof required for a determination of eligibility. Section 274.202(c)(1) is typical of other sections in this subpart in that the applicant must file certain specific documents as well as the oath statements. Each applicant filing for a new onshore well determination under § 274.202(c)(1), must file a location plat locating his own well and any other well within the 2.5 mile radius which is producing or has produced natural gas after January 1, 1970. In order to demonstrate that none of these wells is a marker well, an applicant must consult available, relevant records which would indicate whether any of these wells produced in commercial quantities at any time during the period from January 1, 1970, to April 20, 1977. Rather than require an applicant to file all production records with the application, however, the proposal requires the filing of a statement under oath describing the applicant's search of records, and attesting to the fact that none of these wells is a marker well.

Applicants filing under § 274.202(d) for a new onshore reservoir determination must submit geological information

which demonstrates that production is from a new onshore reservoir. This information is accompanied by a sworn statement similar to that required by paragraph (c). In all cases, individual agencies may, if they wish, require certified copies of all documents relied upon by the applicant.

Several comments recommended the filing of the OCS lease in lieu of the proposed filing requirements. Acknowledging this recommendation, the Commission has changed the filing requirements to require a copy of the OCS lease or such other identification of the lease as permitted by the jurisdictional agency together with an oath statement by the applicant that the gas is produced from a new OCS lease.

Several comments suggested modification of the diligent search requirement for new onshore wells and new onshore reservoirs. Comments stated that in some instances royalty records do not exist and tax records were not public. Other comments stated that the search should be limited to pertinent records; still others stated that the search of production, severance tax and royalty records should be illustrative and not mandatory. In response to these comments, these requirements have been modified in all sections to require a "diligent search of all records (including but not limited to production, state severance tax, and royalty payment records)

which are reasonably available and contain information relevant to the determination of eligibility."

One comment suggested a modification in the "inconsistent information" language of the oath statements required for new onshore wells and new onshore reservoirs. The regulations now require that the applicant state under oath "that applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion." (§§ 274.202(c)(1) (v)(D) and (c)(2)(vi)(D)).

One comment regarding new onshore reservoirs suggested the addition of surface pressure surveys to the list of geological data which must be consulted if readily available. The regulation now requires in § 274.202(d)(1)(ii)(B), "bottom hole pressure surveys, or surface pressure surveys."

Several comments objected to the task of locating all wells within a 2.5 mile radius on the location plat (§ 274.202(c)(1)(iii)) or identifying all marker wells on a location plat (§ 274.202(c)(2)(iii)). Recognizing that this filing requirement may be unnecessarily burdensome, the regulations now require identification of those wells which are producing or have produced natural gas after January 1, 1970, within the 2.5 mile radius and a specific identification of all marker wells within the 2.5 mile radius.

Section 274.203 sets forth filing requirements for a determination that gas qualifies as a new reservoir on old OCS leases under section 102 of the NGPA. The regulations require the applicant to file geological information to the extent necessary to support such a determination. In addition to the submission of geological information, the applicant must file a statement under oath containing the basis for the conclusion that the gas is produced on an old lease on the OCS from a reservoir not discovered before July 27, 1976. If the date of penetration of the reservoir is prior to July 27, 1976, certain requirements of OCS Order No. 4 must be met in order to qualify for this determination.

Comments similar to those addressed in § 274.202 which requested modification of the diligent search filing requirement and the "inconsistent information" oath statement were filed. The changes noted above have been made.

Section 274.204 sets forth filing requirements for a determination that the well qualifies as a new onshore production well under section 103 of the NGPA. The regulations require the applicant to file, inter alia, the well completion report, a location plat which identifies the subject well and all other wells within that proration unit. In addition, the applicant must file a statement under oath,

that the surface drilling of the well was begun on or after February 19, 1977, that the well satisfies well-spacing requirements and was not within an existing proration unit. If the applicant is seeking a determination for a new well drilled in an existing proration unit, the applicant must also demonstrate that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by that proration unit.

Only comments similar to those addressed in § 274.202 were suggested for this section.

Section 274.205 sets forth filing requirements for a determination that gas qualifies as deep high-cost gas under section 107 of the NGPA. The regulations require the applicant to file, inter alia, the well completion reports, the well logs or well servicing company reports or such other information necessary to substantiate the depth of the well. In addition, the applicant must file a statement under oath that the surface drilling began on or after February 19, 1977 and that the well is completed at the depth of at least 15,000 feet.

Based on a concern for protecting confidential filings, several comments suggested the deletion of well logs as a filing requirement for high-cost gas. The Commission

recognizes the importance of protecting proprietary interests and the need for confidentiality. The regulation has been modified to require "well logs, or well servicing reports or such other information which will corroborate the depth of the completion location reported in the well completion report." The final phrase of the oath statement was modified slightly to read, "that he has no knowledge of any other information not described in the application which is inconsistent with his conclusions."

Section 274.206 prescribes the filing requirements for applications for stripper well determinations. To a greater extent than other sections of this subpart, this section requires the submission of actual documents rather than oath statements. In addition to the documents, applicants must submit an affidavit attesting to the well's eligibility.

After reviewing the comments, we believe that § 274.206(a)(6) should be modified. We adopt the comment suggesting that the Commission change this section to provide that an applicant must file the production records for crude oil produced during the 90-day period on which the application is based rather than the 12-month period immediately preceding the date of filing. We believe this change is consistent with section 108 of the NGPA.

Several comments objected to the requirement in § 274.206(b) that pipeline companies monitor the production

of natural gas from stripper wells. It was argued that the qualification of wells as strippers is a responsibility of the producers and not the pipelines. However, we find that to require the pipeline purchaser to monitor its purchases of stripper well natural gas is not unduly burdensome. Further, we believe that it is consistent with the obligation owed to their purchasers to insure that all gas purchases are properly priced.

One jurisdictional agency suggested that the Commission should require one-page production decline curves instead of monthly production reports. In those instances where a jurisdictional agency prefers to use a production curve, it may seek Commission approval of this alternative filing requirement under § 274.207.

Section 274.207 entitled "Alternative filing and notice requirements," acknowledges that due to differences in state records, some jurisdictional agencies may want to require other documents than those enumerated in the interim regulations. Under this section, a state agency may propose alternative filing requirements which might replace some or all of the requirements specifically provided in Subpart B. If the Commission concludes that the alternative requirements will satisfy its evidentiary requirements, the Commission may approve the alternative requirements. Upon such approval,

may approve the alternative requirements. Upon such approval, applicants for determinations in that jurisdictional agency would file according to the alternative plan rather than under Subpart B. The section has been modified to permit jurisdictional agencies, subject to Commission approval, to provide different documents in their notification to the Commission of determinations from those now required. As jurisdictional agencies and the Commission develop experience under the NGPA, this section will provide needed flexibility.

Several comments suggested that the Commission should formulate alternative filing requirements for small producers to ease the burden of complying with Section 274, Subpart B filing requirements. While the Commission appreciates the concerns of the small producer, a specific regulation addressing small producers is not contemplated. However, the regulations do not prohibit the jurisdictional agency from adopting specific small producer filing requirements under the alternative filing requirements section provided the alternative filings constitute a reliable record upon which determination may be based.

PART 274 - SUBPART C

Subpart C of Part 274 briefly prescribes the procedures by which a jurisdictional agency may execute an agreement to waive its authority to make NGPA determinations. It implements section 503(c)(2) of the NGPA.

In order for a jurisdictional agency to waive its authority, it must enter into an agreement with the Commission. Under § 274.302, an agency may submit a request for waiver to the Commission. Section 274.302 also specifies the contents of such a request and requires an agency to state the reasons and the necessity for a waiver. If the Commission agrees to enter an agreement of waiver, it may do so on terms and conditions agreed to by the Commission and the jurisdictional agency. The provisions of § 274.303 specify the method of revoking or terminating the waiver agreement by the Commission or the jurisdictional agency. Section 274.304 provides that the Commission shall give public notice of all agreements of waiver and any termination or revocation of a waiver.

PART 274 - SUBPART D

Subpart D of Part 274 authorizes delegation to certain state regulatory agencies of the Commission's authority under Part 276 to receive filings under Part 276. Any such delegation is made by agreement with the state agency in accordance with section 501(c) of the NGPA.

PART 274 - SUBPART E

This subpart defines jurisdictional agency, contains a table of agencies by state, defines Federal lands, and provides for recognition of agreements between the United States Geological Survey and state jurisdictional agencies which would permit the state agency to make determinations under Part 274 respecting wells on Federal lands within the state.

PART 275 - SUBPART B

Subpart B of Part 275 prescribes the procedures governing Commission review of determinations by jurisdictional agencies. The regulations are promulgated under the provisions of section 503 of the NGPA and the general rulemaking authority of section 501(a) of the Act.

Section 275.201 provides that upon receipt of the notice of determination from a jurisdictional agency, the Commission will give public notice of the determination in the Federal Register. In addition to identifying the specific proceeding, the notice will indicate that the application and a copy or description of materials relied on by the jurisdictional agency in making the determination is available for inspection in the Commission's Office of Public Information, except to the extent such material is treated as confidential under § 275.206. The final rule is changed from the proposal to reflect the change to § 274.104 which no longer requires the complete record to be submitted by the jurisdictional agency.

Subparagraph (a) of § 275.202 tracks section 503(b)(1) and (2) of the statute in setting forth the standards which govern Commission review. The determination of the jurisdictional agency will become final 45 days after the

Commission receives notice of the determination unless within that time the Commission issues a preliminary finding and notice that the determination was not supported by substantial evidence or that there is evidence in the Commission's records which was not before the jurisdictional agency and which is inconsistent with the determination.

One comment suggested that the Commission should delete paragraph (b) of the proposal which provided that the Commission would return determinations to jurisdictional agencies if such determinations were based on applications which did not satisfy applicable requirements. After consideration of this matter, the Commission has decided that a more appropriate procedure is to provide that the 45-day review period will not begin if the Commission notifies the jurisdictional agency that the notice is incomplete in certain respects. This provision is set out in § 275.202(b). This provision accomplishes the same purpose as the proposal and gives the jurisdictional agency an opportunity to perfect its notice to the Commission.

Paragraph (c) of § 275.202 changes the proposal by providing that the Commission will publish notice of a preliminary finding in the Federal Register and will also post the notice in its Office of Public Information. The notice will contain the reasons for the preliminary finding. This provision was

added in the final rule in response to comments suggesting that the views of interested persons and state or federal agencies should be allowed subsequent to a preliminary finding.

Paragraph (d) of § 275.202 provides that any state or federal agency, or any interested person may submit written comments with respect to a preliminary finding. The rule further provides that any jurisdictional agency, any state agency, any person who participated in, the proceeding before the jurisdictional agency and any person who has filed a protest may request a conference with the Commission staff, which request will be granted, if timely made. In response to one comment, the final rule has increased the time period within which comments may be filed to 30 days.

As noted above, the changes in procedure were made in response to a comment indicating that interested persons or state agencies may not be able to participate before a jurisdictional agency or be able to prepare a protest to the Commission within 15 days after public notice of a jurisdictional agency determination. Therefore, they might be effectively excluded from participation. The revised procedures provide the greatest opportunity for public involvement possible in the limited time for Commission review. Another comment

suggested that participation in proceedings before the Commission be limited to agencies or persons who had participated in proceedings before the jurisdictional agency, or who could show good cause why they did not participate. While the Commission agrees that participation before the jurisdictional agency would be preferable, it cannot guarantee, or provide procedures for such participation. Further, in view of the statutory time constraints, the Commission cannot undertake to make individual findings as to whether the person or agency had good cause for not participating before the jurisdictional agency. Accordingly, the Commission has rejected the suggestion to limit participation in its proceedings.

Section 275.202(e), consistent with sections 503(b)(1)(B), and (b)(2)(B) provides that the Commission will issue a final order within 120 days after issuance of a preliminary finding. While the statute requires a final order only when the Commission reverses or remands a decision, the regulation provides that the Commission will issue such an order in any case in which a protest was filed and a preliminary reversal or remand was issued. The final rule differs from the proposal only to clarify the persons to whom notice will be given.

Under § 275.203 any person may file a protest with the Commission within 15 days after the Commission publishes notice of receipt of a determination by a jurisdictional agency. Any person protesting a determination must indicate whether it is alleged that the determination is not supported by substantial evidence or that there is inconsistent information in the Commission's files. It should be noted that under § 275.203(b)(iii), a protestor may submit information for inclusion in the Commission's public records. Accordingly, the data or information on which the Commission may rely in remanding a determination need not have been in the Commission's records at the time the jurisdictional agency made the determination.

One comment suggested that a provision be added to permit an applicant to respond to protests prior to the preliminary finding. The Commission has not adopted this suggestion because it has determined that to provide for such a response before the preliminary finding is impracticable in view of the short time within which the Commission must make its preliminary finding. The applicant's interests are adequately protected by the procedure permitting comments and conferences after the issuance of the preliminary finding.

Another comment objected to the procedure which allows a protester to submit information for inclusion in the Commission's public record for purposes of supporting a remand of the determination. The Commission has retained this procedure because it believes its procedure should encourage interested persons to submit any relevant information which is likely to result in a correct final determination.

One comment suggested that the Commission require protests to be filed under oath. The Commission has not implemented this suggestion because it does not feel that such an oath is necessary. If, after gaining some experience in administering the Act, the Commission feels that such an oath is necessary, it will amend its regulations to include the suggested provision.

Under section 503(d), final determinations are binding unless based on an untrue statement of fact, or based on a record from which a statement of material fact was omitted. Section 275.205 of the regulations sets forth a procedure for reopening determinations on those grounds. The Commission may, at any time, on its own motion or in response to a petition, reopen a determination if it appears that the necessary grounds exist.

If the Commission does reopen a determination, it will give notice to the jurisdictional agency involved as well as to all persons who participated in the prior proceeding. Within 150 days of the Commission order reopening a determination the Commission will issue a final order after giving all persons who received notice an opportunity to express their views. If the Commission finds that the requisite grounds exist, it will vacate the determination and order remedies, including refunds, as it deems appropriate.

Confidentiality. Section 275.206(a) provides that the Commission will accord confidential treatment to any information submitted to the Commission by a jurisdictional agency under § 274.104, if the agency protected the information as confidential and if the grounds for confidential treatment fall within one of the nine exemptions of the Freedom of Information Act (5 U.S.C. 552(b)). Paragraph (b) provides that if the Commission receives a request for disclosure of the information protected as confidential under paragraph (a), it will determine whether the information is exempt from public disclosure under the Freedom of Information Act. If the information is determined not to be exempt, it will be released to the public. If it is determined to be exempt, the information will not be released unless the Commission determines

that its conduct of the proceedings requires the disclosure of the information to the public or to particular parties, subject to conditions prescribed by the Commission. The person who submitted the information will be given at least 10 days notice before the information is made public. This section of the regulations was not in the proposed rules. Several comments suggested that the Commission add a provision to protect the confidentiality of material submitted by the applicant or contained in the materials submitted by the jurisdictional agency to the Commission, since the release of such information could inflict substantial competitive harm upon the applicant. The Commission agrees with the comments and accordingly has added this section to the final rules.

PART 276 - SUBPART A

Subpart A of Part 276 sets forth reporting requirements applicable to first sales of natural gas sold under existing intrastate contracts and intrastate rollover contracts, as well as first sales of other categories of natural gas (Subparts E, F, and I of Part 271).

For each first sale under these subparts of Part 271, the seller is required to report certain information. If the purchaser of gas under section 105 and 106(b) of the NGPA is a pipeline, the purchaser must file certain reports. Finally, in some instances, sellers of less than 10,000 MMcf of natural gas per year may elect to make oath filings instead of detailed reports.

Under § 276.102 a seller of natural gas under an existing intrastate contract must file an annual report setting forth detailed contract information as well as an oath filing that the information in the report is true, and that sales in the reporting period comply with the NGPA and Subpart E of Part 271. Successive annual reports need not restate previously reported information. The seller must also undertake to retain all records containing information reported.

If the sale is to an interstate or intrastate pipeline, the pipeline, rather than the seller, is responsible for filing the contract information, as well as an oath statement attesting to the accuracy of the information so reported. If a pipeline purchaser makes the principal filing, the seller must still file a statement under oath that the sale complies with the NGPA and Subpart E of Part 271, and that the seller undertakes to retain records which reflect the detailed contract information required to be reported by the purchasing and reporting pipeline.

Reports required to be filed with respect to sales under intrastate rollover contracts are essentially the same as for sales under existing intrastate contracts, with appropriate modifications. These reporting requirements are set forth in § 276.103.

The annual report requirements with respect to sales under Subpart I of Part 271 are set forth in § 276.104. The report must be filed by the seller in all instances and must contain detailed information with respect to the sale. The seller is also required to make an oath statement that the gas does not qualify under any subpart of Part 271 which provides a maximum lawful price lower than that provided under Subpart I, and that, if the gas was committed or dedicated to interstate commerce, a notice of rate change has

been filed pursuant to § 154.94. The oath filing must also contain a statement regarding compliance with the NGPA and the requirements of Subpart I and must attest to the truth of the information reported.

Sellers who sell less than 10,000 MMcf per year may elect to comply with reduced reporting requirements with respect to sales under Subparts E and F of Part 271 to purchasers other than a pipeline. Instead of the detailed information otherwise required, these sellers may file an oath statement attesting to compliance with the NGPA and the applicable regulations. Such sellers must also undertake to retain books and records containing the requisite information.

As issued, the interim regulations in this subpart reflect several substantive changes. Sections 276.102(b) and 276.103(b) have been amended to impose two new reporting requirements. The requirement that the highest price per MMBtu charged and collected during the reporting period be reported for sales under Subparts E and F of Part 271 has been added in order to enable the Commission to conduct a more meaningful review of the reports filed. A requirement that all contract provisions be identified which were executed during the reporting period and which obligate a new purchaser to incur increased production-related costs has

been added to correspond to revisions made in §§ 271.505 and 271.604. In addition, all persons making first sales under sections 105, 106(b), and 109 of the NGPA must retain records containing the information relevant to those sales under § 276.107.

One comment on this subpart of the regulations challenged the statutory sufficiency of an audit procedure, alleging that the Commission must make separate determinations regarding each seller's ability to charge those maximum lawful prices prescribed under sections 105, 106(b), and 109(a)(1) and (3) of the NGPA. However, the statute does not specifically provide for nor require such determinations. Given the administrative burdens attendent on making such determinations, the delay which such a determination procedure would cause, and the efficacy of the current reporting system in providing the information necessary for auditing to ensure compliance with the pricing limitations in the statute, the Commission can foresee no valid reason for instituting such a determination procedure.

Correspondingly, the Commission rejects the suggestion by a second commentor that all intrastate producers be relieved of the burdens imposed by such reporting requirements for the next several years, and be required, instead, merely to retain the relevant records for that period until the need for such data is demonstrated through the

Commission's experience in enforcing the NGPA. The Commission considers the auditing process to be essential to ensuring that those persons making first sales comply with the new pricing system under the NGPA and Part 271 and emphasizes that, because compliance with the statute is an essential element to its workability, the pricing provisions must be enforced as soon as possible.

Another comment suggested that purchasers rather than sellers be required to fulfill all reporting requirements imposed by this subpart. The Commission has already implemented such a policy, where it deems it appropriate, in order to assist the Commission in enforcing compliance with sections 105 and 106(b) of the NGPA. The Commission concludes that pipelines are the appropriate entities for filing reports concerning those sales. As purchasers of the natural gas, the pipelines have an immediate economic interest in determining that a lawful price is charged. Accordingly, they should closely scrutinize any price charged by a seller in order to determine whether that price is consistent with the maximum lawful prices permitted by the NGPA and Part 271. Since the pipelines have the economic interest, the Commission believes it will receive the most accurate information from their filings and that such accuracy will more adequately ensure that maximum lawful

prices are not exceeded by sellers. By requiring pipeline to make filings under this subpart, the Commission has also more equally distributed the burden of making filings under the NGPA. Because the information required in this subpart will have been compiled incident to the pipeline's own audits, the burdens imposed should be limited.

Such filings by pipelines are appropriate from a legal as well as a policy perspective. Section 508(b) of the NGPA provides that:

> [i]n order to obtain information for the purposes of carrying out its functions under this Act, the Commission shall have the same authority as is vested in the Secretary [of Energy] under section 301(a) of the Department of Energy Organization Act with respect to the exercise of authority under section 11(b) of the Energy Supply and Environmental Coordination Act of 1974 and sections 13(b), (c), and (d) of the Federal Energy Administration Act of 1974.

The Congressional grant of authority in section 508(b) of the NGPA is broad. Section 301(a) of the Department of Energy Organization Act vests in the Secretary of Energy all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration; the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration; and the functions vested by law in officers and components of either such Administration.

Thus, the Commission may exercise these same powers in order to obtain information for the purposes of carrying out its functions under the NGPA. One such function is enforcement under section 504 of the NGPA of the pricing rules.

The information gathering powers enumerated in § 508(b) permit the Commission to carry out this function by requiring filings by pipelines. Section 11(b)(1)(A) of the Energy Supply and Environmental Coordination Act of 1974 permits the Commission "to require by rule, any person who is engaged in the production, processing, refining, transportation by pipeline or distribution (at other than the retail level) of energy resources to submit reports. . . ." [Emphasis supplied] Moreover, section 13(c) of the Federal Energy Administration Act of 1974 likewise provides for certain information gathering powers:

> [t]he Administrator [i.e., the Commission] may require, by general or special orders, any person engaged in any phase of energy supply or major energy consumption to file with the Administrator in such form as he may prescribe, reports or answers in writing to such specific questions, surveys, or questionnaires as may be necessary to enable the Administrator to carry out his functions under the Act. Such reports and answers shall be made under oath, or otherwise, as the Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as he may prescribe. [Emphasis supplied]

The Commission has decided to exercise its information gathering powers in a manner that requires pipeline companies to submit the reports required by Subpart A of Part 276 of the regulations.

Another comment suggested that the category of sellers exempted from certain filing requirements under §§ 276.102 and 276.103 be revised to coincide with the definition of small producers in § 271.402(b)(9). That provision has now been revised, however, the use of the definition in paragraph (b)(9) would not cover all sellers intended to be included in the exemption. It would eliminate all sellers who were not also producers but who would qualify as having made a first sale subject to the pricing provisions of the NGPA. The Commission intends to establish in this regulation a simple volumetric limitation based on which sellers may be exempted from providing detailed contract information pursuant to this subpart. The purpose of the exemption is substantially different from the pricing considerations which were imposed by the NGA and which underlie the provisions of § 271.402(a). The definition in § 271.402(b)(9) only incidentally concerns filing requirements and was intended to implement under the NGPA a pricing system established under the NGA.

PART 284

Part 284 implements sections 311(a) and 312 of the NGPA. Subparts A and B govern transportation of natural gas by interstate and intrastate pipelines. Subpart D establishes requirements governing the assignment of producer contracts by intrastate pipelines. The Commission has reserved Subpart C which, when implemented, will apply to intrastate pipeline sales under section 311(b) of the NGPA.

Special mention should be made of the Commission's decision to reserve Subpart C at this stage. A number of comments were directed to the proposed implementation of section 311(b) in response to the Commission's notice of proposed rulemaking on November 13, 1978. These comments suggest that substantial revision of the proposal will be required. Thus, the Commission intends in the near future to issue a revised notice of proposed rulemaking. However, there was inadequate time to consider and deliberate on the revisions suggested so as to allow the Commission to issue the revised proposal at this time. It remains the Commission's intention, nonetheless, to implement section 311(b) effective March 1, 1979.

In the interim, intrastate pipeline sales will be governed under the emergency program established under the Natural Gas Act. Of course, assignments by intrastate pipelines may be made beginning on December 1, 1978, pursuant to the provisions of Subpart D which implements section 312 of the NGPA.

PART 284 - SUBPART A

This subpart governs the transportation of natural gas by interstate pipelines on behalf of intrastate pipelines and local distribution companies pursuant to the terms of section 311(a)(1) of the NGPA. Two mechanisms are established. The first is self-executing and allows transportation arrangements to be entered into without necessity of prior Commission approval for periods not in excess of two years. The Commission has also added a provision that would permit transportation arrangements for fixed periods in excess of two years. In this latter case, however, application must be made to the Commission and prior approval obtained. The Commission believes that it is appropriate to review and evaluate long-term transportation arrangements in view of the potential impacts of such arrangements on the operation of on an interstate

pipeline's system. Arrangements for fixed terms in in excess of two years may involve significant investments in the construction and operation of facilities. This consideration also supports the approach taken here by the Commission.

Several commentors suggested that the Commission should remove the two-year limitation and rely instead on its ability to impose terms and conditions which would have the effect of terminating an arrangement if the Commission concluded that a continuance of the arrangement was not in the public interest. We do not believe that is a sensible regulatory aproach to this problem. As noted above, long-term transportation arrangements may be expected to contribute to the need for future investment which will require amortization over a period of years and may impose a burden upon all customers of the pipeline. Serious questions of equity and practicality would attend any attempt to abruptly terminate an arrangement which had been entered into in contemplation of its continuance for a period sufficiently long to justify the investment. Moreover, we doubt that parties would enter into long-term arrangements if they were subject to the jeopardy that the Commission may, on its own motion and at any time, terminate the arrangement.

The Commission wishes to emphasize that the two-year limitation applicable to transportation arrangements which may be entered into without prior Commission approval should not be read as indicating a predisposition on the part of the Commission against longer-term arrangements. Indeed, the Commission is well aware that the NGPA seeks to strike down the jurisdictional barriers which have precluded interstate and intrastate pipelines from taking advantage of the most economic and efficient means of transporting natural gas. Sections 311(a)(1) and 311(a)(2) provide the Commission with important new authorities designed to achieve a national transportation system with its attendant economies and efficiencies. On the other hand, transportation arrangements for fixed periods greater than two years contemplate service periods which may so significantly affect a pipeline's system operation as to require prior Commission scrutiny and approval. It is for these reasons that the Commission has chosen the two-pronged mechanism contained in Subpart A and Subpart B of Part 284.

Other than the addition of the application procedure for transportation arrangements in excess of two years, only minor revisions have been made to the proposed regulation. The most significant is the addition of provisions

to § 284.103 which would permit an interstate pipeline to retain revenues in excess of 1 cent per Mcf if it is able to demonstrate that the amounts retained represent actual out-of-pocket expenses in excess of the 1 cent allowance. The Commission notes, parenthetically, that the 1 cent per Mcf allowance for out-of-pocket costs derives from the Commission's experience in a number of individual cases under the Natural Gas Act which evidenced that the 1.0 cent per Mcf reasonably represented the level of out-of-pocket costs normally incurred by interstate pipelines in rendering transportation service. But, we recognize that individual transportation arrangements occurring under Subpart A may involve the incurrence of out-of-pocket expenses greater than 1.0 cent per Mcf. Accordingly, the Commission will permit an allowance in excess of 1 cent per Mcf provided the pipeline is able to substantiate greater out-of-pocket cost.

Section 284.104(c) has been revised, in response to comments, to provide that the terms and conditions which the Commission may impose by rule or order, under the section, shall be prospective. Section 284.106(d) has been revised to clarify that the final report is required only after the termination of an extension where one has been entered into in accordance with § 284.105.

Subpart A provides that interstate pipelines engaging in transactions under this subpart may recover the costs of providing the service including the retention of any revenues where such transportation transactions have been reflected in the pipeline company's rates either through the crediting of revenues or the inclusion of the transportation volumes in billing determinants.

PART 284 - SUBPART B

This subpart governs the transportation of natural gas by intrastate pipelines on behalf of interstate pipelines and local distribution companies served by interstate pipelines under section 311(a)(2) of the NGPA. Sections 284.122 and 284.127 have been revised to conform to §§ 284.102 and 284.107 of Subpart A. The considerations which prompted the Commission's decision under Subpart A apply equally here. Parity of treatment of interstate and intrastate pipelines under similar statutoty provisions also support this decision.

Section 284.123(b)(1)(i) has been revised to provide for rates which are based on recovery of all costs which may be associated with the transportation function. Section 284.123(b)(2) has been added to govern those cases where the intrastate pipelines' transportation rates are not subject to the jurisdiction of an "appropriate state

regulatory agency." Section 284.123(d) provides that transportation rates computed in accordance with § 284.123(b)(1) are presumed to be fair and equitable and not in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service. This is consistent with and conforms to statutory language in section 311(a)(2) of the NGPA. Moreover, the Commission presumes that all revenues associated with those transportation transactions engaged in by regulated intrastate pipelines have been, or will be, considered by the appropriate state regulatory authority in establishing rates to be charged. This treatment would be consistent with treatment of interstate pipelines by this Commission.

Section 284.124(a) has been added; and § 284.124(c) has been revised to conform to the corresponding section in Subpart A. The initial report required by § 284.126(a) will be filed with the "appropriate state regulatory agency." This term which is also used in § 284.123 is defined in § 284.128. The filing of the initial report with the "appropriate state regulatory agency" is necessary to implement the provisions of § 284.123(c).

The Commission wishes to call special attention to certain features of the regulation under Subpart B. The provisions of § 284.123 governing the rates and charges by intrastate pipelines for transportation arrangements under this subpart have been revised to permit an intrastate pipeline to elect to base its rates upon the methodology and cost used in determining the allowance permitted by an appropriate state regulatory agency for city-gate service. The Commission understands from a number of comments received that in some cases, state regulatory agencies exercise cost of service type regulation at the distribution company level permitting an allowance for city-gate service rendered by intrastate pipelines. Thus, commentors have pointed out, the intrastate pipeline is effectively regulated albeit the state regulatory agency does not directly accept for filing and pass on "rates and charges for transportation" as such. Also, the Commission has modified § 284.123 to specify that in any case where an intrastate pipeline does not elect to base its rates upon the methodology and cost formulae contained in paragraph (b)(1) or where the intrastate pipeline is not regulated directly or indirectly on a cost-of-service basis, the pipeline may file proposed

rates and charges with the Commission supported by information showing that the proposed rates and charges are fair and equitable. Upon filing, the intrastate pipeline may commence the transportation service and charge the proposed rates subject to refund. It need not await approval or further action of the Commission. Paragraph (b)(2) also provides, however, that the Commission may order refunds of any amounts which it may, through subsequent procedures, determine to have been charged in excess of rates and charges which interstate pipelines would be permitted to charge for similar service or amounts which it determined to be in excess of those which have been shown to be fair and equitable.

A number of commentors were concerned that the Commission had not allowed an opportunity for the intrastate pipeline to earn a reasonable profit as required by section 311 of the NGPA. If the intrastate pipeline files its proposed rates and charges pursuant to § 284.123(b)(2), the intrastate pipeline, of course, would include a reasonable profit within its proposed rates. If, on the other hand, the intrastate pipeline elects the alternative procedures contained in § 284.123(b)(1), the reasonable profit is built into

the formulae contained in clauses (i) and (ii). In other words, the intrastate pipeline is permitted the same opportunity for profit as is permitted by the appropriate state regulatory agency under the methodologies used in designing rates or in determining the allowance referred to in those clauses.

As set forth in § 284.123(d), the rate charged by an intrastate pipeline which elects the procedures under paragraph (b)(1)(i) or (ii) is presumed to be fair and equitable and not in excess of the rates and charges to which interstate pipelines would be permitted to charge for providing similar service. The Commission has had considerable difficulty in determining a practical method for applying the statutory limitation on rates contained in section 311(a)(2). At this time, we have attempted to resolve this problem by presuming that if an intrastate pipeline is regulated on a cost-of-service basis, it would not be permitted to charge a rate which is greater than the rate which would be allowed an interstate pipeline similarly regulated on a cost-of-service basis. The Commission recognizes, however, that no two pipelines are alike and that rate schedules of interstate pipelines reflect the particular characteristics of the pipeline

and are tied to the size and length of the line, the load factor of its operation, the location and nature of its supply and the characteristics of its markets.

It is for these reasons that the Commission rejected suggestions made by some commentors that the Commission permit intrastate pipelines to merely select a rate schedule on file with the Commission governing transportation service by interstate pipelines. We are also in doubt as to how we would measure comparability of service in the case of pipelines which have substantially different investments, operations and costs. While we are not prepared to conclude that an approach of this nature cannot be fashioned, we must admit that we are unable to do so at this time. For this reason, the Commission invites interested parties to address this question in the extended comment period on the interim regulations.

PART 284 - SUBPART D

Subpart D implements section 312 of the NGPA which governs assignments of contractual rights to receive surplus natural gas by intrastate pipelines to interstate pipelines and local distribution companies. Rates charged for transportation services in connection with assignments

are determined in accordance with Subpart B. Changes made in that subpart have been reflected in similar provisions of § 284.164(a) and §§ 284.165(a)(5) and (e)(1)(v). The report requirements have also been reduced in response to comments received. No other significant changes have been made in this subpart.

PARTS 2 and 157

The Commission's existing regulations promulgated under the Natural Gas Act exempt from the certificate requirements under section 7 of that Act certain emergency transactions. These provisions, contained in 18 C.F.R. §§ 2.68, 157.22 and 157.29, permit the transportation and sale of natural gas in interstate commerce without prior certificate authorization from the Commission. Under these provisions, emergency supplies of natural gas have been obtained in substantial quantities in past winter heating periods and during times of summer storage fill at market prices in excess of otherwise applicable national or area rates governing jurisdictional sales.

It is generally acknowledged that these exemptions for emergency transactions have allowed interstate pipelines, distribution companies and others dependent upon interstate pipeline supplies to avoid, or at least alleviate, the consequences of severe supply shortages of natural gas in the interstate market. Nonetheless, a number of criticisms have been leveled at the existing program suggesting that it was subject to abuse and required administrative tightening.

Accordingly, on April 7, 1978, the Commission determined to review the current emergency program and issued a Request for Comments inviting interested persons to submit their views on the program and to offer suggestions for change. After the comments were reviewed and analyzed, the Commission issued a Notice of Proposed Rulemaking on August 14, 1978, and again requested comments. That proposal would have substantially changed the provisions of the Commission's current regulations applicable to emergency transactions.

Comments were received from parties representing a wide range of interests, including independent and associate producers, interstate and intrastate pipelines, distribution companies, industrial consumers and the public.

The August 14, 1978, proposal was described in substantial detail in the Notice of Proposed Rulemaking and no recapitulation or further elaboration will be attempted here. It is sufficient to note only that it would have imposed stricter requirements for participation in emergency transactions and would have added additional reporting requirements to allow the Commission to monitor more closely the activities of emergency purchasers and sellers.

Prior to final action by this Commission on the August 14, 1978, proposal, the Congress passed and the President signed into law the NGPA, which changed much of the statutory authority on which the proposed rulemaking had been based and established new congressional directives and policies governing the sale and transportation of natural gas. For this reason, the Commission determined on November 13, 1978, to publish a revised Notice of Proposed Rulemaking more consonant with the requirements and policies of the NGPA. Comments were to be submitted no later than November 20, 1978. The Commission determined that good cause existed to dispense with the full 30 day notice and comment period, inasmuch as the winter heating season had already begun and because the NGPA was to take effect on December 1 -- one month into the heating season.

Practical considerations preclude the Commission from attempting to restate or discuss the comments received since November 13, 1978, in the detail which in other circumstances would be appropriate. The Commission advises, however, that it has read and considered the comments received and made revisions that it considers appropriate and practical given the exigencies of the moment.

Because emergency transactions under the NGA have been overtaken by passage of the NGPA on November 9, 1978, we have determined to promulgate the revised regulations applicable to emergency transactions as interim regulations to be effective December 1, 1978. Accordingly, the revised regulations under the NGA applicable to emergency transactions are to be considered together with the implementing regulation under the NGPA and may be subject to further revision as the Commission may find appropriate after the extended comment period.

Revised Interim Regulations

The interim emergency regulations prescribed herein leave the current emergency program largely intact. The Commission acknowledges that there are deficiencies in the program which would require correction if it were to continue as a permanent feature of the Commission's regulations. However, that is not to be the case. Rather the Commission intends to continue the emergency interim regulations in their present form only through the current winter heating season.

The Commission intends to substantially revise and limit the applicability of the emergency program following the current winter heating season. We did not, therefore, consider it wise public policy to attempt major revisions

in a program which is to last for only a few additional months. Moreover, recognizing that we are already in the midst of the current heating season, it did not appear reasonable to risk the disruption and uncertainty as would attend a significant revision of the prior existing program.

Some further comment on the proposed duration of the emergency program prescribed herein is appropriate. As previously announced, the Commission intends to implement section 311(b) of the NGPA governing sales by intrastate pipelines effective March 1, 1979. Although not included in this stage of implementing regulations, the Commission intends in the near future to issue a revised notice of proposed rulemaking under Subpart C of Part 284 which will reflect changes in the original proposal.

In the future, therefore, intrastate pipeline sales and assignments, as well as transportation arrangements between and among inter- and intrastate pipelines and local distribution companies are to be governed by the NGPA regulations contained in Part 284.

Effective December 1, 1978, all first sales by natural gas producers are subject to maximum lawful prices and other aspects of the Commission's regulations implementing

the NGPA. Moreover, under the NGPA it is no longer necessary for producers to obtain certificates under section 7 of the NGA to commence sales in the interstate market, provided the natural gas was not previously committed or dedicated to interstate commerce. This is so whether producer sales are entered into for emergency purchases or otherwise.

Thus, an exemption from section 7 of the NGA is no longer required or appropriate for producer sales of natural gas not previously committed or dedicated to interstate markets. Accordingly, we have revised our existing regulations to remove those features applicable to producer sales.

Inasmuch as Part 284 is scheduled for full implementation on March 1, 1979, and because producer sales are now governed under the NGPA and not the NGA, the question occurs whether there is any continued need or justification for an emergency program under the NGA after the conclusion of this winter's heating season. The Commission specifically invites comments on this question. At the very least, it would seem that the emergency program, if it is to be continued at all, should be limited to circumstances involving a sudden unanticipated loss of supply or situations in which immediate action is required for protection

of life and health or the maintenance of physical property. The Commission would benefit from whatever guidance or suggestion is provided on this subject.

Brief Summary of Emergency Interim Regulations

Sections 2.68, 157.22 and 157.29 of the Commission's current regulations are preserved only to the extent that they apply to existing emergency transactions. Accordingly, the current regulations are to continue in effect and remain applicable to contracts executed before November 9, 1978, in the case of a first sale governed by the NGPA (which will include all producer sales), or before December 1, 1978, in any other case (including sales by intrastate pipelines whose sales are generally not considered first sales governed by the NGPA). The emergency interim regulations also add to the Commission's existing regulations under the NGA a new Subpart C which contains §§ 157.45 through 157.52.

Section 157.45 defines the purpose of new Subpart C and sets out the relationship of this subpart to other parts of the implementing regulations under the NGPA.

Section 157.46 contains definitions which establish the parameters of eligility for the exemption from section 7 of emergency transactions. The definition of emergency has been revised from the November 13 proposal

in a number of respects. Specifically the definition has been expanded to make clear that an emergency includes a sudden unanticipated loss of supply or increase in demand. An emergency qualifying under this section would also include situations where additional supplies are necessary to maintain deliverability from storage, or to replenish storage volumes in order to alleviate curtailment. Also, persons described in section 1(c) of the NGA have been included as qualified sellers and purchasers. This responds to a number of comments which has suggested the inclusion of so-called Hinshaw pipelines under the program.

In addition, the Commission has defined a "sale of emergency natural gas" to include an exchange of natural gas to alleviate an emergency, provided the volumes exchanged are paid back within 180 days after the termination of deliveries of emergency natural gas. The 180-day pay-back rule is designed to assure that the parties to the exchange are made whole prior to the commencement of the next winter heating season. The Commission, in addition, wishes to make clear that the emergency program contemplates the rendering of emergency storage service by local distribution companies as was permitted under § 2.68 of the Commission's Rules.

A number of comments expressed concern that the Commission may take action under its authority in

section 315 of the NGPA to specify a minimum contract duration in such a manner as to disrupt the emergency program. The Commission advises that, although it intends to act in the near future to implement section 315, any such specification of a minimum contract duration will operate prospectively only. Moreover, the Commission will give special consideration to the need to provide an exception to any minimum contract duration requirement for emergency transactions which by their very nature contemplate transactions of brief duration.

Section 157.47 contains the specific exemptions from certificate requirements under section 7 of the NGA. Only minor technical changes in this language have been made. Transporation by an interstate pipeline for another interstate pipeline or for a direct assignee is specifically exempted. Transportation by an interstate pipeline for a local distribution company or a person described in section 1(c) of the NGA is governed by Subpart A of Part 284. In this regard, the Commission should note parenthetically that although Hinshaw pipelines are not expressly governed by Subpart A of Part 284, the definition of local distribution companies under the NGPA specifically includes such persons.

The Commission wishes to call special attention to paragraph (c) of § 157.47. Under its terms, the Commission seeks to make abundantly clear that the Commission's jurisdiction under the NGA does not vest with respect to any transaction or person participating in an emergency transaction except to the extent provided in the emergency regulations themselves. Several comments expressed concerned that provisions in existing producer contracts which preclude intrastate pipelines from reselling natural gas in interstate commerce or commingling natural gas in interstate commerce could operate to prevent intrastate pipelines from fully participating under the emergency program. This should no longer be a matter of concern. Those provisions contained in producer contracts were apparently designed to guard against a producer's becoming unwillingly and unknowingly subject to the cost-based rate regulation of the NGA. Passage of the NGPA coupled with the limited vesting of Commission jurisdiction under paragraph (c) of § 157.47 should obviate those concerns.

Section 157.48 contains terms and conditions applicable to emergency transactions. The section has been revised to delete or modify language previously proposed in the August 14, 1978, Notice of Proposed Rulemaking.

The revisions and deletions were considered appropriate in light of the interim character of the revised emergency program. In response to comments, this section has been revised to clarify its scope and applicability and to include a provision which places on the person for whom the emergency natural gas is acquired and transported, responsibility to provide volumes for compressor station fuel and line losses.

Section 157.49 establishes requirements which govern the rates for emergency transactions. No significant change has been made in the language. The Commission has determined to keep the presumption of prudence provided at paragraph (b) in cases where the purchased gas cost for emergency natural gas supplies does not exceed the maximum lawful price specified in § 271.202 of Subchapter H applicable to "new gas".

The Commission wishes to emphasize that this is a rebuttable presumption of prudence and is not intended to operate as a floor, as some comments suggested. Moreover, nothing in this section will operate to preclude an interstate pipeline from availing itself of the opportunity to establish that a rate in excess of the new natural gas price was prudent in the circumstances.

The Commission has significantly revised the treatment of revenues contained in § 157.50. Under its terms the interstate pipeline would not be required to credit revenues if its actual out-of-pocket expenses exceed the one cent per Mcf allowance or if the retention of revenues did not provide double recovery. Various formulas are contained in paragraphs (b), (c), (d) and (e) of this section to carry out this intent.

Section 157.51 contains reporting requirements for emergency requirements for emergency transactions. The Commission has revised the quarterly report requirement to limit it to calendar quarters occurring in 1979. Sections 157.52, regarding a waiver of requirements for emergency transactions, and 157.53, relating to certain exemptions for drilling, testing or purging of pipeline facilities are prescribed without revision.

III. PUBLIC PROCEDURE

Subchapters H and I of Title 18 were published in the Federal Register as a notice of proposed rulemaking at 43 FR 53270 on November 15, 1978. That proposal included the following description of the procedures the Commission had applied and would apply to the promulgation of final regulations implementing the Natural Gas Policy Act:

> Although the N&PA was not enacted until November 9, 1978, most of its provisions become effective on December 1, 1978. On that date, persons affected by the Act, including a large portion of the natural gas industry not previously regulated by the Federal government, will be subject to a comprehensive and complex new regulatory structure. For reasons set out more fully below, regulations implementing the Act must be effective on December 1, 1978, both for guidance to those regulated and to insure compliance with the new law.
>
> When it became apparent that the period between final enactment of the law and its effective date would not provide sufficient time for the normal rulemaking procedures, the Commission established the following schedule and procedures.
>
> The Commission has been meeting in public session since November 1, 1978, in order to discuss regulations drafted by the staff to implement the NGPA. Prior to the first meeting, the Commission made copies of the various proposals under consideration available to the public. As successive drafts were completed, these too were released prior to Commission discussion. During all of this period, certain members of the Commission staff were publicly designated as contact persons to answer legal and technical questions concerning the implementation of the Act.

For other categories, pricing determinations must be made by State or Federal agencies with regulatory authority over the production of natural gas. Unless the interim regulations are available on December 1, 1978, members of the public whose sales are governed by provisions of the Act will not be able to ascertain the applicable maximum lawful price governing their sales of natural gas. Indeed, some sellers and transporters of natural gas could unknowingly be in technical violation of the law. Purchasers may be uncertain whether prices requested exceed the prices permitted under the law. Similarly, agencies which must make determinations with respect to eligibility for prices established by the Act must be made aware of Commission requirements applicable to these determinations, including the manner in which the Commission will review such determinations.

After consideration of the problems associated with any delay in promulgating implementing regulations, the Commission has reached the conclusion that because the regulations must be effective by December 1, 1978, good cause exists to limit as described above notice and public procedure on this proposal. Full notice and public procedure on the proposal at this time, which as a practical matter would result in a delay of the effective date of the regulations beyond the effective date of the NGPA, are impractical and contrary to the public interest. It should be emphasized that all of the procedures described above will provide the fullest possible opportunity for public participation during the entire process leading to the promulgation of final regulations.

The Commission intends to promulgate interim regulations on November 27, 1978. The interim regulations will be effective on December 1. A 60-day comment period will be afforded with respect to the interim regulations and public hearings will be held. The interim regulations will, after the 60-day period and after all views received since November 1, 1978, have been considered, be modified to the extent such comments and the Commission's experience under the interim regulations indicate the modification is appropriate.

The proposal published today provides for a comment period ending on November 20. The Commission is aware that in view of the significance and complexity of these regulations, comments will be extensive. To the extent possible, comments received before November 20 will be reviewed and appropriate changes incorporated into the interim regulations. As stated above, all comments will be retained and considered together with the additional comments received during the 60-day period afforded for comments on the interim regulations. The Commission believes that to the extent practicable, the procedures being followed with respect to these regulations are those best designed to insure maximum public participation prior to the time when the interim regulations must be effective.

In establishing this notice and comment procedure, the Commission has considered a number of factors. Most important, as stated above, is the fact that most of the Act's provisions become effective on December 1, 1978, including provisions establishing maximum lawful prices applicable to first sales of natural gas delivered after November 30, 1978. Some of the prices which may be charged for natural gas deliveries under the Act are established by reference to existing prices.

CONSIDERATION OF COMMENTS

A substantial number of written comments have been received in response to the notice of proposed rulemaking. In addition, the staff met informally, prior to the close of the comment period, with representatives of state agencies, consumer groups, and the industries affected by the proposed regulations. A notice, describing these meetings and inviting any interested person to meet informally with designated members of the Commission staff was issued on November 17, 1978. Minutes of these informal meetings, together with any written materials presented at these meetings, have been included in the public file. All comments received by the Commission by November 20, 1978, and to the extent possible, comments received after that date, have been considered. In the limited time available to the Commission and its staff, changes in the regulations have been made. The major changes are noted in Section II of this preamble. The preamble also discusses a number of suggestions made in the comments which have not been incorporated into these regulations.

Because of the time limitation, some changes have been made, generally of a minor nature which are not discussed in the preamble, and the reasons for not

adopting some suggestions are not mentioned. To the extent possible, significant changes have been explained. The Commission wishes to emphasize that all comments will be retained and reconsidered with comments received as a result of this publication. Accordingly, suggested changes, deletions or additions, not adopted by the Commission in these rules, will, in light of additional information received in the next 60 days, be re-examined and possibly adopted as amendments to the interim regulations.

ADDITIONAL COMMENTS

In accordance with the procedures described below, the Commission solicits comments on all aspects of these interim regulations. It should be emphasized that the Commission intends to review the regulations in their entirety and make whatever changes it deems appropriate based on the comments already received, additional written comments, the views expressed in public hearings, and experiences under the regulations during the next 60 days.

Interested persons are invited to submit written comments on the regulations to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426. Comments should reference Docket No. RM79-3 on the outside of the envelope

and on all documents submitted to the Commission. To assist the Commission, it is requested that comments identify the section or subpart addressed, state whether the comments involve technical, legal, or policy matters, and if alternative approaches are suggested, provide proposed implementing language to the extent practicable.

Fifteen copies should be submitted. All comments and related information received by the Commission by January 31, 1979, will be considered prior to promulgation of revisions or amendments to these regulations.

PUBLIC HEARINGS

The Commission intends to hold a series of public hearings on these interim regulations, as required by section 502(b) of the NGPA. For the reasons stated above, however, the Commission finds that it is impracticable to provide an opportunity for oral presentation of data, views and arguments prior to the effective date of the regulations, and waives for 45 days the requirement of prior hearings under section 502(b). The dates and locations of the public hearings will be announced as soon as practicable.

EFFECTIVE DATE

As stated above, the Commission has determined that a delay of the effective date of the regulations beyond the effective date of the Natural Gas Policy Act is impractical and contrary to the public interest. Accordingly, the Commission finds that good cause exists for making the regulations effective on December 1, 1978.

(Natural Gas Act, as amended, 15 U.S.C. 717 et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 et seq., Federal Energy Administration Act, 15 U.S.C. 761 et seq., Natural Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, P.L. 95-91, E.O. 12009, 42 F.R. 46267)

In consideration of the foregoing, Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Lois D. Cashell
Acting Secretary

PART 2 - GENERAL POLICY AND INTERPRETATIONS

1. Section 2.68 is amended by adding a new paragraph (c) to read as follows:

§ 2.68 Policy with respect to temporary emergency sales and deliveries of natural gas for resale in interstate commerce by persons with exemptions under the Natural Gas Act pursuant to section 1(c), and certain persons exempt under the Natural Gas Act pursuant to section 1(b).

* * * * *

(c) This section does not apply to any transaction other than an existing emergency transaction (as defined in § 157.46(i)).

PART 157 - APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

2. Section 157.22 is amended by amending a new paragraph (f) to read as follows:

§ 157.22 Exemption of temporary acts and operation.

* * * * *

(f) This section does not apply to any transaction other than an existing emergency transaction (as defined in § 157.46(i)).

3. Section 157.29 is amended by adding a new paragraph (e) to read as follows:

§ 157.29 Exemption of emergency sales or transportation.

* * * * *

(e) This section does not apply to any transaction which is not an existing emergency transaction (as defined in § 157.46(i)).

4. Part 157 is amended by adding new Subparts C (§§ 157.45 through 157.52) and D (§ 157.53), to read as follows:

SUBPART C -- EXEMPTION OF EMERGENCY SALE ARRANGEMENTS FOR NATURAL GAS FROM CERTIFICATE REQUIREMENTS

Sec.
157.45 Purpose and exclusion.
157.46 Definitions.
157.47 Exemptions from certificate requirements.
157.48 Terms and conditions of emergency transactions.
157.49 Rates for emergency transactions.
157.50 Treatment of revenues.
157.51 Reporting requirements for emergency transactions.
157.52 Waiver of requirements for emergency transactions.

§ 157.45 Purpose and exclusion.

(a) Purpose. The purpose of this subpart is to prescribe the conditions under which certain emergency transactions involving the construction and operation of facilities or the sale or transportation of natural

gas in interstate commerce are exempt from the requirements of section 7 of the Natural Gas Act. Requirements relating to certain arrangements for the transportation of natural gas, including transportation in emergency situations, are set forth in Part 284 of this chapter and apply to transportation for intrastate pipelines and certain local distribution companies including persons exempt from Natural Gas Act jurisdiction under section 1(c). Requirements relating to certain arrangements for the transportation of emergency natural gas by an interstate pipeline on behalf of another interstate pipeline and certain direct assignees of emergency natural gas are set forth in this subpart. This subpart also applies to certain arrangements for exchange of natural gas for emergency purposes.

(b) Exclusion. This subpart does not apply to existing emergency transactions.

§ 157.46 Definitions.

For purposes of this subpart:

(a) "Emergency" means:

(1) a situation where the gas supply either available or expected to be available would require the interstate pipeline company, distribution company, or person described in section 1(c) of the Natural Gas Act to impose curtailment on its system (including a situation where additional supplies

are necessary to maintain deliverability from storage or to replenish storage volumes in order to avoid or alleviate curtailment on its system);

(2) a sudden unanticipated (i) loss of natural gas supply or (ii) increase in demand; or

(3) a situation in which the qualified purchaser, in good faith, determines that immediate action is required or is reasonably anticipated to be required for protection of life or health or for maintenance of physical property.

(b) "Qualified seller" means any intrastate pipeline, interstate pipeline, distribution company or person described in section 1(c) of the Natural Gas Act.

(c) "Qualified purchaser" means a distribution company, interstate pipeline or person described in section 1(c) of the Natural Gas Act.

(d) "Interstate pipeline" means any natural gas company as defined in section 2(6) of the Natural Gas Act which is engaged in the transportation by pipeline of natural gas.

(e) "Distribution company" means any person (or governmental entity) who receives natural gas for local distribution and resale to natural gas users.

(f) "Intrastate pipeline" means any person (other than an interstate pipeline or distribution company)

engaged in the transportation by pipeline of natural gas.

(g) "Emergency natural gas" means natural gas sold or transported to alleviate an emergency in accordance with this subpart.

(h) "Sale of emergency natural gas" includes an exchange of natural gas to alleviate an emergency in accordance with this subpart between a qualified seller and qualified purchaser, provided that the volumes exchanged are paid back within 180 days after the termination of deliveries of emergency natural gas.

(i) "Existing emergency transactions" means a transaction under §§ 2.68, 157.22, or 157.29 pursuant to a contract executed:

(1) before November 9, 1978, in the case of a sale which is a first sale within the meaning of the Natural Gas Policy Act of 1978; or

(2) before December 1, 1978, in any other case.

§ 157.47 Exemptions from certificate requirements.

(a) Sales, construction and operation of facilities. Any qualified seller who sells emergency natural gas to a qualified purchaser, and any person who constructs or

operates facilities for the sale or transportation of emergency natural gas, is exempt from the requirements of section 7 of the Natural Gas Act, to the extent that:

(1) the sale of emergency natural gas or the construction or operation of facilities is necessary to alleviate an emergency; and

(2) the sale, construction or operation is conducted in accordance with the provisions of this subpart.

(b) Transportation. Any interstate pipeline transporting emergency natural gas on behalf of (1) any direct assignee described in § 157.48(d), or (2) another interstate pipeline, may engage in such transportation in accordance with this subpart without necessity of obtaining any other authorization for such transportation under section 7 of the Natural Gas Act.

(c) Jurisdiction of the Commission under the Natural Gas Act. Participation in any transaction in accordance with this subpart shall not subject any person to the jurisdiction of the Commission under the Natural Gas Act except to the extent provided in this subpart.

§ 157.48 Terms and conditions of emergency transactions.

(a) General conditions. (1) Qualified purchasers may purchase emergency natural gas in accordance with the provisions of this subpart but should make every reasonable attempt to conduct their operations in such a manner as to minimize or, if possible, to avoid continuing reliance upon emergency natural gas supplies.

(2) In applying the definition of emergency, flexibility will be accorded interstate pipelines and distribution companies to account for colder than normal winter weather. A reasonable relationship should exist between volumes purchased under this subpart and the volumes which are anticipated to be needed during the emergency.

(3) When a distribution company purchases, or a direct sale customer or distribution company requests assignment of emergency natural gas, a responsible official of the distribution company or direct sale customer shall advise the interstate pipeline which will make the deliveries, before commencement of the deliveries, that the emergency exists or is imminent and shall provide the interstate pipeline with such information as may be required within sufficient time to enable the interstate pipeline to make the reports required in § 157.51 of this subpart.

(b) Duration. (1) An emergency transaction under this subpart shall be limited to a period of not more than 60 consecutive calendar days, except that such transaction may be continued for an additional period of not more than 60 consecutive days where:

(i) fifteen days prior to the end of the initial 60-day period, the qualified purchaser files a petition requesting a waiver so as to permit one additional 60-day period of exemptions describing fully the continued emergency; and

(ii) the Commission does not, within the 15-day period, by order, prohibit continuation of the emergency transaction for such additional period.

(2) Transactions necessary for the pay back of volumes of natural gas exchanged for emergency natural gas, may occur within the 180-day period which follows the termination of deliveries of the emergency natural gas for which the pay back volumes are exchanged.

(c) Cost of facilities. No cost associated with facilities installed by interstate pipelines in connection with emergency transactions shall be included in the interstate pipeline's jurisdictional rates unless certificate authorization under section 7 of the Natural Gas Act exists or is obtained for such facilities.

(d) System supply and direct assignment of supplies. (1) Interstate pipelines may purchase emergency natural gas for general system supply for an emergency.

(2)(i) Interstate pipelines may purchase emergency natural gas and directly assign volumes and costs associated with such gas, including transportation costs, to its direct sale and distribution company customers, or persons described in section 1(c) of the Natural Gas Act, faced with an emergency, if such customers or persons comply with paragraph (a)(3) of this section.

(ii) An interstate pipeline, at its discretion, may choose to establish a separate account to cover the cost of all assigned emergency purchases and allocate costs in that account to the individual assignment customers or person described in section 1(c) of the Natural Gas Act on a weighted average cost basis. If an interstate pipeline purchases emergency gas supplies for direct assignment in quantities greater than related emergency requirements, then the balance may be used for general system supply. It is expected that such excess emergency natural gas volumes will be small and that pipelines will make every reasonable attempt to balance assignments with supplies. Interstate pipelines may also act as brokers or agents

(without compensation for acting as broker or agent) in acquiring and transporting emergency natural gas for distribution company customers, or persons described in section 1(c) of the Natural Gas Act, faced with an emergency and shall cooperate with these customers, or persons in arranging for such acquisition and transportation.

(iii) In the case of any direct assignment of emergency natural gas or brokered or agency transaction, the customer or person for whom the natural gas is acquired and transported shall be responsible for providing volumes for compressor station fuel and lost and unaccounted for volumes of natural gas.

§ 157.49 Rates for emergency transactions.

(a) Rates and charges. (1) Rates for transportation by an interstate pipeline under this subpart shall be computed in accordance with subparagraph (2) of this paragraph. Sales by interstate pipelines shall be made at rates prescribed in their tariffs, except that if the natural gas is purchased for assignment to particular direct customers, distribution companies, or persons described in section 1(c) of the Natural

Gas Act, the natural gas will be priced to recover the cost of purchased gas plus an amount for transportation as provided in subparagraph (2) of this paragraph.

(2)(i) If an interstate pipeline has on file with the Commission a transportation rate schedule applicable to transportation arrangements under Subpart A of Part 284, the interstate pipeline shall use the rates contained in that schedule.

(ii) if an interstate pipeline does not have on file with the Commission a transportation rate schedule applicable to transportation arrangements under Subpart A of Part 284, the interstate pipeline may elect either:

(A) to base its rates upon the methodology and cost used in designing rates to recover the transmission and related storage costs included in its then effective sales rate schedules; or

(B) to use the rates contained in a transportation rate schedule on file with the Commission which the interstate pipeline determines covers service comparable to transportation service under Subpart A of Part 284.

(b) Presumption of prudence. The Commission will examine the prudence of emergency purchases by interstate pipelines, except that a rebuttable presumption of prudence

shall be accorded to the extent that the rates paid do not exceed the maximum lawful price specified in § 271.202 of this chapter.

§ 157.50 Treatment of revenues.

(a) General. Except as provided in paragraphs (b) (c),(d), and (e), an interstate pipeline shall credit to Account No. 191 all revenues, received from emergency transactions in excess of the sum of (1) the cost of purchased gas, plus (2) one cent per Mcf, for any such volumes of natural gas transported, sold or assigned.

(b) Direct assignments. An interstate pipeline purchasing emergency natural gas for direct assignment will not be required to credit to Account No. 191 revenues pursuant to paragraph (a) to the extent the pipeline can show that:

(1) its currently effective rates are based upon billing determinants which include a representative level of sales associated with assigned volumes; or

(2) its currently effective rates reflect a representative level of revenues associated with sales of assigned volumes which have been credited to the cost of service.

(c) Transportation. An interstate pipeline providing transportation of emergency natural gas will not be required to credit revenues to Account No. 191 pursuant to paragraph (a):

(1) to the extent revenues attributable to such services fall within representative levels which have been credited in arriving at a test period cost of service; or

(2) to the extent that volumes transported fall within representative levels which have been included in billing determinants for the purpose of establishing rates.

(d) An interstate pipeline selling emergency natural gas will not be required to credit revenues to Account No. 191 pursuant to paragraph (a) to the extent the pipeline can show that:

(1) its currently effective sales rates are based upon billing determinants which include a representative level of sales associated with emergency natural gas volumes; or

(2) its currently effective sales rates reflect a representative level of revenues associated with sales of emergency natural gas volumes which have been credited to the cost of service.

(e) Actual expenses. An interstate pipeline will not be required to credit to Account No. 191 any amount in excess of one cent per Mcf if the pipeline demonstrates upon application to the Commission that the amount is necessary to compensate for actual out-of-pocket expenses incurred by reason of engaging in the emergency transaction.

§ 157.51 Reporting requirements for emergency transactions.

(a) Initial reports. Within 48 hours after commencement of deliveries of emergency natural gas, the interstate pipeline shall notify the Commission in writing of the sale, stating the specific nature and duration of the emergency; the amount of emergency natural gas to be purchased or transported on a daily basis; the name of the seller, transporter, and any person to whom the emergency natural gas is to be assigned; and the price.

(b) Quarterly reports. For any calendar quarter during which an interstate pipeline engages in any transaction for emergency natural gas, the interstate pipeline shall file with the Commission, within thirty days after the end of each calendar quarter occurring in 1979, whether the transactions are completed or in progress, a sworn statement and four conformed copies thereof, which shall include the following information:

(1) identification of each emergency transaction completed or in progress;

(2) the volumes of emergency natural gas delivered during the quarter under each transaction;

(3) the total revenue or other compensation received by each seller for each emergency transaction during the quarter;

(4) the total amount of revenue or other compensation received for each emergency transaction during the quarter;

(5) the charges and the methods by which the pipeline determined compensation for the transportation of assigned emergency gas;

(6) information relied on to determine eligibility for each transaction;

(7) the volumes of emergency natural gas included in system supply;

(8) a statement from a responsible company official attesting that the activities of the interstate pipeline were carried out in accordance with the requirements of this subpart and to the best of his or her knowledge, an emergency did exist or was reasonably anticipated, and a sworn statement from a responsible company official of each purchasing distribution company or each direct sale customer or distribution company which requested the assignment of emergency supplies describing the emergency circumstances as required by § 157.48(a)(3).

§ 157.52 Waiver of requirements for emergency transactions.

The Commission may by order waive the requirements of this subpart in connection with any emergency transaction to the extent required by the public interest.

SUBPART D - EXEMPTION OF NATURAL GAS SERVICE FOR DRILLING, TESTING, OR PURGING FROM CERTIFICATE REQUIREMENTS

§ 157.53 Drilling of gas or oil wells and testing or purging of new natural gas pipeline facilities.

(a) Construction and operation of facilities necessary to render direct natural gas service for use in the drilling of gas or oil wells or for the use in the testing and purging of new natural gas pipeline facilities are exempted from the certificate requirements of section 7(c) of the Natural Gas Act, when the construction and operation of such facilities are conducted in accordance with paragraph (b) of this section.

(b) Operations undertaken to render direct natural gas service shall be terminated upon the completion of the well or the purging or testing of the pipeline facilities. Persons undertaking any construction or operation of facilities or service under this section shall file an original and two copies of an annual statement, by February 1 of each year, describing their activities hereunder.

5. Chapter I of Title 18 is amended by adding new Subchapters H and I to read as follows:

SUBCHAPTER H - REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

Part
270 Rules generally applicable to regulated sales of natural gas.
271 Ceiling prices.
272 [Reserved]
273 Collection authority; refunds.
274 Determinations by jurisdictional agencies.
275 Commission determinations and review of jurisdictional agency determinations.
276 Reports.

PART 270 - RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

Subpart A - General Rules and Definitions

Sec.
270.101 Application of ceiling prices to first sales of natural gas.
270.102 Definitions.
270.103 Effective date.

Subpart B - Special Rules

Sec.
270.201 First sale of natural gas subject to differing maximum lawful prices.
270.202 Resales.
270.203 Pipeline or distributor production.
270.204 Btu content per unit volume of natural gas.
270.205 Indefinite price escalator clauses.

Authority: This part is issued under the Natural Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350.

SUBPART A - GENERAL RULES AND DEFINITIONS

§ 270.101 Application of ceiling prices to first sales of natural gas.

(a) Maximum lawful price. It is unlawful for any person to sell natural gas at a first sale price in excess of the highest maximum lawful price applicable to such gas under Part 271.

(b) Effect of maximum lawful price on contract price. If the price established under a contract for the first sale of natural gas does not exceed the applicable maximum lawful price, then such maximum lawful price does not supersede or nullify the effectiveness of the price established under such contract.

(c) Maximum lawful prices requiring jurisdictional agency determinations. Except to the extent that a seller is authorized to make interim collection under Part 273, any price specified in any of the following subparts of Part 271 applies to a first sale of natural gas only if a determination by a jurisdictional agency that such gas qualifies under such subpart has become final in accordance with Parts 274 and 275:

(1) Subpart B (relating to new natural gas and certain OCS gas);

(2) Subpart C (relating to new, onshore production wells);

(3) Subpart G (relating to high-cost natural gas); and

(4) Subpart H (relating to stripper well natural gas).

(d) Other categories of natural gas. (1) Certain committed or dedicated natural gas. The maximum lawful prices under Subpart D of Part 271 (relating to certain committed or dedicated natural gas) apply to a first sale to the extent provided in such subpart, if the applicable filing requirements under §§ 154.92 and 154.94 of this chapter are met.

(2) Existing intrastate contracts; intrastate rollover contracts; certain other categories. The maximum lawful prices under Subparts E, F, and I of Part 271 (relating to existing intrastate contracts, intrastate rollover contracts, and certain other categories of natural gas) apply to first sales of natural gas without requirement of a prior determination by the Commission or a jurisdictional agency.

(e) Refund obligations. Any collection of a first sale price under this subchapter is subject to any refund obligation which may be applicable under Part 273 or under otherwise applicable law or regulation.

§ 270.102 Definitions.

(a) NGPA definitions. Terms defined in the NGPA shall have the same meaning for purposes of this subchapter as they have under the NGPA, unless further defined in this subchapter.

(b) Subchapter H definitions. For purposes of this subchapter:

(1) "NGPA" means the Natural Gas Policy Act of 1978.

(2) "British thermal unit" or "Btu" means the quantity of heat required to raise the temperature of one pound avoirdupois of pure water from 58.5 degrees to 59.5 degrees Fahrenheit, determined in accordance with § 270.204.

(3) "MMBtu" means million British thermal units.

(4)(i) Except as provided in clause (ii), "production in commercial quantities" means production of natural gas from a well or reservoir which is either: (A) sold and delivered to one other than the operator; or (B) (subject to § 271.204(e)) retained by the operator, or any owner of the production at severance, for beneficial economic use.

(ii) Natural gas used for the testing of natural gas wells or for other field uses which are production related shall not be considered produced in commercial quantities.

(iii) Any of the following information may be considered as evidence of sale and delivery, or production for the operator's or other owner's beneficial economic use:

(A) payment of severance taxes;

(B) payment of royalties;

(C) production reports filed with a jurisdictional agency;

(D) a sales contract together with verification by a purchaser that natural gas had been delivered and paid for under the contract; or

(E) any other substantial evidence that production has been sold and delivered, or retained for the beneficial use of the operator or other owner of production at severance.

(5) "Crude oil" means a mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.

(6) "Surface location" means the point on the earth's surface from which drilling of a well is commenced, except that in the case of a well drilled in permanent surface waters, surface location means the point of penetration of the earth's surface immediately below the water's surface, beneath a floating or fixed drilling structure.

(7) "OCS" means the Outer Continental Shelf as defined in section 2(35) of the NGPA.

(8) "Existing intrastate contract" means any intrastate contract for the first sale of natural gas in existence on November 8, 1978. A contract is in existence on November 8, 1978 if on that date, there is a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty. For the purposes of this subchapter "existing intrastate contract" includes a "successor to an existing intrastate contract."

(9) "Successor to an existing intrastate contract" means any intrastate contract, other than an intrastate rollover contract, entered into on or after November 9, 1978, for the first sale of natural gas which was previously subject to an existing contract, whether or not there is an identity of parties or terms with those of such existing contract. The term "successor to an existing intrastate contract" includes a contract the primary term of which has not expired but which has been assigned to a different party in interest.

(10) "Intrastate contract" means any contract applicable to the sale of natural gas which was not committed or dedicated to interstate commerce on November 8, 1978.

(11) "Intrastate rollover contract" means any contract, entered into on or after November 9, 1978, for the first sale of natural gas that was previously subject to an existing intrastate contract which expired at the end of a fixed term (not including any extension thereof taking effect on or after November 9, 1978), specified by the provisions of such existing contract, as such contract was in effect on November 9, 1978, whether or not there is an identity of parties or terms with those of such existing contract.

(12) "Jurisdictional agency" means the state or federal agency identified in Subpart E of Part 274.

§ 270.103 Effective date.

The provisions of this subchapter apply to deliveries of natural gas on or after December 1, 1978.

SUBPART B - SPECIAL RULES

§ 270.201 First sale of natural gas subject to differing maximum lawful prices.

In the case of a first sale of any quantity of natural gas (a) which is sold at a single price, and (b) which is comprised of various volumes of natural gas to which different maximum lawful prices are applicable, the maximum lawful price for such sale shall be the average of such maximum lawful prices (weighted according to the respective volumes of gas subject to different maximum lawful prices).

§ 270.202 Resales.

(a) General rule. In the case of any first sale of natural gas which is a resale of such gas, the maximum lawful price shall be the higher of:

(1) the maximum lawful price which would be applicable to such sale if it were not a resale; or

(2) whichever of the following is applicable:

(i) in the case of natural gas which when sold to the reseller was subject to a single maximum lawful price, the maximum lawful price applicable to the natural gas sold to the reseller; or

(ii) in the case of natural gas which when sold to the reseller was subject to more than one maximum lawful price,

the average of the maximum lawful prices applicable to the natural gas sold to the reseller (weighted according to the volumes of the purchased natural gas that are subject to the different maximum lawful prices).

(b) Special rule for interim collections.

(1) If the price charged and collected for a sale to a reseller is charged and collected under the authority of Part 273 (relating to interim collection), then:

(i) the price authorized to be collected by Part 273 shall be treated as a maximum lawful price for purposes of paragraph (a)(2); and

(ii) the price charged and collected by the reseller shall be subject to the same refund conditions as are imposed on the person who sold the natural gas to the reseller under Part 273.

(2) The reseller is not obligated by Part 273 to make any filings with the Commission if the person who sold the natural gas to the reseller has made the filings required by Part 273.

(c) Allowances. A resale of natural gas shall not be considered to exceed any maximum lawful price established in paragraph (a) of this section if it exceeds such price to the extent necessary to recover state severance taxes or production-related costs which are borne by the reseller and

recovery of which is authorized under Subpart K of Part 271. If a price for a first sale to a reseller of natural gas is not considered to exceed the applicable maximum lawful price applicable to such sale by reason of an amount allowed under Subpart K, then for purposes of applying paragraph (a)(2), the maximum lawful price applicable to the sale to the reseller shall be considered to include the amount so allowed.

(d) Adjustments. Pursuant to section 502(c) of the NGPA, a reseller may apply to the Commission for an adjustment of the maximum lawful price in paragraph (a) of this section on the grounds that such price results in special hardship, inequity or an unfair distribution of burdens.

(e) Definition. For purposes of this section:

(1) "Resale" of natural gas means the sale of natural gas, all or a portion of which was both purchased and resold in transactions which are first sales as defined in the NGPA.

(2) A "reseller" means the seller in a resale of such natural gas.

(f) Record retention. In addition to any records required to be retained by reason of an election made under § 276.101(b), resellers shall maintain such records as are sufficient to demonstrate that prices charged in connection

with resales of natural gas do not exceed the maximum lawful prices prescribed in this section. Such records shall include:

(1) a record of each resale of natural gas by the reseller, including the identity of the purchaser and the volume and price of such sale;

(2) a record of each sale of natural gas to the reseller including the volume and price of such sale;

(3) a copy of each contract covering the purchase and sale of natural gas resold; and

(4) a record of the method by which the reseller computes the maximum lawful price applicable to each resale and the documents relied on to make the computations.

(g) Period for keeping records. Each reseller required to maintain records under this section shall maintain and preserve contracts for at least three years after expiration and such other records for at least three years after the date of the relevant transaction or event.

§ 270.203 Pipeline or distributor production.

(a) Attribution rule. For purposes of applying section 2(21)(B) of the NGPA, a sale by a pipeline or

distributor is a sale of natural gas attributable to volumes of natural gas produced by such pipeline or distributor (or affiliate thereof) to the extent such sale is a sale comprised of production volumes from identifiable wells, properties, or reservoirs which are owned by such pipeline or distributor (or affiliate thereof).

(b) Circumvention rule. To the extent a sale of natural gas by a pipeline or distributor is comprised of production volumes from identifiable wells, properties, or reservoirs and a portion of those volumes is produced from wells, properties, or reservoirs owned by such pipeline or distributor (or affiliate thereof), then such sale shall be treated as a first sale pursuant to the Commission's authority under section 2(21)(A)(v) of the NGPA unless:

(1) the price at which such natural gas is sold is regulated pursuant to the Natural Gas Act or is regulated or subject to regulation by a state agency; or

(2) the Commission, on application, has determined not to treat such sale as a first sale.

(c) Definitions. For purposes of this section:

(1) "Pipeline or distributor" means an interstate pipeline, an intrastate pipeline, a local distribution company, or an affiliate of any of the above.

(2) "State agency" means a state, a political subdivision of a state, or an agency or instrumentality of either.

§ 270.204 Btu content per unit volume of natural gas.

For purposes of determining the number of Btu's per unit volume of natural gas, the Btu content of one cubic foot of natural gas is the number of Btu's produced by the combustion, at constant pressure, of the amount of gas which would occupy a volume of 1.0 cubic foot at a temperature of 60 degrees Fahrenheit, saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by combustion is condensed to the liquid state.

§ 270.205 Indefinite price escalator clauses.

(a) The establishment of maximum lawful prices under the NGPA shall not trigger indefinite price escalator clauses in existing intrastate or interstate contracts.

(b) For purposes of this section, the term

"indefinite price escalator clause" shall have the same meaning as provided in section 105(b)(3)(B) of the NGPA.

PART 271 - CEILING PRICES

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271.102 Calculation of inflation adjustment for certain maximum lawful prices.

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Subpart J - [Reserved]

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271.1101 Definitions.
271.1102 State severance taxes.
271.1103 Record retention.
271.1104 Natural Gas Act allowances.
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271.1106 Adjustments.

Authority: This part is issued under the Natural Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350.

SUBPART A - SUMMARY TABLES AND CALCULATIONS

§ 271.101 Ceiling prices for certain categories of natural gas.

(a) Subparts B through J of this part specify maximum lawful prices applicable to first sales of natural gas. Maximum lawful prices for Subparts B, C, G, H, and I, and for certain categories of natural gas under Subpart D, are determined in accordance with price tables which appear in those subparts and which are summarized in the following tables:

Table I - Summary of certain gas ceiling prices

(Prices in $/MMBtu)

Subpart A of Part 271	NGPA Section	Category of Gas	Maximum Lawful Price for Deliveries made in: December 1978	January 1979
B	102	New Natural Gas, Certain OCS Gas	$2.078	$2.096
C	103	New Onshore Production Wells	1.969	1.980
G	107	High Cost (below 15,000 only)	2.078	2.096
H	108	Stripper	2.224	2.243
I	109	Not Otherwise Covered	1.630	1.639

Table II - Certain gas committed or dedicated to interstate commerce on November 8, 1978.

Subpart of Part 271	NGPA Section	Category of Natural Gas	Type of Sale or Contract	Maximum lawful Price per MMBtu for Deliveries Made in: December 1978	January 1979
D	104	Post-1974 gas	All producers	$1.630	$1.639
		1973-1974 biennium gas	Small producer	1.379	1.387
			Large producer	1.058	1.064
	106(a)	Interstate Rollover gas	Small producer	0.702	0.715
			Large producer	0.603	0.607
	104	Replacement contract gas or recompletion gas	Small producer	0.771	0.775
			Large producer	0.593	0.596
		Flowing gas	Small producer	0.393	0.395
			Large producer	0.332	0.334
		Certain Permian Basin gas	Small producer	0.462	0.465
			Large producer	0.405	0.407
		Certain Rocky Mountain gas	Small producer	0.462	0.465
			Large producer	0.393	0.395
		Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	0.368	0.370
			Other contracts	0.344	0.346
		Minimum rate gas	All producers	0.203	0.204

(b) Caveat. The tables in paragraph (a) of this section are summaries of applicable maximum lawful prices and may not be relied upon to establish qualification for a particular price. The seller should examine the other provisions of this subchapter in order to ascertain whether the natural gas in question qualifies for the price appearing in the table or some other price.

(c) Cross reference. For maximum lawful prices applicable to natural gas sold under existing intrastate contracts or intrastate rollover contracts, see Part 271, Subparts D and F.

§ 271.102 Calculation of inflation adjustment for certain maximum lawful prices.

(a) Maximum lawful prices for first sales of certain categories of natural gas to which Subparts D, E, and F apply are to be calculated in the following manner:

(1) Determine the base price applicable for the base month.

(2) For the month following the base month, multiply the inflation adjustment applicable for such following month by the base price.

(3) For each succeeding month (through the month of delivery), multiply the inflation adjustment applicable for

such succeeding month by the price calculated under this paragraph for the prior month.

(b) The price determined for each month under paragraph (a) shall be rounded to the nearest mill (rounding to the next highest mill only that fraction which is one-half a mill or greater).

(c) Inflation adjustment. The following table contains the inflation adjustment applicable for each month beginning with May 1977, and ending with January 1979:

Table III - Inflation adjustment.

Month of Delivery	Factor by which price in preceding month is multiplied
1977	
May	1.00636
June	1.00636
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978	
January	1.00597
Feoruary	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979	
January	1.00581

(d) Definitions. For purposes of this section:

(1) "base price" means:

(i) for maximum lawful prices to be calculated under § 271.402(d)(1) (relating to certain committed or dedicated gas), the just and reasonable rate for April 20, 1977;

(ii) for maximum lawful prices to be calculated under § 271.502(b)(2) (relating to certain existing intrastate contracts), the contract price per MMBtu on November 9, 1978; and

(iii) for maximum lawful prices to be calculated under § 271.602(a)(1) (relating to certain rollover contracts), the contract price per MMBtu under the expired contract for the month in which the effective date of the rollover contract occurs.

(2) "base month" means:

(i) April 1977, for maximum lawful prices under § 271.402(c)(1);

(ii) November 1978, for maximum lawful prices under § 271.502(b)(2); and

(iii) the month in which the effective date of the rollover contract occurs, for maximum lawful prices under § 271.602(a)(1).

SUBPART B - NEW NATURAL GAS AND CERTAIN NATURAL GAS PRODUCED FROM THE OUTER CONTINENTAL SHELF

§ 271.201 Applicability.

This subpart implements section 102 of the NGPA and applies to the first sale of:

(a) new natural gas; or

(b) natural gas produced from a new OCS reservoir on an old OCS lease.

§ 271.202 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$ 2.078
January 1979	$ 2.096

§ 271.203 Definitions.

For purposes of this subpart:

(a) "New natural gas" means natural gas which a jurisdictional agency has determined, in accordance with Parts 274 and 275, to be new natural gas (as defined in section 102(c) of the NGPA).

(b) "Natural gas from a new OCS reservoir on an old OCS lease" means natural gas which the jurisdictional agency determines, in accordance with Parts 274 and 275 and under section 102(d)(2), (3), (4), and (5) of the NGPA, to be natural gas produced from a reservoir which is on an old lease on the OCS and which was not discovered before July 27, 1976.

(c) "OCS lease" means a lease of submerged acreage which is entered into with the Secretary of the Interior under the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1331, et seg.).

(d) "New OCS lease" means an OCS lease entered into by the Secretary of the Interior on or after April 20, 1977.

(e) "Old OCS lease" means an OCS lease other than a new OCS lease.

§ 271.204 Special rules.

(a) Vertical measurement of 1,000 feet between completion locations. For the purpose of determining under section 102(c)(1)(B)(ii) of the NGPA the vertical distance between the deepest marker well completion location and a new well completion location, for which a determination is sought, measurement shall be the true vertical depth from the highest perforation point of such marker well completion location to the highest perforation point in the new well completion location. In the case of any well which is an open-hole completion, measurement shall be from the highest elevation point within the well bore of the reservoir being produced.

(b) Capable of producing in paying quantities. For purposes of section 102(d)(2)(B)(i) and (ii) of the NGPA, a reservoir is capable of producing in paying quantities if a well completed therein can reasonably be expected to produce natural gas in quantities sufficient to yield revenues in excess of operating costs.

(c) Commercially producible. For purposes of section 102(d)(2)(B)(iii) of the NGPA, a reservoir is commercially producible if a well completed therein can reasonably be expected to produce natural gas in commercial quantities as defined in § 270.102(b)(4).

(d) Suitable facilities. For purposes of section 102(c)(1)(C)(iii)(II) of the NGPA (but subject to section 102(c)(1)(C)(iv) thereof), suitable facilities for the production and delivery of natural gas described in section 102(c)(1)(C)(iii)(I) of the NGPA were in existence on April 20, 1977, if on that date facilities for the production and delivery of natural gas to a pipeline were:

(1) installed; or

(2) substantially installed and additional facilities necessary for such production and delivery were readily available and could have been installed by April 20, 1977.

(e) Production in commercial quantities. For purposes of determining whether production of natural gas in commercial quantities has occurred under section 102(c)(1)(C) of the NGPA:

(1) a rebuttable presumption exists that production from a reservoir in commercial quantities has not occurred if natural gas has not been sold and delivered from such reservoir before April 20, 1977. Such presumption may be rebutted by evidence of retention of the natural gas by the operator, or owner of the production at severance, for beneficial economic use; and

(2) quantities of natural gas sold in interstate commerce (within the meaning of the Natural Gas Act) before November 9, 1978, shall not be taken into account if such sales were made:

(i) under section 6 of the Emergency Natural Gas Act of 1977; or

(ii) under the emergency sale authority pursuant to Opinion 699-B, issued by the Commission under section 7(c) of the Natural Gas Act.

SUBPART C - NEW, ONSHORE PRODUCTION WELLS

§ 271.301 Applicability.

This subpart implements section 103 of the NGPA and applies to the first sale of natural gas produced from a new, onshore production well.

§ 271.302 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$ 1.969
January 1979	$ 1.980

§ 271.303 Definition of new, onshore production well.

For purposes of this subpart, the term "new, onshore production well" means a well which a jurisdictional agency has determined, in accordance with Parts 274 and 275, to be a new, onshore production well (as defined in section 103(c) of the NGPA).

§ 271.304 Waivers of well-spacing requirements.

If a jurisdictional agency alters, or grants a waiver of, any applicable well-spacing requirements prior to the commencement of surface drilling of the well for which a determination is sought, the new well shall be deemed to satisfy any applicable Federal or State well-spacing requirements as required by section 103(c)(2) of the NGPA.

§ 271.305 Special rule applicable to existing proration units.

(a) Applicability. This section applies to a jurisdictional agency determination with respect to a new well which is drilled:

(1) within a proration unit in existence at the time the surface drilling of such new well began; and

(2)(i) to a reservoir to which the proration unit applies and from which natural gas either was or is being produced in commercial quantities through an existing well or (ii) to a reservoir to which the proration unit applies and from which natural gas was capable of being produced in commercial quantities through a well, the surface drilling of which commenced prior to February 19, 1977.

(b) Wells spudded after December 31, 1978, and for which a drilling permit had not been issued prior to January 1, 1979. (1) This paragraph applies to wells to which this section applies and:

(i) for which a drilling permit is issued after December 31, 1978; or

(ii)(A) the surface drilling of which began after December 31, 1978; and

(B) for which a drilling permit had not been issued prior to January 1, 1979.

(2) In order for natural gas from a well to which this paragraph applies to qualify for the maximum lawful price under this subpart, the jurisdictional agency must find, prior to the commencement of drilling, that the well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit. Such finding must be explicit and must involve either a redefinition of the boundaries of the previously existing proration unit or an alteration of or exception to otherwise applicable well-spacing rules.

(c) Wells spudded after February 19, 1977, and before January 1, 1979, or for which a drilling permit was issued before January 1, 1979. (1) This paragraph applies to wells to which this section applies and:

(i) the surface drilling of which began on or after February 19, 1977, and before January 1, 1979; or

(ii) for which a drilling permit was issued before January 1, 1979.

(2) Upon request of an applicant for a determination for a well to which this paragraph applies, the jurisdictional agency shall review the record which was developed prior to the commencement of drilling of (in the case of a well described in subparagraph (1)(i) of this paragraph) or the issuance of the drilling permit for (in the case of a well described in subparagraph (1)(ii) of this paragraph) the well for which the determination is sought. In order for natural gas from such well to qualify for the maximum lawful price under this subpart, the jurisdictional agency must make a finding based on such review that prior to the commencement of drilling or the issuance of the drilling permit:

(i) the agency explicitly found that the drilling of the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which could not be effectively and efficiently drained by any existing well within the proration unit; or

(ii) the agency implicitly made such finding and the record developed by such agency before commencement of drilling would support an explicit finding that the drilling of the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which could not be effectively and efficiently drained by any existing well within the proration unit.

(d) Notice of findings.. If the jurisdictional agency makes a finding under paragraph (b) or (c) of this section, it shall notify the Commission of such a determination in accordance with § 274.104.

SUBPART D - NATURAL GAS COMMITTED OR DEDICATED TO INTERSTATE COMMERCE

§ 271.401 Applicability.

This subpart implements sections 104 and 106(a) of the NGPA and applies to the first sale of natural gas committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate under the Natural Gas Act was in effect on November 8, 1978, for the sale of such gas.

§ 271.402 Maximum lawful prices.

(a) Ceiling prices. Unless a different rate is applicable under paragraph (d), the maximum lawful price for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

NGPA Section	Category of Natural Gas	Type of Sale or Contract	Maximum Lawful Price per MMBtu for Deliveries made in: December 1978	January 1979
104	Post-1974 gas	All producers	$1.630	$1.639
104	1973-1974 biennium gas	Small producer	1.379	1.387
		Large producer	1.058	1.064
106(a)	Interstate rollover gas	Small producer	0.702	0.715
		Large producer	0.603	0.607
104	Replacement contract gas or recompletion gas	Small producer	0.771	0.775
		Large producer	0.593	0.596
	Flowing gas	Small producer	0.393	0.395
		Large producer	0.332	0.334
	Certain Permian Basin gas	Small producer	0.462	0.465
		Large producer	0.405	0.407
	Certain Rocky Mountain gas	Small producer	0.462	0.465
		Large producer	0.393	0.395
	Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	0.368	0.370
		Other contracts	0.344	0.346
	Minimum rate gas	All producers	0.203	0.204

(b) Definitions. For the purposes of this section:

(1) "Post-1974 gas" means natural gas to which this subpart applies which is produced from a well the surface drilling of which commenced on or after January 1, 1975.

(2) "1973-1974 biennium gas" means natural gas, to which this subpart applies, from a well the surface drilling of which commenced on or after January 1, 1973, and prior to January 1, 1975.

(3) "Interstate rollover gas" means:

(i) natural gas to which this subpart applies which is sold under a rollover contract as defined in section 2(12) of the NGPA; or

(ii) natural gas to which this subpart applies which is sold under a contract which would have been a rollover contract, but for the fact that the expiration of the previous contract occurred prior to November 9, 1978.

(4) "Replacement contract gas or recompletion gas" means natural gas to which this subpart applies which is:

(i) sold under a replacement contract which was executed on or after January 1, 1973, but prior to November 9, 1978, where the prior contract expired by its own terms prior to January 1, 1973; or

(ii) sold under a replacement contract executed prior to November 9, 1978, where the prior contract expired by its own terms after January 1, 1973; or

(iii) sold under a contract for the sale of natural gas from a well commenced prior to January 1, 1973, and

not sold in interstate commerce prior to January 1, 1973, (excluding gas sold prior to such date under §§ 2.68, 2.70, 157.22 or 157.29 of this chapter); or

(iv) produced as a result of a completion operation into a different formerly nonproductive reservoir, commenced on or after January 1, 1973, and produced through a well commenced prior to January 1, 1973.

(5) "Certain Permian Basin gas" means natural gas (other than replacement contract gas or recompletion gas) to which this subpart applies and which is produced in the Permian Basin Area, as defined in FPC Opinion No. 662 (50 F.P.C. 390 at 400-401) and is sold pursuant to a contract executed on or after October 1, 1968.

(6) "Certain Rocky Mountain gas" means natural gas (other than replacement contract gas or recompletion gas) to which this subpart applies and which is produced in the Rocky Mountain Area, as defined in § 154.109(b) of this chapter and sold pursuant to a contract executed on or after October 1, 1968.

(7) "Certain Appalachian Basin gas" means natural gas (other than replacement contract gas or recompletion gas) to which this subpart applies and which is produced by a large producer either (i) in the south subarea under

contracts dated after October 7, 1969, or (ii) in the north subarea, of the Appalachian Basin Area, as defined in § 154.107 of this chapter.

(8) "Flowing gas" means natural gas to which this subpart applies (other than natural gas described in the preceding subparagraphs of this paragraph) produced from a well the surface drilling of which commenced prior to January 1, 1973.

(9) "Minimum rate gas" means natural gas to which this subpart applies produced from a well the surface drilling of which commenced prior to January 1, 1973, and which is sold pursuant to a contract providing for a fixed rate lower than that applicable to such gas under paragraph (a).

(10) A sale qualifies as a small producer sale under this subpart: (i) if it is a small producer sale (as defined in § 157.40(a)) covered by a blanket certificate under § 157.40(b) and (d), or (ii) if it is a sale by a large producer from small producer reserves, and such sale is entitled to the small producer rate under § 157.40(f)(2).

(11) A large producer sale is a first sale which does not qualify as a small producer sale under subparagraph (10) of this paragraph.

(c) Applicable higher rates.

(1) If a just and reasonable rate in effect on April 20, 1977, under §§2.56a(g), 2.56(h), 2.76, or 2.77 of this chapter was applicable on November 30, 1978, to a first sale of natural gas, then such rate (plus an inflation adjustment from April, 1977, determined in accordance with § 271.102), if higher, shall apply in lieu of the rate determined under paragraph (a).

(2) Any just and reasonable rate for a sale of natural gas which was established by the Commission after April 20, 1977, and before November 9, 1978, shall be the maximum lawful price applicable to such sale if higher than the otherwise applicable rate prescribed under paragraph (a) or (d)(1) of this section.

(3) Any seller seeking to charge a rate in excess of the applicable maximum lawful price described in paragraph (a), or (d)(1), or (d)(2) of this section must first file a petition seeking special relief pursuant to § 1.7(b) of this chapter fully justifying the relief sought. Such seller may not file a rate increase for, or charge or collect any rate in excess of the maximum lawful price otherwise applicable under this section unless the Commission has granted such petition for special relief.

§ 271.403 Special rule regarding carrying charge adjustment for advance payments.

The rate prescribed in § 271.402 for post-1974 gas to which Opinion No. 770-A applies shall be subject to a deduction of 83 cents per MMBtu as a carrying charge adjustment if the seller has accepted advance payments on or after 1:00 p.m., EST, November 5, 1976, under an advance payments contract with an interstate pipeline company and such pipeline company has received rate base treatment of such advance payments made. The resulting adjusted rate shall be employed in the discharge of the obligations of any advance payments after 1:00 p.m., EST, November 5, 1976, for all deliveries until an amount of natural gas has been delivered at the adjusted rate such that the total carrying charge credits equal the amounts lawfully collected by the jurisdictional pipeline company as a result of including the advance payments in rate base.

SUBPART E - SALES UNDER EXISTING INTRASTATE CONTRACTS

§ 271.501 Applicability.

This subpart implements section 105 of the NGPA and applies to the first sale of natural gas under an existing intrastate contract or under a successor to an existing intrastate contract. This subpart is not applicable to sales made under an intrastate rollover contract as defined in § 270.102(b)(11) of this part.

§ 271.502 Maximum lawful prices.

(a) November 9, 1978, contract price at or below $2.060 per MMBtu. In the case of a first sale of natural gas to which this subpart applies (other than a first sale to which paragraph (b) applies), the maximum lawful price for natural gas delivered in any month shall be the lower of:

(1) the price for such month under the terms of the existing intrastate contract to which such natural gas was subject on November 9, 1978, as such contract was in effect on November 9, 1978; or

(2) the maximum lawful price per MMBtu for such month under § 271.202 (relating to new natural gas).

(b) November 9, 1978, contract price greater than $2.060 per MMBtu. In the case of a first sale of natural gas to which this subpart applies, if the contract price applicable on November 9, 1978, was greater than $2.060 per MMBtu, the maximum lawful price for natural gas delivered in any month shall be the higher of:

(1) the maximum lawful price per MMBtu for such month under § 271.202 (relating to new natural gas); or

(2) the contract price per MMBtu on November 9, 1978, adjusted for inflation in accordance with § 271.102 of this part.

§ 271.503 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.101.

§ 271.504 Determination of contract price.

For purposes of this subpart:

(a) Contract price. "Contract price," when used with respect to any specific date and contract, means:

(1) the price paid per MMBtu under a contract for deliveries of natural gas occurring on that date; or

(2) if no deliveries of natural gas occurred under such contract on that date, the price per MMBtu that would have been paid had such deliveries occurred on that date.

(b) Take-or-pay clauses. If the contract contains a take-or-pay clause and payments were made under such clause for deliveries on November 9, 1978, the contract price on November 9, 1978, shall be determined as if volumes obligated to be taken were taken.

§ 271.505 Contract modifications.

(a) Except as provided in subparagraph (b), for purposes of this subpart, no successor to an existing intrastate contract or modification executed after November 9, 1978, of an existing intrastate contract may:

(i) alter the terms of the existing intrastate contract in a manner which has the effect of requiring the purchaser to bear any production-related costs (as defined in § 271.1101(b)) which were allocated to the seller under the existing intrastate contract; or

(ii) provide for an earlier date for deliveries than provided for under the existing contract.

(b) Nothing in paragraph (a) shall preclude a purchaser who was not a party to the existing intrastate

contract on November 9, 1978, from agreeing, by modifications of the existing intrastate contract, or otherwise, to bear responsibility and pay for any increase (or portion thereof) in production-related costs, incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the existing intrastate contract.

SUBPART F - INTRASTATE ROLLOVER CONTRACTS

§ 271.601 Applicability.

This subpart implements section 106(b) of the NGPA and applies to the first sale of natural gas under an intrastate rollover contract.

§ 271.602 Maximum lawful price.

(a) The maximum lawful price for a first sale of natural gas under an intrastate rollover contract to which section 106(b)(1) of the NGPA applies shall be the higher of:

(1)(i) the maximum lawful price paid under the expired contract, per MMBtu, in the case of the month in which the effective date of such rollover contract occurs; and

(ii) in the case of any month thereafter, the maximum lawful price, per MMBtu, prescribed under this paragraph for the preceding month adjusted for inflation in accordance with § 271.102; or

(2) the amount determined under the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$ 1.121
January 1979	$ 1.128

(b) The maximum lawful price, per MMBtu, for natural gas to which section 106(b)(2) of the NGPA (relating to certain State or Indian natural gas production interests) applies shall be the amount determined in accordance with the following table in lieu of the amount determined under the table under paragraph (a)(2):

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$ 2.078
January 1979	$ 2.096

§ 271.603 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.101.

§ 271.604 Special rule.

(a) No intrastate rollover contract may contain terms which differ from the terms of the expired contract and which have the effect of requiring the purchaser to bear any production related costs (as defined in § 271.1101(b)) which were allocated to the seller under the expired contract.

(b) Nothing contained in paragraph (a) shall preclude a purchaser who was not a party to the expired contract from agreeing in the intrastate rollover contract to bear responsibility and pay for any increase (or portion thereof) in production-related costs, the incurrence of which is necessary in order for such person to take delivery of the natural gas subject to the intrastate rollover contract.

SUBPART G - HIGH-COST NATURAL GAS

§ 271.701 Applicability.

This subpart implements section 107(a) of the NGPA and applies to the first sale of natural gas which is deep, high-cost natural gas.

§ 271.702 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$ 2.078
January 1979	$ 2.096

§ 271.703 Definition of deep, high-cost natural gas.

For purposes of this subpart, deep, high-cost natural gas is natural gas which a jurisdictional agency determines, in accordance with Parts 274 and 275, is produced:

(a) from any well, the surface drilling of which began on or after February 19, 1977; and

(b) from a completion location which is located at a depth of more than 15,000 feet.

§ 271.704 Special rule.

For purposes of determining depth under this subpart and section 107(c)(1) of the NGPA, measurement shall be the true vertical depth from the surface of the ground to the highest perforation point in the completion location.

SUBPART H - STRIPPER WELL NATURAL GAS

§ 271.801 Applicability.

This subpart implements section 108 of the NGPA and applies to any first sale of natural gas which a jurisdictional agency determines is stripper well natural gas.

§ 271.802 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$ 2.224
January 1979	$ 2.243

§ 271.803 Definitions.

For purposes of this subpart:

(a) "Recognized enhanced recovery techniques" means processes or equipment, or both, which when performed or installed, increase the ultimate recovery of gas from a well. Processes qualifying as enhanced recovery techniques include mechanical as well as chemical stimulation of the reservoir formation. Equipment may include items installed in the well bore or on the surface. Normal well maintenance, repair, or replacement of equipment or facilities does not qualify as enhanced recovery techniques.

(b) "Nonassociated natural gas" means natural gas produced from a well which a jurisdictional agency determines produced an average number of barrels of crude oil per production day during the production period upon which the determination is based, which does not exceed the number of barrels determined in accordance with the following table:

If the average production of natural gas per production day during such production period was:	then average crude oil production per day may not exceed:
50 Mcf or more but less than 60 Mcf	1 bbl
30 Mcf or more but less than 50 Mcf	2 bbl
Less than 30 Mcf	3 bbl

§ 271.804 Special rules.

(a) Rate of production. For purposes of determining the rate of production from a well for which a stripper well determination is sought, the total volume of natural gas produced from the well shall constitute its daily production regardless of whether the well is completed in more than one interval or the production is separately metered from separate intervals.

(b) Averaging of production. If a determination of stripper well status is sought with respect to wells which are not individually metered, rates of production of natural gas and oil may, in the absence of other reliable evidence, be averaged equally among the non-metered wells.

(c) Applications for determinations. Applications under this subpart shall be based on a 90-day production period ending within 120 days prior to the date on which the application is filed.

(d) Maximum efficient rate of flow.

(1) Where a maximum efficient rate of flow for a well, determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas, has been established by a jurisdictional agency, production of natural gas at that rate shall be deemed to be production at the maximum efficient rate of flow.

(2) In the absence of applicable recognized conservation practices designed to maximize the ultimate recovery of natural gas established by a jurisdictional agency for determining the maximum efficient rate of flow of wells producing natural gas, a well which has produced nonassociated natural gas at an average rate of 60 Mcf per day or less for a 90-day production period is presumed to have produced

at its maximum efficient rate of flow if during the 12-month period ending concurrently with the 90-day production period which is the basis for the application under paragraph (c), such well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day; or

(3) if the production data described in subparagraph (2) of this paragraph are not available, the jurisdictional agency shall, if the well has produced nonassociated natural gas at an average rate of 60 Mcf or less for a 90-day production period:

(i) make the determination as to whether the well produced at its maximum efficient rate of flow based upon other substantial evidence, such as flow tests, which measure the capability of the well to produce natural gas under normal operating conditions; or

(ii) defer making an affirmative determination and designate a 12-month period during which the applicant may secure the data described in subparagraph (2) of this paragraph, allowing the applicant 30 days from the end of such period to submit the data.

(4) The jurisdictional agency shall make a negative determination as to eligibility and give notice thereof to the applicant, any identified purchasers and the Commission, if:

(i) the applicant fails to submit production data pursuant to subparagraph (3)(ii) of this paragraph, within the time allowed; or

(ii) the production data submitted by the applicant indicate that for the 12-month period, the well produced nonassociated natural gas at a rate which exceeded an average of 60 Mcf per production day.

(5) Upon submission of an application which is to be considered pursuant to subparagraph (3)(ii) of this paragraph, the applicant, if permitted to do so by contract, may collect the maximum lawful price provided in § 271.802 from the date of filing until the date of a final determination pursuant to this subpart, subject to the interim collection requirements in Part 273.

(e) Seasonally affected wells. (1) If together with a petition for qualification as a stripper well, the applicant submits to the jurisdictional agency, production reports for a period of at least 24 months ending concurrently with the 90-day production period which is the basis for the application under paragraph (c), and if such reports demonstrate that the well is subject to seasonal fluctuations which temporarily increase average production above 60 Mcf per production day, the jurisdictional agency may, upon

request, designate the well as "seasonally affected." Such designation shall be granted by the jurisdictional agency only if it finds that the seasonal fluctuations have not and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period.

(2) If at any time subsequent to a final determination of stripper well status, the operator acquires production reports for a period of 24 consecutive months which demonstrate that the well is seasonally affected, a petition may be filed with the jurisdictional agency for designation as a seasonally affected well unless the average rate of production exceeds 60 Mcf per production day for any 12-month period.

(3) If a well is designated as seasonally affected, the operator of such well and the purchaser of production from such well are exempt from the filing requirements of § 274.805 unless the average rate of production exceeds 60 Mcf per day for a 12-month period.

§ 271.805 Continuing qualification.

(a)(1) Unless exempt under § 271.804(e)(3), the operator or any purchaser of natural gas shall give written notice if:

(i) such well produces nonassociated natural gas at a rate exceeding an average of 60 Mcf per production day for any 90-day production period; or

(ii) such well which has been designated a seasonally affected well produces at an average rate in excess of 60 Mcf per day for a 12-month production period.

(2) Such notice shall, as appropriate, be given to the jurisdictional agency, the Commission, and any purchaser. Except as provided in paragraph (b) of this section, such notice shall terminate the right of any seller to continue the collection of the maximum lawful price set forth in § 271.802 for natural gas from the well identified in the notice.

(b) The operator may, at the same time the notice described in paragraph (a)(1) of this section is filed, file a petition with the jurisdictional agency for a determination under § 271.806 that the increased production of nonassociated natural gas is the result of the application of enhanced recovery techniques or, if the well has not been designated as seasonally affected, the result of seasonal fluctuations. A copy of the petition shall be provided to the jurisdictional agency, the Commission, and the purchaser together with the notice under paragraph (a)(1) of this section.

(c) Any notice required by this section shall be made within 45 days after the last day of the 90-day or the 12-month production period in which the increased production of natural gas occurred.

(d) If the notice pursuant to paragraph (a)(1) of this section is filed by a purchaser, an operator shall have 30 days from the date of the notice within which to oppose the allegation or to seek a determination from the jurisdictional agency that the increase in production is the result of the application of recognized enhanced recovery techniques or seasonal fluctuations. Unless the operator of a well, within 30 days of such notice, files a petition with a jurisdictional agency as provided in paragraph (b) of this section, a well for which notice is given under paragraph (a)(1) of this section shall immediately be disqualified as a stripper well and the right of any seller to collect the maximum lawful price set forth in § 271.802 shall terminate as of the last day of the 90-day or the 12-month production period described in the notice.

(e) If an operator files a petition with a jurisdictional agency pursuant to paragraph (b) or (d) of this section, further collection of the maximum lawful price set forth in § 271.802 shall be made subject to refund from the last day of the 90-day or the 12-month production period

described in the notice under paragraph (a)(1) of this section.

(f) If subsequent to the filing of a petition it is determined that an increase in production of natural gas is the result of recognized enhanced recovery techniques, neither the operator nor the purchaser shall be obligated to report average production levels above 60 Mcf per day during any 90-day production period unless the increased production results from a cause other than recognized enhanced recovery techniques determined to have been used.

§ 271.806 Jurisdictional agency determinations and Commission review.

(a) Upon receipt of a petition to designate a well as a seasonally affected well pursuant to § 271.804(c) or an application to determine that production in excess of an average of 60 Mcf per production day for any 90-day production period was due to enhanced recovery techniques, the jurisdictional agency shall treat the petition or application as if it were an application for an initial determination and follow the applicable provisions of Subpart A of Part 274.

(b) Upon receipt of notice of a determination under paragraph (a), the Commission will review such a determina-

tion pursuant to the applicable provisions of Subpart B of Part 275.

(c) A jurisdictional agency, when making a determination under § 271.806 (relating to production in excess of 60 Mcf per production day resulting from the application of recognized enhanced recovery techniques), may seek a declaratory order from the Commission that a process (or type of process) or the installation of equipment (or type of equipment) qualifies as recognized enhanced recovery techniques as defined in § 271.803(a) of this subpart.

SUBPART I - OTHER CATEGORIES OF NATURAL GAS

§ 271.901 Applicability.

This subpart implements section 109 of the NGPA and applies to a first sale of natural gas that is not covered by any maximum lawful price under section 102, 103, 104, 105, 106, 107, or 108 of the NGPA.

§ 271.902 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
December 1978	$ 1.630
January 1979	$ 1.639

§ 271.903 Filing requirements.

Any person who collects a price under this subpart shall file reports required by § 276.101.

§ 271.904 Special rule.

First sales of natural gas described in section 109(a)(1), (2), (3), or (4) of the NGPA are covered by this subpart only to the extent such first sales are not covered by any maximum lawful price under section 102, 103, 104, 105, 106, 107, or 108 of the NGPA.

SUBPART J - [RESERVED]

SUBPART K - ADJUSTMENTS FOR STATE SEVERANCE TAXES, ALLOWANCES AND CERTAIN PRODUCTION-RELATED COSTS

§ 271.1100 Applicability.

(a) General. This subpart prescribes regulations under which a price for a first sale of natural gas shall not be considered to exceed the applicable maximum lawful prices set forth in Part 271 if such first sale price exceeds the maximum lawful price to the extent necessary to recover:

(1) State severance taxes under § 271.1102;

(2) Natural Gas Act allowances under § 271.1104; and

(3) production-related costs approved by order of the Commission under § 271.1105.

(b) Exclusions. Sections 271.1104, 271.1105 and 271.1106 shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

§ 271.1101 Definitions.

(a)(1) Except as provided in subparagraph (2), the term "State severance tax" as used in this subpart means any severance, production, or similar tax, fee, or other levy imposed on the production of natural gas:

(i) by any State;

(ii) by any Indian tribe recognized as eligible for services provided by the Secretary of the Interior to Indians; or

(iii) by any political subdivision of a State if the authority to impose such tax, fee, or other levy is granted to such political subdivision under State law.

(2) The term "State severance tax" does not include any amount of tax which results from a provision of state law enacted on or after December 1, 1977, unless such provision of law is equally applicable to natural gas produced in such State and delivered in interstate commerce and to natural gas produced in such State and not so delivered.

(b) The term "production-related costs" as used in this subpart means costs of compressing, gathering, processing, treating, liquifaction, conditioning, or transporting natural gas, or other similar costs.

§ 271.1102 State severance taxes.

(a) Except as provided in paragraph (b) of this section, the price for any first sale of natural gas shall not be considered to have exceeded the maximum lawful price applicable to that sale as set forth in this part if such

first sale price exceeds the maximum lawful price to the extent necessary to recover State severance taxes borne by the seller.

(b) The maximum lawful prices prescribed under this part for interstate sales of natural gas produced from the Permian Basin area include State severance taxes in the amount of 2.6 cents for large producers and 3.05 cents for small producers. To the extent maximum lawful prices are established by reference to the Permian Basin area rate, only amounts of State severance tax in excess of those amounts already included may be considered under paragraph (a) of this section.

§ 271.1103 Record retention.

A seller in a first sale in which the price includes State severance taxes permitted under § 271.1102 shall retain a record of the sale which shall identify the seller, and shall retain such other records as are necessary to demonstrate that such seller has borne the amount of State severance taxes included in the sale price. Such records shall be preserved for at least three years from the date on which the sale occurred.

§ 271.1104 Natural Gas Act allowances.

(a) Applicability. The provisions of this section shall apply only to natural gas which was committed or dedicated to interstate commerce on November 8, 1978, and for which a just and reasonable rate was in effect on that date.

(b) General rule. A maximum lawful price applicable to a first sale of natural gas to which this section applies may be exceeded to the extent necessary to recover:

(1) gathering allowances, if allowable in accordance with §§ 2.56a(d) or 2.56b of this chapter; and

(2) allowances for delivery of offshore natural gas, if allowable in accordance with §§ 2.56a(e) or 2.56b(f) of this chapter.

§ 271.1105 Production-related costs.

(a) General rule. The Commission will entertain applications for a determination that the maximum lawful price applicable to a first sale of natural gas shall not be considered to be exceeded as a result of the addition to such price of an amount expended for production-related costs only as permitted by this section.

(b) Exclusion of certain natural gas. Applications under paragraph (a) of this section will not be considered

by the Commission if the natural gas for which the determination is sought:

(1) was committed or dedicated to interstate commerce on November 8, 1978, and is natural gas for which there was a just and reasonable rate in effect on that date; or

(2) is subject to an existing intrastate contract, an intrastate rollover contract or a successor to an existing intrastate contract.

(c) Costs for gathering, liquifaction, transportation, and compression. Except as provided in paragraph (b) of this section, applications under paragraph (a) of this section will be entertained by the Commission respecting costs incurred for:

(1) compression; and

(2) gathering, liquifaction, or transportation

to the extent such activities take place off the lease from which the natural gas was produced.

(d) Other production-related costs. (1) Except as provided in paragraph (b) of this section and in subparagraph (2) of this paragraph, the Commission will entertain applications under paragraph (a) of this section only with respect to production-related costs to the extent they exceed the amount attributable to meeting the following standards:

(i) total sulphur (grains per 100 cf.) 20

(ii) hydrogen sulphide (grains per 100 cf.) . . 1

(iii) water (pounds per MMcf) 7

(iv) carbon dioxide (percent by volume) 3

(v) oxygen, nitrogen, dust, dirt, gum, or other impurities in amounts in excess of which the buyer would be required to incur costs to to meet pipeline requirements.

(2) Subject to paragraph (b) of this section, the Commission will entertain applications for costs necessary to meet or exceed the standards in subparagraph (1) of this paragraph with respect to first sales of natural gas to any person for use by such person.

(e) Applications. Applications made to the Commission pursuant to this section shall be under oath and shall include the following information:

(1) identification of the maximum lawful price applicable to the first sale of the natural gas under Part 271;

(2) documents supporting the identification of the applicable maximum lawful price, including copies of any determinations by a jurisdictional agency or the Commission or copies of applications made for such determinations;

(3) a summary of the contract provisions which contain the obligations of the parties with respect to production-related costs;

(4) if the applicant has purchased the natural gas which is the subject of an application under this paragraph, documentation of the price paid by the applicant for such gas;

(5) the specific costs sought to be recovered by the applicant and a description of the method used to compute such costs; and

(6) the circumstances which make it necessary for the applicant to collect any amount in excess of the maximum lawful price provided for under Part 271.

(f) Additional information. The Commission may, upon receipt of an application made under this section, require the submission of additional information and hold or cause to be held such other proceedings as it deems necessary or appropriate.

§ 271.1106 Adjustments.

Pursuant to section 502(c) of the NGPA, any person may apply to the Commission for an adjustment on the grounds that the operation of § 271.1105 results in special hardship, inequity, or an unfair distribution of burdens to such person.

PART 273 COLLECTION AUTHORITY; REFUNDS

Subpart A - General Provisions

Sec.
273.101 Private contractual rights.
273.102 Definition of final determination.
273.103 Annual report of collections and refunds.
273.104 Cross reference.

Subpart B - Interim Collection Authority

Sec.
273.201 Transitional rule for certain new wells.
273.202 Collection pending jurisdictional agency determination of eligibility.
273.203 Collection pending review of jurisdictional agency determination.
273.204 Retroactive collection after final determination.

Subpart C - Refund Obligation

Sec.
273.301 General refund obligation.
273.302 Refunds of interim collections.

Authority: This part is issued under the Natural Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350.

SUBPART A - GENERAL PROVISIONS

§ 273.101 Private contractual rights.

Authorization by this part to collect a price for natural gas does not affect any person's contractual right to purchase natural gas at a lower price.

§ 273.102 Definition of final determination.

For purposes of this part, a determination by a jurisdictional agency of eligibility to collect a maximum lawful price under Subpart B, C, G, or H of Part 271 is final at

such time as such determination is no longer subject to:

(a) remand or reversal (other than on grounds specified in section 503(d)(1)(A) or (B) of the NGPA) by the Commission under Part 275; or

(b) judicial review in the Court of Appeals under section 503(b)(4)(B) of the NGPA.

§ 273.103 Annual report of collections and refunds.

(a) General rule. A seller which makes any first sale of natural gas for which a price authorized by this part is charged or collected shall file an annual report of all collections and refunds under this part for all such first sales, beginning with the period from December 1, 1978 through December 31, 1979, and for each calendar year thereafter until all collections and refunds under this part for such first sales have been reported fully. An original and 2 copies of each annual report shall be filed with the Commission on or before April 1st of the next year.

(b) Contents. The annual report shall be filed in accordance with forms and instructions prescribed by the Commission and shall include:

(1) all collections for each first sale for which a price authorized by this part is charged or collected,

identifying the well from which such sale is made and the application for or determination of eligibility for that well;

(2) the portions of such collections which are subject to the refund undertaking required by § 273.302(b) and those portions which were secured by surety bond or placed in escrow as required by § 273.302(c); and

(3) for each first sale, the amount of any refunds paid to each purchaser and the basis for computation of that amount, together with releases signed by each purchaser to indicate payment and full satisfaction of the seller's refund obligation or a statement that the purchaser did not sign such a release.

§ 273.104 Cross reference.

For special rule applicable to resellers, see § 270.202(b).

SUBPART B - INTERIM COLLECTION AUTHORITY

§ 273.201 Transitional rule for certain new wells.

(a) General rule. (1) The price determined under the following table may be charged and collected for any first sale of natural gas from a new well to which this section applies:

If delivery occurs in the calendar month of:	The price per MMBtu which may be charged and collected is:
December 1978	$ 1.630
January 1979	$ 1.639

(2) This section does not apply to a first sale if the seller is collecting a price under the authority of §§ 273.202 or 273.203.

(b) Period of collection. (1) Except as provided in subparagraph (2), the price authorized by paragraph (a) may be charged and collected for natural gas deliveries:

(i) beginning on the date on which the seller first meets the requirements of paragraph (c); and

(ii) ending on the date on which the Commission receives a notice of jurisdictional agency determination under § 275.201.

(2) No collection may be made under this section for deliveries of natural gas on or after March 1, 1979, unless before March 1, 1979, the seller has filed an application with a jurisdictional agency for a determination respecting such natural gas under Subpart B, C, G, or H of Part 271.

(c) Filing requirements. (1) Prior to making any collection under the authority of this section, the seller shall file with the Commission and the jurisdictional agency a statement under oath that:

(i) the natural gas for which the collection is made is produced from a new well;

(ii) the seller believes in good faith that such natural gas is eligible under the NGPA to be sold at a price not less than the price specified in paragraph (a); and

(iii) the seller has filed, or will cause to be filed not later than March 1, 1979, an application with the jurisdictional agency for a determination of qualification under Subpart B, C, G, or H of Part 271. Where the seller is not eligible to apply directly for a determination, the seller shall file either a duplicate of FERC Form No. 121 already submitted to the jurisdictional agency or a statement under oath by a person eligible to file the application that it will be filed not later than March 1, 1979.

(2) The statement shall include any well identification number assigned to the well or if none has been assigned, other information sufficient to identify the well, and shall specify the extent to which such natural gas was committed or dedicated to interstate commerce on November 8, 1978, and if so committed or dedicated, the just and reasonable rate applicable to such natural gas under the Natural Gas Act on November 8, 1978, and any rate schedules for such natural gas on file with the Commission on November 8, 1978.

§ 273.202 Collection pending jurisdictional agency determination of eligibility.

(a) General rule. If an application has been filed with the jurisdictional agency for a determination of eligibility under Subpart B, C, G, or H of Part 271 (relating to new natural gas and certain OCS natural gas, natural gas from new onshore production wells, high-cost natural gas or stripper well natural gas), the price specified in § 273.201(a)(1) or the highest maximum lawful price which is specified in any of the subparts for which application is made may be charged and collected.

(b) Period of collection. Except to the extent prohibited by paragraph (c), the price authorized by paragraph (a) may be charged for natural gas deliveries occurring on or after the date on which the application is filed with the jurisdictional agency and collected for such deliveries:

(1) beginning on the date on which the seller complies with the requirements of paragraph (d); and

(2) ending on the earlier of:

(i) 18 months after the first delivery for which collection is made under this section (12 months in the case of deliveries beginning on or after May 1, 1979); or

(ii) the date on which the Commission receives a notice of jurisdictional agency determination under § 275.201.

(c) Special limitation on the period of collection Unless by March 1, 1979, the jurisdictional agency to which

application is made has notified the Commission in writing that such agency has authority to process applications for determinations under Subparts B, C, G and H of Part 271 and is making such determinations, then the price authorized to be charged and collected by paragraph (a) may not be charged and collected under this section for deliveries during the period beginning on March 1, 1979 and ending on the date on which such jurisdictional agency notifies the Commission in writing that such agency has the authority to process applications for determinations under Subparts B, C, G and H of Part 271 and is making such determinations.

(d) Filing requirements. (1) In order to make an interim collection under this section with respect to a first sale of natural gas, a seller shall file with the Commission:

(i) a statement under oath that he believes in good faith that such natural gas is eligible under the NGPA and this subchapter for a maximum lawful price not less than that to be collected;

(ii) a duplicate of FERC Form No. 121 submitted to the jurisdictional agency;

(iii) a certificate of service of this filing upon any purchasers in the form required by §§ 1.17 and 1.51 of this chapter;

(iv) either a statement certifying that collections under this section will be placed in escrow or secured by a surety bond to the extent required by § 273.302(c) or a release from the surety or escrow obligation executed by the purchaser; and

(v) a statement of the extent to which such natural gas was committed or dedicated to interstate commerce on November 8, 1978, and if so committed or dedicated, the just and reasonable rate applicable to such natural gas under the Natural Gas Act on November 8, 1978, and any rate schedules for such natural gas on file with the Commission on November 8, 1978.

(2) No filing may be made under this paragraph unless the Commission has given public notice that the jurisdictional agency to which the application for determination has been made has filed a report in conformance with § 274.105.

(e) Filing limitation. Upon termination of the interim collection authority under this section for any sale, further filings under this section cannot be made for any sale from the same well.

§ 273.203 Collection pending review of jurisdictional agency determination.

(a) General rule. If the jurisdictional agency has determined in accordance with Part 274 that natural gas

qualifies for a maximum lawful price under Subpart B, C, G, or H of Part 271, the seller may charge and collect such price during the period described in paragraph (b).

(b) Period of collection. The price authorized by paragraph (a) may be charged and collected for natural gas deliveries:

(1) beginning on the date on which the Commission receives notice under § 275.201 of a jurisdictional agency determination with respect to such gas; and

(2) ending on the date the jurisdictional agency's determination becomes final, or if the determination of the jurisdictional agency is remanded by final finding of the Commission, six months after the date of such remand.

(c) Filing requirements. No later than ten days after commencement of collection under this section, the seller shall file with the Commission and jurisdictional agency a notice of interim collection of the applicable price established by a determination of the jurisdictional agency and a certificate of service of this notice upon any purchasers in the form required by §§ 1.17 and 1.51 of this chapter. If the seller is not the operator of the well for which the determination has been made, then the notice shall identify the well and operator.

§ 273.204 Retroactive collection after final determination.

(a) General rule. If (1) a jurisdictional agency determination that first sales of natural gas from a well qualify for a maximum lawful price under Subpart B, C, G, or H of Part 271 has become final, and (2) such maximum lawful price exceeds the price collected for deliveries of such natural gas for any period between the date of filing for the determination and the date on which the determination became final, then the seller may retroactively charge and collect for such period the amount of such excess; except that if the application for determination was filed by March 1, 1979, then the amount of such excess may be computed, charged and collected for first sales of natural gas delivered after November 30, 1978.

(b) Special limitation on the period of retroactive collection. Unless by March 1, 1979, the jurisdictional agency to which application was made has notified the Commission in writing that such agency has authority to process applications for determination under Subparts B, C, G, and H of Part 271 and is making such determinations, then retroactive collections otherwise authorized by paragraph (a) may not be collected for deliveries during the period beginning on March 1, 1979 and ending on the date on which such jurisdictional agency notifies the Commission in writing that such agency has the

authority to process applications for determinations under Subparts B, C, G, and H of Part 271 and is making such determinations.

(c) Conditions. Collections may be made under this section only in accordance with the following conditions:

(1) Retroactive collections may not begin until 45 days after a determination of eligibility under Subpart B, C, G, or H of Part 271 becomes final pursuant to § 275.202.

(2) A seller may not collect any amount under this section from any purchaser unless the seller has paid to such purchaser all amounts that are due to be refunded under this subchapter by the seller to such purchaser under this subchapter on or before any date on which retroactive collections are made.

(3) Within 15 days after retroactive collection begins for any first sale, the seller shall file with the Commission:

(i) a notice specifying the total amount to be collected and the amount of and basis for any carrying charges;

(ii) a statement that the seller has paid all refunds then due to such purchaser under this subchapter; and

(iii) a statement of concurrence in the filing signed by such purchaser from whom retroactive collections are made.

(4) Collection under this section may be made only to

the extent permitted by the applicable sales contract.

(5) Carrying charges may be collected only to the extent provided by a written agreement of the parties to the applicable sales contract (or amendment thereto) which shall be included in the filing required by this paragraph. The rate of such charges may not exceed nine percent per annum.

SUBPART C - REFUND OBLIGATION

§ 273.301 General refund obligation.

Any price collected with respect to a first sale of natural gas to which this subchapter applies is collected subject to a general obligation promptly to refund any portion of such price which is in excess of the maximum lawful price, or collection of which is not authorized by this subchapter. Compliance with the specific refund requirements of § 273.302 shall not terminate the general refund obligation under this section.

§ 273.302 Refunds of interim collections.

(a) Applicability. The provisions of this section apply to any interim collections made under the authority of Subpart B of this part.

(b) General undertaking.

(1) Except as provided for in subparagraph (2), any notice of collection which is filed with the Commission

pursuant to Subpart B for a first sale of natural gas shall include an undertaking with respect to particular first sales in the following form:

AGREEMENT OF
(Name of Applicant) TO COMPLY WITH REFUND
PROVISIONS OF PART 273 OF THE COMMISSION'S REGULATIONS
UNDER THE NATURAL GAS POLICY ACT

(Name of Applicant) hereby agrees and undertakes to comply with the refund provisions of Part 273 of the Commission's Regulations under the Natural Gas Policy Act insofar as they are applicable to the collections for the wells identified in the annex to this agreement.

By _____
(Authorized Signatory)

Attest:

_____, 19__

(2) In lieu of filing undertakings with respect to particular first sales as provided in subparagraph (1), a seller may elect to file a general undertaking applicable to all first sales made by the seller in the following form:

AGREEMENT OF
(Name of Applicant) TO COMPLY WITH REFUND
PROVISIONS OF PART 273 OF THE COMMISSION'S REGULATIONS
UNDER THE NATURAL GAS POLICY ACT AND PART 154
OF THE COMMISSION'S REGULATIONS UNDER THE
NATURAL GAS ACT

(Name of Applicant) hereby agrees and undertakes to comply with the refund provisions of Part 273 of the Commission's Regulations under the Natural Gas Policy Act insofar as they are applicable to any collections made by or for the applicant under these regulations.

By _____
(Authorized Signatory)

Attest:

_____, 19__

(3) Additional refund assurance may at any time be required by order of the Commission.

(4) Any undertaking filed under subparagraph (2) or (3) shall be signed in the manner required by § 274.201(c).

(c) Escrow. In the case of interim collections under § 273.202, the following additional requirements apply:

(1) Any amount (i) which is collected under § 273.202 and (ii) which (A) in the case of a new well, is in excess

of the price specified in § 273.201(a)(1); or (B) in the case of any other well, is in excess of the otherwise applicable maximum lawful price, shall be secured by a surety bond or held in escrow unless the purchaser has executed a written agreement which releases the seller from this obligation.

(2) Any amount held in escrow under subparagraph (1) shall be deposited in an interest-bearing account (segregated from the assets of the seller) at a financial institution which is chartered and supervised by a state or federal agency and in which deposits are insured by a state or federal agency.

(d) Records. If any collection is made under Subpart B, the seller shall keep accurate accounts of all amounts so collected for each billing period and for each purchaser; and resulting revenues as computed under the price being charged pursuant to this part; the price charged immediately prior to any interim collections; and the price prescribed by § 273.201 of this part (or any other maximum lawful price used to compute the amount bonded or escrowed under this paragraph), together with the differences in revenues so computed for each sale.

(e) Refund payment.

(1) Within 45 days after a determination that a first

sale is not eligible for the price collected under this part becomes final, the seller shall refund to the purchaser by cash or check the refund amount computed under paragraph (g) together with interest at the rate of nine percent per annum on the excess charges that have been collected from the date of payment until the date of refund.

(2) No interest is required to be paid on any portion of a refund:

(i) which represents payments of royalties or taxes to federal or state governmental authorities, except to the extent that such authorities pay interest to the seller when refunding overpayments of royalties or taxes; or

(ii) which is paid from escrow (but interest which accrued in the escrow on the amount required to be refunded shall be paid at the time of refund).

(f) Discharge of obligation. If a determination that natural gas is eligible for the price collected becomes final, then upon receipt of such final determination, the bond, escrow, or undertaking shall be discharged to the extent it applies to first sales from the well for which the determination was made. If any refunds required by this section are made in conformity with the terms and conditions of the bond, escrow, or undertaking, the bond, escrow, or undertaking shall be discharged insofar as it applies to such refund obligation.

(g) Refund computation. (1) Where the final determination that the sale is not eligible for the price collected under Subpart B also includes a final determination of the maximum lawful price for that sale, that finally determined price, to the extent permitted by the applicable sales contract, shall be used to compute the excessive interim collections and refund amount.

(2) In any other case, the appropriate maximum lawful price specified under Subpart D, E, F, or I of Part 271, to the extent permitted by the applicable sales contract, shall be used to compute the excessive interim collections and refund amount.

REPORT OF AMOUNTS COLLECTED SUBJECT TO REFUND AND AMOUNTS REFUNDED
Section 273.103 of Regulations

Filing Party:_____ Code:_____ Report Period:_____

API Well No.	Purchaser	Code	Contract Date	Volume Sold (MMcf)	Price Collected	Amount Collected Subject To Refund	Amount Refunded

PART 274 - DETERMINATIONS BY JURISDICTIONAL AGENCIES

Subpart A - General Provisions

Sec.
274.101 Applicability.
274.102 Definition of determination.
274.103 Determinations by jurisdictional agencies.
274.104 Notice to the Commission.
274.105 Reports of determination process.

Subpart B - Requirements for Filings with Jurisdictional Agencies

Sec.
274.201 General requirements.
274.202 New natural gas.
274.203 New reservoirs on old OCS leases.
274.204 New, onshore production wells.
274.205 High-cost natural gas.
274.206 Stripper well natural gas.
274.207 Alternative filing and notice requirements

Subpart C - Waivers

Sec.
274.301 Applicability.
274.302 Requests for waiver.
274.303 Termination or revocation of agreements.
274.304 Notice.

Subpart D - Delegations to State Agencies

Sec.
274.401 Delegation of authority to receive certain reports.

Subpart E - Identification of State and Federal Jurisdictional Agencies

Sec.
274.501 Jurisdictional agency.

Authority: This part is issued under the Natural Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350.

SUBPART A - GENERAL PROVISIONS

§ 274.101 Applicability.

This part applies to determinations of jurisdictional agencies (as defined in § 274.501) made under the following subparts of Part 271:

(a) Subpart B (relating to new natural gas and certain OCS natural gas);

(b) Subpart C (relating to new, onshore production wells);

(c) Subpart G (relating to high-cost natural gas); and

(d) Subpart H (relating to stripper well natural gas).

§ 274.102 Definition of determination.

For purposes of this part and Part 275, a determination has been made by a jurisdictional agency when such determination is administratively final before such agency.

§ 274.103 Determinations by jurisdictional agencies.

A jurisdictional agency shall make determinations to which this part applies in accordance with procedures applicable to it under the law of its jurisdiction for making such determinations or for making comparable determinations.

§ 274.104 Notice to the Commission.

(a) Affirmative determinations. Within 15 days after making a determination that natural gas qualifies for a maximum lawful price under this part, the jurisdictional agency shall give written notice of such determination to the Commission. Unless alternative notice requirements under § 274.207 have been approved, such notice shall include the following:

(1) a list of all participants in the proceeding as well as any persons who submitted or who sought an opportunity to submit written comments (whether or not such persons participated in the proceeding);

(2) a statement indicating whether the matter was opposed before the jurisdictional agency;

(3) the information set forth in paragraph (a)(1) through (7) of § 274.105 as applied to the determination in question, unless the jurisdictional agency has on file with the Commission a report describing its determination process under that section; and

(4) a copy of the application together with a copy or description of other materials in the record upon which the determination by the jurisdicational agency was made; and

(5) an affirmative finding that the information contained in the notice to the Commission pursuant to this section includes all of the information required to be filed by the applicant under Subpart B of Part 274 or under § 274.207, and in any case in which other materials in the record constitute portions of such information, a copy of those portions of the record.

(b) Negative determinations. Within 15 days after making a determination that natural gas does not qualify for a maximum lawful price under this part, the jurisdictional agency shall give written notice of such determination to the Commission, including a copy of FERC Form No. 121; except that if the applicant or any aggrieved party so requests within the 15 days following the determination, the notice shall include all of the information specified in paragraph (a) of this section.

§ 274.105 Reports of determination process.

(a) Report. A jurisdictional agency may file with the Commission a report which states that it will take such steps as are reasonably necessary or appropriate to perform its functions under this part and which describes the method by which such agency will make determinations to which this part applies. The report shall be in narrative form and shall include:

(1) any filing requirements imposed by the jurisdictional agency in addition to those required by Subpart B of this part including specific forms; as well as any more specific identification of documents listed as minimum requirements as provided in Subpart B;

(2) the type of notice of filing that applicants will be required to give;

(3) the public or specific notice that will be given by the agency of filings, hearings, and determinations;

(4) the internal procedures applicable to such determinations, including specific references to the use of hearings, examiners, and formal consideration by the agency;

(5) the extent to which applicable rules permit interested parties to intervene, participate, or express views in proceedings before the agency;

(6) a description of the relevant data contained in the official records of the agency or contained in the official records of other agencies to which the jurisdictional agency has access; and

(7) a detailed explanation of the manner in which the agency will review applications including identification of the official records which will be examined.

(b) Change in procedures. The jurisdictional agency shall give written notice to the Commission of any change

in procedures described in the report filed pursuant to this section.

(c) Public files. Reports and any changes thereto filed by the jurisdictional agency will be placed in the public files of the Commission.

SUBPART B - REQUIREMENTS FOR FILINGS WITH JURISDICTIONAL AGENCIES

§ 274.201 General requirements.

(a) Filing requirements applicable if alternative requirements are not adopted. The provisions of §§ 274.201 through 274.206 of this subpart apply to the extent not superseded by alternative filing requirements which have taken effect under § 274.207.

(b) Who may file. An application to which this subpart applies may be filed with the jurisdictional agency by any person the jurisdictional agency designates as eligible to make filings with respect to the well for which the application is made.

(c) Signature. If the person filing an application under this part is an individual, the filing shall be signed by such individual, or in the case of a minor or other legally disabled person, his duly qualified legal representative. If the person making such filing is a corporation,

partnership, or trust, the filing shall be signed by a responsible official of the corporation, a general partner of the partnership, or the trustee of the trust. In the case of any other legal entity, the operator of the well may sign the application. An operator under a joint operating agreement may sign an application for a well covered by the operating agreement if notice of the application is given by the operator to all other parties to the joint operating agreement and that fact is certified in the application.

(d) Additional information. The documents required by this subpart are the minimum required in support of a request for a determination. The jurisdictional agency may require additional support as it deems appropriate, and may more specifically identify the documents indicated as the minimum required.

(e) Notice to purchasers. Where an application for a determination is sought for natural gas for which the applicant has an identified purchaser, the application shall include a statement that the applicant has delivered or mailed a copy of the completed FERC Form No. 121 to the purchaser.

§ 274.202 New natural gas.

(a) Applications for determination. A person seeking a determination for purposes of Subpart B of Part 271 that

production from a well qualifies as new natural gas shall file an application with the jurisdictional agency for a determination that:

(1) such production is from a new OCS lease, in accordance with paragraph (b);

(2) such production is from a new onshore well, in accordance with paragraph (c); or

(3) such production is from a new onshore reservoir, in accordance with paragraph (d).

(b) New OCS lease. For purposes of demonstrating that natural gas is, or is to be, produced from a new OCS lease, the applicant shall file:

(1) FERC Form No. 121;

(2) a statement by the applicant under oath that the natural gas is, or is to be, produced from a new OCS lease which is a lease of submerged acreage, entered into with the Secretary of the Interior on or after April 20, 1977; and

(3) a copy of the OCS lease or such other identification of the lease as the jurisdictional agency may permit.

(c) New onshore wells. An application for a determination that a well is a new onshore well may be filed under subparagraph (1) or (2) of this paragraph, or both.

(1) 2.5 mile test. For purposes of demonstrating that a new onshore well is not within 2.5 miles of any marker well, the applicant shall file:

(i) FERC Form No. 121;

(ii) the well completion report;

(iii) the directional drilling survey, if the jurisdictional agency requires such a survey to be conducted;

(iv) a location plat which locates and identifies the well for which the determination is sought and any other well which is producing, or produced after January 1, 1970, natural gas and is within the 2.5 mile radius drawn from the well for which a determination is sought;

(v) a statement by the applicant under oath:

(A) that he has made, or has caused to be made, pursuant to his instructions, a diligent search of all records (including but not limited to production, severance tax, and royalty payment records) which are reasonably available and contain information relevant to the determination of eligibility;

(B) describing the search made, the records reviewed, the location of such records, and a description of any records which he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(C) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, there is no marker well

within 2.5 miles of the well for which he seeks a determination; and

(D) that he has no knowledge of any other information not described in the application which is inconsistent with his conclusion; and

(vi) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(2) 1,000 feet deeper test. For purposes of demonstrating that the completion location of a new onshore well is at least 1,000 feet deeper than the deepest completion location of each marker well within a 2.5 mile radius of the well for which a determination is sought, the applicant shall file:

(i) FERC Form No. 121;

(ii) the well completion report;

(iii) a location plat which locates and identifies the well for which the determination is sought and all wells which are producing, or produced after January 1, 1970, natural gas within the 2.5 mile radius drawn from the well for which a determination is sought; including specific identification of all marker wells within the 2.5 radius drawn from the well for which a determination is sought;

(iv) a list of the deepest completion locations for all marker wells identified on the location plat;

(v) the directional drilling survey, if the jurisdictional agency requires such survey to be conducted;

(vi) a statement by the applicant, under oath:

(A) that he has made, or has caused to be made pursuant to his instructions, a diligent search of all records (including but not limited to production, State severance tax, and royalty payment records) which are reasonably available and contain information relevant to the determination of eligibility;

(B) describing the search made, the records reviewed, the location of such records, and a description of any records which he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(C) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, there is no marker well within 2.5 miles of the well for which he seeks a determination which has a completion location less than 1,000 feet above the completion location of the new well; and

(D) that he has no knowledge of any other information not described in the application which is inconsistent with his conclusion; and

(vii) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(d) New onshore reservoir.

(1) For purposes of demonstrating that production is from a new onshore reservoir, the applicant shall file:

(i) FERC Form No. 121;

(ii) geological information sufficient to support a determination that the reservoir is a new onshore reservoir. Such information shall include to the extent reasonably available to the applicant at the time the application is filed:

(A) well logs;

(B) bottom hole or surface pressure surveys;

(C) well potential tests;

(D) formation structure maps;

(E) a subsurface cross-section chart; and

(F) a gas analysis;

(iii) the well completion report;

(iv) the directional drilling survey if the jurisdictional agency requires such a survey to be conducted; and

(v) a statement by the applicant, under oath:

(A) that he has made, or has caused to be made pursuant to his instructions, a diligent search of all records

(including but not limited to production, State severance tax, and royalty payment records) which are reasonably available and contain information relevant to the determination of eligibility;

(B) describing the search made, the records reviewed; the location of such records, and a description of any records described in clause (ii) of this subparagraph or any records which he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(C) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, the natural gas to be produced and for which he seeks a determination is from a new onshore reservoir;

(D) that he has no knowledge of any other information not described in the application which is inconsistent with his conclusion; and

(vi) if the jurisdictional agency so requires, certified copies of records relied on by the applicant, including copies of the agency's official files.

(2) The applicant, in his statement under oath, shall also answer, to the best of his information, knowledge and

belief, and on the basis of the results of his search and examination, the following questions:

(i) was natural gas produced in commercial quantities from the reservoir prior to April 20, 1977?

(ii)(A) was the reservoir penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities from any reservoir?

(B) if the question in clause (ii)(A) is answered in the affirmative, could natural gas have been produced in commercial quantities from the reservoir before April 20, 1977, from any old well described in clause (ii)(A)?

(C) if the natural gas is to be produced through an old well, were suitable facilities for the production and delivery to a pipeline of such natural gas in existence on April 20, 1977?

(D) if the applicant is unable to answer the questions in clauses (B) and (C) in the negative, the applicant shall provide the information upon which he bases his conclusion that the natural gas for which he seeks a determination is to be produced from a new onshore reservoir.

§ 274.203 New reservoirs on old OCS leases.

A person seeking a determination for purposes of Subpart B of Part 271 that natural gas is produced from a new reservoir on an old OCS lease (as defined in

§ 271.203(b)), shall file an application with the jurisdictional agency which contains the following items:

(a) FERC Form No. 121;

(b) the date the reservoir was penetrated;

(c) geological information sufficient to support a determination that the reservoir is a new reservoir on an old OCS lease. Such information shall include to the extent reasonably available to the applicant at the time of the determination:

(1) well logs;

(2) bottom hole or surface pressure surveys;

(3) well potential tests;

(4) formation structure maps;

(5) a subsurface cross-section chart;

(6) a gas analysis;

(d) the well completion report;

(e) if the date of penetration of the reservoir is prior to July 27, 1976:

(1) the results of any production test meeting the requirements of OCS Order No. 4 demonstrating that, as of the time of such test, the reservoir was not capable of producing in paying quantities;

(2) any production capability evidence meeting the requirements of OCS Order No. 4 demonstrating that, as of

the time such evidence was obtained, the reservoir was not capable of producing in paying quantities;

(3) an induction-electric log, sidewall cores and core analysis, or a wire line formation test indicating that, as of the time of such tests, the reservoir was not capable of producing in commercial quantities; or

(4) a statement by the applicant, under oath, that no such production tests were performed and that no evidence existed on the date the reservoir was penetrated that the reservoir was capable of producing in paying quantities;

(f) a statement by the applicant, under oath:

(1) that he has made, or has caused to be made pursuant to his instructions, a diligent search of all records (including but not limited to production and royalty payment records) which are reasonably available and contain information relevant to the determination of eligibility;

(2) describing the search made, the records reviewed, the location of the records, and a description of any records which he believes may contain information relevant to the determination but which he has determined are not reasonably available to him;

(3) that on the basis of the results of this search and examination, he has concluded that to the best of his information, knowledge and belief, the natural gas for

which he seeks a determination is produced on an old lease on the OCS from a reservoir which was not discovered before July 27, 1976; and

(4) that he has no knowledge of any other information not described in the application which is inconsistent with his conclusion; and

(g) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

§ 274.204 New, onshore production wells.

A person seeking a determination for purposes of Subpart C of Part 271 that a well is a new, onshore production well shall file an application with the jurisdictional agency which contains the following items:

(a) FERC Form No. 121;

(b) the well completion report;

(c) a location plat which locates and identifies the well for which a determination is sought and all other wells within the proration unit in which the well for which a determination is sought is located;

(d) a statement by the applicant, under oath:

(1) that the surface drilling of the well for which he seeks a determination was begun on or after February 19, 1977;

(2) that the well satisfies any applicable federal or state well-spacing requirements; and that the well is not within a proration unit:

(i) which was in existence at the time the surface drilling of the well began;

(ii) which was applicable to the reservoir from which such natural gas is produced; and

(iii) which applied to any other well which either produced natural gas in commercial quantities or the surface drilling of which was begun before February 19, 1977, and was thereafter capable of producing natural gas in commercial quantities;

(3) that he has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well and the basis for such conclusion; and

(4) that he has no knowledge of any other information not described in the application which is inconsistent with his conclusions;

(e) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files; and

(f) if the applicant is seeking a determination with respect to a new well drilled into an existing proration

unit, then pursuant to § 271.304, the applicant must, in addition to the filing requirements listed in paragraphs (a) through (e) of this section demonstrates by appropriate geological evidence that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit.

§ 274.205 High-cost natural gas.

A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is produced from a well which is a deep, high-cost well shall file an application with the jurisdictional agency which contains the following items:

(a) FERC Form No. 121;

(b) all well completion reports for the well for which a determination is sought;

(c) well logs or well servicing company reports or such other information which will corroborate the depth of the completion location reported in the well completion report;

(d) directional drilling surveys if available;

(e) a statement by the applicant, under oath, that the

surface drilling of the well for which he seeks a determination began on or after February 19, 1977, and that the well completion location is below a true vertical depth of 15,000 feet; and that he has no knowledge of any information not described in the application which is inconsistent with his conclusions; and

(f) if the jurisdictional agency so requires, certified copies of records relied on by the applicant, including copies of the agency's official files.

§ 274.206 Stripper well natural gas.

A person seeking a determination for purposes of Subpart H of Part 271 that a well either qualifies or continues to qualify as a stripper well shall file an application with the jurisdictional agency which contains the following items:

(a) Application for determination. For purposes of initially qualifying a stripper well, the applicant shall file:

(1) FERC Form No. 121;

(2) production records, if available, and if not, tax records, if available, or verified copies of billing statements upon which the average production for the 90-day production period is based;

(3) a copy of the results of any tests which measure the production capability of the well; and, if such test

results are not available and the maximum efficient rate of flow has not been previously established:

(i) production records, if available, and if not, tax records, if available, or verified copies of billing statements for 12 calendar months ending on the last day of the 90-day production period upon which the application is based, which demonstrate that the well produced non-associated natural gas at a rate which did not exceed an average of 60 Mcf per production day during the 12-month period;

(ii) if the well for which a determination is sought has produced nonassociated natural gas at an average rate not in excess of 60 Mcf per production day for a 90-day production period within 120 days of the date of filing, but such an average rate of production has not been experienced for a 12-month period, the applicant shall file, as soon as practicable but in no event later than 10 months after the date the application for the determination is filed with the jurisdictional agency, either production records, if available, and if not, tax records, if available, or verified copies of billing statements for the 12-month period, including any part of the 90-day production period upon which the application is based, which demonstrates that such well produced nonassociated natural gas at a

rate which did not exceed an average of 60 Mcf per production day during such period; or

(iii) such other evidence as the applicant may submit upon which the jurisdictional agency could establish the maximum efficient rate of flow;

(4) the number of days natural gas was not produced during the 90-day production period and a description of the state law or conservation practice recognized or approved by the state agency having regulatory jurisdiction over the production of natural gas which prohibited production;

(5) the number of days not included in the 90-day production period and a statement of the reasons why each day was excluded except to the extent they are covered under subparagraph (4);

(6) the production records for crude oil produced from the well for the 90-day production period upon which the application is based;

(7) an inventory of the lease and production equipment used for the well for the past 24 months or for such lesser period as the well has been in production prior to date of filing, as well as the identification of any equipment or processes used in connection with recognized enhanced recovery techniques during the completion of

the well or during production subsequent to the completion of the well but prior to the filing for a determination;

(8) a statement by the person signing the application, under oath, that he has made, or has caused to be made pursuant to his instructions, a diligent search of all records which are reasonably available and contain information relevant to the determination; a description of the search made, the records reviewed, the results of this search and examination he has concluded that to the best of his information, knowledge and belief, the well qualifies as a stripper well; and that he has no knowledge of any other information which is inconsistent with his conclusion;

(9) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(b) Notice by an operator or purchaser of an increase in production. For purpose of the notices required under § 271.805, the person filing shall include:

(1) the names and addresses of the operator and purchaser(s) with a designation of who is filing the notice;

(2) identification of the subject well and accurate record reference to the original determination qualifying the well as a stripper well;

(3) the monthly production reports, tax records or billing statements upon which the notice is based for the period of production in question;

(4) a statement of the average production per production day for the period in question;

(5) a statement that all of the information contained in the notice is true to the best of his information, knowledge and belief; and that the notice has been served on the appropriate entities specified in § 271.805; and

(6) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(c) Determination of increased production resulting from enhanced recovery techniques. For purposes of a determination that increased production resulted from the use of enhanced recovery techniques, the applicant shall file:

(1) the names and addresses of the applicant and purchaser(s);

(2) an identification of the well and accurate record reference to the original determination qualifying the well as a stripper well and the notice, if any, filed by a purchaser pursuant to § 271.805;

(3) a description of all processes used or equipment installed together with all dates of use or installation;

(4) a statement, under oath, that to the best of his information, knowledge and belief, the information supplied and the conclusions drawn are true, that the operator has no knowledge of any information not described in the application which is inconsistent with any of his conclusions; and that the notice has been served on the appropriate entities specified in § 271.805; and

(5) if the jurisdictional agency so requires, certified copies of records relied on by the applicant including copies of the agency's official files.

(d) Designation that a well is seasonally affected. For purposes of a designation that a well is seasonally affected, the applicant shall file:

(1) the names and addresses of the applicant and purchaser(s);

(2) an identification of the well and accurate record reference to the original determination qualifying the well as a stripper well and any notice filed by a purchaser pursuant to § 271.805;

(3) production records, tax records or billing statements for a period of 24 months, including the 90-day or

12-month production period which is the subject of the notice by the operator or the purchaser;

(4) a description of the nature of the seasonal fluctuations as inferred from the data supplied;

(5) a statement, under oath, that the production records, tax records or billing statements relied upon in the application for the designation are correct; that the operator has no knowledge of any information not described in the application which is inconsistent with any of his conclusions; and that the notice has been served on the appropriate entities specified in § 271.805; and

(6) if the jurisdictional agency so requires, certified copies of the records relied on by the applicant including copies of the agency's official files.

§ 274.207 Alternative filing and notice requirements.

(a) General. Upon written application by a jurisdictional agency pursuant to this section, the Commission may approve:

(1) filing requirements which differ from those in §§ 274.201 through 274.206 of this subpart; and

(2) notice requirements which differ from those in § 274.104 of this subpart;

(b) Contents of applications. Applications for approval of alternative filing or notice requirements shall include:

(1) each requirement of this part for which an alternative is proposed;

(2) a description of the specific requirements which will replace the requirements in subparagraph (1), including copies of any forms to be used by the agency;

(3) the reasons for requesting approval of each alternative requirement, which may include the fact that such information is not available; and

(4) the basis for the belief that filings under the alternative filing requirements provide substantial evidence on which the jurisdictional agency may base a determination or that notice under the alternative notice requirements provides the Commission with an adequate basis upon which to review the determination.

(c) Commission review of applications. Upon receipt of an application pursuant to this section, the Commission shall give public notice of such application and after review of any written comments, may issue an order approving the alternative requirements. The Commission will publish the order in the Federal Register.

(d) Effective date of alternative filing and notice requirements. (1) With respect to applications received by a jurisdictional agency after the effective date of approval of alternative filing requirements, such alternate

requirements as are specified and approved shall apply in lieu of the provisions of §§ 274.201 through 274.206 of this subpart.

(2) With respect to determinations made by a jurisdictional agency after the effective date of approved alternative notice requirements, the alternative notice requirements as are specified and approved shall apply in lieu of the provisions of § 274.104 of this subpart.

(e) Termination of alternative filing and notice requirements. (1) A jurisdictional agency may, upon notice to the Commission, discontinue the use of any alternative filing or notice requirements approved under this subpart.

(2) The Commission may, after a public comment period of no less than 30 days give notice to a jurisdictional agency that the Commission has terminated its approval of alternative filing or notice requirements, if it finds that the alternative filing or notice requirements:

(i) are not sufficient to carry out the purpose of the NGPA; or

(ii) after notice and opportunity for hearing, the jurisdictional agency has not complied, or required compliance, with the alternative provisions.

(3) Applications for determinations received by jurisdictional agencies after notice of termination of

the applicability of alternative filing requirements pursuant to this section shall be subject to the filing requirements set forth in §§ 274.201 through 274.206 of this subpart.

(4) Notice of determinations made by jurisdictional agencies after notice of termination of the applicability of alternative notice requirements pursuant to this section shall be subject to the notice requirements set forth in § 274.104 of this subpart.

FERC-121

Form Approved
OMB No. 038-R0381

U.S. DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission
Washington, D.C. 20426

APPLICATION FOR DETERMINATION OF THE MAXIMUM LAWFUL PRICE UNDER THE NATURAL GAS POLICY ACT (NGPA)
(Sections 102, 103, 107 and 108)

PLEASE READ BEFORE COMPLETING THIS FORM:

General Instructions:

Complete this form if you are applying for price classification under sections 102, 103, 107 or 108 of the NGPA. A separate application is required for each well. If any reservoir qualifies for a category which differs from the category applicable to the producing well, separate applications must be made for the producing well and the reservoir. Complete each appropriate item on the reverse side of this page. The code numbers used in Items 4.0 and 6.0 can be obtained from the Buyer/Seller Code Book. If there is more than one purchaser or contract, identify the additional information in the space below. Enter any additional remarks in the space below.

Submit the completed application to the appropriate Jurisdictional Agency as listed in title 18 of the CFR, part 270.103. If there are any questions, call (202) 275-4539

Specific Instructions for Item 2.0, Type of Determination.

Section of NGPA	Category Code	Description
102	1	New OCS Lease
102	2	New onshore well (2.5 mile test)
102	3	New onshore well (1,000 feet deeper test)
102	4	New onshore reservoir
102	5	New reservoir on old OCS Lease
103	–	New onshore production well
107	–	High cost natural gas
108	–	Stripper well

Other Purchasers/Contracts:

Contract Date (Mo. Day Yr.)	Purchaser	Buyer Code

Remarks:

FT7800806'1-3

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1.0 API well number. (If not available, leave blank. 14 digits.)	
2.0 Type of determination being sought: (Use the codes found on the front of this form.)	Section of NGPA ____ Category Code ____
3.0 Depth of the deepest completion location. (Only needed if sections 103 or 107 in 2.0 above.)	____ feet
4.0 Name, address and code number of applicant. (35 letters per line maximum. If code number not available, leave blank.)	Name ____ Seller Code ____ Street ____ City ____ State ____ Zip Code ____
5.0 Location of this well. (Complete (a) or (b).) (a) For onshore wells (35 letters maximum for field name.)	Field Name ____ County ____ State ____
(b) For OCS wells	Area Name ____ Block Number ____ Date of Lease: Mo Day Yr ____ OCS Lease Number ____
(c) Name and identification number of this well. (35 letters and digits maximum.)	____
(d) If code 4 or 5 in 2.0 above, name of the reservoir. (35 letters maximum.)	____
6.0 (a) Name and code number of the purchaser. (35 letters and digits maximum. If code number not available, leave blank.)	Name ____ Buyer Code ____
(b) Date of the contract	Mo Da Yr ____
(c) Estimated annual production	____ MMcf

	(a) Base Price ($/MMBTU)	(b) Tax	(c) All Other Prices (Indicate (+) or (-).)	(d) Total of (a), (b) and (c)
7.0 Contract price (As of filing date. Complete to 3 decimal places.)	_.___	_.___	_.___	_.___
8.0 Maximum lawful rate (As of filing date. Complete to 3 decimal places.)	_.___	_.___	_.___	_.___

9.0 Person responsible for this application:

Agency Use Only
Date Received by Juris. Agency
Date Received by FERC

Name ____ Title ____
Signature ____
Date Application is Completed ____ Phone Number ____

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SUBPART C - WAIVERS

§ 274.301 Applicability.

This subpart contains the procedures by which jurisdictional agencies and the Commission may enter into agreements under which jurisdictional agencies waive to the Commission authority to make the determinations set forth in Subpart A of this part.

§ 274.302 Requests for waiver.

(a) General. A jurisdictional agency may file with the Commission a request to enter into a written agreement waiving, in whole or in part, the authority of the jurisdictional agency to make determinations pursuant to Subpart A of this part.

(b) Contents of requests. Requests filed pursuant to this section shall include:

(1) the name of the jurisdictional agency;

(2) each class of determination for which a waiver is sought;

(3) the reasons the jurisdictional agency believes a waiver is necessary; and

(4) the length of time any waiver is to remain in effect.

(c) Commission action on requests. After consideration of any request under this section, the Commission

may execute a written agreement which shall provide:

(1) that upon written acceptance of the agreement by the jurisdictional agency, the Commission, in lieu of such agency, will make the determinations waived in the agreement, and

(2) any terms and conditions the Commission deems appropriate with respect to such waiver, including the date on which the waiver shall terminate; and

(3) the effective date of the waiver.

§ 274.303 Termination or revocation of agreements.

Agreements pursuant to this subpart shall remain in effect until public notice is given by the Commission that:

(a) the agreement of waiver has expired pursuant to a term or condition of the waiver agreement;

(b) the Commission has received written notice from the jurisdictional agency that such agency terminates the agreement as of a specified date and assumes the authority to make determinations under Subpart A of this part; or

(c) the Commission has revoked the agreement pursuant to a term or condition of the waiver agreement.

§ 274.304 Notice.

The Commission shall cause public notice to be made of agreements of waiver and of any termination or revocation of a waiver.

SUBPART D - DELEGATIONS TO STATE AGENCIES

§ 274.401 Delegation of authority to receive certain reports.

(a) Delegation. The Commission may delegate to a state agency the authority to recieve the reports required by §§ 276.102(d) and 276.103(d) to be filed by an intrastate pipeline pursuant to sections 105 and 106(b) of the NGPA.

(b) State agency. A delegation pursuant to this section may be made only to a state agency with jurisdiction over the rates and charges of the intrastate pipelines that would be making the required filing.

(c) Terms of the delegation. Such delegation shall be contained in an agreement executed between the Commission and the state agency, and shall contain such terms and conditions as the parties deem appropriate. Notice of the delegation agreement will be published in the Federal Register.

SUBPART E - IDENTIFICATION OF STATE AND FEDERAL JURISIDICTIONAL AGENCIES

§ 274.501 Jurisdictional agency.

(a) Definition. Except as provided in paragraph (b), "jurisdictional agency" means:

(1) With respect to a well on the OCS, one of the following offices of the United States Geological Survey:

(i) for OCS wells located in the Gulf Coast Region:

Area Oil & Gas Supervisor
Suite 336
3301 N. Causeway Blvd.
Metairie, LA 70010

(ii) for OCS wells located in the Atlantic Region:

Area Oil & Gas Supervisor
Atlantic OCS Operations
Suite 204
1725 K Street, N. W.
Washington, DC 20244

(iii) for OCS wells located offshore Alaska:

Area Oil & Gas Supervisor
P. O. Box 259
Suite 109
800 A Street
Anchorage, AK 99510

(iv) for OCS wells located offshore California:

Area Oil & Gas Supervisor
7211 Federal Building
300 North Los Angeles Street
Los Angeles, CA 90012

(2) With respect to a well the surface location of which is on lands within the boundaries of a State (including Federal lands and offshore State lands), the agency specified in the following table:

State in which well is located	Jurisdictional Agency for wells on Federal lands	Other lands
Alabama	Area Oil & Gas Supervisor Suite 204 1725 K St., N. W. Washington, DC 20244	Oil & Gas Supervisor State Oil & Gas Board Drawer O University, AL 35486
Alaska	Area Oil & Gas Supervisor P.O. Box 259 Suite 109 800 A Street Anchorage, AK 99510	Oil & Gas Conservation Division Department of Natural Resources 3001 Porcupine Drive Anchorage, AK 99504
Arizona	Area Oil & Gas Supervisor P. O. Box 26124 505 Marquette Ave., N. W. Albuquerque, NM 87125	Oil & Gas Conservation Commission Suite 420 1645 W. Jefferson Phoenix, AZ 85007
Arkansas	Area Oil & Gas Supervisor 6136 E. 32nd Place Tulsa, OK 74135	Conservation & Commerce Oil and Gas Commission 314 East Oak El Dorado, AR 71730
California	Area Oil & Gas Supervisor 7211 Federal Building 300 N. Los Angeles St. Los Angeles, CA 90012	Department of Conservation Division of Oil & Gas 1416 Ninth St., Rm 1316 Sacramento, CA 95814

State in which well is located	Jurisdictional Agency for wells on Federal lands	Other lands
Colorado	Area Oil & Gas Supervisor P. O. Box 26124 505 Marquette Ave., N. W. Albuquerque, NM 87125	Oil & Gas Conservation Commission 1313 Sherman Street Room 721 Denver, CO 80203
Florida	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Administrator of Oil & Gas Bureau of Geology Department of Natural Resources 903 W. Tennessee Street Tallahassee, FL 32304
Georgia	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Department of Natural Resources Geologic & Water Resources Division 19 Martin Luther King Drive, SW Atlanta, GA 30334
Idaho	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Idaho Public Utilities Commission Statehouse Mail Boise, ID 83720
Illinois	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Department of Mines and Minerals Oil and Gas Division 704 Stratton Office Building 400 S. Spring Street Springfield, IL 62706
Indiana	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Department of Natural Resources Oil and Gas Division 606 State Office Bldg. 100 N. Senate Avenue Indianapolis, IN 46204

State in which well is located	Jurisdictional Agency for wells on Federal lands	Other lands
Kansas	Area Oil & Gas Supervisor 6136 East 32nd Place Tulsa, OK 74135	Corporation Commission State Office Building Topeka, KS 66612
Kentucky	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Department of Mines and Minerals Oil and Gas Division Box 680 Lexington, KY 40501
Louisiana	Area Oil & Gas Supervisor 6136 East 32nd Place Tulsa, OK 74135	Office of Conservation Box 44275 Baton Rouge, LA 70804
Maryland	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Energy and Coastal Zone Administration Department of Natural Resources Tawes State Office Bldg. Annapolis, MD 21404
Michigan	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Department of Natural Resources Box 30028 Lansing, MI 48909
Mississippi	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	State Oil and Gas Board Box 1332 Jackson, MS 39205
Montana	Area Oil & Gas Supervisor P. O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Oil and Gas Conservation Division Department of Natural Resources and Conservation 15 Poly Drive Billings, MT 59101

State in which well is located	Jurisdictional Agency for wells on Federal lands	Other lands
Nebraska	Area Oil & Gas Supervisor P. O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Oil and Gas Conservation Commission Box 399 Sidney, NE 69162
Nevada	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Department of Conservation and Natural Resources Division of Mineral Resources Capitol Complex, 201 S. Fall Street Carson City, NV 89710
New Mexico	Area Oil & Gas Supervisor P. O. Box 26124 Marquette Ave, N. W. Albuquerque, NM 87125	Department of Energy and Minerals Oil Conservation Division Box 2088 Santa Fe, NM 87501
New York	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Department of Environmental Conservation Bureau of Mineral Resources 50 Wolf Road Albany, NY 12233
North Carolina	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Department of Natural Resources and Community Development 512 N. Salisbury Street Raleigh, NC 27611

State in which well is located	Jurisdictional Agency for wells on Federal lands	Other lands
North Dakota	Area Oil & Gas Supervisor P. O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Geological Survey University Station Grand Forks, ND 58202
Ohio	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Ohio Department of Natural Resources 1932 Belcher Drive Fountain Square Columbus, OH 43224
Oklahoma	Area Oil & Gas Supervisor 6136 East 32nd Place Tulsa, OK 74135	Corporation Commission Jim Thorpe Building Oklahoma City, OK 73105
Oregon	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Department of Geology & Mineral Industries 1069 State Office Bldg. Portland, OR 97201
Pennsylvania	Area Oil & Gas Supervisor Suite 204 1725 E Street, N. W. Washington, DC 20244	Department of Environmental Resources Division of Oil & Gas 1205 Kossman Bldg. 100 Forbes Avenue Pittsburgh, PA 15222
South Carolina	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	South Carolina Public Service Commission P. O. Drawer 11649 Columbia, SC 29211

State in which well is located	Jurisdictional Agency for wells on Federal lands	Other lands
South Dakota	Area Oil & Gas Supervisor P. O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Geological Survey Science Center University Vermillion, SD 57069
Tennessee	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Tennessee Department of Conservation G-5 State Office Bldg. Nashville, TN 37219
Texas	Area Oil & Gas Supervisor P. O. Box 26124 505 Marquette Ave., N. W. Albuquerque, NM 87125	Railroad Commission Drawer 12967 Austin, TX 78711
Utah	Area Oil & Gas Supervisor P. O. Box 26124 505 Marquette Ave., N. W. Albuquerque, NM 87125	Division of Oil, Gas and Mining Utah Department of Natural Resources 1588 West North Temple Salt Lake City, UT 84116
Virginia	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Secretary of Commerce and Resources P. O. Box 1475 Richmond, VA 23212
Washington	Area Oil & Gas Supervisor 7211 Federal Bldg. 300 North Los Angeles Street Los Angeles, CA 90012	Oil and Gas Supervisor Department of Natural Resources Olympia, WA 98504

State in which well is located	Jurisdictional Agency for wells on Federal lands	Other lands
West Virginia	Area Oil & Gas Supervisor Suite 204 1725 K Street, N. W. Washington, DC 20244	Oil and Gas Division Department of Mines State Capitol Charleston, WV 25305
Wyoming	Area Oil & Gas Supervisor P. O. Box 2859 2002 Federal Bldg. & Post Office Casper, WY 82602	Oil and Gas Conservation Commission Box 2640 Casper, WY 82602

(b) Waiver. In the case of any determination to which a waiver under Subpart C of Part 274 is applicable, "jurisdictional agency" means the Commission.

(c) Federal lands. For purposes of this section, "Federal lands" means

(1) all lands leased under:

(i) the Mineral Lands Leasing Act, as amended, 30 U.S.C. §§ 181 et seq.; and

(ii) the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. §§ 351 et seq.; and

(2) all Indian lands which are under the supervision of the United States Geological Survey (30 CFR Part 221).

(d) Agreements. If the United States Geological Survey and

any state jurisdictional agency enter into an agreement authorizing such state agency to make determinations under Subpart A with respect to wells located on Federal lands, such agreement shall be filed with the Commission. If such an agreement is filed, then such state agency shall be considered the jurisdictional agency with respect to wells on Federal lands in such state to the extent provided in the agreement.

PART 275 - COMMISSION DETERMINATIONS AND REVIEW OF JURISDICTIONAL AGENCY DETERMINATIONS

Subpart A - [Reserved]

Subpart B - Procedure for Commission Review of Jurisdictional Agency Determinations

Sec.

275.201 Publication of notice from jurisdictional agency.
275.202 Commission review of final determinations.
275.203 Protests to the Commission.
275.204 Contents of protests to the Commission.
275.205 Procedure for reopening determinations.
275.206 Confidentiality.

Authority: This part is issued under the National Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350.

SUBPART A - [RESERVED]

SUBPART B - PROCEDURE FOR COMMISSION REVIEW OF JURISDICTIONAL AGENCY DETERMINATIONS

§ 275.201 Publication of notice from jurisdictional agency.

Upon receipt of a notice of determination by a jurisdictional agency under § 274.104, the Commission shall publish notice of such determination in the Federal Register. Such notice shall include:

(a) the date on which the jurisdictional agency notice was received;

(b) certain information contained in Part I of the FERC Form No. 121;

(c) a statement that the application and a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent the material is treated as confidential under § 275.206, at the offices of the Commission; and

(d) a statement that persons objecting to the final determination may, in accordance with this subpart, file a protest with the Commission within 15 days after the publication.

§ 275.202 Commission review of final determinations.

(a) Review by Commission. Except as provided in paragraph (b) of this section, a determination submitted to the Commission by a jurisdictional agency shall become final 45 days after the date on which the Commission received notice of the determination, unless within the 45 day period, the Commission:

(1) makes a preliminary finding that:

(i) the determination is not supported by substantial evidence in the record on which the determination was made; or

(ii) the determination is not consistent with information which is contained in the public records of the Commission and which was not part of the record on which the jurisdictional agency made the determination, and

(2) issues written notice of such preliminary finding, including the reasons for the preliminary finding. Copies of the written notice will be sent to the jurisdictional agency which made the determination, to the persons identified in the notice under § 274.104 of such determination, and to any persons who have filed a protest.

(b) Incomplete notice. Notwithstanding the provisions of paragraph (a) of this section, the 45-day period for Commission review of a determination shall not begin if:

(1) the notice forwarded to the Commission pursuant to Subpart A of Part 274 does not contain all the information required in § 274.104(a)(4) and (5); and

(2) the Commission notifies the jurisdictional agency within 45 days after the date on which the Commission receives notice of the determination that the notice is incomplete.

(c) Public notice. The Commission shall publish notice of the preliminary finding in the Federal Register and shall post the notice in its Office of Public Information. The notice shall set forth the reasons for the preliminary finding.

(d) Procedures following notice of preliminary finding. Any state or federal agency or any person may, within 30 days after issuance of the preliminary finding, submit written comments and request an informal conference with the Commission staff. Any jurisdictional agency, any state agency and any person receiving notice under paragraph (a)(2) may request an informal conference with the Commission staff. All timely requests for conferences will be granted. Notice of, and permission to attend, such conferences will be given to persons identified in paragraph (a)(2) and to state or federal agencies or persons who submitted comments under this paragraph.

(e) Commission review. In any case in which a protest was filed with the Commission pursuant to this subpart and a preliminary finding was issued, the Commission will issue a final order within 120 days after issuance of the preliminary finding, either affirming, reversing, or remanding the determination of the jurisdictional agency. Such order shall state the specific basis for the Commission's action. Notice of the issuance of such order shall be given to the jurisdictional agency, to participants in the proceeding before the jurisdictional agency and to participants in the proceeding before the Commission under paragraph (d) of this section and under § 275.203. In the event that the Commission fails to issue a final order within such 120 day period, the determination of the jurisdictional agency shall become final.

§ 275.203 Protests to the Commission.

(a) Who may file. Any person may file a protest with the Commission with respect to a determination of a jurisdictional agency.

(b) Grounds. Protests may be based only on the grounds that the final determination is:

(1) not supported by substantial evidence;

(2) not consistent with information which is contained

in the public records of the Commission and which was not part of the record on which the determination was made;

(3) not consistent with information submitted with the protest for inclusion in the public records of the Commission, which information was not part of the record on which the determination was made; or

(4) not based on an application which complied with the filing requirements set forth in Subpart B of Part 274, or alternative filing requirements approved pursuant to § 274.207.

§ 275.204 Contents of protests to the Commission.

Each protest shall include:

(a) an identification of the determination protested;

(b) the name and address of the person filing the protest;

(c) a statement of whether or not the person filing the protest participated in the proceeding before the jurisdictional agency, and if not, the reason for his nonparticipation;

(d) a statement of the effect the determination will have on the protestor;

(e) a statement of the precise grounds under § 275.203 for the protest, and all supporting documents or references to any information relied on which is in the record on which

the determination is based or is in or to be inserted in the public files of the Commission; and

(f) a statement that the protestor has served, in accordance with §§ 1.17 and 1.51 of this chapter a copy of the protest together with all supporting documents on the jurisdictional agency and all persons who participated in the proceeding before the jurisdictional agency.

§ 275.205 Procedure for reopening determinations.

(a) Grounds. At any time subsequent to the time a determination becomes final pursuant to this subpart, the Commission, on its own motion, or in response to a petition filed by any person aggrieved or adversely affected by the determination, may reopen the determination if it appears that:

(1) in making the determination, the Commission or the jurisdictional agency relied on any untrue statement of material fact; or

(2) there was omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made to the jurisdictional agency or the Commission.

(b) Contents of petition. A petition to reopen the determination proceedings shall contain the following information, under oath:

(1) the name and address of the person filing the petition;

(2) the interest of the petitioner in the outcome of the determination proceeding;

(3) the statement of material fact that is alleged to be untrue or omitted;

(4) a statement explaining why the outcome of the determination proceeding would have been different had the statement or omission not occurred; and

(5) copies of all documents relied on by the petitioner, or references to such documents if they are contained in the public files of the Commission.

(c) Procedures after reopening. In the event the Commission reopens a determination pursuant to this section it shall:

(1) give notice to the jurisdictional agency and all persons who participated, before both that agency and the Commission, in the proceedings resulting in the determination in question;

(2) permit the jurisdictional agency and other persons receiving notice pursuant to subparagraph (1) to submit whatever documentary evidence such agency or persons deem relevant; and

(3) take such other action or hold or cause to be

held such proceedings as it deems necessary or appropriate for a full disclosure of the facts.

(d) Final order of Commission. Within 150 days after issuance of the notice under paragraph (c)(1) of this section, the Commission shall issue a final order. If the Commission finds that the grounds referred to in paragraph (a) of this section exist, it shall vacate the determination, and order refund or other appropriate action, and the right to collect the previously determined maximum lawful price shall terminate.

§ 275.206 Confidentiality.

(a) Except as provided in paragraph (b), the Commission will accord confidential protection to, and not disclose to the public, any information submitted to the Commission by a jurisdictional agency under § 274.104(a)(4), if:

(1) the jurisdictional agency, on its own motion or on request of the applicant, afforded such information confidential treatment before the jurisdictional agency; and

(2) the agency order or the applicant's request stated grounds for confidential treatment which fall within one of the exemptions described in paragraphs (1) through (9) of 5 U.S.C. 552(b).

(b) Upon receipt of a request for disclosure of information treated as confidential under paragraph (a), the Commission will determine in accordance with 5 U.S.C. 552 whether the information is exempt under 5 U.S.C. 552(b). If it determines the information is not exempt, the information will be made public. If it determines that the information is exempt, the Commission will not make it public unless the Commission determines that its conduct of the proceeding to review the jurisdictional agency determination requires making such information available to the public or to particular parties, subject to such conditions (including a protective order) as the Commission may prescribe. Before making any information public under this paragraph, the Commission shall provide at least 10 days notice to the person who submitted the information.

PART 276 - REPORTS

Subpart A - Reports For Sales Of Natural Gas Under Sections 105, 106(b), and 109 Of The NGPA

Sec.
276.101 Reporting entities.
276.102 Existing intrastate contracts.
276.103 Intrastate rollover contracts.
276.104 Other categories of natural gas.
276.105 Elective filing for certain sellers.
276.106 Definition.
276.107 Record retention.

Authority: This part is issued under the Natural Gas Act, as amended, 15 U.S.C. 717 et seq., Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 et seq., Federal Energy Administration Act, 15 U.S.C. 761 et seq., Natural Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, P.L. 95-91, E.O. 12009, 42 F.R. 46267.

SUBPART A - REPORTS FOR SALES OF NATURAL GAS UNDER SECTIONS 105, 106(b), AND 109 OF THE NGPA

§ 276.101 Reporting entities.

(a) General rule. Except as provided in paragraph (b), any person who makes a first sale of natural gas with respect to which a maximum lawful price under section 105, 106(b), or 109 of the NGPA applies, shall file with the Commission reports in accordance with the provisions of this subpart.

(b) Exceptions. (1) Any person who, in the 12 month period which began on December 1, 1977 and ended on November 30, 1978, sold less than a total of

10,000 MMcf of natural gas (including the sales by any affiliate of such person and including all sales whether such sales occurred in inter- or intrastate commerce) may, in lieu of the reports otherwise required under §§ 276.102 and 276.103 of this subpart, elect to make, under oath, the elective filing described in § 276.105 of this subpart.

(2) In the case of a first sale under sections 105 and 106(b) of the NGPA to an interstate pipeline or an intrastate pipeline, the provisions of paragraphs (a) and (b)(1) of this section shall not apply and the reports specified in §§ 276.102 and 276.103 of this subpart shall be filed by the purchasing interstate pipeline or intrastate pipeline. With regard to first sales reported under this subparagraph, the person making the first sale must file an oath statement with the Commission in accordance with §§ 276.102(e) and 276.103(e).

§ 276.102 Existing intrastate contracts.

(a) Any person who makes a first sale of natural gas under an existing intrastate contract shall file with the Commission on March 1, 1979, and annually thereafter, a report in accordance with forms and instructions issued by the Commission which contains:

(1) with respect to each existing intrastate contract under which first sales of natural gas occurred in the reporting period, a statement identifying:

(i) the date the existing intrastate contract, and all successors to the existing intrastate contract, were entered into;

(ii) the contract price on November 9, 1978, (as defined in § 271.504 of Subpart E), if any;

(iii) if the contract price on November 9, 1978, is less than or equal to $2.060 per MMBtu, a copy or summary of the contract price escalator terms, if any;

(iv) the duration of the contract;

(v) the identity of all purchasers under the contract;

(vi) the contract price on December 31, 1984;

(2) a statement under oath to be filed by a responsible official of such person: (i) that to the best of such official's information, knowledge and belief:

(A) all information submitted in the report is true; and

(B) all first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in section 105 of the NGPA and the Commission's regulations under Subpart E of Part 271; and

(ii) that books and records kept and maintained by such person reflect all the information reported pursuant to this section and that such person undertakes to retain such records for a period of 3 years after the expiration of any contract under which any first sales have occurred during the reporting period.

(b) In the case of any report filed with the Commission under this section, the report shall include the volumes sold under each existing intrastate contract during the reporting period, the highest price per MMBtu charged and collected with respect to any sale under each such contract during the reporting period, an identification of the month in which such highest price was charged, and an identification of all contract modifications described in § 271.505(b) of this subchapter executed during the reporting period.

(c) Any person filing annual reports with the Commission under this section may exclude from his report any information which had been previously reported to the Commission under an earlier report filed by such person under paragraph (a) of this section.

(d) An interstate or intrastate pipeline purchasing natural gas under an existing intrastate contract shall file on March 1, 1979, and annually thereafter a report with

the Commission or, in the case of an intrastate pipeline, the appropriate state regulatory agency if a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274. Such report shall contain the information specified in this section for all purchases by the reporting pipeline under existing intrastate contracts except that, in lieu of the oath filing required under paragraph (a)(2), the reporting pipeline shall make a statement under oath by a responsible official of such pipeline that to the best of such official's information, knowledge and belief all of the information contained in the report is true.

(e) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an existing intrastate contract shall file with the Commission by March 1, 1979, and annually thereafter, a statement under oath by a responsible official of such person:

(1) that to the best of such official's information, knowledge and belief, any first sales of natural gas occurring in the reporting period under existing intrastate contracts were made in compliance with applicable maximum lawful prices specified in section 105 of the NGPA and the Commission's regulations under Subpart E of Part 271; and

(2) that books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (d) of this section and that such person undertakes to retain such records for a period of 3 years after the expiration of any contract under which any first sales have occurred during the reporting period.

§ 276.103 Intrastate rollover contracts.

(a) Any person who makes a first sale of natural gas under an intrastate rollover contract shall file with the Commission on March 1, 1979, and annually thereafter, a report in accordance with forms and instructions issued by the Commission which contains:

(1) with respect to each intrastate rollover contract under which first sales of natural gas occurred in the reporting period, a statement identifying:

(i) the effective date on which first sales began under the intrastate rollover contract;

(ii) identification of the expired contract;

(iii) the identity of all parties to the existing intrastate contract which expired and to the intrastate rollover contract;

(iv) a specification of all changes, if any, in price related terms in the intrastate rollover contract from those price related terms contained in the existing intrastate contract which has expired;

(v) the contract price paid, or which would have been paid, under the existing intrastate contract for the month in which first sales began under the rollover contract;

(vi) the price charged for the month in which first sales began under the intrastate rollover contract; and

(2) a statement under oath to be filed by a responsible official of such person:

(i) that to the best of such official's information, knowledge and belief:

(A) all information submitted in the report is true; and

(B) any first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in section 106(b) of the NGPA and the Commission's regulations under Subpart F of this part;

(ii) that books and records kept and maintained by such person reflect all the information reported pursuant to this section and that such person undertakes to retain such records for a period of 3 years after the expiration of any contract under which any first sales have occurred during the reporting period.

(b) In the case of any report filed with the Commission under this section, the report shall include the volumes sold under each intrastate rollover contract during the reporting period, and the highest price per MMBtu charged and collected for sales of natural gas under each such contract during the reporting period, an identification of the month in which such highest price was charged, and an identification of all contract provisions described in § 271.604(b) of this subchapter executed during the reporting period.

(c) Any person filing annual reports with the Commission under this section may exclude from his report any information which had been previously reported to the Commission under an earlier report filed by such person under paragraph (a).

(d) An interstate or intrastate pipeline purchasing natural gas under an intrastate rollover contract shall file on March 1, 1979, and annually thereafter a report with the Commission or, in the case of an intrastate pipeline, the appropriate state regulatory agency where a delegation of functions has been made to such state regulatory agency pursuant to Subpart D of Part 274. Such report shall contain all of the information specified in this section for

all purchases by the reporting pipeline under intrastate rollover contracts except that, in lieu of the oath filing required under paragraph (a)(2), the reporting pipeline shall make a statement under oath by a responsible official of such pipeline that to the best of such official's information, knowledge and belief all of the information contained in the report is true.

(e) Any person who makes a first sale of natural gas to any interstate or intrastate pipeline under an intrastate rollover contract shall file with the Commission by March 1, 1979, and annually thereafter, a statement under oath by a responsible official of such person:

(1) that to the best of such official's information, knowledge and belief, any first sales of natural gas occurring in the reporting period under intrastate rollover contracts were made in compliance with applicable maximum lawful prices specified in section 106(b) of the NGPA and the Commission's regulations under Subpart E of Part 271; and,

(2) that books and records kept and maintained by such person reflect all the information required to be reported by the purchasing and reporting pipeline under paragraph (d) of this section and that such person undertakes to retain such records for a period of 3 years after

the expiration of any contract under which any first sales have occurred during the reporting period.

§ 276.104 Other categories of natural gas.

A person who makes a first sale of natural gas which qualifies under Subpart I of Part 271 shall file in accordance with forms and instructions issued by the Commission, a report with the Commission on March 1, 1979, and annually thereafter, which contains the following items:

(a) the volumes of natural gas sold in such first sale during the reporting period;

(b) a statement that the natural gas sold in the reporting period was not committed or dedicated to interstate commerce on November 8, 1978; or if such natural gas was so committed or dedicated, a just and reasonable rate was not in effect under the Natural Gas Act on such date for the natural gas (including the basis for such conclusion); and with respect to any natural gas sold in the reporting period which was not committed or dedicated to interstate commerce on November 8, 1978, the natural gas sold in the reporting period is not subject to an existing intrastate contract as defined in § 270.102(b)(8) or intrastate rollover contract as defined in § 270.102(b)(11);

(c) a statement that the natural gas does not qualify for a maximum lawful price under any subpart of Part 271 that is lower than the maximum lawful price permitted under § 271.902;

(d) (1) if the natural gas was committed or dedicated to interstate commerce on November 8, 1978, a statement that a notice of change in rate schedule pursuant to § 154.94 of this chapter has been filed;

(2) if the natural gas was not committed or dedicated to interstate commerce on November 8, 1978, a statement identifying the well, reservoir and acreage from which the the natural gas is produced;

(e) a statement under oath to be filed by a responsible official of such person that to the best of such official's information, knowledge and belief:

(1) all information submitted in the report is true; and

(2) any first sales of natural gas occurring in the reporting period were made in compliance with the maximum lawful prices specified in section 109 of the NGPA and the Commission's regulations under Subpart I of Part 271.

(f) Any person filing annual reports with the Commission under this section may exclude from his report any information which had been previously reported to the Commission under an earlier report filed by such person under this section.

§ 276.105 Elective filing for certain sellers.

(a) Any person described in paragraph (b)(1) of § 276.101 who elects to file an oath statement and undertaking, in lieu of reports otherwise required under §§ 276.102 and 276.103 of this subpart, shall file with the Commission no later than March 1, 1979, and annually thereafter, a statement under oath to be filed by a responsible official of such person:

(1) that such person in the 12 month period which began December 1, 1977, and ended on November 30, 1978, sold less than a total of 10,000 MMcf of natural gas (including the sales by any affiliate of such person and including all sales which occurred both in inter- and intrastate commerce);

(2) that books and records kept and maintained by such person reflect all the information required to be reported under §§ 276.102 and 276.103 of this subpart and that such person undertakes to retain such records for a period of 3 years after the expiration of any contract under which any first sales have occurred in the reporting period;

(3) that to the best of such person's knowledge, information and belief all first sales occurring during the reporting period were made in compliance with the

applicable maximum lawful prices specified in section 105 and 106 of the NGPA and the Commission's regulations under Subparts E and F of Part 271.

(b) Any person filing annual statements with the Commission under this section, beginning with the report to be filed by March 1, 1980, shall only be required to file the information required by paragraphs (a)(2) and (a)(3).

§ 276.106 Definition.

For the purposes of this subpart, the term "reporting period" means:

(a) in the case of the March 1, 1979, report, the period which begins on December 1, 1978, and ends on January 31, 1979; and

(b) in the case of annual reports filed beginning with March 1, 1980, the period which begins on February 1 of the preceding calendar year and ends on January 31 of the reporting year.

§ 276.107 Record retention.

Each person who makes a first sale under section 105, 106(b) or 109 of the NGPA shall maintain such books and records as may be necessary to reflect all the information required to be reported under §§ 276.102, 276.103 or 276.104, or which would be required to be reported but for an election under

§ 276.105 of this subpart. Such books and records shall be retained for a period of three years after the expiration of any contract under which any first sales have occurred in the reporting period.

FERC FORM NO. 123 NGPA § 105
INITIAL REPORT-SALES NOT COMMITTED OR DEDICATED UNDER NGA 11-9-78
Regulation § 276.102

Filing Party(Name)_____ (Code) _____ Pipeline Purchaser ☐ First Sales Seller ☐

Sales Identification Codes State	Codes County	Date of Contract	Seller or Purchaser 1/ Name	Code	Contract Price ¢/MMBtu 11-9-78 2/	12-31-84	Contract Term (yrs)	Sales Volumes 12-1-79 thru 1-31-79 Mcf

1/ If more than one report additional name on separate sheet.
2/ If price is less than $2.060/MMBtu, attach copy of summary of contract price escalator terms.

FERC FORM NO. 124 NGPA § 106(h)
INITIAL REPORT - INTRASTATE ROLLOVER CONTRACT
Regulation § 276.103

Filing Party (Name) _____ (Code) _____ Pipeline Purchaser ☐ Seller ☐

Sales Identification Codes State	Codes County	Expired Contract Date	Seller or Purchaser 1/ Name	Code	Date of New Contract	Sales Comm. Date - New Contract	Last Price Under Expired Contract ¢/MMBtu	Initial Price Under New Contract ¢/MMBtu 2/	Sales Volumes 12-1-78 thru 1-31-79 Mcf

1/ Identify on separate sheet all parties to the existing contract which expired and to the successor contract.
2/ Identify all changes in price resulting from changes in terms contained in the superseded contract.

FERC FORM NO. _____ NGPA § 105 and 106(b)
ANNUAL REPORT OF SALES OR PURCHASES UNDER
Regulation § 276.102, 276.103

Filing Party(Name)_____ (Code) _____ Pipeline Purchaser ☐ Seller ☐

Sales Identification	Annual Sales Vol. Mcf	Highest Price During Report Period-Month	NGPA Pricing Section

FERC FORM NO. _____ NGPA §109
INITIAL REPORT-OTHER CATEGORIES OF NATURAL GAS
§ 276.104 of Regulations

Filing Party:_____ Code:_____

API No.	Basis For Qualification	Purchaser	Code	Contract Date	Annual Production (MMcf)	Contract Price ($/MMBtu)	Max. Lawful Price ($/MMBtu)

SUBCHAPTER I - OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 280 - [RESERVED]
PART 281 - [RESERVED]
PART 282 - [RESERVED]
PART 283 - [RESERVED]

PART 284 - CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS

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Subpart D - Assignment of Contractual Rights to Receive Surplus Natural Gas

Sec.
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284.162 General rule.
284.163 Special rule.
284.164 Terms and conditions.
284.165 Filing requirements.

Authority: This part is issued under the Natural Gas Policy Act of 1978, P.L. 95-621, 92 Stat. 3350.

SUBPART A--CERTAIN TRANSPORTATION BY INTERSTATE PIPELINES

§ 284.101 Applicability.

This subpart implements section 311(a)(1) of the NGPA and applies to the transportation of natural gas by interstate pipelines on behalf of:

(a) intrastate pipelines; and

(b) local distribution companies.

§ 284.102 Transportation by interstate pipelines.

(a) General rule. (1) Except as provided in paragraph (b) of this section and subject to the provisions of this subpart, any interstate pipeline, without prior Commission approval, may transport natural gas on behalf of:

(i) any intrastate pipeline; and

(ii) any local distribution company.

(2) Rates charged for transportation under this paragraph may not exceed just and reasonable rates as provided in § 284.103.

(3) Transportation arrangements under this paragraph shall be subject to such further terms and conditions as provided by rule or order of the Commission pursuant to § 284.104.

(4) Transportation arrangements under this paragraph may be extended as provided in § 284.105.

(5) Interstate pipelines engaging in transportation arrangements under this paragraph shall file reports as provided in § 284.106.

(b) Transactions in excess of two years. (1) An interstate pipeline proposing to enter into transactions for the transportation of natural gas on behalf of any intrastate pipeline or local distribution company for a fixed period in excess of two years shall apply to the Commission for prior approval of the transaction.

(2) The interstate pipeline shall apply for approval as provided by § 284.107.

(3) The Commission may, by order, approve or deny an application. An order approving an application shall specify the applicable rates and charges, duration and reporting requirements and such other terms and conditions as the Commission deems appropriate and in the public interest.

§ 284.103 Rates and charges.

(a) Rates and charges for transportation of natural gas by interstate pipelines under § 284.102(a) shall be determined as provided in paragraphs (b) through (d) of this section.

(b) If an interstate pipeline has on file with the Commission a transportation rate schedule applicable to

transportation arrangements under § 284.102(a), the interstate pipeline shall use the rates contained in that schedule.

(c) If an interstate pipeline does not have on file with the Commission a transportation rate schedule applicable to transportation arrangements under § 284.102(a), the interstate pipeline may elect either:

(1) to base its rates upon the methodology and cost used in designing rates to recover the transmission and related storage costs included in its then effective sales rate schedules; or

(2) to use the rates contained in a transportation rate schedule on file with the Commission which the interstate pipeline determines covers service comparable to transportation service under this subpart.

(d)(1) Except as provided in subparagraphs (2) and (3) all revenues received for transportation rendered pursuant to an arrangement under this subpart in excess of an allowance of one cent per Mcf for out-of-pocket expenses shall be credited to Account No. 191 and flowed back to the interstate pipeline's customers.

(2) An interstate pipeline is not required to credit revenues to Account No. 191 pursuant to subparagraph (1):

(i) to the extent revenues attributable to such services fall within representative levels which have been credited in arriving at a test period cost of service; or

(ii) to the extent that volumes transported fall within

representative levels which have been included in billing determinants for the purpose of establishing rates.

(3) An interstate pipeline is not required to credit to Account No. 191 pursuant to subparagraph (1) of this paragraph any amount which it is able to demonstrate, upon application to the Commission, represents actual out-of-pocket expenses in excess of one cent per Mcf.

§ 284.104 Terms and conditions.

(a) Contracts for the transportation of natural gas pursuant to § 284.102(a) shall provide:

(1) that service under the contract shall be conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(2) that the transportation arrangement is subject to the provisions of this subpart.

(b) Transportation arrangements under § 284.102(a) may be for a period not exceeding two years and may be extended as provided in § 284.105.

(c) The Commission may prospectively, by rule or order, impose further terms and conditions as it deems appropriate and in the public interest.

§ 284.105 Extensions.

(a) Interstate pipelines seeking to extend transportation arrangements under § 284.102(a) shall file an extension report as required in § 284.106(c).

(b) If an extension report as required in § 284.106(c) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, and after opportunity for written comments, determines, by order, that the proposed extension is not approved. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

(c) Extensions may be for a period not exceeding two years unless otherwise ordered by the Commission.

§ 284.106 Reporting requirements.

(a) Initial report. Within thirty days after commencing transportation under § 284.102(a), an interstate pipeline shall file with the Commission an initial report, under oath, signed by a senior official of the company, containing the following information:

(1) the exact legal name of the interstate pipeline and the name, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this subpart should be addressed;

(2) a description of the transportation service, including:

(i) the identity of the parties;

(ii) the dates of commencement and projected termination of the service;

(iii) the estimated total and daily volumes of natural gas to be transported;

(iv) the points between which the natural gas is to be transported; and

(v) the rate to be charged, and with respect to the rate:

(A) if the interstate pipeline is charging a rate contained in a rate schedule under § 284.103(b), the identity of the rate schedule;

(B) if the interstate pipeline is charging a rate computed pursuant to § 284.103(c)(1), an explanation of how the rate is computed; or

(C) if the interstate pipeline is charging a rate contained in a rate schedule under § 284.103(c)(2), a statement of the basis upon which the interstate pipeline determined that the rate schedule used was for comparable service;

(3) a statement that the contract provides that:

(i) service under the contract is conditioned upon the

availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(ii) the transportation arrangement is subject to the provisions of this subpart.

(b) Subsequent reports. If any significant change occurs with respect to the information filed under paragraph (a) of this section, the interstate pipeline shall file with the Commission, under oath, signed by a senior official of the company, appropriate amendments to its initial report.

(c) Extension report. Not less than ninety days prior to the expiration of a contract for the transportation of natural gas pursuant to § 284.102(a), an interstate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission an extension report, under oath, signed by a senior official of the company, stating:

(1) current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) the proposed terms of the extension.

(d) Final report. Within thirty days after the termi-

nation of any transportation arrangement under § 284.102(a), or, if extended, within thirty days after the end of the period of the extenaion, the interstate pipeline shall file with the Commission a report, under oath, signed by a senior official of the company, stating:

(1) current information with respect to the matters required to be reported under paragraph (a) of this section;

(2) actual total and daily volumes of natural gas transported pursuant to the arrangement; and

(3) total revenues received and a complete statement of the manner in which the revenues were treated.

§ 284.107 Application.

An interstate pipeline seeking Commission approval for a transportation arrangement for any fixed period in excess of two years under § 284.102(b) shall file with the Commission a transportation rate schedule for the transportation service to be provided, and an application, under oath, signed by a senior official of the company, containing the following information:

(a) the exact legal name of the interstate pipeline and the name, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this subpart should be

addressed;

(b) a description of the transportation service, including:

(1) the identity of the parties;

(2) the dates of commencement and termination of the service;

(3) the estimated total and daily volumes of natural gas to be transported;

(4) the points between which the natural gas is to be transported;

(c) a statement that the contract provides that:

(1) service under the contract is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(2) the transportation arrangement is subject to the provisions of this subpart.

SUBPART B - CERTAIN TRANSPORTATION BY INTRASTATE PIPELINES

§ 284.121 Applicability.

This subpart implements section 311(a)(2) of the NGPA and applies to the transportation of natural gas by intrastate pipelines on behalf of interstate pipelines and local distribution companies aerved by interstate pipelines.

§ 284.122 Transportation by intrastate pipelines.

(a) General rule. (1) Except as provided in paragraph (b) of this section, and subject to the provisions of this subpart, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of:

(i) any interstate pipeline; and

(ii) any local distribution company served by an interstate pipeline.

(2) Rates charged for transportation under this subpart may not exceed fair and equitable rates as provided in § 284.123.

(3) Transportation under this paragraph shall be subject to such further terms and conditions as provided by rule or order of the Commission pursuant to § 284.124.

(4) Transportation arrangements under this paragraph may be extended as provided in § 284.125.

(5) Intrastate pipelines engaging in transportation arrangements under this paragraph shall file reports as required by § 284.126.

(b) Transactions in excess of two years. (1) An intrastate pipeline proposing to enter into transactions for the transportation of natural gas on behalf of any interstate pipeline or local distribution company served by an interstate pipeline for a fixed period in excess of two years shall apply to the Commission for prior approval of the transaction.

(2) The intrastate pipeline shall apply for approval as provided in § 284.127.

(3) The Commission may, by order, approve or deny an application. An order approving an application shall specify the applicable rates and charges, duration and reporting requirements and such other terms and conditions as the Commission deems appropriate and in the public interest.

§ 284.123 Rates and charges.

(a) Rates and charges for transportation of natural

gas pursuant to this subpart shall be fair and equitable as determined in accordance with paragraph (b) of this section.

(b)(1) The intrastate pipeline may elect either:

(i) to base its rates upon the methodology and cost used:

(A) in designing rates to recover the cost of gathering treatment, processing, transportation, delivery or similar service (including storage service) included in its then effective firm sales rate schedules for city-gate service on file with the appropriate state regulatory agency; or

(B) in determining the allowance permitted by an appropriate state regulatory agency or for city-gate service by the intrastate pipeline; or

(ii) to use the rates contained in a transportation rate schedule for intrastate service on file with the appropriate state regulatory agency which the intrastate pipeline determines covers service comparable to service under this subpart.

(2) In the case of an intrastate pipeline which does not make an election under subparagraph (1), the intrastate pipeline shall file with the Commission the proposed rates and charges, supported by information showing that the proposed rates and charges are fair and equitable. The intrastate pipeline may commence the

transportation service and charge and collect the proposed rates, subject to refund of amounts which the Commission may, by order, after affording notice and opportunity for the oral presentation of views, data and arguments, and written comments, determine to be in excess of those shown to be fair and equitable or in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(c) The Commission presumes that all revenues received by an intrastate pipeline in connection with transportation arrangements pursuant to § 284.122(a) and computed in accordance with paragraph (b)(1)(i) or (ii) of this section have been or will be taken into account for purposes of establishing rates charged by the intrastate pipeline for service to intrastate customers.

(d) If the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1)(i) or (ii), the rate charged is presumed to be:

(i) fair and equitable; and

(ii) not in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

§ 284.124 Terms and conditions.

(a) Contracts for the transportation of natural gas pursuant to § 284.122(a) shall provide that the transportation arrangement is subject to the provisions of this subpart.

(b) Transportation arrangements pursuant to § 284.122(a) may be for a period not exceeding two years and may be extended for periods not exceeding two years.

(c) The Commission may prospectively, by rule or order, impose further terms or conditions as it deems appropriate and in the public interest.

§ 284.125 Extensions.

(a) An intrastate pipeline seeking to extend a transportation arrangement under § 284.122(a) shall file an extension report as required in § 284.126(c).

(b) If an extension report as required in § 284.126(c) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, and after opportunity for written comments, determines, by order, that the proposed extension is not approved. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

§ 284.126 Reporting requirements.

(a) Initial report. Within thirty days after commencing transportation service pursuant to this subpart, an intrastate pipeline shall file with the Commission and the appropriate state regulatory agency an initial report, under oath, signed by a senior official of the company, containing the following information:

(1) the exact legal name of the intrastate pipeline; and the name, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this subpart should be addressed;

(2) a general description of the intrastate pipeline's existing operations;

(3) a description of the transportation service, including:

(i) the identity of the parties;

(ii) the dates of commencement and projected termination of the service;

(iii) the estimated total and daily volumes of natural gas to be transported;

(iv) the points between which the gas is to be transported; and

(v) the rate to be charged, and with respect to the rate:

(A) if the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1), an explanation of how the rate is computed; or

(B) if the intrastate pipeline is charging a rate contained in a rate schedule under § 284.123(b)(2), a statement of the basis upon which the intrastate pipeline determined that the service provided is comparable to service provided for under the rate schedule; and

(4) a statement that the appropriate state regulatory agency has been notified that the Commission has presumed that all revenues received by an intrastate pipeline in connection with the transportation arrangement pursuant to § 284.122(a) and computed in accordance with § 284.123(b)(1)(i) or (ii), have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation rates for intrastate service.

(b) Subsequent reports. If any significant change occurs with respect to the information filed under paragraph (a) of this section, the intrastate pipeline shall file with the Commission and the appropriate state regulatory agency, under oath, appropriate amendments to

its initial report, signed by a senior official of the company.

(c) Extension report. Not less than 90 days prior to the expiration of a contract for the transportation of natural gas pursuant to this subpart, an intrastate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission and the appropriate state regulatory agency, under oath, an extension report, signed by a senior official of the company stating:

(1) current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) the proposed terms of the extension.

(d) Final report. Within thirty days after the termination of any transportation arrangement under § 284.122(a) or, if extended, within thirty days after the end of the period of the extension, the intrastate pipeline shall file with the Commission and with the appropriate regulatory agency a report, under oath, signed by a senior official of the company, providing:

(1) current information with respect to any matters required to be reported under paragraph (a) of this section;

(2) actual total and daily volumes of natural gas transported; and

(3) total revenues received and a complete statement of the manner in which such revenues were treated.

§ 284.127 Application.

An intrastate pipeline seeking Commission approval for a transportation arrangement for any fixed period in excess of two years under § 284.122(b) shall file with the Commission a transportation rate schedule for the transportation service to be provided supported by information showing that the proposed rates and charges are fair and equitable, and an application, under oath, signed by a senior official of the company, containing the following information:

(a) the exact legal name of the intrastate pipeline and the name, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this subpart should be addressed;

(b) a description of the transportation service, including:

(1) the identity of the parties;

(2) the dates of commencement and termination of the service;

(3) the estimated total and daily volumes of natural gas to be transported;

(4) the points between which the natural gas is to be transported;

(c) a statement that the contract provides that the transportation arrangement is subject to the provisions of this subpart.

§ 284.128 Definition.

For the purposes of this subpart the term "appropriate state regulatory agency" means a state agency which regulates rates and charges for transportation by the intrastate pipeline on a cost-of-service basis.

SUBPART C - [RESERVED]

SUBPART D - ASSIGNMENT OF CONTRACTUAL RIGHTS TO RECEIVE SURPLUS NATURAL GAS

§ 284.161 Applicability.

This subpart implements section 312 of the NGPA and applies to assignment by any intrastate pipeline to any interstate pipeline or local distribution company of its contractual right to receive surplus natural gas.

§ 284.162 General rule.

Except as provided in § 284.163, no assignment pursuant to this subpart may take place unless the Commission in its discretion approves, by order, an application for assignment filed in accordance with § 284.165(a) upon a determination that the assignment is consistent with the NGPA and this subpart and is necessary or appropriate in the public interest.

§ 284.163 Special rule.

An intrastate pipeline may assign, without compensation, to any interstate pipeline or local distribution company

all or any portion of its contractual right to receive surplus natural gas without prior approval of the Commission, if:

(a) a state agency having regulatory jurisdiction over the intrastate pipeline which would be entitled to receive the natural gas in the absence of the assignment has determined that such natural gas exceeds the then current demands on such pipeline for natural gas;

(b) the price per MMBtu for the natural gas delivered in any month under the contract to be assigned does not and will not exceed an amount equal to the maximum lawful price per MMBtu prescribed under § 271.202; and

(c) the reports required under § 284.165(d) are filed with the Commission within 60 days of the commencement of deliveries under the assignment.

§ 284.164 Terms and conditions.

(a) Upon approval by the Commission of an application for assignment, filed in accordance with § 284.165(a) or in the case of compliance with § 284.162, an intrastate pipeline may assign, without compensation, to any interstate pipeline or local distribution company all or any portion of its contractual right to receive surplus natural gas. Rates charged for any gathering, treatment, processing, transportation, delivery

or similar service (including storage service) performed in connection with an assignment under this subpart shall be computed in accordance with Subpart B of this part.

(b) Upon receipt and review of reports required under § 284.165(e) for assignments without prior Commission approval, the Commission reserves the right, by order to compel termination of the assignment if it determines such termination is required in the public interest.

(c) Any assignment under this subpart shall be subject to any further terms or conditions that the Commission determines prospectively, by rule or order, are appropriate and in the public interest to impose.

§ 284.165 Filing requirements.

(a) An application for authorization of an assignment pursuant to this subpart shall be filed by the intrastate pipeline, under oath, with the Commission, and shall set forth the following information:

(1) a description of the proposed assignment agreement, including:

(i) the identity of the parties;

(ii) the estimated volumes of natural gas, on a total and daily basis;

(iii) the price per MMBtu applicable to volumes to be

delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(iv) the point of delivery;

(2) a copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(3) evidence of the determination by the state agency having regulatory jurisdiction over the intrastate pipeline that the quantity of natural gas to be assigned is in excess of the volume of natural gas available to the intrastate pipeline and needed to satisfy then current demands;

(4) an attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(5) the computation of any rates to be charged pursuant to Subpart B of this part for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) to be performed by the intrastate pipeline under the assignment agreement.

(b) An interstate pipeline or local distribution company to which an intrastate pipeline would make an assignment under this subpart shall file with the Commission, a statement, under oath, signed by a senior official of the

company, in support of the application under paragraph (a), that to the best of his knowledge, information and belief the price to be paid for the natural gas under the assignment (exclusive of any rates to be charged pursuant to Subpart B of this part) does not and will not exceed the maximum lawful price applicable to first sales of such gas under the NGPA and Part 271 of this Chapter.

(c) An interstate pipeline to which an intrastate pipeline would make an assignment under this subpart shall, in addition to the statement required under paragraph (a), file, under oath, with the Commission a statement in support of the application under paragraph (a) containing the following:

(1) the extent of curtailment, if any, anticipated to occur in the period in which the natural gas is to be delivered pursuant to the assignment;

(2) the effect which the price of the natural gas is expected to have on the interstate pipeline's average purchased gas cost in the period in which the natural gas is to be delivered pursuant to the assignment; and

(3) the reasons why in the opinion of the interstate pipeline the assignment should be authorized as necessary or appropriate in the public interest.

under an assignment made without prior approval of the Commission pursuant to the special rule in § 284.163, the following information shall be filed, under oath, with the Commisaion:

(1) by the intrastate pipeline:

(i) a description of the proposed assignment, including:

(A) the identity of the parties;

(B) the volumes of natural gas delivered and estimated to be delivered, on a total and daily basis;

(C) the price per MMBtu applicable to volumes delivered and to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(D) the point of delivery;

(ii) a copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(iii) evidence of the determination by the state agency having regulatory jurisdiction over the intrastate pipeline that the quantity of natural gas to be assigned is in excess of the volume of natural gas available to the intrastate pipeline and needed to satisfy then current demands;

(iv) an attestation that the particular supplies

(d) Within 60 days of the commencement of deliveries under an assignment made without prior approval of the Commission pursuant to the special rule in § 284.163, the following information shall be filed, under oath, with the Commission:

(1) by the intrastate pipeline:

(i) a description of the proposed assignment, including:

(A) the identity of the parties;

(B) the volumes of natural gas delivered and estimated to be delivered, on a total and daily basis;

(C) the price per MMBtu applicable to volumes delivered and to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(D) the point of delivery;

(ii) a copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(iii) evidence of the determination by the state agency having regulatory jurisdiction over the intrastate pipeline that the quantity of natural gas to be assigned is in excess of the volume of natural gas available to the intrastate pipeline and needed to satisfy then current demands;

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(iv) an attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(v) the computation of any rates charged or to be charged pursuant to Subpart B of this part for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) performed or to be performed by the intrastate pipeline under the assignment agreement;

(2) by the interstate pipeline or local distribution company to which the assignment is made, a statement under oath, signed by a senior official of the company that to the best of his knowledge, information and belief the price for natural gas under the assignment (exclusive of any rates charged or to be charged pursuant to Subpart B of this part) does not and will not exceed the maximum lawful price applicable to first sales of such gas under the NGPA and Part 271 of this chapter.

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-01-M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: Authority is delegated to the Administrator, Economics, Cooperatives, and Statistics Service to work with institutions and international organizations throughout the world in the fields of agricultural economics research and research relating to the economic and marketing aspects of farmer cooperatives. This may be carried out through exchanges of research materials or results, through joint or coordinated research, or by stationing ESCS scientists at such institutions or organizations in foreign countries.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

James L. Fulton, Office of the Deputy Administrator for Management, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202) 447-7392.

Part 2, Subtitle A, Title, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of the Governmental and Public Affairs.

1. Section 2.27 is amended by adding a new paragraph (b)(14) to read as follows:

§ 2.27 Delegations of Authority to the Director of Economics, Policy Analysis and budget.

• • • • • •

(b) *Related to farmer cooperatives, economics research, and statistical reporting* • • •

(14) Work with institutions and international organizations through-out the world in the fields of agricultural economics research and research relating to the economic and marketing aspects of farmer cooperatives. Such work may be carried out by:

(i) Exchanging research materials and results with such institutions or organizations,

(ii) Engaging in joint or coordinated research, or

(iii) Stationing scientists at such institutions or organizations in foreign countries (7 U.S.C. 3291).

• • • • • •

Subpart K—Delegations of Authority by the Director of Economics, Policy Analysis and Budget.

2. Section 2.85 is amended by adding a new paragraph (a)(14) to read as follows:

§ 2.85 Administrator, Economics, Statistics, and Cooperatives Service.

(a) • • •

(14) Work with institutions and international organizations throughout the world in the fields of agricultural economics research and research relating to the economic and marketing aspects of farmer cooperatives. Such work may be carried out by:

(i) Exchanging research materials and results with such institutions or organizations,

(ii) Engaging in joint or coordinated research, or

(iii) Stationing scientists at such institutions or organizations in foreign countries (7 U.S.C. 3291).

• • • • • •

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953).

For Subpart C:

Dated: November 14, 1978.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart K:

Dated: November 14, 1978.

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

[FR Doc. 78-33821 Filed 12-1-78; 8:45 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

1978 CROP GRADE LOAN RATES—FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED TOBACCO

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule established the schedule of grade loan rates which will apply to 1978 crop fire-cured, dark air-cured, and Virginia sun-cured tobacco. The rule is needed to provide the statutory levels of support for 1978-crop fire-cured, dark air-cured and Virginia sun-cured tobacco. Eligible tobacco of these types may be delivered for price support at the specified rates.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, (202) 447-6695.

SUPPLEMENTARY INFORMATION: On September 28, 1978, notice was published in the FEDERAL REGISTER (43 FR 44542) inviting written comments, not later than November 27, 1978, on proposed schedules of grade loan rates for providing price support for 1978-crop fire-cured, dark air-cured and Virginia sun-cured tobacco at the statutory levels.

LOAN RATE—Continued

V 4 3 / 2 3 3

Section 106 of the Agricultural Act of 1949, as amended, prescribes a formula for computing, in cents per pound, the level of price support for each crop of tobacco for which marketing quotas are in effect or have not been disapproved by producers. Application of this formula, requires that the 1978 crop of fire-cured tobacco be supported at the level of 84.6 cents per pound, and that dark air-cured and Virginia sun-cured tobacco be supported at the level of 75.2 cents per pound. Price support will be provided through loans to producer associations which will receive eligible tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances will be based on the grade loan rates, which average the required level of support when weighted by estimated grade percentages, in accordance with section 403 of the Act. The price support advances for fire-cured, types 22-23, and dark air-cured tobacco will be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate. The price support advances for fire-cured, type 21 tobacco and Virginia sun-cured tobacco will be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the producers' association is authorized to deduct and to apply against overhead costs.

DISCUSSION OF COMMENTS

No comments were received with respect to the schedules of loan rates proposed and, it has been decided to adopt the schedules proposed.

FINAL RULE

Accordingly, 7 CFR Part 1464 is amended by revising §§ 1464.17 through 1464.20 to read as set forth below, effective for the 1978 crop of fire-cured, dark air-cured and Virginia sun-cured tobacco. The material previously appearing under §§ 1464.17 through 1464.20 remains applicable to the crop to which each refers.

(Secs. 4, 5, 62 Stat. 1070, as amended, (15 U.S.C. 714b, 714c), secs 101, 106, 401, 403, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421, 1423).)

NOTE: CCC has determined that this document does not contain a significant proposal having major economic consequences for the general economy requiring preparation of a regulatory analysis under Executive Order 12044.

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an Environmental Impact Statement need not be prepared since the proposal will have no signficant effect on the quality of the human environment.

Signed at Washington, D.C. on November 27, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

§ 1464.17 1978 Crop—Virginia Fire-Cured Tobacco, Type 21—Grade Loan Schedule.[1]

LOAN RATE

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1F	116	117	117	.....	.....
A2F	113	114	114	.....	.....
A1D	116	117	117	.....	.....
A2D	113	114	114	.....	.....
B1F	113	114	115	.....	.....
B2F	110	111	112	107	.....
B3F	104	105	106	104	86
B4F	94	95	97	94	81
B5F	79	80	82	79	71
B1D	112	113	113	.....	.....
B2D	106	107	108	103	.....
B3D	96	98	99	98	83
B4D	88	88	89	87	82
B5D	75	75	76	75	71
B3M	85	85	87	86	80
B4M	83	83	86	65	79
B5M	73	74	75	74	69
B3G	81	85	87	86	76
B4G	78	79	84	83	75
B5G	69	70	73	71	65
C1L	119	120	120	.....	.....
C2L	115	116	116	105	.....
C3L	102	105	105	95	.....
C4L	88	89	90	88	.....
C5L	78	79	84	75	.....
C1F	119	120	120	.....	.....
C2F	115	116	116	100	.....
C3F	104	105	105	91	.....
C4F	90	92	97	95	.....
C5F	79	81	83	79	.....
C2D	80	81	81	75	.....

LOAN RATE—Continued

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
C3D	74	75	76	72	.....
C4D	70	71	72	71	.....
C5D	64	65	66	64	.....
C3M	84	85	87	85	.....
C4M	80	82	86	84	.....
C5M	68	69	71	69	.....
C3G	72	73	74	71	.....
C4G	67	68	69	68	.....
C5G	65	66	67	65	.....

Grade	Grade	Grade	Grade
X1L	94	X1D	88	X3G	78
X2L	93	X2D	86	X3G	45 75
X3L	90	X3D	84	X4G	75
X4L	83	X4D	78	X4G	45 72
X5L	78	X5D	73	X5G	64
				X5G	45 63
X1F	94	X3M	78	.....	.....
X2F	93	X3M	45 76	N1L	57
X3F	90	X4M	76	N1D	54
X4F	83	X4M	45 73	N1G	58
X5F	78	X5M	66	N2	39
		X5M	45 65	.....	.....

[1]Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The Association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

§ 1464.18 1978—Crop—Kentucky-Tennessee Fire-Cured Tobacco, Types 22 and 23—Grade Loan Schedule.[2]

LOAN RATE

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length
A1F	126	126	126	.....	.....
A2F	121	121	121	.....	.....
A3F	113	113	113	.....	.....
A1D	126	126	126	.....	.....
A2D	121	121	121	.....	.....
A3D	113	113	113	.....	.....
B1F	109	109	109	104	.....
B2F	104	104	104	100	.....
B3F	100	100	100	97	91
B4F	91	91	91	88	81
B5F	87	87	87	84	78
B1D	108	108	108	103	.....
B2D	103	103	103	99	.....
B3D	100	100	100	96	90
B4D	92	92	92	89	82
B5D	84	84	84	80	74
B3M	88	88	88	84	79
B4M	81	81	81	77	70
B5M	76	76	76	71	66
B3VF	86	86	86	82	75
B4VF	84	84	84	81	74
B5VF	80	80	80	77	70
B3G	86	86	86	82	74
B4G	81	81	81	77	69
B5G	74	74	74	69	64
C1L	109	109	109	105	.....
C2L	106	106	106	103	.....
C3L	100	100	100	96	90
C4L	96	96	96	93	87
C5L	93	93	93	91	84
C1F	105	105	105	101	.....
C2F	102	102	102	99	.....
C3F	99	99	99	96	89
C4F	92	92	92	89	82
C5F	90	90	90	86	79
C1D	109	109	109	104	.....
C2D	98	98	98	95	.....
C3D	92	92	92	89	83
C4D	84	84	84	82	76
C5D	79	79	79	77	70
C3M	88	88	88	85	79
C4M	82	82	82	81	75
C5M	80	80	80	78	69
C3VF	89	89	89	86	80
C4VF	86	86	86	84	78
C5VF	84	84	84	82	73
C3G	83	83	83	80	75
C4G	77	77	77	73	68
C5G	72	72	72	69	66

D E 4 7 8 UMI

LOAN RATE—Continued

V 4 3 / 2 3 3 D E 4 7 8 UMI

LOAN RATE—Continued

[Dollars per hundred pounds, farm sales weight]

Grade	Advance Rate	Grade	Advance Rate
[Dollars per hundred pounds, farm sales weight]			
X1L	93	X1D	90
X2L	91	X2D	86
X3L	87	X3D	81
X4L	82	X4D	77
X5L	81	X5D	74
X1F	96	X3M	80
X2F	94	X4in	75
X3F	88	X5M	72
X4F	84		
X5F	82		
X3VF	81	NIL	70
X4VF	77	N1D	62
X5VF	73	N1G	58
X3G	78	N2	50
X4G	69		
X5G	65		

[2] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable.

§ 1464.19 1978-Crop—Dark Air-Cured Tobacco, Type 35 and 36—Grade Loan Schedule.[3]

LOAN RATE

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44
A1F	111	111	111	
A2F	107	107	107	
A3F	101	101	101	
A1R	111	111	111	
A2R	107	107	107	
A3R	101	101	101	
B1F	102	102	102	99
B2F	97	97	97	96
B3F	92	92	92	90
B4F	83	83	83	82
B5F	77	77	77	76
B1R	101	101	101	99
B2R	96	96	96	95
B3R	90	90	90	89
B4R	82	82	82	81
B5R	77	77	77	76
B1D	101	101	101	99
B2D	96	96	96	95
B3D	89	89	89	88
B4D	82	82	82	81
B5D	74	74	74	73
B3M	85	85	85	84
B4M	78	78	78	77
B5M	71	71	71	70
B3G	84	84	84	83
B4G	78	78	78	77
B5G	69	69	69	68
C1L	102	102	102	101
C2L	100	100	100	99
C3L	94	94	94	93
C4L	85	85	85	84
C5L	75	75	75	73
C1F	102	102	102	101
C2F	98	98	98	97
C3F	93	93	93	91
C4F	85	85	85	84
C5F	76	76	76	74
C1R	100	100	100	99
C2R	97	97	97	96
C3R	90	90	90	88
C4R	79	79	79	78
C5R	71	71	71	70
C3M	85	85	85	84
C4M	75	75	75	74
C5M	70	70	70	69
C3G	86	86	86	84
C4G	76	76	76	75
C5G	69	69	69	68

LOAN RATE—Continued

[Dollars per hundred pounds, farm sales weight]

Grade	Grade	Grade	Grade	Grade	Grade
T3F	74	X1L	93	X3M	78
T4F	70	X2L	88	X4M	74
T5F	62	X3L	86	X5M	66
T3R	74	X4L	83		
T4R	66	X5L	76	X3G	74
T5R	61	X1F	92	X4G	69
T3D	74	X2F	87	X5G	58
T4D	69	X3F	64	N1L	65
T5D	61	X4F	82	N2L	57
T3M	73	X5F	74	N1R	57
T4M	64	X1R	91	N2R	53
T5M	59	X2R	86		
T3G	72	X3R	80	N1G	54
T4G	65	X4R	75	N2G	51
T5G	57	X5R	70		
		X3D	81		
		X4D	75		
		X5D	68		

[2] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), or scrap will not be accept. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such factor.

Grade	Advance Rate	Grade	Grade	Grade	
X3D	69	X3G	74	N1G	49
X4D	65	X4G	69	N2G	37
X5D	55	X5G	65		
X3M	78	N1R	49	N1L	52
X4M	75	N2R	41	N2L	43
X5M	73				

[4] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

§ 1464.20 1978—Crop Virginia Sun-Cured Tobacco, Type 37—Grade Loan Schedule.[4]

[Dollars per hundred pounds, farm sales weight]

LOAN RATE

Grade	Length 46	Length 45	Length 44	Grade	Length 46	Length 45	Length 44
A1	106	106	101	B3G	81	81	79
A2F	101	101	98	B4G	71	73	70
A3F	99	98	96	B5G	67	67	66
A1R	105	105	101	C1L	101	102	92
A2R	101	101	95	C2L	97	98	90
A3R	95	95	93	C3L	93	94	89
				C4L	84	85	81
B1F	104	105	95	C5L	74	75	71
B2F	100	101	96				
B3F	95	98	90	C1F	102	103	93
B4F	89	90	86	C2F	99	100	91
B5F	76	77	74	C3F	93	94	88
				C4F	85	86	83
B1R	104	105	100	C5F	75	76	75
B2R	100	101	96				
B3R	91	92	90	C1R	93	93	87
B4R	88	89	83	C2R	87	87	83
B5R	73	74	72	C3R	78	78	75
				C4R	75	75	71
B1D	101	101	95	C5R	66	66	64
B2D	98	98	93				
B3D	90	90	85	C3M	76	77	76
B4D	80	80	75	C4M	69	72	69
B5D	73	75	70	C5M	65	68	66
B3M	81	81	79	C3G	86	67	65
B4M	76	76	74	C4G	63	65	64
B5M	69	69	66	C5G	57	80	58

plant assistance and services shall not

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LOAN RATE—Continued

[Dollars per hundred pounds, farm sales weight]

Grade	Advance Rate	Grade	Advance Rate	Grade	Advance Rate
T3F	69	T3M	67	X1F	84
T4F	67	T4M	64	X2F	82
T5F	61	T5M	59	X3F	78
				X4F	75
T3R	70	T3G	69	X5F	66
T4R	67	T4G	67		
T5R	62	T5G	61	X1R	81
				X2R	80
T3D	67	X1L	82	X3R	74
T4D	65	X2L	81	X4R	72
T5D	59	X3L	77	X5R	65
		X4L	73		
		X5L	66		

Grade	Advance Rate	Grade	Grade	
X3D	69	X3G	74	N1G 49
X4D	65	X4G	69	N2G 37
X5D	55	X5G	65	
X3M	78	N1R	49	N1L 52
X4M	75	N2R	41	N2L 43
X5M	73			

'Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), or scrap will not be accepted. The association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

[FR Doc. 78-33671 Filed 11-28-78; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER I—APPLICATIONS

EQUAL CREDIT OPPORTUNITY

Receiving and Processing Applications; Redesignation, Revision

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning receiving and processing applications. This action is taken to incorporate and reflect certain requirements of the Equal Credit Opportunity Act, to change the criteria for establishing creditworthiness for FmHA applicants, and to redesignate these provisions as part of the general administrative reorganization of the Agency's regulations. The intended effect of this revision is to ensure that all FmHA loan applicants are being afforded an equal credit opportunity.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION, CONTACT:

Mrs. Nancy Monesson, Rural Housing Specialist, Single Family Loan Division, (202) 447-4295.

SUPPLEMENTARY INFORMATION: Subpart A of Part 1801, Subchapter A, Chapter XVIII, Title 7 Code of Federal regulations has been revised and redesignated as Subpart A of Part 1910, Subchapter I, Chapter XVIII, Title 7 Code of Federal Regulations. Subpart A of Part 1801 is hereby deleted and reserved. FmHA is revising this Subpart to incorporate certain requirements of the Equal Credit Opportunity Act and is redesignating this Subpart as a part of an overall administrative restructuring of its program regulations. FmHA published a Notice of Proposed Rulemaking on August 30, 1978, (43 FR 38707) regarding this revision. Comments were received and accepted through October 2, 1978. A number of comments were received and given due consideration. As a result of these comments, changes have been made to more carefully reflect the requirements of Regulation B which implements the Equal Credit Opportunity Act. Specific changes incorporated in the final rule are:

1. Section 1910.2 makes a stronger affirmation of FmHA's policy regarding nondiscrimination in accepting and processing applications.

2. Section 1910.3 further clarifies when information about a spouse or former spouse can be obtained.

3. Section 1910.4 is changed to re-enforce the requirements of Regulation B of EOCA regarding timeliness.

4. Section 1910.5 has been changed to read "Evaluating Applications."

Accordingly, Chapter XVIII is amended as follows:

PART 1801—RECEIVING AND PROCESSING APPLICATIONS

1. Subpart A of Part 1801 is hereby deleted and reserved.

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

2. Section 1822.5 *Veterans Preference* is revised as follows:

§ 1822.5 Veterans Preference.

Applications received from veterans and from spouses and children of deceased servicemen will be given preference in accordance with Section 1910.10.

§ 1822.11 [Amended]

3. In lines 7 and 8 of § 1822.11 paragraph (a) change the reference from "Subpart A of Part 1801 of this chapter" to "Part 1910, Subpart A".

EXHIBIT B—[AMENDED]

4. In Exhibit B, paragraph 2 (a)(1), lines 3 and 4, change the reference from "Subpart A of Part 1801 of this Chapter" to "Part 1910, Subpart A".

5. In Exhibit B, paragraph 3, lines 15 and 16, change the reference from "Subpart A of Part 1801 of this chapter", to "Part 1910, Subpart A".

PART 1945—EMERGENCY

Subpart C—Economic Emergency Loans

§ 1945.111 [Amended]

6. In § 1945.111, the introduction paragraph change the reference from "Part 1801 of this Chapter" to "Part 1910 Subpart A".

7. In § 1945.111 paragraph (a) change the reference from "Subpart A of Part 1801 of this Chapter" to "Part 1910 Subpart A".

PART 1910—GENERAL

8. As added, Subpart A of Part 1910 reads as follows:

Subpart A—Receiving and Processing Applications

Sec.

1910.1 General.
1910.2 Equal Credit Opportunity Act (ECOA) and Regulation B.
1910.3 Receiving applications.
1910.4 Processing applications.
1910.5 Evaluating applications.
1910.6 Notification of applicant.
1910.7 Counseling.
1910.8 Reaching an understanding.
1910.9 Supplemental material to be provided by State Offices.
1910.10 Veterans' preference.
1910.11 Special Requirements.
1910.12-1910.50 [Reserved]

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Receiving and Processing Applications

§ 1910.1 General.

This Subpart prescribes the policies and procedures for receiving and processing Section 502 and 504 Rural Housing (RH), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Operating (OL), Emergency (EM), Economic Emergency (EE), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Rural Housing Site (RHS) and Labor Housing (LH), loan and grant applications except as modified by program Regulations. It also prescribes policies for informing applicants and other interested individuals about the services of the Farmers Home Administration (FmHA).

(a) The County Supervisor will provide information about FmHA services to all persons making inquiry about FmHA programs. This information may be provided by individual interviews, correspondence, or distribution of pamphlets, leaflets, and other written statements.

(b) Wherever the term "applicant" appears in this Subpart, it shall be construed to mean applicant and/or co-applicant, if any.

§ 1910.2 Equal Credit Opportunity Act (ECOA) and Regulation B.

ECOA as amended, prohibits discrimination in credit based on sex, marital status, race, color, religion, national origin, age (provided the applicant has the capacity to contract), because all or part of the applicant's income is derived from public assistance of any kind, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. These shall hereafter be referred to in this Subpart as "ECOA prohibited bases". It is the policy of the Farmers Home Administration that assistance and services shall not be denied to any person or applicant as a result of race, sex, national origin, color, religion, marital status, age, receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act.

§ 1910.3 Receiving applications.

Applications for FmHA assistance will ordinarily be filed in the County Office serving the area in which the farm, dwelling, business, or other facility for which financing is being requested is or will be located.

(a) All persons applying for FmHA assistance who are not indebted to FmHA must file a written application. Any person wishing to submit an application will be permitted to do so. No oral or written statement may be made to applicants or prospective applicants that would discourage them from applying for assistance, based on any ECOA "prohibited basis". The filing of written applications will be encouraged even though funds may not be currently available, since complete applications will be considered in the order received, except when program regulations or veteran status provides for preference. Applications will normally be handled as follows:

(1) Form FmHA 410-4, "Application for Rural Housing Loans (Nonfarm Tract)" will be used by applicants for RH loans on nonfarm tracts who depend primarily on off-farm income.

(2) Form FmHA 410-1, "Application for FmHA Services" will be used by all other applicants. These include persons applying for RH loans on farms or nonfarm tracts who derive a major portion of their income from farming. For EM loans, it is necessary for the applicant to complete Form FmHA 1945-22, "Certification of Disaster Losses".

(3) All individual loan applicants will sign Form FmHA 410-9, "Statement Required by the Privacy Act". A signed copy will remain with the application. No application is complete without a signed Form FmHA 410-9 on file.

(4) Information regarding race, national origin, sex, and marital status is needed for monitoring purposes for all applications filed for assistance to finance residential real estate when the loan is to be secured by a lien on the property. In those cases, FmHA will request the applicant and/or co-applicant to furnish that information on the application on a voluntary basis. The application form will indicate that this information is provided on a voluntary basis.

(b) Requests by FmHA borrowers or previous borrowers for additional assistance from FmHA will be processed as follows:

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(1) Applicants for OL, EM, RH, individual SW, or individual LH loans who have a current Form FmHA 431-2, "Farm and Home Plan", Form FmHA 431-3, "Family Budget", or Form FmHA 410-4, and who are presently indebted to FmHA, will be required to complete only the following items of Form FmHA 410-1 or Form FmHA 410-4:

(i) Name.

(ii) Loan purpose.

(iii) Planned income for next 12 months.

(iv) Date and signature of the applicant.

(2) If information about their current status is not available, applicants should fully complete Form FmHA 410-1 or Form FmHA 410-4, as appropriate. Applicants for EM loans with new losses from an authorized disaster must also complete Form FmHA 1945-22.

(c) County Office Assistants ordinarily will be responsible for receiving loan applications and giving a preliminary explanation of services available through FmHA. An explanation of the types of assistance available should be given whenever it is not clear what type of loan or grant will meet the applicant's needs. The employee receiving the application will make sure that it is properly completed, dated, and signed, and will give whatever assistance is necessary. An applicant may apply for and maintain a loan account using a birth-given first name and a birth-given surname, or the spouse's surname, or a combination surname. Married persons may apply as individuals. In the case of a joint application, the persons requesting the assistance will designate who is listed as "applicant" and who is listed as "co-applicant." When the use of veteran's preference is involved, the identity of the veteran must be properly documented if the name used in the application differs from that shown on the veteran's evidence of eligibility.

(d) Information will be obtained about household members or others as required by program regulation needed to determine eligibility for the requested assistance. An applicant will also be required to provide information concerning a spouse or former spouse, who will not be a cosigner, who is not a member of the household when the applicant is relying on alimony, child support, or separate maintenance from that spouse or former spouse as a basis for repayment, or receipt of such payments will be considered for eligibility. In such cases information regarding the spouse's or former spouse's financial resources may be requested. Only information regarding the receipt and dependability of income from alimony, child support, or separate maintenance provided by a former spouse, may be requested, considered, and verified to determine eligibility and repayment ability.

(e) Signature requirements on the Promissory Note will be as needed to assure repayment of the indebtedness and adequacy of the security instrument. Signature requirements on the Mortgage or Deed of Trust will be that sufficient to obtain the required lien, and to make the property being offered as security available to satisfy the debt in the event of default. FmHA State Supplements will be issued to outline the requirements in accordance with State real property law. The State Director will obtain the advice of OGC prior to issuance of the State Supplement.

(f) If a spouse's signature would be necessary for FmHA to obtain the necessary security, information regarding an applicant's marital status will be obtained. Only the terms "married," "unmarried" and "separated" may be used to designate marital status. "Unmarried" includes single, divorced, or widowed persons.

(g) FmHA may not request information concerning birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children. Assumptions or aggregate statistics relating to the likelihood or probability that any particular group of persons will bear or rear children will not be used to evaluate creditworthiness, or for any other purpose; nor will the assumption be made that, for that reason, an applicant will receive diminished or interrupted income in the future.

(h) If after discussing credit needs, it appears that the applicant may be able to obtain the necessary credit from some other source, the County Supervisor should provide information on the availability of such credit and provide the needed assistance in contacting that credit source. All applications, including those from applicants assisted in obtaining credit from other credit sources, will be listed and reported in accordance with FmHA Instructions 405.1 and 492.3 which are available in all FmHA offices.

(i) FmHA will normally use the Social Security number or Internal Revenue Service (IRS) tax number, whichever is appropriate, as a borrower identification number. The applicant's Social Security or IRS tax number, preceded by the State and county code number, will constitute the entire case number to be used on all FmHA forms. If the applicant is an individual, the Social Security number should be used. If the applicant is a legal entity, its IRS tax number will be used. If the applicant does not have, or does not authorize use of a Social Security number for identification purposes, the Finance Office will assign a number. No applicant will be denied any right, benefit, or privilege provided by law because of refusal to disclose a Social Security number. Any applicant requested to disclose a Social Security number in the completion of a loan application will be orally counseled or advised in writing that:

(1) Disclosure of the Social Security number is voluntary and that refusal to disclose the Social Security number will not result in any adverse action; and

(2) The Social Security number is used in the identification of loan records and in the administration of payment transactions.

(j) For all loans and credit sales secured by a first mortgage and involving the purchase of an existing 1 to 4 family unit, or purchase of a building site and construction of 1 to 4 family residential units, or FO loans involving tracts of 25 acres or less, whether made to an individual, corporation, partnership, cooperative, association, or other entity, the booklet entitled "Settlement Costs" will be hand-delivered to the applicant when the completed application is received, or mailed to the applicant within three (3) business days after receipt of the application in the County Office.

(1) Form FmHA 440-58, "Estimate of Settlement Costs," will be completed by the County Supervisor and delivered to the applicant with the booklet.

(2) A record of the date and method of delivery of the booklet and Form FmHA 440-58 will be kept in the running record section of the applicant/borrower County Office case folder.

§ 1910.4 Processing applications.

When obtaining information concerning applicants and evaluating their qualifications, FmHA personnel will be governed by the provisions of ECOA and the established policies for the various types of assistance offered by FmHA.

(a) *Completed applications.* Applications for which all information necessary to determine eligibility has been received, will be processed in the order received except as modified by veteran's preference policies. The County Supervisor will verify the information furnished by the applicant and record and assemble additional information needed to properly evaluate the applicant's qualifications and credit needs. Information may be obtained and verified by:

(1) County Office records.

(2) Form FmHA 410-4.

(3) Credit reports as provided in Part 1801 Subpart B (FmHA Instructions 1910-B and 1910-C).

(4) Personal contacts.

(5) Visits of supervisory personnel to the applicant's residence or business.

(6) Form FmHA 410-8, "Applicant Reference Letter" to informed sources such as creditors, bankers, merchants, employers, and landlords. the information obtained as a result of personal inquiries and observations will be recorded in the running record. The information obtained by correspondence will be attached to the related application, Form FmHA 410-1 or Form FmHA 410-4, as appropriate.

(b) *Determining eligibility.* The County Committee will be used to determine eligibility of RH applicants who are also applying for a farmer program loan, or who are already indebted for a farmer program loan. The County Supervisor will determine eligibility for all other RH applicants. All farmer program applications are to be submitted to the County Committee for eligibility. The County Supervisor must obtain and present to the County Committee sufficient information concerning an applicant for the Committee to determine eligibility for the type of assistance requested.

(c) *County Committee actions.* All actions by the Committee regarding applicant eligibility will be taken in Committee meetings attended by at least two Committee members. If the County Committee is unable to reach a decision based on the information available, they may request the County Supervisor to obtain further information or may request a personal interview with the applicant. The County Committee will act on the application after considering all pertinent information. This action will be taken in the absence of the applicant. County Committee members are required to adhere to all applicable provisions of this regulation when determining eligibility of applicants. Applicants may not be interviewed for reasons unrelated to proper eligibility considerations.

(d) *Timeliness.* Written notice of eligibility or rejection will be sent to all applicants within 30 days after receipt of the completed application. A completed application is one for which all information necessary to determine eligibility has been received. If a determination of eligibility cannot be made within 30 days from the date of receipt of the completed application, the applicant will be notified in writing of the cirmumstances causing the delay, and the approximate time needed to make a decision. The letter will contain the ECOA paragraph set forth in § 1910.6(b)(1) of this Subpart.

(e) *Recording action taken.* The County Committee minutes or the running case record (whichever is appropriate) will show what action was taken on each application. The specific reasons for unfavorable decision of eligibility on applications will be shown on the Committee Certifications. In those cases not involving County Committee action, this information will be recorded in the running case record.

(f) *Active applications.* An applicant may voluntarily withdraw an application at any time. When an applicant has been determined eligible but further processing is delayed due to an apparent lack of interest, the applicant will be advised by letter that the application will be considered withdrawn unless the County Office receives a notice within 30 days that further consideration is desired. The letter will contain the ECOA paragraph set forth in § 1910.6(b)(1) of this Subpart. Applications for FO, SW, OL, RL, RH, RRH, RCH, RHS, and LH loans received during any fiscal year will remain active during the remainder of that fiscal year in which they were received, plus the subsequent fiscal year, unless withdrawn or disapproved, or unless the loan is closed. However, an expiring application for which a loan has been approved but not closed will be considered active until the loan is closed or canceled. All withdrawn or rejected applications will be retained in an inactive file for 25 months after the date of withdrawal or notice of adverse action. If notice has been received by FmHA that an adverse action is under investigation or in litigation, that application and all related material will be retained until final disposition of the matter.

§ 1910.5 Evaluating applications.

The following criteria will be considered in addition to the eligibility criteria in applicable program regulations.

(a) *Age of applicant.* When evaluating the application, the age of the applicant will not be used as a consideration of eligibility (provided the applicant has reached the legal age of majority in the State, or has had the disability of minority removed by court action) except when a specific age is being used to the advantage of the applicant (e.g. assistance under the 504 grant program).

(b) *Credit history.* Credit history will be a consideration to the extent that it is used in evaluating all applicants for similar types and amounts of credit. For instance, credit requirements for a female applicant will not differ from those for a male applicant.

(c) *Creditworthiness.* When considering creditworthiness of an applicant, the following will not indicate an unacceptable credit history.

(1) Bankruptcies, foreclosures, judgments, or delinquent payments of the applicant which occurred more than 36 months before the application if no recent similar situations have occurred.

(2) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(3) "No history" of credit transactions by the applicant.

(4) Recent bankruptcy, foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(i) The circumstances causing any of the above were of a temporary nature and were beyond the applicant's control. Example: loss of job; delay or reduction in government benefits, or other loss of income; increased living expenses due to illness, death, etc.

(ii) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

§ 1910.6 Notification of applicant.

(a) *Favorable decision.* If the decision of eligibility is favorable, the County Supervisor will notify the applicant immediately, and then will proceed promptly to process the loan in accordance with the applicable regulations. Care should be exercised to be sure that the applicant understands that a decision of eligibility does not constitute approval of the loan. In notifying the applicant of a favorable decision of eligibility the County Supervisor will, when practicable, arrange a meeting with the applicant to proceed with developing the loan docket. When the applicant has been determined eligible for assistance and additional information becomes available that indicates the original determination may be in error, the application will be reconsidered taking the new information into account. If, after reconsideration, the applicant is rejected, adverse action has occurred, and proper notification will be sent.

(b) *Unfavorable decision.* (1) The County Supervisor will immediately notify the applicant in writing of the adverse decision whether made by the County Supervisor or the County Committee. A statement will be made giving specific reasons for the denial. In all cases, applicants will be advised of their appeal rights in accordance with Subpart B of Part 1900 of this Chapter. The following statement will also be made on all notifications of adverse action.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance

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with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

(2) If the County Committee determines that the applicant is not eligible, Form FmHA 440-2 County Committee Certification or Recommendation will be completed by giving the specific reasons for the rejection in the blank space immediately above the space for the signatures of the County Committee members. The form will be dated and the County Committee members will sign in the space provided.

(c) *Lack of funds.* Applications received when funds are not available will be processed and a decision on eligibility will be made. Applicants who are ineligible will be so advised, in accordance with § 1910.6(b)(1) of this Subpart. Applicants who are determined eligible will be notified that funds are presently exhausted but that their application will be held until funds are available. When funds become available for the requested loan, eligible applicants will be notified by letter. Such notice will also provide that the County Office should be advised within 30 days if the applicant is still interested in obtaining the assistance orlginally applied for. If the applicant does not respond, a second notice will be sent requesting the applicant to contact the County Office within 15 days or the application will be considered withdrawn. The letter will contain the ECOA Notice set forth in § 1910.6(b)(1) of this Subpart. If the applicant indicates a desire to obtain assistance, the County Supervisor will review the application with the applicant and, if there have been any significant changes that would affect eligibility, the County Supervisor will obtain necessary current information to determine eligibility, or when appropriate, present the application to the County Committee for reconsideration. If, after reconsideration, the application is rejected, adverse action has occurred, and proper notification will be sent as outlined in § 1910.6(b)(1) of this Subpart.

(d) *Credit report.* If a loan is refused because of information provided by a credit report, the County Supervisor will also:

(1) State the reason as being information received in the credit report and cite the specific information given in the credit report that led to the rejection (e.g. delinquent obligations, tax lien, or judgments).

(2) Provide the name and address of the credit reporting company.

(3) Inform the applicant that a copy of the Credit Report may be obtained from FmHA if requested by the applicant, but that any dispute regarding the accuracy of the information in the credit report must be resolved between the Credit Reporting Company and the applicant.

(e) *Other credit references.* When denial is based on information obtained from a source other than a Credit Reporting Company, the applicant will be advised that denial is based on information from other than a Credit Reporting Company, and that upon written request, the nature of that information will be disclosed.

§ 1910.7 Counseling.

(a) *Budgets.* When it appears that an RH non-farm applicant has insufficient income, based on the abbreviated budget section of the application form, the County Supervisor should invite the applicant to return to the County Office to complete Form FmHA 431-3, "Family Budget". There should be enough income to repay the requested loan, pay other debts, and pay planned household and other expenses. Joint completion of the budget by the applicant and County Supervisor should provide the opportunity for the applicant to fully explain how household income is managed.

(b) *Farm and Home Plan.* When information on form FmHA 410-1 or the Farm and Home Plan indicates that the applicant has insufficient income to repay the requested loan, pay other debts and provide a reasonable standard of living, alternative plans of farm operation will be considered to attempt to ovecome the problem.

(c) *Applicant/Supervisor understanding.* When discussing the reasons for the applicant's failure to qualify, the County Supervisor will:

(1) Be sympathetic.

(2) Try to help the applicant work out the problem.

(3) Give a full explanation for the rejection and provide full opportunity for further discussion.

(4) Offer suitable alternatives when practicable.

§ 1910.8 Reaching an understanding.

A proper understanding will be obtained with all applicants with respect to the basic loan making and servicing policies, their responsibilities, and the benefits that may be expected from FmHA assistance. The applicant should be given adequate time to make all necessary basic decisions. Proper understandings may be reached with applicants through:

(a) *Individual interviews with County Office personnel.* The process of arriving at an understanding will begin on the occasion of the first interview with the applicant. The applicant will be given an attentive and sympathetic hearing with ample time to discuss fully all problems and needs. County Office personnel will explain clearly whether and how these needs may be met through the services of FmHA. If necessary, arrangements will be made for subsequent discussions until the County Supervisor is satisfied the applicant has obtained a proper understanding.

(b) *Applicant interviews with the County Committee.* An applicant requesting an opportunity to appear before the County Committee to discuss any questions relating to the application or the FmHA program will be permitted to do so.

(c) *Group meetings.* An effective method of assisting applicants to obtain a proper understanding of the FmHA program is through group meetings. Effective group meetings can be held with three or more applicants. Through group meetings applicants get the benefit of explanations given to questions raised by others. Requirements can be presented more impersonally, and generally are more acceptable when applicants know that all borrowers must meet the same requirements. Group participants will be informed that matters of a personal or confidential nature will not be discussed publicly, and that any such questions will be answered during individual interviews.

(d) *Items to be discussed.* Before loans are made, County Supervisors will make every effort to see that an understanding is reached with the applicant on the following points as they apply to the type of assistance involved:

(1) Farm and Home Planning.
(2) Budgeting.
(3) Record keeping.
(4) FmHA visits.
(5) Analysis of income and expenses.
(6) Supervised bank accounts.
(7) Planning and performing development work.
(8) Use of funds.
(9) Security requirements.
(10) Care and maintenance of security.
(11) Accounting for security property.
(12) Repayment of loans.
(13) Interest credits and recapture.
(14) Moratorium.
(15) Graduating to other credit sources.
(16) Direct payment to the Finance Office, when applicable.
(17) Appeal procedure.

§ 1910.9 Supplemental material to be provided by State Offices.

To further assist County Supervisors receive and process applications, the State Office may supplement this Subpart with materials and information adapted to state and local conditions. Examples of the types of information that can be used effectively for the guidance of the County Supervisors are:

(a) Guides and suggestions for holding group meetings of applicants.

(b) Illustrative material for use in explaining the FmHA program to individuals and groups.

(c) Information on State statutes concerning community property or dower and courtesy rights, and how these laws affect loan programs and security requirements.

(d) Outreach material.

§ 1910.10 Veterans' preference.

(a) *Farm loans.* Veterans' preference will be extended to any person applying for an FO, SW, RL, or OL loan who has been honorably discharged, including clemency discharges, or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, who served on active duty in such forces: (1) during the period of April 6, 1917, through March 31, 1921; (2) during the period of December 7, 1941, through December 31, 1946; (3) during the period of June 27, 1950, through January 31, 1955; or (4) for a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975.

(b) *RH loans.* Veterans' preference will be extended to any person applying for an RH loan who would qualify for such preference under paragraph (a) of this section. Such preference will also be extended to the spouses and children of deceased servicemen who died in service during one of the periods described in paragraph (a) of this section.

(c) *Applying Vetcrans' preference.* Veterans' preference will apply when:

(1) There is a shortage of funds.

(2) Obligating forms are ready to be submitted to the Finance Office.

(3) There is more than one application having the same date.

§ 1910.11 Special requirements.

(a) *Serviceman's Readjustment Act of 1944.* Section 512(a)(D) of the Serviceman's Readjustment Act of 1944, as amended, provides that an applicant for a direct housing loan from the Veterans Administration (VA) must be "unable to obtain a loan for such purposes from the Secretary of Agriculture under the Consolidated Farm and Rural Development Act as amended, or the Housing Act of 1949, as amended". Veterans Administration Loan Guaranty Officers may, therefore, require VA loan applicants to apply to FmHA for loan assistance.

(b) *Veterans determined ineligible by FmHA.* If the veteran is unable to obtain a loan from the FmHA, the County Supervisor will, upon request, furnish the applicant with a rejection letter to be presented to the Loan Guaranty Officer. The Loan Guaranty Officer may consult with the County Supervisor regarding the investigation made by FmHA of the veteran's application, and the specific reasons for rejection.

§§ 1910.12-1910.50 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.)

Dated: November 17, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-33763 Filed 12-1-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 78-ASW-53; Amdt. 39-3358]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 206L and 206L-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive which requires repetitive checks of the horizontal stabilizer for cracks on Bell Models 206L and 206L-1 helicopters. This amendment is needed to prevent possible failure of the horizontal stabilizer which could result in loss of the helicopter.

DATE: Effective date of the AD will be December 5, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESS: The applicable service bulletin may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

Tom A. Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number 817-624-4911, Extension 517.

SUPPLEMENTARY INFORMATION: There have been two reports of the horizontal stabilizer cracking, along the line of stabilizer inserts that are used to attach the stabilizer to the tail boom, on Bell Model 206L helicopters, which could result in failure of the stabilizer and could cause the loss of a helicopter. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires visual daily checks of certain horizontal stabilizers on Bell Models 206L and 206L-1 helicopters. Modification of the upper stabilizer supports is also required so that the checks can be accomplished.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Models 206L and 206L-1 helicopters, Serial Numbers 45004 through 45176 and 46601 through 46617, certificated in all categories (Airworthiness Docket No. 78-ASW-53).

Compliance required as indicated, unless already accomplished.

To prevent possible failure of the horizontal stabilizer, P/N 206-023-119-003, -011, -075, or -107, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD, modify the left and right upper stabilizer supports, P/N 206-023-100-009 and -010 respectively, in accordance with Bell Helicopter Textron Service Bulletin 206L-78-3, dated October 23, 1978, or later FAA approved revision, so that the critical area can be checked.

(b) Before the first flight of each day after compliance with paragraph (a), visually check the stabilizer skin area exposed by the cutouts, in the upper stabilizer supports, for cracks.

(1) If a crack is found, remove and replace the horizontal stabilizer before further flight.

(2) If no cracks are found, continue the repetitive check specified above.

(c) The checks required by this AD may be performed by the pilot.

NOTE.—For the requirements regarding the listing of compliance and method of compliance with this AD in the aircraft's permanent maintenance record, see FAR 91.173.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington,

SUPPLEMENTARY INFORMATION: 42 F.R. 35623 (1977); Department Organiza-

in support of applications under the

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D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective December 5, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); 14 CFR 11.89.)

NOTE.—The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

Issued in Fort Worth, Texas, on November 17, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-33665 Filed 12-1-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WA-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Designation of Temporary Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments designate temporary restricted area airspace south of Fairbanks, Alaska, to contain a military joint readiness exercise called "Jack Frost '79." These actions provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the restricted area during its time of designation.

EFFECTIVE DATE: December 28, 1978. Period of designation is January 22, 1979, through February 7, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 26, 1978, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate a temporary restricted area indentified as R-2212 south of Fairbanks, Alaska, to contain a military joint readiness exercise called "Jack Frost '79." Since the restricted area would penetrate the Continental Control Area, the FAA proposed to list it under § 71.151 to provide controlled airspace above 14,500 feet MSL. The affected airspace would be prohibited to nonparticipating aircraft between January 22, 1979, through February 7, 1979, during its time of use by the military (43 FR 49990). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. All comments were favorable. Sections 71.151 and 73.22 were republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 344, 663).

THE RULE

These amendments to Parts 71 and 73 of the Federal Aviation Regulations designate temporary restricted area airspace in the vicinity of Fairbanks, Alaska, to protect nonparticipating aircraft during the time that the "Jack Frost '79" readiness exercise is in operation. Additionally, the airspace at and above 14,500 feet MSL within the temporary restricted area is included in the Continental Control Area during the designated period. The Department of the Air Force has advised that the requirements of the National Environmental Policy Act (NEPA) have been met.

The proposed temporary Military Operations Area (MOA) identified as "FROSTY" is being established by separate nonrulemaking action.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 71 and Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (43 FR 344, 663) are amended, effective 0901 G.m.t., December 28, 1978, as follows:

PART 71

1. Section 71.151 (43 FR 344) is amended by adding the following temporary restricted airspace area during its time of designation.

R-2212 CLEAR CREEK, ALASKA

PART 73

2. Section 73.22 (43 FR 663) is amended by adding the following:

R-2212 Clear Creek, Alaska

Boundaries. Beginning at Lat. 64°41'00"N., Long. 147°55'00"W.; to Lat. 64°40'00"N., Long. 147°20'00"W.; via the west bank of the Tanana River to Lat. 64°23'00"N., Long. 147°00'00"W.; to Lat. 64°15'30"N., Long. 147°00'00"W.; to Lat. 64°15'00"N., Long. 147°45'00"W.; via the east bank of the Wood River to Lat. 64°23'00"N., Long. 148°07'00"W.; to point of beginning.

Designated altitudes. Surface to but not including Flight Level 200.

Time of designation. January 22, 1979, through February 7, 1979, continuous from 0600 to 1800 local time, intermittent other times.

Controlling agency. Federal Aviation Administration, Anchorage ARTCC.

Using agency. Alaskan Air Command, Elmendorf Air Force Base, Alaska.

(Secs. 307(a) 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

NOTE: The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by Interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 28, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-33766 Filed 12-1-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

Requests for an Extended Validity Period for an Export License

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: It is the policy of the Office of Export Administration to limit the validity of individual licenses to export commodities to one year. However, the Office of Export Administration will consider requests for exception to this policy and grant extended validity periods when requested and justified by the applicant. This rule explains procedures to initiate such a request.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce Washington, D.C. 20230 (Tel. 202-377-4196).

SUPPLEMENTARY INFORMATION: Although the policy of the Office of Export Administration is to limit an individual license to export commodities to a one-year validity period, OEA will consider reasonable requests for longer validity periods. A request for an extended validity period might be justified by long production lead times or a tie-in to a major multi-year construction project, or other extenuating circumstances. This rule explains the procedures to follow in requesting an extended validity period. This rule does not affect procedures set forth in § 372.12 to extend an existing license by amendment.

Accordingly, Part 372 of the *Export Administration Regulations* (15 CFR Part 372) is amended as follows: §§ 372.9(d)(2) and (3) are renumbered §§ 372.9(d)(3) and (4), § 372.9(d)(1) is revised editorially, and a new § 372.9(d)(2) is added to read as follows:

§ 372.9 Issuance of validated licenses.

* * * * *

(d) *Validity of License.*—(1) *One-year validity period.* Unless otherwise stated on the face of the license, an export license is valid for one year from the last day of the month during which it is issued; e.g., a license issued on June 11, 1978, would expire on June 30, 1979. The expiration date is shown on the license. If the expiration date falls on a legal holiday (Federal or State), the validity period is automatically extended to midnight of the first day of business following the expiration date.

(2) *Extended validity period.* As an exception to the general practice of limiting validity periods to one year, the Office of Export Administration will consider granting a validity period exceeding one year where circumstances warrant. For example, an extended validity period will generally be granted when production lead time will not permit export within one year of issuance of a validated license or where the transaction is related to a major multi-year construction project. A continuing requirement to supply spare or replacement parts, however, will generally not justify an extended validity period. Applicants may request an extended validity period by indicating the desired validity period in Item 12 of Form ITA-622P, and attaching justification and documentation to support the request. The approved expiration date will be indicated on the face of the license. For extensions of validity period after the license has been issued, see § 372.12.

* * * * *

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 F.R. 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Industry and Trade.

[FR Doc. 78-33777 Filed 12-1-78; 8:45 am]

[3510-25-M]

PART 373—SPECIAL LICENSING PROCEDURES

Consolidation of Special License Procedure Forms

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U. S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Three special license procedures of the Office of Export Administration (OEA) require foreign consignees of U.S. exporters to provide certain information and undertakings that are taken into consideration by the OEA in determining the eligibility of the consignees to participate in the procedures. The required information and undertakings are required on Form DIB-620 for consignees under the Project License Procedure; Form DIB-678 for consignees under the Distribution License Procedure; and Form ITA-6027 for foreign-based service facilities under the Service Supply (SL) procedure. Many exporters of commodities under validated license control participate in more than one of these special license procedures and hence must maintain stocks of the various forms. In addition, the Commerce Department District Offices and Foreign Service posts of the Department of State stock all three of the forms for the convenience of the export trade. Since much of the information required on all three forms is the same, the OEA has devised one form, ITA-6052, to replace the three. This will simplify the licensing procedure and reduce the variety of forms that must be maintained in inventory by both the export trade and the government.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-4196).

SUPPLEMENTARY INFORMATION: Three copies of Form DIB-678 and of ITA-6027 are required to be submitted in support of applications under the Distribution License and the Service Supply License procedure, respectively. When the application is approved, two validated copies of the form are returned to the exporter: one for his files and one for forwarding to the foreign consignee. Currently, only one copy of Form DIB-620 is required in support of a Project License application. In order to conform the Project License procedure to the other two, the Regulations are revised to require three copies of Form ITA-6052 from each foreign consignee in support of a Project License application. As in the case of the other two procedures, two validated copies will be returned to the exporter for disposition as explained above.

Accordingly, the Export Administration Regulations (15 CFR Part 373) are amended as follows:

1. § 373.2 is amended as follows:

a. Paragraph (c)(2)(iii) is revised to read as set forth below.

b. A new paragraph (d)(4) is added to read as set forth below.

c. The form designation DIB-620 in paragraph (e)(2)(iv) is replaced by ITA-6052.

§ 373.2 Project license.

* * * * *

(c) * * *

(2) * * *

(iii) Form ITA-6052, Statement by Foreign Consignee in Support of Special License Application. This form is required from each ultimate consignee named in the license application, including subsidiaries, affiliates, branches, or other associated firms of the applicant, if the applicant and the consignee are separate legal entities. It is *not* required where the applicant is the same person as the ultimate consignee. Item 5 of Form ITA-6052 need not be completed, but the appropriate box(es) in Item 6 must be checked. Three copies of the form shall be manually signed by the ultimate consignee, or by a responsible official of the ultimate consignee's firm who has (a) personal knowledge of the information included in the statement, (b) authority to bind the ultimate consignee, and (c) the power and authority to control the use and disposition of the licensed commodities and technical data in the country of ultimate destination. The authority to sign this form may *not* be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his official position with the ultimate consignee. The official signing the statement shall include his official title with his signature.

* * * * *

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data relating to the commodities listed

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(d) • • •

(4) Form ITA-6052. Concurrently with the approval of a Project License application, two validated copies of each approved Form ITA-6052 will be sent to the U. S. exporter. One copy shall be retained by the exporter, and one copy shall be sent by the exporter to the approved consignee.

2. § 373.3 is amended as follows:

a. Paragraph (d)(2)(ii) is revised to read as set forth below:

§ 373.3 Distribution license.

• • • • • •

(d) • • •

(2) • • •

(ii) Form ITA-6052, Statement by Foreign Consignee in Support of Special License Application, except that if the consignee is a foreign government agency, as defined in § 375.2(b)(iv), Form ITA-6052 is not required;

• • • • •

b. The form designation DIB-678 is replaced by ITA-6052 in the following paragraphs: the heading and first paragraph of (d)(3)(iii); the heading of paragraph (f); the first sentence of paragraph (f)(1); the first sentence in paragraph (g); the first sentence in paragraph (i)(2); the first and second sentences in paragraph (k)(2)(ii); the heading and first sentence in paragraph (l)(1); and the third sentence in paragraph (l)(4).

3. § 373.7 is amended as follows:

a. Paragraph (d)(2)(ii)(*b*) is revised to read as set forth below:

§ 373.7 Service supply (SL) procedure.

• • • • •

(d) • • •

(2) • • •

(ii) • • •

(*b*) Form ITA—6052, Statement by Foreign Consignee in Support of Special License Application, in triplicate.

• • • • •

b. The form designation IA-544 is replaced by ITA-6052 in the following: Paragraph (d)(2)(ii)(c); paragraph (e) (three citations); paragraph (h)(1) (five citations); paragraph (h)(1)(i); paragraph (h)(1)(ii); paragraph (h)(2) (three citations); paragraph (h)(3) (two citations), and paragraph (j)(2)(i). The form designation DIB-6027P in paragraph (d)(3)(ii)(*b*) is replaced by ITA-6052.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 F.R. 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 F.R. 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Industry and Trade.

[FR Doc. 78-33776 Filed 12-1-78; 8:45 am]

[3510-25-M]

PART 379—TECHNICAL DATA

Non-substantive Revisions in Technical Data Regulations

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This rule amends 15 CFR Part 379 by making certain editorial changes in the Department's technical data regulations. These are non-substantive changes that have already been published in the *Export Administration Regulations.*

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-4196).

Accordingly, § 379.4 of the Export Administration Regulations (15 CFR Part 379) is revised as follows:

§ 379.4 General license GTDR: Technical data under restriction.

A general license designated *GTDR* is hereby established authorizing the export of technical data that are not exportable under the provisions of General License *GTDA*, subject to the provisions, restrictions, exclusions, and exceptions set forth below and subject to the written assurance requirement set forth in § 379.4(f).

(a) *Country Groups S and Z restrictions.* No Technical data may be exported under this general license to Country Group S or Z.

(b) *Country Groups Q, W, and Y restrictions.* No technical data may be exported under this general license to Country Group Q, W, or Y, except:

(1) Data in such forms as manuals, instruction sheets, or blueprints, provided they are:

(i) Sent as part of a transaction involving, and directly related to, a commodity licensed for export from the United States, or specifically authorized for reexport, to the same consignee and destination to which the commodity was or will be exported;

(ii) Sent no later than one year following the shipment of the commodity to which the technical data are related;

(iii) Of a type delivered with the commodity in accordance with established business practice;

(iv) Necessary to the assembly, installation, maintenance, repair, or operation of the commodity; and

(v) Not related to the production, manufacture, or construction of the commodity.

(2) Technical data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any commodity, plant, service or technical data, provided that:

(i) The commodity, plant, service or technical data, are not (and are not related to) a commodity identified by the code letter "A" following the Export Control Commodity Number (ECCN) on the Commodity Control List (§ 399.1), or shown in Supplement No. 2 or 3 to Part 370 (controlled by U.S. Department of State and Nuclear Regulatory Commission, respectively);

(ii) The technical data are of a type customarily transmitted with a prospective or actual quotation, bid, or offer (in accordance with established business practice); and

(iii) The export will not disclose the detailed design, production, or manufacture, or the means of reconstruction, of either the quoted item or its product. Similarly, a quotation, bid, or offer for technical data or services must not disclose the detailed technical process involved.

NOTE.—Neither this authorization nor its use means that the U.S. Government intends, or is committed, to approve an export license application for any commodity, plant, technical data, or service that may be the subject of the transaction to which such quotation, bid, or offer relates. Exporters are advised to include in any quotations, bids, or offers, and in any contracts entered into pursuant to such quotations, bids, or offers, a provision relieving themselves of liability in the event that an export license (when required) is not approved by the Office of Export Administration.

(c) *Technical data restrictions applicable to all destinations.* No technical data[1] (including operating and maintenance instructional material) related to the following may be exported under this general license, and exports of technical data to all destinations, *including Canada,* require a validated export license:

(1) Any commodity where the exporter knows or has reason to know that it is related to or specifically designed for, or intended to be used for developing or testing nuclear weapons or nuclear explosive devices (as described in § 378.2) or will be used directly or indirectly in designing, constructing, fabricating or operating the following facilities, or components for such facilities, or the training of personnel for such facilities (as described in § 378.3):

(i) facilities for the chemical processing of irradiated special nuclear or source material;

(ii) facilities for the production of heavy water;

(iii) facilities for the separation of isotopes of source and special nuclear material; or

(iv) facilities for the fabrication of nuclear reactor fuel containing plutonium;

(2) Maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machine, device, component, or equipment specifically developed or designed for use in such plants or facilities;

(3) Neutron generator systems, including tubes, designed for operation without an external vacuum system, and utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction; and specially designed parts, n.e.s.; and

(4) Porous nickel.

(d) *Restrictions applicable to all destinations except Canada. No technical data relating to the following commodities, other than technical data described in § 379.4(b) above,*[2] *may be exported under this General License GTDR,* and exports of these technical data to all destinations, *except Canada,*[3] require a validated export license:

(1) Civil aircraft, civil aircraft equipment, parts, accessories, or components, *except laminated or tempered safety glass for aircraft; hydraulic motors; internal combustion engines; air-conditioning systems; heat exchangers and oil and liquid coolers; pumps, air compressors, fans, and blowers; fire extinguishing systems; electric motors and motor controls; electrical apparatus for making, breaking, or protecting electrical circuits; ignition harness and cable sets; electrical starting and ignition equipment; meters and instruments; alarm, warning, and signaling instruments; constant speed propellers, fixed pitch and ground-adjustable propellers for non-military aircraft, and rotors and rotor blades for non-powered rotorcraft, landing lights and other lighting fixtures; apparatus, equipment, and components for oxygen systems; mechanical tachometers, and other aircraft instruments n.e.s. included in the Commodity Control List under No. 6599;*

(2) Electrical and electronic instruments specially designed for testing or calibrating the airborne direction finding, navigational, and radar equipment;

(3) Airborne electronic transmitters, receivers, and transceivers;

(4) Airborne electronic direction finding equipment;

(5) Airborne electronic navigation and radar equipment;

(6) Watercraft of hydrofoil and hovercraft (air bubble) design;[4]

(7) Submersible watercraft other than military or naval types;[5]

(8) Airborne detection and tracking equipment using infrared radiation; and

(9) Any other commodity under the export control jurisdiction of the Office of Export Administration, if such commodity is not covered by an entry on the Commodity Control List.

(e) *Restrictions applicable to Republic of South Africa and Namibia.* No technical data may be exported or reexported to the Republic of South Africa or Namibia under this General License *GTDR* where the exporter or reexporter knows or has reason to know that the data or any products of the data are for delivery, directly or indirectly, to or use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for such entities. As used in this paragraph (e), the term "any products of the data" includes the direct product[6] of the data and any subsequent products of the direct product. Further, any technical data that do qualify for export or reexport to the Republic of South Africa or Namibia under this General License *GTDR* must be accompanied by a written notice to the consignee that the direct product of the data may not be sold or otherwise made available directly or indirectly to the military or police entities in these destinations. In addition, no technical data relating to the commodities listed in Supplement 2 to this Part 379 may be exported under this General License *GTDR* to *any consignee* in the Republic of South Africa or Namibia.

(f) *Written assurance requirements.*—(1) *Requirement of written assurance for certain data, services, and materials.* No export of technical data of the kind described in § 379.4(f)(1)(i)(a) through (o) below, may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product[7] thereof is intended to be shipped, either directly or indirectly, to Country Group Q, W,[8] Y, or Z, except as provided in § 379.4(f)(1)(ii) below. No export of technical data of the kind described in § 379.4(f)(1)(i)(p) below may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product thereof is intended to be shipped, directly or indirectly, to the USSR, Estonia, Latvia or Lithuania, except as provided in § 379.4(f)(1)(ii) below. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement that restricts disclosure of the technical data to use only in a country other than Country Group Q, W, Y or Z, and prohibits shipment of the direct product thereof by the licensee to Country Group Q, W, Y, or Z or, for data of the kind described in

[1] This restriction does not apply to data included in the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

[2] Data included in the foreign filing of a patent is also excluded from the restrictions set forth in § 379.4(d) if such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office.

[3] Only the restrictions set forth in § 379.4(c) apply to exports of technical data for use in Canada. In all other cases, an export of technical data for use in Canada may be made without either a validated or a general license. For reexport provisions applicable to Canada and other countries, see §§ 379.8(b) and (c).

[4] This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity is under the export control jurisdiction of the Office of Export Administration.

[5] Technical data relating to military or naval submersible watercraft are subject to the export licensing authority of the U.S. Department of State.

[6] The term "direct product," as used in this paragraph, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

[7] The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, the aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the definition of direct product.

[8] Effective April 26, 1971, Country Group W no longer includes Romania. For purposes of assurances executed prior to that date, however, all references to Country Group W continue to apply to Romania as well as to Poland, and all conditions and responsibilities undertaken with respect to Romania remain unchanged.

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§ 379.4(f)(1)(i)(p), to the USSR, Estonia, Latvia or Lithuania. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained. In addition, this general license is not applicable to any export of technical data of the kind described in § 379.4(f)(1)(i)(a) through (o) below if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or re-exported, directly or indirectly, to Country Group Q, W, Y, or Z, or, for data of the kind described in § 379.4(f)(1)(i)(p), to the USSR, Estonia, Latvia or Lithuania.

(i) Technical data relating to the following commodities:

(*a*) Other artificial graphite, and electrodes, electrical carbons, and other products made thereof, whether or not coated or composited with other materials to improve its performance at elevated temperatures or to reduce its permeability to gases, having an apparent relative density of 1.70 or greater when compared to water at 60°F (15.5°C), and with a particle grain size of less than 0.001 inch (1 mil);

(*b*) Electric furnaces specially designed for the production or processing of vapor deposited (pyrolytic) graphite or doped graphites whether as standing bodies, coatings, linings or substrates;

(c) Other gravity meters (gravimeters); and parts and accessories, n.e.s.;

(*d*) Other transonic, supersonic, hypersonic and hypervelocity wind tunnels and devices; and parts and accessories, n.e.s.;

(e) Watercraft of 65 feet and over in overall length, designed to include motors or engines of 600 horsepower or over and greater than 45 displacement tons;[9]

(*f*) Methyl methacrylate, cross-linked, hot stretched, clear, film, sheeting, or laminates;

(*g*) Doppler sonar navigation systems;

(*h*) Aerial camera film, sensitized and unexposed, as follows: (*1*) having spectral sensitivities at wavelengths greater than 7,200 Angstroms or at wavelengths less than 2,000 Angstroms; or (*2*) having resolving powers (using a Test-Object Contrast of 1,000:1) of 100 line pairs/mm or more or with a base thickness before coating of 0.004 inch or less;

(*i*) Continuous tone aerial duplicating film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 300 line pairs/mm or more;

(*j*) Instrumentation and/or recording film, sensitized and unexposed, having photo-recording sensitivities (as based on the reciprocal of the tungsten exposure in meter-candle-seconds at an exposure time of 0.0001 second) of 125 or more and a resolving power (using a Test-Object Contrast of 1,000:1) of 55 line pairs/mm or more and with a base thickness before coating of 0.004 inch or less and capable of being processed in solutions with alkalinities of pH 10 or above at temperatures greater than 85° F;

(*k*) Maraging steels containing all of the following: 12 percent or more nickel, more than 3 percent molybdenum, more than 5 percent cobalt, and less than 0.5 percent carbon;

(*l*) Transformation Induced Plasticity (TRIP) steels or penta-alloy ausforming stainless steels of the following composition: 8 to 14 percent chromium, 6 to 10 percent nickel, 2 to 5 percent molybdenum, 1 to 3 percent silicon, 0.75 to 3 percent manganese, and 0.15 to 0.35 percent carbon;

(*m*) Other high speed continuous writing, rotating drum cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.s.;

(*n*) Other 16 mm high speed motion picture cameras capable of recording at rates in excess of 2,000 frames per second; and parts and accessories, n.e.s.;

(o) Single crystal sapphire substrates; and

(*p*) Machinery, equipment, instruments and other commodities utilized for the exploration or production of petroleum or natural gas.

(ii) The limitations set forth in this § 379.4(f)(1) do not apply to the export of:

(*a*) Technical data included in an application for the foreign filing of a patent, provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office; and

(*b*) Technical data supporting a price quotation as described in § 379.4(b)(2) above.

(2) Requirement of written assurance for certain additional products and destinations.

(i) Except for technical data requiring a written assurance in accordance with the provisions of § 379.4(f)(1) above, and except as provided in § 379.4(f)(2)(v) below, no export of technical data relating to the commodities described below in this § 379.4(f)(2) may be made under the provisions of this General License *GTDR* until the U.S. exporter has received a written assurance from the foreign importer that, unless prior authorization is obtained from the Office of Export Administration, the importer will not knowingly:

(*a*) Reexport, directly or indirectly, to Country Group Q, W,[10] Y, or Z any technical data relating to commodities identified by the symbol "W" in the column of the Commodity Control List titled "Validated License Required;"

(*b*) Export, directly or indirectly, to Country Group Z any direct product [11] of the technical data if such direct product is identified by the symbol "W" in the column of the commodity Control List titled "Validated License Required;" or

(*c*) Export, directly or indirectly, to any destination in Country Group Q, W, or Y any direct product [11] of the technical data if such direct product is identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List.

(ii) If the direct product [12] of any technical data is a complete plant or any major component of a plant that is capable of producing a commodity identified by the symbol "W" in the column of the Commodity Control List titled "Validated License Required" or appears in the U.S. Munitions List, a written assurance by the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) shall be obtained by the U.S. exporter (via the foreign importer), stating that, unless prior authorization is obtained from the Office of Export Administration, such person will not knowingly:

(*a*) Reexport, directly or indirectly, to Country Group Q, W, Y, or Z the technical data relating to the plant or the major component of a plant;

(*b*) Export, directly or indirectly, to Country Group Z the plant or the major component of a plant (depending upon which is the direct product [12] of the technical data) or any product of such plant or of such major component if such product of the plant is identified by the symbol "W" in the column of the Commodity Control List titled "Validated License Required" or appears in the U.S. Munitions List; or

(c) Export, directly or indirectly, to Country Group Q, W, or Y the plant or the major component of a plant (depending upon which is the direct product of the technical data), or any product of such plant or of such major component, if such product is identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List, or appears in the U.S. Munitions List.

NOTE.—Effective April 1, 1964 §§ 379.4(f)-(2)(ii) (*b*) and (c) required certain written assurances relating to the disposition of the products of a complete plant or major component of a plant which is the direct product of unpublished technical data of U.S. origin exported under General License *GTDR*.

Except as to commodities identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List, and items on the U.S. Munitions List, the effective date of the written assurance requirements for plant products as a condition of using General License *GTDR* for export of this type of technical data is hereby deferred until further notice, subject to the following limitations:

1. The exporter shall, at least two weeks before the initial export of the technical data, notify the Office of Export Administration, by letter, of the facts required to be disclosed in an application for a validated export license covering such technical data; and

2. The exporter shall obtain from the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) a written commitment that he will notify the U.S. Government, directly or through the exporter, whenever he enters into negotiations to export any product of the plant to any destination covered by § 379.4(f)(2)(ii)(*b*) above, when such product is not identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List and requires a validated license for export to Country Group W by the information set forth in the column titled "Validated License Required." The notification should state the product, quantity, country of destination, and the estimated date of shipment.

Moreover, during the period of deferment, the remaining written assurance requirements of §§ 379.4(f)(2)(ii) (*b*) and (c) as to plant products that are identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List, or are on the U.S. Munitions List, will be waived if the plant is located in one of the following COCOM countries: Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Italy, Japan, Luxembourg, The Netherlands, Norway, Portugal, Turkey, and the United Kingdom. This deferment applies to exports of technical data pursuant to any type of contract or arrangement, including licensing agreements, regardless of whether entered into before or after April 1, 1964.

(iii) The required assurance may be in the form of a letter or other written communication from the importer or, if applicable, the person in control of the distribution of the products of a plant; or the assurance may be incorporated into a licensing agreement which restricts disclosure of the technical data to use only in authorized destinations, and prohibits shipment of the direct product [12] thereof by the licensee to any unauthorized destination. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained.

(iv) In addition, this general license is not applicable to any export of technical data of the kind described in this § 379.4(f)(2) if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product [13] to be manufactured abroad by use of the technical data is intended to be exported directly or indirectly to any unauthorized destination.

(v) The limitations set forth in this § 379.4(f)(2) do not apply to the export of:

(*a*) Technical data included in an application for the foreign filing of a patent provided such foreign filing of a patent application is in accordance with the regulations of the U.S. Patent Office;

(*b*) Technical data supporting a price quotation as described in § 379.4(b)(2) above; and

(c) Technical data relating to those commodities listed in a Supplement to Part 377 as being under short supply control.

NOTE.—A written assurance is not required for the export under this General License *GTDR* of any technical data which do not fall within the description set forth in §§ 379.4(f) (1) or (2) above.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: November 27, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-33778 Filed 12-1-78; 8:45 am]

[9] This commodity is not listed on the Commodity Control List since it is under the export control jurisdiction of the U.S. Maritime Administration. However, technical data relating to this commodity is under the export control jurisdiction of the Office of Export Admininstration.

[10] Effective April 26, 1971, Country Group W no longer includes Romania. For purposes of assurances executed prior to that date, however, all references to Country Group W continue to apply to Romania as well as to Poland, and all conditions and responsibilities undertaken with respect to Romania remain unchanged.

[11] The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

[12] The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data.

[3510-25-M]

PART 386—EXPORT CLEARANCE

Corrections to Shipper's Export Declarations; Correction

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Correction to Final Rule.

SUMMARY: In FR Doc. 78-26834 appearing at page 43450 in the FEDERAL REGISTER of September 26, 1978, the citation "§ 386.3(o)(i)" in the fifth line from the bottom of paragraph 386.3(q)(1) is corrected to read "§ 386.3(o)(l)." In addition, the amendment to paragraph 386.3(q) is corrected to delete subparagraph 386.3(q)(3).

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division Office of Export Administration, Department of Commerce, Washington, D.C. 20230, Telephone: 302-377-4196.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: November 27, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-33779 Filed 12-1-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2934]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Bede Aircraft, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

DATE: These charges are effective the

State libraries in New Jersey, New

charges. Until changed, the charge for

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agreement, among other things, requires a Washington, D.C. manufacturer and marketer of aircraft and related products, and its subsidiaries, to provide and administer as prescribed a redress fund of approximately $9,000,000 for consumers who purchased or made deposits on its products. The firm would be required to cease misrepresenting the availability, performance, reliability and safety of its aircraft: or using any other unfair or deceptive act or practice in the advertising and sale of its products. Additionally, until such time that existing obligations are satisfied, the order would require that all of the firm's stock be placed in the hands of an approved trustee who would oversee its operations and invoke the provisions of the Federal Bankruptcy Act, should it prove necessary.

DATES: Complaint and order issued October 26, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Regional Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 837-2271.

SUPPLEMENTARY INFORMATION: On Monday, June 19, 1978, there was published in the FEDERAL REGISTER, 43 FR 26324, a proposed consent agreement with analysis In the Matter of Bede Aircraft, Inc., a corporation; Bede General Corporation, a corporation; Bede Wing, Inc., a corporation; and James R. Bede, individually and as an officer, director and stockholder of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10-1 Availability of merchandise and/or facilities; § 13.15 Business status, advantages or connection; 13.15-20 Business methods and policies; 13.15-30 Connection or arrangements with others; 13.15-35 Contracts and obligations; 13.15-65 Financial conditions; 13.15-100 History; 13.15-105 Identity; 13.15-195 Nature; 13.15-250 Qualifications and abilities; 13.15-255 Reputation, success, or standing; 13.15-275 Stock, product, or service; § 13.35 Condition of goods; § 13.40 Conditions of manufacture; 13.40-20 Law compliance; § 13.42 Connection of others with goods; § 13.73 Formal regulatory and statutory requirements; § 13.85 Government approval, action, connection or standards; 13.85-60 Standards, specifications, or source; § 13.90 History of product or offering; § 13.142 Operation; § 13.155 Prices; 13.155-5 Additional charges unmentioned; 13.155-55 Government requirements; 13.155-75 Product or quantity covered; 13.155-93 Special or test offers; 13.155-95 Terms and conditions; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.175 Quality of product or service; § 13.180 Quantity; 13.180-30 In stock; § 13.185 Refunds, repairs, and replacements; § 13.190 Results; § 13.195 Safety; 13.195-60 Product; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.245 Specifications or standards conformance; § 13.247 Statues and regulations; § 13.250 success, use or standing; § 13.260 Terms and conditions; § 13.275 Undertakings, in general. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-35 Employment of independent agencies; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records; 13.533-55 Refunds, rebates, and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed; § 13.677 Delaying or failing to deliver goods or provide services or facilities. Subpart—Failing To Maintain Records: § 13.1051 Failing to maintain records; 13.1051-30 Formal regulatory and/or statutory requirements. Subpart—Furnishing Means and Instrumentalities of Misrepresentation or Deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1395 Connections and arrangements with others; § 13.1415 Financial conditions; § 13.1435 History; § 13.1440 Identity; § 13.1490 Nature; § 13.1515 Organization and operation; § 13.1535 Qualifications; § 13.1540 Reputation, success or standing; § 13.1560 Stock, product or service.—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1595 Condition of goods; § 13.1600 Conditions of manufacture and costs; § 13.1623 Formal regulatory and statutory requirements; § 13.1635 Government inspection; § 13.1645 Government standards or specifications; § 13.1650 History of product; § 13.1675 Law or legal requirements; § 13.1680 Manufacture or preparation; § 13.1710 Qualities or properties; § 13.1715 Quality; § 13.1720 Quantity; § 13.1725 Refunds; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use or standing; § 13.1760 Terms and conditions; § 13.1762 Tests, purported; § 13.1765 Undertakings, in general.—Prices: § 13.1778 Additional costs unmentioned; § 13.1815 Government requirements; § 13.1823 Terms and conditions.—Promotional Sales Plans: § 13.1830 Promotional sales plans: Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1850 Content; § 13.1852 Formal regulatory and statutory requirements; § 13.1854 History of products: § 13.1863 Limitations of product; § 13.1875 Non-standard character; § 13.1882 Prices 13.1882-10 Additional prices unmentioned; § 13.1885 Qualities or properties; § 13.1886 Quality, grade or type; § 13.1888 Respondent's interest; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions. Subpart—Securing Orders By Deception; § 13.2170 Securing orders by deception.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33748 Filed 12-1-78; 8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[6360-01-M]

Title 18—Conservation of Power and Water Resources

CHAPTER III—DELAWARE RIVER BASIN COMMISSION

PART 420—BASIN REGULATIONS—WATER SUPPLY CHARGES

Delaware River Basin Reservoirs; Water Charges

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: This rule changes the rates to be charged for water taken from the Delaware River Basin Reservoirs. The rates will be six cents per thousand gallons for consumptive use of water, and six-tenth of a mill per thousand gallons for noncomsumptive use of water. The water charges which are obtained provide funds for the annual repayment to the Federal Government.

DATE: These charges are effective the first day of the month following the date of deliberate impoundment of water supply in Blue Marsh Reservoir (estimated to be April, 1979).

FOR FURTHER INFORMATION CONTACT:

Robert L. Godell, Head, Operations Branch, Delaware River Basin Commission, P.O. Box 7360, West Trenton, N.J. 08628, phone: 609-883-9500.

SUPPLEMENTARY INFORMATION: In 1964 the Commission, acting on behalf of the four Delaware Basin States—New York, Pennsylvania, New Jersey and Delaware—assumed the obligation to repay the Federal Government the investment cost allocated to water supply in Federal reservoirs constructed in the Basin. This commitment was made in accordance with the Water Supply Act of 1958 requiring that non-Federal interests repay water supply costs at Federal reservoirs.

Subsequently, the Commission formulated a water charges program that applies throughout the Basin to new surface water users, and to existing surface water users whose taking is in excess of their legal entitlement. The charge was determined to be the weighted average unit cost of water supply stored in Federal reservoirs on behalf of the Commission, and was designed to be recomputed whenever new or additional storage having different unit costs was added to the system. The revenues thus obtained provide the funds for annual repayment to the Federal Government.

The initial charge, reflecting the costs of the first reservoir, Beltzville, was established in 1974 at 4 cents per thousand gallons for consumptive use and four-tenths of a mill for nonconsumptive use. The second reservoir, Blue Marsh, will become operational early in 1979 and will have unit water supply costs about twice that of Beltzville. Accordingly, on October 25, 1978 the Commission amended its Administrative Manual, Part III, Basin Regulations—Water Supply Charges (18 CFR Part 420) so as to provide that the charge for water shall be six cents per thousand gallons for consumptive use and six-tenths of a mill per thousand gallons for nonconsumptive use. Prior to taking these actions, the Commission held a public hearing on September 27, 1978 in Philadelphia, Pennsylvania. Notice of this hearing appeared at 43 FR 41420. No changes were made in the proposed amendments as a result of the public hearing.

The full text of the Commission's Basin Regulations—Water Supply Charges may be obtained from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey, 08628, and may be examined at State libraries in New Jersey, New York, Delaware and Pennsylvania.

The Commission's Administrative Manual, Part III, (and Part 420 of title 18 CFR) Basin Regulations—Water Supply Charges is amended as follows:

(1) Amend § 420.41 (a) and (b) so as to read:

§ 420.41 Schedule of water charges.

(a) Six cents per thousand gallons for consumptive use; and

(b) Six-tenths of a mill per thousand gallons for nonconsumptive use.

W. BRINTON WHITALL,
Secretary.

RESOLUTION No. 78-14

A resolution to amend the Administrative Manual, Part III, Basin Regulations—Water Supply Charges, relating to a schedule of water charges.

Whereas, in April 1971, by Resolution No. 71-4, the Commission duly adopted, after public hearing, an amendment to the Comprehensive Plan defining the means by which the Commission will contract for the sale of water and establish rates therefore; and

Whereas, Resolution No. 71-4 provided that the Commission will use the weighted-average unit cost of all water stored by or on behalf of the Commission and the unit cost of water will be determined by dividing all of the Commission's annual project cost by the net yield of the water supply in federal reservoirs constructed pursuant to the Commission's Comprehensive Plan; and

Whereas, Resolution No. 71-4 also provided that costs, rates and charges will be recomputed whenever new or additional storage is provided and as often as necessary to reflect relevant changes in any cost components associated with sustaining specified base flows; and

Whereas, in May 1974, by Resolution No. 74-6, the Commission, after public hearing, amended its Administrative Manual by the addition thereto of Basin Regulations—Water Supply Charges, establishing a system of water supply charges relating to the surface waters of the basin; and

Whereas, Resolution No. 74-6, provided that, until changed, the charge for water shall be four cents per thousand gallons for consumptive use and four-tenths of a mill per thousand gallons for non-consumptive use, such charge then being based on the cost of the water in Beltzville Reservoir; and

Whereas, Resolution No. 74-6, provided that the Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges; and

Whereas, the Blue Marsh Reservoir water supply storage is scheduled to be operational early in calendar year 1979 and the unit cost of water in Blue Marsh Reservoir will be about twice that of Beltzville Reservoir water; now therefore

Be it resolved by the Delaware River Basin Commission:

1. The Administrative Manual, Part III, Basin Regulations—Water Supply Charges, is hereby revised by amending Section 5-3.1 thereof to read as follows:

Section 5-3.1 *Schedule of water charges.* The Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges. Until changed, the charge for water shall be as follows:

(a) Six cents per thousand gallons for consumptive use; and

(b) Six-tenths of a mill per thousand gallons for non-consumptive use.

2. This Resolution shall take effect on the first day of the month following the date of deliberate impoundment of water supply in the Blue Marsh Reservoir.

Adopted: October 25, 1978.

SHERMAN W. TRIBBITT,
Chairman pro tem.

W. BRINTON WHITALL,
Secretary.

[FR Doc. 78-33774 Filed 12-1-78; 8:45 am]

[4910-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T. D. 78-478]

PART 12—SPECIAL CLASSES OF MERCHANDISE

Importation of Motor Vehicles and Motor Vehicle Equipment

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This document amends the Customs Regulations relating to procedures for entry into the United States of motor vehicles and motor vehicle equipment subject to Federal motor vehicle safety standards prescribed by the Secretary of Transportation under the National Traffic and Motor Vehicle Safety Act of 1966, as amended. The most significant change is the requirement that the importer or consignee of each vehicle or equipment item imported into the United States must file a declaration concerning compliance with the motor vehicle safety standards. The requirement may be waived by the district director of Customs for United States, Canadian, or Mexican registered vehicles arriving via land borders which: (1) were manufactured before applicable safety standards were in force; (2) conform to applicable safety standards and bear the required certification label or tag; or (3) are intended solely for export. Other changes include an extension of the time which a nonconforming vehicle imported solely for purposes of test or experiment may be licensed for use on the public roads and an extension of the time allowed for the submission of a conformity statement, which will be forwarded to the National Highway Traffic Safety Administration (NHTSA) by Customs, for a nonconforming vehicle. Also, if Customs does not receive a bond-release letter from

vehicle or equipment item entered by

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NHTSA for a nonconforming vehicle or equipment item within 180 days after entry, it will issue a Notice of Redelivery for the vehicle or equipment item.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

John E. O'Rourke, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 12.80 of the Customs Regulations (19 CFR 12.80) prescribes procedures for the entry into the United States of motor vehicles ("vehicles") and motor vehicle equipment ("equipment items") subject to the Federal motor vehicle safety standards published by the Department of Transportation in 49 CFR Part 571 under the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381, *et seq.*) ("the Act").

After carefully examining these procedures, the Customs Service ("Customs") and the National Highway Traffic Safety Administration ("NHTSA") determined that substantive changes should be made to aid in the effective administration and enforcement of the Act. Accordingly, on November 20, 1975, Customs published a notice of proposed rulemaking in the FEDERAL REGISTER (40 FR 54002). Interested persons were given until January 22, 1976, to submit relevant written data, views, or arguments. Several commenters, although agreeing in principle with the proposal, raised questions or made suggestions that have resulted in changes to the amendment as proposed.

DISCUSSION OF MAJOR COMMENTS

MUST A DECLARATION BE SUBMITTED FOR EACH VEHICLE OR EQUIPMENT ITEM?

Several commenters objected to the requirement in proposed § 12.80(b)(1) that a separate declaration be submitted for each vehicle or equipment item offered for importation into the United States. It was suggested that this requirement would result in a large paperwork increase for Customs, NHTSA, and the importer or consignee.

Customs now accepts a single declaration for all vehicles or equipment items on a single entry to which the same declaration relates if identifying information required for each vehicle or equipment item is furnished. Identifying information may be furnished as an attachment to the declaration if the Customs entry number appears on the attachment to clearly identify it as part of the declaration. A separate declaration is *not* required for each vehicle or equipment item. Section 12.80(c)(4) makes it clear that a declaration may relate to more than one vehicle or equipment item.

MUST A DECLARATION BE SUBMITTED FOR VEHICLES OR EQUIPMENT ITEMS WHICH CONFORM OR ARE TO BE EXPORTED?

Several commenters questioned the need for a declaration for—(1) A vehicle or equipment item which conforms to all applicable safety standards and has a certification label attached (proposed § 12.80(b)(1)(i)); and (2) A vehicle or equipment item intended solely for export and merely being shipped through the United States (proposed § 12.80(b)(1)(ii)).

A declaration is required for a vehicle or equipment item entered under these circumstances to relieve Customs officers from examining each vehicle or equipment item to determine if the appropriate label or tag has been affixed and to discourage the use of false labels or tags. This change to the present regulations will more closely align the declaration procedure used for the Federal motor vehicle safety standards with that used for the Federal motor vehicle emission standards in § 12.73 of the Customs Regulations (19 CFR 12.73).

COULD ONE DECLARATION BE USED FOR BOTH THE NHTSA SAFETY STANDARDS AND THE EPA EMISSION STANDARDS?

Inasmuch as the importer must now complete one declaration form for NHTSA and another for the Environmental Protection Agency (EPA), several commenters suggested that consideration should be given to the development of a combined form for use by both agencies.

These agencies have considered a combined form, and have concluded that it is not feasible at this time because of the many differences in the National Traffic and Motor Vehicle Safety Act of 1966, as amended, enforced by NHTSA, and the Clean Air Act, as amended, enforced by EPA, relating to imported vehicles and equipment items, and in the regulations of the two agencies implementing these Acts.

MUST A BOND BE REQUIRED FOR A VEHICLE OR EQUIPMENT ITEM WHICH WAS NOT MANUFACTURED IN CONFORMITY BUT WHICH HAS BEEN BROUGHT INTO CONFORMITY BEFORE ENTRY?

Two commenters stated that the requirement in proposed § 12.80(c)(1) for posting a bond for the entry, under proposed § 12.80(b)(1)(iv), of a conforming vehicle or equipment item not originally manufactured in conformity, but which has been put into conformity with applicable safety standards before entry is unwarranted. They noted that the importer is required to declare that the vehicle or equipment item will be brought into conformity with the safety standards prior to sale. Because a false declaration subjects the violator to a possible $10,000 fine, or imprisonment, or both, under 18 U.S.C. 1001, the commenters questioned the need for the bond.

This bond requirement, provided for in 15 U.S.C. 1397(b)(3), is essentially similar to the present bond requirement in § 12.80(c) for a vehicle or equipment item not conforming to applicable safety standards entered under present § 12.80(b)(2)(iii). Enforcement of the safety standards would be extremely difficult without the control given by the bonding procedure over the submission of false or inaccurate conformance information. Therefore, a bond is being required under §§ 12.80(e)(1) and 12.80(b)(1)(iii) for all vehicles or equipment items not originally manufactured to comply with the safety standards, and the bond requirement is being extended to include a vehicle or equipment item not manufactured in conformity with applicable safety standards but which has been brought into conformity before entry.

MUST A BOND BE REQUIRED FOR A VEHICLE NOT PROPERLY CERTIFIED?

One commenter objected to the deletion of present § 12.80(b)(2)(ix), which provides for the entry of a vehicle manufactured in conformity with applicable safety standards but which lacks the proper certification label. Such a vehicle may now be entered without bond if accompanied by a statement of the manufacturer as evidence of original compliance. The commenter contended that the manufacturer's statement of original compliance is as reliable as a certification label affixed to the vehicle.

Customs and NHTSA have reviewed the present procedure and have concluded that the proposed requirement that a bond be furnished for the entry of a conforming but uncertified vehicle, pending affixture of the required certification label, is necessary and aids the effective administration and enforcement of the Act. It has been determined that such a vehicle is to be entered under § 12.80(b)(1)(iii).

IS A BOND REQUIRED FOR A VEHICLE WHICH DOES NOT CONFORM BECAUSE READILY ATTACHABLE EQUIPMENT ITEMS HAVE NOT YET BEEN ATTACHED?

Several commenters were concerned that under proposed §§ 12.80(b)(1)(iv) and 12.80(c)(1), a bond would be required for the entry of a vehicle which does not conform to applicable safety standards because readily attachable equipment items necessary for compliance are not attached at the time of entry even though the vehicle would be brought into conformity before being sold at retail. Such a vehicle is entered without bond under present § 12.80(b)(2)(iv).

Customs and NHTSA have determined that requiring a bond for the entry of such a vehicle would serve no useful purpose. In the vast majority of cases, readily attachable equipment items are attached prior to sale at retail. Therefore, § 12.80(b)(1)(ii) makes it clear that such a vehicle may be entered without bond.

HOW LONG MAY A NONCONFORMING VEHICLE IMPORTED FOR TEST OR EXPERIMENT BE LICENSED FOR USE ON THE PUBLIC ROADS?

Several commenters contended that the time allowed for the use of a nonconforming vehicle on the public roads for test or experiment under proposed § 12.80(b)(1)(vii) is insufficient. The time proposed was 1 year, and, upon application to and approval by the Administrator, NHTSA, 1 additional year.

Customs and NHTSA agree with these commenters. Under item 864.30, Tariff Schedules of the United States (19 U.S.C. 1202), vehicles intended solely for testing, experimental, or review purposes may be entered duty free under bond for 1 year. This period may be extended for up to 2 additional years, upon annual application to and approval by the Administrator, NHTSA.

HOW MUCH TIME SHOULD THE IMPORTER BE GIVEN TO SUBMIT A CONFORMITY STATEMENT?

Several commenters objected to the length of time, provided under proposed § 12.80(c), in which the importer or consignee must produce evidence that a nonconforming vehicle or equipment item has been brought into conformity with applicable safety standards.

Presently, within 90 days, or longer if approved by the district director, the importer or consignee must furnish either a statement that the vehicle or equipment item has been brought into conformity, describing the work performed and identifying the person who did the work, or a statement from the manufacturer certifying original conformity. It had been proposed to increase this time to 120 days with additional time not to exceed 60 days if approved by NHTSA.

The 90 day period has proven to be too short. A vehicle or equipment item is rarely brought into conformity within this period, so requests for extensions of time are liberally granted. Therefore, § 12.80(b)(1)(iii) provides a 120 day period, or a longer period not to exceed 180 days after entry, if granted by the Administrator, NHTSA, for the importer or consignee to submit a conformity statement to the Administrator, NHTSA.

TO WHOM SHOULD THE IMPORTER SUBMIT THE CONFORMITY STATEMENT?

Comments were received concerning the requirement in proposed § 12.80(c) that the conformity statement be delivered to NHTSA rather than Customs. The commenters were concerned that this could delay the administrative process, increase documentation requirements, and unnecessarily disrupt the marketing of imported vehicles.

Section 12.80(c) now requires delivery of a copy of the conformity statement to *both* Customs and NHTSA. Requiring the importer or consignee to submit a copy of the conformity statement to Customs as well as NHTSA serves no useful purpose because the statement is reviewed by NHTSA. For the same reason, requiring the importer or consignee to submit the conformity statement to Customs, for transmittal to NHTSA, would merely delay processing. For clarity, however, the requirement that the importer or consignee submit the conformity statement to NHTSA has been placed in § 12.80(b)(1)(iii).

SHOULD CUSTOMS ISSUE A NOTICE OF REDELIVERY IF THE IMPORTER DOES NOT TIMELY SUBMIT A CONFORMITY STATEMENT?

One commenter favored proposed § 12.80(c)(3) which provides that upon the request of NHTSA, the district director shall issue a Notice of Redelivery for the vehicle or equipment item if the conformity statement is not timely delivered or is determined to be inaccurate or false in a material respect. The commenter correctly noted that this procedure would give the importer or consignee a final notice of his liability under the bond.

Another commenter opposed this change because he believed it would add to Customs' work burden and result in more labor and expense for Customs.

Customs and NHTSA have determined that this procedure will aid the effective administration and enforcement of the Act. However, rather than requiring the district director to issue the Notice of Redelivery upon the request of NHTSA, § 12.80(e)(2) has been revised so that the district director will issue the notice if he does not receive a bond release letter from NHTSA within 180 days after entry of the vehicle or equipment item.

SHOULD REFERENCE BE MADE TO THE PENALTY PROVISION OF 19 U.S.C. 1592?

Several commenters opposed proposed § 12.80(d) which provides that a vehicle or equipment item entered by means of a fraudulent or false entry declaration that is made without reasonable cause to believe the truth of the declaration is subject to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

Three commenters suggested that specific reference to 19 U.S.C. 1592 is unnecessary because it applies to *any* entry made by means of a fraudulent or false claim. Furthermore, any person who knowingly makes a false declaration is subject to a $10,000 fine, imprisonment, or both under 18 U.S.C. 1001. A warning to this effect is printed on the NHTSA declaration form.

One commenter stated that (1) if the conformity statement is not delivered, is inaccurate, or is false in a material respect, redelivery or exportation of the nonconforming vehicle or equipment item may be required under proposed § 12.80(c)(3); (2) if the importer or consignee fails to redeliver or export the vehicle or equipment item, liquidated damages are assessed under the bond; and (3) forfeiture of a vehicle or equipment item under 19 U.S.C. 1592 therefore should not be permitted.

Customs and NHTSA have determined that reference to 19 U.S.C. 1592 is proper because it alerts a person less experienced than a commercial importer that he *may* be subject to liability under the statute if he submits a declaration without reasonable cause to believe it is true. Furthermore, liquidated damages under a bond for failure to redeliver or export a nonconforming vehicle or equipment item cannot be assessed in all instances because a bond is not required for every vehicle and equipment item entered under this section.

Because of amendments made to 19 U.S.C. 1592 by Public Law 95-410, the "Customs Procedural Reform and Simplification Act of 1978," it was necessary to revise proposed § 12.80(d), which has been renumbered as § 12.80(g). Revised § 12.80(g) provides that any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction of a vehicle or equipment item by means of a fraudulent or false declaration may incur liabilities under 19 U.S.C. 1592. Proposed § 12.80(d) provided that a vehicle or equipment item introduced into the United States by means of a fraudulent or false declaration is subject to forfeiture under 19 U.S.C. 1592.

DISCUSSION OF OTHER CHANGES

VEHICLES ENTERING VIA LAND BORDERS

Under proposed § 12.80(b)(1), a written declaration would have been required for each vehicle or equipment item imported into United States,

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§ 12.80 Federal motor vehicle safety standards; importation of vehicles and equipment items.

tion ("Administrator, NHTSA"), the

defined in section 102 of the Act (15

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except as provided for in paragraphs (b)(1)(iii) and (b)(1)(v). The first exception gave Customs the option of accepting an oral declaration for vehicles of Canadian or Mexican registry entering at the Canadian or Mexican border which were manufactured on a date when no applicable safety standards were in force. The second exception provided that persons regularly entering the United States by a motor vehicle at the Canadian or Mexican border may apply to Customs for an appropriate means of identification to be affixed to the vehicle and used in place of the declaration.

However, because of the growing number of motor vehicles entering the United States, Customs has determined that enforcement of § 12.80(b)(1), as proposed, would be impracticable. In fiscal year 1976, more than 75,000,000 passenger vehicles entered the United States. The vast majority of these vehicles was manufactured after January 1, 1968, and therefore would not be entitled to entry under the oral declaration provision. Although some of these vehicles might be excepted from the declaration requirements under the nonresident identification tag exception, there would be no exception for returning U.S. residents whose cars were manufactured after January 1, 1968, nonresidents who are occasional border crossers, or nonresidents who, though frequent border crossers, have not applied for identification tags.

Customs and NHTSA have carefully reviewed this problem and have decided to delete the exceptions in proposed §§ 12.80(b)(1)(iii) and 12.8(b)(1)(v). Section 12.80(f) provides that the requirement that a declaration be filed under paragraphs (b)(1)(i), (b)(1)(ii), or (b)(1)(v) may be waived by the district director for a United States, Canadian, or Mexican registered vehicle arriving via land borders. This change will permit Customs to carry out its enforcement responsibilities with respect to the importation of vehicles and equipment items subject to the Federal motor vehicle safety standards without creating an unreasonable burden on the traveling public.

NONRESIDENTS OF THE UNITED STATES

Proposed § 12.80(b)(1)(v), would have required a nonresident of the United States importing a vehicle or equipment item primarily for personal use for a period of not more than 1 year from the date of entry to indicate his passport number and country of issue on the declaration. That section now requires the nonresident to state his passport number and country of issue only if he has a passport.

PROCESSING THE DECLARATION

A new § 12.80(d) has been added which provides that the district director will forward to NHTSA the original of each declaration submitted to him under § 12.80(b)(1) as soon as practicable.

PROCESSING THE CONFORMITY STATEMENT

Under proposed §§ 12.80(c)(2) and 12.80(c)(3), NHTSA would have advised the district director when the bond required for entry of a vehicle or equipment item under proposed § 12.80(b)(1)(iv) could be released. If the importer or consignee's conformity statement were not delivered to NHTSA within the specified time, or if the statement were inaccurate or false in a material respect, upon the request of NHTSA, the district director would have issued a Notice of Redelivery for the vehicle or equipment item.

This procedure has been changed. Under § 12.80(e)(1), if NHTSA approves the conformity statement, it will forward a notice of acceptance (bond release letter) to the district director. If the bond release letter is not received by the district director within 180 after entry, § 12.80(e)(2) provides that he shall issue a Notice of Redelivery for the vehicle or equipment item. These changes make the procedure for processing a conformity statement more logical and predictable and easier to administer.

FOREIGN AND INTERNATIONAL ORGANIZATION OFFICIALS

As proposed, § 12.80(b)(1)(vi) requires an importer or consignee of a vehicle or equipment item imported for purposes other than resale, who is included within one of the following classes of persons, to attach a copy of his official orders to the declaration—

(1) A member of the armed forces of a foreign country on assignment in the United States;

(2) A member of the Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or

(3) A member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State.

A person in the third class of importers or consignees may state on the declaration the name of the embassy to which he is accredited instead of attaching a copy of his official orders to the declaration.

These new requirements provide a greater degree of control over the importation of nonconforming vehicles and equipment items by these individuals.

VEHICLES OR EQUIPMENT ITEMS IMPORTED FOR SHOW, COMPETITION, REPAIR OR ALTERATION

The requirement under proposed § 12.80(b)(1)(vii) that the declaration for a vehicle or equipment item imported for show, competition, repair, or alteration contain a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition is now in § 12.80(c)(2).

EDITORIAL CHANGES

Proposed § 12.80(b)(1) has been revised so that paragraphs (b)(1)(i) through (b)(1)(ix) consist only of what the importer or consignee actually declares or affirms.

For a more logical sequence, proposed § 12.80(b)(1)(i) has been renumbered § 12.80(b)(1)(ii), proposed § 12.80(b)(1)(ii) has been renumbered § 12.80(b)(1)(iv), proposed § 12.80(b)(1)(iii) has been renumbered § 12.80(b)(1)(i), and proposed § 12.80(b)(1)(iv) has been renumbered § 12.80(b)(1)(iii).

Proposed § 12.80(b)(2) has been revised and renumbered § 12.80(c)(1). It lists the contents required on each declaration. Section 12.80(b)(2) now contains the provision in proposed § 12.80(b)(1)(vii) for licensing a vehicle imported solely for the purpose of test or experiment for use on the public roads.

Sections 12.80 (c)(2) and (c)(3) contain certain additional requirements for a declaration filed for a vehicle imported for the purpose of show, competition, repair, or alteration, and test or experiment, respectively.

Numerous other editorial changes have been made to make the regulation more understandable.

DRAFTING INFORMATION

The principal author of this document was Paul G. Hegland, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the National Highway Traffic Safety Administration participated in developing the document both on matters of substance and style.

AMENDMENT TO THE REGULATIONS

PART 12—SPECIAL CLASSES OF MERCHANDISE

Section 12.80 of the Customs Regulations (19 CFR 12.80) is revised to read as follows:

§ 12.80 Federal motor vehicle safety standards.

(a) *Standards prescribed by the Department of Transportation.* Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery for introduction in interstate commerce, or importation into the United States are subject to Federal motor vehicle safety standards ("safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407) ("the Act"), and set forth in 49 CFR Part 571. A motor vehicle ("vehicle") or item of motor vehicle equipment ("equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the Customs territory of the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

(b) *Requirements for entry and release.* (1) Unless the requirement for filing is waived by the district director as provided for in paragraph (f) of this section, each vehicle or equipment item offered for introduction into the Customs territory of the United States shall be denied entry unless the importer or consignee files with the entry a declaration, in duplicate, which declares or affirms one of the following:

(i) The vehicle or equipment item was manufactured on a date when no applicable safety standards were in effect.

(ii) The vehicle or equipment item conforms to all applicable safety standards (or, the vehicle does not conform solely because readily attachable equipment items which will be attached to the vehicle before it is offered for sale to the first purchaser for purposes other than resale are not attached) and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item, or to the outside of the container in which the equipment item is delivered, in accordance with regulations issued by the Secretary of Transportation (49 CFR Parts 555, 567, 568 and 571) under section 114 of the Act (15 U.S.C. 1403).

(iii) The vehicle or equipment item was not manufactured in conformity all applicable safety standards, but it has been or will be brought into conformity. Within 120 days after entry, or within a period not to exceed 180 days after entry, if additional time is granted by the Administrator, National Highway Traffic Safety Administration ("Administrator, NHTSA"), the importer or consignee will submit a true and complete statement to the Administrator, NHTSA, identifying the manufacturer, contractor, or other person who has brought the vehicle or equipment item into conformity, describing the exact nature and extent of the work performed, and certifying that the vehicle or equipment item has been brought into conformity, and that the vehicle or equipment item will not be sold or offered for sale until the Administrator, NHTSA, issues an approval letter to the district director stating that the conditions of the bond required by paragraph (e)(1) of this section have been satisfied.

(iv) The vehicle or equipment item is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(v) The importer or consignee is a nonresident of the United States, is importing the vehicle or equipment item primarily for personal use for a period not exceeding 1 year from the date of entry, will not sell it in the United States during that period, and has stated his passport number and country of issue, if he has a passport, on the declaration.

(vi) The importer or consignee is a member of the armed forces of a foreign country on assignment in the United States; a member of the Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288), as listed in 19 CFR 148.87, on assignment in the United States; or a member of the personnel of a foreign government on assignment in the United States who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State; is importing the vehicle or equipment item for purposes other than resale; and a copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which he is accredited is stated on the declaration).

(vii) The vehicle or equipment item is imported solely for the purpose of show, test, experiment, competition (a vehicle the configuration of which at the time of entry is such that it cannot be licensed for use on the public roads is considered to be imported for the purpose of competition), repair or alteration, and the statement required by 19 CFR 12.80(c)(2) or (c)(3) is attached to the declaration.

(viii) The vehicle was not manufactured primarily for use on the public roads and is not a "motor vehicle" as defined in section 102 of the Act (15 U.S.C. 1391).

(ix) The vehicle is an "incomplete vehicle" as defined in 49 CFR Part 568.

(2) A vehicle imported solely for the purpose of test or experiment which is the subject of a declaration filed under paragraph (b)(1)(vii) of this section may be licensed for use on the public roads for a period not to exceed 1 year from the date of importation if use on the public roads is an integral part of the test or experiment. The vehicle may be licensed for use on the public roads for one or more further periods which, when added to the initial 1 year period, shall not exceed a total of 3 years, upon application to and approval by the Administrator, NHTSA.

(c) *Declaration; contents.* (1) Each declaration filed under paragraph (b)(1) of this section shall include the name and address in the United States of the importer or consignee, the date and the entry number (if applicable), the make, model, and engine and body serial numbers, or other identification number (if a vehicle), or a description of the item (if an equipment item), and shall be signed by the importer or consignee.

(2) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle or equipment item reported for the purpose of show, competition, repair, or alteration shall have attached a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition.

(3) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle imported solely for the purpose of test or experiment shall have attached a statement fully describing the test or experiment, the estimated period of time necessary to use the vehicle on the public roads, and the disposition to be made of the vehicle after completion of the test or experiment.

(4) Any declaration filed under paragraph (b)(1) of this section may, if appropriate, relate to more than one vehicle or equipment item imported on the same entry.

(d) *Declaration; disposition.* The district director shall forward the original of each declaration submitted to him under paragraph (b)(1) of this section as soon as practicable to the Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Washington, D.C. 20590.

(e) *Release under bond.* (1) If a declaration is filed under paragraph (b)(1)(iii) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 in the

SUPPLEMENTARY INFORMATION:

sion which may include restrictions to

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amount required by section 113.14 of this chapter. A condition of the bond shall be the production of an approval (bond release) letter from the Administrator, NHTSA, stating that the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards. The bond release letter shall be issued upon approval by the Administrator, NHTSA, of the conformity statement submitted by the importer or consignee as provided for in paragraph (b)(1)(iii) of this section. The bond release letter shall be forwarded by the Administrator, NHTSA, to the district director with a copy to the importer or consignee.

(2) If the bond release letter is not received by the district director within 180 days after entry, the district director shall issue a Notice of Redelivery, Customs Form 4647, requiring the redelivery to Customs custody of the vehicle or equipment item. If the vehicle or equipment item is not redelivered to Customs custody or exported under Customs supervision within the period allowed by the district director in the Notice of Redelivery, liquidated damages shall be assessed in the full amount of a bond given on Customs Form 7551. If the transaction has been charged against a bond given on Customs Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been assessed against a bond given on Customs Form 7551.

(f) *Waiver of declaration requirements.* The requirement that a declaration be filed under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(v) of this section as a condition to the introduction of a vehicle or equipment item into the Customs territory of the United States may be waived by the district director for a United States, Canadian, or Mexican registered vehicle arriving via land borders.

(g) *Vehicle or equipment item introduced by means of a fraudulent or false declaration.* Any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction, of a vehicle or equipment item into the Customs territory of the United States by means of a fraudulent entry declaration, or by means of a false entry declaration made without reasonable cause to believe the truth of the declaration, may incur liabilities under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(h) *Vehicle or equipment item denied entry.* If a vehicle or equipment item is denied entry under the provisions of paragraph (b) of this section, the district director shall refuse to release the vehicle or equipment item for entry into the Customs territory of the United States and shall issue a notice of that refusal to the importer or consignee.

(i) *Disposition of vehicle or equipment item denied entry; redelivery.* A vehicle or equipment item denied entry under paragraph (b) of this section, or redelivered to Customs custody under paragraph (e) of this section, which is not exported under Customs supervision within 90 days from the date of the notice of denial of entry or date of redelivery, shall be disposed of under appplicable Customs laws and regulations, except that disposition shall not result in the introduction of the vehicle or equipment item into the Customs territory of the United States in violation of the Act.

(R.S. 251, as amended, secs. 592, 623, 624, 46 Stat. 750, as amended, 759, as amended, sec. 108, 80 Stat. 722, as amended (19 U.S.C. 66, 1592, 1623, 1624; 15 U.S.C. 1397).)

ROBERT E. CHASEN,
Commissioner of Customs.

Approved: November 6, 1978.

RICHARD J. DAVIS,
Assistant Secretary, Enforcement and Operations.

JOAN CLAYBROOK,
Administrator, National Highway Traffic Safety Administration.

JUNE 21, 1978.

[FR Doc. 78-33782 Filed 12-1-78; 8:45 am]

[4910-22-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

[FHWA Docket No. 78-30]

PART 625—DESIGN STANDARDS FOR HIGHWAYS

Revision to Update Publications

AGENCY: Federal Highway Administration. DOT.

ACTION: Final rule.

SUMMARY: This document amends the section of regulations dealing with design standards for highways in order to include the new editions of Standard Specifications for (1) Highway Bridges and (2) Transportation Materials and Methods of Sampling and Testing.

DATES: Comments must be received on or before March 5, 1978.

EFFECTIVE DATE: November 29, 1978.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-30, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Frank D. Sears, Office of Engineering (Bridge Standards), 202-426-7680; John J. Carroll, Office of Highway Operations (Materials Standards), 202-426-0420; or Virginia Cherwek, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration incorporates by reference into Part 625, 23 CFR, the most recent edition of the Standard Specifications for Highway Bridges and that of Standard Specifications for Transportation Materials and Methods of Sampling and Testing which are published by the American Association of State Highway and Transportation Officials (AASHTO). These editions include all of the material contained in the previous editions, as well as all of the official annual revisions.

The minimal impact of this revision on the public precludes the necessity for preparation of an evaluation report by the Federal Highway Administration.

Anyone wishing to submit written comments related to this revision is advised to submit them to FHWA Docket No. 78-30. These comments will be considered in processing future revisions to this regulation.

In consideration of the foregoing, the Federal Highway Administration hereby amends Chapter I of Title 23, Code of Federal Regulations, Part 625 as follows:

1. Revising paragraphs (b)(1) and (d)(2) of § 625.3 to read as follows:

§ 625.3 Standards, specifications, policies, guides, and references.

. . . . . .

(b)(1) *Standard Specifications for Highway Bridges*, Twelfth Edition, AASHTO 1977, and *Interim Specifications, Bridges*, AASHTO 1978 [2].

. . . . . .

(d) * * *

(2) *Standard Specifications for Transportation Materials and Methods of Sampling and Testing*, AASHTO 1978, Part I and Part II [2].

2. Amend the incorporation by reference note at the end of § 625.3 to read as follows:

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register on November 17, 1975, October 27, 1976, September 27, 1977, October 13, 1977, January 9, 1978, and September 29, 1978. These documents are on file in the Federal Register Library.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E. O. 12044.

(23 U.S.C. 109, 315; 49 CFR 1.48(b)).

Issued on: November 16, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-33755 Filed 12-1-78; 8:45 am]

[3710-08-M]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

PART 553—ARMY NATIONAL CEMETERIES

Bicyclist Restrictions

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This document amends the cemetery regulations to restrict bicycle traffic within Arlington National Cemetery to Meigs Drive, Sherman Drive, and Schley Drive. Restricting bicyclists to the established route will afford commuters the most direct route through the cemetery, away from the heaviest traveled areas in the interest of both safety and minimal conflict with cemetery operations. With the exception of the bicycle throughfare, the new rule will extend regulatory criteria equally to all vehicular traffic. Bicyclists visiting the cemetery may use the bicycle racks provided at the Visitors' Center and may choose the convenience of tour-mobiles with attendant tour guides or they may walk through the cemetery grounds.

EFECTIVE DATE: This amendment is effective on November 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Colonel Ellsworth S. Clarke (Area Code 202-693-0882).

SUPPLEMENTARY INFORMATION: Proposed rule restricting bicyclists to specific roads within the cemetery was published in the FEDERAL REGISTER on July 13, 1978 (43 FR 30075). Interested parties were given an opportunity to submit comments to the Department of the Army concerning the proposed restriction until August 15, 1978. A discussion of comments received is contained in the following paragraphs:

DISCUSSION OF MAJOR COMMENTS

1. Nineteen comments were received objecting to the proposed restrictions. The principal objections came from bicycle commuters who were of the opinion that they were being penalized by the actions of a few. A few comments suggested alternate routes to serve a growing number of commuters. There were other comments which recommended the enforcement of ordinances/regulations to apprehend and punish violators and control antisocial behavior.

2. One comment requested that letters of complaint be made available for public examination under the Freedom of Information Act. Copies of letters concerning bicyclists in the cemetery were furnished the respondent. Names and other identifying data of private citizens were withheld in accordance with the Privacy Act.

3. In response to a request from the Environmental Protection Agency (EPA), a meeting was held with representatives of other interested government agencies on September 21, 1978 to discuss the proposed rule. A general overview of the proposal and route was presented by Army respresentatives. Data substantiating that the proposed route is safe and is utilized by the majority of bicyclists entering the cemetery was provided. One agency representative suggested that the gate at Patton Drive and Eisenhower Drive be made accessible to commuting bicyclists. This suggestion was not adopted as that gate is directly adjacent to the service complex where heavy equipment traffic negotiating this confined area would present safety problems. Another agency representative requested that consideration be given to allow groups of organized bicyclists to tour the cemetery grounds. This request was considered and is found to be reasonable. However, prior written application to the Cemetery Superintendent is required. Requests must indicate the nature/sponsor of the cycling group, identification of the individual in charge, approximate number of cyclists in the group, and the proposed itinerary. Groups will be granted written permission which may include restrictions to the proposed itinerary as are necessary to assure that conflict with cemetery operations will not occur.

4. Comments favoring adoption of the proposed rule were received from various national veterans organizations as well as private citizens. The majority of comments advocated closure of the cemetery to all bicycle riding to preserve privacy and maintain the dignity and honor of the cemetery.

5. In evaluating the proposed rule to restrict bicycle traffic to certain routes within Arlington National Cemetery, an environmental impact assessment was made. Since access to the cemetery is not restricted, and since a thoroughfare for serious commuters continues to be allowed, it was determined that no significant environmental impact would result from adoption of the rule, nor would its implementation be environmentally controversial.

In consideration of the foregoing, 32 CFR § 553.22 is amended by adding a reference to paragraph (h) in the 14th line of § 553.22(b) and by adding a new paragraph (h) to the section as follows:

§ 553.22 Visitors' rules for the Arlington National Cemetery.

(a) * * *

(b) Scope * * * in paragraphs (c), (d), (e), (f), (g), and (h) of * * *.

. . . . . .

(h) Bicycle traffic will be restricted within the cemetery to Meigs Drive, Sherman Drive, and Schley Drive. All other bicycle traffic will be directed to the Visitors' Center where bicycle racks are provided. Exceptions for bicycle touring groups may be authorized in advance and in writing by the Superintendent. An individual visiting a relative's gravesite will be issued a temporary pass which will permit the bicyclists to proceed to the gravesite.

. . . . . .

By authority of the Secretary of the Army.

Dated: November 30, 1978.

ANN B. SMITH,
Colonel, U.S. Army, Director, Personal Affairs, TAGCEN.

[FR Doc. 78-33749 Filed 12-1-78; 8:45 am]

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[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1017-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval and Revision of District of Columbia Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of an amendment to the District of Columbia's air pollution control regulations as a revision of the District's Implementation Plan (SIP). The amendment revises the requirement for "no visible emissions" at any time to a requirement that would not permit any visible emissions except for up to 40% opacity for a period of two minutes in any 60 minute period and for an aggregate of 12 minutes in any 24-hour period during "start-up", cleaning, soot blowing, adjustment of combustion controls of boilers and/or unavoidable malfunction of equipment. (The current federal regulation prohibits visible emissions at any time.)

EFFECTIVE DATE: December 4, 1978.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Harold A. Frankford (3AH12).

District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue, S.W., Washington, D.C. 20032, ATTN: Mr. John V. Brink.

Public Information Reference Unit, Room 2922 EPA Library, U.S. Environmental Protection Agency, 401 M street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold A. Frankford (3AH12) Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; telephone: (215) 597-8392.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

On March 3, 1977, the District of Columbia submitted to the Regional Administrator, EPA Region III, an amendment to the District's Air Quality Control Regulations and requested that it be reviewed and processed as a revision of the District of Columbia's Implementation Plan (SIP). In accordance with 40 CFR 51.4, the District certified that a public hearing had been held on May 25, 1976.

The amendment consists of changes to § 8-2:713 (Visible Emissions) of the District's regulations. This amended regulation is applicable to all stationary sources located within the District and, in part, reads as follows:

"• • • no person shall cause, suffer, or allow to be emitted into the outdoor atmosphere, visible emissions from stationary sources: *Provided*, That discharges not exceeding 40% opacity (or No. 2 on the Ringelmann Smoke Chart) shall be permitted for 2 minutes in any 60-minute period and for an aggregate of 12 minutes in any 24-hour period. These discharges shall be allowed only for start-up, cleaning, soot blowing, adjustment of combustion controls of boilers, and/or unavoidable malfunction of equipment• • •"

The original Section 8-2:713, as approved by the Administrator, permitted discharges for "start-up", cleaning, soot blowing, and/or adjusting combustion controls of boilers not exceeding 40% opacity (No. 2 on the Ringelmann Chart) for 4 minutes in any 60-minute period and for an aggregate of 24 minutes in any 24-hour period, until August 31, 1973. After that date, no visible discharges are permitted at any time.

The March 3, 1977 amendment supersedes a prior amendment to Section 8-2:713 which had been submitted by the District on May 24, 1974 and proposed as a revision of the District's Implementation Plan on July 11, 1974 (39 FR 25502). Following a prolonged period of discussion between EPA and the District of Columbia concerning the approvability of the amendments of SIP revisions, the District of Columbia agreed to withdraw its prior amendment.

On August 8, 1978 (43 FR 35072), the Administrator simultaneously withdrew the May 24, 1974 amendment to Section 8-2:713 from further consideration as a plan revision and proposed instead, the March 3, 1977 amendment to Section 8-2:713 as a revision of the District's SIP. A 30-day public comment period was provided, during which time no public comments were received.

II. APPROVABILITY OF THE PROPOSED REVISION

A request for a revison of a SIP must be approved by the Administrator if the revision meets the requirements of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. In this case, the mass emisslon limitation contained in the plan is not being changed. Instead, the District has only requested that the SIP's visible emission requirements be modified to allow for periodic short-term visible emissions during "start-up", cleaning, soot blowing, adjustment of combustion controls of boilers, and/or unavoidable malfunction of equipment. Such emissions are a part of normal operation and maintenance functions of combustion sources. The basic substantive requirement for approval of this revision is that the revision will not interfere with attainment or maintenance of the national ambient air quality standards.

Where emissions from a flue are addressed by a mass emissions limitation and a visible emissions requirement, the mass emissions limitation is controlling in any air quality demonstration that may be needed to insure attainment and maintenance of the national standards. Where both visible and mass emissions limitations are approved by the Administrator, both are properly a part of the SIP. At present, the District of Columbia SIP requires that a source may never have any visible emissions. However, the mass emissions limitation contained in the SIP (Section 8-2:708) does not impose an absolute ban on the discharge of particulate matter. Instead, a finite quantity of particulate matter emissions is permissible under the applicable mass emissions limitations. The Agency believes that the quantity of emissions permitted by the amendment to the District's regulations does not exceed those mass emissions limitations, and therefore the "no visible emissions" requirement is more restrictive than necessary to accomplish the objectives of Sections 110(a)(2) and (a)(3) of the Clean Air Act.

Consequently, the Agency believes that the amendment to the District's regulations submitted on March 3, 1977 does not interfere with attainment or maintenance of the national ambient air quality standards for particulate matter. Therefore, the Administrator approves the amendment to Section 8-2:713 submitted by the District on March 3, 1977 as a revision of the District's Implementation Plan, effective immediately. Concurrently, the Administrator amends 40 CFR 52.470 (Identification of Plan) of Subpart J (District of Columbia) to incorporate this plan revision into the District's SIP.

42 U.S.C. 7401

Dated: November 27, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended by revising § 52.470 (c)(11) to read as follows:

Subpart J—District of Columbia

§ 52.470 Identification of Plan.

• • • • •

(c) The plan revisions listed below were submitted on the dates specified • • •

(11) Amendments to Sections 8-2:704 (Use of Certain Fuel Oils Forbidden), 8-2:705 (Use of Certain Coal Forbidden), and 8-2:713 (Visible Emissions) of the District of Columbia Air Quality Control Regulations submitted on March 3, 1977 by the Mayor.

• • • • •

[FR Doc. 78-33593 Filed 12-1-78; 8:45 am]

[6560-01-M]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL

[FRL 1008-4]

PART 730—HEALTH AND SAFETY STUDY REPORTING REGULATIONS

Final Rule; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Typographical corrections to preamble of final rule.

SUMMARY: In its citizens' petition of September 12, 1978, referenced elsewhere in today's edition of the FEDERAL REGISTER, the Manufacturing Chemists Association (MCA) noted one minor typographical error in the preamble to the final regulations promulgated in the July 18, 1978 FEDERAL REGISTER (43 FR 30984) under section 8(d) of the Toxic Substances Control Act (TSCA) 15 U.S.C. 2620. These regulations concerned health and safety study reporting requirements under the TSCA. MCA also noted a minor typographical error in the rule correction of August 16, 1978 (43 FR 36249). These errors are corrected herein.

In the section on confidential claims procedures on page 30986 of the July 18, 1978 FEDERAL REGISTER the reference in the first column, second paragraph, fourth line should read "§ 730.8" instead of "§ 730.7."

On page 36249 of the August 16, 1978 FEDERAL REGISTER the second sentence in the quoted material—"Mixtures which contain only very small amounts of a substance whose effects are masked need not be submitted"—should contain the words "Studies of" before the first word.

FOR FURTHER INFORMATION CONTACTOR:

John B. Ritch, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 800-424-9065.

Dated: November 22, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-33725 Filed 12-1-78; 8:45 am]

[3510-03-M]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TRAINING

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

PAY INCREASE

AGENCY: Maritime Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Maritime Administration amends its regulations relating to merchant marine training to increase the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training. The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

EFFECTIVE DATE: January 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Arthur Friedberg, Director, Office of Maritime Manpower (202) 377-3018.

SUPPLEMENTARY INFORMATION: Part 310 of Title 46 of the Code of Federal Regulations is hereby amended. This amendment increases the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training.

The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

The rate of pay received by midshipmen while assigned to subsidized merchant vessels is a matter of public contract with the owners of such vessels. Also, this amendment has been determined not to be a significant regulation within the scope of E.O. 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), as implemented by criteria in Appendix F of a Notice in the FEDERAL REGISTER of May 30, 1978, (43 FR 23184), as amended. Therefore, this amendment to the Merchant Marine Training regulations is adopted without notice of proposed rulemaking.

Part 310 of Title 46 of the Code of Federal Regulations is amended by revising the first sentence of paragraph (c) of § 310.58 to read as follows:

§ 310.58 Training on subsidized vessels.

• • • • •

(c) *Pay*—Midshipmen shall receive pay, while attached to merchant vessels, at the rate of $351.00 per month from their steamship company employers.

• • • • •

Effective date. This amendment shall become effective January 20, 1979.

(Section 204A(b), Merchant Marine Act, 1936, as amended (49 Stat. 1987, 46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Order 10-8 (38 FR 19707, July 23, 1973).)

Catalog of Federal Domestic Assistance Program No. 11-507 U.S. Merchant Marine Academy (Kings Point).

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: November 27, 1978.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-33768 Filed 12-1-78; 8:45 am]

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[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-160; Amdt. Nos. 172-47, 173-123, 174-33, 175-7, 176-6, 177-44]

TRANSPORTATION OF ASBESTOS

Miscellaneous Amendment

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final Rule.

SUMMARY: These amendments require shipments of commercial asbestos fibers to be packaged in rigid, airtight or dust and sift proof packagings. Except when the shipment is by private carrier, non-rigid packages, such as bags, must be palletized and unitized using shrink-wrapping or strapped fiberboard wrapping. These amendments represent minimum safety requirements and are intended to reduce the risks to the public health associated with the generation of airborne concentrations of asbestos that may result from the packaging and handling of asbestos fiber shipments in commercial transportation.

EFFECTIVE DATE: These regulations are effective April 30, 1979.

ADDRESS: All written comments received in this rulemaking action are available for examination during regular business hours in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Standards Division, Materials Transportation Bureau, Research and Special Programs Administration, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-2075.

SUPPLEMENTARY INFORMATION: On March 2, 1978, a notice of proposed rulemaking (HM-160; Notice 78-3) was published in the FEDERAL REGISTER (43 FR 8562) stating that the MTB was planning to exercise regulatory control over the transportation of asbestos. Specific regulatory requirements were proposed for the control of certain forms of asbestos (e.g., milled or crude asbestos fibers). No requirements were proposed for asbestos fibers which are immersed or fixed in a natural or artificial binder material, or for manufactured products containing asbestos. Interested persons were invited to participate in the rulemaking proceeding through submission of written comments on the proposal to the MTB. All submissions, including late submissions, that were received on the proposal were fully considered by the MTB in the development of this final rule.

NEED TO REGULATE THE TRANSPORTATION OF ASBESTOS

Several commenters felt that the MTB had failed to establish a need to regulate the transportation of asbestos. One of the commenters suggested that there was no need for the proposed regulatory control of asbestos in transportation because the "methods and procedures now in use for the packaging and transport of asbestos meet the requirements of Part 173. 24(A)(sic) of the Transportation Act, that is 'under conditions normally incident to transportation there will be no significant release of the hazardous materials to the environment' and 'the effectiveness of the packaging will not be substantially reduced * * *' (t)he proposal contains no documentation to justify additional regulation." This commenter, while apparently believing that asbestos is a hazardous material, was incorrect in suggesting that asbestos is currently regulated by the MTB; or in suggesting that the purpose of Notice 78-3 was to justify the additional regulation by the MTB of asbestos in transportation. The transportation of asbestos is not now regulated by the MTB. It was precisely the purpose of Notice 78-3 that it should be. If, as the commenter suggests, the transportation of asbestos is now "in compliance with pertinent provisions of the Transportation Act," this rulemaking action will formalize and insure in a uniform and systematic manner that this is the case.

Another commenter stated that Notice 73-8 did "not establish a foundation for regulation, in that it does not document, or even allege for that matter, the actual release of fiber during the transportation of asbestos." As was pointed out in Notice 78-3, the MTB has "no detailed information on the amount of asbestos fibers released during transportation." The MTB does not now regulate asbestos, and has not therefore systematically collected accident data on the amounts of asbestos released in transportation or data on the frequency of such accidents. Most asbestos fiber, however, is currently shipped in bags, and it is undeniable that these bags can and do break, or can be and are being torn or punctured, with a consequent release of some or all of the bag contents. It can be speculated, moreover, that if all of the 750,000 tons of asbestos annually shipped in the United States were packaged in, as one commenter states, the "standard package" of a 100-pound bag; and if as little as one-tenth of one percent of these bags were damaged in transportation during the year (one out of a thousand) and if on the average 1 percent of the contents of the bags so damaged were released, the total amount of asbestos released per year would equal about 7.5 tons. These calculations give a general idea of the magnitude of asbestos fiber that would be released, given a 99.9 percent efficiency factor for "bag integrity" in transportation, and a 99.0 percent efficiency factor in minimizing the amount of asbestos released given a tear in the bag. The rather evident fact that asbestos has been accidentally released during transportation has not been contradicted by anything submitted to the public docket on this rulemaking action. One commenter, for example, in discussing the use of open-bed trailers with side racks and tarpaulins to transport asbestos stated that there is no evidence that the use of such trailers "has contributed to bag breakage and the release of airborne concentrations of asbestos fiber." The Asbestos Information Association, an incorporated nonprofit organization representing 51 firms in the United States and Canada engaged in the manufacture or processing of asbestos-containing products and the mining/milling of asbestos fibers, stated that with "the very large volume of asbestos shipped, occasional container damage may occur."

Although several commenters who discussed this matter do not contend that asbestos has not been released in transportation, they generally are of the view that the amounts that are being released are not significant or of a sufficient amount to pose an unreasonable risk to public health. The MTB does not agree; it believes that the amounts of asbestos fibers that are being released now, or would be released in the future, in the absence of these amendments, *may* pose an unreasonable risk to health.

Several commenters were concerned with the statement appearing in Notice 78-3 that "asbestos in its several commercial forms, poses serious health hazards to individuals subject to long term exposure to airborne asbestos concentrations." One commenter stated that "not all long-term exposures to airborne concentrations pose any health hazards * * *." Another commenter suggested that the statement needed "more explicit definition" and that "reference should have been made to unanswered questions within the scientific community concerning mineral type, fiber size and smoking in the asbestos-cancer relationship." One commenter stated that there is a dose-response relationship between exposure to asbestos and disease causation, and that this conclusion is supported by an OSHA statement from its June 7, 1972 preamble

to its standard for exposure to asbestos dust (37 FR 11318). The OSHA statement is that: "No one has disputed that exposure to asbestos of high enough *intensity and long enough* duration is causally related to asbestosis and cancers" (emphasis added). Although the MTB had also quoted this statement in Notice 78-3, the words underlined for emphasis had been inadvertently omitted. Under these circumstances, some commenters apparently felt that the MTB was asserting the view that because, according to some commenters, asbestos is ubiquitous, long term exposure to ambient levels of asbestos fibers poses serious health hazards to all people, without regard to their occupational or paraoccupational status. It was not the intention of the MTB to assert this view. That there are or can be "undisputed grave consequences from exposure to asbestos" (37 FR 11318) does not depend on the questioned conclusiveness of the evidence reported by OSHA (40 FR 47652) regarding the potential health hazards posed by low-level, brief or intermittent exposure to asbestos. The MTB relies on the foregoing FEDERAL REGISTER references for the general view that exposure to asbestos may pose an unreasonable risk to the public.

SECTION 173.1090(a) AND (b)

Several commenters stated that there are certain mineral ores, ore concentrates and milled mineral products which may have trace amounts of asbestos, or minor amounts of asbestos occurring as contaminants. They suggested that these materials presented no risk to property and little, if any, risk to public health and safety in transportation. Moreover, since the packaging requirements proposed in Notice 78-3 applied to only certain kinds of asbestos, namely milled or crude asbestos fibers produced by an asbestos mill, they further suggested that only "commercial asbestos fibers" be defined as a hazardous material.

The MTB recognizes that there are certain mineral ores, ore concentrates and milled mineral products, as well as other products, that contain certain amounts of asbestos, and that the commercial value of these minerals or products is not dependent on their asbestos content. The specific requirements in these amendments for the control of asbestos fibers in transportation do not apply to such materials or products, nor do they apply to asbestos as a waste product [1] or as a contaminating trace element. The amendments apply only to asbestos *in its several commercial forms* since it is those forms of asbestos that have been firmly established as posing serious health hazards to individuals. A new paragraph has been added which would define commercial asbestos as any material or product containing asbestos that has commercial value because of its asbestos content, and appropriate modifications have been made in the amendments to reflect this clarification. This new paragraph is identified in this amendment as paragraph (b) (paragraphs (b) and (c) in the notice are now paragraphs (c) and (d), respectively).

One commenter recommended that the scope of Notice 78-3 be amended to include, in addition to asbestos fibers, "all mineral and man-made (fibers) which have been identified by U.S. Government agencies as being carcinogenic and which may pose serious health risk." On December 9, 1976, the MTB published an Advance Notice of Proposed Rulemaking (41 FR 53824) in Docket No. HM-145 entitled "Environmental and Health Effects Materials." In that Notice, the MTB announced that it was considering whether new or additional transportation controls are necessary for certain classes of materials which are not generally subject to the existing Hazardous Materials Regulations. The question of whether all mineral and man-made fibers, which have been identified by U.S. Government agencies as being carcinogenic and which pose an unreasonable risk to public health, should be controlled in transportation will be considered in terms of the further development and resolution of the issues associated with Docket HM-145. Notice 78-3 however, pointed out that a large number of comments were received in Docket HM-145, and that a considerable amount of staff evaluation of these comments was still required before it would be possible to issue a notice or notices of proposed rulemaking for environmental and health effects materials, either on a comprehensive or on a selective basis.

SECTION 173.1090(c)(1)

Several commenters objected to the reference made to metal or fiber drums to illustrate the rigid packaging alternative for asbestos fibers. These commenters stated that the asbestos industry has not developed the technology to use this type of packaging alternative; that available technology is not transferable to the use of metal or fiber drums; and that, among other things, the use of this alternative could generate far greater airborne concentrations of asbestos than packaging and shipping practices currently in effect. As one commenter pointed out:

> Commercial asbestos is fluffy. It is difficult to pack this material in a rigid container, and, because the fiber would gradually compact during shipment, it would be difficult to remove it for introduction into the manufacturing process. It would also be extremely cumbersome, if not impossible, to empty rigid containers effectively and rapidly into hoods designed for bags. Spillage would no doubt occur and workers would be unnecessarily exposed to fibers.

Another commenter recommended that a DOT Specification 56 portable tank be included in the amended rule as an acceptable package "for the transportation of asbestos-type products." This commenter stated that "with the use of equipment designed for the purpose, the D.O.T. 56 package can be readily filled or emptied without release of any product dust to the atmosphere or contact with the product by the operator." Another commenter insisted that only metal drums and not fiber drums were acceptable for the transportation of asbestos fibers. These commenters apparently lost sight of the fact that proposed § 173.1090(c)(1) does not "mandate," as one commenter suggested, or even encourage the use of rigid, airtight packaging such as metal or fiber drums or even portable tanks. It provides an alternative method of shipping commercial asbestos fibers. As was indicated in Notice 78-3, the MTB believes that its proposed non-specification packaging standards as applied to the transportation of commercial asbestos is an effective and efficient means of precluding potential problems associated with asbestos airborne emissions occurring during transportation; and that they are consistent with the standards of the EPA and the OSHA. Some of the commenters however were also apparently unaware that the transportation standards for the control of asbestos are designed to be comprehensive in nature such that, once the standards are promulgated, commercial asbestos cannot be packaged and transported in any matter not specified in the amendments. If under more advanced technology the use of rigid, airtight packaging would lessen the likelihood of airborne asbestos emissions associated with bag breakages under current industry wide non-uniform non-standardized packaging practices, then it is necessary that alternative transportation standards be available so as not to preclude the development and utilization of such technology. Although the public record on Notice 78-3 contains statements that the asbestos industry is seeking to improve the technology involved in the shipment and handling of commercial asbestos so as to minimize the possibility for the accidental release of such asbestos incident to

[1] Under Docket HM-145A (43 FR 22626, May 25, 1978), new standards and procedures were proposed for the transportation of hazardous waste materials. That proposal would include waste asbestos if so identified by EPA under Section 3001 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (Pub. L. 94-580).

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transportation, it is by no means certain that the pace of such technological improvements is rapid enough or that the best, economically feasible technology is being considered. However, the classification of asbestos as an ORM-C will, for the first time, require the submission of incident reports to the MTB by carriers of any unintentional release of asbestos during transportation, and enable the MTB to monitor the safety performance record associated not only with the transportation alternatives available under current technology as provided for by these amendments, but also with any improvements in that technology.

For these reasons, the substance of proposed § 173.1090(c)(1) is being retained but modified to reflect an even broader range of permissible rigid, airtight packaging alternatives. This section now is identified in this amendment as § 173.1090(d)(1) because of the addition of new paragraph (b).

Section 173.1090(c)(2)

Proposed paragraph (c)(2) of Notice 78-3 covered the transportation alternative of shipping commercial asbestos in bags when in closed freight containers, motor vehicles, or rail cars that were loaded by the consignor and unloaded by the consignee. Several commenters noted that, unless reliance was placed on using the rigid, airtight packaging alternative provided in the proposal, this alternative would preclude the shipment of asbestos fibers by open-bed trailers. One commenter noted that there is "no evidence to indicate that the use of open-bed trailers with side racks and tarpaulins has contributed to bag breakage and the release of airborne concentrations of asbestos fiber." Another commenter noted that the type of bag permitted by proposed paragraph (c)(2) was not specified, and that the shipper could package asbestos in burlap bags, or very thin paper or polyethylene bags which could permit asbestos fibers to be easily released into the air during transit. Another commenter was concerned with "small volume users of asbestos and customers who, from time to time, require sample shipments for trial production runs of a few hundred pounds," and who under § 173.1090(c)(2) would be forced to acquire the exclusive use of a railcar or highway trailer, or rely on the alternative provided by § 173.1090(c)(1).

Given the lack of detailed data on the amount of asbestos fibers released in transportation and the circumstances and causes for such release, the MTB is in general agreement with the thrust of these comments; accordingly, a new paragraph (d)(2) recognizes less restrictive handling of bagged asbestos than was proposed.

Sections 174.840, 175.640, 176.906, 177.844

In these Sections, Notice 78-3 had proposed that, incident to its transportation, asbestos must be loaded, handled, and any asbestos contamination removed, in a manner that will *prevent* occupational exposure to airborne asbestos particles (emphasis added).

Some commenters objected to the word "prevent," believing that this word was intended to mean completely precluding the possibility of an accident occurring in which asbestos fibers would be released; or completely isolating people involved in the transportation, loading and unloading of asbestos from exposure to asbestos fibers from whatever source such fibers were generated. One commenter pointed out that with "the very large volume of asbestos shipped, occasional container damage may occur." Another commenter pointed out, although in a somewhat contradictory fashion, that since "asbestos is ubiquitous," therefore "airborne levels of asbestos fibers *can* be present in any place of employment, regardless of whether or not asbestos or products containing known quantities of asbestos are handled" (emphasis added). The Asbestos Information Association in its comments stated that "asbestos is ubiquitous, and there are *no workplaces where there is zero occupational exposure to asbestos*" (original emphasis). If Notice 78-3 was not as clear as it might have been on this point, it is only necessary to say that the basic purpose of these amendments is to minimize the exposure to airborne asbestos particles accidentally released during or incident to transportation; and appropriate changes to Parts 174, 175, 176, and 177 have been made to reflect this purpose.

ORM-C Classification

Notice 78-3 proposed that the classification for "asbestos" would be as an ORM-C, (Other Regulated Material, Group C). Several commenters were uncertain and concerned about the marking requirements associated with ORM-C classifications. One commenter noted that the designation ORM-C would "carry no meaningful warning to the person handling or opening the package." Another noted that the present regulations of the Occupational Safety and Health Administration (OSHA) on labeling requirements for asbestos convey much more information than an ORM-C marking requirement. These commenters were apparently not completely familiar with the marking requirements associated with ORM-C designated materials. The ORM-C marking not only warns when a package contains hazardous material, but it is also a certification by the person offering the package for transportation that the material is properly described, classed, packaged, marked, and labeled (when appropriate) and in proper condition for transportation according to applicable regulations of the Department. Neither function precludes or preempts OSHA labeling requirements or creates "contradictory regulatory requirements for labeling" as one commenter suggested. For these reasons, no changes have been made with respect to any marking requirements for asbestos packages.

Economic/Inflationary Impact

In reviewing the potential economic and inflationary impacts associated with the final rule, the MTB has determined that such impacts will be minimal. Based on the comments received, and the consequent modification of Notice 78-3, the only economic costs associated with final amendment pertain to the reporting requirements to be submitted to MTB on the accidental releases of commercial asbestos fibers during or incident to transportation. The absolute annual magnitude of these costs will be, of course, a function of the total number of incident reports that are submitted on accidental releases of asbestos fibers; but in view of the undisputed grave consequences from exposure to asbestos fibers, these reporting requirements will not impose an unnecessary burden on the economy, on individuals, or on public and private organizations.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Parts 172, 173, 174, 175, 176, and 177 are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.101 the Hazardous Materials Table is amended by adding a new entry, immediately following "Arsine," to read as follows:

[4910-60-C]

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(4)	(5)		(7)				
				Packaging		Maximum net quantity in one package			Water shipments	
				(a)	(b)	(a)	(b)		(a)	(b)	(c)
*/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(a) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft		Cargo vessel	Passenger vessel	Other requirement
*	(Add) Asbestos	ORM-C	None	173.1090 (c)	173.1090 (d)	No Limit	No Limit		1, 2	1, 2	Stow and handle to avoid airborne particles.

(a) Labels are required for each package containing asbestos, unless the package is excepted from labeling by § 173.1090(c).

* * *

2. In § 172.203 paragraph (k) is amended by adding a new paragraph (k)(3) to read as follows:

§ 172.203 Additional description requirements.

* * *

(k) * * *

(3) *Asbestos.* The word "asbestos" must be entered in association with the proper shipping name.

* * *

3. In § 172.504 paragraph (e)(2) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 172.504 General placarding requirements.

* * *

(e) * * *

(2) * * * Placards are not required for asbestos when transported by motor vehicle, rail car, or aircraft.

* * *

4. In § 172.519 paragraph (c)(1) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 172.519 Commodity specific placarding requirements.

* * *

(c) * * *

(1) * * * Placards are not required for asbestos when transported by motor vehicle, rail car, or aircraft.

* * *

5. In § 172.544 paragraph (c) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 172.544 Poisonous materials placards.

* * *

(c) * * * Placards are not required for asbestos when transported by motor vehicle, rail car, or aircraft.

* * *

6. In § 172.600 paragraph (c)(1) is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 172.600 Applicability.

* * *

(c) * * *

(1) * * * Placards are not required for asbestos when transported by motor vehicle, rail car, or aircraft.

* * *

Standard No. 109 meet these criteria. Accordingly, the Michelin and the

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PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. Section 173.1090 is added preceding Subpart N to read as follows:

§ 173.1090 Asbestos.

(a) Asbestos includes any of the following hydrated mineral silicates: chrysotile, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, actinolite asbestos, and every product containing any of these minerals.

(b) Commercial asbestos is any material or product containing asbestos that has commercial value because of its asbestos content.

(c) Asbestos which is immersed or fixed in a natural or artificial binder material (such as cement, plastic, asphalt, resins or mineral ore) and manufactured products containing asbestos or any materials or products whose commercial value is not dependent on their asbestos content, are not subject to the requirements of this subchapter.

(d) Commercial asbestos must be offered for transportation and transported in—

(1) Rigid, airtight packagings such as metal or fiber drums, portable tanks, or

(2) Bags and other non-rigid packagings that are dust and sift proof. When transported by other than a private carrier by highway, bags and other non-rigid packagings containing asbestos must be palletized and unitized by methods such as shrink-wrapping in plastic film or wrapping in fiberboard secured by strapping.

PART 174—CARRIAGE BY RAIL

3. A Subpart M Heading is added immediately following § 174.812 to read as follows:

Subpart M—Detailed Requirements for Other Regulated Materials

4. Section 174.840 is added to read as follows:

§ 174.840 Special loading and handling requirements for asbestos.

Asbestos must be loaded, handled, and unloaded, and any asbestos contamination of rail cars removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

PART 175—CARRIAGE BY AIRCRAFT

5. Section 175.640 is added to read as follows:

§ 175.640 Special requirements for other regulated materials.

Asbestos must be loaded, handled, and unloaded, and any asbestos contamination of aircraft removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

PART 176—CARRIAGE BY VESSEL

6. Section 176.906 is added to read as follows:

§ 176.906 Stowage and handling of asbestos.

Asbestos must be stowed, handled, and unloaded, and any asbestos contamination of vessels removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

PART 177—CARRIAGE BY PUBLIC HIGHWAY

7. Section 177.844 is added to read as follows:

§ 177.844 Other regulated materials.

Asbestos must be loaded, handled, and unloaded, and any asbestos contamination of transport vehicles removed, in a manner that will minimize occupational exposure to airborne asbestos particles released incident to transportation. (See § 173.1090 of this subchapter.)

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that these amendments do not require a regulatory analysis under the items of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on November 27, 1978.

L. D. SANTMAN,
Director, Materials Transportation Bureau.

[FR Doc. 78-33771 Filed 12-1-78; 8:45 am]

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-17; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the Michelin Tire Corporation (Michelin) and by the Rubber Manufacturers Association (RMA), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, by adding four new tire size designations to Table I of Appendix A of the standard. The amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: January 3, 1979, if objections are not received prior to that date.

ADDRESS: Comments should refer to the docket number and be submitted to Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

John Diehl, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments.

On July 13, 1978, Michelin petitioned for the addition of two new tire size designations requested to be located in a new table, I-QQ within Appendix A of Standard No. 109. On July 18, 1978, and August 3, 1978, the RMA petitioned for the addition of two new tire size designations to existing tables within Table I of Appendix A of the standard. The bases for accepting or denying requests to add new tire size designations are set forth in introductory guidelines to the appendix (October 5, 1968, 33 FR 14964, as amended May 4, 1971, 36 FR 8298; July 22, 1971, 36 FR 13601; and August 13, 1974, 39 FR 28980). The four new tire size designations requested to be added to

Standard No. 109 meet these criteria. Accordingly, the Michelin and the RMA petitions are granted, and these new tire size designations are added to Table I of Appendix A of the standard pursuant to the abbreviated rulemaking procedure.

In accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) and Executive Order 12044, the NHTSA has reviewed the environmental and economic impacts of these amendments. There should be no negative environmental impacts. Further, since these are minor technical amendments of the standard which will permit the production of four new tire sizes, there should be no costs associated with their implementation. The agency has further concluded that this is not a significant regulation within the meaning of the Executive order.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations (Part 571.109 (Standard No. 109, *New Pneumatic Tires—Passenger Cars*)) is amended as specified below, subject to the 30 day comment provision discussed above.

§ 571.109 [Appendix amended]

In Tables I-HH, I-JJ, and I-QQ, the following new tire size designations and corresponding values are added:

FEDERAL REGISTER, VOL. 43, NO. 233—MONDAY, DECEMBER 4, 1978

[7035-01-M]

§ 1033.1289 Service Order 1289 Bur-

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[4910-59-C]

TABLE I - HH

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/75' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P195/75R15	470	510	545	580	610	640	670	695	720	5 1/2	854	196

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P185/70R13	345	375	400	425	450	470	490	510	530	5	761	184

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - QQ

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR for "55" SERIES ALL MILLIMETRIC RADIAL PLY TIRES

Tire size designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (mm)	Minimum size factor (mm)	Section width (mm)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
220/55R390	915	975	1035	1090	1145	1200	1250	1295	1345	1390	1435	1480	1520	165	812	224
240/55R390	1055	1125	1195	1260	1320	1380	1440	1495	1550	1600	1655	1705	1755	180	884	245

1/ The letters "H," "S," or "V," may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7%.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion. It is requested but not required that 10 copies of comments be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered; and will be available for examination in the docket at the above address both before and after that date.

The principal authors of this notice are John Diehl of the Office of Vehicle Safety Standards and Nancy Eager of the Office of Chief Counsel.

(Sec. 103, 119, 201 and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 27, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-33676 Filed 12-1-78; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1289; Amdt. 2]

PART 1033—CAR SERVICE

Burlington Northern Inc. Authorized To Operate Over Tracks of Union Pacific Railroad Co. at Sterling, Colo.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1289).

SUMMARY: The Burlington Northern (BN) between Bridgeport, Nebraska, and Brush, Colorado, formerly a light density line, has become a major north-south route traversed by numerous daily coal trains. Between Sterling, Colorado, and Union, Colorado, trains over this line operate over tracks of the Union Pacific (UP). The connection between the BN and the UP at Sterling includes a 13 degree curve which imposes severe speed restrictions, reduced train size, excessive fuel consumption and excessive rail and tie wear on the BN. The UP and the BN have agreed to move the point of entry of BN trains to a point on the UP 2,892 feet east of the existing point, thereby enabling BN trains to avoid excessive curvature on the existing route. Service Order No. 1289 authorizes the BN to operate over the additional UP trackage pending dispositing of its application seeking permanent authority. Service Order No. 1289 is printed in full in volume 42 of the FEDERAL REGISTER at page 63423. Amendment No. 2 extends Service Order No. 1289 for an additional period of 6 months.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: Decided November 27, 1978.

Upon further consideration of Service Order No. 1289 (42 FR 63423 and 43 FR 24694), and good cause appearing therefor:

It is ordered, That:

§ 1033.1289 Service Order 1289 Burlington Northern Inc. authorized to operate over tracks of Union Pacific Railroad Company at Sterling, Colorado is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33805 Filed 12-1-78; 8:45 am]

[7035-01-M]

[S.O. 1285; Amdt. 2]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized to Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1285).

SUMMARY: To facilitate highway reconstruction and to avoid the necessity of building a duplicate railroad bridge over an intersecting highway, the Chicago and North Western and the Chicago, Milwaukee, St. Paul and Pacific Railroad have agreed to joint use of the 1.35 miles of the latter company's line between Rothschild, Wisconsin and Schofield, Wisconsin. Service Order No. 1285 authorizes the Chicago and North Western to operate over these lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Service Order No. 1285 is printed in full in FEDERAL REGISTER,

lished in full in volume 43 of the FED-

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Volume 42, at page 59278. Amendment No. 2 extends this order for an additional six month period.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1285 (42 FR 59278 and 43 FR 24535), and good cause appearing therefor:

It is ordered, That:

§ 1033.1285 Service Order 1285, Chicago, and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, is hereby amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as the agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33803 Filed 12-1-78; 8:45 am]

[7035-01-M]

[2nd Rev. S.O. 1315; Amdt. 1]

PART 1033—CAR SERVICE

Demurrage and Free Time on Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Second Revised Service Order No. 1315.

SUMMARY: Second Revised Service Order No. 1315 establishes minimum periods for the detention of cars by shippers and receivers free of demurrage and increases demurrage charges for cars held beyond the free time. Amendment No. 1 extends this order an additional two months. Second Revised Service Order No. 1315 is published in full in volume 43 of the Federal Register at page 45866.

DATES: Effective 6:59 a.m., December 1, 1978. Expires 6:59 a.m., February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Second Revised Service Order No. 1315 (43 FR 45866), and good cause appearing therefor:

It is ordered, That:

Section 1033.1315 Second Revised Service Order No. 1315, Demurrage and free time on freight cars is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 6:59 a.m., February 1, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 6:59 a.m., December 1, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33800 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Rev. S.O. 1301; Amdt. 4]

PART 1033—CAR SERVICE

Distribution of Grain Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 4 to Revised Service Order No. 1301).

SUMMARY: There are serious shortages of 40-ft., narrow-door plain boxcars and of covered hoppers on the lines of the Burlington Northern and of the Chicago and North Western. Revised Service Order No. 1301 requires return of narrow-door, 40-ft., plain boxcars and of covered hoppers owned by these two railroads. Loading to stations on the lines of the car owners is permitted. Amendment No. 4 extends Revised Service Order No. 1301 for an additional five months. Revised Service Order No. 1301 is printed in full in the Federal Register Volume 43 at page 12326.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Revised Service Order No. 1301 (43 FR 12326, 14475, 19048 and 29008), and good cause appearing therefor:

It is ordered, That:

Section 1033.1301 Revised Service Order No. 1301, Distribution of grain cars, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33807 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Service Order No. 1288; Amdt. No. 2]

PART 1033—CAR SERVICE

Chicago & North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. at Dekalb, Ill.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1288).

SUMMARY: The line of the Chicago, Milwaukee, St. Paul and Pacific Railroad (MILW) serving Dekalb, Illinois is unservicecable because of deteriorated track, leaving numerous shippers served by this railroad at Dekalb without essential railroad service. Service Order No. 1288 authorizes the Chicago and North Western Transportation Company (CNW) to operate over tracks of the MILW in Dekalb for the purpose of providing continued rail service to those shippers. Amendment No. 2 extends this order for an additional six-month period. Service Order No. 1288 is printed in full in volume 42 of the Federal Register at page 62925.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1288 (42 FR 62925 and 43 FR 24539), and good cause appearing therefor:

It is ordered, That:

Section 1033.1288 *Service Order No. 1288*, Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Dekalb, Illinois, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33808 Filed 12-1-78; 8:45 am]

[7035-01-M]

[14th Rev. S.O. 1234; Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Fourteenth Revised Service Order No. 1234.

SUMMARY: Because of a severe shortage of freight cars, railroads are unable to furnish cars of the size required to transport the minimum quantities of freight specified by the tariffs without excessive delay to the intended shipment. Fourteenth Revised Service Order No. 1234 authorizes the railroad to substitute sufficient smaller cars to transport all of the freight required to be shipped. Amendment No. 1 extends this order until April 15, 1979. Fourteenth Revised Service Order No. 1234 is published in full in volume 43 of the Federal Register at page 37692.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., April 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Fourteenth Revised Service Order No. 1234 (43 FR 37692), and good cause appearing therefor:

It is ordered, That:

Section 1033.1234 *Fourteenth Revised Service Order No. 1234*, Distribution of freight cars, is amended by substituting the following paragraph (k) for paragraph (k) thereof:

(k) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-33810 Filed 12-1-78; 8:45 am]

[7035-01-M]

[S.O. 1262; Amdt. 5]

PART 1033—CAR SERVICE

North Stratford Railroad Corp. Authorized To Operate Over Certain Tracks Owned by the State of New Hampshire

AGENCY: Interstate Commerce Commission.

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ACTION: Emergency Order, Amendment No. 5 to Service Order No. 1262.

SUMMARY: Service Order No. 1262 authorizes the North Stratford Railroad Corporation to operate a line of railroad between North Stratford, New Hampshire, and Beecher Falls, Vermont, owned by the State of New Hampshire. Resumption of operation over this line restores rail service to shippers affected by its abandonment by the Maine Central, its former owner. Amendment No. 5 to Service Order No. 1262 extends for two months the emergency authority granted to the North Stratford Railroad for operation of this line. Service Order No. 1262 is published in full in volume 42 of the FEDERAL REGISTER at page 16780.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1262 (42 FR 16780, 43637, 57317; 43 FR 19047 and 50907), and good cause appearing therefor:

It is ordered,

Section 1033.1262 *North Stratford Railroad Corporation authorized to operate over certain tracks owned by the State of New Hampshire.*

Service Order No. 1262 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33809 Filed 12-1-78; 8:45 am]

[7035-01-M]

[2d Rev. S.O. 1332; Amdt. 1]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Second Revised Service Order No. 1332.

SUMMARY: There are severe shortages of freight cars throughout the country. Second Revised Service Order No. 1332 requires all railroads to place, remove, forward, weigh, clean or repair cars within 60-hours in order to expedite the handling of freight cars and to increase their availability for reloading. Boxcars, hopper cars and covered hopper cars are covered by this order. Amendment No. 1 extends the order until January 31, 1979. The order is published in full in Volume 43 of the FEDERAL REGISTER at page 45863.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Second Revised Service Order No. 1332 (43 FR 45863), and good cause appearing therefore:

It is ordered, That:

Section 1033.1332 Second Revised Service Order No. 1332, Railroad operating regulations for freight car movement, is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford and Gresham. (Commissioner Clapp absent and not participating.)

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33801 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Rev. S.O. 1313; Amdt. 2]

PART 1033—CAR SERVICE

Railroads Authorized to Forward Portions of Certain Multiple-Car Shipments Transporting Less Than Minimum Quantities Specified by Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Revised Service Order No. 1313).

SUMMARY: Many railroad tariffs require the tender of from two to twenty-four cars at one time. Because of severe car shortages the railroads are unable to furnish, at one time, all of the cars required to transport the shipment. Serious delays to cars occur while the shipper awaits receipt of the remaining cars required. Service Order No. 1313 requires railroads to accept and forward partial shipments without delay when the carrier is unable to furnish, at one time, all of the cars required to transport the minimum quantities specified by the tariffs. The shipper tendering such partial shipment is required to complete the multiple-car shipment before tendering additional shipments in the same kind of car. Amendment No. 2 extends this order for an additional five months. Revised Service Order No. 1313 is published in full in volume 43 of the FEDERAL REGISTER at page 21893.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Revised Service Order No. 1313 (43 FR 21893 and 29126), and good cause appearing therefor:

It is ordered, That:

Section 1033.1313 *Revised Service Order No. 1313.* Railroads authorized to forward portions of certain multiple-car shipments transporting less than minimum quantities specified by tariffs, is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33806 Filed 12-1-78; 8:45]

[7035-01-M]

[S.O. 1312; Amdt. 3]

PART 1033—CAR SERVICE

Railroads Authorized To Transport Unit-Grain-Trains of Less Than Number of Cars Required by Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 3 to Service Order No. 1312).

SUMMARY: Because of a severe shortage of covered hopper cars, railroads are unable promptly to substitute other cars for cars which must be removed from unit-grain-trains because of mechanical defects resulting in delays to the remainder of the cars used in the unit-grain-trains awaiting the reassembly of sufficient cars to fulfill tariff requirements. Service Order No. 1312 authorizes the carriers to transport unit-grain-trains with fewer cars than the number required by the applicable tariffs, subject to specified restrictions. Service Order No. 1312 is published in full in volume 43 of the FEDERAL REGISTER at page 13064. Amendment No. 3 extends this order for four months.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: November 27, 1978.

Upon further consideration of Service Order No. 1312 (43 F.R. 13064, 24695 and 34149), and good cause appearing therefor:

It is ordered, That:

Section 1033.1312 *Service Order No. 1312, Railroads authorized to transport unit-grain-trains of less than number of cars required by tariffs,* is amended by substituting the following paragraph (i) for paragraph (i) thereof:

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33807 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Rev. S.O. 1280; Amdt. 2]

PART 1033—CAR SERVICE

Substitution of Hopper Cars for Covered Hopper Cars or Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 2 to Revised Service Order No. 1280.

SUMMARY: Because of severe shortages of cars certain railroads are unable to furnish sufficient covered hopper cars and boxcars required for loading grain and grain products. Some railroads have available supplies of open hopper cars which can be substituted for boxcars or covered hopper cars for transporting these shipments. Revised Service Order No. 1280 authorizes railroads to substitute open hopper cars for covered hopper cars or boxcars for transporting shipments of grain or grain products. The consent of the shipper is required. Amendment No. 2 extends Revised Service Order No. 1280 for an additional six months. Revised Service Order No. 1280 is printed in full in the FEDERAL REGISTER, volume 42, at page 59386.

DATES: Effective 11:59 p.m., November 30, 1978. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided November 27, 1978.

Upon further consideration of Revised Service Order No. 1280 (42 FR 59386 and 43 FR 23723), and good cause appearing therefor:

It is ordered, That:

Section 1033.1280 *Revised Service Order No. 1280, Substitution of hopper cars for covered hopper cars or boxcars,* is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to

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the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33804 Filed 12-1-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Burial of Small Quantities of Radionuclides

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering amending its regulations to require NRC licensees to obtain Commission approval prior to burial of small quantities of radionuclides. The proposed amendments would contribute to the protection of the public health by encouraging the shipment of small quantities of radioactive waste to licensed burial grounds and by improving the NRC's available data regarding amounts and locations of radioactive materials buried elsewhere. The amendments would not affect material already buried, or generally licensed and exempt material.

DATES: Comment period expires February 2, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. John W. Hickey, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone: 310-443-5966).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear Regulatory Commission proposes to amend the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation," to revise the provisions for disposal of small quantities of licensed radioactive material by burial in soil.

Section 20.304, 10 CFR Part 20, currently provides that no licensee shall dispose of licensed material by burial in soil unless: (a) the total quantity of licensed and other radioactive materials buried at any one location and time does not exceed, at the time of burial, 1,000 times the amount specified in Appendix C of Part 20; (b) burial is at a minimum depth of four feet; and (c) successive burials are separated by distances of at least six feet and not more than 12 burials are made in any year. Section 20.302 of 10 CFR Part 20 specifies the method for obtaining approval of proposed burials other than those allowed by § 20.304

Section 20.304 has not been amended since its adoption in 1957, although there have been amendments to Appendix C of 10 CFR Part 20, which is referenced in § 20.304. The proposed amendment discussed below was developed as part of an ongoing Commission effort to review existing regulations on disposal of low-level radioactive waste.

Because burials under § 20.304 may be performed without specific NRC approval, the Commission does not have exact data on such burials. However, based on informal discussions with NRC inspectors and State officials, the Commission staff has estimated that relatively few licensees (less than 100 out of several thousand NRC and Agreement State licensees) have performed burials under § 20.304 over the last few years. Examples of licensees performing burials include materials licensees (such as some universities) who possess relatively small quantities of radionuclides.

Representatives of several State agencies have expressed concern to the Commission over the practice of allowing licensees to bury small quantities of radionuclides without notification or prior approval of the Commission or its Agreement States. These State representatives suggest that the risk of allowing such burials may be unacceptable.

The Commission agrees that the existing practice should be revised, and would like to obtain public comments before making a decision on whether to allow continued disposal of radioactive material under § 20.304 without prior regulatory review. The proposed amendments would limit burials to two circumstances: (1) where the licensee has obtained prior Commission approval as provided in 10 CFR § 20.302, or (2) where the licensee transfers such material to authorized recipients (e.g., licensed burial grounds). The effect of the proposed amendments may be to contribute to the protection of public health by encouraging the shipment of even small quantities of waste to licensed burial grounds and by improving the NRC's available data regarding amounts and locations of radioactive materials buried elsewhere.

Examples of public comments which would be particularly helpful to the Commission are: information on the numbers of burials currently being conducted pursuant to § 20.304, the quantities and types of radionuclides buried, estimates of the potential risk to the public health from such burials, and estimates of the costs to licensees if § 20.304 were deleted.

If, after consideration of the factors relating to this matter including comments or suggestions submitted in response to this notice of proposed rule making, the Commission decides to promulgate the rule in effective form, a period of three (3) months would be provided for licensees currently conducting disposal by burial in soil pursuant to § 20.304 to make alternative disposal arrangements or to comply with the provisions of § 20.302.

These amendments would not require any action concerning material already buried under the present provisions of § 20.304.

It is not the intent of the proposed amendments to change procedures regarding the disposal of materials or products transferred to persons exempt or generally licensed.

The proposed amendments constitute a procedural change which is not likely to have a substantial impact on the method or number of burials of radionuclides. Information available to the Commission indicates that only a few licensees would be affected by the amendments. However, it is possible that as a result of Commission review of individual burial proposals or as a result of increased shipments to licensed burial grounds, the potential environmental impact will be reduced. Therefore, the Commission has determined that an environmental impact statement pursuant to the National Environmental Policy Act of 1969 need not be prepared in connection with the promulgation of these amendments, because their adoption will not significantly affect the quality of the human environment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contem-

3. Rescind a segment of V-201 from

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plated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed rule should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by *February 2, 1979.*

§ 20.304 [Deleted]

1. Section 20.304, *Disposal by burial in soil,* is deleted.

2. Section 20.301(c) is revised to read as follows:

§ 20.301 General requirement.

. . . . . .

(c) As provided in § 20.303, applicable to the disposal of licensed material by release into sanitary sewerage systems, or in § 20.106 (Radioactivity in effluents to unrestricted areas).

3. Section 20.401(b) and subparagraph (3) of paragraph (c) are amended to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

. . . . . .

(b) Each licensee shall maintain records in the same units used in this part, showing the results of surveys required by § 20.201(b), monitoring required by §§ 20.205(b) and 20.205(c), and disposals made under §§ 20.302, 20.303, and deleted 20.304.[1]

(c) . . .

. . . . . .

(3) Records of disposal of licensed material made pursuant to §§ 20.302, 20.303, and deleted 20.304 [1] shall be maintained until the Commission authorizes their disposition.

4. A footnote is added to section 20.401 to read as follows:

[1]Section 20.304 provided for burial of small quantities of licensed materials in soil. Notice of its deletion appears in (Federal Register page and date to be inserted).

5. The note following Appendix C of 10 CFR Part 20 is amended to read as follows:

APPENDIX C

. . . . . .

NOTE.—For purposes of § 20.203, where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" (i.e., "unity").

(Section 161, b. and i., Pub. L. 83-703, 68 Stat. 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1243, (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C. this 28th day of November 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-33746 Filed 12-1-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-GL-16]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Springfield, Minnesota to accommodate a new VOR/DME instrument approach procedure into the Springfield Municipal Airport established pursuant to a request from the Springfield Municipal Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircarft operating under visual conditions.

DATES: Comments must be received on or before January 2, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-16, 2300 East Devon Avenue, Des Plaines, Illinois 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

Clair M. Billington, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone 312-694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 78-GL-16, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before January 2, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Springfield, Minnesota. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (43 FR 440), the following transition area is added:

SPRINGFIELD, MINN.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Springfield Municipal Airport (Latitude 44°13'53" N, Longitude 94°54'54" W) and within 2 statute miles each side of the 158° radial of the Redwood Falls VORTAC, extending from the 5 mile radius to 6 miles northwest of the airport, excluding that portion within the Windom Municipal Airport transition area.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); section 11.61 of the Federal Aviation Regulations (14 (CFR 11.61).

The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Ill., on November 20, 1978.

WM. S. DALTON,
Acting Director
Great Lakes Region.

[FR Doc. 78-33767 Filed 12-1-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-WE-13]

VOR AIRWAYS

Proposed Alteration and Rescission

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of V-21 and rescind segments of V-25E, V-201 and V-208 airways south and southeast of Los Angeles, Calif. This action would eliminate unused route segments and realign a segment of V-21 to a route that is presently used as a vector route. Chart clutter would be reduced and traffic flow would be improved in this area.

DATES: Comments must be received on or before January 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 78-WE-13, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All Communications received on or before January 3, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would make the following changes:

1. Realign a segment of V-21 from Seal Beach, Calif., to Santa Catalina, Calif., rather than to the CARP INT.

2. Rescind segments of V-25E from Seal Beach to the ALBACORE INT and from Seal Beach to the HERMO INT.

3. Rescind a segment of V-201 from Los Angeles, Calif., to the CARP INT.

4. Rescind a segment of V-208 from Los Angeles to Santa Catalina.

The route from Seal Beach to Santa Catalina is presently used as a vector/direct route. Designation of this route as an airway (V-21) would reduce flight planning and communication time. The airway segments that are proposed to be rescinded are not presently used sufficiently to warrant their retention as airways or else they are dually designated with another airway which would remain designated.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of De-

(AGC-24), Room 916, 800 Indepen- (Commanding General, Fort Dix, N.J.)

SUMMARY: The proposed rule would

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fense in accordance with the provisions of Executive Order 10854.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307, 3545) as follows:

Under V-21, all before "Ontario, Calif.;" is deleted and "From Santa Catalina, Calif., via Seal Beach, Calif.;" is substituted therefor.

Under V-25, all before "INT Los Angeles 261°" is deleted and "From Mission Bay, Calif., via Los Angeles, Calif.;" is substituted therefor.

Under V-201, all before "Palmdale, Calif." is deleted and "From Los Angeles, Calif., to" is substituted therefor.

Under V-208, all before "Oceanside, Calif.;" is deleted and "From Santa Catalina, Calif., via" is substituted therefor.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 22, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-33667 Filed 12-1-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Docket No. 78-SO-68]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area, Cairo, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate Cairo, Georgia, Transition Area and will lower the base of controlled airspace in the vicinity of the Cairo-Grady County Airport from 1200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A public use instrument approach procedure has been developed for the Cairo-Grady County Airport, and the additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before: December 31, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320. All communications received on or before December 31, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The proposed designation is required to provide controlled airspace protection for IFR operations at Cairo-Grady County Airport. The NDB Runway 12 standard instrument approach procedure utilizing the Caidy (nonfederal) nondirectional radio beacon is proposed in conjunction with the designation of this transition area.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Administration Regulations (14 CFR Part 71) by adding the following:

CAIRO, GA.

That airspace extending upward from 700 feet above the surface within a 8.5 mile radius of Cairo-Grady County Airport (latitude 30°53'19" N. longitude 84°09'22" W.); within 3 miles each side of the 137° bearing from the Caidy RBN (latitude 30°53'17" N., longitude 84°09'34" W.), extending from the 6.5 mile radius area to 8.5 miles northwest of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on November 22, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-33664 Filed 12-1-78; 8:45 am]

[4910-13-M]

[14 CFR Part 73]

[Airspace Docket No. 78-EA-35]

RESTRICTED AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Fort Dix, N.J., Restricted Area, R-5001A and R-5001B, by expanding the area approximately one square mile to the southeast. This action would permit the U.S. Army to use three new artillery firing ranges recently established.

DATES: Comments must be received on or before January 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-35, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before January 3, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter Restricted Area R-5001A and R-5001B by expanding the area to the southeast approximately one square mile. The additional airspace would provide the airspace required by the U.S. Army to establish three new artillery ranges. The current designated altitudes would remain the same. The using agency (Commanding General, Fort Dix, N.J.) will serve as lead agency for purposes of compliance with the National Environmental Policy Act. Comments on any land use problems can be addressed to LTC Barry T. Balint, Regional Representative, Department of the Army, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. Subpart B of Part 73 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 692).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.50 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 692) as follows:

UNDER R-5001 FORT DIX, N.J.

Subarea A Boundaries. "to Lat. 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be deleted and "to Lat. 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°57'30" N., Long. 74°25'17" W.; to Lat. 39°57'23" N., Long. 74°25'50" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be substituted therefor.

Subarea B Boundaries. "to Lat. 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be deleted and "to Lat. 39°58'00" N., Long. 74°25'00" W.; to Lat. 39°57'30" N., Long. 74°25'17" W.; to Lat. 39°57'23" N., Long. 74°25'50" W.; to Lat. 39°58'45" N., Long. 74°28'00" W.;" would be substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 22, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-33666 Filed 12-1-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

AGENCY: United States Parole Commission.

ACTION: Proposed rule.

SUMMARY: The proposed rule would expand the coverage of the decision-making guidelines applicable to prisoners sentenced under the Youth Corrections Act, to include any prisoner who was under the age of 22 at the time of conviction. This proposed procedure is designed to ensure equitable treatment among all prisoners in the same age group, by requiring the Commission to justify differences in parole decisions on the basis of specific facts in each case, rather than sentence type alone. In addition, the procedure would permit judges the option of imposing a short adult sentence in the case of a youthful prisoner as a measure of leniency, without entailing the collateral effect of requiring the offender to be considered for parole under adult guidelines.

DATE: Comments must be received by February 1, 1979.

ADDRESS: Send comments to the United States Parole Commission, 320 First Street, Northwest, Washington, D.C. 20537; Attention: Office of the General Counsel.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, telephone 202-724 3143.

SUPPLEMENTARY INFORMATION: At present, sentencing judges must make a "no benefit" finding under 18 U.S.C. § 5010(d) in order to use adult sentencing options in the case of an offender under the age of 22 at the time of conviction. The Commission believes that such a finding does not, by itself, require that each youth offender sentenced as an adult must be considered for parole *as if he were an adult*, or that he should necessarily serve longer in confinement than offenders who receive Youth Act sentences. However, if there are aggravating factors in the case that prompted the sentencing judge to impose an adult sentence, these factors will still enter into the Parole Commission's decision. In that event, the parole decision is likely to be above the guidelines on the basis of the same aggravating factors. Therefore, this proposal would not be likely to produce any significant shift toward leniency with regard to the parole of serious offenders.

On the other hand, the Commission is aware that a number of judges are dissatisfied with the six year maximum requirement under the Youth Corrections Act, and may wish to impose a short adult sentence rather than a Youth Act sentence, but are deterred from imposing the shorter sentence because they do not wish the defendent to be considered under the Adult parole guidelines. This change

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would permit the imposition of a short adult sentence, without depriving the prisoner of parole consideration on the same basis as other youthful offenders.

For these reasons, the Commission proposes to add to its Youth/NARA guidelines at 28 CFR § 2.20 a footnote explaining the term "Youth" as meaning (1) any offender sentenced under the Youth Corrections Act, and (2) any offender who was under the age of 22 years at the time of conviction.

Dated: November 29, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-33783 Filed 12-1-78; 8:45 am]

[6735-01-M]

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2700]

PROCEDURAL RULES

Extension of Comment Period on Proposed Rules of Procedure

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Extension of comment period.

SUMMARY: On October 21, 1978, the Federal Mine Safety and Health Review Commission proposed the amendment of its rules of procedure. The Commission invited the comments of interested persons and permitted the filing of written views and data until November 30, 1978, 43 FR 50712. On November 15, 1978, the Commission announced that a public hearing on its proposal will be held on December 5, 1978, 43 FR 53045.

To accord interested persons a fuller opportunity to comment upon the Commission's proposed rules of procedure, the Commission extends the time for the submission of written comments and data and requests to appear to make oral presentations on the proposed rules to 10:00 a.m., December 5, 1978.

DATE: Written comments, data, and requests to appear to make oral presentations are due by 10:00 a.m., December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald Terry, Executive Director (202) 653-5644.

Signed at Washington, D.C., this 30th day of November 1978.

JEROME R. WALDIE,
Chairman.

[FR Doc. 78-33928 Filed 12-1-78; 8:45 am]

[4910-62-M]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[49 CFR Part 10]

[OST Docket No. 39; Notice 78-16]

MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

Proposed Revision

AGENCY: Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: DOT proposes a revision of its regulations implementing the Privacy Act, principally to change the special procedures regarding medical records and to add two exemptions. Public comment is invited.

DATE: Comment closing date: January 18, 1979.

ADDRESSES: Send written comments to Docket Clerk, OST Docket No. 39, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. Comments will be available for public inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street, SW, Washington, D.C. from 9:00 AM to 5:30 PM eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

John J. Windsor, Privacy Act Coordinator, M-30, Department of Transportation, Washington, D.C. 20590 (202) 426-1887.

SUPPLEMENTARY INFORMATION: This proposed revision would make the following substantive changes in DOT's Privacy Act regulations:

1. All pronouns would be gender neutral.

2. Research and Special Programs Administration (RSPA) would be identified as an operating administration in lieu of Materials Transportation Bureau, which is now part of RSPA.

3. The special procedures regarding medical records would be changed to provide greater flexibility to DOT in deciding whether to release this information directly to the subject. The existing procedures deny DOT the opportunity to disclose the information directly to the subject if competent medical authority believes it may be harmful to the subject to do so. It may be useful to have the flexibility to disclose directly to the subject in extraordinary situations, as where, for example, the subject's religious beliefs preclude referral to a physician.

4. Two exemptions are proposed in addition to those already in effect. One is for Federal Aviation Administration (FAA) and one for National Highway Traffic Safety Administration (NHTSA). The FAA proposal would exempt all criminal investigatory information maintained by Headquarters and field security offices from a number of Privacy Act requirements, principally to tell persons that FAA has such information on them and to grant them access to it and the opportunity to seek its amendment. Similar exemptions already exist for the corresponding offices within the Office of the Secretary (OST) and the Coast Guard.

The NHTSA proposal would exempt the files which it maintains on people's suitability for employment with NHTSA from a number of Privacy Act requirements, again principally to tell persons that NHTSA has such information on them and to grant them access and the opportunity to seek amendment. This would protect the identities of confidential sources and also preserve these records as impartial measurement standards for appointment and promotion in the Federal service. Exemptions already exist for similar files in OST, Coast Guard, FAA, and Federal Railroad Administration.

As with all exemptions invoked by DOT, persons who request access to information covered by these exemptions would be granted access unless significant harm to a valid public interest would likely result from such access.

5. Finally, one exemption would be deleted. Coast Guard's Marine Pollution Case Files (DOT/CG 583) would no longer be listed among the systems of records specifically exempt pursuant to 5 USC 552a(k), since it has been determined that it is not a system of records as that term is used in the Privacy Act and is therefore not subject to the Privacy Act. It has previously been removed from DOT's listings of systems of records.

Public comment is invited on this proposed revision. Comments should be sent to the Docket Clerk at the address, and by the comment closing date, specified.

In consideration of the foregoing, the Department of Transportation proposes to revise Part 10 to Title 49 of the Code of Federal Regulations to read as appears below.

Issued in Washington, D.C., on November 20, 1978.

BROCK ADAMS,
Secretary of Transportation.

PART 10—MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

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AUTHORITY: Pub. L. 93-579, sec. 9. Department of Transportation Act, Pub. L. 89-670; 49 U.S.C. 1657.

Subpart A—Applicability and Policy

§ 10.1 Applicability.

(a) This part implements section 552a of Title 5, United States Code, as well as other provisions of the Privacy Act of 1974, and prescribes rules governing the availability of those records of the Department of Transportation which relate to citizens of the United States and aliens lawfully admitted for permanent residence.

(b) Appendices B through J to this part:

(1) Describe the places and times at which records are available for inspection and copying;

(2) Indicate the systems of records located at each facility;

(3) Identify the officials having authority to deny requests for disclosure of records under this part;

(4) Describe the procedures to be followed in requesting correction of a record in accordance with § 10.41; and

(5) List additional personal identification requirements in accordance with § 10.37.

(c) The Assistant Secretary for Administration may amend Appendix B to this part to reflect any changes in the items covered by that appendix, relating to the Office of the Secretary of Transportation. The Administrator concerned may amend the appendix applicable to that administration to reflect any changes in the terms covered by that appendix.

(d) Appendix A to this part identifies systems of records which are exempt from some of the requirements of this part, in accordance with Subpart G and 5 U.S.C. 552a(j) and (k). Appendix A may be amended by the General Counsel upon the request of the Assistant Secretary for Administration in the case of a system of records maintained by the Office of the Secretary or the Administrator concerned in the case of a system of Records maintained by an operating administration.

§ 10.3 Policy.

It is the policy of the Department of Transportation to comply with the letter and the spirit of the Privacy Act (the Act). Therefore, personal data contained in each system of records is afforded adequate protection against unauthorized access, is as accurate as is feasible, and is limited to that necessary to accomplish the stated use or uses of the system. Further, no system of records is exempted from the requirements of the Act unless it is determined that to do so is in the best interest of the government with due concern for individual rights.

§ 10.5 Definitions.

Unless the context requires otherwise, the following definitions apply in this part:

"Administrator" means the head of an operating administration and includes the Commandant of the Coast Guard.

"Department" means the Department of Transportation, including the Office of the Secretary and the following operating administrations:

(a) The United States Coast Guard.
(b) The Federal Aviation Administration.
(c) The Federal Highway Administration.
(d) The Federal Railroad Administration.
(e) The National Highway Traffic Safety Administration.
(f) The Urban Mass Transportation Administration.
(g) The St. Lawrence Seaway Development Corporation.
(h) The Research and Special Programs Administration.

"Includes" means "includes but is not limited to;"

"May" is used in a permissive sense to state authority or permission to do the act prescribed;

"Secretary" means the Secretary of Transportation or any person to whom has been delegated authority in the matter concerned;

"Individual" means a citizen of the United States or an alien lawfully admitted;

"Maintain" includes maintain, collect, use, or disseminate;

"Record" means any item, collection, or grouping of information about an individual that is maintained by the Department including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the name of, or an identifying number, symbol, or other identifying particular assigned to, the individual, such as a finger or voice print or a photograph;

"System of records" means a group of any records under the control of the Department from which information is retrived by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

"Statistical record" means a group of any records maintained for statistical research or reporting purposes only and not in whole or in part in making any determinaton about an identifiable individual, expect as provided by section 8 of Title 13, United States Code; and

"Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

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Subpart B—General

§ 10.11 Administration of part.

Except as provided in Subpart F of this part, authority to administer this part in connection with the records of the Office of the Secretary is delegated to the Assistant Secretary for Administration. Authority to administer this part in connection with records in each operating administration is delegated to the Administrator concerned. An Administrator may redelegate to officers of that administration the authority to administer this part in connection with defined systems of records. An Administrator, however, may redelegate his or her duties under Subparts F and G of this part only to his or her deputy and to not more than one other officer who reports directly to the Administrator and who is located at the headquarters of that administration or at the same location as the majority of that administration's systems of records.

§ 10.13 Privacy Act Officer.

(a) To assist in the oversight of the implementation and continuing administration and in evaluating the effectiveness of compliance with the Act, the Assistant Secretary for Administration appoints a principal coordinating official with the title Privacy Act Officer, and one Privacy Act Coordinator from his staff. The Director of Automated Systems Policy is designated the Privacy Act Officer and has designated an appropriate staff member as his Privacy Act Coordinator.

(b) Inquiries concerning Privacy Act matters, or requests for assistance, may be addressed to the Privacy Act Officer (M-30), Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

(c) Administrators may designate Privacy Act Officers or Coordinators to act as central coordinators within their administrations to assist them in administering the Act.

§ 10.15 Protection of records.

(a) No person may, without permission, remove any record made available for inspection or copying under this part from the place where it is made available. In addition, no person may steal, alter, multilate, obliterate, or destroy, in whole or in part, such a record.

(b) Section 641 of Title 18 of the United States Code provides, in pertinent part, as follows:

> Whoever • • • steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record • • • or thing of value of the United States or of any department or agency thereof • • • shall be fined not more than $10,000 or imprisoned not more than 10 years or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year or both • • •.

(c) Section 2071 of Title 18 of the United States Code provides, in pertinent part, as follows:

> Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited • • • in any public office, or with any • • • public officer of the United States, shall be fined not more than $2,000 or imprisoned not more than 3 years, or both.

Subpart C—Maintenance of Records

§ 10.21 General.

Except to the extent that a system of records is exempt in accordance with Subpart G of this part, the Department, with respect to each system of records:

(a) Maintains in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the Department required to be accomplished by statute or by executive order of the President;

(b) Collects information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, or privileges under Federal programs;

(c) Informs each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual of:

(1) The authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses, as published pursuant to paragraph (d) (4) of this section, which may be made of the information; and

(4) The effects, if any, on the individual of not providing all or any part of the requested information;

(d) Publishes in the FEDERAL REGISTER at least annually a notice of the existence and character of the system of records, including:

(1) The name and location of the system;

(2) The categories of individuals on whom records are manitained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(5) The policies and practices regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the official responsible for the system of records;

(7) The procedures whereby an individual can be notified upon request if the system of records contains a record pertaining to that individual;

(8) The procedures whereby an individual can be notified upon request how to gain access to any record pertaining to that individual contained in the system of records, and how to contest its content; and

(9) The categories of sources of records in the system;

(e) Maintains all records which are used in making any determination about any individual with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determinations;

(f) Prior to dissemination any record about an individual to any person other than an agency, unless the dissemination is made pursuant to § 10.35(a)(2), makes reasonable efforts to assure that such records are accurate, complete, timely, and relevant for the Department's purposes;

(g) Maintains no record describing how any individual exercises rights guaranteed by the First Amendment unless——

(1) Expressly authorized by the General Counsel; and

(2) Expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(h) Makes reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

§ 10.23 Accounting of disclosures.

Each operation administration and the Office of the Secretary, with respect to each system of records under its control:

(a) Except for disclosures made under § 10.35(a) (1) or (2), keep an accurate accounting of:

(1) The date, nature, and purpose of each disclosure of a record to any person or to another agency made under § 10.33; and

(2) The name and address of the person or agency to whom the disclosure is made;

(b) Retains the accounting made under paragraph (a) of this section for at least five years or the life of the record, whichever is longer, after the

disclosure for which the accounting is made;

(c) Except for disclosures made under § 10.33(a)(7), makes the accounting made under paragraph (a)(1) of this section available to the individual named in the record at his request; and

(d) Informs any person or other agency about any correcton or notation of dispute made by the agency in accordance with § 10.45 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

§ 10.25 Mailing lists.

An individual's name and address is not sold or rented unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

§ 10.27 Government contractors.

When the Department provides by a contract for the operation by or on behalf of the Department of a system of records to accomplish a function of the Department, the requirements of this part are applied to such system. For purposes of Subpart I, CRIMINAL PENALTIES, any such contractor and any employee of the contractor are considered, in accordance with section 3(m) of the Privacy Act, to be employees of the Department.

§ 10.29 Social Security numbers.

(a) No individual is denied any right, benefit, or privilege provided by law because of such individual's refusal to disclose his Social Security account number.

(b) The provisions of paragraph (a) of this section do not apply to:

(1) Any disclosure which is required by Federal statute; or

(2) The disclosure of a Social Security number when such disclosure was required under statute or regulation adopted prior to January 1, 1975, to verify the identity of any individual.

(c) When an individual is requested to disclose his or her Social Security account number, that individual is informed whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, what uses are made of it, and what detriments, including delay in the location of records, are incurred if the number is not provided.

Subpart D—Availability of Records

§ 10.31 Requests for records.

(a) Ordinarily, each person desiring to determine whether a record pertaining to him or her is contained in a system of records covered by this part or desiring access to a record covered by this part, or to obtain a copy of such a record, shall make a request in writing as provided in the pertinent appendix to this part. In exceptional cases oral requests are accepted.

(b) Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located. If assistance is required to determine the system of records identification number assigned in the systems notices, such assistance may be obtained from the appropriate Privacy Act Officer or his Assistant. Refer to § 10.13 for procedures for requesting assistance.

§ 10.33 Acknowledgement and access.

(a) Requests by an individual to determine whether he or she is the subject of a record in a system of records, or requesting access to a record in a system of records, should be acknowledged within 10 working days, where the request is by mail. For requests in person, an immediate response is given, either granting access or informing such individual when notification or access may be expected.

(b) If the response granting access or copies of the record is made within 10 working days, separate acknowledgement is not required.

(c) Although requests for access to a record are normally in writing, *e.g.*, by filing a written form or letter, it is the option of the individual to mail or present the request form in person.

§ 10.35 Conditions of disclosure.

(a) No record which is contained within a system of records within the Department is disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(1) To those officers and employees of the Department who have a need for the record in the performance of their duties;

(2) Required under Part 7 of this title which implements the Freedom of Information Act;

(3) For a routine use as defined in § 10.5 and described pursuant to § 10.21 (d)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, United States Code;

(5) To a recipient who has provided the Department with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of the Congress, or to the extent of matters within its jurisdiction, any committee or subcommittee thereof, any joint committee of the Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(b) Any individual requesting access to his or her record or to any information pertaining to that individual which is contained within a system of records within the Department has access to that record or information unless the system of records within which the record or information is contained is exempted from disclosure in accordance with Subpart G, *Provided, however,* That nothing in this part is deemed to require that an individual be given access to any information compiled in reasonable anticipation of a civil action or proceeding. No exemption contained in Subpart G of Part 7 of the Regulations of the Office of the Secretary is relied upon to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this part. Any individual who is given access to a record or information pertaining to him is permitted to have a person of his or her own choosing accompany him and to have a copy made of all or any portion of the record or information in a form comprehensible to the individual. When deemed appropriate, the individual may be required to furnish a written statement authorizing discussion of his record in the accompanying person's presence.

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(c) Medical records—Where requests are for access to medical records, including psychological records and information, such records are released directly to the individual unless a medical practitioner has disapproved the release on the basis that it will do harm to the dividual requesting access. Final approval for release of medical records to an individual rest with the General Counsel. Normally, medical records whose direct release to an individual may do him or her harm, are released to the individual through a medical practitioner designated by the individual.

(d) Any person requesting access to records or to any information pertaining to other individuals is not granted such access unless that person can show that he or she has obtained permission for such access from the individual to whom the record pertains, unless the request comes within one of the exceptions of § 10.35(a).

§ 10.37 Identification of individual making request.

No record or information contained in a system of records is disclosed to an individual nor is any correction of a record in accordance with Subpart E be made at the request of an individual unless that individual demonstrates that he or she is who he or she claims to be. Normally, identity can be proven for individuals who appear in person by the presentation of an identifying document issued by a recognized organization (*e.g.*, a driver's license or a credit card and which contains a means of verification such as a photograph or a signature. For requests by mail, the unique identifier used in the system should be included if known. Responses to mail requests are normally sent only to the name and address listed in the system of records. In the case of particularly sensitive records, additional identification requirements may be imposed. In such cases, these additional requirements are listed in the public notice for the system and in the appropriate appendix to this part.

§ 10.39 Location of records.

Each record made avaiable under this subpart is available for inspection and copying during regular working hours at the place where it is located or, upon reasonable notice, at the document inspection facilities of the Office of the Secretary or each administration as set forth in the appendix applicable to that office or administration. Original records may be copied but may not be released from custody. Upon payment of the appropriate fee, copies are mailed to the requester.

Subpart E—Correction of Records

§ 10.41 Requests for correction of records.

Any person who desires to have a record pertaining to that person corrected shall submit a written request detailing the correction and the reasons the record should be so corrected. Requests for correction of records shall be submitted in accordance with the procedures of the organization set forth in Appendices B through J to this part for the appropriate operating element of the Department.

§ 10.43 Time limits.

Within ten days (excluding Saturday, Sunday, and legal holidays) of the receipt in accordance with § 10.41 of a request by an individual to amend a record pertaining to him, the receipt of the request is acknowledged in writing. If a determination is made to correct the record as requested, the correction is promptly made. If a determination is made not to correct a record the individual is informed promptly of the right to appeal in accordance with Subpart F of this part. If an appeal of a refusal to correct a record is in accordance with Subpart F of this part, a determination whether to correct the record is made within thirty days (excluding Saturday, Sunday and legal holidays) of the receipt of the appeal unless, for good cause shown, the Administrator concerned, or in the case of the Office of the Secretary, the General Counsel, extends such period. Where an extension is taken, the party taking the appeal is promptly notified of such fact.

§ 10.45 Statement of disagreement.

If a determination is made not to amend a record, the requester is informed of the right to file a concise statement setting forth the reasons for disagreement with the refusal to amend. In any disclosure containing information about which an individual has filed such a statement of disagreement, the portions of the record which are disputed are noted clearly and copies of the statement of disagreement provided. If the Administrator concerned or his or her delegee, or in the case of the Office of the Secretary, the General Counsel or his or her delegee, deems it appropriate, copies of a concise statement of the reasons for not making the amendments requested may be provided along with the statement of disagreement.

Subpart F—Procedures for Reconsidering Decisions Not To Disclose or Amend Records

§ 10.51 General.

(a) Each officer or employee of the Department who, upon a request by a member of the public for a record under this part, makes a determination that access is not to be granted or who determines not to amend a record in a requested manner, gives a written statement of the reasons for that determination to the person making the request and indicates the name and title or position of each person responsible for the denial of such request and the procedure for appeal within the Department.

(b) Any person:

(1) Who has been given a determination pursuant to paragraph (a) of this section, that access will not be granted; or

(2) Who has been informed that an amendment to a requested record will not be made;

may apply to the Administrator concerned, or in the case of the Office of the Secretary, to the General Counsel of the Department, for review of that decision. A determination that access will not be granted or a record amended is not administratively final for the purposes of judicial review unless it was made by the Administrator concerned or his or her delegee, or the General Counsel or his or her delegee, as the case may be. Upon a determination that an appeal will be denied, the requester is informed in writing of the reasons for the determination, and the names and titles or positions of each person responsible for the determination, and that the determination may be appealed to the District Court of the United States in the district in which the complainant resides, or has his or her principal place of business, or in which the records are located, or in the District of Columbia.

(c) Each application for review must be made in writing and must include all information and arguments relied upon by the person making the request. It is recommended that such request be made within 180 days of the date of the initial denial; however, exceptions to this time period are considered in the event that a longer time is required for good reasons.

(d) Upon a determination that a request for the correction of a record will be denied, the requester is informed that he may file a concise statement in accordance with § 10.45.

(e) Each application for review must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the application is sent should be marked prominently with the words "Privacy Act." If these requirements are not met, the time limits described in § 10.43 do not begin to run until the application has been identified by an employee of the Department as an application under the Privacy Act and has been received by the appropriate office.

(f) The Administrator concerned, or the General Counsel, as the case may be, may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the Administrator concerned, or the General Counsel, as the case may be, as to the availability of the record or whether to amend the record is administratively final.

(g) The decision by the Administrator concerned, or the General Counsel, as the case may be, not to disclose a record under this part is considered a determination for the purposes of section 552a(g) of Title 5, United States Code, "Civil Remedies."

(h) Any final decision by an Administrator or his or her delegee, identified in Appendices B through J of this part, not to grant access to or amend a record under this part, is subject to concurrence by the General Counsel or his or her delegee.

Subpart G—Exemptions

§ 10.61 General exemptions.

(a) The Assistant Secretary for Administration, with regard to the Investigations Division; the Federal Aviation Administrator, with regard to the FAA's Investigative Record System (DOT/FAA 815) and also with regard to the police functions of the National Capital Airport Police; the Commandant of U.S. Coast Guard, with regard to the Intelligence and Security Division; and the Federal Railroad Administrator, with regard to the Alaska Railroad Special Agents, may exempt from any part of the Act and this part except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11), and (i) of the Act, and implementing §§ 10.35, 10.23 (a) and (b), 10.21(d) (1) through (6), 10.81 10.83, and 10.85, any systems of records, or portions thereof, which they maintain which consist wholly of;

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) The requirements (including general notice) of sections 553(b) (1), (2) and (3), and (c) and (e) of Title 5, United States Code, will be met by publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the system; and

(2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to concurrence by the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of Part 5 of this Title, to institute a rulemaking proceeding for the amendment or repeal of any exemptions established under this section.

§ 10.63 Specific exemptions.

The Secretary or his or her delegee, in the case of the Office of the Secretary, or the Administrator or his or her delegee, in the case of an operating administration, may exempt any system of records which is maintained by the Office of the Secretary or the administration, as the case may be, from subsections (c)(3), (d), (e) (1), and (4) (G), (H), and (I), and (f) of the Act and implementing §§ 10.23(c); 10.35(b); 10.41; 10.43; 10.45; 10.21(a) and 10.21(d) (6), (7) and (8), under the following conditions:

(a) The system of records must consist of:

(1) Records subject to the provisions of section 552(b)(1) of Title 5, United States Code;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of paragraph (a)(2) of § 10.61: *Provided, however,* That if any individual is denied any right, privilege, or benefit to which that individual would otherwise be entitled by Federal law, or for which that individual would otherwise be eligible, as a result of the maintenance of such material, such material is provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, the effective date of the Privacy Act of 1974, under an implied promise that the identity of the source would be held in confidence;

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18, United States Code;

(4) Records required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, the effective date of the Privacy Act of 1974, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) The requirements (including general notice) of sections 553(b) (1), (2) and (3), and (c) and (e) of Title 5, United States Code, will be met by publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the systems; and

(2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to the concurrence of the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of 49 CFR Part 5, to institute a rulemaking for the amendment or repeal of any exemptions established under his section.

Subpart H—Fees

§ 10.71 General.

This subpart prescribes fees for services performed for the public under this part by the Department.

§ 10.73 Payment of fees.

The fees prescribed in this subpart may be paid by check, draft, or postal money order payable to the Treasury of the United States.

§ 10.75 Fee schedule.

(a) Copies of documents by photocopy or similar method:	
Each page not larger than 11 x 17 inches:	
1 page	0.25
Each additional page	.05
(b) Copies of documents by typewriter: Each page.	2.00

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(c) Certified copies of documents:	
(1) With Department of Transportation seal.	3.00
(2) True copy, without seal	1.00
(d) Photographs:	
(1) Black and white print (from negative).	1.25
(2) Black and white print (from print)	3.15
(3) Color print (from negative)	3.50
(4) Color print (from print)	6.25
(e) Duplicate data tapes—each reel of tape or fraction thereof.	36.00

The applicant must furnish the necessary number of blank magnetic tapes. The tapes must be compatible for use in the supplier's computer system, ½ inch wide and 2,400 feet long, and must be capable of recording data at a density of 556 or 800 characters per inch. Unless otherwise designated, the tapes will be recorded at 556 CPI density. The Department of Transportation is not responsible for damaged tape. However, if the applicant furnishes a replacement for a damaged tape, the duplication process is completed at no additional charge.

(f) Microreproduction fees are as follows:	
(1) Microfilm copies, each 100-ft roll or less.	3.75
(2) Microfiche copies, each standard size sheet (4x6 in containing up to 65 frames).	.15
(3) Aperture card to hard copy, each copy	.50
(4) 16mm microfilm to hard copy:	
First	.25
Additional	.07
(g) Computerline printer output, each 1,000 lines or fraction thereof	1.00

§ 10.77 Services performed without charge.

(a) No fee is charged for time spent in searching for records or reviewing or preparing correspondence related to records subject to this part.

(b) No fee is charged for documents furnished in response to:

(1) A request from an employee or former employee of the Department for copies of personnel records of the employee;

(2) A request from a Member of Congress for official use;

(3) A request from a State, territory, U.S. possession, county or municipal government, or an agency thereof;

(4) A request from a court that will serve as a substitute for the personal court appearance of an officer or employee of the Department;

(5) A request from a foreign government or an agency thereof, or an international organization.

(c) Documents are furnished without charge or at a reduced charge, if the Assistant Secretary of Administration or the Administrator concerned, as the case may be, determines that waiver or reduction of the fee is in the public interest, because furnishing the information can be considered as primarily benefiting the general public.

(d) When records are maintained in computer-readable form rather than human-readable form, one printed copy is made available which has been translated to human-readable form without a charge for translation but in accordance with § 10.75(g), regarding computer line-printed charges.

Subpart I—Criminal Penalties

§ 10.81 Improper disclosure.

Any officer or employee of the Department who by virtue of his or her employment of official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this part and who knowing that disclosure of the specific material is so prohibited, willfully disclosures the material in any manner to any person or agency not entitled to receive it, is guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(1).

§ 10.83 Improper maintenance of records.

Any officer or employee of the Department who willfully maintains a system of records without meeting the notice requirements of § 10.21(d) is guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(2).

§ 10.85 Wrongfully obtaining records.

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Department under false pretenses is guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(3).

Appendix A—Exemptions

Part I. General exemptions.

Those portions of the following systems of records that consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i):

A. The General Investigations Record System maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

B. Police Warrant Files and Central Files maintained by the Police Branches, Washington National and Dulles International Airports, Federal Aviation Administration (DOT/FAA807).

C. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Intelligence and Security Division, U.S. Coast Guard, at headquarters and district offices.

D. The files maintained by the Federal Aviation Administration regarding criminal investigations conducted by offices of Investigations and Security at headquarters and FAA Regional and Center Security Divisions (DOT/FAA 815).

The purpose of these exemptions is to prevent the compromise or impairment of criminal investigations conducted by the Office of Investigations and Security, OST; the Airport Police Branches; and the Investigations and Security Division, USCG.

Part II. Specific exemptions.

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance with 5 U.S.C. 552a(k)(2):

1. Investigative Record System maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, FAA Headquarters, Washington, D.C. (DOT/FAA 805).

2. FHWA Investigations Case File System, maintained by the Office of Program Review and Investigations, Federal Highway Administration (DOT/FHWA 214).

3. FHWA Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases, maintained by the Bureau of Motor Carrier Safety, Federal Highway Administration (DOT/FHWA 204).

4. Recreational Boating and Law Enforcement Cases (DOT/CG 505), maintained by the Office of Boating Safety, U.S. Coast Guard.

5. Port Safety Reporting System—Individual Violation Histories (DOT/CG 561), maintained by the Office of Marine Environment and Systems, U.S. Coast Guard.

6. Merchant Vessel Casualty Reporting System (DOT/CG 590), maintained by the Office of Merchant Safety, U.S. Coast Guard.

7. U.S. Merchant Seaman's Records (DOT/CG 589), maintained by the Office of Merchant Safety, U.S. Coast Guard.

8. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

9. Port Security Case System (DOT/CG 612), maintained by the Office of Operations, U.S. Coast Guard.

10. DOT/NHTSA Investigations of Alleged Misconduct or Conflict of Interest, maintained by the Associate Administrator for Administration, National Highway Traffic Safety Administration (DOT/NHTSA 458).

11. Investigations of Violations of Marine Safety Laws (DOT/CG 587), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

12. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to protect investigatory materials compiled for law enforcement purposes. Disclosure of such material would hamper law enforcement by prematurely disclosing the knowledge of illegal activity and the evidentiary basis for possible enforcement actions.

B. The following systems of records are exempt from subsections (c)(3) (Accounting of Certain Disclosures), and (d) (Access to Records) of 5 U.S.C. 552a:

1. Alaska Railroad Security and Freight Claims Investigatory Files maintained by the Alaska Railroad, Federal Railroad Administration (DOT/FRA 102).

2. Administrative Action and Legal Enforcement System, maintained by the Chief Counsel, Federal Aviation Administration (DOT/FAA 805).

3. Investigations Record System, maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

The purpose of these exemptions is to prevent the compromise or impairment of law enforcement investigations by altering individuals that they are the subject of investigation, and to prevent the disclosure of the identity or sources of information promised confidentiality, in accordance with 5 U.S.C. 552a(k)(2).

C. The system of records known as the Alaska Railroad Examination of Operating Personnel, maintained by the Alaska Railroad, Federal Railroad Administration (DOT/FRA 100), is exempt from the provisions of subsection (d) of 5 U.S.C. 552a. The release of these records would compromise their value as impartial measurement standards for appointment and promotion within the Federal Service.

D. Those portions of the following systems of records consisting of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or access to classified information or used to determine potential for promotion in the armed services, are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a to the extent that disclosure of such material would reveal the identity of a source who provided information to the government under an express or, prior to September 27, 1975, an implied promise of confidentiality (5 U.S.C. 552a(k) (5) and (7)):

1. Personnel Security Record Systems, maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

2. Intelligence and Security Investigative Case System (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

3. Officer Selection and Appointment System (DOT/CG 625), maintained by the Office of Personnel, U.S. Coast Guard.

4. Official Officer Service Records (DOT/CG 626), maintained by the Office of Personnel, U.S. Coast Guard.

5. Enlisted Recruiting Selection Record system maintained by the Office of Personnel, U.S. Coast Guard.

6. Officer, Enlisted, and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personnel, U.S. Coast Guard.

7. Enlisted Personnel Record System, (DOT/CG 629), maintained by the Office of Personnel, U.S. Coast Guard.

8. Coast Guard Personnel Security Program (DOT/CG 633), maintained by the Office of Personnel, U.S. Coast Guard.

9. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

10. Investigative Record System, maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C. (DOT/FAA 815).

11. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

12. Files pursuant to suitability for employment with National Highway Traffic Safety Administration (DOT/NHTSA-457) containing confidential investigatory reports.

The purpose of these exemptions is to prevent disclosure of the identities of sources who provide information to the government concerning the suitability, eligibility, or qualifications of individuals for Federal civilian employment, contracts, access to classified information, or appointment or promotion in the armed services, and who are expressly or, prior to September 27, 1975, implied promised confidentiality (5 U.S.C. 552a(k)(5) and (7)).

E. Those portions of the following systems of records consisting of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service are exempt from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Officer, Enlisted and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personnel, U.S. Coast Guard.

2. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

3. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

4. Suitability Files (DOT/NHTSA 457), maintained by the National Highway Traffic Safety Administration personnel offices to determine suitability for employment prior to hiring.

The purpose of these exemptions is to preserve the value of these records as impartial measurement standards for appointment and promotion within the Federal service.

F. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552(b)(1) are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Investigations Records System maintained by the Investigations Division, Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

2. Personnel Security Records System, maintained by the Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

3. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

G. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552a(b)(1) are exempt from subsections (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records) of 5 U.S.C. 552a:

1. Investigative Records System (DOT/FAA 815), maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

Appendix B

Office of the Secretary

1. *Introduction.* This Appendix, with respect to the Office of the Secretary:

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Office of the Secretary;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

An individual requiring assistance, concerning this Appendix or systems maintained in the Office of the Secretary, may contact the Privacy Act Officer, or Privacy Act Coordinator, Office of the Assistant Secretary for Administration, M-20, 400 Seventh Street SW., Washington, D.C. 20590.

2. *Availability for Inspection and Copying.*

a. Records in systems maintained in the Office of the Secretary (OST) are available at 400 Seventh Street SW., Washington, D.C., except where otherwise noted:

(1) Records are maintained at 2100 Second Street SW., Washington, D.C., for the following systems:

(a) DOT/OST 011 Discrimination Complaint Investigative Files;

(b) DOT/OST 042 Technical Pipeline Safety Standards Committee.

(2) DOT/OST 013 Employee Management Files: Records for the employees at each location are located as delineated in the system notice.

(3) DOT/OST 015 Funds Management Records: Central records are maintained at 400 Seventh Street SW., Washington, D.C. Records for the application region are maintained in the office of each of the eleven Regional Emergency Transportation Coordinators, as delineated in the system notice.

(4) DOT/OST 022 National Defense Executive Reserve File: Complete records are maintained at 400 Seventh Street SW., Washington, D.C. Applicable records are maintained in a wide variety of field offices as delineated in the system notice.

(5) DOT/OST 028 Personnel Convenience Files: Employee records applicable to the

Appendix C

m. Superintendent, U.S. Coast Guard

I am the parent or guardian of the minor

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Complaints Division of the Office of the Civil Rights of the Office of the Secretary are located at 2100 Second Street SW., Washington, D.C. All other records are located at 400 Seventh Strect SW., Washington, D.C.

(6) DOT/OST 043 Telephone Directory and Locator System: Records are stored on magnetic tape at 13 Massachusetts Avenue NW., Washington, D.C. However, access is controlled by the System Manager: Chief, Accounting Operations Center, Rom 2228, 400 Seventh Street SW., Washington, D.C.

(7) DOT/OST 048 Transportation Research Activities Information System: Records are stored on magnetic tape at the Transportation Systems Center, Cambridge, Massachusetts. Individuals desiring access to their own personal data should contact the System Manager: Chief, Resources Management Division, DPA-20, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(8) DOT/OST 049 Transportation Research Information System: Records are maintained on magnetic tape at the Battelle Laboratories, Columbus, Ohio. Individuals desiring access to their own personal data should contact the System Manager: Chief, Resources Management Division, DPA-20, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(9) DOT/OST 050 Executive Team Cadre Listings: Records are maintained at 400 Seventh Street SW., Washington, D.C., and at the offices of the Regional Emergency Transportation Coordinators, as delineated in the system notice.

(10) Records are maintained at the Transportation Systems Center, Kendall Square, Cambridge, Massachusetts, for the following systems:

(a) DOT/TSC 700 Automated Management Information Systems;

(b) DOT/TSC 701 Employee Travel Records;

(c) DOT/TSC 702 Legal Counsel Information Files;

(d) DOT/TSC 703 Occupational Safety and Health Reporting Systems;

(e) DOT/TSC 704 Stand-by Personnel Information;

(f) DOT/TSC 706 Automated Planning System;

(g) DOT/TSC 707 Automated Manpower Distribution System;

(h) DOT/TSC 708 Combined Federal Campaign Information;

(i) DOT/TSC 709 Minority Information Files;

(j) DOT/TSC 711 Blood Donor Information Files;

(k) DOT/TSC 712 Automated Payroll / Personnel / Communications / Security System;

(l) DOT/TSC 713 Employee Payroll-Manpower Distribution System;

(m) DOT/TSC 714 Health Unit Employee Medical Records;

(n) DOT/TSC 715 Bi-Weekly Personnel Status Report.

b. Records are available for inspection and copying at the applicable locations delineated above between the hours of 9 A.M. and 5:30 P.M., except Saturdays, Sundays, and holidays. Access to certain records may be restricted in accordance with exemptions applied and noticed in accordance with sections 3(j) and (k) of the Privacy Act of 1974. Individuals desiring access to their own records should follow the instructions contained in the system notice published for each system of records. Request for access shall be submitted to the System Manager having responsibility for the system in which the records are maintained, unless the system notice describing the system prescribes or permits submission to some other official or officiais.

3. *Systems of Records.* A compiiation of notices describing the systems of records maintained in the Department of Transportation is published annually in the FEDERAL REGISTER. The notices describing the systems maintained in the Office of the Secretary are published in a block within the overall compilation and each is identified by a three-digit number preceded by the acronym, OST; e.g., OST 013 (except those maintained at the Transportation Systems Center which uses the acronym, TSC; e.g., TSC 701). The basic compilation of system notices, for systems subject to the Privacy Act of 1974, which are maintained in the Office of the Secretary, is published in the FEDERAL REGISTER annually.

4. *Access to Records.* Requests for access to records are processed in accordance with the rules provided in Subpart D of these regulations.

a. A request from an individual for access to a record pertaining to such individual is granted promptly unless:

(1) The record was compiled in reasonable anticipation of a civil action or proceeding; or

(2) The system of records is one which has been exempted from the notification and access provisions of the Privacy Act by rulemaking; or

(3) The record is not part of a system of records required to be noticed in accordance with the provisions of the Privacy Act and is not otherwise required to be made available by a law or regulation; or

(4) The System Manager or other cognizant official determines that the particular circumstances justify denial or access; or

(5) The information requested is contained in and is inseparable from another individual's record.

b. When information sought from a system of records in the Office of the Secretary includes information that has been furnished by an operating element of the Department or by another agency, as the case may be, the Systems Manager or other cogizant official consults the operating element or the other agency, as the case may be, before granting access. If referral of the request to the operating element or the other agency, as the case may be, will provide a more expeditious decision with resulting probable access, the request may be referred to the operating element or the other agency, as the case may be, but the requester is notified of the referral.

c. When a Systems Manager or other cognizant official in the Office of the Secretary determines that a request for access should be denied, the request and the reason(s) for the determination are referred to the Assistant Secretary for Administration for decision. In the event of a decision to deny access, the Office of the Assistant Secretary for Administration notifies the requester in writing in accordance with section 10.51 of these regulations.

5. *Requests to Correct or Alter Records.* An individual may request that a record pertaining to such individual be amended to correct any portion thereof which such individual believes is not accurate, relevant, timely, or complete.

a. A request to amend a record must:

(1) Be in writing and signed by the individual to whom the record pertains;

(2) Be clearly marked "Request for Amendment of Record";

(3) Contain a statement that the request is being made under the provisions of the Privacy Act of 1974;

(4) Contain the name and address of the individual making the request;

(5) Specify the name and location of the systems of records, as set forth in the system notice, in which the record is maintained;

(6) Specify the title and business address of the official designated in the "Contesting Record Procedures" paragraph of the applicable system notice;

(7) Specify the particular record in the system which the individual is seeking to amend;

(8) Clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reason for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition; and

(9) Be addressed to or delivered in person to the office of the official designated in the "Contesting Records Procedures" paragraph of the applicable system notice. A request delivered to an office in person must be delivered during the regular office hours of that office.

6. *Personal Identification Requirements.* Generally, the identification rules in paragraph 10.35 of these regulations apply to systems maintained in the Office of the Secretary. In addition, specific requirements for some systems are delineated below:

a. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 001 Generai Employee Records System;

(2) OST 030 Personal Management Convenience Files.

(NOTE.—An individual's social security number is an optional means of identification, which may be supplied in lieu of notarization. Social security numbers are used on these records as authorized under the provisions of Executive Order 9397, dated November 22, 1943.)

b. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 006 Confidential Statement of Employment and Financial Interests; and

(2) OST 037 Records of Confirmation Proceeding Requirements.

c. The number of the Federal Emergency Assignee Identification Card (SF 138) issued to the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 022 National Defense Executive Reserve File;

(2) OST 036 Planning Officials for Emergency Functions and;

(3) OST 050 Executive Team Cadre Listings.

d. The name of the applicable advisory committee is required for notification and access to records in the following system: OST 008 Departmental Advisory Committee Files.

APPENDIX C

UNITED STATES COAST GUARD

1. *Introduction.* This Appendix supplements the procedures set forth for the Department of Transportation in Subparts A through I of 49 CFR Part 10.

2. *Availability for Inspection and Copying.*

a. Individuals who wish the Coast Guard to examine a system of records covered by this part to determine whether any records in the system contain information about them or who wish to gain access to or receive copies of records which contain information about them, should address written requests either to the appropriate system manager as listed in the annual description of Coast Guard record systems appearing in the FEDERAL REGISTER or to: Commandant (G-CMA), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590. Requests may also be delivered in person to the above address between 7:30 a.m. and 4 p.m. (Monday through Friday, excluding holidays).

b. The Coast Guard acknowledges requests for notification of the existence of a record within ten working days (excluding Saturdays, Sundays and holidays) after receipt of a completed request. The Coast Guard makes every effort within 30 days of the receipt of a request for access to a record to:

(1) Make the record available;

(2) Notify the requester of the need for additional information; or

(3) Notify the requester of any denial, either in whole or in part, of access to a record. Para. 3 of this Appendix sets forth the addresses of Coast district offices and headquarters units where records in decentralized systems may be located.

3. *Systems of Records.* The annual notice of systems of records required by 5 U.S.C. 552a(e)(4) with respect to records maintained by the Coast Guard is set forth in the FEDERAL REGISTER. Assistance may be requested in exercising his or her rights by an individual addressing the Privacy Act Coordinator at one of the following U.S. Coast Guard offices nearest his residence:

a. Commander, 1st Coast Guard District, 150 Causeway Street, Boston, MA 02114.

b. Commander, 2nd Coast Guard District, Federal Building, 1520 Market Street, St. Louis, MO 63013.

c. Commander, 3rd Coast Guard District, Governors Island, New York, NY 10004.

d. Commander, 5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705.

e. Commander, 7th Coast Guard District, Federal Building, 51 S.W. 1st Avenue, Miami, FL 33130.

f. Commander, 8th Coast Guard District, Customhouse, New Orleans, LA 70130.

g. Commander, 9th Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199.

h. Commander, 11th Coast Guard District, Heartwell Building, 19 Pine Avenue, Long Beach, CA 90802.

i. Commander, 12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126.

j. Commander, 13th Coast Guard District, Federal Building, 915 Second Avenue, Seattle, WA 98174.

k. Commander, 14th Coast Guard District, P.O. Box 48, FPO San Francisco 96610.

l. Commander, 17th Coast Guard District, FPO Seattle 98771.

m. Superintendent, U.S. Coast Guard Academy, New London, CT 06320.

n. Commanding Officer, U.S. Coast Guard Yard, Curtis Bay, Baltimore, MD 21225.

o. Commanding Officer, U.S. Coast Guard Training Center, Governors Island, New York, NY 10004.

p. Commanding Officer, U.S. Coast Guard Training Center, Cape May, NJ 08204.

q. Commanding Officer, U.S. Coast Guard Training Center, Government Island, Alameda, CA 94501.

r. Commanding Officer, U.S. Coast Guard Supply Center, 830 3rd Avenue, Brookiyn, NY 11232.

s. Commanding Officer, U.S. Coast Guard Institute, P.O. Substation 18, Oklahoma City, OK 73169.

t. Commanding Officer, U.S. Coast Guard Aircraft Repair & Supply Center, Elizabeth City, NC 27909.

u. Commanding Officer, U.S. Coast Guard Aviation Training Center, Mobile, AL 36608.

v. Commanding Officer, U.S. Coast Guard Radio Station (NMH), 7223 Telegraph Road, Alexandria, VA 22310.

w. Commanding Officer, U.S. Coast Guard Reserve Training Center, Yorktown, VA 23490.

x. Officer in Charge, Record Depot, U.S. Coast Guard Air Station, Elizabeth City, NC 27909.

y. Commander, Coast Guard Activities, Europe, London, Box 50, FPO New York 09510.

z. Commanding Officer, U.S. Coast Guard Training Center, Petaluma, CA 94952.

aa. Commander, U.S. Coast Guard Air Base, Elizabeth City, NC 27909.

bb. Commanding Officer, U.S. Coast Guard Electronics, Engineering Center, Wildwood, NJ 08260.

cc. Commanding Officer, Research & Development Center, Avery Point, Groton, CT 063410.

dd. Commanding Officer, U.S. Coast Guard Oceanographic Unit, Building 159E, Navy Yard Annex, Washington, D.C. 20590.

4. *Access to Records.*

a. The Coast Guard honors only those requests for notification, access, or amendment made by:

(1) the individual to whom the record pertains;

(2) the parent or guardian of a minor to whom the record pertains;

(3) the legal guardian of a person to whom the record pertains when that person has been declared incompetent by reason of physical or mental disability by a court having jurisdiction of the matter; or

If made by a person other than the individual to whom the record pertains, the request must specify the relationship of the requester to that individual.

b. Written requests for information or amendment must be signed by the requester. Requests for access to records containing sensitive or detailed personnel information (including, but not limited to, earnings and tax statements, employee payroll records, employee grievance and appeal files, civilian, officer, and enlisted personnel files, and health and medical records (subject to the conditions of 49 CFR 10.33(b)) may be required to contain the following notarized certification:

I, ————, do hereby certify that I am the individual to whom the record in question pertains.

(or)

I am the parent or guardian of the minor to whom the record in question pertains.

(or)

I am the legal guardian of the individual determined by a court to be incompetent to whom the record in question pertains.

————————————

Notarization ————————————

(Signature) ————————————

(Date) ————————————

5. *Requests to Correct or Alter Records.* The official responsible for administering a system of records, in consulation as appropriate with the System Manager, Privacy Act Coordinator, and Privacy Act officer, initially determines whether to grant requests under 49 CFR 10.41 to amend records. Requests must be made as provided in paragraph 2a. of this Appendix. Requests for amendment must contain a complete description of the item sought to be changed and documentation to substantiate the grounds for the requested change. The Coast Guard acknowledges the receipt of completed requests for amendment within ten working days. As promiptly as possible the Coast Guard advises the requester whether or not the change has been made, and in cases where a change has been made, transmits a copy of the amended record to the requester.

a. When a request for access to a record or amendment of a record is denied, in whole or in part, the manager of the system of records involved notifies the requester in writing, of the reasons for the denial and furnishes the requester a statement of the name and position or title of each person responsible for the denial. The requester also is advised of the right to file a written appeal of the adverse decision within 180 days of receipt of the initial denial. Appeals must be addressed to: Commandant (G-CMA), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590.

b. Within 30 working days of the receipt of a written appeal, the Commandant or his designee makes an independent review of the record and decides whether or not to make the requested disclosure or amendment. If the appeal is granted, the Coast Guard promptly notifies the requester of the decision in writing and transmits to the requester a copy of the record or amended record. If the appeal is denied, the Coast Guard promptly notifies the requester, in writing, of the reasons for the denial and furnishes the requester a statement of the name and position or title of each person responsible for the denial. The Coast Guard also informs the requester of the right to seek judicial review of the adverse decision pursuant to 5 U.S.C. 552a(g)(1).

c. In addition to appealing an adverse determination of a request to amend a record, the requester may file a concise "statement of disagreement" setting forth the reasons for disagreeing with the refusal of the Coast Guard to amend the record. The notification by the Coast Guard of the denial of an initial request for amendment or the denial of an administrative appeal for an amendment informs the requester of the right to file a statement of disagreement.

d. The Commandant of the Coast Guard, by Commandant Instruction 5212.11 (26 September 1975), has redelegated to the Chief of Staff the authority under 49 CFR Part 10 to:

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(1) exempt systems of records from certain provisions of the Privacy Act;

(2) make final administrative determinations not to disclose or amend a record; and

(3) issue extensions of review time.

This authority may not be redelegated further.

6. *Personal Identification Requirements.*

a. When an individual requests notification, access, or amendment in person, he or she must show identification such as a driver's license, military or employment identification card, credit card, or medicare card. An individual requesting in person information about or amendment to a "sensitive" record may be required to complete the notarized certification set forth in paragraph 4.b of this Appendix.

b. The Coast Guard may require more specific information in order to establish the identity of a requester. For example, the Coast Guard may require that a legal guardian or personal representative produce certified copies of court documents appointing him to his position. The Coast Guard may independently verify the identify of a requester by telephone contact with the requester, personal identification by Coast Guard employees who may know the requester, or any other lawful means considered appropriate under the circumstances.

c. An individual may be accompanied by a person of the individual's choosing while reviewing records to which he or she has been granted access: *Provided*, That the individual signs a statement authorizing the accompanying person to do so. An individual granted access to a record may be required to sign and notarize a statement authorizing the Coast Guard to release the record to a person (e.g., his attorney) designated by the individual.

d. No request for information or amendment is considered complete until all necessary identification material has been provided. No copies of records are provided to individuals until they pay appropriate fees as set forth in 49 CFR Subpart H.

APPENDIX D

FEDERAL AVIATION ADMINISTRATION

1. *Introduction.* This Appendix:

a. Describes the procedures for determining if an individual is the subject of a record maintained by the Federal Aviation Administration;

b. Describes the availability of records and prescribes requirements for identifying an individual who requests a record pertaining to him or her;

c. Prescribes procedures for granting access to an individual upon that individual upon that individual's request for the record pertaining to him or her;

d. Prescribes procedures for reviewing a request from an individual concerning the amendment of any record pertaining to him or her;

e. Prescribes procedures for making a determination on the request of an individual for amendment of any record pertaining to him or her; and

f. Prescribes procedures for an appeal within the FAA of a determination not to grant access to or amendment of records.

2. *Availability for Inspection and Copying.* Records may be inspected at the FAA facility identified for the particular system of records appearing in the systems notices published in the FEDERAL REGISTER. These facilities are open to the public during regular business hours, except Saturday, Sundays, and Federal holidays.

3. *Systems of Records.*

a. A list of FAA systems of records pertaining to bhe Privacy Act indicating the geographic locations and the responsible systems managers has been published in the FEDERAL REGISTER and appears as follows:

(1) August 27, 1975 on pages 38829-38839;

(2) November 19, 1975 on pages 53967-53978; and

(3) March 1, 1976 on pages 8820-8821.

b. Any individual who is unable to determine in which FAA-maintained system the records pertaining to him or her may be found may submit a written request for assistance to the attention of the Privacy Act Coordinator located at the region or center nearest to his residence. The addresses for the regional and center facilities of the FAA are listed below:

(1) FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591;

(2) Alaskan Region, 632 Sixth Avenue, Anchorage, AK 99501;

(3) Central Region, 601 East 12th Street, Kansas City, MO 64106;

(4) Southern Region, 3400 Whipple Street, East Point, GA (Mailing address: P.O. Box 20636, Atlanta, GA 30320);

(5) Southwest Region, 4400 Blue Mound Road (Mailing address: P.O. Box 1689, Fort Worth, TX 76101);

(6) Western Region, 5651 West Manchester Avenue (Mailing address: P.O. Box 92007, Los Angeles, CA 90009);

(7) Eastern Region, Federal Building, JFK International Airport, Jamaica, NY 11430;

(8) Pacific Region, 1833 Kalakaua Avenue (Mailing address: P.O. Box 4009, Honolulu, HI 96813);

(9) Aeronautical Center, 6400 South MacArthur Boulevard (Mailing address: P.O. Box 25082, Oklahoma City, OK 73125);

(10) National Aviation Facilities Experimental Center, Tilton Road, Route 563 (near Pomona, NJ), (Mailing address: Atlantic City, NJ 08405);

(11) New England Region, 12 New England Executive Park, Burlington, MA 01803;

(12) Great Lakes Region, 2300 East Devon, Des Plaines, IL 60018;

(13) Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; and

(14) Northwest Region, FAA Building, 9010 East Marginal Way South, King County International Airport (Boeing Field), Seattle, WA 98108.

4. *Access to Records.*

a. Any individual desiring to inspect a record or obtain a copy thereof to determine if it contains information pertaining to him or her must present a written request in accordance with the provisions of this section. An individual making a request under this section may either appear in person or submit a request by mail to the address and attention of the system manager as it appears in the list of systems of records published in the FEDERAL REGISTER. The individual must first determine in which system of records he or she believes the particular records pertaining to him or her are maintained by examining the categories of records and routine uses in the list of the systems of records published in the FEDERAL REGISTER and available at the addresses set forth in paragraph 3.b of this Appendix.

b. The individual must include in the request the information necessary to identify the specific system fo records as it appears in the list of the systems of records of the FAA published in the FEDERAL REGISTER.

c. Upon request by any individual to gain access to an FAA record that contains information pertaining to him or her, the FAA official responsible for the record informs the individual whether the requested record is exempt under subpart G of this part.

d. An individual making a request under this section is permitted to inspect and have a copy made of any record pertaining to him or her in a form comprehensible to him or her, if—

(1) He or she has given identification in accordance with section 6 of this Appendix;

(2) The record is not exempt under subpart G of this part; and

(3) The record was not compiled in reasonable anticipation of a civil action or proceeding.

e. Notwithstanding paragraph d of this section, if an individual requesting a record pertaining to him or her is accompanied by a person of his or her own choosing to review the record, the individual making the request must submit a signed statement authorizing the discussion of the record in the presence of the accompanying person.

f. Each request for a record determined to be releasable under paragraph d of this section is complied with within ten days, excluding Saturdays, Sundays, and Federal holidays. If additional time is necessary to make the requested record comprehensible to the individual requesting it, the FAA official responsible for the record notifies the individual within ten days of the request of the estimated time required to fill the request.

g. Any individual whose request for access to a record pertaining to him or her is denied may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

5. *Requests to Correct or Alter Records.*

a. Any individual may request an amendment of any record pertaining to him or her maintained by the FAA in a system of records, by submitting the request in writing to the attention of the FAA official responsible for the record at the address appearing in the list of systems of records published in the FEDERAL REGISTER.

b. Each request for an amendment of a record must be accompanied by a written explanation as to why the individual believes the present record is not accurate, timely, relevant, or complete. The individual making the request may submit any documentation he or she wishes in support of his request.

c. Upon receipt of a request for an amendment of a record, the FAA official responsible for the record reviews the record and supporting documentation and determines if there is a sufficient basis upon which to make a decision to make the requested amendment.

d. If the FAA official responsible for the record determines under paragraph c of this section that additional information is necessary before a decision can be made as to whether to make the requested amendment, the official notifies the individual making the request to amend specifying what additional information is necessary.

e. If the FAA official responsible for the record determines that the requested amendment should be made, the official

amends the record, notifies the individual making the request, and sends to that individual a copy of the corrected record, as well as to other persons or agencies to whom the record may have been disclosed (See 49 CFR 10.23(d)).

f. If the FAA official responsible for the record determines that the requested amendment should be denied, the official forwards to his supervisor the request for amendment with all supporting documentation and reasons for the denial.

g. If the supervisor determines that the requested amendment should be made, the supervisor follows the procedures in paragraph e of this section.

h. If the supervisor determines that the requested amendment should be denied, the supervisor notifies the individual making the request of the denial, the reasons therefor, and informs the individual of the FAA procedures for appealing the denial.

i. Any individual whose request for correction or alteration of a record pertaining to him or her is denied may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

6. *Personal Identification Requirements.*

a. Each individual making a request under this Appendix for a record pertaining to him or her must present appropriate identification before the requested record is released. Types of appropriate identification include—

(1) For requests made in person, a driver's license or employee identification card; and

(2) For requests made by mail, name (printed or typed, and signature) and date of birth, or the unique identifier used in the system of records.

b. If an individual cannot provide appropriate identification as required in paragraph 6.a of this Appendix, or if the record requested is particularly sensitive, the FAA official responsible for the record may require the individual to sign a statement certifying his or her identity and understanding that knowingly and willfully to request or obtain any record concerning an individual from the FAA under false pretenses is a misdemeanor punishable by a fine of up to $5,000 as provided in 5 U.S.C. 552a(i) (3).

APPENDIX E

FEDERAL HIGHWAY ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Federal Highway Administration (FHWA);

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the FHWA;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copy.* Places and times at which records are available for inspection and copying, and the system of records and systems managers having authority at each place.

a. *Headquarters:* The Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Time: 7:45 a.m.-4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Accounts Receivable DOT/FHWA—Chief General Ledger and Funds Control Section.

2. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Occupational Safety Engineer.

3. Driver Waiver File (BMCS) DOT/FHWA—Chief, Driver Requirements Branch.

4. Employee Utilization Monthly Report DOT/FHWA—Chief, Data Systems Division.

5. Investigation Case File DOT/FHWA—Chief, Investigations and Special Inquiry Division.

6. Medal of Honor File DOT/FHWA—Chief, Compliance Division.

7. Memorandum of Monthly Performance of Key Punch Operators DOT/FHWA—Chief, TCC Operation (Groups A and B).

8. Motor Carrier Accident File (BMCS) Property and Passenger—Chief, Accident Analysis Branch.

9. Occupational Safety and Health Accident Reporting System DOT/FHWA—Occupational Safety Engineer.

10. Payroll Administration DOT/FHWA—Chief, Payroll and Employee Records Section.

11. Personnel Records (CSC Governmentwide) DOT/FHWA—Chief, Personnel Programs Division.

12. Travel Advance File DOT/FHWA—Chief, Voucher Review and Disbursement Section.

13. Travel Order (Change of Duty station) DOT/FHWA—Chief, Voucher Review and Disbursement Section.

14. University and Industry Programs Coding and Filing Systems DOT/FHWA—Administrative Assistant—National Highway Institute.

b. *Regional Offices:* Region 1—Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207. Time: 8:00 a.m.-4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA Executive Officer, Region 3—Federal Highway Administration, George H. Fallon Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201. Time: 8:00 a.m.-4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 4—Federal Highway Administration, 1720 Peachtree Road, NW., Atlanta, Georgia 30309. Time: 7:45 a.m.-4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA Executive Officer, Region 5—Federal Highway Administration, 18209 Dixie Highway, Homewood, Illinois 60430. Time: 7:30 a.m.-4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer. Region 6—Federal Highway Administration, 819 Taylor Street, Fort Worth, Texas 76102. Time: 8:00 a.m.-4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 7—Federal Highway Administration, 6301 Rockhill Road, Kansas City, Missouri 64131. Time: 7:45 a.m.-4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 8—Federal Highway Administration, P.O. Box 25246, Denver Federal Building Center, Denver, Colorado 80225. Time: 7:45 a.m.-4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Payroll Administration DOT/FHWA—Appropriate Finance Officer.

4. Travel Advance File—DOT/FHWA—Executive Officer. Region 9—Federal Highway Administration, 2 Embarcadero Center, P.O. Box 7616, San Francisco, California 94120. Time: 7:45 a.m.-4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

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3. Travel Advance File DOT/FHWA—Executive Officer. Region 10—Federal Highway Administration, 222 SW. Morrison Street, Portland, Oregon 97204. Time: 8:00 a.m.-4:45 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Driver Accident Cross-Reference File (BMCS) DOT/FHWA—Regional Director.

3. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

4. Payroll Administration DOT/FHWA—Appropriate Finance Officer.

5. Travel Advance File—DOT/FHWA—Executive Officer. Region 15—Federal Highway Administration, 1000 North Glebe Road, Arlington, Virginia 22201. Time: 7:45 a.m.-4:15 p.m.

Systems of Records and Responsible Systems Manager: Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

c. Division Officers (For location and hours of duty see 49 CFR Part 7).

Systems of Records and Responsible Systems Managers: Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Administrative Managers.

3. *Access to Records:*

a. Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records, or desiring access to such record, or to obtain a copy of such record, shall make request to the appropriate System Manager. In appropriate circumstances, oral requests are acted upon. Each request must specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

4. *Requests to Correct or Alter Records:*

a. The FHWA allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personnel records of active employees should be addressed to the responsible system managers specified in paragraph 2 above.

b. The System Managers provide written acknowledgment of the receipt of a request to amend a record to the individual within 10 days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the 10-day working period, no acknowledgment is required.

c. If the System Manager agrees with an individual's request to amend the person's record, the following steps are taken:

1. Correct the record accordingly.

2. Advise the individual in writing, and

3. If an accounting of disclosure has been made, advise all previous recipients of the record of the fact that the correction was made and the substance of the correction.

d. If the System Manager disagrees with all or any portion of the request to amend a record, he or she:

1. Proceeds as described above with respect to those portions of the record which will be amended.

2. Advises the individual of the refusal and the reason for not amending a record, indicating the name and title or position of each person responsible for the denial, and

3. Informs the individual of the right to appeal the decision not to amend a record to: Associate Administrator for Administration, Federal Highway Administration, Washington, D.C. 20590.

e. If after this review the FHWA refuses to amend the record on the individual requested, the FHWA advises the individual:

1. Of the refusal and the reason for it,

2. Of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the FHWA,

3. The procedures for filing the statement of disagreement,

4. That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed, and

5. Of the individual's right to seek judicial review of the FHWA's refusal to amend a record.

f. The final FHWA determination on the individual's request is concluded within 30 days of the receipt of the appeal unless for good cause shown, the Associate Administrator for Administration extends such period. Such final administrative decision addresses all information and arguments relied upon by the individual.

g. Each application for review by FHWA must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the application is sent should be marked prominently with the words "Privacy Act".

If these requirements are not met, the time limits described in § 10.43 do not begin until the application has been identified by an employee of the FHWA as an application under the Privacy Act and has been received by the appropriate office.

h. The Associate Administrator for Administration may require the person making a request to furnish additional information, or proof of factual allegations, and may order other appropriate proceedings. His or her decision as to the availability of a record or whether to amend a record is administratively final subject to the concurrence of the DOT General Counsel or his or her delegate. However, requests for review of denials of information contained in Government-wide systems of personnel records, which includes the FHWA Personnel Records System, are handled by the Civil Service Commission in accordance with 5 CFR 294.108 and 5 CFR 297.108.

i. If the Associate Administrator for Administration also refuses to grant access or to correct the individual's record, he or she advises the individual of:

1. The reason(s) for the refusal and the names, and titles or positions of each person responsible for the denial;

2. The individual's right to file a statement of disagreement; that the statement will be made available to anyone to whom the record is subsequently disclosed, and to prior recipients of the record (see Section 10.23(d)), and

3. The right to bring suit in the District Court of the United States in the district in which the individual resides, the district in which his principal place of business is located, the district in which the record(s) is located, or the District of Columbia.

5. *Personal Identification Requirements:*

a. When a record is applied for in person, the person so applying must, unless personally known to the custodian of the records, furnish adequate identification. Such identification may consist of an employee identification card, Medicare Card, driver's license, or a similar document.

b. When a record is applied for by mail, sufficient information to identify the individual must be furnished, and a notarized statement as to the identity of the requester may be required in some instances when the record involved contains particularly sensitive information in the judgment of the systems manager.

Appendix F

FEDERAL RAILROAD ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Federal Railroad Administration (FRA):

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Federal Railroad Administration;

c. Indentifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Places and times at which records are available for inspection and copying and the systems of records and systems managers having authority to deny requests for disclosure at each facility.

a. Records in systems maintained in the Federal Railroad Administration are available at the Alaska Railroad, Anchorage, Alaska 99510, 9:00 a.m.-4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Alaska Railroad Examination of Operating Personnel; DOT/FRA Operations Officer (System Manager).

2. Alaska Railroad Personnel and Pay Management Information System; DOT/FRA—General Manager (System Manager).

3. Alaska Railroad Security and Freight Claims Investigatory Files; DOT/FRA—Chief, Security and Claims Office (Systems Manager).

b. *Places:* The Alaska Railroad, Anchorage, Alaska 99510. Hours: 9:00 a.m.-4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Application for (Vehicle) Operator's Identification Card; DOT/FRA—Director, Office of Administrative Operations (System Manager).

2. Confidential Statement of Employment and Financial Interest; DOT/FRA—Chief Counsel, Office of the Chief Counsel (System Manager).

3. Employee Travel Records; DOT/FRA—Accounting Officer, Accounting Division (System Manager).

4. Occupational Safety and Health Reporting System; DOT/FRA—FRA Safety Manager, Office of Administrative Operations (System Manager).

5. Office of Safety Past Employees Files; DOT/FRA—Deputy Associate Administrator for Safety (System Manager).

6. Personnel and Pay Management Information Systems; DOT/FRA—Director, Office of Personnel and Training (System Manager).

7. Travel Advance Records; DOT/FRA—Director, Office of Administrative Operations (System Manager).

8. Work Measurement System; DOT/FRA—Director, Office of Management Systems.

c. *Places: Regional Offices as follows:*

Region 2, Federal Railroad Administration, Philadelphia, Pa. 19106.

Region 3, Federal Railroad Administration, College Park, Ga. 30337.

Region 4, Federal Railroad Administration, Chicago, Illinois 60605.

Region 5, Federal Railroad Administration, Ft. Worth, Texas 76102.

Region 6, Federal railroad Administration, Portland, Oregon 97204.

Region 7, Federal Railroad Administration, San Francisco, California 94102.

Region 8, Federal Railroad Administration, Kansas City, Missouri 64106

Hours: 9:00 a.m.-4:00 p.m.

Systems of Records and Responsible Systems Managers at each Region:

Regional Personnel Convenience Files; DOT/FRA—Regional Directors (Systems Manager).

d. *Place: Transportation Test Center* (TTC) Pueblo, Colorado 81001. Hours: 9:00 a.m.-4:00 p.m.

System of Records and Responsible System Manager:

Transportation Test Center Employee Service Record File- Director, TTC (System Manager).

3. *Access to Records.*

a. Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such a record, shall make his request in writing to the appropriate official listed in Section 2.3 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

b. FRA allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system managers specified in 2.3A-D.

c. The system managers provide written acknowledgment of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the ten-day working period, no acknowledgment is required.

d. If FRA agrees with an individual's request to amend the person's record, the following steps are taken:

1. Advises the individual in writing;

2. Corrects the record accordingly; and

3. If a prior disclosure has been made, advises all previous recipients of the record of the correction and its substance.

e. If FRA, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it, FRA:

1. Advises the individual of refusal and the reasons for it;

2. Informs the individual of procedures to request a further review;

f. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. The request for a review should be addressed to: Attn. Privacy Act of 1974, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590.

g. If after this review FRA refuses to amend the record as the individual requested, FRA advises the individual:

1. Of refusal and the reasons for it;

2. Of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the Administration;

3. The procedures for filing the statement of disagreement;

4. That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed;

5. Of the individual's right to seek judicial review of the refusal to amend a record.

h. The final FRA determination on the individual's request is concluded within thirty (30) working days unless the FRA Administrator determines that a fair and equitable review cannot be completed in that timeframe. If additional time is required, the individual is informed in writing of reasons for the delay and of the estimated date on which the review is expected to be completed.

4. *Procedures for Establishing Identity of Individual Making a Request:*

a. Disclosure of personnel records requires that the individual produce an identification card; employee identification, annuitant identification, Medicare cards, or driver's license are examples. For records disclosed by mail, FRA requires identifying information to locate the record, i.e., employee identification number, name, date of birth or social security number. A comparison of the signature of the requester and those in the record is used to determine identity.

b. If an individual can provide no suitable documents for identification, FRA requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000 under 5 U.S.C. 552a(i)(3).

Appendix G

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

1. *Introduction.* This appendix, with respect to the National Highway Traffic Safety Administration:

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the National Highway Traffic Safety Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Records of the National Highway Traffic Safety Administration, hereafter referred to as NHTSA, are located at NHTSA headquarters, Washington, D.C., and at regional office locations, both described below. Records created, collected, maintained and used in various demonstration and research projects as contract requirements of NHTSA are located at various points in the several States and the Commonwealth of Puerto Rico.

a. All NHTSA headquarters offices are open from 7:45 a.m. to 4:15 p.m., each day except Saturdays, Sundays, and Federal legal holidays. The main headquarters office is located at 400 Seventh Street SW., Washington, D.C. 20590. The Office of Vehicle Safety Compliance, Enforcement Programs; the National Driver Register, Traffic Safety Programs, and the Office of Research and Development are located at the Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590

b. NHTSA Regional offices are located at the following addresses and are open during the indicated hours each day, except for Saturdays, Sundays, and Federal legal holidays:

(1) Region I (Connecticut, Maine, Massachusetts, New Hamsphire, Rhode Island, Vermont), 55 Broadway, Cambridge, Massachusetts 02142 (7:45 a.m.-4:15 p.m.).

(2) Region II (New Jersey, New York, Puerto Rico, Virgin Island), 222 Mamaroneck Avenue (Room 204), White Plains, New York 10601 (7:45 a.m.-4:15 p.m.).

(3) Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Airport Plaza Building, 6701 Elkridge Landing Road, Linthicum, Maryland 21090 (8 a.m.-4:30 p.m.).

(4) Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Suite 501, 1720 Peachtree Road NW., Atlanta, Georgia 30309 (7:45 a.m.-4:15 p.m.).

(5) Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Suite 214, Executive Plaza, 1010 Dixie Highway, Chicago Heights, Illinois 60411 (8 a.m.-4:30 p.m.).

(6) Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 819 Taylor Street, Room 11A26 Fort Worth, Texas 76102 (8 a.m.-4:30 p.m.).

(7) Region VII (Iowa, Kansas, Missouri, Nebraska), 6301 Rockhill Road, Kansas City, Missouri 64111 (7:45 a.m.-4:15 p.m.).

(8) Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 330 South Garrison Street, Lakewood, Colorado 80226 (7:45 a.m.-4:15 p.m.).

(9) Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Suite 610, Two Embarcadero Center, San Francisco, California 94111 (7:45 a.m.-4:15 p.m.).

(10) Region X (Alaska, Idaho, Oregon, Washington), 3140 Federal Building, 915 Second Avenue, Seattle, Washington 98174 (7:45 a.m.-4:15 p.m.).

c. NHTSA demonstration and research project records may be created, collected, maintained, and used for the purposes of NHTSA contract requirements. These records are maintained at various points in the several States and the Commonwealth of Puerto Rico. Since these project contractors only act as agents for NHTSA, and to prevent unauthorized disclosure of information that may be subject to the provisions of the Privacy Act of 1974, management of the systems has been retained by appropriate officials of NHTSA. Access to the published systems may be obtained by corresponding with the systems manager indicated for the system of records found in the citations in paragraph 3 of this appendix. Appropriate personal identification must be furnished in accordance with paragraph 4. These officials should be notified of any inaccuracy of the record and, also, are responsible for con-

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sidering requests for correction or alternation of the record.

3. *Systems of Records.* A list of NHTSA systems of records pertaining to the Privacy Act indicating the geographic locations and the responsible systems managers has been published in the FEDERAL REGISTER and appears as follows: Vol. 42, No. 181, September 19, 1977, beginning on page 47099.

4. *Access to Records.*

a. Individuals desiring to determine whether records pertaining to them are contained in systems of records covered by this Appendix or desiring access to records covered by this Appendix, or to obtain copies of such records, shall make written requests providing appropriate identification of the system and proof of their identity in the same manner as former employees described in 4.c below. When an individual is not capable of personally providing the required information, a second party request may be honored if a duly attested authorization, power of attorney, or appropriate court order is submitted with the request.

b. Decision to release or deny requested records is made by the system manager, identified in the citations of paragraph 3 of this Appendix, within ten working days of the receipt of the request. A person seeking review of a denial of the disclosure of a record may appeal to the NHTSA Associate Administrator for Administration, 400 Seventh Street SW., Washington, D.C. 20590, preferably within 180 days of the initial denial. Decision on the request for review is made in writing within 30 working days from the receipt of the request for reconsideration of disclosure. For additional details see sections 10.45 and 10.51 of these rules.

c. Employees and former employees of NHTSA may obtain access to and consideration of the amendment of their records by providing a current Department of Transportation (DOT) identification card (Form D-1600.1.9), a DOT retired employee identification card (Form D-1600.2), Medicare card, attested signed request, or such other identification that may prove the validity of their claims.

d. Since nearly all NHTSA systems of records are maintained on electronic data processing equipment, it may require up to 48 hours to obtain individual records due to computer scheduling requirements. It is in the interest of the individual, therefore, to request information in writing rather than in person.

5. *Requests to Correct or Alter Records.*

a. Individuals may request correction or alternative of records pertaining to them by addressing such requests to the system managers or the NHTSA Privacy Act Coordinator, the addresses of whom are contained in the citation of paragraph 3 of this Appendix.

b. Since the records of the National Driver Register merely contain partial records of the States' motor vehicle records, they are susceptible to correction or alternation only to the extent that such records are at variance with the State records. Persons seeking to correct their State motor vehicle records should address requests to their respective States' motor vehicle licensing authorities.

c. The system manager, in accordance with 49 CFR 10.41, provides written acknowledgment of the receipt of a request to amend a record to the individual within ten working days. If the request can be reviewed, processed, and the individual notified of compliance or denial of the request within the ten working day period, no acknowledgment is required.

d. When decision is made by the system manager to comply with an individual's request to amend the person's record, the following steps are taken within 30 working days from the date of acknowledgment of the request:

(1) Advises the individual of the decision in writing;

(2) Corrects the record accordingly; and

(3) Advises all previous recipients of the record, if an accounting of disclosure has been made, of the correction.

e. When decision is made, after initial review by the system manager of a request to amend a personal record, to disagree with all or any portion of the requested amendment, the following steps are taken within 30 working days from the date of acknowledgment of the request.

(1) Advises the individual of refusal and the reasons therefore; and

(2) Informs the individual of the procedures for appeal to the NHTSA Administrator for further review.

f. If the individual disagrees with the initial determination of the system manager, the individual may file a request for further review of that determination. This request for review should be addressed to the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

g. If after review the Administrator agrees to the amendment of the record, the procedures of subparagraph 5.d of this Appendix are followed. If amendment of the record is refused as requested by the individual, the individual is advised:

(1) Of the refusal and reasons therefore, and the names and titles of positions of each person responsible for the determination;

(2) Of the individual's right to file, together with the appropriate procedures, a concise statement of the reasons for disagreeing with the decision of the Administrator;

(3) Of the fact that the statement which is filed by the requester is made available to prior recipients and anyone to whom the record is subsequently disclosed; and

(4) Of the individual's right to seek judicial review of the administrator's refusal to amend a record.

h. The final determination to refuse an individual's request for amendment of a record is concluded within 30 working days after the receipt of the appeal to the Administrator. If a fair and equitable review cannot be completed by the stipulated time, the Administrator informs the individual in writing of the reasons for delay and provides an estimated date on which completion of the review is expected.

6. *Personal Identification Requirements.* The NHTSA does not demand any personal identification beyond that specified by § 10.35 of this part.

APPENDIX H

URBAN MASS TRANSPORTATION ADMINISTRATION

1. *Introduction.* This Appendix, with respect to the Urban Mass Transportation Administration (UMTA):

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Urban Mass Transportation Administration;

c. Identifies the officials having authority to deny requests for access for records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 1035 of these regulations.

2. *Availability for Inspection and Copying.* In accordance with Title 49, Part 10, Subpart A, Section 10.1, dealing with the maintenance of and access to records pertaining to individuals under the Privacy Act of 1974 (Pub. L. 93-579), the following places and times at which individual's records are available for inspection and copying, and the titles of the officials who are responsible system managers are submitted.

a. Regional Offices as follows:

(1) Region I, Urban Mass Transportation Administration, Cambridge, MA 02142

(2) Region II, Urban Mass Transportation Administration, New York, NY 10007;

(3) Region III, Urban Mass Transportation Administration, Philadelphia, PA 19106;

(4) Region IV, Urban Mass Transportation Administration, Atlanta, GA 30309;

(5) Region V, Urban Mass Transportation Administration, Chicago, IL 60606;

(6) Region VI, Urban Mass Transportation Administration, Fort Worth, TX 76102;

(7) Region VII, Urban Mass Transportation Administration, Kansas City, MO 64131;

(8) Region VIII, Urban Mass Transportation Administration, Denver, CO 80202;

(9) Region IX, Urban Mass Transportation Administration, San Francisco, CA 94111; and

(10) Region X, Urban Mass Transportation Administration, Seattle, WA 98174.

b. Hours: 8:30 A.M. to 5 P.M., local time.

c. System of Records: Regional Personnel Convenience Files at each location.

d. System Managers: Regional Directors or Chiefs are System Managers.

e. Headquarters: Urban Mass Transportation Administration, Washington Headquarters, Washington, D.C. 20590; Hours: 8:30 A.M. to 5 P.M.

3. *Systems of Records.*

a. Confidential Statement of Employment and Financial Interest—DOT/UMTA, Chief Counsel, Office of the Chief Counsel;

b. Occupational Safety and Health Reporting System, Director of Personnel Division;

c. Litigation and Claims File—Chief Counsel, Office of Chief Counsel;

d. Grant Applicants List, Director, Grant Management Division;

e. Contract Information System, Director, Procurement Division;

f. Unsolicited Research and Development Grants, Director, Grant Management Division;

g. Complaints of Discrimination, Director, Office of Civil Rights;

h. Employee Travel Vouchers, Chief, Accounting Branch;

i. Accounts Receivable, Chief, Accounting Branch;

j. Equal Employment Opportunity, Minority/Female Statistical Reporting System, Director, Office of Civil Rights;

k. Minority Recruitment File, Director, Office of Civil Rights;

l. UMTA Sponsored Reports—Authors file, Director, Office of Transit Management;

m. Blood Donors File, Director, Administrative Services Division;

n. Approved Grants, Director, Administrative Services Division;

o. Closed-Out Grants, Director, Administrative Services Division; and

p. Docket DOT/UMTA, Chief Counsel, Office of Chief Counsel.

4. *Access to Records.* Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such a record, shall make request in writing to the official specified in paragraph 1 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

5. *Requests to Correct or Alter Records.*

a. The Administration allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system manager specified in paragraph 1.

b. The system manager provides a written ackowledgment of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed and processed and the individual notified of compliance or denial within the ten-day working period, no separate acknowlegment is required.

c. If UMTA agrees with an individual's request to amend the person's record, the following steps are taken:

(1) Advises the individual in writing;

(2) Corrects the record accordingly; and

(3) Advises all previous recipients of the record which was corrected of the correction and its substance.

d. If UMTA, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it, it:

(1) Advises the individual of refusal and the reasons for it; and

(2) Informs the individual of procedures to request a further review.

e. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. This request for a review should be addressed to: Privacy Act Officer, UAD-60, 400 Seventh Street SW., Washington, D.C. 20590.

f. If after this review UMTA refuses to amend the record as the individual requested, UMTA advises the individual:

(1) Of refusal and the reasons for it;

(2) Of the individual's right to file a concise statement of the reasons for disagreeing with the decision;

(3) The procedures for filing the statement of disagreement;

(4) That the statement which is filed in made available to any one to whom the record is subsequently disclosed; and

(5) Of the individual's right to seek judicial review of the Administration's refusal to amend a record.

g. The final determination on the individual's request is concluded within 30 working days unless the UMTA Administrator determines that a fair and equitable review cannot be completed in that period. If additional time is required, the individual is informed in writing of reasons for the delay and of the estimated date on which the review is expected to be completed.

h. For personnel-related records final Civil Service Commission determination may apply within 30 working days following the procedures explained above.

6. *Personal Identification Requirements.*

a. Disclosure of personal records requires that the individual produce an identification card; employee identification, annuitant identification, Medicare card, and driver's license are examples. For records disclosed by mail, UMTA requires identifying information to locate the record, i.e., employee identification number, name, date of birth, or social security number. A comparison of the signature of the requester and those in the record is used to determine identity.

b. If an individual can provide no suitable documents for identification, UMTA requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretences is punishable by a fine of up to $5,000 under citation 3(i)3 of the Privacy Act.

APPENDIX I

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

1. *Introduction.* This Appendix, with respect to the Saint Lawrence Seaway Development Corporation:

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.*

a. Place and time for records inspection and copying: Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662; Massena Office: 9:00 a.m.-4:00 p.m.

b. Systems of records located at each facility: *Administration Building:* Claimants under Federal Tort Claims Act, Data Automation Program Records, Employees' Compensation Records, Emergency Operating Records (Vital Records).

c. Official having authority to deny requests for disclosure of records under this part:

Resident Manager, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

3. *Systems of Records:* A complete listing of the systems of records maintained by the Saint Lawrence Seaway Development Corporation has been published in the FEDERAL REGISTER as follows: September 19, 1977, pages 47138-47140.

4. *Access to Records:* Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such record, shall make request in writing to the address provided in Section 2 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the suject record is located or thought to be located.

5. *Requests to Correct or Alter a Record:*

a. Any person who desires to have his or her own record corrected shall submit a written request.

b. Only the individual to whom the record pertains may make the written request and it shall be signed by that person.

c. Request should state the reasons the record should be corrected and that the request is made pursuant to the Privacy Act: alternatively the requester may mark "Privacy Act Amendment Request" on the envelope in which the request is submitted.

d. Requests for correction of records shall be submitted to the Personnel Officer, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

6. *Personal Identification Requirements:* Refer to subsection 10.35 for normal requirements. In those cases involving mail requests for sensitive records, i.e.—medical records, the requester's signature shall be notarized.

APPENDIX J

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

The Research and Special Programs Administration (RSPA) will operate under the general rules of Part 10 (49 CFR Part 10) until specific procedures are deemed necessary for the RSPA.

[FR Doc. 78-33780 Filed 12-1-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[49 CFR Parts 571 and 572]

[Docket No. 74-9, Notice 5; Docket No. 78-9, Notice 3]

CHILD RESTRAINT SYSTEMS

Anthropomorphic Test Dummies Representing 3-Year-Old Children

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the time for comments on the portions of the notice of proposed rulemaking on Federal Motor Vehicle Safety Standard No. 213-80 involving testing with anthropomorphic test dummies. The comment period is also extended for the notices of proposed rulemaking on Part 572, Anthropomorphic Test Dummies, Subpart C, 3-Year-Old Child, proposed in May 1978 and amended in November 1978.

DATES: The comment period for the notices on Part 572, Anthropomorphic Test Dummies, and on the portions of the notice of FMVSS 213-80, Child Restraint Systems, involving testing with anthropomorphic test dummies is extended until January 5, 1979. Comments on the remaining portions of

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the notice on FMVSS 213-80 are still due December 1, 1978.

ADDRESS: Comments should refer to the docket numbers and be submitted to Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-2264.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to establish a new Federal Motor Vehicle Safety Standard No. 213-80, Child Restraint Systems, was published on May 18, 1978 (43 FR 21470). The closing date for comments on the notice was December 1, 1978. In order to do research on the proposed requirements, the Juvenile Products Manufacturers Association on August 1 requested an extension of time of 180 days to submit comments on the portions of the notice involving testing with anthropomorphic test dummies. The agency initially denied the petition but invited the submission of further justification. The petitioner submitted additional information in a November 27, 1978, letter. Based on that letter and other information concerning the availability of testing facilities and anthropomorphic test dummies to do the necessary testing, the agency has concluded that an extension of time to comment should be granted. However, only a short extension is appropriate and in the public interest. Further, the extension should be limited to the portions of the proposed standard involving testing with the anthropomorphic test dummy. Accordingly, the deadline for commenting on those portions is extended until January 5, 1979. Comments on the remaining portions of the notice of proposed rulemaking must still be submitted by the original comment closing date of December 1, 1978.

Because of the interrelationship between the portions of the notice of proposed rulemaking on FMVSS 213-80 involving testing with anthropomorphic test dummies and the notices of proposed rulemaking on Part 572, Anthropomorphic Test Dummies, Part C, 3-Year-Old Child, (43 FR 21490; 43 FR 53478), the agency has decided to extend the time to comment on those notices until January 5, 1979.

The principal authors of this notice are Mr. Vladislav Radovich, Office of Vehicle Safety Standards, and Mr. Stephen Oesch, Office of the Chief Counsel.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on November 30, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-33915 Filed 11-30-78; 4:38 pm]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

AMAX MINING CO., MOUNT EMMONS PROJECT

Gunnison National Forest, Gunnison County, Colo.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Statement upon the submission of a notice of intent or proposal from AMAX, Inc., for development of its proposed Mt. Emmons molybdenum mining and milling project in the Gunnison National Forest, Gunnison County, Colorado. Company studies indicate mining and milling will take place over an estimated period of 25 years. The mill will have a capacity of about 30,000 tons per day. The waste material (tailings) from the mill will be produced at a rate of about 30, 000 tons per day. The statement will address alternative mine access and mill/tailings site locations and their environmental effects.

Initial issues and concerns have been identified through the Colorado Review Process (CRP). The CRP is being used by representatives of the Gunnison National Forest, State of Colorado and Gunnison County to coordinate the interjurisdictional review of the potential environmental effects of this major development proposal. Meetings of these representatives (the CRP Group) so far have identified many issues and concerns related to the project. These issues and concerns may change or be modified as the evaluation proceeds.

Initial public issues and management concerns identified include: land subsidence, air and water quality, tailings and waste rock disposal, transportation, wildlife and fisheries, reclamation, recreation, population growth, community services impacts, county land use changes, and community changes.

The Forest Supervisor is the responsible official for the Environmental Statement.

It is anticipated the Environmental Statement will require about 18 months following receipt of the notice of intent or proposal from AMAX, Inc., as described in the first paragraph.

Comments on this Notice of Intent to Prepare an Environmental Statement should be sent to the Forest Supervisor, Gunnison National Forest, P.O. Box 138, Delta, Colorado 81416.

JIMMY R. WILKINS,
Forest Supervisor.

NOVEMBER 27, 1978.

[FR Doc. 78-33761 Filed 12-1-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

TENNESSEE UNIVERSITY

WITHDRAWAL OF APPLICATION FOR DUTY-FREE ENTRY OF SCIENTIFIC ARTICLE

The University of Tennessee has withdrawn Docket Number 78-00407 an application for duty-free entry of an ultramicrotome.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Program Staff.

[FR Doc. 78-33736 Filed 12-1-78; 8:45 am]

[3510-25-M]

APPLICATIONS FOR DUTY-FREE ENTRY OF SCIENTIFIC ARTICLES

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, by December 26, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

Docket No.: 79-00038. Applicant: Biomedical Engineering and Instrumentation Branch DRS, National Institutes of Health, Bldg. 13, Room 3W13, 9000 Rockville Pike, Bethesda, MD 20014. Article: Electron Microscope, Model H-700 and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used to analyze the ultrastructure and composition of a wide variety of biological specimens. In addition, the article will be equipped with X-ray and electron energy—less spectrometers, whose data output will assist in the exploration of the structure—function relationships in the tissues examined. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00039. Applicant: University of Rochester, University of Rochester Medical Center, 601 Elmwood Avenue, Rochester, New York 14642. Article: Sheath Flow Chamber for Phywe ICP 22. Manufacturer: Phywe AG, West Germany. Intended use of article: The article is intended to be used for the study of cytochemistry of human and other animal cells and chromosomes to develop new techniques for the recognition of abnormal or unusual cells or chromosomes by virtue of their cytochemical properties. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00040. Applicant: Kansas State University, College of Veterinary Medicine, Manhattan, KS 66506. Article: Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used to help elucidate the pathogenesis and pathologic changes in various diseases of domestic animals. The experiments to be conducted will include daily examination of specimens from animals for diagnostic purposes and planned experiments arising from di-

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SUMMARY: The Pacific Fishery Man-

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agnostic cases of economic significance. The objectives of the investigations are to develop a better understanding of the structural and functional changes with cells that result in malfunction and disease. In addition, the article will also be used in the courses: Topics in Pathology, Advanced Topics in Pathology, and Advanced Diagnostic Pathology to give the pathologists-in-training training in the use of electron microscope and in the recognition of ultrastructural disease processes. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00041. Applicant: Louisiana State University, Civil Engineering Department, Baton Rouge, LA 70803. Article: Swelling Test Apparatus. Manufacturer: Geonor A.S., Norway. Intend use of article: The article is intended to be used for research in an attempt to satisfy the following general goals:

(1) Identify the swell mechanism of Louisiana soils,

(2) Estimate the magnitude of swell potential of various soil types in Louisiana,

(3) Focus on developing a field method to identify swelling soils.

Specific steps that will be followed in order to satisfy the objectives of the study are:

1. Comprehensive literature study to isolate completed research pertinent to Louisiana soils.

2. An investigation of the physicochemical and mineralogical properties of typical swelling soils in Louisiana.

3. The development of a field test method compatible and correctable with the laboratory test methods for identifying swelling potential.

4. The field verification of test methods in known swelling soil deposits.

5. The development of a system of mapping the estimated potential/actual swell of the swell-susceptible soils in the State of Louisiana.

6. The experimental mapping of selected areas of Louisiana identifying swelling soils.

7. Estimate the potential damage risk associated with the swelling soils in the mapped areas.

8. Identify, develop and test methods for the improvement of swelling soils, such as lime and lime-fly-ash stabilization (which will be abundantly available in Louisiana in the near future).

Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00042. Applicant: East Tennessee State University College of Medicine, P.O. Box 19540A, State University Station, Johnson City, Tennessee 37601. Article: Electron Microscope, Model EM 201C and Plate Camera with accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of tissues from experimental animals used in a model of experimental endometrial and bladder cancer. The ultrastructure of organelles of target tissue is altered by the administration of chemical carcinogens, sex hormones, and castration. These alterations will be studied. The article will also be used in a Sophmore Pathology course designed to present a comprehensive survey of general and organ system pathology to familiarize the students with medical nomenclature, basic concepts of etiology and pathogenesis and sufficient information about disease states so that they can perform up to their capabilities on the National Board examinations and benefit maximally from their subsequent clinical clerkships. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00043. Applicant: University of Mississippi Medical Center, 2500 North State Street, Jackson, MS 39216. Article: Electron Microscope, Model EM 10A with Goniometer and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in part for a combined ultrastructural, immunocytochemical and biochemical investigation of the role of the large dense core noradrenergic vesicles of the peripheral sympathotic nervous system. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00044. Applicant: University of Delaware, Newark, Delaware 19711. Article: Specific Heat Flow Calorimeter and accessories. Manufacturer: Sodev Inc., Canada. Intended use of article: The article is intended to be used for the measurement of the specific heats of dilute solutions of various substances in aqueous substances in aqueous solution. Solutes include alcohols, amides, acids, etc. which are needed in connection with the study of functional group interactions in dilute aqueous solutions. It will be necessary to measure specific heat differences between water and 0.1 mole kg^{-1} solutions to get apparent molal heat capacities of the solutes. Application received by Commissioner of Customs: November 3, 1978.

Docket No.: 79-00046. Applicant: Trustees of Columbia University in the City of New York, 315 Havemeyer Hall, Columbia University, New York, New York 10027. Article: TEA CO_2 laser Model DD-250 and accessories. Manufacturer: Gen Tec Inc., Canada. Intended use of article: The article is intended to be used for the study of multiphoton dissociation properties of CF_3I, CF_3Br, and other similar gases. Investigations will be conducted to determine the usefulness of infrared lasers as a source of catalysis in chemical reactions. The article will also be used in independent scientific research projects by graduate students in the area of multiphoton infrared photochemistry. Application received by Commission of Customs: November 8, 1978.

Docket No.: 79-00047. Applicant: National Institutes of Health, 9000 Rockville Pike, Building 36, Rm. 4B17, Bethesda, Maryland 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of myelinated tracts or nerves obtained surgically which may be chemically fixed and embedded or frozen before sectioning. Thin or semi-thin sections of nervous tissue will be studied by light and electron microscopy. The features characteristic of various types of myelin breakdown will be identified and described in research reports that will be published. Additional objectives include the localization of myelin constituents visualized electron microscopically in thin sections after using specific immunocytochemical staining procedures. Application received by Commissioner of Customs: November 8, 1978.

Docket No.: 79-00048. Applicant: National Institute of Environmental Health Science, Laboratory of Pulmonary Function and Toxicology, P.O. Box 12233, Research Triangle Park, NC 27709. Article: LKB 2088 Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for electron microscopic studies of cells and tissues from normal and diseased lungs during experiments on the pathobiology of pulmonary disease. Application received by Commissioner of Customs: November 8, 1978.

Docket No.: 79-00049. Applicant: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond, CA 94804. Article: Kratos MS-25S Gas Chromatograph/Mass Spectrometer System and accessories. Manufacturer: Kratos/AEI, United Kingdom. Intended use of article: The article is intended to be used by faculty, graduate students and Pharm. D. candidates to obtain: (1) High quality, high sensitivity mass spectra on organic substances occurring primarily as complex mixtures isolated from biological matrices; and (2) ultra high sensitivity measurements of the quantitative occurrence of specific organic and chemotherapeutic agents or mixtures thereof and fractions isolated from physiological fluids, tissue and cell cultures, biopsy materials, etc. as well as toxic substances from environmental samples.

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Experiments in biomedical and pharmaceutical research and related environmental toxicology will support multicomponent qualitative analystic studies, and quantitative studies will be carried out on race amounts of substances isolated from complex chemical and biological mileux using stable isotopically labelled synthetic specific analogs. Studies of the products of chemical reactions aimed at developing a knowledge of reaction mechanisms will also be carried out. The article will also be used for educational purposes in the courses: Organic Chemistry Laboratory (Chemistry 117), Qualitative Organic Analysis (Chemistry 165), and Mass Spectrometer (a graduate course in the Chemistry 200 series). The general objective of these courses is to train students in the analytical methodology for identification and qualitative structure determination of unknowns and knowns in complex mixtures isolated from biological and medical milieux. Application received by Commissioner of Customs: November 9, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-33738 Filed 12-1-78; 8:45 am]

[3510-25-M]

TUFTS UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00300. Applicant: Tufts University, Lane Hall, Medford, Mass. 02155. Article: PS-400 Coherent NMR Pulse Spectrometer and Accessories. Manufacturer: Spin-Tech Electronics Ltd., Canada. Intended use of article: The article is intended to be used to study liquid crystals, soaps and lipids in the liquid crystals, and solid state. Their dynamics and ordering properties such as orientation, lateral and rotational diffusion, molecular conformational equilibrium, etc. will be studied by a variety of multiple-pulse nuclear magnetic resonance experiments, including spin-lattics relaxation (T_1) of both protons and deuterons, relaxation in the rotating frame ($T_{1\rho}$ or spin-locking), second moment (M_2) by solid echo technique and Jeener-Brookaert pulse sequence. The article will also be used in the following courses:

Nuclear Magnetic Resonance—to teach the principle and application of NMR to physical chemistry and biophysical chemistry students.

Research (course numbers 91, 92, 297, 298)—by graduate students and advanced undergraduate students engaged in the above research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the multiple pulse capability to perform Jeener-Brookaert ($T_{1\rho}$) pulse sequence experiments. The National Bureau of Standards advises in its memorandum dated October 20, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-33737 Filed 12-1-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE, SALMON ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM, AND GROUNDFISH ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting with Partially Closed Session.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development team, and Groundfish Advisory Subpanel established under Section 302(a), (g) (1) and (2) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will conduct a series of meetings.

DATES: The Council meetings will convene at 8:00 a.m. on Wednesday, December 6, 1978, and at 8:00 a.m. on Thursday, December 7, 1978, adjourning at 6:00 p.m. both days. The Scientific and Statistical Committee meetings will convene at 9:00 a.m. on Tuesday, December 5, 1978, and at 8:00 a.m. on Wednesday, December 6, 1978, adjourning at 5:00 p.m. both days. The Salmon Advisory Subpanel and Plan Development team meetings will convene at 8:00 a.m. on Tuesday, December 5, 1978, and at 8:00 a.m. on Wednesday, December 6, 1978, adjourning at approximately 5:00 p.m. on both days. The Groundfish Advisory Subpanel meetings will convene at 1:00 p.m. on Tuesday, December 5, 1978, and at 8:00 a.m. on Wednesday, December 6, 1978, adjourning at approximately 5:00 p.m. on both days.

ADDRESS: The Council, Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development Team, and Groundfish Advisory Subpanel meetings will take place at the Portland Hilton, 921 S.W. 6th Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, telephone: (503) 221-6352.

PROPOSED AGENDA

The Groundfish Advisory Subpanel agenda is as follows:

DECEMBER 5-6, 1978

(1) Consideration of second draft of Groundfish Fishery Management Plan. The Salmon Advisory Subpanel and Plan Development Team agenda is as follows:

DECEMBER 5-6, 1978

(1) Consideration of progress report on Comprehensive Salmon Management Plan.

The Scientific and Statistical Committee agenda is as follows:

DECEMBER 5-6, 1978

(1) Development of fishery management plans: Comprehensive Salmon; Ocean Salmon for 1979; Squid; Groundfish; Billfish; Dungeness Crab; Jack Mackerel and Pink Shrimp. (2)

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Operational and procedural matters of the Council, including advisory panel and management plan development team activities; (3) Public comment period beginning at 3:30 p.m. on December 5, and (4) Other committee business.

The Council agenda is as follows:

DECEMBER 6, 1978

(1) Closed 2-hour session (8:00 a.m. to 10:00 a.m.) to discuss classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Personnel matters will also be discussed: (1) Selection of Jack Mackerel Advisors; and (2) Selection of Pink Shrimp Advisors. (2) Consideration of a progress report on the Comprehensive Salmon Management Plan and the first draft of the Jack Mackerel Fishery Management Plan; (3) Consideration of reports from ad hoc committees; (4) Review of Communications from other agencies and organizations; and (5) Public comment period beginning at 4:00 p.m.

DECEMBER 7, 1978

(1) Consideration of the second draft of the Groundfish Fishery Management Plan; (2) Operational and procedural matters of the Council, including its staff, advisory panels, and committee activities; (3) Consideration of reports from ad hoc committees; and (4) Review of communication from other agencies and organizations.

The Council, Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development Team, and Groundfish Advisory Subpanel expect to address each of the items of their respective agendas above. Time restraints may require that some items be deferred to a later meeting. In addition, there is a possibility that late items of importance may be added to the agenda after the appearance of this announcement. Interested parties should contact the Executive Director as mentioned above to obtain a more detailed agenda.

The Scientific and Statistical Committee, Salmon Advisory Subpanel and Plan Development Team, and Groundfish Advisory Subpanel meetings will be open to the public. The council meeting will also be open to the public except for the first agenda item on the first day. The closed session of the Council meeting is planned for the early morning of December 6, 1978, from 8:00 a.m. through 10:a.m. to hear and discuss Department of State security classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Only those Council members, SSC members, and related staff members having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on November 30, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c) (1) and (6) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.) The Notice of Public Meeting with a Partially Closed Session does not permit members of the public sector 15 days notification, because of an administrative delay in processing a formal Notice of Determination.

Dated: November 29, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-33841 Filed 12-1-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Monday, December 18, 1978, from 9 a.m. to 5 p.m., and Tuesday, December 19, 1978, from 8:30 a.m. to 3:45 p.m. The meeting will be held at 1111 18th Street, NW., Washington, D.C. 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT:

Sadye Dunn, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, 202-634-7700.

SUPPLEMENTAL INFORMATION: The Product Safety Advisory Council was established by section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act. Topics tentatively scheduled for discussion on Monday, December 18, include (1) voluntary vs. mandatory standards; (2) performance vs. design standards; and (3) cost/benefit in health and safety matters, with discussion of these policy issues focused on the pending questions of an upholstered furniture flammability standard. Other topics to be discussed on Tuesday, December 17, include CPSC's Voluntary Standards Policy; Commission participation in the development of a voluntary standard to reduce the risk of injury associated with chain saw kickback; and implementation of CPSC's Public Participation Program. The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by December 11, 1978. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: November 28, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-33735 Filed 12-1-78; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD ADVISORY GROUP OF ELECTRON DEVICES

Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at the Institute of Defense Analyses, 400 Army Navy Drive, Arlington, VA 22202, on 18-19 January 1979.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically, Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

NOVEMBER 28, 1978.

[FR Doc. 78-33750 Filed 12-1-78; 8:45 am]

[1505-01-M]

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Correction

In FR Doc. 78-25819 appearing at page 42373 as Part II of the issue for Wednesday, September 20, 1978, make the following correction:

On page 42507 delete the paragraphs under the heading and sentence, *"Systems exempted from certain provisions of the act:* None".

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

MAJOR FUEL BURNING INSTALLATION/POWERPLANT PETITION FOR EXISTING FACILITY CLASSIFICATION

Request for Public Comment

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Request for Public Comment on ERA-300A, Powerplant Petition for Existing Facility Classification and ERA-300B, Major Fuel Burning Installation Petition for Existing Facility Classification.

SUMMARY: To implement the Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (43 FR 54911, November 22, 1978, Part IV), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has developed the ERA-300A and ERA-300B. Potential Respondents, interested parties and members of the public are invited to submit comments on the proposed Forms ERA-300A and ERA-300B, which are reproduced herein.

EFFECTIVE DATE: Comments received no later than January 15, 1979, will be given full consideration.

FOR FURTHER INFORMATION CONTACT:

Alfred C. Metz, Department of Energy, Economic Regulatory Administration, Office of Fuels Regulation, Room 7219C, 2000 M Street NW., Washington, D.C. 20461, 202-254-5436.

Written comments should be submitted in triplicate to:

Robert C. Gillette, Department of Energy, Economic Regulatory Administration, ERA Docket ERA-R-78-21, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Comments invited in key issues.
III. Confidentiality.
IV. Clarity of instructions and definitions.

I. BACKGROUND

Title II of the Act prohibits "new" powerplants and installations from using oil and natural gas, unless granted an exemption by DOE, and prohibits "new" powerplants from constructing without alternate fuel capability. The Act classifies all powerplants and installations which began construction or acquisition after April 20, 1977, as "new".

However, the Act also permits ERA to classify certain installations for which construction or acquisition began between April 20, 1977, and November 9, 1978 (enactment date), as "existing" and, therefore, subject to the provisions of Title III rather than those of Title II of the Act.

The Act classifies transitional facilities as "new" units unless the petitioner can demonstrate that such a classification would result in a substantial financial penalty for an installation or powerplant, or would result in a significant operational detriment to an installation or in an impairment of reliability for a powerplant.

In order for DOE to classify a transitional facility as an existing facility, a Powerplant Petition for Existing Facility Classification (ERA-300A) of Major Fuel Burning Installation Petition for Existing Classification (ERA-300B) must be filed not later than 14 days following the effective date of the Final Transitional Facility Regulations.

Under the Federal Reports Act, the ERA-300A and 300B must be approved by the Office of Management and Budget (OMB). As a part of the approval process, ERA hereby solicits comments concerning these reporting documents. An advance copy of the forms will be forwarded to OMB concurrently with the publication of this FEDERAL REGISTER notice. Comments submitted to ERA concerning the draft reporting forms will be forwarded to OMB for its consideration in granting an approval and will be considered by ERA.

II. COMMENTS INVITED ON KEY ISSUES

Review comments should address the following areas of concern:

- Is the overall layout and general format of the forms easy to understand and follow?
- How many person-hours will be required to provide the information required for submitting a petition?
- What is your estimate of the cost to your firm for completing and submitting the proposed ERA-300A or ERA-300B?
- Are the instructions for the forms sufficiently clear?
- Which instructions should be clarified or expanded?
- Are the definitions provided sufficiently clear?
- Are there definitions which require further clarification?
- Are there any additional terms which should be defined?
- Are the reporting units specified in the forms consistent with those generally used by your firm for record-keeping and reporting purposes?

ERA is cognizant of the need to collect the data required on the ERA-300A and ERA-300B and of the burden that the reporting requirement may have on the respondent. Therefore, ERA encourages potential respondents to submit comments concerning these reporting forms to enable the development of a comprehensive reporting document with a minimum imposition of respondent burden.

III. REQUEST FOR CONFIDENTIAL TREATMENT

If you wish to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1970) as amended) or is otherwise exempt by law from public disclosure, and if you wish to request ERA not to disclose such information, you must disclose which information you wish to claim confidential treatment. You must indicate in the original document that it is confidential or contains confidential information and file a concise statement specifying the justification or non-disclosure of the information

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for which confidential treatment is claimed. If you state that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information or is covered by 18 U.S.C. 1905, you must include a concise statement specifying that such information is privileged or confidential.

If you indicate that a document is confidential and fail to submit a second copy of the document with the confidential information deleted, the ERA may assume that there is no objection to public disclosure of the document in its entirety.

The ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny each claim in whole or in part, and an opportunity to respond will be given to the person claiming confidentiality of information no less than 48 hours prior to the public disclosure of such information.

IV. Clarity of Instruction and Definitions

If certain instructions or definitions accompanying the form are ambiguous, they should be identified and suggestions on how to clarify the obscurities submitted.

Issued at Washington, D.C., on November 27, 1978.

Hazel R. Rollins,
Deputy Administrator, Economic Regulatory Administration.

[6450-01-C]

ERA-300A

U.S. DEPARTMENT OF ENERGY
Washington, D.C. 20461

Draft 11/24/78

POWERPLANT PETITION FOR EXISTING FACILITY CLASSIFICATION

No petition may be approved unless a completed ERA-300A is received no later than 14 days following the effective date of the final Transitional Facility Regulations.

A separate form must be submitted for each combustion turbine, combined cycle unit, package boiler or field erected boiler for which you are seeking a classification.

1.0 IDENTIFICATION INFORMATION

What is the name, mailing address, city, state and zip code for the Facility, the Operating Company and the Parent Company, if applicable?

1.1 Facility Data (Site) — DOE USE ONLY
- (a) Name
- (b) Address
- (c) City, State Zip Code
- (d) County
- (e) Unit Identification

1.2 Operating Company — DOE USE ONLY
- (a) Name
- (b) Address
- (c) City, State Zip Code

1.3 Parent Company (Complete if applicable) — DOE USE ONLY
- (a) Name
- (b) Address
- (c) City, State Zip Code

1.4 Enter the name of the person in your company to whom questions regarding this petition may be directed:
- (a) Name
- (b) Title
- (c) Telephone, Including Area Code

1.5 For what type of facility are you seeking a classification? (Check one)
(a) ☐ Package Boiler (b) ☐ Field Erected Boiler (c) ☐ Combustion Turbine (d) ☐ Combined Cycle Unit

1.6 What is the capacity of the Transitional Facility
- (a) Combustion Turbine: _____ MMBTU's/Hour Heat Input
- (b) Boiler: _____ Pounds of Steam/Hour
- (c) Powerplant: _____ Megawatts Output

1.7 What is the Primary Energy Source and the Alternate Fuel Capability for this Facility?
(a) _____ Primary Energy Source (b) _____ Alternate Fuel Capability

2.0 ELIGIBILITY TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION

2.1 Construction/Purchase Dates	(Month, Day, Year)	2.2 Facility Data	(Month, Day, Year)
(a) What is the date the purchase contract for the Transitional Facility was executed?		(a) If 1.5 (a) or (d) is checked above, enter the date the packaged boiler was delivered to site.	
(b) What is the date the construction contract for the Transitional Facility was executed?		(b) If 1.5 (b) is checked above, enter the date the boiler became operational.	
		(c) If 1.5 (c) is checked above, enter the date the combustion turbine was delivered to the site.	
		(d) If 1.5 (d) is checked above, enter the date the main steam drum was in place.	

2.3 Eligibility

You are eligible to petition for an Existing Facility Classification and may complete the remainder of this petition if:

(a) Either date entered in 2.1 was on or after April 20, 1977 and the date entered in 2.2 was on or before November 9, 1978. OR (b) Either date entered in 2.1 was prior to April 20, 1977 and the date entered in 2.2 is after Aoril 20. 1977.

IF YOU DO NOT MEET THESE REQUIREMENTS, YOU ARE INELIGIBLE TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION.

3.0 SUPPORTING DOCUMENTATION

In support of your petition, you must complete and attach Schedule 3, Certified Statement of Delivery.

4.0 CLASSIFICATION OF CONSIDERATION

If you meet the eligibility requirements, check the appropriate box(es) to indicate the basis for consideration of your petition and submit the schedule(s) indicated.

(a) ☐ Electric Powerplant Petioning under Substantial Financial Penalty (Schedule 1)

(b) ☐ Powerplant Petitioning Under Impairment of Reliability (Schedule 2)

5.0 CERTIFICATION

I certify that the information contained herein and appended hereto is true and accurate to the best of my knowledge.

Name	Title	Signature	Date

Title 18, USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

V 4 3 / 2 3 3

Draft 11/24/78

ERA-300A

SCHEDULE 1 - CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

Complete this schedule only if your facility meets the Eligibility Requirements and is an Electric Powerplant Applying Under a Substantial Financial Penalty.

1.0 IDENTIFICATION DATA

1.1 What is the name of the Facility (Site)? _____ 1.2 What is the Unit Identification? _____

1.3 What is the name of the Operating Company? _____

2.0 EXPENDITURES/NON-RECOVERABLE OUTLAY DATA

Enter the expenditures incurred for each of the items listed in (a) below, assuming (1) that the Transitional Facility (Unit) is terminated and (2) that the Transitional Facility (Unit) is redesigned. Items of Cost are listed by accounts as prescribed for Public Utilities in the Federal Energy Regulatory Commission's (formerly Federal Power Commission) Uniform System of Accounts. (Report all costs in Thousands of Dollars)

	Account Code/Item of Cost (a)	Expenditures To 11/9/78 (b)	Required Future Expenditures As of 11/9/78 Terminated (c)	Required Future Expenditures As of 11/9/78 Redesigned (d)	Recoverable Expenditures Terminated (e)	Recoverable Expenditures Redesigned (f)	Non-Recoverable Outlays Terminated (g)	Non-Recoverable Outlays Redesigned (h)	Estimated Expenditures For a Comparable Coal Fired Unit (i)
		(Actual $)	(1978 Dollars)						
Basic Cost Items	2.1 312 Boiler Plant Equipment								
	(2) Boiler Feed System								
	(3) Boiler Plant Cranes								
	(4) Boiler & Equipment								
	(5) Breeching & Accessories								
	(6) Coal Handling & Storage Equipment								
	(7) Draft Equipment								
	(8) Gas-burning Equipment								
	(9) Instruments & Devices								
	(11) Oil Burning Equipment								
	(12) Pulverized Fuel Equip.								
	2.2 314 Turbogenerator Unit								
	(21) Turbogenerator-Main								
	2.3 316 Miscellaneous Powerplant Equipment								
	(2) Cranes & Hoisting Equip.								
	(5) Locomotive Cranes								
	(6) Locomotives								
	2.4 343 Prime Movers								
	(5) Combustion Turbine								
	2.5 Air Pollution Control Equip. (as defined in 10 CFR)								
	2.6 TOTAL BASIC COST ITEMS								
Additional Cost Items	2.7 311 Structures & Improvement								
	Boiler House								
	Cooling Ponds								
	2.8 312 Boilerplant Equipment								
	(1) Ash Handling Equipment, including Sludge Disposal								
	(13) Stacks								
	2.9 350 Structures & Improvement								
	Other Building								
	2.10 Roads, Railroads & Bridges								
	(3) Railroads								
	2.11 353 Station Equipment								
	2.12 315 Accessory Electric Equip)								
	2.13 TOTAL ADDITIONAL COST ITEMS								
	2.14 TOTAL BASIC COST ITEMS & ADDITIONAL COST ITEMS								

3.0 SUPPORTING DOCUMENTATION

You must submit the following documents in support of your request for a classification based on Substantial Financial Penalty. Enter an "X" in the boxes provided to indicated that the documents are attached.

3.1 ☐ Copies of the sections of the Engineering design plan and copies of environmental analyses or their summaries which describes in detail, the design specifications, the construction schedule and the estimated engineering and contingencies of the transitional facility.

3.2 ☐ Copies of the contracts concerned with the Purchase and and construction of the Transitional Facility (Unit).

3.3 ☐ An analysis of all capital expenditures for engineering, construction material and contingencies. Itemize in detail all project pahses by percentage completed and expenditures or obligated expenditures as of November 9, 1978. (All capital expenditures to November 9, 1978 should be reported in actual dollars and should include date expended.)

3.4 ☐ An analysis of all non-recoverable capital outlays that would result from termination, modification or rescheduling of your transitional facility construction project. Itemize in detail all non-recoverable outlays in 1978 dollars and all credits for equipment reused, any expenditures required for additional equipment or labor for modifying the transitional facilty for an alternate fuel burning capability. Include significant sections contracts or legal obligations concerned with the termination and cancellation of contracts. A separate analysis should be submitted for (1) the termination of the facilty construction and (2) the redirection for alternate fuel burning and their impact upon the rate base.

ERA-300A

SCHEDULE 2 - CLAIM BASED ON IMPAIRMENT OF RELIABILITY

Complete this schedule only if you are requesting consideration on the basis of an impairment of reliability.

1.0 IDENTIFICATION DATA

1.1 What is the name of the Facility (Site)? _____

1.2 What is the name of the Operating Company? _____

1.3 What is the Unit Identification? _____

1.4 What is the name of the Electrical Region? _____

1.5 Enter the date your Transitional Facility Became Operational. (Month,Day,Year) _____

1.6 Enter the projected date your Transitional Facility will become operational (Month,Day,Year) _____

1.7 Enter the estimated date your alternate Fuel Fired Powerplant will be operational (Month, Day, Year). _____

THE PERIOD BETWEEN THE DATE ENTERED in 1.5 or 1.6 AND THE DATE ENTERED IN 1.7 CONSTITUTES THE PERIOD OF DELAY.

2.0 RELIABILITY CONSIDERATIONS

Enter in megawatts for the years indicated: (a) the total projected capacity for the electric region, without the capacity from this Transitional Facility (unit), (b) the forecasted peakload for the electric region, (c) the capacity in excess of peakload and (d) the computation of the percentage effect on peakload.

	Projected Capacity (a)	Forecasted Peakload (b)	Capacity in Excess of Peakload (b-c) (c)	Percentage Effect On Peakload (c ÷ b) (d)
2.1 1978				
2.2 1979				
2.3 1980				
2.4 1981				
2.5 1982				
2.6 1983				
2.7 1984				
2.8 1985				
2.9 1986				
2.10 1987				
2.11 1988				

IF THE AMOUNT SHOWN IN COLUMN (d) IS LESS THAN .20 FOR ANY YEAR DURING THE PERIOD OF DELAY, A REQUEST FOR CLASSIFICATION AS AN EXISTING FACILITY BASED ON IMPAIRMENT OF RELIABILITY MAY BE CONSIDERED.

3.0 ADDITIONAL REQUIREMENTS

In support of your claim for a classification based on impairment of reliability, you must submit the following supporting documentation. Place an "X" in the box to indicate that the documentation is attached.

3.1 ☐ A description of the current generating capacity of the electrical region and a list of projected capacity addition by name and number of unit, owners, capacity, fuel type and alternate fuel. Annual contracted net purchases and sales to systems outside the region should also be identified by power level, by buyers and sellers.

3.2 ☐ A description of the interconnection with other utilities including emergency ratings for each connection and an estimate of any additions or delitions to these interconnections.

3.3 ☐ Copies of all contracts concerned with the purchase and construction of the transitional facility, to include the purchaser's design specifications contained in those contracts and a complete description of the transitional facility, if not included as a part of the contracts.

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SCHEDULE 3 - CERTIFIED STATEMENT OF DELIVERY

This schedule must be signed by the Duly Authorized Officer of the firm which manufactured the packaged boiler, Field Erected Boiler, Combustion Turbine or Combined Cycle Unit for the facility for which you are submitting a petition.

1.0 IDENTIFICATION DATA

1.1 What is the name, mailing address, city, state, zip code and facility identification for this facility?

(a) Name _____ (d) Facility Identification

(b) Address _____ _____

(c) City, State
Zip Code _____

1.2 Manufacturing Company Data

(a) Name _____

(b) Address _____

(c) City, State
Zip Code _____

2.0 DELIVERY DATA

2.1 What is the date of delivery of the packaged Boiler or Combustion Turbine Unit (single or combined cycle operation)

Month	Day	Year

2.2 What is the date the field erected boiler's main steam drum was in place?

Month	Day	Year

3.0 CERTIFICATION

I certify that the dates entered above are true and accurate to the best of my knowledge.

Name	Date	Signature
Title		

Title 18 USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

DEPARTMENT OF ENERGY, ECONOMIC REGULATORY ADMINISTRATION, POWERPLANT PETITION FOR EXISTING FACILITY CLASSIFICATION, ERA 300A

I. Authority/Purposes. This petition form is required, pursuant to the provisions of Title 10 of the Code of Federal Regulations, Part 515 and Public Law 95-620 Powerplant and Industrial Fuel Use Act (FUA), to complete a petition to the Economic Regulatory Administration (ERA) for classification as an "existing" facility under the meaning of FUA. The information provided by the petition form will be used by ERA to perform the evaluation for classification as "existing."

II. Who May Submit. Form ERA 300A may be submitted by owners of facilities (units) for which acquisition and construction was commenced between April 20, 1977 and November 9, 1978. These facilities are considered "new" under FUA unless you petition ERA to classify the facility as "existing" under the meaning of FUA, and your petition is granted by ERA. Form ERA 300A is the means by which this petition may be made.

III. To Whom. Submit Form ERA 300A in triplicate (3) to: Department of Energy, Economic Regulatory Administration, ERA Docket—ERA-R-78-21, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

IV. When to Report. The Form ERA 300A must be submitted to ERA no later than 14 days after the effective date of the Final Transitional Facility Regulations.

V. Section 1.0 *Identification Data.*

1.1 Facility Location Data (site): This information pertains to the site where your transitional facility is located.

(a) Enter the Name by which the facility site is identified.

(b) Enter the Street Address of the facility site.

(c) Enter the City, State and County in which the facility site is located and the ZIP Code of the address.

(d) Enter the specific identification of the transitional facility unit. For example boiler #234.

1.2 Operating Company Identification: This information relates to the company which has the actual responsibility for the operation of the transitional facility. Included under the meaning of company is any individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, stock company, or municipal, county, State or Federal entity.

(a) Enter the Complete Name of the company.

(b) Enter the Street Address of the company.

(c) Enter the City and State where the company is located and the ZIP code for the address.

1.3 Parent Company Data: Complete this section only if there is an entity which controls, wholly or partially owns, or is responsible for the operating company.

(a) Enter the Name of the entity.

(b) Enter the Street Address of the entity.

(c) Enter the City and State where the entity is located and the ZIP code of the address.

1.4 Contact Person Identification: This information should relate to someone who can be contacted if there are questions regarding the information contained in this petition.

(a) Enter the Name of the individual.

(b) Enter the Title by which the individual is identified in the company.

(c) Enter the Area Code and the Telephone Number at which the individual can be reached during normal working hours.

1.5 Check the appropriate box that indicates the type of unit for which you are requesting classification.

1.6 (a) Indicate the capacity of the transitional facility in British Thermal Units (BTU's) per hour in millions (input) for boilers and combustion turbines.

(b) Indicate the capacity of the transitional facility in Pounds of Steam per Hour (output) for powerplant boilers.

(c) The capacity of the Powerplant in Megawatts.

1.7 (a) Indicate the Primary Energy Source Used for all purposes except for minimum amounts required for start-up, testing, flame stabilization and control.

(b) Indicate any Alternate Fuel(s) capability the transitional facility may have.

Section 2.0 *Eligibility to petition for an existing facility classification.*

2.1 (a) Purchase Contract Date: Enter here the date that the contract for the purchase of the transitional facility unit was executed. For example, if the date was June 30, 1977, enter 06/30/77.

(b) Construction Contract Date: Enter here the date that the contract for the construction of the transitional facility unit was executed. For example, if the date was August 3, 1977, enter 08/03/77.

2.2 (a) If your transitional facility is a packaged boiler or a combined cycle unit that will utilize a packaged boiler, enter the date the packaged boiler was delivered to the facility site.

(b) If your transitional facility is a field erected boiler, enter the date that the boiler became operational.*

(c) If your transitional facility is a combustion turbine, enter the date the combustion turbine was delivered to the facility site.

(d) If your transitional facility is a combined cycle unit that will utilize a field erected boiler, enter the date that the main steam drum of the boiler was put in place.

Section 4.0 *Classification of consideration.*

Indicate in this section what the basis of your petition to ERA will be. Check the appropriate box(es) to indicate whether you are petitioning for consideration under Substantial Financial Penalty, or Impairment of Reliability. Note that each item has a schedule indicated. For each item checked you must complete the appropriate schedule.

Section 5.0 *Certification.*

(1) If you file a petition under this part, on behalf of a corporation, the duly authorized officer of the corporation shall attest in writing to the accuracy of all information contained in or appended to your petition.

(2) If you are filing a petition under this part on behalf of a wholly-owned subsidiary, then the requirements of Paragraph (1) shall apply to the subsidiary and to the parent corporation as well. (Two signatures required.)

(3) If you are filing on behalf of an entity other than a corporation, the duly authorized officer shall attest in writing to the accuracy of all information contained in or appended to your petition.

*As determined in accordance with this form and the FUA regulations governing transitional facilities.

SCHEDULE I—CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

This Schedule is to be used by Powerplants (Utilities) under the Substantial Financial Penalty classification.

1.0 *Identification data.*

1.1 Facility Name: Enter the name of the facility. This should be the same name that appears in item 1.1(a) on the Petition for Existing Facility Classification form.

1.2 Unit Identification: Enter the specific identification of the transitional unit. This should be the same name that appears in Item 1.1(d) on the Petition for Existing Facility Classification form.

1.3 Operating Company Name: Enter the name of the company that holds the responsibility for the operation of the Transitional Facility (unit). This should be the same name that appears in 1.2(a) of the Petition for Existing Facility Classification.

2. *Expenditures/non-recoverable outlay data.*

You may enter expenditures resulting from project termination, and/or enter expenditures resulting from project redesign.

Items of Cost Column (a) are listed by Accounts as prescribed for Public Utilities in The Federal Power Commission's Uniform Systems of Accounts currently in effect. All expenditures and outlay entered under Column (b) through (i) are restricted only to those items listed under Column (a) and specified by account and section number. (e.g. Boiler Plant Equipment (account 312) (2) Boiler Feed System would include only items as listed in section (2))

2.1-2.11 Enter for each Item of Cost under:

Column (b)—Expenditures as of November 9, 1978.

Expenditures in actual dollars (in thousands) for the project to November 9, 1978.

Column (c) or (d)—Required Future Expenditures:

Amounts in 1978 dollars (in thousands) of additional future expenditures required due to termination or redesign of project bound by legal obligations made prior to November 9, 1978.

Columns (e) or (f)—Recoverable Expenditures:

Amounts in 1978 dollars (in thousands) which are credits against (a) Expenditures to Date of Enactment and (b) Required Future Expenditures. This includes credit for equipment, material and properties which can be salvaged, sold, or reused.

Columns (g) or (h)—Non-Recoverable Outlays:

Amounts in 1978 dollars (in thousands). These numbers equal the difference between the sum of Expenditures to November 9, 1978 and Required Future Expenditures minus Recoverable Expenditures, Columns (b+c)−e=g or (b+d)−f=h.

You should compute (for each column (b) through (i) separately):

1. Total Basic Cost (Item 2.6) by adding Item 2.1 through 2.5.

Total Additional Cost (Item 2.13) by adding Items 2.7 through 2.12.

3. Total Basic Cost Items and Additional Cost Items (Item 2.14) by adding Items 2.6 and 2.13.

4. Total Basic Cost Items and Additional Cost Items (Item 2.14) by adding Items 2.6 and 2.13.

5. Total Recoverable Expenditures (Item 2.15) by adding Items 2.7 through 2.12.

6. Total Non-Recoverable Outlays (Item 2.16) by adding Items 2.1 through 2.5.

7. Total Recoverable Expenditures and Total Non-Recoverable Outlays (Item 2.17) by adding Items 2.15 and 2.16.

8. Total Basic Cost Items and Additional Cost Items (Item 2.14) minus Total Recoverable Expenditures and Total Non-Recoverable Outlays (Item 2.17) by subtracting Item 2.17 from Item 2.14.

3.0 *Certification.*

(1) If you file a petition under this part, on behalf of a corporation, the duly authorized officer of the corporation shall attest in writing to the accuracy of all information contained in or appended to your petition.

(2) If you are filing a petition under this part on behalf of a wholly-owned subsidiary, then the requirements of Paragraph (1) shall apply to the subsidiary and to the parent corporation as well. (Two signatures required.)

(3) If you are filing on behalf of an entity other than a corporation, the duly authorized officer shall attest in writing to the accuracy of all information contained in or appended to your petition.

SCHEDULE II—CLAIM BASED ON IMPAIRMENT OF RELIABILITY

This Schedule is to be used by Powerplants (Utilities) under the Impairment of Reliability classification.

1.0 *Identification data.*

1.1 Facility Name: Enter the name of the facility. This should be the same name that appears in item 1.1(a) on the Petition for Existing Facility Classification form.

1.2 Unit Identification: Enter the specific identification of the transitional unit. This should be the same name that appears in Item 1.1(d) on the Petition for Existing Facility Classification form.

1.3 Operating Company Name: Enter the name of the company that holds the responsibility for the operation of the Transitional Facility (unit). This should be the same name that appears in 1.2(a) of the Petition for Existing Facility Classification.

2. *Expenditures/non-recoverable outlay data.*

You may enter expenditures resulting from project termination, and/or enter expenditures resulting from project redesign.

Items of Cost Column (a) are listed by Accounts as prescribed for Public Utilities in The Federal Power Commission's Uniform Systems of Accounts currently in effect. All expenditures and outlay entered under Column (b) through (i) are restricted only to those items listed under Column (a) and specified by account and section number. (e.g. Boiler Plant Equipment (account 312) (2) Boiler Feed System would include only items as listed in section (2))

2.1-2.11 Enter for each Item of Cost under:

Column (b)—Expenditures as of November 9, 1978.

Expenditures in actual dollars (in thousands) for the project to November 9, 1978.

Column (c) or (d)—Required Future Expenditures:

Amounts in 1978 dollars (in thousands) of additional future expenditures required due to termination or redesign of project bound by legal obligations made prior to November 9, 1978.

Columns (e) or (f)—Recoverable Expenditures:

Amounts in 1978 dollars (in thousands) which are credits against (a) Expenditures to Date of Enactment and (b) Required Future Expenditures. This includes credit for equipment, material and properties which can be salvaged, sold, or reused.

Columns (g) or (h)—Non-Recoverable Outlays:

Amounts in 1978 dollars (in thousands). These numbers equal the difference between the sum of Expenditures to November 9, 1978 and Required Future Expenditures minus Recoverable Expenditures, Columns (b+c)−e=g or (b+d)−f=h.

You should compute (for each column (b) through (i) separately):

1. Total Basic Cost (Item 2.6) by adding Item 2.1 through 2.5.

Total Additional Cost (Item 2.13) by adding Items 2.7 through 2.12.

3. Total Basic Cost Items and Additional Cost Items (Item 2.14) by adding Items 2.6 and 2.13.

[6450-01-C]

4. Total Basic Cost Items and Additional Cost Items (Item 2.14) by adding Items 2.6 and 2.13.

5. Total Recoverable Expenditures (Item 2.15) by adding Items 2.7 through 2.12.

6. Total Non-Recoverable Outlays (Item 2.16) by adding Items 2.1 through 2.5.

7. Total Recoverable Expenditures and Total Non-Recoverable Outlays (Item 2.17) by adding Items 2.15 and 2.16.

8. Total Basic Cost Items and Additional Cost Items (Item 2.14) minus Total Recoverable Expenditures and Total Non-Recoverable Outlays (Item 2.17) by subtracting Item 2.17 from Item 2.14.

3.0 *Certification.*

(1) If you file a petition under this part, on behalf of a corporation, the duly authorized officer of the corporation shall attest in writing to the accuracy of all information contained in or appended to your petition.

(2) If you are filing a petition under this part on behalf of a wholly-owned subsidiary, then the requirements of Paragraph (1) shall apply to the subsidiary and to the parent corporation as well. (Two signatures required.)

(3) If you are filing on behalf of an entity other than a corporation, the duly authorized officer shall attest in writing to the accuracy of all information contained in or appended to your petition.

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SCHEDULE 2—CLAIM BASED ON IMPAIRMENT OF ELECTRIC RELIABILITY

This schedule can be completed only if your transitional facility is an electric powerplant which produces electric power for purposes of sale or exchange and you are basing your claim for classification as an existing facility on an impairment of reliability.

Section 1.0 *Identification data.*

1.1 Enter the Name of the facility: This should be the same name that was entered in item 1.1(a) on the Petition for Existing Facility Classification form.

1.2 Name of Operating Company: Enter the name of the company that has operational responsibility for the transitional facility unit. The name entered here should be the same as was entered in 1.2(a) on the Petition for Existing Facility Classification.

1.3 Name of Electric Region: Enter here the Name of the electric region that the transitional facility powerplant is located in. (Note a complete listing of the Electric Regions is provided in the appendix to the definition section of this petition form.)

Section 2.0 *Reliability considerations.*

(a) Total Electric Region Capacity: Enter the total capacity of the electric region of which the transitional facility powerplant is a part. Do not include the capacity of your transitional facility powerplant. Express this answer in whole megawatts and enter the total for the correct year and for each year during the period of delay, which starts with the original operational date for your transitional facility unit and ends with the estimated operational date of the comparable alternate fuel fired unit.

[6450-01-C]

Draft 11/24/78

ERA-300B

U.S. DEPARTMENT OF ENERGY
Washington, D.C. 20461

MAJOR FUEL BURNING INSTALLATION PETITION FOR EXISTING FACILITY CLASSIFICATION

No petition may be approved unless a completed ERA-300B is received no later than 14 days following the effective date of the final Transitional Facility Regulations.

A separate form must be submitted for each combustion turbine, combined cycle unit, package boiler or field erected boiler for which you are seeking a classification.

1.0 IDENTIFICATION INFORMATION

What is the name, mailing address, city, state and zip code for the Facility, the Operating Company, and the Parent Company, if applicable?

1.1 Facility Data (Site) — DOE USE ONLY
(a) Name
(b) Address
(c) City, State Zip Code
(d) County
(e) Unit Identification

1.2 Operating Company — DOE USE ONLY
(a) Name
(b) Address
(c) City, State Zip Code

1.3 Parent Company (Complete if applicable) — DOE USE ONLY
(a) Name
(b) Address
(c) City, State Zip Code

1.4 Enter the name of the person in your company to whom questions regarding this petition may be directed:
(a) Name
(b) Title
(c) Telephone, Including Area Code

2.0 FACILITY OPERATIONAL INFORMATION

2.1 What is the designed capacity of your Transitional Facility (unit)?
(a) _____ MMBTU's/Hour Heat Input (b) If the unit is a boiler: _____ Pounds of Steam/Hour Output

2.2 If your transitional facility (unit) is operational, enter the date the unit became operational
[ ][ ][ ] (Month, Day, Year)

2.3 If your transitional facility (unit) is a Major Fuel Burning Installation that has 150 Million British thermal units per hour heat input design capacity or less, and the unit was operational on or before April 20, 1978, you need not complete the remainder of this petition. Proceed directly to 7.0.

3.0 FACILITY INFORMATION

3.1 What is the name and Standard Industrial Classification Code for the primary end product(s) manufactured utilizing the energy output of the transitional facility unit? If the SIC is unknown, enter the product only and DOE will enter the SIC.

	(a)	(b)	(c)	(d)
1. Name of Product				
2. Four Digit SIC				

3.2 For what type of facility are you seeking a classification? (Check One)
(a) ☐ Package Boiler (b) ☐ Field Erected Boiler (c) ☐ Combustion Turbine (d) ☐ Combined Cycle Unit

3.3 What is the Primary Energy Source and the Alternate Fuel Capability for this Facility?
(a) _____ Primary Energy Source (b) _____ Alternate Fuel Capability

4.0 ELIGIBILITY TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION

4.1 Construction/Purchase Dates (Month, Day, Year)	4.2 Facility Dates (Month, Day, Year)
(a) What is the date the purchase contract for the Transitional Facility was executed?	(a) Enter the date the packaged boiler was delivered to site.
	(b) Enter the date the main steam drum was formed
(b) What is the date the construction contract for the Transitional Facility was executed?	(c) Enter the date the combustion turbine was delivered to the site.

4.3 Eligibility
You are eligible to petition for an Existing Facility Classification and may complete the remainder of this petition only if:
(a) Either date entered in 4.1 was on or after April 20, 1977 and the date entered in 4.2 was on or before November 9, 1978. OR (b) Either date entered in 4.1 was prior to April 20, 1977 and the date entered in 4.2 is after April 20, 1977.

IF YOU DO NOT MEET THESE REQUIREMENTS, YOU ARE INELIGIBLE TO PETITION FOR AN EXISTING FACILITY CLASSIFICATION.

5.0 SUPPORTING DOCUMENTATION

In support of your petition, you must complete and attach Schedule 3, Certified Statement of Delivery.

6.0 CLASSIFICATION OF CONSIDERATION

Check the appropriate box(es) to indicate the basis for consideration of your petition and submit the schedule(s) indicated.
(a) ☐ MFBI Petition Under Substantial Financial Penalty (Schedule 1)
(b) ☐ MFBI Petition for Significant Operational Detriment Under Substantial Mitigating Circumstances (Schedule 2)
(c) ☐ MFBI Petitioning for Significant Operational Detriment Under Load Shifting Criteria (Schedule 2)

7.0 CERTIFICATION

I certify that the information contained herein and appended hereto is true and accurate to the best of my knowledge.

Name	Title	Date	Signature

Title 18, USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

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ERA-300B

SCHEDULE 1 - CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

Complete this schedule only if your facility meets the Eligibility Requirements and is an Major Fuel Burning Installation Applying Under a Substantial Financial Penalty

1.0 IDENTIFICATION DATA

1.1 What is the name of the Facility (Site)? _____ 1.2 What is the Unit Identification? _____

1.3 What is the name of the Operating Company? _____

2.0 EXPENDITURES/NON-RECOVERABLE OUTLAY DATA

Enter the expenditures incurred for each of the items listed in (a) below, assuming (1) that the Transitional Facility (Un is terminated and (2) that the Transitional Facility (Unit) is redesigned. Do not include costs associated with land, labo engineering, contingency, facilities and site construction. (Report all costs in Thousands of Dollars)

Item of Cost (a)	Expenditures To 11/9/78 (b)	Required Future Expenditures As of 11/9/78		Recoverable Expenditures		Non-Recoverable Outlays		Estimated Exp For a Compara Sized Coal Fi Unit (i)
		Terminated (c)	Redesigned (d)	Terminated (e)	Redesigned (f)	Terminated (g)	Redesigned (h)	
	(Actual $)	(1978 Dollars)						
2.1 Boiler								
2.2 Combustion Turbine								
2.3 Steam Turbine								
2.4 Air Pollution Equip.								
2.5 Fuel Handling Equip. (Coal)								
(1) Coal Tower								
(2) Thawing Shed								
(3) Car Dumper								
(4) Conveyor(s)								
(5) Front End Loader(s)								
(6) Breaker								
(7) Coal Hopper, Silo, Bunker								
(8) Coal Feeders								
(9) Coal Seales								
(10) Pulverizers or Ball Mills								
(11) Primary Air System								
2.6 Fuel Handling Equip. (Oil)								
(1) Oil Storage Tanks								
(2) Heaters								
(3) Pumps								
(4) Control Valves								
2.7 TOTAL BASIC COST ITEMS								
2.8 Boiler House								
2.9 Other Buildings								
2.10 Stack								
2.11 Ash Handling Equipment								
2.12 Sludge Disposal Equipment								
2.13 Ponding								
2.14 Substation Power Generation								
2.15 Rail Spur or Barge								
2.16 Controls								
2.17 TOTAL ADDITIONAL COST ITEMS								
2.18 TOTAL BASIC COST ITEMS & ADDITIONAL COST ITEMS								

Additional Cost Items

3.0 COMPARISON COMPUTATION

3.1 Enter the amount shown in 2.7(i) _____

3.2 Multiply this amount by 25% x .25

3.3 Enter the product _____

4.0 PETITION CONSIDERATION

4.1 If the amount entered in 2.7 (g) or (h) is equal to or greater than the amount entered in 3.3, ERA will consider your request for a classification as an Existing Facility based on Substantial Financial Penalty.

4.2 If the amounts entered in 2.7 (g) and (h) are both less than the amount entered in 3.3, ERA will not consider your reques for a classification as an Existing Facility based on Substantial Financial Penalty.

5.0 SUPPORTING DOCUMENTATION

You must submit the following documents in support of your request for a classification based on Substantial Financial Penalty. Enter an "X" in the boxes provided to indicated that the documents are attached.

5.1 ☐ Copies of the sections of the Engineering design plan and copies of environmental analyses or their summaries which describes in detail, the design specifications, the construction schedule and the estimated engineering and contingencies of the transitional facility.

5.2 ☐ Copies of the contracts concerned with the Purchase and and construction of the Transitional Facility (Unit).

5.3 ☐ An analysis of all capital expenditures for engineering, construction material and contingencies. Itemize in detail all project pahses by percentage completed and expenditures or obligated expenditures as of November 9, 1978. (All capital expenditures to November 9, 1978 should be reported in actual dollars and should include date expended.)

5.4 ☐ An analysis of all non-recoverable capital outlays that would result from termination, modification or rescheduling of your transitional facility construction project. Itemize in deta all non-recoverable outlays in 1978 dollars and all credits for equipment reused, any expenditu required for additional equipment or labor for modifying the transitional facility for an alte nate fuel burning capability. Include signific sections contracts or legal obligations concern with the termination and cancellation of contra A separate analysis should be submitted for (1) the termination of the facility constructio and (2) the redirection for alternate fuel burn and their impact upon the rate base.

ERA-300 B

Draft 11/24/78

SCHEDULE 2 - Claim Based on Significant Operational Detriment

Complete Schedule 2 only if your are a Major Fuel Burning Installation basing your claim for an Existing Facility Classification on a Significant Operational Detriment

1.0 IDENTIFICATION DATA

1.1 What is the Name of the Facility _____

1.2 What is the Unit Identification? _____

1.3 What is the name of the Operating Company? _____

1.4 What was the status of the Facility (Unit) on 11/9/78?

(a) ☐ Operational. Complete 2.0 and/or 5.0 below (b) ☐ Not Operational Complete 3.0 below

1.5 If the Facility is Operational, enter the date it became operational

Month	Day	Year

2.0 LOAD SHIFTING CRITERIA

Enter pounds of steam per hour output for boilers or BTU's per hour for combustion turbines. Do not include unscheduled downtime which was not maintenance on boiler inspection during which the facility was operational

	Pounds of Steam Per Hour (a)	BTU's Per Hour (b)
2.1 What is the expected operations out/input of the Transitional Facility?		
2.2 What was the average total output/input of all other existing operational units at the site which produced the same form or energy output as the Transitional Facility for the 12-month period ending 12/31/78?		
2.3 What is the total design output/input capacity of all other existing units at the site which produce the same form of energy output as the Transitional Facility?		

3.0 COMPUTATION OF SIGNIFICANT OPERATIONAL DETRIMENT CLASSIFICATION

3.1 Enter the sum of 2.1 and 2.2 _____

3.2 Compute 95 % of this sum x .95

3.3 Enter the product _____

4.0 PETITION CONSIDERATION

If the entry on line 3.3 is greater than the entry on line 2.3, ERA will consider your claim based on Substantial Operational Detriment

5.0 SUBSTANTIAL MITIGATING CIRCUMSTANCES

If there are substantial mitigating circumstances that will cause a significant operational detriment, should your facility not be classified as an existing facility, you may file under this section if you are an MFBI. Mitigating circumstances may be based on, but are not limited to following examples:

5.1 Status of construction and anticipated start up date.

5.2 Anticipated annual capacity utilization factor, as well as seasonal or other variations in use.

5.3 Potential impact on the loss of production which could not be rescheduled elsewhere.

5.4 Potential adverse impact on employment, which would include the number and types of jobs lost, the duration of unemployment and whether such jobs could be absorbed elsewhere within the parent company, if applicable.

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Draft 11/24/78

6.0 SUPPLEMENTAL DOCUMENTATION

If you cannot produce at least 95 percent of the capacity of your Transitional Facility or if you are applying under Mitigating Circumstances, you must submit the following supporting documentation.

6.1 ☐ Copies of contracts concerned with the purchase and construction of your Transitional Facility and a full accounting of the design specifications. The design specifications are to include but are not limited to a steam flow (pressure and temperature), heat balance coal analysis (BTU's/cubic foot/hour), furnace volume (cubic feet), tube spacing and velocity of flue gas (feet/second).

6.2 ☐ A description of the site at which the Transitional Facility is located to include as a minimum the following (a) location of the boiler, turbines, stack, coal yard, ash pond, waste water treatment plant, and 2 a floor plan of all building indicating the location of major items.

6.3 ☐ Worksheet Schedule 2A

6.4 ☐ If applicable, a statement containing any other relevant factors ERA should consider in making a decision on your claim.

Submit the following supplemental documentation only if the facility is not operational (Item 1. 4 (b) is checked.)

6.5 ☐ A Site Construction Status Report to include (a) the date major components were delivered to the site, (b) the date foundation work was completed, (c) the date the building structure work was completed, (d) the date on site component assembly was completed (e) a schedule of milestone leading to completion of facility, (f) the estimated date transitional facility will be placed in service.

6.6 ☐ If the construction of this facility has been completed, provide the operation status of the facility.

6.7 ☐ Provide the planned or actual capacity utilization factor of the unit and the planned or actual hours of operation per year and the annual average volume of each fuel to be used.

--- 11/24/

ERA-300 B

Schedule 2A.- SUPPLEMENTAL DOCUMENTATION FOR PETITION BASED ON LOAD SHIFTING CRITERION OF SIGNIFICANT OPERATIONAL DETRIMENT

1.0 IDENTIFICATION DATA

1.1 What is the Name of the Facility? _____

1.2 What is the Unit Identification? _____

1.3 What is the name of the Operating Company? _____

2.0 FACILITY DATA

	(a) Boiler Design (Lbs of Steam/Hr.)	(b) Capacity Utilization Factor (%)	(c) Boiler Design (Lbs of steam/hr.) multiplied by Capacity Utilization Factor (%)	(d) Boiler Design Pressure (PSIG) & Temp. (Degrees Fahrenheit)	(a) Combustion Turbine Design (BTU/hr. Input)	(f) Combustion Turbine Capacity Utilization Factor (%)	(g) Combustion Turbine Design (BTU/hr. Input) Multiplied by Capacity Utilization Factor (%)	(h) Identification Number	(i) Fuel Used	(j) BTU/lb. or cu. ft. of fuel used	(k) Tons or Gals MCF/yr.
2.1 Transitional Facility											
2.2 Other Operational Units:											
1.											
2.											
3.											
4.											
5.											
6.											
7.											
8.											
9.											
10.											
Total of other operational units (Cols. A, C and/or E, G only)											

DEPARTMENT OF ENERGY ECONOMIC REGULA-

garding the information contained in this

You may petition under substantial miti-

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Draft 11/24/78

ERA-300B

SCHEDULE 3 - CERTIFIED STATEMENT OF DELIVERY

This schedule must be signed by the Duly Authorized Officer of the firm which manufactured the packaged boiler, Field Erected Boiler, Combustion Turbine or Combined Cycle Unit for the facility for which you are submitting a petition.

1.0 IDENTIFICATION DATA

1.1 What is the name, mailing address, city, state,zip code and facility identification for this facility?

(a) Name _____ (d) Facility Identification _____

(b) Address _____

(c) City,State
Zip Code _____

1.2 Manufacturing Company Data

(a) Name _____

(b) Address _____

(c) City, State
Zip Code _____

2.0 DELIVERY DATA

2.1 What is the date of delivery of the packaged Boiler or Combustion Turbine Unit (single or combined cycle operation)

Month	Day	Year

2.2 What is the date the field erected boiler's main steam drum was formed?

Month	Day	Year

3.0 CERTIFICATION

I certify that the dates entered above are true and accurate to the best of my knowledge.

Name	Date	Signature
Title		

Title 18 USC 1001, makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

DEPARTMENT OF ENERGY ECONOMIC REGULATORY ADMINISTRATION MAJOR FUEL BURNING INSTALLATION PETITION FOR EXISITING FACILITY CLASSIFICATION ERA 300B

I. Authority/Purposes. This petition form is required, pursuant to the provisions of Title 10 of the Code of Federal Regulations, Part 515 and Public Law 95-620 Powerplant and Industrial Fuel Use Act (FUA), to complete a petition to the Economic Regulatory Administration (ERA) for classification as an "existing" facility under the meaning of FUA. The information provided by the petition form will be used by ERA to perform the evaluation for classification as "existing."

II. Who May Submit. Form ERA 300B may be submitted by owners of facilities (units) for which acquisition and construction was commenced between April 20, 1977 and November 9, 1978. These facilities are considered "new" under FUA unless you petition ERA to classify the facility as "existing" under the meaning of FUA, and your petition is granted by ERA. Form ERA 300B is the means by which this petition may be made.

III. To Whom. Submit Form ERA 300B in triplicate (3) to:
Department of Energy
Economic Regulatory Administration
ERA Docket—ERA-R-78-21
2000 M Street, N.W., Room 2313, Washington, D.C. 20461

IV. When to Report. The Form ERA 300-B must be submitted to ERA no later than 14 days after the effective date of the final Transitional Facility Regulations.

V. Section 1.0 *Identification data.*

1.1 Facility Location Data (site): This information pertains to the site where your transitional facility is located.

(a) Enter the Name by which the facility site is identified. For example, General Motors Lansing Plant #2

(b) Enter the Street Address of the facility site

(c) Enter the City, State and County in which the facility site is located and the ZIP code of the address

(d) Enter the specific identification of the transitional facility unit. For example, Boiler #234.

1.2 Operating Company Identification: This information relates to the company which has the actual responsibility for the operation of the transitional facility. Included under the meaning of the company is any individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, stock company, or municipal, county, state or Federal entity.

(a) Enter the Complete Name of the company

(b) Enter the Street Address of the company

(c) Enter the City and State where the company is located and the ZIP code for the address

1.3 Parent Company Data: Complete this section only if there is an entity which controls, wholly or partially owns, or is responsible for the operating company

(a) Enter the Name of the entity

(b) Enter the Street Address of the entity

(c) Enter the city and State where the entity is located and the ZIP code of the address.

1.4 Contact Person Identification: This information should relate to someone who can be contacted if there are questions regarding the information contained in this petition.

(a) Enter the Name of the individual.

(b) Enter the Title by which the individual is identified in the company.

(c) Enter the Area Code and Telephone Number at which the individual can be reached during normal working hours.

Section 2.0 *Facility operational information.*

2.1 Enter the design heat input of your transitional facility unit (expressed in millions of BTUs). If your transitional facility unit is a boiler also add the design output capacity of the unit expressed in pounds of steam per hour.

2.2 Enter the date your transitional facility unit became operational.

Section 3.0 *Facility information.*

3.1 Industrial Classification Code: This information pertains to the end products which will be produced using the energy output of the transitional facility unit.

(a), (b), (c), Enter the four digit Standard Industrial Code for the end product(s)

(d) If the Standard Industrial Code is not known, enter the common name of the product(s)

3.2 Check the appropriate box to indicate the type of unit your transitional facility is. For example, if your unit is a packaged boiler, check the box next to "packaged boiler."

3.3 Indicate the Primary Fuel energy source used for all purposes except for minimum amounts required for start-up, testing, flame stabilization and control.

Indicate any Alternate Fuel(s) capability the transitional facility may have.

Section 4.0 *Eligibility to petition for an existing facility classification.*

4.1 (a) Purchase Contract Date: enter here for the Date that the contract for the purchase of the transitional facility unit was executed. For example, if the date was August 3, 1977, enter 08/03/77.

(b) Construction Contract Date: Enter here the Date that the contract for the construction of the transitional facility unit was executed. For example if the date was August 3, 1977, enter 08/03/77.

4.2 (a) If your transitional facility is a packaged boiler or a combined cycle unit that will utilize a packaged boiler, enter the date the packaged boiler was delivered to the facility site.

(b) If your transitional facility is a field erected boiler or a combined cycle unit that will utilize a field erected boiler, enter the date that the main steam drum of the boiler was formed at the boiler factory.

(c) If your transitional facility is a combustion turbine, enter the date the combustion turbine was delivered to the facility site.

Section 6.0 *Classification of Consideration.* Indicate in this section what the basis of your petition to ERA will be. Check the appropriate box(es) to indicate whether you are petitioning for consideration under Substantial Financial Penalty, Significant Operational Detriment. Note that each item has a schedule indicated. For each item checked you must complete the appropriate schedule. To verify that you are eligible to petition under any of these classifications, check the parenthetical numbers listed on the form.

You are not eligible to petition under load shifting unless you were operational on or before November 9, 1978.

You may petition under substantial mitigating circumstances if you are operational or non-operational.

Section 7.0 *Certification.*

(1) if you file a petition under this part, on behalf of a corporation, the duly authorized officer of the Company shall attest in writing to the accuracy of all information contained in or appended to your petition.

(2) If you are filing a petition under this part, on behalf of a wholly-owned subsidiary, then the requirements of Paragraph (1) shall apply to the subsidiary and to the parent corporation as well. (Two signatures required.)

(3) If you are filing on behalf of an entity other than a corporation, the duly authorized officer shall attest in writing to the accuracy of all information contained in or appended to your petition.

SCHEDULE I—CLAIM BASED ON SUBSTANTIAL FINANCIAL PENALTY

This Schedule is to be used by Major Fuel Burning Installations (MFBI) under the Substantial Financial Penalty classification.

1.0 Identification data.

1.1 Facility Name:

(a) Enter the name of the facility. This should be the same name that appears in item 1.1(a) on the Petition for Existing Facility Classification form.

(b) Enter the specific identification of the transitional unit. This should be the same name that appears in Item 1.1(d) on the petition for existing facility Classification form.

1.2 Unit Identification (See Sheet A).

1.3 Operating Company Name: Enter the name of the company that holds the responsibility for the operation of the Transitional Facility (unit). This should be the same name that appears in 1.2(a) of the Petition for Existing Facility Classification.

2.0 Expenditures/non-recoverable outlay data.

You may enter under expenditures resulting from project termination, and/or enter expenditures resulting from project redesign.

2.1-2.16 Enter for each Item of Cost under:

Column (b) Expenditures as of November 9, 1978. Expenditures in actual dollars (in thousands) for the project to November 9, 1978.

Column (c) or (d) Required Future Expenditures: Amounts in 1978 dollar (in thousands) of additional future expenditures required due to termination or redesign of project bound by legal obligations made prior to November 9, 1978.

Column (e) or (f) Recoverable Expenditures: Amounts in 1978 dollars (in thousands) which are credits against (a) Expenditures to Date of Enactment and (b) Required Future Expenditures. This includes credit for equipment, material and properties which can be salvaged, sold, or reused.

Column (g) or (h) Non-Recoverable Outlays: Amounts in 1978 dollars (in thousands). These numbers equal the difference between the sum of Expenditures to November 9, 1978 and Required Future Expenditures minus Recoverable Expenditures, Columns (b+c)−e=g or (b+d)−f=h.

You should compute (for each column (b) Through (i) separately:

1. Total Basic Items (Item 2.7) by adding 2.1 through 2.6.

2. Total Additional Cost (Item 2.17) by adding Items 2.8 through 2.16.

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3. Total Basic Cost Items and Additional Cost Items (Item 2.18) by adding Item 2.7 and 2.17.

INSTRUCTIONS FOA SCHEDULE 2—CLAIM BASED ON SIGNIFICANT OPERATIONAL DETRIMENT

This schedule is to be used by Major Fuel Burning Installations (MFBI) only.

Identification Data

1.1 Facility Location Data (Site): Enter the name of the facility. This should be the same name that was entered in item 1.1(a) on the petition for existing facility classification form.

1.2 Unit Identification: Enter the specific identification of the transitional facility unit. This should be the same as was entered in item 1.1(d) of the petition for existing facility classification form.

1.3 Operating Company Name: Enter the name of the company that holds the responsibility for the operation of the transitional facility unit. The name entered here should be the same as was entered in 1.2(a) of the Petition for Existing Facility Classification.

1.4 Unit Operational Status: Check the operational status of your transitional facility unit as of November 9, 1978. If your unit became operational (see definitions) on or before November 9, 1978, you should check OPERATIONAL. If your unit became operational after November 9, 1978, you should check NOT OPERATIONAL.

2.0 and 3.0 *Significant operational detriment determination.*

This section contains the criteria that will allow you to base your claim for classification as an existing facility on significant operational detriment. There are two criteria. The first is the LOAD SHIFTING CRITERION and the second is the SUBSTANTIAL MITIGATING CIRCUMSTANCES criterion. If your unit was not operational November 9, 1978, you may base your claim only on substantial mitigating circumstances. If your unit was operational November 9, 1978, you may base your claim on one of both of the criteria.

2.1 Load Shifting Criterion:

2.1 Enter item c or item g for transitional facility from the work sheet Schedule 2a. (See definition of Operational)

2.2 Enter the total of Other Operational Units. (columns c and/or g only) from the work sheet Schedule 2a.

2.3 Enter the total of Other Operational Units (columns a and/or e only) from the work sheet Schedule 2a.

2.4(a) Add the pounds of steam per hour output or BTUs per hour input from 2.1 and 2.2 together and enter total.

2.4(c) Multiply the entry in 2.4(a) by .95 and enter the result.

3.0 *Substantial mitigating circumstances criterion.*

Listed in this section are several examples of what might be mitigating circumstances. This list is not all-inclusive and is not intended to limit your petition to only these mitigating circumstances. You may base your claim on whatever mitigating circumstances you feel are appropriate, however, you must be able to demonstrate to ERA that mitigating circumstances will cause significant operational detriment.

INSTRUCTIONS FOR SCHEDULE 2A

Supplemental Documentation for Petition Based on Significant Operational Detriment.

This item must be completed if you are petitioning for consideration based on the load shifing criteria of Significant Operational Detriment.

Begin by completing the line marked "Transitional Facility." reading across the page you must complete the columns that apply to your transitional facility unit. For example if your transitional facility unit is a boiler you would have to complete columns A. B. C. D. H. I. J and K. If your transitional facility unit is a combustion turbine you must complete columns E. F. G. H. I. J and K.

You must than complete one line for each operational unit at the same site as your transitional facility unit that can provide the same energy output as your transitional facility unit. If the unit is a boiler you must enter the appropriate information in columns E. F. G. H. I. J and K.

DEFINITIONS

Unless otherwise expressly provided, for purposes of this form, the term:

"Acquisition" means the physical delivery of a unit to the site and does not include mere transfer of title of ownership.

"Alternate fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes—

(a) coal;

(b) solar energy;

(c) petroleum coke, shale oil, uranium, biomass, and municipal, industrial, or agricultural wastes, wood and renewable and geothermal energy sources;

(d) liquid, solid, or gaseous waste byproducts of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity,

(e) any fuel dervied from an alternate fuel; and

(f) waste gases from industrial operations.

"Btu" means British thermal unit.

"Coal" means anthricite and bitminous and sub-bituminous coal; lignite and any fuel derivative thereof.

"Cogeneration facility" means an electric powerplant or a major fuel burning installation which produces (A) electric power and (B) any other form of useful energy (such as steam, gas or heat) which is, or will be, used for industrial, commerical, or space heating purposes.

"Combined cycle unit" means an electric power generating unit that consists of a combination of one or more combustion gas turbine units and one or more steam turbine units with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit.

"Comparable coal unit" means a coal-fired unit which will provide energy output equal to the output capacity of the transitional facility.

"Conference" means an informal meeting, incident to any proceeding, between DOE and any interested person.

"Construction" means substantial physical on-site construction of an electric powerplant or major fuel burning installation which constitutes more than clearance of a site, provision of access or installation of foundation pilings.

"Design capacity or capability" means, with reference to any boiler, gas turbine unit, combined cycle unit or internal combustion engine subject to the provisions of the Act, the design heat input capacity expressed in millions of BTU's per hour specified by the manufacturer of the subject unit.

"DOE" or "the Department" means the United States Department of Energy, as defined in Sections 201 and 301(a) of the Department of Energy Organization Act, including the Secretary of Energy or his designee.

"Electric Powerplant" and "powerplant" means any stationary electric generating unit, consisting of a boiler, a combustion turbine unit or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(a) has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(b) is in a combination of two or more electric generating units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

"Electric generating unit" does not include—

(a) any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(b) any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale.

"Electric Region" means one of the 29 geographic areas identified in Appendix A at the end of this section.

"Electric utility" means any person, including any affiliate, or Federal agency, who sells electric power.

"ERA" means the Economic Regulatory Administration of the Department of Energy.

"Existing boiler" means any boiler other than a new boiler.

"Facility" means an electric powerplant or major fuel burning installation.

"FERC" means the Federal Energy Regulatory Commission.

"Formation of main stream drum" means when the drum plate has been pressed or rolled, the drum seams welded, and the stubs and nozzles welded o the drum.

"Impairment of reliability" means any delay caused by termination or redirection of the construction of your electric powerplant to provide alternate fuel burning capability during which the overall electric regions reserve margin will be less than 20 percent. The reserve margin percentage is computed by subtracting the normal peak load expected during the delay from the system's total capability, including the additional capacity that will be available through inter-connections, and dividing the result by the projected normal peak load during such delay.

"Intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Internal combustion engine" means a heat engine in which the combustion that generates the heat takes place inside the engine proper.

"Loss of load" means the number of hours per year during which the total demand for

electicity within the region could exceed the available supply of generating capacity to the region.

"Major fuel burning installation," "installation" and "MFBI" mean a stationary unit consisting of a boiler, combustion turbine unit, combined cycle unit, including an internal combustion engine used for generation of electricity, which—

(a)(i) has a design capability of consuming any fuel, or mixture thereof, at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel, or mixture thereof, at a fuel heat input rate of 250 million Btu's per hour or greater.

(b) in determining whether units are at the same site for purposes of defining "new major fuel burning installations," ERA will presume that units within 10 miles of each other are located at the same site.

(c) "Major fuel burning installation," "installation," and "MFBI" do not include—

(i) any electric powerplant; or

(ii) any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only if there is certification to ERA or such use.

"Mcf" means 1,000 cubic feet of natural gas.

Natural gas means any fuel consisting in whole or in part of natural gas; liquid petroleum gas; synthetic gas derived from petroleum or natural gas liquids; or any mixture of natural gas and synthetic gas, except as designated in (1)(iv) below.

(1) Natural gas does not include—

(i) natural gas which is commercially unmarketable either by reason of quality or quantity. Gas is commercially unmarketable when production from the well(s) does not provide adequate revenue to pay the operating expenses of production and distribution.

(ii) natural gas produced by the user from a well acquired by the user prior to July 18, 1977* the maximum efficient rate production rate of which is less than 250 million Btu's per day. For purposes of this subparagraph—

(A) "produced by the user" means that the user must own a working (mineral) interest in the gas being produced from the subject well(s).

(B) "maximum efficient production rate" means that rate at which production may be sustained without damage to the reservoir or the rate which may be sustained without damage to the ultimate recovery of gas through the well.

(iii) synthetic gas, derived from an alternate fuel which is not mixed with natural gas; or

(iv) natural gas for which the person proposing to use the gas certifies to ERA that:

(A) such person owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal or another alternate fuel;

(B) the Btu content of such synthetic gas is equal to or greater than the Btu content of the natural gas to be converted by this subsection by reason of such certification, plus the approximate Btu content of any natural gas consumed or lost in transportation;

(C) such person delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person; and

(D) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purpose of the prohibition under Section 201(2) of the Act against powerplants being constructed without the capability of using coal or the construction of such synthetic gas facilities shall be required under this subparagraph to be certified and documented.

"New electric powerplant" means a stationary unit consisting of a boiler, gas turbine unit or combined cycle unit which—

(a)(i) has a design capacity of consuming any fuel (or mixture thereof) of a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) has in combination with all other units at the same site, whether new or existing, an aggregate design capability of consuming any fuel (or mixture thereof) at a fuel heat rate input rate of 250 million Btu's an hour or greater. For purposes of this clause, there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 50 million Btu's per hour, and

(b) which (i) was not operational as of April 20, 1977; (ii) which since April 20, 1977, has been reconstructed or refurbished or added to, to the extent that the cost of such reconstruction, refurbishment, or addition equals or exceeds 50 percent of the price of a replacement unit, or (iii) has been moved from one site to another since (the date of enactment);

(c) the term "new electric powerplant" does not include any unit deemed existing under Part 2515 of this Title.

"New major fuel burning installation" means a stationary unit consisting of a boiler, combustion turbine unit, combined cycle unit, or internal combustion engine including and internal combustion engine used for the generation of electricity which—

(a)(i) has a design capacity of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or (ii) has in combination with all other units at the same site, whether new or existing, an aggregate design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's an hour or greater. For purposes of this clause, there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 50 million Btu's per hour; and

(b)(1) which was not operational as of April 20, 1977; or (ii) which since April 20, 1977, has been reconstructed or refurbished or added to, to the extent that the cost of such reconstruction refurbishment, or addition equals or exceeds 50 percent (iii) has been moved from one site to another since November 9, 1978.

(c) the term "new major fuel burning installation" does not include any unit deemed existing under Part 2515 of this Title.

"Non-boiler" means any stationary unit which is not a boiler and which consists of either a combustion turbine unit, combined cycle unit or internal combustion engine.

For the purposes of this Act, non-boilers includes any stationary internal combustion electric generating unit.

Petroleum means crude oil and products delivered from crude oil, other than—

(1) synthetic gas derived from crude oil and its derivatives;

(2) liquid petroleum gas;

(3) petroleum coke or waste gases from non-refinery industrial operations; and

(4) liquid, solid, or gaseous byproducts of refinery operations which are commercially unmarketable by reason of—

(i) quality, where the byproducts, including components such as butane and propane which can be extracted from the byproducts, could not—

(A) reasonably be expected to be used in non-refinery operations; and

(B) be produced and distributed at a price which would provide adequate revenue to pay the operating expenses of this production and distribution; or

(ii) quantity, where—

(A) insufficient or sporadic quantities of the byproduct, including components such as butane and propane which can be extracted from the byproducts, are produced to maintain an adequate and reliable supply to a potential user; and

(B) no dependable market exists for these byproducts, or components of the byproducts, which can support a price which will provide adequate revenue to pay the operating expenses of the production and distribution of the byproduct or its components.

"Primary energy source" means that the fuel or fuels used for normal operation by any existing or new electric powerplant or major fuel burning installation, except

(a) minimum amounts of fuel required for unit ignition startup, testing, flame stabilization and control uses, and

(b) minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting health, safety or welfare which would result from electric power outages.

"Proceeding" means a process and activity, and any part thereof, instituted by DOE, either on its own initiative or in response to an application, complaint, petition or request submitted by the owner or operator of a powerplant, major fuel burning installation, or any other person that may lead to an action by DOE.

"Recoverable outlays" are those expenditures you have made or will be required to make, as of the date of enactment, for your transitional facility, for equipment and facilities which can be sold or salvaged, or could be used in the construction or operation of an alternate fuel facility. The following are examples of some of the items that could be recoverable outlays: land and land rights, powerplant building, steam turbine, steam turbine control equipment, transformers and switchyard, electrical, and other structural parts and materials.

"Synthetic fuel" means any synthetic fuel derived from an alternate fuel and does not include synthetic fuels derived from petroleum or natural gas.

"Transitional Facility unit" means a powerplant or major fuel burning installation on which substantial construction or

* Drafter's Note: July 18, 1977, is the date which the House of Representatives passed the provision introducing the maximum efficient production rate of 250 million Btu's/day into the proposed legislation.

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acquisition began between April 20, 1977, and November 9, 1978, the date of enactment of the Powerplant and Industrial Fuels Use Act (FUA).

"Turbine or combustion turbine" means an electric power generating unit that is a combination of a rotary engine driven by gas under pressure that is created by the combustion of any fuel, with an electric power generator driven by the engine.

[FR Doc. 78-33669 Filed 12-1-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket Nos. CS78-747, et al.]

APPLICATIONS FOR "SMALL PRODUCER" CERTIFICATES [1]

NOVEMBER 21, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary

Docket No.	Date filed	Applicant
CS78-747	9/12/78	Jerry L. Hopper, P.O. Drawer 2086, Midland, Tex. 79702.
CS78-748	9/11/78	Robert V. Skinner, Box 743, Spearman, Tex. 79081.
CS78-749	9/11/78	Woolsey Petroleum Corp., 300 West Douglas, Suite 400, Wichita, Kans. 67202.
CS78-750	9/12/78	Arthur T. Stieren, D-101 Petroleum Center, San Antonio, Tex. 78209.
CS78-751	9/12/78	Jelliffe Oil Co., 901 N.E. Loop 410, Suite 634, San Antonio, Tex. 78209.
CS78-752	9/12/78	RAM Oil Co., P.O. Box 118, Browns, Ill. 62818.
CS78-753	9/14/78	OFT Exploration, Inc., One Post Street, Suite 3330, San Francisco, Calif. 94104.
CS78-754	9/12/78	Cub F. Dillard, Jr., P.O. Box 8848, Fort Worth, Tex. 76112
CS78-755	9/12/78	Woodruff Land & Mineral Trust, Howard L. Woodruff, Trustee, P.O. Box 1563, Ardmore, Okla. 73401.
CS78-756	9/15/78	Adele Frost, 1802 NBC Building, San Antonio, Tex. 78205.
CS78-757	9/15/78	Pacific Century Resources, Inc., 1200 American Natl. Bank Bldg., Denver, Colo. 80202.
CS78-758	9/18/78	Delta Energy Resources, Inc., 3002 Country Club Road, Lake Charles, La. 70605.
CS78-759	9/18/78	Nueve Operating Co. of Texas, 401 First State Bank Building, Abilene, Tex 79602.
CS78-760	9/18/78	Herndon Drilling Co., P.O. Box 489, Tulsa, Okla. 74101.
CS78-761	9/18/78	Esenjay Petroleum Corp., Suite 750, Bank & Trust Tower, Corpus Christi, Tex. 78477.
CS78-762	9/15/78	Centennial Oil Co., 1015 Midland Savings Building, Denver, Colo. 80202.
CS78-763	9/18/78	Sevarg Company, Inc., P.O. Box 51569, Lafayette, La. 70505.
CS78-764	9/19/78	Kelton Estate, P.O. Box 230, Pensacola, Fla. 32591.
CS78-765	9/19/78	Charles A. Meisner, P.O. Box 1467, Gainesville, Fla. 32602.
CS78-766	9/19/78	Billy D. Campbell, P.O. Box 254, Purvis, Miss. 39475.
CS78-767	9/19/78	Marty L. Meisner, 1028 N.W. 91st Terrace, Gainesville, Fla. 32601.
CS78-768	9/19/78	Todd O. Meisner, 1028 N.W. 91st Terrace, Gainesville, Fla. 32601.
CS78-769	9/19/78	Mark A. Meisner, 1028 N.W. 91st Terrace, Gainesville, Fla. 32601
CS78-770	9/19/78	Wesley R. Gates, P.O. Box 1467, Gainesville, Fla. 32602
CS78-771	9/19/78	Robert M. Gates, 2025 N.W. 27th Street, Gainesville, Fla. 32605.
CS78-772	9/19/78	Richard D. Gates, 2025 N.W. 27th Street, Gainesville, Fla. 32605.
CS78-773	9/19/78	Janet L. Gates, 2025 N.W. 27th Street, Gainsville, Fla. 32605
CS78-774	9/19/78	Thomas W. Gates, 6231 S.W. 36th Way, Gainesville, Fla. 32601.
CS78-775	9/19/78	Joe Perry Williams, 2327 Twin Lakes Circle, Jackson, Miss. 39211.
CS78-776	9/19/78	Wayne R. Davis, 4127 N.W. 27th Lane Gainesville, Fla. 32601.
CS78-777	9/19/78	James L. Cannon, 4127 Northwest 27th Lane, Gainesville, Fla. 32601.
CS78-778	9/19/78	Mrs. Edythe D. Hansen, 4127 Northwest 27th Lane, Gainesville, Fla. 32601.
CS78-779	9/19/78	Selby F. Barnes, P.O. Box 12348, Jackson, Miss. 39211.
CS78-780	9/19/78	Mr. and Mrs. Charles Nelson, 3611 Woodmont Blvd., Nashville, Tenn. 37215.
CS78-781	9/19/78	William P. Browning III, 1403 Standard Life Building, Jackson, Miss. 39201.
CS78-782	9/19/78	Stephen C. Greer, 1403 Standard Life Building, Jackson, Miss. 39201.
CS78-783	9/19/78	Paul L. Wells, Jr., P.O. Box 4604, Jackson, Miss. 39216.
CS78-784	9/19/78	James R. Nickles, P.O. Box 4604, Jackson, Miss. 39216.
CS78-785	9/19/78	J. R. Pounds, P.O. Box 991, Laurel, Miss. 39440.
CS78-786	9/19/78	Mrs. Bill F. Voorhis, P.O. 590, Raymond, Miss. 39154.
CS78-787	9/19/78	A. W. Greer, 1403 Standard Life Building, Jackson, Miss. 39201.
CS78-788	9/20/78	Elf Aquitaine, Inc., 950 Threadneedle, Suite 200, Houston, Tex. 77079.
CS78-789	9/20/78	Tomlinson Interests, Inc., 925 Houston Natural Gas Bldg., Houston, Tex. 77002.
CS78-790	9/21/78	Vernon R. Drwenski, 2501 S. Mckinley, Casper, Wyo. 82601
CS78-791	9/21/78	NORBOC, Inc., P.O. Box 367, Coushatta, La. 71019.
CS78-792	9/22/78	Simpson-Mann Oil Producers, P.O. Box 1432, San Angelo, Tex. 76902.
CS78-793	9/22/78	Big Apple Oil & Gas Association, J & E Drilling & Development-Agent-General Partner, P.O. Box 5003, Trenton, N.J. 08638.
CS78-794	9/20/78	Chas. A. & Irene F. Burgett, 569 S. 89th E. Avenue, Okla. 74112.
CS78-795	9/25/78	Deep Reef Industries, 322 Amarillo Building, Amarillo, Tex. 79101.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS78-796	9/22/78	Dernick, Land & Company, a managing entity for 45 individuals and companies, 9225 Katy Freeway, Suite 112, Houston, Tex. 77024.
CS78-797	9/25/78	Murjo Oil & Royalty Co., 2525 Ridgmar Blvd., P.O. Box 12666, Fort Worth, Tex. 76116.
CS78-798	9/25/78	Samuel Butler, Jr., Trustee-Operator, 3100-1660 Lincoln Street, Denver, Colo. 80202.
CS78-799	9/25/78	S & S Production Co. Inc., P.O. Box 380, Pampa, Tex. 79065.
CS78-800	9/25/78	Fourth National Bank of Tulsa, Trustee for Patti Stebbins Wilson, Fourth National Bank, P.O. Box 2360, Tulsa, Okla. 74101.
CS78-801	9/25/78	Northern Oil and Gas, Inc., 4222 Harry Hines Blvd., Dallas, Tex. 75219.
CS78-802	9/25/78	W. R. Edwards, Jr., 4222 Harry Hines Blvd., Dallas, Tex. 75219.
CS78-803	9/26/78	Fay C. Wood, 2406 Sherwood Drive, Enid, Okla. 73701.
CS78-804	9/26/78	Larkin O'Hern, 653 Fair Foundation Building, Tyler, Tex. 75702.
CS78-805	9/26/78	William G. Mitsch, Jr. and/or Ann Johnson Mitsch, 2525 Ridgmar Blvd., P.O. Box 12666, Fort Worth, Tex. 76116.
CS78-806	9/26/78	C. Daniel Walker, 6729 Branta Lane, Fort Worth, Tex. 76116.
CS78-807	9/26/78	N. R. Price, P.O. Box 85, Smackover, Ariz. 71762.
CS78-808	9/22/78	Flournoy Production Co., P.O. Box 751, Corpus Christi, Tex. 78403.
CS78-809	9/25/78	Glenn Cope, P.O. Box 1405, Midland, Tex.
CS78-810	9/25/78	Albert R. Greer, 221 Petroleum Center Building, Farmington, N. Mex. 87401.
CS78-811	9/26/78	David M. Munson, 1800 First Natl. Bank Building, Dallas, Tex. 75202.
CS78-812	9/26/78	David M. Munson, Inc., 1800 First Natl. Bank Building, Dallas, Tex. 75202.
CS78-813	9/26/78	Spicknall Enterprises, 8 Lancer Court, Florissant, Mo. 63033.
CS78-814	9/27/78	J. B. Appling, (Operator), et al., 1005 First Natl. Bank Building, P.O. Box 82, Midland, Tex. 79702.
CS78-815	9/28/78	Intercity Management Corp., 1622 Guaranty Bank Plaza, Corpus Christi, Tex. 78475.
CS78-816	9/28/78	Indiana Farm Bureau Cooperative Association, Inc., 120 East Market Street, Indianapolis, Ind. 46204.
CS78-817	9/28/78	Lucien Flournoy, P.O. Box 751, Corpus Christi, Tex. 78403.
CS78-818	9/29/78	Kleiner Oil, 13128 Trail Hollow, Houston, Tex. 77079.
CS78-819	9/29/78	East Kentucky Minerals, Inc. and/or Wm. B. Sturgill, Suite 6-J, Citizens Bank Square, Lexington, Ky. 40507.
CS78-820	8/23/78	M. Dale Adkins, P.O. Box 5557, Huntington, W. Va. 25703.
CS79-1	10/2/78	XTRA Gas Co,. 310 Court Street, P.O. Box 555, Hamlin, W. Va. 25523.
CS79-2	10/2/78	Intercontinental Petroleum Exploration & Development, Inc., Suite 2000, 600 Jefferson, Houston, Tex. 77002.
CS79-3	10/2/78	Joaquin Oil Co. Inc., P.O. Box 2147, Jackson, Miss. 39205.
CS79-4	10/5/78	Hugh Corrigan IV, 5520 Drane Drive, Dallas, Tex. 75209.
CS79-5	10/6/78	Herbert W. Owen, 312 Beck Building, Shreveport, La. 71101.
CS79-6	10/6/78	J. Harper Cox, Jr., 312 Beck Building, Shreveport, La. 71101.
CS79-7	10/6/78	M. H. Sneed, 312 Beck Building, Shreveport, La. 71101.
CS79-8	10/6/78	Jamar Exploration, Inc., 710 Fisk Building, Amarillo, Tex. 79101.
CS79-9	10/5/78	McGinness Oil Co., 920 Woodrow, Wichita, Kans. 67203.
CS79-10	10/10/78	Falcon Energy, Inc., P.O. Box 400616, Dallas, Tex. 75240.
CS79-11	10/10/78	WHB Exploration, Inc., P.O. Box 103, Shreveport, La. 71161.
CS79-12	10/10/78	Carl W. Swan, 1100 Oil Center Building, 2601 N.W. Expressway, Oklahoma City, Okla. 73112.
CS79-13	10/10/78	Pipeline Energy Exploration, Inc., 800 W. Airport Fwy.—Box No. 6097, Irving, Tex. 75062.
CS79-14	10/10/78	Broughton Oil Co., 505 Cravens Building, Oklahoma City, Okla. 73102.
CS79-15	10/10/78	Ada Oil Exploration Corp., P.O. Box 844, Houston, Tex. 77001.
CS79-16	10/10/78	Louis A. Beecherl, Jr., 2750 Bryan Tower, Dallas, Tex. 75201.
CS79-17	10/10/78	Realtos Energy Corp., 5701 Woodway, Suite 300, Houston, Tex. 77057.
CS79-18	10/10/78	William S. Gripman, 15656 E. Grand Avenue, Aurora, Colo. 80015.
CS79-19	10/10/78	Estate of Herbert E. Hartfelder, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Tex. 75283.
CS79-20	10/12/78	Sagadahoc Oil & Gas Corp., 1944 University Avenue, Palo Alto, Calif. 94303.
CS79-21	10/12/78	Dee Jay Co., 5295 Galaxie Drive, Jackson, Miss. 39206.
CS79-22	10/12/78	Roland Kletke, Rural Route, Alva, Okla. 73717.
CS79-23	10/13/78	G. W. Deck, Jr., 4000 One Williams Center, Tulsa, Okla. 74103.
CS79-24	10/13/78	James M. Watson, 830 Beck Building, Shreveport, La. 71101.
CS79-25	10/13/78	St. Martin Land Co., P.O. Box 519, Hammond, La. 70404.
CS79-26	10/13/78	Inexco Development Co., 1100 Milam Building, Suite 1900, Houston, Tex. 77002.
CS79-27	10/16/78	P. Edward Corrigan, P.O. Box 76, Midland, Tex. 79702.
CS79-28	10/16/78	Hugh Corrigan III, P.O. Box 3388, Vero Beach, Fla. 32960.
CS79-29	10/16/78	Cooper & Lucier, Inc., 18552 MacArthur Blvd., Ste. 201, Irvine, Calif. 92715.
CS79-30	10/18/78	Matthew J. and Claire P. Stacom, 630 Lake Avenue, Greenwich, Conn. 06830.
CS79-31	10/19/78	Time Oil & Gas Co., P.O. Box 5008, Wichita Falls, Tex. 76307.
CS79-32	10/19/78	Engelman-General, Inc., P.O. Box 5008, Wichita Falls, Tex. 76307.
CS79-33	10/19/78	Hexad Oil Co.—1977B, 200 City Natl. Bank Building, Wichita Falls, Tex. 76301.
CS79-34	10/19/78	J. J. Hudson, Box 67, Cotton Valley, La. 71018.
CS79-35	10/23/78	RKH, LTD., P.O. Box 1552, Midland, Tex. 79702.
CS79-36	10/23/78	Steve Jernigan, 2601 N.W. Expressway, Suite 501, Oklahoma City, Okla. 73112.
CS79-37	10/23/78	George N. Hartman, P.O. Box 1452, Midland, Tex. 79701.
CS79-38	10/23/78	Alvareen O. Hartman, P.O. Box 1452, Midland, Tex. 79701.
CS79-39	10/23/78	The Prospective Investment and Trading Company, Ltd., 1790 One Williams Center, Tulsa, Okla. 74103.
CS79-40	10/23/78	Helen Flournoy Pope, P.O. Box 1578, Alice, Tex. 78332.
CS79-41	10/23/78	Betty Flournoy Fields, P.O. Box 1578, Alice, Tex. 78332.
CS79-42	10/23/78	Mary Anne Flournoy Guthrie, P.O. Box 1578, Alice, Tex. 78332.
CS79-43	10/23/78	L. A. Bradfute, P.O. Box 1578, Alice, Tex. 78332.
CS79-44	10/23/78	W. L. Mathews, P.O. Box 1578, Alice, Tex. 78332.
CS79-45	10/23/78	D. E. Weber, P.O. Box 1578, Alice, Tex. 78332.
CS79-46	10/23/78	L. R. Key, P.O. Box 1578, Alice, Tex. 78332.
CS79-47	10/23/78	R. W. Wilson, P.O. Box 1578, Alice, Tex. 78332.
CS79-48	10/23/78	E. M. Peterson, P.O. Box 1578, Alice, Tex. 78332.
CS79-49	10/23/78	J. E. Jochen, P.O. Box 1578, Alice, Tex. 78332.
CS79-50	10/23/78	F. C. West, P.O. Box 1578, Alice, Tex. 78332.
CS79-51	10/23/78	Arather W. Glover, 2606 Camarie, Midland, Tex. 79701.
CS79-53	10/23/78	Clover Energy Corp. 2121 Sage Road, Suite 380, Houston, Tex. 77056.
CS79-54	10/24/78	Robert E. Eckels, aka R. E. Eckels, 2101 Youngfield, Golden, Colo. 80401.

ate a coal-fired steam electric station in In-

Docket No.	Date filed	Applicant
CS79-55	10/24/78	Peter M. Mark, General Partner, Mark Oil & Gas, Ltd., 1978—B Program, 1030 Charleston National Plaza, Charleston, W. Va. 25301.
CS79-56	10/25/78	Midway Energy Corp., 8401 Connecticut Ave., PH # 3, Chevy Chase, Md. 20015.
CS79-57	10/26/78	Viersen Oil & Gas Co., P.O. Box 280, Okmulgee, Okla. 74447.
CS79-58	10/27/78	R.B. Bradely, 431 Mayo Building, Tulsa, Okla. 74103.
CS79-59	10/23/78	Daymon D. Gilliland and Earl E. Fix, 3010 C Road, Grand Junction, Colo. 81501.
CS79-60	10/27/78	Kent E. Phillips Co., 527 Hightower Building, Oklahoma City, Okla. 73102.
CS79-61	10/27/78	Walter D. Keleher, 40 Court Street, Boston, Mass. 02108.
CS79-62	10/30/78	ENI Exploration Co., 1401 Bank of California Center, Seattle, Wash. 98164.
CS79-63	10/30/78	William B. Barnhill, P. O. Box 1354, Roswell, N. Mex. 88201.
CS79-64	10/30/78	Lawbar Petroleum, Inc., 10880 Wilshire Blvd., Suite 2005, Los Angeles, Calif. 90024.
CS79-65	10/30/78	Stroube Production Co., Inc., 4560 Belt Line Rd. , Suite # 224, Dallas Tex. 75240
CS79-66	10/30/78	Otto Corum-Individual, P.O. Box 277, Madisonville, Ky. 42431.
CS79-67	10/30/78	Corley Ginther Oil Corp., 4670 Bank of Okla. Tower, 1 Wms. Center, Tulsa, Okla. 74103.
CS79-68	10/30/78	James E. Gray, P.O. Box 812, Jal, N. Mex. 88252.
CS79-69	10/30/78	Joel M. Carson, P.O. Drawer 239, Artesia, N. Mex. 88210.
CS79-70	10/30/78	Mohawk Energy Corp., 2401 Fourth Natl. Bank Building, Tulsa, Okla. 74119.
CS79-71	11/1/78	Devon-Smedvig 1973 Oil & Gas, Program Ltd., 3300 Liberty Tower, Oklahoma City, Okla. 73102.
CS79-72	11/1/78	O. A. White, Box 41, Lakin, Kans. 67860
CS79-73	11/1/78	Mid-Continent Energy Corp., One Twenty Bldg., Suite 712, Wichita, Kans. 67202.
CS79-74	11/1/78	H & R Oil and Gas Co., RFD # 3—Box 23H, Bartlesville, Okla. 74003.
CS79-76	11/6/78	Profinex Mineral-Explorationsges-Ellschaft mbH & Co. Beteiligungs-KG, 1122 Southwest Tower, Houston, Tex. 77002.
CS79-77	11/6/78	Robert E. Powell, P.O. Box Box 4808, Monroe, La. 71203.
CS79-79	11/6/78	Walter C. Smith, 808 Lincoln Tower Building, Denver, Colo. 80295.
CS79-80	11/6/78	John J. Shea, Jr., P.O. Box 4049, Memphis, Tenn.
CS79-81	11/6/78	Meredith Mallory, Jr., 105-D Petroleum Center, San Antonio, Tex. 78209.
CS79-82	11/6/78	The Andrea Singer Pollack 1974 Trust, et al., 1910 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264.
CS79-83	11/6/78	Guardian Exploration, Ltd.—1978A, 1900 Houston Natural Gas Building, Houston, Tex. 77002.
CS79-84	11/6/78	Guardian Exploration, Ltd.—1978B, 1900 Houston Natural Gas Building, Houston, Tex. 77002.
CS79-85	11/6/78	John Don Looney, 6317 Crab Orchard Road, Unit 8, Building C, Houston, Tex. 77057.

[FR Doc. 78-33539 Filed 12-1-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1020-2]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to Section 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: The 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from November 20, 1978 through November 24, 1978; the date of submission of comments on draft EIS's as computed from December 1, 1978 is January 15, 1979.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Date: November 29, 1978.

PETER L. COOK,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Final

Leesburg Planning Unit, Salmon National Forest, Lemhi County, Idaho, November 22: The proposal consists of the division of the Leesburg planning unit, located in Salmon National Forest, Lemhi County, Idaho. The unit is to first be divided into two major management areas with similar land types, terrain, major drainage and management qualities. These areas will then be further divided into smaller units for management requirements, protection needs, and use and development of various resources within the unit. The entire Leesburg unit is comprised of 86,390 acres, 2,009 of which are privately owned and another 1,584 acres of which are surface rights claims. (USDA-FS-FES(ADM)R4-78-5.) Comments made by: DOC, EPA, USDA, AHP, DOT, HUD, DOI, DOE, State agencies, groups, individuals, and businesses. (EIS Order No. 81246.)

Hebo Planning Unit, Siuslaw National Forest, Lincoln, Tillamook, and Yamhill Counties, Oreg., November 22: Proposed is a plan for the future management of national forest lands within the Hebo planning unit, Siuslaw National Forest, Oreg. Specifically, the objective of this statement is to identify the natural resources, their value to society, and the various proposals for using each resource. Five alternative plans are offered. Adverse impacts common to all five alternatives include alteration of wildlife habitat; construction-related pollution; and increased levels of air and noise pollution. (USDA-FS-R6-FES(ADM)78-3.) Comments made by: DOE, AHP, HUD, USDA, EPA, DOC, State and local agencies, groups, individuals, and businesses. (EIS Order No. 81247.)

SOIL CONSERVATION SERVICE

Draft

Hamilton Creek Watershed, Burnet, County, Tex., November 20: Proposed is a flood prevention plan for portions of the 52,995 acres of the Hamilton Creek Watershed in the city and county of Burnet, Tex. It is proposed that three floodwater retarding structures be installed to protect 231 acres of urban land in the city and 576 acres of agricultural flood plain land. Each retarding structure will consist of a principal spillway and plunge basin, and emergency spillway, a floodwater retarding pool, a sediment pool, and in total will require 172 acres. (USDA-SCS-EIS-WS-(ADM)-78-5-(D)-(TX).) (EIS Order No. 81242.)

East Side Green River Watershed, King County, Wash., November 20: Proposed is a watershed protection and flood prevention plan for the East Side Green River watershed project area in King County, Wash. The remaining work to be done on the partially completed project includes: (1) An accelerated land treatment program on 2,200 acres of agricultural, urban, and other lands; and (2) enlargement and/or realignment of approximately 11.1 miles of existing man-altered stream channels. Five alternatives, all including accelerated land treatment (except no action) also consider: (1) upland detention, (2) additional channels, and (3) nonstructural measures. (USDA-SCS-ES-WS-(ADM).) (EIS Order No. 81239.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington D.C. 20314, (202) 693-6795.

Final

Harbors and Rivers in the Territory of Guam, Guam, November 24: The proposed improvement is a combination of levee and channel improvements with pumping facilities for localized drainage near the Saylor Street-Agana River crossing in Guam. The plan consists of 1,750 feet of channelization between Saylor Street and Agana Bay, 4,900 feet of levees upstream of Saylor Street, a 360-acre flowage easement within the Agana Swamp, and a pumping plant near the left bank levee at Saylor Street. (Honolulu district.) Comments made by: USCG, DOI, DOC, HEW, USN, AHP, EPA, local agencies and groups. (EIS Order No. 81255.)

Chehalis River, South Aberdeen and Cosmopolis, Grays Harbor County, Wash., November 24: Proposed is a flood control project for Cosmopolis and Aberdeen in Grays Harbor County, Wash. The project consists of a levee system which would protect 1,318 acres of flood plain lands at the head of Grays Harbor. Elements of the project include: (1) Construction of earthen levees, and (2) placement of riprap. The alternatives considered are: (1) no action, (2) flood plain zoning in combination with flood proofing for existing structures, (3) flood plain relocation, and (4) alternate levee alignments. (Seattle district.) Comments made by: DOI, EPA, HUD, DOT, AHP, USDA, DOC, State and local agencies. (EPA Order No. 81256.)

Draft supplement

Sacramento River Bank Protection Project, several California counties, November 24: This statement supplements a final EIS filed in June 1976. Proposed is the placement of fill consisting of stone for bank protection at levee erosion sites along the Sacramento River between Collinsville and Chico and in the counties of Butte, Glenn, Colusa, Sacramento, Solano, Sutter and Yolo, Calif. This supplement EIS is for the purpose of exempting the placement of fill material for the project from regulation under the Clean Air Act (Sacramento district). (EIS Order No. 81259.)

Grand Haven Harbor, Lake Michigan, Ottawa County, Mich., November 24: Proposed is the deepening of the entrance channel and harbor of Grand Haven Harbor in Grand Haven, Ottawa County, Mich. The selected alternative involves dredging the entrance channel to a depth of 29 feet, the harbor to 27 feet, and the development of a new turning basin. The proposed plan also entails the deposition of all polluted materials in an upland site, and the disposition of unpolluted sediments either at a deep water site in Lake Michigan or used as beach nourishment (Detroit district). (EIS Order No. 81252.)

Sacramento R., Chico Landing to Red Bluff, Butte, Glenn, and Tehama Counties, Calif., November 24: This statement supplements a final EIS filed in May 1975. Proposed is the placement of fill consisting of stone for bank protection at bank erosion sites along the Sacramento River between Chico Landing and Red Bluff and in the counties of Butte, Glenn, Tehama, Calif. This supplement EIS is for the purpose of exempting the placement of fill material for the project from regulation under the Clean Air Act (Sacramento district). (EPA Order No. 81260.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Peter Cook, Director, Office of Federal Activities, Room WSMW 537, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0780.

Draft

Electric Utility Steam Generating Units. Standards, November 24: Proposed is the revision of the existing new source perfomance standards limiting the emissions of sulfur dioxide from coal fired electric utility steam generators which has been in effect since December 1971. Revisions to the new source performance standards for the emission of particulate matter and oxides of nitrogen from coal-fired electric utility steam generators are also being proposed. Several alternatives, ranging from the retention of the present standard to proposing a very stringent standard, have been considered by the EPA (EPA-450/2-78-007a). (EPA Order No. 81274.)

Contact: Ms. Susan Walker, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2307.

Draft

Huron Valley WWT Control System Facilities Plan, Wayne and Oakland Counties, Ill., November 22: Proposed is the contruction of the Huron Valley wastewater control system to provide service to portions of Wayne and Oakland Counties, Mich. The project will consist of a regional interceptor sewer approximately 50 miles long and a 49.2 mgd. wastewater treatment plant which would be built adjacent to Lake Erie. Effluent would be discharged via a 10,000 foot outfall sewer to the mid-channel confluence of the Detroit River and Lake Erie. The new treatment facility would provide conventional secondary treatment with phosphorus removal. (EIS Order No. 81249.)

Contact: Mr. Clinton Spotts, Environmental Protection Agency, Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Final

Independence Steam Electric Station, Permit, Independence County, Ark., November 21: The proposed action is the issuance of a new source NPDES permit for wastewater discharge from the proposed Independence Steam Electric Station into the White River. The applicants, Arkansas Power & Light Company, Arkansas Electric Cooperative Corporation (AECC), and the City Water & Light Plant of the City of Jonesboro, proposed to construct and operate a coal-fired steam electric station in Independence County, Arkansas. It should be noted that the REA has participated in the preparation of this EIS to fulfill the NEPA requirements for guaranteeing REA loan funds for the AECC portion of the project. Comments made by: AHP, COE, DOE, USDA, DOI, DOT, State agencies. (EIS Order No. 81244.)

Contact: Ms. Betty Jankus, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, (415) 556-6695.

Draft

Point Source Metro Phoenix, 208 plan, Maricopa County, Ariz., November 24: Proposed are four alternative plans for the management of point source water pollution in the Metropolitan Phoenix Area, Maricopa County, Ariz. These alternatives were developed as part of tha Maricopa Association of Governments 208 water quality management plan. The plan presents alternatives which consider various plant locations and the surrounding service areas. (EIS Order No. 81251.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308.

Draft

Dogwood Park Phase II Subdivision, Bossier County, La., November 24: Proposed is the issuance of HUD home mortgage insurance for the Dogwood Park Phase II Subdivision, Haughton, Bossier County, La. The subdivision will encompass a total of 462.8 acres of land and will be developed with a total of: (1) 899 single family units and 191 patio house units on 411.4 acres, (2) a 14 acre lake, (3) 25 acres of Greenbelt/open space, and (4) 12.4 acres of commercial units. Also included is the consideration of 203 acres of presently nonparticipating lands which are expected to be bought by the developer and incorporated into the project (HUD-R06-EIS-78-47D). (EIS Order No. 81257.)

Pinelake Subdivision, Harris County, Tex., November 24: Proposed is the issuance of HUD home mortgage insurance for the Pinelake Subdivision in Harris County, Tex. The subdivision encompasses approximately 1,786 acres and is expected to consist of approximately 7,650 dwelling units. The proposed project will also include shopping facilities and recreation facilities (HUD-R06-EIS-78-50-D). (EIS Order No. 81254.)

Final

Northcliffe Subdivision, Houston, Harris County, Tex., November 20: The proposed action is the approval by HUD of home mortgage insurance for the proposed Northcliffe subdivision. The project site will be located on 228 acres with approximately 4 units per acre in the city of Houston, Harris County, Tex. The units will be composed of single family homes and some commercial reserves and provide accommodations for approximately 3,000 people in 888 dwelling units. The proposal was submitted by Homecraft Land Development, Inc. (HUD-R06-EIS-78-37F). Comments made by: HEW, AHP, USDA, DOI, COE, EPA, DOT, and State agencies. (EIS Order No. 81241.)

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Final supplement

CBD Urban Renewal Project, Newburyport Essex County, Mass., November 20: This statement supplements a final EIS filed in June 1975 concerning the Central Business District (CBD) urban renewal project for Newburyport, Essex County, Mass. The purpose of the supplement is to comply with a stipulation of dismissal filed with the U.S. District Court, Mass., to provide data concerning possible archaeological sites within the waterfront parcels. The project proposed the redevelopment of the Newburyport CBD from commercial and retail use which would impact the Market Square historic district (HUD-R01-EIS-78-OIS). (EIS Order No. 81240.)

SECTION 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the Office of the Appropriate Local Executive. Copies are not available from HUD.

Final

Lincoln Park Neighborhood Revitalization, Denver County, Colo., November 20: Proposed is the intensive, housing-oriented revitalization of Lincoln Park neighborhood located in Denver County, Colo. with the use of HUD/UDAG funds. Activities of the project feature: (1) Elimination of blighting industrial uses, business encroachment and speculation in the neighborhood, (2) discouraging out-migration of middle-income households through near downtown development, (3) improvement of shopping services and living environment, and (4) conservation of the existing housing stock. Comments made by: EPA, HUD, State and local agencies. (EIS Order No. 81237.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Draft

Mammalian Predator Damage Management, Livestock, several counties, November 22: Proposed is a predator damage control program as presently conducted in the States of Arizona, California, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, Oklahoma, Texas, Utah, and Wyoming. The predator species controlled include coyote, bobcat, mountain lion, bear and fox. These animals are controlled primarily to alleviate damages caused by predators to domestic animals. The program is conducted on a request basis which initiates an investigation and if warranted, the removal of the predator, precautions are taken to protect humans and domestic animals from the toxicants or devices used. (DES-78-49.) (EIS Order No. 81248.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

IA-100, from IA-149 to IA-94, Linn County, Iowa, November 21: Proposed is the construction of IA-100, a two-lane rural facility, from IA-149 to IA-94 in Linn County, Iowa. The segment of the project between IA-94 and Usher's Ferry Road would consist of a rural four-lane divided facility. The section between Usher's Ferry Road and I-380 would be an urban four-lane divided facility. Right-of-way acquisition would be necessary for any of the four build alternatives which are considered in addition to no-build. The total length of the project would vary from 11.2 to 8.9 miles depending on the route selected. (FHWA-Iowa-EIS-78-4-D.) (EIS Order No. 81245.)

U.S. 23, Tennessee State Line to U.S. 19, Madison County, Tenn., November 24: Proposed is the improvement of U.S. 23 from the Tennessee State line to the intersection of U.S. 19 in Madison County, Tenn. Alternative corridors along the existing alignment and on new locations are being considered. Depending upon the alternative selected, the project length will be between 9.2 and 10.4 miles long. The proposed project is a portion of corridor B of the Appalachian development highway system and is classified as a principal arterial in the regional thoroughfare plan. (FHWA-TN-EIS-78-05-D.) (EIS Order No. 81253.)

NY-47, Rochester Outer Loop, Greece, Monroe County, N.Y., November 22: Proposed is the construction and/or extension of three roads in the town of Greece, Monroe County, N.Y. The plan proposes extension of NY-47 with its present terminus with Ridge Road for 4.4 miles to the Lake Ontario State Parkway. The freeway will be located on existing right-of-way. The project also provides for the extension of the Dorsey Road, with four travel lanes for 1.95 miles, and Fetzner Road, with two travel lanes, for 1 mile. (FHWA-NY-EIS.) (EPA Order No. 81250.)

Final

Death Valley Road, CA-168 to Death Valley National Monument, Inyo County, Calif., November 21: Proposed is the improvement of Death Valley Road, RS-W658, which extends about 62.4 miles from S.R. 168 near Big Pine to the northerly boundary of Death Valley National Monument near Ubehebe Crater in Inyo County, Calif. Plans call for the pavement of portions which are now gravel, realignment of isolated sections, and upgrading of the roadway to increase safety. The project will displace 44 acres of vegetation and wildlife, and will increase noise, litter and secondary air pollution. (FHWA-CA-EIS-77-03-F.) Comments made by: DOI, COE, USDA, State agencies, and groups. (EIS Order No. 81243.)

U.S. 51, Fifth Avenue to Lakeview Drive, Rochelle, Ogle County, Ill., November 20: The proposed FHWA action is the financing with federal-aid matching funds of all or part of the costs of constructing a railroad-highway separation and necessary approaches of U.S. 51 in the city of Rochelle. The project begins near the intersection of Fifth Avenue and Seventh Street, proceeds in a southerly direction terminating near Lakeview Drive. This project is about 0.5 mile in length and is located in Ogle County. The new facility is planned as a two-lane bridge structure, and includes the construction or reconstruction of several intersections and adjacent side streets. (FHWA-ILL-EIS-78-01-F.) Comments made by: USDA, EPA, DOI, and State agencies. (EIS Order No. 81238.)

INFORMATION REPORT

The EPA has received the following report which provides supplemental information on proposals which have fulfilled the NEPA process. Copies of the report are available from the originating agency upon request.

Contact: U.S. Army, Corps of Engineers, Dr. C. Grant Ash, Office of Environmental Policy, Attn: DARN-CWR-P, Office of the Chief of Engineers, 1000 Independence, Avenue, S.W., Washington, D.C. 20310, 202-693-6795.

EPA No.	Date received	Title
81258	Nov. 24, 1978.	Response and clarification to comments on the final EIS—Isle of Hope Marina, Skidaway River Isle of Hope, Chatham County, Ga. (Savannah District).

[FR Doc. 78-33769 Filed 12-1-78; 8:45 am]

[6560-01-M]

[FRL 1008-3; OTS-021001]

TOXIC SUBSTANCES CONTROL ACT; REPORTING OF HEALTH AND SAFETY STUDIES

Denial of Citizens' Petition

AGENCY: Environmental Protection Agency.

ACTION: Denial of Citizens' Petition.

SUMMARY: On September 12, 1978, the Manufacturing Chemists Association (MCA) filed a citizens' petition under § 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2620. MCA requested that EPA repeal or amend the health and safety reporting regulations promulgated under § 8(d) of TSCA (43 FR 30984, July 18, 1978), and stay the rule pending administrative reconsideration. The Administrator has denied this petition, and a summary of MCA's points and the full text of EPA's response appears below in the "Supplementary Information" section.

FURTHER INFORMATION CONTACT:

Industry assistance office, office of toxic substances (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 800-424-9065.

SUPPLEMENTARY INFORMATION: The denial letter appearing below was sent to the Manufacturing Chemists Association by EPA.

MR. EDMUND B. FROST.
Manufacturing Chemists Association, Washington, D.C.

DEAR MR. FROST: On September 8, 1978, representatives from your organization and several chemical firms met with staff from the Office of Toxic Substances to submit oral and written comments on the health and safety reporting regulations published on July 18, 1978 (43 FR 20984-20988) under § 8(d) of the Toxic Substances Control Act (TSCA). At that time, MCA requested that EPA repeal those regulations or administratively stay them for ninety days. On September 12, 1978, you subsequently filed a petition under section 21 of TSCA to repeal or amend the regulations.[1] I am hereby informing you that EPA is denying MCA's request for reconsideration of the rule.

MCA first asked Mr. Jellinek to reconsider and/or rescind the rule over seven weeks after promulgation, three weeks after the effective date, and only ten days before the industry was required to comply with the regulations, on the basis of draft comments that could not receive the benefit of public scrutiny. MCA has an obligation, as does any other interested person, to file all comments in a complete and timely fashion, particularly when such drastic administrative relief is sought. We do not regard the citizens' petition provisions as a means of escaping the responsibility to submit timely comments or as an opportunity to delay the implementation of final administrative actions. Where late comments indicate a clear substantive error in a rule, we will exercise our discretion and propose amending it but where comments only suggest that EPA could have exercised its judgment to reach a different result, EPA will not revise a rule except in exceptional circumstances. Were EPA not to take this position, rulemaking proceedings would never obtain necessary finality.

While the citizens' petition provisions of TSCA § 21 do not require EPA to respond to a petition until ninety days after its receipt, we have attempted at your request to evaluate and respond quickly to MCA's comments. As you know, Mr. Jellinek has already granted your request to extend the deadline for submission of studies for thirty additional days in order to accord with the time period announced at proposal. The notice of this extension appeared in the September 15 FEDERAL REGISTER. We have evaluated the other matters you raised and find them without merit.

The following responds to your specific comments:

1. *MCA Comment: Not all of the public comments were available to EPA on the date of the final Work Group session. The rulemaking is therefore incomplete.* All comments on the proposal were reviewed and evaluated by the Office of Toxic Substances (OTS) prior to promulgation of the final rule, regardless of whether the comments were submitted during or after the public comment period. It is neither required nor necessary that the work group review each comment; it is the responsibility of the lead office (in this case, OTS) to ensure that all views are considered in recommending final actions for my approval.

The public file contains all such comments on the proposal.

[1] Where the September 8 submission to Mr. Jellinek and the September 12 submission to me differ, I assume the latter to be more authoritative.

2. *MCA Comment: The definition section is confusing and should simply incorporate by reference the definitions in the TSCA.* We have rejected this comment for two reasons. First and foremeost, MCA failed to raise these objections prior to promulgation, even though the definitions remained substantially the same throughout the rulemaking. Indeed, MCA itself on September 8th suggested that additional definitions be added. Secondly, we do not regard these definitions as confusing, and MCA has failed to explain the basis for its conclusion.

3. *MCA Comment: The broad definition of "health and safety studies" in TSCA should be circumscribed for the purpose of this regulation to explicitly exclude categories of health and safety studies which are not relevant to the purpose of the regulation.* We do not agree that the rule should be circumscribed; we consider all categories of health and safety studies relevant to the purpose of the regulation. As explained in the preamble, the proposed rule, which required listing and submission of studies for only those effects nominated by the Interagency Testing Committee (ITC) for testing, was changed in response to comments from the public and further consideration within EPA. Because any study of an effect of a chemical on health and/or the environment is useful in assessing the potential health and safety of the substance, and therefore the need for further testing, the rule now requires the submission of all health and safety studies relating to the chemicals named by the ITC. While we recognize that each study that is submitted may not be ultimately useful, it is necessary to see the data to assess its relevancy. Moreover, while there is a cost to itemizing and/or submitting such studies, this obligation is imposed to avoid the far greater cost of requiring needless testing where there are already existing studies. The expense of providing the data subject to this rule is considered preferable to the costs the industry would incur where such data required to be generated anew under § 4, and the strain that such testing would place on this country's scarce laboratory facilities and scientific resources.

We do not distinguish as you do between direct and indirect effects, nor do we think such a distinction is meaningful. Consequently, we have not excluded physical chemistry studies from this rule through the granting of a § 8(d)(1)(C) waiver, as MCA feels we should have done. We believe that physical chemistry data provide significant basic information about the interaction of a chemical with its environment, the likely exposure potential of the chemical and its relationship to other chemicals having known toxic effects.

You cite boiling point and vapor pressure as examples of data EPA does not need, yet in fact chemicals with low boiling points and high vapor pressures are more likely to be released into the atmosphere and result in significant exposure than chemicals with lower pressures and higher boiling points. Similarly, solubility and partition coefficient data are critical indicators of the likelihood that a chemical will be absorbed and retained in human tissue as a residue. Hence, such data are clearly relevant to the agency's assessment of exposure and/or hazard potential. Moreover, the requirement to submit such data is not unduly burdensome since most physical chemistry data are found in the scientific literature for these chemicals and therefore do not have to be submitted. (See § 730.5(b)).

MCA has also raised the question of whether routine industrial hygiene surveys and environmental monitoring are health and safety studies. EPA's response is that studies of a chemical substance, regardless of the label attached to them, are health and safety studies when they contain data that have been aggregated and/or analyzed in such a way as to provide insight into the possibility that the substance in question adversely affects or does not affect health or the environment. Thus, epidemiological studies and occupational or environmental exposure studies would be considered health and safety studies. Data reflecting individual measurements of occupational or environmental conditions or individual observations or examinations of employees would not be considered health and safety studies, unless they are aggregated or analyzed as described above or unless they constitue underlying data for studies which are subject to reporting. Manufacturers may, of course, contact OTS to resolve doubts about the status of particular studies.

In future § 8(d) rulemaking, EPA will review its experience with this first rule and consider at that time whether the Administrator should waive the requirement to submit every category and kind of health and safety study.

4. *MCA Comment: This rule should apply only to persons currently engaged in the manufacture, processing or distribution of chemicals. It should not apply retroactively to those who have done so since January 1, 1975.* We disagree with this comment. It is first necessary, though, to clarify that § 8(d) requires two kinds of reporting: (1) listing of health and safety studies, and (2) submission of copies of such studies. EPA's legal authority differs according to whether lists or copies are required to be submitted and, accordingly, it is essential to distinguish between the two types of requirements in this discussion.

Section 8(d)(2) clearly permits EPA to require *any person* to submit a *copy* of *any* study in his possession. Hence, there is no question that EPA can require anyone who has manufactured, processed, or distributed a chemical for commercial purposes since January 1, 1975 to submit studies in his files, Though we could have required anyone who has *ever* engaged in the above activities to comply with the reporting requirement (as was suggested by two commenters), EPA concluded that obtaining data from only those persons who have done so since January 1, 1975 would be sufficient.

Section 8(d) also permits EPA to require any person who manufactures, processes, distributes in commerce or proposes to manufacture, process, or distribute in commerce a chemical substance or mixture to *list* health and safety studies conducted or initiated by that person on that substance or mixture at any time, and studies known or reasonably ascertainable by such person. Section 730.5(a)(1) as promulgated in the July 18, 1978, FEDERAL REGISTER implemented this authority by requiring any person who has engaged in such activities since January 1, 1975 to submit lists for each chemical listed in § 730.4 which he has produced or distributed since January 1, 1975. This requirement was changed from proposal, at which time the requirement extended back to January 1, 1977.

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"Studies of" should be inserted before the

fail to comply with our submission proce-

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MCA objects to the 1975 date on the grounds that this imposes a retroactive reporting requirement on persons who are not "currently" engaged in the manufacture, processing, or distribution in commerce of the listed chemicals (or "currently" proposing to do so). Since MCA did not comment on the proposed 1977 cut-off, we assume the objection is only to the inclusion of the January 1, 1975 to January 1, 1977 period in the requirement to list studies.

As was explained in the preamble for the final rule, the date in the final rule was changed to be consistent with the inventory reporting regulation issued under TSCA § 8(a), which covers all chemicals manufactured for commercial purposes since January 1, 1975. Since such chemicals are being manufactured now or could be manufactured at any time in the future without § 5 notification, knowledge of the existing data base on them is critical in order to decide whether to require testing now. We believe it is both necessary and reasonable to require any one who has recently produced or distributed, or proposed to produce or distribute, one of the named chemicals (i.e., since January 1, 1975) to submit studies to us.

Furthermore, we are not required to limit the requirement to list studies to only those persons engaging in production or distribution of the chemicals at this moment or this year. Though the present tense is used in both § 8(d) and § 8(b)(1), the fact that Congress found it necessary to exclude chemicals which ceased to be manufactured more than three years before the effective date of the inventory rule from the inventory demonstrates that the term "is manufactured" was not considered to apply only to the precise date of the publication of the inventory, and that, indeed without the special exclusion, the inventory would apply even further back. Similarly, we believe "manufactures, processes, and distributes" as used in § 8(d) includes, at a minimum, persons who have manufactured, processed, and distributed chemicals since January 1, 1975.

Finally, since § 8(d)(1) specifically provides that persons must list studies conducted or initiated for them "at any time," it seems unlikely that Congress gave EPA the authority to require listing of all studies ever conducted or initiated by or for such persons whatever their date of completion but yet sought to exempt persons who manufactured the chemical as recently as three years ago from having to list pertinent studies.

5. *MCA Comment: Respondents should be required to report only on those chemicals which they actually manufacture, process or distribute in commerce, and not all chemicals listed in § 730.4.* The proposed rule required persons to list and submit copies of studies for all chemicals subject to the rule, regardless of whether the respondent manufactured, processed, or distributed one, some, or all of the chemicals. The requirement for a person to list studies on chemicals he does not produce or distribute was dropped in the final rule, but the requirement to submit copies remained as proposed. We infer, therefore that MCA's concern is addressed to the latter requirement that a respondent who has manufactured, processed, or distributed any one of the ten chemicals or categories of chemicals on the ITC list since January 1, 1975 (see § 730.4) must submit copies of reports in his possession for all such chemicals.

This requirement is well within our authority. As discussed previously, § 8(d) authorizes the Administrator to obtain copies of studies from any person in possession of them, regardless of whether such person ever manufactured, processed, or distributed the chemical. See § 730.7 of the regulation and TSCA § 8(d(2). We are, however, not requiring everyone in possession of a study to submit a copy since many persons, particularly those in the academic community, are unlikely to be aware of an obligation to do so. Such persons must submit studies only if requested to do so by letter pursuant to § 730.7.

The requirement that firms already subject to the rule submit studies on all of the ITC chemicals should not be overly burdensome; industry representatives have indicated that relatively few studies will have to be unearthed. Moreover, it is reasonable to require persons who are already required to search their files for tests relating to one chemical to search for studies relating to additional chemicals. Such persons are already on notice of the rule, familiar with its requirements, and devoting resources to a search.

6. *MCA Comment: It is not clear from § 730.5 who must report. Persons who must report under this rule should not be required to make presumptions about other companies' reporting responsibilities, nor should they be required to make inquiries of those other companies.* The proposed rule required persons to submit all studies concerning the ITC chemicals contained or referenced in their files. The final rule offers a firm the alternative of not submitting studies in a firm's files not conducted or initiated by or for that firm which it knows will be submitted by another person subject to the rule. This option was suggested by Diamond Shamrock Corporation as a potential means of reducing the reporting burden and lessening duplication. There is no requirement to make presumptions or direct inquiries to another person; any firm may send in all the studies in its possession.

We believe § 730.5 is clear and accurately reflects our intent to require all persons described in § 730.3 to submit studies except as exempted under § 730.5(a)(2)(ii) and § 730.5(b).

7. *MCA comment: EPA should not require copies of health and safety studies from persons—such as universities, research firms, or consultants—that have contractual relationships with manufacturers, processors or distributors of a chemical, without first affording those manufacturers, processors or distributors the option of submitting the studies themselves. EPA should permit manufacturers, processors and distributors to make business confidentiality claims for such data.* This rule does afford manufacturers, processors and distributors the option of submitting the studies themselves. However, if the company does not possess a copy of the study or does not acquire and submit a copy to EPA in response to this regulation, we reserve the right to acquire the study directly from the contractor. As a courtesy, however, to the sponsoring firm, we will contact it by phone or letter to inform the firm that we intend to obtain the study from the contractor unless the firm furnishes it to EPA within a specified number of days. If the firm fails to do so, and we contact the contractor pursuant to § 730.7, the contractor is under an independent obligation to comply.

Any person submitting a health and safety study may make a business confidentiality claim for such data under § 730.8. However, if the manufacturer is concerned about preserving confidentiality, it is up to him either to submit the study himself with a claim of confidentiality or to arrange for the contractor to submit and substantiate such claims.

8. *MCA Comment: The phrase "propose to manufacture, process or distribute in commerce" appearing in § 730.3 is not sufficiently definite and could give the impression that persons engaging in wishful speculation must report.* The term "proposes to manufacture, . . ." appears in the statute and in both the proposed and final rules. The comments submitted on the proposed rule did not indicate that the term was considered confusing or in need of further clarification. Companies in doubt as to whether they are subject to the § 8(d) rule may contact EPA with any specific questions.

A company "proposes to manufacture . . ." a product before the ultimate decision is made to market it. That point at which a company may be said to enter the "proposal" period may require some subjective judgment. At this point in time we lack sufficient experience to further define when a company "proposes" to manufacture. In future rulemakings, we may be able to provide more specific guidance. However, companies are protected from arbitrary actions by EPA under this language since any enforcement action is reviewable by the courts. EPA has neither the intention nor the resources to bring actions where there is little or no hard evidence of proposal to manufacture.

It is also worthy of note that it is in a company's interest to submit a study under § 8(d) in order to avoid the possibility that a § 4 proceeding would be initiated that may duplicate such study.

9. *MCA Comment: Reports of health and safety studies should not be required for any chemicals within the listed categories that are not currently manufactured, processed or distributed in commerce.* We found MCA's comments to be very unclear and consequently had difficulty being responsive to the concerns MCA intended to raise. We are particularly confused about MCA's use of the undefined term "non-commerical." If this term is intended to imply that § 4 does not apply to "non-commerical chemicals," we disagree. Section 4(a) does not distinguish between, or utilize the concept of, commerical and non-commerical chemicals.

Additionally, even if MCA's undefined class of "non-commercial" chemicals were not covered by § 4, data on such chemicals are still pertinent for § 8(d) purposes since studies of the chemical and physical properties and exposure potential of one chemical (be it commercial or non-commerical) are often useful in evaluating other comparable chemicals, including other chemicals that are categorized in a similar manner. (For instance, information on one chemical can provide relevant information on bioactivity and the types of testing feasible for structurally related chemicals.)

10. *MCA Comment: The second sentence in the quoted material in the correction that appeared in the Federal Register on August 16, 1978—"Mixtures which contain only very small amounts of a substance whose effects are masked need not be submitted"—should be deleted. If it is not deleted, the words "Studies of" should be inserted before the first word.* We believe that the sentence you quote serves a useful purpose in further clarifying the circumstances under which studies of mixtures need not be submitted, and that additional guidance is not needed at this time. Moreover, since you say twice that you agree with the August 16 notice containing that sentence, we fail to understand why you have asked us to change the language.

The omission of "studies of" in the sentence you refer to was a typographical error and will be corrected in a FEDERAL REGISTER notice.

11. *MCA Comment: The definition of "substance" at § 730.1(c) removes the differentiation in § 4(a) of TSCA between a chemical substance and a mixture of chemical substances. The definition should be deleted. Further, reports concerning mixtures should not generally be required.* Studies concerning mixtures can be subject to this regulation on either of two grounds. First, the list of chemcials recommended by the ITC for testing includes both chemical substances and mixtures. Thus, mixtures designated by the ITC and listed in § 730.4 as chemicals to which the rule applies are subject to the identical requirements as chemical substances designated by the ITC and listed in § 730.4. However, mixtures which are *not* listed in § 730.4 but which contain chemical substances designated in § 730.4 are not covered by the rule unless the study of the mixture *relates* to a chemical substance listed in § 730.4 (see § 730.5(a)(1)) and reflects the effects of that substance. (It is to the latter obligation that the FEDERAL REGISTER clarification is addressed, and you have stated that you regard that policy as reasonable.)

MCA has expressed concern that EPA has obliterated the § 4(a) distinction between chemical substances and mixtures. However, the fact that we require the submission of some studies on mixtures under § 8(d) does not, by any means, necessarily indicate that EPA will require testing for those mixtures or treat them under § 4 in the same manner as chemical substances. Section 4(a)(2) permits us to promulgate test rules for mixtures only if the effect of the mixture on health and environment cannot be "reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture." The statutory prerequisites and considerations are different under § 8(d), however. There, submission of all pertinent data relating to the effects of a chemical substance, alone or in a mixture, is needed to decide what testing is necessary and under what circumstances.

The shorthand term "substance" to which you object is used in the rule only for convenience to avoid repeating "chemical substance and mixture" throughout the rule, and, as explained above, does not reflect a substantive policy decision to treat them the same. Since the two terms would have been used together throughout the rule, the Agency saw no reason not to use one word instead of four.

12. *MCA Comment: Failure to comply with the instructions for submitting confidential information should not constitute an automatic waiver of the opportunity to make a claim of confidentiality. This is overly punitive.* As was indicated in our response to Comment 8 in the Appendix to the rule, our FOIA procedures do not require us to double check with data submitters if they fail to comply with our submission procedures. However, as a matter of policy, EPA will check back with data submitters before disclosing or releasing data marked "confidential" when we discover that only a single copy of a study marked as confidential is available and that the required second copy with the confidential information deleted is missing.

13. *MCA Comment: Section 730.8(c)(1) incorrectly refers to § 14(b) of the TSCA. Section 14(b) does not require disclosure of information, but simply does not prohibit disclosure of certain information. The rule should leave open the possibility of maintaining confidentiality under provisions of FOIA § 552(b) other than § 552(b)(4).* By quoting the portion of the rule relating only to claims of confidentiality under the FOIA 5 U.S.C. § 552(b)(4) exemption (trade secrets, confidential commercial information), MCA erroneously implies that the final rule would not permit exemption claims under other sections of the FOIA. In fact, as the preamble indicates, EPA will duly consider claims under these other sections of the FOIA. This will be done in accordance with EPA's FOIA rules (40 CFR Part 2, as amended by 43 FR 39997, Sept. 8, 1978).

As you are undoubtedly aware, EPA must disclose health and safety studies upon request unless they would dislose confidential process information or the composition of a mixture, or unless they are exempted under an FOIA provision other than 5 U.S.C. § 552(b)(4). EPA has no discretion in this matter; Section 14 states that if data consist of health and safety studies as described in § 14(b)(1), EPA may not use § 552(b)(4) as a reason for not disclosing or permitting access to such data. Consequently, EPA's confidentiality policies reflect that statutory policy. We are bound, of course, to respect the confidentiality of information described in the last sentence of § 14(b)(1)(A) and will follow our FOIA procedures in doing do.

14. *MCA Comment: The section on confidential claims procedures is incorrectly referred to on page 30986 of the Federal Register notice, first column, second paragraph, fourth line. Section 730.8 should replace §730.7* This error will be corrected in a FEDERAL REGISTER notice.

CONCLUSION

The major points raised by MCA lack the substantive merit and/or timeliness to warrant repeal or substantial amendment of the rule. We have agreed, however, to respond to some of MCA's concerns about confidentiality and to correct two typographical errors that appeared in the FEDERAL REGISTER. The other points are minor and would not warrant reconsideration under any circumstance. We will, however, consider all of MCA's comments in drafting the next § 8(d) rule if MCA would like us to do so.

A formal publication of the denial of this petition will appear in the FEDERAL REGISTER shortly.

Sincerely,

DOUGLAS M. COSTLE,
Administrator.

Dated: November 22, 1978.

[FR Doc. 78-33724 Filed 12-1-78; 8:45 am]

[6820-27-M]

OFFICE OF THE FEDERAL REGISTER

PROPOSING EDUCATIONAL PROGRAM ON HOW REGULATIONS ARE MADE

Request for Comment

AGENCY: Office of the Federal Register.

ACTION: Request for comment.

SUMMARY: This Office is considering the development of an educational program that would explain how the Federal Government makes regulations. This program is proposed for people who need to know more about how Government agencies make regulations. The program would describe the process the Government uses to develop its regulations and would emphasize the opportunities members of the public have to participate in making the regulations.

DATE: Comments should be received on or before February 5, 1979.

ADDRESS: Send written comments to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

FOR FURTHER INFORMATION:

Martha Girard, Director, Executive Agencies Division, Office of the Federal Register. Phone: 202-523-5240.

FEDERAL REGISTER NOTICE INVITING COMMENT ON PROPOSED PROGRAM ON THE RULEMAKING PROCESS

For the past three years the Office of the Federal Register has conducted an educational program for persons who must use the FEDERAL REGISTER as an information source and a separate program for persons who write regulations published in the FEDERAL REGISTER. Based on interest shown by participants in these programs, we are considering designing a new program with a primary focus on the elements of the rulemaking process.

The public is increasingly interested in the subject of regulations—not only with the quantity and quality of regulations, but intertested in *how* agencies make regulations and *how* the public can effectively participate and influence the process.

Tentative plans for a course in the rulemaking process include the following:

1. What are the procedures agencies use in their regulations development process?

2. How can the public follow what an agency is doing in a rulemaking proceeding?

3. How and when can the public get involved in a rulemaking proceeding?

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4. What are some problems agencies face in making rules?

5. What trends are emerging (from Executive, Legislative, and Judicial actions) concerning the nature of rulemaking.

To evaluate the potential audience and the need for this type of program, we are seeking public comment. Commenters on this proposed program of instruction on how agencies make rules might address themselves to these and other issues:

1. What should the primary objectives of the course be?
2. What specific topics should the course include?
3. At whom should the course be directed?
4. What format should the course have?
5. Where should the course be conducted?
6. What materials should be used?
7. Should there be a general course with specific follow-on sessions devoted to specific agency procedures—if so which agencies?

Your comments on both the need for the program outlined above and the specifics of a program are welcome and will be carefully considered in our future planning.

FRED J. EMERY,
Director of the Federal Register.

NOVEMBER 27, 1978.

[FR Doc. 78-33733 Filed 12-1-78; 8:45 am]

[6820-34-M]

GENERAL SERVICES ADMINISTRATION

IMPLEMENTATION OF EXECUTIVE ORDER 12044, IMPROVING GOVERNMENT REGULATIONS

Developing, Simplifying, and Reviewing GSA Regulations

AGENCY: General Services Administration.

ACTION: Final report on GSA procedures.

SUMMARY: The General Services Administration (GSA) has revised its procedures for developing regulations. The changes follow the guidelines in Executive Order 12044 (43 FR 12661, March 24, 1978). We expect that our changed procedures will result in regulations that are written more clearly and that enable us to meet our legislative goals without unnecessarily burdening the public.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

John T. Gilmartin, Director, Paperwork Management Division, 202-566-0857.

SUPPLEMENTARY INFORMATION: On May 25, 1978, GSA published for public comments (43 FR 22612) our plans for implementing Executive Order 12044. We requested that interested persons submit comments on the proposal by July 25, 1978.

EVALUATION OF COMMENTS

The Department of Justice was the only responder to the proposal. The Department recommended that:

1. No proposed regulation be considered non-significant if it will have a disparate impact on the basis of sex;
2. The criteria for review of existing regulations be modified to require the amendment of unnecessary or inappropriate gender-based terminology in existing regulations; and
3. All proposed new regulations be reviewed to eliminate unnecessary or inappropriate gender-based distinctions.

We agreed with these recommendations and have modified our report accordingly.

CHANGES TO GSA'S PROPOSAL

Section 1 of the report is modified to reflect organizational changes that took effect after the proposal was published. Sections 3, 4, and 6 are revised to incorporate recommendations from the Department of Justice.

The final report reads as follows.

FINAL REPORT

SECTION 1. GSA'S STRUCTURE AS IT PERTAINS TO REGULATIONS

GSA is the business manager for Government agencies. Our regulations are designed to help agencies by giving them procedures to follow in areas such as managing their computer operations, making sure that they are prepared to function during emergencies, using and disposing of their real and personal property, buying their supplies, managing their records, and getting office space in buildings.

The Administrator of General Services signs all GSA regulations. To help in handling administrative and legal questions are GSA's two staff offices, the Office of Controller-Administration and the Office of General Counsel. GSA's operating arms, which are called services, develop most of our regulations. The six services are the Automated Data and Telecommunications Service, the Federal Preparedness Agency, the Federal Property Resources Service, the Federal Supply Service, the National Archives and Records Service, and the Public Buildings Service.

Each service and staff office is headed by an official who is directly responsible to the Administrator for carrying out GSA's functions and missions. In this document we will be referring to the eight unit heads as Commissioners, to the eight units as services, and to each office within a service that develops or writes a regulation as the program office.

SECTION 2. PRESENT METHOD OF DEVELOPING REGULATIONS

Our basic philosophy in developing regulations is that experts in the subject matter should write the regulations, then experts in writing (directives analysts) should review and analyze the regulations before they are issued. Our directives analysts have no special knowledge in the technical fields of the regulations. We feel that the strong point of this type of a system is that the subject matter experts can make sure that the regulations are necessary and technically accurate, and the directives analysts can see whether the regulations are understandable to individuals who do not have a background in the field covered by the regulations.

We have set up a strict control system to make sure that we meet our target dates for issuing regulations. The heart of the system is a central control unit, which is a part of the Office of Controller-Administration. Each of the eight services has a corresponding control unit headed by a clearance officer. The central control unit and the clearance officers work together to help program offices develop and write regulations.

When employees in a program office are ready to start developing a regulation, they are required to discuss the proposal with representatives of each service that is responsible for a regulatory area that might be affected by the proposal. All proposed regulations must be discussed with the Office of General Counsel. After the program office has discussed the proposal with affected services and reached preliminary agreements on what should be included in the regulations, the program office drafts the proposed regulation and sends it to its clearance officer. At this stage of the process, clearance officers have a certain degree of latitude on how to proceed. The minimum requirements for clearance officers follow.

1. Set up a control record for the proposal.
2. Analyze the proposal to make sure that the regulation is necessary and that it does not conflict with or duplicate existing regulations.
3. Make sure that the proposal will be sent for review to affected services within GSA, to other agencies and the public if necessary, to the Office of General Counsel, and to the directives analysts in the central control unit.

4. If the proposal will require someone to fill out a report, make sure that background information and supporting documents have been prepared. (For example, if we want to start a new report that the public will fill out and return to us, we must request permission from the Office of Management and Budget (OMB). OMB will review our request to see whether the report is needed, whether it is unnecessarily burdensome, how many individuals are affected, and similar considerations.)
5. If the proposal calls for a new form, notify the forms experts in the central control unit. (The forms experts will review the proposed form for items similar to the ones for reports.)
6. If the proposal will have a major effect on the quality of the environment, contact our environmental affairs division so that they can make sure the proposal follows rules that have been set up to protect the environment.
7. If the proposal affects State or local governments, make sure that the affected governments are notified and have a chance to comment on the proposal in accordance with the Presidential Memorandum For The Heads Of Executive Departments And Agencies dated March 23, 1978, and with the Federal Advisory Committee Act.

NOTE.—Several services have gone a step further with these minimum requirements by setting up a regulation writing unit in the service. These writing units rewrite the rough draft before sending it to the central control unit and other services for review.

After completing steps 1 through 7, the clearance officer decides whether the proposal will be published for public comments in the FEDERAL REGISTER. (Most GSA regulations are exempt from the part of the Administrative Procedure Act that requires agencies to publish proposed rules. However, we have been publishing proposed rules voluntarily when we think that the public may be interested and when we are not required by the Congress or the courts to meet a specific deadline for our final rules.) If the proposal will be published for comments, the clearance officer sends it to the Commissioner. If he or she approves the proposal, the Commissioner signs it and sends it to the central control unit, which then forwards the document to the FEDERAL REGISTER.

After receiving and evaluating comments from other agencies and the public on its proposal, the program office makes the necessary changes to its draft regulation. The program office sends copies of the revised draft to the clearance officers of the services that might be affected by the regulation, to the Office of General Counsel, and to the central control unit.

Each clearance officer who receives a copy of the draft decides which units within the service should comment on the draft. The Office of General Counsel checks to see whether the program office has followed the advice from preliminary discussions and whether the draft has been changed to a point where we are violating a law. The central control unit has a professional editor, who checks the draft for correct word use, punctuation, understandability, and similar items. The editor then gives the draft to the directives analysts in the central control unit.

The directives analysts review regulations from all of the services. Therefore, they generally have an overview of GSA's policies, procedures, and functions that a program office, which is concerned mainly with only one regulatory area, cannot be expected to have. From this perspective, the directives analysts evaluate the draft to make sure that the proposal is necessary, does not violate basic GSA policies, does not duplicate or conflict with other GSA regulations or the regulations of other agencies, and can be expected to efficiently and effectively meet its intended objectives.

Each office that received a copy of the draft for review returns its written comments to the program office. The program office evaluates all comments it receives as a result of this clearance process. The program office connot by itself overrule a comment—if the program office disagrees with a comment, they must contact the commenting office and reach an agreement on the final wording. If the program office and the commenting office cannot reconcile their differences, the program office msut prepare a paper outlining the differences and send it to the Administrator for a decision.

After employees in the program office adopt or reconcile the clearance comments, they prepare the final draft of the regulation. The final draft is sent to the clearance officer, who again reviews the document to make sure that all outstanding issues have been settled. The clearance officer then sends the document to the Commissioner.

Before sending the document forward, the Commissioner must sign a letter that explains why his or her service has developed the regulation. The letter is addressed to the Administrator and contains the following minimum information: The purpose and intended effect of the regulation; its expected impact on GSA, other agencies, and the public; and a summary of comments from other services within GSA, from other agencies, and from the public.

Three top GSA officials must read and agree with both the letter and the regulation before they can recommend whether the Administrator should sign the regulation. The Controller-Director of Administration certifies that the regulation has undergone the clearance procedures and meets all administrative requirements. The General Counsel certifies that the regulation complies with the law. The Deputy Administrator certifies that the regulation is acceptable with respect to Government-wide policy considerations. The Administrator will not sign a regulation until this entire process has been completed.

To make sure that this system functions smoothly, the central control unit periodically visits each service and analyzes the service's regulatory program. The present schedule calls for each service to be evaluated once every 3 years. The central control unit evaluates and recommends improvements in the regulatory program from all paperwork aspects, including forms, reports, and records management. The final report for each evaluation is sent to the Commissioner of the service, who is required to prepare a plan for following recommendations made by the central control unit.

SECTION 3. CHANGES TO THE REGULATION PROCEDURES

For regulations that we determine are "not significant," we will follow our present procedures except that:

1. The regulation must follow the policy statements in section 1 of Executive Order 12044. These statements require that regulations be written simply and clearly, that they effectively and efficiently carry out their purposes, and that they do not impose unnecessary burdens.
2. The regulation must be reviewed periodically as explained in section 4 of Executive Order 12044.
3. Each time the regulation is published, it must provide a statement briefly explaining why the regulation is not significant for the purposes of Executive Order 12044.
4. Each proposed regulation will be reviewed to eliminate unnecessary or inappropriate gender-based distinctions.

For significant regulations, we have changed several of our present procedures. The first area that we changed is in providing both to the Administrator and to the public an early warning of proposed regulations. (When we refer to the public in this document we are referring not only to individuals but also to businesses, public and private organizations, and State and local governments.) Before a service begins to develop a significant new regulation, the Commissioner must

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send to the Administrator a letter that covers the following points:

1. *Issues.* This section describes the important areas that the proposal will cover, such as the problem or circumstances that created the need for action, the objectives of the proposal, the constraints or limitations that might hinder us in effectively implementing the proposal, and whether there is enough money available in our budget to cover the expenses of the proposal.

2. *Alternatives.* The Commissioner will list the possible ways to solve the problem, including whether it might be possible to solve the problem without issuing a regulation.

3. *Plan for public comment.* The Commissioner will explain how we plan to give the public a chance to comment on the proposal or to help us draft the proposed regulation. The Commissioner may decide which methods to use but we expect that most plans will include one or more of the following methods: Publishing an advance notice of proposed rulemaking in the FEDERAL REGISTER, holding open conferences or public meetings, sending notices of proposals to publications that are likely to be read by individuals who will be affected, or notifying interested parties directly.

4. *Regulatory analysis.* If it is possible at this point in the process, the Commissioner will state whether an economic evaluation of the proposal will be necessary. The basis for determining whether an evaluation is necessary may be narrative statements of the qualitative aspects of the proposal if quantitative data are not available.

5. *Target dates.* The Commissioner will list each major step in the regulation's development process and the expected date for completing each step.

After notifying the Administrator of the plans, each Commissioner also must notify the public of proposals that we are considering. This notification will be in the form of semiannual agendas. On the first Monday in October of each year, we will publish in the FEDERAL REGISTER a schedule that shows the times during the coming year that our regulation agendas will be published. We expect to publish agendas during May (to cover our proposed actions from May through October) and November (covering November through April), but we will publish a special agenda at any time if a Commissioner feels that the public should be informed immediately of a significant regulatory action.

Each service will prepare its own portion of the overall GSA agenda. Each agenda will have four major areas: New regulations, changes to existing regulations, regulations scheduled for review, and status of agenda items previously published.

We expect that the first two areas of the agenda will be the ones in which the public is most interested. Therefore, for each proposed new significant regulation and for each substantive change to an existing significant regulation, the service will provide a description of the new regulation or the change; a summary explaining why we are considering issuing a new regulation or a change; our legal authority for issuing this type of regulation; the name, organizational unit, and telephone number of the person to contact for questions on the proposal; and whether a regulatory analysis will be prepared.

For the third major area, regulations scheduled for review, the service will describe the regulations that we will be reviewing, include a contact point for answering questions, and provide the date by which we expect to have finished the review. In the fourth area, status of agenda items previously published, the service will list significant accomplishments, deletions, and changes to individual items from the previous agenda and the contact point for each item.

After a service has developed its agenda, the Commissioner will send it to the Controller-Director of Administration. The Controller-Director of Administration will ensure that the central control unit consolidates the information from each service's agenda and sends the overall agenda to the Administrator, who will approve the agenda.

The program office will proceed to the discussion stage that is covered under our present method of developing regulations after notifying the Administrator of a proposed new significant regulation and preparing the necessary items for the agenda. The changes from our present method are that the discussions will be more highly structured and that the program office will include the public in these discussions as explained in the "plan for public comments" portion of the Administrator's notification letter. The program office will evaluate the alternative approaches that are available to solve the problem by listing the pros and cons for each alternative and will select the least burdensome alternative that will accomplish the regulatory objective.

The program office will then prepare a draft of the regulation. The draft must be written in plain English, it must not contain unnecessary or inappropriate gender-based distinctions, and it must be understandable to individuals who will be required to comply with the regulation. After drafting the regulation, the program office must evaluate the direct and indirect effects the regulation will have on the public.

The draft regulation will be published as a proposed rule in the FEDERAL REGISTER. The public will have a minimum of 60 days to comment on the proposal. If we cannot allow a full 60 days for comments, our FEDERAL REGISTER preamble will explain why we had to shorten the comment period. If we are required to prepare a regulatory analysis, the preamble will provide a brief description of the regulatory approach that we selected or that we favor, briefly explain the alternatives that we considered, and explain how interested individuals can get a copy of the draft regulatory analysis. At the end of the 60-day comment period, the program office must evaluate each comment on the proposed rule. When the final rule is published in the FEDERAL REGISTER, the preamble will summarize the comments that we received and will provide a response for each group of closely related comments.

The program office then returns to our current procedures by revising its draft and circulating the proposal for comments in our clearance process. When the final document is ready, the Commissioner will include the following additional information in the letter to the Administrator.

1. The Commissioner will include a statement that the regulation has been prepared in full compliance with GSA procedures for implementing Executive Order 12044.

2. If the regulation requires a new report or new recordkeeping requirements, an enclosure to the letter will summarize the new requirements and the estimated costs for each.

3. If a regulatory analysis was prepared, the Commissioner will provide a copy of the analysis. (The preamble to the FEDERAL REGISTER document will explain how the public may obtain a copy.) The program office will include the following information in each regulatory analysis:

(a) A statement of the problem.

(b) A brief description of each alternative that the program office considered to solve the problem.

(c) A detailed economic evaluation of each alternative, including an analysis of the major costs or other inflationary effects that the regulation will have on the economy, individual industries, geographical regions, or levels of government; and analysis of secondary costs and price effects; and an analysis of likely major changes in employment. If it is not possible to quantify the data, the program office will provide narrative statements explaining the qualitative aspects of the alternatives.

(d) A detailed explanation of the reasons for choosing one alternative over the others.

4. An enclosure to the letter will provide a plan for evaluating the regulation before its first scheduled review. The evaluation should focus on the effect the regulation has on the public and on the problem it was intended to solve.

For regulations that we have already issued, we have set up a review program. Under this program, each of our regulations will be reviewed at least once every 5 years. Each Commissioner is responsible for making sure that program offices in his or her service review regulations in their areas of responsibility. Each Commissioner will set up a timetable for completing reviews so that the service can schedule them to fit the workload.

After a service has reviewed a regulation or a set of regulations, the service will send a report of the review to the central control unit. The central control unit will check the report to make sure that the review was thorough. We will publish our review schedules for significant regulations in our semiannual agendas so that the public knows in which areas we are concentrating our regulatory efforts.

Several of our regulations are exempt from these new procedures. Our national security classified regulations are exempt under section 6(b)(2) of the Executive order. Our Federal Procurement Regulations, which are issued in 41 CFR Chapter 1, and our General Services Administration Procurement Regulations, which are issued in 41 CFR Chapters 5A and 5B, are exempt under section 6(b)(4) of the Executive order. Regulations issued by the Administrative Committee of the FEDERAL REGISTER (1 CFR Chapters I and II) are subject to procedures that the Committee develops and therefore are not covered by either our old system or our changes.

In an emergency, a Commissioner may waive any of the new requirements. However, if a Commissioner waives a requirement, the preamble of the FEDERAL REGISTER document will explain why we could not follow the procedures in Executive Order 12044, and the Commissioner's name and title will be provided.

SECTION 4. CRITERIA FOR DEFINING SIGNIFICANT REGULATIONS

1. A regulation is significant if the Administrator or the responsible Commissioner decides that it is significant even though it does not meet the criteria in paragraph 2, below. In making this determination, the deciding official will consider such factors as the expected public interest in the regulation and whether the regulation is likely to affect one sex more than the other.

2. A regulation is significant if the program office expects that it will cause an impact that meets or exceeds any of the criteria in subparagraphs (a) through (g), below. In making this determination, the program office will consider both direct (the regulation causes the impact) and indirect (the regulation requires other agencies to issue rules that will cause the impact) effects.

(a) *Costs.* A regulation is significant if it is likely to cause increased costs for consumers; businesses; or Federal, State, or local governments of more than:

(1) $100 million in any 1-year period or $150 million in any 2-year period for the national economy; or

(2) $50 million in any 1-year period or $75 million in any 2-year period for any economic sector, industry, level of government, or geographic region.

The program office also will apply cost impact criteria to proposed new regulations that set standards and specifications that are likely to impact the Federal construction or supply schedules at the dollar levels in subparagraphs (1) and (2), above.

(b) *Productivity.* A regulation is significant if it is likely to result in the cost impacts in subparagraph (a), above, through any of the following:

(1) Reducing or restricting industry (output) capacity or capital investment;

(2) Increasing labor person-hours per unit of output;

(3) Increasing barriers to the substitution of processed or raw material supplies: or

(4) Reducing or restricting the adoption of new technologies, equipment processes, or skills.

(c) *Competition.* A regulation is significant if it is likely to substantially: Lessen competition, restrain market information, increase concentration, or tend to create a monopoly or monopolistic market power in any line of commerce if commerce in the relevant market exceeds $100 million per year.

(d) *Important materials.* A regulation is significant if it is likely to cause in the year of enactment or implementation a substantial increase in demand for or a substantial decrease in supply availability of any important material, product, or service. A substantial change is one that involves more than 5 percent of supply or that is worth $100 million or more. Important materials, products, or services include:

(1) Components of the national stockpile;

(2) Materials or services that the National Security Council determines are critical; or

(3) Materials, services, or products that the Administrator determines are critical.

(e) *Employment.* A regulation is significant if it is likely to result in a change in employment in any one year of 185,000 workers (0.2 percent) at the national level or 10,000 workers at the sector, industry, or State level.

(f) *Energy.* A regulation is significant if it is likely to cause in any one year an increase in demand for or a decrease in supply of petroleum or other forms of energy by 35,000 barrels per day or the equivalent (0.1 percent of daily U.S. consumption).

(g) *Reporting burden.* A regulation is significant if it is likely to cause a public reporting burden for any one report that requires:

(1) Each respondent to spend more than 1 hour in filling out the report; and

(2) A total burden of more than 1 million person-hours per year for respondents to fill out the reports.

SECTION 5. CRITERIA FOR REGULATORY ANALYSES

The program office will prepare a regulatory analysis for each proposed regulation:

1. For which the Administrator or the responsible Commissioner decides a regulatory analysis is necessary; or

2. That is determined to be a significant regulation under the criteria in paragraph 2 of section 4.

SECTION 6. CRITERIA FOR SELECTING REGULATIONS FOR REVIEW

Each Commissioner will ensure that regulations covering material under his or her areas of responsibility are reviewed at least once every 5 years. The Commissioner may decide which regulations are most in need of review; or the responsible service will select the sequence for reviews by applying the following criteria:

1. The continued need for the regulation;

2. The type and number of complaints or suggestions received;

3. The burdens imposed on those directly or indirectly affected by the regulation;

4. The need to simply or clarify language;

5. The need to eliminate overlapping and duplicate regulations;

6. The existence of unnecessary or inappropriate gender-based terminology; and

7. The length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

SECTION 7. REGULATION TO BE REVIEWED INITIALLY

Office of Controller-Administration

Introduction to the Federal Property Management Regulations. Explanation of GSA's system for issuing regu-

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1974, 5 U.S.C 552, of the revision of Sports have developed criteria for

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lations concerning agency management of real and personal property and records. Area covered are the structure of the system, how the regulations are published, and similar administrative details. Contact point: Stanley W. Bowers, Chief, Directives Management Branch (202-566-0666).

Payments to GSA for supplies and services furnished to Government agencies. General description, with some examples, of GSA's procedures for paying bills. Contact point: John Boyd, Accounting Policy and Programs Division (202-566-0187).

Annual real property inventories. Detailed instructions to Government agencies for reporting to GSA all real property owned or leased by the U.S. Government through the agencies. Contact point: Joseph M. Pacheco, Acting Director, Central Control Division. (202-566-1527).

Office of General Counsel

Nondiscrimination in programs receiving Federal financial assistance. GSA's procedures for ensuring that when we give financial assistance to a program or an activity, the program or activity does not discriminate against individuals. Contact point: Helen Maus, Administration and Records Division (202-566-1460).

Freedom of Information Act. Procedures that GSA uses in making our records and information available to the public. Contract point: Rebecca Thompson, Administration and Records Division (202-566-1460).

Privacy Act. Procedures that GSA follows to collect, use, and disseminate records that contain information about individuals. Contract point: Rebecca Thompson, Administration and Records Division (202-566-1460).

Automated Data and Telecommunications Service

Contact point for all items: John F. Stewart, Procurement Policy and Regulations Branch (202-566-0834).

Government-wide automatic data processing (ADP) policy. Covers management, acquisition, and use of automatic data processing by Federal agencies.

Agency payments to telecommunications common carriers. Instructs agencies to inform the common carriers they do business with to provide duplicate telephone bills to GSA.

Essential telephone service during emergencies. Provides for a telephone arrangement so that subscribers with essential emergency functions are not delayed when they make calls from their homes.

Future plans for ADP. Provides procedures and criteria for Federal agencies to follow in planning for automated data and telecommunications systems.

Management and control of computer rooms. Provides guidelines for Federal agencies to follow in managing and controlling their computer rooms.

Listening-in devices. Provides policies concerning the use of these devices by Federal agencies.

Federal Supply Service

Contact point for all items: John I. Tait, Director, Regulations and Management Control Division (202-557-1914).

Federal Travel Regulations. The Federal Government's policy governing Federal civilian employee travel and relocation allowances.

Criteria for determining method of supply. General criteria for selecting the best methods of supply for agencies to meet their planned requirements.

Use of self-service stores. General policy for agencies to buy their administrative, custodial, and maintenance supplies at stores operated by GSA. Interagency purchase assignments. Basic policy for interagency purchase assignments within the executive branch of the Government.

Emergency preparedness planning. Policies and procedures for agencies to follow in procuring personal property and nonpersonal services during national emergencies.

Preparation and control of U.S. Government National Credit Cards. Policies and procedures covering agency use of Government credit cards, which are used to get supplies and services for U.S. Government motor vehicles, boats, and small aircraft.

National Archaives and Records Service

Contact point for all items: Adrienne Thomas, Director, Planning and Analysis Division (202-523-3214).

Access to unclassified records. Description of the restrictions on the use of unclassified archival materials and procedures for requesting access to unclassified archives through the Freedom of Information Act.

Public requests for review of national security information. Description of the procedures for requesting access to national security information and material in the National Archives of the United States.

Access to materials that remain classified. Detailed procedures to be followed by researchers desiring access to classified archival material in NARS custody.

Mandatory review of White House classified materials. Description of the procedures NARS follows in reviewing White House classified archival materials.

Review of national security classified donated hsitorical materials under Executive Order 11652:

Mandatory review of White House classified materials. Information on procedures followed by NARS in responding to requests for White House classified donated historical materials.

Mandatory review of agency classified materials. Details on the procedures followed by NARS in responding to requests for declassification review of agency classified donated historical materials.

Mandatory review of agency classified materials. Details on the procedures followed by NARS in responding to requests for declassification review of agency classified donated historical materials.

Public Building Service

Contact point for all items: A Gary Barnes, Chief, Management Control Branch (202-566-0412).

Assignment of space. These regulations prescribe the responsibilities and procedures for the assignment of space to Federal agencies and other procedures for the assignment of space to Federal agencies and other entities entitled to occupy space in Government-owned and leased buildings.

Relocation assistance and payments. These regulations serve to ensure uniform, fair, and equitable treatment of persons diplaced from their homes, businesses, or farms by Federal or federally assisted programs designed for the benefit of the public.

Conduct on Federal property. These rules and regulations apply to all property under charge of GSA and to all persons entering such property. They forbid soliciting, vending, debt collection, gambling, illegal use of drugs and alcohol, and they control traffic, parking, and similar actions.

Utilization of excess real property. These regulations prescribe the policies and methods governing the reporting by executive agencies and utilization by Federal agencies of excess real property, including related personal property.

Surplus real property disposal. These regulations prescribe the policies and methods governing the disposal of real property other than that destroyed, abandoned, or donated to a public body.

Federal Preparedness Agency

Contact point for all items: Dorinda Lowery, Management Analysis Officer (202-566-1975).

Emergency stabilization regulations. Procedures for stabilizing prices, rents, wages, and salaries.

Civil rights. Procedures for ensuring that programs that receive Federal financial assistance do not discriminate against individuals.

Strategic and critical materials. Procedures and delegations of authority

to agencies for releasing vital materials from U.S. stockpiles during an attack on the United States.

Buying supplies and constructing buildings in areas of high unemployment. U.S. policies for placing contracts and facilities in regions of the United States with high unemployment rates.

Defense Mobilization Orders. Policies and procedures for: Building vital facilities in areas that will reduce the risk of damage if we are attacked; making sure our defense production facilities continue to operate if we are attacked or if there is a major disaster; selecting priorities for and allocating materials and facilities for defense production; setting priorities for using U.S. resources after we have been attacked; training and using scientists and engineers for national security purposes; developing programs covering civilian health manpower; setting up a national emergency blood program; supplying materials necessary for defense during a major disaster; providing materials under U.S. Government control to supplement commercial supplies during a major disaster; providing Government-owned industrial plant equipment for use by private industries; stockpiling strategic and critical materials; setting priorities for allocating common use items; and maximizing the use of domestic energy supplies.

Federal Preparedness Circulars and Bulletins. Permanent statements of preparedness policies and programs for Federal departments and agencies.

NOTE.—GSA is in the process of determining which of our existing regulations will become the responsibility of the newly formed Federal Property Resources Service. This determination will not affect the regulation reviews. The designated contact points will answer specific questions concerning regulation responsibility.

Dated: November 16, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-33731 Filed 12-1-78; 8:45 am]

[6820-34-M]

PRIVACY ACT OF 1974

Revised Routine Use

AGENCY: General Services Administration.

ACTION: Revision of routine use for the system of records Federal Information Center (FIC) Client Case Files GSA/AV-1 (23-000-0105).

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C 552, of the revision of the routine use section of the system of records Federal Information Center (FIC) Client Case Files.

FOR FURTHER INFORMATION CONTACT:

Mr. William Hiebert, Records Management Branch, Paperwork Management Division, 202-566-0673.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, GSA published in the FEDERAL REGISTER (43 FR 38623 and 38624) notification of a new system of records, Federal Information Center (FIC) Client Case Files GSA/AV-1. The routine use section of the notice incorporated by reference the general routine uses in the appendix following the GSA notices. The Office of Management and Budget raised a question as to whether the general routine uses should have been applicable to this system of records. After review of the system of records and the general routine uses, GSA has determined that the system of records GSA/AV-1 should not incorporate the general routine uses. Therefore, the routine use section of the system of records Federal Information Center (FIC) Client Case Files GSA/AV-1, system identification 23-00-0105, is revised to read as follows:

Routine uses of records maintained in the system, including categories of users and purposes of such uses.

Information in the records will be communicated to appropriate Government agency officials for the purpose of solving complaints, mediating disagreements, or eliciting information on behalf of clients. Statistical reports which will not contain personal identifying information will be produced from the records and analyzed by the FIC program staff and may also be analyzed by an outside expert.

Dated: November 21, 1978.

JANICE K. MENDENHALL,
Controller-Director of Administration.

[FR Doc. 78-33739 Filed 12-1-78; 8:45]

[6820-23-M]

Public Buildings Service

GUIDELINES FOR ESTABLISHMENT OF PHYSICAL FITNESS FACILITIES IN FEDERAL SPACE

AGENCY: General Services Administration.

ACTION: Notice of requirements for establishment of physical fitness programs and facilities.

SUMMARY: GSA and the President's Council on Physical Fitness and Sports have developed criteria for evaluating Federal agency requests for installation of employee health/fitness facilities in federally controlled space. This notice is intended to inform Federal agencies of the guidelines regarding installing physical fitness facilities for Federal employees.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul H. Herndon III, Chief, Assignment Branch, Office of Space Management, Public Buildings Service, General Services Administration, Washington, DC 20405 (202-566-1872); or Dr. Richard O. Keelor, Director, Program Development, President's Council on Physical Fitness and Sports, Washington, DC 20201 (202-755-8800).

SUPPLEMENTARY INFORMATION: Increasingly, GSA is asked to provide various types of physical fitness facilities for Federal agencies. However, most of these requests are denied on the grounds that these facilities are too costly for the limited number of employees that would use them or because there is no specific program requirement that assures long term use. It has been, and will continue to be, GSA's policy that such facilities will be established on a space-available basis only, and that no additional leased or Government-owned space will be acquired or designed for such a purpose unless it can be shown that the facilities are essential to an agency's mission. However, while these considerations remain of primary importance in the evaluation of agency requests to install physical fitness facilities, GSA recognizes that they must be balanced with a concern for the physical well-being of Federal employees. Therefore, for those agencies interested in instituting physical fitness programs to benefit their employees, GSA, in cooperation with the President's Council on Physical Fitness and Sports, has developed guidelines for the establishment of physical fitness facilities within available federally controlled space. The guidelines will assist in defining the best program for their employees.

CRITERIA FOR ESTABLISHING FITNESS PROGRAMS: Before the submission of a Standard Form 81, Request for Space, to GSA, an agency should submit a plan for the proposed program to the President's Council on Physical Fitness and Sports for approval. The proposed plan should set forth the scope and aims of the proposed program, and should include the following components:

DEC 4 1978 UMI

for construction, operation and main-

WAPATO-SATUS UNIT

ternational Trade Commission on No-

V 4 3 / 2 3 3 D E 4 7 8 UMI

1. The results of a survey indicating employee interest in the program;
2. A 3 to 5 year implementation plan demonstrating long term commitment to physical fitness/health for employees;
3. A medical orientation, including screening procedures, individualized exercise programs, identification of high-risk individuals, and appropriate followup activities;
4. Provision for the establishment of a professional staff which would work under the supervision of the medical unit;
5. An approach which will consider key health behavior related to degenerative disease, including smoking and nutrition;
6. A description of the proposed facility (these proposals should be modest and only include the essentials necessary to conduct a program involving cardiovascular endurance work, strength activities, and flexibility); and
7. Provision for equal opportunities for men and women, and all full-time employees, regardless of grade level.

The above-mentioned endorsement of the President's Council on Physical Fitness and Sports should be provided with the request for space and supporting documentation to the appropriate General Services Administration regional office in accordance with the procedures listed in the Federal Property Management Regulations, 101-17. GSA will evaluate all proposals in terms of space availability, alterations feasibility and costs, and the long-range plan for the building involved. All costs connected with the installation, operation, and maintenance of a physical fitness facility shall be borne by the requesting agency.

Dated: November 24, 1978.

DAVID R. DIBNER,
Acting Commissioner,
Public Buildings Service.

[FR Doc. 78-33728 Filed 12-1-78; 8:45 am]

[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL ARTHRITIS ADVISORY BOARD

Change in Meeting

Notice is hereby given of a location change for the meeting of the National Arthritis Board on December 7, 1978, 9:00 to 5:00 p.m., which was published in the FEDERAL REGISTER 11-31-78, 43 FR 50743. The meeting was to have been held at the Sheraton National, Columbia Pike and Washington Boulevard, Arlington, Virginia, but has been changed to the Landow Building, Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

Further information may be obtained from Mr. William Plunkett, Executive Secretary, National Arthritis Advisory Board, Room 620, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland, telephone (301) 496-1991.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: November 27, 1978.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH.

[FR Doc. 78-33752 Filed 12-1-78; 8:45 am]

[4110-08-M]

NATIONAL DIABETES ADVISORY BOARD, EXECUTIVE COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Executive Committee of the National Diabetes Advisory Board on January 10, 1979 in Houston, Tex. The time and meeting location may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne (address above) will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: November 27, 1978.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH.

[FR Doc. 78-33751 Filed 12-1-78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Wapato Irrigation Project, Wash.

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Wapato Irrigation Project for Calendar Year 1979 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 53) and March 7, 1938 (45 Stat. 210).

the purpose of this notice is to announce an increase in the assessment rates to correspond with actual operation and maintenance costs on the Wapato-Satus Unit of the Wapato Irrigation Project. The proposed assessment increase for 1979 amounts to $2.00 per acre on the Wapato-Satus Unit; the rates on the Toppenish-Simcoe and Ahtanum Units will remain the same.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

WAPATO IRRIGATION PROJECT—GENERAL ADMINISTRATION

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

IRRIGATION SEASON

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 15 days when weather conditions and the necessity for doing maintenance work warrants doing so.

DELIVERY TO PATENT IN FEE LANDS

No water will be delivered to a patent in fee farm unit until all irrigation charges assessed against the land for construction, operation and maintenance, and all penalties that may have accrued, are paid.

DELIVERY TO INDIAN LANDS UNDER LEASE

No water will be delivered to trust Indian lands under lease until the lessee has paid the irrigation charges and any penalties assessed under these regulations, or in cases where the lease provides that the landowners pay the operation and maintenance charges from the lease rental, no water shall be delivered until the Superintendent of the Reservation has issued a certificate to the Project Engineer certifying that the lessee has complied fully with the terms of the lease.

DELIVERY TO INDIAN LANDS BEING FARMED BY INDIAN FARMERS

No water will be delivered to land operated by an Indian farmer until the charges fixed in these regulations are paid, or until the Superintendent of the Reservation has issued a certificate to the Project Engineer, certifying that the Indian will pay the charges through the Superintendent, or that the Indian is financially unable to pay the charges.

TIME OF PAYMENT

The charges fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

AHTANUM UNIT

CHARGES

The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1979 and subsequent years until further notice, is fixed at $5.25 per acre per annum for land to which water can be delivered from the project works.

TOPPENISH-SIMCOE UNIT

CHARGES

The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar year 1979 and subsequent years until further notice, is fixed at $5.45 per acre per annum for land for which an application for water is approved by the Project Engineer.

WAPATO-SATUS UNIT

CHARGES

The basic operation and maintenance rate on assessable lands under the Wapato-Satus Unit is fixed for the Calendar Year 1979 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts	$17.00
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands	17.00
(3) Rate per assessable acre for all lands with a storage water right, known as "B" lands, in addition to other charges per acre	1.80
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands	17.90

ASSESSABLE LANDS

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of the Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

RICHARD M. BALSIGER,
Acting Area Director.

NOVEMBER 27, 1978.

[FR Doc. 78-33770 Filed 12-1-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[AA1921-190 and 191]

RAYON STAPLE FIBER FROM FRANCE AND FINLAND

Investigation and Hearing

Having received advice from the Department of the Treasury on November 13, 1978, that viscose rayon staple fiber from France and from Finland is being, or is likely to be, sold at less than fair value, the United States International Trade Commission on November 28, 1978, instituted investigation Nos. AA1921-190 and 191 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigations will be held on Thursday, January 4, 1979, in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. All persons shall have the right to appear in person or by counsel, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Friday, December 29, 1978.

By order of the Commission.

Issued: November 29, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-33753 Filed 12-1-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, SEVENTH CIRCUIT PANEL

Meeting

The first meeting of the nominating panel for the Seventh Circuit of the United States Circuit Judge Nominating Commission will be held on December 15, 1978, at 11:00 a.m., in the Federal Building, U.S. Court of Appeals, Clerk's Office, 219 South Dearborn, Chicago, Illinois 60604.

The purpose of the meeting is to provide the panel members with a history of the Circuit Court system; an explanation of the merit selection process; and, the qualifications to be sought in nominating candidates for Circuit Court Judgeships.

This meeting will be open to the public.

JOSEPH A. SANCHES,
Advisory Committee
Management Officer.

NOVEMBER 28, 1978.

[FR Doc. 78-33729 Filed 12-1-78; 8:45 am]

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[4410-18-M]

Law Enforcement Assistance Administration

EVALUATION OF PROJECTS OF MAJOR CRIMINAL JUSTICE ACTION PROGRAMS

Solicitation Regarding Grants

The Office of Criminal Justice Programs is interested in obtaining information from organizations (profit making, not-for-profit, university) who desire to obtain grants to conduct evaluations of the projects of major criminal justice action programs.

Such grants will often require a 10 percent cash match; therefore, each responder should clearly indicate the extent of interest in those grants requiring match and readiness to provide such. Occasionally LEAA may be able to assist in identifying a match source.

Information as to organizational and staff capabilities and experience, as well as specific functional interest areas (i.e.—courts, police, corrections, defense, etc.), should be sent to:

Director, Program Development and Evaluation Staff, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531.

J. ROBERT GRIMES,
Assistant Administrator, Office of Criminal Justice Programs.

[FR Doc. 78-33762 Filed 12-1-78; 8:45 am]

[6820-36-M]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

OPEN MEETING

In accordance with section 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, the National Transportation Policy Study Commission announces the following meeting:

NAME: Meeting of the Commission.

DATE: December 14, 1978.

TIME: 9:00 a.m.

PLACE: 2167 Rayburn House Office Building, Washington, D.C. 20515.

TYPE OF MEETING: Open.

CONTACT PERSON:

Beth Singley, National Transportation Policy Study Commission, 20000 M Street, N.W. Suite 3000, Washington, D.C. 20036.

Purpose of the Commission: The National Transportation Policy Study Commission was established under section 154 of the Federal-Aid Highway Act of 1976 (Pub. L. 94-280) to report findings and recommendations with respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative Agenda: Review of Draft Chapters; Review of Special Reports; Review of Staff Working Papers.

Dated: November 29, 1978.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc. 78-33811 Filed 12-1-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 28, 1978, (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

COMMUNITY SERVICES ADMINISTRATION

Assessment of the Staff Economic Opportunity Offices
Single-time
Staff of State or local antipoverty agencies, 663 responses; 510 hours
Reese B. F., 395-3211

CTTE.—PRODUCTS AND SERVICES OF BLIND AND SEVERELY HANDICAPPED

Initial Certification Qualified Nonprofit Agency for the Blind
COM 401
On occassion
Workshops serving the blind; 6 responses; 12 hours
Reese B. F., 395-3211

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
Advisory circular 105-2, sport parachute jumping (paragraph 6, aircraft operating and airworthiness requirements)
Single-time
Aircraft Operators; 1,000 responses; 250 hours
Geiger, Susan B., 395-5867

REVISIONS

CTTE.—PRODUCTS AND SERVICES OF BLIND AND SEVERELY HANDICAPPED

Annual certification qualified nonprofit agency for the severely handicapped
COM 404
Annually
Workshops serving other severely handicapped; 100 responses; 400 hours
Reese B. F., 395-3211

Annual certification qualified nonprofit agency for the blind
COM 403
Annually
Workshops serving the blind; 68 responses; 272 hours
Reese B. F., 395-3211

Initial certification qualified nonprofit agency for the severely handicapped
COM 402
On occasion
Workshops serving other severely handicapped; 24 responses; 48 hours
Reese B. F., 395-3211

ENVIRONMENTAL PROTECTION AGENCY

Application for Federal Assistance Part IV Narrative
State (underground water source protection program grants)
EPA 5700-33
Annually
State agencies; 627 responses; 5,654 hours
Budget Review Division, 395-4775

Descriptive letters, reply postcard and questionnaires for investigations into noncompliance of vehicles with Federal emission standards
On occasion
Owners of Sus. Noncom. Mot. Veh., Dealr. and Flt. Admin., 6,700 responses; 1,542 hours
Clarke, Edward H., 395-5867

DEPARTMENT OF AGRICULTURE

Forest Service
Visitor registration (formerly entitled trail registration)
FS-2300-32
On occasion
Parties of recreation visitors entering selected areas; 21,500 responses; 1,075 hours
Ellett, C. A., 395-6132

Forest Service
Visitor's permit (formerly entitled "wilderness permit")
FS-2300-30
On occasion
Parties of individuals entering required permit areas: 195,000 responses; 9,750 hours
Ellett, C. A. 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education
Application for Grants Under the Emergency School Aid Act: LEA's parts A and B
DE-116-1 (parts A and B)
Annually
LEA's and other public agencies; 1,070 responses; 25,680 hours
Budget Review Division, 395-4775

National Institutes of Health
Manpower report
NIH 1749
Annually
Recipients of NIH research support; 17,000 responses; 8,500 hours
Richard Eisinger, 395-3214

EXTENSIONS

NATIONAL SCIENCE FOUNDATION

1979 Survey of Science and Engineering Graduates
Single-time
B.A's and M.A's in science and engineering; 28,000 responses; 7,000 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of education
Application for Emergency School Aid Act: Nonprofit Organizations
DE-116
Annually
Nonprofit organizations; 500 responses; 14,300 hours
Laverne V. Collins, 395-3214

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-33786 Filed 12-1-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

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The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census
Shipper's Export Declaration Disclosure Inquiry
S-482
Single-time
Exporters, 750 responses; 188 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF COMMERCE

Bureau of Census
Post Enumeration Survey, Followup Questionnaire for the Housing Unit
D-840(X), D-840(XN)
Single-time
Households in dress rehear. areas in Colorado, Virginia, and New York, 5,200 responses; 434 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration
A Study of Sedative—Hypnotic Overdosage and Deaths—Study No. 1
Single-time
Patients in emergency rooms, 1,200 responses; 880 hours
Richard Eisinger, 395-3214

Office of Human Development
Job-related Information Data Sheet
Single-time
Rehabilitation counselor see section 2(1), 400 responses; 1,800 hours
Reese B. F., 395-3211

Office of Human Development
Annual Report for Vocational Rehabilitation
OHD-RSA-2
Annually
State rehabilitation agencies, 81 responses; 2,430 hours
Reese B. F., 395-3211

Public Health Service
Collaborative Pituitary Adenoma Study
Single-time
Women who have pituitary adenoma and controls, 526 responses; 347 hours
Richard Eisinger, 395-3214

Health Resources Administration
SHCOG and Health Professions Special Project National Impact Study
Single-time
Students, graduates, institutional administrators, 2,850 responses; 1,283 hours
Richard Eisinger, 395-3214

DEPARTMENT OF THE TREASURY

Bureau of Customs
Declaration of Unaccompanied Articles
Customs 255
On occasion
International travelers, 90,000 responses, 9,000 hours
Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF ENERGY

Crude Oil Buy/Sell Program Refiner-Buyer Semi-Annual Report
ERA-56
Quarterly
Eligible refiner-buyers, 52 responses; 52 hours
Hill, Jefferson B., 395-5867

Crude Oil Buy/Sell Program Refiner-Seller's Monthy Report
ERA-57
Quarterly
All major refiners, 180 responses; 180 hours
Hill, Jefferson B., 395-5867

NATIONAL SCIENCE FOUNDATION

Summary of Completed Projects
NSF-98A
Annually
Colleges and universities, 10,000 responses; 5,000 hours
Laverne V. Collins, 395-3214

U.S. CIVIL SERVICE COMMISSION

JFA Education and Experience Questionnaire
CSC-994A
On occasion
Applicants for Federal employment, 1,500 responses; 3,750 hours
Marsha Traynham, 395-3773

FEDERAL RESERVE SYSTEM

Monthy Report of Negotiable Orders of Withdrawal (NOW) Accounts
FR-2015 Monthly
All depository institutions (except credit unions) in Nebraska and New York, 17,738 responses; 1,774 hours
Geiger, Susan B., 395-5867

Summary: This is a revision to an ex-

ing to the report improve the SEC's

Public inquiries or comments on the

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U.S. CIVIL SERVICE COMMISSION

Summer Employment Examination—Applicant Data Sheet CSC 905-A on occasion
Students, 75,000 responses; 12,500 hours
Marsha Traynham, 395-3773

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, Meat Marketing Channel Study (South)
Single-Time
Meat pac., proc., restr., instit., and retailers, 1,620 responses; 810 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Statement of Expenditures for Child Support Enforcement
SSA-4117
Quarterly
St. tit. IV-D agen. admin. the child sup. enforce. prog., 216 responses; 216 hours
Reese B. F., 395-3211

Social Security Administration
Quarterly Estimate of Expenditures
SSA-65
Quarterly
Child care and supportive services, 216 responses; 108 hours
Reese B. F., 395-3211

DEPARTMENT OF LABOR

Employment Standards Administration
Report of Section 10 Adjustment Payments in Support of Claim for Reimbursement
LS-230
Semi-Annually
Insurance Companies and self-insured employers, 4,000 responses; 466 hours
Strasser, A. 395-6132

DEPARTMENT OF LABOR

Employment Standards Administration
Payment of Compensation Without Award
LS-206
On occasion
Insur. companies and self-insured employers, 40,000 responses; 10,000 hours
Strasser, A., 395-6132

EXTENSIONS

AGENCY FOR INTERNATIONAL DEVELOPMENT

Report of Loss, Damage or Misuse of Commodities
Donated Under Pub. L. 480, Title II Activities
Format
On occasion
Charitable organizations working overseas, 900 responses; 900 hours
Marsha Traynham 395-3773

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
Poultry Market News Reports
LPGS-10, 17, 88, 90
Weekly
Poultry producers and processors, 50,400 responses; 2,042 hours
Ellett, C. A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Electric Lamps (Bulbs Only) (Production, Shipments and Stocks)
MQ-36B
Quarterly
Manufacturers of electric lamp bulbs, 80 responses; 80 hours
Office of Federal Statistical Policy and Standard, 673-7956

Industry and Trade Administration
Export Promotion-Exhibitor's Report—Followup Report
ITA-411 and DIB-458P
On occasion
Manufacturers and/or agents, 12,000 responses; 6,000 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary)
Application for Insurance Benefits, Fiscal Data and General Assignment
HUD-469
On occasion
FHA approved mortgagees, 5 responses; 12 hours
Strasser, A. 395-6132

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-33787 Filed 12-1-78; 8:45 am]

[3110-01-M]

PRIVACY ACT

Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered system, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between October 30, 1978 and November 24, 1978. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

DEPARTMENT OF JUSTICE

System name: Investigative Support Information System.
Report date: October 26, 1978.
Point-of-contact: Mr. William J. Snider, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530.
Summary: This is a new system, to be maintained by the FBI as an adjunct to the FBI central records system. It will consist of computerized listings of individuals whose names appear on documents in active investigative case files. Those case files will be maintained in the Central Records System. The Investigative Support Information System records will be maintained, on computer tape for easy retrieval, only during the duration of an investigation, according to the report.

System name: Weekly Statistical Report.
Report date: November 3, 1978.
Point-of-contact: Mr. William J. Snider, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530.
Summary: This is an existing system, maintained by the Criminal Division as a management tool for measuring and tracking the time spent by attorneys on various activities. It is proposed to expand the systems by including weekly statistical reports on criminal division paralegals.

FEDERAL COMMUNICATIONS COMMISSION

System name: Records of money received, refunded, and returned and personal checks destroyed.
Report date: October 31, 1978.
Point-of-contact: Mr. Richard D. Lichtwardt, Federal Communications Commission, Washington, D.C. 20554.

Summary: This is a revision to an existing system, used to track refunds to individuals for overpayment of fees for various FCC applications, or fees paid and later suspended by court order. The FCC has revised the system following questions raised by OMB and the Subcommittee on Government Information and Individual Rights.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

System name: Health Care Provider File.
Report date: October 31, 1978.
Point-of-contact: Ms. Nancy Seiler, HSA Privacy Act Coordinator, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.
Summary: The Health Services Administration proposes this system in order to evaluate the "quality and efficacy" of medical care and utilization of services in eight Public Health Service general hospitals. The system will consist of a research data base of data about and obtained from all health care professionals who are associated with patient treatment in the relevant hospitals. The report notes that while the skills of health care providers will be verified, "no determination will be made regarding rights, benefits, or privileges of individuals."

NUCLEAR REGULATORY COMMISSION

System name: Property and Supply System.
Report date: November 1, 1978.
Point-of-contact: Ms. Betty L. Wagman, Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.
Summary: This is a new system of records intended to maintain inventory control over NRC-owned personal property signed out to employees, consultants and contractors. The only personal information included will be the names and office locations of those individuals.

SECURITIES AND EXCHANGE COMMISSION

System name: Acquisition, Tender Offer, and Solicitation Records Filed Under the Securities Exchange Act of 1934.
Report date: November 1, 1978.
Point-of-contact: Ms. Julie Allecta, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549.
Summary: This is a proposed modification to an existing system. The SEC will add information on beneficial ownership which is required to be filed under 1977 amendments to the Securities Exchange Act. In addition, some of the information in the system will be computerized, and three filing schedules revised accordingly. The changes, taken together, will according to the report improve the SEC's analytical capability, and centralize reporting of securities ownership information, avoiding duplicative reporting.

DEPARTMENT OF DEFENSE

System name: General Legal Files.
Report date: November 9, 1978.
Point-of-contact: Mr. William Cavaney, Defense Privacy Board, Department of Defense, Washington, D.C. 20301.
Summary: The Department of the Army has proposed this new system of records to be maintained by the Judge Advocate General. It will include legal documents such as personnel actions, investigations, and petitions, involving military personnel.
System name: Defense Meritorious Service Medal Files.
Report date: November 9, 1978.
Point-of-contact: Mr. William Cavaney, Defense Privacy Board, Department of Defense, Washington, D.C. 20301.
Summary: This is a new system proposed by the Office of the Secretary of Defense "to track and insure issuance of approved award to appropriate individuals."

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

System names: (1) Disaster Recovery Assistance Files; (2) Disaster Assistance Personnel Reserve Files.
Report date: November 14, 1978.
Point-of-contact: Mr. Harold Rosenthal, Departmental Privacy Act Officer, Department of Housing and Urban Development, Washington, D.C. 20410.
Summary: The first system of records consist of records on applicants for disaster recovery assistance, including temporary housing, home loans, and grants, and will be used to make determinations of eligibility. HUD plans to use the second system as a file of individuals available for staffing disaster field offices during disasters and emergencies. The records will include the names, addresses, telephone number, and special skills, ability and experience of the personnel.
Waiver requests: OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between October 30, 1978 and November 24, 1978. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be directed to OMB.

DEPARTMENT OF DEFENSE

System name: Repromotion Eligibility Files.
Report date: November 13, 1978.
Point-of-contact: Mr. William Cavaney, Defense Privacy Board, Department of Defense, Washington, D.C. 20301.
Summary: This new system will be used by the Defense Mapping Agency to aid in placing employees who were downgraded "competitively and through no fault of their own" in positions at their former grade level or higher.

VELMA N. BALDWIN,
Assistant to the Director, Administration.

[FR Doc. 78-33759 Filed 12-1-78; 8:45 am]

[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Monday, December 11, 1978, from 1:30 p.m. to 5:00 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552b(c)(1) (the exception to the Government in the Sunshine Act for matters specifically required by Executive order to be kept secret in the interest of foreign policy) will be reviewed and discussed.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Executive Director, Advisory Committee for Trade Negotiations, Office of the Special Representative

for Trade Negotiations, 1800 G Street, N.W., Washington, D.C. 20506, telephone (202) 395-5421.

Dated: November 29, 1978.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc. 78-33760 Filed 12-1-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Proposed Rules of Practice in Patent Cases

The Patent and Trademark Office proposes to amend the rules of practice in patent cases to provide for the filing of a deposit account card (PTO-2038) in lieu of a letter authorizing the charging of fees to a deposit account. The deposit account card will be used to charge fees to a deposit account in the Patent and Trademark Office

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for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

PHYLLIS O. BONANNO,
Executive Director, Advisory Committee for Trade Negotiations.

[FR Doc. 78-33927 Filed 12-1-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10489; 812-4377]

INTERNATIONAL INVESTORS INC. AND I.I.I. SECURITIES CORP.

Filing of an Application

NOVEMBER 22, 1978.

Notice is hereby given that International Investors Incorporated ("International"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and I.I.I. Securities Corporation, its principal underwriter ("III") 122 East 42nd Street, New York, New York, 10017, filed an application on October 18, 1978, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting from the provisions of Section 22(d) of the Act a proposed transaction ("Sale") pursuant to which shares of International will be issued at net asset value without a sales charge in exchange for certain gold mining company shares held by Mondial Commercial Limited, a Liechtenstein limited company ("Mondial"), through a subaccount at the Swiss Credit Bank, the Metric Accounting Unit Storage Agreement subaccount ("Subaccount"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

International has been informed that approximately 1,926 persons ("Account Holders") have beneficial interests in the Subaccount, that the Subaccount concentrated its investments in gold bullion, gold coins and gold mining stocks and that Progress Foundation, a Swiss charitable institution, owns all of the stock of Mondial. In November, 1975, the Commission initiated enforcement proceedings in the United States District Court for the District of Columbia (the "District Court") against various individuals and entities, including Progress Foundation and Mondial. The District Court appointed a special counsel ("Special Counsel") on behalf of the Account Holders. Additionally, the Swiss Banking Commission issued a decree ("Swiss Decree") in June, 1976, providing that all assets of the various Mondial subaccounts, including the Subaccount, be distributed to the investors in a manner to be approved by the Swiss Banking Commission and satisfactory to the Commission.

International has been advised by the Special Counsel that in furtherance of the Swiss Decree, and in connection with settlement of the enforcement proceedings initiated by the Commission, two partial liquidation distributions, consisting of gold bullion and gold coins held by the Subaccount, have been made to the Account Holders and that a plan calling for a third partial liquidation distribution, consisting of shares of nine issues of gold mining stocks held by the Subaccount, was approved by the Swiss Banking Commission on September 26, 1978, and by the District Court on October 11, 1978. International has been advised by the Special Counsel that under the distribution plan the Account Holders will be given the option of receiving their pro rata portions of the gold mining stocks, to the nearest whole share based on the number of "metric accounting units" to which they are entitled according to the books and records of Mondial (i) "in kind" either by delivery directly to them of certificates for the shares representing such portions, by transfer of such shares to their individual accounts at a bank or other institution or by delivery to them of American Depository Receipts for the shares or (ii) with respect to seven of the nine issues of such shares ("Securities"), instructing the Subaccount to exchange their pro rata portions of the Securities for International shares and accepting American Depository Receipts for their pro rata portions of the remaining two issues. Account Holders who fail to make a timely election with respect to the Securities will be deemed to have elected the "in kind" option.

As of September 30, 1978, the Securities had an aggregate market value of approximately $5,253,918 and International had net assets of approximately $97,773,115. If all Account Holders elected to take their distributions in shares of International, the Sale of International shares on September 30, 1978, in exchange for all of the Securities would have resulted in the issuance to the Account Holders of $470,359.71 International shares having a net asset value of $11.17 each (assuming International had accepted all the Securities).

The Special Counsel has advised International that the documents to be delivered to the Account Holders pursuant to the distribution plan, as approved by both the District Court and the Swiss Banking Commission, include (i) a notice to all Account Holders, prepared by the Special Counsel and describing the distribution plan and the past operations of the Subaccount, (ii) a form for the Account Holder's use in electing to take his pro rata distribution of the Securities "in kind" or in International shares and (iii) International's prospectus and most recent report to its shareholders.

Applicants state that, ordinarily, sales of International's shares are made through its underwriter, III, at their net asset value plus a sales charge. According to International's prospectus, the maximum sales charge is 8.50%, which is applicable to purchases of less than $10,000 and the sales charge decreases to 1.25% on purchases of $500,000 or more. The sales charge is reduced on shares purchased by an investor who purchases under an accumulation plan and no sales charge is imposed on reinvestment of income dividends or on the sale of International shares for investment to officers, directors and bona fide, full-time employees of International, its investment adviser or III or on reinvestment of capital gains or on purchases made under exchange privileges with other open-end investment companies.

Applicants state that the Sale of International shares to the Subaccount will be made on the following basis. The Subaccount will deliver to International a written order for the purchase of International shares having an aggregate net asset value (as next computed following receipt of the order) equal to the net asset value of the Securities delivered with such order. In exchange for such Securities, International then proposes to issue its shares to the Subaccount at the net asset value thereof, without a sales charge. The number of International shares to be issued in exchange for the Securities delivered by the Subaccount will be determined by dividing the net asset value of such Securities by the net asset value per share of International's shares, both computed as of the time International's net asset value per share is next determined after the Subaccount's delivery to International of the purchase order.

For purposes of determining the number of International shares to be issued in the Sale, the Securities to be delivered to International by the Subaccount will be valued in accordance with Rule 2a-4(a)(1) under the Act and International's normal procedures for valuing its portfolio securities. The Board of Directors of International has determined that such valuation is appropriate. In making such determination the Board considered all factors which it deemed relevant, including (i) the amount and quality of the Securities which may be acquired, their markets and trading volumes and their compatibility with the investment policies and objectives of International, (ii) the fact that the Sale will

be consummated without expense to International, (iii) the benefits for the shareholders of International, (iv) the possible adverse effect on the issues now held by International if all the Securities held by the Subaccount were sold simultaneously at whatever prices might be obtainable on that basis, (v) the possibility that, as a result of Account Holders electing an "in kind" distribution of Securities, substantially less than all the Securities may be delivered to International, and (vi) the ability of International to process its normal expected level of redemptions.

Applicants state that no Sale will be made to the Subaccount unless (i) all Securities to be acquired by International are acceptable to it on the date of the Sale, (ii) the Subaccount offers to International all Securities held by it on the date of the Sale, and (iii) evidence satisfactory to International is presented that the person effecting the Sale on behalf of the Subaccount has the authority to do so. The Special Counsel has provided International with a list of the gold mining stocks held by the Subaccount and has indicated that he does not expect that the Subaccount will acquire or, except for the "in kind" distributions described above, dispose of any securities before the Sale. International will accept only Securities for which market quotations are readily available as of the date of the Sale. International has determined that as of September 30, 1978, such market quotations are readily available for all the Securities and, accordingly, presently intends to accept all the Securities. International has no present intention of selling any of the Securities within a relatively short period following their acquisition.

The Sale will be made only to the Subaccount or persons authorized to act for it, International understands that such persons will request that the International shares be issued directly to the Account Holders who elect to take their distributions in International shares. Accordingly, although International anticipates that its shares will be issued directly to the Account Holders (or to their nominees), no offer or sale will be made by International to the Account Holders in connection with the Sale. The consent of the Account Holders is not required for the implementation of the distribution plan, including the Sale, and their only discretion in connection with the distribution will be to elect to take International shares or an "in kind" portion of the Securities. In all cases the person to whom International shares are issued will become the record owner of such shares. Upon the issuance of International shares to the Account Holders, an appropriate confirmation will be delivered to each Account Holder who has become a record holder of International's shares. International has been advised that together with International's confirmation each Account Holder will receive a report from the Special Counsel concerning the distribution of International shares to the Account Holder.

The Securities do not include two of the issues of gold mining stocks held by the Subaccount because the acquisition of them by International, when combined with the shares thereof already held by International, would cause its holdings of such issues to exceed the maximum permitted by its investment policies. International has determined, on the basis of the market prices of the Securities as of September 30, 1978, that International's acquisition of the Securities would not, on a pro forma basis giving effect to the completion of the Sale, cause (a) International to hold more than 10% of the outstanding shares of any one issuer (b) securities of any one issuer to constitute more than 5% of the net assets of International, or (c) International to be in violation of any of its internal policies.

For federal income tax purposes, the Sale will be treated as a taxable transaction for the Subaccount and its Accounts Holders, to the extent each is subject to such taxes. Because International will not acquire the Securities pursuant to a plan of reorganization or liquidation, it will not be entitled to any loss carryover which may have been available to the Subaccount. The tax basis of the Securities in International's hands will be their fair market value, computed as provided above, at the close of business on the date the Subaccount delivers its purchase order. Because the Securities will be acquired by International at their fair market value, no unrealized appreciation or depreciation will carry over to International.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company except at a current offering price described in the prospectus. The current public offering price of the shares of International, as described in its prospectus, is net asset value per share plus a sales charge. As noted above, such sales charge will not be applicable to the Sale. Applicants state that without an exemption from Section 22(d) of the Act International would be prohibited from issuing its shares to the Subaccount without a sales charge.

Applicants state that the Subaccount will pay any transfer taxes imposed on the transfer of the Securities to International and that neither III nor International will bear any expenses in connection with the proposed sale, except that International will bear the ongoing transfer agent expenses customarily borne by it in connection with sale of any of its outstanding shares and III will bear the cost of confirmations, Prospectuses and shareholder reports to be distributed to the Account Holders. All other expenses, including fees and out-of-pocket costs of counsel, which arise in connection with the Sale will be incurred by International's investment adviser, which will be reimbursed therefor by the Subaccount up to a maximum of $10,000.

Applicants further state that there is no connection between International and the Subaccount. The management of International considers the proposed acquisition by it of the Securities in exchange for its shares to be at a fair price, arrived at by arms length bargaining, and believes that the Sale will be beneficial to the shareholders of International for the following reasons:

(a) Those expenses of International which do not rise proportionately with an increase in portfolio size will be spread over a larger number of shares and therefore will be a smaller amount per share to the benefit of existing shareholders;

(b) The proposed acquisition will enable International to acquire at one time additional securities for its existing portfolio without affecting the market in such securities; and

(c) The Securities will be acquired by International at less expense than would be the case if securities of the same issuers were purchased in the open market, for the reason that there will be no brokers' commissions or dealer mark-ups in connection with the Sale.

In addition, Applicants point out that no sales effort will be involved, and no sales costs or other costs (except the ongoing transfer agent expenses customarily borne by International in connection with sale of any of its outstanding shares) will be incurred by International in connection with the Sale. Applicants maintain that it is only fair to recognize such cost savings and to pass them along to the Subaccount. Applicants submit that, even assuming that 100% of the Account Holders should instruct the Subaccount to exchange their portion of the Securities for International shares and redeem their shares promptly after the Sale, the ability of International to process both such redemptions and its normal expected level of redemptions would not be jeopardized since International has sufficient cash on hand to be able to handle them.

Section 6(a) of the Act provides, in [8010-01-M]

The existing Tolland Service Center

nancials and reflect the lease pay- assume all costs of operating and that a hearing be held in respect of

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Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities, or transactions from any provision or provisions of the Act and the Rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that in their opinion the terms of the Sale are fair and reasonable and in the best interests of International and its shareholders, and, therefore, that granting of the requested exemption is consistent with the general purposes of the Act, and is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-33757 Filed 12-1-78; 8:45 am]

[8010-01-M]

[Release No. 20785; 70-6219]

CONNECTICUT LIGHT & POWER CO. ET AL.

Proposed Sale and Leaseback of Utility Assets and Lease Financing

NOVEMBER 20, 1978.

Notice is hereby given that The Connecticut Light and Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, public-utility subsidiary companies of Northeast Utilities ("NU"), a registered holding company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10, and 12(d) of the Act as applicable to the following proposed transactions. The proposed transactions involve the sale and leaseback of certain utility assets consisting of land, buildings, and equipment, and the lease financing of a new building and additions and improvements to existing buildings and equipment. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the transactions proposed.

It is proposed that the following facilities be sold to real estate subsidiaries of Interet Corporation, a nonaffiliated lease broker, (Interet Corporation and its subsidiaries are herein referred to as "Interet") and simultaneously leased back: (a) The Tolland, Connecticut Service Center ("Tolland") owned by CL&P, consisting of a service center building, garage, and site improvements situated on 13.3 acres of land. The estimated fair market value of these facilities is $1,600,000. The original cost, including land, was $1,571,332, and the current book value is $1,471,774. The sale price of these facilities will be the book value. (b) The Convex dispatching building owned by CL&P located in Southington, Connecticut ("Convex"), consisting of a building situated on approximately 1 acre of land. The estimated fair market value of this facility is $927,000. The original cost, excluding land, was $546,927, and the current book value is $368,072. The sale price of these facilities will be the book value. The land will not be sold but will be leased by CL&P to Interet. (c) In addition, CL&P, HELCO, and WMECO, as owners of the Millstone nuclear plant site in Waterford, Connecticut, propose to lease a small parcel of land at the site to Interet, on which will be constructed a refuel outage building to be leased to such companies ("Millstone").

The existing Tolland Service Center is being substantially renovated and expanded. It is estimated that the total cost of the addition to Tolland will not exceed $3,528,226, and the total amount to be financed by Interet will be not more than $5,000,000 (being the sum of the purchase price for the existing facilities and the total estimated cost of the addition). The Convex dispatching building houses all dispatch facilities and equipment for Convex, which is a satellite dispatching center of the New England Power Exchange. New computer equipment (including the AGC/SCADA system described below) is to be installed at Convex, and additional improvements to the building are necessary to accommodate the new equipment and otherwise improve the facility. Because the CL&P Southington property contains the Southington transmission substation as well as the Convex building, CL&P proposes to lease to Interet the land on which the Convex building is located at a nominal rent rather than sell any land with the building. The Ground Lease will be coterminous with the lease of the building to CL&P. It is estimated that the total cost of the addition to Convex will not exceed $931,928, and the total amount to be financed by Interet will be not more than $1,300,000 (being the sum of the purchase price of the existing facilities and the total estimated cost of the addition).

Refueling operations at the Millstone site require the construction of a refuel outage building which is to be constructed on land leased to Interet by the applicants-declarants at a nominal rent. The Ground Lease will be coterminous with the lease of the building to the applicants-declarants. It is estimated that the total cost of the construction of the refuel outage building will not exceed $2,000,000, and the amount to be financed by Interet will not exceed this amount.

In connection with such proposed transactions, the applicants-declarants will enter into Sale and Leaseback Agreements with Interet as lessor. The base term of the Tolland lease will be for 30 years, for Convex 20 years, and for Millstone 25 years. All leases will be "net leases" in that the lessee will assume all costs of operating and maintaining the facilities, including the payment of property taxes and insurance. The companies will capitalize the leases for ratemaking purposes unless the Connecticut Public Utilities Control Authority directs that the lease payments be treated as operating expenses pursuant to the addendum to APB Opinion No. 2. If the operating expense treatment is so directed, and if the payments are material, the companies will reflect the leases in a footnote disclosure in the appropriate financials and reflect the lease payments as an expense in the statements of income. In terms of annual interest charges, the average simple interest cost to the lessee embodied in the rentals will be approximately 9.75% per annum for Tolland, 9.80% per annum for Convex, and 10.01% per annum for Millstone. Interet will finance the acquisition of the facilities through a first mortgage or mortgages on the facilities from institutional lenders.

It is stated that the proposed transactions will enable the applicants-declarants to obtain necessary financing for the facilities on favorable terms in the light of existing conditions. The companies, with the exception of WMECO, are unable at the present time to sell first mortgage bonds and are limited in their ability to issue preferred stock because of inadequate coverage ratios. Lease financing therefore offers a favorable alternative for the long-term financing of needed new facilities at this time.

In addition to the foregoing, CL&P proposes to lease not more than $6,000,000 worth of the data processing equipment and software and accessory equipment ("System") which will together comprise all or part of a new Automatic Generation Control/Supervisory Control and Data Acquisition (AGC/SCADA) system to be installed in the Convex dispatching building described above. The proposed transaction is being arranged by Interet Corporation. CL&P is to enter into a Participation Agreement with The Connecticut Bank and Trust Company, as Trustee ("Trustee"), Ford Motor Credit Company, and Manufacturers Detroit Leasing Company ("Equity Participants") and Bankers Life Company ("Institutional Investor"). Pursuant to the Participation Agreement and prior to putting any part of the System into service, CL&P will either arrange for the Trustee to acquire such part from the vendor or will itself purchase such part and resell it to the Trustee. The Trustee will hold legal title to the System for the benefit of the Equity Participants and the Institutional Investor pursuant to a Trust Agreement. When the System is delivered to and accepted by the Trustee, the Trustee will simultaneously lease back the System to CL&P pursuant to a Lease Agreement ("Lease"). The base term of the Lease will be eight years, which term will not exceed 75% of the estimated economic useful life of the System. CL&P will have the right either to purchase or to renew on a fair market or fair rental value basis. If CL&P neither purchases nor renews the Lease at the end of the base term, the System will be returned to the Trustee. The Lease will be a "net lease" in that CL&P will assume all costs of operating and maintaining the System, including the payment of property taxes and insurance. It is stated that the AGC/SCADA system lease does not meet any of the FASB-13 tests for capitalized leases and that, therefore, it will be accounted for by CL&P as an operating lease and will not appear on its balance sheet. The lease rentals will be treated as an operating expense for ratemaking purposes.

The Trustee will finance its acquisition of the System through a combination of an investment of approximately 25% of the Trustee's cost by the Equity Participants and of an issuance of secured notes to the Institutional Investor at an interest rate of not more than 9.5% per annum in an amount equal to approximately 75% of the Trustee's cost. The rental payments are premised upon the availability of certain tax benefits to the Equity Participants. In the event that such tax benefits prove to be unavailable, the Lease rentals will be adjusted. Such adjustments could, in the aggregate, increase the effective interest cost up to a maximum of 10% per annum.

CL&P believes that the net lease approach is the most reasonable and least expensive method now available to it for the acquisition of the System. It is estimated that the annual cost to CL&P to purchase the System by conventional methods would be approximately 12% as opposed to approximately 8% for the rental charge.

It is represented that the Connecticut Public Utilities Control Authority ("PUCA") has jurisdiction over certain of the proposed transactions. It is further stated that CL&P may seek a ruling from the PUCA that the Trustee, the Equity Participants, and the Institutional Investor will not be deemed an "electric company" under Title 16 of the Connecticut General Statutes; that the Trustee and the Equity Participants may also file a petition for a declaratory ruling with the Federal Energy Regulatory Commission seeking a determination that none of such parties is a "public utility" under the provisions of Part II of the Federal Power Act; that it is expected that the Lessor, the institutional lender, the Trustee, and the Equity Participants will seek an exemption pursuant to Rule 7(d) under the Act; and that no other regulatory approvals, except that of this Commission, will be required in connection with the real estate and equipment transactions. A complete statement of the fees and expenses to be incurred in connection with the proposed transactions is to be filed by amendment.

Notice is further given that any interested person may, not later than December 14, 1978, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33756 Filed 12-1-78; 8:45 am]

[8120-01-M]

TENNESSEE VALLEY AUTHORITY

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Significant Regulations

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual notice of agenda of significant regulations under development or review.

SUMMARY: This document satisfies the requirements of Executive Order No. 12044, "Improving Government Regulations" (the "order"), by informing the public of the determination made by the Board of Directors of TVA that TVA currently has no regulations under development or review which qualify as "significant" under the order.

EFFECTIVE DATE: The determination of which this document gives notice was made at a public meeting of TVA's Board of Directors on November 16, 1978, and covers the period through April 2, 1979.

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10 city areas. The observations were Part 245, Beer, belong at and should accurate depiction of the process; and

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ADDRESS: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT:

Lynn G. Morehous, Assistant General Counsel, 400 Commerce Avenue, E10D76, Knoxville, Tennessee 37902, 615-632-3081.

SUPPLEMENTARY INFORMATION: On June 15, 1978, TVA published in the FEDERAL REGISTER (43 FR 25951) its draft report implementing Executive Order No. 12044. That report made clear that TVA is essentially a program agency. It issues few rules and regulations and makes a concerted effort to minimize the number which it must issue. TVA's regulations generally follow the form of standard government-wide regulations usually developed under the supervision of a "lead agency" or Executive orders requiring uniform government action. All TVA regulations are personally approved by TVA's Board of Directors. Under these circumstances, elaborate criteria to determine which future regulations are "significant" would be counterproductive to the goal of the order to simplify regulations and their developmental process.

TVA currently has under development or review three regulations which are subject to the order. These are an amendment to its regulations under Section 26a of the TVA Act, which would increase public participation in the process for issuing permits under that section, and proposed procedural regulations implementing the Public Utility Regulatory Policies Act of 1978 and sections 504 and 505 of the Rehabilitation Act of 1973, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. On November 16, 1978, based on the criteria set forth in the order, the TVA Board of Directors determined that none of the regulations subject to the order which are under development or review are "significant" within the meaning of the order.

SEMIANNUAL AGENDA OF REGULATIONS

No significant regulations are expected to be developed or reviewed in the period covered by this notice.

Dated November 16, 1978.

H. N. STROUD, JR.,
Acting General Manager.

[FR Doc. 78-32982 Filed 12-1-78; 8:45]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Nos. RMB-79-1 and 2]

MINORITY BUSINESS RESOURCE CENTER

Purchase of Redeemable Preferred Stock

Proposed Program: By notice of July 25, 1978, published in the FEDERAL REGISTER of July 31, 1978 (43 FR 33358), the Federal Railroad Administration ("FRA") advised that it had solicited applications from each of five small business investment companies ("MESBICs"), licensed by the Small Business Administration ("SBA") under section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681), for the purchase by the United States of their redeemable preferred stock ("stock") under section 11 of the Department of Transportation Act, 49 U.S.C. 1657a. The names and addresses of the MESBICs, and the amounts of the purchases were contained in the notice. Notice is hereby given that FRA has received and has under review two additional applications in connection with a separate solicitation. These applications are:

DOCKET NUMBER AND NAME

RMB 79-1—Fulcrum Venture Capital Corporation, 2021 K Street, NW., Washington, D.C 20006.

RMB 79-2—Innercity Broadcasting Corporation, 801 2nd Avenue, New York, N.Y. 10017.

Fulcrum Venture Capital Corporation is a licensed MESBIC. Innercity Broadcasting Corporation has agreed to proceed as quickly as possible to form a MESBIC and to secure an SBA license under the Small Business Investment Act of 1958. Each applicant proposes that the United States purchase MESBIC stock having an aggregate par value not in excess of $3,000,000.

Justification for program. The proceeds of the sale of the stock are to be used by each MESBIC to make investments in minority entrepreneurs and businesses to engage in business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads. Simultaneous with the purchase of stock in each MESBIC, the SBA will be participating by an investment in the MESBIC under its regulations governing SBA investments in MESBIC's (13 CFR pt. 107).

Comments. Interested persons may submit written comments on the separate applications to the Executive Director of the Minority Business Resource Center, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

Each application will be made available for inspection during normal business hours in room PL-413 at the above address of the FRA, subject to the regulations of the Office of the Secretary of Transportation set forth in 49 CFR Part 7.

The FRA is in the process of conditionally approving the two applications. Such approvals will be subject to the receipt by FRA of all necessary materials from the applicants, the execution of a financing agreement, and with respect to Innercity Broadcasting Corporation, the creation and licensing of a MESBIC. Comments will be considered by the FRA in completing its evaluation of the applications. However, formal acknowledgements of comments will not be provided.

(Sec. 11, Department of Transportation Act, as amended (49 U.S.C. 1657a))

Dated: November 29, 1978.

Comment closing date: December 30, 1978.

KENNETH E. BOLTON,
Executive Director, Minority Business Resource Center, Federal Railroad Administration.

[FR Doc. 78-33760 Filed 12-1-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

SAFETY BELTS; CONTRACT RESEARCH STUDIES RESULTS

Public Meeting

The National Highway Traffic Safety Administration (NHTSA) will hold a public meeting on December 15, 1978, to present the results of two contracted research studies. One study assessed safety belt usage in the U.S. and the second evaluated the comfort and convenience of safety belts in 1979 model cars.

The meeting will be held in Room 2230 at the DOT (Nassif Building) at 400 Seventh Street, S.W., beginning at 9:30 a.m. and should be over about noon.

First, each contractor will give a short overview of his findings and then answer questions from the press. After the overviews, more technical and detailed briefings will be given.

The first contractor to present his findings will be Opinion Research, Inc. from Princeton, New Jersey. During this study observations were made of safety belt usage in about 70,000 cars that were stopped for traffic signals in

19 city areas. The observations were made between November 1977 and June 1978. Some of the factors associated with belt usage to be discussed are: type of belt system; model year of car; car manufacturer; car size and model; type of road; and driver age and sex.

The second study to be presented was conducted by Verve Research Corporation Rockville, Maryland. The purpose of this study was to evaluate safety belt comfort and convenience aspects in 30 representative 1979 model cars including two passive belt systems. More than 100 subjects used the safety belts in the 30 cars and were asked to evaluate various aspects of the belts related to comfort and convenience. The presentation will show how the 30 cars compared to each other and will also include various subscores for selected aspects of comfort and convenience. The discussion will also cover factors that may influence ratings of comfort and convenience, such as type of belt system, height, weight, age and vehicle configuration.

All tables presented, including a summary of the studies, will be available at the end of the meeting.

Additional information may be obtained from Mr. Peter Ziegler, Office of Driver and Pedestrian Research, Room 3202, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590, telephone 202-755-8753.

Issued on November 28, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-33765 Filed 12-1-78; 8:45 am]

[4810-31-M]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 79-2; Reference: ATF O 1100.99]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 245, BEER

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 245, Beer, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel, Headquarters and field.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the approval of activities at regulated breweries and pilot brewing plants. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 245, Beer, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 245, Beer:

a. To prescribe all forms required by regulations including bonds, applications, notices, reports, returns, and records, under 27 CFR 245.2.

b. To approve applications by a brewer to use a brewery for other purposes not involving the production of alcoholic beverages when such use will not jeopardize the revenue nor impede the effective administration of the regulations and is not contrary to the specific provisions of law, under 27 CFR 245.12.

c. To approve other materials and methods found acceptable for use in the preparation of plats, under 27 CFR 245.66.

d. To determine the similarity of a container to a bottle or can and the similarity of a container to a barrel or keg, under 27 CFR 245.111a.

e. To approve other methods for durably marking each barrel or keg of beer, under 27 CFR 245.125.

f. To require the actual place of production to be shown on labels when the brewer's name, trade name, or brand name includes the name of the city which is not the place where the beer was produced, under 27 CFR 245.126.

g. To approve letterhead applications for exceptions to construction, equipment, and methods of operation requirements, under 27 CFR 245.221 and 27 CFR 245.222.

h. To cancel any approved exception or variation to regulatory requirements and, if necessary to protect the revenue, to require brewers to conform to construction, equipment, or methods of operation requirements specified in regulations, under 27 CFR 245.221.

i. To require the maintenance of ATF F 2051 (5130.5) Sheets 1 and 2, Record of Brewery Operations, by any brewer when the interests of the United States so demand, under 27 CFR 245.225.

j. To approve the types of records to be reproduced and the reproduction processes to be employed, under 27 CFR 245.233.

k. To approve applications on ATF F 3019 (5130.13), Process for Concentration or Reconstitution of Beer, of processes to produce concentrates from beer; to require with the application a flow diagram, drawing, or other accurate depiction of the process; and to require the brewer to submit samples and additional information relating to the operation, under 27 CFR 245.236 and 27 CFR 245.237.

l. To withdraw approval of a concentration process in any case where the brewer fails to comply with the provisions of the regulations, under 27 CFR 245.237.

m. To approve applications on ATF F 3019 (5130.13) of processes to be used to reconstitute beer from concentrates; to require with the application a flow diagram, drawing, or other accurate depiction of the process; and to require the brewer to submit samples and additional information relating to the operation, under 27 CFR 245.238 and 27 CFR 245.239.

n. To withdraw approval of a reconstitution process in any case where the brewer fails to comply with the provisions of the regulations, under 27 CFR 245.239.

4. *Redelegation.* a. The authorities in paragraphs 3a, 3h, 3l, and 3n above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b through 3g and in paragraphs 3i, 3j, 3k, and 3m above may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorizations that follow may be redelegated to regional regulatory administrators, who may redelegate these authorizations to regional Regulatory Enforcement personnel not lower than the position of chief, technical services, or area supervisor:

(1) The authority in paragraph 3b above to approve applications for use of brewery for other purposes which are in the public interest because of emergency conditions, and the authorities in paragraphs 3c and 3i above.

(2) The authorities in paragraphs 3b or 3e or 3g or 3j above to approve requests by a brewer may be redelegated to regional officials to approve only those requests, without submission of the applications to Headquarters for approval, which are identical to those previously approved by Bureau Headquarters.

(3) The authority in paragraph 3h above to cancel or withdraw any approved exceptions or variations authorized by Bureau Headquarters; and the authorities in paragraphs 3l and 3n above to withdraw approval of concentration or reconstitution processes. Where regional officials cancel or withdraw approval, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of the cancellation or withdrawal.

Both Dead Sea and Bromine Com-

in which they are interested. No

D. I. Harfeld, Harry J. Harman, and

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Effective date. This order becomes effective on November 24, 1978.

Signed: November 24, 1978.

STEPHEN E. HIGGINS,
Acting Director.

[FR Doc. 78-33754 Filed 12-1-78; 8:45 am]

[4810-33-M]

Comptroller of the Currency

FAIR HOUSING LENDING ENFORCEMENT

Public Meeting

AGENCY: Comptroller of the Currency.

ACTION: Notice of Public Meeting.

SUMMARY: Settlement of *National Urban League, et al.* v. *Office of the Comptroller of the Currency, et al.* (Civil Action No. 76-0718) provides that a semi-annual meeting will be held to review the fair housing lending enforcement program of the Office of the Comptroller of the Currency. Members of the public are invited to attend this meeting.

DATE: December 14, 1978, 2:00 p.m.

ADDRESS: 490 L'Enfant Plaza, SW., Washington, D.C. 20219. Individuals who plan to attend this meeting should report to the 6th floor reception desk prior to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Zina G. Greene, Director, Civil Rights Program, Office of the Comptroller of the Currency, Washington, D.C. 20219, phone 202-447-0934.

SUPPLEMENTARY INFORMATION: Settlement of *National Urban League, et al. v. Office of the Comptroller of the Currency, et al.* (Civil Action No. 76-0718) provides that a semi-annual meeting will be held to review the fair housing lending enforcement program of the Office of the Comptroller of the Currency. Representatives of the Comptroller of the Currency will discuss their fair housing program and any changes made or proposed therein and will receive and consider suggestions from the National Urban League.

Members of the public are invited to attend this meeting and will be given an opportunity to make comments and suggestions with respect to the enforcement program of the Comptroller of the Currency.

Dated: November 24, 1978.

ZINA G. GREENE,
Director,
Civil Rights Program.

[FR Doc. 78-33775 Filed 12-1-78; 8:45 am]

[4810-22-M]

Customs Service

BROMINE AND BROMINATED COMPOUNDS FROM ISRAEL

Final Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that an investigation has resulted in a determination that the Government of Israel has not given benefits considered to be "bounties or grants" within the Countervailing Duty Law to manufacturers or exporters of bromine and brominated compounds.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly A. Kuga, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 5, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 24395). The notice stated that it preliminarily had been determined that benefits had been received by the Israeli manufacturers/exporters of bromine and brominated compounds which might constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

Bromine is a chemical element of the halogen family used in production of a great variety of chemical products. Bromine is provided for in the Tariff Schedules of the United States under item 415.05. Brominated compounds are classified under various item numbers including items 429.28, 420.82 and 403.60.

Programs preliminarily determined to be bounties or grants included:

1. Rebate of property taxes when companies achieve a required level of exportation of their manufactured articles.

2. Refund of a portion of export insurance premiums for one firm which utilized this program.

3. Subsidization of research and development expenses on export-related products for one firm which utilized this program.

4. Regional development assistance including:

(A) Grants and loans for approved firms.

(B) Reduced rents and preferential mortgage rates on buildings and equipment.

(C) Tax concessions and accelerated depreciation for approved firms.

(D) Exemption from payment of Customs duties and purchase taxes on imported machinery and equipment.

This investigation involves two Israeli firms, Dead Sea Bromine Company, Ltd. (Dead Sea) and Bromine Compounds, Ltd. (Bromine Compounds). Both firms received benefits in the form of property tax rebates and regional development assistance while Bromine Compounds also utilized research and development grants and received certain rebates of export insurance premiums. Subsequent to our preliminary determination, it was found that the research and development grants were erroneously identified as a separate program; actually they are administered as a part of the regional development assistance program.

That preliminary determination stated in part:

"The Government of Israel has submitted that payments and bestowals made under the various regional development programs enumerated above are significantly less than the net increased costs actually incurred in establishing and maintaining facilities in areas eligible for such benefits by the firms making the merchandise under investigation. The net *ad valorem* benefit from these programs would therefore be zero and no bounty or grant would be deemed to exist despite the preponderance of production for export. However, further information is necessary to determine the basis on which the dislocation costs were computed so that the precise net *ad valorem* benefit, if any, can be verified."

Based upon an analysis of information submitted by the Government of Israel, certain "net" dislocation costs incurred by Dead Sea and Bromine Compounds were identified and verified. These additional costs related primarily to increased labor costs and electricity costs incurred by the firms by virtue of locating in a less commercially advantageous part of Israel. These net "dislocation costs" have been determined to exceed the regional development assistance received by each of these companies and therefore it has been determined that the net benefit from the regional assistance programs is zero and no bounty or grant exists.

It has also been determined that the export insurance program, which was only utilized by Bromine Compounds, covers its claims from operating income (primarily premiums charged to the policyholders themselves); there is no evidence of ongoing government funding of the program and therefore it does not operate in such a way as to be considered a "bounty or grant".

Both Dead Sea and Bromine Compounds do receive rebates of property taxes as a result of the degree to which they export. In the most recent business year, Dead Sea received rebates which conferred an *ad valorem* benefit 0.06 percent, while rebates received by Bromine Compounds were 0.12 percent *ad valorem*.

On the basis of information supplied subsequent to the preliminary determination, it is hereby determined that benefits have been paid by the Government of Israel on the manufacture/exportation of bromine and brominated compounds in the form of partial rebates of property taxes depending upon export performance, but that the benefits involve an aggregate amount considered to be *de minimis* in size, and that therefore no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) upon the manufacture, production or exportation of bromine and brominated compounds from Israel.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 27, 1978.

[FR Doc. 78-33734 Filed 12-1-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice 748]

ASSIGNMENT OF HEARINGS

NOVEMBER 29, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 143296 (Sub-2F), Peach State Bus Lines, Inc., now assigned December 6, 1978, at Atlanta, Ga., will be held in Room 202 North Annex, 7741 Roswell Road, instead of Room 305, 1252 W. Peachtree St., N.W.

MC 118859 (Sub-11F), Bullock Trucking Company, Inc., now assigned for hearing December 7, 1978 at Atlanta, Ga., and will be held in Room 212 North Annex, 7741 Roswell Road instead of Room 202 North Annex, 7741 Roswell Road.

MC 105813 (Sub-241), Belford Trucking Co., Inc., now assigned December 6, 1978, at Atlanta, Georgia will be held in Court Room 212, North Annex, 7741, Roswell Road, N.E., instead of Room 202.

MC 125433 (Sub-149F), F-B-Truck Line Company, now assigned December 11, 1978, at Los Angeles, California is canceled and application dismissed.

MC 138713 (Sub-3F), R & G Transit Corp., now assigned December 4, 1978, at St. Louis, Mo., is postponed indefinitely.

MC 144232 (Sub-1F), Contract Distribution System, Inc., now assigned pre-hearing conference is transfered to a hearing December 19, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 121658 (Sub-11F), Steve D. Thompson, now assigned, December 4, 1978, at Baton Rouge, La., is postponed indefinitely.

MC 141532 (Sub-33F), Pacific States Transport Corp., now being assigned January 10, 1979 (3 days), in Room No. 324, U.S. Courthouse, 312 North Spring Street, Los Angeles, Calif.

MC 119789 (Sub-424F), Caravan Refrigerated Cargo, Inc., now assigned continued hearing January 15, 1979, at Washington, D.C., is postponed to February 13, 1979, at the offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33791 Filed 12-1-78; 8:45 am]

[7035-01-M]

[No. MC 141600]

BARKER'S SCHOOL BUS SERVICE, INC., GARY, IND.

Common Carrier Application

NOVEMBER 9, 1978.

I. Applicant will provide the public with a more economical type of service which protestants are not offering. The benefits to the public from the availability of this type of service outweigh the potential harm to protestants. The application will be granted.

II. The proposed restriction to transportation in school buses will not be imposed on the grant of authority. The restriction is unenforceable, serves only to make the operations more difficult, does not describe the service needed, and does not protect any legitimate interests of existing carriers.

Donald W. Smith for applicant.

D. I. Harfeld, Harry J. Harman, and *Harold M. Olsen* for protestants.

DECISION

Applicant seeks irregular-route motor common carrier authority to transport passengers and their baggage, in interstate or foreign commerce, in round-trip charter operations, beginning and ending at points in Lake, LaPorte, and Porter Counties, IN, and extending to points in Ohio, Kentucky, Illinois, Missouri, Michigan, and Wisconsin, restricted to service to be performed in school buses. The application is opposed by Shoup Buses, Inc., Keeshin Charter Service, Inc., and Indiana Motor Bus Company, a corporation.

In his initial decision, the Administrative Law Judge granted the application, finding that (1) the supporting witnesses have established a need for a more spartan service than is provided by protestants, and (2) by restricting the grant of authority to service to be performed in "school buses", any adverse effects on existing carriers will be prevented.

Division 1 affirmed the initial decision finding that the supporting witnesses have established a need for a passenger service which is substantially different from the service currently offered by protestants. The restriction limiting service to the use of school buses was deleted as unnecessary, administratively undesirable, and difficult to enforce. A subsequent petition for reconsideration was denied by Appellate Division 1.

Protestants Indiana Motor Bus Company and Shoup Buses, Inc., instituted an action in the United States Court of Appeals for the Seventh Circuit. By decision of May 31, 1978, the Commission reopened the proceeding for further consideration on the present record subject to approval of the Court of Appeals. On July 7, 1978, the Court granted the motion to remand the proceeding to the Commission for further consideration.

We have considered the evidence, the initial decision, the decision and order of Division 1, and the pleadings. We agree with the division's conclusion with regard to the equipment restriction but believe, in light of the Administrative Law Judge's reliance on this restriction, that additional explanation is appropriate. We find the detailed summary of facts contained in the initial decision as adopted by division 1 to be correct in all material respects. As modified and supplemented in this decision, we adopt that factual summary as our own. Only those facts necessary for an understanding of the issues will be restated.

PERTINENT FACTS

able in grants of authority are set

motor vehicles used to carry members of the

could reliably be enforced, and we perceive none ourselves.

serve the entire public, have been unwilling or unable to offer the type of

restricted authority is required by the public convenience and necessity. We

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PERTINENT FACTS

The supporting witnesses are involved with organizations which have extremely limited funds for purposes of charter trips outside of Indiana. These trips are made predominantly by children or young people. A few trips are also sponsored for elderly and disadvantaged patrons. Each public witness testifies that its motive for supporting the application is to obtain a more economical service. It is for this reason that school buses, rather than more luxurious equipment, are sought. The witnesses generally have not used the services of protestants. Two witnesses did testify that protestant Shoup did not have equipment available when needed and that its rates were too high.

Indiana Motor Bus Company holds regular route authority, embracing incidental charter rights, to transport passengers and their baggage, over a route extending between various points in Indiana, including most of Lake County, the southwestern part of Porter County, and portions of La Porte County, on the one hand, and, on the other, points in numerous States, such as Chicago, IL, and Kalamazoo, MI. Protestant operates 42 buses, all described as deluxe intercity, parlor type coaches with air conditioning. It indicates that it is willing to provide a charter service to meet the witnesses' needs.

Keeshin Charter Service is authorized to transport passengers and their baggage, in charter operations, from points in Cook and Will Counties, IL, and Lake County, IN, to all States sought in this proceeding, and return, restricted to traffic originating in the territory indicated. Protestant operates a fleet of 21 buses, 17 of which are equipped with lavoratories, stereo music, reclining seats, air conditioning, public address systems, radios, and oversized luggage storage compartments. It does not operate ordinary school buses. Keeshin indicates that during the first 5 months of 1976, it operated at only 50 percent capacity.

Shoup Buses is authorized to transport passengers and their baggage, in charter service, from points in Indiana to points in Illinois, Ohio, and Michigan, and return. Protestant has 15 buses utilized for charter operations.

DISCUSSION AND CONCLUSIONS

I. Equipment Restriction. The proposed restriction to transportation in school buses should not be imposed on the grant of authority. It is unenforceable, it would make the operations more difficult, it does not describe the service needed, and it would not protect any legitimate interests of existing carriers. The general criteria which may be used to determine whether given restrictions are acceptable in grants of authority are set forth in *Fox-Smythe Transp. Co. Extension—Oklahoma*, 106 M.C.C. 1 (1967). The three most common reasons why restrictions are found unacceptable were stated at 106 M.C.C. 10 to be (1) that the proposed restriction serves no useful purpose, (2) that the proposed restriction is unclear or confusing, or (3) that the proposed limitation is unduly restrictive. The restriction we are considering here falls to some extent in each of these three categories.

A. *The restriction is unenforceable.* There is no clear definition available for what a "school bus type vehicle" is. The "Schoolbus Exemption" set forth in Section 203 (b)(1) of the Interstate Commerce Act refers to "motor vehicles employed solely in transporting school children and teachers to and from school." Our regulations concerning this exemption provide, in 49 CFR 1047.2, that the exemption is applicable even if the vehicle is used at other times for transportation which is beyond the scope of the exemption. See also *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423, 429-431 (1969), and *Schoolbus Exemption*, 113 M.C.C. 258, 275-288 (1971) and 114 M.C.C. 531 (1971). Accordingly, there is no limitation at all on the *type* of vehicle which may be used under this exemption, and so there is no guidance here toward defining what is a "school bus."

On the other hand, those regulations of the Department of Transportation which deal with the safety aspects of school bus operations provide a definition which appears to be much more restrictive than applicant intends. The definition which appears at 49 CFR 605.3(b) states:

"School bus operations" means transportation by bus exclusively for school students, personnel and equipment in type I and type II school vehicles as defined in Highway Safety Program Standard No. 17.

Highway Program Standard No. 17, "Pupil Transportation Safety," appears at 24 CFR 1204.4 and defines school vehicles in this manner:

• • • • •

III. *Definitions.* "Type I school vehicle" means any motor vehicle with motive power, except a trailer, used to carry more than 16 pupils to and from school. This definition includes vehicles that are at any time used to carry schoolchildren and school personnel exclusively, and does not include vehicles that only carry schoolchildren along with other passengers as part of the operations of a common carrier.

"Type II school vehicle" means any motor vehicle used to carry 16 or less pupils to or from school. This does not include private motor vehicles used to carry members of the owner's household.

• • • • •

Part IV of the standard requires, in general, that Type I school vehicles (a) be identified with the words "School Bus" on front and back, (b) be painted school bus yellow, (c) have glossy black bumpers, (d) be equipped with certain signaling devices, and (e) have a described system of mirrors. Type I school vehicles owned by a local transit system and used for regular common carrier transit route service as well as school route service, however, need not be painted yellow and black, shall have temporary "school bus" signs, and need not be equipped with the signaling devices. When a school vehicle is permanently converted to other uses, it must be painted another color, and the signaling devices must be removed. When a school vehicle is used to transport passengers other than school pupils, the words "School Bus" must be concealed and the signaling devices made inoperative. Type II school vehicles must comply either with all of these requirements or with none of them, as determined by the individual States.

Although applicant does operate school bus services, it does not appear that it intends that its operations be limited to the use of equipment which complies with all the requirements of Highway Program Standard No. 17. It is also clear that these requirements have very little, if anything, to do with the needs of the supporting witnesses.

In his initial decision, the Administrative Law Judge attempted to define a school bus "as a vehicle of a model manufactured primarily for use as a school bus, whether or not the particular vehicle has ever been or is used as a school bus within the exemption of section 203(b) of the act or not, and that such vehicle must not be equipped with air conditioning, restrooms or reclining seats." It must be acknowledged that there is a clear common conception of what a typical school bus would be, but this is not the issue. Rather, in looking toward the problem of enforcing the proposed restriction if it is imposed on the grant of authority, we must consider what range of variations from the typical would be acceptable. For example, it does not seem impossible for air-conditioning and reclining seats to be installed in a typical school bus body. The resulting vehicle might not be outwardly readily distinguishable from the original, and yet passengers would find these extra comforts quite similar to those of the more usual coaches which protestants provide.

Applicant has offered no suggestion as to how the proposed restriction could reliably be enforced, and we perceive none ourselves.

B. *The restriction would serve only to make the operations more difficult.* In substance, the proposed restriction says that applicant shall not permit its passengers to be too comfortable. Restrictions having similar effects were condemned in *Fox-Smythe* at 106 M.C.C. 20, on the grounds that they are, in most cases, "of the pure nuisance type".

In this case, the attempt clearly is to enforce a distinction in the class of service provided: relegating applicant to what might well be described as a 4th-class service. We do not believe this result is in the public interest since it would impose an arbitrary and inflexible standard, unresponsive to the needs or desires of prospective patrons. To deny the public the use of an available service unless it is willing to put up with inferior accommodations is not the proper role of this Commission. For such a situation to result from economic factors or applicant's choice of what type of equipment it will operate is one thing; for a regulatory body to enforce such a limitation is, in our opinion, inappropriate.

C. *The restriction does not describe the service needed.* The overwhelming majority of the supporting witnesses have described their needs primarily as for a more economical service. These witnesses have generally identified school bus type equipment as a means of satisfying that need. It is not apparent that this is the only possible means of satisfying that need, however, since it is our experience that numberous small or locally-based carriers across the country are able to provide comparatively economical services by operating older or second-hand conventional equipment, among other possibilities. An example of this type of situation may be found in *City Transit Co., Common Carrier Application*, 113 M.C.C. 471, 472 (1971) in which the applicant proposed to add "better (though not new)" buses to its fleet to accommodate increased business.

Further, we do not feel it is necessary to impose a restriction of any sort to ensure that applicant will actually provide the type of service it proposes. This conclusion is supported by the fact that, although applicant's present authority is not restricted in the manner proposed, it operates 80 school buses and a few service vehicles. As a result, we conclude that the proposed restriction neither describes the service needed nor is necessary to ensure that the type of service needed will actually be provided.

D. *The restriction would not serve to protect the legitimate interests of existing carriers.* Protestants, despite their general duty as common carriers to serve the entire public, have been unwilling or unable to offer the type of service applicant will provide. This lack of service detracts substantially from the weight we have given to their interests in opposing the application. The same conclusion is warranted with respect to their interests which mght be protected if the proposed equipment restriction were imposed in the grant of authority. We would perhaps be more inclined to protect protestants' interests if they were in fact providing the type of service applicant proposes, but they are not.

Existing carriers are not entitled to limit new carriers to providing only those services they themselves do not choose to provide, even though authorized to do so. We believe that it would be contrary to the public interest to protect protestants' interests in existing traffic when they are not providing some of the services which they are authorized to provide. Protestants are free to choose not to provide the more economical type of service applicant proposes, but we will not restrict applicant to providing a less commodious service on this ground. To do so would in part, benefit protestants even though they have been unresponsive to the needs of a significant segment of the public. In this context, their interests which the proposed restriction would protect are not legitimate.

E. *Summary.* Section B of Appendix II to the report in *Fox-Smythe, supra*, aptly summarizes the proper treatment of equipment restrictions:

> Acceptable equipment restrictions • • • usually tend to achieve the positive "purpose" of describing the service authorized, the transportation characteristics of the commodity to be transported, and/or of protecting the legitimate interests of existing carriers. (106 M.C.C. at 44.)

The purposed restriction here, to transportation in school buses, satisfies none of these criteria. Accordingly, the grant of authority will not include the proposed restriction.

II. Public Convenience and Necessity. The Administrative Law Judge found that the supporting witnesses have established a need for a low-cost service, and that imposition of a restriction to service in school buses assures the rendition of such a service. He also concluded that a grant of authority without such a restriction is not supported by the public convenience and necessity. The restriction, it was believed, would prevent any adverse effect on protestants' operations. Division 1 affirmed the finding of need for a different service than offered by protestants, but deleted the restriction.

We affirm the finding in prior orders on the issue of the supporting witnesses needs for a different service but must consider whether a grant of unrestricted authority is required by the public convenience and necessity. We conclude that it is.

In applications for motor common carrier authority, the Commission has consistently followed the criteria set forth in *Pan-American Bus Lines Operation*, 1 M.C.C. 190, 203 (1936). As a consequence, whether or not the present or future public convenience and necessity require the proposed operation depends, in substance, on whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest. In essence, the question is whether the advantages to those members of the public that would use the proposed service outweigh the disadvantages, real or potential, to existing services that may result. *All American Bus Lines, Inc., Common Carrier Application*, 18 M.C.C. 755, 776-777 (1939).

The deletion of the restriction does not affect the Administrative Law Judge's conclusions with respect to the first and second criteria defined above. It is the effect of a grant of unrestricted authority on protestants' operations which is now at issue.

A grant of authority, with or without the proposed restriction to school buses, may result in diversion of some traffic from protestants. We do not doubt there are groups who would prefer to use applicant's less expensive service, even though they may now be using one of protestants' services. Similarly, if applicant is not limited to the type of equipment it uses, it is apparent that it would be able to handle the transportation of some groups that desire the more comfortable equipment such as protestants operate.

On the other hand, we perceive that most of the groups supporting the application either are not using protestants' services or are using those services only infrequently. This situation is similar to that which arose in *City Transit, supra*, where it was found that the difference between protestants' and applicant's services was "one of deluxe as opposed to less glamorous service rather than a difference solely of rates." It must also be recognized that the limited territorial scope of the application generally could ensure that protestants' services will still be used on longer trips where applicant's less commodious equipment is not as appropriate.

We conclude that the benefits which would accrue to the public from the availability of the more economical

'tween Clinton, NJ and Somerville, NJ,

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type of service applicant proposes amply outweigh the potential adverse effects on protestants. The fact that none of the three protestants has seen fit to provide this type of service up until now suggests that the addition of some competition to this market is appropriate and detracts substantially from the weight which we give to the potential adverse impacts on protestants' operations. Therefore, granting the application can be expected to result in better service to the public by meeting the needs of those groups which have needs which cannot be met by the standard services protestants now provide.

The proposed restriction to transportation in school bus type vehicles will not be imposed on the grant of authority. Since that restriction was included in the notice of the application published in the FEDERAL REGISTER, however, we feel that it is appropriate that a notice of the authority actually granted be published in the FEDERAL REGISTER before a certificate is issued. Therefore, issuance of a certificate will be withheld for thirty days after publication. During that time, any interested person not a party to this proceeding may file a petition seeking leave to intervene in this proceeding. The petition must demonstrate in specific detail the manner in which the petitioner has been materially adversely affected by the deletion of the equipment restriction, or else the petition will be rejected.

We find, on reconsideration:

The present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of passengers and their baggage, in round-trip charter operations, beginning and ending at points in Lake, La Porte, and Porter Counties, IN, and extending to points in IL, KY, the Lower Peninsula of MI, OHo, WI, and those points in MO on and east of U.S. Highway 63 and on and north of U.S. Highway 60. Applicant is fit, willing, able properly to perform this service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision does not significantly affect the quality of the human environment. An appropriate certificate should be issued, subject to republication of the grant of authority in the FEDERAL REGISTER. The application in all other respects should be denied.

It is ordered:

The decision entered October 6, 1977 in this proceeding, to the extent inconsistent with this decision, is vacated.

The application is granted to the extent set forth in the findings.

After publication of the grant authority in the FEDERAL REGISTER, a certificate will be issued if applicant complies with the appropriate requirements set forth in the Code of Federal Regulations (49 CFR 1043, 1044, and 1306). Applicant must comply within 90 days after the date of service of this decision or the grant of authority will be void.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Stafford dissenting.

H. G. HOMME, Jr.,
Acting Secretary.

Commissioner Stafford, dissenting:

I would deny the application. I agree with the majority that the equipment restriction should not be imposed; however, without any restriction applicant can offer any type of service. In view of the limited origin territory, I believe that the potential financial harm to protestants far outweighs the need for an unenforceable and speculative "economical" service.

[FR Doc. 78-33795 Filed 12-1-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 29, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 19, 1978.

FSA No. 43634, Southwestern Freight Bureau, Agent's No. B-783, Trailer-on-Flat-Car Rates on various commodities, between stations in Southwestern and Southern Territories, in Sup. 227 to its Tariff SW/S-84-H, ICC 5012, to become effective December 30, 1978. Grounds for relief—revised rate structure. By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33792 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Decision No. 36634 (Sub-No. 1)]

MONTANA INTRASTATE GRAIN RATES

Decided November 16, 1978.

On November 14, 1978, the Commission required the Montana railroads to increase their intrastate rates by the same amount as was authorized in Ex Parte Nos. 305-RE, 318, 330, and 336. However, the increase insofar as it pertained to grain was stayed.

Upon the petition of the Montana Department of Agriculture (MDOA) the Commission also ordered that an investigation into Montana intrastate rates and charges on grain be instituted.

It is ordered: This investigation is instituted to determine whether the Montana intrastate rates on grain should be ordered increased to the Ex Parte No. 336 level.

The Commission will consider any relevant evidence and arguments. The Commission seeks evidence, in particular, relevant to whether transportation conditions for grain within Montana are more favorable than interstate transportation conditions for grain, whether the existing intrastate grain rates in Montana are abnormally low, and whether the stayed increases applicable to Montana intrastate grain rates are just and reasonable.

All common carriers by railroad operating in Montana subject to the Commission's jurisdiction are made respondents.

All persons who wish to actively participate in this proceeding shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the Federal Register publication date. Persons having common interests should consolidate their presentations to the greatest extent possible.

The Commission will serve a list of names and addresses of all persons upon whom service of pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served on MDOA and copies shall be sent by certified mail to the Governor of Montana and to the Montana Public Service Commission. A copy shall also be served on the respondents, The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Union Pacific Railroad Company, and The Burlington Northern Inc. Copies shall also be deposited in the Office of the Secretary of the Commission at Washington, D.C.,and filed with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major Federal action significantly affecting the quality of the human environment.

By the Commission, Chairman O'Neal.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-33793 Filed 12-1-18; 8:45 am]

[7035-01-M]

[Notice No. 137]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before January 3, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77845, filed September 5, 1978. Transferee: JOEL SCHAEFER, doing business as SCHAEFER TRUCKING, Route 4, Platteville, WI 53818. Transferor: Bloomington Produce, Inc., Box 67 (Wall Street), Bloomington, WI 53804. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought for purchase of a portion of the operating rights of transferor set forth in Certificate No. MC-124417, issued August 16, 1977, as follows: Animal and poultry feed (except liquid commodities), in bulk, and in bags, in mixed shipments, from specified points in IA to points in a specified portion of WI, restricted to transportation in vehicles equipped with mechanical or pneumatic unloading systems; livestock and poultry feed, from Davenport, IA to points in the Towns of Fennimore and Potosi, Grant County, WI; and animal and poultry feed, from Dubuque and Iowa Falls, IA to points in Crawford, Grant, IA, and Richland Counties, WI, restricted against service from Dubuque to points in Paris and Potosi Townships, Grant County, WI. Transferee presently holds no authority from this commission; it does not seek section 210a(b) authority.

MC-FC-77900, filed October 18, 1978. Transferee: ULS, INC., doing business as UNITED LIMOUSINE SERVICE, P.O. Box 114, Raritan, NJ 08869. Transferor: Louis Santora, Jr., doing business as AAA United Limousine Service, P.O. Box 114, Raritan, NJ 08869. Representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought for purchase of the operating rights of transferor as set forth in Certificates Nos. MC-138141 (Sub-No. 2), (Sub-No. 3), and (Sub-No. 4), issued October 25, 1974, June 8, 1976, and March 7, 1978, respectively, as follows: Passengers and their baggage, in special operations in nonscheduled door-to-door service, limited to the transportation of not more than 7 passengers in any one vehicle, but not including the driver thereof, between in Somerset and Hunterdon Counties, NJ on the one hand, and, on the other, LaGuardia Airport and John F. Kennedy International Airport, NY, NY; passengers and their baggage, in the same vehicle with passengers in charter limousine operations, in nonscheduled, door-to-door service, limited to the transportation of not more than six (6) passengers in any one vehicle, not including the driver, between specified points in NJ on the one hand, and, on the other, NY, NY, and points in Nassau, Westchester and Putnam Counties, NY, and points in Philadelphia, Bucks, Montgomery and Delaware Counties, PA, restricted against the transportation of passengers and their baggage moving between points in Mercer County, NJ, on the one hand, and, on the other, LaGuardia Airport, John F. Kennedy International Airport at NY, NY and the Piers in the NY, NY commercial zone, as defined by the Commission, and North East Philadelphia Airport and Philadelphia International Airport at Philadelphia, PA; and passengers and their baggage and express and newspapers in the same vehicle with passengers, limited to the transportation of not more than ten (10) passengers in any one vehicle, not including the driver, between Clinton, NJ and John F. Kennedy Airport, NY, serving all intermediate points (except those on, east or north the junction of U.S. Hwy 1 and Interstate Hwy 287, near Edison, NJ, New Brunswick, NJ and the town of Somerset, NJ, on NJ Hwy 27, over specified routes, and between Clinton, NJ and Somerville, NJ, serving all intermediate points, over specified routes, restricted to traffic either originating at or destined to LaGuardia or John F. Kennedy Airports. Transferee presently holds no authority from this commission; it does not seek section 210a(b) authority.

MC-FC-77911, filed October 26, 1978. Transferee: LLOYD M. BRETT and GARY L. BRETT, a Partnership, doing business as BRETT FREIGHT SERVICE, 764 Jennifer Street, East Wenatchee, WA 98801. Transferor: Waterville Transfer Co., Waterville, WA 98858. Representative: Robert H. Scott, Jr., 530 North Main, Wenatchee, WA 98801. Authority sought for purchase of the operating rights of transferor as set forth in Certificates Nos. MC-33925, and MC-33925 (Sub-No. 7), issued March 29, 1957 and May 5, 1967, respectively, as follows: General commodities, with the usual exceptions, between specified points in WA. Transferee presently holds no authoirty from this commission; it does seek section 210a(b) authority.

MC-FC-77921, filed November 2, 1978. Transferee: LIVINGSTON TRANSPORTATION, LTD., 264 Tillson Avenue, Tillsonburg, ON, Canada N4G 3B6. Transferor: Waddick Transport Ltd., R. R. 6, Chatham, ON, Canada N7M 5J6. Representative: Miss Wilhelmina Boersma, Clark, Klein, Winter, Parsons & Prewitt, 1600 First Federal Building, Detroit, MI 48226. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC-139846 issued January 10, 1977, as follows: Liquid protein supplements, not intended for human consumption, in bulk, in tank vehicles, from Adrian, MI and Arcade, NY to ports of entry on the U.S.-Canada Boundary line located in Michigan and New York. Transferee presently holds authority in No. MC-112991 issued by the Commission. Application for temporary authority under Section 210a(b) has not been filed.

MC-FC-77924, filed November 6, 1978. Transferee: CARL S. ROSENBAUM, doing business as COAL TRANSPORT CO., 1509 Mart Drive, Little Rock, AR 72205. Transferor: Harrison W. Wood and Carl S. Rosenbaum, doing business as Coal Transport Co., (Susan Hearne Wood, Executrix), 1509 Mart Drive, Little Rock, AR 72205. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates No. MC-135885 (Sub-No. 1), issued May 1, 1973, as follows: Coal, between points in Franklin, Johnson, Logan and Pope Counties, AR, and from points in Franklin, Johnson,

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Logan and Pope Counties, AR to Fort ... in the vicinity of Roseville, California

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Logan and Pope Counties, AR to Fort Smith and Van Buren, AR. Transferee presently holds no authority from this commission; it does not seek section 210a(b) authority.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33794 Filed 12-1-78; 8:45 am]

[7035-01-M]

[Third Rev. Exception No. 2]

ST. LOUIS SOUTHWESTERN RAILWAY CO. AND SOUTHERN PACIFIC TRANSPORTATION CO.

Exception Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332

Decided: November 21, 1978.

By the Board: Because of recent work stoppages on the St. Louis Southwestern Railway Company (SSW) and on other connections of the Southern Pacific Transportation Company (SP), and due to derailments at Pine Bluff, Arkansas, New Orleans, Louisiana, Klamath Falls, Oregon, and in the vicinity of Roseville, California, the SP and the SSW are temporarily unable to forward all cars within 60-hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the SSW and the SP are required to forward loaded cars or empty foreign or private cars from the points named below within 72-Hours.

SSW: Pine Bluff, Arkansas.

SP: Eugene, Oregon, Roseville, California, West Colton, California.[1]

Effective November 24, 1978.

Expires 11:59 p.m., November 30, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-33796 Filed 12-1-78; 8:45 am]

[1] Houston, Texas eliminated.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-181, amdt. 1; Nov. 28, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 28. Docket 31977, Application of International Developers, Inc. (Japan) d.b.a. Toyo World Enterprises of California, Inc., for indirect foreign air carrier permit (Memo 8097-A, BIA, OGC).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: An application for an indirect foreign air carrier prmit (foreign tour operator) was filed by International Developers, Inc. (Japan) d.b.a. Toyo World Enterprises of California, Inc., and was originally included on the agenda for November 16, 1978. It was deleted from that agenda because the Board wanted to consider whether to hold a closed or open meeting prior to discussion on the item. Through a misunderstanding, consideration of the application was not included in the agenda for November 30, 1978. Accordingly, the following Members have voted that item 28 be added to the November 30, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This item will concern the development of Board policy toward charter operations of U.S. and foreign air carrier, both direct and indirect, operating between the United States and Japan. Premature public disclosure of opinions and evaluations could seriously compromise the ability of the United States to achieve an agreement which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 3106.5(9)(B) and that the meeting on this item be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. Sanford Rederer, Mr. Elias Rodriguez, and Mr. Steve Lachter.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. William Adler, Mr. Michael Schopf, Mr. Peter B. Schwarzkopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation.—Ms. Barbara Clark.

Bureau of Consumer Protection.—Mr. Howard Schmeltzer, and Mr. Glenn Wienhoff.

Bureau of International Aviation.—Mr. Richard M. Loughlin, Ms. Sandy Gerson, Mr. Dean L. Johnson, Mr. Ronald Miller, and Mr. Edward Wilbur.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 3106.5(9)(B) and that the meeting be closed to public observation.

PHIL BAKES, Jr.,
General Counsel.

[S-2445-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

2

[M-181, Amdt. 2; Nov. 28, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the November 30, 1978, meeting agenda.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 25. Petition of British Caledonian Airways, Ltd., for review of staff action denying its request for special tariff permission to file a one-way cargo charter charge from Houston to Singapore (Memo 8305, BPDA, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 25 is being deleted in order to improve the draft after further staff consultation. Accordingly, the following Members have voted that agency business requires the deletion of item 25 from the November 30, 1978, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2446-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

3

[M-181, Amdt. 3; Nov. 29, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: *29. (1) Dockets 32686, 33210, 33464, 33587, 33640, 33637, and 33709, Applications of TIA, Braniff, World and Aeroamerica for exemptions to serve various U.S.-Benelux, U.S.-Paris, U.S.-Germany, and U.S.-London markets. (2) Docket 32523, Petition of World Airways for Reconsid-

*Was originally item 15 on the November 30, 1978 agenda.

eration of Order 78-9-2 to add Los An-

Bureau of Pricing and Domestic Aviation.—
Ms. Barbara Clark

Braniff, and Hawaiian because of the immediate need for replacement air

[6320-01-M]

[6570-06-M]

[6712-01-M]

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eration of Order 78-9-2 to add Los Angeles as a coterminal point to the exemption giving World authority to serve the terminal point Amsterdam, the Netherlands and various U.S. coterminal points. (Memo 8303, BIA, BPDA, OGC, OEA, BCP).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: A formal Office of General Counsel request for closed meeting was not communicated to the Bureau of International Aviation until Friday, November 24, 1978, i.e., after the meeting agenda was typed by the Office of the Secretary. There was insufficient staff available on November 24 to draft the required notice. Accordingly, the following Members have voted that agency business requires that the Board vote that this Item be closed and to meet on less than 7 days' notice and that earlier announcement of the meeting was not possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer.

Consideration of these applications will involve aspects of our relationships with France and our negotiations with that country. Public disclosure, particularly to foreign governments with whom the United States is or will be negotiating, of the opinions, evaluations, and strategies of the Board and its staff could seriously compromise the ability of the United States Delegations to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that public observation of this item would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting on this item will be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer.

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. Sanford Rederer, Mr. Elivas Rodriguez, and Mr. Steve Lachter.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. William Adler, Mr. Michael Schopf, Mr. Peter B. Schwarzkopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation.—Ms. Barbara Clark.

Bureau of Consumer Protection.—Mr. Howard Schmeltzer and Mr. Glenn Wienhoff.

Bureau of International Aviation.—Mr. Richard M. Loughlin, Ms. Sandy Gerson, Mr. Dean L. Johnson, Mr. Ronald Miller, and Mr. Edward Wilbur.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting be closed to public observation.

PHIL BAKES, Jr.,
General Counsel.

[S-2447-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

4

[M-181, Amdt. 4; Nov. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the November 30, 1978, meeting agenda.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue, Washington, D.C. 20428.

SUBJECT:

4a. Docket 33013, ACTOA petition for regulation over all ground packages sold in conjunction with air transportation (OGC)

20a. Docket 33634; Petition of Aeroamerica, Inc., for reconsideration of Order 78-10-106 which denied Aeroamerica exemption authority to operate in the Seattle-Portland-Honolulu market pending resolution of certain consumer protection issues (BPDA, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: In order to ensure that the Board have sufficient time to review the issues and still comply with the 120-day rule for disposing of petitions for rulemaking item 4a is being added to the November 30, 1978, agenda and no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

On October 26, the Board granted a request by Pan American to suspend service between a number of points, including the Seattle-Portland-Honolulu market. In granting the suspension, the Board also granted exemption authority in that market to United, Braniff, and Hawaiian because of the immediate need for replacement air service. Aeroamerica had requested similar exemption authority, but the Board denied its request because the carrier had not provided adequate financial security for its passengers. Aeroamerica has worked to correct this problem, and has requested reconsideration of the denial. In order to facilitate the replacement of air service in this market, we believe that Aeroamerica's petition should come before the Board as soon as possible. Accordingly, the following Members have voted that agency business requires the addition of this item and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

S-2448-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

5

[M-181, Amdt. 5; Nov. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the November 30, 1978, agenda.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 19a. Docket 33889—Procedures for handling dormant authority applications (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff has been informed that certain markets will become dormant next week, and the Board has to have procedures to handle multiple applications in effect prior to that time. In view of the large volume of work on dormant authority the staff was unable to prepare an order any earlier. Accordingly, the following Members have voted that agency business requires the addition of item 19a to the November 30, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2449-78 Filed 11-30-78; 3:56 pm]

[6320-01-M]

6

[M-181, Amdt. 6; Nov. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the November 30, 1978, meeting agenda.

TIME AND DATE: 10 a.m., November 30, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 20. Docket 32774, Norfolk's Petition for an Investigation of United's Service Cuts in the Norfolk-Washington market. (Memo 8290, BPDA, OCCR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: In view of some questions raised by the Office of General Counsel, the staff would like to reevaluate the memorandum before it is discussed at a Board Meeting. Accordingly, the following Members have voted that item 20 be deleted from the November 30, 1978, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey, and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. Sanford Rederer, Mr. Elias Rodriguez, and Mr. Steve Lachter.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. William Adler, Mr. Michael Schopf, Mr. Peter B. Schwarzkopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation.—Ms. Barbara Clark.

Bureau of Consumer Protection.—Mr. Howard Schmeltzer and Mr. Glenn Wienhoff.

Bureau of International Aviation.—Mr. Richard M. Loughlin, Ms. Sandy Gerson, Mr. Dean L. Johnson, Mr. Ronald Miller, and Mr. Edward Wilbur.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting be closed to public observation.

PHIL BAKES, Jr.,
General Counsel.

[S-2450-78 Filed 11-30-78; 3:56 pm]

[6570-06-M]

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, December 5, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 78-7-FOIA-171, concerning a request by an employer charged with discrimination for copies of each letter from every charging party requesting information contained in the investigative file, and for copies of each nondisclosure agreement executed by every charging party supplied information from the file, and

2. Freedom of Information Act Appeal No. 78-9-FOIA-222, concerning a request by a party who filed a charge of discrimination for copies of all paperwork pertaining to that charge.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued November 28, 1978.

[S-2435-78 Filed 11-30-78; 11:19 am]

[6712-01-M]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 30, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted:

Agenda, Item No., and Subject

General—4—Amendment of Parts 1, 81, and 83 of the Commission's Rules to implement a system of temporary authorizations for ship stations in the Maritime Services.

General—5—Report to the Commission regarding public participation in FCC Rulemaking Proceeding Workshops.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 29, 1978.

[S-2436-78 Filed 11-30-78; 11:19 am]

[6712-01-M]

9

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, December 5, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Recommended U.S. proposals for the 1979 World Administrative Radio Conference.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obained from the FCC Public Information Office, telephone 202-632-7260.

Issued: November 28, 1978.

[S-2437-78 Filed 11-30-78; 11:19 am]

[6714-01-M]

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Tampa, Fla., in connection with the liquidation of the Hamilton Bank & Trust Co., Atlanta, Ga.

Hull, Towill, Norman, Barrett & Johnson, Augusta, Ga., in connection with the liquidation of First Augusta Bank & Trust Co., Augusta, Ga.

Cooley, Shrair, Alpert & Labovitz, P.C., Springfield, Mass., in connection with the liquidation of Chicopee Bank & Trust Co., Chicopee, Mass.

Francis & Doval, Hato Rey, P.R., in connection with the liquidation of Banco Credito y Ahorro Ponceno, Ponce, P.R. (two memorandums).

V 43/233 DEC 4 78 UMI

Memorandum and resolution proposing the final adoption of amendments to Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," to increase deposit insurance coverage to a maximum of $100,000 on time and savings deposits containing IRA and Keogh funds.
Memorandum and resolution proposing the final adoption of "Truth in Lending Enforcement Guidelines."
Memorandum and resolution proposing the final adoption of revisions in the reporting requirements for Reports of Condition and Reports of Income for small banks.
Memorandum and resolution proposing the adoption of a Liquidation Graded Salary Plan.
Reports of committees and officers:
Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Reports of security transactions authorized by the Acting Chairman.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2439-78 Filed 11-30-78; 11:52 am]

[6714-01-M]

11

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., December 7, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:
Higginsville State Bank, a proposed new bank to be located at 401-415 Fairground Avenue, Higginsville, Mo., for Federal deposit insurance.
Applications for consent to establish branches:
Central Plaza Bank & Trust Co., St. Petersburg, Fla., for consent to establish a branch at 1001 West Bay Drive, Largo, Fla.
United Mutual Savings Bank, New York, N.Y., for consent to establish a branch at 556 Main Street, Islip (Unincorporated Area), Town of Islip, N.Y.
Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:
Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).
Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:
Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(6), (c)(8), and (c)(9)(A)(ii)).
Personnel actions regarding appointments, promotions, administrative pay increases, reassignments retirements, separations, removals, etc.:
Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2440-78 Filed 11-30-78; 11:52 am]

[6740-02-M]

12

NOVEMBER 29, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., December 6, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—210TH MEETING, DECEMBER 6, 1978, REGULAR MEETING (10 A.M.)

CAG-1. Docket No. RP72-110 (PGA No. 78-12B), Algonquin Gas Transmission Co.
CAG-2. Docket Nos. AR64-2, et al., AR61-2, AR69-1, et al., AR67-1, et al., G-1964, G-12706, G-18841, RP65-59, RP69-13, RP70-29, et al., and RP72-98, et al., Texas Eastern Transmission Corp.
CAG-3. Docket No. RP77-124, McCulloch Interstate Gas Corp.
CAG-4. Docket No. G-5766, Continental Oil Co., Docket No. CI78-368, Gas Producing Enterprises, Inc., Docket No. CI78-473, Texaco, Inc., Docket No. CI78-474, Texaco, Inc., Docket No. CI78-845, Texaco, Inc.
CAG-5. Docket No. CS66-72, Gill-Mac, Inc.
CAG-6. Docket No. CI78-467, Anadarko Production Co.
CAG-7. Docket Nos. G-9279, et al., Amoco Production Co., et al.
CAG-8. Docket Nos. G-11161, et al., McCulloch Oil & Gas Corp. (successor to McCulloch Oil Corp.)
CAG-9. Docket Nos. G-2712, et al., Cities Service Co. (successor to Cities Service Oil Co.), et al.
CAG-10. Docket No. CP75-110, Washington Natural Gas Co., Docket No. CP75-287, Northwest Pipeline Corp.
CAG-11. Docket No. CP77-627, Tennessee Gas Pipeline Co., Columbia Gulf Transmission Corp.
CAG-12. Docket Nos. CP77-52 and CP77-544, Trunkline Gas Co.
CAG-13. Docket Nos. CP78-490, CP78-499, and CP78-523, Tennessee Gas Pipeline Co., a division of Tenneco Inc., Docket No. CP78-508, Transcontinental Gas Pipe Line Corp.
CAG-14. Docket No. CP78-350, Transcontinental Gas Pipe Line Corp.
CAG-15. Docket No. CP78-534, Natural Gas Pipeline Co. of America.
CAG-16. Docket No. CP78-519, Natural Gas Pipeline Co. of America.
CAG-17. Docket No. CP77-408, El Paso Natural Gas Co., Docket No. CP78-411, Southwest Gas Corp., Docket No. CP78-380, Northwest Pipeline Corp.
CAG-18. Docket No. CP78-345, Northern Natural Gas Co., Docket No. CP78-403, Natural Gas Pipeline Co. of America, the Peoples Gas Light & Coke Co.
CAG-19. Docket No. CP78-416, Northern Natural Gas Co., Southern Natural Gas Co., United Gas Pipe Line Co.
CAG-20. Docket No. CP78-524, Natural Gas Pipeline Co. of America.
CAG-21. Docket No. CP78-279, Southwest Gas Corp.
CAG-22. Docket No. CP78-192, Southern Natural Gas Co.
CAG-23. Docket Nos. CP78-202 and CP78-203, Northwest Pipeline Corp., Docket Nos. CP78-273 and CP78-274, Colorado Interstate Gas Co.
CAG-24. Docket No. CP78-498, United Gas Pipe Line Co.
CAG-25. Docket No. CP78-408, Texas Gas Transmission Corp., Western Kentucky Gas Co., National Pipeline Co., Orbit Gas Co.
CAG-26. Docket Nos. CP60-94, CP66-20, CP69-222 (Phase II), CP70-185 and CP74-318, Tennessee Gas Pipeline Co., a division of Tenneco Inc.

CAG-27. Docket No. CP78-451, El Paso Natural Gas Co., Docket No. CP78-496, Northern Natural Gas Co.
CAG-28. Docket Nos. CP77-222 and CP78-540, Arkansas Louisiana Gas Co.
CAG-29. Docket No. CP78-439, Natural Gas Pipeline Co. of America.
CAG-30. Docket No. CP78-528, Northwest Pipeline Corp.
CAG-31. Docket No. CP78-495, Panhandle Eastern Pipe Line Co.
CAG-32. Docket No. CP78-67, Columbia Gas Transmission Corp.
CAG-33. Docket No. CP78-435, Northwest Pipeline Corp.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP72-23, et al., Trunkline Gas Co.
RP-2. Docket Nos. RP72-23, et al. and RP73-35, Trunkline Gas Co.
RP-3. Docket No. RP72-133 (PGA77-2), United Gas Pipe Line Co.
RP-4. Docket No. CP74-289, et al., El Paso Natural Gas Co.

II. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP73-340, Colorado Interstate Gas Co., Docket No. CP74-243, Northern Natural Gas Co., Docket No. CI74-430, Colorado Oil & Gas Corp., and Gas Producing Enterprises, Inc.
CP-2. Docket No. CP78-172, El Paso Natural Gas Co., Docket No. CP78-257, Western Gas Transmission Co., Docket No. CP76-87, El Paso Natural Gas Co.
CP-3. Docket No. CP79-9, The Montana Power Co.
CP-4. Docket Nos. CP76-285, et al., Mountain Fuel Resources, Inc., Docket No. CP76-87, El Paso Natural Gas Co., Docket No. CP78-172, El Paso Natural Gas Co., Docket No. CP78-257, Western Gas Interstate Co., Docket No. CI78-506, Supron Energy Corp.
CP-5. Docket No. RP71-119, Panhandle Eastern Pipe Line Co., Docket No. RP74-31-24, Panhandle Eastern Pipe Line Co. (Anchor Hocking Corp.), Docket No. TC78-34, Panhandle Eastern Pipe Line Co. (Hercules, Inc.).
CP-6. Docket No. CP76-16, Tenneco LNG Inc.

MISCELLANEOUS AGENDA—210TH MEETING, DECEMBER 6, 1978, REGULAR MEETING

CAM-1. ERA's proposed rulemaking amending the mandatory petroleum price regulations to allow refiners to allocate increased costs to gasoline on a greater than pro rata volumetric basis.
CAM-2. Modifidation of 18 CFR 35.3 to conform to section 207(a) of the Public Utility Regulatory Policies Act of 1978 which amends section 205(d) of the Federal Power Act.
CAM-3. Definition of powerplant design capacity pursuant to section 103(a)(18)(D) of the Powerplant and Industrial Fuel Use Act of 1978.
CAM-4. Missouri Power & Light Co.
CAM-5. Appalachian Power Co.
CAM-6. Kanawha Valley Power Co.
CAM-7. Florida Gas Transmission Co.
CAM-8. Transcontinental Gas Pipe Line Corp.
CAM-9. Colonial Pipeline Co.
CAM-10. United Gas Pipe Line Co.
CAM-11. Approval of accounting for amortization of electric plant acquisition adjustment.
M-1. Docket No. RM78- , Proposed regulations modifying the time for Commission action on RD & D plans.
M-2. Docket No. RM78-17, Procedures for review by the Federal; Energy Regulatory Commission of adjustment request denials by the Secretary of Energy.
M-3. Staff recommendation on the Revenue Act of 1978 which reduces the statutory corporate Federal income tax rate from 48% to 46%.

POWER AGENDA—210TH MEETING, DECEMBER 6, 1978, REGULAR MEETING

CAP-1. Docket No. ER 78-321, New York State Electric & Gas Corp.
CAP-2. Docket No. ER78-581, Columbus & Southern Ohio Electric Co.
CAP-3. Docket No. E-9454, Public Service Co. of New Mexico.
CAP-4. Docket No. ES78-58, Northwestern Public Service Co.
CAP-5. Project No. 2264, Chtanika Power Co., Inc.
CAP-6. Project No. 2413, Georgia Power Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER77-278, Arkansas Power & Light Co.
ER-2. Docket No. E-8570, Southern California Edison Co.
ER-3. Docket No. ER78-337, and ER78-338, Public Service Co. of New Mexico.
ER-4. Docket No. ID-1823, Robert P. Reuss.
ER-5. Docket No. ID-1709, Willis C. Fitkin. Docket No. ID-1710, William Cyrus MacInnes.
ER-6. Docket No. ID-1758, Charles T. Fisher, III. Docket No. ID-1759, Richard C. Gerstenberg.

II. LICENSED PROJECT MATTERS

P-1. Docket No. E-9557, Wisconsin Valley Improvement Co.

KENNETH F. PLUMB,
Secretary.

[S-2438-78 Filed 11-30-78; 11:19 am]

[6735-01-M]

13

NOVEMBER 30, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9 a.m., December 7, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor (MSHA) v. Shamrock Coal Co.*, Docket Nos. BARB 78-82-P, 78-83-P, 78-84-P, 78-85-P, 78-98-P, 78-99-P (petition for discretionary review).
2. *Republic Steel Corp.*, Docket No. IBMA 76-78 (remanded from the Court of Appeals for the District of Columbia Circuit).
3. *Cowin and Company, Inc.*, Docket No. IBMA 75-57 (remanded from the Court of Appeals for the District of Columbia Circuit).
4. *Republic Steel Corp.*, Docket No. IBMA 77-39 (terminating stay of proceeding).

CONTACT PERSON FOR FURTHER INFORMATION:

Donald Terry, 202-653-5644.

[S-2444-78 Filed 11-30-78; 3:56 pm]

[6750-01-M]

14

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, December 7, 1978.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public:

1. Oral argument in Amway Corp., Docket 9023.

Portions closed to the public:

2. Executive Session to discuss oral argument in Amway Corp., Docket 9023.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-2441-78 Filed 11-30-78; 2:12 pm]

[6750-01-M]

15

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, December 8, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Staff's recommendations on proposed trade regulation rule on food advertising, phase II.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-2442-78 Filed 11-30-78; 2:12 pm]

Douglas Baldwin, Director, Office of

MONDAY, DECEMBER 4, 1978
PART II

V 43/233 DEC 4 1978 UMI

[7020-02-M]

16

[USITC SE-78-60]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 11 a.m., Tuesday, December 12, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: (a) Computers and integrated circuits (Docket No. 541).
(b) Crankpin grinders (Docket No. 542).
(c) Textiles from Uruguay, Columbia, and Brazil (Docket Nos. 544, 545, and 546).
6. Any items left over from previous agenda.

Portions closed to the public:

5. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2443-78 Filed 11-30-78; 3:56 pm]

[7035-01-M]

17

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9 a.m., Wednesday, December 6, 1978.

PLACE: Hearing Room "B", Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Oral argument (open to public).

MATTER TO BE CONSIDERED: Ex Parte No. 357—*Increased freight rates and charges nationwide—8 percent.*

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-2434-78 Filed 11-30-78; 11:19 am]

[7590-01-M]

18

NUCLEAR REGULATORY COMMISSION

TIME AND DATE: December 1 and 7, 1978

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open/Closed

MATTERS TO BE CONSIDERED:

Friday, December 1

11:00 a.m.
1. Affirmation of Order in Offshore Power Systems (Approx 10 min) (PUBLIC MEETING)

Thursday, December 7

9:30 a.m.
1. Discussion of Sua Sponte Review Standards and Handling of Generic Unresolved Safety Issues (Approx 1 hr) (PUBLIC MEETING)
2. Discussion of Policy Statement on Alternative Site Evaluation Under NEPA for Nuclear Generating Stations (Approx 1 hr) (PUBLIC MEETING)

1:00 p.m.
1. Briefing by Exxon on Its Laser Isotope Separation Process (Approx 1½ hrs) (CLOSED-Exemption 4)
2. Discussion of Bailly (Approx ½ hr) (Open-Closed Status to be Determined) (TENTATIVE)
3. Discussion of Personnel Matter (Approx 2 hrs) (CLOSED-Exemption 6)

ADDITIONAL INFORMATION: Before the December 1 meeting, it will be necessary for the Commission to vote to hold the meeting on less than 7 days notice.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634-1410

ROGER M. TWEED,
Office of the Secretary.

NOVEMBER 30, 1978.

[S-2451-78 Filed 12-1-78; 9:10 am]

federal register

MONDAY, DECEMBER 4, 1978
PART II



CUMULATIVE LIST OF PUBLIC LAWS APPROVED BY THE PRESIDENT DURING THE SECOND SESSION OF THE 95TH CONGRESS

Approval	Bill No.	Public	U.S. Statutes	Subject Matter	Price

V 43/233 DEC 4 78 UMI

Public Laws

The following is a cumulative list of all public laws for the second session of the 95th Congress. Each law as it was received by the Office of the Federal Register was announced in the Reminders section of the daily Federal Register.

This cumulative list gives the Presidential approval date, bill number, public law number, permanent citation to the future U.S. Statutes at Large volume in which the law will appear, subject matter, and current price. In citing to a law in the U.S. Statutes at Large volume, the word "Stat." should be used between the volume number and page number shown below. For example: 92 Stat. 3.

The text of these laws is not printed in the Federal Register. Copies of the laws in individual pamphlet form, called "slip laws," may be ordered from the Superintendent of Documents, U.S. Government Printing Office. An order blank is printed at the end of this list for your convenience.

Approval Date	*Bill No.*	*Public Law No.*	*U.S. Statutes at Large*	*Subject Matter*	*Price*
Feb. 3	H.R. 7691	95-224	92:3	Federal Grant and Cooperative Agreement Act of 1977.	$.50
Feb. 6	S. 1585	95-225	92:7	Protection of Children Against Sexual Exploitation Act of 1977.	.50
Feb. 7	H.R. 10532	95-226	92:10	Emergency drought relief measures, construction extension.	.50
Feb. 10	H.R. 5322	95-227	92:11	Black Lung Benefits Revenue Act of 1977.	.80
	H.R. 5054	95-228	92:25	Executive agencies, apportionment requirements, elimination.	.50
Feb. 14	H.J. Res. 386	95-229	92:26	Historic event or personality during 1777, Bicentennial commemorative medals.	.50
Feb. 15	H.R. 2719	95-230	92:28	Middle Rio Grande Conservancy District, N. Mex., payment contract.	.50
	H.R. 5798	95-231	92:29	Rail Public Counsel, appropriation authorization.	.50
Feb.17	S. 1509	95-232	92:30	Indians, certain pueblos, N. Mex., lands in trust.	.50
Feb.20	S. 1360	95-233	92:32	National Forest Management Act of 1976, amendment.	.50
Feb.21	H.R. 7442	95-234	92:33	Communications Act Amendments of 1978.	.50
	H.R. 7766	95-235	92:37	D.C., public air space use agreement.	.50
	S. 266	95-236	92:38	Radiation exposure, remedial action.	.50
Feb.24	H.R. 3454	95-237	92:40	Endangered American Wilderness Act of 1978.	.70
Feb.25	S. 1340	95-238	92:47	Department of Energy Act of 1978-Civilian Applications.	1.50
Mar. 1	H.R. 4544	95-239	92:95	Black Lung Reform Act of 1977.	.70
Mar. 7	H.R. 9375	95-240	92:107	Supplemental Appropriations Act, 1978.	.70
Mar. 8	H.R. 10368	95-241	92:119	Federal Aviation Act of 1958, amendment.	.50
Mar. 10	H.R. 8638	95-242	92:120	Nuclear Non-Proliferation Act of 1978.	1.30
Mar. 13	S. 838	95-243	92:153	Indian Claims Commission Act, amendment.	.50
Mar. 14	S. 2076	95-244	92:154	Grand Canyon National Park, Ariz.	.50
	H.R. 9851	95-245	92:156	Federal Aviation Act of 1958, amendment.	.50
Mar. 15	H.J. Res. 746	95-246	92:157	Supplemental appropriations for Department of Energy.	.50
Mar. 21	S. 773	95-247	92:158	Wichita Indian Tribe, Okla., land compensation claims.	.50
	H.R. 8803	95-248	92:159	National Trails System Act, amendment	.50
Mar. 27	S. 1671	95-249	92:162	Absaroka-Beartooth Wilderness, Custer and Gallatin National Forests, Mont., designation.	.50
	H.R. 3813	95-250	92:163	Redwood National Park, employment program.	.90

Approval Date	*Bill No.*	*Public Law No.*	*U.S. Statutes at Large*	*Subject Matter*	*Price*
Mar. 27	H.R. 6975	95-251	92:183	Hearing examiners, reclassified as administrative law judges.	.50
	H.R. 11518	95-252	92:185	Public debt limit, temporary increase.	.50
	H.J. Res. 715	95-253	92:186	"Sun Day", designation authorization.	.50
Apr. 4	H.R. 10982	95-254	92:187	Budget authority rescissions.	.50
	H.J. Res. 796	95-255	92:188	Disaster relief, supplemental appropriation.	.50
Apr. 6	H.R. 5383	95-256	92:189	Age Discrimination in Employment Act Amendments of 1978.	.60
Apr. 7	H.R. 9169	95-257	92:194	Fishing vessels, obligations for financing.	.50
	H.R. 11055	95-258	92:195	Agriculture Act of 1949, extension of certain payments.	.50
Apr. 17	H.R. 5981	95-259	92:196	American Folklife Center, appropriation authorization.	.50
	H.R. 2960	95-260	92:197	Signers of the Declaration of Independence, memorial.	.50
	H.R. 8358	95-261	92:199	Depository libraries, designation.	.50
	H.J. Res. 770	95-262	92:200	Education Day, U.S.A., designation authorization.	.50
	S.J. Res. 124	95-263	92:201	National Oceans Week, designation authorization.	.50
Apr. 18	H.R. 2540	95-264	92:202	Umatilla Indian Reservation, Oreg., inheritance of trust or restricted lands.	.50
Apr. 24	H.R. 4979	95-265	92:203	Mineral, Nev., land conveyance.	.50
	H.R. 6693	95-266	92:205	Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.	.60
	H.J. Res. 578	95-267	92:212	National Architectural Barrier Awareness Week, designation authorization.	.50
	H.R. 9179	95-268	92:213	Overseas Private Investment Corporation Amendments Act of 1978.	.60
Apr. 26	H.R. 7744	95-269	92:218	Rivers and harbors, improvements.	.50
Apr. 27	S. 2452	95-270	92:220	Hubert H. Humphrey Institute of Public Affairs and Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act.	.50
Apr. 28	S. 2597	95-271	92:221	U.S. District Court for the Eastern District of New York, relocation.	.50
May 3	H.J. Res. 649	95-272	92:222	White House Conferences on the Arts and the Humanities, Presidential authorization.	.60
May 8	S. 1617	95-273	92:228	National Ocean Pollution Research and Development and Monitoring Planning Act of 1978.	.60
May 10	S.J. Res.106	95-274	92:233	A.L. Higginbotham, Jr., reappointment to Smithsonian Institution.	.50
	S.J. Res. 107	95-275	92:234	John P. Austin, reappointment to Smithsonian Institution.	.50
	S.J. Res. 108	95-276	92:235	Anne L. Armstrong, reappointment to Smithsonian Institution.	.50
May 12	S. 2220	95-277	92:236	Library of Congress Trust Fund Board, designation of Treasury Department member.	.50
	S. 917	95-278	92:237	Gund Ranch, Grass Valley, Nev., conveyance of certain adjacent lands to University of Nevada.	.50

Approval Date	*Bill No.*	*Public Law No.*	*U.S. Statutes at Large*	*Subject Matter*	*Price*
May 15	H.R. 6782	95-279	92:238	Tax Reform Act of 1976, technical amendments.	.50
	H.R. 6783	95-280	92:239	Tax Reform Act of 1976, technical amendments.	.50
	H.R. 6784	95-281	92:240	Tax Reform Act of 1976, technical amendments.	.50
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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
May 15	H.R. 6782	95-279	92:240	Wheat, feed grain and upland cotton producers, emergency assistance.	.50
	S. 482	95-280	92:244	Zuni Indian Tribe, N. Mex., lands in trust and transfer of jurisdiction over land claims of such tribe to the Court of Claims.	.50
	S. 661	95-281	92:246	Modoc, Wyandotte, Peoria and Ottawa Indian Tribes, Okla., reinstatement as Federally supervised and recognized Indian tribes	.50
May 19	H.J.Res. 859	95-282	92:248	Making supplemental appropriations for the United States Railway Association for the fiscal year ending September 30, 1978, and for other purposes	.50
May 21	H.R. 8331	95-283	92:249	Securities Investor Protection Act Amendments of 1978.	1.10
	H.J.Res. 873	95-284	92:276	Making an urgent supplemental appropriation for the disaster loan program of the Small Business Administration for the fiscal year ending September 30, 1978, and for other purposes	50
May 25	S. 1568	95-285	92:277	To name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West"	.50
May 26	H.R. 10392	95-286	92:278	To establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship	.50
May 30	S.J. Res. 137	95-287	92:280	Reaffirming the unity of the North Atlantic Alliance commitment.	.50
June 5	H.R. 9005	95-288	92:281	District of Columbia Appropriation Act, 1978.	.60
	S. 2370	95-289	92:289	To remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972	.50
	H.R. 11662	95-290	92:290	To provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes.	.80
June 12	H.R.11370	95-291	92:304	To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV-A, VI, X, XIV, and XVI of the Social Seuritry Act.	.50
June 13	H.R. 8423	95-292	92:307	To amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of the Act, and for other purposes	.70
	S. 1792	95-293	92:317	To amend the Administrative Conference Act.	.50
June 14	S.J. Res. 140	95-294	92:318	To authorize and request the President to proclaim June 11, 1978, as "American University Press Day" to commemorate the centennial of university press publishing in America.	.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
June 16	H.R. 11657	95-295	92:319	To amend the Central, Western, and South Pacific Fisheries Development Act to increase the appropriation authorization through fiscal year 1982, to expand the United States fisheries development effort, and to cooperate in the formation and research of the South Pacific regional fishery agency, and for other purposes.	.50
June 19	S. 1640	95-296	92:321	To designate the Mike Monroney Aeronautical Center.	.50
	H.R. 130	95-297	92:322	Petroleum Marketing Practices Act.	.90
June 26	S. 2553	95-298	92:339	Maritime Appropriation Authorization Act for Fiscal Year 1979.	.50
	H.R. 5493	95-299	92:341	To extend until October 1, 1980, the appropriation authorizations for the Great Dismal Swamp and San Francisco Bay National Wildlife Refuges.	.50
	H.R. 10884	95-300	92:342	To authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981	.50
	H.J.Res. 944	95-301	92:343	Making urgent grain inspection supplemental appropriations for the Department of Agriculture, Federal Grain Inspection Service, for the fiscal year ending September 30, 1978.	.50
	S. 2380	95-302	92:344	To amend the Intervention on the High Seas Act to implement the protocol relating to intervention on the High Seas in cases of marine pollution by substances other than oil, 1973.	.50
June 29	H.R. 5176	95-303	92:346	To lower the duty on levulose until the close of June 30, 1980.	.50
	H.R. 10823	95-304	92:347	To amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1979, and for other purposes	.50
	S. 2973	95-305	92:348	Authorizing appropriation to the Secretary of the Interior for services necessary to the non-performing arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.	.50
June 30	H.R. 11779	95-306	92:349	Renewable Resources Extension Act of 1978	.50
	H.R. 11778	95-307	92:353	Forest and Rangeland Renewable Resources Research Act of 1978	.60
	H.R. 11465	95-308	92:358	To authorize appropriations for the United States Coast Guard for fiscal year 1979, and for other purposes	.50
	H.J. Res. 995	95-309	92:361	To designate Sunday, June 25, 1978, as "National Brotherhood Day"	.50
	S. 2033	95-310	92:362	To provide for conveyance of certain lands in the Wenatchee National Forest, Washington, by the Secretary of Agriculture	.50
	S. 2351	95-311	92:363	To designate the proposed new Veterans' Administration Hospital in Little Rock, Arkansas, as the "John L. McClellan Memorial Veterans' Hospital", and for other purposes.	.50
	S.J. Res. 128	95-312	92:364	Designating July 1, 1978, as "Free Enterprise Day".	.50
July 1	H.R. 11777	95-313	92:365	Cooperative Forestry Assistance Act of 1978	.70

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
July 3	H.R. 12028	95-314	92:366	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 10	H.R. 12026	95-315	92:367	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 11	H.R. 12929	95-316	92:368	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 12	H.R. 12930	95-317	92:369	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 18	H.R. 12931	95-318	92:370	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 19	H.R. 12932	95-319	92:371	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 20	H.R. 12933	95-320	92:372	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 21	H.R. 12934	95-321	92:373	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 24	H.R. 12935	95-322	92:374	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 25	H.R. 12936	95-323	92:375	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 26	H.R. 12937	95-324	92:376	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 27	H.R. 12938	95-325	92:377	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 28	H.R. 12939	95-326	92:378	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
July 31	H.R. 12940	95-327	92:379	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 1	H.R. 12941	95-328	92:380	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 2	H.R. 12942	95-329	92:381	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 3	H.R. 12943	95-330	92:382	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 4	H.R. 12944	95-331	92:383	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 7	H.R. 12945	95-332	92:384	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 8	H.R. 12946	95-333	92:385	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 9	H.R. 12947	95-334	92:386	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 10	H.R. 12948	95-335	92:387	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 11	H.R. 12949	95-336	92:388	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 14	H.R. 12950	95-337	92:389	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 15	H.R. 12951	95-338	92:390	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 16	H.R. 12952	95-339	92:391	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 17	H.R. 12953	95-340	92:392	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 18	H.R. 12954	95-341	92:393	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 21	H.R. 12955	95-342	92:394	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 22	H.R. 12956	95-343	92:395	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 23	H.R. 12957	95-344	92:396	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 24	H.R. 12958	95-345	92:397	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 25	H.R. 12959	95-346	92:398	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 28	H.R. 12960	95-347	92:399	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 29	H.R. 12961	95-348	92:400	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 30	H.R. 12962	95-349	92:401	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Aug. 31	H.R. 12963	95-350	92:402	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 1	H.R. 12964	95-351	92:403	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 4	H.R. 12965	95-352	92:404	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 5	H.R. 12966	95-353	92:405	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 6	H.R. 12967	95-354	92:406	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 7	H.R. 12968	95-355	92:407	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 8	H.R. 12969	95-356	92:408	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 11	H.R. 12970	95-357	92:409	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 12	H.R. 12971	95-358	92:410	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 13	H.R. 12972	95-359	92:411	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 14	H.R. 12973	95-360	92:412	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 15	H.R. 12974	95-361	92:413	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 18	H.R. 12975	95-362	92:414	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 19	H.R. 12976	95-363	92:415	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 20	H.R. 12977	95-364	92:416	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 21	H.R. 12978	95-365	92:417	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 22	H.R. 12979	95-366	92:418	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 25	H.R. 12980	95-367	92:419	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 26	H.R. 12981	95-368	92:420	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 27	H.R. 12982	95-369	92:421	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 28	H.R. 12983	95-370	92:422	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 29	H.R. 12984	95-371	92:423	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Sept. 30	H.R. 12985	95-372	92:424	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 1	H.R. 12986	95-373	92:425	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 2	H.R. 12987	95-374	92:426	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 3	H.R. 12988	95-375	92:427	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 4	H.R. 12989	95-376	92:428	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 5	H.R. 12990	95-377	92:429	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 6	H.R. 12991	95-378	92:430	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 7	H.R. 12992	95-379	92:431	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 8	H.R. 12993	95-380	92:432	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 9	H.R. 12994	95-381	92:433	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 10	H.R. 12995	95-382	92:434	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 11	H.R. 12996	95-383	92:435	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 12	H.R. 12997	95-384	92:436	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 13	H.R. 12998	95-385	92:437	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 14	H.R. 12999	95-386	92:438	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 15	H.R. 13000	95-387	92:439	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 16	H.R. 13001	95-388	92:440	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 17	H.R. 13002	95-389	92:441	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 18	H.R. 13003	95-390	92:442	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 19	H.R. 13004	95-391	92:443	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 20	H.R. 13005	95-392	92:444	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 21	H.R. 13006	95-393	92:445	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 22	H.R. 13007	95-394	92:446	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 23	H.R. 13008	95-395	92:447	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 24	H.R. 13009	95-396	92:448	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 25	H.R. 13010	95-397	92:449	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 26	H.R. 13011	95-398	92:450	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 27	H.R. 13012	95-399	92:451	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 28	H.R. 13013	95-400	92:452	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 29	H.R. 13014	95-401	92:453	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 30	H.R. 13015	95-402	92:454	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Oct. 31	H.R. 13016	95-403	92:455	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 1	H.R. 13017	95-404	92:456	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 2	H.R. 13018	95-405	92:457	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 3	H.R. 13019	95-406	92:458	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 4	H.R. 13020	95-407	92:459	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 5	H.R. 13021	95-408	92:460	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 6	H.R. 13022	95-409	92:461	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 7	H.R. 13023	95-410	92:462	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 8	H.R. 13024	95-411	92:463	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 9	H.R. 13025	95-412	92:464	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 10	H.R. 13026	95-413	92:465	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 11	H.R. 13027	95-414	92:466	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 12	H.R. 13028	95-415	92:467	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 13	H.R. 13029	95-416	92:468	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 14	H.R. 13030	95-417	92:469	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 15	H.R. 13031	95-418	92:470	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 16	H.R. 13032	95-419	92:471	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 17	H.R. 13033	95-420	92:472	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 18	H.R. 13034	95-421	92:473	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 19	H.R. 13035	95-422	92:474	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 20	H.R. 13036	95-423	92:475	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 21	H.R. 13037	95-424	92:476	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 22	H.R. 13038	95-425	92:477	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 23	H.R. 13039	95-426	92:478	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 24	H.R. 13040	95-427	92:479	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 25	H.R. 13041	95-428	92:480	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 26	H.R. 13042	95-429	92:481	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 27	H.R. 13043	95-430	92:482	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 28	H.R. 13044	95-431	92:483	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 29	H.R. 13045	95-432	92:484	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Nov. 30	H.R. 13046	95-433	92:485	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 1	H.R. 13047	95-434	92:486	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 2	H.R. 13048	95-435	92:487	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 3	H.R. 13049	95-436	92:488	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Dec. 4	H.R. 13050	95-437	92:489	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 5	H.R. 13051	95-438	92:490	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 6	H.R. 13052	95-439	92:491	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 7	H.R. 13053	95-440	92:492	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 8	H.R. 13054	95-441	92:493	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 9	H.R. 13055	95-442	92:494	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 10	H.R. 13056	95-443	92:495	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 11	H.R. 13057	95-444	92:496	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 12	H.R. 13058	95-445	92:497	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 13	H.R. 13059	95-446	92:498	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 14	H.R. 13060	95-447	92:499	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 15	H.R. 13061	95-448	92:500	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 16	H.R. 13062	95-449	92:501	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 17	H.R. 13063	95-450	92:502	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 18	H.R. 13064	95-451	92:503	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 19	H.R. 13065	95-452	92:504	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 20	H.R. 13066	95-453	92:505	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 21	H.R. 13067	95-454	92:506	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 22	H.R. 13068	95-455	92:507	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 23	H.R. 13069	95-456	92:508	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 24	H.R. 13070	95-457	92:509	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 25	H.R. 13071	95-458	92:510	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 26	H.R. 13072	95-459	92:511	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 27	H.R. 13073	95-460	92:512	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 28	H.R. 13074	95-461	92:513	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 29	H.R. 13075	95-462	92:514	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 30	H.R. 13076	95-463	92:515	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50
Dec. 31	H.R. 13077	95-464	92:516	Making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes	.50

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
July 1	H.R. 12571	95-314	92:376	To amend the Fishery Conservation Zone Transition Act in order to give effect to the Reciprocal Fisheries Agreement for 1978 between the United States and Canada.	.50
July 4	H.R. 11713	95-315	92:377	Small Business Energy Loan Act.	.50
July 10	H.R. 10730	95-316	92:380	To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981.	.50
	H.R. 3447	95-317	92:382	To amend chapter 83 of title 5, United States Code, to grant an annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant.	.50
	H.R. 3755	95-318	92:384	To provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes.	.50
July 11	S. 2401	95-319	92:386	Emergency Interim Consumer Product Safety Standard Act of 1978.	.60
July 21	H.R. 2176	95-320	92:391	Federal Banking Agency Audit Act.	.50
	H.R. 9757	95-321	92:394	To impose a moratorium on any increase in the public lands grazing fee for the 1978 grazing year, and for other purposes.	.50
	H.R. 11232	95-322	92:395	To authorize appropriations to carry out the Standard Reference Data Act, and to authorize appropriations for the National Bureau of Standards.	.50
July 28	H.R. 3489	95-323	92:396	To amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nomination for appointments to the Merchant Marine Academy, and for other purposes.	.50
	H.R. 4270	95-324	92:397	To designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building".	.50
	H.J. Res. 613	95-325	92:398	To authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day".	.50
	H.R. 12637	95-326	92:399	To amend the North Pacific Fisheries Act of 1954...	.60
	S. 1291	95-327	92:407	To declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes.	.50
	S. 1582	95-328	92:409	Relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States.	.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
July 28	S. 947	95-329	92:412	To declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma.	.50
July 31	H.J. Res. 1024	95-330	92:413	Making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes for the fiscal year ending September 30, 1978.	.50
Aug. 2	H.R. 11877	95-331	92:414	Peace Corps Act Amendments of 1978.	.50
	H.J. Res. 945	95-332	92:417	Making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978.	.50
Aug. 3	H.R. 13385	95-333	92:419	To provide for a temporary increase in the public debt limit.	.50
Aug. 4	H.R. 11504	95-334	92:420	Agricultural Credit Act of 1978.	.80
	H.R. 12933	95-335	92:435	Department of Transportation and Related Agencies Appropriation Act, 1979.	.80
	H.R. 10569	95-336	92:451	Alcohol and Drug Abuse Education Amendments of 1978.	.60
	S. 785	95-337	92:455	To declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.	.50
Aug. 8	H.R. 11832	95-338	92:458	To authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes.	.50
	H.R. 12426	95-339	92:460	New York City Loan Guarantee Act of 1978.	.60
Aug. 11	H.R. 12138	95-340	92:468	To name a certain Federal building in Laguna Niguel, California, the "Chet Holifield Building".	.50
	S.J.Res. 102	95-341	92:469	American Indian Religious Freedom.	.50
	S. 920	95-342	92:471	Relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma.	.50
	S. 2463	95-343	92:473	To amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes.	.50
Aug. 15	H.R. 8336	95-344	92:474	To authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes.	.60
	H.R. 7581	95-345	92:481	To amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative telephone company income from nonmember telephone companies, and for other purposes.	.50
Aug. 17	S. 2424	95-346	92:485	To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.	.50
Aug. 18	H.J.Res. 946	95-347	92:486	To designate October 7, 1978, as "National Guard Day".	.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Aug. 21	H.R. 12444	95-348	92:487	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Miccosukee Tribe of Indians of Florida, and for other purposes.	.50
	H.R. 12929	95-349	92:488	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12928	95-350	92:489	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12930	95-351	92:490	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12931	95-352	92:491	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12932	95-353	92:492	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12927	95-354	92:493	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
Aug. 22	H.R. 12934	95-355	92:494	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12935	95-356	92:495	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12936	95-357	92:496	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12937	95-358	92:497	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12938	95-359	92:498	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12939	95-360	92:499	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12940	95-361	92:500	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12941	95-362	92:501	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12942	95-363	92:502	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12943	95-364	92:503	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12944	95-365	92:504	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12945	95-366	92:505	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12946	95-367	92:506	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12947	95-368	92:507	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12948	95-369	92:508	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12949	95-370	92:509	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12950	95-371	92:510	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12951	95-372	92:511	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12952	95-373	92:512	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12953	95-374	92:513	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12954	95-375	92:514	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12955	95-376	92:515	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12956	95-377	92:516	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12957	95-378	92:517	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12958	95-379	92:518	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12959	95-380	92:519	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12960	95-381	92:520	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12961	95-382	92:521	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12962	95-383	92:522	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12963	95-384	92:523	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12964	95-385	92:524	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12965	95-386	92:525	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12966	95-387	92:526	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12967	95-388	92:527	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12968	95-389	92:528	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12969	95-390	92:529	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12970	95-391	92:530	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12971	95-392	92:531	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12972	95-393	92:532	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12973	95-394	92:533	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12974	95-395	92:534	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12975	95-396	92:535	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12976	95-397	92:536	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12977	95-398	92:537	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12978	95-399	92:538	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12979	95-400	92:539	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12980	95-401	92:540	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12981	95-402	92:541	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12982	95-403	92:542	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12983	95-404	92:543	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12984	95-405	92:544	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12985	95-406	92:545	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12986	95-407	92:546	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12987	95-408	92:547	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12988	95-409	92:548	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12989	95-410	92:549	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12990	95-411	92:550	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12991	95-412	92:551	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12992	95-413	92:552	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12993	95-414	92:553	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12994	95-415	92:554	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12995	95-416	92:555	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12996	95-417	92:556	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12997	95-418	92:557	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12998	95-419	92:558	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 12999	95-420	92:559	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13000	95-421	92:560	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13001	95-422	92:561	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13002	95-423	92:562	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13003	95-424	92:563	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13004	95-425	92:564	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13005	95-426	92:565	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13006	95-427	92:566	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13007	95-428	92:567	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13008	95-429	92:568	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13009	95-430	92:569	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13010	95-431	92:570	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13011	95-432	92:571	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13012	95-433	92:572	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13013	95-434	92:573	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13014	95-435	92:574	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13015	95-436	92:575	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13016	95-437	92:576	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13017	95-438	92:577	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13018	95-439	92:578	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13019	95-440	92:579	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13020	95-441	92:580	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13021	95-442	92:581	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13022	95-443	92:582	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13023	95-444	92:583	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13024	95-445	92:584	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13025	95-446	92:585	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13026	95-447	92:586	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13027	95-448	92:587	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13028	95-449	92:588	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13029	95-450	92:589	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13030	95-451	92:590	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13031	95-452	92:591	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13032	95-453	92:592	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13033	95-454	92:593	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13034	95-455	92:594	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13035	95-456	92:595	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13036	95-457	92:596	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13037	95-458	92:597	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13038	95-459	92:598	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13039	95-460	92:599	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13040	95-461	92:600	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13041	95-462	92:601	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13042	95-463	92:602	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13043	95-464	92:603	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13044	95-465	92:604	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13045	95-466	92:605	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13046	95-467	92:606	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13047	95-468	92:607	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13048	95-469	92:608	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13049	95-470	92:609	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13050	95-471	92:610	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13051	95-472	92:611	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13052	95-473	92:612	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13053	95-474	92:613	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13054	95-475	92:614	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13055	95-476	92:615	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13056	95-477	92:616	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13057	95-478	92:617	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13058	95-479	92:618	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13059	95-480	92:619	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13060	95-481	92:620	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13061	95-482	92:621	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13062	95-483	92:622	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13063	95-484	92:623	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13064	95-485	92:624	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13065	95-486	92:625	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13066	95-487	92:626	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13067	95-488	92:627	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
	H.R. 13068	95-489	92:628	To amend the Act of August 25, 1958, to provide for the disposition of certain funds appropriated to pay judgments in favor of the Seminole Indians of Florida, and for other purposes.	.50
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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Aug. 18	S. 2821	95-348	92:487	To authorize appropriations for certain insular areas of the United States, and for other purposes.	.70
	H.J.Res. 963	95-349	92:497	Designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day".	.50
	H.J.Res. 682	95-350	92:498	To provide for the designation of a week as "National Lupus Week"	.50
Aug. 20	H.R. 2777	95-351	92:499	National Consumer Cooperative Bank Act.	.80
	H.R. 10787	95-352	92:515	To authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.	.50
Aug. 28	H.R. 11579	95-353	92:518	To designate the Veterans' Administration center located at South First Street, Temple, Texas, as the "Olin E. Teague Veterans' Center"; and for other purposes.	.50
	H.R. 10732	95-354	92:519	To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.	.50
Sept. 8	H.R. 13467	95-355	92:523	Second Supplemental Appropriations Act, 1978.	1.50
	H.R. 12602	95-356	92:565	Military Construction Authorization Act, 1979.	1.10
	H.R. 3532	95-357	92:591	To amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers.	.50
	H.R. 7161	95-358	92:592	To amend title 10, United States Code, to allow nationals, as well as citizens, of the Uniteed States to participate in the Junior Reserve Officers' Training Corps program.	.50
	H.R. 8471	95-359	92:593	To authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell, and silver service of the United States Ship Wyoming without restriction as to the place of such exhibition.	.50
Sept. 9	S. 2543	95-360	92:594	To amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails.	.50
Sept 10	H.R. 8397	95-361	92:595	To provide that a certain tract of land in Pinal County, Arizona, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation.	.50
Sept. 11	H.R. 185	95-362	92:596	To amend section 2632 of title 10, United States Code, to provde the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment.	.50
	H.R. 12106	95-363	92:597	Independent Safety Board Act Amendment of 1978.	.50
Sept. 15	H.J.Res. 773	95-364	92:598	Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week".	.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Sept. 15	H.R. 8342	95-365	92:599	To amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality.	.50
	H.R. 8771	95-366	92:600	To amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.	.50
Sept. 17	H.R. 6669	95-367	92:601	National Climate Program Act.	60
	H.R. 2931	95-368	92:606	To amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes.	.50
	H.R. 10899	95-369	92:607	International Banking Act of 1978.	.90
	H.R. 12240	95-370	92:626	Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979.	.50
Sept. 18	H.J.Res. 1014	95-371	92:628	Designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust".	.50
	S. 9	95-372	92:629	Outer Continental Shelf Lands Act Amendments of 1978.	2.00
	H.R. 13468	95-373	92:699	District of Columbia Appropriation Act, 1979.	.60
	H.R. 12927	95-374	92:707	Military Construction Appropriation Act, 1979.	.60
	S. 1633	95-375	92:712	To provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.	.60
	H.R. 10878	95-376	92:714	To extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.	.70
Sept. 19	S. 3454	95-377	92:719	To amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes.	.50
Sept. 22	H.R. 8112	95-378	92:723	To repeal chapter 27 of title 44, United States Code.	.50
	H.R. 12915	95-379	92:724	To amend section 2301 of title 44, relating to the National Archives Trust Fund Board.	.50
	H.R. 13087	95-380	92:725	To authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.	.50
	S. 2928	95-381	92:726	To authorize appropriations for the fiscal year 1979 under the International Investment Survey Act of 1976, and for other purposes.	.50
	H.R. 9471	95-382	92:727	To amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.	.50

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Sept. 22	H.R. 13750	95-383	92:728	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12532	95-384	92:729	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12533	95-385	92:730	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12534	95-386	92:731	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12535	95-387	92:732	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12536	95-388	92:733	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12537	95-389	92:734	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12538	95-390	92:735	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12539	95-391	92:736	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12540	95-392	92:737	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12541	95-393	92:738	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12542	95-394	92:739	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12543	95-395	92:740	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12544	95-396	92:741	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12545	95-397	92:742	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12546	95-398	92:743	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12547	95-399	92:744	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12548	95-400	92:745	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12549	95-401	92:746	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12550	95-402	92:747	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12551	95-403	92:748	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12552	95-404	92:749	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12553	95-405	92:750	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12554	95-406	92:751	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12555	95-407	92:752	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12556	95-408	92:753	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12557	95-409	92:754	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12558	95-410	92:755	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12559	95-411	92:756	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12560	95-412	92:757	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12561	95-413	92:758	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12562	95-414	92:759	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12563	95-415	92:760	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12564	95-416	92:761	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12565	95-417	92:762	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12566	95-418	92:763	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12567	95-419	92:764	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12568	95-420	92:765	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12569	95-421	92:766	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12570	95-422	92:767	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12571	95-423	92:768	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12572	95-424	92:769	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12573	95-425	92:770	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12574	95-426	92:771	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12575	95-427	92:772	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12576	95-428	92:773	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12577	95-429	92:774	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12578	95-430	92:775	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12579	95-431	92:776	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12580	95-432	92:777	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12581	95-433	92:778	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12582	95-434	92:779	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12583	95-435	92:780	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12584	95-436	92:781	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12585	95-437	92:782	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12586	95-438	92:783	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12587	95-439	92:784	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12588	95-440	92:785	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12589	95-441	92:786	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12590	95-442	92:787	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12591	95-443	92:788	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12592	95-444	92:789	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12593	95-445	92:790	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12594	95-446	92:791	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12595	95-447	92:792	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12596	95-448	92:793	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12597	95-449	92:794	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12598	95-450	92:795	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12599	95-451	92:796	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12600	95-452	92:797	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12601	95-453	92:798	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12602	95-454	92:799	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12603	95-455	92:800	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12604	95-456	92:801	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12605	95-457	92:802	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12606	95-458	92:803	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12607	95-459	92:804	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12608	95-460	92:805	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12609	95-461	92:806	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12610	95-462	92:807	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12611	95-463	92:808	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12612	95-464	92:809	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12613	95-465	92:810	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12614	95-466	92:811	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12615	95-467	92:812	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12616	95-468	92:813	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12617	95-469	92:814	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12618	95-470	92:815	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12619	95-471	92:816	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12620	95-472	92:817	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12621	95-473	92:818	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12622	95-474	92:819	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12623	95-475	92:820	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12624	95-476	92:821	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12625	95-477	92:822	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12626	95-478	92:823	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12627	95-479	92:824	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12628	95-480	92:825	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12629	95-481	92:826	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12630	95-482	92:827	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12631	95-483	92:828	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12632	95-484	92:829	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12633	95-485	92:830	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12634	95-486	92:831	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12635	95-487	92:832	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12636	95-488	92:833	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12637	95-489	92:834	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12638	95-490	92:835	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12639	95-491	92:836	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12640	95-492	92:837	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12641	95-493	92:838	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12642	95-494	92:839	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12643	95-495	92:840	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12644	95-496	92:841	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12645	95-497	92:842	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12646	95-498	92:843	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12647	95-499	92:844	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12648	95-500	92:845	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12649	95-501	92:846	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12650	95-502	92:847	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12651	95-503	92:848	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12652	95-504	92:849	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12653	95-505	92:850	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12654	95-506	92:851	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12655	95-507	92:852	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12656	95-508	92:853	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12657	95-509	92:854	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12658	95-510	92:855	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12659	95-511	92:856	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12660	95-512	92:857	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12661	95-513	92:858	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12662	95-514	92:859	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12663	95-515	92:860	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12664	95-516	92:861	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12665	95-517	92:862	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12666	95-518	92:863	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12667	95-519	92:864	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12668	95-520	92:865	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12669	95-521	92:866	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12670	95-522	92:867	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12671	95-523	92:868	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12672	95-524	92:869	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12673	95-525	92:870	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12674	95-526	92:871	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12675	95-527	92:872	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12676	95-528	92:873	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12677	95-529	92:874	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12678	95-530	92:875	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12679	95-531	92:876	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12680	95-532	92:877	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12681	95-533	92:878	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12682	95-534	92:879	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12683	95-535	92:880	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12684	95-536	92:881	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12685	95-537	92:882	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12686	95-538	92:883	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12687	95-539	92:884	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12688	95-540	92:885	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12689	95-541	92:886	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12690	95-542	92:887	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12691	95-543	92:888	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12692	95-544	92:889	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12693	95-545	92:890	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12694	95-546	92:891	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12695	95-547	92:892	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12696	95-548	92:893	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12697	95-549	92:894	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12698	95-550	92:895	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12699	95-551	92:896	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12700	95-552	92:897	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12701	95-553	92:898	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12702	95-554	92:899	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12703	95-555	92:900	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12704	95-556	92:901	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12705	95-557	92:902	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12706	95-558	92:903	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12707	95-559	92:904	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12708	95-560	92:905	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12709	95-561	92:906	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12710	95-562	92:907	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12711	95-563	92:908	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12712	95-564	92:909	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12713	95-565	92:910	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12714	95-566	92:911	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12715	95-567	92:912	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12716	95-568	92:913	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12717	95-569	92:914	To amend the Act of August 29, 1974, to provide for the appointment of the Chief Judge of the District of Columbia.	.50
	H.R. 12718	95-570	92:915	To amend the Act of August 29, 1974, to provide

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Sept. 22	S. 3107	95-383	92:729	To amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy	.50
Sept. 26	S. 3075	95-384	92:730	International Security Assistance Act of 1978.	.90
	S. 3119	95-385	92:749	To transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency.	.50
	S. 3120	95-386	92:750	To enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.	.50
Sept. 27	S. 1103	95-387	92:751	District of Columbia Reciprocal Tax Collection Act.	.50
	S. 2556	95-388	92:753	To change the name of the Discrict of Coloumbia Bail Agency to the District of Columbia Pretrial Services Agency	.50
Sept. 29	S.J.Res. 133	95-389	92:754	To authorize and request the President to issue a proclamation designating September 24, 1978, as "National Good Neighbor Day"	.60
	H.R. 7814	95-390	92:755	Federal Employees Flexible and Compressed Work Schedules Act of 1978.	.60
Sept. 30	H.R. 12935	95-391	92:763	Legislative Branch Appropriation Act, 1979.	1.10
	H.R. 12936	95-392	92:791	Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1979.	1.00
	H.R. 7819	95-393	92:808	Diplomatic Relations Act.	.50
	H.R. 12772	95-394	92:811	To facilitate the exchange of certain lands in the State of Oregon, and for other purposes.	.50
	H.R. 12860	95-395	92:813	Rhode Island Indian Claims Settlement Act.	.60
	S. 1678	95-396	92:819	Federal Pesticide Act of 1978.	1.10
	H.R. 3702	95-397	92:843	Uniformed Services Survivors' Benefits Amendments of 1978.	.70
	S. 3069	95-398	92:850	To provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members.	.50
	S. 3002	95-399	92:851	To modify a portion of the south boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.	.70
	S. 3271	95-400	92:856	To amend the pilot project workfare provisions of the Food Stamp Act of 1977.	.60
	H.R. 11401	95-401	92:857	National Aeronautics and Space Administration Authorization Act, 1979.	.70
	S. 3468	95-402	92:862	To amend the Agricultural Act of 1949 to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities.	.50
	S. 1896	95-403	92:863	To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979.	.60
	S. 2701	95-404	92:864	To amend the Water Resources Planning Act (79 Stat. 244, as amended).	.50
	S. 2391	95-405	92:865	Futures Trading Act of 1978.	.90

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Sept. 30	S.J.Res. 165	95-406	92:879	To provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities, of the national flood insurance program, of the crime insurance and riot reinsurance programs, of certain rural housing authorities, and for other purposes.	.60
	H.J.Res. 1140	95-407	92:882	To amend section 8 of the Export-Import Bank Act of 1945	.60
Oct. 2	S. 3375	95-408	92:883	Federal District Court Organization Act of 1978.	.60
	S. 3272	95-409	92:886	To amend the Packers and Stockyards Act, 1921, and for other purposes.	.60
Oct. 3	H.R. 8149	95-410	92:888	Customs Procedural Reform and Simplification Act of 1978.	1.00
Oct. 5	S.J.Res. 154	95-411	92:906	Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979.	.60
	H.R. 12443	95-412	92:907	To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy.	.60
	S. 3342	95-413	92:910	To name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"	.60
	S. 2507	95-414	92:911	To authorize the Smithsonian Institution to acquire the Museum of African Act, and for other purposes.	.60
	H.J.Res. 1088	95-415	92:914	Providing financial assistance for the city of New York.	.60
	S. 1265	95-416	92:915	To amend chapterr 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services.	.60
	H.R. 12508	95-417	92:917	To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children.	.60
	H.R. 8812	95-418	92:919	To name a certain Federal building in Jonesboro, Arkansas, the "E.C. 'Took' Gathings Building"	.60
	H.J.Res. 1007	95-419	92:920	Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week".	.60
	H.R. 13745	95-420	92:921	Sikes Act Amendments of 1978.	.60
	S. 3040	95-421	92:923	Amtrak Improvement Act of 1978.	.80
	H.R. 11291	95-422	92:923	To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration.	.60

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 6	S. 2584	95-423	92:924	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-424	92:926	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-425	92:928	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-426	92:930	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-427	92:932	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-428	92:934	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-429	92:936	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-430	92:938	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-431	92:940	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-432	92:942	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-433	92:944	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-434	92:946	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-435	92:948	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-436	92:950	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-437	92:952	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-438	92:954	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-439	92:956	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-440	92:958	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-441	92:960	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-442	92:962	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-443	92:964	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-444	92:966	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-445	92:968	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-446	92:970	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-447	92:972	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-448	92:974	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-449	92:976	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-450	92:978	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-451	92:980	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-452	92:982	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-453	92:984	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-454	92:986	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-455	92:988	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-456	92:990	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-457	92:992	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-458	92:994	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-459	92:996	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-460	92:998	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-461	92:1000	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-462	92:1002	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-463	92:1004	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-464	92:1006	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-465	92:1008	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-466	92:1010	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-467	92:1012	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-468	92:1014	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-469	92:1016	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-470	92:1018	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-471	92:1020	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-472	92:1022	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-473	92:1024	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-474	92:1026	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-475	92:1028	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-476	92:1030	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-477	92:1032	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-478	92:1034	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-479	92:1036	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-480	92:1038	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-481	92:1040	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-482	92:1042	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-483	92:1044	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-484	92:1046	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-485	92:1048	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-486	92:1050	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-487	92:1052	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-488	92:1054	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-489	92:1056	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-490	92:1058	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-491	92:1060	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-492	92:1062	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-493	92:1064	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-494	92:1066	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-495	92:1068	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-496	92:1070	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-497	92:1072	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-498	92:1074	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-499	92:1076	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-500	92:1078	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-501	92:1080	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-502	92:1082	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-503	92:1084	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-504	92:1086	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-505	92:1088	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-506	92:1090	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-507	92:1092	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-508	92:1094	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-509	92:1096	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-510	92:1098	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-511	92:1100	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-512	92:1102	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-513	92:1104	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-514	92:1106	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-515	92:1108	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-516	92:1110	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-517	92:1112	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-518	92:1114	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-519	92:1116	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-520	92:1118	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-521	92:1120	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-522	92:1122	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-523	92:1124	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-524	92:1126	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-525	92:1128	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-526	92:1130	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-527	92:1132	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-528	92:1134	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-529	92:1136	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-530	92:1138	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-531	92:1140	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-532	92:1142	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-533	92:1144	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-534	92:1146	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-535	92:1148	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-536	92:1150	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-537	92:1152	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-538	92:1154	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-539	92:1156	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-540	92:1158	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-541	92:1160	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-542	92:1162	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-543	92:1164	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-544	92:1166	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-545	92:1168	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-546	92:1170	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-547	92:1172	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-548	92:1174	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-549	92:1176	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-550	92:1178	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-551	92:1180	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-552	92:1182	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-553	92:1184	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-554	92:1186	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-555	92:1188	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-556	92:1190	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-557	92:1192	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-558	92:1194	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-559	92:1196	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-560	92:1198	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-561	92:1200	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-562	92:1202	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-563	92:1204	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-564	92:1206	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-565	92:1208	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-566	92:1210	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-567	92:1212	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-568	92:1214	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-569	92:1216	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-570	92:1218	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-571	92:1220	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-572	92:1222	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-573	92:1224	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-574	92:1226	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-575	92:1228	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-576	92:1230	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-577	92:1232	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-578	92:1234	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-579	92:1236	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-580	92:1238	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-581	92:1240	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-582	92:1242	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-583	92:1244	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-584	92:1246	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-585	92:1248	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.60
	S. 2584	95-586	92:1250	To amend the Act of August 25, 1958, to provide for the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes.	.

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 6	H.R. 1920	95-423	92:935	To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale.	.60
	H.R. 12222	95-424	92:937	International Development and Food Assistance Act of 1978.	1.20
	H.R. 11567	95-425	92:962	To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes.	.60
Oct. 7	H.R. 12598	95-426	92:963	Foreign Relations Authorization Act, Fiscal Year 1979.	1.40
	H.R. 12841	95-427	92:996	To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes.	.60
	H.R. 10822	95-428	92:999	To improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes.	.60
Oct.10	H.R. 12930	95-429	92:1001	Treaasury, Postal Service, and General Government Appropriations Act, 1979.	1.00
	H.R. 11005	95-430	92:1020	To provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979.	.60
	H.R. 12934	95-431	92:1021	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979.	1.20
	H.R. 13349	95-432	92:1046	To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes.	.60
	H.R. 10581	95-433	92:1047	Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes.	.60
	H.R. 11400	95-434	92:1049	National Science Foundation Authorization Act for Fiscal Year 1979.	.60
	H.R. 9214	95-435	92:1051	To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.	.60
	S. 409	95-436	92:1054	To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center."	.60
	H.R. 10126	95-437	92:1055	Federal Employees Part-Time Career Employment Act of 1978.	.70
	S. 425	95-438	92:1060	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired).	.60
	S. 286	95-439	92:1061	To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes.	.60

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 10	S. 1267	95-440	92:1063	To amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents.	.60
	S. 2946	95-441	92:1064	To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interest under his control.	.60
	S. 2951	95-442	92:1065	To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs.	.60
	S. 3045	95-443	92:1066	To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of acquatic products.	.60
	S. 3067	95-444	92:1067	Civil Rights Commission Act of 1978.	.60
	S. 3092	95-445	92:1069	Humane Methods of Slaughter Act of 1978.	.60
	S. 3274	95-446	92:1071	To designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center".	.60
	S. 3036	95-447	92:1072	To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes.	.60
Oct. 11	H.R. 13125	95-448	92:1073	Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes.	1.10
	S.J.Res. 29	95-449	92:1094	To authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week".	.60
	H.R. 12026	95-450	92:1095	Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act.	.70
	S. 3467	95-451	92:1100	To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W.R. 'Bob' Poage Pecan Field Station".	.60
Oct. 12	H.R. 8588	95-452	92:1101	Inspector General Act of 1978.	.80
	H.R. 9945	95-453	92:1110	To amend the Act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office.	.60
Oct. 13	S. 2640	95-454	92:1111	Civil Service Reform Act of 1978.	2.40
	H.R. 12603	95-455	92:1228	To amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes.	.60
	S. 2249	95-456	92:1230	To prohibit discrimination in rates charged by the Southwestern Power Administration.	.60
	H.R. 13635	95-457	92:1231	Department of Defense Appropriation Act, 1979.	1.10

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 13	H.R. 12314	95-458	92:1232	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Southern Ute Indian Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12315	95-459	92:1233	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Ute Mountain Ute Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12316	95-460	92:1234	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12317	95-461	92:1235	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Hopi Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12318	95-462	92:1236	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12319	95-463	92:1237	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12320	95-464	92:1238	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12321	95-465	92:1239	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12322	95-466	92:1240	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12323	95-467	92:1241	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12324	95-468	92:1242	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12325	95-469	92:1243	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12326	95-470	92:1244	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12327	95-471	92:1245	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12328	95-472	92:1246	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12329	95-473	92:1247	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12330	95-474	92:1248	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12331	95-475	92:1249	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12332	95-476	92:1250	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12333	95-477	92:1251	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12334	95-478	92:1252	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12335	95-479	92:1253	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12336	95-480	92:1254	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12337	95-481	92:1255	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12338	95-482	92:1256	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12339	95-483	92:1257	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12340	95-484	92:1258	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12341	95-485	92:1259	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12342	95-486	92:1260	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12343	95-487	92:1261	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12344	95-488	92:1262	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12345	95-489	92:1263	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12346	95-490	92:1264	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12347	95-491	92:1265	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12348	95-492	92:1266	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12349	95-493	92:1267	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12350	95-494	92:1268	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12351	95-495	92:1269	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12352	95-496	92:1270	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12353	95-497	92:1271	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12354	95-498	92:1272	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12355	95-499	92:1273	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12356	95-500	92:1274	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12357	95-501	92:1275	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12358	95-502	92:1276	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12359	95-503	92:1277	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12360	95-504	92:1278	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12361	95-505	92:1279	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12362	95-506	92:1280	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12363	95-507	92:1281	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12364	95-508	92:1282	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12365	95-509	92:1283	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12366	95-510	92:1284	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12367	95-511	92:1285	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12368	95-512	92:1286	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12369	95-513	92:1287	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12370	95-514	92:1288	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12371	95-515	92:1289	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12372	95-516	92:1290	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12373	95-517	92:1291	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12374	95-518	92:1292	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12375	95-519	92:1293	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12376	95-520	92:1294	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12377	95-521	92:1295	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12378	95-522	92:1296	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12379	95-523	92:1297	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12380	95-524	92:1298	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12381	95-525	92:1299	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12382	95-526	92:1300	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12383	95-527	92:1301	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12384	95-528	92:1302	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12385	95-529	92:1303	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12386	95-530	92:1304	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12387	95-531	92:1305	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12388	95-532	92:1306	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12389	95-533	92:1307	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12390	95-534	92:1308	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12391	95-535	92:1309	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12392	95-536	92:1310	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12393	95-537	92:1311	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12394	95-538	92:1312	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12395	95-539	92:1313	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12396	95-540	92:1314	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12397	95-541	92:1315	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12398	95-542	92:1316	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12399	95-543	92:1317	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12400	95-544	92:1318	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12401	95-545	92:1319	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12402	95-546	92:1320	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12403	95-547	92:1321	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12404	95-548	92:1322	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12405	95-549	92:1323	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12406	95-550	92:1324	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12407	95-551	92:1325	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12408	95-552	92:1326	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12409	95-553	92:1327	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12410	95-554	92:1328	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12411	95-555	92:1329	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12412	95-556	92:1330	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12413	95-557	92:1331	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12414	95-558	92:1332	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12415	95-559	92:1333	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12416	95-560	92:1334	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12417	95-561	92:1335	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12418	95-562	92:1336	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12419	95-563	92:1337	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12420	95-564	92:1338	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12421	95-565	92:1339	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12422	95-566	92:1340	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12423	95-567	92:1341	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12424	95-568	92:1342	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12425	95-569	92:1343	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12426	95-570	92:1344	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12427	95-571	92:1345	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12428	95-572	92:1346	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12429	95-573	92:1347	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12430	95-574	92:1348	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12431	95-575	92:1349	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12432	95-576	92:1350	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12433	95-577	92:1351	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12434	95-578	92:1352	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12435	95-579	92:1353	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12436	95-580	92:1354	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12437	95-581	92:1355	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12438	95-582	92:1356	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12439	95-583	92:1357	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12440	95-584	92:1358	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12441	95-585	92:1359	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12442	95-586	92:1360	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12443	95-587	92:1361	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12444	95-588	92:1362	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12445	95-589	92:1363	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12446	95-590	92:1364	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12447	95-591	92:1365	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12448	95-592	92:1366	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12449	95-593	92:1367	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12450	95-594	92:1368	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12451	95-595	92:1369	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12452	95-596	92:1370	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12453	95-597	92:1371	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12454	95-598	92:1372	To amend the Act of August 25, 1958, to authorize the Secretary of the Interior to enter into contracts with the Navajo Tribe for the use of certain lands for recreation purposes.	.60
	H.R. 12455	95-599	92:1373

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 14	H.R. 1337	95-458	92:1255	To amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicatiors,and partial rollovers of lump sum distributions.	.70
	H.R. 13991	95-459	92:1262	To provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land.	.60
	S. 3384	95-460	92:1263	Agricultural Foreign Investment Disclosure Act of 1978.	.70
	S. 2916	95-461	92:1268	Drug Abuse Prevention and Treatment Amendments of 1978.	.60
	H.R. 13692	95-462	92:1271	Granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia.	.70
	H.J. Res. 685	95-463	92:1276	To designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim, February 11, 1979, as "National Inventors' Day".	.60
Oct. 17	S. 415	95-464	92:1278	To amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn	.60
	H.R. 12932	95-465	92:1279	Making appropriation for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes	1.20
	S.J. Res. 16	95-466	92:1304	To restore posthumously full rights of citizenship to Jefferson F. Davis.	.60
	S. 2704	95-467	92:1305	Water Research and Development Act of 1978.	.90
	S. 2801	95-468	92:1318	To designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building".	.60
	H.R. 8394	95-469	92:1319	To provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes.	.60
	S. 2376	95-470	92:1323	To authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations.	.60
	S. 1215	95-471	92:1325	Tribally Controlled Community College Assistance Act of 1978.	.70
	H.R. 8811	95-472	92:1332	To amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court.	.70
	H.R. 10965	95-473	92:1337	To revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation".	2.50
	S. 682	95-474	92:1471	Port and Tanker Safety Act of 1978.	1.10

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 18	H.R. 6503	95-475	92:1494	To amend the Intercoastal Shipping Act, 1933, and for other purposes.	.60
	H.R. 12028	95-476	92:1497	Veterans' Housing Benefits Act of 1978.	.80
	H.R. 11302	95-477	92:1507	Environmental Research, Development, and Demonstration Authorization Act of 1979.	.70
	H.R. 12255	95-478	92:1513	Comprehensive Older Americans Act Amendments of 1978.	1.70
	H.R. 11886	95-479	92:1560	Veterans' Disability Compensation and Survivors' Benefits Act of 1978.	.70
	H.R. 12929	95-480	92:1567	Making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes.	1.10
	H.R. 12931	95-481	92:1591	Making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.	.80
	H.J. Res. 1139	95-482	92:1603	Making continuing appropriations for fiscal year 1979, and for other purposes.	.60
	H.R. 9998	95-483	92:1607	Ocean Shipping Act of 1978.	.60
Oct. 19	H.R. 13797	95-484	92:1610	To authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes	.60
Oct. 20	S. 3486	95-485	92:1611	Department of Defense Appropriation Authorization Act, 1979.	1.00
	H.R. 7843	95-486	92:1629	To provide for the appointment of additional district and circuit judges, and for other purposes	.70
	H.R. 14026	95-487	92:1635	To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the Village of Kake, Alaska, and for other purposes	.60
	H.R. 13167	95-488	92:1637	To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes	.60
	H.R. 13803	95-489	92:1639	To terminate the authorization of the navigation project on the Columbia Slough, Oregon.	.60
	S. 1318	95-490	92:1640	To permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose.	.60
	S. 3259	95-491	92:1641	Federal Information Centers Act	.60
	S. 3373	95-492	92:1642	To amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes	.60
	H.R. 11035	95-493	92:1643	To incorporate the United States Capitol Historical Society	.70
Oct. 21	H.R. 12264	95-494	92:1648	To designate certain lands in the State of Wisconsin as Wilderness	.60

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 21	H.R. 12265	95-495	92:1649	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12266	95-496	92:1650	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12267	95-497	92:1651	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12268	95-498	92:1652	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12269	95-499	92:1653	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12270	95-500	92:1654	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12271	95-501	92:1655	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12272	95-502	92:1656	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12273	95-503	92:1657	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12274	95-504	92:1658	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12275	95-505	92:1659	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12276	95-506	92:1660	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12277	95-507	92:1661	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12278	95-508	92:1662	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12279	95-509	92:1663	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12280	95-510	92:1664	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12281	95-511	92:1665	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12282	95-512	92:1666	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12283	95-513	92:1667	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12284	95-514	92:1668	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12285	95-515	92:1669	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12286	95-516	92:1670	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12287	95-517	92:1671	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12288	95-518	92:1672	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12289	95-519	92:1673	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12290	95-520	92:1674	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12291	95-521	92:1675	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12292	95-522	92:1676	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12293	95-523	92:1677	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12294	95-524	92:1678	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12295	95-525	92:1679	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12296	95-526	92:1680	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12297	95-527	92:1681	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12298	95-528	92:1682	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12299	95-529	92:1683	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12300	95-530	92:1684	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12301	95-531	92:1685	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12302	95-532	92:1686	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12303	95-533	92:1687	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12304	95-534	92:1688	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12305	95-535	92:1689	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12306	95-536	92:1690	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12307	95-537	92:1691	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12308	95-538	92:1692	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12309	95-539	92:1693	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12310	95-540	92:1694	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12311	95-541	92:1695	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12312	95-542	92:1696	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12313	95-543	92:1697	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12314	95-544	92:1698	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12315	95-545	92:1699	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12316	95-546	92:1700	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12317	95-547	92:1701	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12318	95-548	92:1702	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12319	95-549	92:1703	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12320	95-550	92:1704	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12321	95-551	92:1705	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12322	95-552	92:1706	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12323	95-553	92:1707	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12324	95-554	92:1708	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12325	95-555	92:1709	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12326	95-556	92:1710	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12327	95-557	92:1711	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12328	95-558	92:1712	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12329	95-559	92:1713	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12330	95-560	92:1714	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12331	95-561	92:1715	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12332	95-562	92:1716	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12333	95-563	92:1717	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12334	95-564	92:1718	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12335	95-565	92:1719	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12336	95-566	92:1720	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12337	95-567	92:1721	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12338	95-568	92:1722	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12339	95-569	92:1723	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12340	95-570	92:1724	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12341	95-571	92:1725	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12342	95-572	92:1726	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12343	95-573	92:1727	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12344	95-574	92:1728	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12345	95-575	92:1729	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12346	95-576	92:1730	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12347	95-577	92:1731	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12348	95-578	92:1732	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12349	95-579	92:1733	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12350	95-580	92:1734	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12351	95-581	92:1735	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12352	95-582	92:1736	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12353	95-583	92:1737	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12354	95-584	92:1738	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12355	95-585	92:1739	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12356	95-586	92:1740	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12357	95-587	92:1741	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12358	95-588	92:1742	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12359	95-589	92:1743	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12360	95-590	92:1744	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12361	95-591	92:1745	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12362	95-592	92:1746	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12363	95-593	92:1747	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12364	95-594	92:1748	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12365	95-595	92:1749	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12366	95-596	92:1750	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12367	95-597	92:1751	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12368	95-598	92:1752	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12369	95-599	92:1753	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12370	95-600	92:1754	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12371	95-601	92:1755	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12372	95-602	92:1756	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12373	95-603	92:1757	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12374	95-604	92:1758	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12375	95-605	92:1759	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12376	95-606	92:1760	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12377	95-607	92:1761	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12378	95-608	92:1762	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12379	95-609	92:1763	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12380	95-610	92:1764	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12381	95-611	92:1765	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12382	95-612	92:1766	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12383	95-613	92:1767	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12384	95-614	92:1768	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12385	95-615	92:1769	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12386	95-616	92:1770	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12387	95-617	92:1771	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12388	95-618	92:1772	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12389	95-619	92:1773	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12390	95-620	92:1774	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12391	95-621	92:1775	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12392	95-622	92:1776	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12393	95-623	92:1777	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12394	95-624	92:1778	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12395	95-625	92:1779	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12396	95-626	92:1780	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12397	95-627	92:1781	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12398	95-628	92:1782	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12399	95-629	92:1783	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12400	95-630	92:1784	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12401	95-631	92:1785	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12402	95-632	92:1786	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12403	95-633	92:1787	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12404	95-634	92:1788	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12405	95-635	92:1789	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12406	95-636	92:1790	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12407	95-637	92:1791	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12408	95-638	92:1792	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12409	95-639	92:1793	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12410	95-640	92:1794	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12411	95-641	92:1795	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12412	95-642	92:1796	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12413	95-643	92:1797	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12414	95-644	92:1798	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12415	95-645	92:1799	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12416	95-646	92:1800	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12417	95-647	92:1801	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12418	95-648	92:1802	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12419	95-649	92:1803	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12420	95-650	92:1804	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12421	95-651	92:1805	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12422	95-652	92:1806	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12423	95-653	92:1807	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12424	95-654	92:1808	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12425	95-655	92:1809	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12426	95-656	92:1810	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12427	95-657	92:1811	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12428	95-658	92:1812	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12429	95-659	92:1813	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12430	95-660	92:1814	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12431	95-661	92:1815	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12432	95-662	92:1816	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12433	95-663	92:1817	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12434	95-664	92:1818	To amend the Act of June 30, 1954, to provide for the conveyance of certain lands to the Board of Regents of the University System of Georgia	.60
	H.R. 12435

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 21	H.R. 12250	95-495	92:1649	To designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes.	.80
	S. 1081	95-496	92:1660	To amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.	.70
	H.R. 12051	95-497	92:1665	Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions.	.70
	S. 2588	95-498	92:1672	To declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands.	.70
	S. 2358	95-499	92:1679	To declare that the United States holds in trust for the Pueblo of Zia certain public domain lands.	.60
	H.R. 8755	95-500	92:1683	To make specific provisions for the ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes.	.60
	S. 3447	95-501	92:1685	Agricultural Trade Act of 1978	.70
	H.R. 8533	95-502	92:1693	To amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-organizations will not be subject to tax.	.80
Oct. 24	S. 2411	95-503	92:1704	To amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district.	.60
	S. 2493	95-504	92:1705	Airline Deregulation Act of 1978	1.80
	H.R. 11658	95-505	92:1755	To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel	.60
	H.R. 13767	95-506	92:1756	To amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies	.60
	H.R. 11318	95-507	92:1757	To amend the Small Business Act and the Small Business Investment Act of 1958	1.00
	H.R. 12165	95-508	92:1774	To extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes.	.60
	H.R. 11686	95-509	92:1775	Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979	.70
	H.R. 13418	95-510	92:1780	To amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compenstion and travel expenses for experts and consultants, and for other purposes	60

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 25	S. 1566	95-511	92:1783	Foreign Intelligence Surveillance Act of 1978	.90
	S. 3412	95-512	92:1799	Comptroller General Annuity Adjustment Act of 1978.	.60
	H.J. Res. 1147	95-513	92:1802	Authorizing and requesting the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week"	.60
	H.R. 10587	95-514	92:1803	Public Rangelands Improvement Act of 1978	.70
	S. 1185	95-515	92:1811	Interstate Horseracing Act of 1978	.70
	H.R. 10161	95-516	92:1816	For the relief of Eastern Telephone Supply and Manufacturing, Incorporated, and other matters.	.60
	H.R. 11945	95-517	92:1817	To authorize the Secretary of the Army to return to the Federal Republic of Germany ten paintings of the German Navy seized by the United States Army at the end of World War II	.60
	H.R. 12112	95-518	92:1818	Designating Gathright Lake on the Jackson River, Virginia, as Gathright Dam and Lake Moomaw.	.60
	S. 1626	95-519	92:1819	To clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes.	.60
Oct. 26	H.R. 5029	95-520	92:1820	Veterans' Administration Programs Extension Act of 1978	.60
	S. 555	95-521	92:1824	Ethics in Government Act of 1978	2.00
Oct. 27	H.R. 13481	95-522	92:1886	To name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building".	.60
	H.R. 50	95-523	92:1887	Full Employment and Balanced Growth Act of 1978.	1.10
	S. 2570	95-524	92:1909	Comprehensive Employment and Training Act Amendments of 1978	2.40
	H.R. 7296	95-525	92:2022	To designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building".	.60
	H.R. 12116	95-526	92:2023	To amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the Disrict of Columbia and repassed by two-thirds of the Council, to change the period during which act of the Council of the District of Columbia are subject to congressional review, and for other purposes.	.60
	H.R. 7305	95-527	92:2025	To designate a certain Federal building in Champaign, Illinois, the "William L. Springer Building".	.60
	H.R. 13808	95-528	92:2026	To designate the "Omar Burleson Federal Building".	.60
	H.R. 13809	95-529	92:2027	To designate the "George Mahon Federal Building".	.60

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 27	H.R. 13892	95-530	92:2028	To amend title 28 of the United States Code to provide that the requirement that each United States attorney and United States marshal reside in the district for which he is appointed shall not apply to individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district.	.60
	H.R. 14223	95-531	92:2029	To designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building".	.60
	H.R. 14295	95-532	92:2030	To designate the "Paul G. Rogers Federal Building".	.60
	H.J. Res. 747	95-533	92:2031	To consent to an amendment of the Constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State.	.60
	H.J. Res. 816	95-534	92:2032	To extend the authority of the Federal Reserve banks to buy and sell certain obligations.	.60
	S. 2049	95-535	92:2033	To establish fees and allow per diem and mileage expenses for witnesses before United States courts.	.60
	S. 2403	95-536	92:2035	To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21.	.60
	S. 3336	95-537	92:2038	Contract Services for Drug Dependent Federal Offenders Act of 1978.	.60
	S. 3540	95-538	92:2039	To rename the United States Federal building in Yakima, Washington, the "Justice William O. Douglas Federal Building".	.60
Oct. 28	S. 1315	95-539	92:2040	Court Interpreters Act.	.70
	H.R. 4727	95-540	92:2046	To amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims.	.60
	H.R. 7749	95-541	92:2048	Anarctic Conservation Act of 1978.	.80
	H.R. 11671	95-542	92:2058	To designate a certain Federal building in Big Stone Gap, Virginia, the "C. Bascom Slemp Building".	.60
	H.R. 12634	95-543	92:2059	To designate a building in Pittsburg, Kansas, as the "Joe Skubitz Social Security Administration Center".	.60
	H.R. 13187	95-544	92:2060	To designate the United States Post Office and Federal Building in Griffin, Georgia, the "John J. Flynt, Jr. Federal Building".	.60
	H.R. 13514	95-545	92:2061	To name a certain Federal building in Shreveport, Louisiana, the "Joe Waggonner Federal Building".	.60
	H.R. 13972	95-546	92:2062	To designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana.	.60
	H.R. 13989	95-547	92:2063	To amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.	.60

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Oct. 30	S. 3112	95-548	92:2064	To amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.	.60
	H.R. 12509	95-549	92:2065	To amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes.	.60
	S. 1403	95-550	92:2067	To provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico.	.60
	H.R. 13416	95-551	92:2069	To amend title 10, United States Code, to modernize the permanent faculty structure at the United States Military Academy, and for other purposes.	.60
	H.R. 13372	95-552	92:2071	To increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities befor migratory bird areas are recommended for purchase or rental, and for other purposes.	.60
	S. 3551	95-553	92:2072	To make technical corrections in the North Pacific Fisheries Act of 1954.	.60
	S. 3189	95-554	92:2073	To further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.	.60
Oct. 31	S. 995	95-555	92:2076	To amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.	.60
	H.R. 13702	95-556	92:2078	To provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes.	.60
	S. 3084	95-557	92:2080	Housing and Community Development Amendments of 1978.	1.80
Nov. 1	S. 3595	95-558	92:2130	To amend section 202(d) of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.	.60
	S. 2534	95-559	92:2131	Health Maintenance Organization Amendments of 1978.	.80
	H.R. 8389	95-560	92:2142	Authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy.	.60
	H.R. 15	95-561	92:2143	Education Amendments of 1978.	3.25
	S. 976	95-562	92:2381	To amend the Perishable Agricultural Commodities Act.	.60
	H.R. 11002	95-563	92:2383	Contract Disputes Act of 1978.	.80
	H.R. 11209	95-564	92:2392	To provide for the establishment, ownership, operation, and governmental over-sight and regulation of international maritime satellite telecommunications services.	.70
	S. 2788	95-565	92:2397	United States Railway Association Amentments Act of 1978.	.70
	S. 2539	95-566	92:2402	Middle Income Student Assistance Act.	.60

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Nov. 2	H.R. 12605	95-567	92:2405	Public Telecommunications Financing Act of 1978..	1.00
	H.R. 7577	95-568	92:2425	Economic Opportunity Amendments of 1978.....	.90
	S. 1029	95-569	92:2444	To authorize the Smithsonian Institution to construct support museum facilities.....	.60
	H.R. 11003	95-570	92:2445	To clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.....	.70
	H.R. 14224	95-571	92:2452	To authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.....	.60
	S. 2075	95-572	92:2453	Jury System Improvements Act of 1978.....	.70
	H.R. 14145	95-573	92:2458	To amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York.....	.70
	S. 3081	95-574	92:2459	Federal Railroad Safety Authorization Act of 1978.	.60
	S. 1487	95-575	92:2463	To amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes.	.60
	H.R. 12140	95-576	92:2467	To amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the Act.....	.60
	H.R. 13597	95-577	92:2470	To authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes.....	.60
	S. 2820	95-578	92:2471	Reclamation Safety of Dams Act of 1978.....	.60
	S. 2247	95-579	92:2474	Amending section 312 of the Immigration and Nationality Act.....	.60
	S. 1835	95-580	92:2475	To establish a Rural Transportation Advisory Task Force, and for other purposes.....	.60
	H.R. 10343	95-581	92:2478	To provide for recalculation of the retired pay of individuals who served as sergeant of the Marine Corps before December 16, 1967.....	.60
	H.R. 12393	95-582	92:2479	To provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes.....	.60
	H.R. 4319	95-583	92:2481	To amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances may be eligible to retain their life and health insurance benefits, and for other purposes.....	.60
	S. 3371	95-584	92:2483	To repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States.....	.60
	H.R. 3185	95-585	92:2484	To amend the Act commonly known as the Miller Act to raise the dollar amount of contracts to which such Act applies from $2,000 to $25,000.....	.60

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Nov. 3	H.R. 7971	95-586	92:2485	To validate certain land conveyances, and other purposes.....	.80
	H.R. 7101	95-587	92:2496	To amend certain provisions of law relating to land claims by the United States in Riverside County, California, based upon the accretion or avulsion, and other purposes.....	.60
Nov. 4	H.R. 10173	95-588	92:2497	Veterans' and Survivors' Pension Improvement Act of 1978.....	.90
	H.R. 13903	95-589	92:2512	To amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed. ...	.60
	H.R. 12874	95-590	92:2513	Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978.	.80
	H.R. 13500	95-591	92:2523	Presidential Records Act of 1978	.70
	S. 1816	95-592	92:2529	Native Latex Commercialization and Economic Development Act of 1978	.70
	S. 703	95-593	92:2535	To improve the administration and operation of the Overseas Citizen Voting Rights Act of 1975, and for other purposes	.70
	H.J. Res. 1173	95-594	92:2540	Relative to convening of the first session of the Ninety-sixth Congress, and for other purposes.	.60
	H.R. 9701	95-595	92:2541	To amend to Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes.....	.60
	S.J. Res. 160	95-596	92:2544	To initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes.....	.60
	H.R.5646	95-597	92:2547	To amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization.	.60
Nov. 6	H.R. 8200	95-598	92:2549	To establish a uniform Law on the Subject of Bankrupties.	2.50
	H.R. 11733	95-599	92:2689	Surface Transportation Assistance Act of 1978.	2.10
	H.R. 13511	95-600	92:2763	Revenue Act of 1978.....	2.75
	S.2584	95-601	92:2947	To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.	.70
	H.R. 12467	95-602	92:2955	Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978..	1.80

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price

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Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Nov. 6	S.990	95-603	92:3018	Federal Physicians Comparability Allowance Act of 1978	.60
	H.R. 13650	95-604	92:3021	Uranium Mill Tailings Radiation Control Act of 1978	1.10
	S.2774	95-605	92:3044	To extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes	.60
	S. 2727	95-606	92:3045	Amateur Sports Act of 1978	.90
	S. 2981	95-607	92:3059	To amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes	.80
	S. 1214	95-608	92:3069	Indian Child Welfare Act of 1978	.80
	S. 3083	95-609	92:3079	Quiet Communities Act of 1978	.70
	S. 274	95-610	92:3085	To amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organization by the Government, and for other purposes	.60
	H.R. 10898	95-611	92:3089	To amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979	.60
	S. 2093	95-612	92:3091	To provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes	.60
	S. 2522	95-613	92:3093	To extend the programs of assistance under title X and part B of title XI of the Public Health Service Act	.60
	S. 553	95-614	92:3095	To amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes	.60
	H.R. 9251	95-615	92:3097	Tax Treatment Extension Act of 1977	.90
	H.R. 2329	95-616	92:3110	Fish and Wildlife Improvement Act of 1978	.70
Nov. 9	H.R. 4018	95-617	92:3117	Public Utility Regulatory Policies Act of 1978	1.90
	H.R. 5263	95-618	92:3174	Energy Tax Act of 1978	1.40
	H.R. 5037	95-619	92:3206	National Energy Conservation Policy Act	2.10
	H.R. 5146	95-620	92:3289	Powerplant and Industrial Fuel Use Act of 1978	1.90
	H.R. 5289	95-621	92:3350	Natural Gas Policy Act of 1978	1.90
	S. 2450	95-622	92:3412	To amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes	1.30
	S. 2466	95-623	92:3443	Health Services Research, Health Statistics, and Health Care Technology Act of 1978	.90
	S. 3151	95-624	92:3459	Department of Justice Appropriation Authorization Act, Fiscal Year 1979	.70
Nov. 10	S. 791	95-625	92:3467	National Parks and Recreation Act of 1978	2.10
	S. 2474	95-626	92:3551	Health Services and Centers Amendments of 1978	1.80
	S. 3085	95-627	92:3603	Child Nutrition Amendments of 1978	1.10

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Nov. 10	H.R. 7320	95-628	92:3627	To revise miscellaneous timing requirements of the revenue laws, and for other purposes	.70
	S. 1829	95-629	92:3635	To amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes	.70
	H.R. 14279	95-630	92:3641	Financial Institutions Regulatory and Interest Rate Control Act of 1978	2.30
	S. 2796	95-631	92:3742	To amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes	.80
	S. 2899	95-632	92:3751	Endangered Species Act Amendments of 1978	1.00
	S. 2399	95-633	92:3768	Psychotropic Substances Act of 1978	.80

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The Office of the Federal Register is considering publishing in the Federal Register periodic cumulative listings of public laws. These listings would be in addition to the "Reminder" entries which announce laws as they are signed. These listings would follow the same format as shown above and would be cumulative each time they are published. The last listing would be cumulative for an entire session of a particular Congress.

We would appreciate comments from the users of the Federal Register on the usefulness, frequency, and desirability of printing these listings and on the arrangement of and information in the listings.

Please send your comments to Fred J. Emery, Director, Office of the Federal Register, Washington, D.C. 20408.

MONDAY, DECEMBER 4, 1978

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federal register

MONDAY, DECEMBER 4, 1978
PART III



DEPARTMENT OF TRANSPORTATION

Coast Guard

REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS

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intent to only make the regulations read that "non-self-propelled units recent experience in overseas inspec-

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[4910-14-M]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-251]

REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations govern the inspection and certification, design and equipment, and operation of mobile offshore drilling units. Mobile offshore drilling units have previously been subject to various regulations depending on whether they float while engaged in drilling operations, or whether they drill while bearing on the seabed. These regulations will bring all mobile offshore drilling units under one set of uniform, comprehensive regulations, and will provide that all units be inspected and certificated by the Coast Guard.

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Edward A. Harmes, Office of Merchant Marine Safety, Room 8300, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-2183.

SUPPLEMENTARY INFORMATION: On May 2, 1977, the Coast Guard published a proposed rule (42 FR 22296) concerning these amendments. Interested persons were given until June 29, 1977, to submit comments, and a public hearing was held on June 1, 1977, in New Orleans, Louisiana. A total of 79 written comments were received from 58 commenters. A significant amount of duplication was noted. Commenters included private individuals; companies; industry associations; Federal, State, and local government agencies; and labor unions. Eight persons made oral comments at the public hearing.

The regulations governing electrical engineering requirements for mobile offshore drilling units were proposed in the FEDERAL REGISTER of June 27, 1977 (42 FR 32700). Interested persons were given until August 11, 1977, to comment on these proposals. Eight comments were received which related specifically to the requirements for mobile offshore drilling units.

This rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation has been prepared, and has been included in the public docket.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Commander Peter Cronk and Lieutenant Commander Edward Harmes, Project Managers, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

The letter designations of the Subparts in Part 108 have been changed in order to make them consecutive. Both the new and old designations are set out below:

Proposal	*Final Rule*
Subpart A	Subpart A
Subpart C	Subpart B
Subpart D	Subpart C
Subpart E	Subpart D
Subpart F	Subpart E
Subpart G	Subpart F
Subpart J	Subpart G
Subpart K	Subpart H

DISCUSSION OF COMMENTS

Many revisions have been made to the proposed regulations to improve clarity without changing the substance of the regulations. These revisions are made as a result of comments received, and Coast Guard review of the proposal.

Those changes that significantly alter the proposed regulations, and those items that received considerable comment, but have not been revised, are discussed below.

Concurrent with the development of these National regulations has been an international effort to draft a Code for Mobile Offshore Drilling Units through the International Maritime Consultative Organization (IMCO). The draft Code is near completion and is expected to be submitted for adoption procedures through the Maritime Safety Committee by the end of 1978. Where it has been possible, the National regulations have been developed to reflect the proposed resolution. However, because of the fluid state of the IMCO effort and the need for National regulations prior to adoption of the IMCO standard, some differences between these two are anticipated.

GENERAL COMMENTS

The Environmental Protection Agency expressed concern that the establishment of Subchapter I-A would remove all mobile offshore drilling units from the provisions of 33 CFR Part 147, which provides for the establishment of safety zones around offshore installations. The Coast Guard does not intend to modify the applicability of the safety zone regulations.

Numerous commentors objected to the inclusion in Subchapter I-A of references to other regulations applicable to mobile offshore drilling units, and suggested that all of these regulations be set out in the final rule. The Coast Guard Mobile Offshore Drilling Unit Subcommittee of the National Offshore Operations Industry Advisory Committee considered the inclusion of all applicable regulations in one set of regulations during the early stages of the development of these regulations and rejected the concept as impractical.

Several commentors expressed concern that, regardless of the Memorandum of Understanding (MOU) signed by the Coast Guard and the U.S. Geological Survey (USGS) on 11 April 1977, (42 FR 20198, April 18, 1977), the proposed rulemaking presented apparent areas of regulatory conflict between the Coast Guard and the USGS for those units operating on the Outer Continental Shelf of the United States. Particular concern was directed at those portions of the proposed rule addressing industrial systems; cranes; and riveting, welding, and burning operations. The Coast Guard does not agree that this is a problem. The USCG-USGS Memorandum of Understanding was developed with full consideration given to the proposed rulemaking. In accordance with the provisions of the MOU, a standing committee composed of representatives of each agency has been established to coordinate its implementation. The USGS has also, in their recent revisions to the OCS Orders, referred to the Memorandum of Understanding and applicable Coast Guard regulations.

Although the preamble to the proposed rule indicated that the proposal did not address personnel qualifications or manning standards for mobile offshore drilling units, several commentors made suggestions and recommendations in this area.

The Coast Guard has contracted the services of an independent research firm to conduct a survey, and an analysis of industrial/maritime mobile offshore drilling unit personnel training and qualification requirements. The task, which is anticipated to be completed shortly, will assist the Coast Guard in developing regulations to assure that drilling unit personnel have the skill and knowledge necessary for safe navigation, and operation of the units when they are in the marine mode.

SUBCHAPTER I-A

PART 107—INSPECTION AND CERTIFICATION

One commentor suggested that the word "drilling" be deleted from § 107.01 in order to make the regulations applicable to other types of units engaged in the offshore oil industry. At this time, it is the Coast Guard's intent to only make the regulations applicable to mobile offshore drilling units. Those portions of the regulations which may be applicable to other vessels of similar configuration will be evaluated for possible future rulemaking action.

Another commentor recommended that the definition of Industrial Personnel in § 107.113 be revised to limit the industrial personnel category to those persons directly engaged in the drilling process. The Coast Guard feels that the definition, as proposed, is accurate, as it states that industrial personnel are those on board for the sole purpose of carrying out the industrial business or function of the unit, which is drilling. The unit's Certificate of Inspection will set forth the required crew and the total number of persons allowed on board the unit.

Seven commentors, apparently relying on the language in 46 CFR 30.10-11, requested that a new paragraph be added to § 107.115 stating that non-self-propelled units normally operating in the waters of any ocean or the Gulf of Mexico 20 nautical miles or less offshore are not seagoing barges. After careful consideration, the Coast Guard has determined that it cannot adopt this comment since it would be inconsistent with previous administrative determinations as to the application of the Seagoing Barge Act, 46 U.S.C. 395. 46 CFR 30.10-11 relates only to tank barges and is not applicable to mobile offshore drilling units. However, the same language appears in 46 CFR 90.10-25. The regulation in 46 CFR 90.10-36 contains the Coast Guard's interpretation of the application of the Seagoing Barge Act. It states that the phrase "every seagoing barge of one hundred gross tons or over in subsections 395(a) and 395(b), Title 46, U.S.C. (sec. 10, 35 Stat. 428, as amended) includes every non-self-propelled vessel of 100 gross tons or over, if such vessel will navigate the high seas or ocean." The terms "high seas or ocean", in 46 CFR 90.10-36 means any area of the ocean seaward of the headlands. Although 46 CFR 90.10-25 is entitled "ocean," it does not define that term. It is merely a statement of what is included in a route designation on a Certificate of Inspection.

In *United States* v. *Gahagan Dredge Corp.* (289 F. 2d 639 (2d Cir. 1961)), the Court adopted the interpretation of the Seagoing Barge Act placed on that Act by the Coast Guard. The interpretation was that the Act applied to barges which navigate seaward of the headlands. This interpretation continues to be the interpretation of the Coast Guard as to the application of the inspection and certification requirements in the Act.

Eleven commentors requested that a paragraph be added to § 107.115 to read that "non-self-propelled units which in fact in the usual course of their operations do not pass outside the line of demarcation dividing inland waters from the high seas, as defined in Section 151 of Title 33, U.S. Code, are not considered 'seagoing barges' for the purpose of this chapter." The line authorized by 33 U.S.C. 151 relating to the application of certain marine safety statutes has no application to the Seagoing Barge Act.

Since a determination and classification of a vessel as to whether or not it is a seagoing barge is within the administrative discretion of the Coast Guard, these barges will be subject to inspection when, in the judgment of the cognizant Officer-in-Charge, Marine Inspection, their operations carry them into waters which are essentially outside of the sheltered waters, and exposed to the effect of the open seas.

Section 107.115 has been deleted because the definition of "Mobile Offshore Drilling Unit" in § 107.111 adequately covers seagoing barges.

Eighteen commentors recommended that the requirement for a biennial inspection in § 107.201, and several other sections of Part 107, be changed to a quadrennial inspection. The Coast Guard's position is that a biennial inspection is required by law, and that these sections cannot be modified. Specifically, 46 U.S.C. 399, states in part "when the inspection of a steam vessel is completed and the Secretary of the department in which the Coast Guard is operating approves the vessel and her equipment throughout he shall make and subscribe a certificate to that effect." The provisions of 46 U.S.C. 391 and 395 require that these inspections be conducted at least once in every two years.

Seventeen commentors thought that the wording of § 107.211(c) did not accurately describe the requirements that would apply to existing uncertificated mobile offshore drilling units for an original Certificate of Inspection. Several versions of alternative wording were suggested.

The Coast Guard agrees that the wording in the proposed rule was not clear, and has modified § 107.211(c) to clarify that existing uncertificated mobile offshore drilling units are subject only to the applicable portions of Subchapter I-A Specified in the Navigation and Vessel Inspection Circular, "Inspection of Existing Mobile Offshore Drilling Units." The Circular is published as Appendix A to Subchapter I-A.

One commentor submitted that the 90 day notification for biennial inspections and drydock examinations for units operating in international service was excessive, and proposed a 30 day notification. On the basis of recent experience in overseas inspections, the Coast Guard agrees that the 90 day notification is not necessary, but feels that 30 days does not allow for enough lead time. Section 107.215(b) has been revised to provide for a 60 day notification.

Fifteen commentors suggested alternative wording for § 107.215(c)(2) addressing biennial inspection for certification of those units previously issued a Certificate of Inspection under 46 CFR Subchapter I. The main thrust of these comments were similar to those addressed to § 107.211(c) and suggested deletion of the reference to the Navigation and Vessel Inspection Circular, "Inspection of Existing Mobile Offshore Drilling Units." The Coast Guard feels that reference to the Circular is necessary because it contains guidance for the application of certain equipment and operating requirements of Subchapter I-A to units that are certificated under Subchapter I. This section has been re-written to clarify its intent.

Nineteen commentors suggested adding a footnote to § 107.231(a)(4) to state that the load line requirements are not applicable to bottom supported units when they are in an operating mode. The Coast Guard agrees, and an appropriate footnote has been added.

Several commentors suggested numerous changes, both editorial and technical, to § 107.235. These comments were accepted, in part, and § 107.235 has been completely rewritten to make it easier to understand. The servicing requirements for hand portable fire extinguishers has been put in a tabular format, and testing requirements for foam systems clarified by the inclusion of a provision that the manufacturer may evaluate the sample of the foam liquid.

Seven comments pointed out the apparent regulatory conflict with the U.S. Geological Survey (USGS) in regard to cranes. The conflict between the Coast Guard regulations and the USGS Gulf of Mexico OCS Order 8, regarding the applicability of crane operation requirements to mobile offshore drilling units, is resolved in the new proposed USGS National Orders. The National Orders will not include crane requirements for mobile offshore drilling units thereby eliminating the regulatory conflict.

Two comments were received concerning § 107.260(c)(3). Requiring a rated load test after repairs or alterations to structural components remains desirable even though they are made under the direct supervision of the manufacturer according to his repair specifications. The addition of the "main hoist" to this requirement would not be appropriate since repairs can be made which do not involve load bearing components of the main hoist

and the possibility of a blowout. The

means of escape that allows a rapid

the regulations to provide for this type of helicopter. In the development

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but whose structural integrity should be verified. It is intended that any structural component or mechanism for which a load test is appropriate would require such a test to insure that repairs or alterations are satisfactory.

One comment was concerned with the effect of referring to the API Standards for cranes as opposed to writing specific regulations. The API Standards have the effect of regulation when adopted by reference. Any change to the Standard would have the benefit of Coast Guard review. Any exceptions or modifications to the standards may be made by the Coast Guard by publishing regulations which would preempt the standard.

A suggested revision to § 107.259(b) was accepted. The revised language states that inspectors *conduct* inspections and *witness* tests.

The Coast Guard partially concurred with a recommendation concerning the most appropriate boom angles which should be used for the rated load test in § 107.260(a). This paragraph was revised to include a requirement to conduct the rated load test at the minimum and maximum boom angles usually employed to insure that all structural components were proof tested within the operating range of the crane. Also the Coast Guard did not concur with the recommendation that the crane should be rotated while suspending the proof load. Though there is technical merit to this approach, there are other safety considerations involving physical constraints, danger to the installation and the manner in which proof loads are applied.

Seven comments on § 107.260(c) stated that the rated load test requirements exceed the API RP 2D requirements and are unnecessary. The API Recommended Practice provides for a rated load test after extensive repairs or alterations. The Coast Guard regulations go further by requiring the rated load test after installation, after repairs or alterations (of any kind) to any structural component of the crane (one comment was received in support of this), and after each four years of service. This approach insures that the structural integrity of the crane is verified after the crane is shipped from the factory to the construction site of the vessel and installed. Also, the periodic rated load test helps to determine if there has been any excessive wear and tear on load bearing components brought about by use.

Twelve commentors stated that, in view of present day technology and improved materials, the 24 month drydocking interval specified in § 107.261(a) should be changed to 48 months. A complete examination of the hull structure is required, by law, every two years.

One commentor suggested modifications to §§ 107.261 and 107.265 to provide for a special examination in lieu of drydocking for surface type units when specifically authorized by the Commandant. While the Coast Guard continues to be of the opinion that a conventional drydock examination provides for a more comprehensive inspection for surface type units, it is agreed that under certain conditions a special examination in lieu of drydocking is a viable alternative. Sections 107.261 and 107.265 have therefore been modified to allow surface type units to be specially examined in lieu of drydocking when specifically authorized by the Commandant.

Eleven commentors recommended that the descriptive term "submersible" be added to § 107.265. The Coast Guard does not consider it necessary, for the purpose of this rulemaking, to differentiate between units of the submersible and semi-submersible configurations. Of the small number of seagoing submersible units in operation, the great majority fit the defined category of "Column Stabilized."

One commentor suggested that the provisions of § 107.305(hh) could be misinterpreted as having regard only to "high strength" or "notch tough" steels, and not give adequate consideration to cold temperature properties. After considerable review, the regulation has been rewritten to provide for the inclusion of appropriate information concerning steels in the construction portfolio.

Seven comments suggested that § 107.305(o) read "Location of cranes" instead of "arrangement of cranes". The term arrangement encompasses consideration of location. In this context, it provides for additional information relative to the location of each crane and includes the proximity of other features such as the helicopter deck, lifesaving equipment, structural foundations and effects of loads and moments on the unit.

Paragraph 107.309(b)(1) was believed by eleven commentors to be inappropriate as applied to cranes since they considered cranes to be industrial equipment. This is not concurred with since cranes used for handling the general services of the unit, i.e., materials, supplies and personnel transfer, are the unit's equipment. Cranes or material handling gear used exclusively in an industrial system susch as the derrick or BOP gantry crane will be inspected as industrial equipment.

Seven commentors believed the submittal of crane plans and information in § 107.309(a)(1) would be a burden to the manufacturer. The concept of plan review is fundamental in approval and certification of cranes. To facilitate this process, type approval for manufacturer's models of cranes will apply, in practice, to subsequent orders of the same model, thus substantially reducing the need for repeated plan submittals.

The Coast Guard has revised § 107.309(b) (2) and (3) to clarify the intent of plan review regarding crane hydraulic and pneumatic systems. Cranes with these systems must meet certain requirements in Subpart 58.30 of Title 46 concerning fluid power control systems. Sections 58.30-40 and 58.30-50 describe the plans required to be submitted.

Eleven comments which were rejected affecting §§ 107.258, 107.259, and 107.309 included wording revisions and recommendations to provide for certification of cranes by qualified personnel in addition to Coast Guard inspectors and ABS and International Cargo Gear Bureau (ICGB) certifying authorities. Crane certification was provided to allow inspection by authorities whose certificates are recognized internationally. This would facilitate acceptability of a unit's cranes when it was operating under foreign jurisdictions. For many years, ABS and ICGB have been authorized by the Coast Guard to inspect cargo gear on cargo vessels. It is impracticable for the Coast Guard, at this time, to review, approve, and monitor any other organizations or qualified third parties which may have the capability of certifying cranes according to the requirements of Subchapter I-A.

PART 108—DESIGNS AND EQUIPMENT

Subpart B—Construction and Arrangement

Several commentors apparently misunderstood § 108.114. With regard to internal openings, the intent of this regulation is to provide remote controls or an alarm system for each opening in a watertight deck or bulkhead which is assumed to remain intact in any damage stability calculations. No standards are proposed for those internal openings which are in decks or bulkheads which are not considered watertight for damage stability purposes.

Many of the same commentors stated that it is unreasonable to demand internal closures to be remotely controlled from a normally manned control station. The regulations do not require this. Section 108.114(c)(1) is written to allow either remote controls or an alarm system. Where an alarm system is fitted, remote controls are not necessary.

One commentor, apparently referring to recent IMCO work addressing tank vessels, advocated additional structural fire protection requirements stressing the danger of external fires

and the possibility of a blowout. The Coast Guard does not agree that additional requirements are necessary in this area. The basic purpose of a mobile offshore drilling unit is the exploration and discovery of petroleum resources. It might be argued that the potential for an uncontrolled hydrocarbon flow "blowout" fire makes a unit different than a cargo vessel, however, it has been the experience of U.S. operators that this type of occurrence is best handled in a "preventive" manner. A blow-out fire and its consequences cannot be handled by state-of-the-art on-board fire protection devices. It should be noted that in the rare occurrence of an uncontrolled well flow and fire, the initial reaction of a crew is to abandon the vessel due to their familiarity with the fact that little can be done to save the unit. Lifesaving requirements therefore appear to play a much more important role than the incremental time possibly afforded by increased fixed fire protection systems.

Eight commentors stated that it was not appropriate to include § 108.131(f), of the proposal under the general heading of *Structural Fire Protection* since the purpose of classification of areas is for the design, selection, and installation of electrical equipment. Seven of these commentors also submitted suggested new wording describing the classified locations. These comments have been accepted in part. This section has been removed from the general heading of *Structural Fire Protection* and relocated at § 108.170. An introductory paragraph has also been added. The final wording of this section has been modified from the proposal to be in conformance with the final wording developed in the IMCO Design and Equipment Subcommittee.

Twenty-five commentors addressed the clarity of § 108.151, and several comments cited examples of situations where compliance with the proposed requirements would be impractical, or would impose other safety hazards. Most of these examples were of ballast pumprooms or propulsion spaces in column stabilized units. It was not the intent of the proposal to require two means of escape from these spaces. This section has been completely rewritten to improve clarity. The requirements for general areas and accommodation spaces were separated from the requirements for other spaces in which personnel are normally employed. Paragraphs (b) and (c) were rewritten to eliminate reference to watertight doors and quick acting doors since doors similar to these types of doors are often provided in locations that do not require a watertight door. The intent of the regulation is to provide a suitable primary means of escape that allows a rapid means of evacuation if an emergency should occur.

Twelve commentors recommended that § 108.160 be modified to include the actual requirements, and not refer to ANSI Code A14.3. Another commentor suggested that the issue date of the ANSI Code be included for clarification. Section 108.160 was intended to reference ANSI A14.3 for all features of fixed ladders not just width. The Coast Guard currently reviews fixed vertical ladders on inspected vessels to that standard. The text of this section has been revised to include excerpts from ANSI A.14.3(1956), referring to the code only in regard to the requirement for a protective cage or ladder safety device.

Two commentors expressed different opinions in addressing § 108.201(a). One suggested deletion of the provision allowing six industrial personnel not regularly employed on the unit to be accommodated in one space, and the other suggesting that the six person provision be expanded to cover all personnel. This section has not been changed in the final rule. The Coast Guard feels that there should be no difference in accommodation spaces for a units' regular complement of industrial personnel and the required crew; the only exception being those industrial personnel onboard for short periods to conduct specialized operations. The four person per space standard is identical to the regulations applied to other types of vessels inspected and certificated by the Coast Guard.

One commentor, in addressing § 108.209, recommended that a requirement for specific medical gear and a medically trained crewmember be set forth in the regulations. While this section has not been revised, the Coast Guard agrees that the subject of specific medical equipment and personnel training needs to be addressed not just for mobile offshore drilling units but for all vessels. A Notice of Proposed Rulemaking is currently being prepared, with the assistance of the U.S. Public Health Service, that will propose requirements in these areas.

Thirteen commentors noted that the provision of § 108.219 was not consistent with the requirements for guardrails in 46 CFR Subchapter I. This discrepancy was not intended, and this section has been revised to be consistent with existing regulations.

Two commentors stated that the requirement for helicopter deck size in § 108.233(a), being based on rotor diameter, would result in an inordinately large deck for a tandem rotor helicopter. Both commentors submitted extensive data on these aircraft, and requested that the Coast Guard revise the regulations to provide for this type of helicopter. In the development of the Notice of Proposed Rulemaking, the Coast Guard did not consider tandem rotor helicopters in specifying minimum landing deck size. The Coast Guard has received relevant information from the Federal Aviation Administration, and the question of tandem rotor helicopters was discussed at length at the IMCO Design and Equipment Subcommittee. The final regulations have been modified to include specification for minimum helicopter deck size if tandem rotor helicopters are utilized.

Seven commentors felt that the structural requirements for helicopter decks in § 108.235 should be more clearly stated, and should be consistent with classification society rules. The Coast Guard has rewritten this section to clarify the intended loading conditions, and they are generally based on classification society standards. The Coast Guard feels, however, that there is a need to investigate this requirement further to ensure that the currently used standard of 75 percent maximum helicopter weight on each main landing gear adequately matches the design capability of the helicopters used in offshore operations. If considered necessary, the Coast Guard will address this question again in future rulemaking. The revised regulations cross reference the FAA limit drop test which is used to define the design impact loading capability for each helicopter model. This replaces the previous reference to the collapse load of the landing gear.

One commentor was of the opinion that the 1.5 meter wide safety net proposed in § 108.235(f) was more than adequate and could itself possibly constitute an obstruction. To make this regulation more specific, and ensure that the safety net does not constitute an obstruction, the maximum height that the outer edge of the net may extend above the deck surface has been specified in the final rule.

Nine commentors suggested that the Coast Guard revise § 108.235(g) to require both a main and an emergency access route to the helicopter deck in lieu of the proposal of two access routes. It was stated that it may not be practical to provide two routes of equal construction and that this recommendation was consistent with present IMCO work. The Coast Guard agrees and has revised § 108.235(g) as suggested.

The Federal Aviation Administration considered the language in § 108.237 as being too vague and unenforceable. It was suggested that if the space available on a unit prevents compliance with National Fire Protection Association Bulletins #407, Aircraft Fuel Servicing, and #30, Flam-

mable and Combustible Liquid Code,

Ten commentors suggested that § 108.303 require "positive stability" in

Some commentors believe this is necessary for short field moves and spe-

and flooding to the best of his ability without delay. Since the equilibrium

room and an industrial engine room. the Coast Guard feels that the fire po-

they may be submitted to the Coast Guard for approval, or accepted for in-

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mable and Combustible Liquid Code, "safe" storage location distances to the landing area or sources of vapor ignition should be specified. The Coast Guard does not agree with these observations. The referenced NFPA Standards were reviewed and are intended for land based aircraft operations, and not entirely appropriate for mobile offshore drilling units. Coast Guard regulations already incorporate much of the subject matter in NFPA #30 such as fire protection, tank design and testing, piping systems, and venting. The provisions of NFPA #407 addressing aircraft fueling hose have been adopted by the Coast Guard (§ 108.239(g)). The regulations, as presently written, will allow the Coast Guard to review and evaluate each helicopter fueling facility proposed for installation on a mobile offshore drilling unit.

One commentor suggested that the reference to the FAA Helicopter Design Guide (AC 150/5390-1A, November 5, 1969) be deleted from § 108.241 since it did not contain significant information pertaining to mobile offshore drilling units. It was further suggested that specific requirements on visual aids for helicopter facilities be inserted in the regulations. The commentor suggested the wording which has been developed at IMCO as of June 1977 be used. Since the publication of the proposed rule, the Federal Aviation Administration has updated and republished their Heliport Design Guide (AC No. 150/5390-1B August 22, 1977). The revised design guide includes the IMCO wording as submitted by the commentor, and makes reference to U.S. Coast Guard regulations for mobile offshore drilling units. Based on the aforementioned developments, the Coast Guard agrees with the commentor and has included in the final rule the agreed upon IMCO wording addressing the lighting and marking of helicopter facilities.

Subpart C—Stability

One commentor suggested that Subpart C of Part 108 be eliminated because future revisions of the American Bureau of Shipping (ABS) rules may not agree with this Subpart. The Coast Guard does not agree. The stability regulations of Subpart D prescribe minimum standards of intact and damage stability for certification. Should changes to these regulations become necessary or desirable, appropriate Notices of Proposed Rulemaking will be issued. The Coast Guard cannot anticipate possible changes to the ABS rules, nor the acceptability or unacceptability of future ABS rules for Coast Guard certification purposes.

Ten commentors suggested that § 108.303 require "positive stability" in lieu of "positive metacentric height in the upright equilibrium position" for the full range of drafts. The commentors believe that the word "stability" provides for a more comprehensive and universal requirement, and that having positive metacentric height is insufficient. The Coast Guard does not agree. The basic intact stability requirement for all units in all anticipated drafts and loading conditions is that positive metacentric height (GM) be maintained. Use of the term "positive stability" could be misinterpreted to mean other stability parameters such as positive righting arm or positive righting moment. However, after careful consideration of this comment, the Coast Guard does believe that § 108.303 needs to be modified to more clearly indicate the basic metacentric height requirements. Section 108.303 has been rewritten to indicate the minimum metacentric height requirements of 51 mm (2 inches) at all drafts.

Eleven commentors suggested that a new section be added to Subpart C to allow the use of alternate stability requirements if approved by the Commandant. Since § 108.105 allows substitutions which insure a degree of safety consistent with the minimum standards of Subchapter I-A, it is not necessary to specifically indicate the treatment of alternate stability criteria. All such proposals would be considered in accordance with § 108.105(b).

One commentor noted that the determination of the downflooding angle and the meaning of the term "small openings" under § 108.305(c) are inexact and subject to varied individual interpretations. The commentor believes that openings fitted with the weathertight appliances specified in § 108.114(b), except ventilation intakes and outlets for engine rooms, crew spaces, and other spaces where ventilation is required at all times, should not be considered as downflooding openings provided they immerse after the point of wind-heeled static equilibrium (angle of the first intercept of the righting movement curve). The Coast Guard agrees. New § 108.301 (c) and (d) have been added to define downflooding and downflooding angle more precisely. Section 108.305(c) has been modified accordingly, and the first intercept has been indicated on graph 108.305.

Several commentors suggested that use of a reduced wind velocity of 25.8 meters per second (50 knots) be allowed in the calculation of wind heeling moment (Hm) for certain operating conditions. Some commentors believe that is necessary for units certificated for operation only in lakes, bays, and sounds beyond the coastline. Some commentors believe this is necessary for short field moves and special operations of existing units, such as drilling or repairing in shallow or sheltered waters. Other commentors believe this necessary for a number of existing units which are designed to allow the legs to be raised above the normal towing position to transit extremely shallow water areas. The Coast Guard has considered these comments in depth and does not agree that a reduced wind velocity should be allowed for special operating conditions or geographical areas. Prior experience indicates that mobile offshore drilling units may be subject to unexpected severe weather while in transit. Under the provisions of these regulations, new mobile offshore drilling units must be certificated for full ocean service.

Existing units will be certificated in accordance with the provisions of the Navigation and Vessel Inspection Circular, "Inspection and Certification of Existing Mobile Offshore Drilling Units". The acceptability of a reduced wind velocity stability criteria for field transit and other special operating conditions of existing units will be determined on an individual basis when requested by the owner during the certification process.

Several commentors suggested that wind heeling moments determined from wind tunnel test data be permitted as an alternative to the wind heeling moment calculations of § 108.311. The Coast Guard agrees. Proposed § 108.105(a) indicates that substitutes may be accepted if they provide an equivalent level of safety. Since wind tunnel test data and results would be subject to the same review as the calculations of § 108.311, the Coast Guard can determine whether the data and results show that an equivalent level of safety is provided. Some commentors suggested that § 108.311 be revised to include wind tunnel tests; however, since this would be a substitution for required calculations, the Coast Guard finds it more appropriate to clarify § 108.105(a) by adding "calculations," to the list of acceptable alternatives.

One commentor observed that § 108.315(a) prohibits progressive flooding which a unit might be able to endure. The commentor believes that progressive flooding should be permitted if the unit arrives at a satisfactory final equilibrium waterline. The commentor indicated that only additional flooding which would cause the unit to be unstable should be prohibited. The Coast Guard does not agree. The damage stability requirements provide minimum standards which the Coast Guard feels should be met or exceeded, not barely met. In case of severe damage, a prudent operator must attempt to control the extent of damage

and flooding to the best of his ability without delay. Since the equilibrium waterline permitted by § 108.315 can be above the main deck, a vessel may be in such a condition that flooding, with attendant increase in draft and heel and reduction in metacentric height, would endanger an already vulnerable vessel. Additional flooding must be prevented, therefore § 108.315(a) remains unchanged.

Two commentors indicated that the damage envisioned by proposed § 108.321(a) is extremely unlikely to occur. The Coast Guard agrees, and proposed § 108.321(a) has been deleted.

One commentor noted that the "uppermost deck" of proposed § 108.321(b) will probably be interpreted to mean uppermost continuous deck, and thus superstructures would not be subject to flooding. The commentor suggested that "uppermost deck" be changed to "uppermost continuous deck or first superstructure deck, where superstructures are fitted." The Coast Guard agrees that the first tier or superstructure would be assumed subject to flooding, and has incorporated the proposed wording.

One commentor interpreted proposed § 108.321(c) to exempt compartments in way of mat bottoms from the flooding assumptions. The intent of the proposed regulation was to require the assumption that each mat compartment be subject to flooding in a manner similar to the hull. Since the mat of a self-elavating unit is not subdivided into as many compartments as the hull and since the mat compartments generally are bounded by sides, top, and bottom of the mat, proposed § 108.321(c) has been revised to more clearly indicate the requirement for assuming each mat compartment to be subject to flooding.

One commentor noted that the permeability of 0.60 for cargo and storage spaces is not realistic and suggested the use of 0.95 for these spaces. The Coast Guard agrees. In those cases where the permeability may be less than 0.95, the actual permeability of the space may be calculated and used in lieu of the values given in Table 108.325. Since this option is provided, and since the tabular values are conservative, the permeability of cargo and storage spaces indicated in Table 108.325 has been changed to 0.95.

Subpart D—Fire Extinguishing Systems

Numerous commentors suggested that the Coast Guard limit the application of § 108.403(a) (3), (4), and (5) to propulsion related or marine systems machinery only. The primary concern was the possible loss of power during critical drilling operations. It was also stated that there was a vast difference between a marine engine room and an industrial engine room. the Coast Guard feels that the fire potential is the same regardless of whether the machinery is utilized for marine or industrial systems, and does not agree with the comments. Coast Guard marine casualty files contain records of internal combustion engine fires that could not be controlled by portable or semiportable equipment. Additionally, the shutdown of drilling equipment can be controlled by the use of manually activated fixed systems. If not promptly combated by adequate firefighting equipment, the fire itself would most likely result in failure of the machinery.

The National Transportation Safety Board (NTSB) commented that the 1,000 BHP limit be removed from § 108.403, and suggested that fixed fire extinguishing systems be required in all internal combustion machinery spaces. The Coast Guard does not agree, and the regulation is published as proposed. The potential of a fire is primarily dependent upon the amount of fuel present. Smaller fires can usually be extinguished using portable or semiportable extinguishers without unreasonable danger to firefighters. A large fire, of course, would present a serious danger to both the personnel and the unit. Regulations for other types of vessels, as well as international conventions, use 1,000 BHP as the division point for fixed extinguishing systems.

The NTSB also stated that, in their opinion, due to the hazardous operational conditions and number of personnel aboard mobile offshore drilling units, § 108.404 should be modified to require fire detection systems in high risk areas (e.g. machinery spaces, paint lockers, lamp lockers, galley and accommodation spaces). As stated in the preceding discussion of structural fire protection, the Coast Guard feels that mobile offshore drilling units closely resemble cargo vessels with respect to relative hazard, and it should be noted that a fire detection system is not required on either a tank vessel or a cargo vessel. Another consideration applicable to mobile offshore drilling units is that the industrial operation requires 24 hour active employment of substantial numbers of personnel. Such personnel are alert and in position to act in an emergency. Therefore, the Coast Guard does not agree that a fixed fire detection system is necessary.

Seven commentors addressing § 108.425(c) recommended deletion of the reference to 46 CFR 162.027, the Coast Guard approval specification for combination nozzles. the Coast Guard does not agree. Other nozzle designs have been tested but have been found unsuitable in the marine environment. If other suitable nozzles are developed, they may be submitted to the Coast Guard for approval, or accepted for installation on a unit under the general equivalency clause in § 108.105.

Sixteen commentors suggested deletion of the requirement in § 108.425(d) for low velocity spray applicator at certain fire stations stating that this equipment was outdated and that a combination nozzle is equally effective and can be put into operation instantly. The Coast Guard feels that while the combination of nozzle does provide a spray pattern, the applicator provides an option to the firefighter of attacking a fire from a greater distance or from around a corner. Approved combination nozzles may be equipped with optional low velocity spray heads if they meet the requirements in 46 CFR 162.027. However, this does not replace the applicator, if required.

Twelve commentors suggested revision of § 108.427, stating that the proposed requirement was in excess of the SOLAS Convention. Taking into consideration the fact that mobile offshore drilling units are in port only on rare occasions, the Coast Guard agrees with the commentors and has revised the regulation to be in conformance with the SOLAS Convention requirements for cargo vessels.

One commentor suggested that § 108.458 be amended to include references to National Fire Protection Association (NFPA) Standards 12-A and 12-B. The Coast Guard is presently working on detailed requirements for halogenated gas extinguishing systems. Portions of applicable NFPA Standards may be referenced in those regulations which will be published in a separate Notice of Proposed Rulemaking applicable to other types of vessels as well as mobile offshore drilling units. Until those regulations are finalized, the Coast Guard will continue to approve halogenated gas extinguishing systems on a case by case basis.

A total of twenty-two commentor suggested insertion into the regulations of a new section providing for the installation of aqueous film forming foam (AFFF) systems for use other than for helicopter facilities as provided for in § 108.487 and § 108.489. Many of the comments suggested AFFF application rates and various extinguishing system details. All of the commentors felt that AFFF was at least as effective as protein foam, and that by not including AFFF systems in the regulations, the Coast Guard was precluding the use of an effective type of fire extinguishing system. The Coast Guard agrees in part with the general philosophy presented by the commentors. AFFF systems are foam systems and may be approved as such on an individual basis. Foam rate and other details may be varied on the

basis of equivalency if variations are

that the number of lifeboats should be

eliminate most of the problems experi-

ered necessary for safety. These sec-

minimum requirements regardless of

Eighteen commentors questioned the proposed requirements for testing

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basis of equivalency if variations are justified. A new § 108.474 has been added to the final rule providing that AFFF systems may be installed if approved by the Commandant. This does not alter the intent of § 108.487 and § 108.489 which contain specific requirements for AFFF systems to protect helicopter facilities.

Nineteen commentors recommended complete deletion of the fire protection requirements for helicopter decks equipped with fueling facilities contained in § 108.487. The commentors were of the opinion that these regulations are unnecessary and not justified by actual experience. the Coast Guard does not agree. The requirement for protection of helicopter decks equipped with fueling facilities is based upon the potential hazard.

One commentor felt that the foam application rate required by § 108.487(b)(2) was a carry-over from foam systems for tank protection and was excessive for helicopter protection. The Coast Guard position is that the size of an extinguishing system should be related to the magnitude of the hazard. The application rates in the proposed rule are generally accepted rates for systems using hoses and monitor nozzles.

Three commentors suggested that Table 108.495(b) be amended to include fire extinguishers utilizing Halon 1211. The Coast Guard agrees and has amended Table 108.495(b) to include Halon 1211 fire extinguishers of the classifications presently recognized by the Coast Guard.

Nineteen commentors questioned the purpose of Note 3 to Table 108.495(a). Most of the commentors felt the proposed requirement was excessive and several interpreted the proposal as doubling the number of extinguishers required. In the proposed rule, Note 3 was inadvertently applied to the wrong table. It has been relocated in Table 108.495(b) where it applies to B-V extinguishers that are affected by wind or other environmental conditions. The note requires a doubling in the quantity of agent, not in the number of fire extinguishers, and is applicable to dry chemical and carbon dioxide extinguishers, but not to foam extinguishers. Rather than create a new Class B-VI semiportable fire extinguisher, the Coast Guard feels that the footnote to Table 108.495(b) is adequate.

Subpart E—Lifesaving Equipment

Several commentors questioned the necessity for mobile offshore drilling units to be equipped with covered lifeboats for 100% of the personnel on board as proposed in § 108.503. Two of the commentors felt that the standby boat commonly employed negated the need for lifeboats, while another felt that the number of lifeboats should be determined by the size of the transit crew. Other commentors felt that the requirements were not supported by experience in the Gulf of Mexico or that the requirements should be in accordance with existing regulations for cargo vessels.

The Coast Guard does not agree and the basic requirement remains unchanged. There is no guarantee that a standby boat will be available 100 percent of the time in case of a casualty. Furthermore, during some casualties, personnel have had to enter the water in life preservers at night thus making recovery extremely difficult. The requirement for 100 percent lifeboatage includes both the drilling and transit modes of operation. Redundancy is considered necessary inasmuch as a casualty, such as fire or explosion while on location, or heavy weather while in transit, may cause a lifeboat to become unusable. As the primary escape system, there should be one lifeboat available even if one becomes inoperable. If half of the complement of personnel must use liferafts, there would then still be a powered boat available to pick up persons in the water or to tow liferafts out of danger. An exception has been made only for those units with a small complement of personnel.

One commentor suggested that provisions for lifeboats be minimized and the reference in § 108.503(d) to Subpart 94.20-10 for lifeboat equipment be eliminated. The Coast Guard agrees and has added paragraphs (d) through (g) to § 108.503. These new regulations eliminate certain items of equipment, and include provisions for units not in international service.

The preamble to the proposed rule stated that although the proposal would require either davit launched or throw-over type inflatable liferafts for 100 percent of the persons on board, further consideration was being given to require davit launching equipment for the required inflatable liferafts. Comments on this subject were specifically requested. Four comments addressing the requiring of davit launched liferafts were received, and were all in favor of the installation of davit launched liferafts on mobile offshore drilling units. The commentors pointed out problems in utilizing throw-over type rafts on mobile offshore drilling units such as height above the water, and the probability of entering the water to board the raft, including the possibility of having to jump from a considerable height. It was further pointed out by the commentors that the davit launched liferaft in allowing personnel to board the raft at deck level and be lowered to the water would thereby eliminate most of the problems experienced with throw-over type rafts.

The Coast Guard feels that the shortcomings cited for conventional rafts are accurate. In addition, further testing of a davit launched system has been conducted in the Gulf of Mexico. These tests have shown the davit launched concept to be sound, and the Coast Guard is now approving davit launched systems for installation on vessels. Therefore, § 108.505 and § 108.508 have been modified to require davit launched liferafts where the raft can be launched from more than 3 meters above the water. This provision has been included because anything above that height is considered to be too far to jump and swim to the raft.

Several commentors felt that specific words should be added to § 108.505 allowing for the substitution of inflatable liferafts for the required lifeboats when approved by the Commandant. The Coast Guard feels that the general equivalency clause in § 108.105 makes adequate allowance for the substitution of required equipment providing an equivalent level of safety is maintained.

Ten commentors recommended that the words "against the unit" be deleted from § 108.508(a)(5) stating that these words could pose a compliance problem because of the configuration of some units. The Coast Guard agrees, and has replaced the words "against the unit" with the words "in a location."

Ten commentors suggested limiting the requirement for whistles on life preservers in § 108.514(d) to those units on an international voyage and they seriously questioned the effectiveness of the whistles under any circumstances. The Coast Guard does not agree, and feels that whistles can effectively assist in the location of persons in the water regardless of whether or not the unit is on an international voyage.

Section 108.521 has been revised to require distress signals on all units. This change incorporates the recommendation of the Coast Guard Marine Board of Investigation that investigated the capsizing and sinking of the *Ocean Express* on April 15, 1976.

Subpart F—Cranes and Power Operated Industrial Trucks

Four commentors recommended that the proposed requirements for power operated industrial trucks in §§ 108.611, 108.613, and 108.615 be deleted because power operated industrial trucks are rarely used on mobile offshore drilling units. The Coast Guard does not agree. Power operated industrial trucks are used routinely on mobile drilling units, and the minimum regulations proposed are considered necessary for safety. These sections have therefore been adopted as proposed.

One commentor questioned the proposed requirement for each truck to be approved by a nationally recognized testing laboratory since the Occupational Safety and Health Administration standards in 29 CFR 1910.178 require approved trucks only in hazardous locations. The Coast Guard feels that testing laboratory certification of all trucks used on mobile offshore drilling units is necessary since the trucks may be utilized in classified areas as defined in § 108.170.

Subpart G—Equipment Markings and Instructions

Two commentors pointed out that the requirements for the marking of lifeboats contained in § 108.645 were not appropriate for the type of survival craft known as a "capsule." One of these commentors also suggested that the marking of the cubic capacity on survival craft was not appropriate for totally enclosed boats. The Coast Guard agrees with both commentors, and has added wording to the regulations to address "survival capsules". The Coast Guard also agrees that lifeboat cubic capacity is an obsolete concept for totally enclosed boats, and has deleted this requirement. Proposed § 108.645(b)(2) has also been deleted because it duplicated requirements of Coast Guard approval specification contained in 46 CFR Subpart 160.033.

Nine commentors felt that the proposed requirements for marking appliances for watertight integrity in § 108.665 were unreasonable in that they would require marking of fittings such as bolted manhole covers. The Coast Guard agrees and has modified the text to specify which appliances must be marked.

Seventeen commentors suggested that § 108.709 be revised to require a litter, of an unspecified type, capable of being used on helicopters. The Coast Guard agrees that the litter provided should be transportable by helicopter. The word "stokes" has therefore been deleted and the section rewritten in its entirety.

One commentor, in addressing § 108.705, stated that many units, especially the self elevating type, are constructed without the circle E designation of the American Bureau of Shipping because this designation is voluntary. The commentor further stated that in such cases, the classification society will normally accept mooring and anchoring equipment of a size somewhat less than the sizes required by the classification rules, and requested that the Coast Guard do likewise. The Coast Guard feels that the requirements, as proposed, are the minimum requirements regardless of what classifications the unit is constructed to. The regulation is adopted as proposed.

Two commentors suggested that alternatives be provided to the proposed requirement for the Mining Enforcement Safety Administration approved first aid kit in § 108.707. As previously stated, the Coast Guard feels that the general equivalency class in § 108.105 makes adequate provision for the substitution of required equipment. One of the commentors also stated that the use of smaller kits should be allowed where accommodation spaces and work areas may be widely separated. The Coast Guard has no objection to the use of smaller approved kits which together would provide for the total number of persons on board.

PART 109—OPERATIONS

Seven commentors recommended the addition of a second sentence to § 109.107 to provide for the master or person in charge to take whatever action he may deem necessary in emergency conditions. The Coast Guard agrees that inclusion of a provision expressing the philosophy contained in the comment is desireable. Therefore, wording similar to that contained in other vessel inspection regulations has been added to § 109.109.

Ten commentors suggested modification of § 109.121(c) by the addition of the words "under normal and emergency conditions" at the end of this section to assure that all operating and emergency aspects are covered in the operating manual. The Coast Guard agrees and has modified § 109.121(c) as suggested.

Twenty-two commentors, in addressing § 109.203(b), pointed out that there is no "chief engineer" in the accepted marine understanding of that term on board many units to ensure the cleanliness of engineering spaces. This is true especially on those units which have no propulsion machinery. The Coast Guard agrees and has modified this section to place the responsibility on the master or person in charge if the unit does not have a "chief engineer" in its complement.

Twenty commentors suggested modification of § 109.205. The main point of the comments was that the Coast Guard does not have a legitimate interest in whether or not a unit's industrial machinery is operative. These comments have been accepted in part and the words "other than industrial machinery" have been added to this section. Coast Guard responsibility regarding "industrial machinery" is considered to be limited to the safety aspects of that machinery. The requirement to report *all* unsafe machinery is retained in § 109.419.

Eighteen commentors questioned the proposed requirements for testing of storage batteries for emergency lighting and power systems in § 109.211(c). Most of the commentors felt that the proposed duration of the tests was excessive. The Coast Guard agrees that the full 12 hour test would not be satisfactory since the battery would not be available for use at the end of the test. This section has been revised, specifying the testing interval as 6 months, and the test duration as two hours with the test results to be extrapolated to approximate the values that would result following a 12 hour test period. A short circuit breakdown test, suggested by some of the commentors, is not considered a suitable test of the battery capacity.

Eleven commentors suggested revision of § 109.215(c) stating that weekly launching of a lifeboat was impractical and could be dangerous particularly during recovery of the boat. The Coast Guard agrees in part with the commentors and has modified § 109.215(c) to read "weather permitting at least one lifeboat is partially lowered and its engine started and operated." Section § 109.217(a) has also been modified to ensure that the lowering of the lifeboat to the water, required by that section, is accomplished during one of the required boat drills. These changes are consistent with other vessel regulations.

Eleven commentors felt that the proposed requirement in § 109.323(b) for the person assigned to command a lifeboat or liferaft to have a list of the persons assigned seats in that survival craft was unreasonable. Most of these commentors felt that it should be the responsibility of each person to take their assigned seat. The Coast Guard feels that the person in charge of the lifeboat or liferaft should have a list indicating all persons assigned to his survival craft for the simple purpose of making a head count. However, this section has been modified so that the list may be by job titles or station bill numbers. This is considered reasonable due to the constant rotation of personnel aboard mobile offshore drilling units.

Seven commentors addressed the qualifications of persons assigned to command lifeboats or liferafts, and recommended the addition of "a qualified person designated by the master or person in charge" to the provisions of § 109.323(a). The Coast Guard does not agree and remains of the opinion that all persons assigned to command survival craft must be licensed deck officers, able seamen, or certified lifeboatmen.

Twenty commentors felt that the figure $1,500 as one of the criteria in § 109.411 for a reportable marine casualty was unrealistic. Nineteen of the

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which are to be used in the design, ma-

dicate that piping for industrial sys-

that the addition of a definition for this existing term is unnecessary.

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commentors felt that the figure $15,000.00 should be substituted, while one commentor suggested that the paragraph on property damage be deleted entirely. The Coast Guard is in partial agreement with the commentors in that the existing monetary figure is not realistic. The amount of $5,000.00 has been inserted into § 109.411(a)(1). The figure is consistent with a pending regulatory change that will affect other inspected vessels. A property damage figure is considered necessary to provide for analysis of casualties which may affect the unit and its personnel. Also, the damage might not be to the unit but to other property.

Section 109.411(a)(2) has been corrected by adding the words "or efficiency" after the word "seaworthiness" to conform with applicable statutes. Explanatory language has been added to more clearly indicate the types of incidents required to be reported.

Section 109.411(a)(5) has been revised in order to not exclude harbor workers who might suffer an incapacitating injury while on board a mobile offshore drilling unit. Though an incapacitating injury resulting from a unit casualty, or failure of unit equipment is currently reportable, it is intended that incapacitating injuries resulting from other causes be investigated. Also, personal injuries include not only those to harbor workers, but also those to subcontractors or visitors. Provisions concerning hospitalization have also been added.

Twenty commentors felt that the provisions of § 109.419 and § 109.121 should be limited to marine oriented machinery only. All commentors apparently felt that the Coast Guard's interest was limited to those instances which affect the safety and seaworthiness of the unit. This is not the case. Coast Guard responsibility also extends to the safety of personnel on the unit, regardless of whether they are engaged in industrial or marine related activities. The proposed regulation is therefore adopted without change.

Seven of the same commentors on the previous section suggested the addition of the words "on marine systems and components" to the title of § 109.423. The commentors apparently did not realize that this regulation is applicable only to required safety valve seals and that Coast Guard seals are required only on boilers. For clarification, the word "boiler" has been added to the first sentence of § 109.423(a).

A total of 13 commentors suggested numerous revisions to § 109.433. Most of the comments were apparently due to a lack of understanding of the proposed rules. The Coast Guard has rewritten this section to clarify "applicable" log entries, and to indicate when certain data on draft, load line marks, and appliances for watertight integrity must be logged.

Seventeen comments were received concerning § 109.437(i). They recommended that the records and original certificates, or certified copies of certificates, for loose gear, wire rope and the annealing of wrought iron gear be maintained by the owner for safekeeping rather than on the unit with the crane record book. This recommendation was not adopted since these records and certificates must be available to the Coast Guard inspector or certifying agency officials during any crane inspection. More important, they should be available to the unit's personnel for the identification of the tested gear. These documents can be kept on the unit with other records maintained for the cranes.

Those provisions of proposed § 109.437 relating to crane certificates has been placed in a new § 109.439 in order to separate the requirement to maintain a crane record book from the requirement of maintaining crane certificates.

One comment recommended that § 109.437(a)(2) be revised to provide for a load rating chart for each boom length which may be utilized. This is consistent with API RP 2D 2.1.3L and API Spec 2C 2.4, and the recommendation has been included.

Seventeen commentors felt that § 109.501 should be modified in view of the continuous movement of personnel on and off the unit and the regular presence of temporary personnel such as visitors and contractor's representatives. The Coast Guard agrees that some clarification is desirable regarding assignments of temporary personnel and visitors, and therefore has added a new paragraph to § 109.505. Section 109.501 is considered adequate and has not been changed.

Ten commentors were of the opinion that the references in § 109.557(b) regarding portable tanks were incorrect inasmuch as the Coast Guard had cancelled 46 CFR 98.30, and that the provisions of 49 CFR 170 to 189 are not applicable. The Coast Guard does not agree. 46 CFR 98.30 has not been cancelled, and certain portions of the reference regulations in 49 CFR are applicable to portable tanks. This section has, however, been revised to make the reference to 49 CFR more specific.

One commentor suggested that § 109.559(b) be deleted entirely since the referenced 46 CFR Part 147 does not provide for storage of explosives or radioactive materials as ships stores and supplies. The commentor is correct, and § 109.559(b) has been deleted. The Coast Guard is currently reviewing all of the ship stores regulations in 46 CFR 147, and will address this subject in a future Notice of Proposed Rulemaking.

Seven commentors felt that the provisions of § 109.573 would result in a duplication and overlapping regulatory requirements between the Coast Guard and the U.S. Geological Survey. The commentors referenced the provisions of USCGS, OCS Order No. 8 for the Gulf of Mexico which contain certain requirements for welding or burning operations on Federal Leases on the Outer Continental Shelf. The commentors suggested that the words "on marine systems and components" be added to the title of § 109.573. The Coast Guard feels that there is no conflict between *revised* OCS Order No. 8 and § 109.573. The Memorandum of Understanding addressing regulation of mobile offshore drilling units on the Outer Continental Shelf, signed by the Coast Guard and the U.S. Geologic Survey on 11 April 1977, addresses welding or burning operations in the following manner: The U.S.G.S. will exercise proper control of arc or acetylene welding or cutting during drilling operations (considering the possible gas hazards). The Coast Guard is responsible for standards for arc or acetylene welding or cutting operations affecting structural integrity or installed equipment. Also, Coast Guard regulations are applicable to a U.S. flag unit in any geographical location, while OCS Order No. 8 is applicable only on the Outer Continental Shelf of the United States.

Thirteen commentors suggested deletion of § 109.587. All of the commentors felt that there was no justifiable reason for this section which would prohibit the use of sleeping spaces below the main deck of a self-elevating unit while the unit is afloat.

The proposed § 109.587 was based on past capsizings of small self-elevating units where personnel were trapped below decks. The Coast Guard has considered the comments and feels that since these rules apply operating requirements to self-elevating units not previously subject to such requirements, this section as proposed is not necessary. Section 109.587 has therefore been deleted, and § 108.195 has been modified to address all types of units.

SUBCHAPTER F

Because of numerous comments received, the Coast Guard has added an equivalency section to Subart 58.60 for industrial systems on mobile offshore drilling units. This section is the same as § 108.105 in Subchapter I-A.

Eleven commentors recommended that a new section be added to the regulations at § 50.15-25 to read as follows:

"The standards of organizations listed or referenced to in this chapter

which are to be used in the design, material and fabrication of industrial systems are accepted without specific adoption provided the standards apply to the industrial use intended." The Coast Guard does not agree with the recommendation. Standards other than those specifically adopted must be reviewed by the Coast Guard to determine applicability for the service intended. This is considered necessary for maintenance of an acceptable level of safety.

Twenty-one commentors addressed the proposed revisions to § 54.01-16. In general, all of the commentors were of the opinion that the proposed regulation was unduly restrictive, would put excessive burdens on unit owners in obtaining acceptable equipment, and that the need for such a requirement was not indicated by past experience. The Coast Guard feels that the proposal was not fully understood by some of the commentors.

Section 54.01-16 as it presently exists provides for acceptance of ASME Code pressure vessels, other than those used for storage of compressed air (gas), for installation in industrial systems. Under the existing regulation, all industrial pressure vessels which contain compressed air (gas) are subject to full Coast Guard plan review and shop inspection. The proposal would eliminate Coast Guard plan review or shop inspection for any pressure vessel, except those of class I-L and II-L, installed in an industrial system. The regulation has been revised to clarify this point. Although several of the commentors suggested that the proposed Coast Guard requirements constitute a standard both independent and different from industry standards commonly used, the regulations are, in fact, based on the most widely accepted industrial consensus standard for pressure vessels, the ASME Code. Coast Guard regulations for pressure vessels, although patterned after the ASME Code requirements, have always provided for specific marine application of that general service code. Since ASME Code requirements do not include specific or complete consideration of product stored, pressure, and temperature, the requirements of 46 CFR Part 54 co-ordinate the specific application with the selection of design details, level and type of nondestructive testing, and heat treatment of welds. Since those Coast Guard requirements which may exceed the ASME Code for industrial pressure vessels represent typical owner-option alternatives under the Code, the requirements of § 54.01-16, as proposed, are not considered unduly restrictive, and are adopted.

Eleven commentors suggested that proposed § 56.01-1(c) be revised to indicate that piping for industrial systems need not fully comply with the requirements of Part 56 but must meet Subpart 58.60. Another commentor suggested that proposed § 56.01-1(c) be deleted in its entirety stating that Coast Guard regulation in this area is unnecessary. The Coast Guard agrees with the proposed revision of paragraph (c) and has modified it accordingly.

Regarding the suggestion to delete this subsection entirely, the Coast Guard is tasked with the responsibility of ensuring that a minimum level of safety is maintained. To this end, the Coast Guard has adopted ANSI B31.3, API RP 53 and API RP 14C as the minimum requirements for industrial piping systems.

In addressing the provisions of § 56.50-50(d)(1), one commentor recommended that the Coast Guard give consideration to allowing the use of the average breadth (B) of a unit rather than the maximum breadth (B) when calculating the internal diameter of bilge suction pipes for triangular shaped units. The commentor submitted extensive data supporting the recommendation. After review of the submitted data, the Coast Guard agrees with the recommendation and has added a note 5 under § 56.50-50(d)(2) providing that for mobile offshore drilling units employing unusual hull forms, "B" may be modified to the average breadth rather than the maximum breadth.

Eleven commentors recommended that a new paragraph (f)(7) be added to § 56.50-50 to state that an emergency bilge suction is not required in multihulled and column stabilized mobile offshore drilling units where pump rooms are located below the water line if more than one pump also serves as a bilge pump through interconnecting piping or manifolding, and where a bilge suction is provided at each end of the pump room bilge. The Coast Guard does not agree. Emergency bilge suctions provide a last line of defense and are considered necessary. The multiple pumps and multiple bilge suctions are already required under existing regulations for bilge systems.

Eleven commentors felt that the note inserted below table 56.50-55(b)(1) should be deleted since there is no definition for a "machinery space" on any type of vessel.

This note was inadvertently misplaced in the Notice of Proposed Rulemaking and is applicable to § 56.50-50(f)(6), not to the table. The term "Machinery space," as used throughout Subchapter "F" generally refers to those spaces containing propulsion equipment, with the proposed clarification for mobile offshore drilling units included. The Coast Guard feels that the addition of a definition for this existing term is unnecessary.

Eleven commentors suggested, that for clarity, a new subparagraph § 56.50-55(a)(6)(i) be added stating that one of the required bilge pumps may be attached to a propelling engine in each hull. The Coast Guard agrees with the intent of the commentors and, in lieu of a new subparagraph, has added a second sentence to existing § 56.50-55(a)(3).

Eighteen commentors addressed § 58.60-1. One of the commentors recommended that entire Subpart 58.60 be deleted since self regulation of the industrial systems on mobile offshore drilling units has been eminently successful. Another commentor felt that Coast Guard involvement should be strictly limited to the high pressure piping of the mud and cement systems. The Coast Guard does not agree with these comments. The Coast Guard is required to oversee industrial systems from the safety aspect. It is considered necessary to prescribe regulations adequate to provide a level of safety equivalent to that which exists in other safety-sensitive systems aboard vessels. The proposed regulation is based on industry standards with modification to those standards where considered necessary. Nine commentors suggested that the words "shale shakers; desanders, and degassers" be deleted from § 58.60-1(b) since they are not industrial systems and are of no interest to the Coast Guard. The same commentors also suggested that § 58.60-1(c) be deleted since the oversight of blowout preventer control systems lies with the U.S. Geological Survey. The Coast Guard does not agree. Shale shakers, desanders, and degassers are components of the circulation system and meet the definition of industrial systems in § 107.111 in that they perform an industrial function. The Coast Guard's main area of interest regarding blowout preventer (BOP) control systems is in regard to safety of pressure vessels and pressure piping, and is not considered to be duplicative of that done by the U.S. Geological Survey which specifies the make-up and performance standards for BOP Systems on the Outer Continental Shelf of the United States.

Twenty commentors suggested major revisions to § 58.60-7. One of the commentors simply suggested that the reference to ANSI B 31.3 be deleted as not applicable. The other nineteen commentors recommended that the Coast Guard adopt ANSI B 31.4 and B 31.8 (pipeline standards) as well as any applicable American Petroleum Institute (API) requirements for industrial system piping. The same nineteen comments also suggested that the reference to API RP53 be deleted inas-

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several sections of Part 107 of the pro-

3. By adding a new § 50.05-10(b) to

Table 54.01-5(b) in full and are not ac-

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much as the oversight of blowout preventer control systems rests with the U.S. Geological Survey. The Coast Guard does not agree and the regulation has been adopted as proposed. ANSI B 31.4 and ANSI B 31.8 are intended for oil and gas transportation (pipeline) and are not considered applicable to industrial systems in the marine environment. The Coast Guard feels that B 31.3 will provide the required measure of safety that B 31.4 and B 31.8 do not provide. While B 31.3 is not written specifically for these systems, it will provide an adequate design standard for industrial piping systems. The Coast Guard interest in blowout preventer control systems has been already covered in addressing the comments on § 58.60-1(c).

Eleven commentors suggested that § 58.60-9 be revised inasmuch as API 14C was not intended for use with mobile offshore drilling units. All of the commentors agreed, however, that the principles of API 14C could be applied in conducting the proposed analysis. The Coast Guard agrees, and has rewritten § 58.60-9 to require that the industrial systems be designed and analyzed in accordance with the principles of API 14C.

Eighteen commentors recommended that the provision in § 58.60-11 for certification of the required analysis by a registered professional engineer be deleted, and that certification by the owner be allowed. The Coast Guard feels that an engineering review consistent with that employed for standard shipboard systems is necessary. Owner certification is not considered a suitable alternative for piping system design, but analysis and certification in conjunction with the engineer registration program should provide the required objectivity.

SUBCHAPTER J

Numerous commentors noted that the proposal made reference to certain parts of 46 CFR Subchapter J *Electrical Engineering Regulations* which could not be located in that subchapter. The proposal was drafted using the numbering from completely revised Subchapter J which was scheduled to be published in the FEDERAL REGISTER as a proposed rule simultaneously with proposed Subchapter I-A. However, the Subchapter J proposal was not published until June 27, 1977 (42 FR 3200) which was after most comments on Subchapter I-A had been submitted. Those portions of the Subchapter J proposal which addressed mobile offshore drilling units were the subject of considerable comment by the offshore industry. These comments have been evaluated and, simultaneously with this rulemaking, those amendments to the Electrical Engineering regulations which address mobile offshore drilling units are being published as amendments to the existing Subchapter J. All references contained in Subchapter I-A have been corrected.

Section 110.25-1(j) of the proposed rules has been changed to § 111.05-5(d)(22) for insertion in the existing rules. Three commentors indicated that plans showing the location of electrical equipment that is in hazardous locations should be required for all vessels with a fourth commentor suggesting the requirement should be applicable to LNG vessels. The Coast Guard agrees. The provision has been changed to require the plan to be submitted for all vessels carrying hazardous products in bulk. This requirement basically formalizes present policy.

One commentor suggested that all parts of the mud circulating system including open portions of the system downstream of the final degassing should be considered as Division 1 Locations. This suggestion was based on the premise that degassers cannot be assumed to be 100 percent efficient or working at all times. This point has been discussed with the oil industry at both a national and an international level. It is felt that the hazard downstream of the final degassing station is such as to justify a minimum safety classification of Division 2 spaces. It is pointed out that such spaces would be upgraded to Division 1 spaces if they do not have a good ventilation system under the requirements of § 111.92-3(c)(4).

One commentor suggested that loss of ventilation overpressure should automatically disconnect electrical power to nonessential equipment that is unsuitable for use in Division 1 areas. The Coast Guard agrees that nonessential equipment should not be located in a space that is a hazardous space. This is also contained in the proposed IMCO regulations for mobile offshore drilling units. This is inferred in Article 500-1 of the National Electrical Code referenced by § 111.105-5 of the proposed regulations and § 111.80-5(a)(4) of the existing rules. This intent has been clarified by adding a paragraph to include spaces made nonhazardous by means of ventilation.

One commentor felt that proposed § 111.105-33 provided a substantial relaxation from present policy in the areas that were considered Class I Division 1 locations. The present hazardous area classification requirements were based on API RP 500B, First edition. As more experience was gained in the operation of mobile offshore drilling units, the hazardous area classifications were changed to those appearing in API RP 500B Second edition published in 1973. This latter edition's guidelines basically parallel the requirements of these rules. The hazardous areas indicated in the proposed rules were contained in an early report of the IMCO Mobile Offshore Drilling Units Ad Hoc Group on Machinery and Electrical Installations. These guidelines have undergone some changes and are reflected in the rules as written. The evaluation of the classification of the various spaces on a mobile offshore drilling unit has been an international effort involving governmental agencies, the oil industry, and the classification societies. It is felt that the hazardous areas, as defined, present a realistic assessment of the flammable vapor hazard.

Two commentors felt that the industrial systems of a mobile offshore drilling unit should not be regulated and that the application of Subchapter J or the National Electrical Code, as provided, will preclude some present industry practices. One particular example is the contention that the amp capacity tables referenced in Subchapter J and those in the National Electrical Code would require increased conductor cross sections of up to three times current practice. The amp capacity tables contained in this Subchapter and those in the National Electrical Code represent the national standards for shipboard and industrial installations respectively and are applicable to mobile offshore drilling units. The Coast Guard and the Maritime Administration are presently funding a research project with the intent to produce a standard which would establish performance requirements. However, until this project is completed, it will be necessary to use one of the above national amp capacity tables.

One commentor questioned why the standard of safety was not the same for "industrial" systems as for "ship" systems. The NEC, coupled with the additional requirements of § 111.94-1, provide an acceptable level of safety for personnel and the unit. A failure of an industrial function means the mission of the unit will not be carried out whereas a failure of a steering gear, fire pump, bilge pump, etc could endanger the unit. This subpart, as written, provides for protection of the equipment operators and safety from fire, shock, or other injury associated with the electrical installation but not the additional redundancy and protection required for "ship" systems.

NAVIGATION AND VESSEL INSPECTION CIRCULAR

A total of eight commentors addressed the draft Navigation and Vessel Inspection Circular (NVC) which was discussed in the preamble to the proposed rule and referenced in several sections of Part 107 of the proposal.

Several of the commentors questioned the legality of the references to the draft NVC, since the contents of the draft NVC were not included in the proposed rule. The draft NVC was made a part of the public rulemaking docket, therefore making it available to the public for comment. Thus, the requirements of the Administrative Procedures Act have been met. Under 5 U.S.C. 552(a) and 1 CFR Part 51, "matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein . . ."

One of the commentors submitted an alternative draft of the NVC for consideration. The remaining commentors suggested minor revisions to various sections of the draft. Upon evaluation of the comments the Coast Guard feels that some portions of the draft NVC were not fully understood by the commentors. The NVC has been rewritten to clarify its application and highlight its intent to be as flexible as possible and still provide for an acceptable level of safety on all existing units. The Coast Guard also re-evaluated the draft NVC to determine the best method of presenting it in relation to the final rule on mobile offshore drilling units. As a result of this re-evaluation, the Coast Guard is, in addition to promulgating the document as an NVC, publishing the entire NVC as Appendix "A" to Subchapter I-A, ensuring its availability to all persons concerned.

Accordingly, Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER F—MARINE ENGINEERING

PART 50—GENERAL PROVISIONS

1. By adding a new § 50.01-1(j) to read as follows:

§ 50.01-1 Authority for regulations.

. . . . . .

(j) *Mobile offshore drilling units.* The citation regarding authority to prescribe requirements for mobile offshore units is in Subchapter IA of this chapter.

2. By adding a new § 50.05-1(e) to read as follows:

§ 50.05-1 General.

. . . . . .

(e) Industrial systems and components on mobile offshore drilling units must meet § 54.01-16 and Subpart 58.60 of this chapter.

3. By adding a new § 50.05-10(b) to read as follows:

§ 50.05-10 Alterations or repairs.

. . . . . .

(b) When alterations or repairs are made to a U.S. flag vessel in a port or place not in the United States, a notice containing details of the proposed alterations or repairs must be submitted to the appropriate Officer in Charge, Marine Inspection.

4. By revising § 50.05-15(a) to read as follows:

§ 50.05-15 Vessels subject to regulations in this subchapter.

(a) Passenger vessels, tank vessels, cargo and miscellaneous vessels, nuclear vessels, nautical schoolships, mobile offshore drilling units, and oceanographic vessels are subject to the regulations in this subchapter to the extent prescribed by various laws and regulations as described in § 50.01-1. The applicable provisions in this subchapter shall apply to all such U.S. flag vessels, and to all such foreign vessels which carry passengers from any port in the United States except as follows:

. . . . . .

5. By adding a new § 50.15-20(a)(13) to read as follows:

§ 50.15-20 Additional standards.

(a) * * *

(13) American Petroleum Institute (API), 1201 L Street, Washington, D. C. 20037.

. . . . . .

PART 54—PRESSURE VESSELS

6. By revising § 54.01-16 to read as follows:

§ 54.01-16 Mobile offshore drilling units: pressure vessels for industrial systems.

(a) A Class I, II, or III pressure vessel which is a component in an industrial system under Subpart 58.60 of this chapter is accepted by the Coast Guard for installation on a mobile offshore drilling unit if it meets the requirement of Table 54.01-5(b) in full, or if it—

(1) is stamped "U" under Section VIII of the ASME Code;

(2) meets the postweld heat treatment and the minimum joint and radiographic requirements of Table 54.01-5(b); and

(3) has pressure-relief devices that meet Subpart 54.15 of this chapter.

(b) Class I-L and II-L pressure vessels must meet the requirements of Table 54.01-5(b) in full and are not accepted under § 154.01-16.

PART 56—PIPING SYSTEMS AND APPURTENANCES

7. By revising § 56.01-1(c) to read as follows:

§ 56.01-1 Scope (replaces 100.0).

. . . . . .

(c) Piping for industrial systems on mobile offshore drilling units need not fully comply with the requirements of this part but must meet Subpart 58.60 of this subchapter.

8. By adding a new paragraph (d-1) to follow paragraph (d) in § 56.01-10 to read as follows:

§ 56.01-10 Plan approval.

. . . . . .

(d-1) Plans of piping for industrial systems on mobile offshore drilling units must be submitted under Subpart 58.60 of this subchapter.

. . . . . .

9. By revising § 56.50-10(b) to read as follows:

§ 56.50-10 Special gaging requirements.

. . . . . .

(b) Fuel oil service, fire, cargo and fuel oil transfer and boiler feed pumps must be provided with a pressure gage on the discharge side of the pump. Additional information pertaining to fire pumps is in § 34.10-5 of Subchapter D (Tank Vessels), § 76.10-5 of Subchapter H (Passenger Vessels), § 95.10-5 of Subchapter I (Cargo and Miscellaneous Vessels), and § 108.417 of Subchapter IA (Mobile Offshore Drilling Units) of this Chapter.

10. By revising § 56.50-15(h) to read as follows:

§ 56.50-15 Steam and exhaust piping.

. . . . . .

(h) Steam piping with the exception of the steam heating system must not be led through passageways, accommodation spaces, or public spaces unless the arrangement is approved by the Commandant. Steam pressure for space heating must not exceed 45 pounds per square inch. High temperature hot water may be used for heating systems above this pressure, but not to exceed 375° F. Such systems should be designed as a complete unit and submitted for approval to the Commandant.

. . . . . .

11. By revising § 56.50-50 (d) and (e) pump manifold may be considered to be independent of the bilge main can be operated from the ballast control room.

§ 58.03-35 American Petroleum Institute (API).

The standards of the American Petroleum Institute (API) listed in this section are incorporated by reference in this subchapter. They are available from the American Petroleum Institute, 1201 L Street, Washington, D. C. 20037.

(2) Shale shakers;
(3) Desanders; and
(4) Degassers.

(1) Appear on all diagrams and analyses; and
(2) Be submitted under § 50.20-5 of

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11. By revising § 56.50-50 (d) and (e) and adding new § 56.50-50(f) (5) and (6) to read as follows:

§ 56.50-50 Bilge and ballast piping.

• • • • • •

(d) • • •

(1) For suctions to each main bilge pump:

$$d=1+\sqrt{\frac{(L(B+D)}{2500}} \qquad (1)(4)(5)$$

(2) For branch suctions to cargo and machinery spaces:

$$d=1+\sqrt{\frac{c\ (B+D)}{1500}} \qquad (2)(3)(5)$$

where:

L=Length of vessel on loadwater line, in feet.
B=Breadth of vessel, in feet. (5)
D=Molded depth of bulkhead deck, in feet.
c=Length of compartment, in feet.
d=Required internal diameter of suction pipe, in inches.

NOTE 1.—For tankers "L" may be reduced by the combined length of the cargo oil tanks.

NOTE 2.—For bulk carriers with full depth wing tanks served by a ballast system where the beam of the vessel is not representative of the breadth of the compartment, "B" may be appropriately modified to the breadth of the compartment.

NOTE 3.—In the calculation for a vessel with more than one hull, such as a catamaran, the breadth of the unit is the breadth of one hull.

NOTE 4.—In the calculation for a mobile offshore drilling unit, "L" is reducible by the combined length of spaces that can be pumped by another piping system meeting §§ 56.50-50 and 56.50-55, where "L" is the length of the unit at the waterline.

NOTE 5.—For mobile offshore drilling units employing unusual hull forms, "B" may be modified to the average breadth rather than the maximum breadth.

• • • • •

(e) *Independent bilge suction.* One of the independent bilge pumps must have a suction of a diameter not less than that given by Formula (2) in paragraph (d) of this section that is led directly from the engine room bilge entirely independent of the bilge main, and on passenger vessels each independent bilge pump located in the machinery spaces must have such direct suctions from these spaces, except that not more than two pumps are required to have direct suctions from any one space. A suction that is led directly from a suitably located pump manifold may be considered to be independent of the bilge main. Where two direct suctions are required in any one compartment on passenger vessels, one suction must be located on each side of the compartment. If watertight bulkheads separate the engine and boiler rooms, a direct suction or suctions must be fitted to each compartment unless the pumps available for bilge service are distributed throughout these compartments, in which case at least one pump in each such compartment must be fitted with direct suction in its compartment. In a vessel with more than one hull, there must be one bilge pump that has an independent bilge suction in each hull. In a column stabilized mobile offshore drilling unit, the independent bilge suction must be from the pumproom bilge.

(f) • • •

(5) Each vessel with more than one hull must have an emergency bilge suction in each hull.

(6) Each column stabilized mobile offshore drilling unit must have—

(i) An emergency bilge suction in each hull; and

(ii) A remote control for the emergency pump and associated valves that can be operated from the ballast control room.

• • • • •

NOTE: For the purposes of this section, a pumproom is a machinery space on a column stabilized mobile offshore drilling unit.

12. By adding a fourth category of vessel to Table 56.50-55(a) to read as follows:

TABLE 56.50-55(a).—*Power Bilge Pumps Required for Self-Propelled Vessels*

Vessel length, in feet	• • •	Mobile offshore drilling units, all waters
180' or more	• • •	2
Below 180' and exceeding 65'	• • •	2
65' or less	• • •	2

• • • • •

13. By adding a fourth category of vessel to Table 56.50-55(b)(1) to read as follows:

TABLE 56.50-55(b)(1).—*Bilge Pumps Required for Nonself-Propelled Vessels*

Type of vessel	Waters navigated	Power pumps [1]	Hand pumps
• • • • •	• • • • •	•	•
Mobile offshore drilling units	All waters	2	None
• • • • •	• • • • •	•	•

14. By revising § 56.50-55(a)(3) and by adding a new § 56.50-55 (a)(6), (b)(3), and (e)(4) to read as follows:

§ 56.50-55 Bilge pumps.

(a) • • •

(3) One of the required power bilge pumps may be attached to the propelling engine. For vessels with more than one hull, one of the required bilge pumps in each hull may be attached to a propelling engine.

• • • • •

(6) Each hull of a vessel with more than one hull, such as a catamaran, must meet Table 56.50-55(a).

(b) • • •

(3) Each hull of a vessel with more than one hull, such as a catamaran, must meet Table 56.50-55(b).

• • • • •

(4) Each hull of a vessel with more than one hull must have at least two means for pumping the bilges in each hull. No multi-hulled vessel may operate unless one of these means is available to pump each bilge.

• • • • •

15. By adding a new § 56.50-90(d) to read as follows:

§ 56.50-90 Sounding devices.

• • • • •

(d) On mobile offshore drilling units where installation of sounding pipes may not be practicable for some tanks, alternate means of determining liquid level may be used if approved by the Commandant.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

16. By adding a new § 58.03-35 to read as follows:

§ 58.03-35 American Petroleum Institute (API).

The standards of the American Petroleum Institute (API)[1] that are referred to in this part are hereby adopted.

17. By adding a new § 58.10-10 (c) and (d) to read as follows:

§ 58.10-10 Diesel engine installations.

• • • • •

(c) A diesel engine air intake on a mobile offshore drilling unit must not be in a classified location.[1]

(d) A diesel engine exhaust on a mobile offshore drilling unit must not discharge into a classified location.[1]

18. By adding a new § 58.10-15(c)(4) and revising § 58.10-15(d) to read as follows:

§ 58.10-15 Gas turbine installations.

• • • • •

(c) • • •

(4) A gas turbine exhaust on a mobile offshore drilling unit must not discharge in a classified location.[1]

(d) *Air inlets:* Air inlets must be designed as follows:

(1) Each air inlet must have means to protect the safety of life and to prevent the entrance of harmful foreign material, including water, into the system.

(2) A gas turbine air inlet must not be in a classified location.[1]

• • • • •

19. By adding a new Subpart 58.60 to read as follows:

Subpart 58.60—Industrial Systems and Components on Mobile Offshore Drilling Units (MODU)

Sec.
58.60-1 Applicability.
58.60-2 Alternatives and substitutions.
58.60-3 Pressure vessel.
58.60-5 Industrial systems: locations.
58.60-7 Industrial systems: piping.
58.60-9 Industrial systems: design.
58.60-11 Analyses, plans, diagrams and specification: submission.
58.60-13 Inspection.

§ 58.60-1 Applicability.

This subpart applies to the following industrial systems on board a mobile offshore drilling unit (MODU):

(a) Cementing systems.
(b) Circulation systems, including—
(1) Pipes and pumps for mud;
(2) Shale shakers;
(3) Desanders; and
(4) Degassers.
(c) Blow out preventor control systems.
(d) Riser and guideline tensioning systems.
(e) Motion compensation systems.
(f) Bulk material storage and handling systems.
(g) Other pressurized systems designed for the MODU's industrial operations.

§ 58.60-2 Alternatives and substitutions.

(a) The Coast Guard may accept substitutes for fittings, material, apparatus, equipment, arrangements, calculations, and tests required in this Subpart if the substitute provides an equivalent level of safety.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, apparatus, arrangment, or test is unreasonable or impracticable, the Commandant may permit the use of alternate equipment, apparatus, arrangement, or test to such an extent and upon such condition as will insure, to his satisfaction, a degree of safety consistent with the minimum standards set forth in this subpart.

§ 58.60-3 Pressure vessel.

A pressure vessel that is a component in an industrial system under this subpart must meet § 54.01-16.

§ 58.60-5 Industrial systems: locations.

An industrial system under this subpart must not be in a space that is—

(a) Concealed; or
(b) Inaccessible to industrial personnel.

§ 58.60-7 Industrial systems: piping.

The piping for industrial systems under this subpart must meet ANSI B31.3 (1977), with June 1978 addenda, except that blow out preventor control systems must also meet API RP 53, *Recommended Practice for Blowout Protection Equipment Systems, (1976).*

§ 58.60-9 Industrial systems: design.

Each system under this subpart must be designed and analyzed in accordance with the principles of API RP 14C, *Analysis, Design, Installation and Testing of Basic Surface Safety Systems on Offshore Production Platforms, (1978).*

§ 58.60-11 Analyses, plans, diagrams and specifications: submission.

(a) Each industrial system must be analyzed by a registered professional engineer to certify that the system has been designed in accordance with applicable standards.

(b) The certification must—

(1) Appear on all diagrams and analyses; and

(2) Be submitted under § 50.20-5 of this chapter.

(c) Standards or specifications for non-pressurized, mechanical or structural systems, and components such as derricks, drawworks, and rotary tables which comply with standards or specifications not referenced in this subchapter must be referenced on the plans or in the specifications of the unit.

§ 58.60-13 Inspection.

An industrial system is accepted by the Coast Guard if the inspector finds—

(a) The system meets this subpart;

(b) There are guards, shields, insulation or similar devices for protection of personnel; and

(c) The system is not manifestly unsafe.

PART 61—PERIODIC TESTS AND INSPECTIONS

20. By revising § 61.10-1(a) to read as follows:

§ 61.10-1 Scope.

(a) All pressure vessels aboard ships, mobile offshore drilling units, and barges are subject to periodic inspection.

• • • • •

21. By revising § 61.10-5(b) and (h)(1) to read as follows:

§ 61.10-5 Periodic inspections.

• • • • •

(b) *Internal and external examination and tests.* Pressure vessels that required initial shop inspection and pressure vessels that are accepted under § 54.01-16 which are fitted with manholes or other inspection openings, so they can be satisfactorily examined internally, must be opened biennially at the regular inspection for certification and thoroughly examined internally and externally. Such pressure vessels are not required to be hydrostatically tested unless defects are found, which in the marine inspector's opinion, may impair the safety of the pressure vessel. Where such defects are found, a hydrostatic test must be applied at a pressure equal to 1¼ times the maximum allowable working pressure.

• • • • •

(h) *Pneumatic tests.* (1) Pressure vessels which have been pneumatically tested during shop inspection must be thoroughly examined internally and externally biennially at the regular inspection for certification except in

[1] See § 50.15-20(a)(13) for the address of API.

[1] Sections 108.171 to 108.175 of this Chapter define classified locations for mobile offshore drilling units.

[1] Sections 108.171 to 108.175 of this Chapter define classified locations for mobile offshore drilling units.

those instances where the inspection

107.257 Testing of fire hoses.
107.258 Crane certification.

mobile offshore drilling unit for use in the industrial function of the unit.

(1) A unit contracted for on or after

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those instances where the inspection interval is prescribed otherwise, by the specific regulations applicable to the product carried, in Subchapter D (Tank Vessels), Subchapter I (Cargo and Miscellaneous Vessels), Subchapter IA (Mobile Offshore Drilling Units), or Subchapter N (Dangerous Cargoes) of this Chapter. For those tanks whose design precludes a thorough internal or external examination, the thickness must be determined by a nondestructive method acceptable to the Officer in Charge, Marine Inspection.

• • • • • •

22. By adding a new § 61.20-15(b)(4) to read as follows:

§ 61.20-15 Tailshaft survey.

• • • • • •

(b) • • •

(4) A mobile offshore drilling unit that has a tailshaft is not subject to specified periods for drawing the tailshaft if the tailshaft is—

(i) Drawn for inspection during regularly scheduled drydocking; or

(ii) Regularly inspected in a manner acceptable to the Commandant.

• • • • • •

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23. By adding a new Subchapter I-A to read as follows:

SUBCHAPTER I-A—MOBILE OFFSHORE DRILLING UNITS

PART 107—INSPECTION AND CERTIFICATION

Subpart A—General

Sec.

107.01 Purpose of subchapter.
107.111 Definitions.
107.113 Industrial personnel.
107.115 Incorporation by reference.
107.117 Coast Guard addresses.

Subpart B—Inspection and Certification

107.201 Purpose.
107.211 Original Certificate of Inspection.
107.215 Biennial inspection for certification.
107.219 Permit to proceed to another port for repairs.
107.223 Temporary Certificate of Inspection: period in effect.
107.227 Certificate of Inspection Amendment.
107.231 Inspection for certification.
107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers and fixed fire-extinguishing systems.
107.239 Weight testing of lifeboats, lifeboat launching systems, and davit launched life raft systems.
107.243 Testing of winch electrical control apparatus for lifeboats.
107.251 Testing of the fire main.
107.257 Testing of fire hoses.
107.258 Crane certification.
107.259 Crane inspection and testing.
107.260 Rated load test for cranes.
107.261 Drydock or special examination.
107.265 Special examination in lieu of drydocking for column stabilized units or surface type units when specifically approved by the Commandant.
107.267 Special examination in lieu of drydocking for self-elevating units.
107.269 Reinspection.
107.271 Inspection: alterations.
107.275 Other inspections.
107.279 Certificate of Inspection: failure to meet requirements.

Subpart C—Plan Approval

107.301 Purpose.
107.305 Plans and information.
107.309 Crane plans and information.
107.317 Addresses for submittal of plans, specifications, and calculations.

Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960

107.401 Purpose and definition.
107.405 Safety Equipment Certificate.
107.409 Safety Construction Certificate.
107.413 Exemption certificate.

AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

Subpart A—General

§ 107.01 Purpose of subchapter.

This subchapter prescribes rules for the design, construction, equipment, inspection and operation of mobile offshore drilling units operating under the U.S. flag.

§ 107.111 Definitions.

As used in this subchapter:

"Approved" means approved by the Commandant.

"Column stabilized unit" means a unit with the main deck connected to the underwater hull of footings by columns or caissons.

"Commandant" means the Commandant of the Coast Guard or his authorized representative.

"District Commander" means an officer of the Coast Guard who commands a Coast Guard District described in 33 CFR Part 3 or his authorized representative.

"Headquarters" means Office of the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

"Industrial systems and components" means any machinery or equipment except diving systems on board a mobile offshore drilling unit for use in the industrial function of the unit.

"International service" means operation of a mobile offshore drilling unit on an international voyage or in waters under the jurisdiction of foreign nations or the United Nations.

"Marine inspector" means any person designated by an Officer in Charge, Marine Inspection, as a marine inspector.

"Master" or "Person in charge" means a person designated under § 109.107.

"Mobile offshore drilling unit" or "unit" means a vessel, except a public vessel of the United States, capable of engaging in drilling operations for the exploration or exploitation of subsea resources that is—

(1) Seagoing and 300 or more gross tons and self-propelled by motor;

(2) Seagoing and 100 or more gross tons and non-self-propelled; or

(3) More than 65 feet in length and propelled by steam.

"Non-self-propelled unit" means a unit which is not self-propelled.

"Officer in Charge, Marine Inspection" means an officer of the Coast Guard who commands a Marine Inspection Zone described in 33 CFR Part 3 or his authorized representative.

"Self-elevating unit" means a unit with moveable legs capable of raising its hull above the surface of the sea.

"Self-propelled unit" means a unit that has propulsion machinery that provides for independent underway navigation.

"Surface type unit" means a unit with a ship shape or barge type displacement hull of single or multiple hull construction intended for operation in the floating condition.

"Watertight" means designed and constructed to withstand a static head of water without any leakage, except that "watertight equipment" means enclosed equipment so constructed that a stream of water from a hose (not less than 1 inch in diameter) under head of about 35 feet from a distance of about 10 feet, and for a period of 5 minutes, can be played on the apparatus without leakage.

"Weathertight" means that water will not penetrate into the unit in any sea condition, except that "weathertight equipment" means equipment so constructed or protected that exposure to a beating rain will not result in the entrance of water.

§ 107.113 Industrial personnel.

Industrial personnel are all persons, exclusive of the required crew as set forth in the Certificate of Inspection, carried on board a mobile offshore drilling unit for the sole purpose of carrying out the industrial business or functions of the unit.

§ 107.115 Incorporation by reference.

(a) The standards referred to in this subchapter are incorporated by reference. The incorporation by reference was approved by the Director of the Federal Register under the provisions of 1 CFR Part 51 on November 7, 1978.

(b) The standards are on file in the FEDERAL REGISTER library and are available from the appropriate organizations whose addresses are listed below:

(1) American Bureau of Shipping, 45 Broad Street, New York, New York 10004.
(2) American National Standards Institute Standards (ANSIS), American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.
(3) American Petroleum Institute, 2101 L Street, N.W., Washington, D.C. 20037.
(4) International Cargo Gear Bureau, 17 Battery Place, New York, New York 10004.
(5) National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.
(6) Underwriters Laboratory, 333 Pfingsten Road, Northbrook, Illinois 60062.

§ 107.117 Coast Guard addresses.

When approval of the Commandant is required under this Subchapter, the following addresses are to be used:

(a) For approval by Commandant (G-MVI)—

Commandant (G-MVI/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) For approval by Commandant (G-MMT)—

Commandant (G-MMT/82), U.S. Coast Guard, Washington, D.C. 20590.

Subpart B—Inspection and Certification

§ 107.201 Purpose.

This subpart prescribes rules for the—

(a) Original inspection and issuance of an original Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(b) Biennial inspection for certification and renewal of a Certificate of Inspection required by 46 U.S.C. 367, 391, 395, and 399;

(c) Reinspection required by 46 U.S.C. 435;

(d) Inspection after an accident required by 46 U.S.C. 435; and

(e) Inspection of repairs or alterations, or both, required by 46 U.S.C. 435;

(f) Amendments to Certificates of Inspection;

(g) Issuance of Temporary Certificate of Inspection; and

(h) Issuance of Permit to Proceed to Another Port for Repairs.

§ 107.211 Original Certificate of Inspection.

(a) The owner or builder of a unit applies for an inspection for an original Certificate of Inspection by submitting before construction is started—

(1) a completed Application for Inspection of U.S. Vessel, Form CG-3752, to the Officer in Charge, Marine Inspection, of the marine inspection zone in which the unit is to be constructed; and

(2) plans and information indicating the proposed arrangement and construction of the unit to the Coast Guard in accordance with Subpart C of this Part.

(b) An original Certificate of Inspection is issued if the Coast Guard finds, during the inspections conducted while the unit is being constructed, that a unit contracted for on or after January 3, 1979 meets § 107.231.

(c) An original Certificate of Inspection is issued if the Coast Guard finds that an uncertificated unit contracted for before January 3, 1979 meets the applicable requirements of this Subchapter as specified in the Navigation and Vessel Inspection Circular, *"Inspection and Certification of Existing Mobile Offshore Drilling Units"* (Appendix A). Existing structure, arrangements, materials, equipment, and facilities will be considered satisfactory so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Repairs and minor alterations may be made to the same standards as originally used. Major alterations and conversions shall be in compliance with the provisions of each subpart of this part to the satisfaction of the Officer in Charge, Marine Inspection.

(d) A Certificate of Inspection expires 24 months after the date of issue.

§ 107.215 Biennial inspection for certification.

(a) The master, owner, or agent of a certificated unit may apply for a biennial inspection for the renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel, Form CG-3752, to the Officer in Charge, Marine Inspection, in or nearest to the port where the inspection will be made.

(b) The master, owner, or agent of a certificated unit operating in international service may apply for renewal of a Certificate of Inspection by submitting a completed Application for Inspection of U.S. Vessel Form CG-3752, to the appropriate Officer in Charge, Marine Inspection, at least 60 days before the expiration date that appears on the unit's unexpired Certificate of Inspection.

(c) A Certificate of Inspection is renewed if the Coast Guard finds, during the biennial inspection, that—

(1) A unit contracted for on or after January 3, 1979 meets the requirements of this Subchapter; or

(2) A unit contracted for before January 3 1979, and issued a Certificate of Inspection under Subchapter I of this Chapter, continues to meet the requirements of that subchapter and meets the applicable requirements of this subchapter as specified in Navigation and Vessel Inspection Circular, *"Inspection and Certification of Existing Mobile Offshore Drilling Units"* (Appendix A).

§ 107.219 Permit to proceed to another port for repairs.

(a) If a unit fails to meet the requirements in § 107.231, and the Coast Guard withholds reissuance of a Certificate of Inspection, or suspends an unexpired Certificate of Inspection, as described in § 107.279, a Permit to Proceed to Another Port for Repairs (Form CG-948) is issued by the Coast Guard if—

(1) The owner, master, person in charge, or agent makes a written request for a permit to the Officer in Charge, Marine Inspection, that includes—

(i) The reason the permit is requested;

(ii) The port in which the repairs are to be made; and

(iii) The period of time for the voyage;

(2) The Officer in Charge, Marine Inspection finds that the unit is seaworthy for the voyage.

(b) A Permit to Proceed to Another Port for Repairs states the conditions under which it was issued and is in force for the period of the voyage to the port in which the repairs are to be made.

§ 107.223 Temporary Certificate of Inspection: period in effect.

A Temporary Certificate of Inspection, issued under 46 U.S.C. 399, is effective until a Certificate of Inspection is issued to the unit.

§ 107.227 Certificate of Inspection Amendment.

The Coast Guard issues a Certificate of Inspection Amendment, Form CG-858, to a certificated unit if a requirement for equipment and data listed on the unexpired Certificate of Inspection is changed.

§ 107.231 Inspection for certification.

A unit is issued a Certificate of Inspection under § 107.211 or § 107.215(c) if the inspector finds the following:

(a) The unit and its equipment comply with—

(1) Part 108 of this subchapter;

(2) Subchapter J of this chapter, Electrical Engineering;[1]

---

[1] Requirements for industrial systems and components are in Subpart 111.94 of this Chapter.

(3) Subchapter F of this chapter,

(q) Each valve with a remote control

winch meets the installation tests in

(3) Removing the pressure cartridge of each premix aqueous film forming

Coast Guard as crane certifying authorities:

(3) After repairs or alterations to any structural component of the

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(3) Subchapter F of this chapter, Marine Engineering;[2]

(4) Subchapter E of this chapter, Load Lines;[3]

(5) Part 64 or Part 98 of this chapter, or both, if the unit carries marine protable tanks or portable tanks;

(6) The vessel design and equipment requirements of the oil pollution regulations (33 CFR Part 155, Subpart B);

(7) The Rules of the Road requirements for the waters in which the unit navigates, contained in—

(i) 33 U.S.C. Chapters 3, 4, 5, or 21; and

(ii) 33 CFR Parts 80, 85, 9r 86.

LIFESAVING EQUIPMENT

(b) Each lifeboat and its equipment are serviceable.

(c) Each lifeboat, each lifeboat launching system, and each davit launched liferaft launching system passes the test in § 107.239.

(d) Each winch electrical control apparatus for lifeboats meets the testing requirements in § 107.243.

(e) Each inflatable liferaft is serviceable and meets the servicing requirement in § 160.051-6 of this chapter.

(f) Each hydraulic release for inflatable liferafts meets the periodic servicing and testing requirements in § 160.062-4 of this chapter.

(g) Each life preserver is serviceable.

(h) A life preserver that is cleaned or repaired meets Subpart 160.006 of this chapter.

(i) Each buoyant work vest is serviceable.

FIRE FIGHTING EQUIPMENT

(j) Each hand portable fire extinguisher and each semiportable fire extinguisher is inspected, and serviced if required, in accordance with § 107.235(a).

(k) Each fixed fire-extinguishing system is inspected, and serviced if required, in accordance with § 107.235(b).

(l) Each fire main system meets the testing requirements in § 107.251.

(m) Each fire hose meets the testing requirements in § 107.257.

CRANES

(n) The rated load test for cranes in § 107.260 is met.

(o) Each crane is inspected and tested in accordance with § 107.258.

MISCELLANEOUS

(p) Each watertight door is operative.

(q) Each valve with a remote control is operative.

(r) Each means of escape on the unit is safe for the intended service.

(s) There is not an accumulation of oil which might create a fire hazard on tank tops, decks, in drip pans, machinery spaces, and pumproom bilges.

(t) Each accommodation space is sanitary.

(u) The unit meet the drydocking requirement in § 107.261 or the special examination in § 107.265.

(v) The unit meets the equipment and data information requirements on its certificate of inspection.

(w) Each record in Subpart D of part 109 is maintained as prescribed.

(x) A unit that engages on international voyages has on board the appropriate certificates issued under 47 U.S.C. 360:

(1) Safety Radiotelegraph Certificate or Safety Radiotelephony Certificate.

(2) Exemption Certificate, if an exemption has been granted.

INSTALLATION TESTS

(y) Each lifeboat, lifeboat davit, lifeboat winch, liferaft davit, and liferaft winch meets the installation tests in § 94.35-5(b) of this chapter.

(z) Each davit launched liferaft meets the installation test in § 95.37-5 of this chapter.

(aa) Piping for each carbon dioxide extinguishing system meets the installation test in § 108.449 of this chapter.

(bb) Each sliding watertight door meets the installation tests in § 163.001-6(b) of this chapter.

OTHER TESTS AND INSPECTIONS

(cc) The unit and its equipment meet any other test or inspection deemed necessary by the inspector to determine if they are suitable for the service in which they are to be employed.

§ 107.235 Servicing of hand portable fire extinguishers, semi-portable fire extinguishers and fixed fire-extinguishing systems.

(a) Each hand portable fire extinguisher and each semi-portable fire extinguisher on board the unit must be serviced as setout in Table 107.235 and examined for excessive corrosion and general condition.

TABLE 107.235

Type extinguisher	Test and servicing required
Soda Acid	Discharge, clean hose and inside of extinguisher thoroughly. Recharge.
Foam	Discharge, clean hose and inside of extinguisher thoroughly. Recharge.
Pump Tank (water or antifreeze)	Discharge, clean hose and inside of extinguisher thoroughly. Recharge with clean water or antifreeze.
Cartridge operated (water, antifreeze or loaded stream).	Examine pressure cartridge and replace if end is punctured or if cartridge is otherwise determined to have leaked or to be in unsuitable condition. Remove liquid, clean hose and inside of extinguisher thoroughly. Recharge with clean water, solution, or antifreeze. Insert charged cartridge.
Carbon Dioxide	Weigh cyclinders. Recharge if weight loss exceeds 10 percent. Inspect hose and nozzle to be sure they are clear.
Dry chemical (cartridge-operated type)	Examine pressure cartridge and replace if end is punctured or if cartridge is otherwise determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Be sure dry chemical is free-flowing (not caked) and chamber contains full charge.
Dry chemical (stored pressure type)	See that pressure gage is in operating range. If not, or if seal is broken, weigh or otherwise determine that full charge of dry chemical is in extinguisher. Recharge if pressure is low or if dry chemical is needed.

(b) Each fixed fire-extinguishing system must be examined for excessive corrosion and general condition and be serviced by—

(1) Recharging the cylinders of each carbon dioxide system, if the weight loss is more than 10% of the weight of the charge;

(2) Testing each foam system, except premix systems by—

(i) Discharging foam for approximately 15 seconds from a nozzle designated by the marine inspector;

(ii) Discharging water from all other lines and nozzles; and

(iii) Taking a sample of the foam liquid and submitting it to the manufacturer or his authorized representative for determination of its specific gravity, PH, percentage of water dilution, and solid content, and certification as a suitable firefighing foam;

(3) Removing the pressure cartridge of each premix aqueous film forming foam system and replacing the cartridge if the seal is punctured, sampling the premix solution in accordance with the manufacturer's instructions, and replacing cylinders that are discharged.

NOTE.—All carbon dioxide cylinders and discharge hoses of semi-portable carbon dioxide systems must be tested and marked in accordance with § 147.04-1 of this Chapter.

§ 107.239 Weight testing of lifeboats, lifeboat launching systems, and davit launched liferaft systems.

(a) Each lifeboat must be loaded to the deadweight equivalent of the allowed capacity, lowered, stopped using the winch brake during descent, lowered into the water by releasing the winch brake, and released from the falls;

(b) The davit and winch for each davit launched liferaft must be tested by suspending a test weight from the releasing hook and lowering the weight to near the water;

(c) The automatic disengaging device for each davit launched liferaft must be tested by a spring weight to assure the applied force at which the hook will release is within the design specification; and

(d) The launching equipment for each lifeboat or davit launched liferaft must be tested with a weight equal to the weight of the lifeboat or raft plus the full complement of persons and equipment.

NOTE.—In making these tests, deadweight is equivalent to 165 pounds for each person in the allowed capacity.

§ 107.243 Testing of winch electrical control apparatus for lifeboats.

Each winch electrical control apparatus for lifeboats must be opened and inspected. When the inspection is completed the control apparatus must be operated.

107.251 Testing of the fire main.

Each fire main system must be opened and the pressure checked at—

(a) The most remote outlet; and

(b) The highest outlet.

§ 107.257 Testing of fire hose.

Each fire hose must be subjected to a test pressure equivalent to the maximum pressure to which it may be subjected during operation. However, each fire hose must be subjected to a pressure of at least 100 p.s.i.

§ 107.258 Crane certification.

(a) The Coast Guard may accept current certificates issued by approved organizations as evidence of condition and suitability of cranes. The following organizations are approved by the Coast Guard as crane certifying authorities:

(1) American Bureau of Shipping, 45 Broad St., New York, N.Y., 10004.

(2) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, N.Y. 10004.

(b) Crane certification must be based upon—

(1) A review of plans submitted under § 107.309; and

(2) The continuing program of tests and inspections in § 107.259.

(c) Each load test and inspection by the certifying authority must be recorded in the unit's Crane Record Book required in § 109.437.

§ 107.259 Crane inspection, and testing.

(a) Each crane must be inspected and tested in accordance with Section 3 of the American Petroleum Institute (A.P.I.) *Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (October 1972) with supplement 1, except that the rated load test must be performed in accordance with § 107.260.

(b) The tests are witnessed and the inspections are conducted by—

(1) A Coast Guard marine inspector; or

(2) The American Bureau of Shipping (A.B.S.), or the International Cargo Gear Bureau, Inc. (I.C.G.B.) for cranes under certification by these organizations.

(c) If the tests and inspections are conducted by the A.B.S. or the I.C.G.B., the surveyor shall certify that the tests and inspections were conducted in accordance with the A.P.I. specification; or modified by § 107.260.

§ 107.260 Rated load test for cranes.

(a) To meet the requirements in § 107.231(n), each crane must meet the following rated load test at both the maximum and minimum boom angles usually employed in material transfers over the side of the unit:

Rated load of assembled gear	Proof load
Less than or equal to 20 tons.	25 pct in excess.
Greater than 20 tons but less than or equal to 50 tons.	5 tons in excess.
Greater than 50 tons	10 pct in excess.

(b) The weight of the hook, hook blocks, slings, rib, and other rigging, except the hoist rope, must be considered part of the load for the rated load test.

(c) The rated load test must be performed—

(1) When the crane is installed;

(2) Each 48 months; and

(3) After repairs or alterations to any structural component of the crane.

§ 107.261 Drydock or special examination.

(a) Except as provided in paragraphs (b), (c), and (d), each unit must be drydocked in the presence of a Coast Guard inspector at least once during each 24 month period after it is issued a Certificate of Inspection.

(b) If a unit is column-stabilized, it may be specially examined in lieu of drydocking in accordance with § 107.265 in the presence of a Coast Guard inspector.

(c) If a unit is self-elevating, it may be specially examined in lieu of drydocking in accordance with § 107.267 in the presence of a Coast Guard inspector.

(d) If a unit is a surface type, it may be specially examined in lieu of drydocking in accordance with § 107.265 in the presence of a Coast Guard inspector if the examination is specifically approved by the Commandant.

(e) The master, person in charge, owner, or agent of a certificated unit must notify the appropriate Officer in Charge, Marine Inspection before the unit is drydocked, or specially examined.

(f) The master, person in charge, owner, or agent of a certificated unit operating in international service must notify the appropriate Officer in Charge, Marine Inspection at least 60 days before the unit is drydocked or specially examined under § 107.265 or § 107.267.

§ 107.265 Special examination in lieu of drydocking for column stabilized units or surface type units when specifically approved by the Commandant.

(a) A column stabilized unit, or surface type unit when approved by the Commandant, must be specially examined in accordance with a plan—

(1) Submitted in accordance with paragraph (b); and

(2) Accepted by the Commandant (G-MVI).

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Coast Guard that provides the methods used to determine the condition of the hull and that contains the following information:

(1) The planned location where the unit is to be examined.

(2) The draft at which the unit is to be examined.

(3) The names of the diver or diving company selected for the examination.

(4) The method of visual presentation for the examination.

(5) The method used to clean the underwater portion of the hull.

[2] Requirements for industrial systems and components are in Subpart 58.60 of this Chapter.

[3] Requirements for load lines are not applicable to bottom supported units when they are being supported by, or being lowered to or raised from the seabed.

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HULL STRUCTURE[1]

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ing calculations for all structural components listed in API Spec. 2C, Second

NOTE.—For classed vessels, the American Bureau of Shipping will, upon request by

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(6) The method and location of gauging the underwater portion of the hull.

(7) The number of underwater hull fittings and number of compartments to be opened.

(8) The underwater high stress areas and the welds in those areas to be examined.

§ 107.267 Special examination in lieu of drydocking for self-elevating units.

(a) A self-elevating unit must be specially examined in accordance with a plan—

(1) Submitted in accordance with paragraph (b); and

(2) Approved by the Commandant (G-MVI).

(b) To meet the requirements in paragraph (a), the owner or operator of the unit must submit a plan to the Commandant (G-MVI) that provides for—

(1) Examination of the unit's hull while it is in the elevated position; and

(2) Examination of the supporting mat, spud cans, or footings while the unit is afloat.

(c) The plan required in paragraph (b) must contain the following information:

(1) The planned location where the unit is to be examined.

(2) The methods to be used to conduct the hull examination.

(3) The method of visual presentation for examination of the underwater components.

(4) The methods of determining the condition of the underwater components.

(5) The underwater high stress areas and the welds in those areas that are to be examined.

(6) The names of the diver or diving company selected for the examination.

§ 107.269 Reinspection.

The Coast Guard reinspects a unit within the period between the 10th and 14th months after the month in which the certificate is issued to determine if the unit meets the requirements in § 107.231, except § 107.231(y), (z), (aa), and (bb).

§ 107.271 Inspection: alterations.

After plans are approved for alterations affecting the safety of the unit the Coast Guard conducts inspections of the affected—

(a) Hull;

(b) Machinery; or

(c) Equipment.

§ 107.275 Other inspections.

When the Coast Guard receives the report required in § 109.411 or § 109.425, the Coast Guard conducts the following inspections of a unit to determine if the unit meets the requirements under which it was issued its original Certificate of Inspection:

(a) An inspection after an accident.

(b) An inspection after a defect is found that affects—

(1) The seaworthiness of the unit; or

(2) The safety or efficiency of a life-saving device, or firefighting device.

(c) An inspection of repairs made because of an accident or a defect.

§ 107.279 Certificate of Inspection: failure to meet requirements.

If a unit fails to meet the requirements in § 107.231, the Coast Guard may—

(a) Withhold issuance of an original Certificate of Inspection after an original inspection for certification, until the unit meets the requirements in § 107.231;

(b) Withhold renewal of a Certificate of Inspection after a biennial inspection for certification until the unit meets the requirements in § 107.231, except § 107.231(y), (z), (aa), and (bb);

(c) Suspend an unexpired Certificate of Inspection after a reinspection, until the unit meets the requirements in § 107.231, except § 107.231(y), (z), (aa), and (bb);

(d) Revoke an unexpired Certificate of Inspection after a reinspection if the unit operates without complying with Coast Guard orders to correct unlawful conditions;

(e) Revoke or suspend an unexpired Certificate of Inspection;

(f) Withhold issuance of a safety equipment certificate;

(g) Withhold renewal of safety equipment certificate;

(h) Suspend an unexpired safety equipment certificate;

(i) Revoke an unexpired safety equipment certificate; and

(j) Withhold, suspend, or revoke an exemption certificate.

Subpart C—Plan Approval

§ 107.301 Purpose.

This subpart prescribes procedures for submitting plans and specifications for plan approval and describes the information that must be submitted.

§ 107.305 Plans and information.

Each applicant for approval of plans must submit three copies of each of the following described plans, specifications, and structural calculations concerning the construction, arrangement, required equipment, and safety features of the unit:

GENERAL

(a) Specifications.

(b) General arrangement plan of decks, holds, inner bottoms, etc. including inboard and outboard profile.

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(c) *Inner bottom plating and framing.

(d) *Midship section.

(e) *Shell plating and framing.

(f) *Stern, stern frame, and rudder.

(g) *Structural deck plans for strength decks.

(h) *Pillars and girders.

(i) *Watertight and oiltight bulkheads.

(j) *Foundations for main machinery and boilers.

(k) *Arrangement of ports, doors, and airports in shell plating.

(l) *Hatch coamings and covers in weather and watertight decks.

(m) *Details of watertight doors and operating gear.

(n) *Scuppers and drains penetrating shell plating.

(o) Arrangement of cranes.

(p) For self-elevating units, column stabilized units, and units with special hull configuration, structural calculations and plans showing special structural features.

STABILITY

(q) Lines.

(r) Curves of form and cross curves of stability.

(s) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces.

(t) Tank sounding tables.

(u) Draft mark locations.

(u-1) Intact stability and damage stability data.

FIRE CONTROL

(v) General arrangement plans showing, for each deck, the control stations, fire sections enclosed by fire resisting bulkheads, alarm and extinguishing systems, fire extinguishers, means of access to compartments and other decks, and the ventilation system, including location of ventilation shut downs, positions of dampers, and the numbers identifying each system.

(w) Ventilation diagram, including dampers and other fire control features.

(x) Details of fire alarm systems.

(y) Details of fixed fire extinguishing systems.

MARINE ENGINEERING

(z) Plans required for marine engineering equipment and systems by Subchapter F of this chapter.

[1] The asterisk (*) indicates items that are approved by the American Bureau of Shipping for vessels classed by it. Items approved by the American Bureau of Shipping are generally accepted as satisfactory unless the law or Coast Guard regulations contain requirements that are not covered by the American Bureau of Shipping.

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ELECTRICAL ENGINEERING

(aa) Plans required for electrical engineering equipment and systems by Subchapter J of this chapter.

LIFE SAVING EQUIPMENT

(bb) The location and arrangement of each life saving system including each embarkation deck, showing each overboard discharge, and projections in the way of launching lifeboats and liferafts.

(cc) The weight of each lifeboat when fully equipped and loaded.

(dd) Working loads of davits and winches.

(ee) Types and sizes of falls.

(ff) Manufacturer's name and identification of each item of equipment.

PERSONNEL ACCOMMODATIONS

(gg) Arrangement plans showing each accommodation space, ventilation, and means of escape.

CONSTRUCTION PORTFOLIO [2]

(hh) A construction portfolio must be prepared for each unit and must be approved by the Coast Guard. The portfolio must document the location and extent of application of different grades and strengths of materials and include a description of the materials and welding procedures employed and any other relevant construction information. The portfolio must contain the following:

(1) Structural plans showing areas incorporating different grades and strengths of materials. A simplified plan may be included in the portfolio if it adequately defines the different areas of application.

(2) A list of different grades or strengths of material that conform to American Bureau of Shipping (ABS) or American Society of Testing and Materials (ASTM) specifications. For materials that do not conform to ABS or ASTM specifications, complete specifications, including chemical and physical properties, special testing and any heat treatment.

(3) Each approved weld procedure for the fabrication of each structure using different grades or strengthen of material and each approved weld test procedure.

(4) Information, restrictions or prohibitions regarding repairs or modifications.

OPERATING MANUAL

(ii) The operating manual required in § 109.121.

§ 107.309 Crane plans and information.

(a) Three copies of each of the following must be submitted:

(1) Stress and arrangement diagrams, bill of materials, and supporting calculations for all structural components listed in API Spec. 2C, Second Edition, February 1972 (with supplement 2).

(2) Drawings of foundations and substructures with supporting calculations for support and stability of each crane under its rated load.

(3) Plans showing the installation of the safety features required in § 108.601.

(4) Drawings of the means provided to stop motion and set brakes during a power failure.

NOTE.—These plans must be submitted to the Coast Guard, if the crane is not certified. If the crane is to be certified, four copies must be sent to the American Bureau of Shipping or the International Cargo Gear Bureau.

(b) In addition to the plans and information required in paragraph (a), the following plans and information must be submitted to the Coast Guard only:

(1) One line diagrams of the electrical power circuits of the electric power crane overload protection required in Subpart 111.50 of this chapter.

(2) Diagrams of the hydraulic or pneumatic power and control systems, as required by Subpart 58.30-40 or 58.30-50 of this Chapter, as applicable.

§ 107.317 Addresses for submittal of plans, specifications, and calculations.

The copies of each plan, specification, and calculation required under § 107.305 and § 107.309 must be submitted to one of the following as applicable:

(a) The Officer in Charge, Marine Inspection, in the zone in which the unit is to be built or altered.

(b) One of the following field technical offices:

(1) Commander(mmt), 3rd Coast Guard District, Governors Island, New York, NY 10004, for the geographical area covered by the 1st and 3rd Coast Guard Districts.

(2) Commander(mmt), 5th Coast Guard District, Federal Bldg., 431 Crawford St., Portsmouth, VA 23705.

(3) Commander(mmt), 8th Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, for the geographical area covered by the 2nd, 7th, and 8th Coast Guard District.

(4) Commander(mmt), 9th Coast Guard District, 1240 East 9th St., Cleveland, OH 44199.

(5) Commander(mmt), 12th Coast Guard District, 630 Sansome St., San Francisco, CA 94126, for the geographical area covered by the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

(c) The American Bureau of Shipping, (ABS) 45 Broad St., New York, NY 10004.

NOTE.—For classed vessels, the American Bureau of Shipping will, upon request by the submitter, arrange to forward the plans indicated with an asterisk in § 107.305 to the Coast Guard indicating ABS's action thereon.

(d) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, NY 10004.

Subpart D—Certificates Under International Convention for Safety of Life at Sea, 1960

§ 107.401 Purpose and definition.

(a) The International Convention for Safety of Life at Sea, 1960, requires one or more of the certificates described in this subpart to be carried on self-propelled vessels of 500 gross tons or over engaged in international voyages. This subpart prescribes rules for the issuance of these certificates to mobile offshore drilling units.

(b) "International voyage" has the same meaning as stated in Regulation 2(d) of Part A, Chapter I in the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60), which is: "a voyage from a country to which the present Convention applies to a port outside such country, or conversely; and for this purpose every territory for the international relations of which a Contracting Government is responsible or for which the United Nations are the administering authority is regarded as a separate country." The Coast Guard has interpreted this definition to include the following:

(1) A voyage from a country to which SOLAS 60 applies, to a port outside that country or the reverse;

(2) A voyage from any territory, including the Commonwealth of Puerto Rico, the Canal Zone, all possessions of the United States, and all lands held by the United States, and all lands held by the United States under a protectorate or mandate, whose international relations are the responsibility of a contracting SOLAS 60 government, or which is administered by the United Nations, to a port outside that territory or the reverse;

(3) A voyage between the contiguous states of the United States and the states of Hawaii or Alaska or between the states of Hawaii and Alaska.

The Coast Guard has interpreted this definition to not include a "Great Lakes voyage" which means a voyage solely on the Great Lakes of North America and the St. Lawrence River west of a straight line drawn from Capedes Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd Meridian.

[2] This portfolio may be included in the operating manual required in § 109.121.

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§ 107.405 Safety equipment certificate.

§ 107.407 Safety construction certificate.

§ 107.409 Safety radio certificate.

§ 107.411 Exemption certificate.

§ 107.413 Conformity with treaty requirements.

§ 107.415 Equivalents.

§ 107.417 Inspection for certification.

§ 107.419 Issuance of certificates.

§ 107.421 Duration of certificates.

§ 107.423 Posting of certificates.

§ 107.425 Report of accidents, casualties, and repairs.

§ 107.427 Withholding, revocation, suspension of certificates.

Subpart E—Load Lines

§ 108.101 Purpose.

This subpart prescribes load lines for mobile offshore drilling units.

§ 108.103 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. To enforce any edition other than that specified in paragraph (b) of this section, notice of change must be published in the FEDERAL REGISTER and the material made available to the public. All approved material is available for inspection at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC, and at the Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, and may be obtained from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subpart and the sections affected are:

(1) American Petroleum Institute (API), 2101 L Street NW., Washington, DC 20037:

API RP 2A, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms, Seventeenth Edition, August 1, 1987, 108.141, 108.321, 108.477.

(2) American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103:

ASTM A 123-84, Standard Specification for Zinc (Hot-Dip Galvanized) Coatings on Iron and Steel Products, 108.477.

ASTM A 153-82, Standard Specification for Zinc Coating (Hot-Dip) on Iron and Steel Hardware, 108.477.

ASTM A 307-87, Standard Specification for Carbon Steel Bolts and Studs, 60,000 PSI Tensile Strength, 108.477.

ASTM A 325-87, Standard Specification for High-Strength Bolts for Structural Steel Joints, 108.477.

ASTM A 490-86, Standard Specification for Heat-Treated Steel Structural Bolts, 150 ksi Minimum Tensile Strength, 108.477.

ASTM A 563-84a, Standard Specification for Carbon and Alloy Steel Nuts, 108.477.

ASTM A 780-83, Standard Practice for Repair of Damaged and Uncoated Areas of Hot-Dip Galvanized Coatings, 108.477.

ASTM B 695-84, Standard Specification for Coatings of Zinc Mechanically Deposited on Iron and Steel, 108.477.

ASTM F 436-86, Standard Specification for Hardened Steel Washers, 108.477.

ASTM F 959-86, Standard Specification for Compressible-Washer-Type Direct Tension Indicators for Use with Structural Fasteners, 108.477.

(3) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, England:

IMO Publication 371, International Convention on Load Lines, 1966, 108.101, 108.103, 108.105, 108.107, 108.109, 108.111, 108.113, 108.115, 108.117, 108.119, 108.121, 108.123, 108.125, 108.127, 108.129, 108.131, 108.133, 108.135, 108.137, 108.139, 108.141, 108.143, 108.145, 108.147, 108.149, 108.151, 108.153, 108.155, 108.157, 108.159, 108.161, 108.163, 108.165, 108.167, 108.169, 108.171, 108.173, 108.175, 108.177, 108.179,

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§ 107.405 Safety equipment certificate.

(a) A self propelled unit of at least 500 gross tons that engages in international voyages is issued a safety equipment certificate if the inspector issues it a certificate of inspection under § 107.211 or § 107.215 and it meets Chapter 3 of the International Convention for the Safety of Life at Sea, 1960, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(b) A Safety Equipment Certificate expires 24 months after the date of issue.

§ 107.409 Safety Construction Certificate.

(a) Application for a Safety Construction Certificate is made by indicating in the space provided on the Application for Inspection Form CG-3752 whether the American Bureau of Shipping or the Coast Guard is to issue the certificate.

(b) The American Bureau of Shipping or the Coast Guard may issue a self-propelled unit of at least 500 gross tons that engages on international voyages a Safety Construction Certificate if the unit meets the requirements in Regulation 12(a)(ii), Chapter I of the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27.

(c) A Safety Construction Certificate expires 60 months after the date of issue.

(d) If a unit fails to meet the requirements in Regulation 12(a)(ii), the Coast Guard may—

(1) Suspend an unexpired Safety Construction Certificate; and

(2) Revoke an unexpired Safety Construction Certificate.

§ 107.413 Exemption certificate.

(a) An owner or operator of a unit may request an exemption from the requirements of the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) by writing to the appropriate OCMI.

(b) The Commandant (G-MVI) may exempt a self-propelled unit of at least 500 gross tons on an international voyage from any of the requirements in the *International Convention for the Safety of Life at Sea, 1960*, June 17, 1960, 16 UST 185, TIAS 5780, 536 UNTS 27 (SOLAS 60) if the unit meets the conditions of Regulation 4 of Part A, Chapter I, of SOLAS 60 which states the following:

A ship which is not normally engaged on international voyages but which, in exceptional circumstances, is required to undertake a single international voyage may be exempted by the Administration from any of the requirements of the present Regulations provided that it complies with safety requirements which are adequate in the opinion of the Administration for the voyage which is to be undertaken by the ship.

(c) The Commandant (G-MVI) may exempt a self-propelled unit of at least 500 gross tons on an international voyage from the requirements of Chapter III (Lifesaving Appliances, & C.) of SOLAS 60 if the unit meets the conditions of Regulation 3 of Chapter III which states in part:

The Administration, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of the full requirements of this chapter (Chapter III) unreasonable or unnecessary, may to that extent exempt from the requirements of this chapter individual ships or classes of ships which, in the course of their voyage, do not go more than 20 miles from the nearest land. . . .

(d) The Commandant (G-MVI) may exempt a unit from the requirements of Chapter II (Construction) of SOLAS 60 if the unit meets the conditions of Regulation 1(c) of Part A of Chapter II of SOLAS 60 which states the following: The Administration may, if it considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of this chapter (Chapter II) unreasonable or unnecessary, exempt from those requirements individual ships or classes of ships belonging to its country which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

(e) An Exemption Certificate is in force for the period of validity of the certificate to which it refers.

PART 108—DESIGN AND EQUIPMENT

Subpart A—General

Sec.

108.103 Equipment not required on a unit.
108.105 Substitutes for required fittings, material, apparatus, equipment, arrangements, calculations, and tests.
108.109 Classification society standards.

Subpart B—Construction and Arrangement

HULL STRUCTURE

108.113 Structural standards.
108.114 Appliances for watertight and weathertight integrity.
108.115 Sliding watertight doors.

FIRE PROTECTION: GENERAL

108.123 Isolation of combustible material.
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STRUCTURAL FIRE PROTECTION

108.131 Definitions.
108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.
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AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

Subpart A—General

§ 108.103 Equipment not required on a unit.

Each item of lifesaving and firefighting equipment that a unit has in addition to those required by this part must meet the requirements of this subchapter for that item of equipment.

§ 108.105 Substitutes for required fittings, material, apparatus, equipment, arrangements, calculations and tests.

(a) Substitutes for fittings, material, apparatus, equipment, arrangements, calculations, and tests required in this Subchapter may be accepted by the Commandant (G-MMT), if the substitute provides an equivalent level of safety.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, apparatus, arrangement, or test is unreasonable or impracticable, the Commandant may permit the use of alternate equipment, apparatus, arrangement, or test to such an extent and upon such condition as will insure, to his satisfaction, a degree of safety consistent with the minimum standards set forth in this subchapter.

§ 108.109 Classification society standards.

(a) Any person who desires to use the rules of a classification society, other than the American Bureau of Shipping, to meet requirements in this Subchapter must request recognition of that society from the Commandant (G-MMT). The relevant rules must be submitted with the request.

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V

FIRE PROTECTION: GENERAL

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(4) "C class bulkhead or deck"

an emergency electric power source must be an A class bulkhead and A class deck.

commodation space must be made of an approved material that is non-com-

tle if a stairway would be impracticable.

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Subpart B—Construction and Arrangement

Hull Structure

§ 108.113 Structural standards.

Except as provided in § 108.109, each unit must meet the structural standards of the American Bureau of Shipping's *Rules for Building and Classing Offshore Mobile Drilling Units, 1978.*

§ 108.114 Appliances for watertight and weathertight integrity.

(a) Appliances to ensure watertight integrity include watertight doors, hatches, scuttles, bolted manhold covers, or other watertight closures for openings in watertight decks and bulkheads.

(b) Appliances to ensure weathertight integrity include weathertight doors and hatches, closures for air pipes, ventilators, ventilation intakes and outlets, and closures for other openings in deckhouses and superstructures.

(c) Each internal opening fixed with appliances to ensure watertight integrity which are used intermittently during operation of the unit while afloat must meet the following:

(1) Each door, hatch, and scuttle must—

(i) Be remotely controlled from a normally manned control station, and be operable locally from both sides of the bulkhead; or

(ii) If there is no means of remote control there must be an alarm system which signals whether the appliance is open or closed both locally at each appliance and in a normally manned control station.

(2) Each closing appliance must remain watertight under the design water pressure of the watertight boundary of which it is a part.

(d) Each external opening fitted with an appliance to ensure weathertight integrity must be located so that it would not be submerged below the final equilibrium waterline if the unit is subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311 using a wind velocity of 25.8 meters per second (50 knots).

§ 108.115 Sliding watertight doors.

If a unit is equipped with sliding watertight doors, each sliding watertight door must be approved under Subpart 163.001 of Subchapter Q of this chapter.

Fire Protection: General

§ 108.123 Isolation of combustible material.

Each internal combustion engine exhaust, boiler and galley uptake, and similar heat source must be separated or insulated from combustible materials.

§ 108.127 Storage lockers for combustibles.

Each oil and paint locker must be made of steel or an equivalent material or be completely lined with steel or an equivalent material as described in § 108.131(c) of this subpart.

Structural Fire Protection

§ 108.131 Definitions.

(a) "Standard Fire Test" means the test in which specimens of the relevant bulkheads or decks, having a surface of approximately 4.65 square meters (50 square feet) and a height of 2.44 meters (8 feet) resembling as closely as possible the intended construction and including, where appropriate, at least one joint, are exposed in a test furnace to a series of temperature relationships approximately as follows:

(1) At the end of 5 minutes—538°C. (1,000°F.)

(2) At the end of 10 minutes—704°C. (1,300°F.)

(3) At the end of 30 minutes—843°C. (1,550°F.)

(4) At the end of 60 minutes—927°C. (1,700°F.).

(b) Bulkheads and decks are defined and classed as follows:

(1) "A class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of steel or other equivalent material; and

(ii) Prevents the passage of flame and smoke for 60 minutes if subjected to the standard fire test.

(2) "A 60 bulkhead or deck" means an A class bulkhead or deck that—

(i) Is insulated with approved insulation, bulkhead panels, or deck covering;

(ii) If subjected to the standard fire test for 60 minutes, has an average temperature rise on the unexposed side of the insulated bulkhead or deck of less than 139°C. (250°F.) above the temperature before the standard fire test and has a temperature rise at any point on the unexposed surface, including any joint, of less than 180°C. (325°F.) above the temperature before the standard fire test.

(3) "B class bulkhead or deck" means a bulkhead or deck that—

(i) Is made of approved noncombustible material;

(ii) Prevents flame from passing through it for 30 minutes if subjected to the standard fire test.

(4) "C class bulkhead or deck" means a bulkhead or deck made of approved noncombustible material.

(c) "Equivalent material" means a material that by itself or with insulation has smoke and fire retardant properties equal to that of the steel required for "A" or "B" class bulkheads or decks and has structural qualities equivalent to steel at the end of the applicable fire exposure.

(d) "Approved material" means a material approved under one of the following subparts of Subchapter Q of this chapter:

(1) Deck coverings, Subpart 164.006.

(2) Structural insulation, Subpart 164.007.

(3) Bulkhead panel, Subpart 164.008.

(4) Noncombustible materials, Subpart 164.009;

(5) Interior finishes, Subpart 164.012.

(e) "Stairtower" means a stairway that penetrates more than one deck within the same enclosure, or two or more stairways that—

(1) Are arranged vertically one above the other; or

(2) Penetrate both the deck and the overhead within the same enclosure.

(f) "Accommodation space" includes, sleeping, mess, hospital, recreational, toilet, washing and shower spaces, and corridors.

§ 108.133 Hull superstructure, structural bulkheads, decks, and deckhouses.

Each hull superstructure, structural bulkhead, deck, and deckhouse must be made of steel or an equivalent material.

§ 108.135 Boundary bulkheads, decks of galleys, and combustible material lockers.

Each boundary bulkhead and deck of each galley, each combination galley and messroom, and each combustible material storage locker must be an A class bulkhead and A class deck respectively.

§ 108.137 Bulkhead and deck separations of accommodation spaces.

Each boundary bulkhead and deck that separates an accommodation space or control station from the following must be an A class bulkhead and A class deck respectively—

(a) Machinery space;

(b) Galley or combination galley and messroom;

(c) Main pantry;

(d) classified space;

(e) Store room.

§ 108.139 Boundary bulkheads and decks of a space containing emergency power.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of

an emergency electric power source must be an A class bulkhead and A class deck respectively. When separate but adjoining spaces are provided for such equipment, boundary bulkhead type construction is not required for the separating partitions common to each space.

§ 108.141 Boundary bulkheads and decks between the emergency power source and service generators.

Each boundary bulkhead and deck of a space containing an emergency electric power source or components of an emergency electric power source that adjoins a space containing a ship's service generator, the components of a ship's service generator, or a classified space must be an A-60 bulkhead and A-60 deck.

§ 108.143 Accommodation space.

(a) Each corridor bulkhead in an accommodation space must be an A class or B class bulkhead except if an A class bulkhead is specifically required by this Part.

(b) No door in a corridor bulkhead in an accommodation space may have a louver, except that a stateroom, lounge, or recreation room door may have louvers in its lower half.

(c) Each stairtower, elevator, and dumbwaiter, and other trunk must be enclosed by A class bulkheads.

(d) Each bulkhead not described under paragraph (a) of this section must be either A class, B class, or C class bulkheads.

(e) At least one opening to each stairway must be enclosed by either A class or B class bulkheads and doors.

(f) Each stairtower must have doors at all levels and each must be an A class door.

(g) Each door required by paragraphs (e) and (f) of this section—

(1) Must be self-closing;

(2) May not have any means to permanently hold the door open, except for magnetic holdbacks that are operated from the bridge or other remote location.

(h) Interior stairs, including stringers and treads, must be made of steel or an equivalent material.

(i) Except in washrooms and toilet spaces, each deck covering in an accommodation space must be made of an approved material, except an overlay on a deck for leveling or finishing that is not more than 9.375 millimeters (¾ inch) thick.

(j) Except as provided in paragraph (1), each ceiling, lining, insulation, and pipe and duct lagging in an accommodation space must be made of an approved material that is noncombustible.

(k) Each sheathing, furring, or holding piece used to secure a bulkhead, ceiling, lining, or insulation in an accommodation space must be made of an approved material that is non-combustible.

(l) No bulkhead, lining, or ceiling in an accommodation space may have a combustible veneer greater than 2 millimeters (1/12 inch) in thickness.

(m) Each corridor or hidden space in an accomodation space may be covered by an approved interior finish or a reasonable number of coats of paint. However, no corridor or hidden space may have combustible veneer, trim, or decoration except material approved under Subpart 164.012 of this Chapter.

§ 108.145 Hatches and tonnage openings.

Each hatch, except a hatch between storage spaces and each tonnage opening closure, must be made of steel or an equivalent material of the same class as the bulkhead or deck where the opening occurs.

§ 108.147 Certain paints prohibited.

No nitrocellulose or other highly flammable or noxious fume-producing paint or lacquer may be used on a unit.

Means of Escape

§ 108.151 Two means required.

(a) Each of the following must have at least 2 means of escape:

(1) Each accommodation space with a deck area of at least 27 sq. meters (300 sq. ft.).

(2) Each space, other than an accommodation space, that is continuously manned or used on a regular working basis except for routine security checks.

(3) Weather deck areas where personnel may be normally employed.

(b) When two means of escape are required from a space below the main deck, one the means of escape must provide for a rapid escape through openings that are not required to be watertight by damage stability considerations.

(c) When two means of escape are required from a space above the main deck, one of the means of escape must provide for a rapid escape to a weather deck.

§ 108.153 Location of means of escape.

The required two means of escape must be through exits that minimize the possibility of having both exits blocked if a fire or other casualty occurs in the area.

§ 108.155 Restrictions on means of escape utilized.

A required means of escape may not be a vertical ladder or deck scuttle, except that one of the means of escape may be a vertical ladder or deck scuttle if a stairway would be impracticable.

§ 108.157 Locked doors.

No door to the required means of escape may be designed to lock except—

(a) A crash door or a door that has a locking device that can be easily forced, if on both sides of the door a permanent and easily seen instruction is placed; or

(b) An outside door to a deckhouse if the door can be locked by key only and if the master or person in charge has control of the key to the door's lock.

§ 108.159 Stairways and exterior inclined ladders.

Each stairway, except a stairway in a machinery or storage space, and each exterior inclined ladder must be at least 70 centimeters (28 inches) wide with an angle of inclination from the horizontal of not more than 50 degrees, except that special consideration may be given to the installation if a 70 centimeters (28 inch) width is impracticable.

§ 108.160 Vertical ladders.

(a) Each vertical ladder must have rungs that are—

(1) At least 41 centimeters (16 inches) in length;

(2) Not more than 30 centimeters (12 inches) apart, uniform for the length of the ladder; and

(3) At least 18 centimeters (7 inches) from the nearest permanent object in back of the ladder.

(b) Except when unavoidable obstructions are encountered, there must be at least 11.5 centimeters (4½ inches) clearance above each rung.

(c) Except as provided in § 108.525(e), each exterior vertical ladder more than 6 meters (20 ft.) in length must be fitted with a cage or ladder safety device meeting ANSI Standard 14.3 (1974) for fixed ladders.

(d) No vertical fixed ladders may be made of wood.

§ 108.161 Dead end corridors.

No dead end corridor may be more than 13 meters (43 feet) long.

§ 108.165 Access to lifeboats and liferafts.

Each unit must be designed to provide direct access to the lifeboat and liferaft embarkation areas.

§ 108.167 Weather deck ladders.

Each unit must have at least one permanent, inclined ladder between each weather deck.

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Classified Locations

(2) Below the drill floor and within a

by the methods indicated in § 108.175

accesses and sounding tubes may open

(c) Each sleeping space must have at

toilet, one shower, and one washbasin for each eight persons who occupy

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CLASSIFIED LOCATIONS

§ 108.170 Definitions.

(a) Classified locations are those in which flammable hydrocarbon gas or vapors, resulting from the drilling operations, may be present in quantities sufficient to produce an explosive or ignitable mixture. Location of these areas affect the design of the units' machinery, electrical, and ventilation systems. (See notes 1 and 2).

(b) For the purpose of this subpart "semi-enclosed location" means a location where natural conditions of ventilation are notably different from those on open decks due to the presence of structures such as roofs, windbreaks, or bulkheads.

NOTE.—1. Hazardous atmospheres are further defined in § 111.80 of this Chapter.

2. For specific requirements for machinery and electrical installations on mobile offshore drilling units see Subchapters "F" and "J" of this Chapter.

§ 108.171 Class I, Division 1 locations.

The following are Class I, Division 1 locations:

(a) An enclosed space that contains any part of the mud circulating system that has an opening into the space and is between the well and final degassing discharge.

(b) An enclosed or semi-enclosed location that is below the drill floor, and contains a possible source of gas release.

(c) An enclosed space that is on the drill floor, and is not separated by a solid, gas-light floor from the spaces specified in paragraph (b).

(d) A space that would normally be considered a Division 2 location under § 108.173 but where combustible or flammable gases might accumulate.

(e) A location in the weather, or a semi-enclosed location, except as provided in paragraph (b) that is within 1.5 m (5 ft.) of the boundary of any—

(1) Equipment or opening specified in paragraph (a);

(2) Ventilation outlet, access, or other opening to a Class I, Division 1 space; or

(3) Gas vent outlet.

(f) Except as provided in § 108.175, an enclosed space that has an opening into a Class I, Division 1 location.

§ 108.173 Class I, Division 2 locations.

The following are Class I, Division 2 locations:

(a) An enclosed space that has any open portion of the mud circulating system from the final degassing discharge to the mud suction connection at the mud pit.

(b) A location in the weather that is—

(1) Within the boundaries of the drilling derrick up to a height of 3 m (10 ft.) above the drill floor;

(2) Below the drill floor and within a radius of 3 m (10 ft.) of a possible source of gas release; or

(3) Within 1.5 m (5 ft.) of the boundaries of any ventilation outlet, access, or other opening to a Class I, Division 2 space.

(c) A location that is—

(1) Within 1.5 m (5 ft.) of a semi-enclosed Class I, Division 1 location indicated in § 108.171(b); or

(2) Within 1.5 m (5 ft.) of a Class I, Division 1 space indicated in § 108.171(e).

(d) A semi-enclosed area that is below and contiguous with the drill floor to the boundaries of the derrick or to the extent of any enclosure which is liable to trap gasses.

(e) A semi-enclosed derrick to the extent of its enclosure above the drill floor or to a height of 3 m (10 ft.) above the drill floor, whichever is greater.

(f) Except as provided in § 108.175 an enclosed space that has an opening into a Class I, Division 2 location.

§ 108.175 Contiguous locations.

An enclosed space that has direct access to a Division 1 or Division 2 location is the same division as that location, except—

(a) An enclosed space that has direct access to a Division 1 location is not a hazardous location if—

(1) The access has self-closing gastight doors that form an air lock;

(2) The ventilation causes greater pressure in the space than in the Division 1 location; and

(3) Loss of ventilation overpressure activates an alarm at a manned station;

(b) An enclosed space that has direct access to a Division 1 location can be considered as a Division 2 location if—

(1) The access has a self-closing, gastight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 1 location; and

(3) Loss of ventilation activates an alarm at a manned control station; and

(c) An enclosed space that has direct access to a Division 2 location is not a hazardous location if—

(1) The access has a self-closing, gastight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 2 location; and

(3) Loss of ventilation activates an alarm at a manned control station.

§ 108.177 Electrical equipment in classified locations.

Electrical equipment and devices installed in spaces made non-hazardous by the methods indicated in § 108.175 must only be essential equipment.

VENTILATION

§ 108.181 Ventilation for enclosed spaces.

(a) Each enclosed space must be vented or ventilated.

(b) There must be a means to close each vent or ventilating system.

(c) Each fan in a ventilating system must have remote controls installed in accordance with Subpart 111.80-13 of this chapter.

(d) There must be a means to close each doorway, ventilator, and annular space around each funnel or other opening to machinery, stowage, or working spaces. The means must be located outside the space.

(e) Each intake in a ventilating system must be located so as to prevent, as far as practicable, the intake of noxious fumes.

§ 108.185 Ventilation for enclosed classified locations.

(a) The ventilation system for each enclosed classified location must be designed to maintain a pressure differential between the enclosed classified location and each non-classified location adjacent to the enclosed classified location, so as to prevent the discharge of ignitable gases into the non-classified adjacent locations.

(b) Each air intake must be outside of enclosed classified locations.

(c) Each unit must have alarms at a continuously manned station that signal when—

(1) Gas is present in a enclosed classified location; or

(2) The ventilation system for the space is not working.

(d) Each ventilation system for enclosed classified locations must provide a complete change of air every five minutes.

§ 108.187 Ventilation for brush type electric motors in classified spaces.

Ventilation for brush type electric motors in classified locations must meet N.F.P.A. 496-1974 "Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations", except audible and visual alarms may be used if shutting down the motors may cause unsafe conditions.

ACCOMMODATION SPACES

§ 108.193 Restrictions.

(a) There must be no direct communication between the accommodation spaces and any chainlocker, stowage, or machinery space, except through solid, close-fitted doors or hatches.

(b) No access, vent, or sounding tube from a fuel or oil tank may open into any accommodation space, except that

accesses and sounding tubes may open into corridors.

§ 108.195 Location of accommodation spaces.

(a) On surface type units, accommodation spaces must not be located forward of a vertical plane located at 5 percent of the unit's length aft of the stem, at the designed summer load line.

(b) On all units, the deckhead of each accommodation space must be above the deepest load line.

§ 108.197 Construction of accommodation spaces.

(a) Each sleeping, mess, recreational, or hospital space that is adjacent to or immediately above a stowage or machinery space, paint locker, drying room, washroom, toilet space, or other odor source must be made odorproof.

(b) Each accommodation space that is adjacent to or immediately above a galley, machinery space, machinery casing, boiler room, or other noise or heat source, must be protected from the heat and noise.

(c) Where the shell or an unsheathed weather deck forms a boundary of an accommodation space, the shell of deck must have a covering that prevents the formation of moisture.

(d) The deckheads of each accommodation space must be a light color.

(e) Each accommodation space in which water may accumulate must have a drain scupper located in the lowest part of the space, considering the average trim of the unit.

(f) Each public toilet space must be constructed and located so that its odors do not readily enter any sleeping, mess, recreational, or hospital space.

§ 108.199 Arrangement of sleeping spaces.

To the extent practicable, each occupation group must be berthed together in sleeping spaces arranged to minimize disturbance created by personnel leaving for or arriving from a working period.

§ 108.201 Size of sleeping spaces.

(a) No sleeping space may berth more than four persons, except that a sleeping space for personnel not regularly employed on a unit may berth up to six persons if the space meets § 108.199 and berthing of six persons in that space is authorized by the Commandant (G-MMT).

(b) Without deducting any equipment used by the occupants, each sleeping space must have for each occupant—

(1) 2.8 square meters (approximately 30 square feet) of deck area; and

(2) 6 cubic meters (approximately 210 cubic feet) of volume.

(c) Each sleeping space must have at least 191 centimeters (approximately 6 feet 3 inches) of headroom over clear deck areas.

§ 108.203 Berths and lockers.

(a) Each sleeping space must have a separate berth for each occupant.

(b) No more than one berth may be placed over another.

(c) Each berth must have a framework of hard, smooth material that is not likely to corrode or harbor vermin.

(d) Each berth must be arranged to provide ample room for easy occupancy.

(e) Each berth must be at least 76 centimeters (approximately 30 inches) wide by 193 centimeters (approximately 76 inches) long.

(f) Adjacent berths must be separated by a partition that extends at least 46 centimeters (approximately 18 inches) above the sleeping surface.

(g) The bottom of a lower berth must be at least 30 centimeters (approximately 12 inches) above the deck.

(h) The bottom of an upper berth must be at least 76 centimeters (approximately 2 feet 6 inches) from the bottom of the berth below it and from the deck or any pipe, ventilating duct, or other overhead installation.

(i) Each berth must have a berth light.

(j) Each occupant of a sleeping space must have a readily accessible locker of hard, smooth material.

(k) Each locker must be at least .194 square meters (approximately 300 square inches) in cross section and 1.53 meters (approximately 60 inches) high.

§ 108.205 Wash spaces; toilet spaces; and shower spaces.

(a) For the purposes of this section—

(1) "Private facility" means a toilet, washing, or shower space that is accessible only from one single or double occupancy sleeping space;

(2) "Semi-private facility" means a toilet, washing or shower space that is accessible from either of two one-to-four person occupancy sleeping spaces; and

(3) "Public facility" means a toilet, washing, or shower space that is not private or semi-private.

(b) Each private facility must have one toilet, one shower, and one washbasin, all of which may be in a single space.

(c) Each semi-private facility must have at least one toilet and one shower, which may be in a single space.

(d) Each room adjoining a semi-private facility must have a washbasin if a washbasin is not installed in a semi-private facility.

(e) Each unit must have enough public facilities to provide at least one toilet, one shower, and one washbasin for each eight persons who occupy sleeping spaces that do not have private or semi-private facilities.

(f) Urinals may be installed in toilet rooms, but no toilet required in this section may be replaced by a urinal.

(g) Each public toilet space and washing space must be convenient to the sleeping space that it serves.

(h) No public facility may open into any sleeping space.

(i) Each washbasin, shower, and bathtub must have hot and cold running water.

(j) Adjacent toilets must be separated by a partition that is open at the top and bottom for ventilation and cleaning.

(k) Public toilet facilities and shower facilities must be separated.

(l) Each public facility that is a toilet space must have at least one washbasin unless the only access to the toilet space is through a washing space.

(m) Each toilet must have an open front seat.

(n) Each washing space and toilet space must be so constructed and arranged that it can be kept in a clean and sanitary condition and the plumbing and mechanical appliances kept in good working order.

(o) Washbasins may be located in sleeping spaces.

§ 108.207 Messrooms.

(a) Each messroom that is not adjacent to the galley that serves it must be equipped with a steamtable.

(b) Each messroom must seat the number of persons expected to eat in the messroom at one time.

§ 108.209 Hospital spaces.

(a) Each unit carrying twelve or more persons on a voyage of more than three days must have a hospital space.

(b) Each hospital space must be suitably separated from other spaces.

(c) No hospital space may be used for any other purpose, when used for care of the sick.

(d) An entrance to each hospital space must be wide enough and arranged to readily admit a person on a stretcher.

(e) Each berth in a hospital space must be made of metal.

(f) Each upper berth must be hinged and arranged so that it can be secured clear of the lower berth.

(g) Each hospital space must have at least one berth that is accessible from both sides.

(h) Each hospital space must have one berth for every 12 persons or portion thereof on board, who are not berthed in single occupancy rooms, but the number of berths need not exceed six.

(i) Each hospital space must have a

normal operation of the unit, a lesser

§ 108.235 Construction.

(b) Integral tanks must meet Sub-

columns of an undamaged unit due to heel, trim, or submergence of the unit.

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(i) Each hospital space must have a toilet, washbasin, and bathtub or shower accessible from the hospital space.

(j) Each hospital space must have clothes lockers, a table, and seats.

§ 108.210 Hospital space not required.

The hospital space required under § 108.209 is not required on a unit if one single or double occupancy sleeping space, designated and equipped as a treatment or isolation room or both is available for immediate medical use, and has—

(1) An entrance that is wide enough and arranged to readily admit a person on a stretcher;

(2) A single berth or examination table that is accessible from both sides; and

(3) A washbasin in or immediately adjacent to it.

§ 108.211 Miscellaneous accommodation spaces.

(a) Each unit must have enough facilities for personnel to wash their own clothes, including at least one tub or sink that has hot and cold running water.

(b) Each unit must have enough equipment or space for the personnel to dry their own clothes.

(c) Each unit must have an accommodation space that can be used for recreation.

§ 108.213 Heating requirements.

(a) Each accommodation space must be heated by a heating system that can maintain at least 20°C. (68°F.).

(b) Radiators and other heating apparatuses must be constructed, located or shielded so as to avoid risk of—

(1) Fire;

(2) Danger; and

(3) Discomfort

to the occupants of each accommodation space.

(c) Each exposed pipe in an accommodation space, leading to a radiator or other heating apparatus must be insulated.

§ 108.215 Insect screens.

(a) Accommodation spaces must be protected against the admission of insects.

(b) Insect screens must be installed when natural ventilation is provided.

RAILS

§ 108.217 Guardrails and bulwarks.

(a) Each unit must have guardrails or bulwarks along the edge of the bridge, of each deck, and of each deck opening.

(b) Each guardrail and bulwark must extend at least one meter (39.37 inches) above the deck except where this height may interfere with the normal operation of the unit, a lesser height may be approved.

(c) Removable guardrails may be installed where operating conditions warrant their use.

§ 108.219 Guardrails.

(a) Except for exposed peripheries of a freeboard or superstructure deck, each guardrail must have at least two evenly spaced courses.

(b) At exposed peripheries of a freeboard or superstructure deck, each guardrail must have at least three courses not more than 38 centimeters (15 in.) apart with the lowest course not more than 23 centimeters (9 in.) above the deck.

(c) For a rounded gunwale, the guardrail must be at the edge of the flat of the deck.

§ 108.221 Storm rails.

Each unit must have a storm rail in the following locations:

(a) On each deckhouse side that is normally accessible.

(b) On each side of each passageway that is wider than 1.83 meters (6 feet).

(c) On at least one side of each passageway that is less than 1.83 meters (6 feet) wide.

§ 108.223 Guards on exposed equipment.

Each unit must have hand covers, guards, or rails installed on all belts, gears, shafts, pulleys, sprockets, spindles, flywheels or other reciprocating, rotating or moving parts of machinery or equipment normally exposed to contact by personnel.

HELICOPTER FACILITIES

§ 108.231 Application.

Sections 108.231 through 108.241 apply to each unit with a helicopter landing facility.

§ 108.233 Location and size.

(a) Each helicopter deck must be—

(1) At least the size of the rotor diameter of the largest single main rotor helicopter that will be used on the facility; or

(2) If tandem main rotor helicopters use the facility, at least of a size to provide a longitudinal axis of $\frac{9}{10}$ the overall length of the helicopter, and a width of $\frac{3}{4}$ of the overall length of the helicopter.

NOTE.—For the purpose of paragraph (a)(2) the overall length is measured across both main rotors in the fore and aft line.

(b) Each helicopter deck must be located so as to provide clear approach/departure paths to enable the largest helicopter using the facility to operate in all weather conditions which allow helicopter operations.

§ 108.235 Construction.

(a) Each helicopter deck must be designed to accommodate the loadings (static and dynamic) imposed by operation and stowage of helicopters intended to use the facility as well as environmental loadings (wind, wave, water, snow, etc.) anticipated for the unit.

(b) The adequacy of each helicopter deck for the loadings required in paragraph (a) must be shown by design calculations. Where the placement of a load affects the suitability of a structural member, the load must be evaluated in the most unfavorable position for each member.

(c) The analysis required in paragraph (b) must be based on the dead load of the structure, existing stresses in the deck when it is an integral part of a unit's structure, and each of the following loading conditions:

(1) *Uniform distributed loading.* A loading of 2kg/m² (42 lb/ft²) applied to the helicopter deck area.

(2) *Helicopter landing impact loading.* The limit load established by the limit drop test in 14 CFR 29.725, or a load of not less than 75 percent of the helicopter maximum weight taken on a square area of 0.3×0.3 m (1 ft.×1 ft.) under each main landing gear unit applied anywhere on the helicopter deck area.

(3) *Stowed helicopter loading.* The helicopter maximum weight plus inertial forces from the helicopter due to anticipated unit motions, and applicable environmental loadings including wind loads.

(d) The landing area of each helicopter facility must—

(1) Have a non-skid surface;

(2) Have drainage facilities that prevent the collection of liquids and prevent liquids from spreading to or falling on other parts of the unit;

(3) Have recessed tie-down points; and

(4) Be free of projections, except that landing lights or other projections may be installed around the periphery of the landing deck provided they do not interfere with landing and take-off operations.

(e) The unprotected perimeter of each helicopter facility must have a safety net at least 1.5 meters (4.92 ft.) wide. The outer edge of the net must not extend more than 15 centimeters (6 in.) above the surface of the deck.

(f) Each helicopter facility must have both a main and an emergency access/egress route located as far apart from each other as practicable.

§ 108.237 Fuel storage facilities.

(a) Helicopter fuel storage tanks must be installed as far as practicable from—

(1) The landing area; and

(2) Each source of vapor ignition.

(b) Integral tanks must meet Subpart 58.50 of this Chapter.

(c) Marine portable fuel stowage tanks must meet Part 64 of this Chapter.

(d) Each marine portable fuel stowage tank must have a means to contain fuel spills or leaks.

§ 108.239 Fuel transfer equipment.

(a) Each nozzle must be a "deadman" type.

(b) Each hose must have a storage reel.

(c) Each hose must have a static grounding device.

(d) Each electric fuel transfer pump must have a control with a fuel transfer pump operation indicator light at the pump.

(e) There must be a fuel pump shut off at each of the access routes required by § 108.235(f).

(f) Each fuel transfer pump and each hose reel must have a means to contain fuel spills or leaks.

(g) Each hose must meet chapter 3 "Aircraft Fueling Hose" of National Fire Protection Association Standard for Aircraft Fuel Servicing (N.F.P.A. No. 407-1975).

§ 108.241 Visual aids.

(a) Each helicopter deck must—

(1) Have a wind direction indicator located in an unobstructed area readily visible to helicopter pilots approaching the deck;

(2) Be fitted around the perimeter with yellow and blue lights in alternate order, not more than 3 meters (10 ft.) apart; and

(3) Be marked with—

(i) The unit's identification;

(ii) A continuous line 40 centimeters (16 in.) wide on the perimeter; and

(iii) Aiming circles as may be appropriate considering deck configuration, helicopter type, and operational requirements.

(b) All markings must be in a contrasting color to the surface of the deck.

Subpart C—Stability

§ 108.301 Stability: definitions.

For the purposes of this subpart:

(a) "Normal operating condition" means a condition of a unit when loaded or arranged for drilling, field transit, or ocean transit.

(b) "Severe storm condition" means a condition of a unit when loaded or arranged to withstand the passage of a severe storm.

(c) "Downflooding" means the entry of seawater through any opening which cannot be rapidly closed watertight, into the hull, superstructure, or columns of an undamaged unit due to heel, trim, or submergence of the unit.

(d) "Downflooding angle" means the static angle from the calm seawater surface at a unit's waterline to the first opening through which downflooding could occur, considering heel, trim, and submergence of the unit when subjected to a wind heeling moment (Hm) calculated in accordance with § 108.311.

§ 108.303 Stability requirements: general.

Each unit must be designed to have at least 5 cm (2 inches) of positive metacentric height in the upright equilibrium position for the full range of drafts, whether at the operating draft for navigation, towing, or drilling afloat, or at a temporary draft when changing drafts.

§ 108.305 Intact stability requirements.

(a) Each unit must be designed so that the wind heeling moments (Hm) and righting moments calculated for each of its normal operating conditions and severe storm conditions, when plotted on graph 108.305, define areas that satisfy the equation [Area (A)]≥[K]×[Area (B)] where—

(1) K=1.4, except that if the unit is a column stabilized unit K=1.3;

(2) Area (A) is the area on graph 108.305 under the righting moment curve between 0° and the second intercept angle or the angle of heel at which downflooding would occur, whichever angle is less; and

(3) Area (B) is the area on graph 108.305 under the wind heeling moment curve between 0° and the second intercept angle or the angle of heel at which downflooding of the unit would occur whichever angle is less.

(b) Each righting moment on graph 108.305 must be positive for all angles greater than 0° and less than the second intercept angle.

(c) For the purposes of this section, openings fitted with the weathertight closing appliances specified in § 108.114(b) are not considered as openings through which downflooding could occur if they can be rapidly closed and would not be submerged below the units' waterline prior to the first intercept angle, except that ventilation intakes and outlets for machinery spaces, crew spaces, and other spaces where ventilation is normally required are considered as openings through which downflooding could occur regardless of location.

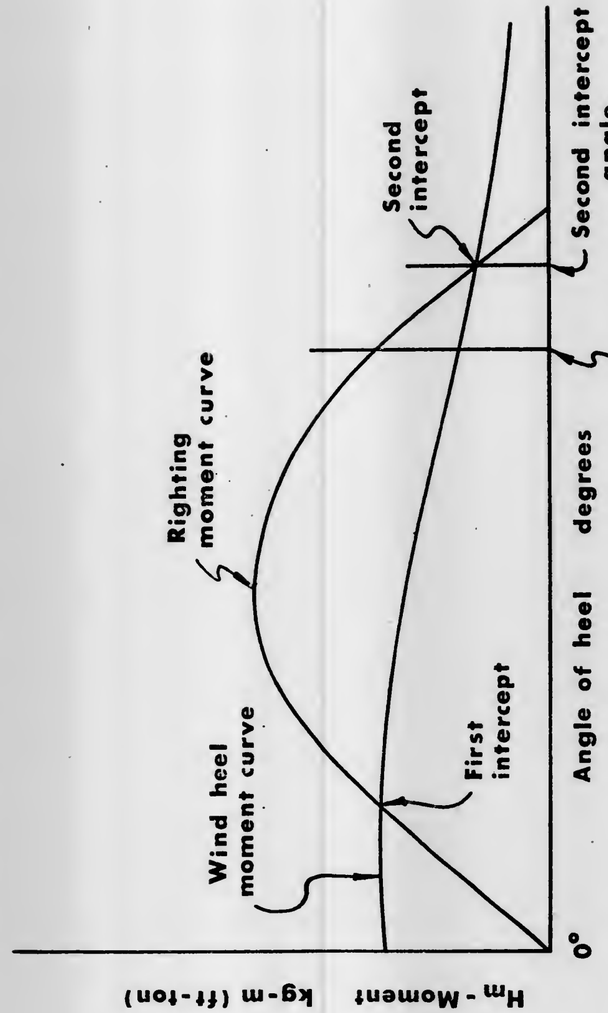
(d) Each unit must be designed so that it can be changed from each of its normal operating conditions to a severe storm condition within a minimum period of time consistent with the operating manual required in § 109.121.

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§ 108.309 Stability on bottom.

(iii) 25.8 meters per second (50 ating conditions and severe storm con-

Graph 108.305 - Intact Stability Curves for a Given Normal Operating or Severe Storm Mode



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§ 108.309 Stability on bottom.

Each bottom bearing unit must be designed so that, while supported on the sea bottom with footings or a mat, it continually exerts a downward force on each footing or the mat when subjected to the forces of wave and current and to wind blowing at the velocities described in § 108.311(b)(3).

§ 108.311 Calculation of wind heeling moment (Hm).

(a) The wind heeling moment (Hm) of a unit in a given normal operating condition or severe storm condition is the sum of the individual wind heeling moments (H) calculated for each of the exposed surfaces on the unit; i.e., $Hm=\Sigma H$.

(b) Each wind heeling moment (H) must be calculated using the equation $H=kv^2C_hC_sAh$, where—

(1) H=wind heeling moment for an exposed surface on the unit;

(2) k=0.0623 kilograms (kg-sec^2)/m^4 (0.00338 lb/(ft^2-knots^2));

(3) v=wind velocity of—

(i) 36 meters per second (70 knots) for normal operating conditions.

(ii) 51.5 meters per second (100 knots) for severe storm conditions.

(iii) 25.8 meters per second (50 knots) for damage conditions.

(4) A=projected area of an exposed surface on the unit;

(5) C_h=height coefficient for "A" from Table 108.311(a);

(6) C_s=shape coefficient for "A" from Table 108.311(b); and

(7) h=the vertical distance from the center of lateral resistance of the underwater hull to the center of wind pressure on "A".

(c) When calculating "A" in the equation described in paragraph (b) of this section—

(1) The projected area of each column or leg, if the unit has columns or legs, must not include shielding allowances;

(2) Each area exposed as a result of heel must be included;

(3) the projected area of a cluster of deck houses may be used instead of the projected area of each individual deck house in the cluster; and

(4) The projected area of open truss work may be calculated by taking 30% of the projected areas of both the front and back sides of the open truss work rather than by determining the projected area of each structural member of the truss work.

TABLE 108.311(a).—C_h Values

Height				C_h
Meters		Feet		
Over	*Not exceeding*	*Over*	*Not exceeding*	
0	15.3	0	50	1.00
15.3	30.5	50	100	1.10
30.5	46.0	100	150	1.20
46.0	61.0	150	200	1.30
61.0	76.0	200	250	1.37
76.0	91.5	250	300	1.43
91.5	106.5	300	350	1.48
106.5	122.0	350	400	1.52
122.0	137.0	400	450	1.56
137.0	152.5	450	500	1.60
152.5	167.5	500	550	1.63
167.5	183.0	550	600	1.67
183.0	198.0	600	650	1.70
198.0	213.5	650	700	1.72
213.5	228.5	700	750	1.75
228.5	244.0	750	800	1.77
224.0	256.0	800	850	1.79
Above 256		Above 850		1.80

NOTE: The "C_h" value in this table used in the equation described in section 108.311(b) corresponds to the value of the vertical distance in meters (feet) from the water surface at the design draft of the unit to the center of area of the "A" value used in the equation.

TABLE 108.311(b).—C_s Values

Shape	C_s
Cylindrical shapes	0.5
Hull (surface type)	1.0
Deckhouse	1.0
Cluster of deckhouses	1.1
Isolated structural shapes (cranes, angles, channels, beams, etc.)	1.5
Under deck areas (smooth surfaces)	1.0
Under deck areas (exposed beams and girders)	1.3
Rig derrick (each face and open truss works)	1.25

NOTE.—The value of C_s in this table used in the equation described in § 108.311(b) corresponds to the shape of the projected Area "A" in the equation.

§ 108.313 Submission of intact stability data.

Intact stability data submitted under § 107.305 of this subchapter must contain the righting moment curves and wind heeling moment curves described in graph 108.305 of this subpart, each with supporting calculations, for each of the unit's normal operating conditions and severe storm conditions.

§ 108.315 Damage stability requirements.

(a) Each unit must be designed so that, while in each of its normal operating conditions and severe storm conditions, its final equilibrium waterline would remain below the lowest edge of any opening through which additional flooding could occur if the unit were subjected simultaneously to—

(1) Damage causing flooding described in §§ 108.319 through 108.323; and

(2) A wind heeling moment calculated in accordance with § 108.311(b) using a wind velocity of 25.8 meters per second (50 knots).

(b) Each unit must have a means to close off each pipe, ventilation system, and trunk in each compartment described in § 108.321 or § 108.323 if any portion of the pipe, ventilation system, or trunk is within 1.5 meters (5 feet) of the hull.

§ 108.317 General damage stability assumptions.

For the purpose of determining compliance with § 108.315 of this subpart, the assumptions are made that during flooding and the resulting change in the unit's waterline—

(a) The unit is not anchored or moored; and

(b) No compartment on the unit is ballasted or pumped out to compensate for the flooding described in §§ 108.319-108.323 of this subpart.

§ 108.319 Compartments assumed flooded: general.

The individual flooding of each of the compartments described in § 108.321 and § 108.323 of this subpart must be assumed for the purpose of determining compliance with § 108.315(a) of this subpart. Simultaneous flooding of more than one compartment must be assumed only when indicated in § 108.321 and § 108.323.

§ 108.321 Flooding on self-elevating and surface type units.

(a) On a surface type unit or self-elevating unit, all compartments within 1.5 meters (5 feet) of the hull of the unit between two adjacent main watertight bulkheads, the bottom shell, and the uppermost continuous deck or first superstructure deck where superstructures are fitted must be assumed to be subject to simultaneous flooding.

(b) On the mat of a self-elevating unit, all compartments of the mat must be assumed to be subject to individual flooding.

an aggregate power of at least 1000

ed and any other obstructions do not

least 3.5 kilograms per square centi-

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§ 108.323 Flooding on column stabilized units.

(a) Watertight compartments that are outboard of, or traversed by, a plane which connects the vertical centerlines of the columns on the periphery of the unit, and within 1.5 meters (5 feet) of an outer surface of a column or footing on the periphery of the unit, must be assumed to be subject to flooding as follows:

(1) When a column is subdivided into watertight compartments by horizontal watertight flats, all compartments in the column within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(2) When a column is subdivided into watertight compartments by vertical watertight bulkheads, each two adjacent compartments must be assumed subject to simultaneous flooding if the distance between the vertical watertight bulkheads, measured at the column periphery, is equal to or less than one-eighth of the column perimeter at the draft under consideration.

(3) When a column is subdivided into watertight compartments by horizontal watertight flats and vertical watertight bulkheads, those compartments that are within the bounds described in paragraph (a)(2) and within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(b) Each compartment in a footing must be assumed to be subject to individual flooding when any part of the compartment is within 1.5 meters (5 feet) of the unit's waterline before damage causing flooding.

§ 108.325 Permeabilities.

The calculations submitted in accordance with § 108.329 of this subpart must show the permeability of each space considered in the calculations. The calculation of each permeability used must also be shown unless the value used is listed in Table 108.325.

TABLE 108.325—*Permeability Values*

Space	Permeability
Cargo or storage space	[1]0.95
Accommodation space	0.95
Machinery space	0.85
Tank intended for liquids	[2]0.0 or 0.95

[1]Actual value may be calculated and used.
[2]Use the value which results in the greatest change in the unit's waterline.

§ 108.329 Submission of damage stability data and calculations.

Damage stability data must be submitted for approval before the unit's original inspection for certification. These data must contain residual righting moment curves, wind heeling moment curves, and plans or sketches showing the unit's final equilibrium waterline, with supporting calculations for each, for each of the unit's normal operating conditions and severe storm conditions. These data must show compliance with § 108.315.

§ 108.335 Stability test.

(a) Except as provided in paragraph (c) of this section, the owner of a unit must—

(1) Conduct a stability test of the unit to determine the location of its center of gravity and lightship displacement; and

(2) Submit the results of the test for approval by the Coast Guard before the unit's original inspection for certification.[1]

(b) An authorized Coast Guard representative must be present at each stability test conducted under this section

(c) A stability test is not required for a unit if the owner provides the Coast Guard with the Coast Guard approved results of a stability test of a sister unit and the Commandant determines that reliable stability information for the unit not tested is obtainable from the test results of the sister unit.

§ 108.337 Plans and information required at the stability test.

The owner of a unit must provide the following plans and information to the authorized Coast Guard representative prior to the stability test:

(a) Lines.

(b) Curves of form.

(c) Capacity plans showing capacities and vertical and longitudinal centers of gravity of stowage spaces and tanks.

(d) Tank sounding tables.

(e) Draft mark locations.

(f) General arrangement plan of decks, holds, and inner bottoms.

(g) Inboard and outboard profile.

(h) A complete list of material or equipment to be installed, removed, or relocated after the test, including the weight and location of each item on the list.

§ 108.339 Stability test preparations.

The following preparations must be made before conducting a stability test:

(a) The unit must be as complete as practicable at the time of the test.

(b) Each tank must be either empty and dry or full and without air pockets, except that a tank may be partially filled if the Commandant (G-MMT) determines that compliance with this requirement is impracticable and that the effect of partial filling on the location of the center of gravity and the displacement of the unit can be accurately determined.

(c) All dunnage, tools, and other items extraneous to the complete unit must be removed from the unit.

(d) The water depth at the mooring site must provide ample clearance against grounding.

(e) Each mooring line must be arranged so that it does not interfere with the free inclination of the unit during the test.

(f) The draft and axis of rotation selected for the test must be those that result in acceptable accuracy in calculating the unit's displacement and location of center of gravity.

(g) At least two weeks prior to the date of the test, a stability test procedure must be submitted for approval. The procedure must include:

(1) Identification of the unit to be tested.

(2) Date and location of the test.

(3) Inclining weight data.

(4) Pendulum locations and lengths.

(5) Approximate draft and trim of the unit.

(6) Condition of each tank.

(7) Estimated items to be installed, removed, or relocated after test, including the weight and location of each item.

(8) Schedule of events.

§ 108.341 Stability test deviation.

The authorized Coast Guard representative present at a stability test may allow a deviation from the requirement of § 108.337 of this subpart if he determines that the deviation will not affect the accuracy of the test results.

§ 108.343 Stability: alterations.

Where alterations are made which materially affect the stability of a unit, amended stability information must be approved by the Coast Guard. The Coast Guard may require the unit to have a new stability test.

Subpart D—Fire Extinguishing Systems

§ 108.401 Fire main system.

Each unit must have a fire main system.

§ 108.403 Fire extinguishing systems: General.

(a) Each of the following on a unit must have an approved fixed gaseous type extinguishing system:

(1) Each paint locker, oil room, and similar space.

(2) Each enclosed space containing internal combustion or gas turbine main propulsion machinery.

(3) Each enclosed space containing internal combustion machinery with an aggregate power of at least 1000 B.H.P.

(4) Each enclosed space containing a fuel oil unit, including purifiers, valves, or manifolds for main propulsion machinery or internal combustion machinery with an aggregate power of at least 1000 B.H.P.

(5) Each enclosed ventilation system for electric motors or generators used for vital services including bilge pumps, fire pumps, or propulsion.

(b) Each space containing an oil fired boiler, the fuel oil unit or valves for the boiler, or manifolds in the line between the fuel settling tanks and the boiler on a unit must have a fixed gas type, foam, water spray, or other approved fire extinguishing system.

§ 108.403a Fire extinguishing systems: non-vital services.

Each enclosed ventilating system for electric motors or generators not used for vital services must have an access into the system for firefighting or be protected by a fixed fire protection system.

§ 108.404 Selection of fire detection system.

(a) If a fire detector is in a space, it must provide effective detection of fires most likely to occur in the space.

(b) The fire detection system must be designed to minimize false alarms.

§ 108.405 Fire detection system.

(a) Each fire detection system and each smoke detection system on a unit must—

(1) Be approved by the Commandant; and

(2) Have a visual alarm and an audible alarm in the pilothouse or at a normally manned control station for the system.

(b) Each fire detection system must be divided into zones to limit the area covered by any particular alarm signal.

(c) Each visual alarm must—

(1) Have a chart or diagram next to the alarm that shows the location of the zones in the system and that contains the instructions for operating, and testing the system;

(2) When activated show the zone in the system where fire has been detected; and

(3) Be in a noticeable location in the pilothouse or control station.

§ 108.407 Detectors for electric fire detection system.

(a) Each detector in an electric fire detection system must be located where—

(1) No portion of the overhead of a space protected is more than 3 meters (10 feet) from a detector;

(2) Beams and girders extending below the ceiling of the space protected and any other obstructions do not detract from the effectiveness of the detector; and

(3) Damage to the detector is unlikely to occur if it is not protected.

(b) Each detector must be set to activate at not less than 57° C (135° F) and at not more than 73° C (165° F), except that if a space normally has a high ambient temperature each detector may be set to activate at not less than 80° C (175° F) and not more than 107° C (225° F).

§ 108.409 Location and spacing of tubing in pneumatic fire detection system.

(a) All tubing in a pneumatic fire detection system must be on the overhead or within 300 millimeters (12 inches) of the overhead on a bulkhead in a location where—

(1) No portion of the overhead is more than 3.6 meters (12 feet) from the nearest point of tubing;

(2) Beams or girders extending below the ceiling or other obstructions do not detract from the effectiveness of the tubing; and

(3) Damage to the tubing, is unlikely to occur if it is not protected.

(b) If tubing in a tubing circuit is installed in an enclosed space, at least 5% of the tubing in the circuit must be exposed in the space, except that at least 7.6 meters (25 feet) of tubing must always be exposed in the space.

(c) A pneumatic fire detection system must be set to activate after approximately a 22°C. (40°F.) per minute increase in temperature at the center of the circuit in the system.

§ 108.411 Smoke detection system.

Each smoke accumulator in a smoke detection system must be located on the overhead of the compartment protected by the system in a location—

(a) Where no portion of the overhead of the compartment is more than 12 meters (40 feet) from an accumulator;

(b) That is no closer to the opening of a ventilator than 3 times the diameter or equivalent size of the opening.

(c) Where damage to the accumulator is unlikely to occur if it is not protected.

§ 108.413 Fusible element fire detection system.

(a) A fusible element fire detection system may be installed.

(b) The arrangements for the system must be acceptable to the Commandant.

FIRE MAIN SYSTEM

§ 108.415 Fire pump: general.

A fire main system must have at least two independently driven fire pumps that can each deliver water at a continuous pitot tube pressure of at least 3.5 kilograms per square centimeter (approximately 50 pounds per square inch) at at least two fire hose nozzles that are connected to the highest two fire hydrants on the unit. Alternative designs that meet the pressure requirement of this paragraph will be considered for column stabilized and self elevating units.

§ 108.417 Fire pump components and associated equipment.

(a) Each fire pump in a fire main system must have a relief valve on its discharge side that is set to relieve at 1.75 kilograms per square centimeter (approximately 25 pounds per square inch) in excess of the pump discharge pressure necessary to meet the pressure required in § 108.415 for the pump or 8.6 kilograms per square centimeters (approximately 125 pounds per square inch), whichever is greater. A relief valve may be omitted if the pump operating under shut off condition is not capable of developing the pressure described in § 108.415 plus 1.75 kilograms per square centimeter (25 pounds per square inch).

(b) Each fire pump in a fire main system must have a pressure gauge on its discharge side.

(c) Fire pumps may be used for other purposes. One of the required pumps must be kept available for use on the fire system at all times. If a fire pump is used in a system other than the fire main system, except for branch lines connected to the fire main for deck washing, each pipe connecting the other system must be connected to the pump discharge through a shut off valve at a manifold near the pump. If the fire pump exceeds the pressure in § 108.417(a), the pipe leading from the discharge manifold to other portions of the fire main system must have a reducing station and a pressure gauge in addition to the pressure gauge required by paragraph (b) of this section.

(d) If a fire pump has a reducing station, the relief valve required by paragraph (a) of this section for the pump and the additional pressure gauge required in paragraph (c) of this section must not be located on the discharge side of the reducing station.

(e) An oil line must be connected to a fire pump.

§ 108.419 Fire main capacity.

The diameter of the fire main must be sufficient for the effective distribution of the maximum required discharge from two fire pumps operating simultaneously.

§ 108.421 Location of fire pumps and associated equipment.

Each fire pump required by § 108.415, and the source of power, controls, sea connections for the fire

[1]A stability letter is issued by the Coast Guard after approval of the test results and of the information required in § 109.121.

the supply pipe, whichever is smaller.

type box that is next to and visible

tional gas introduced into the system,

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pump, and booster pumps, if installed, must be installed in locations where, if a fire occurs in an enclosed space, all of the fire pumps on the unit are not made inoperative, except that if compliance with this requirement is impracticable, a gas type extinguishing system may be installed to protect at least one of the fire pumps, its source of power, and controls.

§ 108.423 Fire hydrants and associated equipment.

(a) A fire main system must have enough fire hydrants so that each accessible space may be sprayed with at least two spray patterns of water.

(b) In a main machinery space, except a shaft alley with no assigned space for stowage of combustibles, each spray pattern of water must be from one length of fire hose and each must be from a separate outlet. In all other spaces at least one spray pattern of water must be from one length of fire hose.

(c) No outlet on a fire hydrant may point above the horizontal.

(d) Each fire hydrant must have at least one spanner and at least one fire hose rack or reel.

§ 108.425 Fire hoses and associated equipment.

(a) Each length of fire hose in a fire main system must be—

(1) Of 1½ or 2½ inch nominal hose size diameter;

(2) Of 50 foot nominal hose size length; and

(3) Lined commercial fire hose that meets Standard 19 of the Underwriters' Laboratories, Inc., (1971 edition) or Federal Specification ZZ-H-451f.

(b) Each fire hose coupling must—

(1) Be made of brass, bronze, or material that has corrosion resistant properties at least equal to those of brass or bronze; and

(2) Have 9 National Standard Fire-hose Coupling (NSFC) threads per inch for 1½ inch hose or 7½ NSFC threads per inch for 2½ inch hose.

(c) Each nozzle for a fire hose in a fire main system must be a combination solid stream and water spray fire hose nozzle that is approved under Subpart 162.027 of this chapter.

(d) A low velocity spray applicator approved under Subpart 162.027 of this chapter is required at each fire hydrant serving—

(1) Machinery spaces containing oil fired boilers, internal combustion machinery or oil fuel units; and

(2) Helicopter decks.

§ 108.427 International shore connection.

A fire main system on a unit in international service must have—

(a) at least one international shore connection that meets the requirements in Subpart 162.034 of this Chapter;

(b) a cutoff valve and check valve for each connection; and

(c) facilities available enabling the connection to be used on either side of the unit.

§ 108.429 Fire main system protection.

(a) Each pipe and fire hydrant in a fire main system must be installed to the extent practicable in locations that are not exposed to damage by materials that are moved on or onto the deck.

(b) Each part of the fire main system located on an exposed deck must either be protected against freezing or be fitted with cutout valves and drain valves to shut off and drain the entire exposed system in freezing weather.

Fixed Carbon Dioxide Fire Extinguishing Systems

§ 108.431 CO_2 systems: general.

(a) Sections 108.431 through 108.457 apply to high pressure carbon dioxide fire extinguishing systems.

(b) Low pressure systems, that is, those in which the carbon dioxide is stored in liquid form at low temperature, must be approved by the Commandant.

§ 108.433 Quantity of CO_2: general.

Each CO_2 system must have enough gas to meet the quantity requirements of § 108.439 for the space requiring the greatest amount of CO_2.

§ 108.435 CO_2 for enclosed ventilation systems for rotating electrical equipment.

(a) The number of pounds of CO_2 required for the initial charge to protect enclosed ventilation systems for rotating electrical equipment must be equal to the gross volume measured in cubic feet of the system divided by—

(1) 10 systems having a volume less than 57 cubic meters (2,000 cubic feet), or

(2) 12 for systems having a volume of 57 cubic meters (2,000 cubic feet) or more.

(b) In addition to the CO_2 required for the intial charge, the system must have enough CO_2 for delayed charges to maintain at least a 25 percent concentration until the equipment can be stopped, unless the initial charge is enough to maintain a 25 percent concentration.

§ 108.437 Pipe sizes and discharges rates for enclosed ventilation systems for rotating electrical equipment.

(a) The minimum pipe size for the initial charge must meet table 108.441 and the discharge of the required amount of CO_2 must be completed within 2 minutes.

(b) The minimum pipe size for the delayed discharge must be at least 1.25 centimeters (½ inch) standard pipe.

(c) The pipe used for the initial discharge must not be used for the delayed discharge, except systems having a volume of less than 57 cubic meters (2,000 cubic feet).

§ 108.439 Quantity of CO_2 for protection of spaces.

(a) The number of pounds of CO_2 required to protect a space must be equal to the gross volume of the space divided by the appropriate factor from Table 108.439.

(b) If a machinery space includes a casing, the gross volume of the space may be calculated using the reductions allowed in 46 CFR 95.10-5(e).

(c) If fuel can drain from a space to an adjacent space or if two spaces are not entirely separate, the requirements for both spaces must be used to determine the amount of CO_2 to be provided and the CO_2 system must be arranged to discharge into both spaces simultaneously.

TABLE 108.439.—*CO_2 Supply Factors*

[Gross volume of space in cubic feet]

Over	Not over	Factor
0	500	15
500	1,600	16
1,600	4,500	18
4,500	50,000	20
50,000		22

§ 108.441 Piping and discharge rates for CO_2 systems.

(a) The size of branch lines to spaces protected by a CO_2 system must meet Table 108.441.

(b) Distribution piping within a space must be proportioned from the supply line to give proper distribution to the outlets without throttling.

(c) The number, type, and location of discharge outlets must distribute the CO_2 uniformly throughout the space.

TABLE 108.441.—*CO_2 System Pipe Size*

CO_2 supply in system, kilograms (pounds)	Minimum pipe size (inches), millimeters (inches)
45 (100)	12.7 (½).
104 (225)	19.05 (¾).
136 (300)	25.4 (1).
272 (600)	31.75 (1¼).
450 (1,000)	38.10 (1½).
1,110 (2,450)	50.80 (2).
1,130 (2,500)	63.5 (2½).
2,023 (4,450)	76.2 (3).
3,229 (7,100)	88.9 (3½).
4,750 (10,000)	101.6 (4).
6,818 (15,000)	114.3 (4½).

(d) The total area of all discharge outlets must be more than 35 percent and less than 85 percent of the nominal cylinder outlet area or the area of

the supply pipe, whichever is smaller. The nominal cylinder outlet area in square centimeters is determined by multiplying the factor 0.0313 by the number of kilograms of CO_2 required. (The nominal cylinder outlet area in square inches is determined by multiplying the factor 0.0022 by the number of pounds of CO_2 required). The nominal cylinder outlet area must not be less than 71 square millimeters (0.110 square inches).

(e) A CO_2 system must discharge at least 85 percent of the required amount within 2 minutes.

§ 108.443 Controls and valves.

(a) At least one control for operating a CO_2 system must be outside the space or spaces that the system protects and in a location that would be accessible if a fire occurred in any space that the system protects. Control valves must not be located in a protected space unless the CO_2 cylinders are also in the protected space.

(b) A CO_2 system that protects more than one space must have a manifold with a stop valve, the normal position of which is closed, that directs the flow of CO_2 to each protected space.

(c) A CO_2 system that protects only one space must have a stop valve installed between the cylinders and the discharge outlets in the system, except on a system that has a CO_2 supply of 136 kilograms (300 pounds) or less.

(d) At least one of the control stations in a CO_2 system that protects a machinery space must be as near as practicable to one of the main escapes from that space.

(e) All distribution valves and controls must be of an approved type.

(f) Each CO_2 system that has a stop valve must have a remote control that operates only the stop valve and must have a separate remote control for releasing the required amount of CO_2 into the space protected by the system.

(g) Each CO_2 system that does not have a stop valve must be operated by a remote control that releases the required amount of CO_2 into the space protected by the system.

(h) Remote controls to each space must be in an enclosure.

(i) Each system must have a manual control at its cylinders for releasing CO_2 from the cylinders, except that if the system has pilot cylinders, a manual control is not required for other than pilot cylinders.

(j) If gas pressure is used to release CO_2 from a system having more than 2 cylinders, the system must have at least 2 pilot cylinders to release the CO_2 from the remaining cylinders.

(k) If the entrance to a space containing the CO_2 supply or controls of a CO_2 system has a lock, the space must have a key to the lock in a break-glass type box that is next to and visible from the entrance.

§ 108.445 Alarm and means of escape.

(a) Each CO_2 system that has a supply of more than 136 kilograms (300 pounds) of CO_2, except a system that protects a tank, must have an alarm that sounds for at least 20 seconds before the CO_2 is released into the space.

(b) Each audible alarm for a CO_2 system must have the CO_2 supply for the system as its source of power and must be in a visible location in the spaces protected.

§ 108.447 Piping.

(a) Each pipe, valve, and fitting in a CO_2 system must have a bursting pressure of at least 420 kilograms per square centimeter (6,000 pounds per square inch).

(b) All piping for a CO_2 system of nominal size of 19.05 millimeters (¾ inch) inside diamater or less must be at least Schedule 40 (standard weight) and all piping of nominal size over 19.05 millimeters (¾ inch) inside diameter must be at least Schedule 80 (extra heavy).

(c) Each pipe, valve, and fitting made of ferrous materials in a CO_2 system must be protected inside and outside from corrosion.

(d) Each CO_2 system must have a pressure relief valve set to relieve between 168 and 196 kilograms per square centimeter (2,400 and 2,800 pounds per square inch) in the distribution manifold or other location that protects the piping when all branch line shut off valves are closed.

(e) The end of each branch line in a CO_2 system must extend at least 50 millimeters (2 inches) beyond the last discharge outlet and be closed with a cap or plug.

(f) Piping, valves, and fittings in a CO_2 system must be securely supported and protected from damage.

(g) Each CO_2 system must have drains and dirt traps located where dirt or moisture can accumulate in the system.

(h) Discharge piping in a CO_2 system may not be used for any other purpose except as part of a fire detection system.

(i) Piping in a CO_2 system that passes through accommodation spaces must not have drains or other openings within these spaces.

§ 108.449 Piping tests.

(a) Each test prescribed in (b), (c), and (d) of this section must be performed upon completion of the piping installation.

(b) When tested with CO_2 or other inert gas under a pressure of 70 kilograms per square centimeter (1000 pounds per square inch), with no additional gas introduced into the system, the leakage in the piping from the cylinders to the stop valves in the manifold must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2 minute period.

(c) When tested with CO_2 or other inert gas under a pressure of 42 kilograms per square centimeter (600 pounds per square inch), with no additional gas introduced into the system, the leakage in each branch line must not allow a pressure drop of more than 10.5 kilograms per square centimeter (150 pounds per square inch) per minute for a 2-minute period. The distribution piping must be capped within the protected space.

(d) Small independent systems protecting emergency generator rooms, lamp lockers and similar small spaces need not meet the tests prescribed in paragraphs (a) and (b) of this section if they are tested by blowing out the piping with air at a pressure of at least 7 kilograms per square centimeter (100 pounds per square inch).

§ 108.451 CO_2 storage.

(a) Except as provided in paragraph (b) of this section, each cylinder of a CO_2 system must be outside each space protected by the system and in a location that would be accessible if a fire occurred in any space protected by the system.

(b) A CO_2 system that has a CO_2 supply of 136 kilograms (300 pounds) or less may have one or more cylinders in the space protected by the system if the space has a heat detection system to activate the system automatically in addition to the remote and manual controls required by this subpart.

(c) Each space that contains cylinders of a CO_2 system must be ventilated and designed to prevent an ambient temperature of more than 54° C. (130° F.)

(d) Each cylinder in a CO_2 system must be securely fastened, supported, protected from damage, in an accessible location, and capable of removal from that location.

(e) Each unit must have a means for weighing cylinders of a CO_2 system.

(f) A cylinder in a CO_2 system may not be mounted in a position that is inclined more than 30° from a vertical position, except that a cylinder having flexible or bent siphon tubes may be mounted in a position that is inclined up to 80° from the vertical. The bottom of each cylinder when mounted must be at least 5 centimeters (2 inches) from the deck.

(g) If a cylinder does not have a check valve on its independent cylinder discharge, it must have a plug or cap to close the outlet when the cylinder is moved.

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(h) Each CO_2 system cylinder must be made, tested, and marked in accordance with 46 CFR 147.04-1.

§ 108.453 Discharge outlets.

Each discharge outlet must be of an approved type.

§ 108.455 Enclosure openings.

(a) Mechanical ventilation for spaces protected by a CO_2 system must be designed to shut down automatically when the system is activated.

(b) Each space that is protected by a CO_2 system and that has natural ventilation must have a means for closing that ventilation.

(c) Each space protected by a CO_2 system must have the following means for closing the openings to the space from outside the space:

(1) Doors, shutters, or dampers for closing each opening in the lower portion of the space.

(2) Doors, shutters, dampers or temporary means such as canvas or other material normally on board a unit may be used for closing each opening in the upper portion of the space.

§ 108.457 Pressure release.

Each air tight or vapor tight space, such as a paint locker, that is protected by a CO_2 system must have a means for releasing pressure that accumulates within the space if CO_2 is discharged into the space.

Halongenated Gas Extinguishing System

§ 108.458 General.

Halongenated gas extinguishing systems may be installed if approved by the Commandant.

FOAM EXTINGUISHING SYSTEMS

§ 108.459 Number and location of outlets.

(a) A foam extinguishing system in a space must have enough outlets to spread a layer of foam of uniform thickness over the deck or bilge areas of the space.

(b) A foam extinguishing system in a space that has a boiler on a flat that is open to or can drain into a lower portion of the space must have enough outlets to spread a layer of foam of uniform thickness over the—

(1) Flat; and

(2) Deck or bilge areas of the space.

(c) A foam extinguishing system for a tank must have enough outlets to spread a layer of foam of uniform thickness over the surface of the liquid in the tank.

§ 108.461 Coamings.

Each machinery flat in a space that has a foam extinguishing system must have coamings that are high enough to retain spilled oil and foam on the flat on all openings except deck drains.

§ 108.463 Foam rate: Protein.

(a) If the outlets of a protein foam extinguishing system are in a space, the foam rate at each outlet must be at least 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered by the systems.

(b) If the outlets of a protein foam extinguishing system are in a tank, the foam rate at each outlet must be at least 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of liquid surface in the tank.

§ 108.467 Water supply.

The water supply of a foam extinguishing system must not be the water supply of the fire main system on the unit unless when both systems are operated simultaneously—

(a) The water supply rate to the foam production equipment meets the requirements of this section; and

(b) Water supply rate to the fire hydrants required by § 108.415 of this subpart allows compliance with the pressure requirement in that section.

§ 108.469 Quantity of foam producing materials.

(a) Except as provided in paragraph (b) of this section, each foam extinguishing system with outlets—

(1) In a tank must have enough foam producing material to discharge foam for at least 5 minutes at each outlet; and

(2) in a space must have enough foam producing material to discharge foam for at least 3 minutes at each outlet.

(b) If a foam system has outlets in more than one tank or space, the system need have only enough foam producing material to cover the largest space that the system covers or, if the liquid surface of a tank covered by the system is larger, the tank with the largest liquid surface.

§ 108.471 Water pump.

Each water pump in a foam extinguishing system must be outside each machinery space in which the system has outlets and must not receive power from any of those spaces.

§ 108,473 Foam system components.

(a) Each foam agent, each tank for a foam agent, each discharge outlet, each control, and each valve for the operation of a foam extinguishing system must be approved by the Commandant.

(b) Each foam agent tank and each control and valve for the operation of a foam extinguishing system with outlets in a space must be outside the space and must not be in a space that may become inaccessible if a fire occurs in the space.

(c) Each control for a foam extinguishing system with outlets in a space must be near a main escape from the space.

§ 108.474 Aqueous film forming foam systems.

Aqueous film forming foam systems may be installed if approved by the Commandant.

§ 108.475 Piping.

(a) Each pipe, valve, and fitting in a foam extinguishing system must meet the applicable requirements in Subchapter F of this chapter.

(b) Each pipe, valve, and fitting made of ferrous material must be protected inside and outside from corrosion.

(c) Each pipe, valve, and fitting must have support and protection from damage.

(d) Each foam extinguishing system must have enough—

(1) Dirt traps to prevent the accumulation of dirt in its pipes; and

(2) Drains to remove liquid from the system.

(e) Piping in a foam extinguishing system must be used only for discharging foam.

§ 108.477 Fire hydrants.

(a) If a fixed foam extinguishing system has outlets in a main machinery space, at least 2 fire hydrants, in addition to the fire hydrants required by § 108.423 of this subpart, must be installed outside the entrances to the space with each at a separate entrance.

(b) Each hydrant must have enough hose to spray any part of the space.

(c) Each hydrant must have a combination nozzle and applicator.

FIRE PROTECTION FOR HELICOPTER FACILITIES

§ 108.486 Helicopter decks.

At least two of the accesses to the helicopter landing deck must each have a fire hydrant on the unit's fire main system located next to them.

§ 108.487 Helicopter deck fueling operations.

(a) Each helicopter landing deck on which fueling operations are conducted must have a fire protection system that discharges protein foam or aqueous film forming foam.

(b) a system that only discharges foam must—

(1) Have enough foam agent to discharge foam continuously for at least 5 minutes at maximum discharge rate;

(2) Have at least the amount of foam agent needed to cover an area equivalent to the swept rotor area of the

largest helicopter for which the deck is designed with foam at—

(i) If protein foam is used, 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes;

(ii) If aqueous film forming foam is used, 4.07 liters per minute for each square meter (.1 gallons per minute for each square foot) of area covered for five minutes; and

(3) Be capable of discharging from each hose at 7 kilograms per square centimeter (100 pounds per square inch) pressure—

(i) A single foam stream at a rate of at least 340 liters (90 gallons) per minute; and

(ii) A foam spray at a rate of at least 190 liters (50 gallons) per minute.

(c) Each system must have operating controls at each of its hose locations, be protected from icing and freezing, and be capable of operation within 10 seconds after activation of its controls.

(d) Each system must have at least one hose at each of the two access routes required by § 108.235(f) of this Part. Each hose must be reel mounted and long enough to cover any point on the helicopter deck. Each hose that discharges foam must have a nozzle that has foam stream, foam spray, and off positions.

§ 108.489 Helicopter fueling facilities.

(a) Each helicopter fueling facility must have a fire protection system that discharges one of the following agents in the amounts prescribed for the agents over the area of the fuel containment systems around marine portable tanks, fuel transfer pumps and fuel hose reels:

(1) Protein foam at the rate of 6.52 liters per minute for each square meter (.16 gallons per minute for each square foot) of area covered for five minutes.

(2) Aqueous film forming foam at the rate of 4.07 liters per minute for each square meter (.1 gallon per minute for each square foot) of area covered for five minutes.

(3) 22.5 kilograms (50 pounds) of dry chemical (B-V semi-portable) for each fueling facility of up to 27.87 square meters (300 square feet).

(b) If the fire protection system required by § 108.487 of this subpart is arranged so that it covers both a helicopter fueling facility and a landing deck, the system must have the quantity of agents required by this section in addition to the quantity required by § 108.487.

HAND PORTABLE AND SEMIPORTABLE FIRE EXTINGUISHING SYSTEMS

§ 108.491 General.

Each hand portable and semiportable fire extinguisher on a unit must be approved under Subpart 162.028 or 162.039 of this chapter.

§ 108.493 Location.

(a) Each unit must have the hand portable and semiportable fire extinguishers prescribed in Table 108.495(a) of this subpart and installed in the locations prescribed in the table.

(b) Each portable and semi-portable fire extinguisher must be visible and readily accessible.

(c) The location, size, and number of each portable and semiportable fire extinguisher on a unit must be acceptable to the appropriate OCMI. The OCMI may require extinguishers in addition to those prescribed in Table 108.495(a) if he considers them necessary for fire protection on the unit.

(d) Each hand portable and semiportable fire extinguisher that has a nameplate which states that it is to be protected from freezing, must be located where freezing temperatures do not occur.

§ 108.495 Spare charges.

(a) Each unit must have enough spare charges for 50 percent of the hand portable fire extinguishers required under Table 108.495(a) of this subpart that are rechargeable by personnel on the unit.

(b) If a unit has extinguishers that cannot be recharged by personnel on unit, it must also have at least one spare extinguisher for each classification and variety of those extinguishers.

TABLE 108.495(a).—*Hand Portable Fire Extinguishers and Semiportable Fire-Extinguishing Systems*

Space	Classification (see table 108.495(b))	Quantity and location
SAFETY AREAS		
Wheelhouse and control room	C-I	2 in vicinity of exit.
Stairway and elevator enclosure		None required.
Corridors	A-II	1 in each corridor not more than 150 ft (45 m) apart. (May be located in stairways.)
Lifeboat embarkation and lowering stations		None required.
Radio room	C-I	2 in vicinity of exit.
ACCOMMODATIONS		
Staterooms, toilet spaces, public spaces, offices, lockers, small storerooms, and pantries, open decks, and similar spaces.		None required.
SERVICE SPACES		
Galleys	B-II or C-II	1 for each 2,500 ft² (232 m²) or fraction thereof suitable for hazards involved.
Paint and lamp rooms	B-II	1 outside each room in vicinity of exit.
Storerooms	A-II	1 for each 2,500 ft² (232 m²) or fraction thereof located in vicinity of exits, either inside or outside the spaces.
Work shop and similar spaces	C-II	1 outside each space in vicinity of an exit.
MACHINERY SPACES		
Oil-fired boilers: Spaces containing oil-fired boilers, either main or auxiliary, or their fuel oil units.	B-II	2 required in each space.
	B-V	1 required in each space.
Internal combustion or gas turbine propelling machinery spaces.	B-II	1 for each 1,000 brake horsepower but not less than 2 nor more than 6 in each space.
	B-III	1 required in each space. See note 1.
Motors or generators of electric propelling machinery that do not have an enclosed ventilating system.	C-II	1 for each motor or generator.
Motors and generators of electric propelling machinery that have enclosed ventilating systems.		None required.
AUXILIARY SPACES		
Internal combustion engines or gas turbine	B-II	outside the space containing engines or turbines in vicinity of exit.
Electric emergency motors or generators	C-II	1 outside the space containing motors or generators in vicinity of exit.
Steam driven auxiliary machinery		None required.
Trunks to machinery spaces		Do.
Fuel tanks		Do.
MISCELLANEOUS AREAS		
Helicopter landing decks	B-V	1 at each access route.
Helicopter fueling facilities	B-IV	1 at each fuel transfer facility. See note 2.
Drill floor	C-II	2 required.
Cranes with internal combustion engines	B-II	1 required.

NOTE.—1. Not required where a fixed gas extinguishing system is installed.
2. Not required where a fixed foam system is installed in accordance with sec. 108.489 of this subpart.

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being launched to the water at the

(2) Mechanical disengaging appara-

§ 108.514 Life preservers.

TABLE 108.495(b)

	Classification: Type and size	Water liters (gallons)	Foam liters (gallons)	Carbon dioxide kilograms (pounds)	Dry chemical kilograms (pounds)	Halon 1211 kilograms (pounds)
A	II	9.5 (2½)	9.5 (2½)		2.25 (5) [3]	
B	I		4.7 (1¼)	1.8 (4)	0.9 (2)	1.1 (2½)
B	II		9.5 (2½)	6.7 (15)	4.5 (10)	4.5 (10) [4]
B	III		45.5 (12)	15.8 (35)	9.0 (20)	
B	IV		7.6 (20)	22.5 (50)	13.5 (30)	
B	V		152 (40)	45 (100) [4]	22.5 (50) [4]	
C	I			1.8 (4)	0.9 (2)	
C	II			6.7 (15)	4.5 (10)	
C	III			15.8 (35)	9.0 (20)	
C	IV			22.5 (50)	13.5 (30)	

NOTE 1.—Fire extinguisher are designed by type as follows: (a) "A" for fires in combustible materials such as wood, (b) "B" for fires in flammable liquids and greases, (c) "C" for fires in electrical equipment.

2.—Fire extinguishers are designated by size where size "I" is the smallest and size "V" is the largest. Sizes "I" and "II" are hand-portable extinguishers and sizes "III", "IV", and "V" are semiportable extinguishers.

3.—Must be specifically approved as a type A, B, or C extinguisher.

4.—For outside use, double the quantity of agent that must be carried.

5.—For outside use only.

MISCELLANEOUS FIREFIGHTING EQUIPMENT

§ 108.497 Fireman's outfits.

Each unit must have at least 2 fireman's outfits. Each fireman's outfit on a unit must consist of—

(a) A self-contained breathing apparatus approved under § 160.011 of this chapter;

(b) A three-cell, explosion proof flashlight with the Underwriter's Laboratories, Inc., label and set of spare batteries for the flashlight;

(c) An oxygen and explosive meter with the Underwriter's Laboratories, Inc. label or the Factory Mutual label;

(d) A lifeline that—

(1) Is attached to the self-contained breathing apparatus;

(2) Is made of bronze wire rope, inherently corrosion resistant steel wire rope, or galvanized or tinned steel wire rope;

(3) Is made up of enough 15.2 meters (50 foot) or greater lengths of wire rope to permit use of the outfit in any location on the unit;

(4) Has each end fitted with a hook with a 16 millimeters (⅝ inch) throat opening for the keeper; and

(5) Has a minimum breaking strength of 680 kilograms (1,500 pounds).

(e) Boots and gloves that are made of rubber or other electrically nonconductive material;

(f) A helmet that meets the requirements in ANSI standard Z-89.1-1969; and

(g) Clothing that protects the skin from scalding steam and the heat of fire and that has a water resistant outer surface.

§ 108.499 Fire axes.

Each unit must have at least two fire axes.

Subpart E—Lifesaving Equipment

§ 108.501 Survival capsule.

For the purposes of this subchapter, the term lifeboat includes survival capsules.

§ 108.503 Lifeboats.

(a) Each unit with 30 persons or less allowed on board must have at least one lifeboat. Each unit with more than 30 persons allowed on board must have at least two lifeboats. The total number of lifeboats on a unit must accommodate all personnel on board.

(b) Each lifeboat on a unit must be approved under Subpart 160.035 of this chapter.

(c) Each lifeboat on a unit must be motor propelled and have a permanently installed rigid enclosure of international orange that provides protection from exposure and fire during operation of the lifeboat.

(d) Each lifeboat on a unit must have the equipment required by § 94.20-10 of this Chapter for a lifeboat on an ocean or coastwise vessel other than a seagoing barge, except that the following equipment is not required:

(1) Ditty bag.

(2) Lantern if the lifeboat has equivalent interior lighting.

(3) Illuminating oil, if the lifeboat does not carry a lantern.

(4) Protecting cover.

(e) In addition to the equipment listed in paragraph (d), the following equipment is not required for each lifeboat on a unit which is not in international service:

(1) Condensed milk.

(2) Oars.

(3) Storm oil.

(4) Provisions.

(5) Rowlocks.

(f) Each lifeboat must have a list of the equipment it is required to carry. Except for boat hooks, the equipment and list must be securely stowed in the lifeboat. The equipment required by paragraph (d) must meet the requirements of § 94.20-15 of this Chapter.

(g) Each unit must have a manual for each lifeboat containing the following detailed information:

(1) Instructions for launching the lifeboat.

(2) Instructions for operating the lifeboat, its accessories, and its equipment.

(3) Maintenance and repair instructions.

(4) Schedule of periodic maintenance.

(5) Diagram of lubrication points with recommended lubricants.

(6) List of replaceable parts.

(7) List of sources of repair parts.

(8) Log of records of inspections and maintenance.

§ 108.505 Liferafts.

(a) Each unit must have enough inflatable liferafts to accommodate at least 100% of the persons allowed on board.

(b) Each inflatable liferaft on a unit must—

(1) be approved under Subpart 160.051 of this chapter as an inflatable liferaft intended for an ocean service vessel; and

(2) have a carrying capacity of not less than 6 nor more than 25 persons.

(c) Lifeboats in addition to those required by § 108.503 may be substituted for inflatable liferafts.

§ 108.506 Lifeboat and liferaft launching capability.

(a) Each lifeboat and liferaft on a surface type unit must be capable of being launched to the water at the minimum operating draft when the unit has an adverse list up to 15° or trim up to 10°.

(b) Each lifeboat and liferaft on a non-surface type unit must be capable of being launched to the water at the maximum operating height above the water when the unit has an adverse list and trim, the amount of which is determined by the characteristics of the unit.

(c) Each liferaft on a unit which is launched from a position more than 3 meters (10 ft.) above the water must be davit launched.

§ 108.507 Launching equipment for lifeboats.

(a) Each unit must have the following launching equipment for each lifeboat:

(1) Mechanical disengaging apparatus that is approved under Subpart 160.033 of this chapter.

(2) Gravity davits that are approved under Subpart 160.032 of this chapter.

(3) A winch that is approved under Subpart 160.015 of this chapter.

(4) A means to hold the lifeboat steady in a location that allows the full complement to board the boat prior to launching.

(5) Wire falls that are—

(i) Equal or superior to 6 x 19 regular lay filler wire, pre-lubricated during construction;

(ii) Not more than 2 part falls; and

(iii) Designed to have a minimum breaking strength of at least six times the maximum working load.

(6) Blocks, if necessary to allow the falls to lead freely from the drum of the winch, that—

(i) Have sheaves each with a diameter measured from the base of the groove in the sheave that is at least 12 times as large as the diameter of the fall passing over the sheave;

(ii) Have a means to lubricate the moving parts of the blocks; and

(iii) Are designed to have a minimum breaking strength of at least six times the maximum working load.

(b) The lowering mechanism for the lifeboat must be operative from the lifeboat and from the unit.

(c) Each exposed wire fall on a unit must have a cover or means of protection from damage or fouling.

(d) The winch controls on the unit must be located where the operator can observe the lifeboat launching.

§ 108.508 Launching equipment for davit launched inflatable liferafts.

(a) Each unit must have the following launching equipment at each launching station:

(1) Winches that are approved by the Commandant (G-MMT).

(2) Mechanical disengaging apparatus that is approved by the Commandant (G-MMT).

(3) Davits that are approved by the Commandant (G-MMT).

(4) Load bearing components that meet §§ 108.507(a)(5), 108.507(c), and 108.509.

(5) A means to hold the liferaft in a location that allows a person to enter the liferaft.

(6) A means to rapidly retrieve the falls if the station has more than one liferaft.

(b) The launching equipment must be capable of being operated by a person in the liferaft and a person on the unit.

(c) The winch controls on the unit must be located where the operator can observe the liferaft launching.

(d) The launching equipment must be arranged so that a loaded liferaft does not have to be lifted before it is lowered.

(e) Not more than two liferafts may be launched from the same set of launching equipment.

§ 108.509 Wire fall fleet angle.

(a) "Fleet angle" is the angle made by two lines that intersect at the center of the sheave. One line is perpendicular to the axis of the drum and the other passes through either end of the drum at its axis.

(b) The portion of a wire fall between the drum of a winch on a unit and the first sheave over which the wire fall passes must have a fleet angle that is less than 8 degrees if the drum is a grooved drum and less than 4 degrees if the drum is a nongrooved drum.

§ 108.510 Hydrostatic releases.

Each inflatable liferaft that is not intended for davit launching must have—

(a) A hydrostatic release approved under Subpart 160.062 of this chapter; or

(b) A means to ensure that the liferaft will float free if the unit sinks.

§ 108.511 Lifeboat and liferaft arrangement.

The lifeboats and liferafts on a unit must be arranged—

(a) To provide ready access to them;

(b) So that a fire or other casualty does not immobilize all lifeboats and liferafts;

(c) So that they are accessible for inspection, maintenance, and testing;

(d) In locations clear of overboard discharge lines, propellers, and hull obstructions; and

(e) In locations to launch as designed.

§ 108.514 Life preservers.

(a) Each unit must have enough adult life preservers for 125% of the persons allowed on board.

(b) Each unit must have lockers, boxes, closets, shelves, or racks in readily accessible locations in berthing areas, watch stations, or other work areas for the stowage of life preservers. The stowage containers must not be capable of being locked.

(c) Each life preserver on a unit must be approved under Subpart 160.002, 160.005, or 160.055 of this chapter as a Type I—personal flotation device.

(d) Each life preserver on a unit must have a whistle that is—

(1) Of a ball-type;

(2) Corrosion resistant; and

(3) Attached to the life preserver by a 1 meter (3 foot) lanyard that—

(i) Does not have hooks, snaps, clips, or other metal connecting devices;

(ii) Allows the whistle to extend at least 38 centimeters (15 inches) from the top of the life preserver; and

(iii) Is coiled and bound with breakable thread.

§ 108.515 Ring life buoys.

(a) Each unit must have at least eight ring life buoys and mounting racks.

(b) Each ring life buoy on a unit must—

(1) Have a mounting rack that secures the buoy and allows it to be easily removed from the rack;

(2) Be approved under Subpart 160.009 or 160.050 of this chapter.

(c) At least four ring life buoys on a unit must each have a waterlight attached to the buoy by a 1 to 2 meters (3 to 6 foot) lanyard. Each waterlight must be approved under Subpart 161.012 of this chapter.

(d) At least two ring life buoys that have water light must each—

(1) Have a smoke signal approved under Subpart 160.057 of this chapter that self-activates when the ring life buoy is released from its mounting rack;

(2) Have a releasing mechanism that can be operated from the bridge, except that if the bridge is not continuously manned the mechanism must be capable of operation from a location authorized by the OCMI; and

(3) Be mounted in a location where the buoy, if released by the releasing mechanism, will drop into the water.

(e) At least one ring life buoy on each side of the unit, excluding those required by paragraph (d), must have a buoyant line attached to the buoy that is 1½ times the distance from the buoy to the design waterline of the unit or 15 fathoms in length, whichever is greater. The end of the line must not be secured to the unit.

(f) Each ring life buoy on a unit

centimeters (20 inches) on one side for

and designated by a testing laboratory

(3) Does not allow the plug to fall on to the deck.

be marked: "SELF CONTAINED BREATHING APPARATUS".

trol located above seat level must be on a background that contrasts with

V 4 3 / 2 3 3 D E 4 7 8 UMI

(f) Each ring life buoy on a unit must be readily accessible to persons on board.

§ 108.517 Line throwing appliance.

(a) Each unit on an international voyage must have at least one impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter.

(b) Each unit not on an international voyage must have—

(1) An impulse projected rocket type line throwing appliance that is approved under Subpart 160.040 of this chapter; or

(2) A shoulder type line throwing gun approved under Subpart 160.031 of this chapter.

§ 108.519 Portable radio apparatus.

Each unit on an international voyage must have a portable radio apparatus that meets the requirements of the Federal Communications Commission.

§ 108.521 Distress signals.

(a) Each unit must have at least 12 hand held, rocket-propelled, parachute, red flare, distress signals. Each distress signal on a unit must be approved under Subpart 160.036 of this chapter.

(b) Each distress signal must be stowed in a portable, watertight, and noncorrosive container on the bridge or, if the unit does not have a bridge, in the control room.

§ 108.523 EPIRB.

Each self-propelled unit must have an Class A emergency position indicating radio beacon (EPIRB). Each EPIRB on a unit must be approved under Subpart 161.011 of this chapter.

§ 108.525 Means of embarkation.

(a) Except as provided in paragraph (c), each unit must have a chain suspension ladder approved under subpart 160.017 of this chapter for each lifeboat and liferaft launching station.

(b) Each chain suspension ladder must extend to the unit's lightwaterline the unit at a 15 degree list away from the side where the ladder is installed.

(c) If a chain suspension ladder cannot be supported against a vertical flat surface, a fixed ladder must be installed; however no more than four fixed ladders are required.

(d) Each inclined fixed ladder must—

(1) be at least 71 centimeters (28 inches) wide; and

(2) have a pitch of 50° or less.

(e) Each vertical fixed ladder must meet the requirements of § 108.160 for Fixed Ladders, except that vertical bars in cages must be open at least 50 centimeters (20 inches) on one side for the length of the ladder.

§ 108.527 Additional means of abandonment.

Portable slides, safety booms, moveable ladders, elevators, and other means of abandonment may be installed if approved by the Commandant.

Subpart F—Cranes and Power Operated Industrial Trucks

CRANES

§ 108.601 Crane design.

(a) Each crane and crane foundation on a unit must be designed in accordance with the American Petroleum Institute Specification for Offshore Cranes, API Spec. 2C, Second Edition, February, 1972 (with supplement 2).

(b) In addition to the design requirements of paragraph (a), each crane must have the following:

(1) Each control marked to show its function.

(2) Instruments with built-in lighting.

(3) Fuel tank fills and overflows that do not run onto the engine exhaust.

(4) No gasoline engines.

(5) Spark arrestors fitted on engine exhaust pipes.

POWER OPERATED INDUSTRIAL TRUCKS

§ 108.611 Power operated industrial trucks: definition.

For the purposes of § 108.613 through § 108.615, "power industrial truck" means a tractor, lift truck, or specialized industrial truck used for material handling on a unit.

§ 108.613 Power operated industrial trucks.

(a) Each power operated industrial truck used on a unit must have a type designation as follows:

(1) "E"—electrically powered trucks that have safeguards against inherent sources of ignition.

(2) "EE"—electrically powered trucks that have the requirements for "E" trucks, and completely enclosed electric motors and equipment.

(3) "EX"—electrically powered trucks whose electrical fittings and equipment are designed, constructed, and assembled to permit the trucks to be used in atmospheres containing flammable vapors or dusts.

(4) "D"—diesel powered trucks that have safeguards against inherent sources of ignition.

(5) "DS"—diesel powered trucks that are provided with safeguards to the exhaust, fuel, and electrical systems not provided on a "D" truck.

(b) Each power operated industrial truck used on a unit must be approved and designated by a testing laboratory listed in paragraph (c) of this section.

(c) The following testing laboratories are accepted for the purposes of this section:

(1) Underwriters' Laboratories, Inc., P.O. Box 247, Northbrook, Illinois, 60092.

(2) Factory Mutual Laboratories Engineering Division, 1115 Boston Providence Turnpike, Norwood, Massachusetts 02062.

(d) Each power operated industrial truck used on a unit must have at least the following safety features:

(1) A warning device that can be heard above normal background noises.

(2) A driver's overhead guard if, during normal operations, the operator may be exposed to falling objects.

(3) If the truck has a fork lift—

(i) A vertical load back rest extension or rack to prevent the load from falling toward the driver when the mast is in a position of maximum backward tilt;

(ii) A means of securing the forks to the carriage to prevent unintentional lifting of the toe;

(iii) A means of securing fork extensions and other attachments to prevent lifting or displacement on the primary forks; and

(iv) A factor of safety for the forks of at least three to one, based on the elastic limit of the fork material.

(4) Guards on each exposed wheel to prevent the wheel from throwing particles at the operator.

(5) Steering controls that are—

(i) Within the clearances of the truck; or

(ii) Guarded so that movement of the controls will not result in injury to the operator when the truck is passing an obstruction.

(e) A steering knob may be mounted within the perimeter of the wheel, if used on a steering mechanism that allows the wheel to spin as a result of road action. The steering knob must be—

(1) A mushroom type that engages the palm of the operator's hand; or

(2) Arranged in some other manner to prevent injury to the operator.

§ 108.615 Charging facilities for battery powered industrial trucks.

Each supply or charging circuit for charging batteries of powered industrial trucks must be connected to the truck by a portable plug that is—

(a) Break away type; and

(b) Connected to the charging outlet so that any movement of the truck away from the charging station—

(1) Breaks the connection;

(2) Does not expose any live parts to contact with a conducting surface or object; and

(3) Does not allow the plug to fall on to the deck.

Subpart G—Equipment Markings and Instructions

§ 108.621 Equipment markings: general.

Unless otherwise provided, each marking required in this subpart must be—

(a) Printed in English;

(b) In red letters with a contrasting background;

(c) Permanent;

(d) Easy to be seen;

(e) At least 1.3 centimeters (½ inch) in height.

§ 108.623 General alarm bell switch.

Each general alarm bell switch must be marked "GENERAL ALARM" on a plate or other firm noncorrosive backing.

§ 108.625 General alarm bell.

Each general alarm bell must be identified by marking "GENERAL ALARM—WHEN BELL RINGS GO TO YOUR STATION" next to the bell.

§ 108.627 Carbon dioxide alarm.

Each carbon dioxide alarm must be identified by marking: "WHEN ALARM SOUNDS VACATE AT ONCE. CARBON DIOXIDE BEING RELEASED" next to the alarm.

§ 108.629 Fire extinguishing system branch line valve.

Each branch line valve of each fire extinguishing system must be marked with the name of the space or spaces it serves.

§ 108.631 Fixed fire extinguishing system controls.

(a) Each cabinet or space that contains a valve, control, or manifold of a fixed fire extinguishing system must be marked by one of the following: "CARBON DIOXIDE FIRE APPARATUS", "FOAM FIRE APPARATUS", or "WATER SPRAY FIRE APPARATUS" in letters at least 5 centimeters (2 inches) high.

(b) Instructions for the operation of a fixed fire extinguishing system must be posted next to a fire apparatus described in paragraph (a) of this section.

§ 108.633 Fire stations.

Each fire station must be identified by marking: "FIRE STATION NO. —" next to the station in letters and numbers at least 5 centimeters (2 inches) high.

§ 108.635 Self-contained breathing apparatus.

Each locker or space containing self-contained breathing apparatus must be marked: "SELF CONTAINED BREATHING APPARATUS".

§ 108.636 Work vests.

Each space containing a work vest must be marked: "WORK VEST".

§ 108.637 Hand portable fire extinguishers.

(a) Each hand portable fire extinguisher must be marked with a number that identifies it in relation to all other hand portable fire extinguishers.

(b) The location of each hand portable fire extinguisher must be marked with the same number that is marked on the extinguisher.

§ 108.639 Emergency lights.

Each emergency light must be marked: "E".

§ 108.641 Instructions for changing steering gear.

Instructions stating, in order, the different steps to be taken for changing to emergency and secondary steering gear must be posted in the steering gear room and at each secondary steering station in 1.3 centimeters (½ inch) letters and numerals of contrasting color to the background.

§ 108.643 Rudder orders.

At each steering station, the direction which the wheel or steering device must be moved for right rudder or left rudder must be marked in letters of contrasting color to the background on the wheel or steering device or in a place that is directly in the helmsman's line of vision to indicate "RIGHT RUDDER" and "LEFT RUDDER".

§ 108.645 Lifeboats.

(a) The bow of each lifeboat must be marked in letters and numbers of contrasting color to the background with—

(1) The name and port of registry of the unit in letters at least 7.5 centimeters (3 inches) high;

(2) The number of the boat in numbers at least 7.5 centimeters (3 inches) high; and

(3) The number of persons allowed in the boat in letters and numbers at least 4 centimeters (1½ inches) high.

(b) Each mechanical disengaging apparatus control lever must be colored red with the following marked on or next to the lever: "DANGER-LEVER DROPS BOAT" or "DANGER-LEVER RELEASES HOOKS".

(c) The location of each mechanical disengaging apparatus control lever located at or below seat level must be marked by a band of color contrasting to its surroundings approximately 30 centimeters (12 inches) wide from the keel to each side bench. Each mechanical disengaging apparatus control located above seat level must be on a background that contrasts with its red color.

§ 108.647 Inflatable liferafts.

Each inflatable liferaft must be identified by marking: "INFLATABLE LIFERAFT NO. — . . . . PERSONS CAPACITY" on a sign next to the liferaft or its container—

(a) in letters at least 4 centimeters (1½ inches) high; and

(b) in a contrasting color to the background.

§ 108.649 Life preservers and ring life buoys.

(a) Each life preserver must be marked in a color in contrast to the life preserver with the unit's name.

(b) Each locker box or closet used for stowing life preservers must be marked "LIFE PRESERVERS".

(c) Each ring life buoy must be marked in a color in contrast to the ring lifebuoy with the unit's name and port of registry.

§ 108.651 Portable magazine chests.

Each portable magazine chest must be marked: "PORTABLE MAGAZINE CHEST — FLAMMABLE — KEEP LIGHTS AND FIRE AWAY" in letters at least 7.5 centimeters (3 inches) high.

§ 108.653 Helicopter facilities.

(a) Each helicopter fueling facility must be marked adjacent to the fueling hose storage: "WARNING — HELICOPTER FUELING STATION — KEEP LIGHTS AND FIRE AWAY".

(b) Each storage tank for helicopter fuel must be marked: "DANGER — FLAMMABLE LIQUID".

(c) Each access to a helicopter landing area must be marked: "BEWARE OF TAIL ROTOR".

(d) Each marking required by this section must be in letters at least 7.5 centimeters (3 inches) high.

§ 108.655 Lifeboat and liferaft instructions.

Placards approved by the Commandant that contain instructions for launching lifeboats and liferafts and inflating inflatable liferafts must be conspicuously posted.

§ 108.657 Unit markings.

The hull of each unit must be marked in accordance with Parts 67 and 69 of this chapter.

§ 108.659 Breeches buoy and lifesaving signal instructions.

Instructions on Form CG-811 for the use of breeches buoys and lifesaving signals must be posted so that they can be easily seen in the pilothouse or control room, engine room, each messroom, and each recreation room.

in addition to the magnetic compass

Subpart D—Reports, Notifications, and Records

U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C.

corrections, and instructions for apply-

V 4 3 / 2 3 3

§ 108.661 Unit markings: draft marks.

(a) Each unit must have draft marks for each foot of immersion—

(1) If the unit is a surface unit, on both the port and starboard sides of the stem and the stern-post or rudder-post or at any other place at the stern of the unit as may be necessary for easy observance;

(2) If the unit is a self-elevating unit, near each corner of the hull but not more than 4 required; and

(3) If the unit is a column-stabilized unit, on each corner column, continuing to the footing or lower displacement hull.

(b) The bottom of each mark must be at the draft indicated by that mark.

(c) Each mark must be—

(1) In numerals 15 centimeters (6 inches) high; and

(2) In contrasting color to the background.

(d) For the purposes of this section, "draft" means the distance from the bottom of the keel or the lowest shell plate on the outer surface of the unit to the surface of the water, except that where a unit has a permanent appendage extending below the bottom of the keel, "draft" means the distance from the lowest part of the appendage to the surface of the water.

§ 108.663 Unit markings: load line.

Each unit that is assigned a load line must have the load line marked in accordance with Part 42 of this Chapter.

§ 108.665 Appliances for watertight integrity.

Each watertight door, scuttle, and hatch required for watertight integrity, which may be opened during normal operations must be marked in letters of contrasting color to the background "KEEP CLOSED".

Subpart H—Miscellaneous Equipment

§ 108.697 Buoyant work vest.

Each buoyant work vest on a unit must be approved under § 160.053 of this Chapter.

§ 108.699 Substitution of life preservers.

A work vest may not be substituted for a required life preserver—

(a) For the life saving equipment requirements of this part; or

(b) For use during drills and emergencies.

§ 108.701 Sounding equipment.

Each self-propelled unit must have a mechanical or electronic sounding apparatus.

§ 108.703 Self-contained breathing apparatus.

(a) Each unit must have a self-contained breathing apparatus to be used as protection from gas leaking from a refrigeration unit.

(b) The self-contained breathing apparatus required in § 108.497 may be used for this purpose.

§ 108.705 Anchors, chains, wire rope, and hauser.

(a) Each unit must be fitted with anchors, chains, wire rope, and hausers in agreement with the standards established by the American Bureau of Shipping.

(b) Units which are equipped with anchors used as operational equipment are not required to have additional anchors if the operational anchors meet the requirements of paragraph (a).

§ 108.707 First aid kit.

Each unit must have a first-aid kit approved by the Mine Safety and Health Administration (Formerly Mining Enforcement and Safety Administration) of a size suitable for the number of persons allowed on board the unit that is stowed in a location that is accessible to persons on board.

§ 108.709 Litter.

Each unit must have a litter that is—

(a) Stowed in a location that is accessible to the persons on board; and

(b) Capable of being used on the type of helicopters serving the unit.

§ 108.711 Pilot ladders.

(a) Except as provided in paragraph (c), each unit which normally uses a pilot must have a pilot ladder in addition to the ladders required in § 108.525.

(b) Each unit which has a pilot ladder must have the following:

(1) Spreaders.

(2) A man rope.

(3) A safety line.

(c) A pilot ladder is not required if there is no flat vertical surface to support a pilot ladder.

(d) Illumination over the side of the unit and on the deck where the pilot boards the unit must be provided.

§ 108.713 International Code of Signals.

Each vessel on an international voyage which is required to carry a radiotelegraph or radiotelephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

§ 108.715 Magnetic compass and gyrocompass.

(a) Each self-propelled unit in ocean or coastwise service must have a magnetic compass.

(b) Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have a gyrocompass in addition to the magnetic compass required in paragraph (a).

(c) Each unit that is required to have a gyrocompass must have an illuminated repeater for the gyrocompass that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

§ 108.717 Radar.

Each self-propelled unit of 1,600 gross tons and over in ocean or coastwise service must have—

(a) A marine radar system for surface navigation; and

(b) Facilities on the bridge for plotting radar readings.

PART 109—OPERATIONS

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REPORTS AND NOTIFICATIONS

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APPENDIX A—Navigation and Vessel Inspection Circular—Inspection and Certification of Existing Mobile Offshore Drilling Units.

AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

Subpart A—General

§ 109.101 Applicability.

No unit may be operated unless it complies with the regulations in this part.

§ 109.103 Requirements of the International Convention for Safety of Life at Sea, 1960.

No self-propelled unit of more than 500 gross tons may embark on an international voyage unless it is issued the appropriate Convention certificate as described in §§ 107.401 through 107.413 of this Subchapter.

§ 109.107 Designation of master or person in charge.

The owner of a unit or his agent shall designate an individual to be the master or person in charge of the unit.

§ 109.109 Responsibilities of master or person in charge.

(a) The master or person in charge shall—

(1) Ensure that the provisions of the Certificate of Inspection are adhered to; and

(2) Be fully cognizant of the provisions in the operating manual required by § 109.121.

(b) Nothing in this subpart shall be construed as limiting the master or person in charge, at his own responsibility, from diverting from the route prescribed in the Certificate of Inspection or taking such steps as he deems necessary and prudent to assist vessels in distress or for other emergency conditions.

§ 109.121 Operating manual.

(a) An operating manual must be prepared for each unit.

(b) Each operating manual must be approved by the Commandant (G-MMT).

(c) The operating manual must contain guidance for the safe operation of the unit under normal and emergency conditions.

(d) The operating manual must contain the following information:

(1) A general description of the unit, including lightship data.

(2) Data for each operating mode, including design loading, wave height, and draft.

(3) General arrangement showing watertight compartments, closures, vents, permanent ballast, and allowable deck loadings.

(4) Hydrostatic curves or equivalents.

(5) Capacity plan showing capacities of tanks, center of gravity, free surface corrections, and instructions for applying them.

(6) Instructions for the operation of the unit while—

(i) Preparing for the passage of a severe storm, including the specific actions and approximate length of time necessary to attain each level of preparedness; and

(ii) Change of operating condition, including preparations prior to making a move.

(7) Stability information setting forth maximum KG versus draft curve, or other parameters, based upon compliance with the intact and damaged stability criteria.

(8) Examples of loading conditions for each mode of operation, and a means for evaluation of other loading conditions.

(9) Inherent limitations of operation for each operating mode.

(10) General guidance and precautions regarding unintentional flooding.

(11) A table of contents and index for the manual.

Subpart B—Tests, Drills, and Inspections

§ 109.201 Steering gear, whistles, general alarm, and means of communication.

The master or person in charge shall ensure that—

(a) Steering gear, whistles, general alarm bells, and means of communication between the bridge or control room and the engine room on self propelled units are inspected and tested—

(1) Within 12 hours before getting under way; and

(2) At least once each week if under way or on station; and

(b) Whistles and general alarm bells on all other units are inspected examined and tested at least once each week.

§ 109.203 Sanitation.

(a) The master or person in charge shall insure that the accommodation spaces are in a clean and sanitary condition.

(b) The chief engineer, or engineer in charge if no chief engineer is required, shall insure that the engineering spaces are in a clean and sanitary condition.

§ 109.205 Inspection of boilers and machinery.

The chief engineer or engineer in charge, before he assumes charge of the boilers and machinery of a unit shall inspect the boilers and machinery, other than industrial machinery, and report to the master or person in charge and the Officer in Charge, Marine Inspection, any parts that are not in operating condition.

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(c) Each item of rescue and safety

§ 109.223 Firefighting equipment.

(c) The line-throwing equipment is

(d) Each firehose, except a firehose

§ 109.345 Pilot ladder use.

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§ 109.207 Line-throwing equipment.

(a) The master or person in charge shall insure that personnel are instructed in the use of line-throwing equipment.

(b) The master or person in charge shall insure that each line throwing appliance is tested by firing it at least once every four months. The use of a service line is not required for test firing.

§ 109.208 EPIRB.

The master or person in charge shall insure that each EPIRB required in § 108.523 of this subchapter is tested monthly using the integrated test circuit and output indicator.

§ 109.269 Appliances for watertight integrity.

(a) Before getting underway, the master or person in charge shall insure that each appliance for watertight integrity is closed and watertight.

(b) If existing conditions warrant, the master or person in charge may permit appliances for watertight integrity to be open while afloat.

§ 109.211 Testing of emergency lighting and power systems.

(a) The master or person in charge shall insure that—

(1) each emergency lighting and each emergency power system is tested at least once each week;

(2) each emergency generator is tested at least once each month by operating it under load for at least 2 hours; and

(3) each storage battery for emergency lighting and power systems is tested every six months under actual connected load for a period of at least 2 hours.

(b) After the 2 hour test period required in paragraph (a)(3) of this section, the voltage values under load or specific gravity of electrolyte must be measured. Measured values must be extrapolated to approximate the values that would result following a 12 hour test period. The test must be extended if a trend cannot be determined to allow extrapolation. The capacity of the battery corresponding to the extrapolated values of voltage or specific gravity must be sufficient to supply the actual connected load.

§ 109.213 Fire drill.

The master or person in charge shall conduct a fire drill at least once each week and shall insure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each fire pump is started;

(c) Each item of rescue and safety equipment is brought from the emergency equipment lockers; and

(d) Each watertight door which is in use while the unit is underway is operated.

§ 109.215 Boat drill.

The master or person in charge shall conduct a boat drill at least once each week, and shall insure that—

(a) All personnel report to their stations, and demonstrate their ability to perform the duties assigned to them in the station bill;

(b) Each lifeboat is prepared for use;

(c) Weather permitting, at least one lifeboat is partially lowered, and its engine started and operated; and

(d) Each person not assigned duties in the station bill is instructed in the use of life preservers.

§ 109.217 Lifeboats and lifeboat launching equipment: Inspection and testing.

The master or person in charge shall insure that—

(a) Each lifeboat is lowered to the water launched and operated at least once each three months as part of a boat drill required by § 109.215;

(b) Each lifeboat is properly equipped;

(c) The motor of each motor propelled lifeboat is operated in the ahead and the astern position at least once each week;

(d) Each lifeboat is cleaned and inspected at least once each year;

(e) The fuel tank of each motor propelled lifeboat is emptied, and the fuel is changed at least once each year;

(f) Each rechargeable battery for each lifeboat radio is fully charged at least once each week; and

(g) Each lifeboat radio transmitter is tested at least once each week.

§ 109.219 Inflatable liferaft: Servicing.

The master or person in charge shall insure that each inflatable liferaft is serviced, every 12 months or not later than the next inspection for certification: *Provided,* The time since the date of the last servicing does not exceed 15 months. Except in emergency, no servicing may be done aboard the unit.

§ 109.221 Electric power operated winches.

(a) The master or person in charge shall insure that each lifeboat winch control apparatus, including motor controllers, emergency switches, master switches, and limit switches, is inspected at least once each 3 months.

(b) The inspection required in paragraph (a) of this section must include the removal of drain plugs from the electrical enclosures of each lifeboat winch control apparatus.

§ 109.223 Firefighting equipment.

The master or person in charge shall insure that each hand portable fire extinguisher, semi-portable fire extinguisher, and fixed fire-extinguishing system is tested and inspected at least once each twelve months.

Subpart C—Operation and Stowage of Safety Equipment

§ 109.301 Maintenance of equipment.

The master or person in charge shall insure that each item of lifesaving and firefighting equipment required by this subchapter is maintained in operative condition.

§ 109.305 Obstruction on launching decks.

The master or person in charge shall insure that each deck from which lifeboats are launched is kept clear of any obstruction that interferes with the immediate launching of lifeboats and liferafts.

§ 109.307 EPIRB.

The master or person in charge shall insure that—

(a) Each EPIRB required in § 108.523 is stowed in a manner so that it will float free if the unit sinks.

(b) Each battery of the EPIRB is replaced before the date marked on the EPIRB battery, or after the EPIRB is used.

§ 109.313 Stowage of life preservers.

The master or person in charge shall insure that each life preserver required in § 108.514 for each person assigned a berth, is stowed in his berthing area as provided in § 108.514(b), and that the remaining life preservers required in § 108.514(a) are stowed in each work area and watch station as provided in § 108.514(b).

§ 109.317 Replacement of distress signal and self-activated smoke signals.

The master or person in charge shall insure that each distress signal and self-activated smoke signal is replaced not later than 36 months after the date of manufacture or not later than the date of expiration, whichever date is marked on the signal.

§ 109.320 Line-throwing equipment.

The master or person in charge shall insure that—

(a) The line throwing equipment required by § 108.517 is stowed in a readily accessible location;

(b) The service life of rockets for impulse projected rocket type equipment is limited to a period of four years from the date of manufacture, and replacement of out-dated items made at the first arrival in the United States, except that replacement is made in all cases within twelve months after the date of expiration; and

(c) The line-throwing equipment is not operated in an explosive atmosphere.

§ 109.321 Portable radio.

The master or person in charge shall insure that the portable radio required in § 108.519 is—

(a) Stowed in the radioroom, bridge, or a protected location near a lifeboat; and

(b) Readily accessible for transfer to a lifeboat.

§ 109.323 Manning of lifeboats and inflatable liferafts.

The master or person in charge shall—

(a) Assign to each lifeboat and each inflatable liferaft to which seat assignments are made in the station bill—

(1) A licensed deck officer, able seaman, or certificated lifeboatman to command the lifeboat;

(2) A licensed deck officer, able seaman, or certificated lifeboatman as second in command, if the lifeboat has a capacity of more than 40 persons;

(3) A person who can operate the lifeboat's motor; and

(4) A person who can operate the portable radio, if the lifeboat has a portable radio; and

(b) Insure that the person assigned to command a lifeboat or inflatable liferaft has a list of the persons, by station bill number and job title, assigned to seats in the lifeboat or liferaft.

§ 109.325 Persons in command of lifeboats or liferafts.

A person assigned to command a lifeboat or liferaft shall insure that each person assigned to the lifeboat or liferaft can perform the duties assigned to that person.

§ 109.329 Fire pumps.

The master or person in charge shall insure that at least one of the fire pumps required in § 108.415 is ready for use on the fire main system at all times.

§ 109.331 Firehoses and hydrants.

The master or person in charge shall insure that—

(a) At least one length of firehose with a combination nozzle is connected to each fire hydrant required by this subchapter, at all times, except that during heavy weather a firehose in an exposed location may be temporarily removed from the fire hydrant and stowed in an accessible, nearby location;

(b) A fire hose required by this subchapter is not used for any purpose other than firefighting, fire drills, and testing;

(c) Access to each fire hydrant is not blocked;

(d) Each firehose, except a firehose temporarily removed from an exposed location, is stowed on a rack or reel required by this subchapter; and

(e) Each low velocity spray applicator for a fire hose nozzle is attached to the nozzle or stowed next to the fire hydrant to which the fire hose is attached.

§ 109.333 Fire main cutoff valves.

The master or person in charge shall insure that each fire main cutoff valve is open and sealed to prevent closing, except that a cutoff valve may be closed to protect the portion of the fire main system on an exposed deck from freezing.

§ 109.334 Working over water.

The master or person in charge shall insure that each person working over the water is wearing a life preserver or a buoyant work vest.

§ 109.335 Stowage of work vests.

The master or person in charge shall insure that no work vest is stowed where life preservers are stowed.

§ 109.337 Fireman's outfit.

The master or person in charge shall insure that—

(a) At least 2 persons who are trained in the use of the fireman's outfit are on board at all times; and

(b) Each fireman's outfit and its spare equipment is stowed in a separate and accessible location.

(c) A fireman's outfit is not used for any purpose other than fire fighting except as provided in § 108.703.

§ 109.339 Location of fire axes.

The master or person in charge shall insure that the fire axes required in § 108.499 of this subchapter are located in the enclosures for fire hoses marked in accordance with § 108.633 of this subchapter, if the fire axes are not located in plain view.

§ 109.341 Chain suspension ladders.

The master or person in charge shall insure that each chain suspension ladder required in § 108.525(a) of this subchapter is—

(a) Kept ready for immediate use; and

(b) Stowed near the lifeboat or inflatable liferaft davits.

§ 109.343 Pilot ladders and equipment.

The master or person in charge shall insure that—

(a) The equipment required in § 108.711(b) is kept available for use with the pilot ladder required in § 108.711(a); and

(b) One ring buoy with a waterlight is available for use when a pilot boards the unit.

§ 109.345 Pilot ladder use.

The master or person in charge shall insure that—

(a) A pilot ladder, when in use, is secured so that each step rests firmly against the side of the unit;

(b) A pilot boards a unit by means of an accommodation ladder or personnel transfer equipment if a pilot ladder is not used.

Subpart D—Reports, Notifications, and Records

Reports and Notifications

§ 109.411 Notice of casualty.

(a) The owner, agent, master, or person in charge of a unit that is involved in a marine casualty shall notify the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, if the casualty involves any of the following:

(1) Actual physical damage to property in excess of $5,000.00.

(2) An occurrence affecting the seaworthiness or efficiency of the unit, such as fire, flooding, failure of a fixed fire protection system, or any failure of primary lifesaving equipment.

(3) Stranding or grounding of the unit, except when the unit is grounded to conduct normal operations.

(4) Loss of life.

(5) Injury causing any person to require hospitalization for more than 24 hours, or to be incapacitated for more than 72 hours.

(b) The notice required by this section must contain the following:

(1) Name and official number of the unit.

(2) Name of the owner or agent of the unit.

(3) Description of the casualty, including cause.

(4) Location of the unit at the time of the casualty.

(5) Nature and extent of injury to persons.

(6) Damage to property.

(c) The notice required by this section is not required to be submitted if the written report of casualty required by § 109.413 is submitted without delay.

§ 109.413 Written report of casualty.

The master or person in charge of a unit for which a report of casualty is made under § 109.411 shall submit a report to the Officer in Charge, Marine Inspection, as soon as possible after the casualty occurs, on—

(a) Form CG-924E if the casualty involves injury to persons or loss of life; and

(b) Form CG-2692 if the casualty involves damage to property or grounding or stranding of a vessel except when the unit is grounded to conduct normal operations.

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(1) Date and hour of each drill.

(9) Carrying the portable radio appa-

§ 109.525 Cranes: Working loads.

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§ 109.415 Retention of records after casualty.

(a) The owner, agent, master, or person in charge of a unit for which a report of casualty is made under § 109.411 shall insure that all records maintained on the unit are retained on board the unit for at least 3 months after the report of casualty is made or until advised by the Officer in Charge, Marine Inspection, that records need not be retained on board.

(b) The records which must be retained in accordance with paragraph (a) of this section include:

(1) Rough and smooth deck log.
(2) Rough and smooth engine room log.
(3) Tour reports.
(4) Bell books.
(5) Navigation charts in use at the time of casualty.
(6) Navigation work books.
(7) Compass deviation cards.
(8) Gyrocompass records.
(9) Storage plans.
(10) Record of drafts.
(11) Notices to mariners.
(12) Radiograms sent and received.
(13) The radio log.
(14) Personnel list.
(15) Crane record book.

(c) The owner, agent, master, or person in charge shall, upon request, make the records described in this section available for examination by any Coast Guard official authorized to investigate the casualty.

§ 109.417 Report of damage to aid to navigation.

If a unit collides with an aid to navigation maintained by the Coast Guard, the master or person in charge shall report the collision to the appropriate Officer in Charge, Marine Inspection.

§ 109.419 Report of unsafe machinery.

If a boiler, unfired pressure vessel, or other machinery on a unit is unsafe to operate, the master or person in charge shall report the existence of the unsafe condition to the Officer in Charge, Marine Inspection.

§ 109.421 Report of repairs to boilers and pressure vessels.

Before making repairs, except normal repairs and maintenance such as replacement of valves or pressure seals, to boilers or unfired pressure vessels in accordance with § 50.05-10 of this chapter, the master or person in charge shall report the nature of the repairs to the Officer in Charge, Marine Inspection.

§ 109.423 Report of breaking safety valve seal.

(a) If a required seal on a boiler safety valve is broken, the chief engineer or engineer in charge shall notify the Officer in Charge, Marine Inspection.

(b) The notice must—

(1) State the reason for breaking the seal; and

(2) Request that the valve be examined and adjusted.

§ 109.425 Repairs and alterations: Emergency equipment.

(a) Before making repairs or alterations, except emergency repairs or alterations, to lifesaving, fire detecting or extinguishing equipment, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

(b) When emergency repairs or alterations to lifesaving, fire detecting or fire extinguishing equipment have been made, the master or person in charge shall report the nature of the repairs or alterations to the Officer in Charge, Marine Inspection.

RECORDS

§ 109.431 Logbook.

(a) The master or person in charge of a unit that is required by 46 U.S.C. 201 to have an official logbook shall maintain the logbook on Form CG-706. When the voyage is completed, the master or person in charge shall file the logbook with the Officer in Charge, Marine Inspection.

(b) The master or person in charge of a unit that is not required by 46 U.S.C. 201 to have an official logbook, shall maintain, on board, an unofficial logbook for making the entries required by this subpart. This logbook must be retained on board until the unit's next reinspection or inspection for certification.

§ 109.433 Logbook entries.[1]

The master or person in charge shall insure that the following applicable entries are made in the logbook required by this subpart:

(a) The date of each test of the steering gear, whistle, general alarm, and communications equipment and the condition of the equipment.

(b) The time and date of each opening and closing, while the unit is afloat, of each required appliance for watertight integrity not fitted with a remote operating control or alarm system and the reasons for the action.

(c) The date of each test of emergency lighting and power systems and the condition and performance of the equipment.

(d) the following information pertaining to each fire drill:

(1) Date and hour of each drill.
(2) Duration of each drill.
(3) The condition of all fire fighting equipment, watertight door mechanisms, and valves used during each drill.

(e) The following information pertaining to each boat drill:

(1) Date and hour of each drill.
(2) Duration of each drill.
(3) The number of each lifeboat swung out during each drill.
(4) The number of each lifeboat lowered during each drill.
(5) Length of time that each motor propelled lifeboat was operated during each drill.
(6) The condition of lifesaving equipment used during each drill.

(f) The date of the lifeboat equipment examination required in § 109.217 of this part.

(g) If a drill required in § 109.213 or § 109.215 is not held, the reasons for not holding the drill.

(h) If a drill required in § 109.213 or § 109.215 is not completed, the reasons for not completing the drill, and the date and a description of the incomplete drill.

(i) The date of each lifeboat winch inspection required in § 109.221 and the condition of the winch.

(j) Prior to getting underway, the fore and aft drafts, the position of the loadline marks in relation to the surface of the water, and the density of the water in which the vessel is floating, if in fresh or brackish water.

(k) The date of each inspection of each accommodation space.

(l) The date of each inspection required in § 109.573 if performed by the master or person in charge.

(m) The date of each test firing of the line throwing equipment required by § 109.207.

§ 109.435 Record of fire fighting equipment inspection.

(a) The master or person in charge shall ensure that a record of each test and inspection required in § 109.223 is maintained on board, until the unit is reinspected or inspected for certification.

(b) The record required in paragraph (a) of this section must show—

(1) The date of each test and inspection;

(2) The number or other identification of each item of equipment tested or inspected; and

(3) The name of the person, and the company he represents if any, who conducts the test or inspection.

§ 109.437 Crane record book.

The master or person in charge shall ensure that the following are maintained in a crane record book:

(a) Descriptive information which will identify each crane including—

[1] NOTE.—R. S. 4290 (46 U.S.C. 201) requires that certain entries be made in an official logbook, in addition to the entries required by this section; and R. S. 4291 (46 U.S.C. 202) prescribes the manner of making those entries.

(1) The API name plate data required by Section 11 of API Spec. 2C, Second Edition, February 1972; and

(2) The rates load chart for each line reeving and boom length which may be utilized.

(b) Information required by Section 3 of the American Petroleum Institute *Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (October 1972) with supplement 1.

(c) Dates and results of frequent inspections and tests required in paragraph (b) of this section.

(d) Dates and results of periodic inspections and tests required in paragraph (b) of this section.

(e) Date and result of each rated load test.

(f) Date and description of each replacement or renewal of wire rope, hooks, and other load components.

(g) Date and description of each failure of the crane, or any component or safety feature.

(h) Date and description of each repair to the crane structure, boom, or equipment.

§ 109.439 Crane certificates.

The master or person in charge shall insure that the following certificates and records for each crane are maintained on the unit:

(a) Each certificate issued by a crane certifying authority.

(b) Each record and original certificate, or certified copy of a certificate, or manufacturers or testing laboratories, companies or organizations for—

(1) Loose gear;
(2) Wire rope; and
(3) The annealing of wrought iron gear.

Subpart E—Station Bill

§ 109.501 Station bill: Duties of personnel.

(a) The station bill must set forth the duties and station of each person during emergencies, including an assigned seat in a lifeboat or liferaft for each person on the unit.

(b) The duties must, as far as possible, be comparable with the regular work of the individual.

(c) These duties must include:

(1) Closing airports, watertight doors, scuppers, and sanitary and other discharges that lead through the unit's hull.
(2) Stopping fans and ventilating systems.
(3) Operating all safety equipment.
(4) Preparing lifeboats and life rafts for launching.
(5) Extinguishing fires.
(6) Warning personnel of the emergency.
(7) Instructing all personnel on use and wearing of their life preservers.
(8) Directing personnel to appointed stations.
(9) Carrying the portable radio apparatus, required in § 108.519, to a lifeboat.

§ 109.503 Station bill: Emergency signals.

(a) The station bill must set forth signals that—

(1) Call personnel to their stations; and

(2) Direct personnel at their stations.

(b) Emergency stations signals are established as follows:

(1) The signal to man emergency stations is a rapid succession of short soundings of both the general alarm bell and the whistle, if a whistle is installed, for a period of not less than 10 seconds.

(2) The signal to secure from emergency stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

(c) The abandon unit stations signals are established as follows:

(1) The signal to man abandon unit stations is a continuous sounding of both the general alarm and the whistle, if a whistle is installed.

(2) If whistle signals are used to direct the handling of lifeboats, they must be—

(i) One short blast to lower lifeboats; and

(ii) Two short blasts to stop lowering the lifeboats.

(3) The signal to secure from abandon unit stations is the sounding of both the general alarm bell and the whistle, if a whistle is installed, three times.

§ 109.505 Station bill: General.

The master or person in charge shall—

(a) Ensure that the station bill is prepared and maintained;

(b) Sign the station bill;

(c) Ensure that the station bill is posted in conspicuous locations on the unit;

(d) Ensure that temporary personnel and visitors are advised of their emergency stations and assigned a seat in a lifeboat or liferaft upon their arrival aboard the unit; and

(e) Ensure that all persons on the unit are familiar with the station bill.

Subpart F—Cranes and Powered Industrial Trucks

§ 109.521 Cranes: General.

The master or person in charge shall ensure that each crane is operated and maintained in accordance with the API *Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (Oct. 1972) with supplement 1.

§ 109.525 Cranes: Working loads.

The master or person in charge shall ensure that tables indicating the maximum safe working loads for the various working angles of the boom, where the boom is rated at varying capacities depending on the radius, and the maximum and minimum radius at which the boom may be safely used, are conspicuously posted near the controls and are visible to the operator when working the crane.

§ 109.527 Cranes: Operator designation.

(a) The master or person in charge shall designate, in writing, each crane operator.

(b) The master or person in charge shall ensure that only designated operators operate cranes.

(c) The master or person in charge shall ensure that each designated operator is familiar with the provisions of the API *Recommended Practice for Operation and Maintenance of Offshore Cranes*, API RP 2D, First Edition (Oct. 1972) with supplement 1.

§ 109.529 Powered industrial trucks: Use.

The master or person in charge shall ensure that—

(a) Only "EX" designated trucks are used in Class I, Division 1 locations; and

(b) Only "EE", "EX", or "DS" designated trucks are used in—

(1) Class I, Division 2 spaces; and

(2) In spaces that are within the periphery of a Class I, Division 1 space.

§ 109.531 Powered industrial trucks: Ventilated spaces.

The master or person in charge shall ensure that diesel powered industrial trucks are operated only in ventilated spaces.

§ 109.533 powered industrial trucks: Rated lifting capacity.

The master or person in charge shall ensure that the rated lifting capacity of each powered industrial truck is posted on each truck.

§ 109.535 Designated refueling areas for diesel powered industrial trucks.

The master or person in charge shall designate refueling areas for diesel powered industrial trucks only on—

(a) The weather deck; or

(b) In spaces that are—

(1) Ventilated to prevent accumulation of vapors; and

(2) Located at least 3 meters (10 feet) from a source of ignition.

§ 109.537 Refueling diesel powered industrial trucks: Operations.

The master or person in charge shall ensure that—

§ 109.581 Fixed ballast.

contracted for on or after the effective date of the regulations.

personnel safety shall meet the applicable standards of Subchapter IA.

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(a) Each diesel powered industrial truck is refueled only in a refueling area designated under § 109.535;

(b) Before a diesel powered industrial truck is refueled, its engine is stopped;

(c) If refueling operations are conducted in an enclosed space, no truck engine is operated in the space during refueling operations;

(d) Diesel powered industrial trucks are refueled from—

(1) A portable container of five gallons or less that has a self-closing spout; or

(2) If the refueling operation is on the weather deck, a pump with a hose that has a pistol grip, deadman nozzle; and

(e) Each designated refueling area has at least one four pound, dry chemical, portable fire extinguisher available during refueling operations.

§ 109.539 Recharging battery powered industrial trucks.

The master or person in charge shall ensure that batteries of powered industrial trucks are charged only in a ventilated area and not in a Class I location.

Subpart G—Miscellaneous

§ 109.555 Propulsion boilers.

The master or person in charge and the engineer in charge shall ensure that—

(a) Steam pressure does not exceed that allowed by the certificate of inspection; and

(b) Except as provided in § 109.423, the safety valves, once set and sealed by the inspector, are not tampered with or made inoperative.

§ 109.557 Flammable and combustible liquids: Carriage.

The master or person in charge shall ensure that—

(a) Flammable and combustible liquids in bulk are not carried, except as allowed by endorsement to the Certificate of Inspection;

(b) Portable tanks are handled and stowed in accordance with Subparts 98.30 and 98.35 of this chapter, and the provisions of 49 CFR Parts 171, 172, 173, 176, and 178 which are applicable to portable tanks; and

(c) Grades B and lower liquids are—

(1) Authorized, by the Commandant, to be carried; and

(2) Carried only in fixed independent or integral tanks.

§ 109.558 Stores and supplies.

The master or person in charge shall ensure that dangerous articles, substances, and combustible liquids which are used on board a unit, except those used in industrial operations and as fuel for the unit's machinery, are accepted, handled, stowed, and used only in accordance with the provisions for cargo vessels in Part 147 of this Chapter.

§ 109.559 Explosives and radioactive materials.

Except as authorized by the master or person in charge, no person may use explosives or radioactive materials and equipment on a unit.

§ 109.563 Posting of documents.

The master or person in charge shall ensure that the following are posted under glass in the pilot house or control center:

(a) General arrangement plans for each deck showing—

(1) Each fire retardant bulkhead;

(2) Each fire detecting, manual alarm, and fire extinguishing system;

(3) Each fire door;

(4) Each means of ingress to compartments; and

(5) Each ventilating system, including the location of each damper, fan, and remote means of stopping the fans.

(b) The stability letter issued by the Coast Guard.

(c) Each SOLAS and Coast Guard certificate issued to the unit.

§ 109.564 Maneuvering characteristics.

(a) The master or person in charge of each self-propelled unit of 1,600 gross tons and over shall ensure that a maneuvering information fact sheet is prominently displayed in the pilothouse.

(b) For surface type units, the maneuvering information in Part 97.19 of this chapter must be displayed.

(c) The maneuvering information requirements for column stabilized, self-elevating, and other units of unusual design will be specified on a case by case basis.

§ 109.565 Charts and nautical publications.

The master or person in charge of a self-propelled unit shall ensure that the unit has the following adequate, up to date, and appropriate items for the intended voyage:

(a) Charts.

(b) Sailing directions.

(c) Coast pilots.

(d) Light lists.

(e) Notices to mariners.

(f) Tide Tables.

(g) Current Tables.

(h) All other nautical publications necessary.[1]

§ 109.573 Riveting, welding, and burning operations.

Except as allowed by this section—

(a) the master or person in charge shall ensure that there is no riveting, welding, or burning—

(1) In a fuel tank;

(2) On the boundary of a fuel tank;

(3) On pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel tanks; or

(4) On the boundary of spaces adjacent to tanks carrying Grades A, B, or C flammable liquids in bulk.

(b) The operations prohibited in paragraph (a) of this section may be allowed if—

(1) An inspection conducted in accordance with the "Standard for the Control of Gas Hazards on Vessels to be Repaired," N.F.P.A. No. 306-1974, is made—

(i) In ports or navigable waters of the United States, its territories and possessions, by—

(A) A marine chemist certified by the National Fire Protection Association; or

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(ii) In all other locations by—

(A) A marine chemist certified by the National Fire Protection Association;

(B) If a certified marine chemist is not available, a person designated by the Officer in Charge, Marine Inspection; or

(C) If the persons required in paragraph (b)(ii) (A) and (B) of this section are not available, the master or person in charge; or a welding supervisor designated, in writing, by the master or person in charge; and

(2) A certificate is issued by the person conducting the inspection stating—

(i) That he conducted the inspection in accordance with the standard in paragraph (b)(1) of this section;

(ii) The operations that may be conducted; and

(iii) A list of precautions to be followed during the operations;

(c) The master or person in charge shall ensure that the precautions in paragraph (b)(2)(iii) of this section are followed.

§ 109.575 Accumulation of liquids on helicopter decks.

The master or person in charge shall ensure that no liquids are allowed to accumulate on the helicopter decks.

§ 109.577 Helicopter fueling.

(a) The master or person in charge shall designate persons to conduct helicopter fueling operations.

(b) No person may be designated to conduct such operations unless he is familiar with the fueling procedures and safety precautions.

[1] NOTE.—For U.S. units in or on the navigable waters of the United States. See 33 CFR 164.33.

§ 109.581 Fixed ballast.

(a) The master or person in charge shall ensure that fixed ballast is not removed from the unit or relocated unless the removal or relocation is approved by the Commandant.

(b) Fixed ballast may be moved for examination or repair of the unit if done in the presence of a marine inspector.

§ 109.583 Prevention of oil pollution.

The master or person in charge shall ensure that the unit is operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (86 Stat. 816; 33 U.S.C. 1321);

(b) Section 12 of the Oil Pollution Act, 1961, as amended (75 Stat. 404; 33 U.S.C. 1011); and

(c) 33 CFR Parts 151, 155 and 156.

§ 109.585 Use of auto pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, and all other hazardous navigational situations, the master or person in charge shall ensure that—

(a) It is possible to immediately establish manual control of the unit's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of, the officer of the watch.

APPENDIX A—NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 3-78

SUBJ: INSPECTION AND CERTIFICATION OF EXISTING MOBILE OFFSHORE DRILLING UNITS

1. *Purpose.* To promulgate instructions for the inspection and certification of existing mobile offshore drilling units. This NVC is also being published as appendix A of 46 CFR Subchapter IA.

2. *Background.* Mobile Offshore Drilling Units are recognized internationally through the Intergovernmental Maritime Consultative Organization as being a "special purpose ship" designed and operated to carry out an industrial function at sea. Contemporary U.S. Vessel regulations in Title 46 CFR do not adequately cover the safety considerations which are unique to the hull and structural designs, industrial equipment and operating procedures incorporated in drilling vessels. To provide appropriate and adequate standards, the Coast Guard with the assistance of the National Offshore Operations Advisory Committee, and following the provisions of the Administrative Procedures Act, developed Subchapter IA, Regulations for Mobile Offshore Drilling Units, 46 CFR Parts 107-109 and amendments to 46 CFR Subchapters "F", Marine Engineering Regulations, and "J", Electrical Engineering Regulations. These regulations, published in FEDERAL REGISTER (43 FR 56788 December 4, 1978) will apply to all units contracted for on or after the effective date of the regulations.

3. *Discussion.* a. This NVC elaborates the "grandfather provisions" of 46 CFR 107.211 and 107.215 in applying Subchapter IA to the approximately 150 *existing* ocean-going U.S. flag mobile offshore drilling units. "Existing" Mobile Offshore Drilling Units are those vessels which have been contracted for before the effective date of the regulations including:

(1) Units in Service.

(2) Units under construction.

(3) Units contracted for which are to be constructed and delivered prior to January 1, 1981.

b. Existing *uncertificated* mobile drilling units of which there are approximately 92 of the bottom bearing configuration, i.e., jack-up and submersible types, have not previously been required to comply with vessel inspection regulations. Some units have met the load line requirements of Subchapter "E" for International Voyages. Many of the older units are not classed by a classification society. Bottom bearing units operating on the Outer Continental Shelf of United States have been required to meet the safety requirements of 33 CFR Subchapter "N" as artificial islands. On January 3, 1979, existing bottom bearing units are subject to the "grandfather provisions" in paragraph 107.211(c) of Subchapter IA.

c. Existing *certificated* mobile offshore drilling units, for the purposes of this NVC, are column-stabilized and ship-shape types of which approximately 58 are currently certificated, or have made application for an original Certificate of Inspection or intend to make application for an original inspection for certification under 46 CFR Subchapter "I" on the basis of the unit being contracted for prior to the effective date of the new regulations. These units may continue to meet the structural, equipment, material and arrangement standards which were applicable to the hull, engineering, electrical and industrial systems when the units were contracted for. In addition they must meet the provisions of d.(1), d.(4)(d), d.(7)(b), d.(8), d.(9), d.(10)(b), d.(11) and d.(12) of paragraph 3 of this NVC in accordance with paragraph 107.215(c)(2) of Subchapter IA.

d. *Inspection Provisions for Existing Uncertificated Units.* The intent of the "grandfather" provisions of this NVC for existing uncertificated units is to ascertain through inspection that the material condition of the unit and its equipment meet reasonable levels of safety. To this end, the following determinations will be made:

- The design, construction and arrangements of the hull, machinery electrical and industrial systems do not reveal manifestly unsafe aspects.
- There is no excessive deterioration of the hull structure or equipment foundations.
- There are no intrinsic fire or explosion hazards.
- There are no personnel hazards such as unguarded moving machinery, potential electrical shock conditions or lack of handrails.
- The unit is seaworthy and exhibits satisfactory stability.

d.(1) *General.* (a) Repairs and minor alterations to hull structure or equipment may be made to the same standards as the original installation. However, new installations or major alterations which affect vessel or personnel safety shall meet the applicable standards of Subchapter IA.

(b) Existing items of safety equipment not meeting the applicable specifications or requirements set forth in Subchapter IA may be continued in service as long as they are maintained in good working order to the satisfaction of the OCMI. Such safety equipment and installations requiring extensive repairs shall be replaced and shall meet the applicable specifications and requirements of Subchapter IA.

(c) The OCMI has discretion to accept alternatives or equivalents which meet the established standards, and to give special consideration to departures from the regulations when it can be shown that special circumstances warrant such departures.

d.(2) *Plan Submittal.* (a) For units not classed by the American Bureau of Shipping or other recognized classification society, (see 46 CFR 108.109) the OCMI must have sufficient plans and information submitted to him which will describe such things as the unit's size, construction, configuration, arrangement of tanks, decks and spaces; and the machinery and electrical installation. In addition, the OCMI may require submittal of any additional data he considers necessary in order to proceed with the original inspections.

(b) For units classed by the American Bureau of Shipping or other recognized classification society, the plans and information described in Subchapter IA paragraphs 107.305 (a), (b), (v), and (ii) and a general description of the machinery and electrical installation shall be submitted to the OCMI for information. The OCMI may accept continued classification as proof of structural, mechanical, and electrical sufficiency. However, the OCMI may require additional plans and information if necessary.

d.(3) *Hull Structure.* (a) No structural changes will be required unless manifestly unsafe conditions exist.

(b) Existing uncertificated units must be drydocked or have a special examination in lieu of drydocking as required by 46 CFR, Section 107-261.

(c) Achievement of one compartment subdivision is not required where extensive modification of the original design would be necessary; however, watertight integrity of the hull and structural boundaries must be maintained. Bulkheads and decks designed to be watertight must be maintained as such where they are penetrated by pipes, electrical cable, reach rods, ventilation systems, etc.

d.(4) *Stability.* (a) The stability of each existing unit will be reviewed by the Coast Guard. The plans indicated in 46 CFR Subchapter IA paragraphs 107.305(q) through (u-1) must be submitted to the cognizant OCMI or Merchant Marine Technical Office.

(b) Lightship data from a Coast Guard witnessed and approved stability test is required for each existing, uncertificated unit. Alternatively other evidence of lightship values will be considered on a case by case basis.

(c) In general, compliance with the intact stability standards of 46 CFR Subchapter IA, Sections 108.303 through 108.309 is required. Where existing units were designed to a lesser standard of stability than that specified in §§ 108.303 through 108.309, some relaxation based on proven past performance may be granted at the discretion of the OCMI and limiting conditions, if any, set

forth in the operating manual. In no case

where wood was utilized in the construction

cy lighting system and provide 12 hours of

detailed standards for all existing units. The

tion. Plans must include a symbol list

solid, gas-tight floor from the spaces

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forth in the operating manual. In no case will the minimum wind speed for adequate stability be reduced below 50 knots.

(d) An operating manual shall be prepared for each unit. Each operating manual must contain the information indicated in 46 CFR Subchapter IA, § 109.121(d) and be submitted to the cognizant OCMI or Merchant Marine Technical Office for review.

d. (5) *Load Line.* (a) All units are required to obtain and maintain a valid Load Line Certificate. The structure and stability of the unit must be proven adequate for the voyages and areas of operation intended.

(b) The American Bureau of Shipping or other recognized classification society will issue Load Line Certificates and conduct initial and annual load line surveys. Coast Guard and the American Bureau of Shipping inspections may be conducted simultaneously, but it is the owner's responsibility to arrange coordinated inspection schedules.

(c) The structural review conducted by the American Bureau of Shipping or other recognized classification society for load line assignment may be accepted by the Coast Guard as proof of structural adequacy of the hull.

(d) The stability review must be completed prior to issuance of a Load Line Certificate. The Coast Guard will inform the American Bureau of Shipping or other recognized classification society of the results of the stability review, and will indicate any stability limitations to be placed on the Load Line Certificate.

(e) Freeboard calculations for self-elevating units with barge type hulls will be made in accordance with 46 CFR, Part 42. The bow height requirements of 46 CFR 42.20-70 may be relaxed to approximately 33% of the normal requirement for barge shapes moving at speeds less than 6 knots. No relaxation of the addition to freeboard for deficiency in sheer is allowed. The freeboard for units other than self-elevating units with barge type hulls will be based upon compliance with the intact and damage stability standards applicable at the time the unit was contracted for.

(f) All units *delivered after the date of this NVC* regardless of contract date, must obtain a Load Line Certificate as soon as operationally feasible.

d. (6) *Route and Operating Area Limitations.* (a) Units classed by the American Bureau of Shipping or other recognized classification society for ocean service generally will be certificated by the Coast Guard for ocean routes.

(b) Unclassed units which have proven structural and stability adequacy by continued safe operation in a specific geographic area, such as the Gulf of Mexico, will be limited by the Certificate of Inspection and Load Line Certificate to that area. To qualify for an unlimited oceans route, such a unit must be reviewed for adequacy of the structure and stability by the Coast Guard and meet the Load Line requirements of d. (5) above.

(c) Any unit which intends to move or operate outside the geographical area indicated on the Certificate of Inspection must receive prior approval from the OCMI.

d. (7) *Fire Protection.* (a) *Structural fire protection.* All units must meet the provisions of Section 108.123, Insulation of Combustible Materials and Section 108.127, Storage Lockers for Combustibles. All existing interior stairways which are open at each end must be enclosed at one level. On units where wood was utilized in the construction of accommodation spaces, each space must be equipped with a smoke or heat detector either battery powered or operating on the AC power supply. All detectors must have the Underwriters Laboratories, Inc., label (UL) or the Factory Mutual Laboratories (FM) label.

(b) *Fire Extinguishing Systems.* Systems and equipment must be provided which will meet or be equivalent to the applicable specifications and provisions required by Subchapter IA. Installed fire extinguishing systems, which provide equivalent or greater protection than systems required by Subpart E, Subchapter IA may be continued in use as long as they are in good material condition and will function as designed. Where practicable, existing washdown systems may be utilized as the firemain. Where wood was utilized in the construction of accommodation spaces, the applicable reqirements of 46 CFR Subchapter IA, Table 108.495(a) should be doubled.

d. (8) *Lifesaving Equipment.* (a) Each unit must have lifesaving equipment (lifeboats and davit launched liferafts) for 200 percent of the total persons allowed on board. Except for submersible type units, the installation of lifeboats for 100 percent of the persons (on board) is required in accordance with 46 CFR Section 108.503 of Subchapter IA. Consideration will be given to those units where existing arrangement and structure do not provide sufficient room for installation of the lifeboats or where the added weight of the lifeboats, davits and winches will materially reduce the variable load capacity of the unit. In such cases, davit launched inflatable liferafts with a combined personnel capacity of the required lifeboats, and a rescue boat approved by the OCMI may be acceptable equivalents. Submersible type units may substitute Coast Guard approved throw over type inflatable liferafts and an approved rescue boat for the required lifeboats.

(b) For the second part of the total 200 percent primary lifesaving requirement, lifeboats installed in accordance with 33 CFR, Subchapter "N" Part 144 or Coast Guard approved life floats may be retained as provided for in 3.d(1)(b) of this Circular. They will be considered collectively with the Coast Guard approved liferafts for calculating the amount of equipment to provide for 100 percent of personnel on board.

(c) Adequate access to all lifesaving equipment must be provided.

d. (9) *Cranes.* (a) Plan approval will not normally be required of any crane which conforms to the specifications of the manufacturer as orginally installed. A rated load test as described in Section 107.260 of Subchapter IA will be required unless the crane has been load tested while under certification by an approved certifying authority as provided for in 46 CFR 107.258. Prior to the rated load test, the crane should be identified by manufacturer and model number to determine that the correct load rating chart is being used. The owner must submit to the OCMI details and calculations of any alterations to a crane which were accomplished without manufacturer's documentation in order to verify the rated load of the crane.

d. (10) *Electrical.* (a) Multiple power sources do not require an emergency generator; however, storage batteries or approved relay-controlled battery operated lanterns are required to be installed for the emergency lighting system and provide 12 hours of lighting.

(b) Electrical equipment installed in Class I, division 1 and 2 locations, as defined in Subchapter IA, Section 108.170 must be of a suitable type and in good material condition.

d. (11) *Unfired Pressure Vessels.* (a) Unfired pressure vessels built and stamped in accordance with Section VIII of the ASME Code may be continued in service as long as they remain in satisfactory condition. At the original and subsequent inspections for certification, ASME Code pressure vessels must be tested and examined in accordance with the requirements in 46 CFR 61.10-5.

(b) Unfired pressure vessels which cannot be identified as being constructed to any recognized standard may be continued in service provided that no obvious defects are noted. These pressure vessels shall be hydrostatically tested to one and one half times the working pressure. For pressure vessels that can not be reasonably hydrostatically tested, nondestructive testing may be used to verify the pressure vessels condition for continued serviceability. These pressure vessels will then be stamped with a Coast Guard identification number and periodically tested and examined in accordance with the requirements in 46 CFR 61.10-5.

d. (12) *Marine Sanitation Devices.* (a) All units must meet the provisions of 33 CFR Part 159, Coast Guard Marine Sanitation Devices Regulations. The discharge requirements are compatible with the OCS Orders of the U.S. Geological Survey.

4. *Action.* a. The owner of each *existing certificated* unit must provide the cognizant OCMI a proposed plan to accomplish the requirements in paragraph 3. c. of this NVC within 60 days from the effective date of the regulations. Most items should be approved at the unit's next inspection for certification; however, where major equipment installations are concerned, the owner may be allowed up to two years to comply with the requirements from the time the OCMI completes his assessment of the proposals.

b. *Application for Original Inspection for Certification.* Not later than sixty days from January 3, 1979, application for original inspection for certification of all *existing uncertificated units*, shall be submitted to the appropriate OCMI. The plans or descriptive data specified in paragraph 3.d(2) of this NVC along with a proposed plan to bring the unit into compliance should, if possible, be submitted with the application for inspection. If not feasible to assemble all required information in this time frame, an estimated date of submittal shall be indicated on the application. Arrangements should be made to commence the original inspection for certification with due consideration for the unit's operating situation.

c. To the extent possible the same inspection team will conduct the inspection of all existing uncertificated units in a geographical area. It may be advantageous to conduct the original inspection in conjunction with an impending special or periodic survey, drydocking or availability period. Units under construction will receive primary consideration by the OCMI for the allocation of time and personnel so that any problems can be identified while the unit is in the most advantageous situation to apply corrections.

d. The variety of designs and arrangements presented by existing uninspected MODU's makes it impractical to prescribe

detailed standards for all existing units. The procedures followed to implement this NVC must provide the necessary flexibility. Items which must be taken into consideration in applying this NVC are listed below. Categorizing units into groups to which the same items apply will be of value during the inspection process. These items are:

- Type
- Builder
- Model
- Date build
- Classed by ABS or other classification society
- Load Line assignment
- Operating history (including geographical areas)
- Present location

e. *Issuance of the Original Certificate of Inspection.* The intent of the original inspection of *existing uncertificated units* is to identify and commence correction of any unsafe conditions and/or equipment deficiencies and to issue the unit an original Certificate of Inspection. A reasonable period of time will be permitted to correct minor deficiencies. Those items directly affecting personnel safety and health will require immediate attention to correct the unsafe condition. Extensive deficiencies, such as those involving structural aspects or equipment may require up to two years to remedy. Additional times may be allowed if repair facilities are not available to coastal areas adjacent to the unit's area of operation. Where manifestly unsafe conditions are found, the OCMI may require that the unit discontinue operations until such conditions are corrected. If the owner or operator feels aggrieved by the decision of the OCMI, the appeals procedures of 46 CFR 2.01-70 are applicable.

f. Questions concerning this NVC should be referred to the Commandant (G-MVI).

SUBCHAPTER J—ELECTRICAL ENGINEERING

PART 110—GENERAL PROVISIONS

24. By adding a new § 110.01-10(g) to read as follows:

§ 110.01-10 Authority for regulations.

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(g) *Mobile offshore drilling units.* The citation regarding authority to prescribe requirements for mobile offshore drilling units is in Subchapter I-A of this chapter.

PART 111—ELECTRIC SYSTEM: GENERAL REQUIREMENTS

25. By adding a new § 111.05-(d)(22) to read as follows:

§ 111.05-5 Plan approval.

* * * * * *

(d) * * *

(22) For tank vessels, mobile offshore drilling units, and other vessels carrying hazardous materials as indicated in § 111.80-5, plans showing the location of each item of electrical equipment that is in a hazardous location. Plans must include a symbol list and manufacturer's name and identification.

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26. By adding a new Subpart 111.92 to read as follows:

Subpart 111.92—Mobile Offshore Drilling Units

Sec.

111.92-1 Definition.
111.92-3 Intrinsically safe electrical equipment.
111.92-5 Class I, Division 1 locations.
111.92-7 Class I, Division 2 locations.
111.92-9 Contiguous locations.
111.92-11 Electrical equipment in classified locations.

AUTHORITY: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(6).

Subpart 111.92—Mobile Offshore Drilling Units

§ 111.92-1 Definition.

As used in this subpart, "semi-enclosed location" means a location where natural conditions of ventilation are notably different from those on open decks due to the presence of structures such as roofs, windbreaks or bulkheads.

§ 111.92-3 Intrinsically safe electrical equipment.

(a) This section applies to each mobile offshore drilling unit.

(b) Only intrinsically safe electrical equipment approved for a Class I, Division 1 Location may be installed in the following locations:

(1) The internal space of each pressure vessel, tank, pipe, or gas vent of the mud circulating system between the well and the final degassing discharge.

(2) Any space in which an oil-gas-air mixture is continuously present under normal operational conditions.

§ 111.92-5 Class I, Division 1 locations.

The following are Class I, Division locations:

(a) An enclosed space that contains any part of the mud circulating system that has an opening into the space and is between the well and final degassing discharge.

(b) An enclosed or semi-enclosed location that is below the drill floor, and contains a possible source of gas release.

(c) An enclosed space that is on the drill floor, and is not separated by a solid, gas-tight floor from the spaces specified in paragraph (b) of this section.

(d) A space that would normally be considered a Division 2 location under § 111.92-7 but where combustible or flammable gases might accumulate.

(e) A location in the weather, or a semi-enclosed location, except as provided in paragraph (b) of this section that is within 1.5 m (5 ft.) of the boundary of any—

(1) Equipment or opening specified in paragraph (a) of this section;

(2) Ventilation outlet, access, or other opening to a Class I, Division 1 space; or

(3) Gas vent outlet.

(f) Except as provided in § 111.92-9, an enclosed space that has an opening into a Class I, Division 1 location.

§ 111.92-7 Class I, Division 2 locations.

The following are Class I, Division 2 locations:

(a) An enclosed space that has any open portion of the mud circulating system from the final degassing discharge to the mud suction connection at the mud pit.

(b) A location in the weather that is—

(1) Within the boundaries of the drilling derrick up to a height of 3 m (10 ft.) above the drill floor;

(2) Below the drill floor and within a radius of 3 m (10 ft.) of a possible source of gas release; or

(3) Within 1.5 m (5 ft.) of the boundaries of any ventilation outlet, access, or other opening to a Class I, Division 2 space.

(c) A location that is—

(1) Within 1.5 m (5 ft.) of a semi-enclosed Class I, Division 1 location indicated in § 111.92-5(b); or

(2) Within 1.5 m (5 ft.) of a Class I, Division 1 space indicated in § 111.92-5(e).

(d) A semi-enclosed area that is below and contiguous with the drill floor to the boundaries of the derrick or to the extent of any enclosure which is liable to trap gasses.

(e) A semi-enclosed derrick to the extent of its enclosure above the drill floor or to a height of 3 m (10 ft.) above the drill floor, whichever is greater.

(f) Except as provided in § 111.92-9 an enclosed space that has an opening into a Class I, Division 2 location.

§ 111.92-9 Contiguous locations.

An enclosed space that has direct access to a Division 1 or Division 2 location is the same division as that location, except—

(a) An enclosed space that has direct access to a Division 1 location is not a hazardous location if—

(1) The access has self-closing gastight doors that form an air lock;

(2) The ventilation causes greater

(b) NEMA standards in § 110.10-1(c)

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(2) The ventilation causes greater pressure in the space than in the Division 1 location; and

(3) Loss of ventilation overpressure activates an alarm at a manned station.

(b) An enclosed space that has direct access to a Division 1 location can be considered as a Division 2 location if—

(1) The access has a self-closing, gastight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 1 location; and

(3) Loss of ventilation activates an alarm at a manned control station; and

(c) An enclosed space that has direct access to a Division 2 location is not a hazardous location if—

(1) The access has a self-closing, gastight door that opens into the space and that has no hold-back device;

(2) Ventilation causes the air to flow with the door open from the space into the Division 2 location; and

(3) Loss of ventilation activates an alarm at a manned control station.

§ 111.92-11 Electrical equipment in classified locations.

Electrical equipment and devices installed in spaces made non-hazardous by the methods indicated in § 111.92-9 must only be essential equipment.

26. By adding a new Subpart 111.94 to read as follows:

Subpart 111.94—Mobile Offshore Drilling Unit Industrial Systems

§ 111.94-1 Industrial systems.

A system on a mobile offshore drilling unit that is used only for the industrial function of the unit and meets the National Electrical Code need not meet this subchapter except—

(a) The Underwriters' Laboratories, Inc. standards in § 110.10-1(e) of this subchapter;

(b) NEMA standards in § 110.10-1(c) (1) and (2) of this subchapter;

(c) Section 111.05-5—Plan approval;

(d) Section 111.05-15—General considerations;

(e) Section 111.60-25(f)—Ship structure as a conductor;

(f) Section 111.60-30—Engine starting;

(g) Subpart 111.92—Mobile offshore drilling units; and

(h) Cables that penetrate a deck or bulkhead must—

(1) Be installed in accordance with § 111.60-1(k); and

(2) Meet the flammability test requirements of Section 18.13.5 of IEEE Std. No. 45.

PART 112—EMERGENCY LIGHTING AND POWER SYSTEM

28. By adding a new § 112.05-10 (e) and (f) to read as follows:

§ 112.05-10 Emergency lights.

* * * * *

(e) On a mobile offshore drilling unit, the distribution panels required in paragraph (b) of this section may be in the control room.

(f) On a mobile offshore drilling unit, the switches required in paragraph (c) of this section may be in the control room.

29. By adding a new § 112.15-5(c) and revising § 112.15-5(f) to read as follows:

§ 112.15-5 Final emergency source leads.

* * * * *

(c) Each electric blow-out preventer control system on a mobile offshore drilling unit.

* * * * *

(f) One of the fire pumps, if dependent upon the emergency generator for its source of power to comply with Part 34 of Subchapter D (Tank Vessels), Part 76 of Subchapter H (Passenger Vessels), Part 95 of Subchapter I (Cargo and Miscellaneous Vessels), or Part 108 of Subchapter IA (Mobile Offshore Drilling Units) of this chapter.

* * * * *

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

30. By adding a new § 113.25-5(e) to read as follows:

§ 113.25-5 Operation.

* * * * *

(e) Each mobile offshore drilling unit must have a manually operated contact maker for the general alarm system—

(1) In the main control room;

(2) At the drilling console;

(3) In the space that has the feeder distribution panel;

(4) In the wheelhouse if a wheelhouse is installed; and

(5) In a location that is as far as practicable from each other contact maker.

(Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); sec. 10, 35 Stat. 428 (46 U.S.C. 395); R.S. 4423, as amended (46 U.S.C. 400); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46 (b) and (n)(6).)

Dated: November 21,1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc 78-33799 Filed 12-1-78; 8:45 am]

federal register

MONDAY, DECEMBER 4, 1978
PART IV



DEPARTMENT OF TRANSPORTATION

Coast Guard

OFFSHORE OIL POLLUTION LIABILITY AND COMPENSATION

Proposed Rulemaking

V

[4910-14-M]

the proposals in this notice; however,

Because the statutory authority

in this proposed rulemaking notice for implementing Title III considers the eventuality of a "Comprehensive Oil

In this regard, the Secretary of the Treasury may, after consulting with the the Secretary of Transportation,

vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal

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[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 130, 131]

[CGD 77-055]

OFFSHORE OIL POLLUTION LIABILITY AND COMPENSATION

Proposed Rules

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to issue regulations to implement parts of Title III of the Outer Continental Shelf Lands Act Amendments of 1978. Title III creates a scheme of strict liability and compensation for the economic consequences of oil spilled as a result of activities on the Outer Continental Shelf and establishes a Federally administered fund to provide compensation for losses which are not otherwise compensated. The intended effect of this rulemaking is to propose requirements for establishment of financial responsibility, settlement and adjudication of claims, notification of incidents, designation of sources of oil pollution, and advertisement of claims procedures.

DATES: 1. Comments must be received on or before January 18, 1979. 2. Public Hearings: The Coast Guard will hold public hearings on the proposals in this notice on January 4, 1979 beginning at 9:30 a.m. in the Prince of Wales Room, 2d Floor, Hilton Hotel, Poydres at the Mississippi River at New Orleans, La. and on January 8, 1979 beginning at 9 a.m. in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington. D.C.

ADDRESS: Comments should be submitted in writing to Commandant (G-CMC/81). U.S. Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Frank A. Martin, Jr. (202) 426-2606 (7:30 a.m. to 4 p.m.).

SUPPLEMENTARY INFORMATION: The Coast Guard invites the public to participate in this rulemaking by submitting written data, views, or arguments. Each person submitting comments should include his or her name and address, identify this notice (CGD 77-055), the specific item or items being commented upon, and give detailed reasons for any suggestions, arguments, objections or recommendations submitted. All comments received will be considered as fully as possible before final action is taken on the proposals in this notice; however, the statutory authority under which these rules are being issued requires final action by March 17, 1979. To facilitate the comment evaluation stage of this rulemaking and assure a full and careful consideration of all comments received, commenters are asked to key each comment to the particular section of the proposed rule to which it applies.

Availability of Materials in Rulemaking Docket

Comments received will be available for examination during normal business hours, 7:30 a.m. to 4 p.m., in Room 8117 at the above address. Also available at that address, for public inspection, are copies of the Regulatory Analysis from which the economic summary in this document is taken and the Environmental Assessment prepared for this rulemaking action. Copies of materials in the docket, including the public hearing transcripts when they become available, will be furnished to interested persons upon request to the Executive Secretary (G-CMC/81) at the above address and payment of the fees prescribed in 49 CFR 7.95.

Public Hearing Information

Interested persons are invited to attend the scheduled public hearings and present oral or written statements on the proposals in this document. The hearings will be informal and presided over by a Coast Guard official. Persons planning to make hearing presentations are encouraged to submit their views in writing in advance, and should notify Mr. Martin at least 10 days before the scheduled hearing dates, specifying the approximate length of time needed for their presentation. Time limitations may be imposed by the presiding officer, within the officer's sole discretion. Organizations or groups of individuals are requested to limit their presentations to a single speaker on behalf of the organization or group. Procedural details regarding the conduct of each hearing will be announced at the beginning of the hearing.

Public Comment Period

For reasons discussed elsewhere in this preamble, the Coast Guard has determined that this proposed rulemaking constitutes a significant regulation". Under current departmental regulatory policy, the general public should be allowed at least 60 days to comment upon proposed significant regulations. In the few instances where the initiating office determines this is not possible, the proposal is to be accompanied by a brief statement of the reasons for a shorter time period for public comment.

Because the statutory authority under which the rules in this document are being promulgated requires that they be developed, finalized, and effective on the 180th day after the date of enactment of the authorizing statute, i.e., by March 17, 1979, the Coast Guard determined that it can allow the public only 45 days in which to prepare and submit its comments on the proposals in this document. The Coast Guard believes this to be a reasonable time period under the circumstances, because, in addition to this publication in the Federal Register, it has made a direct mailing of this notice to those parties most affected by the proposed rules and issued appropriate news releases to assure timely dissemination. The Coast Guard has also involved a wide range of potentially affected interest in the early development of this rulemaking.

Drafting Information

The principal persons involved in this rulemaking action are: Mr. Frank A. Martin, Jr., Project Manager, Office of Marine Environment and Systems and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background

On September 18, 1978, the President signed into law the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372) (the Act). Title III of that Act imposes liability for the consequences of oil pollution from offshore activities on the owners, operators, and guarantors of the sources of such pollution and specifies requirements for evidence of the ability to meet that liability. The Act also establishes an Offshore Oil Pollution Compensation Fund (the Fund) which is to be administered jointly by the Secretary of Transportation and the Secretary of the Treasury. The principal purpose of the Fund is to ensure that money is available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf (OCS) and to compensate for any damages to public or private interests caused by such spills or discharges, when, for whatever reason, payment is not made by the source of such oil pollution.

While the offshore Fund under Title III of the Act focuses on providing a uniform liability and compensation scheme for pollution incidents arising in connection with OCS activities, it is expected that legislative initiatives will mature that will, in effect, expand the scope of the Fund to include coverage of virtually all marine oil pollution, including that discharged from onshore facilities and Deepwater Ports. With this in mind, the Coast Guard's regulatory approach reflected

in this proposed rulemaking notice for implementing Title III considers the eventuality of a "Comprehensive Oil Pollution Liability and Compensation" scheme or "Superfund".

The increased scope of claims authorized by Title III, as opposed to claims heretofore primarily limited to cleanup costs under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321), represents a significant shift in Federal Government policy regarding damages caused by and claims originating from oil pollution. Under Title III there will be a greater degree of Federal Government involvement in compensation for damages from OCS oil pollution, including control of liability and financial responsibility requirements of parties connected with U.S. OCS petroleum production.

The Congress assigned the Secretary of Transportation major regulatory and administrative responsibilities regarding implementation of Title II. With the exception of the authority to appoint special three-member panels to hear and decide disputes under section 307(h) of the Act, and the authority to refer a disputed claim to such panel under section 307(i)(1) of the Act, it is expected the Secretary will delegate his responsibilities under Title III to the Commandant, U.S. Coast Guard.

A brief summary of the major provisions of Title III follows.

Fund Administration

The Secretary of Transportation and the Secretary of the Treasury share administrative responsibility for the Fund, which is authorized to be maintained at a level of not less than $100 million nor more than $200 million. The Fund is to be supported by a fee, not to exceed $.03 per barrel (bbl.), on all oil produced from the OCS. The Fund will also be supplemented by fines and penalties collected and interest earned. In addition to payment for oil spill removal and damage claims arising in connection with OCS activities not otherwise compensated, the Fund is also available for administrative costs of operating the Fund.

It does not appear likely that Fund revenues will approach the $200 million level in the near future. Based upon current OCS production the Coast Guard estimates that Fund revenue for the first year will be approximately $10 million, generated by levying the maximum $.03 bbl. fee authorized.

Under the statute, the Secretary of Transportation levies the per barrel fee which is imposed on the owner of the oil at the point where it is actually produced. The Secretary of the Treasury is given the statutory authority to collect the fees on behalf of the Fund. In this regard, the Secretary of the Treasury may, after consulting with the the Secretary of Transportation, promulgate regulations regarding actual fee collection and payment procedures. The per barrel fee may, by regulation, be modified from time to time by the Secretary of Transportation, to assure that the Fund does not exceed its statutory ceiling, but is still able to meet potential obigations.

The Act also give the Secretary of the Treasury authority to identify records and documents required to be maintained, and accessible for audit and examination by those subject to payment of the barrel fee.

The Secretary of Transportation may determine the Fund balance required to meet potential obligations, and borrow from the treasury, as necessary, to maintain such balance. The Secretary of Transportation may also promulgate regulations designating those persons who may obligate Fund monies.

Losses Covered

The Act imposes liability for economic loss resulting from or arising out of oil pollution from OCS activities as follows:

(1) Removal and cleanup cost;

(2) Injury to, or destruction of, property;

(3) Loss of property;

(4) Injury to, or destruction of natural resources;

(5) Loss of use of natural resources;

(6) Loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; and

(7) Loss of tax revenue for a period of one year due to injury to real or personal property.

Liability

The Act imposes, with certain exceptions, strict liability for all loss on the owner and operator of the source of offshore oil pollution, up to certain limits. Except in certain cases, total liability of a vessel is $250,000 or $300 per gross ton, whichever is greater, plus all removal costs incurred by the Federal government of any State or local government; total liability for an offshore facility is all removal costs, plus up to $35,000,000 for all damages. In cases of gross negligence or willful misconduct of the owner or operator of vessels or facilities, liability is unlimited. The Fund is liable, without limitation, for all damages and removal costs to the extent that the loss is not compensated from other sources. If gross negligence or willful misconduct on the part of the claimant contributed to the damages, there in no liability to that claimant.

Liability is unlimited in the case where the owner or operator of a vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities following a pollution incident. This provision requires that a determination be made as to whether reasonable cooperation and assistance has been provided. Most of the vessels affected by the Act are barges which transport oil from platforms to shore. There are twelve barging systems in operation in the Gulf of Mexico handling an average of 20,000 barrels a day of OCS oil from approximately 70 leases. There is one known self-propelled vessel which performs similar operations with OCS oil off the California coast. Vessel transport accounts for movement of 3% of all oil produced on the OCS. The remainder is moved by pipeline.

The facilities covered by the Act include platforms, mobile offshore drilling units, pipelines, storage facilities and any other structure which is used to drill for, transfer, store, produce, handle, process, or transport oil produced from the OCS. There are now about 2,300 platforms on the OCS with all but a few in the Gulf of Mexico. There are approximately, 120 mobile offshore drilling units in operation in several OCS locations including the Gulf of Mexico, the Santa Barbara channel and the Baltimore Canyon. There are over 57 million feet of pipelines operated by 66 companies in the Gulf of Mexico alone. Plugged and abandoned wells number over 6,600.

This notice does not contain any proposed regulations regarding the liability provisions of Title III of the Act. Rather, the Coast Guard chooses to defer to the statute in this area and reevaluate the need for any liability regulations after experience is gained with the operation of the Fund.

Financial Responsibility

In general, the Act requires the owner or operator of an offshore facility to establish and maintain evidence of financial responsibility in the amount of $35,000,000. The Act also requires vessel owners or operators to establish and maintain evidence of financial responsibility in varying amounts. The authority of the President to promulgate regulations concerning financial responsibility is expected to be delegated, in the case of offshore facilities, to the Secretary of Transportation, who, in turn, will delegate that authority to the Commandant, and in the case of vessels, to the Federal Maritime Commission (FMC), which currently issues Certificates of Financial Responsibility to vessels under the Federal Water Pollution Control Act (33 U.S.C. 1321).

scribe internal agency procedures and cies, or guarantors should be allowed

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NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

Any person involved in a discharge of oil subject to Title III is required to immediately notify the Secretary of Transportation when such an incident occurs or is imminent. Upon the Secretary's designation of the source of a discharge, the person or organization so designated shall advertise the designation and procedures by which damage claims are to be presented. The Act provides general guidelines on, and time limits for, these procedures. The implementing regulations proposed in this document incorporate and amplify these statutory guidelines for notification, designation and advertisement.

The Act also prescribes when advertisement will be performed by the Fund; i.e., for cases where the vessel or facility owner or operator involved denies a source designation, fails to advertise in a timely fashion, or where the source of the pollution is unknown or is a public vessel.

CLAIMS SETTLEMENT

The basic premise of the claims settlement provisions of the Act is that claims are to be presented first to the owner, operator, or guarantor of the source. A claim is presented directly to the Fund only when the owner, operator, and guarantor fail to settle the claim within 60 days or deny the designation or when the source is unknown or is a public vessel. The Secretary of Transportation's authority to promulgate regulations for the appraisal and settlement of claims against the Fund will be delegated to the Commandant.

SUBROGATION

The Act provides that any person or government entity, including the Fund, who makes payment on a claim under the Act, acquires by subrogation the rights of that claimant to recover the cost or damage covered by the payment. Thus, if the Fund pays claims, it will seek reimbursement from the source of the pollution.

Potential defendants in actions by the Fund to recover costs or damages are separated into two classes for the purpose of differentiating their respective rights to dispute claims settlements. If the Fund proceeds against an owner, operator, or guarantor who either denies a designation or who denies liability, the owner, operator, or guarantor cannot protest the amount involved except to the extent that the amount exceeds their liability. If, however, the owner, operator or guarantor accepts a designation and attempts to negotiate with a claimant, the owner, operator, or guarantor has a right to contest any amount paid by the Fund in excess of the largest amount offered by the owner, operator or guarantor in settlement to the claimant.

RELATIONSHIP TO OTHER LAW

The Act does not preempt existing State liability requirements or preclude a State from imposing, within State jurisdiction, new or additional requirements for liability for either damages or removal costs, or both.

Claimants who are eligible under both the Act and a State law may seek reimbursement for damages and removal costs under either law. However, any person who receives compensation under a State law is precluded from compensation for those damages and removal costs under the Act.

PENALTIES

The Act subjects persons who violate the financial responsibility requirements of the Act and of regulations thereunder to a civil penalty not to exceed $10,000. The Act also imposes the same penalty on those who violate an order denying a vessel entry into navigable waters of the United States or detaining it at a U.S. port because of failure to show a certification of financial responsibility.

The assessment of penalties relating to financial responsibility for offshore facilities, denial and detention orders for vessels, and the Coast Guard's right of access to vessels and offshore facilities in order to verify certification of financial responsibility will be performed by the Coast Guard under 33 CFR 1.07.

GENERAL DISCUSSION OF PROPOSED REGULATIONS

The primary objective of this rulemaking action is to develop and prescribe the Federal policies, procedures and administrative requirements necessary to the operation of the Fund. In pursuit of this objective the Coast Guard believes regulations are necessary in the following areas:

a. Methods and procedures for the adjudication and settlement of claims.

b. Requirements for establishing and maintaining evidence of financial responsibility for offshore facilities.

c. Designation, notification and advertisement requirements, to be followed when an oil pollution incident occurs.

d. The levy of the per barrel fee owners of OCS oil are to pay to Fund.

e. Denial and detention orders for vessels.

The proposed regulations are the minimum necessary to implement the Secretary of Transportation's authority under Title III of the Act and communicate the system of Fund operation. The following segments of the general public are directly affected by the proposed regulations.

a. Owners and operators of offshore facilities and their guarantors, who must meet liability and financial responsibility requirements, and damage claim obligations.

b. Persons who suffer oil pollution damage or removal costs and are eligible claimants within the context of Title III of the Act.

c. Certain vessel owners and operators required to comply with FMC's regulations under Title III, and meet damage claim obligations.

REGULATORY ANALYSIS

The Coast Guard considers this regulatory action to be a "significant" rulemaking action under current Departmental guidelines for "Improving Government Regulations", published in the FEDERAL REGISTER (43 FR 23925-33) on June 1, 1978. The proposed regulations deal with oil spill liability and compensation for damages arising from oil pollution, a matter of substantial public interest and controversy. The increased financial certification and claims adjudication requirements imposed upon firms connected with the U.S. OCS petroleum industry represent a significantly greater degree of Federal Government involvement in that industry than has previously existed. Finally, it is expected that these regulations will impact upon, and must be consistent with the regulatory and administrative approach taken by the other Federal agencies assigned responsibilities under Title III, principally the Treasury Department. For these reasons a Regulatory Analysis has been prepared.

The Regulatory Analysis discusses the major alternatives considered by the Coast Guard during development of the proposals in this document. That analysis, presently in draft form, contains a detailed description of the major regulatory alternatives considered, the economic and other relevant consequences of each alternative, and the reasons for selecting the proposals in this document. Based on that Analysis, the Coast Guard has concluded that the proposed regulations are basically procedural in nature and, consequently are not likely to have a major general economic impact in terms of costs, consumer prices, or production; nor upon individual industries, levels of government, or geographic regions. The draft Regulatory Analysis will be revised, as appropriate, in light of comment received from this notice, and finalized concurrently with the promulgation of the final regulations.

The cost to industry of meeting the financial responsibility requirements of the proposed regulations is of critical importance. Due to the nature of the liability imposed by the Act, there is some question as to whether the

surety, guarantee, or insurance options will be available to those who may desire to establish evidence of financial responsibility by one of those methods. The consequence of such options not being available would be the necessity for relatively small firms, those unable to self-insure, to cease petroleum production operations on the OCS. In such a case there might be a reduction in competition in the industry, a reduction in production volume, and ultimately, an increase in the cost of OCS petroleum to the consumer.

Preliminary inquiry conducted by the Coast Guard indicates that the surety, guarantee, and insurance options probably will be available given the requirements for evidence of financial responsibility established by the regulations as presently proposed. However, the Coast Guard has been unsuccessful in its efforts to determine the cost associated with establishing evidence of financial responsibility by any of those methods. A study is to be conducted pursuant to section 305(d) of the Act to determine whether adequate insurance will be available. Public comment regarding the expected impact of this aspect of the proposed regulations is greatly desired by the Coast Guard.

ENVIRONMENTAL ASSESSMENT

The Coast Guard has considered the environmental impact of the proposed regulations and concluded that preparation of an environmental impact statement is not necessary. A Negative Declaration has been prepared and is on file in the rulemaking docket.

EFFECTIVE DATE

Section 315(b) of the Act requires that the regulations authorized in Title III be effective on the 180th day after enactment. Section 313(c) requires appropriation act enactment before collecting or spending is authorized. The effective date of these proposals, as may be modified by changes resulting from this notice, will be no earlier than March 17, 1979, or after the appropriation act enactment, whichever occurs later.

SPECIFIC DISCUSSION OF PROPOSED REGULATIONS

All the regulations for implementing the responsibilities assigned to the Secretary of Transportation under Title III of the Act are contained in proposed new Parts 130 and 131. The proposed rules prescribe only the minimum necessary to explain to those persons affected by the Act the details worked out for the actual operation of the Fund. In some instances the rules in Parts 130 and 131 do not place a specific requirement or burden on any particular individual, but describe internal agency procedures and practices regarding administration of the Fund.

Proposed § 130.3 identifies those segments of the public that are affected by the proposed regulations. Paragraph (a)(1) thru (4) of the section identify the specific segments of the general public upon which the Act and these regulations place major responsibilities regarding liability and financial responsibility for oil pollution incidents arising in connection with OCS activities. Paragraph (a)(5) of this section is merely a statement intended to indicate that there are persons other than those listed in paragraph (a)(1) thru (4) that are affected less directly by the Act and these implementing regulations.

Section 302 (d)(1) of the Act requires the Secretary to levy a barrel fee not to exceed $.03 per barrel on the owners of oil produced on the OCS. Proposed § 130.103 in Subpart B is the actual levy of the barrel fee on the owner of OCS oil. The levy of the maximum fee allowed under the Act is predicated upon Coast Guard analysis that the maximum barrel fee is necessary to build the Fund up to an operating level adequate to meet anticipated obligations. Based on current statistics on oil produced on the OCS it appears the fee will remain at the full $.03 per barrel permitted by the Act for the foreseeable future.

Proposed § 130.103(b) contains the criteria for determining when oil is "produced" and thus subject to the $.03/bbl. fee levied by paragraph (a) of the section.

Proposed § 130.105 states how the Commandant will modify the barrel fee imposed on OCS oil produced, as necessary to keep the Fund balance within the levels authorized by the Act.

Proposed Subpart C, §§ 130.201-.223 contain the requirements believed necessary for establishing and maintaining evidence of financial responsibility for facilities.

Evidence of financial responsibility could be established by allowing private insurance companies, bonding agencies, or guarantors to issue certification verifying that the owner or operator of an offshore facility has the financial capability to meet specified limits of liability. Such evidence could also be established by requiring that the Fund issue that certification. The selection of one of those alternatives involves the decision to impose the administrative cost of certification of financial responsibility on either private industry or the Fund.

It may be argued that because offshore facilities are always subject to United States jurisdiction and are not in most cases readily movable, private insurance companies, bonding agencies, or guarantors should be allowed to issue certification of financial responsibility to an owner or operator of an offshore facility. However, because it is expected that a significant percentage of owners and operators will be self-insured, which will require that the Fund issue a large percentage of certificates, because the Fund might not have legal authority to revoke certification issued by a private company, because certification must be completed in a timely fashion, and because the Coast Guard desires that certification be of uniform quality and appearance, it has been decided that evidence of financial responsibility will be established by having the Fund issue certification verifying that the owner or operator of an offshore facility has the financial capability to meet specified limits of liability. Proposed Subpart C reflects this decision throughout the subpart.

For the purpose of the rules in proposed Subpart C, a mobile offshore drilling unit is considered to be an offshore facility rather than a vessel when it becomes attached to the seabed for exploration, development, or production of oil.

The definition of "vessel" in section 301(5) of the Act precludes by the language "* * * and which is transporting oil directly from an offshore facility * * *", the placement of mobile offshore drilling units in the caregory of a "vessel" under Title III because such units are not normally used for transporting oil. The owners and operators of mobile offshore drilling units must establish and maintain evidence of financial responsibility as required for an "offshore facility" under section 305(b) of the Act, when engaged in drilling for, producing, or processing oil on the OCS. The applicability of the offshore facility financial responsibility requirements proposed in Subpart C includes a specific reference to mobile offshore drilling units in proposed § 130.201(b).

An application needs to be made for each facility but an owner or operator need only provide evidence in the amounts proposed in § 130.203. This provision would not lessen the multiple liability of the owner or operator and is not to be construed to include insuring only the largest facility.

An owner or operator of an offshore facility is required to have evidence of financial responsibility in the amount of $35,000,000. Because the likelihood that an owner or operator, or guarantor of an owner or operator, will be involved in more than one incident increases with an increase in the number of offshore facilities operated at any given time, the Coast Guard has required in proposed § 130.203 that, where evidence of financial responsibility is by guarantee, surety bond, or

self-insurance, covering more than one

sary to issue and maintain the certifi-

[4910-14-C]

OUTER CONTINENTAL SHELF LANDS ACT

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self-insurance, covering more than one offshore facility, there must be additional assets available to pay any damages arising out of multiple incidents.

However, because the dollar amount of the probable damages to which an owner or operator, or guarantor of an owner or operator, may be exposed by reason of the operation of more than one offshore facility at any given time is not directly proportional to the number of offshore facilities operated, the increase in assets required to cover more than one offshore facility progressively decreases for each additional offshore facility. Thus, the self-insured owner or operator of more than one offshore facility is required to have only $8 million in additional assets for the second offshore facility, $4 million for the third offshore facility, $2 million for the fourth offshore facility, and $1 million for the fifth offshore facility. No additional assets will be required for the sixth and subsequent offshore facilities.

The procedures for applying for certificates of financial responsibility are proposed in § 130.215. This section proposes a single application form that is sufficiently flexible to accommodate the range of alternatives, or combination thereof, of methods available to a facility owner for establishing financial responsibility. The Coast Guard is developing the single form application concept to minimize paperwork and reporting requirements for the facility owners and operators and their guarantors.

The single application form will contain only the basic information necessary to issue and maintain the certificate of financial responsibility. The endorsement side of the form (reverse side), to be completed by the guarantor, surety, or insurer will establish their liability and provide a mechanism for the Fund Administrator to check compliance with the applicable provisions of proposed Subpart C.

The purpose of requiring that an application form be submitted for each facility (proposed § 130.215(b)) is to enable quick processing of changes, additions, and deletions of facilities of record without changing the previously furnished evidence when that is unnecessary. The reference on the face of the form to primary and secondary certificate numbers is to facilitate the administrative process of reviewing financial evidence and keeping issued certificates current. The primary number will locate for the Fund Administrator the initial evidence furnished as regards the particular insurer, guarantor, or surety for a facility. The secondary number will identify the specific owner and facility.

It is intended that the single application form and endorsement thereon, together with any attached supporting financial data required as evidence, complement the proposed Subpart C regulations and achieve a rather simple administrative process for assuring that the financial responsibility requirements of the Act are met. Public comment on the draft application form proposed herein is specifically desired to assist in finalizing the form in a manner that will achieve the above intent.

[4910-14-C]

OUTER CONTINENTAL SHELF LANDS ACT
APPLICATION FOR CERTIFICATE OF FINANCIAL RESPONSIBILITY

Instructions: Complete every item in the application and forward through your insurance company, guarantor, or surety for completion of the reverse side. One form for each facility; type or print clearly; where appropriate place the number in the box.

Do Not Write in this Block
_ _
_ _ _ _ _ _ _

Legal name of applicant _____
Trade name if different _____
Address _____
City State Zip Code

Contact: Name _____
_ _ - _____
Area Code Telephone Number

I/We are filing for a Certificate of Financial Responsibility as: ☐
1. Owner 2. Operator 3. Owner & Operator

If filing as operator the owners name and address is:
Name _____
Address _____
City State Zip code

Type of Facility: ☐ 1.Refinery 2.Drilling Structure 3.Oil Storage 4.Transfer Terminal 5.Pipeline 6.Other(specify) _____

I/We are filing for a: ☐ 1. New Certificate 2. Renewal 3. Additional 4. Replacement for lost

If renewal or replacement fill out primary and secondary certificate number If additional, only primary certificate number is necessary. If new leave blank.
_ _ _ _ _ _ - _ _ _ _
Primary Certificate Number Secondary Certificate Number

I/We elect to establish financial responsibility by: ☐
1. Insurance 2. Surety Bond 3. Guarantee 4 Self Insurance

If more than one method of financial responsibility is selected the order of liability liquidation will be --- ☐ 1st $_____,
☐ 2nd $_____ 1. Insurance 2. Surety Bond 3. Guarantee 4 Self Insurance

Lease number, area block, identification name and number, and other description of facility that is recognized and will clearly distinguish your liability area:
Lease #_____, Area Block_____, _____

Type of organization: ☐ 1.Corporation 2.Individual 3.Partnership 4.Joint Stock Co 5.Association 6.Syndicate 7.Business Trust 8.Mining Partnership 9.Other _____ (specify)

Name of State or Country in which incorporated or organized: _____

Date of organization or incorporation: _____

If Applicant is a U.S. entity and it chooses to appoint itself as agent for service of process check here: ☐ otherwise the designated U.S. agent for service of process is:
Name _____
Address _____

I agree to be the agent for service of process:
_____ _____ _____
Signature title date

I hereby certify the above information is correct to the best of my knowledge and I agree to notify the Fund Administrator of any changes in the above information.

CG Form_____ Approved:_____
OMB Number_____

_____
Signature
_____
Title date

SAMPLE

As a practical matter it is not possi- satisfy the provisions of 33 CFR is thought that to utilize a State

1st $_____

For the facility listed on the front of this form, I/We agree to be the designated:

- ☐ Insurer in accordance with 33CFR 130.207.
- ☐ Guarantor in accordance with 33CFR 130.209.
- ☐ Surety in accordance with 33CFR 130.211.
- ☐ Self Insurer in accordance with 33CFR 130.213.

I/We agree to comply with the indicated regulations and will notify you if, at any time, the financial position decreases to a point that I/We cannot support the liability as guarantor indicated in 33CFR 130.

Name_____
Address:_____
_____
Contact for Claims:_____
Address: (if different)_____
Phone number of contact:_____
Area code Phone number

_____
Signed

_____
Title Date

SAMPLE

2nd $_____

For the facility listed on the front of this form, I/We agree to be the designated:

- ☐ Insurer in accordance with 33CFR 130.207.
- ☐ Guarantor in accordance with 33CFR 130.209.
- ☐ Surety in accordance with 33CFR 130.211.
- ☐ Self Insurer in accordance with 33CFR 130.213.

I/We agree to comply with the indicated regulations and will notify you if, at any time, the financial position decreases to a point that I/We cannot support the liability as guarantor indicated in 33CFR 130.

Name_____
Address:_____
_____
Contact for Claims:_____
Address:(if different)_____
Phone number of contact:_____
Area code Phone number

_____
Signed

_____
Title Date

Mail completed form to: Fund Administrator
G-W/73
400 7th Street S.W.
Washington, D. C. 20590

If Guarantor or Self Insurer, appropriate statements must be attached unless previously submitted. If previously submitted check here ☐

As a practical matter it is not possible to process requests from the owners, operators, or guarantors of offshore facilities for the issuance of certificates of financial responsibility so as to have the certificates on the facilities within the time frame intended by Congress, i.e., the 180th day after enactment of the Act. Therefore, the rule proposed in § 130.215(a)(1) will most probably be waived to allow applicants for certificates of financial responsibility sufficient time to make the required application. Public comment is also specifically invited as to what the "sufficient time" should be, taking into consideration the time an applicant would require to arrange for insurance, bonding, or guarantee, or to gather appropriate supporting financial data to comply with the financial responsibility provisions of proposed Subpart C.

The proposed regulations for Subpart C contain no adminstrative sanctions against facilities, similar to those prescribed for vessels in proposed Subpart E because none are authorized by the Act. However, in addition to the administrative sanctions in proposed § 130.401 against vessels, failure of an owner or operator of either a vessel or a facility to meet the requirements of financial responsibility subjects that person to the civil penalty provided in section 312(a)(1) of the Act.

Subpart D, §§ 130.301-130.319 are proposed regulations governing notification, designation and advertisement requirements associated with a pollution incident. These procedures deal with contacts and communications between claimants and the owners, operators, and guarantors of facilities and vessels which have been designated as the source or sources of oil pollution. Since the nature of the functions covered in proposed Subpart D are more operationally oriented rather than administrative, the term "Commandant" is used throughout this subpart in lieu of the term "Fund Administrator" used in the other proposed subparts.

In view of the similarity of the notification requirements in section 306 of the Act to the notification requirements under the Federal Water Pollution Control Act (FWPCA), as amended, and to avoid duplication of effort, the notification procedures in proposed § 130.305 are essentially the same as those which already exist in 33 CFR 153.203. The one important distinction is that the Act requires notification of "imminent threats," which is not required under the FWPCA. In an effort to clarify what constitutes an imminent threat, proposed § 130.303(a)(3) defines "occurrences which impose an imminent threat of oil pollution." Notifications under proposed § 130.305 would also satisfy the provisions of 33 CFR 153.203.

It is anticipated that most of the functions assigned to the Commandant in proposed Subpart D will, in practice, be carried out by Federal On Scene Coordinators. The Notice of Designation proposed in § 130.309 for designating the source of an oil spill incident contains much of the information which is currently provided by the notice of Federal interest which is issued under FWPCA auspices. Failure to deny designation is not an acceptance of liability. If, subsequently, it is determined that a designated source was not responsible for the discharge, or has a defense to liability, that source would have recourse to the Fund or to other parties for reimbursement.

Section 130.313 proposes that the commandant determine advertising requirements, if any, that will be applied to each oil pollution incident and the criteria upon which that determination is made. This proposal reflects an interpretation of section 306(b)(2) of the Act that advertising may not be required or necessary in all cases, but rather, should depend upon the circumstances of each incident.

Proposed § 130.315 lists acceptable types of advertisement. The type or types of advertisement required for each specific oil pollution incident, if any, will be determined by the Commandant, along with the required frequency and geographical scope (proposed § 130.317). The contents of each advertisement are proposed in § 130.319.

Although the statutory authority regarding the establishment and maintenance of vessel financial responsibility was given to the President who will probably delegate that responsibility to the FMC, the Act specifically directs the Secretary of Transportation to issue regulations concerning sanctions against vessels which do not adhere to FMC financial responsibility requirements. Accordingly, these regulations appear in proposed Subpart E and include the conditions under which the vessel sanctions will be imposed and removed. By expected delegation from the Secretary, the Commandant will administer sanctions against vessels.

The regulations proposed in Part 131 prescribe the procedures and requirements for the presentation, consideration and settlement of claims against the Fund.

The Act requires, to the extent possible, the use of the facilities and services of private insurance and claims adjusting organizations, or State agencies, to process claims against the Fund. It should be noted that State agencies cannot, under the Act, settle claims of that State. For this reason it is thought that to utilize a State claims organization would be unnecessarily duplicative of existing private adjuster organizations, particularly in light of the limited number of claims expected. Therefore, for the time being, it is not contemplated that State agencies will be used to process claims against the Fund.

Consequently, the Coast Guard intends to contract with one or more private claims processing organizations to provide nationwide claims processing capability to receive, evaluate, adjust, and settle claims against the Fund, with minimum Federal involvement. It is believed that this approach, which may be modified after the Fund gains experience, will provide the most effective, uniform, and efficient claims processing system.

The regulations proposed in Part 131 are intended to be sufficiently detailed to implement statutory requirements for making and settling claims against the Fund, yet be sufficiently flexible to apply to the myriad of situations which will undoubtedly arise.

In consideration of the foregoing, the Coast Guard proposes to establish new Parts 130 and 131 in a new Subchapter M in Title 33, Code of Federal Regulations, as follows:

SUBCHAPTER M—MARINE OIL POLLUTION LIABILITY AND COMPENSATION

PART 130—OFFSHORE OIL POLLUTION COMPENSATION FUND

Subpart A—General

Sec.
130.1 Purpose.
130.3 Applicability.
130.5 Definitions.
130.7 Delegation—Fund Administrator.
130.9 Fund address.

Subpart B—Levy of Fees

130.101 Purpose.
130.103 Levy and payment of barrel fee on OCS oil.
130.105 Adjustment of levy.

Subpart C—Financial Responsibility for Offshore Facilities

130.201 Applicability.
130.203 Amount required.
130.205 Methods of establishing evidence.
130.207 Insurance as evidence.
130.209 Guarantee as evidence.
130.211 Surety bond as evidence.
130.213 Qualification as self-insurer.
130.215 Certification.
130.217 Display of certificate.
130.219 Notification of changes affecting certification.
130.221 Reapplication for certification.
130.223 Revocation of certificates.

Subpart D—Notification, Designation, and Advertisement

130.301 Purpose.
130.303 Definitions.

NOTIFICATION

130.305 Notification procedures.

(8) "Captain of the Port" means a ance with the fee collection regulations

(1) For one facility, $35,000,000;

before the effective date of termina-

(2) Is licensed to do business in the

V 4 3 / 2 3 3 D E 4 7 8 UMI

Sec.
130.307 Notification contents.

DESIGNATION

130.309 Notice of Designation
130.311 Denial of designation.

ADVERTISEMENT

130.313 Advertisement determinations.
130.315 Types of advertisement.
130.317 Frequency and geographical scope of advertisement.
130.319 Content of advertisement.

Subpart E—Access, Denial and Detention

130.401 Access to facility and vessel Certificates of Financial Responsibility
130.403 Sanctions for failure to produce vessel Certificates of Financial Responsibility.
130.405 Appeal provisions.

AUTHORITY: Pub. L. 95-372; 49 CFR 1.46.

Subpart A-General

§ 130.1 Purpose.

(a) This part prescribes the policies, procedures, and administrative practices regarding offshore oil pollution liability and compensation, including the administration and general operation of the fund established under Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

§ 130.3 Applicability.

(a) This part applies to each person who—

(1) Owns oil obtained from the Outer Continental Shelf when the oil is produced;

(2) Owns, operates, or is the guarantor of the owner or operator of any vessel as defined in § 130.5;

(3) Owns, operates, or is the guarantor of the owner of operator of any offshore facility;

(4) Sustains an economic loss as a consequence of oil pollution arising from Outer Continental Shelf activities; or

(5) Otherwise has responsibilities under Title III of the Act and the regulations in this part.

§ 130.5 Definitions.

(a) As used in this part, the following terms shall have the same meaning as defined in Section 301 of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372): "Barrel"; "claim"; "discharge"; "facility"; "Fund"; "guarantor"; "incident"; "offshore facility"; "oil"; "oil pollution"; "operator"; "owner"; "person"; "person in charge"; "public vessel"; and "vessel".

(b) As used in this part—

(1) "Act" means Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), entitled "Offshore Oil Spill Pollution Fund".

(2) "Captain of the Port" means a Coast Guard officer commanding a Captain of the Port area described in Part 3 of this chapter, or that person's authorized representative or, where there is no Captain of the Port area, a District Commander of a Coast Guard District described in Part 3 of this chapter, or that person's authorized representative.

(3) "Commandant" means the Commandant of the Coast Guard or that person's authorized representative.

(4) "Fund Administrator" means the person to whom the authority and functions of the Commandant as administrator of the Fund are delegated.

(5) "Outer Continental Shelf" or "OCS" means "Outer Continental Shelf" as defined in Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

§ 130.7 Delegation—Fund Administrator.

(a) The Fund Administrator is delegated authority to perform those functions assigned or delegated to the Secretary of Transportation under the Act not reserved by the Secretary of Transportation or the Commandant.

(b) The Fund Administrator may redelegate and authorize successive redelegations of the authority granted in paragraph (a) of this section within the command under which that person has jurisdiction or to members of the Fund staff.

§ 130.9 Fund address.

(a) The address to which correspondence relating to the Coast Guard's administration of the Fund is to be directed and the location of the Fund Administrator is Offshore Oil Pollution Compensation Fund, U.S. Coast Guard Headquarters (G-W/73), 400 Seventh Street, SW., Washington, D.C. 20590.

Subpart B—Levy of Fees

§ 130.101 Purpose.

(a) The purpose of this subpart is to state the general requirements concerning the levy of fees.

§ 130.103 Levy and payment of barrel fee on OCS oil.

(a) The owner of oil obtained from the OCS shall pay to the Treasury of the United States a fee of $0.3 per barrel on all oil produced on the OCS.

(b) The owner of oil obtained from the OCS shall, for the purpose of computing the barrel fee levied in paragraph (a) of this section, measure OCS oil production by employing the criteria of the U.S. Geological Survey contained in 30 CFR 250.60 and OCS Order 13.

NOTE.—Payment of the fee levied in paragraph (a) of this section is made in accordance with the fee collection regulations issued by the Secretary of the Treasury.

§ 130.105 Adjustment of levy.

(a) The Commandant modifies or suspends by regulation the barrel fee levied in § 130.103(a) to maintain the statutory Fund level.

(b) The Commandant gives at least 90 days notice before any barrel fee modification or suspension becomes effective.

Subpart C—Financial Responsibility for Offshore Facilities

§ 130.201 Applicability.

(a) This subpart applies to the owner or operator of each offshore facility required by the Act to establish and maintain evidence of financial responsibility.

(b) For the purpose of this subpart:

(1) A mobile offshore drilling unit is considered an offshore facility from the moment a drill shaft connected to the unit first touches the seabed for the purposes of exploration, development, or production of oil until drilling is complete and the unit is no longer attached to the seabed by any device which transfers oil to the unit.

(2) Two or more platforms or structures, when physically connected above the waterline, are considered to be a single offshore facility.

(3) All wells, including satellite wells, and the flow lines from all wells are considered to be part of the platform or structure to which they are connected.

(4) A pipeline used to transport oil between two offshore facilities, between an offshore facility and a pipeline, between an offshore facility and the shore, or between any point on the OCS and the shore, including any pumping or booster stations whether above or below water, is considered to be an offshore facility.

NOTE.—Regulations governing financial responsibility and certification for vessels are promulgated by the Federal Maritime Commission.

§ 130.203 Amount required.

(a) The owner or operator of an offshore facility that is used in drilling for, producing, or processing oil, or has the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels of oil at any one time, must establish and maintain evidence of financial responsibility in the amount of $35,000,000.

(b) In any case where an owner or operator owns or operates more than one offshore facility and chooses to provide evidence of financial responsibility by guarantee, surety bond, or self-insurance, the amount must be established according to the following scale:

(1) For one facility, $35,000,000;
(2) For two facilities, $43,000,000;
(3) For three facilities, $47,000,000;
(4) For four facilities, $49,000,000;
(5) For five or more facilities, $50,000,000.

(c) In the case where an owner or operator owns or operates more than one offshore facility, the amount of insurance coverage for each facility must be $35,000,000.

(d) The owner or operator who owns or operates more than one offshore facility shall obtain a Certificate of Financial Responsibility for each facility.

(e) If separate parts of an offshore facility are owned by separate owners or operators, only one owner or operator need establish financial responsibility if that owner or operator is acting as guarantor for all of the owners and operators of that facility.

(f) If an entire offshore facility is jointly owned or operated only one owner or operator need establish financial responsibility if that owner or operator will assure financial responsibility for all of the other owners or operators of that facility.

§ 130.205 Methods of establishing evidence.

(a) Evidence of financial responsibility may be established by any one, or any combination acceptable to the Fund Administrator, of the following methods:

(1) Insurance;
(2) Guarantee;
(3) Surety bond; or
(4) Qualification as self-insurer.

(b) The Fund Administrator accepts alternative evidence of financial responsibility if it establishes an equivalent degree of financial responsibility for the purposes of this subpart.

§ 130.207 Insurance as evidence.

(a) Insurance filed with the Fund Administrator as evidence of financial responsibility shall be issued by an insurer that is acceptable to the Fund Administrator

(b) An insurer must—

(1) Agree to be sued directly by any person for claims under the Act against the owner or operator; and

(2) Designate an agent in the United States for service of process.

(c) Insurance coverage as evidence of financial responsibility must be effective on the date of endorsement on the application for Certificate of Financial Responsibility and must remain in force until 30 days after date of receipt by the Fund Administrator of written notification that the insurer has elected to terminate the insurance coverage.

(d) Termination of insurance coverage shall not affect the liability of the insurer for an incident occurring before the effective date of termination.

(e) Joint insurers shall be jointly and severably liable.

§ 130.209 Guarantee as evidence.

(a) A guarantor must—

(1) Agree to be sued directly by any person for claims under the Act against the owner or operator; and

(2) Designate an agent in the United States for service of process.

(b) Guarantees filed as evidence of financial responsibility must be supported by a copy of the guarantor's most recent balance sheet, income statement, and statement of changes in financial position, that are either consolidated or non-consolidated, certified by an independent Certified Public Accountant, and, when consolidated, endorsed by an independent Certified Public Accountant confirming that the guarantor's—

(1) Current assets held in the United States, not including pledged assets or stock not publicly traded, exceed current liabilities in an amount greater than the amount being guaranteed; and

(2) Equity exceeds the amount guaranteed.

(c) If the guarantor files a Securities and Exchange Commission Form 10-K report, a copy of the guarantor's most recent 10-K report must be filed with the Fund Administrator.

(d) Each guarantor must file annually with the Fund Administrator copies of the documents required under paragraph (b) of this section, within 90 days after the close of the guarantor's fiscal accounting period, and, under paragraph (c) of this section, within 30 days after the date of filing the 10-K reports with the Securities and Exchange Commission.

(e) A guarantee as evidence of financial responsibility must be effective on the date of endorsement on the application for Certificate of Financial Responsibility and must remain in effect until 30 days after date of receipt by the Fund Administrator or written notification that the guarantor has elected to terminate the guarantee.

(f) Termination of the guarantee shall not affect the liability of the guarantor for an incident occurring before the effective date of termination.

(g) Joint guarantors shall be jointly and severably liable.

§ 130.211 Surety bond as evidence.

(a) Each surety bond filed with the Fund Administrator as evidence of financial responsibility shall be issued by a bonding company that—

(1) Is authorized to do business in the United States;

(2) Is licensed to do business in the state or territory in which the bond is executed;

(3) Is certified by the Department of the Treasury with respect the issuance of Federal bonds in the penal sum of the bond; and

(4) Designates an agent in the United States for service of process.

(b) The surety must agree to be sued directly by any person for claims under the Act against the owner or operator.

(c) A surety bond as evidence of financial responsibility must be effective on the date of the endorsement on the application for Certificate of Financial Responsibility and must remain in effect until 30 days after date of receipt by the Fund Administrator of written notification that the surety has elected to terminate the surety bond.

(d) Termination of the surety bond shall not affect the liability of the surety for an incident occurring before the effective date of termination.

§ 130.213 Qualification as self-insurer.

(a) Evidence of self-insurance filed with the Fund Administrator as proof of financial responsibility must be supported by either—

(1) A non-consolidated copy of the self-insurer's most recent balance sheet, income statement, and statement of changes in financial position, that are certified by an independent Certified Public Accountant and endorsed confirming that the self-insurer's current U.S. assets, not including pledged assets or stock not publicly traded, exceed current liabilities for the amount of the self-insurance, and that the self-insurer's equity exceeds the amount of the self-insurance; or

(2) A copy of the self-insurer's most recent balance sheet, income statement, and statement of changes in financial position which are certified by an independent Certified Public Accountant, and a statement prepared by that accountant which shows that, based on an analysis of the self-insurer's financial position, sufficient liquid assets cash flow, or a combination thereof have historically been available over the past five years to sufficiently retire a claim for the amount of self-insurance requested without placing the self-insurer in an insolvent position.

(b) If the self-insurer files a Securities and Exchange Commission Form 10-K report, a copy of the self-insurer's most recent 10-K report must be filed with the Fund Administrator.

(c) Each self-insurer must file annually with the Fund Administrator copies of the documents required under paragraph (a) of this section, within 90 days after the close of the self-insurer's fiscal accounting period,

§ 130.219 Notification of changes affecting

(6) Observed on scene weather conditions, including wind speed and direc-

(b) In making the determination specified in paragraph (a) of this sec-

tion, and advertisement of designa-

are to be presented and from whom claim information can be obtained.

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and, under paragraph (b) of this section, within 30 days after the date of filing the 10-K reports with the Securities and Exchange Commission.

§ 130.215 Certification.

(a) The owner or operator or owner and operator of an offshore facility shall—

(1) Apply for a Certificate of Financial Responsibility before March 17, 1979; or

(2) If the offshore facility is not in existence on March 17, 1979, apply for a Certificate of Financial Responsibility at least 45 days before placing the offshore facility into operation.

(b) Each application for a Certificate of Financial Responsibility must be made on Coast Guard Form CG- , Application for Certificate of Financial Responsibility, available from the Fund Administrator or any Coast Guard District Office. This form must be submitted for each facility.

(c) Each Application form submitted under this section must be signed by the applicant owner or operator of the offshore facility or an authorized representative. A written statement proving authority to sign must also be submitted where the signer is not disclosed as an individual (sole proprietor) applicant, a partner in a partnership applicant, or a director of other officer of a corporate applicant.

(d) Financial data or other information contained in an application form submitted under this section that is proprietary in nature, or constitutes a trade secret, must be clearly designated as such to insure confidential treatment by the Fund Administrator.

(e) If any of the information submitted for certification is determined by the Fund Administrator to be insufficient the Fund Adminstrator may require additional information before final consideration of the application.

§ 130.217 Display of certificate.

(a) Each owner or operator who has obtained a Certificate of Financial Responsibility for a manned offshore facility must post the Certificate of Financial Responsibility at the control station of the facility.

(b) Each owner or operator who has obtained a certificate of Financial Responsibility for an unmanned offshore facility must—

(1) Keep the certificate readily available for examination at the nearest office of the owner or operator; and

(2) Post a copy of the certificate at the facility where possible (unless submerged) in a weatherproof enclosure.

(c) Certificates, as issued, are to be considered property of the U.S. Government, are not to be altered in any manner, and must be surrended on demand.

§ 130.219 Notification of changes affecting certification.

(a) Each owner, operator, or guarantor of an offshore facility shall within five days notify the Fund Administrator in writing when any changes occur which significantly affect the financial capability of the owner, operator, or guarantor, to meet the obligations for which a Certificate of Financial Responsibility has been issued.

(b) Based on notice of a change in financial capability under paragraph (a) of this section, the Fund Administrator may revoke a Certificate of Financial Responsibility.

§ 130.221 Reapplication for certification.

(a) Each owner or operator whose Certificate of Financial Responsibility becomes invalid for any reason, must immediately reapply to the Fund Administrator for a certificate.

§ 130.223 Revocation of certificates.

(a) The Fund Administrator may revoke any certificate for—

(1) A false statement made in an application or reapplication for a certificate or to the Fund Administrator in connection with an existing certificate;

(2) Failure of the certificant to establish and maintain evidence of financial responsibility in accordance with the requirements of this subpart;

(3) Failure of the guarantor or certificant to comply with or respond to inquiries or orders of the Fund Administrator concerning financial responsibility; and

(4) Cancellation, termination, or modification of any insurance policy, surety bond, or guarantee, which reduces the financial capacity of the owner, operator, or guarantor to meet the requirements of this subpart.

(b) Before revoking a certificate the Fund Administrator advises the certificant, in writing, of the intention to revoke the certificate and the reason for this action.

(c) The revocation action will be effective within ten days of receipt of the notice of intent to revoke unless action under paragraph (d) of this section is initiated.

(d) A certificant informed under paragraph (b) of this section of a pending revocation action by the Fund Administrator may submit to the Fund Administrator, in writing within 10 days of receipt of the notice, reasons why the revocation should not be effected.

Subpart D—Notification, Designation and Advertisement

§ 130.301 Purpose.

(a) This subpart prescribes the requirements concerning notification of pollution incidents, source designation, and advertisement of designations.

§ 130.303 Definitions.

(a) As used in this subpart—

(1) "Advertisement" means the dissemination of information, including methods other than paid ads, that advises the public how to contact the designated source of pollution or the Fund to initiate a claim for economic loss.

(2) "Designated source" means a vessel or offshore facility which has been designated by the Commandant as the source of oil pollution.

(3) "Occurrences which pose an imminent threat of oil pollution" means those incidents that are likely to result in a discharge and include, but are not limited to: Vessel collisions, grounding or strandings; structural failures or weaknesses in tanks, pipelines or other oil handling systems; fires, explosions or other events which may cause structural damage to a vessel or offshore facility.

NOTIFICATION

§ 130.305 Notification procedures.

(a) The person in charge of a vessel or offshore facility that is involved in an incident shall, as soon as that person has knowledge of the incident, immediately notify by telephone, radio telecommunication or a similar rapid means of communication, in the following order of preference—

(1) The Duty Officer, National Response Center, U.S. Coast Guard, 400 Seventh St., S.W., Washington, D.C. 20590, toll free telephone number 800-424-8802; or

(2) The commanding officer or supervisor of any Coast Guard Marine Safety Office, Captain of the Port Office, Marine Safety Detachment or Port Safety Detachment in the vicinity of the incident; or

(3) The commanding officer or officer in charge of any other Coast Guard unit in the vicinity of the incident; or

(4) The Commander of any Coast Guard District.

§ 130.307 Notification contents.

(a) In each notification provided under § 130.305, the person in charge of the vessel or offshore facility involved in the incident shall provide his or her name and telephone number, or radio callsign, and, to the extent known, the—

(1) Location, date and time of the incident;

(2) Quantity of oil involved;

(3) Cause of the incident;

(4) Name or other identification of the vessel or offshore facility involved;

(5) Size and color of any slick or sheen and the direction of movement;

(6) Observed on scene weather conditions, including wind speed and direction, height and direction or seas, and any tidal or current influence present;

(7) Actions taken or contemplated to secure the source or contain and remove or otherwise control the discharged oil;

(8) Extent of any injuries or other damages incurred as a result of the incident;

(9) Observed damage to living natural resources; and

(10) Any other information deemed relevant by the reporting party or requested by the person receiving the notification.

(b) The person giving notification of an incident must not delay notification to gather the required information and must provide information not immediately available when that information becomes known.

DESIGNATION

§ 130.309 Notice of Designation.

(a) Upon learning of an incident which involves oil pollution, the Commandant designates, where possible, the source of the oil pollution and notifies the owner, operator and any guarantor as listed on the Certificate of Financial Responsibility applicable to the source of that designation.

(b) Designation is made by a written Notice of Designation containing, to the extent known:

(1) The name of the vessel or offshore facility being designated as the source of oil pollution;

(2) The location, date, and time of the incident;

(3) The quantity of oil involved;

(4) The procedures for accepting or denying the designation;

(5) The initial requirements for advertising, if any, and

(6) The name, address and telephone number of the responsible Federal official to whom further communication regarding the incident, advertisement of the incident, or denial of designation should be directed.

§ 130.311 Denial of designation.

(a) The owner or operator of a designated source may deny a designation within five days after receipt of a written Notice of Designation.

(b) A denial of designation must be in writing and—

(1) Identify the Notice of Designation; and

(2) Be submitted to the official named in the notice of Designation.

ADVERTISEMENT

§ 130.313 Advertisement determinations.

(a) The Commandant determines the type, scope, and frequency of advertisements, if any, to be used for each oil pollution incident.

(b) In making the determination specified in paragraph (a) of this section, the Commandant considers—

(1) The nature and extent of economic losses that have occured or are likely to occur;

(2) The persons who are likely to incur economic losses;

(3) The geographical area that is or is likely to be affected; and

(4) The most effective method of reasonably notifying potential claimants of the designation and procedures for submitting claims.

(c) The Commandant provides, in writing, the specific requirements for advertising for each pollution incident to the designated representatives of the owner, operator or guarantor.

§ 130.315 Types of advertisement.

(a) Advertisement required by this subpart shall be made by one or more of the following means:

(1) Paid advertisement in a newspaper, or newspapers, having general circulation in the area designated by the Commandant;

(2) A public service announcement on commerical radio and television stations serving the area designated by the commandant, when such services are avaliable;

(3) Notice posted in marinas, marine supply stores, bait and tackle shops and other appropriate business establishments or public facilities in the area designated by the Commandant;

(4) News release to all newspapers, radio and television stations serving the area designated by the Commandant; and

(5) Publication in the Notice to Mariners.

§ 130.317 Frequency and geographical scope of advertisement.

(a) The frequency and geographical coverage of advertisement depends upon the circumstances of each incident and will be designated by the Commandant.

(b) The substance of the required advertisement will be published in at least four successive editions of the Local Notice to Mariners.

§ 130.319 Content of advertisement.

(a) Each advertisement required by this subpart must specify the—

(1) Location, date and time of the incident;

(2) Geographical area affected, as determined by the Commandant;

(3) Quantity of oil involved;

(4) Name or other description of the source designated by the Commandant;

(5) Identity of the owner, operator or guarantor of the source; and

(6) Name, address, telephone number, office hours and work days of the person or persons to whom claims are to be presented and from whom claim information can be obtained.

Subpart E—Access, Denial, and Detention

§ 130.401 Access to facility and vessel Certificates of Financial Responsibility.

(a) The owner, operator, master or agent of any facility or vessel subject to the Act must, upon request by any Coast Guard officer or petty officer, provide access to the facility or vessel and produce for examination the Certificate of Financial Responsibility.

§ 130.403 Sanctions for failure to produce vessel Certificates of Financial Responsibility.

(a) The Captain of the Port issues denial or detention orders to the owner, operator, agent, or master of any vessel that cannot show upon request a valid Certificate of Financial Responsibility issued under the Act.

(b) A denial order forbids entry of any vessel subject to the Act to any port or place in the United States or to the navigable waters of the United States.

(c) A detention order detains any vessel subject to the Act at the port or place in the United States from which it is about to depart or any other port or place in the United States.

(d) The Captain of the Port terminates a denial or detention order when the owner, operator, agent, or master or a vessel furnishes adequate evidence that the certification of financial responsibility requirements under the Act have been met.

§ 130.405 Appeal provisions.

(a) The owner, operator, agent or master of a vessel issued a denial or detention order under this subpart may petition the nearest District Commander in any manner to review that order.

(b) Upon completion or review, the District Commander affirms, sets aside, or modifies the order.

(c) Unless otherwise determined by the District Commander a denial or detention order remains in affect pending the outcome of any petition or appeal of that order.

(d) The District Commander acts on all petitions or appeals within 10 days of receipt.

(e) The decision of the District Commander is final agency action.

(Pub. L. 95-372; 49 CFR 1.46)

PART 131—OFFSHORE OIL POLLUTION COMPENSATION FUND CLAIMS PROCEDURES

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(c) A claim may be presented to the Fund when the source of pollution is

§ 131.121 Insurance.

(a) A claimant must provide the fol-

(d) Failure to accept an offer of settlement within thirty days constitutes

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AUTHORITY: Pub. L. 95-372; 49 CFR 1.46.

Subpart A—Introduction

§ 131.1 Purpose.

(a) This part prescribes uniform procedures and standards for the settlement of claims against the Offshore Oil Pollution Compensation Fund (Fund) as authorized by Title III of the Outer Continental Shelf Lands Act Amendment of 1978 (Pub. L. 95-372; 43 U.S.C. 1811-1824) (the Act) for economic loss resulting from, or arising out of, oil pollution from Outer Continental Shelf activities, including removal costs.

§ 131.3 Information.

(a) Any person who desires to file a claim against the Fund may obtain information from the Administrator, Offshore Oil Pollution Compensation Fund, U.S. Coast Guard Headquarters (G-W/78), 400 Seventh Street SW., Washington, D.C. 20590.

§ 131.5 Definitions.

(a) As used in this part, the following terms shall have the same meaning as defined in section 301 of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372): "claims"; "foreign claimant"; "Fund"; "guarantor"; "incident"; "oil"; "oil pollution"; "operator"; "owner"; "person"; "property"; "removal costs"; "State"; "United States"; and "United States claimant".

(b) As used in this part—

(1) "Act means Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372, 43 U.S.C. 1811-1824), entitled "Offshore Oil Spill Pollution Fund".

(2) "Administrative Law Judge" means any person designated by the Commandant pursuant to the Administrative Procedure Act (5 U.S.C. 551-559) to hear and resolve disputed claims in accordance with section 307 [i] of the Act.

(3) "Commandant" means the Commandant of the Coast Guard or that person's authorized representative.

(4) "Fund Administrator" means the person to whom the authority and functions of the Commandant as administrator of the Fund are delegated.

(5) "Fund Claims Adjuster" means a person authorized to receive, review, adjust, and pay claims on behalf of the Fund.

(6) "Natural resources" means land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by held in trust by, appertaining to or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any state or local government, or any foreign government.

(7) "Outer Continental Shelf" means "Outer Continental Shelf" as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(8) "Panel" means a three member panel appointed by the Secretary of Transportation in accordance with section 307 (h) of the Act.

§ 131.7 Foreign claims.

(a) Claims may be presented by foreign claimants for economic loss, except for loss of tax revenues, to the same extent that compensation for economic loss may be claimed by any United States claimant when the conditions of section 303(b)(6) of the Act are met.

(b) Foreign claims must be submitted in accordance with the regulations of this part and any additional instructions of the Fund Administrator.

(c) Before any foreign claim may be paid, the Fund Administrator certifies that the foreign claim is appropriate for consideration by the Fund.

Subpart B—General

TIMELINESS

§ 131.101 Time limitation on claims.

(a) A claim may not be considered by the Fund unless presented, in writing, to the Fund within three years of discovery of the economic loss for which compensation is sought or within six years of the date of the incident which resulted in the loss, whichever is earlier.

(b) For purposes of this section, a claim may be presented to the Fund even though the claim has been presented to and is under consideration by the owner, operator, or guarantor of a disignated source, or other person.

(c) A claim is presented on the date the claim is actually received by the Fund Claims Adjuster or Fund Administrator.

PRESENTMENT

§ 131.103 Federally authorized removal costs.

(a) Claims for federally authorized removal costs that are recoverable under the Act must be presented to the fund established by section 311(k) of the Federal Water Pollution Control Act (33 U.S.C. 1251) in accordance with the regulations of Subpart D of 33 CFR Part 153.

§ 131.105 Other claims.

(a) If the source of pollution is known, claims must be presented to the owner, operator, or guarantor of the source, except where the Fund Administrator has advertised or otherwise notified claimants and potential claimants that the claims may be presented to the Fund.

(b) A claim presented to the owner, operator, or guarantor of the source of pollution which is denied for any reason or not settled within sixty days may be presented to the Fund.

(c) A claim may be presented to the Fund when the source of pollution is not known.

§ 131.107 Presenting claims to the Fund.

(a) A claimant must present a claim to the Fund by making the claim personally at, or by delivering or mailing the claim directly to, an office of the Fund Claims Adjuster.

§ 131.109 Referral of unsettled claims.

(a) A claimant may present any claim not satisfied under § 131.105(b) by requesting the owner, operator, or guarantor to whom the claim has been presented to refer the claim to the Fund.

(b) The owner, operator, or guarantor shall, within five days of receiving a request under paragraph (a) of this section, forward the entire claim file, except for material pertaining to settlement offers, directly to an office of the Fund Claims Adjuster.

§ 131.111 Form

(a) A claim must be in writing and include the specific amount claimed.

(b) Whenever practicable, a claimant should submit a claim in the format specified and on the forms provided by the Fund Claims Adjuster.

(c) Each claim must be signed in ink by the Claimant or an authorized agent or legal representative of the claimant.

(d) A claim presented by an agent or legal representative must be presented in the name of the claimant, showing the title or legal capacity of the agent or representative.

CONTENT

§ 131.115 Proof.

(a) A claimant must establish—

(1) The nature and extent of economic loss incurred; and

(2) That the cause of the loss was "oil pollution" under the Act.

§ 131.117 Evidence.

(a) A claimant must submit evidence in support of each claim.

(b) A sworn statement of the claimant may be accepted when other evidence is not available.

§ 131.119 Multiple items of damage.

(a) A claimant must include all known losses arising out of a single incident or from the some oil pollution when submitting a clain.

(b) Each separate type of loss (as described in Subpart C of this part) must be separatly listed.

(c) In the discretion of the Fund Administrator each separate type of loss may be treated separately for settlement purposes.

§ 131.121 Insurance.

(a) A claimant must provide the following information concerning any insurance which may cover the loss for which compensation is claimed.

(1) The names and addresses of insurers;

(2) The kind and amount of coverage;

(3) The policy number;

(4) Whether a claim has been or will be presented to an insurer, and if so, the amount of the claim and the name of the insurer; and

(5) Whether any insurer has paid the claim in full or in part, or has indicated whether or not payment will be made.

§ 131.123 Other compensation.

(a) A claimant must include with each claim an accounting, including source and value, of all other compensation received as a consequence of the incident out of which the claim arises including, but not limited to, monetary payments, goods or services, or other benefits.

§ 131.125 Subrogation.

(a) The claims of a subrogor (insured) and subrogee (insurer) for damages arising out of the same incident constitute a single claim.

(b) A subrogor and subrogee may file a claim jointly or individually. If a joint claim is made, it must be signed by all parties in interest.

(c) A fully subrogated claim is payable only to the subrogee.

(d) A subrogee must support a claim in the same manner as any other claimant.

§ 131.127 Costs incident to claim preparation.

(a) Costs incurred in the preparation of a claim may be included in the claim.

(b) Compensation may be allowed for reasonable costs of claim preparation.

SETTLEMENT AND NOTICE TO CLAIMANT

§ 131.129 Payment.

(a) Payment is made as soon as possible when a claim is approved in full or an offer of settlement is accepted. Amounts in settlement greater than $100,000 require Fund Administrator approval before payment.

(b) Whenever a claim is not approved in full, the claimant is notified in writing of the settlement offer. Acceptance of the settlement offer must be in writing.

(c) The acceptance of an offer in settlement is final and conclusive for all purposes and, upon payment, constitutes a release of the Fund for the claim.

(d) Failure to accept an offer of settlement within thirty days constitutes rejection of the offer.

§ 131.131 Denial of claim.

(a) A claimant will be notified in writing whenever a claim against the Fund is denied, including when denial results from rejection, by the claimant, of an offer of settlement.

(b) The notification of paragraph (a) of this section includes a statement of the claimants right to further review of the claim.

(c) A claimant may consider a claim not settled within sixty days as being denied for purposes of administrative review.

Subpart C—Procedures for Particular Losses

INJURY TO, DESTRUCTION OF OR LOSS OF USE OF PROPERTY

§ 131.201 Authorized claimants.

(a) A claim for injury to or destruction of real or personal property, which may include loss of use of the property, or a claim for loss of use of real or personal property which is not damaged, may be presented by any person either owning or leasing the property.

§ 131.203 Proof.

(a) A claimant must establish an ownership or leasehold interest in the property.

(b) For each claim for injury to, or destruction of, property the claimant must establish—

(1) That the property was injured or destroyed;

(2) The cost of repair or replacement; and

(3) The value of the property both before and after injury occurred, if the cost of repairs exceeds replacement cost.

(c) For each claim for loss of use of property, the claimant must establish—

(1) That the property was not available for use;

(2) Whether or not substitute property was available and utilized, and the costs thereof; and

(3) The economic loss incurred as a result of the loss of use of the property.

§ 131.205 Compensation allowed.

(a) The measure of damages for injured property is the actual or estimated net cost of repairs necessary to restore the property to substantially the condition which existed immediately before injury.

(b) If the actual or estimated net cost of repairs exceeds the value of the property immediately before injury less the value immediately after injury, the measure of damages is the value of the property immediately

before injury less the value immedi-

§ 131.303 Initiation of administrative

(e) The decision of the administra-

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before injury less the value immediately after injury.

(c) Compensation for loss of use of property may be allowed for reasonable costs, actually incurred, for use of substitute property or, if substitute property was not reasonably available, for the amount of the net economic loss which resulted from not having use of the property. When substitute property was reasonably available, but not used, compensation for loss of use is not payable.

LOSS OF INCOME DUE TO INJURY TO, OR DESTRUCTION OF, PROPERTY OR NATURAL RESOURCES

§ 131.207 Authorized claimants.

(a) A claim for loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources may be presented by any person deriving at least 25 percent of his or her annual income from activities which utilize the property or natural resource.

(b) A person who either owns or leases property which is injured or destroyed is not a proper claimant under paragraph (a) of this section. That person should claim under § 131.201.

(c) A person who uses natural resources directly is not a proper claimant under paragraph (a) of this section. That person should claim under § 131.219.

§ 131.209 Proof.

(a) The claimant must establish—

(1) that 25 per cent of the claimant's income, on an annual basis, is derived from activities which utilize the injured or destroyed property or natural resources;

(2) that the claimant's income from these activities was reduced as a consequence of injury or destruction of the property or natural resources; and

(3) Whether or not substitute employment, or business, was available and undertaken and, if so, the amount of income received.

§ 131.211 Compensation allowed.

(a) Compensation is limited to the earnings or profits lost but is not allowed when appropriate substitute employment or business was available but not undertaken.

(b) If substitute employment or business was undertaken, any resulting reduction in earnings or profits may be allowed.

(c) Compensation is ordinarily limited to loss of earnings or profits resulting from the interruption or discontinuance of employment or business rather than to prospective earnings or profits.

INJURY TO, OR DESTRUCTION OF, NATURAL RESOURCES

§ 131.213 Authorized claimants.

(a) A claim for injury to, or destruction of, natural resources may be presented by—

(1) A Federal agency designated by the President, as trustee, for those natural resources over which the United States has sovereign rights or exercises exclusive management authority; or

(2) Any State, for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State.

§ 131.215 Proof.

(a) A claimant must establish—

(1) The identification and quantity of the natural resource for which compensation is claimed;

(2) The nature and extent of the injury to the natural resource;

(3) The cost to restore or replace the natural resource; and

(4) Any economic loss relating to the natural resource which would not be recovered by replacement or restoration.

§ 131.217 Compensation allowed.

(a) The amount of compensation is based on—

(1) The cost to restore, rehabilitate, or acquire the equivalent of the natural resource; or

(2) A unit value when replacement or restoration is either impossible or impracticable.

LOSS OF USE OF NATURAL RESOURCES

§ 131.219 Authorized claimants.

(a) A claim for loss of use of natural resources may be presented by any person who incurs economic loss as a result of not being able to directly use any natural resource.

§ 131.221 Proof.

(a) A claimant must establish—

(1) The identification of the natural resource for which compensation for loss of use is claimed;

(2) The activity which the loss of use of the natural resource prevented or affected;

(3) An explanation of how the use of the natural resource was affected;

(4) Alternatives to the activity and whether or not utilized, and if so, how, and with what result; and

(5) The economic loss suffered.

§ 131.223 Compensation allowed.

(a) The amount of compensation allowed is the net economic loss incurred.

CLEANUP COSTS

§ 131.225 Authorized claimants.

(a) A claim for cleanup costs may be presented by any person.

§ 131.227 Proof.

(a) A claimant must establish—

(1) The actions taken to prevent, minimize, or mitigate oil pollution;

(2) The costs incurred and other economic loss incurred as a result of these actions; and

(3) Why the actions were taken.

§ 131.229 Compensation allowed.

(a) The amount of compensation allowed is the total of reasonable economic loss incurred.

(b) Except for action taken with respect to property owned, leased, or otherwise subject to the supervision, management, or use of the claimant, voluntary actions will not ordinarily be compensated.

LOSS OF TAX REVENUE DUE TO INJURY TO PROPERTY

§ 131.231 Authorized claimants.

(a) A claim for loss of tax revenue may be presented on behalf of the United States, or any State or political subdivision thereof with authority to assess and collect taxes, by the official charged with the responsbility and authority for collecting these taxes.

§ 131.331 Proof.

(a) A claimant must establish—

(1) The identification and description of the tax for which compensation is claimed, including authority and regulations, property affected, method of assessment, rate, and method and dates of collection;

(2) That a consequence of the oil pollution was a reduction in tax revenue;

(3) The total tax assessment or tax revenue collected for the tax period before injury occurred; and

(4) The net loss of revenue.

§ 131.235 Compensation allowed.

(a) The amount of compensation allowed is the total tax revenue actually lost during the one year period following the oil pollution incident.

Subpart D—Administrative Review of Claims

§ 131.301 General.

(a) Administrative review of the denial of a claim is either by panel or administrative law judge in accordance with the Administrative Procedure Act (5 U.S.C. 554), section 307 of the Act, and these regulations.

§ 131.303 Initiation of administrative review.

(a) A claimant must initiate review of a claim by written notice, within 30 days fo the denial of a claim, to the Fund Administrator, for forwarding to the Commandant.

(b) Upon receipt of a request for review of a claim the Commandant refers the claim to an administrative law judge or recommends to the Secretary of Transportation that the claim be referred to a panel. If the Secretary does not refer the claim to a panel, the claim is returned to the Commandant for referral to an administrative law judge. The Commandant notifies the claimant of the action taken.

(c) The Fund Administrator may reconsider any claim at any time before administrative review begins.

§ 131.305 Procedure.

(a) The administrative law judge, or presiding officer of a panel, is responsible for all proceedings for review of a claim and, may—

(1) Administer oaths and affirmations;

(2) Issue subpenas;

(3) Adopt procedures for the submission of evidence;

(4) Rule on offers of proof and receive evidence;

(5) Dispose of procedural requests and similar matters;

(6) Convene, recess, reconvene, adjourn, and otherwise regulate the hearing;

(b) An informal, preliminary conference is held, in advance of the hearing, presided over by the administrative law judge, or presiding officer, to narrow the issues and otherwise discuss the specific matters in dispute.

(c) A verbatim record is made of the proceedings. A transcript is not prepared unless either an appeal is taken or the administrative law judge, or presiding officer, specifically so orders.

(d) The administrative law judge, or panel, promptly renders a decision at the close of the proceedings.

(e) The decision of the administrative law judge, or panel, constitutes final agency action, unless, within 30 days, review under § 131.309 has been directed.

§ 131.307 Subpenas.

(a) The administrative law judge, or presiding officer, may issue subpenas for the attendance and the giving of testimony by witnesses or for the production of any relevant evidence either upon motion by the administrative law judge, or presiding officer, or upon request of either the claimant or Fund.

(b) Each subpena bears the name "Offshore Oil Pollution Compensation Fund" and the name and address of the issuing administrative law judge or presiding officer and commands the person to whom it is directed to testify at a specified time and place or to produce at a specified time and place books, papers, documents, or any other evidence described in the subpena with the particularity necessary to identify what is disired.

(c) Service of a subpena shall be by personal service, or by certified mail with return receipt to be signed by the addressee only. Proof of service, or an explanation of the lack of service, shall consist of appropriate endorsement upon a copy of the subpena, and shall be delivered to the administrative law judge, or presiding officer.

(d) The person to whom a subpena is directed may apply to the administrative law judge, or presiding officer, in writing, to request that the subpena be quashed or modified. The administrative law judge, or presiding officer, promptly considers and rules on the request. The request must be made at least five days before appearance is required or documents must be produced.

(e) Subpenaed witnesses are entitled to the same fees and mileage allowance as witnesses subpenaed by District Courts of the United States. These witness expenses are reimbursable by the Fund, to be paid by the Fund Administrator, if and when certified by the administrative law judge, or presiding officer, as costs necessary to settle claims against the Fund.

(f) If the administrative law judge, or presiding officer, rules that good cause has been shown for seeking judicial enforcement of a subpena, the ruling is referred to the Commandant for action.

§ 131.309 Review of administrative determination.

(a) Either the claimant or the Fund may petition the Secretary of Transportation, in the case of administrative review by panel, or the Commandant, in the case of administrative review by administrative law judge, for further review. Review is granted at the discretion of the Secretary or Commandant, as appropriate.

(b) A petition under paragraph (a) of this section must—

(1) Be in writing;

(2) Be made within 15 days of the decision of the administrative body; and

(3) Specify the issues in dispute and the basis for the appeal.

(c) Either the Secretary of Transportation, for a claim reviewed by a panel, or the Commandant, for a claim reviewed by an administrative law judge, may, on their own initiative, review the decision of the administrative body.

§ 131.311 Judicial review.

(a) The claimant may seek review of final agency action in accordance with 5 U.S.C. 702.

(Pub. L. 95-372; 49 CFR 1.46.)

Dated: November 29, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-13797 Filed 12-1-78; 8:45 am]

MONDAY, DECEMBER 4, 1978

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MONDAY, DECEMBER 4, 1978
PART V



DEPARTMENT OF TRANSPORTATION

Coast Guard

BOATS AND ASSOCIATED EQUIPMENT

Flotation Materials

This amendment has been reviewed

page of more than one-quarter fluid

buoyant force more than 5 percent

unless located in a sealed compart-

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Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-145]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Flotation Materials

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment to the Coast Guard flotation standard for monohull boats under 20 feet in length establishes performance specifications for flotation materials. Present standards do not specify how performance characteristics can be determined. This amendment will enable a manufacturer of a boat to determine if the flotation material used in the boat is able to meet minimum safety standards.

EFFECTIVE DATE: This regulation is effective on August 1, 1979, however, manufacturers may voluntarily comply with the regulations at the time of this publication.

FOR FURTHER INFORMATION CONTACT:

Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Room 4314, Department of Transportation, Trans Point Building, Washington, D.C. 20590, 202-426-4027.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rulemaking was published in the FEDERAL REGISTER by the Coast Guard on March 6, 1978. Interested persons were invited to participate in the proposed rulemaking by submitting relevant comments.

DRAFTING INFORMATION: The principal persons involved in drafting this amendment are: Mr. Lars E. Granholm, Project Manager, Office of Boating Safety and LT Robert R. Meeks, Project Attorney, Office of Boating Safety.

DISCUSSION OF COMMENTS: Two comments were received in response to the invitation. Both commenters offered arguments which were carefully considered. The amendment is modified in view of these comments.

One commenter suggested that the word "volume" in paragraph 183.114 should be replaced by the words "buoyant force", because the performance requirement is related more to loss of buoyancy, i.e., the property of being able to support a swamped boat, than the volume of the flotation material. The commenter further suggested that a test method be specified whereby the buoyancy can be measured. These comments are accepted. The Coast Guard agrees that the words "buoyant force" describe the intended purpose of the test better than the word "volume". A test for determining the buoyancy is added in paragraph 118.114(h). Although different methods for testing buoyant forces can be used, the Coast Guard believes that a standard method should be included in the rule.

The same commenter also pointed out that in paragraph 183.110, the definition of "connected" should include the same test specification as used in the definition of "sealed compartment". That specification establishes what the pressure head of water should be for determining a leakage rate. This comment is accepted and the specification is added to the definition of "connected" to make it consistent with the definition of "sealed compartment".

The commenter further pointed out that the temperature specifications should include either the word "maximum" or "minimum". This comment is accepted. Flotation foams deteriorate more with higher temperature, therefore, the temperature specified is a minimum temperature; the word "minimum" is for this reason added to paragraph 183.114(a).

The other commenter pointed out that the temperature specification in paragraphs 118.114(b) through 118.114(g) is somewhat higher than ambient temperatures in testing laboratorics and would require specially heated areas for conducting tests. He pointed out that by lowering the specified temperature by 6° C, testing laboratories could perform the tests without specially heated areas. The temperature, suggested by the commenter, is the standard laboratory temperature listed in ASTM D-471 as 23 plus or minus 2° C. The comment pointed out that the solubility of any material is relative to temperature, and this proposed lowering of the test temperature will enhance the chemical resistance of the plastic foam. However, the commenter does not believe that lowering the temperature to the suggested level will endanger the primary objective of differentiating between oil resistant and standard grades of foams. The Coast Guard accepts this argument and a temperature of 23 plus or minus 2° C is specified for the tests.

Paragraphs 183.222(a) and 183.322(a) are revised. The words "engine room bilge" and "engine room" are removed. The reason is that these paragraphs address only outboard boat requirements, and outboard boats have no engine rooms.

This amendment has been reviewed under DOT Notice 78-1, Improving Government Regulations (43 FR 9582). A final evaluation has been prepared and is available for inspection at the Marine Safety Council.

In consideration of the foregoing, Part 183 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By revising § 183.110 to read as follows:

§ 183.110 Definitions.

For the purpose of this subpart—

"ASTM" means American Society for Testing and Materials. The Coast Guard incorporates by reference ASTM Standard D-471, dated March 28, 1975, in § 183.114 of this subpart. This incorporation by reference was approved by the Director of the Office of the Federal Register on December 6, 1977. The Coast Guard also incorporates by reference ASTM Standard D-2842, dated November 14, 1969 (reapproved 1975), in § 183.114 of this subpart. This incorporation by reference was approved by the Director of the Office of the Federal Register on September 11, 1978. The incorporated standards are available for inspection at Coast Guard Headquarters, Room 4313, Trans Point Building, 2100 2nd St., SW., Washington, D.C. 20590 and at the Office of the Federal Register library, Room 8401, 1100 L St., NW., Washington, D.C. 20408. The incorporated standards may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

"Bilge" means the area in the boat, below a height of 4 inches measured from the lowest point in the boat where liquid can collect when the boat is in its static floating position, except engine rooms.

"Connected" means allowing a flow of water in excess of one-quarter ounce per hour from the engine room bilge into any other compartment with a 12 inch head of water on the engine room side of the bulkhead.

"Engine room bilge" means the area in the engine room or a connected compartment below a height of 12 inches measured from the lowest point where liquid can collect in these compartments when the boat is in its static floating position.

"Engine room" means the compartment where a permanently installed gasoline or diesel engine is installed, including connected compartments.

"Open to atmosphere" means a compartment that has at least 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.

"Sealed compartment" means an enclosure that can resist an exterior water level of 12 inches without separation of more than one-quarter fluid ounce per hour.

2. By adding a new § 183.112 to read as follows:

§ 183.112 Flotation material and air chambers.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the: (1) Engine room bilge, (2) engine room, or (3) bilge, unless located in a sealed compartment.

(b) Air chambers used to meet the flotation requirements of this subpart must not be integral with the hull.

3. By adding a new § 183.114 to read as follows:

§ 183.114 Test of flotation materials.

(a) *Vapor test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed in a fully saturated gasoline vapor atmosphere for 30 days at a minimum temperature of 38° C.

(b) *24-hour gasoline test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 24 hours at 23 plus or minus 2° C in reference fuel B, of ASTM D-471, dated March 28, 1975.

(c) *30-day gasoline test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 30 days at 23 plus or minus 2° C in reference fuel B, of ASTM D-471, dated March 28, 1975.

(d) *24-hour oil test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 24 hours at 23 plus or minus 2° C in reference oil No. 2, of ASTM D-471, dated March 28, 1975.

(e) *30-day oil test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 30 days at 23 plus or minus 2° C in reference oil No. 2, of ASTM D-471, dated March 28, 1975.

(f) *24-hour bilge cleaner test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 24 hours at 23 plus or minus 2° C in a 5-percent solution of trisodium phosphate in water.

(g) *30-day bilge cleaner test.* The flotation material must not reduce in buoyant force more than 5 percent after being immersed for 30 days at 23 plus or minus 2° C in a 5-percent solution of trisodium phosphate in water.

(h) The buoyant force reduction in (a)-(g) is measured in accordance with ASTM D-2842, dated November 14, 1969 (reapproved 1975).

4. By revising § 183.222 to read as follows:

§ 183.222 Flotation material and air chambers.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the bilge, unless located in a sealed compartment.

(b) Air chambers used to meet the flotation requirements of this subpart must not be integral with the hull.

5. By revising § 183.322 to read as follows:

§ 183.322 Flotation materials.

(a) Flotation materials must meet the requirements in § 183.114 as listed in table 5 when used in the bilge, unless located in a sealed compartment.

6. By adding a new table 5 to follow § 183.335 to read as follows:

TABLE 5 - FLOTATION PERFORMANCE TESTS

Test 183.114 \ Area 183.110		(b) Engineroom Bilge	(c) Engineroom Unless Open to Atmosphere	(d) Bilge
(a)	Vapor Test		X	
(b)	24 Hour Gasoline Test			X
(c)	30 Day Gasoline Test	X		
(d)	24 Hour Oil Test			X
(e)	30 Day Oil Test	X		
(f)	24 Hour Bilge Cleaner Test			X
(g)	30 Day Bilge Cleaner Test	X		

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

(Sec. 5, Pub. L. 92-75, 85 Stat. 215 (46 U.S.C. 1454); 49 CFR 1.46(n)(1).)

Dated: November 27, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-33790 Filed 12-1-78; 8:45 am]

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PART VI

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MONDAY, DECEMBER 4, 1978
PART VI



FEDERAL TRADE COMMISSION

RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS AND MOTIONS TO QUASH COMPULSORY PROCESS

Final Rules

[6750-01-M]

wider range of discovery devices, and pects that, in carrying out the duty to

the pleadings. In considering whether able in an orderly fashion, as suggest- ministrative process." *Coca Cola Co.*,

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[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Discovery Rules; Revision

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: These rules are a revision of the Commission's discovery rules. They are intended to make the procedures for discovery clearer, to provide the parties with more discovery devices, and to strengthen the authority of the Administrative Law Judge to supervise the proceedings effectively. They are more flexible than the previous rules, and are better suited to the needs of complex cases.

EFFECTIVE DATE: January 18, 1979. These amendments to the rules shall govern all discovery in Commission adjudicative proceedings that are initiated after they take effect and also all further discovery in proceedings that are then pending except to the extent that in the opinion of the Administrative Law Judge or the Commission their application in a particular proceeding pending when the amendments take effect would not be feasible or would work injustice, in which event the former rule or rules apply.

FOR FURTHER INFORMATION CONTACT:

Jack Schwartz, Assistant to the General Counsel, Federal Trade Commission, Washington, D.C., 20580 (202-523-3615).

SUPPLEMENTARY INFORMATION: The Federal Trade Commission previously published for comment a proposed general revision of its discovery rules based on the Federal Rules of Civil Procedure (40 FR 15239, April 4, 1975) and, subsequently, a less extensive proposed amendment of those rules (41 FR 21793, May 28, 1976). The latter proposal was intended to balance a somewhat broadened range of discovery with firm control by Administrative Law Judges of the pace and scope of adjudicative proceedings. After careful consideration of all comments submitted, the Commission has determined to promulgate the rules set forth below, pursuant to the authority of the Federal Trade Commission Act, 15 U.S.C. 41 et seq.

The Commission's general purpose in adopting these rules is to provide clearer standards, greater specificity, a wider range of discovery devices, and more explicit authority for the Administrative Law Judges to control adjudicative proceedings. The procedures are intended to shorten adjudicative proceedings by enabling the parties to more precisely define the actual issues. The Commission anticipates—and commends to parties and Administrative Law Judges—more frequent use of expedited decisional methods, such as stipulated records and summary judgments, as a consequence of discovery. In order to assure firm control of the proceeding by the Administrative Law Judge, no discovery may be had without advance authorization by the Administrative Law Judge. In no instance is an Administrative Law Judge *required* to authorize discovery. When discovery is authorized, the Commission expects prompt compliance. The Commission intends its Administrative Law Judges vigorously to enforce the provisions of § 3.38.

Like the Commission's present discovery rules, the revised rules are intended, *inter alia*, both to provide several means by which parties to a Commission proceeding may require other parties or nonparties to supply information, and to permit the Commission and its Administrative Law Judges to control the burdens imposed by such compulsory procedures. The discovery rules do not provide the exclusive means by which parties may obtain information, and are not intended to limit such ability as a party otherwise may have to obtain information through voluntary means or that may otherwise be available to them (*e.g.*, access requests under the Freedom of Information Act; information otherwise properly obtained by the Commission).[1] Where parties or nonparties are willing to do so voluntarily, they may of course provide or obtain information without resort to the formalities and procedural requirements applicable to nonvoluntary discovery. In this regard, in recognition of the fact that voluntary production commonly occurs and is often in the interests of all concerned, § 3.31(d) of the revised rules explicitly provides for stipulations as to discovery and procedure, upon approval of the Administrative Law Judge. Parties are especially encouraged to stipulate to cost-saving techniques like telephone depositions.

The Commission wishes to reiterate that these rules are intended to reaffirm and strengthen the authority of the Administrative Law Judge to supervise discovery. The Commission expects that, in carrying out the duty to prescribe a discovery plan and schedule, in deciding whether or not to authorize a particular request for discovery, and in determining whether to "deny or limit discovery" pursuant to the protection order authority under § 3.31(c)(1), the Administrative Law Judge will take into account the contribution that such discovery may make to the resolution of the issues, the needs of the parties, and the public interest in disposition of the proceeding without undue delay. The Administrative Law Judge should give particular attention to these factors in considering requests for authorization of depositions or interrogatories.

Administrative Law Judges and the parties are encouraged to conduct discovery simultaneously and without undue formality. Whenever possible, arrangements to facilitate discovery should be arrived at informally. For example, the "order" reciting the results of a prehearing conference, required under § 3.21(e)(1), need be no more than a one-sentence order, such as an order entering into the record a letter between the parties that memorializes the conference.

Apart from numerous drafting changes, the principal changes from the May 1976 proposal are as follows:

1. Section 3.21 is amended to provide that one or more prehearing conferences must be held in every case. Such conferences will enable the Administrative Law Judge to ascertain what discovery is necessary in light of the issues in the proceeding. The Administrative Law Judge shall by order set a plan and schedule of discovery, including whatever limitations on discovery may be necessary in aid of expedition. This section is further amended to provide a mechanism whereby the issues in complex cases will, within set deadlines, be more precisely delineated. This new provision is § 3.21(b); the subsections of the former rule are renumbered accordingly.

2. The scope of discovery, as set forth in § 3.31(b), conforms to that proposed on March 31, 1978, for the Federal Rules of Civil Procedure by the Advisory Committee on Civil Rules: discovery may be authorized "upon a satisfactory showing that the requested discovery may reasonably be expected to yield any information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent." The same standard applies to discovery of parties and non-parties alike.

The Commission intends this precisely tailored standard to be applied so that unnecessary discovery will not be permitted. The party seeking discovery must state specifically how the requested discovery bears upon the issues as they have been framed by

[1] In a statement dated June 2, 1978, concerning a subpoena issued to Atlantic Richfield Co., the Commission indicated that its existing discovery rules do not limit complaint counsel's access to information properly obtained by the Commission for other purposes. Nothing in the present revisions alters that interpretation.

the pleadings. In considering whether such a showing is "satisfactory," the Administrative Law Judge has broad discretion to weigh the probable relevancy of the information in light of his own assessment of the issues in the proceeding. The need for line-drawing of this kind is especially important in complex cases. See *Dolgow* v. *Anderson*, 53 F.R.D. 661, 664 (E.D.N.Y. 1971).

3. The Commission has reinserted a section (3.31) containing provisions applicable to discovery generally. It is substantially similar to Federal Rule 26 and to 1975 proposed § 3.31–2, with the following significant differences:

(a) It contains a provision on privilege adapted from Rule 501 of the Federal Rules of Evidence.

(b) It omits a provision comparable to paragraph 2 of Federal Rule 26(b)(3), because the mechanism provided there is unnecessary in Commission proceedings.

(c) It sets a ceiling on the amount that a party seeking discovery of another party's experts may be required to pay namely "the maximum specified in 5 U.S.C. 3109," unless the parties agree to, and the Administrative Law Judge orders, payment of a higher amount.

(d) It reserves, for the time being, the portion of the subsection on protective orders pertaining to the treatment of assertedly confidential business information. Such a provision has been published for comment at 43 FR 3571 (Jan. 26, 1978) as part of a separate rulemaking. After consideration of those comments, the Commission will decide in what form to promulgate § 3.31(c)(2). In the interim, Administrative Law Judges may continue to issue such protective orders in aid of their duty to conduct fair and impartial hearings and to avoid delay. See 16 CFR 3.42(c).

(e) It includes provisions on stipulations and on applications for compulsory process that were elsewhere in the rules.

4. A rule on interrogatories is added, modeled after Federal Rule 33. However, insofar as information is in the possession of the Commissioners, the General Counsel, the Administrative Law Judges, the Secretary in his capacity as custodian or recorder of any such information, and their respective staffs, that information is excluded from the rule. This exclusion is a necessary corollary of the separation of functions within the Commission. Access to such information continues to be governed by § 3.36. Also, a provision has been added (§3.37) for access orders to parties, paralleling in part the analogous provision in Federal Rule 34. The Commission has incorporated in both of these provisions requirements that records be made available in an orderly fashion, as suggested in the report of the Advisory Committee on Civil Rules.

5. The provisions for class deposition and subpoenas are deleted, because they pose an unacceptable risk to effective Administrative Law Judge supervision of discovery.

6. The previous provision for an order compelling appearance is deleted as unnecessary and dilatory. However, a new subsection (a) has been added to § 3.38, to provide for motions to compel answers to requests for admissions or to interrogatories.

7. Former § 3.31 is renumbered to § 3.32. This rule provides for party-generated requests for admissions. It is augmented by an additional provision (§ 3.42(c)(4)) that empowers the Administrative Law Judge *sua sponte* to compel admissions.

8. Former §§ 3.36 and 3.37 are combined in § 3.36.

The Commission rejects the suggestions of commenters that it return to the Federal Rules of Civil Procedure in their totality as a model, or conversely, make no change in its present rules. The Commission believes that, in general, parties should be permitted sufficient discovery to prepare their presentations effectively. In the long run, time will be saved if issues are explored in discovery, rather than at hearing. However, the complexity of many Commission proceedings and the potential for delay inherent in discovery require careful supervision, by the Administrative Law Judge, at every stage of the proceedings. Thus, though it has adopted the full panoply of Federal Rules devices (except Federal Rule 35 physical or mental examinations, which are unlikely to be required in Commission proceedings), the Commission has retained provisions for advance authorization of discovery and confirms the Administrative Law Judge's full authority to limit discovery in order to ensure fair, orderly, and expeditious proceedings. Where the Commission has adopted provisions substantially similar to provisions in the Federal Rules, judicial constructions of such analogous provisions may serve as interpretive aids, but they are not to be regarded as binding, because application of the Commission's rules must be tailored to the circumstances of Commission proceedings.

The Commission also rejects the contention of some commenters that the special provisions in § 3.36 regarding discovery of Commission and other government employees are improper. These provisions are "designed to accommodate the necessity of balancing the private litigant's right to prepare a proper defense against the government's vital interest in maintaining the integrity and efficiency of the administrative process." *Coca Cola Co.*, 85 F.T.C. 398, 399 (1975). The discovery rules provide full and fair access to necessary information; due process requires no more.

The provisions concerning motions to quash have been revised to reflect formally the Commission's view that all objections must be presented in such motions and to make clear that, as is commonly done, such motions can and should be accompanied by all appropriate supporting materials.

The Commission will review the operation of these rules after one year, so as to ascertain whether they have in fact worked as the Commission intends.

Accordingly, § 3.21 of Subpart C, §§ 3.31, 3.32, 3.33, 3.34, 3.35, 3.36, 3.37, and 3.38 of Subpart D, and § 3.42(c) of Subpart E, Part 3, Subchapter A, Chapter I of Title 16 of CFR are amended as set forth below:

Subpart C—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Decisions

1. Section 3.21 is revised to read as follows:

§ 3.21 Prehearing conferences.

(a) *Purpose.* The Administrative Law Judge in every case shall direct counsel for all parties to meet with him for one or more conferences to consider any or all of the following:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amendments to pleadings, subject, however, to the provisions of § 3.15;

(3) A plan and schedule of discovery, and such limitations on discovery as may promote expedition;

(4) Stipulations, admissions of fact and of the contents and authenticity of documents;

(5) Expedition in the presentation of evidence including, but not limited to, restriction of the number of expert, economic, or technical witnesses;

(6) Matters of which official notice will be taken and matters which may be resolved by reliance upon trade regulation and other rules pursuant to §§ 1.8 and 1.22(c) of this chapter; and

(7) Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(b) *Complex cases.* In any case in which in his judgment the likely complexity of the case or other circumstances so warrant, the Administrative Law Judge shall institute the following procedures:

(1) The Administrative Law Judge shall set a date for a prehearing con-

ference, to be held not later than 45

§ 3.31 General provisions.

(4) *Hearing Preparation: Experts.* (i) Discovery of facts known and opinions

§ 3.36), and applications for authoriza-

sents a genuine issue for trial may not,

(c) *Notice to corporation or other or-*

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ference, to be held not later than 45 days after the filing of the answer to the complaint.

(2) The Administrative Law Judge shall order (i) that complaint counsel, not later than 30 days prior to such conference, file a nonbinding statement setting out the theory of the case, the issues to be tried, and what complaint counsel expect their evidence to prove; and (ii) that respondent, not later than 15 days prior to such conference, file a nonbinding statement setting out the theory of the defense, the issues to be tried, and what respondent expects its evidence to prove. Such statements may be changed upon completion of discovery or at such other times as the Administrative Law Judge may direct.

(3) The Administrative Law Judge shall, not later than 30 days after such conference, formulate a statement of the issues of the case, based upon the pleadings of the parties and their statements filed pursuant to this rule.

(4) The Administrative Law Judge may, at appropriate intervals, reformulate the statement of the issues of the case.

(c) *Subpoenas.* Prehearing conferences may be convened for the purpose of accepting returns on subpoenas duces tecum issued pursuant to the provisions of § 3.34(b).

(d) *Public Access and Reporting.* Prehearing conferences shall be public unless the Administrative Law Judge determines in his discretion that the conference (or any part thereof) shall be closed to the public. The Administrative Law Judge shall have discretion to determine whether a prehearing conference shall be stenographically reported.

(e) *Orders.* (1) The Administrative Law Judge shall enter in the record an order which recites the results of a prehearing conference. Such order shall include the Administrative Law Judge's rulings upon other matters considered at the conference, together with appropriate directions to the parties. The Administrative Law Judge's order shall control the subsequent course of the proceeding, unless modified to prevent manifest injustice. (2) In each proceeding the Administrative Law Judge shall enter an order establishing a plan and schedule of discovery, including limitations on discovery and such other provisions as are necessary for the proper management of discovery in the proceeding. Such order may at any time be modified by the Administrative Law Judge for good cause shown.

Subpart D—Discovery; Compulsory Process

2. Section 3.31 is revised to read as follows:

§ 3.31 General provisions.

(a) *Discovery Methods.* Parties may obtain discovery by one or more of the following methods: Depositions upon oral examination or written questions; written interrogatories; production of documents or things for inspection and other purposes; and requests for admission. Unless the Administrative Law Judge orders otherwise, the frequency or sequence of these methods is not limited.

(b) *Scope of Discovery.* Unless otherwise limited by order of the Administrative Law Judge or the Commission in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* The Administrative Law Judge may authorize discovery upon a satisfactory showing that the requested discovery may reasonably be expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent. Such information may include the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having any knowledge of any discoverable matter. It shall not be an adequate ground for denying such authorization that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Privilege.* Authorization for discovery may be denied or limited, or a protective order may be entered, to preserve the privilege of a witness, person, or governmental agency as governed by the Constitution, any applicable Act of Congress, or the principles of the common law as they may be interpreted by the Commission in the light of reason and experience.

(3) *Hearing Preparation: Materials.* Subject to the provisions of paragraph (b)(4) of this Section, a party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (b)(1) of this section and prepared in anticipation of litigation or for hearing by or for another party or by or for that other party's representative (including his attorney, consultant, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the Administrative Law Judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

(4) *Hearing Preparation: Experts.* (i) Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of paragraph (b)(1) of this section and acquired or developed in anticipation of litigation or for hearing, may be obtained only as follows:

(A) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at hearing, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (B) Upon motion, the Administrative Law Judge may order further discovery by other means, subject to such restrictions as to scope as the Administrative Law Judge may deem appropriate.

(ii) A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for hearing and who is not expected to be called as a witness at hearing, only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(iii) The Administrative Law Judge may require as a condition of discovery that the party seeking discovery pay the expert a reasonable fee, but not more than the maximum specified in 5 U.S.C. 3109 unless the parties have stipulated to a higher amount, for time spent in responding to discovery under paragraphs (b)(4)(i)(B) and (b)(4)(ii) of this section.

(c) *Protective Orders.* (1) The Administrative Law Judge may deny discovery or make any order which justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense, or to prevent undue delay in the proceeding.

(2) [Reserved]

(d) *Stipulations.* When approved by the Administrative Law Judge, the parties may by written stipulation (1) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and (2) modify the procedures provided by these rules for other methods of discovery.

(e) *Rulings on Applications For Compulsory Process.* Applications for authorization to take depositions pursuant to the provisions of § 3.33, applications for the issuance of subpoenas pursuant to the provisions of § 3.34 or of offers pursuant to the provisions of § 3.37 (other than as provided in

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§ 3.36), and applications for authorization to serve interrogatories pursuant to the provisions of § 3.35 may be made *ex parte*, and, if so made, such applications and rulings thereon shall remain *ex parte* unless otherwise ordered by the Administrative Law Judge or the Commission. Such applications, and motions for protective orders shall be ruled upon by the Administrative Law Judge or, in the event the Administrative Law Judge is not available, by the Chief Administrative Law Judge or such other Administrative Law Judge as the Chief Administrative Law Judge may designate.

§ 3.32 Admissions.

(a) At any time after thirty (30) days after issuance of compliant, or after publication of notice of an adjudicative hearing in a rulemaking proceeding under § 3.13, any party may serve on any other party a written request for admission of the truth of any matters relevant to the pending proceeding set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or are known to be, and in the request are stated as being, in the possession of the other party. Each matter of which an admission is requested shall be separately set forth. A copy of the request shall be filed with the Secretary.

(b) The matter is admitted unless, within ten (10) days after service of the request, or within such shorter or longer time as the Administrative Law Judge may allow, the party to whom the request is directed serves upon the party requesting the admission, with a copy filed with the Secretary, a sworn written answer or objection addressed to the matter. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known to, or readily obtainable by, him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may deny the matter or set forth reasons why he cannot admit or deny it.

(c) Any matter admitted under this rule is conclusively established unless the Administrative Law Judge on motion permits withdrawal or amendment of the admission. The Administrative Law Judge may permit withdrawal or amendment when the presentation of the merits of the proceeding will be subserved thereby and the party who obtained the admission fails to satisfy the Administrative Law Judge that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending proceeding only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

§ 3.33 Depositions.

(a) *In general.* Any party may request the Administrative Law Judge to order the taking of a deposition or depositions of a named person or of a person or persons described with reasonable particularity. Such an order may be issued upon a satisfactory showing that the deposition or depositions may reasonably be expected to yield any information within the scope of discovery under § 3.31(b)(1). Such an order may also be issued to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence would not otherwise be available for presentation at the hearing. Depositions may be taken before any person having power to administer oaths, either under the law of the United States or of the state or other place in which the deposition is taken, who may be designated by the party seeking the deposition, provided that such person shall have no interest in the outcome of the proceeding. If such an order is issued, the party seeking the deposition shall serve upon each person whose deposition is sought and upon each party to the proceeding reasonable notice in writing of the time and place at which it will be taken, and the name and address of each person or persons to be examined, if known, and if the name is not known, a description sufficient to identify them.

(b) *Form of application.* Any party desiring to take a deposition or depositions shall make application in writing to the Administrative Law Judge making the showing required by paragraph (a) of this section and including, as appropriate, any applications or motions for subpoenas or other orders under §§ 3.34 or 3.36.

(c) *Notice to corporation or other organization.* A party may in a request for authorization of a deposition and in a subpoena *ad testificandum* name as the deponent a public or private corporation, partnership, association, governmental agency other than the Federal Trade Commission, or any bureau or regional office of the Federal Trade Commission, and describe with reasonable particularity the matters on which examination is requested. If such deposition is ordered and subpoena issued, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by any other procedure authorized in these rules.

(d) *Taking of deposition.* Each deponent shall be duly sworn, and any party shall have the right to question him. Objections to questions or to evidence presented shall be in short form, stating the grounds of objections relied upon. The questions propounded and the answers thereto, together with all objections made, shall be recorded and certified by the officer. Thereafter, upon payment of the charges therefor, the officer shall furnish a copy of the deposition to the deponent and to any party.

(e) *Depositions upon written questions.* A party desiring to take a deposition upon written questions shall, upon order of the Administrative Law Judge, serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation, partnership, association, governmental agency other than the Federal Trade Commission, or any bureau or regional office of the Federal Trade Commission in accordance with the provisions of Rule 3.33(c). Within 30 days after the notice and written questions are served, any other party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, the party taking the deposition may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, any other party may serve recross questions upon all other parties. The content of any question shall not be disclosed to the deponent prior to the

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taking of the deposition. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly to take the testimony of the deponent in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him. When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.

(f) *Correction of deposition.* A deposition may be corrected, as to form or substance, in the manner provided by § 3.44(b). Any such deposition shall, in addition to the other required procedures, be read to or by the deponent and signed by him, unless the parties by stipulation waive the signing or the deponent is unavailable or cannot be found or refuses to sign. If the deposition is not signed by the deponent within 30 days of its submission or attempted submission, the officer shall sign it and certify that the signing has been waived or that the deponent is unavailable or that the deponent has refused to sign, as the case may be, together with the reason for the refusal to sign, if any has been given. The deposition may then be used as though signed unless, on a motion to suppress under Rule 3.33(g)(3)(iv), the Administrative Law Judge determines that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. In addition to and not in lieu of the procedure for formal correction of the deposition, the deponent may enter in the record at the time of signing a list of objections to the transcription of his remarks, stating with specificity the alleged errors in the transcript.

(g)(1) *Use of Depositions in Hearings.* At the hearing on the complaint or upon a motion, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(i) Any deposition may be used for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(ii) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of a public or private corporation, partnership or association which is a party, or of an official or employee (other than a special employee) of the Commission, may be used by an adverse party for any purpose.

(iii) A deposition may be used by any party for any purpose if the Administrative Law Judge finds: (A) That the deponent is dead; or (B) that the deponent is out of the United States or is located at such a distance that his attendance would be impractical, unless it appears that the absence of the deponent was procured by the party offering the deposition; or (C) that the deponent is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (D) that the party offering the deposition has been unable to procure the attendance of the deponent by subpoena; or (E) that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(iv) If only part of a deposition is offered in evidence by a party, any other party may introduce any other part which ought in fairness to be considered with the part introduced.

(2) *Objections to Admissibility.* Subject to the provisions of paragraph (g)(3) of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(3) *Effect of Errors and Irregularities in Depositions*—(i) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(ii) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(iii) *As to taking of deposition.* (A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(C) Objections to the form of written questions are waived unless served in writing upon all parties within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(iv) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, endorsed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or with due diligence might have been ascertained.

§ 3.34 Subpoenas.

(a) *Subpoenas ad testificandum.* Application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at an adjudicative hearing shall be made in writing to the Administrative Law Judge. If for the purpose of discovery, such subpoena may be issued upon a satisfactory showing that the testimony may reasonably be expected to yield any information within the scope of discovery under § 3.31(b)(1). If to preserve relevant evidence, such subpoena may be issued upon a showing that there is substantial reason to believe that such evidence would not otherwise be available for presentation at the hearing. If for testimony at an adjudicative hearing, such subpoena may be issued upon a showing of the reasonable relevancy of the expected testimony.

(b) *Subpoenas duces tecum.* Application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specified documents (including writings, drawings, graphs, charts, photographs, phono records and other recordings, and other data compilations from which information can be obtained (translated, if necessary, by the person into reasonably usable form)) at the taking of a deposition, or at a prehearing conference, or at an adjudicative hearing shall be made in writing to the Administrative Law Judge, shall specify with reasonable particularity the material to be produced, showing that the material sought is reasonable in scope and, if for the purpose of discovery, falls within the limits of permissible discovery under § 3.31(b)(1), or, if for an adjudicative hearing, is reasonably relevant. Subpoenas *duces tecum* may be used by any party for purposes of discovery or for obtaining documents for use in evidence, or for both purposes.

(c) *Motions to Quash.* Any motion by the subject of a subpoena to limit or quash the subpoena shall be filed within the earlier of ten (10) days after service thereof or the time for compliance therewith. Such motion shall set forth all assertions of privilege or other factual and legal objections to the subpoena, including all appropriate argument, affidavits and other supporting documentation.

§ 3.35 Interrogatories to parties.

(a) *Availability; Procedures for Use.* (1) Upon authorization by the Administrative Law Judge, any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation, partnership, association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. For this purpose, information shall not be deemed to be available insofar as it is in the possession of the Commissioners, the General Counsel, the office of Administrative Law Judges, or the Secretary in his capacity as custodian or recorder of any such information, or their respective staffs.

(2) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to on grounds not raised and ruled on in connection with the authorization, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories, except that a respondent may serve answers or objections within 45 days after service of the complaint upon that respondent. The Administrative Law Judge may allow a shorter or longer time.

(b) *Scope; Use at Hearing.* (1) Interrogatories may relate to any matters which can be inquired into under § 3.31(b)(1), and the answers may be used to the extent permitted by the rules of evidence.

(2) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the Administrative Law Judge may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

(c) *Option to Produce Records.* Where the answer to an interrogatory may be derived or ascertained from the records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. The specification shall include sufficient detail to permit the interrogating party to identify readily the individual documents from which the answer may be ascertained.

§ 3.36 Applications for subpoenas for records of the commission or other governmental agency and for appearance of commission or other government officials and employees.

(a) *Form.* An application for issuance of a subpoena for documents (as defined in § 3.34(b)), or for the issuance of an order requiring access to documents pursuant to § 3.37, in the possession, custody, or control of the Federal Trade Commission or its employees, or of another governmental agency or its employees; or for the issuance of a subpoena requiring the appearance of an official or employee of the Commission, including complaint counsel, or the appearance of an official or employee of another governmental agency, shall be made in the form of a written motion filed in accordance with the provisions of § 3.22(a). No application for records pursuant to § 4.11 of this chapter or the Freedom of Information Act may be filed with the Administrative Law Judge.

(b) *Content.* The motion shall make the same showing required to obtain a subpoena under § 3.34 or an order under § 3.37, together with a specific showing that the information or material sought cannot reasonably be obtained by other means.

§ 3.37 Access for inspection and other purposes.

(a) *Availability; Procedures for Use.* Upon application in writing by any party, the Administrative Law Judge may issue an order requiring a party (1) to permit the party making the request, or someone acting on his behalf, to inspect and copy any designated documents, as defined in § 3.34(b), or to inspect and copy, test, or sample any tangible things which are in the possession, custody or control of the party upon whom the order would be served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the order would be served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon. Each such application shall specify with reasonable particularity the documents or things to be inspected, or the property to be entered, showing that the material sought is reasonable in scope and falls within the limits of permissible discovery under § 3.31(b)(1). Each such application shall also specify a reasonable time, place, and manner of making the inspection and performing the related acts. A party shall make documents available as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the order that requires their production.

(b) *Motions to Quash.* Any motion by the subject of an order to limit or quash the order shall be filed within the earlier of ten (10) days after service thereof or the time for compliance therewith. Such motion shall set forth all assertions of privilege or other factual and legal objections to the order, including all appropriate argument, affidavits and other supporting documentation.

§ 3.38 Motion for order compelling answer; sanctions.

(a) A party who has requested admissions or who has served interrogatories may move to determine the sufficiency of the answers or objections thereto. Unless the objecting party sustains his burden of showing that the objection is justified, the Administrative Law Judge shall order that an answer be served. If the Administrative Law Judge determines that an answer does not comply with the requirements of these rules, he may order either that the matter is admitted or that an amended answer be served. The Administrative Law Judge may, in lieu of these orders, determine that final disposition may be made at a prehearing conference or at a designated time prior to trial.

(b) If a party or an officer or agent of a party fails to comply with a subpoena or with an order including, but not limited to, an order for the taking of a deposition, the production of documents, or the answering of interrogatories, or requests for admissions; or an order of the Administrative Law Judge or the Commission issued as, or in accordance with, a ruling upon a motion concerning such an order or subpoena or upon an appeal from such a ruling, the Administrative Law Judge or the Commission, or both, for the purpose of permitting resolution of relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may take such action in regard thereto as is

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just, including but not limited to the

(5) To rule upon offers of proof and

(d) • • •

just, including but not limited to the following:

(1) Infer that the admission, testimony, documents or other evidence would have been adverse to the party;

(2) Rule that for the purposes of the proceeding the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party;

(3) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer, or agent, or the documents or other evidence;

(4) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence would have shown;

(5) Rule that a pleading, or part of a pleading, or a motion or other submission by the party, concerning which the order or subpoena was issued, be stricken, or that a decision of the proceeding be rendered against the party, or both.

(c) Any such action may be taken by written or oral order issued in the course of the proceeding or by inclusion in an initial decision of the Administrative Law Judge or an order or opinion of the Commission. It shall be the duty of parties to seek and Administrative Law Judges to grant such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for withheld testimony, documents, or other evidence. If in the Administrative Law Judge's opinion such relief would not be sufficient, or in instances where a nonparty fails to comply with a subpena or order, he shall certify to the Commission a request that court enforcement of the subpena or order be sought.

§ 3.42 Presiding Officials.

* * * * *

(c) *Powers and duties.* Administrative Law Judges shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. They shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas and orders requiring answers to questions;

(3) To take depositions or to cause depositions to be taken;

(4) To compel admissions, upon request of a party or on their own initiative;

(5) To rule upon offers of proof and receive evidence;

(6) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(7) To hold conferences for settlement, simplification of the issues, or any other proper purpose;

(8) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults;

(9) To make and file initial decisions;

(10) To certify questions to the Commission for its determination; and

(11) To take any action authorized by the rules in this part or in conformance with the provisions of the Administrative Procedure Act as restated and incorporated in Title 5, U.S.C.

By direction of the Commission dated November 9, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33772 Filed 12-1-78; 8:45 am]

[6750-01-M]

MOTIONS TO QUASH COMPULSORY PROCESS

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: Section 1.13(d)(6), 2.7(b), 2.11(b), and 2.12(d) are amended to provide that objections to Commission demands for information should set forth all claims of privilege or other objections including all supporting documentation. A parallel technical amendment is made to § 4.9(b)(22). These amendments codify requirements under existing Commission practices.

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerold D. Cummins, Deputy Assistant General Counsel, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, (202) 523-1928.

In consideration of the foregoing, 16 CFR Chapter I is amended as follows:

PART 1—GENERAL PROCEDURES

§ 1.13 [Amended]

(1) Add to § 1.13(d)(6) just before the next to the last full sentence.

* * * * *

(d) * * *

(6) * * * Such motion shall set forth all assertions of privilege or other factual and legal objection to the ruling, including all appropriate argument, affidavits and other supporting documentation. * * *

PART 2—NONADJUDICATIVE PROCEDURES

§ 2.7 [Amended]

(2) Add to § 2.7(b) after the first sentence:

* * * * *

(b) * * * Such motion shall set forth all assertions of privilege or other factual and legal objections to the subpena, including all appropriate argument, affidavits and other supporting documentation. * * *

§ 2.11 [Amended]

(3) Add to § 2.11(b) after the first sentence:

* * * * *

(b) * * * Such motion shall set forth all assertions of privilege or other factual and legal objections to the order requiring access, including all appropriate argument, affidavits and other supporting documentation. * * *

§ 2.12 [Amended]

(4) Add to § 2.12(d) after the first sentence:

* * * * *

(d) * * * Such motion shall set forth all assertions of privilege or other factual and legal objection to the order requiring a report or answer to specific questions, including all appropriate argument, affidavits and other supporting documentation. * * *

PART 4—MISCELLANEOUS RULES

§ 4.9 [Amended]

(5) Revise § 4.9(b)(22) to read in its entirety:

* * * * *

(b) * * * (22) Motions to limit or quash compulsory process, and the rulings thereon, except for information exempt from disclosure under § 4.10(a)(2) or § 4.10(a)(7) of this chapter.

By direction of the Commission dated November 9, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33773 Filed 12-1-78; 8:45 am]

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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: All public laws from the second session of the 95th Congress have been received and assigned law numbers by the Office of the Federal Register. The last continuing listing appeared in the issue of November 15, 1978.

A complete listing for the full session was published as Part II of the issue of December 4, 1978.

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[3195-01-M]

Title 3—The President

Proclamation 4610 • **November 30, 1978**

Modification of Quotas on Certain Sugars, Sirups, and Molasses

By the President of the United States of America

A Proclamation

1. By Proclamation 4334 of November 16, 1974, the President modified Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS") to establish, effective January 1, 1975, following expiration of the Sugar Act of 1948, rates of duty and a quota applicable to sugars, sirups and molasses described in items 155.20 and 155.30 of the TSUS. The President subsequently modified the rates of duty by Proclamation 4463 of September 21, 1976, Proclamation 4466 of October 4, 1976, and Proclamation 4539 of November 11, 1977.

2. The President took these actions pursuant to authority vested in him by the Constitution and statutes of the United States, including section 201(a)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)(2)), and in conformity with Headnote 2 of Subpart A of Part 10 of Schedule 1 of the TSUS, hereinafter referred to as the "Headnote." The Headnote was part of a trade agreement which embodied the results of the "Kennedy Round" of international trade negotiations. That agreement is known formally as the 1967 Geneva Protocol to the General Agreement on Tariffs and Trade, and the agreement includes, as an Annex, "Schedule XX," a schedule of United States trade concessions made during those negotiations. This agreement was concluded pursuant to section 201(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)), and was implemented by Proclamation No. 3822, of December 16, 1967, (82 Stat. 1455) which, *inter alia*, added the Headnote to the TSUS.

3. The Headnote provides, in relevant part, as follows:

"(i) . . . if the President finds that a particular rate not lower than such January 1, 1968, rate, limited by a particular quota, may be established for any articles provided for in item 155.20 or 155.30, which will give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade, he shall proclaim such particular rate and such quota limitation, . . .

"(ii) . . . any rate and quota limitation so established shall be modified if the President finds and proclaims that such modification is required or appropriate to give effect to the above considerations; . . ."

4. Section 201(a)(2) of the Trade Expansion Act authorizes the President to proclaim the modification or continuance of any existing duty or other import restrictions, or such additional import restrictions as he determines to be required or appropriate to carry out any trade agreement entered into under the authority of that Act, except that pursuant to section 201(b)(2) of

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the Act, the President may not by proclamation increase a rate of duty to a rate more than 50 percent above the rate existing on July 1, 1934.

5. I find that the modifications hereinafter proclaimed of the quota applicable to items 155.20 and 155.30 of the TSUS are appropriate to carry out the International Sugar Agreement, 1977, and that portion of the Kennedy Round Trade agreement set forth in the Headnote, and as provided for in the Headnote, give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and statutes, including section 201 of the Trade Expansion Act of 1962, and in conformity with Headnote 2, Subpart A of Part 10 of Schedule 1, of the TSUS, do hereby proclaim until otherwise superseded by law:

A. Headnote 3 of Subpart A, Part 10, Schedule 1 of the TSUS is modified to provide as follows:

(3) The total amount of sugars, sirups, and molasses described in items 155.20 and 155.30, the products of all foreign countries, entered, or withdrawn from warehouse, for consumption in any calendar year shall not exceed, in the aggregate, 6,900,000 short tons, raw value. Of this quantity, not more than 210,987 short tons, raw value, the product of the Republic of China, and not more than 150,544 short tons, raw value, in the aggregate, the products of all foreign countries other than Argentina, Australia, Bangladesh, Barbados, Belize, Bolivia, Brazil, Bulgaria, Canada, Costa Rica, Cuba, Republic of China, Dominican Republic, Ecuador, Egypt, El Salvador, Fiji, Finland, German Democratic Republic, Guatemala, Guyana, Honduras, Hungary, India, Indonesia, Iraq, Jamaica, Japan, Kenya, Republic of Korea, Madagascar, Malawi, Mauritius, Mexico, Mozambique, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Singapore, South Africa, St. Christopher-Nevis-Anguilla, Swaziland, Sweden, Thailand, Trinidad and Tobago, Uganda, Union of Soviet Socialist Republics, Venezuela, and Yugoslavia, may be entered, or withdrawn from warehouse for consumption in the period between January 1, 1978 and December 31, 1979, inclusive. For the purposes of this headnote, the term "raw value" means the equivalent of such articles in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury. The principal grades and types of sugar shall be translated into terms of raw value in the following manner:

(i) For articles described in item 155.20, by multiplying the number of pounds thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).

(ii) For articles described in item 155.30, by mutiplying the number of pounds of the total sugars thereof (the sum of the sucrose and reducing or invert sugars) by 1.07.

(iii) The Secretary of the Treasury shall establish methods for translating sugar into terms of raw value for any special grade or type of sugar for which he determines that the raw value cannot be measured adequately under the above provisions.

B. The provisions of this proclamation shall become effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after the date of publication of this Proclamation in the FEDERAL REGISTER, except that articles which were released under the provisions of section 448(b) of Tariff Act of 1930 (19 U.S.C. 1448(b)) prior to such date shall be not be denied entry.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of November, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-33982 Filed 12-1-78; 2:23 pm]

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rules and regulations

This section of the FEDERAL REGISTER contoins regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: Schedule A authority for appointment of not to exceed 4,000 part-time, temporary and intermittent supervisors, assistant supervisors, supervisors' clerks and enumerators in the field service of the Census Bureau is amended to remove the prohibition against employment under the authority after December 31, 1978. Continuing exception of these positions under Schedule A is appropriate because the limited amount of employment involved and need to staff on short notice make examining for the positions impracticable.

EFFECTIVE DATE: November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3114(d)(1) is amended as set out below:

§ 213.3114 Department of Commerce.

* * * * *

(d) *Bureau of Census.* (1) Not to exceed 4,000 positions of supervisors, assistant supervisors, supervisors' clerks and enumerators in the field service, other than Current Program Interviewers, for temporary, part-time or intermittent employment: *Provided,* That temporary part-time employment will be for periods not-to-exceed 1 year; and that such appointments may be extended for additional periods of not-to-exceed 1 year each: But that prior Commission approval is required for extension for longer than 1 year.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-33878 Filed 12-4-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of positions at the Environmental Protection Agency from one Secretary to the Deputy Administrator to one Confidential Assistant to the Deputy Administrator and from Special Assistant to the Administrator to Confidential Assistant to the Administrator. These changes more appropriately reflect the duties of the positions. Also changed is Special Assistant (Political Coordination) to the Administrator to Special Assistant to the Deputy Administrator to reflect an organizational redesignation.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3318(a) (1), (5), (6) are amended as set out below:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* (1) Eight Special Assistants and one Confidential Assistant to the Administrator. * * *

(5) One Confidential Assistant to the Deputy Administrator.

(6) Two Special Assistants to the Deputy Administrator.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-33879 Filed 12-4-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Defense, Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the Department of Defense because it is confidential in nature and (2) changes the title of positions at the Department of Health, Education, and Welfare from one Assistant to the Secretary for Special Programs to one Special Assistant to the Executive Secretary and from one Confidential Assistant to the Under Secretary to one Special Assistant to the Executive Secretary. These changes more appropriately reflect the duties of the positions and also reflect an organizational redesignation. Appointments to these positions may be made without examination by the Civil Service Commission.

EFFECTIVE DATES: Department of Defense—October 30, 1978; Department of Health, Education, and Welfare—October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(30) is added and 213.3316(a) (6), (9), and (11) are amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(30) One Private Secretary to the Principal Deputy Assistant Secretary of Defense/Deputy Under Secretary of Defense for Research and Engineering (Communications, Command and Control, and Intelligence).

* * * * *

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* * * *

(6) Three Confidential Assistants and one Executive Assistant to the Under Secretary. * * *

(9) Three Special Assistants to the Executive Secretary. * * *

V 4 3 / 2 3 4

(11) Three Assistants to the Secretary for Special Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-33880 Filed 12-4-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce, General Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Commerce and General Services Administration because they are confidential in nature. Appointments to these positions may be made without examination by the Civil Service Commission.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3314(w)(3) is added and 213.3337(a)(20) is amended as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(w) *Industry and Trade Administration.* * * *

(3) One Secretary to each of the following: Deputy Assistant Secretary for East-West Trade; Deputy Assistant Secretary for Field Operations; Deputy Assistant Secretary for Domestic Business Development; Deputy Assistant Secretary for International Economic Policy and Research; Deputy Assistant Secretary for Export Development; and Deputy Assistant Secretary for Trade Regulation.

* * * * *

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* * * *

(20) Three Confidential Assistants to the Director of Congressional Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-33881 Filed 12-4-78; 8:45 am]

[3410-05-M]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—FLUE-CURED TOBACCO

Subpart—Proclamations, Determinations, and Announcements of National Marketing Quotas and Referendum Results

1979 NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: The Secretary of Agriculture has determined that the flue-cured tobacco quota shall be 1,095 million pounds, about two percent below last year. The law requires this announcement by December 1, 1978. This and related determinations are being made to effect an orderly marketing of the supplies of flue-cured tobacco which will be available for the 1979-80 marketing year.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, (202) 447-7601, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

SUPLEMENTARY INFORMATION: 7 CFR 725.2 is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), to determine and announce for flue-cured tobacco for the marketing year beginning July 1, 1979:

1. The amount of the reserve supply level.
2. The amount of the total supply.
3. The amount of the national marketing quota.
4. The national average yield goal.
5. The national acreage allotment.
6. The national acreage reserve.

A. For establishing acreage allotments for new farms.

B. For making corrections and adjusting inequities in old farms.

7. The national acreage factor.
8. The national yield factor.

Marketing quotas on an acreage-poundage basis were proclaimed for flue-cured tobacco for the 1977-78; 1978-79; and 1979-80 marketing years (41 FR 52430). Flue-cured tobacco farmers approved marketing quotas on an acreage-poundage basis for the 1977-78, 1978-79, and 1979-80 marketing years (42 FR 10996).

The determinations by the Secretary contained in § 725.2 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from flue-cured tobacco producers and others pursuant to a notice (43 FR 44862) given in accordance with the provisions of 5 U.S.C. 553.

DISCUSSION OF COMMENTS

During the flue-cured comment period, 32 written responses were received. Included were comments from farmers, members of the trade including trade associations, and farm groups. Twelve favored no change in quota, and 5 recommended increases ranging from 5 to 8 percent. The major thrust of these responses centered around a need for adequate supplies to maintain markets. Two responses recommended no increase in quota and two others recommended a 10 percent reduction in quota, noting that supplies of flue-cured tobacco are excessive. Twelve other respondents gave no specific quota recommendations.

Three meetings were held in the producing area to give farmers and others the opportunity to express their views verbally. At one meeting, most of the attendants generally favored a small increase in the quota so that supplies would be adequate to maintain markets. At the other two meetings, most of the attendants generally favored a quota decrease of not more than 10 percent, noting that supplies are excessive.

In keeping with the Secretary's obligations to effect an orderly reduction of total supply to the reserve supply level, a marketing quota of 1,095 million pounds is hereby determined and announced for the 1979-80 marketing year.

Section 317(a) (1) of the Act provides, in part, that for flue-cured tobacco, the national marketing quota for a marketing year is the amount of flue-cured tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The Act further provides that any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

The reserve supply level is defined in the Act as 105 percent of the normal supply. The normal supply is defined in the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption is defined in the Act as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined in the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The yearly average domestic consumption during the 10 marketing years preceding the 1978-79 marketing year was 655 million pounds, and the yearly average exports during such period amounted to 531 million pounds. Both domestic disappearance and exports have fluctuated in relatively narrow bands with no predominate trends. Accordingly, a normal year's domestic consumption and a normal year's exports equal the respective 10 year averages. These normals result in a reserve supply level of 2,811 million pounds.

Total supply is defined as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The carryover of flue-cured tobacco in the inventories of manufacturers and dealers (including CCC loan stocks) on July 1, 1978, amounted to 2,046 million pounds, farm sales weight. The 1978 crop marketings plus 1977 crop tobacco marketed during the 1978-79 marketing year is currently estimated at 1,200 million pounds. The sum of these, 3,246 million pounds, represents the total supply of flue-cured tobacco for the 1978-79 marketing year, an amount which exceeds the proposed reserve supply level by 435 million pounds.

It is estimated that 605 million pounds of flue-cured tobacco will be utilized in the United States during the 1979-80 marketing year and 535 million pounds will be exported. Because it is deemed desirable to effect an orderly reduction of supplies to the reserve supply level, the sum of these amounts, 1,140 million pounds, is adjusted downward by 45 million pounds in establishing the quota. This reduction is less than the maximum reduction of 15 percent permitted by the Act, and is the reduction which is deemed desirable under the present supply-demand situation. Accordingly, the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1979, is determined to be 1,095 million pounds.

The "national average yield goal" has been determined to be 1,854 pounds per acre. It has been determined that this yield will improve or insure the usability of flue-cured tobacco and increase the net return per pound to the growers. In making this determination, consideration was given to research data of the Agricultural Reserach Service of the Department and one of the land-grant colleges in the flue-cured tobacco area.

The community average yields have been determined for flue-cured tobacco and published in the FEDERAL REGISTER (30 FR 6207, 9875, 14487).

The national acreage allotment is 590,614.89 acres, determined in accordance with provisions of the Act by dividing the national marketing quota by the national yield goal.

In accordance with the Act, a national reserve, from the national acreage allotment, is established in the amount of 500 acres for making corrections in farm acreage allotments, adjusting inequities and establishing allotments for new farms. It is determined that the reserve acreage will be adequate.

It has been determined that types 11, 12, 13, and 14 constitute one kind of tobacco for the 1977-78, 1978-79, and 1979-80 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of the types of flue-cured tobacco (30 FR 6144). Therefore, no action is being taken under section 313(i) of the Act for the 1979-80 marketing year.

Since farmers are now making their plans for 1979 production of flue-cured tobacco and need to know the acreage allotments and marketing quota for their farms for the 1979-80 marketing year, it is hereby found that compliance with the provisions of Executive Order 12044 and the notice of proposed rule making, public participation procedure and 30-day effective date requirements in 5 U.S.C. 553 is impossible and contrary to the public interest. Therefore, this revision is issued without following such procedure.

FINAL RULE

Part 725 of Title 7 is amended by revising § 725.2 and the centerhead which precedes it to read as set forth below, effective for the 1979 crop of flue-cured tobacco. The material previously appearing in this section under centerhead DETERMINATIONS AND ANNOUNCEMENTS—1978-79 MARKETING YEAR remains in full force and effect as to the crop to which it was applicable.

DETERMINATIONS AND ANNOUNCEMENTS—1979-80 MARKETING YEAR

§ 725.2 Flue-cured tobacco.

For flue-cured tobacco for the marketing year beginning July 1, 1979:

(a) *Reserve supply level.* The reserve supply level is determined and announced to be 2,811 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 655 million pounds and a normal year's exports of 531 million pounds.

(b) *National marketing quota.* A national marketing quota on an acreage-poundage basis for the marketing year is hereby determined and announced to be 1,095 million pounds. This quota is based on estimated utilization in the United States in such marketing year of 605 million pounds and estimated exports in such marketing year of 535 million pounds, with a downward adjustment of 45 million pounds which is determined to be desirable for the purpose of effecting an orderly reduction of supplies to the reserve supply level.

(c) *National average yield goal.* The national average yield goal is determined and announced to be 1,854 pounds. This goal is based on the yield per acre which, on a national average basis, is determined will improve or insure the usability of flue-cured tobacco and increase the net return per pound to growers.

(d) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined and announced to be 590,614.89 acres. This allotment was determined by dividing the national marketing quota of 1,095 million pounds by the national average yield goal of 1,854 pounds.

(e) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms in determined and announced to be 500 acres.

(f) *National acreage factor.* The national acreage factor is determined and announced to be .98.

(g) *National yield factor.* The national yield factor is determined and announced to be .9307.

(Sec. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66 (7 U.S.C. 1301, 1313, 1314c, 1375))

NOTE.—An approved Impact Analysis Statement is available from Thomas A. VonGarlem, Acting Director, Price Support and

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Loan Division, Room 3741—South Building, P.O. Box 2415, Washington, D.C. 20013.

NOTE.— Based on an assessment of the environmental impacts of the proposed actions, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of human environment.

Signed at Washington, D.C., on November 29, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-33866 Filed 11-30-78; 12:23 pm]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine portions of San Luis Obispo County in California because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed by Veterinary Services Laboratories in California. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested areas.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: This amendment quarantines portions of San Luis Obispo County in California because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, a new paragraph (c) relating to the State of California is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(c) Notice is hereby given that cattle in certain portions of the State of California are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

(1) The premises of the Stinton Feedlot, San Luis Obispo County, Shandon, R. 15 E., T. 27 S., secs. 10 and 15.

(2) The premises of the Phelan Feedlot, San Luis Obispo County, Arroyo Grande, R. 13 E., T. 12 N., N. ½ sec. 35.

(3) The premises of the Camatti Ranch, San Luis Obispo County, Santa Margarita, R. 15 E., T. 27 S., secs. 1, 2, 11, 12, 13, 14, 22, 24, 25, 26, 35; R. 16 E., T. 27 S., secs. 18, 19, 20, 28, 29, 30, 31, 32, 33, 34; R. 16 E., T. 28 S., secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35; R. 16 E., T. 29 S., secs. 2, 3, 4, 5, 6, 8, 9, 10.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—This regulation has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations" and has not been designated to be "significant" under these criteria.

Done at Washington, D.C., this 30th day of November 1978.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc. 78-33916 Filed 12-4-78; 8:45 am]

[3410-34-M]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Restrictions on Importation of Horses From Belgium and the Federal Republic of Germany

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document extends to Belgium and the Federal Republic of Germany the prohibitions previously placed on the importation into the United States of certain horses from or that have been in countries affected with contagious equine metritis (CEM). This action is necessary to protect the livestock of the United States from such disease.

EFFECTIVE DATE: The foregoing amendment shall become effective November 30, 1978, except for horses then in transit to the United States from Belgium and the Federal Republic of Germany (i.e., loaded aboard a commercial carrier and en route to the United States).

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On September 9, 1977 (42 FR 45895) a prohibition was placed on the importation into the United States of certain horses from England, Ireland, and France and the importation into the United States of certain horses that have been in such countries within the 60 days immediately preceding their export to the United States because of the existence of CEM in such countries. On September 16, 1977 (42 FR 48327-48328), the prohibition was extended to include Australia and all of the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man). On December 8, 1977 (42 FR 63384-63385) an amendment extended the specified period as a condition for entry of such horses which have been in countries infected with CEM listed under § 92.2(i) from 60 days to 12 months. This action was taken to protect the livestock of the United States against the introduction and dissemination of CEM, a communicable disease of horses, into the United States. CEM is now known to exist in Belgium and the Federal Republic of Germany and prohibitions on the importation of certain horses from or that have been in that country within 12 months immediately preceding their export to the United States are hereby placed in effect. The same restrictions that now apply to horses from Australia, Ireland, France and the United Kingdom are hereby placed on the importation of certain horses from or that have been in Belgium and the Federal Republic of Germany. Dr. E. C. Sharman, Senior Staff Veterinarian, Import/Export Staff, has determined this amendment to be of an emergency nature and should be placed in effect immediately.

Accordingly, part 92, Code of Federal Regulations, is amended in the following respects:

In § 92.2, paragraph (i)(1) is amended to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i)(1) Except as provided in subparagraph (2) of this paragraph, notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from the following listed countries and the importation of all horses which have been in any such country within the 12 months immediately preceding their export to the United States is prohibited because of the existence of CEM in such countries: Australia, Belgium, Ireland, Federal Republic of Germany, France, and the United Kingdom (England, Scotland, Northern Ireland, Wales, and the Isle of Man).

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141.)

This amendment imposes additional restrictions on the importation of certain horses from Belgium and the Federal Republic of Germany into the United States. The amendment is of an emergency nature and should be placed in effect immediately in order to protect the livestock of the United States from the introduction and dissemination of disease.

Therefore, for such good cause the Department finds that notice and other public procedure regarding this amendment are impracticable, unnecessary and contrary to the public interest and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044. We have determined that the possibility of the introduction of CEM from Belgium and the Federal Republic of Germany is severe enough to warrant the publication of this quarantine without waiting for public comment. An impact analysis statement is being prepared and will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695. In addition, the regulations covering CEM will be scheduled for review under provisions of E.O. 12044.

Done at Washington, D.C., this 30th day of November 1978.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc. 78-33917 Filed 12-4-78; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg Z; FC-0159]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretation of Regulation Z, regarding § 226.9(g)(6) exception to general rescission requirements. The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: On or after January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be post marked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) The publication of this official staff interpretation was inadvertently delayed.

(4) Authority: 15 U.S.C. 1640(f).

§ 226.9(g) Creditor that extends nonsale credit directly to customer under open end credit plan may qualify for § 226.9(g)(8) exception to general rescission requirements.

OCTOBER 13, 1978.

This is in response to your letter of * * *, in which you request an official staff interpretation of the Board's recent amendment to the rescission provisions of Regulation Z. That amendment, § 226.9(g)(6) of the regulation, provides an exception to the regulation's general requirements regarding the right of rescission for individual transactions under an open end credit account, provided the specific requirements of the amendment are satisfied.

Specifically, you ask for clarification of § 226.9(g)(6)(i). Under that provision, the exception from the right of rescission for individual transactions under an open end credit account applies (assuming the amendment's other requirements are met) provided "[t]hat the creditor and the seller are not the same or related persons." You are concerned that this provision may be interpreted to mean that, for the exception to apply, an open end credit transaction must involve a *seller* that is not the same person as the creditor or related to the creditor. Under such an interpretation, the exception could not apply to a nonsale open end credit transaction (e.g., a cash advance loan made pursuant to an open end line of credit).

The staff is of the opinion that, in adopting this amendment to Regulation Z, the Board intended to allow creditors to qualify for an exception to the regulation's general rescission requirements for any open end credit transaction, whether involving sale or nonsale credit, except for the limited class of transactions in which the creditor of an open plan is the same person as or is related to the seller of property or services purchased by means of the plan. Thus, for example, a creditor of an open end plan could extend nonsale credit under the plan directly to a customer (in which case the creditor and the *lender* would be the same person and there would be no *seller* involved in the transaction at all) and could still qualify for the amendment's exception.

In accordance with your request, this is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed above. It will become effective 30 days after publication in the FEDERAL REGISTER unless a request for public comment, made in accordance with the Board's proce-

for and against the program were es- was to have eligibility and authoriza- nary cases, if at all. OR-135, also

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dures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, November 27, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33868 Filed 12-4-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. PR-182; Amdt. No. 44 of Part 302; Docket 29880]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Intervention

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In PR-181, also issued today, the Board set up a program of payments to eligible participants in its proceedings. For the reasons set forth in PR-181, the Rules of Practice are amended to state that an Administrative Law Judge's grant of a petition to intervene in a hearing case will not affect the intervenor's eligibility for payments under the new program.

DATES: Adopted: October 26, 1978. Effective: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Since this amendment is administrative in nature, affecting a rule of agency practice and procedure, the Board finds that notice and public procedure are unnecessary and the amendment may be effective immediately.

Accordingly, the Civil Aeronautics Board amends Rule 15 of its Rules of Practice (14 CFR 302.15) as follows:

A sentence is added at the end of paragraph (b), so that it reads:

§ 302.15 Formal intervention in hearing cases.

* * * * *

(b) *Considerations relevant to determination of petition to intervene.* In passing upon a petition to intervene, the following factors, among other things, will be considered: (1) The nature of the petitioner's right under the statute to be made a party to the proceeding; (2) the nature and extent of the property, financial or other interest of the petitioner; (3) the effect of the order which may be entered in the proceeding on petitioner's interest; (4) the availability of other means whereby the petitioner's interest may be protected; (5) the extent to which petitioner's interest will be represented by existing parties; (6) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record; and (7) the extent to which participation of the petitioner will broaden the issue or delay the proceeding. These criteria will be liberally interpreted to facilitate the effective participation by members of the public Board proceedings. The grant of a petition under this section will not affect the intervenor's eligibility under Part 304 of this chapter.

* * * * *

(Secs. 203 and 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 742 and 743; 49 U.S.C. 1323 and 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33925 Filed 12-4-78; 8:45 am]

[6320-01-M]

[Reg. PR-181; Docket 29880]

PART 304—COMPENSATION OF PARTICIPANTS IN BOARD PROCEEDINGS

Adoption of New Part

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB establishes a program of payments to participants in its proceedings. Compensation will be paid to applicants who otherwise would be unable to participate, and who are expected to contribute substantially to a fair decision. Applicants' interest in the outcome must be small compared to the burden of participation.

DATES: Adopted: October 26, 1978. Effective: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington D.C. 20428, Phone: 202-673-5442.

SUPPLEMENTARY INFORMATION: This rulemaking began in October 1976, when the Aviation Consumer Action Project (ACAP) and the Institute for Public Interest Representation petitioned the Board to set up a program to promote public participation in Board proceedings. They recommended compensation for attorneys' fees, expert witness fees, and other costs of participation incurred by qualifying participants. To qualify, a participant would need to represent "an interest which will substantially contribute to a full and fair determination of the issues involved in the proceeding" and meet a criterion of financial need.

Responding to the petition, we published PDR-45, an advance notice of proposed rulemaking.[1] We agreed in principle with the petition's aims and, in general terms, asked for comment on various questions of detail that it raised. The comments primarily addressed the threshold question of whether we ought to set up a compensation program at all. Supporters argued that participation by "public interest groups" and others can improve the balance of views presented to us and thus enhance the decision-making process, but that the cost of effective participation has often been a practical barrier. Opponents argued that a compensation program is unnecessary, impracticable to administer, and an improper and illegal use of public money.

In PDR-50, a notice of proposed rulemaking,[2] we discussed these arguments at length, resolved the general question in favor of having such a program, and asked for comments on a specific new Part 304 of our Procedural Regulations to govern it.

Twenty-five agencies, "public interest" groups, other organizations, and individuals filed comments on this proposal.[3] Since the general arguments

[1] February 8, 1977 (42 FR 8663, February 11, 1977).

[2] March 16, 1978 (43 FR 14045, April 4, 1978).

[3] Supporting comments were filed by the Board's Office of the Consumer Advocate, U.S. Department of Transportation, Federal Trade Commission, Airline Passengers Associations, Americans for Democratic Action, Common Cause, Public Citizen, Public Interest Economics Foundation, Washington Legal Foundation, Nebraska Department of Aeronautics, Senators Warren G. Magnuson and Edward M. Kennedy (jointly), and Mr. Donald Pevsner. A joint supporting comment was filed by ACAP, the Institute for Public Interest Representation, Consumer Federation of America, Council for Public Interest Law, and the Center for Law and Social Policy ("the ACAP commenters"). Opposing comments were filed by the Air Transport Association of America, National Association of Manufacturers, National Legal Center for the Public Interest, Missouri Department of Transportation, Chamber of Commerce of the United States, and

Footnotes continued on next page

for and against the program were essentially repetitions of those made in the comments on PDR-45, they will not be addressed again here. We are now adopting a new Part 304. A thorough discussion of the basis and purpose of the compensation program can be found in PDR-50. The discussion below deals with our legal authority to conduct the program and the details addressed by the commenters.

LEGAL AUTHORITY FOR THE PROGRAM

PDR-50 stated our tentative conclusion that authority to conduct a compensation program was implicit in the Federal Aviation Act and our then-current appropriation act. In a series of opinions, the Comptroller General had interpreted similar governing statutes of other agencies as authorizing compensation when (1) the participation "can reasonably be expected to contribute substantially to a full and fair determination" of the issues in a proceeding, and (2) the participant is "indigent or otherwise unable to finance its participation." Agreeing with those interpretations, we tentatively applied them to our own governing statutes. PDR-50 distinguished *Greene County Planning Board* v. *FPC*, 559 F. 2d 1237 (2d Cir. 1977), a case in which the U.S. Court of Appeals for the Second Circuit had agreed with the FPC that the Federal Power Act did not allow that agency to compensate participants without a more explicit statutory authorization.

Several commenters, relying primarily on the *Greene County* decision, argued that authority was lacking. We have examined those comments in detail and they have not persuaded us that the tentative conclusion announced in PDR-50 was incorrect. Therefore, we are hereby adopting our tentative finding that the Federal Aviation Act confers implied authority to establish a compensation program.[4] In addition, as a separate and totally independent legal basis, we conclude that Congress has since conferred authority by enacting the Department of Transportation and Related Agencies Appropriations Act, 1979.[5] The Conference Committee's report stated that:

> The conferees approve the expenditure of not to exceed $150,000 of the funds provided to the Board for the expenses of a one year demonstration project involving the participation of public interest groups and individuals in the Board's proceedings.[6]

ADMINISTRATION OF THE PROGRAM

PDR-50 invited comments on a variety of forms of administration. One was to have eligibility and authorization decisions made by an Evaluation Committee made up of the Managing Director, the General Counsel, and Director of the Office of Economic Analysis. Others included having a Board member on the committee, giving this function to the Administrative Law Judges or the Managing Director's office, and setting up a separate office to administer the program. ACAP, Common Cause, and Americans for Democratic Action favored the committee, with the composition described above. They stated that such a committee should be independent enough to avoid conflict with interested staff members. Consumer Federation of America and Public Citizen suggested a separate office. Although this approach could conceivably provide even greater independence, the $150,000 budget for the program's first year does not appear to justify it. The Office of the Consumer Advocate suggested that the program be administered by the Chief Administrative Law Judge, with the help of the other ALJ's. Involvement of the ALJ's would be particularly useful only in hearing cases, however. Rather than have a dual system of administration that depends on the type of case in which money is sought, we have selected the committee approach as the most workable one.

PDR-50 stated that, after selecting the persons who would administer the program, we would amend Part 385 of the Organization Regulations (14 CFR Part 385) to delegate the necessary authority. The ATA, nothing that the proposal did not discuss appeals to the Board from persons whose applications are disapproved, stated that we should specify whether §§ 380.50 through 385.54 of that part would govern such appeals. The review procedure set out in those sections, since it is designed primarily for staff actions that can meaningfully be said to have an "effective date", is not well suited to review of compensation decisions. We have therefore decided to place the delegation of authority to the Evaluation Committee directly in the new Part 304, along with a special review procedure.

A person whose application for compensation has been disapproved by the Committee will have 10 days to petition for discretionary review by the Board. Any person may submit an answer to a petition for review; we will consider answers to the extent practicable. To prevent delay, the rule specifies that submission of a petition for review will not stay the proceeding in which the petitioner has applied for compensation. We could nevertheless issue a stay if persuaded by the equities of a particular situation. However, we expect to do this only in extraordinary cases, if at all. OR-135, also issued today, amends Part 385 to exclude the delegation to the Evaluation Committee from the coverage of that part.

As proposed in PDR-50, applications for compensation and written decisions of the Evaluation Committee will be placed in the relevant docket and in a new "Compensation of Participants" file to be maintained in the Public Reference Room. The Committee will similarly file copies of any written communications with applicants, along with summaries of oral communications.

PDR-50 proposed no procedure for disclosing the recommendations that Board staff members make to the Committee. The ATA stated that all such recommendations should be in writing and docketed immediately. We agree that they should be made available to the public without delay. To require all communications between the staff and the Committee to be in writing is too restrictive, however, since it would prohibit meetings and telephone conversations about applications. These can be especially helpful when time is short. Therefore, we are permitting such oral communications with staff members. As with oral communications between the Committee and applicants, however, summaries will be placed in the docket and the "Compensation of Participants" file promptly. Also, to limit the chance of undue influence by interested staff members, communications between the Committee and those staff members who are participating in a proceeding will be limited to whatever is necessary for the Committee to ascertain whether the applicant's presentation is likely to duplicate that of the staff.

We are adding a provision to allow the Evaluation Committee to communicate with the staff of other Federal agencies in whose proceedings an applicant has participated. These communications will be limited to discussion of the effectiveness of the applicant's contribution to a full and fair determination of the other agency's proceeding. Such discussions can be helpful to the Committee in deciding whether compensation of the applicant is likely to be worthwhile. These communications will be summarized (if oral) and docketed, as described above for those with applicants and Board staff.

We are also adding procedures to allow public answers to applications for funding. Answers may provide the Evaluation Committee with information that is useful in its funding decisions. There is therefore no reason to preclude them, as long as the procedure does not hinder the administration of the program. In proceedings

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Footnotes continued from last page

Senator Howard S. Cannon. The Securities and Exchange Commission and the Seattle Parties also filed comments.

[4] See the May 8, 1978, Memorandum from the General Counsel to the Board, filed in this docket.

[5] P.L. 95-335, 92 Stat. 435, August 4, 1978.

[6] Rep. No. 95-1329, June 29, 1978, p. 12.

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where the Board invites applications for compensation, if there appears to be enough time to specify a period for filing answers, the invitation will announce a closing date for applications and a second date for answers. Any answers filed after that second date will be considered by the Committee only to the extent practicable. Similarly, when the invitation announces only a closing date for applications, and in cases where there is no invitation at all (and so no deadline even for applications), any answers filed will be considered only to the extent practicable.

APPLICATIONS FOR COMPENSATION

PDR-50 proposed to require that applicants list the proceedings of other Federal agencies in which they participated in the preceding year and the amount of any compensation that they received from the Federal government in connection with those proceedings. Americans for Democratic Action agreed that the list of proceedings would be helpful to the Board's staff in evaluating the quality of an applicant's past performance. ADA objected to any listing of previous compensation, however, arguing that this information would lead to discrimination against applicants who had already received money from other agencies. We do not agree. There would be no reason for such discrimination. The fact that an applicant has received money from another agency in the past, taken alone, is of no relevance to that applicant's eligibility for compensation from the Board. The amount becomes particularly relevant, however, in evaluating whether the other agency received good value for what it paid. That information, in turn, will be very useful to the Evaluation Committee.

Therefore, we are adopting the requirements for applications as proposed. Section 304.3 specifies the information that must be included, but does not prescribe a form. Our staff is preparing a pamphlet describing the compensation program to prospective applicants, for wide distribution to consumer groups and other interested persons around the country. The pamphlet will include an application form, whose use will be optional.

INTEREST ELIGIBILITY

The interest eligibility standard enunciated by the Comptroller General is that the applicant's participation "can be reasonably expected to contribute substantially to a full and fair determination" of the issues in a proceeding. In PDR-50, we proposed to implement this standard as follows:

(1) The applicant must represent an interest whose representation can reasonably be expected to contribute substantially to a full and fair determination of the proceeding, in light of the number and complexity of the issues presented, the importance of public participation, and the need for representation of a fair balance of interests;

(2) Participation by the applicant must be reasonably necessary to represent that interest adequately; and

(3) It must be reasonably probable that the applicant can represent the interest competently within the time available for the proceeding.

These three requirements, taken together, embody the Comptroller General's standard. Public Citizen and the ACAP commenters argue that the second one should be deleted because it is not only repetitive of the first, but susceptible to an interpretation that is too restrictive. In particular, they suggest that any given applicant is arguably unnecessary, since another participant could conceivably come forward to represent the same interest.

The second test described above is not redundant, however. The first addresses only the interest, and not the applicant itself. No matter how important the interest, one cannot say that the applicant's participation will contribute substantially to the proceeding if the same interest is already adquately represented by another party. Hence the need for the second test—that the applicant's participation must be reasonably necessary to represent the interest adequately. Since this requirement is intended only to preclude funding of participation that is likely to duplicate that which is already expected, the commenters need not fear the restrictive interpretation that they have suggested. Therefore, we are adopting the first three eligibility requirements as proposed.

The Public Interest Economics Foundation and the Air Transport Association stated that the "substantial contribution" standard should be elaborated on. ATA particularly argued that this standard is too vague. We disagree. In fact, the rule adopted today is already more specific on this subject than the language of S. 270, the bill in Congress that would give explicit statutory authority to most Federal agencies to conduct similar compensation programs.

The Airline Passengers Association and the Air Transport Association argued that applicants should have to demonstrate that they actually represent the groups they purport to represent. The APA surveys its members to ensure its representativeness. The ATA states that an organization applying for funds should specify which of its members affirmatively support the organization's position. If the program were based on the idea that applicants have a right to compensation, there would be merit in this argument. These commenters have misunderstood the point of the program, however. Compensation is based on the usefulness of applicants' expected presentations to the Board in making its decisions. Although membership support may give some weight to an organization's position, an applicant need not even have an identifiable constituency as long as the views that it will present are likely to be useful.

PDR-50 invited comments on the extent to which the Evaluation Committee should favor applicants who propose to develop new evidence and accompanying arguments over applicants who offer novel arguments based on existing evidence. OCA suggested that new evidence can be better developed by the Board's staff because the time available in the public phase of a proceeding is relatively short. The Federal Trade Commission, however, observed that the new information supplied by funded participants in its rulemaking proceedings has been particularly useful. We agree with the Public Interest Economics Foundation, which suggested that this question cannot really be answered in advance. Only with actual experience in a variety of proceedings can we decide which type of offering should be preferred. Perhaps there can be no general rule.

We wish to clarify the relation, in hearing cases, between formal intervention under Rule 15 and awards of compensation under the new Part 304, since a person may be seeking both. Under Rule 15 of the Rules of Practice (14 CFR § 302.15), an administrative law judge may grant a petition to intervene after considering several factors, one of which is "the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record." This factor is similar to, but much more lenient than, the "substantial contribution" criterion for compensation eligibility. If an ALJ's grant of a petition to intervene carried any weight in the Evaluation Committee's decision on the same applicant's request for money, the judges would be inhibited in their decisions on intervention. This would run counter to our policy of liberal interpretation of Rule 15. Therefore, PR-182, also adopted today, amends Rule 15 to state that a grant of intervention will not affect the Evaluation Committee's decision. Conversely, § 304.1 establishes that the Committee cannot give intervention rights to an applicant who does not already have them, whether by statute or by discretionary grant under Rule 15.

FINANCIAL ELIGIBILITY

The financial eligibility test enunciated by the Comptroller General is that the applicant be "indigent or otherwise unable to finance its participation." In PDR-50, this was embodied in proposed § 304.7(a)(4) as follows:

> The applicant does not have available, and cannot reasonably obtain in other ways, enough money to participate effectively in the proceeding without compensation under this part.

Public Citizen and the ACAP commenters stated that the words "and cannot reasonably obtain in other ways" should be deleted, because this provision could otherwise be read as requiring a group to try first to obtain a bank loan or a grant elsewhere, which would be burdensome. The key word here is "reasonably". Deletion is unnecessary, however, since we intend to interpret this eligibility requirement liberally. In the ordinary case, it would not be reasonable to expect a consumer group to obtain a bank loan, or to demonstrate that it had unsuccessfully appealed to a number of foundations for grants. On the other hand, it might be reasonable to expect an applicant with a direct commercial interest in the outcome of a proceeding to seek a loan, or to divert funds from other projects before obtaining money from this program. Therefore, we are adopting this test as proposed.

PDR-50 also proposed to specify an income level below which individual applicants would be presumed financially unable to participate without compensation. It suggested $30,000, but also invited comment on other possible levels. One commenter suggested that this figure is too low, while several stated that it is too high. Since participation costs can vary widely, depending on the type and complexity of a proceeding, it appears unwise to set any specific income threshold for presuming financial eligibility of individual applicants. An individual's ability to participate without compensation will depend not only on his or her own income, but also on the cost of participating in the particular case. Therefore, no threshold appears in the final rule adopted today.

The fifth proposed prerequisite to eligibility was the "small economic interest" requirement. Under this criterion, the applicant's economic interest in the outcome of the proceeding must be small in comparison with the cost of effective participation. Groups and organizations would satisfy this criterion as long as a substantial majority of their members did. The National Legal Center for the Public Interest objected to this provision, arguing that it had been rejected in a decision of the Comptroller General. The NLCPI has misunderstood that decision. The Comptroller General only rejected the "small economic interest" criterion for use as an alternative to the "inability to participate without compensation" criterion in determining which applicants would qualify for funds. PDR-50 proposed to use the two tests in conjunction: the latter to stay within the bounds of our legal authority, and the former to limit eligibility further by excluding those whose economic stake is large enough to warrant either the use of personal funds or the borrowing of money to pay for participation. There is no legal bar to such a conjunction of eligibility tests.

The Public Interest Economics Foundation suggested that the small economic interest test be restated so that consumer groups with a large aggregate interest would not be excluded. Such a restatment is unnecessary, however, since for groups this test is already stated in terms of the interest of a substantial majority of the group's individual members.

Accordingly, we are adopting the small economic interest test as proposed, except for a change prompted by the comment of the Seattle parties. A civic party, as a representative of a large number of people, may have an economic interest that is large in comparison with the cost of participation, but still be unable to meet that cost because of competing demands on local municipal budgets. We did not intend to exclude civic parties from eligibility for compensation under this program. Therefore, the small economic interest test adopted today balances the applicant's interest against the "burden" of participation, instead of the "cost" of participation. The change will permit a more flexible interpretation of the test, which will not automatically exclude civic parties.

COMPENSATION

PDR-50 proposed that compensation be limited to the reasonable costs of participation, with prevailing market rates ordinarily being considered reasonable. To prevent windfalls, however, it proposed as a ceiling the amount normally paid by the Board for comparable goods or the salaries normally paid by the Board for comparable services. The ACAP commenters objected to this ceiling, stressing that government salaries do not reflect the true cost of private services. Factors like overhead and fringe benefits make a direct comparison of salaries and costs unrealistic. In proposing the ceiling, however, we did not intend to exclude such indirect costs to the Board of employing staff. Including them in the computation of the ceiling will make the comparison legitimate. Several commenters suggested that we establish a schedule of fees. We plan to follow the practice of the Federal Trade Commission, which has published maximum billable rates for attorneys and guidelines for the computation of overhead and fringe benefit costs. These will be included in the pamphlet, discussed above, that our staff is now preparing for prospective applicants.

The proposed rule stated that the Board would not compensate applicants for work already performed or costs already incurred. The ACAP commenters and Senators Magnuson and Kennedy objected to this provision. In particular, ACAP recommended that the costs of preparing successful rulemaking petitions and applications for funding be compensable. The two Senators focused on the cost of preparing petitions. These are as legitimately considered "costs of participation" as those of preparing written comments or presenting expert testimony. We believe, however, that the limited budget for this program can be more effectively applied to promoting participation in proceedings that have already begun. We also do not wish to encourage applicants to incur expenses in reliance on the possibility that they might be reimbursed. Therefore, the final rule limits compensation to prospective awards, as proposed.

PDR-50 also proposed that actual payments be made within 90 days after an approved applicant submits a completed, documented claim for its expenses. The ACAP commenters, stressing the cash flow problems that applicants are likely to have, asked that this period be reduced to 30 days. In case of disputed expenses, however, the staff may need more time to process claims. Therefore, the final rule sets a 45-day period, which should be long enough to cover all cases. We do expect, however, that most claims will be paid within 30 days, as these commenters have suggested.

This program is a one-year demonstration project. Our staff will prepare a detailed report on the results of the project toward the end of the year, in time for us to assess the value of the program and whether to continue it.

Since the procedures for filing answers to applications, docketing the communications of the Evaluation Committee, and our reviewing actions taken by the Committee under delegated authority are incidental to the administration of the program and create no additional burden, we find that notice of proposed rulemaking on them is unnecessary and not in the public interest. Since this program makes money available to eligible applicants and imposes requirements only as conditions on that availability, we also find that an immediate effective date is in the public interest.

This program requires individuals and organizations to prepare and submit certain information to the Evaluation Committee in order to apply. By publishing this final rule, we

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have determined that this information is necessary in conducting the program and must be prepared and submitted. Accordingly, this application requirement, found in § 304.5, is adopted subject only to review by the General Accounting Office, pursuant to 44 U.S.C. 3512. This specific requirement will be effective immediately along with the rest of Part 304. Interested persons are not precluded from applying for these funds immediately. However, GAO will conduct its clearance review to ensure that a minimum burden is imposed upon applicants and that the information required is otherwise consistent with the Federal Reports Act. We will publish a notice of GAO's decision.

O'MELIA, MEMBER, CONCURRING AND DISSENTING

When the Board issued its Notice of Proposed Rulemaking in March, 1978 on a program to fund public participation in CAB proceedings, I issued an attached separate statement expressing legal and policy reservations to the proposed program. My legal concern was that the Board, having neither explicit nor implied statutory authority to dispense funds for compensating participants, should await explicit authorization and a clear Congressional endorsement of such a program for this agency before adopting cumbersome procedural regulations to implement it. I remain convinced, after considering the comments filed in this rulemaking, that the legal constraints I outlined in my separate statement are valid and should be observed by Federal agencies. Although, as reported in the Supplementary Information section of this Final Rule, the comments received presented arguments for and against a public funding program, the comments that addressed the legal aspect overwhelmingly took the position that statutory authorization for the Board to sponsor such a program was lacking.

Despite this, I noted in my statement that if Congress were to approve funds to the Board for this purpose in the context of an appropriation bill, that would largely moot, if not remedy, the legal deficiency. Since the Conference Committee has, in the interim, appropriated funds to the Board for a one-year demonstration project for this purpose, I will not restate here my legal considerations. I would only observe, that in the long-debated and recently-enacted *Airline Deregulation Act of 1978*, Congress did not see fit to reassure the Board that it was being granted this authority. The appropriation of funds may indeed have been an aberration.

Aberration or not, since Congress has in fact allocated $150,000 for this project, I concur in the adoption of this new part 304 so that the administrative feasibility of this notion can be tested. I dissent because I question the desirability of a high-level in-house Evaluation Committee to select the public participants for this experiment. I am not convinced that a program of disbursing public money in the circumstances of this agency and of the air transport industry is useful or desirable. We compound the detriment of this program by adopting this method of selecting the participants to be funded.

Nonetheless, since this is supposedly a one-year project, with presumably a chance to review the results toward the end of this period, we will have an opportunity to evaluate the results of public funding and also the effectiveness and aptness of the mechanism for doling out the money. In keeping with my policy reservations, I would urge that during this one-year experiment we keep in mind three very relevant questions to enable us to properly evaluate the success of the program: Is the public participation we are getting through this funding program supplying the Board with a point of view, an insight, the representation of a legitimate interest that would not have been presented in the absence of this program? Has this distinctive point of view contributed substantially to a full and fair determination of the proceeding? Has the selection of the impecunious participants been conducted fairly and without bias by the Evaluation Committee. Since this Committee is to be composed of the Managing Director, the Director of the Office of Economic Analysis, and the General Counsel, it is important for the Board to avoid the inference that might be drawn that this well-entrenched trio is merely seeking advertently or subconsciously to shore up the Board's predetermined policy with compatible testimony.

I realize that it may seem harsh to ask this funding program to live up to the promise that participation by public interest groups and others, in the past allegedly impeded by financial insufficiency, will improve substantially the balance of views presented and enhance the decision-making process. But if we mean to be good stewards of public funds, these are the questions that we must ask ourselves. These questions should form the basis for our review at the end of the one-year experiment.

RICHARD J. O'MELIA

THE RULE

In light of the above, the Civil Aeronautics Board adds a new Part 304 to its Procedural Regulations (14 CFR Part 304), to read as follows:

Sec.
304.1 Scope.
304.2 Purpose.
304.3 Application.
304.4 Definitions.
304.5 Applications for compensation.
304.6 Answers to applications.
304.7 Processing of applications.
304.8 Eligibility and allocation criteria.
304.9 Delegation of authority.
304.10 Petitions for Board review.
304.11 Compensable costs and services.
304.12 Payments to participants.
304.13 Audits.

AUTHORITY: Secs. 203 and 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 742 and 743, 49 U.S.C. 1323 and 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).

§ 304.1 Scope.

This part establishes criteria and procedures for compensation to eligible participants in Civil Aeronautics Board proceedings. It does not, however, create any new right to intervene or otherwise participate in any proceeding.

§ 304.2 Purpose.

The purpose of this part is to assist the Board in making full and fair resolutions of the issues presented in its public proceedings by funding the representation of eligible interests that would otherwise be unrepresented.

§ 304.3 Application.

This part applies to all proceedings before the Board.

§ 304.4 Definitions.

(a) "Applicant" means any person who submits an application in accordance with § 304.5 for compensation under this part.

(b) "Evaluation Committee" or "Committee" means the committee established by § 304.7(a).

(c) "Person" means any person as defined in section 101(29) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(29)) and includes a group of individuals with similar interests.

(d) "Proceeding" means any Board process (including adjudication, licensing, rulemaking, ratemaking, or any other Board process) in which there may be public participation pursuant to statute, rule, order, or Board practice.

§ 304.5 Applications for compensation.

(a) Any person may submit an application for compensation for participation in any Board proceeding. The application should be submitted as early as practicable.

(b) If the Board anticipates that compensated participation would be especially useful to it in a particular proceeding, it may invite applications for compensation. The invitation will include a closing date for the submission of applications and may include a closing date for answers. It will be published in the FEDERAL REGISTER and may also be publicized in any other media that appear appropriate. Applications submitted after the closing date will be considered only to the extent practicable.

(c) Applications for compensation will not be considered for work already performed or for costs already incurred.

(d) Applications shall be submitted to the Office of the Secretary, Civil Aeronautics Board, Washington, D.C. 20428, marked for the attention of the "Public Participation Evaluation Committee". Three copies are requested but not required.

(e) Applications shall contain the following information, in the order specified:

(1) The applicant's name and address, and in the case of an organization, the names, addresses, and titles of the members of its governing body and a description of the organization's general purposes, structure, and tax status;

(2) An identification of the proceeding for which funds are requested;

(3) A description of the applicant's economic, social, and other interests in the outcome of the proceeding;

(4) A discussion of the reasons why the applicant is an appropriate representative of those interests, including the expertise and experience of the applicant;

(5) A specific explanation of how the applicant's participation would enhance the quality of the decision making process and serve the public interest;

(6) A statement of the total amount of funds requested;

(7) With respect to the proceeding for which funds are requested, an itemized statement of the services and expenses to be covered by the requested funds;

(8) A description of the evidence, activities, studies, or other submissions that the applicant expects to generate;

(9) An explanation of why the applicant cannot use funds that it already has, or expects to receive, for the purpose for which funds are requested, including: (i) A listing of the applicant's anticipated income and expenditures (rounded to the nearest $100) during its current fiscal year, and

(ii) A listing of the total assets and liabilities of the applicant; and

(10) A list of all proceedings of the Federal govenment in which the applicant has participated during the past year (including the interest represented and the naure and extent of the contribution made) and any amount of financial assistance received from the Federal government in connection with those proceedings.

§ 304.6 Answers to applications.

(a) Any person may submit an answer to an application for compensation. Answers shall be submitted in the manner set forth in § 304.5(d) for applications.

(b) If the Board has announced a closing date for the submission of answers, any answers submitted after that date will be considered only to the extent practicable. Otherwise, all answers will be considered only to the extent practicable.

§ 304.7 Processing of applications.

(a) Applications will be processed by an Evaluation Committee composed of the Managing Director, the Director of the Office of Economic Analysis, and the General Counsel, or their respective delegates. Whenever a member of the Evaluation Committee is participating in the proceeding, he or she will not participate in the evaluation of applications for compensation for participation in that proceeding. The member will instead delegate the position on the Committee to a person who is not and will not become substantively involved.

(b) If the Board has invited applications for compensation in a particular proceeding and announced a closing date for answers, the Evaluation Committee will act on the applications as soon as practicable after that date. If the invitation does not include a closing date for answers, the Committee will act on the aplications as soon as practicable after the closing date for applications. If there has been no invitation, the Committee will act on an application as soon as practicable after it is received. In accordance with the criteria set out in § 304.8, the Committee will approve or disapprove the application, in whole or in part.

(c) The Evaluation Committee may communicate with Board staff members whose views appear relevant to the proceeding. Communication with staff members who are participants in a proceeding will be limited to that which is necessary for the Committee to ascertain whether the presentation of an applicant is likely to duplicate the presentation of the staff.

(d) The Evaluation Committee may communicate with staff members of other Federal agencies in whose proceedings an applicant has participated. These communications will be limited to discussion of the effectiveness of the applicant's contribution to a full and fair determination of the other agency's proceeding.

(e) The Evaluation Committee may communicate with applicants.

(f) The Evaluation Committee's determination whether to select any applicant who satisfies the criteria of § 304.8(a) is discretionary. In addition to those criteria, the Committee may consider—

(1) The importance of the applicant's proposed participation in light of the funding available for compensation under this part; and

(2) Whether the application is premature, in light of the stage that the proceeding has reached.

(g) A written decision of the Evaluation Committee will be mailed to each applicant for compensation in the proceeding. The decision will explain the reasons for the Committee's disposition of the application and the amount and computation of any compensation authorized.

(h) Copies of each application, answer, decision, and written communication in accordance with paragraph (c), (d), or (e) of this section will, upon receipt, be filed in the docket for the proceeding and in a "Compensation of Participants" file in the Public Reference Room. The Committee will similarly file a summary of any oral communication in accordance with those paragraphs, and mail a copy to the other party to the communication.

(i) The Committee may, for a good reason given by an applicant, reconsider the disapproval of all or part of an application.

(j) After the beginning of its participation, an applicant may request a supplemental authorization to enable it to complete its work. The committee may approve the request if the applicant shows that, because of an unforeseeable change in circumstances, it or the Committee seriously underestimated the probable costs of participation. Such requests will not be approved for work already performed or for costs already incurred.

(k) The Evaluation Committee may ask the Board or the relevant Board employee, as appropriate, to extend any filing period for all parties or postpone any hearing, in order to afford applicants adequate time to prepare their presentations. The committee, in deciding whether to make such a request, and the Board or Board employee, in considering whether to agree to it, shall balance the Board's need to give time to applicants against the need for a speedy resolution of the proceeding.

§ 304.8 Eligibility and allocation criteria.

(a) The Evaluation Committee may approve an application, in whole or in part, only if it finds that:

(1) The applicant represents an interest whose representation can reasonably be expected to contribute substantially to a full and fair determination of the proceeding, in light of the number and complexity of the issues presented, the importance of public participation, and the need for representation of a fair balance of interests;

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(2) Participation by the applicant is reasonably necessary to represent that interest adequately;

(3) It is reasonably probable that the applicant can competently represent the interests it espouses within the time available for the proceeding;

(4) The applicant does not have available, and cannot reasonably obtain in other ways, enough money to participate effectively in the proceeding without compensation under this part; and

(5) The applicant's ecomonic interest in the outcome of the proceeding is small in comparison with the burden of effective participation, except that if the applicant is a group or organization, the committee need only find that the economic interest of a substantial majority of its individual members is small in comparison with the burden of effective participation.

(b) In determining whether an applicant would be unable to participate effectively without compensation, the committee will require the applicant to demonstrate that its current assests (cash, accounts receivable, and marketable securities that are not in reserves, budgeted for other use, or otherwise restricted for withdrawal) less current liabilities, adjusted by any anticipated operating loss or profit over the relevant year, are less than the amount needed for participation. Salaries paid to employees of an applicant in excess of salaries paid to Board employees for comparable services will be disallowed in this computation.

(c) The committee may waive the "small economic interest" requirement of paragraph (a)(5) of this section if it finds that the applicant's participation in the proceeding would be exceptionally important.

(d) If multiple applications that satisfy the criteria of paragraph (a) of this section seek to represent the same or similar interest, but contain significant differences in viewpoint, approach, or proposals, the Evaluation Committee may partially or completely approve one or more of these applications.

(e) In selecting among applications representing the same or similar interests, the Evaluation Committee will consider and compare the applicants' skills and experience and the contents of their proposals. In particular, the committee will consider and compare:

(1) The applicants' experience and expertise in Civil Aeronautics Board matters generally and in the substance of the proceeding particularly;

(2) The applicants' prior general performance and competence;

(3) Evidence of the applicants' relations to the interest they seek to represent;

(4) The specificity, novelty, relevance, and significance of the matters the applicants propose to develop and present; and

(5) The public interest in promoting new sources of public participation.

§ 304.9 Delegation of authority.

The Board delegates to the Evaluation Committee the authority to process, approve, and disapprove applications for compensation as set forth in this part.

§ 304.10 Petitions for Board review.

(a) A person whose application for compensation has been disapproved by the Evaluation Committee, in whole or in part, may petition the Board for review of the committee's decision within 10 days after that decision.

(b) Petitions for review shall be submitted to the Office of the Secretary, Civil Aeronautics Board, Washington, D.C. 20428. They shall be prominently labeled "Petition for Review of a Compensation Denial". Three copies are requested but not required.

(c) Petitions for review shall present the petitioner's arguments as to why the committee's decision is wrong. If a petition includes any new facts, arguments, or other matter, it shall explain why the new matter was not submitted to the committee.

(d) Any person may submit an answer to a petition for review. Answers shall be prominently marked "Answer to Petition for Review of a Compensation Denial" and submitted in the manner set for in paragraph (b) of this section for petitions for review. The Board will consider answers only to the extent practicable.

(e) Petitions for review and answers will be placed in the relevant docket and in the "Compensation of Participants" file in the Public Reference Room.

(f) The Board, in its descretion, may affirm, modify, or reverse the Committee's decision, or decline to review that decision.

(g) The submission of a petition for review under this section will not stay the proceeding in which the petitioner has applied for compensation.

§ 304.11 Compensable costs and services.

(a) The following costs and services are compensable under this part:

(1) Salaries or other remuneration for services performed by participants or their employees;

(2) Fees for consultants, experts, contractual services, and attorneys;

(3) Transportation costs;

(4) Travel-related costs such as lodging, meals, and telephone calls; and

(5) All other costs reasonably incurred.

(b) Compensation is limited to reasonable services and costs of participation that have been authorized and actually incurred. In no case, however, will compensation be greater than salaries paid by the Board for comparable services or the amounts normally paid by the Board for comparable goods.

§ 304.12 Payments to participants.

Payment of compensable expenses for approved applications will be made by the Board within 45 days after the applicant has submitted a completed claim, including bills, receipts, or other proof of costs incurred or services performed. For good cause shown, partial payments may be made as an applicant's work progresses.

§ 304.13 Audits.

The Board and the General Accounting Office shall have access for the purposes of audit to any pertinent records of a participant receiving compensation under this part. The Board may by order establish additional guidelines for accounting, recordkeeping, and other procedures to be followed by participants.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33924 Filed 12-4-78; 8:45 am]

[6320-01-M]

[Reg. OR-135; Amdt. No. 73 of Part 385; Docket 29880]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Applicability of Part

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In PR-181, also issued today, the Board set up a program of payments to eligible participants in its proceedings. The delegation of authority to the Evaluation Committee that will administer the program appears in Part 304, the regulation that governs the new program. The Board is therefore amending Part 385 to exclude this particular delegation from its coverage.

DATES: Adopted: October 26, 1978. Effective: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Since this amendment is administrative in nature, affecting a rule of agency practice and procedure, the Board finds that notice and public procedure are unnecessary and the amendment may be effective immediately.

Accordingly, the Civil Aeronautics Board amends Part 385 of its Organization Regulations, *Delegations and Review of Action under Delegation; Nonhearing Matters* (*14 CFR Part 385*) *as follows:*

A sentence is added at the end of § 385.2, so that it reads:

§ 385.2 Applicability.

This part describes the organization of the Board insofar as, pursuant to authority conferred on it by sections 202(a) and 204(a) of the Federal Aviation Act and Reorganization Plan No. 3 of 1961, 26 FR 5989, the Board has adopted rules which grant continuing delegations of authority with respect to any of its functions of making orders or other determinations which are not required to be made on an evidentiary record upon notice and hearing or which are not the subject of contest, and the Chairman has assigned Board personnel to perform such functions. This part also sets forth the procedures governing discretionary review by the Board of action taken under such delegation. Nothing in this part shall be construed as precluding the Board from issuing, by appropriate order, temporary delegations of authority with respect to any of its functions described in this part or with respect to any other of its functions which can be lawfully delegated. However, this part does not apply to the delegation of authority, set forth in § 304.9 of this title, to the Evaluation Committee established in § 304.7(a) of this title.

(Secs. 203 and 204 of the Federal Aviation Act of 1958, 72 Stat. 742, 743, 49 U.S.C. 1323; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33926 Filed 12-4-78; 8:45 am]

[6351-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 31—LEVERAGE TRANSACTIONS

Temporary Moratorium Regarding Gold and Silver Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission has adopted a rule imposing a temporary moratorium on persons entering the business of offering and selling to the public standardized contracts for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins which are commonly known to the trade as margin accounts, margin contracts, leverage accounts or leverage contracts, or any contracts, accounts, agreements, schemes or devices that serve the same function or functions as such standardized contracts or that are marketed or managed in substantially the same manner as such standardized contracts. (These contracts are hereinafter collectively referred to as "leverage transactions"). The moratorium will remain in effect only until such time as the Commission determines whether leverage transactions, or any class thereof, are contracts for future delivery within the meaning of the Commodity Exchange Act and should be regulated accordingly, or are not contracts for future delivery and the Commission adopts appropriate registration, financial, recordkeeping, disclosure or other regulations as necessary in order to provide adequate customer protection.

The moratorium rule does not affect firms engaged in a leverage transaction business on June 1, 1978. In addition, the rule provides that the Commission may, in its discretion, grant applications for exemption from the moratorium to any person who is able to demonstrate (1) that he had invested substantial resources in the development of a leverage transaction business prior to June 1, 1978, (2) that his business will be conducted in a manner that may reasonably be expected to insure the financial solvency of the transactions to be offered and to prevent manipulation or fraud and (3) that the manner in which the business will be conducted will present no substantial risk to the public and will otherwise be consistent with the public interest.

EFFECTIVE DATE OF RULE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

David R. Merrill, Office of the General Counsel, 2033 K Strect N.W., Washington, D.C. 20581. Telephone: 202-254-9880.

SUPPLEMENTARY INFORMATION: On June 1, 1978, the Commission published a proposed rule imposing a temporary moratorium on the entry into the business of publicly offering and selling leverage transactions. 43 FR 23729. As proposed, the moratorium would be in effect only until such time as the Commission determines whether leverage transactions, or any class thereof, should be regulated as contracts for future delivery within the meaning of the Commodity Exchange Act, or, if not, what regulatory approach is required to insure the financial solvency of these transactions and to prevent fraud and manipulation in these transactions. Interested persons were afforded a thirty-day opportunity in which to submit written comments on the rule.

In the notice of proposed rulemaking, the Commission noted its jurisdiction and regulatory authority over leverage transactions under Section 2(a)(1) of the Commodity Exchange Act, as amended, and Section 217 of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 2 and 15a (1976). The Commission's authority to regulate leverage transactions described in Section 217 of the 1974 Act has now been expanded and incorporated into the Commodity Exchange Act by the enactment, on September 30, 1978, of the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 865. Section 23 of the 1978 Act [1] added a new Section 19 to the Commodity Exchange Act which, among other things, broadened the description of a leverage transaction to include not only a standardized contract commonly known to the trade as a margin account, margin contract, leverage account or leverage contract, but also "any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract." [2]

[1] Pub. L. No. 95-405, 92 Stat. 870-871.

[2] Section 19 provides in pertinent part:

"No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a standardized contract described (previously) in • • • this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud • • •."

The Commission's authority under Section 19 encompasses:

"a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or • • • any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract."

Additionally, Section 19(d) continues the Commission's authority, previously set forth in Section 217 of the 1974 Act, to determine to regulate leverage transactions as contracts for future delivery:

"If the Commission determines that any (leverage) transaction • • • is a contract for

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The notice proposing the moratorium rule also summarized the Commission's regulatory and investigatory experience concerning the offer and sale of leverage transactions in the United States. That summary focused on the Commission's April 1978, in-depth survey of firms then known to be marketing leverage transactions.[3] The survey, a summary of which was set forth in the Commission's notice of proposed rulemaking at 43 FR 23730,[4] revealed, among other things, that (1) outstanding leverage transactions at that time accounted for at least $100 million in open customer interest; (2) while the principal characteristics of a leverage transaction appear to be similar, if not identical, to those of contracts for future delivery, many of the advantages of trading futures on exchanges are not present in leverage transaction trading; (3) leverage customers appear to be inadequately protected, and are totally dependent upon the financial integrity of the leverage transaction dealer for fulfillment of the leverage transaction and for making any buy-sell market for offsetting transactions;[5] (4) leverage market prices and trade information are not widely disseminated; and (5) at least eleven leverage transaction firms experienced financial failure since 1973.

Three written comments on the proposed rule were received, one of which expressed opposition to the moratorium, but provided no meaningful criticism with regard to the Commission's proposal. The other two comments, submitted on behalf of firms engaged in the leverage transaction business, opposed the moratorium concept and suggested that the Commission immediately promulgate a comprehensive regulatory structure to govern the offer and sale of leverage transactions which would include, among other things, registration, net working capital, segregation of customers' funds, disclosure and recordkeeping requirements. While the Commission may ultimately determine that this would be an appropriate regulatory approach, it would be premised on the Commission first concluding that leverage transactions are not contracts for future delivery within the meaning of the Commodity Exchange Act, a conclusion that the Commission has not yet made.

In any event, regardless of the form of regulation the Commission may ultimately decide to adopt concerning leverage transactions, some time will be needed to reach and implement that decision.[6] In the interim, on the basis of the information it now possesses concerning leverage transactions and consistent with the basic policies underlying the Commodity Exchange Act, the Commission believes that the imposition of a moratorium pending the adoption and implementation of a permanent regulatory scheme is necessary to protect the public.

Both of the comments submitted on behalf of leverage transaction firms expressed the view that the proposed rule would be anticompetitive since it would limit the offer and sale of leverage transactions to those firms engaged in a leverage transaction business on the operative date of the moratorium. For this reason, they claimed that its adoption would be inconsistent with Section 15 of the Commodity Exchange Act, 7 U.S.C. 19 (1976). In proposing and in adopting the moratorium, the Commission has taken into account its responsibility under Section 15 of the Act.[7] Section 15 does not require the Commission to subordinate the policies and purposes of the Commodity Exchange Act to those of the antitrust laws. Thus, consistent with Section 15, the Commission may adopt regulations that may have anticompetitive implications, and is not required to take the least anticompetitive course of action where the objectives, policies or purposes of the Commodity Exchange Act would be better served in some other way.

The Commission recognizes that the moratorium may inhibit competition by permitting some firms to continue to market leverage transactions while preventing others from doing so for the present time. However, the moratorium is an interim measure designed to halt the recent growth of firms entering the leverage transaction field only until an appropriate regulatory scheme to assure adequate customer safeguards is implemented.

Since publication of the proposed moratorium rule, the Commission has continued to monitor closely the offer and sale of leverage transactions in the United States. Once again, as was the case with the offer and sale of commodity options in this country in the recent past, the Commission is witnessing an explosive growth in the marketing of a commodity instrument in an area which has yet to be brought under a system of comprehensive regulatory control.[8] Leverage transactions, like commodity options, are esoteric instruments the intricacies of which are difficult to comprehend by most members of the public. As with options, leverage transactions require a substantial initial investment by the customer, a large percentage of which often goes immediately to the leverage dealer in the form of commissions, mark-ups or other costs or fees. The lack of general understanding of leverage transactions coupled with the lure of large potential profits to be made, make these transactions highly susceptible to overreaching. For these reasons there exists a significant possibility that increased marketing of leverage transactions poses increasing and substantial risks of financial injury to members of the public. Under these circumstances, the Commission will not stand idly by and permit this potential for public injury to realized by the unfettered entry of firms into the leverage field in the absence of appropriate regulatory controls.

Wholly apart from the foregoing considerations, the Commission's experience with leverage transactions has revealed that a number of the principals of the firms and other individuals recently commencing the offer and sale of leverage transactions, as well as the salespersons they employ, were previously engaged in the sale of commodity options, an activity which the Commission found to be pervaded by fraudulent sales techniques, and that the entry of many of these persons into the leverage transaction field coincided with the June 1, 1978, effective date of the Commission's suspension of the offer and sale of commodity options in the United States (Rule 32.11; 43 FR 16161 (April 17, 1978)).[9]

Accordingly, the Commission has concluded that, at this time, adequate public protection can only be guaranteed by a moratorium on the entry into the gold and silver leverage transaction field. In this way, the Commission will be able to limit temporarily what would otherwise be an uncontrolled growth in the number of firms involved in the offer and sale of leverage-type transactions, thereby affording itself an opportunity to evaluate this area of activity, and to adopt and implement an appropriate regulatory program.

The Commission fully appreciates that there may be some individuals or firms who may have been planning to establish a leverage transaction business after June 1, 1978, and who may now be temporarily prohibited from doing so. The Commission is also aware that some persons may have established leverage contract businesses subsequent to June 1, 1978, who now will be required temporarily to curtail further leverage contract sales activities.[10] However, these individuals or firms have proceeded at their own risk in the face of the Commission's publication of the proposed moratorium rule on June 1, 1978. And, to minimize any adverse effects of the moratorium on persons who had made a substantial investment to develop a leverage transaction business, but had not commenced that business by June 1, 1978, the moratorium rule establishes a procedure whereby such persons may make a written request for an exemption from the moratorium. In any event, in balancing the adverse consequences that may be involved, the Commission has determined that the private interests of all these persons must yield to the public interest and the protection of the public.

Accordingly, the Commission has adopted the moratorium rule in a form substantially similar to that proposed. In addition to making several clarifying changes in language, the Commission has determined to modify the proposed rule in three respects. First, the date on which a firm must be engaged in a leverage transaction business in order to be unaffected by the moratorium has been changed from May 23, 1978, to June 1, 1978, the date of publication in the FEDERAL REGISTER of the proposed moratorium rule.

Second, the rule has been amended to make clear that only those firms that were engaged in the offer and sale of leverage transactions *in the United States* on June 1, 1978, will be exempt from the moratorium. Thus, for example, a leverage transaction firm which was organized and was operating in the United States on June 1, but which had only marketed leverage transactions outside the United States prior to that date, will be precluded during the moratorium from marketing leverage transactions in the United States.

Third, the rule has been modified to conform to the provisions of Section 19 of the Futures Trading Act of 1978.[11] The rule thus makes clear that the moratorium will apply not only to transactions commonly known to the trade as leverage-type transactions but also to transactions that serve the same function or functions as these leverage-type transactions or which are marketed or managed in substantially the same manner.

On the subject of requests for exemption from the moratorium which may be submitted to the Commission pursuant to paragraph (b) of the rule, such requests must be in writing and should set forth complete and specific details concerning the basis upon which the exemption is requested. The Commission wishes to make clear that it has no intention of expending its limited resources on a myriad of exemptive requests which are not meritorious and, therefore, that it will not entertain frivolous or undocumented requests for exemption. Exemptions will be granted only if the Commission finds, in its discretion, that the criteria set forth in paragraph (b) of the rule have been satisfied.

In consideration of the foregoing, Chapter I of Title 17 of the Code of Federal Regulations is hereby amended by adding a new Part 31 as follows:

PART 31—LEVERAGE TRANSACTIONS

§ 31.1 Temporary moratorium on the offer and sale of certain transactions for the delivery of gold or silver bullion or bulk coins.

(a) Until the Commission by rule, regulation or order determines otherwise, it shall be unlawful for any person, by use of the mails or any means or instrumentality of interstate commerce, to engage in the business of offering to enter into, entering into or confirming the execution of, any transaction for the delivery of silver bullion, gold bullion, bulk silver coins or bulk gold coins in the United States under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account or leverage contract, or under any contract, account, agreement, scheme, or device that serves the same function or functions as such a standardized contract, or that is marketed or managed in substantially the same manner as such a standardized contract, who was not engaged in that business on June 1, 1978.

(b) The Commission may, in its discretion, grant an exemption from the provisions of paragraph (a) of this section to any person who can demonstrate to the Commission's satisfaction that (1) prior to June 1, 1978, the person had invested substantial resources to develop a business referred to in paragraph (a) of this section, (2) the business will be conducted in a manner that may reasonably be expected to insure the financial solvency of the contracts to be offered and sold and to prevent manipulation and fraud, and (3) the manner in which the business will be conducted will present no substantial risk to the public and will otherwise be consistent with the public interest.

(7 U.S.C. 2. 12a(5) (1976); as amended, Pub. L. No. 95-405, secs. 2 and 23, 92 Stat. 865, 876.)

Issued in Washington, D.C., on November 30, 1978.

GARY L. SEEVERS,
Vice Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-33843 Filed 12-4-78; 8:45 am]

[7905-01-M]

Title 20—Employees' Benefits

CHAPTER II—RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT ACT AND RAILROAD UNEMPLOYMENT INSURANCE ACT

Miscellaneous Amendments; Final Rule

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board amends Part 250, "Reports and

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Footnotes continued from last page

future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act."

[3] In April 1978 when the survey was conducted, the Commission was aware of only seven firms that were then actively engaged in selling leverage transactions in the United States. When the proposed moratorium rule was published on June 1, 1978, the number of firms that appeared to be selling leverage transactions had risen to approximately twenty. At the present time, the Commission has identified nearly eighty firms that may currently be engaged in marketing leverage transactions domestically.

[4] A summary of this survey was also made public by the Commission in an Advisory to the Media released on April 27, 1978. Because the survey itself contains information dealing with specific business transactions, it has not been made public. See Section 8 of the Commodity Exchange Act, 7 U.S.C. 12 (1976), as amended by Section 16 of the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 873-874.

[5] During recent Congressional debate on the bill which became the Futures Trading Act of 1978, several Members of Congress likewise recognized the vulnerable position occupied by the typical leverage transaction customer. *E.g.*, 124 *Cong. Rec.* S10536-S10537 (daily ed. July 12, 1978) (remarks of Senator Huddleston); 124 *Cong. Rec.* S10564 (daily ed. July 12, 1978) (remarks of Senator Eagleton).

[6] Should the Commission determine that any leverage transactions are, in fact, contracts for future delivery, it may be necessary for Congressional hearings to be held before the Commission may implement such a determination. *See* S. Rept. No. 1239, 95th Cong., 2d Sess. 28 (1978).

[7] Under Section 15, the Commission is required, in adopting any rule or regulation, to—

"take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of • • • [the] Act, as well as the policies and purposes of • • • [the] Act • • •."

[8] See note 3, *supra*.

[9] In a number of instances, these former option dealers are operating leverage businesses in the same business offices from which options were previously sold and appear to be employing the same or similar "boiler room" techniques used to sell options including high pressure, cold canvass telephone solicitations, failure adequately to disclose risks, misrepresentations, etc.

[10] Of course, the temporary moratorium does not in any way relieve individuals or firms who have established leverage businesses after June 1 of the obligations owing to customers arising out of leverage contracts sold since that date but prior to the effective date of the moratorium. In this regard, the Commission will consider a failure by such individuals or firms to discharge these obligations as constituting, among other things, a violation of the Commission's leverage contract antifraud rule, 17 CFR 30.03 (1977), statutory citations amended, 43 FR 47722 (October 17, 1978).

[11] See note 2, *supra*.

ing mail to each party at the address (e) The decision of the Board shall (c) The General Counsel shall, upon

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Information To Be Filed by Employers" by deleting provisions relating to conduct of hearings and readopting them elsewhere in the regulations. It was determined this would result in the regulations being more easily understood.

Part 259 has been added to formalize the existing procedure followed in making determinations with respect to employer and employee status under the Railroad Retirement Act and the Railroad Unemployment Insurance Act. The procedures established provide for authority to make initial decisions and for the review and appeal of those decisions.

Part 260 has been amended to provide a procedure to be followed with respect to determinations concerning erroneous payments and the recovery or waiver of recovery of such payments. Part 260 has also been amended to make certain changes in the procedures followed by the Board's appeals referees in the handling of appeals from initial decisions.

EFFECTIVE DATE: November 14, 1978.

FOR FURTHER INFORMATION CONTACT:

R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, 312-751-4920.

In accordance with the Board's procedure as established to implement Executive Order 12044, Improving Government Regulations, the Chief Executive Officer of the Railroad Retirement Board has determined that the regulations contained in Parts 258, 259 and 260, as adopted by the Board, do not constitute "significant" regulations within the criteria established by the Board.

The title of Part 250 has been changed; §§ 250.7 through 250.16 of Part 250 have been deleted; new Parts 258 and 259 have been added, and Part 260 has been revised in its entirety as follows:

PART 250—REPORTS AND INFORMATION TO BE FILED BY EMPLOYERS

. . . . . .

§§ 250.7 through 250.16 [Deleted]

PART 258—HEARINGS BEFORE THE BOARD OR DESIGNATED EXAMINERS

Sec.
258.1 Hearings.
258.2 Witnesses.
258.3 Application for witnesses.
258.4 Service of subpoenas.
258.5 Exhibits.
258.6 Procedure when examiner appointed.
258.7 Board decisions and opinions and dissenting opinions.

AUTHORITY: Sec. 10, 50 Stat. 314, as amended; 45 U.S.C. 228j, unless otherwise noted.

§ 258.1 Hearings.

(a) To such extent as may be necessary to determine (1) the employee status of any individual or group of individuals, (2) the employer status of any person, and (3) any other matter arising out of or necessary for the administration of the Railroad Unemployment Insurance Act and the Railroad Retirement Acts of 1935, 1937, and 1974, other than those matters specifically provided for in Parts 260 and 320 of this chapter, the Board may itself or through one of its members or a designated examiner, conduct hearings, require and compel the attendance of witnesses and the production of records and documents, administer oaths, take testimony, make all pertinent investigations and findings of fact, and render decisions upon such findings.

(b) Where the Board determines that an oral hearing is necessary to the determination of a matter before it, the Board shall notify all parties to the proceeding that a hearing will be conducted, and, if the hearing is to be before a single Board member or a designated examiner, the notice shall identify the member or examiner authorized to conduct the hearing. The Board or the person authorized to conduct the hearing shall fix a time and place for the holding of the hearing and shall notify all parties thereof.

§ 258.2 Witnesses.

(a) In any hearing held pursuant to the provisions of this part, witnesses may be compelled to appear, give testimony, and produce records and documents.

(b) Designation by the Board of any person as an examiner to preside at and conduct such hearings shall constitute a delegation of authority to such examiner to require and compel the attendance of witnesses and the production of records and documents, to administer oaths, and to take testimony.

§ 258.3 Application for witnesses.

(a) Any person or persons conducting a hearing pursuant to the provisions of this Part or Part 260 of this chapter may, upon such person's or persons' own motion or upon application of any party to such hearing, issue a subpoena for a witness or witnesses. An application for a subpoena shall be by affidavit filed with the person or persons conducting the hearing within such period of time as will permit service and return of a subpoena prior to the date set for the hearing at which the witness is to appear, but in no case shall such application be filed later than 10 days prior to the date of hearing. The application shall set forth:

(1) The name and address of the witness;

(2) The title of the matter to be heard, i.e., names of parties;

(3) The issue to which the testimony of the witness will be directed;

(4) The substance of the testimony which such witness is expected to give or the facts to which such witness will testify; and

(5) The specific books, papers or documents which are requested, if a subpoena duces tecum is applied for.

(b) In addition to the above, the party filing such application shall, at the time of filing, deposit therewith a sum of money sufficient to cover the fees and transportation allowance of the witness, or, in lieu thereof, shall state in the application that satisfactory arrangements have been made with the witness for the direct payment of his or her fees and transportation allowance and any other allowable expense.

§ 258.4 Service of subpoenas.

Service of subpoenas issued under § 258.3 may be made by any individual designated by the Board. Such individual shall deliver a copy of the subpoena to the person or persons named therein, and shall at that time tender to that person or persons the fees for one day's attendance and the transportation allowance authorized by law; *Provided, however,* That if the witness or witnesses be summoned to appear upon motion of the person or persons designated to conduct the hearing, no fees or transportation allowance need be tendered. Fees and transportation allowances shall be in the same amount as is allowed to witnesses in the courts of the United States. The person serving the subpoena shall make certification of the manner and time of service on the original subpoena and shall file such original subpoena with the person or persons by whom it was issued.

§ 258.5 Exhibits.

Copies of all exhibits admitted in evidence at any hearing held pursuant to the provisions of this Part shall be furnished by the party offering the same to all other parties participating in the proceedings.

§ 258.6 Procedure when examiner appointed.

(a) Where an examiner has been designated by the Board under this Part to conduct a hearing with respect to a matter before it, the examiner shall preside at the hearing and shall cause all testimony to be recorded. The examiner shall, as soon as practicable following the conclusion of the hearing, mail to each party at the address stated in his or her appearance a free transcript of the record of the proceedings had before the examiner. Thereafter, the examiner shall give all parties participating in the hearing the opportunity to present argument upon both law and facts. Upon conclusion of the proceedings before him or her, the examiner shall prepare a report which, together with the record of the proceedings before him or her, shall be submitted to the Board. The report shall set forth the examiner's findings of fact, conclusions of law, and recommendations as to decision. The report may also contain such discussion of the question raised, both legal and factual, as the examiner may desire to present to the Board. A copy of the examiner's report shall be served by the examiner upon each party participating in the hearing by mailing such copy to each such party at the address stated in his or her appearance. Each party shall, within 30 days after the date of mailing to him or her of the examiner's report, file with the Board and serve upon other parties by mailing to their addresses as stated in their appearances such exceptions in writing as he or she desires to make to the examiner's findings of fact and conclusions of law. Each exception shall specifically designate the particular findings of fact or conclusions of law to which objection is taken, and shall set forth in detail the grounds for the objection. General exceptions and exceptions not specifically directed to particular findings of fact or conclusions of law will not be considered by the Board. Exceptions to findings of fact shall make specific reference by page numbers to those portions of the record upon which reliance is placed.

(b) Each party shall have 10 days after receipt of exceptions taken by other parties in which to file with the Board replies to those exceptions. Replies to exceptions to findings of fact shall make specific reference by page number to those portions of the record upon which reliance is placed.

(c) The Board may, upon the application of a party and for cause shown, extend the time for filing and serving of exceptions or filing of replies thereto. The Board will render its decision upon the record, the examiner's report, and such exceptions and replies thereto as are made.

(d) The examiner's report shall be advisory only and the Board may, in any case, exercise its right to reject or adopt the examiner's report in whole or in part or adopt such report with modifications. Findings of fact to which no exceptions are taken will, subject only to the power of the Board upon its own consideration to reject or modify, be presumed to be correct.

(e) The decision of the Board shall be communicated to the parties participating in the hearing within 30 days of the date upon which the decision of the Board is entered upon its records.

§ 258.7 Board decisions and opinions and dissenting opinions.

The following shall apply to all decisions of the Board except decisions relating to matters of internal administration:

A decision made by at least two members of the Board shall constitute the decision of the Board. The decision of the Board shall be stated in a written opinion filed in the record of the proceedings. A dissenting opinion may be stated by a member of the Board who disagrees with the decision of the Board and any such dissenting opinion shall also be filed in the record of the proceedings.

PART 259—INITIAL DETERMINATIONS AND APPEALS FROM INITIAL DETERMINATIONS WITH RESPECT TO EMPLOYER STATUS AND EMPLOYEE STATUS

Sec.
259.1 Initial determinations with respect to employer and employee status.
259.2 Parties to determinations with respect to employer and employee status.
259.3 Reconsideration of initial determinations with respect to employee or employer status.
259.4 Authority of General Counsel to conduct investigations.
259.5 Appeals to the Board from determinations made by the General Counsel on reconsideration.
259.6 Appeals from decisions of the Board.
259.7 Finality of determinations issued under this part.

AUTHORITY: Sec. 10, 50 Stat. 314, as amended; 45 U.S.C. 228j, unless otherwise noted.

§ 259.1 Initial determinations with respect to employer and employee status.

(a) The General Counsel of the Railroad Retirement Board shall make initial determinations with respect to: (1) The status of any person as an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act and the rules and regulations issued thereunder; and (2) the status of any individual or group of individuals as an employee or employees of an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

(b) The authority conferred by paragraph (a)(2) of this section shall not apply with respect to determinations of employee status where such issue arises in connection with an application for benefits filed by the employee.

(c) The General Counsel shall, upon the rendition of a determination under this section, promptly notify the party or parties thereto of the determination.

§ 259.2 Parties to determinations with respect to employer and employee status.

(a) With respect to any determination under this Part concerning the status of a person as an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act, that person shall be a party to such determination and may submit written briefs or argument, as well as any documentary evidence pertinent to the matter at issue, to the decision maker to be considered in the rendition of a determination. The employees of such person may submit written briefs or argument with respect to such determination, but shall not be parties thereto.

(b) With respect to any determination under this part concerning the status of an individual or group of individuals as an employee or employees of an employer covered by the Railroad Retirement Act and the Railroad Unemployment Insurance Act, the employer alleged to be the employer of the individual or group of individuals and the individual or group of individuals shall each be considered a party to such determination and may submit written briefs or argument, and documentary evidence pertinent to the matter at issue, to the decision maker to be considered in the rendition of a determination.

§ 259.3 Reconsideration of initial determinations with respect to employee or employer status.

A party to an initial decision issued under § 259.1 shall have the right to request that the General Counsel reconsider the initial determination. A request for reconsideration shall be in writing and must be filed with the General Counsel within one year following the date on which the General Counsel issued the initial determination. Where a request for reconsideration has been timely filed with the General Counsel, the General Counsel shall notify all other parties to the initial determination of such request. The party who requested reconsideration and any other party shall have the right to submit briefs or written argument, as well as any documentary evidence pertinent to the issue under consideration. The General Counsel shall promptly notify all parties of the determination issued upon reconsideration.

§ 259.4 Authority of General Counsel to conduct investigations.

In rendering a determination under § 259.1 or § 259.3, the General Counsel

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shall have the authority and the power to conduct any investigations he deems necessary. In addition, the General Counsel shall have the power to compel, by subpoena, any person, company, corporation, or other entity to produce any records or other documents pertinent to the matter under consideration.

§ 259.5 Appeals to the Board from determinations made by the General Counsel on reconsideration.

(a) A party to a decision under § 259.3 shall have the right to appeal that determination to the Board. An appeal to the Board shall be in writing and must be filed with the Secretary of the Board within one year following the date of the General Counsel's decision on reconsideration.

(b) On appeal from a determination of the General Counsel with respect to employer or employee status, the Board shall have the authority to conduct any investigations it deems necessary, including the authority to conduct a hearing with respect to the matter before it, either itself or through a member or duly designated examiner, in accordance with the procedure set out in Part 258 of this chapter.

(c) Within 30 days following the date on which it issues a decision on appeal under this part, the Board shall notify the party or parties to the proceeding of its decision.

§ 259.6 Appeals from decisions of the Board.

A party who claims to be aggrieved by a decision of the Board under this Part may obtain review of such decision by filing a petition for review in the United States court of appeals for the circuit in which the party resides or has its principal place of business or principal executive office, in the United States Court of Appeals for the Seventh Circuit, or in the United States Court of Appeals for the District of Columbia. The petition for review must be filed within 90 days following the date on which the notice of the Board's decision was mailed to that party.

§ 259.7 Finality of determinations issued under this part.

Any determination rendered by the General Counsel at the initial and reconsideration stages, and any determination rendered by the Board at the appeal stage shall be considered a final determination and shall be binding with respect to all parties thereto unless a timely request has been made for reconsideration by the General Counsel, an appeal has been filed with the Board, or an appeal has been filed with the appropriate United States court of appeals, respectively. A final determination may be challenged at the request of a party who was or could have been a party to the final determination where the party alleges that the law or the facts upon which the final determination was based have changed sufficiently to warrant a contrary determination. Such a request shall be submitted to the Board's General Counsel, who shall consider such request as a request for an initial determination under § 259.1.

PART 260—APPEALS WITHIN THE BOARD FROM DECISIONS ISSUED BY THE BUREAU OF RETIREMENT CLAIMS AND THE BUREAU OF DATA PROCESSING AND ACCOUNTS

Sec.

260.1 Initial decisions by the Bureau of Retirement Claims.
260.2 Request for waiver of recovery of an erroneous paymnent and/or for reconsideration of the erroneous payment decision.
260.3 Initial decisions by the Bureau of Data Processing and Accounts.
260.4 Appeal from an initial decision of the Bureau of Retirement Claims or the Bureau of Data Processing and Accounts.
260.5 Pre-hearing case review.
260.6 Final appeal from a decision of the referee.
260.7 Determination of date of filing of appeal.

AUTHORITY: Sec. 10, 50 Stat. 314, as amended; 45 U.S.C. 228j, unless otherwise noted.

§ 260.1 Initial decisions by the Bureau of Retirement Claims.

(a) Claims shall be adjudicated and initial decisions made by the Bureau of Retirement Claims concerning:

(1) Applications for benefits under the Railroad Retirement Act;

(2) The withdrawal of an application;

(3) A change in an annuity beginning date;

(4) The termination of an annuity;

(5) The modification of the amount of an annuity or lump-sum benefit;

(6) The reinstatement of an annuity which had been terminated or modified;

(7) The existence of an erroneous payment;

(8) The recovery of the amount of an erroneous payment;

(9) The eligibility of an individual for a supplemental annuity or the amount of such supplemental annuity;

(10) Whether representative payment shall serve the best interests of an annuitant as a result of that individual's incapacity to manage his annuity payments; and

(11) Who shall be designated or continued as representative payee on behalf of an annuitant. Adjudication of a claim and the issuance of an initial decision shall be in accordance with instructions issued by the Director of the Bureau and shall be made upon the basis of evidence submitted by the claimant and evidence otherwise available.

(b) (1) A decision to recover the amount of an erroneous payment as authorized under paragraph (a)(8) of this section shall not be made, except with respect to the cases specified in paragraph (b)(2) of this section, prior to a date 30 calendar days after the date on which notice of the erroneous payment decision was sent to the beneficiary.

(2) The Director of Retirement Claims is authorized to commence recovery of the amount of an erroneous payment without regard to the restriction imposed under paragraph (b)(1) of this subsection in the following cases:

(i) Where recovery of the erroneous payment can be made by reducing the amount of an accrued retroactive benefit payable by the Board to the beneficiary; and

(ii) Where the erroneous payment can be recovered from one month's benefit, the amount of the erroneous payment is no greater than 20 percent of the beneficiary's known monthly income, and the beneficiary's combined monthly income from all known sources would, after the reduction in the railroad retirement benefit, be at least $300.00.

(c) Notice of an initial decision shall be communicated by the Bureau of Retirement Claims to the claimant in writing within 30 days after such decision is made. Such notice shall inform the claimant with respect to the reasons for the decision and of his or her right to appeal such initial determination.

(d) (1) Where an initial decision that an erroneous payment has been made to a beneficiary under paragraph (a)(7) of this section, the notice of decision shall, except with respect to those decisions enumerated in paragraph (d)(2) of this section, include in addition to the information required under paragraph (c) of this section, a statement notifying the beneficiary of the possibility of waiver of recovery of the erroneous payment and of the conditions which must be met before waiver of recovery could be granted. The notice shall state that the beneficiary may, within 30 calendar days from the date of the issuance of the notice, file with the Board a request for waiver of recovery of the erroneous payment and/or for reconsideration of the erroneous payment decision. The notice shall state that the beneficiary may, if he or she elects, be afforded the opportunity for an informal oral hearing on the issues of waiver of recovery and/or reconsideration of the erroneous payment decision. Except in those cases enumerated in paragraph (b)(2) of this section, the beneficiary shall be further informed that if no request for waiver or reconsideration is received within 30 days, an initial decision to recover the amount of the erroneous payment will be made under paragraph (a)(8) of this section.

(2) The additional information required under paragraph (d)(1) of this section to be included in the notice of a decision need not be included where a decision has been made that an erroneous payment has been made to a beneficiary under the Railroad Retirement Act as a result of the individual's simultaneous entitlement to benefits under the Social Security Act and recovery of the amount of the erroneous payment may be made by reducing the amount of any accrued retroactive payment to be made by the Railroad Retirement Board.

§ 260.2 Request for waiver of recovery of an erroneous payment and/or for reconsideration of the erroneous payment decision.

(a) A beneficiary who has been determined to have received an erroneous payment under paragraph (a)(7) of § 260.1 shall have the right, upon the filing of a timely request in accordance with the requirements of this section and § 260.1, to request waiver of recovery of the erroneous payment and/or reconsideration of the erroneous payment decision. The beneficiary shall, except in those cases enumerated in subdivisions (i) and (ii) of § 260.1(b)(2), have the right to an informal oral hearing prior to commencement of recovery on the issues of waiver of recovery and/or reconsideration of the erroneous payment decision before an employee designated to conduct the hearing.

(b) A request for waiver of recovery and/or reconsideration of an erroneous payment decision and for an oral hearing under this section shall be in writing, and addressed to the district office of the Board set forth in the initial decision letter or to the Director of Retirement Claims. The beneficiary shall state in the request whether he or she elects to have an oral hearing. If the beneficiary does not elect to have an oral hearing with respect to his or her request for waiver of recovery or for reconsideration of the erroneous payment decision, he or she may, along with the request, submit any evidence and argument which he or she would like to present in support of his or her case.

(c) Except with respect to the cases enumerated in subdivisions (i) and (ii) of § 260.1(b)(2), the Director of Retirement Claims shall, upon receipt of a timely request for waiver or reconsideration under this section, postpone the commencement of recovery of the amount of the erroneous payment until a decision on waiver of recovery is rendered and notice of such decision is mailed to the claimant.

(d) Upon receipt of a timely request for an oral hearing under this section, the Director of Retirement Claims or his or her delegee shall promptly arrange for the selection of a Board employee to conduct a hearing in the case. The employee designated to conduct a hearing under this section shall not have had any prior involvement with the initial erroneous payment decision and shall conduct the hearing in a fair and impartial manner. The employee designated to conduct a hearing under this section shall promptly schedule a time and place for the hearing and promptly notify the beneficiary of such.

(e) The beneficiary shall upon request have the opportunity to review, prior to the hearing, his or her claim folder and all documents pertinent to the issues raised. A hearing conducted under this section shall be informal. At the hearing the beneficiary shall be afforded the following rights:

(1) To present his or case orally and to submit evidence, whether through witnesses or documents;

(2) To cross-examine adverse witnesses who appear at the hearing; and

(3) To be represented by counsel or other person.

(f) Upon completion of the hearing, the employee who conducted the hearing shall prepare a summary of the case including a statement of the facts, the employee's findings of fact and law, and a recommended decision. The summary of the case shall then be submitted to the Director of Retirement Claims.

(g) The Director of Retirement Claims shall render a decision with respect to the beneficiary's request for reconsideration of the initial erroneous payment determination and/or waiver of recovery, and shall promptly notify the claimant of that decision. If the Director of Retirement Claims renders a decision adverse to the beneficiary, he or she shall further notify the beneficiary of the basis for such determination and that the beneficiary may appeal the decision to the Bureau of Hearings and Appeals, as provided in § 260.4.

(h) The fact that a beneficiary may have notified the Board with respect to the method by which he or she would choose to have the recovery made, or the fact that such beneficiary may have actually tendered to the Board a portion or all of the amount of the erroneous payment, shall in no way operate to prejudice his or her right to request reconsideration of the initial erroneous payment determination or to request waiver of recovery.

§ 260.3 Initial decisions by the Bureau of Data Processing and Accounts.

In response to a timely request by an employee for an amendment with respect to the amount of compensation credited to the employee by the Board under the Railroad Retirement Act and the Railroad Unemployment Insurance Act, the Director of Data Processing and Accounts shall promptly make a determination with respect to such matter. Notice of such decision shall be communicated by the Director of Data Processing and Accounts to the employee in writing within 30 days after such decision is made. For purposes of this section, a timely request to amend an employee's record of compensation maintained under the Railroad Retirement Act shall be filed within four years after the date on which the return of compensation was required to be made to the Board by the employee's employer. For purposes of this section, a timely request to amend an employee's record of compensation maintained under the Railroad Unemployment. Insurance Act shall be filed within 18 months after the date on which the last return of compensation was required to be made covering any portion of the calendar year which includes the period during which the challenged payment was made.

§ 260.4 Appeal from an initial decision of the Bureau of Retirement Claims or the Bureau of Data Processing and Accounts.

(a) Every claimant shall have a right to appeal to the Bureau of Hearings and Appeals from any initial decision of the Bureau of Retirement Claims or the Bureau of Data Processing and Accounts by which he or she claims to be aggrieved: *Provided, however,* That (1) an individual under age 18 shall not have the right to appeal a finding of incapacity to manage his or her annuity payments, but shall have the right to contest the finding that he or she is, in fact, under age 18; (2) an individual who has been adjudged legally incompetent shall not have the right to appeal a finding of incapacity to manage his or her annuity payments, but shall have the right to contest the fact of his or her having been adjudged legally incompetent; and (3) an individual shall not have the right to appeal a denial of his or her application to serve as representative payee on behalf of an annuitant.

(b) Appeal from an initial decision of the Bureau of Retirement Claims or the Bureau of Data Processing and Accounts shall be made by filing the form prescribed by the Board for such

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purpose. Such appeals must be filed with the Bureau of Hearings and Appeals within one year from the date upon which notice of the initial decision is mailed to the claimant.

(c) The right to further review of an initial decision of the Bureau of Retirement Claims or the Bureau of Data Processing and Accounts shall be forfeited unless formal appeals is filed in the manner and within the time prescribed in this Part.

(d) Within a reasonable time after the claimant has filed a proper appeal, the Director of Hearings and Appeals shall appoint a referee to act on the appeal. The Director of Hearings and Appeals may, if the Bureau of Hearings and Appeals' caseload dictates, appoint a qualified Board employee, other than a referee assigned to the Bureau of Hearings and Appeals, to act as referee with respect to a case. Such referee shall not have any interest in the parties or in the outcome of the proceedings, shall not have directly participated in the initial decision from which the appeal is made, and shall not have any other interest in the manner which might prevent a fair and impartial decision.

(e) In the development of appeals, the referee shall have the power to hold hearings, require and compel the attendance of witnesses by subpoena or otherwise in accordance with the procedures set forth in Part 258 of this chapter, administer oaths, rule on motions, take testimony, and make all necessary investigations.

(f) The appellant, or his or her representative, shall be afforded full opportunity to present evidence upon any controversial question of fact, orally or in writing or by means of exhibits; to examine and cross-examine witnesses; and to present argument in support of the appeal. If, in the judgment of the referee, evidence not offered by the appellant is available and is relevant and material to the merits of the claim, the referee may obtain such evidence upon his or her own initiative. If new evidence is obtained by the referee subsequent to an oral hearing, the referee shall notify the appellant or his or her representative that such evidence was obtained and shall describe the nature of the evidence in question. In such event, the appellant shall have the right to submit rebuttal evidence or argument or to an oral hearing to confront and challenge such new evidence. The referee shall protect the record against scandal, impertinence and irrelevancies, but the technical rules of evidence shall not apply.

(g) Where the referee finds that no factual issues are presented by an appeal, and the only issues raised by the appellant are issues concerning the application or interpretation of law, the appellant or his or her representative shall be afforded full opportunity to submit written argument in support of the claim but no oral hearing shall be held.

(h)(1) In any case in which an oral hearing is to be held pursuant to the provisions of this section, the referee shall schedule a time and a place for the conduct of the hearing and shall promptly notify the party or parties to the proceeding by mail as to said time and place for the hearing. The notice shall also include a statement of the specific issues involved in the case.

(2) A party to the proceeding may object to the time and place of the hearing or as to the stated issues to be resolved by filing a written notice of objection with the referee. The notice of objection shall clearly set forth the matter objected to and the reasons for such objection, and, if the matter objected to is the time and place of the hearing, said notice shall further state that party's choice as to the time and place for the hearing. Said notice of objection shall be filed at the earliest practicable time, but in no event shall said notice be filed later than five business days prior to the date of the hearing.

(3) The referee shall rule on any objection timely filed by a party under this subsection and shall notify the party of his or her ruling thereon. The referee may for good cause shown, or upon his or her own motion, reschedule the time and/or place of the hearing. The referee also may limit or expand the issues to be resolved at the hearing.

(4) If neither a party nor his or her representative appears at the time and place scheduled for the hearing, that party shall be deemed to have waived his or her right to an oral hearing, unless said party either filed with the referee a notice of objection showing good cause why the hearing should have been rescheduled, which notice was timely filed but not ruled upon, or, within 10 days following the date on which the hearing was scheduled, said party filed with the referee a motion to reschedule the hearing showing good cause why neither the party nor his or her representative appeared at the hearing and further showing good cause as to why said party failed to file at the prescribed time any notice of objection to the time and place of the hearing.

(5) If the referee finds either that a notice of objection was timely filed showing good cause to reschedule the hearing, or that the party has within 10 days following the date of the hearing filed a motion showing good cause for failure to appear and to file a notice of objection, the referee shall reschedule the hearing. If the referee finds that the hearing shall not be rescheduled, he or she shall so notify the party in writing.

(i) All evidence presented by the appellant and all evidence developed by the referee shall be preserved. Such evidence, together with a record of the arguments, oral or written, and the file previously created in the adjudication of the claim, shall constitute the record on appeal. After an appeal is filed, the compilation of the record shall be initiated by the inclusion therein of the file created in the adjudication of the claim; the compilation of the record shall be kept up to date by the prompt addition thereto of all parts of the record subsequently developed. The entire record shall be available for examination by the appellant or his or her representative at any time during the pendency of the appeal.

(j) Except where the referee has determined that additional evidence not offered by the appellant at or prior to the hearing is available, the record shall be closed as of the conclusion of the hearing. The appellant may move for an extension of time to submit evidence and the referee may grant the motion upon a showing of good cause for failure to have submitted the evidence earlier. The extension shall be for a period not exceeding 30 days.

(k) Upon completion of the record, the referee shall render a decision thereon as soon as practicable. Such decision shall be communicated to the appellant in writing within 30 days after the making thereof.

§ 260.5 Pre-hearing case review.

(a) The referee assigned to a case may, prior to an oral hearing, upon his or her own motion, refer the case back to the bureau of the Board which issued the initial decision for the purpose of reconsideration of that decision, where the referee finds that (1) additional evidence pertinent to the resolution of the issues on appeal was submitted by the appellant at the time the appeal was filed, or subsequent thereto; or (2) additional evidence pertinent to the resolution of the issues on appeal is available and should be procured; or (3) there is some other indication in the record that the initial decision may be revised in a manner favorable to the appellant.

(b) Where the referee finds that referral of a case back to the bureau which issued the initial decision for the purpose of reconsideration of that decision would be warranted, the referee shall give that bureau the reason for such referral, together with specific directions as to the handling of the case on reconsideration.

(c) The bureau to which a case is referred shall promptly undertake any additional development required, and shall make a determination as to whether the initial determination may be revised in whole or in part in a manner favorable to the appellant. Upon issuance of its determination, the bureau in question shall return the case along with a copy of its decision to the referee.

(d) Where the bureau to which a case is referred determines to revise its initial decision in whole or in part, that bureau shall notify the appellant of such determination. If the revised determination is wholly favorable to the appellant, he or she shall be notified that the appeal to the Bureau of Hearings and Appeals will be dismissed by the referee assigned to the case. If the revised decision is partially favorable to the appellant, the notice shall inform the appellant that the referee will proceed with the portion of the appellant's case not revised in his or her favor, unless the appellant should request dismissal of the appeal.

(e) The fact that a case on appeal has been referred back to the bureau which issued the initial decision in the case shall not delay the conduct of a hearing scheduled with respect to the appeal, unless the appellant agrees to a delay. If it appears that the bureau to which a case has been referred will not have completed its reconsideration of the case prior to the date of a scheduled hearing on an appeal and the appellant has not agreed to a delay in the conduct of the hearing, the referee shall proceed with the hearing and the handling of the case as though the case had not been referred back to the bureau.

§ 260.6 Final appeal from a decision of the referee.

(a) Every appellant shall have a right to a final appeal to the Railroad Retirement Board from any decision of a referee by which he or she claims to be aggrieved.

(b) Final appeal from a decision of a referee shall be made by the execution and filing of the final appeal form prescribed by the Board. Such appeal must be filed with the Board within four months from the date upon which notice of the decision is mailed to the appellant at the address furnished by him or her.

(c) The right to further review of a decision of a referee shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed in this Part.

(d) Upon final appeal to the Board, the appellant shall not have the right to submit additional evidence: *Provided, however,* That, if upon final appeal to the Board, the Board finds that new or better evidence is available, the Board may obtain such evidence, in which event the appellant shall be advised with respect to such evidence and given an opportunity to submit rebuttal evidence and argument: *Provided further,* That in the event that pursuant to the preceding proviso, material evidence is developed which tends to show facts contrary to those found by the referee, or in the event that the appellant shows that he is ready to present further material evidence, which for good reason he was not able to present to the referee, the claim may be referred back to the referee. Thereupon, the referee shall develop new or better evidence if available, receive such new evidence as may be offered, include a transcript of all such evidence in the record, and transmit the entire record to the Board together with his or her recommendation to the Board for final decision.

(e) The decision of the Board shall be made upon the record of evidence and argument which has been made in the handling of the case before final appeal to the Board, with such additions as may be made pursuant to this section. Further argument will not be permitted except upon a showing by the appellant that he or she has arguments to present which for valid reasons he or she was unable to present at an earlier stage or in cases in which the Board requests further elaboration of the appellant's arguments. In such cases, the further argument shall be submitted orally or in writing, as the Board may indicate in each case, and shall be subject to such restrictions as to form, subject matter, length and time as the Board may indicate to the appellant.

(f) The Board may, on its own motion, review or cause to be reviewed any decision issued by a subordinate official or employee under this Part.

§ 260.7 Determination of date of filing of appeal.

In determining whether an appeal has been made in accordance with the regulations in this part, the date of filing a duly executed appeal form prescribed by the Board shall be the date of its receipt at an office of the Board or the date of delivery for the purpose of transmission to the Board's main office in Chicago, Illinois, to any field agent specifically authorized by a regional director to receive custody thereof in the district where delivery is made, whichever date is earlier.

Dated: November 28, 1978.

By authority of the Board.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 78-33895 Filed 12-4-78; 8:45 am]

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Cotton Dust; Corrections

AGENCY: The Occupational Safety and Health Administration, Department of Labor.

ACTION: Final Rule; corrections.

SUMMARY: This notice announces a further correction to the cotton dust standard which appeared in the FEDERAL REGISTER on June 23, 1978 (43 FR 27350).

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA Third Street and Constitution Avenue, NW., Room N-3112, Washington, D.C. 20210, telephone: (202) 523-8034.

SUPPLEMENTARY INFORMATION: On June 23, 1978, an occupational safety and health standard for exposure to cotton dust, with an accompanying explanation, was published in the FEDERAL REGISTER (43 FR 27350, FR Doc. 78-17232) as 29 CFR 1910.1043. There were a number of minor typographical errors and inadvertent omissions in the June 23, 1978 document. On June 30, 1978, a document was published (43 FR 28473), correcting some of the errors and omissions which were in the Cotton dust Standard and Appendices portion of the June 23, 1978 document. On August 8, 1978, another document correcting errors and omissions in the preamble to the Cotton Dust Standard, and a few errors remaining in the standard and appendices of the June 23, 1978 document appeared in the FEDERAL REGISTER at 43 FR 35032. This present document corrects the Cotton Dust Standard by adding a provision which appeared originally in Appendix C of the proposed standard but was inadvertently omitted from the final standard. Accordingly, FR Doc 78-17232 appearing at 43 FR 27350, is corrected as follows: Page 27397, column 1, section(h)(2), (iii) line 8 insert, "The predicted FEV$_1$ and FVC for blacks shall be multiplied by 0.85 to adjust for ethnic differences."

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(1) Advise the Secretary of Defense

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(Secs. 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911).

Signed at Washington, D.C., November 29, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-33784 Filed 12-4-78; 8:45 am]

[4510-26-M]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

Occupational Exposure to Cotton Dust in Cotton Gins; Corrections

AGENCY: The Occupational Safety and Health Administration, Department of Labor.

ACTION: Final Rule; corrections.

SUMMARY: This notice announces a further correction to the cotton dust in cotton gins standard which appeared in the FEDERAL REGISTER on June 23, 1978 (43 FR 27418).

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA Third Street and Constitution Avenue, N.W., Room N-3112, Washington, D.C. 20210, telephone: (202) 523-8034.

SUPPLEMENTARY INFORMATION: On June 23, 1978, an occupational safety and health standard for exposure to cotton dust in cotton gins, with an accompanying explanation, was published in the FEDERAL REGISTER (43 FR 27350, FR Doc. 78-17233) as 29 CFR 1910.1046. There were a number of minor typographical errors and inadvertent omissions in the document. On June 30, 1978, a document was published (43 FR 28474) which corrected a number of errors and omissions in the standard and appendices. On August 8, 1978, another document correcting errors and omissions in the preamble to the Cotton Dust in Cotton Gins standard, and remaining errors in the standard and appendices of the June 23, 1978 document appeared in the FEDERAL REGISTER at 43 FR 35035. This present document corrects the Cotton Dust in cotton gins standard (43 FR 35032) by adding a provision which appeared originally in Appendix C of the proposed cotton dust standard but was inadvertently omitted from the final standard. Accordingly, FR Doc. 78-17233 appearing at 43 FR 27418, is corrected as follows:

Page 27435, column 2, section (h)(2), (iii) line 8 insert, "The predicted FEV, and FVC for blacks shall be multiplied by 0.85 to adjust for ethnic differences."

(Secs. 6,8,84 Stat. 1593, 1599 (29 U.S.C. 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911.)

Signed at Washington, D.C., this 29th day of November 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-33785 Filed 12-4-78; 8:45 am]

[7708-01-M]

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

Correction

In FR Doc. 78-33197 appearing at page 55240 in the issue for Monday, November 27, 1978, make the following corrections:

(1) On page 55240, in the third column, under the heading, SUPPLEMENTARY INFORMATION, in the 20th line, substitute the word "be" for the word "the".

(2) Also on page 55240, in the third column, under the heading, SUPPLEMENTARY INFORMATION, in the last paragraph, in the 9th line through the 10th line, insert the word "the" between the words "compared" and "low".

[4510-43-M]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS — UNDERGROUND COAL MINES

Use of Filter-Type and Self-Contained Self-Rescuers in Underground Coal Mines

Correction

In FR Doc. 78-32685 appearing at page 54241 in the issue for Tuesday, November 21, 1978, make the following correction: On page 54246, in the first column, in § 75.1714(b), in the 3rd line, insert the words, "goes underground, the operator" between the words, "operator" and "shall".

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER R—CHARTERS

[DoD Directive 5105.40]

PART 360—DEFENSE MAPPING AGENCY

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule—DoD Charter Directive 5105.40.[1]

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Director, Defense Mapping Agency (DMA), and has delegated specific authorities. This Directive serves as the instrument that authorizes the Director, DMA, to carry out the charter.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational & Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administration Conference of the United States.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120; attention Code 301.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

NOVEMBER 29, 1978.

Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 360, reading as follows:

Sec.
360.1 Purpose.
360.2 Mission.
360.3 Organization and management.
360.4 Responsibilities and functions.
360.5 Authority.
360.6 Relationships.
360.7 Administration.
360.8 Delegation of authority.

AUTHORITY: The provisions of this Part 360 are issued under 10 U.S.C. Chapter 4.

§ 360.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of title 10, United States Code, this Part establishes the Defense Mapping Agency (hereinafter referred to as "DMA") with responsibilities, functions, authorities, and relationships as outlined below.

§ 360.2 Mission.

DMA shall provide support to the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, and other DoD components, as appropriate, on matters concerning mapping, charting and geodesy (hereinafter referred to as "MC&G").

§ 360.3 Organization and management.

DMA is established as a separate agency of the Department of Defense under the direction, authority, and control of the Under Secretary of Defense for Research and Engineering (hereinafter referred to as "U/S Def R&E"). DMA shall consist of a Director and such subordinate organizational elements as are established by the Director within resources authorized by the Secretary of Defense.

§ 360.4 Responsibilities and functions.

(a) The *Director, DMA,* shall:

(1) Organize, direct, and manage the DMA and all resources assigned to DMA.

(2) Serve as Program Manager and coordinator of all DOD MC&G resources and activities. This includes review of the execution of all DOD plans, programs, and policies for MC&G activities not assigned to DMA.

(3) Provide staff advice and assistance on MC&G matters to the Office of the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, other DOD components, and other Government agencies, as appropriate.

(4) Develop MC&G guidance for the Department of Defense. Review Military Department program and fiscal documents as related to MC&G matters and recommend appropriate actions to the Secretary of Defense.

(5) In support of the Joint Chiefs of Staff, review MC&G requirements and priorities; develop a consolidated statement of MC&G requirements and priorities.

(6) Insure responsive support to the MC&G requirements of the Military Departments and the Unified and Specified Commands.

(7) Establish policies and provide DOD participation in national and international MC&G activities in coordination with the Assistant Secretary of Defense (International Security Affairs); execute DOD responsibilities under interagency and international MC&G agreements.

(8) Establish and/or consolidate DOD MC&G data collection requirements and provide them to the U/S Def R&E and the Deputy Under Secretary of Defense (Policy). The latter official shall verify and set priorities for such requirements. Collect or task other DOD components to collect and provide necessary data.

(9) Establish DOD MC&G RDT&E requirements in coordination with the U/S Def R&E and the Deputy Under Secretary of Defense (Policy). Task other DOD components or private contractors to accomplish such requirements.

(10) Carry out the statutory responsibilities assigned under U.S.C. Title 10, Chapter 639, Sections 7391, 7392, 7393, 7394 for providing nautical charts and marine navigation data for the use of all vessels of the United States and of navigators generally, and the responsibilities assigned under U.S.C. Title 44, Chapter 13, Section 1336 for the printing of notices to mariners and other publications.

(b) The *Deputy Under Secretary of Defense (Policy)* shall provide guidance on matters of MC&G policy, requirements, and priorities.

(c) The *Secretaries of the Military Departments* and the *Commanders of Unified and Specified Commands* shall:

(1) Develop and submit to DMA their MC&G requirements and priorities.

(2) Provide support, within their respective fields of responsibilities, to the Director, DMA, as required to carry out the assigned mission of the Agency.

(3) Assess the responsiveness of the DMA to their operational needs.

(d) The *Joint Chiefs of Staff* shall:

(1) Advise the Secretary of Defense on MC&G requirements and priorities.

(2) Provide guidance to the DMA and the Unified and Specified Commands which will serve as the basis for interrelationships between these organizations.

(3) Obtain the advice and recommendations from the Director, DMA, on matters within his areas of responsibility.

§ 360.5 Authority.

The Director, DMA, is specifically delegated authority to:

(a) Command the Defense Mapping Agency.

(b) Task DOD components directly to accomplish MC&G RDT&E and data collection requirements as established by DMA and verified by the Deputy Under Secretary of Defense (Policy).

(c) Have free and direct access to, and direct communications with, all elements of the DOD and other executive departments and agencies, as necessary.

(d) Obtain such reports, information, advice and assistance from other DOD components of DOD Directive 5000.19,[1] as may be necessary for the performance of assigned functions and responsibilities.

(e) Establish DMA facilities, using appropriate established facilities and services in the DOD or other Government agencies whenever practicable to achieve maximum efficiency and economy.

(f) Exercise the administrative authorities contained in enclosure 1 of this Directive.

§ 360.6 Relationships.

(a) In the performance of his functions, the Director, DMA, shall:

(1) Be responsible to the Joint Chiefs of Staff for operational matters within their cognizance, as well as requirements associated with the Joint Planning process. For these purposes the Chairman of the Joint Chiefs of Staff is authorized to task and communicate with the DMA directly.

(2) Maintain appropriate liaison with other DOD components and other agencies of the Executive Branch for the exchange of information on programs in the field of assigned responsibilities.

(3) Make use of established facilities and services in the DOD or other Governmental agencies whenever practicable to achieve maximum efficiency and economy.

(4) Insure that the Joint Chiefs of Staff, the Military Departments, and appropriate OSD staff elements are kept fully informed concerning DMA activities of substantive concern to them.

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(b) The Military Departments and other DOD components shall:

(1) Provide assistance within their respective fields of responsibility to the Director, DMA, in carrying out his assigned responsibilities and functions.

(2) Coordinate with DMA all programs and activities which include or are related to MC&G.

§ 360.7 Administration.

(a) The Director, DMA, shall be appointed by the Secretary of Defense.

(b) The Deputy Director will be selected by the U/S Def R&E when a military officer on recommendation by the Joint Chiefs of Staff.

(c) DMA will be authorized such personnel, facilities, funds and other administrative support as the Secretary of Defense deems necessary.

(d) The Military Departments will assign military personnel to DMA in accordance with approved authorizations and procedures for assignment to joint duty. The Joint Chiefs of Staff will review and provide recommendations on the DMA joint manpower program to the U/S Def R&E, as appropriate, for those functions where DMA is responsive to the Joint Chiefs of Staff.

§ 360.8 Delegations of authority.

Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority, and control, and in accordance with DoD policies, directives, and instructions, the Director, DMA, or in the absence of the Director the person acting for him, is hereby delegated authority as required in the administration and operation of DMA to:

(a) Exercise the powers vested in the Secretary of Defense by 5 USC 301, 302(b) and 3101 pertaining to the employment, direction and general administration of DMA civilian personnel.

(b) Fix rates of pay for wage board employees exempted from Civil Service classification by 5 USC 5102(c)(7) on the basis of prevailing rates for comparable jobs in the locality where each installation is located.

(c) Establish advisory committees and employ part-time advisers, as approved by the Secretary of Defense for the performance of DMA functions pursuant to the provisions of 10 USC 173, 5 USC 3109(b), the Federal Advisory Committee Act, and the Agreement between the Department of Defense (DoD) and the Civil Service Commission on employment of experts and consultants, dated March 14, 1975.

(d) Administer oaths of office incident to entrance into the Executive Branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with the provisions of 5 USC 2903, and designate in writing, as may be necessary, officers and employees of DMA to perform this function.

(e) Establish a DMA Incentive Awards Board and pay cash awards to, and incur necessary expenses for the honorary recognition of civilian employees of the Government whose suggestions, inventions, superior accomplishments or other personal efforts, including special acts or services, benefit or affect DMA or its subordinate activities in accordance with the provisions of 5 USC 4503 and Civil Service Regulations.

(f) In accordance with the provisions of 5 USC 7532; Executive Order 10450, dated April 27, 1953, as amended; and 32 CFR § 156.

(1) Designate any position in DMA as a "sensitive" position;

(2) Authorize, in case of an emergency, the appointment of a person to a sensitive position in the Agency for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Agency Check, has not been completed; and

(3) Authorize the suspension, but not terminate the services of an employee in the interest of national security in positions within DMA.

(g) Clear DMA personnel and such other individuals as may be appropriate for access to classified Defense material and information in accordance with the provisions of DoD Directive 5210.8,[1] "Policy on Investigation and Clearance of DoD Personnel for Access to Classified Defense Information," February 15, 1962 and of Executive Order 11652, dated March 8, 1972, as amended.

(h) Act as agent for the collection and payment of employment taxes imposed by Chapter 21 of the Internal Revenue Code of 1954 and, as such agent, make all determinations and certifications required or provided for under Section 3122 of the Internal Revenue Code of 1954 and Section 205(p)(1) and (2) of the Social Security Act, as amended (42 USC 405(p) (1) and (2)) with respect to DMA employees.

(i) Authorize and approve overtime work for DMA civilian officers and employees in accordance with the provisions of the Federal Personnel Manual Supplement 990-1, section 550.111.

(j) Authorize and approve:

(1) Travel for DMA civilian officers and employees in accordance with Joint Travel Regulations, Volume 2, DoD Civilian Personnel;

(2) Temporary duty travel only for military personnel assigned or detailed to DMA in accordance with Joint Travel Regulations, Volume 1, Members of Uniformed Services; and

(3) Invitational travel to persons serving without compensation whose consultive, advisory or other highly specialized technical services are required in a capacity that is directly related to, or in connection with DMA activities, pursuant to the provisions of 5 USC 5703.

(k) Approve the expenditure of funds available for travel by military personnel assigned or detailed to DMA for expenses incident to attendance at meetings of technical, scientific, professional or other similar organizations in such instances where the approval of the Secretary of Defense or his designee is required by law (37 USC 412). This authority cannot be redelegated.

(l) Develop, establish and maintain an active and continuing Records Management Program, pursuant to the provisions of Section 506(b) of the Federal Records Act of 1950 (44 USC 3102), the Freedom of Information Act Program (5 USC 552) and the Privacy Act Program (5 USC 522a).

(m) Establish and use Imprest Funds for making small purchases of material and services other than personal for DMA when it is determined more advantageous and consistent with the best interests of the Government, in accordance with the provisions of DoD Instruction 5100.71,[1] "Delegation of Authority and Regulations Relating to Cash Held at Personal Risk Including Imprest Funds," March 4, 1973 and the Joint Regulation of the General Services Administration/Treasury Department/General Accounting Office, entitled "For Small Purchases Utilizing Imprest Funds."

(n) Authorize the publication of advertisements, notices or proposals in newspapers, magazines or other public periodicals as required for the effective administration and operation of DMA (44 USC 3702).

(o) Establish and maintain appropriate Property Accounts for DMA and appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for DMA property contained in the authorized Property Accounts that has been lost, damaged, stolen, destroyed or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

(p) Promulgate the necessary security regulations for the protection of property and places under the jurisdiction of the Director, DMA, pursuant to subsections III.A. and V.B. of DoD Directive 5200.8,[1] "Authority of Military Commanders under the Internal Security Act of 1950 to Issue Security Orders and Regulations for the Protection of Property or Places under Their Command," August 20, 1954.

(q) Establish and maintain, for the functions assigned, an appropriate

publications system for the promulgation of common supply and service regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD Directive 5025.1,[1] "Department of Defense Directive System," November 18, 1977.

(r) Enter into interservice support agreements in accordance with DoD Directive 4000.19,[1] "Basic Policies and Principles for Interservice, Interdepartmental and Interagency Support," March 27, 1972.

(s) Enter into logistic supply and service agreements with Federal departments and agencies other than the DoD.

(t) Exercise the authority delegated to the Secretary of Defense by the Administrator of the General Services Administration with respect to the disposal of surplus personal property.

(u) Enter into and administer contracts, directly or through a Military Department, a DoD contract administration service component, or other Government department or agency, as appropriate, for supplies, equipment and services required to accomplish the mission of DMA. To the extent that any law or Executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority will be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

(v) Sell maps, charts, and related products to the public as governed by the provisions of OMB Circular A-25 and U.S.C. Title 10, Chapter 639, Section 7394.

(w) Authorize the release of classified DoD MC&G products to foreign nationals within DoD disclosure policies.

[FR Doc. 78-33889 Filed 12-4-78; 8:45 am]

[6730-01-M]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 27]

PART 502—RULES OF PRACTICE AND PROCEDURE

Miscellaneous Amendments

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: The rules of practice and procedure are amended to require a showing of exceptional circumstances in support of requests for enlargement of time to file pleadings and other documents in Commission proceedings. The rules are also amended to permit postponement of hearing dates only if necessary to prevent substantial delay, expense, detriment to the public interest or undue prejudice to a party. These changes are needed to eliminate routine requests for extensions of time and postponements of hearings which have caused unnecessary delay in Commission proceedings. The effect will be to save time in the conduct of agency proceedings and to encourage greater diligence on the part of litigating parties.

EFFECTIVE DATE: December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, 202-523-5740.

SUPPLEMENTARY INFORMATION: During the past several years the Commission has been revising its rules of practice and procedure for the purpose of reducing the time of litigation and bringing its proceedings to conclusion as promptly as possible consistent with the requirements of due process of law. Most recently the Commission has established stricter standards with regard to extensions of time for the filing of exceptions and replies to exceptions to initial decisions issued by Administrative Law Judges by amending Rule 228, 46 CFR 502.228, to specify that requests for such extensions of time "will be granted only exceptional circumstances duly demonstrated in the request." See General Order 16, Amendment 24, 43 FR 33721, August 1, 1978.

The Commission believes that Rule 102, 46 CFR 502.102, which governs enlargements of time for the filing of all other pleadings and documents does not adequately serve to prevent the occurrence of undue delay during other phases of its proceedings. Rule 102 presently permits the granting of motions for enlargements of time "upon a showing of diligence and good cause on the part of the moving party, except where the time for compliance has been fixed by statute." It has been the Commission's experience that the standard quoted in this rule has not promoted diligence, but has, in fact, often had the opposite result, by permitting a variety of routine excuses such as travel, press of other business, vacations, and like events to support requests for additional time. The Commission believes that excuses such as the foregoing are commonplace and predictable. Diligent parties should anticipate them and prepare for them so that proceedings in which these parties are involved do not suffer needless delay merely because parties do not bother to plan ahead.

For the foregoing reasons, the Commission has determined to amend Rule 102 by adopting the standard recently enunciated in Rule 228, as amended, namely, "exceptional circumstances duly demonstrated in the request." This amendment will not only make the two rules consistent, but should encourage parties to exercise greater care in meeting procedural deadlines by placing them on notice that routine, often recurring events, will no longer suffice to justify the delay which would result if extensions of time were permitted.

Another rule which requires amendment is Rule 104, 46 CFR 502.104, governing the postponement of hearings. Although the Commission, elsewhere in its rules, prohibits postponements of hearing dates unless necessary to "prevent substantial delay, expense, detriment to the public interest or undue prejudice to a party" (Rule 61, 46 CFR 502.61), Rule 104 permits postponements of hearings merely "upon a showing of diligence and good cause on the part of the moving party." This, of course, is the same standard as that which the Commission is deleting from Rule 102, as discussed above, and is inconsistent with the standard enunciated in Rule 61. Therefore, the Commission is amending Rule 104 to conform in this respect.

Therefore, pursuant to section 43 of the Shipping Act, 1916 (46 U.S.C. 841a) and 5 U.S.C. 553, Part 502 of Title 46 CFR is amended as follows:

§ 502.102 [Amended]

1. Section 502.102 is amended by deleting the second sentence and substituting therefor the following sentence:

• • • Such motions will be granted only under exceptional circumstances duly demonstrated in the request. • • •

§ 502.104 [Amended]

2. Section 502.104 is amended by deleting the second sentence and substituting therefor the following sentence:

• • • Such motions will be granted only if found necessary to prevent substantial delay, expense, detriment to the public interest or undue prejudice to a party. • • •

Effective date. Notice, opportunity to comment on these amendments and delayed effective date are not necessary because the amendments involve agency procedures. The amendments shall be effective December 5, 1978.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33884 Filed 12-4-78; 8:45 am]

11. The ATA commented that the

(c) Upon showing of need, an addi-

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[6712-01-M]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[SS Docket No. 78-9; FCC 78-814]

PART 87—AVIATION SERVICES

Permitting the Authorization of an Additional Aeronautical Advisory Station at a Landing Area To Separate Helicopter and Fixed-wing Aircraft Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action terminates the proceeding and amends the rules to permit the authorization of an additional Aeronautical Advisory station at an airport. This additional station is needed because of the increase in aviation activity at some airports, and the resultant increase in radio traffic. Presently, both frequencies must be handled through use of only one station. The second station may only be used for the separation of fixed-wing and helicopter activities. Applicants must justify the need and also provide certification that safety will not be affected.

EFFECTIVE DATE: January 8, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John E. Jacobs, Safety and Special Radio Services Bureau, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: November 21, 1978.

Released: November 29, 1978.

In the matter of amendment of Part 87 of the FCC rules and regulations to permit the authorization of an additional Aeronautical Advisory Station at a landing area to separate helicopter and fixed-wing aircraft communications, SS Docket No. 78-9.

1. On its own motion, the Commission released a Notice of Proposed Rule Making (NPRM) in the subject matter on January 23, 1978. The Notice was published in the FEDERAL REGISTER on January 25, 1978 (43 FR 3408). The time for comments and reply comments has passed.

2. In our NPRM, we proposed to amend the Rules to permit the authorization of a second aeronautical advisory (Unicom) station at a landing area to separate helicopter and fixed-wing aircraft operations. A Unicom station is one authorized to provide information "limited to the necessities of safe and expeditious operation of private aircraft • • •." This normally consists of airport information (services available, etc.) and, where permitted, wind, weather and runway conditions. They do not provide air traffic control at the airport.

3. In the interests of safety our rules now only permit one Unicom station to be established at any one landing area. Different frequencies are available for airports primarily serving fixed-wing aircraft and for heliports. Where conditions warrant, we permit an established station to add a second frequency for separation of these two operations. However, the use of two frequencies has been limited to one station. This has created some problems in today's environment. Many airports have grown considerably in physical size to accommodate the increase in aviation activity. In addition, the use of helicopters has grown at a rate greater than that of fixed-wing aircraft. At a number of airports, the corresponding increase in radio traffic and the requirement that both frequencies must be operated from the same station has worked a hardship on Unicom licensees. This is particularly true when the two types of operations are widely separated at the larger landing areas.

4. To relieve this situation, we proposed to amend the rules to permit the installation of a second Unicom station at a landing area to separate these two functions. Rather than require that the separate helicopter and fixed-wing frequencies be operated by one licensee from one station, we proposed to allow a second physical installation where the circumstances would warrant and where safety would permit.

5. Comments favoring the proposal were received from Chief, Program Management Staff, Federal Aviation Administration (FAA), Air Transport Association of America (ATA), the Aircraft Owners and Pilots Association (AOPA), the Central Committee on Telecommunications of the American Petroleum Institute (Central Committee), Jess C. Lester, M.D. and the Chesapeake and Potomac Airways, Inc. There were no comments opposing the proposal. No reply comments were received.

6. The Central Committee fully supports the Commission's proposal, citing their own members' extensive use of helicopters in oil and gas exploration. They specifically pointed out the fact that although two frequencies are now available, communications must be handled by one operator, and either type of traffic (fixed-wing on helicopter) may receive less than adequate service. They feel that establishment of a second station where justified • • • "will permit added flexibility in meeting the communications requirements of helicopters and fixed-wing aircraft and will consequently contribute substantially to the efficient operation of landing areas serving both types of traffic." They stressed, however, that adequate need for such a second station must be demonstrated.

7. The ATA agrees with our proposal with reservation. They are quite naturally, concerned with a second Unicom's impact on safety. They point out that separation of the facilities is not the only factor to be considered and that the operational flight paths of the various aircraft are not addressed in the proposal. They further state that they do not agree with the comment in the NPRM that assignment of separate frequencies for fixed- and rotary-wing operations will provide more efficient use of the radio spectrum. Additionally, they recommend that the FAA make the determination as to the safety of establishing a second station.

8. The FAA agreed with the proposal and offered two comments. They feel that (1) information on airport conditions should only be available from one station and (2) that the FAA should have responsibility for determining whether authorization of a second station will introduce a safety hazard and that this be an integral part of the application process.

9. Dr. Jess C. Lester and the Chesapeake and Potomac Airways, Inc. both agreed with the proposal and pointed out congested communications conditions in some areas today. The AOPA also agreed with the proposal but recommended that the FAA determine the safety aspects involved.

10. In the matter of the determination of safety, we fully agree with the commenters who suggest that the FAA make such a determination. As indicated in the NPRM, it is not our intention to authorize a second station per se. We said that any applicant for the additional station must show conclusively that the radio traffic on the existing Unicom station is such that authorization of an additional station will relieve the congestion and, further, that the available facilities serving the two types of aircraft are separated to the point that the proximity of the stations will not present an interference or a safety problem. The burden is on the applicant to adequately show that these conditions are met. The Commission has neither the manpower nor the special expertise necessary to make judgments on safety of flight at airports. For this we must rely on the FAA.

11. The ATA commented that the operational flight paths of the various aircraft must be considered but were not addressed in the proposal. However, we see no need for such a discussion. Since we would require that the applicant show proof to the Commission and the FAA that the helicopter and fixed-wing operations are sufficiently separated, this matter would be addressed in this manner.

12. With regard to ATA's feeling that the assignment of an additional frequency is not efficient use of the spectrum, that is not the subject of the rulemaking. Rule § 87.253 now permits the assignment of a second frequency for separation of helicopter and fixed-wing aircraft *upon showing of need.* In this matter, we are merely discussing the authorization of a second station to use the second frequency already available. There is no intent to change the requirements for assignment of additional frequencies.

13. We have not established any safety criteria which must be met to determine the feasibility of installing a second station. It is safe to say that no two airports are alike in this respect. In addition, any such determination would be beyond the scope of the Commission's authority and expertise. We have discussed this with appropriate offices of the FAA and they feel that the FAA Regional Director of the area in which the airport is located is more qualified to make any such judgment. Accordingly, we will require that any applicant for a second Unicom first clear his proposal with the FAA.

14. The FAA raised the question of aeronautical advisory information being given from two Unicom stations. The information with which they are concerned is that pertaining to the conditions of runways, wind conditions or weather information. We normally only permit this information to be given by the Unicoms at airports not having a control tower or FAA flight service station, or, where these stations exist, only during the hours they are closed down. Although we now permit two frequencies, they are both authorized at one station, so the problem does not exist. However, with two separate installations possible, we can appreciate the FAA's concern. Accordingly we will amend Rule § 87.257 to limit the transmission of this information from one station only. The second station's communications will be limited to those matters concerned with the operations of the aircraft such as fuel, service, dispatching.

15. As discussed and proposed in the NPRM, we are amending Rule § 87.251 to permit the authorization of a second aeronautical advisory station for the specific purpose of separating the helicopter and fixed-wing communications where a need is determined. Applicants for such a second station must demonstrate that (1) a second frequency is necessary for this purpose because of congestion on a one-frequency operation and (2) that installation of a second station will be sufficiently separated from the existing station that a safety hazard will not be introduced. In connection with the safety aspect of the application, we will require that the applicant obtain a letter from the Regional Director of the appropriate FAA Regional Office approving the station from a safety standpoint and submit this with his or her application.

16. As proposed in the NPRM, we will also amend § 87.253(b) to permit the authorization of a second frequency where and in the manner presently permitted when a second physical installation cannot be justified.

17. Additionally, we will amend § 87.257(d) by adding subparagraph (5) limiting the communications permitted on the second station.

18. Regarding questions on matters covered in this document contact J. E. Jacobs, telephone 202-632-7197.

19. *Accordingly, it is ordered,* That Part 87 of the rules is amended as indicated below effective January 8, 1979. Authority for these amendments is contained in Sections 4(i), 303(b), (d), (f) and (r) of the Communications Act of 1934 as amended.

20. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. In § 87.251 paragraph (a) is amended, new paragraphs (b) and (c) are added to read as follows: And present paragraphs (b), (c), (d), and (e) are redesignated as paragraphs (d), (e), (f) and (g) to read as follows:

§ 87.251 **Special conditions.**

(a) Except as provided in paragraphs (b) and (c) of this section, only one aeronautical advisory station may be authorized to operate at a landing area.

(b) Where the Commission has good cause to believe that an existing station has been abandoned or ceased operation, another station may be authorized to provide service at the landing area on an interim basis while the original station is not operating and pending final determination of the status of the original station.

(c) Upon showing of need, an additional aeronautical advisory station may be authorized at a landing area for the specific purpose of separating the communications pertaining to helicopters and fixed-wing aircraft. Such showing shall clearly demonstrate to the Commission the need for the additional station and why the anticipated communications cannot be accommodated from one station. Further, it shall be clearly demonstrated that the facilities for helicopters and fixed-wing aircraft are sufficiently separated physically at the landing area that operation of both types of aircraft at the same time will no introduce a safety hazard. Any application for a second station shall be accompanied by a statement from the Regional Director of the FAA Regional Office serving the area certifying that a safety hazard will not exist.

• • • • •

2. In § 87.253 paragraphs (a)(3) and (b) are amended to read as follows:

§ 87.253 **Frequency assignment.**

(a) • • •

• • • • • •

(3) Landing area that is used (i) exclusively as a heliport or (ii) for helicopters when a second station is justified pursuant to § 87.251(c); 123.050 or 123.075 MHz.

(b) Upon a showing of need, and where a second station has not been justified in accordance with § 87.251(c), stations authorized to operate on 123.050 or 123.075 MHz also may be assigned 122.700, 122.800 or 123.000 MHz for communications primarily with fixed-wing aircraft, and stations authorized use of 122.700, 122.800, 122.950 or 123.000 MHz may also be assigned 123.050 or 123.075 MHz for communications primarily with helicopters.

• • • • •

3. In § 87.257 paragraph (d)(5) is added to read as follows:

§ 87.257 **Scope of Service.**

(d) • • •

• • • • • •

(5) Where a second station is authorized in accordance with § 87.251(c), communications from the second station are limited to that purpose for which the application is made (e.g., helicopter or fixed-wing). Communications pertaining to airport conditions (runway, wind, weather), where permitted, will be confined to the first

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(i) The motor carrier will promptly

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station authorized at the landing area or as designated on the license.

• • • • • •

[FR Doc. 78-33864 Filed 12-4-78; 8:45 am]

[4910-22-M]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[BMCS Docket No. MC-85, Amdt. No. 78-3]

PART 301—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES OF THE FEDERAL HIGHWAY ADMINISTRATION

PART 391—QUALIFICATION OF DRIVERS

Physical Qualifications and Examination

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this action is to streamline the processing of applications for waiver of certain physical requirements for drivers in interstate or foreign commerce under § 391.49. By revising § 301.60 to decentralize authority for issuing waivers to Regional Federal Highway Administrators, delays can be eliminated. Other minor procedural changes in § 391.49 simplify the issues and improve the program.

EFFECTIVE DATE: November 30, 1978.

ADDRESSES: BMCS Docket Number MC-85, Bureau of Motor Carrier Safety, Federal Highway Administration, Room 3402, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald Davis, Chief, Driver Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700, or Mr. Gerald Tierney, Attorney, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours 7:45 a.m. to 4:15 p.m. ET., Monday through Friday.

SUPPLEMENTARY INFORMATION: Issuance of waivers to handicapped drivers from certain physical requirements was established in 1964. The minimum physical requirements for drivers are contained in § 391.41. Procedural requirements to apply for waivers and the criteria for analysis of waiver applications are contained in § 391.49. Authority for issuing waivers is included in § 301.60. The following changes are designed to facilitate processing of applications, clarify the rules and improve the program.

The physical requirements for drivers do not change. However, language is included in § 391.41(b)(2), to assist medical examiners in reviewing and reaching decisions about driver physical qualifications. The medical examiner must determine whether the amputation or other impairment interferes with the task of operating a motor vehicle and whether a waiver is necessary. Section 391.43, Medical Examination; certificate of physical examination, is being amended to require a statement on the medical certificate that the driver is unqualified unless it is accompanied by a waiver.

Section 391.49, Waiver of Certain Physical Defects, is being amended to incorporate formally in the letter of application the needed documentary information. This information had been required at a later stage during the course of review of the application. Introduction of this information at an earlier time, as a formal part of the letter of application, will place no burden on the waiver applicant and will eliminate delays that occurred in the past. These documents are: (1) A description of the type of prosthetic or orthotic device worn, if any; (2) Photographs of the impaired or amputated area with and without the prosthetic or orthotic device; (3) A copy of the waiver of certain physical defects issued by the State in which the driver resides; and (4) A copy of the applicant's State Motor Vehicle Driving Record for the past 3 years in each State where the applicant has obtained a drivers license or permit.

Section 391.49(d)(1) is being amended to reduce the number of medical (physical) examinations required under this section. The applicant will submit with the letter of application only one copy of the examination form and the medical certificate already required by § 391.43, and a medical evaluation summary from a physiatrist or orthopedic surgeon. The requirement for this medical evaluation summary from this medical specialist should add no burden since that specialty is normally already utilized in evaluating amputees and other impairment cases. If the medical specialist elects to perform the required medical (physical) examination, sign the medical certificate and submit the required medical evaluation summary, there is no need for another medical examiner.

Section 391.49(j) is being included to discourage the submission of false information in the letter of application for a waiver. Falsification of information is grounds for waiver denial.

Section 301.60(d)(2) is amended to decentralize authority to issue waivers from the Washington Office to the Regional Administrators of the Federal Highway Administration. This will eliminate most of the paperwork exchange between Regions and the Washington Office associated with the administration of this program.

These amendments concern practice and procedure regarding a program established in 1964 to assist handicapped persons. They transfer administration of the program to the respective regional offices of the Federal Highway Administration. Thus, notice and comment are unnecessary.

The Federal Motor Carrier Safety Regulations are amended as follows:

(1) 49 CFR 391.41(b)(2) is revised as follows:

§ 391.41 Physical qualifications for drivers.

(a) • • •

(b) A person is physically qualified to drive a motor vehicle if that person—

(1) • • •

(2) Has no impairment of:

(i) A hand or finger which interferes with prehension or power grasping; or

(ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or has been granted a waiver pursuant to § 391.49.

• • • • •

(2) 49 CFR 391.43(e) is revised to add the following at the end of the present rule:

§ 391.43 Medical examination; certificate of physical examination.

• • • If a medical examiner determines a waiver is necessary under § 391.49, the following statement shall appear on the medical examiner's certificate; "medically unqualified unless accompanied by a waiver."

(3) 49 CFR 391.49 is revised to read:

§ 391.49 Waiver of certain physical defects.

(a) A person who is not physically qualified to drive under § 391.41(b) (1) or (2) and who is otherwise qualifed to drive a motor vehicle, may drive a motor vehicle, other than a motor vehicle which transports passengers or a motor vehicle which must be placarded or marked in accordance with

§ 177.823 of this Title 49 (relating to placards or markings upon vehicles which transport hazardous materials), if the Regional Federal Highway Administrator has granted a waiver to that person.

(b) A letter of application for a waiver must be submitted jointly by the person who seeks a waiver of the physical disqualification (driver applicant) and by the motor carrier that will employ the driver applicant if the application is granted. The application must be addressed to the Regional Federal Highway Administrator in the region in which the motor carrier applicant's principal place of business is located. The address for each regional office is listed in Section 390.40.

(c) A letter of application for a waiver shall contain—

(1) Identification of Applicants:

(i) Name of motor carrier applicant;

(ii) Street address of motor carrier applicant (number and street, or rural route, or P.O., City, State, and zip code);

(iii) Name of driver applicant;

(iv) Street address of driver applicant (number and street, or rural route, or P.O., City, State, and zip code); and

(v) Federal Highway Administration Motor Carrier Identification Number, if known.

(2) Description of Type of Operation Driver will be Employed to Perform:

(i) State(s) in which driver will operate for carrier applicant (if more than 10 States, give general area only);

(ii) Average period of time driver will be driving per day, while on duty;

(iii) Type of commodities or cargo to be transported;

(iv) Type of driver operation (sleeper-team, relay, owner operator, etc.); and

(v) Number of years experience in operating the type of vehicle(s) requested in the letter of application and total years of experience driving all types of motor vehicles.

(3) Description of vehicle(s) driver applicant intends to drive:

(i) Truck or truck-tractor make, model, and year (if known);

(ii) Drive train

(A) Transmission type, manual, or automatic, and number of speeds;

(B) Auxiliary transmission (if any), number of speeds;

(C) Variable speed rear axle (if any), number of speeds;

(iii) Type of brake system;

(iv) Steering, manual or power;

(v) Description of type of trailer(s), such as, van, flatbed, tank, drop frame, lowboy, or pole;

(vi) Number of semitrailers or trailers;

(vii) Description of any vehicle modification(s) made for the driver applicant; attach photograph(s) where applicable.

(4) Signature of applicants;

(i) Driver applicant's signature and date signed;

(ii) Motor carrier official's signature, title and date signed. Dependent upon the motor carrier's organizational form (corporation, partnership, or proprietorship) this signator to the application shall be an officer, partner, or proprietor.

(d) The letter of application for a waiver shall be accompanied by—

(1) A copy of the medical examination made pursuant to § 391.43;

(2) A copy of the medical certificate made pursuant to § 391.43(e);

(3) A medical evaluation summary conducted by either a board qualified or board certified physiatrist (doctor of physical medicine) or orthopedic surgeon, selected or agreed to by the motor carrier;

(i) The motor carrier shall provide the physiatrist or orthopedic surgeon a description of the job tasks the driver applicant is required to perform;

(ii) If the medical evaluation summary applies to a driver applicant disqualified under § 391.41(b)(1), the summary shall include an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; or

(iii) If the medical evaluation summary applies to a driver applicant disqualified under § 391.41(b)(2), the summary shall include an explanation as to how and why the impaired area interferes with the driver's ability to perform normal tasks associated with operating a motor vehicle;

(4) A description of the driver applicant's prosthetic or orthotic device worn, if any;

(5) Photographs of the driver applicant's impaired or amputated area both with and without the prosthetic or orthotic device worn, if any:

(6) A copy of the driver applicant's road test administered by the motor carrier applicant and the certificate issued pursuant to § 391.31; (b) through (g).

(7) A copy of the driver applicant's application for employment made pursuant to § 391.21;

(8) A copy of the driver applicant's waiver of certain physical defects issued by the individual State(s), where applicable; and

(9) A copy of the driver applicant's State Motor Vehicle Driving Record for the past 3 years in each State where a motor vehicle driver's license or permit has been obtained.

(e) Agreements:

(1) In applying for the waiver the driver and the motor carrier both agree to the following:

(i) The motor carrier will promptly file with the Regional Administrator such documents and information as may be required (within 30 days); about driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the driver applicant;

(ii) The waiver only authorizes the driver applicant to operate in interstate or foreign commerce when the driver is employed by the motor carrier that joined in the application and when the driver is in compliance with the conditions specified in the waiver.

(f) The Regional Administrator, may require the driver applicant to demonstrate the driver's ability to safely operate a motor vehicle(s) the driver intends to drive in interstate or foreign commerce.

(g) The Regional Administrator, may deny the application or may grant it in whole or in part and issue a waiver subject to such terms, conditions, and limitations as deemed consistent with safety and the public interest. A waiver is valid for a period not exceeding 2 years, and it may be renewed 30 days prior to the expiration date, upon proper application and approval.

(1) The waiver renewal application shall be submitted to the Regional Administrator and contain the following:

(i) Name and address of carrier;

(ii) Name and address of driver;

(iii) Effective date of current waiver;

(iv) Expiration date of current waiver;

(v) Total miles driven under current waiver agreement;

(vi) Number of accidents under current waiver, including date of accident(s), number of fatalities, number of injuries, and amount of property damage;

(vii) A current medical examination and medical evaluation summary pursuant to § 391.49(d);

(viii) Copy of driver's current State Motor Vehicle Driving Record for the period the current waiver has been in effect;

(ix) Notification of any change in the type of vehicle the driver will operate and/or the scope of operation he/she will perform;

(x) Driver's signature and date signed, and

(xi) Motor carrier official's signature and date signed.

(h) If the Regional Administrator grants a waiver, the applicants will be notified by letter, which sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain a copy of the waiver in its files for 3 years from the date it was issued. The driver applicant shall have the waiver (or a ligible copy) in his/her possession whenever on duty.

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(l) The Regional Administrator may revoke a waiver after the persons to whom it was issued are given notice of the proposed revocation and a reasonable opportunity to be heard.

(j) Falsifying information in the letter of application or the renewal application by the driver applicant or motor carrier applicant is prohibited.

§ 301.60 [Amended]

(4) 49 CFR 301.60(d)(2) is amended to add subdivision

• • • • •

(iv) as follows:

(d) • • •

(2) • • •

(iv) Issue waivers pursuant to 49 CFR 391.49. This authority may be redelegated.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

(49 U.S.C. 304: 49 CFR 1.48)

Issued this 28th day of November 1978, in Washington, D.C.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-33885 Filed 12-4-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 1; S.O. No. 1333]

PART 1033—CAR SERVICE

Illinois Terminal Railroad Co. Authorized To Operate Over Tracks of Illinois Central Gulf Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 1 to Service Order No. 1333.

SUMMARY: The Illinois Terminal Railroad Company is unable to operate over its line between Lincoln, Illinois, and Allentown, Illinois, because of damage to a bridge at Mackinaw, Illinois. Service Order No. 1333 authorizes the Illinois Terminal to operate over parallel trackage of the Illinois Central Gulf Railroad Company between Lincoln and Pekin, Illinois, in order to provide continued rail service for shipments routed via its line. The order is published in full volume 43 of the FEDERAL REGISTER at page 35317. Amendment No. 1 to Service Order No. 1333 extends the order until January 15, 1979.

DATES: Effective 11:59 p.m., November 30 1978. Expires 11:59 p.m., January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone 202-275-7840, Telex 89-2742.

NOVEMBER 28, 1978.

Upon further consideration of Service Order No. 1333 (43 F.R. 35317), and good cause appearing therefor:

It is ordered, That:

§ 1033.1333 *Service Order No. 1333*, Illinois Terminal Railroad Company Authorized To Operate Over Tracks of Illinois Central Gulf Railroad Company is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33923 Filed 12-4-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Interlocutory Appeal

AGENCY: Federal Trade Commission.

ACTION: Final Rule.

SUMMARY: Clause (1) of Rule § 3.23(a) is modified to limit the circumstances under which an uncertified interlocutory appeal may be sought from certain rulings of the Administrative Law Judge. This change is intended to expedite discovery in adjudicative proceedings.

This modification does not affect the Commission's general authority under § 3.23(a) to review on its own motion an order issued by an Administrative Law Judge pursuant to § 3.36.

EFFECTIVE DATE: December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert White, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3865.

Accordingly, 16 CFR Part 3, is amended to read as follows:

§ 3.23 Interlocutory appeals.

(a) *Appeals without a determination by the Administrative Law Judge.* The Commission may, in its discretion, entertain interlocutory appeals where a ruling of the Administrative Law Judge: (1) Requires the disclosure of records of the Commission or another governmental agency or the appearance of an official or employee of the Commission or another governmental agency pursuant to § 3.36, if such appeal is based solely on a claim of privilege: *Provided* The Administrative Law Judge shall stay until further order of the Commission the effctiveness of any ruling, whether or not appeal is sought, that requires the disclosure of nonpublic Commission minutes, Commissioner circulations, or similar documents prepared by the Commission, individual Commissioner, or the Office of the General Counsel; (2) suspends an attorney from participation in a particular proceeding pursuant to § 3.42(d); or (3) grants or denies an application for intervention pursuant to the provisions of § 3.14. Appeal from such rulings may be sought by filing with the Commission an application for review, not to exceed fifteen (15) pages exclusive of those attachments required below, within five (5) days after notice of the Administrative Law Judge's ruling. Answer thereto may be filed within five (5) days after service of the application for review. The application for review should specify the person or party taking the appeal; should attach the ruling or part thereof from which appeal is being taken and any other portions of the record on which the moving party relies and should specify under which provisions hereof review is being sought. The Commission upon its own motion may enter an order staying the return date of an order issued by the Administrative Law Judge pursuant to § 3.36 or placing the matter on the Commission's docket for review. Any order placing the matter on the Commission's docket for review will set forth the scope of the review and the issues which will be considered and will make provision for the filing of briefs if deemed appropriate by the Commission.

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(15 U.S.C. 46(g))

By direction of the Commission dated November 9, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-34033 Filed 12-4-78; 8:45 am]

[6750-01-M]

PART 4—MISCELLANEOUS RULES

Service of Documents in Commission Proceedings

AGENCY: Federal Trade Commission.

ACTION: Amendment and Correction of Rule.

SUMMARY: The Federal Trade Commission is amending § 4.4 of its rules of practice, 16 CFR 4.4, to provide for service by the Commission of subpoenas, orders to file annual and special reports, and other specified documents, in any manner reasonably certain to inform the affected person. The Commission is also correcting an error in § 4.4(c)(2), 16 CFR 4.4(c)(2).

EFFECTIVE DATE: December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Arthur W. Adelberg, Esquire, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Section 4.4 of the Federal Trade Commission's rules of practice currently provides for service by the Commission of subpoenas, orders requiring access, orders requiring the filing of annual or special reports, complaints, initial decisions and final orders of the Commission by three specified methods. The amended rule permits service of orders and notices other than complaints, initial decisions, final orders and other processes of the Commission under Section 5 of the FTC Act, 15 U.S.C. 45, in any manner reasonably certain to inform the affected person, partnership, corporation or unincorporated association, including the three currently specified methods.

Section 4.4(c)(2) incorrectly refers to representatives of parties who have "filed a notice of appearance as required by (16 CFR) § 4.1(c)." The provision for filing a notice of appearance actually is in 16 CFR 4.1(d). Section 4.4(c)(2) is being corrected accordingly.

Accordingly, 16 CFR Part 4 is amended and corrected as follows:

By revising § 4.4(a) to read as follows:

§ 4.4 Service.

(a) *By the Commission.* (1) Service of complaints, initial decisions, final orders, and other processes of the Commission under 15 U.S.C. 45 may be effected as follows:

(i) By registered or certified mail.—A copy of the document shall be addressed to the person; partnership, corporation or unincorporated association to be served at his, her or its residence or principal office or place of business, registered or certified, and mailed; or

(ii) By delivery to an individual.—A copy thereof may be delivered to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation or unincorporated association to be served; or

(iii) By delivery to an address.—A copy thereof may be left at the principal office or place of business of the person, partnership, corporation or unincorporated association, or it may be left at the residence of the person or of a member of the partnership or of an executive officer or director of the corporation, or incorporated association to be served.

(2) All other orders and notices, including subpoenas, orders requiring access, orders to file annual and special reports, and notices of default, may be served by any method reasonably certain to inform the affected person, partnership, corporation, or unincorporated association including any method specified in paragraph (a)(1) of this section.

(3) All other documents may be served by any method specified in paragraph (a)(1) of this section, or they may be served by ordinary first-class mail.

(4) When a party has appeared in a proceeding by an attorney, service on that individual of any document pertaining to the proceeding other than a complaint shall be deemed service upon the party. However, service of those documents specified in paragraph (a)(1) of this section shall first be attempted in accordance with the provisions of paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this section.

• • • • •

Section 4.4(c)(2) is corrected by changing the reference to "§ 4.1(c)" to "§ 4.1(d)."

By direction of the Commission dated November 9, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-34032 Filed 12-4-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Amendment of the Definition of "Proprietary Account"

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule change.

SUMMARY: The Commodity Futures Trading Commission is proposing to amend the definition of the term "proprietary account" contained in Title 17, Chapter I, Part 1, § 1.3, paragraph (y) of the Code of Federal Regulations to provide that a commodity futures account of which ten percent or more is owned by one, or an aggregate of ten percent or more is owned by more than one, of the persons listed in § 1.3(y) is a proprietary account. Under the Commission's present definition certain accounts, such as commodity pool accounts, which are even partly owned by such persons are classified as proprietary rather than customer accounts, and, as a result, such accounts are denied the benefits and protections afforded customer accounts under the Commodity Exchange Act ("Act") and the Commission's regulations under that Act. The effect of the proposed amendment would be to narrow the definition of the term "proprietary account" under § 1.3(y) and thereby increased the number of accounts which are accounts of "customers" as defined in § 1.3(k) (17 CFR 1.3(k)) of the Commission's regulations.

DATES: Comments must be received by January 10, 1979.

ADDRESS: Send comments to the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

ATTENTION: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Frank D. Moore, Esq., Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 632-5110.

SUPPLEMENTAL INFORMATION:

The definition of the term "proprietary account" was adopted by the Commission's predecessor, the Commodity Exchange Authority (39 FR 28618, August 9, 1974). In view of the changes which have taken place in the industry since that time and its broadened regulatory responsibilities under the Act, the Commission, in addition to requesting comments with respect to the proposed rule change described above, also requests comments concerning the desirability of further amendments to the definitions of this term and of the term "customer."

PURPOSE OF THE PROPOSED RULE

Under § 1.3(k) the terms "customer" or "commodity customer" refer to a customer trading in any commodity (as defined in the Commission's regulations). However, pursuant to this same section, an owner or holder of a proprietary account as defined in § 1.3(y) is not deemed to be a customer within the meaning of section 4d of the Act, the regulations that implement sections 4d and 4f of the Act, and § 1.35 of the Commission's regulations.[1] These provisions relate principally to certain requirements in four areas: (a) Registration; (b) segregation; (c) record keeping; and (d) minimum financial. In each such area (with the exception of the minimum financial requirements), certain benefits and protections are afforded to customer accounts which are not afforded to proprietary accounts. If the definition of proprietary account is narrowed to exclude those commodity accounts not significantly owned by one of the persons listed in § 1.3(y), owners of such accounts would no longer be excluded from the definition of "customer" contained in § 1.3(k) and would receive the benefits and protections which result from this classification.

REGISTRATION

Section 4d of the Act and § 1.17 of the Commission's regulations [2] basically require each person engaged in the solicitation or acceptance of orders for the purchase or sale of any commodity for future delivery, on or subject to the rules of any contract market, to register as a futures commission merchant ("FCM"). However, persons trading solely for a proprietary account within the meaning of § 1.3(y) are excluded from this registration requirement. Thus, if certain proprietary accounts were reclassified as customer accounts, persons engaged in the activities described in § 1.17, with respect to the solicitation or acceptance of orders involving commodity futures transactions for such accounts would be required to register pursuant to that section. This would mean that persons owning such reclassified accounts would benefit from the safeguards of the registration requirements with respect to the qualification and fitness of these individuals and firms.

SEGREGATION

Section 4d(2) of the Act [3] requires FCM's to account separately for money, securities and property of their customers and, among other things, provides that such money, securities and property must not be commingled with the funds of the FCM or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer other than the one for whom the same are held.

Sections 1.20 through 1.30 [4] of the Commission's regulations establish specific requirements with respect to such customer money, securities and property. On the other hand, money, securities, or property in proprietary accounts need not be treated in accordance with these requirements; therefore, the reclassification of accounts from proprietary accounts to customer accounts, as described above, would have the effect of extending the protections of these requirements to the persons owning such reclassified accounts.

RECORD KEEPING

The Commission's recordkeeping rules, §§ 1.31 through 1.39,[5] require FCM's to maintain certain records with respect to the accounts of their customers which, with some exceptions, FCM's are not required to keep for proprietary accounts. For example,

[1] 7 U.S.C. 6d and 6f (1976) as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 865 *et seq.*, and 17 CFR 1.35.

[2] 7 U.S.C. 6d (1976) as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 865 *et seq.*; and 17 CFR 1.17.

[3] 7 U.S.C. 6d. (1976) as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 865 *et seq.*

[4] 17 CFR 1.20-1.30.

[5] 17 CFR 1.31-1.39.

§ 1.33 requires the FCM, subject to certain qualifications, to send a monthly statement to each of its customers; and § 1.35 relates to the recording and receipt of customer orders. Thus, the owners of accounts reclassified as customer accounts by virtue of the proposed amendment to the definition of "proprietary account," would be afforded the additional protections of the Commission's recordkeeping rules.

MINIMUM FINANCIAL REGULATIONS

Accounts currently classified as proprietary are subject to the requirements of § 1.17(c)(5)(ix) of the Commission's regulations,[6] which, among other things, requires a safety factor charge to the capital of the FCM for non-customer accounts to the extent that such accounts are under-margined in excess of two business days. Accounts reclassified as above, would become subject to the requirements of § 1.17(c)(5)(vii) [7] which requires a safety factor charge for under-margined customer futures accounts to the extent of the amount of funds required in each such account to meet the maintenance margin requirements after application of calls for margin or other required deposits which are outstanding five business days or less until December 31, 1980, four business days or less until December 31, 1982, and three business days or less thereafter. Thus, the proposed rule change and concomitant reclassification of accounts, will permit a somewhat longer time period with the which FCM's may collect amounts due in relasssified, under-margined accounts without incurring a safety factor charge to their capital. Therefore, the proposal has the potential for permitting slightly increased financial risks to firms. The Commission believes, nonetheless, that this factor is outweighed by the benefits of extending the protections described above to an increased number of accounts.

ADDITIONAL QUESTIONS CONCERNING THE DEFINITIONS OF "CUSTOMER" AND "PROPRIETARY ACCOUNT"

In addition to the proposed rule change described above, the Commission is actively considering the need for further changes in the definitions of "customer" and "proprietary account." Further, the Commission is considering the appropriateness of new regulations in certain related areas. The Commission recognizes that there are a substantial number of issues relating to these two areas of consideration. One of the most difficult of these issues is the relationship between two fundamental objectives of the Act, that is, the desirability of, on the one hand, extending customer protections (in the areas described above) to the maximum number of market participants while, on the other hand, maintaining existing levels of protection for those individuals who are presently classified as customers.

An example of the significant interplay between these two objectives is as follows.

The current definition of customer in § 1.3(k) of the Commission's regulations specifically *excludes* for certain purposes, (including the segregation requirements) an owner or joint owner of a proprietary account as defined in § 1.3(y). Pursuant to § 1.3(y) the definition of proprietary account *includes* those accounts which are owned or to any degree partly owned by (among others) an FCM, a general or limited partner or specified employee of an FCM, an owner of ten percent or more of the stock of an incorporated FCM, or a spouse or minor dependent living in the same household of any of the foregoing.[8] If, for example, the two terms were redefined to provide that an account owned to any degree by a customer (as defined in § 1.3(k)) be treated as the account of a customer for all purposes under the Act and regulations, the funds of such account would receive the benefits of the segregation requirements.

While this step would increase the funds in segregation, it could also increase the risk to the presently segregated funds. This could be true because to the extent the reclassified accounts were owned by individuals, such as those listed in § 1.3(y), with an ownership or controlling interest in the FCM ("proprietary persons") or with access to the firm's records and controls of customer accounts, such persons could, in many cases with relative ease, cause the firm not to call for margin when such accounts were under-margined. If this situation is allowed to continue until the account goes into deficit (and the FCM does not place its own funds in the account to cover the deficit), this would mean that the equity of customers would be utilized to "carry" the under-margined joint accounts.[9]

In light of the complexity of these issues, as illustrated by the example above, the Commission invites interested persons to submit any data, views or arguments which they believe would assist the Commission in determining whether to make further proposals in the above areas. In addition, the Commission specifically invites comments in response to the following related questions:

1. Does § 1.3(y) adequately and accurately categorize the types of individuals whose ownership of an account should cause that account to be classified as a proprietary account; and particularly,

a. Should the accounts of certain employees (such as associated persons) with no proprietary interest in the firm be considered proprietary accounts; and

b. Should the Commission retain permanently the numerical criterion (10 per cent ownership by one of the persons listed in § 1.3(y)) as proposed on an interim basis as the sole standard in categorizing a joint account as either customer or proprietary or would a different percentage figure or a combination of some percentage figure and other indicia of ownership be more appropriate in making such determinations? If a different percentage or other standards are suggested, what should they be and why should they be used?

2. Is it appropriate, consistent with section 4d(2) of the Act, to continue to permit any person listed in regulation 1.3(y) to own an account jointly with customers of an FMC or should the use of all such accounts be viewed as commingling (as prohibited by section 4d(2))?

3. Is it appropriate to exclude any customer funds from the benefits afforded such funds by the Act and the regulations even if they are held jointly in an account with a person having a controlling or ownership interest in the FCM? Would the customer funds held in segregation accounts be subjected to significantly greater risk if the funds of such jointly owned accounts were placed in these accounts?

4. As an alternative to placing the funds of jointly owned accounts (as described in questions 2 and 3) in the customer segregated funds account, would it be preferable to place them in a second separate segregated account? This approach could give these jointly-owned accounts the benefit of segregation without jeopardizing the other customers' funds in segregation. (Some of the accounts of those persons currently classified as proprietary, such as associated persons, been employed in the past, and, when it is done, the practice can place an entire firm in financial jeopardy and subject customers to the risk of financial loss.

[6] Reference is to § 1.17 as recently amended by the Commission. *See* the Commission's release dated September 1, 1978 (43 FR 39956, September 8, 1978). The effective date of amended section 1.17 is December 20, 1978, and the Commission does not expect that the amendment to § 1.3(y), which is proposed in the instant release, will become effective prior to that date.

[7] *Id.*

[8] The proposed amendment to § 1.3(y) would, of course, provide for the classification of accounts which are less than ten percent owned by one of these persons as the accounts of customers.

[9] Based upon the experience of the Commission and its predecessor, the Commodity Exchange Authority, this practice, which is prohibited by § 1.22 of the Commission's regulations (17 CFR 1.22), has nonetheless

comments regarding this proposal,

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might also be included in this separate segregated account.) What would be the additional costs and benefits of establishing and maintaining such an account—including record keeping, accounting and clearing costs?

5. One of the major reasons for the reluctance to include more accounts within the definition of customer is the fear that the FCM will not collect the proper margin from these accounts; allow them to go into deficit; and use the funds of other customers to "carry" these accounts. Could this probem be ameliorated by requiring all omnibus and clearing house accounts to be margined on a gross basis by the clearing broker?

STATUTORY BASIS FOR THE PROPOSED RULE

In proposing this rule, the Commission is acting pursuant to the authority contained in the Act and particularly sections 4d, 4f, 4g, and 8a of the Act (7 U.S.C. § 6d, 6f, 6g, and 12a (1976) as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 865 *et seq.*).

In consideration of the foregoing, the Commission hereby proposes to amend Title 17, Chapter I, Part 1 of the Code of Federal Regulations, by revising § 1.3(y) as follows (► ◄ arrows indicate additions, [ ] brackets indicate deletions):

§ 1.3 Definitions.

• • • • • •

(y) *Proprietary account.* This term shall mean a commodity futures trading account carried on the books and records of an individual, a partnership, corporation or other type association, (1) for one of the following persons, or (2) [which is partially or jointly] ►of which ten per cent or more◄ is owned by one of the following persons ►or an aggregate of ten per cent or more of which is owned by more than one of the following persons:◄

(i) Such individual himself, or such partnership, corporation or association itself;

(ii) In the case of a partnership, a general partner in such partnership;

(iii) In the case of a limited partnership, a limited or special partner in such partnership whose duties include:

(A) The management of the partnership business or any part thereof,

(B) The handling of trades and/or funds of customers of such partnership,

(C) The keeping of records pertaining to trades and/or funds of customers of such partnership, or

(D) The signing or co-signing of checks or drafts on behalf of such partnership;

(iv) In the case of a corporation or association, an officer, director or owner of ten percent or more of the capital stock, of such organization;

(v) An employee of such individual, partnership, corporation or association whose duties include;

(A) The management of the business of such individual, partnership, corporation or association or any part thereof,

(B) The handling of trades and/or funds of customers of such individual, partnership, corporation or association,

(C) The keeping of records pertaining to trades and/or funds of customers of such individual, partnership, corporation or association, or

(D) The signing or co-signing of checks or drafts on behalf of such individual, partnership, corporation or association:

(vi) A spouse or minor dependent living in the same household of any of the foregoing persons;

(vii) A business affiliate that directly or indirectly controls such individual, partnership, corporation or association;

(viii) A business affiliate that, directly or indirectly is controlled by or is under common control with, such individual, partnership, corporation or association.

Provided, however, That an account owned by any shareholder or member of a cooperative association of producers, within the meaning of Sections 5(e) and 6(a) of the Act, which association is registered as a futures commission merchant and carries such account on its records, shall be deemed to be a customer's account and not a proprietary account of such association, unless the shareholder or member is an officer, director or manager of the association.

Issued in Washington, D.C., on November 29, 1978, by the Commission.

GARY L. SEEVERS,
Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-33842 Filed 12-4-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 74 and 81]

[Docket No. 78C-0216]

ORANGE B

Termination of listing

Correction

In FR Doc. 78-27427 appearing at page 45611 in the issue for Tuesday, October 3, 1978, make the following corrections:

(1) On page 45612, in the middle column, under the Heading "CHEMISTRY", in the first paragraph, in the 4th line through the 5th line, "5-bydroxypyrazolone" should read "5-hydroxyphrazolone".

(2) On page 45612, in the middle column, under the heading "CHEMISTRY", in the middle column, in the first paragraph, in the 8th line, "producted" should read "produced".

[4110-03-M]

[21 CFR Part 310]

[Docket No. 78N-0383]

ESTROGENS TO TREAT POSTPARTUM BREAST ENGORGEMENT

Proposed Requirements for Patient Labeling

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the regulation requiring patient labeling for prescription estrogenic drug products to delete provisions pertaining to the use of estrogen for prevention of breast engorgement. This proposal is issued in conjunction with the publication of a notice by the agency proposing to withdraw approval of new drug applications for estrogen-containing drugs that are labeled for use to treat postpartum breast engorgement. The proposed actions are prompted by several studies that indicate an unfavorable benefit-to-risk ratio for estrogen use in the prevention of breast engorgement.

DATES: Comments by January 4, 1979. Proposed effective date of the final rule based on this proposal is 120 days after the date of publication of the final rule in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: The final patient labeling regulation for prescription estrogenic drug products (§ 310.515 (21 CFR 310.515)) was published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636). A guideline patient labeling text deemed to meet the requirements of the regulation was published in the same issue of the FEDERAL REGISTER (42 FR 37645). Section 310.515 (21 CFR 310.515) specifies the kind of information to be contained in the labeling and the manner by which it is to be made available to the patient. Among other requirements, the regulation provides that the labeling for each estrogenic drug product restricted to prescription use must contain a statement regarding the proper uses of estrogens, including their use in the prevention of breast engorgement, and must mention the limited usefulness of estrogen for this purpose.

A recent review of the pertinent scientific literature has called into question both the safety and effectiveness of estrogens used to prevent breast engorgement. The review, which was presented to the Food and Drug Administration (FDA) Obstetrics and Gynecology Advisory Committee on January 31, 1978, suggested that the effectiveness of estrogens in treating breast engorgement was of a limited and short-term nature. Moreover, the review indicated that significant risks of thromboembolism and thrombophlebitis are posed for the patient when estrogens are used for this purpose. Based on the review, the Advisory Committee concluded that available evidence does not support the safety and effectiveness of estrogens for the treatment of postpartum breast engorgement and recommended that the indication be removed from estrogen drug product labeling.

Having considered the evidence presented to the Advisory Committee as well as the Committee's recommendation, the Director of the Bureau of Drugs has proposed, in a notice published in the FEDERAL REGISTER of October 24, 1978 (43 FR 49564), to withdraw approval of new drug applications (NDA's) providing for the use of estrogens in treating postpartum breast engorgement. That notice also announced an opportunity for a hearing regarding the proposed order, and it described in detail the scope and content of the review that has prompted the Director's action. The references supporting this proposal are listed in the Director's notice of opportunity for hearing and are on file with the Hearing Clerk, FDA, under Docket No. 78N-0280.

The Commissioner of Food and Drugs notes that the content of estrogen patient labeling is based wholly on the content of the approved physician labeling for estrogen drug products. To ensure that if and when the physician labeling is modified, the patient labeling can be correspondingly revised, the Commissioner proposes to amend the patient labeling regulation to delete provisions pertaining to the use of estrogens for prevention of breast engorgement. This proposal will, therefore, be finalized only if the physician labeling is ultimately modified as a result of the procedures following the notice of opportunity for hearing on the NDA's for estrogenic products.

In the current estrogen patient labeling text, the use of estrogens for the treatment of breast engorgement is discussed in numbered paragraph 5 under the heading "USES OF ESTROGEN" and in the paragraph under the heading "ESTROGENS TO PREVENT SWELLING OF THE BREASTS AFTER PREGNANCY". If a final regulation is issued with respect to this proposal, these two paragraphs will be deleted from the guideline patient labeling text published in the FEDERAL REGISTER of July 22, 1977.

The Commissioner proposes to make this amendment effective 120 days after it is published as a final regulation in the FEDERAL REGISTER. On and after the effective date, no person would be permitted to initially introduce into interstate commerce or initially deliver for introduction into interstate commerce an estrogen drug product without patient labeling that complies with the requirements of this regulation.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) and therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Part 310 be amended by revising § 310.515(b)(3) to read as follows:

§ 310.515 Estrogens; labeling directed to the patient.

• • • • • •

(b) • • •

(3) A statement regarding the proper use of estrogens, particularly short-term use in moderate to severe vasomotor symptoms of the menopause. It is to be stated that estrogens are not indicated for certain conditions, i.e., nervousness, preservation of supple skin, or maintenance of a youthful feeling.

• • • • • •

Interested persons may, on or before January 4, 1979. Submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the major economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-33747 Filed 12-4-78; 8:45 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-100]

OCCUPATIONAL EXPOSURE TO EPICHLOROHYDRIN

Request for Information

AGENCY: Occupational Safety and health Administration, Department of Labor.

ACTION: Request for information on epichlorohydrin.

SUMMARY: This notice requests comments and information on epichlorohydrin (CAS No. 00106898) commercially synthesized from allyl chloride, allyl alcohol, dichlorohydrin-glycerine, or propylene. Epichlorohydrin is used in the manufacture of synthetic glycerine, epoxy resins, surface active agents, pharmaceuticals, insecticides, agricultural chemicals, textile chemicals, coatings, adhesives, ion-exchange resins, solvents, plasticizers, glycidy ethers, ethynyl-ethylenic alcohol and fatty acid derivatives. OSHA has received a criteria document (1) from the National Institute for Occupational Safety and Health that indicates that the present standard of 5 ppm as an 8-hour TWA, Table Z-1, 29 CFR 1910.1000 may not be sufficiently protective of exposed employees. Since then, additional information relating to animal and human carcinogenicity has become available from two separate studies. In light of the potential

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cancer hazard involved, OSHA is reviewing alternatives for regulation of epichlorohydrin including the possibility of issuing an Emergency Temporary Standard.

DATE: The information requested in this notice must be submitted on or before January 19, 1979 in quadruplicate. Timely written submissions will be considered in any action taken by this agency.

ADDRESS: The information requested in this notice should be submitted to the Docket Officer, Docket No. H-100, room S6212, U.S. Department of Labor, OSHA, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210. (202-523-7894).

FOR FURTHER INFORMATION CONTACT:

The Office of Carcinogen Standards, Room N3656, OSHA, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210, (202-523-9603 or 202-52-7193).

SUPPLEMENTARY INFORMATION: Epichlorohydrin: Recent Information Received by OSHA.

LABORATORY ANIMAL STUDIES

For over a year, Dr. Norton Nelson of the New York University Institute of Environmental Medicine has been conducting inhalation studies in rats. In a note (2) dated June 23, 1978, he described the most recent results. 140 rats were exposed to 100 ppm epichlorohydrin for 6 hours/day for 30 days with subsequent lifetime observation. Thirteen of the animals have since died of confirmed nasal cancer, as well as two others for which the pathological analysis is not yet complete. A third animal has a nasal tumor. Another group of 100 animals have been exposed to 30 ppm epichlorohydrin for 6 hours/day, 5 days/week. One animal has developed a larynx papilloma, and a nasal carcinoma in another. In contrast, Nelson has not yet observed the development of even one spontaneous nasal carcinoma in the hundreds of Sprague-Dawley rats seen in his laboratory. He concludes: "Our findings strongly suggest a potential risk to workers from exposure to epichlorohydrin."

HUMAN EPIDEMIOLOGICAL STUDIES

The second source of new information is a two-year update (July 31, 1978) of an epidemiologic study of workers exposed to epichlorohydrin at two facilities of the Shell Chemical Company (3). The data were analyzed by Dr. Philip Enterline of the University of Pittsburgh. 864 workers were identified who had been occupationally exposed to epichlorohydrin for 6 months or more, before January 1, 1966. Vital status as of December 31, 1975 was determined for all but 15 of the workers. For men who were followed for 15 years or more, and who had had moderate to heavy exposure, observed deaths were greater than expected for all cancer, respiratory cancer, leukemia and suicide, although the difference was not statistically significant (0.05 level). However, in 1976 there were three more cancer deaths bringing the total to 10. Enterline concludes that results of the two-year update strongly support the findings of the previous report and should be viewed as highly suggestive of a carcinogenic risk of epichlorohydrin for man.

BACKGROUND

Epichlorohydrin (C3 H5 Cl 0; CAS No. 000106898; 1-Chloro-2, 3-epoxy propane) is a colorless liquid at room temperature with a distinctive odor described as "ethereal", "chloroform-like", and "garlic-like". The total U.S. production of epichlorohydrin was about 550 million pounds in 1975. As estimated 58 percent of this was used in the manufacture of synthetic glycerine and 42 percent was processed to refined epichlorohydrin. Refined epichlorohydrin is used in the manufacture of epoxy resins, surface active agents, pharmaceuticals, insecticides, agricultural chemicals, textile chemicals, coatings, adhesive, ion-exchange resins, solvents, plasticizers, glycidyl esters, ethynyl-ethylenic alcohol, and fatty acid derivatives. The National Institute for Occupational Safety and Health estimates that 50,000 employees may be exposed to epichlorohydrin in the United States. Occupational exposure to epichlorohydrin is currently limited by OSHA to an 8-hour time-weighted-average of 5 ppm as found in Table Z-1 of 29 CFR 1910.1000.

INFORMATION REQUESTED ON EPICHLOROHYDRIN

The data recently received by OSHA suggests that current regulation of worker exposure to epichlorohydrin may not be sufficiently protective, and that more information in a mumber of areas is necessary before a reassessment of the hazards of epichlorohydrin exposure can be made. OSHA is therefore requesting information pertaining to epichlorohydrin, as well as any finished product containing epichlorohydrin. The requested information includes but is not limited to the following:

(1) The possibility of sterility, mutagenesis, carcinogenesis, or teratogenesis resulting from exposure to epichlorohydrin, as well as the effects of potential co-factors as related to each of these.

(2) The effects of epichlorohydrin on the skin and the appropriateness of providing complete skin protection.

(3) The effects of epichlorohydrin on the respiratory, hepatic, and renal systems at high concentrations for very short periods of time and the need for a celling value.

(4) The appropriateness of the current permissible exposure limit (5 ppm TWA) in providing adequate employee protection against the toxic effects of epichlorohydrin.

(5) Appropriate engineering controls work practices and personal protective equipment necessary to reduce levels of exposure to those recommended by NIOSH (0.5 parts per million parts of air by volume as a TWA with a ceiling concentration of 5 ppm parts of air by volume as determined by a sampling time of 15 minutes) and to the lowest levels feasible.

(6) Appropriate provisions for employee exposure monitoring, methods of compliance, signs and labels, medical surveillance, training, and record-keeping.

(7) The application of recordkeeping and similar requirements to small businesses and those with highly transient work forces.

(8) The economic and technological feasibility of complying with a complete epichlorohydrin standard at the current, the NIOSH proposed level of exposure, or the lowest levels feasible.

(9) The environmental and economic impact of a complete epichlorohydrin standard at the current, the NIOSH proposed level of exposure, or the lowest levels feasible.

(10) Views on the appropriate regulatory response to the NIOSH recommendations; and

(11) Any other information pertinent in preparing an epichlorohydrin standard.

SUBMITTALS OF INFORMATION REQUESTED

Interested persons are invited to submit written data, views and comments with respect to the foregoing issues. All communications should be submitted in quadruplicate, by *45 days*, to the Docket Officer, Docket H-100, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210 (202-523-7894). Timely written submissions will be considered in any action taken by this agency.

REFERENCES

The following documents referred to in this notice, are available for inspection and copying at the OSHA Technical Data Center, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

(1) Criteria for Recommended Standard.* * * Occupational Exposure to Epichlorohydrin. U.S. Department of Health, Education and Welfare, Center for Disease Control, National Institute for Occupational Safety and Health, September 1976.

(2) Communication from Norton Nelson of New York University Medical Center Institute of Environmental Medicine to Eula Bingham of the U.S. Department of Labor, Occupational Safety and Health Administration, dated June 23, 1978.

(3) Communication from R. E. Joyner of Shell Oil Company to Eula Bingham of the U.S. Department of Labor, Occupational Safety and Health Administration, dated August 7, 1978.

(4) Communication from Anthony Mazzocchi, Vice President of Oil, Chemical and Atomic Workers International Union to Eula Bingham of the U.S. Department of Labor, Occupational Safety and Health Administration, dated September 12, 1978.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911: Secretary of Labor's Order No. 8-76 (41 FR 25059).

Signed at Washington, D.C., this 30th day of November 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-33918 Filed 12-4-78; 8:45 am]

[4510-26-M]

[29 CFR Part 1910]

[Docket No. H-069]

OCCUPATIONAL EXPOSURE TO VINYL BROMIDE

Request for Information

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Request for information on vinyl bromide.

SUMMARY: This notice requests information on vinyl bromide (CAS 000593602; C2H3Br), a chemical with widespread industrial use, especially in the plastics industry. OSHA has received data which indicates that exposure to vinyl bromide causes cancer in laboratory animals. In light of the potential cancer hazard involved, OSHA is reviewing alternatives for regulation of vinyl bromide including the possibility of issuing an Emergency Temporary Standard. OSHA is therefore seeking information on the manufacture and use of vinyl bromide, employee exposures, health effects, medical surveillance, respiratory protection, and the technological and economic aspects of controlling employee exposures to this substance. OSHA is requesting views on the appropriate regulatory response to the new information received on vinyl bromide.

DATE: The information requested in this notice must be submitted on or before February 5, 1979.

ADDRESS: The information requested in this notice should be submitted to the Docket Officer, Docket H-069, Room S6212, U.S. Department of Labor, OSHA, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210, (202-523-7894).

FOR FURTHER INFORMATION CONTACT:

The Office of Carcinogen Standards, Room N3656, OSHA, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210, (202-523-9603 or 202-523-7193).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In June, 1978 OSHA received information from the Huntington Research Center regarding their investigation of the potential long-term toxic effects of exposure to vinyl bromide. Their interim report of studies indicated that laboratory rats exposed to 50 ppm vinyl bromide developed angiosarcoma of the liver and other tumors (1). At lower levels, exposure to vinyl bromide (10 ppm) induced lymph node angiosarcoma. To date, there have been no reported cases of cancer in humans associated with exposure to vinyl bromide. However, vinyl bromide has been in commercial production in the U.S. only since 1971. Due to the long latency period characteristic of occupationally-induced cancer, typically 15-40 years, no unusual risk of cancer among exposed workers would be expected to be detected at this time. At present, there is no OSHA exposure standard for vinyl bromide.

INFORMATION REQUESTED ON VINYL BROMIDE

The data recently received by OSHA indicate that exposure to vinyl bromide causes cancer in laboratory animals and that more information in a number of areas is necessary before an assessment of the hazards of vinyl bromide exposures in humans can be made. OSHA is therefore requesting information pertaining to vinyl bromide, as well as any finished products containing vinyl bromide. The requested information includes but is not limited to the following:

1. Metabolism, including intermediate as well as final metabolites.
2. Toxicity, tumorigenicity, carcinogenicity, teratogenicity and/or mutagenicity, including the effects of potential co-factors as related to each of these.
3. Human epidemiology (employee populations and those otherwise exposed).
4. Appropriate medical surveillance procedures.
5. Appropriate respiratory protection.
6. Uses and production technologies.
7. Employee exposures (actual or potential) in each use and production facility, including: (a) the levels and specific conditions of such exposures, (b) the numbers of employees involved in each exposure situation.
8. Technological and economic feasibility of reducing employee exposure.
9. Economic and technological feasibility of complying with a complete vinyl bromide standard at the lowest level of exposure feasible.
10. Analytical and sampling methods used and evidence of their precision and accuracy.
11. Whether issuance of an Emergency Temporary Standard is appropriate.

SUBMITTALS OF INFORMATION REQUESTED IN THIS NOTICE

Interested persons are invited to submit written data, views and comments with respect to the foregoing issues. All communications should be submitted in quadruplicate, by February 5, 1979, to the Docket Officer, Docket H-069, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, (202-523-7894). Timely written submissions will be considered in any action taken by this agency.

REFERENCES

The following document, referred to in this notice, is available for inspection and copying at the OSHA Technical Data Center, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

(1) Huntingdon Research Center, *HRC Project 7511-253. 18-Month Sacrifice Pathology Report*, (Vinyl Bromide). New York. (June 26, 1978).

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

(Sec. 6, Pub. L. 91-596, 64 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911: Secretary of Labor's Order No. 8-76 (41 FR 25059).)

Signed at Washington, D.C., this 30th day of November 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-33919 Filed 12-4-78; 8:45 am]

viewed and processed as a revision of

Appropriate public hearings on the

of the offtake piping on operating coke ovens in any battery, excluding

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[4510-26-M]

[29 CFR Part 1910]

[Docket No. H-079]

OCCUPATIONAL EXPOSURE TO 1,2-DICHLOROETHANE

Request for Information

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Request for information on 1,2-dichloroethane.

SUMMARY: This notice requests information on 1,2-dichloroethane (ethylene dichloride, EDC; CAS 000107062), a chlorinated hydrocarbon used in manufacturing vinyl chloride monomer, insecticides, antiknock agents, and metal degreasing compounds. OSHA has recently received data which indicates that the present standard for 1,2-dichloroethane, Table Z-1, 29 CFR 1910. 1000, may not be sufficiently protective of exposed employees. In light of the potential cancer hazard involved, OSHA is reviewing alternatives for regulation of 1,2-dichloroethane, including the possibility of issuing an Emergency Temporary Standard. OSHA is therefore seeking information on the manufacture and use of 1,2-dichloroethane, employee exposures, health effects, medical surveillance, respiratory protection, and the technological and economic aspects of controlling employee exposures to this substance. OSHA is requesting views on the appropriate regulatory response to the new information received on 1,2-dichloroethane.

DATE: The information requested this notice must be submitted on or before February 5, 1979.

ADDRESS: The information requested in this notice should be submitted to the Docket Officer, Docket No. H-079, Room S6212, U.S. Department of Labor, OSHA, Third Street and Constitution Avenue, N.W., Washington, D.C., 20210, (202-523-7894).

FOR FURTHER INFORMATION CONTACT:

The Office of Carcinogen Standards, Room N3656, OSHA, Third Street and Constitution Avenue, N.W., Washington, D.C., 20210, (202-523-9603 or 202-523-7193).

SUPPLEMENTARY INFORMATION: Background. 1,2-dichloroethane (C2 H4 Cl 2) is a colorless, oily liquid with a chloroform-like odor. It is a source chemical from which other chemicals are made. These include vinyl chloride, methyl chloroform, vinylidene chloride, perchloroethylene, trichloroethylene, carbon tetrachloride and the chlorofluorocarbons. In September, 1978, OSHA received information from the National Cancer Institute regarding their investigation of the potential long-term toxic effects of exposure to 1,2-dichloroethane (1). Their report of studies indicate that oral administration of 1,2-dichloroethane produced cancers in rats and mice. In male rats, dosage with 1,2-dichloroethane caused forestomach cancers, hemangiosarcomas (vascularized cancers) of multiple organs, and subcutaneous fibromas (cancer beneath the skin). Female rats exposed to 1,2-dichloroethane developed mammary (breast) cancers, in some animals as early as the 20th week of the study. The chemical also caused breast cancers, as well as uterine cancer in female mice, and respiratory tract cancers in both male and female mice.

Occupational exposure to 1,2-dichloroethane is currently limited by OSHA to an 8-hour time-weighted-average of 50 pm as found in Table Z-2 of 29 CFR 1910.1000.

Information Requested on 1,2-dichloroethane

The data recently received by OSHA suggests that current regulation of worker exposure to 1,2-dichloroethan may not be sufficiently protective, and that more information in a number of areas is necessary before a reassessment of the hazards of 1,2-dichloroethan exposure can be made. OSHA is therefore requesting information pertaining to 1,2-dichloroethane, as well as any finished products containing 1,2-dichloroethan. The requested information includes but is not limited to the following:

(1) Metabolism, including intermediate as well as final metabolites.

(2) Toxicity, tumorigenicity, carcinogenicity, teratogenicity and/or mutagenicity, including the effects of potential co-factors as related to each of these.

(3) Human epidemiology (employee populations and those otherwise exposed).

(4) Appropriate medical surveillance procedures.

(5) Appropriate respiratory protection.

(6) Uses and production technologies.

(7) Employee exposures (actual or potential) in each use and production facility, including: (a) the levels and specific conditions of such exposures, (b) the numbers of employees involved in each exposure situation.

(8) Technological and economic feasibility of reducing employee exposure.

(9) Economic and technological feasibility of complying with a complete 1,2-dichloroethane standard at the lowest level of exposure feasible.

(10) Analytical and sampling methods used and evidence of their precision and accuracy.

(11) Whether issuance of an Emergency Temporary Standard is appropriate.

SUBMITTALS OF INFORMATION REQUESTED IN THIS NOTICE: Interested persons are invited to submit written data, views and comments with respect to the foregoing issues. All communications should be submitted in quadruplicate, by February 5, 1979, to the Docket Officer, Docket H-079, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C., 20210 (202-523-7894). Timely written submissions will be considered in any action taken by this agency.

REFERENCES: The following document referred to in this notice, is available for inspection and copying at the OSHA Technical Data Center, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

(1) Technical Background Information, Report on Carcinogenesis Bioassay of 1,2-Dichloroethane (EDC), U.S. Department of Health, Education, and Welfare, National Institutes of Health, National Cancer Institute, Bethesda, Maryland 20014.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911: Secretary of Labor's Order No. 8-76 (41 FR 25059).

Signed at Washington, D.C., this 30th day of November, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-33920 Filed 12-4-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1017-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Pennsylvania State Implementation Plan; Proposed Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted amendments to its air pollution regulations and has requested that they be reviewed and processed as a revision of the Pennsylvania State Implementation Plan (SIP). The purpose of the amendments is to establish a program for more effectively controlling particulate air contaminant emissions from coke ovens. The proposed revisions affect Chapter 121 (relating to general provisions), Chapter 123 (relating to standards for contaminants), Chapter 127 (relating to construction, modification, reactivation, and operation of sources), and Chapter 139 (relating to sampling and testing) of the rules and regulations of the Department of Environmental Resources.

DATE: Comments must be submitted on or before January 4, 1979.

ADDRESSES: Copies of the proposed SIP revision and support documentation are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, P.O. Box 2063, Harrisburg, Pennsylvania 17120. Attn: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision submitted on or before January 4, 1979 will be considered and should be directed to: Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: AH018PA.

FOR FURTHER INFORMATION CONTACT:

Mr. Israel Milner (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; phone 215-597-8174.

SUPPLEMENTARY INFORMATION: On June 30, 1978, the Pennsylvania Department of Environmental Resources submitted to the Regional Administrator, Region III, revisions of Pennsylvania's Air Resources Regulations designed to regulate particulate emissions from coke ovens and requested that they be reviewed and processed as a revision of Pennsylvania's State Implementation Plan (SIP).

Appropriate public hearings on the proposed amendments were held on April 5, 1977 in Norristown, Pennsylvania; on April 7, 1977 in Pittsburgh, Pennsylvania, and April 12, 1977 in Harrisburg, Pennsylvania in accordance with 40 CFR 51.4.

Prior to these amendments, the Department had no regulations pertaining uniquely to emissions from coke ovens. Control of fugitive particulate emissions from coke ovens was based primarily on application of an opacity standard. These proposed regulations establish firm standards to be achieved for individual points of emission from existing coke oven batteries. The new regulations would require the installation of best available control technology (BACT) for pushing emissions, as well as BACT for door leakage and topside emissions. The proposed standard for the charging process is less stringent than the EPA BACT charging standards. However, the overall standards are more stringent than the former requirements. In addition, the new regulations appear to be more easily administered and provide better enforceability than the former requirements.

The following summarizes some of the key provisions of the proposed regulations for the coke oven battery:

(1) Coke pushing operation—Requires that the coke pushing operation must be enclosed and that any air cleaning device is designed to reduce fugitive emissions to the minimum attainable through the use of the best available technology.

(2) Charging operation—

a. Open charging—At no time shall the aggregated time of visible open charging emissions during any four consecutive charges equal more than 75 seconds.

b. Closed charging—At no time shall there be closed charging emissions during more than one charge out of any ten consecutive charges.

(3) Door emissions and leakages—

a. At no time shall door area emissions from any coke oven exceed 40 percent opacity, 15 minutes or longer after the last charge to that oven.

b. At no time shall there be any visible door arca emissions from more than 10 percent of the door areas of operating coke ovens, excluding the two door areas representing the last oven charged on any battery and any door areas obstructed from view.

(4) Topside emissions—

a. At no time shall there be visible topside emissions from more than 2.0 percent of the charging port seals on operating coke ovens in any battery, excluding visible emissions from no more than three ovens which may be dampered off.

b. At no time shall there be topside emissions from more than 5.0 percent of the offtake piping on operating coke ovens in any battery, excluding visible emissions from open standpipe caps on no more than three ovens which may be dampered off.

c. At no time shall there be any topside emissions from any point on the topside other than allowed emissions from charging port seals and offtake piping pursuant to items a. and b. above.

d. At no time shall there be any visible emissions from the coke oven gas collector main.

The revised regulations also establish measuring and recording techniques, equations for determining compliance, and self-monitoring and reporting requirements for coke oven operators. The proposed regulations also provide a mechanism for sources to petition for a deferred compliance schedule to achieve compliance with the proposed emission limitations. Compliance with the emission limitations must be achieved as expeditiously as possible, but in no event later than December 31, 1979.

After preliminary review of the proposed amendments, some questions of interpretation have arisen concerning the language of some of the provisions. The primary provisions of concern are the following:

1. *Section 127.42—Deferred compliance with revised emission limitations for coke oven batteries.* This section authorizes the Department of Environmental Resources to establish a deferred compliance schedule for coke oven batteries, provided certain requirements are met. The issue raised by this section is whether or not a deferred compliance schedule must be submitted to EPA as a variance requiring a SIP revision prior to taking effect as a matter of Federal law. If the establishment of a deferred compliance schedule would in effect be the same as the granting of a variance, the source must demonstrate that the approved SIP control strategy as modified by the variance would provide sufficient emission reduction to insure the attainment and maintenance of national ambient air quality standards. However, the requirements for obtaining a deferred compliance schedule under § 127.42 do not specify that this demonstration must be made.

Another issue raised by this provision is whether or not EPA has the legal authorityg to establish a deferred compliance schedule upon application by a source to EPA.

2. *Section 129.15(c)—Coke pushing operations.* This provision refers to determinations of minor significance to be made by the Department of Environmental Resources. The issue raised by this provision is whether or not EPA has the legal authority to make this determination.

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Another issue raised by this section is whether or not this determination must be submitted to EPA as a variance requiring a SIP revision prior to taking effect as a matter of Federal law. The same consideration noted in the discussion of § 127.42 would apply to § 129.15(c).

3. *Section 129.15—Coke pushing operations.* It is not clear how long pushing emissions must be contained. Although subsection (e) of this regulation seems to permit transport of hot coke in the open atmosphere if visible fugitive air contaminants do not exceed 10% opacity, no reference to subsection (e) is made in subsection (a). Therefore, it is not clear how these two subsections should be interpreted.

The public is invited to submit, to the address stated above, comments on whether the amendments to Pennsylvania's coke oven air pollution regulations should be approved as a revision of the Pennsylvania SIP.

Comments addressing the above three provisions are particularly solicited.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements of Preparation, Adoption, and Submittal of Implementation Plans.

[42 U.S.C. 7401.]

Dated: October 31, 1978.

JACK J. SCHRAMM,
Regional Administrator.

ATTACHMENT No. 1

Information enclosed—
1. Letter from Department of Environmental Resources.
2. Proposed Regulations and Revisions.
3. Demonstration of Air Quality Impact.
a. Outline of former regulatory approach.
b. Demonstration that new regulations are more stringent.
c. Discussion of greater enforceability of new regulations.

ATTACHMENT No. 2

Additional documentation not forwarded but on file in Region III—
1. Public Hearings Transcripts.
2. Testimony submitted subsequent to Public Hearing.
3. DER responses to questions and comments.
4. Studies-Reports reviewed and relied upon to prepare revisions.
5. Visible Emission Data from Coke Ovens.
6. Photographic Evidence.

[FR Doc. 78-33828 Filed 12-4-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1020-3]

DELAYED COMPLIANCE ORDERS

Notice of Proposed Approval of an Administrative Order Issued by the Louisiana Air Control Commission to Boise Southern Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Louisiana Air Control Commission to Boise Southern Company. The order requires the company to bring air emissions from its recovery boiler in Elizabeth, Louisiana, into compliance with certain regulations contained in the federally-approved Louisiana State Implementation Plan (SIP) by January 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before January 4, 1979.

ADDRESSES: Comments should be submitted to Howard Bergman, Director, Enforcement Division, EPA, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. James Veach, Legal Branch, Enforcement Division, U.S. Environmental Protection Agency, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270, 214-767-2760.

SUPPLEMENTARY INFORMATION: Boise Southern Company operates a paper mill at Elizabeth, Louisiana. The order under consideration addresses emissions from the recovery boiler at the facility, which are subject to Section 23.4(1) of the Louisiana Air Control Commission Regulations. The regulation limits the emissions of particulate matter, and is part of the federally approved Louisiana State Implementation Plan. The order requires final compliance with the regulation by January 1, 1979 through installation of appropriate equipment and control apparatus. Boise Southern Company has consented to the terms of the order and has already awarded contracts for the purchase of the control equipment on January 15, 1978.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. The necessary elements of subsection 113(d) have been met: the order contains a schedule and timetable for compliance; the order provides for final compliance with the Louisiana Implementation Plan as expeditiously as practical and prior to July 1, 1979; the order requires compliance with the best practicable system of interim emission reduction; the order finds that no interim emission monitoring is reasonable or practicable; the order notifies the source that it will be required to pay a noncompliance penalty in the event it fails to achieve final compliance by July 1, 1979; and the order will be issued only after notice to the public and opportunity for public hearing.

If the order is approved by EPA, source compliance with its terms would preclude federal inforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Louisiana SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

Dated: November 27, 1978.

ADLENE HARRISON,
Regional Administrator,
Region 6.

[FR Doc. 78-33831 Filed 12-4-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1018-6; Docket No. DCO 78-34]

DELAYED COMPLIANCE ORDERS

Notice of Proposed Approval of Delayed Compliance Orders Issued by the Department of Air Pollution Control, Knox County, Tenn. to Knoxville Iron, Knoxville, Tenn.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the Department of Air Pollution Control, Knox County, Tenn., to Knoxville Iron, Knoxville, Tenn. The delayed compliance order requires the company to bring air emissions from its grey iron foundry in Knoxville, Tenn., into compliance with an applicable regulation contained in the Tennessee State Implementation Plan (SIP) by May 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before January 4, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Bert Cole, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, Telephone No. 404-881-4253.

SUPPLEMENTARY INFORMATION Knoxville Iron Co. operates a grey iron foundry at Knoxville, Tenn. The order under consideration addresses emissions from the roof vents, baghouses, duct storage bins, and conveyors which are subject to §§ 17.0, 19.0, and 22.0 of the Knox Company Air Pollution Control Regulations. These regulations limit visible emissions, process emissions and fugitive dust emissions and are part of the federally-approved Tennessee State Implementation Plan. The order requires final compliance with the regulation by May 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) October 15, 1978—Issue purchase orders for control equipment.
(2) July 1, 1978—Initiate on-site construction or installation of emission control equipment.
(3) April 1, 1979—Complete on-site construction and installation.
(4) May 1, 1979—Complete performance testing and achieve compliance with all applicable particulate and visible emission limiting regulations, and certify such compliance to Knox County Department of Air Pollution Control and EPA.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As interim limits, Knoxville Iron is required to comply with the following conditions prior to the attainment of the last milestone:

(1) Emission from any roof vent not to exceed 20 percent opacity except due to furnace charging, furance tapping or tundish lancing.
(2) Amount of time consumed by furance charging, furance tapping and tundish lancing not to exceed 10 percent of total production time.
(3) Emissions from any baghouse exhaust opening not to exceed 30 percent opacity during furance charging, furance tapping, or tundish lancing.
(4) Emissions from storage bins and conveyors to be reduced to maximum extent practicable during repair and construction phases by methods including, but not limited to, those of § 22.0 of the Knox County Air Pollution Control Regulations.

If this order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Tennessee SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written coments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: November 27, 1978.

JOHN C. WHITE,
Regional Administrator
Region IV.

KNOX COUNTY DEPARTMENT OF AIR POLLUTION CONTROL, KNOX COUNTY, TENN.

In the matter of Knoxville Iron Company (Division of Azcon Corp.), Docket No. ——.

DELAYED COMPLIANCE ORDER

This Delayed Compliance Order is issued this date pursuant to Section 28.0 ("Variances") of the Knox County Air Pollution Control Regulations and Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7413(d). This Delayed Compliance Order contains a schedule and timetable for compliance, interim requirements, and emission monitoring and reporting requirements. Public notice and opportunity for a public hearing have been provided pursuant to Section 28.0 of the Knox County Air Pollution Control Regulations and Section 113(d)(1) of the Clean Air Act.

FINDINGS

WHEREAS, the Knox County Department of Air Pollution Control finds that the Knoxville Iron Company has operated a steel manufacturing facility in Knoxville, Tennessee in violation of Sections 17.0, 19.0 and 22.0 of the Knox County Air Pollution Control Regulations dealing with visible emissions, process emissions and fugitive dust at the Company's manufacturing facility, and

WHEREAS, the Knox County Department of Air Pollution Control finds that the Company is unable to comply with said regulations, it is hereby:

ORDERED

I

ABATEMENT PROGRAM

That the attached Appendices governing an abatement program are incorporated into and made a part of this Delayed Compliance Order for the control of the specified pollutants at Knoxville Iron Company located in Knoxville, Tenn.

The Appendices are designated as follows:
Appendix A: Control of Particulate Matter and Visible Emissions From Knoxville Iron Company Manufacturing Facility

II

REPORTING—ADDRESSES

That all submissions of source performance test results, reports and other items required by this Delayed Compliance Order be made to the Knox Company Department of Air Pollution Control, Knoxville, Tenn. with copies to the Director, Enforcement Division, United States Environmental Protection Agency, 345 Courtland Street, Atlanta, Ga. 30308 (hereinafter referred to as the "Director").

APPENDIX A—KNOX COUNTY DEPARTMENT OF

[6560-01-M]

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III

PROGRESS REPORTS AND MILESTONE CERTIFICATION

That the Company submit, no later than five (5) days after the end of each month, commencing with September 1, 1978, a monthly progress report for the emission point specified in part I. These reports shall contain specific information on the progress toward each milestone in part I. If any delay is anticipated in meeting said milestones, the Company shall immediately notify the Knox County Department of Air Pollution Control and the Director in writing of the anticipated delay and reasons therefore. Notification of any anticipated delay shall not excuse the delay. In addition, the Company shall submit, no later than five (5) days after the deadline for completing each milestone required by part I, certification to the Knox County Department of Air Pollution Control and the Director whether such milestone has been met.

IV

NOTICE OF TESTS

That the Company provide the Knox County Department of Air Pollution Control and the Director with (20) days notice prior to the conducting of any performance tests as required by part I in order to afford an opportunity to evaluate the test procedure and to have an observer present at such testing.

V

MALFUNCTIONS AND BREAKDOWNS

That the Company shall perform operation and maintenance practices on all sources as necessary to prevent malfunctions or breakdowns and to reduce emissions in excess of regulations to the maximum extent practicable. When emissions due to sudden and unforeseen malfunction of the affected facility are or may be in excess of the maximum allowable as set forth in this Delayed Compliance Order, for greater than four (4) hours, the owner or operator shall notify the Knox County Department of Air Pollution Control and EPA by telephone or telegrams as promptly as possible, and in no event later than twelve (12) hours following the start of such malfunction, and shall cause written notice to be sent to the Knox County Department of Air Pollution Control and the Director no later than the end of the next working day following the start of such malfunction. Such notices shall specify the name of the affected facility, its location, the address and telephone number of the person responsible for the affected facility, the nature and cause of the malfunction, the date and time when such malfunction was first observed, the expected duration, and an estimate of the physical and chemical composition, rate, and concentration of the emission. The Company shall remedy the malfunction or breakdown as soon as possible thereafter and shall take reasonable steps to reduce emissions in excess of the interim emission limits during the malfunction or breakdown.

The Knox County Department of Air Pollution Control and/or the Regional Administrator of EPA shall have the authority during a malfunction or breakdown to require the Company to take specific steps to reduce emissions, including process equipment modifications and/or reductions, or termination if necessary. Within ten (10) days after the termination of a malfunction or breakdown requiring the above notification, the owner shall submit:

(1) The time the excess emission began and ended;

(2) The time of the beginning and end of the breakdown or malfunction which is asserted to be the cause of the excess emission;

(3) An estimate of the physical and chemical composition, rate, and concentration of emissions which occurred, and where continuous monitoring is required or is in effect (including visible emission detector), the strip charts with plots of all emissions monitored versus time, including a summary of the monitoring instruments' written record expressed in units of the applicable standard;

(4) An explanation and, where appropriate, an engineering analysis of the cause of the malfunction or breakdown;

(5) A description of those operating and/or maintenance procedures and practices in use prior to and during the occurrence, which were designed to prevent or minimize the extent and duration of the malfunction or breakdown;

(6) Any other steps taken to minimize the extent or duration of the malfunction or breakdown;

(7) An analysis of what steps will be taken to prevent or minimize similar occurrences in the future; and

(8) Such additional information as the Knox County Department of Air Pollution Control or the Director may require.

VI

INTERIM REQUIREMENTS

A. For the period during which this Order is in effect, the Company shall at all times comply with the following interim emission limitations which represent the best practicable system or systems of emission reduction:

1. Emissions from any roof vent not to exceed 20 percent opacity except due to furnace charging, furnace tapping, or tundish lancing.

2. Amount of time consumed by furnace charging, furnace tapping and tundish lancing not to exceed 10 percent of total production time.

3. Emissions from any baghouse exhaust opening not to exceed 30 percent opacity during furnace charging, furnace tapping or tundish lancing.

4. Emissions from storage bins and conveyors to be reduced to maximum extent practicable during repair and construction phases by methods including, but not limited to, those of Section 22.0 of the Knox County Air Pollution Control Regulations.

If, at any time during the pendency of this order, the applicable interim visible or particulate emission limitations are exceeded, the Company shall immediately take all actions necessary to minimize and/or abate such excess emissions and to prevent their recurrence; the Company shall notify the Knox County Department of Air Pollution Control and EPA of the occurrence as soon as possible, but no later than forty-eight hours after the start of the occurrence; and the Company shall, within 10 days after the termination of each such occurrence, submit to the Knox County Department of Air Pollution Control and EPA a written report regarding the occurrence, which shall address the cause(s) of the occurrence and all the efforts the Company has taken to date concerning it.

B. In addition to the foregoing interim emission limitations, for the period during which this order is in effect, the Company shall take all necessary steps to comply with the applicable emission limitations contained in the State Implementation Plan insofar as the Company is able, and shall take all necessary precautions to ensure that its emissions will not cause or contribute to a violation or violations of National Ambient Air Quality Standards.

C. Furthermore, the Company shall comply with any emergency requirements specified by the Knox County Department of Air Pollution Control Regulations, Section 36.0, and/or by EPA pursuant to Section 303 of the Clean Air Act, 42 U.S.C. § 7603, to prevent an imminent and substantial endangerment to human health.

VII

CONTINUOUS MONITORING

Due to the large number of emission points (e.g., baghouses, roof vents, storage bins, conveyors) installation of continuous monitoring equipment at such points is not deemed to be a reasonable means of demonstrating compliance with terms under this Order. In lieu of continuous monitoring instrumentation at all emission points, the Company agrees to continuously record electric current (amperes) to blowers serving the Company's two baghouse collector units.

VIII

VIOLATION OF REQUIREMENTS

Violation of any requirement of this Order shall result in immediate enforcement action by the Knox County Department of Air Pollution Control pursuant to Knox County Air Pollution Control Regulations, Section 30.0 and/or by EPA pursuant to Sections 113(d)(9), 113(b), and 113(c) of the Clean Air Act.

IX

COMPLIANCE RESPONSIBILITY

Nothing herein shall relieve the source from complying with all other applicable Federal, State or local law.

X

NON-COMPLIANCE PENALTY

Failure of the Company to achieve compliance with any emission limitation, emission standard, or compliance schedule under the State Implementation Plan by July 1, 1979, or such later date as is provided in accordance with Section 120(b)(3) of the Act shall subject the Company to an administratively assessed non-compliance penalty pursuant to the requirements of Section 120 of the Act and any rules and regulations promulgated pursuant thereto, unless the Company is exempted by Section 120(a)(2) (B) or (C) of the Act. In the event of such non-compliance, the Company will be formally notified of its non-compliance pursuant to Section 120(b)(3) of the Act.

Dated: August 30, 1978.

JOHN R. McDOWELL,
Director, Knox County
Dept. of Air Pollution Control.

APPENDIX A—KNOX COUNTY DEPARTMENT OF AIR POLLUTION CONTROL

DELAYED COMPLIANCE ORDER*

The Company shall complete the following acts with respect to the control of visible and particulate emissions from Knoxville Iron Company located in Knoxville, Tennessee, on or before the dates specified:

1. October 15, 1979: Issue purchase orders for control equipment.

2. July 1, 1978: Initiate on-site construction or installation of emission control equipment.

3. April 1, 1979: Complete on-site construction and installation.

4. May 1, 1979: Complete performance testing and achieve compliance with all applicable particulate and visible emission limiting regulations, and certify such compliance to Knox County Department of Air Pollution Control and EPA.

CONSENT**

Knoxville Iron Company acknowledges that visible emissions and particulate emissions from its steel manufacturing facility in Knoxville, Tennessee, are in violation of the applicable emission limitations contained in the federally-approved State Implementation Plan. The Company has reviewed this Delayed Compliance Order, believes it to be a reasonable and expeditious means to achieve compliance with the applicable particulate emissions limiting regulations as contained in the federally-approved State Implementation Plan, and consents to all of the requirements and terms of this Delayed Compliance Order.

Furthermore, the Company acknowledges the necessity of complying with the interim emission limitations and abatement procedures contained herein which are designed to ensure the attainment and maintenance of National Ambient Air Quality Standards for the specified pollutants and consents to said interim emission limitations and abatement procedures in order to protect the public health and welfare.

The Company hereby represents that it has full corporate authority and the necessary corporate approval to enter into and perform in accordance with the terms and provisions of this Delayed Compliance Order. The signatory below represents that he has the requisite corporate authority to execute this Consent on behalf of the Company.

Dated: August 30, 1978.

DONALD BAKER,
Knoxville Iron Company,
Division of Axcon Corporation.

[FR Doc. 78-33829 Filed 12-4-78; 8:45 am]

*This Appendix is attached to and incorporated by reference into a Delayed Compliance Order issued to the Knoxville Iron Company on Aug. 30, 1978 pursuant to Section 28.0 ("Variances") of the Knox County Air Pollution Control Regulations and Section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

**This Consent is hereby attached to and incorporated by reference into a Delayed Compliance Order issued to the Knoxville Iron Company on Aug. 30, 1978 pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

[6560-01-M]

[FRL 1021-1; Docket No. III-78-1-A]

[40 CFR Part 65]

DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order for Potomac Electric Power Company, Dickerson, Md.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the Potomac Electric Power Company (PEPCO). The order requires PEPCO to bring air emissions from its fossil-fueled electric generating station in Dickerson, Maryland into compliance with certain regulations contained in the federally approved Maryland State Implementation Plan (SIP). Because PEPCO is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by February 28, 1979. Source compliance with the order would preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before January 4, 1979, and requests for a public hearing must be received on or before December 20, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, Pennsylvania 19106. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Thomas Shiland, Air Compliance Branch, Enforcement Division, EPA, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, Pennsylvania 19106 (215) 597-7915.

SUPPLEMENTARY INFORMATION:

Potomac Electric Power Company operates a fossil-fueled electric generating station at Dickerson, Maryland. The proposed order addresses emissions at this facility from three boilers that are subject to Maryland Regulation 10.03.39.04B(1), which requires the use of fuel which has a sulfur content equal to or less than one percent (1%) sulfur by weight. The regulation limits the emissions of sulfur oxides and is part of the federally approved Maryland State Implementation Plan. The order requires final compliance with the regulation by February 28, 1979, and the source has consented to its terms. The source has also consented to meet the order's increments during this period of informal rulemaking. The source submitted by December 31, 1977, a fuel availability study. The source also submitted on May 31, 1978, a study of the characteristics of the one percent sulfur fuel that must be burned by February 28, 1979, at the Dickerson location. The source has agreed to place purchase orders for this fuel by July 31, 1978.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR part 65.

(42 U.S.C. 7413, 7601.)

Dated: November 8, 1978.

JACK J. SCHRAMM,
Regional Administrator
Region III.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.250, *Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act,* to reflect approval of the following order:

[6560-01-M]

with resulting residues expected to be

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(Order No. III-78-1-A)

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY—REGION III

In the matter of: Potomac Company, Dickerson Generating Station, Dickerson, Maryland; Proceedings under section 113 of the Clean Air Act, as amended 42 U.S.C. § 1857c-8, CDS No. 21 1300 00015, Docket No. III-78-1-A.

FINDINGS OF VIOLATION AND ORDER FOR COMPLIANCE

FINDINGS OF FACT

1. The Potomac Electric Power Company ("PEPCO") owns and operates a fossil-fueled electric generating plant located at Dickerson, Maryland ("Dickerson Plant"). This plant consists of three boilers which use coal as a fuel supply.

2. Maryland Regulation 10.03.39.04 B(1), which requires the use of fuel which has a sulfur content equal to or less than one percent (1%) sulfur by weight, is contained in the Maryland State Implementation Plan and was approved by the Administrator of the U.S. Environmental Protection Agency ("EPA") on May 31, 1972, pursuant to Section 110 of the Clean Air Act, as amended ("Act") (42 U.S.C. § 1857c-5, 37 Fed. Reg. 10870).

On August 18, 1977, EPA, pursuant to Section 113(a)(1) of the Act, issued a Notice of Violation to PEPCO for violations of Md. Reg. 10.03.39.04 B(1) at PEPCO's Dickerson Plant.

4. PEPCO continues to cause, suffer, allow or permit the use of fuel at this plant which has a sulfur content which is greater than one percent (1%) sulfur by weight in contravention of the Maryland State Implementation Plan.

CONCLUSION OF LAW

1. PEPCO's use at Dickerson Plant of fuel which has a sulfur content which is greater than one percent (1%) sulfur by weight is in violation of Md. Reg. 10.03.39.04 B(1) as approved by the Administrator as part of the Maryland State Implementation Plan.

COMPLIANCE PROGRAM

And now therefore, This ———— day of ————, 1978, EPA issues this ORDER pursuant to Section 113(d) of the Clean Air Act, as amended, and POTOMAC ELECTRIC POWER COMPANY, its successors and assigns are hereby ORDERED to do the following:

A. (1) During the period beginning September 30, 1977, and ending October 31, 1978, the calculated average sulfur dioxide emissions from each unit at the Dickerson Plant shall not exceed 3.0 lbs. per million BTU's of heat input where the sulfur dioxide emissions shall be calculated by the following formula:

$$SO_2 = 20{,}000 \times S \times .97/BTU$$

where

SO_2 = pounds of sulfur dioxide per million BTU
S = percent sulfur by weight
BTU = BTU per pound of coal burned

For the purpose of monitoring whether or not PEPCO complies with this interim emission limitation weighted average fuel analyses shall be determined monthly by weighting the analyses of weekly composite samples of coal burned at each respective unit each week. For any calendar month in which the average sulfur dioxide emissions from a unit exceed 3.0 lbs. per million BTU's of heat input, a daily violation of this sub-paragraph shall be presumed for each week in which the sulfur content of the weekly composite sample of coal burned at that unit exceeds 1.8 percent sulfur by weight.

Weekly composite samples of the coal burned at each unit shall be taken. These samples shall be taken in accordance with the methods specified in ASTM D-2234-72. If, on occasion, it is not possible to take the samples in accordance with the above-cited method, the samples shall be taken in accordance with a method which resembles this method to the maximum extent possible. No later than twenty (20) days following the end of each calender quarter, PEPCO shall report the average sulfur dioxide emissions for each unit for each month in the calendar quarter, including weekly composite analyses, quantities of fuel burned, and the calculations of sulfur dioxide emissions for each unit. The inclusion of this monitoring requirement in this ORDER shall not be construed to either limit the authority of EPA under Section 114 of the Clean Air Act, as amended, or prescribe the proper monitoring methods for determining compliance with the final requirements in this ORDER and the emission limitations in the applicable implementation plan.

(2) During the period beginning October 31, 1978, and ending February 28, 1979, the emissions of sulfur dioxide from each unit shall not exceed 3.0 lbs. per million BTU's of heat input averaged over a two hour period. On and after October 31, 1978, PEPCO shall use in-stack monitoring equipment to continuously monitor sulfur dioxide emissions from the plant. In addition, PEPCO shall keep appropriate fuel records necessary to determine whether compliance with this emission limitation has been achieved. No later than twenty (20) days following the end of each calendar quarter, PEPCO shall report the actual dates and times (if any) when the sulfur dioxide emissions from any Dickerson unit exceeded 3.0 lbs. per million BTU's of heat input averaged over a two hour period. In addition, PEPCO shall retain for a period of six (6) months and make available for inspection and copying upon request all data pertaining to the monitoring of sulfur dioxide emissions from, and heat input to, each unit at the Dickerson Plant. The inclusion of this monitoring requirement in this ORDER shall not be construed to either limit the authority of EPA under Section 114 of the Clean Air Act as amended or prescribe the proper monitoring methods for determining compliance with the final requirements in this ORDER and the emission limitation in the applicable implementation plan.

(3) For a period or periods not to exceed a total of 120 days during the period beginning September 30, 1977 and ending February 28, 1979, PEPCO may burn coal from its existing coal pile at this plant which consisted of approximately 454,000 tons of coal on October 12, 1977, and during such period or periods not to exceed a total of 120 calendar days, an interim emission limitation of 3.9 lbs. of sulfur dioxide per million BTU's of heat input shall be substituted for the 3.0 lbs. value in the interim emission limitation set forth in paragraph A. (1) or A. (2) above, (whichever is applicable at such time or times) provided that PEPCO can establish that all of the following conditions are satisfied:

(a) PEPCO provides at least five (5) days written notice to EPA of its intention to (i) burn coal from its existing stockpile at the plant beginning on a specified day and (ii) be subject to the interim emission limitation and the other provisions of this paragraph (A. (3)). (This notice shall include PEPCO's best judgment as to the number of days during which it will burn coal from the stockpile during this period.);

(b) PEPCO burns coal (for puposes of this paragraph) from this stockpile on the days set forth in this notice(s);

(c) PEPCO provides immediate notice to EPA in writing on the day it ceases (for purposes of this paragraph) to burn coal from this stockpile for each such period;

(d) For each day of this 120 days during which PEPCO burns coal from this stockpile prior to October 31, 1978, the deadline for final compliance set forth in paragraph G. below shall be accelerated one (1) day.

(4) Nothing in paragraph A. (3) shall prohibit PEPCO from burning coal from its existing coal pile at any time without notice to EPA. However, if the conditions referred to in paragraph A. (3) have not been established or have been terminated by virtue of a notice under paragraph A. (3)(c), then (a) such operations shall be subject to the interim emission limitation set forth in paragraphs A. (1) or A. (2) above, (whichever is applicable at such time or times), and (b) the provisions of paragraph A. (3)(d) shall not apply.

B. On or before September 30, 1977, PEPCO shall have commenced studies on the availability of low sulfur coal and any preliminary actions necessarily associated with switching coal supplies at Dickerson units, 1, 2, and 3.

C. On or before December 31, 1977, PEPCO shall submit to EPA its final report on the availability of coal which has a sulfur content equal to or less than one percent (1%) sulfur by weight.

D. On or before May 31, 1978, PEPCO shall inform EPA in writing of the characteristics of the sulfur-in-fuel coal that will be ordered on or before July 31, 1978, for use in Dickerson Units 1, 2, and 3, and any actions which must be completed prior to converting to and using coal at Dickerson Units 1, 2, and 3 which has a sulfur content equal to or less than one percent (1%) sulfur by weight.

E. On or before July 31, 1978, PEPCO shall let purchase orders for complying coal for Dickerson Units 1, 2 and 3, and submit copies of all such coal contracts to EPA on or before August 5, 1978.

F. On or before October 31, 1978, PEPCO shall begin to receive, at its Dickerson Plant, coal which has a sulfur content equal to or less than one percent (1%) sulfur by weight for use in Dickerson Units 1, 2 and 3 as necessary to comply with paragraph G. below, on or before February 28, 1978.

G. On or before February 28, 1979, PEPCO shall be in full and continuous compliance at Dickerson Units 1, 2 and 3 with Regulations 10.03.39.04 as approved by the Administrator in the applicable implementation plan as that term is defined in Section 110(d) of the Clean Air Act, as amended.

H. No later than five (5) days after the deadline for completing each increment established in paragraphs A. through G. herein, PEPCO shall submit progress reports to EPA indicating whether the Compliance Schedule is being followed, and whether or not each required increment has been met. If an increment has not been met, PEPCO shall indicate the reasons for the failure to meet the increment, and the probable effect that the failure will have on subsequent increments.

I. In addition to the above reporting requirement, PEPCO shall submit quarterly progress reports outlining PEPCO's program in complying with this ORDER and indicating whether any requirement herein has been violated. These reports shall be submitted within twenty (20) days following the end of each calendar quarter, beginning with the quarter ending December 31, 1977 and continuing through the quarter in which final compliance is achieved.

J. All reports and other information shall be submitted to:

U.S. Environmental Protection Agency, Region III, Air Compliance Branch (3 EN12), Enforcement Division, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

K. Nothing contained in this ORDER shall be construed to prevent or limit the application of the provisions of Section 303 of the Clean Air Act, as amended.

L. Compliance with one or more of the requirements, paragraphs or subparagraphs of this ORDER shall not relieve PEPCO of its obligations to comply with all other requirements, paragraphs and sub-paragraphs of this ORDER.

M. Nothing contained in this ORDER shall be so construed as to relieve PEPCO from meeting the requirements of any other applicable Maryland Regulation or Federally approved regulation at the facility.

N. PEPCO is hereby notified that it will be required to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended in the event that the Dickerson plant fails to achieve final compliance by July 1, 1979, and that such noncompliance penalty will be independent of, and in addition to, any liability which attaches pursuant to Section 113 for violation of any of the terms of this ORDER.

O. This ORDER shall become effective immediately upon the approval and signature of the Administrator of the EPA.

AND NOW, this ———— day of ————, 1978, the United States Environmental Protection Agency issues this Order.

CONSENT

AND NOW, this ———— day of ————, 197—, Potomac Electric Power Company by its duly authorized officer acknowledges that it does not contest the Findings of Fact and Conclusion of Law, consents to the Compliance Program, agrees that the ORDER is valid and enforceable under Section 113 of the Clean Air Act, as amended, and agrees that it will not appeal therefrom.

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By: Potomac Electric Power Company

[FR Doc. 78-33939 Filed 12-4-78; 8:45 am]

[6560-01-M]

[FRL 1020-1; PP8E2120/P96]

[40 CFR Part 180]

PESTICIDE PROGRAMS; TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemption From the Requirement of a Tolerance for the Pesticide Chemical Ammonia

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that the chemical ammonia used as a preservative in high moisture corn be exempted from the requirement of a tolerance. The proposal was submitted by the U.S. Department of Agriculture. This use of ammonia on corn as a preservative would permit farmers to store and dry the corn without resorting to propane or natural gas to quickly reduce moisture levels. The "trickle ammonia process" for corn preservation would contribute significant savings to growers in energy consumption and costs.

DATE: Comments must be received on or before January 4, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Mountfort, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, EPA, 202-426-2454.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture, Science and Education Administration, Washington, DC 20250, has submitted a pesticide petition (PP 8E2120) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.1003 be amended by extending the present exemption from requirement of tolerance for residues of ammonia on citrus to include residues on corn grain. Such residues would result from application of the ammonia in the "trickle ammonia process" on stored corn. Commercial bulk ammonia, commonly used in agriculture as fertilizer, would also be used for the corn preservation without further manufacture or alteration chemically. Application of ammonia to corn would be at a rate of 0.5% (dry basis) with resulting residues expected to be negligible and not of toxicological concern.

The data submitted in the petition and all other relevant material have been evaluated. There is no reasonable expectation of residues in eggs, meat, milk, or poultry.

The pesticide is considered useful for the purpose for which exemption from the requirement of a tolerance is sought, and it is concluded that the exemption from the requirement of a tolerance established by amending 40 CFR 180.1003 will protect the public health. It is proposed, therefore, that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before January 4, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP8E2120/P96". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

Dated: November 27, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart D, Section 180.1003 be amended by ading corn grain to read as follows:

§ 180.1003 **Ammonia; exemption from the requirement of a tolerance.**

The fungicide ammonia is exempted from the requirement of a tolerance when used after harvest on the raw agricultural commodities grapefruit, lemons, oranges, and corn grain.

[FR Doc. 78-33830 Filed 12-4-78; 8:45 am]

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[4110-87-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Parts, 55, 85, and 85a]

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Proposed Implementation

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Proposed rules.

SUMMARY: This notice proposes to amend several existing regulations which govern NIOSH research activities. Under provisions of the Federal Mine Safety and Health Act of 1977, the National Institute for Occupational Safety and Health was given the responsibility to carry out mine health research activities. This document proposes regulations to reflect this new function. The regulations to be amended are: 42 CFR Part 55—Grants for Advancement of Health in Coal Mining; 42 CFR Part 85—Requests for Health Hazard Evaluations; and 42 CFR Part 85a—Occupational Safety and Health Investigations of Places of Employment.

DATES: Comments on the proposed rule must be received on or before January 4, 1979.

ADDRESSES: Comments and inquiries may be submitted to: Ms. Mary L. Flint, Regulations Specialist, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8-11, Rockville, MD 20857, Phone: (301) 443-3745.

Comments will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary L. Flint, Regulations Specialist, Phone: (301) 443-3745, or Mr. Edward J. Baier, Deputy Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 8-05, Rockville, MD 20857, Phone: (301) 443-1530.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Amendments Act of 1977 (Pub. L. 95-164) amended the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173) and redesignated it the Federal Mine Safety and Health Act of 1977 (referred to as the Act). The Act also repealed the Federal Metal and Nonmetallic Mine Safety Act (Pub. L. 89-577), thereby bringing all mining operations under a single law. The Act grants responsibility for mine health research to NIOSH and responsibility for mine safety research to the Secretary of the Interior who has delegated this responsibility to the Bureau of Mines. To coordinate the Federal research effort for the protection of the safety and health of the Nation's miners, NIOSH and the Bureau of Mines have entered into Memorandum of Understanding. The NIOSH health research responsibilities for the mining industry are similar to those already carried out by NIOSH under the Occupational Safety and Health Act. To implement its new responsibilities, NIOSH proposes to amend several existing regulations which govern NIOSH research activities. NIOSH has been conducting its occupational research activities under these regulations for several years.

Part 55, "Grants for Advancement of health in Coal Mining," would be amended to reflect the expansion of the research authority in 30 U.S.C. 951 from "coal" to "coal and other mining." Since the Memorandum of Understanding provides that the Bureau of Mines will have the responsibility to fund the development of new methods of reducing concentrations of respirable dust in the mine atmosphere, that activity would be deleted from the purposes for which NIOSH project grants may be made under § 55.3.

Part 85, "Requests for Health Hazard Evaluations," would be amended in view of the Act's extension of the NIOSH health hazard evaluation authority to the mining industry. Section 951(a)(11) of Title 30 U.S.C. now directs the Secretary, on proper request, to determine whether substances used in mines are potentially toxic or whether physical agents or equipment in the mines have potentially hazardous effects. The proposed amendments to Part 85 do not expressly refer to evaluations of equipment because the hazardous effects of equipment usually relate to safety. Section 951(b) of Title 30 U.S.C. provides that mining safety activities under Section 951 shall be carried out by the Secretary of the Interior. However where mining equipment is alleged to have an effect on health by emitting a substance or producing a physical agent, the proposed amendments will authorize NIOSH participation in the evaluation. The Memorandum of Understanding provides for a coordinated response and designation of a lead organization for health hazard evaluations in mines where the evaluation contains aspects of health and safety.

Finally, Part 85a, "Occupational Safety and Health Investigations of Places of Employment," would be amended pursuant to the NIOSH authority under the Act in 30 U.S.C. 813(a) to apply to the conduct of NIOSH inspections and investigations in coal or other mines for research purposes.

It is, therefore, proposed to amend Parts 55, 85, and 85a of Title 42, Code of Federal Regulations, as set forth below.

Dated: October 3, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: November 28, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

PART 55—GRANTS FOR ADVANCEMENT OF HEALTH IN COAL AND OTHER MINING

It is proposed to amend Part 55 as follows:

1. The title of Part 55 is revised to read as set forth above.

2. In the Table of Sections, the title of § 55.5 is revised to read:

Sec.
55.5 Nondiscrimination.

§ 55.1 [Amended]

3. In § 55.1, the words "coal mine" are deleted and the words "in coal and other mining" are inserted between the words "health" and "as".

4. In § 55.2, paragraphs (a) and (c) are revised to read as follows:

§ 55.2 Definitions.

(a) "Act" means the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(b) • • •

(c) "Fiscal year" means the 12-month period beginning October 1 and ending on September 30 following.

• • • • •

5. Section 55.3 is revised to read as follows:

§ 55.3 Purpose of project grant.

The Secretary is authorized under section 501 of the Act (30 U.S.C. 951) to make grants for studies, research, experiments, and demonstrations designed to:

(a) Improve working conditions and practices in coal or other mines, and to prevent occupational diseases originating in the coal or other mining industry;

(b) Develop epidemiological information to (1) identify and define positive factors involved in occupational diseases of miners, (2) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of miners, and (3) improve mandatory health standards;

(c) Develop techniques for the prevention and control of occupational diseases of miners, including tests for hypersusceptibility and early detection;

(d) Evaluate the effect on bodily impairment and occupational disability of miners afflicted with an occupational disease;

(e) Prepare and publish, from time to time, reports on all significant aspects of occupational diseases of miners, as well as on the medical aspects of injuries, other than disease, which are revealed by the research carried out under the Act;

(f) Study the relationship between coal or other mine environments and occupational diseases of miners;

(g) Explore the protection of life and prevention of diseases in connection with persons who, although not miners, work with or around the products of coal or other mines in areas outside of such mines and under conditions which may adversely affect the health and well-being of those persons;

(h) Develop effective respiratory equipment; and

(i) Carry out the purposes of the Act as considered necessary by the Secretary.

6. Section 55.5 is deleted and a new § 55.5 is added which reads as follows:

§ 55.5 Nondiscrimination.

Recipients of grants under this Part are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in Federally assisted programs on the basis of race, color, or national origin.

(b) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in Federally assisted programs on the basis of Handicap).

§ 55.10 [Amended]

7. In § 55.10(b), delete the words "Advisory Council on Coal Mine Health Research" and substitute the words "Coal Mine Health Research Advisory Committee".

§ 55.11 [Amended]

8. In § 55.11, at the end of the third sentence, delete the words "the reason it has been disapproved." and substitute the words "shall be provided with a copy of the reviewers' comments."

PART 85—REQUESTS FOR HEALTH HAZARD EVALUATIONS

It is proposed to amend Part 85 as follows:

1. The authority is revised to read:

AUTHORITY: Sec. 8(g), 84 Stat. 1600; (29 U.S.C. 657(g); sec. 508, 83 Stat. 803; 30 U.S.C. 957.)

2. Sections 85.1, 85.2, 85.3, 85.4, and 85.5 are revised and a new § 85.3-1 is added. The revised and added provisions read as follows:

§ 85.1 Applicability.

This Part 85 applies to health hazard evaluations requested by any employer or authorized representative of employees under section 20(a)(6) of the Occupational Safety and Health Act of 1970 or section 501(a)(11) of the Federal Mine Safety and Health Act of 1977. This part is not intended to preclude the use of other channels of communication with the National Institute for Occupational Safety and Health to obtain information and technical assistance concerning toxic substances or physical agents.

§ 85.2 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 and not defined below shall have the meaning given it in the respective Acts. As used in this part:

"OSH Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, et seq.).

"FMSH Act" means the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801, et seq.).

"Authorized representative of employees" means any person or organization meeting the conditions specified in § 85.3-1(e) (1), (2), or (3).

"Employee" is given the meaning stated in the OSH Act and includes miners as defined in the FMSH Act.

"Employer" is given the meaning stated in the OSH Act and includes operators as defined in the FMSH Act.

"Health hazard evaluation" means the investigation and the determination of potentially toxic or hazardous effects of: (1) Any substance normally used or found in any place of employment to which the OSH Act is applicable, or (2) any substance or physical agent normally used or found in any place of employment to which the FMSH Act is applicable.

"Investigation" means a physical inspection of the place of employment under section 8 of the OSH Act or section 103 of the FMSH Act and includes inspection, sampling, observations, review of pertinent records, and other measurements reasonably necessary to determine whether any substance or physical agent found in the place of employment has potentially toxic or hazardous effects in the concentrations or levels used or found.

"NIOSH" means the National Institute for Occupational Safety and Health, Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare.

"NIOSH officer" means a NIOSH employee who has been authorized by the Director, NIOSH, to conduct investigations according to this part.

"Physical agent" means any condition produced by the environment and/or work processes that can result in hazardous effects as defined in this section. Examples of physical agents are noise, temperature, illumination, vibration, radiation, and pressure.

"Place of Employment" means any coal or other mine, factory, plant, establishment, construction site, or other area, workplace, or environment where work is performed by any employee of an employer.

"Substance" means any chemical or biological agent which has the potential to produce toxic effects.

"Toxic effects" or "hazardous effects" are those effects which result in short- or long-term disease, bodily injury, affect health adversely, or endanger the life of man.

§ 85.3 Procedures for requesting health hazard evaluations.

(a) Requests for health hazard evaluations should be addressed to the National Institute for Occupational Safety and Health as follows:

(1) *Requests from general industry.* Hazard Evaluations and Technical Assistance Branch, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, 4676 Columbia Parkway, Cincinnati, OH 45226.

(2) *Requests from mining industry.* Enviromental Investigations Branch, Division of Respiratory Disease Studies, NIOSH, 944 Chestnut Ridge Road, Morgantown, WV 26505.

(b) Requests for health hazard evaluations shall be submitted in writing and signed by either (1) the employer in whose place of employment the substance or physical agent is normally found, or (2) an authorized representative of employees (see § 85.3-1(e)) in the place of employment where the substance or physical agent is normally found.

§ 85.3-1 Contents of a request for health hazard evaluation.

Each request for health hazard evaluation shall contain:

(a) The requester's name, address, and telephone number, if any.

(b) The address of the place of employment where the substance or physical agent is normally found.

(c) The specific process or type of work which is the source of the substance or physical agent, or in which the substance or physical agent is used.

(d) Details of the conditions or circumstances which prompted the request.

(e) A statement, if the requester is not the employer, that the requester is—

Safety and Health Act of 1970 and sec-

(a) • • • (1) The appropriate State

named in the petition, referral to a

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(1) an authorized representative or an officer of the organization representing the employees for purposes of collective bargaining or

(2) an employee of the employer and is authorized by two or more employees employed in the same place of employment to represent them for purposes of these Acts (each such authorization shall be in writing and a copy submitted with the request for health hazard evaluation); or

(3) one of three or less employees employed in the place of employment where the substance or physical agent is normally found.

(f) A statement indicating whether or not the name(s) of the requester or those persons who have authorized the requester to represent them may be revealed to the employer by NIOSH.

(g) The following supplementary information if known to the requester:

(1) Identity of each substance or physical agent involved;

(2) The trade name, chemical name, and manufacturer of each substance involved;

(3) Whether the substance or its container or the source of the physical agent has a warning label; and

(4) The physical form of the substance or physical agent, number of people exposed, length of exposure (hours per day), and occupations of exposed employees.

NOTE: NIOSH has developed two forms entitled "Request for Health Hazard Evaluation" and "Request for Mining Health Hazard Evaluation" to assist persons in requesting evaluations. The forms are available upon request from the offices listed in § 85.3(a)(1) and (2) or from the regional Consultant for Occupational Safety and Health in any Regional Office of the Department of Health, Education, and Welfare.

§ 85.4 Acting on requests.

(a) Upon receipt of a request for health hazard evaluation submitted under this part, NIOSH will determine whether or not there is reasonable cause to justify conducting an investigation.

(b) If NIOSH determines that an investigation is justified, a NIOSH officer will inspect the place of employment, collect samples where appropriate, and perform tests necessary to the conduct of a health hazard evaluation, including medical examinations of employees.

(c) If NIOSH determines that an investigation is not justified, the requester will be notified in writing of the decision.

§ 85.5 Authority for investigations.

(a) NIOSH officers who have been issued official NIOSH credentials (Form No. CDC/NIOSH 2.93A) are authorized by the Director, NIOSH, under sections 20(a)(6) and 8 of the OSH Act and sections 501(a)(11) and 103 of the FMSH Act: To enter without delay any place of employment for the purpose of conducting investigations of all pertinent processes, conditions, structures, machines, apparatus, devices, equipment, records, and materials within the place of employment; and to conduct medical examinations, anthropometric measurements, and functional tests of employees within the place of employment as may be directly related to the specific health hazard evaluation being conducted. Investigations will be conducted in a reasonable manner, during regular working hours or at other reasonable times and within reasonable limits. In connection with any investigation, the NIOSH officers may question privately any employer, owner, operator, agent, or employee from the place of employment; and review records required by the Acts and regulations and any other related records.

(b) Areas under investigation which contain information classified by any agency of the United States Government in the interest of national security will be investigated only by NIOSH officers who have obtained the proper security clearance and authorization.

§ 85.7 [Amended]

3. In § 85.7(a), the reference to § 85.3(b)(4)(ii) is deleted and § 85.3-1(e)(2) is substituted therefor.

4. In § 85.7(b), the words "OSH Act or section 501(a)(11) of the "FMSH" are inserted between the words "the" and "Act" in the second sentence.

5. In § 85.7(c), the words "or measurements of physical agents" are inserted between the words "substances" and "to" in the first sentence.

§ 85.10 [Amended]

6. In § 85.10, the acronym "OSH" is inserted between the words "the" and "Act" in the last line of the section.

§ 85.11 [Amended]

7. In § 85.11, paragraph (a) is revised to read as follows:

(a) Upon conclusion of an investigation, NIOSH will make a determination concerning the potentially toxic or hazardous effects of each substance or physical agent specified in the request for health hazard evaluation. At a minimum, the determination will: (1) Identify each substance or physical agent involved and describe the concentrations or levels of the substance or physical agent found in the place of employment and the conditions of use, and (2) state whether each substance or physical agent has potentially toxic or hazardous effects in the concentrations or levels found, as well as the basis for the judgments.

• • • • •

8. In § 85.11(d) the words "or physical agent(s)" are inserted between the words "substance(s)" and "which".

9. In § 85.11, paragraph (e) is revised to read as follows:

• • • • •

(e) Copies of determinations made under the OSH Act will be forwarded to the Department of Labor and the appropriate State agency designated under section 18(b) of the OSH Act. Copies of determinations made under the FMSH Act will be forwarded to the Mine Safety and Health Administration of the Department of Labor, the Bureau of Mines, Department of the Interior, and the State agency which, in the judgment of NIOSH, would benefit the most from the information. If NIOSH determines that any substance or physical agent has potentially toxic or hazardous effects at the concentrations or levels at which it is used or found in a place of employment, and the substance or physical agent is not covered by a safety or health standard established under section 6 of the OSH Act or section 101 of the FMSH Act, NIOSH will immediately submit the determination to the Secretary of Labor, together with all pertinent criteria.

10. Section 85.12 is revised to read as follows:

§ 85.12 Subsequent requests for health hazard evaluations.

If a request is received for a health hazard evaluation in a place of employment in which an evaluation under this part was made previously, NIOSH may make another investigation if, as a result of the passage of time or additional information; another investigation would be consistent with the purposes of the Acts.

PART 85a—OCCUPATIONAL SAFETY AND HEALTH INVESTIGATIONS OF PLACES OF EMPLOYMENT

It is proposed to ament Part 85a as follows:

1. The authority is revised to read:

AUTHORITY: Sec. 8(g), 84 Stat. 1600; (29 U.S.C. 657(g); sec. 508, 83 Stat. 803; 30 U.S.C. 957).

§ 85a.1 [Amended]

2. In § 85a.1, paragraph (a) is revised to read as follows:

(a) Except as otherwise provided in paragraph (b) of this section, the provisions of this part apply to investigations of places of employment which are conducted by NIOSH under sections 20 and 8 of the Occupational

Safety and Health Act of 1970 and sections 501 and 103 of the Federal Mine Safety and Health Act of 1977.

• • • • •

3. In § 85a.2, the introductory text and paragraphs (a), (d), and (i) are revised and new paragraphs (j), (k), (l), and (m) are added. The revised and added provisions read as follows:

§ 85a.2 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 or the Federal Mine Safety and Health Act of 1977 and not defined below shall have the meaning given it in the Acts. As used in this part:

(a) "OSH Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and "FMSH Act" means the Federal Mine Safety and Health Act of 1977 (30 U.S.C. et seq.).

• • • • •

(d) "Investigation" means research projects, experiments, demonstrations, studies, and similar activities of NIOSH which are conducted under section 20 of the OSH Act and section 501 of the FMSH Act.

• • • • •

(i) "Place of employment" means any coal or other mine, factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by any employee of an employer.

(j) "MSHA District Office" means any one of the Mine Safety and Health Administration's District Offices.

(k) "BOM" means the Bureau of Mines, Department of the Interior.

(l) "Employee" is given the meaning stated in the OSH Act and includes miners as defined in the FMSH Act.

(m) "Employer" is given the meaning stated in the OSH Act and includes operators as defined in the FMSH Act.

§ 85a.3 [Amended]

4. In § 85a.3, paragraph (a) is revised by deleting the words "for the purpose of section 20 of the Act and this part and pursuant to section 8 of the Act" and substituting the words "under sections 20 and 8 of the OSH Act, sections 501 and 103 of the FMSH Act, and this part".

§ 85a.4 [Amended]

5. In § 85a.4, paragraphs (a)(1) and (a)(3) are revised, the "and" at the end of paragraph (a)(2) is deleted, and a new paragraph (a)(4) is added. The revised and added provisions read as follows:

(a) • • • (1) The appropriate State agency designated under section 18(b) of the OSH Act, or if the State has been preempted as provided under the OSH Act and in the case of the FMSH Act, the State agency which, in the judgment of NIOSH, would benefit the most from the investigation's findings;

(2) • • •individual;

(3) The appropriate Assistant Regional Director, when investigations are conducted under the OSH Act;

(4) The appropriate MSHA District Office; the Director, BOM, and the Assistant Director for Mining, BOM, when investigations are conducted under the FMSH Act.

• • • • •

§ 85a.4 [Amended]

6. In § 85a.4, paragraph (b) is revised by deleting the words "in § 85a.4(a)(1) and (3)" and substituting the words "in § 85a.4(a)(1), (a)(3), and (a)(4)".

7. In § § 85a.4, paragraph (c) is revised by deleting the words "and (a)(3)" and substituting the words "(a)(3) and (a)(4)".

85a.5 [Amended]

8. In § 85a.5, paragraph (b)(1) is revised by inserting the acronym "OSH" between the words "the" and "Act" at the end of the second sentence.

9. In § 85a.5, paragraph (e) is revised by deleting the words "NIOSH and Occupational Safety and Health Administration" and substituting the words "NIOSH, Occupational Safety and Health Administration, and Mine Safety and Health Administration".

§ 85a.7 [Amended]

10. Section 85a.7 is revised by deleting the remainder of the section beginning with the words "appropriate Regional Director • • •" and substituting the words "agencies identified in § 85a.4(a)(1), (a)(3), and (a)(4)."

[FR Doc. 78-33846 Filed 12-4-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 78-50]

PETITIONS FOR DECLARATORY ORDER

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rule.

SUMMARY: The Commission's rule governing issuance of declaratory orders is proposed to be revised to define the limits of applicability of the rule and to adopt procedures governing notice, participation of persons not named in the petition, referral to a formal docket, availability of discovery and evidentiary hearing, and timing and limits of submissions in declaratory order proceedings. These proposed changes are necessary because of problems encountered in the above specified areas due to lack of guidance in the current rule. The amendments will serve to provide uniform guidelines and elimate current confusion in processing of petitions for declaratory orders.

DATES: Comments on or before December 29, 1978.

ADDRESSES: Comments (original and fifteen copies) to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: Rule 68 of the Commission's rules of practice (46 CFR 502.68) currently provides for issuance of declaratory orders. Experience has shown that the rule is deficient due to its failure to outline procedures governing processing of petitions for declaratory orders and its failure to define limits of matters for which it is appropriate to invoke the declaratory order procedures. Specific areas of confusion under the current rule include whether to notice the filing of the petition, whether and to what extent participation by persons not named in the petition (including Hearing Counsel) will be permitted, when referral to a formal docket is appropriate, to what extent discovery and evidentiary procedures should be available, and whether the parties' submissions on the merits must accompany the petition and reply.

The legislative history of the Administrative Procedure Act indicates that Congress recognized that a necessary condition of the ready use of a declaratory order is that it be employed only in situations where the critical facts can be explicitly stated, without the possibility that subsequent events will alter them.[1] In its recent order denying a petition for declaratory order in Docket 76-60, served August 9, 1978, the Commission also recognized that declaratory orders are not suited to dispose of contested factual issues. Accordingly, it will usually not be necessary to resort to discovery procedures or evidentiary hearing in declaratory order proceedings. For this

[1] Attorney General's Manual on the Administrative Procedure Act, U.S. Department of Justice, 1947, p. 60.

economic information regarding petitioner) wishing to participate in

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reason we are proposing a filing schedule limited to petitions and replies with such filings to be accompanied by the party's complete legal and factual presentation as to its desired disposition of the merits of the petition. Relief from this schedule would be available only if the party could clearly substantiate its need for discovery or evidentiary hearing.

Under this proposal all petitions meeting the requirements of the rules will be referred to a formal docket and notice of filing thereof will be published in the FEDERAL REGISTER. The notice will indicate to what extent replies are permitted. In the case of petitions which are not of general public interest, but which involve matters limited to specifically named parties, replies by persons other than those named in the petition will be permitted only upon grant of intervention by the Commission under Rule 72 (46 CFR 502.72). Participation by the Commission's Bureau of Hearing Counsel will be governed by the same standards as other persons.

In an effort to clarify the circumstances under which petitions for declaratory order are not appropriate, the proposed rule recites the recognized limited purpose of declaratory orders viz. to allow persons to act without peril upon their own view.[2] The rule further distinguishes between declaratory orders and coercive orders and refers to the appropriate sections of the rules under which the latter are to be sought. Finally, the proposed rule makes it clear that declaratory orders are to be limited to matters involving conduct or activity regulated by the Commission under statutes adminstered by the Commission.

Pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and section 43 of the Shipping Act, 1916 (46 U.S.C. 841(a)), § 502.68 of Title 46 CFR is proposed to be revised to read as follows:

§ 502.68 Declaratory orders.

(a) The Commission may, in its sound discretion, issue a declaratory order to terminate a controversy or to remove uncertainty. Petitions for the issuance thereof shall state clearly and concisely the controversy or uncertainty, shall name the persons and cite the statutory authority involved, shall include a complete statement of the facts and grounds prompting the petition, together with full disclosure of petitioner's interest, shall be served upon all parties named therein, and shall conform to the requirements of Subpart H of this part.

(b) Petitions under this section shall be limited to matters involving conduct or activity regulated by the Commission under statutes administered by the Commission. The procedures of this section shall be invoked solely for the purpose of obtaining declaratory rulings which will allow persons to act without peril upon their own view. Controversies involving an allegation of violation by another person of statutes administered by the Commission, for which coercive rulings such as payment of reparation or cease and desist orders are sought, are not proper subjects of petitions under this section. Such matters must be adjudicated either by filing of a complaint under section 22 of the Shipping Act, 1916 and § 502.62, or by filing of a petition for investigation under § 502.69.

(c) Petitions under this section shall be accompanied by the complete factual and legal presentation of petitioner as to the desired resolution of the controversy or uncertainty, or a detailed explanation why such can only be developed through discovery or evidentiary hearing.

(d) Replies to the petition shall contain the complete factual and legal presentation of the replying party as to the desired resolution, or an explanation why such is not possible. Replies shall conform to the requirements of § 502.74.

(e) No additional submissions will be permitted unless requested by the Commission or the presiding officer. If discovery or evidentiary hearing on the petition is deemed necessary by the parties, such must be requested in the petition or replies. Requests shall state in detail the facts to be developed their relevance to the issues, and why discovery or hearing procedures are necessary to develop such facts.

(f) A notice of filing of any petition which meets the requirements of this section shall be published in the FEDERAL REGISTER. The notice will indicate the time for filing of replies to the petition. If the controversy or uncertainty is one of general pubic interest, and not limited to specifically named persons, opportunity for reply will be given to all interested persons including the Commission's Bureau of Hearing Counsel. In the case of petitions involving a matter limited to specifically named persons, participation by persons not named therein will be permitted only upon grant of intervention by the Commission pursuant to § 502.72. Petitions to intervene shall be submitted on or before the reply date and shall be accompanied by intervener's complete reply including its factual and legal presentation in the matter.

(g) Petitions for declaratory order which conform to the requirements of this section will be referred to a formal docket. Referral to a formal docket is not to be construed as the exercise by the Commission of its discretion to issue an order on the merits, of the petition.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33883 Filed 12-4-78; 8:45 am]

[2] Attorney General's Manual cited above, p. 59.

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-37 (Sub-No. 30)]

COMMERCIAL ZONES AND TERMINAL AREAS

Washington, D.C., Commercial Zone

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In response to a petition filed by the Loudon County, VA, Chamber of Commerce, the Commission is opening a proceeding to consider whether to amend its existing regulations set forth in 49 CFR 1048.10 so as to expand the Washington, D.C., commercial zone to include all or a portion of Loudon County.

DATES: Comments should be filed by January 4, 1979.

ADDRESSES: Send comments to: Office of Proceedings Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg Phone: 202-275-7292.

PETITIONER'S PROPOSALS: The Washington, D.C., commercial zone as defined in 49 CFR 1048.10 includes that part of Dulles International Airport which lies within Loudon County, VA, and a very small portion of Loudon County which is within 15 miles of the municipal limits of Washington, D.C. The Loudon County Chamber of Commerce seeks expansion of this commercial zone to include a specified section of eastern Loudon County.

This section can be described as follows:

That portion of Loudon County, VA, not already included in the Washington, D.C., commercial zone, which lies on and east of a line beginning at the junction of U.S. Hwy 15 and the Loudon-Prince William County line and extending along U. S. Hwy 15 to the municipal limits of Leesbury, VA, then along the southern, western, and northern municipal limits of Leesbury, VA, to U.S. Hwy 15, and then along U.S. Hwy 15 to the Potomac River.

The Chamber of Commerce presents various geographic, demographic, and economic information regarding Loudon County in support of its proposal.

The Loudon County Board of Supervisors joins in the Chamber of Commerce's request for expansion of the Washington, D.C., commercial zone. The Board, however, believes that all of Loudon County should be included in this commercial zone. It submits the results of a recent survey of country residents which its believes support this position. The County Board also submits eight letters from representatives of governmental and commercial groups and individual businesses which favor expansion of the Washington commercial zone to include all or part of Loudon County.

COMMENTS AND PROCEDURAL MATTERS

No oral hearing in this proceeding is contemplated. Any person (including petitioner) wishing to participate in the proceeding, in support of or in opposition to the proposals, shall file an original and 11 copies (wherever possible) of written representations, views, and arguments.

Written material or suggestions submitted will be available for public inspection at the office of the Interstate Commerce Commission, 12th and Constitution Ave., Washington, D.C. during regular business hours.

Notice to the general public of the matters under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-33922 Filed 12-4-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01-M]

ACTION

PRIVACY ACT OF 1974

Change of Systems of Records

AGENCY: ACTION.

ACTION: Notice of change in Systems of Records.

SUMMARY: This notice is issued to inform the public that we are combining previously published notices of systems of records and to include mention of records which were in effect prior to September 27, 1975 and were not included in our previous notices. The two systems of records published in this notice covers our general personnel records and our general volunteer records. There is no change in the physical location or in the responsibility for the records. Individuals wishing to gain access to their records may request them from the office identified in the notice or from the Director of our Administrative Services Division.

DATE: This notice is effective December 5, 1978.

ADDRESS: ACTION, 806 Connecticut Avenue, N.W., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT:

Mr. John F. Nolan, Director, Administrative Services Division, phone number 202-254-8105.

SUPPLEMENTARY INFORMATION: This notice combines notices which were published in the FEDERAL REGISTER on September 20, 1977. We initially published notices for each segment of records established for staff and volunteers. We have consolidated those notices to two major systems with subsystems. One system is entitled, "ACTION Staff Applicant and Employee Records" (ASAER), and the other is "ACTION Volunteer Applicant and Service Records System" (AVASR). This change in our method of notification will not affect or impede an individual's access to his or her records.

Our prior notices for the "Peace Corps Trainee and Volunteer Personnel and Pay Records" and the "Employee Pay and Leave Records" did not mention the computer record for the two subsystems. Also, the "Overseas Peace Corps Post Volunteer Service Folder", "Personnel Management Information System" and the "Inactive Employee Service Record Card File" systems were not included in our earlier notices. These were in effect prior to September 27, 1975. Our general routine uses are incorporated by reference and were last published in the FEDERAL REGISTER, Volume 42 on September 20, 1977, at page 47349.

System name:

ACTION Staff Applicant and Employee Records, ACTION/1

System location:

ACTION, Personnel Management Division, 806 Connecticut Avenue, N.W., Washington, D.C. 20525.

Categories of individuals covered by the system:

Current and former employees, applicants; any individual involved in a grievance or grievance appeal or who has filed a complaint with the Department of Labor, Federal Labor Relations Council, Federal Mediation and Conciliation Service, or similar organization; and individuals considered for access to classified information or restricted areas and/or security determinations as contractors, employees of contractors, experts, instructors, and consultants to Federal programs.

Categories of records in the system:

(1) The staff security files contain investigative information regarding an individual's character, conduct, behavior in the community where he or she lives; loyalty to the U.S. Government; arrests and convictions for any violations against the law; reports or interviews with former supervisors; coworkers, associates, educators, etc., reports about the qualifications of an individual for a specific position; reports of inquiries with law enforcement agencies; former employers, educational institutions attended; and other similar information developed from the above. (2) The Grievance, Appeal and Arbitration files contain copies of petitions, complaints, charges, responses, rebuttals, evidentiary material, briefs, affidavits, statements, records of hearings and decisions or findings of fact with respect thereto and incidental correspondence regarding complaints and appeals with respect to grievances and arbitration matters. (3) The Employees Indebtedness files contain records which are primarily correspondence regarding alleged indebtedness of ACTION employees, including employees' responses, the agency's response to the employee and/or creditor and administrative correspondence and records relating to agency assistance to the employee in resolving the indebtedness, if appropriate. (4) The Employee Reemployment and Repromotion Priority Consideration files contain a listing on a person's name and the positions he or she was considered for, dates of consideration and a copy of the individual's latest Standard Form 171 and performance evaluation. (5) The Performance Evaluation files consist of the annual performance evaluations of employee performance prepared by supervisors and reviewed by supervisory reviewing officials, together with comments, if any, by the employees evaluated. (6) The Management-Union Records system consists of automated data printouts showing an employee's name, grade, series, title, organizational entity and other associated data which determines his or her inclusion or exclusion from the bargaining unit under the existing union contract. The record also contains a printout showing the amount of dues withheld from each employee who has authorized such withholding, and other related data. (7) The Personnel Management Information system is a computer-based record which includes data relating to tenure, benefits eligibility, whether former volunteer, end of tour dates, awards, etc., and other data needed by Personnel and agency managers which is used for management purposes. (8) The Inactive Service Record Card contains a record of personnel actions made during employment, forwarding address, reason for leaving, social security number, date of birth, tenure, information and disposition of the official personnel folder.

Authority for maintenance of the system:

The Peace Corps Act, 22 U.S.C 2501 Et Seq., the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 Et Seq., provisions of the Federal Personnel Manual, the Foreign Affairs Manual, Executive Orders concerning management relations with employment organizations and Executive Order 10450 and various acts of Congress relating

to personnel investigations authorizing the same by the Civil Service Commission which responsibility can, under Civil Service regulations and law, be delegated in whole or in part to agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

As indicated below the subsystems incorporate all or some of our published routine uses. (1) Staff Security files—in addition to our general routine uses may be disclosed to the CSC as part of the central personnel investigation records system. (2) Grievance, Appeal and Arbitration Records and Files—in addition to our general routine uses may be disclosed and used: (a) To the CSC on request in conjunction with any appeal or in conjunction with its official duties with regard to personnel matters and investigation regarding complaints of Federal employees and applicants. (b) To designate hearing examiners, arbitrators and third-part appellate authorities involved in the hearing or appeal processes. (3) Employees Indebtedness Records and files—may be released under our routine uses numbers 1, 2 and 3 except that under routine use number 1 records may be released only to an appropriate Federal agency and the records may also be referred to a court of law and before an administrative board of hearing to matters related to probation and parole. (4) Employee Reemployment and Repromotion Priority Consideration Records and Files—in addition to our general routine uses may be disclosed to (a) the CSC as part of the CSC personnel management evaluation system and (b) to the CSC for information concerning the reemployment and repromotion rights of individuals covered under the CSC system. (5) Performance Evaluation files—in addition to our general routine uses may be disclosed to the CSC in connection with any request for information or inquiry as to Federal personnel regulations. (6) Management-Union Records—in addition to the general routine uses may be disclosed and used for the following (a) to the ACTION employees union for maintenance of its records with respect to dues and inclusion in the bargaining, (b) to the Treasury Department for preparation of payroll checks with appropriate withholding of dues, (c) to the CSC for union related reporting in the area of management/labor relations. (7) Personnel Management Information System—is used by agency officials for day to day work processing; statistical reports without personal identifiers and for in-house reports relating to personnel management. Information contained in this record is reflected in the individual's official personnel folder. (8) Inactive Service Record Card File—is used by personnel staff to verify service and for day to day work information.

Policies and pratices for storing, retrieving, accessing, retaining and disposing of records in the system: Storage:

Records are maintained in file folders, magnetic tape, lists or looseleaf binders and are stored in metal file cabinets with a three-way combination lock and/or secured rooms with access limited to those employees whose official duties require access.

Retrievability:

Records are indexed by name, social security number or employee number.

Safeguards:

Records are generally available only to ACTION employees having a need for such records in the performance of their duties. Generally the security files are available only to personnel of the Security office or to agency office heads or other agency security personnel and such personnel must have an appropriate security clearance.

Retention and disposal:

After termination, death or retirement or consideration of an applicant the Staff Security files are kept in the security office three years and then retired to a Federal Records Center for 27 years and then destroyed. The Grievance, Appeals and Arbitration files are retained indefinitely in the Personnel Management Division. The Employee Indebtedness files are destroyed on a bi-annual basis or when the problem is resolved. The Employee Reemployment and Repromotion Priority Consideration files are retained according to length of reemployment or repromotion eligibility. The Performance Evaluation files are retained one year or until superseded. The Personnel Management Information system records and the Inactive Employee Service Record Cards are kept indefinitely in the Personnel Management Division. The Management-Union Lists are retained until superseded by a corrected or updated list.

System manager(s) and address:

The Director of Personnel has overall responsibility for records covered by this system. Personnel branch chiefs are responsible for the subsystems as follows: (a) Staff Security Files—Chief, Employee Security Branch; (b) Grievance, Appeal and Arbitration; Employee Indebtedness Files; and Management-Union Records—Chief, Labor and Employee Relations Branch; (c) Performance Evaluation File; Employee Reemployment and Repromotion Priority Consideration File; Personnel Management Information System and the Inactive Employee Service Record File—Chief, Personnel Staffing Branch.

The address for all systems is ACTION, Personnel Management Division, 806 Connecticut Avenue NW., Washington, D.C. 20525.

Record source categories:

From the individual, the official personnel folder, statistical and other information developed by the Personnel Management Division staff, such as end of tour dates, arrival at post dates and within class increase due dates; agency supervisors and reviewing officials, individual employee fiscal and payroll records, alleged creditors of employees, witnesses to any occurrence giving rise to a grievance, appeal or other action, hearing records and affidavits and other documents used or usable in connection with grievance, appeal and arbitration hearings, and information contained in the Staff Security files was obtained from (a) applications and other personnel and security forms furnished by the individual, (b) investigative material furnished by other Federal agencies, (c) by personal investigation or written inquiry from such associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, and other such sources as may be developed from the above, and (e) from the individual.

Notification procedure:

Individuals wishing to see information in their records, inquire if this system of records contains information about them, or contest/correct information should provide their name, any former name, date of birth, social security number, dates of service, if known, location of service and type of service. Individuals may address their inquiries to the Personnel Management Branch System Manager, the Director of Personnel or to the Director of the Administrative Services Division. All requests should be addressed to ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525, and should have "Privacy Act Request" noted on the envelope.

Record access procedures:

See "Notification" above.

Contesting record procedures:

See "Notification" above.

System name:

ACTION Volunteer Applicant and Service Records System, ACTION/2.

System location:

This system is made up of subsystems which are located agencywide at

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(d) To the trainee/volunteer's family ... *tents* may be disclosed to designated ...

System manager(s) and address:

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ACTION offices. These locations are (a) ACTION Headquarters, (b) all ten Domestic Regional and State Offices; (c) all five Service Center offices, area and sub-area Recruitment offices; and (d) each Peace Corps overseas program office. There is at present an excess of 60 such overseas offices and this number fluctuates as programs are added or withdrawn. Specific addresses will be provided upon request to the Director of the Administrative Services Division. Any particular country in which Peace Corps maintains a program may be addressed by writting to the Country Director, Peace Corps, c/o The American Embassy in the country.

Categories of individuals covered by the system:

Current and former ACTION full-time volunteers, trainees and applicants for volunteer service in the Peace Corps, including Peace Corps United Nations Volunteers, or in one of ACTION's full-time Domestic Operations programs including Volunteers in Service to America (VISTA), University Year for ACTION (UYA), ACTION Cooperative Volunteers ACV), Program for Local Service (PLS), and Volunteers in Justice (VIJ). A Record may exist in a subsystem depending on whether a record was established as part of the application, placement, selection and services process. Normally, an applicant record will exist for all applicants and a service record will exist for all trainees and volunteers.

Categories of records in the system:

This major system covers a number of temporary and permanent records established during the applicant, placement, selection and service stages. Most information maintained in this system is furnished by the individual. Generally, the individual is also aware of any necessary investigations being conducted and is either counselled or authorizes such investigations. As the record progresses through the subsystems an applicant, medical, volunteer service, legal or special services file may be established. These records are explained in detail in the following paragraphs. At the processing and program support desk levels temporary day to day sets of records may be used or set up to speed up work processes. The information used at the desk level is usually information extracted from the main file or is a duplicate of information contained in the main file and is utilized only as long as needed for a particular decision, project or period of services. Upon completion of the use of such records they are destroyed or, if a permanent document or record, are forwarded to the ACTION Records Center for consolidation, retirement and ultimate destruction.

(1) *Volunteer Application Folder and Computer Based Record:* This record contains forms related to the application process such as the application, references, invitation to training and other trainee enrollment forms, correspondence relating to the application, copies of other application documents, such as Peace Corps background investigation form, evaluator-recruiter interview forms. Information is extracted from the hard copy to create a computer record which is used to track progress, issue labels for correspondence to the applicant and account for the establishment, retirement and ultimate destruction of the individual record. Statistical information, without personal identifiers, is issued from the computer record.

(2) *Trainee and Volunteer Service and Pay Folder and Computer based record:* This record contains correspondence, forms related to pay allowances, travel and service such as, the Oath, designation of beneficiary, address, social security number, duty station, next of kin, trainee registration form, service and termination documents. Information is coded from hard copy documents to create a record for pay and verfication of service purposes.

(3) *Medical Folder:* The medical record contains medical examination forms and fitness for duty reports, medical claims, correspondence and cables, medical histories, payment records, record of the consulting physician, treatment, hospitalization and disposition of the case. History of psychiatric or psychological treatment.

(4) *Legal Folder:* These records contain a record of any legal matter affecting volunteers or applicants. Includes grievances, appeals, claims litigation, legal queries from volunteers/applicants and answers, and any other matter involving contact between a volunteer/applicant and the Office of the General Counsel.

(5) *Special Services Folder:* This record in set up to cover any unusual or extraordinary action or circumstance happening during service or causing the termination of the volunteer or trainee. These records contain details of extensions, transfers, reenrollments, reinstatements, death or terminations. Details include name, country of assignment, program number, dates of the action, supportive documentation. Supportive documentation would include termination reports, staff recommendations, cables, financial information, travel arrangements and medical clearance. Death cases may also include autopsy report, documentation of account of the death, designation of beneficiary, police report, death certificate, correspondence related to final arrangements, money payments and other financial matters.

(6) *Overseas Post Service and Medical Records:* Contain correspondence and forms relating to in country service such as, records of all payments or accrued credit to volunteers and trainees, advances or other items due to the government from volunteers or trainees, monthly living allowances, leave allowances, settling in allowance, property assignments. The medical record is maintained at post by the Peace Corps Health official. It contains the entrance physical and dental examination records and record of treatment received while in Peace Corps.

(7) *Headquarters International Operations Region Correspondence Files:* These files contain copies and originals or correspondence to and from the volunteers of trainees regarding project activities.

(8) *United Nations Volunteers Records:* These records contain applications, correspondence related to the applicant/placement process, other records connected with the application, training and placement of persons wishing to serve or serving as United Nations Volunteers. For short periods of time references furnished by the applicant may be kept in the file but they are transferred to the ACTION Office of Recruitment which has the responsibility for the selection process. Similarly, medical history forms are collected but are immediately forwarded to the United Nations or the Health Services Division of ACTION. Upon the end of service or inactivation of the record they are forwarded to the ACTION Records Center for combining and retirement as regular Peace Corps records.

Authority for maintenance of the system:

The Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951 et seq., The Peace Corps Act, 22 U.S.C. 2501 et seq., and The Budget and Accounting Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The contents of these files and records may be disclosed and used as follows:

(a) A stated in our general routine uses unless specifically stated otherwise under this heading.

(b) To the Domestic Volunteer's sponsor concerning placement, performance, support and related matters.

(c) To Peace Corps Volunteer host country officials to obtain visas, inform of pending arrival of the trainee/volunteer and for review of their qualifications for the program.

(d) To the trainee/volunteer's family or next of kin so that he or she may be located in case of emergency.

(e) To the Social Security Administration for crediting of social security accounts and reporting withholdings.

(f) To the Internal Revenue Service to report on taxes paid and for income tax purposes.

(g) To Federal agencies having a need to verify volunteer eligibility for Federal employment under provisions of Executive Order 11103.

(h) To the Treasury Department for purposes of issuing payroll checks, readjustment allowance checks or to report overpayments.

(i) For Peace Corps volunteers, to appropriate overseas U.S. Government agencies for monthly payroll preparation.

(j) To verify active or former volunteer service.

(k) Regarding the legal record: Information contained in the legal file is not routinely disclosed outside the agency except in the following circumstances: 1. To the Department of Justice in conjunction with litigation or potential litigation in situations which the Department may be called upon to provide representation to the Agency. 2. In circumstances set forth in paragraphs 1, 2, 7 and 10 of our general routine uses.

(l) Regarding the United Nations Volunteer records: In addition to our general routine uses the contents of these records and files may be disclosed and used as follows: 1. To designated officers and employees of the United Nations having a responsibility for the selection and placement of U.N. Volunteers. 2. To officials of a proposed host country desiring the assignment or placement of U.N. Volunteers.

(m) Regarding Medical records: In addition to our general routine uses the medical records and files may be disclosed or used as follows: 1. To the contractor under the ACTION Health Policy, for purposes of adjudication of volunteer claims. 2. To the Office of Workers Compensation, U.S. Department of Labor in connection with claims under the Federal Employee's Compensation Act. 3. To a physician or other medical personnel treating or involved in the medical treatment and/or care of an applicant, trainee or volunteer and having a need for such records for the provision of the medical treatment or care. In situations where it is practicable the individual's consent will be obtained before releasing such information. 4. To psychiatrists or clinical psychologists when necessary for treatment. To the extent practicable disclosure will not be made without approval of the individual. The existence of psychiatric or psychological records *but not their contents* may be disclosed to designated officers and employees of other agencies and departments of the Federal government and the District of Columbia government having an interest in an individual for employment purposes including a security clearance or access determination. 5. In death cases to notify designated life and/or personal property insurance companies to obtain payment of insurance benefits; to notify the Office of the Vice-President for the preparation of condolence letters; to the Department of Labor, Office of Federal Employee's Compensation; to the family and next of kin; and for Peace Corps Volunteers, the Department of State.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system: Storage:

Files or records are maintained in folders, log books, cards, magnetic tape or disc packs with tape backup and are filed in metal filing cabinets with a manipulation proof combination lock or in a room with a combination lock in the door, or in a locked room when not in use.

Retrievability:

The majority of the subsystem records are retrievable alphabetically by the last name. A few are retrievable by the social security number; by subject headings but access may be gained by reference to an alphabetical name index; or by alphabetical order by country of assignment.

Safeguards:

Records are generally available only to ACTION employees with specifically assigned duties which requires working with the records on a day to day basis. They are available to other ACTION employees having the need for such records in the performance of their official duties. Personnel screening is employed to prevent unauthorized disclosure.

Retention and disposal:

Most volunteer records are kept no longer than seven years. The Domestic Operations Full-Time Volunteer Census Master File, the Domestic Operations Volunteer Status Change Card and the Peace Corps Personnel and Payroll Computer Record and the Peace Corps Description of Service records are kept permanently. The legal files are kept 27 years. The medical records are kept for 25 years. Applications rejected immediately are destroyed in six months. Applications, including any medical records, rejected before enrollment as a volunteer are destroyed in one year.

System manager(s) and address:

As the record flows from one state to another, or if a record is established for a specific purpose, the system manager is the agency official responsible for the particular function. If an individual is in doubt as to whom to contact he or she should contact the Director, Administrative Services Division.

The subsystem managers are:

a. The five ACTION Service Center Managers located as the New York Service Center; Atlanta Service Center; Chicago Service Center; Dallas Service Center and the San Francisco Service Center.

b. The Administrative Officers for the ten Domestic Operations Regional offices.

The following officers are located at ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525:

c. The Chief, International Operations Peace Corps Placement Branch.

d. The Chief, Health Benefits and Analysis Branch.

e. The Chief, Medical Screening and Services Branch.

f. The Chief, Medical Operations Branch.

g. The Chief, Domestic Volunteer Payroll Section.

h. The Director, Planning and Evaluation Division.

i. The General Counsel.

j. The Chief, International Volunteer Support Services Branch.

k. The Chief, ACTION Records Center.

l. The Chief, Special Services Branch.

m. The Director, Office of Multilateral and Special Programs.

n. Peace Corps Country Desk Officers.

The Following officers can be contacted at the post of assignment:

o. Peace Corps Country Directors Overseas.

p. Peace Corps Medical Officers Overseas.

Notification procedure:

Individuals wishing to see information in their records, inquire if this system or records contains information about them, or contest/correct information should provide their name, any former name, date of birth, social security number, dates of service if known, location of service and type of volunteer (Peace Corps or VISTA). Individuals should address their inquiries to the subsystem manager or the Director, Administrative Services Division, Office of Administrative Services Division, Office of Administration and Finance, ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525. All inquiries should have "Privacy Act Request" noted on the envelope.

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Record access procedures:

See "Notification" above.

Contesting record procedures:

See "Notification" above.

Record source categories:

Information is obtained from the individual; sources whom the individual has named; ACTION employees or other volunteers/trainees; medical personnel who have examined or treated a volunteer or applicant or his or her records; medical contractors; U.S. Government investigative agencies, including the Civil Service Commission, and local law enforcement officials; Peace Corps Host Country Nationals; Peace Corps Country American Embassy and Consulates, United Nations Staff; and job supervisors.

This notice is issued in Washington, D.C., on November 21, 1978.

JIM DUKE,
Executive Officer.

[FR Doc. 78-33873 Filed 12-4-78; 8:45 am]

[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

CERTAIN STOCKYARDS AND LIVESTOCK MARKETS

Approval

The regulations in 9 CFR Part 76, as amended, contain restrictions on the interstate movement of swine and swine products to prevent the spread of hog cholera and other swine diseases. This document adds certain livestock markets to the list of livestock markets approved for purposes of the regulations on the basis of a determination of their eligibility for such approval under § 76.18 of the regulations and removed from the list certain other livestock markets which have been found no longer to qualify for such approval.

The following livestock markets preceded by an asterisk are specifically approved to handle any class of swine and those livestock markets *not* preceded by an asterisk are specifically approved to handle slaughter swine only:

ALABAMA

Capital Stockyard, Montgomery.
*Louisville Auction Company, Louisville.
*Pickens County Livestock Commission Company, Aliceville.

ARKANSAS

*Lafayette County Livestock Co., Lewisville.
*Magnolia Livestock Auction, Magnolia.

CALIFORNIA

*Dixon Livestock Auction Company, Dixon.

COLORADO

*High Plains Marketing Assn., Inc., Burlington.

IOWA

*Story City Auction Sales, Inc., Story City.

KANSAS

Ogle Hog Company, Emmett.
Stafford Brothers Hog Market, Fort Scott.
*The Stockmans Livestock Exchange, Belleville.
*Fort Scott Sale Company, Inc., Fort Scott.

KENTUCKY

*Clay-Wachs Stockyard, Lexington.

MASSACHUSETTS

J. P. Hass & Sons, Rehoboth.

MINNESOTA

*Minnesota Feeder Pig Market, Windom.
Smith Livestock Market, Granada.
*Sleepy Eye Auction Market, Sleepy Eye.

MISSISSIPPI

W. N. Heidel, Jr. Assembly Point, Vaughn.
Mattox Livestock Dealer, Inc., Belden.
*Southwest Stockyard, Port Gibson.

MISSOURI

County Line Hog Market, Cainsville.
Five County Collection Center, Mountain Grove.
*Fruitland Livestock Market, Inc., Jackson.
*Donald Ghere Marketing Facility, Butler.
Heinold Hog Market, Trenton.
George A. Hormel & Co., Princeton.
*Interstate Producers Livestock Assn., Deepwater.
*Kingsville Livestock Auction, Kingsville.
*Midstates Livestock Market, Inc., Maryville.
*Olean Livestock Market, Inc., Eldon.
*Tina Feeder Pig Auction, Tina.
*West Plains MFA Feeder Pig Yards, West Plains.

NEBRASKA

*Humboldt Sale Barn & Humboldt Hog Market, Humboldt.
*Lexington Livestock Market, Lexington.
*Pender Livestock, Inc., Pender.
Weichman Pig Company, Inc., Fremont.

NEW MEXICO

B & D Hog Company, Clovis.
Clovis Hog Market, Clovis.
Portales Livestock Commission Company, Portales.

NORTH CAROLINA

M & R Livestock Co., Inc., Dunn.
Norwood Stockyard at Charlotte, Charlotte.
Tommie Turner Livestock Market, Pink Hill.
Trenton Livestock, Inc., Richlands.
R. O. Whitley, Inc., Buying Station, Como.

NORTH DAKOTA

*Tri-State Auction Market, Inc., Hettinger.

OHIO

*Middendorf Stockyards Company, d.b.a. Kenton Farmers Market, Kenton.

OKLAHOMA

*Antlers Livestock Auction, Inc., Antlers.
*Comanche Hog Sale, Ardmore.
*Comanche Hog Sale, Comanche.
*Delaware County Livesock Auction, Inc., Grove.
*Tonkawa Livestock Exchange, Tonkawa.
*Welch Livestock Auction, Welch.

PENNSYLVANIA

*Perkiomenville Livestock & Sales, Inc., Perkiomenville.
*Wayne County Auction Barn, Inc., Honesdale.

SOUTH DAKOTA

*Eureka Livestock Sales, Eureka.

TENNESSEE

Clarkville Livestock Co., St. Bethlehem.
Newbern Sales Barn, Inc., Newbern.
*Warren County Livestock Assn., McMinnville.

UTAH

*Producers Livestock Marketing Association, North Salt Lake.

VIRGINIA

Farmers Livestock Market, Rose Hill.

WISCONSIN

*Ray Wolosek, Jr., Wisconsin Rapids.

The following livestock markets are deleted from the list specifically approved to handle interstate shipments of swine:

ALABAMA

Pickens County Livestock Commission Company, Aliceville.

ARKANSAS

Magnolia Livestock Auction, Magnolia.

COLORADO

*Burlington Livestock Market Center, Burlington.

IOWA

*Woodbury County Livestock Auction, Lawton.

KANSAS

*Belleville Livestock Commission Company, Belleville.
Fort Scott Sale Co., Inc., Fort Scott.
*Washington Sale Co., Inc., Washington.

KENTUCKY

Adair County Stockyard, Columbia

MASSACHUSETTS

*J. P. Hass & Sons, Rehoboth.

MINNESOTA

*Farmers Feeder Pig Association, Worthington.
*L&L Livestock, Dunnell.
Meyer Livestock, Granada.
*Skelton Feeder Pig Market, Bemidji.

MISSOURI

*Browing & Crowe Order Buyers, Monroe.
Browning & Crowe Order Buyers, Inc., Paris.
*Charleston Auction Co., Charleston.
Constable Stockyards, Princeton.
*Fruitland Livestock Auction, Inc., Jackson.
*McDonald County Sale Company, Jane.
*Olean Livestock Market, Inc., Olean.

*Platta County Livestock Co., Platte City.
*Jack Sivils Sales Co., Inc., Butler.
Wilson & Co. Hog Market, Unionville.

NEBRASKA

*Morris Livestock Auction, Plattsmouth,
*Scottsbluff Livestock Auction, Inc., Scottsbluff.
*The Weichman Pig Company, Fremont.

NORTH CAROLINA

C & J Livestock, Lumberton.
*Greensboro Graded Feeder Pig Sale, Greensboro.
Murphy Livestock Auction Co., Murphy.
*Sessons Packing Co., Ahoskie.
R. G. Whitley & Son, Inc., Como.

NORTH DAKOTA.

*Hettinger Action Market, Inc., Hettinger.

OKLAHOMA

*Delaware County Livestock Auction, Jay.
*Kay County Farm Center, d.b.a. Tonkawa Action Center, Tonkawa.
*Maxson Sales Company, Inc., Welch.

PENNSYLVANIA

*Perkiomenville Sales Stables, Inc., Perkiomenville.
*Wayne County Livestock Exchange, Honesdale.

SOUTH DAKOTA

*Eureka Sales Company, Eureka.

TENNESSEE

Altsheler & Payne, d/b/a/ Clarksville Livestock Company, Clarksville.
*Hughes Feeder Pig, Guys.
*Meridith Livestock Auction, Pocahontas.
David Via-Newbern Sales Company, Inc., Newbern.
Warren County Livestock Co., McMinnville.
*Weakley County Feeder Pig Sale, Dresden.

UTAH

*Producers Livestock Marketing Association and North Salt Lake Livestock Company, North Salt Lake.

WISCONSIN

Peshtigo Livestock Sales, Peshtigo.
*Ray Wolosek, Sr., Wisconsin Rapids.

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 5, 23 Stat. 32, as amended; sec. 1, 75 Stat. 481; sec. 1, 32 Stat. 791, as amended; secs. 3 and 4, 33 Stat. 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 114g 120, 125, 126, 134b, 134f; 37 F.R. 28464, 28477; 38 F.R. 1914)).

Effective date. The foregoing notice shall become effective non December 5, 1978.

This action imposes certain restrictions necessary to prevent the spread of hog cholera and relieves certain restrictions presently imposed. It should become effective promptly to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this action are impracticable and contrary to the public interest, and good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER

Done at Washington, D.C., this 29th day of November 1978.

NOTE. This "Notice of Approval" has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations" and has not been designated to be "significant" under these criteria.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-33788 Filed 12-4-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

NOVEMBER 29, 1978.

APPLICATION FOR AN ALL-CARGO AIR SERVICE CERTIFICATE

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 33977, from Pacific Alaska Airlines, Inc., of Paine Field, Everett, Washington, 98304, for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, any interested person may file an answer in opposition to this application on or before December 26, 1978. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-33896 Filed 12-4-78; 8:45 am]

[6320-01-M]

[Docket No. 33363]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION

Postponement of Hearing

The hearing on the application of Land-Air Corp., heretofore set for 21 November 1978 (43 FR 53784, November 17, 1978) and postponed to 28 November 1978 (43 FR 55271, November 27, 1978) is for good cause shown postponed to 6 December 1978 at 9:00 a.m. at the address heretofore set, hearing Room B.

Dated at Washington, D.C., 28 November 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-33898 Filed 12-4-78; 8:45 am]

[6320-01-M]

[Docket No. 28298, et al.]

TRANS WORLD AIRLINES, INC., RESPONDENT

Postponement of Hearing on Enforcement Proceeding

By motion dated November 22, 1978, respondent Trans World Airlines, Inc. (TWA) has requested the deferral of the hearing in this matter from December 6 and 7, 1978 until final action by the Board in Docket 29044. In the alternative, TWA requests a 31 day postponement to allow the parties one last opportunity to settle the matter amicably. The Bureau of Consumer Protection and three complainants (Gordon, Goland, and Health Research Group) do not oppose either part of TWA's motion. Action on Smoking and Health (ASH), which represents the majority of the complainants, opposes the deferral of the hearing until the Board has acted in Docket 29044, but does not oppose the 31 day postponement.

I am not persuaded that the hearing in the present matter should be deferred pending the outcome in Docket 29044. The rulemaking proceeding in that matter has been pending for some time and may not be concluded for a substantial additional time period. Meanwhile, the evidence in this proceeding could grow stale. The Board has taken no action, either in instituting Docket 29044 or in holding in abeyance the Eastern Air Lines enforcement case (Docket 26363, *et al.*), which is inconsistent with proceeding immediately to hear the present case.

However, I am convinced that a short postponement might serve a useful purpose. In addition to the possibility that such a postponement might facilitate a settlement, it would appear that the month of January would be more convenient for some of the witnesses to be called in this proceeding. (See Answer of the Bureau of Consumer Protection, dated November 28, 1978).

Accordingly, *It is ordered* That: The hearing in the above-entitled proceeding, which was assigned to be held on December 6 and 7, 1978 (43 FR 51435, November 3, 1978), is postponed to January 16 through 18, 1979, beginning at 10:00 a.m. (local time) on January 16, and will be held in Room C, Hearing Room 1003, Universal North

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Building, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., November 29, 1978.

JOHN J. MATHIAS,
Administrative Law Judge.

[FR Doc. 78-33887 Filed 12-4-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

VERMONT ADVISORY COMMITTEE

Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission originally scheduled for November 28, 1978 (Fr Doc. 78-32490) on page 54115 has been changed to December 12, 1978.

The meeting place and time will remain the same.

Dated at Washington, D.C., November 30, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer

[FR Doc. 78-33900 Filed 12-4-78; 8:45 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

COMMITTEE ON PRIVATE VOLUNTARY AGENCY ELIGIBILITY

Charter Renewal

Pursuant to Section 14(b) of the Federal Advisory Committee Act, notice is hereby given to the renewal of the charter of the Committee on Private Voluntary Agency Eligibility. The Committee was established under the authority of Executive Order 10927. The objective of the Committee is to insure through prior review of applications and supplementary financial and accounting data that only responsible and worthy national voluntary agencies are authorized to solicit Federal employees and military personnel on the job.

The renewal of this Committee is in the public interest. A new charter for the Committee has been approved and filed as required.

DONALD J. BIGLIN,
Advisory Committee Management Officer.

[FR Doc. 78-33876 Filed 12-4-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, TASK GROUPS OF THE COMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

Meetings

Notice is hereby given that three task groups of the Committee on Materials and Manpower Requirements will meet in December 1978 and January 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The three task groups scheduling meetings are the Task Group on Tubular Steel, the Task Group on Geological and Geophysical Services, and the Task Group on Production Equipment. The time, location and agenda of each task group meeting follows:

The first meeting of the Tubular Steel Task Group will be on Wednesday, December 13, 1978, starting at 9:00 a.m. in the Conference Room of the U.S. Steel offices on the 20th floor of the Tenneco Building, 1010 Milam Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study methodology to be employed by the Tubular Steel Task Group.
4. Discussion of the timetable of the Tubular Steel Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Tubular Steel Task Group.

The first meeting of the Geological and Geophysical Task Group will be on Friday, December 15, 1978, starting at 10:00 a.m. in the office of Mr. Grant A. Dove, Marriott Inn North, 7750 LBJ Freeway North, Dallas, Texas.

The tentative agenda for the Chairman and Government Cochairman.

2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study methodology to be employed by the Geological and Geophysical Services Task Group.
4. Discussion of the timetable of the Geological and Geophysical Services Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Geological and Geophysical Services Task Group.

The first metting of the Production Equipment Task Group will be on Wednesday, January 10, 1979, starting at 10:00 a.m. in Room 1992 on the 19th floor of the Exxon Building, 800 Bell Avenue, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study methodology to be employed by the Production Equipment Task Group.
4. Discussion of the timetable of the Production Equipment Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Production Equipment Task Group.

The meetings are open to the public. The chairmen of the task groups are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task groups will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202-566-7575, prior to the meeting and reasohable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on November 29, 1978.

GEORGE S. MCISAAC,
Assistant Secretary for Resource Applications.

[FR Doc. 78-33865 Filed 11-30-78; 11:45 am]

[6450-01-M]

Economic Regulatory Administration

ASSESSMENT OF SHORT-TERM MIDDLE DISTILLATE AND GASOLINE SUPPLY SITUATION AND PRICE TRENDS

Conference

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of conference.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) will conduct a conference on Friday, December 15, 1978, at 9:30 a.m. The purpose of the conference is to obtain an assessment of the short-term middle distillate and gasoline supply situation and price trends. DOE is inviting to participate representatives of the domestic oil companies, terminal operators, and marketers, together with interested states, members of Congress, consumer groups, and other interested Federal Agencies. The public may attend to observe. Written comments on the meeting are invited.

DATES: Conference Date: December 15, 1978, 9:30 a.m. Requests to speak by December 13, 1978, 4:30 p.m. Speakers to bring written statements on day of conference. Comments by December 26, 1978, 4:30 p.m.

ADDRESSES: Written comments and requests to speak to Public Hearing Management, Box WI, Economic Regulatory Administration, 2000 M Street, NW., Room 2313, Washington, D.C. 20461. Telephone requests to speak to 202-254-5201.

CONFERENCE LOCATION: Departmental Auditorium, Conference Room B, between 12th and 14th Streets on Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Alan T. Lockard (Fuels Regulation), 2000 M Street, NW., Room 6222, Washington, D.C. 20461, 202-254-7422.

Robert Reinstein (Regulations and Emergency Planning), 2000 M Street, NW., Room 6003, Washington, D.C. 20461, 202-254-9766.

Robert C. Gillette (Hearings Procedures) 2000 M Street NW., Room 2214, Washington, D.C. 20461, 202-254-5201

Joel Yudson (Office of the General Counsel), 12th & Pennsylvania Avenue, NW., Room 5119, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The DOE has recently become aware of increased public concern over the adequacy of supplies for the coming winter of middle distillates. (heating oils and kerosene) and gasoline, and the supply adequacy for next spring and summer of gasoline. Further concern has been expressed over recent price trends for gasoline and middle distillates.

Specifically, motor gasoline stocks are lower than they were last year and below the average level achieved for the same period in 1972-1977. Middle distillate stocks are lower than last year, although about at the average level achieved during the same period in 1972-1977. At the same time, demand for gasoline has exceeded expected levels for the post-summer period. Particularly, there are indications that gasoline demand, which historically has abated following summer peaks, has continued at relatively high levels. Because refiners are unable to maximize both gasoline and middle distillate production simultaneously, the continued level of motor gasoline demand has necessitated many refiners to continue to maximize gasoline production, at the expense of middle distillate production. In addition, it appears that a few refiners are also having difficulties in meeting demand for unleaded gasoline of higher octane than regular grade unleaded gasoline.

In response to these concerns and to assess the situation more accurately, the DOE is convening a conference to receive comments from concerned states, members of Congress, and consumer groups and to gather information on these matters from industry representatives, i.e., oil companies, terminal operators, and marketers. Representatives of other interested Federal agencies may also participate.

II. AGENDA

The conference will begin with an opening statement by the Department and an assessment of the current supply and price situation for middle distillates and gasoline. Following the DOE presentation, we will invite representatives of state governments, members of Congress and representatives of consumer groups to express their concerns and views. We are interested in receiving specific factual assessments as it affects those groups.

DOE will then permit industry representatives to present their analyses and forecasts of the short-term overall supply and demand situations for middle distillates and motor gasoline. Discussions of supply should focus on the adequacy of stocks, production capability, and import availability. A general discussion concerning the factors and pressures causing recent price trends is also requested.

We will prohibit any company-specific discussion of production, marketing or pricing, but specific discussion of aggregate data and information to be supplied by and to participants will be permitted. Any participant who believes that the discussion poses an antitrust risk may leave and ask that the record note that fact. Representatives of the Department of Justice and/or DOE's Office of General Counsel will be in attendance.

III. CONFERENCE PROCEDURES

The conference will be presided over by a senior official of DOE. A transcript of the conference will be prepared and made available for inspection at the ERA's Office of Public Information, Room B110, 2000 M Street, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript of the conference from the reporter.

Written and telephonic requests to speak should be submitted by December 13, 1978, as set forth in the "Addresses" section. Each participant who requests to speak at the conference is requested to provide on the day of the conference at the location of the conference one hundred copies of his or her prepared statement.

Time constraints may limit the times for actual oral presentation depending on the number of speakers requesting to be heard. In this connection, DOE reserves the right to select the speakers to be heard to receive the broad range of views offered. The conference will be non-evidentiary and of a non-adversary nature. There will be no cross-examination of the participants. Questions of participants may only be asked by DOE officials. The presiding official will announce any additional procedures necessary at the conference.

IV. FURTHER DATA SUBMISSIONS

To augment the information received at the conference, we intend to seek written data separately from relevant segments of the petroleum industry. A questionnaire is being prepared by ERA and will be distributed shortly. The information obtained therefrom will be aggregated and made publicly available.

V. WRITTEN COMMENTS

Anyone may comment on the subject of this conference in writing. Identify comments on the outside envelope and on documents you submit with the description "Motor Gasoline and Middle Distillate Conference", Box WI, at the address noted in the "Addresses" section of this notice. Submit fifteen copies of your com-

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ments by December 26, 1978, 4:30 p.m. All comments received will be available for public inspection in the ERA Official Public Inspection Room, Room B110, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. The Economic Regulatory Administration reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., November 30, 1978.

HAZEL R. ROLLINS,
Acting Administrator, Economic Regulatory Administration.

[FR Doc. 78-33867 Filed 11-30-78; 1:57 pm]

[6450-01-M]

Office of Hearings and Appeals

CASES FILED

Week of November 10, 1978 Through November 17, 1978

Notice is hereby given that during the week of November 10, through November 17, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

NOVEMBER 29, 1978.

List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 10 through 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 10, 1978	Anadarko Production Co., Washington, D.C.	DSG-0038 and DES-0121.	Petition for special redress and stay request. If granted: The Office of Hearings and Appeals would review the Oct. 27, 1978, denial of the application to quash a supbena submitted by Anadarko Production Co. and the firm's compliance with the subpena would be stayed pending a determination of the petition for special redress.
Nov. 13, 1978	Bob Adams (St. Louis Post), Washington, D.C.	DFA-0247	Appeal of an information request denial. If granted: The DOE's Aug. 23, 1978, information request denial would be rescinded and Bob Adams would receive access to EEO-1 forms and other data on hiring practices.
Do	Continental Oil Co., Houston, Tex	DES-1979	Stay request. If granted: Continental Oil Co.'s base period suply obligations to certain refiners would be stayed pending a final decision on the application for exception which the firm has filed.
Do	Gasoline Merchants Inc., Whaltam, Mass	DEE-2003	Exception to change suppliers. If granted: Gasoline Merchants would be assigned a new base period supplier of motor gasoline to replace Litchfield Oil Co.
Do	Gulf Oil Corp., Houston, Tex	DFA-0248	Appeal of an information request denial. If granted: The Sept. 26, 1978, information request denial would be rescinded and Gulf Oil Corp. would receive access to certain DOE materials relating to Advance Sales Corp.
Do	Piedmont Natural Gas Co., Inc., Greensboro, N.C.	DES-0122 and DST-0122.	Stay request and request for temporary stay. If granted: Piedmont Natural Gas Co., Inc., would receive a stay of the provisions of 10 CFR Part 211, pending a final determination on its application for adjustment to its base period use of propane.
Nov. 14, 1978	Belcher Oil Co., Washington, D.C	DFA-0249	Appeal of an information request denial. If granted: The DOE's Oct. 11, 1978, information request denial would be rescinded Belcher Oil Co. would receive access to DOE materials regarding Florida Power & Light.
Do	Champlin Petroleum Co., Corpus Christi, Tex.	DEN-1309	Interim order. If granted: Champlin Petroleum Co. would be permitted to sell certain quantities of crude oil produced from the State 18 lease at upper tier ceiling prices pending the issuance of a decision and order in final form in connection with an application for exception which the firm has filed.
Do	Chevron U.S.A., Inc., San Francisco, Calif	DEE-2004	Price exception (sec. 212.73). If granted: Chevron U.S.A., Inc., would be permitted to sell crude oil produced from the Vickers Rindge located in the Inglewood field, Los Angeles County, Calif., at upper tier ceiling prices.
Do	Crown Central Petroleum Corp., Baltimore, Md.	DRD-0013	Motion for discovery. If granted: Discovery would be granted to Crown Central Petroleum Corp. in connection with its challenge to a proposed remedial order, Case No. DRO-0111.
Do	Energy Cooperatives, Inc., Washington, D.C.	DEA-0252	Appeal of the entitlements notice. If granted: The DOE's August 1978, entitlements notice would be amended and the entitlement sales obligations of Energy Cooperatives, Inc., would be recomputed to elminate the $0.21/bbl. factor set forth in sec. 211.67(f)(4).
Do	McAlester Fuel Oil Co., Houston, Tex	DEE-2010	Price exception (sec. 212.73). If granted: McAlester Fuel Oil Co. would be permitted to sell the crude oil produced from its Kelly Field Tyler Sand Unit located in Musselshell County, Mont., at upper tier ceiling prices.
Do	R. W. Tyson Producing Co., Jackson, Miss	DXE-2005	Extension of relief granted in *R. W. Tyson Producing Co.*, 2 DOE Par. —— (July 26, 1978). If granted: R. W. Tyson Producing Co. would continue to sell crude oil produced from its Glazier field located in Perry County, Miss., at upper tier ceiling prices.
Nov. 15, 1978	A.H. Todd & Sons, Inc., Fleischmanns, N.Y	DEE-2009	Exception to the reporting requirements. If granted: A. H. Todd & Sons, Inc., would no longer be required to submit reports concerning No. 2 fuel oil to the Department of Energy.
Do	Champlin Petrolem Co., Fort Worth, Tex	DEE-2011	Price exception (sec. 212.73). If granted: Champlin Petroleum Co. would be permitted to sell the crude oil produced from its Mary Ellen O'Connor field located in Refugio County, Tex., at upper tier ceiling prices.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Nov. 10 through 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Columbia Gas System, Inc., Wilmington, Del.	DEE-2006 and DEE-2017.	Price exception (sec. 212.165(a)). If granted: Columbia Gas System, Inc., would be permitted to increase its first sale prices of natural gas liquids and natural gas liquid products to reflect on a dollar-for-dollar basis increased processing costs which it has incurred since the firm's first quarter of 1973 at the Kenova and Siloan plants.
Do	Data Technology Industries, Riverdale, Md	DFA-0250	Appeal of an information request denial. If granted: The DOE's Nov. 2, 1978, information request denial would be rescinded and Data Technology Industries would receive access to information pertaining to the technical proposal submitted by Sterling Systems, Inc.
Do	Lago Petroleum Co., Houston, Tex	DEE-2008	Price exception (sec. 212.73). If granted: Lago Petroleum Co. would be permitted to sell the crude oil produced from its Wharton South field located in Wharton County, Tex., at upper tier ceiling prices.
Do	Mobil Oil Corp., New York, N.Y	DXE-2007	Extension of relief granted in *Mobil Oil Corporation*, 2 DOE Par. —— (Sept. 28, 1978). If granted: Mobil Oil Corp. would be permitted to sell the crude oil produced from the North Russell Devonian field, located in Gaines County, Tex., at upper tier ceiling prices.
Do	O'Meara Bros., New Orleans, La	DXE-2013	Extension of relief granted in *O'Meara Brothers*, 1 DOE Par. 81,089 (Mar. 8, 1978). If granted: O'Meara Bros. would continue to sell the crude oil produced from the Louisiana State Lease 2192, at upper tier ceiling prices.
Do	Pennzoil Producing Co., Houston, Tex	DXE-2012	Extension of relief granted in *Pennzoil Producing Company*, 2 DOE Par. —— (Aug. 7, 1978). If granted: Pennzoil Producing Co. could continue to sell crude oil produced from the Woodruff Unit at market prices.
Do	Phillips Petroleum Co., Bartlesville, Okla	DFA-0251	Appeal of an information request denial. If granted: The DOE's Oct. 17, 1978, information request denial would be rescinded and Phillips Petroleum Co. would receive access to certain DOE documents.
Nov. 16, 1978	Guam Oil & Refining Co., Inc., Washington, D.C.	DEE-2015	Exception from the entitlements program. If granted: Guam Oil & Refining Co. would be granted an exception from the provisions of 10 CFR 211.67 so as to relieve the firm from the $0.21/bbl. entitlements penalty which is imposed upon the use of foreign crude oil.
Do	Shell Oil Co., Washington, D.C.	DEE-2014, DES-2014, and DST-2014.	Exception to base period supply obligations, request for stay, request for temporary stay. If granted: Shell Oil Co. would be granted a temporary exception from the allocation regulations which would permit the firm to determine its motor gasoline supply obligations on the basis of its customers' levels of purchases in the corresponding month of 1977 or the 1972 base period, whichever is greater.
Do	Union Oil Co. of California, Los Angeles, Calif.	DXE-2016	Extension of relief granted in *Union Oil Co. of California*, 2 DOE Par.—(Sept. 29, 1978). If granted: Union Oil Co. of California could continue to sell crude oil produced from the West Richfield Chapman Zone Unit, located in the Richfield Field, California, at upper tier ceiling prices.
Nov. 17, 1978	Supreme Petroleum Co. of New Jersey, Inc., Washington, D.C.	DRD-0014	Motion for Discovery. If granted: Supreme Petroleum Co. of New Jersey, Inc., would be granted discovery with respect to a remedial order issued to Champlin Petroleum Co. on Sept. 19, 1977, by region VI.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Nov. 13, 1978	Samedan Oil Corp., Ardmore, Okla	DEE-1171
Do	Estate of Inez and Loyce Phillips, Austin, Tex	DEE-0319
Nov. 14, 1978	Allen K. Trobaugh, Midland, Tex	DXE-1860
Nov. 16, 1978	Phillips Petroleum Co., Bartlesville, Okla	DEE-1357
Do	General Development utilities, Inc., Miami, Fla	DEO-0144

Remedial Orders, Notices of Objection Received

Nov. 14, 1978	Batson Petroleum Corp., Alexandria, Va	DRO-0136

[FR Doc. 78-33852 Filed 12-4-78; 8:45 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1018-1]

DIESEL EMISSION HEALTH EFFECTS RESEARCH

Notice of Open Meeting

NOVEMBER 27, 1978.

To be held on December 12 and 13, 1978 at 8:00 a.m. at the Quality Inn, Pentagon City, 300 Army Navy Drive, Arlington, Virginia 22020, 703-892-4100.

Action—Open Scientific Review Meeting, December 12 and 13, 1978.

Contact: Mr. Brent Norton, GEOMET, Inc., Gaithersburg, Maryland, 301-948-0755.

Purpose: Present the EPA diesel emission health effects research plan to a scientific panel for review and scientific evaluation.

Agenda:

DECEMBER 12, 8:00 A.M. TO 5:30 P.M.

Introductory Overview of EPA Health Effects Research Plan.
In Vitro Studies.
Skin Painting Studies.
Intraperitoneal Injection Studies.
Inhalation Studies: cancer, noncancer.
Intratracheal Instillation and Injection Studies.
Epidemiology Studies.

DECEMBER 13, 8:00 A.M. TO 2:00 P.M.

Open Question and Comment Session.
Panel Deliberations and Report Writing.

Comments: Written comments may be filed during or after the meeting until December 27 for inclusion in the proceedings.

Proceedings: Summary proceedings will be published and made available.

STEPHEN J. GAGE,
Assistant Administrator for Research and Development.

[FR Doc. 78-33822 Filed 12-4-78; 8:45 am]

[6560-01-M]

[FRL 1020-7; OPP-00082]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday and Friday, December 14 and 15, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, at the above address, telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: Notice of this meeting is published late because it was hoped that a discussion regarding amitraz (BAAM) could be added to the agenda; however, more time was needed to prepare a final cancer risk assessment. the Panel will comment on the impact on health and the environment of regulatory actions under section 6(b) and 25(a) of the amended FIFRA prior to implementation.

The purpose of this meeting is to discuss the following topics:

1. Completion of Panel review of topics continued from previous meetings;

2. Review of FIFRE Section 3(c)(7) interim-final regulations for conditional registration of pesticides;

3. A briefing will be given to the Panel by EPA on decision options under consideration by the Agency to conclude RPAR (Rebuttable Presumption Against Registration) action on Pronamide products; or

4. If the interim-final regulations referred to in item 2 above are not ready for review, the Panel will consider in an informal session the following subparts of the Guidelines for Registering Pesticides in the United States: Subpart H: Label Development; Subpart I: Experimental Use Permits; and Subpart J: Hazard Evaluation: Non-target Plants. These subparts are in preparation for proposal in the FEDERAL REGISTER.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled. Interested persons are permitted to file written statements before or after the meeting and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit copies of a summary no later than December 8, 1978.

Individuals who wish to file written statements are advised to submit copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

STATUTORY AUTHORITY: Section 25(d) of FIFRA, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).

Dated: November 30, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-33937 Filed 12-4-78; 8:45 am]

[6560-01-M]

[OPP-50391A, FRL 1019-8]

ISSUANCE OF EXPERIMENTAL USE PERMIT; CORRECTION

In FR Doc. 78-30929 appearing at page 51132 in the issue of November 2, 1978, in experimental use permit No. 27586-EUP-23, the following correction should be made to the applicant's name in the first line of the description as follows: "• • • Forest Service, United States Department of Agriculture, Washington, D.C. 20013. This experimental • • •."

Dated: November 27, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-33825 Filed 12-4-78; 8:45 am]

[6560-01-M]

[OPP-50394, FRL 1019-7]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 2224-EUP-4. Mobil Chemical Company, Richmond, Virginia 23261. This experimental use permit allows the use of the remaining supply of approximately 3,265 pounds of the herbicide bifenox on corn, barley, oats, rice, wheat, and sorghum to evaluate control of weeds; this use was authorized in a previous experimental use permit. A total of 340 acres is involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from November 9, 1978 to March 31, 1980. Permanent tolerances for residues of the active ingredient in or on corn, grain and straw of barley, oats, rice, wheat, and sorghum grain and forage have been established (40 CFR 180.351). (PM-25, Room: E-301, Telephone: 202-755-2196).

No. 524-EUP-46. Monsanto Company, St. Louis, Missouri 63166. This experimental use permit allows the use of 3,930 pounds of the herbicide glyphosate on forage grasses and legumes to evaluate control of weeds. A total of 2,620 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming. The experimental use permit is effective from November 14, 1978 to November 14, 1980. Temporary tolerances for residues of the active ingredient in or on forage legumes, liver and kidney of cattle, goats, hogs, horses, poultry, and sheep have been established. A permanent tolerance for residues of the active ingredient in or on forage grasses has been established (40 CFR 180.364). (PM-25, Room: E-310, Telephone: 202-755-2196).

No. 4581-EUP-30. Pennwalt Corporation, Monrovia, California 91016. This experimental use permit allows the use of 662 pounds of the plant growth regulator CIPC on stored potatoes to evaluate sprout inhibition in potatoes during the storage period. The program is authorized only in the States of Idaho, Minnesota, North Dakota, Oregon, and Washington. The experimental use permit is effective from November 4, 1978 to November 4, 1979. A permanent tolerance for residues of the active ingredient in or on potatoes has been established (40 CFR 180.181). (PM-25, Room: E-301, Telephone: 202-755-2196.)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: November 27, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-33823 Filed 12-4-78; 8:45 am]

[6560-01-M]

[FRL 1019-5; PP 6G1862, 7G1903, 8G2020/T170A]

Establishment of Temporary Tolerances for Glyphosate; Correction

In FR Doc. 78-29974 appearing at page 49846 in the issue of Wednesday, October 25, 1978, an incorrect statement was made in the third paragraph, to wit, "A nitrosamine compound, which is a suspect carcinogen, appears in the formulations as an impurity." The impurity is not a nitrosamine compound. Thus, the second sentence, third paragraph, should have read "*N*-nitrosoglyphosate appears in the formulations as a contaminant." the next sentence remains unchanged: "However, no residues of the compound are present at detectable levels in the raw agricultural commodities."

Dated: November 27, 1978.

DOUGLAS D. CAMPT,
Acting Director Registration Division.

[FR Doc. 78-33826 Filed 12-4-78; 8:45 am]

[6560-01-M]

[FRL 10-19-6; PP 8G2032/T167A]

PESTICIDE PROGRAMS

Establishment of Temporary Tolerances for Glyphosphate; Correction

In FR Doc. 78-29108 appearing at page 47606 in the issue of Monday, October 16, 1978, an incorrect statement was made in the second paragraph, to wit, "A nitrosamine compound, which is a suspect carcinogen, appears in the formulations as an impurity." The impurity is not a nitrosamine compound. Thus, the second sentence, second paragraph, should have read "*N*-nitrosoglyphosate appears in the formulations as a contaminant." The next sentence remains unchanged: "However, no detectable residues of the compound are present in the raw agricultural commodities."

Dated: November 27, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-33827 Filed 12-4-78; 8:45 am]

[6560-01-M]

[PF-115, FRL 1019-4]

PESTICIDE PROGRAMS

Notice of Filing of Pesticide Petition

E. I. duPont de Nemours & Co., Wilmington, DE 19898, has submitted a petition (PP 8F2119) which proposes that 40 CFR Part 180 be amended by establishing a tolerance for residues of the herbicide hexazinone [3-cyclohexyl - 6 - (dimethylamino) - 1 methyl-1,3,5-triazine-2,4,(1*H*)-dione] and its metabolites (calculated as the parent compound) in or on sugarcane with a tolerance limitation of 0.2 part per million (ppm). The proposed analytical method for determining residues is by nitrogen selective gas chromatography. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW., Washington, D.C. 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/755-1397. Written comments should bear a notation indicating the petition number.

Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: November 27, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-33824 Filed 12-4-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: November 21, 1978.

Released: November 29, 1978.

By the Acting Chief, Broadcast Facilities Division.

CUT-OFF DATE: January 17, 1979.

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on January 18, 1979, the FM broadcast applications listed in the attached Appendix below will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.591(b) of the Commission's rules,

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an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on January 17, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on January 17, 1979. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to §1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to §1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

BPH-10764 (WQDW), Kinston, N.C., Smiles of Lenoir, Inc., Has: 97.7 MHz; channel No. 249A. ERP: 3 kW; HAAT: 170 ft. (Lic.). Req: 97.7 MHz; channel No. 249.A ERP: 3 kW; HAAT: 248 ft.

BPH-10875(new), Princeton, W. Va., Fincastle Communications Co., Inc., Req: 100.9 MHz; channel No. 265A. ERP: 1.9 kW; HAAT: 366 ft.

BPH-10876 (new), Chadron, Nebr., Big Sky Co. Req: 97.5 MHz; channel No. 248C. ERP: 100 kW; HAAT: 844 ft.

BPH-10879 (new), Houghton, Mich., Desnick Broadcasting Co. Req: 97.7 MHz; channel No. 249A. ERP: 1 kW; HAAT: 475 ft.

BPH-10895 (new), Kealakekua, Hawaii, Kona Koast Broadcasting Co. Req: 92.1 MHz; channel No. 221A. ERP: 3 kW; HAAT: 158 ft.

BPH-10907 (new), Craig, Colo., R & R Associates, Inc. Req: 102.5 MHz; channel No. 273C. ERP: 100 kW; HAAT: 1,206 ft.

BPH-10913 (new), Tawas City, Mich., Carroll Enterprises, Inc. Req: 103.9 MHz; channel No. 280A. ERP: 3 kW; HAAT: 300 ft.

BPH-11001 (new), Shelby, Ohio, Harry Wilber. Req: 100.1 MHz; channel No. 261A. ERP: 2.09 kW; HAAT: 350 ft. (Allocated to Plymouth, Ohio)

BPH-11002 (new), Raton, N. Mex., Raton Broadcasting Co. Req: 94.3 MHz; channel No. 232A. ERP: 3 kW; HAAT: 528 ft.

BPH-11003 (new), Benton, La., Benton Broadcasting Corp. Req: 92.1 MHz; channel No. 221A. ERP: 3 kW; HAAT: 300 ft.

BPH-11018 (WMIK-FM), Middlesboro, Ky., Cumberland Gap Broadcasting Co. Has: 92.7 MHz; channel No. 224A. ERP: 3 kW; HAAT: —190 ft. (Lic.). Req: 92.7 MHz; channel No. 224A. ERP: 0.129 kW; HAAT: 1,438 ft.

BPH-11019 (KWEZ), Monroe, La., Cyrene Broadcasting Corp. Has: 104.1 MHz; channel No. 281C. ERP: 17 kW; HAAT: 175 ft. (Lic.). Req: 104.1 MHz; channel No. 281C. ERP: 100 kW; HAAT: 852 ft.

BPH-11021 (new), Silsbee, Tex., Jewel P. White. Req: 101.7 MHz; channel No. 269A. ERP: 3 kW; HAAT: 188.4 ft.

BPH-11024 (KYLT-FM), Missoula, Mont., Scottie Broadcasting Co. Has: 100.1 MHz; channel No. 261A. ERP: 2.90 kW; HAAT: —810 ft. (Lic.). Req: 100.1 MHz; channel No. 261A. ERP: 3 kW; HAAT: —201 ft.

BPH-11033 (WZND), Zeeland, Mich., West-State Broadcasters, Inc. Has: 99.3 MHz; channel No. 257A. ERP: 3 kW; HAAT: 98 ft. (Lic.). Req: 99.3 MHz; channel No. 257A. ERP: 2 kW; HAAT: 353.6 ft.

BPH-11039 (new), Refugio, Tex., Price K. Johnson. Req: 106.3 MHz; channel No. 292A. ERP: 3 kW; HAAT: 300 ft.

BPH-11084 (WLER-FM), Butler, Pa., WBUT, Inc. Has: 97.7 MHz; channel No. 249A. ERP: 0.72 kW; HAAT: 290 ft. (Lic.). Req: 97.7 MHz; channel No. 249A. ERP: 1.16 kW; HAAT: 374 ft.

BPH-11097 (WSIV-FM), Pekin, Ill., Dick Lashbrook Corp. Has: 95.3 MHz; channel No. 237A. ERP: 2.8 kW; HAAT: 89 ft. (Lic.). Req: 95.3 MHz; channel No. 237A. ERP: 1.1 kW; HAAT: 461 ft.

BPH-11105 (new), Heidelberg, Miss., New Laurel Radio Station, Inc. Req: 99.3 MHz; channel No. 257A. ERP: 3 kW; HAAT: 300 ft.

BPH-11108 (new), Forsyth, Mont., Gold Won Radio Corp. Req: 101.3 MHz; channel No. 267C. ERP: 100 kW; HAAT: 1,025 ft.

BPH-11134 (KENE-FM), Toppenish, Wash., Radio Broadcasters, Inc. Has: 92.7 MHz; channel No. 224A. ERP: 1 kW; HAAT: —35 ft. (Lic.). Req: 92.7 MHz; channel No. 224A. ERP: 2.5 kW; HAAT: —35 ft.

BPH-11137 (KBCR-FM), Steamboat Springs, Colo., Big Country Radio, Inc. Has: 96.7 MHz; channel No. 244 A. ERP: 0.07 kW; HAAT: 1,880 ft. (Lic.). Req: 96.7 MHz; channel No. 244 A. ERP: 0.87 kW; HAAT: 514 ft.

BPH-11144 (KOPA-FM), Scottsdale, Ariz., First Media Corp. Has: 100.7 MHz; channel No. 264 C. ERP: 50 kW; HAAT: 170 ft. (Lic.). Req: 100.7 MHz; channel No. 264 C. ERP: 100 kW; HAAT: 1847 ft.

BPH-11146 (new), Rhinelander, Wis., Rhinelander Broadcasting Corp. Req: 97.5 MHz; channel No. 248 C. ERP: 100 kW; HAAT: 500 ft.

BPH-11148 (new), Safford, Ariz., KSIL, Inc. Req: 94.1 MHz; channel No. 231 C. ERP: 100 kW; HAAT: —316 ft.

BPH-11149 (WIKZ), Chambersburg, Pa., Chambersburg Broadcasting Co., Inc. Has: 95.1 MHz; channel No. 236 B. ERP: 2.8 kW; HAAT: 240 ft. (Lic.). Req: 95.1 MHz; channel No. 236 B. ERP: 50 kW; HAAT: 234 ft.

BPH-11162 (WABB-FM), Mobile, Ala., WABB-FM, Inc. Has: 97.5 MHz; channel No. 248 C. ERP: 100 kW; HAAT: 450 ft. (Lic.). Req: 97.5 MHz; channel No. 248 C. ERP: 100 kW; HAAT: 844.3 ft.

BPH-11170 (WRFB), Stowe, Vt., RFB, Inc. Has: 101.7 MHz; channel No. 269 A. ERP: 0.030 kW; HAAT: 2,289 ft. (Lic.). Req: 101.7 MHz; channel No. 269 A. ERP: 3 kW; HAAT: 85 ft.

BPH-11172 (WQYK-FM), St. Petersburg, Fla., Suncoast Stereo Corp. Has: 99.5 MHz; channel No. 258 C. ERP: 100 kW; HAAT: 240 ft. (Lic.). Req: 99.5 MHz; channel No. 258 C. ERP: 100 kW; HAAT: 546 ft.

BPH-11174 (new), Jersey Shore, Pa., Jersey Shore Broadcasting Co. of Pa., Inc. Req: 97.7 MHz; channel No. 249 A. ERP: 3 kW; HAAT: 300 ft.

BPH-11175 (new), Lonoke, Ark., Lonoke County Radio. Req: 106.3 MHz; channel No. 292 A. ERP: 3 kW; HAAT: 300 ft.

BPH-11176 (KUGN-FM), Eugene, Oreg., Obie Communications Corp. Has: 97.9 MHz; channel No. 250 C. ERP: 3.5 kW; HAAT: 780 ft. (Lic.). Req: 97.9 MHz; channel No. 250. ERP: 100 kW; HAAT: 784 ft.

BPH-11178 (WCHQ-FM), Camuy, P.R., Camuy Broadcasting Corp. Has: 102.9 MHz; channel No. 275 B. ERP: 5.9 kW; HAAT: —135 ft. (Lic.). Req: 102.9 MHz; channel No. 275 B. ERP: 50 kW; HAAT: 58 ft.

BPH-11184 (new), Canyon, Tex., Canyon Broadcasting Co. Req: 107.1 MHz; channel No. 296 A. ERP: 3 kW; HAAT: 295 ft.

BPH-11188 (KFMT), Moses Lake, Wash., KWIQ Radio, Inc. Has: 100.3 MHz; channel No. 262 C. ERP: 27.4 kW; HAAT: 210 ft. (Lic.). Req: 100.3 MHz; channel No. 262 C. ERP: 26.8 kW; HAAT: 210 ft.

BPH-11188 (new), Moses Lake, Wash., KSEM, Inc. Req: 99.3 MHz; channel No. 257 A. ERP: 3 kW; HAAT: 200.5 ft.

BPH-11189 (WKOA-FM), Hopkinsville, Ky., Pennyrile Broadcasting Co. Has: 100.3 MHz; channel No. 262 C. ERP: 30 kW; HAAT: 93 ft. (Lic.). Req: 100.3 MHz; channel No. 262 C. ERP: 100 kW; HAAT: 602 ft.

BPH-11192 (KQYN), Twentynine Palms, Calif., Hi-Desert Broadcasting Corp. Has: 95.7 MHz; channel No. 239 B. ERP: 5 kW; HAAT: —89 ft. (Lic.). Req: 95.7 MHz; channel No. 239 B. ERP: 16.2 kW; HAAT: —79 ft.

BPH-11193 (new), Holtville, Calif., William N. Babcock. Req: 100.1 MHz; channel No. 261 A. ERP: 3 kW; HAAT: 260 ft.

BPH-11194 (new), Eastland, Tex., Micro Media. Req: 96.7 MHz; channel No. 244 A. ERP: 3 kW; HAAT: 275 ft.

BPH-780710AD (new), Harlan, Iowa, Shelby Broadcasting Co. Req: 105.5 MHz; channel No. 288 A. ERP: 3 kW; HAAT: 300 ft.

BPH-780714AC (new), Harrison, Ark., Bowman & Loveland Broadcasting Co., Inc., Req: 96.7 MHz; channel No. 244 A. ERP: 3 kW; HAAT; 300 ft.

BPH-780717AC (new), Denair, Calif., Denair Broadcasting Co., Inc. Req: 95.9 MHz; channel No. 240 A. ERP: 3 kW; HAAT: 127 ft.

BPH-780717AM (new), Baker, Oreg., Oregon Trail Broadcasting, Inc. Req: 95.3 MHz; channel No. 237 A. ERP: 3 kW; HAAT: —200 ft.

BPH-780719AB (new), Ocilla, Ga., Irwin County Broadcasting Corp. Req: 97.7 MHz; channel No. 249 A. ERP: 3 kW; HAAT: 300 ft.

BPH-780724AN (new), Grants, N. Mex., Grants Broadcasting Co. Req: 95.3 MHz; channel No. 237 A. ERP: 3 kW; HAAT: 298 ft.

BPH-780726AG (KENO-FM), Las Vegas, Nev., Lotus Broadcasting Corp., Has: 92.3 MHz; channel No. 222 C. ERP: 27 kW; HAAT: 180 ft. (Lic.). Req: 92.3 MHz; channel No. 222 C. ERP: 100 kW; HAAT: 1,524 ft.

BPH-780801AH (new), Luray, Va., WRAA Broadcasters, Inc. Req: 103.9 MHz; channel No. 280 A. ERP: 3 kW; HAAT: 11 ft.

BPH-780802AI (new), Rusk, Tex., E. H. Whitehead. Req: 97.7 MHz; channel no. 249 A. ERP: 1.38 kW; HAAT: 423 ft.

BPH-780802AM (new), Homerville, Ga., Southern Broadcasting & Investment Co., Inc. Req: 105.5 MHz; channel No. 288 A. ERP: 3 kW; HAAT: 300 ft.

BPH-780803AD (new), Le Roy, Ill., S.M.C. Broadcasting Corp. Req: 92.7 MHz; channel No. 224 A. ERP: 3 kW; HAAT: 300 ft.

BPH-780814AF (KHBM-FM), Monticello, Ark., Andres Broadcasting Co., Inc. Has: 93.5 MHz; channel No. 228 A. ERP: 3 kW; HAAT: 205 ft. (Lic.). Req: 93.5 MHz; channel No. 228 A. ERP: 2.33 kW; HAAT: 337 ft.

BPH-780817AD (new), Terrytown, Nebr., Christian Media, Inc. Req: 103.9 MHz; channel No. 280 A. ERP: 3 kW; HAAT: 108 ft.

BPH-780818AG (new), Rawlins, Wyo., Korral Radio, Inc. Req: 92.7 MHz; channel No. 224 A. ERP: 3 kW; HAAT: 118 ft.

BPH-780821AC (new), Yakutat, Alaska, Intercontinental Ministries, Inc. Req: 103.9 MHz; channel No. 280 A. ERP: 0.004 kW; HAAT: 78.3 ft.

BPH-780821AE (new), Amherst, Va., Amherst Broadcasting Associates, Inc. Req: 107.9 MHz; channel No. 300 B. ERP: 50 kW; HAAT: 500 ft.

BPH-780822AA (new), Belen, N. Mex., Wuenschel Broadcasting Co., Inc. Req: 97.7; channel No. 249 A. ERP: 3 kW; HAAT: 276 ft.

BPH-780822AB (WEFA), Waukegan, Ill., WEFA, Inc. Has: 102.3 MHz; channel No. 272 A. ERP: 3 kW; HAAT: 190 ft. (Lic.). Req: 102.3 MHz; channel No. 272 A. ERP: 3 kW; HAAT: 300 ft.

BPH-780824AA (new), Cresson, Pa., Great American Wireless Signal Co., Inc. Req: 94.3 MHz; channel No. 232 A. ERP: 0.6 kW; HAAT: 598 ft.

BPH-780830AF (WMDH), New Castle, Ind., Delta D, Inc. Has: 102.5 MHz; channel No. 273 B. ERP: 20.5 kW; HAAT: 440 ft. (Lic.). Req: 102.5 MHz; channel No. 273 B. ERP: 50 kW; HAAT: 500 ft.

BPH-780830AH (WMEQ), Menomonie, Wis., Phillips Broadcasting Co., Inc. Has: 92.1 MHz; channel No. 221 A. ERP: 3 kW; HAAT: 150 ft. (Lic.). Req: 92.1 MHz; channel No. 221 A. ERP: 1.32 kW; HAAT: 431 ft.

BPH-780831AL (new), Paris, Ark., Logan County Broadcasting Co. Req: 95.3 MHz; channel No. 237 A. ERP: 0.7 kW; HAAT: 562 ft.

BPH-780831AS (WHOP-FM), Hopkinsville, Ky., Hopkinsville Broadcasting Co., Inc. Has: 98.7 MHz; channel No. 254 C. ERP: 39 kW; HAAT: 210 ft. (Lic.). Req: 98.7 MHz; channel No. 254 C. ERP: 100 kW; HAAT: 293 ft.

BPH-780911AE (KAYL-FM), Storm Lake, Iowa, Northwest Iowa Broadcasting Corp. Has: 101.5 MHz; channel No. 268 C. ERP: 17.5 kW; HAAT: 400 ft. (Lic.). Req: 101.5 MHz; channel No. 268 C. ERP: 87 kW; HAAT: 400 ft.

BPH-780911AJ (new), Ozark, Ark., Valley Communications, Inc., Req: 96.7 MHz; channel No. 244 A. ERP: 1.1kW; HAAT: 480 ft.

BPH-780915AC (KOTN-FM), Pine Bluff, Ark., Joellen Broadcasting Corp. Has: 92.3 MHz; channel No. 222C. ERP: 27 kW; HAAT: 115 ft. (Lic.). Req: 92.3 MHz; channel No. 222 C. ERP: 100kW; HAAT: 1,011 ft.

BPH-780918AM (KESM-FM), Eldorado Springs, Mo., Cedar County Broadcasting Corp. Has: 107.1 MHz; channel No. 296 A. ERP: 3 kW; HAAT: 135 ft. (Lic.). Req: 105.5 MHz; channel No. 288 A. ERP: 3 kW; HAAT: 208 ft.

BPH-780920AH (new), Princeton, Ill., WZOE, Inc. Req: 98.3 MHz; channel No. 252 A. ERP: 3 kW; HAAT: 300 ft.

BPH-780927AA (WUUU), Oak Ridge, Tenn., Rau Radio Stations, Inc. Has: 94.3 MHz; channel No. 232 A. ERP: 2.5 kW; HAAT: —45 ft. (Lic.). Req: 94.3 MHz; channel No. 232 A. ERP: 1.82 kW; HAAT: 383 ft.

BPH-781017AI (KLWN-FM), Lawrence, Kans., Lawrence Broadcasters, Inc. Has: 105.9 MHz; channel No. 290 C. ERP: 17 kW; HAAT: 135 ft. (Lic.). Req: 105.9 MHz; channel No. 290 C. ERP: 100 kW; HAAT: 593.7 ft.

BMLH-635 (WJRZ), Manahawkin, N.J., Jersey Shore Broadcasting Corp., Has: 100.1 MHz; channel No. 261 A. ERP: 3 kW; HAAT: 300 ft. (Lic.). (Ship Bottom, N.J.) Req: 100.1 MHz; channel No. 261 A. ERP: 3 kW; HAAT: 300 ft. (Manahawkin, N.J.).

BMPH-15456 (WQON), Grayling, Mich., Ausable Communications, Inc. Has: 100.1 MHz; channel No. 261 A. ERP: 0.3 kW; HAAT: 300 ft. (CP). Req: 100.1 MHz; channel No. 261 A. ERP: 1.65 kW; HAAT: 389 ft.

BMPH-15557 (KRQK), Lompoc, Calif. JWR Broadcasting Corp. Has: 100.9 MHz; channel No. 265 A. ERP: 3 kW; HAAT: 29 ft. (CP). Req: 100.9 MHz; channel No. 265 A. ERP: 3 kW; HAAT: 808 ft.

BMPH-780713AA (KPDJ), Eureka, Calif., Pauldon, Inc. Has: 92.3 MHz; channel No. 222 C. ERP: 100 kW; HAAT: 230 ft. (CP). Req: 92.3 MHz; channel No. 222 C. ERP: 100 kW; HAAT: 1,544 ft.

BMPH-781004AO (KFMG), Albuquerque, N. Mex., KFMG, Inc. Has: 107.9 MHz; channel No. 300 C. ERP: 77 kW; HAAT: —41 ft. (CP). Req: 107.9 MHz; channel No. 300 C. ERP: 10.1 kW; HAAT: 4,164 ft.

BPED-2585 (new), Ceres, Calif., Assyrian Cul. Center Bet-Nahrain, Inc., Req: 89.5 MHz; channel No. 208 D. ERP: 0.03 kW; HAAT: 135 ft.

BPED-2596 (new), Corpus Christi, Tex., Spindizzy Pubcom. Req: 91.9 MHz; channel No. 220 A. ERP: 2.39 kW; HAAT: 316.8 ft.

BPED-2604 (WCRH), Williamsport, MD., Cedar Ridge Childrens Home & School, Inc. Has: 90.5 MHz; channel No. 213 B. ERP: 7.5 kW; HAAT: 27 ft. (Lic.). Req: 90.5 MHz; channel No. 213 B. ERP: 10 kW; HAAT: 884 ft.

BPED-2609 (new), Claremore, Okla., Claremore College. Req: 91.3 MHz; channel No. 217 D. TPO: 0.01 kW.

BPED-2616 (KMSM-FM), Butte, Mont. Associated Students of Montana Tech. Has: 91.5 MHz; channel No. 218 D. TPO: 0.01 kW (Lic.). Req: 91.5 MHz; channel No. 218 A. ERP: 0.168 kW; HAAT: —322 ft.

BPED-2620 (WFIT), Melbourne, Fla., Florida Institute of Technology. Has: 91.5 MHz; channel No. 218 D. TPO: 0.01 kW (Lic.). Req: 89.5 MHz; channel No. 208 A. ERP: 2.97 kW; HAAT: 92.6 ft.

BPED-2624 (new), Champaign, Ill., Prairie Air, Inc. Req: 90.1 MHz; channel No. 211 A. ERP: 0.399 kW; HAAT: 390 ft.

BPED-2639 (new), Schofield, Wis., D.C. Everest Area School District. Req: 89.1 MHz; channel No. 206 D. ERP: 0.012 kW; HAAT: 42.38 ft.

BPED-2645 (WCVH), Flemington, N.J., Hunterdon Central High School Board of Education. Has: 90.5 MHz; channel No. 213 A. ERP: 0.069 kW; HAAT: 300 ft. (Lic.). Req: 90.5 MHz; channel No. 213 A. ERP: 0.039 kW; HAAT: 459 ft.

BPED-2653 (new), Paonia, Colo. North Fork Valley Public Radio, Inc. Req: 90.9 MHz; channel No. 215D. TPO: 0.01 kW; HAAT: —988 ft.

BPED-2657 (new), College Park, Md. University of Maryland. Req: 88.1 MHz; channel No. 201D TPO: 0.01 kW; HAAT: 3 ft.

BPED-2669 (new), Acton, Mass. Acton-Boxborough Regional School District. Req: 89.1 MHz; Channel No. 206D. ERP: 0.008 kW; HAAT: 26 ft.

BPED-2671 (WGTD), Kenosha, Wis. Gateway Adult Education District HAS: 91.1 MHz; channel No. 216A. ERP: 0.8 kW; HAAT: 145 ft. (Lic.). Req: 91.1 MHz; channel No. 216A. ERP: 5 kW; HAAT: 133 ft.

BPED-2672 (new), Gerlach, Nev. Washoe County School District. Req: 91.5 MHz; channel No. 218D. ERP: 0.014 kW; HAAT: —298 ft.

BPED-2673 (new), Farmington, N. Mex. Navajo Missions, Inc. Req: 88.9 MHz; channel No. 205D. ERP: 0.431 kW; HAAT: 355.5 ft.

BPED-2674 (WXGC), Milledgeville, Ga. Georgia College Radio Board. HAS: 88.9 MHz; channel No. 205D. TPO: 0.01 kW. (Lic.). Req: 88.9 MHz; channel No. 205C. ERP: 4.2 kW; HAAT: 95 ft.

BPED-2676 (new), Duluth, Minn. Northwestern College, Req: 90.5 MHz; channel No. 213A. ERP: 0.55 kW; HAAT: 621 ft.

BPED-2677 (new), Brockport, N.Y. State University of New York. Req: 88.9 MHz; channel No. 205D. ERP: 0.008 kW; HAAT: 151 ft.

BPED-2681 (KEPC) Colorado Springs, Colo. Pikes Peak Community College. HAS: 90.5 MHz; channel No. 213C. ERP: 3.7 kW; HAAT: —1180 ft. (Lic.). Req: 90.5 MHz; channel No. 213C. ERP: 3.7 kW; HAAT: —273 ft.

BPED-2687 (new), Las Vegas, Nev. University of Nevada System Board of Regents. Req: 91.5 MHz; channel No. 218C. ERP: 14.7 kW; HAAT: 45 ft.

BPED-2688 (new), Sweet Briar, Va. Sweet Briar College. Req: 91.5 MHz; channel No. 218D. ERP: 0.008 kW; HAAT: 218 ft.

BPED-2691 (WUEC), Eau Claire, Wis. Board of Regents of University of Wisconsin. HAS: 89.7 MHz; channel No. 209D. TPO: 0.01 kW. (Lic.). Req: 89.7 MHz; channel No. 209C. ERP: 0.750 kW; HAAT: 632 ft.

BPED-2692 (WVKR-FM), Poughkeepsie, N.Y. Vassar College. HAS: 91.3 MHz; channel No. 217D. TPO: 0.01 kW. (Lic.). Req: 91.3 MHz; channel No. 217A. ERP: 1.0 kW; HAAT: —85 ft.

BPED-2694 (new), Logansport, Ind. Calvary Bible Church and Schools, Inc. Req: 88.5 MHz; channel No. 203D. ERP: 0.015 kW; HAAT: 24 ft.

BPED-2703 (KFCF), Fresno, Calif. Fresno Free College Foundation. HAS: 88.1 MHz; channel No. 201B. ERP: 0.39 kW; HAAT: 1,940 ft. (Lic.). Req: 88.1 MHz; channel No. 201B. ERP: 2.40 kW; HAAT: 1,877 ft.

BPED-2708 (WUSM), North Dartmouth, Mass. Southeastern Massachusetts University. HAS: 90.5 MHz; channel No. 213D. TPO: 0.01 kW. (Lic.) Req: 91.1 MHz; channel No. 216A. ERP: 0.302 kW; HAAT: 301 ft.

BPED-780714AK (KTCU-FM), Fort Worth, Tex. Texas Christian University. HAS: 88.7 MHz; channel No. 204A. ERP: 3 kW; HAAT: 125 ft. (Lic.). Req: 88.7 MHz; channel No. 204A. ERP: 3 kW; HAAT: 300 ft.

BPED-780724AS (new), Rochester, Minn. Faith Sound, Inc. Req: 88.5 MHz; channel No. 203C. ERP: 7 kW; HAAT: 317 ft.

BPED-780814AL (WGCS), Goshen, Ind. Goshen College Broadcasting Corp. HAS: 91.1 MHz; channel No. 216A. ERP: 0.39 kW; HAAT: 65 ft. (Lic.). Req: 91.1 MHz; channel No. 216B. ERP: 7.65 kW; HAAT: 56.5 ft.

BPED-780901AC (WVIK), Rock Island, Ill., Augustana College. HAS: 91.1 MHz; channel No. 216D. TPO: 0.01 kW. (Lic.). Req: 90.1 MHz; channel No. 211C. ERP: 85 kW; HAAT; 497 ft.

BPED-780920AM (KALA), Davenport, Iowa. St. Ambrose College. HAS: 90.1 MHz channel No. 211D. TPO: 0.01 kW; HAAT: 102 ft. (Lic.) Req: 88.5 MHz; channel No. 203A. ERP: 0.1 kW; HAAT: 110 ft.

BMPED-1613 (WDNA), Miami, Fla. Bascomb Memorial Broadcast Foundation, Inc. HAS: 88.9 MHz; channel No. 205C. ERP: 2.3 kW; HAAT: 710 ft. (CP) Req: 88.9 MHz; channel No. 205C. ERP: 95.1 kW; HAAT: 709 ft.

BMPED-780814AE (KOKF), Edmond, Okla. Oklahoma Foundation for Research and Development Utility. HAS: 90.9 MHz; channel No. 215D. TPO: 0.01 kW. (CP). Req: 90.9 MHz; channel No. 215C. ERP: 3.25 kW; HAAT: 234 ft.

[FR Doc. 78-33844 Filed 12-4-78; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: November 28, 1978.

Released: November 28, 1978.

By the Chief, Broadcast Facilities Division.

CUT-OFF DATE: January 2, 1979.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on January 3, 1979. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of Bermey E. Stevens (File No. BPH-10,775), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to Section 1.584.

BPH-11,004 (new), Windsor, N.C. Cashie Valley Broadcasters, Inc. Req: 97.7 MHz, 249; 3 kW; 300 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-33845 Filed 12-4-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 26, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 5200-33.

Filing Party: David C. Nolan, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Summary: Agreement No. 5200-33, among the members of the Pacific Coast European Conference, modifies the self-policing procedures of the basic conference agreement to comply with the recent revision of Federal Maritime Commission General Order No. 7 set forth in Docket No. 73-64.

Agreement No. 8682-17.

Filing Party: Elkan Turk, Jr., Esq., Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 8682-17 would amend various articles of the U.S. Gulf/Japan Cotton Pool Agreement for the purpose of (1) reducing the minimum sailing requirements for American and Japanese carriers, and (2) revising the shares of percentage participation of the American and Japanese groups from 50 percent each to, respectively, 40 percent and 60 percent.

Agreement No. 9891-7.

Filing Party: Edwin Longcope, Esq., Hill, Betts & Nash, Suite 5215, One World Trade Center, New York, New York 10048.

Summary: Agreement No. 9891-7, between Armement Deppe, S.A. and Ozean/Stinnes-Lines Joint Service. changes the expiration date of the basic agreement from January 1, 1979 to January 1, 1982.

Agreement No. 10045-3.

Filing Party: Donald J. Brunner, Esquire, Ragan & Mason, 900 Seventeenth Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10045-3, between Coordinated Caribbean Transport, Inc., Linea Naviera Pan Atlantica, S.A., d/b/a Pan Atlantic Lines, Inc., and Sea-Land Service, Inc., modifies the parties' basic forty-eight hour rate agreement in the trade between Florida ports and ports in the Republic of Panama and the Republic of Costa Rica by (1) providing for the admission of Sea-Land Service, Inc. as a party to the agreement; (2) expanding the geographic scope of the agreement to also include U.S. Atlantic and Gulf ports and to include inland points; (3) including demurrage charges as an item on which the parties may agree; and (4) incorporating neutral body self-policing provisions.

Agreement No. 10105-1.

Filing Party: Donald J. Brunner, Esquire, Ragan & Mason, 900 Seventeenth Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10105-1, between Coordinated Caribbean Transport, Inc., Pan American Mail Lines, Inc., d/b/a Pan Atlantic Lines, Inc., and Sea-Land Service, Inc., modifies the parties' basic forty-eight hour rate agreement in the trade between Florida ports and Caribbean ports of Guatemala and Honduras, and via the latter, to and from inland ports in Guatemala, Honduras and El Salvador by (1) providing for the admission of Sea-Land Service as a party to the agreement; (2) expanding the geographic scope of the agreement to also include U.S. Atlantic and Gulf ports; (3) including demurrage charges as an item on which the parties may agree; and (4) incorporating neutral body self-policing provisions.

Dated: November 29, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33869 Filed 12-4-78; 8:45 am]

[6730-01-M]

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 15, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-182-3.

Filing Party: David D. Pollack, Assistant General Counsel and Assistant Secretary, Youngstown Sheet and Tube Company, P.O. Box 900, Youngstown, Ohio 44501.

Summary: Agreement No. T-182-3, between Transoceanic Terminal Corporation and South Chicago Dock Leasing Company, Division of Youngstown Sheet and Tube Company, modifies the parties' basic agreement providing for the lease of certain property at Chicago, Illinois. The purpose of the modification is to terminate the agreement, effective upon the date (required by Order of the Court to be within 14 days after November 16, 1978) that possession of the property is awarded (pursuant to Order in a condemnation proceeding) to the Chicago Regional Port District.

Dated: November 29, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33870 Filed 12-4-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1903]

E.A.M. INTERNATIONAL, ERIC A. MARANDOLA D/B/A

Order of Revocation

On November 20, 1978, E.A.M. International, Eric A. Marandola d/b/a, 1529 W. 14th Street, Long Beach, California 90813, requested the Commissioner to revoke its Independent Ocean Freight Forwarder License No. 1903, effective November 30, 1978.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1903 issued to E.A.M. International, Eric A. Marandola d/b/a be and is hereby revoked effective November 30, 1978 without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon E.A.M. International, Eric A. Marandola d/b/a.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-33871 Filed 12-4-78; 8:45 am]

[6730-01-M]

[Docket No. 72-35]

PACIFIC WESTBOUND CONFERENCE

Investigation of Rates, Rules and Practices Pertaining to the Movement of Wastepaper and Woodpulp From U.S. West Coast Ports to Ports in Japan; Availability of Final Environmental Impact Statement

Upon completion of a Final Environmental Impact Statement ("FEIS"), the Federal Maritime Commission's Office of Environmental Analysis ("OEA") has identified the energy and environmental consequences of the Commission's final resolution in this proceeding. the FEIS indicates that if the Commission decides PWC's rates on wastepaper violate the Shipping Act, 1916 and orders them reduced, there may be lower U.S. solid waste management costs, less fuel consumed in the U.S., less landfill and process water used, as well as, fewer air and water pollutants produced in the U.S. The assessment of energy use is required under section 382(b) of the Energy Policy and Conservation Act of 1975, and an environmental assessment is required under section 4332(2)(c) of the National Environmental Policy Act of 1969.

Docket No. 72-35 was instituted by Order of Investigation served on July 20, 1972, and is to determine whether the Pacific Westbound Conference's rates, rules and practices for moving wastepaper and woodpulp from United States West Coast ports to ports in Japan, South Korea, South Vietnam, Taiwan, the Philippines and Thailand violate sections 15, 16, 17, 18(b)(5) and 22 of the Shipping Act, 1916.

The OEA's conclusions are contained in the FEIS which is available on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone 202-523-5725.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-33872 Filed 12-4-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BOWMAN CAPITAL CO.

Formation of Bank Holding Company

Bowman Capital Co., Omaha, Nebraska, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C.) 1842 (a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The First National Bank of Bowman, Bowman, North Dakota. The factors that are considered in acting on the Application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 28, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33854 Filed 12-4-78; 8:45 am]

[6210-01-M]

CENTRAL WISCONSIN BANKSHARES, INC.

Acquisition of Bank

Central Wisconsin Bankshares, Inc., Wausau, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 50.66 per cent or more of the voting shares of Community State Bank, Eau Claire, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than 23 days of the date of this notice. Any comment on

voting shares of Raymondville State

[6210-01-M]

[6210-01-M]

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an application that requests a hearing must be sent to the Secretary's Office and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 27, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33855 Filed 12-4-78; 8:45 am]

[6210-01-M]

FIRST HAWAIIAN, INC.

Proposed Continuation of Insurance Agency Activities

First Hawaiian, Inc., Honolulu, Hawaii, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the sale of credit related life, accident, and health insurance in connection with loans or extensions of credit made by its wholly owned subsidiary, Hawaii Thrift & Loan, Incorporated, Honolulu, Hawaii. Notice of the application was published on September 29, 1978 in *The Honolulu Advertiser*, a newspaper circulated in Honolulu, Hawaii. The activities proposed have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 28, 1978.

Board of Governors of the Federal Reserve System, November 28, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33856 Filed 12-4-78; 8:45 am]

[6210-01-M]

FIRST MUNDAY BANCSHARES, INC.

Formation of Bank Holding Company

First Munday Bancshares, Inc., Munday, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less director's qualifying shares) of First National Bank in Munday, Munday, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received no later than 24 days of the date of this notice. Any comment on an application that requests a hearing must be sent to the Secretary's Office and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal System, November 27, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33857 Filed 12-4-78; 8:45 am]

[6210-01-M]

FIRST NATIONAL CORP.

Acquistition of Bank

First National Corporation, Appleton, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 70 per cent or more of the voting shares of The Oshkosh National Bank, Oshkosh, Wisconsin. The factors that are considered in acting on the application are set forth in 3 section (c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the Offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 27, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 28, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33858 Filed 12-4-78; 8:45 am]

[6210-01-M]

HOUSTON BANCSHARES, INC.

Formation of Bank Holding Co.

Houston Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of North Side Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than 23 days of the date of this notice. Any comment on an application that requests a hearing must be sent to the Secretary's Office and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33859 Filed 12-4-78; 8:45 am]

[6210-01-M]

RAYMONDVILLE STATE BANCSHARES, INC.

Formation of Bank Holding Co.

Raymondville State Bancshares, Incorporated, Raymondville, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more (less directors' qualifying shares) of the voting shares of Raymondville State Bank, Raymondville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than 24 days of the date of this notice. Any comment on an application that requests a hearing must be sent to the Secretary's Office and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 27, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33860 Filed 12-4-78; 8:45 am]

[6210-01-M]

SAFRACORP

Formation of Bank Holding Company

SafraCorp, Miami, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of SafraBank, Miami, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 28, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33861 Filed 12-4-78; 8:45 am]

[6210-01-M]

STANDARD CHARTERED BANK LTD. ET AL.

Formation of Bank Holding Companies and Acquisition of Bank

Standard Chartered Bank Limited ("SCB"), London, England, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly 100 per cent (less directors' qualifying shares) of Union Bank, Los Angeles, California. This acquisition is proposed to be accomplished by a merger of SCB's indirect subsidiary, Standard Chartered Bancorp, San Francisco, California, and Union Bancorp, Inc., Los Angeles, California, a bank holding company that controls Union Bank. Subsequently, Applicant intends to effect a merger of Union Bank and SCB's indirect bank subsidiary, Chartered Bank of London, San Francisco, California. SBC's subsidiaries, Standard Chartered Overseas Holding Limited, London, England, and Standard Chartered Bancorp, have also applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(1)) to become bank holding companies by acquiring 100 percent (less directors' qualifying shares) of Union Bank and Chartered Bank of London, as a result of the same proposed transactions.

The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 28, 1978. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-33862 Filed 12-4-78; 8:45 am]

[6210-01-M]

STATE NATIONAL FINANCIAL CORP.

Formation of Bank Holding Company

State National Financial Corporation, Corsicana, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98.4 percent of the voting shares of The State National Bank of Corsicana, Corsicana, Texas. The factors that are considered in acting on the Application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the Application should submit views in writing to the Reserve Bank, to be received not later than 24 days of the date of this notice. Any comment on an Application that requests a hearing must be sent to the Secretary's Office and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 27, 1978

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-33863 Filed 12-4-78; 8:45am]

[6820-96-M]

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

ORDER TRANSFERRING TO THE TENNESSEE VALLEY AUTHORITY THE USE, POSSESSION, AND CONTROL OF CERTAIN LAND IN ANDERSON COUNTY, TENNESSEE, FROM THE DEPARTMENT OF ENERGY

By virtue of the authority vested in the President of the United States by Section 7(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831f(b) (1970)), and delegated to the Administrator of General Services by Section 1 (17) of Executive Order No 11609 of July 22, 1971, and further delegated to the Commissioner, Federal Property Resources Service, by GSA Order ADM 5450.49 of July 20, 1978, it is hereby ordered that the use, possession, and control of the land hereinafter described be, and it is hereby transferred to the Tennessee Valley Authority from the Department of Energy, successor to the Energy Research and Development Aministration, such transfer being deemed necessary and proper for the purposes of

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ing initial denials, by the individual posed contract not later than 30 days

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the Tennessee Valley Authority as stated in the Tennessee Valley Authority Act of 1933, as amended, said transfer to be effective as of the date hereof:

TRACT NO. MHR-8

A portion of a tract of land lying in the Eighth Civil District of Anderson County, State of Tennessee, on the original right bank of the Clinch River at Solway Bridge, the said portion being more particularly described as follows:

Beginning at a point where the centerline of the westbound lane of the relocated State Highway 62 crosses the west end of the new Solway Bridge, said point also being in the easterly extension of the centerline of partially completed exit ramp "D" (as identified on Sheet 7 of State of Tennessee Department of Highways Plan and Profile of State Highway Project 01008-2211-04); thence with a severance line and a line that extends with the centerline of the ramp extension in a westerly direction and subsequently with the centerline of the said ramp as it curves to the right in a general northerly direction for a total distance of approximately 1,100 feet to a point 60 feet southeast of and radially opposite a point on the centerline of the old location of Bethel Valley Road and in the city of Oak Ridge's line; thence with the city of Oak Ridge's line, with a line 60 feet southeast of and parallel to the centerline of the said old road location and with a curve having a radius of 16,371.53 feet as it curves to the left in a northeasterly direction 445 feet to the tangent point of the curve; thence N. 57° 36' E., 230 feet to a point, a corner of the land of the city of Oak Ridge and the land of the United States of America in the custody of the Tennessee Valley Authority; thence with the line of the land in the custody of the Tennessee Valley Authority S. 55° E., 515 feet to the Clinch River as it was prior to the impoundment of Melton Hill Lake; thence with the said original Clinch River as it meanders downstream approximately 985 feet to a point in the centerline of the new Solway Bridge (State Highway 62); thence with the centerline of the new bridge N. 75° 35' W., 200 feet to the point of beginning, and containing 18.5 acres, more or less.

Furthermore, such appurtenant right, title, and interest as may attach to the title of the above-described land in and to that portion of the right-of-way of Bethel Valley Road which abuts the described land on the northwest.

Furthermore, such appurtenant right, title, and interest as may attach to the title of the above-described land in and to the bed of the original Clinch River.

The positions of corners and directions of lines are referred to the Tennessee Coordinate System.

The above-described land is subject to the following:

1. Such rights as may be vested in the state and county to rights-of-way for roads.

2. Such rights as may be vested in third parties to rights-of-way for telephone lines and electric power distribution lines.

This 17th day of November, 1978.

ROY MARKON,
Commissioner, Federal Property Resources Service.

[FR Doc. 78-33847 Filed 12-4-78; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

METHODS OF COLLECTION, MEASUREMENT, AND VALUATION OF SELECTED WEALTH COMPONENTS

Notice of Program Results

Pursuant to Section 606 of the Community Services Act of 1974, (Pub. L. 93-644) 42 U.S.C. 2946, this agency announces the results, findings, data, or recommendations reported as a result of activities associated with an HEW project entitled, "Methods of Collection, Measurement, and Valuation of Selected Wealth Components."

This project, part of the development program for the new Survey of Income and Program Participation reviewed methods employed in prior field surveys of collection, measurement, and valuation of selected wealth components. The product of this research project consisted of four reports, each on a component of an individual's personal wealth. The four components were: owner-occupied housing; insurance holdings; savings; and individually owned farms or businesses. Each report presents a clear and relevant analysis of problems associated with the collection and measurement of these data which have been encountered in previous studies collecting data through field survey methodology. In addition, the contractor evaluated the results of the different survey methods that might be useful in the development of the Survey of Income and Program Participation.

To obtain information or copies of the reports, please contact the Office of the Assistant Secretary for Planning and Evaluation, Income Survey Development Staff, Room 3627, 330 Independence Aveune, SW., Washington, D.C. 20201.

HENRY AARON,
Assistant Secretary for Planning and Evaluation.

Date: November 29, 1978.

[FR Doc. 78-33888 Filed 12-4-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-78-900]

PRIVACY ACT OF 1974

Proposed New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain that is subject to the provisions of the Privacy Act of 1974.

EFFECTIVE DATE: The system of records shall become effective without further notice January 4, 1979 unless comments are received on or before January 4, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The new system identified as Mortgagee Activities Review System will consist of name, address, social security account number, educational achievement, professional and employment histories and references of individuals designated as directors, officers and managers of firms applying to become HUD-approved mortgagees.

A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on August 16, 1978. The prefatory statement containing General Rountine Uses applicable to all of the Department's systems of records was published at 42 FR 54765 (October 7, 1977) Appendix A, which lists the addresses of HUD's field offices, was published at 42 FR 54777 (October 7, 1977).

HUD/H-4

System name:

Mortgagee Activities Review System

System location:

Headquarters and most field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system:

Individuals designated as directors, officers and managers and listed in a firm's application filed with HUD for the purpose of becoming a HUD-approved mortgagee.

Categories of records in the system:

Applications and resumes containing name; address, social security account number; educational, and professional and employment history; and personal references.

Routine uses of records maintined in the system including categories of users and the purposes of such uses:

See Routine Uses Paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In file folders and on magnetic tape/disc/drum.

Retrievability:

Name, social security account number.

Safeguards:

Manual files are kept in lockable cabinets; computer records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

Retention and disposal:

Records are maintained in perpetuity.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Officer of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories:

Subject, previous and current employers, and business and character references.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., November 28, 1978.

WILLIAM A. MEDINA,
Assistant Secretary for Administration.

[FR Doc. 78-33819 Filed 12-4-78; 8:45 am]

[4310-09-M]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CONTRACT NEGOTIATIONS WITH SNIPES MOUNTAIN IRRIGATION DISTRICT, YAKIMA PROJECT, WASHINGTON

Intent To Begin Contract Negotiations for Repayment of Emergency Loan Funds

Although the Department of the Interior has not formally adopted procedures for public participation in contract negotiations, we believe that it is in the interests of the Department to advise the public that a contract is being considered.

The Department of the Interior, through the Bureau of Reclamation, intends to open negotiations with the Snipes Mountain Irrigation District leading to a contract pursuant to the Act of June 26, 1948 (62 Stat. 1052), to return the costs of replacing the discharge manifold of the South Branch (Main) Pumping Plant, Snipes Mountain Irrigation District. The discharge manifold failed near the end of the 1977 irrigation season. Replacement of this key facility, through which water is supplied to nearly all of the lands within the Snipes Mountain Irrigation District, was required prior to commencing irrigation in 1978. The manifold has been replaced with Federal emergency funds at a cost of approximately $130,000.

The public is invited to observe the negotiating sessions and to submit written comments on the form of proposed contract not later than 30 days after the completed contract draft is declared to be available to the public.

For further information on scheduled negotiating sessions and copies of the proposed contract form, please contact: Mr. Richard M. Rigby, Contract and Repayment Specialist, Division of Water, Power and Lands, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, Idaho 83724, telephone 208-384-1163.

Dated: November 29, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-33875 Filed 12-4-78; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Ichthyological Associates, Inc., 100 S. Cass Street, Middletown, Delaware 19709.

The applicant requests a permit to conduct various scientific research including tagging and collecting meristic and morphometric and other data on short-nosed sturgeon (*Acipenser brevirostrum*) taken incidental to commercial fishing activities by others and to release them immediately and to salvage dead or mortally injured specimens.

Humane care and treatment during transport has been indicated by applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3431. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before January 4, 1979. Please refer to the file number when submitting comments.

Dated: November 30, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-33930 Filed 12-4-78; 8:45 am]

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[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Tennessee Valley Authority, Norris, Tennessee 37828.

The applicant requests a permit to capture birdwing pearly mussels (*Conradilla caelata*) by hand in the Duck River, Tennessee; Little Cypress; Alabama and the Clinch and Powell rivers of Tennessee and Virginia for identification, population census and immediately return them to the place where taken except to salvage those found dead or dying.

Humane care and treatment during transport has been indicated by applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Viriginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3410. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before January 4, 1979. Please refer to the file number when submitting comments.

Dated: November 30, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-33931 Filed 12-4-78; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: John W. Twente, Ph.D., Dalton Research Center, University of Missouri, Columbia, Missouri 65211.

The applicant requests a permit to capture 30 hibernating Indiana bats (*Myotis sodalis*) per year for 3 years to conduct hibernation research. Bats will be released to the wild where taken after the completion of each seasons hibernation.

Humane care and treatment during transport has been indicated by applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO) Washington, D.C. 20240.

This application has been assigned file number PRT 2-3421. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before January 4, 1979. Please refer to the file number when submitting comments.

Dated: November 30, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-33932 Filed 12-4-78; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Application: University of Minnesota, St. Paul, Minnesota, L.D. (Dan) Frenzel.

The applicant requests a permit to take (capture) endangered bald eagles (*Haliaeetus leucocephalus*) for banding, color marking, x-raying for lead pellets and other research and to salvage injured birds for rehabilitative care.

Humane care and treatment during transport has been indicated by applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3407. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before January 4, 1979. Please refer to the file number when submitting comments.

Dated: November 30, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-33933 Filed 12-4-78; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Randall W. Weems, Box 116, Megargel, Archer County, Texas 76370, L.D. (Dan) Frenzel.

The applicant requests a permit to purchase 1 pair of Hawaiian ducks (*Anas wyvilliana*) and 2 pairs of Laysan ducks (*Anas laysanensis*) in interstate commerce from Mr. William Lemburg of Cairo, Nebraska for enhancement of propagation.

Humane care and treatment during transport has been indicated by applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3413. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before January 4, 1979. Please refer to the file number when submitting comments.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-33934 Filed 12-4-78; 8:45 am]

[4310-55-M]

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On August 23, 1978, a notice was published in the FEDERAL REGISTER (Vol. 43, No. 164), that an application has been filed with the Fish and Wildlife Service by the Director, National Fish and Wildlife Laboratory, National Museum of Natural History, Washington, D.C. 20560, for a permit to sacrifice not more than 25 adult female and relocate 6 adult male sea otters (*Enhydra lutris*) in Prince William Sound, Alaska for the purpose of scientific research.

Notice is hereby given that on October 4, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit (PRT 2-3106) to the Director, National Fish and Wildlife Laboratory, subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: November 30, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch Federal Wildlife Permit Office.

[FR Doc. 78-33935 Filed 12-4-78; 8:45 am]

[4310-55-M]

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On August 23, 1978, a Notice was published in the FEDERAL REGISTER (Vol. 43, No. 164), that an application had been filed with the Fish and Wildlife Service by the Director, National Fish and Wildlife Laboratory, National Museum of Natural History, Washington, D.C. 20560, for a permit to mark with paintsticks 10 West Indian manatees (*Trichecus manatus*) in the Crystal River, Citrus County, Florida for the purpose of scientific research.

Notice is hereby given that on November 15, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1973 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit (PRT 2-3093) to the Director, National Fish and Wildlife Laboratory, subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated November 30, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-33936 Filed 12-4-78; 8:45 am]

[4310-31-M]

Geological Survey

OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF (OCS)

Proposed Requirements for Verifying the Structural Integrity of OCS Platforms

AGENCY: Geological Survey, U.S. Department of the Interior.

ACTION: Proposed Geological Survey Standard.

SUMMARY: The Geological Survey has developed and is soliciting comments on the contents of a draft document entitled "Requirements for Verifying the Structural Integrity of OCS Platforms." This document contains detailed state-of-the-art performance standards which must be met or exceeded in the course of designing, fabricating, and installing new (fixed and/or bottom founded) oil and gas platforms. The primary thrust is aimed at platforms to be installed in frontier areas, in deep water, or those of unique design. Platforms directly associated with oil and gas leasehold production activities, including those structures that support processing, compression, pumping, and storage facilities, are addressed. Platforms that support main-line compressor or pumping stations are not addressed nor are structures that are located within the confines of a Deepwater Port.

These OCS platform requirements represent one part of the Platform Structural Verification Program. The program objective is to provide maximum assurance of the structural integrity of fixed and/or bottom founded oil and gas platforms on the OCS. The Platform Structural Verification Program will integrate two major elements: one substantive and one procedural.

The substantive elements of the program are contained in the main body of the draft requirements document. Permissible alternative procedures are contained in the associated appendices. In addition, an explanation of the basic intention underlying the requirements is provided in the associated commentary.

The procedural elements of the Program will be described in OCS Order No. 8.

DATE: Comments must be received on or before January 30, 1979.

ADDRESS: Comments should be mailed to: Acting Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Richard J. Giangerelli, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092, (703) 860-6822.

AUTHOR: Richard J. Giangerelli, Geological Survey, Department of the Interior.

SUPPLEMENTARY INFORMATION: Because of the volume of the document entitled "Requirements for Verifying the Structural Integrity of OCS Platforms" and its associated appendices and commentary, they are not being published in the FEDERAL REGISTER. Copies of these documents may be obtained from the Acting Chief, Conservation Division.

The submission procedures and other requirements for the Platform Structural Verification Program will be included in OCS Order No. 8.

ENVIRONMENTAL IMPACT AND REGULATORY ANALYSIS STATEMENTS: The Department of the Interior has determined that the publication of this notice of a proposed Geological Survey standard will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Impact Statement. The Department has also determined that this notice of a proposed Geological Survey standard does not require preparation of a regulatory analysis under Executive Order 12044.

Dated: November 28, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-33890 Filed 12-4-78; 8:45 am]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 7, 1978, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Bibb County

Centreville, *Centreville, Historic District,* Walnut St., East and West Court Sq. (10-19-78)

Lee County

Auburn, *Old Main and Church Street Historic District,* Roughly bounded by E. Drake Ave., Western RR. of Alabama, N. Gay St., N. College St. and Bragg Ave. and Warrior Ct.

Marengo County

Demopolis, *Ashe Cottage,* 307 N. Commissioners (10-19-78)

ALASKA

Juneau Division

Juneau, *Alaskan Hotel (AHRS JUN-125),* 167 S. Franklin St. (10-25-78)
Juneau, *Holy Trinity Church,* 325 Gold St. (10-19-78)

Matanuska-Susitna Division

Wasilla, *Teeland's Country Store,* Mile 42 George Parks Hwy. and Knik Rd. (11-14-78)

Yukon-Koyukuk Division

Fort Yukon, *Old Mission House* (11-7-78)

ARIZONA

Maricopa County

Phoenix, *Phoenix Townsite,* bounded by 6th, 7th, Monroe, and Adams Sts. (11-7-78)

Pima County

Lukeville vicinity, *Gachado Well and Line Camp,* E of Lukeville in Organ Pipe Cactus National Monument (11-2-78)

V 43/234

ARKANSAS

Clark County

Arkadelphia vicinity, *Bozeman House*, W of Arkadelphia on AR 26/51 (11-14-78)

Garland County

Hot Springs, *Doherty House*, 705 Malvern Ave. (11-14-78)

Miller County

Texarkana, *Texarkana Union Station*, State Line and Front St., #1 Union Plaza (also in Bowie County, TX) (10-19-78)

Pulaski County

Little Rock, *Pettefer, Harry, House*, 105 E. 24th St. (10-19-78)

Washington County

Prairie Grove vicinity, *Tilley, John, House*, W of Prairie Dr. on Rhea's Mill Rd. (11-2-78)

CALIFORNIA

Los Angeles County

Norwalk, *Johnston, Darius David, House*, 12426 Mapledale St. (11-2-78)

Sacramento County

Sacramento, *Travelers' Hotel*, 428 J St. (10-19-78)

San Joaquin County

Stockton, *Stockton Savings and Loan Society Bank*, 301 E. Main St. (10-19-78)

Santa Clara County

Palo Alto Vicinity, *Hanna-Honeycomb House*, 737 Frenchman's Rd. (11-7-78)

Tuolumne County

Sonora, *Tuolumne County Jail*, 156 W. Bradford St. (11-7-78)

COLORADO

Prowers County

Lamar, *Davies Hotel*, 122 N. Main (10-19-78)

CONNECTICUT

Fairfield County

Shelton *Plumb Memorial Library*, 47 Wooster St. (11-7-78)

Hartford County

Hartford, *Stackpole, Moore and Tryon Building*, 105-115 Asylum St. (10-19-78)

FLORIDA

Gadsden County

Quincy, *Quincy Historic District*, roughly bounded by Sharon, Clark, Stewart, and Corry Sts. (11-9-78)

GUAM

Merizo vicinity, *Asmaile Point*, 4 mi. (6.4 km) E of Merizo off GU 4 (11-7-78)
Umatac vicinity, *Creto Site (66-06-0140)*, 2 mi. (3.2 km) SE of Umatac (11-7-78)
Umatac vicinity, *Machadgen Point (66-06-0130)*, SW of Umatac (11-7-78)
Yigo vicinity, *Hanum Site (66-07-0019)*, 2 mi. (3.2 km) E of Yigo (11-7-78)

HAWAII

Honolulu, *Hawaii Theatre*, 1130 Bethel St. (11-14-78)

IDAHO

Bingham County

Blackfoot, *Nuart Theater*, 195 N. Broadway (10-19-78)

Jefferson County

Roberts, *Hotel Patrie*, U.S. 91 (11-7-78)

INDIANA

Dubois County

Jasper, *Gramelspacher-Gutzweiler House*, 7th and Main Sts. (11-2-78)

IOWA

Appanoose County

Centerville, *U.S. Post Office*, 100 W. Maple St. (11-7-78)

Black Hawk County

Raymond, *Waterfield, William, House*, 308 3rd St. South (10-19-78)

Dallas County

Perry, *Perry Volunteer Fire Department Engine House*, 1208 1st St. (11-7-78)

Lee County

Keokuk, *Keokuk Lock and Dam*, at Mississippi River (10-19-78)

Linn County

Cedar Rapids, *May's Island Historic District*, between 1st and 5th Aves. on May Island (10-19-78)

KENTUCKY

Fayette County

Lexington, *Hathaway Houses*, 760-766 Pine St. (11-2-78)

Henderson County

Henderson, *St. Paul's Episcopal Church*, 338 Center St. (10-19-78)

MAINE

Cumberland County

Cape Elizabeth vicinity, *Richmond's Island Archeological Site* (11-2-78)

Knox County

Rockland, *Rankin Block*, 600-610 Main St. (11-7-78)

Washington County

Columbia Falls, *Bucknam, Samuel, House*, U.S. 1 (10-19-78)

MARYLAND

Washington County

Keedysville vicinity, *Baker Farm*, N of Keedysville (10-19-78)

MISSISSIPPI

Lowndes County

Columbus, *Snowdoun*, 906 3rd Ave. N. (10-19-78) HABS.

MISSOURI

St. Louis (independent city)

St. Francis de Sales Church, 2653 Ohio St. (11-2-78)

MONTANA

Beaverhead County

Dillion, *Dillion City Library*, 121 S. Idaho St. (11-14-78)

Ravalli County

Stevensville, *Bass Mansion*, 216 N. College St. (11-14-78)

NEBRASKA

Adams County

Hastings, *Chautauqua Pavilion*, Chautauqua Park (10-19-78)

NEW HAMPSHIRE

Cheshire County

Swanzey vicinity, *Sawyers Crossing Covered Bridge*, N of Swanzey off NH 32 (11-14-78)
Westport, *Slate Covered Bridge*, off NH 10 (11-14-78)

Sullivan County

Cornish Mills, *Dingleton Hill Covered Bridge*, off NH 12A (11-8-78)

NEW JERSEY

Bergen County

Hackensack, *U.S.S. Ling*, Hackensack River at 150 River St. (10-19-78)
Leonia, *Civil War Drill Hall and Armory*, 130 Grand Ave. (10-19-78)

Cumberland County

Carmel, *Beth Hillel Synagogue*, Irving Ave. (11-7-78)

Morris County

Morristown vicinity, *Fordville*, E of Morristown at 30 Ford Hill Rd. (11-2-78)
Parsippany vicinity, *Howell, Benjamin, Homestead*, 709 S. Beverwyck Rd. (10-19-78)

Somerset County

Plainfield vicinity, *Smalley-Wormser House*, W of Plainfield at 84 Mountain Ave. (10-19-78)

Union County

Elizabeth, *Belcher-Ogden House*, 1046, E. Jersey St. (11-2-78)

NEW MEXICO

Rio Arriba County

Cordova, *San Antonio de Padua del Quemado Chapel*, off NM 76 (11-2-78)

NEW YORK

Albany County

Albany, *Young Men's Christian Association Building*, 60-64 N. Pearl St. (11-2-78)
Green Island, *St. Mark's Episcopal Church*, 69-75 Hudson Ave. (11-7-78)

Chautauqua County

Fredonia, *Fredonia Commons Historic District*, Main, Temple, Church, Day, and Center Sts. (10-19-78)

Jefferson County

Fishers Landing vicinity, *Rock Island Light Station*, N of Fishers Landing on Rock Island (11-14-78)

Ontario County

Phelps, *St. John's Episcopal Church*, Church St. (11-7-78)

Otsego County

Gilbertsville, *Tianderah*, off NY 51 (11-2-78)

Queens County

Astoria, *Paramount Studios Complex*, 35th Ave., 35th, 36th, and 37th Sts. (11-14-78)

NORTH DAKOTA

Benson County

Minnewaukan, *Benson County Courthouse*, B Ave. (11-2-78)

Williams County

Ray, *Ray Opera House*, 111 Main St. (11-2-78)

OHIO

Brown County

Ripley vicinity, *Burgett House and Barn*, W of Ripley on White Rd. (11-14-78)

Crawford County

Crestline, *Methodist Episcopal Church*, Thoman and Union Sts. (10-27-78)

Lucas County

Toledo, *St. Paul's United Methodist Church*, Madison and 13th Sts. (11-2-78)

OKLAHOMA

Roger Mills County

Hammon vicinity, *Allee Site*, W of Hammon (11-8-78)

Tulsa County

Tulsa, *Mincks-Adams Hotel*, 403 S. Cheyenne St. (11-7-78)

OREGON

Jackson County

Ashland, *Tavernor, George, House*, 912 Siskiyou Blvd. (11-7-78)
Rock Point, *White, John B., House*, 86 N. River Rd. (11-2-78)

Multnomah County

Portland, *Heusner, George F., House*, 333 NW. 20th Ave. (10-19-78)

PENNSYLVANIA

Adams County

McSherrystown vicinity, *Conewago Mass House*, N of McSherrystown on SR 476 (10-19-78)

Allegheny County

Pittsburgh, *Allegheny West Historic District*, Roughly bounded by Brighton Rd., Jabok Way, Ridge and Allegheny Aves. (11-2-78)

Bucks County

Pineville vicinity, *Keith House—Washington's Headquarters*, E of Pineville on Pineville Rd. (11-14-78)

Huntington County

Allenport vicinity, *Smalley, Lewis, Homestead*, E of Allenport on PA 103 (11-14-78)

Lancaster County

Lancaster, *Lancaster County Courthouse*, 43 E. King St. (11-7-78)

Lehigh County

Allentown, *Trout Hall*, 414 Walnut St. (11-14-78)

Somerset County

Meyersdale vicinity, *Bollman, W., and Company Bridge*, 1.5 mi. (2.4 km) N of Myersdale on U.S. 219 (11-8-78)

RHODE ISLAND

Providence County

Pawtucket, *Modern Diner*, 13 Dexter St. (10-19-78)

Washington County

Lafayette, *Lafayette Village*, RI 102 (11-14-78)
North Kingstown, *Camp Endicott*, Davisville Construction Battalion Center, between 7th and 10th Sts. (10-19-78)

SOUTH CAROLINA

Florence County

Florence, *Bonnie Shade*, 1439 Cherokee Rd. (11-14-78)
Florence vicinity, *Christ Episcopal Church*, NE of Florence on SC 327 (11-14-78)

Greenwood County

Greenwood, *Sunnyside*, 105 Dargan Ave. (11-14-78)

Kershaw County

Liberty Hill, *Liberty Hill Historic District*, SC 97 (11-14-78)

Laurens County

Madens vicinity, *Lindley's Fort Site*, W of Madens off SC 36 (11-7-78)

Spartanburg County

Spartanburg vicinity, *Anderson's Mill*, W of Spartanburg off SC 296 (11-14-78)

Sumter County

Sumter vicinity, *Salem Black River Presbyterian Church*, E of Sumter on SC 521 (11-14-78)

SOUTH DAKOTA

Brookings County

Brookings, *Stock Judging Pavilion*, 11th St. and Medary Ave. (10-19-78)

TENNESSEE

Blount County

Maryville, *Thompson-Brown House*, 1005 Tuckaleechee Pike (11-2-78)

Davidson County

Nashville, *Christ Church*, 900 Broadway (11-14-78)

Dyer County

Dyersburg, *Latta House*, 917 Troy Ave. (11-14-78)

Knox County

Knoxville, *Fire Station No. 5*, 419 Arthur St., NW (11-2-78)

Maury County

Columbia, *Church House*, 312 W. 7th St. (10-19-78)
Columbia, *State Bank of Tennessee*, 201 W. 7th St. (11-2-78)

Monroe County

Vonore vicinity, *Citico Site*, E of Vonore at Little Tennessee River (11-2-78)
Vonore vicinity, *Icehouse Bottom Site (40MR23)*, E of Vonore (10-19-78)
Vonore vicinity, *Mialoquo Site (40MR3)*, N of Vonore (10-19-78)
Vonore vicinity, *Tomotley Site (40MR5)*, SE of Vonore (10-19-78)

Rhea County

Dayton vicinity, *Hiwassee Garrison Site (Site 40Rh35), S of Dayton (11-14-78)*

TEXAS

Bowie County

Texarkana Union Station. Reference—see Miller County, Arkansas

Crockett County

Ozona vicinity, *Turkey Roost Petroglyph Site*, NW of Ozona (10-19-78)

Garza County

Post vicinity, *Cooper's Canyon Site*, S of Post off TX 669 (11-7-78)
Post vicinity, *Post-Montgomery Site*, W of Post off U.S. 380 (11-7-78)

Harrison County

Leigh vicinity, *Mimosa Hall*, S of Leigh off SR 134 (11-2-78)

Hays County

San Marcos vicinity, *Freeman, Harry, Site*, NW of San Marcos off TX 12 (11-7-78)

Hill County

Huron vicinity, *Bear Creek Shelter Site*, SW of Huron (10-19-78)

UTAH

Garfield County

Panguitch vicinity, *Bryce Canyon Airport Hangar*, SE of Panguitch off UT 12 (10-19-78)

Iron County

Cedar City, *Wood, George H., House*, 432 N. Main St. (11-14-78)

Salt Lake County

Salt Lake City, *Nelden, William A., House*, 1172 E. 100 South (10-19-78)

Sanpete County

Spring City, *Spring City School*, off UT 117 (11-14-78)

DE 5 78 UMI

Polk County

Lakeland, *Florida Southern College Historic District*, Roughly bounded by Lake Hollingsworth Dr., Lake Hollingsworth, Johnson Ave., and Lake Ariana (11-14-78)

Volusia County

Daytona Beach, *Daytona Beach Bandshell*, Bandshell Park (11-14-78)

VIRGINIA

Fairfax County

Fairfax vicinity, *Ratcliffe-Allison House*, 3708 Chain Bridge Rd. (11-14-78)

Fauquier County

Warrenton vicinity, *Fauquier County Courthouse*, Courthouse Square (11-14-78)

Nansemond County

Suffolk, *Suffolk Historic District*, Roughly bounded by Main, Pinner, Washington, and Market Sts. (11-14-78)

Nassau County

Fernandina Beach, *Fernandina Beach Historic District*, Roughly bounded by Atlantic Ave., 14th St., Bosque Bello Cemetery, and Nassau Sound (11-14-78)

Orange County

Orange vicinity, *Montpelier*, SR 20 (11-14-78)

Prince William County

Manassas vicinity, *Manassas Battlefield Historic District*, Roughly bounded by Sudley Rd., Groveton Rd., Warrenton Rd., and Bull Run (11-14-78)

Rockbridge County

Lexington, *Lexington Historic District*, Roughly bounded by Jefferson St., Main St., Nelson St., and Maury River (11-14-78)

Shenandoah County

Mount Jackson vicinity, *Mount Jackson Bridge*, SR 11 over Shenandoah River (11-14-78)

Smyth County

Marion vicinity, *Preston Place*, SR 16 (11-14-78)

Washington County

Abingdon, *Abingdon Historic District*, Roughly bounded by Main St., Cummings St., Valley St., and Russell Rd. (11-14-78)

Wythe County

Wytheville, *Wytheville Historic District*, Roughly bounded by Main St., Monroe St., Spring St., and Peach St. (11-14-78)

WISCONSIN

Dane County

Madison, *Madison Historic District*, Roughly bounded by Lake Mendota, Wisconsin Ave., Lake Monona, and Blount St. (11-14-78)

Milwaukee County

Milwaukee, *Milwaukee Public Library*, 814 W. Wisconsin Ave. (11-14-78)

WYOMING

Albany County

Laramie, *Laramie Historic District*, Roughly bounded by Ivinson Ave., 15th St., Garfield St., and 3rd St. (11-14-78)

Natrona County

Casper, *Casper Historic District*, Roughly bounded by Center St., 1st St., Wolcott St., and 5th St. (11-14-78)

Additions, Boundary Increases, and Decreases

ARKANSAS

Pulaski County

Little Rock, *Arkansas Gazette Building*, 112 E. Capitol Ave. (11-14-78)

CALIFORNIA

Los Angeles County

Los Angeles, *Los Angeles Central Library*, 630 W. 5th St. (11-14-78)

FLORIDA

Hillsborough County

Tampa, *Tampa Bay Hotel*, 401 W. Kennedy Blvd. (11-14-78)

GEORGIA

Fulton County

Atlanta, *Fox Theatre*, 660 Peachtree St., NE (11-14-78)

MISSOURI

St. Louis (independent city)

Eads Bridge, Mississippi River (11-14-78)

NEW YORK

Albany County

Albany, *Cathedral of All Saints*, 62 Eagle St. (11-14-78)

NORTH CAROLINA

Mecklenburg County

Charlotte, *Charlotte Historic District*, Roughly bounded by Church St., Trade St., Graham St., and Stonewall St. (11-14-78)

OHIO

Cuyahoga County

Cleveland, *Cleveland Trust Company Building*, 900 Euclid Ave. (11-14-78)

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny County Courthouse*, Grant St. (11-14-78)

TEXAS

Dallas County

Dallas, *Dallas Municipal Building*, 1500 Marilla St. (11-14-78)

Removals

ARKANSAS

Pulaski County

Little Rock, *Arkansas Gazette Building*, 112 E. Capitol Ave. (11-14-78)

CALIFORNIA

Los Angeles County

Los Angeles, *Los Angeles Central Library*, 630 W. 5th St. (11-14-78)

FLORIDA

Hillsborough County

Tampa, *Tampa Bay Hotel*, 401 W. Kennedy Blvd. (11-14-78)

GEORGIA

Fulton County

Atlanta, *Fox Theatre*, 660 Peachtree St., NE (11-14-78)

MISSOURI

St. Louis (independent city)

Eads Bridge, Mississippi River (11-14-78)

NEW YORK

Albany County

Albany, *Cathedral of All Saints*, 62 Eagle St. (11-14-78)

NORTH CAROLINA

Mecklenburg County

Charlotte, *Charlotte Historic District*, Roughly bounded by Church St., Trade St., Graham St., and Stonewall St. (11-14-78)

OHIO

Cuyahoga County

Cleveland, *Cleveland Trust Company Building*, 900 Euclid Ave. (11-14-78)

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny County Courthouse*, Grant St. (11-14-78)

TEXAS

Dallas County

Dallas, *Dallas Municipal Building*, 1500 Marilla St. (11-14-78)

Nominations Not Considered

ARKANSAS

Pulaski County

Little Rock, *Arkansas Gazette Building*, 112 E. Capitol Ave. (11-14-78)

CALIFORNIA

Los Angeles County

Los Angeles, *Los Angeles Central Library*, 630 W. 5th St. (11-14-78)

FLORIDA

Hillsborough County

Tampa, *Tampa Bay Hotel*, 401 W. Kennedy Blvd. (11-14-78)

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PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny County Courthouse*, Grant St. (11-14-78)

TEXAS

Dallas County

Dallas, *Dallas Municipal Building*, 1500 Marilla St. (11-14-78)

Polk County

Lakeland, *Florida Southern College Historic District*, Roughly bounded by Lake Hollingsworth Dr., Lake Hollingsworth, Johnson Ave., and Lake Ariana (11-14-78)

Volusia County

Daytona Beach, *Daytona Beach Bandshell*, Bandshell Park (11-14-78)

VIRGINIA

Fairfax County

Fairfax vicinity, *Ratcliffe-Allison House*, 3708 Chain Bridge Rd. (11-14-78)

Fauquier County

Warrenton vicinity, *Fauquier County Courthouse*, Courthouse Square (11-14-78)

Nansemond County

Suffolk, *Suffolk Historic District*, Roughly bounded by Main, Pinner, Washington, and Market Sts. (11-14-78)

Nassau County

Fernandina Beach, *Fernandina Beach Historic District*, Roughly bounded by Atlantic Ave., 14th St., Bosque Bello Cemetery, and Nassau Sound (11-14-78)

Orange County

Orange vicinity, *Montpelier*, SR 20 (11-14-78)

Prince William County

Manassas vicinity, *Manassas Battlefield Historic District*, Roughly bounded by Sudley Rd., Groveton Rd., Warrenton Rd., and Bull Run (11-14-78)

Rockbridge County

Lexington, *Lexington Historic District*, Roughly bounded by Jefferson St., Main St., Nelson St., and Maury River (11-14-78)

Shenandoah County

Mount Jackson vicinity, *Mount Jackson Bridge*, SR 11 over Shenandoah River (11-14-78)

Smyth County

Marion vicinity, *Preston Place*, SR 16 (11-14-78)

Washington County

Abingdon, *Abingdon Historic District*, Roughly bounded by Main St., Cummings St., Valley St., and Russell Rd. (11-14-78)

Wythe County

Wytheville, *Wytheville Historic District*, Roughly bounded by Main St., Monroe St., Spring St., and Peach St. (11-14-78)

WISCONSIN

Dane County

Madison, *Madison Historic District*, Roughly bounded by Lake Mendota, Wisconsin Ave., Lake Monona, and Blount St. (11-14-78)

Milwaukee County

Milwaukee, *Milwaukee Public Library*, 814 W. Wisconsin Ave. (11-14-78)

WYOMING

Albany County

Laramie, *Laramie Historic District*, Roughly bounded by Ivinson Ave., 15th St., Garfield St., and 3rd St. (11-14-78)

Natrona County

Casper, *Casper Historic District*, Roughly bounded by Center St., 1st St., Wolcott St., and 5th St. (11-14-78)

Additions, Boundary Increases, and Decreases

ARKANSAS

Pulaski County

Little Rock, *Arkansas Gazette Building*, 112 E. Capitol Ave. (11-14-78)

CALIFORNIA

Los Angeles County

Los Angeles, *Los Angeles Central Library*, 630 W. 5th St. (11-14-78)

FLORIDA

Hillsborough County

Tampa, *Tampa Bay Hotel*, 401 W. Kennedy Blvd. (11-14-78)

GEORGIA

Fulton County

Atlanta, *Fox Theatre*, 660 Peachtree St., NE (11-14-78)

MISSOURI

St. Louis (independent city)

Eads Bridge, Mississippi River (11-14-78)

NEW YORK

Albany County

Albany, *Cathedral of All Saints*, 62 Eagle St. (11-14-78)

NORTH CAROLINA

Mecklenburg County

Charlotte, *Charlotte Historic District*, Roughly bounded by Church St., Trade St., Graham St., and Stonewall St. (11-14-78)

OHIO

Cuyahoga County

Cleveland, *Cleveland Trust Company Building*, 900 Euclid Ave. (11-14-78)

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny County Courthouse*, Grant St. (11-14-78)

TEXAS

Dallas County

Dallas, *Dallas Municipal Building*, 1500 Marilla St. (11-14-78)

Removals

ARKANSAS

Pulaski County

Little Rock, *Arkansas Gazette Building*, 112 E. Capitol Ave. (11-14-78)

CALIFORNIA

Los Angeles County

Los Angeles, *Los Angeles Central Library*, 630 W. 5th St. (11-14-78)

FLORIDA

Hillsborough County

Tampa, *Tampa Bay Hotel*, 401 W. Kennedy Blvd. (11-14-78)

GEORGIA

Fulton County

Atlanta, *Fox Theatre*, 660 Peachtree St., NE (11-14-78)

MISSOURI

St. Louis (independent city)

Eads Bridge, Mississippi River (11-14-78)

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OHIO

Cuyahoga County

Cleveland, *Cleveland Trust Company Building*, 900 Euclid Ave. (11-14-78)

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny County Courthouse*, Grant St. (11-14-78)

TEXAS

Dallas County

Dallas, *Dallas Municipal Building*, 1500 Marilla St. (11-14-78)

Nominations Not Considered

ARKANSAS

Pulaski County

Little Rock, *Arkansas Gazette Building*, 112 E. Capitol Ave. (11-14-78)

CALIFORNIA

Los Angeles County

Los Angeles, *Los Angeles Central Library*, 630 W. 5th St. (11-14-78)

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Hillsborough County

Tampa, *Tampa Bay Hotel*, 401 W. Kennedy Blvd. (11-14-78)

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Fulton County

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St. Louis (independent city)

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NORTH CAROLINA

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Charlotte, *Charlotte Historic District*, Roughly bounded by Church St., Trade St., Graham St., and Stonewall St. (11-14-78)

OHIO

Cuyahoga County

Cleveland, *Cleveland Trust Company Building*, 900 Euclid Ave. (11-14-78)

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny County Courthouse*, Grant St. (11-14-78)

TEXAS

Dallas County

Dallas, *Dallas Municipal Building*, 1500 Marilla St. (11-14-78)

V 4 3 / 2 3 4

Washington County

St. George vicinity, *Blake, Wallace, House,* S of St. George (11-14-78)

VERMONT

Addison County

Addison, *Addison Baptist Church,* jct. of VT 22A and VT 17 (11-2-78)
Ferrisburg vicinity, *Hawley's Ferry House,* NW of Ferrisburg on Kingsland Bay (11-2-78)
New Haven, *New Haven Junction Depot,* jct. U.S. 7 and VT 17 (10-19-78)

Rutland County

Sudbury, *Sudbury School No. 3,* jct. of VT 30 and VT 73 (11-2-78)

Washington County

Montpelier, *Montpelier Historic District,* U.S. 2 and VT 12 (11-3-78)

Windsor County

Cavendish, *Glimmerstone,* VT 131 (11-14-78)

WASHINGTON

San Juan County

Orcas Island, *Rosario,* S of East Sound on Orcas Island (11-2-78)

WEST VIRGINIA

Kanawha County

Belle, *Shrewsbury, Samuel Sr., House,* 310 Stubb Dr. (11-2-78)

WISCONSIN

Columbia County

Merrimac vicinity, *Durward's Glen,* NE of Merrimac off WI 78 (11-7-78)

Grant County

Lancaster, *Grant County Courthouse,* 126 W. Maple St. (10-19-78)

Iowa County

Linden, *Linden Methodist Church,* Main and Church Sts. (10-19-78)

* * * * *

The following is a list of corrections to properties previously listed in the Federal Register.

ARKANSAS

Phillips County

Helena, *Deisch-Bieri House,* 409 Biscoe St. (10-18-74) (previously listed as Short-Bieri House)

IDAHO

Lewis County

Kamiah, *State Bank of Kamiah,* ID 64 (8-29-78) (previously listed in Idaho County)

TENNESSEE

Greene County

Chuckey vicinity, *Earnest Fort House,* S of Chuckey on Nolichucky River (1-30-78) (previously listed as Mauris-Earnest Fort House)

* * * * *

The following properties have been demolished and/or removed from the National Register of Historic Places.

KENTUCKY

Boone County

Burlington vicinity, *Piatt's Landing,* S of Burlington on KY 338 (demolished)

Knott County

Hindman vicinity, *Stewart, Dr. Jasper, House,* 5.75 mi. (9 km) N. of Hindman (demolished)

Knox County

Barbourville, *Owens House,* 335 Knox St. (demolished)

Woodford County

Versailles vicinity, *Crittenden, John Jordan, Birthplace Cabin,* U.S. 60 (demolished)

MARYLAND

Anne Arundel County

Gambrills, *Hammond Manor House* (U.S. Naval Academy Diary Farm) U.S. Naval Academy Diary off MD 175 (demolished)

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Determination of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR part 800. Properties determined to be eligible under section 63.3 of the procedures for requesting determinations of eligibility are designated by (63.3).

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before any agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions and corrections to the list of properties determined for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ARIZONA

Coconino County

Grant Canyon National Park, *Little Jug Site (G.C.-663)*

Maricopa County

Archeological Site: AZ T:6:3 (63.3)
Archeological Site: AZ T:6:4 (63.3)

CALIFORNIA

Colusa County

Sacramento River Bridge, spans Sacramento River (63.3)

Fresno County

Archeological Sites: FRE-625 and FRE-635, near Kerckhoff Lake (63.3)

Imperial County

Holtville vicinity, *Archeological Sites: 4-IMP-2936, 2937, 2939* (63.3)

Los Angeles County

Pasadena, *Shea House,* 524 N. Marengo Ave. (63.3)

Madera County

Archeological Sites: MAD-289 and MAD-293, near Kerckhoff Lake (63.3)

San Bernardino County

Redlands vicinity, *Marshall House,* 27297 Barton Rd.
Redlands vicinity, *White House,* 26849 Barton Rd.

Santa Clara County

San Jose, *Masonic Temple,* 262-272 1st St. (63.3)

CONNECTICUT

Hartford County

Hartford, *Elizabeth Park* (western portion) (63.3)

GEORGIA

DeKalb County

Dunwoody, *Spruill Homeplace,* 4681 Ashford-Dunwoody Rd. (63.3)
Dunwoody, *Wood Home,* 4834 Ashford-Dunwoody Rd. (63.3)
Soapstone Ridge (Archeological Site 9Da69) (63.3)

Walker County

Blowing Spring, *Blowing Spring Mill Houses,* GA 193 (63.3)
Blowing Spring, *Grant House,* GA 193 (63.3)
Blowing Spring, *Scholze House,* GA 193 (63.3)
Flintstone vicinity, *Flintstone Methodist Church,* near Flintstone (63.3)
Flintstone vicinity, *Hixon, William, House,* NE of Flintstone on Burnt Mill Rd. (63.3)

IOWA

Buena Vista County

Storm Lake, *Chicago, Milwaukee, St. Paul, and Pacific Railroad Company Storm Lake Depot*

Polk County

Des Moines, *Fire Station No. 4,* 1041 8th St. b

KENTUCKY

Lewis County

Concord vicinity, *Bierly, Maude, House,* KY 8
Concord vicinity, *Carrs Methodist Church,* KY 8
Concord vicinity, *Cook, Hazel, House,* KY 8
Concord vicinity, *Dickerson, Walter, House,* KY 8
Concord vicinity, *Kimble, Helen Rose, House,* KY 8

Scott County

Georgetown, *Thorne House,* Lemons Mill Rd. (63.3)

MARYLAND

Baltimore (independent city)

Arthur's Bakery, 223 N. Eutaw St.
Hutzlers High Rise Building, 220-228 N. Howard St.
Murphy Building, 320-322 W. Lexington St.
Palace Building, 210-218 N. Howard St.
Provident Savings Bank of Baltimore, 236-240 N. Howard St.
Stewart and Company Department Store, 201 N. Howard St.

MINNESOTA

Murray County

Fulda, *Chicago, Milwaukee, St. Paul and Pacific Railroad Company's Fulda Railway Depot* (63.3)

MISSOURI

Jackson County

Kansas City vicinity, *Archeological Sites: 23JA36, 23JA40, 23JA42, 23JA44, 23JA54, 23JA77, 23JA78, 23JA81, 23JA83, 23JA84, 23JA85, 23JA89, 23JA115, 23JA119, 23JA120, 23JA125, 23JA185, 23JA186, 23JA187,* Little Blue River Channel area (63.3)

MONTANA

Phillips County

Malta vicinity, *Beaucoup Site Complex (Sites 188/189)*

NEBRASKA

Boyd County

Sunshine Bottom Historic District, S of Missouri River

NEW JERSEY

Hudson County

Jersey City, *Car-Float Transfer Bridge 1,* Liberty State Park
Jersey City, *Car-Float Transfer Bridge 2,* Liberty State Park
Jersey City, *Pier G,* Liberty State Park
Jersey City, *Pier No. 19,* Liberty State Park

NEW YORK

Delaware County

Hancock, *Dunn Site,* E of Delaware River (63.3)

Nassau County

Ridgewood Aqueduct (also in Queens County) (63.3)

Westchester County

Yonkers, *Moquette Row Housing,* Nepperhan Ave. (63.3)
Yonkers, *Smith, Alexander, Carpet Mills,* Nepperhan Ave. (63.3)
Yonkers, *Yonkers City Hall,* S. Broadway (63.3)
Yonkers, *Yonkers Public Library,* S. Broadway and Nepperhan Ave. (63.3)

PUERTO RICO

San Juan, *Miraflores Chapel*

SOUTH CAROLINA

Berkeley County

Cooper River vicinity, *Archeological Sites: 38 BK 75, 38 BK 76, 38 BK 88, 38 BK 109, 38 BK 225, 38 BK 226, 38 BK 229, 38 BK 230, 38 BK 231, 38 BK 235, 38 BK 236, 38 BK 239, 38 BK 245, 38 BK 246,* Cooper River Rediversion Archeological Survey (63.3)

TEXAS

Lamar County

Archeological Site: 41 LR 45 (63.3)
Ellis I Site X 41 LR 62 (63.3)
Pin Hook vicinity, *Morton Site 41 LR 44,* SW of Pin Hook (63.3)

WISCONSIN

Columbia County

Wisconsin Dells, *211 Wisconsin Avenue House*

Jackson County

Melrose, *Black River Bridge* (63.3)

WYOMING

Teton County

Grand Teton National Park, *Three Rivers Ranch*

[FR Doc. 78-33245 Filed 12-4-78; 8:45 am]

[4310-03-M]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 24, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by December 15, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

CALIFORNIA

San Francisco County

San Francisco. *Six-Inch Rifled Gun No. 9,* Baker Beach

Tulare County

Three Rivers, *Colony Mill Historic Sites,* N of Three Rivers

COLORADO

Eagle County

Redcliff vicinity, *Camp Hale Site,* S of Redcliff off U.S. 24

GEORGIA

Fulton County

Atlanta, *Bass Furniture Building,* 142-150 Mitchell St.
Atlanta, *Grant, W. D., Building (Prudential Building)* 44 Broad St., NW.
Atlanta, *Kriegshaber, Victor, H., House,* 292 Moreland Ave., NE.

Muscogee County

Columbus, *Dismukes, Robert E., Sr., House,* 1617 Summit Dr.
Columbus, *Old Dawson Place (Gordonido)* 1420 Wynnton Rd.

Union County

Blairsville vicinity, *Walasi-yi Inn,* S of Blairsville on U.S. 29

ILLINOIS

Cook County

Chicago, *Wicker Park Historic District,* roughly bounded by Wood, Crystal and N. Caton Sts. Claremont and North Aves.

IOWA

Jackson County

Maquoketa, *Decker House Hotel,* 128 N. Main St.

Johnson County

Amish vicinity, *Washington Township Center High School,* NE of Amish

Jones County

Monticello vicinity, *Ely's Stone Bridge,* NW of Monticello at Hardscrabble Rd.

Marshall County

Marshalltown, *First Church of Christ, Scientist,* 412 W. Main St.

Pottawattamic County

Council Bluffs, *Jefferis, Thomas, House,* 523 6th Ave.

Poweshick County

Grinnell, *Ricker, B. J., House,* 1510 Broad St.

Scott County

Davenport, *Petersen, Max, House,* 1607 W. 12th St.

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KENTUCKY

Bell County

Middlesboro, *American Association, Limited, Office Building,* 2215 Cumberland Ave.

Jessamine County

Keene vicinity, *Ebenezer Reformed Presbyterian Church,* SW of Keene on Ebenezer Rd.

Woodford County

Versailles vicinity, *Moss Side,* SW of Versailles on McCowans Ferry Pike

MINNESOTA

Dakota County

South St. Paul, *Stockyards Exchange Building,* 200 N. Concord St.

Douglas County

Alexandria, *U.S. Post Office Building,* 625 Broadway St.

Hennepin County

Minneapolis, *First Congregational Church,* 500 8th Ave., SE.

Pine County

Sandstone, *Sandstone Public School Building,* off MN 123

Rice County

Northfield, *Northfield Historic District,* roughly bounded by Water, Division, 3rd and 4th Sts.

MISSISSIPPI

Lauderdale County

Meridian, *Meridian Baptist Seminary,* 16th St. and 31st Ave.

Noxubee County

Macon, *Old Noxubee County Jail,* 209 Monroe St.

Warren County

Vicksburg, *Bobb House,* 1503 Harrison St.

NEW JERSEY

Morris County

Mendham vicinity, *Cooper, Gen. Nathan, Mansion,* W of Mendham on GA 24

OHIO

Cuyahoga County

Brecksville vicinity, *Coonrad, Jonas, House,* SE of Brecksville at 10340 Riverview Rd.

PENNSYLVANIA

Chester County

Malvern vicinity, *White Horse Tavern,* NW of Malvern at 480 Swedesford Rd.

RHODE ISLAND

Providence County

Woonsocket, *U.S. Post Office,* 295 Main St.

SOUTH CAROLINA

Richland County

Columbia, *Columbia Multiple Resource Area,* various locations in Columbia

TENNESSEE

Davidson County

Nashville, *Miles House,* 631 Woodland St.

Montgomery County

St. Bethlehem vicinity, *Cloverlands,* N of St. Bethlehem on Clarksville-Trenton Rd.

Rutherford County

Lascassas vicinity, *Brown's Mill,* SE of Lascassas on Brown's Mill Rd.

Shelby County

Memphis, *Cotton Row Historic District,* S. Front St. between Monroe and Gayoso Aves.

Memphis, *Hill, Frank Fontaine, House,* 1400 Union Ave.

Sumner County

Castalian Springs vicinity, *Locust Grove,* N of Castalian Springs

Gallatin vicinity, *Walnut Grove,* W of Gallatin on Red River Rd.

Wilson County

Lebanon, *Buchanan, I. W. P., House,* 428 W. Main St.

UTAH

Salt Lake County

Salt Lake City, *City Creek Canyon Historic District,* roughly bounded by Spencer Ct., Capitol Blvd., 4th and 6th Aves.

VERMONT

Washington County

Barre, *Twing, Joshua, Gristmill, 450 N. Main St.*

WISCONSIN

Waukesha County

Brookfield, *Dousman Inn (Dunkel Inn)* 15670 Blue Mound Rd.

[FR Doc. 78-33603 Filed 12-4-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-39]

CERTAIN LUGGAGE PRODUCTS

Commission Determination and Action

The United States International Trade Commission conducted investigation No. 337-TA-39 pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on certain luggage products covered by the claim of U.S. Letters Patent Des. 242,181, owned by the complainant, Airway Industries, Inc., of Ellwood City, Pa. The Commission determined that there is a violation of the statute by the respondents, with the exception of Henry Rosenfeld Luggage, and hereby directs exclusion of unlicensed articles meeting the claim of the patent. Chairman Parker determined that there is no violation of section 337 of the Tariff Act of 1930, as amended. Commissioner Stern did not participate.

COMMISSION DETERMINATION

Having reviewed the evidentiary record in this matter including (1) the submissions filed by the parties, (2) the transcripts of the hearings on temporary and permanent relief and the exhibits which were accepted into evidence in the course of the hearings or by the subsequent order of the presiding officer, (3) the recommended determination of the presiding officer, and (4) the public hearing before the Commission on September 20, 1978, the Commission on October 31, 1978, determined—

1. To grant in part motion No. 39-12 and dismiss Shen-Tai Industry Co., Ltd.; Win Quality Industry Co., Ltd.; Nan Zong Leather Products Co., Ltd.; and Lih Hwa Industries, Ltd., as respondents in the investigation; and also grant motion No. 39-18 and dismiss Tuerkes-Beckers as a respondent in this investigation;

2. With respect to the remaining respondents in investigation No. 337-TA-39,[1] except Henry Rosenfeld Luggage, that there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation into the United States of articles that meet the claim of the complainant's U.S. Letters Patent Des. 242,181, and in their sale by the owner, importer, consignee or their agents, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States; with respect to Henry Rosenfeld Luggage, there is no violation of section 337 of the Tariff Act of 1930, as amended; Chairman Parker determined there is no violation of section 337 of the Tariff Act of 1930, as amended;

3. That the appropriate remedy for such violation is to direct that certain luggage products made in accordance with the claim of U.S. Letters Patent Des. 242,181 be excluded from entry into the United States for the term of said patent, except under license of the patent owner;[1]

4. That after considering the effect of such exclusion upon the public

[1]Chang Cheng Plastic Enterprise Co., Ltd.; Dongmee Trading Co., Ltd.; Suh Won Industries, Inc.; Dong-A Sewing Products Co., Ltd.; Pung Kook Industrial Co., Ltd.; Sam Yung Chemical Ind. Co., Ltd.; Tsun-Ho Yeh; Yoo Poong Luggage Mfg. Co., Ltd.; Yuan-Fong; Worldmart Industries, Ltd.; Youngnam Enterprises Co., Ltd.; San Ho Plastics Fabrication Co., Ltd.; Henry Rosenfeld Luggage; Worldmart Industries, Inc.; Winn International Corp.; Collins Co., Ltd.; Dae Dong Chemical Co.; and Dae Wha Products, Inc.

[1]Chairman Parker, having determined there is no violation, did not vote on the questions of remedy, public policy, and bonding.

health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, such articles should be excluded from entry; [1] and

5. That the bond provided for in subsection (g)(3) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337(g)(3)) be in the amount of 210 percent of the value of the articles concerned,[1] f.o.b. foreign port.

COMMISSION ORDER

Accordingly, it is hereby ordered that—

1. Shen-Tai Industry Co., Ltd.; Win Quality Industry Co., Ltd.; Nan Zong Leather Products Co., Ltd.; Lih Hwa Industries, Ltd.; and Tuerkes-Beckers are dismissed as respondents in the investigation;

2. Certain luggage products made in accordance with the claim of complainant's U.S. Letters Patent Des. 242,181 are excluded from entry into the United States for the term of said patent except (1) as provided in paragraph 3 of this order, infra, or (2) as such importation is licensed by the owner of U.S. Letters Patent Des. 242,181;

3. That the articles ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 210 percent of the value of the articles, f.o.b. foreign port, from the day after the day this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves this action or disapproves this action, but, in any event, not later than sixty (60) days after such day of receipt;

4. That this order will be published in the FEDERAL REGISTER and served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and

5. That the United States International Trade Commission may amend this order at any time.

Issued: November 30, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-33929 Filed 12-4-78; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-115-C]

GARDEN CREEK POCAHONTAS CO.

Petition for Modification of Application of Mandatory Safety Standard

Garden Creek Pocahontas Company, P.O. Box 11430, Lexington, Kentucky 40575, has filed a petition to modify application of 30 CFR 77.214(a) (refuse piles) to its V.P. 6 Mine in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

(1) The petitioner proposes to construct and maintain a refuse pile for the mine in an area that contains three abandoned mine openings and the outcrop of one seam of coal which has been auger mined.

(2) The petitioner proposes to seal and cover these areas with non-combustible material according to technical specifications presented with the petition.

(3) The petitioner states that the construction and maintenance of the refuse site according to these technical specifications will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before January 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: November 23, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-33903 Filed 12-4-78; 8:45 am]

[4510-28-M]

Office of the Secretary

APPLICATIONS FOR WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 15, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 15, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

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APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Atlas Tack Corp. (UAW)	Fairhaven, Mass	Nov. 13, 1978	Nov. 7, 1978	TA-W-4,404	Shoe eyelets.
Dunwell Bra Accessories (Intimate Apparel Workers Union, ILGWU).	New York, N.Y.	Nov. 17, 1978	Nov. 15, 1978	TA-W-4,405	Brassieres and girdles.
Famous Maid Brassiere Co. (Intimate Apparel Workers' Union, ILGWU).	Brooklyn, N.Y.	Nov. 13, 1978	Nov. 9, 1978	TA-W-4,406	Brassieres.
Fisher Controls Co. (UAW)	Marshalltown, Iowa	Nov. 14, 1978	Nov. 7, 1978	TA-W-4,407	Control valves and electronic components.
General Housewares Corp., Columbian Division (USWA).	Terre Haute, Ind	Nov. 15, 1978	Nov. 13, 1978	TA-W-4,408	Porcelain on steel cookware.
Jay Garment Co. (ACTWU)	Clarksville, Tenn	do	do	TA-W-4,409	Work shirts and one-piece worksuits for men.
Louisville Pant Corp. (company)	Louisville, Miss	Nov. 16, 1978	Nov. 7, 1978	TA-W-4,410	Men's and boys' dress pants.
M & S Knitwear Corp. (workers)	Newark, N.J.	Nov. 15, 1978	Nov. 8, 1978	TA-W-4,411	Sewing of knitted jackets, dresses, blouses, pants, etc.
Macon Pant Corp. (company)	Macon, Miss	Nov. 16, 1978	Nov. 17, 1978	TA-W-4,412	Men's and boys' dress pants.
National Pants Corp. (company)	New York, N.Y	do	Nov. 7, 1978	TA-W-4,413	Headquarters and sales office for Macon Pant Corp., and Louisville Pant Corp.
Pan American World Airways, Inc. (workers).	East Boston, Mass	Nov. 15, 1978	Nov. 2, 1978	TA-W-4,414	Mechanics, administrative, selling, and checking, marketing, loading cargo, etc.
Spatola Brothers Shoe Co. (company)	Waycross, Ga	Nov. 7, 1978	Nov. 10, 1978	TA-W-4,415	Cold cure casuals for women, jogging shoes and dress shoes for men.
Trans Spectra, Inc. (workers)	Palmersville, Tenn	do	Nov. 14, 1978	TA-W-4,416	Electronic capacitors.
Warnaco Mens Sportswear, Inc. (workers).	Altoona, Pa	Nov. 13, 1978	Nov. 10, 1978	TA-W-4,417	Knit shirts, knit outerwear, knit sweaters for men.

[FR Doc. 78-33719 Filed 12-4-78; 8:45 am]

[4510-28-M]

APPLICATIONS FOR WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 15, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 15, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of November 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of:	Location	Date Received	Date of Petition	Petition No.	Articles produced
Binghamton Steel & Fabricating Co., Inc. (workers).	Binghamton, N.Y	Nov. 17, 1978	Nov. 15, 1978	TA-W-4,418	Fabricated structural steel.
Brown Shoe Co. (United Shoe Workers of America).	Piggott, Ark	do	Nov. 13, 1978	TA-W-4,419	Men's shoes and boots.
Creative Knitting, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 20, 1978	Nov. 15, 1978	TA-W-4,420	Knit sweater fabrics.
Favorite Footwear Co. (United Shoe Workers of America).	Long Island City, N.Y	do	Nov. 16, 1978	TA-W-4,421	Hard sole and soft sole men slipper shoes.
Garment Makers, Inc. (workers)	Brooklyn, N.Y	do	Nov. 17, 1978	TA-W-4,422	Ladies' coats.
Geralyn Blouse Co., Inc. (ILGWU)	New York, N.Y	Nov. 16, 1978	Nov. 9, 1978	TA-W-4,423	Knit pullovers, shirts, and blouses for women and children.
Hudson Pearl C., Inc. (company)	Union City, N.J	Nov. 14, 1978	Oct. 10, 1978	TA-W-4,424	Pearl coating of necklaces, beads and balls of earrings, and knitting of necklaces.
London Knitting Co., Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	do	Nov. 13, 1978	TA-W-4,425	Men's sweaters.
Mainline, Incorporated (Knitgoods Union, ILGWU).	do	Nov. 20, 1978.	Nov. 15, 1978	TA-W-4,426	Men's sweaters.
Mark-D Knitting Co. (Knitgoods Union, ILGWU).	do	do	Nov. 17, 1978	TA-W-4,427	Knit fabrics for sweaters.

APPENDIX —Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Meyer Manufacturing, Inc. (Knitgoods Union, ILGWU).	do	do	Nov. 15, 1978	TA-W-4,428	Women's swimwear, tennis dresses, tennis warm-up suits and sweaters.
Qualitex Knitwear Mfg. Company (Knitgoods Union, ILGWU).	do	do	do	TA-W-4,429	Men's sweaters.
Riverside Service (workers)	Buffalo, N.Y	do	Nov. 17, 1978	TA-W-4,430	Trucking service—delivering freights.
S & E Knitting Co. (Knitgoods Union, ILGWU).	Philadelphia, Pa	do	do	TA-W-4,431	Knit doubleknits for dresses and blouses.
Saddlemakers Mfg., Inc. (workers)	Worcester, Mass	do	do	TA-W-4,432	Leather belts, leather and fabric combination handbags.
Saiz Leather, Inc. (Amalgamated Meat Cutters & Butcher Workmen of North America).	Santa Cruz, Calif	do	Nov. 9, 1978	TA-W-4,433	Tanning of raw cattle hides to a finished leather state.
Sheroff—Green, Inc. (workers)	Mutuchen, N.J	Nov. 17, 1978	Nov. 14, 1978	TA-W-4,434	Tooling (machinery) for shoe and clothing industry.
Sturbridge, Inc. (Knitgoods Union, ILGWU).	Philadelphia, Pa	Nov. 20, 1978	Nov. 15, 1978	TA-W-4,435	Men's sweaters and some ladies' sweaters.

[FR Doc. 78-33720 Filed 12-4-78; 8:45 am]

[4510-28-M]

Office of the Secretary

ALDON'S INC. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 18, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 18, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aldon's Inc. (ACTWU)	New Braunfels, Tex	Nov. 13, 1978	Nov. 8, 1978	TA-W-4,436	Men's full-fashioned knit sweater shirts and sweaters.
Aluminum Co. of America (USWA)	Rockdale, Tex	Nov. 20, 1978	Nov. 15, 1978	TA-W-4,437	Primary aluminum in the form of ingots, aluminum powder and redraw rods.
Breneman, Inc. (UAW)	Madison, Ind	Nov. 27, 1979	Nov. 21, 1978	TA-W-4,438	Plastic window shades.
Cameron Dress Division of Genesco, Inc. (ILGWU).	Harrisburg, Pa	Nov. 21, 1978	Nov. 17, 1978	TA-W-4,439	Ladies' jackets, slacks, skirts, gowns, blouses, dresses, etc.
Capitol Footwear Co. (Workers)	Worcester, Mass	Nov. 6, 1978	Nov. 3, 1978	TA-W-4,440	Men's slippers, casual shoes, boots and sandals.
Joseph F. Corcoran Shoe Co. (workers).	Stoughton, Mass	do	do	TA-W-4,441	Men's boots, dress and military.
Diebold, Inc. (International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers & Helpers).	Canton, Ohio	Nov. 15, 1978	Nov. 10, 1978	TA-W-4,442	Safety deposit boxes, vault doors and bank equipment.
Driver-Harris Co. (USWA)	Harrison, N.J	Nov. 27, 1978	Nov. 20, 1978	TA-W-4,443	Wire and strip products all nickel base for electrical and high temperature applications.
Gulf & Western Energy Product Group (USWA).	Cicero, Ill	Nov. 16, 1978	Nov. 15, 1978	TA-W-4,444	Carbon steel fittings.
Hamilton Web Co. (United Textile Workers of America).	North Kingstown, R.I	Nov. 27, 1978	Nov. 21, 1978	TA-W-4,445	Narrow woven fabrics for garment trim.
Mayflower Knitting Mills (workers)	Brooklyn, N.Y	do	Nov. 17, 1978	TA-W-4,446	Sweaters and knit dresses.
Mohawk Rubber Co. (URW)	West Helena, Ark	do	Nov. 20, 1978	TA-W-4,447	Tires—passenger and light trucks.
Pinevalley Sportswear, Inc. (company).	Pine Grove, Pa	Nov. 21, 1978	do	TA-W-4,448	Men's and boys' jackets.
Rockwell International Corp., Admiral Service Division (IBEW).	Roscmont, Ill	Nov. 17, 1978	Nov. 14, 1978	TA-W-4,449	Provides service repairs for televisions, stereo's, refrigerators, and freezers.
Louis Walter Co., Inc. (ILGWU)	Los Angeles, Calif	Nov. 27, 1978	Nov. 20, 1978	TA-W-4,450	Women's coats.

[FR Doc. 78-33902 Filed 12-4-78; 8:45 am]

officials of Carlisle Finishing Company, Cone Mills Corporation, the U.S. Department of Commerce, and the U.S. Department of Labor herein presents the results of TA-W-3684: Investigation regarding

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[4510-28-M]

[TA-W-4122]

ARONSON TEXTILE CO., NEW YORK, N.Y.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4122: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was inititated on August 31, 1978 in response to a worker petition received on August 24, 1978 which was filed by the Distributive Workers of America on behalf of workers and former workers acting as converters of acetate nylon piece goods at Aronson Textile Company, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Aronson Textile Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each or the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric (bleached, dyed, and printed) fluctuated, in absolute terms, from 1975 through the first half of 1978. From 1974 through 1977 the ratio of imports to domestic production has remained below 2 percent.

A Department survey of Aronson Textile Company's major customers who had reduced their purchases from that firm indicated that none purchased imports while all had increased purchases from other domestic sources in the first three quarters of 1978 compared to the same period in 1977. A change in fashion preferences accounted for the switches away from the products supplied by Aronson Textile Company to products supplied by other domestic suppliers of piece goods.

CONCLUSION

After careful review, I determine that all workers of Aronson Textile Company, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 33904 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-4158]

CARDOT MANUFACTURING CO., WEST WARWICK, R.I.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4158: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was intitated on September 14, 1978 in response to a worker petition received on September 13, 1978 which was filed on behalf of workers and former workers producing ladies' sportswear and dresses at the Cardot Manufacturing Company, West Warwick, Rhode Island. the investigation revealed that "sportswear" consisted of jackets and slacks and that the produced skirts, not dresses.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43587). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cardot Manufacturing Company, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm of subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Cardot Manufacturing Company was engaged in contract work solely for one manufacturer during the period under investigation. A Department survey revealed that this manufacturer did not employ any foreign contractors nor did the manufacturer import any jackets, slacks, or dresses during the past 3 years. Sales by this manufacturer increased in FY 1976 and 1977 compared to the previous fiscal year.

CONCLUSION

After careful review, I determine that all workers of Cardot Manufacturing Company, West Warwick, Rhode Island are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 33905 Filed 12-4-78; 8:45 am]

[4510-23-M]

[TA-W-4316]

CARLISLE FINISHING CO., CARLISLE, S.C.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4316: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 31, 1978 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engaged in the commission dyeing, printing, and finishing of fabric at Carlisle Finishing Company, Carlisle, S.C.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Carlisle Finishing Company, Cone Mills Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers employed at Carlisle Finishing Company, Carlisle, S.C. increased in 1977 compared with 1976, and increased in the first three quarters of 1978 compared with the same period in 1977. The average number of hours worked per worker also increased during these same periods. Average quarterly employment increased in every quarter when compared with the same quarter of the previous year from the third quarter of 1977 through the second quarter of 1978. There is no immediate threat of a further separation of workers at this plant.

CONCLUSION

After careful review, I determine that all workers of Carlisle Finishing Company, Carlisle, S.C. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33906 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-3913]

COMMUNICATION CO., CORAL GABLES, FLA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3913: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 27, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers producing land mobile radio equipment at Communication Company, Coral Gables, Florida.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of E. F. Johnson Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated a downward trend of imports of land mobile radio units from 1976 through 1977 and the first six months of 1978. Imports of land mobile radio units decreased from $73.1 million in 1976 to $58.1 million in 1977 and decreased from $37.7 million in the first six months of 1977 to $23.0 million in the first six months of 1978. The ratios of imports to domestic production and consumption decreased from 1976 to 1977 and decreased in the first six months of 1978 compared to the first six months of 1977.

CONCLUSION

After careful review, I determine that all workers of Communication Company, Coral Gables, Florida are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33907 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-3684]

COUNTRY GIRLS FASHIONS INC., LYNDHURST, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3684: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' skirts and vests at Country Girls Fashions, Incorporated, Lyndhurst, New Jersey. The investigation revealed that ladies' jackets are also produced.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Country Girls Fashions, Incorporated, its customers (manufacturers), the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The earliest possible impact date which could be set under the law is April 25, 1977. The average number of workers increased in May through December 1977 compared with the same period of 1976. Employment increased in the first quarter of 1978 compared with the same period of 1977. There have been no significant partial separations.

There is no immediate threat of separation to the workers of Country Girl Fashions.

CONCLUSION

After careful review, I determine that all workers of Country Girls Fashions, Incorporated, Lyndhurst, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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Signed at Washington, D.C. this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33908 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-3942]

DUPLAN FABRICS, INC., NEW YORK, N.Y.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers at the sales office and headquarters for Duplan Fabrics, Incorporated and Duplan Corporation, New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-29). No public hearing was requested and none was held.

Since the identical group of workers is the subject of the ongoing investigation TA-W-3940, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of November 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-33909 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-4113; 4113A; 4113B; and 4113C]

NANNETTE MANUFACTURING CO., GLOUCESTER, N.J.; PHILADELPHIA, PA.; GLASSBORO, N.J; ELKTON, MD.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4113: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 24, 1978 in response to a worker petition received on August 22, 1978 which was filed by the United Garment Workers of America on behalf of workers and former workers producing infants' and children's apparel at Nannette Manufacturing Company, Gloucester, New Jersey. The investigation was expanded to include workers and former workers producing infants' and children's apparel at the Philadelphia, Pennsylvania (TA-W-4113A); Glassboro, New Jersey (TA-W-4113B); and Elkton, Maryland (TA-W-4113C) plants of Nannette Manufacturing Company.

The Notice of Investigation was published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39457). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Nannette Manufacturing Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of children's dresses increased in the first half of 1978 compared to the same period of 1977.

Nannette Manufacturing Company imports finished garments—infants' wear and girls' dresses—for sale in the domestic market. Company imports increased relative to sales and domestic production in 1977 compared to 1976 and in the first three seasons of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with infants' and children's apparel produced at the Philadelphia, Pennsylvania; Glassboro and Gloucester, New Jersey; and Elkton, Maryland plants of Nannette Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Nannette Manufacturing Company, Gloucester, New Jersey; Philadelphia, Pennsylvania; Glassboro, New Jersey; and Elkton, Maryland who became totally or partially separated from employment on or after August 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33910 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-3884]

TOBIN PACKING CO., INC., ALBANY, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3884: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 22, 1978 in response to a worker petition received on June 20, 1978 which was filed on behalf of workers and former workers slaughtering and packaging meat at Tobin Packing Company, Inc., Albany, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579-28580). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Tobin Packing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

Imports of fresh and frozen pork increased from 25 million pounds in 1976 to 27 million pounds in 1977, and increased from 14 million pounds in the first 6 months of 1977 to 27 million pounds in the first 6 months of 1978. Imports as a percentage of production remained unchanged at 0.21 percent from 1976 to 1977.

Imports of processed pork decreased from 293 million pounds in 1976 to 271 million pounds in 1977, and increased from 148 million pounds in the first 6 months of 1977 to 151 million pounds in the first 6 months in 1978. Imports as a percentage of production decreased from 2.9 percent in 1976 to 2.5 percent in 1977.

Customers responding to the Department's survey indicated that they did not purchase any imported pork products in 1976, 1977 and the first 6 months of 1978.

CONCLUSION

After careful review, I determine that all workers of Tobin Packing Company, Inc., Albany, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-33911 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-3985]

TORSION BALANCE CO., CLIFTON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3985: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 19, 1978 in response to a worker petition received on July 17, 1978 which was filed on behalf of workers and former workers producing balance scales, pharmaceutical and student balances at Torsion Balance Company, Clifton, New Jersey. The investigation revealed that production is not limited to pharmaceutical and student balances, but includes many types of laboratory balances.

The Notice of Investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Torsion Balance Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of laboratory balances increased absolutely from $9.7 million in 1976 to $14.3 million in 1977. Imports increased from $3.1 million in the first quarter of 1977 to $4.4 million in the first quarter of 1978.

A survey of customers of Torsion Balance Company, Clifton, New Jersey, revealed that customers decreased purchases of balances from the subject firm in the first half of 1978 compared to the first half of 1977 while increasing purchases of imported balances during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with laboratory balances produced at Torsion Balance Company, Clifton, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Torsion Balance Company, Clifton, New Jersey who became totally or partially separated from employment on or after January 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 33912 Filed 12-4-78; 8:45 am]

[4510-28-M]

[TA-W-4131]

U.S. PLASTIC & CHEMICAL CORP., DANIELSON, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4131: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 31, 1978 in response to a worker petition received on August 28, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers engaged in the production, polishing and finishing of buttons at the Danielson, Connecticut plant of U.S. Plastic and Chemical Corporation. The investigation revealed that the Danielson plant produced plastic buttons and is now confined to the polishing and finishing operations of the total process.

The Notice of Investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of U.S. Plastic and Chemical Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production and employment declines at the Danielson, Connecticut plant of U.S. Plastic and Chemical Corporation are attributable to a domestic transfer of production.

U.S. Plastic and Chemical Corporation began the transfer of button production from its Danielson, Connecticut plant to its Putnam, Connecticut plant in April and May of 1977.

The production of buttons at the Danielson plant ceased entirely in February, 1978.

Total Company production of buttons increased, in quantity, in each month from September through December of 1977 as compared to the respective month of 1976. Companywide production continued to increase during the January-August period of 1978 compared to January-August of 1977, as production was transferred to the Putnam, Connecticut plant.

Company sales increased, in quantity and in value, in the January-August period of 1978 compared to the same period of 1977.

U.S. Plastic and Chemical Corporation imported raw materials for button production and some finished buttons. The finished buttons, however, were an insignificant proportion of company sales in 1977 and in the first nine months of 1978. In addition, the finished button imports are not plastic buttons but consist of types and styles of buttons that are not produced by the company.

CONCLUSION

After careful review, I determine that all workers of the Danielson, Connecticut plant of U.S. Plastic and Chemical Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-33913 Filed 12-4-78; 8:45 am]

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[7710-12-M]

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[4510-28-M]

[TA-W-3771]

WEYERHAEUSER CO., RIDGWAY, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3771: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on May 23, 1978 which was filed by the United Brotherhood of Carpenters and Joiners of America, incorrectly stated as workers in the Notice of Investigation, on behalf of workers and former workers producing sliced veneer at the Ridgway, Pennsylvania plant of Weyerhaeuser Company. The investigation revealed that solid core apartment/office doors were also produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-5). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Weyerhaeuser Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group of eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The ratios of imports to domestic production for wood doors and hardwood veneer were 2 percent or less and 1 percent or less, respectively in each year from 1974 through 1977.

A survey of customers of Weyerhaeuser Company was conducted by the Department. The survey indicated that customers who had purchased doors or veneer from Weyerhaeuser Company did not purchase imports of the respective products in the period January 1976 through August 1978.

CONCLUSION

After careful review, I determine that all workers of the Ridgway, Pennsylvania plant of Weyerhaeuser Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of November 1974.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-33914 Filed 12-4-78; 8:45 am]

[4510-29-M]

Pension and Welfare Benefit Programs

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting Rescheduling

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) on November 21, 1978, the Department announced a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Tuesday, December 12, 1978, in the Ambassador Room, Shoreham Americana, Connecticut Avenue at Calvert Street, NW., Washington, D.C.

The purpose of this Notice is to advise all interested persons that the meeting has been rescheduled for January 1979 at a date yet to be determined.

Signed at Washington, D.C., this 29 day of November 1978.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 78-33894 Filed 12-4-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Construction Permit Nos. CPPR-139, CPPR-140]

UNION ELECTRIC CO., (CALLAWAY PLANT, UNITS 1 AND 2)

Order Regarding Oral Argument

NOVEMBER 23, 1978.

Oral argument on the appeals taken by the Union Electric Company and William Smart from the September 28, 1978 initial decision of the Licensing Board in this show cause proceeding [1] will be heard at *9:30 a.m. on Wednesday, January 10, 1979 in the Moot Courtroom of the Howard University School of Law.* That courtroom is located on the basement level of Houston Hall on the Law school campus. Although the official address of the school is 2935 Upton Street, N.W., Washington, D.C. (east of Connecticut Avenue), Houston Hall is best approached from Van Ness Street.

The order of presentation and the time allotted each party for argument will be announced next month following our receipt of appellees' briefs. The appeals present narrow issues of law on stipulated facts and this Board will be fully familiar with the parties' positions as developed in their briefs. Accordingly, no party should expect more than forty minutes for argument.

The Secretary to this Board is to be advised by letter, mailed no later than January 2, 1979, of the names of counsel who will be participating in the argument.

It is so ordered.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-33848 Filed 12-4-78; 8:45 am]

[1] LBP-78-31, 8 NRC.

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.70, Revision 3, "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," identifies the principal information that should be provided by applicants in safety analysis reports for nuclear power plants using light-water-cooled reactors and provides a uniform format for presenting this information. Revision 3 includes a new Appendix A that provides guidelines for submitting information on safety-related interfaces for standard designs of major portions of nuclear power plants. (The content of Appendix A was previously issued for public comment as "Interfaces for Standard Designs," NUREG-0102, August 1976.) This revision reflects public comments and refinements in the NRC staff's information needs.

The issuance of Revision 3 of Regulatory Guide 1.70 implements one of the recommendations set forth by an NRC study group in NUREG-0292, "Nuclear Power Plant Licensing: Opportunities for Improvement," that was approved as Commission policy in October 1977. The purpose of this recommendation is to improve the quality of license applications by keeping Regulatory Guide 1.70 updated and consistent with NUREG-75/087, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docket and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copy-righted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 27th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-33849 Filed 12-4-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.72, Revision 2, "Spray Pond Piping Made from Fiberglass-Reinforced Thermosetting Resin," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to the design, fabriation, and testing of fiberglass-reinforced thermosetting resin piping for spray pond applications. This guide has been revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 28th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-33850 Filed 12-4-78; 8:45 am]

[7710-12-M]

POSTAL SERVICE

INTERNATIONAL EXPRESS MAIL RATES

Proposed Rates

AGENCY: Postal Service.

ACTION: Proposed International Express Mail Service Rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service proposes to begin International Express Mail Service with the Republic of China (Taiwan), Singapore, the Federal Republic of Germany (West Germany), and Switzerland at rates indicated in the tables below. Rates to two of these countries, the Federal Republic of Germany and Switzerland, are proposed to be the same as those currently charged to other European countries. Rates for the Republic of China and Singapore are new. Depending upon when agreements are concluded with each country, the proposed rates could become effective as early as January 1, 1979.

DATE: Comments must be received on or before December 22, 1978.

ADDRESS: Written comments should be directed to the General Manager, Expedited Mail Services Division, Customer Services Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday in Room 5986.

FOR FURTHER INFORMATION CONTACT:

Patricia M. Gibert (202) 245-5624.

SUPPLEMENTARY INFORMATION: Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning the proposed rates of postage for International Express Mail set out in the following tables (designated 8-3, 8-9, 8-11 through 8-14 for inclusion in Publication 42, International Mail, incorporated by reference, 39 CFR 10.1).

(39 U.S.C. 401, 403, 404 (2), 407, 410(a).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-33877 Filed 12-4-78; 8:45 am]

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TABLE 8-3

BELGIUM, FEDERAL REPUBLIC OF GERMANY, FRANCE, NETHERLANDS, SWITZERLAND AND UNITED KINGDOM

INTERNATIONAL EXPRESS MAIL
CUSTOM DESIGNED SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$27.85	$27.88	$27.92	$27.96	$28.00	$28.05	$28.10
2	29.92	29.98	30.06	30.14	30.22	30.32	30.42
3	31.99	32.08	32.20	32.32	32.44	32.59	32.74
4	34.06	34.18	34.34	34.50	34.66	34.86	35.06
5	36.13	36.28	36.48	36.68	36.88	37.13	37.38
6	38.20	38.38	38.62	38.86	39.10	39.40	39.70
7	40.27	40.48	40.76	41.04	41.32	41.67	42.02
8	42.34	42.58	42.90	43.22	43.54	43.94	44.34
9	44.41	44.68	45.04	45.40	45.76	46.21	46.66
10	46.48	46.78	47.18	47.58	47.98	48.48	48.98
11	48.55	48.88	49.32	49.76	50.20	50.75	51.30
12	50.62	50.98	51.46	51.94	52.42	53.02	53.62
13	52.69	53.08	53.60	54.12	54.64	55.29	55.94
14	54.76	55.18	55.74	56.30	56.86	57.56	58.26
15	56.83	57.28	57.88	58.48	59.08	59.83	60.58
16	58.90	59.38	60.02	60.66	61.30	62.10	62.90
17	60.97	61.48	62.16	62.84	63.52	64.37	65.22
18	63.04	63.58	64.30	65.02	65.74	66.64	67.54
19	65.11	65.68	66.44	67.20	67.96	68.91	69.86
20	67.18	67.78	68.58	69.38	70.18	71.18	72.18
21	69.25	69.88	70.72	71.56	72.40	73.45	74.50
22	71.32	71.98	72.86	73.74	74.62	75.72	76.82
23	73.39	74.08	75.00	75.92	76.84	77.99	79.14
24	75.46	76.18	77.14	78.10	79.06	80.26	81.46
25	77.53	78.28	79.28	80.28	81.28	82.53	83.78
26	79.60	80.38	81.42	82.46	83.50	84.80	86.10
27	81.67	82.48	83.56	84.64	85.72	87.07	88.42
28	83.74	84.58	85.70	86.82	87.94	89.34	90.74
29	85.81	86.68	87.84	89.00	90.16	91.61	93.06
30	87.88	88.78	89.98	91.18	92.38	93.88	95.38
31	89.95	90.88	92.12	93.36	94.60	96.15	97.70
32	92.02	92.98	94.26	95.54	96.82	98.42	100.02
33	94.09	95.08	96.40	97.72	99.04	100.69	102.34

NOTES: 1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.
2) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.
3) If tendered at origin airport mail facility, deduct $3.00 from these rates.

TABLE 8-9

NETHERLANDS, SWITZERLAND
AND
UNITED KINGDOM

INTERNATIONAL EXPRESS MAIL
ON DEMAND SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$17.57	$17.60	$17.64	$17.68	$17.72	$17.77	$17.82
2	19.64	19.70	19.78	19.86	19.94	20.04	20.14
3	21.71	21.80	21.92	22.04	22.16	22.31	22.46
4	23.78	23.90	24.06	24.22	24.38	24.58	24.78
5	25.85	26.00	26.20	26.40	26.60	26.85	27.10
6	27.92	28.10	28.34	28.58	28.82	29.12	29.42
7	29.99	30.20	30.48	30.76	31.04	31.39	31.74
8	32.06	32.30	32.62	32.94	33.26	33.66	34.06
9	34.13	34.40	34.76	35.12	35.48	35.93	36.38
10	36.20	36.50	36.90	37.30	37.70	38.20	38.70
11	38.27	38.60	39.04	39.48	39.92	40.47	41.02
12	40.34	40.70	41.18	41.66	42.14	42.74	43.34
13	42.41	42.80	43.32	43.84	44.36	45.01	45.66
14	44.48	44.90	45.46	46.02	46.58	47.28	47.98
15	46.55	47.00	47.60	48.20	48.80	49.55	50.30
16	48.62	49.10	49.74	50.38	51.02	51.82	52.62
17	50.69	51.20	51.88	52.56	53.24	54.09	54.94
18	52.76	53.30	54.02	54.74	55.46	56.36	57.26
19	54.83	55.40	56.16	56.92	57.68	58.63	59.58
20	56.90	57.50	58.30	59.10	59.90	60.90	61.90
21	58.97	59.60	60.44	61.28	62.12	63.17	64.22
22	61.04	61.70	62.58	63.46	64.34	65.44	66.54
23	63.11	63.80	64.72	65.64	66.56	67.71	68.86
24	65.18	65.90	66.86	67.82	68.78	69.98	71.18
25	67.25	68.00	69.00	70.00	71.00	72.25	73.50
26	69.32	70.10	71.14	72.18	73.22	74.52	75.82
27	71.39	72.20	73.28	74.36	75.44	76.79	78.14
28	73.46	74.30	75.42	76.54	77.66	79.06	80.46
29	75.53	76.40	77.56	78.72	79.88	81.33	82.78
30	77.60	78.50	79.70	80.90	82.10	83.60	85.10
31	79.67	80.60	81.84	83.08	84.32	85.87	87.42
32	81.74	82.70	83.98	85.26	86.54	88.14	89.74
33	83.81	84.80	86.12	87.44	88.76	90.41	92.06

NOTES: 1) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.

TABLE 8-11

TABLE 8-12

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TABLE 8-11

REPUBLIC OF CHINA

INTERNATIONAL EXPRESS MAIL CUSTOM DESIGNED SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$28.31	$28.34	$28.38	$28.42	$28.46	$28.51	$28.56
2	30.84	30.90	30.98	31.06	31.14	31.24	31.34
3	33.37	33.46	33.58	33.70	33.82	33.97	34.12
4	35.90	36.02	36.18	36.34	36.50	36.70	36.90
5	38.43	38.58	38.78	38.98	39.18	39.43	39.68
6	40.96	41.14	41.38	41.62	41.86	42.16	42.46
7	43.49	43.70	43.98	44.26	44.54	44.89	45.24
8	46.02	46.26	46.58	46.90	47.22	47.62	48.02
9	48.55	48.82	49.18	49.54	49.90	50.35	50.80
10	51.08	51.38	51.78	52.18	52.58	53.08	53.58
11	53.61	53.94	54.38	54.82	55.26	55.81	56.36
12	56.14	56.50	56.98	57.46	57.94	58.54	59.14
13	58.67	59.06	59.58	60.10	60.62	61.27	61.92
14	61.20	61.62	62.18	62.74	63.30	64.00	64.70
15	63.73	64.18	64.78	65.38	65.98	66.73	67.48
16	66.26	66.74	67.38	68.02	68.66	69.46	70.26
17	68.79	69.30	69.98	70.66	71.34	72.19	73.04
18	71.32	71.86	72.58	73.30	74.02	74.92	75.82
19	73.85	74.42	75.18	75.94	76.70	77.65	78.60
20	76.38	76.98	77.78	78.58	79.38	80.38	81.38
21	78.91	79.54	80.38	81.22	82.06	83.11	84.16
22	81.44	82.10	82.98	83.86	84.74	85.84	86.94
23	83.97	84.66	85.58	86.50	87.42	88.57	89.72
24	86.50	87.22	88.18	89.14	90.10	91.30	92.50
25	89.03	89.78	90.78	91.78	92.78	94.03	95.28
26	91.56	92.34	93.38	94.42	95.46	96.76	98.06
27	94.09	94.90	95.98	97.06	98.14	99.49	100.84
28	96.62	97.46	98.58	99.70	100.82	102.22	103.62
29	99.15	100.02	101.18	102.34	103.50	104.95	106.40
30	101.68	102.58	103.78	104.98	106.18	107.68	109.18
31	104.21	105.14	106.38	107.62	108.86	110.41	111.96
32	106.74	107.70	108.98	110.26	111.54	113.14	114.74
33	109.27	110.26	111.58	112.90	114.22	115.87	117.52

NOTES: 1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.
2) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.
3) If tendered at origin airport mail facility, deduct $3.00 from these rates.

TABLE 8-12

REPUBLIC OF CHINA

INTERNATIONAL EXPRESS MAIL ON DEMAND SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$18.03	$18.06	$18.10	$18.14	$18.18	$18.23	$18.28
2	20.56	20.62	20.70	20.78	20.86	20.96	21.06
3	23.09	23.18	23.30	23.42	23.54	23.69	23.84
4	25.62	25.74	25.90	26.06	26.22	26.42	26.62
5	28.15	28.30	28.50	28.70	28.90	29.15	29.40
6	30.68	30.86	31.10	31.34	31.58	31.88	32.18
7	33.21	33.42	33.70	33.98	34.26	34.61	34.96
8	35.74	35.98	36.30	36.62	36.94	37.34	37.74
9	38.27	38.54	38.90	39.26	39.62	40.07	40.52
10	40.80	41.10	41.50	41.90	42.30	42.80	43.30
11	43.33	43.66	44.10	44.54	44.98	45.53	46.08
12	45.86	46.22	46.70	47.18	47.66	48.26	48.86
13	48.39	48.78	49.30	49.82	50.34	50.99	51.64
14	50.92	51.34	51.90	52.46	53.02	53.72	54.42
15	53.45	53.90	54.50	55.10	55.70	56.45	57.20
16	55.98	56.46	57.10	57.74	58.38	59.18	59.98
17	58.51	59.02	59.70	60.38	61.06	61.91	62.76
18	61.04	61.58	62.30	63.02	63.74	64.64	65.54
19	63.57	64.14	64.90	65.66	66.42	67.37	68.32
20	66.10	66.70	67.50	68.30	69.10	70.10	71.10
21	68.63	69.26	70.10	70.94	71.78	72.83	73.88
22	71.16	71.82	72.70	73.58	74.46	75.56	76.66
23	73.69	74.38	75.30	76.22	77.14	78.29	79.44
24	76.22	76.94	77.90	78.86	79.82	81.02	82.22
25	78.75	79.50	80.50	81.50	82.50	83.75	85.00
26	81.28	82.06	83.10	84.14	85.18	86.48	87.78
27	83.81	84.62	85.70	86.78	87.86	89.21	90.56
28	86.34	87.18	88.30	89.42	90.54	91.94	93.34
29	88.87	89.74	90.90	92.06	93.22	94.67	96.12
30	91.40	92.30	93.50	94.70	95.90	97.40	98.90
31	93.93	94.86	96.10	97.34	98.58	100.13	101.68
32	96.46	97.42	98.70	99.98	101.26	102.86	104.46
33	98.99	99.98	101.30	102.62	103.94	105.59	107.24

NOTES: 1) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.

TABLE 8-14

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TABLE 8-13

SINGAPORE
INTERNATIONAL EXPRESS MAIL
CUSTOM DESIGNED SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$30.33	$30.36	$30.40	$30.44	$30.48	$30.53	$30.58
2	34.88	34.94	35.02	35.10	35.18	35.28	35.38
3	39.43	39.52	39.64	39.76	39.88	40.03	40.18
4	43.98	44.10	44.26	44.42	44.58	44.78	44.98
5	48.53	48.68	48.88	49.08	49.28	49.53	49.78
6	53.08	53.26	53.50	53.74	53.98	54.28	54.58
7	57.63	57.84	58.12	58.40	58.68	59.03	59.38
8	62.18	62.42	62.74	63.06	63.39	63.78	64.18
9	66.73	67.00	67.36	67.72	68.08	68.53	68.98
10	71.28	71.58	71.98	72.38	72.78	73.28	73.78
11	75.83	76.16	76.60	77.04	77.48	78.03	78.58
12	80.38	80.74	81.22	81.70	82.18	82.78	83.38
13	84.93	85.32	85.84	86.36	86.88	87.53	88.18
14	89.48	89.90	90.46	91.02	91.58	92.28	92.98
15	94.03	94.48	95.08	95.68	96.28	97.03	97.78
16	98.58	99.06	99.70	100.34	100.98	101.78	102.58
17	103.13	103.64	104.32	105.00	105.68	106.53	107.38
18	107.68	108.22	108.94	109.66	110.38	111.28	112.18
19	112.23	112.80	113.56	114.32	115.08	116.03	116.98
20	116.78	117.38	118.18	118.98	119.78	120.78	121.78
21	121.33	121.96	122.80	123.64	124.48	125.53	126.58
22	125.88	126.54	127.42	128.30	129.18	130.28	131.38
23	130.43	131.12	132.04	132.96	133.88	135.03	136.18
24	134.98	135.70	136.66	137.62	138.58	139.78	140.98
25	139.53	140.28	141.28	142.28	143.28	144.53	145.78
26	144.08	144.86	145.90	146.94	147.98	149.28	150.58
27	148.63	149.44	150.52	151.60	152.68	154.03	155.38
28	153.18	154.02	155.14	156.26	157.38	158.78	160.18
29	157.73	158.60	159.76	160.92	162.08	163.53	164.98
30	162.28	163.18	164.38	165.58	166.78	168.28	169.78
31	166.83	167.76	169.00	170.24	171.48	173.03	174.58
32	171.38	172.34	173.62	174.90	176.18	177.78	179.38
33	175.93	176.92	178.24	179.56	180.88	182.53	184.18

NOTES: 1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.
2) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.
3) If tendered at origin airport mail facility, deduct $3.00 from these rates.

TABLE 8-14

SINGAPORE
INTERNATIONAL EXPRESS MAIL
ON DEMAND SERVICE

POUNDS (up to and including)	ZONE TO INTERNATIONAL EXCHANGE OFFICE						
	3	4	5	6	7	8	9
1	$20.05	$20.08	$20.12	$20.16	$20.20	$20.25	$20.30
2	24.60	24.66	24.74	24.82	24.90	25.00	25.10
3	29.15	29.24	29.36	29.48	29.60	29.75	29.90
4	33.70	33.82	33.98	34.14	34.30	34.50	34.70
5	38.25	38.40	38.60	38.80	39.00	39.25	39.50
6	42.80	42.98	43.22	43.46	43.70	44.00	44.30
7	47.35	47.56	47.84	48.12	48.40	48.75	49.10
8	51.90	52.14	52.46	52.78	53.10	53.50	53.90
9	56.45	56.72	57.08	57.44	57.80	58.25	58.70
10	61.00	61.30	61.70	62.10	62.50	63.00	63.50
11	65.55	65.88	66.32	66.76	67.20	67.75	68.30
12	70.10	70.46	70.94	71.42	71.90	72.50	73.10
13	74.65	75.04	75.56	76.08	76.60	77.25	77.90
14	79.20	79.62	80.18	80.74	81.30	82.00	82.70
15	83.75	84.20	84.80	85.40	86.00	86.75	87.50
16	88.30	88.78	89.42	90.06	90.70	91.50	92.30
17	92.85	93.36	94.04	94.72	95.40	96.25	97.10
18	97.40	97.94	98.66	99.38	100.10	101.00	101.90
19	101.95	102.52	103.28	104.04	104.80	105.75	106.70
20	106.50	107.10	107.90	108.70	109.50	110.50	111.50
21	111.05	111.68	112.52	113.36	114.20	115.25	116.30
22	115.60	116.26	117.14	118.02	118.90	120.00	121.10
23	120.15	120.84	121.76	122.68	123.60	124.75	125.90
24	124.70	125.42	126.38	127.34	128.30	129.50	130.70
25	129.25	130.00	131.00	132.00	133.00	134.25	135.50
26	133.80	134.58	135.62	136.66	137.70	139.00	140.30
27	138.35	139.16	140.24	141.32	142.40	143.75	145.10
28	142.90	143.74	144.86	145.98	147.10	148.50	149.90
29	147.45	148.32	149.48	150.64	151.80	153.25	154.70
30	152.00	152.90	154.10	155.30	156.50	158.00	159.50
31	156.55	157.48	158.72	159.96	161.20	162.75	164.30
32	161.10	162.06	163.34	164.62	165.90	167.50	169.10
33	165.65	166.64	167.96	169.28	170.60	172.25	173.90

NOTES: 1) Pick-up is available under a Service Agreement for an added charge of $5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.

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For the Commission, by the Division

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[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

REPORTS FROM SUBCOMMITTEES

Meeting

The second meeting of the Presidential Commission on World Hunger will be held on Monday, December 18, 1978, from 10:00 am to approximately 4:00 pm at the Department of State.

The agenda for the meeting will be concerned with reports from the Commission's subcommittees and other business as required.

The meeting will be open to observation by the public by reservation. Requests for reservations should be made in person or by letter addressed to the Presidential Commission on World Hunger, 734 Jackson Place, NW., Washington, D.C. 20006. Reservation requests must be made by Thursday, December 14, 1978.

Minutes of the Commission meeting will be available upon request 30 days after the meeting. In addition, copies of the meeting transcript will be available for public inspection and copying at actual cost at the Commission offices.

DANIEL E. SHAUGHNESSY,
Deputy Executive Director, Presidential Commission on World Hunger.

[FR Doc. 78-33886 Filed 12-4-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-420]

AMERICAN FAMILY MUTUAL INSURANCE CO.

Application and Opportunity for Hearing

NOVEMBER 27, 1978.

Notice is hereby given that American Family Mutual Insurance Company ("Applicant") has filed an application, pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted a partial exemption from the reporting provisions of Section 15(d) of that Act.

The Applicant states, in part:

1. Applicant is incorporated under the laws of the State of Wisconsin.

2. A wholly-owned subsidiary of the Applicant, American Family Financial Services, Inc., offered $10,000,000 principal amount of 9% Senior Notes due February 1, 1986 pursuant to a registration statement. The payment of principal and interest on the Notes was unconditionally guaranteed by the Applicant.

3. Information concerning the Applicant's business, and audited financial statements prepared in conformity with accounting principles established by the Wisconsin Commissioner of Insurance were included in the registration statement covering such offering.

4. Applicant proposes to file joint periodic reports with the subsidiary on Forms 10-K and 10-Q and include textual information substantially similar to that provided in the registration statement.

In the absence of a partial exemption, Applicant is required to file all reports required by Section 15(d) of the 1934 Act. Applicant believes that its request for an order partially exempting it from the provisions of Section 15(d) of the 1934 Act is appropriate in view of Applicant's status as co-registrant. Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit of the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than December 22, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33832 Filed 12-4-78; 8:45 am]

[8010-01-M]

[File No. 81-418]

AMERICAN SAFETY EQUIPMENT CORP.

Application and Opportunity for Hearing

NOVEMBER 27, 1978.

Notice is hereby given that American Safety Equipment Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order exempting Applicant from the provisions of Section 15(d) of that Act.

The Applicant states, in part:

1. On July 28, 1978, Applicant became a wholly owned subsidiary of The Marmon Group, Inc. As a result of the merger, Applicant no longer has any public stockholders.

2., Applicant's common stock has been removed from listing and registration on the American Stock Exchange, and there is no trading in this security.

In absence of an exemption, Applicant would be required to file periodic reports pursuant to the provisions of Section 15(d) of the 1934 Act. Applicant believes that its request for an order exempting it from the reporting provisions of Section 15(d) is appropriate inasmuch as it is now a wholly owned subsidiary and has no publicly held common stock.

For a more detailed statement of the information presented, all persons are referred to the application which may be examined at the Commission's Public Reference Section, 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than December 22, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities, and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33833 Filed 12-4-78; 8:45 am]

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[8010-01-M]

[File No. 81-382]

DIVERSEY CORP.

Application and Opportunity for Hearing

NOVEMBER 27, 1978.

Notice is hereby given that The Diversey Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption form the provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On July 14, 1978 Applicant merged into Oron Interim Corporation, a Subsidiary of ORON, Inc, and became a wholly-owned subsidiary of the Molson Companies, Ltd., a Canadian corporation. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission its Annual Report on Form 10-K, containing audited financial statements for the year ended December 31, 1977, plus a consolidated summary of operations of Applicant for the five years ended December 31, 1977.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than December 22, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability fo a hearing thereon. Any such commuication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33834 Filed 12-4-78; 8:45 am]

[8010-01-M]

[File No. 81-406]

INTERPOOL LTD.

Application and Opportunity for Hearing

NOVEMBER 27, 1978.

Notice is hereby given that Interpool Limited ("Applicant") filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") seeking an exemption from the requirements to file reports pursuant to Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. The Applicant is a Bahamian company subject to the reporting provisions of Section 15(d) of the 1934 Act.

2. On June 28, 1978 a tender was made for all the Capital Shares of the Applicant by Thyssen-Bornemisza N.V., a Netherlands Antilles company and the applicant is now approximately 99 percent owned by Thyssen-Bornemisza N.V.

In the absence of an exemption, Applicant is required to file periodic reports pursuant to Sections 15(d) of the 1934 Act. Applicant believes that its request for an order exempting it from the reporting requirements is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person not later than Dec. 22, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33835 Filed 12-4-78; 8:45 am]

[8010-01-M]

[Release No. 34-15353; File No. SR-MSE-78-17]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 17, 1978, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 23 of Article VIII is hereby further amended from the proposal in the initial filing on this form as follows:

ARTICLE VIII—ARBITRATION OF SMALL CLAIMS

Rule 23.*

(a) No change in text.

(b) The Claimant shall file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The statement of claim shall specify the relevant facts, the remedies sought and whether or not a hearing is [requested] *demanded.*

(c) No change in text.

(d) No change in text.

(e) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant, *if a Counterclaim is asserted against him,* shall within ten (10) calendar days [file a Reply to any Counterclaim with the Director of Arbitration who will serve a copy of the Reply on the Respondent(s). In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.] *either (i) file a Reply to any Counterclaim with the Director of Arbitration who will serve a copy of the Reply on the Respondent(s) or (ii) if the amount of the Counterclaim exceeds the Claim, shall have the right*

* Brackets ([]) indicate deletions: *Italics* indicate new material.

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to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings will be discontinued without prejudice to the rights of the parties.

(f) No change in text.

(g) No change in text.

(h) No change in text.

(i) [The arbitrator may, in his sole discretion, request that the Director of Arbitration appoint (2) additional arbitrators so that the matter in controversey will be decided by three (3) arbitrators.] *Upon the request of the arbitrator, the Director of Arbitration shall two (2) additional arbitrators to a panel which shall decide the matter in controversy.*

(j) No change in text.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGE

The proposed rule change was drafted by the Securities Industry Conference on Arbitration in answer to an SEC directive to the securities industry to establish a uniform system for the resolution of the customers' small claims against brokers.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed rule change seeks to remove impediments to the establishment of a national market system and seeks to protect the public investors by creating a uniform rule for the resolution of customer disputes involving small claims.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments.

BURDEN ON COMPETITION

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

On or before January 9, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 26, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

NOVEMBER 24, 1978.

[FR Doc. 78-33840 Filed 12-4-78; 8:45 am]

[8010-01-M]

[Release No. 10491; 812-4367]

PUTNAM CONVERTIBLE FUND, INC. ET AL.

Filing of Application for an Exemption

NOVEMBER 27, 1978.

Notice is hereby given that Putnam Convertible Fund, Inc., Putnam Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, Putnam High Yield Trust, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Option Income Trust, Putnam Tax Exempt Income Fund, Putnam Vista Fund, Inc., and Putnam Voyager Fund, Inc. (collectively, "Funds"), and Putnam Fund Distributors, Inc. ("Distributors") (collectively, "Applicants"), 265 Franklin Street, Boston, Massachusetts 02110, filed an application on September 13, 1978, and an amendment thereto on October 26, 1978, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit sales of the Funds' securities at net asset value to Putnam Affiliated Employees, as defined below, who are participants in a non-tax qualified employee benefit plan. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Funds are each registered under the Act as diversified, open-end management investment companies and are organized as corporations or established as Massachusetts business trusts under Massachusetts law. The Funds are currently engaged in continuous public offerings of their shares through Distributors, as principal underwriter, at public offering prices equal to net asset value plus a sales charge.

Distributors, a Massachusetts corporation, is a wholly-owned subsidiary of Marsh & McLennan Management Company, a holding company whose other subsidiaries include the Putnam Management Company, Inc. ("Putnam Management"), which serves as investment manager for the Funds, Putnam Administrative Services Company, Inc., the Funds' shareholder servicing agent, and Putnam Advisory Services, Inc., Putnam Capital Services, Inc., and The Putnam Advisory Company, Inc., which provide investment management and related services to clients other than mutual funds (Marsh & McLennan Management Company and its subsidiaries which provide investment management and related services including any acquired or formed subsequent to the date of this application are hereinafter referred to as the "Marsh & McLennan Management Companies"). Two subsidiaries of Marsh & McLennan Management Company, Landauer Associates, Inc., which engages in real estate consulting, and Victor O. Schinner & Company, Inc., which engages in insurance management and underwriting, are not included as Marsh & McLennan Management Companies. As of September 1, 1978, the employees of Marsh & McLennan Management Companies totaled approximately 325 (employees of Marsh & McLennan Management Companies are hereinafter referred to as "Putnam Affiliated Employees"). Marsh & McLennan Management Company is a wholly-owned subsidiary of Marsh & McLennan Companies, Inc., a publicly owned holding company whose other principal subsidiaries are international insurance brokers and employee benefit consultants.

Applicants propose to permit those Putnam Affiliated Employees participating in an employee benefit plan ("Plan") sponsored by the employers constituting Marsh & McLennan Management Companies to purchase shares of the funds at net asset value. Applicants state that participating Putnam Affiliated Employees will be able to invest in the Plan (1) by payroll deduction in the amount of $25 or more for each investment, (2) Through automatic periodic bank checking account withdrawal plans in the amount of $25 or more for each investment, and (3) by investment at any time in the amount of $50 or more sent directly from the participant to Distributors provided the participant has invested at least $500 in shares of the Fund in which the participant

seeks to invest, regardless of whether such investment was made pursuant to the Plan.

Distributions of Fund shares acquired under the Plan would be reinvested at net asset value in shares of such Fund. Applicants also state that participants will agree not to resell Fund shares acquired through their participation in the Plan except by repurchase or redemption by or for the account of the Fund issuing such shares.

Applicants assert that no individual or in-person group sales solicitations or presentations concerning the Plan will be made. According to the application, all Putnam Affiliated Employees will receive, at least annually, notice from their employers concerning the Plan. This notice, which will be furnished at the expense of such employers, will identify the various Funds, describe their investment objectives, indicate that investments in the Plan would be at net asset value and detail the payroll deduction and other ways in which investments could be made. This notice would also indicate that additional information concerning the Plan and the Funds could be obtained from Distributors and would inform employees of the availability of prospectuses of the Funds from the employers.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Rule 22d-1 permits reductions in or eliminations of the sales load charged upon the sale of shares under certain circumstances. Applicants submit that the sale of Fund shares to Putnam Affiliated Employees at net asset value under the Plan may conflict with the Provisions of Section 22(d) of the Act and Rule 22d-1 thereunder.

Applicants argue that while Rule 22d-1(i) permits sales without any sales charge to certain employees of affiliated persons of the Funds, this would not be available to employees of Marsh & McLennan Management Companies, except for employees of Distributors and Putnam Management. Applicants also claim that an argument may be made that purchases of Fund shares at net asset value by Putnam affiliated Employees under the Plan are permitted by Rule 22d-1(f), which permits elimination of sales charges upon the sale pursuant to a uniform offer described in the prospectus and made to employee benefit plans not qualified under Section 401 of the Internal Revenue Code provided such non-qualified plans satisfy uniform criteria relating to the realization of economies of scale in sales effort and sales-related expenses. Applicants submit it is not clear, however, that net asset value sales to the Putnam Affiliated Employees covered by the Plan would meet the "uniform offer" requirement of Rule 22d-1(f) and have determined to seek an exemption from Section 22(d) of the Act and the rules thereunder, pursuant to Section 6(c) of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that investment by Putnam Affiliated Employees pursuant to the Plan in shares of the Funds at net asset value is supported by policy considerations, that such sales should result in demonstrable economies in sales effort and sales related expense as compared with other sales and would not be unjustly discriminatory, and that the grant of the exemption requested by the application is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes of Section 22(d) of the Act. Applicants further submit that the affiliation of the Funds' principal underwriter and investment manager to the other Marsh & McLennan Management Companies is the basis for a unique relationship of the Marsh & McLennan Management Companies to the Funds which can be expected to result in economies of sales effort and sales related expenses that justifies elimination of all sales charges on Fund shares purchased by participants in the Plan without discrimination against other employee benefit plans or other purchasers of Fund shares.

According to the application, features of the plan which are expected to give rise to economies of scale in sales effort and sales related expense are: (1) There will not be any personal solicitation of participants by Distributors, its representatives or other broker-dealers; (2) employees purchasing shares through payroll deduction will have shares purchased for their accounts at each payroll date with payment for such shares being made by a single check; (3) distributions on Fund shares will be automatically reinvested in additional Fund shares; and (4) all eligible employees will receive at least annually, at the expense of their employers, notice of the availability of the Plan. Applicants believe that such investments promote employee incentive, good will and loyalty.

Notice is further given than any interested person may, not later than December 22, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33836 Filed 12-4-78; 8:45 am]

[8010-01-M]

[File No. 500-1]

SUNAIR ELECTRONICS, INC.

Suspension of Trading

NOVEMBER 22, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Sunair Electronics, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of

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1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 12:45 p.m. on November 22, 1978 through December 1, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33837 Filed 12-4-78; 8:45 am]

[8010-01-M]

WASHINGTON MUTUAL SAVINGS BANK, AS ORIGINATOR AND SERVICER

Application and Opportunity for Hearing

NOVEMBER 27, 1978.

Notice is hereby given that Washington Mutual Savings Bank ("Applicant"), 1101 Second Avenue, Seattle, Wash. 98101, has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended ("1934 Act") for exemption from certain reporting requirements of Section 15(d) of the 1934 Act.

The Applicant states in part:

Applicant, a mutual savings bank operating under the laws of the State of Washington, is the originator and servicer under a Pooling and Servicing Agreement providing for the issuance of Mortgage-Backed Certificates, Series A, 9% Pass-through Rate.

In the Absence of an exemption, the Applicant would be required to file reports adhering to all the item requirements of the Forms 10-K, 10-Q, 8-K.

Accordingly, Applicant believes that the exemptive order requested by it is appropriate in view of the fact that Form 10-Q and certain items of the Forms 10-K and 8-K are inapplicable to the pass-through mortgage pool arrangement.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than December 22, 1978, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33838 Filed 12-4-78; 8:45 am]

[8010-01-M]

[File No. 81-404]

WEKSLER INSTRUMENTS CORP.

Application and Opportunity for Hearing

NOVEMBER 27, 1978.

Notice is hereby given that Weksler Instruments Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On May 10, 1978, Applicant merged with WIC Newco, Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission its Form 10-Q for the period ended June 30, 1978 which reflects the merger.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than December 22, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-33839 Filed 12-4-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 01/01-0298]

CHANDLER PHILLIPS CAPITAL CORP.

License to Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)) under the name of The Chandler Phillips Capital Corporation (Applicant), for a License to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act), and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Connecticut and it will commence operations with a capitalization of $500,000, which amount is to be raised through the private sale of 100 percent of its Common Stock to The Business Credit Center, Inc. (Business). Business, parent of the Applicant through its 100 percent stock ownership thereof, was incorporated in September 1978, to engage in the business of commercial finance. Business is located at 65 La Salle Road, West Hartford, Connecticut 06107. The Chairman of the Board and President of Business, Richard E. Mount and Harold C. Hurley, Jr., respectively, are founders and sole holders of the Class B Common Stock of Business which elects a majority of the Board of Directors of Business and, therefore, control the management of Business.

The Applicant will have its principal place of business at 65 La Salle Road, West Hartford, Connecticut 06107 and it intends to conduct operations principally in the State of Connecticut.

The Officers and Directors of the Applicant will be:

Name and Title
Richard E. Mount, chairman and secretary, 31 Oak Ridge Lane, West Hartford, Connecticut 06107.
Harold C. Hurley, Jr., President, Treasurer and Director, 67 Haywood Drive, Glastonburg, Connecticut 06033.
Harry E. Mount, Director, 219 Walden Street, West Hartford, Connecticut 06107.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may on or before December 20, 1978, submit written comments on the Applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in West Hartford, Connecticut.

(Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: November 28, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33853 Filed 12-4-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Minority Business Resource Center Advisory Committee

Meeting

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463); 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held December 14, 1978, at 10:00 a.m. until 3:00 p.m. at the New Orleans Marriott Hotel, 555 Canal Street, New Orleans, Louisiana 70140. The agenda for the meeting is as follows:

Expanding market opportunities
MBRC interim assessment of program needs

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Mr. Harvey C. Jones, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, telephone: (202) 472-2449. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on September 7, 1978.

KENNETH E. BOLTON,
Director.

[FR Doc. 78-33887 Filed 12-4-78; 8:45 am]

[4810-28-M]

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

ENTITLEMENT PERIOD TEN

Use of Estimated Data for General Revenue Sharing Purposes

Pursuant to § 51.20(b)(3) of the revenue sharing regulations (31 CFR 51.20 (b)(3)) and the authority of the Secretary of the Treasury under section 109 (a)(7)(B) of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1228 (a)(7)(B)), notice is hereby given that the Secretary has used additional data and estimates which have necessitated upward revisions to the populations of certain counties and states for purposes of the intrastate allocations for Entitlement Period Ten (October 1, 1978 to September 30, 1979). Such revisions are contained in the accompanying table which shows original and revised 1976 population estimates.

Section 51.20(a) of the regulations (31 CFR 51.20(a)) provides that the data used in the determination of allocations and adjustments will be the latest and most complete data supplied by the Bureau of the Census or such sources of data as in the judgment of the Secretary will provide for equitable allocations. Section 51.20(b)(3) of the regulations (31 CFR 51.20(b)(3)) requires that where the Secretary determines that the data provided by the Bureau of Census or the Department of Commerce are not current enough, not comprehensive enough, or are otherwise inadequate to provide for equitable allocations, the Secretary may use other data, including estimates. The Secretary's determination shall be final.

These revisions are the direct consequence of data verifications initiated by the Navajo, Oglala Sioux, and Osage Indian tribes for prior entitlement periods. Documentary evidence presented by the tribes, and estimates developed by the Bureau of Indian Affairs, indicated higher populations for those tribes than the Census-based estimates had provided for those entitlement periods. The documentary evidence and estimates necessitated upward revisions in the 1970 Census counts and the 1973 and 1975 estimates of the population of those counties and states in the accompanying table, for purposes of equitably determining the intrastate allocations. The last revisions in the 1975 population estimates for Entitlement Period Nine were published in the FEDERAL REGISTER on May 4, 1977 (42 FR 22615).

Since the 1976 Census-based estimates of population (as denoted by the column designated "Original") do not reflect the earlier documentation and Bureau of Indian Affairs estimates of population, it has been necessary to adjust comparably the 1976 population estimates of these same affected counties and states in the intrastate allocations for Entitlement Period Ten.

1976 POPULATION

[Entitlement period 10]

State and County	Original	Revised [1]
Arizona	2,249,255	2,273,240
Apache County	43,745	49,238
Coconino County	64,864	74,447
Navajo County	60,335	69,244
New Mexico	1,170,741	1,181,655
Bernalillo County	369,060	370,091
McKinley County	54,419	58,712
Sandoval County	23,789	24,185
San Juan County	67,931	72,591
Socorro County	10,141	10,332
Rio Arriba County	28,047	28,367
Valencia County	48,653	48,690
Utah	1,232,042	1,233,479
San Juan County	12,215	13,652
South Dakota	685,074	688,467
Bennett County	3,182	4,191
Shannon County	8,453	10,443
Washabaugh County	1,507	1,901
Oklahoma	2,768,260	2,771,033
Osage County	32,319	35,092

[1] For general revenue sharing purposes.

FOR FURTHER INFORMATION CONTACT:

Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, 2401 F Street, NW., Washington, D.C. 20226, (202) 634-5166.

Dated: November 27, 1978.

BERNADINE DENNING,
Director,
Office of Revenue Sharing.

[FR Doc. 78-33758 Filed 12-4-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 3, 1979, at 1:00 p.m., the Winston-Salem Veterans Administration Regional Office Station Committee on Educational Allowances shall at Room 609, Federal Building, 251 North Main Street, Winston-Salem, North Caroli-

General Motors Corporation, 20007 *frigeration*, between Lansing, IL, and

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na, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Fayetteville Aviation, Inc., Fayetteville, North Carolina, should be discontinued, as provided in 38 CFR 21.4207, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

KENNETH E. MCDONALD,
Director, Veterans Administration Regional Office, 251 North Main Street, Winston-Salem, North Carolina 27102.

NOVEMBER 28, 1978.

[FR Doc. 78-33874 Filed 12-4-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 749]

ASSIGNMENT OF HEARINGS

NOVEMBER 30, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 117574 (Sub-312F), Daily Express, Inc., now being assigned January 15, 1979, at the offices of the Interstate Commerce Commission, Washington, D.C.
MC 98291 (Sub-3F) Kunkle Transfer & Storage Co., A Corp., now being assigned January 30, 1979, (9 days), at Phoenix Ariz.., in a hearing room to be later designated.
MC 141076 (Sub-16F), Rogers Motor Lines, Inc., now assigned for hearing on December 4, 1978, at New York City, New York and will be held in room 305-B, Federal Building.
MC 141922 (Sub-2F), A. B. Mini Bus Tours, Inc., now assigned for hearing on December 6, 1978, at New York City, New York and will be held in Room C-2200, Federal Building (2 days) and held in Room 1400, Federal Building on December 8, 1978.
MC 19511 (Sub-46F), Central Transport, Inc., now being assigned February 27, 1979, (9 days), at Indianapolis, Ind., in hearing room to be later designated.
MC 2226 (Sub-113F), Red Arror Freight Lines, Inc., now assigned for continued hearing on December 12, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 113855 (Sub-430), International Transport, Inc., now assigned for hearing on December 7, 1978, at Washington, D.C., is canceled and application dismissed.
FD 28583 (Sub-1 and 2), Burlington Northern, Inc., now assigned January 3, 1979, at Chicago, Illinois will be held in Room 572, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 1319.
MCF 13500, Burlington Northern, Inc., Control Frisco Transportation Company, now assigned January 3, 1979, at Chicago, Illinois will be held in Room 572, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 1319.
MC-C-8617, Arrow Carrier Corp., et al. V. United Parcel Service Inc., et al., now assigned January 15, 1979, at the offices of Interstate Commerce Commission, Washington, D.C.
MC 101134 (Sub-8F), Aro Coaches, Inc., now assigned January 10, 1979, at New York, N.Y., is postponed indefinitely.
MC 119726 (Sub-131F), N.A.B. Trucking Co., Inc., now assigned January 9, 1979, at Chicago, Illinois will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 572.
MC 133233 (Sub-57), Clarence L. Werner DBA Werner Enterprises, now assigned January 15, 1979, at Chicago, Illinois will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 572.
MCF 13586, Sawyer Transport, Inc., now assigned January 17, 1979 at Chicago, Illinois will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 572.
MC 11401 (Sub-521F), Groendyke Transport, Inc., now assigned January 10, 1979, at Chicago, Illinois will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 572.
37063 (Sub-1), Increased Rates on Coal, L & N RR, November 1978, and No. 37063, Increased Rates on Coal, L & N RR, October 31, 1978, now being assigned January 9, 1979, at the office of Interstate Commerce Commission, Washington, D.C.
NOR 36969, Procter and Gamble Manufacturing V Chicago and Northwestern Transportation Company, now assigned December 6, 1978, is cancelled and transferred to Modified Procedure.
MC 109638 (Sub-32), Everette Truck Lines, Inc., now assigned November 29, 1978, is cancelled and transferred to Modified Procedure.
MC 105045 (Sub-83F), R. L. Jeffries Trucking Co., Inc., now assigned December 18, 1978, is cancelled and transferred to Modified Procedure.
MC 128521 (Sub-7), Birmingham-Nashville Express, Inc., now being assigned for continued hearing on December 13, 1978, at Birmingham, Alabama, at the Sheraton Motor Inn-Downtown, 300 North 10th Street.
MC 139495 (Sub-346F), National Carriers, Inc., now assigned for hearing on February 6, 1979, (1 day), at St. Louis, Missouri in a hearing room to be later designated.
MC 144420 (Sub-1F), Malibu Beach Boat Sales, & Service, Co., Inc., now being assigned for hearing on February 7, 1979, (3 days), at St. Louis, Missouri in a hearing room to be later designated.
MC 143059 (Sub-20F), Mercer Transportation, Co., now being assigned for hearing on February 12, 1979, (1 day), at St. Louis, Missouri in a hearing room to be later designated.
MC 9812 (Sub-9F), C. F. Kolb Trucking Co., now assigned for hearing on February 13, 1979, (2 days), at St. Louis, Missouri in a hearing room to be later designated.
MC 144844 (Sub-1F), Ozark Transportation, Inc., now assigned for hearing on February 15, 1979, (2 days), at St. Louis, Missouri in a hearing room to be later designated.
MC 103993 (Sub-931F), Morgan Drive-Away, Inc., now being assigned for continued hearing on January 29, 1978 (1 week), at Dallas, Texas in a hearing room to be later designated.
MC 82841 (Sub-229F), Hunt Transportation, Inc., now being assigned for hearing on January 25, 1978, (1 day), at Dallas, Texas in a hearing room to be later designated.
MC 730 (Sub-416F), Pacific Intermountain Express Co., now being assigned for January 24, 1978, (1 day), at Dallas, Tex. in a hearing room to be later designated.
MC 114045 (Sub-501F), Trans-Cold Express, Inc., now being assigned for January 23, 1978, (1 day), at Dallas, Texas in a hearing room to be later designated.
MC 107064 (Sub-126F), Steere Tank Lines, Inc., now being assigned for January 26, 1978, (1 day), at Dallas, Texas in a hearing room to be later designated.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33892 Filed 12-4-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 30, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 20, 1978.

FSA No. 43635, Southwestern Freight Bureau, Agent's No. B-785, rates on cement and related articles, from specified origins in Indiana and Pennsylvania to points in Southwestern Territory, and from Houston, Tex., to Fairless, Pa., in Supps. 49 and 128 to its Tariffs 71-H and 325-B, ICC 5068 and 5156, respectively, effective December 23, 1978. Grounds for relief—revised rate structure.

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-33893 Filed 12-4-78; 8:45 am]

[7035-01-M]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 228]

DECEMBER 1, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 808 (Sub-54TA, filed October 25, 1978. Applicant: ANCHOR MOTOR FREIGHT, INC., 21111 Chagrin Boulevard, P.O. Box 22005, Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, from Linden, NJ to points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MS, MO, MT, ME, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, under a continuing contract or contracts with General Motors Corporation, for 180 days. SUPPORTING SHIPPER(S): General Motors Corporation, 20007 Van Dyke Avenue, Warren, WI 48090. SEND PROTESTS TO: Mary Wehner, District Supervisor, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 15975 (Sub-11TA), filed October 30, 1978. Applicant: BUSKE LINES, INC., 123 W. Tyler Avenue, P.O. Box 349, Litchfield, IL 62056. Representative: Howard Buske (same as above). *Containers, container ends and closures*, from North Bergen, NJ to points in and east of MN, IA, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Edward H. Fehskens, Director of Traffic, Crown Cork & Seal Co., Inc., 9300 Ashton Road, Philadelphia, PA 19136. SEND PROTESTS TO: Charles D. Little, District Supervisor, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 29396 (Sub-208TA), filed October 25, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. BOX 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Pumping units and pumping units accessories*, from South Hutchinson, KS to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): United Energy Products, Inc., P.O. Box 353, Hutchinson, KS 67501. SEND PROTESTS TO: District Supervisor Paul J. Labane, 2602 First Avenue North, Billings, MT 59101.

MC 40978 (Sub-47TA), filed October 23, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., 3321 Business 141 South, Sheboygan, WI 53081. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Kitchen and vanity cabinets and parts thereof*, from Adrain, MI to points in IL, IN, IA, MN, WI and Upper Peninsula of MI, for 180 days. SUPPORTING SHIPPER(S): Merillat Industries, 2075 West Beecher Road, Adrian MI 49221. SEND PROTESTS TO: Mrs. Gail Daugherty, Trans. Assistant, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 48958 (Sub.163TA), filed October 27, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Packaged meats and meat products; cellulose film, printed or not printed, embossed or not embossed; film or sheeting, plastic, embossed or not embossed, printed or not printed, other than cellulose, in vehicles equipped with mechanical refrigeration*, between Lansing, IL, and Hammond, IN, on the one hand, and, on the other, Searcy, AR, restricted to the transportation of shipments originating at and destined to the facilities of Land O' Frost, Inc., for 180 days. An underlying ETA seek 90 days authority. SUPPORTING SHIPPER(S): Land O' Frost, Inc., 16850 Chicago Avenue, Lansing, IL 60438. SEND PROTESTS TO: Roger L. Buchanan, DS, ICC, 492 U.S. Customs House, Denver, CO 80202.

MC 50935 (Sub-24TA), filed October 25, 1978. Applicant: WOLVERINE TRUCKING CO., 1020 Doris Road, Pontiac, IM 48057. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. *Malt beverages* (1) between Newark, NJ, on the one hand, and, on the other, Peoria, IL and Milwaukee, WI; and (2) from Newark, NJ to points in MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Timothy S. Quinn, District Supervisor, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 55709 (Sub-7TA), filed October 25, 1978. Applicant: ANDING TRANSIT, INC., P.O. Box 112, Arena, WI 53503. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. *Cheese*, between points in the State of WI and the facilities of Rochester Cold Storage at or near Rochester, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Rochester Cheese Sales, Inc., 4219 N. Frontage Road, Rochester, MN 55901. SEND PROTESTS TO: Ronald Morken, District Supervisor, 212 E. Washington Avenue, Room 317, Madison, WI 53703.

MC 65475 (Sub-19TA), filed October 25, 1978. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. *Iron and steel articles*, between the facilities of Atlas Machine & Iron Works, Inc., at Gainesville, VA, on the one hand, and, on the other, construction sites of the Tennessee Valley Authority at or near Hartsville and Phipps Bend, TN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Atlas Machine & Iron Works, Inc., 7308 Wellington Road, Gainesville, VA 22065. SEND PROTESTS TO: T. M. Esposito, Trans. Assistant, 600 Arch

Street, N.W., Washington, DC 20005. *ment materials, supplies* and pipe in-

Cuyahoga, Lake, Summit, Muskingum,

CA 90607. SEND PROTESTS TO: ICC

ing ETA seeks 90 days authority. SUP-

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Street, Room 3238, Philadelphia, PA 19106.

MC 71902 (Sub-96TA), filed October 30, 1978. Applicant: UNITED TRANSPORTS, INC., 4900 N. Santa Fe Avenue, Oklahoma City, OK 73145. Representative: Eric L. Spitler (same as above). *New motor vehicles* (except motor homes, trailers, agricultural and industrial tractors, and attachments for trailers and agricultural and industrial tractors), in secondary movements, in truckaway and driveaway service, restricted to the transportation of shipments having an immediate prior movement by rail or motor carrier, from New Orleans, LA to points in MS, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Chrysler Corporation, P.O. Box 1976, Detroit, MI 48231. SEND PROTESTS TO: Connie Stanley, Trans. Assistant, Room 240 Old Post Office and Courthouse Building, 215 NW. 3rd, Oklahoma City, OK 73102.

MC 85934 (Sub-84TA), filed October 25, 1978. Applicant: MICHIGAN TRANSPORTATION CO., 3601 Wyoming, Dearborn, MI 48120. Representative: Max McLeod (same as above). *Compounds, tape, nails, and articles used in the installation of gypsum wallboard,* from the facilities of Rapid System Co., at or near Cleveland, OH, to points in MI, IN, and IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Don Draugelis, Traffic Manager, Rapid System Company, 201 N. Monroe, Grand Rapids, MI 49501. SEND PROTESTS TO: District Supervisor Tim Quinn, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Boulevard, Detroid, MI 48226.

MC 99653 (Sub-9TA), filed October 30, 1978. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, 700 39th Street, North, Birmingham, AL 35202. Representative: Ronald L. Stichweh, Attorney, 727 Frank Nelson Building, Birmingham, AL 35203. *Cast iron pipe, valves, couplings, gaskets and fittings,* from the facilities of United States Pipe & Foundry Company at or near Birmingham and Bessemer, AL, to points in AR, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): United States Pipe and Foundry Company, 3300 First Avenue, North, Birmingham, Al 35203. SEND PROTESTS TO: Mabel E. Holston, Trans. Assistant, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 105733 (Sub-71TA), filed October 27, 1978. Applicant: H. R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, DC 20005. *Plasticizers, alcohols, glycols and morpholine,* in bulk, in tank vehicles, from the facilities of Hatco Chemical Corp., Fords, NJ and the facilities of BASF Wyandotte Corp., at S. Kearny, and Bayonne, NJ, to points in OH, IN, IL, MI and WV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): BASF Wyandotte Corporation, 100 Cherry Hill Road, P.O. Box 181, Parsippany, NJ 07054; Hatco Chemical Corp., King George Post Road, Fords, NJ 08863. SEND PROTESTS TO: Robert E. Johnston, DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 107496 (Sub-1172TA), filed October 30, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, 3200 Ruan Center, Des Moines, IA 50309. Representative: E. Check (same as above). *Inedible animal fat,* in bulk, in tank vehicles, from Huro to Sleepy Eye, MN, for 180 days. An underlying ETA seeks authority. SUPPORTING SHIPPER(S): Armour Food Company, Clarendon, Greyhound Tower, Phoenix, AZ 85077. SEND PROTECT TO: Herbert W. Allen, District Supervisor, 518 Federal Building, Des Moines, IA 50309.

MC 109818 (Sub-33TA), filed October 25, 1978. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, 3909 West Rusholme, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Foodstuffs,* from the facilites of Continental Freezers of IL at or near Chicago, IL, to points in IN, KY, MI, MO, KS, OH, and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Continental Freezers of Illinois, 4220 S. Kildare Boulevard, Chicago, IL 60632. SEND PROTESTS TO: Herbert W. Allen, District Supervisor, 518 Federal Building, Des Moines, IA 50309.

MC 115603 (Sub-15TA), filed October 30, 1978. Applicant: TURNER BROS. TRUCKING COMPANY, INC., 5501 S. Hattie (P.O. Box 94626), Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, 6161 N. May Avenue, Oklahoma City, OK. (1) *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of manufactured and natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; and, (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies,* and pipe incidental to, used in or in connection with: (a) the transportation, installation, removal, operation repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and, (d) the injection or removal of commodities into or from holes or wells, between points in CO, IL, KS, LA, MO, NE, NM, ND, OK, SD, TX and WY, on the one hand, and on the other, points in ID, MT, NM, ND, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Quasar Petroleum, Inc., 204 Superior Building, 201 N. Wolcott, Casper, NY 82601. SEND PROTESTS TO: Connie Stanley, Room 240 Old Post Office Building, 211 N.W. Third Street, Oklahoma City, OK 73102.

MC 115826 (Sub-360TA), filed October 25, 1978. Applicant: W. J. DiGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (Same as above). *Foodstuffs* (except commodities in bulk, in tank vehicles) from Laramie, WY to Albuqerque, NM, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Packers Cold Storage Inc., 310 E. Walnut Avenue, Fullerton, CA 92632. SEND PROTESTS TO: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 119789 (Sub-528TA), filed October 25, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P. O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as above). *Plastic film, in mechanically refrigerated equipment,* from the ports of Los Angeles, San Francisco, Oakland, and Long Beach, CA; and Seattle and Tacoma, WA to points in the U.S. in and east of WI, IL, KY, TN and MS, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Resinite Dept., Borden Chemical, Divison of Borden, Inc., 1 Clark Street, North Andover, MA 10845. SEND PROTESTS TO: Opal M. Jones, Trans. Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 125777 (Sub-235TA), filed October 30, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Ferro alloys,* in dump vehicles, from Calvert City, KY, to points in AL, AR, CT, DE, FL, GA, KS, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OK, RI, SC, TN, TX, VT and WV, and Ashtabula,

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Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin and Wayne Counties, OH, for 180 days. SUPPORTING SHIPPER(S): Airco Alloys, 3801 Highland Avenue, Niagara Falls, NY 14305. SEND PROTESTS TO: Lois M. Stahl, Trans. Assistant, 219 South Dearborn Street, Chicago, IL 60604.

MC 126276 (Sub-201TA), filed October 25, 1978. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 N LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Metal containers and container ends,* from Wayne, NJ to Columbus, OH and its commercial zone, for 180 days. The loads will be destined to the customer's facility in Columbus as well as to warehouse locations which will be in Columbus proper as well as points within its commercial zone such as Worthington, under a continuing contract or contracts with The Continental Group, Inc. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): James R. Jandora, Acting Regional Manager of Traffic Distribution, The Continental Group, Inc., 1150 Mosteller Road, Cincinnati, OH 45241. SEND PROTESTS TO: Lois Stahl, Trans. Assistant, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135078 (Sub-34TA), filed October 25, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. *Such commodities as are dealt in or sold by retail department stores* (except commodities in bulk), from points in CT, MA, OH, and NY and the commercial zones of Jersey City, NJ and Philadelphia, PA to Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): William M. Wallace, General Manager, Kanmo Shippers, Inc., 9419 East 63rd Street, Kansas City, MO 64133. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135082 (Sub-77TA), filed October 18, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road, NE, Albuquerque, NM 87125. Representative: Randall R. Sain (Same as above). *Brick and tile, and the commodities used in the installation thereof,* from Alberhill and Elsinore, CA to points in AZ, NM, and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pacific Clay Building Products, 9500 South Norwalk Boulevard, Sante Fe Springs, CA 90607. SEND PROTESTS TO: ICC District Supervisor, 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, NM 87101.

MC 135797 (Sub-154TA), filed October 25, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR 72745. Representative: Paul R. Bergant (Same as above). *Such commodities as are dealt in by wholesale, retail and chain grocery and feed business houses,* from the facilities of Ralston Purina Co., at or near Clinton and Davenport, IA to points in IN, MI and OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-155TA), filed October 25, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR 72745. Representative: Paul R. Bergant, (same as above). *Plastic articles* (except in bulk), from Bakersfield and Woodland, CA to UT, AZ, ID, MT, NV and OR, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mobile Chemical Co., Plastics Division, Macedon, NY 14502. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138104 (Sub-59TA), filed October 27, 1978. Applicant: MOORE TRANSPORTATION, CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Ferro silicon,* in bulk, in dump vehicles, from Calvert City, KY and Kimball, TN, to the facilities of Chaparral Steel Company at or near Midlothian, TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Chaparral Steel Company, P.O. Box 1100, Midlothian, TX 76065. SEND PROTESTS TO: Robert J. Kirspel, DS, RM 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76120.

MC 138176 (Sub-9TA), filed October 25, 1978. Applicant: MARVIN RENTZ, dba, RENTZ FARM SUPPLY, Route 1, Box 60, Brinson, GA 31725. Representative: Frank D. Hall, Postell & Hall, P. C., Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Fertilizer and fertilizer materials,* when moving in killebrew equipment, from the plantsite & warehouse facilities of Pelham Phosphate Company at or near Pelham, GA to all points in AL, GA and FL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pelham Phosphate Company, a subsidiary of Chemical Enterprises, Inc., 1102 3rd Avenue, Albany, GA 31707. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 139113 (Sub-14TA), filed October 25, 1978. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen and in bulk), from the facilities of Knouse Foods, Inc., at or near Peach Glen, Orrtanna, and Chambersburg, PA to points in AL, AR, FL, GA, LA, MS, OK, TN, and TX, for 180 days. RRESTRICTION: Restricted to the transportation of shipments under a continuing contract or contracts with Knouse Foods, Inc. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Knouse Foods, Inc., Peach Glen, PA 17306. SEND PROTESTS TO: Mabel E. Holston, Trans. Assistant, Room 1616—2121 Building, Birmingham, AL 35203.

MC 140033 (Sub-75TA), filed October 25, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Winkle and Wells, Suite 1125, Exchange Park, Dallas, TX 75235. *Lime in bags or boxes* (except commodities in bulk), from Dallas, TX to Charlotte, NC; Frankfort, IN; Kingsley, CT; Denver, CO, for 180 days. SUPPORTING SHIPPER(S): Atlantes Services, Inc., 8320 Chancellor, Dallas, TX 75247. SEND PROTESTS TO: Opal M. Jones, Trans. Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140682 (Sub-5TA), filed October 25, 1978. Applicant: NEW (TRANS) PORT, INC., P.O. Box 188, Riceboro, GA 31323. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Ash,* from Riceboro, GA to Dothan, AL, under a continuing contract or contracts with Interstate Paper Corporation, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Interstate Paper Corporation, Riceboro, GA 31323. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Box 35008, 400 West Bay Street, Jacksonville, Fl 32202.

MC 142059 (Sub-53TA), filed October 25, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, IL 60436.

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Representative: Jack Riley (same as

OH, to points in WA, OR, CA, NV, ID,

with mechanical refrigeration, from

cement and glue (except in bulk in

Supervisor Terrell Price, 800 Briar

TESTS TO: District Supervisor Wil-

ing ETA seeks 90 days authority. SUP-

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Representative: Jack Riley (same as above). *Canned goods* except frozen and in bulk, from the facilities of The Joan of Arc Company at or near Hoopeston, IL to points in OH and PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Joan of Arc Company, 2231 W. Altorfer Drive, Peoria, IL 61614. SEND PROTESTS TO: Lois Stahl, Trans. Assistant, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142431 (Sub-6TA), filed October 30, 1978. Applicant: WAYMAR TRANSPORT CORP., 1755 SE. 108th Street, Runnell, IA 50237. Representative: Roger Hansen (same as above). *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Section A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk, in tank vehicles) from the facilities of Swift & Company at Des Moines, IA to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, and DC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Swift & Company, 115 W. Jackson Boulevard, Chicago, IL 60604. SEND PROTESTS TO: Herbert W. Allen, District Supervisor, 518 Federal Building, Des Moines, IA 50309.

MC 142516 (Sub-22TA), filed October 20, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Adhesive, paste, and related products* (except in bulk), *and materials, equipment and supplies* used in the manufacture and sale of adhesives, paste and related products (except in bulk) from Bloomfield, NJ and Chicago, IL to points in the United States (except AK and HI), under a continuing contract or contracts with Roman Adhesives, Inc., of Bloomfield, NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Roman Adhesives, Inc., 5 Lawrence Street, Bloomfield, NJ 07003. SEND PROTESTS TO: Robert E. Johnston, 9 Clinton Street, Washington, D.C. 20423.

MC 143218 (Sub-4TA), filed October 25, 1978. Applicant: DONALD SANTISI TRUCKING CO., 1024 North Main Street, Niles, OH 44446. Representative: Beery & Spurlock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel doors and frames*, from Niles, OH, to points in WA, OR, CA, NV, ID, UT, AZ, MT, CO, NM, KS, OK, TX, MO, and FL; and (2) *threaded rod and studs, and parts* thereof, from Cleveland, OH to Las Vegas, NV, and Houston, TX, for 180 days. Restricted to service under a continuing contract or contracts with Amweld Building Products, Division of American Welding & Manufacturing, of Niles, OH, and Cardinal Threading, Division of Production Experts, of Cleveland, OH. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Amweld Building Products, Division of American Welding & Manufacturing, 100 Plant Street, Niles, OH 44446. Cardinal Threading, Division of Production Experts, 5200 Harvard Avenue, Cleveland, OH 44105. SEND PROTESTS TO: Mary Wehner, District Supervisor, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143329 (Sub-3TA), filed October 20, 1978. Applicant: JIMS SERVICE, 8300 W. 102nd Street, Overland Park, KS 66212. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines*, from Lawrence, KS to Springfield, IL, under a continuing contract or contracts with TV Guide, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): TV Guide, Kansas City, MO 64112. SEND PROTESTS TO: District Supervisor John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 143623 (Sub-2TA), filed October 25, 1978. Applicant: CITY COAL & SUPPLY CO., INC., So. 2nd Street, P.O. Box 788, Princeton, WV 24740. Representative: Kemper Powell (same as above). *Crushed stone*, in bulk, in dump vehicles, from the plant sites and facilities of Mercer Crushed Stone Inc., at or near Engleside, WV to points in Bland, Buchanan, Carroll, Craig, Dickinson, Floyd, Giles, Grayson, Henry, Montgomery, Partrick, Pulaski, Russell, Scott, Smythe, Tazewell, Washington, Wise and Wythe Counties, VA, for 180 days. SUPPORTING SHIPPER(S): Mercer Crushed Stone, Inc., P.O. Box 123, Princeton, WV 24740. SEND PROTESTS TO: ICC District Supervisor, 3108 Federal Building, 500 Quarrier Street, Charleston, WV 25301.

MC 143775 (Sub-27TA), filed October 25, 1978. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Toilet preparations, beauty and health products and equipment; personal electrical appliances and accessories and parts therefor*, on vehicles equipped with mechanical refrigeration, from La Mirada, CA and its commercial zone to Dallas, TX; Chicago, IL; Atlanta, GA; Stamford, CT; and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Clairol, Inc., One Blachley Road, Stamford, CT 06902. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 143844 (Sub-4TA), filed October 19, 1978. Applicant: DOUG GRANT TRUCK TRANSPORTATION, INC., P.O. Drawer GG, Eureka, CA 95501. Representative: Same as above. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* (including flakeboard) *and wood pulp*, from the plants and facilities of Louisiana-Pacific Corporation in Humboldt County, CA to the plants and facilities of Louisiana-Pacific Corporation in Mendocino, Sonoma and Shasta Counties in CA, under a continuing contract or contracts with Louisiana-Pacific Corporation, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Louisiana-Pacific Corporation, P.O. Box 158, Samoa, CA 95564. SEND PROTESTS TO: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 143844 (Sub-5TA), filed October 19, 1978. Applicant: DOUG GRANT TRUCK TRANSPORTATION, INC., P.O. Drawer GG, Eureka, CA 95501. Representative: Same as above. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* (including flakeboard) from the plants and facilities of Louisiana-Pacific Corporation in Humboldt County, state of CA to all points in the state of WY, under a continuing contract or contracts with Louisiana-Pacific Corporation, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Louisiana-Pacific Corporation, P.O. Box 158, Samoa, CA 95564. SEND PROTESTS TO: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 143909 (Sub-7TA), filed October 25, 1978. Applicant: KIRBY TRANSPORT, INC., 6677 N. Northwest Highway, Chicago, IL 60631. Representative: Stuart R. Mandel, Mandel & Kavaller, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint, paint ingredients, and materials, putty, caulking and glazing compounds, adhesive*

cement and glue (except in bulk in tank vehicles) from Dayton and Tipp City, OH to points AZ, AR, CA, CO, ID, Alsip, IL, and points in KS, LA, MO, MT, NV, NM, OR, UT, WA, and TX, under a continuing contract or contracts with D.A.P., Inc., for 180 days. SUPPORTING SHIPPER(S): Harold Neff, Traffic Manager, D.A.P., Inc., P.O. Box 277, Dayton, OH 45431. SEND PROTESTS TO: Lois Stahl, Trans. Assistant, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144621 (Sub-3TA), filed October 25, 1978. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, CA 92705. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Commodities dealt in by variety and discount stores* (except food-stuffs and commodities in bulk), from the facilities of Chicago Shipper's Association and the facilities of United States Packing and Shipping, Inc., at or near Jersey City, NJ, to Sparks, NV, and points in its commercial zone, and to points in CA, OR, and WA, for 180 days. Restricted to traffic originating at the named origins and destined to the named destinations. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Chicago Shipper's Association, Number 2 Sixth Street, Jersey City, NJ 07302. SEND PROTESTS TO: Irene Carlos, Trans. Assistant, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144740 (Sub-5TA), filed October 20, 1978. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, and snack foods* (except in bulk), *and display items and promotional materials*, in vehicles equipped with mechanical refrigeration, from the facilities of or utilized by Whitman's Chocolates Division, Pet Incorporated, at Philadelphia, PA to Chicago and Hodgkins, IL; Cleveland and Columbus, OH; Atlanta, East Point and Morrow, GA; New Orleans, LA; Detroit, MI; Nashville, Memphis and Knoxville, TN; Birmingham and Mobile, AL; and Indianapolis, IN, for 180 days. Restricted to a transportation service performed under a continuing contract or contracts with Whitman's Chocolates Division, Pet Incorporated. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Whitman's Chocolates Division, Pet Incorporated, 9701 Roosevelt Boulevard, Philadelphia, PA 19114. SEND PROTESTS TO: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 144827 (Sub-12TA), filed October 27, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Air conditioning and heating units* (except commodities which because of size or weight require the use of special equipment) from Davidson County, TN, to points in AL, AR, CT, IL, IN, MI, MS, NJ, NY, OH, OK, PA, and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Heil Quaker Corporation, 1714 Heil Quaker Blvd., La Vergne, TN 37086. SEND PROTESTS TO: Floyd A. Johnson, DS, ICC, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145064 (Sub-5TA), filed October 23, 1978. Applicant: HUNTER TRUCKING, INC., 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in MS, AL, TN, AR, and LA, to ports of entry on the International Boundary Line between the United States and Canada located at Pembina, ND and Noyes, MN, under a continuing contract or contracts with Theo. A. Burrows Lumber Company, Ltd., for 180 days. An underlying ETA Seeks 90 days authority. SUPPORTING SHIPPER(S): Theo. A. Burrows Lumber Company, Ltd., 102-1200 Pembina Highway, Winnipeg, Manitoba, Canada R3T 2A7. SEND PROTESTS TO: Carroll Russell, District Supervisor, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 145152 (Sub-15TA), filed October 25, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. (1) *Electric lamps, lighting fixtures, christmas tree lamp outfits, electric cord sets, dry cell batteries and portable battery chargers, lamp ballasts;* and (2) *materials, equipment and supplies used in the manufacture of the commodities named in (1) above*, from Bellevue, Bucyrus, Circleville, Cleveland, Ravenna, Warren and Youngstown, OH; Lexington, KY; Matoon and Danville, IL; and St. Louis, MO to points in AR, CA, CO, ID, LA, MT, NV, NM, OK, OR, UT, TX, WA and WY, for 180 days. SUPPORTING SHIPPER(S): General Electric Company, Nela Park, Noble Road, East Cleveland, OH 44112. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145384 (Sub-14TA), filed October 25, 1978. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Lumber, plywood and particleboard*, from Columbia Falls and Missoula, MT to points in IA, IL, IN, MI, MN, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Greenwood Forest Products, Inc., 8285 SW. Nimbas Avenue, Beaverton, OR 97005. SEND PROTESTS TO: Herbert W. Allen, District Supervisor, 518 Federal Building, Des Moines, IA 50309.

MC 145393 (Sub-1TA), filed October 27, 1978. Applicant: MERLE B. SMITH & SONS, INC., Mill Hall, PA 17751. Representative: Peter Wolff, P.O. Box 116, Scranton PA 18504. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and empty containers used in transporting malt beverages, between South Volney, NY, on the one hand, and, on the other, State College, PA, under a continuing contract or contracts with Centre Beverage Co., Inc., for 180 days. An underlying ETA Seeks 90 days of authority. SUPPORTING SHIPPER: Centre Beverage Co., Inc., 127 N. Sparks St., State College, PA 16801. SEND PROTESTS TO: Paul J. Kenworthy, DS, ICC, 314 U.S. P.O. Bldg., Scranton, PA 18503.

MC 145406 (Sub-2TA), filed October 27, 1978. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Bacon*, from the facilities of Sugar Creek Packing Company located at or near Bloomington, IL, Washington Court House and Dayton, OH to Anniston, AL, Champaign, IL, Fort Wayne, IN, Des Moines, IA, Indianola, MS, Minneapolis, MN, Bismarck and Fargo, ND, Pittsburg, PA, and Green Bay, WI, and all points in their respective Commercial Zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: World Wide Sales, Inc., P.O. Box 127, 710 Eastern Avenue, Plymouth, WI 53073. SEND PROTESTS TO: Herbert W. Allen, DS, ICC, 518 Federal Building, 210 Walnut St., Des Moines, IA 50309.

MC 145575TA, filed October 19, 1978. Applicant: JOHN ERNEST COURT, d/b/a., COURT TRUCKING P.O. Box 697, Wiarton, Ontario, Canada N0H 2T0. Representative: William J. Hirsch, Attorney-at-Law, Suite

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1125, 43 Court Street, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stone, cut or broken*, for the account of D. Barnett Company Limited, from points in OH, to ports of entry on the International Boundary line between the United States and Canada located in MI and NY, under a continuing contract or contracts with D. Barnett Company Limited, for 180 days. Supporting shippers: D. Barnett Company Limited, 60 Schaeffer Street, Waterloo, Ontario, Canada N2L 4C5. SEND ROTESTS to: ICC District Supervisor, 910 Federal Office Building, 111 West Huron Street, Buffalo, NY 14202.

MC 145588 (Sub-1TA), filed October 25, 1978. Applicant: GULF MIDWESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: Marshall D. Becker, Suite 610 7171 Mercy Road, Omaha, NE 68106. *Clay products, glassware, chinaware, earthenware, pottery, stoneware, plastic products, clay bricks, and metal products*, from Houston, TX and Humboldt, KS to all points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: CDP Corporation, P.O. Box 587, Richardson, TX 75080. SEND PROTEST TO: Herbert C. Ruoff, District supervisor, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145609 (Sub-1TA), filed October 25, 1978. Applicant: LIMA TRUCK PLAZA, INC., P.O. Box 1295, Lima, OH 45802. Representative: John L. Alden—Stiverson & Alden, 1396 West fifth Avenue, Columbus, OH 43212. *Disabled and wrecked vehicles, and in connection with wrecker service, parts and equipment for disabled and wrecked vehicles, and replacement vehicles*, between Allen and Auglaize Counties, OH on the one hand, and on the other, points in IL, KY, MI, MO, NY, PA, TN, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTEST TO: ICC District Supervisor, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 145610 (Sub-1TA), filed October 30, 1978. Applicant: TRUCK AIR OF GEORGIA, INC., 1051 Lees Mill Road, College Park, GA 30349. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, NE, Atlanta, GA 30309. *General commodities*, except articles of unusual value, household goods as defined by the Commission, Classes A and B explosives, and commodities requiring special equipment, between Atlanta, GA and points in NC and SC, for 180 days. RESTRICTED to transportation of shipments having an immediately prior or subsequent movement by air. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are (18) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Sara K. Davis, Trans. Assistant, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 145618TA, filed October 25, 1978. Applicant: AUNGST INC., Box 36, Fair Haven, VT 05743. Representative: Theodore Parisi, Main Street, Castleton, VT 05735. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline, aviation gasoline, kerosene, diesel fuel, petroleum products, refined oil, illuminating or burning nos. 1, 2 & 3, in tank trucks*, (1) from Green Island, NY to points in Bennington, Rutland, Addison, Chittenden, Franklin, Lamoille and Washington Counties, VT; and (2) from Fair Haven, VT to Washington, Warren and Essex Counties, NY, under a continuing contract or contracts with J. R. Sousa & Sons, Inc., for 180 days. SUPPORTING SHIPPER(S): J. R. Sousa & Sons, Inc., Albany Avenue, Green Island, NY 12183. SEND PROTESTS TO: District Supervisor David A. Demers, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 145652TA, filed October 30, 1978. Applicant: ABBA CAB CO., INC., 4402 Waters Avenue, Savannah, GA 31404. Representative: M. J. Koncul, Jr.(same as above). *Passengers and their baggage*, from Savannah, GA to points in SC, i.e., Allendale, Bluffton, Beaufort, Columbia, Estill, Hardeeville, Orangeburg, Parris Island, Ridgeland, Yemassee, Hilton Head, Walterboro, Charleston, SC, for 180 days. SUPPORTING SHIPPER(S): Amtrak, 2611 Seaboard Coastline Drive, Savannah, GA 31408. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145653TA, filed October 25, 1978. Applicant: THE BROWNIE CORPORATION, P.O. Box 273, Port Huron, MI 48060. Representative: William R. Neal (Same as above). *Beet pulp pellets*, from Carrollton, Caro, Croswell, Sebewaing, and Bay City, MI to Port Huron and Essexville, MI, for 180 days. Restricted to traffic having a subsequent movement by water. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Donal Lemm, Director of Transportation, I. S. Joseph Company, Inc., 777 Grain Exchange Building, 400 South Fourth Street, Minneapolis, MN 55415. SEND PROTESTS TO: Tim Quinn, 604 Federal Building & U.S. Courthouse, 231 W. Lafayette Boulevard, Detroit, MI 48226.

MC 145656TA, filed October 25, 1978. Applicant: B & B TRANSPORTATION & LIMOUSINE SERVICE, INC., #1 Finley Avenue West, Birmingham, AL 35204. Representative: D. H. Markstein, Jr., 512 Massey Building, Birmingham, AL 35203. *Passengers and their baggage in special and charter operations*, between points in Jefferson and Shelby Counties, AL on the one hand, and, on the other hand, points in the U.S., for 180 days. SUPPORTING SHIPPER(S): There are (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Mabel E. Holston, Trans. Assistant, Room 1616 2121 Building, Birmingham, AL 35203.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-33891 Filed 12-4-78; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-121]

POLICY STATEMENT ON MOTOR CARRIER REGULATION

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposal to issue a statement of general policy.

SUMMARY: The Commission proposes to adopt a policy statement which will provide notice that it has altered its standard of proof in cases involving motor carrier entry and acquisition. Past regulatory practice has emphasized the need to protect existing motor carriers against excessive competition and against the assumption of exessive debt in order to provide an environment in which a young industry would grow and provide needed public services. In light of the maturity of the motor carrier industry, and of changing economic conditions generally, the Commission has concluded that more weight should be given to the benefits of healthy competition and less emphasis should be placed on protection in carrying out its regulatory responsibilities in the motor carrier area.

DATES: Written comments should be filed with the Commission on or before February 5, 1979.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

George M. Chandler, (202) 275-7723.

SUPPLEMENTARY INFORMATION: Pertinent to the adoption of this policy statement are the regulations recently adopted by the Commission in Ex Parte No. 55 (Sub-No. 26), *Protest Standards in Motor Carrier Application Proceedings*, 43 F.R. 50908 (1978). Under the standards adopted there, the automatic right of one carrier to oppose the application of another carrier will be limited to carriers which, among other things, have performed service within the scope of application. These are the carriers which would be in the best position to meet the burden of proof which, if the proposed policy statement is adopted, would be placed upon them. By the same token, it is anticipated that this policy statement would provide guidelines for determining whether carriers not having an automatic right to protest should be given leave to intervene in opposition to an application.

Background

Federal regulation of motor carrier entry began with the passage of the Motor Carrier Act of 1935. The statutory test which the Commission must apply in determining whether to grant an application for new interstate motor common carrier authority—public convenience and necessity—has remained unchanged since the Act was passed. The test applied in deciding contract carrier applications—consistence with the public interest and the National Transportation Policy—was last modified legislatively in 1957.

A number of factors combined to cause the Congress to bring motor carrier transportation under Federal regulation in the 1930's. First, and probably most important, was the state of the economy itself. The worst economic depression in our history was at its height, and a great many, if not most, businesses were in serious financial difficulties. Intercity trucking, being young and just beginning to grow, suffered more problems than did most other businesses. Certainly, one of the principal purposes behind the 1935 Act was to bring economic stability to an industry which was perceived by the Congress as one which would inevitably come to provide important and essential services for the public.

There seems to have been no one who predicted the course which the motor carrier industry, under regulation, would take in the years following the passage of the Motor Carrier Act. Some observers believed that motor transportation would develop in much the same way as had the railroads, with a relatively small number of large companies operating over fixed routes between major points, and a somewhat larger number of smaller companies feeding them traffic. Such large regular route carriers have indeed developed, but to a much greater extent, both in numbers and route structures, than anyone foresaw. Certainly, there was no anticipation that the highly specialized, truckload volume, irregular route trucking services which are so prevalent today would develop to the extend that they have. Nor, apparently, did anyone foresee the phenomenal growth of private transportation which has occurred and which now represents a major source of competition for the regulated carriers.

After passage of the 1935 Act, the Commission received and processed about 90,000 applications for "grandfather" authority. Since that time, the Commission has both received and granted an increasing number of motor carrier authorities. In the first six months of discal year 1978, which began October 1, 1977, the Commission received an average of 950 new applications per month for permanent motor carrier authority. During the same period, of the applications for motor carrier authority which reached decision on the merits (that is, all those which were not either dismissed or withdrawn), 94.3 percent resulted in a complete or partial grant of authority. The grant rate for June 1978 was 98.2 percent, and for July it was 96 percent. The highest rate previously attained was 86.4 percent in fiscal year 1975. The rate dropped to about 80 percent in fiscal 1976, and rose again to 86 percent in fiscal 1977.

The Commission's policies for dealing with motor carrier applications have evolved gradually over the more than 40 years that regulation has been in effect. As the economy changed and the Commission's membership changed; as motor carrier technology developed and the industry became strong and more specialized; and as shipper distribution practices and techniques changed, the Commission changed its policies gradually to meet what it perceived to be the needs of the shippers and the carriers.

Thus, even though the statutory language which the Commission must follow in deciding motor carrier entry cases has remained the same for many years, the way the language has been interpreted and applied has changed over time in recognition of a constantly changing world. Over the years, the trend has been to make it easier for applicants to obtain new operating authority. What we have seen in the past year or two is an acceleration of that trend—a trend which reflects clearly descernible changes in the regulated industry and the national economy.

The regulatory policies which became fixed in the 1930's and 1940's were characterized by a protectionist attitude which unquestionably reflected the national need for the development of a stable and profitable motor carrier industry. When that industry was young and was faced with the economic disaster of the depression years—and then when it was growing stronger and developing in the postwar years—protection was necessary. Carriers needed to be protected from excess competition if they were to raise the capital, make the investments, and develop the operating patterns necessary to make them financially viable and to meet the public need for service. When stable and reliable bus and trucking services were the exception rather than the rule, and when the automobile and private truck had not yet become a practical alternative, the need for a strictly regulated motor carrier industry, upon which the common carrier obligation to serve could readily be enforced, was a necessity to travelers and shippers.

Today, the motor carrier industry has arrived at a state of maturity characterized by routes and service patterns which blanket the Nation; by financial prosperity; by the existence, side-by-side and competing, of hundreds of successful firms, meeting both new and old customer needs and earning healthy profits; and by generally highly competent managements which have developed sophisticated technologies, cost-control systems, and pricing structures. Obviously, all bus and truck companies are not uniformly well positioned or well managed. In particular, we have recognized the financial problems of the regular route sector of the bus industry.

In the years since the Motor Carrier Act of 1935 was enacted, the regulated industry has matured into one of the most profitable, diverse, competitive, and best managed in the United States. New permanent operating authorities are being granted at the rate of almost 8,000 a year, but the Nation's expanding economy continues to create an apparently never-ending need for new motor carrier services. Although the Commission has become more liberal in granting motor carrier applications, it has still, up to now, been following entry control policies which have changed but little since the advent of Federal regulation. Today, the flood of applications has made it virtually impossible for the Commission to give more than passing attention to each, and has made well-

By the Commission. (Chairman

thing ever envisioned in the early

conclusory comments) to prove that

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informed, precise motor carrier entry regulation difficult, if not impossible.

In responding to these changing conditions and developing service needs, the Commission has recently tended to give added weight to the needs and wishes of those supporting motor carrier applications. It has also given more weight to the benefits of competition, recognizing it as an effective force for regulating prices and service quality.

ENTRY REGULATION POLICIES

In evaluating motor common carrier applications, the Commission has long followed the three-point test first established in *Pan American Bus Lines Operation*, 1 M.C.C. 190, 203 (1936). That test provides that the Commission will consider an appliction for new authority in the light of the following criteria:

Whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

Common carriage.—Today's conditions require a change in that test. The criteria are overly protective for a mature and financially healthy industry, and they tend to restrain healthy competition. The third part of the *Pan American* test, which provides existing carriers with protection from competition which would endanger their abilities to continue to perform service needed by the public, offers what we are convinced is a sufficient degree of protection to carriers already in a particular market. Obviously, only the existing carrier is in a position to show that a grant of the application will have this impact upon it, and it is, therefore, the protestant which will have to bear the burden of proof as to this test. We believe that the second of the three tests laid down in the *Pan American* case—that is, the test which, in effect, requires an applicant to prove that the service it proposes cannot be performed by existing carriers—has outlived its usefulness, and it will no longer be applied.

In determining applications for *motor common carrier authority*, the Commission will henceforth apply the following test in deciding what service is required by the present and future public convenience and necessity:

(1) An applicant must demonstrate that the service proposed will serve a useful public purpose, responsive to a public demand or need.

(2) The Commission will grant common carrier authority commensurate with the demonstrated need unless it is established by those opposing the application that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers contrary to the public interest.

Contract carriage.—In determining motor contract carrier applications, the Commission must apply certain statutory tests. First, it must be shown that the service proposed is that of a contract carrier as defined in 49 U.S.C. § 10102(12) (formerly section 203(a)(15) of the Interstate Commerce Act). Under this provision, a contract carrier is defined as one which provides service "under continuing contract with one person or a limited number of persons either (a) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or (b) for the furnishing of transportation services designed to meet the distinct need of each individual customer." The Commission must also consider each contract carrier application in connection with certain criteria contained in 49 U.S.C. § 10923(b)(2) (formerly section 209(b) of the Act). They require that, in determining whether to issue a permit to a contract carrier, the Commission consider "the number of shippers to be served by the applicant, the nature of the service proposed, the effect which granting the permit would have upon the services of the protesting carriers and the effect which denying the permit would have upon the applicant and/or its shipper and the changing character of the shipper's requirements."

In considering *motor contract carrier* applications, the Commission's policy will be to find that the effect of a grant of contract carrier authority upon protesting carriers will not be a significant factor unless the protestants themselves can establish that such a grant would endanger or impair their operations to the extent that they would be unable to continue to provide adequate service within the scope of their authorities.

Emergency temporary authorities.—The Commission is considering establishing, by rule, a category of short-term, non-renewable emergency temporary authorities which would be issued upon receipt of a prospective user's certification that an immediate and urgent need for additional transportation service exists. These authorities would be limited in some respect, perhaps, in terms of time limit, or perhaps in terms of the number of loads or trips that the carrier could perform. Longer-term temporary authorities, including any renewal of a short-term authority, would be issued only after an informal record has been completed, following FEDERAL REGISTER publication and an opportunity for the filing of protests.

MOTOR FINANCE PROCEEDINGS

The Commission is concerned that its present policies in deciding applications of motor carriers to control, merge with, or purchase the operating authorities of other motor carriers may lead unnecessarily to the reduction of effective competition, especially with respect to short-haul markets and service at smaller communities. It has become common for a long-haul carrier to purchase the authority of a short-haul carrier, and to use that new authority solely as a means of extending its long-haul service into another market. The result is that the shippers who had relied upon the vendor's service no longer have that service available. Admittedly, they will instead have available the vendee's new single-line service for long-haul traffic, which may well be to their advantage. However, in the short-haul market formerly served by the vendor, the amount of motor carrier competition will have been diminished. It is our firm view that a purchase proceeding should not be used solely to provide for the extension of a motor carrier's service into new markets. In determining motor finance proceedings, the Commission will authorize an acquisition of operating authorities only if the acquiring carrier establishes that it will continue to perform service similar in scope and character to that authorized by the rights being acquired. If only a new service is intended, the proper vehicle is the filing of an application for new authority.

The Commission is also concerned that it is spending an inordinate amount of its resources considering motor carrier finance proceedings which do not have a significant effect either on the motor carrier industry or on the markets in which the carriers operate. Guidelines are now being developed to identify those motor carrier transfers and consolidations that warrant close scrutiny and possible challenge. We plan to use the guidelines to avoid a routine examination of motor carrier financial transactions and to focus only on those transactions which have discernible public interest consequences.

In order to carry out this policy, the Commission, in reviewing motor carrier finance applications, will concentrate most heavily on the potential competitive—or anticompetitive—aspects of the transaction. The parties will be expected to develop the record fully in this respect. For our part, we will make a positive effort to increase the expertise of our staff in antitrust and related matters.

This notice is promulgated under authority contained in 49 U.S.C. §§ 10321(a), 10921, 10922, 10923, 10928, 11343, and 11344 and 5 U.S.C. § 553.

Dated: November 13, 1978.

By the Commission. (Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp.)

COMMISSIONER GRESHAM, concurring in part:

While I do not necessarily endorse all of the positions expressed in the policy statement, I have no objection to publishing it in the FEDERAL REGISTER for the purpose of eliciting public comments.

COMMISSIONER STAFFORD, dissenting:

This proposed policy statement is the next logical step in the Commission's steady march toward elimination of entry controls in the trucking industry.

FALSE PREMISE

A false premise underlies this proposal and, in fact, is the touchstone of almost all current Commission thinking with regard to trucking regulation. The false premise of which I speak is the theory that regulatory policies beginning in the 1930s and 1940s "were characterized by a protectionist attitude" toward the trucking industry.

The premise is false because it implies that protection of existing carriers was the primary consideration in the Commission's decisional process. This is wrong. The truth is that the decisional process involved a balancing of competing interests. But always the need of the public (shippers and passengers) was the primary concern of this agency. The balancing of sometimes competing interests was what Congress envisioned in the Motor Carrier Act of 1935. Congress did not want and did not need 11 Commissioners and a staff of 2,000 to act as a rubber stamp.

Nothing evidences historical Commission policy in favor of the shipper better than the *Pan American* case cited in the proposed statement. That landmark decision requires an applicant to show that the public needs a given transportation service. Showing that, the burden switches to existing carriers to show they can meet that public need. Then, the burden reverts to the applicant, to show that its service is in some way superior to that currently available. This is the balancing; but always the asssurance of adequate, responsive transportation to the public is the ultimate concern in that decisional process.

PROTECTIONISM

The proposed statement also claims that the industry has matured and grown so sophisticated during the last 40 years of regulation that it no longer needs the alleged "protections" referred to above. Surely, there are many more large companies, and industry leaders are far larger than anything ever envisioned in the early days. But the large carriers are still comparatively few in number, and small carriers represent the great bulk of the industry. If there ever was a need to protect the small carriers, there is no reason to believe that that need is any less today than it was 30 or 40 years ago. It is the bigger carriers, not the smaller ones, that are so much more sophisticated.

In fact, there can be little doubt that the persons that suffer most from relaxed entry standards are the small carriers. It is generally recognized that the larger carriers could survive equally well in a regulated or an unregulated environment. They have the size, the financial wherewithal, and technical expertise, to adjust prices and meet competition at all levels. The smaller carriers, however, already are probably operating on a shoestring, and do not have the financial or operational flexibility to adjust as well to new competition.

THE REAL IMPACT

The proposed statement of policy takes on greater significance when read in conjunction with two other recent decisions, *Liberty Trucking Co., Ext. General Commodities*, 130 M.C.C. 243 (decided October 6, 1978) and Ex Parte No. 55 (Sub-No. 26), *Protest Standards in Motor Carrier Application Proceedings* (not printed) (decided October 10, 1978). Under the proposed statement, the adequacy of existing service issue (set forth in *Pan American*) will no longer be a consideration. The third *Pan American* criterion will apparently remain intact. In *Liberty*, however, it was made clear that this criterion, potential adverse impact on existing carriers, will be virtually impossible to prove and will rarely be given consideration.

The proposed statement also modifies the criteria that will be considered in contract carrier licensing cases again by imposing an almost impossible burden of proof on protesting carriers. In the *Protest Standards* case, it was announced that henceforth common carriers would not be allowed to protest automatically a contract carrier application. By keeping out affected common carriers, there will be no effective opposition to contract carrier applications and those carriers who are allowed to intervene will never be able to prove their case.

CONCLUSION

In summary, therefore, I offer the following. The majority premises its proposal on an inaccurate statement of the way regulation has been administered. Furthermore, assuming protectionism for the industry was once an important goal of regulation, there is nothing (other than some vague, conclusory comments) to prove that small trucking companies do not still need those same protections. The proposed changes, viewed in conjunction with other recent decisions indicate that henceforth opposition to a licensing case will be a futile act. I believe that even the majority would agree that meaningful entry control in trucking will no longer exist when this statement is ultimately adopted.

H. GORDON HOMME, Jr.,
Secretary.

[FR Doc. 78-33921 Filed 12-4-78; 8:45 am]

[7035-01-M]

[Decisions Volume No. 51]

PERMANENT AUTHORITY APPLICATION DECISION-NOTICE

Decided: November 15, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

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Section 247(f) provides, in part, that applicant may file a reply within 20 days after the expiration of the protest period. If a reply is filed, the reply must comply with Rule 247(e)(4) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A reply which is not in reasonable compliance with the requirements of the rules may be rejected. If no reply is filed within the 20-day period, the application will be deemed unopposed.

Each applicant has filed a certificate of compliance with section 215 of the Interstate Commerce Act, as amended by the Motor Carrier Act of 1980, Pub. L. 96-296, 94 Stat. 793, 820 (1980), and with the Commission's regulations thereunder, 49 CFR 1160.24. Each applicant has also filed a certificate of service of its application upon the Governor of each State in which it seeks authority, and upon the Public Service Commission of each State in which it seeks intrastate authority, as required by 49 CFR 1160.24(c).

Each applicant has filed a statement of financial condition, as required by 49 CFR 1160.24(d).

Each applicant has filed a statement of environmental impact, as required by 49 CFR 1160.24(e).

Each applicant has filed a statement of safety fitness, as required by 49 CFR 1160.24(f).

Each applicant has filed a statement of energy impact, as required by 49 CFR 1160.24(g).

Each applicant has filed a statement of impact on small business, as required by 49 CFR 1160.24(h).

Each applicant has filed a statement of impact on rural areas, as required by 49 CFR 1160.24(i).

Each applicant has filed a statement of impact on the quality of service, as required by 49 CFR 1160.24(j).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(k).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(l).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(m).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(n).

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Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(qqqqqqqqq).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(rrrrrrrrr).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(sssssssss).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(ttttttttt).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(uuuuuuuuu).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(vvvvvvvvv).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(wwwwwwwww).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(xxxxxxxxx).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(yyyyyyyyy).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(zzzzzzzzz).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(aaaaaaaaaa).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(bbbbbbbbbb).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(cccccccccc).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(dddddddddd).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(eeeeeeeeee).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(ffffffffff).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(gggggggggg).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(hhhhhhhhhh).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(iiiiiiiiii).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(jjjjjjjjjj).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(kkkkkkkkkk).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(llllllllll).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(mmmmmmmmmm).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(nnnnnnnnnn).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(oooooooooo).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(pppppppppp).

Each applicant has filed a statement of impact on the public interest, as required by 49 CFR 1160.24(qqqqqqqqqq).

Each applicant has filed a statement of impact on the preservation of competition, as required by 49 CFR 1160.24(rrrrrrrrrr).

Each applicant has filed a statement of impact on the public

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Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission which is hereby expressly reserved to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered:

In the absence of legally suffifcient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decisions-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill (Review Board Member Parker not participating).

H. G. HOMME, JR.,
Secretary.

MC 2135 (Sub-16F), filed October 6, 1978. Applicant: D. J. McNICHOL CO., a Delaware corporation, 6951 Horwitch Drive, Philadelphia, PA 19153. Representative: Harold P. Boss, 1100 17th Street NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such merchandise* as is dealt in by grocery and food business houses, and *equipment, materials, and supplies* used in the conduct of such businesses, between points in NJ in and south of Warren, Hunterdon, Somerset, Middlesex, and Monmouth Counties, those in PA in and east of Tioga, Lycoming, Union, Snyder, Juniata, Perry, Cumberland, and Adams Counties, and those in Broome, Chemung, Cortland, Delaware, Schuyler, Steuben, Tioga, and Tompkins Counties, NY, under a continuing contract with The Great Atlantic & Pacific Tea Company, Inc., of Montvale, NJ. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 2202 (Sub-567F), filed August 23, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH. 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting (1) *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requring special equipment), serving Montgomery, AL, and all intermediate points in GA, and points in GA on and south of U.S. Hwy 80 and points in AL within 65 miles of Birmingham, AL, as off-route points, (a) Between Birmingham, AL, and Savannah Beach, GA: From Birmingham, AL over U.S. Hwy 280 to Columbus, GA, then over U.S. Hwy 80 to Savannah Beach, GA, and return over the same route, (b) Between Birmingham, AL, and Brunswick, GA: From Birmingham, AL over U.S. Hwy 31 to Montgomery, AL, then over U.S. Hwy 231 to Dothan, AL, then over U.S. Hwy 84 to Brunswick, GA, and return over the same route, (c) Between Birmingham, AL, and junction U.S. Hwys 82 and 17 at or near Midway, GA: From Birmingham, AL, over U.S. Hwy 31 to Montgomery, AL, then over U.S. Hwy 82 to junction U.S. Hwy 17 at or near Midway, GA, and return over the same route, (d) Between Birmingham, AL and junction U.S. Hwys 280 and 80 at or near Savannah, GA: From Birmingham, AL over U.S. Hwy 31 to Montgomery, AL, then over U.S. Hwy 80 to Columbus, GA, then over U.S. Hwy 280 to junction U.S. Hwy 80 at or near Savannah, GA, and return over the same route; (2) *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all intermediate points, (a) Between Columbus, GA, and the GA-FL State line: From Columbus, GA over U.S. Hwy 27 to the GA-FL State line, and return over the same route, (b) Between junction U.S. Hwy 19 and U.S. Hwy 80 at or near Carsonville, GA, and the GA-FL State line: From junction U.S. Hwys 19 and 80 at or near Carsonville, GA over U.S. Hwy 19 to the GA-FL State line, and return over the same route, (c) Between Macon, GA, and the GA-FL State line: From Macon, GA over U.S. Hwy 41 to the GA-FL State line, and return over the same route, (d) Between Dublin, GA, and the GA-FL State line: From Dublin, GA over U.S. Hwy 441 to the GA-FL State line, and return over the same route, (e) Between Swainsboro, GA, and the GA-FL State line: From Swainsboro, GA over U.S. Hwy 1 and to the GA-FL State line, and return over the same route, (f) Between Statesboro, GA, and the GA-FL State line: From Statesboro, GA over U.S. Hwy 301 to the GA-FL State line, and return over the same route, (g) Between Savannah, GA, and the GA-FL State line: From Savannah, GA over U.S. Hwy 17 to the GA-FL State line, and return over the same route, (h) Between Macon, GA, and Brunswick, GA: From Macon, GA over U.S. Hwy 23 to Hazlehurst, GA, then over U.S. Hwy 341 to Brunswick, GA, and return over the same route, (i) Between Roberta, GA, and the GA-FL State line: From Roberta, GA over U.S. Hwy 341 to Hawkinsville, GA, then over U.S. Hwy 129 to the GA-FL State line, and return over the same route, (j) Between junction U.S. Hwy 319 and U.S. Hwy 441 at or near Jacksonville, GA, and the GA-FL State line: From junction U.S. Hwy 319 and U.S. Hwy 441 at or near Jacksonville, GA, then over U.S. Hwy 319 to the GA-FL State line, and return over the same route, (k) Between junction GA Hwy 133 and U.S. Hwy 19 at or near Albany, GA, and the GA-FL State line: From junction GA Hwy 133 and U.S. Hwy 19 at or near Albany, GA, then over GA Hwy 133 to Moultrie, GA, then over GA Hwy 33 to junction GA Hwy 94, then over GA Hwy 94 to the GA-FL State line, and return over the same route; and (3) *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all intermediate points in GA on and south of U.S. Hwy 80, points in GA on and south of U.S. Hwy 80, points in AL within 65 miles of Birmingham, AL, and all points in FL, as off-route points, Between Charlotte, NC, and Valdosta, GA: From Charlotte, NC over Interstate Hwy 77 to junction SC Hwy 121, then over SC Hwy 121 to junction U.S. Hwy 25, then over U.S. Hwy 25 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction GA 232, then over GA Hwy 232 to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction U.S. Hwy 221, then over U.S. Hwy 221 to Valdosta, GA, and return over the same route. (Hearing site: Atlanta, GA.)

NOTE.—Applicant states that the purpose of this application is to convert its irregular route authority to regular route authority.

MC 2253 (Sub-87F), filed September 13, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *bicycle parts and bicycle accessories*, serving the facilities of Cycle Products Co., at Emigsville, PA, as an off-route point in connection with carrier's regular route operations, restricted to the transportation of traffic originating at or destined to points in OH. (Hearing site: Charlotte, NC, or Harrisburg, PA.)

MC 2253 (Sub-88F), filed September 27, 1978. Applicant: CAROLINA FREIGHT CARRIERS CORP., P.O. Box 697, Cherryville, NC 28021. Representative: Edward G. Villalon, Suite 1032, Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment):

(1) Between the MD-PA State line, and Scranton, PA: (a) over U.S. Hwy 11, and (b) over Interstate Hwy 81;

(2) Between Scranton, PA, and Matamoras, PA, over U.S. Hwy 6;

(3) Between Milford, PA, and junction U.S. Hwy 209 and Interstate Hwy 81, over U.S. Hwy 209;

(4) Between junction Interstate Hwy 84 and U.S. Hwy 6, and Scranton, PA: From junction Interstate Hwy 84 and U.S. Hwy 6 over Interstate Hwy 84 to junction Interstate Hwy 380, then over Interstate Hwys 380/84 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Scranton, and return over the same route;

(5) Between junction Interstate Hwys 380 and 84, and junction Interstate Hwys 380 and 80, over Interstate Hwy 380;

(6) Between Wilkes-Barre, PA, and Philadelphia, PA, over PA Hwy 309;

(7) Between Scranton, PA, and junction PA Hwy 9 and Interstate Hwy 276, over PA Hwy 9;

(8) Between junction PA Hwy 33, and junction Interstate Hwy 80, and junction PA Hwy 33 and U.S. Hwy 22, over PA Hwy 33;

(9) Between Easton, PA, and Philadelphia, PA, over PA Hwy 611;

(10) Between junction Interstate Hwys 78 and 81, and the PA-NJ State line: From junction Interstate Hwys 78 and 81 over Interstate Hwy 78 to junction U.S. Hwy 22, then over U.S. Hwy 22 to the PA-NJ State line, and return over the same route;

(11) Between junction PA Hwy 32 and U.S. Hwy 202 near New Hope, PA, and junction U.S. Hwys 1 and 202, over U.S. Hwy 202;

(12) Between Chester, PA, and Harrisburg, PA, over U.S. Hwy 322;

(13) Between junction Interstate Hwys 81 and 83, and junction Interstate Hwys 76 and 283: From junction Interstate Hwys 81 and 83 over Interstate Hwy 83 to junction Interstate Hwy 283, then over Interstate Hwy 283 to junction Interstate Hwy 76, and return over the same route;

(14) Between junction U.S. Hwys 11 and 22 near Amity Hall, PA, and junction U.S. Hwy 22 and Interstate Hwy 78 near Hamlin, PA, over U.S. Hwy 22;

(15) Between junction U.S. Hwys 322 and 422, and Philadephia, PA, over U.S. Hwy 422;

(16) Between junction U.S. Hwy 22 and PA Hwy 501, and junction U.S. Hwy 1 and PA Hwy 272: From junction U.S. Hwy 22 and PA Hwy 501 over PA Hwy 501 to junction PA Hwy 272, then over PA Hwy 272 to junction U.S. Hwy 1, and return over the same route;

(17) Between junction U.S. Hwy 209 and PA Hwy 93, and junction Interstate Hwy 80 and PA Hwy 93, over PA Hwy 93;

(18) Between Reading, PA, and junction U.S. Hwy 11 and PA Hwy 147: From Reading over PA Hwy 61 to junction PA Hwy 147, then over PA Hwy 147 to junction U.S. Hwy 11, and return over the same route;

(19) Between Lancaster, PA, and junction U.S. Hwy 222 and PA Hwy 309, over U.S. Hwy 222;

(20) Between junction PA Hwys 54 and 309, and junction PA Hwy 54 and Interstate Hwy 81, over PA Hwy 54;

(21) Between York, PA and Carlisle, PA, over PA Hwy 74;

(22) Between junction PA Hwys 29 and 309, and Philadelphia, PA: From junction PA Hwys 29 and 309 over PA Hwy 29 to junction PA Hwy 100, then over PA Hwy 100 to junction PA Hwy 3, then over PA Hwy 3 to Philadelphia, and return over the same route;

(23) Between junction U.S. Hwy 422 and Interstate Hwy 176, and junction U.S. Hwy 1 and PA Hwy 10: From junction U.S. Hwy 422 and Interstate Hwy 176 over Interstate Hwy 176 to junction PA 10, then over PA Hwy 10 to junction U.S. Hwy 1, and return over the same route;

(24) Between junction U.S. Hwy 30 and PA Hwy 283, and junction Interstate Hwy 283 and PA Hwy 283, over PA Hwy 283;

(25) Between Philadelphia, PA, and junction Interstate Hwy 76 and U.S. Hwy 11 near Carlisle, PA, over Interstate Hwy 76;

(26) Between Philadelphia, PA, and junction U.S. Hwy 30 and Interstate Hwy 76 at or near Breezewood, PA, over U.S. Hwy 30;

(27) Between the PA-NJ State line, and junction Interstate Hwy 80 and PA Hwy 26: Over Interstate Hwy 80, serving junction Interstate Hwy 80 and PA Hwy 54 for purposes of joinder only.

(28) Between junction Interstate Hwys 76 and 276, and junction Interstate Hwy 276 and U.S. Hwy 13, over Interstate Hwy 276;

(29) Between Philadelphia, PA, and Baltimore, MD, over U.S. Hwy 1;

(30) Between Harrisburg, PA and Baltimore, MD: From Harrisburg over Interstate Hwy 83 to junction Interstate Hwy 695, then over Interstate Hwys 83/695 to junction Interstate Hwy 83, then over Interstate Hwy 83 to Baltimore, and return over the same route;

(31) Between junction U.S. Hwy 11 and 15 near Camp Hill, PA, and junction U.S. Hwys 29 and 501 at Lynchburg, VA: From junction U.S. Hwys, 11 and 15 near Camp Hill over U.S. Hwy 15 to junction U.S. Hwy 29, then over U.S. Hwy 29 to junction U.S. Hwy 501 at Lynchburg, and return over the same route, serving junction U.S. Hwy 29 and 501 at Lynchburg, for purposes of joinder only;

more than 70 pounds, or exceeding 96 in (1)(a) above, from the facilities of routes, transporting *buildings*, com-

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(32) Between junction Interstate Hwy 81 and U.S. Hwy 11 approximately 3 miles north of the MD-PA State line, and junction Interstate Hwys 77 and 81 at or near Wytheville, VA: Over Interstate Hwy 81, serving junction Interstate Hwys 77 and 81 at or near Wytheville, for purpses of joinder only;

(33) Between junction U.S. Hwy 11 and PA Hwy 54, and junction PA Hwy 54 and Interstate Hwy 80; Over PA Hwy 54, serving junction PA Hwy 54 and Interstate Hwy 80, for purposes of joinder only; and

(34) Between junction Interstate Hwy 78 and PA Hwy 737 and junction U.S. Hwy 222 and PA Hwy 737 over PA Hwy 737; In connection with routes (1)-(34), serving all intermediate and off-route points in Lackawanna and Luzerne Counties, PA, and those points in PA on, east and south of a line extending from the MD-PA State line along U.S. Hwy 11 to Scranton, PA, then along U.S. Hwy 6 to Matamoras, PA. (Hearing site: Allentown, PA, or Charlotte, NC.)

MC 3581 (Sub-22F), filed September 13, 1978. Applicant: THE MOTOR CONVOY, a corporation, 275 Convoy Drive, S. W., Atlanta, GA 30334. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Automobiles, trucks, tractors*, and *chassis*, in driveaway and truckaway service, in secondary movements, and (2) *parts* for the commodities named in (1) above, between points in KY, OH, and WV. (Hearing site: Detroit, MI)

MC 19105 (Sub-51F), filed October 23, 1978. Applicant: FORBES TRANSFER CO., INC., P.O. Box 3544, Wilson, NC 27893. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Glass containers and accessories for containers*, between the facilities of Kerr Glass Manufacturing, at or near Wilson, NC, on the one hand, and, on the other, points in SC and VA. (Hearing site: Washington, DC)

MC 26396 (Sub-200F), filed September 1, 1978. Applicant: POPELKA TRUCKING CO., INC., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Agricultural chemicals* (except commodities in bulk, in tank vehicles), from Mendota, IL, to ports of entry on the International Boundary line between the United States and Canada, in MI, ND, MT, ID, and WA, restricted to the transportation of traffic moving in foreign commerce destined to points in the Provinces of British Columbia, Alberta, Manitoba, and Saskatchewan, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (Hearing site: Chicago, IL)

MC 48948 (Sub-11F), filed October 30, 1978. Applicant: THE HOCKING CARTAGE CO., a corporation, R.R. No. 2, P.O. Box 373, Logan, OH 43138. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *clay products*, and *materials and supplies* used in the installation of clay products, from New Lexington and Junction City, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials* used in the manufacture of clay products, (except commodities in bulk), in the reverse direction. (Hearing site: Columbus, OH)

MC 67866 (Sub-36F), filed July 31, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and livestock), between those points in OK on and east of a line beginning at the OK-TX State line and extending along U.S. Hwy 277 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the OK-KS State line, on the one hand, and, on the other, points in LA, AR, MS, those in KY on and west of a line beginning at the IL-KY State line and extending along U.S. Hwy 68 to junction U.S. Hwy 641, then along U.S. Hwy 641 to the KY-TN State line, those in TN, on and east of a line beginning at the KY-TN State line and extending along U.S. Hwy 31W to Nashville, then along U.S. Hwy 31 to Columbia, then along U.S. Hwy 50 to Lewisburg, then along U.S. Hwy 431 to the TN-AL State line, those in AL, on, west, and north of a line beginning at the TN-AL State line and extending along AL Hwy 17 to Hamilton, then over U.S. Hwy 78 to the AL-MS State line, and those in MO on and south of a line beginning at the AR-MO State line and extending along U.S. Hwy 62 to New Madrid and the Mississippi River, restricted against the transportation of (1) any package or article weighing more than 70 pounds, or exceeding 96 inches in length, or 150 inches in length and girth combined, and (2) packages or articles weighing in the aggregate more than (200) pounds from one consignor to one consignee on any one day. (Hearing site: Memphis, TN, or Little Rock, AR)

NOTE.—The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 67866 (Sub-37F), filed July 31, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and livestock), between points in LA, AR, MS, those in KY on and west of a line beginning at the IL-KY State line and extending along U.S. Hwy 68 to junction U.S. Hwy 641, then along U.S. Hwy 641 to the KY-TN State line, those in TN, on and east of a line beginning at the KY-TN State line and extending along U.S. Hwy 31W to Nashville, then along U.S. Hwy 31 to Columbia, then along U.S. Hwy 50 to Lewisburg, then along U.S. Hwy 431 to the TN-AL State line, those in AL, on, west, and north of a line beginning at the TN-AL State line and extending along AL Hwy 17 to Hamilton, then over U.S. Hwy 78 to the AL-MS State line, and those in MO on and south of line beginning at the AR-MO State line and extending along U.S. Hwy 62 to New Madrid and the Mississippi River, restricted against the transportation of (1) any package or article weighing more than 70 pounds, or exceeding 96 inches in length, or 150 inches in length and girth combined, and (2) packages or articles weighting in the aggregate more than (200) pounds from one consignor to one consignee on any one day. (Hearing site: Memphis, TN, or New Orleans, LA.)

NOTE.—The person or persons who appear to be engaged in common control between applicant and another regulated carrier must either file an application under section 5 (2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation of carrier's certificate in MC 67866 (Sub-33).

MC 68908 (Sub-8F), filed October 25, 1978. Applicant: MULLEN BROS., INC. OF NORTH ADAMS, MASSACHUSETTS, Downing Ind. Parkway, P.O. Box 1285, Pittsfield, MA 01201. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200 Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *household goods*, (1) between points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, and (2) between points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, on the one hand, and, on the other, points in AL, DE, FL, GA, KY, MD, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Pittsfield, MA).

MC 71593 (Sub-13F), filed October 3, 1978. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Ronald S. Potter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *paper, loose leaf binders, books, box files, file folders, paper pads, paper tablets*, and *record carrying cases*, (1) between Brooklyn and Syracuse, NY, Elizabeth, NJ, and Kankakee, IL, on the one hand, and, on the other, Atlanta, GA, and Los Angeles, CA, (2) between Brooklyn, NY, and Elizabeth, NJ, on the one hand, and on the other, Kankakee, IL, and Syracuse, NY, and (3) from Syracuse, NY, to Kankakee, IL, restricted to the transportation of traffic in (1), (2), and (3) above originating at or destined to the facilities of Boorum & Pease Company. (Hearing site: New York, NY, or Washington, DC.)

MC 80653 (Sub-11F), Filed October 2, 1978. Applicant: DAVID GRAHAM CO., a corporation, P.O. Box 115, Croydon, PA 19020. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *molding machinery, presses, and vacuum equipment*, and (b) *parts* for the commodities named in (1)(a) above, from the facilities of Pennwalt Corporation, Stokes Division, at Philadelphia, PA, to those points in the United States in and east of WI, IL, KY, TN, and MS, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1)(a) and (b) above, in the reverse direction. (Hearing site: Philadelphia, PA.)

MC 95084 (Sub-128F), filed September 11, 1978. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from the facilities of Northwestern Steel and Wire Company, at or near Sterling, IL, to points in AR, CO, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, PA, SD, TN, WV, WI, and WY. (Hearing site: Chicago, IL.)

MC 95876 (Sub-249F), filed September 6, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue, North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic pipe, pipe fittings, valves, and hydrants*, and (2) *materials and supplies* used in the installation of the commodities named in (1) above, from the facilities of Clow Corporation, in Talladega County, AL, to points in IA, MN, ND, SD, and WI. (Hearing site: Chicago, IL, or Birmingham, AL.)

MC 96324 (Sub-28F), filed September 13, 1978. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 20554. Representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *containers and closures* for containers, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Providence, Coventry, and Woonsocket, RI, on the one hand, and, on the other, points in DE, MD, NJ, NY, OH, PA, VA, WV, and DC. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 106398 (Sub-848F), filed October 27, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *buildings*, complete, knocked-down, or in sections, from the facilities of Metal Building Systems, at Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulation.

MC 106674 (Sub-337F), filed September 7, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *building materials* (except commodities in bulk), from the facilities of the GAF Corporation, at or near St. Louis, MO, to those points in the United States in and east of MN, IA, KS, OK, and TX. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107295 (Sub-838F), filed October 16, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *composition board*, from Jacksonville, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 107295 (Sub-889F), filed October 16, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, from Sturgis, SD, to points in MN, WI, MI, OH, IL, IN, TN, KY, AR, MO, and IA. (Hearing site: Denver, CO.)

MC 107478 (Sub-38F), filed October 25, 1978. Applicant: OLD DOMINION FREIGHT LINE, a Virginia corporation, 1791 Westchester Drive, P.O. Box 2006, High Point, NC 27261. Representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *asbestos cement pipe, pipe couplings, pipe fittings and accessories* used in the installation of asbestos cement pipe, (except commodities in bulk), from the facilities of Certain-Teed Corporation, at Ambler, PA, to

those points in the United States in

MC 108393 (Sub-140F), filed October

over irregular routes, transporting (1)

EXPRESS, INC., P.O. Box 61228,

Eleventh Street NW., Washington, DC 20001. To operate as a *common carri-*

NE, KS, OK, and TX, to points in AR, LA, MS, OK, TN, and TX. (Hearing

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those points in the United States in and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary Line between the United States and Canada. (Hearing site: Washington, DC.)

MC 107515 (Sub-1184F), filed October 24, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 5th Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/MARS, at or near Cleveland, TN, to points in AL, AR, DE, FL, GA, IL, IN, IA, KY, LA, MD, MS, MO, NJ, NY, NC, PA, SC, TX, and VA, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: New York, NY).

NOTE.—Dual operations are involved in this proceeding.

MC 107515 (Sub-1185F), filed October 24, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 5th Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lighting fixtures, and parts for lighting fixtures*, from the facilities of Lithonia Lighting, Div. of National Service Industries, at or near Cochran and Conyers, GA, to points in CT, DE, IA, IL, IN, KS, KY, MA, MD, ME, MI, MN, MO, ND, NE, NH, NJ, NY, OH, PA, RI, SD, VA, VT, WI, WV, and DC. (Hearing site: Atlanta, GA).

NOTE.—Dual operations may be involved in this proceeding.

MC 107818 (Sub-94F), filed October 27, 1978. Applicant: GREENSTEIN TRUCKING CO., a corporation, 280 N. W. 12th Avenue, Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods*, from the facilities of Stouffer Foods Corporation, Subsidiary of the Stouffer Corporation, at or near Solon and Cleveland, OH, to points in FL, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Cleveland, OH).

MC 108393 (Sub-140F), filed October 4, 1978. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *electrical and gas appliances*, and *electrical and gas appliance parts*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and repair of electrical and gas appliances, (except commodities in bulk), between Findlay, OH, and Chariton, IA, under a continuing contract with Whirlpool Corporation, of Benton Harbor, MI. (Hearing site: Washington, DC).

MC 109593 (Sub-6F), filed October 9, 1978. Applicant: H. R. HILL, d/b/a H. R. HILL TRUCKING COMPANY, Box 875, 2007 West Shawnee, Muskogee, OK 74401. Representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, OK 73112. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *carbonated beverages* (a) from the facilities of Shasta Beverages, at or near Houston, TX, to points in OK, and (b) from the facilities of Shasta Beverages, at or near Lenexa, KS, to points in OK, those in TX on and north of Interstate 20 and on and west of Interstate 35, and those in AR on and west of U.S. Hwy 71, and (2) *equipment, materials, and supplies* used in the processing and distribution of carbonated beverages, (except commodities in bulk), in the reverse direction, under a continuing contract with Shasta Beverages, of Hayward, CA. (Hearing site: Oklahoma City or Tulsa, OK.)

MC 110525 (Sub-126F), filed October 16, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a DE corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry chemicals*, in bulk, in tank vehicles, from the facilities of Monsanto Co., at or near Augusta, GA, to points in IL (except East St. Louis and its commercial zone), IA, MD, MI, MN, MO (except St. Louis and its commercial zone), NJ, NY, OH, PA, and WI. (Hearing site: St. Louis, MO.)

NOTE.—Operational feasibility may be at issue in this proceeding.

MC 111375 (Sub-102F), filed October 4, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: H. Barncy Firestone, Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs, food ingredients, and pet food, and specialties for foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from St. Louis, MO, and points in IL (except Chicago), IN, IA, and MI, to points in AZ, CO, CA, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111401 (Sub-533F), filed September 7, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting (1) *Anhydrous Ammonia*, in bulk, in tank vehicles, from Friend, KS, to points in CO, NE, OK, TX, and WY; and (2) *Fertilizer Solutions*, in bulk, in tank vehicles, from Ulysses, KS, to points in CO and OK. (Hearing site: Dallas, TX, or Denver, CO.)

MC 113434 (Sub-108F), filed September 11, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *glass containers and accessories* for glass containers, and (2) *cartons* when moving in mixed loads with glass containers, from the facilities of Thatcher Glass Manufacturing Company, division of Dart Industries, at (1) Elmira, NY, and (2) Wharton, NJ, to points in MI, OH, PA, IL, IN, KY, and WI, and (3) Lawrenceburg, IN, to Paducah, KY. (Hearing site: Detroit, MI, or Washington, D.C.)

MC 114045 (Sub-510F), filed October 16, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *drugs, toilet preparations, and health care items*, from San Leandro, CA, to points in IN, GA, and PA. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 114045 (Sub-511F), filed October 13, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals* (except in bulk), from Baltimore, MD, to points in TX. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 114045 (Sub-514F), filed October 23, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *drugs, toilet preparations, and health care items*, from Washington, DC, and Easton, MD, to San Leandro, CA. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 114457 (Sub-433F), filed September 15, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *animal feed, feed ingredients, and feed additives* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at (a) Los Angeles, CA, and (b) Ogden, UT, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: San Francisco, CA, or St. Paul, MN.)

MC 114552 (Sub-178F), filed September 18, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *composition board*, from the facilities of MacMillan Bloedel Building Materials, at Ashtabula, OH, to points in AL, DE, FL, GA, KY, MD, NJ, NY, NC, PA, SC, TN, VA, WV, and DC. (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 115651 (Sub-48F), filed September 15, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., Rockford, IL 61102. Representative: R. D. Higgins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquefied petroleum gas*, in bulk, in tank vehicles, from Morris, IL, and the facilities of Hydrocarbon Transportation and Union Oil Co., at or near Lemont, IL, to points in WI. (Hearing site: Chicago, IL or Milwaukee, WI.)

NOTE.—To the extent the certificate granted in this proceeding authorized the transportation of liquefied petroleum gas, it will expire 5 years from the date of issuance.

MC 115841 (Sub-647F), filed September 14, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., an Alabama corporation, 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in and used by producers and distributors of alcoholic beverages* (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in AL, AR, CA, CT, FL, GA, IL, IN, KS, LA, MD, MO, MS, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, and DC. (Hearing site: Washington, DC.)

MC 116947 (Sub-58F), filed August 11, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *fiberboard cans and metal closures* for fiberboard cans (except commodities in bulk), and (2) *materials and supplies* used in the distribution of fiberboard cans (except commodities in bulk), (I) between the facilities of Sonoco Products Company, at (a) Charleston, SC, (b) Henderson, TN, (c) Henderson, KY, (d) Alpha, OH, (e) Chicago, IL, (f) St. Louis, MO, and (g) Houston, TX, and (II) between the facilities named in (I) above and those points in the United States in and east of ND, SD, NE, CO, OK, and TX, under continuing contract(s) with Sonoco Products Company, of Hartsville, SC. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 117068 (Sub-105F), filed October 25, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwestern Steel & Wire Co. at Sterling, IL, to points in CO, ID, IA, MN, MT, NE, ND, OR, SD, UT, WA, WI, and WY. (Hearing site: Chicago, IL.)

MC 118159 (Sub-296F), filed October 31, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals (except commodities in bulk), from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to points in AR, LA, MS, OK, TN, and TX. (Hearing site: Atlanta, GA.)

MC 119496 (Sub-13F), filed September 6, 1978. Applicant: THE JAMES GIBBONS CO., a corporation, 1700 Sutton Ave., Baltimore, MD 21227. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *top tar*, in bulk, in tank vehicles, from the facilities of USS Chemical Co., at Clairton, PA, to the facilities of Baltimore Tar Corporation, at Baltimore, MD. (Hearing site: Washington, DC.)

MC 119551 (Sub-5F), filed September 11, 1978. Applicant: MORGAN PIPE HAULERS, INC., P.O. Box 424, U.S. Highway 421 West, Greensboro, NC 27402. Representative: A. W. Flynn, 314 S. Eugene St., P.O. Box 180, Greensboro, NC 27402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cast iron pipe*, and *cast iron pipe fittings*, from Radford, VA, to Newport News and Norfolk, VA, restricted to the transportation of traffic having a subsequent movement by water in foreign commerce. (Hearing site: Greensboro, NC, or Washington, DC.)

MC 119632 (Sub-78F), filed September 15, 1978. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fiberboard boxes, glass containers, parts* and *accessories* for glass containers, between the facilities of Kerr Glass Manufacturing Corporation, at or near Huntington, WV, on the one hand, and, on the other, points in OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 119765 (Sub-63F), filed October 16, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *beer*, from Omaha, NE, and Milwaukee, WI, to Jefferson City and Camdenton, MO. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 120646 (Sub-25F), filed September 5, 1978. Applicant: BRADLEY FREIGHT LINES, INC., 35 Garfield St., Asheville, NC 2880. Representative: Henry E. Seaton, 915 Pennsylvania Bldg., 13th and Pennsylvania Ave. NW., Washington,DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes; transport-

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ing (1) *new furniture and furnishings* (except commodities in bulk), and (2) *commodities* used in the manufacture of new furniture (except commodities in bulk), between Homer, LA, on the one hand, and, on the other, those points in the United States in and west of MI, OH, KY, TN, GA, and FL (except AK and HI). (Hearing site: Shreveport or New Orleans, LA.)

MC 120761 (Sub-43F), filed September 15, 1978. Applicant: NEWMAN BROS. TRUCKING CO., a corporation, 6559 Midway Road, P.O. Box 18727, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *metal articles*, between points in AL, AZ, AR, CA, CO, FL, GA, IL, KS, LA, MS, MO, MT, NB, NV, NM, ND, OK, SD, TN, TX, UT, and WY. (Hearing site: Houston TX, or Dallas, TX.)

MC 123254 (Sub-3F), filed September 12, 1978. Applicant: ALBERT PITZER AND JANE PITZER, a partnership, d.b.a. PITZER BROS., Box 633, Jeanette, PA 15644. Representative: Jeremy Kahn Suite 733, Investment Building, 1511 K Street., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages and brewed beverages*, in containers, from Latrobe, PA, to points in WV. (Hearing site: Pittsburg, PA.)

MC 123405 (Sub-58F), filed October 20, 1978. Applicant: FOOD TRANSPORT, INC., a Delaware corporation, R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *confectionery and confectionery products*, in vehicles equipped with mechanical refrigeration, (1) from the facilities of Peter Paul Cadbury, Inc., at or near York, Hazleton, Harrisburg, and Fogelsville, PA, and Naugatuck, CT, to points in PA, NC, GA, FL, IN, and CA, and (2) from Frankfort, IN, to the facilities of Peter Paul Cadbury, Inc., at York, PA, and Naugatuck, CT, restricted to the transportation of traffic originating at and destined to the named origins and destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123407 (Sub-490F), filed August 28, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *sheet steel piling, bearing pile, pipe pile, drive pipe, caps, and hoses*, and (2) *equipment* used in the installation and removal of piling, between the facilities of Mississippi Valley Equipment Co., at or near (a) St. Louis, Imperial, and Kansas City, MO, (b) Houston, TX, (c) New Orleans, LA, (d) Jacksonville, FL, (e) Memphis, TN, (f) Denver CO, (g) Chicago, IL, (h) Cleveland, OH, and (i) Pittsburgh, PA, on the one hand, and on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: St. Louis, MO.)

MC 123407 (Sub-493F), filed August 27, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Bullmoose Tube Company, at Gerald, MO, to points in AR, IA, IL, IN, KS, MI, OH, and OK, and (2) from points in MI, to the facilities of Bullmoose Tube Company, at Gerald, MO, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities or destined to the named destination facilities. (Hearing site: St. Louis, MO.)

MC 123407 (Sub-494F), filed August 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by retail home improvement stores, retail home furnishing stores, and lumber stores (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Washington, DC, or Chicago, IL.)

MC 124170 (Sub-93F), filed June 2, 1978, previously noticed in the FEDERAL REGISTER issue of June 29, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Dr., Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of J. H. Filbert, Inc., at or near Baltimore, MD, and points in Anne Arundel, Baltimore, Howard, and Prince Georges Counties, MD, to points in CT, DE, IL, IN, KY, ME, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC)

NOTE: This republication adds NH as a destination state.

MC 124692 (Sub-243F), filed September 11, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pads, padding, cushioning material, sorbents, wallboard, insulation, insulating materials*, and *mulch*, and *equipment, materials*, and *accessories* used in the installation and application of pads, padding, cushioning material, sorbents, wallboard, insulation, insulating materials, and mulch, from Cloquet, MN, to points in AZ, CA, CO, NV, NM, and UT (except points in UT in and north of Tooele, Utah, Wasatch, Duchesne, and Uintah Counties); and (2) *materials, equipment*, and *supplies* (except commodities in bulk, in tank vehicles), used in the manufacture and distribution of the commodities in (1) above, from points in AZ, CA, CO, NV, NM, and UT (except points in UT in and north of Tooele, Utah, Wasatch, Duchesne, and Uintah Counties), to Cloquet, MN. (Hearing site: Minneapolis, MN.)

MC 124711 (Sub-63F), filed September 15, 1978. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper, P.O. Box 1050, El Dorado, KS 67042. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, from the facilities of Poole Chemical Company near Holcomb, KS, to points in CO, NE, NM, OK, and TX. (Hearing site: Wichita, KS.)

MC 124887 (Sub-60F), filed July 24, 1978, previously noticed in the FEDERAL REGISTER issue of September 19, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Pepresentative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corporation, at or near (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Allenport and Monessen, PA, and (c) Beechbottom, Benwood, Follansbee, and Wheeling, WV, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and VA. NOTE: This republication includes Follansbee, WV as an origin point. (Hearing site: Jacksonville or Tallahassee, FL).

MC 125335 (Sub-33F), filed October 20, 1978. Applicant: GOOD-WAY, INC., a MD Corporation, P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *prunes, prune extract, and prune juice in containers* from the facilities of Diamond/Sunsweet, Inc., at or near Bordentown and Burlington, NJ, to points in FL. (Hearing site: Stockton, CA, or Harrisburg, PA)

MC 125533 (Sub-26F), Filed October 9, 1978. Applicant: GOERGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, fittings, valves, hydrants*, and *castings*, and (2) *accessories* used in the installation of the commodities named in (1) above, (except commodities in bulk), between the facilities of Clow Corporation, at or near Birmingham and Pell City, AL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Columbus, OH)

MC 125533 (Sub-27F), filed October 9, 1978. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe and pipe fittings, couplings, and connections*, and (2) *accessories* used in the installation of the commodities named in (1) above (except commodities in bulk), between the facilities of Clow Corporation at or near Columbia, MO, on the one hand, and, on the other, those points in the United States in and east of WI, IA, MO, AR, and LA. (Hearing site: Columbus, OH)

MC 125951 (Sub-36F), filed September 11, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino, 7000 West Center Road, Suite 325, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Frozen Foods*, from the facilities of Lender's Bagel Bakery, Inc., at or near Buffalo, NY, to points in IL, IN, IA, KS, MN, MO, and NE. (Hearing site: Buffalo, NY)

NOTE.—Dual operations may be at issue in this proceeding.

MC 127478 (Sub-9F), filed October 27, 1978. Applicant: WILLIAM M. HAYES, d/b/a HAYES TRUCKING CO., P.O. Box 31, Winterville, GA 30683. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *confectionery products, dessert preparations, gumball machines, stands for gumball machines, and advertising displays and materials*, in vehicles equipped with machanical refrigeration (except commodities in bulk), from the facilities of Leaf Confectionery, Inc., at Chicago, IL, to points in AL, FL, GA, NC, SC, TN, and VA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Atlanta, GA, or Chicago, IL)

MC 127804 (Sub-9F), filed September 15, 1978. Applicant: WILLIAM R. WEINRICH, d/b/a WEINRICH TRUCK LINES, P.O. Box 1037, Hinton, IA 51024. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *urea*, from the facilities of Terra Chemicals International, Inc., at or near Sioux City, IA, to points in AZ, AR, CA, KY, LA, MI, MS, NV, NM, OH, OK, OR, TN, TX, UT, and WA. (Hearing site: Omaha, NE)

MC 128270 (Sub-31F), filed October 10, 1978. Applicant: REDIEHS INTERSTATE, INC., a Delaware Corporation, 1477 Ripley St. Lake Station, IN 46405. Representative: Richard A. Kerwin, 180 N. LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *such commodities as are dealt in or used by wholesale metal dealers, wholesale metal processors, and automobile crushers*, and (2) *such commodities as are used in the installation of the commodities named in (1) above*, between the facilities of Century Enterprises, at or near (a) Littleton, Englewood, Greeley, and Grand Junction, CO, (b) Topeka and Atchison, KS, (c) Kearney and Scotts Bluff, NE, (d) Reno, NV, (e) Roswell and Farmington, NM, (f) Muskogee, Tulsa, and McAlester, OK, (g) Rapid City, SD, (h) Amarillo, Odessa, and Lubbock, TX, (i) Provo and Ephraim, UT, and (j) Rawlins, Rock Springs, and Cheyenne, WY, on the one hand, and, on the other, those points in the United States in and west of OH, KY, TN, GA, and FL, (except AK and HI) restricted to the transportation of traffic originating at or destined to the points named above. (Hearing site: Chicago, Il, or Denver, CO)

MC 129387 (Sub-81F), filed September 21, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *foodstuffs*, (except commodities in bulk), from the facilities of Sanna Division, Beatrice Foods Co., at or near Menomonie, Vesper, Cameron, Eau Claire, and Wisconsin Rapids, WI, to points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA, and WY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Madison, WI, or Chicago, IL)

MC 134035 (Sub-29F), filed October 10, 1978. Applicant: DOUGLAS TRUCKING COMPANY, a corporation, Highway 75 South, P.O. Box 698, Corsicana, TX 75110. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102.

To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *polyester resin, indrums, and fiber glass roving and yarn*, from Gardena, Hawthorne, and San Gabriel, CA, to points in AR, LA, OK, and TX. (Hearing site: Dallas, TX.)

MC 134355 (Sub-3F), filed October 12, 1978. Applicant: THETFORD TRANSPORT LIMITEE, a corporation, 1829 N. Smith Boulevard, Thetford Mines, Quebec, Canada G6G 5T2. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006.

To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *asbestos*, in bags, from the ports of entry on the international boundary line between the United States and Canada at Derby Line, VT and Champlain and Rouses Point, NY, to points in MA, CT, NY, NJ, PA, and VA, restricted to the transportation of traffic originating at Thetford Mines and Black Lake, Quebec, Canada, under a continuing contract with Lake Asbestos of Quebec, Ltd., of Black Lake, Quebec, Canada. (Hearing site: Washington, DC.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 135185 (Sub-34F), filed October 10, 1978. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana,

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bulk and those which by reason of size policy statement, regardless of when the

MC 138882 (Sub-158F), filed Septem-

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CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203.

To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *drugs, cosmetics, plastic boxes, weed killing compounds, and animal and poultry feed supplements*, and (b) *materials and supplies* used in the manufacture of the commodities in (1)(a) above, (except commodities in bulk), from the facilities of Ei Lilly and Company, at or near Clinton, Lafayette, and Indianapolis, IN, to points in TX on and west of U.S. Hwy 281, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, under a continuing contract in (1) and (2) above, with Eli Lilly and Company, of Indianapolis, IN. (Hearing site: (Hearing site: Indianapolis, IN.)

NOTE.—Dual operations may be involved in this proceeding.

MC 135691 (Sub-23F), filed September 5, 1978. Applicant: DALLAS CARRIER CORP., 3610 Garden Brook Dr., P.O. Box 34080, Dallas, TX 75234. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *buffing compounds, polishing compounds, cleaning compounds, solvents, starch, bleach, lubricating oil, carbon, gum removing compounds, sludge removing compounds, disinfectants, softeners, sizing, janitorial supplies*, and *janitorial equipment*, (except commodities in bulk), from Greenville and Mauldin, SC, Kankakee, Danville, and Momence, IL, Piscataway, NJ, Atlanta, GA, Santa Fe Springs, CA, and Berkeley, RI, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction; and (3) *plastic sprayers*, and *plastic sprayer parts*, (a) between Kankakee, IL, Piscataway, NJ, and Mauldin, SC, and (b) from Kankakee, IL, Piscataway, NJ, and Mauldin, SC, to Santa Fe Springs, CA, under a continuing contract in (1), (2), and (3) above, with Texize Chemicals Company, of Greenville, SC. (Hearing site: Dallas, TX.)

MC 136296 (Sub-2F), filed August 16, 1978. Applicant: ROBBINS TRANSPORT, INC., P.O. Box 37, Auburn, KY 42206. Representative: Louis J. Amato, P.O. Box E. Bowling Green, KY 42101. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *animal feeds*, (2) *pet foods*, and (3) *pet supplies*, from Red Bay, AL, to points in KY, under continuing contract(s) with Sunshine Mills, Inc., of Red Bay, AL. (Hearing site: Nashville, TN.)

MC 136605 (Sub-77F), filed October 16, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *wrought iron pipe*, from the facilities of Unarco-Leavitt, at Chicago, Blue Island, and Evanston, IL, to Vermillion, SD, and points in CA, IA, KS, MO, NE, OK, TX, and WA. (Hearing site: Chicago, IL.)

MC 136766 (Sub-4F), filed July 31, 1978. Applicant: CARL DITTFIELD, 33 Drake Street, Pittston, PA 18640. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *baking supplies*, from points in Westchester and Nassau Counties, and New York City, NY, Bergen, Essex, Union, Passaic, Somerset and Middlesex, NJ, and Boston, MA, to Moosic, PA, (2) *baking paper and baking paper accessories*, from Boston, MA, to Moosic, PA, (3) *used bakery machinery*, between Moosic, PA. on the one hand, and, on the other, points in the United States (except AK and HI), and (4) *prepared baking preparations*, from Jackson, MI, to Moosic, PA, under continuing contract(s) with Scranton Baker Supply Co., of Moosic, PA. (Hearing site: Scranton, PA.)

MC 138069 (Sub-7F), filed October 31, 1978. Applicant: LUCIUS, INC., 9250 N. Wadsworth Blvd., Broomfield, CO 80020. Representative: Leslie R. Kehl, 1660 Lincoln Street Suite 1600, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *alcoholic beverages and non-alcoholic beverage mixes*, (except commodities in bulk), (1) From Cincinnati, OH, to Denver, CO, and (2) From St. Louis, MO, Cincinnati, OH, and points in IL, IN, KY, LA, MI, TX, and CA, to Pueblo, CO. (Hearing Site: Denver, CO.)

MC 138104 (Sub-58F), filed September 15, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting pipe, pipe fittings, valves, fire hydrants, and castings, from the facilities of U. S. Pipe & Foundry Co., at or near Birmingham and Bessemer, AL, to points in AR, AZ, CA, CO, LA, NM, OK, KS, and TX. (Hearing Site: Ft. Worth or Dallas, TX.)

MC 138144 (Sub-35F), filed September 10, 1978. Applicant: FRED OLSON CO., INC., 6022 West State St., Milwaukee, WI 53213. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwestern Steel & Wire Company, at Sterling, IL, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 138157 (Sub-87F), filed September 18, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California Corporation, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *medical equipment, medical materials, and medical supplies*, (except commodities in bulk and those which by reason of size or weight require the use of special equipment), from the facilities of American Hospital Supply Corp., at or near El Paso, TX, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Los Angeles, CA.)

NOTE: Dual operations are involved in this proceeding.

MC 138157 (Sub-88F), filed September 18, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California Corporation, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) (A) *heating and air conditioning equipment, ranges, ovens, refrigerators, compactors, dishwashers, disposals, and range hoods*, (except commodities which by reason of size or weight require the use of special equipment), and (B) *parts* for the commodities named in (1) (A) above, (except commodities in bulk and those which by reason of size or weight require the use of special equipment), from the facilities of Gaffers & Sattler, Inc., at Elkhart, IN, to points in IL, MD, MI, OH, PA, TN, and VA, and (2) *commodities* named in (1) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk and those which by reason of size or weight require the use of special equipment), from points in the United States (except AK and HI), to the facilities of Gaffers & Sattler, Inc., at or near (a) City of Industry and (b) Los Angeles, CA, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities or destined to the named destination facilities. (Hearing site: Los Angeles, CA.)

NOTE: Dual operations are involved in this proceeding.

MC 138198 (Sub-9F), filed October 26, 1978. Applicant: S P D TRUCK LINE, INC., 401 Cottage Street, Abilene, KS 67410. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by wholesale or retail discount or variety stores, (1) from points in AR, CO, IL, IA, KS, MO, NE, NM, OK, SD, TX and WY, to points in MN, and (2) from points in MN to points in CO, IA, KS, NE, NM, SD, TX, and WY, under continuing contract(s) with Duckwall-Alco Stores, Inc., of Abilene, KS. (Hearing site: Abilene, KS, or Kansas City, MO.)

MC 138313 (Sub-44F), filed September 26, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street S.W., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber, millwork, wood products*, and *composition board*, from the facilities of Sioux Veneer Panel Company, at or near Boise, ID, to the ports of entry on the international boundary line between the United States and Canada at WA, restricted to the transportation of traffic destined to British Columbia, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Boise, ID or Washington, DC.)

NOTE.—The restriction and conditions contained in the authority granted in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 138328 (Sub-74F), filed October 26, 1978. Applicant: CLARENCE L. WERNER, d/b/a WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cookies*, from the facilities of Ripon Foods, Inc., at Ripon, WI, to points in the United States (except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, TX, UT, and WA). (Hearing site: Chicago, IL or St. Paul, MN.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138575 (Sub-7F), filed October 6, 1978. Applicant: GWINNER OIL CO., INC., P.O. Box 38, Gwinner, ND 58040. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *agricultural, industrial, and construction machinery*, and (b) *parts and subassemblies* for the commodities in (1)(a) above, from the facilities of Clark Equipment Co., Melroe Division, at or near Gwinner, ND, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction, under a continuing contract with Clark Equipment Co., Melroe Division, of Gwinner, ND. (Hearing site: Fargo or Bismarck, ND.)

MC 138635 (Sub-66F), filed October 13, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *non-alcoholic cocktail mixes*, from Rialto, CA, to points in TN, VA, NC, SC, GA, AL, and FL. (Hearing site: St. Louis, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 138882 (Sub-156F), filed September 18, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals*, (1) from Billings, MT, to Sioux Falls, SD, and (2) from Sioux Falls, SD, to Culbertson, MT. (Hearing site: Sioux Falls, SD or Washington, DC.)

MC 138882 (Sub-158F), filed September 18, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *canned pet food*, from Muscatine, IA, to points in AL, FL, IL, IA, MD, MA, MO, NJ, NY, OH, OK, TX, and WV. (Hearing site: Los Angeles, CA or Montgomery, AL.)

MC 138882 (Sub-159F), filed September 18, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting *dry dog food*, from Tupelo, MS, and Red Bay, AL, to points in PA, WV, OH, VA, GA, and NY. (Hearing site: Birmingham, AL or Washington, DC.)

MC 139127 (Sub-1F), filed September 1, 1978. Applicant: TODD TRANSIT, INC., 2220 Charles Street, Rockford, IL 61108. Representative: Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street, NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring the use of special equipment) between O'Hare Airport, IL, and points within 10 miles thereof, on the one hand, and, on the other, points in Stephenson, Winnebago, Ogle, DeKalb, Boone, and McHenry Counties, IL, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Chicago, IL.)

MC 139353 (Sub-5F), filed October 6, 1978. Applicant: DAVIE TRUCKERS, INC., Route 1, Advance, NC 27006. Representative: W. P. Sandridge, Jr., Post Office Drawer 84, 2400 Wachovia Building, Winston-Salem, NC 27102. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *brewers grains, wet spent grain, waste yeast*, and *manufactured feed*, from the facilities of Murphy Products Company, Inc., at points in Forsyth County, NC, to points in GA, VA, SC, TN, WV, KY, and NC, under a continuing contract with Murphy Products Company, Inc., of Burlington, WI. (Hearing site: Winston-Salem or Greensboro, NC.)

MC 139495 (Sub-380F), filed August 23, 1978, previously noticed in the FEDERAL REGISTER issue of October 5, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representa-

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tive: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *synthetic fibers and synthethic yarns, fiber waste, plastic materials, and resin* (except commodities in bulk, in tank vehicles), from points in SC, to points in AR, CA, CT, IN, IL, LA, MA, ME, MD, MI, MO, NH, NJ, OH, OK, PA, RI, TX, VT, and WI. (Hearing site: Washington, DC.)

NOTE.—This republication indicates "ME" as a destination state in lieu of "E" as previously published.

MC 139495 (Sub-395F), filed October 24, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *bed frames, beds, and mirror supports,* from Dallas, TX, to points in the United States (except AK, HI, and TX). (Hearing site: Washington, DC.)

MC 140033 (Sub-71F), filed October 6, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *sulphur,* in bags (except commodities in bulk), from the facilities of International Chemicals, Inc., at or near Mt. Pleasant, TX, to points in KY, IA, IN, OH, SC, CO, UT, NM, and AZ. (Hearing site: Dallas, TX or Salt Lake City, UT.)

NOTE: Dual operations may be at issue in this proceeding.

MC 140241 (Sub-22F), filed September 15, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *Agriculture Implements, Agricultural Accessories and Agricultural Supplies* From Spearville, KS, to points in the United States (except AK and HI); and (2) *Materials and Supplies Used In The Manufacture* of the commodities named in (1) above (except commodities in bulk) in the reverse direction. (Hearing site: Kansas City, MO.)

MC 140241 (Sub-24F), filed September 15, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Construction Materials* (except commodities in bulk), From the facilities of Celotex Corporation, at Chicago and Wilmington, IL, to points in IA, IN, KS, KY, MO, MN, NE, and WI. (Hearing site: Kansas City, MO.)

MC 140241 (Sub-25F), filed September 14, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic pipe fittings* except commodities in bulk), form Broken Arrow, OK, to points in the United States (except AK and HI). (Hearing site: Wichita, KS.)

MC 140241 (Sub-26F), filed September 15, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from the facilities of Northwestern Steel and Wire Co., at or near Sterling, IL, and Rock Falls, IL, to points in KS, MO, NE, IA, OK, AR, and TX. (Hearing site: Kansas City, MO.)

MC 140612 (Sub-55F), filed September 11, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *non-alcoholic beverages* and *containers;* and (2) *supplies* used in the production and distribution of non-alcoholic beverages and containers, between Moline, IL, on the one hand, and, on the other, points in IA, IL, WI, MN, and MO. (Hearing site: Moline, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 140902 (Sub-6F), filed September 11, 1978. Applicant: DPD, INC., 3600 NW 82nd Avenue, Box 816, Miami, FL 33166. Representative: Francis W. McInerny, 1000 Sixteenth St., N.W., #502, Washington, DC 20036. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *tires, tire parts, inner tubes, inner tube parts,* and *wheels, equipment, materials,* and *supplies* used in the manufacture and distribution of tires, tire parts, inner tubes, inner tube parts, and wheels, between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, WI, VT, VA, WV, and DC, under a continuing contract with The Firestone Tire and Rubber Company, of Arkron, OH. (Hearing site: Washington, DC.)

MC 141776 (Sub-32F), filed September 5, 1978. Applicant: FOODTRAIN INC., Spring & South Center Sts., Ringtown, PA 17967. Representative: Pauline E. Myers, 407 Walker Building, 734 15th St., N.W., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *frozen foods,* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechancial refrigeration, from the facilities of Foodways National Inc., at or near Hartford and Wethersfield, CT, to points in IA, IL, IN, MI, MN, MO, those in NY west of Interstate Hwy 81, OH, PA, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Hartford, CT or Washington, DC.)

MC 141804 (Sub-133F), filed September 8, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (Same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *toys, games, and accessories* for toys and games, from points in Los Angeles County, CA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141921 (Sub-19F), filed September 11, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03103. Representative: John A. Sykas, 143 Frontage Road, Manchester, NH 03103. To operate as a *common carrier,* by motor vehicle, over irregular routes transporting *foodstuffs* (except commodities in bulk, in tank vehicles), (1) between Manchester, NH, on one hand, and, on the other, points in NY, NJ, IL, IN, OH, MN, VA, WV, MI, PA, KY, and WI, and (2) from points in the United States (except NY, NJ, IL, IN, OH, MN, VA, WV, MI, PA, KY, and WI) to Manchester, NH, restricted to the transportation of traffic originating at named origins and destined to the named destinations, except traffic moving in foreign commerce. (Hearing site: Concord, NH, or Boston, MA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142059 (Sub-52F), filed October 30, 1978. Applicant: CARDINAL TRANSPORT, INC., a Delaware corporation, 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes transporting *aluminum and aluminum products,* between the facilities of U.S. Reduction Company, at or near East Chicago, Gary, and Hammond, IN, Aurora, Madison, and Alton, IL, Toledo, OH, Fontana, CA, Russellville, Anniston, and Sheffield, AL, and Marietta, PA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of U.S. Reduction Co., at or near the specified points. (Hearing site: Chicago, IL, or Washington, DC.)

MC 142608 (Sub-7F), filed October 26, 1978. Applicant: ASCENZO BROTHERS, INC., 2515 Newbold Street, Bronx, NY 10462. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier,* by motor vehicle, over irregular routes transporting *iron and steel articles,* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, between Philadelphia, PA, on the one hand, and, on the other, points in DE, MD, MI, NC, OH, VA, WV, and DC, under continuing contract(s) with Interstate Iron & Supply Co., of Philadelphia, PA. (Hearing site: New York, NY.)

MC 142672 (Sub-29F), filed September 15, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Box 232, Mulberry, AR 72947. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, over irregular routes transporting *such commodities* as are dealt in or distributed by manufacturers of power transmission machinery, bearings, chains, gears, conveyors, and elevators (except commodities in bulk), from the facilities of the FMC Corporation, at Indianapolis, IN, to points in CA and OR. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 143053 (Sub-6F), filed October 9, 1978. Applicant: B & B TRANSPORT, INC., P.O. Box 5310, Kent, WA 98031. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055.To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *small arms ammunitions,* from Lonoke, AR, to points in ID, OR, UT, and WA, under a continuing contract with Morse Hardware Co., of Bellingham, WA. CONDITION: The grant of authority is limited in point of time five years from the date of issuance of the certificate. (Hearing site: Seattle, WA.)

MC 143289 (Sub-5F), filed October 31, 1978. Applicant: BERNARD SHAPIRO AND DAVID KUYKENDALL, a Partnership, doing business as FEDERATED TRANSPORT SYSTEMS, 800 S. McGarry St., Los Angeles, CA 90021. Representative: Lucy Kennard Bell, 9701 Wilshire Blvd., Suite 829, Beverly Hills, CA 90212. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *paper cups and paper food containers,* from Chelsea, MA, to Clackamas and Portland, OR, Salt Lake City, UT, Sparks, NV, and points in CA, under a continuing contract with Sweetheart Paper Products Company, of Chelsea, MA. (Hearing site: Los Angeles, CA.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicated why such approval is unnecessary.

MC 143443 (Sub-2F), filed September 8, 1978. Applicant: D. J. KIRBY, INC., P.O. Box 79, Gilberts, IL 60136. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *chemicals, paint, and slag* (except commodities in bulk), between the facilities of Universal Chemicals and Coatings, Inc., at or near Valparaiso, IN, and Elk Grove, IL, on the one hand, and, on the other, New Orleans, LA, and points in CA, FL, IL, IA, MO, OH, PA, and WI, restricted to the transporation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 143775 (Sub-25F), filed October 13, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *para-dichlorebenzene,* in vehicles equipped with mechanical refrigeration, from Delaware City, DE, Natrium, WV, and Kearny, NJ, to Houston, TX. (Hearing site: Houston, TX.)

NOTE.—Dual operations may be involved in this proceeding.

MC 144032 (Sub-6F), filed September 11, 1978. Applicant: R & S TRUCKING, INC., Rural Route 1, Box 123, Garretson, SD 57030. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of H. Shenson, Inc., in Omaha, NE, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), in the reverse direction, under a continuing contract with H. Shenson, Inc, of Omaha, NE. (Hearing site: Omaha, NE.)

MC 144297 (Sub-3F), filed September 21, 1978. Applicant: DURGIN TRUCKING, INC., 1803 Eagle Creek Blvd., Shakopee, MN 55379. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *dry fertilizer,* in bulk, in dump vehicles, from Pine Bend, MN, to points in IA, ND, NE, SD, WI, and those points in the Upper Peninsula of MI. (Hearing site: St. Paul, MN.)

MC 144279 (Sub-4F), filed September 20, 1978. Applicant: DURGIN TRUCKING, INC., 1803 Eagle Creek Boulevard, Shakopee, MN 55379. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *lime,* in bulk, in dump vehicles, from Fort Dodge, IA, to Shakopee, MN. (Hearing site: St. Paul, MN.)

MC 144715 (Sub-2F), filed October 23, 1978. Applicant: ANDERSON & WEBB TRUCKING CO., INC., 542 West Independence Blvd., Mount Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by office and art supply stores, from Florence, KY, Metuchen, NJ, and Statesville, NC, to points in the United States in and west of NM, CO, WY, and MT (except AK and HI). (Hearing Site: Charlotte, NC.)

MC 144806 (Sub-2F), filed September 5, 1978. Applicant: FRED M. ANDERSON, d.b.a. DELTA VALLEY TRUCKING, 69 North 200 West, Delta, UT 84624. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake Ciry, UT 84111. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *beet pulp pellets,* in bulk, from Idaho Falls, ID, to Delta, UT, under continuing contract(s) with Delta Milling Co., of Delta, UT. (Hearing site: Salt Lake City, UT.)

MC 144827 (Sub-5F), filed September 19, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Box 18423, Memphis, TN

To operate as a *common carrier,* by

SUMMARY: McGraw Edison Compa-

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38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *paints, stains, varnishes, and calking compounds*, (except commodities in bulk), from Memphis, TN, to points in AL, AR, AZ, CA, IL, KS, KY, LA, MO, MS, NM, OK, TN, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Memphis, TN.)

MC 144858 (Sub-6F), filed October 27, 1978. Applicant: DENVER SOUTHWEST EXPRESS, INC., a Nebraska corporation, P.O. Box 9950, 1310 Stagecoach Road, Little Rock, AR 72209. Representative: David R. Parker, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *wine* (except in bulk), (a) from the facilities of The Taylor Wine Company, Inc., at Hammondsport, NY, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, LA, MN, MS, MO, MT, NE (except Omaha), NV, NM, NC, ND, OR, SC, SD, TN, TX, UT, WA, WY, and those in IL on and south of U.S. Hwy 24, and (b) from the facilities of Sterling Vineyards, at Calistoga, CA, the facilities of Gonzales & Co., Inc., at Gonzales, CA, and the facilities used by Gonzales & Co., Inc., at Ripon, CA, to points in the United States (except AK and HI); and (2) *diatomaceous earth* (except in bulk), from Lompoc, CA, to the facilities of The Taylor Wine Company, Inc., at Hammondsport, NY. (Hearing site: San Francisco, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145125 (Sub-3F), filed October 12, 1978. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 327, Milroy, PA 17063. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *brass products, bronze products, nickel products, and copper products, and copper billets, and brass and copper alloys*, from Reading and Ontelaunee, PA, to points in AZ, NM, OR, and WA, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: New York, NY.)

MC 145152 (Sub-5), filed September 11, 1978. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *confectionery* (except in bulk), *dessert preparations, advertising* and *display materials, gum ball machines* and *stands*, from Chicago, IL to points in AL, AR, GA, KS, LA, MO, MS, OK, TN, and TX. (Hearing site: Chicago, IL, or Tulsa, OK.)

MC 145155 (Sub-2F), filed August 16, 1978, and previously noticed in the FEDERAL REGISTER issue of September 28, 1978. Applicant: TRANS-SWEET, INC., 3401 Rochester Rd., Lakeville, NY 14480. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sweeteners*, in bulk, in tank vehicles, from Lakeville, NY to points in CT, MD, MA, MI, NJ, OH, PA, RI, and VA. (Hearing site: Buffalo or Rochester, NY.)

NOTE.—This republication adds the destination states of MD and VA.

MC 145165 filed August 14, 1978. Applicant: PALM BEACH SERVICES, INC., d.b.a. KAUFF's TOWING SERVICE, 1304 Old Okeechobee Road, West Palm Beach, FL 33401. Representative: Harry J. Harman, 700 Harrison Building, 143 West Market Street, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *replacement vehicles*, in truckaway service, and *parts, accessories, materials, and supplies* used in the repair and reconditioning or wrecked or disabled motor vehicles (except commodities in bulk), from points in FL, to points in AL, AR, GA, KY, LA, MD, MS, MO, NC, SC, TN, VA, and WV, and (2) *wrecked and disabled motor vehicles*, by use of wrecker equipment only, in the reverse direction. (Hearing site: West Palm Beach or Miami, FL.)

MC 145354 filed September 12, 1978. Applicant: PUBLISHERS TRANSPORTATION SERVICES, INC., 418 South Yale, Garland, TX 75040. Representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *books and magazines*, from Dallas, TX, to Tulsa and Oklahoma City, OK, and points in AR, LA, and TX, under continuing contract(s) with Magazine Cartage Company, Inc., of Dallas, TX. (Hearing site: Dallas, TX.)

MC 145362 filed September 11, 1978. Applicant: NORTHEAST PRODUCE TRANSPORT, INC., 5 Peckman Road, P.O. Box 29, Little Falls, NJ 07424. Representative: John L. Aflano, 550 Mamaroneck Avenue, Harrison, NY 10528.To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *bananas, pineapples, and agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas and pineapples, from points in the NY Harbor limits as defined in 49 CFR 1070.1(a), to points in CT, ME, MA, NH, NJ, NY, RI, and VT. (Hearing site: New York, NY.)

MC 145427F, filed September 19, 1978. Applicant: GENTRY FIELDS, INC., a Delaware corporation, 6647 Kenwood, St. Louis, MO 63121. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *adhesives and paste* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Bloomfield, NJ, on the one hand, and, on the other, points in AZ, CA, FL, GA, IL, IN, KS, MI, MN, MO, NM, OH, OK, PA, TN, TX, and WV, under continuing contract(s) with Roman Adhesives, Inc., of Bloomfield, NJ. (Hearing site: St. Louis, MO, or New York, NY.)

MC 145515 (Sub-2F), filed October 24, 1978. Applicant: GREENE'S CARTAGE CO., INC., P.O. Drawer 2586, 1934 Avalon Avenue, Muscle Shoals, AL 35660. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, N.E., Atlanta, GA 30309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *aluminum articles*, from Sheffield and Listerhill, AL, to points in IL, IN, MI, and OH, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of aluminum articles, in the reverse direction. (Hearing site: Birmingham, AL, or Atlanta, GA.)

NOTE—Dual operations are involved in this proceeding.

MC 145595F, filed October 17, 1978. Applicant: WARREN G. GORMLEY, d.b.a. GORMLEY TRUCKING, 1607 W. Swan, Springfield, MO 65807. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sand, gravel, rock, and coal*, from points in OK and KS, to points in MO on and south of Interstate Hwy 70. (Hearing site: Kansas City, MO.)

MC 145628F, filed October 27, 1978. Applicant: TRANSPO, INC., 213 N. 9th Street, P.O. Box 327, Manitowoc, WI 54220. Representative: James V. Kramer (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Manitowoc, WI, and Outagamie County Airport, at Appleton, WI, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Green Bay or Milwaukee, WI.)

PASSENGER AUTHORITY

MC (Sub-255F), filed October 16, 1978. Applicant: GREYHOUND LINES, INC., a California corporation, Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between Texarkana, TX, and Memphis, TN, from Texarkana, over Interstate Hwy 30 to Little Rock, AR, then over Interstate Hwy 40 to Memphis, TN, and return over the same route, serving the intermediate point of Little Rock, AR. (Hearing site: Memphis, TN, Little Rock, AR, and Texarkana, TX.)

[FR Doc. 78-33798 Filed 12-4-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

TRANSMITTAL RULES

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: McGraw Edison Company Profit Sharing Trust and McGraw Edison Company are granted early termination of 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition by McGraw Edison Company Profit Sharing Trust of voting securities of McGraw Edison Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33899 Filed 12-4-78; 8:45 am]

TIME AND DATE: 11 a.m., Friday,

2. Litigation matters.

ing adverse socioeconomic impacts resulting from large construction projects.

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6570-06-M]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2435-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, December 5, 1978.

CHANGE IN THE MEETING: The following matter is added to the agenda:

3. Proposed response in the matter of a court opinion concerning the credibility of a Commission representative acting in his official capacity.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, 202-634-6748.

Dated: November 30, 1978.

[S-2455-78 Filed 12-1-78; 11:15 am]

[6712-01-M]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, December 7, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting.

MATTERS TO BE CONSIDERED:

Agenda, item No., and subject

Complaints and compliance—1—Field investigation of Stations WDAS and WDAS-FM, Philadelphia, Pa.
Hearing—1—Appeal of an interlocutory order denying a protective order in the Joplin, Mo./Pittsburg, Kan. television renewal proceeding (BC Docket No. 78-81, 78-82 and 78-83).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from FCC Public Information Office, telephone 202-632-7260.

Issued: November 30, 1978.

[S-2456-78 Filed 12-1-78; 3:22 pm]

[6712-01-M]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, December 7, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, item No., and subject

General—1—Amendment of Part 2, 81, 83, and 89 of the rules to make the frequencies 156.050 and 156.175 MHz available for port operations purposes in the Coast Guard designated New Orleans Vessel Traffic Services area.
General—2—Petition for partial reconsideration of the Commission's decision in Mid-Continent Telecasting, Inc. et al., filed by Gilmore Broadcasting Corp.
General—3—Amendment of Parts 1, 81, and 83 of the Commission's Rules to implement a system of temporary permits for ship stations in the Maritime Services.
General—4—Report to the Commission regarding public participation in FCC Rulemaking Proceeding Workshops.
Safety and special radio services—1—Report and Order adopting the rules proposed in Notice of Proposed Rulemaking Docket No. 21350.
Safety and special radio services—2—License assignment plans—land mobile trunked systems at 800 MHz et al.
Safety and special radio services—1—Petition for waiver and applications for Certificates of Compliance filed by David A. Adams CATV Cable, Waymart, Jermyn, Mayfield, Fell Township, and Carbondale, Pa.
Safety and special radio services—2—Petition for Order to Show Cause filed by Western Broadcasting, Inc., KTUX, Rock Springs, Wyo.
Aural—1—Application for modification of the construction permit of Gareth F. Garlund and Anna White Garlund, KIQO(FM), Atascadero, Calif.
Television—1—Application (BPCT-4878) of Sarasota-Bradenton, Fla. TV (WXLT-TV), Sarasota, Fla.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number (202) 632-7260.

Issued: November 30, 1978.

[S-2457-78 Filed 12-1-78; 3:22 pm]

[6740-02-M]

4

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 2:30 p.m., December 1, 1978.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Further regulations implementing the Natural Gas Policy Act of 1978; and specifically, section 315 of the NGPA and optional pricing procedure under § 2.75 of the Commission's current regulations.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, 202-275-4166.

[S-2454-78 Filed 12-1-78; 11:34 am]

[6210-01-M]

5

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 11 a.m., Friday, December 8, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed negotiation for the purchase of currency tagging equipment for the Federal Reserve System.
2. Proposed salary structure adjustments at Federal Reserve Banks.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving Federal Reserve System employees.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: November 30, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2453-78 Filed 12-1-78; 11:34 am]

6

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on December 13, 1978.

A. The meeting will be held on Wednesday, December 13, 1978, in the Federal Ballroom South of the Quality Inn Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C., beginning at 11:30 a.m.

B. The meeting will be open to the public at 12:15 p.m. beginning with agenda item no. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION

MEETING OF THE BOARD OF DIRECTORS, DECEMBER 13, 1978

Closed session (11:30)

1. Internal personnel matters.
2. Litigation matters.

Open session (12:15)

3. Approval of minutes of regular meeting of November 1, 1978.
4. Approval of operating agreement with Southern Railway.
5. Route restructuring.
6. Approval of corporate contribution to United Way Fund.
7. Board Committee reports: Audit, Equipment, Northeast Corridor Improvement Project, and Organization and Compensation.
8. President's report.
9. Approval of 1979 Board meeting dates.
10. New business.
11. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at 202-383-3973.

Dated: December 1, 1978.

ELYSE G. WANDER,
Corporate Secretary.

[S-2458-78 Filed 12-1-78; 3:36 pm]

[8120-01-M]

7

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, December 7, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR DISCUSSION: (1) Proposed policy change relating to development and management of TVA reservoir recreation areas and facilities.

UNCLASSIFIED

1. Delegation of authority to approve contracts related to TVA's program for mitigating adverse socioeconomic impacts resulting from large construction projects.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

Dated: November 30, 1978.

[S-2452-78 Filed 12-1-78; 11:34 am]

MATTERS FOR ACTION:

OLD BUSINESS

1. Assistance program for small independent coal operators—purchasing set asides.

NEW BUSINESS

PERSONNEL ACTIONS

1. Appointment of Leon E. Ring as General Manager.
2. Change of status for Hugh G. Parris from Assistant Manager of Power to Manager of Power.

PURCHASE AWARDS

1. Req. No. 822289—Hydrogen mixing blowers for Hartsville and Phipps Bend Nuclear Plants.
2. Req. No. 572453—Mini-computer systems for the Computing Services Branch.
3. Rejection of bids received in response to Invitation No. 577556 for indefinite quantity term contract for regulators, electrode holders, and accessories for any TVA warehouse or project.
4. Req. No. 822499—Balance of plant ANSI B31.1 principal piping systems for proposed Yellow Creek Nuclear Plant.
5. Req. No. 152690—161-kV main transformer for the Johnsonville Steam Plant.
6. Req. No. 46—Coal for Allen Steam Plant.

POWER ITEMS

1. Agreement between the city of Lenoir City, Tennessee, and TVA for a demonstration and test project involving electric thermal-storage facilities.
2. Memorandum of understanding with the Department of the Army covering arrangements for TVA to make transmission line modifications for the Tennessee-Tombigbee Waterway Project near Aberdeen, Mississippi.

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PART II

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TUESDAY, DECEMBER 5, 1978
PART II



ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

GLYPHOSATE

Establishment of Tolerances for Residues and Proposed Tolerances

quested by Monsanto Co. This rule es-

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[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL1019-3; PP 5F1560, 6F1733, 6F1798, 6F1861, 7F1892, 7F1904, 7F1971, 7F2016, 8F2021/R187]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide glyphosate on a variety of raw agricultural commodities. The regulation was requested by Monsanto Co. This rule establishes maximum permissible levels for residues of glyphosate on a variety of raw agricultural commodities.

EFFECTIVE DATE: Effective on December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460 (202-755-7013).

SUPPLEMENTARY INFORMATION: Notices were given that Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63166, had filed the following pesticide petitions with the EPA proposing the establishment of tolerances for combined residues of the herbicide glyphosate (*N*-phosphonomethyl)glycine and its metabolite aminomethylphosphonic acid in or on raw agricultural commodities:

Subsequently, the petitioner amended Pesticide Petitions (PP) 6F1798 and 7F2016 by withdrawing the proposed tolerances on cotton forage, hay, and trash (PP 6F1798) and by expanding the proposed tolerance on seed and pod vegetables to include seed and pod vegetable forage and hay (PP 7F2016). It has also been determined that "almond husks" should be changed to "almond hulls" and that dry alfalfa be called alfalfa hay. (A related document establishing food additive tolerances for residues of glyphosate on various processed byproducts appears elsewhere in today's FEDERAL REGISTER.) No comments were received in response to these notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw), a 90-day rat feeding study with a no-observable-effect level (NOEL) of 2,000 ppm, a 90-day dog feeding study with an NOEL of 2,000 ppm, two rabbit teratology studies with an NOEL of 30 milligrams (mg)/kg bw/day, a two-year dog feeding study with an NOEL of 300 ppm, a three-generation rat reproduction study with an NOEL of 300 ppm, an 18-month mouse feeding study with no carcinogenic potential at 300 ppm (highest level fed) a two-year rat feeding study with an NOEL of 100 ppm, a hen neurotoxicity study (negative at 7.5 g/kg bw), a mouse dominant lethal study (negative at 10 mg/kg bw), a host-mediated mutagenicity assay (negative), an Ames test (negative), and a Rcc-assay mutagenicity test (negative).

Desirable studies that are lacking or to be repeated are teratology studies, an 18-month mouse oncogenicity study, an oncogenicity study in a second species, the dominant lethal mouse study, the Ames test, and the Rec-assay mutagenicity test. The teratology studies on hand together with the reproduction study showed glyphosate has a low potential for showing adverse effects on reproduction. The lifetime rat and mouse studies provide adequate assurance that glyphosate has a relatively low oncogenic potential. In a letter of August 29, 1978, the petitioner agreed to perform the above studies and to remove the proposed uses from the label should the results of the above studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established for residues of glyphosate on grain crops at 0.1 ppm and soybeans at 0.2 ppm for a theoretical maximal residue contribution (TMRC) of 0.0234 mg/day in a 1.5-kg diet compared with a maximal permissible intake (MPI) of 3 mg/day for a 60-kg man, or 0.78 percent of the MPI, which is based on an acceptable daily intake (ADI) of 0.05 mg/kg bw/day. The establishment of the proposed tolerances will add about 0.17 mg/day to the average diet for a total of 7 percent of the MPI, figuring in those glyphosate tolerances currently pending but not yet established. Tolerances have also been established on forage grasses and soybeans at 0.2 ppm (N) and soybean forage and hay at 0.4 ppm. Food additive tolerances (21 CFR 193.235) in connection with experimental programs have been previously established for residues of glyphosate in potable water and sugarcane molasses at 0.1 ppm. A feed additive regulation (21 CFR 561.253) has also been previously established for residues of glyphosate in sugarcane molasses at 2 ppm in connection with an experimental program.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved because no residues of the contaminant at detectable levels are present in raw agricultural commodities, nor does it pose a hazard to the applicator. The metabolism of glyphosate is adequately understood, an adequate analytical method (gas chromatography using a phosphorus-specific flame photometric detector) is available for enforcement purposes, and no other considerations are involved in establishing the proposed tolerances.

The tolerances established by amending 40 CFR 180.364 will be adequate to cover residues that would result in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep from the proposed uses as delineated in § 180.6(a)(2), and there is no reasonable expectation of finite residues resulting in other meat products, eggs, or milk from the uses as delineated in § 180.6(a)(3). The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances established by amending 40 CFR 180.364 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Pesticide petitions	Raw agricultural commodities	Tolerances in parts per million	Publication dates
5F1560	Grapes	0.1	Nov. 27, 1974 (39 FR 41402)
6F1733	Citrus fruits	0.2	Mar. 12, 1976 (41 FR 10709
6F1798	Cottonseed	0.2	July 6, 1976 (41 FR 27776)
	Cotton forage, hay, and trash	0.2	
6F1861	Pome fruits	0.2	Oct. 19, 1976 (41 FR 46020)
7F1892	Nuts	0.2	Feb. 11, 1977 (42 FR 8692)
	Pistachio nuts	0.2	
	Almond husks	1	
	Liver and kidney of cattle, goats, hogs, horses, poultry, and sheep.	0.1	

Pesticide petitions	Raw agricultural commodities	Tolerances in parts per million	Publication dates
7F1904	Alfalfa, fresh and dry	0.2	Feb. 11, 1977 (42 FR 8691)
	Liver and kidney of cattle, goats, hogs, horses, poultry, and sheep.	0.1	
7F1971	Cottonseed	6	Aug. 23, 1977 (42 FR 42373)
	Soybeans	6	
	Soybean hay and forage	15	
	Liver and kidney of cattle, goats, hogs, horses, poultry, and sheep.	0.1	
7F2016	Leafy vegetables	[N] 0.2	Dec. 6, 1977 (42 FR 61626)
	Root crop vegetables	[N] 0.2	
	Seed and pod vegetables	[N] 0.2	
	Liver and kidney of cattle, goats, hogs, horses, poultry, and sheep.	0.1	
8F2021	Avocados	0.2	Jan. 12, 1978 (43 FR 1835)

[N] Negligible residues.

Any person adversely affected by this regulation may, on or before January 4, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St. SW., Washington 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on December 5, 1978, Part 180 is amended as set forth below.

Dated: Nov. 28, 1978.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.364 is amended by alphabetically inserting new items in the table and by revising the table to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
Alfalfa, fresh and hay	0.2
Almonds, hulls	1
Avocados	0.2
Cattle, kidney	0.1
Cattle, liver	0.1
Citrus fruits	0.2
Cottonseed	6
Goats, kidney	0.1
Goats, liver	0.1
Grain crops	0.1 (N)
Grapes	0.2
Grasses, forage	0.2 (N)
Hogs, kidney	0.1
Hogs, liver	0.1
Horses, kidney	0.1
Horses, liver	0.1
Leafy vegetables	0.2 (N)
Nuts	0.2
Pistachio nuts	0.2
Pome fruits	0.2
Poultry, kidney	0.1
Poultry, liver	0.1
Root crop vegetables	0.2 (N)
Seed and pod vegetables	0.2 (N)
Seed and pod vegetables, forage	0.2 (N)
Seed and pod vegetables, hay	0.2 (N)
Sheep, kidney	0.1
Sheep, liver	0.1
Soybeans	6
Soybeans, forage	15
Soybeans, hay	15

[FR Doc. 78-33817 Filed 12-4-78; 8:45 am]

[6560-01-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[FRL 1019-2; FAP 6H5115, 6H5144, 7H5168/R44]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR 193.235 and 561.253 by establishing food and feed additive tolerances for residues of the herbicide glyphosate in dried citrus pulp, soybean hulls, and palm oil. The regulations were requested by Monsanto Co. This rule establishes a maximum permissible level for residues of glyphosate in dried citrus pulp, soybean hulls, and palm oil.

EFFECTIVE DATE: Effective on December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On March 12, 1976 (41 FR 10709), September 16, 1976 (41 FR 39831), and August 23, 1977 (42 FR 42373) notices were given that Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, had filed petitions (FAP 6H5115, 6H5144, and 7H5168) with the EPA. These petitions proposed that 21 CFR 193.235 and 561.253 be amended by establishing regulations permitting combined residues of the herbicide glyphosate (N-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in dried citrus pulp (FAP 6H5115), palm oil (FAP 6H5144), and soybean hulls (FAP 7H5168) resulting from application of glyphosate to growing citrus fruits, palm trees, and soybeans with tolerance limitations of 0.4 part per million (ppm) in the dried citrus pulp, 0.1 ppm in the palm oil, and 20 ppm in or on the soybean hulls. No comments were received by the Agency in response to these notices.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw), a 90-day rat feeding study with a no-observable-effect level (NOEL) of 2,000 ppm, a 90-day dog feeding study with an NOEL of 2,000 ppm, two rabbit teratology studies with an NOEL of 30 milligrams (mg)/kg bw/day, a 2-year dog feeding study with an NOEL of 300 ppm, a three-generation rat reproduction study with an NOEL of 300 ppm, an 18-month mouse feeding study with no carcinogenic potential at 300 ppm (highest level fed), a 2-year rat feeding study with an NOEL of 100 ppm, a hen neurotoxicity study (negative at 7.5 g/kg bw), a mouse dominant lethal study (negative at 10 mg/kg bw), a host-mediated mutagenicity assay (negative), an Ames test (negative), and a Rec-assay mutagenicity test (negative).

Desirable studies that are lacking or to be repeated are teratology studies, an 18-month mouse oncogenicity

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[6560-01-M]

three-generation rat reproduction levels are present in raw agricultural

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study, an oncogenicity study in a second species, the dominant lethal mouse study, the Ames test, and the Rec-assay mutagenicity test. The teratology studies on hand together with the reproduction study showed glyphosate has a low potential for showing adverse effects on reproduction. The lifetime rat and mouse studies provide adequate assurance that glyphosate has a relatively low oncogenic potential. In a letter of August 29, 1978, the petitioner agreed to perform the above studies and to remove the proposed uses from the label should the results of the above studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established for residues of glyphosate on grain crops at 0.1 ppm and soybeans at 0.2 ppm for a theoretical maximal residue contribution (TMRC) of 0.0234 mg/day in a 1.5-kg diet compared with a maximal permissible intake (MPI) of 3 mg/day for a 60-kg man, or 0.78 percent of the MPI, which is based on an acceptable daily intake (ADI) of 0.05 mg/kg/bw/day. The proposed tolerance in palm oil contributes less than an additional 0.001 mg/day/1.5-kg diet, or about 0.002 percent of the MPI, which does not significantly increase the 0.78 percent of the MPI. Should all the tolerances for glyphosate currently pending be established, the TMRC will only be 7.02 percent of the MPI. The establishment of the proposed tolerances will add about 0.17 mg/day to the average diet for a total of 7 percent of the MPI.

Tolerances have also been established on forage grasses and soybeans at 0.2 ppm (negligible residues) and soybean forage and hay at 0.4 ppm. Food additive tolerances (21 CFR 193.235) in connection with experimental programs have been previously established for residues of glyphosate in potable water and sugarcane molasses at 0.1 ppm. A feed additive tolerance (21 CFR 561.253) has also been previously established for residues of glyphosate in sugarcane molasses at 2 ppm in connection with an experimental program.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved because no residues of the contaminant at detectable levels are present in raw agricultural commoditites, not does it pose a hazard to the applicator.

The matabolism of glyphosate is adequately understood, and adequate analytical method (gas chromatography using a phosphorus specific flame photometric detector) is available for enforcement purposes, and no other considerations are involved in establishing the proposed tolerances. (A related document establishing tolerances for residues of glyphosate in or on a variety of raw agricultural commodities, including the kidney and liver of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm, appears elsewhere in today's FEDERAL REGISTER. The tolerances in the kidney and liver of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm are adequate to cover residues in these tissues resulting from the proposed food and feed additive uses as delineated in 40 CFR 180.6(a)(2). There is no reasonable expectation of finite residues resulting in other meat products, milk, or eggs from the proposed food and feed additive uses as delineated in 40 CFR 180.6(a)(3)).

Thus, it concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The pesticide is considered useful for the purpose for which tolerances are sought. Therefore the regulations establishing tolerances of 0.4 ppm in or on citrus pulp, 0.1 ppm in palm oil, and 20 ppm in or on soybean hulls by amending 21 CFR 193.235 and 561.253 are being promulgated as proposed. Accordingly food and feed additive regulations are established as set forth below.

Any person adversely affected by this regulation may, on or before January 4, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on December 5, 1978, 21 CFR Parts 193 and 561 are amended as set forth below.

Dated: November 28, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)))

1. Part 193, Subpart A, § 193.235 is amended by adding the new paragraph (e) at the end of the section to read as follows:

§ 193.235 Glyphosate.

* * * * *

(e) A tolerance is established for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)-glycine) and its metabolite aminomethylphosphonic acid in or on the following processed food when present therein as a result of the application of the herbicide in palm tree culture:

0.1 part per million in palm oil.

2. Part 561, § 561.253, is amended by adding the new paragraph (f) at the end of the section to read as follows:

§ 561.253 Glyphosate.

* * * * *

(f) Tolerances are established for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)-glycine) and its metabolite aminomethylphosphonic acid in the following processed feeds when present therein as a result of application of this herbicide to growing crops:

Feed:	*Parts per million*
Citrus pulp, dried	0.4
Soybean hulls	20

[FR Doc. 78-33816 Filed 12-4-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 1018-7; PP 6E1809/P98]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerance for the Pesticide Chemical Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide glyphosate on coffee beans. The proposal was submitted by Monsanto Co. This amendment would establish a maximum permissible level for residues of glyphosate on coffee beans.

DATE: Comments must be received on or before January 4, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA (202/755-7013).

SUPPLEMENTARY INFORMATION: Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, has submitted a pesticide petition (PP 6E1809) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.364 be amended by the establishment of a tolerance for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity coffee beans at 1 part per million.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw), a 90-day rat feeding study with a no-observable-effect level (NOEL) of 2,000 ppm, a 90-day dog feeding study with an NOEL of 2,000 ppm, two rabbit teratology studies with an NOEL of 30 milligrams (mg)/kg bw/day, a two-year dog feeding study with an NOEL of 300 ppm, a three-generation rat reproduction study with an NOEL of 300 ppm, an 18-month mouse feeding study with no carcinogenic potential at 300 ppm (highest level fed), a two-year rat feeding study with an NOEL of 100 ppm, a hen neurotoxicity study (negative at 7.5 g/kg bw), a mouse dominant lethal study (negative at 10 mg/kg bw), a host-mediated mutagenicity assay (negative), an Ames test (negative), and a Rec-assay mutagenicity test (negative).

Desirable studies that are lacking or to be repeated are teratology studies, an 18-month mouse oncogenicity study, an oncogenicity study in a second mammalian species, the dominant lethal mouse study, the Ames test, and the Rec-assay mutagenicity test. The teratology studies on hand together with the reproduciton study showed glyphosate has a low potential for showing adverse effects on reproduction. The lifetime rat and mouse studies provide adequate assurance that glyphosate has a relatively low oncogenic potential. In a letter of August 29, 1978, the petitioner agreed to perform the above studies and to remove the proposed uses from the label should the results of the above studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established for residues of glyphosate on grain crops at 0.1 ppm and soybeans at 0.2 ppm for a theoretical maximal residue contribution (TMRC) of 0.0234 mg/day in a 1.5-kg diet compared with a maximal permissible intake (MPI) of 3 mg/day for a 60-kg man, or 0.78 percent of the MPI, which is based on an acceptable daily intake (ADI) of 0.05 mg/kg bw/day. The tolerance of 1 ppm on coffee beans contributes an additional 0.011 mg/day/1.5-kg diet, or 0.37 percent, for a total of 1.15 percent of the MPI. Should all the tolerances for glyphosate currently pending be established, the TMRC will be only 7.02 percent of the MPI.

Tolerances have also been established on forage grasses and soybeans at 0.2 ppm (negligible residues) and soybean forage and hay at 0.4 ppm. Food additive tolerances (21 CFR 193.235) in connection with experimental programs have previously been established for residues of glyphosate in potable water and sugarcane molasses at 0.1 ppm. A feed additive tolerance has also previously been established for residues of glyphosate in sugarcane molasses at 2 ppm in connection with an experimental program.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved because no residues of the contaminant at detectable levels are present in raw agricultural commodities, nor does it pose a hazard to the applicator. The metabolism of glyphosate is adequately understood, an adequate analytical method (gas chromatography using a phosphorus-specific flame photometric detector) is available for enforcement purposes, and no other considerations are involved in establishing the proposed tolerance. There is no reasonable expectation of finite of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3) from the use on green coffee beans.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 1 ppm on coffee beans established by amending 40 CFR 180.364 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before January 4, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 6E1809/P98". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: November 28, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e))).

It is proposed that Part 180, Subpart C, § 180.364 be amended by alphabetically inserting coffee beans at 1 ppm in the table to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
* * * * *	
Coffee beans	1
* * * * *	

[FR Doc. 78-33813 Filed 12-4-78; 8:45 am]

Dated: November 28, 1978.

proposed that 21 CFR 193.235 and

Tolerances have previously been es-

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[6560-01-M]

[40 CFR Part 180]

[FRL 1019-1; PP 6F1758/P97]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide glyphosate on sugarcane. The proposal was submitted by Monsanto Co. This amendment would establish a maximum permissible level for residues of glyphosate on sugarcane.

DATE: Comments must be received on or before January 4, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency (202-755-7013).

SUPPLEMENTARY INFORMATION: On April 8, 1976, a notice was given (41 FR 14924) that Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63166, has filed a petition (PP 6F1758) with the EPA. This petition proposed to amend 40 CFR 180.364 by establishing a tolerance for combined residues of the herbicide glyphosate (*N*(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity sugarcane at 0.05 part per million (ppm).

Subsequently, the petitioner amended the petition by increasing the proposed tolerance from 0.05 ppm to 0.1 ppm. (A related document establishing a food additive tolerance for residues of glyphosate in sugarcane molasses appears elsewhere in today's FEDERAL REGISTER). No comments were received in response to this notice of filing. Because of the potential exposure to humans to glyphosate residues, the tolerance is being proposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw), a 90-day rat feeding study with a no-observable-effect level (NOEL) of 2,000 ppm, a 90-day dog feeding study with an NOEL of 2,000 ppm, two rabbit teratology studies with an NOEL of 30 milligrams (mg)/kg bw/day, a two-year dog feeding study with an NOEL of 300 ppm, a three-generation rat reporduction study with an NOEL of 300 ppm, an 18-month mouse feeding study with no carcinogenic potential at 300 ppm (highest level fed), a two-year rat feeding study with an NOEL of 100 ppm, a hen neurotoxicity study (negative at 7.5 g/kg bw), a mouse dominant lethal study (negative at 10 mg/kg bw), a host-mediated mutagenicity assay (negative), an Ames test (negative), and a Rec-assay mutagenicity test (negative).

Desirable studies that are lacking or to be repeated are teratology studies, an 18-month mouse oncogenicity study, an oncogenicity study in a second mammalian species, the dominant lethal mouse study, the Ames test, and the Rec-assay mutagenicity test. The teratology studies on hand together with the reproduction study showed glyphosate has a low potential for showing adverse effects on reproduction. The lifetime rat and mouse studies provide adequate assurance that glyphosate has a relatively low oncogenic potential. In a letter of August 29, 1978, the petitioner agreed to perform the above studies and to remove the proposed use from the label should the results of the above studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established for residues of glyphosate on grain crops at 0.1 ppm and soybeans at 0.2 ppm for a theoretical maximal residue contribution (TMRC) of 0.0234 mg/day in a 1.5-kg diet compared with a maximal permissible intake (MPI) of 3 mg/day for a 60-kg man, or 0.78 percent of the MPI. The 0.1 ppm tolerance on sugarcane contributes about an additional 0.005 mg/day/1.5-kg diet or approximately 0.18 percent for a total of about 0.9 percent of MPI, which is based on an acceptable daily intake (ADI) of 0.05 mg/kg bw/day. Should all the tolerances for glyphosate currently pending be established, the TMRC will only be 7.02 percent of the MPI.

Tolerances have also been established on forage grasses and soybeans at 0.2 ppm (negligible residues) and soybean forage and hay at 0.4 ppm. Food additive tolerances (21 CFR 193.235) in connection with experimental programs have been previously established for residues of glyphosate in potable water and sugarcane molasses at 0.1 ppm. A feed additive tolerance (21 CFR 561.253) has also been previously established for residues of glyphosate in sugarcane molasses at 2 ppm in connection with an experimental program.

A regulatory action was pending against glyphosate based on its contamination with *n*-nitrosoglyphosate, but this was resolved because no residues of the contaminant at detectable levels are present in the raw agricultural commodities, nor does it pose a hazard to the applicator. The metabolism of glyphosate is adequately understood, an adequate analytical method (gas chromatography using a phosphorus-specific flame photometric detector) is available for enforcement purposes, and no other considerations are involved in establishing the proposed tolerance.

The tolerance of 0.1 ppm in liver and kidney of cattle, goats, hogs, horses, poultry, and sheep established by another rule in today's FEDERAL REGISTER is adequate to cover residues in these tissues from the use on sugarcane as delineated in 40 CFR 180.6(a)(2). There is no reasonable expectation of residues in other meat products, eggs, or milk from the proposed use as delineated in 40 CFR 180.6(a)(3). The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance established on sugarcane at 0.1 ppm by amending 40 CFR 180.364 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before January 4, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 6F1758/P97." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(3)).)

Dated: November 28, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, § 180.364 be amended by alphabetically inserting sugarcane at 0.1 ppm at the end of the table to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

Commodity:	Parts per million
Sugarcane	0.1

[FR Doc. 78-33815 Filed 12-4-78; 8:45 am]

[6560-01-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 193 and 561]

[FRL 1018-8; FAP 6H5126/P12]

TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS AND FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Proposed Food and Feed Additive Tolerances for Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide glyphosate in sugarcane molasses. The proposal was submitted by Monsanto Co. This amendment would establish a maximum permissible level for residues of glyphosate in sugarcane molasses.

DATE: Comments must be received on or before January 4, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA. Rm. 401, East Tower, 401 M Street, SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, (202/755-7013).

SUPPLEMENTARY INFORMATION: On April 8, 1976, the EPA published in the FEDERAL REGISTER (41 FR 14924) a notice that Monsanto Agricultural Products Co., 800 Lindbergh Blvd., St. Louis, MO 63116, had submitted a petition (FAP 6H5126). This petition proposed that 21 CFR 193.235 and 561.253 be amended by the establishment of a regulation permitting residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethlyphosphonic acid in or on sugarcane molasses resulting from the application of the herbicide to growing sugarcane with a tolerance limitation of 0.5 part per million (ppm). No comments were received in response to this notice. Subsequently, the petitioner amended the petition by increasing the proposed tolerance from 0.5 ppm to 2 ppm. Because of the potential increase in exposure of humans to glyphosate residues, the tolerance is being proposed at this time to provide for public comment. (A related document establishing a tolerance for residues of glyphosate on sugarcane appears elsewhere in today's FEDERAL REGISTER.)

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw), a 90-day rat feeding study with a no-observable-effect level (NOEL) of 2,000 ppm, a 90-day dog feeding study with an NOEL of 2,000 ppm, two rabbit teratology studies with an NOEL of 30 milligrams (mg)/kg bw/day, a two-year dog feeding study with an NOEL of 300 ppm, a three-generation rat reproduction study with an NOEL of 300 ppm, an 18-month mouse feeding study with no carcinogenic potential at 300 ppm (highest level fed), a two-year rat feeding study with an NOEL of 100 ppm, a hen neurotoxcity study (negative at 7.5 g/kg bw), a mouse dominant lethal study (negative at 10 mg/kg bw), a host-mediated mutagenicity assay (negative), an Ames test (negative), and a Rec-assay mutagenicity test (negative).

Desirable studies that are lacking or to be repeated are teratology studies, an 18-month mouse oncogenicity study, an oncogenicity study in a second mammalian species, the dominant lethal mouse study, the Ames test, and the Rec-assay mutagenicity test. The teratology studies on hand together with the reproduction study showed glyphosate has a low potential for showing adverse effects on reproduction. The lifetime rat and mouse studies provide adequate assurance that glyphosate has a relatively low oncogenic potential. In a letter of August 29, 1978, the petitioner agreed to perform the above studies and to remove the proposed uses from the label should the results of the above studies exceed the risk criteria for chronic toxicity as stated in 40 CFR 162.11.

Tolerances have previously been established for residues of glyphosate on grain crops at 0.1 ppm and soybeans at 0.2 ppm for a theoretical maximal residue contribution (TMRC) of 0.0234 mg/day in a 1.5-kg diet compared with a maximal permissible intake (MPI) of 3 mg/day for a 60-kg man, or 0.78 percent of the MPI, which is based on an acceptable daily intake (ADI) of 0.05 mg/kg bw/day. The establishment of the 2 ppm tolerance in sugarcane molasses will add about 0.0009 mg/day to the average human diet for a TMRC of 0.2105 mg/day, which is 7.02 percent of the ADI.

Tolerances have also been established on forage grasses and soybeans at 0.2 ppm (negligible residues) and soybean forage and hay at 0.4 ppm. Food additive tolerances (21 CFR 193.235) in connection with experimental programs have previously been established for residues of glyphosate in potable water and sugarcane molasses at 0.1 ppm. A feed additive tolerance (21 CFR 561.253) has also been previously established for residues of glyphosate in sugarcane at 2 ppm in connection with an experimental program.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved because no residues of the contaminant at detectable levels are present in raw agricultural commodities, nor does it pose a hazard to the applicator. The metabolism of glyphosate is adequately understood, and adequate analytical method (gas chromatography using a phosphorus-specific flame photometric detector) is available for enforcement purposes, and no other considerations are involved in establishing the proposed tolerance. Thus, it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The tolerance of 0.1 ppm in liver and kidney of cattle, goats, hogs, horses, poultry, and sheep established by another rule in today's FEDERAL REGISTER is adequate to cover residues in these tissues from the use in sugarcane molasses as delineated in 40 CFR 180.6(a)(2). there is no reasonable expectation of residues in other meat products, eggs, or milk as delineated in 40 CFR 180.6(a)(3). The pesticide is considered useful for the purpose for which a tolerance is sought. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenti-

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cide Act, which contains any of the ingredients listed herein, may request on or before January 4, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "P6H5126/P12". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 to 4 p.m. Monday through Friday.

Dated: November 28, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 409, Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).)

It is proposed that Part 193 and Part 561 be amended as follows:

1. part 193, Subpart A, § 193.235 is amended by revising paragraph (e) to read as follows:

§ 193.235 Glyphosate.

* * * * *

(e) Tolerances are established for combined residues of the herbicide glyphosate (*N*-(Phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in the following processed foods when present therein as a result of application of the herbicide in palm tree culture and to growing sugarcane:

2 parts per million in sugarcane molasses.
0.1 part per million in palm oil.

2. part 561, § 561.253, is amended by revising paragraph (f) to read as follows:

§ 561.253 Glyphosate.

* * * * *

(f) Tolerances are established for combined residues of the herbicide glyphosate (*N*-phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the following processed feeds when present therein as a result of application of this herbicide to growing crops:

Feed:	*parts per million*
Citrus pulp, dried	0.4
Soybean hulls	20
Sugarcane molasses	2

[FR Doc. 78-33814 Filed 12-4-78; 8:45]

federal register

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PART III



THE PRESIDENT

■

ALASKAN NATIONAL MONUMENTS

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[3195-01-M]

Title 3—President

Proclamation 4611 • **December 1, 1978**

Admiralty Island National Monument

By the President of the United States of America

A Proclamation

Admiralty Island is outstanding for its superlative combination of scientific and historic objects. Admiralty Island contains unique resources of scientific interest which need protection to assure continued opportunities for study.

Admiralty Island has been continuously inhabited by Tlingit Indians for approximately 10,000 years. Archeological sites and objects are plentiful in the areas of Angoon, Chaik Bay, Whitewater Bay and other bays and inlets on the island. These resources provide historical documentation of continuing value for study. The continued presence of these natives on the island add to the scientific and historical value of the area.

The cultural history of the Tlingit Indians is rich in ceremony and creative arts and complex in its social, legal and political systems. Admiralty provides a unique combination of archeological and historical resources in a relatively unspoiled natural ecosystem that enhances their value for scientific study.

Subsequent to exploration and mapping by Captain George Vancouver at the end of the 18th century, Russian fur traders, Yankee whalers, and miners and prospectors have left objects and sites on Admiralty which provide valuable historical documentation of white settlement and exploitation of the island and its resources. Admiralty Island is rich in historic structures and sites, including whaling stations, canneries, old mining structures and old village sites, for example, Killisnoo Village where a whaling and herring saltery station were established in 1880.

Unusual aspects of the island ecology include its exceptional distribution of animal species, including dense populations of brown bears and eagles, but excluding entirely—because of the island's separation from the mainland—a large number of species indigenous to the general area. This peculiar distribution enhances the island's value for scientific study.

The unique island ecology includes the highest known density of nesting bald eagles (more than are found in all the other States combined); large numbers of Alaska brown bear; and the largest unspoiled coastal island ecosystem in North America. Admiralty Island was added to the Tongass National Forest in 1909, and specific portions of the island have been designated as bear and eagle management areas and numerous scientific studies of the bear and eagle habitat have been conducted by scientists from around the world. The island is an outdoor living laboratory for the study of the bald eagle and Alaska brown bear.

Protection of the entire island, exclusive of the Mansfield Peninsula, is necessary to preserve intact the unique scientific and historic objects and sites located there. Designation of a smaller area would not serve the scientific purpose of preserving intact this unique coastal island ecosystem.

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Hunting and fishing shall continue to be regulated, permitted and controlled in accord with the statutory authorities applicable to the Monument area.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the government of the United States to be National Monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by section 2 of the Act of June 8, 1906, (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Admiralty Island National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area described on the document entitled "Admiralty Island National Monument (Copper River, Meridian)", attached to and forming a part of this Proclamation. The area reserved consists of approximately 1,100,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the Monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this Monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this Monument and for the proper administration of the Monument in accordance with applicable laws.

The establishment of this Monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616 (d)(1)); however, the National Monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this Monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

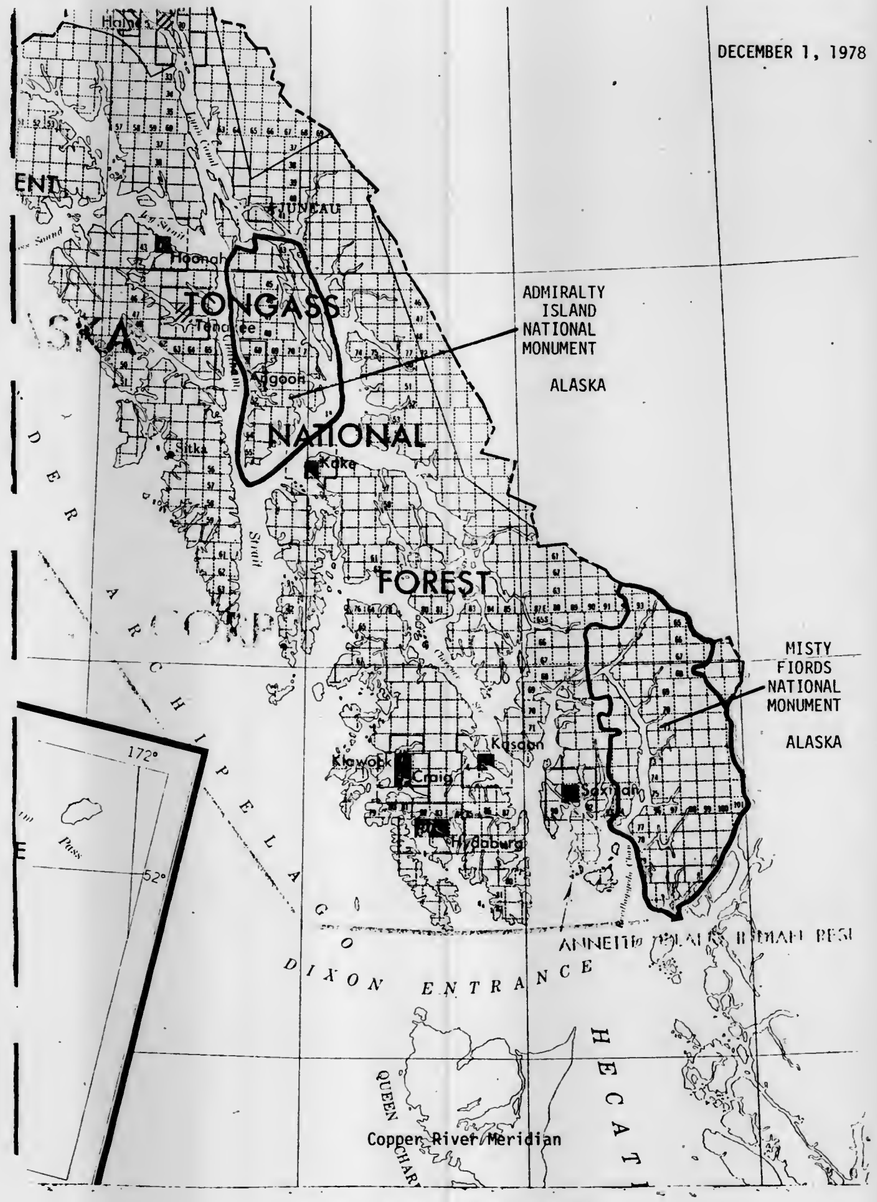
ADMIRALTY ISLAND NATIONAL MONUMENT

COPPER RIVER MERIDIAN

T. 42 S., R. 66 E., all land on the south side of Stevens Passage including small island adjacent to Admiralty Cove.
T. 42 S., R. 67 E., all land on the south side of Stevens passage.
T. 43 S., R. 65 E., all land south of the hydrographic divide between Fowler Creek and Greens Creek excluding land on the Mansfield Peninsula
T. 43 S., R. 66 E., all lands south of hydrographic divide between Young Bay and Greens Creek
T. 43 S., R. 67 E., all lands except those draining into Admiralty Creek
T. 43 S., Rs. 68 E.,
T. 43 S., R. 69 E., all lands on the west side of Stevens passage including Grand Island
T. 44 S., Rs. 65 through 68 E.,
T. 44 S., R. 69 E., all land on the west side of Stevens passage including Grand Island
T. 45 S., Rs. 66 through 70 E.,
T. 46 S., Rs. 66 through 71 E.,
T. 47 S., Rs. 66 through 71 E.,
T. 48 S., Rs. 66 through 71 E.,
T. 49 S., Rs. 67 through 72 E.,
T. 50 S., Rs. 67 through 72 E.,
T. 51 S., Rs. 67 through 72 E.,
T. 52 S., Rs. 68 through 72 E.,
T. 53 S., Rs. 68 through 73 E.,
T. 54 S., Rs. 68 through 71 E.,
T. 55 S., Rs. 68 through 70 E.,
T. 56 S., Rs. 68 and 69 E., including Yasha Island.

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[3195-01-C]



[FR Doc. 78-33986 Filed 12-1-78; 2:53 pm]

[3195-01-M]

Proclamation 4612 • **December 1, 1978**

Aniakchak National Monument

By the President of the United States of America

A Proclamation

The Aniakchak Caldera is located in the heart of the Alaska Peninsula. It is so unexpected a feature that it remained unknown to all but the Natives of the region until about 1920. With its average diameter of approximately six miles, Aniakchak is one of the world's largest calderas.

In the interior of the caldera are textbook examples of certain volcanic features such as lava flows, cinder cones, and explosion pits. Also lying within the caldera is Surprise Lake which is fed by warm springs and is uniquely charged with chemicals. Surprise Lake is the source of the Aniakchak River, which cascades through a 1,500 foot gash in the caldera wall and downward for 27 miles to the Pacific Ocean.

The flanks of the caldera provide a geological and biological continuum by which to make a comparative study of the formation of the caldera and the significant process of biological succession of both plant and animal species occurring in the vicinity of the caldera, an area that was rendered virtually devoid of life forms by a major eruption of the volcano in 1931.

The caldera is also climatologically unique in that, because of its topography and setting, it appears to be able to generate its own weather. A striking phenomenon known as cloud "niagaras" occurs frequently as strong downdrafts form over the caldera walls.

The land withdrawn and reserved by this Proclamation for the protection of the geological, biological, climatological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Aniakchak National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Aniakchak National Monument on the map numbered ANIA-90,006 attached to and forming a part of this Proclamation. The area reserved consists of approximately 350,000 acres,

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and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, rights confirmed in Section 15 of the Act of January 2, 1976 (89 Stat. 1145), and valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

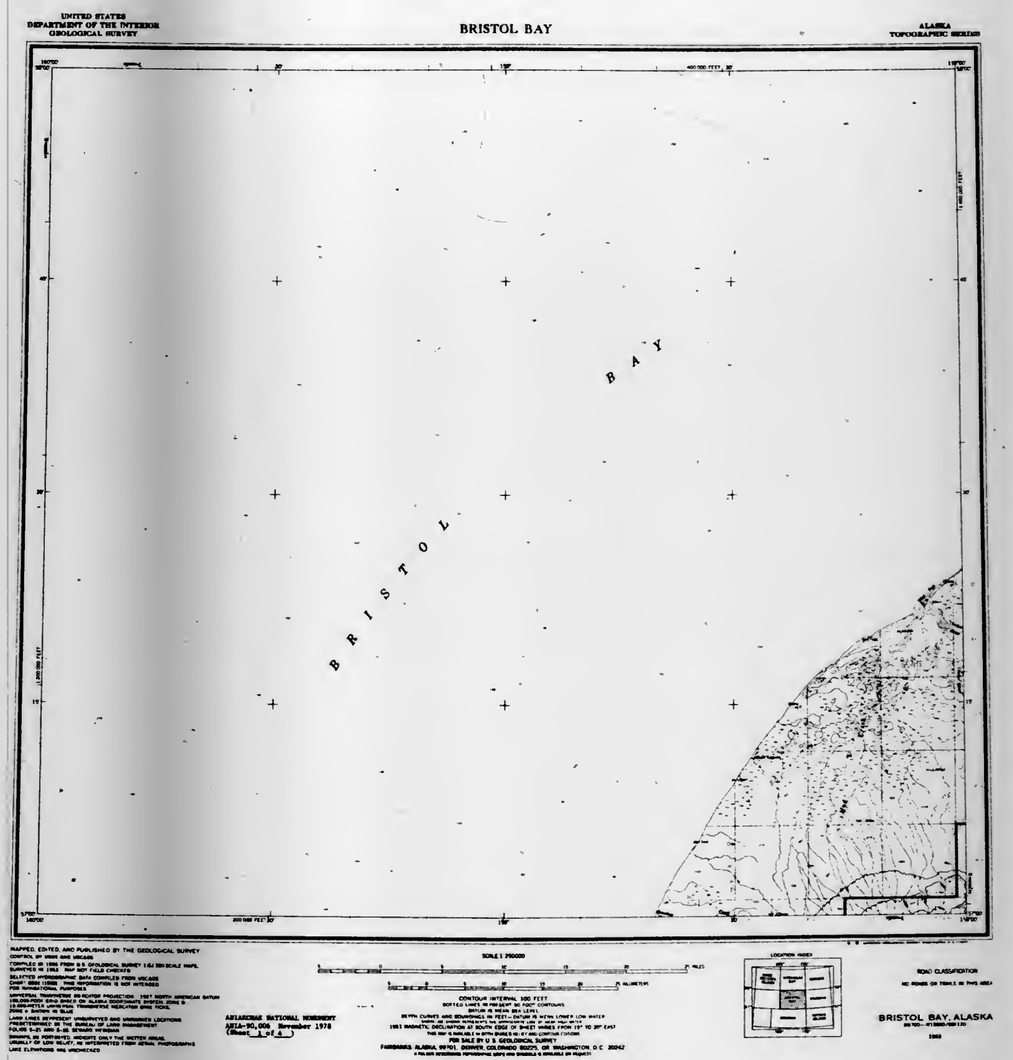
The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

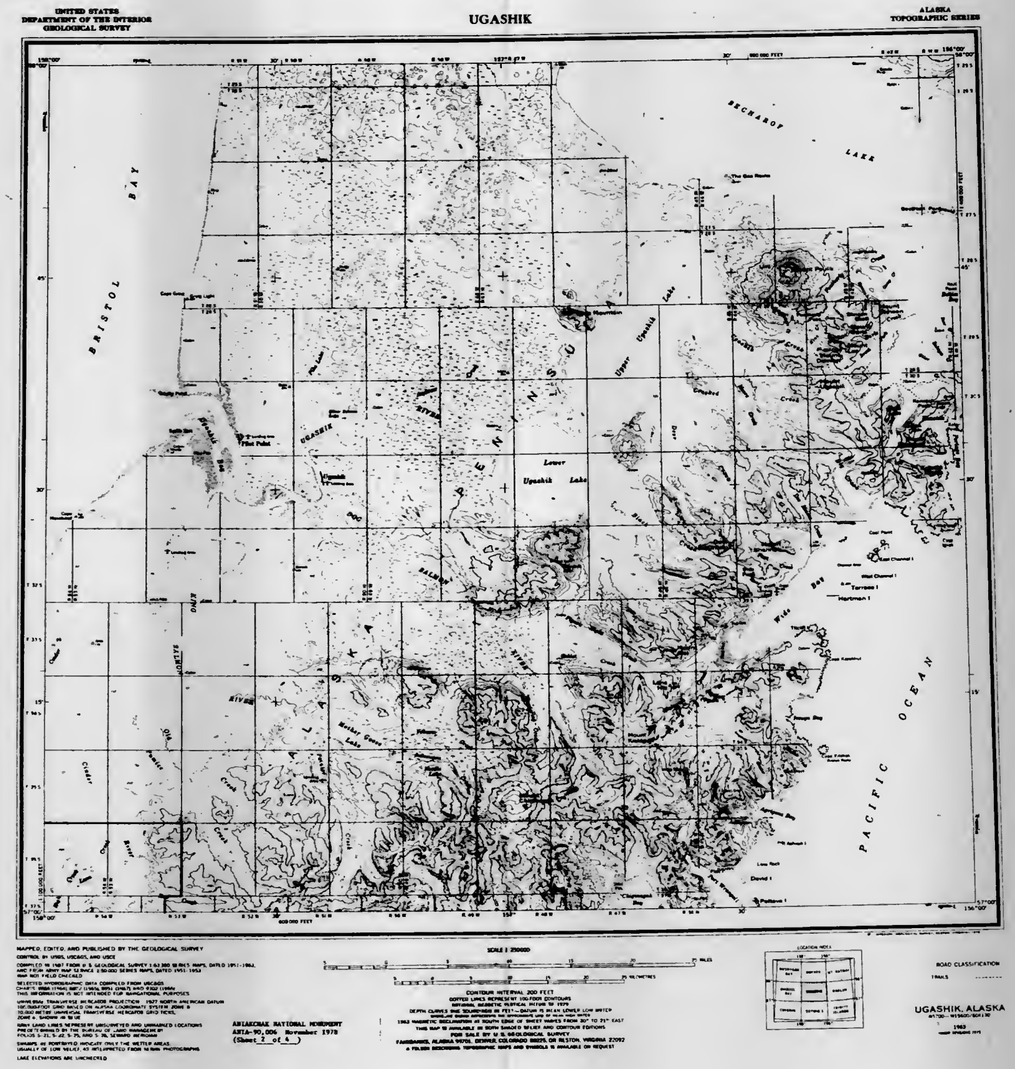
IN WITNESS WHEREOF, I have hereunto set my hand this first day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

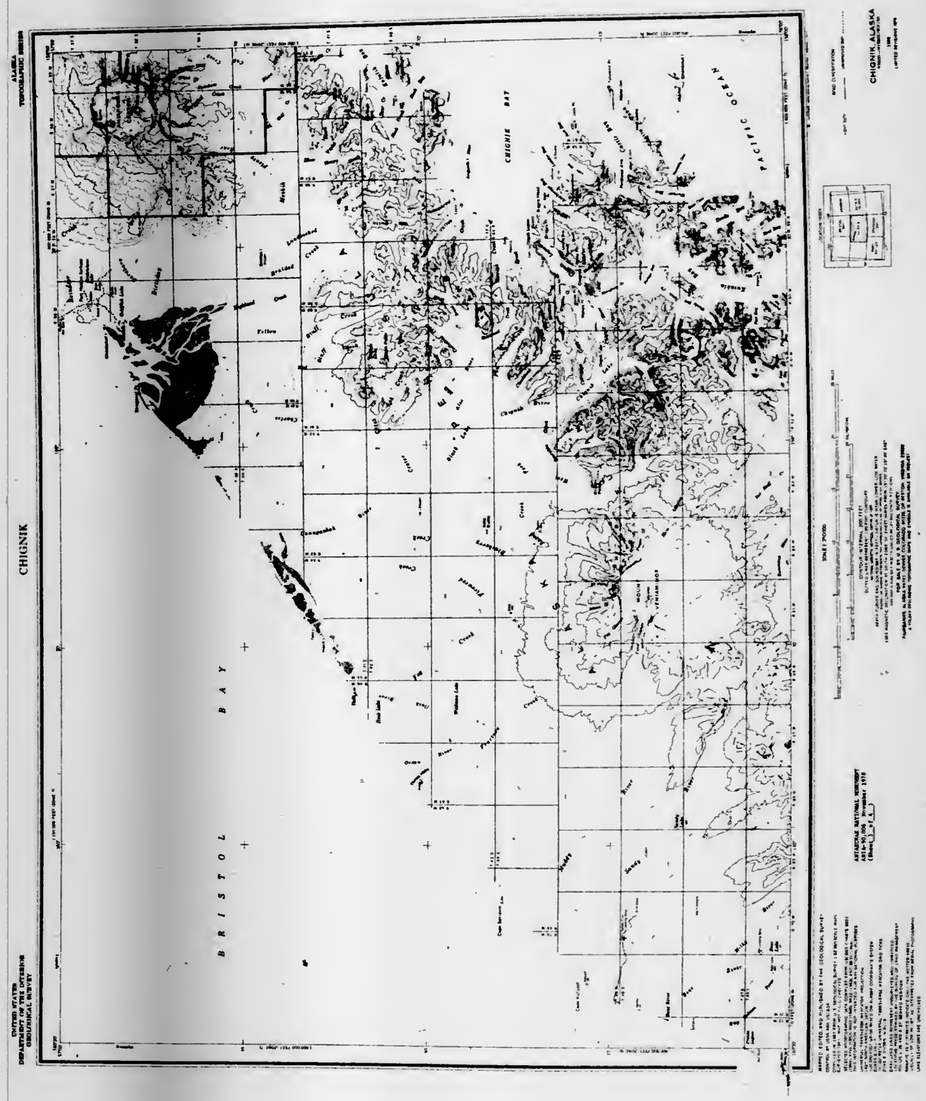
Jimmy Carter

[3195-01-C]



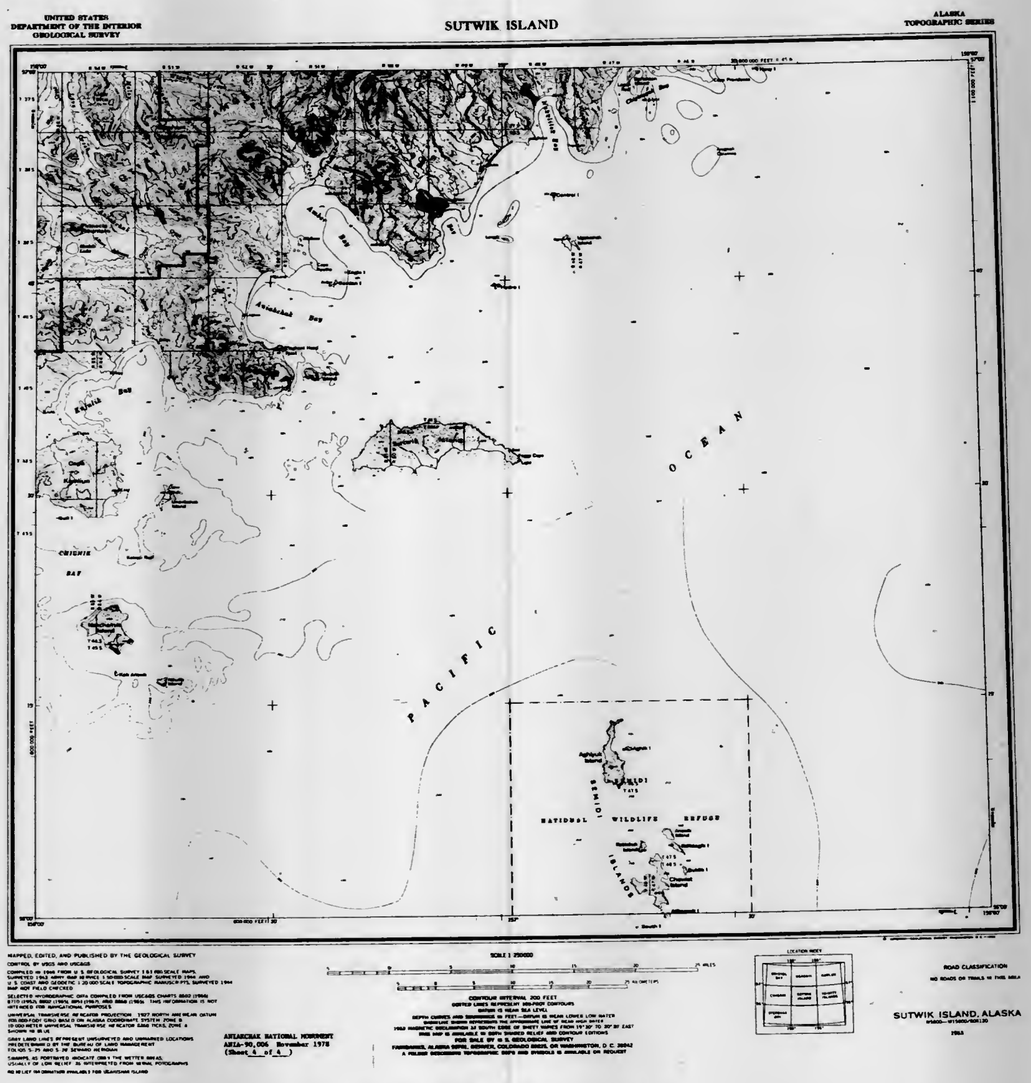
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[3195-01-M]

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[FR Doc. 78-33987 Filed 12-1-78; 2:54 pm]

[3195-01-M]

Proclamation 4613 • **December 1, 1978**

Becharof National Monument

By the President of the United States of America

A Proclamation

This monument on the Alaska Peninsula supports one of the densest known populations of the great Alaska brown bear. This area encompasses habitat used by a discrete population of bears for denning and foraging, both north and south of Becharof Lake.

At the southern end of Becharof Lake, several hundred bears concentrate during salmon spawning season. Certain of the bears make their dens in the area on islands a few feet above the water level, a unique phenomenon of great interest in the study of this great carnivore. Deeply worn bear trails also indicate decades of extensive use, making this area important to the study of the bears' long term habits and population fluctuation. Rich salmon spawning habitats and the presence of such prey species as caribou and moose are key factors in the intensive use of the area by the bears.

The biology of the brown bears, their habitat and associated plant and animal species within the monument, together with other ecological features of the area, combine to offer excellent opportunities for scientific study and research.

The area is interesting and significant geologically, as it contains one of Alaska's most recent volcanically active areas, the Gas Rocks under Mount Peulik. Studies here of recent volcanism may contribute to the growing understanding of this powerful geological force.

The land withdrawn and reserved by this Proclamation for the protection of the geological, biological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for the local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Becharof National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as Becharof National Monument on the map numbered FWS-81-00-0414 attached to and forming a part of this

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Proclamation. The area reserved consists of approximately 1,200,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any public land order effecting a withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A–48–72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of sport hunting, and of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close this national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population or to sport hunting of a particular fish or wildlife population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[3195–01–C]


UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
NAKNEK
ALASKA
TOPOGRAPHIC SERIES
BRISTOL BAY
ALASKA PENINSULA
KVICHAK BAY
Naknek River
Kvichak River
Nushagak River
Bristol Bay
Egegik River
Becharof Lake
Becharof National Monument
Deadman Sands
Salmon Flats
Cape Constantine
Cape Greig
Cape Menshikof
Cape Kuliak
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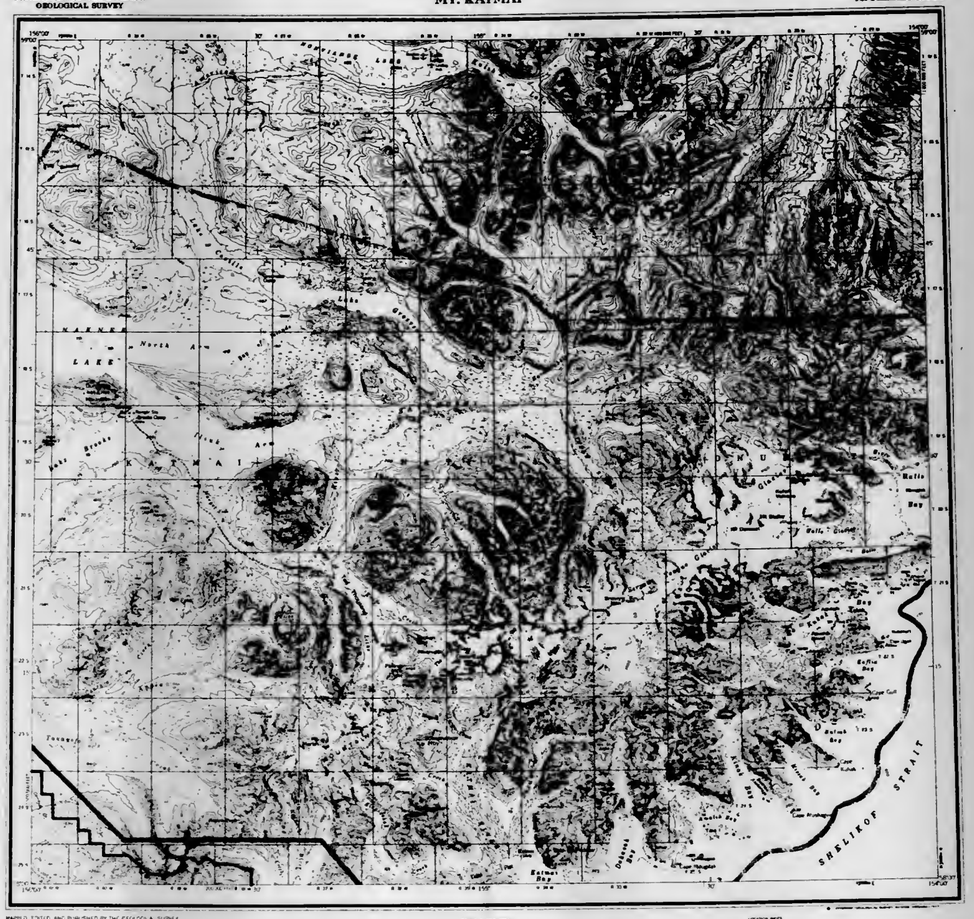
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UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

MT. KATMAI

ALASKA
TOPOGRAPHIC SERIES



MAPPED, EDITED, AND PUBLISHED BY THE GEOLOGICAL SURVEY

SCALE 1:250 000

CONTOUR INTERVAL 200 FEET

RECHARGE NATIONAL MONUMENT
PWS-81-00-041A November 1978
(Sheet 2 of 4)

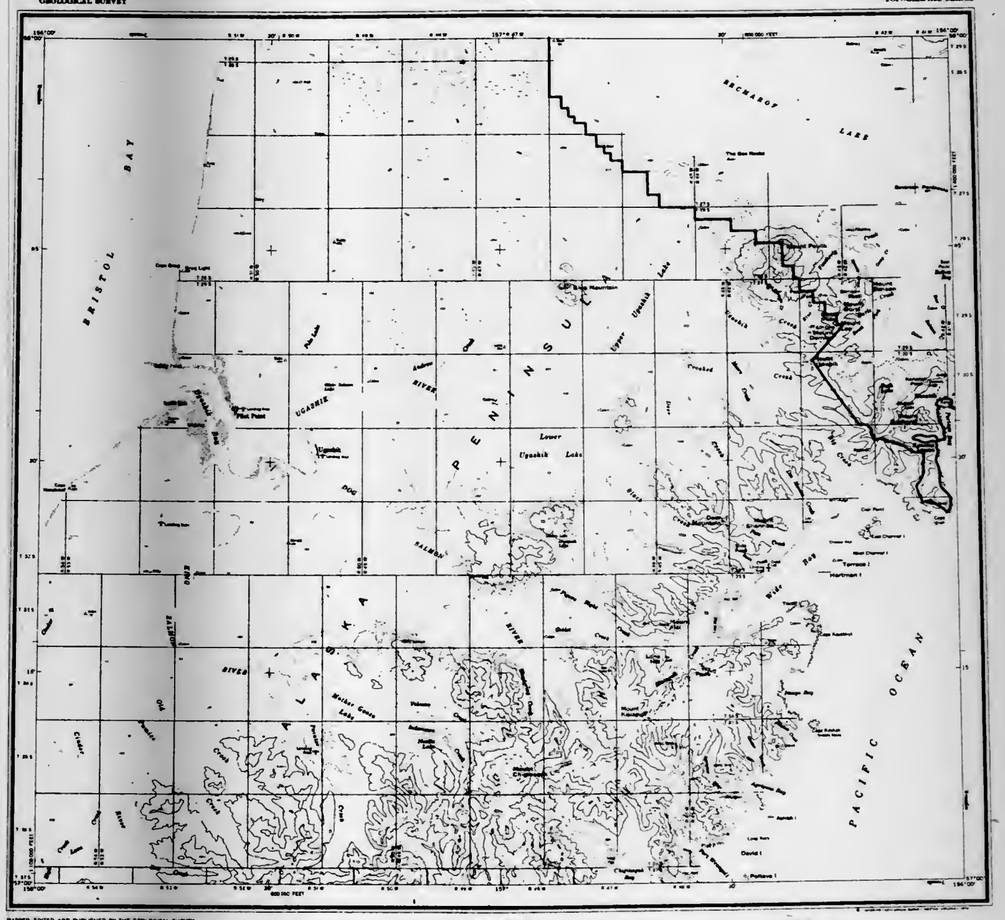
FOR SALE BY U S GEOLOGICAL SURVEY
FAIRBANKS, ALASKA 99701, DENVER COLORADO 80225, OR RESTON VIRGINIA 22092

MT. KATMAI, ALASKA
1954

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

UGASHIK

ALASKA
TOPOGRAPHIC SERIES



MAPPED, EDITED, AND PUBLISHED BY THE GEOLOGICAL SURVEY

SCALE 1:250 000

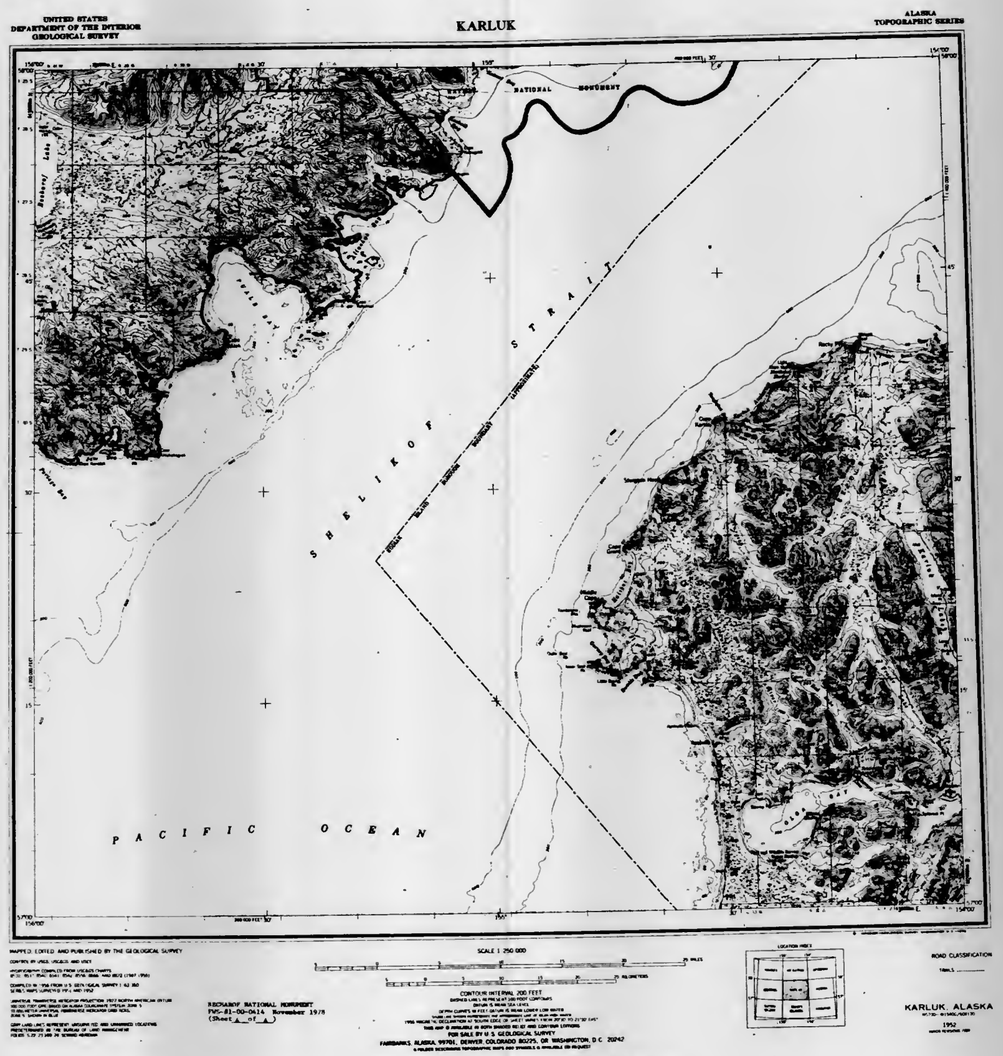
CONTOUR INTERVAL 200 FEET

RECHARGE NATIONAL MONUMENT
PWS-81-00-041B November 1978
(Sheet 3 of 4)

FOR SALE BY U S GEOLOGICAL SURVEY
FAIRBANKS, ALASKA 99701, DENVER COLORADO 80225, OR RESTON VIRGINIA 22092

UGASHIK, ALASKA
1954

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[FR Doc. 78-33988 Filed 12-1-78; 2:55 pm]

[3195-01-M]

Proclamation 4614 • **December 1, 1978**

Bering Land Bridge National Monument

By the President of the United States of America

A Proclamation

The Bering Land Bridge, now overlain by the Chukchi Sea, the Bering Sea and Bering Strait, was the migration route by which many plants, animals, and humans arrived on the North American continent. The monument hereby created has within it an invaluable record of this migration.

There are found here rich archeological sites giving evidence of human migration during the periods the Bridge was water-free. Also found are paleontological sites providing abundant evidence of the migration of plants and animals onto the continent in the ages before the human migrations. The arctic conditions here are favorable to the preservation of this paleontological record from minute pollen grains and insects to the large mammals such as the mammoth.

The monument is also the summering area for a number of Old World bird species, which feed and nest in the area. It is one of the few places in North America where ornithologists are able to study these species.

The diversity of the soils, topography, permafrost action and climate within the monument leads to an excellent representation of varied, yet interrelated tundra plant communities. Their proximity and diversity make the area a prime outdoor laboratory.

The area is also rich in volcanics. Here is the opportunity to study unique Arctic lava flows which erupted through deep permafrost. The tubes and cracks of these flows are now filled with the sheen of permanent ice. In the Devil Mountain area are the uniquely paired maar explosion craters which were formed by violent explosions resulting from the steam pressure released when the hot volcanic ejecta contacted the water and ice that covered this wetland area. These craters are now crystal clear lakes bounded by a shoreline of volcanic ash, cinders and scoria.

The land withdrawn and reserved by this Proclamation for the protection of the geological, archeological, paleontological, biological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

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NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Bering Land Bridge National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Bering Land Bridge National Monument on the map numbered BELA-90,006 attached to and forming a part of this Proclamation. The area reserved consists of approximately 2,590,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

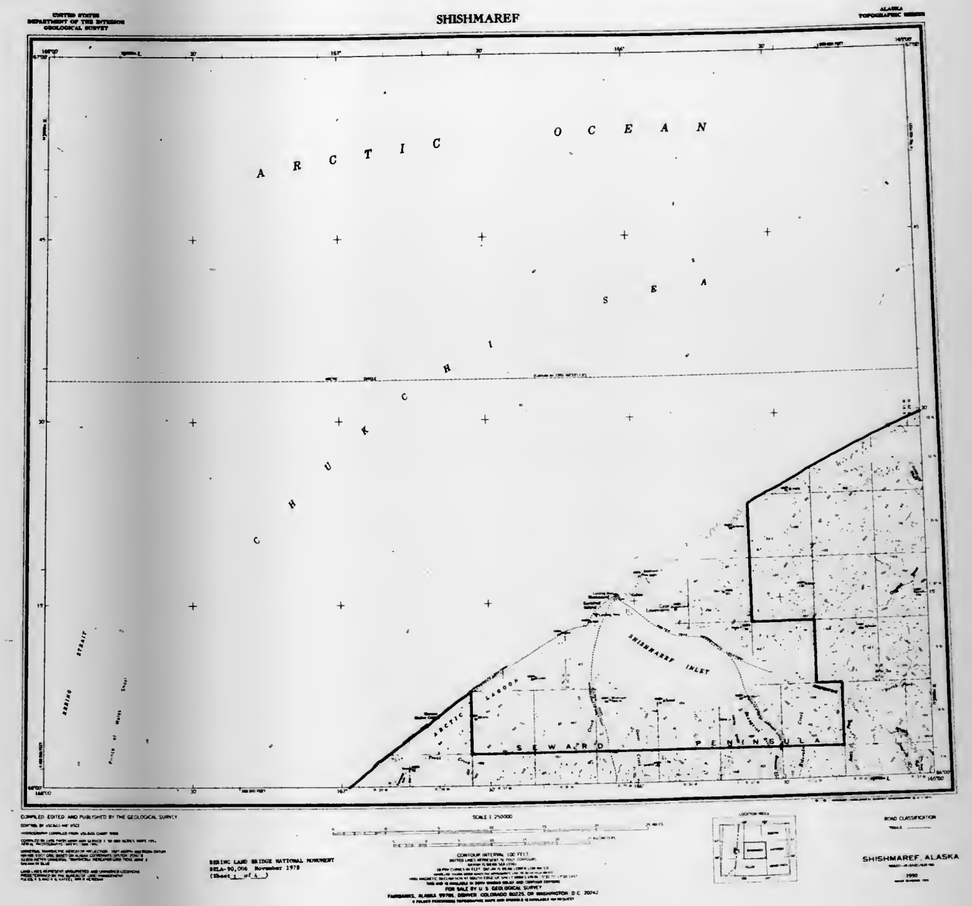
Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

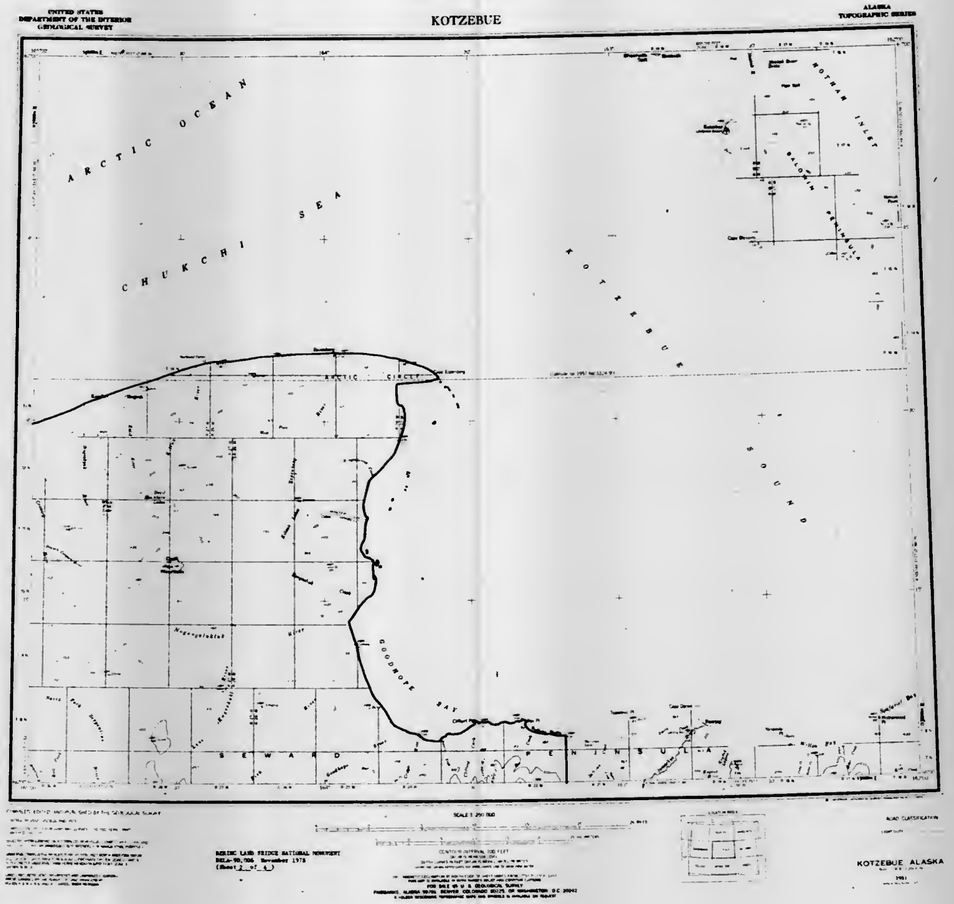
Jimmy Carter

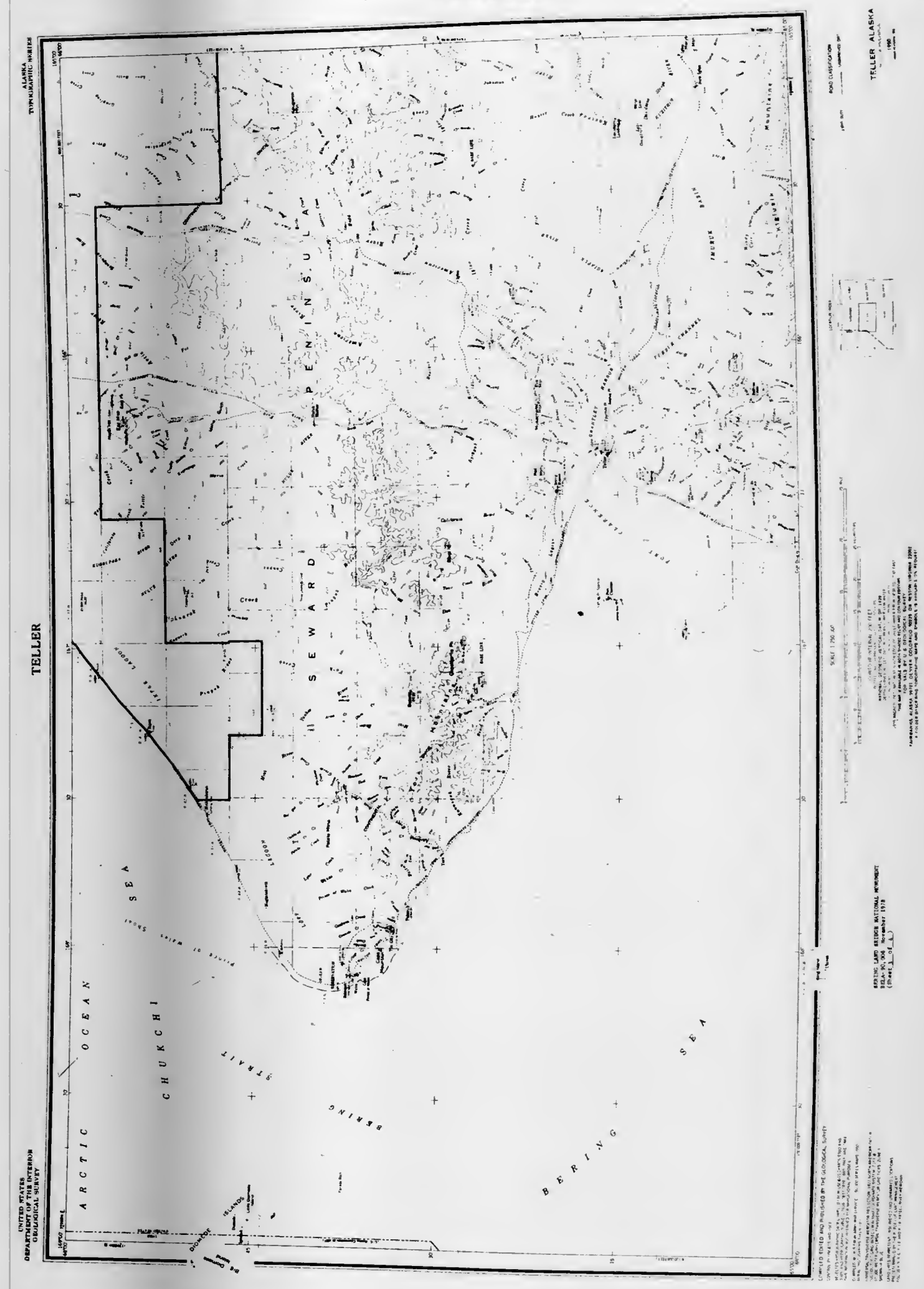
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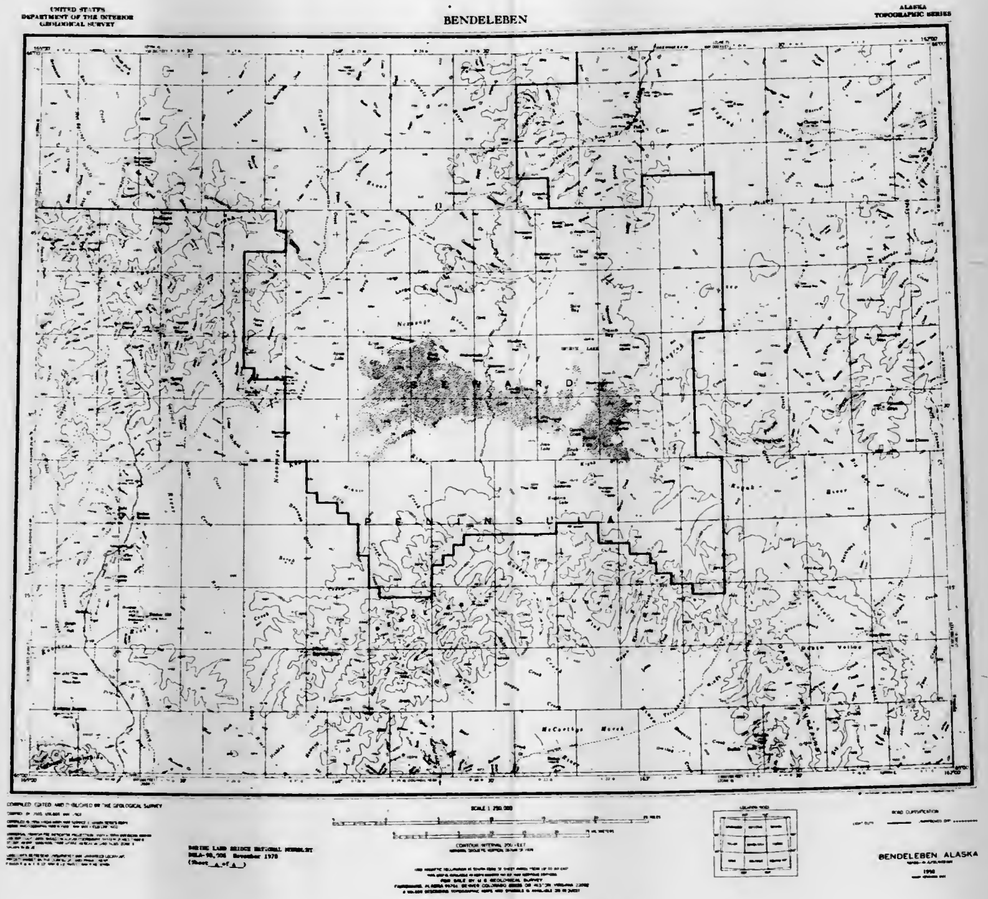


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[FR Doc. 78-33989 Filed 12-1-78; 2:56 pm]

[3195-01-M]

Proclamation 4615 • **December 1, 1978**

Cape Krusenstern National Monument

By the President of the United States of America

A Proclamation

The area of northwest Alaska known as Cape Krusenstern contains an archeological record of great significance. The Cape's bluffs and its series of one hundred fourteen horizontal beach ridges hold an archeological record of every major cultural period associated with habitation of the Alaska coastline in the last 5000 years.

The unglaciated lands lying inland, including the Kakagrak Hills, the Rabbit Creek area and others, have an older archeological record dating back to pre-Eskimo periods of at least 8000 years ago. This continuum of evidence is of great historic and scientific importance in the study of human survival and cultural evolution.

There are in this area examples of other unique natural processes. The climatological conditions are conducive to the formation of Naleds, one spectacular example of which occurs in the area. In the same inland area at Kilikmak Creek is found the only known Alaskan example of a still recognizable Illinoisian glacial esker, a formation which is over 100,000 years old.

The unique geologic process of erosion and sediment transport in this area created and continues to create the beach ridges in which is preserved the archeological record of the beach civilizations. Also found in the area is a wide variety of plant and animal species, from the marine life along the shoreline and its lagoons to the inland populations such as musk-oxen, Dall sheep, caribou and many smaller species.

The land withdrawn and reserved by this Proclamation for the protection of the geological, archeological, biological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for the local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Cape Krusenstern National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Cape Krusenstern

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National Monument on the map numbered CAKR-90,008 attached to and forming a part of this Proclamation. The area reserved consists of approximately 560,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

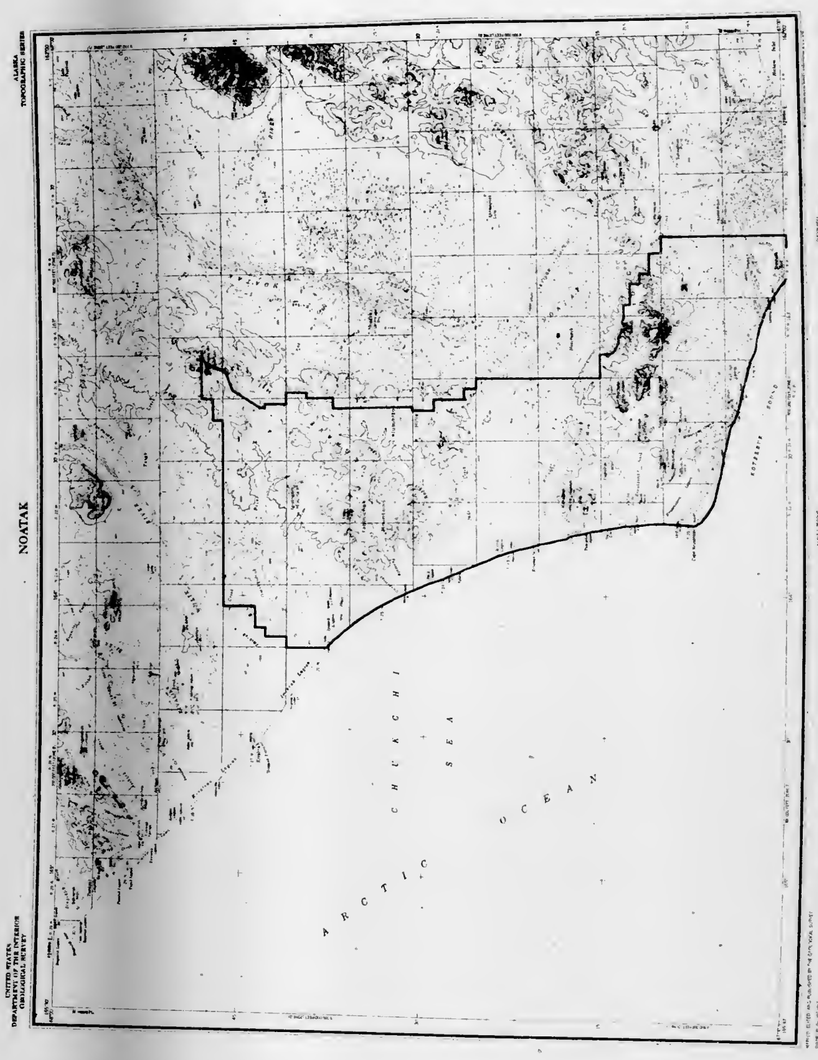
Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

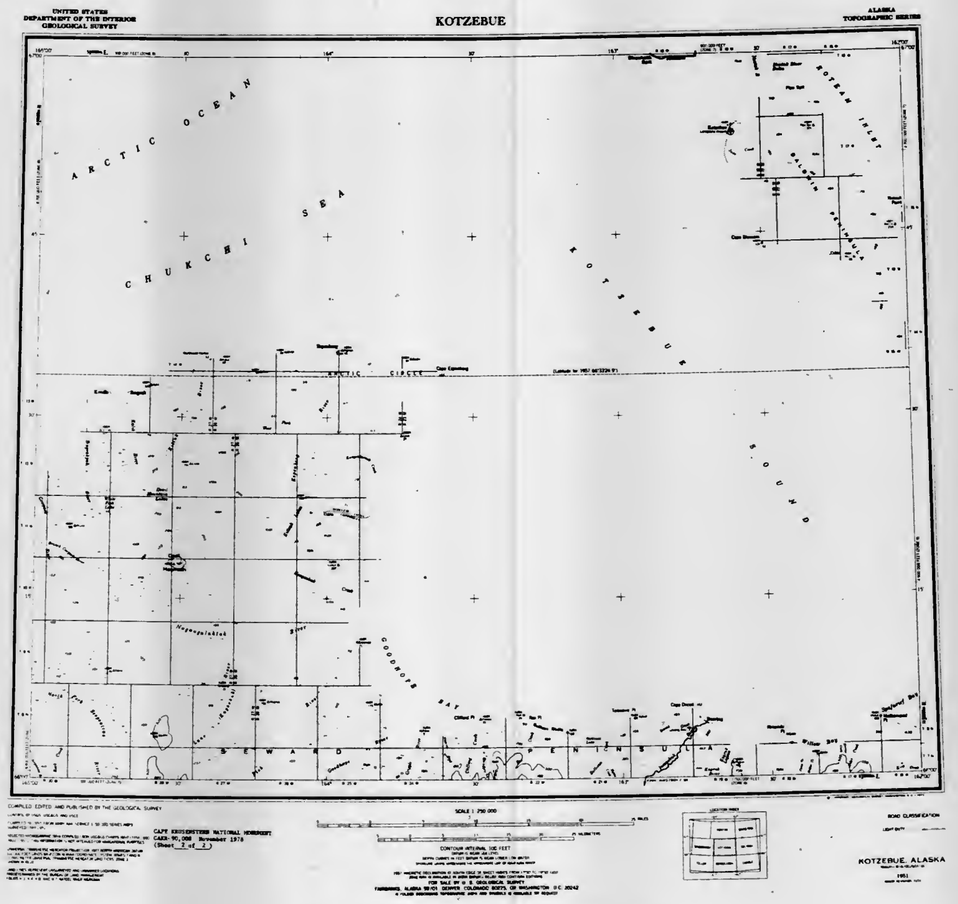
Jimmy Carter



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[3195-01-M]

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[FR Doc. 78-33990 Filed 12-1-78; 2:57 pm]

[3195-01-M]

Proclamation 4616 **December 1, 1978**

Denali National Monument

By the President of the United States of America

A Proclamation

In the creation of Mount McKinley National Park the southern half of the mountain's massif was inadvertently excluded from the Park. The creation of Denali National Monument will bring within the protection of the National Park System the entirety of this, the highest peak on the North American continent. This face markedly differs from the north side for it has a more gradual rise and a significant system of glaciers. It is also the approach route used historically by those seeking to scale Mount McKinley.

Certain of the glaciers on the south face are among the largest in Alaska, reaching up to 45 miles in length. Yet, only the very uppermost parts are presently within the National Park. Their protection is enhanced by the creation of this monument.

In the southwest area of the monument hereby created are the geologically unique Cathedral Spires. From this granitic pluton mass radiate eight major glacial troughs exhibiting cirques and headwalls rising 5,000 feet from their bases.

The monument also protects significant habitat for the McKinley caribou herd which has provided a basis for scientific study since the early twentieth century. Associated with the herd in this ecosystem are other scientifically important mammals such as grizzly bear, wolf and wolverine.

The Toklat River region includes a unique area of warm springs which attracts an unusual late run of Chum salmon. This run provides an important late fall food source for the grizzly bear population of the area which, because of its accessibility, has been the subject of many scientific studies.

The land withdrawn and reserved by this Proclamation for the protection of the geological, biological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for the local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Denali National Monument all lands, including

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submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Denali National Monument on the map numbered DENA–90,007 attached to and forming a part of this Proclamation. The area reserved consists of approximately 3,890,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquistion of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

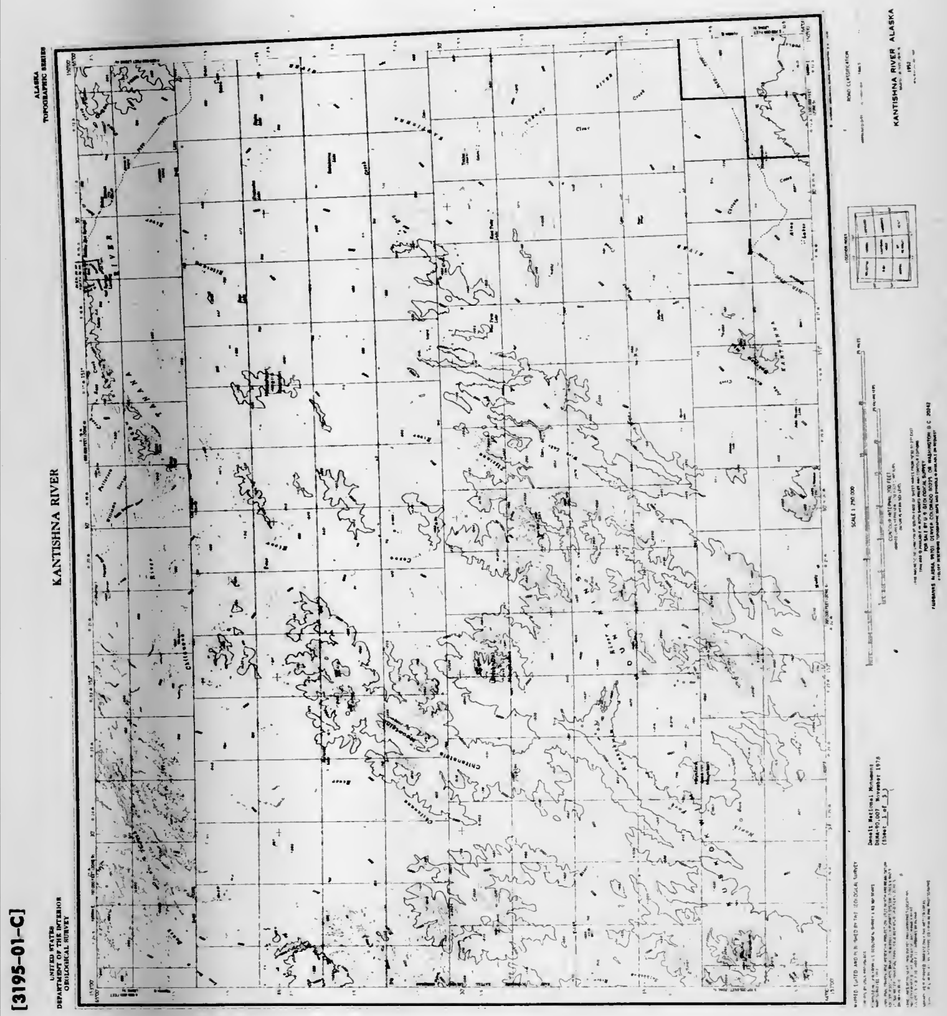
Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A–48–72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

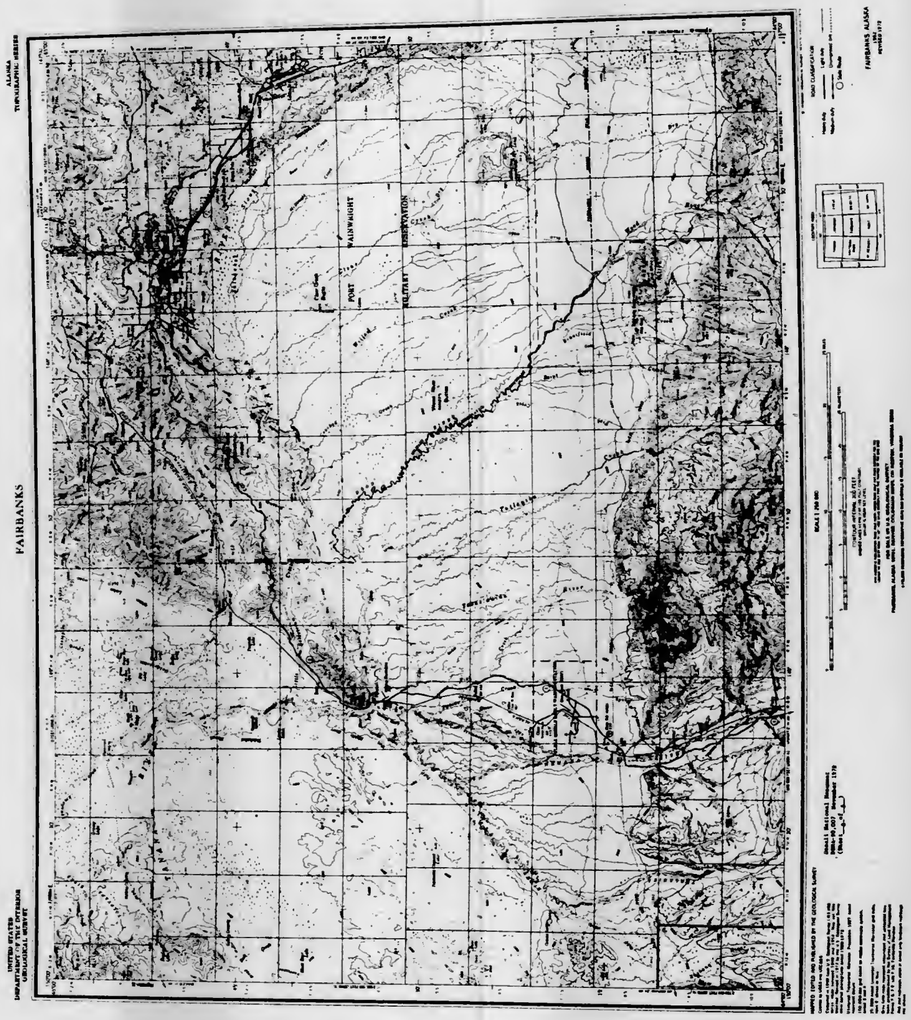
Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

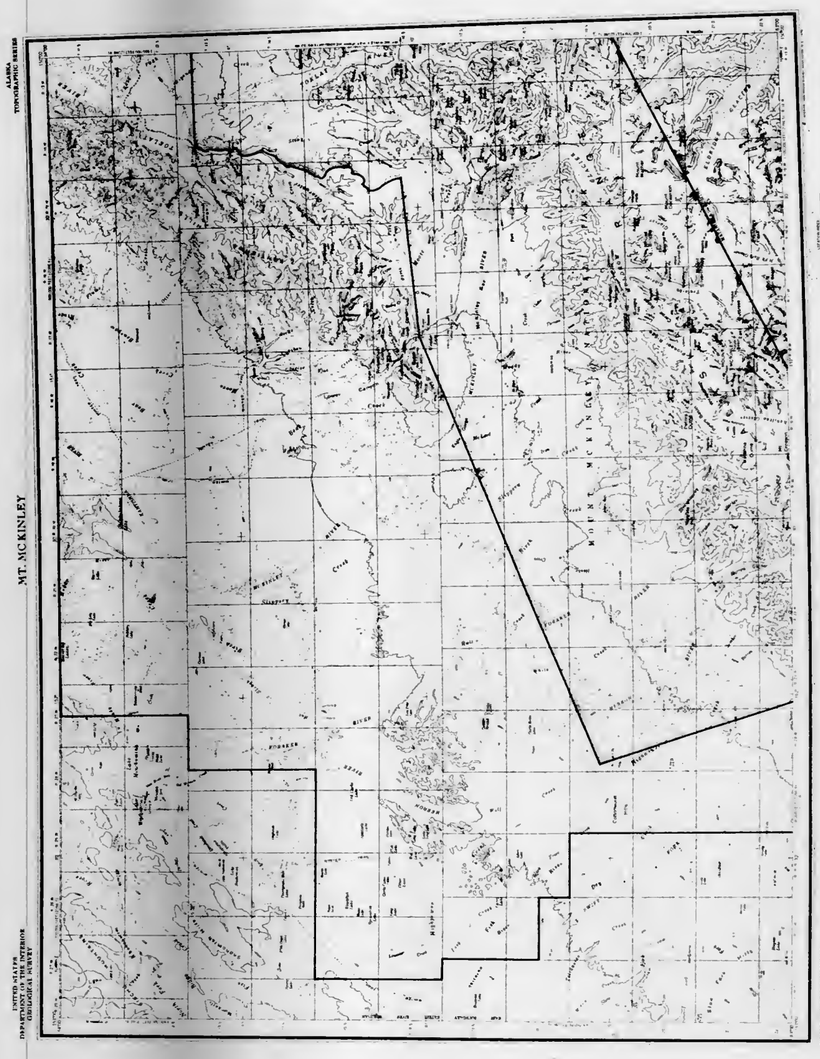
IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter



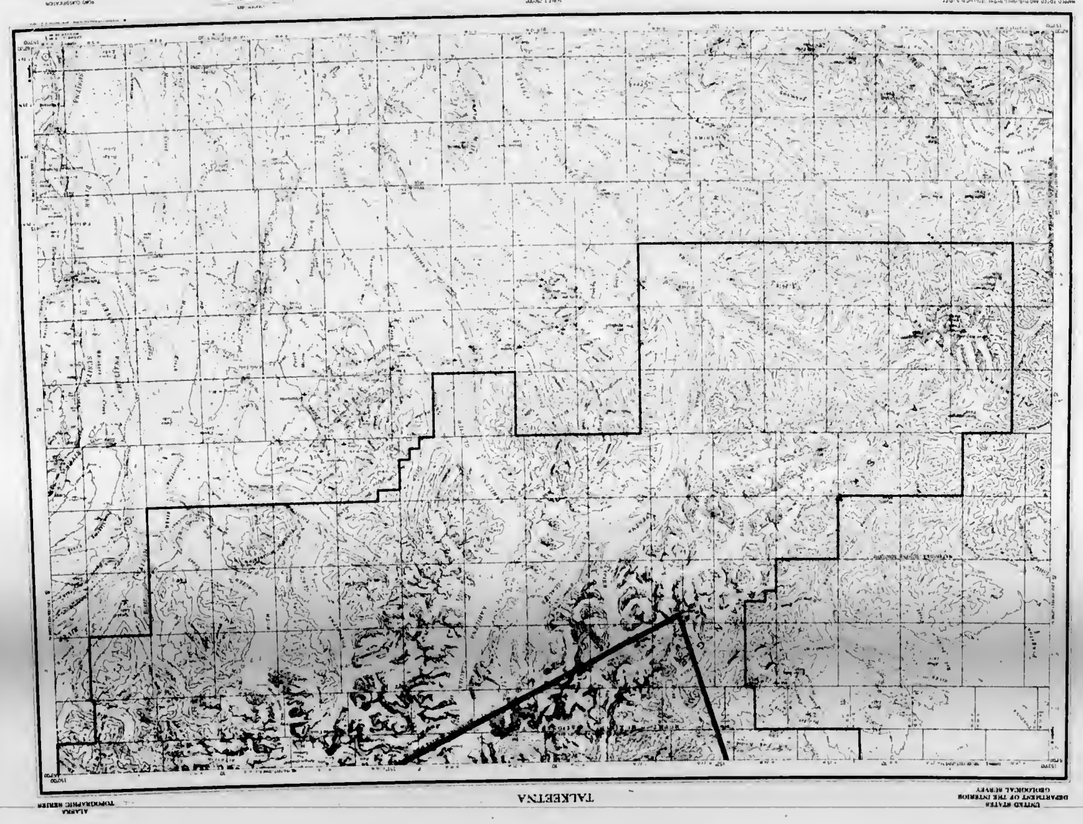
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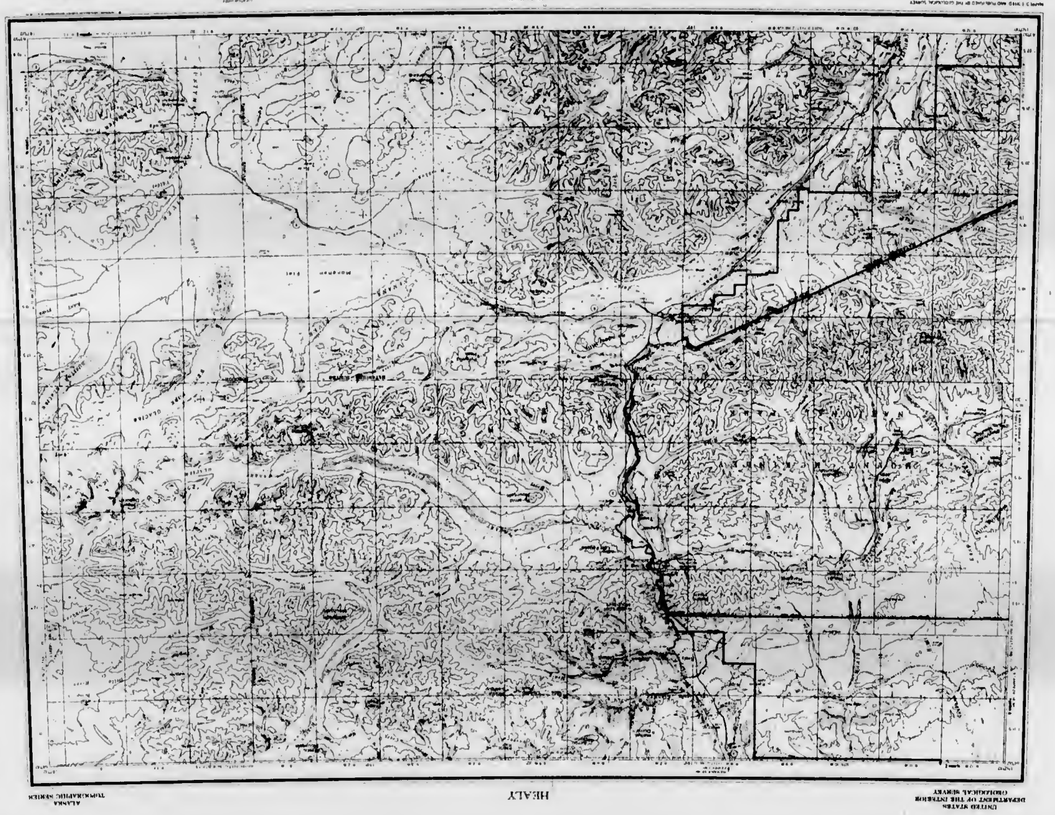


[FR Doc. 78-33991 Filed 12-1-78; 2:58 pm]

FEDERAL REGISTER, VOL. 43, NO. 234—TUESDAY, DECEMBER 5, 1978



FEDERAL REGISTER, VOL. 43, NO. 234—TUESDAY, DECEMBER 5, 1978



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Proclamation 4617 • **December 1, 1978**

Gates of the Arctic National Monument

By the President of the United States of America

A Proclamation

Lying wholly north of the Arctic Circle, the Gates of the Arctic National Monument hereby created preserves an area containing a wide variety of interior arctic geological and biological forms. The essence of the geology of the area is its great diversity. There are excellent examples of glacial action which formed U-shaped valleys and morraine-dammed lakes. In contrast are the fissure-shaped precipices of Ernie Creek and the tilted limestone blocks along the northern edge of the Brooks Range.

Associated with these various land forms is a progression of ecosystems representing a continuum of communities from the boreal spruce forest and riparian shrub thickets in the south to the arctic tussock tundra in the north. These communities of plants and undisturbed animals offer excellent opportunities for study of natural interaction of the species.

The monument also protects a substantial portion of the habitat requirements for the Western Arctic caribou herd which uses ancient routes through the mountains for migration. This herd, which has suffered severe population losses recently, is of great value for the study of the population dynamics relating to both the decline and recovery of the herd.

The archeological and historical significance of the area is demonstrated by the studies which have revealed evidence of human habitation for approximately 7,000 years. Several known traditional Indian-Eskimo trade routes run through the monument area giving the promise of further important archeological discoveries. In the Wiseman and Ernie's Cabin mining regions in the south are offered opportunities for historical study of the life of the Alaskan pioneer miner of the early twentieth century.

The land withdrawn and reserved by this Proclamation for the protection of the biological, geological, archeological, historical, and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends upon subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of

[3195-01-C]

V 43/234 DEC 5 78 UMI

June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Gates of the Acrtic National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Gates of the Arctic National Monument on the map numbered GAAR-90,011 attached to and forming a part of this Proclamation. The area reserved consists of approximately 8,220,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the united States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*)., and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

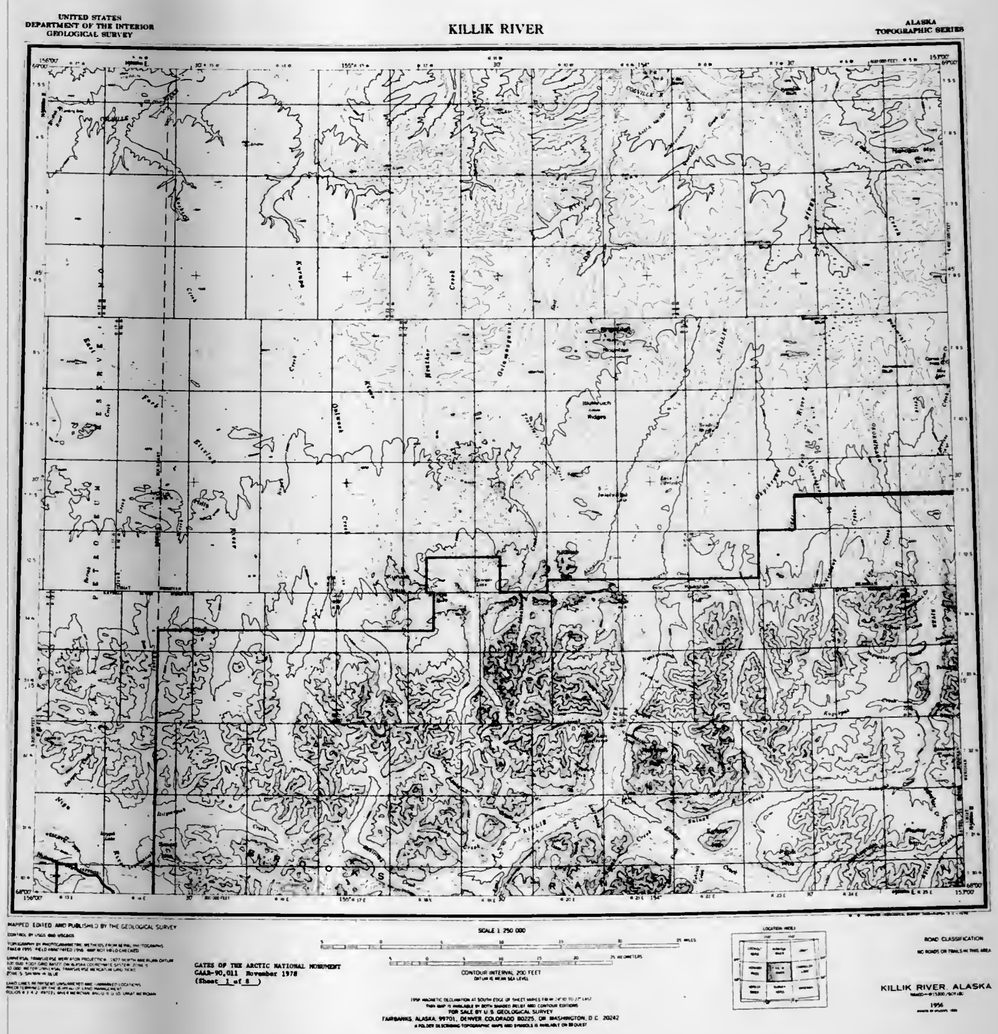
The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[3195-01-C]



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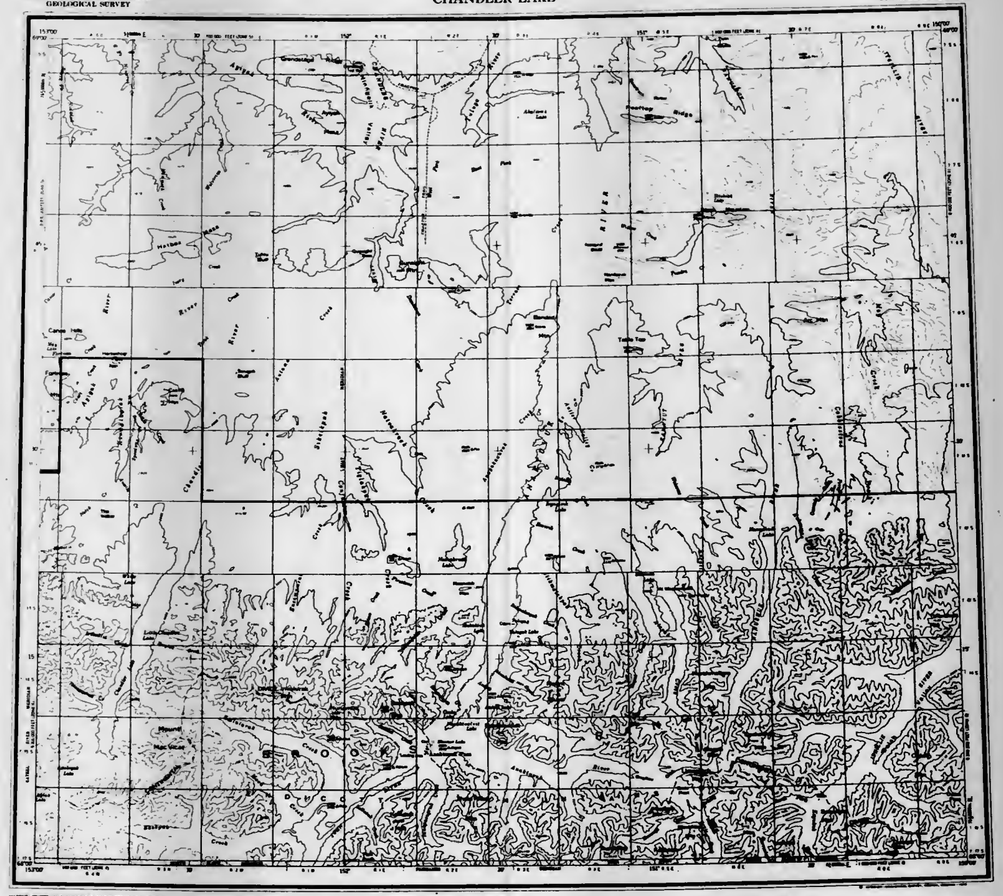
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UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

CHANDLER LAKE

ALASKA
TOPOGRAPHIC SERIES



MAPPED, EDITED, AND PUBLISHED BY THE GEOLOGICAL SURVEY

SCALE 1 250000

CONTOUR INTERVAL 200 FEET

GATES OF THE ARCTIC NATIONAL MONUMENT
GAAR-TP, 011 November 1978
(Sheet 2 of 6)

ROAD CLASSIFICATION

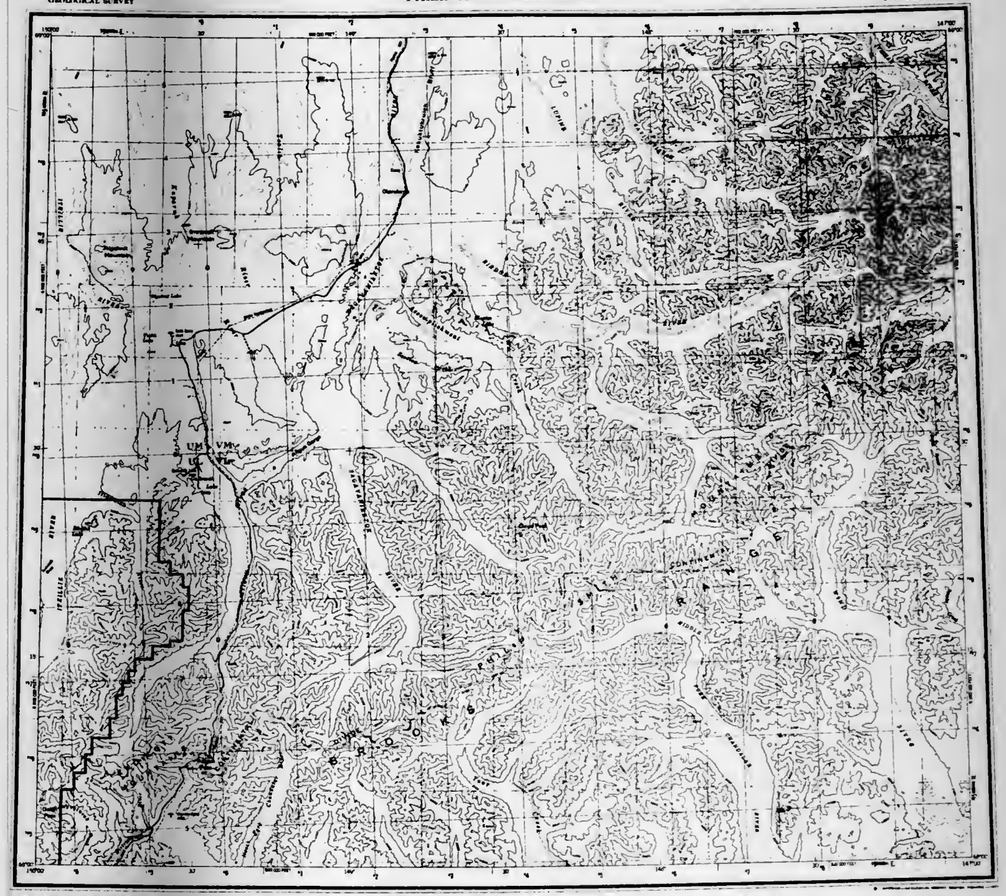
CHANDLER LAKE, ALASKA

1956

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

PHILIP SMITH MOUNTAINS

ALASKA
TOPOGRAPHIC SERIES



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SCALE 1 250000

CONTOUR INTERVAL 200 FEET

GATES OF THE ARCTIC NATIONAL MONUMENT
GAAR-TP, 011 November 1978
(Sheet 1 of 6)

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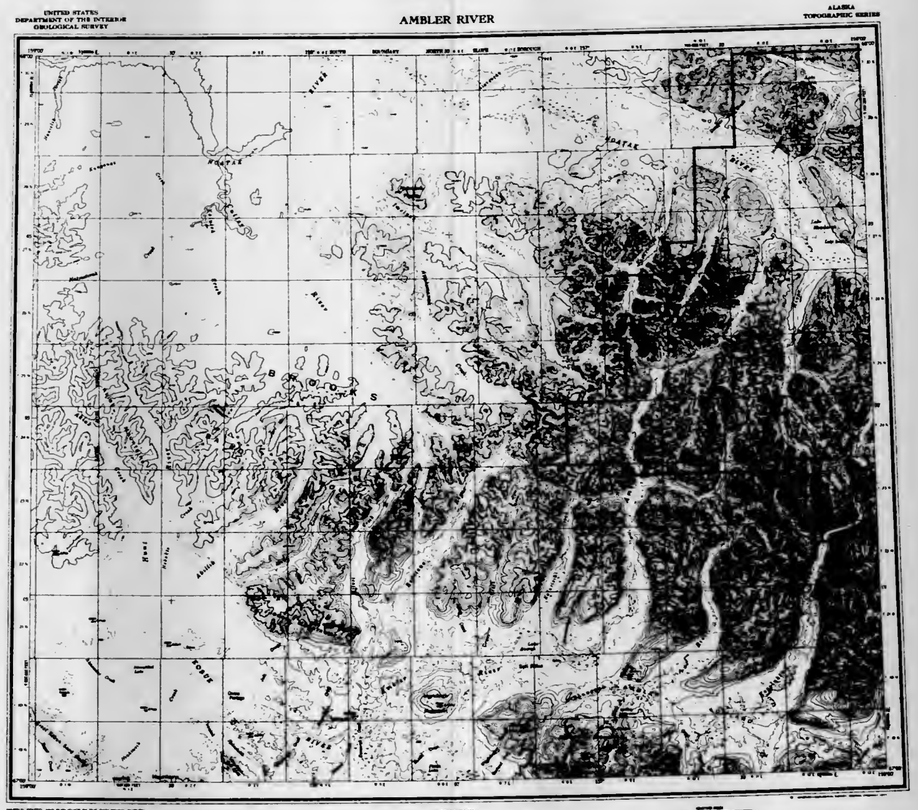
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UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

AMBLER RIVER

ALASKA
TOPOGRAPHIC SERIES



MAPPED, EDITED, AND PUBLISHED BY THE GEOLOGICAL SURVEY

SCALE 1:250000

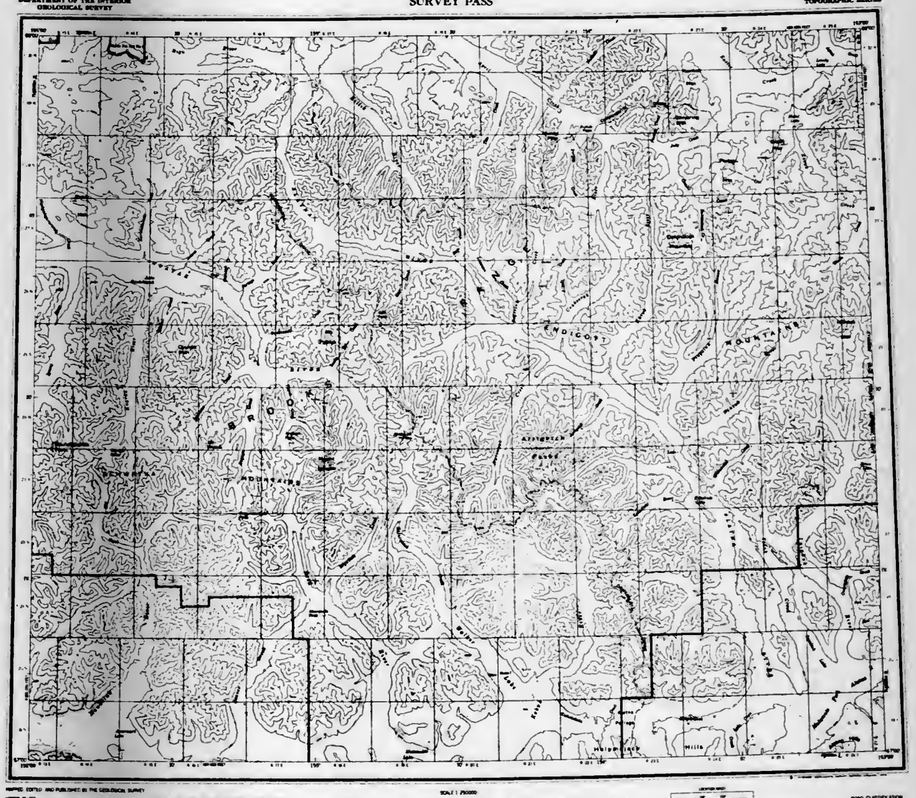
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AMBLER RIVER, ALASKA

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

SURVEY PASS

ALASKA
TOPOGRAPHIC SERIES



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SCALE 1:250000

ROAD CLASSIFICATION

SURVEY PASS, ALASKA

UNITED STATES
DEPARTMENT OF THE INTERIOR

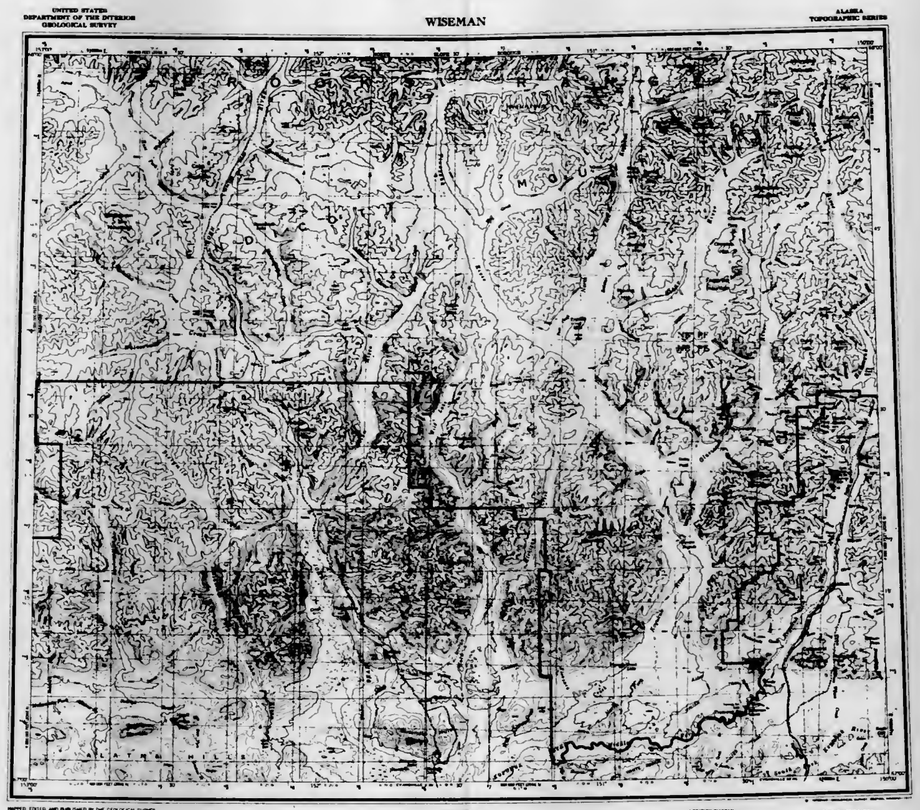
ALASKA
TOPOGRAPHIC SERIES

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

CHANDALAR

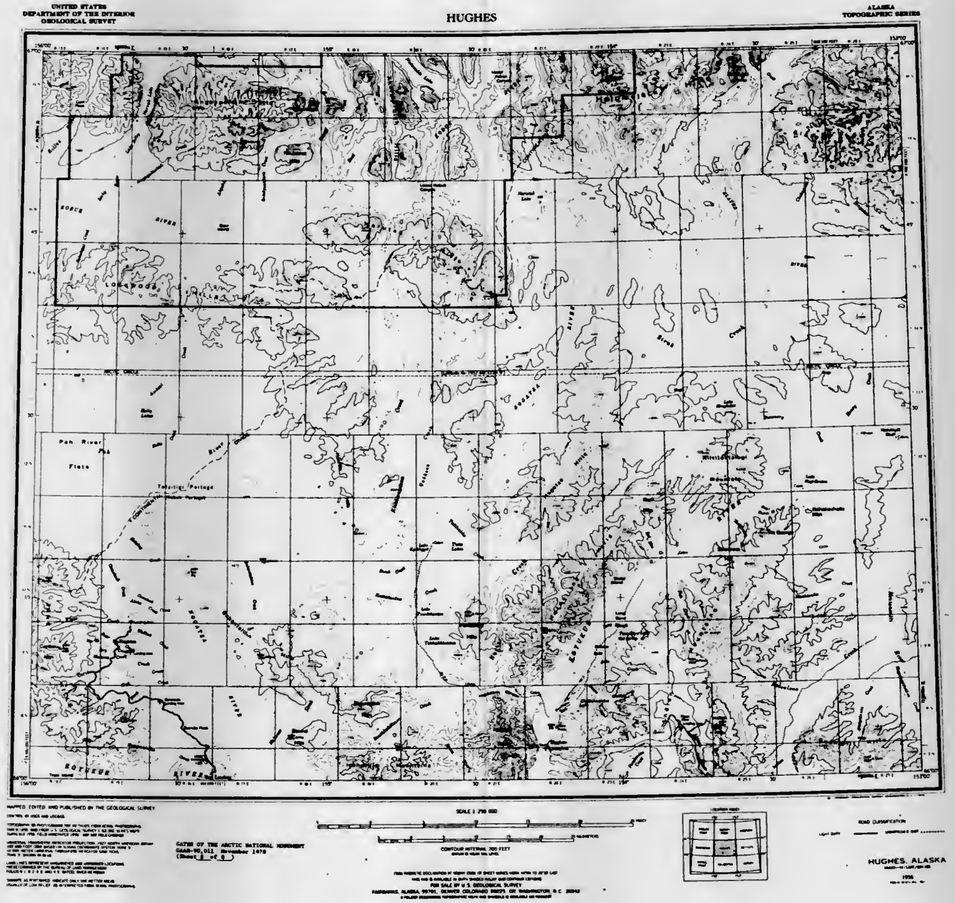
ALASKA
TOPOGRAPHIC SERIES

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[FR Doc. 78-33992 Filed 12-1-78; 2:59 pm]

[3195-01-M]

Proclamation 4618 • **December 1, 1978**

Enlarging the Glacier Bay National Monument

By the President of the United States of America

A Proclamation

Glacier Bay National Monument was created by Presidential Proclamation in 1925 and was enlarged in 1939 and again in 1955. It protects the great tidewater glaciers and a dramatic range of plant communities. The enlargement accomplished by this Proclamation furthers the protection of the array of geological and ecological interests in the area.

This addition includes the northwesterly side of Mount Fairweather, the highest peak in this part of Alaska, and the Grand Plateau Glacier, both significant to students of glaciology.

The Alsek River corridor provides the only pass through the coastal mountain range for 120 miles. This is the route by which large mammals first entered this isolated area and is used by a significant percentage of the Alaska bald eagle population en route to the Klukwan area where they winter.

The addition also protects two botanically significant areas. In the hills flanking Grand Plateau Glacier live the oldest plant communities in southeast Alaska which survive because the area escaped both glaciation and inundation. Also important to the study of ecological succession are the mature aquatic vegetative communities of the pre-neoglacial lakes in the Deception Hills area.

The land withdrawn and reserved by this Proclamation for the protection of the geological, biological, and other phenomena enumerated above supports now, as it has in the past, a unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the area added to the Glacier Bay National Monument by this Proclamation.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved for inclusion in the Glacier Bay National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Enlargement of Glacier Bay National Monument on the map numbered GLBA-90,005 attached to and forming a part of this Proclamation. The area reserved consists of approximately 550,000 acres, and is necessary to ensure the proper

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care and management of the objects the monument was established to preserve and those added by this Proclamation. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this addition are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this addition is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act, (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Furthermore, nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A–48–72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close this addition, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

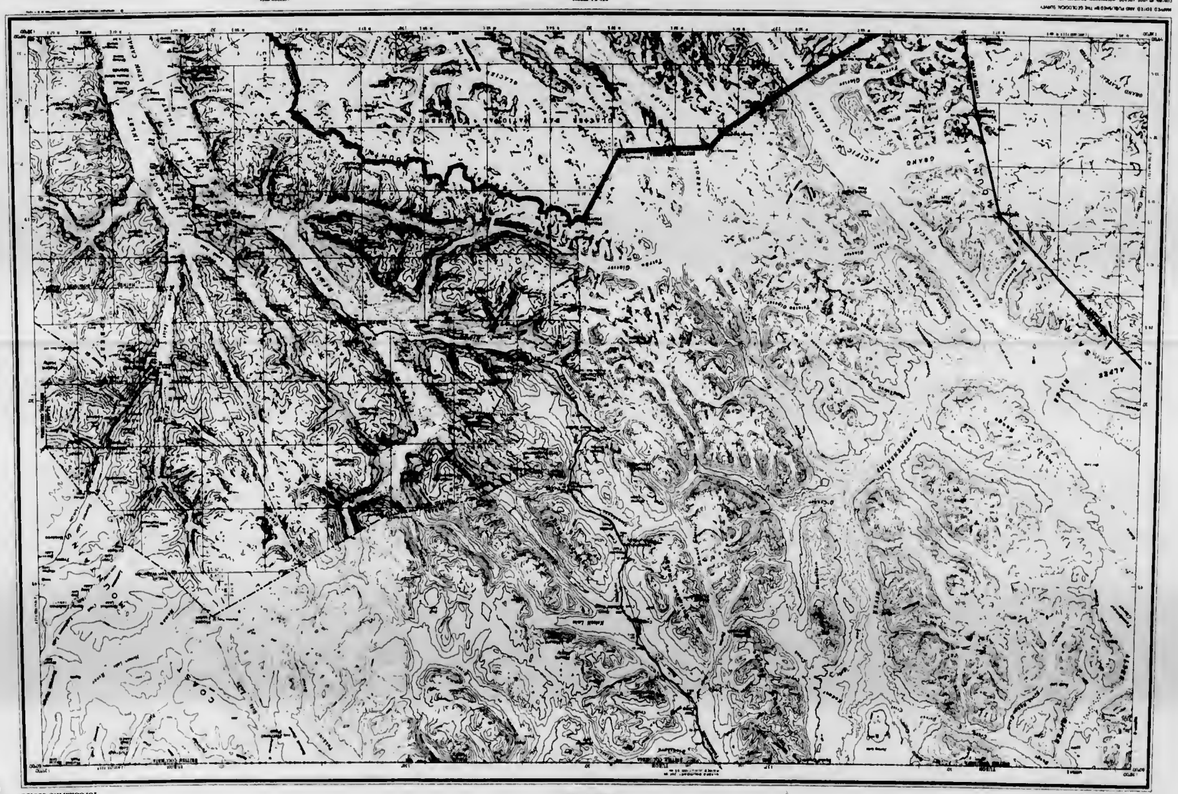
Jimmy Carter



[3195–01–C]

[FR Doc. 78-33993 Filed 12-1-78; 3:00 pm]





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[3195-01-M]

Proclamation 4619 **December 1, 1978**

Enlarging the Katmai National Monument

By the President of the United States of America

A Proclamation

In 1912, Mount Katmai gave vent to an extremely violent volcanic eruption. To preserve this excellent example of recent volcanism and ash deposition, Katmai National Monument was established in 1918. In the ensuing years it was recognized that in addition to the volcanoes, the area included a significant population of Alaskan brown bear and important spawning grounds for the Bristol Bay red salmon. The area was enlarged in view of these features in 1931, 1942 and 1969.

Continued research has revealed that the bear population is more mobile than originally believed. By the addition made hereby, a viable gene-pool population of the Alaskan brown bear can be protected free from human harassment. The addition closes a fifteen mile gap between the former monument boundary and the McNeil River State Game Sanctuary thereby completing the protection of the range of this population of the world's largest carnivore.

The enlargement also protects the headwaters of the drainages which provide the spawning grounds for the red salmon. By protecting the quality of the water in these watersheds, the drama of the salmon run, a phenomenon of great scientific interest over the years, may be perpetuated.

The land withdrawn and reserved by this Proclamation for the protection of the biologic and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein, because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the area added to Katmai National Monument by this Proclamation.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved for inclusion in the Katmai National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Enlargement of Katmai National Monument on the map numbered KATM-90,007 attached to and forming a part of this Proclamation. The area reserved consists of

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approximately 1,370,000 acres, and is necessary to ensure the proper care and management of the objects the monument was established to preserve and those added by this Proclamation. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this addition are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this addition is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

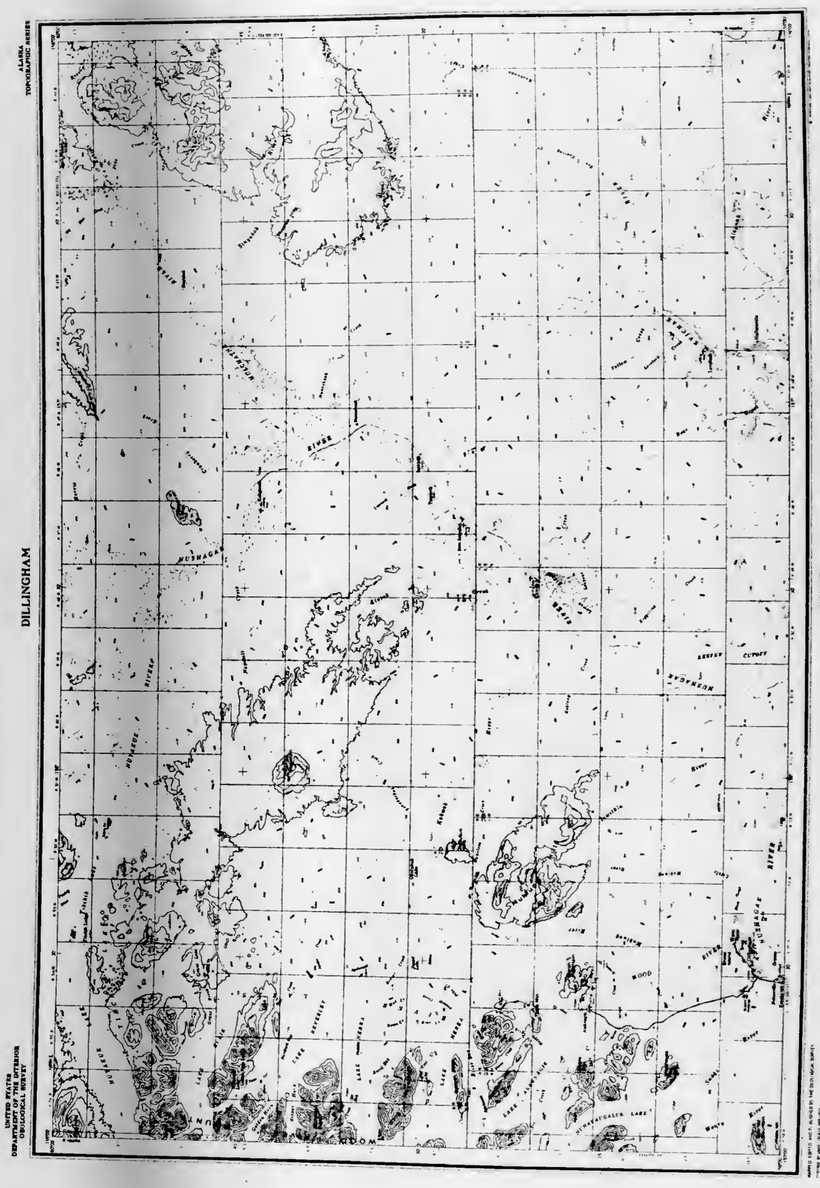
Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Furthermore, nothing in this Proclamation is intended to modify, revoke or abrogate the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close this addition, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

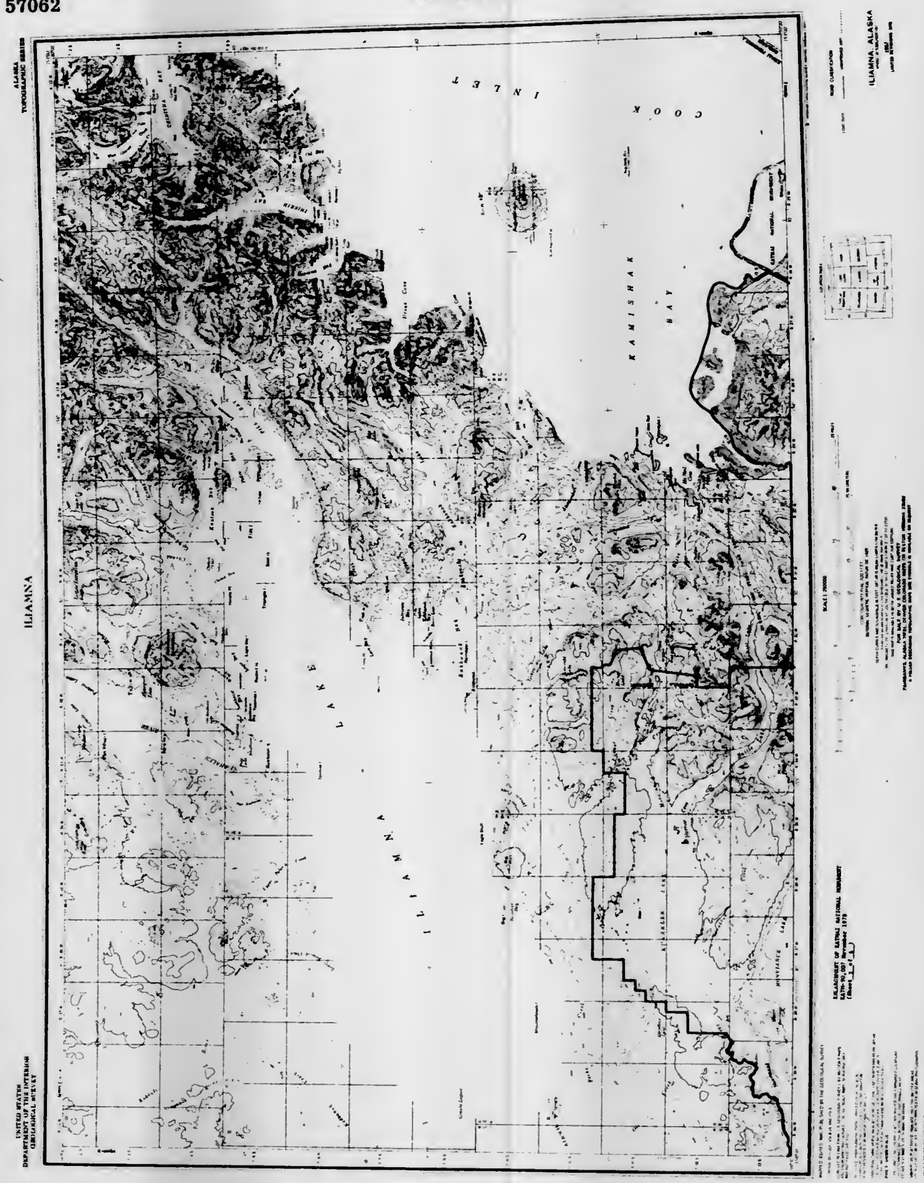
Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

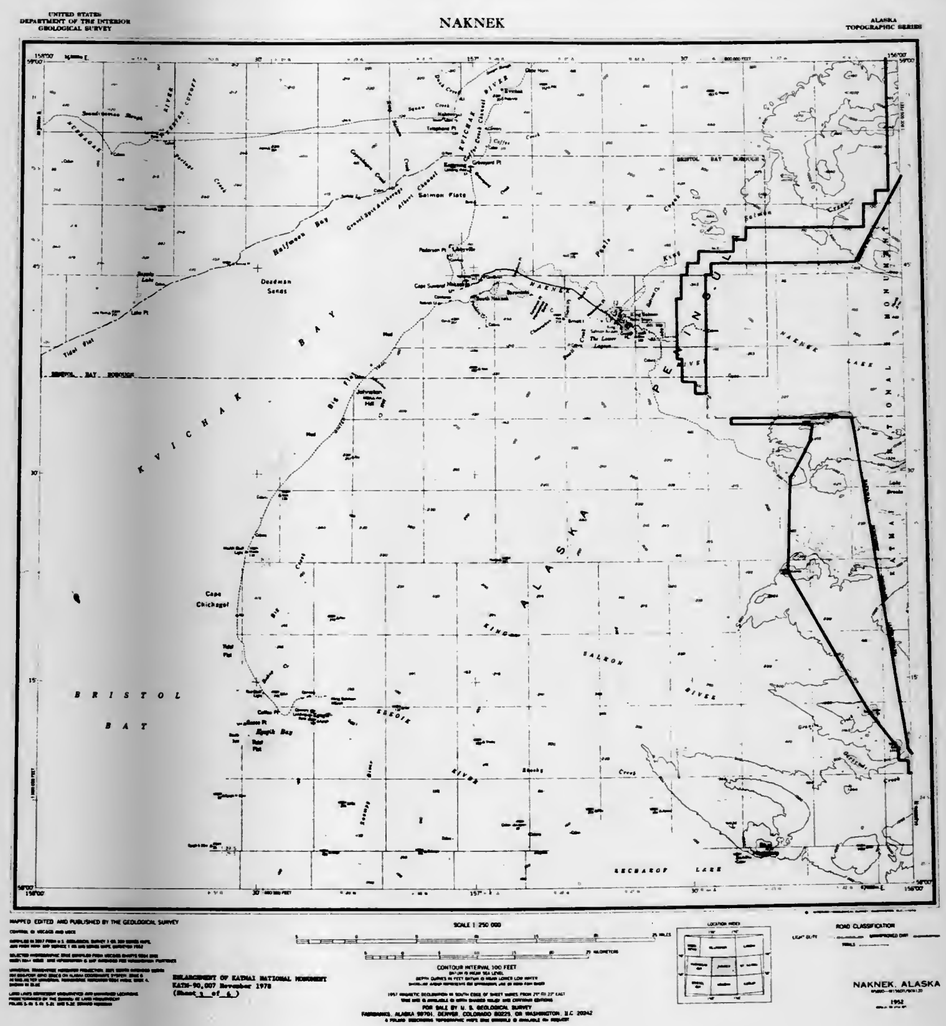
IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

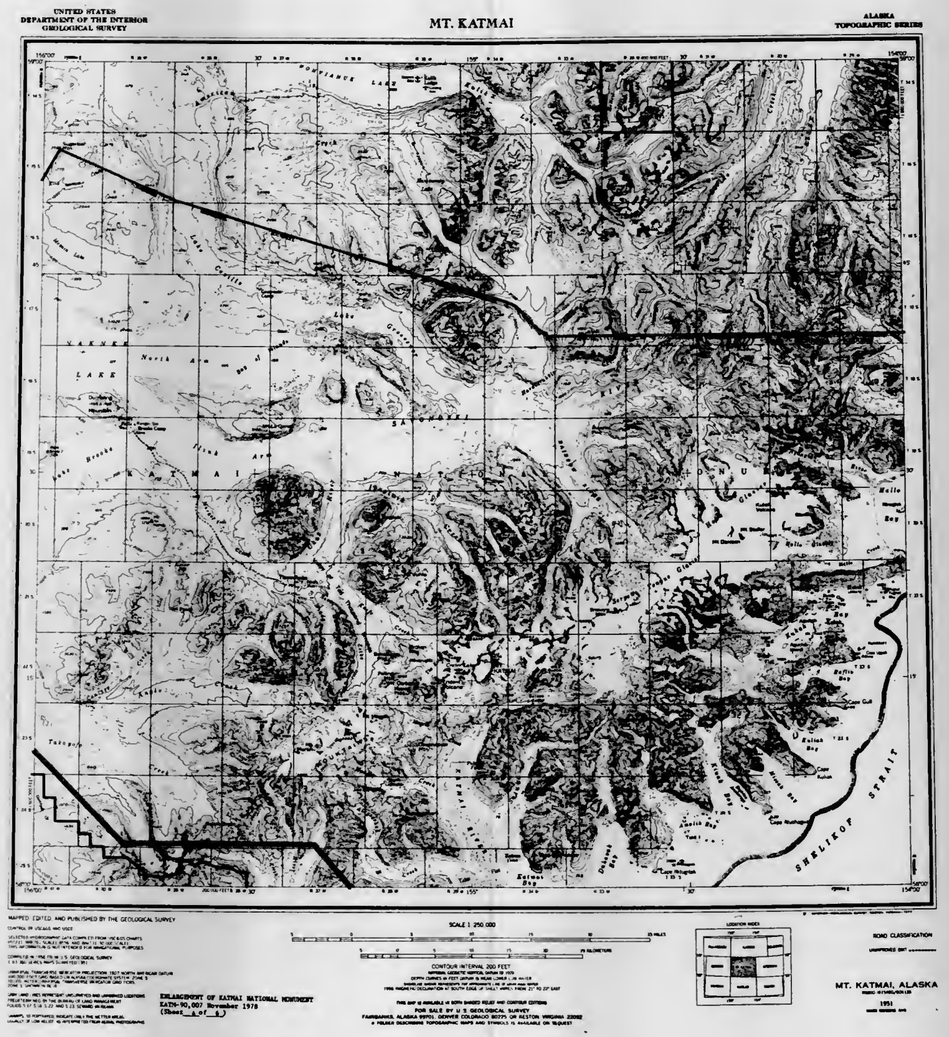


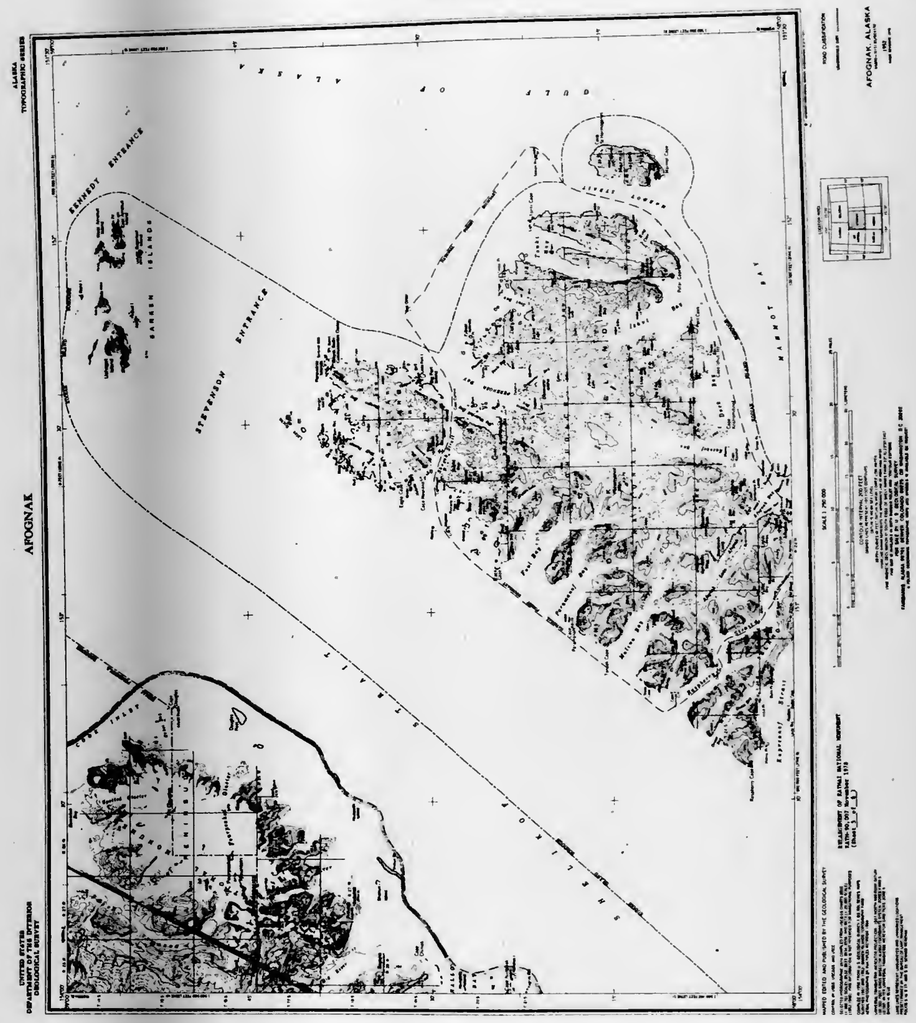
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[3195-01-M]

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[FR Doc. 78-33994 Filed 12-1-78; 3:01 pm]

[3195-01-M]

Proclamation 4620 **December 1, 1978**

Kenai Fjords National Monument

By the President of the United States of America

A Proclamation

Kenai Fjords National Monument borders the Gulf of Alaska and includes the Harding Icefield and extensions of mountain peaks out into the sea. The area holds a significant opportunity for geologic study of mountain building and for scientific study of ecological variations from an icecap environment to a marine shoreline environment.

The Harding Icefield, one of the Nation's major icecaps, continues to carve deep glacial valleys through the Kenai Mountains. The mountains themselves illustrate tectonic movement through uplift and subsidence over geologic time. Former alpine valleys are now fjords, and former mountain peaks are now tips of islands and vertical sea stacks.

Between the fjords, richly varied rain forest habitats offer opportunities to study life forms adaptable to the wet coastal environment. On the land these include mountain goat, black bear, otter, ptarmigan, and bald eagle. The area is extremely rich in sea bird life of interest to ornithologists and in marine mammals which come to feed in the fjords from their hauling and resting places on nearby islands. The recovery of the sea otter population from almost total extermination to relatively natural populations in this area is of continuing scientific interest.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Kenai Fjords National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as Kenai Fjords National Monument on the map numbered KEFJ-90,008 attached to and forming a part of this Proclamation. The area reserved consists of approximately 570,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care

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and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A–48–72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter



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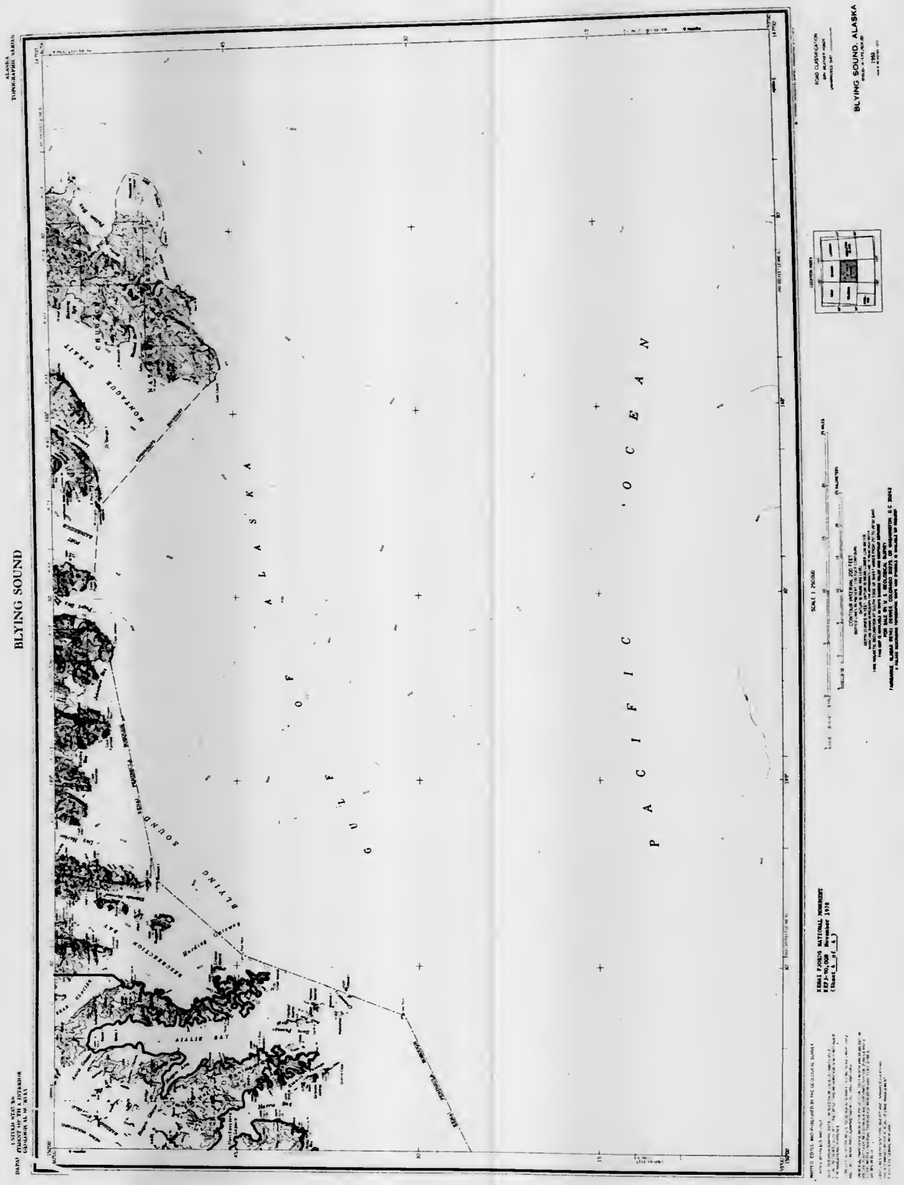
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[FR Doc. 78-33995 Filed 12-1-78; 3:02 pm]

FEDERAL REGISTER, VOL. 43, NO. 234—TUESDAY, DECEMBER 5, 1978

[3195-01-M]

Proclamation 4621 • **December 1, 1978**

Kobuk Valley National Monument

By the President of the United States of America

A Proclamation

The Kobuk Valley and its environs, an area located in the northwest interior of Alaska, contains important archeological data and biological and geological features of great scientific significance.

Archeological features within the area illustrate an unbroken continuum of human adaptation to the natural environment from the early pre-Eskimo people of 10,500 years ago to present-day local residents. Scientists recently discovered more than 100 dwellings occupied in about 1250 A.D., comprising the largest settlement of its kind. The Onion Portage Archeological District is located within the area, and is listed on the National Register of Historic Places. Archeological research at Onion Portage has yielded evidence of more than 10,000 years of human occupation.

The area contains the Great and Little Kobuk Sand Dunes, which lie north of the Arctic Circle and include both active and stabilized dunes. Scientific studies of the dunes show them to be older than 33,000 years, and several plants have been found in association with the dunes environment which are scientifically unusual in the area. The Great Kobuk Sand Dunes attain a height of 100 feet.

The inclusion of the watersheds on the north and south of the Kobuk River protects a uniquely representative series of interrelated plant communities. There is here an essentially unspoiled laboratory for the study of the northern boreal forest.

A rich variety of wildlife also occurs within the area. Major portions of the northwest arctic caribou herd move through the area in spring and fall migrations. The area also includes one of only two significant populations of the Alaskan sheefish. The water environment is habitat for nesting waterfowl, moose, and muskrat. A relatively dense population of grizzly and black bears, wolf, wolverine, fox, otter, and other northern furbearing mammals range over the entire area.

The land withdrawn and reserved by this Proclamation for the protection of the archeological, geological, biological, and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with these objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is one of the values to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases

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shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Kobuk Valley National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Kobuk Valley National Monument on the map numbered KOVA-90,010 attached to and forming a part of this Proclamation. The area reserved consists of approximately 1,710,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

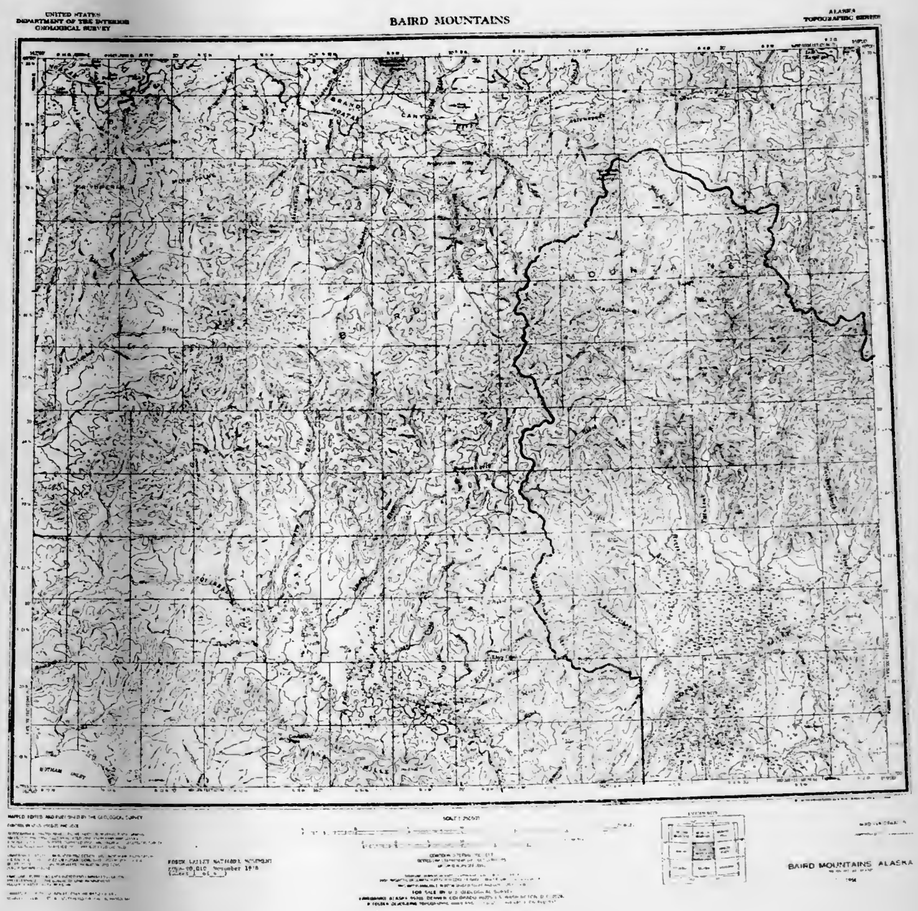
The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

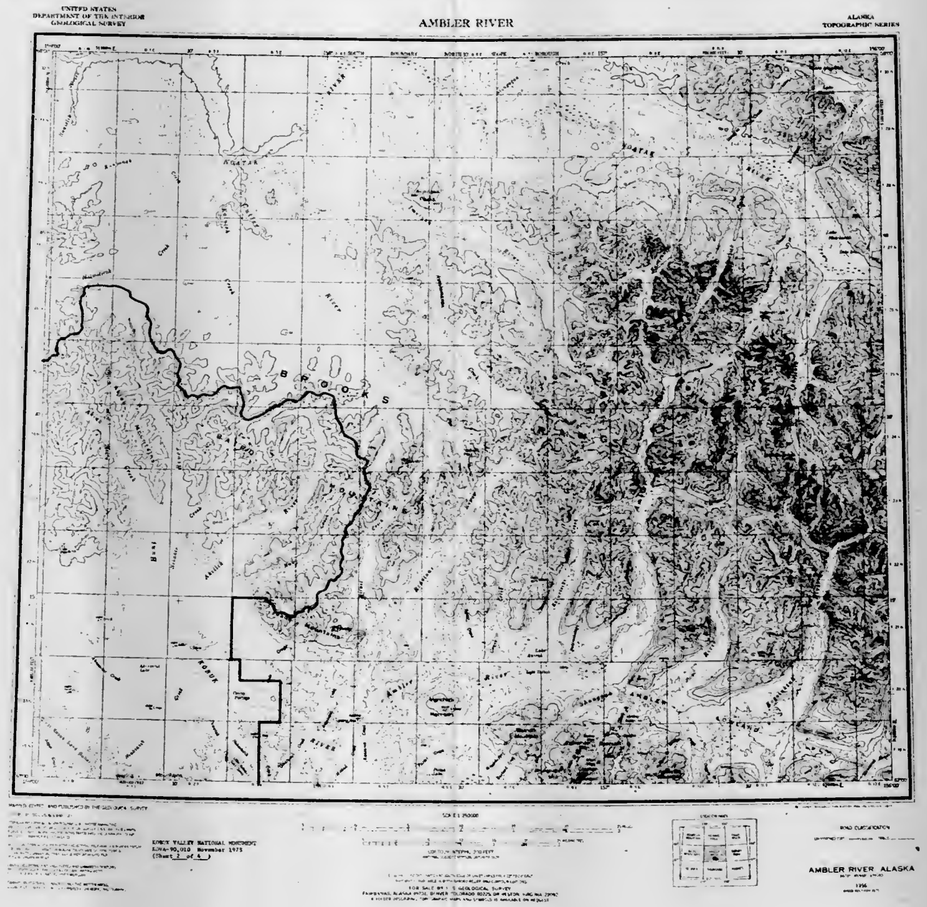
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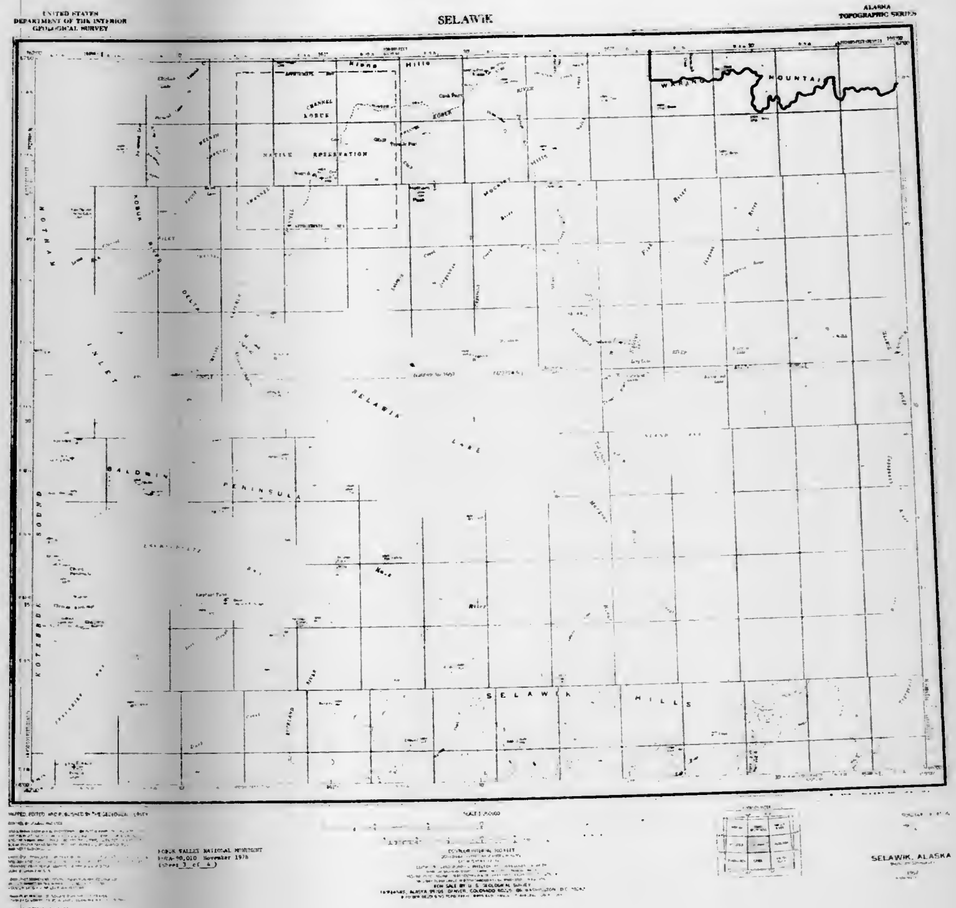


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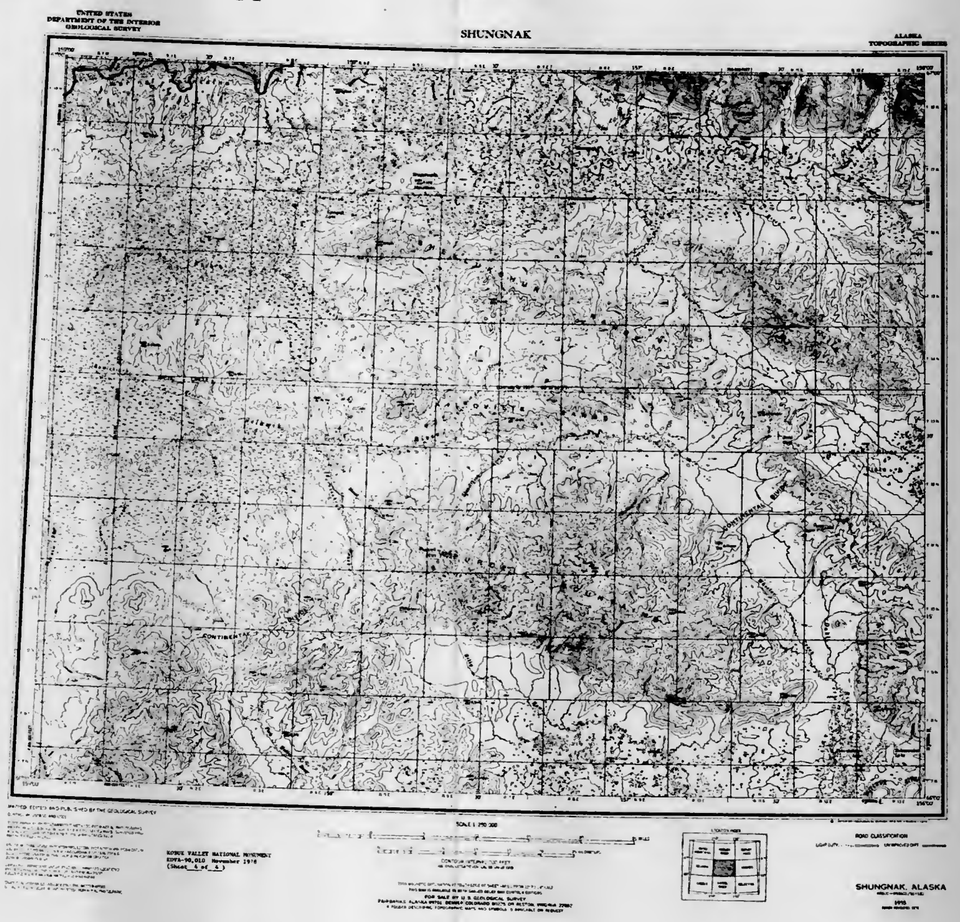
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[FR Doc. 78-33998 Filed 12-1-78; 3:03 pm]

[3195-01-M]

Proclamation 4622 **December 1, 1978**

Lake Clark National Monument

By the President of the United States of America

A Proclamation

An area in south-central Alaska contains examples of geological phenomena associated with two major mountains chains, the Alaska Range and the Chigmit Mountains, in an array that includes jagged peaks and two symmetrical, steaming volcanoes. These volcanoes, Redoubt and Iliamna, have been listed on the National Registry of Natural Landmarks.

The area's land forms also contribute to an outstanding example of ecological diversity in zones which remain relatively unspoiled for continued scientific research. Large mammals such as moose, caribou, Dall sheep, grizzly bear, black bear, and wolverine occur in natural populations. Whistling swans nest and rare trumpeter swans assemble in the area. Other birds, including bald eagle, gyrfalcon, osprey, and endangered peregrine falcon, breed within the area. Seabird colonies occur along the coast. One of the most stable natural populations of caribou in Alaska, the Mulchatna herd, calves and migrates within the area, offering significant opportunities for scientific study of this mammal.

Sockeye salmon runs within the area are exceptional. The area includes the upper drainage of the Kvichak River System, which is the single most productive spawning and rearing habitat for red salmon in the world, and the subject of scientific research for many years.

Historical resources of the area are significant. Kijik Village, on the shore of Lake Clark, is the site marking the first known Russian exploration of the region in the late eighteenth century. The area holds great promise for the discovery of further evidence defining the impact of the Native-European contacts.

The land withdrawn and reserved by this proclamation for the protection of the geological, archeological, historical, biological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with these objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of

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June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Lake Clark National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Lake Clark National Monument on the map numbered LACL-90,009 attached to and forming a part of this Proclamation. The area reserved consists of approximately 2,500,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

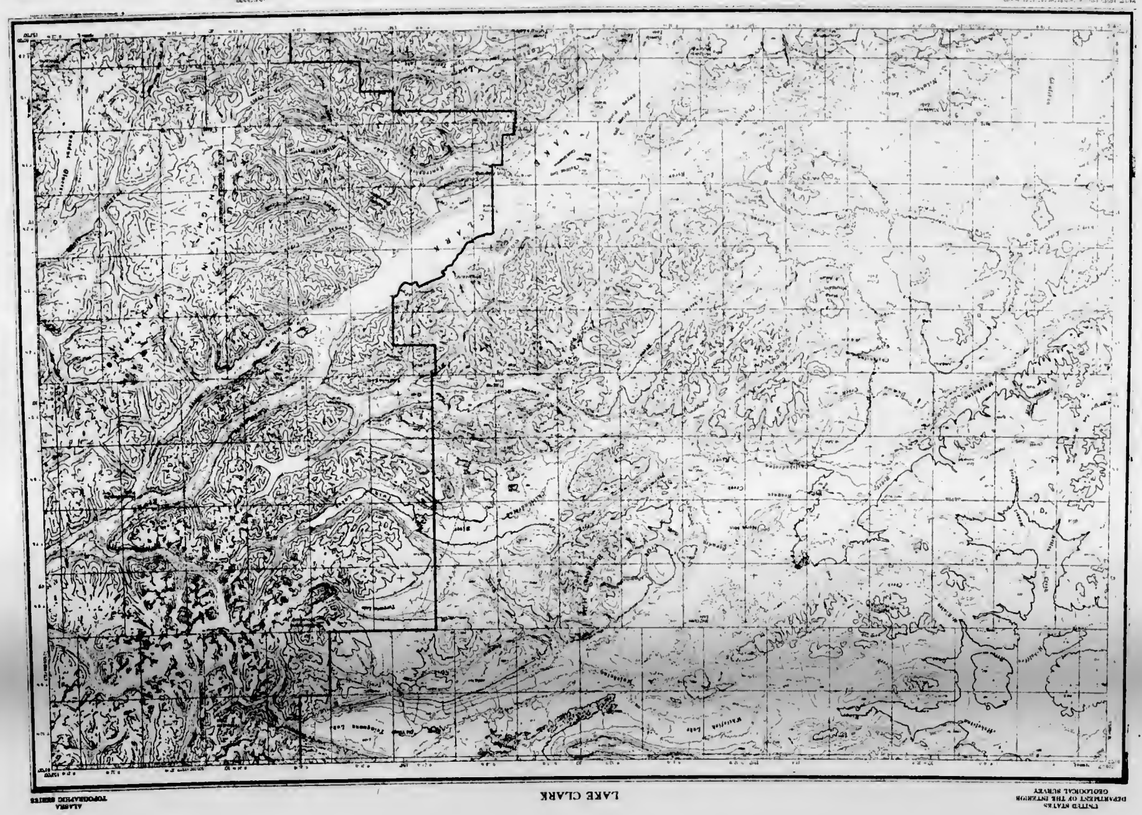
The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

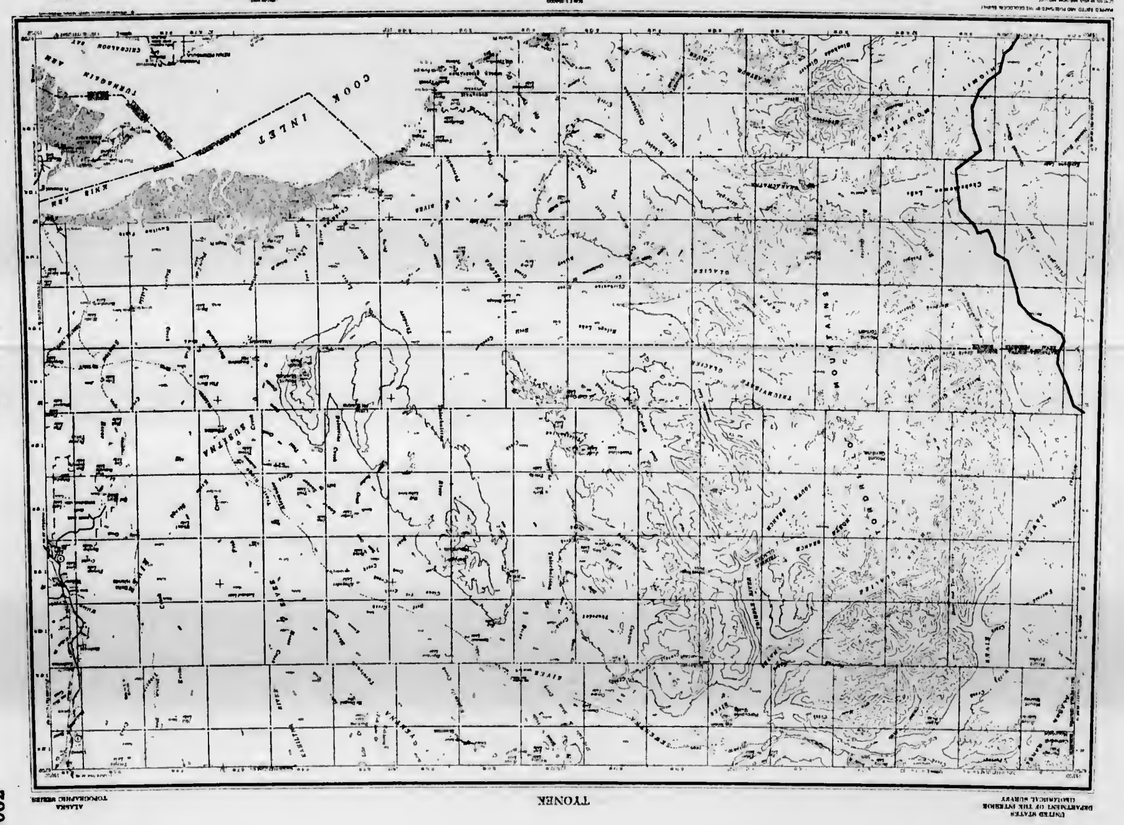
Jimmy Carter





FEDERAL REGISTER, VOL. 43, NO. 234—TUESDAY, DECEMBER 5, 1978

THE PRESIDENT



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THE PRESIDENT

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KENAI, ALASKA
KENAI
INLET
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TUSTUMENA
SKILAK
SKILAK LAKE
SKILAK GLACIER
SKILAK RIVER
SKILAK PEAK
SKILAK LOOKOUT
TANALIAN
TANALIAN POINT
TANALIAN RIVER
TANALIAN LAKE
TANALIAN MOUNTAIN
KASILOF
KASILOF RIVER
KASILOF MOUNTAIN
KACHEMAK BAY
KACHEMAK
FORELAND
FORELAND MOUNTAIN
ANCHOR POINT
ANCHOR RIVER
ANCHOR RIVER PEAK
ANCHOR RIVER PASS
ANCHOR RIVER LOOKOUT
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[FR Doc. 78-33997 Filed 12-1-78; 3:04 pm]

[3195-01-M]

Proclamation 4623 • **December 1, 1978**

Misty Fiords National Monument

By the President of the United States of America

A Proclamation

Misty Fiords is an unspoiled coastal ecosystem containing significant scientific and historical features unique in North America. It is an essentially untouched two million-acre area in the Coast Mountains of Southeast Alaska within which are found nearly all of the important geological and ecological characteristics of the region, including the complete range of coastal to interior climates and ecosystems in a remarkably compact area.

Among the objects of geologic importance are extraordinarily deep and long fiords with sea cliffs rising thousands of feet. Active glaciers along the Canadian border are remnants of the massive ice bodies that covered the region as recently as about 10,000 years ago, at the end of the Pleistocene epoch. However, there have been periodic glacial advances and retreats in more recent historic periods. Some of the area has been free from glaciation for only a short period of time, creating the unusual scientific phenomenon of recent plant succession on newly-exposed land with the accompanying animal species. The Behm Canal, the major inlet at the heart of the area, is more than fifty miles long and extraordinary among natural canals for its length and depth.

The watershed of the Unuk River, which comprises the northern portion of the Misty Fiords area, has its headwaters in Canada. It is steeply mountainous and glaciated and contains the full range of ecosystems and climates from interior to coastal. Mineral springs and lava flows add to the uniqueness of the area and its value for scientific investigation. South of the Unuk, the Chickamin River System and the Le Duc River originate in active glaciers and terminate in Behm Canal. Further south, Rudyerd Bay Fiords and Walker Cove are surrounded by high, cold lakes and mountains extending eastward to Canada.

First inhabitants of Misty Fiords may have settled in the area as long ago as 10,000 years. The area contains cultural sites and objects of historical significance, including traditional native hunting and fishing grounds. Later historical evidence includes a mid-1800's military post-port entry on Tongass Island and a salmon cannery in Behm Canal established in the late 1800's.

Misty Fiords is unique in that the area includes wildlife representative of nearly every ecosystem in southeast Alaska, most notably bald eagles, brown and black bears, moose, wolves, mountain goats and Sitka black-tailed deer. Numerous other bird species nest and feed in the area, notably falcons and waterfowl. Misty Fiords is a major producer of all five species of Pacific salmon and is especially important for king salmon. Numerous other saltwater, freshwater and anadromous fish species and shellfish are plentiful in this area, which is an extraordinarily fertile interface of marine and freshwater environments. Unusual plantlife includes Pacific silver and subalpine fir trees near the northern limit of their range. The area includes an unusual variety of virgin forests, ranging from coastal spruce-hemlock to alpine forests.

As an intact coastal ecosystem, Misty Fiords possesses a collective array of objects of outstanding value for continuing scientific study. The boundaries of

MISTY FIORDS NATIONAL MONUMENT

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the area follow watershed perimeters and include the smallest area compatible with protection of this unique ecosystem and the remarkable geologic and biological objects and features it contains.

Hunting and fishing shall continue to be regulated, permitted and controlled in accord with the statutory authorities applicable to the monument area.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, at his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the government of the United States to be National Monuments, and to reserve as part thereof parcels of lands, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by section 2 of the Act of June 8, 1906, (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Misty Fiords National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area described on the document entitled "Misty Fiords National Monument (Copper River Meridian)", attached to and forming a part of this Proclamation. The area reserved consists of approximately 2,285,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the Monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this Monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this Monument and for the proper administration of the Monument in accordance with applicable laws.

The establishment of this Monument is subject to valid existing rights, including, but not limited to, valid selection under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under section 17 (d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616 (d)(1)); however, the National Monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton*, Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this Monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

MISTY FIORDS NATIONAL MONUMENT

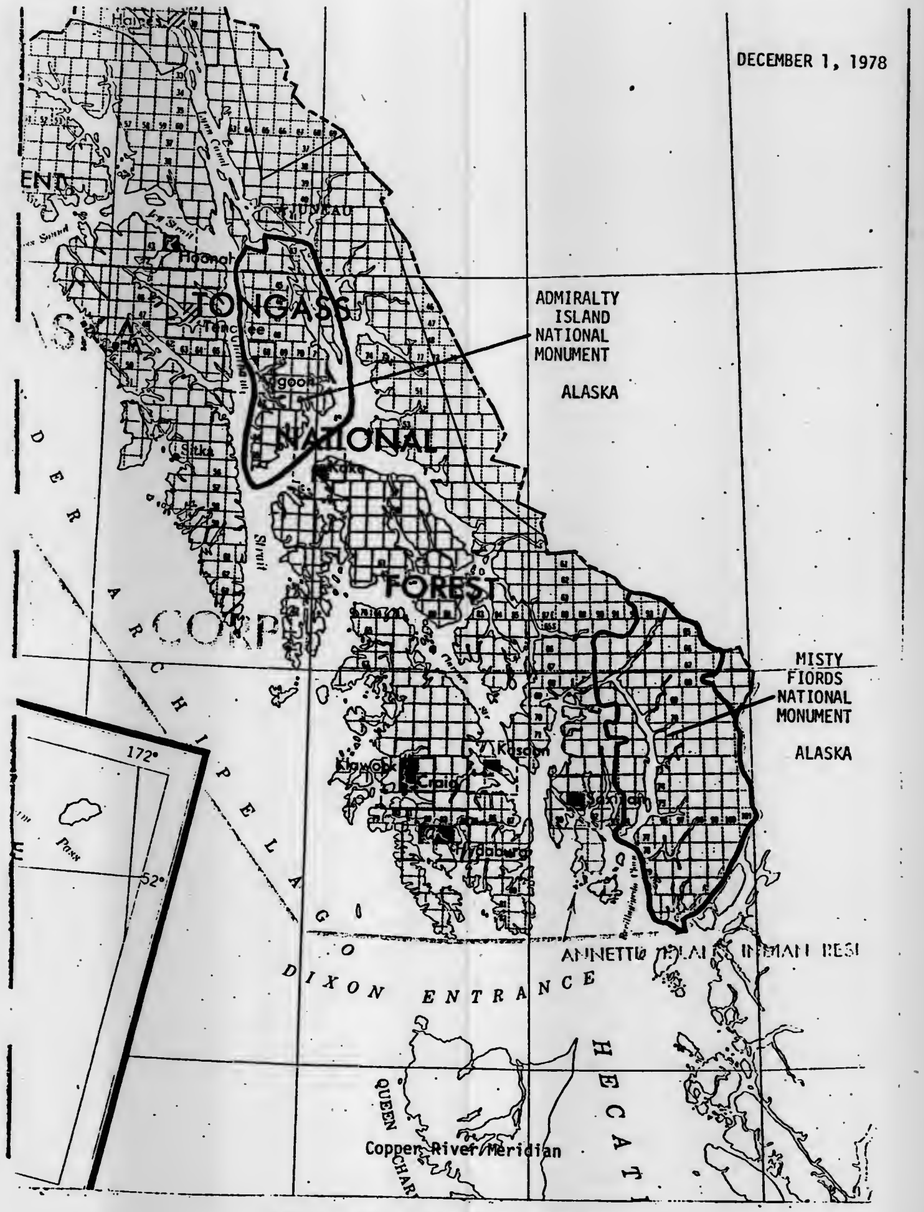
COPPER RIVER MERIDIAN

T. 63 S., R. 92 E., all lands in the Blue River drainage
T. 63 S., Rs. 93 and 94 E.,
T. 64 S., R. 92 E., all land in the Blue River drainage
T. 64 S., Rs. 93 through 95 E.,
T. 65 S., R. 91 E., all land south of the hydrographic divide between East Fork Bradfield River and Grant Creek
T. 65 S., R. 92 E., all land south of the hydrographic divide between the Unuk River and North Fork Bradfield River
T. 65 S., R. 93 E., all land south and east of the hydrographic divide
T. 65 S., Rs. 94 through 97 E.,
T. 66 S., R. 90 E., all land south and east of the hydrographic divide between Eagle River and Grant Creek
T. 66 S., R. 91 E., all land in the Grant Creek drainage
T. 66 S., R. 92 E., all land except the Bradfield River drainage
T. 66 S., Rs. 93 through 97 E.,
T. 66 S., R. 98 E., all land west of the hydrographic divide west of the Salmon River drainage
T. 67 S., R. 91 E., all land east of the hydrographic divide between Burroughs Bay and Eagle River-Bell Arm drainages
T. 67 S., Rs. 92 through 97 E.,
T. 67 S., R. 98 E., all land west of hydrographic divide between Chickamin River and Salmon River Drainages
T. 68 S., R. 91 E., all land east of a line running southwest from a peak on the north township line to the approximate center of Anchor Pass thence southerly through the centerline of Anchor Pass and across Behm Canal and continuing southerly up the ridgeline between Cow Creek and Beaver Creek to the south township
T. 68 S., Rs. 92 through 96 E.,
T. 68 S., R. 97 E., all land north and west of hydrographic divide between Salmon River and Chickamin River drainages
T. 68 S., R. 98 E., all land north and west of hydrographic divide between Salmon River and Chickamin River drainages
T. 69 S., R. 91 E., all land east of the hydrographic divide between Cow Creek on the east and Beaver Creek-Klu Creek on the west
T. 69 S., Rs. 92 and 93 E., all land east and north of the hydrographic divide excluding Orchard Creek drainage
T. 69 S., Rs. 94 through 97 E.,
T. 69 S., Rs. 98 and 99 E., all land west of the hydrographic divide between Soule River and Davis River drainages
T. 70 S., R. 92 E., all lands except Orchard Creek drainage
T. 70 S., R. 93 E., all land east of the hydrographic divide
T. 70 S., Rs. 94 through 98 E.,
T. 70 S., R. 99 E., all land south and west of the Seward Mountains ridge and Portland Canal opposite Round Pt. triangulation point
T. 71 S., R. 92 E., all land east of the hydrographic divide
T. 71 S., R. 93 E., all land north and east of the hydrographic divide
T. 71 S., Rs. 94 through 100 E.,
T. 72 S., R. 93 E., all land east of the hydrographic divide
T. 72 S., R. 94 through 100 E.,
T. 73 S., R. 93 E., all lands east of the hydrographic divide
T. 73 S., Rs. 94 through 101 E.,
T. 74 S., R. 93 E., all land east of the hydrographic divide
T. 74 S., R. 94 through 101 E.,
T. 75 S., R. 94 E., all land east of a line running from the northwest corner of the township to a trail between Thorne Arm and Mesa Lake thence east along the trail to southwest tip of Mesa Lake thence southerly along the hydrographic divide to approximately the midpoint of the south township line
T. 75 S., Rs. 95 through 101 E.,
T. 76 S., R. 94 E., all land east of the hydrographic divide
T. 76 S., Rs. 95 through 102 E.,
T. 77 S., R. 94 E., all land east of the hydrographic divide running southwesterly from Alava Ridge to a point on the shore between triangulation points "Lick" and "Cat"
T. 77 S., Rs. 95 through 102 E.,
T. 78 S., Rs. 95 through 101 E.,
T. 79 S., Rs. 95 through 101 E.,
T. 80 S., Rs. 96 through 100 E.,
T. 81 S., Rs. 97 through 100 E.,
T. 82 S., Rs. 97 through 99 E.

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[FR Doc. 78-33998 Filed 12-1-78; 3:05 pm]

[3195-01-M]

Proclamation 4624 • **December 1, 1978**

Noatak National Monument

By the President of the United States of America

A Proclamation

The Noatak River basin is the largest mountain-ringed river basin in the Nation still virtually unaffected by technological human activity. This basin has been designated as a Biosphere Reserve under the United Nations' auspices, in recognition of its international importance for scientific study and research.

The area includes landforms and ecological variations of scientific interest. The Grand Canyon of the Noatak River is a dissected valley 65 miles long. The area contains the northwesternmost fringe of boreal forest in North America, and is a transition zone and migration route for plants and animals between subarctic and arctic environments. The diversity of the flora is among the greatest anywhere in the earth's northern latitudes.

The Noatak Valley area contains a rich variety of birdlife including several Asian species. The area is crossed twice a year by two-thirds of the Western Arctic caribou herd, and is prime habitat for the barren ground grizzly bear, moose, and several predator species.

Nearly 200 archeological sites, dating as far back in time as 5,000 years, are within the area. They give promise of future discoveries leading to a deeper understanding of the area's prehistory.

The Noatak basin is an area where indigenous plants and animals perpetuate themselves naturally, in a freely functioning ecosystem. Protection of this area will assure the preservation of an essential base against which scientists may judge environmental dynamics of the future.

The land withdrawn and reserved by this Proclamation for the protection of the geological, archeological, biological, and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends upon subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Noatak National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Noatak National Monument on the

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map numbered NOAT-90,004 attached to and forming a part of this Proclamation. The area reserved consists of approximately 5,800,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

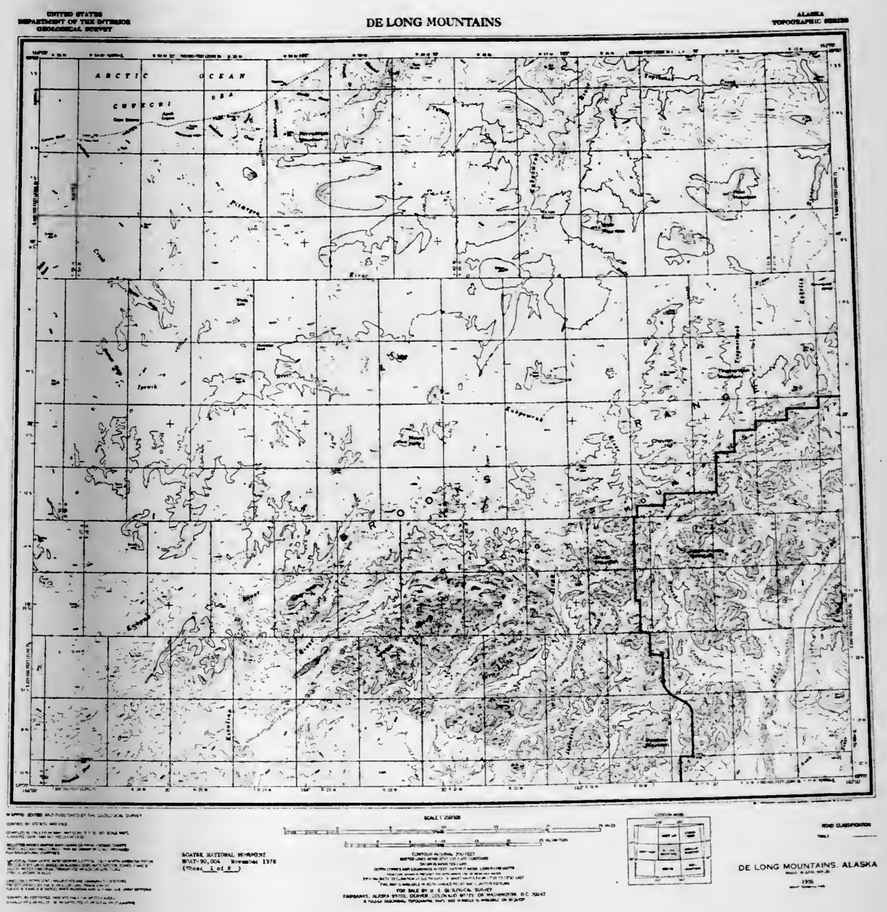
The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

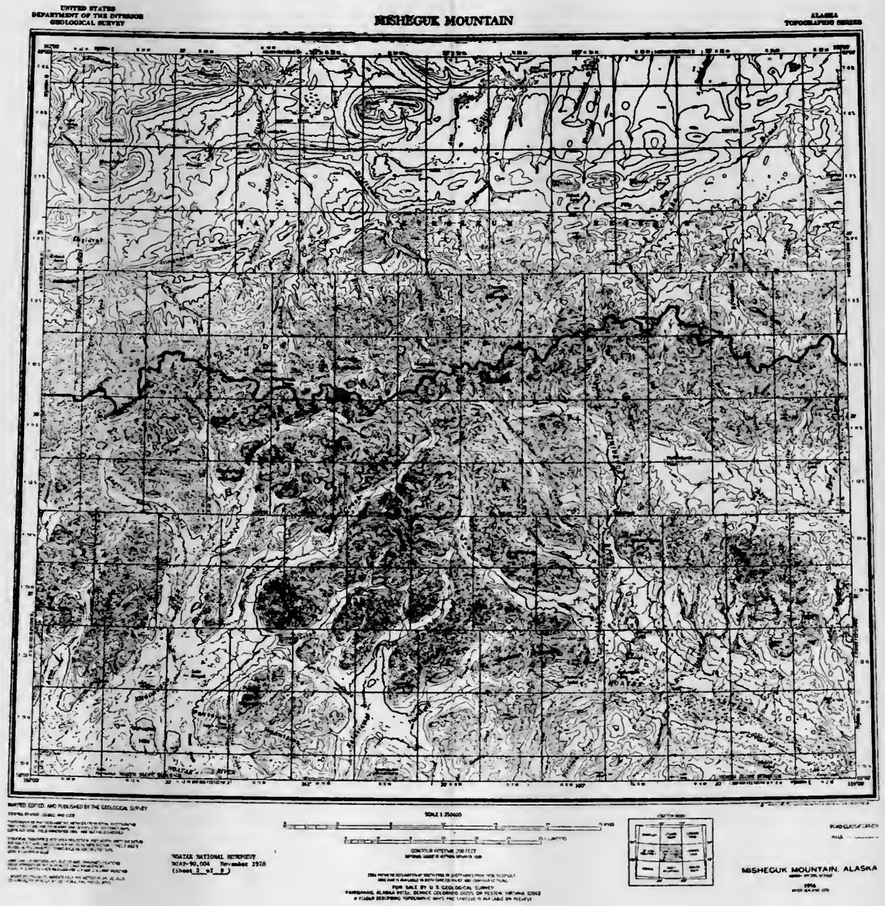
IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

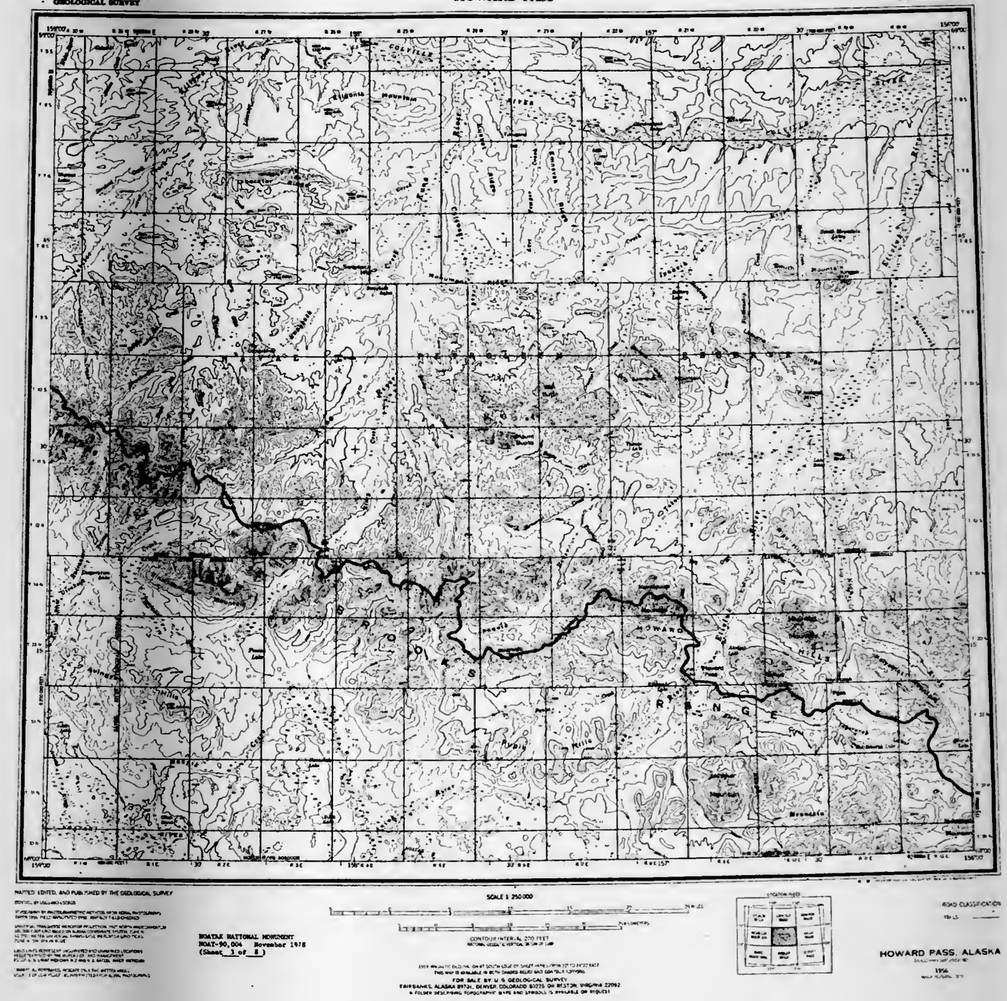
Jimmy Carter

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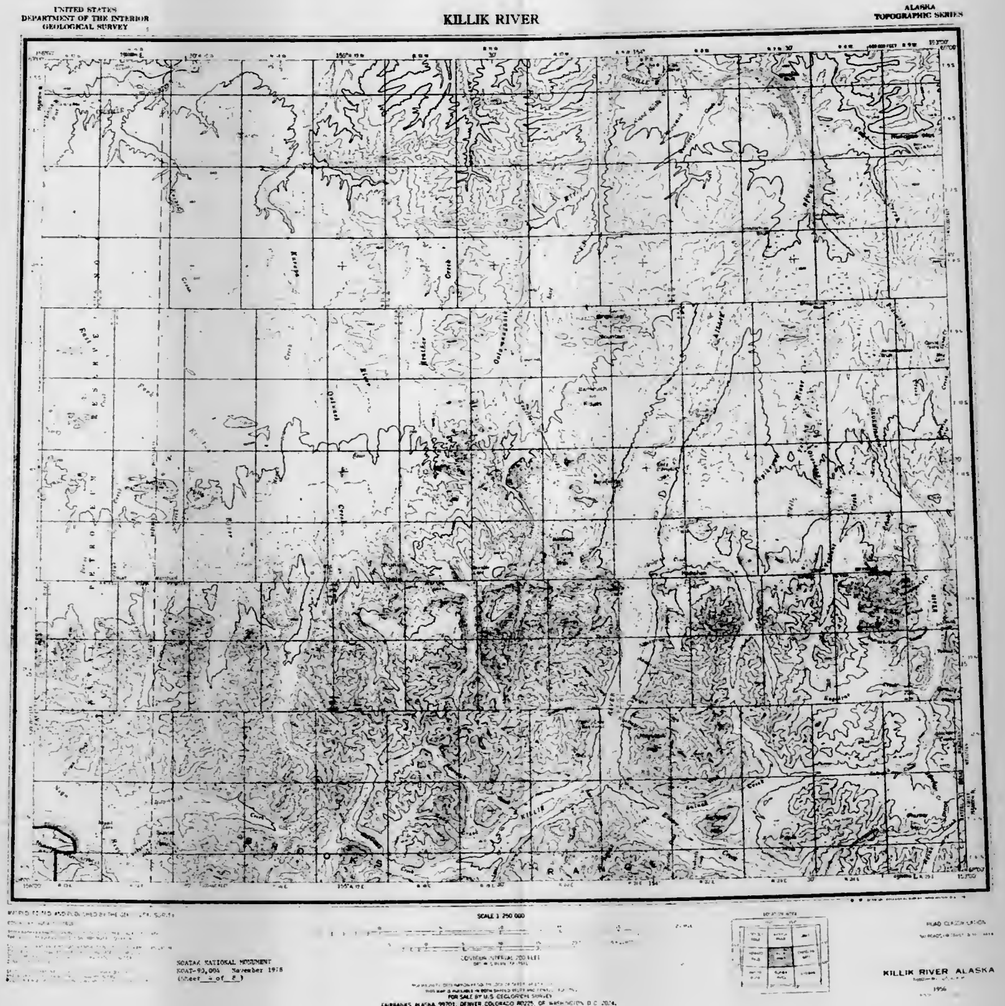


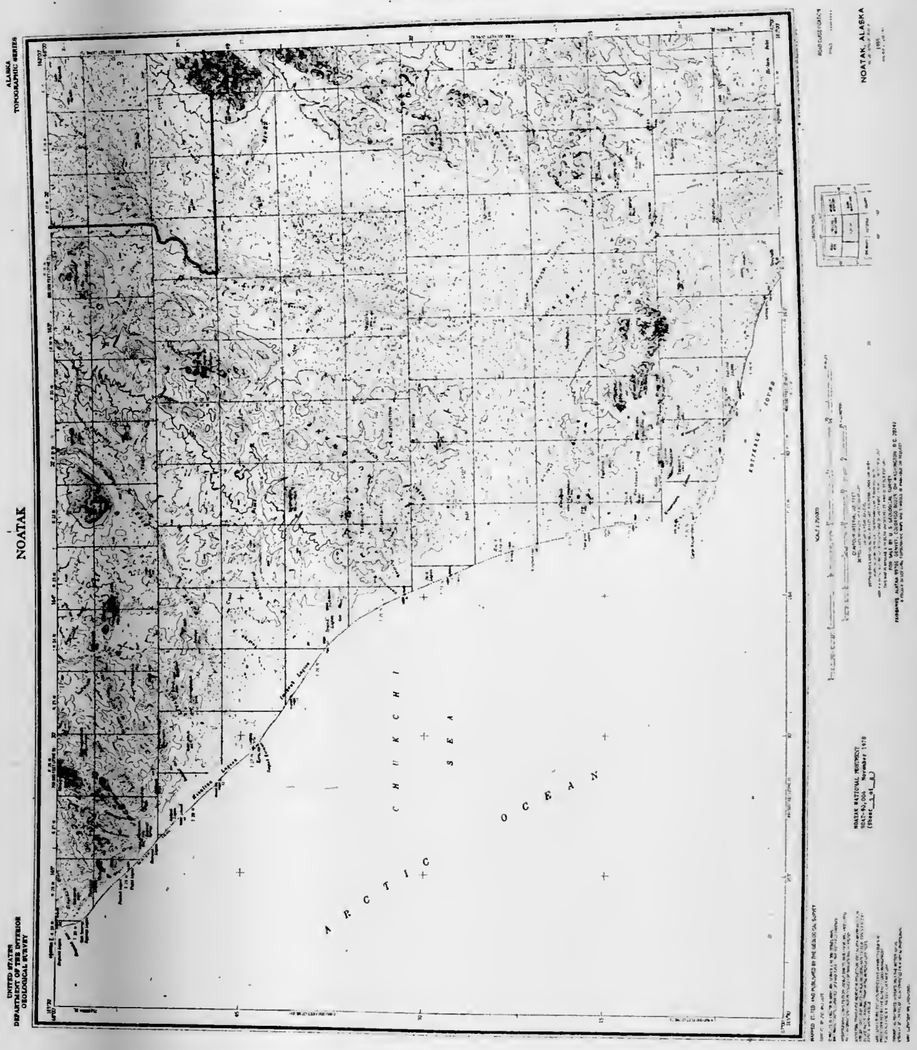
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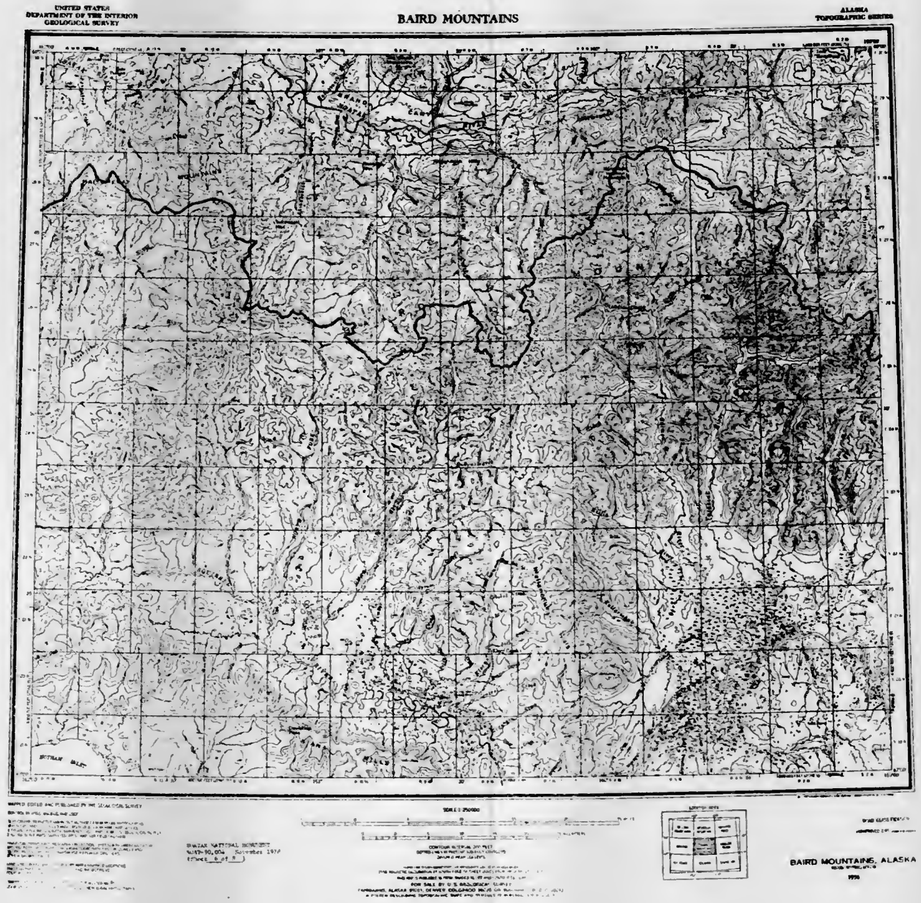


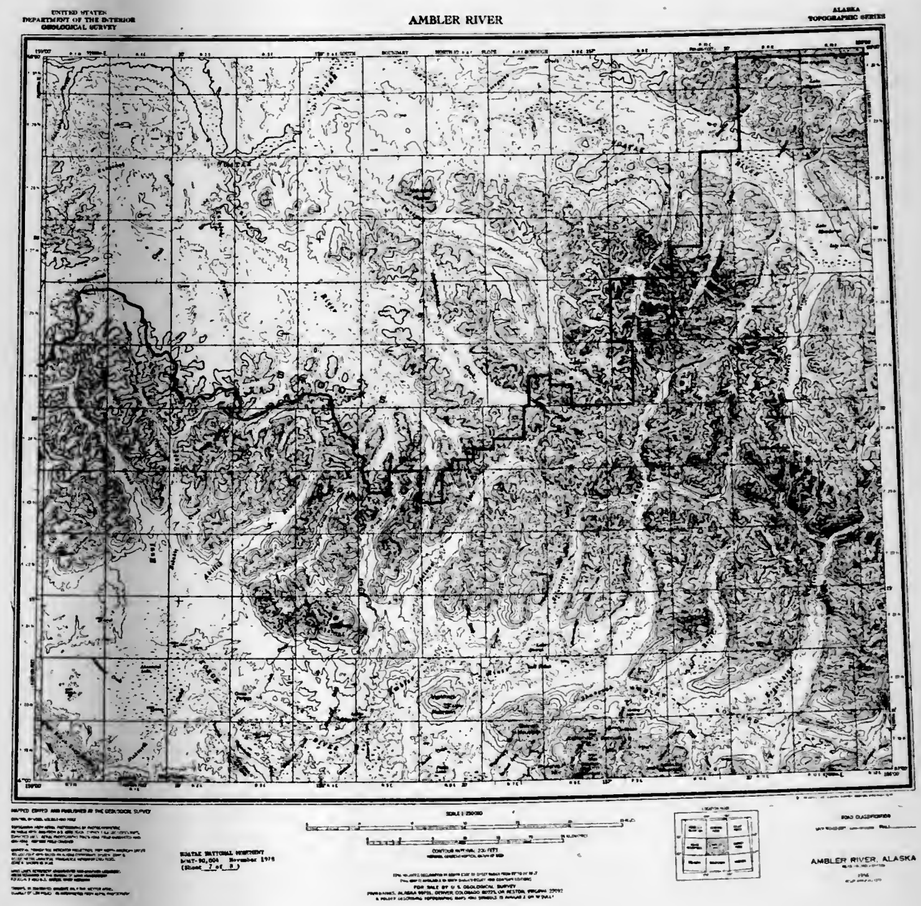
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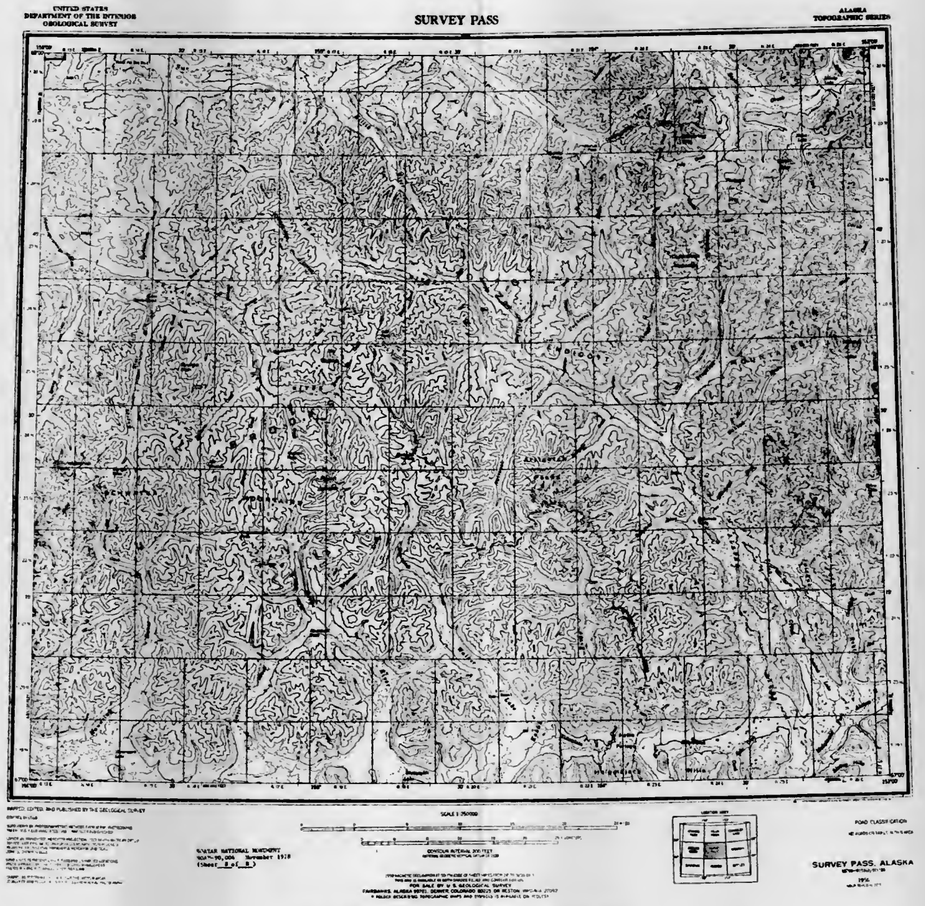


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V 43/234 DEC 5 78 UMI



[FR Doc. 78-33999 Filed 12-1-78; 3:06 pm]

[3195-01-M]

Proclamation 4625 • **December 1, 1978**

Wrangell-St. Elias National Monument

By the President of the United States of America

A Proclamation

An area of southeastern Alaska adjacent to the International Boundary with Canada contains a variety of landforms, including high mountain peaks and steep canyons, with associated geological, ecological, biological, and historical phenomena of great importance.

The area includes the greatest assemblage of mountain peaks over 14,500 feet in elevation found in the Nation, the nation's second highest mountain (Mount St. Elias, at 18,008 feet), several inactive and one active volcano (Mount Wrangell), and an active glacial complex, including some of the largest and longest glaciers in the Nation. The high mountain peaks and glaciers offer an excellent opportunity for glaciological studies. The Malaspina Glacier is listed on the National Registry of Natural Landmarks.

Thermal features in the area include the mud cones and hot springs on the western base of Mount Drum. More complete undeveloped river systems exist here than in any other land area in the Nation, with more than 1,000 miles of powerfully running, silt-laden rivers.

Biologically unique subspecies of flora and fauna have developed in the Bremner and Chitina River Valleys. As a result of their isolation by virtue of ice fields and the Copper River, these areas are virtually ecological islands in whch development of subspecies is largely unaffected by interchange with outside plant and animal species.

Wildlife populations include the largest population of wild mountain sheep in North America, moose, mountain goat, and a non-migratory population of caribou. The area is the only part of Alaska where four of the five identifiable forms of bear occur, including the interior grizzly, the coastal brown bear, the black bear, and the rare, blue-color phase of the black bear called glacier bear. Along the coast of the Gulf of Alaska bald eagles and a large and varied shorebird population occur.

Cultural development within the area is of interest to archeologists and historians. Three major culture areas converge here, each with distinctive cultural patterns: the North Athapascans, the Pacific Eskimo, and the Chugach. Mining history is evidenced by the Kennecott Copper Works, a National Historic Landmark.

The land withdrawn and reserved by this Proclamation for the protection of the geological, archeological, biological, and other phenomena enumerated above supports now, as it has in the past, a unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of

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historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Wrangell-St. Elias National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Wrangell-St. Elias National Monument on the map numbered WRST-90,007 attached to and forming a part of this Proclamation. The area reserved consists of approximately 10,950,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the pubic land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

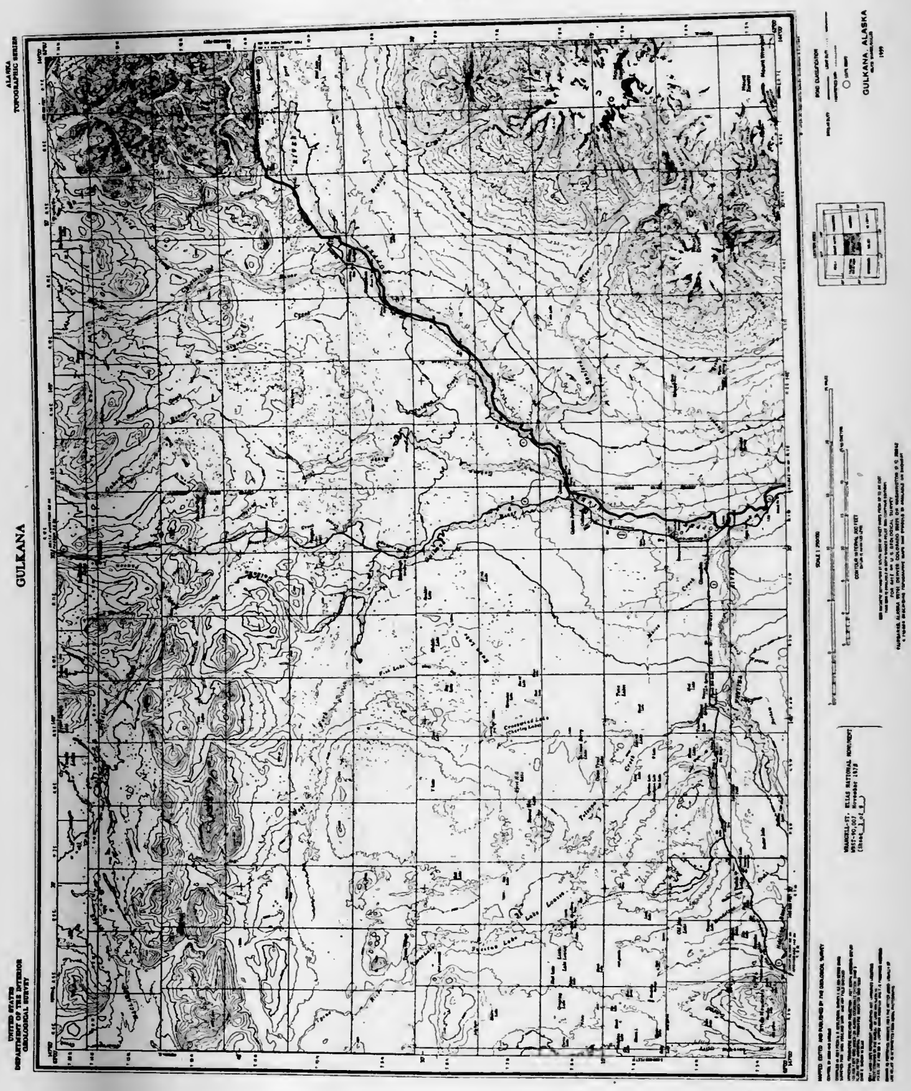
Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

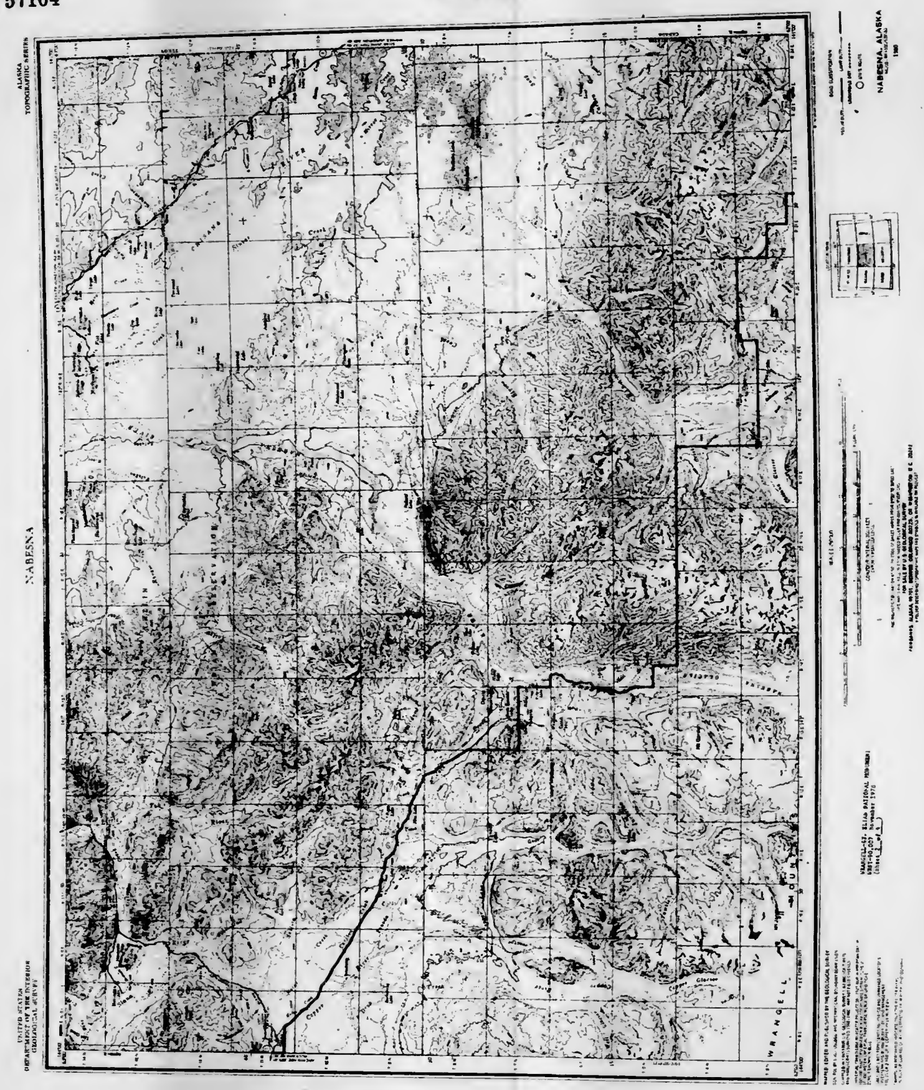
IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

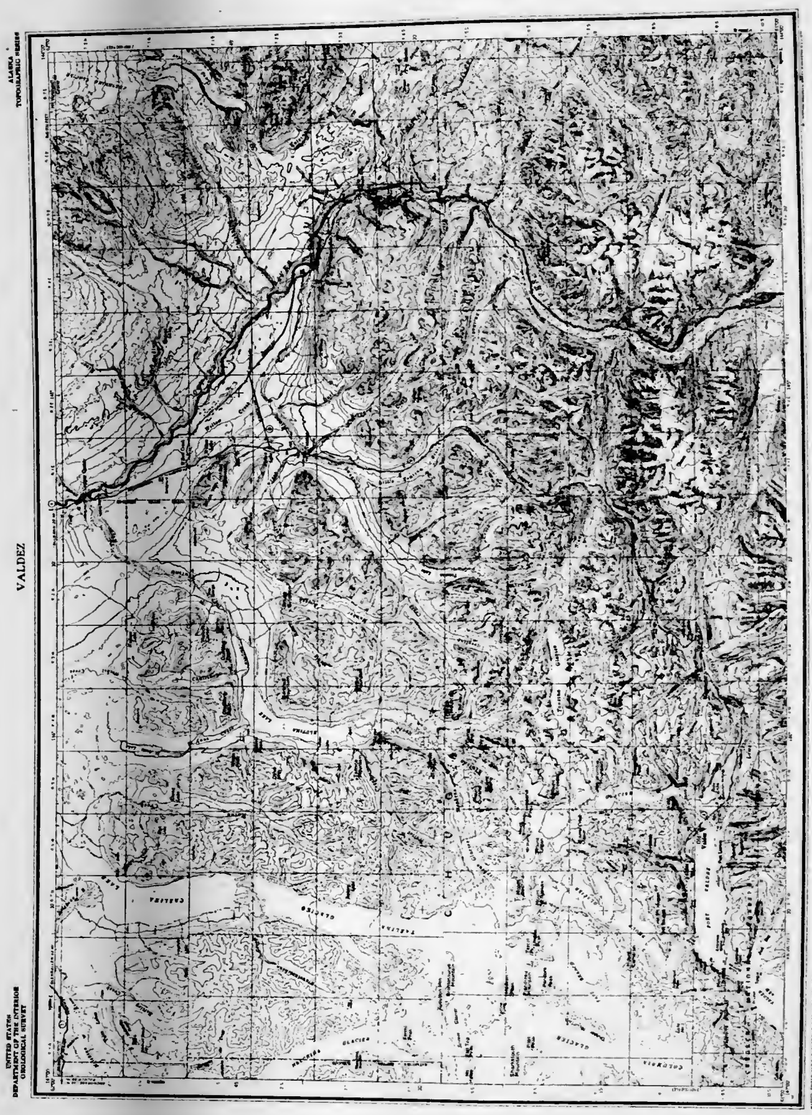
Jimmy Carter



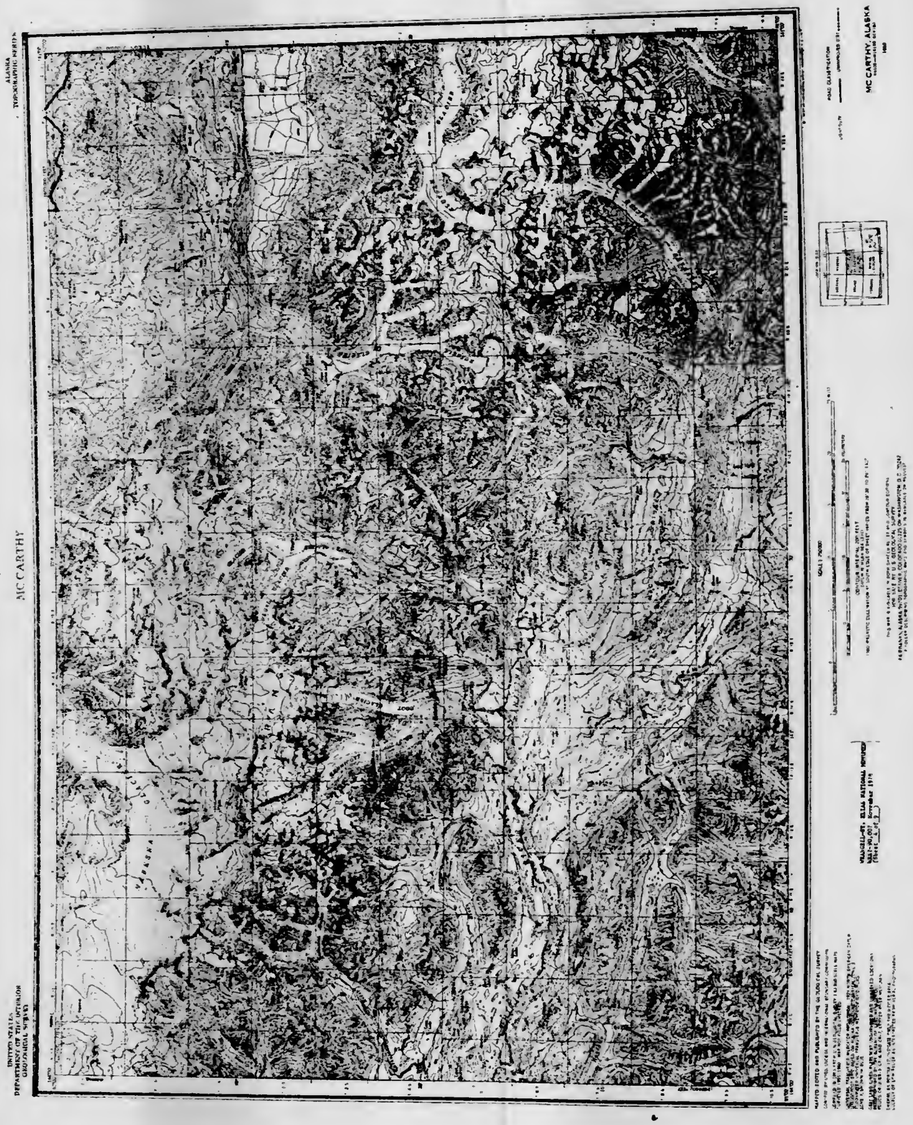


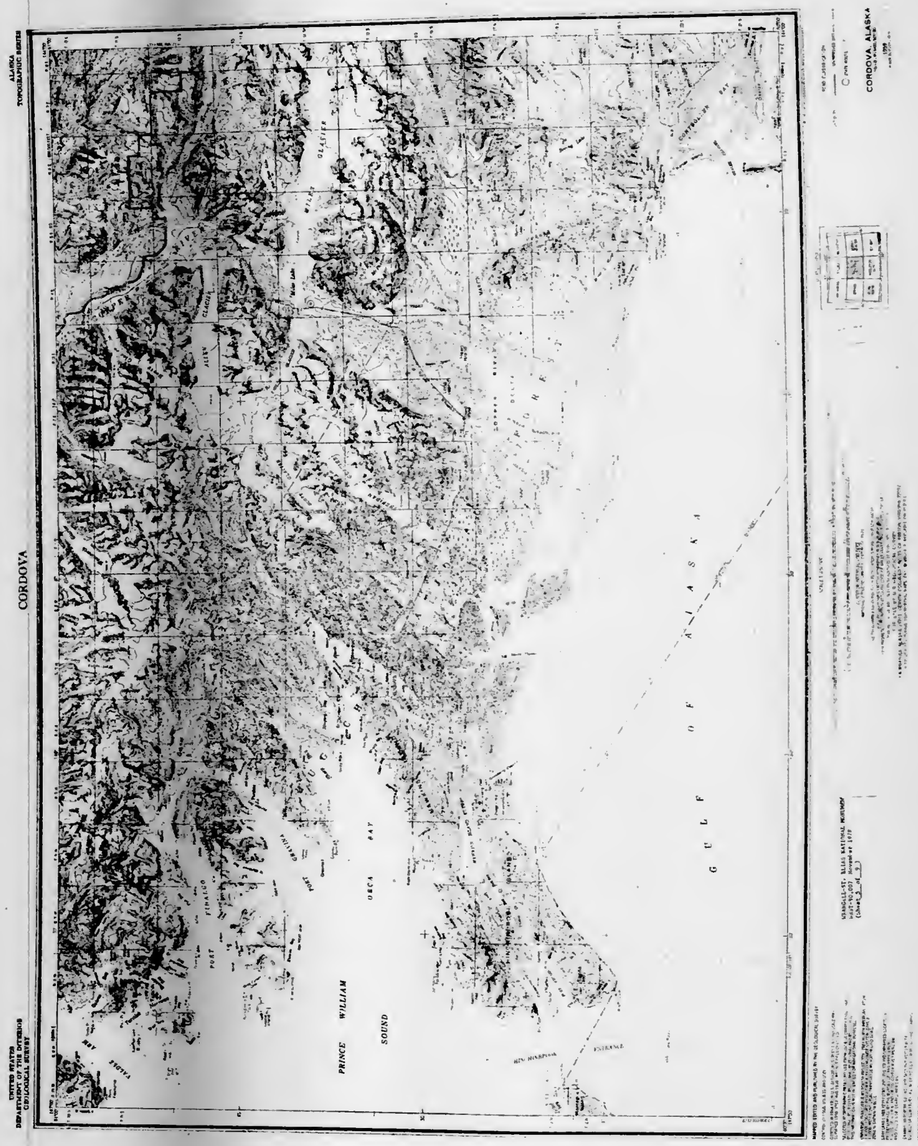
V 43/234 DEC 5 1978 UMI

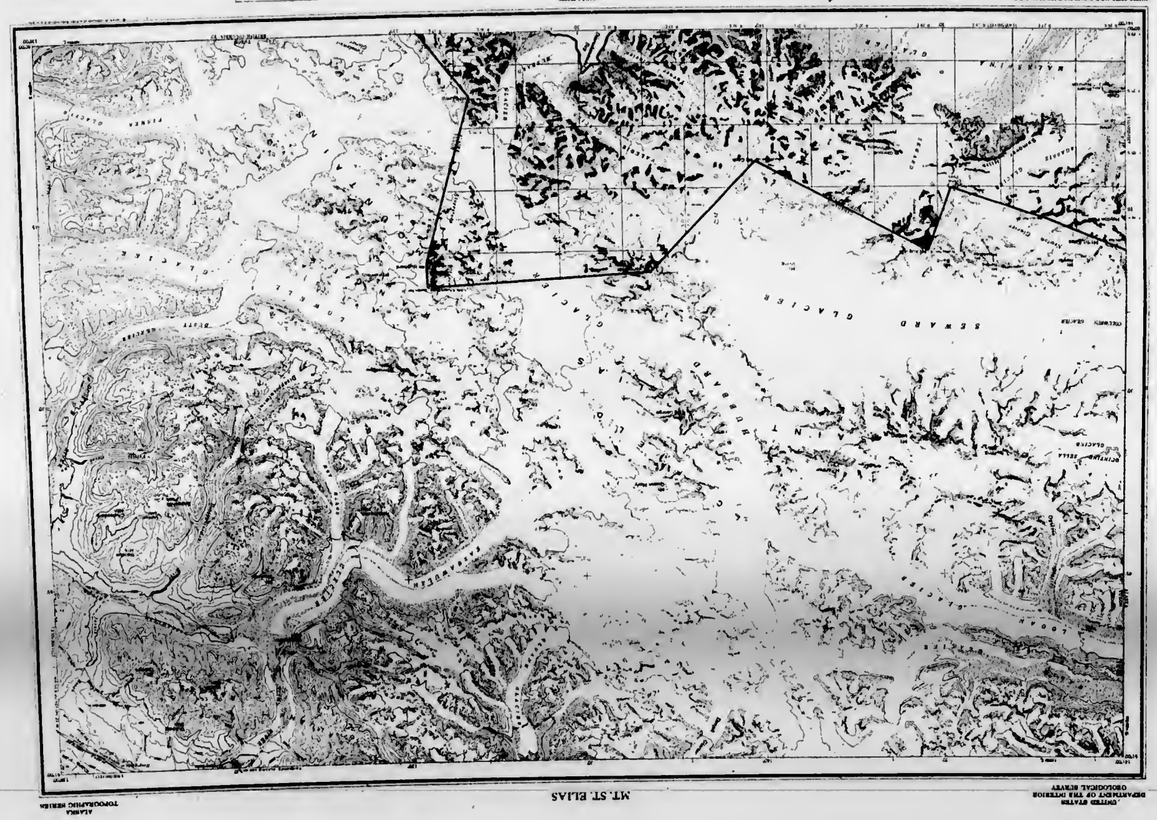


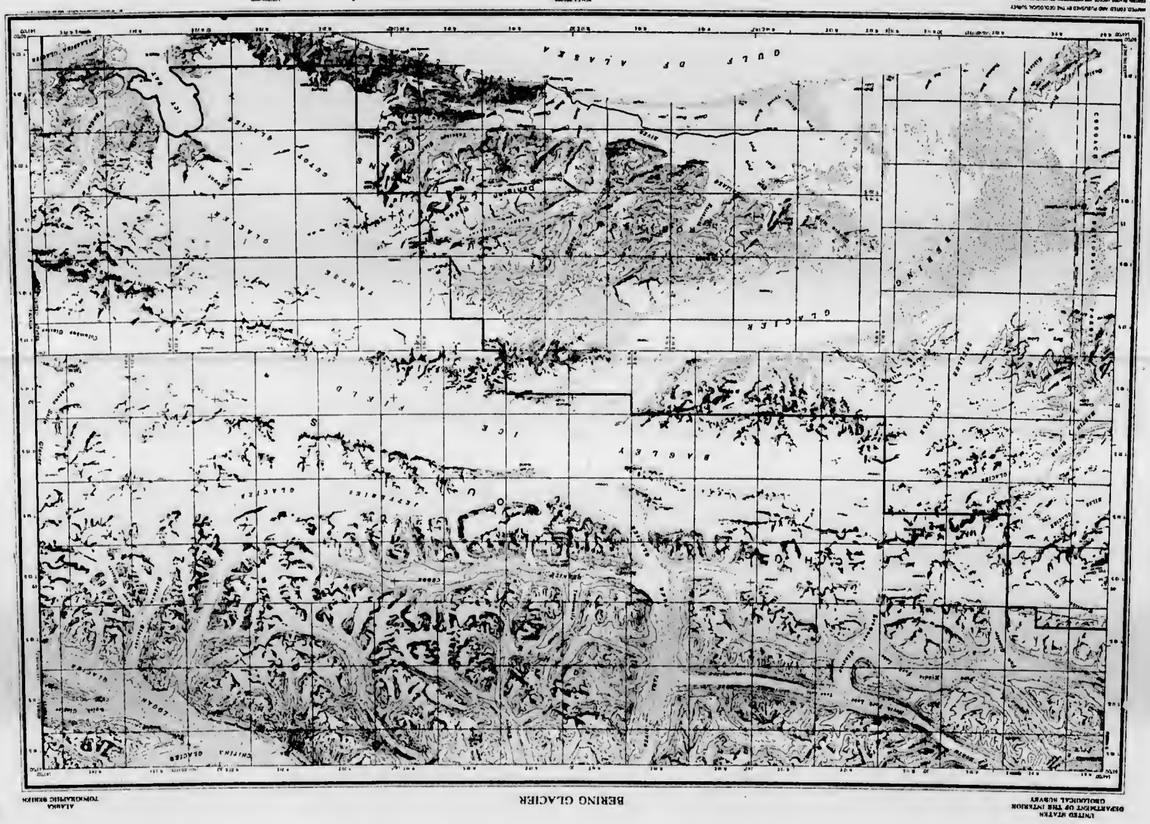


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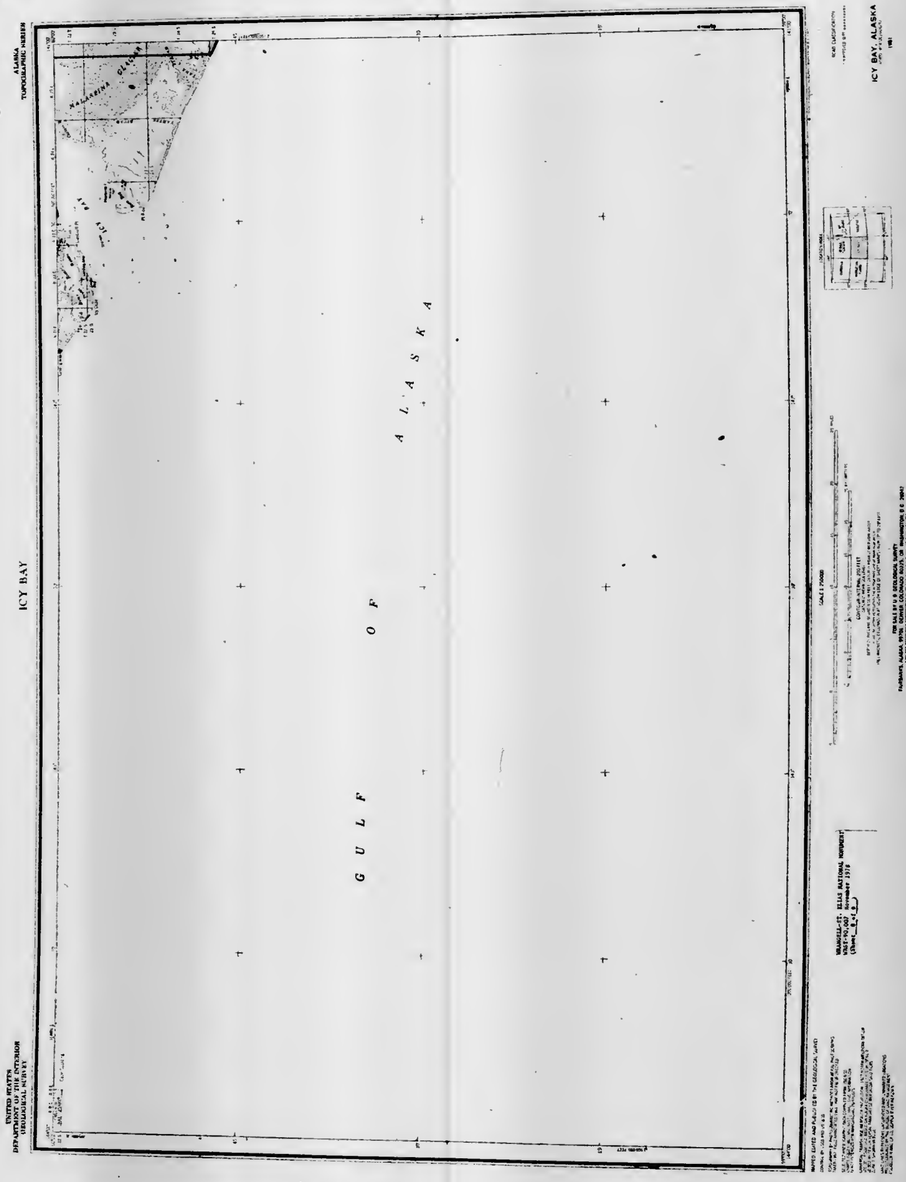




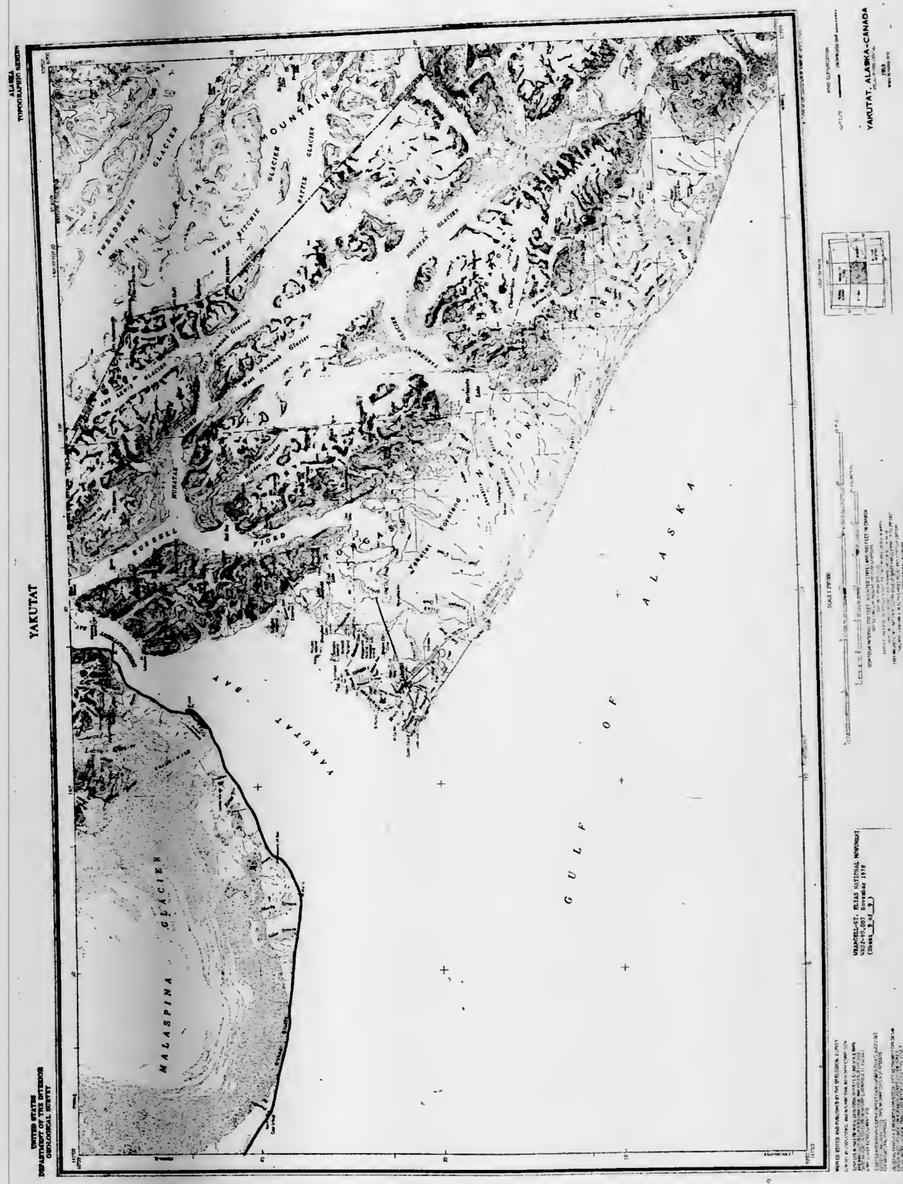

MT. ST. ELIAS
SEWARD GLACIER
HAGUE GLACIER
MT. ST. ELIAS, ALASKA-CANADA
1978
UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
ALASKA
TOPOGRAPHIC SERIES


BERING GLACIER
GULF OF ALASKA
BERING GLACIER, ALASKA
1978
UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
ALASKA
TOPOGRAPHIC SERIES

V 43/234 DE 5 78 UMI



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[FR Doc. 78-34000 Filed 12-1-78; 3:07 pm]

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[3195-01-M]

Proclamation 4626 • **December 1, 1978**

Yukon-Charley National Monument

By the President of the United States of America

A Proclamation

The Yukon-Charley National Monument, an area in east-central Alaska, includes a combination of historic and scientific features of great significance. The Upper Yukon River basin contains historic remains of early mining activity, and includes outstanding paleontological resources and ecologically diverse natural resources, offering many opportunities for scientific and historic study and research.

The area provides breeding habitat for the endangered peregrine falcon, and may produce about one-fourth of the know individuals of the *anatum peregrine* subspecies in its northern habitat. Wildlife also include isolated wild populations of Dall sheep, moose, bear, wolf, and other large mammals. Nearly 200 species of birds, including 20 different raptors, are present in the area.

Geological and paleontological features within the area are exceptional, including a nearly unbroken visible series of rock strata representing a range in geologic time from pre-Cambrian to Recent. The oldest exposures contain fossils estimated to be 700 million years old, including the earliest forms of animal life. A large array of Ice Age fossils occurs in the area.

Within the area is the Charley River basin, parts of which were unglaciated, preserving relict Pleistocene plant communities. The Charley River is considered to be one of the cleanest and clearest of the major rivers in Alaska, and thereby offers excellent opportunities for scientific studies. In the upper Charley River basin, artifacts occur dating back possibly 11,000 years, attesting to the presence of ancient hunters who were the ancestors of the modern Athapascan people.

The land withdrawn and reserved by this Proclamation for the protection of the historical, archeological, biological, geological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for the local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of

[3195-01-C]

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June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Yukon-Charley National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as the Yukon-Charley National Monument on the map numbered YUCH-90,009 attached to and forming a part of this Proclamation. The area reserved consists of approximately 1,720,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisistion of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

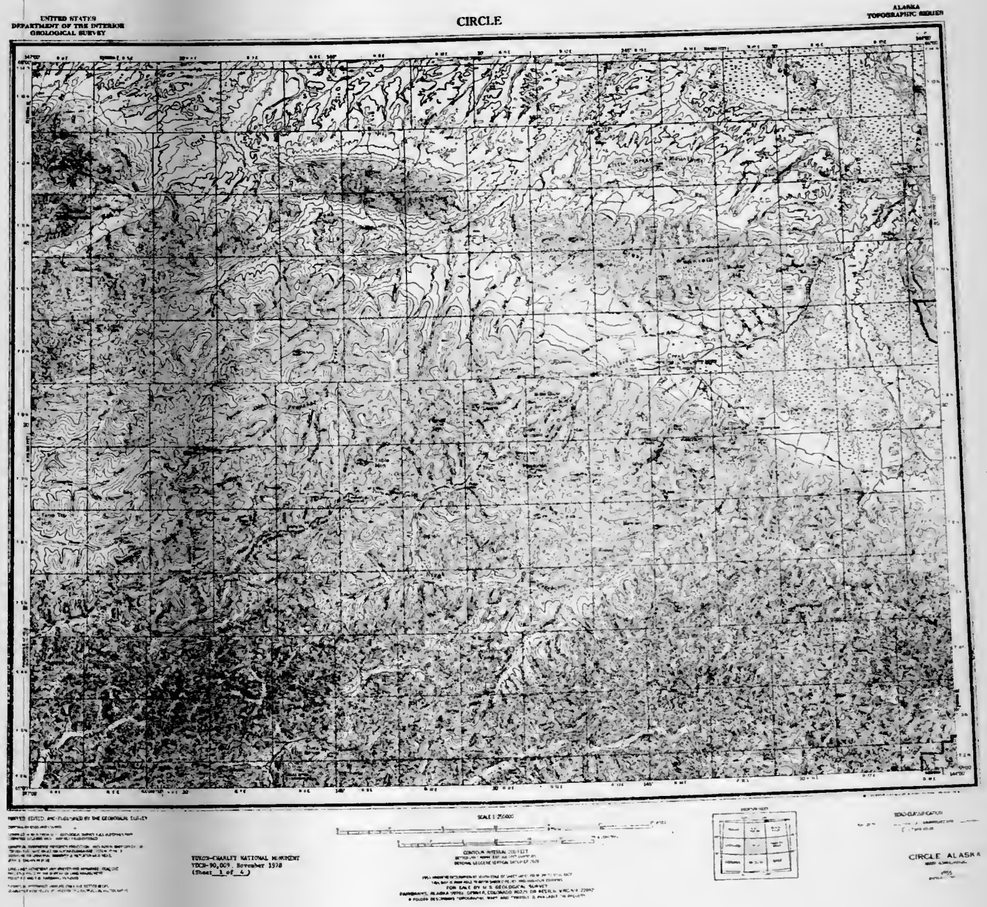
The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close the national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

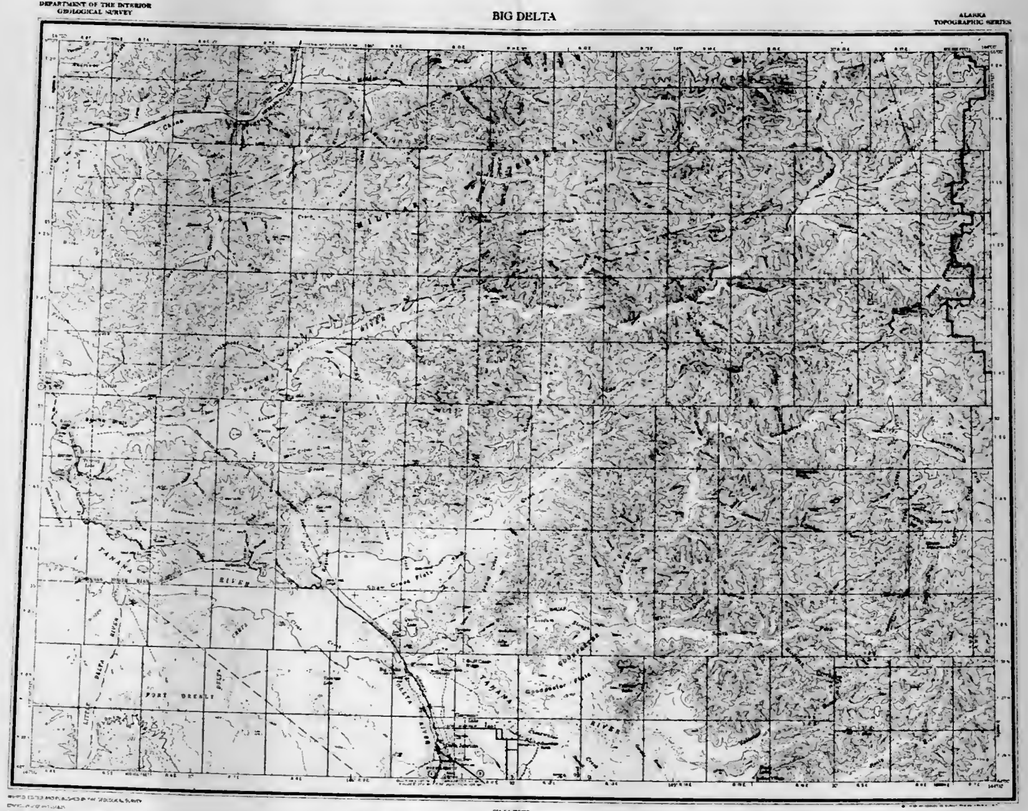
IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

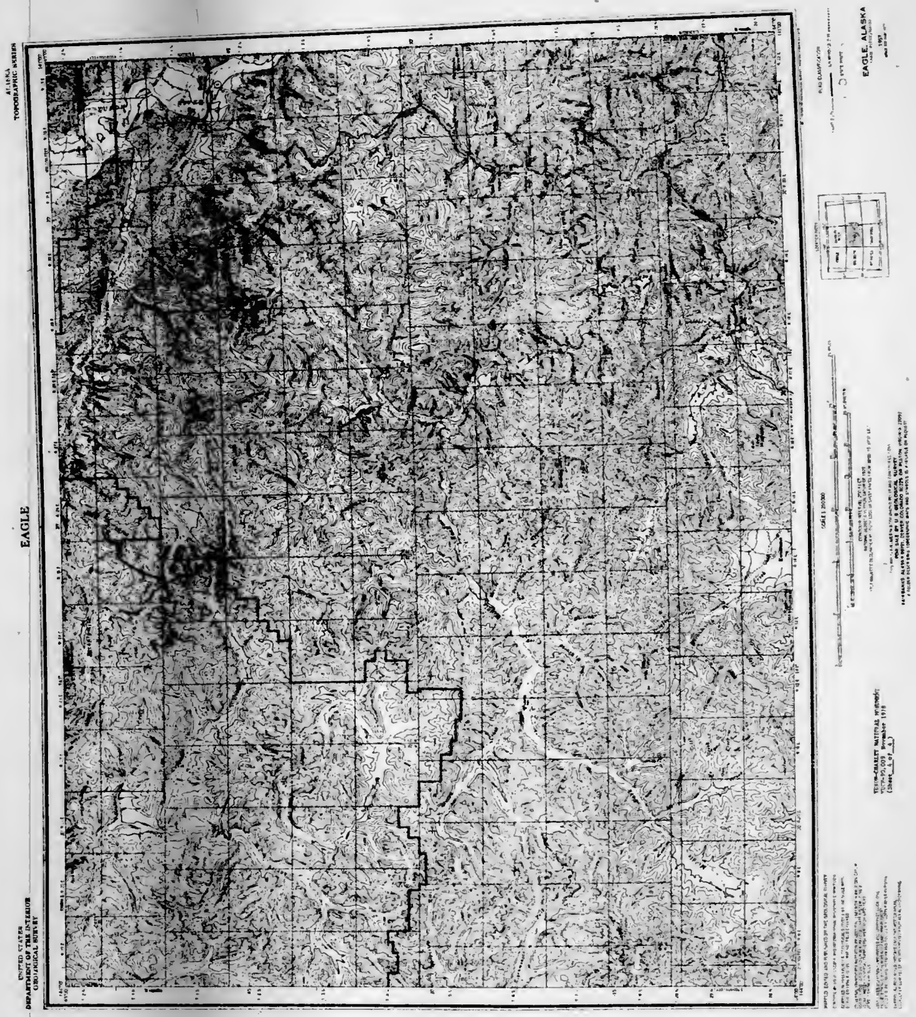
Jimmy Carter

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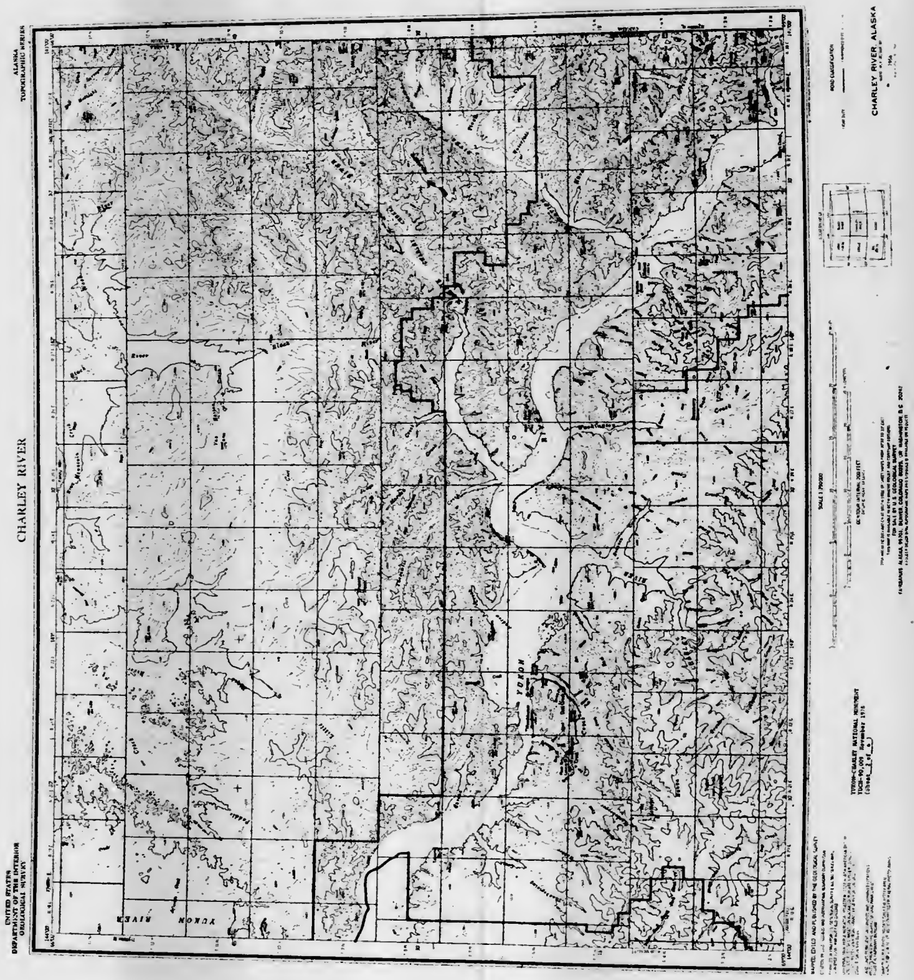


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[FR Doc. 78-34001 Filed 12-1-78; 3:08 pm]
FEDERAL REGISTER, VOL. 43, NO. 234—TUESDAY, DECEMBER 5, 1978

[3195-01-M]

Proclamation 4627 • **December 1, 1978**

Yukon Flats National Monument

By the President of the United States of America

A Proclamation

The Yukon Flats National Monument exemplifies the largest and most complete example of an interior Alaskan solar basin with its associated ecosystem. The mountain-ringed Yukon Flats basin straddles the Arctic Circle and is bisected by the Yukon River.

The physiography of this basin, coupled with the continuous sunlight of the summer months, results in a climatological phenomenon in the basin of warmer summer temperatures and less cloudiness, precipitation and wind than in surrounding areas. These factors produce a lush wetland area which makes the Yukon Flats basin one of North America's most productive wildlife habitats. The pristine ecological nature of the Yukon Flats offers an excellent opportunity for study of the factors contributing to the immense productivity of the solar basin areas.

The Yukon Flats contributes significant populations of several species of waterfowl to all four of the continent's flyways, including 10–25 percent of the North American breeding population of canvasback ducks. This area is also significant for its capacity to provide nesting for ducks displaced from Canadian pothole provinces in drought years. The productivity, migration flows and key habitat for particular species offer abundant scientific research possibilities.

Additionally, the area produces a unique race of salmon which migrate over 2,000 miles from the sea to spawn. This genetic capability is unknown elsewhere.

From prehistoric times, the area's rich populations of furbearers have attracted humans to the area. The establishment of Fort Yukon, the first English speaking settlement in Alaska, was directly related to the Hudson Bay Company's fur trade. The area's preservation offers to the scientist the opportunity to investigate the life and society of the peoples which utilized these resources.

The land withdrawn and reserved by this Proclamation for the protection of the geological, historical, biological and other phenomena enumerated above supports now, as it has in the past, the unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhance the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. Accordingly, the opportunity for the local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the monument.

Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and to reserve as part thereof parcels of land, the limits of which in all cases

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shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), do proclaim that there are hereby set apart and reserved as the Yukon Flats National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area depicted as Yukon Flats National Monument on the map numbered FWS-81-00-1514 attached to and forming a part of this Proclamation. The area reserved consists of approximately 10,600,000 acres, and is the smallest area compatible with the proper care and management of the objects to be protected. Lands, including submerged lands, and waters within these boundaries not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

All lands, including submerged lands, and all waters within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale or other disposition under the public land laws, other than exchange. There is also reserved all water necessary to the proper care and management of those objects protected by this monument and for the proper administration of the monument in accordance with applicable laws.

The establishment of this monument is subject to valid existing rights, including, but not limited to, valid selections under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and under or confirmed in the Alaska Statehood Act (48 U.S.C. Note preceding Section 21).

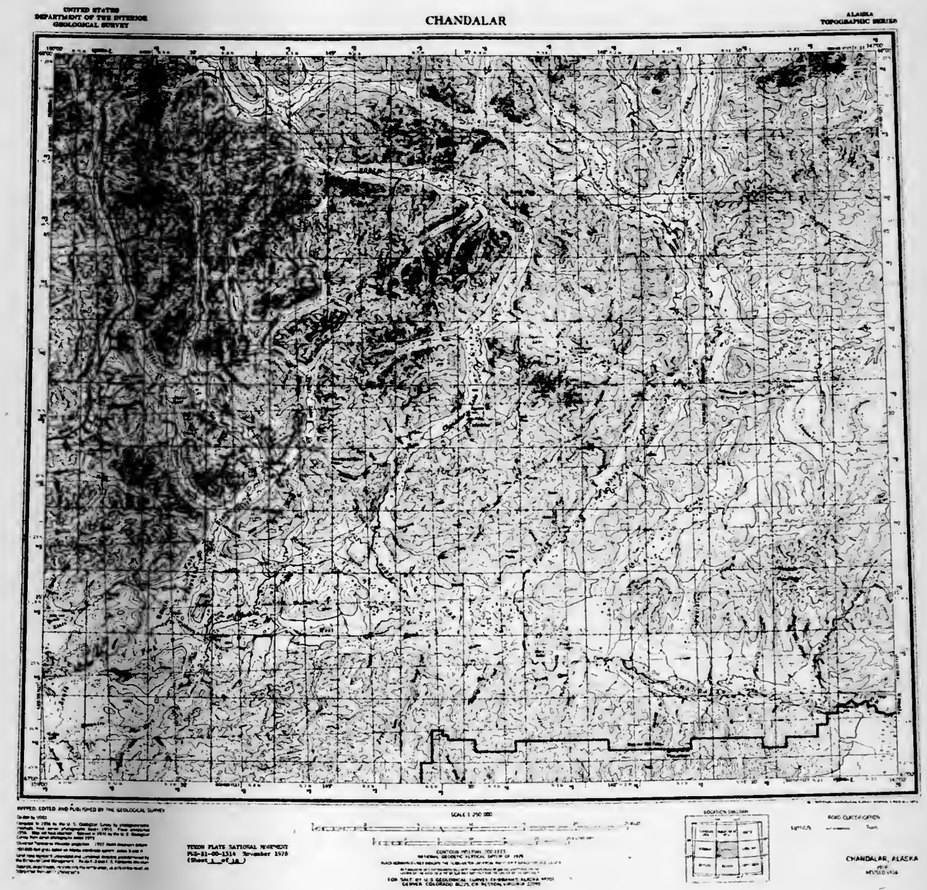
Nothing in this Proclamation shall be deemed to revoke any existing withdrawal, reservation or appropriation, including any public land order effecting a withdrawal under Section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1); however, the national monument shall be the dominant reservation. Nothing in this Proclamation is intended to modify or revoke the terms of the Memorandum of Understanding dated September 1, 1972, entered into between the State of Alaska and the United States as part of the negotiated settlement of *Alaska v. Morton,* Civil No. A-48-72 (D. Alaska, Complaint filed April 10, 1972).

The Secretary of the Interior shall promulgate such regulations as are appropriate, including regulation of sport hunting, and of the opportunity to engage in a subsistence lifestyle by local residents. The Secretary may close this national monument, or any portion thereof, to subsistence uses of a particular fish, wildlife or plant population or to sport hunting of a particular fish or wildlife population if necessary for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population.

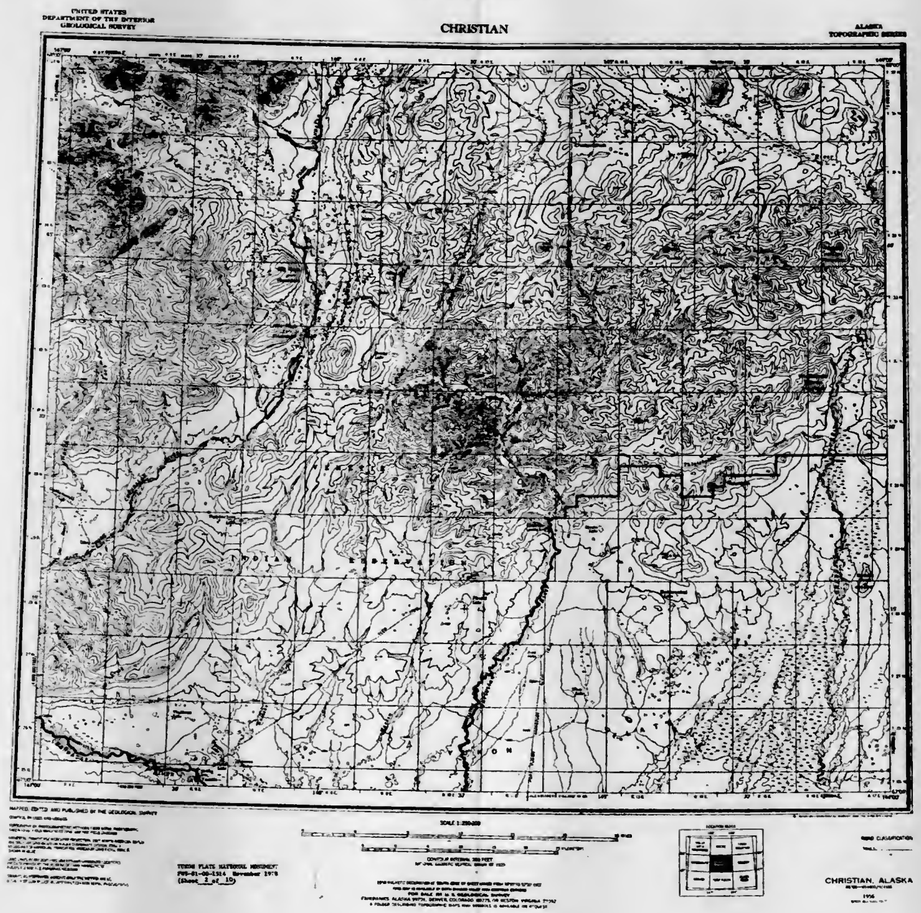
Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

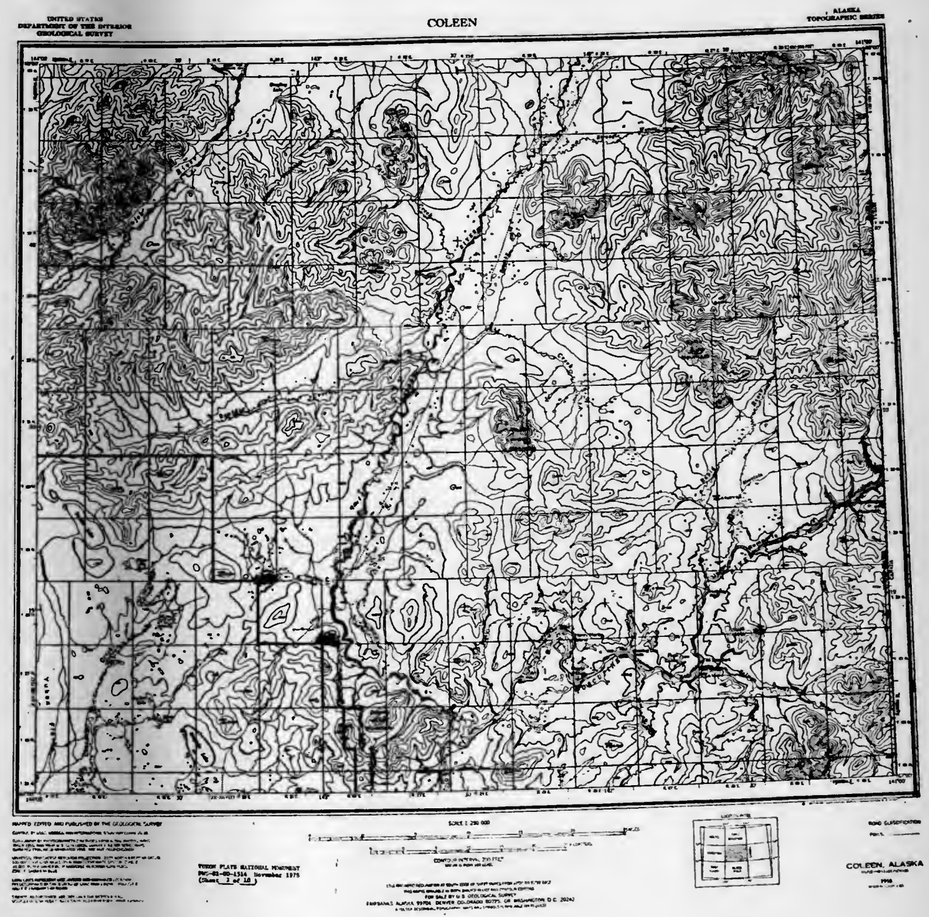
IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter



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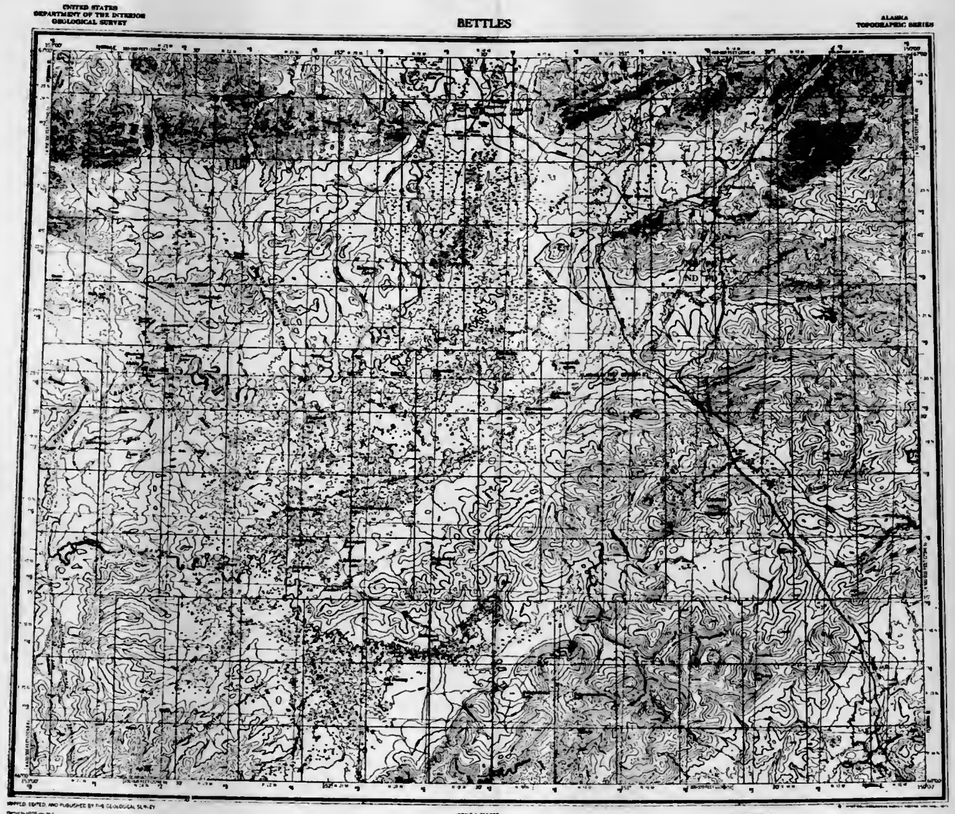


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UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

BETTLES

ALASKA
TOPOGRAPHIC SERIES



MAPPED, EDITED, AND PUBLISHED BY THE GEOLOGICAL SURVEY

SCALE 1:250000

CONTOUR INTERVAL 200 FEET

USGS PLATE NATIONAL MONUMENT
PMS-81-00-1314 November 1978
(Sheet 5 of 15)

LOCATION DIAGRAM

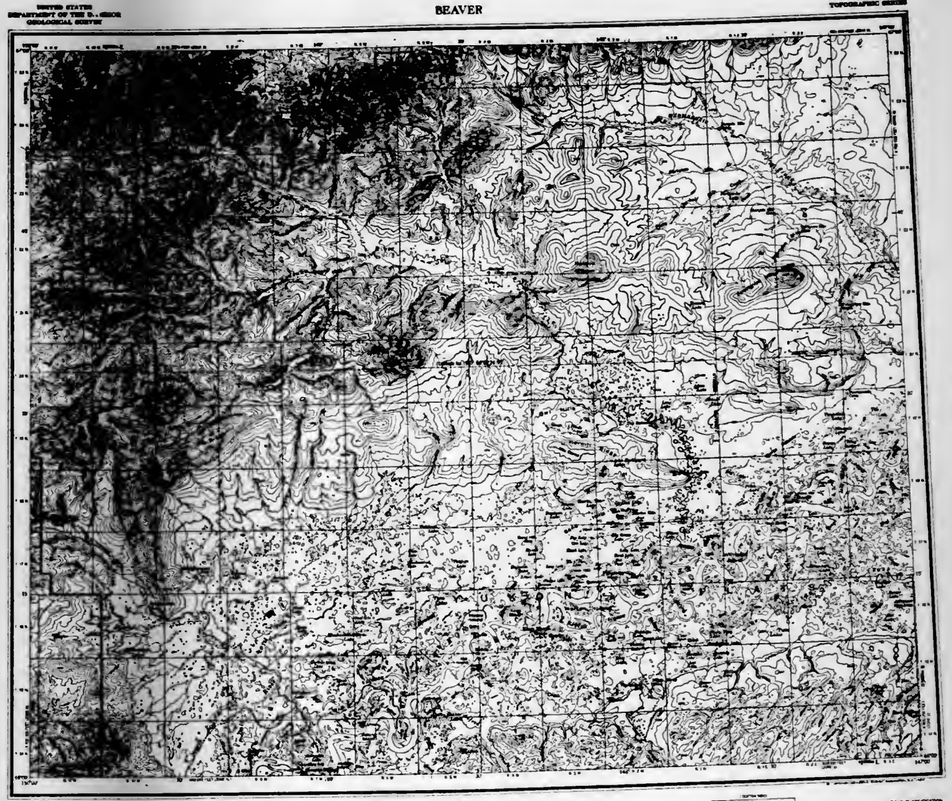
ROAD CLASSIFICATION

BETTLES, ALASKA
1954
REVISED 1976

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

BEAVER

ALASKA
TOPOGRAPHIC SERIES



MAPPED, EDITED, AND PUBLISHED BY THE GEOLOGICAL SURVEY

SCALE 1:250000

CONTOUR INTERVAL 200 FEET

USGS PLATE NATIONAL MONUMENT
PMS-81-00-1314 November 1978
(Sheet 5 of 15)

LOCATION DIAGRAM

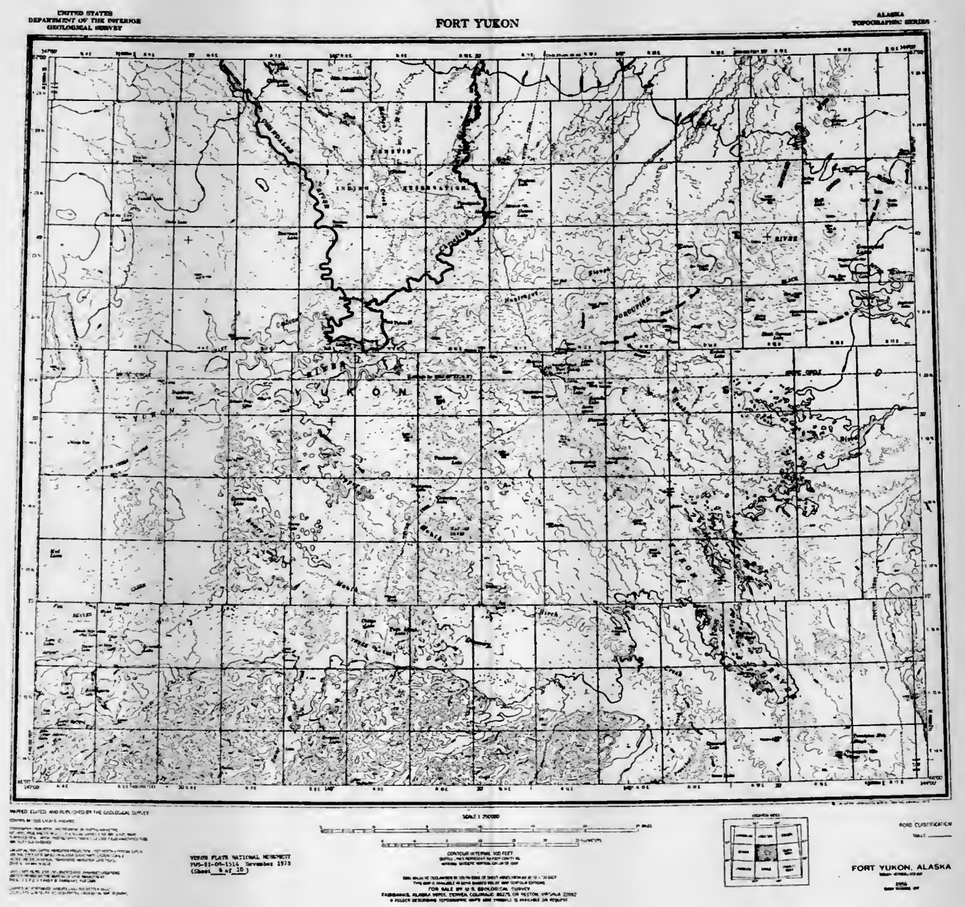
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1954
REVISED 1976

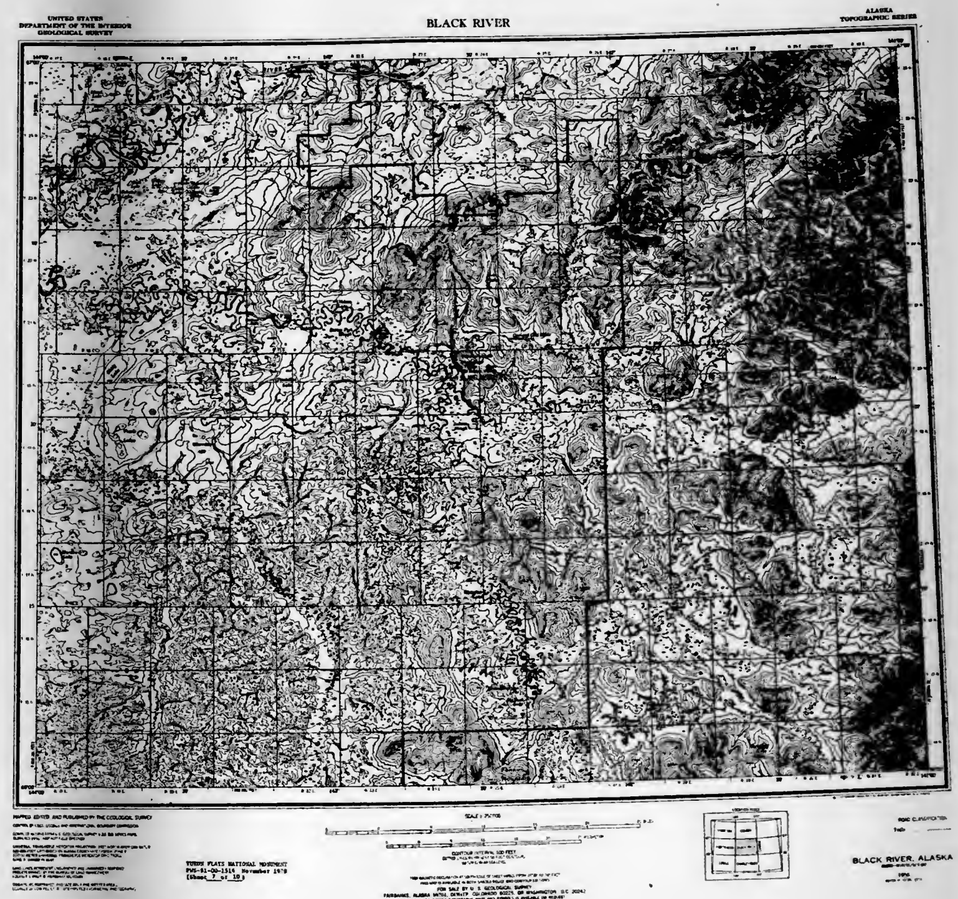
UNITED STATES
DEPARTMENT OF THE INTERIOR

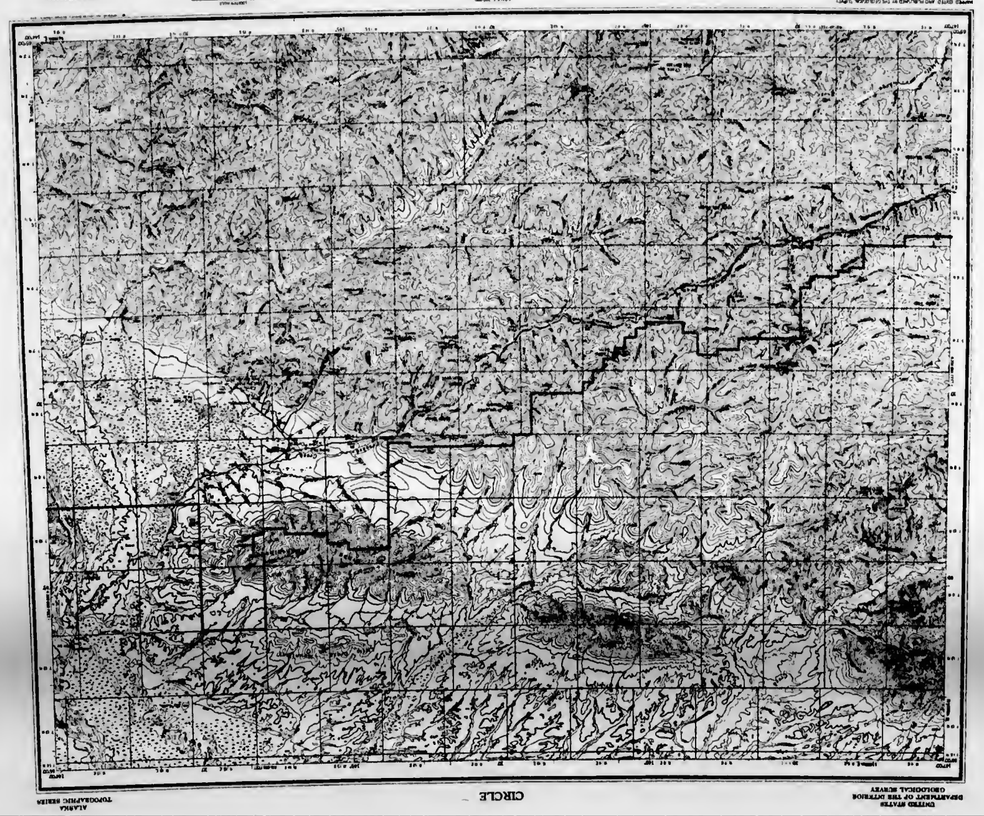
BLACK RIVER

ALASKA
TOPOGRAPHIC SERIES

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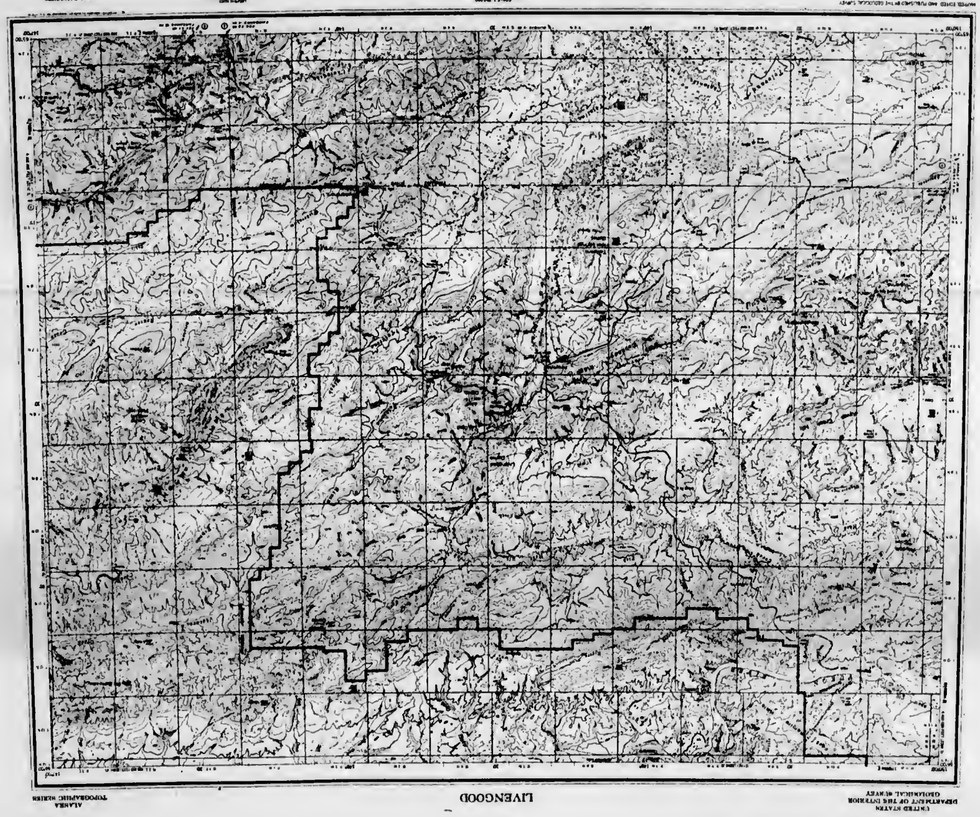




THE PRESIDENT

THE PRESIDENT

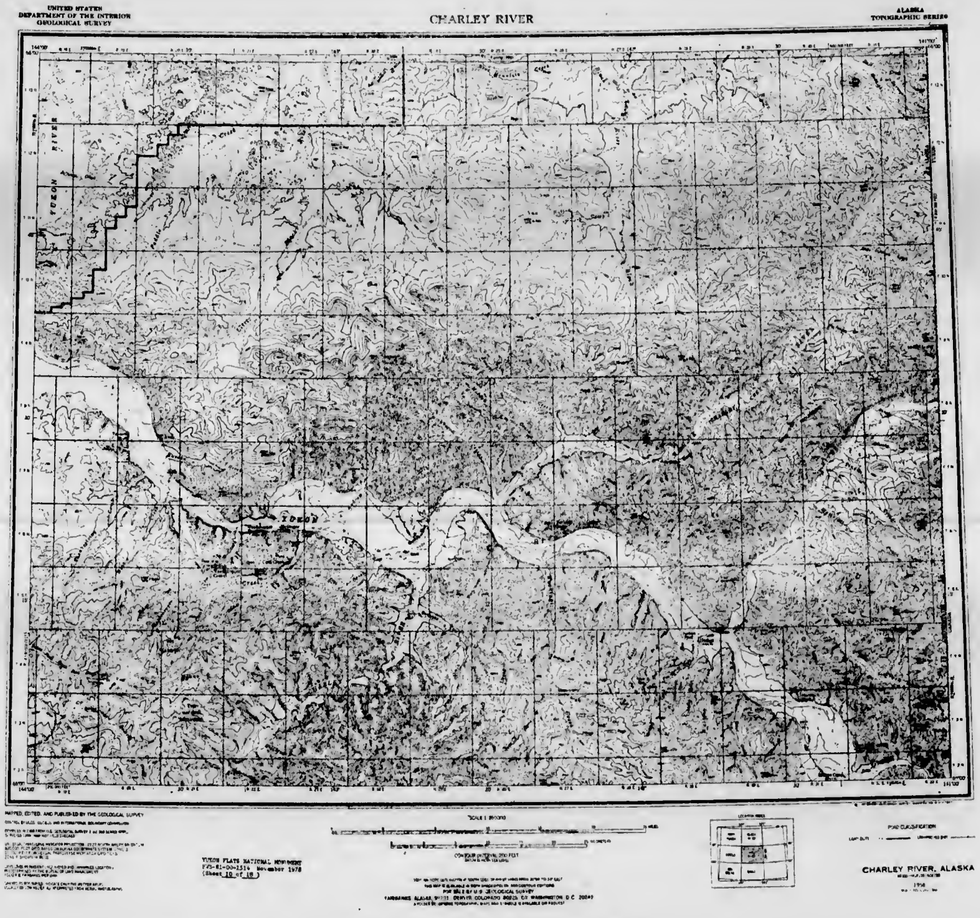
THE PRESIDENT



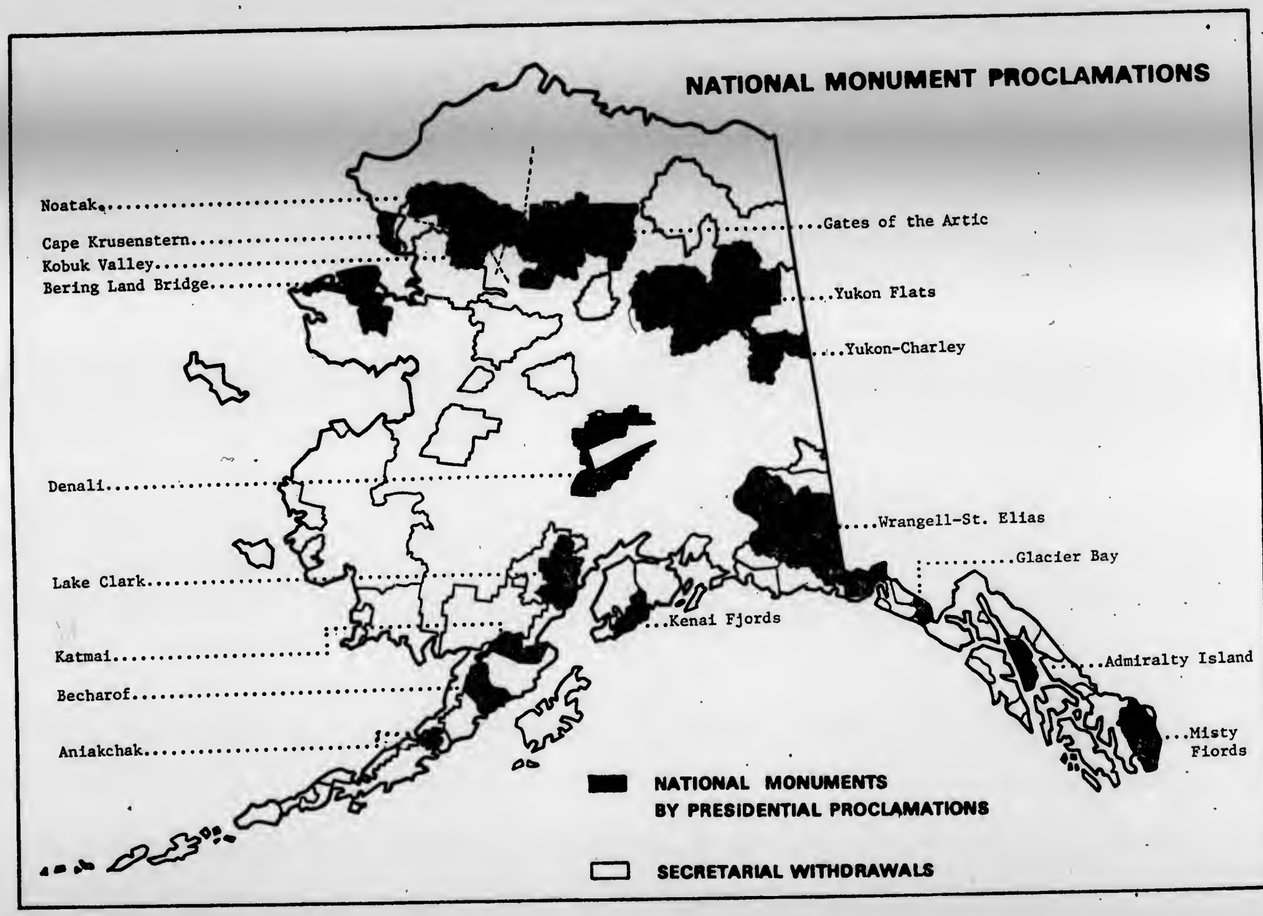
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[FR Doc. 78-34002 Filed 12-1-78; 3:09 pm]



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AVAILABILITY OF FULL-SIZE MAPS

EDITORIAL NOTE: Those who need full-size copies of the monument maps (approximately 2′ x 2½′) may send inquires to Beau McClure, Alaska Native Claims Coordinator, Department of the Interior, 18th & C Sts. NW., Washington, D.C. 20240. Phone, 202-343-3066.

federal register

TUESDAY, DECEMBER 5, 1978
PART IV



DEPARTMENT OF THE INTERIOR

Office of the Secretary

ALASKA

Notice of Proposed Withdrawal of Lands

T. 52 S., R. 60 E. All land of the line

V 4 3 / 2 3 4

D E C 5 7 8

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[4310-10-M]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[AA-23139]

ALASKA

Notice of Proposed Withdrawal of Lands

On November 28, 1978, the U.S. Department of Agriculture filed an application, Serial No. AA-23139, which was corrected by letter of December 1, 1978, for the withdrawal of the lands described below from location and entry under the general mining laws, 30 U.S.C., Ch. 2., and from selection, location, and entry under section 6 of the Alaska Statehood Act, 72 Stat. 339, subject to valid existing rights:

ALASKA

CHUGACH NATIONAL FOREST AND ADJACENT PUBLIC LANDS

COLLEGE FIORD-PRINCE WILLIAM SOUND-NELLIE JUAN AREA

Seward Meridian, Alaska

T. 1 N., Rs. 1 through 7 E.,
T. 1 N., Rs. 8 and 9 E., all land except Evans Island,
T. 1 N., R. 10 E.,
T. 2 N., Rs. 1 through 10 E.,
T. 3 N., Rs. 1 through 11 E.,
T. 4 N., Rs. 1 through 12 E.,
T. 5 N., Rs. 1 through 12 E.,
T. 6 N., Rs. 1 through 12 E.,
T. 7 N., Rs. 1 through 12 E.,
T. 8 N., Rs. 1 through 12 E.,
T. 9 N., Rs. 1 through 12 E.,
T. 10 N., R. 2 E., all lands within National Forest Boundary
T. 10 N., Rs. 3 through 12 E.,
T. 11 N., Rs. 2 through 4 E., all lands within National Forest Boundary.
T. 11 N., Rs. 5 through 12 E.,
T. 12 N., Rs. 5 through 7 E., all land south and east of the hydrographic divide,
T. 12 N., Rs. 8 through 12 E.,
T. 13 N., Rs. 7 and 8 E., all land south and east of the hydrographic divide,
T. 13 N., Rs. 9 through 12 E.,
T. 14 N., Rs. 8 and 9 E., all land south and east of the hydrographic divide,
T. 14 N., Rs. 10 through 12 E.,
T. 15 N., R. 9 E., all land south and east of the hydrographic divide,
T. 15 N., Rs. 10 through 12 E.,
T. 16 N., Rs. 9 and 12 E., all land south and east of the hydrographic divide,
T. 17 N., R. 12 E., all land south and east of the hydrographic divide,
T. 1 N., Rs. 1 and 2 W., all land within National Forest boundary
T. 2 N., R. 1 W.,
T. 2 N., R. 2 W., all land within National Forest Boundary
T. 3 N., Rs. 1 and 2 W.,
T. 3 N., Rs. 3 and 4 W., all land within National Forest boundary,
T. 4 N., Rs. 1 through 3 W.,
T. 4 N., R. 4 W., all land within National Forest boundary,
T. 5 N., Rs. 1 through 3 W.,
T. 5 N., R. 4 W., all land within National Forest boundary,
T. 6 N., Rs. 1 through 3 W.,
T. 6 N., R. 4 W., all land within National Forest boundary,
T. 7 N., Rs. 1 through 3 W.,
T. 7 N., R. 4 W., all land within National Forest boundary,
T. 8 N., Rs. 1 through 3 W.,
T. 8 N., R. 4 W., all land within National Forest boundary,
T. 9 N., R. 1 W., all land within National Forest boundary,
T. 9 N., Rs. 2 and 3 W.,
T. 9 N., R. 4 W., all land within National Forest boundary,
T. 10 N., Rs. 1 through 4 W. all land within National Forest boundary.
T. 1 S., Rs. 1 and 2 E., all land east of the Resurrection Peninsula hydgrographic divide, and all lands within National Forest Boundary,
T. 1 S., Rs. 3 through 7 E.,
T. 1 S., R. 8 E., all land on Bainbridge Island,
T. 2 S., R. 1 E., all lands east of the Resurrection Peninsula hydrographic divide,
T. 2 S., Rs. 2 through 6 E.,
T. 2 S., Rs. 7 and 8 E., all lands except Evans and Latouche Islands,
T. 3 S., R. 1 E., all lands east of the Resurrection Peninsula hydrographic divide,
T. S. 3., Rs. 2 through 7 E.,
T. S. 3., R. 8 E., all lands on Elrinston Island,
T. 4 S., R. 1 E.,

Copper River Meridian

T. 4 S., Rs. 10 and 11 W., all lands south and west of the hydrographic divide,
T. 5 S., Rs. 8 through 11 W., all lands south of the hydrographic divide,
T. 6 S., Rs. 7 and 8 W., all lands south and west of the hydrographic divide,
T. 6 S., R. 9 through 11 W.,
T. 7 S., Rs. 7 and 8 W., all land north and west of the hydrographic divide,
T. 7 S., Rs. 9 through 11 W.,
T. 8 S., R. 8 W., all land north and west of the hydrographic divide,
T. 8 S., Rs. 9 through 11 W.,
T. 9 S., R. 8 W., all land north and west of the hydrographic divide between Anderson and West Brook Glaciers,
T. 9 S., R. 9 W., all land north and west of the hydrographic divide,
T. 9 S., Rs. 10 and 11 W.,
T. 10 S., R. 9 W., all land west of the hydrographic divide,
T. 10 W., Rs., 10 and 11 W.,
T. 11 S., R. 10W., all land north and west of the hydrographic divide running through Mt. Freemantle,
T. 11 S., Rs. 10 and 11 W.,
T. 12 S., R. 11 W.

TONGASS NATIONAL FOREST AND ADJACENT PUBLIC LANDS

ETOLIN ISLAND AREA

Copper River Meridian

T. 66 S., R. 84 E., all land in the McHenry Inlet drainage,
T. 66 S., R. 85 E., all land south of the hydrographic divide south of Olive Cove and the head of Menefee Inlet and West of Menefee Inlet,
T. 67 S., R. 84 through 85 E., all lands south and east of the hydrographic divide between Burnett Inlet and McHenry Inlet,
T. 67 S., R. 85 E., all lands south and west of menefee Inlet and Canoe Passage,
T. 67 S., R. 86 E., all lands west of Ernest Sound and south of Menefee Inlet except the Niblack Islands,
T. 68 S., Rs. 84 and 85 E.,
T. 68 S., R. 86 E., all land west of Ernest Sound, excluding Deer Island and its associated islands,
T. 69 S., Rs. 85 and 86 E.,

STIKINE-LECONTE

Copper River Meridian

T. 55 S., R. 82 E., all land east of a protracted line drawn between Devils Thumb on the international divide and the point of intersection of the National forest boundary and the south boundary of T. 56 S., R. 82 E.,
T. 55 S., Rs. 83 and 84 E.,
T. 56 S., R. 82 E., all land east of a protracted line drawn between Devils Thumb on the international boundary and the point of the intersection of the National Forest boundary and the south boundary of this township,
T. 56 S., Rs. 83 and 84 E.,
T. 57 S., R. 82 E., E½
T. 57 S., R. 83 through 85 E.,
T. 58 S., R. 80 E., all land south of the hydrographic divide excluding McDonald Island and Mitkof Island as shown
T. 58 S., R. 81 E., all land south of the hydrographic divide
T. 58 S., R. 82 E., all land south and east of the hydrographic divide
T. 58 S., Rs. 83 through 86 E.,
T. 59 S., R. 81 E., all land excluding Mitkof Island
T. 59 S., Rs. 82 through 86 E.,
T. 60 S., R. 81 E., all land on Pocket Island
T. 60 S., Rs. 82 through 86 E.,
T. 60 S., R. 83 E., all land Kadin Island and Rynda Island
T. 61 S., Rs. 84 and 85 E., all land north of the hydrographic divide
T. 61 S., R. 86 E.,
T. 61 S., R. 87 E., all land west of the hydrographic divide
T. 62 S., R. 86 E., N¼
T. 62 S., R. 87 E., NW¼NE¼, N½NW¼

KEKU STRAIT (ROCKY PASS) AREA

Copper River Meridian

T. 57 S., R. 73 E., all land on Hamilton Pt., including unnamed island northwest of Hamilton Island.
T. 58 S., R. 73 E., all land in the NE¼, and in the SE¼ that land east of the ridgeline shown on U.S.G.S. map Petersburg, Alaska-Canada, 1960.
T. 58 S., R. 74 E., all land above mean high tide, south of the hydrographic boundary shown on U.S.G.S. map Petersburg, Alaska-Canada, 1960.
T. 58 S., R. 75 E., all land above mean high tide in the W½NW¼. NW¼SW¼, S½, SW¼.
T. 59 S., R. 73 E., 1 east of the hydrographic boundary shown on U.S.G.S. map Petersburg, Alaska-Canada, 1960.
T. 59 S., R. 74 E., all land above mean high tide.
T. 59 S., R. 75 E., all land west of the hydrographic boundary shown on U.S.G.S. map Petersburg, Alaska-Canada, 1960.
T. 60 S., R. 73 E., all land east of the hydrographic boundary, shown on U.S.G.S. map Petersburg, Alaska-Canada, 1960.
T. 60 S., R. 74 E., all land above mean high tide, north and east of the hydrographic boundary shown on U.S.G.S. map Petersburg, Alaska-Canada, 1960.
T. 60 S., R. 75 E., W½NW¼. SW¼.
T. 61 S., R. 75 E., all land above mean high tide east and north of the hydrographic boundary, excluding Monte Carlo Island shown on U.S.G.S. map Petersburg, Alaska-Canada, 1960.
T. 61 S., R. 76 E., W½, NW¼.

TEBENKOF BAY AREA

Copper River Meridian

T. 61 S., R. 71 E., all land south of a line beginning at Pt. Ellis; thence northeasterly to a point on the east line of T. 61 S., R. 71 E., approximately half way between Bay of Pillars and Tebenkof Bay,
T. 61 S., R. 72 E., all land south of a line beginning at a point on the west line of T. 61 S., R. 72 E., approximately half way between Bay of Pillars and Tebenkof Bay; thence southeasterly; thence easterly along the hydrographic boundary to a point half way along the west line of T. 61 S., R. 72 E.,
T. 61 S., R. 73 E., all land south of the hydrographic divide beginning approximately half way along the west line of T. 61 S., R. 73 E.; thence northeasterly; thence southeasterly; thence southerly to a point on the south line of T. 61 S., R. 73 E., approximately one mile east of Alecks Lake,
T. 63 S., Rs. 71 and 72 E.,
T. 63 S., R. 73 E., all land west of a line beginning at a point on the north line of T. 63 S., R. 73 E., approximately two and one half miles west of the east line of T. 63 S., R. 73 E.; thence southeasterly to the head of a drainage draining into Reid Bay; thence southwesterly to a point on the south line of T. 63 S., R. 73 E.,
T. 64 S., R. 71 E., all land north of a line beginning at the intersection of saltwater and the north line of T. 64 S., R. 71 E., thence southeasterly along the hydrographic divide to Green Mountain; thence easterly along said boundary to the west line of T. 64 S., R. 72 E.,
T. 64 S., Rs. 72 and 73 E., all land north of a line beginning at Green Mtn.; thence easterly along the hydrographic divide to a point on the east line of T. 64 S., R. 72 E., approximately one and one quarter miles south of the north line of T. 64 S., R. 72 E.

ADMIRALTY ISLAND AREA

Copper River Meridian

T. 40 S., R. 63 E., all land east of Lynn Canal
T. 40 S., R. 63 E., all land southwest of Sagi-naw Channel
T. 41 S., R. 64 E.,
T. 41 S., R. 65 E., all land southwest of Stevens Passage including Colt Island
T. 42 S., Rs. 64 and 65 E.,
T. 42 S., R. 66 E., all land on the south side of Stevens Passage including small island adjacent to Admiralty Cove.
T. 42 S., R. 67 E., all land on the south side of Stevens Passage
T. 43 S., Rs. 65 through 68 E.,
T. 43 S., R. 69 E., all land on the west side of Stevens Passage including Grand Island
T. 44 S., Rs. 65 through 68 E.,
T. 44 S., R. 69 E., all land on the west side of Stevens Passage including Grand Island
T. 45 S., Rs. 66 through 70 E.,
T. 46 S., Rs. 66 through 71 E.,
T. 47 S., Rs. 66 through 71 E.,
T. 48 S., Rs. 66 through 71 E.,

T. 49 S., Rs. 71 and 72 E.,
T. 50 S., Rs. 67 through 72 E.,
T. 51 S., Rs. 67 through 72 E.,
T. 52 S., Rs. 68 through 72 E.,
T. 53 S., Rs. 68 through 72 E.,
T. 54 S., Rs. 68 through 71 E.,
T. 55 S., Rs. 68 through 70 E.,
T. 56 S., Rs. 68 and 69 E.,

KARTA AREA

Copper River Meridian

T. 72 S., R. 82 E., all land south of the hydrographic divide beginning at a point on the south line of T. 72 S., R. 82 E., approximately two and one half miles east of the west line of T. 72 S., R. 82 E., thence northeasterly along the hydrographic divide to a point on the east line of T. 72 E., R. 82 E., approximately three miles south of the north line of T. 72 E., R. 82 E.,
T. 72 S., Rs. 83 and 84 E., all land south of the hydrographic divide south of Paul Young Creek,
T. 73 S., R. 82 E., all land east of the hydrographic divide dividing the Black Bear Lake watershed,
T. 73 S., R. 83 E., all land north of the hydrographic divide excluding the Aaris River and Maybeso Creek drainages,
T. 73 S., R. 84 E., all land north of the hydrographic divide including the McGilvery Creek, Salmon Lake, Flagstaff Creek and Sandy Point drainages,
T. 73 S., R. 85 E., all land west of Kasaan Bay.

WEST CHICHAGOF-YAKOBI

Copper River Meridian

T. 43 S., R. 54 S.,
T. 43 S., R. 55 E., All land of Yakobi Island.
T. 44 S., R. 54 E.,
T. 44 S., R. 55 E., All land south and west of the center line of Lisianski Inlet.
T. 45 S., R. 56 E., All land south and west of the center line of Lisianski Inlet.
T. 46 S., R. 55 and 56 E.,
T. 46 S., R. 57 E., All land south and west of the center line of Lisianski Inlet.
T. 46 S., R. 58 E., All lands south of the hydrographic divide north of Lisianski River,
T. 46 S., R. 59 E., All land south and west of hydrographic divide running across the SW¼,
T. 47 S., Rs. 55 through 58 E.,
T. 47 S., R. 59 E., All land south and west of the hydrographic divide running diagonally across the NE¼,
T. 47 S., R. 60 E., All land south and west of the hydrographic divide that runs diagonally across the SW¼ down the ridgeline terminating in the north Arm of Peril Strait 48.
T. 48 S., Rs. 56 through 59 E.,
T. 48 S., R. 60 E., All land south and west of the line through the center of the North Arm of Peril Strait.
T. 48 S., R. 61 E., All land south and west of a line through the center of the Arm of Peril Strait.
T. 49 S., Rs. 57 through 61 E.,
T. 49 S., R. 62 E., all land south of a line through the center of Peril Strait.
T. 50 S., Rs. 58 through 80 E.,
T. 50 S., R. 61 E., All land on Chichagof.
T. 50 S., R. 62 E., land known as Hoggatt reefs, Hoggatt Island, and Ford Rock.
T. 51 S., R. 59 and 60 E.,
T. 51 S., R. 61 E., All land north and west through center line of Peril Strait.
T. 52 S., R. 60 E., All land of the line through the center of Salisbury Sound and Kakul Narrows.
T. 52 S., R. 61 E., All land north and west of the line through the center of Kahul Narrows and Peril Strait

ENDICOTT

Copper River Meridian

T. 34 S., Rs. 59 and 60 E., all land east of Glacier Bay National Monument in the Endicott River drainage,
T. 35 S., Rs. 58 through 61 E., all land east of Glacier Bay National Monument in the Endicott River drainage,
T. 36 S., Rs. 58 through 61 E., all land east of Glacier Bay National Monument in the Endicott River drainage,
T. 37 S., R. 60 E., all land east of Glacier Bay National Monument in the Endicott River drainage.

IDAHO INLET—MUD BAY

Copper River Meridian

T. 42 S., R. 56 E., All land in the S½ that lies east of the hydrographic divide that runs immediately west of For Creek
T. 42 S., R. 57 and 58 E., All land S½.
T. 42 S., R. 59 E., All land south and east of hydrographic divide that runs along the ridge just west of the headwaters of Chicken Creek,
T. 43 S., R. 56 E., All land east of the hydrographic divide on the ridgeline of Indian Peninsula
T. 43 S., R. 57 E., All.
T. 43 S., R. 58 E., All land in N½, SW¼, N½SE¼, SW¼SE¼.
T. 43 S., R. 59 E., All land west of hydrographic divide that runs along the ridge west of Chicken Creek
T. 44 S., R. 56 E., All land east of hydrographic divide
T. 44 S., R. 57 E.,
T. 44 S., R. 58 All land west of hydrographic divide
T. 45 S., R. 58 E., All land north of hydrographic divide through Pegmatite Mt.
T. 45 S., R. 57 E., All land north and east of hydrographic divide that cuts diagonally across the NE¼

TRACY ARM-FIORDS TERROR

Copper River Meridian

T. 44 S., Rs. 73 through 75 E., all lands in the Tracy Arm drainage,
T. 45 S., R. 73 and 74 E., all lands south and east of the hydrographic divide north of Tracy Arm,
T. 45 S., Rs. 75 through 77 E.,
T. 46 S., R. 72 E., all land east of the hydrographic divide between Williams Cove and Gilbert Bay drainages and between Williams Cove and Stevens Passage drainages,
T. 46 S., R. 73 E., all land south and east of the hydrographic divide between Tracy Arm and Gilbert Bay drainages,
T. 46 S., Rs. 74 through 77 E.,
T. 47 S., R. 72 E., all lands in the Tracy Arm drainage,
T. 47 S., R. 73 E., all lands except those west of the hydrographic divide on the Snettisham Peninsula,
T. 47 S., Rs. 74 through 78 E.,
T. 48 S., R. 73 E., all land north and east of the hydrographic divide draining into Holkham Bay and Endicott Arm,
T. 48 S., Rs. 74 through 78 E.,

T. 49 S., Rs. 74 through 76 E., all land north
T. 29 S., R. 37 E., all land east and south of
T. 63 S., Rs. 93 and 94 E.,

and Mesa Lake thence east along the trail
withdrawal must submit a written re-
quest to be heard to the Alaska State

V 43/234 DE 5 78 UMI

T. 49 S., Rs. 74 through 76 E., all land north and east of the hydrographic divide
T. 49 S., R. 77 through 80 E.,
T. 50 S., Rs. 76 and 77 E., all land north and east of the hydrographic divide
T. 50 S., Rs. 78 through 80 E.,
T. 51 S., Rs. 77 and 78 E., all land north of the hydrographic divide south of Endicott Arm,
T. 51 S., R. 79 E., all land north and east of the hydrographic divide
T. 51 S., Rs. 80 and 81 E.,
T. 52 S., R. 78 E., all land north and east of the hydrographic divide
T. 52 S., R. 79 through 81 E., all land north and east of the hydrographic divide

CORONATION ISLAND-WARREN ISLAND-MAURILLE ISLAND

Copper River Meridian

T. 68 S., Rs. 72 through 75 E.,
T. 70 S., Rs. 72 through 75 E.,
T. 71 S., R. 76 E., all land except Gull Island and Emerald Island.
T. 71 S., R. 77 E., all land except Heceta Island.
T. 72 S., R. 76 E., all land above mean high tide except St. Joseph Island.
T. 72 S., R. 77 E.,

RUSSELL FIORD-YAKUTAT FORELANDS AREA

Copper River Meridian

T. 22 S., R. 34 E., E½ SE¼
T. 22 S., R. 35 E., S½
T. 22 S., R. 36 E., S½
T. 22 S., R. 37 E., SW¼, all land in SE¼ southwest of the hydrographic divide
T. 23 S., R. 34 E., all land south and east of Disenchantment Bay
T. 23 S., Rs. 35 and 36 E.,
T. 23 S., R. 37 E., all land south and west of the hydrographic divide
T. 23 S., R. 38 E., All land south and west of the hydrographic divide
T. 24 S., Rs. 34 through 37 E.,
T. 24 S., R. 38 E., all land N½NE¼, SE¼ NE¼, NW¼, S½
T. 24 S., R. 39 E., W½ SW¼
T. 25 S., Rs. 34 through 36 E.,
T. 25 S., R. 37 E., W½
T. 25 S., R. 38 E., N½.
T. 25 S., R. 39 E., N½ NW¼
T. 26 S., Rs. 34 through 37 E.,
T. 26 S., R. 38 E., SW¼NW¼, W½ SW¼.
T. 27 S., R. 35 E., all land north and east of a line that commences at the northwest corner of the Township running East along the North township line for approximately 1½ miles thence running southeasterly intersecting the Yakutat Highway approximately 1 mile west of the highway curve thence along the highway in the direction away from Yakutat to the intersection of the east township line
T. 27 S., R. 36 E., all land north and east of Yakutat Highway
T. 27 S., R. 37 E.,
T. 27 S., R. 38 E., all land west and south of a line running southerly from the north township line along the forest divide through Crescent Mt. thence southeasterly along the hydrographic divide to the south township line
T. 28 S., Rs. 36 and 37 E., all land north and east of Yakutat Highway.
T. 28 S., R. 38 E.,
T. 28 S., R. 39 E., W½
T. 29 S., R. 36 E., all land east of the west bank of Dangerous River
T. 29 S., R. 37 E., all land east and south of a line running from the intersection of the west township line and the west bank of Dangerous River northeasterly along the river bank to an unnamed intersecting river thence northeasterly along the centerline of the unnamed river to its intersection near the northeast township corner
T. 29 S., Rs. 38 and 39 E.,
T. 29 S., R. 40 E., S½
T. 29 S., R. 41 E., SW¼SW¼
T. 30 S., R. 36 E., all land east of the most northwesterly outlet of Dangerous River
T. 30 S., Rs. 37 through 41 E.,
T. 30 S., R. 42 E., all land south and west of the hydrographic divide
T. 31 S., Rs. 38 through 42 E.,
T. 31 S., R. 43 E., SW¼NW¼, SW¼.
T. 32 S., R. 40 E., all land on the north side of Dry Bay
T. 32 S., R. 41 E., all land on the north side of Dry Bay, and NE¼NE¼
T. 32 S.,R. 42 E., a one-mile-wide strip along the north boundary of the township.
T. 32 S., R. 43 E., NW¼NW¼.

SOUTH PRINCE OF WALES AREA

Copper River Meridian

T. 78 S., R. 85 E., all land east of the hydrographic divide between Nutkwa and Keete Inlets and Klakas Inlet.
T. 78 S., R. 86 R., all land west of the hydrographic divide between Klakas Inlet and Clarence Strait.
T. 79 S., R. 85 E., all land above mean high tide east of the hydrographic divide between Keete and Kassa Inlets and Klakas Inlet.
T. 79 S., R. 86 E., all land above mean high tide west of the hydrographic divide Klakas Inlet and Clarence Strait.
T. 80 S., R. 85 E., all land above mean high tide east of the hydrographic boundary between Cordova Bay and Klakas Inlet.
T. 80 S., R. 86 E., all land above mean high tide west of the hydrographic boundary between Moira Sound and Klakas Inlet.
T. 80 S., R. 87 E., section 31.
T. 81 S., R. 84 E., all land above mean high tide on the east side of Cordova Bay.
T. 81 S., R. 85 E., all land above mean high tide east of Cordova Bay.
T. 81 S., R. 86 E., all land above mean high tide west of the hydrographic divide between Cordova Bay and Clarence Strait.
T. 81 S., R. 87 E., all land west of the hydrographic divide between Clarence Strait and Hessa Inlet.
T. 82 S., R. 84 E., all land above mean high tide on the east side of Cordova Bay.
T. 82 S., R. 85 E., all land above mean high tide.
T. 82 S., R. 86 E., all land above mean high tide west of the hydrographic divide between Hessa Inlet and Brownson Bay on the west and Nichols Bay on the east.
T. 82 S., R. 87 E., all land above mean high tide west of the hydrographic divide west of Nichols Bay.
T. 83 S., R. 86 E., all land above mean high tide.
T. 83 S., R. 87 E., all land above mean high tide west of the major hydrographic divide west of Nichols Bay.

MISTY FIORDS NATIONAL MONUMENT

Copper River Meridian

T. 63 S., R. 92 E., all lands in the Blue River drainage
T. 63 S., Rs. 93 and 94 E.,
T. 64 S., R. 92 E., all land in the Blue River drainage
T. 64 S., Rs. 93 through 95 E.,
T. 65 S., R. 91 E., all land south of the hydrographic divide between East Fork Bradfield River and Grant Creek
T. 65 S., R. 92 E., all land south of the hydrographic divide between the Unuk River and North Fork Bradfield River
T. 65 S., R. 93 E., all land south and east of the hydrographic divide
T. 65 S., Rs. 94 through 97 E.,
T. 66 S., R. 90 E., all land south and east of the hydrographic divide between Eagle River and Grant Creek
T. 66 S., R. 91 E., all land in the Grant Creek drainage
T. 66 S., R. 92 E., all land except the Bradfield River drainage
T. 66 S., Rs. 93 through 97 E.,
T. 66 S., R. 98 E., all land west of the hydrographic divide west of the Salmon River drainage
T. 67 S., R. 91 E., all land east of the hydrographic divide between Burroughs Bay and Eagle River-Bell Arm drainages
T. 67 S., Rs. 92 through 97 E.,
T. 67 S., R. 98 E., all land west of hydrographic divide between Chickamin River and Salmon River Drainages
T. 68 S., R. 91 E., all land east of a line running southwest from a peak on the north township line to the approximate center of Anchor Pass thence southerly through the centerline of Anchor Pass and across Behm Canal and continuing southerly up the ridgeline between Cow Creek and Beaver Creek to the south township
T. 68 S., Rs. 92 through 96 E.,
T. 68 S., R. 97 E., all land north and west of hydrographic divide between Salmon River and Chickamin River drainages
T. 68 S., R. 98 E., all land north and west of hydrographic divide between Salmon River and Chickamin River drainages
T. 69 S., R. 91 E., all land east of the hydrographic divide between Cow Creek on the east and Beaver Creek-Klu on the west
T. 69 S., Rs. 92 and 93 E., all land east and north of the hydrographic divide excluding Orchard Creek drainage
T. 69 S., Rs. 94 through 97 E.,
T. 69 S., Rs. 98 and 99 E., all land west of the hydrographic divide between Soule River and Davis River drainages
T. 70 S., R. 92 E., all lands except Orchard Creek drainage
T. 70 S., R. 93 E., all land east of the hydrographic divide
T. 70 S., Rs. 94 through 98 E.,
T. 70 S., R. 99 E., all land south and west of the Seward Mountains ridge and Portland Canal opposite Round Pt. triangulation point
T. 71 S., R. 92 E., all land east of the hydrographic divide
T. 71 S., R. 93 E., all land north and east of the hydrographic divide
T. 71 S., Rs. 94 through 100 E.,
T. 72 S., R. 93 E., all land east of the hydrographic divide
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T. 73 S., Rs. 94 through 101 E.,
T. 74 S., R. 93 E., all land east of the hydrographic divide
T. 74 S., R. 94 through 101 E.,
T. 75 S., R. 94 E., all land east of a line running from the northwest corner of the township to a trail between Thorne Arm and Mesa Lake thence east along the trail to southwest tip of Mesa Lake thence southerly along the hydrographic divide to approximately the midpoint of the south township line
T. 75 S., Rs. 95 through 101 E.,
T. 76 S., R. 94 E., all land east of the hydrographic divide
T. 76 S., Rs. 95 through 102 E.,
T. 77 S., R. 94 E., all land east of the hydrographic divide running southwesterly from Alava Ridge to a point on the shore between triangulation points "Luck" and "Cat"
T. 77 S., Rs. 95 through 102 E.,
T. 78 S., Rs. 95 through 101 E.,
T. 79 S., Rs. 95 through 101 E.,
T. 80 S., Rs. 96 through 100 E.,
T. 81 S., Rs. 97 through 100 E.,
T. 82 S., Rs. 97 through 99 E.,

All the foregoing described lands are above the line of mean high tide and aggregate 11,200,000 acres more or less.

The applicant desires that the lands be withdrawn for a two-year period to protect the scenic, historic, scientific, and/or primitive attributes of the area and in aid of possible legislation. The withdrawal applied for would be in additional to existing withdrawals and reservations.

On or before January 15, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to Curt McVee, State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that a public hearing will be afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request to be heard to the Alaska State Director at the address shown above. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing.

The Department's regulations at 43 C.F.R. Sec. 2351.4(c) provide, in part, that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER.

For a period of 2 years from the date of publication of this notice in the FEDERAL REGISTER, the above described lands will be segregated from location, selection, and entry to the extent that the withdrawal applied for, if effected, would prevent such forms of disposal, unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved, it will be for a period of 2 years, unless duly extended.

All communications in connection with this proposed withdrawal should be addressed to the Alaska State Director at the above address.

JAMES A. JOSEPH,
Under Secretary of the Interior.

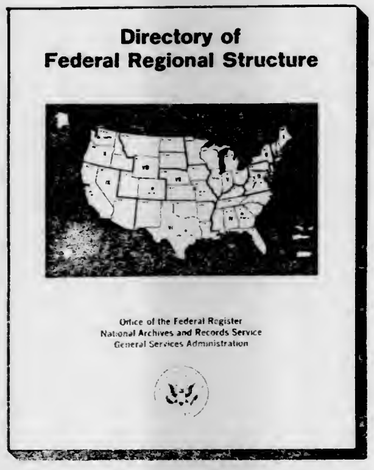
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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 2, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment allows each handler of Dancy variety tangerines to ship during the periods November 27 through December 3 and December 4 through December 10, 1978, a quantity of smaller size tangerines (2$^{9}/_{16}$ inches diameter) equal to 75 percent of total shipments during a specified prior period. In the absence of this amendment up to 25 percent of smaller tangerines could be shipped the week ending December 3, and only tangerines 2$^{9}/_{16}$ inches in diameter could be shipped the week ending December 10. This action will allow increases in suppies of tangerines during the periods specified in recognition of market needs and the size composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATE: November 27, 1978, through December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the recommendations of the committee established under the marketing agreement and order, and upon other available information, it is found that the regulation of shipments of Florida tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller size fresh Florida tangerines of the designated variety during the specified period based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is presently less than anticipated and there is a need to augment supplies by permitting shipment of a larger proportion of the smaller size fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a larger portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines during the overlap period, when shipments of the Robinson variety are decreasing seasonally and Dancy are being shipped in greater volume.

The Citrus Administrative Committee, at an open meeting on November 28, 1978, reported that the amendment would allow shipment of approximately 85 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for larger quantities of smaller size Dancy tangerines and markets presently can absorb a larger portion of the supply of the smaller fruit. It indicated markets cannot absorb greater quantities of such smaller tangerines than the proportion recommended, without disruption of the markets.

The Department's Crop Reporting Board estimates the 1978-79 season's crop of Florida tangerines at 3.8 million boxes (approximately 7.6 million cartons). Hence, the volume of tangerines is comparable to that of last season.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,500 carlots); Robinson (1,500 carlots); Honey (2,100 carlots). Each carlot is equivalent to one thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the provisions of § 905.302 (Orange, Grapefruit, Tangerine and Tangelo Regulation 2; 43 FR 43013; 52197; 53027; 54617), should be and are amended by revising paragraph (d) to read as follows:

§ 905.302 **Orange, Grapefruit, Tangerine, and Tangelo Regulation 2.**

* * * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may during each of the period November 27 through December 3, 1978, and December 4 through December 10, 1978, ship

[Marketing Order 905]

Dancy variety tangerines smaller than

$0.004 per standard packed box (1⅗

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Dancy variety tangerines smaller than 2-9/16 inches in diameter: *Provided,* That such smaller tangerines are not smaller than 2-9/16 inches in diameter: *And provided further,* That the quantity of such smaller tangerines does not exceed 75 percent of the quantity shipped in the applicable prior period as determined by the procedure specified in § 905.152 (43 FR 32397) of this part.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: December 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-33972 Filed 12-5-78; 8:45 am]

[3410-02-M]

FLORIDA CITRUS FRUITS

Expenses, Rates of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: These regulations authorize expenses and rates of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the committees which locally administer Federal marketing orders covering Florida citrus fruits.

DATES: Effective August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order Nos. 905, 912 and 913, each as amended (7 CFR Parts 905, 912, and 913), respectively, regulating the handling of citrus fruits grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by these committees, established under these marketing orders, and upon other information, it is found that the expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

[Marketing Order 905]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. Section 905.217 of Title 7 Part 905 is revised to read as follows:

§ 905.217 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Citrus Administrative Committee during fiscal period August 1, 1978, through July 31, 1979, will amount to $218,700.

(b) The rate of assessment for said period, payable by each handler in accordance with § 905.41, is fixed at $0.00275 per carton (⅘ bushel) of fruit.

(c) Unexpended funds in excess of expenses incurred during fiscal period ended July 31, 1978, shall be carried over as a reserve in accordance with § 905.42.

[Marketing Order 912]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

2. Section 912.218 of Title 7 Part 912 is revised to read as follows:

§ 912.218 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during fiscal period August 1, 1978, through July 31, 1979, will amount to $27,907.

(b) The rate of assessment for said period payable by each handler in accordance with § 912.41 is fixed at $0.001 per carton (⅘ bushel) of grapefruit.

[Marketing Order 913]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

3. Section 913.214 of Title 7 Part 913 is revised to read as follows:

§ 913.214 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during fiscal period August 1, 1978, through July 31, 1979, will amount to $27,300.

(b) The rate of assessment for said period payable by each handler in accordance with § 913.31 is fixed at $0.004 per standard packed box (1⅗ bushel) of grapefruit.

(c) Unexpended funds in excess of expenses incurred during fiscal period ended July 31, 1978, shall be carried over as a reserve in accordance with § 913.32.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as these orders require that the rates of assessment for a particular fiscal period shall apply to all assessable fruit handled from the beginning of such period which began August 1, 1978. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates are necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rates at an open meeting of each committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: November 30, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-33969 Filed 12-5-78; 8:45 am]

[7535-01-M]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Final Rulemaking—Share Accounts and Share Certificate Accounts; Qualified Trusts and Individual Retirement Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: These amendments amend existing regulations governing Individual Retirement Accounts (IRA) and Keogh accounts. The amendment to Part 701 excepts IRA and Keogh accounts from the minimum amount requirement for share certificates. The amendment to Part 745 conforms the regulation pertaining to share insurance coverage for IRA and Keogh accounts to the Financial Institutions Regulatory and Interstate Rate Control Act of 1978. That Act, among other things, raised the share insurance coverage for IRA and Keogh accounts from $40,000 to $100,000 per account.

EFFECTIVE DATE: November 10, 1978.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

J. Leonard Skiles, Deputy General Counsel, Office of the General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: Pursuant to § 701.35(c)(2)(iii) of the National Credit Union Administration rules and regulations (12 CFR 701.35(c)(2)(iii)), the lowest minimum amount requirement for a share certificate account is set at $500. This particular limitation has discouraged, rather than encouraged, people of more modest means to establish IRA and Keogh accounts in Federal credit unions. Further, the $500 limitation has created a competitive imbalance. Section 701.35(c)(2)(iii), therefore, is amended by deleting the $500 minimum amount requirement for IRA and Keogh accounts.

Section 1401(c) of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 amended the Federal Credit Union Act to authorize the National Credit Union Share Insurance Fund to insure funds held in IRA and Keogh accounts to a maximum of $100,000 per account. This particular provision became effective upon enactment, therefore, IRA and Keogh accounts are presently insured in accordance with the statutory change. This amendment simply conforms the regulation to Section 1401(c) of the Act.

In order to facilitate the achievement of the above stated objectives as rapidly as possible, the NCUA finds that application of the notice and public participation provisions of 5 U.S.C. Section 553 would be contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Accordingly, 12 CFR 701.35(c)(2)(iii) and 745.9-2 are amended as set forth below.

LORENA C. MATTHEWS,
Acting Administrator.

NOVEMBER 22, 1978.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

§ 701.35 [Amended]

1. Section 701.35 Share Accounts and Share Certificate Accounts.

(a) Section 701.35(c)(2)(iii) is amended to read as follows:

* * * * *

(c) * * *
(2) * * *
(iii) Except for share certificate accounts established pursuant to § 721.4, the lowest minimum amount requirement shall be $500 or more;

* * * * *

2. Section 745.9-2 Qualified Trusts and Individual Retirement Accounts

(a) Section 745.9-2 is amended to read as follows:

§ 745.9-2 Keogh accounts and individual retirement accounts

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under section 401(d) or section 408(a) of the Internal Revenue Code shall be insured up to $100,000 separately from other deposits of the participant or designated beneficiary.

(b) Upon liquidation of the credit union, any insurance coverage payment shall be made by the Administrator to the trustee or custodian, or the successor trustee or custodian, unless otherwise directed in writing, by the plan participant or beneficiary.

[FR Doc. 78-34015 Filed 12-5-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Regulation PR-184 Procedural Regulations Amendment No. 46 to Part 302]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Notice of Approval by Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning applications for unused authority under the Airline Deregulation Act of 1978. This approval is required by the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated November 8, 1978.

DATES: Adopted: November 30, 1978. Effective: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 302 of its Procedural Regulations (14 CFR 302) by adding the following note at the end of Part 302:

NOTE.—The reporting requirements contained in sections 1803, 1805, 1806, 1809, and 1810 have been approved by the U.S. General Accounting Office under Number B-180226 (R0568).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR Sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34034 Filed 12-5-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

Establishment of Supplementary Export Quota for Butane During the Fourth Quarter 1978

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations establish a supplementary export quota for the Fourth Quarter 1978 for butane to be exported from the Gulf Coast since current stocks of this commodity are more than adequate to meet domestic needs. They further establish a time

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period during which exporters may apply for licenses under this supplementary quota and set forth the criteria which will be considered by the Department in allocating that quota.

EFFECTIVE DATE OF ACTION: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (telephone 202-377-3984).

SUPPLEMENTARY INFORMATION: Supplement No. 2 to Part 377 of these Regulations sets forth the historical quarterly export quotas established for the export limitations. Ninety-five percent of each historical quota is allocated exclusively among exporters who have satisfactorily documented their participation in the export trade in that commodity during the historical base period used in calculating the particular quota; the remaining five percent of each quota is reserved for applicants who apply on grounds of unique hardship. Butane is subject to a rotating base period, with export quotas established quarterly on the basis of an exporter's actual exports during the corresponding calendar quarter of the period April 1, 1972, through March 31, 1973. The overall Fourth Quarter 1978 export quota for butane has been established at 216,299 barrels, with 10,815 barrels set aside for hardship applications.

In recent weeks, citing a build up of surplus stocks of butane in the United States, a number of companies have filed applications to export this commodity outside of quota limitations. The Department has consulted with the Department of Energy as to the butane supply and demand situation and the Department of Energy has advised this Department that, under current supply conditions in addition to historical quota exports, the export of 1,250,000 barrels of butane from the U.S. Gulf Coast during the period of October 1978 through March 1979 would not impact the supply of butane to domestic consumers.

Accordingly, the Department has determined that the short supply controls over exports of butane from the Gulf Coast area of the United States may be temporarily relaxed. The Department has further decided to establish a supplementary export quota for butane for the Fourth Quarter 1978 of 1,250,000 barrels and to make this quota available to applicants without regard to whether or not they are historical exporters of butane.

Exporters seeking to participate in this supplementary export quota should file applications so as to be physically received by the Office of Export Administration no later than close of business on December 18, 1978. Those applications to export butane from the Gulf Coast which have been submitted under the unique hardship provisions of the Regulations and which are now pending with the Office of Export Administration will be considered, together with the new applications filed during this time period.

While the Department will attempt to accommodate all applicants, because of the limited size of the supplementary quota it is likely that not all applicants can be accommodated and that not all applications will be licensed in the full quantity requested.

Following expiration of the time period for submission of applications to participate in this supplementary export quota, as noted above, the Department will weigh the relative merits of all such applications under the criteria set forth below and will allocate the available quota accordingly. Criteria to be considered by the Department in reviewing these applications will include:

(1) The nature and extent of any unique hardship which the applicant may have demonstrated pursuant to Section 377.3 of the Regulations;

(2) The extent to which the butane proposed for export is needed to supply domestic customers within the particular marketing area from which it will be exported or, if purchased for export, within the particular marketing area where located at time of purchase;

(3) The extent to which the proposed export would not be detrimental to attainment of the basic objectives of the short supply program; and

(4) The extent to which the proposed export would serve any foreign policy interest of the United States and the extent to which it would otherwise be in the national interest.

Accordingly, the Export Administration Regulations (15 CFR Part 377) are amended as follows:

(1) A new § 377.6(d)(1) is established to read as follows:

§ 377.6 Petroleum and petroleum products.

• • • • •

(12) Group K: Non-Historical Supplementary Quota for Butane in Fourth Quarter 1978.

An application for a validated license to export butane under the non-historical export quota established for the Fourth Quarter 1978 will be considered without regard to the applicant's past history of exports provided: (i) the butane is to be exported from the U.S. Gulf Coast, (ii) the application is submitted by the date specified in Supplement No. 2, and (iii) it is accompanied by supporting documentation required by Section 377.6(e)(2). In allocating this supplementary quota among competing applicants, the Department will consider all reasons advanced by the applicant as to why his application deserves consideration, including:

(i) The nature and extent of any unique hardship which the applicant may have demonstrated pursuant to Section 377.3 of the Regulations;

(ii) The extent to which the butane proposed for export is needed to supply domestic customers within the particular marketing area from which it will be exported or, if purchased for export, within the particular marketing area where located at time of purchase;

(iii) The extent to which the proposed export would not be detrimental to attainment of the basic objectives of the short supply program; and

(iv) The extent to which the proposed export would serve any foreign policy interest of the United States and the extent to which it would otherwise be in the national interest.

(2) The table entitled SUBMISSION DATES in Supplement No. 2 to Part 377 is revised to read as follows:

• • • • •

SUBMISSION DATES: Applications against historical quotas: Not prior to the beginning of the applicable quarter and received in the Office of Export Administration not later than the close of business on the tenth day prior to the end of the applicable quarter.

Applications against non-historical quotas for butane (Commodity Group K) for Fourth Quarter 1978: Not later than close of business December , 1978.

Applications for hardship and all other commodities subject to validated licensing but not historical quotas: At any time.

• • • • •

(3) At the end of Supplement No. 2 to Part 377 the following table is added:

NON-HISTORICAL SUPPLEMENTARY QUOTA FOR GROUP K

(in barrels)

(SCHEDULE B NO. 475.1545, BUTANE)

All Countries

• • • • •

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212); E.O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-34050 Filed 12-4-78; 10:02 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2935]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE, CORRECTIVE ACTIONS

National Fire Hose Corp. et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Compton, Calif., manufacturer and seller of fire hose and accessories to cease, in connection with the sale and distribution of their products, from entering into agreements, or taking any other action that would impose territorial or customer restrictions on their distributors.

DATE: Complaint and order issued November 1, 1978. [1]

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Regional Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, August 24, 1978, there was published in the FEDERAL REGISTER, 43 FR 37712, a proposed consent agreement with analysis In the Matter of National Fire Hose Corp., a corporation, and Raymond L. Pepp and Dudley H. Pepp, individually and as officers or directors of National Fire Hose Corp., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealing, franchises, etc. Subpart—Cutting Off Access To Customers or Market: § 13.560 Interfering with distributive outlets. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33952 Filed 12-5-78; 8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[6750-01-M]

[Docket No. 8978]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Borden, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a New York City firm to cease attempting to hinder, restrain or eliminate competition in the processed lemon juice market by granting improper price reductions and promotional allowances to its customers; or by selling its product, ReaLemon, below cost or at unreasonably low prices.

DATES: Complaint issued July 2, 1974. Decision issued November 7, 1978. [1]

FOR FURTHER INFORMATION CONTACT:

John M. Peterson, Attorney, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-8522.

SUPPLEMENTARY INFORMATION: In the Matter of Borden, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Cutting Prices Arbitrarily: § 13.665 Cutting prices arbitrarily, to stifle competition. Subpart-Discriminating Between Customers: § 13.685 Discriminating between customers; 13.685-10 Federal Trade Commission Act. Subpart-Offering Unfair, Improper And Deceptive Inducements To Purchase Or Deal: § 13.2090 Undertakings, in general. Subpart-Selling Below Cost: § 13.2180 Selling below cost.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The final order, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modifications:

It is ordered, That the initial decision of the administrative law judge, pages 1-162, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent indicated in the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

It is ordered, That Borden, Inc., and its successors and assigns, officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, affiliate, division or other device, in connection with the production, marketing and sale of processed lemon juice in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

(1) Granting price reductions, directly or indirectly, which result in different net prices among Borden's ReaLemon customers, whether or not such customers compete in the same geographic area, which differences in price are not attributable to differing cost of manufacture, sale or delivery, and the effect of which is to hinder, restrain or eliminate competition be-

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Separate Opinion of Chairman Michael Pertschuk on the Issue of Relief, Concurring Opinion of Commissioner David A. Clanton and Concurring Opinion of Commissioner Robert Pitofsky filed with the original document.

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tween respondent Borden and its competitors in the production, marketing and sale of processed lemon juice;

(2) Selling ReaLemon lemon juice below its cost or at unreasonably low prices, the effect of which is to hinder, restrain or eliminate competition between respondent Borden and its competitors in the production, marketing and sale of processed lemon juice;

(3) Granting promotional allowances or payments of any kind for customers' promotional services, the effect of which is to hinder, restrain or eliminate competition between respondent Borden and its competitors in the production, marketing and sale of processed lemon juice.

It is further ordered, That Borden, Inc., shall, within sixty (60) days from the date this order becomes final, and every year thereafter for a period of ten (10) years, submit a detailed written report of its actions, plans and progress in complying with the provisions of this order, and fulfilling its objectives.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-33983 Filed 12-5-78; 8:45 am]

[8320-01-M]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 17—MEDICAL

Former Members of the Armed Forces of Poland and Czechoslovakia

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This regulation provides authority for furnishing hospital care, domiciliary care, and medical services to those former members of the Armed Forces of Poland and Czechoslovakia who: (1) Served during World War I or World War II in armed conflict against an enemy of the United States, and (2) served during the same period in or with the Armed Forces of France or Great Britain and (3) have been citizens of the United States for 10 years, and (4) are not entitled to payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its Armed Forces in World War I or World War II. This regulation implements legislation (Pub. L. 94-491).

EFFECTIVE DATE: October 14, 1976.

FOR FURTHER INFORMATION CONTACT:

Joseph L. Erwin, Chief, Policies and Procedures, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, Washington, D.C. 20420, 202-389-3785.

SUPPLEMENTARY INFORMATION: On page 38046 of the FEDERAL REGISTER of August 25, 1978, there was published a notice of proposed regulatory development to amend § 17.55 which permits the furnishing of hospital care, domiciliary care, and medical services by the Veterans Administration within the United States to specified former members of the Armed Forces of Poland and Czechoslovakia. This regulation implements section 109(c), title 38, United States Code, as added by Pub. L. 94-491.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulation. Eighty-three comments were received. Sixty-three commentators objected to providing benefits to Polish and Czechoslovakian veterans. Eleven favored providing benefits and nine were not responsive to the issue. One commentator suggested a clarification of the language to show the limits within which benefits may be provided. However, both the law and the proposed regulation provide for the furnishing of those benefits specified to the same extent as if service had been performed in the Armed Forces of the United States.

The proposed regulation is hereby adopted without change and is set forth below.

Approved: November 29, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

A new center title and § 17.55 are added to read as follows:

MEDICAL CARE FOR CZECHOSLOVAKIAN AND POLISH VETERANS

§ 17.55 Medical care for certain former members of Czechoslovakian and Polish Armed Forces.

Hospital, domiciliary care, and medical services may be furnished to former members of the Armed Forces of Poland or Czechoslovakia if they:

(a) Served during World War I or World War II in armed conflict against an enemy of the United States, and

(b) Served during the same period in or with the Armed Forces of France or Great Britain, and

(c) Have been citizens of the United States for 10 years, and

(d) Are not entitled to payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its Armed Forces in World War I or World War II. Such care or services may be furnished those individuals to the same extent as if they had served in the U.S. Armed Forces. Qualifying service may be established through an authenticated certification from the French Ministry of Defense or the British War Office which clearly indicates such military service, or otherwise through satisfactory evidence, under guidelines prescribed by the Chief Medical Director, of having served in the Czechoslovakian or Polish Armed Forces and in or with the Armed Forces of France or Great Britain while in armed conflict against an enemy of the United States during World War I or World War II.

[FR Doc. 78-33981 Filed 12-5-78; 8:45 am]

[1505-01-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 2650—ALASKA NATIVE SELECTIONS

Reservation of Public Easements

Correction

In FR Doc. 78-33185 appearing on page 55326 in the issue of Monday, November 27, 1978, on page 55331, the date in the last paragraph was inadvertently omitted and should have appeared as follows:

As stated in the proposed rulemaking, Secretarial Order 2982 was to be revoked upon promulgation of final rulemaking. Final rulemaking was published in the FEDERAL REGISTER on November 27, 1978, and, accordingly, Secretarial Order 2982 is hereby revoked.

Section 2. *Effective Date.*
This order is effective immediately.

Dated: November 20, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[4910-57-M]

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket Number 78-B]

PART 660—BUY AMERICA REQUIREMENTS

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule.

SUMMARY: This regulation implements procedures required under § 401, "Buy America" of the Surface Transportation Assistance Act of 1978 (Act), which provides, with exceptions, that funds authorized may not be obligated for urban mass transportation projects unless materials and supplies are of United States origin.

EFFECTIVE DATE: November 6, 1978.

DATES: Comments must be received by February 15, 1979.

ADDRESS: Comments on these regulations are invited and should be sent to UMTA Docket No. 78-B, Urban Mass Transportation Administration, Room 9320, UCC-10, 400 7th Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 am and 5:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

John Collins, Office of the Chief Counsel, Urban Mass Transportation Administration, 400 7th Street SW., Washington, D.C. 20590, Phone: (202) 426-1909.

SUPPLEMENTARY INFORMATION: On November 6, 1978, the President signed into law the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599). The provisions of Section 401, "Buy America", are effective immediately and require immediate implementation.

The Administrator has determined that the required implementation of Section 401 will have a major impact on many UMTA programs.

Since Section 401 was effective on November 6, 1978, these regulations must be effective immediately to meet the short statutory deadline. UMTA has determined that these regulations constitute emergency regulations as defined in the Department of Transportation Order implementing E.O. 12044, and that under 5 U.S.C. 553 it is in the public interest to publish them without notice and comment at this time. However, UMTA invites public comment on the regulations and will consider amendents to the regulations based on the comments.

This document does contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

DISCUSSION

These regulations contained in a new Part 660 are divided into four subparts:

1. Subpart A—General—sets out the applicability of the regulations and definitions used in the Part.

2. Subpart B—Implementation—sets out grantee responsibility and the requirements of determining the origin of products for compliance with the "Buy America" provision

3. Subpart C—Waivers—sets out waivers to the "Buy America" provision, the procedures for obtaining a waiver, and the effect of waivers.

4. Subpart D—Enforcement—sets out the methods of enforcement of the "Buy America" certification.

It should be noted that the "Buy America" requirements in these regulations *do not* apply to direct Federal procurements. It is anticipated that this subject will be addressed in a separate rulemaking.

These regulations establish the only type of local or domestic preference that is authorized in third party contracts which receive UMTA financial assistance. If a grantee imposes local or domestic preference provisions in a third party contract that differ from these regulations, then that third party contract is not eligible for UMTA financial assistance.

The legislative history of the Buy America provision indicates that Congress intended it to be interpreted in the light of the Buy American Act of 1933, 41 U.S.C. §§ 10a-10d, to the extent that Act is applicable.

The Secretary of Transportation has delegated to the Administrator the authority to grant the statutory waivers of the Buy America provision with respect to UMTA programs.

Appendix A to Subpart C of the new Part 660 lists those general waivers which the Administrator has granted at this time. Comments are specifically requested as to whether or not any other general class waiver should be granted, and whether origin and traceability problems exist concerning construction materials, including general stock items.

Accordingly, Title 49 of the Code of Federal Regulations is amended by adding a new Part 660 to read as follows:

PART 660—BUY AMERICA REQUIREMENTS

Subpart A—General

Sec.
§ 660.10 Purpose.
§ 660.11 Applicability.
§ 660.13 Definitions.

Subpart B—Implementation

§ 660.20 Purpose.
§ 660.21 Grantee responsibility.
§ 660.22 Determination of origin.

Subpart C—Waivers

§ 660.30 Purpose.
§ 660.31 Application for waiver.
§ 660.32 Types of waivers.
§ 660.33 Relationship of waivers to bid process.
§ 660.34—Effect of waiver.

APPENDIX A—COMPILATION OF WAIVERS ISSUED UNDER § 660.33(a)

Subpart D—Enforcement

§ 660.40 Purpose.
§ 660.41 Initiation.
§ 660.42 Investigation.
§ 660.43 Failure to comply with certification.
§ 660.44 Sanctions.
§ 660.45 Rights of third parties.

(Section 401, Pub. L. 95-599 (92 Stat. 2689); 49 CFR 1.51)

Subpart A—General

§ 660.10 Purpose.

The purpose of this subpart is to define the terms and procedures guiding the application of section 401, "Buy America", of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599.

§ 660.11 Applicability.

(a) These regulations apply to all federally-assisted procurements under grants, loans, and cooperative agreements made pursuant to the Urban Mass Transportation Act of 1964, as amended, and sections 103(e)4 and 142 of Title 23 United States Code, for equipment and construction of facilities in which a third party contract exceeds $500,000 and is financed by funds administered by UMTA that have been obligated after November 6, 1978.

(b) Only domestic unmanufactured articles, materials and supplies and manufactured articles, materials and supplies that have been manufactured in the United States substantially all from domestic articles, materials, and supplies may be procured with assistance provided by UMTA unless the Administrator waives the application of these requirements as set forth in Subpart C of this Part.

(c) Because a domestic preference requirement, rather than an absolute "Buy America" requirement, has been established, materials of foreign origin should be considered for UMTA-assisted procurements.

(d) "Buy America" requirements do not apply to the procurement of services.

(e) A determination of the origin of end products to be procured must be made as set out in § 660.22 of this Part.

(f) The nationality of suppliers or the employees of these suppliers does not affect the origin of end products or components to be procured.

America provision. Such specifications

(2) In the case of acquisition of roll-

§ 660.34 Effect of waiver.

quired to substitute sufficient domes-

DATES: The emergency regulations

V 4 3 / 2 3 5

§ 660.13 Definitions.

As used in this Part:

(a) "Act" means the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599).

(b) "Administrator" means the Administrator of the Urban Mass Transportation Administration (UMTA).

(c) "Component" means any article, material, or supply, whether manufactured or unmanufactured, directly incorporated into an end product.

(d) "Domestic end product" means an unmanufactured end product that has been mined or produced in the United States, or a manufactured end product determined to be domestic under § 660.22 of this Part.

(e) "End product" means an article, material or supply, whether manufactured or unmanufactured, that is to be acquired by the grantee, with financial assistance derived from UMTA, and that is to be delivered to the grantee, as specified by the third party contract.

(f) "Foreign end product" means an end product other than a domestic end product.

(g) "Grantee" means any entity that is a recipient of UMTA grants or loans under the Urban Mass Transportation Act of 1964, as amended, or under section 103(e)4 or section 142 of Title 23, United States Code.

(h) "Overall project contract" means each individual third party contract for a discrete portion of the overall project.

(i) "United States" means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Commonwealth of Northern Mariana Islands.

Subpart B—Implementation

§ 660.20 Purpose.

The purpose of this subpart is to prescribe the implementation of section 401 of the Act.

§ 660.21 Grantee responsibility.

(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with UMTA. The clause directly affects any third party contract utilizing financial participation awarded by UMTA after November 6, 1978. These requirements do not apply to any third party contract financed without UMTA funds or to any procurement or construction third party contract not exceeding $500,000. The Buy America clause will be included in any grant or loan made by UMTA that exceeds $500,000.

(b) The grantee shall include in its bid specifications for procurement of equipment and construction of facilities within the scope of these regulations an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid a completed Buy America certificate, as set forth below:

BUY AMERICA CERTIFICATE

The bidder or offeror hereby certifies that each end product, except the end products listed below, is a domestic end product, as defined in 49 CFR 660.13(d); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

Excluded end products (show country of origin for each excluded end product):

§ 660.22 Determination of origin.

(a) In order for a manufactured end product to be considered a domestic end product—(1) the cost of the domestic components must exceed 50 percent of the cost of all its components; and (2) the final assembly of the components to form the end product must take place in the United States.

(b) In determining the origin of components, each component must be treated as either entirely domestic or entirely foreign, based on the place where the component is mined, produced, or manufactured. Components of unknown origin must be treated as foreign. The origin of subcomponents of components is immaterial.

(c) Transportation costs to the place of incorporation into the end product and, in the case of foreign components, applicable duties, must be considered in determining component cost under paragraph (a) of this section.

Subpart C—Waivers

§ 660.30 Purpose.

The purpose of this subpart is to describe the procedure for obtaining waivers to Section 401 of the Act, the types of statutory waivers that exist, when in the bid process waivers can be issued, and the effect of the waiver on bidding procedures.

§ 660.31 Application for waiver.

(a) A bidder who seeks to establish grounds for any waiver described in § 660.32 must seek the waiver, in a timely manner, through the grantee.

(b) Only a grantee may request a waiver. The request must be in writing and include facts and justification to support the granting of the waiver.

(c) A waiver may be granted by the Administrator on his own initiative.

§ 660.32 Types of waivers.

(a) Section 401(b) of the Act provides for four instances wherein a waiver of the "Buy America" provision may be granted. A waiver of the "Buy America" provisions will be granted if:

(1) Their application would be inconsistent with the public interest;

(2) In the case of acquisition of rolling stock, their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues);

(3) Supplies of the class or kind to be used in the manufacture of articles, materials, supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(4) Inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum.

(b) In determining whether the waiver described in paragraph (a)(1) will be granted, the Administrator considers all appropriate factors including, but not limited to, the cost, "red tape," and delay that would be imposed if the provision were not waived. In granting this waiver, the Administrator will issue a written determination setting forth the reasons for the granting of the waiver.

(c) In determining whether the waiver described in paragraph (a)(2) will be granted, only taxes paid by the bidder will be considered.

(d) In determining whether the waiver in paragraph (a)(3) will be granted, a domestic end product will be presumed unavailable if no responsive and responsible domestic bid has been received.

(e) In determining whether the waiver in paragraph (a)(4) will be granted in cases where the apparent low bid offers foreign end products, the lowest responsive and responsible bid offering foreign end products will be multiplied by 1.1. If this number is less than the lowest responsive and responsible bid offering all domestic end products (including end products considered domestic under the provision of § 660.34(b)) then the waiver will be granted.

(f) The statutory waiver provisions of section 401 of the Act are mutually exclusive. End products and components of end products may be granted different waivers.

§ 660.33 Relationship of waivers to bid process.

(a) Waivers may be issued that apply to broad classes of grants or particular types of end products, materials or supplies. A compilation of these waivers is listed in Appendix A.

(b) Waivers may be issued for a particular contract based on information available to UMTA—(1) prior to bid opening; or (2) after bids are opened by the grantee.

§ 660.34 Effect of waiver.

(a) If a waiver has been granted for an entire grant from UMTA or for an overall project contract planned to be advertised by a grantee, the bid process may proceed without any requirement that bidders make the certification required by § 660.21.

(b) If a waiver or waivers do not encompass all of the articles, materials, and supplies scheduled to be delivered or constructed under the contract, then the computation of the domestic component required under §§ 660.21 and 660.22 shall treat as domestic the articles, materials, and supplies for which waivers have been given.

APPENDIX A—COMPILATION OF WAIVERS ISSUED UNDER § 660.33(a).

(a) The provision has been waived for all operating assistance grants under Sections 5 and 17 of the UMT Act, and for any operating assistance portions of grants under Section 6 of the UMT Act.

(b) All waivers published in 41 CFR § 12-6.105 which established excepted articles, materials, and supplies for the Buy American Act of 1933, (41 U.S.C. 10a-d) as the waivers may be amended from time to time, are incorporated by reference.

Subpart D—Enforcement

§ 660.40 Purpose.

The purpose of this subpart is to describe the procedures that will be used by UMTA to enforce the provision of Section 401 of the Act. This subpart also defines the rights of third parties.

§ 660.41 Initiation.

(a) It is presumed that a bidder who has submitted the certification required by § 660.21 of this Part is complying with the Buy America provision. A false certification is a criminal act in violation of 18 U.S.C. § 1001.

(b) Any party may petition UMTA to investigate the compliance of a successful bidder with the bidder's certification. If UMTA determines that evidence indicates that the presumption of paragraph (a) of this section has been overcome, UMTA will require the grantee to initiate an investigation as described in § 660.42.

§ 660.42 Investigation.

When an investigation is initiated under § 660.41(b), the grantee shall require the successful bidder to document its compliance with its Buy America certification. The successful bidder has the burden of proof to establish to the grantee and to UMTA that it is in compliance with its certification and this Part.

§ 660.43 Failure to comply with certification.

If a successful bidder fails to demonstrate that it is in compliance with its certification or this Part, it will be required to substitute sufficient domestic materials, articles, and supplies to meet the terms of the original certification without revision of the original contract terms. Failure to comply will be a breach of contract and will be actionable under the terms of the contract and state law.

§ 660.44 Sanctions.

A willful refusal to comply with certification by a successful bidder may lead to the initiation of debarment proceedings under 29 CFR 5.6.

§ 660.45 Rights of third parties.

The sole right of any third party under the Buy America provision is to petition UMTA under the provisions of § 660.41(b). No third party has any additional right, at law or equity, for any remedy including, but not limited to, injunctions, damages, or cancellation of the Federal grant or contracts of the public body.

Dated: December 4, 1978.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

[FR Doc. 78-34094 Filed 12-5-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 227—THREATENED FISH AND WILDLIFE

Amendment to Emergency Regulations Declaring the Port Canaveral Navigation Channel a Restricted Fishing Area and Notice of Hearing

AGENCY: National Marine Fisheries Service.

ACTION: Amendment to Temporary Emergency Regulations and Notice of Public Hearing.

SUMMARY: The National Marine Fisheries Service (NMFS) promulgated emergency temporary regulations under section 4(f)(2)(C) of the Endangered Species Act designating the Port Canaveral Navigation Channel, Cape Canaveral, Florida, as a restricted fishing area, effective November 22, 1978, for a period of 120 days as published at 43 FR 54639. This notice amends the temporary regulations, and advises the public of a hearing on the regulations.

DATES: The emergency regulations are effective on November 22, 1978, for a period of 120 days. This amendment does not affect the effective date of the regulations or the period of effectiveness. Written comments on the regulations and this amendment may be made on or before January 22, 1979. A hearing will be held on December 12, 1978, at 10 a.m. in Cape Canaveral, Florida.

ADDRESSES: Comments may be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 whitehaven Street, N.W., Washington, D.C. 20235. The hearing will be held at the Canaveral Port Authority Building, George King Boulevard, Cape Canaveral, Florida.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, telephone: 202-634-7461.

SUPPLEMENTARY INFORMATION: Regulations were published on November 22, 1978, 43 FR 54639, which added a new subpart D to part 222, and amended 227.72(e)(2) which designated a restricted fishing area.

. . . . . .

Section 227.72 is amended to read:

§ 227.72 [Amended]

(e) * * * (2) Restricted fishing areas. (i) During the period beginning November 22, 1978, and ending March 21, 1979, the use of any commercial trawl gear is prohibited in those parts of the Port Canaveral Navigation Channel, Cape Canaveral, Florida, known as the turning basin, the inner reach, the middle reach, and that part of the dredged channel beyond the outer reach to a point 1.5 nautical miles beyond buoys "B7" and "R8" (latitude 28°22'48" N., and longitude 80°32'10" N.), C. & G.S. Chart 11484.

Dated: December 1, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-34014 Filed 12-5-78; 8:45 am]

D E 6 7 8 UMI

Average Ex-Vessel Values per Metric Ton—

7221.

V 4 3 / 2 3 5 D E 6 7 8 UMI

[3510-22-M]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING REGULATIONS

1979 Fee Schedule for Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Publication of 1979 fee schedule for foreign fishing.

SUMMARY: This document sets forth the fee schedule for the calendar year 1979 for fishing by foreign vessels in fisheries under the exclusive fishery management authority of the United States. This schedule establishes fees which must be paid by the owner or operator of any foreign fishing vessel wishing to fish within the United States fishery conservation zone (FCZ) before actually engaging in any fishing activity, except as otherwise noted.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7454.

SUPPLEMENTARY INFORMATION: Section 201(d) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended, (the Act), provides that foreign fishermen may be allowed to fish for "* * * that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States * * *." Section 204(b)(10) of the Act further provides that reasonable fees shall be paid by the owner or operator of any foreign fishing vessel for which a permit is issued. Fishing vessels are defined by section 3(11) of the Act to include several types of vessels in addition to those actually engaged in harvesting fish. This includes any vessel "* * * aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing * * *." Section 204(b)(10) of the Act further provides, in part: "In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement." This schedule of fees amends the 1978 schedule which was published in the FEDERAL REGISTER on October 7, 1977 (42 FR 54588) and which was amended and codified as 50 CFR 611.22 on May 4, 1978 (43 FR 19232).

CRITERIA FOR ESTABLISHING FEE SCHEDULE

The following criteria, identical to those used in 1977, were considered in developing the fee schedule for foreign fishing in 1979.

1. Fees will not be used as a management tool to restrict foreign fishing. Foreign fishing effort will be controlled by management plans and associated regulations.

2. The fees will not be so high as to prevent nations from utilizing the allocated surplus solely because of the fee level. The fees must be reasonable.

3. Fees will recover an appropriate part of the management costs related to foreign fishing.

4. The same rate must apply to all foreign nations and the rate will not change within a given calendar year.

5. Fees will be simple to compute and collect. Fees shall be paid as provided in the Act.

6. Every vessel, by law, must pay a fee and obtain a permit, but the fee varies with the size and function of the vessel.

NOTE.—This amendment does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969, as amended. It has been determined that this action does not require the preparation of an economic impact analysis.

Signed at Washington, D.C., this 1st day of December 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

50 CFR 611.22 is hereby amended to read:

§ 611.22 Fee schedule for foreign fishing permits.

(a) The fee charges for fishing by foreign flag vessels for fish over which the United States exercises exclusive fishery management authority required by section 204(b)(10) of the Act and § 611.3(c)(3) are specified as follows:

(1) *Permit fees.* The owners and operators of all foreign vessels engaging in fishing, as defined in § 611.2(r), are required to pay appropriate fees as specified in the following table. In the case of vessels described in more than one category, the highest applicable fee will be charged. Permit fees must be paid in advance and are not refundable. However, on a case-by-case basis, the Assistant Administrator for Fisheries may allow the substitution of like vessels when the original vessel has become disabled or otherwise cannot participate in the fishery.

TABLE I

Vessel activity	Permit fee
Catching (activities described in § 611.2(r) (1) or (2)) with an applicable national allocation (per gross registered ton)	$1.00
Catching (activities described in § 611.2(r) (1) or (2)) without an applicable national allocation, i.e., a nonretention fishery (per vessel)	200.00
Processing (activities described in § 611.2(r)(3)(i)) (per gross registered ton) (up to $2,500)	.50
Other support (activities described in § 611.2(r)(3)(ii) or (iii)) (per vessel)	200.00

(2) *Poundage fees.* (i) The poundage fee for each allocated species is calculated at 3.5 percent of the actual landed value per metric ton of the species to U.S. fishermen where U.S. landing data are available in 1977, the most recent year for which such data are available.

(ii) This fee must be paid in advance on the entire national allocation if the nation receiving the allocation chooses to accept it.

(3) *Method of payment.* (i) All payments received must be drawn in U.S. dollars, payable at a bank in the United States, and be made payable to the U.S. Department of Commerce, NOAA. In addition, payments from private firms or individuals should be in the form of a certified check.

(ii) Remittances should be sent to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, Attention: F3. To facilitate processing, each remittance should be accompanied by a copy of the applicable bill for identification purposes.

(iii) Refunds of poundage fees will be made only upon written application to the address mentioned in paragraph (a)(3)(ii) of this section. Refund requests must contain the following information:

(A) A statement that the amount involved is more than $100.

(B) An explanation of the difference between the amount of actual catch and the amount authorized, and the reasons for the difference.

(b) The following ex-vessel prices to be used for computing fees are based on U.S. commercial landings in 1977, except where noted:

Average Ex-Vessel Values per Metric Ton

Species	Values
Butterfish	$626
Cod, Pacific	359
Crab, tanner (snow)	[1]661
Flounders, Pacific	407

Average Ex-Vessel Values per Metric Ton—Continued

Species	Values
Hake, Pacific	[1]176
Hake, red	199
Hake, silver (whiting)	205
Herring, Atlantic	[2]200
Herring, Pacific—roeless	100
Herring, Pacific—with roe	991
Herring, river (alewives)	100
Mackerel, atka	[3]223
Mackerel, Atlantic	385
Mackerel, jack	110
Other billfish, Pacific	664
Other finfish, Atlantic	382
Other groundfish, Pacific	49
Pacific Ocean perch	[4]356
Pollock, Alaska	176
Rockfishes	358
Sablefish—longline caught	1,477
Sablefish—trawl caught	551
Seamount groundfish	[5]397
Sharks, Atlantic (except dogfish)	210
Sharks, Pacific (except dogfish)	396
Snails (meat)	[6]1,657
Squid, Atlantic—Illex	472
Squid, Atlantic—Loligo	938
Squid, Pacific	[7]458
Striped marlin, Pacific	2,346
Swordfish	5,875

[1]Price for C. opilio paid in Dutch Harbor in the 1977/78 season. Source: Resource Statistics Division, National Marine Fisheries Service.
[2]Source: Fishermen's Marketing Association of Washington, Inc. Price list effective as of October 16, 1977 (8 cents/pound).
[3]Price for mature herring.
[4]Prices based on landings in Japan.
[5]Based on average prices for other rockfishes.

[FR Doc. 78-33967 Filed 12-5-78; 8:45 am]

[3510-22-M]

PART 671—TANNER CRAB OFF ALASKA

Final Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: These final regulations govern vessels of the United States fishing for Tanner crab in the Fishery Conservation Zone (FCZ) off Alaska and implement the Fishery Management Plan for Tanner crab off Alaska (FMP) which was adopted by the North Pacific Fishery Management Council (Council), and approved by the Secretary of Commerce on April 18, 1978. Proposed regulations governing foreign fishing for Tanner crab were published on November 24, 1978 (43 FR 54964) for an additional public comment period and do not appear as final regulations at this time.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802, telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

A. HISTORY OF THE FMP

The FMP for Tanner crab off Alaska contains conservation and management measures applicable to foreign and U.S. vessels fishing for Tanner crab off Alaska. The FMP has been subject to extensive analysis and comment by representatives of the fishing industry, interested agencies of State and Federal government, governments of foreign nations, and members of the general public. During formulation of the FMP, the Council conducted public hearings at the following locations and times to solicit public input: (a) Petersburg, Alaska, August 3, 1977; (b) Seattle, Washington, August 5, and 6, 1977; (c) Anchorage, Alaska, August 22, 1977; (d) Sand Point, Alaska, August 23, 1977; and (e) Kodiak, Alaska, August 24, 1977.

Copies of a draft FMP were widely distributed to government agencies, organizations, and individuals for comment, and the Council received oral comments on the FMP at several Council meetings during 1977 and 1978.

In December, 1977, the Council submitted the FMP to the Secretary of Commerce for approval. Review at that time indicated that the FMP: (1) Did not adequately define optimum yield; and (2) did not indicate how the specified optimum yield provided the greatest overall benefit to the nation.

On March 2, 1978, the Council submitted: (1) Changes in appropriate sections of the FMP; and (2) an additional appendix to the FMP, entitled "Development of OY and TALFF for Tanner Crab North of 58° North in the Bering Sea." (OY and TALFF are acronyms for "optimum, yield" and "total allowable level of foreign fishing"). This material adequately addressed the problem areas in the previous FMP submission, and, accordingly, the Secretary of Commerce approved the plan on April 18, 1978.

The FMP and proposed regulations applicable to vessels of the U.S. and foreign nations were published as proposed rulemaking for public comment on May 16, 1978 (43 FR 21170). Comments were received on the proposed regulations until June 30, 1978. The final regulations published here reflect comments received during that period.

Considerable comment was received on proposed rulemaking from the Council and potentially affected foreign fishermen. Implementation of the FMP was delayed because of the need to fully assess these comments and the several innovative management techniques made necessary by the nature of the fishery. One such technique is the adjustment of some fishing restrictions during the season by the NMFS Alaska Regional Director. This is discussed below under "In Season Adjustments".

The delay in plan implementation has not affected fishing operations. Fishing has begun in several registration areas but, because domestic vessels currently fishing are licensed and registered in Alaska, the management system presently employed by the State of Alaska effectively controls the fishery. The Japanese fishing fleet (the only foreign participants in this fishery) is adequately regulated by regulations implementing the existing Preliminary Fishery Management Plan (PMP) for Tanner crab in the Bering Sea (see 43 FR 10566; March 14, 1978).

The regulations published here implement the management measures in the FMP which apply to vessels of the United States. (See 43 FR 54964 for proposed regulations to implement measures in the FMP governing the foreign fishery for Tanner crab off Alaska). A subsequent amendment to the FMP which will extend the FMP through October 31, 1979, has been published as a proposed amendment for public comment at the request of the North Pacific Management Council (see 43 FR 52034; November 8, 1978).

B. IN SEASON ADJUSTMENTS

An important feature of the management system of the FMP is the ability to manage and conserve the Tanner crab resource by allowing in-season adjustment of the areas which may be fished and the times during which fishing may occur. This permits the Regional Director to act in a timely fashion to prevent damage to the resource if new data reveal that the condition of the Tanner crab stocks in any registration area is substantially different than was originally anticipated at the beginning of the fishing year.

The determination that such adjustments are necessary in order to achieve the conservation and management objectives of the FMP will be based on data concerning the following factors: (1) The effect of overall fishing effort within the registration area; (2) the catch per unit of effort and rate of harvest; (3) the relative abundance of Tanner crab within the area in comparison with pre-season prediction; (4) the proportion of immature or softshell Tanner crab being handled; (5) general information on the condition of Tanner crab within the area; and (6) any other factors relevant to the conservation and management of the Tanner crab resource.

Because of the dynamics of fishery management, decisions on these ad-

30th day of November 1978.

(1) Any commissioned, warrant, or

Person means any individual (wheth-

under the terms of an agreement with

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justments may have to be made quickly and without normal opportunity for notice and comment. Field orders by the Regional Director implement an in-season adjustment. In such decisions, informal rulemaking procedures will be followed pursuant to the Administrative Procedures Act (5 U.S.C. Sec. 553). In cases where normal notice and public comment procedures are to be waived for good cause shown, the regulations establish an alternate public comment procedure which provides for: (1) A 15-day comment period after the effective date of the field order; (2) the full availability for public inspection of the aggregate data upon which the field order is based; and (3) following the public comment period, publication in the FEDERAL REGISTER of either a notice announcing the continued effectiveness of the field order, or a notice modifying or rescinding the field order based on the comments received. Furthermore, field orders by the Regional Director implementing an in-season adjustment must be published in the FEDERAL REGISTER and must be posted, broadcast, and otherwise made available to the public in advance of their effective date.

Previously, the authority to issue regulations implementing fishery management plans was delegated from the Administrator of NOAA to the Assistant Administrator for Fisheries. Redelegation from the Assistant Administrator of authority to make in-season adjustments (as provided for in § 671.27 of the regulations) to the Director, Alaska Region, NMFS was approved on October 23, 1978.

C. PUBLIC COMMENTS

Issues and concerns raised by commenters during the review period, which ended June 30, 1978, and responses to those comments, are as follows:

(1) Several Japanese interests requested that the optimum yield and Japanese allocation of Tanner crab be increased.

Response. Both *C. bairdi* and *C. opilio* occupy much the same place in U.S. and foreign markets. The Council has determined that any substantial increase in catch of either species by foreign nations would adversely affect the expanding U.S. Tanner crab fishery. The quota of Tanner crab allowed to Japan in 1976 was 10,200 metric tons; in 1977, 12,500 metric tons; and under the 1978 PMP, 15,000 metric tons. Thus, the U.S. has increased quotas cautiously. Future requests for changes in optimum yields and allocatons will be fully considered; however, the requirements of U.S. fishermen and the need to provide for an orderly development of the fishery are primary considerations. At this time, these needs and requirements preclude any change in the optimum yield and level of foreign fishing.

The final regulations for the domestic fishery as published here differ only in minor ways from proposed regulations as published on May 16, 1978 (43 FR 21170). (Proposed regulations governing foreign fishing for Tanner crab were also published on May 16. The foreign fishing regulations were published again in their entirety on November 24, 1978 (43 FR 54964) for an additional public comment period and do not appear as final regulations at this time). Most changes in the regulations for the domestic fishery are of an editorial nature only, and none of the changes in the final regulations are substantive enough to require an additional comment period. Several of the changes are:

(1) The final regulations have been rearranged into a general subpart (Subpart A) and a series of specific management measures (Subpart B).

(2) The North Pacific Fishery Management Council submitted numerous comments on the proposed regulations which were incorporated.

(3) The optimum yield (OY) table was changed to correct the erroneous listing of optimum yield of Tanner crab for the Bering Sea North of 58° North latitude as 2,269 metric tons. That figure is actually the estimated U.S. capacity for that area, and the correct figure for optimum yield is 17,268 metric tons.

(4) The optimum yield table was also changed to delete the lower limit of the ranges listed for optimum yield in some areas. This change clarifies the maximum level of catch of Tanner crab.

NOTE: The appropriate amended environmental impact statement has been filed with the Environmental Protection Agency. The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Domestic fishing for Tanner crab begins during the month of November. In order to minimize disruption to the fishing industry these regulations should be effective immediately. As such, this agency has determined that good cause requires a waiver of 5 U.S.C. 553(d).

Signed at Washington, D.C., this 30th day of November 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

Part 671 is added to Title 50 CFR to read as follows:

PART 671—TANNER CRAB OFF ALASKA

Subpart A—General

Sec.
671.1 Purpose and scope.
671.2 Definitions.
671.3 Relation to other laws.
671.4 Reporting requirements.
671.5 General prohibitions.
671.6 Enforcement.
671.7 Penalties.

Subpart B—Management Measures

671.21 Optimum yield table.
671.22 Size and sex restrictions.
671.23 Vessel registration.
671.24 Vessel inspection.
671.25 Landing requirements.
671.26 Season and gear restrictions.
671.27 Time and area closures.

AUTHORITY: Sec. 305, Fishery Conservation and Management Act of 1976, as amended; 16 U.S.C. 1801 *et seq.*

Subpart A—General

§ 671.1 Purpose and scope.

(a) This part regulates fishing for Tanner crab by vessels of the United States within that portion of the Bering Sea and Gulf of Alaska over which the United States exercises exclusive fishery management authority. These regulations implement the Tanner crab fishery management plan developed by the North Pacific Fishery Management Council.

(b) For regulations governing fishing for Tanner crab in the Gulf of Alaska and Bering Sea by fishing vessels other than vessels of the United States see 50 CFR 611.91.

§ 671.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

Act means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.*, as amended.

ADF&G means the Alaska Department of Fish and Game.

Assistant Administrator means the Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means:

(1) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(2) Any certified enforcement agent or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce or the Commandant of the Coast Guard to enforce the provisions of the Act; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research, which involves:

(1) The catching, taking or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1), (2), or (3) of this definition.

Fishing Vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for (1) fishing or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Landing means off-loading fish (including Tanner crab).

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time or voyage;

(3) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel; or

(4) Any agent designated as such by any person in subparagraph (1), (2), or (3).

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska, 99802 or an individual to whom appropriate authority has been delegated.

Registration Area A (Southeastern Alaska-Yakutat) is that portion of the FCZ in the Gulf of Alaska east of 143°53'36" W. longitude (Cape Suckling).

Registration Area E (Prince William Sound) is that portion of the FCZ between 143°53'36" W. longitude (Cape Suckling) and 148°53' W. longitude (Cape Fairfield).

Registration Area H (Cook Inlet) is that portion of the FCZ lying west of 148°53' W. longitude (Cape Fairfield) and north of 58°52' N. latitude (Cape Douglas).

Registration Area J (Westward) includes the FCZ in the Bering Sea, and that part of the FCZ in the Gulf of Alaska between 148°53' W. longitude (Cape Fairfield) and 172° E. longitude south of 58°52' N. latitude (Cape Douglas).

Ring Net means a bag-shaped net suspended from a circular or rectangular frame.

Tanner Crab means all species of the genus *Chionoecetes* including *C. bairdi* and *C. opilio.*

Tanner Crab Pot means a portable structure designed and constructed to capture and retain fish and shellfish alive in the water. The Tanner crab pot has rigid tunnel eye openings which individually are a maximum of five (5) inches (13 cm) in one dimension, and tunnel eye opening perimeters which individually are larger than thirty (30) inches (76 cm); or the pot tapers inward from its base to a top consisting of one horizontal opening of undescribed size.

Vessel of the United States means:

(1) A vessel documented or numbered by the Coast Guard under United States law; or

(2) A vessel, under five net tons, which is registered under the laws of any State.

§ 671.3 Relation to other laws.

(a) *Delegation.* The Assistant Administrator has delegated to the Regional Director authority to make in-season adjustments pursuant to § 671.27.

(b) *Other Agreements.* Certain responsibilities relating to the administration of this Part will be performed by personnel of the State of Alaska under the terms of an agreement with NOAA/NMFS and the United States Coast Guard.

§ 671.4 Reporting requirements.

(a) The operator of any fishing vessel subject to this Part whose port of landing is in the United States is responsible for the submission of an accurately completed State of Alaska fish ticket for each sale or delivery of any Tanner crab covered by this part.

(b) At the election of the vessel operator, the fish ticket shall be either: (1) Submitted by the vessel operator directly to the ADF&G within 72 hours after such Tanner crab are sold or delivered; or (2) prepared, at the request of the operator, by the purchaser (i.e., any person who receives Tanner crab for a commercial purpose from a fishing vessel subject to this part) and submitted by the purchaser to the ADF&G within 72 hours after such Tanner crab are received by the purchaser.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (b)(2) of this section) shall also accurately state on each such fish ticket: (1) Total time fished; (2) total number of pot lifts; and (3) quantity and type of gear used.

(d) The operator of any fishing vessel subject to this part whose port of landing is outisde the State of Alaska shall submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket and in § 671.4(c), to the ADF&G within 72 hours after the date of each sale or delivery of any Tanner crab. (Sample alternative document reserved.)

§ 671.5 General prohibitions.

It is unlawful for any person to:

(a) Fish for, take, or retain Tanner crab in violation of the Act, this part, or any regulation or permit issued under the Act, including but not limited to the following: During closed seasons or in closed areas specified in Subpart B of this part; after closure of an area when a catch limitation is reached, or as otherwise announced by a field order issued under this part; or by means of gear or methods prohibited by this part;

(b) Take and retain Tanner crab in violation of § 671.22;

(c) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land or export any Tanner crab taken in violation of the Act, this part, or any other regulation or permit issued under the Act;

(d) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for pur-

istration year. Registration for any

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cense number of the fishing vessel

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poses of conducting any search or inspection in connection with the enforcement of the Act, this part, or any other regulation or permit issued under the Act;

(e) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (d) of this section;

(f) Resist a lawful arrest for any act prohibited by this part; or

(g) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this part.

§ 671.6 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." which is the call to an unknown station.

(c) *Boarding.* A fishing vessel signalled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) If requested, provide a safe ladder for the Authorized Officer and party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the Authorized Officer and party and to facilitate the boarding.

§ 671.7 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 671.21 Optimum yield.

(a) *Table.* The optimum yield for Tanner crab for each Federal registration area is set forth in Table I. These specifications of optimum yield are effective for the fishing year beginning on January 1 and ending on December 31, 1979.

TABLE I

Registration area	Optimum yield (in metric tons) [1]	Species
Registration Area A (Southeast-Yakutat).	2,495	All.
Registration Area E (Prince William Sound).	3,175	All.
Registration Area H (Cook Inlet).	2,404	All.
Registration Area J:		
Kodiak district	11,340	All.
South Peninsula district	13,608	All.
Aleutian district	907	All.
Bering Sea district:		
South of 58°	40,381	*C. bairdi.*
	110,000	*C. opilio.*
North of 58°, west of 164°..	17,268	All.

[1] Catches of Tanner crab in State of Alaska registration areas will be counted as part of the optimum yield specified for the contiguous Federal registration area.

(b) *Limitation.* The optimum yield for Tanner crab in each of the eight geographic areas in Table I is the maximum amount of Tanner crab which may be caught or harvested by fishing vessels subject to this Part in each respective area.

(c) *Field Orders.* If the Regional Director determines that the optimum yield in any geographic area specified in Table I will be reached, he shall issue a field order pursuant to § 672.27(a) prohibiting fishing for Tanner crab in that geographic area. Fishing for Tanner crab by vessels of the United States in the applicable geographic area is prohibited from the effective date of the field order.

§ 671.22 Size and sex-restrictions.

(a) *Female Tanner crabs.* No female Tanner crab may be retained.

(b) *Male Tanner crabs.* No male Tanner crab of the species *C. bairdi* measuring less than 5½ inches (140 mm) across the greatest width of the carapace may be retained, except that male Tanner crabs of the species *C. bairdi* in Federal registration area E (Prince William Sound) may be retained if they measure 5.3 inches (135 mm) or greater, across the greatest width of the carapace. The width measurement of Tanner crab is determined by measuring the greatest straight line distance across the carapace, including the spines, perpendicular to an imaginary line drawn between a point midway between the eyes and the midpoint of the posterior portion of the carapace.

(c) *General.* All female and undersized male Tanner crabs of the species *C. bairdi* must be returned to the sea immediately with a minimum of injury, regardless of their condition.

§ 671.23 Vessel registration.

(a) *Requirement.* Any vessel of the United States fishing for Tanner crab in any Federal registration area must be registered for fishing in such area pursuant to this section.

(b) *Applications.*

(1) The owner (or the owner's authorized agent) of a fishing vessel desiring to fish for Tanner crab in a Federal registration area, not registered for a State of Alaska registration area contiguous with such Federal registration area must submit to the Regional Director, within 30 days prior to the scheduled opening of fishing in the Federal registration area, a completed State of Alaska registration form to be used as a Federal form.

(2) A fishing vessel registered for a State of Alaska registration area will be deemed to be registered for the contiguous Federal registration area.

(c) *Registration certificate.* The registration certificate shall be signed by the owner (or the owner's authorized agent), shall be kept onboard by the operator at all times during fishing operations, and shall be shown by the operator upon request to any Authorized Officer.

(d) *Registration validation.* A registration certificate is not valid until the fishing vessel has complied with the inspection requirements contained in § 671.24. A valid registration certificate becomes invalid:

(1) Upon landing Tanner crab in a Federal registration area other than the area for which the vessel is registered (or other than the contiguous State of Alaska registration area); or

(2) Seventy-two (72) hours after the close of the season for the applicable Federal registration area, whichever occurs first.

(e) *Late registration.* The late registration of any fishing vessel may be permitted by the Regional Director in the case of the loss of a registered fishing vessel. For purposes of this paragraph, "loss of a registered fishing vessel" means that the fishing vessel is incapable of being used to take Tanner crab during the open Tanner crab season in the area for which it is registered. An application for late registration under this paragraph shall be documented by submission of adequate proof, in writing, concerning the loss of the vessel. The late registration shall be for the Federal registration area in which the lost fishing vessel was registered.

(f) *Expiration.* A registration certificate expires on the last day of the registration year. Registration for any subsequent year shall be obtained by re-application in accordance with the procedure set forth in this section.

(g) *Registration year.* The registration year shall be August 1 through July 31.

(h) *Exclusive registration areas.* (1) Federal registration areas E and H are exclusive registration areas. No fishing vessel registered for an exclusive Federal registration area may be registered for any other Federal registration area (exclusive or non-exclusive) during a registration year.

(2) A fishing vessel registered for an exclusive State of Alaska registration area may register only in the contiguous Federal exclusive registration area during that registration year.

(3) No operator of a fishing vessel registered for an exclusive Federal registration area may operate any other fishing vessel registered for any other exclusive Federal registration area.

(i) *Non-exclusive registration areas.* Federal registration areas A and J are non-exclusive registration areas. A fishing vessel may be registered for any or all of the non-exclusive Federal registration areas during any registration year.

§ 671.24 Vessel inspection.

(a) *Inspection.* (1) Within 72 hours prior to fishing for Tanner crab for the first time during an open season, each registered fishing vessel must have its holds and live tanks, if any, inspected by an Authorized Officer at an inspection point specified in paragraph (b) of this section.

(2) *Requirement.* A registration certificate will not be validated if there are Tanner crab on board the fishing vessel at the time of inspection.

(3) *Certificate.* No fishing vessel will be issued an inspection certificate unless a current registration certificate for the contiguous Federal registration area is displayed to the Authorized Officer conducting the inspection. The inspection certificate shall be signed by the current fishing vessel operator, shall be kept onboard by the operator at all times during fishing operations, and shall be shown by the operator upon request to any Authorized Officer.

(4) *Landings.* The operator of a fishing vessel landing Tanner crab in a Federal registration area other than the area for which the fishing vessel is registered (or other than in the contiguous State of Alaska registration area) must attach the inspection certificate to the back of the ADF&G copy (yellow copy) of the State of Alaska fish ticket at the time the Tanner crab are landed.

(b) *Inspection points.* Inspection points are those established by the ADF&G for State of Alaska purposes and by these regulations for Federal purposes. Additional inspection points may be authorized by the Regional Director if the Regional Director finds that:

(1) Existing inspection points are imposing an unusual and material hardship which affected fishermen cannot themselves mitigate; or

(2) The ADF&G has no practical means of making special administrative accommodations regarding existing inspection points; and

(3) Authorization of additional inspection points would not result in a significant likelihood of unauthorized fishing or other management or enforcement problems.

§ 671.25 Landing requirements.

(a) Except as provided in paragraph (b) of this section, all Tanner crab must be landed in the State of Alaska registration area contiguous to a Federal registration area for which the fishing vessel is registered.

(b) The operator of a fishing vessel who desires to land Tanner crab outside the State of Alaska, or in a State registration area other than the State registration area contiguous to a Federal registration area for which the fishing vessel is registered, shall contact, by radio or other means, an Authorized Officer prior to leaving the Federal registration area for which the fishing vessel is registered, and shall state to the Authorized Officer the amount of Tanner crab onboard at the time. A fishing vessel operator acting pursuant to this paragraph shall submit the vessel to inspection at such location as the Authorized Officer may require. The operator shall not land an amount of Tanner crab which is more than one hundred and ten (110) percent or less than ninety (90) percent of the amount stated to be present onboard upon leaving the Federal registration area, or observed to be present onboard at the time of any inspection.

(c) *Certificate validity.* If a fishing vessel lands Tanner crab pursuant to paragraph (b) of this section, the registration certificate of the fishing vessel becomes invalid. To again become validly registered for a Federal registration area, the fishing vessel must be reinspected pursuant to the procedures of § 671.24.

§ 671.26 Season and gear restrictions.

(a) *Season dates.* All season dates in this section are inclusive. Time periods begin at 12:01 a.m. and end at 11:59 p.m. on the dates specified, based on local zone time, unless otherwise specified.

(b) *General requirements.* (1) At least one buoy on each Tanner crab pot or ring net shall be legibly marked with the permanent ADF&G vessel license number of the fishing vessel using the gear or, if a fishing vessel does not have a permanent ADF&G vessel license number, with the official documentation number of the fishing vessel operating the gear. Identification numbers shall be painted on the top one-third of the buoy in numerals at least 4 inches in height and ½ inch in width in contrasting color to that of the buoy. The buoy markings shall be legible and visible on the buoy above the water surface when attached to the Tanner crab pot, and maintained in a legible condition.

(2) All Tanner crab pots shall contain an opening in the webbing of a side wall of the pot which has been laced, sewn or secured together by untreated cotton twine or other natural fiber no larger than 120 thread, which upon deterioration or parting of the twine produces an opening in the web with a perimeter equal to or exceeding one half of the tunnel eye opening perimeter.

(3) During a closed season for Tanner crab in any Federal registration area, Tanner crab pots shall either be removed from the water or stored in less than 25 fathoms (46 m) of water, with all doors secured fully open and all bait and bait containers removed, with the following exceptions:

(i) In the Kamishak Bay and Southern districts of the Cook Inlet area, the maximum pot storage depth is 15 fathoms (27 m);

(ii) Tanner crab pots with all doors secured fully open and with all bait and bait containers removed may be stored in water depth greater than the maximum permissible storage depth for 72 hours prior to the opening of the Tanner crab season, and for 72 hours after the season closure where the pots are fished;

(iii) Tanner crab pots may be stored in waters deeper than 25 fathoms (46 m) if specifically allowed by this section.

(c) *Registration Area A.* Tanner crab may be taken in Registration Area A from September 1 through May 1 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(d) *Registration Area E—(1) Districts.* The following districts within Federal Registration Area E are established:

(i) *Western District:* All waters east of the longitude of Cape Fairfield (148°53' W. longitude) south of line from the southern entrance of Port Nellie Juan at 60°36' N. latitude to Point Eleanor (60°34'42" N. latitude, 147°34'6" W. longitude) to the eastern tip of Smith Island (60°31'54" N. latitude, 147°19' W. longitude) to Montague Point (60°22'16" N. latitude, 147°06'0" W. longitude), west of a line

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from Zaikof Point (60°18'12" N. latitude, 146°55'42" W. longitude) to Seal Rocks (60°10' N. latitude, 146°50' W. longitude) and west of the longitude of Seal Rocks.

(ii) *Eastern District:* All waters east of the longitude of Seal Rocks (60°10' N. latitude, 146°50' W. longitude), east of a line from Seal Rocks, to Cape Hinchinbrook (60°15'54" N. latitude, 146°37'18" W. longitude), south of a line from Point Bentinck (60°23'24" N. latitude, 146°05'36" W. longitude) to Point Whitshed (60°26'36" N. latitude, 145°53'12" W. longitude), and west of the longitude of Cape Suckling (51°59' N. latitude, 143°53'36" W. longitude).

(iii) *Hinchinbrook District:* All waters east of a line from Montague Point to the eastern tip of Smith Island, south of a line from the eastern tip of Smith Island to Johnstone Point (60°28'48" N. latitude, 146°37'18" W. longitude), north and east of a line from Cape Hinchinbrook to Seal Rocks (60°10' N. latitude, 146°50' W. longitude), and east of a line from Seal Rocks to Zaikof Point.

(2) *Seasons.* Tanner crab may be taken in Registration Area E from November 15 through May 31 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(3) *Gear.* (i) Only Tanner crab pots may be used to fish for Tanner crab. Tanner crab taken by any other means must be returned immediately to the sea, with a minimum of injury, regardless of their condition.

(ii) Two escape rings, 4¾ inches (121 mm) in minimum inside diameter, so located on the vertical plane to permit the escape of undersized crabs, shall be provided for each Tanner crab pot.

(e) *Registration Area H*—(1) *Districts.* The following districts within Registration area H are established:

(i) *Central District.* All waters between a line extending from Boulder Point at 60°46'23" N. latitude, to Shell Platform C (60°45'50" N. latitude, 151°30'08" W. longitude), then to a point on the west shore at 60°46'23" N. latitude, and the latitude of Anchor Point Light (59°40'12" N. latitude, 151°52' W. longitude).

(ii) *Southern District.* All waters within a line from Anchor Point Light west to 59°46'15" N. latitude, 152°20' W. longitude, then south to 59°04'15" N. latitude, 152°20' W. longitude, then in a northeasterly direction to Cape Elizabeth (59°9'12" N. latitude; 151°53'18" W. longitude), then from Cape Elizabeth to Point Adam (59°15'12" N. latitude; 151°58'48" W. longitude), including Kachemak Bay.

(iii) *Kamishak Bay District.* All waters within a line from 59°46'15" N. latitude, 153°00'30" W. longitude, then east to 59°46'15" N. latitude, 152°20" W. longitude, then south to 59°04'15" N. latitude, 152°20" W. longitude, then southwesterly to Cape Douglas (58°50'54" N. latitude, 153°16'24" W. longitude), including Kamishak Bay.

(iv) *Barren Islands District.* All waters within a line from Cape Douglas to Cape Elizabeth, then south to 58°52' N. latitude, 151°53' W. longitude, then west to Cape Douglas.

(v) *Outer District.* All waters with a line from Point Adam to Cape Elizabeth, then south to 58°52' N. latitude, 151°53' W. longitude, then east to the longitude of Aligo Point (149°44'33" W. longitude), then north to the mainland of Alaska.

(vi) *Eastern District.* All waters east of the longitude of Aligo Point (149°44'33" W. longitude), west of the longitude of Cape Fairfield (148°53' W. longitude), and north of 58°52' N. latitude.

(2) *Seasons.* (i) Tanner crab may be taken in the Southern district from December 1 through April 30 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(ii) Tanner crab may be taken in the Central, Kamishak Bay, Barren Islands, and Outer and Eastern Districts from December 1 through May 31 only, subject to adjustment by the Regional Director pursuant to § 671.27.

(3) *Gear.* During any king crab season established by the State of Alaska an aggregate of not more than 75 king and Tanner crab pots (including Tanner crab pots used in State waters) may be fished in Registration Area H from any registered tanner crab vessel.

(f) *Registration Area J*—(1) *Districts.* The following districts within registraton area J are established:

(i) *Kodiak District.* South of 58°52' N. latitude, west of 150° longitude and east of the longitude of Cape Kumlik (157°27' W. longitude).

(ii) *South Peninsula District.* Between the longitude of Cape Kumlik and the longitude of Scotch Cap Light (164°44'6" W. longitude).

(iii) *Aleutian District.* Between the longitude of Scotch Cap Light (164°44'6" W. longitude) and 172° E. longitude, and south of 54°36' N. latitude.

(iv) *Bering Sea District.* Bering Sea waters north of 54°36' N. latitude. The following subdistricts within the Bering Sea District are established:

(A) *Southeastern Subdistrict.* East of 168° W. longitude, and south of the latitude of Cape Newenham (58°39' N. latitude), and all Bristol Bay waters.

(B) *Pribilof Subdistrict.* West of 168° W. longitude and south of the latitude of Cape Newenham (58°39' N. latitude).

(C) *Northern Subdistrict.* North of the latitude of Cape Newenham (58°39' N. latitude). The following sections within the Northern Subdistrict are established:

(1) *Nome Section.* All waters of Norton Sound between the longitude of Penny River and the longitude of Tophok Head.

(2) *General Section.* All other waters of the northern subdistrict.

(3) *Seasons.* Subject to adjustment by the Regional Director pursuant to § 671.27, Tanner crab may be taken in Federal Registration Area J:

(i) In the Kodiak district from January 5 through April 30 only, except that in that portion of the Kodiak district between 156°20'13" W. longitude (Kilokak Rocks) to 157°27' W. longitude (Cape Kumlik) Tanner crab may be taken from January 5 through May 15 only.

(ii) In the South Peninsula district from November 1 to 12:00 noon, May 15 only;

(iii) In the Aleutian district from November 1 to 12:00 noon, June 15 only; and

(iv) In the Bering Sea district from 12:00 noon November 1 to 12:00 noon June 15 only, except that Tanner crab other than *C. bairdi* may be taken or possessed from 12:00 noon November 1 to 12:00 noon September 3 only.

(4) *Storage of Gear.* During the closed season for Tanner crab in the applicable geographic area, Tanner crab pots may be stored in the water only if stored:

(i) In the waters which are both west of 172° W. longitude and 30 fathoms (55 meters) or less in depth; or

(ii) In the Southeastern Subdistrict, in the waters which are bounded on the north by 58° N. latitude, on the south by 57° N. latitude, on the east by 164° W. longitude and on the west by 166° W. longitude.

§ 671.27 Time and area closures.

(a) *Field orders.* (1) Field orders issued by the Regional Director under this part shall include the following information: (i) A description of the area to be opened or closed; (ii) the effective date and any termination date of such opening or closure; and (iii) the reason for the opening or closure.

(2) No field order issued under this section shall be effective until:

(i) It is filed for publication with the FEDERAL REGISTER;

(ii) It has been posted and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for posting and publicizing of similar notices of closure for 48 hours prior to its effective date; and

(iii) It has been broadcast, at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure, for 48 hours prior to its effective date.

(3) Field orders issued pursuant to this section shall remain in effect until the earlier of the following dates: (i) Any expiration date stated in the field order; or (ii) the effective date of any field order which modifies, rescinds, or supersedes the initial field order.

(b) *In-season adjustments*—(1) *General.* The Regional Director may, following consultation with the ADF&G, adjust the opening and closing dates for the Federal registration areas, districts, subdistricts, and sections specified in § 671.26.

(2) *Determinations.* Any adjustment under this section shall be based on a determination by the Regional Director that (i) the condition of Tanner crab stocks in any such geographic area is substantially different from the condition anticipated at the beginning of the fishing year, and (ii) such differences reasonably support the need for in-season conservation measures to protect such Tanner crab stocks.

(3) *Data.* Fishery data reported in-season which relate to one or more of the following factors may be considered in making this determination:

(i) The effect of overall fishing effort within the area;

(ii) Catch per unit of effort and rate of harvest;

(iii) Relative abundance of Tanner crab within the area in comparison with pre-season prediction;

(iv) The proportion of immature or softshell Tanner crab being handled;

(v) General information on the condition of Tanner crab within the area; and

(vi) Any other factors relevant to the conservation and management of Tanner crab.

(4) *Procedures.* (i) The Regional Director shall publish proposed adjustments in the FEDERAL REGISTER for public comment before they are made final, unless the Regional Director finds for good cause that such advance notice and public procedure are impracticable, unnecessary, or contrary to the public interest.

(ii) If the Regional Director decides, for good cause, that any in-season adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Director for a period of 15 days after the effective date of the adjustment.

(iii) During any such 15-day period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which the adjustment was based. (Address: National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802).

(iv) If comments are received during the 15-day period, the Regional Director shall reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, shall either: (A) Publish in the FEDERAL REGISTER a notice of continued effectiveness of the adjustment, responding to comments received; or (B) modify or rescind the adjustment.

(5) *Notice of adjustments.* The Regional Director shall give notice of in-season adjustments by issuance of field orders in accordance with the procedures in paragraph (a) of this section.

(c) *Optimum yield.* No action which has the effect of raising the optimum yield for Tanner crab in any geographic area as specified in Table I of § 671.21(a) is authorized under this section.

(d) *Prohibition.* Any fishing for Tanner crab contrary to a field order issued under this section is prohibited.

[FR Doc 78-33966 Filed 12-1-78; 3:36 pm]

8. On page 54647 in the middle [7590-01-M]

ted for licensing safety evaluation

V 4 3 / 2 3 5 DEC 6 78 UMI

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

Proposed Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes amending the rules and regulations to permit the optional use of upward adjustments by handlers in Districts 1 and 3, during the balance of the 1978-79 season, of not to exceed 100 percent of their average weekly pick. This would allow such handlers the option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

DATES: Comments must be received by December 21, 1978. Proposed effective dates: January 1, 1979, through July 31, 1979.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100-910.180) are effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposed amendment of said rules and regulations was recommended by the Lemon Administrative Committee, established under the order as the agency to administer its terms and provisions.

Under the order the prorate base of each handler is based upon his average weekly pick (the average weekly amount of lemons harvested and delivered to such handler's pickinghouse during a specified number of weeks preceding the computation date). In recognition of the fewer number of weeks during which lemons are harvested in Districts 1 and 3, the order provides that the handlers in such districts may request and be granted an upward adjustment in their average weekly pick to accelerate their receipt of allotment during the first half of their season, subject to payback during the last half of their season of the extra allotment received. The order provides in § 910.53(h) that the percentage of adjustment, currently set at not to exceed 50 percent in §§ 910.53(f)(1) and 910.153(e)(3), may be changed.

The committee reports that, due to the conditions expected to prevail during the balance of the 1978-79 season, the percentage of adjustment permitted should be changed to permit the optional use of upward adjustments by handlers in Districts 1 and 3 of not to exceed 100 percent of their average weekly pick. This would allow such handlers the option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proporationate share of the marketing opportunity more advantageously.

This added flexibility would be provided by an amendment to § 910.153(e)(3) Subpart—Rules and Regulations (7 CFR Part 910.100-910.180). As proposed to be so amended, § 910.153(e)(3) would read as follows:

§ 910.153 Prorate bases and allotments.

* * * * * *

(e) * * *

(3) *Granting of upward adjustment for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1) the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of his average weekly pick: *Provided, however,* That during the period January 1, 1979, through July 31, 1979, upon request of any such handler, the committee shall adjust such handler's average weekly pick in the amount requested but not in excess of 100 percent. * * *

* * * * *

Dated: December 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

FR Doc. 78-33968 Filed 12-5-78; 8:45 am]

[1505-01-M]

[7 CFR Part 1062]

[Docket No. AO-10-A 53]

MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Correction

In FR Doc. 78-32809 appearing on page 54642 in the issue of Wednesday, November 22, 1978, the following corrections should be made:

1. On page 54643 in the 3rd column, the 1st paragraph, the 1st word in the last sentence should begin with "They . . ." instead of "The . . .".

2. On page 54644 in the 3rd column, the 3rd paragraph, the 14th line should read, ". . . form price at the Lebanon plant would . . .".

3. On page 54645, in the 1st column, the 3rd full paragraph, the 13th line, the last word should be "proceeding".

4. In the 2nd column, the 3rd line should read, "under the St. Louis-Ozarks order as a result of having greater sales in the St. Louis-Ozarks market for [only one month.]".

5. On page 54646 in the middle column, the 2nd paragraph, the 5th line, the 1st word, should read, "producers" instead of "procedures".

6. On page 54647 in the 1st column, the 4th paragraph, the 7th line should read, ". . . each producer. This change will pro-[vide]".

7. In the middle column, the 5th paragraph should read, "Kraft proposed that during each of the months of September through February at least one day's production of milk of a dairy farmer must be . . .".

8. On page 54647 in the middle column, the 4th paragraph, the 2nd and 3rd sentences should read, "The witness stated that Kraft plans to divert milk from its pool supply plant at Springfield, Mo., to its nonpool plants at Bentonville, Berryville and Springfield beginning in the fall months of 1978. Under the present order provisions, milk diverted to Bentonville and Berryville from Springfield would be priced at Springfield because these two locations are within 120 miles of Springfield."

9. On page 54648 in the 1st column, the 4th paragraph should read, "One of proponent's concerns was that milk which is diverted to its plants at Bentonville and Berryville be priced at the same level. The present provisions provide that milk diverted to nonpool plants within 120 miles of Springfield or St. Louis shall be priced at the plant from which diverted. Since the Bentonville and Berryville plants are within 120 miles of Springfield, any milk diverted by Kraft from the Springfield plant to such locations will receive the same price."

10. In the middle column, the 1st paragraph, the 15th and 21st lines, the words, "producers" and "previous" should replace, "procedures" and "provious", respectively.

11. The middle column, the 2nd sentence should read, "The money is deducted by the market administrator in the computation of the blend price and is turned over to an agency composed of pro-[ducer representatives.]".

12. In the 3rd column, the 2nd paragraph, the 1st sentence should read, "At the request of the cooperative, a representative of the United Dairy Industry Association presented data in support of the cooperative's position that additional funds are needed by the agency."

13. Also, in the 3rd column, the 4th paragraph, the 2nd sentence should read, "He stressed that while he was not opposed to advertising and promotion he felt that the higher assessment to producers would be passed on to Kroger through the price that producers charge Kroger for milk.".

14. On page 54649 in the 1st column, the 1st full paragraph, the last sentence should read, "The funding rate adopted herein is in line with these costs increases for newpaper and radio advertising."

15. Also, in the 3rd full paragraph, the 8th line should read, "equal to .72 percent of the weighted . . ."

16. On page 54650 in the middle column, § 1062.7(d)(3), the word, "plan" should read, "plant".

17. Also, the last sentence in that column should read, "2. Section 1062.13 is revised to read as follows:".

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Acceptance Criteria for Emergency Core Cooling Systems for Light-Water-Cooled Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Nuclear Regulatory Commission is considering amending its regulations to change certain technical as well as nontechnical requirements within the existing emergency core cooling system rule. Modifications under consideration would take into account (1) experience gained in the licensing process, (2) new research information, and (3) operating experience. This notice is to invite advice and recommendations on several questions concerning the acceptance criteria for emergency core cooling systems in light-water-cooled nuclear power plants. There will be a later opportunity for public comment in connection with any proposed rules that may be developed by the Commission.

DATES: Comment period expires February 5, 1979.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washingon, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. James A. Norberg, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5921.

SUPPLEMENTARY INFORMATION:

HISTORICAL BACKGROUND

Emergency core cooling systems (ECCS) were recognized in 1966 as important engineered safety features for mitigating the consequences of a postulated loss-of-coolant-accident (LOCA) in light-water-cooled nuclear power plants. During the period 1966 to 1971 extensive research programs were initiated to better understand the LOCA and several comprehensive reviews were made to evaluate the adequacy of ECCS. ECCS designs submitted for licensing safety evaluation were reviewed on a case-by-case basis.

By 1971, much significant research information on the LOCA/ECCS had been obtained, and the Regulatory staff had acquired extensive experience in its licensing review of over 50 ECCS designs. Included in this experience was the large amount of staff time spent in individual ECCS-related licensing reviews. In some cases new evaluation models, assumptions, and parameters were proposed for each successive plant.

To alleviate this situation, an Interim Policy Statement (IPS) providing specific guidance on ECCS evaluations and based on the then current state of knowledge of LOCA/ECCS was developed. The IPS was issued by the Commission immediately effective on June 29, 1971. However, following public comment, the Commission announced its decision on November 30, 1971, to hold a rulemaking hearing to determine whether the IPS should be retained as issued or whether different criteria should be adopted.

A rulemaking hearing, convened in January 1972, generated an extensive record of discussion and evaluation of the available evidence (i.e., experimental results and analytical models) pertinent to LOCA/ECCS. The complete hearing record was certified to the Commission for the Commission's use in making its determination of policy on ECCS. Based on this record, the Commission Opinion of December 28, 1973 (CLI-73-39, 6 AEC 1085) was issued, providing the basis for the ECCS rule 10 CFR § 50.46, "Acceptance Criteria for Emergency Core Cooling Systems for Light Water Nuclear Power Reactors," and Appendix K, "ECCS Evaluation Models," to 10 CFR Part 50 (published in the FEDERAL REGISTER January 4, 1974).

In its Opinion, the Commission carefully considered the different views produced by the record and decided on the criteria and the required and acceptable features of the ECCS evaluation models. The Commission stated its belief that the margin provided by these criteria and their inherent conservative features would be adequate to assure core cooling should a design basis LOCA ever occur.

The Commission in its Opinion also stated its intent to provide latitude for change when new research information became available.

For many years, the Commission (and its predecessor agency, the Atomic Energy Commission) have had programs of experimental and theoretical research related to ECCS performance. The rulemaking Opinion noted the ongoing research programs of the Commission and the nuclear industry, and their potential for improved knowledge (6 AEC 1085, 1088,

identified since the promulgation of

For the Nuclear Regulatory Com-

the United States law on diplomatic

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1094, 1103, 1120, 1124, 1129). The government and industry ECCS research programs have produced significant new information in the years since the rulemaking. Furthermore, the Commission has acquired significant experience in using the ECCS rule, through its review of many ECCS evaluation models and licensing of ECCS designs.

In order to utilize new technical information and experience in the licensing process, the Commission is considering modifying the ECCS rule with both procedural changes and technical changes. The procedural changes provide improvements to the rule which would eliminate difficulties previously encountered in applying the rule. The technical changes would be in the direction of improving the realism of ECCS licensing evaluation in the light of present knowledge, while preserving a level of conservatism consistent with that knowledge.

Summary of Proposed Rule Changes

The Commission is considering the intiation of rulemaking in two phases, as follows:

PHASE 1 (SHORT TERM)

Initiate rulemaking for procedure-oriented and certain specific technical changes in the ECCS rule. These rule changes are expected to have little impact on the overall conservatism of the rule, and such changes are anticipated to require a minimum of time and effort to implement.

PHASE 2 (LONG TERM)

In parallel with Phase 1, initiate development of the bases for a more comprehensive rulemaking action to incorporate new knowledge and operating experience into the ECCS rule. This effort would include assessing the impact of proposed changes on the overall conservatism of the rule. As part of the overall assessment of conservatism, a systematic review of all relevant information will be performed to ensure that it is appropriately considered. Ne information on decay heat and zirconium-water reaction would be considered together with all other new information, including any adverse results (for example, discrepancies in the pretest prediction of significant research test results, uncertainties associated with the prediction of counter-current flow phenomena and core spray distribution, and the possibility of steam generator tube failures). If, during this review, it is determined that any information requires more specific treatment than is presently provided in Appendix K or in present licensing practices, appropriate rulemaking action will be taken.

The Commission staff is presently assessing the impact on the overall conservatism of the rule of the proposed Phase 1 changes. Concurrently, the staff is developing the methodology for assessing the technically complex Phase 2 changes. It is expected that the Phase 1 assessment will be completed within six months. A completion time for the Phase 2 assessment has not been established, but this assessment is expected to take several years to complete. In each case, the drafting of the proposed rule could begin with the end of the assessment.

Specific Considerations

The following specific areas are under consideration by the Commission for proposed rulemaking:

PHASE 1 (SHORT TERM) PROCEDURE-ORIENTED AND CERTAIN SPECIFIC TECHNICAL RULE CHANGES

1. *Reanalysis Requirements.* a. *Reanalysis Requirements for Construction Permit Applications.* Changes to 10 CFR § 50.34 would allow for certain corrections to be made to vendor ECCS computer analysis codes during the construction permit review or during construction of the plant without a complete reanalysis of ECCS performance in compliance with 10 CFR § 50.34 until the operating license review. Criteria would be provided to define the bounds within which the corrections could be accepted without plant specific reanalysis.

b. *Reanalysis Requirements for Operating License Applications and Licensed Plants.* The changes to 10 CFR § 50.34 would dispense with ECCS performance recalculations in the event of corrections to vendor ECCS computer analysis codes if it is demonstrated, on a generic basis, that the model changes reduce the peak cladding temperature and if no change in plant technical specifications is involved.

2. *Return to Nucleate Boiling.* The changes would allow an assumption of a return to nucleate boiling during the blowdown phase of the LOCA when supported by applicable data. This change would involve modifications to 10 CFR Part 50, Appendix K, paragraph I.C.4.e. The objective of this change is to allow use of recent data on rewetting.

3. *Steam Cooling Requirements for Flooding Rates Below One Inch Per Second.* The changes would delete the requirement [Appendix K, paragraph I.D.5] that heat transfer calculations be based on the assumption that cooling is only by steam for flooding rates below one inch per second and replace it with a requirement that heat transfer calculations be based on applicable experimental data appropriately accounting for flow blockage if it is predicted to occur.

4. *Transition Boiling Correlation Reference.* This change would replace the reference to the transition boiling correlation in Appendix K, paragraph I.C.5. with an improved reference in a later publication by the same authors.

Items 2 and 3 above constitute certain specific technical changes to the present rule. However, recent assessments strongly indicate that these changes do not significantly affect the overall conservatism of the rule. Therefore, these changes will be considered along with the procedural changes of items 1 and 4 above. The results of the assessment which show that these changes have a negligible impact on the overall conservatism of the rule will be made available as part of the rule making process.

PHASE 2 (LONG TERM) RULE CHANGES BASED ON NEW INFORMATION FROM RESEARCH AND OPERATING EXPERIENCE

The following changes to the ECCS rule based on new information from research and operating experience are being considered by the Commission;

1. *Research Information.* a. *Fission Product Decay Heat Rate.* The changes would involve revising paragraph I.A.4 of Appendix K which assumes a heat generation rate from radioactive decay of 1.2 times the October 1971 ANS Proposed Standard[1] to another specified decay heat rate consistent with present knowledge. Consideration will be given to the combination of uncertainties in decay heat with uncertainties in initial heat rate.

b. *Zircaloy Oxidation Rate.* The changes would involve revising paragraph I.A.5. of Appendix K from the Baker-Just equation[2] of May 1962 to a calculation method based on present knowledge and needed conservatism. In addition, the basic performance requirement set forth in § 50.46(b)(2) that "the calculated total oxidation of the cladding shall nowhere exceed 0.17 times the total cladding thickness before oxidation" would also be reexamined to ensure consistency with the new data on strength and ductility of partially oxidized zircaloy.

c. *Additional Data.* The changes will include any changes to the ECCS rule needed to take into account new information that indicates the present rule is less conservative than previously believed, such as (1) the delay of emergency coolant injection caused by heat transfer to the coolant from hot walls and (2) less favorable distribution of BWR ECCS core spray.

2. *Operating Experience.* The changes will include any revisions to the ECCS rule needed to account for phenomena not specifically identified at the time the rule was promulgated but that have since been identified through operating experience as having a significant effect on ECCS performance. Such revisions will be identified during the development of the proposed rule.

During the development of the proposed rule changes, an assessment will be made of the impact of the proposed changes on the overall conservatism of the ECCS rule. The impact assessment will include a reassessment of the requirements presently specified in Appendix K in light of current information (e.g., statistical combination of heat sources) as well as consideration of other phenomena of importance to ECCS performance that have been identified since the promulgation of Appendix K (e.g., new semiscale and LOFT test results, steam generator tube ruptures, countercurrent flow phenomena, BWR core spray distribution, subcooled break flow). A methodology will be developed for assessing the impact of proposed technical changes on the overall conservatism of the rule.

Advice and recommendations on the proposed areas of revision to the acceptance criteria for emergency core cooling systems in light-water-cooled nuclear power plants are invited from all interested persons. Specifically, comments are requested on the following questions:

1. Under what circumstances should corrections to ECCS models be used during licensing review without necessitating complete reanalysis of a given plant or an entire group of plants?
2. What would be the impact of the proposed procedure-oriented and certain specific technical rule changes?
3. How should safety margins be quantified and how can acceptable safety margins best be specified?
4. What phenomena have been identified since promulgation of the ECCS rule that are significant to ECCS performance and that are not adequately considered in the existing ECCS rule, in light of current knowledge and experience, or in current licensing practices?
5. How should the ECCS rule provide for the inclusion of new research information and operating experience? Can or should this be done on a continuing basis? How should provision of acceptable margins be handled in such a process?

The Commission has concluded preliminarily that the procedure-oriented and certain technical changes (Phase 1) to the emergency core cooling system rule would not constitute a major Federal action significantly affecting the quality of the human environment and as such will not require the preparation of an environmental impact statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA).

In view of the uncertainty regarding the possible technical changes to the ECCS rule based on new information from research and operating experience (Phase 2), the Commission cannot make a determination at this time concerning the possible need for an environmental impact statement. Any proposal for rulemaking action along these lines will include a Commission determination whether or not an environmental impact statement should be prepared for that action.

(5 U.S.C. 552; Sec. 161, Pub. L. 83-703, 68 Stat. 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C., this 30th day of November 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-33943 Filed 12-5-78; 8:45 am]

[1] Proposed American Nuclear Society Standards—"Decay Release Rates Following Shutdown of Uranium-Fueled Thermal Reactors," approved by Subcommittee ANS-5, ANS Standards Committee, October 1971.

[2] Baker, L. C., "Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the Zirconium-Water Reactor," ANL-6548, page 7, May 1962.

[4710-08-M]

DEPARTMENT OF STATE

[22 CFR PART 151]

[Docket No. SD—140]

COMPULSORY LIABILITY INSURANCE FOR DIPLOMATIC MISSIONS AND PERSONNEL

Notice of Proposed Rulemaking

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to add new regulations to 22 CFR as Subchapter P—Diplomatic Privileges and Immunities. These regulations specify the insurance required of all diplomatic missions, members of missions and their families, and officials of the United Nations entitled to diplomatic immunity, including the limits of liability, and describe the evidence of insurance necessary before the Department of State endorses applications for diplomatic automobile license plates or exemptions from registration fees.

DATES: Written comments must be received by February 2, 1979. In addition, interested persons may offer comments orally at a public meeting to be held at 10 a.m., February 5, 1979, at Room 1912, Department of State, 2201 C Street NW., Washington, D.C. 20520. Written notification of intent to offer oral comments at this public meeting must be received by February 2, 1979.

ADDRESS: Written comments and written intention to attend the meeting and offer oral comments should be sent to David P. Stewart, Special Assistant, Office of the Legal Adviser, Room 6423, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

David P. Stewart, Department of State, Washington, D.C., telephone 202-632-2149.

SUPPLEMENTARY INFORMATION: The Diplomatic Relations Act, Pub. L. 95-393, September 30, 1978 (22 U.S.C. 254a et seq., 28 U.S.C. 1364 will become effective December 29, 1978. As of that date, previous statutes on diplomatic immunity dating from the eighteenth century will be repealed and the privileges and immunities provisions of the 1961 Vienna Convention on Diplomatic Relations (23 UST 3227, 500 UNTS 95), will be established as the United States law on diplomatic immunity.

Section 6 of the Act requires diplomatic missions, members of missions, their families, and senior officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against risks arising from their operation of motor vehicles, vessels, or aircraft. The President is directed to establish the requirements for this liability insurance by regulation. Executive Order 12101 (43 FR 54195) delegates to the Secretary of State the authority to prescribe these regulations.

In consideration of the foregoing, it is proposed to amend Chapter I of 22 CFR, by adding a new Subchapter P, to read as follows:

SUBCHAPTER P—DIPLOMATIC PRIVILEGES AND IMMUNITIES

PART 151—COMPULSORY LIABILITY INSURANCE FOR DIPLOMATIC MISSIONS AND PERSONNEL

Sec.
151.1 Purpose.
151.2 Definitions.
151.3 Types of insurance coverage required.
151.4 Minimum limits for motor vehicle insurance.
151.5 Recommended limits for motor vehicle insurance.
151.6 Authorized insurer.
151.7 Policy terms consistent with the Act.
151.8 Evidence of insurance for motor vehicles.
151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.
151.10 Minimum limits of insurance for aircraft and/or vessels.
151.11 Notification of ownership, maintenance, or use of vessel and/or aircraft; evidence of insurance.

AUTHORITY: Sec. 4, 63 Stat. 111 (22 U.S.C. 2658); Sec. 6 Pub. L. 95-393 (92 Stat. 809, 22 U.S.C. 254c); E.O. 12101 (43 FR 54195).

§ 151.1 Purpose.

This part establishes regulations required under section 6 of the Diplomatic Relations Act (Pub. L. 95-393; 22 U.S.C. 254c). These regulations require all missions, members of missions and their families, and those officials of the United Nations who are entitled to diplomatic immunity to have and maintain liability insurance against the risks of bodily injury, including death, and property damage, including loss of use, arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft.

§ 151.2 Definitions.

(a) "Act" means the Diplomatic Relations Act, Pub. L. 95-393 (22 U.S.C. 254a et seq., 28 U.S.C. 1364).

(b) "Persons subject to the Act" means the members of missions who

[4910-22-M]

Federal agencies. The following is a

9. The extent to which the noise standards do not apply to certain

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are entitled to diplomatic immunity and their families as defined in section 2 of the Act, and senior United Nations officials.

(c) "Missions" means missions as defined in Section 2 of the Act.

(d) "Senior United Nations official" means a United Nations official entitled to diplomatic immunity as provided in § 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946 (21 UST 1418; 1 UNTS 16).

(e) "Insurance" means insurance as required by the Act and these regulations.

§ 151.3 Types of insurance coverage required.

(a) Every person subject to the Act and every mission shall have and maintain with respect to any motor vehicle, vessel or aircraft owned by, leased to, or furnished for the regular use of every such person or mission liability insurance in accordance with the form, terms, and conditions provided for in these regulations.

(b) The insurance shall provide coverage against the following risks to third parties arising from the ownership, maintenance, or use in the United States of any motor vehicle, vessel, or aircraft:

(1) Bodily injury, including death;

(2) Property damage, including loss of use; and

(3) Any additional coverage required to be included in liability insurance policies by the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed, or kept, such as uninsured motorist coverage or first party no-fault coverage.

§ 151.4 Minimum limits for motor vehicle insurance.

The insurance shall provide not less than the minimum limits of liability specified in the financial responsibility, compulsory insurance or other law of the jurisdiction where the motor vehicle is principally garaged.

§ 151.5 Recommended limits for motor vehicle insurance.

Every person subject to the Act and every mission should have and maintain insurance adequate to afford reasonable compensation to accident victims. Minimum limits of liability of $100,000 per person and $300,000 per incident for bodily injury, including death, and $50,000 per incident for property damage, including loss of use, are recommended to meet this objective.

§ 151.6 Authorized insurer.

The insurance must be issued by an insurer licensed to do business in the jurisdiction where the motor vehicle, vessel or aircraft is principally garaged, berthed or kept.

§ 151.7 Policy terms consistent with the Act.

The insurance shall be construed in conformity with the Act. In particular, no effect shall be given to any policy terms which are inconsistent or in conflict with those provisions of the Act stating that any suit against the insurer under the policy shall not be subject to any of the following defenses:

(a) That the insured is immune from suit;

(b) That the insured is an indispensable party; or

(c) In the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was canceled before the claim arose.

§ 151.8 Evidence of insurance for motor vehicles.

(a) Every mission must periodically furnish evidence satisfactory to the Department of State that the required insurance is in effect for the mission, its members and their families.

Every senior United Nations official must also periodically furnish evidence satisfactory to the Department of State that the required insurance is in effect.

(b) The Department of State will accept as satisfactory evidence that the required insurance is in effect:

(1) A written statement of self-certification signed by the Chief of Mission, indicating that the mission, its members and their families have and will maintain insurance throughout the period of registration of all vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each policy by number and name of insured; and

(2) A written statement of self-certification signed by a senior United Nations official, indicating that the official has and will maintain insurance throughout the period of registration on all motor vehicles owned or leased or otherwise regularly used, and showing the name of the insurance company or companies and identifying each by number and name of insured.

(c) A certificatin under paragraph (b) of this section by a Chief of a Mission to the United Nations or by a senior United Nations official shall be delivered to the Counselor for host country affairs of the United States Mission to the United Nations. All other certifications shall be delivered to the Chief of Protocol, Department of State.

§ 151.9 Evidence of insurance required for diplomatic license plates and waiver of fees.

The Department of State will not endorse on behalf of any person subject to the Act or any mission any application for diplomatic motor vehicle license plates or any application for waiver of motor vehicle registration fees without prior receipt of satisfactory evidence that the required insurance is in effect.

§ 151.10 Minimum limits of insurance for aircraft and/or vessels.

Insurance in respect of vessels and/or aircraft shall provide limits of liability adequate in light of reasonably foreseeable risks from the ownership, maintenance, or other regular use of vessels and/or aircraft.

§ 151.11 Notification of ownership, maintenance or use of vessel and/or aircraft; evidence of insurance.

(a) Each person subject to the Act and each mission must notify the Department of State in writing of the ownership, maintenance or other regular use of a vessel or aircraft in the United States by such mission or person.

(b) Notices under paragraph (a) of this section shall identify the vessel and/or aircraft with specificity, including model and manufacturer's name, and serial and registration numbers. Each notification shall be accompanied by a copy of the insurance policy or policies issued in respect of the vessel and/or aircraft. Such policy or policies need not be issued by the insurer providing liability insurance for motor vehicles.

(c) With regard to senior United Nations officials, missions to the United Nations and members of such missions as have diplomatic status and their families, notices and evidence of insurance under this section shall be delivered to the Counselor for Host Country Affairs of the United States Mission to the United Nations. All other notices under this section shall be delivered to the Chief of Protocol, Department of State.

EDITH J. DOBELLE,
Chief of Protocol
Department of State.

NOVEMBER 23, 1978.

[FR Doc. 78-34171 Filed 12-5-78; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 772]

[FHWA Docket No. 78-33]

PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this advance notice to request comments on existing noise abatement procedures and suggestions for improvement of these procedures.

DATES: Comments must be received on or before February 5, 1979.

ADDRESS: FHWA Docket No. 78-33, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street SW., Washington, D.C. 20590. It would be appreciated if comments were sent in triplicate. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Reagan, Environmental Quality Division, Office of Environmental Policy (202-426-4836), or Mr. Stanley H. Abramson, Office of the Chief Counsel (202-426-0791), Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA's current procedures for abatement of highway traffic noise and contruction noise were published on April 23, 1976 (41 FR 16936), and appear in Part 772 of 23 CFR § 772.25, which deals with traffic noise level prediction methods, was revised on October 4, 1978 (43 FR 45838).

The Federal Highway Administrator has directed that a review be made of such regulations in order to determine their effectiveness and judge their current applicability and necessity. The FHWA is issuing this advance notice to solicit public comments and suggestions on Part 772 as part of the agency's review of that regulation.

During the past two years several informal comments have been received on the requirements contained in Part 772. These comments have come from private citizens, State and local officials, FHWA field offices, and other Federal agencies. The following is a summary of the comments received:

1. Requirements for coordination with local officials (§ 772.17), analysis and abatement of construction noise (§ 772.23), and other measures not specifically included in Federal-aid highway legislation (23 U.S.C. 109(h),(i)) should be eliminated.

2. There is too little flexibility in the regulation. The detailed procedures such as those contained in §§ 772.11 and 772.25 should be reduced in order to recognize the technical skills of State and local agencies, allow more flexibility and reduce paperwork requirements.

3. The exception process provided in § 772.15 should be deleted. If abatement is found to be feasible along Type IB projects (uncontrolled access) the regulation requires that it be undertaken. However, on Type IA projects (partial and full control of access), where the most serious noise problems generally occur, a procedure is provided that allows exceptions to the design noise levels even if abatement is practical and feasible.

4. The design noise levels provided in § 772.13 are maximum levels above which abatement must be considered. However, these same levels are also used to indicate the existence of a noise impact. The FHWA has indicated that these levels are higher than desirable but reflect what is reasonably possible. The FHWA admits that traffic noise impacts can exist below these levels. Therefore, in addition to leading to decisions on the need to employ feasible abatement measures, the regulation should provide criteria for assessing impacts on health and welfare such as those issued by the Environmental Protection Agency (EPA) ("Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety," EPA 550/9-74-004, March 1974).

5. In the evaluation of benefits and adverse social, economic and environmental effects (e.g., §§ 772.13(a), 772.15), the regulation does not specify that the cost of abatement measures should be included as an economic effect. If this is the intent, more appropriate wording would be "adverse social, economic and environmental effects and the cost of abatement."

6. The regulation should specifically provide for Federal participation in the costs of noise insulation for private residencies as a routine abatement measure (§ 772.21).

7. The regulation contains too many definitions (§ 772.5).

8. The list of factors which a State may want to consider in developing Type II projects (specifically for noise abatement) is unnecessary (§ 772.11(e)).

9. The extent to which the noise standards do not apply to certain types of projects should be clarified (§ 772.5(w)).

Comments on the foregoing suggestions and criticisms and on any other aspects of the current regulation are invited.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. (23 U.S.C. 109(i), 315; 49 CFR 1.48(b)).

Issued on: November 28, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-33985 Filed 12-5-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

Region VIII

[40 CFR Part 52]

[FRL 1020-4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Montana Sulfur Oxides Control Strategy—Change of Public Hearing Date

AGENCY: U.S. Environmental Protection Agency.

ACTION: Ammouncement of postponement of public hearing.

SUMMARY: Notice is hereby given that the public hearing scheduled to receive comments on proposed regulations to control deficiencies in Montana's Implementation Plan on Wednesday, November 29, 1978 at 9:00 a.m. in the Civic Center Auditorium, Butte, Montana, has been postponed indefinitely due to progress by the State of Montana in correcting control deficiencies in its State Implementation Plan. Should a public hearing on the proposed EPA regulation be necessary in the future, the hearing will be rescheduled.[1]

FOR FURTHER INFORMATION CONTACT:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, CO 80295 (303) 837-3471.

[1] NOTE: Notice of hearing was published on October 30, 1978, at 43 FR 50473. The proposed regulations were published September 11, 1978 at 43 FR 50473. This notice was received at the office of the Federal Register on November 30, 1978.

FINDINGS

Matney Lumber Co. is hereby notified place of the hearing has been given in

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Dated: November 27, 1978.

ALAN MERSON,
Region VIII, Regional Administrator, Environmental Protection Agency.

[FR Doc 78-33818 Filed 12-5-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1020-8]

DELAYED COMPLIANCE ORDERS

Proposed Approval Of Five Administrative Orders Issued By the State of Washington, Department of Ecology To Boise Cascade Corp. (2) Nanome Aggregates, Inc., Vaagen Brothers Lumber Co., Matney Lumber Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve five administrative orders issued by the State of Washington, Department of Ecology (DOE). The order requires these companies to bring air emissions from their facilities in Washington into compliance with certin regulations contained in the Federally-approved Washington State implementation Plan (SIP) by July 1, 1979. Because the orders have been issued to major sources and permits a delay in compliance with provisions of the SIP, they must be approved by EPA before they become effective as delayed compliance orders under the Clean Air Act (the Act). If approved by EPA, these orders will constitute additions to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment of EPA's proposed approval of these orders as delayed compliance orders.

DATE: Written comments must be received on or before January 5, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. The State orders, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth D. Brooks, Environmental Protection Agency M/S 513, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1387

SUPPLEMENTARY INFORMATION: The Boise Cascade Corporation operates a sawmill at Kettle Falls, Washington. The orders under consideration address emissions from the wigwam burner, the hog fuel boiler and veneer drier at the facility, which are subject to Washington Administrative Code (WAC) 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The orders require final compliance with the regulation by July 1, 1979 through discontinuing use of the wigwam burner, derating the existing boiler and installation of a new fluid bed combuster. The source has consented to the terms of the orders and has satisfied particular due increments contained in these orders.

Matney Lumber Company operates a sawmill at Kettle Falls, Washington. The order under consideration addresses emissions from the wigwam burner at the facility which are subject to WAC 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a new wood fired boiler and elimination of the wigwam burner. The source has consented to the terms of the order and has satisfied particular due increments contained in the order.

Vaagen Brothers Lumber Company operates a sawmill at Colville, Washington. The order under consideration addresses emissions from the wigwam burner at the facility which are subject to WAC 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a new wood fired boiler and elimination of the wigwam burner. The source has consented to the terms of the order and has satisfied particular due increments contained in the order.

Nanome Aggregates, Inc. operates a limestone crushing and sacking operation at Valley, Washington. The order under consideration addresses emissions from crushing equipment at the facility which are subject to WAC 18-04-040. The regulation limits the emissions of particulate matter, and is part of the federally approved Washington State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of a new baghouse, repair of duct work, and addition of new collection points and hooding. The source has consented to the terms of the order and has satisfied particular due increments contained in the order.

Because these orders have been issued to major sources of particulate emissions and permits a delay in compliance with the applicable regulation, they must be approved by EPA before they become effective as delayed compliance orders under section 113(d) of the Clean Air Act (the Act). EPA proposes to approve these orders because they satisfy the appropriate requirements of this subsection. The elements of the appropriate paragraphs of subsection 113(d) are met in these orders.

If these orders are approved by EPA, source compliance with the terms would preclude federal enforcement action under Section 113 of the Act against these sources for violations of the regulations covered by the orders during the period the orders are in effect. Enforcement against the sources under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the orders would also constitute additions to the Washington SIP. All interested persons are invited to submit written comments on the proposed orders. Written comments received by the date specified above will be considered in determining whether EPA may approve these orders. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order on 40 CFR Part 65.

(42 U.S.C. 7413, 7601.).

Dated: November 17, 1978.

DONALD P. DUBOIS,
Regional Administrator, Region X

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Matney Lumber Company with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order Docket No. DE 78-441

To: Mr. Frank Matney, Owner, Matney Lumber Co., Route 2, Box 307, Kettle Falls, WA 99141.

Matney Lumber Co. operates a wigwam burner at their sawmill in Kettle Falls, Washington. Emissions from the burner do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Matney Lumber Co. for the correction of this problem. Matney Lumber Co. will install a new wood fired boiler and eliminate the use of the wigwam burner.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present wigwam burner is unable to comply with emission stahdards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).
2. The proposed equipment is the best practicable and will provide for continuous compliance, WAC 18-04-040 recodified as 173-400-040.
3. The proposed schedule is as expeditious as practicable.
4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

It is ordered That Matney Lumber Co. shall, upon receipt of this Order, take appropriate action in accordance with the following instruction:

The methods and equipment as described in submitted plans, specifications, schedules and other correspondence be installed according to the following schedule:

1. Begin construction of new boiler by June 1, 1978.
2. Complete construction of boiler by February 28, 1979.
3. Discontinue use of wigwam burner by June 1, 1979.
4. Source in compliance by July 1, 1979.

Matney Lumber Co. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate wigwam burner with recognized good practice. This includes regular cleaning and repair of underfire grates. Underfire air blowers should be checked for proper operation weekly. Overfire air vents should be maintained in operating condition. Shell condition should be checked weekly and leaks fixed when found.
2. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:
   a. Proper disposition of ash from burner;
   b. Reduced traffic speed at sawmill and in log yard;
   c. Road pallative should be used under extreme dry conditions.

Matney Lumber Co. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Matney Lumber Co.
2. All notification or reports will be submitted to:
   Department of Ecology
   Eastern Regional Office
   E. 103 Indiana Avenue
   Spokane, WA 99207
   Attn: Carl J. Nuechterlein
3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Matney Lumber Co. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in 113(e) of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated at Olympia, Washington this 21st day of September 1978.

BRUCE A. CAMERON,
Assistant Director, Department of Ecology, State of Washington.

[FR Doc. 78-33938 Filed 12-5-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1021-2; Docket No. VII-78-DCO-17]

DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order for City of Independence Power and Light Department, Independence, Mo.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the City of Independence Power and Light Department. The order requires the company to bring air emissions from its Blue Valley Station in Independence, Missiouri into compliance with certain regulations contained in the federally-approved Missouri State Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by June 30, 1979. Source compliance with the Order would preclude suits under the federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before January 5, 1979, before December 21, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If it is determined there will be significant public benefit in holding a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Rennelle Rae, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816-374-2576.

SUPPLEMENTARY INFORMATION: The City of Independence Power and Light Department operates an electric power generating plant at Independence, Missouri. The proposed order addresses emissions from Blue Valley Station, Units 1, 2 and 3 at this facility, which are subject to Missouri Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area, Regulation III (10CSR10-2.040). The regulation limits the emissions of particulates, and is part of the federally-approved Missouri State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, and the source has consented to its terms. The source has agreed to meet the order's increments during the period of this informal rulemaking. The source has satisfied increments 1 and 2 contained in the order.

The proposed order satisfies the applicable requirements of Section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered.

After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

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Dated: November 20, 1978.

DAVID R. ALEXANDER,
Acting Regional Administrator,
Region VII.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.300 to reflect approval of the following Federal delayed compliance order issued under Section 113(d)(1) of the Act.

[Docket No. VII-78-DCO-17]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of City of Independence Power and Light Department, Blue Valley Station, Independence, Mo., Docket No. VII-78-DCO-17.

This ORDER is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* (the Act). this ORDER contains a schedule for compliance, interim requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Missouri have been provided pursuant to Section 113(d)(1) of the Act.

FINDINGS

On August 30, 1978, the United States Environmental Protection Agency (EPA) issued a notice of violation, pursuant to Section 113(a)(1) of the Act, to the City of Independence Power and Light Department, upon a finding that the Blue Valley Station Units 1, 2, and 3 are in violation of Missouri Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area, Regulation III (10CSR10-2.040) a part of the applicable Missouri Implementation Plan as defined in Section 110(d) of the Act. This finding was based upon calculations of current emissions from the Blue Valley Station.

Said violation has extended beyond the thirtieth day after issuance of the August 30, 1978, notice of violation. This finding is based upon acknowledgement of continued violation by the City of Independence.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. *Therefore, it is hereby ordered:*

I. That the City of Independence Power and Light Department will comply with the Missouri Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein.

A. Blue Valley Station Units 1, 2 and 3

1. September 25, 1978—Award contracts for erection of control equipment (Increment met).

2. November 1, 1978—Commence construction (Incerement met).

3. May 2, 1979—Complete construction on electrostatic precipitator No. 1.

4. May 16, 1979—Complete construction on electrostatic precipitator No. 2.

5. June 4, 1979—Complete construction on electrostatic precipitator No. 3.

6. June 30, 1979—Complete shakedown adjustments and debugging of control equipment and achieve final compliance with Regulation III (10CSR10-2.040).

II. That City of Independence Power and Light Department shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in Section I, above) and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with Regulation III insofar as City of Independence Power and Light Department is able to comply during the period this ORDER is in effect:

1. The City of Independence Power and Light Department shall continue to operate Blue Valley Station Units 1, 2 and 3 with the full use of the existing mechanical collectors until such time as the boilers are taken off-line to tie in to the new pollution control equipment. These existing collectors shall be maintained and operated according to the manufacturer's recommendation, consistent with good engineering practice to achieve optimal collection efficiency.

2. In the event that additional natural gas becomes available, it shall be used in place of coal for boiler fuel.

III. That the City of Independence Power and Light Department shall comply with the following reporting requirements on or before the dates specified below:

Reporting requirements

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this ORDER, the City of Independence shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, the City of Independence shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

2. All submittals and notifications to EPA pursuant to this ORDER shall be made to the Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816/374-2576.

IV. Nothing herein shall affect the responsibility of the City of Independence to comply with State or local regulations.

V. The City of Independence is hereby notified that your failure to achieve final compliance by July 1, 1979 (*or other applicable date specified in accordance with section 120(a)(2)(B) of the Act*) will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the City of Independence will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This ORDER shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator (*or his delegatee, as appropriate*) determines on the record, after notice and hearing, that an inability to comply with Regulation III above no longer exists.

VII. Violation of any requirement of this ORDER shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this ORDER, after notice and opportunity for a public hearing, and subsequent enforcement of Regulation III above in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

VIII. This ORDER is effective immediately.

Date——

Administrator,
U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

City of Independence Power and Light Department, by the duly authorized undersigned, hereby acknowledges that Blue Valley Station, Units 1, 2, and 3 are in violation of Missouri Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area, Regulation III (10CSR10-2.040), consents to the issuance of this Order and waives any and all rights under any provision of law to challenge this ORDER.

Date:

City of Independence.

[FR Doc. 78-33940 Filed 12-5-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1021-3]

DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order for Indiana Farm Bureau Cooperative Association, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to Indiana Farm Bureau Cooperative Association, Inc. The Order requires the Company to bring the gasoline loading and storage facility at Westfield, Indiana, into compliance with APC-15, Sections 3 and 4, a part of the federally approved Indiana State Implementation Plan (SIP). Because the Company is unable to comply with this regulation at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (the

Act) for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before January 5, 1979, and requests for a public hearing must be received on or before December 21, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days' prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur E. Smith, Jr., Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at 312-353-2082.

SUPPLEMENTARY INFORMATION: Indiana Farm Bureau Cooperative Association, Inc. owns a gasoline loading and storage facility at Westfield, Indiana. The proposed Order addresses emissions from the gasoline loading and storage facility, which is subject to APC-15, Sections 3 and 4 of the Indiana Implementation Plan. The regulation limits the emissions of volatile organics (hydrocarbons) and is part of the federally approved Indiana State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979, and the source has consented to its terms. The source has agreed to meet the Order's increments during the period of this informal rulemaking.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Clean Air Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether the U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

Dated: November 24, 1978

JOHN MCGUIRE,
Regional Administrator,
Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.190, Federal Delayed Compliance Orders under Section 113(d)(1), (3), and (4) of the Act, to reflect approval of the following order:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION V

In the Matter of: Indiana Farm Bureau Cooperative Association, Inc., Westfield, Ind., proceeding pursuant to Section 113(d) of the Clean Air Act, as Amended [42 U.S.C. Section 7413(d)]

The Order is issued this date pursuant to Sections 113(a), 113(d) and 114 of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (Act. This Order contains a schedule for compliance, interim control requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty (30) days' notice to the State of Indiana have been provided pursuant to Section 113(d)(1) of the Act.

FINDINGS

1. On May 15, 1978, the United States Environmental Protection Agency (U.S. EPA) issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to Indiana Farm Bureau Cooperative Association, Inc. (Indiana Farm), upon a finding that the Westfield, Indiana, gasoline loading and storage facility, was in violation of Indiana APC-15, Sections 3 and 4, a part of the applicable implementation plan defined in Section 110(d) of the Act. This finding was based upon emission factor calculations derived from data submitted to U.S. EPA by the subject facility.

2. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to Indiana Farm, and on June 7, 1978, an enforcement conference was held.

3. It has been determined that Indiana Farm is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is as expeditious as practicable, and that the terms of this Order comply with Section 113(d) of the Act. Therefore, it is hereby ordered:

ORDER

I. Indiana Farm shall comply with the Indiana Implementation Plan regulations APC-15, Sections 3 and 4, as approved by U.S. EPA on May 14, 1973, including a vapor collection and disposal/recovery system, in accordance with the following schedule on or before the dates specified therein.

A. In regard to the gasoline loading and storage facility at Westfield, Indiana:

1. *September 6, 1978*—Indiana Farm shall submit preliminary control plans to U.S. EPA.

2. *December 1, 1978*—Indiana Farm shall submit final control plans to the U.S. EPA.

3. *December 1, 1978*—Indiana Farm shall award contracts for the control equipment.

4. *December 1, 1978*—Indiana Farm shall complete on-site construction for the control equipment.

5. *June 15, 1979*—Indiana Farm shall complete on-site construction.

6. *July 1, 1979*—Indiana Farm shall achieve final compliance with the Indiana Implementation Plan regulation APC-15, Sections 3 and 4, as approved by the U.S. EPA on May 14, 1973.

7. After July 1, 1979, Indiana Farm shall implement operation and maintenance procedures to maximize the control efficiency of the pollution control equipment.

II. Indiana Farm, Westfield, Indiana, gasoline loading and storage facility shall use the best practicable interim system of emission reduction so as to minimize hydrocarbon emissions; avoid any imminent and substantial endangerment to the health of persons; comply with the requirements of the applicable implementation plan insofar as it is able to; and, comply with the following interim requirements:

A. Indiana Farm shall insert fill-pipes to the bottom of the loading compartment in a vertical position. Indiana Farm shall control flow rate so as to minimize hydrocarbon emissions.

B. Indiana Farm shall minimize product spillage.

C. Indiana Farm shall fill storage tanks so as not to cause emissions of hydrocarbons through the venting system.

III. Indiana Farm, Westfield, Indiana, storage and gasoline loading facility, shall comply with the following emission monitoring and reporting requirements on or before the dates specified below:

A. *Emission Monitoring.* Indiana Farm shall maintain a record of the amount of gasoline which travels through the loading facility. This shall include the volume and vapor pressure of the gasoline.

B. *Reporting Requirement.* 1. No later than fifteen (15) days after any date for achievement of an incremental step of final compliance, specified in this Order, Indiana Farm shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this Order, Indiana Farm shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefore.

2. A quarterly report shall be sent to the U.S. EPA reporting the progress of the program for installation of the control equipment and information required by paragraph I.A.

3. All submittals and notifications to U.S. EPA pursuant to this Order shall be made to Mr. Eric Cohen, Chief, Compliance Section, Enforcement Division, U.S. EPA, 230

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South Dearborn Street, Chicago, Illinois

Room 12A-52, 5600 Fishers Lane,

one or more minutes. By the time

The cost of implementing Alterna-

resources, including development of

on policy or legal grounds is the pre-

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South Dearborn Street, Chicago, Illinois 60604.

IV. Nothing herein shall affect the responsibility of Indiana Farm to comply with State or local regulations, or other Federal regulations.

V. Indiana Farm is hereby notified that its failure to achieve final compliance by July 1, 1979, at the Westfield, Indiana, storage and loading facility may result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, Indiana Farm will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order is effective immediately.

Date ——

Administrator,
U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

Indiana Farm, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provisions of law to challenge this Order.

Date ——

(Signature of authorized representative of source)

[FR Doc. 78-33941 Filed 12-5-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 405 and 449]

MEDICARE AND MEDICAID PROGRAMS

Automatic Extinguishment Systems for Long-Term Care Facilities

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of intent to reconsider regulations.

SUMMARY: This notice sets forth alternatives and discusses the legal and program aspects of requiring sprinkler systems in all skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) that participate in Medicare and Medicaid.

The purpose of the Notice is to obtain comments, suggestions, and pertinent information from all who are concerned with, or would be affected by, such requirements.

DATES: Consideration will be given to written comments recieved by January 30, 1979.

ADDRESS: Please address your comments to:

Janice M. Caldwell, Director, Division of Long Term Care, Department of Health, Education, and Welfare, Room 12A-52, 5600 Fishers Lane, Rockville, Md. 20857.

In commenting, please refer to file code HSQ-56-NI. Institutions and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks from today, at the address given above.

FOR FURTHER INFORMATION, CONTACT:

Janice M. Caldwell (301) 443-3346

SUPPLEMENTARY INFORMATION:

WHAT THE CURRENT LAW AND REGULATIONS REQUIRE

Section 1861(j)(13) of the Social Security Act requires that SNFs meet the requirements of the 1973 edition of the Life Safety Code (the Code) of the National Fire Protection Association (NFPA). There is no comparable statutory requirement for ICFs, but our regulations 42 CFR 449.12, require them to comply with the 1967 edition of the Code.

With respect to automatic extinguishment systems, the 1967 and 1973 editions of the Code are nearly identical. Under these codes, automatic extinguishment systems are required in all long-term care health facilities except those that are of fire resistant construction or are of protected noncombustible construction and not more than one story high. (NFPA LSC 1967 edition, section 10-2341) (NFPA LSC 1973 edition, section 10-2352)

CURRENT SITUATION

Under the requirements discussed above, approximately two thirds of all SNFs and ICFs that participate in the Medicare and Medicaid programs have automatic extinguishment systems. Concern over fire fatalities in long-term care facilities has led members of Congress and advocacy groups to recommend that we extend the requirement to all facilities.

DISCUSSION

A Presidential Commission study estimated that approximately 500 patients die in all health care institutions (including hospitals) by fire and smoke year. Of these 500 fatalities, approximately 25 occur in multi-death fires. A multi-death fire is defined by the NFPA as one resulting in three or more deaths. The consensus of fire protection experts, including those within the Department, is that automatic extinguishment systems would not save the lives of patients who are in the room of fire origin or near the fire source because sprinklers are not activated until the ambient temperture at the sprinkler head is between 135 and 165 degrees Fahrenheit for one or more minutes. By the time these temperatures are reached, it may be too late to save the lives of patients at or near the source of the fire.

Automatic extinguishment systems would, however, contain the fire and keep it from spreading to the rooms of other patients and to other parts of the building. They would undoubtedly prevent large scale fires (those that result in three or more deaths). Statistics compiled by the NFPA indicate that perhaps as many as 25 lives might be saved each year if automatic extinguishment systems were installed in all health care facilities in the country. Since, however, the Department could mandate sprinklers only in facilities that participate in Medicare or Medicaid, the number of lives saved by such action on our part may be less than the NFPA estimate.

ALTERNATIVES

It is our view that the following are the most practical alternatives available for consideration.

(1) Require automatic extinguishment systems in all long-term care facilities participating in Medicare or Medicaid.

(2) Require automatic extinguishment systems in all newly constructed long-term care facilities participating in Medicare or Medicaid and in existing structures that are converted into long-term care facilities after the effective date of the final regulations.

(3) Require automatic extinguishment systems in all newly constructed long-term care facilities participating in Medicare or Medicaid, and in existing structures that are converted into long-term care facilities after the effective date of the final regulations, except when those buildings are of fire resistive construction.

(4) Retain present automatic extinguishment system requirements: Continue to require automatic extinguishment systems in accordance with the NFPA's Life Safety Code.

(5) In facilities not required by the Code to have automatic extinguishment systems, require other measures (such as smoke detectors, special patient evacuation plans, staff emergency training, higher staff-patient ratios) if HCFA determines that the facility's fire safety protection is not adequate.

COST ESTIMATES

We estimate that the cost of implementing Alternative (1) would be between $400-$500 million.

Cost estimates are not possible for Alternatives (2) and (3) because it is difficult to estimate what the costs of new construction will be five or ten years from now and there is no way to predict how many new nursing homes will be built in the next few years.

The cost of implementing Alternative (4) would not substantially differ from what we are presently spending.

Alternative (5) might involve some increased administrative costs.

REQUEST FOR COMMENTS

We request comments, suggestions, and pertinent information to help us decide whether or not to propose amendments to our current regulations.

The Secretary particularly requests comments and information on the costs and the benefits of the options listed in this Notice. We seek comment on what the costs of each option would be. We seek comments on exactly how effective the different altenatives set out will be in preventing fires and saving lives. We also seek guidance on how to weigh the costs versus the benefits of alternative methods of controlling fire hazards in nursing homes—a difficult judgment that affects life and safety.

The first option proposed in the Notice, requiring sprinkler systems in all nursing homes, would significantly increase the costs of care in many nursing homes. We particularly seek comment on the cost-effectiveness of this option, on how expensive it will be, on the benefits it would produce, and on how cost effective it would be compared to other alternatives.

(Section 1102 of the Social Security Act (42 U.S.C. 1302))

Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance.

Dated: October 30, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: November 1, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-31936 Filed 12-5-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 8370]

USE AUTHORIZATIONS

Special Recreation Permits—Allocations and Transfers

AGENCY: Bureau of Land Management.

ACTION: Notice of intent to develop proposed rulemaking.

SUMMARY: The Bureau of Land Management is studying use allocations for river areas requiring limited use or river areas of scarce recreation resources, including development of procedures which will prevent the buying or selling of privileges conferred by a special recreation use permit. These are situations which must be closely controlled or use allotted in order to protect and/or enhance the resource and users' recreation experiences.

DATES: Written comments should be received on or before February 8, 1979.

ADDRESS: Send written comments to: Mr. William Brown, Bureau of Land Management (D-370), Denver Federal center, building 50, Denver Colorado 80225.

FOR FURTHER INFORMATION CONTACT EITHER:

Mr. William Brown, Bureau of Land Management (D-370), Denver Federal Center, building 50, Denver, Colorado 80225, telephone 303-234-5094; or Mr. Larry R. Young, Bureau of Land Management (WO-370), Interior Building, 18th and C Street, N.W., Washington, D.C. 20240, telephone 202-343-9353.

SUPPLEMENTARY INFORMATION: Recreational use of the public lands has been increasing tremendously over the past several years. Use of river areas of the public lands has been one of the fastest growing uses. Because of this greatly increased use, it has become apparent that some public land river areas are not capable of unlimited use, and a standard system of limiting or allotting certain uses is desirable. Many public land river areas have reached this condition. Other special areas managed by the BLM are approaching or have reached this state also.

It has also come to our attention that some commercial river runners may be buying and selling passenger day privileges allotted to them through special recreation permits. The BLM will not and cannot condone permittees selling privileges conferred to them by special recreation permits. Therefore, procedures are to be developed to eliminate this practice.

The BLM is therefore soliciting the public's help to devise a system which will equitably allot recreational river area use, and provide for orderly transfers of commercial recreation privileges in river areas. The BLM desires substantive, well-thought-out suggestions on this matter.

All comments and recommendations received will be considered when drafting proposed regulations. When developed, the proposed regulations will be published in the FEDERAL REGISTER as proposed rules, allowing the public further opportunity to comment before final regulations are adopted. Resolution of conflicting public comments and/or rejecting of comments on policy or legal grounds is the prerogative of the Secretary of the Interior.

Discussion papers concerning this matter shall be available in all BLM District and State Offices for 30 days beginning December 11, 1978.

GERALD E. PETTY,
Acting associate Director.

NOVEMBER 6, 1978.

[FR Doc. 78-33146 Filed 12-5-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 19660; RM-690]

INTERNATIONAL RECORD CARRIER'S SCOPE OF OPERATIONS IN THE CONTINENTAL UNITED STATES, INCLUDING POSSIBLE REVISIONS TO THE FORMULA PRESCRIBED UNDER SECTION 222 OF THE COMMUNICATIONS ACT

Order Extending Time for Filing Petitions to Deny and Other Comments and Oppositions to These Further Pleadings

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filings in a proceeding involving the authorization of additional gateways and Free Direct Access.

DATES: Petitions to deny and other comments must be received on or before December 18, 1978, and oppositions to the further pleadings by January 2, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Helene Bauman, Common Carrier Bureau, 202-632-7834.

SUPPLEMENTARY INFORMATION: None.

ADOPTED: November 27, 1978.

RELEASED: November 29, 1978.

Order. In the matter of International Record Carrier's Scope of Operations in the Continental United States, including Possible Revisions to the Formula Prescribed under Section 222 of the Communications Act, [43 FR 46982], Docket No. 19660,[1] RM-690.

1. The Commission has before it orders of September 29, 1978 and October 30, 1978, extending the time for filing amended gateway applications and related data, required by para-

[1] See 43 FR 46982, October 12, 1978.

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graphs 14 and 17 of the Commission's Notice of Inquiry and Further Notice of Proposed Rulemaking (Notice) released in this docket on July 28, 1978 (FCC 78-511) to October 30, 1978 and November 6, 1978, respectively.

2. Because of these extensions, it is necessary to expand the time allowed for the filing of subsequent pleadings, if any.

3. Accordingly, the time to file petitions to deny and other comments is extended until December 18, 1978, and Oppositions to these further pleadings will be due by January 2, 1979. No further extensions are contemplated.

FEDERAL COMMUNICATIONS COMMISSION,
LARRY F. DARBY,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-34027 Filed 12-5-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

COLVILLE NATIONAL FOREST

Precommercial Thinning; Availability of Environment Assessment Report

An Environmental Assessment Report that discusses precommercial thinning on approximately 1,180 acres of National Forest lands in Stevens County, Washington, is available for public review in the Forest Service Office in Colville, Washington.

Although this project involves application of the herbicide MSMA, the Environmental Assessment Report does not indicate that there will be any significant effect upon the quality of the human environment. Therefore, it has been determined that an environmental statement will not be prepared.

This determination was based upon consideration of the following factors, which are discussed in the Environmental Assessment Report: (1) Application of the herbicide MSMA in accordance with Federal, State, and local government regulations and requirements is not expected to have any unanticipated effects on the ecosystem (2) there will be no irretrievable or irreversible resource commitments on the proposed project areas; (3) physical and chemical effects of MSMA, when properly applied, have proven to be acceptable based on the best scientific evidence available; and (4) no known unique or rare resources within the proposed project areas.

Use of MSMA in accordance with Federal and State regulations provides controls which guarantees protection of human health and welfare.

No action will be taken prior to January 5, 1979.

The responsible official is Robert B. Terrill, Forest Supervisor, Colville National Forest, 695 So. Main, Colville, Washington, 99114.

Dated: November 21, 1978.

ROBERT B. TERRILL,
Forest Supervisor.

[FR Doc. 78-33953 Filed 12-5-78; 8:45 am]

[3410-11-M]

MIDDLE FORK OF THE FEATHER WILD AND SCENIC RIVER

Classification, Boundaries, and Development Plan; Correction

FR Doc. 70-2791, published at page 4219 in the FEDERAL REGISTER, Volume 35, No. 45, Friday, March 6, 1970, pages 4221-4222, corrected and amended as follows:

RIVER AREA DESCRIPTION, MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 22 N., R. 8 E.,
Section 7, delete entire present description; insert N½, N½S½
T. 22 N., R. 12 E.,
Section 4, add N½NW¼SW¹/4SW¼, NE¼NW¼SE¹/4SW¼.
Section 5, add N½NW¼NE¹/4SW¼, S½S½N½SE¼.
Section 9, add SW¼SW¼SE¹/4NW¼, W½NW¼NE¼SW¼, N½SW¼NE¼SW¼, NW¼NE¼SE¼SW¼; delete S½NW¼SE¼SW¼; add S½SW¼NW¼SE¼, SW¼SE¼NW¼SE¼.
Section 10, add NW¼SW¼NW¹/4SW¼, NW¼NE¼SW¼SW¼, S½SE¼SW¼SW¼.
Section 14, SW¼NW¼SE¹/4SW¼, S½S½N½SE¼, SW¼SE¼SE¼ SW¼.
Section 15, add W½NW¼NE¹/4NE¼, SE¼SE¼NW¼NE¼, SW¼NW¼SE¼NE¼, W½SW¼SE¼NE¼, SW¼NE¼NE¼NW¼, W½NW¼NE¼NW¼W¼, SE¼NW¼NE¼NW¼, W½NE¼NE¼SE¼, SW¼SW¼NE¼SE¼, N½NE¼SE¼SE¼.
Section 23, add NW¼NE¼NE¹/4NW¼, SE¼NE¼NE¼NW¼, E½SE¼NE¼NW¼, NE¼NE¼SE¼NW¼, SW¼NW¼NW¼SE¼, NE¼SW¼NW¼SE¼, SE¼SW¼NW¼SE¼, SW¼SE¼NW¼SE¼, N½NE¼SW¼SE¼, SE¼NE¼SW¼SE¼, NE¼SE¼SW¼SE¼, SW¼SW¼SE¼SE¼.
Section 25, add SW¼SW¼NW¹/4NW¼, S½NE¼SW¼NW¼, E½W½SW¼NW¼, SE¼SW¼NW¼.
T. 22 N., R. 13 E.,
Section 2, add S½NW¼SW¹/4NW¼, SW¼SW¼NW¹/4.
Section 17, add E½NE¼NE¹/4, SW¼SE¼NE¹/4, SE¼SW¼SW¹/4.
T. 22 N., R. 14 E.,
Delete the entire description.
T. 22 N., R. 15 E.,
Delete the entire description.
T. 22 N., R. 16 E.,
Delete the entire description.
T. 23 N., R. 9 E.,
Section 30, delete the entire description; insert S½S½, NE¼SE¼.
Section 31, delete entire present description; insert N½N½.
T. 23 N., R. 11 E.,
Section 10, add NE¼SW¼SE¹/4SW¼, NW¼SE¼SE¹/4SW¼.
Section 13, add SW¼NW¼SW¹/4.
Section 14, add NE¼SE¼SW¹/4SW¼, E½SW¼NE¹/4SE¼, SE¼NE¼SE¹/4.
Section 15, add SW¼SW¼NW¹/4NE¼, E½NW¼NE¼NW¼, S½SW¼SE¼NE¼.
Section 24, add SW¼SW¼NE¹/4NE¼, SW¼NW¼NW¹/4NE¼.
T. 23 N., R. 12 E.,
Section 30, add S½SE¼SE¹/4NW¼, N½NE¼NE¼SW¼, E½SE¼NE¼SE¼.
Section 31, add W½E½NE¹/4.
Section 32, add all those lands lying between the westerly right-of-way of California State Highway 70 and the existing easterly boundary of the Middle Fork of the Feather Wild and Scenic River.
T. 23 N., R. 13 E.,
Section 35, add N½SW¼SW¹/4SE¼.
Section 36, add SE¼SE¼SE¹/4NE¼, SW¼NE¼SW¼SW¼, NW¼NE¼SE¼SW¼, N½NW¼SE¼SW¼, SW¼NW¼NE¼SE¼.
T. 23 N., R. 14 E.,
Section 26, delete entire present description; insert SW¼, W½SE¼NW¹/4, W½NE¼SE¹/4, all those portions of NE¼SW¼, E½NW¼SW¹/4, SE¼SW¼, NW¼SW¼SE¹/4 that lie north of the Western Pacific Railroad right-of-way.[1]
Section 27, add NE¼NE¼NW¹/4SW¼.
Section 29, add S½SW¼NE¹/4NE¼, SW¼SE¼NE¼NE¼, SE¼SE¼NW¼NE¼, NE¼SE¼SE¼.
T. 23 N., R. 15 E.,
Delete entire description.
T. 23 N., R. 16 E.,
Delete entire description.

Dated: November 28, 1978.

ROBERT E. BUCKMAN,
Acting Chief.

[FR Doc. 78-33960 Filed 12-5-78; 8:45 am]

[3410-11-M]

ROADLESS AREA REVIEW AND EVALUATION

RARE II

A RARE II update was published in the FEDERAL REGISTER on Wednesday, September 13, 1978, which discussed the availablity of data. The purpose of this notice is to announce that Item 3, RPA Relationships, has been completed and is available at Regional Offices and Forest Supervisor's Offices. The RPA relationship was developed by determining the minimum acreage of the roadless areas needed to meet mid-level output goals for the year 2015, as

[1] New terminus.

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men form attached, subject to the dis-

SPECIMEN PERMIT

assumed in Agreement CAB 18900, and

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set forth in the 1975 RPA Program. This baseline calculation shows that 1.054 roadless area containing 29.4 million acres would need to be allocated to nonwilderness to meet the mid-range goals for timber and developed recreation site visitor use. The remaining 997 roadless area contain 20 million acres.

The output aggregated to the National Level for the 1.054 areas as nonwilderness and 997 areas as wilderness are:

Resource	RPA goal from RARE II lands	Baseline output calculated October 1976
Sawtimber (potential yield in million board feet)	2,412	2,448
Timber products (potential yield in million cubic feet)	96.6	256.0
Developed recreation sites (visitor use in million recreation visitor days)	5.83	19.81
Dispersed recreation (visitor use in million visitor days)	19.5	36.0
Grazing use (million animal unit months)	1.93	2.53

This information was developed only as an intermediate step to display the relationship between RARE II roadless areas and the Resource Planning Act program goals. It does not represent an alternative being considered nor an allocation that is likely to be recommended in the final environmental statement for RARE II.

Dated: November 29, 1978.

JOHN R. MCGUIRE,
Chief.

[FR Doc. 78-34030 Filed 12-5-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

LAKER AIRWAYS LIMITED

Statement of Tentative Findings and Conclusions and Order to Show Cause

[Docket No. 33616; Order No. 78-11-143]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of November, 1978.

Application of LAKER AIRWAYS LIMITED for amendment of its foreign air carrier permit under section 402 of the Federal Aviation Act of 1958, as amended.

By application filed October 5, 1978, Laker Airways Limited requests amendment of its foreign air carrier permit to consolidate the two route segments now authorized into a single route permitting it to operate scheduled service between London, England, on the one hand, and New York; New York, and Los Angeles, California, on the other hand.

Laker's existing permit, issued by Order 78-9-100, authorizes it to engage in foreign air transportaion of persons and their accompanied baggage between London and New York and between London and Los Angeles.[1] The application for consolidation of these two segments was accompanied by a diplomatic note from the British Embassy advising that the Route Schedules annexed to Bermuda II specifically provide for the carriage of transit traffic by a United Kingdom airline between two points in United States territory for which that airline is designated.[2]

In granting Laker its existing route authority to the United States, we determined that the carrier was substantially owned and effectively controlled by nationals of the United Kingdom; that it was fit, willing, and able to perform the air transportation; and that it was in the public interest to grant the carrier authority to serve New York and Los Angeles.[3] We believe these findings are equally applicable to the case at hand and warrant our approval of the permit amendment.[4]

Laker merely seeks to consolidate on one route segment traffic rights which, until now, were authorized on two, and which, we already have found to be in the public interest. The route consolidation, furthermore, would provide Laker increased scheduling flexibility, which ultimately would inure to the benefit of the traveling public by enabling the carrier to operate more efficiently and, consequently, offer its customers low fares. Finally, the authority we are proposing to grant Laker is specifically provided for in the United States-United Kingdom Air Services Agreement (Bermuda II). Thus, our decision is consistent with that agreement.

We, therefore, tentatively find and conclude that:

1. It is in the public interest to amend the foreign air carrier permit issued to Laker Airways Limited;

2. The public interest requires that the exercise of the privileges granted by the amended permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

3. Laker is fit, willing, and able to perform properly the foreign air transportation described in the specimen permit, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board:

4. The public interest does not require an oral evidentiary hearing on the application;[5] and

5. This amendment of Laker Airways Limited's foreign air carrier permit would not constitute "a major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 and would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in Part 313 of the Economic Regulations;[6]

Accordingly, 1. We direct all interested persons to show cause why we should not (1) make final our tentative findings and conclusions; and (2) issue an amended foreign air carrier permit to Laker Airways Limited in the specimen form attached, subject to the disapproval of the President;

2. Any interested persons having objections to the issuance of an order making final our tentative findings and conclusions and issuing the attached specimen permit shall, no later than December 11, 1978, file with the Board and serve on the persons named in paragraph 5 below, a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he or she would expect to establish through such hearing that cannot be established in written pleadings. Any interested person who wishes to answer these objecions shall file such answers not later than December 21, 1978;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action, *Provided,* that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order, if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing;[7]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President, shall issue an amended foreign air carrier permit to the applicant in the specimen form attached; and

5. We are serving this order upon Laker Airways Limited, the Ambassador of the United Kingdom of Great Britain and Northern Ireland in Washington, D.C., the U.S. Departments of State and Transportation, the Governors of the States of New York and California, and upon all U.S. certificated carriers.

We shall publish this order in the FEDERAL REGISTER and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

All Members concurred.

[1] The permit also authorizes it to perform charter trips in foreign air transportation subject to the terms, conditions, and limitations in Part 212 of our Economic Regulations.

[2] The carrier would not, and under sections 402 and 1108(b) of the Act could not, be authorized to carry local New York-Los Angeles "cabotage" traffic.

[3] See Order 78-9-44, making final the tentative findings and conclusions set forth in Order 78-6-61; and Order 78-9-100, making final the tentative findings and conclusions in Order 78-8-177.

[4] We know of no information to indicate that Laker's corporate structure or operations have changed, in the short period of time since our last authorizations, which would cast doubt upon the accuracy or validity of our previous findings.

[5] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed ten days in which to respond from the date of service of this order. Answers to objections shall be filed not later than ten days thereafter.

[6] Our tentative findings follow from the fact that this amendment will not significantly alter Laker's existing flight frequencies at New York or Los Angeles.

[7] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

SPECIMEN PERMIT

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C., PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Laker Airways Limited is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules and regulations of the Board, to engage in foreign air transportation with respect to persons and their accompanied baggage, as follows:

Between the terminal point London, England, and the coterminal points New York, New York, and Los Angeles, California.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However,* this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the United Kingdom of Great Britain and Northern Ireland for British international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom of Great Britain and Northern Ireland shall be parties.

By accepting this permit, as amended, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit, as amended.

The holder shall keep on deposit with the Board a signed counterpart of Agreement CAB 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect thrid-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its oprations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in Agreement CAB 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and address of the member insurers.

The exercise of the privileges granted shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on— .

Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the Government of the United Kingdom of Great Britain and Northern Ireland (or in the event of the elimination of any part of the authorized route, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdom of Great Britain and Northern Ireland in lieu of the holder, or (3) upon the termination or expiration of the Air Services Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland effective July 23, 1977 (Bermuda II) as amended: *However,* clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and the United Kingdom of Great Britain and Norther Ireland are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on

Secretary.

[SEAL]

[FR Doc. 78-34038 Filed 12-5-78; 8:45 am]

[6320-01-M]

[Order No. 78-11-152; Docket Nos. 33889 and 33764]

UNITED AIR LINES, ET AL.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of November 1978.

Processing of further applications for unused authority under Section 401(d)(5) of the Federal Aviation Act as added by the Airline Deregulation Act of 1978.

On October 18, 1978, in anticipation of the President's signature of the Airline Deregulation Act of 1978, the Board by Regulation PR-80 issued

rules governing applications for

first-to-file requirement of the Act.

tion 401(d)(5)(G).) If thereafter a car-

data for that area by age, race, and

pleted between November 1, 1978 and

ment Act of 1976 (Pub. L. 94-265), and

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rules governing applications for unused authority under new section 401(d)(5) of the Federal Aviation Act, as added by the Deregulation Act. By Order 78-10-73 of the same date the Board delegated functions under the unused authority provision of the Act to the Director, Bureau of Pricing and Domestic Aviation. Also on the same day, the Acting Manager Director issued a notice entitled "Processing Applications for Unused Authority", which in essence called for a queue on the sidewalk outside the Board's offices composed of representatives of carriers either applying under section 401(d)(5) for other carrier's unused authority or giving notice under section 401(d)(5)(G) of their intent to reactivate their own unused authority.

The queue called for by this notice duly formed, and continued until October 25, 1978, the day following the President's signature of the Deregulation Act, when the applicants were admitted to the Docket Section and filed their respective applications and notices. The Director of BPDA issued a number of orders exercising his delegated authority to rule on disputes concerning positions in the queue and suggestions by various parties for changes in the filing procedures. After the first queue had been admitted to the Docket Section, the Director observed that a new queue was already forming, apparently to establish priority for future applications for unused authority in markets where the first applicant failed to commence service within the time required by the new law. To avert the establishement of a perpetual queue outside the Board's offices, the Director undertook to promise in Order 78-10-119, October 26, 1978, that no such new queue would be recognized, and that new procedures would be adopted for processing future applications and notices under section 401(d)(5) which did not involve the necessity for a physical queue.

The purpose of this order is to establish such new procedures. Because some important authority is about to become "used" in the statutory sense, we are acting immediately by order; the procedures described here will, however, subsequently be proposed as amendments to new Subpart R of our Rules of Practice. At that time we will solicit comments on the procedures established here and on possible variants.

An initial study of the new Deregulation Act disclosed no ready alternative to the first-to-file principle, embodied in the clear language of the Act, whch appeared to mandate the use of a queue or some equivalent procedure. Thus in Order 78-10-111, the Bureau Director rejected the use of a lottery as being inconsistent with the first-to-file requirement of the Act. Further legal research, however, has brought to light judicial authority for procedures under "first-to-file" statutes which involve treating filings within a defined short period of time, *e.g.*, a day, as essentially simultaneous, and using a system of drawings or other random distributions to allocate the property or authority applied for among simultaneous applicants. The leading authority is *Thor-Westcliffe Development Co.* v. *Udall*, 314 F. 2d 257 (C.A.D.C. 1963), *cert. denied*, 373 U.S. 951, involving applications for mineral leases on federal lands.

We have accordingly decided to establish the following rules for processing future applications and notices under the unused authority provision of the Act.[1]

1. As between applications filed on different days, the first filed prevails.[2]

2. Applications filed on the same day will be treated as essentially simultaneous. Any unused authority applied for by only a single applicant (or by no more applicants than there are carriers with unused authority in the market) shall, if awarded, be awarded to that applicant. Where more carriers apply for unused authority in a market than there are carriers holding such unused authority, a drawing [3] will be held with respect to each such market to determine which carrier or carriers will have priority to receive the authority.

3. If a winning carrier in a market amends its application to delete that market before the application is granted, the next applicant as determined by the drawing will have priority to receive the authority.

4. When available unused authority in a market is granted, all other applications for that authority will be denied. (Here, "application" does *not* include a notice of intent under section 401(d)(5)(G).) If thereafter a carrier awarded such authority fails to commence service within the time specified by the Act, or gives notice that it does not intend so to serve, the market will again be open for new applications.[4]

5. The Director will make any necessary subsidiary rules to carry out the foregoing system of dealing with applications.

Accordingly, 1. We order that the procedures described above be used to process applications and notices under section 401(d)(5) of the Deregulation Act filed on or after December 4, 1978.

2. We dismiss all applications pending at the close of business on December 1, 1978, for authority awarded to another carrier or carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 70-34037 Filed 12-5-78; 8:45 am]

[1] In the rules which follow, "application" includes a notice of intent to reinstitute service in a carrier's own market, "applicant" includes a carrier filing such as a notice of intent, and the "grant" of an application includes recognition of the effectiveness of such a notice of intent to preclude lower-ranking applications for the same authority. In Order 78-10-111, the Bureau Director held that the Act gives notices of intent no automatic priority over applications, a ruling we affirm.

[2] Telegraphic applications will not be recognized.

[3] Initially the drawings will be conducted at weekly intervals by the Director using traditional procedures. We contemplate shifting to a system of computer-generated random numbers which the Board's computer will assign to each application in each market as the applications are fed into the computer, with the lowest-numbered applications in each market being granted. This shift will take place only after a detailed computer protocol is published and the procedure receives general approval of applicants.

[4] This differs from the procedure the Bureau Director has followed to date, which has been to award such authority to the next applicant in the existing queue. The Director's procedure was necessitated by the absence of settled procedures for reapplying for authority already awarded. For the long haul, however, it seems undesirable to allow stale applications for unused authority to remain on the books. In implementation of the new procedure, all existing applications for authority already awarded to another carrier will be dismissed as of the close of business on December 1, 1978. Since a notice of intent to resume service in a market can be filed only once, and must be implemented within 30 days of the date of filing, outstanding notices will not be included in the dismissal.

[5] Appendix filed as part of original.

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing

data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1977, for which tabulations were completed between November 1, 1978 and November 30, 1978.

Dated: December 1, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Little Rock City—annexed areas only	Pulaski	Sept. 15	5,121
Georgia:			
Eatonton City	Putnam	Sept. 12	4,353
Illinois:			
Batavia City	DuPage and Kane	Aug. 28	12,035
Mokena Village	Will	Sept. 14	3,818
Indiana:			
Elkhart County—unincorporated area only (part)		Aug. 29	8,341
Iowa:			
Roland City	Story	Sept. 18	962
Michigan:			
Riga Township	Lenawee	Aug. 28	1,667
Ohio:			
New Boston Village	Scioto	Sept. 6	3,270
Pennsylvania:			
Hamilton Township	Monroe	Sept. 26	4,455
Wisconsin:			
Lac du Flambeau Town	Vilas	Aug. 28	2,259

[FR Doc. 78-33970 Filed 12-5-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FUR SEALS

Notice Regarding Draft Environmental Impact Statement

Notice is hereby given that the National Marine Fisheries Service in cooperation with the Department of State is beginning preparation of a draft environmental impact statement on the Interim Convention on Conservation of North Pacific Fur Seals which will terminate on October 14, 1980, unless extended, renegotiated, or replaced with a new agreement. Any comments or expressions of interest by affected Federal, State, or local agencies, or any interested parties on issues to be covered in the environmental impact statement should be addressed to the National Marine Fisheries Service (F6), National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235.

Dated: November 30, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-33965 Filed 12-5-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE BILLFISH ADVISORY SUBPANEL AND JACK MACKEREL ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting with Partially Closed Session.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee, Billfish Advisory Subpanel and Jack Mackerel Advisory Subpanel will conduct a series of meetings January 10-12, 1979.

DATES: January 10-12, 1979.

ADDRESS: The meetings will take place at the Shelter Island Inn, located at 2501 Shelter Island Drive, San Diego, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352

SUPPLEMENTAL INFORMATION: The Pacific Fishery Management Council and its Scientific and Statistical Committee were established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Billfish Subpanel and Anchovy/Jack Mackerel Subpanel to its Advisory Panel to assist in carrying out its responsibilities.

Meeting Agendas follow:

Billfish Advisory Subpanel (open meeting)—January 10, 1979 (9:00 a.m. to 5:00 p.m.).

Agenda: Consideration of the First Draft of the Billfish Fishery Management Plan.

Jack Mackerel Subpanel (open meeting)—January 10, 1979 (9:00 a.m. to 5:00 p.m.).

Agenda: Consideration of the First Draft of the Jack Mackerel Fishery Management Plan.

Scientific and Statistical Committee (open meeting) January 10, 1979, (9:00 a.m. to 5:00 p.m.); January 11 1979, (10:00 a.m. to 5:00 p.m.).

Agenda: Development of fishery management plans: Comprehensive Salmon; Ocean Salmon for 1979; Squid; Groundfish; Billfish; Dungeness Crab; Jack Mackerel, Pink Shrimp and Anchovy. Operational and procedural matters of the Council, including advisory panel and management plan development team activities. Public comment period beginning at 3:30 p.m. on January 10, 1979, and other committee business.

Council (partially closed meeting)—January 11-12, 1979 (8:00 a.m. to 5:00 p.m. on both days; NOTE: meeting will be closed to the public from 8:00 a.m. to 10:00 a.m. on January 11, 1979).

Agenda: January 11, 1979, (8:00 a.m. to 10:00 a.m.). The closed session is being held to discuss security classified material on the status of current maritime boundary and resource negotiations between the United States and Canada. Personnel matters including appointments to possible vacancies on subpanels and teams, will be discussed. Only those Council members, SSC members and related staff having security clearances will be allowed to attend this closed session.

Agenda: January 11, 1979 Following the closed session, the rest of the meeting will be open to the public for consideration of the First Draft of the Billfish FMP; First Draft of the Jack Mackerel FMP; consideration of reports from ad hoc committees; review of communications from other agencies and organizations, public comment period beginning at 4:00 p.m.

Agenda: January 12, 1979. Consideration of amendments to the Trawl PMP for 1979; operational and procedural matters of the Council, including its staff, advisory panels, and committee

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activities; consideration of reports from other agencies and organizations. Status of other Fishery Management Plans. The Council, Scientific and Statistical Committee, Billfish Advisory Subpanel, and Jack Mackerel Advisory Subpanel expect to address each of the items of their respective agendas above. Time restraints may require that some items be deferred to a later meeting. In addition, there is a possibility that late items of importance may be added to the agenda after the appearance of this announcement. Interested parties should contact the Executive Director as mentioned above to obtain a more detailed agenda.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on November 30, 1978, pursuant to Section 19(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552B (c)(1) as information which is properly classified pursuant to Executive Order 11652, and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: December 1, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-34007 Filed 12-5-78; 8:45 am]

[3510-17-M]

WEATHER MODIFICATION ADVISORY BOARD

Termination

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Termination notice.

SUMMARY: Notice is hereby given of the termination of the Weather Modification Advisory Board. The Board was established by the Secretary of Commerce, as noted in the FEDERAL REGISTER (42 FR 4512), to provide independent, expert advice on various aspects of weather modification, including recommendations for a national policy and a research and development program. The Board's work has been completed, and the Board is hereby terminated,

DATE: The date of termination was September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Ronald L. Lavoie, Director Science and Academic Affairs Office, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852, telephone 301-443-8721.

Dated: November 28, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-34005 Filed 12-5-78; 8:45 am]

[3510-17-M]

Office of the Secretary

[Department Organization Order 25-1; Transmittal 398]

UNITED STATES TRAVEL SERVICE

Organization Order

Effective date: May 23, 1978.

This order effective May 23, 1978 supersedes the material appearing at 41 FR 5859 of February 10, 1978

Section 1. Purpose

.01 This order prescribes the organization and assignment of functions within the United States Travel Service (USTS). The scope of authority and funcitons of USTS are set forth in Department Organization Order 10-7.

.02 This revision, reflecting a major reorganization and assignment of functions:

a. Renames the Office of Program Services and Development as the Office of Market Development, the Office of State-City Affiars as the Office of Governmental Affairs, the Office of Policy Analysis as the Office of Policy and Research, the Office of Marketing and Field Operations as the Office of International Operations, and the Field Offices as the Regional Offices.

b. Abolishes the Visitor Services Division and assigns its functions to the Office of Governmental Affairs (Section 10.).

c. Transfers the Research and Analysis Division to the Office of Policy and Research (Section 5.).

d. Transfers the Advertising and Promotion Division to the Office of Market Development and combines it with the former Media Services Division to form the Advertising and Media Services Division (paragraph 8.02).

e. Transfers the Marketing Programs Division to the Office of Market Development and combines it with part of the former Conventions and Expositions Division to form the Marketing and Conventions Division (paragraph 8.03).

f. Establishes the Expositions Staff (Section 7.).

g. Reassigns responsibility for coordination of the domestic tourism program to the Office of Governmental Affairs (Section 10.).

h. Established the Management and Policy Council (Section 4.).

i. Places the Regional Offices and the International Congress Office under the Office of International Operations (Section 9.).

Section 2. Organization Structure

The principal organization structure and lines of authority shall be as depicted on the attached organization chart. A copy of the organization chart is on file with the original of this document in the Office of the FEDERAL REGISTER.

Section 3. Office of the Assistant Secretary

.01 The *Assistant Secretary for Tourism* (hereinafter the "Assistant Secretary") has overall responsibility for the policies and direction of USTS. The incumbent establishes its basic policies and objectives, chairs the Department's Travel Advisory Board, establishes and maintains relations with government and industry officials at all levels to facilitate tourism policies and programs, provides U.S. representation with the Bureau of International Expositions, and advises the Secretary and the Under Secretary on all matters related to toursim.

.02 The *Deputy Assistant Secretary for Tourism* (hereinafter the "Deputy Assistant Secretary") serves as the principal advisor to the Assistant Secretary and performs the duties of the Assistant Secretary in the latter's absence or disability, or in the event of a vacancy in that office; supervises and directs day-to-day operations of USTS including Congressional liaison, provides policy guidance for programs and projects developed within USTS, makes recommendations to the Assistant Secretary on all matters related to tourism, and carries out other responsibilities as assigned by the Assistant Secretary.

Section 4. Management and Policy Council

The *Management and Policy Council* consists of the Assistant Secretary, the Deputy Assistant Secretary, and the Directors of the Offices of Policy and Research, Administration, Market Development, International Operations and Governmental Affairs; and provides a management forum for the Assistant Secretary and the Deputy Assistant Secretary to plan, coordinate, and manage the principal activities of USTS. The Council provides a forum for the clarification of policies, the discussion of issues, planning functions as required, the expression of alternative view-points and options, and the assignment of responsibilities for carrying out policy and program decision made by the Assistant Secretary.

Section 5. Office of Policy and Research

The *Office of Policy and Research* assists the Office of the Assistant Secretary in the development of policies, legistive positions, and strategies in the area of international and domestic tourism; provides options for negotiations on international agreements; and represents the Department as official participants in international tourism meetings; maintains liaison with policy staffs of other Federal agencies and organizations; provides the economic marketing and statistical data necessary to effectively plan and evaluate policies and programs; collects and analyzes industry and government economic and tourism data; develops and conducts trade/consumer research studies; develops, coordinates and administers joint research projects with industry and government; develops and implements forecasting and other types of econometric models; assists in establishing overall performance goals, develops program evaluation studies to determine individual program effectiveness; maintains the USTS Measurement System; provides specific data and *ad hoc* analyses as needed; reviews and recommends action and research projects proposed in markets abroad; maintains a data bank on international and domestic tourism; and serves on the Matching Grants Committee.

Section 6. Office of Administration

The *Office of Administration* advises and assists the Office of the Assistant Secretary in developing and implementing overall policies in the areas of administrative, personnel and financial matters; ensures that proper administrative and financial procedures are carried out by USTS offices and divisions; performs budget formulation and execution functions; provides administrative evaluations and management analyses to assist the Office of the Assistant Secretary in assuring that effective management practices are utilized throughout USTS; provides administrative services as required to execute policy and program operations; conducts internal administrative and management evaluations; and serves on the Matching Grants Committee. In addition, the Director is responsible for assisting the Deputy Assistant Secretary in carrying out the day-to-day operations of USTS.

Section 7. Expositions Staff

The *Expositions Staff* administers, for the Office of the Assistant Secretary, Federal recognition of, and participation in, exposition to be held in the United States, and at the direction of the Assistant Secretary, participates as necessary in meetings of the Bureau of International Expositions.

Section 8. Office of Market Development

.01 The *Office of Market Development* plans and develops marketing programs based on international and domestic tourism promotion policies as approved by the Assistant Secretary and develops specific program plans and procedures for implementation, supervises the Advertising and Media Services Division and the Marketing and Conventions Division, and serves on the Matching Grants Committee.

.02 The *Advertising and Media Services Division* participates in the development coordination, and evaluation of international advertising, media relations, and trade and consumer product information campaigns; participates in the selection of advertising and communications contractors after evaluation of their proposals and presentations; reviews and recommends action on specific advertising and information projects proposed for the markets abroad; reviews and recommends reference materials for the Regional Offices and provides these materials for use by the Offices abroad; plans and implements domestic advertising and media information programs; develops and coordinates production and distribution of all printed materials including brochures, films, and booklets used in USTS programs; maintains and distributes supplies of photographs and films, plans and prepares information support materials for distribution to domestic and foreign media; has responsibility for public affairs; and generates positive media coverage on USTS activities through direct media contact. These functions shall be performed in close cooperation with the Departmental Office of Public Affairs.

.03 The *Marketing and Conventions Dvision* reviews and recommends action on market development projects proposed for markets abroad; assists in planning and implementing market development support programs; supervises development by the Regional Offices of contracts with foreign tour operators designed to increase the number of tour offerings to the United States; develops, coordinates and processes all familiarization and inspection tours for representatives of the travel trade, associations and the media; develops and supervises joint USTS/industry promotion programs; plans and develops programs to motivate and persuade U.S. Associations to host International Congresses and to increase foreign attendance at international expositions, conventions, trade shows, and other events to be held in the U.S.; develops incentive travel programs for implementation by USTS offices abroad; and maintains working relationships with the U.S. travel industry for development of international programs.

Section 9. Office of International Operations

.01 The *Office of International Operations* directs the implementation of approved programs, projects, and procedures to promote international travel to the United States from USTS-designated markets abroad. This includes: supervision of the Regional Offices and the International Congress Office; representation of the Regional Offices in headquarters; development and coordination of all operational plans for the markets abroad; and recommendations on and reviews of operation budgets of the Regional Offices and International Congress Office. The Office also monitors progress against plans, including the direction of corrective actions as required in order to meet program goals; conducts program reviews in cooperation with the Office of Market Development in each foreign market to ensure optimum use of available resources; coordinates communications between headquarters and the Regional Offices; and serves on the Matching Grants Committee.

.02 *Regional Offices* perform the primary role in implementing programs of USTS in their respective markets, and are responsible for travel information and services to be provided to the foreign travel trade, and to the consumer. Regional Offices develop marketing strategies for their markets and prepare annual marketing plans for approval by headquarters. They are responsible for implementing and monitoring all travel promotion programs such as research, market development, consumer information, sales promotion, advertising, and product information in their primary and special markets.

.03 The *International Congress Office* is responsible for implementing the International Conventions Program is countries abroad. The Office identifies international conventions and congresses which are prime prospects for selecting the U.S. as a site for their meetings; motivates and persuades those prospects to hold congresses in the U.S.; promotes foreign attendance at national U.S. conventions; and collects, analyzes, and furnishes International Association profile data for sales follow-up by headquarters.

Section 10. Office of Governmental Affairs

The *Office of Governmental Affairs* provides information, advice and assistance to the Office of the Assistant

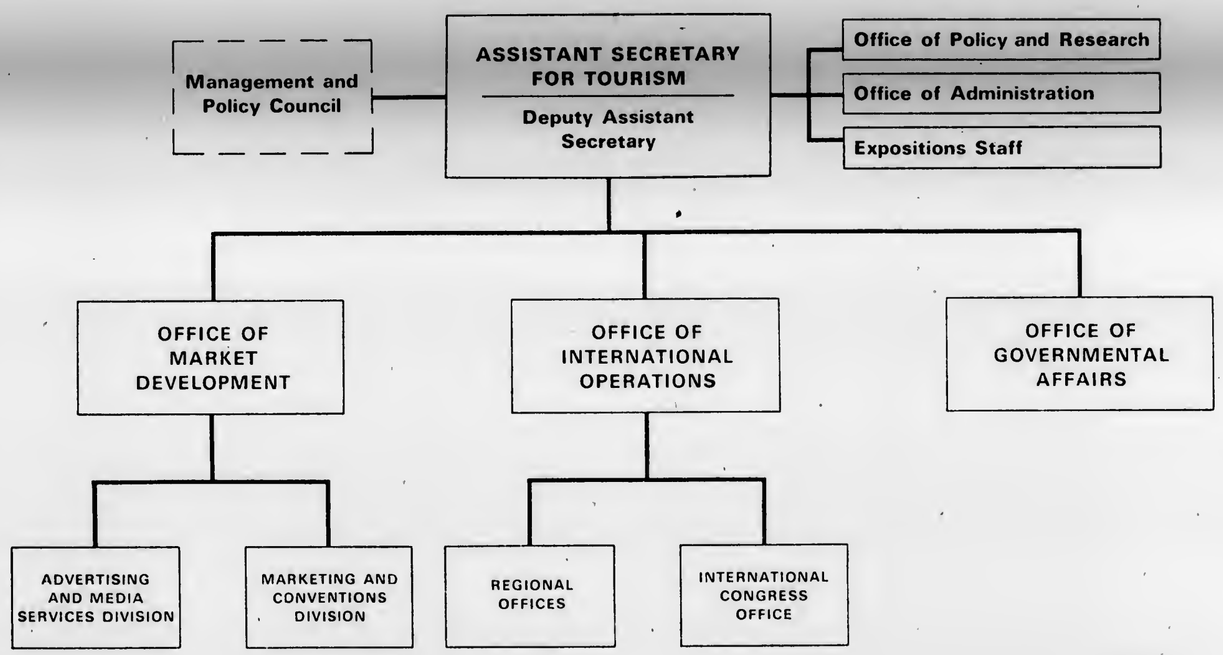
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Secretary by establishing and maintaining relations with governmental officials at all levels, particularly those of tourism offices in regions, States, territories and local governments; develops, coordinates and implements cooperative programs with these entities; provides other USTS offices with advice and information on programs and activities taking place in the tourism field; and in cooperation with other offices as necessary, develops and implements domestic tourism policies and objectives as they pertain to Federal, regional, State, and local governments in the planning of tourism programs as part of economic development. This office is responsible for international and domestic visitor facilitation programs such as international gateway reception services, facility planning and development, and domestic telephone information services. It administers a matching grants program by developing rules and criteria, providing instructions and technical assistance to applicants, coordinating internal review and approval of applications, monitoring the progress and funding of awarded grants, and evaluating completed grants. The office also chairs the Matching Grants Committee.

GUY W. CHAMBERLAIN,
Acting Assistant Secretary for Administration.

[3510-17-C] **U.S. DEPARTMENT OF COMMERCE** ATTACHMENT TO DOO 25-1

United States Travel Service



MAY 23, 1974

[FR Doc. 78-34006 Filed 12-5-78; 8:45 am]

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[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

BRAZIL, JAPAN AND MACAU

Soliciting Public Comment on Bilateral Negotiations Concerning Textile Products

NOVEMBER 30, 1978.

On April 21, 1974, the Committee for the Implementation of Textile Agreements published a notice in the FEDERAL REGISTER (39 FR 13307) conveying the Committee's intention to announce, and solicit comment on, U.S. Government actions implementing the GATT Arrangement Regarding International Trade in Textiles and the bilateral textile agreements entered into under its terms.

Pursuant to the terms of the Arrangement and the bilateral agreements between the Government of the United States and the Governments of Brazil and Japan and Portugal (Macau) the Committee anticipates holding bilateral negotiations with these governments before June 30, 1979. Any party wishing to express a view or provide data or information with regard to the treatment of any product under the bilateral agreements and any other aspects thereof, or comment on production or availability of domestic textile products, is invited to submit such in ten copies to Mr. Robert E. Shepherd, Chairman of the Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 3826, Washington, D.C. 20230.

Views, data or information submitted under this procedure will be available for public inspection in the Office of Textiles, Room 2815, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, and may be obtained upon written request. Whenever practicable, public comment may be invited concerning views, comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments on any negotiation, consultation, market disruption or any other matter pursuant to this notice is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) and 554(a)(4) relating to matters which constitute "a foreign affairs function of the United States."

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-33975 Filed 12-5-78; 8:45 am]

[3510-25-M]

REPUBLIC OF CHINA

Announcing Additional Import Controls on Certain Man-Made Fiber Textile Products From the Republic of China

NOVEMBER 30, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of man-made fiber gloves in Category 631, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 3421), and September 5, 1978 (43 FR 39408)).

SUMMARY: Under the terms of paragraph 15 of the Bilateral Cotton, Wool and Man-Made Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China, the Government of the United States has decided to control imports of man-made fiber textile products in Category 631, produced or manufactured in the Republic of China and exported to the United States during the twelve-month period which began on January 1, 1978, at the level established for the period.

EFFECTIVE DATE: December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423)

SUPPLEMENTARY INFORMATION: On June 16, 1978, there was published in the FEDERAL REGISTER (43 FR 26102) a letter dated June 15, 1978 from the Chairman of the Committee for the Implementation of Textile Agreement to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of China, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1978 and extends through December 31, 1978. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of man-made fiber textile products in Category 631, during the agreement year which began on January 1, 1978 at the designated level. When the data become available, the level of restraint will be adjusted to reflect imports during the period beginning on January 1, 1978 and extending through the effective date of this action.

ROBER E. SHEPHARD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

NOVEMBER 30, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on June 15, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufatured in the Republic of China.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 5, 1978 and for the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 631, produced or manufactured in the Republic of China, in excess of 2,109,286 dozen pairs.[1]

Man-made fiber textile products in Category 631 which have been exported to the United States prior to January 1, 1978 shall not be subject to this directive.

Man-made fiber textile products in Category 631 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 3421), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHARD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-33974 Filed 12-5-78; 8:45 am]

[1] The level of restraint has not been adjusted to reflect any entries after December 31, 1977.

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

THE NAVY'S COSO GEOTHERMAL DEVELOPMENT PROGRAM, NAVAL WEAPONS CENTER, CHINA LAKE, KERN COUNTY, CALIF.

Public Hearing and Availability of the Draft Environmental Impact Statement (DEIS)

Notice is hereby given pursuant to the National Environmental Policy Act of 1969 (NEPA). Pub. L. 91-100 (42 U.S.C. 4321 *et seq.*); the Council on Environmental Quality Guidelines. (40 CFR Part 1500); and Department of Defense Regulations, "Environmental Considerations in Department of Defense Actions," (32 CFR Part 214), that a public hearing will be held for providing the public with relevant information concerning the Draft Environmental Impact Statement (DEIS) prepared for the Navy's Coso Geothermal Development Program, and to afford the public an opportunity to present their views on this matter. The hearing will be held on the following date, at the location and time specified:

DECEMBER 21, 1978

Burroughs High School Lecture Center, Ridgecrest, California. The hearing will commence at 7:00 p.m. and run until its conclusion.

The proposed action is the award of a contract to develop geothermal energy resources on Navy fee-acquired land as a secure, self-sufficient energy alternative to conventional electricity supply at the Naval Weapons Center (NAVWPNCEN), China Lake, California. The development program will be subject to well defined constraints that are designed to allow development of the geothermal resource without degrading NAVWPNCEN'S national defense mission.

The major environmental issue is the potential alteration of the character of Coso Hot Springs, a National Register of Historic Places site, by either surface development impacts or by extraction of geothermal fluids. The alteration of hot spring activity is a controversial issue according to Native Americans who attribute spiritual and medicinal values to Coso Hot Springs.

Other impacts will result from the ground disturbance that will accompany geothermal development in the relatively undisturbed environment on Navy fee-acquired land. These include increased erosion, loss of productive soil, biotic habitat losses and possible impacts to locally significnt faunal species. Short-term human population fluctuations produced by geothermal development will place demand on the limited services and housing facilities currently available in this rural portion of Inyo County. Adverse impacts to the local social and economic systems could occur if mitigation efforts are unsuccessful.

The public hearing is being held in order that all persons, governmental agencies, organizations, and groups who so desire are afforded the opportunity to comment on the proposed action.

The hearing will be conducted by Captain R. B. Wilson, United States Navy, and will include a presentation of the Navy's proposed Coso Geothermal Development Program and the expected environmental impact.

The following procedures will be followed during the public hearing. For record purposes, all persons attending the hearing will be asked to provide their names you entering the hearing. Oral comments at the hearing will be limited to ten minutes and all lengthy or technical comments should be accompanied by a written submittal. Further, all speakers will identify themselves and any organization they may be representing.

Individuals and organizations wishing to submit written statements to be included in the hearing record are encouraged to do so by December 15, 1978, or such statements may be presented to the Hearing Officer, Captain Wilson, during the hearing. Pre-registration of speakers is desired and should be made in person or writing. Speakers may also register at the attendance desk at the hearing. The names and title of speakers for organizations should be included in the pre-registration.

Any organization desiring to make a formal presentation in excess of the foregoing time limit is requested to contact the Hearing Officer prior to December 15, 1978, so that appropriate arrangements may be made. The closing date for including additional written statements in the Navy hearing record is ten calendar days after the date of the hearing. Speaker pre-registrations and submission of written statements should be addressed to: Captain R. B. Wilson, United States Navy, Public Works Officer (Code 26), Naval Weapons Center, China Lake, CA 93555.

The DEIS was prepared by the NAVWPNCEN, Public Works Department, China Lake, California, and it was submitted and filed with the Environmental Protection Agency (EPA) on November 24, 1978. Notice of the DEIS appeared at page 55281 in the FEDERAL REGISTER of November 27, 1978, (43 Fed. Reg. 55281). The DEIS evaluates the potential broad scope environmental impacts that could result from development of geothermal resources on Navy fee-acquired land at NAVWPNCEN by contract with private industry. Copies of the DEIS have been furnished to various Federal, State, and local agencies, conservation groups and other interested private parties. Moreover, the DEIS may be reviewed at the following locations:

Environmental Protection Agency, Room 537 West Tower, Waterside Mall, Washington, D.C.
Kern County Library, Ridgecrest Branch, Ridgecrest, California
Inyo County Library, Bishop Branch, Bishop, California
Beale Memorial Library, Bakersfield, California
Naval Weapons Center, Public Works Department, China Lake, California

Members of the public are encouraged to comment on the DEIS and all comments should be forwarded to Captain R. B. Wilson on or before January 19, 1979.

For further information concerning this notice captain R. B. Wilson, United States Navy, Public Works Office (Code 26), Naval Weapons Center, China Lake, California, telephone number (714) 939-2382.

Dated: December 1, 1978

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-34031 Filed 12-5-78 8:45]

[6450-01-M]

DEPARTMENT OF ENERGY

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby

hearing, if one is held. Any further per second, and 1.544 Mbps. The revi- not constitute a withdrawal of service

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given of the proposed "Subsequent Arrangement" under the Additional Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community (Euratom) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Governments of the United States and Switzerland Concerning Civil Uses of Atomic Energy.

The Subsequent Arrangement to be carried out under the above mentioned agreements involves the transfer of one defective fuel element from Switzerland to Euratom for repair and the return of the element from Euratom to Switzerland for use in the Goesgen nuclear power station. The fuel element contains approximately 405 kilograms of uranium enriched to 1.9% U-235.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the Subsequent Arrangement will not be inimcal to the common defense and security of the United States.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice.

For the Department of Energy.

Dated: November 30, 1978.

ROBERT N. SLAWSON,
Acting Director for Nuclear Affairs International Programs.

[FR Doc. 78-33948 Filed 12-5-78; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

[ERA Docket No. SWPA 78-2, Supplement No. 1]

SOUTHWESTERN POWER ADMINISTRATION

Conditional Extension of Existing System Rates and Notice of Intent to Confirm and Approve Extension

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Conditional extension of existing system rates and Notice of Intent to exercise final confirmation and approval authority with respect to the requested extension.

SUMMARY: On November 16, 1978, the Assistant Secretary for Resource Applications (Assistant Secretary) requested the Administrator of the Economic Regulatory Administration (ERA or the Administrator) to extend confirmation and approval of certain system rates of the Southwestern Power Administration (SWPA) from December 1, 1978, through March 31, 1979. The purpose of this Notice is to advise the public that: (1) the Administrator of ERA has conditionally extended the SWPA system rates through March 31, 1979, and (2) the Administrator of ERA intends to exercise final confirmation and approval authority with respect to the requested extension and to invite interested parties to submit written comments. An opportunity for an oral presentation will be afforded upon request.

DATES: Written comments must be received no later than January 17, 1979. Requests for an oral presentation must be made by December 22, 1978. If a public hearing is requested it will be held on January 4, 1979. Speakers may submit written copies of their oral presentation at the hearing.

ADDRESSES: Requests for an oral presentation and/or ten copies of written comments shall be submitted to: Office of Public Hearing Management, Box WF, Department of Energy, 2000 M Street, NW., Room 2313, Washington, D.C. 20461.

The public hearing, if held, will be in Room 2105, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Jerry Nicholas, Office of Utility Systems, Economic Regulatory Administration, 2000 M Street, NW., Vanguard Building 527F, Washington, D.C. 20461, Phone 202-254-8470, or Richard W. Manning, Office of the General Counsel, 12th & Pennsylvania Avenue, NW., Room 6146, Washington, D.C. 20461, Phone 202-633-8653.

SUPPLEMENTARY INFORMATION: Pursuant to Section 301(b) of the Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, the function to confirm and approve power rates for the Southwestern Power Administration was transferred to the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 F.R. 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of ERA. The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

On May 19, 1978, the Assistant Secretary, on behalf of SWPA, requested ERA to extend confirmation and approval of the existing SWPA system rates through December 1, 1978, in order to allow SWAP additional time to develop new rates. In an order dated July 31, 1978, ERA granted the Assistant Secretary's request, after notice and an opportunity for comment, 43 FR 34523 (August 4, 1978).

On November 16, 1978, the Assistant Secretary requested ERA to extend the existing system rates through March 31, 1979, in order to allow his staff additional time "to review [SWPA's] proposed new rates and supporting data which will be furnished by SWPA by November 22, 1978." The rates which the Assistant Secretary has requested to be extended are contained in the following rate schedules:

Rate Schedule F-1 (Firm Power)
Rate Schedule P-2 (Revised) (Peaking Power)
Rate Schedule EE (Excess Energy)
Rate Schedule IC (Interruptible Capacity)
Contract No. 14-02-001-864 (with Tex-La Electric Cooperative, Inc.)

Pending final action on the requested extension, ERA has determined that the public interest would best be served by immediately extending on a conditional basis SWPA's system rates through March 31, 1979, as requested.

The public is invited to submit comments, as set forth in this Notice, relative to the requested rate extension. At the conclusion of the comment procedure the Administrator of ERA will take final action on the Assistant Secretary's request.

COMMENT PROCEDURES: Interested persons are invited to submit comments with respect to the subject matter set forth in this Notice to: Public Hearing Management, Box WF, Room 2313, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461. Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.s.t., on January 17, 1979.

Any person who has an interest in this matter or is a representative of a group or class of persons that has an interest in it may make a written request for an opportunity to make an oral presentation at a public hearing. Such a request can be mailed or hand delivered to: Public Hearing Management, Box WF, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461 and must be received before 4:30 p.m., e.s.t. on December 22, 1978.

The request shall state the name of the person making the request, identify the interest represented and if appropriate state why he or she is a proper representative of a group or class of persons that has an interest, give a concise summary of the proposed oral presentation, and give a telephone number where the person may be contacted.

DOE reserves the right to select the persons to be heard, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited based on the number of persons requesting to be heard.

The public hearing, if any, will not be adjudicative in nature. A DOE official will be designated to preside at the hearing, if one is held. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

The hearing, if held, will begin at 9:30 a.m., on January 4, 1979, in Room 2105, Department of Energy, 2000 M Street NW., Washington, D.C.

Public comments, if any, and the hearing record, if any, will be available for inspection at the DOE Freedom of Information Office, Room GA152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on November 20, 1978.

JERRY L. PFEFFER,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-33947 Filed 12-5-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20690; FCC 78-807]

AMERICAN TELEPHONE & TELEGRAPH CO.

In the matter of American Telephone & Telegraph Co., Revisions to Tariff F.C.C. Nos. 258 and 267, Transmittal No. 12478; Revisions to Tariff F.C.C. No. 268, Revisions to Tariff F.C.C. No. 267, Transmittal No. 12853; Docket No. 20690.

Memorandum Opinion and Order

Adopted: November 21, 1978.

Released: November 30, 1978.

By the Commission: Commissioner Fogarty dissenting in part and issuing a separate statement.

1. By Commission Order, 57 F.C.C. 2d 956 (1976) (*Designation Order*), we instituted an investigation into the lawfulness of American Telephone and Telegraph Company's (AT&T's) tariff revisions which cancelled the offering of 1.544 Megabits per second (Mbps) Dataphone Digital Service (DDS) under AT&T's experimental tariff, F.C.C. Tariff No. 258, and simultaneously offered this service under F.C.C. Tariff No. 267.[1] By further order, 57 F.C.C. 2d 1176 (1976), we expanded this investigation to cover AT&T's F.C.C. Tariff No. 268, under which this identical service is offered to other common carriers (OCCs). DDS is a private line data communications service offering two-way transmission of digital signals at synchronous speeds of 2.4, 4.8, 9.6, 56 kilobits per second, and 1.544 Mbps. The revisions set for investigation added the 1.544 Mbps speed to AT&T's other speed offerings under F.C.C. Tariff Nos. 267 and 268. The Docket 20690 investigation is of the 1.544 Mbps speed only. This investigation is underway and an Administrative Law Judge (ALJ or Judge) is midway through taking testimony. We now have before us both a petition to enlarge the issues, filed on April 5, 1978 by the Common Carrier Bureau Trial Staff (Trial Staff), and a joint motion to delete the issues, filed on April 24, 1978 by the Trustee in Bankruptcy for the Data Transmission Company (Datran) and AT&T, and various responsive pleadings. We will consider each set of pleadings separately.

[1] See 41 FR 8100, February 24, 1976.

PETITION TO ENLARGE ISSUES

2. On November 10, 1977, during the course of the investigation, AT&T again filed revisions to its Tariff F.C.C. No. 267, Transmittal No. 12853, effective February 8, 1978, making certain changes to its intra-DSA 1.544 Mbps offering.[a] No action was taken on this transmittal by the Commission. relying on information obtained during discovery, the Trial Staff now claims that before the filing of Transmittal No. 12853, interstate 1.544 Mbps intra-DSA service was offered in each DSA encompassing the territory of more than one state, and that this revision now limits this service to only the Washington, D.C. DSA. The Trial Staff argues that a substantial question is raised by this revision as to whether the withdrawal of this service offering in non-Washington DSAs violates Section 214(a) of the Act, 47 U.S.C. 214(a), since AT&T did not obtain a certificate permitting service withdrawal before filing the tariff revision in question. See Rule 63.62, 47 CFR 63.62. It also claims that it raises a question of unlawful discrimination under Section 202(a), 47 U.S.C. 202(a), against customers in the interstate DSAs other than Washington, D.C. who are now deprived of an opportunity for this service. The Trial Staff therefore requests that we enlarge the issues to include:

(1) Whether AT&T's F.C.C. Tariff No. 267 revision, Transmittal No. 12853, constitutes an unauthorized withdrawal and a discriminatory denial of service to customers in the DSAs affected under Sections 214 and 202 of the Act.

(2) Whether any tariff prescription, forfeiture, or other remedy is appropriate and should be ordered.

3. AT&T argues that the tariff revision under Transmittal No. 12853 does not constitute a withdrawal of service without Section 214 authority because 1.544 Mbps service was never actually provided to customers in any area outside the Washington, D.C. DSA. It also claims this revision is not unlawfully discriminatory because the Department of Defense (DOD) is the sole customer using 1.544 Mbps and that it uses this service only in the Washington, D.C. DSA. It also claims that it would not serve the public interest to designate these issues at this stage of the proceeding where the investigation of these tariffs are already underway. DOD has also filed an opposition to the Trial Staff's request claiming, *inter alia*, that because it is the sole customer for 1.544 Mbps service and because no new customers are planned or likely in the future, AT&T's tariff revision does not violate the Act. The ALJ, in a separate opinion released April 26, 1978, FCC 78M-668, commented that he considers the issues already stated in our *Designation Order* to be broad enough to include both issues requested by the Trial Staff in this petition but recognized this matter was before the Commission.

4. As to the Section 214(a) issue, we find no dispute as to the facts in this case. Before the revision, Tariff. No. 267 offered interstate 1.544 Mbps intra-DSA service in each DSA encompassing more than one state. After the revision, this service is now offered in only the Washington, D.C. DSA. The only despute relates to the applicability of Section 214(a). While the Trail Staff maintains that this section applies whether or not a service is actually provided, AT&T contends that such section applies only when service is actually provided. We find that a service offering need not be actually utilized before Section 214(a) becomes applicable. The relevant portion of Section 214(a) states:

> No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby * * *.

The fact that a service is offered means that such service is available to the public and therefore must comply with the mandate of this section. We explicitly stated in *Interconnection Facilities Provided to the International Record Carriers* (Docket No. 20452), 66 F.C.C. 2d 517, 540 (1977), that "we do not agree, as AT&T seems to imply, that the mere fact a carrier has no orders for service, excuses it from the need to acquire Section 214 discontinuance authority" (footnote omitted). We have adopted detailed procedures in Part 63 of our rules, 47 CFR 63.60 *et seq.*, for a carrier to follow if it proposes a service discontinuance.

[a] Intra-DSA service provides for the transmission of digital signals within a Digital Serving Area (DSA). A DSA is a specific geographic area served in and around a Digital City. A Digital City is a city in which a principal telephone company central office is located which handles DDS.

finding of lawfulness or unlawfulness

order by certified mail, return receipt

pursuant to section 15 of the Shipping

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Consequently, we must find AT&T's revisions to Tariff No. 267, Transmittal No. 12853, to be null and void, insofar as it discontinues service to intra-DSA's other than Washington, D.C., because this revision violates Section 214(a) and Part 63 of our rules.[2] This in no way, however, prejudices AT&T from refiling a tariff revision after obtaining a proper Section 214 certificate to do so.[3]

5. We do not find it necessary to include any forfeiture issue for AT&T's violation of Section 214 for consideration by the ALJ. Historically, we have generally not considered a forfeiture remedy when we have found a Section 214(a) violation. However, Section 503(b) was recently amended by the Communications Act Amendments of 1978, Pub. L. No. 95-234, Section 2 (to be codified in 47 U.S.C. 503(b)), and became effective March 23, 1978.[4] This section now applies to the type of violation found unlawful here. However, this section is discretionary with the Commission[5] and mitigating factors also may be taken into account.[6] In this case, where the violation initially occurred before this amendment became applicable, where there has been no actual disruption of service to any customer, and where we are, in effect, rejecting the tariff filing, we will not apply this provision. Therefore, we shall designate no further issues with respect to this matter.[7] However, if AT&T does not fully comply with the requirements of Section 214 in this regard in the future, we may impose forfeitures or take such other action as necessary to insure compliance.

MOTION TO DELETE ISSUES

6. We next address the motion, filed jointly by Datran and AT&T, requesting that we delete without prejudice those issues specified in para. 3 and incorporated into Issue (5) of our *Designation Order*, 57 F.C.C. 2d 956 (1976), insofar as they apply to Tariff 268. Those issues are as follows:

> Included among the unresolved issues and subissues are whether the proposed rates unlawfully discriminate between 1.544 Mbps users and lower speed users by giving mileage discounts to users of 1.544 Mbps while charging lower speed users on a flat per mile basis; whether the proposed rates unlawfully discriminate by charging 1.544 Mbps short mileage users higher rates per mile than those charged longer mileage users; whether the switch from point-to-point pricing to rate center to rate center pricing is unlawfully discriminatory; whether the rates are unjust or unreasonable because the percentage discount per Kilobit decreases as the speed of the service increases; whether the rates are unjust or unreasonable in that the ratio of price to alleged cost of service is greater for 1.544 Mbps than for the lower speeds; whether the tariff is unlawfully discriminatory in providing error performance standards for the lower speeds but omitting them from 1.544 Mbps service; what impact the offering of this service will have upon the market projections submitted in Docket No. 20288; whether identical pricing for both OCCs and the public, as proposed by AT&T, is unlawfully discriminatory because the costs in serving the two are allegedly different; and whether competitive necessity would justify lower rates to the OCCs.
>
> 57 F.C.C. 2d at 957. When we designated these issues, at Datran's request, for investigation in 1976, Datran was the only OCC requesting service under Tariff 268, the tariff offering 1.544 Mbps to OCCs. Since then Datran has filed for bankruptcy and no longer offers service to the public. The motion claims that since Datran was the sole OCC taking service under Tariff 268, no other carrier is presently taking service, and no market is presently forecasted for such service, it would be in the public interest, by conserving the Commission's time and resources, to delete these specific issues from further inquiry.[8] The Trial Staff, in its comments, agrees that circumstances now warrant deletion of these particularized issues raised by Datran,[9] but cautions that we not delete any other remaining issues stated in our *Designation Order* as they relate to Tariff 268, *e.g.*, the justness and reasonableness of Tariff 268 rate levels. Because of the similarity of the rate structures of Tariffs 267 and 268, and in the absence of any evidence that costs for Tariff 268 differ from Tariff 267, the Trial Staff argues that any finding of unlawfulness of Tariff 267's rate level should remain freely applicable by Commission order to Tariff 268.[10]

7. Since no one is presently taking service under Tariff 268, we can understand AT&T's, Datran's, and the Trial Staff's concern in not wanting to spend inordinate time and resources regarding this tariff's lawfulness. We also wish to conclude this proceeding expeditiously. Nevertheless, since AT&T has filed identical rate levels and rate structures for Tariffs 267 and 268, we do not want to preclude ourselves from applying, to the extent appropriate, any findings regarding the lawfulness of Tariff 267 to both tariffs at the conclusion of the investigation. In this regard, we fail to see how we can delete all the specific subissues mentioned in para. 3 of our *Designation Order* as they apply to Tariff 268 without possibly precluding full consideration of the remaining general issues as they relate to Tariff 268 since some of the issues set forth in para. 3 are merely subissues of the generalized issues. For instance, the first two issues stated in para. 3 which inquire into whether the rate structure of Tariff 268 is unlawfully discriminatory either between and among speeds or over distance, seem to be directly related to general Issue (2) of our *Designation Order*.[11] Accordingly, since a

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[2] We may find a tariff revision null and void if, as here, it patently conflicts with a provision of the Communications Act. *See, e.g., Pacific Telatronics, Inc.*, 68 F.C.C. 2d 67 (1978).

[3] While the above finding makes the requested Section 202(a) discrimination issue technically moot, because this tariff revision is now null and void, AT&T is still free to refile. In passing on AT&T's Section 214 request we will consider the existence or non-existence of customers for this service to the extent relevant.

[4] This amendment was approved February 21, 1978. However, Section 7 states that it "shall take effect on the thirtieth day after the date of enactment of this Act," or March 23, 1978. Section 503(b) now states that:

> Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—
>
> (A) Willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument of authorization issued by the Commission;
>
> (B) Willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act • • •.
>
> • • • • • • •
>
> • • • shall be liable to the United States for a forfeiture penalty • • •.

[5] *See* amended section 503(b)(3)(A), which states that "[a]*t the discretion of the Commission*, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge • • •." (Emphasis added.)

[6] *See* amended Section 503(b)(2)(B), as well as our recently amended Rule 1.80(b)(3), *Implementation of Pub. L. 95-234*, FCC 78-709, (released October 17, 1978) (to be codified in 47 CFR 1.80(b)(3)), which implements this section of the Act. *See also* Section 504(b) of the Act, 47 U.S.C. 504(b).

[7] We wish to note that contrary to the ALJ's conclusion, FCC 78M-668, slip op. at 2, the existing issues in our *Designation Order* were not broad enough to encompass either the Section 214 issue or any related forfeiture issue. The statutory authority under which we designated this proceeding did not include Section 214 of the Act and, accordingly, the issues cannot be read so broadly.

[8] The last two subissues in para. 3 are connected with the question of whether a different cost basis exists for Tariffs 267 and 268, respectively.

[9] The Trial Staff argues that if we do delete these issues, however, that we should delete them with prejudice since Datran does not now want to litigate them in this proceeding where they have already been designated for hearing.

[10] DOD also filed comments objecting to any deletion of the issues in para. 3 of our *Designation Order* as they relate to Tariff 267. Since no party has even suggested that these issues be deleted as to Tariff 267, we find these comments need no further discussion.

[11] Issue (2) of our *Designation Order*, 57 F.C.C. 2d at 958, states:

Footnotes continued on next page

finding of lawfulness or unlawfulness regarding the overall Tariff 268 rate structure or rate levels under the generalized issues may be predicated on the findings obtained regarding the specific subissues stated in para. 3, we do not see how we could delete these specific issues without possibly undercutting the applicability of the generalized issues. However, since the specific subissues will be investigated as they relate to Tariff 267 in any event (the tariff offering this service to the general public under identical rates and rate structure), we do not see a need to devote substantial additional time and resources to the proceeding to determine their applicability to Tariff 268 (the tariff offering this service to the OCCs). Therefore, we shall leave it to the discretion of the Judge to consider, as appropriate, the issues specified in para. 3 and elsewhere in our *Designation Order* in determining the applicability of any findings regarding the lawfulness of the Tariff 267 rate structure and rate levels to Tariff 268. This does not mean that the Judge must make a finding on each issue designated, but rather, should only consider the issues to the extent relevant to resolving the applicability questions.[12]

ORDER

8. *Accordingly, it is ordered*, That AT&T's revision to its Tariff F.C.C. No. 267, Transmittal No. 12853, IS DECLARED NULL AND VOID to the extent indicated herein;

9. *It is further ordered*, That the petition to enlarge the issues, filed by the Trial Staff, is declared moot;

10. *It is further ordered*, That the joint motion to delete issues, filed by Datran and AT&T, is denied, but that the Judge shall consider the designated issues in the manner set forth herein; and

11. *It is further ordered*, That the Secretary shall send a copy of this order by certified mail, return receipt requested, to American Telephone and Telegraph Company, the Trustee in Bankruptcy for the Data Transmission Company, the Department of Defense, shall serve the Common Carrier Bureau Trail Staff and the Administrative Law Judge, and shall cause copy to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,[13]
WILLIAM J. TRICARICO,
Secretary.

SEPARATE STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY DISSENTING IN PART

In Re: Discontinuance of Service Offering, Docket No. 20690

The Commission item states that a carrier must obtain a certificate pursuant to Section 214(a)[14] prior to discontinuing a service offering to a community, even if no customer exists for the service, I disagree. If no demand exists for a service, it is incomprehensible to me how service can be discontinued, reduced, or impaired if, in fact, no service was ever provided.

In the present case, I believe AT&T was entirely correct in filing a tariff to discontinue its. 1.544 Mbps service offering to points for which no customer exists for the service. Therefore, I would deny the Trial Staff's request for additional issues.

[FR Doc. 78-33980 Filed 12-5-78; 8:45 am]

Footnotes continued from last page

Whether such revisions will make an unjust or unreasonable discrimination or will subject any person or class of persons to undue or unreasonable prejudice or disadvantage, or will give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of Section 202(a) of the Communications Act.

This general issue necessarily requires investigation of the Tariff 268 rate structure. Similarly, some of the para. 3 subissues may be relevant to general Issue (1), concerning the justness and reasonableness of the Tariff 268 rate levels under Section 201(b).

[12] Considerable testimony regarding Tariff 267 has already been taken in this proceeding. We note that Tariffs 267 and 268 have near identical rate structures. We leave it to the presiding Judge's discretion to determine whether it will be necessary and to what extent, if at all, additional evidence need be taken on any of the generalized issues or subissues as they pertain to Tariff 268.

[13] See attached Separate Statement of Commissioner Joseph R. Fogarty Dissenting in Part.

[14] "No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby;"

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-52; Agreement No. 10346]

CARGO REVENUE POOLING AND SAILING AGREEMENT—ARGENTINA/UNITED STATES GULF TRADE

Order of Investigation and Hearing and Approval Pendente Lite

Agreement No. 10346, between Empresa Lineas Maritimas Argentinas S.A., A Bottacchi S.A. de Navegacion C.F.I.I. and Delta Steamship Lines, Inc., as the national-flag lines, and the Northern Pan-America Line, A/S, Cia. de Navegacao Lloyd Brasileiro, Cia. Maritima Nacional, Montemar S.A. Comercial y Maritima and Navimex S.A. de C.V., as the non-national flag lines, has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916.

The Agreement establishes a cargo revenue pooling and sailing arrangement in the northbound trade from Argentine ports within the La Plata/Rosario range, both inclusive, to ports on the United States Gulf Coast.

Notice of the filing of the Agreement appeared in the FEDERAL REGISTER on July 31, 1978. In response, protests were filed by the United States Department of Justice, Reefer Express Lines (REL) and Transportacion Maritima Mexicana, S.A. (TMM).

The Agreement is one which limits service competition between the parties, and as such, is contrary to the antitrust laws of the United States. The Agreement, therefore, cannot be approved by the Commission unless it can be demonstrated that it is required by a serious transportation need, necessary to secure important public benefits, or in furtherance of a valid regulatory purpose of the Shipping Act, 1916, i.e., justified. *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968).

All of the protestants allege that the Agreement has not been justified. In addition, REL and TMM allege that it is unjustly discriminatory and unfair in that it will preclude them from entering the trade.

Despite the protests and requests for hearing, we are of the opinion that Agreement No. 10346 may be approved *pendente lite*. Agreement No. 10346 implements an international agreement between the Governments of the United States and Argentina which is designed to avoid the conflict that could arise as a result of the cargo preference laws of Argentina. As the Commission stated in *Agreement No. 10066—Cooperative Working Arrangement*, No. 74-5, slip op. at 21-22 (F.M.C., November 17, 1978):

> Because these measures [cargo preference laws] affect the imports and exports of the United States—insofar as our trade with a given country is concerned—they in and of themselves, are a source of "inter-governmental conflict." This "conflict" can only be resolved either through a commercial arrangement or resort to retaliatory measures such as those permitted under section 19 of the Merchant Marine Act, 1920. [footnote omitted]
>
> We believe that a commercial arrangement which avoids potential inter-governmental conflict is clearly preferable to disruptive retaliatory action. The avoidance of such potential "inter-governmental conflict" and the maintenance of international harmony is a legitimate public interest objective to be derived from the approval of a bilateral agreement.

The allegations of discrimination which have been raised by REL and TMM, while requiring hearing are not, in and of themselves, sufficient to deny *pendente lite* approval of the

that it is required by a serious trans-

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Agreement. In *Agreement No. 9939—Pooling, Sailing and Equal Access to Government-Controlled Cargo Agreement*, 16 F.M.C. 293, 305-306 (1973), Westfal Larsen and Company A/S (WL), a third flag carrier in the Peruvian trade asserted that the Agreement there would drive it from the trade and that its departure would create such detriment to commerce as would warrant disapproval of the Agreement. The Commission disagreed stating:

"Detrimental to the commerce of the United States" is but one of the criteria of section 15. While a contrary finding under any one of the four criteria of section 15 can support disapproval, all of the parts make a legislative whole and must be considered. 16 F.M.C. at 306.

The Agreement there was approved because the interest in intergovernmental harmony outweighed any possible detriment to WL.

In weighing the Agreement's potential impact on the two carriers involved against the need to prevent a possible disruption of commerce and international harmony, we find that approval of Agreement No. 10346 serves the public interest. Therefore, we will approve the Agreement while the allegations of REL and TMM are being explored. However, this *pendente lite* approval shall expire on December 31, 1979, or until a final decision is reached in the proceeding ordered herein, whichever comes first.

Now, therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether or not Agreement No. 10346 shall be approved, disapproved or modified under the provisions of section 15;

It is further ordered, That this proceeding be limited to consideration of the following issue: whether Agreement No. 10346 is unjustly discriminatory or unfair to the protesting carriers, REL and TMM;

It is further ordered, That Agreement No. 10346 is approved as of November 22, 1978, *pendente lite*, which approval shall expire on December 31, 1979 or until a final decision is reached in this proceeding, whichever comes first;

It is further ordered, That the carriers listed in the Appendix attached hereto are hereby made Proponents and Protestants as so designated in the Appendix;

It is further ordered, That, in accordance with the Commission's rules of practice and procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than May 30, 1979.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents and protestants as listed in the Appendix below and the Commission's Bureau of Hearing Counsel;

It is further ordered, That any person other than proponents, protestants, and the Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's rules of practice and procedure;

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX

Proponents

Empresa Lineas Maritimas Argentinas S.A.
Five World Trade Center
Suite 6167
New York, New York 10048

Delta Steamship Lines, Inc.
1700 International Trade Mart
New Orleans, Louisiana 70150

A. Bottacchi S. A. de Navegacion C.F.I.I.
c/o American Oceanice Shipping Inc.
900 International Trade Mart
New Orleans, Louisana 70130

Northern Pan-America Line, A/S
c/o Oivind Lorntzen, Inc.
522 Fifth Avenue
New York, New York 10006

Cia. de Navegacao Lloyd Brasileiro
c/o Norton, Lilly & Company, Inc.
90 West Street
New York, New York 10006

Cia. de Navegacao Lloyd Brasileiro
c/o Norton, Lilly & Company, Inc.
90 West Street
New York, New York 10006

Montemar S.A. Commercialy Maritima
c/o Hansen & Tideman, Inc.
One World Trade Center, Suite 1623
New York, New York 10048

Navimex, S.A. de C.V.
c/o Olvind Lorntzen, Inc.
522 Fifth Avenue
New York, New York 10036

PROTESTANTS

Reefer Express Lines
c/o Joseph A. Klausner, Esq.
1028 Connecticut Auenue, N.W.
Washington, D.C. 20036

Transportacion Maritima Mexicana, S.A.
c/o David C. Jordan, Esq.
Billig, Sher & Jones, P. C.
2033 K Street, N.W.
Washington, D.C. 20006

[FR Doc. 78-34018 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Docket No. 78-51; Agreement No. 10349]

CARGO REVENUE POOLING AND SAILING AGREEMENT—ARGENTINA/UNITED STATES ATLANTIC TRADE

Order of Investigation and Hearing and Approval Pendente Lite

Agreement No. 10349, between Empresa Lineas Maritimas Argentinas S.A., Moore-McCormack Lines, Incorporated and Sea-Land Service, Inc., as the national-flag lines, and Cia. de Navegacao Lloyd Brasileiro, Cia. de Navegacao Maritima Netumar, A/S Ivarans Rederi, Van Nievelt, Goudriaan & Co., B.V. and Montemar S.A. Comercial y Maritima as the non-national flag lines, has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916.

The Agreement establishes a cargo revenue pooling and sailing arrangement in the northbound trade from Argentine ports within the La Plata/Rosario range, both inclusive, to ports on the United States Atlantic Coast.

Notice of the filing of the Agreement appeared in the FEDERAL REGISTER on August 22, 1978. In response, protests were filed by the United States Department of Justice, Reefer Express Lines (REL) and A/S Ivarans Rederi (Ivarans). The United States Department of State has requested a hearing. The Norwegian Embassy submitted an Aide Memoire through the Department of State.

The Agreement is one which would tend to limit service competition between the parties, and as such, is contrary to the antitrust laws of the United States. The Agreement, therefore, cannot be approved by the Commission unless it can be demonstrated

that it is required by a serious transportation need, necessary to secure important public benefits, or in furtherance of a valid regulatory purpose of the Shipping Act, 1916, i.e., justified. *Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968).

All of the protestants allege that the Agreement has not been justified. In addition, REL alleges that it will preclude it from entering the trade. Ivarans claims that the Agreement is unjustly discriminatory and unfair because its share is not commensurate with its past share of the trade and its requirements to provide a viable service. The comments of the Norwegian Embassy oppose approval on the grounds that the Agreement would make it impossible for Ivarans, a Norwegian flag line, to remain in the Trade.

The Department of State, along with other protestants, asks for a hearing relative to the possibility that there is an unfiled and unapproved agreement between the Argentine flag line and the Brazilian flag lines regarding the participation of these lines in the Argentina/U.S. and Brazil/U.S. trades. Since this allegation will be handled as a separate matter, it will not be dealt with in connection with this Order.

Despite the protests and requests for hearing, we are of the opinion that Agreement No. 10349 may be approved *pendente lite*. Agreement No. 10349 implements an international agreement between the Governments of the United States and Argentina which is designed to avoid the conflicts that could arise as a result of the cargo preference laws of Argentina. As the Commission stated in *Agreement No. 10066—Cooperative Working Arrangement*, No. 74-5, slip op. at 21-22 (F.M.C., November 17, 1978):

Because these measures [cargo preference laws] affect the imports and exports of the United States—insofar as our trade with a given country is concerned—they in and of themselves, are a source of "inter-governmental conflict."

This "conflict" can only be resolved either through a commercial arrangement or resort to retaliatory measures such as those permitted under section 19 of the Merchant Marine Act, 1920. [footnote omitted]

We believe that a commercial arrangement which avoids potential inter-governmental conflict is clearly preferable to disruptive retaliatory action. The avoidance of such potential "inter-governmental conflict" and the maintenance of international harmony is a legitimate public interest objective to be derived from the approval of a bilateral agreement.

The allegations of discrimination which have been raised by REL and Ivarans, while requiring hearing, are not, in and of themselves sufficient to deny *pendente lite* approval of the Agreement. In *Agreement No. 9939—Pooling, Sailing and Equal Access to Government-Controlled Cargo Agreement*, 16 F.M.C. 293, 305-306 (1973), Westfal Larsen and Company A/S (WL), a third flag carrier in the Peruvian trade asserted that the Agreement there would drive it from the trade and that its departure would create such detriment to commerce as would warrant disapproval of the Agreement. The Commission disagreed stating:

"Detrimental to the commerce of the United States" is but one of the criteria of section 15. While a contrary finding under any one of the four criteria of section 15 can support disapproval, all of the parts make a legislative whole and must be considered. 16 F.M.C. at 306.

The Agreement there was approved because the interest in intergovernmental harmony outweighed any possible detriment to WL.

In weighing the Agreement's potential impact on the two carriers involved against the need to prevent a possible disruption of commerce and international harmony, we find that approval of Agreement No. 10349 better serves the public interest. Therefore, we will approve the Agreement while the allegations of REL and Ivarans are being explored. However, this *pendente lite* approval shall expire on December 31, 1979, or until a final decision is reached in the proceeding ordered herein, whichever comes first.

Now, therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether or not Agreement No. 10349 shall be approved, disapproved or modified under the provisions of section 15;

It is further ordered, That this proceeding be limited to consideration of the following issue: whether Agreement No. 10349 is unjustly discriminatory or unfair to the protesting carriers, REL and Ivarans;

It is further ordered, That Agreement No. 10349 is approved as of November 22, 1978, *pendente lite*, which approval shall expire on December 31, 1979, or until a final decision is reached in this proceeding, whichever comes first;

It is further ordered, That the carriers listed in the Appendix attached below are hereby made Proponents and Protestants as so designated in the Appendix;

It is further ordered, That in accordance with the Commission's rules of practice and procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than May 30, 1979.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents and protestants as listed in the Appendix below and the Commission's Bureau of Hearing Counsel;

It is further ordered, That any person other than proponents, protestants, and the Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's rules of practice and procedure;

It is further ordered, That all future notices orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX

PROPONENTS

Empresa Lineas Maritimas Argentinas, S.A., Five World Trade Center, Suite 6167, New York, New York 10048.
Moore-McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.
Sea-Land Service, Inc., 10 Parsonage Road, Box 900, Edison, New Jersey 08817.
Cia. de Navegacao Lloyd Brasileiro, c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.
Cia. de Navegacao Maritima Netumar, c/o Netumar International, Inc., 67 Broad Street, New York, New York 10004.
Van Nievelt, Goudriaan & Co., B.V. c/o Constellation Navigation, Inc., 233 Broadway, New York, New York 10007.
Montemar S.A. Comercial y Maritima, c/o Hansen & Tideman, Inc., One World Trade Center, Suite 1623, New York, New York 10048.

PROTESTANTS

Reefer Express Lines
c/o Joseph A. Klausner, Esq.
1028 Connecticut Auenue, N.W.
Washington, D.C. 20036

Transportacion Maritima Mexicana, S.A.
c/o David C. Jordan, Esq.
Billig, Sher & Jones, P. C.
2033 K Street, N.W.
Washington, D.C. 20006

[FR Doc. 78-34018 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Docket No. 78-51; Agreement No. 10349]

CARGO REVENUE POOLING AND SAILING AGREEMENT—ARGENTINA/UNITED STATES ATLANTIC TRADE

Order of Investigation and Hearing and Approval Pendente Lite

Agreement No. 10349, between Empresa Lineas Maritimas Argentinas S.A., Moore-McCormack Lines, Incorporated and Sea-Land Service, Inc., as the national-flag lines, and Cia. de Navegacao Lloyd Brasileiro, Cia. de Navegacao Maritima Netumar, A/S Ivarans Rederi, Van Nievelt, Goudriaan & Co., B.V. and Montemar S.A. Comercial y Maritima as the non-national flag lines, has been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916.

The Agreement establishes a cargo revenue pooling and sailing arrangement in the northbound trade from Argentine ports within the La Plata/Rosario range, both inclusive, to ports on the United States Atlantic Coast.

Notice of the filing of the Agreement appeared in the FEDERAL REGISTER on August 22, 1978. In response, protests were filed by the United States Department of Justice, Reefer Express Lines (REL) and A/S Ivarans Rederi (Ivarans). The United States Department of State has requested a hearing. The Norwegian Embassy submitted an Aide Memoire through the Department of State.

The Agreement is one which would tend to limit service competition between the parties, and as such, is contrary to the antitrust laws of the United States. The Agreement, therefore, cannot be approved by the Commission unless it can be demonstrated

Inc. be returned to the Commission

under Part 298 of the Board's Eco-

[6820-24-M]

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PROTESTANTS

Reefer Express Lines, c/o Joseph A. Klausner, Esq., 1028 Connectivut Avenue, N.W., Washington, D.C. 20036.
A/S Ivarans Rederi, c/o Elmer C. Maddy, Esq., Kirlin, Campell & Kesting, 120 Broadway, New York, New York 10005.

[FR Doc. 78-34019 Filed 12-5-78; 8:45 am]

[6730-01-M]

Independent Ocean Freight Forwarder License No. 1002R]

CARIBE SHIPPING CO.

Order of Revocation

On November 20, 1978, Caribe Shipping Company, Inc., Pier No. 9, San Juan, Puerto Rico 00904, requested the Commission to revoke its Independent Ocean Freight Forwarded License No. 1002R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1002R, issued to Caribe Shipping Company, Inc., be and is hereby revoked effective November 20, 1978 without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1002R issued to Caribe Shipping Company, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Caribe Shipping Company, Inc.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34022 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Docket No. 78-49]

EMILE BERNAT & SONS CO. v. UNITED STATES LINES, INC., ET AL.

Filing of Complaint

Notice is hereby given that a complaint filed by Emile Bernat & Sons Co. against United States Lines, Peabody & Lane, Atlantic Container Lines, Ltd., Farrell Lines, Inc., Dart Containerline, Inc., Trans Freight Lines, Inc., and North Atlantic Westbound Freight Association was served November 28, 1978. Complainant alleges that it was assessed charges for ocean transportation in violation of section 18(b)(3) of the Shipping Act, 1916 in excess of those provided in respondents' tariff schedules.

Hearing in this matter, if any is held, shall commence on or before May 28, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate reocrd.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34020 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1233]

GERALD T. BOYLE & ASSOCIATES, GERALD T. BOYLE D.B.A.

Order of Revocation

On November 17, 1978, Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a/, 2801 East Colfax Avenue, Denver, Colorado 80206, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1233.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1233, issued to Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a, be and is hereby revoked effective November 17, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1233, issued to Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a, be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Gerald T. Boyle & Associates, Gerald T. Boyle d/b/a.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34024 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 937R]

VERNON FORWARDING CO., INC.

Order of Revocation

On October 28, 1978, Vernon Forwarding Company, Inc., 6212 Lankershim Boulevard, North Hollywood, California 91606, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 937R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 937R, issued to Vernon Forwarding Company, Inc., be and is hereby revoked effective October 28, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 937R, issued to Vernon Forwarding Company, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Vernon Forwarding Company, Inc.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34023 Filed 12-5-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 134]

W. M. COOK & CO., INC.

Order of Revocation

On November 6, 1978, W. M. Cook & Co., Inc., 42 Broadway, New York, New York 10004, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 134 effective November 30, 1978.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(c), dated August 8, 1977:

It is ordered, That Independent Ocean Freight Forwarder License No. 134 issued to W. M. Cook & Co., Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon W. M. Cook & Co., Inc.

ROBERT G. DREW,
Director, Bureau of Certification & Licensing.

[FR Doc. 78-34021 Filed 12-5-78; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 28, 1978 (CAB and NRC) and November 29, 1978 (NRC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 26, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

CAB has requested clearance on an extension without change basis of CAB Form 298—A Registration, Reregistration and Amendments under Part 298 of the Economic Regulations. This form is filed by every taxi operator who plans to commence operations under Part 298 of the Board's Economic Regulations. Submission of Form 298-A is mandatory under the Federal Aviation Act of 1958, as amended. CAB estimates that 4,000 air taxi operators will file this form which must be submitted every two years and that the respondent burden for completing the form is one-half hour.

NUCLEAR REGULATORY COMMISSION

The NRC has requested clearance on an extension without change basis of Form NRC/DOE-742 (w/supplements), "Material Status Report". This report serves as a confirmation document pertaining to the location, composition, and status of special nuclear material inventories in the possession of NRC licensees. The information submitted on the forms is needed to enable the Commission to assure that special nuclear materials are adequately safeguarded in the interest of the common defense and security of the United States. Respondents are NRC special nuclear material licensees. NRC estimates that approximately 500 licensees fill out a total of 1,000 forms annually and the burden for completing one form is 1 hour.

The NRC also has requested clearance for a new Form NRC-313(I), "Application for Byproduct Material License-Industrial." This is a revision in the 313 series designed to facilitate rapid processing of license applications for industrial usage of Byproduct Material. According to NRC, the new form should benefit both applicants and the agency. NRC estimates that 220 respondents will apply for new licenses annually with an average burden per respondent of 24 hours, 2,070 respondents will apply for license amendments annually with an average burden per respondent of 2 hours, and 510 respondents will apply for license renewals annually with an average burden per respondent of 8 hours.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-34053 Filed 12-5-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR G-137]

TRANSPORTATION AND MOTOR VEHICLES

Fuel Economy Mileage Information for Use in Preparing Fiscal Year 1979 Vehicle Acquisition Forecasts

DECEMBER 1, 1978.

1. *Purpose.* This bulletin announces the vehicle miles per gallon ratings to be used by Federal agencies in preparing their fiscal year (FY) 1979 vehicle acquisition forecasts for passenger automobiles (sedans and station wagons) and light trucks (6,000 pounds gross vehicle weight rating (GVWR) and under).

2. *Expiration date.* This bulletin expires September 30, 1979.

3. *Background.* a. To implement the provisions of Public Law 94-163 and Executive Orders 11912 (dated April 13, 1976) and 12003 (dated July 20, 1977) GSA added Subpart 101-38.13 to the Federal Property Management Regulations (FPMR) and issued FPMR Temporary Regulation G-39 (43 FR 54632). These regulations established policy and procedures governing, respectively, the acquisition by Federal agencies of passenger automobiles (sedans and station wagons) and light trucks (6,000 pounds GVWR and under).

b. In accordance with FPMR 101-38.13 and FPMR Temporary Regulation G-39, Federal agencies that will require vehicles during the fiscal year shall furnish GSA a separate forecast of their total passenger automobile and light truck acquisition requirements, based on the latest applicable fuel economy information issued by the Environmental Protection Agency.

c. Attachment A to this bulletin provides class miles per gallon (mpg) ratings for use in the preparation of agency acquisition forecasts of passenger automobiles. Additionally, it lists examples of the mpg ratings for individual vehicles in each class. Attachment B provides similar information for each item of light trucks.

4. *Suggested action.* Each agency should use the attached miles per gallon rating information in preparing its acquisition forecast for both pasenger automobiles and light trucks.

5. *Inquiries and assistance.* Assistance or information regarding vehicles not listed in the attachments to this bulletin may be obtained by calling GSA, telephone number 703-557-1327.

WILLIAM P. KELLY, Jr.,
Commissioner,
Federal Supply Service.

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PASSENGER AUTOMOBILE MILES PER GALLON DATA

Class	Sedans	Transmissions: Automatic 49 States	Automatic Calif.	Manual 49 States	Manual Calif.
IB Subcompact	Standard 4 cylinder	23	21	25	25
	Optional 4 cylinder	26	24	30	28
	Optional 6 cylinder	20	19	21	**
Examples:	Engines				
AMC Spirit	121/4	23	21	26	N/A
	232/6	21	N/A	21	N/A
	258/6	19	16***	20	N/A
Chev Chevette	98/4	27	27	34	30
Chev Monza	151/4	25	N/A	28	N/A
	196/6	23	N/A	21	N/A
	231/6	N/A	19	N/A	20
	305/8	20	16***	17***	N/A
Ford Pinto	140/4	24	23	25	26
	171/6	20	N/A	N/A	N/A
Ply Horizon	105/4	27	24	30	28
II Compact	Standard 4 cylinder	23	21	24	21
	Optional 6 cylinder	20	**	20	**
	Optional 8 cylinder*	**	**	**	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
AMC Concord	121/4	23	21	25	N/A
	232/6	20	N/A	21	N/A
	258/6	19	16***	20	N/A
	304/8	17***	N/A	22	N/A
Chev Nova	250/6	19	17***	22	N/A
	305/8	18***	15***	17***	N/A
	350/8	18***	15***	N/A	N/A
Ford Fairmont	140/4	24	21	24	21
	200/6	20	18***	22	N/A
	302/8	18***	17***	N/A	N/A

Class	Sedans	Transmissions: Automatic 49 States	Automatic Calif.	Manual 49 States	Manual Calif.
Examples:	Engines				
Plymouth Volare	225/6	21	16***	21	N/A
	318/8	18***	17***	N/A	N/A
	360/8	N/A	16***	N/A	N/A
III Mid-Size	Standard 6 cylinder	21	19	24	N/A
	Optional 8 cylinder	19	**	**	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
Chev Malibu	200/6	21	N/A	24	N/A
	231/6	N/A	19	N/A	N/A
	267/8	20	N/A	N/A	N/A
	305/8	19	18***	18***	N/A
	350/8	18***	N/A	N/A	N/A
Ford Ltd II	302/8	16***	N/A	N/A	N/A
	351/8	15***	13**	N/A	N/A
IV Large	Standard 6 cylinder	19	**	N/A	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
Chev Impala	250/6	18***	16***	N/A	N/A
	305/8	18***	15***	N/A	N/A
	350/8	18***	15***	N/A	N/A
Dodge St. Regis	225/6	19	N/A	N/A	N/A
	318/8	18***	15***	N/A	N/A
	360/8	17***	16***	N/A	N/A
Ford Ltd.	302/8	18***	16***	N/A	N/A
	351/8	16***	N/A	N/A	N/A

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December 1, 1978

GSA Bulletin FPMR G-137
Attachment A

Class	Station Wagons	Transmissions: Automatic 49 States	Automatic Calif.	Manual 49 States	Manual Calif.
I Subcompact	Standard 4 cylinder	24	23	24	23
	Optional 6 cylinder	19	19	20	20
Examples:	Engines				
AMC Concord	232/6	20	N/A	21	N/A
	258/6	19	16***	20	N/A
	304/8	16***	N/A	N/A	N/A
Chev Monza	152/4	25	N/A	28	N/A
	196/6	23	N/A	21	N/A
	231/6	N/A	19	N/A	20
Ford Pinto	141/4	24	23	24	23
	171/6	20	N/A	N/A	N/A
II Compact	Standard 6 cylinder	19	19	21	N/A
	Optional 8 cylinder	19	**	**	N/A
	Optional 8 cylinder*	**	**	N/A	N/A
Examples:	Engines				
Chev Malibu	200/6	21	N/A	24	N/A
	231/6	N/A	19	N/A	N/A
	267/8	19	N/A	18***	N/A
	305/8	N/A	16***	17***	N/A
Ford Fairmont	140/4	N/A	N/A	24	21
	200/6	19	N/A	22	N/A
	302/8	18***	17***	N/A	N/A
Plymouth Volare	225/6	19	16***	21	N/A
	318/8	18***	17***	N/A	N/A
	360/8	N/A	16***	N/A	N/A
III Mid-Size	None available				

GSA Bulletin FPMR G-137
Attachment A

December 1, 1978

Class	Station Wagons	Transmissions: Automatic 49 States	Automatic Calif.	Manual 49 States	Manual Calif.
IV Large	Standard 8 cylinder	**	**	N/A	N/A
	Optional 8 cylinder	**	**	N/A	N/A
Examples:	Engines				
Chev Impala	250/6	16***	N/A	N/A	N/A
	305/8	15***	N/A	N/A	N/A
	350/8	15***	14***	N/A	N/A
Ford Ltd.	302/8	16***	N/A	N/A	N/A
	351/8	17***	N/A	N/A	N/A

KEY:

N/A Not available

* Law enforcement option only.

** Does not comply with 19 miles per gallon minimum established by Executive Order 12003. May not be used to prepare agency forecast.

*** Requires written authorization from the Administrator of General Services and the Secretary of Energy.

GSA Bulletin FPMR G-137

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GSA Bulletin FPMR G-137
Attachment B

LIGHT TRUCK MILES PER GALLON DATA

Item	4 X 2		Transmissions				
			Automatic		Manual		
			49 States	Calif.	49 States		Calif.
1 Utility	Standard 4 cylinder		21	18	N/A		N/A
Examples:		Engines					
AM General Dispatcher		121/4	21	18	N/A		N/A
					3 Spd	4 Spd	
20 Van Panel & 30 Van Wagon	Standard 6 cylinder		17	N/A	18	19	N/A
	Standard 8 cylinder		14	14	16	17	N/A
Examples:		Engines					
Chev Sport Van &		250/6	N/A	N/A	19	N/A	N/A
Chev Van (G 10)		305/8	14	N/A	N/A	N/A	N/A
Dodge Sportsman &		225/6	17	N/A	18	19	N/A
Tradesman (B-100)		318/8	16	15	16	17	N/A
Ford Club Wagon &		300/6	17	N/A	18	19	N/A
Econoline (E-100)		302/8	15	14	16	17	N/A
		351/8	14	N/A	N/A	N/A	N/A
40 Pickup	Standard 6 cylinder		17	N/A	18	18	N/A
	Standard 8 cylinder		14	14	16	16	N/A
	Extra power 8 cylinder		14	12	15	N/A	N/A
	Diesel		22	N/A	N/A	N/A	N/A
Examples:		Engines					
Chev C 10		250/6	N/A	N/A	19	19	N/A
		305/8	14	N/A	N/A	N/A	N/A
		350/8 Diesel	22	N/A	N/A	N/A	N/A
Dodge D 100		225/6	17	N/A	18	18	N/A
		318/8	16	15	16	16	N/A
Ford F 100		300/6	17	N/A	19	20	N/A
		302/8	16	14	17	18	N/A
		351/8	14	12	15	N/A	N/A
60 Compact pickup	Standard 4 cylinder		22	22	N/A	25	24

GSA Bulletin FPMR G-137
Attachment B

Item	4 X 2		Transmissions			
			Automatic		Manual	
			49 States	Calif.	49 States	Calif.
Examples:		Engines				
Chev LUV		111/4	24	22	26	25
Ford Courier		120/4	N/A	N/A	30	29
		140/4	23	22	25	23
Dodge D 50		122/4	25	22	25	24
		156/4	22	22	N/A	N/A
110 Sedan delivery	Standard 6 cylinder		19	18	21	N/A
	Standard 8 cylinder		18	17	18	N/A
Examples:		Engines				
AMC Concord		232/6	20	N/A	21	N/A
		258/6	19	16	20	N/A
		304/6	16	N/A	N/A	N/A
Chev Malibu		200/6	21	N/A	24	N/A
		231/6	N/A	19	N/A	N/A
		267/8	19	N/A	18	N/A
		305/8	N/A	16	17	N/A
Ford Fairmont		200/6	19	N/A	22	N/A
		302/8	18	17	N/A	N/A
Plymouth Volare		225/6	19	16	21	N/A
		318/8	18	17	N/A	N/A
		360/8	N/A	16	N/A	N/A
	4 X 4					
5 & 6 Utility truck	Standard 6 cylinder		18	16	18	17
	Standard 8 cylinder		15	N/A	16	15
Example:		Engines				
AMC CJ-5/CJ-7		258/6	18	16	18	17
		304/8	15	N/A	16	15
110 Travel Top - This vehicle rated at more than 6,000 pounds GVWR. If furnished under Item 6, will not count in calculation of fleet average fuel economy.						
65 Compact pickup	Standard 4 cylinder		N/A	N/A	22	22
Example:		Engine				
Chev LUV		111/4	N/A	N/A	22	22

KEY: N/A = Not available

[FR Doc. 78-34102 Filed 12-5-78; 8:45 am]

[4110-83-M]

lowing phases of emergency medical

U.S.C. 241-1(a)(1)(B) and section 16(a)(1)(B) of Pub. L. 81-815 (school

to policy matters arising in the adminstration of this title, including policies and pro-

There were no site-specific actions proposed within this region that were not

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[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of December 1978:

ALCOHOL TRAINING REVIEW COMMITTEE, December 15, 8:00 a.m.—OPEN MEETING, Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Contact: Ms. Jeanne Trumble, Room 14C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1056.

Purpose. While the principal function of the Alcohol Training Review Committee is to provide professionally competent merit review of grant applications, members are also expected to bring to the attention of the national Institute on Alcohol Abuse and Alcoholism particular problems, issues and needs of the field which are timely and of major importance. The committee members have proposed this special workshop to address issues in the field of alcohol manpower and training which directly affect their review of applications.

Agenda. From 8:00 a.m. to 5:00 p.m. on December 15, the meeting will be open for discussion of issues and needs in the field of alcohol training and manpower development. Substantive information may be obtained from the contact person listed above.

This notice was delayed because of delays in planning and obtaining approval for this meeting.

The NIAAA Information Officer who will furnish upon request summaries of the meeting and roster of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: November 30, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.78-33961 Filed 12-5-78; 8:45 am]

[4110-83-M]

Health Resources Administration

TRAINING IN EMERGENCY MEDICAL SERVICES

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration, is pleased to announce the availability of fiscal year 1979 application materials for Grants for Training in Emergency Medical Services as authorized by section 789, Title VII, of the Public Health Service Act.

Section 789 authorizes grants to educational entities to assist in meeting the cost of training programs providing instruction in the techniques and methods of emergency medical services, including the skills required in connection with the provision of ambulance services. Eligible entites include schools of medicine, dentistry, osteopathy and nursing, training centers for allied health professions, hospitals, and other appropriate educational and public entities. Funds are to assist in meeting the costs of training programs in techniques and methods for providing emergency medical services. Programs covered within this authority include projects for the training of emergency medical technicians-ambulance, emergency medical technicians-paramedic, emergency nursing personnel, and projects for the residency training of emergency physicians.

In determining the priority for funding of approved applications, additional funding preference will be accorded projects in which the following are demonstrated.

For all projects: (1) Those affording clinical experience in emergency medical services systems receiving assistance under Title XII of the Public Health Service Act.

(2) Those providing substantial portions of the training program in a health manpower shortage areas(s) as defined in section 332 of the Public Health Service Act.

(3) Those providing education emphasizing interdisciplinary approaches to emergency care.

For Projects in Specific Disciplines: (1) *EMT-Paramedic:* Those projects sponsored by educational entities granting a degree or diploma. (This does not apply to a degree or diploma in EMS but applies to the institution).

(2) *Medicine:* Those projects designed to train emergency physicians while developing general emergency medical training resources. As evidence that the program is so designed, the applicant must:

(a) Be a school of medicine or osteopathy with an administrative unit which is responsible for educational programs in emergency medicine and involved in more than one of the following phases of emergency medical education: undergraduate, graduate or continuing education; or

Be affiliated with a school of medicine or osteopathy as described in the preceding paragraph.

Applications which do not address these preferences will be reviewed and given full consideration for funding. However, each preference which is met will enhance the competitive position of an approved applicant in determining the order of funding of approved applications.

Approximately $2,000,000 is expected to be available for competitive grant awards in fiscal year 1979 under section 789.

Application materials for fiscal year 1979 are based on Interim-Final regulations published in the FEDERAL REGISTER on September 16, 1977 (42 FR 46523). Therefore, application materials, including the various requirements, are subject to change when final regulations are issued under section 789.

Fiscal year 1979 application materials for Grants for Training in Emergency Medical Services will be forwarded *only upon request.* Completed applications are due on January 25, 1979.

Requests for application materials and requests regarding grants policy should be directed to: Grants Management Officer—A(18), Grants for Training in Emergency Medical Services, Bureau of Health Manpower, HRA, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6098.

Should additional programmatic information be required, please contact: Division of Medicine, Bureau of Health Manpower, HRA, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-7350.

Dated: November 24, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-34025 Filed 12-5-78; 8:45 am]

[4110-02-M]

APPLICATIONS FOR PINPOINT DISASTER ASSISTANCE

Applications no Longer Accepted

Notice is hereby given that the U.S. Commissioner of Education will no longer accept applications for pinpoint disaster assistance. This notice if effective December 6, 1978. Authority for this program is contained in section 7(a)(1)(B) of Pub. L. 81-874 (assistance for current school expenditures in cases of certain disasters; 20 U.S.C. 241-1(a)(1)(B) and section 16(a)(1)(B) of Pub. L. 81-815 (school construction assistance in cases of certain disasters; 20 U.S.C. 646(a)(1)(B)).

This action is necessary because funds are unavailable for pinpoint disaster assistance at this time.

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 (38 FR 30654) and Parts 112 and 113 of 45 CFR published in the FEDERAL REGISTER on November 17, 1976 (41 FR 50776).

(Catalog of Federal Domestic Assistance Nos. 13.477, School Assistance in Federal Affected Areas—Construction and 13.478, School Assistance in Federal Affected Areas—Maintenance and Operation).

Dated: December 1, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-34035 Filed 12-5-78; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Governmental Relations and Legislation Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, section 10(a)(2)).

DATE: December 28, 1978, 9:00 a.m. to 3:30 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th Street NW., Suite 323, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St. NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the admininstration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services. The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

Analysis of Comments on Notice of Intent to Regulate Issues.
Structure for Proposed Rule Making Hearings.
Supplemental Appropriation—Adult Education Act.
Committee Budget.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St. NW., Suite 323, Washington, D.C.20004.

Signed at Washington, D.C. on November 30, 1978.

GARY A. EYRE,
Executive Advisory Council on Adult Education.

[FR Doc. 78-33973 Filed 12-5-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO

Availability of Northwest Colorado Coal Report

The Department of the Interior, Bureau of Land Management (BLM) has prepared a report on the potential development of coal resources in Northwest Colorado.

The report, entitled *Northwest Supplemental Report: A Supplement to the Northwest Colorado Coal Regional Environmental Statement,* presents an overview of potential coal development through 1990 in the Northwest Colorado Region which consists of Moffat, Routt, and Rio Blanco counties north of the White River. The report updates coal development projections on existing Federal leases and private coal holdings, and provides an updated assessment of impacts that reflects new laws and regulations that have become effective since the original environmental statement (FES 77-1) was published in January 1977. There were no site-specific actions proposed within this region that were not covered by the injunction on new Federal coal leasing in the case *Natural Resources Defense Council, Inc. et al.* v. *Royston C. Hughes et al.* Therefore, no site-specific proposals are assessed in this supplemental report.

Single copies of the report are available from the:

BLM District Manager, Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625, telephone (303) 824-3417;
BLM State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, telephone (303) 837-4481.

Copies of the report are available for inspection at the following locations:

BLM State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, telephone (303) 837-4481;
BLM Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado 81625, telephone (303) 824-3417;
Washington Office of Public Affairs, Bureau of Land Management, Room 5627, 18th and C Streets, NW., Washington, D.C. 20240, telephone (202) 343-5717;

PUBLIC LIBRARIES

Conservation Library, Denver Public Library, 1357 Broadway Denver, Colorado 80206;
Craig-Moffat County Library, 651 Yampa Avenue, Craig, Colorado 81625;
Hayden Public Library, 153 West Jefferson, Hayden, Colorado 81639;
Meeker Public Library, 200 Main Street, Meeker, Colorado 81641;
Rangely Public Library, 109 East Main, Rangely, Colorado 81648;
Werner Memorial Library, 1289 Lincoln Avenue, Steamboat Springs, Colorado 80477.

No public hearings are scheduled concerning this report since there is no specific action proposed by the Bureau of Land Management at this time.

Written comments on the report will be accepted, and may be submitted to the BLM District Manager, Craig District Office, at the address given above. These comments will be taken into consideration in future environmental assessments that may be done by the Bureau of Land Management concerning potential coal development in the Northwest Colorado Region.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved: December 1, 1978.

GARY J. WICKS,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-34026 Filed 12-5-78; 8:45 am]

[4310-84-M]

DECISION SUMMARY AND RATIONALE

Mrs. Bonnie Troxell, Cumberland, Mary-

[4310-84-M]

to that system. In addition the decree

[7590-01-M]

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[4310-84-M]

WESTERN LEG OF ALASKA NATURAL GAS TRANSMISSION SYSTEM WILDERNESS INVENTORY (CALIFORNIA ONLY)

Proposed Decision

BACKGROUND

Pursuant to Section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) and the Wilderness Inventory Handbood (September 27, 1978); the BLM State Director of California has made an initial proposed decision on four wilderness inventory units in Northern California in accordance with FR, Vol. 43, No. 218, November 9, 1978. Inventories in these four units have been conducted in advance of the statewide inventory in order to meet time commitments that have been previously established for the special project identified as the Western Leg of the Alaska Natural Gas Transmission System.

The Alaska Natural Gas Transmission System from its point of entrance into California at the Oregon State line to its proposed termination point at Antioch, California is approximately 281.6 miles in length. The proposed pipeline through California parallels an existing 36 inch pipeline for its total length and will result in a 50 ft. additional right-of-way width.

The R/W crosses 15.21 miles of Modoc National Forest, 16.94 miles of Shasta-Trinity National Forest, 1.85 miles of Lassen National Forest and approximately 2.53 miles of public lands administered by the Bureau of Land Management.

The respective National Forests have previously determined that the proposed pipeline will not have any significant adverse impacts upon any wilderness areas or lands which have wilderness values within their boundaries.

PROPOSED DECISION

The California State Director's proposed decision on the wilderness inventory of the four inventory units containing public lands is as follows:

CA-030-001—Bryant Mtn. Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

CA-030-002—Pit River Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

CA-030-003—Meridian Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

CA-030-004—Sacramento River Unit—The public lands contained within this unit clearly and obviously do not meet the criteria for identification as a wilderness study area.

DECISION SUMMARY AND RATIONALE

The above inventory units contain public lands that are nearby or are traversed by the proposed pipeline. The lands do not meet the established criteria for identification as wilderness study areas primarily due to the scattered nature and small size of the inventoried lands, which range from less than 40 acres to a maximum of approximately 2300 acres of contiguous public land. In addition, numerous intrusions, such as roads or structures are present throughout many of the parcels. It has therefore been determined that there are no public lands containing wilderness values that will be impacted by the proposed pipeline.

PUBLIC REVIEW

A 60 day formal public review of this proposed decision will begin November 30, 1978, and will be terminated on January 29, 1979. A public meeting will be held on this proposed decision at 7:30 p.m., January 3, 1979, at the BLM Redding District Office, located at 355 Hemsted Drive, Redding, CA 96001. Written comments may be sent to the Redding District Office in care of the District Manager.

SUPPLEMENTARY INFORMATION

Additional information concerning this proposed decision can be obtained from the Wilderness Coordinator at the Redding District Office.

ED HASTEY,
State Director.

[FR Doc. 78-33978 Filed 12-5-78; 8:45 am]

[4310-70-M]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 16, 1978, at 1 p.m. at the Grace Episcopal Church 1041 Wisconsin Avenue NW., Washington, D.C.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Bonnie Troxell, Cumberland, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Vladimir A. Whabe, Baltimore, Maryland
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
Mr. John D. Miller, Cumberland, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Mrs. Minnie Pohlmann, Dickerson, Maryland
Miss Margaret Dietz, Lovettsville, Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Siles F. Starry, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland

Matters to be discussed at this meeting include:

1. Talk by D.C. City Planning on the Georgetown area
2. National Park Service overview of C&O Canal National Historical Park
3. National Park Service talk on rebuilding canal in the Georgetown area
4. Williamsport Basin status
5. Harpers Ferry Road Improvements
6. Access to Town of Brunswick campground
7. Palisades wayside interpretive exhibit plan
8. Great Falls development concept plan
9. Restoration Team activities report
10. Future status of Commission (terms)
11. Relocation of Lander Maintenance shop
12. Redecking of bridge on Route 11, Williamsport

The meeting will be open to the public. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301-948-5641 or 301-432-2231. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at Park Headquarters, Sharpburg, Maryland.

Dated: November 22, 1978.

MANUS J. FISH, Jr.,
Regional Director
National Capital Region.

[FR Doc. 78-34134 Filed 12-5-78; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT FES 78-37]

REVISED RANGE MANAGEMENT PROGRAM FOR THE CHALLIS GRAZING UNIT, CUSTER COUNTY, IDAHO

Notice of Availability of Final Supplement Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final supplemental statement for the Challis Grazing Unit. The proposal involves implementing an improved range management program on public lands within the Challis Planning Unit of the Salmon District in east central Idaho.

A limited number of copies are available upon request at the Idaho State Office and Salmon District Office:

Idaho State Office, Bureau of Land Management, Federal Building, Box 042, 550 W. Forth Street, Boise, Idaho 83724, Telephone 208-384-1770.

Salmon District Office, Bureau of Land Management, Highway 93 South, Salmon, Idaho 83467, Telephone 208-756-2201.

Public reading copies wil be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240, Telephone 202-343-5717.

Idaho State Office, Bureau of Land Managements, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724, Telephone 208-384-1770.

Salmon District Office, Bureau of Land Management, Highway 93 South, Salmon, Idaho 83647, Telephone 208-756-2201.

Dated: December 1, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant
Secretary of the Interior.

[FR Doc. 78-34036 Filed 12-5-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

NOTICE OF PROPOSED CONSENT JUDGMENT IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *City of St. Petersburg Beach and the State of Florida*, Civil Action No. 76-694-CIV, has been lodged with the District Court for the Middle District of Florida. The proposed decree imposes a moratorium on connections to the existing City of St. Petersburg Beach sewer system until such time as a new original sewage treatment plant is completed and the City has connected to that system. In addition the decree establishes certain interim effluent limitations that will apply to the operation of the existing City system. With respect to penalties the decree would impose a $10,000 per day fine on the City if it does not connect into the regional system thirty days after that facility can accept its wastes. In addition the decree imposes certain other penalty provisions for violations of its provisions as well as requiring the City to pay $6,000 for its past violations.

The Department of Justice will receive written comments relating to the proposed judgment for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to *"United States* v. *City of St. Petersburg Beach, et al.," D.J. Ref. No. 90-5-1-1-632.*

The proposed decree may be examined at the office of the United States Attorney, 311 West Monroe Street, Jacksonville, Florida 32201; at the Region IV Office of the Environmental Protection Agency, Enforcement Division, 345 Courtland Street, N.E., Atlanta, Georgia 30308; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Washington, D.C. 20503. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General,
Land and Natural Resources Division.

[FR Doc. 78-33977 Filed 12-5-78; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

HUMANITIES PANEL ADVISORY COMMITTEE

Canceled Meeting

NOVEMBER 30, 1978.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Humanities Panel which appeared in the FEDERAL REGISTER, Vol. 43, No. 222, p. 53512, Thursday, November 16, 1978, has been canceled. The meeting was originally scheduled to meet December 15, 1978, from 9 a.m. to 5:30 p.m., in room 1025, 806 15th Street, NW., Washington, D.C.

STEPHEN J. MCCLEARY,
Advisory Committee
Management Officer.

[FR Doc. 78-34016 Filed 12-5-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating Licencse No. DPR-23, issued to the Carolina Power and Light Company, (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, South Carolina. The amendment is effective as of the date of its issuance.

The amendment revises Technical Specifications 4.5.2.4 and 4.5.2.6 concerning testing requirements of the containment spray additive valves and the refueling water storage tank outlet valves. These changes are consistent with NRC guidance for meeting the requirements of 10 CFR 50.55a(g).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendement.

For further details with respect to this action, see (1) the licensee's submittals dated December 2, 1977, (2) Amendment No. 34 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this

1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Li-

ment Nos. 32 and 26 to License Nos. DPR-42 and DPR-60, respectively,

and the above stated documents are available for public examination and

moval from the reactor core. The relief expires when the Commission

and Light Company and Atlantic City Electric Company, which revised the

V 4 3 / 2 3 5 D E 6 7 8 UMI

Dated at Bethesda, Maryland, this 6th day of October 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-33944 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket No. 50-261]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-23, issued to the Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility located in Darlington County, Hartsville, South Carolina. The amendment is effective as of the date of its issuance.

This amendment provides for the reissuance of the Technical Specifications in a retyped format. Some minor changes in the retyped Technical Specifications were made which were administrative or clarification. Also included in the amendment was an organization change which did not reduce any safety functions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated August 13, 1976 and September 1, 1977, and application for amendment dated August 14, 1978, and (2) Amendment No. 33 to License No. DPR-23. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of item (2) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 10th day of October, 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-33945 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 32 and 26 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

These amendments change the Technical Specifications that relate to the pressurizer heatup rate, the reactor vessel pressure-temperature operating limits, and the part length rods.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated December 9, 1977 and September 8, 1978, (2) Amendment Nos. 32 and 26 to License Nos. DPR-42 and DPR-60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 1st day of November, 1978.

For the nuclear regulatory commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-33946 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-592-A and STN 50-593-A]

ARIZONA PUBLIC SERVICE COMPANY, ET AL PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5

Notice of Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Arizona Public Service Company, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on July 28, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns additional ownership participants, Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water & Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California, for the Palo Verde Nuclear Generating Station, Units 4 and 5 located in Maricopa County, Arizona.

This additional Antitrust information was filed in connection with the Arizona Public Service Company's applications for construction permits and operating licenses for the Palo Verde Nuclear Generating Station, Units 4 and 5.

The original "Notice of Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses; Time for Submission of Views and Antitrust Matters" was published in the FEDERAL REGISTER on May 8, 1978 (43 FR 19729).

A copy of the Arizona Public Service Company letter, dated July 28, 1978 and the above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room at 1717 H Street, NW. Washington, D.C. 20555 and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have their views on the antitrust matters with respect to the Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water & Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California presented to the Attorney General should submit such views for consideration to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before January 22, 1979.

Dated at Bethesda, Maryland, this 13th day of November, 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief Light Water Reactors Branch No. 3 Division of Project Management.

[FR Doc. 78-32556 Filed 11-21-78; 8:45 am]

[7590-01-M]

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO., ARKANSAS NUCLEAR ONE, UNIT 2

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. NPF-6 to Arkansas Power and Light Company for operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Arkansas. The amendment is effective as of the date of its issuance.

The amendment provides one-time relief from Technical Specification 3.8.1.1.b to allow non-nuclear heat up operation with only one deisel generator and two offsite power systems available before repairs are completed on the second diesel generator which experienced mechanical failure on November 9, 1978. The basis of granting relief is that the plant has not yet gone critical and so there are no fission products requiring decay heat removal from the reactor core. The relief expires when the Commission has made a written determination that both diesel generators are operable but not later than three weeks from the date of issuance of this license amendment.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the licensee's application for amendment dated November 13, 1978 and submittal of additional information in a letter dated November 15, 1978, (2) Amendment No. 6 to License No. NPF-6, and (3) the Commission's related Safety Evaluation supporting Amendment No. 6 to License No. NPF-6. All of these items are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D. C. 20555 and the Arkansas Polythechic College, Russellville, Arkansas 72801.

Dated at Bethesda, Maryland, this 18th day of November 1978.

For the Nuclear Regulatory Commission,

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-34009 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC COMPANY, ET AL, PEACH BOTTOM UNITS NOS. 2 AND 3

Notice of Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U. S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 49 and 48 to Facility Operating License No. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company, which revised the Technical Specifications for operation of the Peach Bottom Atomic Power Station Units Nos. 2 and 3, located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to increase the total storage capacity of the spent fuel pools at Peach Bottom Atomic Power Station Units Nos. 2 and 3 from 2220 to 5623 fuel assemblies.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on February 23, 1978 (43FR7490). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the Facility dated April 1973.

For further details with respect to this action, see (1) applications for amendments dated January 18, April 12, May 19, June 12 and September 19, 1978, (2) Amendments Nos. 49 and 48 to License Nos. DPR-44 and DPR-56, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Enrionmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. and at Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of November 1978.

The Commission has made appropri-

[7590-01-M]

20555, Attention: Director, Division of Operating Reactors.

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For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-34010 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-556 and STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA BLACK FOX STATION, UNIT NOS. 1 AND 2

Notice of Issuance of Amendment to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Company of Oklahoma to conduct certain site activities in connection with the Black Fox Station, Unit Nos. 1 and 2, prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35762).

Since that time, the Director of Nuclear Reactor Regulation has determined that additional activities may be authorized under the Limited Work Authorization. The additional activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1) and include excavation and pouring of the excavation seal for Unit 2. Excavation was previously authorized only for Unit 1.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Public Service Company of Oklahoma and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders of the Commission promulgated pursuant thereto.

A copy of (1) the Atomic Safety and Licensing Board's Partial Initial Decision Authorizing Limited Work Authorization and the Order Granting Applicants' Motion for Reconsideration and Clarification; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated February 1977; (5) the Commission's letters of authorization dated July 26, 1978 and September 6, 1978, and (6) the Commission's letter amending the authorization dated November 30, 1978, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Tulsa City County Library, 400 Civic Center, Tulsa, Oklahoma.

Dated at Bethesda, Maryland, this 30th day of November 1978.

For the Nuclear Regulatory Commission.

JAN A. NORRIS, ACTING CHIEF,
Environmental Projects Branch 2 Division of Site Safety and Environmental Analysis.

[FR Doc. 78-34008 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-361 and 50-362]

SOUTHERN CALIFORNIA EDISON COMPANY SAN DIEGO GAS AND ELECTRIC COMPANY

Notice of Availability of Draft Environmental Statement for San Onofre Nuclear Generating Station, Units 2 and 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0490) prepared by the Commission's office of Nuclear Reactor Regulation related to the proposed operation of the San Onofre Nuclear Generating Station, Units 2 and 3, in San Diego County, California, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N. W., Washington, D. C. and in the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. The Draft Statement is also being made available at the Office of the Governor, Office of Planning and Research, 1400 Tenth Street, Sacramento, California, and at the San Diego County Comprehensive Planning Organization, Security Pacific Plaza, 1200 Third Avenue, San Diego, California. Requests for copies of the Draft Environmental Statement should be addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C., Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by Southern California Edison Company and San Diego Gas and Electric Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on April 7, 1977 (42 F. R. 18460).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by January 22, 1979. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D. C. and the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 28th day of November 1978.

For the Nuclear Regulatory Commission

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-34011 Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-566 and STN 50-567]

TENNESSEE VALLEY AUTHORITY, YELLOW CREEK NUCLEAR PLANT, UNITS 1 AND 2

Notice of Issuance of Construction Permits

Notice is hereby given that, pursuant to the Partial Initial Decision, dated February 3, 1978, and the Initial Decision, dated November 24, 1978 of the Atomic Safety and Licensing Board, the Nuclear Regulatory Commission (the Commission) has issued Construction Permit Nos. CPPR-172 and CPPR-173 to the Tennessee Valley Authority for construction of two pressurized water reactors at the applicant's site in Tishomingo County, Mississippi. The proposed reactors, known as the Yellow Creek Nuclear Plant, Units 1 and 2 are designed to operate at a core power level of 3800 megawatts thermal with a net electrical output of approximately 1300 megawatts.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I, which are set forth in the construction permits. The application for the construction permits complies with the standards and requirements of the Act and the Commission's regulations.

The construction permits are effective as of their date of issuance. The earliest date for the completion of Unit 1 is February 1, 1984, and the latest date for completion is May 1, 1985. The earliest date for completion of Unit 2 is February 1, 1985 and the latest date for completion is May 1, 1986. The permits shall expire on the latest dates for completion of the facilities.

A copy of: (1) the Partial Initial Decision, dated February 3, 1978; (2) the Initial Decision, dated November 24, 1978; (3) the Construction Permits Nos. CPPR-172 and CPPR-173; (4) the report of the Advisory Committee on Reactor Safeguards, dated January 13, 1978; (5) the Commission's staff Safety Evaluation Report, dated December 1, 1977 and Supplement No. 1 thereto, dated June 1978; (6) the Preliminary Safety Analysis Report and amendments thereto; (7) the applicant's Environmental Report, dated July 1976; (8) the Draft Environmental Statement, dated June 1977; and (9) the Final Environmental Statement, dated November 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and at the Corinth Public Library, 1023 Fillmore Street, Corinth, Mississippi 38834. A copy of the construction permits may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Managment, Office of Nuclear Reactor Regulation.

Copies of the Safety Evaluation Report and Supplement No. 1 (Document No. NUREG-0347) and the Final Environmental Statement (Document No. NUREG-3065) may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 29th day of November, 1978

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-34012; Filed 12-5-78; 8:45 am]

[7590-01-M]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC COMPANY

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications by reducing the neutron detector thimbles required to be operable from 75 percent (17 thimbles) to 12 thimbles and by increasing the assigned nuclear measurement uncertainty from 5 percent to 6.8 percent if less than 17 detector thimbles are operable when the incore detection system is used for power distribution measurements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. the Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 14, 1977, and supplements thereto dated April 6, 1978, May 11, 1978, June 15, 1978, and October 4, 1978, (2) Amendment No. 53 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public document Room, 1717 H Street, N.W., Washington, D.C., and at the Greenfield Comunity College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of November, 1978.

For the Nuclear Regulatory Commission.

RICHARD D. SILVER,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-34013 Filed 12-5-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

STATE AND LOCAL GRANTEE PROCUREMENT STANDARD

Invitation for Public Comment and Notice of Public Hearing

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of public hearing on a proposed guideline governing state and local grantee procurement standards, Attachment O of OMB Circular A-102.

SUMMARY: This proposed revision would amend the Attachment O to OMB Circular A-102. (1) It reaffirms the maximum reliance on state and local government grantee management of their own procurement; (2) Rescinds non-confroming provisions of current agency subordinate regulations; and (3) creates a grantee procurement review certification program to further reduce the Federal Government's preaward review of individual procurements and burdensome duplicative reviews of grantee procurement procedures. This policy, it is anticipated, will reduce administrative cost, paperwork, and other such factors which contribute to inefficiency, waste, and delay in implementing programs.

DATE: Comments must be received on or before January 30, 1979. The public meeting will be held on January 16, 1979 in Room 2010, NEOB at 10:00 a.m. Statements for the public hearing should be received prior to January 12, 1979.

ADDRESSES: Comments and requests to be scheduled to make statements at the public hearing should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Nadol, Assistant for Intergovernmental Affairs, Telephone 202-395-6166.

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SUPPLEMENTARY INFORMATION: Under Pub. L. 93-400, authority for procurement policies governing procurement under Federal assistance programs is vested in the Administrator for Federal Procurement Policy. All executive agency procurement policies, for procurement under such programs, are subject to those prescribed by the Administrator. The Office of Federal Procurement Policy, Office of Management and Budget is considering the adoption of amendments to the current procurement standards, Attachment O to OMB Circular A-102.

ANALYSIS OF PROPOSED REVISIONS

Section 4. Proposed that grantor agencies conduct grantee procurement system reviews and that when a grantee procurement system meets the standards of this attachment it may be certified by the grantor agencies, thus reducing individual pre-award contract reviews by that agency or other agencies making grants.

Section 5. Limits grantor agencies' authority to review protests. This is properly the responsibility of the grantee.

Section 6. Limits grantor review of grantee procurements to non-competitive procurements, brand name procurements, and procurements by grantees that do not meet Attachment O standards.

Section 7. Expands the code of conduct from merely prohibiting the acceptance of gifts and gratuities to prohibiting the participation in the award of contracts to firms in which the employee has some financial interest.

Section 8B. Expands the section requiring affirmative steps to ensure minority and small business participation in contracting under Federal grant programs.

Section 9A. Encourages the use of functional specifications.

Section 10. Explains when it is appropriate to use one of the following four methods of procurement, small purchase, competitive sealed bids, competitive negotiations, and noncompetitive negotiations.

Section 11. Prohibits the use of a percentage of construction cost method of contracting, requires either a cost or price analysis of all procurement, and states cost will be allowed if consistant with Federal cost principles.

LESTER A. FETTIG,
Administrator.

PROCUREMENT STANDARDS

1. APPLICABILITY

a. This Attachment establishes standards and guidelines for the procurement of supplies, equipment, construction, and other services with Federal grant funds. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive orders. No additional requirements or subordinate regulations shall be imposed upon grantees by Executive agencies unless specifically required by Federal law or Executive orders or authorized by the Administrator for Federal Procurement Policy.

b. Provisions of current subordinate regulations not conforming to this attachment are rescinded unless approved by the Office of Federal Procurement Policy (OFPP).

2. GRANTEE/GRANTOR RESPONSIBILITY

a. These standards do not relieve the grantee of any contractual responsibilities under its contracts. The grantee is responsible, for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant. These include but are not limited to: Source evaluation, protest, disputes, and claims. Executive agencies shall not substitute their judgment for that of the grantee unless the matter is of primary Federal concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.

b. Grantees shall use their own procurement procedures which reflect applicable State and local laws and regulations: *Provided*, That procurements made with Federal grant funds conform to the standards set forth in the following paragraphs.

3. GRANTEE PROCUREMENT IMPROVEMENT

Executive agencies awarding Federal grants or other assistance which require or allow for procurement by the recipients are encouraged to assist recipients in improving their procurement capabilities by providing them with technical assistance, training, publications, and other aid.

4. PROCUREMENT SYSTEM REVIEWS

a. Executive agencies are encouraged to perform reviews of their grantees' procurement systems if a continuing relationship with the grantee is anticipated or a substantial amount of the Federal assistance is to be used for procurement and review of individual contracts is anticipated. The purpose of the review shall be to determine: (1) Whether a grantee's procurement system conforms to the standards prescribed by this Attachment or other criteria acceptable to the OFPP, such as provisions of the model procurement code for State and local government and (2) whether the grantee's procurement system should be certified by the reviewing agency. Such a review will also give an agency an opportunity to give technical assistance to a grantee to remedy its procurement system if it does not fully comply. In addition, such a review will provide a firm basis for deciding whether the grantee's contracts and related procurement documents should be subject to the grantor's prior approval, as provided by Section 6.

b. In conducting procurement system reviews, grantor agencies will evaluate a grantee's procurement system in terms of whether it complies with the standards prescribed by this Attachment and represents a fair, efficient and effective procurement system. To the maximum extent feasible, reviewors will rely upon State or local evaluations and analyses performed or by agencies or organizations independent of the grantee contracting activity.

c. When a Federal grantor agency completes a procurement review, it shall furnish a report to the grantee, with a copy to OFPP.

The reviews authorized by Section 6 are waived if a grantee's procurement system is certified.

d. All agencies should normally rely upon the resultant findings or certification for a period of 24 months before another review is performed.

5. DISPUTES PROCEDURES

Grantor agencies may develop an administrative procedure to handle complaints or protests regarding grantee contractor selection actions. The procedure shall be limited as follows:

(a) No protest shall be accepted by the grantor agency until all administrative remedies at the grantee level have been exhausted.

(b) Review is limited to:

(i) Violations of Federal law or regulations. Violations of State or local law shall be under the jurisdiction of State or local authorities.

(ii) Violations of grantee procedure for review of complaints or protest.

6. GRANTOR REVIEW OF PROPOSED CONTRACT

Federal grantor pre-award review and approval of the grantee's proposed contracts and related procurement documents, such as requests for proposals and invitations for bids, may be required only under the following circumstances:

a. The procurement is expected to exceed $10,000 and is to be awarded without competition or only one bid or offer is received in response to solicitation.

b. The procurement specifies a "brand name" product; or

c. The grantee's procurement system fails to comply with one or more significant aspects of this Attachment. The grantor agency shall notify the grantee of such deficiencies in writing, with a copy of such notification to the OFPP.

7. CODE OF CONDUCT

Grantees shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Federal funds. No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

a. The employee, officer or agent;

b. Any member of his immediate family;

c. His or her partner; or

d. An organization which employs, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award.

The grantee's and contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents.

8. PROCUREMENT PROCEDURES

The grantee shall establish procurement procedures which provide for, the following minimum requirements:

a. Proposed procurement actions shall be reviewed by grantee officials to consider consolidation of requirements to obtain a more economical purchase and to avoid unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease versus purchase alternatives, in-house or contracting out, and any other appropriate area of analysis to determine which approach would be the most economical. To foster greater economy and efficiency grantees are encouraged to enter into State and local intergovernmental agreements for procurement and/or use of common goods and services.

b. Affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies and services. Affirmative steps shall include but not limited to the following:

(1) Include qualified small and minority businesses on solicitation lists.

(2) Assure that small and minority businesses are solicited whenever they are potential sources.

(3) When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(4) Establish delivery schedules which will encourage participation by small and minority business.

(5) Use the services and assistance of the Small Business Administration, the Office of Minority Business enterprize of the Department of Commerce and the Community Service Administration.

(6) If any subcontracts are to be let, require the prime contractor to take the affirmative steps in 1 through 5 above.

9. SELECTION PROCEDURES

The grantee shall have written selection procedures which shall provide, as a minimum, the following procedural requirements:

All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this attachment. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to: (1) Placing unreasonable requirements on firms in order for them to qualify to do business, (2) noncompetitive practices between firms, and (3) organizational conflicts of interest.

a. Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

(1) incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, may set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name ore equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly specified.

2. Clearly set forth all requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals.

b. Awards whall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, and financial and technical resources.

10. METHOD OF PROCUREMENT

Procurement under grants shall be made by one of the following methods, as described herein: a. small purchase procedures; b. Competitive sealed bids; c. competitive negotiation; d. noncompetitive negotiation.

a. Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, or supplies or other property, costing in the aggregate not more than $10,000. (State or local small purchase limits under $10,000 shall be binding on grantees.) If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.

b. In formal advertising, sealed bids are publicly solicited and a firm-fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming exactly with all the material terms and conditions of the invitation for bids, is lowest in price.

(1) In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum, the following:

(a) A complete adequate and realistic specification or purchase description is available.

(b) Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.

(c) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

(2) If formal advertising is used for a procurement under a grant, the following requirements shall apply:

(a) Within a sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised. The invitation for bids including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

(b) All bids shall be opened publicly at the time and place stated in the in-

vitation for bids. A firm-fixed-price contract (lump sum or unit price) or cost-reimbursement contract, whichever is appropriate, shall be used. Fixed-price contracts shall be used in procuring construction. In using cost-reimbursement contracts, the cost plus a percentage of cost and percentage of construction cost methods shall not be used.

(c) The invitation for bids will set forth all criteria to be used in evaluating bids, including any criteria for determining responsibility of prospective contractors. The invitation for bids will set forth any contract terms and conditions, including warranties, bonding or other financial arrangements required in connection with every procurement action in excess of $2,000 for supplies or services or $2,000 for construction contracts in excess of $2,000

garding rights to inventions, and materials generated under the contract or subcontract. Contracts shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(d) Open bids shall be tabulated at or soon after the time specified therefor in the invitation for bids, and the award shall be made with reasonable promptness by appropriate notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the grantee, price and other factors considered. Any or all bids may be rejected when it is in the grantee's interest to do so.

c. In competitive negotiation:

(1) Proposals shall be requested from an adequate number of qualified sources;

(2) The grantee shall have written procedures for conducting technical evaluations of the proposals received and for selecting recipients;

(3) Awards shall be made to the responsible firm whose proposal is most advantageous to the grantee's program with price and other factors considered; and

(4) The grantee may utilize competitive negotiation procedures for procurement of A-E services, but to the extent applicable must conform to procedures established by Public Law 92-582 for procurement of A-E services.

d. Noncompetitive negotiation may be used only when the award of a contract is infeasible under small purchase procedures, competitive sealed bids or competitive negotiation and one of the following circumstances applies:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The grantor agency authorizes noncompetitive negotiation; or

(4) After solicitation of a number of sources, competition is determined inadequate.

11. PROHIBITION AGAINST PERCENTAGE OF CONSTRUCTION COST METHOD OF CONTRACTING

The percentage of construction cost method of contracting shall not be used.

12. COST OR PRICE ANALYSIS

Cost or price analysis shall be made in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

13. CONTRACT TYPE

The type of contract used by the grantee should be determined on a case-by-case basis depending on the circumstances surrounding the procurement, the nature of the procurement, and the extent of competition available. The grantee may use any type of contract which will promote the best interests of the program involved. However, the grantee must avoid undue risk to its contractors. The use of a cost-plus-a-percentage-of-cost or percentage of construction cost method of contracting shall not be used.

14. AWARDS TO RESPONSIBLE CONTRACTORS

Contracts shall be awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Order 12549 and 12689, "Debarment and Suspension". See 24 CFR Part 24 for the HUD implementation of these Executive Orders.

15. ACCESS TO RECORDS

Grantees agree to provide the grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, access to any books, documents, papers and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts and transcriptions.

16. RETENTION OF RECORDS

Grantees agree to retain all books, records, and other documents relative to this contract for three years after final payment and all other pending matters are closed.

17. COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS

Grantees will comply with all Federal laws, regulations, and executive orders applicable to the grant agreement.

18. PATENT RIGHTS

Grantees agree that the Federal awarding agency has the right to a royalty-free nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal purposes, any publication or copyrighted material developed under a grant, subgrant, or contract under a grant or subgrant or any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

19. SMALL AND MINORITY FIRMS

Grantees will take affirmative steps to assure that small and minority firms are used when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include but not limited to the following:

(1) Include qualified small and minority businesses on solicitation lists.

(2) Assure that small and minority businesses are solicited whenever they are potential sources.

(3) When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.

(4) Establish delivery schedules which will encourage participation by small and minority business.

(5) Use the services and assistance of the Small Business Administration, the Office of Minority Business enterprize of the Department of Commerce and the Community Service Administration.

(6) If any subcontracts are to be let, require the prime contractor to take the affirmative steps in 1 through 5 above.

20. CLEAN AIR AND WATER

Contracts in excess of $100,000 shall contain a provision that requires the grantee to agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). Violations shall be reported to the grantor agency and the Regional Office of the Environmental Protection Agency.

21. ENERGY CONSERVATION

Grantees will comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

[FR Doc. 78-33911 Filed 12-5-78; 8:45 am]

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vitation for bids. A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

c. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

(1) Proposals including price, shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

(2) Grantees shall provide for evaluation of the proposals, written or oral discussions as required, and selection for contract award.

(3) Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

d. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of contract is infeasible under small purchase competitive bidding or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(1) The item is available only from a single source;

(2) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation; or

(3) The Federal grantor agency authorizes noncompetitive negotiation.

11. CONTRACT PRICING

The cost-plus-a-percentage-of-cost and percentage of construction cost method of contracting shall not be used. Grantees shall perform some form of cost or price analysis in connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimated included in negotiated prices are consistent with Federal cost principals.

12. GRANTEE PROCUREMENT RECORDS

Grantees shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to, information pertinent to the following: Rationale for the method of procurement, selection of contract type, contractor selection, and the basis for the cost or price negotiated.

13. CONTRACT PROVISIONS

In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts:

a. Contracts shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. All contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

d. All contracts and subgrants for *construction* or repair shall include a provision for compliance with the Copeland "Anti-Kick-Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from including, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

e. When required by the Federal grant program legislation, all *construction* contracts in excess of $2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

f. Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for *construction* contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible: *Provided*, That the worker is compensated a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

g. Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Federal grantor agency and the grantee. The contractor shall be advised as to the source of additional information regarding these matters.

h. All contracts (except those of $10,000 or less) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

Grantees shall require contractors to maintain all required records for three years after grantees make final payments and all other pending matters are closed.

i. Contracts and subgrants of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or requirements issued pursuant to section 306 of the Clean Air Act of 1970 and Section 508 of the Federal Pollution Control Act. Violations shall be reported to the grantor agency and the Regional Office of the Environmental Protection Agency.

j. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-165).

14. CONTRACT ADMINISTRATION

Grantees shall maintain a contract administration system insuring that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase orders.

[FR Doc. 78-33954 Filed 12-5-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 29, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Model Food Stamp Forms
On occasion
Food stamp applicants and State agencies
63,735,000 responses; 12,699,581 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration
Application Form-National Health Service Corps Scholarship
On occasion
Student scholarship application
10,000 responses; 3,333 hours
Richard Eisinger, 395-3214

EXTENSIONS

DEPARTMENT OF COMMERCE

Industry and Trade Administration
Overseas Business Interest Questionnaire
ITA-471P
On occasion
Businesses joining missions or seminars
1,000 responses; 250 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF LABOR

Employment Standards Administration
Request for Examination and/or Treatment
LS-1
On occasion
Employers and treating physicians
200,000 responses; 66,667 hours
Strasser, A., 395-6132

Employment Standards Administration
Notice of Employee's Injury or Death
LS-201
On occasion
Injured employee or survivor
240,000 responses; 60,000 hours
Strasser, A., 395-6132

BRENDA A. MAYBERRY,
Acting Budget and Management Officer.

[FR Doc. 78-34054 Filed 12-5-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. MC79-1]

MINIMUM HEIGHT FOR CARRIER-ROUTE PRESORTED MAIL

Order Instituting Proceedings

Issued November 30, 1978.

The proceeding under section 3623 of the Postal Reorganization Act (39 U.S.C 3623) which we are instituting by this Order is designed to examine an issue suggested by the proceedings in Docket No. MC77-2—proceeding dealing generally with minimum size prohibitions, in which we are concurrently forwarding an Opinion and Recommended Decision to the Governors of the Postal Service. The present docket will be devoted to the question whether the 3½-inch minimum height which we are recommending be continued in effect [1] should be modified by reducing it to 3¼ inches where the mail pieces involved are presorted to carrier route.

Certain parties in Docket No. MC 77-2 suggested modifications to the existing (though not yet effective) Domestic Mail Classification Schedule provision in the interest of presorted mail, but none directly addressed the question of mail presorted to carrier route. The closest approach to such a proposal was made by one public utility participant, which proposed a 3¼-inch minimum height to be applicable where the mail was sufficiently presorted to bypass machine processing in normal Postal Service operations. In our Opinion in Docket M77-2 (pp. 60-61), we explain why a strict carrier-presort category is a more practical and desirable ground for potential distinction between applicable minima.

We are led to believe that the question of a 3¼-inch minimum height limit to carrier-route presorted mail needs exploration by two factors. First, it appears that a substantial number of firms, particularly including public utilities, may be using a billing card of that height. This was asserted by several parties in Docket No. MC77-2 and appears to be uncontroverted. Secondly, a statement made by

[1] The 3½-inch minimum height was announced in Docket MC73-1, where it formed part of the classification schedule stipulated to by the parties. It was not to go into effect until a subsequent time, however; and in Docket No. MC77-2 it was examined afresh. *See generally* PRC Op. MC77-2 (November 30, 1978).

ings or other procedural stages. If pro-

who shall be separately served with

[8025-01-M]

3. To determine eligibility of busi-

2. To take all necessary actions in

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the Postal Service in the course of those proceedings suggests that when mail is presorted to carrier route it in fact does bypass mechanical processing.[a]

Accordingly, we have decided to institute proceedings to determine whether the 3½-inch height minimum should be modified in the manner described above. Because the issues in this proceeding appear susceptible to strict limitation, we are issuing, as an attachment hereto, a preliminary Notice of Inquiry presenting the issues as they appear to us initially. Participants are asked to respond to these questions, and may, of course, suggest additional issues they believe are necessary to the case.

As an additional aid to the focusing of issues, we have prepared the following specimen language illustrating the potential change in the DMCS:

Not before November 30, 1978, present regulations on the minimum sizes for mail matter shall be expanded to all classes of mail and types of service, and shall be amended to prohibit (1) all items which are less than .007 inches thick, and (2) all items, other than keys and identification devices, which are .25 inches thick or less and (a) are not rectangular, and/or (b) are less than 3.5 inches in height, and/or (c) are less than 5 inches in length; Provided, however,

(1) that photo post cards (defined as post cards consisting of a print produced by photographic means on photographic printing paper and imprinted on the reverse side with post card indicia) shall, until November 30, 1982, be mailable if they are not less than 4.5 inches in length and comply with the other requirements of this section; *and*

(2) *that mail pieces presorted to carrier route shall be mailable if they are not less than 3.25 inches in height and otherwise comply with the requirements of this section.*

The new matter to be considered in this proceeding is represented by the underscored portion of the above illustrative sample. We emphasize that this provision is not put forward as a proposal of the Commission. Participants in this proceeding may, of course, adopt it as their own if they believe it meritorious; they are equally free to propose modifications of it. In either case, the proposal will remain that of the participant in question. Proposals will be due at the same time as responses to the Notice of Inquiry questions attached hereto.

If no proposals are received by the date specified (January 12, 1979) we contemplate terminating this proceeding by Order without scheduling hearings or other procedural stages. If proposals are received which are responsive to the basic issue raised herein, we will issue further Orders prescribing appropriate procedures.

The Commission orders:

(A) Each person (including the Postal Service) who participated as an intervenor or limited participator in Docket No. MC77-2 is hereby an intervenor or limited participator, respectively, in this proceeding, subject to the provisions of paragraph (B), below.

(B) The participation of the intervenors and limited participators provided for by paragraph (A) is subject to the rules and regulations of the Commission. Their participation shall be limited to matters affecting rights and interests specifically set forth in their initial petitions to intervene and requests to become limited participators in Docket No. MC77-2, and shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) Persons made participants by paragraph (A) hereof who do not desire to participate in these proceedings may by motion request leave to withdraw.

(D) The participants shall serve copies of all documents, including prepared direct evidence, upon representatives of the Postal Service, the OOC, intervenors, and limited participators. For purposes of such service, where service upon more than one representative has been requested in a petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons (whether filed in Docket No. MC77-2 or initially in this proceeding), only the first two named representatives in the petition need be served.

(E) The participants (whether made participants by paragraph (A) hereof or by Commission order upon an initial petition to intervene or for leave to be heard as a limited participator) may file responses to the attached Notice of Inquiry by January 12, 1979. Proposals for modification of the Domestic Mail Classification Schedule shall also be filed by that date. Reply comments are due January 22, 1979.

(F) The Commission will sit en banc, with Commissioner Kieran O'Doherty as presiding officer.

(G) Stephen L. Sharfman, Assistant General Counsel (Litigation) (Acting), is hereby designated as the Officer of the Commission to represent the interests of the general public in this proceeding. Service of documents on the Commission shall not constitute service on the Officer of the Commission, who shall be separately served with three copies of all documents.

By the Commission.

DAVID F. HARRIS,
Secretary.

Docket No. MC79-1

MINIMUM HEIGHT FOR CARRIER-ROUTE PRESORTED MAIL

NOTICE OF INQUIRY

The following questions are directed to the Postal Service, the Officer of the Commission, and all other participants in the instant docket. Any participant is free to respond to any of the questions; however, Questions 1 through 5 are particularly directed to the Postal service, and the remaining questions to mailer participants.

1. In response to the Presiding Officer's August 23, 1978, Information Request, in Docket No. MC77-2, the Postal Service states that "unless fully presorted to carrier route, first-class mail is sorted by letter sorting machines at a large and growing number of destination post offices." [b] Are there any occasions when carrier route presorted mail is required to be machine processed at any point in the mail processing operation?

2. Compared to the 3.5 inch minimum height requirement, are there any carrier functions or other mail processing functions which could be adversely affected if carrier route presorted cards 3.25 inches in height were permitted to be mailed?

3. Would the Postal Service enjoy any potential cost benefits if cards 3.25 inches in height were permitted to be mailed providing these cards were presorted to carrier route?

4. Would a minimum number of pieces per mailing, with a minimum number of separately addressed pieces bundled to each carrier, be required to achieve cost benefits, if any, for carrier route presorted cards which are 3.25 inches in height?

5. Assuming that the minimum height standard of 3.5 inches were reduced to 3.25 inches for presorted carrier route mail, would the administration of this exemption from the minimum size standard create any significant problems?

6. What percentage of that number of letters and cards which you mail annually consists of pieces 3.25 or 3.5 inches in height and 5 inches or more in length?

7. What specific types of mail pieces—including particularly those associated with a specific business system—do you now use which are less than 3.5 inches in height?

8. Would you presort letters or cards to carrier route in order to take advantage of a reduction in the permitted height from 3.5 inches to 3.25 inches?

9. What percentage of the cards that you mail annually would be inserted in envelopes for the purpose of complying with (a) *minimum* height requirements of 3.5 inches and (b) *minimum* height requirements of 3.25 inches?

[FR Doc. 78-33984 Filed 12-5-78; 8:45 am]

[a] Postal Service Response to Presiding Officer's Information Request, Docket No. MC77-2, September 6, 1978, p. 1. The Postal Service was intent principally on explaining why mail presorted to five-digit ZIP codes *not* bypass machine processing—which was the subject of the Presiding Officer's inquiry. The Response suggests, however, that the same may not be true if the mail is presorted to carrier route.

[b] Response of the Postal Service, dated September 6, 1978, p. 1.

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 12-A; (Revision 2)]

DIRECTOR, OFFICE OF FINANCING

Redelegation of Financial Assistance

Delegation of Authority No. 12-A (Revision 1) (38 FR 18595), as amended (40 FR 6395, 40 FR 10522, 41 FR 46665, and 42 FR 12507) is hereby superseded by Delegation of Authority No. 12-A (Revision 2). This revision reflects the organizational change made by the abolishment of the Office of Community Development and the establishment of the Office of Neighborhood Business Revitalization and the Office of Special Guarantees. It also deletes the authority previously delegated for lease guarantees since no appropriation for this program has been made since FY 1976.

Delegation of Authority No. 12-A (Revision 2) reads as follows:

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Finance and Investment in Delegation of Authority No. 12 (Revision 1) (38 FR 13063), as amended (38 FR 16001, 38 FR 26509, 40 FR 8398, 40 FR 18054, 41 FR 42994, and 42 FR 10083), the following authority is hereby delegated to the specific positions as indicated herein:

DIRECTOR, OFFICE OF FINANCING

1. To approve or decline applications for business, economic opportunity, disaster, handicapped assistance, energy loans, and all other types of loans authorized to be made by the Agency, including reconsiderations thereof, and to execute authorizations and amendments pertaining to such loans, except that action on economic injury loans are limited to those not in excess of $2,000,000.

2. To cancel, reinstate, modify and amend authorizations for fully or partially undisbursed loans.

3. To determine eligibility of business, economic opportunity, disaster, handicapped assistance and all other types of loan applicants.

CHIEF, PROGRAM OPERATIONS DIVISION

1. To approve or decline applications for business, economic opportunity, disaster, handicapped assistance, energy loans, and all other types of loans authorized to be made by the Agency, including reconsiderations thereof, and to execute authorizations and amendments pertaining to such loans, except that actions on economic injury loans are limited to those not in excess of $1,000,000.

2. To cancel, reinstate, modify and amend authorizations for fully or partially undisbursed loans.

3. To determine eligibility of business, economic opportunity, handicapped assistance, disaster and all other types of loan applicants.

C. DIRECTOR, OFFICE OF PORTFOLIO MANAGEMENT

1. To take all necessary action in connection with the servicing, administration, collection and liquidation of all loans, direct lease guarantees (including automatic terminations provided for within the Policy), other obligations and acquired property, with the exception of those loans classified as in litigation, but is *not* authorized:

a. To sell any primary obligation or other evidence of indebtedness, exclusive of property acquired, owed to the Agency for a sum less than the total amount due thereon.

b. To accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount thereon.

C. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the initiation of suit for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

3. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under Section 8(a) of the Small Business Act, as amended.

D. CHIEF, OPERATIONS ASSISTANCE DIVISION

1. To take all necessary action in connection with the servicing, administration, collection and liquidation of fully disbursed loans not in litigation, direct least guarantees (including automatic terminations provided for within the Policy), and other obligations and acquired property within all loan programs of the Small Business Administration, but is *not* authorized:

a. To sell any primary obligation or other evidence of indebtedness, exclusive of property acquired, owed to the Agency for a sum less than the total amount due thereon.

b. To accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereon.

c. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the initiation of suit for recovery from a participating bank under any alleged violation of a participating or guaranty agreement.

2. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

3. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under Section 8(a) of the Small Business Act, as amended.

E. DIRECTOR, OFFICE OF NEIGHBORHOOD BUSINESS REVITALIZATION

1. To approve or decline development company (sections 501 and 502) loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for fully undisbursed loans.

3. To determine eligibility of development company loan applicants.

F. CHIEF, DEVELOPMENT COMPANY LOAN DIVISION

1. To approve or decline development company (sections 501 and 502) loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for fully undisbursed loans.

3. To determine eligibility of development company loan applicants.

G. DIRECTOR, OFFICE OF SPECIAL GUARANTEES

1. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to the statutory limit.

To approve or decline all claim reimbursement requests from participating surety companies on contract defaults bonded with SBA guarantees.

3. To approve or decline applications for pollution control financing guarantees authorized to be made by the Agency including reconsiderations thereof and to execute commitments and modifications thereto and guarantees pertaining to such financings.

4. To determine eligibility and make size determinations of applicants for pollution control financing guarantees and surety bond guarantees.

5. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under the guarantees upon default of the small business.

6. To enter into participation agreements with qualified surety or other qualified companies and to revise such agreements when necessary.

7. To approve the investment of funds in the pollution control guaran-

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2. This committee shall meet and

[4810-22-M]

sion of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals, or the decision of the Customs Service to abide by that decision, in respect to the entry

Treasury decision are modified to provide as follows:

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tee fund not for payment of operating expenses or payment of claims arising under the pollution control financing program in bonds or other obligations of, or other obligations guaranteed as to principal and interest by, the United States.

8. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under reinsurance lease guarantee agreements except compromise settlements.

H. CHIEF, POLLUTION CONTROL FINANCING DIVISION

1. To approve or decline applications for pollution control financing guarantees authorized to be made by the Agency including reconsiderations thereof and to execute commitments and modifications thereto and guarantees pertaining to such financings.

2. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under pollution control financing guarantees upon default of the small business.

3. To determine eligibility and make size determinations of applicants for pollution control financing guarantees.

I. CHIEF, SURETY BOND GUARANTEES DIVISION

1. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment or performance bonds on contracts up to $500,000.

2. To approve or decline all claim reimbursement requests from participating surety companies on contract defaults bonded with SBA guarantees.

3. To determine eligibility of surety bond applicants.

J. DIRECTOR, OFFICE OF PROGRAM DEVELOPMENT

1. To take all necessary actions in connection with determinations of eligibility for lending institutions to participate in SBA lending and financial assistance programs.

2. To take all necessary actions in connection with the regulation of lending institutions participating in SBA lending and financial assistance programs, in accordance with the Small Business Act, as amended, and the Regulations thereunder as amended from time to time.

K. CENTRAL OFFICE CLAIMS REVIEW COMMITTEE

1. This committee shall consist of the Director, Office of Portfolio Management, acting as chairman; Director, Office of Financing; and Associate General Counsel, Office of Litigation.

2. This committee shall meet and consider reasonable and properly supported compromise proposals, including compromise proposals for lease guarantees, and make the final decision to accept or reject such proposals, provided the decision of the committee is unanimous.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as acting in that position.

Effective date: December 6, 1978.

Dated: November 29, 1978.

JOHN M. TRASK, JR.,
Associate Administrator for Finance and Investment.

[FR Doc. 78-33950 Filed 12-5-78; 8:45 am]

[8025-01-M]

[License No. 04/04-5156]

VERDE CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On October 3, 1978, a notice was published in the FEDERAL REGISTER (43 FR 45662) stating that Verde Capital Corporation, located at 255 Alhambra Circle, Coral Gables, Florida 33134, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business October 18, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued license No. 04/04-5156 to Verde Capital Corporation on November 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 28, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-33949 Filed 12-5-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-481]

NOTICE THAT FINAL COURT DECISIONS ADVERSE TO THE CUSTOMS SERVICE WILL BE GIVEN GENERAL EFFECT UNLESS A LIMITING RULING IS PUBLISHED WITHIN 180 DAYS; MODIFICATION AND CLARIFICATION OF T.D. 78-302

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The Customs Regulations provide that the Customs Service, with certain exceptions, may limit the application of an adverse decision of the Customs Court or the Court of Customs and Patent Appeals to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling. A recent Customs Service Notice established a procedure to inform Customs officers and the public that the general application of adverse decisions would be delayed until a notice of acquiescence or limiting ruling is published in the Customs Bulletin, not later than 180 days after the adverse decision. It has been determined that a notice of acquiescence is not required; that in the unusual circumstances in which it is decided to limit the application of a court decision, a limiting ruling will be published in the Customs Bulletin not later than 180 days after the adverse decision; and that in the absence of the publication of a limiting decision, the adverse decision will be given general application after the period for publication has expired. The previous Notice is modified accordingly.

DATES: The procedures set forth in this notice shall be effective with respect to all transactions or protests pending on, or arising on or after, December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Salvatore E. Caramagno, Director, Classification and Value Division, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5868).

SUPPLEMENTARY INFORMATION:

BACKGROUND

DISCUSSION OF APPLICABLE CUSTOMS REGULATIONS

Section 176.31, Customs Regulations (19 CFR 176.31), provides that entries which are the subject of litigation which has been concluded with a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision.

However, § 152.16(e), Customs Regulations (19 CFR 152.16(e)), provides that the Customs Service:

1. May limit the application of the principles of any adverse decision, except a decision upholding a petition of an American manufacturer, producer, or wholesaler, under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), to the specific entries which were the subject of the decision, and

2. May provide for the application of the decision, in a manner which it considers appropriate, to unliquidated entries and protested entries that have not been denied, in whole or in part, which involve the same issue as that decided by the court.

Section 177.10(d), Customs Regulations (19 CFR 177.10(d)), similarly provides that the Customs Service may limit the application of an adverse judicial decision to the particular merchandise, circumstances, or entries which were the subject of the litigation by publication of a limiting ruling. No time frame within which the limiting ruling must be published is provided.

TREASURY DECISION 78-302

Treasury Decision 78-302, published in the FEDERAL REGISTER on August 31, 1978 (43 FR 38817), established a uniform procedure under which no action would be taken on unliquidated entries and pending protests not specifically the subject of the adverse decision, but to which the principles of the decision would apply, until the Customs Service published, in the alternative, a notice of acquiescence in the decision or a ruling limiting the application of the decision.

The purpose of T.D. 78-302 was to establish a procedure requiring the Customs Service to announce within restrictive time constraints its infrequent determination to limit the application of an adverse decision to the specific article under litigation, or to an article of a specific class or kind of such or similar merchandise, or to the particular circumstances or entries which were the subject of the litigation.

The limiting ruling, which would be made under the authority in §§152.16(e) and 177.10(d), Customs Regulations, would remain in effect until the legal principle or issue involved could be reconsidered by the courts on the basis of a more complete presentation of evidence.

Neither T.D. 78-302 nor the Customs Regulations intended in any way to question the binding effect of a final adverse judicial decision, or the obligation of the Customs Service to abide by that decision, in respect to the entries which are the subject of the case before the court. In this respect, as noted previously, § 176.31, Customs Regulations, provides specifically that entries which are the subject of the litigation which has been concluded with a decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals shall be reliquidated in accordance with that decision.

In those relatively rare and unusual circumstances in which a determination to limit an adverse decision is made, usually in cases in which the Customs Service believes that the specific evidence available for judicial evaluation has not provided to the courts an adequate basis for establishing a universally applicable rule of law, T.D. 78-302 set maximum time constraints on the announcement by the Customs Service of its determination to limit the application of the decision. The absence of such a time constraint had created a vacuum in the past with respect to adverse judicial decisions in which Customs field officers were unable to determine whether other entries of merchandise of the class or kind involved in the adverse adjudication should be liquidated, or action on protests taken, in accordance with the court decision; and the liquidation of entries often was delayed without justification, or liquidations at different ports lacked uniformity of treatment.

Although the procedure for implementing judicial decisions was established primarily for the guidance of Customs field officers, T.D. 78-302 was published in the FEDERAL REGISTER and the Customs Bulletin to provide formal notice of its time constraints to the public as well. To clarify the ambiguities arising from the publication of T.D. 78-302, it has been decided to reformulate the procedures set out therein.

The requirement that the Customs Service publish a notice of acquiescence in those cases in which it is not intended to publish a limiting ruling is withdrawn. As a result, absent publication of a limiting ruling within 180 days after the adverse judicial decision, the principles on which that decision is based will be considered of general applicability. Of course, the adverse decision will continue to be applied immediately to entries or protests which are the subject of the litigation.

T.D. 78-302 MODIFIED—PROCEDURES RESTATED

To clarify the scope and intent of T.D. 78-302, effective on the December 6, 1978, the procedures set out in that Treasury decision are modified to provide as follows:

1. Entries which are the subject of an unappealed adverse judicial decision will be reliquidated immediately, in accordance with the decision, as provided for in § 176.31, Customs Regulations (19 CFR 176.31).

2. The Customs Service will not publish notices of acquiescence in adverse judicial determinations.

3. To assure uniformity in the liquidation of entries not involved in specific adverse judicial decisions, liquidation of entries or action on protested entries pending when the adverse decision is issued, and which may be affected by the decision, will be suspended for a period of 180 days following the date. If a limiting ruling is not issued within that 180-day period, pursuant to §§ 152.16(e) and 177.10(d), Customs Regulations (19 CFR 152.16(e), 177.10(d)), and the adverse decision has become final, its principles will be applied immediately for the purpose of liquidating all entries, or acting on all protests, action on which may have been suspended in accordance with this paragraph, and as a binding interpretation of the applicable law with respect to all subsequent entries or protests.

4. In those unusual instances in which the binding effect of a final adverse decision of the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals which has not been appealed may be the subject of a ruling published in accordance with §§ 152.16(e) and 177.10(d), Customs Regulations, which would limit the binding effect of the decision to the specific article involved in the litigation, or to an article of a specific class or kind of such or similar merchandise, or to the particular circumstances or entries which were the subject of the litigation, the limiting ruling shall be published as soon as practicable, but not later than 180 days after issuance of the adverse decision.

T.D. 78-302 is modified and superseded to the extent that it is inconsistent with the procedures set forth herein.

Dated: November 29, 1978.

R. E. CHASEN,
Commissioner of Customs.

[FR Doc. 78-33979 Filed 12-5-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Rescheduled Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that

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and 11502 is instituted to determine

Dated at Washington, DC, this 27th

February 8, 1979 (2 days), at New York,

MC 114273 (Sub-368F), CRST, Inc., now

for forwarding are received from the

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a meeting of the Central Office Education and Training Review Panel authorized by section 1790(b), title 38, United States Code, will be held in Room A-53, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C., on January 3, 1979, at 10 a.m. The meeting will be held for the purpose of reviewing the decision of the Director, Veterans Administration Regional Office, Columbia, South Carolina, that benefits to all eligible persons enrolled in Southeastern Business College, 560 King Street, Charleston, South Carolina 29403, be discontinued.

This meeting was originally scheduled for November 14, 1978 (43 FR 47633 October 16, 1978). The school's representative, Mr. Steven J. Metalitz, requested a postponement by letter of November 6, 1978. The request was granted and the meeting is now to be held on January 3, 1979.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Larry R. Stockmoe, Education and Rehabilitation Service, Veterans Administration Central Office (phone (202) 389-2850) prior to December 26, 1978.

Dated: November 29, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-33964 Filed 12-5-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decision No. 37043]

ARKANSAS INTRASTATE FREIGHT RATES AND CHARGES—1978

By joint petition filed October 2, 1978, petitioners, 6 common carriers by railroad[1] operating in intrastate commerce in Arkansas intrastate freight rates and charges, under 49 USC 11501 and 11502; section 13 of the former Interstate Commerce Act. They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 349 effective June 17, 1978. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under 49 USC 11501 and 11502 is instituted to determine whether the Arkansas intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in Arkansas subject to the jurisdiction of the Commission are made respondents in this proceedings.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, room 4342, Interstate Commerce Commission, Washington, DC 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in this proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents herein. Arkansas shall be notified of the proceeding by sending copies of this order by certified mail to the Governor of Arkansas. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission at Washington, DC, and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment. Furthermore, this decision is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

Dated at Washington, DC, this 27th day of November, 1978.

By the Commission, Alan Fitzwater, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34041 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Notice No. 750]

ASSIGNMENT OF HEARINGS

DECEMBER 1, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-8619, Transport of New Jersey Asbury Park New York Transit Corporation Decamp Bus Lines, Hudson Bus Transportation Company, Inc., Judson Transit Lines, Inc.; Lakeland Bus Lines, Inc., Lincoln Transit Company Manhattan Transit Company Maplewood Equipment Company New York Keansburg Long Branch Bus Company, Inc.; Suburban Transit Corporation and Port Authority of New York and New Jersey—Investigation of Operations and Practices, now being assigned pre-hearing conference on January 8, 1979, (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 124920 (Sub-14), La Bar's Inc., MC 124821 (Sub-26), William Gilchrist, now being assigned for hearing on February 5, 1979, (2 days), at Philadelphia, Pa., in a hearing room to be later designated.

MC 144537F, Marvin Y. Neely and Nancy B. Neely, A Partnership, DBA Shun-Pike Tours, now being assigned for hearing on February 7, 1979 (3 days), at Philadelphia, Pa., in a hearing room to be later designated.

MC 118832 (Sub-8), Westours Motor Coaches, Inc., now assigned December 4, 1978, at Seattle, Wash., is cancelled and application dismissed.

MC-C-10041, Orchelin Bros. Truck Lines, Inc. v. Beaufort Transfer Company, now assigned for hearing on December 4, 1978, at Jefferson City, Missouri is cancelled.

MC 114457 (Sub-401F), Dart Transit Company, now being assigned for hearing on February 5, 1979, at New York, N.Y. in a hearing room to be later designated (1 day).

MC 11682 (Sub-93F), Mural Transport, Inc., now being assigned for hearing on February 6, 1979, at New York, N.Y. (2 days), in a hearing room to be later designated.

MC 89369 (Sub-20F), Joart Trucking Company, now being assigned for hearing on February 8, 1979 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 124170 (Sub-90F), Frostways, Inc., now being assigned for February 12, 1979 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 61264 (Sub-30F), Pilot Freight Carriers, Inc., now being assigned for continued hearing on February 6, 1979 (4 days), at Charlotte, North Carolina, February 12, 1979 (5 days), at Atlanta, Georgia, February 20, 1979 (4 days), at Tampa, Florida, March 26, 1979 (5 days), at Richmond, Virginia, May 1, 1979 (4 days), at Allentown or Reading, Pennsylvania, May 7, 1979 (5 days), at Wilkes Barre or Scranton, Pennsylvania, in hearing room to be later designated and continued to July 23, 1979 at the offices of Interstate Commerce Commission, Washington, D.C.

MC 144604F, John Haley, DBA J & R Auto Transport, now being assigned for February 21, 1979 (3 days), at Kansas City, Missouri in a hearing room to be later designated.

MC 116254 (Sub-205F), Chem-Haulers, Inc., now being assigned for February 26, 1979 (1 day), at Kansas City, Missouri in a hearing room to be later designated.

MC 116254 (Sub-206F), Chem-Haulers, Inc., now being assigned for Feburary 27, 1979 (1 day), at Kansas City, Missouri in a hearing room to be later designated.

MC 116254 (Sub-204F) Chem-Haulers, Inc., now being assigned February 28, 1979 (1 day), at Kansas City, Missouri, in a hearing room to be later designated.

MC 119493 (Sub-210F), Monkem Company, Inc., now being assigned for March 1, 1979 (2 days), at Kansas City, Missouri, in a hearing room to be later designated.

MC 127042 (Sub-206F), Hagen Inc., now being assigned for hearing on February 6, 1979 (1 day), at Billings, Montana, in a hearing room to be later designated.

MC 144096 (Sub-1F), Robert J. Savage, DBA, Bob Savage, Trucking, now being assigned for hearing on February 7, 1979 (2 days), at Billings, Montana, in a hearing room to be later designated.

MC 124692 (Sub-197F), Sammons Trucking, now being assigned for hearing on February 9, 1979 (1 day), at Billings, Montana, in a hearing room to be later designated.

MC 87689 (Sub-13), Inter-City Lines Limited, now being assigned for hearing on February 12, 1979 (5 days), at Helena, Montana, in a hearing room to be later designated.

MC 115495 (Sub-37F), United Parcel Service, Inc., now being assigned for continued hearing on February 27, 1979 (9 days), at Dallas, Texas.

MC 130484F, World Travel Service, Ltd. DBA World Travel Service, now assigned February 7, 1979, at Oklahoma City, OK, is cancelled and application dismissed.

MC 35227 (Sub-8F), Edson Express, Inc., now being assigned for January 8, 1979 (3 weeks), at Denver, Colorado, in a hearing room to be later designated.

MC 143775 (Sub-4F), Paul Yates, Inc., now being assigned for hearing on February 21, 1979, (1 day), at Chicago, Illinois in a hearing room to be later designated.

MC 135874 (Sub-108F), LTL Perishables, Inc., now being assigned for hearing on February 22, 1978, (2 days), at Chicago, Illinois in a hearing room to be later designated.

MC 114273 (Sub-368F), CRST, Inc., now being assigned for hearing on February 26, 1979, (2 days), at Chicago, Illinois in a hearing room to be later designated.

MC 138144 (Sub-30F), Fred Olson Co., Inc., now being assigned for hearing on February 28, 1979, (3 days), at Chicago, Illinois in a hearing room to be later designated.

MC 81592 (Sub-7F), Wisconsin Northern Transportation, Co., Inc., now being assigned for hearing on February 21, 1979, (3 days), at Eau Claire, Wisconsin in a hearing room to be later designated.

MC 134477 (Sub-241F), Schanno Transportation Inc., now being assigned for hearing on February 26, 1979, (2 days), at St. Paul, Minnesota in a hearing room to be later designated.

MC 134402 (Sub-5F), Williams Truck Line, Inc., now being assigned for hearing on February 28, 1979, (3 days), at St. Paul, Minnesota in a hearing room to be later designated.

MC-C-10145, Dart Trucking Co., Inc., et al. V. Nick Strimbu, Inc., now assigned for hearing on December 11, 1978, at Columbus, Ohio will be held in Room 235, Federal Building, 85 Marconi Boulevard.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34042 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Exception No. 6]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Exception Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332

Decided November 28, 1978.

By the Board

The Vermont Railway, Inc. (VTR), has purchased new boxcars which will be delivered to Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Portland, Oregon, for movement to the VTR. VTR has allowed MILW to load these cars on the west coast for movement to the VTR. Reduced loadings of these cars on the MILW to destinations as directed by VTR means the MILW will hold some of the cars beyond the 60-hours permitted in Section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to assemble and hold new Vermont Railway, Inc. boxcars for loading as directed by Vermont Railway, Inc., regardless of the provisions of Section (a)(2)(ii) of this order.

These cars shall become fully subjected to all provisions of Second Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective November 20, 1978.

Expires December 31, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-34043 Filed 12-5-78; 8:45 am]

[7035-01-M]

COMMISSION ISSUANCES

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: For many years the procedures which were followed by the Commision in its own internal operations were described in part in a document known as the "Internal Minutes." The Commission has decided to eliminate the Internal Minutes and to reorganize and restate the materials which they contained in a series of "Issuances." This document contains materials related to the way in which the Commission conducts its day-to-day business, together with certain instructions and delegations of responsibility to the staff. As revisions are made, appropriate notice will be given through further publication in the FEDERAL REGISTER. Because the provisions of this document govern the internal operations and procedures of the Commission, it is being issued in final form, and public comments are not being requested.

EFFECTIVE DATE: November 7, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Chandler 202-275-7513.

COMMISSION ISSUANCES

GENERAL

1. *Scope.*—This document contains descriptions of internal Interstate Commerce Commission procedures and assignments of responsibility which govern or affect the way in which the Commission itself, its divisions, and employee boards carry out their functions. It includes guidelines and procedures to be followed by the staff in preparing items for the Commissioner's consideration, in carrying out the Commission's directives, and in otherwise working with the Commission and the individual Commissioners. It also includes certain delegations of authority and responsiblity to staff units or employees.

2. *Authority.*—Unless otherwise noted, the contents of this document were adopted by the Commission on November 7, 1978, under the authority of 49 U.S.C. 10301(f) and 10321(a). The

[1] Chicago, Rock Island and Pacific Railroad Company; The Kansas City Southern Railway Company; Louisiana & Arkansas Railway Company; Missouri Pacific Railroad Company; St. Louis-San Francisco Railway Company; and St. Louis Southwestern Railway Company.

source of, and authority for, all subsequent changes in the Commission's internal operations and procedures.

3. *Purpose.*—The purpose of this document is to provide a single source for the Commission's internal operations and procedures. Its purpose is to provide a single source for the Commission's internal operations and procedures. Its purpose is to provide a single source for the Commission's internal operations and procedures. Its purpose

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source of, and authority for, all subsequent changes or additions will be indicated in future compilations of the issuances.

CONFERENCES AND VOTING

11. *Conferences.*—(a) *General*—The scheduling and conduct of conferences and other meetings of the Commission, divisions, and committees of the Commission, the provision of public notice of their scheduling, and the keeping and issuance of transcripts and minutes are governed by regulations appearing at 49 CFR part 1012. The convener is the Chairman of the Commission, division, or committee who calls the meeting, upon his or her own initiative or at the request of another member of the Commission.

(b) *Regular Commission conference.*—(1) A Commissioner having an item to list for a regular conference shall, no later than noon on the second Thursday preceding the conference date, notify in writing the Commission, the Secretary, and the General Counsel of that item and shall indicate whether it is proposed that the item be considered in open or closed conference. The listing shall also be accompanied by an explanation of the proposed action in closing the conference suitable for posting under the provisions of 49 CFR 1012.3(b)(4). Each Commissioner shall have until noon on the second Friday before conference to request that an item which he or she did not list be closed in whole or in part. In that instance, the requesting Commissioner shall have the burden of preparing an explanation in conformity with 49 CFR 1012.3(b)(4). Where the General Counsel's views must be submitted, they shall be returned by close of business on the second Friday before the conference.

(2) Notwithstanding the provisions of the immediately preceding paragraph, the Chairman shall control the conference agenda. The Chairman, however, shall list on the agenda of a conference, within 30 days of the request, any item requested by a member of the Commission unless a majority of the Commission votes to delay conference consideration of that item, or unless the Chairman finds that special circumstances warrant a delay. Commissioners anticipating the need to list a matter for conference should notify the Chairman as soon as possible in order to facilitate the development of a long-range conference schedule.

(3) The Chairman will prepare a conference agenda, showing the name of the listing Commissioner and, to the extent known, the name of any Commissioner requesting that particular items be closed in whole or in part, and will circulate the conference agenda no later than noon on the second Friday preceding the conference date. All items to be considered in open conference will be listed at the beginning of the conference agenda, and will be followed by those items to be considered in closed conference. If any item is to be considered in closed conference, each Commissioner will be required to vote no later than close of business on the second Monday preceding the conference date, whether he or she approves or disapproves the proposal to consider that item in closed conference.

(4) Every effort shall be made to assure circulation of conference memoranda, draft reports, and other written materials at least one week preceding the conference date.

(c) *Special Commission conferences and Division conferences.*—(1) Special Commission conferences will be convened by the Chairman whenever, in his or her opinion, any matter or the business of the Commission so requires. The Chairman shall convene a special conference for the consideration of any matter or business upon request of a member of the Commission, under the same guidelines applicable to a request made under item 11(b)(2).

(2) Division conferences will be convened by the division chairman upon his or her own initiative or at the request of any division member, under the same guidelines applicable to a request made under item 11(b)(2).

(3) The convener of a special Commission conference, division conference, or other meetings as that term is used in 49 CFR 1012.1(b) shall notify those Commissioners eligible to participate of the time, place, and subject matter of the conference and whether it is proposed that the conference be open or closed to the public.

(d) *Provisions applicable to all meetings subject to 49 CFR Part 1012.* The convener of any conference or other meeting subject to 49 CFR Part 1012, of the Chairman of the Commission, in the case of items listed for regular Commission conferences, shall—

(1) Obtain, where necessary, a recorded vote approving the calling of the conference or other meeting on short notice.

(2) Transmit to the Secretary of the Commission and the Office of Communications and Consumer Affairs, as soon as it is available, all information to be included in any public notice required to be posted under 49 CFR 1012.3. A Commission staff member may be designated to respond to requests for information about the meeting.

(3) Where it is proposed that the conference be closed, obtain:

(A) The necessary certification from the General Counsel

(B) From the commissioner making the proposal, any necessary explanation as required by 49 CFR 1012.3(b)(4)

(C) Any necessary votes required to hold a closed conference or partially to close a conference.

(4) Arrange for the preparation of a transcript of minutes, for the preparation of the presiding officer's statement required by 49 CFR 1012.5, and for the preparation for relase of parts of the transcript or minutes not subject to a statutory exemption.

(5) If any change in the scheduling of the conference or meeting or in the agenda is made subsequent to the posting of any public notice required under 49 CFR 1012.3, obtain the necessary votes approving that change.

(e) *Delayed voting.*—In cases where a majority has voted to take a particular action, a member may, with the approval of the majority, withhold his or her vote and vote by written memorandum within a time agreed to by the majority. In such a case, the date of the conference shall be the date of the action. If the member fails to vote within an allotted time, he or she shall be shown as not participating. Where voting at a conference is indecisive, and one or more members wishes to delay voting, the matter shall either be rescheduled for a future conference or, if there is no objection, transferred to the notation voting calendar.

12. *Voting by Notation.*—(a) *General.*—Voting on all matters not considered in conference shall be by notation. Notation voting by the Commission and divisions is accomplished by the circulation of the written vote of each decisionmaker. Employee boards may vote by the circulation of individual voters, by the circulation of a single voting sheet upon which the vote and date of voting by each decisionmaker is entered, or by any other means to which the board members agree and which provides a written record of the vote cast and the date of voting by each member.

(b) *Voting dates*—Where notation votes are cast on different days, the date of th decision is the date upon which the last individual vote is cast or the date of an appropriately set deadline for voting.

13. *Written Statements and Separate Expressions.*—(a) *General.* Written statements of the Commission shall indicate the official designation of the individual or group taking the action, the names of the persons participating in the action, and the vote or position of each participant. The written statement shall also indicate when a member eligible to participate in an action does not do so. Participants shall have the right to express their individual views as part of the written statement.

(b) *Definitions.*—(1) *Separate expression* means decisionmakers' own narrative written expression of differences with the majority written expression.

(2) *Separately stated vote* means a statement, no longer than two lines in length, specified by the decisionmakers which indicates how the decisionmakers voted.

(3) *Statement of position* means a short phrase specified by the decisionmakers or adopted by the clearing office which indicates the position of decisionmakers who do not join in the majority's written statement.

(c) *General rules.*—The following general rules shall apply in all situations unless the provisions of a specific rule apply.

(1) When decisionmakers differ from the majority or do not join in the majority statement, this shall be shown by separate expressions, separately stated votes, or statements of position.

(2) Decisionmakers may include a specifically designated separate expression, or specify a separately stated vote, or statement of position in their votes and, if they do, it shall be published as part of the written statement.

(3) Decisionmakers may reserve, in their votes or in supplemental vote submitted no later than the date of decision, the right to make a separate expression. To be published as part of the majority written statement, the separate expression must be delivered to the clearing office no later than the seventh working day following the date of the decision. Separate expressions received by the Clearance Unit after this deadline, or after any deadline set pursuant to subsection (d) of this section, will be published separately. At the request of a decisionmaker, a notice that a separate expression will be published separately at a later date will be included in the majority written statement.

(4) If decisionmakers who differ from the majority have not by the date of decision reserved the right to make a separate expression, submitted a separate expression, or specified how they should be shown in a separately stated vote or statement of position (or if, having reserved the right to make a separate expression, they have failed to submit an expression within seven working days of the date of decision), the Clearance Unit shall request from the office of the decisionmakers advice as to how they should be shown in the written statement. If the Clearance Unit is unable to obtain the necessary information by the end of the first working day following the date of decision (or the date the separate expression was due), it may clear the majority written statement for service showing that the other decisionmakers "concurred" or "dissented" if either position is a fair expression of his or her vote. If the Clearance Unit cannot determine what constitutes a fair expression, it shall show the other decisionmakers as "not joining" in the majority statement.

(5) Separate expressions, separately stated votes, and statements of position will be recorded at the end of the majority written statement in the following sequence.

A. Concurring in the result, no written expression.
B. Concurring, separately stated vote.
C. Concurring, separate expression.
D. Doncurring in part, separately stated vote.
E. Concurring in part, separate expression.
F. Dissenting in part, separately stated vote.
G. Dissenting in part, separate expression.
H. Dissenting, separately stated vote.
I. Dissenting, separate expression.
J. Dissenting, no written expression.
K. Not joining in the majority statement; and any statement of position not properly categorized in "A" through "J".
L. Not participating.
M. Absent and not participating.

Within each category decisionmakers shall appear in order of seniority, except when a decisionmaker joins in the written expression or separately stated vote of another.

(d) *Specific rules.*—The following specific rules shall apply in the special situations identified below and shall supercede the general rules in subsection (c) of this section:

(1) Whenever a time limit for service or publication will not permit a seven-day delay for submission of separate expressions or a one-day delay for obtaining statements of position, the circulating office may call for submission of all separate expressions, separately stated votes, or statements of position by the deadline for voting. If decisionmakers do not submit timely separate expressions, separately stated votes, or statements of position, but their votes clearly indicate that they dissent from or concur in the written statement of the majority, their positions shall be so reflected by the Clearance Unit in statements of position. If the positions are not clearly indicated in the votes, they shall be shown as "not joining" in the majority written statement.

(2) In considering proposed rates and charges at the suspension level, all separate expressions, separately stated votes, or statements of position shall be submitted by the voting deadline date. If decisionmakers who differ with the majority do not submit separate expressions or specify separately stated votes or statements of position, the Clearance Unit shall reflect in the written statement that the "dissented," "concurred," "voted to suspend," "voted not to suspend," or "voted not to suspend but to investigate," if that position or statement is clearly indicated in the votes of the decisionmakers. If the position is not clearly indicated in the votes, they shall be shown as "not joining" in the written statement of the action.

(3) In the case of a petition for a declaration that an issue of general transportation importance (GTI) is involved filed pursuant to Rule 97(h) of the Rules of Practice, all separate expressions, separately stated votes, or statements of position shall be submitted by the voting deadline. If decisionmakers who differ with the majority do not submit separate expressions, or separately stated votes, or statements of position, the Clearance Unit shall reflect in the written statement that "they voted in favor of a GTI determination," "voted against a GTI determination," or "voted against a GTI determination, but to reopen on the Commission's own motion," if the statement is clearly indicated in the votes of the decisionmakers. If the position is not clearly indicated in the vote, they shall be shown as "not joining" in the written statement of the action.

(4) In the case of proposed comments on legislation or Congressional Committee testimony, any separate expression, separately stated vote, or statement of position must be received by the clearing office no later than two full working days prior to the date the comment or testimony must be delivered or, on the date of decision, whichever is later. When decisionmakers' positions are not clear from their votes, and if the clearing office is not able to obtain prompt clarification of their positions, they shall be shown as "not joining" in the comments or testimony.

(e) *Examples of separate expressions, separately stated votes, and statements of position.*

(1) Statement of position or separately stated vote (without separate expression).

Commissioner ———— concurs, dissents, did not participate, etc., or
Commissioner ———— and ———— concur, dissent, did not participate, etc., or
Commissioner ———— voted not to suspend but to investigate, etc., or
Commissioner ———— did not join in the action taken.

(2) Separate expressions.

Commissioner ————, concurring, dissenting, etc: (written expression). or
Commissioner ———— and ———— concurring, dissenting, etc. (written expression), or
Commissioner ————, whom Commissioner ———— joins, concurring, dissenting, etc. (written expression).

PROCESSING AND PRINTING DECISIONS

alleges that an issue of genral trans-

controls or consolidations, water carri-

(b) *Consideration by the Section of Energy and Environment.*—Upon re-

clearance of formal and informal proceedings matters requiring determina-

setting deadlines, one day shall be allowed for clearance if at all possible);

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PROCESSING AND PRINTING DECISIONS

21. *Assignment of Submitted Proceedings.*

(a) *Proceedings which have not been orally argued or reopened.*—Submitted proceedings are assigned to the Commission, a division, or an employee board as provided by the Organization Rules (49 CFR 1011). Assignments are made by the Office of Proceedings. Proceedings assigned to an employee board are assigned in rotation to the personal docket of a board member. Proceedings assigned to a division are assigned in rotation to the personal docket of a member of the division unless (1) the matter is routine or is likely to be disposable by a brief order or (2) the division chairman directs that the matter be handled on an institutional basis. Proceedings assigned to the Commission are assigned to the personal docket of a Commissioner by the Chairman of the Commission following a recommendation from the appropriate Office of Proceedings unit.

(b) *Orally argued or reopened cases.*—With respect to cases orally argued before the entire Commission or a division, or cases reopened by the entire Commission or a division, the decision whether the proceeding should be assigned to the personal docket of a Commissioner or handled as an institutional decision is made by the Chairman of the Commission or the respective division. Personal docket assignments are made by the Commission or the division chairman, in rotation, following a recommendation from the appropriate Office of Proceedings unit.

(c) *Rejection of a personal docket assignment.*—A Commissioner may reject a personal docket assignment.

(d) *Assignment of a decision writer.*—Upon the assignment of a submitted proceeding, one or more attorney advisers or administrative law judges will be assigned to prepare a draft decision in the matter or to recommend other appropriate action. In preparing a draft decision or making other recommendations the attorney adviser or administrative law judge will exercise independent judgment unless otherwise specifically directed by the assigned decisionmaker or decisional unit.

22. *Identification of Proceedings Involving Issues of General Transportation Importance.*

(a) *General.*—The Commission shall be informed as early as possible in the course of a pending proceeding if it appears that an issue of general transportation importance may be involved.

(b) *Staff responsibility.*—(1) Administrative law judges, attorneys, and other staff members to whom proceedings are assigned shall promptly notify the heads of their respective bureaus and offices if a party to a proceeding alleges that an issue of genral transportation importance is involved or if they believe that an issue of general transportation importance is involved. Heads of bureaus and offices will, in turn, notify the Chairman of the Commission or of the appropriate division.

(2) Should an employee board determine that an issue of general transportation importance is involved in a proceeding assigned to it, the board will certify that proceeding to the Commission.

(c) *Division proceedings.*—When a division believes that an issue of general transportation importance is involved in a proceeding assigned to it, it may certify the matter to the entire Commission or notify the Commission and withhold issuance of a decision until the Commission has decided whether an issue of general transportation importance is present. If the latter course is followed, and the Commission determines that an issue of general transportation importance is involved, it may recall the matter for disposition. If it chooses not to recall, the following statement will be inserted at the top of the first page of the division decision:

> It has been determined by the Commission that this proceeding involves an issue of general transportation importance. Thus, parties dissatisfied with the decision may file a petition for reconsideration by the Commission.

(d) *GTI petitions in non-rail proceedings.*—Petitions filed pursuant to Rule 97(h) of the Rules of Practice seeking a finding of general transportation importance in non-rail proceedings shall be circulated to the Commission without any accompanying staff recommendation or memorandum. They must be presented and finally acted upon by the Commission within 10 days of filing.

(e) *GTI petitions in rail proceedings.*—Petitions filed pursuant to Rule 98(e) of the Rules of Practice seeking discretionary review in rail proceedings solely on the ground that an issue of general transportation importance is involved shall be circulated to the Commission without an accompanying staff recommendation or memorandum. They must be presented and finally acted upon by the Commission within 20 days after the date for filing replies. Petitions under Rule 98(e) which raise issues other than, or in addition to, that of general transportation importance may be accompanied by staff recommendations and memoranda.

23. *Procedures for Handling Cases in Compliance with the National Environmental Policy Act of 1969.*

(a) *Referral of cases to the Section of energy and Environment.*—(1) All proceedings involving rail line construction or abandonment, rail mergers, controls or consolidations, water carrier certifications (passenger), and common use of rail terminals, shall be referred to the Section of Energy and Environment by the Deputy Director of the responsible Section of the Office of Proceedings, prior to designation for hearing or modified procedure.

(2) All proceedings involving commuter fare increases (bus and rail), passenger train discontinuances, and recyclable commodities, shall be referred to the Section of Energy and Environment at the time the tariff notice, petition, complaint or other pleading is accepted for filing. The referral shall be by the office or bureau charged with acceptance of the item for filing.

(3) All rulemakings and legislative proposals by the Commission directly affecting carrier operations shall be referred to the Section of Energy and Environment in sufficient time prior to the proposing of a rule by the Commission or the submission of a legislative proposal to the Congress to allow for preparation of a draft impact statement if necessary.

(4) All proceedings other than those listed in subparagraphs 1, 2, and 3 will normally be processed by the issuance of a summary environmental negative declaration (SEND) in the initial procedural order. If, however, a party or other interested person, or the Deputy Director of the responsible Section of the Office of Proceedings, identifies environmental issues of consequence, either adverse or beneficial, the case shall be referred to the Section of Energy and Environment prior to designation or assignment to an employee review board or administrative law judge. In a proceeding for which an investigation has been ordered, and environmental issues of consequence are raised, referral should be made no later than the time the order instituting the investigation is served.

(5) In determining whether a proceeding subject to subparagraph (4) above, should be referred to the Section of Energy and Environment for analysis, the following should be considered: (A) whether there is a request for the preparation of an environmental impact statement in a pleading or oral motion; (B) whether environmental issues of consequence have been raised by a party or other interested person (pursuant to 49 CFR 1108.12 (c), (d), and (e), a statement alleging a significant environmental impact or request for the preparation of an environmental impact statement must indicate with specific data the exact nature and degree of the anticipated impact); and (C) whether significant environmental controversy has been generated by a proposed action.

(b) *Consideration by the Section of Energy and Environment.*—Upon referral, the chief of the Section of Energy and Environment will either (1) assign the case to one or more members of the Section for preparation of an environmental impact statement (EIS) or threshold assessment survey (TAS), (2) transmit the case back to the responsible Section of the Office of Proceedings with a recommendation that it be cleared through the issuance of a SEND, or (3) recommend that specific additional environmental data be requested from the parties in order to determine the appropriate environmental clearance.

(c) *Consideration of environmental issues by decisionmaking officials.*—(1) If it is determined that a TAS or EIS is required for a proposed action, the Section of Energy and Environment will prepare the appropriate document in accordance with the procedure set forth in 49 CFR 1108.13 and 1108.14, respectively, and submit it for the record. The employee review board, administrative law judge, or other decisionmaking official shall fully consider the environmental issues raised along with other issues relevant to a decision on the merits.

(2) After a SEND is issued, the case will proceed through the decisionmaking process. If environmental issues are subsequently raised which necessitate consultation with the Chief of the Section of Energy and Environment, consultation must be initiated sufficiently early in the decisionmaking process to allow for timely review by the Section. The Section Chief may provide informal guidance and advice or may recommend that an EIS or TAS be prepared.

(3) Because of the need to arrange assignments and priorities carefully, an order or directive requiring the preparation of an EIS or TAS or the submission of additional environmental data from any party should not be issued without first consulting the Chief of the Section of Energy and Environment.

(4) In the event that a request for cross-examination of witnesses of the Section of Energy and Environment is made pursuant to 49 CFR 1108.17(b), an attorney from the Section of Energy and Environment will be designated as counsel by the Chief of the Section.

(5) Any request for a waiver or exemption from applicant reporting requirements received pursuant to 49 CFR 1108.5 shall be referred to the Chief of the Section of Energy and Environment, who will make a recommendation to the Chairman of the Commission or his or her designee.

24. *Clearance Procedures.*

(a) *General.*—This issuance covers the procedures to be followed in the clearance of formal and informal proceedings matters requiring determination by the Commission or a Division of the Commission, except those cases asigned to the personal docket of individual Commissioners and cases assigned to an individual Commissioner for administrative handling shall continue to be cleared by the confidential assistant to the Commissioner. Matters not involving formal or informal proceedings circulated to the entire Commission will continue to be cleared by the confidential assistant to the Chairman.

(b) *Assignment of cases to divisions.*—(1) Proceedings with odd-numbered docket numbers (or "sub-numbers" in sub-numbered proceedings) will be assigned to Division 1, and those with even-numbered docket numbers (or sub-numbers) will be assigned to Division 2. In the case of consolidated proceedings, the final digit of the earliest proceeding filed governs the assignment. Proceedings related to other previously assigned proceedings will be assigned to the same division membership. Cases reviewed under appellate procedures will be handled by the same membership as issued the prior decision.

(2) For cases reaching a division on appeal from the Suspension and Fourth Section Board (S&FS), and other employee boards handling matters which may later become a formal docket, the division which handled the appeal will also handle the ensuing formal docket regardless of the formal docket's number. For example, an odd-numbered case going to Division 1 from the S&FS Board would later go to Division 1 as an I&S case, even if the I&S docket number is even.

(c) *Security.*—Votes and clearance memoranda will be hand carried between the Clearance Unit and the Commissioners' offices. Records and files shall be maintained in secured cabinets in a secured area. Public access to the Clearance Unit will not be permitted. Requests to the Clearance Unit for information or votes will be handled as shown under (h).

(d) *Responsibilities.*—(1) Originating office.—Sections of the Office of Proceedings, Boards, Bureaus of Investigations and Enforcement, Accounts and Operations, Offices of Hearings, Rail Services Planning, General Counsel, and others will continue to prepare and circulate matters to the divisions of the Commission in accordance with the above criteria and pertinent issuances. All matters circulated for vote by a division will contain information as to any *specific* issues that must be approved, e.g., market dominance, suspension, or fitness; any controlling time limits, including the date by which a matter must be cleared in order to be served by the deadline (in setting deadlines, one day shall be allowed for clearance if at all possible); and any other information pertinent to final disposition of the matter under review. More specifically, originating offices shall develop completed packages for circulation to divisions which generally include the following numbered items. Exceptions may be made in circulations to the entire Commission and in circulations to divisions acting in an appellate capacity or where the division is already familiar with the subject matter.

(A) Prior decisions,
(B) Field reports, if any,
(C) Pleadings, applications, etc.,
(D) Recommended decision,
(E) Examiner's explanation of decision,
(F) Views of other staff, and
(G) Cover memorandum, including any time limits for service.

A copy will be sent to each of the appropriate division members based on odd-even procedure. A complete copy of the material circulated, including the original of the draft decision or other document to be served, will be sent to the Clearance Unit.

(2) *Members.*—(A) *Institutional matters.*—Matters for voting will be circulated from the originating office to those eligible to vote on the matter. Votes will be sent to the Chairman of the Commission or the respective divisions and copies will be sent to other members. The original should be sent to the Clearance Unit. Members will take the initiative on noticing minority or separate positions and contacting the Clearance Unit with a separately stated vote or written statement for inclusion as a separate expression. To the extent possible, votes will indicate agreement or disagreement with changes proposed by the members. When supplemental votes are required, they should be issued without waiting for the Clearane Unit to poll the membership.

All separate expressions should be in writing as should any statement of position which differs from the written vote and any changes of position. A request to show a Commissioner simply as "dissenting" or "concurring" or to show a Commissioner with a statement of position exactly as the vote reads may be telephoned to the Unit (i.e., the vote reads "I vote to deny the petition.") A statement at the end of an order saying "Commissioner would deny the petition" may also be telephoned to the Clearance Unit. Any comment to be included with the member's vote should clearly be indicated whether the comment is intended to be shown in the clearance.

As copies of other votes are received, staff should check the file to see if their member is in the minority and, if so, notify the Clearance Unit as to how the Commissioner should be

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clear articulations of existing policy, delay in processing the proceeding and

(c) *Qualifications.*—General qualifi-

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shown on the order, or other appropriate instruction given.

If division members are absent and not participating, their offices should notify the Clearance Unit in order that proceedings may be cleared on a case-by-case basis.

When clearances are received from the Clearance Unit, staff should check these against the individual member's vote to insure that his or her position has been correctly stated and promptly advise the Clearance Unit of any error. Should errors occur, this will assist the Unit to correct them before service of the report or order.

(B) *Personal docket matters.*—Votes in personal docket matters will be sent to the Commissioner to whom the matter is assigned, and his or her office will have the responsibility for the clearance. A copy of the clearances issued in personal docket cases should be forwarded to the Clearance Unit or information purposes and so that the Clearance Unit will have a record of all proceedings decided by the Commission.

(3) *Division Chairmen.*—(A) *Conference matters.*—The Chairman of the Commission or the Divisions will be responsible for notifying the Clearance Unit, in writing, of the votes when voting takes place in conference.

(B) *Vacancies and absences.*—Division Chairmen will instruct originating offices and the Clearance Unit respecting the handling of cases circulated during vacancies or absences.

(C) *Staff views.*—When voting is interrupted to obtain the views of other staff, advice regarding the suspension of voting and the date it will be completed should be furnished by memorandum to the Clearance Unit and to the originating office.

(D) *Split votes.*—When there is failure to obtain a majority vote, the Clearance Unit will immediately advise the Division Chairman and request instruction as to how to proceed.

(E) *Recirculations.*—Items redrafted and recirculated will be handled under the above-outlined procedures for circulations.

(4) *Clearance Unit.*—On receipt of the circulation from the originating office this Unit will establish control records on all Division cases and prepare a voting sheet. When all votes have been received and a majority obtained, the Unit will issue a clearance memorandum specifying:

(A) The docket number and title of the case(s).
(B) The date the clearance is issued.
(C) The originating office or person to whom the clearance is directed
(D) The identification of the body voting and the members.
(E) Whether the vote was unanimous or split.
(F) The date the voting was concluded (whether by notation or in conference).
(G) A brief, complete description of the action of the majority.
(H) A brief but complete description of the votes of Commissioners differing from the majority and an indication of any not participating in the voting.
(I) A description of any changes made or to be made in the circulated draft approved by the majority.
(J) Instruction as to how any Commissioner in the minority wishes to be shown in the served reports, etc.
(K) Instructions on any action to be taken by the originating office as a result of the voting.
(L) Identification of any attachments to the clearance.
(M) Indication if a decision is to be printed.
(N) Signature of the person preparing the clearance.
(O) Identification of persons receiving copies of the clearance.

If the votes are unclear, or if changes have been proposed by any member, all of the other members voting will be polled to determine whether there is a majority approving the proposed change when this is not already indicated in their votes.

(e) *Time limits.*—To the extent that it is possible to do so, one full day should be allowed for clearance of matters circulated. However, the Unit will work within the constraints of any time limits specified in the originating office memorandum.

(f) *Service.*—Matters will be cleared to the originating offices where there are substantive changes. All other matters will be corrected or dated by the Clearance Unit and cleard to the Secretary for service. Copies of clearances will be sent to the originating offices in either instance. Originating offices will be responsible for insuring that matters are served within the established deadlines when matters are cleared to them, as will the Secretary when matters are cleared to that office. When any matter is not served within 15 days following clearance, follow-up will be made to the office to which it was cleared.

On TA, ETA and MC-FC of other proceedings, where there is no service list on file in the Section of Dockets and Service, a service list should be attached to the circulation copy submited to the Clearance Unit. This will be forwarded to the Secretary with the report or order and the clearance memorandum. In other proceedings, the originating office must make sure that all official pleadings and the docket file are released to the Section of Dockets and Service well in advance of circulation so that accurate service lists will be on hand. These steps are intended to insure that information needed to make legal service on all parties is furnished to the Secretary either before or with the clearance.

If there is to be any deviation in service, other than to all parties, this advice should be shown in the circulation memorandum so it can be included in the clearance memorandum sent forward to the Secretary.

(g) *Corrections.*—Files will be held open until the decision has been served. The Clearance Unit will check the served copy against the clearance memorandum to insure that changes have been made. Any substantial errors will be corrected through the service of a corrected notice and the office responsible for making corrections to the original will be requested to prepare it.

(h) *Requests for information and votes.*—Requests by members of the public for copies of notation votes will be referred to and handled by the Secretary, and will be honored only after the decision has been served. Telephone requests from within the Commission, other than from a Commissioner, a member of a Commissioner's staff, or the office originating the circulation will be referred to the appropriate Section head in the Office of Proceedings or originating Bureau.

(i) *Monthly report.*—The Clearance Unit will prepare and distribute to each division member a monthly report showing the matters acted on by the division memberships and those circulated proceedings pending disposition, together with the circulation date of matters still pending.

(j) *Recorder of Minutes.*—A copy of each clearance issued by the Clearance Unit will be sent to the Recorder of Minutes for appropriate recording of the votes in the official minutes.

(k) *Retention of records.*—Records of votes and clearance memoranda issued by the Clearance Unit will be retained for two years after the case is closed and destroyed in accordance with approved records schedules.

25, *Publication of Commission Decisions.*

(a) *Series of reports.*—The Commission issues two series of official reports of its decisions.

(1) The Interstate Commerce Commission Reports, cited as "—— I.C.C. ——," include decisions relating to rates, charges, fares, and practices of all carriers subject to the Commission's jurisdiction; decisions relating to the operating authorities of water carriers and freight forwarders; and all other decisions not listed for inclusion in the series of reports described in paragraph (2) of this subsection.

(2) The reports of the Commission's Motor Carrier Cases, cited as "—— M.C.C. ——," include decisions relating to motor carriers and brokers, except those relating to rates, charges, fares, and practices.

(b) *Selection of items for publication.*—(1) Normally, only decisions which reflect changes in Commission policy, which contain particularly

clear articulations of existing policy, which involve novel legal issues, which are likely to provide helpful guidelines for future decisionmaking, or which involve matters of major importance to the national transportation system are printed in one of the permanent series of Commission decisions.

(2) A recommendation that a decision be printed should be included in the cover memo to the unit which will issue the decision. The recommendation should be supported by a brief explanation. Only cases involving changes in policy; novel legal issues, or unusually complex factual situations will be printed. The decisionmaking unit will issue instructions to print decisions, and no decision will be printed without specific direction from that unit.

(3) Employee board decisions will not normally be printed. The approval of employee board decisions for printing will be made by the director of the office or bureau in which the board is located, upon the recommendation of the chairman of the board.

(4) A decision not previously printed which becomes the subject of a court action will be printed at the request of the General Counsel.

(c) *Index of non-printed decisions.*—All decisions during a calendar year quarter, whether printed or not, shall be listed by docket number and subject matter in the *Advance Bulletin of the Interstate Commerce Act Annotated.* Access to decisions so indexed shall be available through the microform file on non-printed decisions maintained by the Reference Services Branch.

26. Monitoring the Status of Proceedings.

(a) *General.*—It is essential that all Commission proceedings be considered and disposed of as expeditiously as possible. Railroad-related proceedings are the subject of strict statutory time limits imposed by the Railroad Revitalization and Regulatory Reform Act of 1976. The Commission has set as goals for itself time limits in all non-rail proceedings.

(b) *Monitoring case status.*—The Director of the Office of Proceedings will be responsible for monitoring the status of all Commission proceedings, including those assigned to a Commissioner's personal docket, on at least a quarterly basis. A record will be made showing each proceeding which has remained at one procedural stage (for example, awaiting assignment for hearing, in hearing, awaiting completion of initial decision, submitted and awaiting appellate decision) for 90 days or more. The Director will provide the Chairman, each Commissioner and the Managing Director with a copy of this list, together with a report containing the reasons for the delay in processing the proceeding and an estimated date for completion of the current procedural stage.

(c) *Responsibilities of other bureaus and offices.*—Where other bureaus and offices of the Commission are responsible for handling a proceeding at a particular procedural stage, the bureau or office head will respond promptly to requests from the Director of the Office of Proceedings to furnish information necessary to complete the report required under paragraph (b) above.

(d) *Cases subject to statutory deadlines.*—The Director of the Office of Proceedings will be responsible for monitoring the status of all Commission proceedings, in whatever procedural stage, which are the subject of statutory deadlines. A record will be maintained of all cases subject to statutory deadlines in which the deadline will expire within 60 days. The Director will provide the Chairman, each Commissioner, and the Managing Director with a list of such cases on at least a monthly basis. Where another bureau or office of the Commission is responsible for a proceeding appearing on this list, or where such a proceeding is assigned to the personal docket of a Commissioner, the Director will also inform the appropriate Commissioner or bureau or office head. Draft decisions and staff recommendations in proceedings requiring action by the Commission, a division, or an employee board will be submitted to the decisionmaking body no less than 30 days prior to the expiration of any applicable statutory deadline, except as the Chairman of the decisionmaking body may direct in individual cases. This paragraph does not apply to rate cases at the initial suspension stage.

BOARDS

41. *Employee Boards Under Section 17.*

(a) *General.*—The employee boards established under section 17 of the Interstate Commerce Act are described in, and their jurisdiction is established by, the Organization Rules (49 C.F.R. 1011.6). Five review boards have been established designated as Review Boards Nos. 1 through 5.

(b) *Membership.*—Each employee board consists of three members appointed by the Chairman with the approval of the Commission. One of the members is designated as Board Chairman by the Chairman of the Commission, with the approval of the Commission. In the absence of the Board Chairman, the member senior in total length of service as a member of the board is acting chairman. In the event of equal seniority in service as a board member, the senior member in service with the Commission shall be the acting chairman.

(c) *Qualifications.*—General qualifications for appointment as a board member are set forth in section 17(2) of the Act. Other special qualifications are as follows:

(1) Members of review boards must possess the time-in-service and grade-level qualifications which would make them technically eligible for appointment as administrative law judges of the Commission.

(2) Among those eligible for appointment to Bureau of Traffic Boards are employees classified as "special transportation examiners, board members." The minimum qualifications for appointment as a special transportation examiner, board member, are at least 6 years of experience in progressively more responsible work in the field of traffic or transportation, including the handling of technical assignments requiring a practical working knowledge of traffic or transportation problems and activities. Three years of this experience must have been in one or more of the major fields of transportation, in such activities as classification, rates and routing, or comparable work in regulatory agencies. It must also have included substantial responsibility in the analysis of rail, motor, water, freight forwarder, or air rate adjustments and their conformity with statutory requirements. One year's experience must also have been in work comparable to that required for appointment to grade GS-11.

(d) *Current listing of employee board members.*—There follows a list of members of each of the Commission's Employee Boards appointed under section 17 of the Act, arranged by the office or bureau within which the boards are located. The Commission will provide that a publication of a listing of board members will be made in the FEDERAL REGISTER on at least an annual basis.

OFFICE OF PROCEEDINGS

Review Board No. 1—Robert P. Carleton, Chairman, Paul R. Joyce, Charles R. Jones, Jr.
Review Board No. 2—James D. Boyle, Chairman, Henry F. Eaton, Roy P. Liberman.
Review Board No. 3—William E. K. Parker, Chairman, Roger N. Fortier, Rufus S. Hill.
Review Board No. 4—James A. FitzPatrick, Chairman, Donald J. Shaw, Jr., Walter J. Fisher.
Review Board No. 5—Richard M. Krock, Chairman, Edward A. Pohest, Daniel G. Taylor.
Finance Board—John J. Mattras, Chairman, William J. McCormick, Gerald Proger.
Motor Carrier Board—Charles D. Dickerson, Jr., Chairman, John T. Hedetniemi, Sheryl B. Tillman.

BUREAU OF ACCOUNTS

Accounting and Valuation Board—Ronald S. Young, Chairman, J. Richard Berman, Bryan Brown, Jr., William T. Bono (Alter-

nate on valuation matters), William J. Ellis, Jr., Alternate.

Employee Board on Education and Practices—Robert P. Carleton, Chairman, Paul R. Joyce, Charles R. Jones, Jr.

matter as is involved in the court

(d) *The handling of subpoenas.*—(1)

Any tariffs or tariff provision pub-

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nate on valuation matters), Willian J. McCormick (Alternate on accounting matters).

BUREAU OF OPERATIONS

Motor Carrier Leasing Board—Joel E. Burns, Chairman, William F. Sibbald, Jr., Robert S. Turkington.
Insurance Board—Joel E. Burns, Chairman, Leonard J. Schloer, Robert S. Turkington.
Railroad Service Board—Joel E. Burns, Chairman, Robert S. Turkington, John Michael.

BUREAU OF TRAFFIC

Suspension Board—Albert H. Fitzgerald, Chairman, Clarence S. Halvarson, John A. O'Mailey.
Special Permission Board—William P. Geisenkotter, Chairman, David R. Manning, Harry J. Sullivan.
Released Rates Board—Martin E. Foley, Chairman, Alfred S. Killelea, B. Scott Walker.
Tariff Rules Board—Martin E. Foley, Chairman, William P. Geisenkotter, B. Scott Walker.

42. *Employee Board on Education and Practice.*

(a) *Duties.*—The Employee Board on Education and Practice is responsible, under the general supervision of the Vice Chairman, for the examination of non-lawyer applicants for admission to practice before the Commission, for preparing examination questions, and for grading examinations.

(b) *Membership.*—The Board consists of two attorneys and one non-attorney appointed by the Chairman with the approval of the Commission.

(c) *Committee of Examiners.*—A seven-member Committee of Examiners, under the supervisor of the Board, will grade examination questions.

(d) *Committee Membership.*—The members of this Committee must have at least two year's experience with the Commission and are appointed for one-year terms by the Chairman with the approval of the Commission. Members may be reappointed and, to the extent possible, no more than three members of the Committee will be replaced at one time.

(e) *Availability of examination questions.*—Examination questions are made public after the examination is graded.

(f) *Qualifications for admission.*—To be eligible for admission to practice as non-lawyers, candidiates must have completed two years of postsecondary education at an intitution recognized by the United States Office of Education.

(g) *Current listing of board and committee members.*—There follows a list of members of the board and committee of examiners. The Commission will provide that a publication of a listing of the board and committee members will be made in the FEDERAL REGISTER on at least an annual basis.

Employee Board on Education and Practice—Thaddeus J. Harty, Jr., Chairman, Roy P. Liberman, Ronald S. Young.
Committee of Examiners—Jane Dixon, William P. Geisenkotter, John Mattras, B. Scott Walker, Gerald C. Wegznek, Melvin B. Werner, David B. Wuehrmann.

SPECIAL AUTHORIZATIONS

51. *Criminal Prosecutions and Civil Forfeiture and Injunction Proceedings.*

(a) *Institution of proceedings.*—The Director of the Bureau of Investigations and Enforcement is authorized to recommend to the Department of Justice or to the United States Attorneys institution of criminal proceedings, civil forfeiture penalty suits, or civil injunction proceedings for violations of the Interstate Commerce Act, related Acts, or supplementary Acts administered by the Commission, or any other Federal, civil, and criminal statutes. The Bureau is further authorized to institute civil injunction proceedings which the Commission is empowered to institute in its own name under the provisions of the Interstate Commerce Act. The Commission reserves to itself the determination of what further action, if any, should be taken in the event a Federal Court of Appeals renders the decision adverse to the Commission's position in the criminal or civil proceeding that was instituted by the Director of the Bureau of Investigations and Enforcement.

(b) *Settlement of proceedings.*—The Director of the Bureau of Investigations and Enforcement as the Commission's designee is authorized, within the framework of the Federal Claims Collection Act of 1966, the applicable standards promulgated by the Attorney General and the Comptroller General and pursuant to Commission procedures to compromise, suspend, or terminate enforcement claims arising under the civil penalty or forfeiture provisions of the Interstate Commerce Act, Elkins Act, and amendatory and supplemental legislation related to such Acts. The Director of the Bureau of Investigations and Enforcement may sub-delegate the authority to settle such claims to the various Regional Counsel.

(c) *Intervention in private party actions.*—(1) The Director of the Bureau of Investigations and Enforcement is authorized to intervene on behalf of the Commission in any civil action instituted by private persons under the provisions of section 222(b)(2) and section 417(b)(2) of the Interstate Commerce Act and to notify the court in which such an action is brought that the Commission has instituted or has pending before it a recommendation to institute an administrative proceeding which will embrace the same subject matter as is involved in the court action.

(2) Applications or complaints, with all supporting papers, filed under sections 222(b)(2) and 417(b)(2) of the Act, served upon or received by any member of the Commission's staff, either in the Washington headquarters or in the field, shall be forwarded immediately to the Director of the Bureau of Investigations and Enforcement.

(d) *Representation in the Supreme Court.*—The Office of the General Counsel will represent the Commission in the Supreme Court in cases brought by the Bureau of Investigations and Enforcement in the lower courts.

(e) *Delegation.*—Any power delegated to the Director of the Bureau of Investigations and Enforcement under this issuance may be sub-delegated to other authorized personnel under plans which meet the approval of the Chairman.

INSTRUCTIONS FOR EMPLOYEES

61. *Appearances of Employees as Expert Witnesses—Statement of Policy.*

(a) The Commission does not desire to have its employees subjected to calls for testimony as expert witnesses in private litigation and declines to authorize its employees voluntarily to appear as witnesses or to submit documents in such proceedings. No Commission employee may voluntarily appear and testify as an expert witness in transportation matters in private court or administrative agency proceedings.

(b) *Appearances at the request of Commission counsel.*—Any employee or former employee of the Commission called to testify in a Commission or court proceeding by a Commission attorney authorized to participate in that proceeding is authorized and directed to divulge any fact or information which may have come to his or her knowledge during the course of any investigation, examination, or inspection of the records or properties of carriers or other persons under authority of the Interstate Commerce Act.

(c) *Internal procedures.*—Any employee receiving a subpoena shall immediately notify, through the employee's supervisor, the director of the employee's bureau or office or, as appropriate, a regional managing director. The director shall notify the General Counsel or Director of the Bureau of Investigations and Enforcement, as appropriate under (d) below. The General Counsel and the Director of the Bureau of Investigations and Enforcement shall keep each other informed of subpoena matters and coordinate their handling of them.

(d) *The handling of subpoenas.*—(1) With respect to court cases, if a subpoena is issued in an enforcement action, including one initiated by a private party, or in any other litigation if the subpoena seeks evidence resulting from an investigation conducted by the employee, it will be handled by the Bureau of Investigations and Enforcement in consultation with other appropriate bureau of office directors. In all other instances involving court cases, subpoenas will be handled by the General Counsel, in consultation with the appropriate bureau or office head, unless the General Counsel shall determine that for cost or other considerations the matter should more appropriately be handled by the Bureau of Investigations and Enforcement, in which case he may refer the matter to that Bureau for disposition.

(2) With respect to Commission proceedings, whenever an employee is subpoenaed to testify on behalf of a party the subpoena will be handled by the Bureau of Investigations and Enforcement unless that bureau is a party, in which case the matter will be handled by the General Counsel.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34049 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Sub No. 3]

DISASTER RELIEF DECISION NO.14

Decided December 1, 1978.

An application has been filed jointly by the Southern Pacific Transportation Company and the Northwestern Pacific Railroad Company (NWP) requesting authority to continue relief under Section 22 of the Interstate Commerce Act, as afforded by Disaster Relief Order No. 14 and its Sub Nos. 1 and 2. Petitioners seek to maintain allowances to provide reduced rates for persons who would normally ship via the NWP and Arcata and Mad River Rail Road Company but who cannot do so because of a fire in a tunnel on the NWP at mileage post 195 near Island Mountain, California. The outstanding relief is due to expire with December 12, 1979.

It is ordered: Authority to extend the expiration date of Disaster Order No. 14 and its Sub Nos. 1 and 2 from December 12, 1978 to March 12, 1979, is granted, including authority to make publication upon not less than one day's notice to the Commission and the public by blanket supplements. The terms of rule 9(e) of the Commission's Tariff Circular 20 [49 C.F.R. 1300.9] are waived. In all other respects, the original terms and conditions of those decisions shall remain the same.

Any tariffs or tariff provision published under this authority shall make reference to this decision by number and date.

Notice to the affected railroads and the general public shall be given by depositing a copy of this decision in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the FEDERAL REGISTER. Copies will be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Georgia; the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Illinois; and the Vice-President, Economics and Finance Department of the Association of American Railroads, Washington, D.C.

By the Commission, Betty Jo Christian, Vice Chairman.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34047 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Amendment No. 1 To I.C.C. Order No. 9 Under Service Order No. 1344]

GRAND TRUNK WESTERN RAILROAD COMPANY

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 9 (Grand Trunk Western Railroad Company), and good cause appearing therefor:

It is ordered, I.C.C. Order No. 9 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1978, unless otherwise modified, changed, or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., November 30, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., November 29, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-34045 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Amendment No. 1 To Exception No. 4]

MARYLAND & PENNSYLVANIA RAILROAD CO.

Exception Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332

Decided November 28, 1978.

By the Board:

Upon further consideration of Exception No. 4 (Maryland and Pennsylvania Railroad Company), and good cause appearing therefor:

It is ordered, Exception No. 4 to Second Revised Service Order No. 1332 is amended to:

Expire January 31, 1979.

Issued at Washington, D.C., November 29, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-34046 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Exception No. 5]

MISSOURI PACIFIC RAILROAD CO.

Exception Under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332

Decided November 28, 1978.

By the Board:

The Missouri Pacific Railroad Company (MP) has been given permission to use National Railways of Mexico (NdeM) 50-foot plain boxcars account there is an available supply of these cars on the NdeM. I.C.C. Revised Exemption No. 133 authorizes MP to use certain NdeM boxcars without regard to the requirements of Car Service Rules 1 and 2. The MP is holding some of these cars beyond the 60-hours permitted in Section (a)(2)(ii) of this order prior to placing of cars for loading, and in Section (a)(4)(i) prior to forwarding of cars.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, Missouri Pacific Railroad Company is authorized to hold empty National Railways of Mexico 50-foot plain boxcars listed in I.C.C. Revised Exemption No. 133 for loading, or prior to forwarding empty, regardless of the provisions of Section (a)(2)(ii), and of Section (a)(4)(i) of this order.

These cars shall become fully subject to all provisions of Second Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective November 30, 1978.

place mutually agreeable to the par-

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Expires January 31, 1979.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-34044 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Docket No. AB-35 (Sub-No. 5F)]

LOS ANGELES & SALT LAKE RAILROAD CO. ABANDONMENT AND DISCONTINUANCE OF SERVICE BY UNION PACIFIC RAILROAD CO. IN JUAB COUNTY, UTAH

Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided November 16, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Los Angeles & Salt Lake Railroad Company and discontinuance of service by the Union Pacific Railroad Company over portions of a line of railroad known as the Eureka Branch extending from railroad milepost 0.00 (near Tintic) to railroad milepost 0.81 and the Silver City Branch extending from railroad milepost 0.478 to railroad milepost 2.42 (near Silver City), a total distance of 2.75 miles in Juab County, UT. The 0.00 milepost designations for both the Eureka Branch and the Silver City Branch begin at the main line and both branches consist of the same track from railroad milepost 0.00 to railroad milepost 0.478 on the Eureka Branch. A certificate of public convenience and necessity permitting abandonment and discontinuance of operation was issued to the Los Angeles & Salt Lake Railroad Company and Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than December 21, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective on or before January 22, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34040 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Docket No. AB-7 (Sub-No. 70F)]

STANLEY E. G. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO., DEBTOR, ABANDONMENT NEAR MOREAU JUNCTION AND ISABEL IN CORSON AND DEWEY COUNTIES, S. DAK.

Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided November 16, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, of a line of railroad known as the Moreau Junction to Isabel Branch extending from railroad milepost 0.0 near Moreau Junction to railroad milepost 56.5 near Isabel, a distance of 56.5 miles, in Corson and Dewey Counties, SD. A certificate of public convenience and necessity permitting abandonment was issued to Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later December 21, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective January 22, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34039 Filed 12-5-78; 8:45 am]

[7035-01-M]

[Docket No. AB-10 (Sub-No. 14F)]

THE WHEELING & LAKE ERIE RAILWAY CO. AND THE NORFOLK & WESTERN RAILWAY CO. ABANDONMENT IN THE CITY OF STEUBENVILLE, JEFFERSON COUNTY, OHIO

Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided October 27, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Wheeling and Lake Erie Railway Company and the Norfolk and Western Railway Company of a line of railroad. The line extends from railroad milepost 13.15 to milepost 13.63 which is a distance of approximately 2525 feet at the stub-end of the Steubenville Branch in the City of Steubenville, Jefferson County, OH. A certificate of public convenience and necessity permitting abandonment was issued to The Wheeling and Lake Erie Railway Company and the Norfolk and Western Railway Company. Since no investigation was instituted, except on the issue of employee protective conditions, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and

place mutually agreeable to the parties.

The offer must be filed and served no later than December 21, 1978. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective January 22, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34048 Filed 12-5-78; 8:45 am]

WEDNESDAY, DECEMBER 6, 1978
PART II

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Communications Commission	1
U.S. Metric Board	2
Nuclear Regulatory Commission	3

[6712-01-M]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 30, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

CHANGES IN THE MEETING: Additional items to be considered:

Agenda, Item No., and Subject

General—2—Request Commission instructions on response to petitioner's motion for remand and directing removal of prior restraint in *Tulsa Cable Television* v. *FCC*, No. 78-1652, D.C. Circuit.

General—3—Supreme Court Appeal in *Community-Service Broadcasting* v. *FCC*, No. 76-1081, (D.C. Cir. Aug. 25, 1978).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Information Office, telephone 202-632-7260.

Issued: December 1, 1978.

[S-2461-78 Filed 12-4-78; 3:38 pm]

[3510-13-M]

2

UNITED STATES METRIC BOARD.

TIME AND DATE: 9:30 a.m. to 4 p.m., Friday December 15, 1978.

PLACE: Department of Transportation, FOB 10A, 800 Independence Avenue SW., Conf. Room 7A, B&C., Washington, D.C.

STATUS: Open to the public except between 1 p.m. and 2 p.m. This one hour session will be closed to the public for the purpose of disussing internal budget matters. Persons planning to attend the open portion of the meeting are requested to advise Mrs. Phillips, 703-235-1933 before 5 p.m., December 14, 1978.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of October 19-20, 1978 meeting.
2. Presentation by Special Olympics Committee.
3. Resolution on Special Olympics "Go Metric" program.
4. Reports.
5. Resolution on a National Metric Week.
6. Approval of Board Logo.
7. USMB response to GAO report.
8. Sunshine Act comments.
9. Agenda items for February Board meeting.
10. Locations and schedule for 1979 Board meetings.

CONTACT PERSON FOR MORE INFORMATION:

Joan Phillips, 703-235-1933.

DR. LOUIS F. POLK,
Chairman,
United States Metric Board.

[S-2460-78 Filed 12-4-78; 11:30 am]

[7590-01-M]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 7 and 8, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, DECEMBER 7, 11:30 A. M.

3. Discussion and vote on ALAB-500—Offshore Power Systems (approximately one-half hour, public meeting) (replaces the meeting title "Affirmation of Order in Offshore Power Systems" scheduled for 11 a.m., Friday, December 1.)

FRIDAY, DECEMBER 8; 10 A.M.

1. Affirmation session (approximately 10 minutes, public meeting):
a. Approval under section 145b for employment (postponed from December 4, 1978).
b. Approval under section 145b for employment.
c. Fiscal year 1979 domestic safeguards technical assistance and research contractual projects (tentative).
d. Licensee regulatory performance evaluation (tenative).
e. Interpretive statement on subpoenaing ACRS consultants (tentative).
f. Order in UCS Petition for Reconsideration (tentative).
2. Briefing on technical aspects of nuclear fuel cycle pertinent to material diversion (approximately one and one half hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED
Office of the Secretary.

DECEMBER 1, 1978.

[S-2459-78 Filed 12-4-78; 11:29 am]

federal register

WEDNESDAY, DECEMBER 6, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

SPECIAL GRANTS FOR A-95 URBAN IMPACT REVIEW

Submission of Applications

[4210-01-M]

all levels of government—Federal, State, regional, and local—to develop reliable and consistent methodologies to assess the urban impact of Federal programs and policies. Special grants will be awarded to support the development of such methodologies.

Applications for special grants will be accepted from State, regional, and local agencies which have been designated by the Governor of the State to perform A-95 review functions. Applications will be accepted from agencies in the following areas:

1. Jacksonville, Florida
2. Tampa, Florida
3. Atlanta, Georgia
4. Chicago, Illinois
5. Indianapolis, Indiana
6. Louisville, Kentucky
7. Minneapolis, Minnesota
8. Kansas City, Missouri
9. St. Louis, Missouri
10. Omaha, Nebraska
11. Albuquerque, New Mexico
12. Cincinnati, Ohio
13. Cleveland, Ohio
14. Columbus, Ohio
15. Toledo, Ohio
16. Portland, Oregon
17. Pittsburgh, Pennsylvania
18. Memphis, Tennessee
19. Nashville, Tennessee
20. Houston, Texas
21. Dallas, Texas
22. San Antonio, Texas
23. Seattle, Washington
24. Milwaukee, Wisconsin

Applications must be received by the Department of Housing and Urban Development by January 15, 1979. Applications received after that date will not be considered.

Applications will be reviewed by a panel of Federal, State, and local officials. Grants will be awarded by the Assistant Secretary for Community Planning and Development. Grants will be awarded on the basis of the following criteria:

1. Demonstrated ability to perform A-95 review functions.
2. Demonstrated ability to perform urban impact analysis.
3. Demonstrated ability to develop reliable and consistent methodologies to assess the urban impact of Federal programs and policies.
4. Demonstrated ability to coordinate with other agencies in the area.
5. Demonstrated ability to perform the work in a timely manner.

Grants will be awarded for a period of 12 months. Grants will be awarded in amounts ranging from $50,000 to $100,000.

Applications should be submitted to the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

For further information, contact the Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone 202-755-6310.

and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone 202-755-6310.

701 grants made for this demonstration program.

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[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. 1 N-78-901]

SPECIAL GRANTS FOR A-95 URBAN IMPACT REVIEW

Submission of Applications

AGENCY: Department of Housing and Urban Development.

ACTION: Submission of Applications for Grants for A-95 Urban Impact Reviews.

SUMMARY: Notice is hereby given that special Comprehensive Planning Assistance (701) Program grants will be provided to State, and metropolitan and non-metropolitan areawide comprehensive planning organizations with A-95 responsibilities to carry out a demonstration of urban impact analyses of proposed Federally aided projects. This demonstration program supports the President's National Urban Policy, announced on March 27, 1978 and also supports executive Order 12074, signed August 16, 1978 which directs Federal agencies to perform urban impact analyses on all major policy initiatives. This demonstration applies the concept of urban impact analyses to the process of A-95 reviews, conducted by State and areawide clearinghouses, of projects for which Federal aid is sought.

FOR FURTHER INFORMATION, CONTACT:

Marshall Kaplan, Deputy Assistant Secretary for Urban Policy (202) 755-3314 or Trudy McFall, Acting Director Office of Community Planning and Program Coordination, (202) 755-6240.

SUPPLEMENTARY INFORMATION: The Department will make available up to $500,000 for this demonstration program for individual grants to clearinghouses up to $50,000. The intent of the demonstration is to encourage clearinghouses to design and test methodologies for conducting urban impact analyses of projects proposed for Federal assistance and to determine the relevancy of urban impact analyses to Federal, State and local project funding decisions. The impact analyses are to be conducted in the context of the regular operation of the A-95 Project Review and Notification System by clearinghouses.

BACKGROUND

On March 27, 1978 President Carter announced a National Urban Policy to conserve America's communities. This policy calls for a "New Partnership" of all levels of government—Federal, State, county, city—as well as the private sector and neighborhood and volunteer groups. All of these entities must work together to implement the policy which is aimed at making cities and communities healthier and improving the lives of people who live and work in them. Through announcement of the urban policy, nine important objectives have been identified to conserve and strengthen communities at a time of declining resources.

These objectives are:

Encourage and support efforts to improve local planning and management capacity, and the effectiveness of existing Federal programs by coordinating these programs, simplifying planning requirements, reorienting resources, and reducing paperwork.

Encourage State to become partners in assisting urban areas.

Stimulate greater involvement by neighborhood organizations and voluntary associations.

Provide Fiscal relief to the most hard-pressed communities.

Provide strong incentives to attract private investment to distressed communities

Provide employment opportunities, primarily in the private sector, to the long-term unemployed and disadvantaged in urban areas.

Increase access to opportunity for those disadvantaged by a history of discrimination.

Expand and improve social and health services to disadvantaged people in cities, counties, and other communities.

Improve the urban physical environment and the cultural and aesthetic aspects of urban life.

The nine objectives are to serve as a guide for Federal actions in administration of programs to assist communities. As a result of the President's Urban Policy, numerous implementing actions have been undertaken including over 15 legislative initiatives, several Executive Orders and numerous administrative changes as a part of this activity. Under Executive Order 12074, all Federal agencies are required to analyze the impact of new policies and programs as they relate to the implementation of the Urban Policy.

As a counterpart to the analysis of new policies and programs at the National level, there is a need to review individual project proposals for Federal assistance from State and local governments to determine their potential impact. Even though a Federal program may generally be supportive of urban communities, an individual project may have adverse impacts.

2. PURPOSE

The purpose of the demonstration is to (a) develop appropriate and replicable methodologies to assess the urban impacts of proposed Federally aided projects in the context of the A-95 Project Notification and Review System; and (b) test the relevance of special, project-level, urban impact reviews to State and local government as well as Federal agency decisions on funding individual application.

3. ELIGIBLE APPLICANTS

Applicants may be State and areawide planning organizations which are (a) eligible for regular 701 funding and have an approved housing and land use element and are (b) designated as the A-95 clearinghouse.

4. SELECTION FACTORS

State and areawide clearinghouses will be selected from applicants based on the following criteria:

(1) Capacity of the clearinghouse to perform urban impact tasks, including past use of A-95 procedures to implement the applicant's plans and policies.

(2) Degree to which applicant's plans, policies, and programs are clearly stated and relevant to National Urban Policy and can be used as a basis for making urban impact assessments.

(3) The proposed methodology for assessing urban impacts and a means to evaluate the effectiveness of the process.

(4) Proposed procedure for involving local government and interested groups in the process.

5. SIZE OF GRANT

The amount of each demonstration grant will depend on the number of applications received and the quality of the proposals. The maximum grant, whether for a State or areawide clearinghouse, is $50,000. Applications should not exceed this amount. Applicants must provide one-third local match as required in the regular 701 Program (24 CFR Part 600).

6. PROJECT PERIOD

The demonstration grants will be awarded for a twelve month period. Up to four months of this period may be used to establish the proposed urban impact review methodology as an operating system. At least eight months of this period must be used for testing the operational feasibility of the review methodology.

7. SUBMISSION PROCEDURES

(a) Date of submission. Applications must be postmarked by January 31, 1979 in order to be considered for funding.

(b) How to submit. The application shall be submitted to the Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW., Attention: Office of Community Planning and Program Coordination, Room 7224, Washington, D.C. 20410.

(c) Application package. The application package for the demonstration funds shall consist of the following:

(1) A letter of transmittal signed by the chief executive officer of the State or APO submitting the application.

(2) A description of the proposed urban impact review demonstration project. This shall include:

(a) The experience of the applicant with particular reference to past use of A-95 to implement plans and policies;

(b) The plans, policies, program and urban strategies that the applicant will use as one of the bases for making the reviews;

(c) The proposed methodology for assessing urban impacts as part of the A-95 review system;

(d) The proposed means for securing advisory comments of affected local governments and varied population groups, including those officials and citizen groups representing the center city and older urban areas of the clearinghouse jurisdiction.

(3) Standard Form 424, Federal Assistance, prescribed by OMB Circular No. A-102.

(4) A detailed work program which sets forth proposed use of the grant funds. The program shall include information on how the urban impact review project will be conducted for the 12 month period, and how the feasibility of the test system will be evaluated. Although an overall program design (OPD) is not required for this demonstration program, the work program must indicate how the proposed activities relate to the applicant's current HUD approved OPD.

(5) Annual work program summary (form HUD-7026.2).

(6) Annual grant budget (form HUD-7026.3).

(7) Evidence of adherence to A-95 procedures. Areawide clearinghouses shall submit the application to appropriate local governments, environmental, civil rights and coastal zone management organizations and to the State clearinghouse. State clearinghouses shall conduct their normal A-95 routing including obligatory referrals to appropriate environmental, civil rights and coastal zone management organizations.

(8) A copy of "Assurances" (form HUD-7026.4).

Since this demonstration program is being conducted under the Authority of the 701 Program, all of the regulations for the 701 Program, (contained in 24 CFR Part 600) are applicable to 701 grants made for this demonstration program.

8. SELECTION PROCESS

HUD will review and select applications for demonstration funding as follows:

(a) Applications will be reviewed by HUD in accordance with the selection factors contained in Section 4 of this notice.

(b) The selection of those who will receive the demonstraion funds will be based on the written material submitted and the proposed work program and budget. If necessary, HUD may request applicants to provide additional information needed to make final selections. HUD will select those that in its judgment best meet the selection criteria.

(c) Within 60 days after the application deadline, and after review by the Interagency Coordinating Council, HUD will select no more than 15 applicants to receive incentive funding. HUD will notify all applicants as to whether they were selected or not.

9. REPORTING REQUIREMENTS

(a) Fiscal and other reports. The reports that will be required of each recipient of incentive funds are the same as that in the regular 701 program. These requirements are detailed in HUD Handbook 6042.1, REV., "Comprehensive Planning Assistance Handbook II" (July 1973).

(b) Contents of completion report. The required annual program report (which serves as the project completion report) must include the following items:

(1) Identification of the work tasks completed through the incentive grant support; and

(2) Evaluation of how effective the methodology was to identify and review projects with significant urban impacts: and

(3) A record of disposition by Federal agencies, of the specified project applications reviewed.

(c) Assistance and National workshop attendance. As part of the grant, recipients must be prepared to attend a workshop to share experiences. Recipients must also be prepared to provide assistance to HUD in formulating recommendations for improving the tested methodologies and applying them for nationwide use. The amount of time to be devoted to these two activities will be mutually agreed upon by HUD and recipients.

Issued at Washington, D.C., November 16, 1978.

ROBERT C. EMBRY, JR.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-34017 Filed 12-5-78; 8:45 am]

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WEDNESDAY, DECEMBER 6, 1978

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WEDNESDAY, DECEMBER 6, 1978
PART III



OFFICE OF MANAGEMENT AND BUDGET

federal register

BUDGET RESCISSIONS AND DEFERRALS

Reports

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Reports

To The Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $75,000 in unneeded funds appropriated to the Foreign Claims Settlement Commission.

In addition, I am reporting four new deferrals of budget authority totalling $889 million and two revisions to previously transmitted deferrals increasing the amount deferred by $21.4 million in budget authority. These items involve the military assistance program and programs in the Departments of Commerce, Defense, Justice, and State.

The details of the rescission proposal and the deferrals are contained in the attached reports.

JIMMY CARTER

THE WHITE HOUSE, *November 30, 1978.*

[3110-01-C]

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
R79-1	Other Independent Agencies: Foreign Claims Settlement Commission Salaries and Expenses	75
Deferral No.		
	Funds Appropriated to the President: International Security Assistance	
D79-31	Military assistance	161,875
	Department of Commerce: United States Fire Administration	
D79-32	Facilities	6,150
	Maritime Administration	
D79-33	Ship construction	157,000
	Department of Defense-Military:	
D79-34	Shipbuilding and Conversion, Navy	563,940
	Department of Justice: Federal Prision System	
D79-17A	Buildings and facilities	37,165
	Department of State: United States emergency refugee	
D79-18A	and migration assistance fund	12,250
	Subtotal, deferrals	938,380
	Total, rescission proposal and deferrals	938,455

* * * * * * * * * * * * *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979
(in thousands of dollars)

	Rescissions	Deferrals
Second special message:		
New items	75	888,965
Changes to amounts previously submitted	---	21,365
Effect of second special message	75	910,330
Previous special messages	---	1,178,229
Total amount proposed in special messages	75 (in one rescission)	2,088,559 (in 34 deferrals)

NOTE: All amounts listed represent budget authority except for $2,404,000 in one general revenue sharing deferral of outlays only.

Rescission Proposal No. R79-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Foreign Claims Settlement Commission	New budget authority (P.L. 95-431 ___) $ 1,015,000
Bureau	Other budgetary resources
Appropriation title & symbol	Total budgetary resources 1,015,000
Salaries and Expenses 7990100	Amount proposed for rescission $ 75,000
OMB identification code: 79-0100-0-1-153	Legal authority (in addition to sec. 1012): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year ___ (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other

Justification - The Foreign Claims Settlement Commission adjudicates the claims of American citizens against foreign countries for losses resulting from the seizure of properties, including nationalizations, expropriations, war damages, etc. During fiscal year 1979, the Commission will be engaged mainly in adjudicating the claims of Americans against the German Democratic Republic pursuant to Public Law 94-542. The State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979, (P.L. 95-431) provided for an appropriation of $1,015,000, to be derived by transfer from available balances from the Commission's "Payment of Vietnam Prisoner of War Claims" account to cover the Commission's administrative expenses.

The Commission anticipates a reduction in the workload related to the East German claims program in fiscal year 1979 resulting from the reduced number of claims received. Staff requirements have been reduced accordingly, and $75,000 have been identified as excess to program needs. Therefore, rescission of these funds is proposed.

This action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects - There is no programmatic effect resulting from this rescission proposal.

Outlay Effect: (estimated in thousands of dollars)

Comparison with the President's 1979 Budget:

1. Budget outlay estimate for 1979	930
2. Outlay savings, if any, included in the budget outlay estimate	---
Current outlay estimates for 1979:	
3. Without rescission	808
4. With rescission	733
5. Current outlay savings	70
Outlay savings for 1980	5

TITLE V - RELATED AGENCIES

Foreign Claims Settlement Commission

Salaries and Expenses

(Transfer of Funds)

Of the funds appropriated under this head in the State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act, 1979, $75,000 are rescinded.

Deferral No: D79-31

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 95-481): $83,375,000
Bureau: International Security Assistance	Other budgetary resources: 127,000,000 1/
Appropriation title & symbol: Military Assistance 2/ 1191080	Total budgetary resources: 210,375,000
	Amount to be deferred: Part of year $161,875,000; Entire year ___
OMB identification code: 11-1080-0-1-052	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other ___
Grant program: [X] Yes [ ] No	
Type of account or fund: [X] Annual; [ ] Multiple-year ___ (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other ___

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish military assistance "...to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the U.S. and promote world peace..." Funds for this purpose were appropriated in the Foreign Assistance and Related Programs Appropriation Act of 1979 and previous years.

The Administration is reviewing the proposed program within the new constraints imposed by the Foreign Assistance and Related Programs Appropriations Act of 1979 to determine what adjustments in allocation of funds to recipient countries are necessary and will report these to Congress in accordance with Section 653 of the Foreign Assistance Act of 1961, as amended. Pending this determination and the required congressional notification, $161,875,000 of military assistance funds are deferred. This temporary deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665) to achieve the most economical use of the appropriations.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: This temporary deferral has no effect on outlays.

1/ The availability of these funds was extended until September 30, 1979, by P.L. 95-481.
2/ This account was the subject of a deferral in FY 1978.

Deferral No: D79-32

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ___): $___
Bureau: United States Fire Administration	Other budgetary resources: 6,150,000
Appropriation title & symbol: Facilities 138/00801	Total budgetary resources: 6,150,000
	Amount to be deferred: Part of year $6,150,000; Entire year ___
OMB identification code: 13-0801-0-1-451	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other ___
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [X] Multiple-year September 30, 1980 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other ___

Justification:

The Second Supplemental Appropriations Act, 1978, provided $6,150,000 for the renovation of the National Fire Academy site located at the former Marjorie Webster Junior College in Washington, D.C. However, concern about the cost of renovating the college, and possible future limitations on expansion due to local zoning laws prompted Congress to direct the United States Fire Administration to sell the present site and acquire another site for construction of a new academy.

Alternate sites for a new fire academy are now being considered. These funds are deferred pending the selection of a new site.

Estimated Effects:

This deferral has no effect on the program as currently planned for FY 1979.

Outlay Effect:

There will be no outlay effect since the funds would not be used if made available.

Deferral No: D79-33

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 95-431) $ 157,000,000
Bureau: Maritime Administration	Other budgetary resources 308,933,780
Appropriation title & symbol: Ship Construction 1/ 13X1708	Total budgetary resources 465,933,780
	Amount to be deferred: Part of year $ ____ Entire year 157,000,000
OMB identification code: 13-1708-0-1-403	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification:

This appropriation, available until expended, provides subsidies to U.S. shipyards for the construction and reconstruction of ships to be operated in the U.S.-foreign trade.

The deferral, totalling $157,000,000, is based on the current projections of reliable demand for U.S. shipbuilding. Anticipated new shipbuilding contracts during FY 1979 can be funded with the $308,933,780 apportioned for this period. The amount deferred will be used in succeeding years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665) which provides that funds not limited to a definite period of time shall be apportioned so as to achieve their most effective and economical use.

Estimated Effects:

The deferral will not delay any planned construction or reconstruction of subsidized ships and will not affect the international competitive position of U.S. shipyards.

Outlay Effect:

There is no outlay effect of this deferral.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-34

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 95-457) $ 3,759,600,000
Bureau	Other budgetary resources 5,000,000
Appropriation title & symbol: Shipbuilding and Conversion Navy 1/ 179/31611	Total budgetary resources 3,764,600,000
	Amount to be deferred: Part of year $ ____ Entire year 563,940,000
OMB identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [X] Multiple-year September 30, 1983 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification:
These funds are proposed for deferral through September 30, 1979. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods.

Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year. The unapportioned amount is withheld and released as the program develops and additional funds are required. The amounts deferred are to be released contingent upon the development of program needs that arise in current and future years.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multiple-year appropriation is currently being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665), which authorizes the establishment of reserves for contingencies.

Estimated Effects:
Deferral of $563,940,000 will have no programmatic or budgetary effect since the funds could not be obligated at this time, even if made available.

Outlay Effects:
There is no outlay effect resulting from this deferral since the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

D79-17A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D79-17 transmitted to the Congress on October 2, 1979, and printed as House Document No. 95-392.

The amount deferred for the Federal Prison System's Buildings and facilities account is $37,165,000, an increase of $11,865,000 over the amount previously deferred. This change results from an increase in budgetary resources made available by the State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1979.

Deferral No: D79-17 A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. ____) $ 35,280,000*
Bureau: Federal Prison System	Other budgetary resources 51,908,354
Appropriation title & symbol: Buildings and Facilities 1/ 15X1003	Total budgetary resources 87,188,354*
	Amount to be deferred: Part of year $ ____ Entire year 37,165,000*
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1979 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with these projects during FY 1979. This deferral is consistent with the congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: The amount deferred could not be economically used, if made available, in fiscal year 1979, because of the planned and phased procurement, construction and installation cycle.

Outlay Effect: In FY 1979 there is no outlay effect of this deferral.

1/ This account was the subject of a deferral during FY 1978.

* Revised from previous report.

D79-18A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D79-18 transmitted to the Congress on October 2, 1978 and printed as House Document No. 95-392.

The amount deferred for the United States Emergency Refugee and Migration Assistance Fund is $12,250,000, an increase of $9,500,000 over the amount previously deferred. This change results from an increase in budgetary resources made available by the Foreign Assistance and Related Programs Appropriation Act, 1979.

Deferral No: D79-18A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State Bureau:	New budget authority (P.L.) $ 9,500,000* Other budgetary resources 2,750,000 Total budgetary resources 12,250,000*
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Amount to be deferred: Part of year $ 12,250,000* Entire year
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, Public Law 94-141, approved November 29, 1975, amended section 2(c) of the Refugee and Migration Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $25 million to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

In addition to $2,750,000 in unobligated balances previously deferred, the Foreign Assistance and Related Programs Appropriation Act, 1979 (P.L. 95-481) provided $9,500,000 in new budget authority for the Fund. Consonant with the President's authority set out in Executive Order No. 11922 and to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1), $12,250,000 of the Fund is now deferred. It is anticipated that reapportionments may be made case-by-case as the President determines assistance to be furnished and designates refugees to be assisted by the Fund.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: No effect on outlays results from this deferral action.

1/ This account was the subject of a similar deferral during FY 1978.
* Revised from previous report.

[FR Doc. 78-34165 Filed 12-5-78; 8:45 am]

dent and each House of the Congress, beyond either the first, or second, or

WEDNESDAY, DECEMBER 6, 1978
PART IV



federal register

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

■

DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Proposed Rule; Hearing

mined that it is not possible to comply

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[3410-05-M]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 781]

DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Proposed Rulemaking and Public Hearing

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: Section 8 of the Agricultural Foreign Investment Disclosure Act of 1978 (effective October 14, 1978) prescribes that the Secretary of Agricultural shall promulgate regulations implementing the provisions of the Act within 90 days after its effective date. This Act requires foreign persons who acquire, transfer, or hold any interest, in agricultural land located in the United States to report within specified time periods such transactions or holdings to the Secretary of Agriculture.

In order to facilitate the development of such regulations, the Secretary desires to obtain the views of interested persons. Such views may be submitted in writing or presented orally at a scheduled public hearing.

DATES: Written comments must be received on or before January 5, 1979. Hearing on December 14, 1978; 9 a.m. to 4 p.m.

ADDRESSES: Mail comments and requests to speak at the hearing to DASCO Staff, USDA, Room 3757, South Building, Washington, D.C. 20250, where written comments wil be available for inspection during business hours 8:15 a.m. to 4:45 p.m.

Hearing will be held in the Jefferson Auditorium, South Building, USDA, 14th and Independence, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul H. Sindt, DASCO Staff, USDA, Room 3757 South Building, Wahington, D.C. 20250. Telephone number 202-447-4351.

SUPPLEMENTAL INFORMATION:

Background

After obtaining the reports required to be submitted pursuant to the Agricultural Foreign Investment Disclosure Act, the Secretary must, within specified time periods, (1) detemine the effect of such acquisitions, transfers, and holdings, particularly the effect on family farms and rural communities, and transmit a report of his findings and conclusions to the President and each House of the Congress, and (2) transmit to each State Department of Agriculture a copy of each report received from the reporting entities. If the Secretary determines that any foreign person required to submit a report has failed to do so or has knowingly submitted an incomplete, false, or misleading report, the Secretary shall impose a civil penalty on such person not to exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest held in such land by the foreign person.

Major Issues

The views of interested persons are sought in particular on the following issues:

1. *Nature of the interest in United States agricultural land which a foreign entity holds, acquires or transfers.* Section 2 of the Act requires all foreign entities holding, acquiring or transferring "any interest, other than a security interst", in the United States agricultural land to report such to the Secretary of Agricultural within various specified time periods. Should the words "any interest" be taken to include such things as future interests not yet realized or usufructory interests such as easements across agricultural land? How should "any interest" in agricultural land be defined?

2. *Nature of a security interest.* Pursuant to section 2 of the Act, the holding, acquisition, or transfer of any interest other than a "security interest", in agricultural land must be reported to the Secretary. Since holdings or transactions involving "security interests" need not be reported, how should a "secretary interest" be defined? Should it be defined to include only mortgages and other debt securing devices? What peculiarities might permit the use of a "securitiy interest" as a subterfuge? How may the use of a "security interest" as a subterfuge be mitigated or eliminated?

3. *Tracing of actual ownership.* Section 2(e) provides that whenever the initial reporting foreign entity is neither an individual nor a foreign government, the Secretary "may" require the reporting entity to submit a report containing, among other things, the legal name and address of each person who holds any interest in the foreign entity. Section 2(f) then provides that on the basis of the information received pursuant to 2(e), the Secretary "may" require those named foreign persons to submit to him a report containing, among other things, the legal name and address of any person who holds any interest in the person submitting the report under 2(f).

Since the Secretary's authority is discretionary, should he refrain from the acually exercising such authority beyond either the first, or second, or third level of ownership?

Moreover, in view of the fact that both section 2(e) and 2(f) permit the Secretary to request reports concerning each person holding "any interest" in the previous reporting entity, if the Secretary decides to exercise such statutory discretion, how should "any interest" be defined both quantitatively and qualitatively? For example, should "any interest" mean 5 percent, 10 percent, 25 percent, or 50 percent interst? Should the nature of the interest include leaseholds, security interests, easements, or any other such interest?

4. *The nature of Agricultural land.* Section 9(1) defines agricultural land to mean land used for "agricultural, forestry, or timber production purposes." In light of the fact that foreign entities need only file reports concerning such land, how should these terms be defined? For instance, should a residental lot owned by a foreign person be considered agricultural land simply because it may be utilized for personal horticulture? Similarly, should land held by a foreign person and used for growing seasonal or decorative trees be considered to be land use for forestry production purposes?

5. *The size of the agricultural land.* In addition to the foregoing, section 9(1) proposed to define agricultural land as "any land" used for agricultural, forestry, or timber production purposes as determined by the Secretary uder the regulations to be prescribed. Apparently, the language is inclusive enough to allow the Secretary to issue rules requiring that reports be filed by relevant entities holding small tracts of agricultural land. Would it be preferable for the Secretary to promulgate a minimum acreage regulation providing that foreign entities holding less than a specific figure need not file the reguired reports? If so, what should be the minimum acreage figure?

6. *Significant or substantial control.* Section 9(3) defines the term "foreign person". Pursuant to subsection (3)(c)(ii), foreign person includes any entity created or organized under the laws of any State, in which a "significant interest of substanital control" is directly or indirectly held by any other foreign entity or foreign person. What should be the extend of ownership constituting significant interest or substantial control? Can any foreign entity holding 10 percent or less of a domestically incorporated corporation be considered to have substantial control of such a corporation?

Since section 8 of the Agricultural Foreign Investment Disclosure Act of 1978 requires that the Secretary of Agriculture issue regulations implementing the provisions contained therein by January 12, 1979, I have determined that it is not possible to comply with the requirement for 60-day comment period as provided for by Executive Order 12044 of March 23, 1978 (43 FR 12661). Accordingly, a 30-day comment period is provided.

In accordance with Exective Order 12044 a regulatory impact analysis has been prepared. Descriptions of alternatives and their impact are included in the analysis. Copies of the regulatory impact analysis are available by contacting the Office of the Director of Economics, Policy Analysis and Budget, Room 102, Administration Building, USDA, Washington, D.C. 20250.

Signed at Washington, D.C. on December 4, 1978,

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 78-34201 Filed 12-5-78; 9:41 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

federal register

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NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 . Order by stock number 022-003-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1978.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 443]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 8-14, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on December 5, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that prices for navel oranges are declining, and that demand is expected to increase as the Christmas holiday approaches.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.743 Navel Orange Regulation 443.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 8, 1978, through December 14, 1978, are established as follows:

(1) District 1: 1,250,000 cartons;

(2) District 2: Unlimited movement;

(3) District 3: Unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: December 6, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-34392 Filed 12-6-78; 12:06 pm]

[3410-02-M]

[Amdt. 4]

PART 967—CELERY GROWN IN FLORIDA

Subpart—Rules and Regulations

REVISION OF BASE QUANTITY FORMULA

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: A recent amendment of the Florida Celery Marketing Order provides for periodic review of Base Quantities and authorizes the Secretary of Agriculture to update Base Quantities by revising the formula used to determine them to reflect a more representative period of historical marketings. This rule specifies this revised formula.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order 967, both as amended, regulate the handling of celery grown in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The amended order (42 FR 32762) provides that the Secretary will issue rules or regulations which set forth the procedures to be followed in implementing the amended provisions.

Notice of rulemaking was published in the October 10, 1978, FEDERAL REGISTER (43 FR 46549) inviting comments by November 9, 1978. None was received.

The purpose of the rule is to have Base Quantities effective for the 1979-80 season that are in accord with the current status of the industry. Active producers will be issued revised Base Quantities reflecting their recent history of celery sales. Paragraph (a) will recognize permanent transfers of Base Quantities which have occurred since December 15, 1976. It also will implement a provision of the order which specifies that a condition for the con-

tinuing validity of a Base Quantity is

specified period of time prior to the

Inshell supply:	Tons
(5) Supply subject to regulation (Item	

[4910-13-M]

are impractical and good cause exist

[4910-13-M]

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tinuing validity of a Base Quantity is production of celery thereunder. Any Base Quantities not used during both the 1977-78 and 1978-79 seasons, or any subsequent two consecutive seasons, will be declared invalid and canceled at the end of the second consecutive season of nonproduction.

Paragraph (b) of the rule will result in current producers receiving revised Base Quantities which recognize any recent fresh market sales larger than the producers' Base Quantities in effect for 1978-79. It also assures that producers who marketed celery under a Base Quantity temporarily transferred to them prior to the 1974-75 season will be credited with their celery marketing history when revised Base Quantities are issued.

Paragraph (c) provides that a producer who temporarily transferred a Base Quantity prior to the 1974-75 season will have that Base Quantity reissued to him. This recognizes that the initial transfer was in accord with rules then in effect.

Findings: After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found and determined that the rules should be amended as follows:

Amend Subpart—Rules and Regulations (7 CFR 967.100-967.166) by adding a new § 967.155 to read as follows:

§ 967.155 Revised Base Quantity Formula.

As soon as practicable following the May 1, 1979, registration deadline, Base Quantities for all producers of record with the Florida Celery Committee as of December 15, 1976, shall be revised to be effective for the 1979-80 season as follows and in the order enumerated:

(a) Application of the provisions of §§ 967.37(e) and 967.39 as it pertains to permanent transfers.

(b) Selection of the highest number of crates of celery produced and shipped by or for each producer during any one of the five seasons, 1974-75 through 1978-79, or his Base Quantity for the 1978-79 season, whichever is greater: *Provided however*, No producer who produced and shipped celery during each of the five seasons, 1974-75 through 1978-79 shall lose all or any portion of his Base Quantity by the application of § 967.39 pertaining to specified period of time transfers, which were approved by the committee prior to the commencement of the 1974-75 season: *And provided further*, any new producer who is issued a Base Quantity by the committee under § 967.37(d) or by transfer after December 15, 1976, shall retain his present Base Quantity.

(c) Any producer who transferred, with approval of the committee, all or a portion of his Base Quantity for a specified period of time prior to the commencement of the 1974-75 season shall have the transferred Base Quantity reissued to him upon the expiration date of such transfer.

(Secs. 1-19, 48 Stat. 31, as amended: (7 U.S.C. 601-674).)

Dated December 4, 1978 to become effective January 4, 1979.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-34173 Filed 12-6-78; 8:45 am]

[3410-02-M]

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Free and Restricted Percentages for the 1978-79 Marketing Policy Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes marketing percentages for inshell filberts for the marketing policy year beginning August 1, 1978. The action is taken under the marketing order for filberts grown in Oregon and Washington to promote orderly marketing conditions.

EFFECTIVE DATES: August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On October 20, 1978, notice was published in the FEDERAL REGISTER (43 FR 49011) on the proposed establishment of free and restricted percentages of 50 percent and 50 percent, respectively. No comments were received. The percentages were recommended by the Filbert Control Board, which is established under the marketing agreement, and Order No. 982, both as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The percentages are based upon the following estimates by the Filbert Control Board for the 1978-79 marketing policy year:

Inshell supply:	Tons
(1) Total production	12,925
(2) Less substandard, etc	1,681
(3) Merchantable production	11,244
(4) Carryover Aug. 1, 1978 of merchantable filberts	58
Inshell supply:	
(5) Supply subject to regulation (Item 3 plus Item 4)	11,302
Inshell requirements:	
(6) Trade demand	5,800
(7) Carryover July 31, 1979	950
(8) Total	6,750
(9) Less carryover Aug. 1, 1978 not subject to 1978-79 regulation	1,055
(10) Inshell requirements	5,695
Percentages:	
(11) Free percentage (item 10 divided by item 5)	50
(12) Restricted percentage (100 pct minus 50 pct)	50

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Filbert Control Board to be noncompetitive with normal market outlets for inshell filberts.

FINDINGS: After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information, it is found that to establish this rule will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this rule until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). The order requires that free and restricted percentages for a particular marketing policy year shall apply to all inshell filberts handled during that year, and this rule automatically applies to all such filberts beginning August 1, 1978.

The free and restricted percentages follow.

§ 989.228 Free and restricted percentages for merchantable filberts during the 1978-79 marketing policy year.

The free and restricted percentages for the marketing policy year beginning August 1, 1978, shall be 50 percent and 50 percent, respectively.

(Secs. 1-19, 48 Stat. 31 as amended (7 U.S.C. 601-674).)

Dated: December 4, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-34174 Filed 12-6-78; 8:45 am]

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[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-98; Amdt. 39-3360]

PART 39—AIRWORTHINESS DIRECTIVES

AVCO Lycoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to AVCO Lycoming 0-235-L2C type aircraft engines equipped with 4050, 4051, 4052 and 4081 Model Slick magnetos, installed on PA-38-112 airplanes. The purpose of the replacement is to prevent engine stoppage resulting from a dual failure of the magnetos, which failures have been reported.

DATE: Effective December 8, 1978. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701.

FOR FURTHER INFORMATION CONTACT:

E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There had been reports of dual failures of Slick magnetos, Models 4050, 4051, 4052, and 4081 as incorporated in AVCO Lycoming engines installed in Piper PA-38-112 type airplanes. Due to the urgency of the matter, and the information available at the time, an Emergency Order of Suspension dated September 22, 1978, was issued which suspended the airworthiness certificates of all PA-38-112 airplanes. This Order was amended on October 5, 1978, to apply to only airplanes equipped with the same model magnetos with under 75 hours of operation and with serial number under 8100001. A re-evaluation of the information indicates that with higher than normal single magneto failures and their occurring after 75 hours of operation, a requirement exists to replace all such model magnetos regardless of the hours of operation, but still with a serial number under 8100001. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exist for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

AVCO LYCOMING: Applies to all AVCO Lycoming Model 0-235-L2C engines installed in Piper Model PA-38-112 aircraft.

Compliance required as indicated, unless already accomplished.

To prevent engine stoppage caused by failure of condensers installed in the Slick 40xx series magnetos, comply with the following:

a. Prior to further flight, engines whose Slick 40xx series magnetos have not accumulated 75 hours of operation in a Piper Model PA-38-112 aircraft must have their Slick Models 4050, 4051, 4052, or 4081 magnetos replaced with Slick Models 4150, 4151, 4152, or 4181 magnetos respectively having serial numbers 8100001 and up, or an approved equivalent part.

b. Engines whose Slick 40xx series magnetos have accumulated 75 hours or more of operation in a Piper Model PA-38-112 aircraft must have their Slick Models 4050, 4051, 4052, or 4081 magnetos replaced with Slick Models 4150, 4151, 4152, or 4181 magnetos respectively having serial numbers 8100001 and up or an approved equivalent part within 50 hours in service after the effective date of this AD.

c. Equivalent methods of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

d. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance time specified in paragraph (b) in this AD.

AVCO Lycoming Service Bulletin No. 432 is the subject of the AD.

Effective Date: This amendment is effective December 8, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, N.Y., on November 24, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-33956 Filed 12-6-78; 8:45 am]

[4910-13-M]

[Docket No. 78-ASW-37; Amdt. 39-3359]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Helicopter Textron Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) No. 78-17-03, Amendment No. 39-3282, (Docket No. 78-ASW-37) applicable to Bell Helicopter Textron (BHT) Model 212 helicopters to exempt helicopters incorporating the improved main transmission bevel gear, P/N 204-040-701-101, from repetitive inspections and modifications specified in the AD. This exemption does not apply to helicopters incorporating main transmission bevel gear P/N 204-040-701-3. This amendment is needed because the FAA has determined that installation of the improved bevel gear, P/N 204-040-701-101, provides sufficient strength to assure airworthiness without the inspections and restrictions prescribed by this AD.

DATES: Effective November 22, 1978. Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained upon request to the Service Manager, Bell Helicopter Textron, Post Office Box 482, Fort Worth, Tex. 76101. A copy of the service bulletin is contained in the Rules Docket (Room 916, 800 Independence Avenue SW., Washington, D.C. 20591), or at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76101.

FOR FURTHER INFORMATION CONTACT:

Wilbur F. Wells, Propulsion Section (ASW-214), Engineering and Manufacturing Branch, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 524.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment No. 39-3282 (43 FR 37680), AD 78-17-03 (Docket No. 78-SW-37) applicable to the BHT Model 212 helicopter, which currently requires removal of the rotor brake, if installed, and a 25-hour repetitive inspection of the main transmission bevel gear, P/N 204-040-701-3 or P/N 204-040-701-101. After issuing Amendment No. 39-3282, the FAA has determined that the P/N 204-040-701-101 bevel gear used in transmissions in some of these helicop-

Traffic Service, Federal Aviation Ad-

NOTE.—The FAA has determined that this

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ters is of sufficient strength that the 25-hour repetitive inspection and the requirement for removal of the rotor brake are no longer necessary. Therefore, the FAA is amending AD 78-17-03, Amendment No. 39-3282, to delete any reference to the bevel gear, P/N 204-040-701-101.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment No. 39-3282 (43 FR 37680), AD 78-17-03, as follows:

Revise the applicability paragraph to read:

78-17-03 *Bell Helicopter Textron (BHT)*: Amendment 39-3282 (Airworthiness Docket No. 78-ASW-37). Applies to Model 212 helicopters certificated in all categories equipped with main transmission spiral bevel gear, P/N 204-040-701-3.

Revise the compliance paragraph as follows:

To minimize the possibility of failure of the input spiral bevel gear, P/N 204-040-701-3, used in the main transmission of Bell Helicopter Textron (BHT) Model 212 helicopters, accomplish the following:

Revise paragraph a.3 to read as follows:

Utilizing the opening provided by step 1 or step 2, above, inspect all 62 teeth of the main spiral bevel gear, P/N 204-040-701-3, as prescribed by paragraph 2 of Part I of BHT Service Bulletin No. 212-78-8, dated July 28, 1978, or later FAA approved revision.

Revise the service bulletin reference paragraph (following paragraph b) as follows:

BHT Service Bulletin No. 212-78-8 pertains to and provides for accomplishing the intent of this AD except that in addition, paragraph a, step 6, of this AD must also be accomplished. BHT Service Bulletin No. 212-78-12 also provides instructions and details pertinent to this AD.

This amendment becomes effective November 22, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on November 22, 1978.

HENRY L. NEWMAN,
Director,
Southwest Region.

The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-33959 Filed 12-6-78; 8:45 am]

[4910-13-M]

[Docket No. 78-SO-71; Amdt. No. 39-3361]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed Model 382 Series

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final Rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Lockheed Model 382 series airplanes by expanding the areas to be inspected and revising the inspection procedures. The amendment is needed because the FAA has determined that cracks may occur outside the existing areas to be inspected and that the surface finish must be mechanically removed prior to fluorescent penetrant inspection.

DATE: Effective December 8, 1978. Compliance within the next 50 hours after the effective date of this amendment unless already accomplished.

ADDRESSES: The applicable Lockheed Model 382 Service Bulletins and Lockheed Hercules Airfreighter Inspection Procedures may be obtained from the Lockheed-Georgia Company, Marietta, Georgia 30063. A copy of the inspection procedure is contained in Room 275, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:

Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Georgia 30320, telephone 404-763-7407.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39-1867, AD 74-12-06, as amended by Amendment 39-2512, which currently requires inspection of the wing at outer wing stations 153 to 162 and 198 to 207 on Lockheed Model 382 series airplanes serial numbers 3946 and 4101 through 4541. After issuing Amendment 39-2512, the FAA has determined that cracks may occur outside the existing areas to be inspected and that the surface finish must be mechanically removed prior to fluorescent penetrant inspection. Therefore, the FAA is further amending Amendment 39-1867 by requiring inspection of the wing beam on Lockheed Model 382 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Amendment 39-1867, AD 74-12-06, as amended by Amendment 39-2512 as follows:

Revise paragraph (c) to read:

(c) Inspect outer wing lower forward beam cap, web, and skin for cracks in the area extending from outer wing stations 144 to 165 and 195 to 214, both left and right in accordance with Lockheed Hercules Airfreighter Inspection Procedures, SMP 515-A, Card SP-75, revised October 15, 1978, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

Revise paragraph (d) to read:

(d) Repair of the beam cap shall be in accordance with Lockheed Service Bulletin A382-169, Revision 7, and repair of the beam web in accordance with SMP 583, Lockheed Hercules Structural Repair Manual, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

Revise paragraph (e) to read:

(e) Before the accumulation of 30,000 flight hours, preventive modification shall be installed in accordance with Lockheed Service Bulletin 382-152, Revision 2, and Alert Service Bulletin A382-169, Revision 7, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

Revise paragraph (f) to read:

(f) Recurring inspections shall be performed in accordance with the following:

(1) Recurring inspections for unmodified airplanes will be in accordance with paragraphs (a), (b) and (c) of this amendment.

(2) Recurring inspections for airplanes with preventive modifications shall be in accordance with Lockheed Airfreighter Inspection Procedures, SMP 515-A, Card SP-75, revised October 15, 1978, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, and a detailed visual inspection of the front beam lower cap and adjacent structure including modifications across the entire length of the outer wing dry bays from outer wing stations 144 to 214 at each "C" check.

(3) In addition to the recurring inspections of paragraphs (f)(1) and (f)(2), recurring inspections for airplanes with repairs shall be a detailed visual inspection of the front beam lower cap and adjacent structure, including repairs, across the entire length of the outer wing dry bays from outer wing stations 144 to 214 at each "C" check.

Revise paragraph (g) to read:

(g) Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, may adjust the repetitive inspection intervals specified in this amendment to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

Add paragraph (h) to read:

(h) Airplanes may be flown to a base for performance of the inspections required by this amendment in accordance with Federal Aviation Regulations 21.197 and 21.199.

Add paragraph (i) to read:

(i) Report inspection findings to Chief, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320.

Delete last paragraph.

This amendment becomes effective December 8, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in East Point, Ga., on November 28, 1978.

GEORGE R. LA CAILLE,
Acting Director,
Southern Region.

[FR Doc. 78-34126 Filed 12-6-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-NW-7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment enlarges the Omak, Wash., control area, and will aid air traffic control by improving the flow control procedures associated with aircraft arriving/departing the Seattle and spokane, Wash., areas.

EFFECTIVE DATE: February, 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 23, 1978, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to enlarge the southern portion of the Omak, Wash., Control Area with a base altitude of 4,500 feet MSL (43 FR 49312). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two comments were received but neither stated an objection to the proposal. This amendment is the same as that proposed in the notice. Section 71.163 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 348).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations enlarges the southern portion of the Omak, Wash., control area and establishes a base altitude at 4,500 feet MSL. Also, the present 5,500 feet MSL base altitude of the northern portion of this control area is reduced to 4,500 MSL. This additional control area will permit more expeditious flow of traffic and allow additional flexibility in the application of minimum vectoring altitudes in the Spokane, Wash., and Seattle, Wash., terminal areas. The existing portion of the Omak control area that extends to the United States/Canadian border has a base of 8,500 feet MSL and is not changed in this amendment.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart E of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348) is amended, effective 0901 G.m.t., February 22, 1979, as follows:

In § 71.163, Omak, Wash.

"That airspace extending upward from 5,500 feet MSL within 5 miles each side of a line extending from Omak RBN to the Ephrata VOR;" is deleted and "That airspace extending upward from 4,500 feet MSL beginning at Lat. 48°00'N., Long. 118°36'W., to Lat. 47°45'N., Long. 118°36'W., to Lat. 47°45'N., Long. 120°00'W., to Lat. 48°00'N., Long. 120°00'W., to Lat. 48°00'N., Long. 119°35'W., to Lat. 48°09'30"N., Long. 119°36'W., to Lat. 48°10'N., Long. 119°23'W., to Lat. 48°00'N., Long. 119°22'20"W., to point of beginning," is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on November 30, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-34125 Filed 12-6-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. ER-1084, Amdt. 12; Docket No. 33348]

PART 250—OVERSALES

Advertising Disclosure of Noncompliance With Oversale Rules; Postponement of effective date

AGENCY: Civil Aeronautics Board.

ACTION: Postponement of Effective Date.

SUMMARY: The Board has adopted a rule requiring every carrier operating in foreign air transportation that has not filed a tariff implementing the Board's denied boarding rules to state in its advertisements that it is not following U.S. Government rules for consumer protection on oversold flights. By this rule, the Board is postponing the effective date of the rule until January 18, 1979.

DATES: Effective: The new effective date for ER-1078 is January 18, 1979. Adopted: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428, (202) 673-5442.

SUPPLEMENTARY INFORMATION: By ER-1078 (43 FR 50164, October 27, 1978) the Board amended its regulations on overbooking to require every carrier operating in foreign air transportation that has not filed a tariff implementing these regulations to state in its advertisements that it is not following U.S. Government rules for consumer protection on oversold flights. In response to a petition for stay filed jointly by Air Canada, Canadian Pacific, Lufthansa, Swiss Air and Swiss Air Transport, the Board by Order 78-11-31 (43 FR 53028, November 15, 1978) stayed the effectiveness of ER-1078 until December 18, 1979,

stating its intention to reexamine the

DATE: Effective December 7, 1978.

warranties be "prominently displayed *on the face of the warranty*" (emphasis

glass" is lifted effective January 8, 1979.

issued an order to stay the standard, pending action on the petition, for

The basis for the proposed amendment was that only small quantities of

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stating its intention to reexamine the rule, and to decide what action, if any, to take.

In a letter dated November 20, 1978, placed in the docket and served on all parties, the attorney for the petitioning carriers asked the Board to continue the stay *pendente lite*, as requested in their original petition. The carriers argue that ER-1078 would involve substantial burdens and competitive harm to them, and that the Court of Appeals will not have acted on their Petition for Review of the rule by expiration of the Board's current stay, expiring December 18, 1978.[1]

The Board intends to reexamine ER-1078 at its public meeting during the week of December 4, 1978. In order to provide the carriers sufficient time to comply, or take any other action, in response to the Board's decision at this meeting, the effectiveness of ER-1078 is extended an additional 30 days.

Accordingly, the effective date of ER-1078 (43 FR 50164, October 27, 1978), amending Part 250 of the Board's Economic Regulations (14 CFR Part 250), is changed to January 18, 1979.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324(a).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34193 Filed 12-6-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER G-RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER THE MAGNUSON-MOSS WARRANTY ACT

SERVICE CONTRACTS AND IMPLIED WARRANTIES

Section 108 of the Act; Advisory Opinion

AGENCY: Federal Trade Commission.

ACTION: Advisory opinion.

SUMMARY: The Federal Trade Commission issues an advisory opinion that relates to service contracts and implied warranties. The Commission states that Section 108 of the Magnuson-Moss Warranty Act prohibits a proposed course of action whereby automobile dealers entering into service contracts with vehicle purchasers at the time of sale seek to limit the duration of implied warranties therein.

[1] *Air Canada, et al v. C.A.B.* (CADC Case Nos. 78-2073, 78-2143).

DATE: Effective December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Karp, Attorney, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-1753.

SUPPLEMENTARY INFORMATION: By letter of October 4th and 18th, 1978, the firm of Rain, Harrell, Emery, Young and Doke requested on behalf of their clients, automobile dealers who enter into service contracts with vehicle purchasers at the time of sale, an opinion as to whether Section 108 of the Magnuson-Moss Warranty Act would prohibit limiting the duration of implied warranties to the duration of the service contract.

The Commission responded to the request as follows:

CATHLEEN CHANDLER STEVENSON, Esq.
Rain, Harrell, Emery, Young and Doke, Republic National Bank Tower, Dallas, Texas 75201

DEAR MRS. STEVENSON: This is in response to your letters of October 4th and 18th, 1978 requesting an advisory opinion as to whether Section 108 of the Magnuson-Moss Warranty Act, 15 U.S.C. 2308, would prohibit a proposed course of action for your clients. Your clients, automobile dealers who enter into service contracts with vehicle purchasers at the time of sale, propose to limit the duration of implied warranties to the duration of the service contract.

Section 108(a) of the Act flatly prohibits any modification of implied warranties by a supplier when a full warranty is offered or a service contract is entered into. This section states:

> No supplier may disclaim or modify (except as provided in subsection (b)) any implied warranty to a consumer with respect to such consumer product if (1) such supplier makes any written warranty to the consumer with respect to such consumer product, or (2) at the time of sale, or within 90 days thereafter, such supplier enters into a service contract with the consumer which applies to such consumer product.

Section 108(b) of the Act creates an exception to the general rule in Section 108(a) in the following manner:

> For purposes of the title (other than section 104(a)(2)), implied warranties may be limited in duration to the duration of a written warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

The exception in Section 108(b) does not refer, however, to service contracts or provide for the limitation of implied warranties in service contracts. In fact, the provision specifically requires that any permitted limitation of implied warranties be "prominently displayed *on the face of the warranty*" (emphasis added). Had Congress intended the exception to apply to service contracts as well, Section 108(b) would read ". . . prominently displayed on the face of the warranty or service contract." Further, there is no other section of the Act that could be interpreted to allow the course of action you have proposed.

Section 108(b) would thus not except the proposed course of action from the general prohibition against disclaimer or limitation of implied warranties in Section 108(a) of the Act.

By direction of the Commission dated November 17, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-34144 Filed 12-6-78; 8:45 am]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

Amendment to Standard Exempting Certain Decorative Glazing Materials

AGENCY: Consumer Product Safety Commission.

ACTION: Final amendment to rule.

SUMMARY: In this document, the Commission amends the Safety Standard For Architectural Glazing Materials to exempt from its coverage carved glass, dalle glass, and leaded glass, if those materials are incorporated into doors or glazed panels covered by the standard for decorative or artistic purposes. The exemption is issued because these glazing materials have an aesthetic and artistic value but are unable to meet the requirements of the standard; acceptable substitute glazing is not available; and any risk of injury is mitigated by the visibility of the glass. The Commission in this document also lifts the stay of the standard it issued for faceted, patinaed, and leaded glass which has been ineffect pending action on this amendment.

DATES: The exemption for carved glass, dalle glass, and leaded glass incorporated into doors or glazed panels covered by the standard for decorative or artistic purposes is effective on December 7, 1978. The stay of the standard for faceted glass and leaded glass is lifted effective December 7, 1978. The stay of the standard for "patinaed glass" is lifted effective January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Allen Brauninger, Directorate of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6629.

SUPPLEMENTARY INFORMATION: On January 6, 1977, the Consumer Product Safety Commission issued the Safety Standard for Architectural Glazing Materials to eliminate or reduce unreasonable risks of injury associated with architectural glazing materials and products incorporating those materials (42 FR 1428 (16 CFR 1201). The standard prescribes tests to insure that glazing materials used in certain architectural products either do not break when impacted with a specified energy, or break with such characteristics that they are less likely to present an unreasonable risk of injury. The standard became effective on July 6, 1977.

Provisions of § 1201.1(c) of the standard, as issued on January 6, 1977, exempted six items of glazing materials from its requirements. The only decorative glazing materials exempted by § 1201.1(c) were:

> "Leaded glass panels where no individual piece of glass has an area greater than 30 square inches."

The term "leaded glass" is defined in the standard at § 1201.2(a)(14) to mean:

> • • • a decorative composite glazing material made of individual pieces of glass whose circumference is enclosed by lengths of durable metal such as lead or zinc and the pieces of glass are completely held together and supported by such metal."

On April 20, 1977, the Stained Glass Association of America (SGAA), petitioned the Commission under section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) to amend the standard to exempt other decorative glazing materials. The petition was designated CP 77-12.

On June 21, 1977, SGAA requested the Commission to stay the standard as it applied to the products described in the petition *i.e.* patinaed, leaded and faceted glass. SGAA stated that decorative glazing materials of the types described in its petition could not be manufactured to conform to the standard, were used for decorative and artistic purposes, and were produced in extremely limited quantities. SGAA also argued that the standard effectively eliminated all of its products from use in glazed panels and decorative glass as an art form. After considering SGAA's arguments and reviewing information obtained by its staff, the Commission on June 30, 1977 issued an order to stay the standard, pending action on the petition, for "faceted glass", "patinaed glass" and "leaded glass", as those terms were defined in the order when those materials are used in doors, storm doors, and glazed panels having no individual piece of glazing material greater than nine square feet in area, provided certain specified criteria were met. Notice of the stay of the standard was published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40188).

Discussion between the Commission staff and SGAA on the petition, after the Commission issued its stay of enforcement, disclosed that although the stay of enforcement did not include carved or etched glass, the same considerations which led to the stay of enforcement would support an exemption for carved or etched glass. Those discussion also indicated that "patinaed glass" was almost always used as a component of leaded glass panels, and generally did not constitute a separate category of decorative glazing material.

In the FEDERAL REGISTER of March 15, 1978, the Commission proposed an amendment to the standard. The proposal applied to "carved glass", "faceted glass" and "leaded glass"[1] that met the following criteria:

1. The coloring, texturing, or other design qualities or components of the glazing material cannot be removed without destroying the material; and
2. The primary purpose of such glazing is decorative or artistic; and
3. The glazing material is conspicuously colored or textured so as to be plainly visible and plainly identifiable as aesthetic or decorative rather than functional (other than for the purpose of admitting or controlling admission of light components or heat and cold); and
4. The glazing material, or assembly into which it is incorporated, is divided into segments by conspicuous and plainly visible lines.

After consideration of the injury information associated with these products, the aesthetic characteristics of the decorative glazing materials, and technical problems of producing decorative glazing materials which comply with the standard, the Commission proposed an exemption for carved, faceted, and leaded glass used in doors and glazed panels without regard to their size. The amendment, as proposed, would not exempt any decorative materials used in any storm door, sliding glass door (patio type), bathtub door and enclosure, or shower door and enclosure from the requirements of the standard.

[1] Because "patinaed glass" is used as a component of leaded glass panels, the March 15, 1978 proposal did not refer to "patinaed glass" as a separate category of glazing material.

The basis for the proposed amendment was that only small quantities of glazing were covered by the amendment, any risk of injury was mitigated by the visibility of decorative glass, substitute glazing that complied with the standard generally was not available, and not granting an exemption would reduce aesthetic qualities of the products with a resulting loss of consumer utility. These reasons are discussed in more detail in the proposal.

COMMENTS RECEIVED

Nine comments were received in response to the proposed amendment. All commenters expressed general approval of the proposal to remove certain decorative glazing materials from the requirements of the standard.

A comment from a manufacturer of decorative glazing materials stated that the exemption for "leaded glass" should be broadened to include copper-foil panels. This comment states that copper-foil panels have the same physical properties as panels of leaded glass. The petitioner has informed the Commission that "copper-foil panels" consist of individual pieces of glass which are edged with copper-foil and soldered together so that each piece of glass is completely surrounded and supported by metal.

The proposed amendment defined the term "leaded glass" as "a decorative composite glazing material made of individual pieces of glass • • • enclosed by lengths of durable metal such as lead or zinc • • •." Lead and zinc are only examples of durable metal that must enclose the glazing. Thus, "copper-foil" panels meet the definition of "leaded glass" contained in proposed § 1201.2(a)(14). However, to express the intent of the Commission more clearly and to respond to the comment under consideration, the definition of leaded glass in § 1201.2(a)(14) of the amendments issued below has been revised to state that "leaded glass" means a decorative material consisting of individual pieces of glass "enclosed by lengths of durable metal such as lead, zinc, copper, or solder • • •."

The same comment states that dalle glass, or dalle de verre, should be added to the types of decorative glazing materials exempted from the standard because it consists of pieces of glass approximately one-half inch thick or thicker which are embedded in epoxy cement, and are therefore unlikely to break on human impact.

The types of decorative glazing materials which were to be exempted from the requirements of the standard by the proposed amendment included "faceted glass." That material was defined by proposed § 1201.2(a)(37) to mean:

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a decorative composition glazing material made of individual pieces of glass which are imbedded in a cast matrix of concrete or epoxy.

The definition of "faceted glass" set forth in the proposed amendment appears to encompass dalle glass as described by the comment under consideration. However, the petitioner has informed the Commission that "faceted glass" is a particular kind of "dalle glass" consisting of individual pieces of glass from which the edges have been chipped to create facets in the glass.

When the Commission proposed the amendment to broaden the categories of decorative glazing materials exempted from the standard, it intended to include any composite decorative glazing material described in proposed § 1201.2(a)(37). To express this intent more clearly and to respond to the comment under consideration, in the final amendment the term "dalle glass" has been substituted for the term "faceted glass" in § 1201.1(c)(4) as proposed; and § 1201.2(a)(37) of the amendment as proposed has been revised to read as follows:

(37) "Dalle glass" or dalle de verre (including faceted glass) means a decorative composite glazing material made of individual pieces of glass which are imbedded in a cast matrix of concrete or epoxy.

Two comments urge elimination of language in the proposal that requires decorative glazing material to be divided into segments by conspicuous lines in order to be exempted from the standard.

The Commission proposed the amendment to broaden the categories of decorative glazing material exempted from the requirements of the standard because of recognition that certain decorative glazing materials not falling within the definition of leaded glass are sufficiently similar to leaded glass such that the absence of an exemption for these other decorative glazing materials might be unfair. For example, certain panels of faceted glass were not exempted from the standard as issued on January 6, 1977, only because the individual pieces of glass were held together by cement or epoxy rather than by metal. Aside from this difference, faceted glass and carved glass, like leaded glass, require large amounts of highly skilled labor in their production, are produced in relatively small quantities, and are used principally for aesthetic purposes, thereby limiting consumer exposure to the glazing material and the resultant risk of injury from breakage by accidental impact.

Eliminating the requirement that the glazing material be divided into segments by conspicuous lines in order to come under the exemption, as urged by the coments under consideration, would broaden the categories of exempted materials and products to include some which do not share the characteristics described above, and would significantly increase the quantities of noncomplying materials to which consumers would be exposed. Further, it has not been shown that manufacture of this broader category of glazing material (i.e., materials not divided into segments by conspicuous lines) would be eliminated or otherwise seriously affected by a requirement to comply with the standard. Therefore, the Commission declines to expand the scope of the exemption as requested by these comments.

Two comments suggest a further expansion of the proposal to include opalescent glass, used as a separate category of glazing materials, within the category of material exempt from the requirements of the standard. The proposed amendment to the standard exempting decorative glass applied to three specified types of decorative glass. Opalescent glass used as a separate category of glazing material was not included in the proposal and therefore, interested persons were not given an opportunity to comment on the question of an exemption. Expanding the final amendment to include opalescent glass, as suggested by the comments under consideration, would significantly alter the scope of the amendment without giving interested persons an opportunity to comment, as is required by the Administrative Procedure Act. For this reason, the Commission declines to expand the scope of the exemption.

Environmental Considerations

The CPSC's interim environmental review procedures, 16 CFR 1021.5 provide that an environmental review is generally not required for amendments to an existing standard that do not alter the principal purpose or effect of the standard. The amendments below would not alter the principal purpose or effect of the standard for architectural glazing materials. Rather, they allow manufacturers to use additional types of glazing materials in specified architectural products. The Commission does not forsee any environmental effects from the issuance of the amendments which would necessitate an environmental review. Consequently, preparation of a draft environmental impact statement is unnecessary.

Effective Date

5 U.S.C. 553(d) provides that a rule which relieves a restriction or grants an exemption may take effect immediately. Because the amendments would grant an exemption, the Commission believes the amendment should take effect upon publication of a final amendment in the Federal Register.

In issuing this final amendment to the glazing standard, the Commission also is lifting the stay of the standard issued on June 30, 1977 and published in the Federal Register of August 9, 1977. The lifting of the stay will not affect leaded or faceted glass which will be exempt from the standard under the amendment. Patinaed glass, however, is exempt only to the extent that it is used in leaded glass and would not be exempt from the standard as an individual category of glass as it was under the stay order. Because of this different treatment of patinaed glass, the Commission is providing in the amendment that patinaed glass manufactured during the period of the stay may by sold without restriction; and it may be incorporated into architectural products subject to the standard and those products may be sold without restriction. It is also providing that the stay of the standard for patinaed glass is lifted January 8, 1979, in order to give manufacturers of patinaed glass notice of the Commission's action. It is the Commission's understanding that patinaed glass is used almost exclusively in leaded glass and thus it is unlikely that consumers will be exposed to a greater risk of injury from patinaed glass used as an individual piece of glazing material.

The Commission concludes that the standard should be amended as set forth below. Therefore pursuant to provisions of the Consumer Product Safety Act (sec. 9(e)), Pub. L. 92-583, 86 Stat. 1215; 15 U.S.C. 2058(e); and 5 U.S.C. 553, the Commission amends the Safety Standard for Architectural Glazing Materials by adding new §§ 1201.2(a) (36) and (37), and § 1201.7(h), and by revising § 1201.1(c)(4) and § 1201.2(a)(14), as follows:

§ 1201.1 Scope, application, and findings.

. . . . . .

(c) *Exemptions.* The following products, materials, and uses are exempt from this Part 1201:

. . . . . .

(4) Carved glass (as defined in § 1201.2(a)(36)), dalle glass (as defined in § 1201.2(a)(37)), or leaded glass (as defined in § 1201.2(a)(14)), which is used in doors and glazed panels (as defined in §§ 1201.2(a)(7) and (a)(10)) if the glazing material meets all of the following criteria:

(i) The coloring, texturing, or other design qualities or components of the glazing material cannot be removed without destroying the material; and

(ii) The primary purpose of such glazing is decorative or artistic; and

(iii) The glazing material is conspicuously colored or textured so as to be plainly visible and plainly identifiable as aesthetic or decorative rather than functional (other than for the purpose of admitting or controlling admission of light components or heat and cold); and

(iv) The glazing material, or assembly into which it is incorporated, is divided into segments by conspicuous and plainly visible lines.

. . . . . .

§ 1201.2 Definitions.

(a) As used in this Part 1201:

. . . . . .

(14) "Leaded glass" means a decorative composite glazing material made of individual pieces of glass whose perimeter is enclosed by lengths of durable metal such as lead, zinc, copper, or solder, and the pieces of glass are completely held together and supported by such metal. Such pieces of glass can be clear, colored, beveled, painted, or flashed and etched.

. . . . . .

(36) "Carved glass" means a decorative glazing material in which a permanent visible design has been produced by polishing, grinding, or otherwise removing portions of the surface.

(37) "Dalle glass" or dalle de verre (including faceted glass) means a decorative composite glazing material made of individual pieces of glass which are imbedded in a cast matrix of concrete or epoxy.

. . . . . .

§ 1201.7 Effective date.

. . . . . .

(h) Patinaed glass manufactured between July 6, 1977 and January 8, 1979, in accordance with the Commission's stay order published in the Federal Register of August 9, 1977 (42 FR 40188), may be sold without restriction. Architectural products incorporating such glazing may also be sold without restriction.

Effective date. The amendments issued herein shall become effective on December 7, 1978.

The lifting of the stay of the standard as it applies to patinaed glass shall become effective on January 8, 1979.

Dated: December 1, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-34177 Filed 12-6-78; 8:45 am]

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[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

[Docket No. RM79-7]

PART 154—RATE SCHEDULES AND TARIFFS

Final Regulation Allowing Jurisdictional Pipelines with a PGA Clause in Effect on January 1, 1979, Which Includes a Deferred Account, to Include in Their PGA Tariffs, One Time, Certain Estimated Changes in Purchased Gas Cost Due to Implementing the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: This final rule allows jurisdictional piplelines to waive for one time that provision of the purchased gas adjustment provision (PGA clause) which limits calculation of the surcharge component of the PGA rates to amounts actually reflected in the deferred account. As a result pipelines with a PGA clause in effect on January 1, 1979 may include in their first PGA rate adjustments effective in 1979. Those costs they estimate they have incurred because of the Natural Gas Policy Act (NGPA) but which have not yet been reflected in their deferred account. The relief granted on this regulation is not available to a pipeline which has a PGA clause which does not contain a deferred account.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary Jane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 275-4283.

Background

The Natural Gas Policy Act of 1978 ("NGPA") enacted November 9, 1978, takes effect with respect to certain first sales of natural gas delivered on or after December 1, 1978. The staff of the Federal Energy Regulatory Commission (Commission) has conducted an evaluation of the new Act and has made a preliminary estimate that potentially the first year impact of NGPA on interstate pipelines could be as much as $1.7 billion.

The impact of producer price increases resulting from Opinion No. 770-A [1] was at least equivalent to that expected from the NGPA. In Opinion No. 770-A, as well as Opinion No. 699-H [2] which provided for substantial increases in producer prices, the Commission allowed the pipelines special relief to recover the increased costs.

On November 13, 1978, the Interstate Natural Gas Association of America ("INGAA"), in conjunction with its comments on the proposed regulations implementing the NGPA, Docket No. RM79-3, proposed that the Commission permit a special one-time "tracker" to enable interstate pipelines to recover the increased costs associated with NGPA prices. On November 16, 1978, Texas Gas Transmission Corporation ("Texas Gas") [3] proposed a modification of INGAA's special one-time tracker.

The Commission has determined that some special relief is necessary to avoid an undue and adverse impact upon interstate pipelines because of the NGPA. It has considered several possibilities including the INGAA and Texas Gas proposals and the special relief allowed in Opinions 699-H and 770-A. The Commission has adopted a more limited form of relief than those proposed by INGAA and Texas Gas.

It is granting relief similar to that granted by the Federal Power Commission (FPC) in Opinion No. 770-A, with two modifications. In Opinion No. 770-A the Federal Power Commission permitted the pipeline industry a special PGA adjustment, effective December 1, 1976, that allowed the industry to reflect in their current cost of purchased gas price changes based on gas prices in effect in December 1, as well as a twelve-month surcharge to recover increased costs attributable to the opinion that had actually occurred and were estimated to occur during the period from July 27, 1976, through November 30, 1976. The first modification changes the length of the special surcharge period from twelve months to six months. The second modification changes the effective date from a single date for all companies with PGA clauses to each pipeline company's first regularly scheduled 1979 semi-annual anniversary date.

Discussion

A. The Regulation Adopted

Under existing practices, the PGA rate adjustment is composed of two

[1] Opinion No. 770-A was issued on November 5, 1976, in Docket No. RM75-14.

[2] 52 FPC 1604 (1974).

[3] Transcontinental Gas Pipe Line Corporation joined in the filing with Texas Gas.

proposal would cause multiple filings

the Natural Gas Policy Act of 1978

EFFECTIVE DATE: November 28,

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parts: a current adjustment and a surcharge. The current adjustment reflects the prices the pipelines will pay suppliers as of the proposed effective date of the PGA rate adjustment. The surcharge reflects actual amounts included in the deferred account. By the amendment adopted in this order, each pipeline company with a PGA clause in effect on January 1, 1979, which includes a deferred account, may estimate the impact of the NGPA from December 1, 1978, up to its first regularly scheduled PGA rate adjustment date in 1979. However, for those months for which the pipeline has actual costs reflected in its deferred account, no estimate may be made because NGPA costs will be reflected in the deferred account. This amount may be added to the actual amount in the pipeline's deferred account for purposes of calculating the pipeline's first PGA surcharge rate adjustment to be effective on or after January 1, 1979.

Those companies which have PGA tariff sheets on file with an adjustment date of January 1 may at their option, include the special relief adjustment allowed for NGPA costs either (1) in the PGA rate adjustments to become effective on January 1, 1979 or (2) in their first PGA rate adjustments filed on or after January 1, 1979. Those pipelines which choose to include this special relief in their PGA rate adjustments to be effective on January 1, 1979 shall make an amended PGA rate adjustment filing with a proposed effective date of January 1, 1979. The amended rate filing shall be made as promptly as possible; but no later than December 15, 1978. The notice requirements of § 154.38(d)(4)(v) and the notice provisions of the pipelines' PGA clause tariff provisions are waived for this filing.

The special relief granted herein waive certain provisions in the PGA clause. As a result, it will apply only to those companies which elect [4] to use the PGA option, which include a deferred account, to recover all changes in purchased gas cost for the three year period commencing on January 1, 1979. Companies which have elected the non-PGA option must recover all changes in purchased gas costs, including those due to the impact of NGPA, in general section 4 rate filings pursuant to § 154.63.

The PGA provisions only allow for recovery of actual amounts reflected in the deferred account (Account 191).[5] The effect of this provision is that the PGA surcharge would not include or recover amounts attributable to the NGPA up to 90 days prior to the effective date of the surcharge adjustment. Thus increases in flowing gas supplies attributable to the NGPA and incurred by pipelines within up to 90 days before the filing of a PGA rate adjustment would have to be carried by the pipeline until its succeeding PGA rate adjustment absent some form of relief. However, this understates the problem, because Order No. 13 specifies semi-annual filing dates for PGA tariff adjustments. Thus pipelines with PGA clause adjustments effective by operation of Order No. 13 on or before March 1, 1979 would not be able to reflect in their proposed surcharge adjustments any changes in purchased gas costs attributable to the NGPA until as late as September 1979. Thus they would be carrying these NGPA costs for as long as nine months before the normal operation of the PGA clause would allow any recovery whatsoever of statutorily allowed increased purchased gas costs. This situation could cause hardship to some pipeline companies.

The Commission believes the special relief granted herein is an effective way to minimize the time that companies would be required to carry amounts attributable to NGPA in their deferred accounts. It also minimizes finance charges which would have been attributable solely to deferring collection of NGPA costs. By limiting the estimates to events occurring before the effective date of the PGA tariff adjustment, this method avoids the difficulties inherent in projecting future occurrences.

In sum, the Commission believes the amendment, in conjunction with the operation of Order No. 13 provides for a more orderly and gradual flowthrough of changes in purchased gas costs due to NGPA than would result if any of the other options discussed (*infra*) in this order were adopted.

B. OTHER OPTIONS WERE CONSIDERED

The proposals presented by INGAA [6] and Texas Gas [7] are very similar. Under INGAA's proposal, interstate pipelines with an effective PGA clause would be permitted a one-time adjustment, effective January 1, 1979, that would recover, through a surcharge, estimated increased purchased gas costs contributable to the NGPA of 1978 from December 1, 1978 to their next regularly scheduled semi-annual PGA anniversary date. Texas Gas proposes to modify the above proposal by giving interstate pipelines the option of delaying their one-time tracker until their first regularly scheduled semi-annual PGA anniversary date subsequent to January 1, 1979. Texas Gas' proposal is based upon a surcharge that would recover increased purchased gas costs attributable to the NGPA of 1978 from December 1, 1978 to their second regularly scheduled semi-annual PGA anniversary date subsequent to January 1, 1979.

Pacific Gas & Electric Company (PG&E) urged that the Commission deny the request by INGAA and suggested that the cost increases resulting from the implementation of NGPA should continue to be accumulated by the interstate pipeline companies and recovered at the time of their regularly scheduled PGA change date.[8] PG&E noted that Order No. 13 authorizes carrying charges on deferred balances in Account 191, which ameliorates the burden upon interstate pipelines.

Both the INGAA and Texas Gas proposals would permit the pipelines to estimate future changes in gas costs for as much as six months subsequent to the adjustment date. The Commission finds the use of such estimates undesirable because of the uncertainty involved in making estimates of future gas prices under the NGPA. For example, the pipelines would be required to estimate not only the volume of new supplies, but also when filings for determinations would be made and when the determination of the proper classification of gas that would be made by state regulatory agencies. The pipelines would also be required to estimate future inflation adjustment factors which are a function of future economic conditions of the national economy.

In Opinion No. 699-H the Federal Power Commission granted interstate pipelines with effective PGA clauses relief through a special one-time adjustment of their current cost of purchased gas on a specified date for the industry.

In Opinion No. 770-A the Federal Power Commission granted interstate pipelines with effective PGA clauses relief through a special one-time adjustment of their current cost of purchased gas, plus a twelve-month surcharge, with interest, that would recover estimated increased purchased gas costs attributable to Opinion No. 770-A that occurred during the period from July 27, 1976, through November 30, 1976. The industry was permitted to effectuate these adjustments on December 1, 1976.

The special relief in Opinion Nos. 699-H and 770-A as well as the INGAA

[4] Order No. 16, issued November 27, 1978, in Docket No. RM79-1, requires each pipeline to elect for three year periods whether to recover changes in purchased gas costs through a PGA clause or through general section 4 rate filings.

[5] See CFR § 154.38(d)(4)(iv)(*d*).

[6] Natural Gas Pipeline Company and El Paso Natural Gas Company support the INGAA proposal.

[7] The Texas Gas proposal is supported by Transcontinental Gas Pipe Line Corporation.

[8] PG&E's proposal would result in the normal operation of the PGA absent any special relief. The effects of this have been discussed previously.

proposal would cause multiple filings and a virtually immediate increase in all rates of a pipeline to its customers which would flow through the increase to the consumer. The numerous filings would impose a substantial administrative burden of the type which the Commission specifically addressed and alleviated by Order Nos. 13 and 16. Moreover, the importance of immediate passthrough of all NGPA costs by all pipelines has been lessened by the recently adopted Order No. 13 which permits carrying charges. Equally significant in rejecting the historic approach which would allow all pipelines to increase their rates simultaneously is the more abrupt increase in costs to the ultimate consumer and the impact this would have on the economy as a whole.

FINDINGS

(1) For the reasons set forth, the Commission finds that it is appropriate and in the public interest in administering the Natural Gas Act to adopt this amendment;

(2) For good cause as more fully described herein, the Commission finds that notice and comment upon the amendment are impracticable and contrary to the public interest;

(3) In view of the purposes, intent and effect of the amendment, good cause exists for making it effective immediately.

(Natural Gas Act (15 U.S.C. 55), Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*), and E. O. 12009, 42 FR 46267.)

CONCLUSION

In consideration of the foregoing, Part 154, Chapter I of Title 18, code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

1. Section 154.38 is amended in paragraph (4) of paragraph (d) by a sentence at the end of the indroductory language and by adding a new clause (x) to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(d) Statement of rate * * *

(4) * * * The first PGA rate adjustment to become effective on or after January 1, 1979, may reflect the calculation specified in clause (x).

(x) *One-time passthrough of certain estimated NGPA costs.* (*a*) *General Rule.* Notwithstanding the provisions of clause (iv)(*d*) of paragraph (d)(4), any natural gas pipeline company with a PGA clause in effect on January 1, 1979, may estimate its changes in purchased gas cost directly attributable to the Natural Gas Policy Act of 1978 (NGPA) up to and including the month preceding the effective date of its first PGA tariff adjustment effective on or after January 1, 1979, provided however, for those months for which the pipeline has acutal NGPA costs reflected in its deferred account, the actual amounts must be used in calculating the surcharge. The amount estimated may be added to the actual amounts reflected in the pipeline's deferred account (Account 191) for purposes of calculating the PGA surcharge included in the pipeline's first PGA rate adjustment to be effective on or after January 1, 1979.

(*b*) *Option for pipelines with a PGA rate adjustment effective on January 1, 1979.* Those pipelines with PGA rate adjustments to become effective on January 1, 1979 may elect to include the adjustment for NGPA costs prescribed in clause (x)(*a*) either (i) in their PGA rate adjustment to become effective on January 1, 1979, or (ii) in their first PGA rate adjustment filed on or after January 1, 1979. Those pipelines choosing (i) must file amended PGA rate sheets which reflect the adjustment allowed in clause (x)(*a*) no later than December 15, 1978; the notice requirements of § 154.138(d)(4)(v) and the notice provisions in the pipeline's PGA clause tariff provisions are hereby waived for such PGA tariff filings made during December 1978.

[FR Doc. 78-34160 Filed 12-6-78; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 811-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart P—Federal Bureau of Investigation

DELEGATING AUTHORITY TO THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order permits the Director of the Federal Bureau of Investigation to adjust, determine, compromise, and settle a claim involving the Federal Bureau of Investigation, under section 2672 of Title 28, United States Code, relating to the administrative settlement of Federal tort claims, if the amount of a proposed adjustment, compromise, settlement or award does not exceed $5,000.00.

EFFECTIVE DATE: November 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 (202-724-6810).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 0.85 of Subpart P of Part O of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new paragraph (k):

§ 0.85. General function.

* * * * *

(k) Adjust, determine, compromise, and settle claims involving the Federal Bureau of Investigation under 28 U.S.C. 2672, relating to tort claims where the amount of a proposed adjustment, compromise, settlement or award does not exceed $5,000.00.

Dated: November 28, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-34123 Filed 12-6-78; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-048]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Pequonnock River, Conn.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Bridgeport, the Coast Guard is changing the regulations governing the Grand Street bridge to provide that the draw need not open. This change is being made because no requests have been made to open the draw since 1961. This action will relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw.

EFFECTIVE DATE: This amendment is effective on January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

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and specific standards for acquisition, while maintaining the essential form tion, restoration, or reconstruction

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SUPPLEMENTARY INFORMATION: On May 25, 1978, the Coast Guard published a proposed rule (43 FR 22410) concerning this amendment. The Commander, Third Coast Guard District, also published the proposal as a Public Notice dated June 15, 1978. Interested persons were given until June 27, 1978 and July 17, 1978, respectively, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Three comments were received which offered no objection or no comment regarding the proposal. After the close of the comment period the New England Division, Corps of Engineers, Department of the Army, requested that the bridge owner be instructed to restore this bridge to operable condition within 1 year after such action is requested. This request was generated by an existing project authorized by Congress that extends approximately 1,500 feet above the Grand Street bridge. The City of Bridgeport stated that it might take as long as 2 years to restore the bridge to operable condition. There is no navigation above this bridge nor has there been since 1961. Based on a review of the bridge and its associated mechanical components, the Coast Guard feels that the restoration of the draw to operable condition within 12 months as requested by the Corps of Engineers is reasonable and this condition is therefore incorporated in the regulation.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.130(a)(5) to read as follows:

§ 117.130 Pequonnock River, Yellow Mill Channel, and Johnson Creek, Bridgeport, Conn.; bridges.

(a) • • •

(5) *Grand Street Bridge.* The draw need not open for the passage of vessels. However, the draw shall be returned to operable condition within 12 months after notification by the Commandant to take such action.

• • • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: December 1, 1978.

J. D. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-34197 Filed 12-6-78; 8:45 am]

[4310-03-M]

Title 36—Parks, Forests and Public Property

CHAPTER XII—HERITAGE CONSERVATION AND RECREATION SERVICE, DEPARTMENT OF THE INTERIOR

PART 1207—THE SECRETARY OF THE INTERIOR'S STANDARDS FOR HISTORIC PRESERVATION PROJECTS

Final Rulemaking

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Final Rulemaking.

SUMMARY: Interim standards were published on September 13, 1978. The following document sets forth the final standards established by the Secretary of the Interior for planning, undertaking, and supervising historic preservation grant-in-aid projects under the provisions of the National Historic Preservation Act of 1966, as amended through the creation of a National Historic Preservation Fund. The 1966 act authorizes the Secretary to grant funds to the States, Territories, and the National Trust for Historic Preservation for the purpose of preserving properties for public benefit that are significant in American history, architecture, archeology, and culture.

EFFECTIVE DATE: These regulations became effective on September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

W. Brown Morton, III, Departmental Consultant for Historic Architecture, Chief, Technical Preservation Services Division, Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20240, 343-7253.

SUPPLEMENTARY INFORMATION: In preparing these regulations and reviewing the National Register and the Historic Preservation Fund grant-in-aid program, the intent, requirements, and spirit of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 42 U.S.C. 4321-4327) have been carefully considered. As established by the 1966 National Historic Preservation Act (80 Stat. 915, 16 U.S.C. 470 et seq.) and amended by title II, Pub. L. 94-422 through the creation of a National Historic Preservation Fund, these programs have as their purpose the identification, protection, and enhancement of the historic, architectural, archeological, and cultural resources of the manmade environment. It has been administratively determined that, beyond the overall program purpose which is intended to enhance the environment, this rulemaking will have no significant effect on the environment. Further information, including a memorandum of environmental assessment, is on file in the Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20240.

Public comment regarding the interim standards was due on or before October 13, 1978. The one comment received involved questions or suggestions about sections: 1207.2 (f)f, 1207.3 (g), and 1207.4 (g), (1) and (4). The Service believes that although the questions or suggestions for the above-referenced sections are not applicable to the standards, they are appropriate to, and are therefore satisfactorily addressed and answered in, the Guidelines for Applying the Secretary of the Interior's Standards for Historic Preservation Projects, an appendix to the draft Grants Administration Manual. This draft manual was recently distributed to those officials responsible for administrating the grant-in-aid program in the States, Territories and the National Trust for Historic Preservation.

The primary authors of this document are W. Brown Morton III and Gary L. Hume, Heritage Conservation and Recreation Service, 202-343-7253.

DAVID F. HALES,
Deputy Assistant Secretary for
Fish and Wildlife and Parks.

DECEMBER 1, 1978.

Accordingly, a new Chapter XII, Part 1207 is added to Title 36 to read as follows:

Sec.
1207.1 Intent.
1207.2 Definitions.
1207.3 General standards for historic preservation projects.
1207.4 Specific standards for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction projects.

AUTHORITY: The National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq.; section 2124 of the Tax Reform Act of 1976, 90 Stat. 1918; Executive Order No. 11,593, 3 CFR 75 (1971).

§ 1207.1 Intent.

The intent of this part is to set forth standards for historic preservation projects, containing general standards and specific standards for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction. These standards apply to all proposed grant-in-aid projects assisted through the National Historic Preservation Fund.

§ 1207.2 Definitions.

The standards for historic preservation projects will be used by the Heritage Conservation and Recreation Service and State historic preservation officers and their staff members in planning, undertaking, and supervising grant-assisted projects for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction. For the purposes of this part:

(a) *Acquisition.* Means the act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights or remainder interest).

(b) *Preservation.* Means the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of site. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials.

(c) *Protection.* Means the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss, or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measure may be temporary or permanent.

(d) *Reconstruction.* Means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

(e) *Rehabilitation.* Means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

(f) *Restoration.* Means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(g) *Stabilization.* Means the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

§ 1207.3 General standards for historic preservation projects.

The general standards listed below shall apply to all historic preservation grant-in-aid projects; additional standards in § 1207.4 for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction apply to specific grant-in-aid projects as appropriate:

(a) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.

(b) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(c) All buildings, structures, and sites shall be recognized as products of their own time. Alterations, which have no historical basis and which seek to create an earlier appearance, shall be discouraged.

(d) Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(g) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(h) Every reasonable effort shall be made to protect and reserve archeological resources affected by, or adjacent to, any acquisition, protection, stabilization, preservation, rehabilitation, restoration, or reconstruction projects.

§ 1207.4 Specific standards for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction projects.

In addition to the general standards set forth in § 1207.3 the following specific standards shall be applied as appropriate:

(a) *Acquisition.* (1) Careful consideration shall be given to the type and extent of property rights that are required to assure the preservation of the historic resource. The preservation objective shall determine the exact property rights to be acquired.

(2) Properties shall be acquired in fee simple when absolute ownership is required to insure their preservation.

(3) The purchase of less-than-fee-simple interests, such as open space or facade easements, shall be undertaken when a limited interest achieves the preservation objective.

(4) Every reasonable effort shall be made to acquire sufficient property with the historic resource to protect its historical, archeological, architectural, or cultural significance.

(b) *Protection.* (1) Before applying protective measures, which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

(2) Protection shall safeguard the physical condition or environment of a property or archeological site from further deterioration or damage caused by weather or other natural, animal, or human intrusions.

(3) If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or reuse.

(c) *Stabilization.* (1) Stabilization shall reestablish the structural stability of a property through the reinforcement of loadbearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

(2) Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the esthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

(d) *Preservation.* (1) Preservation shall maintain the existing form, integrity, and materials of a building, structure, or site. Substantial reconstruction or restoration of lost fea-

of different architectural features

Dated: November 30, 1978.

[Grams per vehicle mile]

§ 440.230 Sufficiency of amount, duration, and scope

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tures generally are not included in a preservation undertaking.

(2) Preservation shall include techniques of arresting or retarding the deterioration of a property through a program of ongoing maintenance.

(e) *Rehabilitation.* (1) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historic, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

(2) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(f) *Restoration.* (1) Every reasonable effort shall be made to use a property for its originally intended purpose or to provide a compatible use that will require minimum alteration to the property and its environment.

(2) Reinforcement required for structural stability or the installation of protective or code required mechanical systems shall be concealed whenever possible so as not to intrude or detract from the property's esthetic and historic qualities, except where concealment would result in the alteration or destruction of historically significant materials or spaces.

(3) When archeological resources must be disturbed by restoration work, recovery of archeological material shall be undertaken in conformance with current professional practices.

(g) *Reconstruction.* (1) Reconstruction of a part or all of a property shall be undertaken only when such work is essential to reproduce a significant missing feature in a historic district or scene, and when a contemporary design solution is not acceptable.

(2) Reconstruction of all or a part of a historic property shall be appropriate when the reconstruction is essential for understanding and interpreting the value of a historic district, or when no other building, structure, object, or landscape feature with the same associative value has survived and sufficient historical documentation exists to insure an accurate reproduction of the original.

(3) The reproduction of missing elements accomplished with new materials shall duplicate the composition, design, color, texture, and other visual qualities of the missing element. Reconstruction of missing architectural features shall be based upon accurate duplication of original features, substantiated by historical, physical, or pictorial evidence rather than upon conjectural designs or the availability of different architectural features from other buildings.

(4) Reconstruction of a building or structure on an original site shall be preceded by a thorough archeological investigation to locate and identify all subsurface features and artifacts.

(5) Reconstruction shall include measures to preserve any remaining original fabric, including foundations, subsurface, and ancillary elements. The reconstruction of missing elements and features shall be done in such a manner that the essential form and integrity of the original surviving features are unimpaired.

[FR Doc. 78-34119 Filed 12-6-78; 8:45 am]

[1410-03-M]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-3]

PART 201—GENERAL PROVISIONS

Compulsory License for Making and Distributing Phonorecords

AGENCY: Library of Congress, Copyright Office.

ACTION: Extension of time to submit written statements.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is extending the time for interested persons to submit written statements relating to the compulsory license for making and distributing phonorecords ("mechanical license").

DATE: Statements should be submitted on or before January 31, 1979.

ADDRESSES: Statements should be submitted, if by hand, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Room 519, Arlington, Virginia; or, if by mail, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, United States Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

SUPPLEMENTARY INFORMATION: Section 115 of 17 U.S.C. provides that "[w]hen phonorecords of a nondramatic musical work have been distributed to the public in the United States under authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work" for certain purposes.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner if certain conditions are met and royalties paid.

Paragraphs (b) and (c) of section 115 direct the Copyright Office to issue regulations governing the content and filing of certain notices and statements of account under this section.

On April 26, 1977, in accordance with an Advance Notice of Proposed Rulemaking (42 FR 16837), we held a public hearing to elicit information relevant to the formulation of regulations under this section. After considering the testimony given at the hearing and in supplemental statements, on December 29, 1977 (42 FR 64889), we issued interim regulations. We then considered public comments received in response to the interim regulations and, on September 28, 1978 (43 FR 44511), we: (1) adopted amendments to the interim regulations; and (2) announced a public hearing, to be held on November 28 and 29, 1978, to take testimony on the interim regulations as amended. The record of the hearing was to be kept open until December 29, 1978, for receipt of written statements from any interested person, including supplemental statements from witnesses.

Substantial clarification of the difficult accounting issues involved in this proceeding emerged during the hearing. The possibility was also raised that representatives of the recording and music publishing industries might confer among themselves in an attempt to refine or resolve some of the differences between their positions. In accordance with requests made by both interests, and to permit full exploration of these and other matters raised at the hearing, we are extending the time for written statements to be filed from December 29, 1978, to January 31, 1979.

The full text of the interim regulations, as amended, is set forth in our September 28, 1978, notice (43 FR 44511). As soon as it is received from the reporting service, the unedited transcript of the hearing will be available for public inspection between the hours of 8:00 a.m. and 4:00 p.m. in the Public Information Office of the Copyright Office, Room 101, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia. Arrangements for receiving copies of the unedited transcript should be made directly with the Miller-Columbian Reporting Service, 927 15th Street, N.W., Washington, D.C. 20005 202-347-0224.

Dated: November 30, 1978.

BARBARA RINGER,
Register of Copyrights.

Approved:

WILLIAM J. WELSH,
The Acting Librarian of Congress.

[FR Doc. 78-34127 Filed 12-6-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-1020-6]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLE AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Clarification and Technical Amendments; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to final rule.

SUMMARY: On September 25, 1978, the EPA published in the FEDERAL REGISTER (43 FR 43299) a regulation intended to bring EPA's regulations for the certification and testing of new motor vehicles and new motor vehicle engines into conformance with the provisions of the amended Clean Air Act regarding certification of motor vehicles at high altitude. That same action also promulgated the light-duty vehicle exhaust emission standards for model years 1979 and 1980. Several errors were made in that document (FR Doc. 78-26812) which this notice is intended to correct.

DATE: This correction is effective December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul A. J. Wilson, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (ANR-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0596.

1. The first complete paragraph and the table in the first column at page 43300 should be corrected to read as follows:

The exhaust emission standards for light-duty vehicles required by the Act are as follows:

[Grams per vehicle mile]

	HC	CO	NO_x
1979	1.5	15	2.0
1980	0.41	7.0	2.0

2. Section 86.079-8(a)(1)(ii) at page 43302 should read as follows:

(ii) *Carbon monoxide.* 15 grams per vehicle mile.

Dated: November 9, 1978.

DAVID A. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-33942 Filed 12-6-78; 8:45 am]

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAM

PART 440—SERVICES: GENERAL PROVISIONS

Sufficiency of Amount, Duration, and Scope; Correction

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Correction to final rule.

SUMMARY: This document corrects 42 CFR 440.230, *Sufficiency of amount, duration, and scope*, by reinserting two phrases omitted from the September 29, 1978, (43 FR 45176) publication of the rewritten and reorganized Medicaid regulations. The omission of these phrases was not intended to be a policy change. However, several commenters expressed concern that these omissions have been construed as a policy change restricting a State's authority to decide what medical assistance will be covered under the State Medicaid plan. In order to avoid further misunderstandings, § 440.230 is being amended as set forth below.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Ann Watts (202) 245-0722.

TEXT OF REGULATION

Title 42, Part 440, of the Code of Federal Regulations is amended by reinserting the words "arbitrarily" and "such criteria as" in § 440.230, revising that section to read as follows:

§ 440.230 Sufficiency of amount, duration, and scope.

(a) The plan must specify the amount and duration of each service that it provides.

(b) Each service must be sufficient in amount, duration, and scope to reasonably achieve its purpose.

(c)(1) The medicaid agency may not arbitrarily deny or reduce the amount, duration, or scope of a required service under §§ 440.210 and 440.220 to an otherwise eligible recipient solely because of the diagnosis, type of illness, or condition.

(2) The agency may place appropriate limits on a service based on such criteria as medical necessity or on utilization control procedures.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302).)

Dated: November 28, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: November 30, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-34178 Filed 12-6-78; 8:45 am]

[4110-02-M]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CODE OF FEDERAL REGULATIONS

Miscellaneous Amendments

AGENCY: Office of Education, HEW.

ACTION: Rule.

SUMMARY: This document removes from the *Code of Federal Regulations* (CFR) materials falling into the following four categories: (1) Obsolete regulations that are being revoked; (2) Regulations that have no current applicability; (3) Regulations currently repeated verbatim in more than one place in the CFR; and (4) Materials of a non-regulatory nature that need not be reprinted annually in the CFR. The removal of these materials from the CFR will make the 1978 edition of Title 45 a more streamlined and functional publication.

EFFECTIVE DATE: December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. Neal Shedd, U.S. Office of Education, 400 Maryland Avenue, SW., Room 2129, Washington, D.C. 20202, 202-245-7091.

SUPPLEMENTARY INFORMATION:

(2) Preambles of major rulemaking umes indefinitely. Persons who would

grants and cost-type contracts under

PART 117—FINANCIAL ASSISTANCE

PART 129—COMPREHENSIVE EDUCA-

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SUPPLEMENTARY INFORMATION: The obsolete regulations being removed from the CFR by this document are:

(1) Appendix A to Subchapter A of Chapter I.

(2) Part 121.

(3) Part 160.

INAPPLICABLE REGULATIONS

The regulations in 45 CFR Parts 117, 118, 119, 124, 127, 129, 141, 142, 170, and 171 currently have no applicability because the Congress is not funding the programs for which they were written. These regulations are being suspended and taken out of the CFR. The suspension and removal of these regulations from the CFR will eliminate potential confusion for persons not aware that they have no current applicability. Because these regulations might be necessary at some future date, they are suspended rather than revoked. For regulations in this category, Part 100 of the CFR will contain a reference that tells the reader where they may be found.

In the event that funds are made available for these programs, the Office of Education (OE) will publish a document in the FEDERAL REGISTER informing the public that funds have been appropriated and lift the suspension. At that time OE will republish the regulations in full for inclusion in the CFR unless a finding is made at that time that full text republication is not warranted.

REPEATED REGULATIONS

The cost principles currently appended to Subchapter A of Chapter I duplicate appendices to the Department's general grant regulations in 45 CFR Part 74. Rather than repeat these lengthy appendices, the Office of Education—(1) amends its General Provisions Regulations in Parts 100a and 100b to add references to the Part 74 Appendices, and (2) revokes Appendices B-D of Subchapter A of Chapter I.

NONREGULATORY MATERIAL

Over the past several years OE has published in the FEDERAL REGISTER, for inclusion in the CFR, certain material that would not normally be codified in the CFR under the requirements of the FEDERAL REGISTER Act. These materials fall into the following three categories:

(1) Statutory materials that underlie OE programs and regulations (Part 116, Appendix);

(2) Preambles of major rulemaking actions (Part 105, Appendix B and Part 121a, Appendix A);

(3) Guidelines supplementing existing regulations (Part 121d Appendix; Part 162, Appendix B; and Part 166 Appendices A and C).

While the inclusion of these materials in the CFR on a one-time basis is useful to CFR users, it is not necessary that they be republished annually. By removing them, Title 45 of the CFR, beginning with the 1978 edition, can be streamlined to include only regulations of general and current applicability and future effect together with any new materials in any of the above three categories not previously published that would be of significant interest to users of Title 45.

For ease of use, the appendix headings will be retained in the 1978 edition of the CFR with an explanation of where the materials formerly included there may be found. The Office of Education is working with the Office of the Federal Register to explore a means for future publication of nonregulatory material relevant to persons interested in Title 45 without requiring either full text republication every year or retention of old CFR volumes indefinitely. Persons who would like to be consulted as these discussions proceed are invited to express their interest by writing to Dr. Shedd at the address stated above.

Dated: October 31, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: November 28, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 100—GENERAL

1. Part 100 is amended by adding a new Subpart C, to read as follows:

Subpart C—Regulations for Certain Programs

§ 100.10 Where to find regulations for certain programs.

The following programs were not funded for Fiscal Year 1979. If funds become available for a later fiscal year, the table below shows where to find the regulations that apply to each program. ("FR" means the FEDERAL REGISTER.)

Title of program	Authorizing statute	Location of regulations
Financial assistance for school library resources, textbooks, and other instructional materials.	Title II of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	41 FR 37576, Sept. 7, 1976.
Supplementary centers and services, guidance, counseling, and testing programs.	Title III of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	40 FR 51011, Nov. 3, 1976.
Federal financial assistance for strengthening State departments of education.	Title V (except secs. 531-534) of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	34 FR 7242, May 2, 1969, as amended at 36 FR 8950, May 15, 1971; 38 FR 30659, Nov. 6, 1973.
Financial assistance for demonstration projects for reducing school dropouts.	Sec. 807 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	39 FR 13662, Apr. 16, 1974.
Grants for demonstration projects to improve school health and nutrition services for children from low-income families.	Sec. 808 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	39 FR 41851, Dec. 3, 1974.
Comprehensive educational planning and evaluation.	Sec. 531-534 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	38 FR 21924, Aug. 14, 1973; as amended at 38 FR 30659, Nov. 6, 1973.
Strengthening instruction in academic subjects in public schools.	Title III-A of the National Defense Education Act.	40 FR 1018, Jan. 6, 1975.
Loans to private nonprofit schools for strengthening instruction in academic subjects.	Sec. 305 of the National Defense Education Act.	40 FR 6343, Feb. 11, 1975.
Financial assistance for construction of higher education facilities.	Title VII of the Higher Education Act.	39 FR 26724, July 23, 1974.
Instructional equipment grants for institutions of higher education.	Title VI of the Higher Education Act.	39 FR 12950, Apr. 9, 1974; as amended at 42 FR 63573, Dec. 16, 1977

(20 U.S.C. 1221e-3(a)(1))

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

2. Section 100a.80 is revised to read as follows:

§ 100a.80 Cost principles.

The Commissioner uses the principles referenced in §§ 74.170-74.176 of this title in determining costs under grants and cost-type contracts under grants.

(20 U.S.C. 1221e-3(a)(1))

§§ 100a.81, 100a.82, 100a.83, 100a.84 and 100a.290 [Revoked]

3. The following sections in Part 100a are revoked: §§ 100a.81, 100a.82, 100a.83, 100a.84, and 100a.290.

PART 100b—STATE ADMINISTERED PROGRAMS

4. Section 100b.80 is revised to read as follows:

§ 100b.80 Cost principles.

The Commissioner uses the principles referenced in §§ 74.170-74.176 of this title in determining costs applicable to grants, subgrants, and cost-type contracts under grants and subgrants.

(20 U.S.C. 1221e-3(a)(1))

§§ 100b.81, 100b.82, 100b.83 and 100b.84 [Revoked]

5. The following sections in Part 100b are revoked: §§ 100b.81, 100b.82, 100b.83, and 100b.84.

Appendices A, B, C, and D to Subchapter A [Revoked]

6. Appendices A, B, C, and D to Subchapter A of Chapter I are revoked.

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

Appendix B [Amended]

7. Appendix B to Part 105 is amended by removing from the Code of Federal Regulations the title "COMMENTS AND RESPONSES" and all of the material in Appendix B which follows that title.

PART 116—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES AND STATE AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED, HANDICAPPED, MIGRANT, AND NEGLECTED AND DELINQUENT CHILDREN—GENERAL PROVISIONS.

Appendix [Removed]

8. The Appendix to Part 116 is removed from the Code of Federal Regulations.

PART 117—FINANCIAL ASSISTANCE FOR SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS [Removed]

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING PROGRAMS [Removed]

PART 119—FEDERAL FINANCIAL ASSISTANCE FOR STRENGTHENING STATE DEPARTMENTS OF EDUCATION [Removed]

9. Parts 117, 118, and 119 are removed from the Code of Federal Regulations.

PART 121—DEFINITIONS; GENERAL PROVISIONS [Revoked]

10. Part 121 is revoked.

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Appendix A [Removed]

11. Appendix A to Part 121a is removed from the Code of Federal Regulations.

PART 121d—EARLY EDUCATION FOR HANDICAPPED CHILDREN

Guidelines (Subpart B) [Removed]

12. The Guidelines appended to Subpart B of Part 121d are removed from the Code of Federal Regulations.

PART 124—FINANCIAL ASSISTANCE FOR DEMONSTRATION PROJECTS FOR REDUCING SCHOOL DROPOUTS [Removed]

PART 127—GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL HEALTH AND NUTRITION SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES [Removed]

PART 129—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION [Removed]

PART 141—STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS IN PUBLIC SCHOOLS [Removed]

PART 142—LOANS TO PRIVATE NON-PROFIT SCHOOLS FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS [Removed]

13. Parts 124, 127, 129, 141, and 142 are removed from the Code of Federal Regulations.

PART 160—SPECIAL PROJECTS ACT [Revoked]

14. Part 160 is revoked.

PART 162—NATIONAL READING IMPROVEMENT PROGRAM

Appendix B [Removed]

15. Appendix B to Part 162 is removed from the Code of Federal Regulations.

PART 166—STATE ADULT EDUCATION PROGRAMS APPENDICES A AND C [Removed]

16. Appendices A and C to Part 166 are removed from the Code of Federal Regulations.

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES [Removed]

PART 171—INSTRUCTIONAL EQUIPMENT GRANTS FOR INSTITUTIONS OF HIGHER EDUCATION [Removed]

17. Parts 170 and 171 are removed from the Code of Federal Regulations.

[FR Doc. 78-34245 Filed 12-6-78; 8:45 am]

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[4910-14-M]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-222]

PART 153—SAFETY RULES FOR SELF PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

Requirements for Resuscitation Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment deletes the requirement to carry resuscitation equipment aboard tankers carrying hazardous chemicals. To use resuscitation equipment effectively and safely requires training. The Coast Guard is developing standards to ensure that certain of the tankship's personnel are trained in cardiopulmonary resuscitation (CPR) techniques and to require equipment that would aid in administering CPR. This final rule removes the requirement for equipment until training standards have been established.

EFFECTIVE DATE: This amendment is effective on January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert M. Query, Office of Merchant Marine Safety, Room 8309, Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590 (202) 426-1217.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of Thursday, December 22, 1977 (42 FR 64134), the Coast Guard proposed to amend 46 CFR 153.214(d) to allow a chemical tanker to carry either a portable oxygen inhalator and bag valve mask resuscitator or a demand valve oxygen powered resuscitator as the required adjunctive cardiopulmonary resuscitation (CPR) equipment. This equipment was intended to aid in the treatment of anyone on the tanker exposed to a toxic concentration of cargo vapor. Interested persons were given until February 6, 1978 to comment on the proposal. The Coast Guard received two comments on the proposal.

DRAFTING INFORMATION

The principal persons involved in drafting this document are Mr. Robert M. Query, Project Manager, Office of Merchant Marine safety; and Mr. Michael N. Mervin, Project Attorney, Office of Chief Counsel.

DISCUSSION OF COMMENTS

The Coast Guard received two specific comments on the proposal, one in favor of and one against the change. The comments were essentially the same as the discussion in the preamble to the proposal. One person commented that the bag-valve mask manual resuscitator was too difficult to use effectively without initial and refresher training, and he recommended the demand valve resuscitator as easier and more effective for unskilled users. The other person commented that the bag valve mask manual resuscitator was safer than the demand valve resuscitator when used by an unskilled person and recommended that only the bag valve mask manual type be allowed.

Some types of adjunctive (assisting or auxiliary) resuscitation equipment may be harmful if used by someone who has not been trained in how to use them correctly. The documentation presented with the two comments suggests that for either type of adjunctive equipment to be safe and effective, the user needs initial and refresher training in using that type of equipment.

It is important to remember that cardiopulmonary resuscitation (CPR) can be of great value even without adjunctive equipment. The Coast Guard has decided that the best action to take in the long run would be to require training in unassisted CPR as a minimum and to require adjunctive equipment only when combined with training in how to use it safely.

Since a requirement for CPR training would be beyond the scope of the notice and since the Coast Guard plans to include requirements for CPR training, including use of adjunctive resuscitative equipment, in a comprehensive rule to be proposed for another part of title 46 in the near future, the present requirement for a resuscitator in 46 CFR 153.214 is revoked. In the interim, the Coast Guard urges tanker operators to consider training some of their shipboard personnel in CPR techniques and to provide adjunctive equipment to those who are trained to use it.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations, is amended as follows:

PART 153—SAFETY RULES FOR SELF PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

§ 153.214 [Amended]

1. In § 153.214, by deleting paragraph (d).

(46 U.S.C. 170, 46 U.S.C. 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(n)(4), (t).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: December 1, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-34196 Filed 12-6-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1011—COMMISSION ORGANIZATION: DELEGATIONS OF AUTHORITY

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1100—RULES OF PRACTICE

Delegation of Appellate Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: New rules and procedures affecting the Commission's internal organization became effective January 1, 1978, 42 FR 65181 (December 30, 1977). After experience with these rules, certain modifications and clarifications proved necessary, and effective August 1, 1978, several provisions were amended. Further amendment is necessary to delegate appellate authority to review boards in railroad matters limited to (A) rate cases instituted after referral by the courts and (B) investigation cases instituted under 49 U.S.C. 11501. The rules of practice are amended consistent with this delegation of appellate authority. Because these amendments involve the internal organization and procedures of the Commission, they are being issued in final form, and public comments are not being requested.

EFFECTIVE DATE: December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Section of Rates, Office of Proceedings, Washington, D.C. 20423 (202-275-7693).

SUPPLEMENTAL INFORMATION: Under section 10304 of the Interstate Commerce Act (49 U.S.C. 10304) the Commission is authorized to substitute employee boards for divisions for purposes of hearing exceptions to recommended reports. Formerly, the parties to a review board appellate decision, in both rail and non-rail proceedings, were accorded the right to petition for reconsideration, and they could continue to do so for as long as decisions on reconsideration reversed, changed, or modified prior decisions. The net effect of this scheme was to guarantee parties a minimum of two rights of appeal and one discretionary appeal.

Section 303 of Pub. L. 94-210, the Railroad Revitalization and Regulatory Reform Act of 1976, streamlined the Commission's appellate procedure in railroad related proceedings by limiting to one the number of levels of mandatory appellate review. Under what is now section 10327(f) of the Act, the Commission is empowered to delegate to employee boards the authority to decide appeals in rail-related cases, but only if there is no provision for a further administrative appeal as a matter of right. Since the enactment of this legislation, we have generally refrained from assigning appeals to the review boards in rail cases, but instead have referred such cases to a division of the Commission. We have decided, after a review of the rail-related cases which come before us on appeal, that it would be more appropriate to assign certain of those cases to the review boards, and to make the boards' decisions administratively final. At this time, only two categories of cases are to be assigned to the review boards for appellate action: rate cases instituted by complaint or petition, and cases involving the prescription of intrastate rates under section 11501 of the Act. This assignment of appellate decision-making authority to the review boards is experimental. If it proves to be satisfactory, as we expect it to be, we will give consideration later to expanding the review boards' appellate jurisdiction in rail-related cases. Should it prove unsatisfactory, the delegation will be rescinded.

To give effect to our decision, § 1011.6(g) of our Organization Rules and § 1100.98 (e) and (f) of our rules of practice are being modified in the manner described below.

Part 1011 of Title 49 of the Code of Federal Regulations is amended in the following respects—

§ 1011.6 [Amended]

Section 1011.6(g) is amended to read—

. . . . . .

(g) *Review Boards Nos. 1, 2, 3, 4, and 5.* (1) Except as provided in paragraph (g)(2) of this section, determination of matters not expressly reserved to the Commission or assigned to another employee board, other than those proceedings in which a Commissioner or a member of the Board has presided at the hearing or issued an initial decision and those proceedings that are considered to be the relatively more important cases, including those which appear to involve issues of general transportation importance. In determining what matters are of relatively greater importance, consideration will be given, among other things, to the significance of the matters involved in terms of impact on, or importance to, the national transportation system; the potential significance of the matter as precedent; the question whether a matter of first impression is involved; and the complexity of the record and the issues involved.

(2) Appellate jurisdiction over railroad matters is limited to (i) rate cases instituted by complaint or petition, including proceedings instituted after referral by the courts and (ii) investigation cases instituted under section 11501 of the Act.

Part 1100 of Title 49 of the Code of Federal Regulations is amended in the following respects—

§ 1100.98 [Amended]

Section 1100.98(e) is amended to read—

. . . . . .

(e) *Discretionary review of final decisions.* (1) Any party may file a petition for administrative review of the decision, order, or requirement of the review board, the division, or Commission, subject to the following requirements:

. . . . . .

Section 1100.98(f) is amended to read—

. . . . . .

(f) *Effectiveness.* (1) The timely filing of an appeal shall stay the effect of the decision order, or requirement pending the determination of such appeal. (2) Unless otherwise provided, the Commission, on its own motion, or upon petition, may stay the effect of a decision, order, or requirement of the division or Commission. (3) Any decision, order, or requirement of the review board, the division, or Commission not stayed shall become effective 30 days after it is served on the parties, unless the Commission provides for such decision, order, or requirement to become effective at an earlier date.

These rules are promulgated under the authority of 49 U.S.C. 10321 and 10327.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Stafford dissented.

Dated October 19, 1978, at Washington, D. C.

H. G. HOMME, JR.,
Secretary.

Commissioner Stafford, dissenting:

I do not believe the 4-R Act gave the Commission power to allow review boards to make final decisions.

It is clear that before the 4-R Act, the Commission had no such power. In the legislative history of the 1961 amendments to Section 17 of the Act, the Commission clearly promised that it would always assure parties an automatic right to appeal any final decision to the Commission or a division thereof.

The impact of the 4-R Act on this commitment is unclear. There appears to be no legislative history on the parenthetical phrase at the end of Section 17(9)(c). We do know, however, that Congress was vitally concerned about delays in the administrative process. One cause of that delay was the fact that a decision by a review board on exceptions (from the initial decision of an administrative law judge or joint board) was subject to another appeal. To eliminate the multiple appeal process, Section 17(9)(c) now says that we may not delegate appellate matters to employee boards if a second appeal would lie to the Commission or to a division.

There seems to be two interpretations of this prohibition. One interpretation, which I believe correct, is that Congress did not want employee boards to be handling such appeals. The other interpretation, adopted here by the majority, is that the new section allows employee boards to make final decisions. In my view, the former policy, enunciated in 1961, must be clearly overruled by Congress. I see no such intent in the 4-R Act.

As a policy matter, I believe that all parties to our proceedings should have one automatic right of appeal to the Commission or a division. While we may view individual cases as simple and unimportant, the parties never see them in this light. I believe as regulators it is our obligation to participate in the decisional process in every case. Our workload is admittedly at an all-time high; but it is not so great that affected persons should be deprived of their right to have their case adjudicated by the Commission.

[FR Doc. 78-34195 Filed 12-6-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Kirwin National Wildlife Refuge, Kans. to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fish-

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ing on the Kirwin National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Keith S. Hansen, Kirwin, Kansas 67644, telephone: 913/646-2373.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

Sport fishing on the Kirwin National Wildlife Refuge, Kansas is permitted from January 1 through December 31, 1979, inclusive, on all areas not designated by signs as closed to fishing. These open areas, comprising 5,000 acres, are delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kansas, and from the Area Manager, Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Missouri 64116. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1979. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: November 6, 1978.

KEITH S. HANSEN,
Refuge Manager.

[FR Doc. 78-34122 Filed 12-6-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 928]

HANDLING OF PAPAYAS GROWN IN HAWAII

Proposed Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes minimum grade and size requirements for shipments of Hawaiian papayas. These requirements are designed to provide for orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received by December 22, 1978. Proposed effective dates: January 1, 1979, through December 31, 1979.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposed regulation was recommended by the Papaya Administrative Committee, established under the marketing agreement and Order No. 928 regulating the handling of papayas grown in Hawaii. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The committee estimates that 1979 production of Hawaiian papayas will total 70.0 million pounds, the same amount produced during 1978. This will be the first time in eight years that papaya production will not increase over a previous year. This situation resulted from the announced closing of a major papaya producer on the island of Maui sometime during mid-1979. Fresh sales are expected to total 57.0 million pounds and the remaining 13.0 million processed. In-state fresh sales are projected at 14.5 million pounds for 1979, compared to 15.0 million estimated for 1978. It is anticipated that out-of-state sales will amount to 74 percent of the total fresh sales next year and reach 42.5 million pounds, .5 million more than in 1978.

The grade and size requirements are designed to prevent the shipment of Hawaiian papayas of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality papayas in the interest of producers and consumers pursuant to the declared policy of the act.

As proposed § 928.309 Papaya Regulation 9 would read as follows:

§ 928.309 Papaya Regulation 9.

Order. (a) No handler shall ship any container of papayas (except immature papayas handled pursuant to § 928.152 of this part):

(1) During the period January 1 through December 31, 1979, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided,* That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay; *Provided further,* That such papayas individually weigh not less than 13 ounces.

(2) During the period January 1 through December 31, 1979, to any export destination unless said papayas grade at least Hawaii No. 1, except they shall be free from injury caused by bruises and free from deep scars; and scars, when scaly, cracked or not smooth, shall not aggregate a circle greater than 1 inch in diameter, or when smooth shall not aggregate more than 7.5 percent of the surface of the fruit, except that the total tolerance for all defects shall not exceed 3 percent: *Provided,* That of this amount not more than 1 percent shall be for immature fruit and not more than 1 percent shall be for decay: *Provided further,* That such papayas shall individually weigh not less than 11 ounces each.

(b) When used herein "Hawaii No. 1" shall have the same meaning as set forth in the Standards for Hawaii Grown Papayas, as amended, Subsection 5.32, Section 5, Regulation 1, Divisionof Marketing and Consumer Services, Department of Agriculture, State of Hawaii, issued pursuant to Section 147-4, Part I and Section 147-22, Part II, Chapter 147, Title 11, Volume 3, Hawaii Revised Statutes. All other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: December 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-34124 Filed 12-6-78; 8:45 am]

[6720-01-M]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 25]

FEDERAL RESERVE SYSTEM

[12 CFR Part 228]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 345]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563e]

COMMUNITY REINVESTMENT ACT REGULATIONS

Proposed Amendment

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Federal Home Loan Bank Board.

ACTION: Proposed regulations.

SUMMARY: This proposed amendment to the Agencies' regulations implementing the Community Reinvestment Act of 1977 would reflect an amendment to that law contained in the Financial Institutions Regulatory and Interest Rate Control Act of 1978 which relates to financial institutions whose business predominantly consists of serving the needs of military personnel who are not located within a defined geographic area.

DATE: Comments must be received by: January 8, 1979.

ADDRESS: Please send comments to: Theodore E. Allison, Secretary to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, D.C. 20551. All material submitted should refer to FRB Docket No. R-0192.

FOR FURTHER INFORMATION CONTACT:

C. Baird Brown, Board of Governors of the Federal Reserve System: 202-

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military community shall be delineat-

COMMENTS INVITED

fourth decimal by revising it to read when used in the marketing agree-

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452-3265; JoAnn Barefoot, Comptroller of the Currency: 202-447-0934; Jeffrey Tisdale, Federal Deposit Insurance Corporation: 202-389-4384; Nancy Feldman, Federal Home Loan Bank Board: 202-377-6643.

SUPPLEMENTAL INFORMATION: On October 12, 1978, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board (collectively referred to as "the Agencies") adopted regulations to implement the Community Reinvestment Act of 1977 ("the CRA") (FR 47144). Those regulations became effective November 6, 1978, as required by statute.

The CRA requires that in connection with their examination of institutions in their jurisdiction, the Agencies assess each institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. The CRA further requires that the appropriate Agency take that record into account in its evaluation of any application by the institution for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or acquisition of bank or savings institution shares or assets.

On November 10, 1978, the Financial Institutions Regulatory and Interest Rate Control Act of 1978 was enacted (Pub. L. 95-630), which contained the following amendment to the CRA:

§ 803 • • •

(4) A financial institution whose business predominantly consists of serving the needs of military personnel who are not located within a defined geographic area may define its 'entire community' to include its entire deposit customer base without regard to geographic proximity.

This proposed regulatory amendment would allow qualified institutions to delineate a "military community" of nonlocal depositors in addition to a local community or communities: these would comprise their "entire community" under the regulation.

The Agencies propose this implementation of the statutory provision because preliminary information indicates that institutions potentially qualified under it have a local customer base as well as nonlocal military customers. However, the amendment is issued in proposed form to allow comment on the scope of the statutory provision. Commenters are asked to consider particularly the proposed percentage and mileage limitations, and whether a military community should be the only community required to be delineated where local depositors constitute an insignificant portion of the institution's entire deposit customer base.

Institutions are requested to comply with the proposed regulation during the comment period.

Accordingly, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board propose to amend 12 CFR Parts 25, 228, 345, and 563e, as follows:

PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

1. Section 25.3 is amended by adding new paragraph (c) to read as follows:

§ 25.3 Delineation of Community.

(a) • • •

(b) • • •

(c)(1) Nothwithstanding the requirements of paragraphs (a) and (b) of this section, a national bank, over half of whose depositors are active duty or retired military personnel or their dependents who reside more than 50 miles from any of its offices, may delineate a "military community" for those depositors, in addition to its local community or communities. A military community shall be delineated by a written description rather than a map.

(2) References to "local communities" in the provisions of this part shall apply to military communities.

(Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq. as amended by Title XV of Pub. L. 95-630); 12 U.S.C. 21, 22, 26, 27, 30, 36, 161, 215, 215a, 481, 1814, 1816, 1828(c).)

Dated: November 28, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

PART 228—COMMUNITY REINVESTMENT

2. Section 228.3 is amended by adding new paragraph (c) to read as follows:

§ 228.3 Delineation of community.

• • • • • •

(c) (1) Notwithstanding the requirements of paragraphs (a) and (b) of this section, a State member bank, over half of whose depositors are active duty or retired military personnel or their dependents who reside more than 50 miles from any of its offices, may delineate a "military community" for those depositors, in addition to its local community or communities. A military community shall be delineated by a written description rather than a map.

(2) References to "local communities" in the provisions of this part shall apply to military communities.

• • • • • •

(Community Reinvestment Act of 1977 (title VIII, Pub. L. 95-128, 91 Stat. 1147 (12 U.S.C. 2901 et seq.)); Pub. L. 95-630; (12 U.S.C. 321, 325, 1814, 1816, 1828, 1842).)

By order of the Board of Governors, effective November 29, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

PART 345—COMMUNITY REINVESTMENT

3. Section 345.3 is amended by adding a new paragraph (c) thereto, to read as set forth below:

§ 345.3 Delineation of community.

• • • • • •

(c) (1) Notwithstanding the requirements of paragraphs (a) and (b) of this section, an institution, over half of whose depositors are active duty or retired military personnel or their dependents who reside more than 50 miles from any of its offices, may delineate a "military community" for those depositors, in addition to its local community or communities. A military community shall be delineated by a written description rather than a map.

(2) References to "local communities" in the provisions of this part shall apply to military communities.

(Sec. 1503, Pub. L. 95-630, 92 Stat. 3641 (12 U.S.C. 2902); sec. 806, Pub. L. 95-128, 91 Stat. 1148 (12 U.S.C. 2905); sec. 9, Pub. L. 797, 64 Stat. 891 (12 U.S.C. 1819).)

Approved November 30, 1978.

By order of the Board of Directors.

FEDERAL DEPOSIT INSURANCE CORPORATION,
HOYLE L. ROBINSON,
Assistant Executive Secretary.

PART 563—COMMUNITY REINVESTMENT

4. Section 563e.3 is amended by adding a new paragraph (c) thereto, to read as set forth below:

§ 563e.3 Delineation of community.

• • • • • •

(c) (1) Notwithstanding the requirements of paragraphs (a) and (b) of this section, an institution, over half of whose depositors are active duty or retired military personnel or their dependents who reside more than 50 miles from any of its offices, may delineate a "military community" for those depositors, in addition to its local community or communities. A

military community shall be delineated by a written description rather than a map.

(2) References to "local communities" in the provisions of this part shall apply to military communities.

(Pub. L. 95-630; Pub. L. 95-128, 91 Stat. 1147, et seq.; secs. 17, 47 Stat. 736, as amended, (12 U.S.C. 1437); secs. 402, 403, 407, and 408, 48 Stat. 1256, 1257, 1260, and 1260a, as amended, (12 U.S.C. 1725, 1726, 1730, 1730a); sec. 5, 48 Stat. 132, as amended, (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Com. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary,
Res. #78-674.

NOVEMBER 29, 1978.

[FR Doc. 78-34236 Filed 12-6-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 23, 25, and 37]

[Docket No. 18564; Notice No. 78-16]

AIRCRAFT WHEELS AND WHEEL-BRAKE ASSEMBLIES

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Technical Standard Order (TSO) for aircraft wheels and wheel-brake assemblies (TSO-C26b) and a related type certification requirement for airplane brakes. As revised, the standards would incorporate updated and improved minimum performance standards and standards for the design and construction of aircraft wheels and brakes. The proposed changes are recommended to fulfill service needs with respect to future designs.

DATE: Comments must be received on or before February 7, 1979.

ADDRESS: Send all comments on the proposal in duplicate: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 18564, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Indpendence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or argument as they may desire. Comments relating to any significant environmental or economic impact that might result because of the adoption of these proposals may also be submitted. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comment specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

AVAILABILITY OF NPRMS

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

DISCUSSION OF THE PROPOSED RULE

There are several changes to the standards of Parts 23, 25, and 37 of the Federal Aviation Regulations included in this notice of proposed rulemaking. Present §§ 23.735(a)(2), 25.735(f)(2), and 37.172, paragraph 4.2(a)(1) prescribe a formula that may be used for the determination of the kinetic energy absorption requirements of each main wheel brake assembly if a rational analysis is not used. The formula provides as one parameter the power-off stalling speed (V_{S_0}) of the aircraft at sea level at the design landing weight and in the landing configuration. However to provide for those aircraft for which the manufacturer desires to have the speed greater than V_{S_0}, e.g., when the speed at which brakes may be applied is greater than V_{S_0}, the formula would be revised by substituting V to indicate a speed equal to or greater than V_{S_0}. Also, in the formula the numerical constant "0.0444" would be corrected to the fourth decimal by revising it to read "0.0442".

Present § 25.735(b) sets forth the certification requirements for brakes for transport category airplanes. However, in defining the conditions under which the airplane must be brought to rest, reference is made to § 25.75 only. Section 25.75 is applicable to reciprocating engine powered airplanes but not to turbine engine powered airplanes which are identified in § 25.125. The reference to § 25.125 would therefore be added to § 25.735(b).

Present § 25.735(g) provides for the use of V_{S_0} as the initial speed in dynamometer tests for determining the kinetic energy capacity of the wheel-brake assembly. Consistent with the change proposed for § 25.735(f)(2), "V_{S_0}" would be replaced by "V" to indicate a speed equal to or greater than V_{S_0}.

The energy absorbing ability and functional compatibility of a brake with a wheel are a function of both the brake and the wheel working as a unit. Thus, in current paragraph 4.2(a) of the Federal Aviation Administration Standard that is contained in § 37.172, wheel-brake assemblies must be used in the dynamometer tests when testing for kinetic energy ratings. To clarify this, all references to "wheels and brakes" in the title and elsewhere in § 37.172, have been deleted and replaced by references to "wheels and wheel-brake assemblies".

The variation between manufacturer accountability procedures indicates a need for optional marking in order to identify the time period in which the part is manufactured. Therefore, as alternative to serial number identification, an optional date of manufacture would be allowed under § 37.172(b)(2).

It is proposed to amend the *Data requirements* of § 37.172(c) by including accelerate-stop and design landing stop deceleration values prescribed in the wheel brake system tests covered under § 37.172, paragraph 4.2(a)(2). In addition, § 37.172(c) would be amended to require only that the maintenance instructions be made available upon request since such instructions are not needed by the FAA for assessment of wheels and wheel-brake assembly performance.

In the proposed standard, paragraph 2(a)(1) has been amended to make clear that lubricant retainers must control lubricant in the bearing areas under all operating conditions and not just the maximums.

Rim repair instructions contained in current paragraph 2(b) have been deleted since this type of information belongs in the maintenance manual. The paragraph would also be amended to make clear that holes in all aluminum alloy and magnesium alloy parts must have protective finishes similar to

assemblies used on FAR 23, 25, 27 and requires that a certain number of test

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other surfaces of the wheel to guard against corrosion.

Since there is no requirement for load ratings of the wheel-brake system design to be compared to ground reactions, the words "and wheel-brake system design" would be deleted from paragraph 3(a). Also, the words "accelerate-stop" and "rejected takeoff" are synonymous as they are used in the TSO and airworthiness standards. The TSO uses both terms but the airworthiness standards use only "accelerate-stop." To be consistent with the airworthiness standards, it is proposed to replace the term "rejected takeoff" with "accelerate-stop" in paragraph 3(b)(2).

In connection with proposed paragraph 4. *Qualification tests*, an introductory statement has been added to the paragraph requiring that the assemblies be tested and that the test data be included in the test report required in § 37.172(c)(2).

Paragraph 4.1(a)(1) would be revised to require that the wheel be fitted with the proper size tire during the qualification testing of the wheel to simulate conditions as demanding as those in actual service.

Paragraphs 4.1 (a)(2) and (b)(2) presently contain a wheel position sequence for applying the yield test loads such that the first load application is at the 0° position, then one load application each at 90°, 180°, and 270°, and finally two successive loads at the 0° position. As proposed, one test setup has been eliminated by requiring three load applications ending at the 0° position. The order of the load applications is not significant as long as the number of loads applied is the same. The permanent deformation allowable standard for wheels under test loads has been changed to 0.005 inches or 5 percent of the deflection caused by the test load, whichever is greater. Information available to the FAA indicates that it is difficult to measure the permanent set in small wheels for determining compliance with the existing 5 percent maximum allowable permanent deformation.

The present paragraph 4.1(a)(3) requirement that the ultimate load must be sustained for 10 seconds is significantly more severe than the required time for sustaining test loads on structure as specified in the airworthiness standards. See, for example, § 25.305(b). To be consistent with the airworthiness standards, paragraph 4.1(a)(3) would be amended to state a 3-second requirement.

Wheel and brake manufacturers have reported that in most tests conducted, tire bottoming occurs prior to reaching full application of ultimate loads. When tire bottoming occurs, high stresses are imposed on the wheel rims at the loading surface with possible rupturing of the tire or failure of the wheel due to the concentrated loads if load application is continued. One manufacturer stated that if the tire inflation pressure were increased over the allowable pressure, ultimate loads could be applied without the tire bottoming in most tests. An unlimited tire inflation pressure increase could not be allowed because of the potential hazards to test personnel due to possible tire blowouts. However, an allowance of 2 times rated inflation pressure is reasonable in view of the 2 times maximum radial limit load permitted in the tests. Some wheel and brake manufacturers have constructed a "loading block" which fits the contour of the wheel between the rim flanges and simulates the load transfer of the inflated tire. Use of this device permits application of ultimate loads without the concern of the tire bottoming. Provision for the "loading block" has been included in paragraphs 4.1 (a)(3) and (b)(3) to be used in the tests if increasing the inflation pressure of the tire to 2 times the rated inflation pressure fails to prevent tire bottoming.

The current requirement in paragraph 4.1(b)(1) is for the wheel axle to be positioned at the same angular orientation to the nondeflecting surface that the axle would have if it were mounted on an aircraft and the limit radial load applied. However, the purpose of the test is to determine how the wheel will react to the combined radial and side loads. Application of the side load could make a significant difference in the angular relationship of the axle to the nondeflecting surface. To determine the most accurate indication of the wheel's reaction to the combined radial and side loads, the angular position of the axle obtained under these loads has been proposed for the test.

The current paragraph 4.1(c)(1) requires that the wheel with tire mounted be positioned against a flat nondeflecting surface for the maximum static load test. However, the test consists of rolling the wheel for a given number of miles and this implies the wheel must be rolled on a flat nondeflecting surface for this distance. Such a test is impractical with present wheel testing technology. Testing machines with flat nondeflecting surfaces and for rolling are available but prohibitive in cost at this time. Manufacturers currently are conducting wheel roll tests on a dynamometer flywheel which has a curved surface and this testing procedure has been approved by the certifying regions. Therefore, the words "or a flywheel" would be added following the word "surface" in the first sentence of paragraph 4.1(c)(1). For the same reason, the word "nondeflecting" has been changed to "load" in the second sentence. Limit loads are specified in the second and third sentences of the present paragraph. Since this is a roll test to be conducted with static load application, the word "limit" would be replaced by the word "static" in paragraph 4.1(c)(1). Also, the words "with air" have been deleted in the third sentence since the certifying regions have approved other mediums, such as nitrogen and water, as a means of inflating the tire. Service records show that fatigue cracks and stress corrosion account for a large number of wheel failures during service operation. In evaluating the fatigue strength of wheels, the evaluation must include the typical loading spectrum expected in service which includes side loads as well as vertical loads. Side loads are encountered in all aircraft ground operations resulting from taxi turns, takeoff and landing crosswind gusts, and other causes. The TSO currently provides for static combined radial and side loads in the qualification testing of wheels but does not include side or yaw loads in the roll tests which more appropriately represent service operation.

In view of the foregoing, a new side load or yaw test standard is proposed for transport category airplanes in paragraph 4.1(c)(2). Ground operational distances to which the wheel may be expected to roll during its service life must be considered. In view of the wheel failures that have already occurred and, in order to extend the service life of wheels, the current 1,000 mile roll distance test would be increased to 2,000 miles.

Current paragraph 4.1(d)(1) requires that the wheel be hydrostatically tested to a burst pressure that is not less than the inflation pressure at the rated load "S" times a factor of 3.5 for airplanes and 3.0 for rotorcraft. References are made to "burst pressure" and the paragraph is titled "Burst test" implying that the wheel must be tested to the point that it "bursts". This implication is incorrect since the objective of the test is to ensure that the wheel will understand without failure a pressure somewhat greater than the rated inflation pressure of the tire with which it is to be used. Thus, the test pressure to be applied is not literally a burst pressure but rather an overpressure. Accordingly, the title of paragraph 4.1(d)(1) should be changed from "Burst test" to "Overpressure test".

Current paragraph 4.1(d)(2) specifies a static leakage test for the wheel and tubeless tire assembly requiring immersion in water after inflating the tire to an overpressure of 1.5 times the inflation pressure. There is no time limit given for the length of test and only a visual check for bubbles to determine if there is leakage. A more efficient and stringent test is contained in paragraph 4.1(d)(3) *Diffusion test* which is required to determine if the wheel will hold inflation pressure. It is therefore proposed to delete the static test, paragraph 4.1(d)(2).

The current paragraph 4.2 requires that the wheel-brake system be tested in order to qualify for its kinetic energy ratings and that it must use the recommended operating medium in the tests. Since it has already been made clear that the operating medium must be used in the tests, those words in parentheses at the end of the last sentence in paragraph 4.2 may be deleted.

The last sentence in paragraph 4.2(a)(1) lists certain devices that affect deceleration, such as propeller reverse pitch, drag parachutes, and engine thrust reversers, that are not to be considered in determining kinetic energy. Since this information is used in the Method II analysis, it would be moved to paragraph 4.2(a)(1)(ii) which speaks to Method II.

There have been reported cases in which small aircraft brakes have worn out prior to require annual inspection periods. Incidents involving aircraft over-running runways at small airports have also been reported. Paragraph 4.2(a)(2) would be revised to require additional design landing stop tests for wheel-brake assemblies intended for use on such aircraft. The number of design landing stops would be increased from 35 to 100 with one change of brake lining and attached discs allowed.

Airframe manufacturers have stated that the current 6 ft./sec.² deceleration specified in paragraph 4.2(a)(2) is often too low for modern transport category airplanes. Accordingly, they have proposed several methods for establishing higher, more appropriate decelerations. In a review of these methods, there is little evidence to indicate that the current 6 ft./sec.² deceleration is inadequate as a minimum TSO performance requirement. While it is true that manufacturers of larger transport aircraft would like higher rates to satisfy accelerate-stop distance criteria, such rates above the 6 ft./sec.² minimum can be selected if desired by the wheel-brake manufacturers, as a design limit and basis for TSO approval. To this extent, paragraph 4.2(a)(2) would be amended to require that FAR 25 wheel-brake assemblies be subjected to one accelerate-stop test at a minimum deceleration of 6 ft./sec.². In addition, the deceleration data would be included in the limitations data required by § 37.172(c)(1). With respect to landing stop decelerations, a minimum value would also be added for wheel-brake assemblies used on FAR 23, 25, 27 and 29 aircraft and the specific values obtained during the landing stop tests would be included in the data requirements under § 37.172(c)(1).

Paragraph 4.2(a)(3)(i) currently specifies that one change of brake lining and attached discs is permissible during the landing stop tests when determining the kinetic energy capacity (KE_{DL}) for wheel-brake assemblies. It is proposed to delete the words "and attached discs" since they redundant with respect to the definition of "brake lining" given in paragraph (iii). The last sentence of current paragraph 4.2(a)(3)(ii) states that the brakes must be usable to taxi the aircraft off the runway after the accelerate-stop tests. This requirement is not appropriate for a TSO since it involves an aircraft performance condition. However, to ensure that the intended usability of the brake assembly is retained, the requirement would be restated to require that the brake be usable following completion of the accelerate-stop test.

Paragraph 4.2(b) currently requires that a brake structural torque test be conducted; however, in the first sentence the applied load S is incorrectly identified as a radial load. Load S is a maximum static load as defined in paragraph 3(a)(1) of the TSO standard. The words "the radial" would therefore be removed. Application of torque load factors are identified in paragraphs (b)(1) and (2) where the letter R is currently defined as the normal "rolling" radius of a tire. The word "rolling" does not fully describe the condition of the tire required for the test, and would be replaced by the word "loaded". These same two paragraphs would be amended to make clear that rated inflation pressure of the tire is to be used in conducting the tests. In addition, since the footnote at the bottom of the present paragraph 4.2(b) is merely informational, it would be deleted.

Paragraph 4.2(c) requires that the brake with actuator piston extended to simulate a maximum worn condition must withstand a test hydraulic pressure equal to the greatest of three alternative test conditions. However, the hydraulic pressures resulting from conditions specified in paragraphs 4.2(c)(2) and (3) can in no way be greater than that in paragraph (1) and they may be less. It is therefore proposed to delete the substance of paragraphs (2) and (3).

Paragraph 4.2(d) requires that the hydraulic brake-wheel assembly be subjected to certain endurance tests. However, since only the brake assembly is involved, the word "wheel" would be deleted from "brake-wheel assembly" in the first and third sentences. Paragraph 4.2(d)(1) presently requires that a certain number of test cycles be performed at each of four piston positions; the requirement would be amended to make clear that the 25, 50, 75, and 100 percentages specified are percentages of the wear limit. Paragraph 4.2(d)(2) requires that for rotorcraft the hydraulic brake-wheel assembly must be subjected to 2,500 test cycles at a hydraulic pressure equal to the greatest of three alternative test conditions. However, since the hydraulic pressures resulting from conditions specified in paragraphs (d)(2)(i) and (d)(2)(ii) can be no greater than that specified in paragraph (d)(2)(iii), these three subparagraphs would be deleted and the information contained in (d)(2)(iii) included in paragraph (d)(2). The footnote at the bottom of paragraph 4.2(d) would be deleted as unnecessary.

Finally, a number of editorial or clarifying revisions to §§ 23.735, 25.735 and 37.172 are proposed which do not involve any substantive changes to the present requirements.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Parts 23, 25 and 37 of the Federal Aviation Regulations (14 CFR Parts 23, 25 and 37) as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By amending § 23.735 by revising paragraph (a)(2) to read as follows:

§ 23.735 **Brakes.**

(a) • • •

(2) Instead of a rational analysis, the kinetic energy absorption requirements for each main wheel brake assembly may be derived from the following formula:

$$KE = 0.0442\ WV^2/N$$

where—

KE = Kinetic energy per wheel (ft.-lb.);
W = Design landing weight (lb.);
V = Airplane speed in knots. V must be not less than V_{S_0}, the poweroff stalling speed of the airplane at sea level, at the design landing weight, and in the landing configuration; and
N = Number of main wheels.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

2. By amending § 25.735(b) by inserting the words "or § 25.125, as applicable," between the reference to "§ 25.75" and the word "with" in the first sentence; by deleting the words "that section" at the end of the first sentence of paragraph (b) and inserting in place thereof the words "those sections".

3. By amending § 25.735 by revising paragraph (f)(2) to read as follows:

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tions if the other positions are more be bled off to obtain the same tire de-

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§ 25.735 **Brakes.**

• • • • •

(f) • • •

(2) Instead of a rational analysis, the kinetic energy absorption requirements for each main wheel brake assembly may be derived from the following formula, which assumes an equal distribution of braking between main wheels:

$$KE = 0.0442\ WV^2/N$$

where—

KE = Kinetic energy per wheel (ft.-lb.);
W = Design landing weight (lb.);
V = Aircraft speed (knots), V must be not less than V_{S_0}, the poweroff stalling speed of the airplane at sea level, at the design landing weight, and in the landing configuration; and
N = Number of main wheels.

The formula must be modified in cases of unequal braking distribution.

4. By amending § 25.735(g) by deleting the term "V_{S_0}" and inserting in place thereof the letter "V".

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

5. By revising § 37.172 to read as follows:

§ 37.172 **Aircraft wheels and wheel-brake assemblies—TSO-C26c.**

(a) *Applicability.* This Technical Standard Order prescribes the minimum performance standards that aircraft landing wheels and wheel-brake assemblies must meet in order to be identified with the applicable TSO marking. New models of such equipment which are to be so identified and which are manufactured on or after (the effective date of this amendment) must meet the requirements of the Federal Aviation Administration Standard for Aircraft Wheels and Wheel-Brake Assemblies set forth at the end of this section.

(b) *Marking.* In lieu of the marking requirements of § 37.7, the aircraft wheels and brakes must be legibily and permanently marked with the following information:

(1) Name of the manufacturer responsible for compliance.

(2) Serial number or date of manufacture or both.

(3) Part number.

(4) Applicable technical standard order (TSO) number.

(5) Size (this marking applies to wheels only).

All stamped, etched, or embossed markings must be located in non-critical areas.

(c) *Data requirements.* (1) In addition to the data specified in § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, in the region in which the manufacturer is located (or, in the case of the Western Region, the Chief, Aircraft Engineering Division), the following technical data:

(i) One copy of the applicable limitations pertaining to installation of wheels and brakes on aircraft, including the weight of the brake assembly, maximum static load rating, maximum limit load rating, maximum accelerate-stop kinetic energy in foot-pounds (KE_{RT}), design landing kinetic energy in foot-pounds (KE_{DL}), accelerate-stop deceleration in feet/second^2, design landing stop deceleration in feet/second^2, applicable speed as specified in paragraph 4.2(a)(1) of the FAA Standard for Aircraft Wheels and Wheel-Brake Assemblies, type of hydraulic fluid used, and the weight of the wheel.

(ii) One copy of the manufacturer's test report.

(2) Upon request of the regional office specified in paragraph (c)(1) of this section, the manufacturer must furnish the applicable maintenance instructions.

(d) *Previously approved equipment.* Wheels and wheel-brake assemblies approved prior to (the effective date of this amendment) may continue to be manufactured under the provisions of their original approval.

Federal Aviation Administration Standard for Aircraft Wheels and Wheel-Brake Assemblies

1. *Purpose.* This document contains minimum performance standards for aircraft landing wheels and wheel-brake assemblies.

2. *Design and construction.* (a) *Design.* (1) *Lubricant retainers.* Lubricant retainers must retain the lubricant under all operating conditions, prevent lubricant from reaching braking surfaces, and prevent foreign matter from entering the bearings.

(2) *Removable flanges.* All removable flanges must be assembled onto the wheel in a manner that will prevent the removable flange and its retaining device from eaving the wheel if a tire should deflate while the wheel is rolling.

(3) *Adjustment.* When necessary to assure safe performance, the brake mechanism must be equipped with suitable adjustment devices.

(4) *Water seal.* Wheels intended for use on amphibious aircraft must be sealed to prevent entrance of water into the wheel bearings or other portions of the wheel or brake, unless the design is such that brake action and service life will not be impaired by the presence of sea water or fresh water.

(5) *Explosion prevention.* Unless determined to be unnecessary, means must be provided to minimize the probability of wheel and tire explosions which result from elevated brake temperatures.

(b) *Construction.* (1) *Castings.* Castings must be of high quality, clean, sound, and free from blowholes, porosity, or surface defects caused by inclusions, except that loose sand or entrapped gases may be allowed when the serviceability of the casting has not been impaired.

(2) *Forgings.* Forgings must be of uniform condition, free from blisters, fins, folds, seams, laps, cracks, segregation, and other defects. If strength and serviceability are not impaired, imperfections may be removed.

(3) *Rim surfaces.* For wheels designed for use with a tire and inner tube combination, the surface of the rim between bead seats must be free from defects which would be injurious to the inner tube while mounting the tire or while in service.

(4) *Rim joints.* For wheels designed for use with a tire and inner tube combination, joints in the rim surface and joints between rim surfaces and demountable flanges must be smooth, closefitting, and noninjurious to the inner tube while mounting the tire, or while in service.

(5) *Rivets and bolts.* When rivets are used, they must be well headed over, and rivets or bolts coming in contact with the casing or tube must be smooth enough not to damage the tube or casing during normal operation.

(6) *Bolts and studs.* When bolts and studs are used for fastening together sections of a wheel, the length of the threads for the nut extending into and bearing against the sections must be held to a minimum; and there must be sufficient unthreaded bearing area to carry the required load.

(7) *Steel parts.* Wherever possibile all steel parts, except braking surfaces and those parts fabricated from corrosion resistant steel, must be cadmium plated or zinc plated. Where cadmium or zinc plating cannot be applied, the surface must be thoroughly cleaned and suitably protected from corrosion.

(8) *Aluminum parts.* All aluminum-alloy parts must be anodized or have equivalent protection from corrosion. This protection must include protection for fuse plug holes, valve stem holes, and other passages.

(9) *Magnesium parts.* All magnesium alloy parts must receive a suitable dichromate treatment or have equivalent protection from corrosion. This protection must include protection for fuse plug holes, valve stem holes, and other passages.

3. *Rating.* (a) Each wheel design must be rated for the following:

(1) S=Maximum static load in pounds (refs. §§ 23.731(b), 25.731(b), 27.731(b), and 29.731(b) of this chapter).

(2) L=Maximum limit load in pounds (ref. §§ 23.731(c), 25.731(c), 27.731(c), and 29.731(c) of this chapter).

(b) Each wheel-brake assembly design must be rated for the following:

(1) KE_{DL}=Kinetic energy capacity in foot-pounds per wheel-brake assembly at the design landing rate of absorption.

(2) KE_{RT}=Kinetic energy capacity in foot-pounds per wheel-brake assembly at the maximum accelerate-stop rate of absorption for wheel-brake assemblies of airplanes certificated under Part 25 of this chapter only.

4. *Qualification tests.* The aircraft wheels and wheel-brake assemblies must be tested as follows and the test data included in the applicant's test report required by paragraph (c)(1)(ii) of § 37.172.

4.1 *Wheel tests.* To establish the S and L ratings for a wheel, test a standard sample in accordance with the following radial, combined and static load test:

(a) *Maximum radial load test.* Test the wheel for yield and ultimate loads as follows:

(1) *Test method.* Mount the wheel, with a suitable tire of proper fit installed, on its axle, and position it against a flat nondeflecting surface. The wheel axle must have the same angular orientation to the nondeflecting surface that it will have to the runway when it is mounted on the aircraft and is under the maximum limit load. Inflate the tire to the pressure recommended for the S load with air or water. If water inflation is used, the water must be bled off to obtain the same tire deflection that would result if air inflation were used. Water pressure may not exceed the pressure which would develop if air inflation were used and the tire deflected to its maximum extent. Load the wheel through its axle perpendicular to the flat nondeflecting surface. Deflection readings must be taken at suitable points to indicate deflection and permanent set of the wheel rim at the bead seat.

(2) *Yield load.* Apply to the wheel a load not less than 1.15 times the maximum radial limit load, determined under §§ 23.471 through 23.511 or §§ 25.471 through 25.511, or §§ 27.471 through 27.505, or §§ 29.471 through 29.511 of this chapter, as appropriate. Apply the load with the wheel positioned against the nondeflecting surface, and the valve hole positioned at 90° with respect to the line between the center of the wheel and the point of contact, then with the valve hole positioned 180°, 270°, and 0° from the nondeflecting surface. The 90° increments must be altered to other positions if the other positions are more critical. Three successive loadings at the 0° position may not cause permanent set increments of increasing magnitude. The permanent set increment caused by the last loading at the 0° position may not exceed 5 percent of the deflection caused by that loading or 0.005 inches, whichever is greater. The bearing cups, cones, and rollers used in operation must be used for these loadings. There must be no yielding of the wheel such as would result in loose bearing cups, air or water leakage through the wheel or past the wheel seal, or interference in any critical areas.

(3) *Ultimate load.* Apply to the wheel a load, not less than 2 times the maximum radial limit load for castings and 1.5 times the maximum radial limit load for forgings, determined under §§ 23.471 through 23.511, or §§ 25.471 through 25.511, or §§ 27.471 through 27.505, or §§ 29.471 through 29.511 of this chapter, as appropriate. Apply the load with the same wheel positioned against the nondeflecting surface and the valve hole positioned at 0° with respect to the line between the center of the wheel and the point of contact. The wheel must be able to support the load without failure for at least 3 seconds. The bearing cones may be replaced with conical bushings, but the cups used in operation must be used for this loading. If at a point of loading during the test, it is shown that the tire will not successfully maintain pressure or if bottoming of the tire on the nondeflecting surface occurs, the tire pressure may be increased to no more than 2 times the rated inflation pressure. If bottoming of the tire continues to occur with this increased pressure, a loading block which fits between the rim flanges and simulates the load transfer of the inflated tire may be used. The arc of wheel supported by the loading block must be no greater than 60°.

(4) If the radial limit load in paragraph 4.1(b) is equal to or greater than the maximum radial limit in paragraphs 4.1(a) (2) and (3), the tests specified in paragraphs 4.1(a) (2) and (3) may be omitted.

(b) *Combined radial and side load test.* Test the wheel for the yield and ultimate loads as follows:

(1) *Test method.* Mount the wheel, with a suitable tire of proper fit installed, on its axle, and position it against a flat nondeflecting surface. The wheel axle must have the same angular orientation to the nondeflecting surface that it will have to the runway when it is mounted on the aircraft and is under the combined radial and side load. Inflate the tire to the pressure recommended for the maximum static load with air or water. If water inflation is used, the water must be bled off to obtain the same tire deflection that would result if air inflation were used. Water pressure may not exceed the pressure which would develop if air inflation were used and the tire deflected to its maximum extent. For the radial load component, load the wheel through its axle perpendicular to the flat nondeflecting surface. For the side load component, load the wheel through its axle parallel to the flat nondeflecting surface. The side load reaction must arise from the friction of the tire on the nondeflecting surface. Apply the 2 loads simultaneously, increasing them either continuously or in increments no larger than 10 percent of the loads to be applied. Alternatively, a resultant load equivalent to the radial and side loads may be applied to the axle. Deflection readings must be taken at suitable points to indicate deflection and permanent set of the wheel rim at the bead seat.

(2) *Yield load.* Apply to the wheel radial and side loads not less than 1.15 times the respective ground loads determined under §§ 23.485, 23.497, and 23.499, or §§ 25.485, 25.495, 25.497, and 25.499, or §§ 27.485 and 27.497, or §§ 29.485 and 29.497 of this chapter, as appropriate. Apply these loads with the wheel positioned against the nondeflecting surface, and the valve hole positioned at 90° with respect to the line between the center of the wheel and the point of contact, then with the valve hole positioned 180°, 270°, and 0° from the nondeflecting surface. The 90° increments must be altered to other positions if the other positions are more critical. Three successive loadings at the 0° position may not cause permanent set increments of increasing magnitude. The permanent set increment caused by the last loading at the 0° position may not exceed 5 percent of the deflection caused by that loading, or 0.005 inches, whichever is greater. The bearing cups, cones, and rollers used in operation must be used in this test. There must be no yielding of the wheel such as would result in loose bearing cups, air or water leakage through the wheel or past the wheel seal, or interference in any critical areas. A tire and tube may be used when testing a tubeless wheel only when it has been demonstrated that pressure will be lost due to the inability of a tire bead to remain properly positioned under the load. The wheel must be tested for the most critical inboard and outboard side loads.

(3) *Ultimate load.* Apply to the wheel radial and side loads not less than 2 times for castings and 1.5 times for forgings the respective ground loads determined under §§ 23.485, 23.497 and 23.499, or §§ 25.485, 25.495, 25.497 and 25.499, or §§ 27.485 and

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27.497, or §§ 29.485 and 29.497 of this chapter, as appropriate. Apply these loads with the same wheel positioned against the nondeflecting surface and the valve hole positioned at 0° with respect to the center of the wheel and the point of contact. The wheel must be able to support the load without failure for at least 3 seconds. The bearing cones may be replaced with conical bushings, but the cups used in operation must be used for this loading. If at a point of loading during the test it is shown that the tire will not successfully maintain pressure or if bottoming of the tire on the nondeflecting surface occurs, the tire pressure may be increased to no more than 2 times the rated inflation pressure. If bottoming of the tire continues to occur with this increased pressure, a loading block which fits between the rim flanges and simulates the load transfer of the inflated tire may be used. The arc of wheel supported by the loading block must be no greater than 60°.

(c) *Maximum static load test.* Test the wheel for the maximum static load test as follows:

(1) *Test method.* Mount the wheel, with a suitable tire of proper fit installed, on its axle, and position it against a flat nondeflecting surface or a flywheel. The wheel axle must have the same angular orientation to the load surface that it will have to the runway when it is mounted on the aircraft and is under the maximum static load. Inflate the tire to the pressure recommended for the maximum static load "S". The radial load must be applied to the wheel through the axle and perpendicular to the load surface. The side load, when required, must be applied through the wheel axle and parallel to the load surface. For the side load, the wheel axle must be rotated or yawed to that angle which will produce a side load component equal to 0.15 "S" while the wheel is being roll tested.

(2) *Roll test.* The wheel must be tested under the loads and for the distances shown in Table I. At the end of the test there must be no cracks in the wheel and no leakage through the wheel or past the wheel seal, and the bearing cups may not be loosened in the hub.

TABLE I

Category of aircraft and load conditions	Roll distance (miles)
Part 25:	
Maximum static load, "S"	2,000
Maximum static load, "S" plus 0.15 "S" side load applied in outboard direction	100
Maximum static load, "S" plus 0.15 "S" side load applied in inboard direction	100
Part 23:	
Maximum static load, "S"	1,000
Parts 27 and 29:	
Maximum static load, "S"	250

(d) *Pressure test.* Pressure test the wheel in accordance with the following:

(1) *Overpressure test.* The wheel must be hydrostatically tested to withstand without failure for at least 3 seconds application of an overpressure factor not less than 4.0 for Part 25 airplanes, 3.5 for Part 23 airplanes, and 3.0 for rotorcraft, times the rated inflation pressure determined by the applicant.

(2) *Diffusion test.* The tubeless tire and wheel assembly must hold the rated inflation pressure for 24 hours with no greater pressure drop than 5 percent. This test must be performed after the tire growth has stabilized.

4.2 *Wheel-brake assembly test.* A sample of a wheel-brake assembly design must meet the following tests to qualify the design for its kinetic energy ratings. The wheel of a wheel-brake assembly must be separately tested under paragraph 4.1. The wheel-brake assembly must be tested with the operating medium specified by the manufacturer.

(a) *Dynamic torque tests.* Test the wheel-brake assembly on a suitable inertia brake testing machine in accordance with the following:

(1) *Speed and weight values.* For airplanes, select either Method I or Method II below to calculate the kinetic energy level which a single wheel and wheel-brake assembly will be required to absorb. For rotorcraft, use Method I.

(i) *Method I.* Calculate the kinetic energy level to be used in the brake testing machine by using the equation:

$$KE = \frac{0.0442\ WV^2}{N}$$

Where—

KE = Kinetic energy per wheel-brake assembly (ft.lbs.);
W = Design landing weight (lbs.);
V = Aircraft speed in Knots. V must not be less than V_{S_0}, the power-off stalling speed of the aircraft at sea level, at the design landing weight, and in the landing configuration. For the accelerate-stop tests, applicable only to wheel-brake assemblies for airplanes certificated under Part 25 of this chapter, the manufacturer must determine the most critical combination of takeoff weight and speed; and
N = Number of wheels with brakes.

For rotorcraft, the manufacturer must calculate the most critical combination of takeoff weight and brake application speed to be used in the above equation.

(ii) *Method II.* The speed and weight values may be determined by other equations based on a rational analysis of the sequence of events expected to occur during operational landing at maximum landing weight. The analysis must include rational or conservative values for braking coefficients of friction between the tire and runway, aerodynamic drag, propeller drag, powerplant forward thrust, and, if critical, loss of drag credit for the most adverse single engine or propeller due to malfunction. Do not consider the decelerating effects of propeller reverse pitch, drag parachutes, and powerplant thrust reversers.

(2) *Test requirements.* The wheel-brake assembly must bring the inertia testing machine to a stop at the average deceleration, and for the number of repetitions, specified in Table II without failure, impairment of operation, or replacement of parts except as permitted in paragraph 4.2(a)(3):

TABLE II

Category of aircraft	Tests
Parts 23 and 25	KE_{DL}: 100 design landing stops at a deceleration selected by manufacturer but not less than 10 ft/sec².
Part 25	KE_{RT}: 1 accelerate-stop at a deceleration selected by manufacturer but not less than 6 ft/sec².
Parts 27 and 29	KE_{DL}: 20 design landing stops at a deceleration selected by manufacturer but not less than 6 ft/sec².

(3) *General conditions.* (i) During landing stop tests (KE_{DL}), one change of brake lining is permissible. The remainder of the brake assembly parts must withstand the 100 KE_{DL} stops without failure or impairment of operation.

(ii) During the accelerate-stop tests (KE_{RT}), brake lining and bare discs may be new or used. No less than two landing stop tests must have been completed on the brake prior to this test. The brake must be usable for taxi after the accelerate-stop test to KE_{RT}.

(iii) As used in this paragraph, "brake lining" is either individual blocks of wearing material or discs which have wearing material integrally bonded to them. "Bare discs" are plates or drums which do not have waring material integrally bonded to them.

(b) *Brake structural torque test.* Apply load S and a torque load specified in paragraph 4.2(b) (1) or (2), as applicable, for at least 3 seconds. Rotation of the wheel must be resisted by a

reaction force transmitted through the brake or brakes by an application of at least maximum brake line pressure or brake cable tension in the case of a nonhydraulic brake. If such pressure or tension is insufficient to prevent rotation, the friction surface may be clamped, bolted, or otherwise restrained, while applying the pressure or tension.

(1) For landing gears with only one wheel per landing gear strut, the torque load is 1.2 SR where R is the normal loaded radius of the tire at rated inflation pressure under load S.

(2) For landing gears with multiple wheels per landing gear strut, the torque load is 1.44 SR where R is the normal loaded radius of the tire at rated inflation pressure under load S.

(c) *Overpressure—hydraulic brakes.* The brake with actuator piston extended to simulate a maximum worn condition must withstand hydraulic pressure, for at least 3 seconds, equal to the following:

(1) For airplanes, 2 times the maximum brake line pressure available to the brakes.

(2) For rotorcraft, 2 times the pressure required to hold the rotorcraft on a 20° slope at design takeoff weight.

(d) *Endurance tests—hydraulic brakes.* The hydraulic brake assembly must be subjected to an endurance test during which the total leakage may not exceed 5cc. and no malfunction may occur during or upon completion of the test. Minimum piston travel during the test may not be less than the maximum allowable piston travel in operation. The tests must be conducted by subjecting the hydraulic brake assembly to—

(1) 100,000 cycles for airplanes, and 50,000 cycles for rotorcraft, of application and release of the average hydraulic pressure needed in the KE_{DL} tests specified in paragraph 4.2(a)(2) except that manufacturers using Method II in conducting the tests specified in paragraph 4.2(a)(2) must subject the wheel-brake assembly to the average of the maximum pressures needed in those tests. The piston must be adjusted so that 25,000 cycles for airplanes, and 12,500 cycles for rotorcraft, are performed at each of the four positions where the piston would be at rest when adjusted for 25, 50, 75 and 100 percent of the wear limit; and

(2) 5,000 cycles for airplanes, and 2,500 cycles for rotorcraft at the maximum system pressure available to the brakes.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in proposed "Department of Transportation regulatory Policies and Procedures" published in the FEDERAL REGISTER June 1, 1978 (43 FR 23925).

Issued in Washington, D.C., on November 29, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-33962 Filed 12-6-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3023]

GENERAL MILLS FUN GROUP, INC.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Minneapolis, Minn. subsidiary of General Mills, Inc. to cease in the advertising and sale of its toy products, misrepresenting or failing to make relevant disclosures regarding the performance, operation, use, size or appearance of such products through visual portrayals, descriptions, or commercial production techniques. General Mills, Inc. would also be bound by the terms of the order.

DATE: Comments must be received on or before February 2, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William S. Sanger, Assistant Director For Division Of Compliance, Federal Trade Commission, 1726 M St., NW., Washington, D.C. 20580. (202) 254-6128.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9 (b)(14)).

[File No. 782 3023]

GENERAL MILLS FUN GROUP, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of General Mills Fun Group, Inc., a corporation, and it now appearing that General Mills Fun Group, Inc., a corporation, hereinafter referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated:

It is hereby agreed by and between General Mills Fun Group, Inc., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission, that:

1. Proposed respondent General Mills Fun Group, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with an office and place of business located at 9200 Wayzata Boulevard, Minneapolis, Minnesota.

Proposed respondent General Mills Fun Group, Inc., is a wholly-owned subsidiary of General Mills Inc., a corporation, and is comprised of several divisions, including among others, Kenner products.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or reviews submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's Rules, the Commission may, without further

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DATES: Notification of interest, in

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notice to proposed respondent (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the decision containing the agreed-to order to proposed respondent's business address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent had read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

It is hereby further agreed by and between General Mills, Inc., by its duly authorized officer and its attorney and counsel for the Federal Trade Commission, that General Mills, Inc. has read the proposed complaint and order contemplated hereby and that General Mills, Inc. shall be bound by the terms of the order as set forth in the following order.

ORDER

For the purposes of this Order:

1. The compression of a television commercial into a short time span shall not be considered a violation of this Order so long as it does not result in the misrepresentation to children of the toy's performance or operation.

2. The term "children" shall mean the age group or age groups of children as shown on the packaging for whom the manufacturer recommends use of the toy.

3. The effectiveness of any oral or written disclosure, disclaimer or qualification of any visual portrayal or oral or written description shall be considered in determining whether the advertisement, as a whole, misrepresents to children the toy's performance, operation, size or appearance.

4. The term "commercial production technique" shall include, but not be limited to, the use in commercial production of prototypes or other non-production or modified versions of a toy, controlled action sequences, mechanical or human assistance to child actors in actuating or manipulating the toy during or prior to commercial production, the use of special camera lenses or film or audio techniques, including video or audio overlays or the like, and the use of splicing or editing techniques.

5. The use of "commercial production techniques" shall not be considered a violation of this Order so long as they do not result in the misrepresentation to children of the toy's performance, operation, size or appearance.

I

It is ordered, That General Mills Fun Group, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, sale, offering for sale or distribution of toys or related products (hereinafter referred to as "toys"), in or affecting commerce, cease and desist from, directly or indirectly, portraying or describing in an advertisement the performance, operation, use, size, appearance, components or similar characteristic of such toy by or through the use of:

A. Any visual portrayal or oral or written description of the performance or operation of a toy in any manner which cannot be duplicated by children in the ordinary use of such toy.

B. Any use of commercial production technique that results in any visual portrayal or oral or written description which, in the context of the advertisement as a whole, misrepresents to children a toy's performance, operation, size or appearance.

C. Any visual portrayal or oral or written description of the performance or operation of a toy which fails to disclose to children the need for human or mechanical assistance, when such failure, in the context of the advertisement as a whole, mispresents to children such toy's performance or operation.

II

It is further ordered, That respondent shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

III

It is further ordered, That General Mills, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, employees, directly or through any corporation, subsidiary (other than General Mills Fun Group, Inc.), division or other device, shall be bound by the terms of this Order in the event it engages in the advertising of toys, in or affecting commerce, excluding those advertisements for toys not manufactured by or for General Mills, Inc. and those advertisements relating to the use of toys as premiums in connection with the sale of non-toy products.

It is further ordered, That General Mills, Inc., a corporation, shall be liable for any penalties or other legal or equitable relief which arise or could have arisen from any suit based on any alleged violation of this Order committed by any subsidiary, division or other device of General Mills, Inc. subject to this Order (hereafter "company"), or by their officers, representatives or employees, while such company was owned by General Mills, Inc., if, for any reason, such as sale, dissolution, merger, reorganization, insolvency or termination, the company is not amenable to suit or the execution of full judgment.

GENERAL MILLS FUN GROUP, INC.

[File No. 782 3023]

ANALYSIS OF PROPOSED ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from General Mills Fun Group, Inc., under Section 5 of the FTC Act. This company is a wholly-owned subsidiary of General Mills, Inc.

The proposed consent has been placed on the public record for a period of sixty (60) days for reception of comments by interested parties and the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

I. *Introduction.* This matter concerns three television advertisements broadcast by Kenner Products, a division of General Mills Fun Group, Inc. The first advertisement is for "Nugget," a ten-inch high toy horse which is an accessory to the "Dusty" doll, also sold by Kenner Products. In this commercial, two young girls are shown playing with one "Nugget" and one "Dusty." The second advertisement is for "Lightnin' TTP," a launcher and car set. Here, three boys are shown playing with three launcher and car sets and they perform several stunts with the cars. The third advertisement is for "TTP Trouble Patrol," which consists of a launcher, a car, a motorcycle and some accessories. In this advertisement, two boys are shown playing together with one "Trouble Patrol" set and they perform several stunts with the car and motorcycle.

II. *The Proposed Complaint.* The proposed Section 5 complaint contains three charges of unfair or deceptive acts or practices. Paragraph Seven alleges that the three challenged advertisements contain the following representations:

1. That "Nugget" will stand without any human assistance or mechanical aid.

2. That a child can exercise a high degree of control over the speed and direction of the "Lightnin' TTP" car when it is launched from the "Lightnin' TTP" launcher and thereby can perform certain acts or series of acts with the "Lightnin' TTP" car as shown in one of the challenged advertisements.

3. That a child can exercise a high degree of control over the speed and direction of the "TTP Trouble Patrol" motorcycle and car when they are launched from the "TTP Trouble Patrol" launcher and thereby can perform certain acts or series of acts as shown in one of the challenged advertisements.

Paragraph Eight alleges that these representations are false and that, in truth and in fact, "Nugget" cannot stand by itself and a child cannot exercise a high degree of control or perform the depicted acts with the "Lightnin' TTP" set or the "TTP Trouble Patrol" set. Paragraph Eight further alleges that the representations referred to in Paragraph Seven are deceptive and/or unfair.

III. *The Proposed Consent Order.* The proposed consent order contains the following paragraphs which prohibit General Mills Fun Group, Inc. from using certain practices when it advertises toys.

PARAGRAPH I(A)

Paragraph I(A) prohibits the use of any portrayal or description of a toy's performance which cannot be duplicated by children in the ordinary use of the toy.

PARAGRAPH I(B)

Paragraph I(B) prohibits the use of any filming, production or editing technique which results in the misrepresentation to children of the toy's performance, operation, size or appearance.

PARAGRAPH I(C)

Paragraph I(C) prohibits the use of any portrayal or description of the performance of a toy which does not disclose to children that the toy needs human or mechanical assistance when such lack of disclosure results in the misrepresentation to children of the toy's performance or operation.

REMAINING PARAGRAPHS OF THE ORDER

Section II of the proposed order contains standard language required in most Commission orders. These provisions enable the Commission to determine whether the order is being complied with.

Section III of the proposed order contains two paragraphs which bind the parent company, General Mills, Inc. The first paragraph provides that if General Mills, Inc. does any toy advertising in the future, it will be bound by the order. The second paragraph holds General Mills, Inc. under certain circumstances to be liable for the actions of its subsidiaries which are under the proposed order.

IV. *Conclusion.* The purpose of this analysis is to aid public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-34141 Filed 12-6-78; 8:45 am]

[6750-01-M]

[16 CFR Part 457]

STANDARDS AND CERTIFICATION

Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule would establish prohibitions and requirements for standards developers, certifiers, and persons who reference standards or certifications in the marketing of products.

This notice sets out the rulemaking procedures to be followed, the text of the proposed rule, a list of general questions upon which the Commission particularly desires comment and testimony, an invitation for written comments, and instructions for prospective witnesses and other persons who desire to testify or otherwise participate in the proceeding.

DATES: Notification of interest in questioning witnesses must be submitted on or before March 2, 1979.

Written comments must be submitted on or before March 16, 1979.

Prepared statements of witnesses and exhibits (if any) must be submitted on or before March 26, 1979 for witnesses at the San Francisco hearings and April 30, 1979 for witnesses at the Washington, D.C. hearings.

Public hearings commence at 9:00 a.m. on April 16, 1979 in San Francisco and at 9:00 a.m. on May 21, 1979 in Washington, D.C.

ADDRESSES: Notifications of interest, written comments, prepared statements of witnesses and exhibits should be submitted, when feasible and not burdensome, in five copies, to Henry B. Cabell, Presiding Officer (PU), Federal Trade Commission, Washington, D.C. 20580, 202-724-1045. The public hearings will be held in Room 15022, Federal Building, 450 Golden Gate Avenue, San Francisco, California and in Room 332, Federal Trade Commission Building, Pennsylvania Avenue and 6th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert J. Schroeder, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-3936.

SUPPLEMENTARY INFORMATION: The proposed rule would apply to the development and use of product standards, to the related activity of product certification, and to the referencing of product standards and use of certifications by sellers in the marketing of their products. The proposed rule requires standards developers to notify specified classes of persons of a standards development proceeding. The notice must describe the proposed action in sufficient detail to enable persons to determine whether they should participate in the proceeding. A general right to participate in all phases of standards proceedings is established. The proposed rule requires standards developers and certifiers to disclose any serious hazards that are not immediately apparent to users. The rule also establishes a redress system that private parties can use to challenge unfair, deceptive or anticompetitive standards. Certain product standard areas are proposed as exempt from the rule, including food and drug standards and certain certifier test methods. In addition, comment is specifically requested as to whether procedural, challenge, and other rights and benefits should be granted only to persons from countries which grant reciprocal rights to United States interests. Nonproduct standards, such as standards of professional competence or financial accounting standards, are considered beyond the scope of this proceeding.

Private standards development and certification activities are in the nature of an intermediate service in commerce. Standards and certifications are relied on extensively in commerce to facilitate communication between sellers and buyers, promote the interchangeability of products and components, transfer technology, assure the safety, fitness and energy efficiency of products, and help achieve efficiencies in design, production and inventory. Despite these benefits, standards development and certification activities have frequently caused or contributed to substantial consumer and competitive injuries. The injuries include, among others, denial to consumers of the benefits of superior or lower cost technology denial to businesses of the opportunity to enter and compete in profitable industries, inadequate product safety levels, unnecessary costs, and failure to provide for disclosure of important porduct hazard or use information.

The following discussion is intended only to highlight the major provisions of the proposed rule, and to explain the reasons for the rule provisions and their anticipated effect. The full staff report contains a detailed analysis of the proposed rule and the reasons for each rule provision. Copies of the staff report are available in Room 130, Public Reference Room, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, and may be obtained in person or by mail.

Subpart A sets forth the rule's scope and defines relevant terms.

Subpart B imposes procedural safeguards on the standards development process and creates a framework for principled decision-making. Section 457.3 requries that the standards developer establish and follow written procedures. Section 457.4 requires that the standards developer notify specified persons 30 days prior to commencement of any proceeding to develop, revise or withdraw a standard. This notification must contain information describing the purpose of the proceeding and how interested persons may participate. The information that standards developers currently include in their general notices is insufficient to permit persons to make an informed decision as to whether they want to participate in the proceeding.

Section 457.4 requires that the standards developer also notify specified persons of its intention to adopt, revise, or withdraw a standard at least 60 days prior to a final decision. This notification must contain, among other items, a copy or summary of the proposal, and a statement of the

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Subpart E—Marketing

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major substantive disputes that occurred during the proceeding and the reasons these disputes were decided as they were. The purpose of this requirement is to provide interested parties with enough information to judge the action prior to reliance on the standard in the market. The statement of major disputes and the reasons for decisions on them is intended to aid interested parties in formulating their input into the process. The section also requires that the standards developer notify specified persons 30 days prior to the effective date of the action.

The time limits that are set throughout the section are necessary to enable recipients of the notices to make use of the information provided. These time limits do require that a standards developer will spend a certain minimum amount of time in the standards proceeding; however, this will not slow the process, as most proceedings appear to take far longer.

The proposed rule specifies classes of persons that must receive notice. These classes include producers, institutional and individual consumers, government procurement and code officials, certifiers, environmental and energy conservation groups and others who may have an interest in the proceeding. Standards developers have often failed to give adequate consideration to all interested parties. To preclude full participation by interested parties is to run the risk of making a decision on incomplete data and without consideration of all viewpoints on critical issues.

It is expected that direct mailings will be the dominant mode of providing the required notice to all interested persons, although the standards developer is free to use other means to achieve actual notice to the required parties. The notice provisions in this section may impose some costs associated with printing and mailing. The costs are limited, however, by the restricted universe of recipients. The provision may also, in some instances, permit fewer notices than are currently provided.

Section 457.5 establishes a general right to participate in all phases of all standards proceedings to all persons. The term participate includes such things as direct involvement in oral deliberations, submission of written materials, and receipt of agenda and minutes. The purpose of the requirement is to expand the universe of inquiry by ensuring that all interests have the opportunity to present their arguments during a standards development proceeding.

Sections 457.6 and 457.7 create a complaint mechanism which private parties can use if they believe that they are being harmed by unfair, deceptive or anticompetitive standards. Section 457.6 permits a complainant to test standards against the following basic principles:

1. Standards should have logical and technical justification in light of their stated or implied policy goals;

2. Standards should not exclude products that are equivalent to products not excluded;

3. Rather than excluding products, standards developers should choose the least restrictive alternative, i.e., one which preserves or increases buyer options and the opportunity of sellers to compete;

4. Standards should avoid raising false presumptions that two or more conforming products are homogeneous in performance or safety;

5. Standards should not be drawn to cause misreliance that results in economic loss to buyers or exposes product users to unforeseen risks.

While the notice and participation requirements of the proposed rule do provide that all viewpoints may be heard, they do not guarantee that the decision will reflect consumer protection and competition policies. The purpose of § 457.6 is to enable private parties to raise these issues to a standards developer and receive consideration. The standards developer is required under § 457.7 to take appropriate action when a complainant prevails in a challenge under § 457.6. Appropriate action consists of actions necessary to cure the harm and must be completed within a reasonable time period. If a standards developer determines that it is not required to take appropriate action, it must notify the complainant of the reason for the decision, and of the existence of an appeal board established under § 457.10 of the proposed rule.

Section 457.8 requires that every standard that is promulgated must disclose its intended scope, and warn of any serious hazards or limitations in conforming products that are not immediately apparent to users. These disclosures are intended to insure informed use of standards and guard against deception and misreliance that might occur in their absence.

Section 457.9 imposes a recordkeeping obligation on standards developers. The provision merely requires retention of written materials compiled in the course of a proceeding. Records would be open to the public.

Section 457.10 requires the standards developer to establish an impartial appeal board to hear disputes relating to procedural matters, or to unfair, deceptive or restrictive standards. Under the section the standards developer cannot unreasonably refuse to abide by appeal board decisions.

Section 457.11 sets out several categories of standards and standards development activities that are being proposed as exemptions under the rule. They include certain certifier test methods and standards relating to food, drugs, and other products regulated by the Food and Drug Administration. The exemptions generally reflect an intent either to shield certain standards development activity from procedural or other rule burdens, or to limit the scope of the rule. The rule proceeding will attempt to discern the proper scope of the exemptions, in light of existing practices, costs, and the public interest. One of the questions on which comment is specifically requested is whether an exemption should be included which would limit the ability of a person from a foreign country to exercise rights created by the rule if similar rights were not granted to United States interests in their country.

Subpart C sets out the duties of certifiers. Section 457.12 requires the certifier to use standards properly by following the requirements in the standards and any later requirements issued by the standards developer. Further, under § 457.12 the certifier must require a seller who uses its seal of approval to disclose specified information on or near the seal. The disclosure must include a statement of the product attributes that are covered by the certification, and a statement warning of any serious risks or limitations associated with use of the product which are disclosed in standards as required by § 457.8.

In addition, the section requires a certifier to take action against producers that abuse its seal or listings. This can occur, for example, when products represented as being certified do not comply with relevant standards. The certifier's action may consist of withdrawal of the certification, probation, retesting or other appropriate action. A certifier that has knowledge that a standard it is using in certification violates the § 457.6 complaint criteria must request action on it by the standards developer. The required disclosures and obligations are intended to prevent uninformed use of a product and to prevent deception and consumer misreliance.

Section 457.13 applies only to certifiers who are relied on to such an extent in a market that they, in effect, control access of products to that market. The section prohibits granting or denying certification, or discriminating in the quality of service, based on such factors as a producer's trade association membership, size of the producer, product origin, and whether a product is intended for retrofit rather than installation as original equipment.

The section also prohibits certifiers from imposing test requirements that

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are unnecessary in terms of buyer expectations. Superfluous retesting requirements on products tested by competent laboratories or on product changes that do not affect safety or performance are also prohibited. One other requirement for certifiers subject to § 457.13 is that they establish an impartial appeal board to hear disputes relating to duties under that section.

If a certifier refuses to do business with one producer, but not other producers of the same product, the first producer will be excluded from markets that require the certification. Even if the certification is not an absolute requirement, the excluded producer will have a marketing disadvantage to the extent that buyers view the absence of certification as connoting an inferior or unsuitable product. The purpose of the prohibition is to eliminate unfair discrimination in the certification process and thereby expand producer and consumer options.

Section 457.14 imposes a recordkeeping obligation on certifiers. The provision requires that the certifier keep records relating to the certification of individual products, as well as any complaints it receives about deceptive or otherwise improper use of its seal of approval by sellers. The records must be made available to a client in a certification action for inspection and copying. Records are not required to be made available to the general public because of the need to protect trade secrets. The recordkeeping provisions should not be unduly burdensome in that it appears to follow current certifier practices.

Section 457.15 sets forth several categories of certification that are being proposed as exemptions under the rule. These include, among others, certifications relating to food, drugs, and other products regulated by the Food and Drug Administration, and representations such as endorsements which consumers are likely to believe are subjective or not based on controlled testing.

One of the questions on which comment is specifically requested is whether an exemption should be included which would limit the ability of a person from a foreign country to exercise rights created by the rule if similar rights were not granted to United States interests in their country.

Subpart D, § 457.16, sets forth requirements for the impartial appeal board that must be established by standards developers and certifiers pursuant to §§ 457.10 and 457.13(e) respectively. It outlines certain requirements that the appeal board must observe to ensure that the parties are given a fair hearing. These include, among others, that the board be independent of the sponsoring organizations and that members have no conflicts of interest relating to the appeal. The appeal board must render a decision within 60 days of its receipt of a complaint.

Subpart E, § 457.17, contains several prohibitions and requirements applying to sellers who represent conformance with standards in the marketing of their products. It requires the marketer to disclose information relating to product attributes covered by the standard and any product hazards or limitations. It prohibits the marketer from marketing a product in a manner contrary to requirements contained in the standard or imposed by the certifier. The purpose of the provision is to ensure that standards are complied with, and that buyers receive the information required in other sections of the rule.

Section A. Proposed Trade Regulation Rule

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, *et seq.*, the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7, *et seq.*, and section 553 of subchapter II, Chapter 5, U.S. Code (Administrative Procedure), has initiated a proceeding for the promulgation of a trade regulation rule concerning the development of standards, certification of products, and use of standards and certifications in marketing.

Accordingly, the Commission proposes the following Trade Regulation Rule and would amend Subchapter D, Trade Regulation Rules, Chapter I of 16 CFR by adding a new Part 457 as follows:

PART 457—STANDARDS AND CERTIFICATION

Subpart A—Scope and Definitions

Sec.
457.1 Scope.
457.2 Definitions.

Subpart B—Standards

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457.4 Notice.
457.5 Participation.
457.6 Duty to act.
457.7 Appropriate action.
457.8 Required disclosures.
457.9 Recordkeeping and access.
457.10 Appeals.
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Subpart C—Certification

457.12 General certifier duties.
457.13 Additional certifier duties.
457.14 Recordkeeping and access.
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Subpart D—Appeal Board

457.16 Appeal board.

Subpart E—Marketing

457.17 Use of standards and certifications.

Subpart F—Notes

AUTHORITY: 38 Stat. 717, as amended, 15 U.S.C. 41, *et seq.*

Subpart A—Scope and Definitions

§ 457.1 Scope.

(a) This part shall apply to the development of standards, the certification of products, and the use in marketing of standards and certifications, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*

(b) It is an unfair method of competition and an unfair or deceptive act or practice, within the meaning of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), for any standards developer, certifier, or marketer to violate any applicable provision of this part.

§ 457.2 Definitions.

(a) *Certification.* The grant of a form of approval, as well as the process on which the grant (or denial) is based. The process may include sampling, testing, inspection, followup, and related activities. Certification does not include self-certification, or official governmental acts.

(b) *Certifier.* A person who engages in the process of granting forms of approval. Certifier does not include a governmental entity acting in its official capacity.

(c) *Evidence.* Materials of any kind or written arguments (whether or not accompanied by supporting materials), that are offered in support of a proposition.

(d) *Form of approval.* A seal, statement of conformance, label, classification, listing in a directory, and any other affirmation that a product complies with, or performs in a specified manner in relation to, a standard or other requirement.

(e) *Marketer.* A manufacturer, wholesaler, retailer, or other person who engages in marketing.

(f) *Marketing.* The sale, offering for sale, advertising, or promotion of products.

(g) *Person.* An individual, proprietorship, partnership, corporation, association, federal, state, and local government agency, and any other entity.

(h) *Product.* A finished product, components, equipment, materials, and lighting, heating or other systems. The term includes both personal and real property, and any other consumer or producer good.

(i) *Recognized area of competence.* A product area in which the standards developer holds itself out as competent to do business, or in which persons who rely on the standards devel-

producers of competing products. The

action accompanied by substantial evi- misrepresent product attributes to rea- graph (c)(1) of this section timetable.

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oper would reasonably recognize it as competent to do business.

(j) *Request for action.* Any written communication to an officer or director of a standards developer, or to the chairman or other officer of a standards development committee, which calls into question a standards developer, or lack of a standard within the standards developer's recognized area of competence, and which requests the standards developer to change its position with respect to the matter called into question. Requests may relate to matters under consideration in a standards development proceeding under §§ 457.4 and 457.5.

(k) *Self-certification.* Affirmation by the marketer of a product that the product complies with, or performs in a specified manner in relation to, a standard or other requirement.

(l) *Standard.* A prescribed set of conditions or requirements, or portion thereof, applicable to any product in any market, established by agreement among buyers, sellers, professional groups, standards developers, certifiers, or others. A standard may include definitions; methods of test; specifications for performance, design, construction, or composition; classifications; disclosures; guides; codes; and recommended practices. Standard does not include standards which are prepared by one manufacturer or marketer solely for its own procurement, production, or marketing purposes. See § 457.11 Exemptions.

(m) *Standards developer.* A person that develops standards, sponsors the activity of developing standards, or promulgates standards. Standards developer does not include a governmental entity acting in its official capacity.

(n) *Standards development.* The process of development and promulgation of standards. The term includes notice, committee selection, development, review, balloting, resolution of negative votes, adoption, veto, subsequent revision, withdrawal, and all related activities. Standards development does not include official governmental acts.

(o) *Testing.* Evaluation, inspection, controlled experiments, and other methods for determining whether or not a product complies with, or performs in a specified manner in relation to, a standard or other requirement.

Subpart B—Standards

§ 457.3 Written procedures.

(a) The standards developer shall establish operating procedures to implement and administer the requirements of this subpart.

(b) The procedures shall be written and made available without charge to any person upon request.

(c) The standards developer shall follow its procedures.

§ 457.4 Notice.

(a) *Notice of proceeding.* The standards developer shall provide notice of intent to develop, revise or withdraw a standard to those persons specified in paragraph (d) of this section, except in instances in which only employees of the standards developer who have no commercial interest in the matter under consideration will participate. The notice shall be provided at least 30 days prior to commencement of the proceeding. The notice shall contain, at a minimum, a statement of the subject matter and type of action proposed to be taken, reasons for the proceeding, and a summary of the rules and time limits for participation.

(b) *Notice of proposed decision.* The standards developer shall provide notice of intent to make a final decision on adoption, revision or withdrawal of a standard to those persons specified in paragraph (d) of this section. The notice shall be provided at least 60 days prior to the final decision. The notice shall contain, at a minimum, a copy or summary of the proposal, a statement of the major substantive disputes that occurred and the reasons these disputes were decided as they were, likely effects on the classes listed in paragraph (d)(2) of this section, and a summary of the rules and time limits for comment or other participation.

(c) *Notice of final decision.* The standards developer shall provide notice of final decision on adoption, revision or withdrawal of a standard to those persons specified in paragraph (d) of this section. The notice shall be provided 30 days prior to the effective date of the action. The notice shall contain, at a minimum, a copy or summary of the standard, a statement of the major substantive disputes that occurred and the reasons these disputes were decided as they were, likely effects on the classes listed in paragraph (d)(2) of this section, a statement that all persons have the right of access to the records of the proceeding, and a statement explaining how requests for action in accordance with § 457.6 may be made.

(d) Notices required by paragraphs (a), (b), and (c) of this section shall be provided to the following:

(1) All persons requesting notice;

(2) A representative of each of the classes listed below that is likely to be affected by the action and of any other class that is likely to be affected by the action. Representatives shall be selected on the basis of such factors as their interest in the matter, the likelihood that they will participate, and their competence to adequately represent the interest of the class:

(i) Producers (and importers, if foreign producers are not represented) of products covered by the standard, and producers of competing products. The representatives shall be selected to reflect the range of products and competing products, production processes, size of producers, and other variations within the industry;

(ii) Individual consumers, and consumer groups;

(iii) Institutional and industrial consumers;

(iv) Federal, state, and local procurement officials;

(v) Other persons in the chain of distribution, such as retailers;

(vi) Federal, state, and local building code and other officials who have regulatory jurisdiction over products covered by the standards;

(vii) Environmental groups;

(viii) Energy conservation groups;

(ix) Certifiers.

(3) Representatives of classes may be chosen from those requesting notice under paragraph (d)(1) of this section. All representatives shall be informed that the notice to them is intended to serve as notice to a class that shall be defined as specifically as practicable.

§ 457.5 Participation.

(a) Except as provided in paragraphs (b) and (c), the standards developer shall provide to all persons equal opportunity to participate in all phases of all standards proceedings.

(b)(1) The requirements of paragraph (a) of this section shall not apply to:

(i) A phase of a standards proceeding in which the only participants are employees of the standards developer who have no commercial interest in the matter under consideration;

(ii) A final decision on adoption, revision or withdrawal of a standard (following issuance of a notice under § 457.4(b)) which is made by a board or committee composed of at least one representative of each interest (e.g., producer, small business, consumer, government regulatory, government procurement, environmental, other) affected by the action.

(2) Notwithstanding paragraph (b)(1) of this section, no person shall be denied the right to present written materials at any point in the proceeding.

(c) When the number of persons requesting participation is so large as to be unmanageable, the standards developer may identify classes of persons with the same or similar interests in the proceeding and select a representative or representatives to exercise attendance and oral participation rights on behalf of each such class.

§ 457.6 Duty to act.

(a) The standards developer shall determine under paragraph (b) of this section whether it has a duty to act whenever it receives a request for

action accompanied by substantial evidence (Note 1) that one of its standards, proposed standards, interpretations, acts or practices, or lack of a standard within its recognized area of competence (hereinafter its "position"):

(1) Raises prices or excludes products (Note 2) and lacks factual basis (Note 3); or

(2) Excludes a product that is at least equivalent under actual use conditions to one or more products not excluded (Note 4); or

(3) Excludes a product that is inferior under actual use conditions to one or more products not excluded; and that there is a less restrictive alternative (Note 5); or

(4) Discriminates against a product that is superior under actual use conditions to other products that meet the requirements of the position, by leading reasonable buyers to assume that the product is not superior (Note 6); or

(5) Misrepresents product attributes to reasonable buyers, where such misrepresentations would affect their purchasing decisions (Note 7).

(b) Whenever the standards developer receives a request for action that satisfies the requirements of paragraph (a) of this section, it shall take appropriate action under § 457.7 unless it has substantial evidence on the record as a whole (Note 8):

(1) Where the request has met the requirements of paragraph (a)(1) of this section, that the position is not raising prices or excluding products, or that there is factual basis for the position (Note 9); or

(2) Where the request has met the requirements of paragraph (a)(2) of this section, that the position is not excluding the product, or that the excluded product is not at least equivalent under actual use conditions to products that are not excluded by the position; or

(3) Where the request has met the requirements of paragraph (a)(3) of this section, that the position is not excluding the product; or that the suggested alternative is not less restrictive or cannot be implemented; or that the excluded product is one which a reasonable person would not purchase or which presents an unreasonable risk of injury (Note 10); or

(4) Where the request has met the requirements of paragraph (a)(4) of this section, that the product is not superior under actual use conditions to other products that meet the requirements of the position, or that the position does not lead reasonable buyers to assume that the product is not superior; or

(5) Where the request has met the requirements of paragraph (a)(5) of this section, that the position does not misrepresent product attributes to reasonable buyers; or that the misrepresentation(s) would not affect the purchasing decisions of reasonable buyers; or

(6) That the higher prices, product exclusions or misreliances complained of are *de minimis;* except that this rebuttal shall not be available where the cost of corrective action is less than the magnitude of the injury (Note 11).

(c)(1) When the standards developer determines under paragraph (a) or (b) of this section, that it does not have a duty to act, it shall notify the requester of its decision and the specific reasons therefor and of the existence of the appeal board established pursuant to § 457.10.

(2) The standards developer's determination under paragraph (a) of this section and, where applicable, paragraph (b) of this section, and either the paragraph (c)(1) of this section notification or commencement of appropriate action, shall occur within 60 days of the receipt of the request. Where complainant offers additional evidence on the same request within the 60 day period, the standards developer shall have such additional time as necessary to complete the review of the evidence, but in no case shall the additional time exceed 60 days from the receipt of the additional evidence.

§ 457.7 Appropriate action.

When the standards developer has a duty to take appropriate action under § 457.6(b), it shall take such actions which appear from the record to be necessary to correct or prevent higher prices or product exclusions, or to cure misrepresentations, to the extent that such actions are supported by showings under § 457.6(a) and are not rebutted by showings under § 457.6(b). Appropriate action shall be completed within a reasonable period [Note 12].

(b) When withdrawal of a standard is the appropriate action, the standards developer shall withdraw by issuing a notice complying with § 457.4(c) within 60 days of receipt of the request.

(c)When development or revision of a standard is the appropriate action, the standards developer shall, within 60 days of receipt of the request:

(1) Commence development or revision in compliance with §§ 457.4 and 457.5, prepare a timetable for completion of the action, and include the timetable in all notices provided under § 457.4; or

(2) Issue a notice complying with paragraph (e) of this section.

(d) Whenever the standards developer, under paragraph (c)(1) of this section, undertakes development or revision of a standard and then determines that it cannot complete such effort in accordance with its paragraph (c)(1) of this section timetable, it shall issue a notice complying with paragraph (e) of this section.

(e) A notice required under paragraph (c)(2) or (d) of this section shall be provided to the persons described in § 457.4(d) an shall contain the following:

(1) The designation of the standard (if a standard exists), and a description of the product area in which the harm is occurring and the attributes that are or would be addressed by the standard [Note 13].

(2) A statement of the problem and harm alleged;

(3) A statement of the course of action determined to be appropriate, and a description of any action taken to date;

(4) As applicable, a statement that the standards developer has elected not to undertake a development or revision effort, or that it is unable to complete the effort in accordance with its paragraph (c)(1) of this section timetable;

(5) A list of standards in the product area, and a statement that the listed standards are withdrawn and should no longer be considered as falling within the standards developer's recognized area of competence and that persons who do or would rely on them should determine the acceptability of products on some other basis.

(f) The standards developer shall withdraw by issuing the paragraph (e) notice, and shall cease distributing any of its standards required to be listed under paragraph (e)(5) of this section, and shall cease representing in any way that such standards and the product area in which the harm is occurring are within its area of competence.

(g) Notwithstanding paragraphs (e)(5) and (f) of this section, a standards developer that has determined that it cannot complete a development or revision of a standard in accordance with its paragraph (c)(1) timetable may continue the action after the expiration of the timetable without withdrawing from the product area involved if:

(1)(i) There has been a reasonable attempt to complete the action within the paragraph (c)(1) timetable;

(ii) There has been substantial progress towards completing the action; and

(iii) There is a high degree of certainty that the action will be completed within 60 days; and

(2) The notice required by paragraph (d) of this section provides, in addition to the information required by paragraphs (e)(1)(4) of this section, a revised timetable not exceeding 60 additional days for the completion of the action.

(b)(1) The certifier shall establish

on any other method of initiating an

Subpart D—Appeal Board

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§ 457.8 Required disclosures.

A standard shall contain the following:

(a) A statement of its intended scope and use, including products and product attributes intended to be covered by the standard;

(b) A disclosure of any products or product attributes not covered by the standard that users of the standard would reasonably presume were covered;

(c) A disclosure of any serious risks or limitations associated with use of products that confrom to the standard, when such risks or limitations would not be apparent to reasonable buyers; and

(d) A statement as to how persons voted on the standard if a list of persons who participated in the development proceeding is printed with the standard.

§ 457.9 Recordkeeping and access.

(a) The standards developer shall compile the following records in each standard proceeding:

(1) A copy of each notice given pursuant to § 457.4 and a list of persons and publications to whom notices were sent;

(2) A list of participants under § 457.5;

(3) All written comments under § 457.5; and

(4) All other written materials compiled in the proceeding.

(b) The standards developer shall compile the following records relating to each request for action under § 457.6:

(1) A copy of the request;

(2) Evidence submitted, or generated, relating to the request;

(3) A copy of any notice issued pursuant to § 457.6(c)(1) or § 457.7 (b), (c), or (d); and

(4) A statement describing any action taken in response to the request.

(c) The records specified in paragraphs (a) and (b) of this section shall be retained for at least 5 years from final decision in a matter.

(d) The standards developer shall:

(1) Make available all records specified in paragraphs (a) and (b) of this section to any person for inspection during regular business hours; and

(2) Promptly provide to any person upon request copies of the records at no more than actual cost.

§ 457.10 Appeals.

(a) The standards developer shall established and maintain an appeal board that meets the requirement of § 457.16, to hear and decide complaints relating to requirements under §§ 457.3–457.9.

(b) The standards developer shall act reasonably in determining whether and to what extent it will abide by a decision of the appeal board.

(c) The standards developer shall conspicuously include in every standard, and shall provide to each person with a complaint relating to requirements under §§ 457.3–457.9, a statement that the appeal board exists, and the name and address of the person to whom an appeal should be sent or information on any other method of initiating an appeal.

§ 457.11 Exemptions.

Subpart B shall not apply to:

(a) the drafting of a standard by a person solely for the purpose of transmitting the draft standard to a standards developer for a proceeding that is in accord with §§ 457.4 and 457.5 and that does not utilize the "employee" exception of §§ 457.4(a) and 457.5(b)(1); except that if any such standard is used in marketing prior to such a proceeding for purposes not otherwise exempt under this section, then the drafter of the standard shall, for purposes of this one standard, be considered a standards developer subject to §§ 457.6, 457.7, 457.9, and 457.10;

(b) the establishment of test methods or other requirements by a certifier for use in its certification program, when the only participants are employees of the certifier who have no commercial interest in the matter under consideration; except that the certifier shall be considered a standards developer subject to §§ 457.6, 457.7, 457.9, and 457.10 to the extent that such test methods or requirements, or certifications based on them, are used in the marketing of products;

(c) Standards, or development of standards, relating to drugs as defined in 21 U.S.C. 321(g) (but not devices as defined in 21 U.S.C. 321(h)); cosmetics as defined in 21 U.S.C. 321(i); and food as defined in 21 U.S.C. 321(f), including poultry and poultry products as defined in 21 U.S.C. 457 (c) and (f), meat and meat food products as defined in 21 U.S.C. 601(j), and eggs and egg products as defined in 21 U.S.C. 1033.

Subpart C—Certification

§ 457.12 General certifier duties.

(a)(1) Except as provided in paragraph (a)(2) of this section, whenever the certifier represents that products comply with a standard, the certifier shall not use the standard in a manner contrary to requirements contained in the provision stating its scope, the body of the standard, or an "appropriate action" notice that it has received from the standards developer acting pursuant to § 457.7.

(2) If the certifier deviates from a standard covered in paragraph (a)(1), of this section it shall require disclosure of the deviation under paragraph (b)(2) of this section. The certifier that deviates from a standard shall be considered a standards developer to the extent of the deviation as provided by § 457.11(b).

(b) The certifier shall disclose on or in close proximity to the form of approval, and shall require the marketer using its form of approval to disclose on or in close proximity to the form of approval, the following information:

(1) Name of certifier;

(2) Designation of the standards and other criteria on which the certification is based;

(3) A statement of the product attributes that are covered by the certification;

(4) A statement warning of any serious risks or limitations associated with use of the product which are disclosed in the standard as required by § 457.8(c);

(5) A statement describing the nature of the testing, including whether and to what extent prototype testing, factory inspection, and follow-up testing and inspection were done.

(c) Whenever the certifier has actual knowledge or knowledge fairly implied on the basis of objective cricumstances that a producer of a certified product:

(1) Is producing or marketing units that do not comply with relevant standards or other requirements [Note 14]; or

(2) Is using its name or form of approval in an unauthorized manner;

the certifier shall take such actions as are appropriate to end the abuse, which may include withdrawal of certification, probation, retesting, or other actions.

(d) Whenever the certifier has actual knowledge or knowledge fairly implied on the basis of objective circumstances that a producer of a noncertified product is using its name or form of approval, it shall inform the producer that it is in violation of § 457.17 and must cease the unauthorized use.

(e) Whenever the certifier has actual knowledge or knowledge fairly implied on the basis of objective circumstances that a standard it is using in certification violates the § 457.6 complaint criteria, it shall submit an appropriate request for action to the standards developer.

§ 457.13 Additional certifier duties.

(a) This section shall apply only to a certifier whose certification in a particular product area is relied on either in law or in fact by any government entity and who is effectively the sole source of certification services in that product area and market. The section shall apply only to certification actions in the affected product area and market [Note 15].

(b)(1) The certifier shall establish operating procedures which shall include, at a minimum, the steps which must be taken by one seeking certification, the steps the certifier will follow in determining whether to grant, deny or withdraw certification, and other procedures to implement and administer the requirements of this section.

(2) The procedures shall be written and made available without charge to any person upon request.

(3) The certifier shall follow its procedures.

(c) The certifier shall not grant or deny certification, or discriminate with regard to the quality of its services, solely on the basis of factors such as:

(1) Membership of the producer in a trade association or other group;

(2) Size of the producer;

(3) Country of origin of the product;

(4) Whether a product submitted for certification is intended for retrofit rather than installation as original equipment.

(d) The certifier shall not deny certification based on:

(1) Requirements not relating to product attributes that reasonable buyers would presume are addressed by the certification, or requirements not necessary to insure that the product meets reasonable buyer expectations relating to those attributes [Note 16];

(2) Requirements that product attributes already addressed in the test report of another laboratory be retested, unless there is substantial evidence on the record as a whole that the reported results are unreliable [Note 17]; or

(3) Requirements that a product be retested because of a design, component, or other change in the product, or a change in the underlying standards or other requirements, when such retesting would not result in a more accurate representation of the product's actual safety or performance to persons who rely on the certification [Note 18].

(e)(1) The certifier shall establish and maintain an appeal board that meets the requirements of § 457.16, to hear and decide complaints relating to requirements under this section.

(2) The certifier shall act reasonably in determining whether and to what extent it will abide by a decision of the appeal board.

(3) The certifier shall conspicuously include in every certification contract to which this section applies, and shall provide to each person with a complaint relating to requirements under this section, a statement that the appeal board exists, and the name and address of the person to whom an appeal should be sent or information on any other method of initiating an appeal.

§ 457.14 Recordkeeping and access.

(a) The certifier shall compile the following records:

(1) For each certification action:

(i) Name and model number of the product;

(ii) Designation of standards used to test the product;

(iii) Description of any other criteria on which grant or denial of certification is based; and

(iv) Reports of results on any testing pursuant to standards or other criteria used;

(2) Notices referred to in § 457.12(a);

(3) Information that a product that it has certified does not comply with relevant standards or other criteria, that its name or form of approval is being used in an unauthorized manner, or that a standard it is using violates the § 457.6 complaint criteria; together with such records as will show any action taken by the certifier in response; and

(4) Any complaints received by the certifier relating to requirements under § 457.13; together with such records as will show any action taken by the certifier in response.

(b) The records specified in paragraph (a) of this section shall be retained for at least 5 years.

(c) The certifier shall:

(1) Make available all records specified in paragraph (a) of this section to the client in the particular certification action for inspection during regular business hours; and

(2) Promptly provide to the client upon request copies of the records at no more than actual cost.

§ 457.15 Exemptions.

Subpart C shall not apply to:

(a) A representation which reasonable buyers are likely to believe is subjective, based on personal experience, or not based on controlled testing of the product pursuant to standards or other requirements;

(b) A certification procured by the purchaser of a product which is not for any purpose connected with resale of the product;

(c) Certifications relating to drugs as defined in 21 U.S.C. 321(g) (but not devices as defined in 21 U.S.C. 321(h)); cosmetics as defined in 21 U.S.C. 321(i); and food as defined in 21 U.S.C. 321(f), including poultry and poultry products as defined in 21 U.S.C. 457 (c) and (f), meat and meat food products as defined in 21 U.S.C. 601(j), and eggs and egg products as defined in 21 U.S.C. 1033.

Subpart D—Appeal Board

§ 457.16 Appeal board.

(a) The standards developer or certifier shall establish and operate an appeal board which complies with this section as required by §§ 457.10 and 457.13(e). A standards developer or certifier may establish and operate its own appeal board, or may jointly establish and operate an appeal board with other organizations.

(b) The appeal board shall be sufficiently independent of sponsoring standards developers and certifiers, and of other interest groups, so that it can render fair and impartial decisions.

(c) One or more members of the appeal board, each of whom is competent to decide the appeal and has no affiliation that would create a conflict of interest relating to the appeal, shall hear and decide each appeal.

(d) In establishing the appeal board the standards developer or certifier may reserve the right to have a reasonable opportunity to act on a complaint before it is heard by the appeal board. A reasonable opportunity shall not exceed 60 days from the date the standards developer or certifier receives or is informed of the complaint.

(e) The appeal board shall establish and follow written procedures, copies of which must be made available without charge to any person upon request. These procedures shall contain, at a minimum, the following:

(1) Upon receipt of a complaint, the appeal board shall notify the complainant and all persons whose conduct is the subject of the complaint that the complaint has been received.

(2) Meetings at which oral testimony is received shall be open to observors; except that this requirement shall not apply to an appeal brought against a certifier unless the person making the appeal requests that it apply.

(3) Within a reasonable period of time not to exceed 60 days from receipt of the complaint, the appeal board shall render a written decision based on the record and supported by reasons. A copy of the decision shall be sent to the complainant and to all persons whose conduct was the subject of the complaint.

(4)(i) The appeal board shall compile in each appeal, and retain for at least 5 years, the complaint, evidence gathered by the appeal board, including copies of written material and summaries of oral testimony, and the decision.

(ii) The appeal board shall make available all records specified in paragraph (e)(4)(i) of this section to any person for inspection during regular business hours, and shall promptly provide to any person, upon request, copies of records at no more than

actual cost; except that access to re-

method is well enough known that sellers

other conforming products which buyers be-

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actual cost; except that access to records in an appeal brought against a certifier shall be granted only to the complainant and the certifier.

(f) If the appeal board finds that the standard, act, practice, or failure to act constitutes a violation of the applicable rule provision, then it shall notify the standards developer or certifier of the actions that must be taken to comply with this rule.

Subpart E—Marketing

§ 457.17 Use of standards and certifications.

(a)(1) Except as provided in paragraph (a)(2) of this section, the marketer shall not use a standard in a manner contrary to requirements contained in the provision stating its scope, the body of the standard, or an "appropriate action" notice issued by the standards developer acting pursuant to § 457.7, when it has actual knowledge or knowledge fairly implied on the basis of objective circumstances of the requirements.

(2) If the marketer deviates from a standard covered in paragraph (a)(1) of this section, it shall disclose the deviation as part of the information required under paragraph (c) of this section.

(b) The marketer shall not use a certification in a manner contrary to requirements issued by the certifier relating to the certification, when it has actual knowledge or knowlege fairly implied on the basis of objective circumstances of the requirements.

(c) The marketer shall not use in marketing a certification or self-certification without disclosing on or in close proximity thereto the information specified in § 457.12(b).

(d) Whenever the marketer has actual knowledge or knowledge fairly implied on the basis of objective circumstances that it is producing or marketing units of a self-certified product that do not comply with the underlying certification requirements, it shall cease using the self-certification (see Note 14).

Subpart F—Notes

NOTE 1.—As used in § 457.6(a), "substantial evidence" is such technical, scientific, statistical, economic, theoretical, or other evidence as could lead a person knowledgeable in the area of technology to reasonably conclude that a proposition is true. Evidence may be "substantial" even though other similarly knowledgeable persons could reasonably conclude that the proposition is not true. "Substantial evidence" consists only of such materials that complainant chooses to offer. By contrast, substantial "evidence on the record as a whole" (Note 8) includes this evidence plus any evidence offered by the standards developer.

The purpose of this test is to establish an evidentiary threshold that the person requesting action must meet in order to compel the standards developer to take cognizance of a claim. It can be expected that on many questions probative evidence will consist of (i) scientific tests, (ii) engineering evaluations and analyses, (iii) field experience, (iv) accident reports, (v) insurance loss experience, (vi) expert opinion, (vii) statistical analyses, (viii) economic, scientific, or other theory, (ix) laws, codes, procurement specifications, and regulations, (x) reasoned approval or disapproval by government code or procurement officials, (xi) consumer surveys, or (xii) price lists. This list is not exhaustive. In order instances a commonsense judgment reduced to writing will suffice.

NOTE 2.—As used in § 457.6(a)(1), a position of the standards developer raises prices or excludes products when, but for reliance on such position by consumers, code officials, architects, insurers, certifiers or others, such effects would not have occurred. The term may include a showing that a position *will raise* prices or exclude products. A necessary part of such a showing would be that, at the time of the complaint, the position was in a form or status that would not be subject to change by the time injury was expected to occur. Where such a complaint involves potential exclusion of an item not yet in production, complainant would only have to show that production of the item is feasible.

Higher prices includes higher costs to consumers related to selection, purchase, installation, maintenance, energy use, insurance or replacement of products than would otherwise prevail. Showings of higher production, testing, sale or other related costs for sellers constitute showings of higher prices for purposes of § 457.6(a)(1).

Product exclusions include situations in which the sale of a product in any market is barred or to any extent restricted or impeded as a results of the reliance of buyers, code officials, architects, insurers or others on a position of a standards developer.

Products may be totally excluded from some markets, as where under local law only products meeting a standard's requirements are permitted to be marketed. Where local laws do not mandate conformity with standards, voluntary reliance on standards by buyers may result in at least partial exclusion from the market of nonconforming products, especially when buyers cannot easily determine safety or performance attributes of complex products. Marketers of such products may thereby lose sales to substitute products encompassed by such standards.

A standard may cause product exclusions even for conforming products which exceed the standard's minimum requirements. For instance, buyers might assume in certain cases that the standard's failure to differentiate among the conforming products is evidence of their functional equivalence (for examples, see Note 6). Another example might be where a standard incorrectly ranks or grades product types, and complainant is able to show that this impedes the sale of particular products. In sum, a complainant may show any type of restriction of product sales that is caused or will be caused by a standards developer's position.

NOTE 3.—As used in § 457.6(a)(1), "factual basis" is the foundation in logic and fact for that portion of standards developer's position (i.e., standard, proposed standard, interpretation, act or practice, or lack of a standard within its recognized area of competence) that is the subject of a request for action. The distinctions drawn in a standard are necessarily based on certain logical and factual conclusions. A position lacks factual basis whenever any of these necessary conclusions is incorrect, illogical, or not supported by the existing technical, scientific, statistical, economic, theoretical, or other factual evidence. This inquiry may concern facts explicitly asserted in the standard—e.g., a table in the document that ranks certain products—or implicit assumptions—e.g., that cost-adding or exclusionary features are necessary to promote the safety or performance of the product.

Lack of factual basis may be shown by simply showing lack of documented or credible support.

Example 1: A standards developer has promulgated room environment standards calling for specific levels of cooling, light, and ventilation for public school buildings. The stated or implied purpose of these levels is to ensure that level of health and reading proficiency is achieved. In addition to showings of excessive energy costs, (i.e., higher prices), consumer complainant claims that there is no documentation proving a relationship of the health/proficiency levels to the standards set. Although complainant has not proven there is no relationship, it can nevertheless show lack of factual basis under § 457.6(a)(1).

Where the requirement is not arbitrary on its face, the complainant may have to identify its purpose in specific terms. If the purpose is unknown or ill-defiend, complainant can nevertheless proceed by positing a rationale which relying parties reasonably presume supports the requirement. In any paragraph (a)(1) complaint, the only relevant subject is the position's factual or logical relation to the purpose. The underlying policy or value elements are not within the factual basis inquiry.

Example 2: A prominent canoeing association writes a standard for canoes. One of the standard's provisions requires use of a puncture-proof new material. Canoes using this material cost, on the average, $300 more than other canoes. Complainant seller of aluminum canoes shows that its product is excluded inasmuch as many recreation areas require use of equipment that meets association standards. In the absence of a documented purpose, complainant posits that recreation owners *reasonably assume* that use of the standard will "save lives" and that there is no factual basis for this assumption. All reported drownings were from overturned canoes in fast water, as to which the new canoes are equally susceptible. Complainant has met its burden. The association rebuts, however, that its purpose was not to "save lives," but to "avoid wet equipment and inconvenience" where canoes take on water due to ruptures. It proves that the new material does in fact rupture less easily. Though a $300 per canoe price increase might appear unreasonable from a performance/cost standpoint, this is a value judgment that is not part of the factual basis inquiry. (It can be challenged under paragraph (a)(3), however.)

Another variety of action that can be challenged in paragraph (a)(1) is the arbitrary elimination of product types, for reasons unrelated to the performance or safety of those particular types.

Example 3: Heavy cable used in construction is customarily sold in three grades based on strength. A number of sellers have

begun marketing cable in grades that fall between the existing three. An industry standard, incorporated in local building codes, only specifies the traditional three grades. Buyer complains that (i) prices are raised since buyers who need only in-between grades must "step up" to sizes of excessive strength and price, and (ii) that there is no factual basis for the proposition that restriction of grades promotes the safety, performance, interchangeability, or interconnectability of cable. Complainant has carried its burden under paragraph (a)(1).

NOTE 4: Under § 457.6(a)(2) complainant must show that an excluded product is at least equivalent, as to the performance or safety characteristics subject to dispute, to other products which standards developer treats more favorably. Complainant need only show functional equivalence. The product's price or other characteristics are irrelevant. (Nor is it necessary to prove equivalence with conforming brands actually being sold. For instance, where the complaint regards a product treated as nonconforming under a standard, it is enough that the product is equivalent to hypothetical products that would meet the minimum requirements.)

In certain instances conforming products may be "over-engineered" for the uses to which they are normally put. Complainant need only show that its product is equivalent to conforming products "under actual use conditions."

Example 1: A trade association standard for public address systems in schools requires that speakers be able to transmit sound of a specified decibel level without distortion. Complainant proves that (i) its own product transmits, without distortion, sounds having two-thirds the specified decibel level, and (ii) that state health laws uniformly forbid the generation of more than one-half the specified decibel level within school building. Complainant has proven that "under actual use conditions," its product is equivalent to those meeting the minimum requirements.

NOTE 5: The general effect of § 457.6(a)(3) is to enable complainants to test whether the standards developer could adopt a "less restrictive alternative," i.e., a position that would increase buyer options or the opportunity of sellers to compete.

In addition to showing product exclusions, complainant must (i) identify the proposed alternative in general terms, and (ii) show that the alternative would equally promote the purpose or would adequately inform parties of the safety, performance, or other relevant attributes of the product in question. Section 457.6(b)(3) indicates how these showings may be rebutted.

Example 1: Standards developer requires that each length of metal used for supporting beams in construction be tested under a new stress test. This change was instituted in response to reports of a 2 percent failure rate in the field. The new test requires expensive equipment only possessed by the very largest sellers. Complainant shows that smaller sellers will be put at a disadvantage in having to spread costs of the equipment over fewer units and that the standard will thereby cause product exclusions. Complainant also demonstrates that (i) the alternative of requiring present test methods to be conducted at closer intervals can as effectively reduce the failure rate, and (ii) that in any event, the failure rate of the old method is well enough known that sellers using that method could be required to disclose its disadvantage. Under either showing complainant has carried its burden under paragraph (a)(3).

In some cases a nonconforming product may not be equivalent to conforming products under actual use conditions, but may nevertheless meet the needs of some buyers. Where complainant requests that the excluded product be treated as conforming, the following specific application of the two-part showing will suffice. Complainant must (i) identify the proposed alternative in general terms, and (ii) submit evidence which accurately describes the safety, performance, or other problems which differentiate the excluded product from conforming products under actual use conditions. As in all paragraph (a)(3) requests, complainant is not required to initially prove the practicality of implementing the alternative.

Example 2: Seller makes a water pipe that uses a new plastic compound not permitted under the relevant water pipe standard. The only documented problem with the new material is that it cannot be molded to form the simple joint used in competing pipe. Seller (i) states in general terms that it would be less restrictive to treat its product as conforming together with a requirement that the problems with its joint be disclosed on the pipe itself, and (ii) provides evidence that the pipe can be joined according to a method which produces a joint that is as reliable as a simple joint, but lasts only 30 years as opposed to the 50-year life of other joints. Seller has carried its burden under paragraph (a)(3).

Another variant of the above is where products are excluded for interchangeability or interconnectability purposes, or as part of a simplification program to reduce sizes and designs. Complainant must prove that a less restrictive alternative, such as requiring disclosures, could also enable buyers to avoid confusion, unnecessary stocking of parts, or the other problems the standard was intended to correct.

Example 3: The majority of water heater tanks for industrial use can be directly fitted with only one of two basic sizes of pressure relief valves. A standard covering relief valves only encompasses the two sizes permitting a direct fit. The rationale is that the stocking of adaptors can thereby be avoided. Seller of odd-size valves states in general terms that it would be less restrictive to encompass all sizes in the valve standard but require the size of any conforming valve to be stamped on the product so that purchasers could decide for themselves whether they would have to stock adaptors. Seller has carried its burden under paragraph (a)(3).

Another type of less restrictive alternative may be the imposition of a marketing segregation acheme as an alternative to treating a product as conforming. For instance, where a product poses a safety risk only if installed by nonexperts, the standard could require conforming products to be sold only to outlets which use qualified installers.

NOTE 6: Section 457.6(a)(4) applies where the standards developer's position misleads buyers into assuming that all conforming products are, for all practical purposes, equivalent. Aside from the product exclusion showing (see Note 2), complainant must show that its product is in fact functionally superior under actual use conditions to other conforming products which buyers believe are its equivalent.

The mere fact that the standard does not classify or "grade" products does not raise a presumption that buyers will assume conforming products are homogeneous. It is necessary to show that the position raises false assumptions. Section 457.6(b)(4) indicates how these showings may be rebutted.

Example 1: A furnace standard establishes pass-fail requirements for all furnaces using a particular type of fuel. A seller claims that its furnace is superior to other furnaces that also conform to the standard, but that the standard mistakenly leads housing contractors to assume that all conforming furnaces have the same essential quality or safety attributes. Seller claims that it loses business to cheaper competitors as a result. Seller proves the superiority of its product with test results. However, because of buyers' exposure to advertising, wide price ranges, and product variations, it cannot show that the standard leads these buyers to assume that all conforming furnaces are homogeneous. Seller has failed to carry its burden under paragraph (a)(4).

Example 2: Standards developer customarily classified or ranks water safety equipment on a scale of I-V. The higher the number, the safer the product. Its life preserver standard does not adopt this system, but rather adopts a two-tier system. Seller of the most expensive life preserver proves (i) that its preserver will retain the required bouyancy for two seasons longer than the low-priced Class II products; (ii) that there is evidence that retailers believe that the standards developer would have assigned the product a special ranking if that were true, given its past practice, and (iii) that, given its higher price, it cannot sell its product as it could have absent the standard. Complainant has carried its burden under paragraph (a)(4).

NOTE 7: Section 457.6(a)(5) applies where the standards developer's position in effect "oversells" the performance of a conforming product. Complainant will have to prove that the position raises expectations in the buyers' minds, and that the underlying facts do not support these expectations.

The standard may be a source of misreliance in numerous ways. A partial list includes (i) misleading scope notes which prompt certifiers to apply its requirements to the wrong product; (ii) faulty test methods or requirements which "pass" products not fit for their purpose; (iii) misleading labeling or marking requirements; (iv) ambiguous provisions which result in certification of unfit products; or (v) failure to effectively communicate instructions or warnings necessary to offset false assumptions of safety or performance raised by the standard. The test of effective communication is whether reasonable buyers would receive, read, and understand the information, and be able to use it to their advantage. In certain instances, the certification of unfit products may be due to certifier or marketer failure to carry out understandable requirements in the standards document. These cases are not the subject of paragraph (a)(5) complaints.

Complainant must show that the position deceives reasonable buyers. If complainant can show that deception will occur in other than isolated, atypical cases, it has met this burden. Thus, a complainant may test whether the standards developer took into account the variations in intelligence, moti-

established under the standard. Complain-

generally accepted sampling techniques, or

NOTE 17: The definition of "substantial

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vation, expertise, and knowledge of standards among the parties that rely on the particular standard.

Complainant must also show that the misrepresentation would affect the purchasing decisions of reasonable buyers. It is not necessary to demonstrate actual instances of purchases which would not have occurred absent the standard.

The following illustrate the operation of paragraph (a)(5):

Example 1: A standard for a building material allows products which meet a certain level of performance on tests to be stamped as acceptable for exterior use. Complainant proves that complying products may deteriorate rapidly when exposed to the elements. Complainant has carried its initial burden under paragraph (a)(5).

Example 2: A standard for a product which is marketed as an energy saving device covers only the safety attributes of the product. Complainant proves that reasonable buyers assume that representations by sellers of conformance to the standard validate the seller's safety and energy saving claims. The product is proven not to save energy. Complainant has carried its initial burden under paragraph (a)(5).

Example 3: A type of home insulation presents severe fire hazards if laid on attic floors close to recessed light fixtures. This hazard can be controlled by constructing a special guard around the light fixtures. The standard requires instructions concerning this safeguard to be disclosed on the insulation package. Complainant shows (i) that buyers assume that conformity to the standard means there is no problem with flammability, and (ii) that although contractors read and understand the instructions, even reasonable homeowners who also purchase and install the insulation themselves cannot understand the instructions. Complainant has carried its initial burden under paragraph (a)(5).

NOTE 8: As used in § 457.6(b), "substantial evidence on the record as a whole" is "substantial evidence" [Note 1], taking together complainant's evidence, evidence in the standards developer's file, plus any other evidence the standards developer may produce.

NOTE 9: The § 457.6(b)(1) rebuttal to a § 457.6(a)(1) showing simply requires the standards developer to refute complainant's evidence. In certain instances, the standards developer may have to state the purpose of its requirement with sufficient specificity so that its factual basis can be tested, § 457.6(c)(1). (See Note 3, Example 2.) If the purpose of the requirement *has* been documented in prior proceedings, standards developer is not permitted to rebut that it now serves a different purpose, e.g., a higher level of safety warranting its cost-adding features.

In certain instances the basis for requirements can be explained only as engineering "conservatism." For purposes of paragraph (b)(1), this can be defined as the requirement of certain product features to supply a margin of safety or reliability not strictly required by available evidence. To justify a feature on engineering conservatism grounds, the standards developer must show (i) plausible contingencies whose precise impact cannot be anticipated, or (ii) inability to strictly extrapolate from existing data, given the data's unreliability, limited applicability, or incompleteness.

Example 1: Standard "A" covers all steam pressure vessels and specifies minimum wall thicknesses. Standard "B" covers only steam vessels used in electrical generating plants, and requires 50% thicker walls. A number of states have adopted standard "B", thereby forcing vessel manufacturers to retool, which raises costs statewide. Complainant has successfully shown that there is no positive documentation that thicker walls are required for electrical generation uses. Standards developer rebuts (i) that data for standared "A" did not test for the long periods of cyclical stress sometimes occurring in electrical generation; (ii) that unexplained failures of standard "A" vessels have been reported; and (iii) that data does not exist which explains how extended cyclical stress affects wall strength. Standards developer has successfully rebutted under paragraph (b)(1).

NOTE 10: In § 457.6(b)(3), there are several distinct lines of rebuttal, anyone of which may be sufficient. In addition to disproving the claim of product exclusions, the standards developer may show that "the suggested alternative is not less restrictive or cannot be implemented; or that the excluded product is one which a reasonable person would not purchase or which presents an unreasonable risk of injury."

That the alternative is not less restrictive or cannot be implemented. The alternative is not less restrictive if in general, the alternative does not increase buyer options or the opportunity of sellers to compete, whatever its effect on complainant. The rebuttal as to implementation concerns the practical limits to the standards developer's power to make the alternative work in actual practice. The standards developer can successfully rebut if, as a practical matter, the alternative cannot be implemented to have its intended effect.

A specific subset of this rebuttal is the situation where a complainant claims that a nonconforming product could be treated as conforming if the standard required disclosures to relying parties. (See Note 5, Example 2.) The specific showing on rebuttal is that reasonable buyers would not receive, read, understand, or be able to use the information to their advantage. In general, if the alternative would fail in these respects only in isolated, atypical cases, the standards developer cannot rebut on these grounds. The receive, read, and understand elements are self-explanatory. The "use information to their advantage" criterion is designed to anticipate situations where, even if buyers understand the disclosures, they may not have the expertise, education, or wherewithal to make use of them. This does not imply that the buyer need be able to perform all necessary installation or other steps without assistance.

Example 1: A standard for automobile fuel-saving devices only treats factory-installed devices as conforming. Seller of retrofit devices proves that the steps for safe and effective retrofit installation are known and can be followed by any minimally knowledgeable auto mechanic. The device can save 15 percent of fuel used in older automobiles. Standards developer shows that substantial numbers of automobile owners cannot reliably perform the required installation steps. However, it cannot show that it could not treat the retrofit items as conforming with the condition that sellers disclose at point-of-sale that the devices are only safe or effective if installed by a competent mechanic. Standards developer has failed to rebut.

Reasonable persons would not purchase the product. This rebuttal is met where no reasonable buyer would purchase the product if fully informed of its attributes. "Reasonableness" in this context need not be limited to purely economic concerns. Aesthetics, ethics, experimentation, and other factors may be legitimate considerations for the reasonable person.

The product presents an unreasonable risk of injury. An unreasonable risk of injury is presented where the product's utility is outweighed by the likelihood and severity of injury associated with that product's use. Unreasonable risk may exist even when users are fully informed of the product's safety risks. In certain instances, the utility of the product may not, from a value perspective, outweigh the inordinate number of injuries that would result from its use. Persuasive evidence that a product poses such risks is that under rules promulgated pursuant to the Consumer Product Safety Act, it could be classified as a "banned hazardous consumer product," 15 *U.S.C.* 2057, or an "imminently hazardous consumer product," 15 *U.S.C.* 2064(a), or that it presents a "substantial product hazard," 15 *U.S.C.* 2052(a)(3), or an "unreasonable risk of injury," 15 *U.S.C.* 2057.

NOTE 11: The § 457.6(b)(6) rebuttal permits the standards developer to assert that the higher prices or dollar amounts are insignificant. This rebuttal is available only where (i) injury is only short-term and (ii) complainant cannot prove that the competitive position of sellers is appreciably affected or dollar or safety injuries to buyers or users are more than negligible. Even if the injury does not exceed this threshold, this rebuttal is unavailable if the cost of corrective action is lower than the injury, as where an explanatory letter would be sufficient.

NOTE 12: The basic test of appropriate action as stated in § 457.7(a) is that it "correct or prevent higher prices or product exclusions, or • • • cure misrepresentations • • •." The standards developer is free to choose the course of action that will satisfy this requirement. If withdrawal, revision, or development of a standard is required, the particular duties are set out under provisions in §§ 457.7(b)-(f). Once development or revision of a standard is commenced, the standards developer is not constrained to model its solution only on the evidence submitted in the 60-day complaint/rebuttal period of § 457.6(c). It may consider any evidence that will enable it to successfully rebut subsequent complaints by either the original complainant or other parties.

To discharge its duty under § 457.7(a), the standards developer need only correct or prevent the harm "to the extent which such actions are supported by showings under § 457.6(a) and are not rebutted by showings under § 457.6(b)." This caveat recognizes that there may be times when complainants will request total elimination of their harms, when they have not proven that full relief is justifiable.

Example 1: A standard requires that a transparent shield for welder's masks be made of a certain material and have no more than a specified curvature. A mask using a different material is designed to wrap around the side of the face, thereby providing greater protective coverage. However, the curvature exceeds the maximum established under the standard. Complainant seller shows that the curvature requirement has no documented support. Standards developer fails to rebut, sets a timetable for reconsidering the evidence, and within the time limits produces evidence which supports a modified curvature requirement. However, even the modified requirement excludes complainant's product. Despite this continuing exclusion, the standards developer has satisfied § 457.7(a). Complainant had not submitted evidence which proved that the standards developer would be justified in treating the product as equivalent to other conforming products (as it might have under the "equivalence" provision, § 457.6(a)(2)).

Paragraph (a) does not establish any one time period as a presumptive "reasonable period." Calculation of this period is, for purposes of this requirement, assumed to be a two-step process. First, a reasonable period is preliminarily determined, based on two assumptions: (i) Commitment of time of individual participants is less than full-time, and (ii) the task involves only drafting, review, or criticism or proposals, plus marshalling evidence and position papers. Any figure that exceeds a time period that is reasonable in light of the above, must be supported on the basis of at least one of four criteria: (i) The necessity for generating new data; (ii) the necessity for advancing the "state of the art", e.g., for devising new test methods; (iii) the number of issues to be resolved and their complexity, and (iv) the necessity of obtaining data or policy approval from governmental bodies. The latter element recognizes that in certain instances collaboration with bodies such as Congress, CPSC, Occupational Safety and Health Administration (OSHA), state agencies, etc. may be desirable. Failure to committee members to provide necessary personnel or resources to the task is a permissible factor only when the failure relates to one of the four criteria. The standards developer cannot lengthen the timetable to accommodate uncooperative members.

Where the appropriate action is development or revision of a standard, § 457.7(c)(1) requires the standards developer to propose a timetable in advance. The reasonableness of the period stated in the timetable is governed by the same criteria as those listed above.

NOTE 13: As used in § 457.7(e)(1), "product area" is that category of products which perform the same specific function and can be substituted for each other. Products may be in the same product area irrespective of such differences as (i) their mode of installation or servicing, e.g., factory installation versus retrofit; (ii) their ease of application, e.g., use of adaptors, special safeguards; (iii) the materials from which they are made; (iv); the engineering theories that are their basis; or (v) their particular level of safety or efficiency.

NOTE 14: Section 457.12(c)(1) requires the certifier to take corrective action when a certified producer is producing and marketing noncomplying product units. This is not intended to mean that there can be no product failures. The intent is to require action when the failure rate reaches such a level as to be unacceptable in terms of general practice in the product area. General practice in the product area can be determined from such sources as the standard or testing procedures, which may specify a failure rate, generally accepted sampling techniques, or accepted manufacturing practices.

NOTE 15: Section 457.13(a) states that § 457.13 applies only to a certifier whose certifications in a "product area" are relied on by a "government entity." "Product area" is used with the same meaning in § 457.7(d)(1) and is defined in Note 13. The market in which reliance is occurring is limited to "government entities," which includes local, state, and federal jurisdictions, and agencies and officials thereof. For example, the U.S. Air Force would be considered a government entity, so a certifier exclusively relied on in Air Force base purchasing decisions would fall within paragraph (a). Another example would be a city which specifies one certifier in its building code.

The operation of this section is further limited to those situations in which the certifier is "effectively the sole source of certification services" in the affected product area and market. This does not mean that the certifier must be the only one who is relied on in the market, but it must substantially control the area. This may occur because other laboratories which are relied on by the government entity do not do certification in the particular product area, or only have facilities to handle a few clients. It may also occur because, even though the government regulation specifies several acceptable laboratories, the officials enforcing the regulation in practice will accept only the one certifier. For these and other reasons, it may appear that two or more certifiers are providing certification services, when in fact producers are effectively limited to one certifier if they want to sell their products in the market in question. In this situation the certifier would be covered by the requirements of § 457.13.

NOTE 16: Section 457.13(d)(1) addresses the imposition by certifiers of test requirements that are unnecessary in terms of buyer expectations.

The first category of proscribed requirements includes those "not relating to product attributes that reasonable buyers would presume are addressed." "Attribute" may have a broad meaning—e.g., safety versus performance. For instance, where a certifier is testing only for fire hazards, it could not require radios to be tested for range, clarity or other performance attributes, or for easy connectability with both auto batteries and house receptacles. "Attribute" can also have a narrower construction—e.g., various "safety attributes." For instance, unless a certifier disclosed the fact, most buyers would not assume that resistance of an auto tire to deliberate slashing of the tire wall is covered by a certification assuring tire durability. Absent such disclosure, the imposition of tests which simulate such vandalism would be prohibited.

A second category is made up of requirements "not necessary to ensure that the product meets reasonable buyer expectations relating to those attributes." Thus, in the above example buyers would expect tires to be tested for safety under normal or even hard driving conditions. However, a test exposing the tire to open flame for a prolonged period prior to road tests may be excessive, even if an extraordinarily durable tire can be singled out in this manner. Such requirements would mislead buyers and unnecessarily restrict consumer choice since they "are not necessary to ensure that the product meets reasonable buyer expectations."

NOTE 17: The definition of "substantial evidence on the record as a whole" is the same under § 457.13(d)(2) as it is in the standards developer context—"such technical, scientific, statistical, • • • theoretical, or other evidence as could lead a person knowledgeable in the area of technology to reasonably conclude that a proposition is true. Evidence may be substantial even though other similarly knowledgeable and reasonable persons could conclude otherwise" (Note 1). Where a marketer desiring certification carries its burden of providing evidence of the reliability of a test report, the certifier must either (i) omit retesting or (ii) provide such rebuttal evidence that a reasonable person would no longer conclude that the report is reliable. While a time limit for this determination is not stated, the time taken is governed by a general standard of reasonableness.

The issue of reliability will turn on a number of factors, including: (i) Whether the laboratory is independent of manufacturers and vendors of the product tested; (ii) whether the laboratory has adequate staff and test facilities for purposes of such testing; (iii) whether the laboratory employs appropriate standards or other test requirements in such tests; (iv) the laboratory's reputation or record of problems in this area of product testing; and (v) whether the test report itself is based on scientific and well-controlled testing (where scientific and well-controlled testing would be required to establish a product's conformance to relevant standards). The certifier may charge the marketer desiring certification the reasonable costs associated with determining test report reliability.

NOTE 18: Section 457.13(d)(3) prohibits retesting that is unnecessary given the adequacy of prior tests by the same certifier. Where, for instance, the material in the exterior of a television set is changed from one plastic compound to another, retesting of the model for electrical safety would be unnecessary, absent a showing of causal relationship. Similarly, if a portion of the underlying standard for testing television sets which applies only to 100% solid state, the validity of the prior test is not undermined. In neither of these cases would retesting "result in a more accurate representation of the product's actual safety or performance to persons who rely on the certification."

SECTION B. STATEMENT OF THE COMMISSION'S REASONS

Pursuant to the direction of the Commission, the staff of the Bureau of Consumer Protection initiated an investigation to determine whether persons and organizations involved in standards development and certification, and in marketing with reference to standards, are engaged in acts or practices in violation of section 5 of the Federal Trade Commission Act. The Commission's determination to commence this rulemaking proceeding is based on consideration of the report of the staff investigation.

The Commission's directive to commence the investigation was given at the time that the Commission provisionally accepted consent orders in a matter involving alleged marketing misrepresentations relating to the flammability of foam plastics used as insulation in buildings.[1] These alleged misrepresentations were based on small scale

[1] *In re* Society of the Plastics Indus., 84 F.T.C. 1253 (1974).

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standard test methods of the American Society for Testing and Materials, which did not accurately predict flammability hazards under actual use conditions. In announcing its provisional acceptance of the consent orders, the Commission reported that it had "directed the staff to continue an investigation of ASTM and others engaged in standards-setting and product certification activities that may result in deceptive or unfair standards and certifications." [2]

In response to the Commission's directive the staff conducted a broad inquiry into the full range of factual and legal issues presented by private standards and certification activities. The staff has set forth the results of its investigation in a publicly available document entitled Staff Report on Standards and Certification.[3]

In the course of its investigation the staff reviewed numerous specific complaints in which the actions of standards developers and certifiers appeared to raise questions of illegality under section 5 of the Federal Trade Commission Act. Allegations have related to a broad spectrum of products and industries, and to many types of consumer and competitive injury. Staff also made a comprehensive survey of current standards development and certification practices, and attempted to assess their role and importance in commerce. Information and views were solicited from producers, consumers, representatives of federal, state and local government agencies which rely on standards in procurement and regulation, standards development organizations, testing laboratories, trade associations, technical experts, and others. In addition, staff relied on the reports and public record compiled by the FTC Task Force on Industry Self-Regulation,[4] Which had been established by the Commission in December, 1971.

The Staff Report cites numerous allegations that were reviewed in the investigation, including the following: Lack of adequate notice to consumers, small businesses and others who might wish to participate in a standards proceeding; lack of opportunities for participation; high costs and complex procedures that favor participation and dominance by established firms; failure to update standards in a timely manner; tendency to use narrow design standards rather than performance standards; tendency to use pass-fail standards rather than graded standards; inadequate disclosures in standareds of critical product use or hazard information; lack of avenues to challenge deceptive or restrictive standards; the use by certifiers of deceptive or restrictive standards; arbitrary or discriminatory treatment by certifiers of some sellers; excessive certification fees; inadequate disclosure to consumers of the meaning and limitations of seals of approval; and failure of certifiers to police sellers who falsely represent conformance of their products to standards.

The Report states that these practices have been associated with complaints of various injuries to consumers and competition, which include denying consumers the benefits of superior or lower cost technology, denying businesses the opportunity to enter and compete in profitable industries, inadequate product safety levels, inflated product prices, and deception or nondisclosure of material product information. Staff has concluded that the practices may be unfair and deceptive acts and practices and unfair methods of competition within the meaning of section 5 of the FTC Act, requiring appropriate remedy.

The Commission has carefully and deliberately considered the Report and recommended Trade Regulation Rule. Based upon that Report, the Commission believes that the initiation of a rulemaking proceeding would be in the public interest.

The public is advised that the Commission has not adopted any findings or conclusions of the staff. All findings in this proceeding shall be based solely on the rulemaking record. Accordingly, the Commission invites comment on the advisability and manner of implementation of the proposed rule.

The Commission's Rules of Practice shall govern the conduct of the rulemaking proceeding, except that, to the extent that this notice differs from the rules of practice, the provisions of this notice shall govern. This alternative form of proceeding is adopted in accordance with § 1.20 of the rules of practice (16 CFR § 1.20).

Section C. Invitation To Comment

All interested persons are hereby notified that they may submit data, views, or arguments on any issue of fact, law or policy which may have bearing upon the proposed rule. Such comments may be made either in writing or orally. Written comments should be addressed to Henry B. Cabell, Presiding Officer (PU), Federal Trade Commission, Washington, D.C. 20580, 202-724-1045; they will be accepted until March 16, 1979. To assure prompt consideration, comments should be identified as "Standards and Certification Rule Comment" and furnished when feasible and not burdensome in five copies. Instructions for persons wishing to present their views orally are found in Sections E and F.

While the Commission welcomes comments on any issues which you feel may have bearing upon the proposed rule, listed in Section D are questions on which the Commission particularly desires comment. All comments and testimony should be referenced specifically to either the Commission's Questions or the section of the proposed rule being discussed. Comments should include reasons and data for the position. Comments opposing the proposed rule or specific provisions should, if possible, suggest a specific alternative. Proposals for alternative regulations should include reasons and data that indicate why the alternatives would better serve the purposes of the proposed rule. Comments should be supported by a full discussion of all the relevant facts and/or be based directly on first-hand knowledge, personal experience or general understanding of the particular issues addressed by the proposed rule.

Section D. Questions and Issues

Interested persons are urged to consider carefully the following questions. Although the proposed rule was drafted in specific language, the Commission retains its authority to promulgate a final rule in ways suggested by these questions and based upon the rulemaking record.

1. In the accompanying statement of reason for the proposed rule (Section B) the Commission has described the consumer protection and competitive problems that may arise from private standards and certification activities. How prevalent are the challenged practices set forth in the statement, and in what manner and context are such acts and practices unfair, deceptive or anticompetitive?

2. Are there benefits that flow from present industry practices that would be lost if the rule is promulgated as presently proposed? Does the proposed rule set out the least restrictive alternatives to achieve the intended goals?

3. What would be the cost of compliance for each of the groups covered by the proposed rule? To what degree would each of the requirements of the proposed rule raise costs, delay the adoption of new standards, or delay the introduction of new products? Might the rule discourage smaller standards developers and certifiers from staying in the market? Would this have any adverse effects in the market? How might the procedures themselves be used by incumbent firms and/or standard setters to deter, delay, or raise the cost of entry for new products?

4. What economic or other effects upon small businesses and consumers, if any, would result from implementation of the proposed rule?

5. Should the definition of "standard" be expanded to include nonproduct standards? Are there additional categories of either product or nonproduct standards that should be excluded or included in the rule? Is the definition of standard overly broad? Might it inadvertently include newspaper stories and other statements about products that do not raise the same problems as industry standards?

6. Do the notice requirements of § 457.4(a)-(c) insure that consumers, small business, and others will receive enough information to decide whether their participation in a proceeding is necessary? For instance, should the § 457.4(a) "notice of proceeding" include a statement of the likely effects of the proposed action on various parties? How specific could such a statement be, given the early stage at which this notice is given?

Do the notice requirements of § 457.4(a)-(c) impose an unnecessary burden on standards developers? Would interested parties, including small business and consumer interests, receive adequate notice if the notice requirements were lessened? For instance, could the § 457.4(a) notice be eliminated without unduly reducing the effectiveness of the rule? Alternatively, could the § 457.4(c) notice be combined with the earlier notice required by § 457.4(b) without unduly reducing the effectiveness of the rule? In what ways could the notice requirements be made less burdensome while still conveying necessary information to persons or interests who might want to participate in a standards proceeding?

7. Are the time limits for the provision of notice established by § 457.4 (a), (b), and (c), (30, 60, and 30 days respectively), appropriate? Are there instances where these time limits will unduly delay a standards proceeding? If so, how should such instances be handled?

8. To insure that consumers, small businesses, and other interested parties with limited financial resources have an equal and meaningful opportunity to participate in standards proceedings, is it necessary that their costs of participating be borne in whole or in part by other persons or groups? What has been the experience where consumers and small business have had the right to participate but have not been provided funds? Does the Commission have authority under section 5 of the FTC Act to order standards developers, industry members, or others to bear these costs? Should the Commission require the funding? If so, how much funding is necessary and what method should be used to compute the individual obligations of contributors? What criteria should govern allocation of funds, and what types of costs should be funded? What are other possible governmental or private sources of funding for unrepresented interests in standards proceedings?

To what degree would a funding requirement increase participation by small business and consumers interests in standards development process? Should funding be available only to producers or potential producers that would suffer direct economic injury and whose interests would not otherwise be represented? Would limitation of funding to such participants adequately protect consumer and other interests that would not otherwise be represented? If not, what parties should be able to receive funding?

9. Section 457.6 and related provisions set up a mechanism, which includes substantive criteria, for handling standards complaints. Suppose these sections were eliminated, and the proposed rule provided only *procedural* rights to directly affected parties—i.e., right of notice, opportunity to be heard, access to a meaningful summary of reasons for action, and perhaps a right of appeal to an independent board established by the standards maker or certifier. Would that adequately deal with most or all unfair or anticompetitive practices that may exist in standards making and certification? What evidence is there that unfair or anticompetitive practices would continue to exist if standards development processes contained adequate procedural safeguards? Are private rights of action available to deal with any problems which would remain?

Would such procedures as outlined above, in addition to a requirement that standards developers numerically "balance" some or all standards development committees so that viewpoints of all affected parties are fully represented, prevent most or all unfair, deceptive, or anticompetitive practices that may exist? Even if provisions providing for a challenge mechanism were not eliminated from the proposed rule, are "balancing" and "consensus" procedures necessary to prevent standards developers from drafting standards which injure consumers and/or small businesses? If "balancing" is necessary, what criteria and procedures should be used to determine the interests represented by various members of committees? Conversely, in light of the possible costs of compliance with §§ 457.3, 457.4, and 457.5, would reliance solely in the § 457.6 challenge procedures be sufficient to ensure adequate remedies for unfair, deceptive, and anticompetitive standards?

10. Should standards developers be required to develop all standards in accordance with the principles of § 457.6, rather than having only to evaluate specific standards with respect to those principles when challenged?

11. If the proposed rule were to go into effect, approximately how many requests for action per year would be submitted to the FTC for violations of the provisions of § 457.6? In the first year? In the fifth year after the proposed rule went into effect? Approximately how many of the complaints would come from parties who currently have no legal way (by antitrust suit or otherwise) to seek redress for alleged injuries?

12. Are there alternative mechanisms which would provide a means for resolving complaints without the necessity of specifying evidentiary burdens and substantive criteria? For example, would a requirement that a standards developer that receives a complaint about a standard set out in detail its evidence and reasoning in the matter result in resolution of most or all complaints?

13. Section 457.6 requires the standards developer to take action on a complaint (assuming that the complainant has met its threshold burden) unless it has "substantial evidence on the record as a whole" that its current standard is correct. Is this the proper evidentiary level that should be required or should a level that shows greater deference (e.g., some evidence) or less deference (e.g., preponderance of the evidence) to the standards developer selected?

14. Are the critiera in § 457.6(a) all of the substantive elements which are relevant to standards decisions, or should additional criteria be specified?

How well do the criteria strike the correct balance between the needs of uninformed buyers and the discouragement of unfair, deceptive, and anticompetitive standards? In particular, do standards by their very nature create possibly false presumptions of equivalence among conforming products? Under what circumstances are disclosures preferred to exclusions or graded standards and vice versa?

Will the criteria be effective in distinguishing legitimate from illegitimate claims? How might the criteria themselves be used by incumbent firms and/or standards setters to deter or delay the acceptance of new products? How might these tactics be stopped?

To what exent could grading criteria in standards misrepresent comparative characteristics of products with multiple attributes, e.g., by manipulation of attribute weighting criteria? In what other ways might unfair, deceptive or anticompetitive standards be adopted even while satisfying the basic principles in § 457.6(a)? How might the rule be altered to minimize this possibility at reasonable cost?

15. Under § 457.6, a standards developer is required to respond to a request for action within 60 days of receipt of the request. Is 60 days an appropriate length of time for a standards developer to determine whether or not a withdrawal, revision, or development of standard is called for?

16. Section 457.7 requires all appropriate actions that are commenced in response to a request under § 457.6 to be completed "within a reasonable period." If the appropriate action is development or revision of a standard, the standards developer is further required to commence action with respect to its own timetable, and to complete action within that timetable or to withdraw from the product area. Should the standards developer be allowed to amend its timetable? If so, for what reasons? If not, does the proposed rule encourage unnecessarily long timetables in order to avoid withdrawing from a product area?

17. Paragraph (g) of § 457.7 allows a 60 day extension of the timetable under certain specified conditions. Are those conditions appropriate? Should other conditions be added? Is the 60 day extension an appropriate length? Would an extension for a "reasonable period" allow completion of actions without encouraging undue delay in ending the harm that is occurring?

18. If there are multiple complainants about a particular position of a standards developer, should a period of time be allowed to consolidate requests before responding to the requests, e.g., should additional evidence on a request for action from *any* complainant operate to give the standards developer additional time to respond to the initial request (see § 456.6(c)(2))?

19. Should § 457.10 place a time limit on the availability of appeal to an unsuccessful complaint?

20. Should parties who have had notice and an opportunity to participate in a standards proceeding but have failed to participate be allowed to challenge the result of the proceeding, by requesting action under the challenge and appeal sections? Under what circumstances would denial of access to the challenge or appeal process be appropriate? Would this denial to persons who declined to participate in a proceeding provide an incentive for standards developers to provide wider notice and opportunity to participate to interested parties? Would denial of the challenge mechanism to parties that failed to participate in a standards proceeding result in the insulation of standards injurious to the public from challenge?

21. Certain activities are exempted from operation of the rule in §§ 457.11 and 457.15. Section 457.11 exempts some initial drafts of standards, some certifier test method development, and development of food, drug, and cosmetic standards. Should these activities be exempted from the standards development sections? What other activities should be exempted? Are there standards or industries for which this rule is particularly appropriate or inappropriate? Should the certification of used products be treated in the same manner under the rule as that of new products?

Section 456.15 exempts certain endorsements and testimonials, certifications procured by purchasers, and certifications relating to food, drugs, and cosmetics. Should these activities be exempted from the certification sections? What other activities should be exempted?

22. Should there be provisions in the rule for routine certifier duties, such as required factory inspections and use of statistically valid sampling plans, to insure the reliability of reported results? Should the rule permit limited public access to certifier records? If so, how could such access be structured to avoid disclosure of trade secrets?

[2] Federal Trade Commission Order Settles Proceeding Involving Marketing of Plastics Presenting Fire Hazards; Rule Making Proceeding Instituted, FTC Press Release (July 29, 1974).

[3] Copies of this Report may be obtained either in person or by mail from Room 130, Public Reference Room, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[4] Federal Trade Commission Preliminary Staff Study (precis) regarding Industry Self-Regulation—Product Standardization, Certification and Seals of Approval (Nov. 1971); FTC, Final Report of the Task Force on Industry Self-Regulation: Performance Information, Standards and Certification Programs—Achieving Socially Desirable Objectives (July, 1972); Public Record compiled by the Task Force in Industry Self-Regulation (FTC File Nos. 209-1-1, 209-2-1, 209-1-2-2).

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23. To what extent would the disclosures required on seals of approval and in product listing directories by § 457.12(b) be read and understood by consumers, code officials, and other who rely on seals and listings? Is all of this information necessary? Might these disclosures create confusion for uninformed buyers? On the other hand, are there elements that should be required to be disclosed? Are there alternatives to requiring disclosures on seals, such as having the information available for those persons who request it, which would provide the necessary information without risking consumer confusion?

24. The certifier is required to perform certain duties relating to policing the use of its seal of approval by § 457.12(c) and (d). Is there sufficient uncorrected misuse of seals of approval to justify imposition of these duties on certifiers? Alternatively, are there adequate existing incentives for certifiers to police the use of their seals in marketing?

25. How might the requirements of § 457.13(d) be sidestepped by certifiers in practice? Is the term "reasonable buyer expectations" too vague?

26. Franchising and trademark licensing are technically certifications. However, because of the exemptions of internal company standards from the definition of standard (§ 457.2(1)), franchising and trademark licensing based on internal company standards would not be subject to the requirements of the certification sections of the rule. To what extent are franchising and trademark licensing based on standards which are not internal company standards? Should these activities be excluded from the rule? If so, how can a proper line be drawn between them and other forms of certification?

27. Does the proposed requirement in § 457.16 that an appeal board be "sufficiently independent of sponsoring * * * groups, so that it can render fair and impartial decisions" provide adequate guidance to sponsors of appeal boards and ensure impartiality of appeal boards? What other methods of insuring impartiality are available? What procedures and criteria, if any, should be established to determine whether an appeal board is sufficiently independent and whether individual members have conflicts of interest? Should the rule specify the composition of appeal boards, e.g., at least 51 percent public interest representatives?

28. Does the requirement that standards developers (§ 457.10) and certifiers (§ 457.13(e)) act "reasonably" with respect to the decision of an appeal board accord the proper amount of authority to appeal boards and the proper degree of deference to the standards developer of certifier? Should §§ 457.10 and 457.13(e) be amended to require standards developers and certifiers always to comply with decisions of the appeal board? Would the Commission have the authority to require compliance? Conversely, should the role of the appeal board be totally advisory? If the appeal board decision is not final, should standards developers and certifiers be required to furnish a written explanation of the failure to abide by the decision of the appeal board?

29. Is there reason to believe that practices declared illegal in § 457.17 (Marketing) are numerous (compared to other frauds relating to misuse of endorsements), cause serious consumer or competitive harm, and deserve to be covered separately by a Commission rule?

Additionally, should the rule require manufacturers, retailers or other persons in the chain of product distribution to notify a certifier whenever its seal or listings are being used in connection with the sale of products that do not perform as certified? What means, if any, would be appropriate to assure that consumer complaints about unsafe or shoddy goods sold under a seal of approval are transmitted to the certifier?

30. Section 457.17 imposes requirements relating to proper use of standards and certifications on all producers, distributors, retailers, and others involved in the marketing of products. Are there certain persons or activities covered by this section which should be exempted? Are there persons or activities not covered which should be added?

The section attempts to minimize affirmative burdens, especially on those persons lower in the chain of product distribution. Are there alternatives to the method used which should further minimize burdens while effectively ending misuse of standards and certifications?

31. Does the proposed rule adequately insure that consumer complaints to sellers relating to standards reach standards developers? How might the rule increase the likelihood that consumer complaints do reach standards developers?

32. The rule does not apply to individual participants in the standards process. Should the rule prohibit sellers or others from participating in the process or from using the resulting standards with the intent or effect of restraining trade or deceiving consumers?

33. How and to what extent do insurance companies and insurance rating bureaus affect standards development and certification activities? What are the effects on consumers and competition of basing insurance rates on compliance with private standards or certification requirements?

34. What is the relationship of standards development to rates of technological change? To what extent does the fixing of product quality through standards enhance or impede the introduction and diffusion of new products and the growth of markets? To what extent do current practices enhance or impede competition in the quality, availability, variety and safety of products?

35. What effects upon state and local laws, if any, would result from implementation of the proposed rule?

36. Should exercise of the procedural, challenge, and other rights and benefits established by the proposed rule, by persons or on behalf of products from foreign countries, be conditioned on the availability of substantially equivalent rights and benefits in such countries to persons or on behalf of products from the United States? The purpose of such a condition would be to encourage the elimination by other countries of technical barriers to international trade which might operate against products from the United States.

Such a condition could be accomplished by making revisions in the proposed rule such as the following. The existing paragraphs of § 457.11 would be redesignated as paragraphs (a)(1), (a)(2), and (a)(3), and a new paragraph (b) would be added to that section as follows:

(b) The standards developer shall have no obligation under this subpart with respect to persons or interests from countries in which procedural safeguards, challenge opportunities, and other benefits substantially equivalent to those provided under this subpart are not available to United States interests. The standards developer shall also have no obligation under §§ 457.6 and 457.7 with respect to claims (from any person) which would benefit only products which have such countries as their country of origin. For purposes of this section, adherence of a country to an international standards code for preventing technical barriers to trade, to which the United States has agreed, shall be deemed to result in the availability of substantially equivalant benefits.

A new paragraph (f) would be added to § 457.13 as follows:

(f) The certifier shall have no obligation under this section with respect to persons or products whose country of origin is one in which nondiscriminatory treatment, challenge opportunities, and other benefits substantially equivalent to those provided under this section are not available to United States interests. For purpose of this paragraph, adherence of a country to an international certification code for preventing technical barriers to trade, to which the United States has agreed, shall be deemed to result in the availability of substantially equivalent benefits.

What should be the scope of such provisions? Is the limitation, as proposed, broader than is necessary to encourage reciprocation by other countries? Would such a broad limitation result in added costs being imposed on consumers and others in this country which would outweigh its benefits?

Issues to be resolved under rule provisions such as those above include the following. What evidence, other than adherence to an international code, would establish that a country provides substantially equivalent benefits? Who would determine that countries are providing substantially equivalent benefits? The standards developer or certifier?

37. United States participation in international standards proceedings and development of U.S. positions for these proceedings are currently carried out by private interests. Should these activities be subject to the rule? If so, should all of the rule's provisions apply, or should the applicable provisions be limited or modified?

Are there other areas of international standards development and certification that should be addressed by the rule?

SECTION E. PUBLIC HEARINGS

Public hearings will be held commencing on April 16, 1979 at 9:00 a.m. in Room 15022, Federal Building, 450 Golden Gate Avenue, San Francisco, California and May 21, 1979 at 9:00 a.m. in Room 332, Federal Trade Commission Building, Pennsylvania Avenue and 6th Street, N.W., Washington, D.C. Persons desiring to present their views orally at the hearings should advise Henry B. Cabell, Presiding Officer (PU), Federal Trade Commission, Washington, D.C. 20580, 202-724-1045, as soon as possible.

The Presiding Officer appointed for this proceeding shall have all powers prescribed in 16 CFR 1.13(c), subject to any limitations described in this notice.

SECTION F. INSTRUCTIONS TO WITNESSES

1. *Advance notice.* If you wish to testify at the hearings, you must notify the Presiding Officer of your desire to appear and file with him your complete, word-for-word statement no later than March 26, 1979 for

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witnesses at the San Francisco hearings and April 30, 1979 for witnesses at the Washington, D.C. hearings. This advance notice is required so that other interested persons can determine the need to ask you questions and have an opportunity to prepare. The written testimony will be entered into the record exactly as submitted. Consequently, it will not be necessary for you to repeat this statement at the hearing. You may simply appear to answer questions with regard to your written statement or you may deliver a short summary of the most important aspects of that statement within time limits to be set by the Presiding Officer. As a general rule, such oral statements and summaries should not exceed twenty minutes.

Prospective witnesses are advised that they may be subject to questioning by designated representatives of groups with the same or similar interests in the proceeding and by members of the Commission's staff. Such questioning will be conducted subject to the discretion and control of the Presiding Officer and within such time limitations as he may impose. In the alternative, the Presiding Officer may conduct such examination himself or he may determine that full and true disclosure as to any issue or question may be achhieved through rebuttal submissions or the presentation of additional oral or written statements. In all such instances, the Presiding Officer shall be governed by the need for a full and true disclosure of the facts and shall permit or conduct such examination with due regard for relevance to the factual issues raised by the proposed rule and the testimony delivered by each witness.

2. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the period for submission of written comments so they can be studied by other interested persons. Such documents that may be unavailable to you during this period must be filed as soon as possible thereafter but not later than the deadline for filing prepared statements. Mark each of the documents with your name, and number them in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits that are not furnished by the deadline.

3. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement a resume or summary of your professional background and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statement or in separate exhibits.

4. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present as an exhibit or exhibits in compliance with paragraph 2 above the following:

a. A complete report of the survey or other research study and the information and documents listed in (b) through (e) if they are not included in that report.

b. A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

c. Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed in the questionnaire or suggested by the interviewer.

d. A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

e. A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon request of the Presiding Officer. The Presiding Officer will then be in a position to permit their use by other interested persons or their counsel.

5. *Identification, number of copies, and inspection.* To assure prompt consideration, all materials filed by prospective witnesses pursuant to the instructions contained in paragraphs 1-4 above should be identified as "Standards and Certification Statement" ("and Exhibits," if appropriate), and submitted in five copies when feasible and not burdensome.

6. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearances and that of other witnesses in an orderly manner. Other interested parties must have your expected testimony and supporting documents available for study before the hearing so they can decide whether to question you or file rebuttals. If you do not comply with all of the requirements, the Presiding Officer has the power to refuse to let you testify.

7. *General procedures.* These hearings will be informal and courtroom rules of evidence will not apply. You will not be placed under oath unless the Presiding Officer so requires. You are also not required to respond to any question outside the area of your written statement, although, if such questions are permitted, you may respond if you feel you are prepared and have something to contribute. The Presiding Officer will assure that all questioning is conducted in a fair and reasonable manner. The Presiding Officer further has the right to limit the number of witnesses to be heard if the orderly conduct of the hearing so requires.

The deadlines established by this notice will not be extended and hearing dates will not be postponed unless hardship to participants can be demonstrated.

SECTION G. NOTIFICATION OF INTEREST

Interested persons who wish to avail themselves of the opportunity to question witnesses must, by March 2, 1979, notify the Presiding Officer of their position with respect to the proposed rule and each individual provision thereof. This notification must be in sufficient detail to enable the Presiding Officer to identify groups with the same or similar interests respecting the proposed rule. The Presiding Officer may require the submission of additional information from any applicant whose notification is inadequate. Failure to file an adequate notification in sufficient detail may result in the applicant not being considered for purposes of questioning.

Before the hearings commence, the Presiding Officer will identify groups with the same or similar interests in the proceeding. Such groups will be required to select a single representative for the purpose of conducting questioning and, if unable to make this selection, the Presiding Officer may select a representative of each such group. The Presiding Officer will notify all interested persons of the identity of the group representatives at the earliest practicable time.

Group representatives will be given an opportunity to question each witness on any issue relevant to the proceeding and within the scope of the testimony. The Presiding Officer may disallow any questioning which is not appropriate for full and true disclosure as to relevant issues. The Presiding Officer may impose fair and reasonable time limitations on the questioning. Given that questioning by group representatives and the staff will satisfy the statutory requirements with respect to disputed issues, no such issues will be designated by the Presiding Officer.

SECTION H. COMPENSATION OF WITNESSES AND REPRESENTATIVES

Pursuant to section 18(h) of the FTC Act, funds may be available for reimbursement of public participation costs incurred in this proceeding to those who satisfy the requirements of § 1.17 of the Commission's rules of practice. For further information contact Bonnie Naradzay, Special Assistant for Public Participation, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, 202-523-3796.

SECTION I. POSTHEARING PROCEDURES

Interested persons will be afforded 40 days after the close of the public hearings to file rebuttal submissions, which must be based only upon identified, properly cited matters already in the record. The Presiding Officer will reject all submissions which are essentially additional written comment in contrast to rebuttal. The 40-day rebuttal period is intended to include the time consumed in securing a complete transcript of the hearings.

Not later than 120 days after the close of the rebuttal period the staff shall submit its report as required by § 1.13(g) of the Commission's rules of practice. The Presiding Officer's report shall be submitted not later than 45 days thereafter and shall be confined to points of difference with the staff report. Post record comments, as described in § 1.13(h), shall be submitted not later than 30 days after the submission of the Presiding Officer's report.

SECTION J. RULEMAKING RECORD

In veiw of the substantial rulemaking records that have been established in prior trade regulation rulemaking proceedings (and the consequent difficulty in reviewing such records), the Commission urges all interested persons to consider the relevance of any material before placing it on the rulemaking record. While the Commission en-

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Commission's rules under the FOIA, under the Commission's Freedom of

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courages comments on its proposed rule, the submission of material that is not generally probative of the issues posed by the proposed rule merely overburdens the rulemaking record and decreases its usefulness, both to those reviewing the record and to interested persons using it during the course of the proceeding. The Commission's rulemaking staff has received similar instructions.

Material that the staff has obtained during the course of its investigations prior to the initiation of the rulemaking proceeding that is not placed in the rulemaking record will be made available to the public. From time to time during the proceeding the staff may place additional materials on the rulemaking record, and make other additional materials available for inspection by the public. Some of these materials may be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, but will have been determined by the staff to be relevant and helpful to interested persons. Trade secrets or other sensitive exempt materials will not be made available.

The rulemaking record, as defined in 16 CFR 1.18(a), will be made available for examination Room 130, Public Reference Room, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C.

By direction of the Commission, dated November 29, 1978.

CAROL M. THOMAS,
Secretary.

SEPARATE STATEMENT OF COMMISSIONER CLANTON

I have no difficulty supporting those aspects of the proposed rule which deal with procedural due process in the standards setting industry. In fact, if a rule is found to be justified, it may be desirable to go further by requiring consensus action, balanced membership and a binding appeals process. However, I am opposed to the inclusion of §§ 457.6 and 457.7, which deal with the substantive aspect of standards setting. It will be exceptionally difficult to define and enforce substantive standards. In my opinion, the due process sections provide adequate incentives to deter most of the anti-competitive problems that are likely to arise.

In addition, I do not support inclusion of the marketing section (457.17) in the proposed rule. Any problems which may crop up in this area can be adequately dealt with under existing law and Commission precedent.

[FR Doc. 78-34140 Filed 12-6-78; 8:45 am]

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1, 145, 147]

FORM 1-FR, FREEDOM OF INFORMATION ACT, AND GOVERNMENT IN THE SUNSHINE ACT

Proposed Form Change and Rules Changes

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Form Change and Proposed Rules Changes.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to adopt a revised Form 1-FR to be used for complying with the financial reporting requirements of § 1.10 of the Commission's regulations. In addition, the Commission is proposing to amend its rules under the Freedom of Information Act ("FOIA") (5 U.S.C. 552) concerning those portions of the Form 1-FR that will not generally be made public or released. Finally, the Commission is proposing to amend its rules under the Government in the Sunshine Act (5 U.S.C. 552b) with respect to closing Commission meetings to the public and withholding from the public certain information concerning the portions of the Form 1-FR that will not generally be made public or released. The proposed amendments are intended to implement the provisions of the revised minimum financial regulations which were recently adopted by the Commission (43 FR 39956, September 8, 1978).

DATES: Comments must be received by January 8, 1979.

ADDRESS: Send comments to the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention Secretariat.

FOR FURTHER INFORMATION CONTACT:

John L. Manley, Chief Accountant, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581 (202) 254-5218.

SUPPLEMENTAL INFORMATION: The Commission adopted new minimum financial requirements on August 28, 1978,[1] which, among other things, amended the reporting requirements imposed upon futures commission merchants (FCMs) and changed the computation formula used to determine whether a futures commission merchant meets the Commission's minimum financial requirements. The preamble to the rules stated that the Commission would publish for comment proposed revisions in Form 1-FR reflecting the changes in the regulations. The proposed new Form 1-FR is set forth below. The following is a summary of the proposed changes in Form 1-FR:

1. The "Statement of Financial Condition" has been changed to provide the information needed to compute adjusted net capital but contains similar information to that previously required to be filed on the "Statement of Financial Condition";

2. The "Statement of the Computation of Minimum Capital Requirements" has been revised but includes similar information as existing schedules 1 and 2, "Determination Of Adequacy of Capital Position in Meeting Minimum Capital Requirements" and "Charges Against Unadjusted Working Capital;"

3. The "Statement of Income (Loss)" is new;

4. The "Statement of Changes in Financial Position" is new;

5. The "Statement of Changes in Ownership Equity" is new;

6. The "Statement of Changes in Liabilities Subordinated to the Claims of General Creditors" is new;

7. The "Schedule of Segregation Requirements & Funds In Segregation" for customers' commodity futures accounts has been amended but requires similar information to that previously required to be filed on schedule 3;

8. The "Schedule of Segregation Requirements and Funds In Segregation" for commodity option accounts is new; and

9. The revised Form 1-FR will no longer require the information previously required to be included on schedules 4 through 9.

CLARIFICATION OF CERTAIN PROVISIONS

The Commission believes that the proposed form, when read in conjunction with the minimum financial regulations which have previously been adopted,[2] does not require an elaborate explanation. However, certain items do require a brief explanation.

The boxes next to each line will be used to assist any computerization of the information obtained from the form. Certain exchanges already use data processing to facilitate their financial surveillance of their members.

The heading of each page of the Form 1-FR includes a space for a firm identification number. The Commission currently assigns a five digit identification number to each applicant for registration as a futures commission merchant but does not require FCM's to use this number when reporting on Form 1-FR. The Commission is considering using the number it assigns in the registration process in this heading. However, the Commission realizes that this may add another identification number to an already growing list of identification numbers each firm must have. The Commission is aware that many of the firms are already assigned identification numbers by the exchanges and/or the clearing organizations. In addition, each firm has a taxpayer identification number. Therefore, the Commission is specifically requesting comment on which identification numbers should be used when reporting to the Commission.

The Statement of Financial Condition and the Statements of Income (Loss), Changes in Financial Position, Changes in Ownership Equity, and Changes in Liabilities Subordinated to Claims of General Creditors filed in

[1] The regulations were published on September 8, 1978 at 43 FR 39956.

[2] 43 FR 39956 (September 8, 1978).

connection with the certified reports need not be filed in Form 1-FR format if the independent public accountant determines such format would be inconsistent with generaly accepted accounting principles for the financial statements of the applicant or registrant. If such a determination is made, the Statement of Financial Condition must be presented in a format which is as consistent as possible with Form 1-FR and a reconciliation must be provided which reconciles the Statement of Financial Condition to the Statement of the Computation of the Minimum Capital Requirements pursuant to § 1.17 of the Commission's regulations.

As was indicated in the FEDERAL REGISTER notices which accompanied the proposed amendments and the adoption of amendments to § 1.17,[3] the Commission's staff and representatives of the Securities and Exchange Commission (SEC) have initiated cooperative efforts in connection with their respective financial regulations. In part, as a result of such efforts, the Commission incorporated by reference the SEC's safety factors or "haircuts" on securities into its financial regulations. In addition, the Commission understands that the SEC's staff plans to recommend that its own Commission incorporate by reference the CFTC's safety factors on futures. If this step is taken, it will provide the requisite uniformity to permit those FCM's which are also registered with SEC as securities broker-dealers to comply with the Commission's financial reporting requirements by simply filing copies of the SEC's FOCUS Report[4] with the self-regulatory organizations and the CFTC.

PROPOSED AMENDMENTS TO COMMISSION RULE 145.5

The Freedom of Information Act (FOIA) basically requires that upon request, the Commission must make its records available to the public unless the records fall within the exemptions set forth in that Act. Section 552(b)(4) of that Act provides that "trade secrets and commercial or financial information obtained from a person and privileged or confidential" are exempt from mandatory public disclosure.[5] Rule 145.5(d)(1)(i) of the Commission's rules under the FOIA, 17 CFR 145.5(d)(1)(i), provides that certain of the information submitted to the Commission on and submitted with the Form 1-FR is to be treated as nonpublic. The Commission is now proposing to amend Rule 145.5(d)(1)(i) to conform its provisions to the proposed amendments to Form 1-FR.

Under the proposed rule, the following portions of Form 1-FR which are required to be filed pursuant to § 1.10 of the Commission's regulations will be treated as nonpublic provided that the procedure set forth in § 1.10(g) of the Commission's regulations is followed: The statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and related footnote disclosures thereof and the accountant's report on material inadequacies filed under § 1.16(c)(5) of the Commission's regulations.[6]

The instructions to the Form 1-FR state that the Commission may, however, disclose to third parties certain portions of the "nonpublic" information under those circumstances described in the instructions. If the applicant or registrant files a petition for confidential treatment of this information, Commission Rule 145.9 affords the applicant or registrant with notice and a right to appeal any Commission staff decision to disclose this information pursuant to a Freedom of Information Act request. The instructions also state that if the applicant or registrant believes that the placing of any other information submitted on or with Form 1-FR in the Commission's public files would constitute an unwarranted invasion of the registrant's or applicant's personal privacy or would reveal sensitive business information, the registrant or applicant may petition the Commission under Rule 145.9 to treat such other information as nonpublic. The notice and appeal rights referred to above would also apply to this information.

These instructions inform the applicant or registrant of the Commission's responsibilities in general and under the Freedom of Information Act and the applicant's or registrant's rights under the Commission's Freedom of Information Act rules. It is the Commission's policy that exempt records generally will be withheld from disclosure under the Freedom of Information Act. However, irrespective of this policy and of whether a person petitions the Commission for confidential treatment, the Commission has an obligation to determine whether its records are publicly available. In each case, the Commission examines the records subject to a request for access in order to determine their availability. If a determination is made that the records are nonpublic since they fall within one of the FOIA exemptions, they normally will not be disclosed. As stated above, a person who has submitted information and has accompanied the submission with a petition for confidential treatment will receive notice and appeal rights during the normal decision-making process by the Commission staff and the Commission itself as to disclosure or withholding or materials pursuant to the Freedom of Information Act. See 17 CFR 145.9. Those considering a petition are reminded of the requirement in Rule 145.9(i) that a petitioner intend in good faith to aid the Commission in any proceeding that might be brought to compel the Commission to disclose the information.[7]

PROPOSED AMENDMENTS TO COMMISSION RULE 147.3

The Government in the Sunshine Act[8] basically requires that Commission meetings be open to public observation and certain information pertaining to meetings be disclosed to the public unless a meeting is likely to focus on a matter exempt from the openess requirements of the Act. Sec-

[3] 42 FR 27168, (May 26, 1977), 43 FR 15076 (April 10, 1978), 43 FR 39956, (September 8, 1978).

[4] Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934.

[5] 5 U.S.C. 552(b)(4). In certain instances, some of the information on the nonpublic portions of Form 1-FR may also be subject to general protection from public disclosure under Section 8(a) of the Commodity Exchange Act if it "would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." As such, that information would be entitled to be withheld from disclosure under FOIA pursuant to the exemption for matters specifically exempted from disclosure by a statute which requires withholding from the public. See Section 552(b)(3) of the FOIA, 5 U.S.C. 552(b)(3), and the Commission Rule 145.5(c) thereunder, 17 CFR 145.5(c).

[6] Section 1.10(g) requires that the other portions of the Form 1-FR be bound separately in order that nonpublic treatment be accorded to the portions listed in the text.

[7] The Commission has received two comments that suggested that the Commission amend Rule 145.5 (dealing with information generally regarded as nonpublic) to provide that if the Commission proposes to disclose any such information to third parties, the person who submitted the information should receive prior notice regardless of whether that person has petitioned for confidential treatment of the material pursuant to Rule 145.9. The Commission does not believe that such an amendment is warranted. The petition procedure provided by Rule 145.9 is clear and amply protects the interests of those who consider information submitted to the Commission to be confidential. The procedure provides the submitter an opportunity to make his views known to the Commission in advance of any request for information. In addition, the submitter receives notification of any intended disclosure of the information pursuant to the Freedom of Information Act and the right to appeal to the Commission any staff denial of his petition. The Commission believes that this procedure is satisfactory and enables those desiring to be notified of intended disclosure the opportunity to assure themselves that they will be so notified.

[8] 5 U.S.C. 552b.

Pursuant to a Satisfactory Subordination

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tion 552b(c)(4) of the Act provides that Commission meetings or portions of meetings which are likely to "disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential" may be closed and that certain information with respect thereto may be withheld from the public.

Rule 147.3(b)(4)(i)(A) of the Commission's rules under that Act, 17 CFR 147.3(b)(4)(i)(A), permits the closing of Commission meetings or portions of meetings and the withholding from the public of certain information with respect thereto when such meetings or portions of meetings are likely to involve discussions of certain, nonpublic information submitted to the Commission on and submitted with the Form 1-FR. The Commission is now proposing to amend Rule 147.3(b)(4)(i)(A) to conform its provisions to the proposed amendments to Form 1-FR.

Under the proposed rule, the following portions of Form 1-FR which are required to be filed pursuant to § 1.10 of the Commission's regulations will constitute a basis for closing Commission meetings or portions of meetings and withholding from the public information pertaining thereto provided that the procedure set forth in § 1.10(g) of the Commission's regulations is followed: the Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and related footnote disclosures thereof and the accountant's report on material inadequacies filed under § 1.16(c)(5) of the Commission's regulations.[9]

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act ("Act"), the Commission hereby proposes to amend Parts 1, 145, and 147 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. By amending Form 1-FR to read as follows:

FORM 1-FR

GENERAL INSTRUCTIONS

This form contains the financial statements and schedules which are required to be filed by each futures commission merchant or applicant thereof in accordance with the Commission's regulations. These instructions, and any other instructions issued from time to time, must be use in preparing this form and constitute part of this form.

The references in these instructions and on the financial statements and schedules to §§ 1.3, 1.10, 1.12, 1.16, 1.17, 1.18, 1.20-1.30, and 1.31, are to the Commission's regulations contained in 17 CFR Chapter I. The references to §§ 240.15c3-1 and 240.15c3-3 are to the Securities and Exchange Commission's regulations contained in 17 CFR Chapter II.

Before completing this form, the applicant or registrant should be familiar with the following sections of the Commission's regulations:

(1) 1.3—Definitions.

(2) 1.10—Application for registration and filing financial reports (futures commission merchants).

(3) 1.12—Maintenance of minimum financial requirements by futures commission merchants.

(4) 1.16—Qualifications and reports of accountants (if this report is required to be certified by an independent public accountant).

(5) 1.17—Minimum financial requirements—futures commission merchants.

(6) 1.18—Records for and relating to financial reporting and monthly computation (futures commission merchants).

(7) 1.20 through 1.30—Customers' money, securities, and property (commodity futures customer segregation).

(8) 32.6—Commodity option transactions segregation.

The terms "current assets," "liabilities," "net capital," "adjusted net capital," and "aggregate indebtedness" are all defined terms. The definitions of these terms may be found in § 1.17 of the Commission's regulations.

Section 1.10(d) of the Commission's regulations describes the required contents of these financial reports as follows:

(d) *Contents of financial reports.* (1) Each form 1-FR filed pursuant to this § 1.10 which is not required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain: (i) A statement of financial condition as of the date for which the report is made; (ii) a statement of changes in ownership equity for the period between the date of the most recent statement of financial condition filed with the Commission (or the beginning of the fiscal quarter immediately following the effective date of this rule but in no event more than 90 days after such effective date) and the date for which the report is made; (iii) a statement of the computation of the minimum capital requirements pursuant to § 1.17 and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made; and (iv) in addition to the information expressly required, such further material information as may be necessary to make the required statements and schedules not misleading.

(2) Each form 1-FR filed pursuant to this § 1.10 which is required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain: (i) A statement of financial condition as of the date for which the report is made; (ii) statements of income (loss), changes in financial position, changes in ownership equity and, changes in liabilities subordinated to claims of general creditors, for the period between the date of the most recent certified statement of financial condition filed with the Commission (or the beginning of the fiscal year immediately following the effective date of this rule but in no event more than 1 year after such effective date) and the date for which the report is made: *Provided*, That for an applicant filing pursuant to paragraph (a)(2) of this section the period must be the year ending as of the date of the statement of financial condition; (iii) a statement of the computation of the minimum capital requirements pursuant to § 1.17 and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made; (iv) appropriate footnote disclosures and (v) in addition to the information expressly required, such further material information as may be necessary to make the required statements not misleading.

(3) The statements required by paragraphs (d)(2)(i) and (d)(2)(ii) of this section may be presented in accordance with generally accepted accounting principles in the certified reports filed as of the close of the registrant's fiscal year pursuant to paragraph (b)(2) of this section or accompanying the application for registration pursuant to paragraph (a)(2) of this section, rather than in the format specifically prescribed by these regulations: *Provided*, The statement of financial condition is presented in a format as consistent as possible with the Form 1-FR and a reconciliation is provided reconciling such statement of financial condition to the statement of the computation of the minimum capital requirements pursuant to § 1.17. Such reconciliation must be certified by an independent public accountant in accordance with § 1.16.

(4) Attached to each form 1-FR filed pursuant to this § 1.10 must be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the form 1-FR is true and correct. If the applicant or registrant is a sole proprietorship, then the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; or if a corporation, by the chief executive officer or chief financial officer.

The financial statements and schedules must be prepared in conformity with generally accepted accounting principles (except where otherwise indicated by the regulations) applied on a basis consistent with that of the preceding report. The financial statements and schedules must include, in the basic statements, schedules or accompanying footnotes, all informative disclosures which are necessary to make the required statements and schedules not misleading. The applicant or registrant must report all data after proper accruals have been made for income, expense and unrecorded liabilities; adequate reserves have been provided; and any other necessary adjustments have been made for the report to be on the accrual basis of accounting. If no response is made to an item or subdivision thereof, it will indicate a representation that the applicant or registrant has nothing to report.

This form with the exception of the Statement of Income (Loss), the Statement of Changes in Ownership Equity, the Statement of Changes in Financial Position, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement, all footnote disclosures thereof and the accountant's report on material inadequacies filed under § 1.16(c)(5) of the Commission's regulations (provided the procedure set forth in § 1.10(g) of the Commission's regulations is followed) is considered by the Commission as a public record and will be available for inspection by any interested person. Copies will be available for public inspection at the Commission's office in which the form was filed. Under the provisions of the Freedom of Information Act (5 U.S.C. 552), the Commission may disclose to third parties portions of the "nonpublic" information listed above under the following circumstances: (1) In connection with matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act; and (5) in other circumstances in which withholding of such information appears unwarranted. If the applicant or registrant files a petition for confidential treatment of this information, Commission Rule 145.9 affords the applicant or registrant with notice and a right to appeal any Commission staff decision to disclose this information pursuant to a request for information under the Freedom of Information Act. In addition, if the applicant or registrant believes that the placing of any other information submitted on or with this form in the Commission's public files would constitute an unwarranted invasion of the applicant's or registrant's personal privacy or would reveal sensitive business information, the registrant or applicant may petition the Commission to treat such other information as nonpublic pursuant to Rule 145.9 in response to requests under the Freedom of Information Act.

This form must be based upon the applicant's or registrant's accounting records. All accounting records, schedules and other memorandum which support amounts shown on the financial statements and schedules must be retained in accordance with § 1.31 of the Commission's regulations.

[9] As noted above, § 1.10(g) requires that the other portions of the Form 1-FR be bound separately in order that nonpublic treatment be accorded to the portions listed in the text.

FORM 1-FR

Name of Registrant or Applicant	Firm ID NO.
Address of Principal Place of Business	Name of Person to contact concerning this report
	Telephone No. of Contact __(___)_____
(City) (State) (Zip Code)	

1. Report for the period beginning _____ and ending _____.

2. Name of Designated Self-Regulatory Organization supervising registrant _____

3. If an audited report, identify independent public accountant expressing an opinion thereon:

NAME _____

ADDRESS _____
(Number and Street)

_____
(City) (State) (Zip Code)

4. Check here if applicant or registrant is a securities broker-dealer and if this filing is the Securities and Exchange Commission's FOCUS report. ☐ ☐

5. Check here if registrant carries customer commodity options accounts. ☐ ☐

6. Check here if this is a consolidated report and, if so, list on a separate schedule the names of the subsidiaries or affiliates consolidated in this report. ☐ ☐

The futures commission merchant, or applicant for registration thereof, submitting this Form and its attachments and the person whose signature appears below represent that, to the best of their knowledge, all information contained therein is true, correct and complete. It is understood that all required items, statements and schedules are integral parts of this Form and that the submission of any amendment represents that all unamended items, statements and schedules remain true, correct and complete as previously submitted. It is further understood that any intentional misstatements or omissions of facts constitute Federal Criminal Violations (see 18 U.S.C. 1001).

Signed this _____ day of _____ 19___.

Manual signature _____

Please check: ☐ Sole Proprietor ☐ Chief Financial Officer
☐ General Partner ☐ Chief Executive Officer

FCM: / Firm ID NO.

FORM 1-FR

STATEMENT OF FINANCIAL CONDITION

AS OF ___/___/___

	Assets		
	Current	Non-Current	Total
1. Cash:			
A. Cash	$		$
B. Cash segregated for the benefit of commodity futures and option customers			
C. Other restricted cash		$	
2. Receivables from and deposits with clearing organizations:			
A. Securities transactions			
B. Commodities:			
i. Customer segregated			
ii. Customer not segregated			
iii. Noncustomer & firm			
3. Receivables from other futures commission merchants and brokers:			
A. Customer accounts:			
i. Segregated			
ii. Non-segregated			
B. Noncustomer & firm accounts			
C. Securities transactions (attach details or the FOCUS report)			
4. Receivables from customers:			
A. Securities accounts:			
i. Receivable			
ii. Allowance for doubtful accounts	( )	( )	( )
B. Commodity futures and options accounts:			
i. Debit and deficit accounts regulated			
ii. Debit and deficit accounts non-regulated			
iii. Allowance for doubtful accounts	( )	( )	( )
5. Receivables from noncustomers:			
A. Securities accounts (attach details or the FOCUS report)			

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B. Commodities futures and options accounts:
i. Debit and deficit accounts . . . . . | | | |
ii. Allowance for doubtful accounts . . . . . | ( ) | ( ) | ( ) |

6. Other receivables and advances:
A. Merchandising . . . . . | | | |
B. Receivables from affiliates | | | |
C. Insurance claims . . . . . | | | |
D. Dividends and interest . . | | | |
E. Notes receivable . . . . . | | | |
F. Advances on cash commodities . . . . . | | | |
G. Other (itemize here or on a separate page) . . . . . | | | |
H. Allowance for doubtful accounts . . . . . | ( ) | ( ) | ( ) |

7. Securities purchased under agreement to resell . . . . . | | |

8. Inventories of securities-readily marketable, at market value:
A. Owned . . . . . | |
B. Customers owned in segregation . . . . . | |
C. Investment of segregated funds . . . . . | |

9. Inventories of cash commodities, raw materials, work in progress and finished goods . . | | | |

10. Securities owned not readily marketable at estimated fair value . . . . . | | |

11. Securities borrowed under subordination agreements and partners individual and capital securities accounts at market value . . . . | | |

12. Secured demand notes (market value of collateral $_____ -- safety factor charges applicable to such collateral $_____. . . . . | | |

13. Guarantee deposits with and stock in clearing organizations (at cost) . . . . . | |

14. Exchange memberships (at cost) | | |

15. Investments in and receivables from affiliates and subsidiaries . . . . . | | |

16. Plant, property, equipment and capitalized leases (at cost net of accumulated depreciation and amortization of $_____) . . . | | |

17. Other assets:
a. Prepaid expenses and deferred charges . . . . . | |
b. Miscellaneous (itemize here or on a separate page) . . . . . | | |

18. Total Assets . . . . . $ | $ | $

19. Other assets:
a. Prepaid expenses and deferred charges . . . . . | |
b. Miscellaneous (itemize here or on a separate page) . . . . . | | |

20. Total Assets . . . . . $ | $ | $

LIABILITIES AND OWNERSHIP EQUITY

21. Bank loans payable . . . . . | | |

22. Payables:
A. Drafts payable . . . . . | | |
B. Payables to customers . . . . . | | |
C. Payables to affiliates . . . . . | | |
D. Payables to brokers, dealers and clearing organizations . . . . . | | |
E. Accounts payable and accrued liabilities . . . . . | | |

23. Liabilities subordinated to claims of general creditors:
A. Secured demand notes (market value of collateral $_____ -- safety factor charges applicable to such collateral $_____) . . . . . | | |
B. Cash borrowings . . . . . | | |
C. Notes and mortgages payable . . . . . | | |
D. Other (itemize here or on a separate page) . . . . . | | |

24. Securities sold under agreement to repurchase . . . . . | | |

25. Liabilities to customers on cash commodities . . . . . | | |

26. Liabilities to customers on commodities futures and options accounts:
i. Credit and deficit accounts . . . . . | | |
ii. Allowance for doubtful accounts . . . . . | ( ) | ( ) |

27. Other liabilities and accrued charges (itemize here or on a separate page) . . . . . | | |

28. Total Liabilities . . . . . $ | $ | $

29. Ownership equity:
A. Sole proprietorship . . . . . | | |
B. Partnership (limited partners $_____) . . . . . | | |
C. Corporation:
i. Preferred stock . . . . . | | |
ii. Common stock . . . . . | | |
iii. Additional paid-in capital . . . . . | | |
iv. Retained earnings . . . . . | | |
v. Other (itemize here or on a separate page) . . . . . | | |

30. Total Ownership Equity . . . . . $ | $ | $

31. Total Liabilities and Ownership Equity . . . . . $ | $ | $

FCM: / Firm ID NO:

FORM 1-FR

STATEMENT OF FINANCIAL CONDITION

AS OF ___/___/___

Liabilities & Ownership Equity

Liabilities	A.I. Liabilities	Non A.I. Liabilities	Total
19. Bank loans payable:			
A. Secured	$	$	$
B. Unsecured			
20. Securities sold under repurchase agreement			
21. Payable to clearing organizations:			
A. Securities accounts:			
B. Commodities accounts:			
i. Customer segregated			
ii. Customer non-segregated			
iii. Noncustomer & firm			
22. Payable to other futures commission merchants or brokers:			
A. Payables relating to securities transactions (attach details or the FOCUS report)			
B. Payables relating to commodities transactions:			
i. Customer segregated			
ii. Customer non-segregated			
iii. Noncustomer & firm			
23. Payable to customers:			
A. Securities accounts:			
B. Commodities accounts:			
i. Regulated futures			
ii. Regulated options			
iii. Non-regulated			
24. Payable to non-customers:			
A. Securities accounts:			
B. Commodities accounts:			
i. General partners (not included in capital)			
ii. Other non-customers			
25. Securities sold not yet purchased at market value--including arbitrage			

26. Accounts payable, accrued liabilities and expenses:			
A. Drafts payable			
B. Accounts payable			
C. Income taxes payable			
D. Deferred income taxes			
E. Accrued expenses and other liabilities			
F. Salaries, wages and commissions payable			
G. Advances against commodities			
H. Other (itemize here or on a separate page)			
27. Notes, mortgages and other payables not due within twelve months of the date of this statement:			
A. Unsecured			
B. Secured			
28. Liabilities subordinated to claims of general creditors:			
A. Subject of a satisfactory subordination agreement			
B. Not subject to a satisfactory subordination agreement			
29. Total Liabilities	$	$	
Ownership Equity			
30. Sole proprietorship			
31. Partnership:			
A. Partnership contributed and retained capital			
B. Additional capital per partnership agreement (equities in partners trading accounts, etc.)			
32. Corporation:			
A. Preferred stock			
B. Common stock			
C. Additional paid in capital			
D. Retained earnings			
E. Sub-total			
F. Less capital stock in treasury			( )
33. Total Ownership Equity			
34. Total Liabilities and Ownership Equity			$

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FCM: / Firm ID NO:

FORM 1-FR

STATEMENT OF THE COMPUTATION OF THE MINIMUM CAPITAL REQUIREMENTS

AS OF __/__/____

Net Capital

1. Current Assets - Item 18* . . . . . $

2. Adjustments to current assets:
   A. Segregated assets (to the extent liabilities are deducted in 4(B) below) . . . . . $
   B. Increase (decrease) to clearing organization stock to reflect margin value . . . . . .
   C. Total deductions . . . . . ( )
   D. Net current assets . . . . . $

3. Total liabilities - Item 29* . . . . . .

4. Deduct:
   A. Liabilities subject to satisfactory subordination agreements - Item 28A* . . .
   B. Equities in customers commodity accounts:
      i. futures . . . . . .
      ii. options . . . . . .
   C. Long term debt pursuant to regulation 1.17(c)(4)(v) .
   D. Total deductions . . . . . ( )
   E. Adjusted liabilities. . . . . .

5. Net capital . . . . . $

Adjusted Net Capital
Charges

6. Excess of advances paid on cash commodity contracts over 95% of the market value of commodities covered by such contracts . . . . . $

7. Five percent (5%) of the market value of inventories covered by open futures contracts or commodity options (no charges applicable

*References are to item numbers on the Statement of Financial Condition.

to inventories registered as deliverable on a contract market and which are covered by futures contracts) . . . . . .

8. Twenty percent (20%) of the market value of uncovered inventories . . . . . .

9. Ten percent (10%) of the market value of commodities involved in fixed price commitments and forward contracts which are covered by open futures contracts or commodity options. . . . . .

10. Twenty percent (20%) of the market value of commodities involved in fixed price commitments and forward contracts which are not covered by open futures contracts or commodity options. . . . . .

11. Charges as specified in §240.15c3-1(c)(2)(vi)(vii) (or for securities brokers or dealers only §240.15c3-1(f)) against securities:
   (A) Securities owned:

	Assets Market Value	Charge
(a) Bankers' acceptances, certificates of deposit, & commercial paper	$	
(b) U.S. and Canadian government obligations		
(c) State and Municipal government obligations . .		
(d) Corporate obligations . .		
(e) Stocks and warrants		
(f) Arbitrage		
(g) Other securities		
(h) Other (list)		
(i) Total (a) - (h)	$	

   (B) Investment of segregated funds . . . . . .
   (C) Subordinated securities borrowings . . . . . .
   (D) Total (A) (B) & (C) . . . . . .

12. Charges on securities options as specified in §240.15c3-1, Appendix A. . . . . .

13. Charges against open contractual commitments as specified in §240.15c3-1(c)(2)(viii). . . . . .

*References are to item numbers on the Statement of Financial Condition.

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14. Undermargined commodity futures accounts -- amount in each account required to meet maintenance margin requirements less current margin calls:
    (A) Customer accounts . . . . . _____
    (B) Noncustomer accounts . . . . _____
    (C) Omnibus accounts . . . . . _____

15. Uncovered open futures contracts in proprietary accounts -- percentage of margin requirements applicable to such contracts . . . . _____
    Less: equity in proprietary accounts not otherwise includable in adjusted net capital . . ( ) _____

16. Amount of any commodity option premiums used to increase adjusted net capital where registrant or applicant is a taker of a commodity option. . . . . _____

17. Amount of any commodity option premium which has not been previously recognized as income by a grantor of commodity options . . . . . ( ) _____

18. Ten percent (10%) of the market value of commodities which are the subject of commodity options carried long by the applicant or registrant which has value and such value increased adjusted net capital (this charge is limited to the value attributed to such options) . . . . . _____

19. Five percent (5%) of all unsecured receivables from unregistered futures commission merchants or securities brokers or dealers . . . . . _____

20. Secured demand note deficiency . . . . . _____

21. For securities brokers or dealers all other deductions specified in §240.15c3-1. . . . . _____

22. Total Charges . . . . . ( ) _____

23. Adjusted Net Capital . . . . . $_____

*References are to item numbers on the Statement of Financial Condition.

Basic Computation

24. Minimum adjusted net capital required: enter the greater of 6 2/3% of Aggregate Indebtedness, Item 29*, or $50,000 ($100,000 for an FCM who is not a member of a designated self-regulatory organization after June 30, 1979) . . . . . $_____

25. Adjusted net capital -- Item 23 this statement . . . . . _____

26. Excess net capital . . . . . $_____

27. Enter the greater of $75,000 ($150,000 for an FCM who is not a member of a designated self-regulatory organization after June 30, 1979) or 8 1/3% of Aggregate Indebtedness -- Item 29* (If amount on line 25 is less than the amount on line 27, the applicant or registrant must immediately notify its designated self-regulatory organization and the Commission and commence filing monthly statements of its financial condition pursuant to Regulation 1.12) . . . . . $_____

Alternative Computation

28. If registrant has elected to report its financial condition in accordance with Regulation 1.17(g), enter the greatest of lines A, B, or C: . . . . . $_____
    A. Enter $50,000 ($100,000 after June 30, 1979, if registrant is not a member of a designated self-regulatory organization) . . $_____
    B. Enter 4% of the amount of funds required to be segregated for commodity futures and options customers . . . . . $_____
    C. If a securities broker-dealer, enter 4% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (attach the computation of Exhibit A to SEC Rule 15c3-3) . . . . . $_____

29. Adjusted net capital -- Item 23 this statement . . . . . $_____

30. Excess net capital . . . . . $_____

*References are to item numbers on the Statement of Financial Condition.

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31. Enter the greatest of $75,000 ($150,000 for an FCM who is not a member of a designated self-regulatory organization after June 30, 1979) or 6% of funds required to be segregated for commodity futures and options customers, or, for securities broker-dealers, enter 6% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (if the amount on line 28 is less than the amount on line 30, the applicant or registrant must immediately notify its designated self-regulatory organization and the Commission and commence filing monthly statements of its financial condition pursuant to Regulation 1.12) . . . . . $_____

*References are to item numbers on the Statement of Financial Condition.

FCM: / FIRM ID NO:

FORM 1-FR

STATEMENT OF INCOME (LOSS)

FOR THE PERIOD FROM _____ THROUGH _____

Revenues

1. Merchandising activities:
   A. Net Sales . . . . . $_____
   B. Cost of goods sold . . . . . (_____)
   C. Gross income from sales . . . . . $_____
2. Commissions & brokerage:
   A. Commodity futures transactions . . . . . _____
   B. Commodity options transactions . . . . . _____
   C. Security transactions . . . . . _____
   D. Security options transactions . . . . . _____
3. Firm trading accounts:
   A. Realized commodity futures and options . . . . . _____
   B. Unrealized commodity futures and options . . . . . _____
   C. Realized security and security options . . . . . _____
   D. Unrealized security and security options . . . . . _____
4. Interest & dividends:
   A. Interest earned on investments of customers' regulated commodity futures and options funds.. . . . . _____
   B. Other interest and dividends . . . . . _____
5. Income from other security broker-dealer activities . . . . . _____
6. Other income (itemize material amounts here or on a separate page) . . . . . _____
7. Total Revenue . . . . . $_____

Expenses

8. Commission & brokerage:
   A. Commodity transactions . . . . . _____
   B. Security transactions . . . . . _____
9. Employee compensation and benefits (exclusive of commissions) . . . . _____
10. Occupancy and equipment rental . . . . . _____
11. Advertising and promotional activities . . . . . _____

12. Regulatory fees and expenses . . . . . _____
13. Other expenses (itemize material amounts here or on a separate page) . . . . . _____
14. Total Expenses . . . . . $_____

Net Income

15. Net income (loss) before provision for income taxes and extraordinary items . . . . . $_____
16. Provision for income taxes . . . . . _____
17. Net income (loss) after provision for income taxes and before extraordinary items . . . . . $_____
18. Extraordinary items . . . . . _____
19. Net income (loss) after provision for income taxes and extraordinary items . . . . . $_____

Withdrawals

20. Withdrawals by sole proprietor . . . . . $_____
21. Withdrawals by partners . . . . . _____
22. Withdrawals by voting stockholders . . . . . _____
23. Withdrawals by nonvoting stockholders . . . . . _____
24. Withdrawals by trust beneficiaries . . . . . _____
25. Total withdrawals . . . . . $_____

FCM: / FIRM ID NO:

FORM 1-FR

STATEMENT OF CHANGES IN OWNERSHIP EQUITY

FOR THE PERIOD FROM _____ THROUGH _____

1. Ownership equity at beginning of period . . . . . $_____
2. Increases:
   A. Additional investments by sole proprietor . . . . . _____
   B. Additional investments by partners . . . . . _____
   C. Additional investments by voting stockholders . . . . . _____
   D. Additional investments by nonvoting stockholders . . . . . _____
   E. Additional investments by trust beneficiaries . . . . . _____
   F. Net income (loss) after provision for income taxes and extraordinary items . . . . . _____
   G. Total increases . . . . . $_____
3. Decreases:
   A. Withdrawals by sole proprietor . . . . . _____
   B. Withdrawals by partners . . . . . _____
   C. Withdrawals by voting stockholders . . . . . _____
   D. Withdrawals by nonvoting stockholders . . . . . _____
   E. Withdrawals by trust beneficiaries . . . . . _____
   F. Total decreases . . . . . $_____
4. Ownership equity at end of period . . . . . $_____

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12. Communications . . . . . ____

13. Bad debt expense:
    A. Commodity accounts . . . . . ____
    B. Security accounts . . . . . ____
    C. Merchandising . . . . . ____
    D. Other . . . . . ____

14. Interest . . . . . ____

15. Other expenses (itemize material amounts here or on a separate page) . . . . . ____

16. Total Expenses . . . . . $____

17. Income (Loss) Before Income Taxes and Items Below . . . . . ____

18. Income tax expense . . . . . ____

19. Minority interest in income of consolidated subsidiaries . . . . . ____

20. Equity in earnings of unconsolidated subsidiaries less applicable tax . . . . . ____

21. Income (loss) before extraordinary items . . . . . ____

22. Extraordinary gains (loss), less applicable tax . . . . . ____

23. Cumulative effect of changes in accounting principles, less applicable tax . . . . . ____

24. Net Income (Loss) . . . . . $____

STATEMENT OF CHANGES IN FINANCIAL POSITION

The statement may be in any format which is relevant, but must be in accordance with generally accepted accounting principles.

FCM: / Firm ID NO:

FORM 1-FR

STATEMENT OF CHANGES IN OWNERSHIP EQUITY

FOR THE PERIOD FROM _____ THROUGH _____

1. Total ownership equity as previously reported . . . . . $____
2. Net income (loss) for period . . . . . ____
3. Other additions to capital (explain below) . . . ____
4. Dividends . . . . . ( )
5. Other deductions from capital (including partner and proprietary withdrawals) (Explain below) . . . . . ( )
6. Balance -- to agree with Item 33 on the current Statement of Financial Condition . . . . $____

Date	Explanation	Addition (Deduction) Amount
		$

FCM: / FIRM ID NO:

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FORM 1-FR

STATEMENT OF CHANGES IN LIABILITIES

SUBORDINATED TO THE CLAIMS OF GENERAL CREDITORS

PURSUANT TO A SATISFACTORY SUBORDINATION AGREEMENT

FOR THE PERIOD FROM _____ THROUGH _____

1. Total subordinated borrowings as previously reported . . . . . $_____
2. Increases (Explain below) . . . . . _____
3. Decreases (Explain below) . . . . . (_____)
4. Balance -- to agree with Item 28A on the current Statement of Financial Condition . . . . . $_____

Date	Explanation	Amount Increase (Decrease)
		$

FCM: / FIRM ID NO:

FORM 1-FP

SCHEDULE OF SEGREGATION REQUIREMENTS AND FUNDS

IN SEGREGATION AS OF ___/___/___/___/

CUSTOMERS' REGULATED COMMODITY FUTURES ACCOUNTS

SEGREGATION REQUIREMENTS

1. Net ledger balance: $_____
   A. Cash . . . . . _____
   B. Securities (at market) . . . . . _____
2. Net unrealized profit (loss) in open futures contracts . . . . . _____
3. Net equity (deficit) (Total of 1 and 2) . . . . . _____
4. Add accounts liquidating to a deficit and accounts with debit balances with no open trades . . . . . _____
5. Amount required to be segregated (Total of 3 and 4) . . . . . $_____

FUNDS ON DEPOSIT IN SEGREGATION

6. Deposited in segregated funds bank accounts: $_____
   A. Cash . . . . . _____
   B. Securities representing investments of customers' funds (at market) . . . . . _____
   C. Securities held for customers in lieu of cash margins (at market) . . . . . _____
7. Margins on deposit with clearing organizations of contract markets:
   A. Cash . . . . . _____
   B. Securities representing investments of customers' funds (at market) . . . . . _____
   C. Securities held for customers in lieu of cash margins (at market) . . . . . _____
8. Settlement due from (to) contract market clearing organizations . . . . . _____
9. Net equities with other FCMs . . . . . _____
10. Segregated funds on hand:
    A. Cash . . . . . _____
    B. Securities representing investments of customers' funds (at market) . . . . . _____
    C. Securities held for customers in lieu of cash margins (at market) . . . . . _____
11. Total amount in segregation (Total of 6 through 10) . . . . . $_____
12. Excess (insufficiency) funds in segregation (11 minus 5) . . . . . $_____

Issued in Washington, D.C. on De- tions received and recommend a

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FCM: / FIRM ID NO:

FORM 1-FR

SCHEDULE OF SEGREGATION REQUIREMENTS AND

FUNDS IN SEGREGATION AS OF

__/__/____

COMMODITY OPTIONS ACCOUNTS

1. Amount required to be segregated in accordance with Commission regulation 32.6 . . . . . $

2. Funds in segregation
   A. Cash . . . . . $
   B. Securities (at market) . . . . .
   C. Total of A and B . . . . .

3. Excess funds in segregation (3 minus 2) . . . . . $

AUTHORITY: Sections 4b, 4f, 4g, 5a, 8a and 17 of the Commodity Exchange Act (7 U.S.C. §§6b, 6f, 6g, 7a, 12a, and 21, as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 865 et seq.).

PART 145—COMMISSION RECORDS AND INFORMATION

2. In § 145.5, paragraph (d)(1)(i) is amended to read as follows:

§ 145.5 Nonpublic matters.

. . . . . .

(d) • • •

(1) • • •

(i) The following portions, and footnote disclosures thereof, of the Form 1-FR required to be filed pursuant to § 1.10 of this chapter: *Provided,* The procedure set forth in § 1.10(g) of this chapter is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

. . . . . .

(5 U.S.C. 552; sec. 2(a)(11), Commodity Exchange Act (7 U.S.C. 4a(j).)

PART 147—OPEN COMMISSION MEETINGS

3. In § 147.3, paragraph (b)(4)(i)(A) is amended to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

. . . . . .

(b) • • •

. . . . . .

(4) • • •

(i) • • •

(A) The following portions, and footnote disclosures thereof, of the Form 1-FR required to be filed pursuant to § 1.10 of this chapter: *Provided,* The procedure set forth in § 1.10(g) of this chapter is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

. . . . . .

(5 U.S.C. 552b; sec. 2(a)(11), Commodity Exchange Act (7 U.S.C. 4a(j).)

Issued in Washington, D.C., on December 4, 1978, by the Commission.

GARY L. SEEVERS,
Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-34175 Filed 12-6-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 78-130]

DRAWBRIDGE OPERATION REGULATIONS

Ashley River, S.C.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Seaboard Coast Line (SCL) Railroad Company, the Coast Guard is considering changing the regulations governing the SCL bridge across the Ashley River, mile 12.0, to require that the draw open on signal from 7 a.m. to 11 p.m. At all other times the draw will open on signal if at least three hours notice is given. The draw is presently required to open on signal. This proposal is being made because of limited requests for openings from 11 p.m. to 7 a.m. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

DATE: Comments must be received on or before January 8, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Seventh Coast Guard District, 51 S.W. First Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

An analysis of the bridge logs submitted for the period October 1977 through September 1978 show a total of 898 openings, of which all but seventeen were from 7 a.m. to 11 p.m. The Coast Guard feels that this demonstrates a potential for the requested change and the public is hereby given an opportunity to comment on this proposal.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new § 117.245(g)(19) immediately after § 117.245(g)(18) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

. . . . . .

(g) • • •

(19) Ashley River, mile 12.0, Seaboard Coast Line Railroad bridge, near Drayton Hall, S.C. The draw shall open on signal from 7 a.m. to 11 p.m. At all other times the draw shall open on signal if at least three hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499. 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: December 1, 1978.

J. B. HAYES,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc. 78-34198 Filed 12-6-78; 8:45 am]

can manufacturing facility at St. Paul . . . [4510-24-M]

OAC 3745-17-10 and OAC 3745-17-07 . . . [4110-35-M]

payment if he acted in good faith in

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1021-5]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Minnesota Pollution Control Agency to National Can Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Minnesota Pollution Control Agency to National Can Corporation. The Order requires the company to bring air emissions from two two-piece manufacturing lines in St. Paul, Minnesota, into compliance with certain regulations contained in the federally approved Minnesota State Implementation Plan (SIP) by May 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before January 8, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, 312-353-2082.

SUPPLEMENTARY INFORMATION: National Can Corporation operates a can manufacturing facility at St. Paul, Minnesota. The Order under consideration addresses emissions from two two-piece can manufacturing lines at the factility, which are subject to Minnesota Regulation APC-1(c)(4). The regulation limits the emissions of hydrocarbons and is part of the federally approved Minnesota State Implementation Plan. The Order requires final compliance with the regulation by May 1, 1979, through modification of the existing two-piece can lines to change the inside spray coating to a water borne formulation so that emissions from this coating are no more than 4.2 pounds of solvent emission per gallon of coating used exclusive of water.

Because this Order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulation, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Minnesota SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: November 24, 1978.

JOHN MCGUIRE,
Regional Administrator,
Region V.

[FR Doc. 78-34055 Filed 12-6-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1022-2]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency To Buckeye Sugars, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Buckeye Sugars, Inc. The Order requires the Company to bring air emissions from two coal-fired boilers in Ottawa, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATES: Written comments must be received on or before January 8, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied for appropriate charges at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois, 312-353-2082.

SUPPLEMENTARY INFORMATION: Buckeye Sugars, Inc., operates a sugar processing plant at Ottawa, Ohio. The Order under consideration addresses emissions from two coal-fired boilers at the facility, which are subject to OAC 3745-17-10 and OAC 3745-17-07. The regulations limit the emissions of particulate matter, and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979, either by improving the efficiency of steam utilization, thereby permitting replacement of Boilers No. 1 and 2 with a small oil-fired boiler or by the installation of appropriate particulate control equipment on Boilers No. 1 and 2. Pending achievement of compliance with the Order, Buckeye Sugars, Inc., shall use the best practicable systems of emission reduction for the period during which the Order is in effect.

Because this Order has been issued to a major source or particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

Dated: November 24, 1978.

JOHN MCGUIRE,
Regional Administrator,
Region V.

[FR Doc. 78-34056 Filed 12-6-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

MEDICARE PROGRAM

Beneficiary Liability for Nonreimbursable Services or Items

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed amendment would revise a current Medicare regulation that implements section 1879 of the Social Security Act. That section provides that a beneficiary is not required to pay for certain items or services erroneously charged to Medicare, if he did not know, and could not reasonably have been expected to know, that the items or services were not covered by Medicare. The current regulation has been interpreted by some Administrative Law Judges to mean that evidence of an oral statement to the beneficiary is sufficient for finding that he knew items or services were not covered. The purpose of the proposed amendment is to clarify the regulations by providing that a beneficiary will not be found to have knowledge that items and services are not covered unless he is given written notification from the provider, the fiscal intermediary, or some other appropriate source.

DATES: Consideration will be given to written comments or suggestions received on or before February 5, 1979.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to MAB-31P. Comments will be available for public inspection beginning approximately 2 weeks after publication, in room 5225 of the Department's offices at 330 C Street, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Mendel J. Kaufman, Medicare Bureau, Room 127, East High Rise Building, Baltimore, Maryland 21235, 301-594-9232.

SUPPLEMENTARY INFORMATION: The proposed change is intended to assure uniform treatment for all beneficiaries under section 1879 of the Social Security Act (Limitation on Liability of Beneficiary Where Medicare Claims are Disallowed). That provision relieves a beneficiary from liability for payment if he acted in good faith in accepting items or services for which Medicare payment is later denied because the items or services are determined either to be not medically reasonable and necessary or to constitute custodial care. Under section 1879, Medicare payment may be made for these items or services if neither the provider of the items or services (or other person who accepted assignment under Part B) nor the beneficiary knew, or could reasonably have been expected to know, that the items or services were not covered (see § 405.330). If it is established that the provider of the items or services, but not the beneficiary, had knowledge that the items or services were not covered, section 1879 authorizes the Secretary to indemnify the individual for payments he has made to the provider. If the beneficiary files a timely request for indemnification, Medicare will pay him the amount he paid the provider or other person less deductibles and coinsurance and will then recover the payment from the provider or other person who had, or should have had, knowledge that the services were not covered (see § 405.331).

The present regulation cites four examples of evidence sufficient to find that a beneficiary knew or could have been expected to know that the services or items furnished him were excluded from coverage. Each example involves written notice to the beneficiary from an appropriate source that the services or items were not covered. However, the parenthetical phrase "(but shall not be limited to)" which now precedes the examples has been interpreted by some Administrative Law Judges to permit oral notices as adequate evidence that a beneficiary has been advised of noncoverage. The intent of that parenthetical phrase was not to allow oral notices to constitute sufficient evidence that a beneficiary knew of noncoverage, but rather to avoid excluding written notices from official sources other than those cited in the four examples.

The proposed amendment deletes the parenthetical phrase and makes other editorial changes in order to avoid any implication that an oral notice of noncoverage would be acceptable evidence for finding that a beneficiary had knowledge of the noncoverage of items or services furnished him. Thus, the beneficiary will be relieved of liability under section 1879 of the Act unless he has received a written notice advising him of the noncoverage of the items or services furnished to him or, in a prior case, he had received written notice with respect to similar or reasonably comparable items and services.

42 CFR 405.332 is amended by revis-

Dated: October 30, 1978.

(Catalog of Federal Domestic Assistance No.

delays it has encountered in handling

[7035-01-M]

fied matter, or *at a designated location allowing reasonable access*

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42 CFR 405.332 is amended by revising the title of the section and paragraph (a) to read as follows:

§ 405.332 Criteria for determining that there was knowledge that certain items or services were excluded from coverage.

(a) *The individual to whom items or services are furnished.* An individual furnished items or services which are excluded from coverage by reason of § 405.310(g) or § 405.310(k) shall not be found to have known, or to have reasonably been expected to know, that such items or services were excluded from coverage unless written notice had been given to the individual (or to a person acting on his behalf) that the items or services were excluded from coverage. Written notice may consist of the following:

(1) An intermediary or carrier informed the individual (or a person acting on his behalf) in writing that the items or services furnished were not covered;

(2) The group or committee responsible for conducting the utilization review function of the institution furnishing the items or services (see § 405.1035 or § 405.1137) made a finding that the items or services were not covered and informed the individual (or a person acting on his behalf) in writing that the services or items were not covered.

(3) The provider of services or other person furnishing the items of services to the individual informed the individual (or a person acting on his behalf) in writing that the items or services are excluded from coverage and an intermediary or carrier (whichever is appropriate) has determined on the basis of the provider's or other person's past billing practices that the provider or person can effectively distinguish between cases where the items or services furnished are covered under Medicare and where the items or services are excluded from coverage.

(4) In a prior case involving the individual, he was notified under the circumstances referred to in paragraph (a)(1), (2), or (3) of this section that similar or reasonably comparable items or services were excluded from coverage.

• • • • •

(Secs. 1102, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395pp))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medicare Insurance)

Dated: October 30, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: November 28, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-34172 Filed 12-6-78; 8:45 am]

[4110-02-M]

Office of Education

[45 CFR Parts 144, 175, and 176]

NATIONAL DIRECT STUDENT LOAN, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Change in Location and Date of Hearing

AGENCY: Office of Education, HEW.

ACTION: Change in location and date of hearing.

SUMMARY: On November 8, 1978 (43 FR 52128) the Commissioner published in the FEDERAL REGISTER a notice of proposed rulemaking (NPRM) proposing changes in the institutional application procedures for the three "campus-based" Federal programs of student financial aid. Those three programs are popularly known as National Direct Student Loans, College Work-Study, and Supplemental Educational Opportunity Grants.

That NPRM announced the dates and places of four hearings on the proposed changes. In response to a public request, the date and place of one of those hearings is being changed

DATES: The hearing previously scheduled for December 4 in New Orleans is cancelled and will be replaced by a hearing on December 1 in Little Rock, Arkansas.

ADDRESS: The new hearing will be at:

December 1—Little Rock, Arkansas; University of Arkansas Conference Center, Library 517B, 33rd and University Avenue, Little Rock, Arkansas; 10 a.m. to conclusion. Contact person for scheduling presentation time: Ms. Carole Sivright, Dallas Regional Office (214) 767-3766.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Reynolds, 202-245-0231.

(20 U.S.C. 1070b-3; 42 U.S.C. 2756; 20 U.S.C. 1087bb(b))

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; and 13.471, National Direct Student Loan Program)

Dated: November 28, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-34121 Filed 12-6-78; 8:45 am]

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 575]

[Docket No. 25; Notice 29]

CONSUMER INFORMATION REGULATIONS

Uniform Tire Quality Grading; Extension of Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Extension of period for public comment.

SUMMARY: This notice responds to a petition for extension of time to comment on NHTSA's announcement on radial tire treadwear test results relating to the Uniform Tire Quality Grading (UTQG) regulation. The closing date for comments is extended from December 4, 1978, to December 19, 1978.

DATE: Comments must be received on or before December 19, 1978.

ADDRESS: Comments should be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: On November 6, 1978 (43 FR 51735), NHTSA announced the availability for public inspection and comment of the data from agency testing of radial tire treadwear characteristics under the road test conditions of the UTQG Standards (49 CFR 575.104) and NHTSA's analysis of that data. The notice set a closing date for comments of December 4, 1978.

The Dunlop Tire Company has petitioned for an extension of time to comment on the test results due to

delays it has encountered in handling the data. Dunlop's petition proposed no time period for the requested extension. The Rubber Manufacturers Association has also indicated difficulty in submitting comments within the December 4 time frame. In order to provide all interested parties with an adequate opportunity to evaluate and comment on test results, NHTSA has determined that an extension of the comment period is justified. Accordingly, Dunlop's petition is granted and the comment closing date for Docket 25, Notice 28 is hereby extended until December 19, 1978.

The RMA has also requested identification of the course used in NHTSA's radial tire treadwear testing and the test procedures employed. While NHTSA does not as a matter of practice respond to docket comments during the comment period, in order to assist the RMA in commenting on the radial tire data the agency points out the statement in Notice 28 (43 FR 51735) that, "Following issuance of Notice 22, NHTSA conducted a program of tests of radial tires on the UTQG treadwear test course in San Angelo, Texas." NHTSA also calls to the RMA's attention the paper "Test of Tread Wear Grading Procedure—The Course Monitoring Tire Adjustment on Radial Tire Wear Rates" by Brenner and Williams (Docket 25, General Reference Number 105) which stated with regard to the subject radial tire testing, "The procedures used were those specified in the UTQGS regulation (49 CFR 575.104)."

Comments received by the new comment closing date will be considered prior to the establishment of an effective date for application of the UTQG regulation to radial tires. To the extent possible, late comments will be considered.

The principal author of this notice is Richard J. Hipolit of the Office of Chief Counsel.

(Sec. 103, 112, 119, 201, 203; Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: December 1, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-34093 Filed 12-4-78; 10:50 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1102]

[Ex parte No. 290]

PROCEDURES GOVERNING RAIL GENERAL INCREASE PROCEEDINGS

Data Requirements; Proposed Changes

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Various railroads filed petitions with the Commission on March 31, and May 9, 1978, requesting that this proceeding be reopened to make changes in the data requirements set forth at 49 CFR Part 1102 (published at 41 FR 11824 on March 22, 1976 and as corrected on October 3, 1977, at 42 FR 53602).

The proceeding was reopened by the Commission in a decision served November 20, 1978. Interested parties are invited to comment on the proposed changes in the regulations which are set forth under Supplementary Information.

DATES: Comments must be received on or before January 8, 1978.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, Room—5342

FOR FURTHER INFORMATION CONTACT:

Janice Rosenak or Harvey Gobetz, Interstate Commerce Commission, Washington, D.C. 20423, Phone 202-275-7693.

SUPPLEMENTARY INFORMATION: Interested parties are invited to comment on the following issues:

(1) Is the following proposed change in 49 CFR 1102.9 warranted? (New material is italicized.)

All underlying data used in preparation of the material outlined above, *with the exception of revenue-to-cost calculations by individual railroad by commodity*, shall be made available for inspection during usual office hours by any party of record in the office of the party serving such verified matter, or *at a designated location allowing reasonable access.*

This underlying data shall be made available before hearing and whenever a hearing is not held. The underlying data shall also be made available at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

All underlying data, with no exception, shall be made available for those commodities which the commission may choose to investigate pursuant to its decision in a general rate increase proceeding. the Commission shall have access to all underlying data at any stage of the proceeding upon request.

The purpose of this change is to let the railroads keep the computer tapes which calculate the actual revenue-costs ratios by commodities by individual carriers confidential at the protest level.

(2) Whether 49 CFR 1102.(4)(e) should be modified to read (new material is italicized) as follows:

The cost study shall be based on service unit costs developed for each individual study carrier through the use of Rail Form A costing procedures. These service unit costs shall be appropriately adjusted to reflect the transportation characteristics of the specified commodities, *and to reflect the operation characteristics associated with single-car, multiple car train-load and unit-train movements. The service unit costs* shall be applied to the respective individual carrier's traffic service units as determined from its traffic study.

The purpose of this change is to clarify when the railroads must make relevant adjustments to the system average costs calculated in Schedule C.

(3) Whether the term a "substantial number of commodities" as that phrase is used in 49 CFR 1102.1 should be clarified or defined further;

(4) Whether the regulations at 49 CFR 1102 should be changed to provide that a rail general increase in rates should become effective on a uniform date following authorization of the increase;

(5) Whether the following technical changes in the various Schedules required to be filed in general increase proceedings at 49 CFR Part 1102 are warranted;

H. G. HOMME, Jr.,
Secretary.

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[7035-01-C]

PETITIONERS'

RECOMMENDED CHANGES IN EX PARTE 290 SCHEDULES

Item	Schedule/Line		Problem	Recommendations*
Net income	A	1	Net income includes extraordinary and prior period items, some of which do not apply to the current year. These are frequently non-cash accounting transactions which do not adequately reflect trends and income and should not be used in calculation of dividend payout ratio, return on equity, cash flow, throw-off to debt ratio and return on capitalization.	Change line 1 to read "Income before extraordinary and prior period items." Change formula to A.R. Sch. 300, L. 62, col. "b". Add line 1-A --Net Income. Calculate cash flow and other ratios using revised line 1.
Depreciation & retirements --equipment	A	3	Depreciation for shop machinery is omitted.	Change formula to A.R. Sch. 320, L. 68 + L. 81 + L. 82, col. "b".
Net railway operating income	A	11	The net gain or loss from operations and disposal of discontinued segments should not be deducted from NROI. (Accts. 560 and 562). (Also, see problems in Schedule B).	Change formula to A.R. Sch. 300, L. 22, col. "b". 1/
Current ratio	A	22	Material and supplies are neither liquid in nature nor intended to be converted to cash and, therefore, should not be included in current assets for calculation of current ratio.	Change formula to A.R. Sch. 200, L. 15 minus L. 12 + L. 64 + L. 65.
Cash flow	A	26	Cash flow incorrectly includes a number of non-cash items as the result of inclusion of extraordinary and prior period items in net income (line 1).	Change formula in Sch. A to L. 1 (revised) + L. 2 + L.3 + L. 12 minus L. 13. Item should read "Cash flow before dividends."
ICC instructions	B	-	Reference to "forecasted" data in second line of instructions was inadvertently retained by Commission after deciding to remove all forecast data from various schedules. (p. 3, ICC order, February 8, 1977). 2/	Delete "forecasted" and remove all references to "projected" in instructions for Schedules D-G.
Net railway operating income	B	Fn.1	Tax effects of operations and disposal of discontinued segments are incorrectly deducted from net revenue. (L. "d" and L. "e" of footnote 1). (Also, see problems in Schedule A). Also, "income from lease of road and equipment" must be deducted from "net revenue from railway operations" and "rent for leased roads and equipment" must be added to "net revenue from railway operations." (L. "f" and L. "g", footnote 1).	Revise formula as follows for footnote 1: L. "a" minus L."b" minus L."c" minus L."f" + L."g". (Present lines "d" and "e" should be deleted from the formula).
Cost of wage increases during period	E	7-8	(Line 7 should be conformed to line 8). Should be clarified to refer only to wage increases which occur during the base period and are paid during that period.	Amend line 8, column "a" to read "Cost of wage increase paid during period," and clarify language in line 7.

Item	Schedule/Line		Problem	Recommendations*
Payroll taxes attributable to freight service	F	8	Formula in column "b" is incorrect.	Amend formula in column "b" to read L. 5 x (Sch. E, L. 6 ÷ L. 1).
Pension costs attributable to freight service	F	11	Formula in column "b" is incorrect.	Amend formula in column "b" to read L. 9 x (Sch. E, L. 6 ÷ L. 1).
Increase in health & welfare cost over previous period; Increase in payroll taxes over previous year; Increase in pension costs over previous year; Increase in total costs	F	3, 7, 10, 14	Language is in conflict with Schedule E, line 8, which calls for "cost of wage increases during period"--also has little relevance to increases specified in lines 2 and 6 of Schedule F. Also pro forma column (d) requires clarifying guidelines for this Schedule and Schedule E.	Delete "over previous period" and "over previous year" and insert in lieu thereof "paid during the period." 3/
Schedule G	G	-	Computations do not accurately reflect productivity trends. There are two primary reasons: (1) the time span is too brief; and (2) ton-miles per freight service-hour is not, by itself a good index of productivity.	Eliminate Schedule G.
Base year	A&J	-	General instructions for determining base year and the latest calendar year when a filing is made in July appear to require that same year be reported in both columns--"d" and "e" for Schedule A--"c" and "d" for Schedule J. 4/	Amend instructions calling for latest calendar year to apply only when filing occurred in the last five months of a year rather than in the last six months. Otherwise, second most recent calendar month would be called for.
Transactions with affiliates	-	-	Decision published September 28, 1977, inadvertently dropped the $30,000 reporting limitation.	Commission should clarify as is done in Schedule J.

Footnotes:

* Annual report (R-1) references shown below are from 1977 report. Comparable data should be used for prior and subsequent periods.

** The relative portions of referenced pages in V.S. No. 1 are contained in Appendix B.

1/ Also, footnote in proposed R-1 report for 1978 should be adjusted to produce NROI on a comparable basis to previous years as was the intention. (See Chapter IV, p. 54).

2/ Similar error is repeated several times on page 26 of same Appendix relating to "recent, present and projected levels" in Schedules D-G.

3/ The recommended footnote for column "d" of Schedules E and F is "Column (d) should provide (1) the annualized cost of increases which occur on or near the effective date of the increases but after the base period, and (2) the added cost attributable to the differences between the cost of base period increases paid during the bases period and the annualized costs of such increase in the pro forma period. All of these calculations should be adjusted to employee levels, wage rates, productivity levels, and traffic conditions existing in the pro forma year."

[FR Doc. 78-33596 Filed 12-6-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

CLOVERDALE SALE BARN, CLOVERDALE, IND., ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

FACILITY NUMBER, NAME, LOCATION OF STOCKYARD, AND DATE OF POSTING

INDIANA

IN-154, Cloverdale Sale Barn, Cloverdale, November 7, 1978.
IN-155, Producers Livestock Association, Vincennes, November 8, 1978.

MISSOURI

MO-244, Missouri Feeder Pig Auctions, Inc., Middletown, March 22, 1978
MO-246, Tina Feeder Pig Auction, Tina, May 26, 1978.
MO-245, MFA Livestock Association, Inc., West Plains Concentration Point, West Plains, June 2, 1978.

NORTH CAROLINA

NC-149, Gus Z. Lancaster Stockyards, Inc., Dunn, October 18, 1978.
NC-150, Ashe Stockyards Co., Inc., Jefferson, November 22, 1978.

Done at Washington, D.C., this *1st* day of *December*, 1978.

EDWARD L. THOMPSON,
Chief Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 78-34112 Filed 12-6-78; 8:45 am]

[3410-02-M]

Federal Grain Inspection Service

OFFICIAL AGENCY DESIGNATION

Cancellation of Amarillo Grain Exchange—Official Designation of Amarillo Grain Exchange, Inc., Proposal of Georgraphic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the cancellation of designation of the Amarillo Grain Exchange, Amarillo, Tex., and the designation of the Amarillo Grain Exchange, Inc., owned by Mr. Don R. Burris, as an official agency at Amarillo, Tex., to perform grain inspection services under the U.S. Grain Standards Act, as amended, effective August 11, 1978. This notice also proposes a geographic area within which the agency will operate.

DATE: Comments by January 8, 1979.

FOR ADDITIONAL INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

On June 26, 1978, a notice was published in the FEDERAL REGISTER (43 FR 27574) announcing that (1) The Amarillo Grain Exchange (Exchange), Amarillo, Tex., requested that its designation as an official inspection agency be transferred to Mr. Don R. Burris, the General Manager of the Exchange; and (2) Mr. Don R. Burris applied for designation in accordance with Section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)) to operate as an official agency at Amarillo, Tex., to be known as the Amarillo Grain Exchange, Inc.

Interested persons were given until July 26, 1978, to submit written views and comments with respect to the requested transfer of designation and/or to apply for designation to operate as an official agency at Amarillo, Texas. Forty-nine comments were received regarding the June 26, 1978, notice. All of these comments supported the proposed transfer. Twenty of the 49 comments were submitted by members of the former Exchange. Applications were received from the Alva Grain Inspection Department, Alva, Okla., and the Guymon Grain Inspection Inc., Guymon, Okla., to operate as the official agency at Amarillo, Tex.

The FGIS has conducted the required investigations of the three applicants, which included onsite reviews of their inspection points.

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result of these investigations, and after due consideration of the request for transfer, the applications filed herein, and all views and comments received, the Amarillo Grain Exchange, Inc., owned by Mr. Don R. Burris, was selected for designation under the Act to perform official inspection functions (other than appeal inspection), not including official weighing, and the designation of the former Exchange was canceled, effective August 11, 1978.

A document designating the Amarillo Grain Exchange, Inc., as an official agency was signed on August 11, 1978. Said designation also includes an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned to the Amarillo Grain Exchange, Inc., on an interim basis, pending final determination in this matter is:

Bounded on the North by: The Texas-Oklahoma State line from New Mexico east;

Bounded on the East by: The Texas-Oklahoma State line south-southeast to Montague County; the Clay-Montague County line south to southern Clay County line;

Bounded on the South by: The Southern Clay County line; the western Clay County line north to Wichita County; the southern Wichita County and Wilbarger County lines; the western Wilbarger County line north to Hardeman County; the southern Hardeman County line; the western Hardeman County line north to Childress County; the southern Childress County line north to U.S. Route 287; U.S. Route 287 northwest to Donley County; Donley County southern county line; the southern Armstrong County line west to Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River northwest to State Route 217; State Route 217 west to Farm Market Road (FM) 1062; FM 1062 west to U.S. Route 385; U.S. Route 385 north to Oldham County; the southern Oldham County line west to State line; and

Bounded on the West by: The Texas-New Mexico State line north to Oklahoma.

Interested persons may obtain maps of the proposed geographic area from the Compliance Division, Delegation and Designation Branch.

The specified service point of the Amarillo Grain Exchange, Inc., is 1300 South Johnson Street, Amarillo, Tex. 79101, which is located within the agency's proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspector is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's assigned geographic area.

Publication of this notice does not preclude future amendment of this designation, consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to the Amarillo Grain Exchange, Inc. All views or comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, SW., Room 2405, Auditors Building, Washington, D.C. 20250. All materials submitted should be mailed to the Director not later than January 8, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on November 30, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-34113 Filed 12-6-78; 8:45 am]

[3410-11-M]

Forest Service

COLVILLE NATIONAL FOREST

Noxious Weed Control; Finding of No Significant Effect

An Environmental Assessment Report that discusses noxious weed control on approximately 1694 acres of National Forest lands in Ferry and Stevens Counties, Wash., is available for public review in the Forest Service Office in Colville, Wash.

Although this project involves application of the herbicide 2,4-D, and picloram the Environmental Assessment Report does not indicate that there will be any significant effect upon the quality of the human environment. Therefore, it has been determined that an environmental statement will not be prepared.

This determination was based upon consideration of the following factors, which are discussed in the Environmental Assessment Report: (1) application of the herbicide 2,4-D, and picloram in accordance with Federal, State, and local government regulations and requirements is not expected to have any unanticipated effects on the ecosystem; (2) there will be no irretrievable or irreversible resource commitments on the proposed project areas; (3) physical and chemical effects of 2,4-D, and Picloram when properly applied, have proven to be acceptable based on the best scientific evidence available; and (4) no known unique or rare resources within the proposed project areas.

Public concern has been expressed about possible effects of 2,4-D, and picloram on human health. Use of 2,4-D, and picloram in accordance with Federal and State regulations provides controls which guarantees protection of human health and welfare.

No action will be taken prior to 30 days from the date of publication in the FEDERAL REGISTER (January 8, 1979).

The responsible official is Robert B. Terrill, Forest Supervisor, Colville National Forest, 695 So. Main, Colville, Wash. 99114.

Dated: November 21, 1978.

ROBERT B. TERRILL,
Forest Supervisor.

[FR Doc. 78-33957 Filed 12-6-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket Nos. 34138, 34100, 34089; Order No. 78-11-154]

COMMUTER/CERTIFICATED CARRIER JOINT FARES

Tentative Decision and Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of November, 1978.

Section 37(c) of the Airline Deregulation Act of 1978, Pub. L. 95-504 requires *inter alia* that:

> Whenever the Board * * * prescribes a uniform method generally applicable to the establishment of joint fares, and the divisions thereof, between carriers holding certificates issued under Section 401 of (the) Act, it shall make such uniform method applicable to the establishment of joint fares, and the divisions thereof, between such air carriers and commuter air carriers.
>
> [T]his subsection shall apply to any [such] uniform method which the Board prescribes on and after December 27, 1974.

On December 27, 1974, the Board issued Order 74-12-108 which, subject to certain minor modifications contained in Order 75-8-26 (August 6, 1975) and a clarification contained in PS-80 (August 25, 1978) sets forth a uniform method for the establishment and division of joint fares between certificated carriers.

After the adoption of this uniform method, the Commuter Airline Association of America, Inc. (CAAA), on behalf of its members and itself, petitioned the Board to extend this uniform method to joint fares between commuter and certificated carriers (Docket 29707). After consideration, the Board, in Order 77-9-100, refused to do this because of its belief that the uniform method, based as it is on DPFI fares and costs, could not properly be applied to the largely unregulated commuter carriers. The Board viewed the extension of the division formula to commuter/certificated joint fares as providing an unjustified windfall to commuters.

Despite the Board's earlier finding, we must now act to effectuate the legislated will of Congress. In so doing it is neither considering nor adopting a new approach on policy grounds, but is performing a ministerial act. The Board explicitly repeats its intention, expressed in PS-80, to comprehensively examine and address the entire policy of joint fares.

Consequently, the Board is now issuing a tentative decision and order to be

Aviation (BIA) and answered by Bran-

Toronto/Montreal markets in the pro-

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effective January 22, 1979. That has been chosen as the effective date for the following reasons:

1. The uniform methods applies to the establishment of joint fares, as well as their division. A failure to make this rule prospective only would likely result in unlawful fares having been charged under conditions which could not be viewed as allowing carriers a reasonable opportunity to have charged lawful fares. There is, moreover, nothing the Board can do to restore the *status quo ante* in the numerous markets in which we believe were charged more than would have been permitted our joint fare formula.

2. A retroactive application of the 90 days notice requirement (the added responsibility imposed on commuters along with the benefits conferred by the uniform method of joint fare divisions) would have the unduly harsh result of permanently excluding from the uniform method any commuter airline which, since October 24, 1978, modified schedule over a route covered by an agreement with a certificated carrier. This result would be mandated by the portion of Section 37(c) which states that the uniform method "shall not apply" to any commuter carrier making such changes without having provided such notice. This could not be a result intended by Congress. Neither is there any indication that Congress intended the benefits of the uniform method to attach prior to the assumption of the obligation by the commuter carriers to give notice. To the contrary, one is clearly predicated on the other.

3. Although we are waiving the 30-day rule for joint fares between commuter and certificated carriers, and permitting such tariffs to be effective on one-day notice, nevertheless commuter carriers will face a heavy burden of filing. In addition to filing specific joint fares, as required by the uniform method, new tariffs will have to be filed to enable joint fares to be constructed over routes for which a specific tariff was not previously filed. A period of time must be allowed for this.

The Board has recently received two petitions which relate to this question. Docket 34089 concerns a CAAA petition that we (1) include commuters within the ambit of DPFI joint fares and divisions and (2) make such relief retroactive, at least with respect to divisions, "as of and from at least October 24, 1978." Docket 34100 is a joint petition of Altair Airlines, a commuter airline, and Wright Airlines, a certificated carrier, requesting that they too be brought within the DPFI provisions. With respect to the CAAA petition and Altair, the tentative action we describe above constitutes our response to the petitions. We feel free to act now without waiting for answers inasmuch as we are now issuing only a tentative order. If interested parties believe themselves aggrieved, they are free, of course, to file the statement of objections for which we provide below.

Wright's request raises a different issue. The Board has previously brought newly certificated carriers within the uniform joint fare and division formulae by show-cause procedures.[1] Such procedures seem overly cumbersome, particularly in the perspective of the Deregulation Act, inasmuch as it is difficult to imagine a basis for placing newly-certificated carriers on a worst or different footing than commuters. We will, therefore, propose that newly certificated carriers be made subject to uniform joint fare and division formulae 15 days after certification, unless it gives the Board timely notice of an intent not to participate. Other carriers or interested parties may object to such status either before, within, or after the 15-day period. Should an objection be received, the Board will issue an appropriate order on an expeditious basis.

We now make the following tentative findings:

1) The Board finds that application of the uniform method of establishing and dividing joint fares to interline routings between certificated and commuter carriers beginning January 22, 1979 is required by the Airline Deregulation Act of 1978, Pub. L. 95-504.

2) The Board finds that the uniform method of establishing and dividing joint fares should not apply to interline routings between certificated and commuter carriers, except in those specific cases previously ordered by the Board, until January 22, 1979.

3) The Board finds that newly-certificated carriers should be brought within the ambit of any joint fare and division formulae applicable to other carriers within 15 days of certification.

4) The Board finds that the issuance of this order is not a "major federal action significantly affecting the quality of the human environment" within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in subsection 313.4(a)(1) of the Board's regulations.

ACCORDINGLY THE BOARD PROPOSES:

1. To amend paragraph 1 of Order 74-12-108, as amended by order 75-8-126, by revising the first paragraph to read as follows:

The maximum lawful joint fares hereafter to be demanded, charged, collected, and received by trunk, local, and commuter service carriers for interline transportation of persons, involving at least one certificated carrier, by said air carriers in the 48 contiguous states and the District of Columbia are as follows:[54]

2. To amend paragraph 6 of Order 74-12-108 to read as follows:

Divisions of all joint fares for transportation of persons by trunk, local, and commuter carriers for interline transportation involving at least one certificated carrier between points served by said carriers in the 48 contiguous states and the District of Columbia shall be based on the relative costs for the distances flown by each carrier participating in the interline carriage.

3. To add a new paragraph, to be paragraph 8a, to Order 74-12-108, to read as follows:

The provisions of this order, as amended, shall be applicable to all air carriers within 15 days of their certification unless otherwise provided by Board order. This paragraph shall not apply to any newly-certificated carrier that notifies the Board, before its certification, that it chooses not to accept these provisions.

4. To waive the requirements of 14 C.F.R. Section 221.160 and paragraph 3 of Order 74-12-108 that required tariffs to be filed 30 days before their effective date for 30 days from the date of this order with respect to tariffs involving joint fares between certificated and commuter carriers. During this period, such tariffs will be effective one day after filing.

5. That this uniform method of establishing and dividing joint fares shall not apply to any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and which:

a) modifies, suspends or terminates such service; and

b) fails to provide ninety days notice of such modification, suspension or termination of service to the Board and to the carrier or carriers involved in such agreement.

We direct any interested person having objection to the issuance of this order to file with us no later than December 20, 1978, and to serve upon all the parties served with this order, a statement of objections together with a summary of facts, statistical data, and other materials relied upon to support the stated objections; answers to any such statements of objections will be due no later than December 29, 1978.

A copy of this order shall be served on all certificated and commuter airlines, and on the Commuter Airline Association of America, Inc..

We will publish this order in the FEDERAL REGISTER.

[1] *E.g., Air Wisconsin Certification Proceeding*, Order 78-8-197.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

All Members concurred.

[FR Doc. 78-34190 Filed 12-6-78; 8:45 am]

[6320-01-M]

[Docket Nos. 33477, 33647, 33840, 28337, 33850, 33839, 33847 and 33848, 33856, 33855, 33854, 33837; order No. 78-11-151]

TEXAS/GREAT LAKES-EASTERN CANADA SERVICE CASE

Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of November, 1978. Applications of ALLEGHENY AIRLINES, INC., AIRLIFT INTERNATIONAL, INC., AMERICAN AIRLINES, INC., BRANIFF AIRWAYS, INC., CONTINENTAL AIR LINES, INC., DELTA AIR LINES, INC., EASTERN AIR LINES, INC., FRONTIER AIRLINES, INC., NORTH CENTRAL AIRLINES, INC., SOUTHERN AIRWAYS, INC., TEXAS INTERNATIONAL AIRLINES, INC.

By Order 78-9-90, adopted September 20, 1978, and served September 25, 1978, the Board instituted the *Texas/Great Lakes-Eastern Canada Service Case*, to implement a bilateral air transport agreement between the United States and Canada which provided new and expanded routes for U.S. air carriers. The case was to include consideration of the following issues:

(a) Do the public convenience and necessity require certification of one or more air carriers to engage in foreign air transportation on a subsidy ineligible basis between the following points:

(1) Cleveland, Ohio, on the one hand, and Toronto and Montreal, Canada, on the other;

(2) Detroit, Michigan and Montreal, Canada;

(3) Houston and Dallas/Fort Worth, Texas, on the one hand, and Toronto and Montreal, Canada, on the other;

(b) If the answer to subparagraph (a) is affirmative, in whole or in part, which air carrier(s) should be authorized to engage in such service, and what terms, conditions, and limitations, if any, should be placed on the operation of such carrier(s);

(c) Should Allegheny Airlines' temporary authority between Cleveland, Ohio, and Toronto, Canada be renewed, deleted, or otherwise modified.

We provided a reasonable period for the filing of applications, motions to consolidate, and petitions for reconsideration, and a further period for responsive answers.

A petition for reconsideration was filed by the Bureau of International Aviation (BIA) and answered by Braniff. BIA seeks to have the Board clarify the description in its instituting order of four U.S. routes authorized in the United States-Canada Civil Air Transport Agreement particularly with respect to selection of intermediate points. It points out that the U.S.-Canada bilateral describes routes by terminal points but permits a designated carrier to serve intermediate points in its home territory subject to three limitations: (1) intermediates must be geographically located between the specified terminals within reasonable proximity to an imaginary direct line connecting the terminal points; (2) no intermediate point may be selected which, when included on the designated route, would comprise another designated route which the air carrier is not authorized to serve; (3) no carrier may originate or terminate operations at an intermediate. Further, the Texas-East Canada route is limited to two intermediates. BIA asserted that in the absence of a clarifying amendment to our instituting order applications might be filed at variance with the bilateral limitations. Braniff answered that the BIA petition would serve as well as an amendment to our order. In fact, the applications filed have not run afoul of the bilateral limitations. We shall deny the BIA petition for reconsideration.

The Commonwealth of Puerto Rico also filed a petition for reconsideration, asking the Board to expand the proceeding to include Puerto Rico within the scope of the proceeding. Recognizing that the U.S.-Canada bilateral makes no provision for such routes, Puerto Rico points out that such a circumstance has not been a deterrent to the Board including markets in a case where such action was in the public interest. Here, it asserts, such action is in the public interest because (1) the markets are larger and receive poorer service than the markets in the case; (2) awards of authority in these markets would benefit, among others, air travelers, the Puerto Rican government and people, U.S. air carriers and the U.S. economy; and (3) it is unlikely that a better opportunity will arise for the consideration of these markets in the foreseeable future. Puerto Rico has made a substantial factual showing in support of its allegations summarized above.

The Government of the Virgin Islands of the United States filed an answer to Puerto Rico's petition for reconsideration.[1] It states that it did not file a petition for reconsideration seeking to include the Virgin Islands-Toronto/Montreal markets in the proceeding because "such a major geographical expansion seemed to us inappropriate where only a single, and not very dense, Caribbean market would be added." However, it urges that if Puerto Rico-Toronto/Montreal is added to the case, then Virgin Islands-Toronto/Montreal should also be added since the Virgin Islands compete for the same vacation travelers and are subject to the same or more severe service deficiencies. They agree with Puerto Rico that this may be the last chance to consider these markets in the near future and that the absence of these routes from the U.S.-Canada bilateral is not decisive.

BIA also filed an answer to Puerto Rico's petition for reconsideration. It opposes the petition on the grounds that (1) the San Juan-Toronto/Montreal route has little relationship to the other routes in the case, (2) it is not covered by the U.S.-Canada bilateral, and (3) its inclusion could delay the institution of service on the other routes, for which bilateral authority becomes effective April 29, 1979.

We have decided to deny Puerto Rico's petition for reconsideration and leave the scope of the proceeding as we fixed it originally. We do not quarrel with Puerto Rico's view that legally, and frequently practically, the Board may and should designate a carrier for a foreign route even though no authorization exists for such a route in the governing bilateral agreement. But it does not follow that it must do so in every case. The size and importance of the market and the geographical unity of the markets which governed the *Seattle/Portland-Japan Service Investigation*, Order 78-10-42, and the *Yucatan Service Case*, Order 78-8-100, cited by Puerto Rico, are not present here. Moreover, if San Juan-Canada markets are included then the Virgin Islands are entitled to consideration with possible complications from many other Caribbean points. The scope and focus of the proceeding would be radically altered causing delay, inefficiency, and unfairness to the original applicants. *San Francisco-Reno-Albuquerque-Texas Service Investigation*, Order 78-10-103, p. 2. This does not mean that an investigation of the markets connecting Toronto and Montreal with Puerto Rico and the Virgin Islands is not warranted or will be bypassed for the foreseeable future, as has been suggested, but only that they should be considered on their merits in a separate proceeding.

Several applications have been filed in addition to those previously consolidated. Applications to serve all of the precise markets placed in issue by our order were filed by Allegheny in Docket 33647, Delta in Docket 33839,

[1] The Virgin Islands also filed a motion to intervene in the event that Puerto Rico's petition for reconsideration is granted. Since we are denying Puerto Rico's petition, the Virgin Islands' motion to intervene is moot and will be dismissed.

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Airlift International in Docket 33840, Continental in Docket 33850, and North Central in Docket 33855. Applications to serve only the Great Lakes points and the Eastern Canada points (segments (1) and (2) of the Board's description of issues) were filed by Southern in Docket 33854 and Frontier in Docket 33856. Also, Braniff filed Amendment No. 1 to its application in Docket 28337 (already consolidated) to include the Detroit, Mich.-Montreal, Canada market as well as the Texas-East Canada markets applied for earlier.[2] Texas International (TXI) applied for the co-terminal points Houston/Dallas/Fort Worth, the intermediate points St. Louis, Mo. and New Orleans, La., and the co-terminal points Toronto/Montreal, Canada in Docket 33837. Eastern filed two applications for consolidation into this case. The first, Docket 33847, sought authority between the Texas and Eastern Canada points with St. Louis, Mo. and Pittsburgh, Pa., as intermediates. The second application, Docket 33848, sought authority between the co-terminals Pittsburgh, Pa. and St. Louis, Mo. and the co-terminals Dallas/Fort Worth and Houston, Tex.

Each of the applications was accompanied by a motion to consolidate it into Docket 33477. We shall grant the motions to consolidate the applications of Allegheny in Docket 33647, Delta in Docket 33839, Airlift in Docket 33840, Continental in Docket 33850, North Central in Docket 33855, Southern in Docket 33854 and Frontier in Docket 33856, and Braniff (Amendment No. 1) in Docket 28337. All of these applications request authority at issue in this case and their consolidation will be conducive to the proper dispatch of the Board's business and the ends of justice.

The applications of TXI in Docket 33837 and Eastern in Docket 33847 seek authority between the Texas terminal points and the East Canada terminal points in each case with two named intermediates. In the case of TXI the intermediates are St. Louis and New Orleans and for Eastern, St. Louis and Pittsburgh. As noted earlier, the addition of two intermedite points on the Houston/Dallas/Fort Worth Toronto-Montreal route accords with the U.S.-Canada bilateral. The only limitation of the bilateral drawn into question is that which provides that intermediates must be geographically located between the specified terminals within reasonable proximity to an imaginary direct line connecting the terminal points. We conclude that the intermediates named by TXI and Eastern in these applications, namely, St. Louis, New Orleans, and Pittsburgh, are within reasonable proximity of such an imaginary line between the Texas and East Canada terminals.[3] We find that these intermediates may be considered in this case and that TXI's motion to consolidate its application in Docket 33837 will be granted. Eastern's motion to consolidate will also be granted insofar as it relates to Docket 33847.

Eastern's motion also seeks consolidation for its application in Docket 33848. That application requests a new segment on its Route 5 authorizing Pittsburgh/St. Louis-Dallas/Fort Worth/Houston service. Such a request has no necessary relationship to the implementation of the bilateral agreement or the original scope of the proceeding. It will expand the issues and delay the proceeding and, if allowed to become a precedent, could cause incalculable harm to the swift completion of the proceeding. We shall deny Eastern's motion to consolidate insofar as it relates to its application in Docket 33848.[4]

Petitions for intervention have been filed by the Indianapolis Airport Authority (Indianapolis), the Greater Cincinnati Chamber of Commerce, City of Cincinnati, and Kenton County Airport Board, operators of the Greater Cincinnati Airport (the Cincinnati Parties), and by Board of County Road Commissioners of the County of Wayne, Michigan, and Greater Detroit Chamber of Commerce (the Detroit Parties). Each of these persons appears to have a sufficient economic interest in the case of justify its participation and no one has filed an objection to any of the petitions. We shall permit Indianapolis, the Cincinnati Parties, and the Detroit Parties to intervene.

ACCORDINGLY,

1. The petitions for reconsideration of Order 78-9-90 filed by the Bureau of International Aviation and the Commonwealth of Puerto Rico are denied.

2. The contingent motion to intervene filed by the Government of the Virgin Islands is dismissed.

3. The motions to consolidate into Docket 33477 the applications filed by Allegheny Airlines in Docket 33647, Delta Air Lines in Docket 33839, Airlift International in Docket 33840, Continental Air Lines in Docket 33850, North Central Airlines in Docket 33855, Southern Airways in Docket 33854, Frontier Airlines in Docket 33856, Braniff Airways (Amendment No. 1) in Docket 28337, Texas International Airlines in Docket 33837, and Eastern Air Lines in Docket 33847 are granted.

4. The motion of Eastern Air Lines to consolidate into Docket 33477 its application in Docket 33848 is denied.

5. The petitions for intervention in Docket 33477 filed by Indianapolis, the Cincinnati Parties, and the Detroit Parties are granted.

6. Except to the extent granted, all other written requests in this case are denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34191 Filed 12-6-78; 8:45 am]

[2] It is the same Texas-East Canada market that American Airlines applied for in Docket 32746 which was consolidated by Order 78-9-90.

[3] Although not yet directly involved in this issue, we find that San Antonio, Corpus Christi, Indianapolis, and Cincinnati, where intervenors are located, are also within reasonable proximity of such an imaginary line.

[4] Procedurally, such an expansion of the scope of the proceeding should have been sought in a petition for reconsideration. As is evident, we would have denied such a petition.

[6320-01-M]

[Docket No. 33276; Order No. 78-11-153]

TRANS WORLD AIRLINES, INC.

Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington D.C. on the 30th day of November, 1978.

By Order 78-9-38, August 23, 1978, the Board suspended, pending investigation, five percent increases in winter/low season normal economy class fares proposed by Trans World Airlines, Inc. (TWA). On September 18, 1978, that carrier filed a petition for reconsideration of this action.

Arguing that the Board has made improper use of its suspension powers to get policy concessions on unbundling normal economy fares, TWA states the Board's belief that transatlantic fares are less cost-related than domestic fares is factually unproven; it may be disregarding the many cost differences between domestic transcontinental operations and transatlantic operations, which on a unit basis are 13.5% more costly; only a general fare increase will arrest the decline in transatlantic yields; the order makes no finding of potential unlawfulness of the level or structure of economy fares either existing or proposed, but rather it is an example of regulatory arm-twisting to extract desired concessions on fares without regard to the judgment of carrier management; and although the recently terminated *North Atlantic Fares Investigation, (NAFI)* might have been the proper forum to examine economy fares, the Board presently has no international ratemaking standards, has expressed an intent to abandon rate regulation to carriers, and, therefore, has no grounds upon which to base a suspension.[1] It states that investigation of its economy fares is futile since the real issues seem ones of policy, touching on competition among incumbent carriers and entry of new carriers, which are best resolved through intergovernmental discussion; further, it is difficult to determine exactly what the issues to be investigated will be since suspension was not based on any finding of excessive earnings and no changes were proposed in the existing structure of fares; and were the issue one of fare structure, it would have industry-wide ramification, extending beyond the fare increases, thus requiring a general investigation of the *NAFI* type. TWA argues that certain ignored realities of international competition, such as foreign carrier insistence on being competitive in all transatlantic markets, unwillingness to accept the principle of constructing through fares by combination of local fares, and lack of economic incentive to lower pro-rate requirements on interlines, make unbundling of economy fares impossible to achieve; further, the United States' position in recent talks with Holland and others affirming foreign carrier rights to fifth and sixth freedom traffic at the lowest available fare leaves TWA at a loss for a practical approach to unbundling since stopover and circuity costs on intermediate flight segments operated mainly for other markets are small; the nature of many foreign carrier's route structures in effect guarantees free circuity and possibly free stopovers; given these circumstances, unbundling would produce unacceptable revenue losses for all U.S. transatlantic flag carriers; even with a 5-percent increase in current economy fares, TWA would experience an annual $27 million loss in revenue if it introduced an unbundled on-demand fare for point-to-point travel at 22/45-day excursion fare levels because of lost revenue from the reduction, diversion from higher 14/21-day excursion fares and prorate absorption [2]; it would take an additional 20-percent increase in promotional fares to cover this loss; unbundling would cripple U.S. carrier ability to compete equally with foreign carriers; and if the Board could achieve prorate reform or acceptance of the combination of local fares principle by interlining carriers, TWA would look favorably upon unbundling.

We have carefully considered TWA's arguments and conclude we should deny its petition for reconsideration.

First, we clearly have properly exercised our suspension powers. The Federal Aviation Act of 1958 gives us broad discretion in the use of these powers to suspend fares we conclude are not in the best interests of the public, and this has been affirmed by the courts. Additionally, the Act charges us to promote competition, which includes price competition among carriers. In Order 78-9-38, we concluded that while noticeable price competition exists in the discount fare categories, there is none in regular economy fares and if we approve the increases, they would simply be adopted by other carriers with the result that regular economy fare passengers would continue to be excluded from the benefits of an improving competitive regime.[3] We also noted that over the years, these fares have been established in a long series of carrier agreements at levels well above the costs of direct point-to-point carriage, high enough to cover the costs of providing services not required for basic point-to-point transportation and high enough to protect generally high costs carriers.[4] We concluded that point-to-point normal economy fare passengers, who by TWA's own admission constitute a substantial portion of total normal economy fare passengers, should not be charged fares that are even higher than those already in effect.[5] These passengers are already called upon to subsidize other normal economy fare passengers who make use of stopovers and circuity. In these circumstances it was clearly reasonable to suspend the fare increases.

Further, we do not believe TWA's argument that the suspension was motivated by the desire to force certain fare structure changes is particularly relevant. Many suspensions have the effect of encouraging structural reforms and as such act as a vehicle to articulate new or evolving policy or to implement established policy. That result does not affect our powers under the Act to suspend a clearly unlawful fare.

Nor are we swayed by TWA's suggestion that no basis for suspension exists in the absence of prescribed international rate-making standards or that any investigation of its suspended economy fares is futile unless the Board undertakes a general *NAFI* type investigation of all economy fares. On the contrary, as far back as 1975, in a policy statement issued prior to an IATA passenger conference, we stated the view that normal economy fares were too high. Subsequently, we denied approval to numerous IATA and individual carrier proposals that would have increased these fares.[6] By now our policy on carrier proposals which merely increase normal economy fares with no thought to their structural reform should be well known to the carriers. Therefore any future suspensions and investigation of individually filed normal economy fare increases is not at all inconsistent with the termination of *NAFI*.

Finally, we do not agree with TWA's position that unbundled economy fares are unacceptable to foreign governments, impractical, and financially ruinous. On the first point, we note that to the extent unbundled fares have been placed in transatlantic markets, it has been at the intitiative of foreign carriers with the acquiesence of their governments. Alitalia pioneered with a partially unbundled, direct service, one-stopover fare in the U.S.-Italy market and, subsequently, similar fares were introduced in other southern European markets. In the United Stated-United Kingdom market British Caledonian had a partialy unbundled "executive class" fare for on-demand point-to-point transportation during the peak summer season. We are also seeking the liberalization of existing rate articles in bilateral air transport agreements which, when implemented, should make the filing of unbundled economy fares for direct point-to-point service by U.S. carriers much easier.[7]

On TWA's last two points, TWA must have misinterpreted our suspension order. What we said in that order was that existing normal economy fares include costs of various services, including stopovers, circuity, and prorates, in addition to the costs of basic point-to-point transportation. It is pos-

[1] The carrier argues that suspension powers can be used only when there is a reasonable expectation that the tariffs will be found unlawful and that rate payers would suffer substantial harm if they are exposed to the tariff during the course of investigation. Neither consideration is presented, says TWA, by its proposed economy fare increases.

[2] TWA claims it prorate absorption on regular economy fares has increased steadily since 1974, the last time increases were approved, and would become even more acute with unbundled fares, especially if matching European carriers increased their intra-European fares to cover transatlantic losses.

[3] See also Orders 78-10-61, October 5, 1978, and 78-10-143, October 20, 1978, where we suspended the transatlantic winter normal economy fare increases of other carriers.

[4] Recently, El Al proposed a New York-Tel Aviv basic season "Holiday class" normal fare which, while not completely unbundled, is an unrestricted, on-demand fare that is $195 below the existing normal economy fare.

[5] TWA indicates that almost one-third of its total normal economy fare passengers use only point-to-point services.

[6] See, for example, Order 76-4-175, April 30, 1976; Order 76-6-180, June 18, 1976; Order 76-7-36, June 29, 1976; Order 76-10-108, October 15, 1976; and Order 77-3-54, March 9, 1977.

[7] TWA raises the issue of third country carrier participation in any unbundled fares filed by third/fourth freedom carriers. We believe that third-country carriers should be permitted to decide on their own whether to match such fares over an indirect routing at their discretion.

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sible that as a consequence of not raising these fares for almost four years the average cost of bundled economy fares may, along with other fares, produce an unsatisfactory return for TWA. We believe the way these fares are priced must be changed precisely because they are now related to the average costs of carriage of all economy fare passengers. The existing fare is the same for a direct service, point-to-point passenger as for a multiple stopover passenger, it does not reflect the desires of the direct service point-to-point passenger, and it forces that passenger to subsidize the more costly itineraries of other economy fare passengers. If TWA reduced its economy fare for point-to-point carriage and either established separate charges for the other service elements to be added to the basic point-to-point fare, or established a separate fare for these higher cost passengers, such a proposal would receive careful consideration from the Board.

Accordingly:

1. We deny Trans World Airlines' petition for reconsideration; and

2. The Dockets Section will serve a copy of this order on Trans World Airlines, Inc.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.*

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34192 Filed 12-6-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

QUAKER SHOE CORP., Q-T SHOE MANUFACTURING CO., INC., AND GOLD MILLS, INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from three firms: (1) Quaker Shoe Corporation; 327 South Carlisle Street, Allentown, Pennsylvania 18103, a producer of footwear for men, women and children (accepted November 20, 1978); (2) Q-T Shoe Manufacturing Company, 629 East 19th Street, Paterson, New Jersey 07514, a producer of women's footwear (accepted November 29, 1978); and (3) Gold Mills, Inc., 1430 Broadway, New York, New York 10018, a producer of synthetic fabrics (accepted December 1, 1978). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-34170 Filed 12-6-78; 8:45 am]

[3510-17-M]

Office of the Secretary

NATIONAL STANDARDS POLICY ADVISORY COMMITTEE

Final Policy Recommendations and Implementation Plan

The Department of Commerce functions as the Federal Government focal point in the development, coordination, and strengthening of U.S. national and international standards policy in the public interest.

The National Standards Policy Advisory Committee (NSPAC), which was established in 1977 under the auspices of the American National Standards Institute, completed in early 1978 a draft document entitled "A Recommended National Standards Policy for the United States." In its own words, NSPAC's objective in preparing that document "was to prepare a recommended U.S. National Standards Policy that would, if implemented, go a long way towards creating a working environment within which the Nation's standards capability—both public and private—could be effectively, economically, and equitably used in behalf of the national interest."

In the exercise of its role in U.S. standards policy, the Department of Commerce published that draft document in the FEDERAL REGISTER on February 14, 1978 (pp 6299-6305). That notice directed that public comments on the draft NSPAC document be sent to the NSPAC Program Administrator, Mr. Richard O. Simpson. Mr. Simpson subsequently reconvened the NSPAC to consider the comments received, and to prepare NSPAC's final policy recommendations and implementation plan.

The Department has recently received a copy of NSPAC's final policy recommendations and implementation plan (dated December 1978), and believes that the public interest will be served by publication of this document in the FEDERAL REGISTER for the information of interested parties. Such publication in no way constitutes approval or disapproval of that document by the Department or any of its employees. Accordingly, that document, renamed "National Policy on Standards for the United States and a Recommended Implementation Plan," is reproduced below in its entirety. Any questions on the document or requests for copies thereof should be referred not to the Department of Commerce but to the NSPAC address cited at the end of the document.

Dated: December 4, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

The full text of NSPAC's "National Policy on Standards for the United States and a Recommended Implementation Plan" is as follows:

NATIONAL POLICY ON STANDARDS FOR THE UNITED STATES AND A RECOMMENDED IMPLEMENTATION PLAN

DECEMBER 1978.

Prepared by National Standards Policy Advisory Committee (NSPAC).

MEMBERS OF THE NATIONAL STANDARDS POLICY ADVISORY COMMITTEE

Dr. Ernest Ambler,[1] National Bureau of Standards
Mr. William T. Cavanaugh, American Society for Testing and Materials
Mr. Dennis G. Cherot, Office of Consumer Action for Newark
Mr. Kern E. Church, Department of Insurance, North Carolina
Dr. Howard I. Forman, U.S. Department of Commerce
Dr. Aaron Gellman, Gellman Research Associates
Mr. Joseph Gilbert, Society of Automotive Engineers
Mr. Richard Goodemote, Sears Roebuck & Company
Dr. Robert Harris, Environmental Defense Fund
Mr. S. F. Harrison, National Board of Boiler and Pressure Vessel Inspectors
Ruth Botz Jones (Mrs. Rudard A.), Urbana, Illinois, Consumer
Mr. Byron Lee, Commonwealth Edison
Mr. Herbert Liebenson, National Small Business Association
Professor Kenneth L. McFate, University of Missouri
Mr. W. Robert Moore, Chemical Bank

*All Members concurred.

[1]Nonvoting member.

Mr. Joseph T. Morris, National Association of Photographic Manufacturers, Inc.
Mr. Michael J. O'Conner, The Washington Management Group
Mr. George Papritz, Consumers Union
Ms. Alfreda J. Riley, Consumer Research Advisory Council, Inc.
Mr. Frank H. Roby, General Signal Corporation
Mr. Fred Shippee, American Apparel Manufacturers Association
Mr. Erle I. Shobert, II, Stackpole Carbon Company
Mr. Arthur Spiegelman, American Insurance Association
Mr. Richard Stevens, National Fire Protection Association
Mr. David A. Swankin, Swankin & Turner
Mr. Charles H. Tupper, International Brotherhood of Electrical Workers
Mr. H. P. Weinberg, Value Engineering Laboratory
Mr. Baron Whitaker, Underwriters Laboratories
Mr. Philip Smith, Designated Liaison, Office of Science and Technology Policy, White House
Mr. Richard O. Simpson, NSPAC Program Administrator

NOTE.—The support and contributions of the designated alternates who participated in the development and production of this document are gratefully acknowledged.

FOREWORD

Standards are used by buyers and sellers to define their mutual obligations. They are also used by government to assert its regulatory authority on behalf of the health and safety of citizens. Standards are essential for the orderly and efficient conduct of domestic and international commerce and for the protection of the economic, social, environmental, and safety interests of sellers, buyers, and consumers—both individual and industrial.

Standards can favorably or unfavorably affect consumer costs, availability and performance of products, domestic and international trade, and the use of scarce materials. They are significant media for technology transfer among relevant groups, nationally and internationally. They also serve to introduce technology into the social value system of the society.

The United States possesses a sizable capability—public and private—for developing standards. What it has lacked, until now, is a national policy to ensure that these resources can be employed most effectively, economically, and equitably in the national interest.

This document is an attempt to fill that need. It contains two parts:

- A National Policy on Standards for the United States
- A Recommended Implementation Plan

Both the policy and implementation plan were developed by a group designated as the National Standards Policy Advisory Committee. NSPAC is an independent body established in early 1977 as a public service under the auspices of, but free from any policy direction from, the American National Standards Institute.

A national standards policy implies a definite course or method of action to be pursued. It should generate, foster, and maintain a basis or series of guidelines under which various organizations and people comprising the nation's standards capability can develop consistent working policies and procedures. NSPAC believes that the policy it developed meets these criteria.

NSPAC also recognizes that attainment of a unanimously agreed-upon national standards policy cannot be achieved quickly, if ever. The one proposed in this document is believed to represent as high a degree of agreement as can reasonably be expected when all the parties at interest are adequately represented. Agreement was very often not unanimous. Footnotes are included for dissenting views that were so strongly held that the dissenting parties felt constrained to have their views recorded.

The Recommended Implementation Plan is believed to be conceptually sound and pragmatic. In developing it, the relevant principles in the National Standards Policy were followed.

Special consideration was given to whether the policy should treat testing and certification and international standardization.

NSPAC recognized the relationship between standardization and the testing and certification process. It deliberately decided to exclude testing and certification from the policy on the basis that they are important enough to warrant consideration of a separate policy development activity. The methodology followed in developing the National Policy on Standards could serve as a useful model in formulating a testing and certification policy, in the event that such an activity is undertaken in the future.

International standardization in the National Policy on Standards was purposely limited by NSPAC to discussions deemed essential to the basic policy underlying national standards activities. Committee members did not consider themselves properly representative of the desired balance in expertise and interests to undertake a full policy treatment of this very important aspect of standardization. Initiation of a separate program to develop a more complete statement of policy on international standardization that expands on, and is consistent with, the National Policy on Standards is considered very desirable by the Committee. Again, the Committee believes that the NSPAC format offers a useful model for such activity.

Under this country's national standards system, any one of the many groups that have either direct or indirect interest in standards matters could properly have started a policy development project. It could have been initiated by federal, state, or local governments, organized labor, public interest groups, trade associations, industry or professional societies, standards writing bodies, testing laboratories, or consumers. It was logical, however, for the American National Standards Institute (ANSI), the generally recognized functioning coordinator of the U.S. voluntary standards system, to take the initiative. It did so with the caveats that it would in no way influence the work and that all interested parties would be ensured the opportunity to participate in the process.

The National Standards Policy Advisory Committee was formed to undertake the project. This independent group is comprised of some thirty representatives of government, organized labor, public interest groups, trade associations, industry, professional societies, standards writing bodies, testing laboratories, and consumers. Its assigned task was to prepare a recommended U.S. National Policy on Standards that would, if implemented, go a long way toward creating a working environment within which the nation's public and private standards capability could be effectively, economically and equitably used on behalf of the national interest.

Extraordinary steps were taken to ensure the independence, objectivity, and credibility of the Committee. Funds for the effort, for example, were raised in small amounts from over fifty organizations, maintained for the Committee's purposes only, and disbursed from a special account under the control of NSPAC.

In February 1978, NSPAC released a Recommended National Standards Policy for public review and comment. The comments received were considered in preparing the National Policy on Standards and Recommended Implementation Plan published in this document.

In discharging its responsibility, NSPAC has made arrangements to transmit a copy of this final report to:

- ANSI, along with a complete record of NSPAC activities
- Appropriate officials of the federal government
- Each of the organizations identified as significantly involved in national standards activities
- The press, for information of the general public.

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NSPAC recognizes that a policy document does little good unless it receives broad exposure and the high degree of general acceptance essential to effective implementation. Therefore, careful attention should be given to the National Policy on Standards and the closely related Recommended Implementation Plan which accompanies it.

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NATIONAL POLICY ON STANDARDS FOR THE UNITED STATES

I. INTRODUCTION

As standards are documents developed with appropriate expertise to define and/or establish acceptable solutions to recurring problems, they provide a means for effective communication in areas of science, education, technology, industry, trade, and commerce.

Standards are used to enhance engineering and manufacturing efficiencies through establishment of performance criteria, characteristics of products, procedures, methods, materials, and systems, and through interchangeability.

Where regulation is deemed necessary to safeguard the health and/or safety of product users and/or consumers, standards, which generally relate to minimum requirements, may serve as a base to further communicate understanding through descriptive terminology and procedures.

II. DEFINITIONS

1. Standard. A prescribed set of rules, conditions, or requirements concerning definitions of terms; classification of components; specification of materials, performance, or operations; delineation of procedures; or measurement of quantity and quality in describing materials, products, systems, services, or practices. (For convenience in the text of this policy, we refer to standards for "products, systems, and services" as being inclusive of the above.) The word "standard" does not include federal, state, or local laws or statutes enacted to adopt or reference a standard.

2. National. The word "national" is used in this policy in a broad sense that is inclusive of both the private and government sectors. Further, the word "national" is used to indicate that the total standards preparation resources of the U.S. constitute a national capability, a capability that is not exclusively government or private.

3. *National Standard.* A standard which has, or could reasonably be expected to have, a significant effect upon a substantial number of U.S. citizens. This term does not include what are commonly termed "company" standards, nor does it include those industry standards which have little or no significance outside of that industry. It includes standards whose acceptance is recognized on a national basis.

III. OBJECTIVE(S)

1. To provide policies with respect to both government and private initiation, development, use, and maintenance of national standards for products, systems, and services.

2. To provide a framework for the efficient organization and management of both government and private resources to ensure that the United States' national standards needs are competently and economically met, on a timely basis, under generally recognized principles of due process.

IV. SCOPE

1. Products, Systems, and Services. Unless otherwise excluded, this policy is applicable to all national standards for products, systems, and services found in commerce, including those acquired, fabricated, or regulated by agencies of federal, state, or local governments.

2. Organizations and Agencies. This policy is directed toward all organizations and agencies, government or private, that initiate, develop, or approve national standards, as well as to all government agencies that use national standards.

3. International Standards. Where relevant, this policy is directed toward standards participation on behalf of the United States in international as well as national standards activities.

V. GENERAL PRINCIPLES

1. Cooperation, an Essential Element. The national interest is best served when both the government and private sectors, and/or components of both sectors, initiate, develop, and participate in programs which stimulate and encourage cooperation of both sectors in national standards activities.

2. National Standards Writing Activities.[1]

a. *Openness:* Participation in national standards writing activities shall be open to all persons who might reasonably be expected to be, or who indicate that they are, directly and materially affected by the activity in question. There shall be no undue financial barriers to participation. Participation shall not be conditioned upon membership in any organization including the group or organization sponsoring the activity. Organizations shall give reasonable notice of standards development activities and actions.[2]

b. National Standards Decisions: Decisions in national standards writing activities shall reflect a substantial agreement by all of the parties at interest, or their representatives, who are directly and materially affected by the standard. A substantial agreement means much more than a simple majority but not necessarily unanimity. It also includes the requirement to consider and attempt to resolve all substantive negative comments.

c. *Balance—Rules and Procedures:* The rules and procedures to be followed in national standards writing activities shall be such that all appropriate societal interests (e.g., government, consumer, labor, producers, users, general interests, etc.) that might be directly and materially affected by the standard in question have the opportunity for fair and equitable participation. There shall be no opportunity for domination by any single interest.

d. Consumer/User Participation: Special attention shall be given to ensuring that consumer/user participants are included when consideration is given to the make up of national standards committees. Consumer/user participation should come from individuals and representatives of organized groups. For purposes of this policy, the following is applicable:

i. User—Individual Consumer: Where the national standards activity in question deals with a consumer product, e.g., lawn mowers, aerosol sprays, etc., an appropriate consumer participant's view is synonymous with the individual's view. In other words, consumer means an individual user—a person who uses goods and services rather than produces or sells them.

ii. User—Industrial: Where the national standards activity in question does not deal with a consumer product, but rather deals with an industrial product, e.g., hardness of steel, insulation used in transformers, etc., an appropriate user participant is the industrial user of the product in question.

iii. User—Government: Where the national standards activity in question is likely to result in a standard that may become the basis for a government action, e.g., procurement or regulation, the relevant government agency(s) participant may become one of the user participants.

iv. User—Labor: Where the national standards activity in question deals with subjects of special interest to the American worker, e.g., products used in the workplace, workplace environment, etc., an appropriate user participant(s) is a representative of labor.

e. Consumer/User Views:[3] Appropriate representative consumer/user views shall be actively sought and fully considered in national standards activities. Wherever possible, consumer/user participants with the requisite technical knowledge shall be included as active, but not necessarily the sole, consumer/user participants.

f. Records: Reasonable records of national standards development activities shall be prepared, maintained, and be accessible to interested parties under reasonable conditions of time, location, and convenience to all concerned. Such records shall include, but not necessarily be limited to, the status and history of the project, reports of meetings, including discussion, disposition of dissenting views, rationale and principal supporting data for key variables and wordings, etc.

The records maintained should allow an overall review of what transpired rather than be a verbatim transcript, and need be retained for only a reasonable period of time.

3. Private Sector Commitment: The private sector shal take all necessary and reasonable steps to ensure that, to the maximum extent possible, the nation's standards needs are identified and met through the voluntary standards system.

Consistent with this commitment, those private sector organizations engaged in national standards writing activities and other beneficiaries of standards writing activities shall support and participate with the private sector standards coordinating center identified in Section VIII(2) of this policy. Such support shall include equitable fiscal support.

4. Government Encouragement: It is appropriate and essential that governments take all necessary and reasonable steps to encourage responsible private sector activities to meet national standards needs.

5. Government Participation: Government(s) should actively participate in private sector national standards activities that are consistent with this policy to lend their expertise and make their needs known to help ensure that, where necessary, and when possible, the standards developed will be in a form suitable for government use or are otherwise in the public interest.

6. Consumer/Small Business Funding: It is in the best interests of both the government and the private sectors to ensure that a reasonable source of funds is available to consumers and small businesses to support and encourage their participation in national standards activities that are consistent with this policy and to offset their costs where necessary.

7. Minimizing Duplication: In the interest of efficiency and cost-effectiveness, governments should not undertake development of new standards where suitable national standards already exist or are nearing completion unless an evaluation by government indicates that the existing standard is inadequate. Where such an evaluation indicates that changes in either the format or substance would make an existing national standard suitable for government use, the government should cooperate with the original sponsor of the standard in bringing about desirable changes.

In the same vein, private sector standards writing organizations shall take all reasonable steps to ensure that there is a minimum of duplication of effort among these organizations engaged in national standards writing activities. A principal step is full cooperation and participation with the private sector standards coordinating center identified in Section VIII(2) of this policy.

8. Effects of Innovation and Competition: Care in the development and use of standards shall be taken to ensure that they will not restrict users' choice among items that will produce satisfactory results, act as barriers to innovative designs or compositions, or otherwise tend to unreasonably restrain competition and trade. In the development and use of standards, preference shall be given to those that emphasize performance and function while limiting detailed design requirements to such things as fit and interchangeability (e.g., films and cameras) and where composition or other measurable attributes cannot be expressed in terms of performance without excessive costs or undue delays for technological development.

9. Standards Maintenance: Any organization or agency, government or private, that initiates, develops, adopts, or uses national standards shall incorporate appropriate procedures to ensure that each such standard is reviewed at periodic intervals no longer than five years and is either reaffirmed, amended, or revoked as a result of such review. Having once published a standard, organizations or agencies shall adopt procedures such that the relevant board, committee, or council considers proposals to amend procedures or standards without unreasonable delay. Standards shall be kept current and adequately upgraded to encourage technological innovation.

10. Forecasting and Measurement: Organizations and agencies concerned with national standards writing activities shall encourage and support research in standards theory and methodology, especially that pertaining to forecasting and measuring various effects of standards (e.g., economic impact on commerce and consumers; quantitative changes in health, safety, and environmental factors; risk-benefit evaluation techniques; methods of

[1] The most commonly used method for standards development is use of a standards developing committee, but other methods which achieve a substantial degree of acceptance of the standards should also be recognized. If the standards writing activities do not have such rules and procedures as called for in this section, the product of such activities can become a recognized national standard under this policy provided that the approval of the standard is given by an organization engaged in standards approval activities and whose approval procedures are consistent with this section.

[2] One member (George Papritz) expressed the view that the first and last sentences respectively of this provision should read as follows: "Participation in national standards activities should be open to all interested persons and groups." "Organizations shall give interested persons and groups reasonable notice of standards development activities and actions."

[3] One member (George Papritz) expressed the view that "actively sought" should be changed to "obtained" in line two. This member also believed that a new sentence, as follows, should be added at the end of the provision: "If consumers with appropriate technical knowledge are unavailable, a source of relevant unbiased technical assistance shall be made available for advice and consultation to consumer members of standards writing committees."

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ensuring equity in committee composition, etc.)

11. Federal/State/Local Government Cooperations: Governments, in their standards activities, should establish cooperative mechanisms to ensure that the public health, safety, and general welfare are adequately protected while at the same time minimizing undue burdens on interstate commerce. To this end, governments should take all necessary and reasonable steps to promote as much uniformity as practical in the establishment of mandatory requirements and to ensure that they are kept current.

VI. HEALTH, SAFETY, AND ENVIRONMENT

Recognizing that governments and the private sector each have an important contribution to make, it is in the national interest to have a constructive, cooperative relationship between them in the areas of public concern, e.g., health, safety, environment, energy, etc.

1. Government Sector Role: Government departments and agencies should take all necessary and reasonable steps to:

a. Identify and publish their priority standards needs.

b. Encourage, cooperate with, and actively participate in relevant national standards activities that are consistent with this policy.

c. List all national standards that are relevant to the agencies' needs.

d. Ensure that the following steps are taken prior to, and as a prerequisite of, any determination that a mandatory standard may be required:

i. Technically evaluate all relevant listed standards.

ii. Assess the marketplace for voluntary confirmity with such standards.

iii. Evaluate the suitability of such standards for use as the basis for a mandatory standard (where necessary, encourage the originating standards writing organization to revise the standard, with government cooperation, to suitable form).

iv. Specifically consider, and make formal findings with respect to the technical, marketplace, and suitability reviews before deciding whether a mandatory standard will be required.

2. Private Sector Role. The private sector shall take all necessary and reasonable steps to:

a. Identify and use all available data in determining its view of priority standards needs, as well as cooperate with governments to aid government in setting priority standards needs.

b. Initiate and actively pursue national standards activities in a manner consistent with this policy in areas of its high priority.

c. Cooperate with and support national standards activities that are consistent with this policy and that are designed to meet government-identified priority standards needs.

VII. GOVERNMENT PROCUREMENT

1. Avoid Duplicaton. National standards to meet government procurement needs should be developed by governments only in those instancces where private sector standards development efforts are not responsive in a reasonable, efficient, and timely manner to the demonstrated government needs.

2. Standards Preference. National standards prepared in accordance with this policy should be given preference over other standards for use by government(s) to meet their procurement needs.

VIII. ORGANIZATION/APPEALS

1. Centralized Government Focus. There should be established, or identified, within the executive branch of the federal government, an entity to serve as the government standards coordinating center. It should have the principal responsibility for the coordination of government activities covered by this policy. Such a center should have a primary responsibility to:

a. Establish criteria to determine eligibility of private sector standards activities for government support in accordance with this policy.

b. Assist, upon request, the federal agencies in their evaluations of national standards to determine their suitability for use by the government.

c. Cooperate with other government agencies in establishing criteria and information by which government employees with the appropriate expertise can be readily identified so as to encourage their voluntary participation in appropriate private sector standards writing groups.

d. Serve as a catalyst to stimulate and aid federal agencies in identifying and publicizing standards priority needs.

e. Provide the guidelines for the disbursement of government funds available for financial aid to private sector standards activities to offset consumer and small business participation costs, when and as required, and for other purposes.

f. Work closely and cooperatively with the private sector standards coordinating center to ensure that the nation's standards needs are clearly identified and met in a timely fashion.

g. Establish and operate a suitable appeals mechanism as called for in VIII(3) of this policy.

2. Centralized Private Sector Focus.[4] There shall be established, or identified, a private sector organization to serve as the private sector standards coordinating center. This organization shall have the primary responsibility for the coordination of private sector activities covered by this policy. In carrying out these responsibilities, it shall, as a minimum:

a. Coordinate private sector standards activity and encourage conformity with this policy by private sector standards organizations writing standards for products, systems, and services identified as being national (or international) in scope.

b. Provide for meaningful participation in all of its major boards and councils by the major affected interests, including government and consumers.

c. Provide a mechanism, or mechanisms, for confirming whether or not a national standard has been prepared in accordance with this policy.

d. Having identified the need for a particular standards project, encourage qualified organizations to accept the project and move toward development of a national standard in a manner consistent with this policy as expeditiously and as effectively as possible, with due regard for the need to minimize unnecessary duplication of effort.

e. Not compete with standards writing organizations in standards development.[5]

f. Develop a broad and adequate financial base that is of such a nature that the center is reasonably independent of financial pressures of any single societal group or interest.

g. Work closely and cooperatively with the government standards coordinating center to ensure that the nation's standards needs are clearly identified and met in a timely fashion.

h. Serve as the recognized and designated representative of the United States in international, nontreaty, standards setting bodies.

3. Appeals Mechanisms

a. Both the government and the private sector standards writing activities should include realistic and identifiable appeals procedures for those interests or individuals who believe they have been, or will be, disadvantaged by the standard in question or the lack thereof, or who have a substantive disagreement with the technical content of the standard or the procedures by which it was developed.

[4]One member (David Swankin) expressed the view that this policy statement should not recommend a centralized private sector focus because the thrust of the policy is directed toward improving the method by which private voluntary standards are produced, something that can and should be accomplished with or without an umbrella organization.

[5]One member (George Papritz) expressed the view that the following should be added to this provision: "However, the center shall develop and, if necessary, revise standards whenever it appears that this will not be accomplished expeditiously and effectively by extant private standards-making machinery."

b. The government standards coordinating center established by VIII(1) of this policy shall establish and operate a dispute resolution mechanism where interested parties can pursue disputes arising from private sector standards activities. As a prerequisite to entering the federal appeals process, the complaining party shall first exhaust his initial appeal rights within the private sector, providing such appeals processes exist and they meet generally recognized criteria of fairness and due process. If the federal process finds that the complaint has merit, the complaint, along with a complete record of the federal appeal, should be returned to the relevant standards writing organization for a timely resolution.[6]

A RECOMMENDED IMPLEMENTATION PLAN FOR THE NATIONAL POLICY ON STANDARDS FOR THE UNITED STATES

1. INTRODUCTION

The National Policy on Standards (NPS) reflects the view of the National Standards Policy Advisory Committee (NSPAC) that the nation's standards needs will be best satisfied within a working environment that is characterized by effective cooperation between the government sector and private sector standards activities. The Committee believes that the NPS provides both the foundation and guidelines for such needed cooperation.

Appendix 3 of the draft "Recommended National Standards Policy for the United States," published in February 1978 for public comment, called attention to the intent of the NSPAC to include a Recommended Implementation Plan as a part of the final report prepared by the NSPAC. The responses indicated that such a plan is not only desirable, but is essential to the success of the project.

There are basically two ways of implementing the NPS—either invite mandating by the federal government or seek voluntary acceptance by all affected organizations, including the federal government.

The NSPAC recognizes that only the U.S. Congress, through legislation, could mandate the NPS as United States policy. The Committee believes, however, that legislation is not required, nor necessarily desirable, for the NPS to become the de facto standards policy for the nation.

With respect to the private sector, the NSPAC hopes that each affected private sector organization will see fit to voluntarily agree to conduct its activities in accordance with the applicable NPS provisions and will communicate this decision to the private sector standards coordinating center (PSSCC).

With respect to the federal government sector, the NSPAC believes that the essential government actions required to implement the NPS provisions will be accomplished with the issuance of the pending OMB Circumlar on Federal Participation in the Development and Use of Voluntary Standards. The pending Circular will be a Presidential Order directed toward meeting the federal government's procurement and regulatory standards needs by encouraging a cooperative relationship with the private sector standards bodies. The basic thrust of that important document is believed to be compatible with the NPS document. Any additional federal activity with respect to various NPS provisions is within the policy discretion of the individual federal executive branch agencies.

This Recommended Implementation Plan is believed to be conceptually sound as well as pragmatic. During the development of the plan, the relevant decision principles contained in the NPS document were followed. This included the decision process described in Section V(2)(b) of the NPS, which calls for "much more than a simple majority," as well as a "requirement to consider and attempt to resolve all substantive negative comments." This plan does represent the views of much more than a simple majority of NSPAC members, even though unanimous agreement on all sections could not be attained.

2. GOVERNMENT SECTOR—AS NSPAC BELIEVES IT SHOULD BE

a. General. The federal government has many reasons to be interested in national standards activities. National standards serve to aid individual agencies in supporting or implementing programs established by law or regulation, e.g., procurement, safety and environmental programs, consumer protection, energy policy, etc.

In a broader sense, the federal government should have a legitimate interest in the effect of national standardization activities on increasing the efficacy of government operations, on the health of the general economy, international trade performance, and national defense.

b. Agencies That Write/Use Standards. The NSPAC believes that each of the individual federal government agencies that develop and/or use national standards should:

- Identify its standards needs and assign a reasonable sense of priority to those needs.
- Actively cooperate with those standards organizations in the private sector that can, and are willing to, aid the agencies in satisfying its standards needs in an effective and timely manner.
- Encourage those private sector bodies with which it cooperates to follow the policies and procedures that are set forth in the NPS.
- Give consideration to and/or use national standards developed in the private sector when they will meet the agency's needs.
- Take care that ther standards it develops and/or uses do not have unnecessary adverse effects on costs, innovation, competition, interstate commerce, and international trade.
- Establish suitable policies to guide involvement of its employees in private sector standards activities.
- Establish policies by which all affected societal interests have a reasonable opportunity to participate in agency standards activities.

c. Overall Coordination of Government Standards Activities. The NSPAC believes that effective central coordination of federal government standards activities is essential to elimination of many standardization problems which have received widespread attention in recent years. This central coordinating body should:

- Serve as an initial inquiry and referral point for outside parties seeking information on specific federal standards matters.
- Assist, on request, the individual federal agencies on standards matters.
- Cooperate with individual federal agencies in identifying federal employees with appropriate expertise to participate in private sector standards activities.
- Cooperate with private sector organizations, particularly the private sector coordinating center, to ensure that the nation's standards needs are effectively and promptly met.
- Provide a "last resort" appeals mechanism where private sector standards disputes can be aired and resolutions proposed.

3. GOVERNMENT SECTOR—AS NSPAC BELIEVES IT EXISTS TODAY

a. General. Until recently, there has been a general lack of understanding at the policy levels of the federal government as to the extent of national standards activity in the United States, as well as its relevance and impact on major national issues. More often than not, attention is focused on an individual standard rather than the activity as a whole, particulary when it is involved in regulatory controversy or is the subject of a media report.

Recent activities, such as the national focus on regulatory reforms, the multilateral trade negotiations, and

[6]The nonvoting member (Dr. Ernest Ambler) expressed the view that any federal appeals process should deal only with questions of adherence to established procedures for the development of national standards and should not be broadened to include disputes over substantive technical decisions reached in national standards development activities.

also, in cooperation with governments, nontreaty standardization organiza- annually spend ten times the total or-

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the federal attention given to safety, health, procurement, and energy policies have served to elevate the policy attention given to the role of standards in such matters.

NSPAC members are well aware of two important developments affecting national standards policy considerations, which are expected to be completed in the near future. Both are believed to be complementary to and mutually reinforcing of the National Policy on Standards.

GATT Standards Code (General Agreement on Tariffs and Trade)

As a part of the Multilateral Trade Negotiations, the U.S. government has been an active participant in the negotiation of a proposed GATT Standards Code. Although the negotiations in Geneva are not yet completed, drafts of the code suggest that, if the U.S. is to meet the obligations of the code, and, more importantly, take advantage of the opportunities provided under the code, a close cooperative relationship needs to be established between the federal government and the private sector in national as well as international standards activities. The NPS provides the framework needed for such a cooperative effort.

OMB Circular on Federal Participation in the Development and Use of Voluntary Standards

The pending OMB Circular on Federal Participation in the Development and Use of Voluntary Standards is directed toward meeting the federal government's standards needs through a cooperative relationship with the private sector standards bodies. It also provides policy guidance to all federal employees regarding their participation in various private activities. The basic thrust of this important document is believed to be compatible with the NPS contained herein.

b. Individual Federal Government Agencies. Attitudes, policies, and procedures of the variour federal agencies vary widely with respect to standards initiation, development, and use. Many of the agencies are constrained in their activities by legislation. Others have not adequately focused on standards matters at the policy level. The NSPAC believes that the following statements are indicative of various agency standards activities at the present time.

- Not all agencies attempt, or have the data bases to allow for, an orderly identification of their priority standards needs.
- Some agencies encourage private sector cooperation in meeting the agency's standards needs, while others encourage the opposite response from the private sector.
- Except very recently, there has been little or no systematic government-wide effort to use federal government regulatory and procurement leverage to improve the effectiveness and responsiveness of the nation's standards system.
- Agency policies with respect to use of private sector standards cover a wide spectrum—from use with little in-house review to virtual refusal to even consider the documents.
- Agencies having regulatory authority generally have policies or statutes governing the involvement of all interested parties in standards matters, but the procurement agencies' policies vary more widely in this respect.
- Inadequate attention has been given by several agencies to the effect of their standards on costs, competition, innovation, interstate commerce, and international trade.
- Personnel policies governing federal personnel participation in private sector standards activities vary widely—including outright prohibition, highly detailed policies, and total silence.

c. Overall Coordination of Federal Government Standards Activities. A major complaint over the past few years has been the lack of a central focal point in the federal government for coordination of standards matters. The NSPAC believes this complaint has merit and has therefore included in the NPS a section calling for a federal government focus.

4. RECOMMENDATIONS TO GOVERNMENTS

a. General. The NPS addresses the whole specturm of government involvement in national standards activities. For instance, it recognizes that in the regulatory areas of health, safety, environment, etc., the final decision on whether to propose a mandatory standard is properly a decision of the appropriate elected or appointed officials. Consequently, the NPS provisions in this area are designed to initiate and stimulate cooperative efforts between government and the private sector which, if successful, will reduce the need to impose mandatory requirements, while at the same time not infringe on statutory mandates.

The NSPAC believes that the pending OMB Circular on Federal Participation in the Development and Use of Voluntary Standards, in essence, implements major elements of the NPS, and urges its official promulgation at the earliest possible date.

b. individual Federal Government Agencies. 1. The NSPAC believes the OMB Circular on Federal Participation in the Development and Use of Voluntary Standards provides adequate guidance to the various agencies to ensure that their employees participate only in activities in accord with the National Standards Writing Activities section of the NPS (i.e., those based on generally accepted principles of procedural fairness).

2. The NSPAC urges each government agency to examine its policies and activities in light of each of the General Principles contained in the NPS and to align its policies and activities accordingly, consistent with existing governing statutes.

3. The NSPAC particularly calls to the attention of the relevant regulatory agencies the NPS section on Health, Safety, and Environment and urges the relevant agencies to align their policies and activities in accordance with this section. The NSPAC is unaware of any legislative provisions that would prohibit the adoption of such policies, but rather believes it to be in the policy option realm of the agency concerned.

4. The NSPAC recognizes that the Government Procurement section, particularly the Standards Preference secion, goes beyond the pending OMB Circular on Federal Participation in the Development and Use of Voluntary Standards but nevertheless believes it is consistent with the Circular. The Committee urges the procuring agencies to adopt, as a policy option, this section and thereby use federal procurement leverage to ensure procedural fairness in national standards development.

c. Federal Government Standards Coordination. The NSPAC acknowledges that the U.S. Department of Commerce is an appropriate organization to assume the role of the government sector standards coordinating center (GSSCC). Need for such a government-wide standards coordinating activity has been identified in the proposed GATT Standards Code, the pending OMB Circular on Federal Participation in the Development and Use of Voluntary Standards, and the recent report on the "Implementation of the GATT Standards Code in Federal Agencies" prepared by the Interagency Committee on Standards Policy, dated April 1978.

The OMB Circular also designates the U.S. Department of Commerce to fulfill the role of federal standards coordinator—an action consistent with the NPS.

5. PRIVATE SECTOR—AS NSPAC BELIEVES IT SHOULD BE

a. General. The private voluntary standards system in the United States should have the primary responsibility for developing the standards needed by the nation. This responsibility includes not only development of the broad range of national standards essential to the efficient and orderly functioning of the U.S. economy but also, in cooperation with governments, development, in a timely manner, of effective standards that may be necessary to aid government agencies in the fulfillment of their statutory missions.

Standards activity should be conducted in such a manner as to ensure that all societal interests are treated fairly and equitably.

The private sector should bear the primary responsibility for U.S. participation in international nontreaty standardization activities.

b. Standards Writing Organizations. The NSPAC believes that each of the organizations developing national standards should:

- Adopt and adhere to standards development procedures that ensure procedural fairness.
- Help identify national standards needs and, through coordination of standards developing activities, minimize duplication of effort in meeting those needs.
- Participate with and support activities designed to meet government priority standards needs.
- Participate with and equitably support the private sector central coordinating organization.
- Ensure that reasonable safeguards are provided to guard against any potentially harmful effects of standards on consumer/user costs, innovation, competition, interstate commerce, and international trade.
- Ensure that realistic appeals procedures are made available to all parties who feel they hae been, or will be, disadvantaged by the standards acitivity in question.

c. Central Standards Coordination. The NSPAC considers a private sector standards coordinating center essential to:

- Serve as a necessary organizational mechanism through which organizations and individuals concerned with national standardization activities may cooperate in making the voluntary standards system in the U.S. more effective.
- Help ensure that all societal interests are fairly and adequately represented in national standardization activity.
- Be a responsible and effective force with respect to maximizing responsible federal government interaction with the voluntary standards system.
- Serve as a source of qualified spokesmen for the voluntary standards system.
- Provide an appeals procedure for all interested parties to pursue alleged abuses within the private coordinated system.
- Ensure that the interests of the U.S. are farily, competently, and adequately represented in international nontreaty standardization organizations.
- Provide an independent mechanism for identifying standards that have been developed in accordance with the National Policy on Standards.

d. Other Affected Interests. The NSPAC believes that, in addition to those parties with a clear economic interest in the outcome of standards, other parties that have societal interest, or a less direct economic interest, should also be represented in national standards activities. Particularly, the Committee has in mind consumers, labor, small business, and governments. The Committee has identified, under the General Principles section of the NPS, provisions which highlight these views.

In the Committee's view, the groups identified above have been inadequately participating in the past; this lack may have been the result of inadequate communication, insufficient encouragement of such participation, inadequate fiscal resources, and procedural barriers in some instances.

6. PRIVATE SECTOR—AS NSPAC BELIEVES IT EXISTS TODAY

a. General. The United States voluntary standards system is a loosely coordinated group comprising a large number of separate organizations that write one or more national standards. Numbered among them are trade associations, professional societies, standards organizations, etc. as a result:

- The nation's voluntary standards are written by an estimated 300,000 individuals from all walks of life, who volunteer their part-time services.
- This massive voluntary effort is channeled into thousands of committees under the organizational umbrella of approximately 400 separate organizations.
- The procedures used by these organizations to govern their standards writing activities vary considerably, with many now complying with most of the provisions of the NPS.
- There may be as many as 20,000 U.S. voluntary standards that could qualify as "national standards" using the definition contained in the NPS. Of this estimated total, however, only 9,300 are currently identified as American National Standards (ANS) by the present central coordinating organization.
- The principal cost of standardization is not to be found in the budgets of the various standards organizations but is rather the collective burden of salary, transportation, and expenses associated with the individual volunteers who populate the various standards committees. (One major standards writing organization estimates that participants in their committees annually spend ten times the total organization budget.) To protect the heavy investment, it is equally important that there be adequate funding of central standards coordination activities.
- Of the tens of thousands of commercial and industrial companies benefiting from the voluntary standards system, less than one thousand are helping carry the financial burden of the present central coordinating body through corporate memberships.
- The various private sector standards activities, including coordination, directly and indirectly, aid the various agencies of the U.S. government in the fulfillment of their responsibilities and missions. Yet, there is virtually no direct financial contribution by the Federal Government to help offset the administrative costs incurred by the standards developing and coordinating bodies.
- Organizations and corporations benefiting either directly or indirectly from the private sector role in international standardization are numerous, but very few make equitable financial contributions to offset U.S. member body costs of international standardization (now approaching close to $2,000,000 per year).

b. Standards Writing Organizations. In addition to the comments relative to standards writing organizations contained in paragraph 6(a) above, the following observations, with respect to national standards writing organizations and their relationship to the present central coordinating organization, are considered significant.

- A number of organizations exist that develop "national standards" but maintain no relationship with and give no financial support to the present central coordinating organization.
- A number of organizations that develop many "national standards" are organizational members of the central coordinating body and occupy principal positions on its key boards and councils. These organizations, however, contribute a relatively small amount to the finances of the central coordinating body and submit few, if any, of their standards for approval and listing as American National Standards.
- In a voluntary system, the ability of a body to "coordinate" is only as good as the willingness of the standards developing organizations to be "coordinated." Today, many standards developing organizations are not fully participating in programs of the present central coordinating organization.
- Standards writing organizations, in order to play a full part in a coordinated system, should agree to certain coordination procedures, participate in coordination discussions, submit their standards for approval and central

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listing, and provide equitable fiscal support. An obvious precondition to active participation and involvement is that standards writing organizations be satisfied with the resulting role and manner of their involvement, as well as the organizational structure and management of the central coordinating body. That this precondition has not been satisfied is evidenced by the continuing unwillingness of many such bodies to comply with exlsting coordination procedures, participate in coordination discussions, submit their standards for approval and central listing, or provide equltable fiscal support.

● A high proportion of the approximately 9,300 standards designated as ANS standards are published by a relatively few standards writing organizations. Only a small proportion of the central coordinating body's income is derived from the sale of standards from these sources. It is important to the success of a voluntary national standards program that most, if not all, of the standards writing organizations recognize the coordinator role by submitting their standards for approval as ANS standards, as well as by providing equitable financial support. Such submittals are essential to the continuing viability of the central coordinating body.

● Most of the private organizations producing national standards have a proprietary interest, not only in the operation of the standards committees, but also in the publication and sale of the standards documents. This financial interest influences their support of the present national system in which they recognize competition in the production and dissemination of standards. Unless this economic situation is dealt with realistically, the PSSCC will likely not get the support it needs from the private standards writing organizations, which would consider its existence a threat.

c. *Central Standards Coordination.* The present private sector central coordinating body is the American National Standards Institute (ANSI). The following points are considered significant and should be read along with the points contained in paragraphs 6(a) and 6(b) above:

● ANSI as presently constituted does not possess clear coordination authority over the entire voluntary standards system; nevertheless, it has had a good measure of success in addressing various major probjems of standards coordination.

● ANSI now ofers to approve and list as American National Standards (ANS) those standards that were developed in accordance with ANSI procedures to ensure that a national consensus exists. The prestige of ANSI has enabled it to be a formidable enforcer of procedural fairness, but only as regards those organizations that seek ANS status for their standards.

● The key management boards and councils of ANSI are comprised of volunteers. There appears to be little direct correlation between the interest represented by the individuals who serve on these management groups and the organizational sources of the 9,300 existing ANS standards.

● Likewise, there is also little apparent correlation with the sources of the estimated 20,000 existing "national standards" and the principal sources of financial support for the Institute. The gross mismatches among those organizations that benefit from ANSI's activities, those that participate in ANSI's management boards and councils, and those that provide the source of financing are obvious. They are a source of needless confusion as well as inequity, and impair ANSI's ability to function as a strong central coordinating body.

● ANSI is often viewed as competing with standards writing organizations in standards development.

● The role of ANSI vis-a-vis the American National Standards Committees is a continuing source of misunderstanding, friction, and confusion, both within and without the standards community.

● The present financial income basis does not ensure the Institute's fiscal independence and viability and leaves it vulnerable to charges of special interest domination.

● ANSI is the recognized representative of the U.S. interests in international nontreaty standardization bodies.

d. Other Affected Interests. The participation and involvement in national standards activities of labor, consumers, small business, and some government agencies is inadequate.

7. RECOMMENDATIONS TO THE PRIVATE SECTOR

The private sector organizations that comprise the nation's voluntary standards system should work cooperatively and constructively together with governments and other affected interests to ensure that the nation's standards needs are met, to the fullest extent possible, by private action and in a manner consistent with the NPS.

The Committee recognizes that the consideration by the standards developing organizations of the NPS is closely linked with their present and future relationship with the organization that will serve as the private sector standards coordinating center (PSSCC), as detailed in Section VIII(2) of the NPS.

The viability of any organization in the PSSCC role depends, in the final analysis, on two things: (1) The acceptance by a preponderance of the nation's standards developing organizations and other interested groups of the requisite central coordination authority; and (2) their commitment to provide equitable fiscal and participatory support on an ongoing basis.

NSPAC believes that the functions of the PSSCC have tangible value to both developers and users of voluntary standards; hence it justifies fiscal support in a form that is in a reasonable relationship to the value received. The support for the PSSCC should not have to be sought on the basis of contributing to a "generally worthy cause," nor should the coordinating center be required to accommodate "free riders" if doing so impairs its autonomy or functional effectiveness.

Foregoing all standards writing activity may compound the financial problems of the central standards coordinating organization. Therefore, it is necessary and imperative that the private sector, and particularly the private standards writing organizations, assume a more important part of the financial burden of the central coordinating organization by means and under conditions yet to be agreed upon within the private sector.

One possiblity is for a proportionate service fee, earmarked to go to the coordinator, to be added to the selling price of national standards, regardless of the channel through which they are sold. Thus the costs of central standards coordinating activities will be spread across the broad base of standards users.

NSPAC recognizes that ANSI currently occupies the organizational position of the PSSSC. The Committee urges ANSI to assess its current operations against the parameters contained in both the NPS and this Recommended Implementation Plan, and make such changes as may be required in its constitution, policies, procedures, bylaws, and organization to align its operations with the NPS and this Implementation Plan.

Not only ANSI, but all other participating organizations, government and private alike, should, when considering the NPS, take cognizance of the interlocking nature of several provisions in that document. Particular attention is invited to the implications of change from the present institutional and financial structure of the following NPS provisions:

1. Section VIII(1)(f)—The GSSCC should work closely and cooperatively with the PSSCC.

2. Section VIII(2)(d)—The PSSCC should encourage other organizations to write the needed national standards.

3. Section VIII(2)(e)—The PSSCC should not compete with standards writing organizations in standards development.

4. Section VIII(2)(f)—The PSSCC should develop an adequate financial base that to the highest practical degree ensures its financial independence from threats or pressures from any single interest group.

5. Section V(3)—Standards writing organizations should commit themselves to fully participate in the coordinated system, both fiscally and through standards coordination activities.

6. Section V(7)—Standards writing organizations should work within the framework of the PSSCC to minimize duplication of effort.

Members of the Committee urge the various agencies and organizations involved in national standards activities to expeditiously consider the NPS and this Implementation Plan because of their belief that the NPS will provide an effective vehicle for:

1. Ensuring that the PSSCC is fully competent, independent, and viable.

2. Stimulating a trend toward national standards development that generally is conducted in accordance with the provisions of the NPS.

3. Facilitating recognition of national standards as American National Standards.

4. Providing a workable and cooperative relationship between the government(s) and the private sector, both domestically and internationally.

8. RECOMMENDATIONS TO THE JOINT GOVERNMENT/PRIVATE SECTOR

The principal burden of follow-up actions necessary to effectively implement the NPS most properly fall within the purview of the private and government coordinating centers. However, a number of steps toward that end are clearly indicated.

1. The ANSI Board of Directors must determine whether ANSI is in a position to assume the burdens of the private sector standards coordinating center as outlined in the NPS, and initiate the various actions required to ensure fulfillment of that imposing responsibility.

2. The Department of Commerce should, in accepting the responsibility assigned by the OMB Circular on Federal Participation in the Development and Use of Voluntary Standards, designate within its large organization the specific unit that is to have responsibility for activities falling within the scope of the government sector standards coordinating center, as described in the NPS.

3. Each standards writing organization must study the NPS and Recommended Implementation Plan with a view to quickly determining whether or not it is prepared to adopt the NPS and work within the voluntary national standards structure that it recommends.

4. The PSSCC and the GSSCC must quickly establish mechanisms for working closely and effectively together in the interest of strong national and international standards programs for the U.S.

9. FOLLOW-UP BY NSPAC

Finally, the NSPAC suggests that it be reconvened approximately two years from the date of this report for the sole purpose of independently assessing and reporting on the effectiveness of NPS, particularly its level of acceptance and implementation.

[FR Doc. 78-34169 Filed 12-6-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

DOMINICAN REPUBLIC

Consultations Concerning Possible Import Restraint Level for Certain Man-Made Fiber Textile Products

NOVEMBER 30, 1978.

On November 30, 1978, the United States Government, in furtherance of the objectives of, and under the terms of Article 3 of, the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as extended on December 15, 1977, requested the Government of the Dominican Republic to enter into consultations concerning exports to the United States of man-made fiber brassieres in Category 649, produced or manufactured in the Dominican Republic. A complete description of the category in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342). March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

Notice is hereby given that under the provisions of Article 3 and Annex B of the Arrangement, if no solution is mutually agreed upon by the two governments at the conclusion of consultations to begin no later than February 15, 1979, entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 649, produced or manfactured in the Dominican Republic and exported to the United States during the twelve-month period beginning on the date of delivery of this note, could be unilaterally restrained.

There is published below market disruption information relating to Category 649. Any party wishing to express a view or provide data or information with respect to this category is invited to submit such in ten copies to Mr. Robert E. Shepherd, Chairman of the Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Domestic Business Development, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 3826, Washington, D.C. 20230. To enable timely consideration, comments should be submitted at the earliest date possible, but no later than January 8, 1979

Views, data or information submitted under this procedure will be available for public inspection in the Office of Textiles, Room 2815 U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, and may be obtained upon written request pursuant to the Freedom of Information Act, 5 U.S.C. 552 (1976), as amended, and the regulations of the Department of Commerce (15 CFR Part 4 1978). Whenever practicable, public comment may be invited concerning views, comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments on market disruption, or any other matter pursuant to this notice, is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) and 554(a)(4) (1976) relating to matters which constitute "a foreign affairs function of the United States."

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

MARKET STATEMENT—DOMINICAN REPUBLIC

Cat. 649—Body Supporting Garments.

Apparel items contained in this category include all man-made fiber brassieres, girdles, corsets, garters and other body supporting garments.

The U.S. man-made fiber body supporting garment industry is one of the severely impacted areas of the U.S. apparel industry. The import/production ratio was 50.7 in 1977, up from 42.9 percent in 1976.

Imports: Total U.S. imports of man-made fiber body supporting garments increased from 610,000 dozen in 1967 to 9,420,283 dozen in 1977 and to 10,273,634 dozen in the year ending September 1978. Brassieres accounted for 96 percent of this total.

The Dominican Republic is the fifth largest supplier of these items to the United States, accounting for 10 percent of total imports. The Philippine Republic is the largest supplier with 22 percent.

Imports from the Dominican Republic increased from 2,151 dozen in 1972

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Dominican Republic: U.S. General Imports of Category 649 (Bras) for Selected Periods

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to 478,247 dozen in 1976, 821,065 dozen in 1977 and 1.1 million dozen in the year ending September 1978. Brassieres, both ornamented and non-ornamented, account for 97 percent of these items imported from the Dominican Republic.

Among the major suppliers of these items, the Philippine Republic, Hong Kong, Haiti and Korea control their exports to the United States.

Prices: The CIF value, including import duties of imports in this category from Dominican Republic are substantially below the domestic prices for similar goods produced in the United States.

Domestic Production: U.S. domestic production of man-made fiber body supporting garments declined from 22.1 million dozen in 1967 to 19.5 million dozen in 1976 a drop of 11.8 percent. Production in 1977 has declined an additional 5 percent from the 1976 levels. Brassieres account for 78 percent of U.S. Production of the items in this category.

Employment: Total employment in the body supporting garment industry declined from 31,300 in 1972 to 24,000 in 1976. Employment in 1977 decreased by about 13.7 percent to 20,700 from 1976 levels. Employment in August 1978 was down an additional 7.2 percent from December 1977.

TABLE 1.—*U.S. Imports From the World and From Dominican Republic of Body Supporting Garments, Man-Made Fiber, Category 649*

[Dozens]

	Total imports	Imports from Dominican Republic		
1972	4,778,648	2,151		
1973	5,352,572	43,683		
1974	5,867,566	257,085		
1975	6,573,278	378,871		
1976	8,377,876	478,247		
1977	9,420,283	821,065		
YE January 1978	9,295,909	840,547	January 1978	67,030
YE February 1978	9,449,121	840,003	February 1978	43,195
YE March 1978	9,482,690	874,803	March 1978	84,663
YE April 1978	9,717,912	934,162	April 1978	114,188
YE May 1978	9,766,416	965,270	May 1978	99,088
YE June 1978	9,867,701	988,874	June 1978	112,589
YE July 1978	10,132,414	1,036,793	July 1978	116,070
YE August 1978	10,174,447	1,049,413	August 1978	79,734
YE September 1978	10,273,634	1,107,746	September 1978	131,712

TABLE 2.—*Restraint Levels for Current Bilateral Year*

Category 649	Dozen	SYE
Specific level:		
Haiti	771,301	3,702,245
Philippines	3,400,404	16,321,939
Hong Kong	1,023,419	4,912,411
Designated consultation level:		
Korea	218,750	1,050,000

TABLE 3.—*Major Suppliers to the U.S. Market of Manmade Fiber Body Supporting Garments (Category 649)* [1]

[1,000 dozen]

	1972	1973	1974	1975	1976	1977	YE July 1978	YE August 1978
(1) Philippine Republic	1,613	2,032	2,060	1,905	2,104	2,179	2,229	2,240
(2) Mexico	969	1,322	1,567	1,864	2,119	2,137	2,079	2,064
(3) Hong Kong	666	465	385	614	941	1,041	1,192	1,143
(4) Costa Rica	472	451	509	531	934	1,047	1,090	1,139
(5) Dominican Republic	2	44	257	379	478	821	1,038	1,049
(6) Haiti	78	111	165	309	516	741	845	840
(7) Barbados	10	18	—	—	135	338	376	386
(8) Honduras	215	230	210	197	252	236	271	293
(9) El Salvador	9	9	15	54	177	206	269	275
(10) Jamaica	438	384	421	305	266	268	266	270
(11) Trinidad	64	97	126	124	159	151	133	128
(12) Korea Republic	1	—	—	22	143	168	136	127
All Other	242	190	153	289	154	89	210	220
Total	4,779	5,353	5,868	6,573	8,378	9,420	10,132	10,174

[1] Ranked as of YE August 1978.

Dominican Republic: U.S. General Imports of Category 649 (Bras) for Selected Periods

Rank as of Sept. 30, 1978, and country	Unit/SYE	1976	1977	YE Sept. 30, 1978	Restraint level	Type
Total	Dozen	8,377,874	9,420,285	10,273,634		
	(SYE)	(40,213,795)	(45,217,368)	(49,313,443)		
5 Dominican Republic	Dozen	478,247	821,065	1,107,746	[1]NA	
	(SYE)	(2,295,586)	(3,941,112)	(5,317,181)		
Percent of total		5.7	8.7	10.8		
Total leading countries	Dozen	6,612,987	7,146,573	7,421,224		
Excluding Dominican Republic	(SYE)	(31,742,338)	(34,303,550)	(35,621,875)		
Percent of total		78.9	75.9	72.2		
1 Philippines Republic	Dozen	2,103,765	2,179,460	2,228,156	3,400,404	SL
	(SYE)	(10,098,072)	(10,461,408)	(10,695,149)		
2 Mexico	Dozen	2,119,149	2,137,064	2,068,020	[1]NA	
	(SYE)	(10,171,915)	(10,257,907)	(9,926,496)		
3 Costa Rica	Dozen	933,647	1,047,905	1,147,822	[1]NA	
	(SYE)	(4,481,506)	(5,029,944)	(5,509,586)		
4 Hong Kong	Dozen	940,858	1,041,329	1,115,834	1,023,419	SL
	(SYE)	(4,516,118)	(4,998,379)	(5,356,003)		
6 Haiti	Dozen	515,568	740,815	861,592	771,301	SL
	(SYE)	(2,474,726)	(3,555,912)	(4,135,642)		

[1] Not available.

TABLE 4.—*Imports From Dominican Republic by Category and TSUSA Number*

[Dozens]

BRASSIERES AND OTHER BODY SUPPORTING GARMENTS, MANMADE FIBER

TSUSA Number	YE September 1977	YE September 1978	Major suppliers
CATEGORY NO. 649			
Total U.S. imports	9,229,423	10,273,634	
Imports from the Dominican Republic (rank 5)	714,200	1,107,746	Philippine Republic, Mexico, Costa Rica, Hong Kong, Dominican Republic, and Haiti.
376.2430 Brassieres, ornamented	.....	394,030	Mexico, Philippine Republic, Costa Rica, Dominican Republic, and Haiti.
376.2445 Brassieres, ornamented	377,705	108,627	Mexico, Haiti, Philippine Republic, Costa Rica, and Dominican Republic.
376.2470 Body supporting garments, except brassieres, ornamented.	.....	4,874	Mexico, Haiti, and Dominican Republic.
376.2485 Body supporting garments, except brassieres, ornamented, women's and girls'.	1,466	2,909	Mexico, Haiti, and Dominican Republic.
376.2495 Body supporting garments, except brassieres, ornamented, men's and boys'.	.....	1,303	Domican Republic.
376.2830 Brassieres, nonornamented	.....	431,397	Philippine Republic, Hong Kong, Dominican Republic, Mexico, and Costa Rica.
376.2845 Brassieres, nonornamented	334,351	137,495	Philippine Republic, Hong Kong, Mexico, Costa Rica, Dominican Republic, and Haiti.
376.2885 Body supporting garments, except brassieres, nonoramented, women's, girls' infants'.	678	1,265	Mexico, Costa Rica, Japan, and Dominican Republic.
376.2886 Body supporting garments, except brassieres, nonornamented.	.....	25,846	Mexico, Costa Rica, and Dominican Republic.

TABLE 5.—*Comparable Import and Domestic Price Data* [1]

[U.S. dollars per dozen]

Category 649—Body Supporting Garments—Dozen	
376.2430 Brassieres, ornamented:	
Mexico	$18.75
Haiti	12.25
Philippine Republic	10.00
Costa Rica	14.00
Hong Kong	20.50
Dominican Republic	18.50
United States	44.50

TABLE 5.—*Comparable Import and Domestic Price Data* [1]—Continued

[U.S. dollars per dozen]

Category 649—Body Supporting Garments—Dozen	
376.2830 Brassieres, nonornamented:	
Mexico	13.50
Haiti	9.50
Philippine Republic	8.25
Costa Rica	11.00
Hong Kong	12.00
Dominican Republic	12.50
United States	40.75

[1] Imports are average duty paid CIF value.

Table 6.—*Production, Imports and Import/Production Ratio, Body Supporting Garments, Manmade Fiber, Category 649*

[1,000 dozen]

Year	Production	Imports	Ratio
1967	22,111	610	2.8
1968	23,634	1,430	6.1
1969	23,433	1,835	7.8
1970	22,109	2,674	12.1
1971	21,870	3,745	17.1
1972	22,122	4,779	21.6
1973	21,330	5,353	25.1
1974	18,692	5,868	31.4
1975	17,899	6,573	36.7
1976	19,525	8,378	42.9
1977 preliminary	18,595	9,420	50.7

TABLE 7.—*U.S. Production—Body Supporting Garments—Category 649*

[1,000 dozen]

Category 649—Body Supporting Garments—Manmade Fiber						
SIC product code	1972	1973	1974	1975	1976	1977
2342110 brassieres	16,445	16,307	16,353	13,487	15,236	14,422
234210 girdles	5,677	5,023	4,339	4,412	4,289	4,173
Total category 649	22,122	21,330	18,692	17,899	19,525	18,595

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These opinions provided that the

to previously filed reports will be per-

cordance with sections 102, 103, 107,

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TABLE 8.—*Employment in Body supporting Garments Industry*

[1,000 dozen]

Period	Apparel	Body supporting garments
1972	1,382.7	31.3
1973	1,438.1	29.8
1974	1,362.6	27.6
1975	1,243.3	24.1
1976	1,318.1	24.0
1977	1,312.3	20.7
January 1978	1,294.4	20.3
February 1978	1,309.5	19.9
March 1978	1,327.0	20.6
April	1,325.7	20.3
May 1978	1,328.2	20.0
June 1978	1,341.8	19.7
July 1978	1,263.6	19.1
August 1978	1,317.1	19.3
September 1978	1,326.6	[1]NA
October 1978	1,327.5	[1]NA

[1]Not available.

TABLE 9.—*FRB Industrial Production Indices*

[1967=100]

Period	Apparel
1972	109.4
1973	117.3
1974	114.3
1975	107.6
1976	122.2
1977	124.2
January 1978	118.6
February 1978	121.1
March 1978	123.8
April 1978	126.1
May 1978	125.9
June 1978	126.8
July 1978	124.6

[FR Doc. 78-33976 Filed 12-6-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

MILITARY TRAFFIC MANAGEMENT COMMAND; MILITARY PERSONAL PROPERTY CLAIMS SYMPOSIUM

Meeting Cancellation

In FR Doc. 78-32542 appearing at page 54123 in the issue for Monday, November 20, 1978, the December 14, 1978 meeting of the Military Personal Property Claims Symposium has been cancelled. A meeting will be scheduled in June and announcement made in FEDERAL REGISTER accordingly.

Dated: November 30, 1978.

DONALD H. MENSCH,
Colonel, GS,
Director of Personal Property.

[FR Doc. 78-34115 Filed 12-6-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

AREA RATE PROCEEDING, ET AL. (TEXAS GULF COAST AREA)

Order Establishing Procedures for Claiming Recoupment of Excess Refund Payments

NOVEMBER 28, 1978.

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith, and Georgiana Sheldon.

In the Matter of Area Rate Proceeding, *et al.* (Texas Gulf Coast Area) *Docket Nos.* AR64-2, *et al.;* Area Rate Proceeding, *et al.* (Other Southwest Area) AR67-1, *et al.;* Area Rate Proceeding, *et al.* (Southern Louisiana Area) AR61-2, *et al.* and AR69-1, *et al.;* Area Rate Proceeding, *et al.* (Permian Basin Area II) AR70-1, *et al.*

The Commission [1] issued four area rate opinions, determining just and reasonable rates and providing for refunds of amounts collected in excess of such rates, wherein reserves dedication work-off credits could be utilized, as follows:

Area	Opinion No.	Date issued	Termination date for work-off credits	Date refunds ordered (flow-through)
Texas Gulf Coast	595	May 6, 1971	Jan. 1, 1976	June 1, 1976 (Aug. 2, 1976).
Southern Louisiana	598	July 16, 1971	Oct. 1, 1977	Oct. 31, 1977 (Nov. 29, 1977).
Other Southwest	607	Oct. 29, 1971	Jan. 1, 1978	June 1, 1978 (Aug. 2, 1976).
Permian Basin II	662	Aug. 7, 1978	Jan. 1, 1973	May 1, 1978 (June 15, 1978).

These opinions provided that the refund obligations derived therefrom could be discharged, totally or in part, by the producers through the dedication of gas in the form of a refund credit of one cent per Mcf of new gas reserves committed to interstate commerce. A producer could discharge up to 100% of its refund obligation to any buyer by dedicating gas to that buyer or up to 50% of such obligation through dedication of gas to other buyers. These opinions also provided that if producers' refund obligations had not been completely discharged by the termination dates for work-off credits as shown above the producers would have to make remaining refunds in cash plus additional interest at the rate of 7% per annum. The Commission has ordered refunds in each area. Most of the refund monies have been disbursed to the pipeline companies by the producers. Some of these monies have been flowed-through by the pipeline companies to their customers.

Opinion No. 749, effective January 1, 1976, in Docket No. R-478 established nationwide flowing gas rates for gas sold from wells commenced prior to January 1, 1973. The Commission ordered therein that gas currently being sold or dedicated to be sold from this class of wells in discharge of a refund obligation in any of the four captioned area rate proceedings could be sold at the increased national rate effective January 1, 1976, only if the seller waived its refund credits on and after that date. In *Tenneco Oil Co.* v. *Federal Energy Regulatory Commission*, 571 F.2d 834 (5 Cir. 1978) the Court of Appeals set aside that portion of Opinion No. 749 requiring waiver of refund credits for sales of gas made at the rate established in that opinion.

It will now be necessary for those producers desiring to claim recoupment of excess refund payments because of the Opinion No. 749 waiver requirement and the *Tenneco* decision to submit revised refund disbursement reports reflecting the additional reserves covered by Opinion No. 749 to be credited towards discharging of refund obligations.

To substantiate these credits, it will be necessary for the pipeline companies, at the requests of the producers, to submit revised Reserves Dedication Reports (Form 334),[2] reflecting recoverable reservoir reserve volumes in lieu

[1]These proceedings were commenced before the F.P.C. By joint regulation of October 1, 1977 (10 CFR 1000.1), they were transferred to the FERC. The term "Commission" when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2]Order 459, establishing Form 334, provides that the reserves estimate set forth in a submitted report shall be subject to review by the staff of the Commission. If the staff does not notify the producer and purchasers within 90 days after the date such report is filed or within 90 days after the date this order has been issued, if such report has been filed prior to the date of issuance of this order, that it disagrees with such estimate, the reserves set forth therein can be considered accepted.

of production volumes as originally specified in Opinion No. 749.[3]

Because of the additional refund credits, it will also be necessary for the producers to reallocate their total refund credits proportionately among their creditor pipelines in accordance with the United Distribution Companies Settlement Proposal (Appendix A to Opinion No. 598).[4] Each reallocation statement shall include (a) the total amount owed to each purchaser by rate schedule, including rate schedules of others; (b) the total direct reserves dedication credits to each purchaser by purchaser report number; (c) the excess credits or remaining amount owed to each purchaser; (d) the allocation of excess credits to each purchaser still owed money after application of direct credits and (e) the amount of excess refund monies paid out by the producer to each purchaser.

As validation, the pipeline companies shall be required to submit unqualified concurrences (or non-concurrences) in both the producers' revised refund disbursement reports and reallocation statements.

Following Staff review of the Forms 334, the producers' reallocation statements, and the revised refund disbursement reports, the Commission will issue a further order setting forth the procedures for the recoupment by the producers and the pipelines of excess monies refunded and flowed through.

The Commission orders: (A) Those producers desiring to claim additional refund discharge credits for dedications of reserves covered by Opinion No. 749 shall request the pipeline companies to whom they have made such dedications to file revised Reserves Dedication Reports (Form 334) with the Commission and shall file copies of such request with the Commission. The producers' requests and supporting reserves and production data shall be furnished the pipeline companies within 60 days of the date of this order. Since the deadlines for filing Forms 334 have passed, only revisions to previously filed reports will be permitted. The only exception to this prohibition will be in a situation where there had been no production from dedicated reserves covered by Opinion No. 749 prior to the Form 334 filing deadline date and, consequently, no refund credits could have previously been obtained by the producer by the filing of a Form 334. Any claims of this nature must be fully documented and must be accompanied by a statement that any production from such reserves is to be sold at the Opinion No. 749 rates.

(B) Within 120 days of the date of this order, the pipeline companies shall file the requested Form 334 with the Commission.

(C) Within 180 days of the date of this order, the producers shall:

(1) Submit revised refund disbursement reports and reallocation statements of all reserves dedications in accordance with the United Distribution Companies Settlement Proposal. The reallocations should be based on a producer's total outstanding refund obligations in the rate proceeding area, including its refund obligations as a working interest owner under the rate schedules of others, and

(2) File with the Commission unqualified concurrences (or non-concurrences) of the pipelines in the revised refund disbursement reports and reallocation statements.

(D) No excess refund monies paid out shall be repaid to the producers pending further order of the Commission.

(E) All producer and pipeline filings required in this order shall be submitted in triplicate, with copies served on all interested parties, except revised Form 334, which shall be submitted in an original and three copies. In addition, all producer and pipeline refund reports shall be signed by a corporate officer or, if an individual or group of individuals, by such individual or individuals.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34054 Filed 12-6-78; 8:45 am]

[3]The previously submitted Forms 334 showed only actual production volumes prior to the effective date of a producer rate increase to the rate prescribed in Opinion No. 749, in accordance with the waiver requirements of Opinion No. 749. These revised Forms 334 should show the greater total recoverable reserves volumes in accordance with the *Tenneco* decision.

[4]Section 8.2.2(d) of the Settlement Proposal provided ". . . if new reserves are committed to a purchaser to which the producer owes no refund or in an amount which exceeds the refund obligation owed to that purchaser, then the one cent (1.0 cent) per Mcf credit shall be applied to reduce the producer's remaining refund obligations to all other purchasers as to each in proportion that the obligation owed to each bears to the remaining total refund obligation of such producer."

[6740-02-M]

[Docket No. RM79-3]

NATURAL GAS POLICY ACT OF 1978

Receipt of Report of Determination Process

DECEMBER 4, 1978.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency, and date

State of New Mexico Energy and Minerals Department, Oil Conservation Division, November 29.
Railroad Commission of Texas, November 30.
State of Louisiana Department of Conservation, November 29.
West Virginia Department of Mines, Oil and Gas Division, November 30.
Alabama State Oil and Gas Board, November 30.
State Oil and Gas Board of Mississippi, November 30.
Kansas State Corporation Commission Conservation Division, November 30.

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34096 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. RM79-3]

NATURAL GAS POLICY ACT OF 1978

Receipt of Report of Determination Process

DECEMBER 1, 1978.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency and date

State of Michigan, Department of Natural Resources, Geological Survey Division December 1, 1978.

Copies of this report are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N. E. Washington, D.C. 20426.

LOIS D. CASHELL,
Acting Secretary.

[FR DOC. 78-34095 Filed 12-6-78; 8:45 am]

12, 1971, Arkla states that on November 29, 1971, it filed a petition for declaratory order with the Arkansas Public Service Commission requesting that Commission to declare that Arkla's sales to Arkansas Louisiana Gas Company (Arkla Gas) for resale to Arkansas Power & Light Company (AP&L) were not subject to the jurisdiction of the Arkansas Public Service Commission. Arkla states that on March 29, 1976, they joined in a settlement agreement with Arkla Gas, AP&L, and the Arkansas Public Service Commission which provided that Arkla would file with the Commission for its consideration

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[6740-02-M]

[Docket No. RP72-110 (PGA-78-12B]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

NOVEMBER 28, 1978.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on November 6, tendered for filing Second Substitute 44th Revised Sheet No. 10 to its FERC Gas Tarriff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Algonquin Gas also indicates that the rate change proposed to be effective October 1, 1978, is being filed to reflect a reduction in purchased gas costs filed by its supplier, Texas Eastern Transmission Corporation, under both its Second Substitute 44th Revised Sheet No. 14D and its Third Substitute 44th Revised Sheet No. 14D.

Algonquin Gas proposes that the revised tarriff sheet become effective on October 1, 1978.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.0). All such petitions or protests should be filed on or before December 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34071 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. CI77-641]

ARKANSAS LOUISIANA GAS CO. v. DYCO PETROLEUM CORP.

Offer of Settlement

NOVEMBER 28, 1978.

Take notice that on November 2, 1978, Dyco Petroleum Corporation submitted an offer of settlement in the captioned proceeding.[1] The issue in this case, which Dyco states the offer is designed to settle fully, is whether natural gas production attributable to Dyco's interest in certain acreage in Dewey County, Oklahoma, is dedicated to interstate commerce by reason of a predecessor's commitment of the acreage to a gas purchase contract with Arkansas Louisiana Gas Company (Arkla), the complainant herein.

Dyco states that litigation respecting the issue in this case[2] may be prolonged and costly. Dyco therefore offers to settle the proceeding by committing to Arkla natural gas reserves equivalent to or greater than Dyco's share of reserves attributable to the disputed acreage. The equivalent reserves underlie a separate tract of land leased by Dyco, on which a well has been drilled. Appended to the settlement offer are executed 20-year gas purchase contracts commiting Dyco's interest in production of the equivalent reserves to Arkla. The contract provides for a price at the highest applicable rates permitted by law.

The offer of settlement, and the gas purchase contracts, are conditioned upon Commission approval of the settlement no later than January 1, 1979. Dyco states that the conditions were imposed because of the necessity felt by the producers of commencing deliveries from the shut-in well to generate cash flow from sales of the gas.

The Commission will provide for the filing of comments on Dyco's offer of settlement on an expedited basis. Any person desiring to be heard or to protest the offer of settlement should file comments by December 8, 1978, with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426.

All protests and comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any party wishing to become a party must file a petition to intervene in accordance with the Commission's Rules, provided, however, that persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filings. Copies of the Settlement Agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

FR Doc. 78-34072 Filed 12-6-78; 8:45 am]

[1] Joining in the offer of settlement are McCulloch Oil Corporation, Statex Petroleum, Inc., and HBOP, Ltd., jointly referred to in this notice as "Dyco."

[2] Apart from the proceeding before the Commission, a judicial proceeding instituted by Dyco, *et al.* is pending in the United States District Court for the Western District of Oklahoma. *Hoover & Bracken, Inc., et al.* v. *Arkansas Louisiana Gas Co.* and *FERC, W.D. Okla. No. CIV-78-0191-B (complaint filed 1978). The offer of settlement provides that upon approval, Dyco will move to dismiss its complaint with prejudice.*

[6740-02-M]

[Docket No. CP76-60]

ARKANSAS LOUISIANA GAS CO., COMPLAINANT v. McCULLOCH OIL CORP. OF TEXAS, DEFENDANT

Order Providing for Formal Conference

NOVEMBER 27, 1978.

On August 18, 1975, Arkansas Louisiana Gas Company (Arkla), an interstate pipeline company, filed a complaint with the Commission pursuant to Section 1.6 of the Rules of Practice and Procedure against McCulloch Oil Corporation of Texas (McCulloch), a gas producer, alleging that McCulloch had made and was continuing to make sales of natural gas to an intrastate gas pipeline company that had been previously dedicated to the interstate market and Arkla. Following the filing of the complaint and McCulloch's answer thereto, the two parties entered into a settlement agreement dated March 29, 1976. Arkla thereafter filed a notice of withdrawal of its complaint pursuant to Section 1.11(d) of the Commission's Rules. We hereby exercise our authority under Section 1.18(c) of the rules to order the parties to appear at a formal conference for the purposes set forth below.

The complaint filed by Arkla states that it had entered into a contract with Amarex, Inc. (Amarex), a gas producer, dated June 6, 1970, under which Arkla would purchase from Amarex gas produced from certain fields that were part of a large block of leaseholds held by Amarex, as lessee, in the Texas Panhandle. The complaint further states that this contract was filed with the Commission as part of Arkla's application for a certificate of public convenience and necessity permitting Arkla to construct a pipeline 298 miles long from the Deep Anadarko Basin in the Texas Panhandle to Wilburton, Oklahoma.[1]

The complaint alleges that following the execution of its contract with Arkla, Amarex assigned certain of the leases dedicated to the contract to McCulloch. Amarex proceeded to file for and receive a small producer certificate in Docket No. CS71-92 on August 12, 1971. Arkla states that on November 24, 1971, Amarex initiated sales to the interstate market from certain of the leases retained by Amarex and covered by the contract.

The complaint avers that McCulloch drilled and completed one or more gas wells on certain of the leaseholds which McCulloch had acquired by assignment from Amarex and that McCulloch thereafter delivered gas from these wells to an intrastate gas company, Pioneer Natural Gas Company (Pioneer). It further states that Arkla had demanded that McCulloch deliver the gas from these wells to Arkla and that McCulloch had refused to do so.

Arkla noted in its complaint that McCulloch had filed suit in United States District Court for the Northern District of Texas, Amarillo Division, asking the court to issue an order declaring that Arkla is not entitled to the gas produced and sold from those leaseholds McCulloch had originally acquired from Amarex as an assignee.[2]

Arkla prayed in its complaint for relief in the form of (1) finding McCulloch in violation of the Natural Gas Act, (2) requiring McCulloch to provide an accounting of all sales to Pioneer from the wells in question, and (3) ordering McCulloch to cease and desist the delivery of gas to Pioneer and repay Arkla for the amounts of gas delivered to Pioneer.

McCulloch filed its answer together with a motion to dismiss the complaint on September 26, 1975, contending that it was not in violation of the Natural Gas Act and requesting that the relief sought by Arkla be denied. McCulloch further stated that Arkla's complaint lacked facts specific enough for response or sufficient enough to establish a basis for Commission jurisdiction. McCulloch stated, therefore, that Arkla's complaint did not comport with Section 1.6 of the Rules.

McCulloch asserted in its answer that any sales to Pioneer are from fields not covered by the Amarex contract with Arkla but are, instead, from fields covered by leases entered into by McCulloch subsequent to the execution of the Arkla-Amarex contract.

McCulloch then made an alternative motion to hold in abeyance the Commission proceeding pending resolution of its contract action filed against Arkla in U.S. District Court. McCulloch stated that the primary dispute between it and Arkla is a question of contract law—whether certain of its leases are a part of the Arkla-Amarex gas purchase contract.

As noted above, Arkla and McCulloch proceeded to enter discussions aimed at resolving their dispute. On March 29, 1976, they joined in a settlement agreement. Under this agreement, McCulloch agreed to dedicate to Arkla all future gas developed in fields known as the Grand and Brown Prospects, Ellis County, Oklahoma, and from Section 7 and the south half of Section 19 in the Mendota Prospect. Arkla, in turn, agreed to release its prior claims to gas in the Mendota Prospect. No provision was made for past sales or current sales from those wells purported to be dedicated to the intrastate market by McCulloch. This settlement agreement was conditioned upon Arkla's successfully withdrawing its complaint in this proceeding.

On May 10, 1976, Arkla filed a notice of withdrawal of its complaint stating that the controversy raised by its complaint and joined by McCulloch by its answer no longer exists.

On July 12, 1977, McCulloch filed a motion for expedited review and attaches as an exhibit an amendment to the settlement between the two parties.

No petitions to intervene or notices of intervention were filed in this matter.

It appears that the pleadings in this case do not set forth the facts necessary for a well-informed Commission decision. In an effort to obtain the necessary additional information and to expedite the resolution of this case we direct that, pursuant to Section 1.18(c) of the Rules, a conference be held and that the parties to this proceeding appear to consider the matters set forth below. This course of action had been taken in similar situations in the past. See, *e.g., Northern Natural Gas Company,* Docket No. CS71-6, Order Initiating Prehearing Conference and Granting Petitions to Intervene, September 26, 1975.

The aim of a formal conference before a Presiding Administrative Law Judge is to enable the parties to agree to stipulations of all relevant facts necessary to resolve this case. So that stipulations may be arrived at more readily we direct Staff counsel to draft stipulations and serve them upon the parties no later than seven days before the convening of the conference. Hopefully, the use of stipulations will eliminate the need for an evidentiary hearing. The Presiding Judge, of course, will have those powers prescribed in Section 1.18(d) of the Rules. The parties are reminded of the effect of a failure to stipulate at such a conference to matters of fact later proved as provided by Section 1.18(f) of the Rules.

We further direct that the parties at the conference submit documents in support of the settlement agreement.

Following the conference, the Presiding Judge shall submit a report to the Commission for its consideration prior to further action by it.

We think it appropriate to respond at this time to McCulloch's argument that this proceeding should be stayed pending resolution of its action in U.S. District Court. McCulloch asserted in its answer that the issue of dedication of the leaseholds it originally acquired as an assignee of Amarex is one merely of contract law. This view is incorrect. The effect of dedication of reserves—if that is what occurred in this case—is to attach a separate and independent *federal obligation* on leaseholds or wells or a certain service that is above and beyond common law contractual obligations. *See, California, et al. v. Southland Royalty Co., et al.,* 98 S. Ct. 1955, 1959 (1978); *Sunray Mid-Continent Oil Co. v. F.P.C.,* 364 U.S. 137, 155 (1960). This federal obligation is not imposed by the contract but by the effect of dedication as provided by the Natural Gas Act. No reason exists, therefore, to await a ruling on the force of common law contract obligations. It is within the purview of this Commission to determine the existence and effect of the federal obligation attached to gas reserves dedicated to the interstate market.

Moreover, we do not believe that the recent enactment of the Natural Gas Policy Act of 1978 makes inappropriate the course of action directed here. There may exist an issue of past dedication and volumes of gas wrongly diverted from the interstate market.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the Commission initiate, pursuant to Section 1.18(c) of its Rules of Practice and Procedure, a conference, as more fully set forth hereinbefore, to assist the Commission in reaching a proper and informed decision in this matter.

The Commission orders: A conference shall be convened in the proceeding in Docket No. CP76-60 in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on December 19, 1978 at 10:00 a.m. (EST). The Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose—see Delegation of Authority 18 CFR 3.5(d)—shall preside and shall make relevant procedural determinations not provided for herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34073 Filed 12-6-78; 8:45 am]

[1] Arkla's application for the pipeline was filed on May 4, 1970, in Docket No. CP70-267, and a certificate was issued to Arkla by Opinion No. 612 on February 18, 1972, with rehearing denied on April 12, 1972.

[2] *McCulloch Oil Corp. v. Arkansas Louisiana Gas Co.,* No. CA-2-75-15 (N.D. Tex., filed January 31, 1975.)

[6740-02-M]

[Docket No. ER79-109]

ARIZONA PUBLIC SERVICE CO.

Filing

NOVEMBER 28, 1978.

Take notice that Arizona Public Service Company ("APS") on November 20, 1978, tendered for filing a proposed change in its rate schedule for wholesale electric service to the City of Lowell, Arizona.

APS states that the proposed change would increase revenues from jurisdictional sales and service by $1,000 based on the 12 month period ending December 31, 1979.

APS requests that the proposed change become effective January 1, 1979.

APS states that a copy of the filing has been served upon the City of Lowell, Arizona.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34074 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-110]

DEVON CORP.

Filing

NOVEMBER 28, 1978.

Take notice that Devon Corporation ("Devon") on November 20, 1978, tendered for filing a proposed change in its rate schedule for wholesale electric service to the City of Lowell, Arizona.

Devon states that it entered into a contract on October 6, 1978 with Co-

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[6740-02-M]

[Docket No. ER79-66]

CENTRAL LOUISIANA ELECTRIC COMPANY, INC.

Filing

NOVEMBER 29, 1978.

Take notice that on November 17, 1978, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a Letter Agreement dated October 16, 1978 covering the sale of 100 MW of surplus capacity to Gulf States Utilities Company (GSU) for twelve (12) months beginning January 1, 1979. CLECO states that GSU desires to purchase this capacity for its system needs and CLECO agrees to provide this capacity and that the Agreement will be beneficial to both systems. CLECO further states that the Agreement is contingent upon CLECO obtaining equivalent capacity and energy from Southwestern Electric Power Company and upon CLECO obtaining approval of all regulatory bodies having jurisdiction. CLECO indicates that deliveries will be made over existing interconnection facilities.

CLECO proposes an effective date of January 1, 1979, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing have been sent to the Louisiana Public Service Commission, GSU and Southwestern Electric Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34058 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-423 (Phase II)]

COLORADO INTERSTATE GAS CO.

Amendment

NOVEMBER 27, 1978.

Take notice that on November 2, 1978, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77-423 (Phase II), an amendment to its pending application in said docket pursuant to Section 7 (c) of the Natural Gas Act so as to request authorization for the establishment of a new point for deliveries of natural gas to applicant from the La Barge area in place of the delivery point originally proposed,[1] all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

Applicant asserts that the application in Docket No. CP77-423 requested authority for it to transport for and exchange natural gas with, Panhandle Eastern Pipe Line Company (Panhandle) from the Red Desert and East La Barge areas of Sweetwater County, Wyoming. As a result of the filing of a petition to intervene by Northwest Pipeline Corporation concerning the transportation of gas from the La Barge area, Panhandle moved the Commission to phase the application since no objections were raised concerning the Red Desert proposal, and the Commission agreed to phase the application and designated the Red Desert and La Barge proposals as Phase I and Phase II, respectively, it is said.

Applicant further asserts that on February 17, 1978, it received certificate authority in Docket No. CP77-423 (Phase I) to transport for, and exchange natural gas with Panhandle from the Greater Green River Basin area in southwestern Wyoming in accordance with the terms of a gas purchase and exchange agreement, dated December 3, 1976. The certificate granted in Phase I authorized Panhandle to construct facilities in the Red Desert area of Sweetwater County, Wyoming and to deliver natural gas to Applicant for transportation and redelivery by Applicant to Panhandle with Applicant having an option to purchase 25 percent of all volumes delivered to it, it is said. The balance would be redelivered, less applicable fuel and unaccounted-for volumes, on a thermally equivalent basis to Panhandle at existing delivery points located in Kearny County, Kansas, and Texas County, Oklahoma, it is asserted.

Applicant further asserts that after the order in Phase I issued, Panhandle negotiated a transportation and exchange agreement dated June 28, 1978 with Mountain Fuel Supply Company (MFS) and Applicant. Under the terms of that agreement, (MFS) would transport on behalf of Panhandle natural gas produced in the La Barge area from a proposed point of interconnection between MFS and Panhandle to Applicant at a proposed point of interconnection of the facilities of MFS and Applicant situated in Sweetwater County, Wyoming, it is said. Applicant states that it would agree to accept natural gas delivered by MFS for Panhandle's account at that location.

Applicant states it would transport and redeliver to Panhandle the East La Barge gas received from MFS for Panhandle's account at the delivery point proposed herein, as well as gas currently being received from Panhandle at the Red Desert delivery point, in accordance with the terms of the December 3, 1976, agreement between Applicant and Panhandle. The delivery point proposed herein is some 25 miles downstream from the location originally proposed for receipt of the La Barge area gas and the effect on Applicant's system would not be substantially different from that reflected in the initial application in this proceeding, it is asserted.

Applicant states that the agreement would be beneficial to both Panhandle and Applicant. It is asserted that Panhandle would benefit by receiving gas supplies in the La Barge area without the expenditure for constructing major connection facilities, and Applicant would benefit from the exchange by obtaining an option to purchase up to 25 percent of all volumes delivered from the La Barge area and by receiving transportation revenues from Panhandle.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34074 Filed 12-6-78; 8:45 am]

[1] The new delivery point (designated as the North Baxter delivery point) is located in Section 2, T19N, R104W, Sweetwater County, Wyoming at a proposed point of system interconnection between Applicant and Mountain Fuel Supply Company.

[6740-02-M]

[Docket Nos. RP77-105, RP76-76 and RP75-86, *et al.* (Reserved issues)]

COLORADO INTERSTATE GAS CO.

Filing of Settlement

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Colorado Interstate Gas Company (CIG) filed a settlement agreement with the Commission which, if approved, will resolve all issues in Docket Nos. RP77-105 and RP76-76 and all reserved issues in Docket No. RP75-86.

Any person desiring to be heard or to protest the proposed settlement agreement should file comment with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 12, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34075 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP75-91, RP77-7, and RP77-140]

CONSOLIDATED GAS SUPPLY CORP.

Settlement Conference

NOVEMBER 22, 1978.

Take notice that an informal settlement conference will be convened in the subject gas pipeline rate proceedings at 11:00 a.m. on December 14, 1978 in a hearing room at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34076 Filed 12-6-78; 8:45 am]

[6740-02]

[Docket No. ER79-62]

CONSUMERS POWER CO.

Filing

NOVEMBER 29, 1978.

Take notice that on November 16, 1978, Consumers Power Company (Consumers) tendered for filing a contract and rate schedule for wholesale electric service to the City of Lowell, Michigan. Consumers states that the contract provides for the delivery of energy to an intermediary at the rate of 500 kW, for transmission to the City of Lowell. Consumers further states that the rates and charges established by the contract are the same as those accepted for filing and permitted to become effective with respect to service to other members of the jurisdictional service class by letter of the Commission dated November 1, 1977 in Docket No. ER77-534.

Consumers proposes an effective date of November 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34059 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. CI79-107]

DEVON CORP., ET AL.

Petition for Declaratory Order

NOVEMBER 29, 1978.

On November 1, 1978, Devon Corporation, *et al.* (Devon) filed a petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) requesting that the Commission issue an order stating whether regulatory approvals are necessary for the construction and operation of the proposed AB Gathering Line to be built by Devon.[1]

Devon states that it entered into a contract on October 6, 1978 with Columbia Gas Transmission Corporation (Columbia) under which Devon would construct and operate 5.11 miles of gathering line to gather gas produced by Devon and Columbia and deliver it to a point on Columbia's existing V 28 8 inch gathering line at Columbia's existing meter No. 244, located in Logan County, West Virginia. Columbia would reimburse Devon for the cost of constructing the line, and the cost of the capital so employed, by paying Devon 30 cents per Mcf for all volumes delivered to Columbia (whether produced by Columbia or Devon) until such time as 110% of the cost expended by Devon (not to exceed 700,000 dollars) has been recouped. Additionally, Columbia would reimburse Devon for the actual cost of operating the line, not to exceed 2 cents per Mcf. After reimbursement Columbia would have the option to purchase the line for a nominal consideration. Volumes produced by Devon would be sold to Columbia at the applicable ceiling rate. Volumes produced by Columbia would be taken into its own system. Devon requests the Commission to clarify what authorization is required to carry out the terms of this contract.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 22, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure applicable in this proceeding (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34060 Filed 12-6-78; 8:45 am]

[1] Devon Corporation is general partner of the Debon-Smedvig 1973 Oil and Gas Program Ltd., a limited partnership, and is operator for Eason Oil Company. Devon Corporation was issued a small producer's certificate in Docket No. CS76-842 and Eason Oil Company was issued a small producer's certificate in Docket No. CS71-631. Devon-Smedvig has applied for a small producer's certificate. "Devon" refers to these three parties collectively.

[6740-02-M]

[Docket No. CP77-582]

EL PASO NATURAL GAS CO.

Petition To Amend

NOVEMBER 27, 1978.

Take notice that on November 1, 1978, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-582 a petition to amend the order issued December 14, 1977 in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Commission Regulations (18 CFR 157.7(c)) so as to permit the aggregate total project cost limita-

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tions for the budget-type construction for miscellaneous rearrangement of facilities during the calendar year 1978, to be increased to an amount not to exceed $400,000, all as more fully set forth in the petition which is on file with the Commission and open for public inspection.

Petitioner states that it projected at the time the initial application was filed in Docket No. CP77-582 that the aggregate cost limitation of $300,000 was adequate to cover all anticipated projects to be performed by it during the calendar year 1978; however, on October 23, 1978, Petitioner had undertaken miscellaneous rearrangement projects during the calendar year 1978 which have committed an estimated $295,719 in costs under the budget-type authorization issued herein. Petitioner further states that it has pending a project which it has been requested to accomplish this year but which would cause Petitioner to exceed the current aggregate cost limitation of $300,000 prescribed by Section 157.7(c); accordingly, Petitioner requests waiver of the provisions to enable it to exceed the $300,000 limitation.

Petitioner asserts it has been advised by St. Mary's Hospital located in Tucson, Arizona, that it has commenced construction of a long term care facility at its existing hospital facility site. It is further asserted that to accommodate the planned expansion of St. Mary's Hospital and provide continuity in the existing construction schedule, it would be necessary for Petitioner, commencing on or about December 1, 1978, to remove approximately 1,100 feet of its existing 10¾-inch O.D. Tucson-Phoenix pipeline serving Tucson Gas and Electric Company (TG&E), a distributor customer of Petitioner, and to relocate and replace such facilities by the construction of approximately 2,070 feet of new 6-⅝-inch O.D. pipeline, with appurtenances, all located in Pima County, Arizona. Petitioner estimates the total cost of removing the existing segment of pipeline and of constructing the replacement pipeline at approximately $68,000, such cost to be reimbursed to Petitioner by St. Mary's Hospital.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34077 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-18]

EL PASO NATURAL GAS CO.

Tariff Filing

NOVEMBER 28, 1978.

Take notice that on November 20, 1978 El Paso Natural Gas Company ("El Paso") tendered for filing Second Revised Sheet No. 1-E and Third Revised Sheet No. 1-I to its FERC Gas Tariff, Original Volume No. 2A.

El Paso states that on September 15, 1978, it tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1 which were designed to modify El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") contained in said tariff. Such modifications were made in accordance with El Paso's Stipulation and Agreement dated June 23, 1978, which was approved and adopted by the Commission's letter order dated September 5, 1978, at Docket No. RP78-18.[1] By letter order dated October 10, 1978, the Commission accepted said tariff tender and made the related tariff sheets effective as of the dates requested by El Paso in said filing.

El Paso further states that the modified PGAC provision which was the subject of the aforementioned September 15, 1978, tariff tender applies to all rate schedules contained in El Paso's Original Volume No. 1 Tariff, as well as certain special rate schedules contained in its Third revised Volume No. 2 and Original Volume No. 2A Tariffs. Such modified PGAC provision does not, however, address itself to those special rate schedules contained in El Paso's Volume No. 2A Tariff, which rate schedules contain rates that are based upon the purchased cost of clean, high pressure, pipeline quality gas and are subject to adjustment under the provisions of the Purchased Gas Cost Adjustment Provision—Clean High Pressure gas ("PGAC-CHPG") contained in said Volume No. 2A Tariff.[2] Since the procedures utilized in adjusting rates are similar under both the PGAC and the PGAC-CHPG provisions, El Paso states that the purpose of the subject tender is to effectuate certain modifications in the PGAC-CHPG provision in order to bring that provision into harmony with the general tariff policy approved by the Commission in connection with its approval of the Stipulation and Agreement at Docket No. RP78-18. El Paso further states that such modifications provide that all producer-supplier refunds received by El Paso during the period June 1, 1978, through May 31, 1981, applicable to sales made to El Paso's clean high pressure gas customers will be flowed through to such customers on a cash basis. Such cash refunds will be made concurrently with those refunds, if any, which are distributed to El Paso's jurisdictional customers under rate schedules subject to El Paso's Original Volume No. 1 Tariff PGAC provision pursuant to ARTICLE XVI(l) of the aforementioned Stipulation and Agreement approved at Docket No. RP78-18.

El Paso has requested that the Commission accept the tendered tariff sheets for filing and permit them to become effective thirty (30) days following the date filed.

El Paso states that copies of the filing were served upon each of its affected customers and the Railroad Commission of Texas.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before December 11, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34078 Filed 12-6-78; 8:45 am]

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[1] Such modifications are set forth on the tariff sheets included under Appendix C of said Stipulation and Agreement.

[2] The currently effective special rate schedules which are subject to El Paso's PGAC-CHPG provision are Rate Schedules FS-3, FS-6, FS-7, FS-10 and FS-32.

[6740-02-M]

[Docket No. ES79-12]

GULF STATES UTILITIES CO.

Application

NOVEMBER 28, 1978.

Take notice that on November 14, 1978, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of up to 350,000 shares of New Preferred Stock. Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge, Lousiana and vicinity.

The Applicant proposes to sell the new securities by competitive bidding in accordance with the Commission's Regulations under the Federal Power Act to underwriters who will in turn make a public offering of such stock.

The proceeds from the sale of the new securities will be used to pay off part of the Company's outstanding short-term bank loans previously authorized by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 7, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34079 Filed 12-6-78; 8:45 am]

[6740-02-M]

HENRY GRACE PRODUCTION CO.

[Docket No. RI77-22]

Amended Petition for Special Relief

NOVEMBER 28, 1978.

Take notice that on November 7, 1978, Henry Grace Production Company (Grace) 813 City National Bank Bldg., Wichita Falls, Texas 76301, filed an amended petition for special relief in Docket No. RI77-22, requesting authorization to charge a rate of $0.73 per MMBTU for the sale of gas from the following producing properties: A. R. King and A. R. King D. Leases, Lipscomb County, Texas; and W. J. Godwin Lease, Cimarron County, Oklahoma. The pipeline purchaser is Transwestern Pipeline Company. Originally Grace requested a special relief rate of $1.52 per MMBTU.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 7, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34061 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-15]

ILLINOIS POWER CO.

Application

NOVEMBER 29, 1978.

Take notice that on November 16, 1978, Illinois Power Company, a corporation organized under the laws of the State of Illinois, with its principal business office in Decatur, Illinois, filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to $125 million unsecured short-term notes and commercial paper, on or before December 31, 1979, and to mature on or before December 31, 1980.

The short-term debt will be added to working capital for ultimate application toward the cost of gross additions to utility properties.

Any person desiring to be heard or to make any protests with reference to said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before December 18, 1978. The Application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34062 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-95]

JOSEPH P. MUELLER

Amended Petition for Special Relief

NOVEMBER 28, 1978.

Take notice that on September 15, 1978, Joseph P. Mueller (Petitioner), 1010 Wilson Building, Corpus Christi, Texas 78476, filed a petition for special relief in Docket No. RI78-95 pursuant to §2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner asserts that due to water influx and lower flowing pressures additional two-stage compression is required in order to continue production.

Take further notice that on November 9, 1978, Petitioner filed an amendment to his petition in order to request authorization to charge $0.9806 per Mcf at 14.65 psia for the sale of gas from the Thomas Sainz No. 1 Well and the Isabelle R. Ferrell "C"-1 Well, Ramirena Field, Live Oak County, Texas to Valley Gas Transmission Company, rather than the 101.21¢ per Mcf as earlier requested.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34063 Filed 12-6-78; 8:45 am]

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[6740-02-M]

[Docket Nos. E-9469 and ER76-377]

LOCKHART POWER CO.

Extension of Time

NOVEMBER 28, 1978.

On November 21, 1978, Lockhart Power Company filed a request for an extension of time to submit the revised cost study and related rates in accordance with the terms of Opinion No. 29, issued in this proceeding on September 22, 1978. Lockhart states that the additional time is needed because of the Company's limited technical staff.

Upon consideration, notice is hereby given that an extension of time is granted to and including December 1, 1978, for complying with Ordering Paragraph (B) of Opinion No. 29.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34064 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-61]

LONE STAR GAS CO.

Application

NOVEMBER 28, 1978.

Take notice that on November 7, 1978, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP79-61 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1979, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open for public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment of facilities would not exceed $1,300,000 with no single project exceeding $325,000. Applicant states that it would finance such cost from working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34080 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-65]

LONE STAR GATHERING CO.

Application

NOVEMBER 28, 1978.

Take notice that on November 7, 1978, Lone Star Gathering Company (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP79-65 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.5(c)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1979, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material changes in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $100,000, which cost Applicant would finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34081 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. E-8615]

LOUISIANA POWER & LIGHT CO.

Refund Report

NOVEMBER 24, 1978.

Take notice that Louisiana Power & Light Company on November 3, 1978, tendered for filing in compliance with Commission Opinion Nos. 813 and 813-A a report containing the monthly billing determinants and revenues under prior, present and adjudicated rates, monthly adjudicated rate increase, monthly rate refund and monthly interest computation for the period September, 1974 through August, 1978. Louisiana Power indicates that refunds in the amount of $3,994,224.57 were delivered to Cajun Electric Power Cooperative, Inc. on October 25, 1978.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before December 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34082 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-71]

MISSOURI POWER & LIGHT CO.

Filing of Amendment to Facility Use and Operating Agreement

NOVEMBER 29, 1978.

Take notice that on November 20, 1978, Missouri Power & Light Company (MPL) tendered for filing an Amendment and revised Appendix "E" to the Facility Use and Operating Agreement dated May 23, 1975 between MPL and Missouri Edison Company (MoEd). Said documents reflect added substation investment by MPL and the subsequent increase in rental charges MPL receives from MoEd, according to MPL.

MPL requests an effective date of January 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34065 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-11]

MISSOURI POWER & LIGHT CO.

Application

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Missouri Power & Light Company, a corporation organized under the laws of the State of Missouri, with its principal business office in Jefferson City, Missouri, filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to $12 million unsecured short-term notes, on or before September 30, 1979, with final maturities not later than December 31, 1979.

The short-term debt will be used to finance construction costs pending permanent financing.

Any person desiring to be heard or to make any protests with reference to said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 18, 1978. The Application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34066 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-279]

NIAGARA MOHAWK POWER CORP.

Order Setting Procedural Date

NOVEMBER 27, 1978.

On June 23, 1978, the Commission issued in this docket an Order Accepting Filing, Suspending Proposed Rates, Granting Waiver and Instituting Investigation. The subject of this docket and of the order is a filing by Niagara Mohawk Power Corporation of a Capability Sales Agreement between it and Central Hudson Gas & Electric Corporation (Central Hudson).

In our order of June 23, 1978, we pointed out that the only intervenor in this docket, Central Hudson, supports the filing, and specifically the 8 percent floor on Niagara Mohawk's rate of return. However, Central Hudson's position in support of the 8 percent floor is stated as based upon its having negotiated a similar floor in its contract for providing transmission service to Niagara Mohawk, which was the subject of Docket No. ER78-220. However, we have rejected the floor in Docket No. ER78-220 as not just and reasonable upon considerations not applicable to the floor in this docket and we shall not reinstate the former floor, as requested by Central Hudson in its petition to intervene in this docket. Since our action in Docket No. ER78-220 has overturned the negotiated symmetry of the rate of return floors of the parties, we are scheduling a prehearing settlement conference for the parties, including Staff, to explore means by which compensation adjustments may be made, if necessary, to the rate of return provisions of the filing in this docket.

In our order of June 23, 1978, we postponed setting any procedural events in this docket, which we now are prepared to set, as follows.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, Particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate change proposed by Niagara Mohawk Power Corporation in this proceeding.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, shall preside at a prehearing conference in this proceeding to be held within thirty (30) days after the date of issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in the Com-

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mission's Rules of Practice and Proce-

or protests should be filed on or before

[6740-02-M]

the Commission and are available for

joint petition to amend the Commis-

cordance with the requirements of the

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mission's Rules of Practice and Procedure.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34083 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-8]

NORTH PENN GAS CO.

Proposed Changes in FERC Gas Tariff

NOVEMBER 28, 1978.

Take notice that North Penn Gas Company (North Penn) on November 16, 1978, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective November 1, 1978.

The rates contained in Third Substitute Fifty-Eighth Revised Sheet No. PGA-1 reflect a decrease of 0.012¢ per Mcf from the rates contained in Second Substitute Fifty-Eighth Revised Sheet No. PGA-1 filed on October 30, 1978 for effectiveness November 1, 1978.

Third Substitute Fifty-Eighth Revised Sheet No. PGA-1 contains the same changes reflected in Second Substitute Fifty-Eighth Revised Sheet No. PGA-1 and additionally reflects the decrease in rates filed by Consolidated Gas Supply Corporation (Congas) on October 30, 1978 for effectiveness November 1, 1978.

Additionally, North Penn submits for filing Substitute Fifty-Ninth Revised Sheet No. PGA-1 for effectiveness December 1, 1978.

Substitute Fifty-Ninth Revised Sheet No. PGA-1 reflects the surcharge credit contained in Fifty-Ninth Revised Sheet No. PGA-1 filed October 31, 1978 and additionally reflects the increase in rates filed by Congas on November 1, 1978 for effectiveness December 1, 1978.

North Penn requests a waiver of any of the Commission's Rules and Regulations as may be required to permit the revised tariff sheets to become effective as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34084 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-72]

OHIO EDISON CO.

Filing

NOVEMBER 29, 1978.

Take notice that Ohio Edison Company on November 20, 1978, tendered for filing a proposed change in its FERC electric service tariff FERC No. 66, an Amendment No. 2 to the Interconnection Agreement between the Dayton Power and Light Company and Ohio Edison Company. The reason for the amendment is to reflect a change in transmission line routings and thus in delivery points and responsibilities for facilities, according to Ohio Edison.

A copy of the filing was served upon the Dayton Power and Light Company with whom the new agreement has been reached.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file at the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34085 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP72-115 and R-406]

OKLAHOMA NATURAL GAS GATHERING CORP.

Filing of Revised Tariff Sheets

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Oklahoma Natural Gas Gathering Corporation (Gathering Corporation) tendered for filing the following tariff sheets:

Second Revised Sheet No. 58
Fourth Revised Sheet No. 59
Second Revised Sheet No. 60
Second Revised Sheet No. 61
Second Revised Sheet No. 62
Second Revised Sheet No. 63

Gathering Corporation states that said tariff sheets will become effective on January 1, 1979, and revise its Purchased Gas Cost Adjustment clause to include a provision for carrying charges on balances accumulated in its Unrecovered Purchased Gas Adjustment Clause are changed from January 1 and July 1 to April 1 and October 1, respectively. Gathering Corporation also states that this filing is made pursuant to and in compliance with Commission Order No. 13, issued October 18, 1978. Gathering Corporation further states that in order to avoid two PGA filings in a three-month period, it proposes to postpone its PGA filing, which would have been effective on January 1, 1979, and make a later filing to become effective on the new determination date of April 1, 1979.

Gathering Corporation states that copies of this filing were served upon all its jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1978. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34086 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-68]

ORANGE & ROCKLAND UTILITIES, INC.

Filing

NOVEMBER 29, 1978.

Take notice that Orange & Rockland Utilities (O&R) on November 17, 1978, tendered for filing as a change in a filed rate schedule an agreement between O&R and Consolidated Edison Company of New York (ConEd) providing for the exchange of electric generating capability between O&R and ConEd and for associated energy transactions during the period October 29, 1978–April 21, 1979.

O&R requests waiver of the Commission's notice requirements to permit the agreement to become effective as of October 29, 1978, and to permit Rate Schedule No. 36, as amended, to terminate as of October 24, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34087 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-479]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Petition To Amend

NOVEMBER 28, 1978.

Take notice that on November 1, 1978, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline), P.O. BOX 1642, Houston, Texas 77001 (Petitioners) filed in Docket No. CP77-479 a joint petition to amend the Commission's order issued on December 16, 1977 in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to reflect the changes in the transportation service rendered to Libbey-Owens-Ford Company (LOF), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Petitioners assert that the Commission order of December 16, 1977, authorized them to transport certain quantities of gas produced from reserves in the Fritzlen Field, in Woods County, Oklahoma, in accordance with a transportation agreement dated March 31, 1977; that is, 1,300 Mcf per day on a firm basis and 1,200 Mcf per day on a best efforts basis. The natural gas transported on a firm and best efforts basis is delivered by Panhandle and Trunkline to Transcontinental Gas Pipe Line Corporation, Northern Natural Gas Company, and Columbia Gas Transmission Corporation for the account of LOF and for redelivery to LOF, it is said.

Petitioners further assert that the transportation agreement also provides for Panhandle to deliver 500 Mcf per day on a firm basis to Transwestern Pipeline Company (Transwestern). Authorization for this service, however, has never been sought, nor is such service contemplated in the foreseeable future and, accordingly, Panhandle, Trunkline and LOF have amended the transportation agreement by an instrument dated September 11, 1978, which, among other things, deleted the point of redelivery to Transwestern in Hansford County, Texas, it is stated. It also reduces the firm transportation volume from 1,800 Mcf per day to 1,300 Mcf per day and increases the best efforts volume from 1,200 Mcf per day to 1,700 Mcf per day the petition states further.

Petitioners assert that the Commission order issued December 16, 1977, requires that the firm monthly charge to LOF be reduced by the proposed charge for the delivery of gas to Transwestern and, therefore, by way of conformity with this requirement, the September 11, 1978 amendment to the transportation agreement provides for the reduction of the monthly charge for the service from $7,650 to $6,136. It is further stated that the amendment provides for additional changes to bring the agreement into full harmony with that requirement and to reflect the actual charges since the commencement of the service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34088 Filed 12-6-78; 8:45 am]

[6740-02-M]

SHELL OIL CO.

[Docket No. CI79-114]

Limited-Term Certificate application

NOVEMBER 21, 1978.

Take notice that on November 3, 1978, Shell Oil company (Shell) P. O. Box 2099, Houston, Texas 77001, filed in Docket No. CI79-114 an application for a limited-term certificate of public convenience and necessity with pregranted abandonment authority requesting that Applicant be authorized to sell in interstate commerce, for resale, natural gas produced by Applicant from Mississippi Canyon Block 311 Field, Offshore Louisiana to Southern Natural Gas Company, pursuant to the provisions of Section 7 of the Natural Gas Act, as amended, and § 2.70 of the Commission's rules of practice and procedure.

Applicant states that it is seeking a limited-term certificate of public convenience and necessity for a term from the date of initial delivery of gas to Southern at their facilities in West Delta Block 133 until such time as both Shell and Southern are prepared to deliver and receive the subject gas at the Mississippi Canyon Block 311 Platform "A" facility, or until such time as Shell no longer has the capacity to gather gas to West Delta Block 133 through its crude oil pipeline whichever is earlier.

Any person desiring to be heard or to make any protest with reference to said application, on or before December 13, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties

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to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34067 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No: ER79-75]

SOUTHERN CALIFORNIA EDISON CO.

Filing of Interruptible Transmission Service Agreement

NOVEMBER 29, 1978.

Take notice that on November 20, 1978, Southern California Edison Company (Edison) tendered for filing an interruptible transmission service agreement, dated November 9, 1978, with the City of Anaheim providing for the transmission by Edison on an interruptible basis of power purchased by Anaheim from Nevada Power Company on a non-firm basis. Edison indicates that the power will be delivered by the Department of Water and Power of the City of Los Angeles (DWP) to the Victorville-Lugo Point of Interconnection. Edison will provide interruptible transmission service under said agreement from the Victorville-Lugo Point of Interconnection to Anaheim's Point of Delivery at the City of Anaheim. Edision states that it will charge Riverside as specified in the Agreement for transmission, dispatching, and scheduling services, and for losses between the Point of Interconnection with DWP and with the Anaheim Point of Delivery.

Edison and Anaheim request that service be initiated as soon as possible under this Agreement, and for that reasons Edison requests that the notice provisions of the Commission's regulations be waived and the filing be permitted to become effective at the time of acceptance of filing but in no event later than the appropriate number of days.

Copies of this filing were served upon the City of Anaheim California, and the Public Utilities Commission of the State of California, according to Edison.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to amek protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34089 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-36]

SOUTHERN NATURAL GAS CO.

Certification of Settlement

NOVEMBER 29, 1978.

Take notice that on November 9, 1978, Presiding Administrative Law Judge Samuel Kanell certified to the Commission a proposed Stipulation and Agreement in this proceeding. The settlement, if approved, would resolve all issues in the proceeding save for rate design, cost allocation, cost classification, rate zone, consolidated tax and certain cost-of-service issues related to Southern Energy Corporation.

Any person desiring to be heard or to protest the proposed settlement agreement should file comment with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 12, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34068 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket Nos. C176-578, et al.]

SOUTHERN UNION EXPLORATION CO. (FORMERLY SOUTHERN UNION SUPPLY CO.)

Corporate Name Change

NOVEMBER 27, 1978.

Notice is hereby given that all certificates, rate schedules and pending applications and proceedings listed below are redesignated to reflect the corporate name change from Southern Union Supply Company to Southern Union Exploration Company, effective March 31, 1978.

FERC Gas Rate Schedule No. 1: Docket No. C177-428
FERC Gas Rate Schedule No. 2: Docket No. C177-489
FERC Gas Rate Schedule No. 3: Docket No. C176-578
FERC Gas Rate Schedule No. 4: Docket No. C176-579
FERC Gas Rate Schedule No. 5: Docket No. C177-677

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34090 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-55]

TRANSWESTERN PIPELINE CO.

Application

NOVEMBER 28, 1978.

Take notice that on November 6, 1978, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-55 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing January 1, 1979, and operation of facilities to enable it to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $8,600,000 and the cost of any

single project would not exceed $1,500,000, and further states that these facilities would be initially financed utilizing existing corporate funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34091 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP74-89 and RP73-35 (AP76-1)]

TRUNKLINE GAS CO.

Extension of Time

NOVEMBER 28, 1978.

On November 6, 1978, Trunkline Gas Company filed a request for an extension of time to make refunds required by Opinion No. 22, issued in this proceeding on August 15, 1978. Trunkline has filed for rehearing of Opinion No. 22 and the Commission has not yet issued a final order on rehearing.

Upon consideration, notice is hereby given that an extension of time for complying with Ordering Paragraph (E) of Opinion No. 22, is granted to and including 30 days from the issuance of the Commission's order on Trunkline's rehearing application unless otherwise ordered by the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34069 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-68]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheets

NOVEMBER 24, 1978.

Take notice that on November 14, 1978, United Gas Pipe Line Company (United) filed with the Federal Energy Regulatory Commission (Commission) as a part of its FERC Gas Tariff, the following revised tariff sheets:

First Revised Volume No. 1

Twelfth Revised Sheet No. 3
Forty-Sixth Revised Sheet No. 4
Eleventh Revised Sheet No. 5
Nineteenth Revised Sheet No. 21
Sixteenth Revised Sheet N. 99
Ninth Revised Sheet No. 99-A

Original Volume No. 2

Eighth Revised Sheet No. 187
Sixth Revised Sheet No. 226
Seventh Revised Sheet No. 289-A
Second Revised Sheet No. 397
Second Revised Sheet No. 401
Second Revised Sheet No. 407
Fourth Revised Sheet No. 448
Fourth Revised Sheet No. 559
Fourth Revised Sheet No. 574
Third Revised Sheet No. 593
Third Revised Sheet No. 609
Third Revised Sheet No. 625
Second Revised Sheet No. 651
Second Revised Sheet No. 668
Third Revised Sheet No. 685
Second Revised Sheet No. 732
Second Revised Sheet No. 753
Second Revised Sheet No. 771
First Revised Sheet No. 833
First Revised Sheet No. 849
First Revised Sheet No. 865
First Revised Sheet No. 881
Second Revised Sheet No. 909
First Revised Sheet No. 926
Third Revised Sheet No. 957
First Revised Sheet No. 993
First Revised Sheet No. 1018
First Revised Sheet No. 1055
First Revised Sheet No. 1072
First Revised Sheet No. 1073
First Revised Sheet No. 1090
First Revised Sheet No. 1156
First Revised Sheet No. 1173
First Revised Sheet No. 1196

Forty-Sixth Revised Sheet No. 4 reflects the elimination of all cost associated with facilities not in service at October 31, 1978, the anticipated advance payment balance at November 30, 1978 and includes the purchased gas cost and surcharge adjustment as filed in United's PGA on May 24, 1978 to be effective July 1, 1978.

Copies of the revised tariff sheets are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB
Secretary.

[FR Doc. 78-34092 Filed 12-6-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-64]

UPPER PENINSULA GENERATING CO.

Filing

NOVEMBER 29, 1978.

Take notice that on November 17, 1978, Upper Peninsula Generating Company (Upper Peninsula) filed the 1978 Power Contract which is intended to supersede and replace the 1974 Power Contract and various supplements thereto. Upper Peninsula states that the 1978 Power Contract will govern the sale of power and energy by Upper Peninsula to Upper Peninsula Power Company (Power Company) and to Cliffs Electric Service Company (Service Co.) from the nine units owned by Upper Peninsula at its Presque Isle station. Upper Peninsula further states that the 1978 Power Contract provides for a rearrangement in the entitlements of Power Company and Service Co. in the various units owned by Upper Peninsula.

Upper Peninsula requests that the filing be permitted to become effective on January 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance

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with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34070 Filed 12-6-78; 8:45 am]

[6450-01-M]

Office of Hearings and Appeals

NOTICE OF CASES FILED

Week of November 17, 1978, Through November 24, 1978

Notice is hereby given that during the week of November 17, 1978 through November 24, 1978 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

Dated: November 30, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Nov. 17 through Nov. 24, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 17, 1978	O'Meara Bros., New Orleans, La	DEE-2021	Price exception (sec. 212.73). If granted: O'Meara Bros. would be permitted to sell crude oil produced from the Vinton Production Co. located in Lake Charles, at upper tier ceiling prices.
Nov. 20, 1978	No. 2 Home Heating Oil, Washington, D.C.	DEX-0123	Supplemental order. If granted: The Office of Hearings and Appeals publishes its decision and recommendation to the Deputy Secretary for the DOE and to the Administrator of the Economic Reegulatory Administration regarding the need for further regulatory action with respect to No. 2 (Home) Heating Oil.
Do	Phillips Petroleum Co., Bartlesville, Okla	DXE-2019 and DXE-2020.	Extension of relief granted in *Phillips Petroleum Company*, 2 DOE Par. —— (1978). If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from Holder "B" lease and Yount "B" lease, located in Oklahoma County, Okla. at upper tier ceiling prices.
Do	Salem Oil Co., Lincoln, Nebr	DEE-2018	Exception to the reporting requirements. If granted: Salem Oil Co. would no longer be required to submit form EIA 9 (No. 2 Heating Oil Supply/Price Monitoring Report).
Nov. 21, 1978	Belridge Oil Co., Los Angeles, Calif	DXE-2025	Extension of relief granted in *Belridge Oil Company*, case No. DXE-1273 (decided on Aug. 8, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Kern County plant.
Do	City of Long Beach, Calif	DXE-2023	Extension of relief granted in *City of Long Beach*, 2 DOE par. 81,008 (June 23, 1978). If granted: The city of Long Beach, Calif., would be permitted to sell the crude oil produced from the Fault block II unit, Wilmington oil field, Los Angeles County, Calif., at upper tier ceiling prices.
Do	Coastal States Gas Corp., Houston, Tex	DRD-0015 and DRH-0113.	Motion for evidentiary hearing and motion for discovery. If granted: Discovery and an evidentiary hearing would be permitted in connection with Coastal States Gas Corp.'s statement of objections to a proposed remedial order (case No. DRO-0113).
Do	Crystal Oil Co., Shreveport, La	DEA-0253	Appeal of the April and August 1978 entitlement notices. If granted: The April and August 1978 entitlement notices would be modified with respect to Crystal Oil Co.'s classification of crude oil purchased from Permian Corp.
Do	Sanford P. Fagadau, Dallas, Tex	DXE-2026	Extension of relief granted in *Sanford P. Fagadau* case No. DXE-1120 (decided on Aug. 8, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bluegrove plant.
Do	Gulf Oil Corp., Tulsa, Okla	DXE-2024	Extension of relief granted in *Gulf Oil Corporation*, 2 DOE Par. —— (Nov. 11, 1978). If granted: Gulf Oil Corp. would be permitted to sell the crude oil produced from the NW Graylin "D" Sand unit located in Logan County, Colo., at upper tier ceiling prices.
Do	Research Enterprises, Inc., New Orleans, La.	DRH-0122	Request for evidentiary hearing. If granted: Evidentiary hearing would be convened with respect to objections submitted to Research Enterprises, Inc. regarding the proposed remedial order issued to the firm.
Do	Union Oil Co. of California, Los Angeles, Calif.	DEE-2022	Price exception (sec. 212.73). If granted: Union Oil Co. would be permitted to sell the crude oil produced from the Coalinga Nose field unit located in Fresno County, Calif., at upper tier ceiling prices.
Nov. 22, 1978	Bock & Bacon, Houston, Tex	DXE-2027	Extension of relief granted in *Bock and Bacon*, 2 DOE par. —— (Nov. 7, 1978). If granted: Bock & Bacon would be permitted to sell the crude oil produced from the Champion Paper lease located in Newton County, Tex., at upper tier ceiling prices.
Do	Lehigh Oil Co., Norwich, Conn	DEE-2031	Exception to change supplier. If granted: Lehigh Oil Co. would receive a new base period supplier of gasoline to replace its present supplier, Coastal States Marketing, Inc.
Do	Marathon Oil Co., Cleveland, Ohio	DFA-0254	Appeal of information requests denials. If granted: The DOE's October 20, 1978 information request denials would be rescinded and Marathon Oil Co. would receive access to certain DOE documents.
Do	Quincy Oil, Inc., Boston, Mass	DMR-0036	Request for modification. If granted: The DOE's October 27, 1978 interlocutory order on motions for an evidentiary hearing would be modified to broaden the scope of the hearing.
Nov. 24, 1978	Swann Oil, Inc., Bala Cynwyd, Pa	DPI-0027	Exception to base fee requirements. If granted: Swann Oil Co. would be permitted to import residual fuel oil on a fee-exempt basis during the current allocation period, May 1, 1978 through Apr. 30, 1979.

List of Cases Received by the Office of Hearings and Appeals—Continued

Notices of Objection Received

Date	Name and location of applicant	Case No.
Nov. 17, 1978	Commonwealth Oil Refining Co., Inc., San Antonio, Tex	DEE-1022
Nov. 20, 1978	Old Dominion State Gift Shop, Oak Hall, Va	DEO-0145
Nov. 17, 1978	Hughes & Hughes Oil & Gas, Washington, D.C	FEE-4450

Proposed Remedial Orders

Nov. 21, 1978	Argo Petroleum Corp., Houston, Tex	DRO-0146
Nov. 22, 1978	Bray Oil Co. Burlington, Vt	DRO-0147

[FR Doc. 78-34179 Filed 12-6-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1153]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

DECEMBER 1, 1978.

Docket or RM No.	Rule No.	Subject	Date received
CT 78-206	Pt. 76	Amendment of pt. 76 of the Commission's rules relating to the cable television certificate of compliance process.	
		Filed by Wilhelmina Reuben Cooke & Edward J. Kuhlmann, attorneys for the legislative committee of the Philadelphia Community Cable Coalition, et al.	Nov. 13, 1978.
		Filed by Erwin G. Krasnow and James J. Popham, attorneys for National Association of Broadcasters.	Nov. 17, 1978.
		Filed by Michael S. Horne and Jane H. Chalmers, attorneys for KOB-TV, et al.	Nov. 20, 1978.
21039	Pt. 21	Amendment of pt. 21 of the rules to reflect the availability of land mobile channels in the 470-512 MHz band in 13 urbanized areas of the United States.	
		Filed by Louis Schwartz, Robert A. Woods and Lawrence M. Miller, attorneys for Metropolitan RCC Corp.	Nov. 24, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this public notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-34154 Filed 12-6-78; 8:45 am]

[6730-0-M]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1628]

JOHN J. KLINGMAN

Order of Revocation

On November 29, 1978, John J. Klingman, Post Office Box 308, Church Street Station, New York, New York 10008, voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1628 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission, as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977:

It is ordered, That Independent Ocean Freight Forwarder License No. 1628 issued to John J. Klingman, be and is hereby revoked effective November 29, 1978, without prejudice to

fied by the Board in section 225.4(a) of

rizing the evidence that would be pre-

M-1. Against that background, the Commit-

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reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon John J. Klingman.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-34161 Filed 12-6-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1355]

STOWE & TEIBEL, INC.

Order of Revocation

On October 26, 1978, Stowe & Tiebel Inc., 217 South King Street, Suite 306, Honolulu, Hawaii 96812, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1355.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1355 issued to Stowe & Teibel Inc. be and is hereby revoked effective October 26, 1978 without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1355 issued to Stowe & Teibel Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Stowe & Teibel Inc.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-34162 Filed 12-6-78; 8:45 am]

[6730-0-M]

[Independent Ocean Freight Forwarder License No. 2005]

ULTRAMAR EXPRESS

Order of Revocation

On November 20, 1978, Ultramar Express, Carmen Juste d/b/a, 2007 SW 17th Avenue, Miama, Florida 33145, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2050.

Therefore by virtue of authority vested in me by the Federal Maritime Commission, as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977:

It is ordered, That Independent Ocean Freight Forwarder License No. 2050 issued to Ultramar Express, Carmen Juste d/b/a, be and is hereby revoked effective November 20, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 2050, issued to Ultramar Express, Carmen Juste d/b/a, be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Ultramar Express, Carmen Juste d/b/a/.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-34163 Filed 12-6-78; 8:45 am]

[6210-10-M]

FEDERAL RESERVE SYSTEM

CLAYTON BANCSHARES, INC.

Formation of Bank Holding Company

Clayton Bancshares, Inc. Clayton, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82.6 per cent (less directors' qualifying shares) of the voting shares of Clayton State Bank, Clayton, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than 26 days of the date of this notice. Any comment on an application that requests a hearing must be to the Secretary's Office and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 30, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34097 Filed 12-6-78; 8:45 am]

[6210-01-M]

METROPOLITAN BANCORPORATION

Formation of Bank Holding Company

Metropolitan Bancorporation, Tampa, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of Metropolitan Bank and Trust Company, Tampa, Florida and 80 per cent or more of the voting shares of Bank of Holiday, Holiday, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 1, 1979. Any comment on an application that requests a hearing must be sent to the Secretary's Office within 30 days of the date of this notice and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 1, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34098 Filed 12-6-78; 8:45 am]

[6210-01-M]

NATIONAL WESTMINSTER BANK, LIMITED AND NATWEST HOLDINGS, INC.

Formation of Bank Holding Company

National Westminster Bank, Limited, London, England, and Natwest Holdings, Inc., Wilmington, Delaware, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring directly or indirectly 75.1 percent of the voting shares of National Bank of North America, Jamaica, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

National Westminster Bank, Limited, London, England, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain its indirect interest in C.F. International, Inc., New York, New York. Notice of the application was published on November 10, 1978, in *The New York Times*, a newspaper circulated in New York, New York.

Applicant states that the proposed subsidiary would continue to engage in the activity of factoring principally in connection with the import and export of goods to and from the United States. Such activity has been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 30, 1978.

Board of Governors of the Federal Reserve System, November 30, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34099 Filed 12-6-78; 8:45 am]

[6210-01-M]

ORMSBY BANCSHARES, INC.

Formation of Bank Holding Company

Ormsby Bancshares, Inc., Ormsby, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86 percent of the voting shares of Ormsby State Bank, Ormsby, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reseve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than 26 days of the date of this notice. Any comment on an application that requests a hearing must be sent to the Secretary's Office and must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 1, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34100 Filed 12-6-78; 8:45 am]

[6210-01-M]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of October 17, 1978

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on October 17, 1978.[1]

The information reviewed at this meeting suggests that real output of goods and services grew moderately in the third quarter, although the pace was somewhat below the average for the first two quarters of the year. In September, as in August, the dollar value of total retail sales rose considerably. Industrial production continued to expand while nonfarm payroll employment changed little. The unemployment rate edged up from 5.9 to 6.0 per cent. Average producer prices of finished goods rose substantially in September, as prices of foods increased sharply after having declined for 2 months. The advance in the index of average hourly earnings has been somewhat faster so far in 1978 than it was on the average during 1977.

The trade-weighted value of the dollar against major foreign currencies has declined further since Mid-September in frequently volatile exchange markets. The U.S. trade deficit fell sharply in August, reversing the jump recorded in July; for the 2 months the deficit was close to the rate for the second quarter.

Growth in M-1, which had been rapid in August, accelerated in September. Inflows of the interest-bearing deposits included in M-2 and M-3 remained strong, and expansion in the broader aggregates also accelerated somewhat. Short-term market interest rates have risen further in recent weeks; long-term rates also have increased, but they remain below their July peaks. An increase in Federal Reserve discount rates from 7¾ to 8 per cent was announced on September 22; another increase to 8½ per cent was announced on October 13.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging continued moderate economic expansion and contributing to a sustainable pattern of international transactions. In setting ranges for the monetary aggregates, the Committee recognized the uncertainties concerning the effects that the November 1 introduction of the automatic transfer service (ATS) would have on measures of the money supply, especially M-1. Against that background, the Committee agreed that appropriate monetary and financial conditions would be furthered by growth of M-2 and M-3 from the third quarter of 1978 to the third quarter of 1979 within ranges of 6½ to 9 per cent and 7½ to 10 per cent, respectively. The narrowly defined money supply (M-1) was expected to grow within a range of 2 to 6 per cent over the period, depending in part on the speed and extent of transfers from demand to savings deposits resulting from the introduction of ATS. The associated range for bank credit is 8½ to 11½ per cent. Growth of M-1+ (M-1 plus savings deposits at commercial banks and NOW accounts) in a range of 5 to 7½ per cent was thought to be generally consistent with the ranges of growth for the foregoing aggregates. These ranges are subject to reconsideration at any time as conditions warrant.

In the short-run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to developing conditions in domestic and international financial markets more generally and to uncertainties associated with the introduction of ATS. Early in the period before the next regular meeting, System open market operations shall be directed at attaining a weekly average Federal funds rate slightly above the current level. Subsequently, operations shall be directed at maintaining the weekly average Federal funds rate within the range of 8¾ to 9¼ per cent. In deciding on the specific objective for the Federal funds rate the Manager shall be guided mainly by a range of tolerance for growth in M-2 over the October-November period of 5½ to 9½ per cent, provided that growth of M-1 over that period does not exceed an annual rate of 6½ per cent.

NOTE.—On November 1, 1978, the domestic policy directive adopted at the meeting of October 17, 1978 was modified by raising the range for the Federal funds rate to 9½ to 9¾ per cent and by instructing the Manager, in deciding on the specific objective for the rate within that range, to be guided by developing conditions in domestic and international financial markets.

By order of the Federal Open Market Committee, November 28, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-34101 Filed 12-6-78; 8:45 am]

[6330-01-M]

THE COMMISSION OF FINE ARTS

APPEARANCE OF WASHINGTON

Meeting

The Commission of Fine Arts will meet in open session on Wednesday, December 20, 1978, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral

[1] The Record of Policy Actions of the Committee for the meeting of October 17, 1978 is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

D E 7 7 8 UMI

[4110-07-M]

B. Pursuant to sections 1614(a), tion, in effect, involve the exercise of

V 43/236 DEC 7 78 UMI

statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., December 1, 1978.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 78-33726 Filed 12-6-78; 8:45 am]

[6820-27-M]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

RECORDS EQUIPMENT AND SUPPLIES

New Federal Stationery Size Standard—8.5 by 11 Inches

AGENCY: National Archives and Records Service, General Service Administration.

ACTION: Notice.

SUMMARY: The National Archives and Records Service (NARS) proposes to revise Federal Property Management Regulation 101-11.603-2 to change the standard size of Federal stationery from 8 by 10.5 to 8.5 by 11 inches, effective January 1, 1980. The change is based upon a unanimous decision of the Congressional Joint Committee on Printing. NARS will issue written guidance to help Executive agencies make an orderly and economical conversion to the new size by depleting current stock and phasing in the use of the new.

FOR FURTHER INFORMATION CONTACT:

Richard P. Stephenson, Chief, Correspondence Management Branch, 202-376-8907, mailing address: National Archives and Records Service (NROC), General Services Administation, Washington, DC 20408.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

Dated: November 20, 1978.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc. 78-34200 Filed 12-5-78; 9:26 am]

[4110-92-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

FEDERAL ALLOTMENT TO STATES FOR SOCIAL SERVICES EXPENDITURES INCLUDING CHILD DAY CARE SERVICES PURSUANT TO TITLE XX OF THE SOCIAL SECURITY ACT

Promulgation for Fiscal Year 1979—Revised

In FR Doc. 77-25158 published in the FEDERAL REGISTER at page 43670 on August 30, 1977, the limitations promulgated to the States were based on the then maximum amount of $2,500,000,000. Pub. L. 95-600, dated November 6, 1978, increased the maximum amount to $2,700,000,000 for the basic title XX program and also provided $200,000,000 for Child Day Care Services. Accordingly, the promulgation contained in such document is rescinded and the promulgation, as revised, is set forth below in its entirety.

Promulgation is made of the Federal allotment for Fiscal Year 1979 for purposes of grants to States under Title XX of the Social Security Act, as amended pursuant to Section 2002(a)(2) (Pub. L. 95-600, dated November 6, 1978) of the Act which provides that the Federal allotment shall be determined and promulgated in accordance with said section.

For Fiscal Year 1979, the allotment limitations are based on the Bureau of the Census population statistics contained in its publication, "Current Population Reports" (Series P-25, No. 646, February 1977) which was the most recent satisfactory data available from the Department of Commerce at the time the original allocations were made for Fiscal Year 1979 as to population of each State and of all States.

It is hereby promulgated, for purposes of grants to States for social services under title XX, that the Federal allotment of each of the 50 States and the District of Columbia for the fiscal year ending September 30, 1979, as determined pursuant to the Act and on the basis of said population data, shall be as set forth below:

State	Federal allotment
Total	$2,700,000,000
Alabama	46,108,000
Alaska	4,806,000
Arizona	28,558,000
Arkansas	26,533,000
California	270,736,000
Colorado	32,496,000
Connecticut	39,214,000
Delaware	7,322,000
District of Columbia	8,832,000
Florida	105,942,000
Georgia	62,526,000
Hawaii	11,159,000
Idaho	10,455,000
Illinois	141,268,000
Indiana	66,703,000
Iowa	36,107,000
Kansas	29,061,000
Kentucky	43,127,000
Louisiana	48,322,000
Maine	13,461,000
Maryland	52,134,000
Massachusetts	73,081,000
Michigan	114,534,000
Minnesota	49,882,000
Mississippi	29,615,000
Missouri	60,111,000
Montana	9,473,000
Nebraska	19,538,000
Nevada	7,674,000
New Hampshire	10,341,000
New Jersey	92,292,000
New Mexico	14,694,000
New York	227,509,000
North Carolina	68,804,000
North Dakota	8,089,000
Ohio	133,947,000
Oklahoma	34,798,000
Oregon	29,300,000
Pennsylvania	149,232,000
Rhode Island	11,662,000
South Carolina	35,830,000
South Dakota	8,830,000
Tennessee	53,015,000
Texas	157,094,000
Utah	15,449,000
Vermont	5,989,000
Virginia	63,306,000
Washington	45,441,000
West Virginia	22,909,000
Wisconsin	57,984,000
Wyoming	4,907,000

Dated: December 1, 1978.

State	Federal allotment
Total	$200,000,000
Alabama	3,416,000
Alaska	357,000
Arizona	2,116,000
Arkansas	1,966,000
California	20,051,000
Colorado	2,408,000
Connecticut	2,905,000
Delaware	543,000
District of Columbia	654,000
Florida	7,847,000
Georgia	4,632,000
Hawaii	827,000
Idaho	775,000
Illinois	10,463,000
Indiana	4,941,000
Iowa	2,674,000
Kansas	2,153,000
Kentucky	3,195,000
Louisiana	3,580,000
Maine	998,000
Maryland	3,861,000
Massachusetts	5,413,000
Michigan	8,483,000
Minnesota	3,695,000
Mississippi	2,193,000
Missouri	4,453,000
Montana	703,000
Nebraska	1,448,000
Nevada	569,000
New Hampshire	767,000
New Jersey	6,835,000
New Mexico	1,089,000
New York	16,849,000
North Carolina	5,095,000
North Dakota	600,000
Ohio	9,921,000
Oklahoma	2,578,000
Oregon	2,171,000
Pennsylvania	11,053,000
Rhode Island	865,000
South Carolina	2,655,000
South Dakota	640,000
Tennessee	3,927,000
Texas	11,635,000
Utah	1,145,000
Vermont	444,000
Virginia	4,689,000
Washington	3,366,000
West Virginia	1,698,000
Wisconsin	4,295,000
Wyoming	364,000

Dated: December 1, 1978.

ERNEST L. OSBORNE,
Commissioner, Administration for Public Services.

Approved by: December 4, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-34120 Filed 12-6-78; 8:45 am]

[4110-07-M]

Social Security Administration

COMMISSIONER OF SOCIAL SECURITY

Redelegations of Authorities to the Position of Social Insurance Claims Examiner (Disability) Located in the Guam Branch Officer of the Social Security Administration's Office of Program Operations

Under titles II and XVI of the Social Security Act, as amended (the Act), the Secretary of Health, Education, and Welfare (the Secretary) may make various findings of fact, decisions and determinations affecting the rights of individuals to benefits under these titles of the Act. The Secretary has delegated his authority to perform these functions to the Commissioner of Social Security (the Commissioner), with authority to redelegate (33 FR 5836-37, dated April 16, 1968 and 38 FR 15648, dated June 14, 1973). As appropriate, the Commissioner previously redelegated this authority to various subordinate positions in the Social Security Administration (SSA).

The Northern Mariana Islands, a chain of islands stretching northward from Guam for about 500-600 miles, is one of six administrative areas of the Trust Territory of the Pacific Islands over which the United States was given a trusteeship by the United Nations in 1947. In 1976, President Ford signed the Northern Marianas Covenant, which established a procedure whereby the Northern Mariana Islands would eventually become a United States Commonwealth. On October 24, 1977, President Carter proclaimed that the Constitution of the Northern Mariana Islands and certain provisions of the covenant between the Northern Mariana Islands and the United States would go into effect on January 9, 1978. Pursuant to this proclamation, section 502 of the covenant (Pub. L. 94-241), which extends the United States Supplemental Security Income (SSI) program to the Northern Mariana Islands, became effective on January 9, 1978.

I. Notice is hereby given that, to implement section 502 of Pub. L. 94-241 as it pertains to SSI disability and blindness claims filed in the Northern Mariana Islands, the Commissioner has redelegated the following authorities to the position of Social Insurance Claims Examiner (Disability) located in the Guam Branch Office of SSA's Office of Program Operations (hereafter referred to as the Guam Disability Examiner):

A. Pursuant to sections 1602, 1611, 1612, 1613, 1614, 1615, 1616, 1631 and 1633 of the Act, authority to make findings of fact and decisions affecting individuals who are, or claim to be, eligible for payments under the SSI program.

B. Pursuant to sections 1614(a), 1631(a)(4)(B), and 1633 of the Act, authority to make findings of fact and decisions as to the presumption that individuals applying for SSI benefits are disabled or blind, within the meaning of section 1614 of the Act, prior to completion of a formal determination of disability or blindness, and authority to authorize payment for not more than 3-months benefits to such individuals presumptively eligible.

C. Pursuant to sections 1614, 1631, and 1633 of the Act, authority to make Federal findings of fact and decisions regarding the existence, absence, duration or continuation of disability or blindness, as defined in section 1614 of the Act.

D. Pursuant to section 1611(e)(3) of the Act, authority to determine whether individuals eligible for SSI payments, and medically determined to be drug addicts or alcoholics, are complying with the terms and conditions of appropriate available treatment.

E. Pursuant to section 1631(c) of the Act, authority to review initial determinations and render reconsideration determinations in cases involving individuals who are, or claim to be, eligible for SSI payments, and who are in disagreement with determinations under title XVI of the Act. This includes authority to make findings as to whether good cause exists for failure to request reconsideration of an initial determination within 60 days after receiving notice of such determination.

II. Notice is hereby further given that, with respect to claims filed by persons living in the Northern Mariana Islands and entitled to disability insurance benefits under the regular Social Security Disability Insurance program, the Commissioner has redelegated to the Guam Disability Examiner authority, under section 221(g) of the Act, to make Federal determinations of disability, and authority to make findings of fact and decisions relating to periods of disability.

III. Notice is also hereby given that, with respect to social security disability insurance benefit claims adjudicated by the Guam Disability Determination Section, the Commissioner has redelegated to the Guam Disability Examiner authority, under section 221(c) of the Act, to review determinations of disability; to take such action in these cases as is provided in the Act; and, where permitted, to make findings of fact and decisions relating to periods of disability in such cases.

IV. The redelegations described in sections I., II. and III. above shall be effective as of the date that this General Notice thereof is published in the FEDERAL REGISTER. To the extent that any actions taken by the incumbent of the Guam Disability Examiner position, in effect, involve the exercise of any of the authorities redelegated by this document, prior to the date that this notice is published in the FEDERAL REGISTER, such actions are hereby affirmed and ratified, provided they fall within the scope of these redelegations. The subject redelegations do not carry with them the power to make further redelegations.

Dated: November 28, 1978.

STANFORD G. ROSS,
Commissioner of Social Security.

[FR Doc. 78-34128 Filed 12-6-78; 8:45 am]

[4110-02-M]

Office of Education

EMERGENCY SCHOOL AID ACT

Availability of Preimplementation Assistance

Applications are invited for new projects under the Emergency School Aid Act.

Authority for this program is contained in section 708(a)(2) of the Emergency School Aid Act (Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619)).

This program issues awards to local educational agencies (LEAs), State educational agencies (SEAs), and other public agencies and organizations.

The purpose of the awards is to assist LEAs to prepare for the implementation of desegregation plans (or other plans described in section 706(a)(1)(A)(i), (B), or (C) (i) or (ii) of the Act, involving the elimination or reduction of minority group isolation in public elementary and secondary schools) under which children (or, in the case of required plans described in section 706(a)(1)(A), faculty) will be reassigned to schools in the 1979-80 school year. However, applications will not be accepted from agencies or organizations which engaged in the illegal segregation that gave rise to a required plan.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for awards will be accepted at any time. Applications received after August 30, 1979, which cannot be properly processed by September 30, 1979, will be returned to the applicant.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.532J, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S.

Postal Service. Private metered postmarks may be used by mail users other than Federal agencies, but these postmarks will not be accepted as proof of timely mailing. Applications sent by mail will not be accepted if received after the closing date.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the Office of Education, Application Control Center, Room 5673, 400 Maryland Avenue, SW., Washington, D.C. 20202.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

APPLICATIONS NOT DELIVERED BY MAIL OR BY HAND: An application that is not delivered by mail or by hand will not be accepted for review.

PROGRAM INFORMATION: Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application kit for this program. The application kit is available from the Office of Education, Emergency School Aid Act Program, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202, telephone (202) 245-2181.

(20 U.S.C. 1608)

(Catalog of Federal Domestic Assistance Number 13.532, Emergency School Aid Act)

Dated: December 4, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-34119 Filed 12-6-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Outer Continental Shelf Advisory Board, Scientific Committee, Working Group on Environmental Studies; Meeting

Notice is hereby given that the Working Group on Environmental Studies of the Outer Continental Shelf Advisory Board, Scientific Committee will meet on December 19, 1978, at 9:00 a.m. in Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C.

The Working Group on Environmental Studies will review the Bureau of Land Management's Environmental Studies Program.

The meeting will be open to the public. Persons wishing to attend should contact Mr. Robert Knecht, Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee, Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, telephone (202) 343-8735.

Dated: December 4, 1978.

JOAN M. DAVENPORT,
Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee.

[FR Doc. 78-34118 Filed 12-6-78; 8:45 am]

[4310-84-M]

Outer Continental Shelf Advisory Board, Scientific Committee, Working Group on Physical Oceanography; Meeting

Notice is hereby given that the Working Group on Physical Oceanography of the Outer Continental Shelf Advisory Board, Scientific Committee will meet on December 19, 1978, at 9:00 a.m. in Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C.

The Working Group on Physical Oceanography will review the Bureau of Land Management's Environmental Studies Program.

The meeting will be open to the public. Persons wishing to attend should contact Mr. Robert Knecht, Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee, Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, telephone (202) 343-8735.

Dated: December 4, 1978.

JOAN M. DAVENPORT,
Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee.

[FR Doc. 78-34117 Filed 12-6-78; 8:45 am]

[4310-84-M]

Outer Continental Shelf Advisory Board, Scientific Committee, Working Group on Socioeconomic Studies; Meeting

Notice is hereby given that the Working Group on Socioeconomic Studies of the Outer Continental Shelf Advisory Board, Scientific Committee will meet on December 19, 1978, at 9:00 a.m. in Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C.

The Working Group on Socioeconomic Studies will review the Bureau of Land Management's Environmental Studies Program.

The meeting will be open to the public. Persons wishing to attend should contact Mr. Robert Knecht, Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee, Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, telephone (202) 343-8735.

Dated: December 4, 1978.

JOAN M. DAVENPORT,
Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee.

[FR Doc. 78-34116 Filed 12-6-78; 8:45 am]

[4310-84-M]

Outer Continental Shelf Advisory Board, Scientific Committee, Working Group on Transportation; Meeting

Notice is hereby given that the Working Group on Transportation of the Outer Continental Shelf Advisory Board, Scientific Committee will meet on December 19, 1978, at 9:00 a.m. in Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C.

The Working Group on Transportation will review the Bureau of Land Management's Environmental Studies Program.

The meeting will be open to the public. Persons wishing to attend should contact Mr. Robert Knecht, Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee, Room 5000, Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, telephone (202) 343-8735.

Dated: December 4, 1978.

JOAN M. DAVENPORT,
Executive Secretary, Outer Continental Shelf Advisory Board, Scientific Committee.

[FR Doc. 78-34115 Filed 12-6-78; 8:45 am]

These pipelines will convey natural gas from the Sea Robin Processing Plant, Vermilion Area, Offshore Louisiana, to the Henry Hub, Vermilion Parish, Louisiana.

Inquiries concerning this land

V 43/236 DEC 78 UMI

Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

PROGRAM INFORMATION: The Commissioner will consider for funding any activity authorized under the Act, so long as the activity is reasonably related to preparation for an LEA's implementation of a qualifying plan. The Assistant Secretary for Education has determined that these activities will make substantial progress in achieving the purposes of the Act.

The Commissioner will consider applications for funding when they are received. In evaluating the merits of an application the Commissioner will apply the criteria in 45 CFR 185.14(b).

An applicant which is not a local education agency should include in its application evidence that the LEA to which the application relates will cooperate in carrying out the proposed activities.

AVAILABLE FUNDS: The Commissioner anticipates that $2,000,000 will be made available for preimplementation grants, and encourages applicants to seek assistance in the amount of $100,000 or less.

PROJECT PERIODS: Awards made pursuant to this notice will be for projects starting no earlier than March 1, 1979, and ending no later than December 31, 1979.

APPLICATION FORMS AND FURTHER INFORMATION: Application forms and any further information may be obtained by contacting David Lerch, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2017, Washington, D.C. 20202, Telephone 202-245-2465.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) Regulations relating only to assistance under the Emergency School Aid Act (45 CFR Part 185) and, in particular, 45 CFR 185.94-185.94-4; and

(b) The Office of Education general provisions regulations (45 CFR Parts 100, 100a, and Appendixes), except to the extent that these regulations are inconsistent with 45 CFR Part 185.

(20 U.S.C. 1601-1619).

(Catalog of Federal Domestic Assistance Number 13.532. Special Projects-Emergency School Aid.)

Dated: December 1, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-34118 Filed 12-6-78; 8:45 am]

[4310-31-M]

DEPARTMENT OF THE INTERIOR

Geological Survey

KNOWN SODIUM LEASING AREA

Revision

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order 2948, Federal lands within the State of Wyoming have been classified as subject to the competitive sodium leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 261). The name of the area, effective date, and total acreage involved are as follows:

(50) WYOMING

Revised Green River Basin (Wyoming) Known Sodium Leasing Area (KSLA); April 24, 1978; 114,632 acres were added. Total area now classified for leasing is 694,207 acres.

A diagram showing the revised boundaries and acreage has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, MS 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: November 28, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-34109 Filed 12-6-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

COLORADO 24402 o

R/W Application for Pipeline, Northwest Pipeline Corp.

DECEMBER 1, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4¼" o.d. natural gas pipeline for the East Douglas Creek Gathering System approximately 0.181 miles long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 2 S., R. 101 W.
Section 35: N½SE¼

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) To give all interested parties the opportunity to comment on the application. (3) To allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering systems to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team
Branch of Adjudication.

[FR Doc. 78-34104 Filed 12-6-78; 8:45 am]

[4310-84-M-]

COLORADO 26176 f

R/W Application for Pipeline

Northwest Pipeline Corp.

DECEMBER 1, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4¼" o.d. natural gas pipeline for the Rocky Mountain Natural Gas Gathering System approximately 0.745 miles long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, MOFFAT COUNTY, COLO.

T. 9 N., R. 93 W.
Section 8: E½NE¼
Section 9: SW¼NW¼, N½SW¼

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicant's customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the application. (3) to allow any party asserting a claim to the lands invloved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team
Branch of Adjudication.

[FR Doc. 78-34105 Filed 12-6-78 8:45 am]

[4310-84-M]

[NM 35394, 35395, 35396, 35426, 35427, and 35428]

NEW MEXICO

Applications

NOVEMBER 29, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for ten 4½-inch natural gas pipeline rights-of-way across the following lands:

T. 17 S., R. 27 E.,
Sec. 28, SW¼NW¼.
T. 18 S., R. 29 E.,
Sec. 18, NE¼SW¼.
T. 24 S., R. 31 E.,
Sec. 3, SW¼SW¼;
Sec. 4, SE¼SE¼;
Sec. 9, NE¼NE¼.
T. 19 S., R. 33 E.,
Sec. 1, E½SE¼;
Sec. 12, E½E½;
Sec. 13, NE¼NE¼.
T. 20 S., R. 33 E.,
Sec. 11, E½NE¼;
Sec. 12, SW¼NW¼ and W½SW¼;
Sec. 13, W½NW¼ and SW¼;
Sec. 24, E½NW¼.
T. 30 S., R. 36 E.,
Sec. 30, SE¼NE¼ and N½SE¼.

These pipelines will convey natural gas across 5.096 miles of public lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 78-34108 Filed 12-6-78; 8:45 am]

[4310-84-M]

[OR 19108]

OREGON

Order Providing for Opening of Public Land

NOVEMBER 30, 1978.

1. By Power Site Cancellation No. 296 of June 13, 1974, the U.S. Geological Survey canceled Power Site Classification 382 of July 15, 1947, as to the following described land:

WILLAMETTE MERIDIAN, OREGON

T. 40 S., R. 22 E.,
Sec. 28, NE¼NE¼.

The area described contains 40 acres in Lake County.

2. At 10:00 a.m. on January 10, 1979, the land described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 10, 1979, shall be considered to be simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land shall be made immediately available for consummation of a pending Bureau of Land Management exchange, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

3. The land described above has been and remains open to applications and offers under the mineral leasing laws and to location under the United States mining laws, subject to the provisions of the Act of August 11, 1955, 69 Stat. 682, 30 U.S.C. 621 (1970).

4. The State of Oregon has not exercised the preference right of application for highway rights-of-way or material sites afforded it by Section 24 of the Federal Power Act.

Inquiries concerning this land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 78-34106 Filed 12-6-78; 8:45 am]

[4310-84-M]

[OR 19056]

OREGON

Opening of Land Subject to Section 24 of the Federal Power Act

NOVEMBER 30, 1978.

Pursuant to Section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), the determination of the Federal Power Commission in DA-559-Oregon of September 28, 1976, and section 2.5(c) of Bureau Order 701 of July 23, 1964, as amended, it is ordered as follows:

1. In DA-559-Oregon, the Federal Power Commission determined that the power value of the following described land, withdrawn in Power Site Reserve No. 265, will not be injured or destroyed by restoration to location, entry, or selection under appropriate land laws, subject to the provisions of Section 24 of the Federal Power Act:

WILLAMETTE MERIDIAN, OREGON

T. 40 S., R. 22 E.,
Sec. 4, Lot 4;
Sec. 5, Lots 1, 2, and 3, and NW¼SW¼;
Sec. 8, NE¼NW¼.

The area described contains 259.74 acres in Lake County.

2. At 10:00 a.m. on January 10 1979, the public land described below shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and the provisions of Section 24 of the Federal Power Act, supra. All valid applications received at or prior to 10:00 a.m. on January 10, 1979, shall be considered to be simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The land shall be made immediately available for consummation of a pending Bureau of Land Management exchange, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, and subject to the provisions of Section 24 of the Federal Power Act.

WILLAMETTE MERIDIAN, OREGON

T. 40 S., R. 22 E.,
Sec. 4, Lot 4;
Sec. 5, Lots 1 and 2.

Containing 135.74 acres.

V 43/236 DEC 78 UMI

3. At 10:00 a.m. on January 10, 1979, the national forest land described below shall be open to such forms of disposition as may by law be made of national forest lands, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law and the provisions of Section 24 of the Federal Power Act, supra.

WILLAMETTE MERIDIAN, OREGON

FREMONT NATIONAL FOREST

T. 40 S., R. 22 E.,
Sec. 5, Lot 3 and NW¼SW¼;
Sec. 8, NE¼NW¼.

Containing 124 acres.

4. The land described in paragraphs 2 and 3 above has been and remains open to applications and offers under the mineral leasing laws and to location under the United States mining laws, subject to the provisions of the Act of August 11, 1955, 69 Stat. 682, 30 U.S.C. 621 (1970).

5. The State of Oregon has not exercised the preference right of application for highway rights-of-way or material sites afforded it by Section 24 of the Federal Power Act.

Inquiries concerning this land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34107 Filed 12-6-78; 8:45 am]

[4310-70-M]

National Park Service

SNOWMOBILES

Revision of Management Policy and Public Meetings

AGENCY: National Park Service, Interior.

ACTION: Proposed revision to management policy on snowmobiles and notice of meetings to receive public comment.

FOR FURTHER INFORMATION CONTACT:

Chief, Office of Management Policy, National Park Service, 18th and C Streets NW., Washington, D.C. 20240.

INTRODUCTION: The National Park Service is proposing revisions to its management policy on snowmobiles by clarifying the criteria to be met and the procedures to be followed where this activity may be permitted in National Park System areas.

The National Park Service is interested in obtaining public participation in the formulation of official policy and public understanding of the policy that is adopted. The Bureau has scheduled a series of public meetings to receive comments about the proposed policy as set forth below.

Written and verbal comments will be considered in the further revision and clarification of the National Park Service snowmobile policy. Closing date for submitting comments will be thirty (30) days after the date of the last meeting.

After compilation and review of all comments received, the National Park Service may further revise its snowmobile policy. The intent is to have a revised policy on or about May 1, 1979, to be implemented in all respects at the beginning of the next winter season.

Purpose: The purposes of this notice are to (1) inform the public of the snowmobile policy under discussion; (2) provide for public comment on the proposed policy; and (3) announce the schedule of public meeting dates, times and locations.

Statement of policy: The following proposed policy statement will be the basis for comment and discussion:

Snowmobiles: In the coterminous United States, snowmobiles may be permitted in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities or features of the park in winter. Snowmobiling shall be consistent with the park's purpose and objectives, applicable laws, executive orders, regulations, and Departmental policy. It shall not be permitted where it will adversely affect the park's natural, cultural, scenic, or aesthetic values, disturb the wildlife or damage other park resources, cause safety hazards, or conflict with other visitor uses.

Where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Exceptions must be approved by the Director.

Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the CFR (Title 36, Section 7). Implementation of this policy shall be covered in the General Management Plan for each park area where snowmobiles are used.

Remarks: The National Park Service is proposing revision of the snowmobile policy in order to:

1. clarify it by restating the intent of Executive Order 11644, "Use of Off-Road Vehicles on the Public Lands," as amended by Executive Order 11989; and

2. use the term, route, to refer only to land surfaces, and add the term, water surfaces, to apply to snowmobile use on designated lakes and rivers.

Routes and water surfaces within those parks that permit snowmobiling will be listed and described as special regulations in the Code of Federal Regulations. These special regulations must be approved by the Director of the National Park Service, as must any exception to this policy.

There are three exceptions to the current snowmobile policy which would continue under the proposed policy: Acadia National Park and Delaware Water Gap National Recreation Area where designated routes are established on maintained roadways not open to motorized vehicles, and Grand Teton National Park where snowmobile use is permitted in the Potholes Area.

Public meetings schedule: Public meetings will be held on the following schedule:

Acadia National Park, ME; Visitor Center Auditorium, Bar Harbor, ME; January 15, 1979; at 7:30 p.m.

Billings, MT; Holiday Inn of Billings-West, I-90 and Mullowney Lane, Billings, MT; January 25, 1979; at 7:00 p.m.

Denver, CO; Holiday Inn of Denver-West, 14707 W. Colfax, Golden, CO; January 23, 1979, at 7:00 p.m.

Medford, OR; Holiday Inn, 2300 Crater Lake Hwy., Medford, OR; January 9, 1979; at 1:00 and 7:00 p.m.

St. Paul, MN; Earle Brown, Continuing Education Center, Room 135, 1890 Buford St., St. Paul Campus, University of Minnesota, St. Paul, MN; January 29, 1979; at 7:30 p.m.

San Francisco, CA; Fort Mason Visitor Center, Golden Gate National Recreation Area, Headquarters Building No. 201; January 9, 1979; from 2:00-4:00 and 7:30-end.

Seattle, WA; Seattle Center, Conference Room B, Seattle, WA; January 10, 1979; from 7:00-10:00 p.m.

Washington, D.C.; NPS Conference Room, Eighth Floor, Interior Building 18th and C Streets NW., Washington, D.C.; January 30, 1979; from 1:00-5:00 p.m.

Written comments: Written comments, offered independent of, or in addition to, any verbal comment given at the public meetings, will be accepted until thirty (30) days after the last public meeting. Comments should be addressed to: Director, National Park Service, Attention: Chief, Office of Management Policy, 18th & C Streets NW., Washington, D.C. 20240.

Dated: December 4, 1978.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc. 78-34131 Filed 12-6-78; 8:45 am]

[4310-02-M]

Bureau of Indian Affairs

INDIAN TRIBES PERFORMING LAW ENFORCEMENT FUNCTIONS

Determination—Amendment

NOVEMBER 21, 1978.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 1 and 2.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968, places responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 13758 of the May 25, 1973 issue of the FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law enforcement functions they have responsibility to exercise. Determination and certification of those tribes not listed will be made on an individual basis upon application by such tribes. The Secretary's authority to make such determinations was delegated to the Assistant Secretary—Indian Affairs by 230 DM 1 and 2.

It has been determined by the Assistant Secretary—Indian Affairs that the Tule River Indian Tribe, California, has responsibility to perform the functions listed below.

Therefore, the listing published beginning on page 13758 of the May 25, 1973 FEDERAL REGISTER (38 FR 13758), and last amended at page 43932 of the September 24, 1975 FEDERAL REGISTER (40 FR 43932), is further amended by adding the entry for the Tule River Indian Tribe of California to read as follows:

Tribal entities recognized by the Federal Government and listed by State	Employ tribal police	Establish a tribal court	Adopt a tribal law and order code	Undertake correction function	Undertake program for prevention of adult crime and juvenile delinquency	Undertake juvenile and adult rehabilitation program
California:						
Tule River Tribe.....	X	X	X	X	X	X

RICK C. LAVIS,
Acting Assistant Secretary, Indian Affairs.

[FR Doc. 78-34103 Filed 12-6-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

[S 229]

CALIFORNIA

Partial Termination of Proposed Withdrawal and Reservation of Land

NOVEMBER 28, 1978.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application S 229, for withdrawal and reservation of land for the planned facilities of the Auburn-Folsom South Unit of the Central Valley Project, California, was published as FR Doc. 65-11539 on pages 13747 and 13748 of the issue of October 28, 1965 and republished as FR Doc. 77-5913 on page 11283 of the issue of February 28, 1977. The applicant agency has cancelled its application as to the following described lands:

MOUNT DIABLO MERIDIAN

T. 15 N., R. 11 E.,
Sec. 17, W½;
Sec. 20, W½.

The area described aggregates 320 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10 a.m. on January, 8, 1979, will be relieved of the segregative effect of the above-mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 78-34152 Filed 12-6-78; 8:45 am]

[4310-84-M]

CEDAR CITY DISTRICT GRAZING ADVISORY

Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cedar City District Grazing Advisory Board will be held on January 11, 1979.

The meeting will begin at 9:30 a.m. in the conference room of the Bureau of Land Management, Dixie Resource Area Office at 24 E. St. George Blvd., St. George, Utah. Attendees will then tour grazing allotments around the St. George area.

The agenda for the meeting will include: (1) Tour of grazing allotments to review and make recommendations on implementation of allotment management plans included in the Hot Desert Grazing Environmental Statement; (2) expenditure of range betterment funds; (3) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board at 9:30 a.m. or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720 by January 9, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Persons desiring to make the tour with the advisory board should be prepared to furnish their own transportation, food, and drink.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

MORGAN S. JENSEN,
District Manager.

NOVEMBER 28, 1978.

[FR Doc. 78-34148 Filed 12-6-78; 8:45 am]

[4310-84-M]

[N-11611]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 28, 1978.

In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934, as amended, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 37 N., R. 53 E.,
Sec. 11, Lot 3, SW¼SW¼;
Sec. 13, W½SW¼, SE¼SE¼.

The area described comprises approximately 199 acres.

The land consists of three separate parcels located approximately 27 miles northwest of Elko, Nevada. It is rough and mountainous terrain and supports a moderate density of diverse vegetation, consisting of various species of sagebrush, rabbitbrush, aspen, willow and numerous types of native grasses. Elevation ranges from 6,720 feet to over 8,080 feet with the drainage pattern running from north to south. The principal land use is livestock grazing and wildlife habitat.

which have nonfederal interests there-

[4310-70-M]

V 43/236 DEC 78 UMI

Subject to valid existing rights, the land is hereby restored to the operation of the public land laws, including the mining and mineral leasing laws.

WM. J. MALENCIK,
Acting Chief, Division of Technical Services.

[FR Doc. 78-34155 Filed 12-6-78; 8:45 am]

[4310-84-M]

[N-12858]

NEVADA

Order Providing for Opening of Public Land

NOVEMBER 28, 1978.

In connection with the issuance of a new and correct patent under the provisions of Title 43, Code of Federal Regulations, the following described land has been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 21 N., R. 35 E.,
Sec. 18, E½SE¼SE¼NE¼.

The area described comprises 5 acres in Churchill County.

The land, located in northwestern Churchill County, was patented in 1962. It remained in an undeveloped condition until reconveyed in 1975. Mineral rights were reserved to the United States in the original patent.

Subject to valid existing rights, the land is hereby opened to the operation of the public land laws including the mining laws. The land has never been closed to the mineral leasing laws.

WM. J. MALENCIK,
Acting Chief, Division of Technical Services.

[FR Doc. 78-34156 Filed 12-6-78; 8:45 am]

[4310-84-M]

[NM 35384]

NEW MEXICO

Application

NOVEMBER 27, 1978.

Notice is hearby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 12 W.,
Sec. 26, NE¼SE¼;
Sec. 35, SE¼NE¼.

This pipeline will convey natural gas across 0.167 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34149 Filed 12-6-78; 8:45 am]

[4310-84-M]

[NM 35376]

NEW MEXICO

Application

NOVEMBER 27, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½ inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 10 W.,
sec. 23, lot 15.

This pipeline will convey natural gas across 0.134 of a mile of public land in San Juan County, New Mexico

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34150 Filed 12-6-78; 8:45 am]

[4310-84-M]

[NM 35378]

NEW MEXICO

Application

NOVEMBER 27, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Inc. has applied for one 2⅞-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 25 E.,
sec. 3, lot 10.

This pipeline will convey natural gas across 0.227 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34151 Filed 12-6-78; 8:45 am]

[4310-84-M]

[NM 3536]

NEW MEXICO

Application

NOVEMBER 30, 1978.

Notice is hereby given than, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 2 W.,
sec. 3, S½SW¼;
sec. 4, SE¼SE¼;
sec. 8, N½NE¼;
sec. 9, NW¼NE¼ and N½NW¼.

This pipeline will convey natural gas across 1.734 miles of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be aproved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly spend their name and address to the District Manager, Bureau of Land

Managment, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34157 Filed 12-6-78; 8:45 am]

[4310-84-M]

[NM 35377]

NEW MEXICO

Application

NOVEMBER 27, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipelines right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 33 E.,
sec. 6, SW¼NE¼ and W½SE¼.

These pipelines will convey natural gas across 0.619 of a mile of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34158 Filed 12-6-78; 8:45 am]

[4310-70-M]

National Park Service

[INT FES 78-36]

BUFFALO NATIONAL RIVER, ARKANSAS

Proposed Wilderness Recommendation
Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for proposed wilderness recommendations for Buffalo National River, Arkansas.

The environmental statement considers the wilderness designation of 10,529 acres of Federal lands and the potential wilderness addition of 25,471 acres of nonfederal lands or lands which have nonfederal interests therein for a total of 36,000 acres in three separate units within the authorized boundary of the Buffalo National River.

Copies are available from or for inspection at the following locations: Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501. Superintendent, Buffalo National River, Post Office Box 1173, Harrison, Arkansas 72601. Superintendent, Hot Springs National Park, Post Office Box 1860, Hot Springs, Arkansas 71901.

Dated: November 30, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-34132 Filed 12-6-78; 8:45 am]

[4310-70-M]

[INT FES 78-35]

GENERAL MANAGEMENT PLAN FOR BISCAYNE NATIONAL MONUMENT, FLORIDA

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final Environmental Statement on the proposed General Management Plan for Biscayne National Monument, Florida.

The statement considers the future management and development of Biscayne National Monument.

Copies of the Environmental Statement and General Management Plan will be available for public review at the addresses given below for a period of 30 days following publication of this notice.

Regional Director, Southeast Region, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.
Superintendent, Everglades National Park, P.O. Box 279, Homestead, Fla. 33030.
Superintendent, Biscayne National Monument, P.O. Box 1369, Homestead, Fla. 33030.

NOTE.—The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: November 30, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-34133 Filed 12-6-78; 8:45 am]

[4310-70-M]

[(Order No. 2) Amendment No. 1]

SUPERINTENDENTS, ET AL., NORTH ATLANTIC REGION

Delegation of Authority

Section 2(b) *Regional Chief, Division of Contracting and Property Management.* The Regional Chief, Division of Contracting and Property Management, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, North Atlantic Region, except authority to contract for acquisition of land and related property, and option and offers to sell related thereto.

Section 2(c) *Regional Chief, Branch of Contracting.* The Regional Chief, Branch of Contracting, may execute, approve and administer contracts not in excess of $200,000 for equipment, supplies and services, including construction, in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Regional Chief, Branch of Contracting, in behalf of any office or area under the administration of the North Atlantic Region.

Section 2(d) *Regional Chief, Branch of Procurement and Property Management.* The Regional Chief, Branch of Procurement and Property Management, may execute, approve and administer contracts not in excess of $50,000 for equipment, supplies and services, in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Regional Chief, Branch of Procurement and Property Management, in behalf of any office or area under the administration of the North Atlantic Region.

Section 4 *Revocation.* This Amendment No. 1 modifies Order No. 2, dated January 31, 1977 and published in (42 FR 27687) on May 31, 1977.

(National Park Service Order No. 77 (38 FR 7478) as amended).

Dated: October 20, 1978.

JACK E. STARK,
Regional Director.

[FR Doc. 78-34135 Filed 12-6-78; 8:45 am]

plying oil-fired boilers and will only be

Dated: November 30, 1978.

sion"), will hold a public meeting on

V 4 3 / 2 3 6 D E 7 7 8 UMI

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-47]

CERTAIN FLEXIBLE FOAM SANDALS

Notice of Commission Order for Written Comments and Information Concerning Presiding Officer's Recommendation, Relief, Bonding, and the Public Interest

Recommendation of "violation" issued.—In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of certain flexible foam sandals in the United States, the presiding officer recommended on October 23, 1978, that the Commission determine that there is a violation of section 337. The presiding officer certified the record to the Commission for its consideration. Copies of the presiding officer's recommendation may be obtained by interested persons by contacting the office of the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202) 523-0161.

Commission considerations.—Should the Commission adopt the recommendation of the presiding officer, it must make determinations concerning the appropriate relief and bonding, if any, and it must consider the public interest. These issues are described below.

Relief.—In the event that the Commission were to find a violation of section 337, it would issue (1) an order which could result in the exclusion from entry of certain flexible foam sandals into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of these sandals. Accordingly, the Commission is interested in what relief should be ordered, if any.

Bonding.—In the event that the Commission were to find a violation of section 337 and order some form of relief, that relief would not become final for a 60-day period during which the President would consider the Commission's determination. During this period, the certain flexible foam sandals would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

The public interest.—In the event that the Commission were to find a violation of section 337 and order some form of relief, the Commission must consider the effect of that relief upon the public interest. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Written comments and information concerning relief, bonding, and the public interest invited.—Parties to the Commission's investigation, interested agencies, public interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These written submissions will be very useful to the Commission in the event it determines that there is a violation of section 337 and that relief should be granted.

Written comments and information concerning relief, bonding, and the public interest shall be submitted in this order. First, complainant shall file and serve on all parties of record a detailed proposed Commission action, including a proposed determination of bonding, a proposed remedy, and a discussion of the effect of its proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, with the Secretary to the Commission by no later than the close of business on Friday, December 15, 1978. Second, the Commission's investigative staff shall file and serve on all parties of record a formal report reflecting its investigation of the public interest factors to be considered by the Commission with the staff's recommendations and conclusions no later than the close of business on Friday, December 22, 1978. Third, any other party, interested agency or department, public interest group, or other member of the public wishing to file written comments and information concerning the action which complainant has proposed, any available altenatives, and the advisability of any Commission action in light of the public interest considerations listed above by no later than the close of business on Friday, December 22, 1978.

Requests for oral argument and oral presentation.—At present, no oral argument is planned with respect to the recommended determination of the presiding officer concerning whether there is a violation of section 337 of the Tariff Act of 1930 in this matter. Similarly, no oral presentation is planned with respect to the relief, bonding, and the public-interest factors set forth in section 337(d) and (f) of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which the Commission is to consider in the event it determines that relief should be granted. However, the Commission will consider requests for an oral argument or an oral presentation if they are received by the Secretary to the Commission not later than January 8, 1979.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER of February 17, 1978 (43 FR 7060).

Issued: December 4, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-34189 Filed 12-6-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, WESTERN FIFTH CIRCUIT PANEL

Meeting

The Western Fifth Circuit Panel of the United States Circuit Judge Nominating Commission will meet in Houston, Texas at the United States Court of Appeals, the Eleventh Floor of the Federal Building, 515 Rush Street, Houston, Texas, on December 20, 1978, at 10:00 a.m.

The morning session will be an orientation meeting to discuss the needs of the Fifth Circuit; it will be open to the public. The afternoon session will discuss applicants for the vacancies available and will be closed to the public in accord with Pub. L. 92-463, Section 10(D) as amended.

JOSEPH A. SANCHES,
Advisory Committee, Management Officer.

DECEMBER 1, 1978.

[FR Doc. 78-34111 Filed 12-6-78; 8:45 am]

[4410-01-M]

Attorney General

CLEAN AIR ACT ENFORCEMENT ACTION

Notice of Consent Judgment

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent judgment in *United States* v. *The Connecticut Department of Transportation, et al.* has been lodged with the United States District Court for the District of Connecticut. The decree requires the defendants to ultimately comply with the applicable provisions of the federally-approved Connecticut state implementation plan by shutting down their Cos Cob generating facility by December 1980. During the interim period of time, defendants will be required to replace two of the three non-complying coal-fired boilers at that plant with complying oil-fired boilers and will only be allowed to operate the remaining coal-fired boiler in certain limited instances.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *The Connecticut Department of Transportation, et al.*, D.J. Ref. 90-5-2-3-747.

The consent decree may be examined at the office of the United States Attorney, District of Connecticut, 270 Orange Street, New Haven, Connecticut 06508, at the Region I office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-34110 Filed 12-6-78; 8:45 am]

[4410-01-M]

[AAG/A Order No. 20-78]

PRIVACY ACT OF 1974

Deletion of Systems of Records

Notices previously published in the FEDERAL REGISTER pursuant to the Privacy Act relating to the systems of records maintained by the Office of Management and Finance, Internal Audit Staff, are hereby rescinded. All records of JUSTICE/OMF-004, employee Clearance Record, 42 FR 53421 (September 30, 1977), and JUSTICE/OMF-006, Interim Performance Appraisal Record, 42 FR 53422 (September 30, 1977) are to be destroyed or distributed to the employee because they are duplicates of records maintained by the Office of Management and Finance, Personnel and Training Staff. All records of JUSTICE/OMF-005, Employee Time Distribution Record, 42 FR 53421 (September 30, 1977) are to be destroyed because the information can be derived from alternate sources.

Dated: November 30, 1978.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

[FR Doc. 78-34199 Filed 12-6-78; 8:45 am]

[7532-01-M]

NATIONAL COMMISSION NEIGHBORHOODS

MEETING

ACTION: Notice of meeting of the National Commission on Neighborhoods.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I) announces a public meeting.

TIME AND DATE: Thursday, December 21, 1978; 9:00 am., to 9:30 p.m. Friday, December 22; 9:00 a.m. to 3:30 p.m.

PLACE: Alban Towers Apartment Hotel; 3700 Massachusetts Avenue, Washington, D.C. 20019.

AGENDA:

December 21: 9:00 a.m. Call to order.
9 to noon Consideration of drafts of the final report of the Commission.
Noon Adjourn.
1:00 p.m. Call to order.
1 to 5 Consideration of drafts of the final report by the Commission.
5:00 p.m. Adjourn.
7 to 9:30 Consideration of drafts of the final report by the Commission.
9:30 p.m. Adjourn.
December 22: 9:00 a.m. Call to order.
9 to noon Consideration of draft of the final report by the Commission.
Noon Adjourn.
1:00 p.m. Call to order.
1 to 3:30 Consideration of draft of the final report of the commission.
3:30 p.m. Adjourn.

STATUS: Open to the public.

CONTACT PERSON: John Eade, Administrator, Telephone Number: 202-632-5200.

JOHN EADE,
Administrative Officer.

[FR Doc. 78-34145 Filed 12-4-78; 2:28 pm]

[4410-01-M]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

COMMISSION'S FINAL REPORT TO PRESIDENT AND ATTORNEY GENERAL

Public Meeting

In accordance with Executive Order 12,022 and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is hereby given that the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "Commission"), will hold a public meeting on Monday, December 18 beginning at 9:30 a.m. in Room 2228, Dirksen Senate Office Building, First and Constitution Avenue, NE., Washington, D.C.

The purpose of the meeting is to consider matters relating to the Commission's final report to the President and the Attorney General.

Dated: December 4, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc. 78-34130 Filed 12-6-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

AMENDED NOTICE; DANCE ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts, which appeared in the FEDERAL REGISTER, Vol 43, No. 223, p. 53868, Friday, November 17, 1978, is amended as follows: The meeting will be held December 9, 1978, from 9:00 a.m. to 6:00 p.m., December 10, 1978, from 9:00 a.m. to 6:00 p.m., and December 11, 1978, from 9:00 a.m. to 6:00 p.m., in Room 1422, the Columbia Plaza Building, 2401 E St., N.W., Washington, D.C. A portion of this meeting will be open to the public on December 10, 1978, from 1:30 p.m. to 6:00 p.m., and December 11, 1978, from 9:00 a.m. to 1:00 p.m. The topic of discussion will be Policy and Guidelines.

The remaining sessions of this meeting on December 9, 1978, from 9:00 a.m. to 6:00 p.m., December 10, 1978, from 9:00 a.m. to 1:30 p.m., and December 11, 1978, from 1:00 p.m. to 6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National En-

dowment for the Arts, Washington, D.C. 20506, telephone 202/634-6070, TDD 202/724-0232, at least seven days prior to the meeting date.

Dated: December 4, 1978.

12/7/78, from 9:30 a.m. to 1:30 p.m.,

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dowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 78-34167 Filed 12-6-78; 8:45 am]

[7537-01-M]

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Endowment for the Arts will be held on January 5, 1979, from 1:00 p.m. to 4:30 p.m., in room 1125 of the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. Accommodations are limited. Interested persons may submit written statements to the panel.

The agenda for this meeting will include evaluation of graphics materials for the National Aeronautics and Space Administration.

Further information with reference to this meeting can be obtained from Mr. Jerome Perlmutter, Coordinator of Federal Graphics, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-4286.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-34168 Filed 12-6-78; 8:45 am]

[7537-01-M]

AMENDED NOTICE; MUSIC ADVISORY PANEL (PLANNING SECTION)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Planning Section) to the National Council on the Arts which appeared in the FEDERAL REGISTER, Vol. 43, No. 223, P. 53869, Friday, November 17, 1978, is amended as follows: the meeting will be held 12/5/78, from 9:30 a.m. to 6:00 p.m., 12/6/78, from 9:30 p.m. to 6:30 p.m., 12/7/78 from 9:30 a.m. to 6:00 p.m., and 12/8/78, from 9:30 a.m. to 4:00 p.m. in Room 1422, the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. A portion of this meeting will be open to the public on 12/5/78, from 9:30 a.m. to 5:00 p.m., 12/7/78, from 9:30 a.m. to 1:30 p.m., and 12/8/78, from 9:30 a.m. to 3:00 p.m. The topic of discussion will be policy.

The remaining sessions of this meeting on 12/5/78, from 5:00 p.m. to 6:00 p.m., 12/6/78, from 9:30 a.m. to 6:30 p.m., 12/7/78, from 1:30 p.m. to 6:00 p.m., and on 12/8/78, from 3:00 p.m. to 4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER, March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 78-34166 Filed 12-6-78; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-49]

RESPONSES TO SAFETY RECOMMENDATIONS

Receipt

The National Transportation Safety Board has recently received letters, summarized below, in response to safety recommendations issued following investigation of certain aviation and surface transportation accidents which occurred within the past several years.

Aviation

A-74-26.—The Secretary of Transportation on November 24 responded to the Safety Board's inquiry of October 30, 1978, regarding the status of this recommendation, issued following investigation of the November 3, 1973, crash of a Pan American World Airways Boeing 707 at Logan International Airport, Boston, Mass. The recommendation called for rulemaking action to require air carriers to notify the shipper and the FAA when a shipment deviates from Federal or air carrier regulations.

The Secretary's November 24 letter informs the Safety Board that Materials Transportation Bureau now has the responsibility for rulemaking in this area, and, in conjunction with the Federal Aviation Administration, has completed a review of current Federal Air Regulations and Hazardous Materials Transportation Regulations that pertain to the transportation of hazardous materials by aircraft. As a result of this action, a notice of proposed rulemaking will be published within the next 60 days. A portion of this rulemaking action will relate to recommendation A-74-26.

A-76-109, A-76-114, and A-76-115.—Response of November 24 from the Federal Aviation Administration to the Safety Board's September 12 letter concerns recommendations released in conjunction with the Board's 1976 special study, "General Aviation Accidents Involving Aerobatics, 1972-1974." The Safety Board's letter referenced FAA's June 14, 1978, response which reaffirmed FAA's previous conclusions that the inflight failures listed in the report have no more than a tenuous relation to the recommendations. (See 43 FR 29196, July 6, 1978.)

In asking for FAA's further reconsideration, the Safety Board on September 12 referred to the discussion of these recommendations during the NTSB/FAA quarterly recommendations meeting last July 18. The Board believes it was apparent, as a result of this meeting, that FAA had misconstrued the Board's rationale for making these recommendations and was not aware of certain substantiating information relating to them. The Board said that, although the special study contains adequate substantiation for the recommendations (see pages 19-28), it believes that FAA has (mistakenly) used the nature and number of airframe failure inflight accidents as the only basis for its response. The recommendations were not based on accidents alone, and FAA should broaden its viewpoint concerning them to include other aspects, especially those dealing with accident prevention measures.

The Board pointed to several accidents in the United States and Canada involving negative wing failures of Bellanca Citabria airplanes which relate to the subject recommendations. This information has been made available to FAA either by letter (from the Safety Board and individual citizens) or through related discussions with FAA safety staff members. The Boards also referred to independent studies on aircraft conducted by the National Aeronautics and Space Administration which relate to the Board's recommendations. These studies show the ease with which values of negative load factor as low as -3_g can be exceeded (the negative limit in Bellanca Citabria airplanes is only -2_g), and point out that pilot control forces are not a reliable indication of negative load factors nor would such control forces be a physical limit for load factors exceeding the minimum required negative load factor.

Further, the Board noted that in addition to improving the margins of safety in aerobatic operations, particularly as applied to the novice aerobatic pilot, the recommendations are also intended to update and standardize aerobatic airworthiness standards and certification criteria. For example, the maximum value of maneuvering load factors which applied under CAR 4a are not equivalent to those presently required for aerobatic certification under FAR 23. The newer standards obviously are more rigorous and provide for a stronger, safer aerobatic airplane. The Safety Board believes that this situation can and should be changed through amended regulatory controls or through "special conditions" imposed during the certification period.

Regarding the Bellanca Citabria aircraft, the Board notes that on January 17, 1977, certain technical data was forwarded to FAA requesting evaluation to determine compliance with the intent of all certification criteria and whether these airplanes are safe for continued normal and aerobatic operations. FAA's evaluation subsequently disclosed lack of compliance with some structural requirements; consequently, AD 77-22-05 was issued, effective November 7, 1977, requiring, among other things, restriction of the maximum operating speed of airplanes in service until a structural modification was made.

FAA in its November 24 response indicates that it has carefully reviewed the information and repeated previous reviews of the accidents listed in the special study. FAA does not believe that there is sufficient evidence to support regulatory action beyond that taken with the issuance of the airworthiness directive noted above. FAA assures that it will continuously monitor acrobatic activities and that any condition which has an adverse effect on safety will receive prompt attention.

A-77-35.—FAA's letter of November 20 advises of completion of action with respect to this recommendation, which asked FAA to conduct an engineering analysis to determine the adequacy of present livestock restraining systems. It was also recommended that this analysis should determine the load distribution and maximum amount of permissible load shift without causing an intolerable shift of the airplane's center of gravity.

FAA reports that it has completed an audit of engineering approvals of livestock restraint systems and considers them acceptable. FAA believes that this action and the issuance of Order 8110.29, "Cargo Compartment Requirements for Air Shipment of Livestock," confirms the Federal Aviation Regulations compliance of previous certifications and assures uniform policy for certification in the future.

A-78-67 through A-78-74.—Letter of November 28 from FAA provides the agency's initial response to eight recommendations issued on September 6 when the Safety Board expressed its concern about multiple tire failures on wide-bodied aircraft, such as that experience by the Continental Air Lines' DC-10 at Los Angeles International Airport last March 1. (See 43 FR 41101, September 14, 1978.)

FAA reports that it has assessed the entire process by which tires are approved, including use of the Tire & Rim Association Handbook. FAA notes that aircraft tires are approved on the basis of conformance to prescribed certification and performance requirements of the Federal Aviation Regulations and the associated Technical Standard Order (TSO). The selected tire ratings, substantiated by compliance with these requirements, result in compatibility of the tire with the airframe and its intended operation. Tests of the tire installed on the airplane are completed before the configuration is approved, FAA stated.

FAA proposes to issue in February 1979 revisions to FAR §§ 25.733 and 31.67, Aircraft tires—TSO-C62b, tire certification and performance standards; these proposals will include higher tire load margins and more severe testing provisions. FAA notes that current procedures consider compatibility during airplane certification. Tire load ratings take into account variations in design, maintenance and operational practices and are substantiated in accordance with regulatory requirements; improvements in this area are contained in the proposals. Also, the proposed revision to TSO-C62b will include a provision that manufacturers furnish maintenance and repair information to the FAA-TSO approving office upon request by that office. An advisory circular dealing with tire recapping will be developed.

Considered in current proposals is the variation in tire loads, as experienced on airplanes with dual or tandem landing gear trucks. Higher load margins and more severe testing provisions are being proposed to account for tire load variations, such as those resulting from different model tires or tires from different manufacturers, FAA reports.

Operator maintenance and operational practices, as contained in the FAA-approved operators' manuals, are considered satisfactory. FAA says that in most cases they closely parallel the manufacturer's recommendations and in some cases exceed them. Operators in most cases have developed programs which best suit their own requirements; i.e., frequent maximum versus less-than-maximum load conditions, environmental conditions, stage lengths, etc. FAA notes that Advisory Circular 20-97, "High-Speed Tire Maintenance and Operational Practices," and Maintenance Bulletin No. 32-3, "Aviation Tire Maintenance Practices," were issued in 1977. Last April a selected 30-day tire surveillance program was conducted, and FAA inspectors were directed to increase surveillance to check for conformity with the advisory circular and maintenance bulletin; result: 1,500 special inspections revealed 46 cases requiring corrective action. FAA expects to complete this month a research and development progran (R&D) to evaluate the capability of several nondestructive inspection methods for identifying flaws and failure areas in tires.

FAA states that it does not have data to support a limit for the number of retread cycles allowed. Surveys conducted over the years indicate that new and recapped tires have almost identical reliability experience. The reliability of any tire, new or recapped is dependent primarily on maintenance and operational practices. FAA notes that the installation of new treads is predicated on the condition of the tire carcasses and recapping procedures. The information contained in the proposed TSO revision and the findings from the R&D project will provide the basis for an advisory circular dealing with tire recapping.

Marine

M-78-70 through M-78-72.—Letter of November 8 from Halliburton Services of Duncan, Okla., is in response to recommendations issued on September 28 following investigation into the explosion last February 4 of the industrial vessel M/V HALLIBURTON 207 while the vessel was attempting to plug an offshore oil well in the Garden Island Bay section of the Mississippi River Delta. (See 43 FR 48742, October 19, 1978.)

The recommendations asked Halliburton Services to: Install a device at the outlet end of the cement discharge piping of its cementing vessels to prevent flow from the well back into the vessel, and provide a means to release entrapped pressure downstream of the device; establish instructions requiring the hydrostatic testing of both the cement discharge lines and the mixing discharge lines before servicing petroleum wells; and require supervisors of petroleum well servicing operations to formulate contingency plans with the person in charge of the well before commencing service operations, such

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plans to include, but not be limited to,

P-78-50 and P-78-51.—RSPA's letter

effort with the present braking system

agement and Budget on November 30,

REVISIONS

Beneficiaries receiving title II pay-

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plans to include, but not be limited to, the manning of key valves.

Halliburton Service reports that it has carefully reviewed the Safety Board's accident report and recommendations and has conducted its own investigation of the accident. Procedures, including those recommended by the Board, have been adopted in an effort to prevent such accidents from occurring in the future.

Pipeline

P-76-66.—Letter of November 9 from the Research and Special Programs Administration (RSPA), U.S. Department of Transportation, addresses a recommendation issued August 11, 1976, following investigation of the rupture of a 1,000-gallon liquefied petroleum gas tank in a residential neighborhood of Lehigh Acres, Fla., March 23, 1976. Liquid and vapors escaped from the ruptures, formed a white, fog-like cloud near the ground, and ignited. The recommendation asked DOT to modify the exemption from 49 CFR Part 192 for pipelines with less than 10 customers to include systems that have pipeline facilities which expose a substantial part of a community or neighborhood to a potential hazard.

RSPA refers to a DOT letter dated December 23, 1976, indicating:

> Under 49 CFR 192.11, a petroleum gas system serving less than 10 customers is not subject to the Federal safety standards unless a portion of the system is located in a public place. This exemption is based on a concern that the transportation of gas involved must affect interstate commerce significantly enough to sustain a Congressional grant of regulatory authority. Although the Board's recommendation appears to be in keeping with this concern, we object to it because the test of jurisdiction over a system—whether the system exposes a substantial part of a community or neighborhood to a potential hazard—would be too vague. Under this test it would be extremely difficult if not impossible for either government or industry to identify the pipeline facilities subject to Federal regulation. As a consequence, the regulation would be unenforceable and probably ruled invalid.
>
> Our refusal to adopt this recommendation does not mean, however, that the systems would go unregulated. Most States regulate petroleum gas systems for safety. By and large, the safety standards adopted by the States are the standards in NFPA Standard No. 58, which as you know, is also incorporated by reference in Part 192. Systems not covered by State regulation are either subject to local controls or bound to follow NFPA Standard No. 58 as the generally recognized industry standard of performance.

RSPA is informed that the Safety Board is keeping this recommendation in an "open unacceptable action" status. RSPA states that no comments regarding its response to this recommendation have been received from the Board.

P-78-50 and P-78-51.—RSPA's letter of November 8 is in response to recommendations issued on August 8 following investigation of the gas main accident which occurred in Mansfield, Ohio, last May 17. (See 43 FR 38960, August 31, 1978.) The recommendations, addressed to DOT's Materials Transportation Bureau, called for revising 49 CFR Part 192 to require that gas company system maps and records be maintained accurately to identify the location, size, and operating pressure of all of their pipelines, and to require that gas system operators verify through pressure monitoring or other means the identity of all pipelines before performing hot taps.

RSPA reports that MTB has completed its review of the Safety Board's accident report and concludes that implementation of these recommendations would improve pipeline safety. The recommendations will be considered in developing DOT's regulatory schedule commencing in January 1979. However, RSPA informs, because of competing demands on resources, consideration of these recommendations does not necessarily mean they will be included in the 1979 regulatory schedule. MTB will evaluate the current priorities or the basis on the causes and frequency of accidents occurring because of the lack of appropriate regulations and the effect on human life, health, and property of such accidents.

Railroad

R-78-14 through R-78-16.—Letter of November 20 from Illinois Central Gulf (ICG) is in response to the Safety Board's July 31 inquiry as to the status of these recommendations, issued March 23, 1978, following investigation of the rear end collision of two ICG commuter trains in Chicago, Ill., last January 26. The recommendations were aimed at correcting design deficiencies of the brake system on the Highliner cars to ensure that prolonged operation with the "snow brake" activated will not prevent the brake shoe wear compensating feature of the hydropneumatic booster assembly from maintaining the hydraulic fluid volume needed to assure proper brake performance in all weather conditions. (See 43 FR 13443, March 30, 1978.)

IGC reports a joint investigation with New York Air Brake and Abex. No recommendation for change has been forthcoming from New York Air Brake. Based on a series of field tests, a decision has been made to use a cast-iron high phosphorous brakeshoe. IGC states that immediately subsequent to the accident, tests were conducted by ICG with New York Air Brake to determine guidelines for producing the most efficient braking effort with the present braking system under adverse weather conditions. When this was established, instructions were posted on bulletin boards (copies provided with IGC's letter) and classes were held at the Randolph Street Station in Chicago for engineers and trainmen, instructing them in the function of the brake system, proper use of the snow brake, and proper air brake tests to preclude a brake slack adjuster malfunction.

Further, IGC reports that instructions have been issued to engineers and control operators to inform the dispatcher's office at Randolph Street of the first sighting of snow in the area, thus enabling the dispatcher's office to implement the operation procedures. This consists of first notifying each engineer to place the snow brake in operation and informing all crews of air brake test procedures to ensure the proper adjustment for cylinder strokes due to brake shoe wear.

R-78-48.—The Federal Railroad Administration on November 27, 1978, informed the Safety Board that it is now drafting amendments to 49 CFR Part 231 and that careful consideration will be given to § 231.6 regarding the location of side handholds on flatcars. The recommendation was issued August 21 following Board investigation into the death last December 1 of a Louisville and Nashville Railroad switchman when he fell from the deck of a moving flatcar at the company's yard in Atlanta, Ga. (See 43 FR 38960, August 31, 1978.)

NOTE.—The above notice reports on recommendation response letters recently received by the Safety Board. Copies of these letters, as well as copies of related Board correspondence, are available without charge. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

DECEMBER 1, 1978.

[FR Doc. 78-34114 Filed 12-6-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 30, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Request for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL ENDOWMENT FOR THE HUMANITIES REVIEWER/PANELIST/EVALUATOR PERSONAL INFORMATION SHEET

On occasion
Interested individuals,
500 responses; 500 hours
Laverne V. Collins, 395-3214

Grant application cover sheet
Quarterly
Interested applicants,
20,000 responses; 30,000 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare)
National survey to test the feasibility of collecting data on service utilization and manpower
HCFA-81
Single-time
Community hospitals,
1, 400 responses; 2,100 hours
Richard Eisinger, 395-3214

Health Resources Administration other reasonable educational expenses form—NHSC
And EFN scholarship
Annually
Accredited MODVOPP and RN schools,
900 responses; 225 hours
Richard Eisinger, 395-3214

REVISIONS

NATIONAL CREDIT UNION ADMINISTRATION

Annual report for State-chartered credit unions
NCUA-5306
Annually
State-chartered credit unions,
47 responses; 94 hours
Geiger, Susan B., 395-5867

State Central credit union financial statements
NCUA-5307
Annually
State Central credit unions,
70, responses; 70 hours
Geiger, Susan B., 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary
Income survey development program—1979 research panel (WAVE 1)
OS-13-78
Quarterly
Household members in national probability sample,
61,967 responses; 20,400 hours
Office of Federal Statistical Policy and Standard, 673-7956

Office of the Secretary
An interim evaluation of section 504 implementation
OS-4-78-B
Single-time
Hew service providers,
0 responses; 360 hours
Laverne V. Collins, 395-3214

EXTENSIONS

DEPARTMENT OF DEFENSE

Department of the Army
Application and agreement for establishment of Army Reserve Officers Training Corps unit
DA-918
On occasion
Colleges and universities,
1,000 responses; 1,000 hours
Caywood, D. P., 395-3443

Department of the Army
Application for establishment of any Army Senior Reserve Officers' Training Corps unit
DA-3126-1
On occasion
Schools,
500 responses; 500 hours
Caywood, D. P., 395-3443

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE SOCIAL SECURITY ADMINISTRATION

Quality review questionaires—insured individual, spouse and surviving spouse, and children
SSA-2930, 2931, and 2932
Single-time
Beneficiaries receiving title II payments,
15,500 responses; 6,083 hours
Reese B. F., 395-3211

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ADMINISTRATION (OFFICE OF ASSISTANT SECRETARY)

Supporting schedules for FHA 2742
FHA 2744A-2744E
On occasion
FHA approved mortagagees,
300 responses; 300 hours
Strasser, A., 395-6132

DEPARTMENT OF DEFENSE

Departmental and other
Request for report from (employer)—(school)—(personal reference)
DD 370
On occasion
Employers and schools,
907,000 responses; 181,400 hours
Caywood, D. P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-34164 Filed 12-6-78; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on January 29-30, 1979, at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, NW., Conference Room 'C' to review, appraise and make recommendation to the Administrator, agency for International Development, concerning projects proposed for A.I.D. central research funding in the field of food and nutrition, health and population. The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Robert C. Simpson, Director, Office of Program, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information, contact Mr. Simpson, 1601 N. Kent Street, Arlington, Va. 22209 or call area code (202) 235-8898.

Dated: November 29, 1978.

ROBERT C. SIMPSON,
A.I.D. Representative, Research Advisory Committee.

[FR Doc. 73-34153 Filed 12-6-78; 8:45 am]

DEC 7 1978 UMI

minimum field test pressure of 1250 ately, the Algonquin Gas Transmis-

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[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[Docket No. 77-3W, Notice 2]

ALGONQUIN GAS TRANSMISSION CO.

Grant of Waiver

By a petition dated December 27, 1976, the Algonquin Gas Transmission Company petitioned for a waiver of compliance with paragraph (a)(4) of Section 192.619 of the Federal gas pipeline safety standards (49 CFR Part 192) for its "G-6-4 inch" pipeline, which is located in the towns of Seekonk, Rehobeth, and Swansea, Massachusetts. Section 192.619 establishes the maximum allowable operating pressure (MAOP) for steel and plastic pipelines, and paragraph (a)(4) provides that furnace butt-welded steel pipe may not be operated at a pressure higher than 60 percent of the test pressure to which the pipe was subjected in the mill.

Algonquin's petition states that the "G-6-4 inch" pipeline was constructed in 1952. It comprises 14,415 feet of 4½ inch outside diameter, 0.237 inch wall Republic API Class I Open Hearth butt-welded pipe, which was subjected to a 1200 psi mill test. The present MAOP of the pipeline is 720 psig, based on the requirements of § 192.619(a)(4). Algonquin now wishes to operate the pipeline at 750 psig, a pressure equal to the MAOP of connecting pipelines.

To qualify the line to operate at this higher pressure, Algonquin hydrostatically retested the pipeline without failure in accordance with the requirements of Subpart J of Part 192 at a minimum field test pressure of 1250 psig and met the requirments of Subpart K of Part 192 applicable to increasing an established MAOP. Under these circumstances, § 192.619 would permit the desired operating pressure if it were not for the requirements of paragraph (a)(4).

In response to this petition, a notice of petition for waiver was published in the FEDERAL REGISTER on April 20, 1978 (43 FR 16842). This notice stated that the Materials Transportation Bureau (MTB) was considering granting the proposed waiver for the following reasons:

1. The field test is a better, more reliable indicator of the present condition of the pipeline than the preinstallation mill test because it was performed at a higher pressure and for a significantly longer time. Also, the postinstallation field test served as a check on possible defects which could not have been detected in the mill.

2. The requirements of Part 192 in Subpart J, Test requirements, and Subpart K, Uprating, provide for an acceptable level of safety in increasing the MAOP of furnace butt-welded pipe without the restriction of § 192.619(a)(4).

Interested persons were invited to comment on the proposed waiver. Only three persons submitted comments, and they all supported the proposed waiver.

In consideration of the foregoing, it appears that the increase in MAOP proposed by Algonquin will not lessen public safety, and compliance with § 192.619(a)(4) is not necessary in this case. Further, MTB finds that Algonquin has taken appropriate action to verify the continued integrity of this pipeline. Therefore, effective immediately, the Algonquin Gas Transmission Company is granted a waiver from compliance with 49 CFR 192.619(a)(4) for the 14,415 feet of its "G-6-4 inch" pipeline for which the waiver was requested.

(Sec. 3, Pub. L. 90-481, 82 Stat. 721, 40 U.S.C. 1672, 40 FR 43901, 49 CFR 1.53 Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on December 1, 1978.

CESAR DE LEON,
Associate Director for Pipeline Safety Regulation.

[FR Doc. 78-33963 Filed 12-6-78; 8:45 am]

[4910-60-M]

EXEMPTIONS

Grants and Denials of Applications

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted October 1978. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS		
930-X	DOT-E 930	Callery Chemical Co., Callery, Pa., Liquid Carbonic Corp., Chicago, Ill.	49 CFR 172.101, 173.2, 173.34(d)(3), 173.328.	To ship a flammable poisonous gas in DOT Specification 3AA1800, 3AA2015, and 3AA2400 cylinders. (Modes 1, 2, 3.)
970-X	DOT-E 970	Callery Chemical Co., Callery, Pa	49 CFR 173.21(b), 173.300, 173.301.	To ship a flammable poisonous gas in DOT Specification 3AA2015 or 3AA2400 cylinders. (Modes 1, 2.)
2051-X	DOT-E 2051	International Plastics, Inc., Colwich, Kans.	49 CFR 173.34(d), 173.304(a)(1), (2), 175.3.	To ship certain nonflammable and nonpoisonous refrigerant gases in non-DOT aluminum containers. (Modes 1, 2, 3, 4, 5.)
3126-X	DOT-E 3126	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.62	To ship a class A explosive in DOT-5 metal drums; and non-DOT Specification containers. (Mode 1.)
3216-X	DOT-E 3216	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.314(c)	To ship certain compressed gases in a proposed DOT Specification 110A3000W tank car tank. (Modes 1, 3.)
3768-X	DOT-E 3768	Chemetron Corp., La Porte, Tex	49 CFR 173.119, 173.245, 173.288.	To ship certain flammable and corrosive liquids in an insulated DOT Specification MC-304, MC-307 or MC-312 cargo tank. (Mode 1.)
3941-X	DOT-E 3941	Aerojet Solid Propulsion Co., Sacramento, Calif.; Kerr-McGee Chemical Co., Oklahoma City, Okla.	49 CFR 173.239a(a)(2)	To ship an oxidizer in non-DOT specification aluminum portable tank.
4052-X	DOT-E 4052	The Boeing Co., Seattle, Wash	49 CFR 173.34, 173.305, 175.3	To ship an aerosol formulation in DOT Specification 39 seamless aluminum cylinders. (Modes 1, 2, 4, 5.)
4282-X	DOT-E 4282	Hercules, Inc., Wilmington, Del	49 CFR 173.93(a), 173.182(c)	To ship a class B explosive and oxidizer in privately owned and specially designed cargo tanks. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS—Continued		
4390-P	DOT-E 4390	Corco Chemical Corp., Fairless Hills, Pa.; Cordova Chemical Co., Sacramento, Calif.	49 CFR Part 173	To become a party to Exemption 4390 (see Application 4390-X). (Modes 1, 2, 3.)
4453-P	DOT-E 4453	Gulf Oil Chemicals, Merriam, Kans	49 CFR 173.182(c)	To become a party to Exemption 4453 (see Application No. 4453-X). (Mode 1.)
4497-X	DOT-E 4497	Bill Munn Welders Equipment and Supplies, Enid, Okla.	49 CFR 172.101, 173.315(a)	To ship a certain nonflammable compressed gas in a non-DOT specification cargo tank. (Mode 1.)
4588-X	DOT-E 4588	U.S. Department of Energy, Washington, D.C.	49 CFR 173.65(a)	To ship certain high explosives in a non-DOT outer metal (AN type) container. (Mode 1.)
4607-X	DOT-E 4607	Armstrong Laboratories Division, West Roxbury, Mass.	49 CFR 173.306(a)(3)	To ship a compressed gas in a non-DOT inside plastic coated glass bottle, packed in strong outside fiberboard boxes. (Modes 1, 2, 3, 4.)
4612-P	DOT-E 4612	Polyscience, Inc., Warrington, Pa	49 CFR Part 173	To become a party to Exemption 4612 (see Application No. 4612-X). (Mode 1.)
4726-X	DOT-E 4726	U.S. Department of Energy, Washington, D.C.	49 CFR 173.245	To ship certain corrosive liquids in non-DOT specification seamless monel cylinders. (Mode 1.)
4790-X	DOT-E 4790	Smith & Wesson/General Ordnance Equipment Co., Rock Creek, Ohio.	49 CFR 173.305(d), 173.385(a)(1).	To ship an irritating material in non-DOT specification inside containers overpacked in DOT Specification 12B.
4844-X	DOT-E 4844	Bristol Aerojet, Ltd., Avon, England	49 CFR 173.301(i), 173.302, 173.304.	To ship certain nonflammable gases in non-DOT specification foreign-made steel cylinders. (Mode 1.)
4850-X	DOT-E 4850	NL McCullough, Houston, Tex.; Halliburton, Co.	49 CFR 173.100(cc), 175.3	To ship an explosive in strong wooden or fiberboard boxes in compliance with 173.104. (Modes 1, 2, 4.)
5196-P	DOT-E 5196	Atlantic Richfield Co., Philadelphia, Pa	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 5196 (see Application No. 5196-X). (Mode 1.)
5206-P	DOT-E 5206	Gulf Oil Chemical Co., Morriam, Kans	49 CFR 173.182(c)	To become a party to Exemption 5206 (see Application No. 5206-X). (Mode 1.)
5315-X	DOT-E 5315	U.S. Department of Defense, Washington, D.C.	49 CFR 173.87	To ship a Class A explosive in a non-DOT specially designed temperature controlled semi-trailer. (Mode 1.)
5414-X	DOT-E 5414	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.101, 173.315(a)	To ship a flammable gas in a non-DOT specification portable tank designed and constructed in accordance with the ASME Code. (Mode 1.)
5820-X	DOT-E 5820	I.C.I. United States Inc., Wilmington, Del.	49 CFR 173.315(a)	To ship certain nonflammable gases in non-DOT specification intermodal portable tanks. (Mode 1, 2, 3.)
5972-P	DOT-E 5972	Atlantic Container Line, Ltd., New York, N.Y.	49 CFR 173.119(b), 173.125, 173.128; 46 CFR 98.35.	To become a party to Exemption 5972 (see Application No. 5972—X). (Modes 1, 3).
6045-X	DOT-E 6045	Union Carbide Corp., Tarrytown, N.Y	49 CFR 173.121	To ship a flammable liquid in DOT Specification MC-312 cargo tanks. (Modes 1, 3.)
6071-X	DOT-E 6071	The Boeing Co., Seattle, Wash	49 CFR 173.304, 173.305, 175.3	To ship a nonflammable compressed gas in a non-DOT specification stainless stel pressure vesel complying with DOT Specification 4DA with certain exceptions. (Modes 1, 2, 4, 5.)
6080-X	DOT-E 6080	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.301(d), 173.337(a)(1).	To ship a certain class A poison in DOT Specification 3A2400 or 3AA2500 cylinders. (Mode 1).
6111-X	DOT-E 6111	Liquid Carbonic Corp., Chicago, Ill	49 CFR 173.315(a)	To ship a flammable gas in a non-DOT specification insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME Code. (Mode 1).
6154-X	DOT-E 6154	Uniroyal Chemical, Naugatuck, Conn	49 CFR 173.154(a) (12), 178.205-16.	To ship certain flammable solids in a modified DOT Specification 12B fiberboard box. (Modes 1, 2, 3.)
6253-P	DOT-E 6253	Forwarding Services, New York, N.Y	49 CFR 173.119, 173.125, 173.245, 173.247, 173.266, 173.294, 173.346, 173.365.	To become a party to Exemption 6253 (see Application No. 6253-X). (Modes 1, 2, 3.)
6267-P	DOT-E 6267	Alden Leeds, Inc., South Kearny, N.J	49 CFR 173.217(a)	To become a party to Exemption 6267 (see Application No. 6267-X). (Modes 1, 2, 3.)
6305-X	DOT-E 6305	Monsanto Co., St. Louis, Mo.; IMC Chemical Group, Inc., Allentown, PA.	49 CFR 173.113(a)(1)	To ship a certain class C explosive in DOT Specification 23F35 fiberboard boxes. (Modes 1, 2.)
6392-X	DOT-E 6392	Stauffer Chemical Co., Westport, Conn	49 CFR 172.101, 173.314(c)	To ship a liquefied flammable compressed gas in a non-DOT specification vacuum insulated tank car tank. (Mode 2).
6442-X	DOT-E 6442	U.S. Department of Defense, Washington, D.C.	49 CFR 173.53(k), 173.87	To ship certain military hybrid ammunition. (Modes 1, 2.)
6484-X	DOT-E 6484	Dow Chemical Co., Midland, Mich	49 CFR 172.101	To ship flammable liquids in DOT Specification MC-307 or MC-312 tank motor vehicle. (Mode 1.)
6497-X	DOT-E 6497	FMC Corp., Philadelphia, Pa	49 CFR 173.365, 174.63(c)	To ship a class B poison solid in DOT Specification 56 metal portable tanks, with certain exceptions. (Modes 1, 2.)
6598-X	DOT-E 6598	Dow Chemical Co., Midland, Mich	49 CFR 173.245(a)(16)	To ship a certain corrosive liquid in a DOT Specification 6D steel Cylindrical overpack. (Modes 1, 2.)
6616-X	DOT-E 6616	Fenwal Inc., Ashland, Mass	49 CFR 173.304(a) (1), 175.3	To manufacture, mark and sell non-DOT specification pressure vessels for shipment of nonflammable compressed gases, (Modes 1, 2, 3, 4, 5.)
6670-X	DOT-E 6670	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.301(d), 173.302	To ship a certain nonliquefied, nonflammable compressed gases in DOT Specification 3A2400, 3AA2400, 3AX2400 and 3AAX2400 cylinders. (Mode 1).
6724-X	DOT-E 6724	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101, 173.89, 175.3	To ship a class C explosive in non-DOT specification inside fiberboard boxes overpacked in wooden boxes. (Modes 1, 4.)

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Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS—Continued		
6754-X	DOT-E 6754	Eaton Corp., Southfield, Mich	49 CFR 173.302(a) (4), 178.65, 175.3.	To ship a nonflammable compressed gas in a non-DOT specification nonrefillable welded steel pressure vessel. (Modes 1, 2, 3, 4.)
6762-X	DOT-E 6762	DuBois Chemicals, Cincinnati, Ohio	49 CFR 173.266(b) (2), (c), 175.3	To ship certain corrosive and flammable liquids in non-DOT specification plastic inside boxes and fiberboard outside boxes. (Modes. 1, 2, 4.)
6794-X	DOT-E 6794	FCX, Inc., Raleigh, N.C	49 CFR 173.358, 173.359	To ship a class B poisonous liquid in non-DOT specification twin tanks. (Mode 1).
6800-X	DOT-E 6800	Plasti-Drum Corp., Lockport, Ill	49 CFR 173, 178.19	To manufacture, mark and sell non—DOT specification polyethylene containers for shipment of certain oxidizers, corrosive liquids, class B poisons, flammable liquids, and a corrosive solid. (Modes 1, 2, 3.)
6811-X	DOT-E 6811	Eaton Corp., Southfield, Mich	49 CFR 173.302(a) (4), 178.65, 175.3.	To ship a nonflammable compressed gas in a nonrefillable welded steel cylinder built in compliance with DOT Specification 39 with certain exceptions. (Modes 1, 2, 3, 4.)
6820-P	DOT-E 6820	HASA Chemical Inc., Saugus, Calif	49 CFR 173.217(a)	To become a party Exemption 6820 (see Application No. 6820-X). (Mode 1.)
6858-X	DOT-E 6858	Eurotainer Co., Paris, France; Bacardi International Ltd., Hamilton, Bermuda.	49 CFR 173.119, 173.125, 173.245, 173.346; 46 CFR 90.05-35.	To ship certain hazardous materials in a non-DOT specification stainless steel portable tank. (Modes 1, 2, 3.)
6890-X	DOT-E 6890	U.S. Department of Defense, Washington, D.C.	49 CFR 173.100(cc), 175.3	To ship class C explosives in a non-DOT specification specially designed wooden box. (Modes 1, 2, 3, 4.)
6908-X	DOT-E 6908	Airesearch Manufacturing Co. of Arizona, Phoenix, Ariz.	49 CFR 173.302(a)(1), 175.3	To ship compressed gases in non-DOT specification nonrefillable steel spherical pressure vessels, constructed in compliance with DOT Specification 39 with certain exceptions. (Modes 1, 2, 4.)
6944-X	DOT-E 6944	U.S. Department of Defense, Washington, D.C.	49 CFR 173.62(a), 177.834(L)(1).	To ship a certain class A explosive in non-DOT specification specially designed stainless steel desiccators. (Mode 1.)
6984-X	DOT-E 6984	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Hercules Inc., Wilmington, Del.; Energy Science and Consultants, Biwabik, Minn.; Atlas Powder Co., Dallas, Tex.; Trojan Powder Co., Cleveland, Ohio; Austin Powder Co., Cleveland, Ohio; Piedmont Explosives, Inc., Statesville, N.C.; Hazard Explosives Co., Hazard, Ky.	49 CFR 173.66(g), 173.103(a), 173.835.	To ship certain class C explosives in non-DOT specification inside pasteboard cartons or tubes, overpacked in an IME 22 container. (Mode 1.)
7010-P	DOT-E 7010	Ameribrom, Inc., New York, N.Y	49 CFR 173.252(a)(4)	To become a party to Exemption 7010 (see Application No. 7010-X). (Modes 1, 3.)
7014-X	DOT-E 7014	Hugonnet S.A., Paris, France	49 CFR 173.125(a)	To ship flammable liquid in a type IC, non-DOT specification stainless steel portable tank. (Modes 1, 2, 3.)
7023-X	DOT-E 7023	Western Electric, Greensboro, N.C	49 CFR Part 173	To ship an oxidizer or corrosive material in non-DOT specification steel portable tanks built in compliance with DOT Specification 60 with certain exceptions. (Mode 1.)
7066-X	DOT-E 7066	The Procter & Gamble Manufacturing Co., Cincinnati, Ohio; Societe Anonyme Pour L'Industrie Chimique, Mulhouse Cedex, France.	49 CFR 173.119(m), 173.346	To ship certain flammable and class B poisonous liquids in non-DOT specification portable tanks. (Modes 1, 3.)
7202-X	DOT-E 7202	Waters Instruments, Inc., Rochester, Minn..	49 CFR 173.24(a)(1), 175.3, 175.75(a)(1), 173.85.	To ship a certain nonflammable compressed gas in the cabin of a passenger-aircraft. (Mode 4.)
7423-P	DOT-E 7423	Rossborough Manufacturing Co., Cleveland, Ohio; Armco Steel Corp., Middletown, Ohio.	49 CFR 173.220, 173.154	To become a party to Exemption 7423 (see Application No. 7423-X). (Modes 1, 2, 3.)
7453-X	DOT-E 7453	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.93	To ship a class B explosive in polyethylene bag, overpacked in a DOT Specification 14 wooden box. (Mode 3.)
7483-X	DOT-E 7483	Hugonnet, S.A., Paris, France	46 CFR 90.05-35; 49 CFR 173.119, 173.245(a), 173.131(a)(1), 173.132(a)(1), 173.144(a)(1).	To ship certain hazardous materials in a non-DOT Specification portable tank. (Modes 1, 2, 3.)
7516-P	DOT-E 7516	Eastern Mediteranean (Container) Co., Ltd., London, England.	49 CFR 173.119, 173.125; 173.245, 173.346; 46 CFR 90.05-35.	To become a party to Exemption 7516. (see Application No. 7516-X). (Mode 3.)
7595-X	DOT-E 7595	American Cyanamid Co., Wayne, N.J	49 CFR 173.358, 173.359	To ship a poison B liquid in DOT Specification MC-312 cargo tanks. (Mode 1.)
7610-X	DOT-E 7610	Dewey and Almy Chemical Division, San Leandro, Calif.	49 CFR 173.119	To ship certain flammable liquids in ASME designed steel portable tanks. (Modes 1, 3.)
7613-X	DOT-E 7613	Rexnord, Inc., Brookfield, Wis	49 CFR 173.245(a)(17), 175.3	To ship corrosive materials in a non-DOT specification unlined metal container. (Modes 1, 2, 3, 4.)
7640-XDOT-E	DOT-E 7640	Mauser Packaging Ltd., New York, N.Y	49 CFR 173.266(a), 178.19	To ship hydrogen peroxide solution in a DOT Specification 34 polyethylene container. (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS		
7671-X	DOT-E 7671	Hugonnet, S.A., Paris, France	46 CFR 90.05-35; 49 CFR Part 173.	To ship certain hazardous materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
7699-X	DOT-E 7699	Union Carbide Corp., Tarrytown, N.Y	49 CFR 173.119(m)	To ship a flammable liquid in a DOT Specification 51 portable tank. (Modes 1, 2.)
7759-X	DOT-E 7759	Shell Oil Co., Houston, Tex	49 CFR 173.119(m)	To ship a flammable liquid in a non-DOT specification portable tank designed and constructed in accordance with sec. VIII of the ASME Code. (Modes 1, 3.)
7775-X	DOT-E 7775	Atlas Powder Co., Dallas, Tex	49 CFR 174.81, 176.83, 176.410(e)(2).	To ship certain oxidizers with dynamite in a roll-on, roll-off rail car aboard a cargo vessel without a bulkhead separating the materials. (Modes 2, 3.)
7793-X	DOT-E 7793	Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y.	49 CFR 173.245	To ship a corrosive liquid in a non-DOT specification, insulated, portable tank complying with IMCO Type 1 portable tank specifications. (Modes 1, 2, 3.)
7798-X	DOT-E 7798	Ro-Go Chemical Co., Fresno, Calif	49 CFR 173.248	To ship a corrosive materials in a DOT specification 12B corrugated fiberboard box with inside polyethylene container. (Mode 1.)
7808-X	DOT-E 7808	Whitmire Research Laboratories, Inc., St. Louis, Mo.	49 CFR 172.101, 173.34(d), 175.3	To ship flammable or nonflammable gas in a DOT Specification 39 cylinder. (Modes 1, 2, 3, 4.)
7819-X	DOT-E 7819	Hugonnet, S.A., Paris, France; Eurotainer, Paris, France.	46 CFR 90.05-35; 49 CFR Part 173.	To ship certain hazardous material in non-DOT Specification IMCO Type 1 insulated portable tank. (Mode 1, 2, 3.)
7828-X	DOT-E 7828	Alaska International Air, Fairbanks, Alaska.	49 CFR CFR 172.101, 175.3	To transport a flammable gas in DOT Specification steel portable tank. (Mode 4.)
7872-X	DOT-E 7872	Magna Corp., Houston, Tex	49 CFR 173.122(a)(6)	To ship a certain flammable liquid in an insulated DOT Specification 51 portable tank. (Modes 1, 2, 3.)
7992-P	DOT-E 7992	FMC Corp., Philadelphia, Pa	49 CFR 173.225(b)(2), 178.252-1(b).	To become a party to Exemption 7992 (see Application No. 7992-X). (Modes 1, 2.)
8005-P	DOT-E 8005	Intsel Corp., New York, N.Y	49 CFR 173.266	To become a party to Exemption 8005 (see Application No. 8005-N). (Modes 1, 2, 3.)
		NEW EXEMPTIONS		
7941-N	DOT-E 7941	Pressed Steel Tank Co., Milwaukee, Wis	49 CFR 173.302(a)(1), 173.304(a)(1).	To manufacture, mark and sell non-DOT specification seamless cylinders for shipment of certain liquefied and non-liquefied compressed gas and certain hazardous materials. (Modes 1, 2.)
7948-N	DOT-E 7948	Clark Tank & Manufacturing Co., Inc., Long Beach, Calif.	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks for shipment of waste flammable liquids and corrosive liquids. (Mode 1.)
7952-N	DOT-E 7952	Albright & Wilson, Ltd., Norwood, N.J	49 CFR 173.270, 178.87	To ship corrosive material in non-DOT specification lead-lined steel drums. (Modes 1, 2, 3.)
7957-N	DOT-E 7957	Process Engineering, Inc., Plaistow, N.H.	49 CFR 173.33(a), 173.315(a)(1), 177.824(c)(4), 178.337.	To manufacture, mark and sell non-DOT specification aluminum cargo tanks for shipment of liquefied carbon dioxide. (Mode 1.)
7969-N	DOT-E 7969	Royalvac, Inc., Fort Lauderdale, Fla	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell certain non-DOT specification cargo tanks for shipment of waste flammable liquids and corrosive liquids. (Mode 1.)
7987-N	DOT-E 7987	Stauffer Chemical Co	49 CFR 173.343, 173.377	To ship a poison B in non-DOT specification kraft multiwall bags. (Modes 1, 2.)
7996-N	DOT-E 7996	Union Carbide Corp., Bound Brook, N.J	49 CFR 173.119(m)(9), 178.61	To ship a flammable liquid in a non-DOT specification cylinder made in accordance to DOT Specification 4BW-225 with certain exceptions. (Modes 1, 3.)
8000-N	DOT-E 8000	Fauvet-Girel, Paris, France	49 CFR Part 173	To ship certain flammable, corrosive, irritating, class B poisonous and combustible liquids. (Modes 1, 2, 3.)
8025-N	DOT-E 8025	Dow Chemical Co., Freeport, Tex	49 CFR 173.154	To ship a water reactive solid in closed, watertight hopper rail cars and motor vehicles. (Modes 1, 2.)
8035-N	DOT-E 8035	NL McCullough, Houston, Tex	49 CFR 173.100(r), 173.112	To ship a class C explosive in a plastic tube packed in a DOT Specification 12B fiberboard box. (Mode 1.)

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ing date indicated below will be considered after that date if it is practicable to do so, but only with assurance that consideration can be given only if any new information is received.

Office of the Chief Counsel, Attention: Rules Docket (GCC-20), Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

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Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		NEW EXEMPTIONS—Continued		
8045-N	DOT-E 8045	Container Corporation of America, Wilmington, De..	49 CFR Part 173, 178.24, 178.211.	To manufacture, mark and sell DOT Specification 12P corrugated fiberboard box having two DOT-2U inner containers for shipment of corrosive, flammable and Class B poisonous liquids. (Modes 1, 2, 3.)
8052-N	DOT-E 8052	Sport Spec International, Ltd., Louisville, Ky.	49 CFR 173.178	To ship a flammable sold on water-tight metal cans, packed in DOT Specification 12B fiberboard boxes. (Modes 1, 2.)
8070-N	DOT-E 8070	Olin Corp., East Alton, Ill.	49 CFR 173.93(b)	To ship propellant explosives in water in DOT Specification 17H steel drums. (Mode 1.)
8073-N	DOT-E 8073	Gasynergy, Inc., Denver, Colo	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To ship a compressed natural gas in DOT Specification 3AAX2400 cylinders made of 4130X steel. (Mode 1.)
		EMERGENCY EXEMPTIONS *Applications Received and Granted*		
EE8077-N	DOT-E 8077	Dow Corning Corp., Midland, Mich	49 CFR 173.247(a)(7)	To ship a corrosive material in non-DOT specification steel drums. (Modes 1, 2.)
EE8089—N	DOT-E 8089	Illinois Central Gulf Railroad, Chicago, Ill.	49 CFR 174.50	To ship a flammable liquid in DOT Specification cargo tanks. (Mode 2.)

DENIALS

5849-X—Request by Diamond Shamrock Corp., Cleveland, Ohio—To ship calcium hypochlorite mixtures in DOT Specification 21C fiber drums, denied October 25, 1978, as being unnecessary. (HM-121 obviates the need)

6908-P—Request by Rockwell International, Columbus, Ohio—To become a party to exemption 6908 for the shipment of compressed gases in non-DOT specification steel spherical pressure vessels, denied October 31, 1978.

7094-P—Request by American Cyanamid Co., Wayne, N.J.—To become a party to Exemption 7094 for the stowage of certain corrosive materials aboard a vessel, denied October 26, 1978, as being unnecessary.

7240-P—Request by Rexnord Inc., Brookfield, Wis.—To become a party to Exemption 7240 for shipment of certain corrosive liquids in a DOT Specification 12B fiberboard box, denied October 18, 1978, as being unnecessary.

7413-X—Request by Chilton Metal Products, Chilton, Wis.—To reconsider the denial of application to authorize reduction in the cylinder sidewall thickness, denied October 6, 1978.

7837-P—Request by Sea-Land Service, Inc., Elizabeth, N.J.—To become a party to Exemption 7837 for the shipment of cigarette lighters in non-ventilated freight containers by cargo vessel, denied October 18, 1978, as being unnecessary.

7863-N—Request by Paragon Molding Co., Melrose Park, Ill.—To authorize the use of non-DOT specification removable head polyethylene containers for shipment of corrosive liquids, denied October 20, 1978.

7982-N—Request by Applied Equipment Co., Van Nuys, Calif.—To ship nonflammable gases in non-DOT specification welded high-pressure cylinders made of PH 15-5 corrosion resistant steel, denied October 10, 1978.

8030-N—Request by Jet Research Center, Inc., Arlington, Tex.—To transport charged oil well jet perforating guns having a detonating fuze, Class C explosives installed, denied October 12, 1978.

8038-N—Request by Rea Magnet Wire Co., Inc., Fort Wayne, Ind.—For re-use of DOT Specification 17E drums for shipment of a flammable waste product, denied October 20, 1978.

8062-X—Request by Hamill Manufacturing Co., Washington, D.C.—To qualify shipment of an explosive power device, Class B or C, when shipped as an integral part of a passive restraint system, as a nonregulated material, denied October 6, 1978.

8075-N—Request by Hercules Inc., Wilmington, Del.—To authorize loading of certain oxidizers aboard vessels at other than remote facilities, denied October 18, 1978.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-33764 Filed 12-6-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP78-11; Notice 1]

AMERICAN HONDA MOTOR CO., INC.

Receipt of Petition for Inconsequential Noncompliance

American Honda Motor Co., Inc., of Gardena, California, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for a noncompliance with 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3.2 of Standard No. 105 requires that all brake system indicator lamps shall be activated as a check of lamp function when the ignition switch is turned to the "on" position when the engine is not running. Honda has informed NHTSA that this will not occur in Honda passenger cars manufactured between January 1, 1976, and the end of the 1978 model year unless the hand brake is applied when the ignition switch is turned "on". The total number of vehicles involved is 600,000. NHTSA had initially discovered this failure in compliance tests of the 1978 Honda Accord (CIR File 1985). For several reasons Honda argues that the noncompliance is inconsequential as it relates to motor vehicle safety. It has never received any complaint relating to the warning system. Its operator manuals recommend starting the car with the hand brake applied and if this procedure is followed, the lights would be checked. Finally, in order to constitute a hazard, several events would have to occur in sequence—failure of the driver to apply the hand brake during parking and starting, followed by failure of the lamp, followed by failure of the brake system.

Interested persons are invited to submit written data, views and arguments on the petition of American Honda Motor Co., described above. Comments shold refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: January 8, 1979.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 29, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-33901 Filed 12-6-78; 8:45 am]

[4910-13-M]

Federal Aviation Administration

INTERCHANGE ARRANGEMENTS INCLUDING OPERATION OF CONCORDE AIRCRAFT BETWEEN DALLAS AND EUROPE

SUMMARY: The Federal Aviation Administration (FAA) in response to the recent change in the Federal Aviation Act of 1958 (Act) and requests from aircraft users is considering an interchange policy with respect to the eligibility and mechanisms for obtaining U.S. registration for aircraft being used under certain interchange arrangements. The first such program would involve utilization of the Concorde airplane by a United States flag air carrier in transportation of passengers between Dulles International Airport (Dulles) and the Dallas/Fort Worth International Airport (Dallas). Similar operational programs could be authorized using different aircraft types should any U.S. air carrier wish to do so provided equivalent safety and factual circumstances are met. Comments on this proposed program are solicited from the public. While the FAA contemplates certain rule making action of a technical nature to facilitate the mechanisms for registering the Concorde in question, as well as a more all encompassing amendment to Part 47 of the Federal Aviation Regulations (14 CFR Part 47) to reflect the "alien registration" amendments to Section 501 of the Act (49 U.S.C. 1401), it is believed that to facilitate public awareness this policy should be published and the public provided an opportunity to comment.

DATE: Comments must be received on or before December 27, 1978.

ADDRESSES: Send comments on the policy statement in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Public Docket (AGC-24), Docket No. 18566, 800 Independence Avenue, S.W., Washington, DC. 20591.

FOR FURTHER INFORMATION CONTACT:

Clark H. Onstad, Esq., Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 202-426-3773.

BACKGROUND

Braniff International Airways (Braniff) is a United States flag air carrier which has been issued economic authority and given route approval for operations between Dulles and Dallas by the Civil Aeronautics Board (Board). Braniff is eligible to operate any aircraft on this route, if it is registered as a civil aircraft of the United States and it meets various other regulatory requirements. Braniff has proposed that it operate a foreign-owned Concorde on this route under an arrangement with British Airways Board (British Airways) and Campagnie National Air France (Air France). The Board has issued route authority to Braniff, and Braniff has opted to use the Concorde on a daily interchange basis. For Braniff's decision to be implemented, certain actions must be taken by the FAA.

The FAA has heretofore never been confronted with the administrative problems involving registration associated with an operation where the registration of the aircraft must change on a flight by flight basis. There have been however lease arrangements involving a change of registration every few monts (e.g. an Eastern Air Lines/Air Canada cross-lease arrangement was approved by the FAA in December, 1972, by Agency Order 8000.27). With the recent passage of the amendment to section 501 of the Act, it has become possible to effectuate a flight by flight interchange arrangement between a U.S. air carrier and a foreign air carrier where the aircraft is owned by a foreign interest incorporated in the United States. Significantly there was and is no problem of registration confronting a proposed interchange where the aircraft is owned by a U.S. air carrier rather than the foreign air carrier.

The Braniff proposal presents the FAA with a situation where: (a) Braniff will have economic authority issued by the Board to operate under the interchange agreement (certain questions about the interchange are still pending before the Board), (b) there is no sefety question due to the extensive cooperation between U.S., French and British authorities on the certification and maintenance program of the aircraft, (c) the aircraft will be U.S. certificated and maintained in accordance with the requirements of the FARs, (d) the environmental considerations have been extensively considered and resolved (Amendment 91-153, "Noise and sonic Boom Requirements," as published in the Federal Register (43 FR 28406, June 29, 1978)) and, (e) but for the fact that the aircraft are owned by British Airways and Air France rather than Braniff and, the standard registration procedures cannot accommodate the time constraints the interchange agreement imposes on the transfer of the aircraft to Braniff's operations, these operations could go forward without the new registration mechanism. It should also be noted that through the International Civil Aviation Organization (ICAO), the U.S. has supported an amendment to the Chicago Convention to facilitate the lease, charter and interchange of aircraft, without a change of registry.

THE PROGRAM

Braniff's proposal is that British Airways and Air France operate a Concorde (under foreign registry) to Dulles Airport. After arrival at Dulles, the Concorde will be operated at subsonic speed by Braniff over its Dulles/Dallas route. Braniff will return the Concorde at subsonic speed from Dallas to Dulles at which time it will be operated across the Atlantic by the foreign air carrier.

This proposal permits the direct Concorde ticketing of passengers from Europe, through Dulles to Texas, although the sequenced flight will be separately operated by air carriers of two different nations.

In connection with this arrangement, the FAA has been contacted by representatives of Braniff, the two foreign air carriers, and the Civil Aviation Authorities of the United Kingdom and of the Republic of France. As a result of these discussions, procedures were proposed to conform this arrangement with the Act and the FARs to allow implementation of the Board's order.

OWNERSHIP

Section 501(c) of the Act (49 U.S.C. 1401) states that a Certificate of Aircraft Registration shall only be issued to the "owner" of the aircraft, and section 501(b) of the Act [as amended by Public Laws 95-163 and 95-241] provides in pertinent part that:

(b) An aircraft shall be eligible for registration if, but only if—
(1)(A) it is—

* * * * *

(ii) owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing busi-

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ness under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

(B) it is not registered under the laws of any foreign country; * * *

In order to meet this requirement, it has been proposed that the "owner"—as to the British Airway's Concorde—will be a subsidiary of that air carrier, incorporated in the United States (corporation). United States registration is thus permissible under section 501(b) of the Act since the corporation—although it be foreign controlled—will be organized and doing business under the laws of a State, and the Concorde, while registered in the United States, will be based and used exclusively within the United States. A comparable pattern will be adopted for the French Concorde. This application of "based and primarily used in" will be set forth in a Special Federal Aviation Regulation which will be issued shortly.

The qualifying ownership interests in the Concorde by the corporation will be created by a document in the nature of a lease or bailment, from the foreign air carrier to the corporation. This document will contain terms consistent with section 101(16) of the Act (49 U.S.C. 1301) whereby the corporation becomes, or has the option of becoming, the complete owner of the Concorde (in accordance with section 501(c) of the Act) at the termination of the agreement.

REGISTRATION

Foreign civil aircraft are not permitted to take on commercial passengers at any point within the United States for transport to another point in the United States (Section 1108(b) of the Act (49 U.S.C. 1507)). Scheduled interstate air transportation is authorized only to a flag or domestic air carrier of the United States holding both a Certificate of Public Convenience and Necessity (issued by the Board) and an Operating Certificate (issued by the FAA). To effectuate the provisions of Section 1108(b) of the Act, Part 121 of the FARs (14 CFR 121) prohibits flag air carrier operation of civil aircraft unless it first be registered in the United States.

Section 47.37 of the FARs (14 CFR § 47.37) (which implements the Chicago Convention, (61 Stat. 1180) states that in order to register an aircraft, it must be shown that the foreign registration has ended or is invalid. To comply with this requirement, it is proposed that the Concorde's British or French registration will be terminated when the flight from Europe lands at Dulles at which time an application will be filed for U.S. registration. United States registration can then be effected after a local designee of the foreign civil aviation registry confirms that the foreign registration has been cancelled.

When the Concorde returns to Dulles from Dallas, the United States registration will be cancelled at which time British or French registration will be issued and the foreign air carrier can operate the Concorde out of the U.S. Under this arrangement, the aircraft remains under United States registration only while operated by Braniff in interstate air transportation. This is consistent with the recent amendments to section 501(b) (1) (A) (ii) of the Act, to the effect that, when registered to a foreign-controlled corporation, the primary use of the aircraft must be within the United States. It is to be noted that the aircraft will always be under the registry of one nation or the other since the deregistration and the registration will take place in direct time sequence. In order to accomplish this arrangment, it is necessary for the parties to file for recordation with the FAA Aircraft Registry a document of title, or of any of the various qualifying ownership interests above discussed.

It is expected that the corporation will then enter into a lease or sublease to Braniff, authorizing its use in interstate air transportation during such time as the Concorde is under United States registry.

In view of the direct ticketing of passengers from Europe through Dulles to Texas and from Texas through Dulles to Europe, the period of time the Concorde will be at Dulles is too short a duration to accomplish registration and deregistration following normal registry procedures. In order to accomplish this registration and deregistration, a Memoranda of Understanding will be entered into between the FAA and the agencies of the United Kingdom and of the Republic of France having authority for aircraft registration. These procedures will provide for the designation of agents of the respective registries who will be available at Dulles to process the registration applications, forms, and notices.

Exemptions from certain administrative provisions of the aircraft registration provisions of Part 47 of the FARs (14 CFR Part 47) will be granted to the extent necessary to permit the expedited processing of this registration and deregistration by the FAA Aircraft Registry. The exemption will permit the use of registration forms designed for the interchange operation in lieu of FAA Form 8050-1 and permit the applications for registration and notices to be filed with an agent of the FAA Aircraft Registry stationed at Dulles instead of filing them at the Registry's office in Oklahoma City, Oklahoma.

OTHER AREAS OF IMPLEMENTATION

The following areas must also be addressed in connection with the proposal as it applies to ownership and registration:

1. The Concorde cannot be operated as proposed until a Type Certificate has been issued by the FAA. An application for type certification is pending before the FAA.

2. Even when type certificated and registered in the United States, a Concorde may not be operated by a flag carrier without an appropriate United States airworthiness certificate, confirming that the aircraft conforms to the United States Type Certificate and is airworthy. After the FAA issues a U.S. airworthiness certificate for the Concorde, its continued airworthiness is assured by the aircraft's maintenance program. The Concorde is the first aircraft to have its maintenance program established by a tripartite Maintenance Review Board (MRB) composed of representatives of the airworthiness authorities of the United States, Great Britain and France. The maintenance program will be accomplished by qualified foreign repair stations certificated by the FAA under Part 145 of the FARs (14 CFR Part 145). Thus the Concorde will be operated at all times under the FAA approved maintenance program. In addition, a tripartite Flight Operations Evaluation Board (FOEB) established the Minimum Equipment List (MEL) which will be applicable to the Concorde operations. In view of these tripartite actions and in order to expedite the reissuance of the airworthiness certificate each time the Concorde is registered in the United States, Braniff has applied for an exemption from the provisions of §§21.181 and 21.183 of the FARs to allow the retention of the airworthiness certificate during the period of time that the aircraft is not on the U.S. registry and to allow it to reissue the airworthiness certificate when the aircraft is returned to the U.S. registry. This petition is presently being reviewed by the FAA.

3. Systems for issuance of aircraft identification numbers (registration marks) vary between the United States and the two foreign States: Techniques being worked on by the parties will permit changes at Dulles of British (or: French) markings, into acceptable United States markings.

Issued in Washington, D.C., on December 5, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-34302 Filed 12-6-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

CUMENE FROM ITALY

Antidumping; Discontinuance of Antidumping Investigation

AGENCY: Treasury Department.

ACTION: Final discontinuance of antidumping investigation.

SUMMARY: This notice is to advise the public that is has been determined to discontinue the antidumping investigation concerning cumene from Italy because the margin of dumping involved is minimal in relation to the volume of exports and appropriate assurances have been received that in the future sales will not be made at less than fair value. Future shipments will be monitored in order to insure that the price assurances are not being violated.

EFFECTIVE DATE: December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On January 17, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Gulf Oil Chemicals Co,. a division of Gulf Oil Corp., alleging that cumen from Italy is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as the "Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER on February 23, 1978 (43 FR 7497). A "Notice of Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39206).

DISCONTINUANCE OF ANTIDUMPING INVESTIGATION

On the basis of information developed in the Customs investigation and for the reasons noted below, pursuant to § 153.33(d) of the Customs Regulations (19 CFR 153.33(d)), I hereby determine that the antidumping investigation concerning cumene from Italy should be discontinued.

STATEMENT OF REASONS ON WHICH THIS DISCONTINUANCE IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the investigation.* Virtually all the cumene imported from Italy was manufactured by Saras Chimica, a subsidiary of ANIC S.p.a. Therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purpose of considering whether the merchandise is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison was determined to be between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States were made to non-related customers. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold by Saras Chimica in the home market in sufficient quantities to provide a basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales in the home market and to the United States during the period September 1, 1977 through February 28, 1978.

c. *Purchase price.* For the purposes of this discontinuance, since all merchandise was purchased, or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported, within the meaning of section 203 of the Act, the purchase price has been calculated on the basis of the f.o.b. plant price to unrelated United States purchasers. No adjustments were deemed appropriate to these prices.

d. *Home market price.* For the purposes of this discontinuance, the home market price has been calculated on the basis of the f.o.b. plant price to unrelated Italian purchasers. No adjustments to this price were claimed or made. The merchandise sold in the home market was identical to that sold to the United States.

The petitioner claimed that sales made under a barter agreement should be included in the calculation of the home market price. Since the barter agreement was reached in a prior period, the inclusion of this transaction in the calculation was deemed inappropriate.

e. *Cost to produce.* The petition contained a sufficient allegation that sales of the subject merchandise in the home market were being made at less than the cost of production, pursuant to section 205(b) of the Act (19 U.S.C. 164(b)). An analysis of the Italian manufacturer's production costs, which were taken from actual records reflecting material, labor, and general expenses, indicates that the home market sales were not below the cost of production.

The petitioner claimed that the cost of materials should be based on the invoice prices of such materials, or if this is a related party transaction and therefore omits some element of cost, the European contract prices to third parties. No adjustment to the cost reported for materials was deemed appropriate. The costs reported for benzene were the actual prices paid to unrelated suppliers, or the production cost of materials manufactured by the respondent. The cost of propylene was based on its "fuel value," calculated as a ratio of the BTU yield of propylene to fuel oil, and then converted to monetary terms by applying this ratio to the market value of fuel oil. Saras Chimica claimed that the plant site in Sardinia had been chosen due to the low cost supply to propylene available there.

The petitioner claimed that cost incurred by the parent company (ANIC) should be included in the cost of production. These costs are billed to Saras Chimica as incurred and were included in the cost of production.

The credit taken for by-products was shown to reflect their actual selling prices and was deemed the appropriate measure for the credit.

The petitioner claimed that the production of the merchandise in Italy might benefit from a government subsidy. However, no evidence that any subsidies are received was presented and, in any event, a countervailing duty proceeding would be the appropriate forum for such claims.

f. *Result of fair value comparisons.* Using the above criteria, comparisons were made on virtually all of the sales of the subject merchandise to the United States by Saras Chimica during the representative period and these comparisons indicated that the purchase price was less than the home market price of such or similar merchandise. Margins were found to be approximately 0.5 percent on all sales to the United States. These margins have been determined to be minimal in relation to the volume of exports involved. In addition, formal assurances have been received from counsel acting on behalf of Saras Chimica that Saras Chimica will make no future sales at less than fair value within the meaning of the Act. These assurances were filed in accordance with § 153.33(c), Customs Regulations (19 CFR 153.33(c)).

For the reasons stated above, the antidumping investigation of cumene from Italy is being discontinued in accordance with section 201 (b)(3) of the Act (19 U.S.C. 160(b)(3)), and

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§ 153.33(d), Customs Regulations (19 CFR 153.33(d)).

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

This notice is published pursuant to § 153.33(d), Customs Regulations (19 CFR 153.33(d)).

Dated: November 30, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-34147 Filed 12-6-78; 8:45 am]

[4810-22-M]

CUMENE FROM THE NETHERLANDS

Antidumping; Determination of Sales At Not Less Than Fair Value

AGENCY: Treasury Department.

ACTION: Determination of sales at not less than fair value.

SUMMARY: This notice is to advise the public that it has been determined that cumene from the Netherlands is not being sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold from exportation to the United States is less than the price of such or similar merchandise sold in the exporter's home market or to third countries. This determination closes the investigation.

EFFECTIVE DATE: December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 17, 1978, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Gulf Oil Chemicals Company, a division of Gulf Oil Corporation, alleging that cumene from the Netherlands is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as "the Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of February 23, 1978 (43 FR 7497). A "Withholding of Appraisement Notice", for a 6-month period, was published in the FEDERAL REGISTER of September 1, 1978 (43 FR 39205).

DETERMINATION OF SALES AT NOT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)) I hereby determine that cumene from the Netherlands is not being, nor is likely to be, sold at less than fair value.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

a. *Scope of the investigation.* Virtually all imports of the subject merchandise from the Netherlands were sold for export to the United States by Dow Chemical (Nederlands) B.V. (Dow-Europe). The investigation was therefore limited to sales by Dow-Europe.

b. *Basis of comparison.* For the purpose of this determination, the proper basis of comparison is between exporter's sales price and the third country price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales by Dow-Europe were made to a related importer in the United States, Dow Chemical Company (Dow-USA). Third country prices, as defined in § 153.3, Customs Regulations (19 CFR 153.3), were used since such or similar merchandise was not sold in the home market in sufficient quantities to provide an adequate basis for comparison.

A question has been raised as to whether the transactions used in calculating third country price are of sufficient size to constitute an appropriate basis for determining fair value. Since these sales constitute more than 9 percent of Dow-Europe's total sales during the period of investigation, it is determined that they do provide an adequate basis of comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States during the period of September 1, 1977, through February 28, 1978, and to third countries during the period July 1, 1977, through February 28, 1978.

c. *Exporter's sales price.* For the purposes of this determination, since the merchandise under consideration was further manufactured by the related importer before sale to an unrelated United States purchaser, the exporter's sales price was calculated on the basis of the resale prices of the end products, phenol and acetone, in accordance with section 204 of the Act (19 U.S.C. 163). Adjustments were made for processing costs, including materials, labor and general expenses, and any additional costs and charges incident to bringing the merchandise from the point of shipment in the Netherlands to the point of delivery in the United States, such as ocean freight and insurance. All applicable charges incurred in the resale of the merchandise were included as part of the processing costs. An additional adjustment was made to convert the adjusted price of the end product to a per pound equivalent price of cumene. This adjustment was based on the ratio of the weight of cumene to the weight of the appropriate end product, phenol or acetone.

d. *Third country price.* For purposes of this determination, the third country price has been calculated on the basis of the weighted-average f.o.b. price to unrelated purchasers in Italy and West Germany. Deductions were made for inland freight and insurance. No other adjustments were claimed or made. The third country sales were selected and the prices were calculated to correspond with the time at which the cumene was exported to the United States.

e. *Cost of production.* Since the petition contained a sufficient allegation of sales at less than the cost of production, pursuant to section 205(b) of the Act (19 U.S.C. 164(b)), information was obtained concerning the production cost of cumene in the Netherlands. The cost of production was determined on the basis of the cost of materials, labor, and general expenses incurred in the manufacture and sale of the merchandise, as provided for in § 153.5, Customs Regulations (19 CFR 153.5).

A claim was made for an adjustment for an investment incentive allowance. This allowance is in the form of a reduction in corporate income taxes. This claim was denied since such taxes are not considered to be a part of the production costs. Therefore, any reduction in income taxes cannot be adjusted for as a production cost credit.

On the basis of the information submitted, it has been determined that Dow-Europe is not selling cumene to third countries at less than the cost of producing the merchandise.

f. *Results of fair value comparisons.* Using the above criteria, comparisons were made on approximately 65 percent of the sales of the subject merchandise to the United States during the period of investigation. Those comparisons indicated that the exporter's sales price of cumene from the Netherlands was not less, nor likely to be less, than the third country price of such or similar merchandise. A margin of approximately 0.053 percent was found on 0.03 percent of the sales compared. The weighted average margin of approximately 0.0016 percent was determined to be de minimis in relation to the total volume of such imports from the Netherlands.

Accordingly, the order issued September 1, 1978, to withhold appraisement on the subject merchandise from the Netherlands, which notice is cited above, is hereby revoked effective upon publication of this notice.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

This determination and statement of reasons therefor are published pursuant to § 153.34(d), Customs Regulations (19 CFR 153.34(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 30, 1978.

[FR Doc. 78-34146 Filed 12-6-78; 8:45 am]

[4810-22-M]

SILICON METAL FROM CANADA

Antidumping: Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: Based upon an investigation it has been determined that silicon metal from Canada is being sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market. This proceeding is being referred to the United States International Trade Commission for a determination concerning injury to an industry in the United States.

EFFECTIVE DATE: December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward F. Haley, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On January 4, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Ohio Ferro-Alloys Corporation, Union Carbide Corporation, Interlake, Inc., and Kawecki-Berylco Industries, Inc., indicating that silicon metal from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of February 14, 1978 (43 FR 6350). A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of August 29, 1978 (43 FR 38659).

For purposes of this notice, the subject merchandise is silicon metal, unwrought, containing by weight not over 99.7 percent pure silicon; and alloys of silicon metal, unwrought, containing by weight 96 percent or more but less than 99.0 percent silicon.

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that, for the reasons stated below, silicon metal from Canada is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the investigation.* Virtually all imports of the subject merchandise from Canada during the period covered by this investigation were manufactured by SKW Electro-Metallurgy Canada Limited (hereinafter "SKW"); therefore, the investigation was limited to this manufacturer.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the adjusted home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since U.S. sales were made to unrelated customers prior to the date of exportation of the merchandise. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used for fair value comparison purposes since such or similar merchandise was sold in the home market in sufficient quantities to provide an appropriate basis of comparison. In this case, Canadian sales of nearly 7 percent of all sales and over 22 percent of all sales to markets other than the United States, were deemed adequate to establish a home market for purposes of price comparisons.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning imports from Canada to the United States during the 6-month period September 1, 1977, through February 28, 1978, and home market sales of silicon metal during the same period.

On January 4, 1978, counsel for petitioner submitted information in support of its claim that, pursuant to section 205(b) of the Act (19 U.S.C. 164(b)), prices in the home market should be disregarded because they were at less than the cost of producing the merchandise. Information was then requested from SKW concerning the cost of producing the merchandise during the period calendar year 1977. This information was received and verified prior to the Tentative Determination. Information was also received and verified concerning the producer's costs during the time that merchandise sold during the period of investigation of September 1, 1977-February 28, 1978 was actually manufactured. This information indicates that the appropriate period for the examination of the cost of producing the merchandise is July 1, 1977 through December 31, 1977. The total actual cost of producing the merchandise during that time was determined to be less in every instance than the prices charged home market purchasers for such merchandise. Therefore, home market prices were not disregarded.

Subsequent to the Tentative Determination, petitioner submitted some additional information concerning the appropriate method for calculating the cost of producing the merchandise. This information included a claim that certain selling expenses which could only be attributed wholly to export sales had in fact been partially attributed to home market sales of this merchandise. This claim was determined to be wellfounded and an adjustment in the calculation of the cost of producing the merchandise has been made. It has been determined that this adjustment does not alter the prior conclusion that the cost of producing this merchandise was less in every instance than prices charged home market purchasers for such merchandise.

Petitioner has also claimed that Customs' investigation of the cost of producing this merchandise has failed to take account of certain production and selling expenses which may have been borne by a foreign parent company of the Canadian producer. Based on careful review of the cost information submitted by respondent and verified by the U.S. Customs Service, no reasonable basis exists for believing that any cost incurred in the production and/or sale of this merchandise by SKW has not been fully reported in the books and records of SKW as its own costs. No evidence was found that the parent companies absorbed such costs. Therefore, petitioner's claim has been rejected.

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Petitioner has claimed that the parent company's investment in the equity capital of SKW should be considered a "cost of producing" this merchandise. The amount would be based on the parent company's interest costs for borrowed funds or a comparable charge on internally generated capital. In the recent case of *Austrian Viscose Rayon Staple Fiber* (43 FR 40095) (1978), we determined that the cost of producing merchandise within the meaning of section 205(b) of the Act did not require the inclusion of an imputed interest charge for the use of internally generated corporate funds. It has been determined in the instant case that there is no valid distinction to be made between the situation presented in the *Austrian Viscose Rayon Staple Fiber* case, and the situation in which funds utilized by the producing unit are derived from equity capital contributed by the investing parent company. How that company derived the funds—from loans, new investments in equity or self-generation from operations, or otherwise—is not relevant under the cost of production by reference to the actual costs incurred, as determined in accordance with generally accepted accounting principles (GAAP) in the country of manufacture, whenever such principles do not have a significant distortive effect. All actual interest costs incurred by SKW have been included within the cost of production of this merchandise. The inclusion of any element of imputed cost of the use of invested capital would not constitute an actual cost of production under GAAP, and, thus, cannot appropriately be included within the meaning of section 205(b) of the Act (19 U.S.C. 164(b)).

c. *Purchase Price.* For the purpose of this determination of sales at less than fair value, the purchase price was calculated on the basis of prices to unrelated U.S. customers with deductions, for loading charges, freight, warehousing costs, U.S. duty, discounts, and sales commissions, as appropriate. Additions were made for those sales where additional amounts were separately billed the customer for packing materials and/or freight and for drawback received on Canadian Customs duties paid on imported components.

d. *Home Market Price.* For the purpose of this determination of sales at less than fair value, home market price was calculated on the basis of the weighted-average price to all customers during the period of comparison with adjustments for loading, packing and freight costs, selling commissions, selling expenses, and differences in merchandise, as appropriate.

An adjustment to the home market price of high quality silicon metal was made for purposes of comparing that price to prices charged U.S. customers for silicon metal of a different, and lower, quality, pursuant to § 153.11 (19 CFR 153.11) of the Customs Regulations. The difference was established as a requirement of home market buyers, and was assured through procedures followed by the producer to enable it to warrant the higher quality sold in the home market. The adjustment was based on the additional costs incurred in the manufacture of the higher grade, which is the only grade sold in the home market. Additional adjustment under § 153.11 in the form of a deduction from home market price for labor and direct factory overhead costs directly attributable to the allowable cost of difference in the merchandise compared was not claimed and, therefore, not made.

Allowance has been claimed for commissions paid to a Canadian company related to SKW in connection with the home market. Normally a sales commission is considered to be directly related to a particular sale and is a circumstance of sale for which adjustment is made under § 153.10(a) of the regulations (19 CFR 153.10(a)). On the other hand, presale selling expenses are generally regarded as overhead expenses which do not constitute an allowable adjustment under § 153.10(a).

Section 153.10(b) (19 CFR 153.10(b)) of the regulations, in stating exceptions to the general rule that an adjustment will be made only for directly related circumstances of sale, provides:

> • • • reasonable allowance for selling expenses generally will be made in *cases where a reasonable allowance is made for commissions in one of the markets* under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual selling expense incurred in the one market or the total amount of the commission allowed in such other market, whichever is less. (Emphasis provided.)

In the instant case, a sales commission was paid to an unrelated party in respect of sales to the United States. It was therefore necessary to determine whether and, if so, to what extent, sales commissions paid in the home market to a related party could be properly deducted from home market price consistent with §§ 153.10(a) and 153.10(b) of the Regulations. At the time of the Tentative Determination, it was determined:

1. That under § 153.10(a), adjustment for sales commissions paid to a "related" company must be denied, wholly or in part, as a mere shift of income from one part of a corporate organization to another; and

2. That under § 153.10(b), adjustment may be allowed to the extent actual selling expenses, incurred either by the payee or payor of the commission, are shown, up to the amount of any commission paid in the "other" market.

On these bases, an adjustment to home market price was made at the time of the Tentative Determination, in connection with a portion of the sales commission paid to a related party. The adjustment was disallowed on a pro rata basis to the extent of the corporate relationship between payor and payee, pending submission of evidence of actual selling expenses. Information sufficient to establish that such actual selling expenses were incurred in full amount of the commission paid having been received since the Tentative Determination, this adjustment has now been fully allowed.

e. *Result of fair value comparisons.* Using the above criteria, the U.S. purchase prices were found to be lower than the home market price of such or similar merchandise in certain instances. Comparisons were made on virtually all the silicon metal sold in the United States by SKW during the period of investigation. Margins were found ranging from 0.4 percent to 18.3 percent on 44 percent of sales compared. The weighted-average margin computed over all sales was 2.7 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 30, 1978.

[FR Doc. 78-34159 Filed 12-6-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

ELECTRICAL DEFICIENCIES PROJECT, VAMC, SEPULVEDA, CA.

Finding of No Significant Impact

The proposed project will correct the electrical deficiencies at the Sepulveda, California, Veterans Administration Medical Center (VAMC), through the installation of new high voltage switchgear, feeders, a substation and emergency generators.

The correction of electrical deficiencies involves primarily the upgrading of interior electro-mechanical equipment (in Buildings No. 2 & 3) plus the exterior siting and installation of two emergency generator units serving Buildings No. 2 and 3, and a substation for Building No. 3. The focus of the assessment is the two emergency generator units and the substation which are the only exterior addition/modifications to the facility.

The impacts, as a result of the proposed action, are primarily associated with noise and exhaust emissions from the emergency generators. Mitigating actions for noise impacts are in the form of sound deadening enclosures, air silencers and exhaust mufflers on the equipment. Impacts of exhaust emissions are minimal during normal conditions of weekly 30-minute maintenance operations.

An analysis of all environmental factors related to the correction of electrical deficiencies indicates a Finding of No Significant Impact.

Questions and requests of single copies of the Environmental Assessment should be addressed to: Willard S. Sitler, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

By direction of the Administrator.

Dated: November 30, 1978.

MAURY S. CRALLE, JR.,
Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 78-34129 Filed 12-6-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 50]

DECISION-NOTICE

Decided: November 13, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and juridictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decisions notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, Liberman (Review Board Member Eaton not participating).

H. G. HOMME, JR.,
Secretary.

MC 4405 (Sub-583F), filed October 17, 1978. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, OK 74103. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *concrete light poles, and component parts and fixtures for light poles,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between Everett, WA, on the one hand, and, on the other points in the United States (except AK and HI). (Hearing site: Seattle, WA.)

MC 20992 (Sub-48F), filed September 1, 1978. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1)(a) *agricultural implements, farm machinery* (except tractors), *mountable spreaders, forage boxes, and show display equipment,* and (b) *parts* for the commodities in (1)(a) above, from the facilities of Koehring Farm Equipment Division of Koehring Co., at or near Appleton, WI, to points in AZ, CA, ID, NV, OR, UT, and WA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above

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(except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to the facilities of Koehring Farm Equipment Division of Koehring Co., at or near Appleton, WI, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Koehring Farm Equipment Division of Koehring Co., at or near Appleton, WI. (Hearing site: Minneapolis, MN.)

MC 23618 (Sub-40F), filed October 24, 1978. Applicant: McALISTER TRUCKING COMPANY, a Corporation, dba MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *air cooled heat exchangers and component parts for air cooled heat exchangers*, from the facilities of Hudson Products Corporation, at or near Houston and Beasley, TX, to points in the United States (except AK and HI). (Hearing site: Houston or Dallas, TX.)

MC 23618 (Sub-41F), filed October 24, 1978. Applicant: McALISTER TRUCKING COMPANY, A Corporation, d.b.a MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *building materials*, and (2) *materials and supplies* used in the manufacture, distribution, and installation of building materials (except commodities in bulk), from Shreveport, LA, to points in AR, IL, KS, KY, MS, NM, OK, TN, and TX. (Hearing site: Shreveport, LA or Dallas, TX.)

MC 23618 (Sub-42F), filed October 24, 1978. Applicant: McALISTER TRUCKING COMPANY, A Corporation, d/b/a MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles, and pipe*, between El Paso, Lubbock, Eagle Pass, and Houston, TX, Albuquerque, Farmington, and Clovis, NM, Salt Lake City, UT, and Pueblo, CO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX or Washington, DC.)

MC 25798 (Sub-337F), filed October 20, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina Corporation, P.O Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk, in tank vehicles), between the facilities of Hudson Industries, Inc., at Troy, AL, on the one hand, and, on the other, points in AR, CO, FL, IL, IN, IA, KS KY, LA, MI, MN, MO, NE, NC, ND, OH, OK, SC, SD, VA, TX, WV, and WI. (Hearing site: Tallahassee, FL.)

MC 25798 (Sub-339F), filed October 23, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina Corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *paper and paper products*, from Pasadena, TX, to points in FL. (Hearing site: Tampa, FL.)

MC 25798 (Sub-340F), filed October 24, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina Corporation, P.O. Box 1186 Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant.) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods* (except commodities in bulk), from the facilities of Rich Products Corporation, at Appleton, WI, to the facilities of Rich Products Corporation, at Murfreesboro, TN. (Hearing site: Buffalo, NY.)

MC 25069 (Sub-146F), filed October 24, 1978. Applicant: MOLTE BROS. TRUCK LINE, INC., P.O. Box 7184, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods*, (1) from Buffalo, NY, and West Haven, CT, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI, and (2) from Chicago, IL, to points in CO, IA, and NE. (Hearing site: Chicago, IL.)

MC 28088 (Sub-43F), filed October 24, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main Street, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, from Newark, NJ, and Pabst, GA, to Harrisonburg and Winchester, VA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 29079 (Sub-97F), filed October 30, 1978. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union, Kokomo, IN 46901. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *auto body parts*, from Greencastle, IN, to Detroit, MI. (Hearing site: Washington, DC.)

MC 35628 (Sub-404F), filed October 19, 1978. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville Avenue, SW, Grand Rapids, MI 49503. Representative: Michael P. Zell (same address as applicant). To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of The Clorox Company, at French Lick, IN, as an off-route point in connection with applicant's presently authorized regular-route operations. (Hearing site: San Francisco or Sacramento, CA.)

MC 48958 (Sub-160F), filed October 30, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., A Nebraska Corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, alcholic liquors, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between the facilities of Western Electric Company, Inc., at or near (a) Omaha, NE, and (b) Underwood, IA, on the one hand, and, on the other, points in AZ, CA, KS, NM, TX, and UT. (Hearing site: Denver, CO.)

MC 55898 (Sub-55F), filed October 23, 1978. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *gypsum and building materials*, and *materials, equipment, and supplies* used in the manufacture, distribution, and installation of gypsum and building materials (except commodities in bulk, in tank vehicles), (1) between the facilities of Georgia-Pacific Corporation, at or near (a) Akron and Buchanan, NY, (b) Delair, NJ, (c) Milford, VA, (d) Quakertown, PA, and (e) Wilmington, DE, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA, and (2) between the facilities of Gerogia-Pacific Corporation, at or

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near Marietta, GA, on the one hand, and, on the other, points in CT, ME, MA, NH, NY, RI, and VT. (Hearing site: Washington, DC.)

MC 61592 (Sub-426F), filed September 13, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *railroad ties, timbers, poles, piling*, and *lumber*, from Madison and Cambria, IL, Indianapolis, Bloomington, Terre Haute, and Winslow, IN, Waverly and Northup, OH, and Louisville and Mayfield, KY, to points in IN, IA, KS, KY, MI, MO, OH, TN, WI, IL, NY, PA, WV, and AR. (Hearing site: Chicago, IL.)

MC 65941 (Sub-58F), filed September 11, 1978. Applicant: TOWER LINES, INC., 3rd and Warwood Avenue, Box 6010, Wheeling, WV 26003. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *glass containers, glass container tops*, and *corrugated boxes*, and (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above, from points in Clearfield, Jefferson, and Washington Counties, PA, and Muskingum County, OH, to points in NC and VA. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 78228 (Sub-94F), filed October 30, 1978. Applicant: J MILLER EXPRESS, INC., An Ohio Corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *alloys*, (1) between the facilities of Airco Alloys, a Division of Airco, Inc., at Niagara Falls, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MA, MD, MI, NJ, PA, RI, and WV, and (2) between the facilities of Airco Alloys, a Division of Airco, Inc., at Detroit, MI, on the one hand, and, on the other, points in IL, IN, NY, OH, PA, and WV. (Hearing site: Washington, DC or Buffalo, NY.)

MC 78228 (Sub-95F), filed October 30, 1978. Applicant: J MILLER EXPRESS, INC., An Ohio Corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *electrodes*, between the facilities of Airco Speer Carbon-Graphite, at (a) Niagara Falls, NY, and (b) St. Marys, PA, on the one hand, and, on the other, points in CT, IL, IN, KY, MD, MI, NJ, NY, PA, and WV. (Hearing site: Washington, DC or Niagara Falls, NY.)

MC 78228 (Sub-96F), filed October 30, 1978. Applicant: J MILLER EXPRESS, INC., An Ohio Corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *pig iron*, between the facilities of Hanna Furnace Corporation, Division of National Steel Corp., at Detroit, MI, on the one hand, and, on the other, points in IL, IN, IA, KY, MO, NY, OH, and PA. (Hearing site: Washington, DC or Buffalo, NY.)

MC 87928 (Sub-48F), filed October 2, 1978. Applicant: AUTOMOBILE TRANSPORT, INC., 36555 Michigan Avenue, Wayne, MI 48184.Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *motor vehicles*, between points in IL, IA, MN, MO, and WI, and (2) *motor vehicles*, in secondary movements, in truckaway and driveaway service, between points in IL, IA, MN, MO, and WI, on the one hand, and, on the other, points in IL, IN, KY, MI, NC, OH, SC, TN, VA, WV, VT, MA, CT, NY, NJ, MD, DE, RI, and DC. (Hearing site: Detroit, MI or Chicago, IL.)

MC 103498 (Sub-48F), filed September 28, 1978. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *insulation board*, from the facilities of Johns-Manville Sales Corp., at Natchez, MS, to points in AR, OK, and TX. (Hearing site: Dallas, TX, or Jackson, MS.)

NOTE.—The person or persons who it appears may be engaged in common control of applicant and another regulated carrier must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 103798 (Sub-20F), filed October 27, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cheese*, from St. Olaf, IA, to points in AZ, CA, CO, KS, NE, NM, NV, OK, TX, and UT. (Hearing site: Des Moines, IA.)

NOTE.—Dual operations are involved in this proceeding.

MC 103993 (Sub-940F), filed October 2, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, valves, metal articles, hydrants, and castings*, and (2) *materials, equipment, and supplies* used in the installation of the commodities named in (1) above, from the facilities of Consolidated Pipe & Supply Co., at or near Birmingham, AL, to points in TX, FL, LA, MS, NC, SC, TN, KT, and AR. (Hearing site: Birmingham or Mobile, AL.)

MC 106398 (Sub-847F), filed October 17, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *pickup trucks and van conversions*, from the facilities of Gladiator, Inc., at Denver, CO, to points in AZ, ID, MT, NV, NM, UT, and WY. (Hearing site: Denver, CO.)

NOTE.—In view of the findings in No. MC-106398 (Sub-No. 741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107515 (Sub-1182F), filed October 12, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers S, 3390 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic film and sheeting*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Borden Chemical Division of Borden, Inc., at or near Griffin, GA, on the one hand, and, on the other, points in the United States (except AK, HI, and GA). (Hearing site: Atlanta, GA.)

NOTE—Dual operations are involved in this proceeding.

MC 108119 (Sub-104F), filed October 10, 1978. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R.

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Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *machinery and engines*, and (2) *mobile power units*, in truckaway service, between points in San Joaquin County, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 108119 (Sub-105F), filed October 30, 1978. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *street sweepers and chippers*, and (2) *parts and attachments* for the commodities in (1) above, from points in Calumet County, WI, to points in the United States (except AK and HI). (Hearing site: Milwaukee or Madison, WI.)

MC 109397 (Sub-428F), filed September 18, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., a Delaware Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *aluminum and aluminum products*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, D.C.)

MC 109538 (Sub-26F), filed October 18, 1978. Applicant: CHIPPEWA MOTOR FREIGHT, INC., 2645 Harlem Street, Eau Claire, WI 54701. Representative: Carl L. Steiner, 39 S. La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Richmond, IN, and Dayton, OH: from Richmond over U.S. Hwy 40 to junction Interstate Hwy 70, then over Interstate 70 to junction OH Hwy 49, then over OH Hwy 49 to Dayton, and return over the same route, serving all intermediate points. CONDITIONS: (1) The regular-route authority granted here shall not be severable by sale or otherwise, from applicant's retained pertinent irregular-route authority. (2) Applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority in Certificate No. MC-109538 (Sub-No. 22) precluding service between the two points authorized to be served here pursuant to regular-route authority. (Hearing site: Chicago, IL)

NOTE.—The purpose of this application is to convert a portion of applicant's existing irregular-route authority to regular-route authority.

MC 109584 (Sub-180F), filed September 5, 1978. Applicant: ARIZONA-PACIFIC TANK LINES, an Arizona Corporation, 3980 Quebec Street, P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *inedible tallow*, in bulk, in tank vehicles, from Phoenix, AZ, to Deming, NM. (Hearing site: Phoenix, AZ.)

MC 109692 (Sub-72F), filed August 28, 1978. Applicant: GRAIN BELT TRANSPORTATION COMPANY, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, couplings, pilings, and well casings and screens*, from the facilities of Stanron Supply, Inc., at or near Lubbock, TX, to points in the United States (except AK and HI), (2) *pipe, pilings, and well casings and screens*, from Fontana and Long Beach, CA, Pueblo, CO, Valley, NE, Houston, TX, and ports of entry on the international boundary line between the United States and Canada in MT and ND, to points in the United States (except AK and HI), and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to the facilities of Stanron Supply, Inc., at or near Lubbock, TX. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 110563 (Sub-245F), filed October 4, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods and frozen novelties*, from Kansas City, MO, to points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and WI. (Hearing site: Kansas City or St. Louis, MO)

MC 110988 (Sub-374F), filed October 25, 1978. Applicant: SCHNIEDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *commodities* in bulk, from Mosinee, WI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL).

MC 110988 (Sub-375F), filed October 30, 1978. Applicant: SCHNIEDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *commodities* in bulk, (1) from points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV, to points in IL, IN, IA, KY, MI, MN, MO, OH, WI, and those in PA on and west of U.S. Hwy 219, and (2) from points in KY, OH, and TN, to points in IL, IN, IA, MI, MN, MO, and WI. (Hearing site: Chicago, IL).

MC 111941 (Sub-27F), filed September 11, 1978. Applicant: PIERCETON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, IN 46943. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum* and *petroleum products*, from Laketon, IN, to points in KY. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 112223 (Sub-116F), filed September 25, 1978. Applicant: QUICKEE TRANSPORT COMPANY, a corporation, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *castings*, from Berlin and Waupaca, WI, to the facilities of Onan Corporation, at or near Fridley, MN, restricted to the transportation of traffic originating at the named origins and destined to the named destination facilities. (Hearing site: Minneapolis or St. Paul, MN)

MC 112713 (Sub-224F), filed September 11, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from points in PA, to points in MI. (Hearing site: Philadelphia, PA)

MC 112801 (Sub-209F), filed September 11, 1978. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *corn sweetners*, in bulk, in tank vehicles, from the facilities of A. E. Staley Manufacturing Co., at or near Chicago, IL, to points in IL, IN, IA, KY, MI, NY, OH, PA, WV, and WI. (Hearing site: Chicago, IL.)

MC 113434 (Sub-109F), filed September 5, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs and synthethic rubber*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Louisville Freezer Center, in Jefferson County, KY, on the one hand, and, on the other, points in IL, IN, MI, MO, OH, PA, TN, WV, WI, and those in NY on and west of Interstate Hwy 81. (Hearing site: Louisville, KY)

MC 114273 (Sub-473F), filed October 2, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat by-products, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Illini Beef Packers, Inc., at Joslin, IL, to points in DE, KY, MD, TN, VA, WV, WI, and DC. CONDITION: In view of the findings in No. MC-114273 (Sub-Nos. 147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC)

MC 114569 (Sub-256F), filed October 24, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods, and materials and supplies* used in the manufacture and distribution of frozen foods, (except commodities in bulk), between the facilities of the Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, points in the United States in and east of MN, LA, MO, AR, and LA (except TN), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Minneapolis, MN or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114569 (Sub-257F), filed October 24, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *confectionery*, from the facilities of Charms Co., at or near Covington, TN, to points in AZ, CA, CO, CT, DE, IL, IN, IA, KS, MD, MA, MI, MN, MO, NE, NJ, NM, NY, OH, OR, PA, RI, TX, VA, WA, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114569 (Sub-258F), filed October 24, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *confectionery*, from Moline, IL, to Minneapolis, MN. (Hearing site: Harrisburg, PA or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114569 (Sub-259F), filed October 26, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *antifreeze preparations*, in containers, from Kansas City, MO, to points in CO, IA, ID, MT, NE, UT, and WY. (Hearing site: Houston, TX or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114569 (Sub-260F), filed October 30, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *tea*, from Houston, TX, Seattle, WA, and San Francisco and Los Angeles, CA, to Denver, CO. (Hearing site: Denver, CO, or Washington, DC)

NOTE.—Dual operations may be involved in this proceeding.

MC 115092 (Sub-71F), filed September 12, 1978. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *bentonite clay*, from the facilities of Dresser Industries, Inc., at or near Greybull, WY, to points in AR, AZ, CA, CO, IL, IA, KS, LA, MN, MO, NE, NV, NM, OK, OR, TX, UT, WA, and WI; and (2) *drilling mud additives*, from points in Sweetwater County, WY, to points in AR, CO, IL, KS, LA, MS, NM, OK, and TX. (Hearing Site: Houston, TX)

MC 115215 (Sub-35F), filed October 12, 1978. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fl 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *lumber handling machinery, and dry kiln outfits*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from Jacksonville, FL, to points in AL, LA, and MS. (Hearing site: Jacksonville or Talahassee, FL)

MC 115924 (Sub-33F), filed September 6, 1978. Applicant: SUGAR TRANSPORT, INC., P.O. Box 4063, Port Wentworth, GA 31407. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *sweetners*, in bulk, (1) between points in IL, IN, IA, and OH, on the one hand, and, on the other, points in AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV, and (2) between points in AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV, under continuing contract(s) with Savannah Foods & Industries, Inc., of Savannah, GA. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 116014 (Sub-86F), filed September 5, 1978. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, KY 40391. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron and steel forgings*, from the facilities of Rockwell International Corp., at Morristonw, TN, to points in IN, IL, OH, KY, MO, MI, PA, and WI, and (2) *materials, equipment, and supplies* used in the manufacture of iron and

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steel forgings (except commodities in bulk), from the destinations indicated in (1) above, to the origin facilities named in (1) above. (Hearing site: Louisville, KY.)

MC 116763 (Sub-439F), filed October 2, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic and metal containers, and accessories for plastic and metal containers*, from Homerville, GA, to those points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Atlanta, GA.)

MC 117119 (Sub-705F), filed October 27, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes transporting *plastic and rubber housewares, lawn and garden accessories, and display racks*, from the facilities of Rubbermaid Incorporated, at Wooster, OH, to points in AZ, CA, CO, ID, MT, NV, OR, UT, and WA. (Hearing site: Columbus, OH.)

MC 117574 (Sub-319F), filed August 29, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *tractors*, (2) *trucks designed for off-highway use*, in truckaway service, and (3) *parts and accessories* for the commodities named in (1) and (2) above, between points in IL, IL, IN, KS, MI, MN, MO, ND, NE, SD, and WI. (Hearing site: Chicago, IL.)

MC 117815 (Sub-297F), filed September 18 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, IA 50317. Representative: Dewey Marselle (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, from St. Louis, MO, to points in IL, IN, IA, MI, MN, NE, and OH, and (2) *cleaning, softening, sizing, finishing, bleaching, and bluing products*, from London and Toledo, OH, to points in IL, IN, MN, and MO, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 119089 (Sub-6F), filed October 30, 1978. Applicant: WISCONSIN REFRIGERATED SERVICES, INC., 11400 West Burleigh Street, Wauwatosa, WI 53222. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *frozen foodstuffs*, and (2) *frozen inedible meats* and *frozen edible meat by-products* (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, WI, to points in AL, AZ, AR, CA, DE, FL, LA, MD, MS, NV, NM, OK, TX, UT, and DC, under continuing contract(s) with Wiscold, Inc., of Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 119493 (Sub-228F), filed August 14, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *glass and glass products*, from the facilities of Fourco Glass Company, at or near Clarksburg and Jerry Run, WV, to points in CO, KS, NE, OK, TX, AL, AR, IA, LA, MN, MS, MO, TN, and WI, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, from CO, KS, NE, OK, TX, AL, AR, IA, LA, MN, MS, MO, TN, and WI, to the facilities of Fourco Glass Company, at or near Clarksburg and Jerry Run WV. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 120618 (Sub-15F), filed October 20, 1978. Applicant: SCHALLER TRUCKING CORPORATION, 5700 West Minnesota Street, Indianapolis, IN 46241. Representative: John R. Bagileo, 918—16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *aluminum articles*, from the facilities of the Anaconda Company, at or near Terre Haute, IN, to Buffalo and Lockport, NY; and (2) *returned shipments* of aluminum articles, from Buffalo and Lockport, NY, to the facilities of the Anaconda Company, at or near Terre Haute, IN. (Hearing site: Indianapolis or Terre Haute, IN).

MC 120618 (Sub-16F), filed October 23, 1978. Applicant: SCHALLER TRUCKING CORPORATION, 5700 West Minnesota Street, Indianapolis, IN 46241. Representative: John R. Bagileo, 918—16th Street, NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum extrusions, aluminum pipe, and flux*, (except commodities which because of size or weight require the use of special equipment), from the facilities of Aluminum Company of America, at or near Lafayette, IN, to points in NY. (Hearing site: Indianapolis or Terre Haute, IN.)

MC 120981 (Sub-27F), filed September 11, 1978. Applicant: BESTWAY EXPRESS, INC., 905 Visco Drive, Nashville, TN 37210. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Nashville, TN, and Shakertown, KY: From Nashville over Interstate Hwy 65 to junction Blue Grass Parkway, then over Blue Grass Parkway to junction U.S. Hwy 60, then over U.S. Hwy 60 to Lexington, KY, then over U.S. Hwy 68 to Shakertown, and return over the same route, serving all intermediate points between Lexington and Shakertown, KY, (2) Between junction U.S. Hwy 68 and KY Hwy 29, and Wilmore, KY: over KY Hwy 29, serving all intermediate points, and (3) Between junction U.S. Hwy 68 and KY Hwy 33, and Burgin, KY: over KY Hwy 33, serving all intermediate points. (Hearing site: Lexington, KY or Nashville, TN.)

MC 121664 (Sub-35F), filed September 6, 1978. Applicant: G. A. HORNADY, CECIL M. HORNADY, AND B. C. HORNADY, a partnership, d/b/a HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monoeville, AL 36460. Representative: W. E. Grant, 1702 1st Avenue South, Birmingham, AL 35223. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, from Maplesville and Centreville, AL, to points in GA, TN, KY, IL, IN, OH, and MI. (Hearing site: Montgomery or Birmingham, AL.)

MC 121664 (Sub-36F), filed September 6, 1978. Applicant: G. A. HORNADY, CECIL M. HORNADY, AND B. C. HORNADY, a partnership, d/b/a HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monoeville, AL 36460. . Representative: W. E. Grant, 1702 1st Avenue South, Birmingham, AL 35223. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *unfinished plywood*, from Cuthbert, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from the destinations indicated in (1) above to Cuthbert, GA. (Hearing site: Montgomery or Birmingham, AL.)

MC 121664 (Sub-37F), filed September 6, 1978. Applicant: G. A. HORNADY, CECIL M. HORNADY, and B. C. HORNADY, a partnership, d.b.a. HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st Avenue South, Birmingham, AL 35223. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, from Newport, AR, and Memphis, TN, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Montgomery or Birmingam, AL.)

MC 123048 (Sub-418F), filed October 20, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by (a) agricultural, industrial, and construction equipment dealers, and (6) lawn and leisure products dealers, between points in the United States (except AK and HI). (Hearing site: Chicago, IL) or Washington, DC.)

MC 123744 (Sub-43F), filed August 31, 1978. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *refractories*, from the facilities of Harbison Walker Refractories at or near Hammond, IN to points in OH, PA, MD, VA, NY, NJ, WV, CT, RI, VT, NH, MA, and ME, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 123744 (Sub-44F), filed September 5, 1978. Applicant: BUTLER TRUCKING COMPANY, a Corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *refractories*, (1) from the facilities of General Refractories Company, at or near (a) Rockdale, IL, and (b) Gary, IN, to points in OH, PA, WV, NJ, DE, NY, and MD, and (2) from the facilities of General Refractories Company at Claysburg, Sproul, and Salina, PA, to points in IL, IN, MI, AL, MS, and LA, restricted in (1) and (2) to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 124078 (Sub-894F), filed October 20, 1978. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *defoaming compounds and cotton softeners*, in bulk, in tank vehicles, from Columbus, GA, to points in (a) AR, LA, TX, and (b) those in the United States east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada (except LA), (2) *industrial oil*, in bulk, in tank vehicles, from Jacksonville, FL, Baton Rouge, LA, and Charleston, SC, to Columbus, GA; and (3) *lignin sulfonate*, in bulk, in tank vehicles, from Green Bay, WI, to Columbus, GA. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-897F), filed October 16, 1978. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry chemicals*, in bulk, in tank vehicles, from the facilities of Monsanto Co., at or near August, GA, to points in IL, IA, MD, MI, MN, MO, NJ, NY, OH, PA, and WI, restricted against the transportation of traffic moving to or through points in the St. Louis, MO-East St. Louis, IL, commercial zone. (Hearing site: St. Louis, MO.)

MC 124839 (Sub-37F), filed October 26, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane—Suite 500, Silver Spring, MD 20910. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States (except AK and HI), under continuing contract(s) with E. I. du Pont de Nemours & Company, of Wilmington, DE. CONDITION: As Commission records indicate this will be applicant's 10th contracting shipper, applicant must, in order to demonstrate that the proposed service is that of a contract carrier, present evidence, in the form of verified statements, demonstrating why it will be serving a "limited number of persons" within the meaning of section 10102(12) (formerly section 203(a)(15)) of the Interstate Commerce Act. (Hearing site: Washington, DC.)

MC 124947 (Sub-114F), filed August 14, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *air cleaning equipment*, from the facilities of Superior Roll Form Company, at or near Cleveland, OH, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT or Washington, DC.)

MC 125335 (Sub-34F), filed October 20, 1978. Applicant: GOOD-WAY, INC., a MD corporation, P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 81849, 521 South 14th Street, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, (except commodities in bulk, in tank vehicles), from the facilities of M&M/Mars, at or near Cleveland, TN, to points in TX, LA, FL, PA, NJ, MD, DE, NY, MA, CT, RI, OK, KS, MO, NE, and IA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Allentown or Harrisburg, PA.)

MC 125335 (Sub-35F), filed October 20, 1978. Applicant: GOOD-WAY, INC., a MD corporation, P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Knouse Foods, Inc., in Adams and Franklin Counties, PA, to points in TN, MS, AR, LA, TX, OK, GA, and AL. (Hearing site: Harrisburg, PA or Lincoln, NE.)

MC 126899 (Sub-123F), filed October 24, 1978. Applicant: USHER TRANSPORT, INC., P.O. Box 3156, Paducah, KY 42001. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, from Evansville, IN, and Newport, KY, to St. Louis, MO. (Hearing site: Evansville, IN or Louisville, KY.)

MC 126904 (Sub-28F), filed September 7, 1978. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Building,

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Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *asbestos cement pipe and fittings* for asbestos cement pipe, and (2) *accessories* used in the installation of the commodities in (1) above (except commodities in bulk), from the facilities of Certain-Teed Products Corp., at or near Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA.)

MC 127974 (Sub-13F), filed August 31, 1978. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Avenue, Trenton, NJ 08610. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *insulation board*, from the facilities of Celotex Corporation, at Pennsauken, NJ, to points in ME, NC, NH, PA, WV, and VT. (Hearing site: Washington, DC or Philadelphia, PA.)

MC 128988 (Sub-101F), filed October 23, 1978. Applicant: JO/KEL, INC., A Nebraska Corporation, 159 South Seventh Avenue, Box 1249, City of Industry, CA 91749. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *heating and air conditioning units* (except commodities which because of size or weight require the use of special equipment), from the facilities of Fraser & Johnston Co., at or near (a) Elyria and Medina, OH, and (b) Norman, OK, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, and WA, under continuing contract(s) with Fraser & Johnston Co., of Hayward, CA. (Hearing site: Los Angeles, CA.)

MC 133095 (Sub-205F), filed October 6, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *rubber articles, and plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Entek Corporation of America, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 133119 (Sub-145F), filed October 25, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Bananas* from Tampa, FL, to points in AL, AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, TN, and WI. (Hearing site: Miami, FL or Omaha, NE.)

MC 133119 (Sub-146F), filed October 25, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen potatoes and potato products*, (1) from Grand Forks, ND, to points in AL, FL, GA, IL, IN, KY, LA, MI, MN, MS,NV, NC, OH, SC, TN, and WI, (2) from Fairmont, MN, to points in CA, CO, IL, IN, IA, KS, KY, MO, NE, NV, OH, WI, and UT, and (3) from Kansas City, KS, to points in AL, AZ, AR, CA, FL, GA, LA, MS, NM, NC, OK, SC, TN, TX, and UT. (Hearing site: Grand Forks, ND, or Omaha, NE).

MC 133478 (Sub-19F), filed October 30, 1978. Applicant: DG TRANSPORT, INC., 8565 SW Beaverton-Hillsdale Hwy, P.O. Box 25448, Portland, OR 97225. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. To operate as a *contact carrier*, by motor vehicle, over irregular routes, transporting (1) *cardboard cartons*, from Lacey and Olympia, WA, to the facilities of DG Shelter Products, Co., at Harrisburg, OR; (2) *fiberboard*, from Columbia Falls, MT, to the facilities of DG Shelter Products, Co., at Harrisburg, OR; (3) *ammonia cloride* (except in bulk), from Texas City, TX, to the facilities of DG Shelter Products Co., at Sacramento, CA; (4) *print cylinders*, between the facilities of DG Shelter Products, Co., at Beaverton, OR, and Berkeley, CA; (5) *Lumber mill products*, (a) from Whiteriver, AZ, to the facilities of DG Shelter Products Co., at Sacramento, CA, (b) from points in WA and ID, to points in CA, and (c) from points in OR, WA, ID, and CA, to points in IL, IN, OH, TN, KY, PA, and MI; (6) *building materials* (except commodities in bulk), from the facilities of DG Shelter Products Co., at Newton, KS, to points in NE, MO, CO, OK, and TX: (7) *metal ingots, exothermics, metal shots, and foundry supplies*, (except commodities in bulk), (a) from points in WA and OR, to the facilities of DG Shelter Products Co., at City of Industry, CA, and the facilities of Western Industrial Supply, at Tigard, OR, and (b) from Fontana, Long Beach, Lynwood, and Rodeo, CA, to the facilities of Western Industrial Supply, at Tigard, OR, under continuing contract(s) in (1) through (7) above with DG Shelter Products, Co., of Portland, OR, and Western Industrial Supply Co., of Portland, OR. (Hearing site: Portland, OR, or Seattle, WA).

MC 133655 (Sub-128F), filed October 16, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except in bulk), (1) from Newman Grove, NE, to points in CT,IL, KS, MN, MO, NJ, NY, OH, and PA, (2) from Palestine, TX, to points in AR, IL, IA, MI, MN, MO, OH, OK, TN, and WI, (3) from the facilities of Commercial Distribution Center, Inc., at or near Kansas City, MO, to points in AR, IL, IN, IA, KS, KY, NE, NM, OH, OK, TN, and TX, and (4) from Burlington, WI, to points in TX. (Hearing site: Chicago, IL).

MC 134638 (Sub-2F), filed October 16, 1978. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, Manitoba, Canada. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *pet foods and animal feeds*, from the facilities of Tuffy's, Division of Star-Kist Foods, Inc., at or near Perham, MN, to the ports of entry on the international boundary line between the United States and Canada, at or near (a) Pembina, ND, and (b) Noyes, MN, restricted to the transportation of traffic destined to points in the Provines of Manitoba, Ontario, Saskatchewan, Alberta, and British Columbia, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary.

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (2) Dual operations are involved in this proceeding. (Hearing site: St. Paul, MN).

MC 135015 (Sub-2F), filed October 16, 1978. Applicant: SOUTHERN TRANSIT CO., INC., 1211 South 9th

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Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between junction OK Hwy 112 and U.S. Hwy 59, at or near Poteau, OK, and junction OK Hwy 112 and U.S. Hwy 271, at or near Pocola, OK; over OK Hwy 112, serving all intermediate points, and (2) between Wister, OK and junction U.S. Hwy 59 and U.S. Hwy 64; from Wister over U.S. Hwy 270 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction U.S. Hwy 64, and return over the same route, serving all intermediate points. (Hearing site: Fort Smith, AR)

MC 135691 (Sub-24F), filed September 13, 1978. Applicant: DALLAS CARRIER CORP., 3610 Garden Brook Drive, P.O. Box 34080, Dallas, TX 75234. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *drugs, toilet preparations, diagnostic materials, and chemicals*, from Nutley, NJ, to Des Plaines, IL, Decatur, GA, Dallas, TX, and San Leandro, CA; (2) *drugs, animal feed supplements, and chemicals*, from Belvidere, NJ, to Salisbury, MD, Decatur, GA, Dallas, and Ft. Worth, TX, and points in CA, IL, IN, IA, MI, MO, NE, NC, OH, and VA; (3) *drugs, toilet preparations, and diagnostic materials*, from Branchburg, NJ, to Des Plaines, IL, Decatur, GA, Dallas, TX, and San Leandro, CA; (4) *animal feed supplements*, (a) from Salisbury, MD, to Ames, IA, Ft. Worth, TX, and Fresno, CA, and points in AL, CT, DE, FL, GA, KY, ME, MA, NJ, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV, (b) from Ames, IA, to Ft. Worth, TX, Fresno, CA, and Salisbury, MD, and points in CO, IL, IN, KS, KY, MI, MN, MO, MT, NE, ND, OH, SD, and WI, (c) from Fresno, CA, to Ft. Worth, TX, Ames, IA, and Salisbury, MD, and points in AZ, ID, MT, NV, OR, UT, WA, and WY, and (d) from Ft. Worth, TX, to Ames, IA, Fresno, CA, and Salisbury, MD, and points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NC, NM, OH, OK, and TN; and (5) *toilet preparations and shampoo*, from Los Angeles, CA, to Branchburg, NJ, and Dallas, TX, under continuing contract(s) in (1), (2), (3), (4), and (5) with Hoffmann-LaRoche, Inc., of Nutley, NJ. (Hearing site: Dallas, TX)

MC 135797 (Sub-146F), filed September 14, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *citrus products*, (except commodities in bulk), from points in FL, to points in AZ, CA, CO, ID, MT, OR, UT, and WA. (Hearing Site: Orlando, FL)

MC 135874 (Sub-132F), filed September 5, 1978. Applicant: LTL PERISHABLES, INC., a NE corporation, 550 E. 5th Street So., So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods*, (except commodities in bulk), from the facilities of the Kitchens of Sara Lee, at (a) Deerfield, IL, and (b) New Hampton, IA, to points in OH, WV, VA, MD, DE, NJ, PA, NY, CT, RI, MA, NH, VT, ME, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL)

MC 136848 (Sub-21F), filed September 29, 1978. Applicant: JAMES BRUCE LEE & STANLEY LEE, A Partnership, d.b.a. LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, 837 East 162nd Street, South Holland, IL 60473. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *iron and steel hot rolled bars*, from the facilities of Wisconsin Steel, at Chicago, IL, to Anderson, Muncie, New Castle, and Indianapolis, IN, and Maryville, MO, under continuing contract(s) with Wisconsin Steel, of Chicago, IL. (Hearing site: Chicago, IL.)

MC 138438 (Sub-34F), filed October 23, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum dump trailers, aluminum platform trailers, aluminum extrusions, and trailer parts*, from Elizabeth, WV, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC. (Hearing site: Elizabeth, WV.)

NOTE.—Dual operations are involved in this proceeding.

MC 138469 (Sub-88F), filed October 26, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Fuel oil treating compounds*, (except in bulk), from the facilities of Bell Laboratory, Inc., at or near Orlando, FL, to points in the United States (except AK, HI, and FL). (Hearing site: Orlando, FL, or Atlanta, GA.)

MC 138469 (Sub-89F), filed October 26, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Alcoholic beverages*, (except in bulk), from Peoria, IL, Detroit, MI, Frankfort and Louisville, KY, and Cincinnati, OH, to points in TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas or Ft. Worth, TX.)

MC 138875 (Sub-112F), filed October 10, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *brick, lime, mortar, gypsum, gypsum board, sand, stone, plaster, and joint systems*, and (2) *materials and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between points in OR, ID, and WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, UT, and WY. (Hearing site: Boise, ID, or Portland, OR.)

MC 141402 (Sub-19F), filed September 15, 1978. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 332, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, over irregular routes transporting *glass containers*, from the facilities of Chattanooga Glass Co., at or near Mt. Vernon, OH, to points in IN, IL, KY, MI, MN, MO, and WI, under continuing contract(s) with Chattanooga Glass Co., of Chattanooga, TN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 141483 (Sub-4F), filed October 6, 1978. Applicant: VALCON PACKAGE DELIVERY, INC., 3840 West Street, Landover, MD 20785. Representative: Martin B. Lessans, 206 Baltimore-Annapolis Blvd., NW, Glen Burnie, MD 21061. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities*

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as are dealt in or used by cosmetic manufacturers, between Newark, DE, points in MD and DC, and points in Arlington, Accomack, Culpeper, Fairfax, Faquier, King George, Loudoun, Northampton, Orange, Page, Prince William, Rappahannock, Spotsylvania, Stafford, Warren and Westmoreland Counties, VA, under continuing contract(s) with Avon Products, Inc., of Newark, DE. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 141621 (Sub-3F), filed September 13, 1978. Applicant: CHARLES ORTIZ, 311 Soundview Avenue, Bronx, NY 10473. Representative: John H. Caldwell, 900 17th Street, NW, Washington, DC 20006. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *bread,* from the facilities of Denk Baking Corp., in Kings County, NY, to Easton, Emmaus, and Reading, PA, and Wilmington, DE, under continuing contract(s) with Denk Baking Corp., of Brooklyn, NY. (Hearing site: New York, NY, or Washington, DC.)

MC 141652 (Sub-27F), filed September 5, 1978. Applicant: ZIP TRUCKING INC., Post Office Box 5717, Jackson, MS 39208. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, N.E., Atlanta, GA 30303. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *fabric, piece goods, buttons,* and *zippers,* from Tupelo, MS, to points in WA, OR, CA, ID, MT, WY, NV, UT, CO, AZ, and NM. (Hearing site: Jackson, MS, or New Orleans, LA.)

NOTE.—Dual operations are involved in this proceeding.

MC 141962 (Sub-1F), filed September 14, 1978. Applicant: NORTHEAST REFRIGERATED DISTRIBUTING CO., INC., 1650 Shawsheen Street, Tewksbury, MA 01876. Representative: Kenneth B. Williams, 84 State Street, Boston, MA 02109. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *meats, meat products* and *meat byproducts,* and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Northeast Refrigerated Distributing Co., Inc., at or near Tewksbury, MA, to points in NH. (Hearing site: Boston, MA.)

MC 142059 (Sub-50F), filed October 26, 1978. Applicant: CARDINAL TRANSPORT, INC., a Delaware Corporation, 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *lumber,* from ports of entry on the international boundary line between the United States and Canada in (a) NY and (b) the lower peninsula of MI, to points in the United States in and east of MN, IA, NE, KS, OK, and TX, restricted to the transportation of traffic originating at points in the Province of Ontario, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Detroit, MI, or Washington, DC.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 142059 (Sub-51F), filed October 26, 1978. Applicant: CARDINAL TRANSPORT, INC., a Delaware Corporation, 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *tools,* in packages, from Van Nuys, CA, to points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 142603 (Sub-4F), filed October 5, 1978. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101, Representative: S. Michael Richards, P.O. 225, Webster, NY 14580. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *paper and paper products,* (1) from Great Barrington, MA, to points in the United States (except AK and HI), under continuing contract(s) with Berkshire Paper Company, Inc., of Great Barrington, MA, and (2) from the facilities of Boise Cascade Corporation, at (a) Brownville, Beaver Falls, and Lowville, NY, (b) Brattleboro, VT, (c) West Dudley, MA, and (d) Rumford, ME, to points in CA, TX, and those points in the United States in and east of AR, IA, LA, MN, and MO, under continuing contract(s) with Boise Cascade Corporation, of Portland, OR. (Hearing site: New York, NY, or Washington, DC.)

MC 142663 (Sub-1F), filed October 5, 1978. Applicant: SPRINGBROOK TRANSPORT, INC., P.O. Box 422, Springfield, PA 19064. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd, McLean, VA 22101. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *truck and trailer parts,* (except commodities which because of size and weight require the use of special equipment), from Montgomery, AL, Chicago, IL, East Chicago, IN, Detroit and Muskegon, MI, and Akron, Cleveland, and Frankfort, OH, to Tempe, AZ, Los Angeles, San Leandro, and San Diego, CA, Kansas City, MO, and Dallas and Houston, TX, under continuing contract(s) with Wheels Industries of Los Angeles, CA. (Hearing site: Philadelphia, PA, or Los Angeles, CA.)

MC 142693 (Sub-3F), filed October 2, 1978. Applicant: CUSTOM DELIVERIES, INC., 24680 Mound Road, Warren, MI 48091. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (1) *motor vehicle parts, motor vehicle accessories, motor vehicle components, and motor vehicle equipment,* (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), and (3) *publications, advertising material, and packaging and shipping supplies,* (except commodities in bulk), between points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NV, NM, OK, OR, TN, TX, UT, WA, WI, and WY, under continuing contract(s) with Chrysler Corporation, Services & Parts Division, of Center Line, MI. (Hearing site: Washington, DC.)

MC 142703 (Sub-13F), filed October 2, 1978. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West Third Street, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, on the one hand, and, on the other, points in KY, restricted to the transportation of traffic having a prior or subsequent movement by rail or water. (Hearing site: Columbus, OH)

MC 142723 (Sub-3F), filed October 5, 1978. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail

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Lane, Pittsburgh, PA 15215. Representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (1) *such commodities as* are dealt in or used by retail variety, department, and drug stores (except commodities in bulk), between Monroe, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MS, NC, OH, SC, TN, TX, VA, WV, and PA, under continuing contract(s) with G. C. Murphy Company of McKeesport, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 143059 (Sub-32F), filed October 27, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *used railroad ties,* from points in ID, MT, and WY, to points in AZ, CA, and NV. (Hearing site: Dallas, TX.)

MC 143218 (Sub-3F), filed October 23, 1978. Applicant: DONALD SANTISI TRUCKING COMPANY, A Corporation, 1024 North Main Street, Niles, OH 44446. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (1) *steel doors and steel frames,* from Niles, OH, to points in AZ, CA, CO, ID, FL, KS, MO, MT, NM, NV, OK, OR, TX, UT, and WA, under continuing contract(s) with Amweld Building Products, division of American Welding & Manufacturing, of Niles, OH; and (2) *threaded rods and studs, and parts for threaded rods and studs,* from Cleveland, OH, to Las Vegas, NV, and Houston, TX, under continuing contract(s) with Cardinal Threading, division of Production Experts, of Cleveland, OH. (Hearing site: Columbus, OH.)

MC 143329 (Sub-4F), filed October 30, 1978. Applicant: JIM S. PAPPAS, d.b.a. JIM'S SERVICE, 8300 West 102nd St., Overland Park, KS 66212. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *magazines,* from Lawrence, KS, to Springfield, IL, under continuing contract(s) with T V Guide, of Kansas City, MO. (Hearing site: Kansas City, MO.)

MC 143909 (Sub-6F), filed October 26, 1978. Applicant: KIRBY TRANSPORT, INC., 6677 N. Northwest Highway, Chicago, IL 60631. Representative: Stuart R. Mandel, 315 S. Beverly Dr.—Suite 315, Beverly Hills, CA 90212. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *paint materials, paint ingredients, putty, caulking compounds, glazing compounds, adhesive cement, and glue,* (except commodities in bulk, in tank vehicles), from Dayton and Tipp City, OH, to Alsip, IL and points in AZ, AR, CA, CO, ID, KS, LA, MO, MT, NV, NM, OR, UT, WA, and TX, under continuing contract(s) with D.A.P., Inc., of Dayton, OH. (Hearing site: Cleveland, OH or Los Angeles, CA.)

MC 144083 (Sub-7F), filed October 5, 1978. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *new furniture,* from the facilities of La-Z-Boy, South, Inc., at or near Newton, MS, to points in AR, FL, KS, LA, MO, and OK. (Hearing site: Jackson, MS.)

NOTE.—Dual operations are involved in this proceeding.

MC 144083 (Sub-8F), filed October 6, 1978. Applicant: RALPH WALKER, INC. P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *lawn mowers,* from the facilities of Aircap Manufacturers, Inc., at or near Tupelo, MS, to points in AZ and CA. (Hearing site: Tupelo or Jackson, MS.)

NOTE.—Dual operations are involved in this proceeding.

MC 144101 (Sub-5F), filed September 8, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Representative: Richard T. Churchill, Suite 106, 5001 S. Hulen, Fort Worth, TX 76132. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *foodstuffs,* from the plantsite of Portion-Trol Foods, Inc., at Mansfield, TX, to points in CA, OR, WA, AZ, NV, ID, MT, and UT, under continuing contract(s) with Portion-Trol Foods, Inc., of Mansfield, TX. (Hearing site: Fort Worth or Dallas, TX.)

MC 144622 (Sub-16F), filed September 5, 1978. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant). To operate as *common carrier,* by motor vehicle, over irregular routes, transporting (1) *foodstuffs, restaurant furniture, restaurant fixtures,* and *restaurant supplies,* (except commodities in bulk); and (2) *fish, poultry,* and *produce* otherwise exempt from economic regulation under Section 10526(a)(b) [formerly section 203 (b)(6)] of the Interstate Commerce Act, when moving in mixed loads with the commodities in (1) above (except commodities in bulk), between the facilities used by Sambo's restaurants, Inc., at or near (a) Carpinteria, CA and (b) Florence, KY. Hearing Site: Los Angeles, CA)

NOTE.—Dual operations are involved in this proceeding.

MC 144622 (Sub-18F), filed September 18, 1978. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant). To operate as *common carrier,* by motor vehicle, over irregular routes, transporting *frozen meat,* from Sioux City, IA, to points in AL, AR, LA, GA, CT, DE, FL, MS, MO, MD, NC, NY, NJ, PA, RI, KY, TN, SC, VA, and WV. (Hearing Site: Sioux City, IA)

NOTE.—Dual operations are involved in this proceeding.

MC 144761 (Sub-2F), filed September 5, 1978. Applicant: R. B. (PARKER) GOODLOE, d.b.a. GOODLOE TRUCKING CO., 7919 Louisville Ave., Lubbock, TX 79423. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as *common carrier,* by motor vehicle, over irregular routes, transporting *such commodities* as ar dealt in or used by meat-packing houses, in bulk, in tank vehicles, from Clovis, NM, and Amarillo and Lubbock, TX, to points in TX, restricted to the transportation of traffic moving in foreign commerce only. (Hearing site: Lubbock or Dallas, TX)

MC 144791 (Sub-2F), filed September 7, 1978. Applicant: DONALD EDWARD McKENZIE, d.b.a, C & D CONTRACTING, 13491-112th Ave., Surrey, British Columbia, Canada, V3R 2E7. Representative: Donald Edward McKenzie (same address as applicant). To operate as *contract carrier,* by motor vehicle, over irregular routes, transporting *plastic bins,* from Tacoma, WA, to ports of entry on the international boundary line between the United States and Canada, at or near Blaine, Lynden, and Sumas, WA, under continuing contract(s) with Agri-Tramer Corp., of Wenatchee, WA, restricted to the transportation of traffic destined to points in the Province of British Columbia, Canada. CONDITION: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why so such Canadian authority is necessary. (Hearing site: Seattle, WA)

NOTE.—The restriction and condition contained in the grant of authority in this pro-

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ceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with the appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 144858 (Sub-5F), filed October 23, 1978. Applicant: DENVER SOUTHWEST EXPRESS, INC., A Nebraska Corporation, P.O. Box 9950, 1310 Stagecoach Road, Little Rock, AR 72209. Representative: John T. Wirth, 717—17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *shampoo and toilet preparations, and accessories* for shampoo and toilet preparations (except commodities in bulk, in tank vehicles), from Clark and Piscataway, NJ, to Chicago, IL, Cleveland, OH, and Detroit, MI. (Hearing site: Little Rock, AR or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 144859 (Sub-1F), filed October 24, 1978. Applicant: SCOTT PALLETS, INC., Box 341, Amelia, VA 23002. Representative: Calvin F. Major, 200 West Grace St., Suite 415, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *lumber* used in the manufacture of furniture, from points in OH, PA, WV, and MD, to points in VA and NC, under continuing contract(s) with (a) GMC Hardwoods, Inc., of Dover, MA, and (b) National Lumber Co., Inc., of Augusta, GA. Conditions: Said carrier shall conduct separately its contract carrier operation and its other business activities. Carrier shall maintain separate accounting systems for each such business. Carrier shall not transport property as both a private and for-hire carrier at the same time and in the same vehicle. (Hearing site: Richmond, VA.)

MC 144915 (Sub-1F), filed October 11, 1978. Applicant: R. & M. SERVICES, INC., 1501 Marlborough Street, Montreal, P.Q. H1W2L1, Canada. Representative: Brian L. Troiano, 918 16th Street, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal and poultry nutritional feed, and animal and poultry feed ingredients*, (1) between ports of entry on the international boundary line between the United States and Canada (a) in Franklin and Clinton Counties, NY, and (b) in VT, on the one hand, and, on the other, points in Albany, Renssalaer, Saratoga, Washington, Warren, Essex, Clinton, Franklin, and St. Lawrence Counties, NY, and points in VT, and (2) from Swanton, VT, to points in Albany, Renssalaer, Saratoga, Washington, Warren, Essex, Clinton, Franklin, and St. Lawrence Counties, NY, restricted in (1) above to the transportation of traffic originating at or destined to points in the Province of Quebec, Canada.

NOTE.—The restriction contained in the grant of authority in this proceeding is phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (Hearing site: Montpelier, VT or Albany, NY.)

MC 145071 (Sub-2F), filed September 11, 1978. Applicant: EATON BROS., INC., 1020 West Brady, Clovis, NM 88101. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk, in tank vehicles), between the facilities of Hatch Packing Co., at Portales, NM, on the one hand, and, on the other, points in the United States (except AK, HI, and NM), under continuing contract(s) with Hatch Packing Co., of Portales, NM. (Hearing site: Clovis, NM or Amarillo, TX.)

MC 145179 (Sub-3F), filed October 24, 1978. Applicant: J & J CONTRACT CARRIER, INC., 60 South State Ave., Indianapolis, IN 46201. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in or used by food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of the Kroger Company, at Cincinnati and Columbus, OH, on the one hand, and, on the other, points in AR, GA, IL, IN, KY, MI, MO, TN, TX, VA, WV, and those in PA on and west of U.S. Hwy 219, under continuing contract(s) with The Kroger Company, of Cincinnati, OH. (Hearing site: Indianapolis, IN.)

MC 145242 (Sub-2F), filed September 15, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fiberboard* and *pulpboard*, from the facilities of Johns Manville Corp., at Woodstock, VA, to points in OH and WV. (Hearing site: Columbus, OH.)

MC 145297F, filed August 22, 1978. Applicant: VERN BREAZEALE FREIGHT SERVICE, INC., d.b.a. DENVER—LANDER—RIVETON, FREIGHT SERVICE, 1908 Custer, Laramie, WY 82070. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Denver, CO, and Riverton, WY: from Denver over Interstate Hwy 25 to junction CO Hwy 14, then over CO Hwy 14 to junction U.S. Hwy 287 at Fort Collins, CO, then over U.S. Hwy 287 to junction Interstate Hwy 80 at Laramie, WY, then over Interstate Hwy 80 to junction U.S. Hwy 287 at Rawlins, WY, then over U.S. Hwy 287 to junction WY Hwy 789 at Lander, WY, then over WY Hwy 789 to Riverton, and return over the same route, serving all intermediate and off-route points in Fremont County, Wy, and (2) between Lander and Dubois, WY: over U.S. Hwy 287, serving all intermediate and off-routes in Fremont County, WY. (Hearing site: Lander or Riverton, WY.)

MC 145437F, filed September 18, 1978. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Avenue, Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *wearing apparel*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of wearing apparel, between Warren, AR, Bainbridge, GA, Junction City and Minden, LA, and Brown Deer, LaCrosse, and Milwaukee, WI, on the one hand, and, on the other,

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points in the United States (except AK and HI), under continuing contract(s) with Jack Winter Apparel, Inc., and Mary Lester Fashion Fabrics, Inc., both of Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 145460F, filed September 18, 1978. Applicant: WALSH TRUCKING CO., INC., 311 17th Street, Jersey City, NJ 07302. Representative: Murray M. Silver, 100 Colony Square, Suite 1700, 1175 Peachtree Street, Atlanta, GA 30361. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt or used by retail department stores, between New York, NY, on the one hand, and, on the other, Los Angeles, San Francisco, San Jose, Santa Rosa, and Salinas, CA. (Hearing site: New York, NY, or Washington, DC.)

MC 145525F, filed October 13, 1978. Applicant: ERIEVIEW CARTAGE, INC., a Delaware corporation, 100 Erieview Plaza, Cleveland, OH 44144. Representative: E. Stephen Hiesley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution, of the commodities in (1) above (except commodities in bulk), between Oswego, NY, on the one hand, and, on the other, points in the United States, (except AK and HI), under continuing contract(s) with Alcan Aluminum Corporation, of Cleveland, OH. (Hearing site: Cleveland, OH.)

MC 145528F, filed October 6, 1978. Applicant: TOMKO TRUCKING, INC., 1850 Enterprise Drive, DePere, WI 54115. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages and malt beverage dispensing equipment*, from Detroit, MI, to Green Bay, WI, under continuing contract(s) with Kay Distributing, Inc., of Green Bay, WI. (Hearing site: Madison or Milwaukee, WI.)

MC 145629F, filed October 16, 1978. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry fertilizer*, in bulk, from the facilities of N-Ren Corp., in Jo Daviess County, IL, to points in IA, MN, and WI. (Hearing site: Madison, WI, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 145629 (Sub-1F), filed October 18, 1978. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *lumber, lumber products, and building components*, and (2) *equipment, materials and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, between Warrens, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Madison or LaCrosse, WI.)

NOTE.—Dual operations are involved in this proceeding.

MC 145639F, filed October 23, 1978. Applicant: TRANSTECH LTD., 5500 Bradley, Sioux City, IA 51102. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *trailers*, (except those designed to be drawn by passenger automobile and recreational vehicles), from Sioux City, IA, and Canton, SD, to points in the United States (except AK and HI), and (2) *used trailers, and materials, equipment and supplies* used in the manufacture, repair, sale, and distribution of trailers (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to Sioux City, IA and Canton, SD, under continuing contract(s) in (1) and (2) above with Muv-all Trailers Division of Multech Corporation, of Sioux City, IA, and Heavy Haul Trailers, Inc., of Canton, SD. (Hearing site: Omaha, NE.)

BROKER AUTHORITY

MC 130199 (Sub-2F), filed October 24, 1978. Applicant: GADABOUT TOURS, INC., d.b.a. ANDERSON TRAVEL SERVICE, 700 East Tahquitz McCallum Way, Palm Springs, CA 92262. Representative: L. C. Major, Jr., Overlood Building, Suite 400, 6121 Lincolnia Road, Alexandria, VA 22312. To engage in operations, in interstate or foreign commerce, as a *broker*, at Hemet, Palm Desert, Palm Springs, Riverside, San Diego, and Yucaipa, CA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, in all-expense round-trip tours, between points in the United States, including AK and HI. Condition: Prior cancellation, at applicant's written request, of its authority in MC 130199 (Sub-No. 1), issued August 31, 1977. (Hearing site: San Bernardino or Los Angeles, CA.)

MC 130524F, filed September 6, 1978. Applicant: JOHN R. JULIAN AND MARK N. JULIAN, a partnership, d.b.a. JULIAN TRAVEL ASSOCIATES, 11th and E Streets NW., Washington, DC 20004. Representative: Bruce W. Dunne, 1776 F Street NW., Suite 300, Washington, DC 20006. To engage in operations, in interstate or foreign commerce, as a *broker*, at Washington, DC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in MD, VA, and DC, and extending to points in the United States (including AK and HI). (Hearing site: Washington, DC.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291 (1952).

[FR Doc. 78-34028 Filed 12-6-78; 8:45 am]

[7035-01-M]

[Decisions Volume No. 52]

DECISION—NOTICE

Decided: November 21, 1978

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest in-

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cludes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the qualify of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered:

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant) except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decisions-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

H.G. Homme, Jr.,
Secretary.

MC 808 (Sub-55F), filed October 27, 1978. Applicant: ANCHOR MOTOR FREIGHT, INC., a Delaware corporation, 21111 Chagrin Boulevard, Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *motor vehicles*, (1) from Linden, NJ, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, and (2) from Tarrytown, NY, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, WI, and WY, under contract with General Motors Corp., of Warren, MI. (Hearing site: Washington, DC.)

Note.—Dual operations may be at issue in this proceeding.

MC 1585 (Sub-11F), filed October 20, 1978. Applicant: BARNES TRUCK LINE, a corporation, 1320 Highway 13 North, Columbia, MS 39429. Representative: Harold D. Miller, Jr., 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between McComb and Tylertown, MS, over U.S. Hwy 98, (2) between Brookhaven and Prentiss, MS, over U.S. Hwy 84, and (3) between Jackson, MS, and New Orleans, LA, from Jackson over U.S. Hwy 51 and Interstate Hwy 55, to LaPlace, LA, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving all intermediate points in MS. Restriction: Service to intermediate points in MS is restricted to the handling of shipments moving to, from, or through New orleans or points within its commercial zone. (Hearing site: New Orleans, LA.)

MC 2368 (Sub-84F), filed October 18, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., a Virginia corporation, 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, VA 23204. Representative: Steven L. Weiman, 4 Professional Drive, Suite 145, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals*, in bulk, between points in VA, on the one hand, and, on the other, points in GA, MD, NC, and SC. (Hearing site: Washington, DC.)

MC 5470 (Sub-162F), filed October 23, 1978. Applicant: TAJON, INC., a Delaware corporation, R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sand*, in dump vehicles, (1) from points in La Salle County, IL, to points in CT, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, VT, and WV, and (2) from Oregon, IL, and Portage, WI, to points in CT, IN, KY, MI, NJ, NY, OH, PA, and WV. (Hearing site: Washington, DC, or Chicago, IL.)

MC 22311 (Sub-8F), filed September 15, 1978. Applicant: WEST SHORE TRANSFER, INC., 215 Marble Street, Hammond, IN 46320. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Northwestern Steel and Wire Co., at or near Sterling and Rock Falls, IL, to those points in the United States in and east of WI, IA, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations except traffic moving in foreign commerce. (Hearing site: Chicago, IL)

MC 30803 (Sub-4F), filed October 9, 1978. Applicant: WALSH BROS., INC., 33 Brill Street, Newark, NJ 07105. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron and steel articles*, (2) *metal roofs, floor deckings, and metal sidings* (except those which are iron and steel articles) and (3) *materials, equipment, and supplies* used in the installation, manufacture and sale of the commodities

named in (1) and (2) above, (except commodities in bulk), between Allentown, Malvern, and Morrisville, PA, and the facilities of United Steel Deck, Inc., at South Plainfield, NJ, on the one hand, and on the other, points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada, restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Newark, NJ)

MC 35320 (Sub-160F), filed October 5, 1978. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, ammunition and parts of ammunition commodities in bulk, and those requiring special equipment), serving the facilities of General Tire Rubber Co., at or near Waco, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Dallas, TX, or Oklahoma City, OK)

MC 40270 (Sub-14F), filed September 22, 1978. Applicant: CRABBS TRANSPORT, INC., P.O. Box 3486, Enid, OK 73701. Representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, OK 73107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *salt and salt products* (except in bulk), from Lyons, KS, to points in OK. (Hearing site: Oklahoma City, OK, or Wichita, KS)

MC 40898 (Sub-23F), filed October 27, 1978. Applicant: S & W MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: A. W. Flynn, Jr., 314 South Eugene Street, P.O. Box 180, Greensboro, NC 27402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *glass containers*, from Greensboro and Clemmons, NC, to Eden, NC. (Hearing site: Greensboro, NC).

MC 40978 (Sub-42F), filed October 25, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, Suite 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture*, from Archbold, Bedford, Celina, Lancaster, Swanton, and Youngstown, OH, to points in IL, MN, WI, and those in the Upper Peninsula of MI. (Hearing site: Columbus, OH, or Chicago, IL).

MC 40978 (Sub-43F), filed October 26, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, Suite 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture*, (1) from Sturgis, MI, to points in IL, and (2) from Monroe, MI, to points in IL, MN, WI, and those in the Upper Peninsula of MI. (Hearing site: Lansing, MI, or Chicago, IL).

MC 40978 (Sub-44F), filed October 30, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *kitchen and vanity cabinets*, and *parts* for kitchen, and vanity cabinets, (1) from Adrian, MI, to points in IL, IN, IA, MN, WI, and those in the Upper Peninsula of MI, and (2) from Lakeville, MN, to points in IL, IA, WI, and those in the Upper Peninsula of MI. (Hearing site: Chicago, IL).

MC 48958 (Sub-161F), filed October 27, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., a Nebraska corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near Crete, NE, to points in AZ, CA, CO, NM, and UT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 48958 (Sub-162F), filed November 1, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., a Nebraska corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *packaged meats and meat products*, in vehicles equipped with mechanical refrigeration, and (2) *cellulose film, plastic film, and plastic sheeting*, in vehicles equipped with mechancial refrigeration, between Lansing, IL, and Hammond, IN, on the one hand, and, on the other, Searcy, AR, restricted to the transportation of shipments originating at and destined to the facilities of Land O'Frost, Inc. (Hearing site: Chicago, IL.)

MC 63417 (Sub-173F), filed September 27, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *water heaters, hot water tanks, and heating boilers*, (except commodities which because of size or weight require the use of special equipment), from Kankakee, IL, to points in FL. (Hearing site: Roanoke, VA or Chicago, IL.)

MC 63417 (Sub-174F), filed September 27, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *insulating materials*, from the facilities of Rock Wool Manufacturing Company, at Leeds, AL, to Cincinnati, OH. (Hearing site: Roanoke, VA, or Birmingham, AL.)

MC 66886 (Sub-67F), filed August 28, 1978. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *dust collection systems and parts* for dust collection systems, and *grain handling equipment*, from Hutchinson, KS, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX, and (2) commodities used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Kansas City, MO).

MC 66886 (Sub-68F), filed September 5, 1978. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *particleboard, lumber, and lumber mill products*, from Narajo, NM, to points in IL, IN, KY, MO, OK,

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TN, and TX. (Hearing site: Denver, CO, or Albuquerque, NM).

MC 67450 (Sub-71F), filed October 16, 1978. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 South Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *silica and silica products,* (except commodities in bulk), from points in Alexander and LaSalle Counties, IL, to points in AL, AZ, AR, CA, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, MS, NE, NJ, NY, NC, OH, OR, PA, SC, TN, TX, UT, VA, WA, WV, and WI. (Hearing site: Chicago, IL).

MC 93980 (Sub-77F), filed September 26, 1978. Applicant: VANCE TRUCKING CO., INC., P.O. Box 1119, Henderson, NC 27536. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (A)(1) *iron and steel articles,* from Pittsburgh and Philadelphia PA, Connersville, IN, and points in OH, (2) *prefabricated metal building products,* from Connersville, IN, (3) *ventilators, ventilator parts, air louvers, and prefabricated building metal work,* from Batavia, OH, to points in FL, GA, NC, SC, and VA; and (B) *aluminum sheet and plastic sheets* and *accessories for aluminum sheets and plastic sheets,* from Connersville, IN, and Zelienople, PA, to points in FL, GA, NC, and VA. (Hearing site: Washington, DC).

MC 59323 (Sub-7F), filed October 6, 1978. Applicant: BAY MOTOR EXPRESS, INC., 400 Corporate Drive, Mahwah, NJ 07430. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *automotive parts and automotive accessories,* and *such commodities* as are dealt in or used by distributors of automotive parts, (except commodities in bulk), between the facilities of General Motors Parts Division, General Motors Corporation, at or near Cornwells Heights, PA, on the one hand, and, on the other, (a) New York, NY, (b) points in Albany, Columbia, Dutchess, Green, Nassau, Orange, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Suffolk, Sullivan, Ulster, and Westchester Counties, NY, (except those points in the New York City commercial zone), (c) points in Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, NJ, (except those points in the New York City, NY, commercial zone), and (d) points in CT. (Hearing site: New York, NY, or Washington, DC.)

MC 98327 (Sub-32F), filed September 11, 1978. Applicant: SYSTEM 99, a corporation, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Michael J. O'Neill (same address as applicant). To operate as a *common carrier,* by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Eugene and Medford, OR, over Interstate Hwy 5, as an alternate route for operating convenience only, serving no intermediate points and serving the termini for purpose of joinder only. (Hearing site: Portland, OR, or Seattle, WA.)

MC 98952 (Sub-58F), filed September 20, 1978. Applicant: GENERAL TRANSFER CO., a Delaware corporation, 2880 North Woodford Street, Decatur, IL 62526. Representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL 62701. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *frozen foods* in vehicles equipped with mechanical refrigeration, from the facilities of Continental Freezers of Illinois, at Chicago, IL, to points in IN, KY, MI, MO, OH, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Springfield or Chicago, IL.)

MC 100666 (Sub-411F), filed September 11, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *cement asbestos pipe,* from the facilities of Certain-Teed Corporation, at or near Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 102616 (Sub-961F), filed September 11, 1978. Applicant: COASTAL TANK LINES, INC., A Delaware corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *spent petroleum oil,* in bulk, in tank vehicles, from points in AL, GA, IL, KY, MI, MN, MS, OH, PA, TN, WI, and WV, to Indianapolis, IN; and (2) *petroleum oils,* in bulk, in tank vehicles, in the reverse direction. (Hearing site: Detroit, MI, or Washington, DC.)

MC 102616 (Sub-962F), filed September 8, 1978. Applicant: COASTAL TANK LINES, INC., A Delaware Corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *liquid chemicals,* in bulk, in tank vehicles, from the facilities of Dow Chemical, U.S.A., at or near Dalton or Tildale, GA, to those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 104896 (Sub-55F), filed September 11, 1978. Applicant: WOMELDORF, INC., East Penn Avenue, P.O. Box G, Knox, PA 16232. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *foodstuffs and pet foods,* (except commodities in bulk), and (2) *equipment, materials, and supplies used in the manufacture and distribution of foodstuffs and pet foods,* (except commodities in bulk), between the facilities of Nabisco, Inc., at Fair Lawn, NJ, Buffalo, Geneva, and Niagara Falls, NY, Philadelphia and Pittsburgh, PA, and Richmond, VA, on the one hand, and, on the other, points in DE, MD, NJ, NY, OH, PA, WV, VA, and DC, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 105461 (Sub-102F), filed September 18, 1978. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, PA 17566. Representative: Robert R. Herr (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *waste paper, pulpboard, fiberboard, and paperboard products,* (a) between Amsterdam and Canandalgua, NY, on the one hand, and, on the other, points in Erie, Warren, McKean, Potter, Tioga, Crawford, Mercer, Venango, Forest, Elk, Cameron, Cambria, Blair, Butler, Lycoming, Lawrence, Beaver, Armstrong, Clarion, Indiana, Jefferson, Clearfield, Centre, Allegheny, Westmoreland, Washington, and Clinton Counties, PA, and Ashtabula, Trumbull, Mahoning, Columbiana, Jefferson, Carroll, Stark, Portage, Geauga, Lake, Cuyahoga, Summit, Wayne, Medina, and Lorain Counties, OH, (b) between Lowell and Walpole, MA, on the one hand, and, on the other, those points in New York on and west of Interstate Hwy 81, and (c) between Lowell, Walpole, and Holyoke, MA, Amsterdam and Canandalgua, NY, and Robesonia, PA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between Lowell, Walpole, and Holyoke, MA, Amsterdam and Canandaigua, NY, and Robesonia, PA. (Hearing site: Washington, DC, or Philadelphia, PA).

MC 106274 (Sub-28F), filed September 13, 1978. Applicant: RAEFORD TRUCKING CO., a corporation, P.O. Box 219, Sanford, NC 27330. Representative: Edward G. Villalon, Suite 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *lumber, lumber products, poles, posts, piling, hardboard, flakeboard, particleboard, fibreboard, landscape timbers, cross ties, and wood residuals,* from those points in Beaufort, Craven, Jones, Martin, and Onslow Counties, NC, on and west of U.S. Hwy 17, those in Pender County, NC, on and west of U.S. Hwy 117, and points in Alamance, Anson, Bladen, Brunswick, Cabarrus, Caswell, Chatham, Columbus, Cumberland, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Granville, Greene, Guilford, Halifax, Harnett, Hoke, Johnston, Lee, Lenoir, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Northampton, Orange, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanley, Stokes, Union, Vance, Wake, Warren, Wayne, and Wilson counties, NC and points in SC (except those in Abbeville, Aiken, Anderson, Edgefield, and McCormick Counties), to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, and (2) *bookcases and shelving,* from points in Moore County, NC, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. CONDITION: Prior or coincidental cancellation of all duplicating authority under MC-106274. (Hearing site: Charlotte, NC, or Columbia, SC).

MC 106401 (Sub-52F), filed September 18, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Thomas G. Sloan (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of J. H. Filbert, Inc., in Clayton, Cobb, DeKalb, Douglas, and Fulton Counties, GA, to points in KY, MD, NC, OH, SC, TN, VA, WV, and DC. (Hearing site: Atlanta, GA, or Washington, DC).

MC 106644 (Sub-267), filed September 25, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *cast stone veneer,* from points in Napa and Solano Counties, CA, to points in AR, NM, TX, OK, AZ, LA, MS, TN, AL, GA, NC, SC, and FL. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 107295 (Sub-890F), filed October 23, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *gypsum wallboard and gypsum plaster,* from points in Clark County, NV, to points in CA, AZ, UT, and ID. (Hearing site: Los Angeles, CA.)

MC 109584 (Sub-181F), filed September 15, 1978. Applicant: ARIZONA-PACIFIC TANK LINES, a Arizona corporation, 3980 Quebec Street, P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *liquid fertilizer,* in bulk, in tank vehicles, from Douro, TX, to points in AZ and CA. (Hearing site: Phoenix, AZ, or Los Angeles, CA.)

MC 111940 (Sub-72F), filed October 11, 1978. Applicant: SMITH'S TRUCK LINES, a corporation, P.O. Box 88, Muncy, PA 17756. Representative: John M. Musselman, P.O. Box 1146, Harrisburg, PA 17108. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *solar salt,* from Baltimore, MD, to points in NY and PA (except points in Adams, Berks, Chester, Cumberland, Dauphin, Delaware, Lancaster, Montgomery, Philadelphia, and York Counties, PA.) (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 112801 (Sub-211F), filed September 15, 1978. Applicant: TRANSPORT SERVICE CO., a corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *Inedible tallow,* in bulk, in tank vehicles, from Mason City, IL, to points in IN and MO; and (2) *foundry sand additives,* in bulk, in tank vehicles, from Cicero, IL, to points in IN, IA, MI, and WI. (Hearing site: Chicago, IL.)

MC 113434 (Sub-111F), filed September 15, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Richard C. Marsh, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *plastic bottles,* from Port Clinton, OH, to points in MI. (Hearing site: Chicago, IL or Washington, DC.)

MC 113434 (Sub-113F), filed September 20, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *containers and container ends,* from the facilities of Owens-Illinois, Inc., at or near Perrysburg, OH, to points in MI. (Hearing site: Detroit, MI, or Columbus, OH.)

MC 114211 (Sub-376F), filed September 18, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *pipe, fittings, valves,* and *hydrants,* and (2) *accessories* for the commodities named in (1) above, from Columbia, MO, to points in AL, AK, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114334 (Sub-38F), filed September 20, 1978. Applicant: BUILDERS TRANSPORTATION CO., a corporation, 3710 Tulane, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *iron and steel articles,* from the facilities of Republic Steel Corp. at or near Gadsden, AL, to points in AR, and TN. (Hearing site: Memphis, TN.)

MC 115162 (Sub-427F), filed September 13, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *pulpboard, waste pulpboard, woodpulp,* and *pulpboard products* (except commodities in bulk, in tank vehicles), from the facilities of Gulf States Paper Corporation, at or

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near Demopolis and Maplesville, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing Site: Birmingham or Tuscaloosa, AL.)

MC 115162 (Sub-430F), filed September 18, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cross ties*, from Brimingham and Brierfield, AL, to points in IA. (Hearing Site: Birmingham, AL, or Atlanta, GA.)

MC 115311 (Sub-306F), filed September 18, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *asbestos cement pipe, couplings, and fittings*, and (2) *accessories* used in the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of CertainTeed Corporation, (a) at Hillsboro, TX, to points in the United States (except AK and HI), and (b) at Ambler, PA, to those points in the United States in and east of WI, IL, KY, TN, MS, and LA; (3) *plastic pipe, couplings, and fittings*, and (4) *accessories* used in the installation of the commodities named in (3) above, (except commodities in bulk), from the facilities of CertainTeed Corporation, at Social Circle, GA, to points in AR, DE, IL, IN, LA, MD, OH, PA, VA, and DC. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 115654 (Sub-110F), filed September 18, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by wholesale and retail grocery houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (a) from Fostoria and Cincinnati, OH, to points in KY, and (b) from Fostoria, OH, to points in WV, Restricted in (a) and (b) above to the transportation of traffic originating at the facilities of Fostoria Distribution Service Co., and destined to the indicated destinations.(Hearing site: Cincinnati, OH, or Nashville, TN.)

NOTE.—In view of the findings in No. MC-115654 (Sub-No. 43) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date, unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 115654 (Sub-111F), filed September 18, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue, NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen bakery products*, from Ashland, KY, to Murfreesboro, TN. (Hearing site: Buffalo, NY, or Nashville, TN.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date, unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 115654 (Sub-112F), filed September 15, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 13th and Pennsylvania Avenue, NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by wholesale and retail grocery houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of The Kroger Company, at or near Columbus and Cincinnati, OH, to the facilities of The Kroger Company, at or near Atlanta, GA, Dallas and Houston, TX, Little Rock, AR, Memphis and Nashville, TN, and St. Louis, MO. (Hearing site: Cincinnati, OH, or Nashville, TN.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date, unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 116915 (Sub-73F), filed October 26, 1978. Applicant: ECK MILLER TRANSPORTATION CORP. (a Kentucky corporation), 1830 S. Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic pipe and fittings*, and *accessories* for plastic pipe (except commodities in bulk), from Greensboro, GA, to points in NC, SC, VA, TN, AL, MS, LA, and FL. (Hearing site: Atlanta, GA.)

MC 118776 (Sub-29F), filed September 1, 1978. Applicant: C. L. CONNORS, INC. (a Delaware corporation), 3820 Wisman Lane, Quincy, IL 62301. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *beer*, from Milwaukee, WI, Peoria, IL, Omaha, NE, and Pabst, GA, to Hannibal and Mexico, MO. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 118806 (Sub-63F), filed July 3, 1978, and previously noticed in the FEDERAL REGISTER issue of September 19, 1978. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, Suite 200, Winnepeg, MB, Canada R25 3K4. Representative: Bernard J. Kompare, Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities as are dealt in by agricultural equipment and lawn and leisure product manufacturers and dealers*, (except commodities in bulk), between the ports of entry on the International Boundary line between the United States and Canada in MI and NY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic (a) moving in foreign commerce and (b) originating at or destined to points in the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Chicago IL.)

NOTE: The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. This republication corrects the commodity and territorial description.

MC 119547 (Sub-50F), filed September 25, 1978. Applicant: EDGAR W. LONG, INC., 3815 Old Wheeling Road, Zanesville, OH 43710. Representative: E. H. van Deusen, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *clay and feldspar*, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture of clay products, (except commodities in bulk), from points in GA, NC, and SC, to points in OH. (Hearing site: Columbus, OH.)

MC 119547 (Sub-51F), filed September 26, 1978. Applicant: EDGAR W. LONG, INC., 3815 Old Wheeling Road, Zanesville, OH 43710. Representative: E. H. van Deusen, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *clay and clay products*, from points in Graves County, KY, Henry and Weakley Counties, TN, and Quitman County, MS, to points in CT, DE, IL, IN, ME, MD, MI, NJ, NY, OH, PA, RI, VA, and WV. (Hearing site: Columbus, OH.)

MC 120737 (Sub-50F), filed September 21, 1978. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: Joseph Winter, 29 S. LaSalle Street, Chicago, Il 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic pipe, plastic fittings, iron valves, and iron hydrants*, from the facilities of Clow Corporation, at or near Columbia, MO, to those points in the United States in and east of WI, IA, MO, AR, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 121654 (Sub-16F), filed September 25, 1978. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 458, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *hardwood, plywood, paneling, hardboard, particleboard, gypsum, molding, and trim*, (1) from Charleston, SC, Jacksonville and Tampa, FL, New Orleans, LA, and Savannah, GA, to the facilities of Paneling Industries, Inc., at Fort Valley, GA; and (2) from the destination in (1) above to points in AL, AR, FL, KY, LA, MS, NC, SC, and TN. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 123255 (Sub-177F), filed October 25, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *paper and paper products*, (except commodities in bulk), from the facilities of The Mead Corporation, at or near Lynchburg, VA, to points in MI and OH. (Hearing site: Columbus, OH.)

MC 124624 (Sub-5F), filed September 19, 1978. Applicant: EXPRESSWAY, INC., 1105 St. Louis Avenue, Louisville, KY 40210.Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *radios, television sets, phonographs, sound recorders, sound players, amplifiers, loudspeakers, electric games, electric toys*, (2) *parts, accessories, stands, and tables for the commodities* in part (1), and (3) gelatin rolls, from Louisville, KY, to those points in KY on and east of U.S. Hwy 41, and those points in IN on and south of U.S. Hwy 50. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 124947 (Sub-117F), filed September 18, 1978. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *machinery, and tractors* (except truck tractors) and (2) *equipment, accessories, attachments, and parts* for the commodities described in (1) above, (except commodities in bulk), between the facilities of Rust Tractor Company and Rust Equipment Company, points in NM and TX, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Salt Lake City, UT, or Albuquerque, NM.)

MC 124947 (Sub-118F), filed September 26, 1978. Applicant: MACHINERY TRANSPORTS, INC., an Oklahoma corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *mattresses, liners, bean bags, bedding accessories, and waterbed furniture*, (except commodities in bulk), from the facilities of Classic Products Corp., at or near Beltsville, MD, and Thomasville, NC, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT, or Dallas, TX.)

MC 125687 (Sub-17F), filed September 28, 1978. Applicant: EASTERN STATES TRANSPORTATION PA, INC., 1060 Lafayette Street, York, PA 17405. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *containers, container closures, and container accessories*, from points in PA, to those points in NY on and west of Interstate Hwy 81; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, (except commodities in bulk), from points in CT, DE, MA, MD, ME, NH, NJ, PA, RI, and VT, to the facilities of Joseph Schlitz Brewing Company, in Cayuga, Onondaga, and Oswego Counties, NY. (Hearing site: Washington, DC.)

MC 126118 (Sub-104F), filed October 30, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *rubber articles*, from Franklin, KY, and Hot Springs, AR, to points in AZ and CA. (Hearing site: Lincoln, NE.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 127974 (Sub-14F), filed September 18, 1978. Applicant: P. LIEDTKA, TRUCKING, INC., 110 Patterson Avenue, Trenton, NJ 08610. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plywood, particleboard, hardboard, gypsumboard, moulding*, and (2) *accessories* used in the installation of the commodities in part (1), from the facilities of Weyerhaeuser Company, at Chesapeake, VA, to points in DE, MD, ME, NH, PA, and VT. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 129387 (Sub-77F), filed September 11, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *such commodities* as are dealt in by manufacturers of sporting goods and recreational equipment, (except commodities in bulk), from the facilities of Frabill Manufacturing Company, at or near Milwaukee, WI, to points in AL, AR, CA, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NC, ND, NH, NJ, NY,

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NV, OH, OK, OR, PA, RI, SC, SD, TN, TX, VA, VT, WA, and WI; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), from Seattle, WA, Chicago, IL, and Detroit, MI, to the facilities of Frabill Manufacturing Company, at or near Milwaukee, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 129401 (Sub-10F), filed September 15, 1978. Applicant: DOUGLAS & BESS, INC., Route 5, Box 238, Statesville, NC 28677. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *Airplane seats and airplane seat parts*, from Winston-Salem, NC, to points in the United States (except AK, HI, WA, and CA), under a continuing contract with Fairchild Burns Company, Division of Fairchild Industries of Germantown, MD. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 133689 (Sub-236F), filed November 2, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Anthony E. Young, 29 S. LaSalle Street, Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by drugstores, between points in AL, CT, DE, FL, GA, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, on the one hand, and, on the other, points in IL, IN, IA, KY, MN, MO, NE, OH, TN, and WI. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 134477 (Sub-274F), filed September 28, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Oneida, NY, to Mason City, IA. (Hearing Site: St. Paul, MN.)

MC 134477 (Sub-276F), filed September 21, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), from the facilities of Acme Fast Freight, Inc., at (a) North Haven, CT, (b) Boston and Springfield, MA, (c) Baltimore, MD, (d) North Bergen, NJ, (e) New York, NY, and (f) Philadelphia, PA, to Chicago, IL, St. Paul, MN, St. Louis, MO, and Milwaukee, WI, restricted to the transportation of traffic moving on freight bills of lading of freight forwarders. (Hearing site: St. Paul, MN.)

MC 135078 (Sub-35F), filed October 30, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk), from Jersey City, NJ, Philadelphia, PA, and points in CT, MA, OH, and NY, to Omaha, NE. (Hearing site: Omaha, NE.)

NOTE: Dual operations are involved in this proceeding.

MC 135410 (Sub-29F), filed October 10, 1978. Applicant: COURTNEY J. MUNSON, d.b.a., MUNSON TRUCKING, North 6th Street Road, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Illini Beef Packers, Inc., at Joslin, IL, to points in CT, DE, IN, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, WI, and DC. (Hearing site: Chicago, IL.)

MC 135410 (Sub-30F), filed October 23, 1978. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic parts for agricultural implements*, from Ashtabula, OH, to the facilities of John Deere Plow & Planter Works of Deere & Company, at Moline, IL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Chicago, IL.)

MC 138157 (Sub-86F), filed September 11, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *wines and spirits*, (except commodities in bulk), from points in CA, to the facilities of McKesson Wine and Spirits in AR, CT, FL, GA, IL, MA, MO, MD, NE, NY, SC, and TX. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 138157 (Sub-89F), filed September 18, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *medical equipment, medical materials, and medical supplies*, from Charleston, SC, to Johnson City, TN; restricted to the transportation of traffic (1) having a prior or subsequent movement by water, and (2) destined to the facilities of Pharmaseal Corporation, at or near Johnson City, TN. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138469 (Sub-87F), filed October 20, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *lube oil, grease, and anti-freeze*, (except commodities in bulk), from the facilities of Cato Oil & Grease Co., at Oklahoma City, OK, to points in the United States (except AK and HI), and (2) *containers* used in the sale and distribution of the commodities in (1) above, in the reverse direction, restricted in (1) and (2) above, to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Oklahoma City or Tulsa, OK.)

MC 138741 (Sub-54F), filed September 18, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Asbestos cement pipe, couplings*, and *fitting*, and (2) *accessories* used for the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of CertainTeed Corp., at Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC, or Dallas, TX.)

MC 138741 (Sub-55F), filed September 15, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Iron and steel articles*, from the facilities of Northwestern Steel & Wire Company, at Sterling and Rock Falls, IL, to points in AL, AR, GA, IN, IA, KY, KS, LA, MI, MS, MO, NE, OH, OK, TN, TX, and WI. (Hearing site: Chicago, IL.)

MC 138054 (Sub-28F), filed September 25, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., a Delaware corporation, 656 Wooster Street, Lodi, OH 44254. Representative: Bradford R. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *saline solutions, blood derivatives, plastic articles, and materials, equipment, and supplies* used in the testing collection, distribution, transfusion, and injection of blood and blood derivatives, (except commodities in bulk) (a) from Memphis, TN, to Round Lake, IL, Edison, NJ, Mansfield, MA, Morrow and Atlanta, GA, Grand Prairie, TX, and Los Angeles, Buena Park, and Costa Mesa, CA, (b) from Los Angeles, Buena Park and Costa Mesa, CA, to Mansfield, MA, Grand Prairie, TX, and Memphis, TN, and (c) from Waukegan and Morton Grove, IL, to Atlanta, GA, and Los Angeles, CA, under contract with Hyland Division of Travenol Laboratories, Inc., of Costa Mesa, CA. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may involved be in this proceeding.

MC 139206 (Sub-48F), filed September 6, 1978. Applicant: F.M.S. TRANSPORTATION, INC., P.O. Box 1597, 2564 Harley Drive, Maryland Heights, MO 63043. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *agricultural implements, and parts, accessories, and attachments* for agricultural implements, from the facilities of Chromalloy American Corporation, in Vanderburgh County, IN, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction, under contract with Chromalloy American Corporation, of Clayton, MO. (Hearing site: St. Louis, MO.)

MC 139615 (Sub-22F), filed October 20, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 39, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corporation, at or near Hammond, IN, to points in IA, NE, and CO. (Hearing site: Chicago, IL.)

MC 140241 (Sub-23F), filed September 15, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber, lumber products, wood products, and millwork*, from points in McKinley County, NM to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, TX, and WI. (Hearing site: Kansas City, MO.)

MC 140615 (Sub-30F), filed October 10, 1978. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, (except in bulk), from the facilities of Atlanta Corp., at New York, NY, Philadelphia, PA, and Totowa, Port Newark, and Jersey City, NJ, to Monett and Carthage, MO, and points in IL, IN, MN, MI, OH, and WI. (Hearing site: New York, NY.)

MC 141084 (Sub-10F), filed August 27, 1978. Applicant: NATIONAL FREIGHT LINES, INC., an Indiana corporation, 13023 Arroyo Avenue, San Fernando, CA 91341. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier* by motor vehicle, over irregular routes, transporting *sugar* (except in bulk), from Supreme, LA, to the facilities of Shurfine-Central Corporation at Little Rock, AR, Denver, CO, Miami, Ocala, and Tampa, FL, College Park and Macon, GA, Staunton, IL, Indianapolis, IN, Des Moines, IA, Elwood and Wichita, KS, Grand Rapids, Lansing, Plymouth, and Muskegon, MI, Kansas City, St. Louis, and Springfield, MO, Gering, Norfolk, and Omaha, NE, Albuquerque, NM, Charlotte, NC, Dennison, Mogadore, and Toledo, OH, Tulsa, OK, Chattanooga, TN, Amarillo, Dallas, and El Paso, TX, and Little Chute, Madison, and New Berlin, WI, under contract with Shurfine-Central Corporation, of Northlake, IL. (Hearing site: Chicago, IL.)

MC 141124 (Sub-27F), filed September 13, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 W. Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *paper and paper products* and *such commodities* as are used in the manufacture and converions of paper and paper products, between Morris and St. Charles, IL, on the one hand, and, on the other, points in CT, DE, FL, GA, KY, ME, MD, MA, NH, NJ, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Philadelphia, PA, or Columbus, OH.)

MC 141150 (Sub-8F), filed August 28, 1978. Applicant: ATLAS WAREHOUSING CO., a corporation, 510 West Kearsley Street, Flint, MI 48506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting canned *pickles, peppers, and relish*, from the facilities of Safie Bros. Farm Pickle Co., Inc., at or near Mt. Clemens, MI, to Buffalo and Rochester, NY, and points in OH, IL, IN, TN, GA, and KY. (Hearing site: Lansing or Flint, MI.)

MC 141402 (Sub-20F), filed September 25, 1978. Applicant: LINCOLN FREIGHT LINES, INC., Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *plastic articles*, from Dawson Springs, KY, to points in AL, CT, DE, FL, GA, IL, IN, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI, under contract with Midland Ross Corporation, material Handling division, of Louisville, KY. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 141436 (Sub-2F), filed July 5, 1978, and previously noticed in the FEDERAL REGISTER issue of September 14, 1978. Applicant: HARKER'S TRANSPORTATION, INC., P.O. Box 1308, LeMars, IA 51031. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *frozen foods* from LeMars, IA, to points in AR, NM, OK, TN, and TX; and (2) *frozen foods, and materials and equipment* used in the manufacture and distribution of frozen foods, (except commodities in bulk), from points in AR, NM, OK, TN, and TX, to Sioux City, Orange City, Marshalltown, and LeMars, IA, under contract

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with Harker's Wholesale Meat, Inc., of LeMars, IA. (Hearing site: Omaha, NE.)

NOTE: This republication adds frozen foods to the commodity description in part (2).

MC 141652 (Sub-28F), filed September 21, 1978. Applicant: ZIP TRUCKING, INC., Post Office Box 5717, Jackson, MS 39208. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street NW., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *steel truck bumpers*, from the facilities of Hercules Bumpers, Inc., at or near Pelham, GA, to points in WA, OR, CA, ID, NV, MT, WY, UT, AZ, CO, and NM. (Hearing Site: Atlanta, GA.)

NOTE: Dual operations are at issue in this proceeding.

MC 141804 (Sub-132F), filed September 5, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *automobile parts, and motorcycle parts and accessories for automobiles and motorcycles, and related clothing and promotional material*, between points in San Bernardino County, CA, and points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-136F), filed September 15, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Rederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *metal alloys, metal castings, metal powder, welding rods, welding wire, electric welders, electric welder parts, and welding compound*, (except commodities in bulk), from City of Industry and Santa Fe Springs, CA. to points in AZ, CO, KS, NE, NM, OK, SD, TX, UT, and WY. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804.(Sub-137F), filed September 15, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *water heaters*, and parts and accessories for water heaters, from Johnson City, TN and Cleveland, OH, to Santa Monica, CA. (Hearing Site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-138F), filed September 15, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *sleeping bags*, from Los Angeles, CA, to those in the United States in and east of MN, IA, MO, AR, and LA. (Hearing Site: Los Angeles for San Francisco, CA.)

MC 141804 (Sub-139F), filed September 20, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and motor vehicles), from points in CA, to points in CO, ID, MT, NM, OR, TX, UT, OK, and WA, restricted to the transportation of traffic moving on freight forwarder bills of lading. (Hearing Site: Los Angeles or San Francisco, CA.)

MC 142310 (Sub-7F), filed October 17, 1978. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *frozen foods*, from Massillon, OH, and Lake City, PA, to the facilities of Ore-Ida Foods, Inc., at or near Plover, WI; and (2) *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, (a) from Greenville, MI, to points in IL, IN, IA, MN, MO, NE, and WI, and (b) from Wetherfield, CT, to points in IL, IN, IA, MN, MO, NE, OH, and WI. (Hearing Site: Boise, ID, or Madison, WI.)

MC 142347 (Sub-4F), filed September 25, 1978. Applicant: C & C TRUCKING CO., INC., 2313 Old Savannah Road, Augusta, GA 30906. Representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *gravel*, in bags, from the facilities of Claussen Paving Company, at or near Augusta, GA, to points in AL, FL, NC, SC, and TN. (Hearing site: Atlanta, GA)

MC 142356 (Sub-6F), filed September 6, 1978. Applicant: J. S. BRYANT TRUCKING CO., INC., Route 3, Box 214C, Lynchburg, VA 24504. Representative: Calvin F. Major, 2000 West Grace Street, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *pig iron*, from Norfolk, VA, to Lynchburg and Radford, VA, restricted to the transportation of traffic having an immediately prior or subsequent movement by water, under contract with Lynchburg Foundry Company, Inc., of Lynchburg, VA. (Hearing site: Richmond or Lynchburg, VA)

MC 142603 (Sub-5F), filed October 9, 1978. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *plastic granules* and *pellets*, in containers, (1) from Worcester and Oxford, MA, to points in AL, CA, FL, IL, IN, KY, MD, NC, NY, OH, PA, TN, TX, and VA, and (2) from Owensboro, KY, to points in MA, NJ, NY, and NC, under contract with Hammond Plastics Division, Carl Gordon Industries, of Worcester, MA. (Hearing site: Springfield or Boston, MA.)

MC 142831 (Sub-10F), filed September 11, 1978. Applicant: HAMRIC TRANSPORTATION, INC., P.O. Box 1124, Grand Prairie, TX 75050. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Tractors* (except truck-tractors), and (2) *attachments, parts, and accessories* for tractors moving in mixed loads with tractors, from points in TX, OK, AR, LA, and NM, to points in TX, OK, AR, LA, NM, KS and CO, restricted to the transportation of traffic having a prior movement by rail. (Hearing site: Dallas, TX.)

MC 143267 (Sub-31F), filed August 21, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Peter A. Greene, 900 17th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *silica sand and silica products*, and (2) *materials* used in the manufacture of the commodities in (1) above, between the facilities of Set Products, Inc., at Streetsboro, OH, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Washington, DC, or Cleveland, OH)

MC 143433 (Sub-4F), filed October 9, 1978. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING CO., 310 South First Avenue, Stroud, OK 74079. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen bakery products*, from the facilities of New York Frozen Foods, Inc., at or near Bedford Heights, OH, to points in the United States (except ME, NH, VT, OH, RI, CT, MA, ND, WY, MT, WA, ID, OR, AK, and HI). (Hearing site: Cleveland, OH, or Oklahoma City, OK)

MC 143787 (Sub-8F), filed September 11, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue, Worland, WY 82401. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *non-alcoholic beverages*, from the facilities of Seven-Up Bottling Co., at Salt Lake City, UT, to points in AZ, CO, ID, NV, and WY; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of non-alcoholic beverages, in the reverse direction, under contract with Seven-Up Bottling Co., of Salt Lake City, UT. (Salt Lake City, UT, or Cheyenne, WY)

MC 144041 (Sub-21F), filed September 20, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting expanded *plastic products* (except commodities in bulk), from the facilities of Dow Chemical U.S.A., at or near Carteret, NJ, and Allyn's Point, CT, to points in DE, MD, WV, KY, TN, NC, SC, GA, AL, MS, FL, and DC. (Hearing site: New York, NY)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144041 (Sub-24F), filed September 18, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, N.E., Atlanta, GA 30345. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* and *plastic materials* (except commodities in bulk), between points in the United States (except HI and AK), restricted to the transportation of traffic originating at or destined to the facilities of Polysar Resins, Inc. (Hearing site: Washington, DC, or Atlanta, GA)

NOTE: Dual operations may be at issue in this proceeding.

MC 144122 (Sub-27F), filed September 21, 1978. Applicant: CARRETTA TRUCKING, INC., Route 17 North, Paramus, NJ 07662. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of West Coast Shippers Association, Inc., at Philadelphia, PA, to points in CA, OR, WA, TX, NM, AZ, NV, CO, and UT. (Hearing site: Washington, DC.)

NOTE: Dual operations are at issue in this proceeding.

MC 144140 (Sub-21F), filed August 11, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *carbonated beverages, flavoring syrup, and extracts of flavoring syrup*, from Atlanta, GA, to Asheville, Canton, and Hickory, NC, points in Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, and Gulf Counties, FL, those in Wayne, McCreary, Whitley, Bell, Harlan, Knox, Laurel, Pulaski, Rockcastle, Jackson, Clay, Letcher, Knott, Perry, Owsley, Leslie, Lee, Breathitt, Floyd, Pike, Martin, Johnson, Morgan, Wolfe, and Magoffin Counties, KY, and those points in MS, AL, SC and TN and (2) *empty bottles and other containers used in transporting carbonated beverages, flavoring syrup, and extracts of flavoring*, in the reverse direction; (3) *beverages, beverage preparations, beverage and juice concentrates, and fruits and fruit products*, (except commodities in bulk), from points in Manatee and St. Lucie Counties, FL, to points in AL, GA, LA, MD, MS, NC, TN, SC, VA, and DC; (4) *canned citrus juice*, when transported in mixed loads with cirtrus fruits, fruit sections, and fruit salads (except canned and frozen), in containers, from the facilities of Plymouth Citrus Products Cooperative, at Plymouth, FL, to points in AL, GA, LA, MS, NC, SC, and TN; (5) *citrus fruits, fruit sections, and fruit salads* (except canned and frozen), in containers, when transported in mixed loads with canned citrus juice, from points in Alachua, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Columbia, Dade, De Sofo, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Levy, Manatee, Marion, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, and Volusia Counties, FL, to points in AL, GA, LA, MS, NC, SC, and TN; (6) *welding equipment, materials, and supplies, electric motors, and parts and accessories for welding equipment, materials, and supplies, and electric motors*, from the facilities of Lincoln Electric Company, at Cleveland, OH, to points in AL, FL, GA, MN, MS, TN, and to those in the United States on and west of a line described as beginning at the mouth of the Mississippi River and extending to its junction with the western boundary of Itasca County, MN, then north along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada, (except AK and HI), restricted against the transportation of welders from Cleveland, OH, to Baton Rouge and New Orleans, LA; (7) *citrus products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Winston-Salem, NC, to those points in the United States in and east of MN, IA, MO, AR, and LA; (8) *such commodities as are dealt in by wholesale floor covering and appliance distributors* (except commodities in bulk), from those points in the United States in and east of MN, IA, MO, KS, OK, and TX, to points in FL; and (9) *foodstuffs*, from Cade and Lozes, LA, to points in IL, IN, KY, MI, OH, and WI. CONDITION: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of the following permits: MC 104589 Sub 26, served March 5, 1975, Sub 28, served July 15, 1976, Sub 29, served December 10, 1975, Sub 31, served June 28, 1976, Sub 33, served October 16, 1978, and that portion of Sub 3, served April 15, 1971, corresponding to (1), (2), (4), and (5) above. (Hearing site: Orlando or Tampa, FL)

NOTE: (a) The purpose of this application is to convert contract carrier authority to common, (b) Dual operations may be at issue in this proceeding.

MC 144484 (Sub-2F), filed September 15, 1978. Applicant: FREIGHTWAYS, INC., 412 East Second Street, Eldon, MO 65026. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *rough lumber, glue, furniture parts, cedar closet linings, wood shavings, sawdust, and paper bags*, between the facilities of Osage Products Company, at or near Eldon, MO, on the one hand, and, on the other, points in AL, AR, IL, IN, IA, KS, KY, MN, NE, OH, OK, TX, and WI. (Hearing site: Kansas City or St. Louis, MO.)

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NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 11343(a) formerly section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary.

MC 144584 (Sub-2F), filed September 13, 1978. Applicant: WASHINGTON-CALIFORNIA EXPRESS, INC., a Pennsylvania corporation, 919 South McGarry Street, Los Angeles, CA 90021. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *laminated thermosetting plastics and vulcanized fiber*, between points in Lower Providence and Upper Providence Townships, PA, on the one hand, and, on the other, points in AL, DE, FL, GA, KY, MD, NC, NJ, OH, SC, TN, VA, and WV, (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, from points in AL, DE, FL, GA, KY, MD, NC, NJ, OH, TN, VA, and WV, to points in Lower Providence and Upper Providence Townships, PA, and (3) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission; commodities in bulk, and those requiring special equipment), between points in Lower Providence and Upper Providence Townships, PA, on the one hand, and, on the other, Rome, GA, under a continuing contract in (1), (2), and (3) above, with Synthane-Taylor Corporation, of Valley Forge, PA. (Hearing site: Washington, DC)

MC 144484 (Sub-3F), filed September 15, 1978. Applicant: FREIGHTWAYS, INC., 412 East Second Street, Eldon, MO 65026. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *parts and accessories for automobiles*, (2) *rubber and rubber products*, (except commodities in bulk), and (3) *materials, equipment and supplies* used in the manufacture, distribution, and sale of the commodities in (1) and (2) above, between Versailles, MO, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, NE, NC, OH, OK, PA, SC, TN, TX, WV, and WI. (Hearing site: Kansas City or St. Louis, MO)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under Section 11343(a) formerly section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144501 (Sub-2F), filed September 18, 1978. Applicant: GREGORY H. LaVELLE, d.b.a. GREG LaVELLE CO., 9024 48th Avenue, East Tacoma, WA 98446. Representative: Gregory H. LaVelle, (same address an applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *green veneer*, from Ronald, WA, to those points in OR on and west of U.S. Hwy 97. (Hearing site: Seattle, WA, or Portland, OR)

MC 144776 (Sub-3F), filed September 11, 1978. Applicant: APACHE TRANSPORT, INC., 833 Warner Street, SW., Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *polystyrene shapes and polystyrene forms*, from the facilities of Dolco Packaging Corp., (a) at Dallas, TX, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, and TN, (b) at Lawrenceville, GA, to points in NC, SC, VA, and those in TN east of line beginning at the TN-GA State line and extending along U.S. Hwy 411 to junction U.S. Hwy 441, then along U.S. Hwy 441 to Lake City, then along Interstate Hwy 75 to the TN-KY State line, and (c) in Fulton and Gwinnett Counties, GA, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Atlanta, GA)

MC 144827 (Sub-6F), filed September 22, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, P.O. Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by food business houses, (except commodities in bulk), from the facilities of Arrow Industries, Inc., at or near Dallas, TX, and LaVergne, TN, to points in the United States (except AK and HI). (Hearing site: Dallas, TX)

MC 144827 (Sub-7F), filed September 25, 1978. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farris view, P.O. Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by food business houses, (except commodities in bulk), from the facilities of Arrow Industries, Inc., at or near Dallas, TX, and LaVergne, TN, to points in the United States (except AK and HI). (Hearing site: Dallas, TX)

MC 144860 (Sub-1F), filed October 3, 1978. Applicant: GLOBAL VAN LINES, INC., a Texas corporation, No. 1 Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *helicopters and parts for helicopters*, from the facilities of Sikorsky Aircraft, Division of United Technologies Corporation, at Bridgeport, CT, to West Palm Beach, FL, under a contract with Sikorsky Aircraft, Division of United Technologies Corporation, of Hartford, CT. (Hearing site: Bridgeport, CT.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under Section 11343(a) formerly section 5(2), on the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary. Dual operation may be at issue in this proceeding.

MC 14534F, filed September 14, 1978. Applicant: FIVE G's TRUCKING CO., INC., P.O. Box 87, Eldora, IA 50627. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Plastic articles*, and *materials and supplies* used in the manufacture of plastic articles, between Eldora, IA, on the one hand, and, on the other, points in CA, IL, KS, MN, MO, NE, OK, TX, UT, and WI, under contract with Quality Products, Inc., of Eldora, IA, and (2) *New furniture and materials and supplies* used in the manufacture of furniture, between Eldora, IA, on the one hand, and, on the other, points in AR, AZ, CO, IL, IN, KS, MI, MN, MO, MT, NE, ND, OH, OK, PA, SD, TX, WI, and WY, under contract with Dunlap Industries, Inc., of Eldora, IA. (Hearing site: Des Moines, IA, or St. Paul, MN).

MC 144679F, filed October 30, 1978. Applicant: A & A TRANSPORT SERVICES, INC., a Delaware corporation, Maple Tree Industrial Park, Boston Road, P.O. Box 12, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *Lighting fixtures and such commodities as are used in the manufacture of lighting fixtures*, between Wilmington, MA, Olive Branch, MS, Los Angeles, CA, and Union, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Keene Corp., of Wilmington, MA. (Hearing Site: Boston, MA, or Washington, DC)

MC 144041 (Sub-20F), filed September 17, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, N.E., Atlanta, GA. Representative: Mr. K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by

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motor vehicle, over irregular routes, transporting *Expanded plastic products* (except in bulk), from Hamilton, OH, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Cincinnati, OH).

NOTE.—Dual operations may be at issue in this proceeding.

MC 145454F, filed September 20, 1978. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION CO., INC., 2154 Green Valley Drive, Crown Point, IN 46307. Representative: Anthony E. Young, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foods*, from the facilities of Chef Pierre, Inc., at or near Forest, MS, to points in AL, AR, FL, GA, IL, IN, IA, KS, LA, MI, MN, MO, NE, NC, SC, ND, SD, OH, KY, OK, TN, TX, VA, WV, and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL.)

MC 145555F, filed October 10, 1978. Applicant: WALKERS, INC., Route 1, Box 86, Greenville, FL 32331. Representative: Felix A. Johnston, Jr., 1030 East Lafayette Street, Suite 112, Tallahassee, FL 32301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber, chips, sawdust, and wood by-products*, between points in FL, and GA. (Hearing site: Thomasville or Valdosta, GA.)

MC 145605F, filed October 25, 1978. Applicant: CHARLEY T. LONG, d.b.a. C & F EQUIPMENT, 12660 Central Road, Apple Valley, CA 92307. Representative: Richard Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *parts and attachments* for industrial, logging, mining, agricultural, and construction equipment, from points in CA, to points in AZ, CO, UT, and WY, under contract with Industrial Parts Depot, Inc., of Torrance, CA. (Hearing site: Los Angeles, CA.)

MC 145629 (Sub-2F), filed October 26, 1978. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, between Madison, WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, and MO. (Hearing site: Madison, WI.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145630F, filed October 20, 1978. Applicant: JAMES J. TORNABENE, d.b.a. JAMES J. TORNABENE TRUCKING, 103 Rasbach Street, Canastota, NY 13032. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, from Merrimack, NH, to Rome, NY, under contract with L & M Wholesale, Inc., of Rome, NY. (Hearing site: Syracuse or Albany, NY.)

PASSENGER AUTHORITY

MC 2890 (Sub-55F), filed September 22, 1978. Applicant: AMERICAN BUSLINES, INC., a Delaware Corporation, 1500 Jackson Street, Dallas, TX 75201. Representative: Fritz R. Kahn, 1660 L Street NW., Suite 100, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, transporting *passengers and their baggage, express, and newspapers*, in the same vehicle with passengers, (1) between Philadelphia, PA, and Carlisle, PA, (Interchange No. 16) over Interstate Hwy 76 serving Valley Forge Interchange No. 24 as an intermediate point, (2) between Irwin, PA, (Interchange No. 7) and Pittsburgh, PA, from Irwin Interchange (Interchange No. 7) over Interstate Hwy 76 to junction Interstate Hwy 376 (Interchange No. 6), then over Interstate Hwy 376 to Pittsburgh, and return over the same route, serving Interchange No. 6 as an intermediate point, (3) between Exton, PA, and junction access route and Interstate Hwy 76, at Downingtown, PA, (Interchange No. 23) over PA Hwy 100, serving no intermediate points, (4) between Harrisburg, PA, and Harrisburg East Interchange (Interchange No. 19) from Harrisburg over Interstate Hwy 83 to junction Interstate Hwy 283, then over Interstate Hwy 283 to junction Interstate Hwy 76, at Harrisburg East Interchange (Interchange No. 19), and return over the same route, serving no intermediate points, (5) between Harrisburg, PA, and Harrisburg West Shore Interchange (Interchange No. 18), over Interstate Hwy 83, serving no intermediate points, and (6) between junction Harrisburg Expressway and Susquehanna Expressway and Gettysburg Pike Interchange, from junction Harrisburg Expressway and Susquehanna Expressway over Harrisburg Expressway to junction U.S. Hwy 15, then over U.S. Hwy 15 to junction Interstate Hwy 76, at Gettysburg Pike Interchange (Interchange No. 17), and return over the same route, serving no intermediate points. (Hearing site: Washington, DC.)

BROKER AUTHORITY

MC 130521F, filed August 22, 1978. Applicant: CAPE TOURS, INC., 610 Main Street, Box 1104, Dennis Port, MA 02639. Representative: Myer R. Singer, Box 67, Dennis Port, MA 02639. To engage in operatons, in interstate or foreign commerce, as a *broker*, at Dennis Port, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Barnstable County, MA, and extending to points in the United States (except AK and HI). (Hearing site: Providence, RI, or Boston, MA.)

NOTE: Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension-New York, NY*, 54 M.C.C. 291 (1952).

WATER CARRIER

W-1218 (Sub-7F), filed October 24, 1978. Applicant: GATEWAY CLIPPER, INC., One Wood Street, Pittsburgh, PA 15222. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by water, self-propelled vehicles, over irregular routes, transporting (1) *passengers*, in special operations, between Pittsburgh, Brownsville, Mononahela, Charleroi, and Point Marion, PA, and Morgantown and Farimont, WV, on the Monongahela River; and (2) *passengers*, in charter and special operations, between Pittsburgh, Sewickley, Edgeworth, Leetsdale, Ambridge, Aliquippa, Monaca, Rochester, Beaver, and Midland, PA, East Liverpool, Steubenville, Bellaire, Marietta, and Gallipolis, OH, and Wheeling, New Martinsville, Parkersburg, Huntington, and Charleston, WV, on the Ohio River and its tributaries. (Hearing site: Pittsburgh, PA, or Washington, DC.)

[FR Doc. 78-34029 Filed 12-6-78; 8:45 am]

[7035-01-M]

[Volume No. 127]

APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

DECEMBER 1, 1978.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceding must be filed with the Commission on or before January 8, 1979. Such pleading shall comply with Spe-

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cial Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 105636 (Sub-39F) (corrected republication), filed March 27, 1978, published in the FEDERAL REGISTER issue of May 11, 1978 and November 9, 1978, and republished this issue. Applicant: ARMELLINI EXPRESS LINES, INC., Oak and Brewster Roads, Vineland, NJ 08360. Representative: Wilmer B. Hill, 805 McLachlen Bank Building 666 Eleventh Street NW., Washington, DC 20001. A Decision of the Commission, Review Board Number 3, decided September 29, 1978, and served October 12, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Petroleum products*, in containers, from the facilities of Shell Oil Company, at or near Sewaren, NJ; the facilities of Sun Oil Company, at or near Marcus Hook, Pa; and the facilities of Royal Lubricants Company, Inc., at or near Hanover, NJ to Riviera Beach, FL; restricted to the transportation of traffic having an immediately subsequent movement by water, that applicant is fit, willing, and able properly to perform such service, and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the authority granted as having three origin points and one destination point.

MC 118838 (Sub-18F) (Republication), filed February 9, 1978, published in the FEDERAL REGISTER issue of March 16, 1978, and republished this issue. Applicant: GABOR TRUCKING INC., Rural Route 4, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. A Decision of the Commission, Review Board Number 2, decided September 26, 1978, and served November 2, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Lumber, lumber mill products, and wood products*, from the facilities of Potlatch Corporation, at or near Couer d'Alene, Jaype, Kamiah, Lewiston, Post Falls, Potlatch, Santa, St. Maries, and Spalding, ID, to points in IL, IN, IA, MI, MN, MO, OH, PA, WV, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destination States, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of Section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 105120 (Sub-17F), filed October 5, 1978. Applicant: FREIGHTWAYS EXPRESS, INC., 2700 Sterick Building, Memphis, TN 38103. Representative: James N. Clay, III (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between St. Louis, MO, and Memphis, TN, over Interstate Hwy 55. (Hearing site: Memphis, TN, and St. Louis, MO)

NOTE.—Applicant has concurrently filed a petition to consolidate the above proceeding with MCC 10162, Dodds Truck Line, Inc. and Dodds Truck Line, Inc., Operator and Lessee of Bennett Truck Line, Inc. V. Freightways Express, Inc.

MC 105566 (Sub-178F), filed August 1, 1978, and previously published in the FEDERAL REGISTER issue of October 19, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Agricultural chemicals and pesticides* (except commodities in bulk); and (2) *applicators* for agricultural chemicals, from points in Alameda, Contra Costa, and Solano Counties, CA, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC)

MC 114457 (Sub-445F), filed: October 24, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Alcoholic beverages*, (b) *Such commodities as are dealt in by distributors of alcoholic beverages; and* (c) *materials, supplies, and equipment used in the sale of alcoholic beverages* (except commodities in bulk), from points, in AZ, AR, CA, CO, CT, DE, DC, FL, ID, IL, IN, IA, KA, KY, LA, ME, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, OH, OK, OR, PA, RI, TN, TX, UT, VT, VA, WA, WV, and WY, to points in MN, ND, SD, and those points in WI on and north of U.S. Hwy 151. (Hearing, January 15, 1979, 5 days, at 9:30 a.m., local time, in Court Room No. 984, Federal Building, 316 North Robert Street, St. Paul, MN.)

MC 115331 (Sub-471F), filed November 6, 1978. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from points in the United States, to Sedalia, MO. (Hearing: December 18, 1978, at 9:30 a.m. local time, at the offices of the Interstate Commerce Commission, Washington, D.C.). Common control may be involved.

MC 118989 (Sub-204F), filed October 2, 1978, and previously published in the FEDERAL REGISTER issue of November 2, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk), between points in the United States (except AK and HI). (Pre-Hearing conference: Dec. 18, 1978, at 9:30 a.m. local time, at the Offices of the ICC, Washington, DC).

NOTE.—This republication is to indicate the exact hearing information.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-13174 (Republication). Authority granted (Decision of Administrative Law Judge Samuel Horwich served October 23, 1978), for purchase by Truck Transport Incorporated, 29 Clayton Hills Lane, St. Louis, MO 63131 and Material Delivery Service, Inc. Alabaster, Alabama, of a portion of the operating rights and prperties of Ecoff Trucking, Inc., P.O. Box 127 Fortville, IN 46040, and for acquisition by Robert B. Schilli, 29 Clayton Hills Lane, St. Louis, MO 63131 of control of such rights and property through the purchase. Applicant's attorneys: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036 and Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. The operating rights contained in MC-119934 and approved to be transferred to Truck Transport Incorporated are as follows: *sulphate soap* skimmings, in bulk, in tank vehicles, from Krannert and Macon, GA, Monroe, LA, Port St. Joe, and Palatka, FL and Calhoun, TN, to Tuscaloosa, AL and points within 5 miles thereof; *tall oil*, in bulk, in tank vehicles, from Valdosta, GA to Fox, AL; *anhydrous ammonia*, in bulk, in tank vehicles, and *dry urea*, in bulk, from the plantsite of American Cyanamid Company at Avondale, LA, to points in NC, SC, GA, FL, AL, MS, LA, TX, TN, KY, AR, MO, OK, and KS; *sugar*, dry, in bulk, from points in AL, LA, MS and TN, with restrictions; *dry sugar*, in bulk, from points in St. Bernard Parish, LA to points in AR and TX, with restrictions; *dry sugar*, in bulk, from points in LA (except points in St. Bernard Parish), to points in AR, TX, AL, MS and TN (except Memphis and points in its commercial zone as defined by the Commission), with restrictions. *Corn syrup, liquid sugar, and blends of corn syrup and liquid sugar*, in bulk, in tank vehicles, from points in St. Bernard, Orleans, Jefferson and St. John the Baptist Parishes, LA to points in AL, AR, FL, MS, TN and TX, with restrictions; *liquid sugar*, in bulk, in tank vehicles, from Reserve, LA to Oak Grove and Monroe LA; *molasses*, in bulk, in tank vehicles, from New Orleans LA to points in Georgia, with restrictions, *molasses*, in bulk, in tank vehicles, from the plant sites of Colonial Molasses Company, located at New Orleans and Gretna, LA to Baerfield (Allen County), IN and Springfield, MO with restrictions; *molasses*, in bulk, in tank vehicles, from New Orleans, LA to points in OH, with restrictions, *molasses*, in bulk, in tank vehicles, from the facilities of Colonial Molasses Co. of LA and Xtravim, both Divisions of Su-Crest Corporation at New Orleans and Gretna, LA to points in AL, AR, CO, ID, IL, MD, MI, MS, and WI, with restrictions. The operating authorities in MC-119934 approved for transfer to Material Delivery Service, Inc. are as follows: *Sulfuric Acid*, in bulk, in tank vehicles, as a common carrier over irregular routes from Coosa Pines, AL to points in GA; *nitrogen solutions, and anhydrous ammonia*, in bulk, in tank vehicles, from Ketona, AL, to points in GA, points in that part of FL on and north of Florida Highway 60, points in that part of TN on and east of a line bginning at the KY, TN State Line and extending along U.S. Highay 51; *lime and limestone*, in bulk, from points in Shelby County, AL to points in MS, TN, FL, GA, LA, AR, NC, and SC, with restrictions: (1) *lime and cement*, from the facilities of Cheney Lim. & Cement Company at or near Graystone (Blount County) AL, to points in FL, GA, LA, MS, NC, SC and TN (2) *cement*, from the facilities of the shipper in (1) above located at or near Landmark (Shelby County), AL to points in the States named in (1) above; (3) *lime*, in bulk, from the facilities described in (2) above to points in Fulton County, A with restrictions. Vendee Truck Transport Incorporated is authorized to operate as a motor common carrier in all states in the United States (except AL, HI and the District of Columbia). Vendee Material Delivery Service, Inc. holds no authority from the Interstate Commerce Commission at the present time. As originally filed, the application called for the purchase of all of the identified operating authority by Truck Transport Incorporated. A petition for partial substitution of Material Delivery Service as applicant-vendee was filed July 19, 1978. That petition was granted in the identified Decision of Administrative Law Judge Samuel Horwich, and the purpose of this republication is to identify specifically the operating authority to be acquired by Material Delivery Service as a result of the Decision of the Administrative Law Judge. Within 30 days of the date of republication herein, any interested party may file a petition identifying specifically its interest, and stating in what way such interest-

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ed party would be prejudiced by the substitution of Material Delivery Service as applicant-vendee for the identified operating authorities.

MC-F-13797. Authority sought for purchase by JACKSON and JOHNSON, INC., W. Church St., Box 327, Savannah, NY 13146, of a portion of the operating rights of S.T.L. TRANSPORT, INC., 1000 Jefferson Road, Rochester, NY 14623, and for acquisition by JOHN W. JACKSON, of Savannah, NY, of control of such rights through the transaction. Applicants' attorneys: S. Michael Richards/Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. Operating rights sought to be purchased: *Cleaning compounds* and *windshield washer anti-freeze solvents* (except commodities in bulk), as a *contract carrier*, over irregular routes, from Rochester, NY to points in CT, ME, MA, NH, RI, VT, and NY, under continuing contract, or contracts, with Kleen Brite Chemical Co., Inc., at Rochester, NY, as described in Permit MC-140118 (Sub-No. 4). Vendee is authorized to operate as a *contract carrier* in MA, NY, PA, DE, MD, NJ, CT, DE, ME, NH, NC, OH, RI, VT, VA, and DC. Vendee is also authorized to operate as a *common carrier* in NY, CT, ME, MA, NH, NJ, RI, VT, add PA. Application has been filed for temporary authority under Section 210a(b).

MC-F-13808F. (Correction) (B. J. McADAMS, INC.—CONTROL—HUGHES REFRIGERATED EXPRESS, INC.), published in the November 24, 1978, issue of the FEDERAL REGISTER, on page 55049. Previous notice inadvertently published the notice as Docket No. MC-F-13805F. The correct number is No. MC-F-13808F.

MC-F-13817F. Applicant: SILVER EAGLE, CO., 2532 Southeast Hawthorne Boulevard, Portland, OR 97214. Representative: Robt. R. Hollis, 400 Pacific Building, Portland, OR 97204. Authority sought for purchase by SILVER EAGLE COMPANY, 2532 Southeast Hawthorne Blvd., Portland, OR 97214, of the common carrier operating rights and properties of MID-OREGON EXPRESS, INC., through its receiver in bankruptcy John B. Franzwa, 6438 SW Hamilton Way, Portland, OR 97221, and for acquisition by Silver Eagle Company of control of the rights through the purchase. Applicant's attorney: ROBT. R. HOLLIS, 400 Pacific Bldg., Portland, OR 97204. Operating rights sought to be transfered: under Certificate No. MC-138600, authorizing the transportation by common carrier of general commodities, except those of unusual value, uncrated house hold goods, commodities in bulk, and those requiring special equipment over regular routes, between Portland, OR, and Bend, OR, serving the intermediate points of Warm Springs, Madras, Terrebonne, Prineville Junction and Redmond, OR, and the off-route points of Culver, Metolius and Prineville, OR, and General Commodities, except those of unusual value, uncrated household goods, commodities in bulk, commodities requiring special equipment and commodities requiring refrigeration, over irregular routes, between points in Deschutes, Crook and Jefferson County, OR. To the extent that this authority authorizes the transportation of Classes A & B explosives, it is limited, in point of time, to a period expiring August 28, 1980. Vendee is authorized to operate as a common carrier in the states of Oregon and Washington. Application has also been filed for temporary authority under Section 210a(b) of the Act.

MC-F-13826F. Applicant (transferee): H & W MOTOR EXPRESS CO., 3000 Elm Street, Dubuque, IA 52001. Applicant (transferor): THE ROCK ISLAND MOTOR TRANSIT CO., 2744 Southeast Market Street, Des Moines, IA 50317. Representative (transferee): WILLIAM S. ROSEN, 630 Osborn Building, St. Paul, MN 55102. Representatives (transferor): RAYMOND GOLDFARB, 72 West Adams Street, Chicago, IL 60603 and DONALD F. NEIMAN, 1119 High Street, Des Moines, IA 50309. Authority sought for purchase by H & W MOTOR EXPRESS COMPANY, 3000 Elm Street, Dubuque, IA 52001, of a portion of the operating rights of THE ROCK ISLAND MOTOR TRANSIT COMPANY, 2744 Southeast Market Street, Des Moines, IA 50317, and for acquisition by URBAN R. HAAS and MARY E. WISSEL, 3000 Elm Street, Dubuque, IA 52001, of control of such rights through the transaction. Transferee's attorney: WILLIAM S. ROSEN, 630 Osborn Building, St. Paul, MN 55102; Transferor's attorneys: RAYMOND GOLDFARB, 72 West Adams Street, Chicago, IL 60603 and DONALD F. NEIMAN, 1119 High Street, Des Moines, IA 50309. Operating rights sought to be transferred: *Classes A & B explosives*, except nitroglycerine, and *general commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: Between Rock Island, IL and Peoria, IL, serving all intermediate and off-route points which are stations on the rail line of The Chicago, Rock Island and Pacific Railway Company between Rock Island and Peoria, IL, including Milan, IL: Route No. 67: From Rock Island over U.S. Hwy 150 via Orion, IL, to junction IL Hwy 81, then over IL Hwy 81 to junction IL Hwy 82, then over IL Hwy 82 to junction IL Hwy 17, then over IL Hwy 17 to junction US Hwy 34, then over US Hwy 34 to Galva, IL, then over IL Hwy 17 to Wyoming, IL, then over IL Hwy 91 to junction IL Hwy 174, then over IL Hwy 174 to junction IL Hwy 88, and then over IL Hwy 88 to Peoria, and return over the same route. Route No. 68: From Rock Island over U.S. Hwy 67 to Milan, IL, then over IL Hwy 92 to junction US Hwy 150, and then via Orion, IL to Peoria, as specified above, and return over the same route. Route No. 69: From Rock Island to Orion, IL, as specified above, then over unnumbered Hwys, via Osco, IL, to junction IL Hwy 81, at or near Andover, IL, and then to Peoria as specified above, and return over the same route. Route No. 70: From Rock Island over US Hwy 150 to junction IL Hwy 81, thence over IL Hwy 81 to junction unnumbered Hwy approximately three miles east of Cambridge, IL, then over unnumbered Hwy via Ulah and Bishop Hill, IL, to junction US Hwy 34 approximately four miles east of Nekoma, IL, and thence to Peoria as specified above, and return over the same route. (This authority is contained in Certificate No. MC-29130.) Applicants request that the Commission cancel the following restriction contained in the authority sought to be transferred herein: RESTRICTION: The service authorized under Route Nos. 67 through 70, inclusive, is subject to the following conditions: The service to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of rail service of the C.R.I.& P. RR, hereinafter called the Railway. Said carrier shall not serve any point not a station on the rail line of the Railway. No shipments shall be transported by said carrier between any of the following points, or through or to or from more than one of said points: LaSalle, Peoria, and Rock Island, IL. All contractual arrangements between said carrier and the Railway shall be reported to the Commission and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties. Such further specified conditions as the Commission, in the future, may find it necessary to impose in order to restrict said carrier's operation to service which is auxiliary to, or supplemental of rail service. Transferee is authorized to operate as a regular route common carrier in the states of IA, IL, IN, MN and WI. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Des Moines, Iowa.)

MC-F-13827F. Authority sought for purchase by KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN., 55987 of a portion of the operating rights of KATUIN BROS., INC., Hiway 61 South, P.O. Box 311, Dubuque, IA and for acquisition by HUBERT KUJAK and MARTIN KUJAK of control of such rights through the acquisition. Applicants representatives: John P. Rhodes, P.O. Box 5000, Waterloo, IA., 50704 and Carl E. Munson, 469 Fischer Bldg., Dubuque, IA., 52001. Operating rights sought to be purchased are those contained in MC-126539 Sub No's 26, 29, 31, and 33 thereunder which authorize transportation of: liquid fertilizer, in bulk, (1) from Fulton, IL to points in IA, MO (except St. Louis and Commercial Zone), MN and WI; and (2) from Durant, IA to points in AR, IL (except St. Louis and Commercial Zone), IN, KS, KY, MN, MO, NE, SD, TN and WI; fertilizer and fertilizer materials, in bulk, from Albany, IL to points in IA, MN, and WI; restricted in (1) above to shipments originating at the named origin and destined to the named destinations; metal containers, composite containers, and container ends from Massillon, OH to points in IL, IN, IA, MI, MN, MO, NE and WI and from Fort Madison, IA to Massillon, OH, restricted to the transportation of traffic originating at the named origin points and destined to the named destinations. KUJAK TRANSPORT, INC., holds no authority from this Commission. However, the stock of KUJAK TRANSPORT, INC. is owned by the same persons owning stock of KUJAK BROS. TRANSFER, INC. KUJAK TRANSPORT INC. is operator of KUJAK BROS. TRANSFER, INC., pursuant to Docket MC-F-13730F authorizing transportation of specific commodities between named points and places in MN, WI, IA, IL, IN, OH and KY. No dual operations or duplicate authority involved. Application has been filed for temporary authority under section 210a(b). (Hearing site: Chicago, IL).

MC-F-13830F. Authority sought for control and merger by PAUL ARPIN VAN LINES, INC., 150 Manton Avenue, Providence, RI 02909, of the operating rights of T.E.K. VAN LINES, INC., 9123 East Garvey Boulevard, Rosemead, CA 91770, and for acquisition by PAUL G. APRIN and LOUISE M. ARPIN, both of 150 Manton Avenue, Providence, RI 02909, of control of such rights through the transaction. Applicants' attorneys: Herbert Burstein, Suite 2373, One World Trade Center, New York NY 10048 and Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036. Operating rights sought to be controlled and merged: Under Certificate No. MC-119049, authorizing *household goods* as a *common carrier* over irregular routes between points in AZ and CA on the one hand, and, on the other, points in LA, MO, and TX. PAUL ARPIN VAN LINES, INC., holds authority in MC-621 as follows: Household goods, as defined by the Commission, as a *common carrier* between points in that part of the US east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to junction of the MN-WI State line, and thence along the MN-WI State line to Lake Superior; Between points in NY and NJ on the one hand, and, on the other, points in AR, IA, KS, LA, MN, MO, NE, ND, OK, SD, and TX; Between points in Cowley Country, KS, on the one hand, and, on the other, points in AR, CO, MO, and NE; Between Winfield KS, and points in KS within 50 miles of Winfield, on the one hand, and, on the other, points in AR, IL, MO, and NE. Emigrant movables, between Winfield, KS, and points in KS within 50 miles of Winfield, on the one hand, and, on the other, points in AR, IL, MO, and NE. Sub-4: Household goods as defined by the Commission, between points in AR, CO, IL, IA, KS, KY, LA, MN, MS, MO, NE, OK, TN, TX, and WI. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS—NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 2202 (Deviation No. 167), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309, filed November 8, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Columbus, GA over US Hwy 80 to junction AL Hwy 169, then over AL Hwy 169 to junction US Hwy 280, then over US Hwy 280 to junction US Hwy 78, then over US Hwy 78 to Fulton, MS, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Columbus, GA over US Hwy 280 to Birmingham, AL, then over US Hwy 11 to junction US Hwy 82, then over US Hwy 82 to Reform, AL, then over AL Hwy 17 to Sulligent, AL, then over US Hwy 278 to Amory, MS, then over MS Hwy 25 to Fulton, MS, and return over the same route.

MC 11220 (Deviation No. 36), GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., P.O. Box 59, Memphis, TN 38101, filed November 14, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Durant, OK over US Hwy 69 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction OK Hwy 10, then over OK Hwy 10 to junction OK Hwy 137, then over OK Hwy 137 to junction US Hwy 66, then over US Hwy 66 to junction KS Hwy 26, then over KS Hwy 26 to junction US Hwy 69, then over US Hwy 69 to Kansas City, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Durant, OK over US Hwy 70 to junction US Hwy 271 near Hugo, OK, then over US Hwy 271 to junction AR Hwy 45, then over AR Hwy 45 to Fort Smith, AR, then over US Hwy 71 to Kansas City, MO and return over the same route.

NOTE.—The above-described authority is restricted against service between Texarkana, TX-AR, on the one hand, and, on the other, Sherman and Dallas, TX.

MC 29555 (Deviation No. 25), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed October 10, 1978, as amended. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cedar Rapids, IA, over Interstate Hwy 380 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction IA Hwy 38, then over IA Hwy 38 to junction US Hwy 61, then over US Hwy 61 to Burlington, IA, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cedar Rapids, IA over US Hwy 30 to junction Alternate US Hwy 30, then over Alternate US Hwy 30 to Chicago, IL, then over US Hwy 34 to Burlington, IA and return over the same route.

MC 69901 (Deviation No. 7), COURIER-NEWSOM EXPRESS, INC., 2830 National Road, Columbus, IN 47201,

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filed November 14, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nashville, TN over Interstate Hwy 65 to Gary, IN, then over Interstate Hwy 90 to Chicago, IL, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Nashville, TN, over U.S. Hwy 70N to junction U.S. Hwy 70S, then over U.S. Hwy 70S to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 25W, then over U.S. Hwy 25W to junction TN Hwy 61, then over TN Hwy 61 to junction TN Hwy 62, then over TN Hwy 62 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction U.S. Hwy 150, then over U.S. Hwy 150 to junction KY Hwy 35, then over KY Hwy 35 to junction KY Hwy 151, then over KY Hwy 151 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 31E, then over U.S. Hwy 31E to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction IN Hwy 9, then over IN Hwy 9 to junction IN Hwy 7, then over IN Hwy 7 to junction Alternate U.S. Hwy 31, then over alternate U.S. Hwy 31 to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction U.S. Hwy 421, then over U.S. Hwy. 421 to junction IN Hwy 29, then over IN Hwy 29 to junction U.S. Hwy 35, then over U.S. Hwy 35 to junction IN Hwy 2, then over IN Hwy 2 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction IL Hwy 1-A, then over IL Hwy 1-A to Chicago, IL, and return over the same route.

MC 75320 (Deviation No. 68), CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801, filed May 31, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Houston, TX over Interstate Hwy 10 to junction US Hwy 171 near Lake Charles, LA, then over US Hwy 171 to junction Interstate Hwy 20 near Shreveport, LA, then over Interstate Hwy 20 near Shreveport, LA, then over Interstate Hwy 20 to Jackson, MS, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Houston, TX over US Hwy 290 to Hempstead, TX, then over TX Hwy 6 to Waco, TX then over US Hwy 81 to Hillsboro, TX, then over US Hwy 77 to Dallas, TX, and (2) From Dallas, TX over US Hwy 80 to Jackson, MS and return over the same routes.

NOTE.—This deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the leased authority expires, this deviation, if authorized, will likewise expire.

MOTOR CARRIER INTRASTATE APPLICATION(S)—NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of state Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 78-525-MF/E, filed October 20, 1978. Applicant: KEYSTONE SERVICES, INC., 5511 Minnesota Drive, Anchorage, AK 99502. Representative: Timothy G. Middleton, 645 G Street, Suite 404, Anchorage, AK 99501. Certificate of Public Convenience and Necessity sought to operate a freight service, as a common carrier, as follows: Transportation of: *General commodities* (except household goods as defined by the Interstate Commerce Commission, and commodities in bulk, but including copying, duplicating and reproducing machines, parts, accessories, supplies, office equipment and furnishings), between points and places in Alaska. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to Alaska Transportation Commission, 1000 MacKay Building, 338 Denali Street, Anchorage, AK 99501, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-34187 Filed 12-6-78; 8:45 am]

[7035-01-M]

[Notice No. 751]

ASSIGNMENT OF HEARINGS

DECEMBER 4, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 504 (Sub No. 102), Harper Motor Lines, Inc., now assigned December 4, 1978, is canceled; application dismissed.

MC 136981 (Sub No. 8F), Blair Cartage, Inc., now assigned for hearing on December 12, 1978, at Columbus, Ohio and will be held in Room 235, Federal Building.

MC 115654 (Sub No. 88F), Tennessee Cartage Co., Inc., now assigned for hearing on December 13, 1978, at Columbus, Ohio and will be held in Room 235, Federal Building.

MC 138469 (Sub-No. 67F), Donco Carriers, Inc., now being assigned for hearing on February 6, 1979, (4 days), at Dallas, Texas in a hearing room to be later designated.

MC 96324 (Sub-No. 25F), General Delivery, Inc., now being assigned for hearing on February 21, 1979, (3 days), at Pittsburgh, PA. in a hearing room to be later designated.

MC 134922 (Sub-No. 255F), B. J. McAdams, Inc., now being assigned for hearing on February 26, 1979, (1 day), at Columbus, Ohio in a hearing room to be later designated.

MC 144231 (Sub-No. 2F), Leann, Inc., now being assigned for hearing on February 27, 1979, (1 day), at Columbus, Ohio in a hearing room to be later designated.

MC 124211 (Sub-No. 325F), Hilt Truck Lines, Inc., now being assigned for hearing on February 28, 1979, (1 day), at Columbus, Ohio in a hearing room to be later designated.

MC 52861 (Sub-No. 42F), Wills Trucking, Inc., now being assigned for hearing on March 1, 1979, (2 days), at Columbus, Ohio in a hearing room to be later designated.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-34183 Filed 12-6-78; 8:45 am]

[7035-01-M]

[No. 37056]

COLORADO INTRASTATE FREIGHT RATES AND CHARGES—1978

Decision

By joint petition filed October 18, 1978, petitioners, 10 common carriers by railroad[1] operating in intrastate commerce in Colorado, request that this Commission institute an investigation of their Colorado intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502; section 13 of the former Interstate Commerce Act. They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 349. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered:

The petition is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Colorado intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All common carriers by railroad operating in Colorado subject to the jurisdiction of the Commission are made respondents in this proceeding.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, DC 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon each of the petitioners and respondents. Colorado shall be notified of the proceeding by sending copies of this order by certified mail to the Governor of Colorado. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission at Washington, DC, and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment. Furthermore, this decision is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

Dated at Washington, DC, this 28th day of November, 1978.

By the Commission, Alan Fitzwater, Director, Office of Proceedings.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-34182 Filed 12-6-78; 8:45 am]

[1] The Atchison, Topeka and Santa Fe Railway Company; Burlington Northern, Inc.; Chicago, Rock Island and Pacific Railroad Company; the Colorado and Southern Railway Company; The Colorado and Wyoming Railway Company; the Denver and Rio Grande Western Railroad Company; Missouri Pacific Railroad Company; San Luis Central Railroad Company; Southern San Luis Valley Railroad Company; and Union Pacific Railroad Company.

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 4, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

FSA NO. 43636, Southwestern Freight Bureau, Agent's No. B-780, rates on single empty freight trailers, new or used, between stations in Southwestern and Southern Territories, in Sup. 229 to its Tariff SW/S-84-H, ICC 5012, to become effective December 30, 1978. Grounds for relief—motor carrier competition; modified short line distance formula and grouping.

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 78-34185 Filed 12-6-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 1, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 17, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 96324 (Sub-E29) (Correction), filed February 9, 1976, published in the FEDERAL REGISTER, issue of November 14, 1978, and republished as corrected, this issue: Applicant: GENERAL DELIVERY INC., P.O. Box 1816, Fairmont, WV. Representative: Harold G. Hernly, Jr., Esq., 118 North St. Asaph Street, Alexandria, VA 22314. *Glass containers and pottery containers*, from those points in PA on and north and west of a line beginning at the PA-OH State line, and extending along U.S. Hwy 22 to junction of U.S. Hwy 219, then north along U.S. Hwy 219 to the PA-NY State line, to points in NC. Gateways eliminated: Harrison County and Short Gap, WV. The purpose of this republication is to correct the territorial description.

MC 107012 (Sub-E255), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Household Appliances, crated*—

(1) From points in MS, to points in MT, ND, and WA.

(2) From points in Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington,

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Yazoo Counties, MS; to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity Counties, CA; Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties, ID; points in OR; Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth Counties, SD; Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY.

(3) From points in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne Counties, MS, to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties, ID; points in OR; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Zieback, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY.

(4) From points in Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston Counties, MS, to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties, ID; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, De Schutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler Counties, OR; Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD; Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY.

(5) From points in Adams, Amite, Franklin, Jefferson. Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall, Wilkinson Counties, MS, to points in Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties, ID; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill Counties, OR; Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD; Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY.

(6) From points in Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, De Soto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity Counties, CA; points in ID; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; points OR; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT; Park, Teton, Yellowstone National Park, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E256), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. BOX 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Garry M. Crist (same address as above). *New Household Appliances, crated*—

(1) From points in MT, to points in AL, FL, GA, KY, MS, NC, SC, TN and VA.

(2) From points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux, Yellowstone, Counties, MT, to points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafoursche, Livigston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA.

(3) From points in Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Counties, MT, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA.

(4) From points in Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Counties, MT, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Counties, AR; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA.

(5) From points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Counties, MT, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighhead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Praire, Pulaski, Saline, White, Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Counties, LA. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-No. E260), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Household Furnishings, crated* (except new furniture).—

(1) From points in NV, to points in CT, DE, DC, IN, MD, MA, MI, NJ, NY, OH, PA, RI, and WV.

(2) From points in Clark, Lincoln Counties, NV to points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, La Rue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitely Counties, KY.

(3) From points in Esmeralda, Eureka, Lander, Nye, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV, to points in KY; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne Counties, MO.

(4) From points in Elko, Whitepine Counties, NV, to points in KY. (Gateway eliminated: Chicago, IL).

MC 107012 (Sub-E261), filed July 7, 1977. Applicant NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Household Appliances, crated*—

(1) From points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Counties NM, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, Warren, Counties, NC; and points in VA.

(2) From points in McKinley, Rio Arriba, San Juan, Counties, NM, to points in NC; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, York, Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Seiver, Sullivan, Unicoi, Union, Washington, Counties, TN; and points in VA.

(3) From points in Chaves, Curry, De Baca, Eddy, Lea, Lincoln, Quay, Roosevelt, Counites, NM, to points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince, William, Spotsylvania, Stafford, Westmoreland, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah, Warren, Counties, and the Cities of: Alexandria, Fairfax, Falls Church, Fredericksburg, Harrisonburg, Winchester, Va.

(4) From points in Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Counties, NM, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Counties, NC; and points in VA.

(5) From points in Colfax, Harding, Mora, Taos, Union, Counties, NM, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, Warren, Counties, NC; and points in VA. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E264), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1) From points in NC, to points in CA, ID, MT, NV, ND, OR, SD, UT, WA and WY. (2) From points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey Counties, NC, to points in Yuma County, Arizona; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; McKinley, Rio Arriba, San Juan Counties, NM. (3) From points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson Counties, NC, to points in AZ, CO, KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hildalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, Union Counties, NM; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas Counties, OK; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler Counties, TX. (4) From points in Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin Counties, NC, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, Yuma Counties, AZ; points in CO; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove,

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Lane, Logan, Ness Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS; McKinley, Rio Arriba, San Juan Counties, NM. (5) From points in Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland, Wayne, Counties, NC, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, Yuma Counties, AZ; points in CO; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer, Washington Counties, KS; McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos, Union Counties, NM. 6 From points in Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, Warren Counties, NC, to points in AZ; CO; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer, Washington Counties, KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos, Union Counties, NM; Beaver, Cimarron, Texas Counties, OK. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E266), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1) From points in ND, to points in AL, FL, GA, MS, NC, SC, TN, and VA. (2) From points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark Counties, ND, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA. (3) From points in Barnes, Cass, Dickey, Kidder, La Moure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman Counties, ND, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA. (4) From points in Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill Counties, ND, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA. (5) From points in Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells Counties, ND, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA. (6) From points in Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward Counties, ND, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA. (7) From points in Divide, McKenzie, Williams Counties, ND, to points Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence,

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Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E268), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. BOX 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Garry M. Crist (same address as above). *New Household Appliances, crated:* (1) From points in Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward Counties, OK, to points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York, Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah, Warren Counties, and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Waynesboro, Harrisonburg, Winchester, VA. (2) From points in Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington Counties, OK, to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson Counties, NC, Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, Westmoreland, Accomack, Glouchester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex, York, Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock Rockingham Counties, and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond, Wayesboro, Harrisonburg, Winchester, VA. (gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E270), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1) From points in OR, to points in AL, FL, GA, NC, SC, TN, and VA. (2) From points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill Counties, OR, to points in Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA; points in MS. (3) From points in Crook, De Schutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler Counties, OR, to points in Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS. (4) From points in Harney, Klamath, Lake, Malheur, Coos, Curry, Douglas, Jackson, Josephine, Baker, Grant, Morrow, Umatilla, Union, Wallowa Counties, OR, to points in Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E273), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appli-*

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ances, crated (1) From points in SC, to points in ID, MT, NV, ND, OR, SD, UT, WA, and WY. (2) From points in Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hamption, Jasper, Orangeburg, Abbeville, Anderson, Greenville, Ocomee, Pickens Counties, SC, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS. (3) From points in Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter Counties, SC, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quary, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS; Mc Kinley, Rio Arriba, San Juan Counties, NM. (4) From points in Clarendon, Dillon, Florence, Georgetown, Horry, Marion, Williamsburg Counties, SC, to points in CA; CO; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS; McKinley, Rio Arriba, San Juan Counties, NM. (5) From points in Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, York Counties, SC, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, Imperial, Riverside, San Diego, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS; Mc Kinley, Rio Arriba, San Juan Counties, NM. (6) From Greenville, SC, to points in AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington Counties, AR; San Bernardino, Imperial, Riverside, San Diego Counties, CA; Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo Counties, CO; points in KS; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, Mc Kinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos, Union Counties, NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, Mc Intosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, Mc Clain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, Stephens Counties, OK; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Winkler Counties, TX. (7) From Landrum, SC, to points in AZ; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone, Woodruff Counties, AR; San Bernardino County, CA; Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Herfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo Counties, CO; points in KS; NM; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, Mc Intosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love Mc Clain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, Stephens Counties, OK; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, Mc Culloch, Mc Lennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler Counties, TX. (Gateway eliminated: Chicago, IL)

MC 107012 (Sub-E275), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1) From points in SD, to points in AL, FL, GA, NC, SC, and VA (2) From points in Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp Counties, SD, to points in Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS: Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (3) From points in Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth Counties, SD, to points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA; points in MS and TN. (4) From points in Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD, to points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John The Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana Counties, LA; Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Claiborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Adams, Amite, Franklin, Jefferson, Jefferson Davis, Lawrence, Lincoln, Marion, Pike, Walthall, Wilkinson, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN. (5) From points in Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, Yankton Counties, SD, to points in Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties, TN, to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, Yuma Counties, AZ; points in CA; CO; ID; Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita Counties, KS; points in NV; McKinley, Rio Arriba, San Juan Counties, NM; points in SD, UT and WY. (3) From points in Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White Counties, TN, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma Counties, CO; points in ID; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon,

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Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; points in SD, UT and WY. (4) From points in Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton Counties, TN, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity Counties, CA; Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties, ID; Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth Counties, SD. (5) From points in Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt Counties, CO; points in ID; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; points in SD, UT, and WY. (6) From points in Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne, Weakley Counties, TN, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, Yolo Counties, CA; points in ID; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey, Washoe Counties, NV; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink Counties, SD; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, Weston Counties, WY. (Gateway eliminated: Chicago, IL.)

MC 107012 (Sub-E278), filed July 7, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Appliances, crated* (1) From points in UT, to points in NC, SC, and VA. (2) Beaver, Iron, Washington Counties, UT, to points in De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia Counties, FL; Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Tallaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker, Whitfield, Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty, Screven Counties, GA; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (3) From points in Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; points in FL; GA; Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, De Soto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (3) From points in Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; points in FL; GA; Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, De Soto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (3) From points in Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; points in FL; GA; Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, De Soto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (3) From points in Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber Counties, UT, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan Counties, AL; points in FL; GA; Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, De Soto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster, Yalobusha Counties, MS; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (4) From points in Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uintah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier, Wayne, Counties, UT, to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Alachua, Baker, Bradford, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, Saint Johns, Union, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Columbia, Dixie, Franklin, Gaddsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor, Wakulla Counties, FL; points in GA; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (Gateway eliminated: Chicago, IL.)

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son, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Bedford, Bledsoe, Bradley, Coffee, Cumberland, Fentress, Franklin, Grundy, Hamilton, Lincoln, Loudon, McMinn, Marion, Marshall, Meigs, Monroe, Moore, Morgan, Polk, Rhea, Roane, Sequatchie, Van Buren, Warren, White, Cannon, Cheatham, Clay, Davidson, De Kalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson Counties, TN. (Gateway eliminated: Chicago, IL.)

MC 108119 (Sub-E87) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished as corrected, this issue. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight, require special handling, and *related parts, materials, and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight, require special handling, or which are *metal and metal articles, or self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between. . . . The purpose of this correction is to reflect the correct commodity description. The remainder of the letter-notice as previously published.

MC 108119 (Sub-E88) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished, as corrected, this issue. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight, require special handling, and *related parts, materials, and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight, require special handling, or which are *metal and metal articles* or *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between. . . . The purpose of this correction is to reflect the correct commodity description. The remainder of the letter-notice remains as previously published.

MC 108119 (Sub-E89) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished as corrected this isse. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight, require special handling, and *related parts, materials, supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight, require special handling or which are *metal and metal articles,* or *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith, between. . . . The purpose of this republication is to correct the commodity description. The remainder of the letter-notice remains as previously published.

MC 108119 (Sub-E90) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished as corrected this issue. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight, require special handling, and *related parts, materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling, or which are *metal and metal articles,* or *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith, between. . . . The purpose of this republication is to correct the commodity description. The remainder of the letter-notice remains as previously published.

MC 108119 (Sub-E91) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished, as corrected, this issue. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight require special handling, and *related parts, materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling or which are *metal and metal articles,* or *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith, between. . . . The purpose of this republication is to correct the commodity description. The remainder of the letter-notice remains as previously published.

MC 108119 (Sub-E92) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished, as corrected, this issue. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight require special handling, and *related parts, materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling or which are *metal and metal articles,* or *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between. . . . The purpose of this republication is to correct the commodity description. The remainder of the letter-notice remains as previously published.

MC 108119 (Sub-E93) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished, as corrected, this issue. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight require special handling, and *related parts, materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling or which are *metal and metal articles,* or *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between. . . . The purpose of this republication is to correct the commodity description. The remainder of the letter-notice remains as previously published.

MC 108119 (Sub-E94) (correction), filed April 24, 1978, published in the FEDERAL REGISTER issue of August 21, 1978, and republished, as corrected, this issue. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same as above). *Machinery and commodities* which because of size or weight require special handling, and *related parts, materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling or which are *metal and metal articles,* or *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between. . . . The purpose of this republication is to correct the commodity description. The remainder of the letter-notice remains as previously published.

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MC 108341 (Sub-E21) (correction), filed November 9, 1977, published in the FEDERAL REGISTER, issued of June 1, 1978, and partially republished as corrected, this issue. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representatives: Jack F. Counts (same as above). *Source special nuclear, and by product materials, radioactive materials, related radioactive equipment, component parts and associated materials,* restricted to the transportation of commodities which because of size or weight require the use of special equipment, and contractor's materials, supplies, and equipment moving in connection therewith which do not necessarily require the use of special equipment. (4) between points in that part of NY on and south of a line beginning at the NY-PA State line, and extending along NY Hwy 12 to junction NY Hwy 8, then along NY Hwy 8 to the NY-VT State line, and north and west of a line beginning at the NY-PA State line, and extending along the NY-PA State line, and extending along NY Hwy 10 to junction NY Hwy 7, then along Hwy 7 to the NY-VT State line, on the one hand, and, on the other, points in that part of the U.S. in and east of ND, SD, NE, MO, AR, and TX, those in MN on and west of I Hwy 35 and those IA on and west of U.S. Hwy 218. The purpose of this partial republication is to correct the territorial description in (4) above. The remainder of this letter notice remains as previously published.

MC 114211 (Sub-E950) (correction), filed June 4, 1974, published in the FEDERAL REGISTER, issued of April 2, 1975, and republished as corrected, this issue. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kenneth R. Nelson (same as above). (a) *Self-propelled farm machinery,* (b) *Farm machinery* designed for use in conjunction with self-propelled vehicles (except tank semitrailers) and (c) *parts* for commodities (a) and (b) above, from Pembina, ND, to points in AZ, MO, KY, NC, NM, AR, TN, SC, TX, LA, MS, GA, OK, IL, AL, FL, KA, IN, OH, to points in that part of UT on and south of a line beginning at the NV-UT State line extending along U.S. Hwy 6 to junction UT Hwy 26, thence along UT Hwy 26 to junction U.S. Hwy 91, thence along U.S. Hwy 91 to junction UT Hwy 26, thence along UT Hwy 26 to junction U.S. Hwy 89, thence along U.S. Hwy 89 to junction UT Hwy 29, thence along UT Hwy 29 to junction UT Hwy 10, thence along UT Hwy 10 to junction U.S. Hwy 6, thence along U.S. Hwy 6, thence along U.S. Hwy 6 to the UT-CO State line; to points in that part of NV on and south of a line beginning at the CA-NV State line extending along U.S. Hwy 6 to the NV-UT State line; to points in that part of CA on and south of a line beginning at San Francisco, CA, extending along I Hwy 80 to junction CA Hwy 17, thence along CA Hwy 17 to junction I Hwy 580, thence along I Hwy 580 to junction I Hwy 205, thence along I Hwy 205 to junction CA Hwy 120, thence along CA Hwy 120 to junction U.S. Hwy 6, thence along U.S. Hwy 6 to the CA-NV State line; to points in that part of NE on and south of a line beginning at the CO-NE State line extending along U.S. Hwy 34 to junction U.S. Hwy 136, thence along U.S. Hwy 136 to junction U.S. Hwy 75, thence along U.S. Hwy 75 to junction NE Hwy 2, thence along NE Hwy 2 to the NE-IA State line; to points in that part of CO on and south of a line beginning at the UT-CO State line extending along U.S. Hwy 6 to junction U.S. Hwy 36, thence along U.S. Hwy 36 to junction U.S. Hwy 385, thence along U.S. Hwy 385 to junction U.S. Hwy 34, thence along U.S. Hwy 34 to CO-NE State line; to points in that part of IA on and east of a line beginning at the NE-IA State line extending along IA Hwy 2 to junction U.S. Hwy 59, thence along U.S. Hwy 59 to junction IA Hwy 39, thence along IA Hwy 39 to junction IA Hwy 175, thence along IA Hwy 175 to junction U.S. Hwy 71, thence along U.S. Hwy 71 to junction U.S. Hwy 18, thence along U.S. Hwy 18 to junction IA Hwy 4, thence along IA Hwy 4 to the IA-MN State line; to points in that part of WI on and south of a line beginning at the MN-WI State line extending along WI Hwy 70 to WI Hwy 27, thence along WI Hwy 27 to junction U.S. Hwy 8, thence along U.S. Hwy 8 to the WI-MI State line; points in the lower peninsula of MI, and to points in that part of the upper peninsula of MI on and south of a line extending along U.S. Hwy 8 to junction U.S. Hwy 2, thence along U.S. Hwy 2 to Escananba, MI and points in WV, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Minneapolis, MI. The purpose of this republication is to add the destination status of Lower Peninsula of MI and WV, omitted in previous publication.

MC 114868 (Sub-E29), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 North Nelson Street, Arlington, VA 22201. Representative: H. E. Newlon, Jr. (Same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* (1) between points in MA, on the one hand, and, on the other, points in

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to the WY-MT State line. (Gateway eliminated: points in UT).

MC 125433 (Sub-E57), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). T3Self propelled articles, each weighing 15,000 lbs. or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, (except commodities in bulk), restricted to commodities which are transported on trailers, (1) between points in CO on, south and west of a line beginning at the CO-UT State line extending along U.S. Hwy 6 to junction CO Hwy 133, then along CO Hwy 133 to junction CO 135, then along CO 135 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the CO-WY State line extending along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (2) points in CO on and within a line beginning at the CO-NM State line extending along U.S. Hwy 550 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction CO Hwy 135, then along CO Hwy 135 to junction CO 133, then along CO Hwy 133 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (3) between points in CO on, south and east of a line beginning at the CO-NM State line extending along U.S. Hwy 285 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the CO-KS State line on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction I Hwy 80, then along I Hwy 80 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line; and (4) between points in CO on and north of a line beginning at the CO-UT State line extending along to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-UT State line extending along I Hwy 80 to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line. (Gateway eliminated: points in UT.)

MC 143059 (Sub-E1), filed June 4, 1974. Applicant: MERCER TRANSPORTATION CO., 12th and Main Street, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies*, used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewerage, including the stringing and picking up of pipe. (1) Between points in CA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and DC (points in AZ or NV);* (2) between points in LA, MI, AL, GA, and FL, on the one hand, and, on the other, points in UT, ID, and WY (points in TX);* (3) between points in CA on and south of I Hwy 80, on the one hand, and, on the other, points in WA (points in NV);* (4) between points in CA on, north and west of a line beginning at the Pacific Ocean and extending along CA Hwy 128 to junction I Hwy 80, then along I Hwy 80 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 32, then along CA Hwy 32 to junction CA Hwy 36, then along CA Hwy 36 to junction CA Hwy 89, then along CA Hwy 89 to junction CA Hwy 299, then along CA Hwy 299 to junction U.S. Hwy 395 to the CA-OR State line, on the one hand, and, on the other, points in WA on, north and east of a line beginning at the International Boundary line between the United States and Canada, and extending along WA Hwy 21 to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction U.S. Hwy 10, then along U.S. Hwy 10 to the WA-ID State line (points in NV);* (5) between points in CA on and south of a line beginning at the Pacific Ocean and extending along CA Hwy 41 to junction CA Hwy 120, then along CA Hwy 120 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CA-NV State line, on the one hand, and, on the other, points in OR (points in NV);* (6) between points in CA on and south of a line beginning at the Pacific Ocean and extending along CA Hwy 41 to junction CA Hwy 120, then along CA Hwy 120 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CA-NV State line, on the one hand, and, on the other, those points in OR on and north of a line beginning at the Pacific Ocean and extending along U.S. Hwy 20 to junction OR Hwy 126, then along OR Hwy 126 to junction U.S. Hwy 26, then along U.S. Hwy 26 to the OR-ID State line (points in NV);* (7) between points in CA on and north of I Hwy 80 (except points in Modoc and Lassen Counties), on the one hand, and, on the other, those points in OR on and east and north of a line beginning at the OR-CA State line, and extending along U.S. Hwy 395, then along U.S. Hwy 395 to junction U.S. Hwy 26, then along U.S. Hwy 26 to the Pacific Ocean (points in NV);* (8) between points in CA, on the one hand, and, on the other, points in ID (points in NV);* (9) between points in LA, on the one hand, and, on the other, points in MT (points in TX and OK);* (10) between points in AR, on the one hand, and, on the other, points in UT, ID, and MT (points in TX, OK, and KS);* (11) between points in MS, on the one hand, and, on the other, points in MO, IA, and NE (points in AR);* (12) between points in AL, GA, and FL, on the one hand, and, on the other, points in MO, IA, and NE (points in AR);* (1) between points in IA, on the one hand, and, on the other, points in SC; (2) between those points in IA on and east of U.S. Hwy 63, on the one hand, and, on the other, those points in TN on and west of U.S. Hwy 45-E and U.S. Hwy 45; (c) between those points in IA on and east of U.S. Hwy 71, and on and west of U.S. Hwy 63, on the one hand, and, on the other, those points in TN on and west and south of a line beginning at the KY-TN State line and extending along U.S. Hwy 45-E, then along U.S. Hwy 45-E to junction U.S. Hwy 64, then east along U.S. Hwy 64 to the TN-NC State line; (3) between points in IA on and east of U.S. Hwy 71, and on and west of Hwy 63, on the one hand, and, on the other, points in TN on and west and south of a line beginning at the TN-KY State line, and extending along U.S. Hwy 45-E to junction U.S. Hwy 45, then along U.S. Hwy 45 to junction U.S. Hwy 64, then along U.S. Hwy 64 to the TN-NC State line; (4) between points in IA on and west of Hwy 71, on the one hand, and, on the other, points in TN, NC, and VA; (5) between those points in IA on and east of a line beginning at the IA-MO State line, and extending along U.S. Hwy 71, then along U.S. Hwy 71 to the IA-MN State line, then along IA-MN

State line to junction U.S. Hwy 69, then south along U.S. Hwy 69 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 218, then south along U.S. Hwy 218 to junction U.S. Hwy 34, then east along U.S. Hwy 34 to the IL-IA State line, then along the IL-IA State line to the IA-MO State line, then along the IA-MO State line to point of beginning on the one hand, and, on the other, those points in NC on and east and south of a line beginning at the NC-SC State line, and extending along U.S. Hwy 21 to junction U.S. Hwy 70, then east along U.S. Hwy 70 to Onslow Bay (points in AR);* (14) between points in IA, on the one hand, and, on the other, points in AL, GA, and FL (points in AR);* (15) between points in IA, on the one hand, and, on the other, points in MS (points in AR);* (16) between points in TX, on the one hand, and, on the other, points in TN, SC, NC, KY, OH, VA, WV, MD, DE, DC, PA, NJ, NY, CT, RI, MA, VT, NH, and ME (points in MS);* (17) between points in TX on and east and south of a line beginning at the Gulf of Mexico, and extending along U.S. Hwy 75 to junction U.S. Hwy 59, then north along U.S. Hwy 59 to junction U.S. Hwy 259, then along U.S. 259 to junction U.S. Hwy 84, then east along U.S. Hwy 84 to the TX-LA State line, to points in ND (points in MS);* (18) between points in TX on and west of a line beginning at the Gulf of Mexico, and extending along U.S. Hwy 75 to junction U.S. Hwy 90, then south along Alt. U.S. Hwy 90 to junction U.S. Hwy 281, then south along U.S. Hwy 281 to the International Boundary line between United States and Mexico on the one hand, and, on the other points in ND on and east of ND Hwy 1 (points in MS);* (19) between points in TX on and north and west of a line, beginning at TX-NM State line, and extending along U.S. Hwy 70 to junction TX Hwy 283, then along TX Hwy 283 to the TX-OK State line on the one hand, and, on the other, those points in IL on and east and south of a line beginning at the IL-KY State line, and extending along U.S. Hwy 51 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the IL-IN State line, points in IN on and east of U.S. Hwy 31, and on and north of Hwy 40 (points in MS);* (20) between points in TX on and south and east of a line beginning at the TX-NM State line, and extending along U.S. Hwy 70 to junction TX Hwy 283, then along TX Hwy 283 to the TX-OK State line on the one hand, and, on the other, points in IL and IN (points in MS);* (21) between points in TX on and east and south of a line beginning at the International Boundary between United States and Mexico, and extending along U.S. Hwy 77, then along U.S. Hwy 77 to junction U.S. Hwy 90, then east along U.S. Hwy 90 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction U.S. Hwy 259, then along U.S. Hwy 259 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the TX-LA State line, on the one hand, and, on the other, points in MN (points in MS);* (22) between points in TX on and west of a line beginning at the International Boundary between United States and Mexico, and extending along U.S. Hwy 77 to junction U.S. Hwy 90, then north along U.S. Hwy 90 to junction U.S. Hwy 59, then north along U.S. Hwy 59 to junction U.S. Hwy 259, then along U.S. Hwy 259 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the TX-LA State line, then north along the TX-LA State line to junction U.S. Hwy 80, then south along U.S. Hwy 80 to junction U.S. Hwy 69, then south along U.S. Hwy 69 to junction U.S. Hwy 79, then south along U.S. Hwy 79 to junction U.S. Hwy 81, then along U.S. Hwy 81 to junction U.S. Hwy 90, then south along U.S. Hwy 90 to Del Rio, TX, near the International Boundary line between United States and Mexico, then along TX-Mexico Boundary to point of beginning on the one hand, and, on the other, points in MN on and east of MN Hwy 65 (points in MS);* (23) between points in TX on and west and south of a line beginning at the TX-OK State line, and extending along U.S. Hwy 75 to junction U.S. Hwy 80, then west along U.S. Hwy 80 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 180, then west along U.S. Hwy 180 to the TX-NM State line, on the one hand, and, on the other, points in WI (points in MS);* (24) between points in TX on and west of a line beginning at the TX-OK State line and extending along U.S. Hwy 75 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction U.S. Hwy 281, then north along U.S. Hwy 281 to the TX-OK State line, on the one hand, and, on the other, those points in WI on and east of U.S. Hwy 51 (points in MS);* (25) between points in LA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, MN, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC; (points in MS);* (26) between points in AR, on the one hand, and, on the other, points in TN, SC, NC, VA, WV, OH, MD, PA, DE, DC, NJ, NY, CT, RI, MA, VT, NH, and ME (points in MS);* (27) between points in AR on and south of U.S. Hwy 70, on the one hand, and, on the other, points in IL, IN, and SD (points in MS);* (28) between points in AR on and north of U.S. Hwy 70, on the one hand, and, on the other, points in IN on and south and east of a line beginning at the IN-IL State line, and extending along U.S. Hwy 50 to junction IN Hwy 3 then north along IN Hwy 3 to the IN-MI State line (points in MS);* (29) between points in AR on and south and west of a line, beginning at the AR-MO State line, and extending along U.S. Hwy 63 to junction U.S. Hwy 167, then south along U.S. Hwy 167 to junction U.S. Hwy 64, then along U.S. Hwy 64 to the AR-TN State line, on the one hand, and, on the other, points in KY (points in MS);* (30) between points in AR on and east and north of a line beginning at the AR-MO State line, and extending along U.S. Hwy 63 to junction U.S. Hwy 167, then along U.S. Hwy 167 to junction U.S. Hwy 64, then along U.S. Hwy 64 to the AR-TN State line, on the one hand, and, on the other, points in KY on and east of I Hwy 75 (points in MS) (31) between points in AR on and east of Hwy 67, on the one hand, and, on the other, points in ND and MN (points in MS);* (32) between points in Kansas, on the one hand, and, on the other, points in TN, VA, NC, and SC (points in MS);* (33) between points in KS on and west and south of a line beginning at the KS-OK State line and extending along U.S. Hwy 83 to junction U.S. Hwy 50, then west along U.S. Hwy 50 to the KS-CO State line on the one hand, and, on the other, points in OH (points in MS);* (34) between points in KS on and south of Hwy 160, on the one hand, and, on the other, points in OH on and east of a line beginning at the OH-KY State line, and extending along U.S. Hwy 23, then north along U.S. Hwy 23 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the OH-WV State line, and points in PA (points in MS);* (35) between points in KS on and west and south of a line beginning at the KS-NE State line and extending along U.S. Hwy 81 to junction U.S. Hwy 54, then east along U.S. Hwy 54 to the KS-MO State line, on the one hand, and, on the other, points in CT, DC, KY, MD, NJ, NY, RI, NH, VT, MA, and WV (points in MS);* (36) between points in NE on the one hand, and, on the other, points in TN, NC, SC, and VA; and (2) between points in NE on and west of U.S. Hwy 83, on the one hand, and, on the other, points in CT, DC, DE and points in IL on and south of U.S. Hwy 13, points in KY on and west of U.S. Hwy 231, and on and south of U.S. Hwy 62, and points in MA, MD, ME, NJ, RI, and WV on and south of U.S. Hwy 60 (West Memphis, AR and South Haven, MS);* (37) between points in NE, on the one hand, and, on the other, points in AL, GA, and FL (points in KS or AR);* (38) between points in NE on the one hand, and, on the other, points in MS (points in AR);* (39) between points in WY, on the one hand, and, on the other, points in TN, NC, SC, KY, and

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WV; (2) between points in WY on and west of a line beginning at the WY-CO State line and extending along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line, on the one hand, and, on the other, points in NY on and east of a line beginning at the NY-PA State line, and extending along I Hwy 81 to junction N.Y. Hwy 7, then east along NY Hwy 7 to junction N.Y. Hwy 30, then north along NY Hwy 30 to junction N.Y. Hwy 8, then north along NY Hwy 8 to junction U.S. Hwy 9, then along U.S. Hwy 9 to the International Boundary line between the United States and Canada, points in NH, VT, and those points in PA on and south and east of a line beginning at PA-WV State line and extending along I Hwy 70 to junction I Hwy 76, then along I Hwy 76 to junction I Hwy 81, then north along I Hwy 81 to the PA-NY State line; (3) between points in WY, on the one hand, and, on the other, points in IL on and south of Hwy 13, points in IN on and south of Hwy 50, and points in OH on and south of U.S. Hwy 50; (4) between points in WY on and west of WY Hwy 120 and WY Hwy 789, on the one hand, and, on the other, points in WV; and (5) between points in WY on and east of Hwy 120 and WY Hwy 789, on the one hand, and, on the other, points in WV on and south of U.S. Hwy 60 (West Memphis, AR and South Haven, MS);* (40) between points in WY, on the one hand, and, on the other, points in AL, GA, and FL (points in AR);* (41) between points in WY, on the one hand, and, on the other, points in MS (points in AR);* (42) between points in MO, on the one hand, and, on the other, points in NC, SC, and VA (points in West Memphis, AR and South Haven, MS);* (43) between points in MO on and west of a line beginning at the MO-KS State line, and extending along U.S. Hwy 66 to junction U.S. Hwy 65, then south along U.S. Hwy 65 to junction U.S. Hwy 60, then east along U.S. Hwy 60, to the MO-KY State line, on the one hand, and, on the other, points in CT, DC, DE, MD, NH, NJ, NY, RI, and VT (West Memphis, AR and South Haven MS)* (44) between points in MO on and east and south of a line beginning at the MO-AR State line, and extending along U.S. Hwy 63, then along U.S. Hwy 63 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 67, then south along U.S. Hwy 67 to the MO-AR State line, on the one hand, and, on the other, points in MI on and east of I Hwy 75, and points in OH (West Memphis, AR and South Haven, MS);* (45) between points in MO on and west and south of a line beginning at the MO-IA State line, and extending along U.S. Hwy 65, then south along U.S. Hwy 65 to junction U.S. Hwy 40, then east U.S. Hwy 40 to junction U.S. Hwy 63, then south along U.S. Hwy 63 to the MO-AR State line, on the one hand, and, on the other, points in TN (West Memphis, AR and South Haven, MS)* (46) between points in MO on and east of a line beginning at the MO-IA State line and extending along U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to junction U.S. Hwy 63, then north along U.S. Hwy 63 to the MO-IA State line, on the one hand, and, on the other, points in TN on and south of Hwy 70; (47) between points in MO on and east and south of a line beginning at the MO-AR State line, and extending along U.S. Hwy 63 to junction U.S. Hwy 60, then MO-KY State line, on the one hand, and, on the other, points in PA, points in ND on and west and south of a line, beginning at the International Boundary line between United States and Canada, and extending along U.S. Hwy 83, then south along U.S. Hwy 10, then east along U.S. Hwy 10 to junction ND Hwy 3, then south along ND Hwy 3 to the ND-SD State line, points in SD on and west of a line beginning at the SD-ND State line and extending along U.S. Hwy 85 to junction U.S. Hwy 385, then south along U.S. Hwy 385 to the SD-NE State line (West Memphis, AR and South Haven, MS);* (48) between points in MO on and south and west of a line beginning at the MO-KS State line and extending along U.S. Hwy 40, then along U.S. Hwy 40 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to the MO-KY State line, on the one hand, and, on the other, points in MS and ME (West Memphis, AR and South Haven, MS);* (49) between points in MO on and south and west of a line beginning at the MO-KS State line and extending along U.S. Hwy 66 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the MO-AR State line, on the one hand, and, on the other, points in KY on and east of U.S. Hwy 31-E, points in OH on and east and south of a line beginning at the OH-KY State line and extending along U.S. Hwy 23, then along U.S. Hwy 23, then along U.S. Hwy 23 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the OH-WV State line, and points in WV (West Memphis, AR and South Haven, MS);* (50) between points in Missouri, on the one hand, and, on the other, points in GA, AL, and FL (points in AR);* (51) between points in MO, on the one hand, and, on the other, points in MS (points in AR);* (52) between points in OK, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC (South Haven, MS);* (53) between points in OK on and south and west of a line beginning at the OK-TX State line and extending along U.S. Hwy 66 to junction U.S. Hwy 281, then south along U.S. Hwy 281 to the OK-TX State line, on the one hand, and, on the other, points in Illinois on and east of U.S. Hwy 51 (South Haven, MS);* (54) between points in OK on and east of a line beginning at the OK-TX State line, and extending along U.S. Hwy 281 then along U.S. Hwy 281 to junction OK Hwy 33, then along OK Hwy 33 to junction U.S. Hwy 177, then south along U.S. Hwy 177 to junction U.S. Hwy 70, then west along U.S. Hwy 70 to junction U.S. Hwy 77, then south along U.S. Hwy 77 to the OK-TX State line, on the one hand, and, on the other, points in IL on and east and south of a line beginning at the IL-KY State line and extending along U.S. Hwy 51 to junction IL Hwy 54, then east along IL Hwy 54 to junction U.S. Hwy 150, then east along U.S. Hwy 150 to junction U.S. Hwy 136, then along U.S. Hwy 136 to the IL-IN State line (South Haven, MS);* (55) between points in OK on and east and south of a line beginning at the OK-TX State line, and extending along U.S. Hwy 77 to junction OK Hwy 19, then east along OK Hwy 19 to junction OK Hwy 1, then north along OK Hwy 1 to junction U.S. Hwy 270, then east along U.S. Hwy 270 to the OK-AR State line, on the one hand, and, on the other, points in IL (South Haven, MS);* (56) between points in OK on and north of a line beginning at the OK-TX State line, and extending along U.S. Hwy 66, then along U.S. Hwy 66 to junction U.S. Hwy 281, then north along U.S. Hwy 281 to junction OK Hwy 33, then east along OK Hwy 33 to junction U.S. Hwy 177, then south along U.S. Hwy 177 to junction OK Hwy 19, then along OK Hwy 19 to junction OK Hwy 1, then along OK Hwy 1 to junction U.S. Hwy 270, then east along U.S. Hwy 270 to the OK-AR State line, on the one hand, and, on the other, points in Illinois on and south of IL Hwy 13 (South Haven, MS);* (57) between points in OK on and south of I Hwy 40, on the one hand, and, on the other, points in IN (South Haven, MS);* (58) between points in OK on and north of I Hwy 40 (except those points on and east of a line beginning at the OK-KS State line and extending along U.S. Hwy 183 to junction U.S. Hwy 64, then east along U.S. Hwy 64 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the OK-KS State line), on the one hand, and, on the other, points in IN on and east and south of a line beginning at the IN-MI State line, and extending along U.S. Hwy 31 to junction U.S. Hwy 40, then south along U.S. Hwy 40 to the IN-IL State line (South Haven, MS);* (59) between points in OK on and west and south of a line beginning at the OK-KS State line, and extending along U.S. Hwy 77, then south along U.S. Hwy 77 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to the OK-MO State line, on the one hand, and on the other, points in MI (South Haven, MS);* (60) between points in OK on and east and south of a line beginning at the OK-TX State line, and extending along U.S. Hwy 69 to junction U.S. Hwy 270, then east east along U.S. Hwy 270 to the OK-AR State line, on the other hand, and, on the other, points in WI (South Haven, MS);* (61) between points in OK on and south extending along U.S. Hwy 51 to junction U.S. Hwy 151, then along U.S. Hwy 151 to junction U.S. Hwy 41, then along U.S. Hwy 41 to junction WI Hwy 57, then north along WI Hwy 57 to Green Bay (South Haven, MS);* Restriction: The service authorized herein is subject to the following conditions: The authority granted herein is restricted to the transportation of traffic originating at or destined to pipeline rights-of-way. The authority granted herein is restricted against the transportation of traffic (1) from Lone Star, TX, to Memphis, TN, and points in AL, AR, FL, GA, KS, LA, MS, and OK; (2) from the plant sites and warehouse facilities of Jones & Laughlin Steel Corporation, at or near Gainesville, TX, to points in AR, LA, MO, OK, and TX; and (3) from the plant site of Tex-Tube Division, Detroit Steel Corporation, at Houston, TX, to points in the United States (except AK, HI, and TX). The purpose of this filing is to eliminate the gateways denoted by asterisks above.

NOTE.—This letter-notice originally filed as MC-106407 (Sub-No. E5). By application for transfer of authority cited in MC-106407 (Sub-No. 21), Mercer Water & Sewer Transportation Co. Transferee and T. E. Mercer Trucking Co. Transferor, filed on or about March 11, 1976 in MC-FC-76451, an order was entered March 7, 1977 (corrected order served April 4, 1977) and the transfer was approved.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34186 Filed 12-6-78; 8:45 am]

[7035-01-M]

[Notice No. 229]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 4, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

W-406 (Sub-12TA). By order entered October 25, 1978, the Motor Carrier Board granted Ohio Barge Line, Inc., Pittsburgh, PA, 180 day temporary authority to engage in the transportation by water vessel, in interstate commerce, in the transportation of iron and steel articles, by non-self propelled vessels with the use of separate towing vessels, from the facilities of United States Steel Corporation at South Chicago, IL, and Central Wharf facility of Homestead District Works, at Munhall, PA, to lock and dam number one (mile 42.6) on the Red River in Louisiana. Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219, for applicant. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

MC 140025 (Sub-2TA), filed July 31, 1978, published in the FEDERAL REGISTER October 16, 1978 and republished this issue. Applicant: L & T, INC., 2650 West Beaver Street, Jacksonville, FL 32205. Representative: McCarthy Crenshaw, 21 West Church Street, 1205 Universla Marion Building, Jacksonville, FL 32202. By order entered November 21, 1978, the Motor Carrier Board granted applicant, 180 day temporary authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers or trailers, (except motor vehicles, commodities in bulk and those requiring specialized handling or rigging), between points in the Jacksonville, FL commercial zone, restricted to traffic having an immediate prior or subsequent movement by water. Supporting shipper(s): (1) Sea and Services, Inc., P.O. Box 1050, Elizabeth, NJ. (2) Puerto Rico Maritime Shipping Authority, P.O. Box 26483, 10001 Lake Forest Blvd., 4th Floor, New Orleans, LA 70186.

Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

Purpose of this republication is to reflect the broader scope of authority granted by the Motor Carrier Board.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34188 Filed 12-6-78; 8:45 am]

[7035-01-M]

[Notice No. 138]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission, on or before January 8, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Com-

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mission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which portestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

FD-28902. By decision of December 1, 1978, the Motor Carrier Board approved the transfer from Brent Towing Company, Inc., Lake Ferguson, P.O. Drawer 8, Greenville, MS 38701, to Brent Contract Carriers, Inc., Industrial Fill, Greenville, MS 28701 of the operating rights set forth in Permit W-1315 (Sub-No. 1) issued August 7, 1978 as follows: By towing vessels, in the transportation of plastic materials and products, in containers, between Texas City and North Seadrift, TX, on the one hand, and, on the other, Leetsdale, PA, limited to a transportation service to be performed under a continuing contract(s) with Union Carbide Corporation. Applicants representative: David A. Sutherland, Esq., 1150 Connecticut Avenue, N.W., Washington, D.C. 20036.

MC-FC-77878, filed September 26, 1978. Transferee: NEW WEST TRANSPORTATION, INC., 1431 North 15th Avenue, Tucson, AZ 85705. Transferor: Tucson Warehouse & Transfer Co., 1431 North 15th Avenue, Tucson, AZ 85705. Representative: John Patrick Lyons, Attorney, P.O. Box 3017, Tucson, AZ 85702. Authority is sought for purchase by transferee of a portion of the operating rights of transferor set forth in Certificate of Registration No. MC-38835 (Sub-No. 1) issued June 1, 1965, as follows: Machinery, structural steel, prefabricated steel, trusses and contractors equipment and outfits, to and from all points and places within the State of Arizona, with base of operations at Tucson, AZ. Contractors equipment and outfits shall be defined as tools and machinery necessary for and used in construction. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77928, filed November 9, 1978. Transferee: WINSTON LIMOUSINE SERVICE, INC., 41 Pembrook Drive, Stony Brook, NY 11790. Transferor: Tri-Cities Limo Service, Inc., 567 Main Street, Passaic, NJ 07055. Representative: Sidney J. Leshin, Attorney, 575 Madison Avenue, New York, NY 10022. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-135268, issued May 1, 1972, as follows: Passengers, having a prior or subsequent movement by air or water, and their baggage in the same vehicle with passengers, in special operations in nonscheduled door-to-door service limited to the transportation of not more than 11 passengers in any one vehicle, not including driver thereof, between points in Bergen, Passaic, Hudson, Essex, Union and Morris Counties, NJ, on the one hand, and, on the other, JFK International Airport, La Guardia Airport, and the steamship piers in New York, NY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34184 Filed 12-6-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items to the December 7, 1978, agenda.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Delete: 8. Docket 32293, *Northeast Points-Puerto Rico/Virgin Islands Service Investigation* (OGC).

Addition: 22a. Exemption of Air Carriers and Foreign Air Carriers from section 403(b) of the Act to Satisfy Passenger Complaints and Claims (BCP, BPDA, BIA, OGC) (Memo 8334).

STATUS: Open.

PERSON TO CONTACT:

Phylis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff attorney originally assigned to Docket 32293 became ill and staff work was not completed in time to allow the Board to consider the matter thoroughly. Due to additional time needed by the staff for coordination item 22a was not received on time in order to be placed on the December 7, 1978, agenda. This item concerns a proposal to grant U.S. and foreign air carriers an exemption from tariff observance requirements to permit resolution of consumer complaints. The reason for short-notice is to have the Board permit this action prior to the Christmas holiday season when air traffic is the heaviest and the likelihood of consumer problems is greater than at any other time of the year. Accordingly the following Members have voted that agency business requires the deletion of item 8 and the addition of item 22a to the December 7, 1978, agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2473-78 Filed 12-5-78; 3:29 pm]

[6320-01-M]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 31704, Nordair application to amend and renew one of its three foreign air carrier permits to operate charters between 20 named European countries and any point or points in the United States, subject to conditions and limitations (Memo 8313, BIA, OGC).

3. Docket 26487, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation* (OGC).

4. Dockets 28848, 29445, 29186, 21162, and 28800; *Improved Authority to Wichita Case; Las Vegas-Dallas/Fort Worth Nonstop Service Investigation, Memphis-Twin Cities/Milwaukee Case, Midwest-Atlanta Nonstop Service Investigation, Ohio/Indiana Points Nonstop Service Investigation and Phoenix-Des Moines/Milwaukee Route Proceeding.* (OGC).

5. Docket 32143, *Austin/San Antonio-Atlanta Service* (Memo 8270-B, OGC).

6. Docket 30182, *Iowa/Illinois-Atlanta Route Proceeding,* Tentative Opinion and Order disposing of deferred issues (Memo 6950-C, OGC).

7. Docket 31570, *Southeast Alaska Service Investigation,* Procedural order (OGC).

8. Docket 32293, *Northeast Points-Puerto Rico/Virgin Islands Service Investigation* (OGC).

9. Docket 33849, *Application of Southeast Airlines* for emergency exemption in the Miami-Borinquen market (OGC).

9a. Docket 30055, Phoenix-Las Vegas-Reno Competitive Nonstop Service Proceeding (OGC).

10. Docket 27186, *Schedules of KLM Royal Dutch Airlines*—Order to vacate Part 213 Orders by reason of mootness in light of Protocol to Air Transport Agreement signed March 31, 1978 (OGC, BIA, BCP).

11. Dockets 32674 and 33634, Petition of Aeroamerica, Inc., for reconsideration of Order 78-10-106 which denied Aeroamerica exemption authority to operate in the Seattle-Portland-Honolulu market pending resolution of certain consumer protection issues (Memo 8248-E, PPDA, BCP).

12. Dockets 30699 and 33019, *Oakland Service Case,* and *Chicago-Midway Expanded Service Proceeding* (Memo 8316 BPDA).

13. Dockets 33927 and 33967, National's Applications for exemptions from 401(j) to permit it to suspend air service on less than ninety-day notice at Baltimore, Boston, Philadelphia, Providence, Atlanta, Key West and Panama City (Memo 8327, PBDA).

14. Docket 32994, Order 78-10-32, Allegheny's Charleston, W. Va.-Pittsburgh Exemption and Order to Show Cause (Memo 8180-B, BPDA).

15. Dockets 31260 and 33658, Allegheny's application for certificate amendment permitting non-stop Boston-New York/Newark authority; Air New England's application for certificate amendment permitting nonstop Boston-New York/Newark authority (Memo 8326, BPDA).

16. Dockets 30909, 29531, 31371, 33260, and 33300, Application of TWA for realignment of Route 2 into two linear segments (BPDA).

17. Dockets 33750, 33751, and 33753; Airwest's notices of intent to terminate or suspend services at Stockton, Santa Barbara and Monterey-Salinas, California, respectively in 90 days (BPDA, OGC).

18. Docket 33172, Amend Allegheny Airlines' Certificate to Redesignate the Intermediate Point "Liberty-Monticello" the Intermediate Point "Catskills/Sullivan County." (Memo 8227-A, PBDA).

19. Docket 33764, et al., Petition of Braniff Airways for clarification of Order 78-11-96 (BPDA).

20. Docket 33712, Tiger International—Seaboard Acquisition Case. This case involves the preclearance of Tiger International's acquisition of up to 25 percent of Seaboard's stock in voting trust and the institution of a proceeding under section 408 for approval of acquisition control (BPDA).

21. Docket 33348, Board options on Regulation ER-1078, October 20, 1978, requiring advertising disclosure of non-compliance with denied boarding rules (BPDA, OGC, BCP, BIA).

22. Docket 33707, Application of Hawaiian for exemption from Part 250 of the Board's regulations governing denied boarding in order to carry emergency stretcher patients without paying DBC to bumped passengers (Memo 8318, BPDA).

23. Docket 32280, National Airlines' complaint regarding Western's failure to provide economic justification for its "YX Fare." (Memo 8319, BPDA).

24. Docket 27426; Application of Air New England, Inc. (ANE) and Delta Air Lines, Inc. (Delta) for approval of a refinancing agreement (5123-B, BPDA, BCP).

25. Docket 30332, IATA agreements proposing varying increases in Western Hemisphere cargo rates through September 30, 1979, to compensate for cost increases. The reporting carriers support the increases; no other comments or objections have been received (Memo 8322, BPDA, BIA).

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26. Docket 30777, IATA agreement proposing piece-based baggage system between the United States and Mexico (Memo 8195-B, BPDA, BIA).
27. Docket 23080-2, Determination of service mail rates for newly certificated services of Cochise and Sky West (Memo 7673-D, BPDA).
28. Dockets 32795 and 32796; Petition for review of staff action granting Profit By Air authority to file pickup and delivery tariffs (Memo 8317, BPDA, OGC).
29. Docket 30356, *Trancontinental Low Fare Investigation* (Instructions to staff).
30. Elimination of the reporting of freight loss and damage claims data (BAS, BPDA, BCP, OEA, OCCR, OGC, BLJ).
31. Authority delegated to the Director, Bureau of Accounts and Statistics. This rule adds new delegations of authority which would, among other things, permit the Director, BAS, to issue proposed and final accounting rules in areas where Board policy is clearly established or no issues of substance are involved (Memo 8325, BAS, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2465-78 Filed 12-5-78; 11:39 am]

[7590-01-M]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 11, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Monday, December 11, 1:30 P.M.

Discussion of reporting the progress of resolution of "Unresolved safety issues" in the NRC Annual Report (approximately 1 hour, public meeting).

ADDITIONAL INFORMATION

The meeting titled "Discussion of Bailly" (approximately one half hour) scheduled for approximately 2:30 p.m., Thursday, December 7, will be held (closed—exemption 10).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Scretary.

DECEMBER 12, 1978.

[S-2462-78 Filed 12-5-78; 11:39 am]

[7600-01-M]

4

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., Wednesday, December 13, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Partially open and partially closed.

MATTERS TO BE CONSIDERED:

Part open to the public:

The general subject of oral arguments at the Commission.

Parts subject to being closed to the public:

(a) Internal case processing matters.
(b) Method of certifying notice to employee representatives.

CONTACT PERSON FOR MORE INFORMATION.

Ms. Patricia Bausell, 202-634-4015.

DECEMBER 4, 1978.

[S-2464-78 Filed 12-5-78; 11:39 am]

[3210-01-M]

5

OVERSEAS PRIVATE INVESTMENT CORPORATION.

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday December 12, 1978, at 9 a.m. (closed portion), 11 a.m. (open portion).

PLACE: Offices of the Corporation, Seventh floor board room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11 a.m. will be closed to the public. The open portion of the meeting will start at 11 a.m.

MATTERS TO BE CONSIDERED:

Closed to the public 9 a.m. to 11 a.m.

1. Renegotiation of Lloyd's Reinsurance Agreement.
2. IDCA/OPIC.
3. Resumption of OPIC in Western Hemisphere country.
4. Status of OPIC in a Latin American country.
5. Finance project in African country.
6. Claims report.
7. Information reports.

FURTHER MATTERS TO BE CONSIDERED:

Open to the public 11 a.m.

1. Approval of the minutes of the previous Board meeting.
2. Confirmation of scheduled Board meetings.
3. Personnel matters.
4. Additional exceptions to operation of OPIC programs in developing countries.
5. Determination of a country qualifying as an eligible developing country.
6. Information reports.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

[S-2463-78 Filed 12-5-78; 11:39 am]

[4410-01-M]

6

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Tuesday, December 12, 1978, 1 p.m. to 1:30 p.m. Wednesday, December 13, 1978, 11 a.m. to 12 noon.

PLACE: Room 500; 320 First Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Discussion of office security.
2. Discussion with criminal division regarding intelligence reports on certain inmates.

CONTACT PERSON FOR MORE INFORMATION:

M. E. Malin Foehrkolb, 202-724-6304.

[S-2469-78 Filed 12-5-78; 3:29 pm]

[4410-01-M]

7

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Tuesday December 12, 1978, 9 a.m. to 1 p.m. and 1:30 p.m. to 5:30 p.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 20 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson, Analyst, 202-724-3094.

[S-2470-78 Filed 12-5-78; 3:29 pm]

[4410-01-M]

8

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: December 13, 1978, 9 a.m. to 11 a.m. and 1 p.m. to 6 p.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of previous meeting.
2. Reports of the Chairman, Vice-Chairman, and Commissioners.
3. Policy and procedures memoranda on the following subjects: a. Quality control of work. b. Dating of Commission Orders.
4. Revised Rules: a. 28 CFR 2.19(c)—Information from sources in the Criminal Justice System. b. Broader application of presumptive release date.
5. Legal report (current cases).
6. Revised rescission procedure.
7. Opening Original Jurisdiction and Original Jurisdiction Appeal meetings to the pulic.
8. Procedure Manual revision concerning multiple separate offenses.
9. Forms revision (Notice of Action and related forms).
10. Delegation of authority.
11. Visitors at hearings.
12. Regional training sessions.
13. Policymaking by Staff.
14. guideline applications—Those in effect at sentencing date or at date of initial hearing.
15. Administrative matters.
16. Language changes in regulations—Objections thereto (if any).
17. Scheduling of next meeting.

Contact Person for more Information.

M.E. Malin Foehrkolb, 724-6304.

[S-2471-78 Filed 12-5-78; 3:29 pm]

[4410-01-M]

9

UNITED STATES PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Wednesday, December 20, 1978 at 9:30 a.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C. 20537.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 25 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson, Analyst, 202-724-3094.

[S-2472-78 Filed 12-5-78; 3:29 pm]

[7910-01-M]

10

THE RENEGOTIATION BOARD.

DATE AND TIME: Monday, December 11, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Stelma, Inc., Successor-In-Interest to a 1960 Delaware Corporation of the same name, fiscal years ended March 31, 1968 and 1969; April 1, 1969 through May 8, 1969.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: December 4, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2466-78 Filed 12-5-78; 3:29 pm]

[7910-01-M]

11

THE RENEGOTIATION BOARD.

DATE AND TIME: Monday, December 18, 1978; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Kings Point Industries, Inc., fiscal years ended April 30, 1969, 1970, and 1971 (Consolidated) and Victory Enterprises, Inc., fiscal years ended September 30, 1969, 1970, and 1971. T. S. Lankford & Sons, Inc., fiscal years ended June 28, 1969 and June 27, 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: December 4, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2467-78 Filed 12-5-78; 3:29 pm]

[7910-01-M]

12

THE RENEGOTIATION BOARD.

DATE AND TIME: Thursday, January 4, 1979; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Lankford Manufacturing Co., Inc., fiscal years ended December 31, 1974 and 1975.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickerson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: December 4, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2468-78 Filed 12-5-78; 3:29 pm]

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federal register

THURSDAY, DECEMBER 7, 1978

PART II



WATER RESOURCES COUNCIL

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

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[8410-01-m]

WATER RESOURCES COUNCIL

PRIVACY ACT of 1974

Systems of Records; Annual Publication

In accordance with 552(e)(4) of the Privacy Act of 1974, the U.S. Water Resources Council hereby publishes the Systems of records currently maintained by the Council. No changes have occurred since the last annual publication on September 20, 1977 42 FR page 47492.

Dated at Washington, D.C. on November 28, 1978.

Leo M. Eisel,
Director.

TABLE OF CONTENTS

WRC—2 General Financial Records
WRC—3 Operating Personnel Records
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Appendix

WRC—2

System name: General Financial Records—U.S. Water Resources Council (WRC).

System location: General Services Administration, Central Office; copies held by the Council at 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

Categories of individuals covered by the system: Council employees.

Categories of records in the system: SF 1038, application and account for advance of funds; vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other offices and employees of GSA and the Council who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building, released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:
Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: The subject individual; the Council.

WRC—3

System name: Operating Personnel Records—U.S. Water Resources Council (WRC).

System location: Office of Program Coordination and Management, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

Categories of individuals covered by the system: Council employees.

Categories of records in the system: These records basically consist of copies of information which is contained in the Official Personnel Folders maintained for the Council by the Agency Liaison Division, General Services Administration. As such, they are generally limited to personal qualifications statements, training records, position descriptions, locator files, performance appraisals, commendations, incentive awards, personnel actions, and adverse actions.

Authority for maintenance of the system: 42 U.S.C. 1962a et seq.; Federal Personnel Manual Supplement 293-31, Subchapter S8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Information in these records may be used by Council employees having a need to know in connection with a variety of personnel actions including transfers, promotions, qualifications determinations, and selection for training. Information may also be disclosed to educational institutions for training purposes, to other agencies to the extent relevant and necessary, and to prospective employees and other organizations at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Manual by name.

Safeguards: Retained in locked file cabinet in secured office; released only to authorized personnel.

Retention and disposal: Records are maintained during the individual's employment with the Council. When the employee leaves the Council through transfer or other separation, the record is forwarded to the Agency Liaison Division, General Services Administration, which maintains the Official Personnel Folder. There it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder other than exact duplicates of papers already so filed. The record and its contents are then destroyed.

System manager(s) and address:
Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information the individual supplied, except information provided by GSA or Council officials on pay, leave, and allowance records.

WRC—4

System name: Payroll Records—U.S. Water Resources Council (WRC).

System location: General Services Administration Region 3 Office; copies held by the Council 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

Categories of individuals covered by the system: Past and present Council employees.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W-2 forms; overtime requests; leave data; retirement records. Records are used by Council and GSA employees to maintain adequate payroll information for Council employees, and otherwise by Council and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employees's compensation.

The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is base on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records will be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:
Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: The subject individual; the Council.

APPENDIX—WRC

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

Information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc. 78-33820 Filed 12-6-78; 8:45 am]

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THURSDAY, DECEMBER 7, 1978
PART III



DEPARTMENT OF ENERGY

Economic Regulatory Administration

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LOWER AND UPPER TIER

26. Docket 30777, IATA agreement proposing piece based baggage system between the

TIME AND DATE: 1 p.m., Wednesday, December 13, 1978

meeting may be obtained from the Secretary of the Corporation at 202-

TIME AND DATE: December 13, 1978, 9 a.m. to 11 a.m. and 1 p.m. to 6 p.m.

a vote to be taken at the beginning of the meeting.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446

26. Docket 30777, IATA agreement proposing piece-based baggage system between the United States and Mexico (Memo 8195-B, BPDA, BIA).
27. Docket 23080-2, Determination of service mail rates for newly certificated services of Cochise and Sky West (Memo 7673-D, BPDA).
28. Dockets 32795 and 32796; Petition for review of staff action granting Profit By Air authority to file pickup and delivery tariffs (Memo 8317, BPDA, OGC).
29. Docket 30356, *Trancontinental Low Fare Investigation* (Instructions to staff).
30. Elimination of the reporting of freight loss and damage claims data (BAS, BPDA, BCP, OEA, OCCR, OGC, BLJ).
31. Authority delegated to the Director, Bureau of Accounts and Statistics. This rule adds new delegations of authority which would, among other things, permit the Director, BAS, to issue proposed and final accounting rules in areas where Board policy is clearly established or no issues of substance are involved (Memo 8325, BAS, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis. T. Kaylor, the Secretary, 202-673-5068.

[S-2465-78 Filed 12-5-78; 11:39 am]

[7590-01-M]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 11, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Monday, December 11, 1:30 P.M.

Discussion of reporting the progress of resolution of "Unresolved safety issues" in the NRC Annual Report (approximately 1 hour, public meeting).

ADDITIONAL INFORMATION

The meeting titled "Discussion of Bailly" (approximately one half hour) scheduled for approximately 2:30 p.m., Thursday, December 7, will be held (closed—exemption 10).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Scretary.

DECEMBER 12, 1978.

[S-2462-78 Filed 12-5-78; 11:39 am]

[7600-01-M]

4

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., Wednesday, December 13, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Partially open and partially closed.

MATTERS TO BE CONSIDERED:

Part open to the public:

The general subject of oral arguments at the Commission.

Parts subject to being closed to the public:

(a) Internal case processing matters.
(b) Method of certifying notice to employee representatives.

CONTACT PERSON FOR MORE INFORMATION.

Ms. Patricia Bausell, 202-634-4015.

DECEMBER 4, 1978.

[S-2464-78 Filed 12-5-78; 11:39 am]

[3210-01-M]

5

OVERSEAS PRIVATE INVESTMENT CORPORATION.

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday December 12, 1978, at 9 a.m. (closed portion), 11 a.m. (open portion).

PLACE: Offices of the Corporation, Seventh floor board room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11 a.m. will be closed to the public. The open portion of the meeting will start at 11 a.m.

MATTERS TO BE CONSIDERED:

Closed to the public 9 a.m. to 11 a.m.

1. Renegotiation of Lloyd's Reinsurance Agreement.
2. IDCA/OPIC.
3. Resumption of OPIC in Western Hemisphere country.
4. Status of OPIC in a Latin American country.
5. Finance project in African country.
6. Claims report.
7. Information reports.

FURTHER MATTERS TO BE CONSIDERED:

Open to the public 11 a.m.

1. Approval of the minutes of the previous Board meeting.
2. Confirmation of scheduled Board meetings.
3. Personnel matters.
4. Additional exceptions to operation of OPIC programs in developing countries.
5. Determination of a country qualifying as an eligible developing country.
6. Information reports.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

[S-2463-78 Filed 12-5-78; 11:39 am]

[4410-01-M]

6

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Tuesday, December 12, 1978, 1 p.m. to 1:30 p.m. Wednesday, December 13, 1978, 11 a.m. to 12 noon.

PLACE: Room 500; 320 First Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Discussion of office security.
2. Discussion with criminal division regarding intelligence reports on certain inmates.

CONTACT PERSON FOR MORE INFORMATION:

M. E. Malin Foehrkolb, 202-724-6304.

[S-2469-78 Filed 12-5-78; 3:29 pm]

[4410-01-M]

7

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Tuesday December 12, 1978, 9 a.m. to 1 p.m. and 1:30 p.m. to 5:30 p.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 20 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson, Analyst, 202-724-3094.

[S-2470-78 Filed 12-5-78; 3:29 pm]

[4410-01-M]

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UNITED STATES PAROLE COMMISSION.

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Federal Register

THURSDAY, DECEMBER 7, 1978

PART II



WATER RESOURCES COUNCIL

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

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[8410-01-m]

WATER RESOURCES COUNCIL

PRIVACY ACT of 1974

Systems of Records; Annual Publication

In accordance with 552(e)(4) of the Privacy Act of 1974, the U.S. Water Resources Council hereby publishes the Systems of records currently maintained by the Council. No changes have occurred since the last annual publication on September 20, 1977 42 FR page 47492.

Dated at Washington, D.C. on November 28, 1978.

Leo M. Eisel,
Director.

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WRC—2

System name: General Financial Records—U.S. Water Resources Council (WRC).

System location: General Services Administration, Central Office; copies held by the Council at 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

Categories of individuals covered by the system: Council employees.

Categories of records in the system: SF 1038, application and account for advance of funds; vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other offices and employees of GSA and the Council who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and tape.

Retrievability: Manual and automated by name.

Safeguards: Stored in guarded building, released only to authorized personnel.

Retention and disposal: Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: The subject individual; the Council.

WRC—3

System name: Operating Personnel Records—U.S. Water Resources Council (WRC).

System location: Office of Program Coordination and Management, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

Categories of individuals covered by the system: Council employees.

Categories of records in the system: These records basically consist of copies of information which is contained in the Official Personnel Folders maintained for the Council by the Agency Liaison Division, General Services Administration. As such, they are generally limited to personal qualifications statements, training records, position descriptions, locator files, performance appraisals, commendations, incentive awards, personnel actions, and adverse actions.

Authority for maintenance of the system: 42 U.S.C. 1962a et seq.; Federal Personnel Manual Supplement 293-31, Subchapter S8.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Information in these records may be used by Council employees having a need to know in connection with a variety of personnel actions including transfers, promotions, qualifications determinations, and selection for training. Information may also be disclosed to educational institutions for training purposes, to other agencies to the extent relevant and necessary, and to prospective employees and other organizations at the request of the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Manual by name.

Safeguards: Retained in locked file cabinet in secured office; released only to authorized personnel.

Retention and disposal: Records are maintained during the individual's employment with the Council. When the employee leaves the Council through transfer or other separation, the record is forwarded to the Agency Liaison Division, General Services Administration, which maintains the Official Personnel Folder. There it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder other than exact duplicates of papers already so filed. The record and its contents are then destroyed.

System manager(s) and address:

Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information the individual supplied, except information provided by GSA or Council officials on pay, leave, and allowance records.

WRC—4

System name: Payroll Records—U.S. Water Resources Council (WRC).

System location: General Services Administration Region 3 Office; copies held by the Council 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

Categories of individuals covered by the system: Past and present Council employees.

Categories of records in the system: Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W-2 forms; overtime requests; leave data; retirement records. Records are used by Council and GSA employees to maintain adequate payroll information for Council employees, and otherwise by Council and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system: 31 U.S.C., generally; 42 U.S.C. 1962a et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employees's compensation.

The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is base on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and microfilm.

Retrievability: Social Security Number.

Safeguards: Stored in guarded building; released only to authorized personnel.

Retention and disposal: Disposition of records will be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer
U.S. Water Resources Council
2120 L Street, NW.
Washington, D.C. 20037

Notification procedure: Contact system manager listed above.

Record access procedures: See Council access regulations in 18 CFR section 701.305.

Contesting record procedures: See Council access regulations in 18 CFR section 701.307.

Record source categories: The subject individual; the Council.

APPENDIX—WRC

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

Information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc. 78-33820 Filed 12-6-78; 8:45 am]

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federal register

THURSDAY, DECEMBER 7, 1978

PART III



DEPARTMENT OF ENERGY

Economic Regulatory Administration

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LOWER AND UPPER TIER CRUDE OIL PRICE CEILINGS ADJUSTMENTS TO REFLECT IMPACT OF INFLATION FOR THE MONTHS OF DECEMBER 1978 AND JANUARY AND FEBRUARY 1979

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[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-77-16]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Adjustments To Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA), of the Department of Energy (DOE), by this action issues Crude Oil Price Schedule No. 13, effective December 1, 1978, for the months of December 1978, and January and February 1979. The Schedule provides monthly crude oil price increases to take into account the impact of inflation, as permitted under the Emergency Petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159).

Beginning in December 1978, inflation adjustments will be applied to the projected November 1978 lower tier and upper tier prices (approximately $5.65 per barrel and $12.61 per barrel respectively), resulting in lower tier and upper tier prices for the months of December 1978, and January and February 1979 of approximately $5.68, $5.71, and $5.74 per barrel (lower tier) and $12.68, $12.75, and $12.82 per barrel (upper tier), respectively.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202-634-2170.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street NW., Room 6128, Washington, D.C. 20461, 202-254-6296.

Jeffrey C. Conrad (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461, 202-566-2454.

SUPPLEMENTARY INFORMATION:

A. *Introduction.*
B. *Crude Oil Price Schedule No. 13.*

A. Introduction

Under the EPAA, Congress provided flexibility to control first sale prices of domestic crude oil as long as the national weighted average first sale price ("actual composite price") did not exceed $7.66 per barrel ("statutory composite price") for all domestic crude oil produced and sold in February 1976. Beginning in March 1976, the EPAA authorized increases in the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward at a rate not to exceed 10 percent annually.

With the issuance of Crude Oil Price Schedule No. 9, (42 FR 62125, December 9, 1977), the ERA undertook to continue the policy, announced by the President in the National Energy Plan (NEP) and implemented by the Federal Energy Administration (FEA) in Crude Oil Price Schedule No. 8 (42 FR 45284, September 9, 1977), to adjust both lower tier and upper tier ceiling prices to reflect only the rate of inflation as measured by the GNP deflator. Reference should be made to the Notice which accompanied Crude Oil Price Schedule No. 8 for a description of prior actions taken by FEA to achieve compliance with the composite price constraints of the EPAA and for a discussion of the domestic crude oil pricing policy set forth in the NEP.

B. Crude Oil Price Schedule No. 13

This price schedule continues the policy as described in the Notice which accompanied Crude Oil Price Schedule No. 8. Accordingly, under Crude Oil Price Schedule No. 13, effective December 1, 1978, the November 1978 lower tier ceiling price (the May 15, 1973 posted price plus $1.96 per barrel, resulting in an average first sale price of approximately $5.65 per barrel), and the November 1978 upper tier price (the September 30, 1975 posted price less $.06, resulting in an average first sale price of approximately $12.61 per barrel), are adjusted for inflation for December 1978, and January and February 1979, based on the first revision of the GNP deflator published on November 21, 1978, which reflects an annual rate of inflation of 7.1 percent.

1. LOWER TIER CEILING PRICES

Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in December 1978, and January and February 1979 are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00573 which when applied over a twelve-month period yields an effective annual rate of adjustment of 7.1 percent.
B. December 1978 adjustment = ($5.65) (.00573) per barrel = $.032 per barrel rounded to $.03 per barrel.
C. January 1979 adjustment = ($5.65 + .03 (.00573) per barrel = $.032 per barrel rounded to $.03 per barrel.
D. February 1979 adjustment = ($5.65 + .03 + .03) (.00573) per barrel = $.033 per barrel rounded to $.03 per barrel.

Based upon the monthly adjustments computed above, average lower tier ceiling prices for the months of December 1978, and January and February 1979 are computed as follows:

December 1978 = $5.65 + $.03 = $5.68.
January 1979 = $5.68 + $.03 = $5.71.
February 1979 = $5.71 + $.03 = $5.74.

Using an average highest posted field price on May 15, 1973 of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
December 1978	May 15, 1973, highest posted field price plus $1.99.	$5.68
January 1979	May 15, 1973, highest posted field price plus $2.02.	5.71
February 1979	May 15, 1973, highest posted field price plus $2.05.	5.74

[1] Estimated average first sale price.

2. UPPER TIER CEILING PRICES.

Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in December 1978, and January and February 1979 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) = .00573.
B. December 1978 adjustment = ($12.61) (.00573) per barrel = $.072 per barrel rounded to $.07 per barrel.
C. January 1979 adjustment = ($12.61 + .07) (.00573) per barrel = $.073 per barrel rounded to $.07 per barrel.
D. February 1979 adjustment = ($12.61 + $.07 + $.07) (.00573) per barrel =$.073 per barrel rounded to $.07 per barrel.

Based upon monthly adjustments computed above, average upper tier ceiling prices for the months of December 1978, and January and February 1979 are computed as follows:

December 1978 = $12.61 + $.07 = $12.68.
January 1979 = $12.68 + $.07 = $12.75.
February 1979 = $12.75 + $.07 = $12.82.

Using an average highest posted field price on September 30, 1975, of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
December 1978	Sept. 30, 1975, highest posted field price plus $0.01[2].	$12.68
January 1979	Sept. 30, 1975, highest posted field price plus $0.08[2].	12.75
February 1979	Sept. 30, 1975, highest posted field price plus $0.15[2].	12.82

[1] Estimated average first sale price.
[2] Beginning in December 1978, the monthly adjustment to upper tier ceiling prices becomes an addition to the September 30, 1975 highest posted price.

On or before March 1, 1979, the ERA will issue Crude Oil Price Schedule No. 14, setting forth lower tier and upper tier ceiling prices for the months of March, April, and May 1979.

Month	Estimated average lower tier ceiling price	Actual lower tier price	Estimated average upper tier ceiling price	Actual upper tier price [4]	Statutory composite price	Actual composite price [1]	Cumulative excess receipts (millions)
1976:							
February	$5.04	$5.05	$11.35	$11.48	$7.66	$7.87	$49
March	5.07	5.07	11.42	11.39	7.72	7.79	67
April	5.10	5.07	11.49	11.52	7.78	7.86	86
May	5.14	5.13	11.56	11.55	7.84	7.89	97
June	5.17	5.15	11.62	11.60	7.88	7.99	123
July	5.17	5.19	11.62	11.60	7.93	8.04	152
August	5.17	5.18	11.62	11.62	7.98	8.03	164
September	5.17	5.17	11.62	11.65	8.04	8.19	198
October	5.17	5.15	11.62	11.62	8.11	8.23	228
November	5.17	5.17	11.62	11.62	8.17	8.40	282
December	5.17	5.17	11.62	11.64	8.24	8.40	322
1977:							
January	5.17	5.17	11.42	11.44	8.30	8.28	316
February	5.17	5.18	11.42	11.39	8.37	8.33	308
March	5.17	5.15	10.97	11.03	8.44	8.19	246
April	5.17	5.15	10.97	10.97	8.50	8.14	161
May	5.17	5.18	10.97	10.98	8.57	8.23	76
June	5.17	5.16	10.97	10.92	8.64	8.17	−36
July	5.17	5.16	10.97	11.00	8.71	8.21	−159
August	5.17	5.18	10.97	10.93	8.78	8.25	−295
September	5.20	5.20	11.23	11.21	8.85	8.26	−446
October	5.23	5.23	11.49	11.42	8.92	8.36	−595
November	5.26	5.24	11.75	11.63	8.99	8.35	−761
December	5.28	5.25	11.80	11.76	9.06	8.40	−937
1978:							
January	5.30	5.28	11.85	11.78	9.13	8.34	−1,137
February	5.32	5.29	11.90	11.81	9.21	8.48	−1,306
March	5.35	5.34	11.96	11.88	9.28	8.41	−1,536
April	5.38	5.35	12.02	11.94	9.35	8.44	−1,772
May	5.41	5.38	12.08	11.98	9.43	8.43	−2,042
June	5.44	5.46	12.15	12.08	9.50	8.68	−2,255
July	5.47	5.46	12.22	12.15	9.58	8.60	−2,516
August	5.50	[3]5.50	12.29	[3]12.22	9.66	[2]8.67	[2]−2,779
September	5.55	[3]5.55	12.39	[3]12.35	9.73	[2]8.76	[2]−3,029
October	[3]5.60		[3]12.50		9.81		
November	[3]5.65		[3]12.61		9.89		
December	[3]5.68		[3]12.68		9.97		
1979:							
January	[3]5.71		[3]12.75		10.05		
February	[3]5.74		[3]12.82		10.13		

[1] Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with sec. 121 of the ECPA. Effects of Alaska North Slope (ANS) crude oil production, which commenced June 20, 1977, are included.
[2] Preliminary.
[3] Projected on the basis of crude oil price schedule Nos. 12 and 13.
[4] Does not include effects of ANS or naval petroleum reserves crude oil production.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act. Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 1, 1978.

Issued in Washington, D.C. November 30, 1978.

HAZEL R. ROLLINS,
Deputy Administrator,
Economic Regulatory Administration

Section 212.77 is amended in the Appendix to add Schedule No. 13 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to Ceiling Prices.

* * * * * *

APPENDIX

* * * * * *

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SCHEDULE NO. 13 OF MONTHLY PRICE ADJUSTMENTS, EFFECTIVE DECEMBER 1, 1978

Month	Lower tier, May 15, 1973, posted price [1] (plus)	Upper tier, Sept. 30, 1975, posted price [2] (plus)
1976		
February	1.35	−1.32
March	1.38	−1.25
April	1.41	−1.18
May	1.45	−1.11
June	1.48	−1.05
July	1.48	−1.05
August	1.48	−1.05
September	1.48	−1.05
October	1.48	−1.05
November	1.48	−1.05
December	1.48	−1.05
1977		
January	1.48	−1.25
February	1.48	−1.25
March	1.48	−1.70
April	1.48	−1.70
May	1.48	−1.70
June	1.48	−1.70
July	1.48	−1.70
August	1.48	−1.70
September	1.51	−1.44
October	1.54	−1.18
November	1.57	−.92
December	1.59	−.87
1978		
January	1.61	−.82
February	1.63	−.77
March	1.66	−.71
April	1.69	−.65
May	1.72	−.59
June	1.75	−.52
July	1.78	−.45
August	1.81	−.38
September	1.86	−.28
October	1.91	−.17
November	1.96	−.06
December	1.99	.01
1979		
January	2.02	.08
February	2.05	.15

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on November 30, 1978 pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through November 1978, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 12 effective September 1, 1978, are further increased as indicated in this schedule, effective December 1, 1978.

This schedule is effective only through February 28, 1979. Price ceilings for subsequent months will be provided by Schedule No. 14, to be issued on or about March 1, 1979. This schedule may, however, be superseded prior to March 1, 1978 by early issuance of Schedule No. 14 to reflect further ceiling price adjustments based on presently unanticipated trends in actual composite price levels.

[FR Doc. 78-34003 Filed 12-1-78; 3:36 pm]

federal register

THURSDAY, DECEMBER 7, 1978

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

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MAJOR URBAN TRANSPORTATION INVESTMENT

Policy and Procedures

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[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

[FHWA Docket No. 78-21]

[23 CFR Part 455]

[49 CFR Part 620]

FHWA/UMTA MAJOR URBAN TRANSPORTATION INVESTMENT

Policy and Procedures

AGENCY: Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to supplement FHWA/UMTA policies and procedures by specifically requiring an analysis of alternatives in support of proposed major urban transportation investments so as to meet local and national goals and objectives in a cost-effective manner. Consistent policy and procedures are established for evaluating major highway and mass transit investments. The procedures require that State and local transportation officials conduct an analysis of alternatives for all prospective major urban transportation investments, whether they be highway or public transportation projects.

DATE: Written comments are due on or before February 5, 1979.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 78-21, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. The public is invited to submit their views and comments on this proposed rule and policy. All comments and suggestions received will be available for examination by any interested person at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Federal Highway Administration (FHWA): Ali F. Sevin, Urban Planning Division, 202-426-0215, or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0786. Office hours for FHWA are from 7:45 a.m. to 4:15 p.m., ET. Urban Mass Transportation Administration (UMTA): Joel Ettinger, Office of Planning Assistance, 202-426-2360, or Robert Bergstrom, Office of Chief Counsel, 202-426-1906. Office hours for UMTA are from 8:30 a.m. to 5 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking issues, for review and comment, a statement of Federal policy and procedures for decisions on major urban transportation investments assisted under the Urban Mass Transportation Act of 1964, as amended, and under Title 23, United States Code, Highways. The policy seeks to ensure that all federally funded transportation investments for urbanized areas meet local and national goals and objectives in a cost-effective manner. It establishes a consistent policy and procedures for evaluating proposed major highway and mass transit investments. The types of highway and mass transit projects covered include all new construction, extension, and major widening of urban freeway segments and fixed guideway transit facilities.

The proposed procedures require that State and local transportation officials conduct an analysis of alternatives for all prospective major urban transportation investments, whether they be highway or public transportation projects. The required analysis of alternatives will compare the costs of each alternative against its effectiveness in achieving a broad range of transportation, social, economic, environmental, energy conservation, and urban revitalization objectives. Thus, the analysis will provide State, local, and Federal transportation officials with a systematic and comprehensive assessment of the alternatives as an aid in decisionmaking.

Under this policy, Federal project approval will be based on a careful review of the analysis of alternatives and the Environmental Impact Statement (EIS) to asssure that the proposed alternative meets the local and national goals and objectives in a cost-effective manner.

This proposed policy should be viewed as a further step toward improving the decisionmaking process for urban transportation investments by integrating the FHWA and UMTA project development processes and more explicitly considering social, economic, and environmental factors.

As a brief background, in September 1975, FHWA and UMTA issued joint planning regulations (40 FR 42976), which integrated the planning provisions of the various transportation programs administered by the two agencies. While the joint regulations broadly defined a common planning process for all transportation mode, projects emerging from this process were still subject to different policies and procedures administratively established by the Federal agency with funding authority for the project in question.

On September 22, 1976, at 41 FR 41512, UMTA issued its "Policy on Major Urban Mass Transportation Investments," which required an alternatives analysis for major urban mass transportation investments before such projects would be considered for funding.

In the case of major highway investments, FHWA, operating under different legislative requirements, has had no formal investment policy comparable to UMTA's "Policy on Major Urban Mass Transportation Investments." Rather, FHWA has relied on its close day-to-day working relationships with the States and several FHWA regulations to encourage the consideration of social, economic, and environmental impacts in project development. Such regulations include the Process Guidelines (23 CFR Part 795), Environmental Impact and Related Statements (23 CFR Part 771), and Public Hearings and Location/Design Approval (23 CFR Part 790).

Over the past 2 years, FHWA and UMTA have become increasingly aware of the need for greater consistency in their policies and procedures beyond the system planning process for major urban transportation investments. This need stems primarily from recent changes in the types of projects eligible for funding under the Federal-aid highway program.

The Federal-Aid Highway Act of 1976 and regulations (23 CFR 810) issued by FHWA, and published at 42 FR 47339 on September 20, 1977—"Mass Transit and Special Use Highway Projects"—broadened the definition of eligible projects for Federal-aid highway funds, permitting such funds to be used for mass transit-related facilities and special use highways (e.g., use restricted to high occupancy vehicles). Thus, for the first time, there was substantial overlap in project eligibility between the FHWA and UMTA grant assistance programs.

This proposed policy is an outgrowth of the Department's recognition of the the need for improved decisionmaking in major urban transportation investments. It provides for a systematic analysis of the performance of various alternatives with regard to local and national goals and objectives in the social, economic, environmental, and energy sectors.

In consideration of the foregoing, and under the authority of 23 U.S.C. 134 and 315 and 49 U.S.C. 1601 et seq., it is proposed that Chapter I of Title 23 and Chapter VI of Title 49, Code of Federal Regulations, be amended by adding new Parts 455 and 620, respectively, each with Subparts A and B, as set forth below.

NOTE.—The Federal Highway Administration and the Urban Mass Transportation Administration have determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. An evaluation of this regulation is contained in the public docket and is available for inspection.

Issued on: December 4, 1978.

BROCK ADAMS,
Secretary of Transportation.

1. Proposed Part 455 of 23 CFR Chapter I reads as follows:

PART 455—FHWA/UMTA MAJOR URBAN TRANSPORTATION INVESTMENT POLICY AND PROCEDURES

Subpart A—General Requirments

Sec.

455.101 Introduction.
455.103 Policy.
455.105 Applicability.
455.107 System and corridor planning.

Subpart B—Procedures

455.201 Purpose of subpart.
455.203 Determination of administrative responsibility.
455.205 Procedures for jointly administered analysis of alternatives.
455.207 Procedures for analysis of alternatives when FHWA has administrative responsibility.
455.209 Procedures for analysis of alternatives when UMTA has administrative responsibility.
APPENDIX A—Advisory information on FHWA procedures for analysis of alternatives under the major urban transportation investment policy and procedures.
APPENDIX B—Major urban mass transportation investments policy.
APPENDIX C—Policy toward rail transit.

AUTHORITY: 23 U.S.C. 134 and 315; 49 U.S.C. 1601 et seq. (The Urban Mass Transportation Act of 1964, as amended); 49 CFR 1.48(b) and 1.51(f).

Subpart A—General Requirements

§ 455.101 Introduction.

(a) The wide array of options for federally aided major urban transportation investments has led to the need for establishing a single investment policy to cover both the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) projects to assure that Federal funds are used effectively. The policy in this regulation seeks to ensure that all federally funded major transportation investments for urbanized areas meet local and national goals and objectives in a cost-effective manner. It prescribes a consistent evaluation process for proposed major highway and transit investments. Types of projects covered include new or extended heavy rail, light rail, commuter rail, freeways, busways, and major widenings of freeways or fixed guideway transit facilities proposed for urbanized areas.

(b) The FHWA/UMTA joint urban transporation planning regulations, 23 CFR 450, provide consistency in the definition and administration of urban

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transportation planning, but as proposed investments move from systems planning through corridor studies, coordinative efforts are needed to provide a consistent policy on major urban transportation investments. This policy and the regulations in this part provide that consistency. They apply to both FHWA and UMTA-funded major investments proposed for urbanized areas and address the entire project development process from systems planning through identification of a selected alternative.

§ 455.103 Policy.

Every major urban transportation investment proposed for FHWA or UMTA funding shall be supported by an analysis of relevant alternatives including a cost-effectiveness analysis. The scope and scale of the analysis shall be appropriate to the type of alternatives being evaluated. Federal support for major urban investments will be based on an acceptable analysis of alternatives.

§ 455.105 Applicability.

(a) Major urban transportation investments include all new construction or extensions of urban freeway segments and fixed guideway transit facilities, major freeway segment widening on existing facilities, and major widening of fixed guideway transit facilities proposed for urbanized areas.

(b) The following projects are exempt from this regulation:

(1) Lesser improvements to existing freeway or fixed guideway transit facilities, such as rehabilitation, restoration and modernization;

(2) Safety improvements or resurfacing of existing facilities;

(3) Widening of short freeway and fixed guideway transit segments;

(4) Gap closing projects on the intercity portion of Interstate routes to provide a continuous Interstate Highway System;

(5) Projects identified as part of a demonstration program; and

(6) Projects for which an alternatives analysis as required by UMTA's Policy Statement (Appendix B) has been satisfactorily completed.

(c) In order not to disrupt the existing process, highway and transit projects for which circulation of a draft Environmental Impact Statement (EIS) or negative declaration have been completed are also excluded from this regulation. However, if a draft EIS is over 3 years old and a revision is required under 23 CFR 771.12(O), this regulation applies. Projects which are exempt under this paragraph will be coordinated informally by FHWA and UMTA staff as appropriate.

§ 455.107 *System and Corridor Planning.*

(a) The FHWA/UMTA joint planning regulations, 23 CFR 450 require that all project proposals shall originate from or be given formal recognition through the system planning process. Subpart C of Part 450 requires development of a long-range transportation system plan developed through "* * * an analysis of alternative transportation facilities." Most urbanized areas have produced a long-range systems plan which reflects an awareness that different levels and types of transportation service may be needed in different portions of the metropolitan area. Some of these needs may require major investments.

(b) In system planning, consideration shall be given to a wide range of alternatives, including improvements involving better management and operation of the existing highway and public transportation networks, and different levels of service. Before completing systems planning, every effort shall be made to resolve basic modal issues or narrow the range of alternatives.

(c) Proposals for major urban transportation investments in a corridor should include transportation system management (TSM) actions to be taken to enhance corridor accessibility and convenience. Among the options that should be considered are priority treatment of buses and carpools; metering of traffic flow on highway ramps; and transit route and schedule revisions.

(d) Both the system and corridor analysis should result in a comparison of the costs and effectiveness of each alternative. Costs should include any adverse social, economic, and environmental effects as well as the capital and operating costs. Effectiveness measures include the benefits of the alternatives with respect to transportation, social, economic, and environmental conditions.

(e) The assessment of each alternative in both the system and corridor levels shall include consideration of capital and operating costs; capital efficiency, operating efficiency and productivity; effects on modal choice, level of use, environmental impacts, and energy consumption; impact on land use and urban revitalization; extent of neighborhood disruption and displacement; job creation impact; and such other social, economic, and environmental factors considered important by the local community.

Subpart B—Procedures

§ 455.201 Purpose of subpart.

This subpart contains the procedures which FHWA and UMTA wil normally follow in administering the

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policy and requirements of this regulation.

§ 455.203 Determination of administrative responsibility.

(a) The transportation officials of the areas may recommend to FHWA and UMTA field staff, corridors that are considered candidates for joint administration. The FHWA and UMTA field staffs will be responsible for informing the FHWA and UMTA Headquarters offices on all corridors proposed for joint administration.

(b) The FHWA and UMTA will determine whether the analysis of alternatives will be jointly administered or whether FHWA or UMTA will have the administrative responsibility as follows:

(1) Generally, the FHWA and UMTA will jointly administer the analysis in urbanized area corridors where

(i) The long-range planning element is unable to resolve modal issues without more refined corridor studies,

(ii) The long-range element has identified a mix of major modal investments, or

(iii) It is not clear which modal administration will be requested to fund the major investment (e.g., busways).

(2) The administrative determination will generally depend upon the proposed source of funding. To clarify, if the range of major investment alternatives includes only FHWA-funded freeways, major freeway widenings, or busways, FHWA will have the administrative responsibility. Similarly, if the range of major investment alternatives include only UMTA-unded major investments (e.g., light rail, heavy rail, commuter rail, automated guideway transit or busways), UMTA will have the administrative responsibility. In cases where one agency has the administrative responsibility, that agency will coordinate with the other, primarily at the field level.

(c) The FHWA and UMTA Administrators may also designate additional corridors for jointly administered analysis regardless of the proposed source of funding. In these cases, the applicant will be notified promptly to prevent any undue delay in program delivery.

§ 455.205 Procedures for jointly administered analysis of alternatives.

For corridors that are determined to warrant joint administration of the required analysis, the following procedures will generally apply:

(a) When the Headquarters offices decide that a jointly administered analysis is warranted, an interoffice review team will be formed including field and Headquarters office representatives.

(b) Early in the process, the interoffice review team wil meet with the appropriate local and State agencies to reach agreement on the following aspects of the analysis:

(1) The range of alternatives;

(2) The evaluation methodology;

(3) The estimation of costs and effects;

(4) The travel forecasting procedures;

(5) The citizen participation mechanism;

(6) The financing assumptions;

(7) The time horizon of the analysis;

(8) The level of detail of the analysis; and

(9) The State or local agency with primary responsibility for coordinating the study.

(c) The interoffice review team will periodically review the progress of the analysis and provide guidance as required.

(d) The jointly administered analysis should include an analysis of the feasible alternatives, a draft EIS (where necessary), and a financial plan.

(e) Upon receipt of the completed analysis, the interoffice review team will review all material to insure that the analysis was conducted in conformance with FHWA and UMTA regulation and guidelines. This review will normally be completed within 90 days of the receipt of the analysis.

(f) After the completed analysis has been found in conformance with FHWA and UMTA regulation (23 CFR 455 and 49 CFR 620) and guidelines, the appropriate modal administration will circulate the draft EIS for comment (if necessary). During the circulation period, the applicant will hold a public hearing.

(g) At the end of the circulation period, the appropriate modal administration will address the questions and comments received and correct any deficiencies. The applicant may then select a recommended project for implementation.

(h) If the project recommended for implementation meets local and national goals and objectives in a cost-effective manner, the final EIS will be processed on the recommended alternative.

(i) In those corridors where major transportation investments for both modes are warranted, the review team formed for the joint corridor analysis may be called upon to coordinate subsequent project actions.

§ 455.207 Procedures for analysis of alternatives when FHWA has the administrative responsibility.

When FHWA has the administrative responsibility, advisory information on FHWA procedures for analysis of alternatives (Appendix A), will be used

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in administering the investment policy.

§ 455.209 Procedures for analysis of alternatives when UMTA has the administrative responsibility.

When UMTA has the administrative responsibility, the procedures outlined in UMTA's publications on "Major Urban Mass Transportation Investments" and "Policy Toward Rail Transit" (published as Appendix B and C, respectively, to this regulation) will apply.

APPENDIX A—ADVISORY INFORMATION ON FHWA PROCEDURES FOR ANALYSIS OF ALTERNATIVES UNDER THE MAJOR URBAN TRANSPORTATION INVESTMENT POLICY AND PROCEDURES

I. INTRODUCTION.

These procedures define how FHWA will assure compliance with the major investment policy and procedures (23 CFR Part 455) when FHWA has the administrative responsibility. In keeping with the joint policy, FHWA support of major urban transportation investments will be based on an acceptable analysis of alternatives and the environmental documents prepared pursuant to the National Environmental Policy Act (NEPA). The procedures integrate the existing FHWA planning and project development process with the major investment policy to assure that a cost-effectiveness analysis of alternatives is a basis for State and local decisions in support of all proposals for major urban highway investments.

II. APPLICATION.

The analysis required under 23 CFR 455 applies to all major highway investments proposed for urbanized areas where the major transportation investment(s) to be considered for a specific corridor will be highway oriented with only minor or no mass transit investments. This determination will be made through the urban transportation planning process with FHWA and UMTA concurrence. Major urban highway investments include all new construction, extensions, or major widening of urban freeway segments, not specifically exempted by the major investment policy and procedures as listed in 23 CFR 455.105(b).

III. PROCEDURES.

A. *Systems Planning.* As information is gathered in the urban transportation planning process, every effort shall be made to incorporate cost-effectiveness considerations into long-range plan development. These cost-effectiveness considerations shall be made available to the decisionmakers before plan adoption. The FHWA Regional Office will explicitly consider the adequacy of alternatives and the cost-effectiveness analysis before certifying the planning process under 23 CFR 450.122.

B. *Project Development.* The FHWA will normally apply the following procedures in administering the major investment policy on major urban highway projects:

1. The FHWA Division Office will maintain surveillance over the State's cost-effectiveness analysis procedures using the review mechanism established to monitor the Environmental Action Plan under 23 CFR 795.

2. A cost-effectiveness analysis of alternatives shall be prepared as part of the studies made in support of the draft EIS and information pertinent to the discussion of impacts and alternatives should be summarized in the draft and final EIS.

3. The cost-effectiveness analysis of alternatives shall include, where appropriate, an analysis of vehicle occupancy and alternative strategies to increase vehicle occupancy for both buses and autos. The overriding consideration of urban improvements should be the movement of people and goods, not the movement of vehicles. Strategies to increase vehicle occupancy and coordination of transportation services should be assessed for projected person-trips during the peak traffic periods. The addition of lanes should not be considered without analyzing all other acceptable strategies for handling these person-trips.

C. *Cost-Effectiveness Analysis Review Procedures.*

1. Early in the process, the FHWA Division Office will give particular attention to the following aspects of the analysis:

a. The range of alternatives;
b. The evaluation methodology;
c. The estimation of costs and effects;
d. The travel forecasting procedures;
e. The citizen participation mechanisms; and
f. The level of detail of the analysis.

2. If the completed analysis conforms with 23 CFR 455 and FHWA policy and guidelines, the FHWA Division Office will circulate the draft EIS (if necessary) for comment to assure compliance with NEPA requirements. During the circulation period, the applicant shall comply with the public hearing requirements established under 23 CFR 790.

3. At the end of the circulation period, the comments and questions received will be addressed and any deficiencies corrected. Based on the analysis submitted, the FHWA Division Office will consult with the applicant regarding the promising alternatives which appear to meet local and national goals in a cost-effective manner. The applicant may then select a recommended alternative and submit the final environmental documents on the selected alternative.

4. If the alternative selected for implementation meets local and national goals and objectives in a cost-effective manner, the FHWA will process the final environmental document(s), subject to NEPA requirements. The FHWA Division Office will monitor subsequent project development steps to assure cost-effectiveness considerations in final project design.

D. *Interstate Cost Estimate.* The instruction manual (Instruction Manual For Preparation and Submission of the 1979 Estimate of the Cost of Completing the Interstate System, January 1978)[1] for estimating the cost of completing the Interstate System outlines specific cost-effectiveness considerations in estimating the cost of completing the Interstate System. The followintg paragraphs describe how this effort relates to the Major Urban Transportation Investment Policy and Procedures.

1. When a major design revision to the Interstate highway program is requested for Interstate cost estimating purposes, a cost-effectiveness analysis of alternatives will be required before the request is approved. As

[1] This Manual is available for inspection in accordance with 49 CFR Part 7, Appendix D.

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used here, major design revisions are revisions in location, design concept, geometrics, or capacity which would result in a cost estimate increase of 20 percent or more (excluding unit cost increases due to inflation) over the previously approved cost estimate.

2. For Interstate cost estimate purposes, high cost Interstate highway segments (as defined in the Interstate cost estimate manual) will be limited to the cost developed on the basis of design concept/location approved for use in preparing the latest approved Interstate cost estimate until an acceptable analysis has been submitted.

3. Existing location or design approval given for Interstate cost estimating purposes does not constitute a commitment by FHWA to build the segment. Such a commitment must be supported by an EIS where necessary and cost-effectiveness analysis when required.

4. When an acceptable cost-effectiveness analysis of alternatives is submitted in support of a proposed revision, additional analysis will not be required at the draft EIS stage unless the estimated cost has increased significantly (exclusive of unit price changes due to inflation) or new major investment alternative design concepts are involved.

IV. EXISTING PROCEDURES

The procedures described here are designed to augment and be used in conjunction with existing FHWA requirements for Action Plans (23 CFR 795), EIS (23 CFR 771), Hearings and Location/Design Approvals (23 CFR 790).

APPENDIX B—MAJOR URBAN MASS TRANSPORTATION INVESTMENTS POLICY

FEDERAL POLICY ON ASSISTANCE FOR MAJOR URBAN MASS TRANSPORTATION INVESTMENTS

Since the beginning of this decade, the Federal Government has provided an increasing share of the Nation's capital investment in urban mass transportation. In the years ahead, as more and more communities seek Federal financial aid to improve and expand their mass transportation systems, it is more essential than ever that Federal funds be effectively and efficiently utilized.

Since each metropolitan area has differing characteristics, Federal mass transportation assistance cannot be based on standardized prescriptions. Rather, Federal support should be flexible, relying heavily on local ability to assess present and anticipated transportation needs, identify and evaluate alternative opportunities for improvement, and initiate needed actions.

The Federal Government does, however, have a strong interest in ensuring that Federal funds available for mass transportation investments be used prudently and with maximum effectiveness. While there are no simple or standard procedures that will guarantee this outcome, a careful and systematic evaluation of the implications of alternative courses of action in advance of a Federal commitment should improve the quality of decisions. To this end an analysis of transportation alternatives and the filing of a final Environmental Impact Statement will be required as a condition of eligibility for Federal assistance for a major mass transportation investment. Federal support will be available only for those alternatives which the analysis has demonstrated to be cost-effective, where effectiveness is measured by the degree to which an alternative meets the locality's transportation needs, promotes its social, economic, environmental and urban development goals, and supports national aims and objectives.

A major mass transportation investment for purposes of this Statement is any project which involves new construction or extension of a fixed guideway system (rapid rail, light rail, commuter rail, automated guideway transit) or a busway, except where such project is determined by the Administrator to be of importance as a demonstration of advanced technology. Rehabilitation and modernization projects are not included in the scope of this definition.

The analysis of alternatives shall be carried out as part of a comprehensive transportation planning process in accordance with the following principles:

A. LONG RANGE PLAN

Proposals for major mass transportation investments shall be consistent with an urban area's comprehensive long range plan which articulates the overall direction for metropolitan development and identifies major transportation corridors.

The long range plan should reflect an awareness that different levels and types of transportation service may be needed in different portions of the metropolitan area. Each major corridor should be considered individually to determine the level and type of service that will best meet its projected requirements.

The long range plan should further recognize the need for local community-level transit service as well as for express line-haul connections that foster region-wide accessibility.

As an example, a comprehensive transportation plan may call for the constuction of a rail rapid transit line in a corridor of heavy demand, a "people mover" to facilitate local circulation in the central business district, a light rail network or busways to serve intermediate capacity corridors in the lower density portions of the metropolitan area, and fleets of fixed route buses and flexibly routed paratransit vehicles acting as feeders and distributors to the higher capacity line-haul systems and providing neighborhood circulation service in the local communities within the metropolitan region.

The long range plan should be reassessed and revised periodically as part of a continuing transportation planning process to reflect changes in local goals, priorities and long range forecasts; to respond to new land development and travel patterns; to adapt to new technologies as they are developed; and to adjust to the impact of previously implemented actions.

B. INCREMENTAL DEVELOPMENT

Where an area's comprehensive long range transportation plan calls for the creation of a fixed guideway system, the system should be proposed for implementation incrementally. Initial segments of the system should be proposed in corridors which can justify the need for fixed guideway service within 15 years of the date of the analysis. Each segment should be capable of justification on its own merits.

Corridors which cannot justify fixed guideway transit service within 15 years of the date of the analysis should be provided with levels and types of service appropriate to their needs, with the level of service being progressively upgraded as demand develops. Incremental developmental aims to

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ensure that high priority corridors receive initial attention; that appropriate balance is maintained between the transportation requirements of the entire region and those of local communities within the region, and between long range and short range needs for transportation improvements; that flexibility is preserved to respond to changing technology, land use patterns and growth objectives; and that the fiscal burden is spread over a long period of time.

C. EVALUATION OF ALTERNATIVES

In the interest of improving the quality of the local planning and investment decisions, any metropolitan area which intends to apply for Federal assistance for a major mass transportation investment must undertake an analysis of transportation alternatives with regard to any corridors in which fixed guideway facilities have been proposed for implementation. The analysis should consider a range of alternatives, including improvements involving better management and operation of the existing street and highway network, e.g., through provision of reserved lanes for buses and other high occupancy vehicles.

This analysis should assess each alternative's capital and operating costs; ridership attraction; capital and operating efficiency and productivity; effects on modal choice, level of automobile use, environmental impacts and energy consumption; impact on land use and development patterns; extent of neighborhood disruption and displacement; job creation impact; and such other factors as are considered important by the local community.

The analysis should also compare the relative costs and effectiveness of each alternative, where effectiveness is measured by the degree to which the alternative meets the locality's transportation needs, promotes its social, economic, environmental and urban development goals, and supports national aims and objectives.

As part of the analysis of alternatives, a draft Environmental Impact Statement shall be prepared jointly by UMTA and the applicant in accordance with published guidelines.

D. TRANSPORTATION SYSTEM MANAGEMENT

Plans for a fixed guideway project should include transportation system management (TSM) actions to enhance the project's accessibility and convenience and to improve the quality of transportation service in other parts of the metropolitan area which will not be served by the fixed guideway project. Supportive TSM actions shall include the provision of adequate bus and paratransit feeder services and parking facilities at transit stations, and may include other measures aimed at increasing transit ridership and reducing unnecessary use of private automobiles within the transit corridor.

E. PUBLIC INVOLVEMENT

There should be full opportunity for the timely involvement of the public, local elected officials, and all levels of government in the alternatives analysis process. This involvement should be initiated early, so that all affected groups have an opportunity to influence the process in a timely and constructive fashion, particularly as to the alternatives to be considered, measures of effectiveness to be used, actions to be taken to minimize or avoid adverse effects and priority actions for implementation.

After completion of the draft Environmental Impact Statement a formal public hearing shall be held as required by the Urban Mass Transportation Act of 1964, covering both the analysis of alternatives and the draft Environmental Impact Statement.

PROCEDURES

This section states the procedures which UMTA will normally follow in reviewing the alternatives analysis, in implementing the Environmental Impact Statement requirement of the National Environmental Policy Act of 1969, and in making funding commitments to support major mass transportation investments.

1. The initial phase of the alternatives analysis process shall involve a preliminary analysis leading to the development of a citizen involvement mechanism, the choice of appropriate demand forecasting techniques and cost-effectiveness analysis methodology, the designation of a priority corridor(s), and the selection of a small set of promising transportation alternatives for analysis. UMTA must concur in these elements of analysis before the applicant may proceed with a detailed evaluation of the alternatives.

2. After obtaining UMTA's concurrence, the applicant shall proceed with the alternatives analysis and the preparation of a proposed draft Environmental Impact Statement (EIS). The proposed draft EIS shall be combined in a single document with the results of the alternatives analysis and shall be prepared jointly by UMTA and the applicant in accordance with published UMTA guidelines. Each alternative selected for study shall be presented at the same level of detail.

The applicant shall designate, in a separate document to be submitted simultaneously, the preferred cost-effective alternative which he recommends for implementation, and state a rationale for his choice. The recommended alternative shall be described in terms of its corridor location, length of initial segment(s), technology, horizontal and vertical alignment, grade separation, station location and other relevant factors. This document shall clearly state that any recommendation is soley that of the applicant and that UMTA's judgment is reserved until the environmental process is complete.

Upon receipt of the combined alternatives analysis and proposed draft Environmental Impact Statement, UMTA will undertake a review of the document to ensure that the analysis has been carried out in conformance with UMTA policy and UMTA guidelines. This review will normally be completed within 90 days of the receipt of the draft alternatives analysis and proposed draft EIS.

4. After the consolidated alternatives analysis and proposed draft Environmental Impact Statement has been found in conformance with UMTA guidelines, UMTA will circulate it for comment. During the circulation period the applicant will hold a public hearing on the document and may, at applicant's option, include in such hearing consideration of any application for a grant for preliminary engineering on the applicant's preferred alternative.

5. At the end of the circulation period UMTA and the applicant will address the

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questions and comments received, correct any deficiencies in the analysis, and begin preparation of a final Environmental Impact Statement on a recommended alternative. The final EIS shall be prepared at the same level of detail as the draft EIS.

The final Environmental Impact Statement may also incorporate UMTA's decision with respect to a preliminary engineering grant, subject to the condition of satisfactory completion of the 30-day circulation period required for the final Environmental Impact Statement. This decision will be based upon a comparison of projects emerging from the alternatives analysis process.

UMTA may admit projects into preliminary engineering whose combined cost exceeds available Federal contract authority. This will be done in anticipation of any of several possibilities: the withdrawal of projects as a result of changing local priorities; a local decision to use non-Federal resources to finance more than 20 percent of total cost; or changing conditions such as the availability of detailed cost estimates which might lead to a later decision that a particular project cannot be Federally financed.

6. During the execution of preliminary engineering, the applicant will be expected to complete all the steps which must precede a full Federal commitment of capital grant funds to the project. These steps include providing evidence of firm commitment of the non-Federal capital share, providing evidence of State and/or local consensus regarding the financing of operating deficits, and planning for and gaining financial commitment to necessary supportive actions to promote effective utilization of the proposed fixed guideway system.

7. Upon completion of the preliminary engineering phase, the applicant may prepare a capital grant application for the construction (including final engineering and right of way acquisition) of the proposed project, and shall hold a public hearing thereon.

8. A definite funding commitment by UMTA for construction in a specific dollar amount will be made upon review of the capital grant application, the transcript of the public hearing and the detailed cost estimates emerging from preliminary engineering. The decision will be based upon a comparison of projects then pending.

APPENDIX C—POLICY TOWARD RAIL TRANSIT

For purposes of this policy statement "rail transit" means all forms of rail passenger transportation serving metropolitan areas. It includes "rail rapid transit", "light rail" and "commuter (or regional) rail" technology operating on surface, elevated or subsurface rights-of-way. The definition excludes busways and "people movers" or other types of automated guideway technology (AGT), although similar rigorous standards are also applicable to those investments.

"Rail lines" means both extensions to existing metropolitan rail systems and initial segments of new urban or metropolitan rail systems.

I. THE RATIONALE FOR FEDERAL SUPPORT OF RAIL TRANSIT

Rail transit possesses certain qualities and attributes which make it suitable in certain circumstances and inappropriate in others. Thus:

Rail transit is a highly efficient carrier of large numbers of people, and in heavily traveled corridors it is a cost-effective transportation solution. However, the number of such corridors is limited. They are likely to be found mostly in densely populated cities that possess well-defined core areas containing large concentrations of employment and retail activities. In the newer metorpolitan areas that have grown in the past fifty years and have been shaped by highways, travel patterns are more diffuse and fewer trips begin or end in the city center. These cities are likely to have fewer corridors whose traffic density is sufficient to warrant rail transit service. Nationwide, therefore, there is a fairly well-defined limit to the number of rail projects that could be justified as meritorious and deserving of Federal support in the foreseeable future.

Rail transit can vary considerably in the type and level of service, performance capabilities, design characteristics and costs. While rapid transit or commuter rail service can be justified only in very intensively used corridors, light rail transit could be an appropriate solution in corridors at the lower end of the traffic density spectrum.

Careful, site-specific planning and anlysis is, of course, necessary to determine whether rail transit is warranted and, if warranted, what type of rail technology and service is most appropriate.

Rail transit can be a supportive tool of urban revitalization. When properly coordinated with land use planning and real estate development, rail investment can help rejuvenate declining core areas, increase the city's tax base, create a more attractive investment climate and promote a more efficient, livable urban environment. For older urban centers rail transit can thus be part of a strategy to arrest center city decline and stimulate economic recovery. For newer, auto-based cities, on the other hand, with multiple growth centers scattered throughout the metropolitan area, an efficient bus system may be the most effective means of maintaining urban mobility and a healthy urban economy.

Rail transit has a demonstrated capacity to influence patterns of development and foster more intensive used of land. Many decades after streetcars went out of existence one can still trace their routes by the higher density corridors they created, often from undeveloped land. While today rail facilities are less effective in shaping land use, because automobiles have given people much greater freedom to live and work where they choose, evidence shows that, when supported by appropriate zoning policies and development incentives, rail transit can still exert a strong shaping influence on the patterns of urban growth. To the extent that it can foster higher density, clustered development, rail transit can be a means to more efficient forms of urban settlement and an instrument of long range energy conservation efforts.

In short, rail transit is and will continue to be a valuable form of urban transportation in selected circumstances, provided that local public and private leaders and interests recognize and learn to exploit its unique contributions. In particular, rail transit should be viewed as part of a strategy to promote broader national purposes. Its effectiveness should be measured not just in terms of its ability to move people, but in terms of its positive influence on the urban economy and on the long term pat-

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terns of urban growth. Specifically, rail transit can help in our nation's efforts to revitalize distressed cities and prepare the way for a gradual transition to an energy-constrained future.

In light of the above, the Department intends to pursue the following policy toward rail transit investment:

The Department will continue to finance the construction of new rail lines and extensions to existing rail systems in those urban corridors whose population densities, travel volumes and growth patterns indicate a need for high-capacity, high-performance mass transportation service. In making decisions on initial rail segments, preference will be given to corridors serving densely populated central portions of metropolitan areas, including central cities and close-in suburbs.

Preference will also be shown to metropolitan areas which view rail transit investment as part of a long-term regional strategy to protect the environment, conserve energy, promote urban economic development and support orderly patterns of metropolitan growth.

Localities building or planning to build new rail lines or extensions to existing systems with Federal assistance will be required to commit themselves to (1) the development of a financial plan to meet capital and operating expenses; and (2) a program of local supportive actions to enhance the project's cost-effectiveness, patronage and prospect for economic viability. Such actions may include: zoning and other incentives that stimulate private real estate development around transit stations; provision of coordinated feeder services and adequate parking facilities at transit stations to expand the service area of the rail system; local land use plans and policies that are compatibie with the objectives of the rail investment; and pricing and regulatory measures designed to manage automobile use during peak hours in corridors where rail service is to be introduced.

II. CONTROLLING THE COST AND INCREASING THE EFFECTIVENESS OF RAIL TRANSIT

The Federal Government has a strong obligation to ensure that the Federal assistance dollars are spent prudently and with maximum effectiveness. To this end the Department will adhere to the following set of policies, which will apply to all rail transit proposals:

1. Any approval of a rail transit proposal must be preceded by a federally ratified, rigorous analysis of alternatives which considers rapid transit, light rail, busway, people mover and transportation system management (TSM) options. *Applicants will be required to show clearly and convincingly the need for partially or fully grade-separated transit service and to demonstrate that the proposed transit solution is, on balance, superior to other options* in terms of ridership, capital and operating expenses, transportation service, and environmental, urban revitalization and energy conservation objectives.

2. *Urban areas will have to demonstrate a compelling need for high-capacity, high-performance transit service in order to obtain Federal assistance for rail rapid transit.* Light rail transit operating partially or fully on surface rights-of-way, may offer a substantially less costly, less disruptive and more flexible rail transit option, and should be seriously considered, especially in places where extensive underground or elevated construction would otherwise be required.

3. Where the long range plan of a metropolitan region calls for the construction of an area-wide network of rail lines, *the Department will require that the system be approved and built in stages—one segment at a time.* Federal financial support will be limited to such staged projects. This incremental approach to construction of urban rail transit is aimed to ensure that the burden of financing the system is spread out in time, that high volume corridors receive priority attention, that benefits of the public investment begin to accrue as soon as possible, and that maximum feasibility is preserved to modify the system in response to advances in technology, changes in growth patterns, and other unforeseen circumstances. Each successive line segment will normally be subject to a further alternatives analysis. This analysis must contain an assessment of the effectiveness of the initially funded segments in reaching stated objectives and a method for identifying and correcting problems encountered in the construction or operation of those line segments. This policy aims to encourage the construction of the most cost effective segments first, and to discourage localities from relying on a continued flow of federal funding to complete unworthy or marginally justified segments of a system.

4. *The Department will give preference to initial rail segments serving densely populated central portions of metropolitan areas including central cities and close-in suburbs.* This policy is designed to target Federal transit investment on areas with the greatest potential payoff in terms of ridership, relief of congestion, help to transit dependents and positive real estate development and revitalization impact.

5. *Localities proposing to build rail transit with Federal assistance will be required to commit themselves to the development and implementation of a program of local supportive policies and actions designed to enhance the proposed system's cost-effectiveness, patronage and prospect for economic viability.* The Department will require evidence of reasonable progress in carrying out this program of supportive policies as a condition of initial and subsequent construction funding approvals.

The supportive actions shall include the following:

Zoning policies and development incentives to stimulate high density private real estate development around selected transit stations;

Land use plans that support or reinforce the developmental impact and shaping influence of the rail transit system;

Station area improvements in the form of plazas, malls, walkways, open spaces and other pedestrian amenities that might help reverse the physical deterioraton of the central business district or revitalize declining residential neighborhoods;

Coordinated bus and/or paratransit feeder services to the rail system, especially in low density surburban areas;

Adequate parking and other mode transfer facilities at suburban transit stations;

Pricing, regulatory or traffic control measures aimed at managing the peak-period use of automobiles with rail corridors (e.g., traffic metering, tolls, higher parking fees, elimination of employer subsidized parking).

6. *The Department will require localities to develop realistic estimates of future operating expenses and to identify and reach a local consensus on the specific means of funding these expenses.* In particular, the Department will require, as a condition of Federal capital assistance, the development of a stable and reliable source of local revenue to cover operating deficits.

7. *Construction grant contracts will be negotiated with a fixed ceiling on the federal contribution,* subject to a defined method of adjustment for inflation. Localities will be required to complete the project as defined, and absorb any additional costs incurred, except under certain specified extraordinary circumstances.

8. The Department will strengthen its role in monitoring projects during the planning and design stages in order to prevent overdesign, the introduction of unnecessary embellishments, and the use of untested technologies, subsystems and components which might adversely affect system performance and future operating and maintenance costs.

III. PROCEDURES FOR THE APPROVAL OF RAIL TRANSIT AND OTHER MAJOR FIXED GUIDEWAY TRANSIT INVESTMENTS

The Department's procedures for the approval of major capital grant requests are governed by the Statement of Policy on "Major Urban Mass Transportation Investment" published in the FEDERAL REGISTER on September 22, 1976, as supplemented by the following clarifications:

1. Explicit UMTA authorization must be obtained by any locality wishing to undertake the detailed phase (Phase II) of alternative analysis.

2. After a locality has completed an alternatives analysis and an environmental impact analysis, the Department will review the analysis to determine whether a clear and convincing case has been made for a major capital investment, i.e., a partially or fully grade-separated fixed guideway project. If DOT concludes that a persuasive case for investment has been made, it will approve a preliminary engineering grant to develop a more precise specification of the selected alternative and an estimate of its expected cost. Approval of the preliminary engineering grant will not imply any commitment to finance construction of the project. This will be made clear in the letter to the grantee.

3. If, after a careful review of the preliminary engineering data, the Department determines that the project warrants Federal support, a formal pledge, to be called a "letter of intent," will be issued to the locality. This letter will (1) fix the total amount of the Federal contributions, subject to a defined method of adjusting for inflation; (2) include a mutually agreeable schedule for anticipating Federal contributions during the life of the project; and (3) require the locality to complete construction of the project as defined, and to absorb any additional cost incurred, except under certain specified "extraordinary" circumstances.

4. Specific annual contributions under the letter of intent will be made subject to the availability of appropriations and the ability of the grant recipient to use the funds effectively.

5. The sum total of all the pledges will be a basis for estimating the DOT's 5-year discretionary grant assistance requirements and its authorization request to Congress, and for guiding DOT's multi-year programming effort. However, the Department will limit the issuance of letters of intent so that the sum of annual payments under them does not exceed the total appropriation authorizations enacted for each future year by the Congress, after allowing sufficient amounts in each of those years to cover projected costs of the standing bus and rail modernization programs.

6. Preliminary engineering grants and letters of intent will be reported annually to the Authorization and Appropriation committees of the Congress.

7. During the transition to the new authorization/budget system, however, no letters of intent will be issued until new appropriation authorizations have been approved by Congress.

2. Proposed Part 620 of 49 CFR Chapter VI reads as follows:

PART 620—FHWA/UMTA MAJOR URBAN TRANSPORTATION INVESTMENT POLICY AND PROCEDURES

§ 620.1 General requirements and procedures.

For joint regulations regarding FWHA/UMTA major urban transportation investment policy and procedures, see 23 CFR Part 455.

(23 U.S.C. 134 and 315; 49 U.S.C. 1601 *et seq.* (The Urban Mass Transportation Act of 1974, as amended); 49 CFR 1.48(b) and 1.51 (f).)

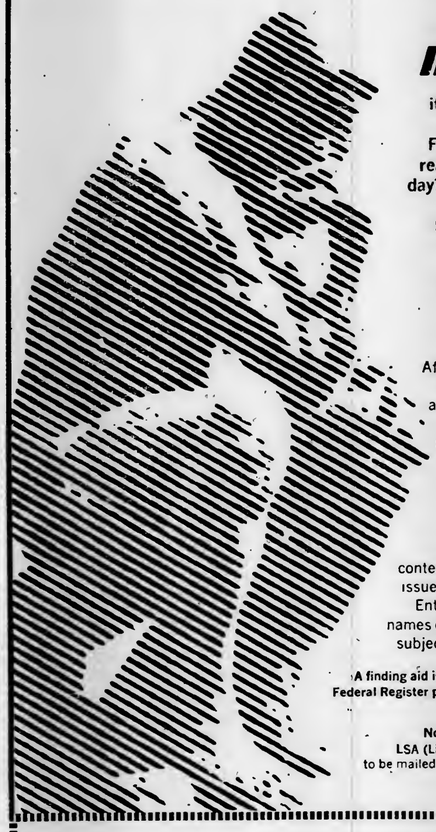
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